

THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

FIRST SESSION OF THE THIRTY-FIFTH CONGRESS:

ALSO, OF THE

SPECIAL SESSION OF THE SENATE.

BY JOHN C. RIVES.

CITY OF WASHINGTON:
PRINTED AT THE OFFICE OF JOHN C. RIVES.
1858.



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THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, MARCH 11, 1853.

NEW SERIES...No. 65.

tion of it; and almost invariably, where one has been sent, they write for the other part of the work. They urge it as one of the most important works printed by Congress. I have never sent a book without receiving in return a direct acknowledgment, or being solicited for one by other persons who are cognizant of its receipt. I deem it one of the most important matters in the action of Congress, that these books shall be distributed throughout the whole country. The people are gratified with them. They find them greatly useful. Not a day occurs that I do not receive applications for them. I believe some three or four applications have been made to me to-day for Patent Office seeds and Patent Office reports.

If they are distributed here they will go without any incumbrance greater than would incidentally arise from such a quantity of books being sent; but I really look upon it as one of the most important measures that Congress can adopt in relation to their constituents. If gentlemen do not choose to dispose of their books in that way, and let them remain on hand with them, they are useless to their constituents; but if they are disposed to distribute them it can be done here; it is a very convenient matter. I should be very sorry to see a matter so important to agriculture and the improvement of the condition of the country generally, particularly the farming interest, smothered in this way. Gentlemen are not bound to distribute the books; but to those whose constituents are interested in obtaining the information that is communicated through this medium, it is very important; and I insist that the people of Texas are not so enlightened but that they will be greatly benefited by the aid of the agricultural portion at least of the Patent Office report. I should be sorry to see a branch of so much importance suppressed.

The question being taken by yeas and nays on the amendment of Mr. IVERSON, resulted—yeas 16, nays 26; as follows:

YEAS—Messrs. Biggs, Brown, Clay, Dixon, Evans, Fitch, Hammond, Harlan, Hunter, Iverson, Mason, Pugh, Slidell, Thomson of New Jersey, Toombs, and Yulee—16.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Durkee, Fessenden, Foot, Foster, Green, Hamlin, Houston, Johnson of Arkansas, Jones, King, Sebastian, Seward, Stuart, Trumbull, Wilson, and Wright—26.

So the amendment was rejected.

The resolution, as amended, was adopted.

NAVAL RETIRING BOARD.

Mr. HOUSTON. I wish to ask the consent of the Senate to take up the resolution I introduced some time since, for the purpose of setting it for some future day—making it the order of the day for Tuesday next. ["No!"]

Mr. GREEN. Do that to-morrow morning.

The VICE PRESIDENT. What is the resolution to which the Senator refers?

Mr. HOUSTON. The resolution in relation to the retiring board. I desire merely to make it the order of the day for Tuesday next, not to conflict with any business of the Senate.

The VICE PRESIDENT. Is there objection to the consideration of the motion? The Chair hears none.

Mr. HOUSTON. I move that the joint resolution be made the special order for Tuesday next, at one o'clock.

The motion was agreed to.

THE FRANKING PRIVILEGE.

Mr. YULEE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to consider the expediency of limiting the franking privilege of the executive and legislative departments on printed matter.

KANSAS—LECOMPTON CONSTITUTION.

On motion of Mr. GREEN, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas.

Mr. HAMLIN. Mr. President, when the hour arrived yesterday which was specially assigned

for the consideration of executive matters, I was interrupted at that point at which I was about to express my opinions of what had been said by the Senator from South Carolina in relation to the character of the laboring classes at the North. I was remarking that the Senator from South Carolina had mistaken the character of our laboring men—I speak of those who are "hiring manual laborers," for that is his expression, in its modified form. I think the Senator has fallen into an error in his estimate of the character of our laborers. It may have arisen from a variety of causes. Our Government was indeed an experiment. It was established for the purpose of testing the capacity of man for self-government. Anterior to that period of time, during which Governments had existed which were called free, there had been none which had founded their institutions upon the principles upon which ours were proposed to be based. Under the freest governments that had ever existed, there were prerogatives and rights secured to power, and laws creating privileged classes; but it was the object and intention of the founders of our Government to do away with such a state of things, which had existed theretofore in every Government in the world. Ours was to be a Government resting on the consent of the governed. That was the object. We sought to take away the prerogatives which gathered around the governing power, and to establish a Government amongst us that should elevate man intellectually and politically to that sphere and to that position to which he was justly entitled.

When the Senator from South Carolina undertakes to draw imaginary distinctions between classes of laborers, he goes back to the old, the worn, the rotten, and the discarded systems of ages that have long since passed. I tell that Senator what is true, that we draw no imaginary distinctions between our different classes of laborers—none whatever. "Manual laborers!" Well, sir, who are the manual laborers of the North, that are degraded and placed beside the slave of the South by the Senator from South Carolina? Who are our manual laborers? Sir, all classes in our community are manual laborers; and, to a greater or less extent, they are hiring manual laborers. They constitute, I affirm, a majority of our community—those who labor for compensation. I do not know, I confess I cannot understand, that distinction which allows a man to make a contract for the service of his brains, but denies him the right to make a contract for the service of his hands. There is no distinction whatever between them. We draw none; we make none. Who are that class of citizens in our community who are its hirelings? That is the term. I do not know whether he designs it as opprobrious; but that is the term with which he designates our laborers of the North. This is modern Democracy!

Who are our "hiring manual laborers" of the North? Sir, I can tell that Senator that they are not the mud-sills of our community. They are the men who clear away our forests. They are the men who make the green hill-side blossom. They are the men who build our ships and who navigate them. They are the men who build our towns, and who inhabit them. They are the men who constitute the great mass of our community. Sir, they are not only the pillars that support our Government, but they are the capitals that adorn the very pillars. They are not to be classed with the slave. Our laboring men have homes; they have wives; they have little ones, dependent on them for support and maintenance; and they are just so many incentives and so much stimulus to action. The laboring man, with us, knows for whom he toils; and when he toils he knows that he is to return to that home where comfort and pleasure and all the domestic associations cluster around the social hearthstone. Northern laborers are "hirelings," and are to be classed with the negro slave!

Besides that, the men who labor in our community are the men whom we clothe with power.

They are the men who exercise the prerogatives of the State. They are the men who, after having been clothed with power there, are sent abroad to represent us elsewhere. They do our legislation at home. They support the State. They are the State. They are men, high-minded men. They read; they watch you in these Halls every day; and through all our community the doings of this branch, and of the other, are as well understood, and perhaps even better, than we understand them ourselves. I affirm that, throughout our community, the proceedings of Congress are more extensively and accurately read than even by ourselves. These are the men who are to be classed by the side of the slave! I think it is true that, in about every three generations at most, the wheel entirely performs its revolution. The wealthy man of the North, the wealthy man of any community, finds wealth at the end of two or three generations departing from the hands that accumulated it; and those who commenced life without means, and were "hiring, manual laborers," in their turn, by their industry, accumulate that wealth. That is the operation of things all around us. You rarely find a fortune continuing beyond three generations in this country, in the same family.

That class of our community, constituting a very large majority, has been designated here as hiring laborers, white slaves! Why, sir, does labor imply slavery? Because they toil, because they pursue a course which enables them to support their wives and their families, even if it be by daily manual labor, does that necessarily imply servitude? Far from it. I affirm that the great portion of our laborers at the North own their homes, and they labor to adorn them. They own their own homes, and if you will visit them you will find in nearly all of them a portion, at least, of the literature of the times, which shows that they read; you will find there evidences to satisfy you beyond all doubt that they are intelligent, and that they are in truth and in fact precisely what I have described them to be—the pillars of the State, the State itself, and the very ornaments and capitals that adorn the columns. With them the acquisition of knowledge is not a crime.

I have quoted all that the Senator from South Carolina has said on this point for the purpose of giving the widest circulation I can to the declarations he has made. He has mistaken, I doubt not, the character of our laborers by judging them from what he has seen in his own vicinity, and what, in my judgment, is produced by that very state of servitude which is there existing. It is my duty to vindicate our laborers. My only regret is that I can do it no more efficiently.

Mr. President, I occupied yesterday more of the time of the Senate than I proposed to do, and I will now hasten on with the few suggestions I design to make this morning; and I trust I shall not weary the Senate. I come now to the last proposition of the Senator from South Carolina, which I propose to examine. He told us that the exports of a country exhibit its true wealth. I do not wish to misstate the Senator; and if he will give me his attention for a single instant, I will state his proposition as I gather it from his remarks. He affirms that the surplus-product of a country is its wealth, and that that surplus-product is exhibited in the amount of its exportations. I propose to examine that proposition. It is unsound; it is untrue. I do not deny that the exportations of a country may exhibit its surplus product.

Mr. HAMMOND. The gentleman will allow me to interrupt him. I can very easily explain what I suppose to be the construction the Senator places on that remark; but as the debate on Kansas is limited, I do not wish to interfere with it; nor will I attempt to make any reply to any of the responses that may be made to me during this debate. I intend, however, to take an opportunity, which I have no doubt will be offered to make a general reply, in which I will explain more fully my views than I could do by a detailed response to specific points.

Mr. HAMLIN. I apprehend that I do not misunderstand the proposition of the Senator as he has laid it down. I do not, I think, misquote it. I could read his language to show that, but I need not do so. Now, sir, I assert that the exports of a country may or may not show its wealth, or its surplus of wealth. Is it not true that a country may produce a given article and export it all, receiving in return whatever they may purchase with it, and consume all that is received in return? Is it not equally true that a country may produce that which it consumes and consume it all? I should like to know what would be the difference between two communities—the one producing what it consumes and consuming it; the other raising and exporting a raw material and then consuming the whole amount of that raw material in the articles that are returned in exchange? What is the difference between these two communities in point of wealth? None whatever. But while the southern section of this country is principally an agricultural country; and while I know they furnish in the aggregate a very great amount of our foreign exportations, consisting of articles in a raw state, it does not follow that all those exportations are excess of wealth, after paying their own debts, after supporting their own families, after paying their own taxes, after liquidating all the variety of demands which they are obliged by law to pay. Because the South exports \$100,000,000 of cotton, it does not follow that those \$100,000,000 are a surplus, any more than because the North produces its \$800,000,000 of manufactured articles, it follows that it has thereby produced that much of surplus.

What, then, is the true indication? What is the truth of this matter? If the Senator from South Carolina will tell me, if he can by any process ascertain, how much you export, and just how much you expend, then he and I will both arrive at what is the surplus left; but until he can tell me that, neither he nor any other person can give the surplus of the country. When I tell that Senator what is the amount that we manufacture at the North, and what is the amount that we annually use, then, and only then, he can tell me what is the net surplus. I know of no method by which this is to be arrived at mathematically; it cannot be. What are the evidences? We must look at the community, and we must gather from the community, and from all the facts that present themselves, the best evidence to show what is the surplus of the country, whether it arises from exportation or from home production.

Now, what is the truth in relation to the productions of the South? If the position assumed by the honorable Senator be correct, it must be indeed wealthy; it must indeed exceed in its net products any country on the face of the globe, or any country that has ever existed. But, sir, I believe that when that Senator shall look carefully into the matter, he will find—indeed he says so in his speech—that they consume their part of the importation of \$333,000,000, and which are principally paid for by their exportations. Take that statement of the Senator himself, and I think it is a perfect answer to his whole position. He says they export a certain amount, and then he says they eat that up, or their proportion of it; and if they eat up their proportion of it, they eat up the whole amount of it. What are the evidences by which we are to gather what is the surplus wealth of a country, which arises from exportations or home productions—I mean the net wealth, the net surplus, because it is not a matter of any importance whatever whether we produce it ourselves or whether we send it abroad, and receive in exchange what we do not produce. If we consume the whole, in either case the result is just the same. I think that the South do not, in truth or in fact, produce any large sum beyond that which they consume; and I think the evidences all around us show pretty conclusively that they have no such surplus as is claimed.

I propose to read an extract from a work written upon slavery by a southern man—a man devoted to the institution—for the purpose of showing the manner in which the soil of the South has been deteriorated by a long-continued process of cropping. This work gives an opinion, which I doubt not is generally accurate, of the character of the country. I read from the work of Mr. Tarver,

of Missouri, on the industrial resources of the South and the West:

"Examples may be found in our own country of States having become poorer by a steady perseverance in an unwise application of their labor. Such is the case in the Atlantic States south of the Potomac, as I think will be granted by every intelligent and candid individual who is acquainted with the country, and I think it will be admitted that these States are poorer than they were twenty years ago. There is a small increase in the number of laborers, and there may have been something gained by skill; but the great source of all wealth in an agricultural country—the soil—has been greatly deteriorated and diminished.

"If one acquainted with the present condition of the Southwest were told that the cotton-growing district alone had sold the crop for fifty million dollars per annum for the last twenty years, he would naturally conclude that this must be the richest community in the world. He might well imagine that the planters all dwell in palaces, upon estates improved by every device of art, and that their most common utensils were made of the precious metals; that canals, turnpikes, railways, and every other improvement, designed either for use or ornament, abounded in every part of the land. He would conclude that the most splendid edifices, dedicated to the purposes of religion and learning, were everywhere to be found, and that all the liberal arts had here found their reward and a home. But what would be his surprise when told that, so far from dwelling in palaces, many of these planters dwell in habitations of the most primitive construction; that, instead of any artificial improvement, this rude dwelling was surrounded by cotton fields, or probably by fields exhausted, washed into gulches, and abandoned; that, instead of canals, the navigable streams remain unimproved; that the common roads of the country were scarcely passable; that the edifices erected for the accommodation of religion and learning were frequently built of logs, and covered with boards; and that the fine arts were but little encouraged or cared for? Upon receiving this information, he would imagine that this was surely the country of misers—that they had been hoarding up all the money of the world, to the great detriment of the balance of mankind. But his surprise would be greatly increased, when informed that, instead of being misers and hoarders of money, these people were generally scarce of it, and many of them embarrassed and bankrupt. I think it would puzzle the most observing individual in the country to account for so strange a result. No mind can look back upon the history of this region for the last twenty years, and not feel convinced that the labor bestowed in cotton growing has been a total loss to this part of the country. The country of its production has gained nothing, and lost much. More than all, in the transportation of its produce, it has transported much of the productive and essential principles of its soil, which can never be returned, thereby sapping the very foundation of its wealth."

Such is the opinion of a very distinguished man from the State of Missouri. It is that state of things which might be presumed to exist, and would necessarily exist, in any community whose consumption equaled its production. Now, let me read an extract from a speech delivered by Governor Wise during his canvass in Virginia:

"Commerce has long ago spread her sails, and sailed away from you. You have not, as yet, dug more than coal enough to warm yourselves at your own hearth; you have set no tilt-hammer of Vulcan to strike blows worthy of gods in your own iron-foundries; you have not yet spun more than coarse cotton enough, in the way of manufacture, to clothe your own slaves. You have no commerce, no mining, no manufactures. You have relied alone on the single power of agriculture—and such agriculture."

"The landlord has skinned the tenant, and the tenant has skinned the land, until all have grown poor together."

I should not adopt the line of argument I propose, but for the course pursued by the Senator himself. He sets down the exports of the country at \$279,000,000, excluding gold and silver. Of that sum, he claims, \$158,000,000 are the clear productions of the South. He then says there are \$80,000,000 productions of the forest, bread-stuffs, and provisions exported. Of these articles he assumes the South make one third; that, added to the \$158,000,000, makes the exportations of the South \$185,000,000, leaving for the North but \$95,000,000, or a little less. To these exports of the South, so ascertained, he adds, for articles sent to the North, \$35,000,000; thus making the surplus productions of the South \$220,000,000. He treats the articles sent North in the same manner as foreign exportations. I think that is right, because it is just as much an export from the South to the North as it would be if it were to a foreign country; for whatever may be there produced, if sent out of the limits of the State, and an equivalent is returned, what matters it to the producer whether he gets his return from a neighboring State or a foreign country? I think the Senator, therefore, is clearly right in that respect. He makes his total amount of southern exportations \$220,000,000, I think. Am I right?

Mr. HAMMOND. Yes, sir.

Mr. HAMLIN. And that he assumes is the net production of the South. In the first place, in his basis of calculation, he excludes, in the exportations, gold and silver. Now, I should like to know why gold and silver are not productions of

a country as much as cotton, rice, or tobacco. I take all the exports of the country, including everything which we send abroad, which is not of foreign growth, and reexported. I take everything which is the production of the country as showing the true amount of what we export. I affirm that I might with just as much propriety contend here to-day that the importations show the surplus wealth of the country, as that the exports of the country show that surplus wealth. The one would be just about as true as the other. You export a given amount. What does it show? You say it shows what you produce; but is it any evidence of what you consume?

With just as much propriety I might contend that the importations of the North show conclusively what is its surplus wealth, as you can presume the exportations of the South show what is its surplus wealth. Neither is true, and I make no such presentation with any purpose of insisting upon it as true, but I do it for the purpose of demonstrating the fallacy of the gentleman's own position.

What were the exportations during the last year? The exports for the year ending June 30, 1857, from the free States, were \$174,049,048; and from the southern or slave States, \$164,936,017, showing an excess of exportations from the northern States over the southern States of \$9,113,031. This table shows all the exports. It includes gold and silver, which are as much a part of the production of your country as any article you can name. It is exported from the North. It is dug out of the mines in California; but I do not care where it comes from for this purpose. It may come from a foreign country. If we get it, we either produce it by digging it, or we buy it in exchange for what we have to sell, and before we export it abroad it is in our hands, and it is the evidence of just so much wealth. Nay, sir, it is the standard of all other commodities. It is the standard all over the civilized world. It is the standard by which all other values are measured.

Now, then, the exportations of the North exceed those of the South; but the Senator from South Carolina, after fixing the exportations of the South to foreign countries and to the North at \$220,000,000, gives to the North \$95,000,000 of exports. On that, or assuming the exportations North and South as equal, he says we at the North produce about twelve dollars per head, while at the South you produce \$16 66. Mr. President, I assure the Senator that he has done injustice to his own State; he has done injustice to his own section, because he has limited their production to \$16 66 per head, per annum. Why, sir, it is vastly more than that.

Mr. HAMMOND. I did not say the production; but the export production amounted to that.

Mr. HAMLIN. I thought the gentleman had accumulated the whole wealth of the country into its exports, and said that yielded to the population a sum equal to \$16 66 to each individual at the South. I say that the Senator, if he had assumed that position, would not have done justice to his own section, because the productions which they do export by no means constitute all the wealth of that section of country, as I shall proceed to show. They are not a moiety of them. I do not know, indeed, that they are one fourth part of them. They are a great way below the aggregate. The importations into the country last year were, in the aggregate, \$319,405,432 to the northern States, and \$41,484,709 to the southern States; leaving a balance of \$277,920,723 in favor of the North. Does that show a surplus at the North of that amount over the South? Surely it does not. I make no such pretension; but still I affirm that I might with just as much propriety insist that our capacity to pay for imported articles was as good evidence of the net surplus of that section as the Senator can contend that the amount which the South export is their net production. It is not true in either case. The productions of the country, North and South, are vastly greater than is shown by exportations or importations, or both combined.

Where, then, sir, are we to find the true evidences of what constitute the net productions of any country? The Senator from South Carolina does not like the census tables. He complains frequently of them. Well, sir, they were arranged, if not by a gentleman from his own State, by a very distinguished southern man, whose opin-

ions, whose sympathies, whose predilections, are all with him.

Mr. HAMMOND. The Senator will allow me, in justice to that gentleman, to say that, although he arranged, he did not take the census.

Mr. HAMLIN. He did not take the census; but the arrangement of the returns and some of the conclusions, which are deductions based upon judgment, were made by him. The census of the South was taken by southern men; the census of the North was taken by northern men; and then the calculations which were required were made by Mr. De Bow, a very distinguished man—a good deal of a financier, I am willing to admit, but with all the prejudices that would surely arise in his own bosom in favor of the South. I therefore go to his tables for the purpose of presenting what are the evidences of the prosperity of the different sections. I think they afford the best evidence that we can lay our hands upon as to the surplus of the different parts of the country.

Mr. TOOMBS. Will the Senator allow me to interrupt him?

Mr. HAMLIN. Yes, sir.

Mr. TOOMBS. It is a matter of no consequence in reference to the argument; but I want to put a fact right; and that may be of some consequence. The census was compiled, and it was very well done, indeed, by Mr. Kennedy—not by Mr. De Bow. He came in just before the publication, and had nothing to do with the agricultural statistics. I am not complaining of them. I think they were very badly taken in some places. But a vast amount of matter was collected, for which Mr. Kennedy is entitled to credit, and he claims it justly. Little or nothing of it was done by Mr. De Bow; for he did not come in until they were nearly all prepared for publication.

Mr. HAMLIN. I know very well that Mr. Kennedy was originally at the head of the bureau of census statistics. I was brought into frequent communication with Mr. De Bow after his appointment, and it is my recollection that the whole matter underwent his revision. But it is not material; nor is it material that there may have been some things omitted from the census returns. The facts there presented, we cannot avoid, and I am confident are correct and reliable.

Now, I put the question, what are the best evidences that we can have of what is the surplus production of a country? Its exports may be one, its imports may be another; but I insist that there are still other and important evidences which go to show what is the surplus production of a country. First, its schools; second, its progress in population; third, its agricultural productions and its improved state of agriculture; fourth, its manufactures; fifth, its ships; sixth, its railroads; and seventh, its capacity for war. There are others—these are the principal ones. The latter three are those which are offered by the Senator from South Carolina himself, as the evidence of the wealth of a country. I read from what that Senator said:

"You may estimate what is made throughout the country from these census books, but it is no matter how much is made if it is all consumed."

I grant that.

"If a man possess millions of dollars and consumes his income, is he rich? Is he competent to embark in any new enterprise? Can he build ships or railroads? And could a people in that condition build ships and roads, or go to war?"

The exhibition of the wealth of a country is to be found in those three things. I add to them those which I have named. I propose to show briefly, mainly but not wholly, from the census statistics, what has been the progress of the various sections of country on all the great branches to which I have alluded, and which I affirm show conclusively its prosperity; and I come first to schools. The census of 1850 shows that in the free States there were then 3,179 academies and private schools; in the slave States, 2,797. Their teachers in the free States were 7,175; in the slave States, 4,913. Their pupils in the free States were 154,893; in the slave States, 104,976. Their annual income in the free States was \$2,457,372; in the slave States, \$2,079,742. The total amount invested in schools and in colleges in the free States was \$2,940,125; in the slave States, \$699,079. The number of public schools in the free States was 62,433; in the slave States, 18,509. Their teachers in the free States, 72,621; in the slave States, 19,307. Their pupils in the free States, 2,769,901; in the slave States, 581,861. Their annual income in the

free States was \$6,780,337; and in the slave States, \$2,719,534. The number of libraries, other than private, was, in the free States, 14,911; in the slave States, 695. The number of volumes in those libraries in the free States, 3,888,234; in the slave States, 649,577. That is one evidence of the intelligence of a country, and the intelligence of a country is one index of its prosperity. It is an index of a surplus, because a surplus is required to support schools.

Next, as to the progress of white population. In 1790, at the first census, there were, in the northern States, 1,900,976 white people; in the southern States, 1,271,488. In 1820 there were, in the northern States, 5,030,377 whites; in the southern States, 2,808,946. In 1850 there were, in the northern States, 13,238,670; in the southern States, 6,184,477. It will be observed that in 1790 the white population of the North exceeded that of the South about half a million; and in 1850 the white population of the North was 13,238,670; that of the South, 6,184,477. In 1790, at the first census, Virginia had a population of 748,308 whites; New York had a population of 340,120; giving Virginia a surplus of 408,188, or a little more than two to one in population over New York. How was it in 1850? In 1850 the population of New York was 3,097,394; that of Virginia 1,421,661, giving, in favor of New York, an excess of a little more than two to one, reversing precisely the ratio of population existing between those two States in 1790. I affirm that that is another evidence of the prosperity of a country, and of its actual wealth; because wealth goes along *pari passu* with population, unless there is some particular cause to prevent it.

I offer next a statement showing the number of farms and plantations, acres of improved and unimproved land, cash value of farms, average value per acre, and value of farming implements and machinery, in the free and slave States, according to the census returns for 1850. Number of farms and plantations—free States, 877,736; slave States, 564,203. Acres of improved land—free States, 57,688,040; slave States, 54,970,427. Acres of unimproved land—free States, 50,394,734; slave States, 125,781,865. Cash value of farms—free States, \$2,143,344,437; slave States, \$1,117,649,649. Average value per acre—free States, \$19 83; slave States, \$6 18. Value of farming improvements and machinery—free States, \$85,736,658; slave States, \$65,345,625.

That shows conclusively that we improve our farms, that we add the surplus of our products to the value of our lands. It proves conclusively that while we do not cultivate so large an area, it is in value exceeding that which is cultivated at the South, and it is this improved condition of our agriculture and this improved condition of our farms that shows the prosperity of our country. I shall not stop to comment on these figures. Indeed, if I were to deal in figures of rhetoric, they could add no force to these figures of arithmetic.

I next, as another and one of the best evidences which I think I can present to the Senate of the surplus product of the country, exhibit a table which shows the amount of live-stock and its value in 1850, and the value of all the agricultural productions. I find that in the free States the whole amount of agricultural productions and the value of live-stock (and we know that our friends of the South exceed us in agriculture) is \$709,177,527, and in the slave States \$634,570,057. While our southern brethren exceed us in agriculture relatively, still it will be seen that in the aggregate, upon every point we exceed them. Our population is twice as large, but then we are bound to dig in our sterile land and in our cold and forbidding climate, and I think the exhibition of a surplus of products, on the part of the North, shows that we have more surplus after the consumption which is required for our people than is found at the South.

But, sir, I come to another table, which shows the number of individuals and establishments engaged in manufactures, the amount of capital invested in such establishments, the value of the raw material used, the number of hands employed, the annual wages paid, the annual product, and the annual profit of such manufactures in the free and slave States, according to the census returns of 1850. Number of individuals and establishments—free States, 93,721; slave States, 27,645,

Capital—free States, \$430,240,051; slave States, \$95,029,879. Value of raw material used—free States, \$465,844,092; slave States, \$86,190,639. Hands employed—free States, male, 576,954; female, 203,622; slave States, male, 140,377; female, 21,360. Annual wages—free States, \$195,976,453; slave States, \$33,257,560. Annual product—free States, \$842,586,058; slave States, \$165,413,027. Annual profit, according to De Bow—free States, \$376,741,966; slave States, \$79,222,388.

The amount of manufactured articles is more than \$842,000,000 at the North; at the South, \$165,000,000; and the annual profits at the North are \$376,000,000; at the South, \$79,000,000; leaving an excess of profits on manufactured articles at the North of about \$300,000,000.

For the purpose of measuring the surplus wealth of the respective sections, I come now to test it by the rules which the Senator from South Carolina himself has laid down. He asserts that the surplus products of a country are to be exhibited in the capacity of its people to build ships and railroads and to go to war. These are the indications of the prosperity and of the surplus revenue of a country, as advanced by the Senator himself. While I do not admit that they are the only indications, I acknowledge that they are great and true ones; and while I contend that other great branches of industry to which I have alluded are equally sure and certain indices of the prosperity of a country, still, when I come to the very standard that he himself has erected, I find a state of things which I shall now present. Where is the navigation of the country? Who has the capacity to build ships? That is the first point made by the Senator; and I answer that amid the cold regions of the North, where we can do little else, we build ships. We can come down with them to you, and carry your products, and I trust you will allow us to do so when we carry them as cheap as anybody else. Of the tonnage of the United States for the year ending June 30, 1857, we have 4,102,491 tons; the South 338,352 tons; showing in favor of the North more than twelve tons to one. The tonnage built at the North during the year ending June 30, 1855—and I take these tables from our latest reports on commerce and navigation—was 528,844 tons; built at the South, 52,959 tons; being about ten to one.

I find, from the last reports which I can obtain, that in the northern States, which embrace an area, as we all know, of some 200,000 square miles less than the South, we have 17,855 miles of railroad, while at the South they have 6,559 miles, or nearly three miles to one. I find that the canals in operation at the North are 3,682 miles, and at the South 1,116 miles. That is the standard by which the Senator himself has sought to measure the surplus products of the country. I think they are very true evidences, not conclusive, not embracing all the elements, but still they are the best of evidence to enable us to form a correct judgment of the surplus of any country, so far as they go.

I come next to the capacity of the country for a state of war; and I find, from the report of the Secretary of War, made May 10, 1790, that there were furnished, during the revolutionary war, to the Continental line and regular militia, from the northern States 218,544 men; from the southern States 71,140 men. Massachusetts alone furnished 83,092, being some 12,000 more than were furnished by the whole South.

Mr. BENJAMIN. You are wrong.

Mr. HAMLIN. I am not wrong, my friend will allow me to say. I have not, however, completed my whole statement. I say that, to the Continental line and to the regular militia, the quotas furnished are as I have named them. But, in addition, there were what were called estimated or conjectural militia returned in the report of the Secretary of War. It was a class of militia that was called out for temporary purposes, and to be used at specific points. Many of them were used to protect the Virginia Legislature, then, I think, called the House of Burgesses. Many of them were used in South Carolina to protect her legislative department when in session. That class of conjectural militia amounted, from the northern States, to 30,950; from the southern States, to 76,810. For the regular service, either of militia or Continental line, I have stated the number made by the Secretary of War to Congress in his report. I refer to the report of General Knox, when he was Secretary of War.

But, sir, the Senator from South Carolina speaks with great emphasis of the capacity of the South for a defensive war. Was not the revolutionary war a defensive war? It surely was not an aggressive war. I know that southern men are noble, proud, gallant, and courageous. It is true of all our people. The coward is the exception to the rule, whether you go North or South. We have very few people North who are great cowards enough to be cowards, nor have you many at the South. We are a gallant people. I respect my southern brethren highly, and I am making these comparisons only because the Senator from South Carolina, as I thought, undertook to measure the productions of all northern States, and to show the evidences of its prosperity, or want of prosperity, as based upon an exportation of \$95,000,000. He certainly did it. I have no doubt the South have capacity for a war of self-defense; they are a brave people; but I think, nevertheless, that there is not quite that harmlessness, and not quite that safety in its peculiar institution, which he says. I think the evidence of patrols all over your States, and all your institutions for discipline—I will use no other term—in your own city, show conclusively that you have some fear that one day a cry will be raised that will break upon you rear like an alarm-bell in the night; and I cannot avoid the inference that you cannot have quite that capacity, even in a war of defense, which you would have but for that very thing.

In the war of the Revolution this same State of South Carolina was called upon by the Continental Congress to furnish her quota of troops; she was asked to supply 13,800 for that war, and she did supply 5,508. Massachusetts supplied 62,000 for the Continental line. I find that in 1775 South Carolina was asked to supply no men, and she supplied none. I do not find the requisition made upon her in 1776, but she supplied 2,969. In 1777 the requisition or quota demanded of her by the Continental Congress was 4,080, and she supplied 1,650. In 1778 the quota demanded of her was 3,132, and she supplied 1,650. In 1779 no requisition was made. In 1780 the requisition was for 3,32, and she did not supply a man. In 1781 the requisition was 1,152, and she did not supply a man. In 1782 the requisition was 1,152, and she did not supply a man. In 1783 the requisition was 1,152, and she did supply 139. I think these are the best evidences as to the condition of our whole country. I know you of the South have a climate more favorable than ours. I have quoted no table here for the purpose of disparaging the South. God forbid. Whatever may be her prosperity, I glory in it; but when you undertake to arraign her against the North, and to disparage the North by diminishing her productions to an exportation of \$95,000,000, I think I am justified in coming here and quoting facts and figures, showing what I think is pretty conclusive evidence of our prosperity and of the surplus which we really produce. But for the remarks of the Senator from South Carolina I certainly would not have gone into this view of the matter.

Mr. President, I pass now from the consideration of this subject to discuss very briefly the practical question that is before us. I would very gladly go over the whole field as it presents itself to my mind; but I have already trespassed too long on the time of the Senate to do so. I therefore propose to state, succinctly as I can, the points which I think are material, and the reasons which will control my vote at least, if not the votes of others, upon the bill before us.

First, I object to yoking the living with the dead. You passed an enabling act, as you called it, for Minnesota. I attach no sort of importance to any act in relation to a Territory which authorizes her to adopt a constitution preparatory to her admission into the Union as a State, except this: when Congress voluntarily passes a bill prescribing the terms to a Territory, and saying that, if she will adopt and follow them, she shall be admitted, it imposes an obligation upon us to do so in good faith. If she does not substantially follow the provisions of the enabling act, she is entitled to no benefit from it. If she does, as a matter of good faith, she is entitled to admission under its provisions. We did so by Minnesota. If, therefore, she has substantially followed the line which we marked out for her, in good faith, in honor, and in honesty, we are bound to admit her.

We did nothing in relation to the Territory of

Kansas, and she comes here, therefore, with no implied obligation upon our part to admit her. We may do so. I do not think it is of any earthly importance whether we authorize a Territory to form a State constitution or not. The question with me, and the only question, is, is the instrument before us the constitution of the people of the Territory? I learned a great many years ago, and it is a doctrine I shall carry with me to my grave, that governments are founded upon, and derive their powers from, the consent of the governed; that governments are instituted for the people. If the people of a Territory come here with a constitution, I only desire to know that it is in truth and in fact their will. If it is their will, and everything else is right, I will vote for their admission. If it is not their will, I do not care whether you have passed enabling acts, I do not care whether they have made their constitution with or without enabling acts, I will not vote for their admission. The two cases are here sought to be connected. Why? Is it to make one carry the other? Is it for the purpose of forcing Kansas into the Union upon the back and by the strength of Minnesota? You cannot avoid that conclusion.

Then I come to the amendment which is offered by the Senator from Ohio, [Mr. PUGH] an amendment which, in my judgment, amounts to just nothing at all. I shall not pause to read it; but I think it commences by saying that "nothing herein contained shall prevent the people of the State of Kansas from amending their constitution." What does the word "herein" refer to? This bill that we are passing. If you adopt that amendment, it will be ineffective entirely. There will be no efficiency or power in its language. There is nothing in the bill, one way or the other, on the point. The question is as to the power under the constitution. If his amendment had said that nothing in the constitution shall prevent the people of that State from altering or amending it, there would have been some force in it; but the amendment of the Senator says, "nothing herein contained." "Herein" refers to the bill before us, and surely there is nothing therein contained on this point. The question is as to the power which the people have under the constitution. If they have it, we cannot take it away. If they have it not, we cannot impart it.

Then comes the amendment which is proposed by my friend from New Hampshire, [Mr. CLARK.] That amendment meets the objection. Whether it is wise or unwise to adopt such an amendment, I shall not now stop to inquire. I will, however, say that I do not hold that we have any right to make constitutions; we have a simple right to admit States; still we have a right to determine upon what terms and conditions we will receive a partner into this Confederacy. We may reject her because we do not like the terms on which she proposes admission. I do not care what those terms are; if, in the judgment of a majority of Congress, the terms are not satisfactory, we may reject her, and we may continue to reject her until the terms on which she presents herself are satisfactory. There has never been a State admitted into this Union upon which we have not imposed terms and conditions. You have provided that they shall not tax your public lands, and the taxing power lies at the basis of every government. It is the food on which a government must live; but you deny them the right. It is a condition which you have wisely imposed, and you had a right to impose it.

That is the way in which the bill is practically presented to us here to-day. I shall now run over the line of argument which I had proposed to discuss, but which I will not for want of time. In 1854 we were quiet, and there was no ripple upon the political sea. All was quiet, and the agitations that had disturbed the country had ceased. Then the demand was made that the Missouri compromise line should be repealed; and what for? For no other purpose on God's earth than to extend slavery. That was its object. I do not mean to accuse every Senator who voted for it of having that design specifically in his mind; but I judge of acts by their results. I judge of acts by what we have a right to infer must be their natural and necessary result. If they did not mean to extend slavery, why repeal it? What good did it do? They did mean it; that was the public meaning; that was the intention and the design of the bill; and it was for that purpose that the

compromise line was repealed. First, a government was set up in that Territory by a class of men who invaded it. Nobody doubts it, nobody denies it, who has any regard for correctness. After a successful usurpation in this Territory, your Government sent in troops to support that government which had thus been set up in usurpation; and just so often, and just whenever any Governor that you sent there, coming from the North or the South, had learned what was the true state of things, and had fraternized with the majority of the people there, he was either dismissed or compelled to resign for fear of dismissal.

Then I come to this very act that is presented here as evidence of what was intended as to the institutions of the Territory. I take the dismissal of the last acting Governor, Mr. Stanton, as still another evidence. No sane man doubts that there would have been a collision in that Territory if he had not called together the Legislature for the purpose of affording the people such relief as they thought they might rightly demand, and as could get, under legislative action. I take it, that nobody doubts that but for his calling the Legislature together, there would have been a collision; but because he did, he subjected himself to the displeasure of the powers that be, and he was dismissed. Why dismissed? Simply, and for the reason, that he wanted the people of the Territory to express their opinion upon a subject in which they had such a deep and vital interest. It has been the grave-yard of Governors, and it will be the grave-yard of the present Governor, if you keep him there much longer. I never spoke to the man; I do not care who he is; I do not care how corrupt a man is who goes out there; but when he mingles with the masses, and sees and feels what is there exhibited, he will come, if he is not a devil incarnate, to the same conclusion that every Governor has who has been there—that there is a right which belongs to those people, and that he will aid in maintaining it. A constitution has been formed in Kansas, and this bill proposes to accept it as the constitution of the people of Kansas. Have they formed it? That is the allegation. How did they form it? They formed it by virtue of an enactment which emanated from the Territorial Legislature. In my judgment, that was well enough, if it were the act of the people. All depends on that. Indeed, if the constitution was framed in a mass meeting, or by delegates elected, even without law, and it were still the act of the people, it would satisfy me. All would depend on that. Of course, the will of the people must be so expressed that there can be no doubt upon the point.

But I hold that your Territorial Legislature may pass all the laws they choose to pass for the formation of a State constitution; they may form constitutions in any way they choose; but until they receive the approval of a majority of the people upon whom the constitution is to act, they are no better than so much blank paper with me. When the people of the Territory approve it, it is to be regarded as binding; and I do not care myself how they approve it; I do not care whether it is by a vote at the polls, or by an expression of their opinions sent here to us by petitions; but I want to know the fact of their approval, and I want to know it in such a way that there shall be no reasonable doubt about it; and when I get the fact I am satisfied. Strictly in a legal sense, neither of these methods may be correct; but in the equitable view which I take, either method will answer if the constitution receives the approval of those persons interested in it. That is all I demand; and, so far as the people of the Territory can act, that is all they can do.

Another thing: that constitution can take effect only when the Territory is admitted as a State by us. Then it goes into operation—not till then. Suppose Congress had authorized Kansas to frame a constitution; suppose Kansas had done so; suppose an undoubted majority of all the people of that Territory had approved that constitution, and she had come here; still it could not take effect until we had admitted her. Suppose in that case we, for some cause, sufficient in our own judgment, should reject her: would that constitution amount to anything? Certainly not. It is the admission of the Territory as a State that gives vitality to the constitution.

Now, is this constitution that of the people of

Kansas? It is no such thing. The people repudiate it. It was conceived in sin, and was brought forth in fraud. It has never been submitted to them by the parties who made it.

Whether slavery should exist in the Territory by virtue of the constitution, or whether the article in the constitution should be stricken out, and slavery should exist under the schedule to the constitution, was what was submitted. It was slavery either way. On that proposition some six thousand votes, or more, were returned, where it is now proved but about two thousand five hundred were given.

It is now asserted that the convention which made this Lecompton constitution having failed to submit it to the people for rejection or approval, it could not be afterwards done by the Territorial Legislature. I deny that doctrine entirely. The vitality, the legal shape of the constitution, may come from the convention; but why do we submit it in any case to the people? Simply and only for the purpose of learning whether it is their act. That is all we want to know. It mattered not whether submission was on the 21st of December or on the 4th of January. At any time, any hour, before we are called upon to act, the people of the Territory have a right to express their approval or disapproval of that instrument. The only object of submission is to learn the will of the people. So that we get that will before we act, is all that is necessary. That will is expressed in the vote given on the 4th of January.

The President, in his message, tells us that he has not heard what the vote on the 4th of January was; but we all know, as certainly as we know any fact of a general character, that, on the 4th of January, there was an overwhelming majority of the people of that Territory reprobating, rejecting this very instrument. They scorn to recognize it as anything of theirs, or any instrument which ought to be binding upon them.

Now, sir, we are about to have this constitution forced on the people of the Territory of Kansas. What will they do? God only can tell. I do not know. I have no advice to give them; but I can say this: the people in that country have come from all sections; they embrace the Huguenots of the South, who left their country to enjoy religious freedom on this continent, as well as the Puritans of the North; they embrace the Cavaliers of Virginia, who came into this country to establish a Government which should secure them in their rights; and I do not believe that the spirit of the Puritans, the Huguenots, or the Cavaliers is quite yet extinct. If Congress shall undertake, in its power, to force a constitution and a State government upon that people, when it has only a right to admit States, not to make them, they are a people who are only fit to be slaves, and they will only be slaves, if they do not resist it to the last extremity. I put it to any Senator, and I ask him what would he do, standing in a community where he knew Federal bayonets were about to force upon him a government which was to deprive him of his rights? I ask any one who is about to vote for this great wrong, what would he do? Would he not resist it to the bitter end, and to the last extremity? If he would not, the blood of the Anglo-Saxon race does not circulate in his veins. I believe they will resist it; I believe they will do what is their duty; and if they do, I only desire to add, that the responsibility must be with those who have placed them in such an emergency. If men fight for their domestic altars, you must not complain of them for doing it, when you have forced that emergency upon them; nor, let me add, must you blame those who shall rally to their support. But I cannot enlarge upon these matters as I would. I must leave them, with a brief allusion to one other point.

Mr. President, this is all to be done under the "forms of law." I have heard this phrase "forms of law," until it has become painful to my ear. Forms of law! Will you tell me of the worst despotism that ever existed, that did not rest upon forms of law? Will you tell me of the wickedest act that has ever been perpetrated by any government, that has not been done under the forms of law? We sit not here, sir, in the capacity of a court to adjudicate and to construe the laws that have been made; we are here for the purpose of exercising our power upon broader principles of equity than those which belong to courts; but

still all courts which administer laws are clothed with equity powers. All courts are clothed with equity powers to prevent a greater wrong.

"It is a common saying, and a true,
That strictest law is oft the highest wrong."

Forms of law! Why let us rather see to it that the substance of the law is executed and justice done.

We are clothed with equity powers beyond those which obtain in a court; and we are making laws; we are not administering them. We ought at the mere suggestion of wrong to these people, to go to the very basis, and ascertain whether we are about to perpetrate a wrong and force upon them a government which is not their own. But, sir, instead of that we are here day after day with petty juggling and pettifogging, claiming to proceed under the forms of law, forgetting the substance. What is the substance? What is the right? What care I here in making laws, for what may be a form? What is the substance? What is the great equity of the case; and as a legislator it is my duty to apply myself to that. What is right? what is just? Let that be done and all will be well.

Forms of law! God knows there is nothing but form in it. Forms of law! Long years ago the mother country undertook to oppress these colonies by forms of law, but not as unjustly as we have ruled the people of Kansas; and she persecuted that great and noble patriot, John Hampden, under the forms of law, and for his love of liberty. There is one other act which has been perpetrated under the forms of law, to which I will allude, and then I shall have done.

Under the forms of law despotism is created. Under the forms of law, all the wrongs of which the mind of man can conceive have been perpetrated. Under the forms of law, and in the name of liberty, liberty itself has been stricken down. In the name and under the forms of law, the Son of man was arraigned and stretched upon the cross. Under the forms of law you are about to do an act here, unequaled in turpitude by anything that has been recorded in all the progress of time, save that event to which I have just alluded. In all history, save the crucifixion of Christ, there is no act that will stand upon the record of its pages in after time of equal turpitude with this act. The purpose of it is to extend human slavery; and I may well inquire—

"Is this the day for us to sow
The soil of a virgin empire with slavery's seeds of woe;
To feed with our fresh life-blood the Old World's cast-off
crime,
Dropped like some monstrous early-birth from the tired
lap of Time?"

Mr. SEBASTIAN. I ask the indulgence of the Senate for a short time while I consider the subject before us; not in its general and enlarged relations, but in the limited aspect which it presents as a practical question connected with the legislation of the day.

Mr. President, the most remarkable feature in the discussions and proceedings which have originated here as to the domestic affairs of Kansas, and its right to mold its own institutions in its own way, is, that we are earnestly seeking to intervene, when non-intervention is the great principle upon which we propose to act. We are usurping the consideration of those very questions that were referred to the people of that Territory; and more restrictions and invasions of the rights of the people are sought to be enforced than were removed from them by the repeal of the Missouri restriction. We are questioning the exercise there of the very powers which we have here abdicated, and under the pretext of a parental sovereignty "held in abeyance" and "in trust" for them, to emasculate their great charter of freedom of all its value and its virtues. That famous restriction imposed upon the people of the Territories but one disability—a grievous and an offensive one—a professed bond of peace, but a fruitful source of sectional discord. That was removed, and the question which it had arbitrarily decided was referred to its proper arbiters, the people of the respective Territories. Now, when the people, in the exercise of their highest powers, have determined this question, and seek to give repose to the country, a new element of discord appears; new and fearful issues are presented, as menacing as the old. They have settled this question in the formation of a State constitution, and now the very validity of that constitution is questioned,

its provisions assailed, and the form of its adoption denounced. Indeed, almost every objection which is urged here to the admission of Kansas is such as has been already determined by Kansas herself, in her own way; and were that Territory to be denied admission into the Union as a State, it would present the anomaly of conferring rights upon a Territory and punishing her for exercising them; of enabling them to "form their domestic institutions in their own way," and then quarreling with them because they had not formed them in "our way." It would be to transfer the discords of Kansas to the Halls of Congress, and make national issues of Kansas quarrels; and, in the spirit of jealous and captious power, review the internal politics of that Territory upon the question of her admission into the Union. Mr. President, let us not mistake the true issue here, and confound the great question between the Union and Kansas with the smaller discords and rivalries of parties and factions there.

A preliminary question arises, which demands a passing notice. The friends of Kansas and Minnesota propose to unite their fortunes and their destinies in the same measure. This is a step in the right direction; and I rejoice that each section, through its national men of whatever party, can in this manner give earnest to each other of their loyalty to a common faith. One is a free and the other a slave State; and each, in the exercise of the acknowledged right to form its domestic institutions according to its own views, has arrived at quite different results, and shaped them in different molds. It may be the last opportunity which is afforded of thus testing the sincerity and integrity of those who profess devotion to the principles of popular rights in the Territories. Such instances have occurred before, and this scheme is not without precedents. Iowa and Florida were admitted together, and in the same bill; while Arkansas and Michigan, though not embraced in the same bill, the historical fact is notorious that they were considered as kindred and dependent measures, and supported by the same influences. This coincidence, of course, is no attempt to revive the idea of preserving the balance of power, by admitting a slave and a free State together. That ephemeral security for the constitutional equality of the rights of the southern States has passed away forever. It was virtually destroyed in the admission of California; and the progress of events renders all hope of the restoration of that equilibrium in the Senate more desperate and delusive every day. The free States of this Union have outstripped the southern States in the march of empire, and the rapid, if not precocious, development of population and formation of States. With their preponderance of population, their large accessions from Europe, and the constant stream of emigration from the southern States to the free States of the Northwest and the Pacific, they have accelerated the laws of population, and established a disparity between the two sections of the Union, which it is in vain to expect will ever be diminished or destroyed. If, in the race of progress, of development, of empire, or aggrandizement, we in the southern States have been distanced, it is a result at which we neither complain nor repine. This great Union is not a partnership of sections, but a Union of States; and, whether slave or free, of republican States. The southern States seek not empire or aggrandizement. In those additions to the Union supposed to have been made under the agency and influence of the southern States, the northern States have had over the lion's share in the benefits which followed.

These accessions were but contributions to the national wealth and strength, to the greatness and glory of the Union. We claim no monopoly of them, but only an equal right to the enjoyment of a common inheritance. Whether this consists of constitutional rights—the security of our institutions, the settlement of the common domain—or the additions of new members to our great family of States, our rights are equal and the same. We would place no part of this national heritage under the dominion of any section, or mold their institutions in conformity with any will but that of the people with whose welfare they are connected. While this union of States, equal in dignity and rights, is preserved, there should be no association but that between equals. Whatever the diversities of institutions, founded in the

varied accidents of origin, race, or history, the influences of climate, habits, and pursuits, the spirit of our political associations is that of equals and sovereigns among the States, and one Government as to all national purposes. There is, therefore, an eminent propriety in the associations of these two measures as one, not to suffer in the disasters of a common defeat, but to share a common success. Let them enter the Union as twins. The spectacle has been witnessed in our past history, and it will lose none of its moral or its significance if it is witnessed by us. We shall thus, by one comprehensive and decisive measure, rid ourselves of two subjects of engrossing interest. The country needs repose from this sectional agitation, which threatens to become, if it is not so already, a leprosy and incurable vice in our political system. Let us dismiss from our Halls this national discord over the domestic quarrels of a distant Territory which has come upon us unbidden and uninvited. Let us refer this question to the State of Kansas as a sovereign among her sisters in the Confederacy, and discords must cease, and the law restored to its supremacy. If these anticipations of the future are not realized; if the scenes of strife, of carnage, and revolution, which have convulsed that Territory, and threatened to extend themselves beyond her border, are to be immortal; if Kansas is to bring into the Union no gifts but her discords, with which to embroil sections in her own unhappy strife, it will be because of that mischievous and malign intervention in her affairs from outside her borders that has counseled resistance to law, to her legitimate government, and has incited her turbulent malcontents to rebellion. It will be because there are those who, having predicted the failure of this measure to restore peace, will adopt all expedients to insure that result. If all these causes combined should unhappily succeed in protracting the struggle, and defeat all efforts at pacification, then we shall have acquitted ourselves of our whole duty, and the consequences can take care of themselves.

Mr. President, let not the friends of Minnesota think that she is dishonored or contaminated by the association with Kansas in this form. They both come here irregularly, and both need the same indulgence to enable them to enter the portals of the Union. If Minnesota presents herself under the authority of a previous act of Congress, preparatory to her admission, those who refused at last Congress, to smooth the way for Kansas by a similar mode, cannot now justly arrogate for Minnesota any preëminence of rights on that score. If Kansas brings here a republican constitution, as the triumph of government over faction and revolution, Minnesota has not been free from factional strifes in accomplishing her purpose. Her convention split in twain, upon its assemblage; its two hostile fragments pursuing their labors under separate organizations, each claiming to be the legitimate convention, and each acting for the whole people. They only reached a common result through a joint committee, and adopted the same constitution on separate parchments. If Kansas comes here as a nominal slave State, in defiance of the exploded Missouri compromise, does not Minnesota ask admission with boundaries embracing a portion of the Northwest; which, by the compact with Virginia, was to be carved into only five States? If Minnesota has fortunately obtained the previous consent of Congress to her admission, it does not detract from the obligation of Congress to Kansas to redeem its pledges in the organic act, and in the treaty with France in 1803. They both occupy the same legal footing, and I shall cheerfully vote for both. Each has, in the exercise of these rights—"to form their domestic institutions in their own way"—establish for themselves "republican" forms of government. This enables us to perform our constitutional duty and guarantees, and exhausts our whole power over the subject. All beyond that is usurpation, and invites back here the very mischief to which we thought we had bid adieu forever. It robs the Kansas declaration of rights of its chief virtue, and restores to us the power of intervention, none the less distasteful or offensive because of the spurious pretext of intervening in their affairs to enforce non-intervention.

Mr. President, that I may be intelligible in my remarks upon the main subject of discussion, I must recall some of the history of the Kansas

question, and advert to some considerations connected with it. In doing so, I must draw largely on the labors of my colleague on the Committee on Territories, whose finished and logical statement of facts would, if generally known, spare me the labor of attempting to condense them.

The contest in which we are now engaged is but another chapter in the history of the slavery question. The form has changed; the struggle is the same. Eight years ago scenes transpired in this Chamber which many of us remember. No one desires to witness their repetition. How long and how arduous were the labors to put a period to that state of things, are matters of familiar history. We had approached a period in our national career when no one could divine or cared to know its future. Our arms and our diplomacy had given us an empire to govern, and the attempt to organize and fix its political condition and to devote it to the North had unlocked the pent-up elements of discord in our political system, and having escaped the control of the politics of parties, seemed armed only for mischief. The antagonisms of half a century seemed to have been precipitated into a last conflict for supremacy, while the cohesive and conservative ligaments of the Union, auxiliaries of our Constitution, either slumbered in repose or awakened to a task to which they seemed unequal. The country had been dragged to the very threshold of revolution. The great disease of our system, planted at its birth, and matured with its growth, menaced speedy dissolution. I speak of the antagonism, restless and aggressive, of the free States to the institutions of the southern States. If this array had been but a mere paroxysm of party, it would have soon passed, and after the storm we should have hailed the sunshine again; but this antagonism had outgrown its original dimensions, and was fortified by others coinciding with it. The Missouri compromise had boldly avowed and taught the dangerous lesson that there was a North and a South, with hostile systems of institutions, of labor, of philosophy, and religion on its opposite sides. The project was boldly avowed to surround the southern States with a cordon of free States, and forbid the further expansion of the southern institutions; to line our borders with hostile influences, before which the security for property would melt away. To declare the ocean free, that the slave trade between the States might be paralyzed; to make free territory wherever the flag of the Union waved; to convert our forts and arsenals into a refuge for fugitive slaves; and desecrate the stars and stripes of the Union to the ideas and objects of a section. As if to show with what precision this crusade had been planned, a member from Massachusetts congratulated himself that when this consummation was complete, there would be less than two hundred miles between any slave in the southern States and his freedom.

The struggle was for empire and dominion upon the one side, and for self-preservation on the other. Truth triumphed, and this great agitation ended in the declaration of that just and universal principle that States may be admitted into the Union "with or without slavery, as their constitution may prescribe at the time of their admission." This was no triumph of one section over another; it was a triumph of the Constitution over all. The legislation in which it was conceived was confined to Utah and New Mexico, but the principle was universal. It was of necessity applicable to all Territories, and bounded by no latitudes. It was not alone a southern, but an American idea. Sections had been arrayed in the ceaseless hostility of rival systems—defying all pacification, knowing neither peace nor trace, and separated by a broad ground of debatable questions, about which it were folly to suppose they could ever agree. Here was a common umpire, selected by the Constitution, to which this question could be submitted. This was a second declaration of independence—not an act of emancipation. It did not propose to emancipate the slave from his master in the Territories, but to emancipate the Territories themselves from the intervention of the Federal Government. It was the higher freedom of government in the Territories—the freedom of American citizens to shape their own destinies, and to mold the institutions under which they are to live.

Four years later it became necessary to test the value of this great principle of territorial freedom

in its application to territory north of the Missouri line. In terms, this had not been repealed by the compromise of 1850. The longer toleration of this restriction was plainly inconsistent with the principles of that act, and considerations of the highest import demanded its total repeal. It was offensive as a statutory reproach of Congress upon the institutions of half the States of the Union. It was anomalous, as prescribing intervention north of the line and non-intervention on the subject of slavery south of it. It was unjust, as conferring a different measure of political rights on different Territories. Northern citizens could go into all parts of the common domain, while southern citizens were restricted by a line. It had arrayed the country in hostile sections, and fostered the idea that they had separate rights in the Union. It was an unmitigated mischief, and by its tendency to create hostile systems developing in opposite directions, had half accomplished the rupture of the Union. The history of its origin ceased to entitle it to respect. It was no compromise. It was accepted by the South as an evil less than that of the alternative—total exclusion from all the common territory. Such was the hard necessity of their condition, that they claimed as a triumph what was a vast sweeping capitulation. It had fulfilled its mission, and its virtues were now gone; it had purchased a peace at the price of a permanent source of discord, and this was its whole virtue. It was therefore repealed, and the Kansas and Nebraska act was passed.

I have indulged in a seeming latitude of remarks upon the chief features of the great discussions and agitations of 1821, 1850, and 1854, in which the subject of slavery in the Territories was the only question; but it forms a part of my purpose to show that this is the only question referred to the people of the Territories, and the only power abdicated by Congress in their favor. It is worth while to repeat the words of this enactment, which provides, in the exact language of the compromise measures of 1850, that "when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitutions may prescribe at the time of their admission." Again, after declaring the Missouri act inoperative and void, as repugnant to these principles, the purpose of Congress in passing the act is declared in these words:

"It being the true intent and meaning of this act not to legislate slavery into any State or Territory, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

To these express recognitions of the perfect freedom of the Territories to form their domestic institutions was added another more general and comprehensive, that the power of the Legislature should "extend to all rightful subjects of legislation not inconsistent with the Constitution of the United States;" and this completed the code of the powers and privileges of the Territories.

Mr. President, too much importance cannot be ascribed to the principles of this enactment. It finally ascertained and rigidly defined the true relation between the Federal Government and the Territories, and traced the line that separates the just powers of the one from the legitimate rights of the other. Regarding the Territories as political communities and embryo States preparing for admission into the Union, and having a clear right under the Constitution to it, it assimilated as far as possible their political rights to those of the States. They were not sovereign, it is true, but they were exclusive masters of their own, in their internal affairs. By an abuse of terms, this application of the principles of self-government to the Territories has been called "popular sovereignty," "squatter sovereignty." Our form of Government admits of no squatter sovereignty, except where there is no Government, and no allegiance superior to their right. I know of no illustration of this right, thus perverted, except that defiant and treasonable attempt, at Topeka, to subvert the Government and authority of the United States, by an independent and revolutionary State government. But that absolute sovereignty, defined to be the supreme power of a State, and which in every government is lodged somewhere, is shared between the Federal and territorial governments. The Federal Government reserving to itself all its national power of admit

ting new States, and its necessary incident of instituting temporary governments, as a means to attain that end, is supreme in the exercise of these powers. The Territories, having the right to form and regulate, since this act, all their domestic institutions in their own way, are supreme in the exercise of those rights. Among the great mass, and prominent in it, is this subject of slavery, now also referred to their jurisdiction as a domestic institution—domestic from the nature of the jurisdiction which forms and regulates it, national only in the guarantees and securities with which the rights of property connected with it are invested by the compromises of the Constitution. But for this last feature, which attaches to it the right of property in slaves, through all the common Territories, I should not know of any exemption which it possessed from the power of the Legislature. This subject, with all the domestic institutions, the civil relations of life, the internal polity, the municipal concerns, of the Territory, are alike confided to their own regulation and administration. These are not rights derived from Congress, but only recognized by the form of government which it has instituted for their protection, and which it is the right of Congress to ordain, as a necessary means to their admission into the Union. It is in this sense, and in this only, that Congress is supreme, and that the sovereignty of the Territories is said by the Senator from Illinois to be "in abeyance, suspended in the United States, in trust for the people when they become a State." Among the "rightful subjects of legislation" with which they are clothed, among the "domestic institutions" which they are empowered "to form and regulate," is that highest act of the supreme power with which they are invested—the formation of a State government preparatory to admission into the Union, and prescribing the mode and manner of accomplishing this purpose. When they are to exercise this right, and how to exercise it; when they have outgrown the capacity of a territorial government, and desire the stronger and more vigorous energies of a State government, are questions concerning themselves alone, and no one else. If Congress is to determine that question, then territorial self-government is worse than a shadow, and the Kansas act a delusion. These Territories, as part of the territories acquired from France in 1803, hold our bond to admit them into the Union according to the principles of the Federal Constitution; and it is theirs to decide when they will ask its fulfillment. The acts organizing these Territories contemplate their speedy admission as States, and are adopted as a necessary means to accomplish that result; and it is for them to determine when they will ask that these just expectations shall be realized. These are their high functions to perform; and in their performance they are not subject to the surveillance of Congress—the officious intermeddling of Governors—under no obligation to propitiate the sullen resentments of insurgent factions, nor to accommodate themselves to the views of distant States, but are to be "perfectly free" to carve out their own destinies, "in their own way." It is this which makes them sovereign within the sphere which I have thus described. But on the other hand, there are corresponding rights and powers of the Union to be observed. This is what is meant by the language of the Kansas act—"subject only to the Constitution of the United States." What are these rights and powers of the Federal Government, in which she is also supreme, and which are a limitation upon the unqualified freedom of the Territories? They are these, and no others: The Constitution provides that "Congress may admit new States into the Union"—a discretion converted into an absolute obligation by the treaty with France; and the United States "guaranties to each State in the Union a republican form of government." With the performance of these high constitutional powers and duties, Congress fulfills its treaty obligations, and exhausts its whole powers. Consistently with these principles, a Territory cannot, by her own act alone, either escape from her territorial dependence, set up an independent government of her own upon the ruins of her legitimate government, or induct themselves into the Union, "without the consent of Congress." Such an act would be revolution, like that ordained at Topeka. On the contrary, the whole power of Congress cannot admit a State into the

Union against its consent, expressed through its constitutional forms. The admission of a State into the Union is a compact between the State and the Union, in which each acts in perfect harmony in performing its own appropriate functions. It requires the assent of both, and it matters but little which may take the initiative; whether, as in the case of Minnesota, Congress tenders her consent in advance, and invites a State to propose for admission; or whether, as in Kansas, the Territory takes the first step, and presents herself, a State with her republican constitution, and asks admission into the Union. In either case the legal attitude of both is the same. Each requires the consent of Congress to complete her admission. A republican constitution is alike necessary to both, as well as the requisite population. In either case the act of the Territory is the exercise of its whole and highest sovereignty, and valid as such, and for that reason. If admitted, they are States; if not, they remain Territories.

Mr. President, these are the general principles which I entertain as to the true relation between the Federal Government and the Territories. A few facts in the history of Kansas of controlling significance will make their application obvious. On the 30th of May, 1854, the Kansas-Nebraska act was passed. It opened a boundless field for American enterprise, and new conquests for American civilization. The western frontier, the advanced posts of our progress was skirted from the Red to the Missouri river with an Indian empire which, secured by the faith of treaties, seemed anchored in the great pathway of commerce and emigration to the Pacific. The march of civilization had been arrested by a line of longitude. This checked for a period the advancing stream of emigration which, coursing with ceaseless and swelling tide, and following the path of the sun, shall meet the reflex of the tide from the Pacific, and mingling amid the crests of the Rocky Mountains, end its mission in completing the circuit of the globe. This barrier was removed. The Indian, unfixed in his home, and forced again upon his retreat to accomplish his destiny, all this vast empire so suddenly unlocked, with its countless capacities and treasures, nine tenths of it was devoted irrevocably, by an irrepealable law of climate, to settlement from the northern States of the Union, and destined inevitably to swell the number of free States; besides which, there lay, too, the recently opened Territory of Minnesota—the Eden of the continent—and the regions hovering around the great lakes and the heads of the Mississippi. Then there, too, beyond the Rocky Mountains, and on the Pacific coast, were Oregon and Washington—all dedicated by this great law of climate to the free labor of the North. Here was a prospect which ought to have satisfied the highest aspirations of those whose whole conception of the objects of the Union consists of the one idea of "free soil." Upon the south of this great empire, the opening of which for settlement could, at any time, and at every period of acquisition, have been defeated by less than the vote of southern Senators, lay the small Territory of Kansas, embraced between three parallels of latitude. It lay immediately west of Missouri, and in close proximity to Arkansas; and, as such, its future political condition was an object of lively interest in the South. The situation of Missouri was peculiar; upon her eastern and northern boundaries she had free States for her neighbors, and to complete the circle of hostile influences, by extending it to her western border, where most of her slave population was congregated, was a step which ought, as it did, arouse her most terrible energies for self-preservation. When the fierce struggle was over which ended in a long delayed act of justice to the South, and the principles of non-intervention were established, it was hoped that they would receive the sanction of the great heart of the nation, and be enthroned in it as an American principle. The southern States of the Union, in the true spirit of this principle, expected only that, in the fair competition for the extension of their form of institutions into Kansas, its settlement and political complexion would be determined by the laws of climate and the agencies of a natural and legitimate emigration. If, in the hazards of a fair contest for supremacy upon this debatable ground, they should be defeated, they would have had the solace of being vanquished in a fair

though unequal contest. But this issue was not to be determined in this way. It was not to be settled by those peaceful and natural agencies which had heretofore determined the institutions of other States. The struggle of sections was transferred from the Capitol to Kansas, which henceforth was to be the battle ground. The power of intervention, abandoned by Congress, was taken up by Massachusetts. She, true to her traditions and her Pharisaical instincts, and with a generous oblivion of her own faults, became devoutly concerned for the welfare of distant Kansas. A new scheme of assault upon the southern States was devised. Those who had opposed the principles of the Kansas bill, now professing to accept them, determined to subvert them by a resort to what I am free to say is the most offensive and extraordinary interference of one State in the affairs of another that has marked our history. It was nothing less than, virtually, an armed invasion, under the pretext of peaceful emigration. A new pretext was invented. New England, it was said, had been imprisoned within her regions of ice and granite long enough. Their emigrations were no longer to follow the line of the lakes and of latitude. An error was suddenly discovered in the laws of emigration, and its development was found to be southwest. By a happy coincidence this new gravitation was found to point with unerring index to Kansas, and in conformity with the maxims deduced from the world's history. The march of science, of civilization, and of Christianity, has moved with steady and untiring step from the East to the West, while the wars of ambition and of conquest have carried their desolating scourge from the North to the South. Massachusetts organized that stupendous enterprise, the "Emigrant Aid Society." Its modest title implied that it was but a philanthropic friend of the poor emigrant, while, in its objects and ends, it was destined to be to Kansas what the East India Company was to the Hindoos: Its capital was \$5,000,000, of which only \$20,000 could be invested in Massachusetts. Its directors, resident in Massachusetts, could each have fifty votes for himself, and as many more by proxy. Sitting there, in Massachusetts, in conclave, upon the affairs of Kansas, they developed and published their plans of operation. They were to contract with some of the "competing lines of railroads" for the transportation of twenty thousand emigrants to Kansas; and while the controlling object of the society was declared to make Kansas a "free State," a keen eye was directed to "the sections of land in which the boarding houses and mills are located." I do not wish to misrepresent the objects and aims of this society, and I shall permit it to speak for itself.

"Organization, objects, and plan of operations of the Emigrant Aid Company; also, a description of Kansas, for the information of emigrants."

"Trustees—Amos A. Lawrence, Boston; J. M. S. Williams, Cambridge; Eli Thayer, Worcester."

"Treasurer—Amos A. Lawrence."

"Secretary—Thomas H. Webb, Boston."

"For the purpose of answering numerous communications concerning the plan of operations of the Emigrant Aid Company, and the resources of Kansas Territory, which it is proposed now to settle, the secretary of the company has deemed it expedient to publish the following definite information in regard to this particular:"

"For these purposes it is recommended, first, That the trustees contract immediately with some of the competing lines of travel for the conveyance of twenty thousand persons from Massachusetts to that place in the West which the trustees shall select for their first settlement."

"It is recommended that the company's agents locate and take up for the company's benefit, the sections of land in which the boarding houses and mills are located, and no others. And further, whenever the Territory shall be organized as a free State, the trustees shall dispose of all its interests there, replace by the sales the money laid out, declare a dividend to the stockholders, and that they then select a new field, and make similar arrangements for the settlement and organization of another free State of this Union."

"With the advantages attained by such a system of effort, the Territory selected as the scene of operations would, it is believed, be filled up with free inhabitants."

"There is reason to suppose several thousand men of New England origin propose to emigrate under the auspices of some such arrangement, this very summer. Of the whole emigration from Europe, amounting to some four hundred thousand persons, there can be no difficulty in inducing some thirty or forty thousand to take the same direction."

"Especially will it prove an advantage to Massachusetts, if she create the new State by her foresight, supply the necessities to its inhabitants, and open in the outset communications between their homes and her ports and factories."

"It determines in the right way the institutions of the

unsettled Territories, in less time than the discussion of them has required in Congress."

It will astonish my constituents to know that the next "field" in which they were to extend their operations of manufacturing "free States" was the Indian country west of Arkansas, which they supposed half-abolitionized by the labors of northern missionaries, and the rigid test of the right of Christian communion which they have sought to apply, in exclusion of the slaveholding members of the church. To Virginia, it will be interesting to know that the person who figures as secretary of this mammoth company is one whose name is so intimately connected with the scheme of colonizing Virginia with the free labor from the North, and that the venerable mother of States is probably the next field for their operations.

How many persons were dispatched under those auspices I am not informed. That movement became the nucleus around which gathered all the elements of this newly-awakened fanaticism. The Abolition societies, the church, the universities, all affiliated in the enterprise, and contributed contingents to swell the numbers of this crusade. Every expedient was enlisted to insure its success. The church, forgetting its holy mission, preached its sanction of this sectional crusade from a thousand pulpits, and sacrilegiously commended "Sharpe's rifles" in place of the Bible, as a more potent agent in propagating their fanaticism. The press teemed everywhere with fabulous stories and wicked exaggerations of atrocities of the slave-power in Kansas, and prostituted its powers to inflame the resentments and arouse the worst passions of the people. Contributions were levied from the credulous votaries and partisans of the cause. Itinerant missionaries traversed the country, and filled the lecture-rooms with exciting harangues, while monster mass-meetings assembled, and electrified the country with the wrongs of Kansas. These were the appliances and auspices under which unnatural and forced emigration to Kansas was stimulated. It resembled more an armed invasion than a peaceful emigration; and it is quite clear that more was expected from the arms than the votes of settlers. The character of many of these immigrants was such that their removal was no loss to New England, and still less an acquisition to Kansas. I do not thus characterize all the free-State settlers of that Territory. Some were doubtless honest and orderly citizens, seeking homes and better fortunes in the West. We have been told that association is a form of enterprise common in New England, and that her history affords frequent instances of peaceful colonization in large bodies, armed for self-protection. That is true; but I know of no parallel to this most extraordinary movement. In its avowed objects and controlling features it was a war of Massachusetts against Missouri, without its responsibilities. The sequel is thus graphically portrayed in the report of the Senator from Illinois:

"When the emigrants sent out by the Massachusetts Emigrant Aid Company, and their affiliated societies, passed through the State of Missouri in large numbers, on their way to Kansas, the violence of their language, and the unmistakable indications of their determined hostility to the domestic institutions of that State, created apprehensions that the object of the company was to abolitionize Kansas as a means of prosecuting a relentless warfare upon the institutions of slavery within the limits of Missouri. These apprehensions increased and spread with the progress of events, until they became the settled convictions of the people of that portion of the State most exposed to the danger by their proximity to the Kansas border. The natural consequence was, that immediate steps were taken by the people of the western counties of Missouri to stimulate, organize, and carry into effect a system of emigration similar to that of the Massachusetts Emigrant Aid Company, for the avowed purpose of counteracting the effects, and protecting themselves and their domestic institutions from the consequences of that company's operations.

"The material difference in the character of the two rival and conflicting movements consists in the fact that the one had its origin in an aggressive, and the other in a defensive policy; the one was organized in pursuance of the provisions, and claiming to act under the authority of, a legislative enactment of a distant State, whose internal prosperity and domestic security did not depend upon the success of the movement; while the other was the spontaneous action of the people living in the immediate vicinity of the theater of operations, excited, by a sense of common danger, to the necessity of protecting their own firesides from the apprehended horrors of servile insurrection and intestine war. Both parties, conceiving it to be essential to the success of their respective plans that they should be upon the field of operations prior to the first election in the Territory, selected principally young men, persons unincumbered by families, and whose condition in life enabled them to leave

at a moment's warning, and move with great celerity, to go at once and select and occupy the most eligible sites and favored locations in the Territory, to be held by themselves and their associates who should follow them. For the successful prosecution of such a scheme, the Missourians who lived in the immediate vicinity possessed peculiar advantages over their rivals from the more remote portions of the Union. Each family could send one of its members across the line to mark out his claim, erect a cabin, and put in a small crop, sufficient to give him as valid a right to be deemed an actual settler and qualified voter as those who were being imported by the emigrant aid societies. In an unoccupied Territory, where the lands have not been surveyed, and where there were no marks or lines to indicate the boundaries of sections and quarter sections, and where no legal title could be had until after the surveys should be made, disputes, quarrels, violence, and bloodshed might have been expected as the natural and inevitable consequences of such extraordinary systems of emigration, which divided and arrayed the settlers into two great hostile parties, each having an inducement to claim more than his right, in order to hold it for some new comer of his own party, and at the same time prevent persons belonging to the opposite party from settling in the neighborhood. As a result of this state of things, the great mass of emigrants from the Northwest and from other States, who went there on their own account, with no other object, and influenced by no other motives than to improve their condition and secure good homes for their families, were compelled to array themselves under the banner of one of these hostile parties, in order to insure protection to themselves and their claims against the aggressions and violence of the other."

And thus was introduced into Kansas that relentless strife, which, with varied incidents and details, and but short periods of repose, has continued to the present time. Through all its phases it has faithfully and consistently preserved its original and distinct features of aggressive policy on the one side, and a defensive policy on the other. It matters not in such a contest that scenes transpired, and that atrocities were committed, by rival parties which it is not fit should be detailed here. Such consequences were inevitable; and those who first provoked and excited the terrible energies of such a strife are responsible for the blows given, and for those received. The Abolition or free-State party there have never abandoned their original purpose of making Kansas a free State by every means, except an obedience to that great principle to which they now profess such devotion. They have declined to resort to the mild mode of determining the great issue by the ballot. They have refused to vote under the laws of the regular government, openly defied its authority, and denounced it as a usurpation. They formed their partisans into a secret military organization, under the captivating title of the "Kansas Legion," which extended its ramifications throughout the Territory. The avowed object of this organization was to make Kansas a free State; and to this end its members were sworn with imposing form and solemnity. This organization, introduced before the first election of a Legislature, was superseded only by the later organization of the militia, under color of law of the new Stanton Legislature. Not only is their military organization distinct, but their political association is that of separate organized factions, outside of the forms of law, and in defiance of its authority. As soon as the election of 30th March, 1855, by an overwhelming majority, installed a Legislature largely pro-slavery in its views, they renounced the ballot-box, denounced the government as a Missouri conquest, and defied its enactments. They assembled a convention at Topeka, without the sanction of law, without the authority of either territorial or Federal Government, and ordained a State constitution and government, which was to be independent of both. And this open treason, the work of mercenaries and invaders, organized into a grand secret military encampment, was set up in hostile rivalry to the lawful government established by Congress. Around this, the idol of their worship, they have rallied all their strength, and all their devotion, to maintain it. From that time they have been a separate people, acting under their own organization, hostile to the regular government, and never yielding its obedience, or participating in its administration. Can a people who have thus ostracized themselves complain of a grievance which they have taken no pains to avert? Can they complain that the constitution was never submitted for approval to those who had repudiated it in advance, and owed allegiance to its rival? Such complaisance to the rights of popular sovereignty is an instance of extreme devotion to that principle that was not expected by the Topekaites, even at the hands of Governor Walker.

The very first Legislature of the Territory,

elected on the 30th March, 1855, passed a law for taking the sense of the people upon the question of forming a State government, which, by a large majority, was determined to be in favor of the proposed measure. Thus all parties coincided in the propriety of the change of government. On the 19th February, 1857, the Legislature passed a law for the calling of a convention, taking a census, and providing for a registry of all the *bona fide* voters of the Territory. It provided with the most anxious care and with studied impartiality in all its features, for attaining the true and final expression of the popular will, and attempted to secure the ballot against all invasion of its integrity. This law was vetoed by the Governor because it did not provide for submission of the whole constitution to the people for ratification, but was passed by the requisite majority, notwithstanding. This act pursued substantially the provisions of the Senate bill, introduced by the Senator from Georgia, [Mr. TOOMBS,] and which the Senator from New Hampshire [Mr. HALE] had admitted to be fair in its provisions. In neither was there any provision submitting the constitution to be thus formed for popular ratification. This was at least a significant fact of the intentions of those who desired to make a constitution, and no one could be surprised by the result. In taking the registry of voters, every obstacle was interposed to defeat the execution of the law. In some counties the officers were openly resisted, or intimidated from the performance of their duty, while in others the registration of fictitious names frustrated the objects of the law. The result, after all, showed a legal registration of nine thousand two hundred and fifty-one voters in eighteen counties, while in fifteen others, believed to contain less than fifteen hundred votes, no returns were made at all. Many of these last were but geographical divisions of territory on the map, without settlements, and attached, for all civil purposes, to other more populous counties. They were, of course, omitted in the apportionment of delegates. Elections were held in all but these counties, disfranchised by their own willful act, and their legitimate right to participate in the election was thus transferred to others. The Republicans, as a party, took no part either in the registration of voters or in the election of delegates. The convention assembled and formed the constitution, republican in form, which she has presented for our consideration; and this has opened again, in another form, in all its length and breadth, that great periodical agitation which seems doomed to continue until its legitimate and inevitable consequences shall follow and terminate it forever. That convention made their work complete, and referred but the one all-engrossing subject to the people, that of domestic slavery. On the 21st of December last this vexed question was decided at an election in which all had the right to vote, and the result proclaimed to the world. It is one which puts at rest all the fabulous boasts of the countless majorities of free-State men with which a credulous public has been entertained for the last two years. The figures are brief but decisive. For slavery, 6,226, against it, 569.

And now let me briefly review the prominent objections urged against the admission of Kansas with the Lecompton constitution. They are all comprehended in the idea that it is not "the act and deed" of Kansas. Indeed, the pretension is now openly avowed, which would subordinate this entire proceeding of a people from the just rank of an act of sovereignty to a mere petition for the redress of grievances. Her past history is all explored, an inquisitorial scrutiny is instituted into her domestic affairs, and her institutions subjected to unfriendly criticism, that pretexts for her exclusion may be multiplied. This is all intervention of the most odious and offensive character in Kansas affairs. We have reserved to ourselves no such powers; Congress has expressly resigned that pretension, and conferred it on the Territories. By thus investing Kansas with the right to form her institutions, we agreed not to fashion them for her. In allowing her to form them in her "own way," we agreed not to interfere in the mode or manner in which she did so. Whence do we derive this power of going behind her constitution to adjust conflicting equities of rival parties, in an act of admission? It is claimed that there are great irregularities in the whole proceeding. That may be true, but they were such

as afforded us no right to complain. We had not, as in the case of Minnesota, prescribed a mode of forming a constitution, and thus afforded a standard by which irregularities could be tested. Kansas was thus left to ordain her constitution after her own prescribed forms. If, in so doing, irregularities occurred, frauds were perpetrated, counties unrepresented or disfranchised, or injustice done to minorities they are all questions of political responsibilities between the government of Kansas and the people. In all her proceedings she acted in strict conformity to her laws, in subversion to the existing government, and in violation of no allegiance to the Federal Government. Her constitution is the work of the people in their sovereign capacity. It is the act and deed of the people, executed and authenticated according to the forms through which they speak. It is the act of the people expressed through their accredited government; and who doubts that it is in accordance with the sense of all the people who ever acknowledged allegiance to it? As an act of the people, it was final and conclusive upon us. If it is not, then there was some mental reservation in the Kansas and Nebraska act, or new doctrines have been ingrafted upon its original construction.

The objections to the constitution, in detail, are easily answered, and it shall be briefly done. It is no longer pretended that a preparatory act of Congress is essential to the right of admission of a new State. It does not alter the right of a State; it prescribes a form of proceeding which is sometimes

"More honor'd in the breach, than the observance."

Arkansas, Michigan, Florida, and California, were all thus admitted; the essential requisites to legitimate such a proceeding are that it should originate with, and be conducted in, subordination to the authority of the local government, established or recognized by the Government of the United States. This was the doctrine of the Senator from Illinois; and he traces a parallel and finds a fancied resemblance between the Lecompton and Topeka constitutions. He denounces them both as revolutionary, and as attempting to set up governments independent of the local government of the Territory. For this purpose he seizes upon that section which declares that "this constitution shall take effect and be in force from and after its ratification by the people." He omits to notice the provision that suspends the convening of the Legislature, and the entrance of the State officers upon the discharge of their official duties until after the admission of the State into the Union, and that all the officers of the Government are still there and in authority. Equally untenable is that objection which has of late acquired such importance—the failure of the convention to submit the whole constitution for popular approval. This is a new phase of popular sovereignty, and a new construction of the Kansas bill. A majority of the States of the Union have been admitted under constitutions which were not so approved. Others have been submitted. No one questions their validity now. I am not aware of any necessity which requires that the people can exercise sovereignty only in one form. Their sovereign right to institute government is not sovereign after all, if they cannot exercise it in their own mode. I know of no reason which requires a constitution to be submitted more than a law, or a treaty, or any other act of the supreme power of a State. Our forms of government are representative republics, rather than popular democracies. Indeed, the representative principle pervades our whole political system. The sovereignty of the people is claimed to be inalienable, but it is quite consistent with this view, that it can be exercised by representatives and agents. Whether exercised by the people directly themselves, or in any other mode, or by any other agency, it is still the act of the people. When the people elected the convention, they invested that convention with their whole power; and when the convention ordained a constitution complete, it was the act of the people, and as binding as if submitted directly to them. When the slavery clause was submitted to, and decided by, a popular vote on the 21st of December, the last feature of the constitution was added, and the work finished. The act of the special session of the Legislature, which authorized the popular vote on the 4th of January, was a usurpation, as it employed its limited authority to contravene a

previous sovereign act of the people. It could have no such right until that proposition should be disposed of by Congress.

The Senator from Illinois contends that the act of the "convention was not an exercise of sovereign power; that, inasmuch as it was convened under an act of the Legislature, it derived its whole authority from it, and possessed no more than the Legislature conferred." It would be a sufficient answer to this, that the Legislature is supreme within its just range of powers, and that the calling of this convention was "a rightful subject of legislation." But that is not all. The convention derived its authority from the people, and exercised it in their name; while the Legislature lent only the sanctions of law and authority, and prescribed the forms under which this potent voice of the people was to speak. Nor is it true that the people had no opportunity to express their wishes on the adoption of a constitution. If it is said that a large number of counties were disfranchised, I answer that their inhabitants defied and frustrated the law, and willfully refused to exercise their rights. If it is said that they were unrepresented in the convention, I answer that they voluntarily excluded themselves from the apportionment by failing to return a census. Whatever may be said of these preliminary steps, it need not be said that, on the 21st of December, they had no opportunity to vote. The convention had submitted the slavery question to a direct vote of the people, and the whole people. Congress had referred that subject to the people of the Territories to settle in their own way, and now they determined upon a direct appeal to the people. It had been claimed that the free-State men were in an overwhelming majority. Here was an opportunity to test it, and finally measure strength with their rivals. Census and registration laws were now like things of the past, and every one was invited to the polls. Executive proclamations and manifestoes were put forth, imploring the Republicans to vote. At one time they were told that the convention would be legal, and its action final, and asked to participate in its election. Governor Walker committed the grave error of supposing that he spoke for the Congress of the United States, in assuring them that the whole constitution should be submitted to a vote of the whole people; or if not, it would and ought to be rejected by Congress. The adherents of Topeka neither trusted his assurances nor acted upon them. They voted neither upon the election of delegates nor upon the slavery question. They abdicated their share in the government, and thus authorized the voting majority to speak for them. They were neither deceived nor surprised by the result. It was what they both anticipated and desired.

A kindred objection—one belonging to the same class of which I have been speaking—is the wholesale charge of fraud, which is alleged against all the proceedings of Kansas. It is not to be denied, it will not be questioned here, that frauds, atrocities, and irregularities have been perpetrated on both sides. It would be strange, indeed, if it were not so. Could it be expected that a Territory, thus harassed and vexed with internecine strife, often on the very verge of revolution, and always in a terrible conflict between excited parties, would not have presented irregularities in the form in which its laws were administered? It would be hopeless to expect that kind of absolute fairness and perfect impartiality which might be hoped for under a different state of circumstances. Here were elections decided in the short intervals of peace, during short periods of truce between contending parties; and Senators expect, and gravely contend here, that parties are to cease a bloody strife and conduct elections with perfect integrity and a strict observance of all the nice forms of law! Irregularities were inevitable; and I am only surprised that so few have been manifested and proved. Doubtless there were frauds on both sides. It is said there were frauds at the Delaware Crossing, at Shawnee, at Kickapoo, and at other places. Have the proceedings on the opposite side escaped all suspicion and all reproach of that kind? How do Senators account for the significant disparity between the votes for different classes of officers at Lawrence, and for the magnitude of the vote at Leavenworth, that swelled so suddenly? The inevitable result of the state of things which prevailed in Kansas led to frauds

in Kansas. I have no doubt of it. The pro-slavery party there, however, are the party who sustain the cause of law and order in that Territory. If they have learned the tactics of their enemies and turned their own weapons against them, the pro-slavery men were not the first to provoke that contest, or to inaugurate that condition of things. If, in a disreputable contest of that kind, the party who have lived outside of the pale of the law have been beaten by their own weapons, it does not lie in their mouths to complain of it as an act of injustice to them.

But, sir, I may remark of this objection, as of the former, what power have we over it? Whence do we derive the power to investigate election frauds in Kansas? Some of those which have become the subject of so much criticism relate to the election of State officers and members of the State Legislature—a matter which the Constitution has placed beyond our reach. The Legislature of Kansas, like every legislative body, can inquire into frauds and irregularities affecting the election of its members. It is the only proper judge of that question. It would be a monstrous pretension and usurpation of authority here, to contend that these local matters are to be decided by the Congress of the United States, and that, too, while we are performing the elevated constitutional duty of inducting a sovereign member into the Confederacy of States.

Mr. President, it is a little curious to notice the development of the different phases of this question. Those who opposed the extension of the Missouri line in 1850, were its strenuous advocates when it was proposed to repeal it in 1854. Those who then thought that the people should receive their institutions ready formed to their hands by Congress, are now loyal to the opposite extreme of popular sovereignty. The Republicans in Kansas decline the opportunity to right their fancied wrongs on the 21st of December; but two weeks after vote against the whole constitution. They denounce slavery in Kansas, yet refuse to vote it away. They declaim against their government as a Missouri usurpation, yet vote down the State government which was to supersede it; and thus continue the territorial condition where slavery has a constitutional existence. It is impossible to resist the conclusion that, with them, there is no purpose to settle this issue, but to keep it open as long as it can influence the passions or feed the excitement of fanaticism.

Another argument, which has, in turn, been enlisted to serve a purpose, is that which prescribes the mode of amending the constitution. It is worth while to give the exact language of this disputed clause. It is contained in the schedule, and provides that—

"Sec. 14. After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention, and if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall at its next regular session call a convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose Representatives; said delegates so elected shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution; but no alteration shall be made to affect the rights of property in the ownership of slaves."

This, it is said, is a prohibition of all amendment before the year 1864. Sometimes it has been used as one of the facts arrayed to show a disposition upon the part of its framers unfairly to place their work beyond the reach of reform or innovation, as they at the same time declined to submit the entire constitution for popular approval. The Senator from Illinois, in his minority report, attempts to prove that this provision is a prohibition of all amendment, except in that mode which is "revolution if successful, and rebellion in case of failure." He knows no means by which that "overwhelming" and fabulous majority of ten thousand free-State men can assert their right, except by the "terrible right of revolution;" and argues that the President holds out delusive hopes of a reform or change in the constitution by suggesting a resort to an impracticable scheme. It is to be wished that this provision had the virtue which has been ascribed to it. It would be but a reasonable regulation, and, at most, but a short postponement of the great right of peaceful and lawful revolution. Many of the older and earlier constitutions,

springing from a period convulsed by the throes of the Revolution, or molded under the auspices of men whose patriotism has been elevated above either reproach or suspicion, contained either similar provisions or maintained significant silence upon the subject. The time has been when stability of government and of law was considered no mean virtue in our institutions, and when the organic law of States was exempt from the sudden caprices, and ruthless innovations by which the institutions of to-day are marred or unmade on to-morrow. The time has been when these attempts, futile though they often were, to lend a short life to organic law, were respected, and the constitutions which contained them were deemed and accepted as republican in form. But whether such specific provisions, either regulating or partially limiting the inherent right of altering or abolishing forms of government, be void or valid, it is evident that they never seriously stood in the way of change when the people, acting under the forms of law, have willed it. The President, in his message, has referred to the great State of New York, now governed under the new constitution made in direct opposition to the form prescribed by its predecessor. The State of Rhode Island, until quite a recent period in her history, had remained under the government of a royal charter, which, I am informed, contained no provision for its own amendment. Under it the people lived and prospered, bore their part in the Revolution, and acceded to the Union. Yet this old charter, venerable for its antiquity, if not respectable for its wisdom, was finally superseded when the ideas and necessities of a later progress had outgrown its capacity for good government. The States of Ohio and Indiana contained prohibitions respectively against amendment, the first for twelve, and the second for ten years; yet the latter was changed within the prohibited period, and all of them in pursuance of a form prescribed by law, and without a resort to the "terrible right of revolution." Indeed, in the past history of our State constitutions, they have probably too often illustrated the views of the President in his late message, that the people "can make and unmake constitutions at pleasure," and that "the will of the majority is supreme and irresistible when expressed in an orderly and lawful manner."

The chairman of the Committee on Territories, [Mr. DOUGLAS,] in his report of March 12, 1856, on the affairs of Kansas, in reviewing the history of such of the States as had formed constitutions without the previous authority of Congress, redeems them all from illegitimacy by the assurance that, "in every instance, the proceeding has originated with, and been conducted in subordination to, the local government. Attorney General Butler, in the case of the admission of Arkansas, justifies the proceeding of the Territory in forming a constitution, without the previous assent of Congress, on the ground that such measures be commenced and prosecuted in a peaceable manner, and in strict subordination to the existing territorial government." These were all instances of a change from territorial to State government; but the principle extracted from them illustrates the efficacy of every appeal for a change of government to the sovereignty of the people, when prosecuted under the forms of law and in subordination to the existing government. These modes of changing constitutions, so familiar in our political history, can solve the problem and relieve the Senator's doubts, and enable the people of Kansas to know "how they are to exercise that great indefeasible right," of which the President speaks when he says "they can make and unmake constitutions at pleasure." The free-State party, so lately denounced by Governor Walker as "insurgents," seem to have a keener appreciation of their "inalienable rights" than the President, and their practical attempts to assert them have gone far beyond the suggestions in his message. In their hot haste to reverse the lawful decision of the people on the 21st December, and inaugurate "a reign of terror," they anticipated and outstripped the views of the President. They did not await the action of the State Legislature, after admission into the Union, to inaugurate proceedings for a change of the constitution, but attempted to accomplish it by a surprise, in a Legislature called for a specific purpose, precipitated into a premature birth by one

Governor, and betrayed into their hands by the extraordinary action of the other. If it be true that the partisans of a free State have this "overwhelming majority," no barrier in the constitution, no safeguards protecting the rights of property will long restrain them in their mad career. Frenzied by their first taste of power, they have, during the short life of their called session, economized the opportunity, and perpetrated the greatest amount of mischief in the shortest period of time.

The Senator from Illinois and the Senator from Vermont, arriving at the same result by a different form of logic, yet find themselves in happy accord upon the peaceful results and redeeming virtues of the October election. The Senator from Illinois says, "that from the day on which the members elected in October assembled and organized as a legislative body, all the opponents of the Lecompton constitution have recognized the government as valid and legitimate, acknowledging their allegiance to it, and their determination and duty to sustain and support it." The Senator from Vermont says, "that the people of that Territory, in the late territorial election, have reclaimed their rights, and that territorial government is, for the first time, now moving peaceably on in its legitimate sphere." Their first act was to attempt to defeat the Lecompton constitution, formed under the auspices and authority of the territorial government, and to inaugurate a new convention; and that is called "acknowledging their allegiance to the territorial government, and their determination and duty to sustain it." What a wonderful magic in this October election! Men who had been arrayed in armed hostility and open rebellion against the territorial government for years, while in a minority, succeeding at last in installing themselves in power, are suddenly transformed into peaceful citizens and loyal partisans of the territorial government, acknowledging their "allegiance" to themselves! Their second act was to organize the armed militia of their partisans, and place them under the control of a reckless adventurer and ruthless agitator; under whom, as we are informed, a systematic persecution, by murder, confiscation, and plunder, of the pro-slavery party prevails, before which pale the atrocities of the Danites of Utah. And this is called "moving peaceably on in its legitimate sphere of promised freedom." Should this process of extermination and exile, which is fast depopulating the Territory, continue, there will be but little difficulty in altering the constitution. They will soon attain that condition "where the public sentiment in favor of change is unanimous, or approaches so closely to unanimity as to silence all opposition;" and in such case, the Senator from Illinois admits that "constitutions and governments have been changed without violence or bloodshed." The people, says the President, "can make and unmake constitutions at pleasure;" can any one doubt that "at least it is so in" Kansas?

But, Mr. President, if it belongs to us in our limited sphere to go behind the constitution, and look at the motives of the men who framed it; if it is permitted to us to weigh the considerations which, in a vexed and protracted struggle to restore peace and order to a distracted country, may have counted with the members of the convention, is it fair to denounce, as a fraud and a grievance, the attempt, if such it was, to give a short-lived vitality of six years to the work which they were doing? What real or imaginary grievance was there that could not be endured for that short period? Was it a vice in the constitution that it proposed, at least a short truce to the conflict which had made the land a desert and the government an anarchy? If it was believed that this provision of the schedule was intended to infringe, to qualify, or invade the fundamental principles declared in their bill of rights, it was but a proposition of peace tendered to the people at a time when it was unknown which party would prevail in the final decision of the great question submitted to them; and whichever might be the victor in the contest, it proposed a short acquiescence of the vanquished in the result.

Mr. President, undue importance has been ascribed to this feature in the constitution of Kansas. It will figure far more here than there. If it does not, it will not be for want of the promptings which emanate from this great metropolis of agitation, inviting strife and revolution, and

sounding the notes which are echoed in every nook and corner of the Union. Does any one undertake here to say that this is a just cause of complaint there? It has been truly said that those who preach to the world of its misgovernment will find many listeners; but is it not a gratuitous patriotism which invents grievances for those who never feel them? Will this constitutional restriction stand one moment in the way of those who wish to overcome it? Will this great faction, whose numbers of late have swelled with such wonderful development—whose past history affords no instance where it has scrupled at the means where the end was to be attained—hesitate to overleap this feeble restraint? No. Those who are in open array and in armed defiance of the whole authority of the constitution will not stop to criticise an obnoxious feature of it. Those who desire the restoration of peace, the reign of order, and the supremacy of law, will not complain; while those who would perpetuate this anarchy and make the strife immortal, would soon overcome this frail barrier.

In the remarks which I have just made, I have treated this clause in the constitution as if it was a restriction imposed by the people on themselves, and a suspension of the general right of amendment to the constitution until the year 1864. There are certain fundamental principles of American organic law, which I hope and trust are, like the laws of the Medes and Persians, unalterable. There are other provisions which find a place in our constitutions which should be subjected to change and reform when the will of the people, duly expressed, demands it. This great and universal principle of American organic law is contained in the bill of rights. It declares "that all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have, at all times, an inherent and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper." This is one of those fundamental principles of which I have said that they should be eternal. It is a logical necessity of our form of government. If it is wrong, then representative and republican governments are wrong. This right is essential to self-government; and while I would deprecate a too frequent resort to its exercise, and would always limit that, in subordination to the forms of law, yet it is one which is first in importance, and it is better that it should be subject to abuse than to limitation. This right is theirs to exercise "at all times," and cannot be postponed or suspended for a moment. If it can be suspended for a period, it can be indefinitely postponed; and thus constitutions would be perpetual, and forms of government immortal. If this language of the constitution is hostile to, or inconsistent with, the bill of rights, it must to that extent yield to its superior authority. This is one of those original and reserved rights of the people, not delegated or alienated by the people, neither surrendered nor suspended, but withheld from the grant which makes up the just powers of government, and which are enumerated in the Constitution. In this contest for supremacy between reserved rights and delegated power, it is easy to determine which is the higher and which the subordinate law.

I hold, however, that there is no real hostility between these provisions. The conflict is more plausible than real. The one is the declaration of a great principle of American fundamental law, the other the mere regulation of the "manner" of the exercise of this right. Indeed, the latter clause does not form any part of the constitution, but is one of the articles of the "schedule" which provides against the inconveniences arising from a change of government. It finds no place in, and forms no part of the constitution, the great charter, prescribing the powers of government, and regulating their exercise. The right to alter the constitution "in such manner as they may think proper," is one of the rights retained to the people; and this so much condemned clause of the schedule only prescribes that manner after the year 1864. Until then, the right is untrammelled, and without prescribed form for its exercise. After that time, I agree that the Senator from Illinois may be right in stating the judicial rule of interpretation "that when a constitution prescribes one mode of amendment, it must be understood and construed as having thereby precluded all other

modes, and prohibited all other means of accomplishing the same object." Suppose, however, some other peaceable mode of change be successfully adopted: is not the constitution thus adopted the supreme law of the land, and are our constitutions, thus adopted, legitimate governments or successful revolutions? It is not for us to express controlling views to solve this problem. In admitting Kansas as a State, we trust her to her own destinies, and accomplish our whole duty.

Mr. POLK obtained the floor.

Mr. MASON. I am perfectly aware of the great importance of getting through with this question; but the honorable Senator who has just risen has newly come among us, and I presume it would not be agreeable to him to begin almost his first speech in this body at this late hour of the day. Knowing that he would take the floor, I took the liberty of conferring with him on the subject, and I am disposed to think that it would be more agreeable to him to speak to-morrow. I therefore move to postpone the further consideration of this question until to-morrow, at half past twelve o'clock.

Mr. JOHNSON, of Arkansas. I beg to suggest that the time for the consideration of this subject is very short; and if honorable gentlemen on this side of the Chamber are the first to propose adjournments and postponements when their friends are ready to go on, they will have no right to complain of the course which may be taken by gentlemen on the other side. Unless the Senator from Missouri, exercising the right which, I believe, has been exercised several times on the other side, shall himself urge us to defer the consideration of this subject, so that he may be heard to-morrow, I shall feel bound to vote against the postponement. I hope the bill will not be postponed; but if he requests that it shall be, in order that he may be heard to-morrow, I shall ask that the Senate proceed to the consideration of executive business.

Mr. MASON. I have no objection to the consideration of executive business; on the contrary, I shall cheerfully concur in that; but I protest against its being left to the honorable Senator from Missouri to decide whether he shall speak now or to-morrow. I think, as I have already said, that it would be more agreeable to him to go on to-morrow, and I think Senators would prefer to hear him then.

Mr. HUNTER. I should like to submit a motion, by general consent, that from and after to-morrow we take a recess daily from four o'clock to six o'clock until this question be disposed of. We want to close it next week; and if we do, I believe it will be necessary to take a recess every day until we get rid of it. I cannot submit the motion for a recess, I know, unless by general consent.

Mr. TRUMBULL. I object.

Mr. HUNTER. Then I give notice that I shall make the motion to-morrow.

The VICE PRESIDENT. The present motion is to postpone the further consideration of the bill before the Senate until to-morrow at half past twelve o'clock.

Mr. STUART. I hope it will be allowed to go over as the unfinished business, to come up at one o'clock to-morrow. We should have time to dispose of our morning business. If we assign this bill for half past twelve o'clock, it may produce confusion, and there is scarcely a day when we have a quorum at that early hour.

Mr. GREEN. I am very anxious to afford the largest latitude to debate on this question, for it is the great question. This morning, out of courtesy, and for the purpose of getting through certain matters before the Senate, I permitted it to go over, and lost about half an hour; and I want to get that half hour back. I therefore insist on the postponement of the subject until half past twelve o'clock to-morrow.

Mr. STUART. I shall be glad to see the Senator get the half hour back in any proper way; but I think we shall gain nothing, while we shall interfere largely with business, by undertaking to fix this subject for half past twelve o'clock to-morrow. I therefore trust that the Senator will yield to the suggestion, and let it pass over as the unfinished business.

Mr. POLK. Of course, I am disposed to conform myself, in all my action in the Senate, as far as I may be able to do so, to the wishes of the body. I would prefer not to go on this after-

noon, and I state that, especially, because it has just been suggested to me by another gentleman that there is a Senator who is willing to go on this afternoon—the Senator from Georgia.

Mr. TOOMBS. I do not know that I shall make any speech, now or at any time.

Mr. POLK. I mean your colleague.

Mr. TOOMBS. I do not wish to go on. I do not care to speak. I do not know that I shall have one word to say on the question. I am ready for the vote, I am sure.

The VICE PRESIDENT. The motion is to postpone the further consideration of this subject until half past twelve o'clock to-morrow.

Mr. BRODERICK. I hope this question will be postponed until to-morrow at half past twelve o'clock. If there is any important business under consideration before half past twelve o'clock, I suppose this question can go over until one o'clock, by the consent of the Senate. But I have sat here, listening to the speeches that have been made, as I have done to all the gentlemen who have spoken on this question; and I dislike to remain here five or six hours during the day, for the purpose of hearing more than two gentlemen speak on the same day. I have listened attentively to the Senator from Maine and the Senator from Arkansas; and I think we have had speeches enough to-day. I am very willing to vote to proceed to the consideration of this question to-morrow at half past twelve o'clock.

The motion to postpone the further consideration of the subject until to-morrow at half past twelve o'clock, was agreed to.

EXECUTIVE SESSION.

Mr. JOHNSON, of Arkansas. I move that the Senate proceed to the consideration of executive business.

Mr. STUART. I move that the Senate adjourn.

Mr. JONES. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. SLIDELL. I have paired off with the Senator from New York, [Mr. SEWARD.]

The question being taken by yeas and nays, resulted—yeas 12, nays 20; as follows:

YEAS—Messrs. Broderick, Clark, Clay, Dixon, Doolittle, Durkee, Foster, Houston, Johnson of Tennessee, Stuart, Wade, and Wilson—12.

NAYS—Messrs. Allen, Benjamin, Biggs, Bigler, Brown, Fitch, Green, Hammond, Harlan, Hunter, Iverson, Johnson of Arkansas, Jones, Mason, Polk, Pugh, Sebastian, Thomson of New Jersey, Toombs, and Yulee—20.

So the Senate refused to adjourn.

The question recurred on the motion of Mr. JOHNSON, of Arkansas, and it was agreed to.

So the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 10, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. R. ECKARD.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER stated that the business first in order was the consideration of House bill No. 313, to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers, on which the gentleman from Iowa [Mr. CURTIS] was entitled to the floor.

EXCUSED FROM SERVICE ON COMMITTEE.

Mr. MASON. I ask the House to be excused from further service upon the Committee of Accounts.

Mr. SMITH, of Virginia. I trust the House will not allow the gentleman to be excused. The gentleman is too valuable a member to be excused.

Mr. MASON. I do not wish to take up the time of the gentleman from Iowa, [Mr. CURTIS.] But, sir, it is impossible for me to discharge properly the duties appertaining to that committee. There is no law regulating the number or compensation of the employés of the House, and it is not consistent with the knowledge which that committee has on the subject, without any

law, without an order with respect to the accounts presented, to pass upon them. Although there are complaints made against the late Clerk of the House of Representatives for extravagance, the employés of the present House are exceeding, both in expense and numbers, those of any former House. The House has refused to regulate them by law, and it is impossible for us to tell what should and what should not be sanctioned. I do not make the request from any feeling which I have on the subject.

Let me state further: the late Clerk of the House is now here with a committee of investigation into frauds and corruptions connected with his affairs. That committee, as I understand it, is about bringing its labors to a close. We have returned from that committee accounts to the amount of seven or eight hundred thousand dollars. They are presented to the Committee of Accounts to be audited. We do not know whether they ought to be passed or not. He has a right to have these accounts settled immediately. He has been detained here a long time already, and he wants to settle his whole affairs without further delay. These accounts, as I have stated, come before the Committee of Accounts for settlement. We have not the confidence of the House, and we do not want to take the responsibility, in the face of this state of things, to pass upon these accounts. They show far more extravagance than we have heretofore had.

Now, sir, I think these accounts should be referred to a new committee. The House has the right to command its committee. The committee should act in accordance with the wishes of a majority of the House. The House has the right to have a committee which shall act in accordance with its wishes, and it is due to the House, therefore, that a new committee should be appointed.

Mr. CURTIS. I wish to know whether this debate will come out of my time?

The SPEAKER. The Chair will decide that point when it shall arise.

Mr. HOUSTON. I wish to make a suggestion. I will not take more than a minute.

Mr. GROW. I rise to a question of order. If this debate is to come out of the time of the gentleman from Iowa, he has the right to interrupt it and assume the floor at any time.

Mr. JONES, of Tennessee. I suppose, as the gentleman from Kentucky had the floor by unanimous consent, of course it does not come out of the time of the gentleman from Iowa.

Mr. LETCHER. Of course it does not.

Mr. CURTIS. I have not yet heard the decision of the Speaker upon that point.

The SPEAKER. The Chair is of the opinion that, inasmuch as the gentleman from Kentucky was permitted to submit his motion by unanimous consent, it will not come out of the time of the gentleman from Iowa.

Mr. HOUSTON. I was about to submit to the gentleman from Kentucky that he withdraw his application for the present, and that on Monday, if he can get the floor, he make the motion that the bill the other day referred to the Committee of the Whole on the state of the Union be taken up for the purpose of settling the compensation and number of the employés in the offices of the Clerk and Doorkeeper of the House. I appreciate the condition of the Committee of Accounts. Their duties must be very annoying and troublesome. It is almost impossible for them to discharge their duties when there is an absence of law regulating the powers of the heads of these bureaus—if I may so style them—as to the number of appointees they may have, and as to the amount of compensation their appointees shall receive. The committee ought to have some law to guide them; and it does appear to me that the House could do no less than to say how many appointments the Doorkeeper, the Clerk, and the Postmaster, respectively, shall have, and the compensation that each shall be entitled to. Now, I appeal to the gentleman from Kentucky, I appeal to the members of the Committee of Accounts, who, I am sure, must be embarrassed, because of the confusion which necessarily grows out of the fact that there is no law regulating this subject, when there should be a law—I say I appeal to them to let this matter rest until they can get an opportunity to ask the sense of the House upon the question of regulating the matter by law.

Mr. FLORENCE. If I understand the request

made by the chairman of the Committee of Accounts, it has no reference to any present purpose.

Mr. SEWARD. I rise to a point of order. I object to all this debate, if it is out of order. There is no question before the House, but the simple application of a member to be excused from serving on a committee.

The SPEAKER. A motion is pending to excuse a member.

Mr. FLORENCE. I was about to say that the chairman of the Committee of Accounts does not ask to be relieved because of any difficulty under the present arrangement of the employes of the House. I understood him to say that the difficulty existed in settling the accounts of the late Clerk; and hence I do not understand the relevancy of the remarks of the gentleman from Alabama, [Mr. Houston.]

Mr. HOUSTON. I am not responsible for my friend's understanding; for the gentleman from Kentucky did make the statement.

Mr. FLORENCE. I remarked that I did not so understand him, and upon that I erected my superstructure; and a pretty good corner-stone I think it is.

Mr. MASON. I say, then, to the gentleman from Pennsylvania, that he totally misunderstood me, if he understood me to say that the difficulty did not have reference to the law.

Mr. FLORENCE. The gentleman stated that the accounts of the late Clerk imposed upon them labors which they could not undergo.

Mr. MASON. The gentleman misunderstood me.

Mr. FLORENCE. Then the gentleman went on to say that, until the matter of the employes of this House was regulated by law, they could not understand exactly where they stood; and that, until the House chose to regulate their number and compensation by law, he was not disposed to remain upon the committee. My understanding is, that there is a certain fixed number of persons under the rules or law of the House; and I understand that the Committee of Accounts have the entire control of the employes, except those authorized by law, and that they have exercised that power; and the gentleman has, I think, reflected upon the judgment of this House.

Mr. CLINGMAN. I rise to a question of order. I ask if this debate, in reference to the number of employes of this House, is in order upon this application to be excused from serving upon a committee?

Mr. FLORENCE. I think myself it is not; but as the gentleman from Alabama went into that subject, I thought I could follow.

The SPEAKER. The Chair thinks it is hardly in order.

Mr. FLORENCE. I do not think it is in order; but let me go on in reply to the gentleman from Alabama.

The SPEAKER. The gentleman cannot proceed except in order.

Mr. FLORENCE. I am very much troubled, then, how to go on. [Laughter.] I thought the gentleman from Kentucky [Mr. Mason] opened up this whole debate, and I thought I could travel after him. If I cannot, the gentleman from Alabama could, and I thought I might travel after him.

The chairman of the Committee of Accounts desires to be relieved from the arduous duties of that committee, because the number of employes is not regulated by law; and he says that unless the House does fix the number and their compensation, he does not know exactly how to act in reference to those now employed. I say it was a reflection upon the judgment of the House which did not choose to act upon the subject when it was submitted to them by the Committee of Accounts, but took upon themselves the responsibility to which they are entitled, to put the matter off for investigation in order that they might arrive at a correct conclusion. They postponed it because the proposition submitted by the committee did not meet the approbation of the House, and did not harmonize with their sentiments.

The SPEAKER. The Chair thinks the gentleman is not in order.

Mr. FLORENCE. Then I do not want to say anything more. I did not intend to interpose any objection to the withdrawal of the gentleman from the Committee of Accounts. I desired simply to

urge an objection which I thought ought to be urged against the conclusions of the committee.

Mr. MAYNARD. I wish simply to state that I shall vote against excusing the honorable gentleman from Kentucky from serving upon the Committee of Accounts. It is a very important committee, one which stands at the very door of the Treasury; one which supervises the expenditures of this House, and regulates its contingent fund; a committee of exceeding responsibility, and I know of no member of this House who is better qualified for the arduous and responsible duties of that committee than the gentleman from Kentucky; and the very reason which the gentleman assigns as a reason why he should be excused, operates upon my mind directly adverse to the object he has in view.

In reference to the matter of the accounts of the late Clerk, it will be recollected that when the committee was raised, it was stated explicitly upon the floor that it was not intended to supersede the action of the Committee of Accounts. It could not have that effect, because it was necessary that those accounts should pass that Committee of Accounts before they can be audited at the Treasury.

Mr. BURNETT. I rise to a question of order. It is, that the gentleman from Tennessee cannot argue the facts connected with the accounts of the late Clerk, upon the motion of my colleague to be excused from service upon a committee.

The SPEAKER. The Chair thinks the point of order well taken.

Mr. MAYNARD. I submit to the ruling of the Chair with cheerfulness. I therefore conclude what I have to say by remarking that I must dissent from granting the request of the gentleman from Kentucky. I call for the previous question.

Mr. MASON. Will the gentleman withdraw the call for a moment?

Mr. MAYNARD. I will for the gentleman.

Mr. MASON. The chairman of the select committee [Mr. MAYNARD] upon the accounts of the late Clerk, misunderstood me, if he understood me as disposed to shrink from an examination of those accounts.

Mr. MAYNARD. I did not so understand the gentleman at all.

The SPEAKER. The Chair thinks that the remarks of the gentleman from Kentucky are hardly in order.

Mr. MASON. The gentleman from Pennsylvania, [Mr. FLORENCE], in stating his understanding of the question, totally misunderstood what I had stated in reference to the whole affair. He says that I cast some slur upon the House for not passing our bill. I do nothing and ask for nothing except for practical action on this subject. I stated that when these large accounts of the late Clerk were before the committee, a part of the committee refused to act. Now, either the Committee of Accounts have to govern the employes of the House, or the employes have to govern the committee.

I will state one fact in connection with this matter. After the vote of the House, the other day, the arrangements of the folding-room were changed back to what they were before the committee ordered an alteration to be made. A member of the committee told you, the other day, that the whole amount for the expenditures of the folding-room of the House for the year had been already thrown away or given away.

The SPEAKER. The Chair thinks the gentleman from Kentucky is taking too much latitude.

Mr. MASON. I will only say, then, that one of the employes in the folding-room told us, "we have beaten you in the House, and we will change the arrangements of the folding-room back to what they were before you interfered." Now, they must be under our guidance, or we under theirs. Unless the House take this matter under their direction, it is impossible for the Committee of Accounts to protect the contingent fund of the House, or to perform their duties in a manner satisfactory to themselves or to the country.

Mr. CLINGMAN. What would be the effect of a motion to lay the pending motion on the table? It would leave the gentleman from Kentucky still in the committee, would it not?

The SPEAKER. It would.

Mr. CLINGMAN. I am satisfied that the public interests require that the gentleman should remain where he is; and I therefore move to lay

the motion to excuse the gentleman upon the table.

Mr. RUFFIN. I hope my colleague will withdraw that motion until I can make an explanation, as I am a member of the committee.

Mr. CLINGMAN. I withdraw it.

Mr. RUFFIN. Mr. Speaker, as a member of the Committee of Accounts, I wish to say a few words in explanation of my course, and but a few. I have sought the floor ever since its action upon this question, with a view of asking the House to excuse me from service on that committee. I notified the House, in the few remarks which I submitted in the discussion of the bill proposed by the chairman of the committee, that I should not go into that committee room, and serve in the dark; that I was not going to compromise my character by passing accounts when I did not know whether they were just or unjust; that we did not know how many lawful officers there were about this House; that some had been appointed in one way and some in another; that we had to send our clerk to hunt through the Journals of the House for the last fifteen, twenty, or thirty years, to know whether this officer or that officer was employed under authority of law; and that we asked the House to fix the number of its officers. I cared nothing about the compensation. I felt no particular attachment to that portion of the bill. But we asked the House to fix the number of officers and the compensation they were to receive, and to let the committee know what they were to do. Since that day I have not been into the committee room, and I do not mean to go there again until this matter is fixed by law. I intend to ask the House to excuse me from further service on that committee, and I expect the House will excuse me; but if not, I do not intend to go into the committee room again. I am on another important committee, the Committee on Public Lands, and I shall go there and try to do my duty to my constituents and to the country. When I was appointed on the Committee of Accounts, I went into the committee room with the intention of doing my whole duty, and I have done it. I have neglected the business of my constituents in the Departments and elsewhere, to go, morning after morning, into this committee room, and on Saturdays, when the House has adjourned over, I have gone into the folding-room.

Mr. SEWARD. I rise to a question of order. I insist that the gentleman shall confine his remarks to the propriety of excusing the gentleman from Kentucky.

Mr. RUFFIN. I am doing so.

The SPEAKER. The question is, whether the gentleman from Kentucky shall be excused?

Mr. RUFFIN. Well, I was arguing that the gentleman from Kentucky should be excused. I have never known an instance in which the House has refused to excuse a member who asked to be excused, and I think that the gentleman from Kentucky has given ample and sufficient reasons why he should be excused. So far as I am concerned, I have been willing to investigate all the accounts that might be sent before the committee, if the House would place the matter, by law, upon a proper footing, and let us know what we are to do hereafter.

Mr. STANTON. I desire to ask the gentleman a question. Does he know of any other gentleman in this House who would do better upon that committee than the gentleman from Kentucky and himself?

Mr. RUFFIN. I presume, as the House takes one view of this matter, and the gentleman from Kentucky and myself take another view of it, that it is right that the House should have gentlemen upon that committee representing its views. I have never been in the habit of auditing accounts in this loose way, and no account shall ever be passed by me unless I know something about it. And whether the House excuse me or not, I do not expect to go into that committee-room again.

Mr. HUGHES. I desire to inquire of the Chair whether, if a member of a committee, after the House has refused to excuse him, should refuse to act on that committee, he could not be sent to jail under the previous question for a contempt of the House? [Laughter.]

Mr. BURNETT. I call the previous question upon the motion to excuse my colleague.

The previous question was seconded, and the main question ordered.

Mr. JONES, of Tennessee, demanded the yeas and nays on the motion to excuse Mr. Mason.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 77; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Billingshurst, Bingham, Bonham, Bowie, Boyce, Bryan, Buffinton, Burnett, Burroughs, Case, Chaffee, Ezra Clark, John B. Clark, Clay, Clemens, John Cochran, Cornuz, Cox, James Craig, Curtis, Damrell, Davidson, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Durfee, Elliott, Fenton, Florence, Foster, Garrett, Gooch, Goodwin, Granger, J. Morrison, Harris, Haskin, Hawkins, Hickman, Hoard, Houston, Hughes, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Jacob M. Kunkel, Landy, Leach, Lecky, Leiter, Letcher, Loveloy, Maclay, McQueen, Samuel S. Marshall, Matteson, Freeman H. Morse, Mott, Niblack, Nichols, Parker, Pendleton, Peyton, Phelps, Phillips, Pottle, Purviance, Quitman, Ready, Reilly, Ritchie, Ruffin, Russell, Savage, Scales, Aaron Shaw, Henry M. Shaw, Shorter, Robert Smith, Samuel A. Smith, Stephens, Stevenson, Talbot, George Taylor, Underwood, Waldron, Ward, Warren, Whiteley, Winslow, Woodson, Wortendyke, and Augustus R. Wright—106.

NAYS—Messrs. Andrews, Bennett, Bliss, Bocock, Braxton, Burns, Campbell, Clawson, Clingman, Cobb, Cockerill, Coffax, Comins, Covode, Cragin, Burton Craige, Crawford, Curry, Davis of Indiana, Dick, Dodd, Dowdell, Edie, Edmundson, English, Farnsworth, Foley, Giddings, Gilman, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Grow, Robert B. Hall, Harlan, Hopkins, Horton, Howard, Huyler, Jackson, Knapp, Maynard, Morgan, Morrill, Edward Joy Morris, Murray, Olin, Potter, Powell, Reagan, Robbins, Royce, Scott, Seward, John Sherman, William Smith, Spinner, Stallworth, Stanton, James A. Stewart, William Stewart, Tappan, Miles Taylor, Thayer, Thompson, Tompkins, Wade, Walbridge, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Watkins, White, Wood, and Zollicoffer—77.

So Mr. Mason was excused.

Pending the vote,

Mr. DOWDELL stated that his colleague, Mr. Moore, was detained from the House by illness.

Mr. CURTIS took the floor.

Mr. MAYNARD. I ask the gentleman from Iowa to allow me the floor to introduce a bill for reference?

Mr. CURTIS. I would like to accommodate the gentleman, but I feel it my duty to proceed.

Mr. RUFFIN. I rise to a privileged question. I move to be excused from serving on the Committee on Accounts.

The SPEAKER. The Chair thinks that is not a privileged question, or a question of privilege.

Mr. HOUSTON. I rise to have a motion entered, and that is to reconsider the vote just taken. I shall not ask action on it now.

Mr. FLORENCE. I move to lay the motion to reconsider on the table.

The SPEAKER. The gentleman from Iowa has the floor; but the gentleman from Alabama [Mr. Houston] has the right to have his motion entered.

SELECT COMMITTEE ON KANSAS AFFAIRS.

Mr. STEPHENS, of Georgia. I ask the gentleman from Iowa to allow me to present a report from the select committee to whom the Lecompton constitution was referred. I will state that it is not my object to ask to have it acted on to-day; but I simply wish to present the report, and to ask to have it printed.

Mr. SHERMAN, of Ohio. I object.

Mr. STEPHENS, of Georgia. It is not my object to have the report acted on to-day; but I intend to move to postpone its consideration to a particular day.

Mr. MORGAN. I object to this debate.

The SPEAKER. Debate is not in order. The gentleman from Iowa is entitled to the floor.

Mr. STEPHENS, of Georgia. Then I give notice, as the report has been ready for a week past, that I shall have it printed.

Mr. SHERMAN, of Ohio. I object to the presentation of this report, unless it comes regularly in order on a call of special committees for reports.

Mr. STEPHENS, of Georgia. And perhaps special committees may not be called in two months. I will take the responsibility myself of having it printed and sent before the country.

The SPEAKER. Debate is not in order.

BILL TO RAISE VOLUNTEERS.

Mr. CLINGMAN. I wish to be permitted by the gentleman from Iowa [Mr. Curtis] to ask the chairman of the Committee on Military Affairs this question in reference to this bill: whether, if the House devote the whole of this day to its

consideration, it will probably be disposed of to-day?

Mr. MORGAN. I object to all this conversation, and all this discussion; and I ask for the regular order of business.

Mr. CLINGMAN. I suppose that, with the permission of the gentleman from Iowa, I have a right to ask the question.

Mr. CURTIS. Mr. Speaker, I owe it to myself and to the House, before going into the advocacy of this bill, to show, as I hope to do, that there is occasion for an increase of the Army of the United States. So far from desiring, however, to increase the permanent force of the country, I am ready to meet that question whenever it comes up. As one of the Committee on Military Affairs, I believe that there is no occasion for an increase of the regular Army of the United States, unless there be, as I think there is, actual rebellion and war in the country, calling for some adequate force to meet and repel it.

In considering the bill before us, I shall, in the first place, undertake to show that the Mormon rebellion is a serious, imposing, and terrible offense against the law, and that it needs repulsive measures. On that basis, and on that alone, I advocate the passage of the bill now before the House. In the second place, I shall undertake to show what kind and what amount of force is necessary for the occasion.

What is the condition of this Mormon rebellion? I think that the House should, in justice to itself, in justice to the country, in justice to the Mormons, present the evidence against the Mormons for the purpose of showing that they are now in hostility against this Government, and that, therefore, there is a necessity for sending troops against them.

Gentlemen will look over the history of the last six months they will see that about the 1st of August last one of our agents, Captain Van Vliet, of the United States Army, was sent to Utah for the purpose of buying stores for the Army going in that direction. What was the reply that he received from the Mormons? He was told in substance, by Brigham Young, the acting Governor, that they should not come into the valley; that no officer should take his position; that his power was supreme, and that he put this Government at defiance. Captain Van Vliet, in the most courteous and kind terms, told him that it was not the design of the Army of the United States to make war against Utah or his people; but that they came, on the contrary, to establish the law and the constitutional rights of the Government. On that ground he placed the advance of the Army towards Utah. But he was replied to in terms, not to be misunderstood, that this Army should not come to Salt Lake valley; that they would be resisted to the last extremity. This acting Governor of Utah placed himself on the ground that his power was supreme, and that the Government of the United States could not displace it. In a few weeks after that he commenced to rally a force—a military force, not a civil one. This was the condition of things in August. In September we find that he has raised an army and placed it under the command of a lieutenant general, and sent his proclamation by that commander—wearing the insignia of his rank—intimating distinctly that he was prepared for war, not for civil measures. This was in September last. I ought to read here the proclamation of Brigham Young and the report of Captain Van Vliet. They are as follows:

HAM'S FORK, September 16, 1857.

CAPTAIN: I have the honor to report, for the information of the commanding general, the result of my trip to the Territory of Utah.

In obedience to special instructions, dated headquarters Army for Utah, Fort Leavenworth, July 28, 1857, I left Fort Leavenworth July 30, and reached Fort Kearney in nine, traveling days, Fort Laramie in ten, and Great Salt Lake City in thirty-three and a half. At Fort Kearney I was detained one day by the changes I had to make, and by sickness, and at Fort Laramie three days, as all the animals were forty miles from the post, and when brought in all had to be shod before they could take the road.

I traveled as rapidly as it is possible to do with six mule wagons; several of my teams broke down, and at least half of my animals are unserviceable, and will remain so until they recruit. During my progress towards Utah I met many people from that Territory, and also several mountain men, at Green river, and all informed me that I would not be allowed to enter Utah, and if I did I would run a great risk of losing my life: I treated all this, however, as idle talk, but it induced me to leave my wagons and escort at Ham's fork, one hundred and forty-three miles this side of the city, and proceed alone.

I reached Great Salt Lake City without molestation, and immediately upon my arrival I informed Governor Brigham Young that I desired an interview, which he appointed for the next day. On the evening of the day of my arrival, Governor Young with many of the leading men of the city, called upon me at my quarters. The Governor received me most cordially, and treated me during my stay, which continued some six days, with the greatest hospitality and kindness. In this interview the Governor made known to me his views with regard to the approach of the United States troops, in plain and unmistakable language.

He stated that the Mormons had been persecuted, murdered, and robbed in Missouri and Illinois, both by the mob and State authorities, and that now the United States were about to pursue the same course; and that, therefore, he and the people of Utah had determined to resist all persecution at the commencement, and that the troops now on the march for Utah should not enter the Great Salt Lake valley; as he uttered these words, all there present concurred most heartily in what he said.

The next day, as agreed upon, I called upon the Governor, and delivered in person the letters with which I had been intrusted.

In that interview, and in several subsequent ones, the same determination to resist to the death the entrance of the troops into the valley was expressed by Governor Young and those about him. The Governor informed me that there was abundance of everything I required for the troops, such as lumber, forage, &c., but that none would be sold to us.

In the course of my conversations with the Governor and the influential men in the Territory, I told them plainly and frankly what I conceived would be the result of their present course; I told them that they might prevent the small military force now approaching Utah from getting through the narrow defiles and rugged passes of the mountains this year, but that next season the United States Government would send troops sufficient to overcome all opposition. The answer to this was invariably the same. "We are aware that such will be the case; but when those troops arrive they will find Utah a desert; every house will be burned to the ground, every tree cut down, and every field laid waste. We have three years' provisions on hand, which we will 'cache,' and then take to the mountains and bid defiance to all the powers of the Government."

I attended their services on Sunday, and, in the course of a sermon delivered by Elder Taylor, he referred to the approach of the troops, and declared they should not enter the Territory. He then referred to the probability of an overwhelming force being sent against them, and desired all present who would apply the torch to their own buildings, cut down their trees, and lay waste their fields, to hold up their hands; every hand in an audience numbering over four thousand persons, was raised at the same moment. During my stay in the city I visited several families, and all with whom I was thrown looked upon the present movement of the troops towards their Territory as the commencement of another religious persecution, and expressed a fixed determination to sustain Governor Young in any measures he might adopt.

From all these facts I am forced to the conclusion that Governor Young and the people of Utah will prevent, if possible, the army from entering their Territory this season. This, in my opinion, will not be a difficult task, owing to the lateness of the season, the smallness of our force, and the defenses that nature has thrown around the valley of the Great Salt Lake.

There is but one road running into the valley on the side which our troops are approaching, and for over fifty miles it passes through narrow cañons and over rugged mountains, which a small force could hold against great odds. I am inclined, however, to believe that the Mormons will not resort to actual hostilities until the last moment. Their plan of operation will be, burn the grass, cut up the roads, and stampede the animals, so as to delay the troops until snow commences to fall, which will render the road impassable. Snow falls early in this region; in fact, last night it commenced falling at Fort Bridger, and this morning the surrounding mountains are clothed in white. Were it one month earlier in the season, I believe the troops could force their way in, and they may be able to do so even now; but the attempt will be fraught with considerable danger, arising from the filling up of the cañons and passes with snow.

I do not wish to be considered that I am advocating either the one course or the other; I simply wish to lay the facts before the general, leaving it to his better judgment to decide upon the proper movements.

Notwithstanding my inability to make the purchases I was ordered to, and all that Governor Young said in regard to opposing the entrance of the troops into the valley, I examined the country in the vicinity of the city, with the view of selecting a proper military site. I visited the military reserve, Rush valley; but found it, in my opinion, entirely unsuited for a military station. It contained but little grass, and is very much exposed to the cold winds of winter; its only advantage being the close proximity to fire-wood. It is too far from the city, being between forty and forty-five miles; and will require teams four days to go there and return. I examined another point on the road to Rush valley, and only about thirty miles from the city, which I consider a much more eligible position. It is in Tuella valley, three miles to the north of Tuella city, and possesses wood, water, and grass; but it is occupied by Mormons, who have some sixty acres under cultivation, with houses and barns on their land. These persons would have to be dispossessed or bought out. In fact, there is no place within forty, fifty, or sixty miles of the city, suitable for a military position, that is not occupied by the inhabitants and under cultivation. Finding that I could neither make the purchases ordered to, nor shake the determination of the people to resist the authority of the United States, I left the city, and returned to my camp at Ham's fork. On my return, I examined the vicinity of Fort Bridger, and found it a very suitable position for wintering the troops and grazing the animals, should it be necessary to stop at that point. The Mormons occupy the fort at present, and also have a settlement about ten miles further up Black's fork, called Fort Supply. These two places contain buildings sufficient to cover nearly half the troops now en route for Utah; but I

was informed that they would all be laid in ashes as the army advanced.

I have thus stated fully the result of my visit to Utah; and, trusting that my conduct will meet the approval of the commanding general,

I am, very respectfully, your obedient servant,
STEWART VAN VLIET,
Captain, Assistant Quartermaster.

Proclamation by Governor Brigham Young.

CITIZENS OF UTAH: We are invaded by a hostile force, who are evidently assailing us to accomplish our overthrow and destruction. For the last twenty-five years we have trusted officials of the Government, from constables and justices to judges, Governors, and Presidents, only to be scorned, held in derision, insulted, and betrayed. Our houses have been plundered and then burned, our fields laid waste, our principal men butchered while under the pledged faith of the Government for their safety, and our families driven from their homes to find that shelter in the barren wilderness, and that protection among hostile savages, which were denied them in the boasted abodes of Christianity and civilization.

The Constitution of our common country guarantees unto us all that we do now or have ever claimed. If the constitutional rights which pertain unto us as American citizens were extended to Utah, according to the spirit and meaning thereof, and fairly and impartially administered, it is all that we could ask—all that we have ever asked.

Our opponents have availed themselves of prejudices existing against us, because of our religious faith, to send out a formidable host to accomplish our destruction. We have had no privilege nor opportunity of defending ourselves from the false, foul, and unjust aspersions against us, before the nation. The Government has not condescended to cause an investigating committee, or other person, to be sent to inquire into and ascertain the truth, as is customary in such cases. We know those aspersions to be false, but that avails us nothing. We are condemned unheard, and forced to an issue with an armed mercenary mob which has been sent against us at the instigation of anonymous letter-writers, ashamed to father the base, slanderous falsehoods which they have given to the public; of corrupt officials, who have brought false accusations against us to screen themselves in their own infamy; and of hiring priests and howling editors, who prostitute the truth for filthy lucre's sake.

The issue which has thus been forced upon us compels us to resort to the great first law of self-preservation, and stand in our own defense: a right guaranteed to us by the genius of the institutions of our country, and upon which the Government is based. Our duty to ourselves—to our families—requires us not to tamely submit to be driven and slain without an attempt to preserve ourselves. Our duty to our country, our holy religion, our God, to freedom and liberty, requires that we should not quietly stand still and see those fetters forging around us which are calculated to enslave and bring us in subjection to an unlawful military despotism, such as can only emanate, in a country of constitutional law, from usurpation, tyranny, and oppression.

Therefore, I, Brigham Young, Governor and superintendent of Indian affairs for the Territory of Utah, in the name of the people of the United States in the Territory of Utah, forbid—

First. All armed forces of every description from coming into this Territory under any pretense whatever.

Second. That all the forces in said Territory hold themselves in readiness to march at a moment's notice to repel any and all such invasion.

Third. Martial law is hereby declared to exist in this Territory from and after the publication of this proclamation; and no person shall be allowed to pass or re-pass into, or through, or from, this Territory without a permit from the proper officer.

Given under my hand and seal at Great Salt Lake City, Territory of Utah, this 15th day of September, A. D. 1857, and of the Independence of the United States of America the eighty-second.

BRIGHAM YOUNG.

Both these documents go to show the determined spirit of the Mormon leader; that he was determined to resist this Government in every form. That proclamation is, to all intents and purposes, a declaration of war—a war not against the Indian hordes, but against this Government—the Government under which he has for years held office and received pay, and the Government which maintains and supports his national existence. But I will not stop here. I do not stand upon the mere declaration of Brigham Young. Go on to the 5th of October, and what do you see? You see the actual commencement of hostilities by the Mormon army against the army of the United States. Colonel Alexander, then at the head of our forces, after speaking of the communications from Lieutenant General Wells and Brigham Young, says:

"Upon receiving these letters, I prepared for defense, and to guard the supplies near us until the nearest troops came up. I replied to Governor Young's letter, a copy of which I inclose, and have not had any further correspondence with him. On the morning of the 5th of October the Mormons burned two trains of Government stores on Green river, and one on the Big Sandy, and a few wagons belonging to Mr. Perry, sutler of the tenth infantry, which were a few miles behind the latter train. Colonel Waite, of the fifth, though not anticipating any act of this kind, was preparing to send back a detachment to these trains from his camp on Black's fork, when he received, from some teamsters who came in, the intelligence of their being burned. No doubt now existed that the most determined hostility might be expected on the part of the Mormons; and it became necessary, from the extreme lateness of the season, to adopt some immediate course for wintering the troops and preserving the supply trains."

You see property of the United States to the amount of seventy or one hundred thousand dollars destroyed by the Utah forces. If that be not an act of war, what is an act of war? In every view of the subject it is as much an act of war as though the Mormons had charged upon our Army, or committed any amount of absolute hostilities.

I will read to the House a report of the proceedings of Brigham Young, in October last, in his own church. It is from a paper published by a Mormon in my own district, a member of the Church of the Latter-Day Saints. It is therefore, good authority, because the editor says he extracts it from the Deseret News, which, as is well known, is the organ of Brigham Young:

"We have seen files of the Deseret News up to the latter part of October, which indicate plainly enough the determination of resistance to the military, if an attempt is made to enter their settlements.

"From the discourses of Brigham Young we make the following extracts:

"This people are free; they are not in bondage to any Government on God's footstool. We have transgressed no law, and we have no occasion to do so, neither do we intend to; but as for any nation's coming to destroy this people, God Almighty be my helper, they cannot come here. [The congregation responded by a loud Amen.] That is my feeling upon that point."

Here is the argument of Brigham Young:

"If you do your duty, you need not be afraid of mobs, nor of forces sent out in violation of the very genius of our free institutions, holding you till mobs kill you. Mobs? Yes; for where is there the least particle of authority, either in our constitution or laws, for sending troops here, or even for appointing civil officers contrary to the voluntary consent of the governed? We came here without any help from our enemies, and we intend staying here as long as we please."

I read further from his sermon:

"Suppose that our enemies send fifty thousand troops here, they will have to transport all that will be requisite to sustain them over one winter, for I promise them before they come that there shall not be one particle of forage nor one mouthful of food for them, should they come. They will have to bring all their provisions and forage, and though they start their teams with as heavy loads as they can draw, not one can bring enough to sustain itself, to say nothing of the men. If there were no more men here than there are in the Seminole nation, our enemies never could use us up, but they could use up themselves, which they will do. The Seminoles, a little tribe of a few hundred in Florida, have cost our Government nearly one hundred million dollars, and they are no nearer being conquered than when the war was commenced."

This is defiance. You perceive that according to this unequivocal assumption, our army should not come to Salt Lake valley; and that this Government had no right to appoint officers for that Territory. Owing to their remote position, and occupying a strong military position in the mountain passes, relying upon the strength of his locality, and our unfortunate delay in subduing the Seminoles, he boldly defies us. He says that from the position of the Seminole Indians, they have been able to resist the armies of the United States for years; and that he will resist you. He declares war, and commences the work of hostility by overt acts against the Government; and avows his prospect of protracting his hostilities after the manner of the Seminole Indians.

This you recollect was in the month of October. In November following, Governor Cumming, who had been appointed to succeed Governor Young, issued his proclamation, thus warning his predecessor that he was no longer Governor. Governor Cumming thus informs him that, having been regularly sworn into office, the authority of Young as Governor no longer exists; and that he, Cumming, was prepared to exercise the functions of the office. How does Brigham Young act upon the reception of this information? Does he yield to the new appointment made in pursuance of the organic act of the Territory? No, sir; although he himself was appointed under the same organic act, he refused to recognize the appointment of Governor Cumming, and calls together the Legislature of Utah, which, at last advices, December 21, was still in session. In pursuance of his former position declining to recognize a successor, he has issued a long proclamation, ably written, argumentative, reiterating his former position, and avowing his intention to resist to the death any attempt of the Army of the United States to enter that Territory, and adhering to the position that the Government of the United States has no power to appoint officers for that Territory. I present the following closing extract from his message:

"Fully aware, as has been justly written, that 'patriot-

ism does not consist in aiding Government in every base or stupid act it may perform, but rather in paralyzing its power when it violates vested rights, affronts inscribed justice, and assumes undelimited authority,' and knowing that the so-called army, reported to be on its way to Utah, was an undisguised mob, if not sent by the President of the United States, and if sent by him, in the manner and for the purpose alleged in all the information permitted to reach us, was no less a mob, though in the latter event acting under color of law; upon learning its near approach, I issued, as in constitutional duty bound, a proclamation expressly forbidding all bodies of armed men, under whatsoever name or by whomsoever sent, to come within the bounds of this Territory. That so-called army, or, more strictly speaking, mob, refused to obey that proclamation, copies of which were officially furnished them, and prosecuted their march to the neighborhood of Forts Bridger and Supply, (which were vacated and burnt upon their approach,) where it is said they intend to winter. Under these circumstances I respectfully suggest that you take such measures as your enlightened judgment may dictate, to insure public tranquility and protect, preserve, and perpetuate inviolate those inalienable constitutional rights which have descended to us a rich legacy from our forefathers.

"A civilized nation is one that never infringes upon the rights of its citizens, but strives to protect and make happy all within its sphere, which our Government, above all others, is obligated to accomplish, though its present course is as far from that wise and just path as the earth is from the sun. And, under the aggravated abuses that have been heaped upon us in the past, you and the whole people are my witnesses that it has more particularly fallen to my lot, and been my policy and practice, to restrain rather than urge resistance to usurpation and tyranny on the part of the enemies to the Constitution and constitutional laws, (who are also our enemies and the enemies of all Republics and republicans,) until forbearance, under such cruel and illegal treatment, cannot well be longer exercised. No one has denied, nor wishes to deny, the right of the Government to send its troops when, where, and as it pleases, so it is but done clearly within the authorities and limitations of the Constitution, and for the safety and welfare of the people; but when it sends them clearly without the pale of those authorities and limitations, unconstitutionally to oppress the people, as is the case in the so-called army sent to Utah it commits a treason against itself which commands the resistance of all good men, or freedom will depart our nation.

"In compliance with a long-established system in appointing officers not of the people's electing, which the Supreme Court of the United States would at once, in justice, decide to be unconstitutional, we have petitioned and petitioned that good men be appointed, until that hope is exhausted; and we have long enough borne the insults and outrages of lawless officials, until we are compelled, in self-defense, to assert and maintain that great constitutional rights of the governed to officers of their own election, and local laws of their own enactment. That the President and the counselors, aiders and abettors of the present treasonable crusade against the peace and rights of a Territory of the United States, may reconsider their course and retrace their steps, is earnestly to be desired; but in either event our trust and confidence are in that Being who at His pleasure rules among the armies of heaven, and controls the wrath of the children of men, and most cheerfully should we be able to abide the issue.

"Permit me to tender you my entire confidence that your deliberations will be distinguished by that wisdom, unanimity, and love of justice that have ever marked the counsels of our Legislative Assemblies, and the assurance of my hearty cooperation in every measure you adopt for promoting the true interests of a Territory beloved by us for its very isolation and forbidding aspect; for here, if anywhere upon this footstool of our God, have we the privilege and prospect of being able to secure and enjoy those inestimable rights of civil and religious liberty, which the beneficent Creator of all mankind has, in His mercy, made indefeasible, and perpetuate them upon a broader and firmer basis for the benefit of ourselves, of our children and our children's children, until peace shall be restored to our distracted country.

BRIGHAM YOUNG."

The Legislature, called together by him, indorsed the message of Brigham Young, and pledged themselves to aid him in carrying out his desperate views of resistance to the authorities and laws of the United States. These resolutions should also go before the world, and I therefore present them to the House:

Resolutions, expressive of the sense of the Legislative Assembly of the Territory of Utah, relative to the message and official course of his Excellency Governor Brigham Young.

Resolved, That we unanimously and most cordially, for ourselves and in behalf of the well-known feelings of our constituents, concur in the sentiments and doctrines advanced in the message delivered by his Excellency Governor Young to the Legislative Assembly of this Territory, convened in the Representatives' Hall in Great Salt Lake City, December 15, 1857.

Resolved, That the entire policy and all the acts of his Excellency Governor Young have been able, just, and humane—conducive to and protective of the development of the best interests and welfare both of this Territory and of the General Government, so far as that policy and those acts could accomplish so desirable a result.

Resolved, That we hold ourselves, our means and influence, in readiness to sustain his Excellency Governor Young in every act he may perform or dictate, in accordance with the Constitution and constitutional laws of the United States and the laws of Utah, for the protection of the lives, peace, and prosperity of the people of this Territory.

Resolved, That neither the present nor any other Administration of the General Government shall enforce profligate, drunken, and otherwise corrupt officials upon us at the point of the bayonet; and that the attempt so to do by the present incumbent of the executive chair of our nation has incurred that contempt and determined opposition of all

good men which such an act of usurped authority and oppression so richly deserves.

Resolved, That while we deprecate the bitter hostility manifested toward a most loyal and innocent people by the present Administration of the General Government, we will continue to resist any attempt on the part of the Administration to bring us into a state of vassalage by appointing, contrary to the Constitution, officers whom the people have neither vote nor voice in electing; nor shall any persons appointed to office for Utah by the present Administration, either qualify for, or assume and discharge, within the limits of this Territory, the functions of the offices to which they have been appointed, so long as our Territory is menaced by an invading army, (for such an army cannot have been sent to protect either the citizens or the passing emigration, but is manifestly sent to aid in trampling upon American liberty,) nor so long as such appointees are so pusillanimous as to require a numerous armed force to attend their beck to enable them to carry out the traitorous designs concocted for depriving American citizens of their indefeasible and vested rights.

Resolved, That we will at least have our constitutional rights to a voice in the selection of our territorial officers, and in the enactment of local laws for our government.

Resolved, That these resolutions be signed by the members of the two Houses and be printed in *The Deseret News*. Unanimously adopted and signed, December 21, 1857.

COUNCILORS.

Heber C. Kimball, *President*.

Daniel H. Wells,	Lorin Farr,
Albert Carrington,	Benjamin F. Johnson,
F. D. Richards,	Leonard E. Harrington,
Wilford Woodruff,	Warren S. Snow,
Joseph Holbrook,	Lewis Brunson,
Lorenzo Snow,	George A. Smith.

REPRESENTATIVES.

John Taylor, *Speaker*.

W. W. Phelps,	Reddick N. Allred,
A. P. Rockwood,	Chauncey W. West,
J. C. Little,	Jonathan C. Wright,
Daniel Spencer,	Aaron Johnson,
Alexander McKee,	James C. Snow,
Orson Hyde,	Freston Thomas,
J. W. Cummings,	Jacob G. Bigler,
Hosena Stout,	George Peacock,
Joseph A. Young,	P. T. Farnsworth,
H. B. Clawson,	Isaac C. Haight,
John Rowberry,	John D. Lee,
John D. Parker,	Isaac Bullock.

This, sir, is the position of the Mormons at this time. They are in rebellion, in resistance, in a state of war against the United States. They have declared war, and have declared that they will resist the approach of an army, or any other power of the United States; that they are free and independent. I therefore say that an exigency has arisen when the people of a Territory of this country are in a state of open war against the United States, and are therefore guilty of high treason against the Government of the United States. I do not wish to aggravate the offense of the Mormons. I place them upon the ground upon which their own papers place them. But, sir, while I would not aggravate an offense, I cannot treat the matter in any other light than that of a high crime which deserves the calm, firm, fearless attention of the American Congress. Gentlemen must not regard this as the idle boasting of ignorant imbecility—as something that will pass over in a few weeks. I tell them that I do not so regard it. On the contrary, I forewarn gentlemen that it is a painful, perplexing, disgraceful reality, which it becomes us to consider in all its present bearings and all its pending consequences to the peace and honor of our country.

If gentlemen suppose they are to be subdued easily, I tell them they are mistaken. The Mormons are a thousand miles from settlement; they occupy the passes of the mountains; they now number some sixty thousand people; I have seen them from year to year on their march to Salt Lake valley; and from my own personal observation I know they are a powerful and formidable force to encounter. They can at any time muster from five to ten thousand men, fully armed and equipped for war. The position which they occupy in relation to the possession of the soil, their homes, adds a powerful incentive of resistance to the United States authorities. They have not purchased their land. They have not paid for it. They claim the land as the squatters of the West claim. They have not purchased their homes, as you have yours; and they are willing to fight for their homes against a power which their leaders have taught them to believe has purposed to crush and destroy them.

I know that they have heretofore been aggravated by acts of cruelty and persecution. They have been driven from place to place; but, it is to be recollected, these persecutions have been drawn forth by their own folly. I do not pro-

pose to speak of anything in the past, except to show the facts incident to the present attitude of affairs. I do not propose to say anything of what has been done, or what has not been done; that is not pertinent to the present question. I say nothing of the plunders that have been committed in years past. We are now in a position where we have no occasion to go so far back. We are obliged to take the question as it is now presented to us. The Mormons have declared war against us; and, as national legislators, it becomes us calmly to inquire how far we are called upon to inflict the fearful penalties due to such crimes. Will you withdraw your army? Will you disgrace your banners which you have sent there by lowering them before such an array of Mormon force? Will you disgrace these men who now stand before your foes—men who have fought the battles of their country in former wars—men who have won honorable distinction in the service of the country in many a well-fought battle. I implore for them the consideration of this House.

Mr. BURROUGHS. I desire to know how many men of the Army are now stationed in Kansas?

Mr. CURTIS. I reply to the gentleman as far as my information goes, (and I intend to notice this subject again in another part of my argument;) I suppose there are about three thousand men in Kansas, and in the vicinity—some at Fort Leavenworth and some at Jefferson Barracks, but all in striking distance of Kansas. I now proceed to the second branch of my subject, the consideration of the kind of force which ought to be employed. How have we always heretofore acted when occasion called for a military force? We have called upon the regulars and the volunteers, and upon some occasions the militia have turned out. The Government has at sundry times paid for these extraordinary efforts of the militia and volunteers, although they have gone without authority of law, believing they did good service to their country, however irregular and unarmed they have rushed to real or apparent danger. But I speak not of such impulsive gatherings of force, no military calculations should be made for them; I speak of regular volunteers like those who went to Mexico; I speak of such as are proposed in this bill; when I speak of volunteers, I speak of such forces. In former emergencies we have called out regular forces and volunteers. And why not, upon this occasion, act consistent with the course heretofore pursued? We have a large force of regulars in Kansas that can be spared, and this bill proposes to add five regiments of volunteers for the Mormon and frontier service.

Because of the remote position of the field of operations, it will require at least two or three months to convey a supporting force where it can cooperate with Colonel Johnston's forces. It will require sixty days after you actually start your column, on the supposition that you take the army now in Kansas, and make that region or Nebraska your place of rendezvous. If, then, you would reinforce our Utah army, act immediately, for with your earliest efforts, and before you will have reached Colonel Johnston, months will have transpired, and further regrets may be occasioned. We cannot state the exact time that will be required to raise forces not already in service; but if you expect to assist, it is manifest you cannot be too soon about it. You cannot get any force upon the frontier, ready for movement, in less than thirty days. So it may be July or August before you can get a sufficient force in position. This leads me to consider, and prefer the force that can be got there soonest. I therefore recommend volunteers, as I believe them the most available. The gentleman from Virginia [Mr. FAULKNER] said it was the purpose of the President to call into action all the regulars now in the western part of the United States. I am glad to hear the Government is going to collect all this available force, and put it *en route* to participate in this Utah service; yet admitting and relying on this, let the Government do the best they can, that force cannot be collected and equipped so as to move forward before the 1st of May; and all the regular force the Government can rally will not, as I suppose, augment the present force to more than three thousand five hundred men. I tell this House, we have got to go into Utah against an opposing force of five or ten thousand, and there-

fore you should have an active force in Utah of five thousand men.

Mr. LOVEJOY. I wish to inquire of the gentleman how many soldiers there will be, with the army now on its way, and those now in Kansas, provided they were united?

Mr. CURTIS. In reply I will tell the gentleman how I estimate the force which will be necessary to carry on a successful campaign. In the first place you want one regiment on this side of Fort Laramie, and one west of it to sustain the military posts along the route and guard your stores at Fort Bridger. That makes two regiments. You want another movable regiment to guard the transportation of supplies from the frontier to Utah. That is three regiments. In addition to that you may calculate upon a force equal to one regiment of sick and disabled men. That is four. And when you get there you must have five regiments to act efficiently. Is that too much? Five regiments to operate in the enemy's country.

Mr. LOVEJOY. I think it is.

Mr. CURTIS. I think not. That makes nine regiments, or say nine thousand men. Now how will you raise this requisite force? In the first place, I suppose that all the regular troops which you can from various quarters collect at a rendezvous which should be at or near Council Bluffs, may amount to three thousand five hundred men; and from all the information that I can get, I apprehend there will not be more than this number. There are now in Utah, under Colonel Johnston, a little more than one thousand men; but when spring arrives, desertions, discharges, and other casualties will reduce it to about this number, making the entire regular force applicable to this service, only four thousand five hundred. We propose by the bill reported by our committee to give the President four regiments of volunteers, which is only eight thousand five hundred men, lacking five hundred of the number which I have estimated as necessary. After allowing all that the bill proposes, the line of operation this side of the valley must be meagerly supplied in order to give the requisite force—five thousand men—to operate in Utah.

Mr. LOVEJOY. What does the gentleman propose to do with five thousand men in Utah valley?

Mr. CURTIS. They are wanted there to prosecute war against five or ten thousand Mormons, which are now, or will be, in arms to receive them. They are wanted to move from point to point as exigencies may require.

Mr. LOVEJOY. Does the gentleman consider that war exists?

Mr. CURTIS. I do.

Mr. LOVEJOY. Who declared it?

Mr. CURTIS. Brigham Young, as the leader and former Governor of the Mormons, who has put his forces under command of Lieutenant-General Wells.

Mr. LOVEJOY. Has the gentleman his manifesto?

Mr. CURTIS. I have it; and, with the consent of the House, I will incorporate a portion of it in my speech. I think it will convince that gentleman, and all others, that the opposing forces are in a state of actual war. But I desire not to be detained or forced from the line of my argument.

The point I was making is that we need the forces provided for in this bill, not for the purpose of increasing the standing Army, but for the purpose of giving to the President of the United States ample power to prosecute this war; for I insist, with regret, that war has already commenced. Gentlemen may smile, and regard it as futile, but three years will not roll around before they will know that the Government has already acted with too much leniency towards this people, now in open and avowed resistance of all the powers of this Government.

Mr. LOVEJOY. I desire to ask the gentleman if we have declared war?

Mr. CURTIS. I do not deem it necessary for this Government to declare war. I take the facts, and from the facts, as I present them to this House, I say war actually exists. I regret that such is the fact. I wish there was any contrary showing, any intimation on the part of the Mormons that they are willing to avoid the dread conclusion. I am intimately acquainted with many of these people; for there are many of the Latter-Day

Saints in the West, and there is a constant intercourse between them and their friends in Utah. When they mingle and live with our own citizens, they are quiet, law-abiding, and generally worthy citizens. But when aggregated together, as they were in Ohio, Missouri, Illinois, and as they now are at Salt Lake, they become bigoted, fanatical, vain-glorious; and, regarding the exterior world as "gentiles," they resist all intercourse as interference, and when crimes are committed against gentiles the criminals are shielded by a cloak of fanaticism. This isolation is inconsistent with the nature of our social and political organization; and it always has, and always will, lead to strife, conflict, and ultimate disaster to the weaker party. You have got to meet these Mormons as they are. Why have they a commander-in-chief in Utah? It is to repel your forces; and, I repeat, they are now in hostile array against the Government of the United States, and the only question is, how will you meet them?

Mr. POTTLE. I desire to ask my friend what assurance he can give that the troops, if raised, will be used against the Mormons? And further, if the chairman of the Military Committee in the Senate did not, in asking for these troops, say that they were not asked expressly for Utah, but to uphold the peace of the country?

Mr. CURTIS. I have no authority to guarantee the course which this Administration will pursue. The gentleman knows I do not affiliate with that party. I take the facts before me, and the public documents, which we are bound to respect; I take the President's message; I take the report of the officers of the Army, whom I have known for years, and whose characters are above suspicion, and I tell the gentleman they represent matters as I have presented them. I have it from the Commanding General himself, Lieutenant General Scott, that the order has gone forth, or will go, directing the forward movement of regulars in Kansas for operations in Utah. The gentleman from Virginia, [Mr. FAULKNER,] who has the ear of the Administration as intimately as any other gentleman on the Military Committee, and perhaps as frequently as any other gentleman in the House, tells you that the whole force shall be moved from all the West in the Utah column. I take him at his word. If the Administration will dare to neglect the honor of this country by refusing to send out such assistance as is at his command, and such as we deem necessary and proper, let them take the responsibility. Let us do our duty, and hold other branches of the Government accountable for their shortcomings or errors.

Mr. BURROUGHS. I wish to know if the gentleman believes that this Administration will respect its pledges about anything?

Mr. CURTIS. I will not go so far as to impute to the President of the United States a want of integrity in a matter so delicate as that which pertains to his duty as Commander-in-Chief of our armies. I infer, from the inquiry made by my friend from New York, [Mr. POTTLE,] that this temporary military increase is not asked for upon the ground which I have stated; that is, for an expedition to Utah. I will read from his message to show that he does put it emphatically on the ground of the necessity of sending a force against Utah. Let us deal fairly. This is a matter too grave and important to be made a political question of. It is not going to be, and we cannot make it one. It is one in which the whole Republic is interested; and if we differ about it, let us at least meet it honestly and honorably. What does the President say, in speaking of this Utah matter? He says, speaking of the conduct of Brigham Young towards Captain Van Vleet:

"A great part of all this may be idle boasting; but yet no wise Government will lightly estimate the efforts which may be inspired by such frenzied fanaticism as exists among the Mormons in Utah. This is the first rebellion which has existed in our Territories; and humanity itself requires that we should put it down in such a manner that it shall be the last. To trifle with it would be to encourage it and to render it formidable. We ought to go there with such an imposing force as to convince these deluded people that resistance would be vain, and thus spare the effusion of blood. We can in this manner best convince them that we are their friends, not their enemies. In order to accomplish this object, it will be necessary, according to the estimate of the War Department, to raise four additional regiments; and this I earnestly recommend to Congress. At the present moment of depression in the revenues of the country I am sorry to be obliged to recommend such a measure; but I feel confident of the support of Congress, cost what it may, in suppressing the insurrection, and in restoring

and maintaining the sovereignty of the Constitution and laws over the Territory of Utah."

No matter how others have spoken, we must take notice of the matter as stated by the President. If he placed it on the ground of a standing increase of the Army, I would oppose him. I wish gentlemen to notice that the President puts it upon the ground of a Utah expedition; and if he fails for want of adequate force in case we withhold it, he will bring his request as an argument for his justification and our reproach. He does not define the kind of troops. He does not say that he wants regulars. He says he wants four regiments, and I am told this four was a clerical error; that he designed to commend the views of the Secretary of War, who speaks of five. I say this in reply to the gentleman from Virginia, [Mr. FAULKNER,] who spoke yesterday as though the President had called for regulars and we are offering him volunteers. Neither does the Secretary of War call for regulars. He says that he wants five regiments, and then he says that experience has proved that regulars are more economical than volunteers. That is all the Secretary of War says. The Commander-in-Chief, General Scott, says nothing as to the kind of troops. He leaves that to the discretion of Congress. I am willing to admit that the Commander-in-Chief, like all Army officers, always looks for an increase of the regular Army when more force is called for. He has spent his life with regulars; and our Army is affectionately attached to him, as he is to the Army—it is natural. He has not studied the advantages of volunteers as some of us who have served with them; and following natural attachments and impulses he would prefer regulars. The wisest and best of men are subject to the common infirmities of our species, and are influenced by similar motives as other men. Our Army officers all entertain a just pride for their profession. Their promotion, their rank, their dominion, all seem to advance with the increase of the regular Army. I wish it was otherwise. I hope the day will come when their rank and promotion and professional prosperity will depend more on affiliation with the volunteer forces of our country. Such an affinity would advance the interests of the volunteers, greatly increase the military power of our country, and check a current of prejudice which seems to increase against our regular Army.

But, sir, I have not raised this comparison of our different kinds of force, and as far as possible I wish to do justice to the volunteers without prejudice to the regular Army. I have attempted to show that you must have at least nine regiments to make a successful campaign in Utah, and that four additional regiments are necessary in order to secure that amount; and time being material, volunteers are most appropriate. I say that volunteers will be most easily and speedily raised. What has been the success of our efforts to increase the Army within the last few years? It will be recollected that a year or two ago Congress passed a law increasing the pay of the officers and soldiers of our Army. It was supposed that after that recruiting would go on with greater activity. And yet we see that the Army is not full. The returns of the Adjutant General for the last year show that the increase of the Army has hardly been equal to the decrease caused by deaths, discharges, and desertion. It seems also that the force has been much below the maximum; and recently the clause in the law authorizing "voluntary enrollments," and authorizing a bounty for such enrollments, has been used to accelerate the enlistments.

I read from the report of the Adjutant General of November 27, 1857:

"The authorized strength of the Army, as now posted, is 17,934. The actual strength on the 1st of July last was 15,764. The number of enlistments made during the year ending June 30, 1857, was 5,509. The number of persons offering to enlist, but who were refused on account of minority and unfitness for service, was 12,375. The number of casualties in the Army by deaths, discharges, and desertions during the year ending June 30, 1857, was 5,729, of which 2,954 were from the last named cause."

This report not only shows the difficulty of enlistments, but it is remarkable that so many were minors, or otherwise so degraded as to be unfit for soldiers.

Mr. POTTLE. I ask the gentleman if he can inform the House where the greatest number of desertions have taken place?

Mr. CURTIS. I cannot say as to that.

Mr. POTTLE. I ask the gentleman if the greatest number of the desertions did not take place in Kansas, and were not owing to the peculiar description of service that the troops were ordered upon in that Territory?

Mr. CURTIS. I do not know whether that is so or not. My view in regard to the use of the forces of the United States does not connect it in any shape or form with Kansas. I do not believe that the President of the United States has any right to use the Army of the United States either for a police, or for a posse, or to defend the ballot-boxes of the country. The Army of this country is intended for a different purpose. In our Republic, the ballot-box was substituted for the cartridge-box; and when these negative electrica come together in the same crucible, you will see spontaneous combustion—strife and tumult and civil war are the inevitable consequences. I deplore the act of the President in keeping two or three thousand men in Kansas; and will at any time go for prohibiting the use of our Army or Navy for all such uses. But let us not mix that Kansas subject with the one now before us. We are told that the troops shall be sent to Utah. Let us look the matter in the face, and see whether it is our duty as men and legislators to put under the control of the Executive a sufficient force to execute the law.

Mr. MARSHALL, of Kentucky. The gentleman says he has been told that these troops shall be sent to Utah. I would like to know from the gentleman if he can state the date of that determination?

Mr. CURTIS. I would say to my friend from Kentucky that I understood so three weeks ago, in a private conversation with General Scott himself. It was a private conversation on public business, and therefore I suppose it is no breach of trust to speak about it. I understood it to be the policy of the Administration, and the General's purpose, to send the Kansas troops on to Utah as soon as the season would permit. I have heard the same purpose declared by my friend from Virginia, [Mr. FAULKNER,] whom I suppose to be in communication with the Administration; and I am not disposed to doubt the fact, since it comes so distinctly stated by high authority. If the Administration does not send all the force it can get to Utah, I tell you that the campaign will be a perilous one. The honor of the country will not be sustained, and, in my opinion, the President himself will have reason to deplore such a diversion of these forces. Put the force into the hands of the President, and if he does not send it to Utah, if he does not stand by your eagles, if he does not sustain your laws, hold him accountable for it. Hold up his conduct before the people, and before those who declare now the purpose of the President of the United States to perform his duty by sending the Kansas troops to Utah.

Mr. Speaker, I do not want it to appear that I am defending the Administration. I have no right or inclination to speak of the Administration from any personal knowledge. Other gentlemen, I trust, are better able to defend him than am I. So far as the past course of the Administration is concerned, I leave it to them. I am very far from approving of the retention of troops last year in Kansas; but I speak of the future. I speak of what the Administration ought to do, and what we are led to believe they intend to do; and I trust that, on this subject, the President will act with patriotism, fairness, and fidelity. I repeat, this is not a party question, and I hope gentlemen will not try to make it such. I ask the Republicans of this House especially to recollect that these Mormons have, for years past, been doing violence to good morals. They have raised the standard of liberty to sustain rebellion, and the standard of religion to support licentiousness. They despise our laws, and now declare they will never submit to them. Brigham Young held power for years under the law organizing that Territory, and under that law he should have submitted to his successor. But when he finds, after receiving his salary as Governor for years, that he is to be removed and superseded, he declares the law null and void, and asserts that the Government of the United States has no power to send officers there whom the Mormons themselves have not appointed. In other words, they say that the Government of the United States has no power to remove Brigham Young, who claims to hold his

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, MARCH 12, 1858.

NEW SERIES.....No. 66.

office as Governor by the grace of God, and not by the laws of Congress.

Now, the question of the kind of force to be sent there has been brought up; and I regret that I am diverted so often from my purpose to discuss that matter. Admitting that this additional force of four or five regiments is necessary for the purpose of quelling the difficulty in Utah, I say that the best force to be sent there is a volunteer force, first, because they can be soonest brought into service. How was it in the Mexican campaign? On the 13th day of May, Congress passed a law calling for volunteers from the different States of the Union. On the 20th of May, in the same year, the proclamation was made in the State of Ohio; and in just one month from that day there were three regiments organized and turned over to the United States, ready for service in Mexico, and enough to form ten or twenty more regiments had been declined. On the 18th of July, they were in Mexico, where they found others from Indiana, Tennessee, Georgia, Kentucky, and other parts of the Union, who had already arrived at Brazos Santiago, and were ready and able to do good service in an enemy's country. Certainly, you cannot organize regulars so expeditiously.

Under a special provision of the Army bill, passed a year or two ago, there is paid to those who volunteer on the frontier the expense of transport from the principal depot of recruits, in the city of New York, to the frontier where the volunteer enlists. This provision may increase the regular regiments, but it is only volunteers that can be raised instantaneously. Within sixty days from the time, there could be raised in this country three millions of volunteers, if the exigencies of the country required such a force—the best elements in the world to mold into an army. Such an army as that would be invincible against any force that could be brought against the country. The military power of the land consists in its vast numerical force, which is ready, on a proper occasion, to rush to your standard as volunteers. And now that you have occasion to have a force in the field, I ask you to look to those whom you can and must rely upon to protect your honor and fight your battles on all occasions of great necessity. Encourage by your acceptance of a force that you see armed, equipped, and well-drilled in almost every city, town, and hamlet of your country.

Mr. BURROUGHS. I ask permission of the gentleman to read some paragraphs from the speech of Hon. JEFFERSON DAVIS, chairman of the Committee on Military Affairs in the Senate.

Mr. CURTIS. I know that Senator DAVIS puts the necessity for force upon the ground that it is necessary to increase the standing Army. I do not take that ground. I am not concluded by the honorable Senator. I do not believe that to be the true ground. The force is asked for a Utah expedition. I take the ground that it is necessary to strengthen the army in Utah. If I believed what Senator DAVIS says, that it is to increase the standing Army, I would myself vote against this bill. But he has no right to speak for the Administration; he has no right to speak for me; and he has no right to speak for the Committee on Military Affairs of this House.

But gentlemen have said here, and it has been said by the Adjutant General of the Army of the United States, and it has been said in the speech of Senator DAVIS, which the gentleman presented, that a volunteer force is the most expensive force.

The SPEAKER. It is hardly in order for the gentleman to allude to what is said in the other wing of the Capitol.

Mr. CURTIS. I am replying to an inquiry made by my friend from New York, [Mr. Burroughs.] I speak of a pamphlet which I have before me, and with due respect to the Senate.

But I desire especially to notice the report of the Adjutant General of the Army, which I have before me, especially so much of it as supports his argument showing that volunteers cost vastly more than regulars. I have also before me the

expression of Mr. Poinsett, when Secretary of War; and also the expression of the opinion of the present Secretary of War, together with the argument of the honorable gentleman from Virginia, [Mr. FAULKNER:] all attempting to show that volunteers are vastly more expensive than regulars; and upon this array of testimony against the cost of volunteers, it is argued here and elsewhere that regulars shall be called out to meet the present and every other emergency. This argument has been presented and reiterated over and over again, although, as I will show to a mathematical certainty, it is entirely fallacious. The regular Army of the United States has been represented here, by its officers and defenders; but who has represented the volunteers? Who has taken the trouble to look over musty documents to ascertain how figures have been made to show what, at first sight, appears absurd? We have presented to us long bills of expenses of the volunteers. Sir, it is a fearful charge against the volunteers, that they are so much more wasteful and improvident than the regulars as to involve four or six times the expense.

Now, sir, the figures in the report of the Adjutant General, which I have before me, refer to tables erroneously prepared some twenty years ago; and still more erroneously applied to volunteers in Mexico, and volunteers proposed in this bill. So far as this bill is concerned the report of the Adjutant General has not the least force, because we provide that the infantry volunteers shall have the same allowances, in all respects, as regulars; and the mounted forces are also to have the same allowance except, as the horses are to be furnished by the volunteers, forty cents a day is given for the use and risk of this item.

The argument of the gentleman from Mississippi would also seem to extinguish the averment of the Adjutant General, by raising the simple inquiry how it was possible there should be such a difference in the Mexican war, when the pay of volunteers and regulars was the same, and all other supplies and transportations were controlled by officers of the regular Army. He states the number of companies employed in the Mexican war as one thousand two hundred and seventy-seven; and then he refers to a table made out twenty years ago to show that the cost of such a company of volunteers for six months is \$2,625. It is the use of this last item that has been the foundation of all the charges of greater cost; but as I design to examine it, I submit a portion of the Adjutant General's report:

"Adding up these three numbers, we shall have eighty-three thousand; and dividing this by sixty-five, or the aggregate of a company of fifty privates, we will get one thousand two hundred and seventy-seven companies; which, multiplied by \$2,625, or the difference between the cost of a regular infantry company and one of foot volunteers, for six months, according to the computation of the Paymaster General, in 1838, (see House Document 271, second session, Twenty-Fifth Congress, table A.) we shall have \$3,352,125 for the minimum amount expended upon these volunteers over what the same number of regular troops would have cost during the same time. Going through the same calculations with the mounted volunteers enumerated above, observing only that the difference of cost between mounted companies of volunteers and regular troops for six months is greater, amounting to \$9,002, we shall get, in the same way, \$3,744,832; which, added to the previous amount, leaves \$7,096,957 as the clear amount which must have been saved during the Mexican war by the use of regular troops instead of volunteers; and, by making a fair allowance for the unnecessarily large mounted force of volunteers called out, this amount will even go up to \$9,021,733. And should we further consider the comparative loss and destruction of military stores and public property by the two forces, referred to in the report of the Paymaster General, we may safely assume that not much short of twenty millions might have been saved in the course of the Mexican war by the employment of regular troops in lieu of volunteers; and this is, undoubtedly, an under-estimate."

In the reports of the Twenty-Fifth Congress, volume eighth, report of the Secretary of War, pages 9 and 10, I give the tables from which this magic number, \$2,625, is obtained. It is there, in the report of Paymaster General Towson, that it is attempted to show that a six-months' company of volunteers costs the Government \$2,625 more than a six-months' company of regulars. It was all wrong, as applied to volunteers then,

because the charges against the volunteers include a charge for transportation, while no charge is made for transporting regulars, as though regulars were there without any transportation. But the matter I particularly object to, is the use of this item against the Mexican volunteers, and predicated on it a charge of improvidence and extravagance; alleging their cost at four times as much as that of the regulars.

Now, sir, in respect to the third table, which speaks of the cost of volunteers, it foots up \$7,287 69. In order to show what was the cost of a company of volunteers in 1846, in the Mexican campaign, he goes back for twenty years, and brings a statement of what they are said to have cost then. How does that table apply?

The table on page 10, to which I allude, foots up the cost of a volunteer company, for six months, at.....\$7,287 69
The table on page 9, relating to regulars, foots up at.....4,662 02

Taking the difference, you have this fatal number.....\$2,625

Let us first examine the table which relates to volunteers, and see how it applies to Mexican volunteers. I find three classes of charges which should be erased if you use the table for the Ohio and other ordinary Mexican volunteers. They are: 1st. Charges for transportation. It is obvious that transportation of volunteers cost no more, or not so much, in the Mexican war, since the volunteers were generally gathered nearer the scene of service than the regulars. 2d. An Ensign is charged in the table; and since the law organizing the Mexican volunteers, (see vol. 9, page 10, Statutes at Large) and prescribing the officers, does not include an ensign; and, as my recollection serves me, none were used, that item should be excluded. 3d. Clothing, the same statute, (page 18) prescribes the amount volunteers were to receive—\$3 50 per month for clothing, which would be twenty-one dollars for six months; whereas the table used by the Adjutant General charges more and various prices, as shown below. In conformity to these erroneous items the table should be corrected as follows:

Transportation.	
Captain.....	\$106 20
First lieutenant.....	82 20
Second lieutenant.....	76 20
First sergeant.....	23 39
3 sergeants.....	56 46
4 corporals.....	56 16
2 musicians.....	23 32
1 private.....	11 66
49 privates.....	571 34
	1,005 93
Ensign.....	459 20
Clothing errors.	
First sergeant..Charged.....	\$36 91
Received.....	21 00
	\$15 91
3 sergeants....\$36 91—21 x 3=.....	47 73
4 corporals....35 23—21 x 4=.....	56 92
2 musicians....36 75—21 x 2=.....	31 50
50 privates....35 23—21=.....	711 50
	863 56
	\$2,328 69

This shows that \$2,328 69 should be deducted from the cost of volunteers; which, being so deducted, leaves only \$4,959; instead of \$7,287 69, as the cost of a company of fifty volunteers for six months. This would almost annihilate the fatal number, (\$2,625;) but I proceed further. The table on page 8 of the old report, to which I have referred, and which purports to give the cost of regulars, is also erroneous when applied to volunteers of 1846. The error is an under-charge for clothing regulars. To determine the clothing allowed a regular soldier, I have referred to the Army regulations, pages 209, 210; and to estimate the cost thereof, I have had reference to the estimates furnished this Thirty-Fifth Congress. (See Ex. Doc. No. 1, page 187.)

I have taken the allowance for two years, and

thus tried to determine a fair average for six months:

First Year.	
1 cap, complete.....	\$1 45
1 forage cap.....	50
1 dress coat.....	6 93
1 pair epaulets.....	-
1 pair shoulder straps.....	-
1 pair edgillettes.....	-
1 wool jacket.....	2 00
2 pairs woolen overalls, \$2 64 each.....	5 28
1 cotton jacket.....	1 09
3 pairs cotton overalls, \$1 25 each.....	3 75
2 cotton shirts, 93c. each.....	1 86
2 flannel shirts, 93c. each.....	1 86
2 pairs drawers, 47c. each.....	94
4 pairs boots, \$1 93 each.....	7 72
4 pairs stockings, 28c. each.....	1 12
1 leather stock.....	13
1 great coat.....	6 97
1 forage frock, (not known).....	-
1 blanket.....	3 10
	\$44 61

Fourth Year.	
1 woolen jacket.....	\$2 00
2 pairs woolen overalls.....	5 28
1 cotton jacket.....	1 09
3 pairs cotton overalls.....	3 75
2 cotton shirts.....	1 86
2 flannel shirts.....	1 86
1 pair drawers.....	47
4 pairs boots.....	7 72
4 pairs stockings.....	1 12

Fourth year.....	25 06
First year, brought forward.....	44 61

Total for two years.....\$69 67

For six months, one fourth of the above.....\$17 41

Add commission, insurance and transportation..... 6 59

Average cost of clothing for regulars.....\$24 00

The regular force in Mexico was allowed a major and one assistant surgeon more than volunteers were allowed. To make the table right, therefore, so as to show the comparative cost of a regular company, which is to apply as a measure of relative cost for the two kinds of force, it is necessary to charge one tenth of the cost of these officers to a company as its share of that extra expense. Estimating the perquisites, pay, &c., I estimate the cost of a major to the United States at \$1,000 for six months, and an assistant surgeon at \$700.

Having thus determined the average cost of clothing at \$24, and the amounts chargeable for a major and assistant surgeon, I present the following table of items relating to the cost of regulars:

Clothing.	
3 servants.....	\$24 each=\$72
Table B.....	15 each= 45
	\$27 00
1 sergeant.....	\$24-\$17 16=
59 sergeants, corporals, musicians, and privates, each charged \$3 too low.....	472 00
Add one tenth cost of additional major to regulars—see act 1846.....	100 00
Add one tenth cost of additional assistant sergeants allowed regulars.....	70 00
Total increase.....	\$675 84
From table B.....	4,662 02
	\$5,337 86

Taking, then, these corrected items, we have for the cost of a company of regulars for six months.....\$5,337 86

For the cost of company of volunteers 4,959 00

Difference in favor of volunteers..... \$378 86

I have thus not only over balanced the multiple \$2,625, which was used to the cost of volunteers, but I have in its stead a multiple \$378 86, which I consider fairly chargeable to regulars. Thus showing that regulars, not volunteers, in the Mexican war, cost the most.

In this estimate I have compared infantry with infantry, because this is the only fair way of making comparisons.

If this showing be right as regards infantry—I believe it to be substantially so—I could proceed in the same way to relieve mounted volunteers from all imputation of excessive cost; and by multiplying by the number which the Adjutant General takes as the equated number of six-months' volunteers of fifty men, I show that by using volunteers, instead of regulars, the Government has saved over a million of dollars in the Mexican war.

What now, Mr. Speaker, becomes of the presentation of all these various officers, as to the expense of volunteers? Instead of being the most expensive they are cheaper, and for economy, therefore, as a general rule, regular volunteers, similar to those used in Mexico, should be preferred by our Government. On the present occasion especially, they should be called first, because they will sooner be mustered and marched to Utah; second, because it will give encouragement to this growing element of our military force; and finally, because they will cost less to the Government.

I regret that my hour does not afford time for me to answer some other reflections against the volunteers; but I trust there are others in this House that will espouse their cause and see that in all matters they are fully and fairly vindicated.

I submit, Mr. Speaker, that the bill now before us will meet the necessities of a Mormon campaign, and secure the united services of regulars and volunteers, who will, as in former service, unite in sustaining the honor and glory of their country.

Mr. STANTON obtained the floor.

Mr. J. GLANCY JONES. Has the morning hour expired?

Mr. STANTON. I think we had better go on with the consideration of this matter.

TERMINATION OF DEBATE.

Mr. J. GLANCY JONES. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

Before that motion is put I wish to make a motion to terminate debate upon the bill pending in committee, and I will state to the House that I propose to modify the ordinary resolution for closing debate in such a way that when we are in the Committee of the Whole on the state of the Union, and the debate is terminated, the bill may be laid aside, in order that we may take up another bill while in the Committee of the Whole, without rising to report the bill. I ask the Clerk to read the resolution.

Mr. STANTON. Is it in order for the gentleman to take the floor from me for any other purpose than to go into the Committee of the Whole on the state of the Union?

The SPEAKER. The motion to terminate debate takes precedence of the motion to go into the Committee of the Whole on the state of the Union, under a special rule of the House.

Mr. QUITMAN. I would like to make a suggestion to the gentleman from Pennsylvania. It seems to me that his object and an economy of time would be subserved by going on with the discussion of this subject and coming to a conclusion on this bill. I believe, by continuing the debate to-day, we may take a vote upon it to-morrow morning.

The resolution of Mr. J. GLANCY JONES was read, and is as follows:

Resolved, That all debate in the Committee of the Whole on the state of the Union on the bill (H. R. No. 6) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1859, shall cease at one o'clock, p. m., to-morrow, (if the committee shall not sooner come to a conclusion upon the same;) and the committee shall then proceed to vote on such amendments as may be pending or offered to the same, and shall then lay it aside, to be reported to the House, with such amendments as may have been agreed to by the committee.

The resolution was agreed to.

The motion of Mr. J. GLANCY JONES was then agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. FLORENCE in the chair,) and resumed the consideration of the

DIPLOMATIC AND CONSULAR BILL,

upon which the gentleman from Maine [Mr. FOSTER] was entitled to the floor.

Mr. FOSTER. Mr. Chairman, we often hear the inquiry, what have we of the North to do with slavery? Why should we be eternally meddling with the affairs of other people to the neglect of our own? It has been triumphantly asked, have white men no rights, no interests, which demand our concern? Must we be forever engaged in a Quixotic agitation in behalf of negroes?

There was a time, not a great while ago, when such questions, tauntingly thrown in the teeth of

the opponents of slavery, were deemed conclusive. They conveyed their own irrefutable answers by implication. But that day has passed and gone. The most stolid are at length becoming sensible that, although we of the North may "let alone" slavery in the severest manner possible, yet slavery will not let us alone.

Our fathers, near forty years ago, entered into a solemn league and covenant with slavery. They divided the common national heritage, and set up landmarks within which the South, by an almost unanimous vote, pledged itself to confine its "peculiar institutions." We all know how this pledge has been kept. We all know that the landmarks have been thrown down in order to establish the newly-discovered principle of "popular sovereignty." We were told that there was no danger of extending slavery. The Missouri compromise line, though sanctioned by Henry Clay, by Mr. Monroe, then the President of the United States, and by his Cabinet, including Crawford, of Georgia, and Calhoun, of South Carolina, was found to be unconstitutional, and must be repealed. The people of the Territories, it was said, in common with those of the States, were sovereign, and had the right to admit or exclude slavery at their pleasure. But at the same time we were assured that slavery would not be extended. That the current of immigration would infallibly give a large preponderance to the friends of freedom, who would be "left perfectly free to form their own institutions in their own way." The strength of the human tide from the free States which has flowed over and around the State of Missouri, in spite of ruffian opposition, was not overrated by the friends of the Kansas-Nebraska bill; but that the people have been left perfectly free to form their institutions has become so notoriously untrue as to extort the reluctant admission of the author of the Kansas bill himself, and to awaken his indignant remonstrance.

Have the people of Maine nothing to do with slavery in Kansas? Have white men no rights in that Territory? Does all belong to slavery and the South? No one inquires what right have Georgia and South Carolina to meddle with slavery in Kansas. By the general consent of the supporters of the Administration, North and South, their interference is legitimate and proper.

We of the North who oppose slavery extension have, by a strange perversion of facts, been called the "negro party," or "negro worshippers." Now, Mr. Chairman, let us look into this matter. We Republicans propose to confine the negro institution to its present limits. We wish to people the new Territories with white men, and to rear up new States with the great institution of free white labor as its basis. Our opponents, on the contrary, desire to flood Kansas and the other Territories with negro slaves. They have avowed in the Halls of Congress, in their numerous organs of public opinion throughout the South, and in some published north of Mason and Dixon's line, that slavery is the normal condition of the laboring class; that no society can be stable and happy without that institution; and in a recent elaborate article, the official organ of the Government, the Washington Union took the ground most emphatically, that the Constitution carries slavery not only into the Territories, but into the free States! The President himself has asserted that the Constitution, without any legislation under it, and even against legislation, carries slavery into all the Territories; and regards it as a great "mystery" that such men as Clay, Webster, Judge Marshall, Monroe, John Quincy Adams, &c., could have entertained a different opinion.

In view of these notorious facts, I hold that, if ever a party in this country deserved to be designated as the "negro party" or "negro worshippers," it is that which adheres to the Administration of Mr. Buchanan.

Shall I offer additional proofs on this point? Let the following extracts from Mr. Buchanan's letter to Professor Silliman, and a paragraph or two from the columns of the Washington Union, suffice. In the Silliman letter, dated August 15, 1857, the President says:

"Slavery existed at that period, [when the Nebraska bill was passed,] and still exists, in Kansas, under the Constitution of the United States. This point has at last been finally settled by the highest tribunal known to our laws. How it could ever have been seriously doubted, is a mystery. If a confederation of sovereign States acquire a new territory

at the expense of their common blood and treasure, surely one set of the partners can have no right to exclude the other from its enjoyment by prohibiting them from taking into whatever is recognized to be property by the common Constitution. But when the people—the *bona fide* residents of such Territory—proceed to frame a State constitution, then it is their right to decide the important question for themselves whether they will continue, modify, or abolish slavery. To them, and to them alone, does this question belong, free from all foreign interference."

The official organ goes much further than the President; but, from the well-known fact that no important article goes into that paper without the advice and consent of the President and Cabinet, the article from which I quote may be regarded as expressing the views of the Administration. It appeared in the Union on the 17th of November last. I have only time to read a brief extract, as follows:

"The Constitution declares that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.' Every citizen of one State coming into another State has, therefore, a right to the protection of his person, and that property which is recognized as such by the Constitution of the United States, any law of a State to the contrary notwithstanding. So far from any State having a right to deprive him of this property, it is its bounden duty to protect him in its possession.

"If these views are correct—and we believe it would be difficult to invalidate them—it follows that all State laws, whether organic or otherwise, which prohibit a citizen of one State from settling in another, and bringing his slave property with him, and most especially declaring it forfeited, are direct violations of the original intention of a Government which, as before stated, is the protection of person and property, and of the Constitution of the United States, which recognizes property in slaves, and declares that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States,' among the most essential of which is the protection of person and property."

This extract is from a long article in the Union. It was evidently prepared with care; and the well-known fact that the editor was selected by the President, and is dependent upon him; that the paper habitually reflects the views and policy of the Administration; renders it next to certain that the article in question had the official sanction. Here, then, we have the deliberate avowal of the doctrine that the Federal Constitution carries slavery into all the free States.

Sir, the historical fact is undisputed, I believe, that the President was reared in the faith of the old Federal party; but I defy the friends of that high functionary to produce from the writings of the most ultra Federalist of the old school, from Hamilton down, a maxim so abhorrent to the friends of freedom and State rights, as is this semi-official pronouncement. It leaves not a shadow of sovereignty to the States; it sweeps away every particle of their reserved rights, and transforms this Federal Union into a consolidated despotism.

This, then, is modern Democracy! Jefferson founded the old Democratic party on the basis of universal freedom and State rights. Mr. Buchanan, claiming to be his successor as the head of the same party, declares its basis to be slavery and consolidation. History cannot furnish a stronger contrast between the principles of two parties than that which I have shown to exist between those represented respectively by Thomas Jefferson and James Buchanan.

In this connection I propose to call the attention of the committee to one of the most remarkable instances of political foresight which has ever come under my observation. In fact, I regard it as a prophecy literally fulfilled, after the lapse of more than the third of a century. The long continued ill-success of the old Federal party, the brilliant termination of the war with England, and the triumphant election of Mr. Monroe, caused a general stampede of the mercenary and spoil-seeking portion of it, who, like rats, deserted the sinking ship. They went over in droves into the ranks of the all-powerful Democratic or Republican party of that day. Mr. Jefferson expressed his apprehensions of the consequences of this accession from the ranks of the enemy in the following remarkable passage, which I find in a letter to the Hon. William T. Barry of Kentucky, dated Monticello, July 2, 1822:

"SIR: Your favor of the 15th of June is received, and I am very thankful for the kindness of its expressions respecting myself. But it ascribes to me merits which I do not claim. I was one only of a band devoted to the cause of independence, all of whom exerted equally their best endeavors for its success, and have a common right to the merits of its acquisition. So, also, is the civil revolution of 1801. Very many and very meritorious were the worthy patriots who assisted in bringing back our Government to its republican track. To preserve it in that, will require unremitting vigilance. Whether the surrender of our opponents, their re-

ception into our camp, their assumption of our name, and apparent accession to our objects, may strengthen or weaken the genuine principles of republicanism, may be a good or an evil, is yet to be seen. I consider the party division of Whig and Tory the most wholesome which can exist in any Government, and well worthy of being nourished to keep out those of a more dangerous character. We already see the power, (the Supreme Court,) installed for life, responsible to no authority, (for impeachment is not even a scare-crow,) advancing with a noiseless and steady pace to the great object of consolidation. The foundations are already deeply laid by their decisions, for the annihilation of constitutional State rights, and the removal of every check, every counterpoise, to the ingulfing power of which themselves are to make a sovereign part."

The Supreme Court being the lever used for the overthrow of the constitutional rights of the States, I will read a few more brief extracts from Mr. Jefferson's correspondence touching this subject. In a letter to Thomas Ritchie, dated Monticello, December 25, 1820, he says:

"The judiciary of the United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric. They are construing our Constitution from a coördination of a general and special Government to a general and supreme one alone."

In a letter to Archibald Thwait, dated Monticello, January 19, 1821, he says:

"The legislative and executive branches may sometimes err, but elections and dependence will bring them to rights. The judiciary branch is the instrument which, working like gravity, without intermission, is to press us at last into one consolidated mass."

And in a letter to Judge Johnson, dated Monticello, March 4, 1823, he says:

"I cannot lay down my pen without recurring to one of the subjects of my former letter, for, in truth, there is no danger I apprehend so much as the consolidation of our Government by the noiseless, and therefore unalarming, instrumentality of the Supreme Court. This is the form in which Federalism now arrays itself, and consolidation is the present principle of distinction between Republicans and pseudo-Republicans, but real Federalists."

Thirty-five years after the date of the letter to Mr. Barry, we see one of the "opponents" whose "apparent accession" to the ranks of Democracy the sage of Monticello dreaded, installed in the presidential office; and his first official act, his inaugural speech, was a declaration of the paramount authority of the Supreme Court, and of its right to control the coördinate branches of the Government!

It is the characteristic of prophecy, Mr. Chairman, that while it foreshadows events, and the characters of the great actors who are to figure in those events, there is a studied suppression of names, and of specific dates. It is left to posterity to fill up the picture of which the seer gives us a dim, and sometimes uncertain, outline. But in the case before us there can be no such uncertainty. The wayfaring man, though a fool, cannot fail to read, in the events of the last year, a literal and most exact fulfillment of the Monticello prophet's gloomy vaticinations. The Democratic party has been utterly debauched and estranged from the creed of its founder. Slavery is its corner-stone and key-stone. Its only essential policy and principle are slavery and slavery extension; and woe betide the man, be he great or small, who falters on this essential point. A Democrat may differ with his party upon anything else, or upon all else, provided he is sound on the slavery question. I, myself, was read out of the party some nine or ten years ago, because I protested against, and refused to support, the author of the famous Nicholson letter to the Presidency.

I have never regretted the course I then felt called upon to pursue; because I regard that letter as the very source of the whole brood of heresies and humbugs which have since appeared and have proved the ruin of the Democratic party. But mine was a comparatively grave offense. I insisted on the Wilmot proviso, just as Cass and Dickinson had done the year before. Now that we see daily those who have been Samsons in the field and Solomons in the council falling around us, not for sustaining the Wilmot proviso, not for refusing to vote for the repeal of the Missouri compromise, but simply because they are not ready to sacrifice every dictate of honor and conscience which stands in the way of the extension of slavery—in the midst of such scenes, I have every reason to be thankful that expulsion from the party was the extent of my punishment at that day.

Would you have illustrations on these points? Then look around you. Here you have the President himself, who differs with his party, or with

the avowed principles of the party, upon the important question of a protective tariff. He has always been a protectionist, and voted for the tariff of 1842. The people, or rather the politicians, of South Carolina were at one time ready to dissolve the Union, rather than submit to his protective policy, of which the President and his Pennsylvania friends have always been the warm and interested advocates. But he is now "sound on the goose," and that great merit atones for a multitude of sins.

Take the national bank question, and the same indifference is apparent. In General Jackson's time it was the touchstone. No friend of that famous institution could claim fellowship with the Democracy in his day. But how is it now? Have we not seen the modern Democrats welcome scores of old-line national bank Whigs to their ranks without asking questions? Have we not seen these new recruits, unwashed and unsanctified, taken up, and petted and patronized, to the neglect of the old-line Democrats?

Take the internal-improvement question. It has from the earliest times been the settled policy of the Democratic party to oppose internal improvement by the Federal Government. But what do we see to-day? The Democratic President recommends the construction of a railroad to the Pacific; a distinguished Democratic Senator from Mississippi is the advocate of the same policy; and a Democratic Senator from California has introduced a bill into the Senate for the construction of three such roads to the Pacific!

Democrats profess to be in favor of a hard-money currency, and denounce bank rags; yet every State in the Union where they have the control, is overrun with irredeemable bank rags and shinplasters. I believe there is not an exception to this remark.

We have heard much lately of reading men out of the Democratic party. But for what? For unsoundness on the bank or the internal-improvement question? For recreancy to free trade? Not at all. So far from this being the case, we have seen within a few days past an old Federal protective tariff Democratic President, who voted for the tariff of 1842, read out of the party the author of the free-trade tariff of 1846! And for what? Not for my high offense of sustaining the Wilmot proviso; not even for sustaining the Missouri compromise, or refusing to sustain the Nebraska bill. Upon all these points he was sound; but he could not, as a man of honor, consent to be the instrument of forcing a constitution upon the people of Kansas by fraud and violence. We have seen the pensioned organs and special friends of this same President attempt to read a distinguished Senator—a life-long Democrat—out of the party, simply because he insists upon a fair election in Kansas upon the adoption of a State constitution, and because he has thought proper to denounce the infamous juggle of the Lecompton constitution.

Sir, these plain facts are enough to open the eyes of the northern men to the folly of attempting to please and conciliate the South by concessions and compromises on the slavery question. If services such as the Senator from Illinois and the late Governor of Kansas have performed, cannot shield them from the ungrateful reproaches and denunciations of the friends of the peculiar institution, it is useless for ordinary politicians to expect any mercy if they should ever venture to stand erect in the presence of a slaveholder. They may as well make up their minds to grope and grovel on their bellies the balance of their days.

I think I have said enough to make it clear that slavery is the all-essential element of what now passes for Democracy. Talk of fanaticism! Was there ever grosser fanaticism than that which is exhibited by the party which worships this black idol of slavery? Was there ever a monomania more fatal than that which induces northern Democrats to insist upon reducing our own free immigrants to the Territories to the level of the negro slaves of the South? We of the North oppose slavery on every ground. First and foremost, because it is wrong. It violates the inalienable rights of man, turns him into a brute and a chattel, and deprives him of education and opportunity to improve the talents, mental and moral, which his Maker has given him. It goes further. It prohibits and punishes every effort at mental improvement; and we should be recreant to humanity, to freedom, and to the highest interests of the

common weal if we did not resist its extension into new States or Territories. If we are not permitted to cure the evil, we are determined, in any event, that it shall spread no further.

We are also opposed to the reduction of our own free laboring classes to the level of slaves, by compelling them to work by their side. We claim the common territories as the common heritage of the people—the free people. Certainly, if slaves cannot own themselves, they can have no right to go into the Territories. The Territories must either be free or slave. If the latter, then free laborers have no further interest in them; for it is a well-established fact that, wherever slavery exists, the slaveholders get possession of all the lands that are good for anything, and crowd out the poor. Slavery and freedom are irreconcilable as oil and water. They cannot be tenants-in-common of the same Territory; and, since one must give way, which shall it be, the black slave or the white freeman? I insist that the slave must be excluded, but not the South. The great mass of the southern people are not slaveholders, and they, like we of the North, are interested in keeping out the slaves. The slaveholders themselves may go and enjoy the Territories, but they must leave their slaves at home. But it is fiercely asked, shall we not carry our property? I answer, no! There is no hardship in excluding a particular species of property from a State or Territory; it is a common and no very heavy grievance. In the State from which I came the banks are permitted to issue one dollar bills; and we find it impossible to avoid taking them. They are my money, my property; and yet, when I arrive in Washington with my pocket full of them, I find that I dare not pass them, under a penalty of ten times their value. Your congressional legislation has rendered them useless to me. In like manner, Congress prohibits the institutions of rum, gin, and whisky in the Indian territories; and why may it not prohibit the still more pernicious and wicked institution of negro slavery?

We of the North also oppose slavery because we have seen in the past history of the States which tolerate it, that it is fatal to their prosperity. This view of the subject has been so often and so thoroughly discussed, North and South, that I must refrain from entering upon it in detail at this time. I will, however, briefly call attention to a few striking facts, which irresistibly show the superiority of free over slave society in the race of progress. I invite the attention of southern gentlemen to them.

The area of what are now free States, though they were not all free at that time, was, in 1790, 166,358 square miles. The area of the slave States, at that period, was 295,965 square miles, or almost double that of the northern section. In 1790 the free States contained a total population of 1,968,000; that of the slave States, at the same time, was 1,961,000. The difference between the free and slave States was, therefore, only 7,000 at the period of the inauguration of the Government—a difference so trifling as to be unworthy of notice; so that, for practical purposes, the two sections were equal in numbers. But, after the lapse of sixty years, how stands the case? In 1850, when the last general census was taken, the total population of the free States was 13,526,000; that of the slave States was 9,651,000—showing a difference in favor of the former of 3,875,000—a number exceeding half of the white population of the South.

Now, Mr. Chairman, I would like to hear what gentlemen have to say in explanation of this striking difference in the progress of the two sections. It cannot be alleged that the South has been hedged within its original limits, while the North has expanded its area. So far from that being the case, the fact is well known that the expansion of the area of slavery had been, up to 1850, greater than that of freedom—much greater.

You say that the difference has resulted from immigration to the northern section of the Union. Well, admit it; and then tell me why has immigration sought the cold and inhospitable North, and avoided the genial South? Such has not been the ordinary course of events. History teaches us the contrary lesson, that the current of emigration naturally, or habitually flows from north to south. The southern nations of Europe have been overrun time and again by swarms of northern barbarians; and the Chinese have been subject to similar inundations. The present dynasty is de-

scended from northern conquerors, who overran the country some four or five centuries ago. It is true, that in modern times civilization has grown too strong to be overthrown by wandering barbarians, and we no longer have occasion to dread the inroads of an Attila or Genghis Khan. The swarming of nations is now conducted in a legitimate and peaceful manner by the aid of commercial ships and emigrant aid companies. But still, the tendency of the human tide, where no serious obstacle interposes, is from the north to the south or southwest. I can conceive of but one reason for the exception to which I have adverted in the case of European emigration to this continent, namely, that slavery repels the merchant, the manufacturer, the mechanic, and even the common laborer, unless he be a slave. It repels by its odious presence, by its despotic intolerance, by the insult it casts upon labor, and by the still more substantial consideration that it offers no employment.

Slaveholders rarely ever employ free labor if they can avoid it. They say, and say truly, that it causes the slave to feel his chains, and to grow restive, to place him by the side of the free laborer who receives wages for his toil. In addition to this, the free laborer, who is thus reduced to the level of a slave, becomes sensible of his degradation and becomes mean. He prompts the slave to steal, and, perhaps, to run away. The slaveholder is disgusted with such employes, and resolves never to have one on his plantation again if he can avoid it. He, at the same time, rashly jumps to the conclusion that the employment of free labor, in the free States, must work as badly as he has found it to do where it is degraded by competition with slavery; and he hence becomes a clamorous champion of the barbarous and unjust system which has reduced his State and section, in spite of their natural advantages, to a condition of inferiority.

It is true that the North owes its superior numerical strength to immigration; but immigrants flock to the North and avoid the South because the northern institution of freedom invites and employs them. Can any gentleman present doubt that it is slavery, and not climate, which repels European and northern emigrants? If there be such here I invite them to look at California. That great State embraces the latitude of our Atlantic States, from Massachusetts to Florida; while its most populous portion is in the latitude of Virginia and North Carolina.

But this is not all. The fact is well known, not only to men of science, but common experience has brought it to the notice of all, that countries on the Pacific coast are eight or ten degrees milder in climate than those on the Atlantic; so that in point of fact, San Francisco is as free from extreme cold as New Orleans or Savannah; and the temperature of that section of the State which, as I have said, is in the latitude of Virginia, corresponds to that of Florida or southern Texas. These facts, in regard to the climate of California, will not be disputed. But how stands the case as to the population? It is well known that the great bulk of its inhabitants are natives of the free States or foreign countries. The South sent out a few hundred aspiring politicians, and a few thousand gold-hunters; but at least nine tenths of the population went out from the sources above indicated.

Here, then, we see the natural proneness of northern nations to emigrate southwardly; and a more striking confirmation of the views presented a few days ago by the gentleman from Massachusetts, as to the practicability of colonizing Nicaragua from the North.

The time which I have already consumed, precludes me from going into a history of the Kansas question; but I propose briefly to draw the attention of the committee to a few prominent facts. The people of Kansas have been severely censured by the friends of the Administration, and by others who profess great moderation on this question of slavery extension, because they have refused to vote under the laws passed by a usurping Legislature. Even the ultra champions of slavery have raised their hands in holy horror at the factious spirit exhibited by the free-State men in thus refusing to exercise the elective franchise. The exhibition of solicitude by such men in behalf of the free-State cause was enough, of itself, to excite suspicion; and the event has shown that their only object was to get the free State men com-

mitted to the legality of the system of fraud and usurpation which has been imposed upon them by ruffian intervention from a neighboring State, under the patronage and protection of the Federal Government. The fact is notorious that the most unscrupulous ruffians, and murderers of free-State men have been appointed to office, not only by the late but by the present Administration.

The free-State men refused to give the slightest recognition to the usurpation by voting under it until last October, when they determined to get possession of the Territorial Legislature. They had grown strong enough to take care of themselves; to repel border-ruffian interference; and to triumph over all opposition. The result showed that they constitute an overwhelming majority of the population of Kansas. They elected three fourths of both branches of the Legislature; and there is every reason to believe that if a perfectly fair vote were taken, they would elect a unanimous Legislature. But the frauds which the unscrupulous desperadoes attempted to perpetrate in Johnson and McGee counties, are unmistakable indications of the character of the men with whom the friends of freedom have had to contend.

We are all familiar with those frauds. We have the authority of Governor Walker, a Mississippian, selected for the station on account of his devotion to the South, for the facts in the case. The county of Johnson was never heard of until we heard that one of its several precincts cast a vote equal to that of any one of a majority of the counties in the southern States. I quote the material portions of Governor Walker's official proclamation in relation to it. He says:

"This question arises upon the extraordinary returns made from the precinct of Oxford, in the county of Johnson. What purport to be the returns of the election held at that precinct on the 5th and 6th instant, have been received by the Secretary, containing sixteen hundred and twenty-eight names of pretended voters, or nearly one half the number given in the whole representative district. The disposition to be made of this supposed vote is rendered important by the fact that the political character of the Legislative Assembly will be controlled by the addition of three Councilmen and eight Representatives to the strength of one party or the other, according to the adoption or rejection of the returns in question.

"In point of fact, it is well known that even the whole county of Johnson, comprising, as it does, part of an Indian reserve, which, upon examination of the law, we find is not yet subject to a settlement or preemption, can give no such vote as that which is represented to have been polled at this inconceivable precinct of Oxford. But while this unofficial knowledge, well established and universal as it may be, could not become the ground of decision and action upon election returns in themselves regular and authentic, the legitimate effect of an apparent enormity, such as that in question, would necessarily be to induce a close examination of the paper presented, and to require for its acceptance a perfect compliance with all the essential provisions of the law. Such an examination of this document, conscientiously and impartially made, has brought us to the conclusion that the returns from Oxford precinct, in Johnson county, must be wholly rejected, for the following reasons:

"1st. It does not appear on the face of the document presented to us, or in any other manner, that the judges of election took the oath imperatively required by the statute, to secure the 'impartial discharge of their duties according to law.'

"2d. It does not appear that the paper presented to us was one of the two original poll-books kept at the election, as required by law; but, on the contrary, it does appear, from unmistakable internal evidence, that the paper is either a copy of some other document, or has been made up for the occasion, and is not the genuine record of the votes taken at the election. The law required one of the poll-books to be returned to the Secretary, the other to be deposited with the clerk of the board of commissioners of the proper county.

"3d. As the vote of each elector was to be recorded for each one of twenty-two candidates, and in more than a hundred cases for twenty-five, and that by a *viva voce* vote, it was a physical impossibility that the number of votes pretended to have been taken on the second day, being more than fifteen hundred, with the name of the voter written, and each of twenty-two candidates properly designated, could have been taken and recorded within the time prescribed by law.

"4th. It is an extraordinary fact, tending to throw distrust upon the whole proceeding, that, of the sixteen hundred and twenty-eight votes, only one is given to the Delegate elect to Congress; and only one hundred and twenty-four are recorded as having been cast for the local candidates of the township.

"Influenced by these considerations, and impressed with the great responsibility resting upon us in regard to the fairness of the election, and its freedom from all fraud susceptible of detection and prevention, within the scope of our duties, we deemed it essential to truth and justice that we should ascertain every fact calculated to refute or confirm the conclusions derived from the face of the papers. Accordingly, we went to the precinct of Oxford, (which is a village with six houses, including stores, and without a tavern,) and ascertained from the citizens of that vicinity, and especially those of the handsome adjacent village of New Santa Fé, in Missouri, (separated only by a street, and containing about twenty houses,) that altogether not more than one tenth the number of persons represented to have voted were present

on the two days of the election; much the smaller number, not exceeding thirty or forty, being present on the last day, when more than fifteen hundred votes are represented as having been given. The people of Oxford, as well as those of the neighboring village of Santa Fe, were astounded at the magnitude of the returns; and all persons, of all parties, in both places, treated the whole affair with derision or indignation, not having heard the alleged result until several days after it had occurred.

"In the course of our journey to and from Oxford, we passed over much the larger part of the county of Johnson, and we became satisfied that there is no population in the whole county from which more than one third the vote of that single precinct could have been given. We learn that some very few persons, having cabins on the reserve in Johnson county, and claiming a residence therein, though generally absent, had voted at some of the precincts in that county; but we are convinced that a very inconsiderable number, not reaching, we believe, one hundred of Missourians, or any other persons having no admitted right to vote, did claim or attempt to exercise that right, anywhere within that county."

I must remark here that since Governor Walker's proclamation was issued, it has been ascertained by an examination of the names returned on the poll-books, that they were literally transcribed from an old Cincinnati Directory. It is even said that the name of the present Republican Governor of Ohio, who at the time the directory was compiled resided in Cincinnati, is put down on the list of those who voted for the pro-slavery ticket!

The Governor threw out these fraudulent returns, because they were not only fraudulent but illegal, and gave the certificates of election to the free-State candidates. He pursued the same course in reference to the enormous returns of McGee county; which, with a population of from one to two hundred, returned a thousand or twelve hundred majority for the pro-slavery ticket. Governor Walker took the stump in behalf of the pro-slavery ticket, I repeat, but he was not so depraved as to lend the sanction of his name to these infamous frauds. And what has been the consequence? We all know it. He has been hunted and hounded by the propagandists of slavery, and frowned upon by the Administration, until he has been constrained to resign. A southern man, a slaveholder, going to Kansas as the special representative of slavery, he has now been compelled to vacate his post, because his sense of honor and duty would not permit him to countenance frauds as barfaced and infamous as ever felon swung for at Tyburn.

The virtual sanction which the Administration has given to these frauds shows a well settled purpose of making Kansas a slave State at all hazards. If open force will not answer the purpose then trickery must be resorted to.

But it failed in securing a majority of the Territorial Legislature, and the disappointed conspirators were determined to profit by the lesson of experience. They resolved to secure a pro-slavery constitution by the same system of manufacturing votes, which, but for the honorable conduct of Governor Walker, would have given them the control of the Legislature. To accomplish this end they resorted to two cunning expedients. Whether they were concocted in Washington, as has been surmised, or are indigenous to the soil of Lecompton, I will not undertake to say; but it would be difficult to conceive of devices better suited to the emergency.

The first of these tricks is the show of compliance with the doctrine of popular sovereignty, by pretending to submit the slavery clause to the popular vote.

It is well known that Judge DOWELL, the author of the Kansas-Nebraska bill, insisted, while advocating its passage, that slavery, like all other matters, should be under the control of the people of the Territory. This was all he claimed in regard to it. He "rang the changes" upon this point in every imaginable way, insisting, while the people were allowed to legislate and make constitutions affecting all the other relations of life, of parent and child, of guardian and ward, of landlord and tenant, of master and servant or apprentice, that they should have the same right to legislate in regard to negroes. But the Lecompton convention, in flagrant disregard of this loudly proclaimed doctrine of popular sovereignty, have submitted only one clause of their constitution to the popular ratification; and, as I shall presently show, even that is only seemingly submitted. Their schedule provided that the people should be called upon to vote, on the 21st of December last, for the constitution with slavery, or for the

constitution without slavery. Those who chose to avail themselves of the privilege of voting were therefore compelled to vote for the constitution or not vote at all. That constitution contains several clauses which are highly objectionable to a large number of the people of Kansas—to a majority, indeed; but, whether it does or not, the convention and Congress have no right to force it upon the people without their consent. If it were the best constitution that the wit of man could devise, it would be an outrage to impose it upon an unwilling people.

But, in point of fact, the existence or non-existence of slavery was not submitted at all, for it is provided in another separate clause, that under no circumstances shall the relation of master and slave be disturbed, whatever be the result of the election upon the slavery clause. The perpetual existence of slavery is secured; and the sham of voting only amounts to this: that the constitution without slavery is to be understood as prohibiting the introduction of more slaves. I will proceed to show, from southern authorities, that this is the case, and that some go so far as to declare that the constitution without slavery is a better pro-slavery instrument than the constitution with slavery. A correspondent of the Jackson Mississippiian, writing from Lecompton on the 27th November last, says:

"Thus you see that whilst, by submitting the question in this form, they are bound to have a ratification of one or the other, and that whilst it seems to be an election between a free-State and pro-slavery constitution, it is in fact but a question of the future introduction of slavery that is in controversy; and yet it furnishes our friends in Congress a basis on which to rest their vindication of the admission of Kansas as a State under it into the Union: while they would not have it, sent directly from the convention."

"It is the very best proposition for making Kansas a slave State that was submitted for the consideration of the convention. In addition to what I have stated, it embraces a provision continuing in force all existing laws of the Territory until repealed by the Legislature of the State to be elected under the provisions of this constitution."

The Charleston Mercury entertains similar opinions, as will be seen by the following:

"We are equally satisfied with the action of the convention. We differ, too, with the President as to what is submitted to the vote of the people. We do not think that the question of slavery or no slavery is submitted to the vote of the people. Whether the clause in the constitution is voted out or voted in, slavery exists and has a guarantee in the constitution that it shall not be interfered with; whilst, if the slavery party in Kansas can keep or get the majority of the Legislature, they may open wide the door for the immigration of slaves. But this, also, is a small matter of difference with the President."

The second expedient to which I have adverted, by which the Lecompton conspirators hoped to triumph over the people, is the submission of the returns of election, not to the Governor of the Territory, as heretofore, but to the president of the convention, Calhoun. It was reasonably concluded that he would readily sanction any return of votes that might be brought up from Johnson and McGee counties; and accordingly we learn that, on the 21st of December, Johnson actually gave nearly two thousand majority to the pro-slavery clause! No doubt that McGee has done equally as well.

It is amazing to witness the coolness with which the friends of the Administration insist that Congress is bound to admit Kansas into the Union under this infamously fraudulent constitution, which was conceived in sin and hatched in iniquity. The convention itself, even if the election of the delegates had been fair, had no authority to force a constitution upon the people, for the reason that the Territorial Legislature had no authority to call it into existence. At the best, it is merely a voluntary affair; and although it might be admitted that its assemblage was legal, it had no legal authority. Any popular convention which abstains from breaking the peace, is legal. The late free-State conventions at Lawrence were legal; but, like the Lecompton convention, they had no authority to impose a constitution upon the people. Either might propose a constitution, but neither possessed the right to establish one. I proceed to illustrate this point on the authority of General Jackson's Administration. In the case of Arkansas, backed by that of James Buchanan himself in the case of Michigan. The cases were parallel, and the testimonies of these authorities are explicit and to the point. General Jackson referred the Arkansas case to the Secretary of State, and the latter asked the advice of the Attorney General, Mr. Butler. He gave it as fol-

lows, which determined the policy of the President in the premises:

"Consequently, it is not in the power of the General Assembly of Arkansas to pass any law for the purpose of electing members to form a constitution and State government, or to do any other act, directly or indirectly, to create such new government. Every such law, even though it were approved by the government of the Territory, would be null and void. If passed by them, notwithstanding his veto, by a vote of two thirds of each branch, it would still be equally void."

"If I am right in the foregoing opinion, it will then follow that the course of the Governor, in declining to call together the Territorial Legislature for the purpose in question, was such as his legal duties required; and that the views he has expressed in his public address, and also in his official communication to yourself, so far as they indicate an intention not to sanction or concur in any legislative or other proceedings towards the formation of a State government until Congress shall have authorized it, are also correct."

"No law has yet been passed by Congress which either expressly or impliedly gives to the people of Arkansas the authority to form a State government."

"For the reasons above stated, I am, therefore, of opinion that the inhabitants of that Territory have not at present, and that they cannot acquire otherwise than by an act of Congress, the right to form such a government."

The testimony of Mr. Buchanan in the case of Michigan is equally explicit. He advocates the policy of recognizing what the people had done voluntarily, without an enabling act; but he distinctly denied the authority of the territorial Legislature to call a convention. He said:

"We ought not to apply the rigid rules of abstract political science too rigorously in such cases. It has been our practice heretofore to treat our infant Territories with parental care, to nurse them with kindness, and when they had attained the age of manhood, to admit them into the family without requiring from them a rigid adherence to forms. The great questions to be decided are: do they contain a sufficient population? Have they adopted a republican constitution? And are they waiting to enter the Union upon the terms which we propose? If so, all the preliminary proceedings have been considered but mere forms, which we have waived in repeated instances. They are but the scaffolding of the building, which is of no further use after the edifice is complete. We have pursued this course in regard to Tennessee, to Arkansas, and even to Michigan. No Senator will pretend that their Territorial Legislatures had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

This, one would suppose, should be conclusive with those who profess a profound reverence for whatever emanates from the White House; but I am sorry to say, that the President's bosom friend in the other wing of the Capitol has already impaired the value of the authority by pleading the statute of limitations in his behalf.

The more recent facts in the history of the Kansas question are too fresh in the recollection of the committee to need repetition by me. We all know that Calhoun, the president of the convention, invited acting Governor Denver, together with the presiding officers of the two branches of the Territorial Legislature, to join him in counting the votes. The latter have made an official and authoritative statement of the result; which we have all read. According to that statement the free-State party carried everything on the 4th of January, electing State officers, a majority of the Legislature, and the Representative to Congress. They, at the same time and places, under the authority of the existing Territorial Legislature, held a separate election, in order to test the sense of the people in regard to the constitution, and the acting Governor has certified that more than ten thousand votes were cast against its adoption. The pro-slavery party, conscious of its weakness in a fair election, with honest men to count and receive the votes, refrained entirely from voting.

But Calhoun was not to be thwarted. He alleged some informality in making the returns from one of the counties or precincts, and at the same time produced returns from a place called Delaware Crossing, which entirely changed the result and gave a majority to the pro-slavery party. These last returns have since been proven to be entirely fraudulent. Out of forty-nine votes actually cast, the unscrupulous tools of the party in power manufactured three hundred and forty-nine; and then, lest the fraud should be detected and exposed, hid the returns in a wood pile!

Such, Mr. Chairman, is a brief outline of the history of this Lecompton constitution. I have no room for the details; but I will venture to assert that a free people were never defrauded of their rights by expedients more base and shameless. History is filled with records of crime and misgovernment; but the atrocities of tyrants, invested

with the supreme power, are what the world has been accustomed to look for. When the people are not recognized as the rightful source of power, it would be unreasonable to expect a uniform adherence to the rules of equity; but, in the history of well-established constitutional Governments, such as England, for the last hundred and sixty years, or the United States up to the period of the last Administration, no parallel can be found to the criminal misgovernment of Kansas.

The President of the United States, in his late message, has assumed the responsibility for this fraud; he has shouldered this load of infamy, and it will stick to him to his grave. He has taken it upon himself willingly, knowingly, and guiltily, against the earnest remonstrances of those who were mainly instrumental in his election, and he cannot now, if he would, lay it down. It has broken down his Administration in the first year of its existence; it has destroyed his good name, and blasted his last faint hope of a continuance of power.

Mr. Chairman, we often hear Fourth of July orators use the steam-engine and the railroad cars as the types and symbols of American progress; and it must be admitted that the symbols hold as good for our progress in political corruption and decay as in material or intellectual advancement. Greece maintained her liberties some five or six hundred years; Rome some seven hundred, before demagogues, turned tyrants, learned to govern the Empire with despotic sway, under the forms of republicanism. Our modern demagogues have excelled the ancient as much as the appliances of modern travel surpass those of the Augustan age. In the first century of the American Republic, in spite of our boasted general education, our freedom of the press and of speech, our holy Christian religion and high civilization, they have learned to play the despot—I might almost say the Nero—under the forms of constitutional government. Had we a large standing army, such as was maintained by Rome in the days of her corruption and decline, there can be no doubt that, like her, we should be subjected to the ignominious yoke of a despot chosen by our Prætorian bands, and in the same manner, by public sale at auction. But, thank God, we have no such army of mercenaries; and it is to be hoped we never shall have. There can be no doubt that we have demagogues bold enough, cunning enough, and base enough to pervert the whole machinery of our republican system, and to establish the same despotic rule in the States which they have kept up in Kansas for the last three or four years.

But, sir, I must draw my remarks to a close. I have already occupied the time of the committee longer than I desired; but I have found it impossible to compress into a shorter space the many things which I felt it incumbent on me to say upon this fruitful topic. I regard the struggle for liberty in Kansas as a momentous one; but the final result I cannot permit myself to doubt. Truth and right, though crushed to the earth a thousand times, will rise again; and they must and will prevail.

Mr. TAYLOR, of New York. Mr. Chairman, in the remarks I propose to offer in favor of the admission of Kansas into the Union under the Lecompton constitution, I hope to confine myself closely to that question. I do not desire to follow the honorable gentleman from Georgia [Mr. GARRELL] in his justification of slavery; nor the honorable gentleman from Illinois [Mr. LOVEJOY] in his bitter denunciations of that institution; nor the honorable gentleman from New York [Mr. BURROUGHS] in his remarks upon the condition of the working classes North and South. These questions are not necessarily involved in the issue now before the country. All parties and all classes have their difficulties to overcome, their social and political diseases to heal; and he who does most to soothe and relieve the unfortunate, without regard to class or locality, will best merit the rewards due to the philanthropist. But, sir, in all measures of relief, the general good must be considered, and this involves the investigation of other rights besides those belonging peculiarly to one class, or one color, or one locality. Our Government was organized to secure the greatest good to the greatest number; not for special legislation. By a reference to the debates in the convention that formed our Federal Constitution, this will clearly appear; and it will also appear, that the great statesmen of

that day were sufficiently liberal and national to consider the rights and interests of our common country as of greater importance than any geographical or local feeling. It appears to me that the same spirit would now enable us to settle all questions of difference between the North and the South permanently, and to the entire satisfaction of the country in a short time.

In this spirit I desire to address the House; and in the consideration of this question, I trust that I may be able to rise above all sectional feeling and all local prejudice; that while representing the people of my district, I may not the less act as a member of the Congress of the confederated States. If these feelings prevail, it appears to me that we cannot fail to settle our present difficulties upon a just and proper basis; but if the reverse exist, all reasoning will prove fruitless, and all labor unavailing.

It is a part of the policy of our Government to create territorial governments when required to protect the infant settlements in the West and Southwest; and also, when these Territories acquire a sufficient population, to admit them as States into this Union; thus giving them all the rights and privileges of the oldest and largest States in the Confederation. In order to understand what these privileges and rights are, it is necessary to inquire into the compact between the States. By the Constitution all are equal in the Union. The sovereign character of each State is equally represented in the Senate, while the people or citizens of each are represented in this, the popular branch of Congress. In the one instance, the State, the delegated sovereignty of the people, is represented, and in the other, the people themselves; but in both, their rights are mutual and their obligations the same. This happy adjustment was not effected without labor and many patriotic concessions on the part of the great and good men appointed by the different States for that purpose.

One of the chief difficulties met in the formation "of a more perfect union," when it was found that the Articles of Confederation were imperfect, arose out of the disposition of the Crown lands, as the public domain was then denominated. The States within whose limits these lands were located, claimed them; while the others contended that they had been wrested from the de throne authority by the equal and common exertions of all; and therefore, that all of the States were equally interested in them. "The lands being of vast extent and of growing value," Madison writes, "were the occasion of much discussion and heart-burning, and proved the most obstinate of the impediments to an earlier consummation of the plan of a Federal Government."

This difficulty was finally disposed of by the action of the State of Virginia, which, with a noble prodigality, gave up her vast western domain for the good of the infant Republic; while New York, in the same glorious spirit, in order to settle another vexed question, authorized the Federal Government to collect nine tenths of the national revenue within her ports; and the other States, North and South, uniting in the same patriotic feelings, gave and accepted all that was necessary to secure "a more perfect union," and promote the general good. All this was done in good faith, and as equals in the great brotherhood in which all their hopes for the future were involved.

By the magnanimity of New York and Virginia, the ratification of the Constitution was secured; and by it, the members of the Confederation took an equal interest in the unoccupied or public territory of the country—not only in that then belonging to us, but to all that we might afterwards acquire by the common efforts and the common treasury of the States. An equal right to the territory in the most comprehensive significance of the word; an equal right in its government, and above all, and more important than all else, an equal right to settle upon it, and to develop its resources; and, as a necessary consequence, to carry their property, their institutions, and political feelings with them, whenever and wherever they might choose to go into said territory.

This brings us directly to the great question involved in the admission of Kansas into the Union, under the Lecompton constitution. It is not the frauds and acts of violence committed in

that unfortunate Territory alone, which give importance to this question; not these, but the great constitutional question of equality between the States in the Union; and the other questions involved in the right of self-government and local legislation, which, by the special pleading of dishonorable, of quibbling, and of desperate politicians, have been reduced to this single issue.

The southern States go back to the original compact, and claim their rights and privileges as guaranteed by it. They insist, and properly insist, upon a full and unequivocal acknowledgment of their equality in the Union; while certain States in the North refuse to keep the conditions of the fundamental law, repudiate their solemn contract, and, in open violation of it, seek to defeat its provisions. It is true that they have not attempted to interfere with the local legislation of the southern States directly; but indirectly they have done so.

These remarks are not strictly applicable to the honorable gentlemen around me, who are opposed to the Lecompton constitution on the grounds of irregularity and fraud. But gentlemen overlook the fact that these difficulties have been intentionally created by interested parties, for the purpose of producing just what we now see: an increased excitement throughout the country, and a division in the Democratic party, which, up to the present period, has under all circumstances, and at every critical period of our political history, proved itself eminently national.

The history of this Kansas difficulty develops one fact more distinctly than any other; it stands out on every page, is recorded in every step of its unfortunate progress; which is the fact that the Republicans, inside and outside of Kansas, do not desire its admission into the Union, at present, under any constitution, or any state of circumstances. Their partisans in the Territory have always refused to act in a regular and legal manner. Whenever a fair issue has been tendered to them, they have evaded it by flying off into some unjustifiable and treasonable conspiracy to defeat the wishes of the people and the settlement of this question; not individually, but collectively and on deliberation, thus clearly showing their party policy in this matter.

What are the facts in the case? In May, 1854, Congress passed an act establishing a territorial government in Kansas. Under this act, a Governor, Secretary, and other officers, were appointed by the President; and a Delegate to Congress and a Territorial Legislature were elected by the people of the Territory. Fully and fairly the whole machinery of a territorial government was established—established by the concurrent action of the Federal Government and the people of the Territory. The Legislature thus elected was duly organized, and had full power, by virtue of the act creating it, to pass all laws necessary for the protection of persons and property, and to perform all other legislative acts, subordinate to the Constitution only. In the language of Governor Walker, in his inaugural address—

"That convention is now about to be elected by you, under the call of the Territorial Legislature, created and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such enactment. The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress; and the authority of the convention is distinctly recognized in my instructions from the President of the United States. Those who oppose this course cannot aver the alleged irregularity of the Territorial Legislature, whose laws, in town and city elections, in corporate franchises, and on all other subjects but slavery, they acknowledge by their votes and acquiescence."

The Legislature was undoubtedly acknowledged and acquiesced in. It is true that the Republicans charge that the citizens of Missouri went into the Territory and carried the election in favor of the pro-slavery party. However this may have been, it appears that the legality of a subsequent election, with the same result, was fully recognized by a Republican House of Representatives, in the contest between Whitfield and Reeder. But, independent of that decision, I think that the action of the Missourians will suffer but little in a comparison with that of the Republicans. The Missourians are not yet above the influence of bad examples, and some of them may have learned the political tricks of their new acquaintances; but I think the facts prove that a large majority of their number had located in the Territory with the intention of becoming residents.

They generally located lands, and commenced the improvements necessary for the support and protection of their families. This is the evidence of their intention.

What are the facts connected with the invaders from the northern States? Did they become legal citizens of the Territory? Did they go there solely for the purpose of cultivating the soil, and of making it their permanent home? No, sir; the most of them were young men, without families— young and desperate men, who were regularly enlisted by abolition societies, abolition Governors of the northern States, and mischief-making priests, by whom they were armed with Sharpe's rifles, equipped with the munitions of war, and paid by the month for their dishonorable, revolutionary, and treasonable services; precisely as the Hessians and other mercenaries were paid by the English in their attempt to defeat our independence.

As this is a grave charge, it is proper to examine the evidence on which it is made. In the first place, we find that societies were openly organized in the North for the avowed purpose of collecting funds and enlisting men to go there; that committees were appointed to receive contributions; and that public calls were made for money to defray the expenses so incurred; that arms were publicly presented to persons about starting to the scene of war, with the injunction to make them felt. Loud and eloquent declamation was heard from the pulpit—the voice of men wearing the livery of heaven, while ministering to the worst passions of our nature, and secretly fomenting sectional war. These are some of the evidences by which we can judge their friends outside. What are the facts within the Territory? Governor Walker says, in his official letter of the 15th of July last:

"In order to send this communication by mail, I must close by assuring you that the spirit of rebellion pervades the great mass of the Republican party of this Territory, instigated, as I entertain no doubt they are, by eastern societies, having in view results most disastrous to the Government and to the Union."

And again he says:

"Lawrence is the hot-bed of all the abolition movements in the Territory. It is the town established by the abolition societies of the East; and whilst there are respectable people there, it is filled by a considerable number of mercenaries, who are paid by abolition societies to perpetuate and diffuse agitation throughout Kansas, and prevent a peaceful settlement of this question."

This is the testimony of Governor Walker; and gentlemen will not complain if we attach a little more credit to the official acts of a Governor than we do to the politician acting and speaking for ulterior objects. The Governor goes on to say:

"I am satisfied that a large portion of the insurrectionary party in the Territory do not desire the peaceful settlement of this question, but wish it to remain open in order to agitate the country for years to come."

But let us ascertain whether Governor Walker is sustained by the facts. Did the Republicans go into the Territory and locate farms and begin their improvement as if they intended to reside there permanently, and honestly earn a subsistence? No; the history of the Territory proves the contrary. They located towns and villages, without a country to support them; they established no legitimate business; paid no attention to the means of support, and, contrary to all experience in the West, embarked in politics the moment of their arrival. Sir, this was their business, that which they had been hired to perform; and with how reckless a disposition have these mercenaries done their work!

It was their business to locate villages, and to make them (as Governor Walker says of Lawrence) the seats of the agitation which disturbed the Territory—the fruitful nurseries of rebellion and treason. It was their business to organize a militia, and take violent possession of the Territory, and to rebel against all laws, human and divine. These northern invaders were not there as citizens, located not as citizens locate, and have proved by their acts that they had no such object in view. It may well become such men to charge the Missourians with trespass and wrong. Sir, their charges remind us of the deceptive cry of the flying thief, to "stop the thief!" They have too long deceived the police of the country—too long evaded the punishment they have so fully earned.

Immediately after the establishment of the territorial government the Republicans attempted to

establish a revolutionary government under the Topeka constitution. They refused obedience to the laws of Congress and of their own Legislature in all points affecting slavery, and began an illegal opposition to the Federal authority, in which they have steadily persevered. But they say that the Legislature was irregular, and had no power to call a convention. Congress, however, has repeatedly recognized the territorial government as regular. Governor Walker, in his inaugural address of the 27th May, 1857, says:

"The Territorial Legislature is the power ordained for this purpose by the Congress of the United States; and in opposing it, you resist the authority of the Federal Government. That Legislature was called into being by the Congress of 1854, and is recognized in the very latest congressional legislation." * * * "and many of its acts are now in operation here by universal assent."

This Legislature, recognized, and undoubtedly legal in its organization, adopted measures in July, 1855, to submit the question of a State government to the people. In the election then provided for, the people decided almost unanimously in favor of the organization of a State government preparatory to their admission into the Union. Afterwards, on the 19th day of February, 1857, their Legislature passed an act providing for a registry of the voters, and for the election of delegates to a constitutional convention. In the performance of this duty the Legislature exercised no rights or powers not given to it by the act creating the territorial government, and not legitimately within its constitutional authority. For this purpose it was called into existence by the organic act; for this purpose it was clothed with the sovereign power of the people.

The bill providing for the registry of the voters was fair and just in all its provisions. For reference, I desire to insert the synopsis of that act, as published in the report of the Senate Committee on Territories:

"Sec. 1. Sheriffs are required, between the 1st of March and 1st of April, 1857, to make an enumeration; have power to appoint deputies, who shall take oath, &c."

"Sec. 2. In case of vacancy in office of sheriff the probate judge shall perform his duty; and in case of vacancy in both, the Governor shall appoint some competent resident to perform said duty."

"Sec. 3. Officers, as above, shall file in office of probate judge a complete list of all qualified voters resident in his county or district, on the 1st of April, 1857."

"Sec. 4. Copies of said list to be posted in public places."

"Sec. 5. Probate judge to continue court from receipt of said returns to 1st of May, for the purpose of correcting them."

"Sec. 6. Lists of legal voters, as corrected, to be returned to the Governor and Secretary, and distributed generally."

"Sec. 7. Upon completion of census, apportionment of members to be made by the Governor and Secretary, according to the registered voters. Number of representatives to be sixty."

"Sec. 8. Election for members of the constitutional convention shall be held on the third Monday in June; and no one, unless registered, shall vote."

"Sec. 9. County commissioners shall appoint the places of voting, judges of elections, &c."

"Sec. 10. Judges of election are required to be sworn; also the clerks, and duplicate returns of election shall be made and certified by them."

"Sec. 11. Every bona fide inhabitant of Kansas, on the third Monday of June, 1857, being a citizen of the United States, and over twenty-one years of age, whose residence in the county where he offers to vote shall have been three months next before said election, shall be entitled to vote."

"Sec. 12. Persons authorized to take the census to administer oaths, &c."

"Sec. 13 provides for the punishment of unlawful attempts to influence voters."

"Sec. 14 provides punishment for illegal voting."

"Sec. 15 provides punishment for those who fraudulently hinder a free expression of the popular vote."

"Sec. 16. Delegates are required to assemble in convention at the capital on the first Monday of September next."

"Sec. 17 provides for an election by the convention of its officers."

"Sec. 18 in relation to the salaries of sheriffs and other officers."

"Sec. 19 relative to the location of the election districts."

"Sec. 20 requires all votes to be *visa voce*."

"Sec. 21 gives a tabular form for the returns."

"Above bill passed over Governor's veto on the 19th of February, 1857."

This bill was vetoed by the Governor of the Territory, because it did not require the convention to submit the constitution, when framed, to the people for adoption or rejection. On its return to the Legislature, it was adopted, on a reconsideration, by a two-thirds vote, and became a law. The action of the Legislature on that point was undoubtedly correct; it had no right to embarrass the convention with a provision of that character. It was the duty of the Legislature to call the convention, in obedience to the express will of the people, and to leave the constitution, and the ques-

tion of its submission, to the delegates selected by the people for the consideration of that subject. Beyond this the Legislature had no authority to go. It would have been an assumption of power in the Legislature to attempt to control the action of a convention fresh from the people.

I now return to the registration of the voters, under the act of February, 1857. It appears from an examination of the law, that every reasonable provision had been made to secure a faithful registry, and to correct all errors that might occur. It is charged, however, by the Republicans, that the registry was not faithfully performed—that their friends were not enrolled; and hence, that the election was not a fair expression of the people of the Territory; and they charge that this wrong was perpetrated upon them for the purpose of defeating the will of the majority. The complaint was made by them to acting Governor Stanton, by letter dated April 25, 1857. The Governor's reply, dated April 30, 1857, covers the whole ground, and is an answer to their unjust complaints. He says:

"It is not my purpose to reply to your statement of facts. I cannot do so from any personal knowledge enabling me either to admit or deny them. I may say, however, I have heard statements quite as authentic as your own, and in some instances from members of your own party, (Republicans,) to the effect that your political friends have very generally—indeed, almost universally—refused to participate in the pending proceedings for registering the names of the legal voters. In some instances they have given fictitious names, and in numerous others they refused to give any names at all. You cannot deny that your party have heretofore resolved not to take part in the registration, and it appears to me that, without indulging ungenerous suspicions of the integrity of officers, you might well attribute any errors and omissions of the sheriffs to the existence of this well-known and controlling fact."

Governor Walker entirely exculpates the Legislature from fault in this matter. It was the neglect of the local officers, in his view, and was not anticipated by the Territorial Legislature. It is true that Governor Walker spoke of this matter in a tone a little different in his letter of resignation; but it must not be forgotten that in one instance the Governor wrote as a conservative man, seeking the peace and harmony of the Territory, and the proper adjustment of all their difficulties; while in the latter instance, Mr. Walker wrote as a heated politician, in opposition to the Administration, and in the hope that "something might turn up."

But, suppose that the Republicans had a large vote in the non-registered counties, as alleged in Governor Walker's letter of resignation, it could have made no difference in the result. The Republicans refused to be registered in counties where the registry was made, and refused to vote after the registration, and certainly the registry made no difference to them.

But Mr. Walker says:

"In such counties where a full and free opportunity was given to register and vote, and they did not choose to exercise that privilege, the question is very different from those counties where there was no census or registry."

There would be much force in this argument if it were not for the fact that the Republicans refused to vote as a party, and not individually. They refused to vote after their convention had determined that they should not vote, in which the Republicans of these non-registered counties were represented. Under these circumstances, it cannot be said that their course would have differed from that of their partisans in the registered counties.

Mr. Chairman, the cause of the imperfect registry is most clearly shown in Mr. Stanton's letter; shown, sir, by the testimony of Republicans who were present, and participated in that most extraordinary political movement. In our courts of law, no one is permitted to take advantage of his own wrong; but this is the plea made by the Republicans. They refused to be registered in some instances, and in others they gave fictitious names; and they now complain that the registration was not fully and fairly made, and protest against it as a gross fraud upon the rights of the people. Sir, the history of this matter proves most conclusively that the Republicans did not desire to settle the question at the ballot-box. Their contest was, and is still, with the Federal Government, and not with the pro-slavery men in the Territory. Their object was to defeat the action of Congress and the Administration in their territorial organization, and the legislation of the country. In Governor Walker's proclamation

to the people of Lawrence, of July 15, 1857, he uses the following language:

"You have, however, chosen to disregard the laws of Congress and of the territorial government created by it; and, whilst professing to acknowledge a State government rejected by Congress, and which can therefore now exist only by a successful rebellion, and exacting from all your officers the perilous and sacrilegious oath to support the so-called State constitution; yet you have, even in defiance of the so-called State Legislature, which refused to grant you a charter, proceeded to create a local government of your own, based only upon insurrection and revolution. The very oath which you require from all your officers to support your so-called Topeka State constitution, is violated in the very act of putting in operation a charter rejected even by them. A rebellion so iniquitous, and necessarily involving such awful consequences, has never before disgraced any age or country."

"Permit me to call your attention, as still claiming to be citizens of the United States, to the results of your revolutionary proceedings. You are inaugurating rebellion and revolution; you are disregarding the laws of Congress and of the territorial government, and defying their authority; you are conspiring to overthrow the Government of the United States in this Territory. Your purpose, if carried into effect in the mode designated by you, by putting your laws forcibly into execution, would involve you in the guilt and crime of treason." "I appeal once more to your reason and patriotism. I ask you in the name of our common country, in the name of the Constitution and of the Union, to desist from this rebellion. I appeal once more to your love of country, to your regard for its peace, prosperity, and reputation, to your affection for your wives and children, and to all those patriotic motives which ought to influence American citizens, to abandon this contemplated revolution. If you have wrongs, redress them through the peaceful instrumentality of the ballot-box, in the mode prescribed by the laws of your country."

This appeal was not noticed; and the citizens of Lawrence followed up their rebellion by the destruction of houses and other property belonging to conservative citizens of Franklin, a small place four miles distant from Lawrence; and by driving these citizens from the Territory. These acts, connected as they were with the revolutionary government of Lawrence, induced Governor Walker to order the troops to take their position near that place.

Governor Walker says, in his letter of the 26th September, 1857, to the Secretary of State:

"This movement is rendered necessary by the facts stated in my address of the 16th instant; but is also made with a view to protect the polls from violence, not only in the city of Lawrence, but also in the town of Franklin, but four miles distant, which is a voting precinct, and which has been marked during the present month, since the withdrawal of the troops, by the burning of the houses of conservative citizens, and their expulsion from Kansas."

The presence of the troops had the desired effect; the rebels in Lawrence changed their position and their language. We find a most flattering description of their integrity in Governor Walker's proclamation of the 10th September, 1857. Here is his commentary upon these injured patriots, these guardians of the elective franchise, these precious sentinels of freedom:

"It will be remembered that, in open defiance of the laws of Congress and of this Territory, and after the refusal of the so-called Topeka State Legislature to grant them a charter, they nevertheless organized a city government, clothed with all the usual powers—legislative, executive, and judicial. It will be recollected, also, that after my proclamation of the 15th of July last, and the simultaneous movement of the troops there as a precautionary measure to maintain the authority of the Government, and arrest the spread of this insurrection throughout the Territory, they then professed, through their organs, that what they had called a government, and to which they had given all the powers of a government, was a mere 'voluntary association' for the removal of nuisances from the streets, &c. But now, when it was erroneously believed by them that the troops would all be removed to Utah, and not replaced by others, they have thrown off the mask, and carried out their original insurrectionary purpose by passing a compulsory tax law, both a poll and property tax, requiring its assessment and collection by the seizure and sale of property, and exacting by their charter from executive officers, who are to carry out these acts, an oath to perform all these duties, the violation of which oath, if these duties are not performed, would be perjury."

What a noble picture! How distinctly the individual character stands out! Sir, it is one worthy of the great artist who, in different lights and shades, and under all circumstances, has painted the varied complexions, positions, and actions, of this his darling people.

The facts prove, beyond a question, that these people are not to be believed; and that all their excuses for not taking part in the elections are false, and totally unworthy of consideration. The true difficulty arises from the fact that their party had opposed the repeal of the Missouri compromise, because it restored the equality of the States; and when defeated in their opposition to the repealing clause, they resorted to the unjustifiable and treasonable means referred to, in order to perpetuate

the unjust operation of that law. For this purpose societies were organized, first in this city, and then in the New England States, and in New York and Illinois, to supply men and money to keep up the excitement and widen the breach between the two great parties on this subject. This is the true source of the difficulty. All else are miserable pretenses.

Mr. Chairman, it appears to me that no one honest, however prejudiced, can justify such conduct. It is trifling with the dearest rights of freedom, insulting to the majesty of the laws, and highly criminal, because it jeopardizes the blessings of civil liberty. The fact that these Lawrence republicans openly denied the authority of congressional enactments, and held in contempt the laws passed by their Territorial Legislature, cannot be denied; and it is useless to attempt a justification on the grounds of irregularity or fraud on the part of the pro-slavery men. Nothing but the most outrageous tyranny, and the entire denial of justice and right, can justify their treasonable conduct.

I have the honor to represent a portion of the metropolitan police district, in the State of New York. There I have seen the chartered rights of the people taken from them by a Republican Legislature, and their local municipal laws changed, against the solemn protest of every representative elected by them. I have seen their police regulations altered by non-residents of the cities, who had no property to guard, and no rights to protect, within the district. I have seen fifteen hundred thousand citizens taxed to support officers appointed by non-residents, and who were objectionable to four fifths of the entire population. I have seen officers duly elected by the people in that district, legislated out of office by Republicans elected in and representing remote country districts; and other men appointed to fill their places by a Republican Governor, and confirmed by a Republican Senate, who have been guilty of pipe-laying and other political frauds, compared with which, all that is charged to General Calhoun, would be unworthy of consideration. All this, sir, the Democrats of the cities of New York and Brooklyn have seen and suffered at the hands of the Republicans of that State. The Democrats at first refused to submit to the invasion of their corporate rights; but when the courts of law decided against them, they quietly submitted to the laws of their State. They did not strike at the judicial power, and defame and libel the courts and judges. No, sir; they nominated and re-elected the very judge that decided against them. They sought their remedy in the ballot-box, and there they will wage their war against this Republican invasion and tyranny until their ancient liberties are reestablished. The Republicans of New York are intensely excited by the wrongs committed upon a few hundred Lawrence rebels and mercenaries; but they have no sympathy for one million and a half of their own fellow-citizens, whose rights they have invaded, and whose local government they have struck down.

But, returning to the registration of the voters in Kansas, from which I digressed. The facts that they did not wish to be registered, and would not vote where it was done, are confirmed by their refusal to vote on the constitution when it was submitted without restriction. They excuse this by alleging that they could not defeat the constitution—could not vote it down; that the constitution was not submitted to the people; but that the slavery clause only was submitted. This is confirmation stronger still that their opposition was factious—rebellious. They could have had no objection to the constitution, except as to the slavery clause; and I challenge the Republicans of this House to point out a single objection to it, beyond that single one of slavery, which is, in their opinions, objectionable. It is very like most of our State constitutions; and is equal to the best of them. The question of slavery was the only one at issue, and that was fully and fairly submitted. On this point, I desire to refer to the speech of the honorable gentleman from Pennsylvania, [Mr. Grow,] made on the 30th day of June, 1856, in favor of admitting Kansas under the Topeka constitution. He says:

"Does the constitution meet the sense of the people to be affected by it? The existence of slavery was the only question upon which the people were divided, and the vote for delegates to the convention (Topeka) settled that by a

majority of legal votes."—See *Appendix to Congressional Globe, first session Thirty-Fourth Congress*, page 719.

It appears from this extract that the honorable gentleman did not then think it necessary to submit the constitution, or any part of it, to the people. He must have believed that the people could delegate a portion of their sovereign power to the convention, and that they were bound by its acts. In this, I fully agree with the honorable gentleman. This doctrine of submission to the people is of modern growth; is neither ratified by time, experience, nor sound judgment. Sir, ours is a representative Government, and not a Democracy.

But what does the gentleman's party now say? That the whole instrument should have been submitted, and not merely the slavery clause; and because it was not thus submitted, the cry of "fraud!" "fraud!" is heard as loud as was the cry of "bleeding Kansas!" during the last Congress. It is a base, a vile attempt of a minority to force a constitution upon a reluctant majority. If they had a majority, why did they not submit to registration, and vote either for delegates and thus control the convention; or against the slavery clause in the constitution? The Constitution, laws, and practice of our country provide legal modes of ascertaining the will of the majority; why did they not accept this well-recognized mode, and fairly determine the question? Their conduct throughout this whole difficulty is the only answer required by the country.

Sir, the only question of importance, and on which the people differed, was fully and fairly submitted; and it was submitted precisely as they had been advised that it would be. In this there was no deception. Acting Governor Stanton informed them, in his address of the 17th April, 1857, before the election of the delegates to the convention, of the fact:

"I do not doubt, however, that, in order to avoid all pretext for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for submitting the great distracting question regarding their social institutions, which has so long agitated the people of Kansas, to a fair vote of all the actual bona fide residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress without delay."

Governor Walker follows this explicit statement of his Secretary, on the 27th day of May, 1857, and before the election of the delegates to the convention, in this language:

"Under our practice, the preliminary act of framing a State constitution, is uniformly performed through the instrumentality of a convention of delegates, chosen by the people themselves."

"The people of Kansas, then, are invited by the highest authority known to the Constitution, to participate freely and fairly in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and where ever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

It appears, from the history, that the Republicans had full notice that the slavery clause only would be submitted. In the first instance, the Legislature refused to require that it should be submitted, and passed the law over the Governor's veto on that point; secondly, Mr. Stanton's address distinctly referred to that fact. This, sir, like all their other excuses, is a miserable pretense. They had taken no part in its formation; had denied the authority of the Legislature, and elected one of their own; and had adopted a constitution of their own. Why should they talk about majorities, after the attempt to control the majority by the Topeka convention? Why talk about submitting the whole constitution to the people, after refusing to submit even the slavery restriction in their own constitution?

But, sir, it is urged by certain gentlemen in and out of Congress that Kansas cannot be admitted under the Lecompton constitution, because there was no enabling act. I believe this objection, however, is not made by the Republicans. It belongs to the honorable Senator from Illinois, the great advocate for the admission of California. The history of the country furnishes very many examples of States coming into the Union on con-

stitutions adopted without any enabling act. The enabling act simply directs the mode for the adoption of a constitution in a legal and orderly manner; and, if this is done without an enabling act, there can be little or no objection to it. But the Kansas-Nebraska act was, in every sense of the word, an enabling act. "The Territorial Legislature, then, in assembling this convention, was fully sustained by the act of Congress," is the language used by Mr. Walker; "and that it was clothed, in the comprehensive language of the organic law, with full power to call a convention for the adoption of a State constitution."

This is the opinion of a large majority of those qualified to judge; and I believe that it was freely acquiesced in by the Senator from Illinois until after his return to this city last November. However this may be, he distinctly and unreservedly held that opinion in his Springfield speech:

"Kansas is about to speak for herself through her delegates, assembled in convention to form a constitution, preparatory to her admission into the Union on an equal footing with the original States. The law under which her delegates are about to be elected, is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every *bona fide* inhabitant the free and quiet exercise of the elective franchise."

"If any portion of the inhabitants, acting under the advice of political leaders in distant States, shall choose to absent themselves from the polls and withhold their votes, with a view of leaving the free-State Democrats in a minority, and thus securing a pro-slavery constitution, in opposition to the wishes of a majority of the people living under it, let the responsibility rest on those who, for partisan purposes, will sacrifice the principles they profess to cherish and promote." "Upon them, and upon the political party for whose benefit, and under the direction of whose leaders they act, let the blame be visited of fastening upon the people of a new State institutions repugnant to their feelings and in violation of their wishes."

"The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitation than that which the Constitution of the United States imposes."

After alluding to the desire of the Democratic party to carry out the principles of the organic act and bring the State into the Union, he says:

"The present election law in Kansas is acknowledged to be fair and just. The rights of the voters are clearly defined, and the exercise of those rights will be efficiently and scrupulously protected." "If such is not the result, let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy, and bloodshed in Kansas, that their party may profit by slavery agitation in the northern States of this Union."

But whether he did or did not so hold in this case can make no difference. The honorable gentleman's course on the admission of California is not, and will not be, forgotten. If his position was right on that subject, it is wrong now; and if right now, he violated a great principle then. He can select between them; but one thing is certain, he cannot reconcile the two positions. He was the eloquent and powerful advocate in favor of California's admission. He insisted upon it, well knowing that there had been no enabling act, and that none of the steps usually taken in the formation of a territorial government, preparatory to its admission, had been taken. He well knew at the time that the convention which formed their constitution had been called by a military officer, without authority, in violation of law, and contrary to all former practice. In the terse language of another, the California convention was called by a brigadier general, by a proclamation written on the head of his drum. But, more than this, the honorable Senator could not have been ignorant of the fact that that constitution was forced upon the people of California by a minority of the legal voters in the district.

On the 6th day of July, 1850, before the admission of that State, the honorable Senator from Florida [Mr. Yulee] had the following extracts from the debates in the California constitutional convention read in the Senate. (See Appendix to Congressional Globe, Thirty-First Congress, first session, page 1163.) Mr. Carillo said that "he and his colleagues were under instructions to vote for a territorial organization." Mr. GWIN, the present distinguished Senator, then said:

"Are we not here forcing a State government upon a portion of the people of California, whose delegates have, by their recorded votes, stated the fact that their constituents are unanimously against a State government, and in favor of a territorial organization?" "We all know what 31st 30' is. It is the great bone of contention. North of that line there is no contest. South of it there is a contest. If gentlemen will look where this line strikes the

Pacific, they will see that not a solitary vote was cast by a delegate in the convention south of that line, except those cast against a State government. The representatives here from that region are unanimous in their votes against the establishment of a State government."

"Not one half of that population knew of this convention, and still we are forcing this government upon them, and upon the thousands and tens of thousands who have come in since the election."

But gentlemen may say that this established the fact that certain parties did not vote for the constitution, or desire it, and not that a majority did not vote for it. The testimony of the leading paper, the "Alta California," is directly to this point. It says:

"To the extent which our returns, up to the present time, enables us to form an opinion, it is established, beyond a shadow of doubt, that a minority only of the total number of voters in the districts heard from is represented by the official and unofficial returns. For instance: the district of Sacramento, (taking the vote of the constitution as an aggregate,) polled five thousand six hundred and five votes, which may be put down as scarcely amounting to one fourth the number of electors which the district contains."

"San Joaquin and San José, show nearly equal deficiency in the numerical strength of their respective votes."

"Our information, and it is authoritative, attributes the strength of this vote to the fact, that in many precincts, remote from the great routes of travel through the northern country, the constitution was not distributed; that it failed to reach those places, and that the action of the State convention was not known until within a day or two of the time appointed for holding the election."

"It is natural to presume that the residents of sections thus situated, feeling aggrieved, have remained away from the polls altogether, and with the same propriety that others have resisted the constitution, both on the ground of not having seen that instrument."—Appendix to Congressional Globe, page 1163.

These are some of the irregularities in the formation and adoption of the constitution of California. They had no enabling act except the sword and command of General Riley. Their constitution and State government were adopted in the convention against the protest of the delegates from a large section of the territory; and the constitution, when submitted to the people, failed to receive a majority of the legal votes in the State or district. In many sections it had not been distributed; and in others, not in time for them to read it; and these objections were urged, earnestly urged, against the admission of the State into the Union. What did the honorable Senator from Illinois say on that occasion?

"But there is not an irregularity in the case of California which has not occurred and been waived in the admission of some new State into the Union. If the Senator will point me to any irregularity in the case of California, I will point him to a corresponding one in the case of some other State which has been received into the Union."

"I hold that the people of California had a right to do what they have done—yes, that they had a moral, political, and legal right to do all they have done."—Appendix to Congressional Globe, 1850, page 1223.

All these irregularities existed, and the honorable Senator was not ignorant of them. He had examined them fully, and then and there solemnly indorsed the whole of them; and what is still more important in the present connection, he declared that they were neither novel nor important. I think the honorable gentleman will allow us to infer that some great change has taken place in his perceptive powers. In 1850, he could take California in, with a free-State constitution—adopted without an enabling act, and contrary to law, and forced upon the people by a minority—without the least compunction of conscience. Now, he turns away from the Lecompton constitution—provided for by the organic law, and adopted according to, and under the act of their Legislature, and in no particular more irregular than the California constitution—with disgust and horror, crying only, but crying always, "fraud! fraud! fraud!"

Sir, I desire not to do the honorable gentleman injustice. I honor his talents, and would be glad to respect his character; but there is something inexplicable in his present position. It is a denial of all his past acts—a reversal of his previous decisions—a sacrifice of principles which he has so largely contributed to ingraft upon the legislation of the country. Let us hope that this aberration of his may be temporary only, and that soon his lofty genius will be revolving in its old conservative orbit, shedding a broad and certain light upon his course, and not the irregular and uncertain rays which serve only to dazzle and bewilder.

But, Mr. Chairman, the Republicans object to the admission of Kansas under the Lecompton constitution, because that constitution makes no

provision for its change or amendment until 1864. After the experience, which we have had in this country in matters of that kind, and the well-established principle that the sovereign authority is vested in the people, we may well doubt their sincerity. Governor Walker refers to this matter, in alluding to the arguments of southern gentlemen of leading positions, in his letter of the 15th of July, 1857. He says, if a constitution is adopted without submitting it to the people, the Republicans—

—driven by such a course into violent opposition to southern institutions, will elect an Abolition State Legislature, send two Abolition Senators to the Senate of the United States, and a member to Congress, entertaining similar sentiments; and that, at a very early period, they would amend the constitution, and make it hostile, in every respect, to the institutions of the South. Yet they would have been admitted as a State, and their power to amend the State constitution could not be arrested. Thus it would happen that whilst for a short time Kansas would have a pro-slavery constitution on parchment, she would be rendered by this course, in fact, an Abolition State, opposed to the fugitive slave law, and necessarily producing collision with the coterminous State of Missouri."

This language is important, not only so far as his authority goes, (and no one doubts his ability,) but it is important as a reflection of southern views on the power of the people of Kansas to change their constitution as soon as they are admitted into the Union. This right and power of the people cannot be denied. They may change their constitution peaceably at any time. They may adopt the mode pointed out by the constitution for its alteration and amendment; or they may adopt some other mode equally justifiable, if not so entirely regular. The Legislatures in the different States may submit the question to the people as prescribed in their respective constitutions; or they may submit the question of a convention to the people in any other mode; and if the people decide in favor of a convention and elect one, its action will be as legal and binding upon them as if the exact form or mode prescribed in the constitution had been observed. It is a question of formality, not of legality.

The honorable gentleman from Pennsylvania, [Mr. Grow,] to whom I have already alluded, and for whom I entertain sincere respect, in his speech of the 30th of June, 1856, says:

"The right of a people to alter or abolish their form of government is an inherent one, and is classed in the Declaration of Independence as indispensable to the inalienable rights of man."

The distinguished Senator from New York [Mr. Seward] is still more direct and positive on this subject. In his speech delivered in the Senate July 2, 1856, he says:

"Mr. President, another and lighter objection has been urged against my bill, [his bill for the admission of Kansas under the Topeka constitution,] namely: that the Topeka constitution provides that it shall not be changed in less than nine years. I do not know this fact, but I am bound to assume it, on the statement of the honorable Senator from Georgia. My answer is, that I am not responsible for that provision in the constitution." "I reply to both of those objections. I take the constitution, as we must all take it, for better or for worse—just as it is—or we cannot admit the State at all. The people in new States make their own constitutions. Our power is limited to the admission or rejection of a State, whatever its constitution may be. Again, it is not clear that the provision complained of by the Senator from Georgia will prevent the people of Kansas from subverting this constitution and establishing a new one at any time short of the expiration of nine years. The constitution of the State of New York, established in 1821, provided for alteration only to be made with the consent of two successive Legislatures. A party desiring radical innovations, and finding it impossible to obtain that object in the form prescribed in the constitution, secured a majority in the Legislature, and, without any constitutional authority, carried through a law by which proceedings were instituted for calling a convention, which was subsequently held, and which framed a new constitution. This new constitution being submitted to the people, and approved by them, in derogation of the old one, became, and it yet remains, the supreme law of the land."—Congressional Globe, page 790.

Mark, the Senator says we must take the constitution just as it is, and admit the State, or not at all. "The people in new States make their own constitutions," not Congress. The objection to which the honorable Senator referred as of more weight than the one just answered, was that the Topeka convention was unauthorized by law. He, however, insists that it was fully authorized by the practice in such cases; and he refers to the admission of California, to which I have already alluded.

In this connection, I might quote from the speech of the honorable gentleman from Pennsylvania, [Mr. Grow,] and to those of other leading

Republicans, all of whom indorse the honorable Senator's doctrine; but I am not certain that these gentlemen deny it now. They object to the legality of the Lecompton convention, and to the constitution, because it prescribes how it shall be amended after 1864, and makes no provision for alteration before that period.

But these gentlemen held the reverse of both of these propositions in their places on this floor in June and July, 1856, less than two years since. Then, the Topeka constitution, adopted by a convention called without the semblance of law, and in open rebellion to the legally constituted authorities, was regular in their judgments; and its provisions, although they struck down the rights of property, and were in violation of the Constitution of the United States, were just and proper. That constitution was more stringent in its amendment clause; for it not only postponed the right to alter and amend, as far as it could, for nine years, but it expressly prohibited alteration or amendment until the expiration of that period; and what is still worse, the Topeka convention adopted that constitution without submitting any part of it to the people, and leading Republicans here and elsewhere did all in their power to force it upon the majority of the citizens of Kansas. No one can doubt the fact that the Topekites were then in a minority, if they are not now. With these facts before it, the country will judge the sincerity of the Republicans.

Little or no doubt can exist in reference to the power of a State Legislature to pass a law, at any time, submitting the question of a change, alteration, or amendment of their constitution to the people; and none that the people may, in their sovereign capacity, decide in favor of a convention to effect such change, alteration, or amendment; otherwise the convention might make the constitution permanent. If the men of this year can bind the men of 1860, they can bind the people of 1860. Admit this principle, and this generation will have power to bind unborn generations. By it you invest the dead with more authority than the living. Government requires that the majority shall yield up some of their natural rights, and in their political relations admit certain limitations and restraints for the good of the whole society; but the majority may, at all times, in a legal way, limit or extend these delegated powers of the Government.

Mr. Chairman, time prevents me from extending my argument. I therefore quit the subject. A careful, and I trust a candid, investigation of it leaves my mind without a doubt about the propriety and duty of admitting Kansas under the Lecompton constitution. The facts justify this course, and the interests and peace of the country imperatively demand it.

In speaking of the conduct of the Republicans in Kansas, I have necessarily used strong language in denouncing their policy; but because I have not condemned the conduct of the pro-slavery party in that Territory, it must not be inferred that I approve their course, or justify all their conduct. I do not do so. While they have been guilty of many things wholly unjustifiable, they have not openly attempted to overthrow the government. Frauds and great wrongs they may have committed; but the crimes of rebellion and treason cannot justly be charged against them. These high offenses are clearly established against the Republicans of that Territory. But do not understand me to charge such disloyalty on all Republicans. That party contains many noble spirits, who are influenced by the highest and purest motives, and who are as much devoted to the Union of these States as any gentleman on this side of the House. I honor such men, wherever found. They differ with us, as they have undoubted right to do, and I respect their opinions and feelings. With such gentlemen I have no harsh words to exchange. I believe them, as they doubtless believe me, to be mistaken; but I look forward to the time when we shall stand side by side in the defense of the Union and the Constitution, by whomsoever they may be assailed.

On this great, this important issue, my humble convictions are against them. My views of duty and my love of country lead me in a different direction. If I err in conceding and maintaining the equality of the States, I err with the illustrious spirits who formed the Constitution of our Fed-

eral Union—with Franklin, and Madison, and Washington. If I err in my course on the question now before us, I err with the distinguished and time-honored statesmen composing the present Administration, who so justly enjoy the confidence of the country, and who can have no other object than its peace, its prosperity, its honor, and its glory. To err with such men, is excusable; but to err against them, is criminal.

Mr. HASKIN. Mr. Chairman, I do not propose to discuss the bill now before the committee; availing myself of the latitude usual in the Committee of the Whole, I intend to talk of the wrongs of Kansas, and the rights of the northern Democracy, with the hope that justice may be done on this floor.

I approach the discussion of one of the most important questions, so far as the existence of the national Democracy and the Union are concerned, that ever in my judgment has been presented to the consideration and decision of the Congress of the nation, with diffidence, lest I may not be able, as the only Democratic Representative from the great State of New York opposed to the Lecompton constitution, to do the subject that justice which it deserves. I hope it will not be deemed egotistical in me to refer to the position that I have ever occupied in my native State as a national Democrat, always standing up for all the constitutional rights of the South. In 1848, it was my province and pleasure, as a member of the Democratic general committee in Tammany Hall, to offer resolutions ratifying the nominations of Cass and Butler; and on the same occasion, it was the privilege of one of my now Democratic colleagues on this floor to offer resolutions in opposition thereto, and in favor of the views of those who supported Van Buren and Adams. Subsequently, I had the honor to offer resolutions, which were adopted by the committee, excluding that colleague and his Free-soil confederates from that body. After his excommunication, that colleague proceeded to the Buffalo convention and joined hands with the Abolitionists and the high protective tariff men of the North, and advocated and supported the resolutions of that convention, protesting forever thereafter against the admission of any more slave States, and in favor of a high protective tariff. During the campaign of 1848, this colleague, in connection with John Van Buren, addressed various meetings throughout the State in favor of the doctrines promulgated by the Buffalo convention, and the election of their mongrel ticket, Van Buren and Adams, for the Presidency and Vice Presidency, and the Abolition State ticket, Dix for Governor, and Gates for Lieutenant Governor.

To these two renegades and Free-soil agitators of that day, more than to any other cause, may be attributed the origin and growth of that Free-soil sentiment which found expression, in 1848, in one hundred and twenty thousand votes in favor of the Free-soil candidates, Van Buren and Adams, in opposition to about one hundred thousand cast for the national candidates—Cass and Butler—and which, in 1856, came so near electing John C. Fremont. During all this time, no man in the State of New York was more zealous and unwavering in the promulgation of sound, national Democratic principles, than myself. The first resolutions that were adopted in any recognized Democratic committee in that State in favor of the Kansas-Nebraska bill were drawn and introduced by myself, and adopted in the Hard-shell general committee, in 1854. In the Hard-shell State convention, in 1855, I urged upon the committee of resolutions the adoption of an affirmative resolution in favor of the Kansas-Nebraska bill. The prominent leaders in the convention, and of the party out of it, were opposed to indorsing that act, fearing that it might arouse the Free-soil sentiment of the State, and injure our cause; but failing in the committee, I appeared at the bar of the convention, and forced the resolution through by an amendment to the report of the committee.

In consequence of this stand taken by our wing of the party, and the failure of the Soft-shell State convention; of which the colleague to whom I have alluded was a member, to put itself upon the record until after the fall election, in January following, in favor of the national doctrine of popular sovereignty, the Hard-shell delegation to the Cincinnati convention were enabled to gain admittance to that body upon the ground of national political orthodoxy, to the exclusion of the

Softs, who, numerically, were much in ascendancy in the previous fall election. Judge of my astonishment and surprise, Mr. Chairman, when I found my colleague [Mr. JOHN COCHRANE] acting as the high priest of the caucus of Democratic Representatives of this House, and my amazement in reading recently a speech delivered in New York, by John Van Buren, in which he favored the consummation of the Lecompton fraud, by which slavery is sought to be forced upon the people of Kansas, against the expressed will of three fourths of them, and in which he praised the Democratic party for having been the means of admitting Texas into the Union as a slave State, when it is notorious that he and his father, and those who composed the Van Buren party, strenuously opposed the annexation, and by a "secret circular" endeavored to defeat Polk and Dallas.

I have reverted to the former course of these gentlemen not out of personal hostility, but to show that as in nature the seasons change, so changes the mere politician when actuated by interest; and to enter my protest against the power assumed by such Democrats, and apparently recognized by a majority of my party upon this floor, of reading out of the Democracy gentlemen who have been consistent national Democrats all their lives. "In these loose party times" the line of demarcation between party rebellion and fealty is so finely drawn and so nearly allied that the word "rebel" has no grating sound upon my ear, and produces no terror. Had General William Walker, whom the South have sought to heroize at the expense of the noble conduct of the gallant Paulding, been successful in Nicaragua, even he would have been a patriot. Success makes patriots now-a-days, and in politics, owing to the degeneracy of the times in which we live, many politicians, I regret to say, prefer success rather than virtue. Mr. Chairman, I cannot be read out of the Democratic party for my vote against the Lecompton constitution, conceived, as it was, in fraud, and brought forth in iniquity; preferring to be right rather than to be indorsed when wrong by the nominal temporary head of the Democratic church. "Men change—principles never," is a truthful maxim that we should all live up to. Has it ever occurred, sir, to those new-fledged national Democrats on this floor who arrogate to themselves plenary power to read out of the party consistent Democrats, that seven of the twelve Democratic members from New York were Hard-shell rebels in that State from September, 1853, down to the election of this Administration? That they rebelled against President Pierce and his minions, not because he was false to the principles or platform upon which he was elected, but simply for the reason that he had insulted the national Democrats in New York in giving the most important Federal appointments to the Free-soil leaders, who had contributed to the defeat of Cass and Butler, thus offering an indignity to the true men of the party—those who had created and sustained the national Democratic sentiment in the North which elected Mr. Pierce—and also for the unjustifiable interference of his administration in removing Judge Bronson, thereby striking, as they believed, a blow at State rights.

In arriving at the conclusion to vote against the admission of Kansas under the Lecompton constitution, I have been aided and influenced by a desire to faithfully represent the constituency which elected me, and to fulfill the pledges which I made them upon accepting my nomination. To them I am responsible for my course here; and being honestly convinced that my opposition to the admission of Kansas under the Lecompton constitution—repudiated and protested against, as it is, by at least three fourths of her people—meets with the approval of a large majority of my constituents, whose wishes I am in honor bound to obey, I shall vote against the admission of Kansas under the Lecompton constitution. Upon the occasion of my nomination I addressed the convention which nominated me, in the following language:

"The unscrupulous Black Republican press asserts that the Democratic party is a pro-slavery party. I deny it. It is a libel upon its character, its platform, and its candidates. It is neither a pro-slavery nor an anti-slavery party, but it is the progressive constitutional party of the country. Its principles and measures recognize no South, no North, no East, no West, but the whole Confederacy. Our boasting opponents indulge in hypocritical protestations, and insane ravings, in the name of freedom. Freedom is indigenous to the North—we are all in favor of freedom. These hills

and valleys yet rescho with the sounds of martial music, and the cannon's roar, from that army, which, under the lead of our great Washington, on yonder eminence, fought the battle of White Plains, in our great revolutionary struggle for freedom, the Constitution, the Union, and all the political and civil blessings we enjoy. As a native of this country, for I am a native, and to the manner born, having been born on the manor of Fordham—though this was an accident over which I had no control, and upon which I base no claim—I, in common with most of the people of the North, am in favor of the admission of Kansas as a free State; and I will, if elected your Representative in Congress, (as I intend to be,) do all in my power, without infringing upon the rights and privileges of other members of the Confederacy, to promote the admission of Kansas as a free State, fully indorsing, however, the right of the people of the Territories, under legal and constitutional regulations, to form their own organic laws, and to regulate their domestic institutions in accordance with the provisions of the Constitution."

After this enunciation of my views to the representatives of my constituency in convention, I submit whether there is an honorable gentleman upon this floor who, if he were in my position, could act otherwise than I intend doing? and whether, if I violated my pledges thus voluntarily made, I could return to that independent and intelligent constituency, without being fairly chargeable with being false to my professions in convention and upon the stump, where I asserted that I would never support the admission of Kansas as a State, under any constitution, unless satisfied that it had been fairly submitted to all the *bona fide* voters of Kansas, and that it represented the will of a majority of her people? I now propose to argue the question of the admission of Kansas under the Lecompton constitution, in its moral, legal, and political aspect, and to show that a decent respect for the principles of the party enunciated at Cincinnati, the letter of acceptance of Mr. Buchanan, the instructions to Governor Walker, the inaugural of Governor Walker, which was submitted to the President and his Cabinet before he proceeded to the Territory, made it the duty of the President to his party, and the nation at large, to see that the will of the majority is respected in Kansas, and that it is not admitted as a State until the constitution has been submitted to the people and approved by them. The following resolution, from the Cincinnati platform, will show the position of the party on the question:

"3. That, by the uniform application of the Democratic principle to the organization of Territories, and the admission of new States, with or without slavery, as they may elect, the equal rights of all the States will be preserved intact, the original compact of the Constitution maintained inviolate, and the perpetuity and expansion of the Union insured to its utmost capacity of embracing, in peace and harmony, every future American State that may be constituted or annexed with a republican form of government. That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly-expressed will of the majority of the actual residents, whenever the number of the inhabitants justifies it, to form a constitution with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

I also beg leave to submit the extracts to which I allude from the President's inaugural, his instructions to Governor Walker, and the inaugural and letter of resignation of Governor Walker:

"It is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote."—*President Buchanan's Inaugural*.

"I accepted [the appointment of Governor of Kansas] on the express condition that I should advocate the submission of the constitution to the vote of the people for ratification or rejection."

"These views were clearly understood by the President and all his Cabinet. They were distinctly set forth in my letter of acceptance of this office of the 25th of March last, and reiterated in my inaugural address of the 27th of May last, as follows:

"I indeed cannot doubt that the convention, after having framed a State constitution, will submit it for ratification or rejection by a majority of the then actual *bona fide* resident settlers of Kansas."

"With these views well known to the President and Cabinet, and approved by them, I accepted the appointment of Governor of Kansas."—*Governor Walker's Resignation*.

"I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress."—*Governor Walker's Inaugural Address to Kansas*.

"When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence."—*Buchanan's Instructions to Walker*.

"In my official dispatch to you of 2d June last, a copy of that inaugural address was transmitted to you for the further information of the President and his Cabinet. No exception was ever taken to any portion of that address. On

the contrary, it is distinctly admitted by the President in his message, with commendable frankness, that my instructions in favor of the submission of the constitution to the vote of the people were 'general and unqualified.' By that inaugural and subsequent addresses, I was pledged to the people of Kansas to oppose by all 'lawful means' the adoption of any constitution which was not fairly and fully submitted to their vote for ratification or rejection. These pledges I cannot recall or violate without personal dishonor and the abandonment of fundamental principles, and therefore it is impossible for me to support what is called the Lecompton constitution, because it is not submitted to a vote of the people for ratification or rejection."—*Governor Walker's Resignation*.

"I repeat, that in nineteen counties out of thirty-four there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given, or could be given, for delegates to the convention in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties, in which there was no census, constituted a majority of the counties of the Territory, and these fifteen counties in which there was no registry gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution on the 7th of November last. If, then, sovereignty can be delegated, and conventions, as such, are sovereign, which I deny, surely it must be only in such cases as when such conventions are chosen by the people, which we have seen was not the case as regards the late Lecompton convention. It was for this, among other reasons, that in my inaugural and other addresses I insisted that the constitution should be submitted to the people by the convention, as the only means of curing this vital defect in its organization. It was, therefore, among other reasons, when, as you know, the organization of the so-called Topeka State government, and as a consequence, an inevitable civil war and conflict with the troops must have ensued, these results were prevented by my assuring, not the Abolitionists, as has been erroneously stated—for my address was not to them, but the people of Kansas—that in my judgment the constitution would be submitted fairly and freely for ratification or rejection by their vote, and that if this was not done, I would unite with them, the people, as I now do, in 'lawful opposition' to such a procedure."—*Governor Walker's Resignation*.

"The President takes a different view of the subject in his message; and, from the events occurring in Kansas, as well as here, it is evident that the question is passing from theories into practice; and that, as Governor of Kansas, I should be compelled to carry out new instructions, differing, on a vital question, from those received at the date of my appointment. Such instructions I could not execute consistently with my views of the Federal Constitution, of the Kansas and Nebraska bill, or with my pledges to the people of Kansas. Under these circumstances, no alternative is left me but to resign the office of Governor of the Territory of Kansas."

"No one can more deeply regret than myself this necessity; but it arises from no change of opinion on my part. On the contrary, I should most cheerfully have returned to Kansas to carry out my original instructions, and thus preserve the peace of the Territory, and finally settle the Kansas question by redeeming my pledges to the people."—*Governor Walker's Resignation*.

It was upon the assumption and belief that this duty would be faithfully discharged, that Mr. Buchanan was elected, and that every northern Democratic Representative upon this floor triumphed; and the falsification of our political record of 1856, upon this vital question, must result in the disintegration and destruction of the Democratic party, and the election to the next Congress of a majority opposed to the present Administration. The moral proposition in favor of the fair and full submission of the constitution of Kansas to its people cannot be gainsayed, and the whole question is reduced to a proposition of "right" on one side, and "wrong" on the other. The legal necessity for its submission follows from the statement of the moral proposition. I intend that the only legal submission of the Lecompton constitution was made at the election in Kansas on the 4th of January. The pretended submission of the constitution on the 21st of December was farcical, and intended covertly to prevent the attainment of the very principle guaranteed by the Kansas-Nebraska bill, compelling those who voted against the slavery clause to approve a constitution which they loathed and detested; and I allege that the most immaterial question that could have been submitted to them on the 21st of December last was the "slavery or no slavery" proposition, inasmuch as that issue had been practically passed upon at their previous October election, when the present representative upon this floor, MARCUS J. PARROTT, of the free-State party, was elected over Governor Ransom, supported by the pro-slavery men and Democrats, by over five thousand majority.

To say, therefore, that slavery was the "only domestic institution" that the people of Kansas felt interested in, or desired to pass upon, at the December election, and that all of their other "domestic institutions"—currency, judiciary, legis-

lative, executive, and internal improvement policy—were swallowed up in the negro issue, is to lose sight of and to ignore the fact that that question was practically disposed of against the "negro business" at the October election. I assert that no State constitution for any new State, to be admitted after the passage of the Kansas-Nebraska bill, should have vitality until the people of the locality to be affected by it have, by their approval, "breathed into its nostrils the breath of life," when it becomes a living soul. The Territorial Legislature provided for a legal election on the 4th of January last, at which the electors of Kansas had the privilege of approving or rejecting this Lecompton constitution. At this election, legally authorized and fairly conducted, the only one in which the great body of the people have participated, the Lecompton constitution was rejected by a majority of over ten thousand. This election was countenanced and approved by the President in the instructions given to Governor Denver, who was directed to respect the acts of the Territorial Legislature, and to see that the election was peaceably and orderly conducted.

"The Territorial Legislature doubtless convened on the 7th instant; and while it remains in session, its members are entitled to be secure and free in their deliberations. Its rightful action must also be respected. Should it authorize an election by the people for any purpose, this election should be held without interruption, no less than those authorized by the convention. While the peace of the Territory is preserved, and the freedom of elections is secure, there need be no fear of disastrous consequences."

"The authority of the Government must necessarily be maintained: and from whatever quarter it is attempted to interfere by violence with the elections authorized by the constitutional convention, or which may be authorized by the Legislature, the attempt must be resisted, and the security of the elections maintained."

"The President relies upon your firmness and discretion to give effect to these instructions. It is vitally important that the people of Kansas, and no other than the people of Kansas, should have the full determination of the question now before them for decision."—*Secretary Cass to Governor Denver, December 11, 1857*.

Thus we have presented to us the grand inquest of the nation, sitting in judgment upon a case involving the admission or rejection of a sovereign State; the protest of a large majority of its inhabitants against the constitution under which a few of their reckless men are attempting to force it into the Union. Gentlemen upon this floor from the South seek to have Kansas admitted; and to justify this great moral wrong upon the purely technical legal ground that the Lecompton constitution is legal, because they allege the election of the 21st of December was so, and contend that the refusal of the majority of the people to vote at that election can have no effect, as their refusal to vote justified those who did act for them. I have been taught that law is founded upon right and justice. The definition of law, as I understand it, is "a rule of civil conduct prescribed by the Supreme Power, commanding what is right, and prohibiting what is wrong." If this is its correct definition, apply the facts presented for the consideration of this House in relation to the admission of Kansas; and I ask any fair man, whether the *ex parte* and fraudulent vote of the 21st of December should be recognized, and the legal vote of the 4th of January repudiated? Fraud may be shown at any time to annul a contract. Will any intelligent gentleman assert and stake his reputation upon it, that the vote of the 21st of December was an honest one, and claim that Johnson county, in which there are not four hundred voters, gave over eighteen hundred majority for the Lecompton constitution? I assert, from conversation with intelligent and reliable southern gentlemen, pro-slavery Democrats, who know all about the voters of Kansas and their political preferences, that there were not over two thousand five hundred *bona fide* votes cast for the constitution in December, and that there never were over that number there in favor of making it a slave State; and yet between six and seven thousand votes have been returned, and this vote is so complicated with fraud that the whole should be rejected.

I contend in the campaign which resulted in the election of Mr. Buchanan, that the constitution of Kansas would be submitted as an entirety to the *bona fide* inhabitants of the Territory, and that it was as certain as that freedom traveled more rapidly than slavery, that a majority of her people would be in favor of her admission as a free State; that the laws of climate and of population would bring about this desirable result.

What we northern Representatives then contended for, if the voice of the majority is not ignored here, is more than justified now. Our plighted faith compels us to vindicate our pledges by opposing the minority rule in Kansas, and unyieldingly to insist that the will of the majority shall have a fair expression and be recognized by Congress. As a northern man, with no prejudice against slavery where it now exists, I can assert with confidence, that the fair solution of this Kansas embroglio, in order to secure protection to the interests of the South and the future success of the Democratic party, belongs to the northern Democracy. Upon this subject I desire to refer the House to remarks made by the President, when, as a Senator from Pennsylvania, on the 13th February, 1840, his colleague presented to the Senate a memorial for the abolition of slavery; and also to a portion of his celebrated speech delivered in the Senate when the subject of the annexation of Texas was under consideration.

"Now, in consequence of my conduct here throughout that session, I have borne the brunt of the Abolitionists at home. I agree with the Senator from Kentucky, that the danger has passed away, at least in Pennsylvania. The crisis is now over; and the fanaticism which threatened to invade the constitutional rights of the South, and to dissolve the Union, has been nearly extinguished.

"The battle has been fought where it must ever be fought, not in the South, but in the North. It is the voice of the North who must ever sustain the shock in such a contest. Under these circumstances I appeal most solemnly to Senators from the slaveholding States, whether they ought not to be governed in a great degree by our advice as to the mode in which these abolition petitions shall be treated. It is impossible, after all which has passed, that they can doubt our devotion to the constitutional rights of the South."

If our southern brethren upon this floor could properly estimate the consequences flowing from their insisting upon northern Democrats who have ever been true to their interests, now voting to sustain this Lecompton iniquity at the expense of their pledges, they would not insist upon such a sacrifice. The national Democratic party is the only party that has ever protected the constitutional rights of the South. Destroy it by erecting two sectional parties, as I fear the present attempt will do, and what hope have you in the future of the acquisition of that southern territory in which the peculiar institution of the South can be profitably and safely extended? It has been charged upon the North, (and the national Democracy have not been excepted from the charge), that they are aggressive upon the rights of the South. I deny it, and for proof to the contrary let me briefly refer to the purchase and acquisition, under the auspices of the Democratic party, of the territory of Florida, accompanied by its Indian war, costing the Government many millions, the purchase of the Louisiana territory, in 1803, out of a portion of which Kansas has been carved, the annexation of Texas, with the war with Mexico following, and recently, under the last Administration, the "Gadsden purchase" of a part of Mexico, at a cost of \$15,000,000, out of which the Territory of Arizona is sought to be formed.

"Who would be so insane now as to advocate the recession of Florida, Texas, New Mexico, or California? The country owes all these acquisitions of territory to the Democratic party. Including Louisiana, they have increased our territorial extent from eight hundred and fifty thousand square miles to nearly three million, and have added to our wealth and resources in an infinitely greater ratio."

All of these purchases and acquisitions have been made at the instigation, and have inured to the special benefit of the southern States, costing over two hundred and fifty million dollars; the North, the East, and the West, in consequence of their greater taxable wealth, contributing for these territories three fourths of the amount. To say, therefore, that the northern Democracy have ever countenanced aggression upon the South, is a libel upon its generosity. But, Mr. Chairman, in the discussion upon this subject on this floor, I have been convinced against my preconceived notions of southern honor and integrity, that none of the principles or measures of the Democratic party, from the time of Jefferson down to the present, have any importance in their eyes compared with the advocacy of the extension of slavery. I have beheld upon this floor the southern Know Nothings, with scarcely an exception, embracing the Democrats from the slave States in urging the acceptance of this Lecompton constitution. If this question obliterates party lines in the South upon the score of pecuniary interest, I ask whether the example they present may not, with propriety, be followed by the Representa-

tives on this floor from the free States, especially in a case when the fundamental principle of popular sovereignty which underlies the formation of our several States and our national Government, is sought to be overthrown and destroyed by the South. I have been forced to believe from what I have seen here, that the days of southern statesmen have passed, that they have no longer in the South a Calhoun, a McDuffee, a Hayne, a Lowndes, a Cheeves, a Forsyth, or a Legaré. Their places have been taken, I fear, by mere politicians who, it appears to me, are seeking temporary success at the expense of the northern Democracy.

What a change, Mr. Chairman, has come over the spirit of the dream of the President within a few months! Well do I remember reading the sulphurous letter from one of the Representatives of the South, in which he treated the venerable Executive of the country as a paralytic, weak, old man. Well do I remember the resolutions adopted in Georgia, Alabama, and Mississippi denouncing Governor Walker, and menacing the Executive for his instructions to him, and because he did not remove him for honestly repudiating the Oxford and McGee frauds. Shortly after Congress assembled, we discovered the President uniting with those who had denounced him, and forsaking nearly all the friends who had nominated and elected him. We beheld him entering upon a crusade of persecution and ostracism against his original friends who had the honesty to maintain the principles upon which he was elected.

Sir, who are, and where now stand, some of the prominent "rebels on principle?" Where stands the "Warwick of King James," driven from court by parasites and courtiers? He is at the post of honor—a private station—engaged in his profession; the "Leggett" of American political writers, modestly yet firmly, from his powerful lever, the "press," fighting the good fight for "popular sovereignty, and the right of the people to self-government." Where stands the gallant and eloquent Wise, the Bayard of Virginia chivalry, the Governor of the mother of Presidents, who controlled the vote of his State for Mr. Buchanan's nomination and election? Where the Neck-er of the administration of President Polk—Governor Walker—who left his family here, to go into the wilderness of Kansas, to reason with and quiet the border ruffians and eastern fanatics in that Territory, and to prepare and fairly bring her into the Union, under the Democratic provisions of the Kansas-Nebraska bill? Where the didactic, logical, and able Stanton, the ever-reliable southern member, who faithfully represented Tennessee on this floor for over ten years? Where the Gibbon of American history, the elegant writer, and polished Secretary of the Navy, and Minister to St. James, George Bancroft? Where the able Stuart, the Senator from Michigan, and the unrelenting and intrepid Broderick, of the golden State of the West, each of whom controlled the vote of his State for Mr. Buchanan, in the Cincinnati convention? Where the father of the new States of the West, the heroic, the honest, the able, the fearless, the determined Douglas, who gave paternity to the Kansas bill, and who should, above all others, be capable of giving his own act a legitimate interpretation in the Senate, "according to its true intent and meaning," not to refer to lesser lights in the great army of justice and freedom, each and every of them against the admission of Kansas under the Lecompton constitution, maintaining "popular sovereignty," the Cincinnati platform, and the integrity of the Democratic party of the Union? Read these statesmen and patriots out of the party! Who confers the right? The people will condemn the effort, and unless those who arrogate to themselves this anti-Democratic and extraordinary power are mighty, cautious, and wise, they will read the party itself out of existence.

It has been contended on this floor, by the gentlemen from Mississippi, [Mr. LAMAR,] from Alabama, [Mr. SHORTER,] and Tennessee, [Mr. ATKINS,] that the Lecompton constitution cannot be changed or amended before 1864; in this they differ from the President, and I agree with them.

Mr. LAMAR. I ask the gentleman to put his finger on any such statement in my speech.

Mr. HASKIN. I so understood the gentleman—

Mr. COX. Does the gentleman from Mississippi say they are not his sentiments now?

Mr. HASKIN. I so understood the gentleman from South Carolina [Mr. KEITT] to contend yesterday. I will go on with what I have to say.

The constitution of Kansas is a compact made with the people—their organic law; it is superior to any legislative enactment of the State, and all of them must conform and be subordinate to it, or they are absolutely null and void. The constitution is the "higher law" of the State, and it cannot be changed in any manner, save in the mode and at the time prescribed in it. The year 1864 is the period fixed by the people in their acceptance of the constitution—the compact they have entered into with themselves for the protection of their civil rights; and to concede that the people of Kansas have the right, at any time, to change their fundamental law, is to legalize the right of revolution in Kansas, in imitation, I suppose, of the unsettled and unsatisfactory state of political affairs in unfortunate Mexico, where revolution and change of constitution have, for a few years past, occurred every few months. The decision of the Supreme Court of the United States, in the case of the "Dorr rebellion," (a court whose decisions are respected and specially commended by the President,) in my judgment forever puts at rest any doubt upon this subject. If they cannot move in favor of a change of their constitution before 1864, they must then conform to the mode prescribed by the constitution, which is that the Legislature, by a two thirds vote, at their next session, may call a convention, and if the people at the next election vote in favor of a constitution, it may meet and form a new constitution. From this it will be perceived that there can really be no change before 1866; and not then, unless two thirds of the Legislature favor it. When it is remembered that the members of the Assembly are elected for two and the Senators for four years; considering the character of the bold, bad men who, under the Lecompton constitution, may initiate this State government, and how unscrupulously they will act in framing and passing laws to perpetuate the rule of themselves and friends, it is not at all probable that the constitution of Kansas will be changed before 1870.

In the bill of rights contained in this constitution will be found this section:

"2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such a manner as they may think proper."

Now, this simply means that the people have the right to alter, reform, or abolish their form of government, pursuant to law, "under lawful authority," as the President puts it, and in compliance with the provisions of that constitution. How absurd and ridiculous it is, then, for sensible and honest men to attempt to humbug the American people upon this question by insisting "that Kansas once admitted as a State under the Lecompton constitution, can at any time change her constitution." In article seven, in the Lecompton constitution, headed slavery—

"Sec. 1. The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever."

"Sec. 2. The Legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners previous to their emancipation a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to the State from bringing with them such persons as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the bona fide property of such emigrants: *And provided, also*, That laws may be passed to prohibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have power to oblige the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb, and, in case of their neglect or refusal to comply with the direction of such laws, to have such slave or slaves sold for the benefit of the owner or owners."

The object of these sections when taken in connection with the treaty of Spain in 1803—the Louisiana purchase—of which Kansas forms a part, in which it was agreed that the rights of

property in slaves should remain inviolate, is to prevent, even by a new constitution or any legislative action, any interference under the decision of the Supreme Court of the United States, in the passage and successful operation of any law in Kansas, by which slavery, against the consent of the owners of slaves, can in any manner be interfered with; hence is the reason for the President saying, in his recent message, "that Kansas is now as much a slave State as Georgia or South Carolina." This, with many others, is one reason for my opposing the Lecompton constitution. I can never consent, by my vote, to render slavery in Kansas perpetual against the wishes of three-fourths of the people now there; and even if the Lecompton constitution is accepted perchance against their *unanimous* wish. The people of Kansas, on the 21st of December, were justified in not voting, considering the unfair and insulting mode of the pretended submission of the constitution on that day. They have been goaded by insults and injuries greater than the people of the American colonies received when they rebelled against the tyranny and oppression of George III.; and when Washington and his forces were denominated rebels. They are self-reliant citizens, and brave men, and have, by their past conduct in Kansas, under all the wrongs they have suffered, shown that they are capable of "self-government." They have my sympathy and support. They are the kind of men the poet speaks of:

"What constitutes a State?

Not high raised battlements nor labored mound,
Thick wall, nor moated gate;
Nor cities proud, with spires and turrets crowned,
Nor starred and spangled courts,
Where low-born baseness wafts perfume to pride;
But men! high-minded men,
Who their duties know, but know their rights,
And, knowing, dare maintain them."

The South have no right, nor is it generous or just in them to insist upon forcing slavery in Kansas against the wishes of her people. By the Missouri compromise line which they repealed upon the proposition of Senator Dixon of Kentucky, Kansas, being North of latitude 36° 30', and between the thirty-seventh and thirty-eighth parallels, was dedicated, and so remained for thirty-four years, to freedom.

They are, therefore, by no principle of justice entitled, or justified in their attempt now to force and keep slavery in Kansas under a usurped constitution insisted by them to be received by Congress against the legally expressed will of an overwhelming majority of her people, upon a snap-judgment sought to be sustained upon technical legal grounds. Permit me to briefly examine propositions connected with this judgment. The gentleman from Alabama, [Mr. SHORTER,] insisted that the judgment obtained at the election in Kansas on the 21st December was final, and under it he claimed the penalty of the bond—the pound of flesh included.

"My deeds upon my head! I crave the law,
The penalty and forfeit of my bond."

I deny that this was a final judgment, and assert that it was an interlocutory proceeding. The final judgment in the Kansas case is to be entered in the court of the people of the United States, presided over by the United States Senate and this body, composing the Congress of the nation; and I claim that this court has the right in this important case to examine the proceedings, even "dehors the record" of the 21st of December last, and to determine that the constitutional convention had no legal existence, because counties were not registered, and in which the people did not and could not vote for delegates.

Why, Mr. Chairman, the constitution was not submitted, then, to the jurors—the people of Kansas—for their verdict; and not having been submitted, those of them who subsequently did vote on the 4th of January, having been prevented from passing upon the merits of the case until then, were right in treating the proceedings on the 21st of December as unworthy of notice, insulting, and a nullity. I submit whether we have not the right, and whether it is not our duty, to pass upon the merits of this controversy before we enter final judgment, and insist that there is not an honest court of justice in the country which would not, upon the presentation of the official facts in relation to the Kansas case, known to us, at least, order a *venire de novo*, and a new trial.

Why, sir, suppose I, as the executor of my

father's estate, should commence an action against you, Mr. Chairman, for \$1,000, claimed to be due the deceased upon a book account. My attorney has served you with the complaint and summons, and you inadvertently neglect to answer within the twenty days allowed in our State, although you have a good defense, and can prove that instead of being indebted to his estate it is indebted to you in \$500; a judgment by default is entered; is there any court of justice that, upon your swearing to merits, and giving the most trifling excuse for your neglect to answer, would not open the judgment upon the payment of a few dollars costs, and permit you to defend? Or take another case, that of a report made by a referee, where, before judgment is entered, upon your discovery of new evidence proving fraud, perjury, and forgery, by which you have been robbed of your rights, would not the court order a rehearing, and permit justice to be done between the parties? If this be so, and I insist that it is of frequent occurrence in courts of justice, why should not this high court be as fair and just as the ordinary courts of law, in granting a new trial to the sovereign people of Kansas, or a rehearing instead of unjustly entering up a final judgment, by which the dearest rights and liberties of the people of an inchoate State are to be impaired and destroyed. Besides, sir, there is a familiar principle of law that fraud vitiates all contracts; that it may be shown at any time; and that it renders all contracts, *ab initio*, not merely voidable, but absolutely void.

I appeal to my southern brethren to know if this is the kind of honor that is patented in their region of the Confederacy. If it is, sir, I have only to say that the national Democrats of the North, who have always sustained them in their constitutional rights, have been deceived upon the subject of southern magnanimity, fair dealing, and integrity of character. Upon the subject of the Lecompton constitution, I stand where the President stood when he said in the Senate of the United States, on the 8th day of June, 1844, in the course of his remarks on the annexation of Texas:

"I care not what may be their organic law, if we have conclusive evidence that the whole people who have framed it, desire to be annexed to the Union."

Mr. Chairman, the President and the South labor under a delusion in relation to the settlement of this Kansas imbroglio. He has asserted, that, if Kansas is admitted as a State under the Lecompton constitution, agitation will cease in thirty days; and that "he desires to put a stop to agitation upon this subject, which has already occupied too much of the attention of the American people." Vain hope! and anti-Democrat expression! Why, sir, agitation will but commence when you force Kansas fraudulently into this Union.

In 1848, the Barn-burners, or Free-soilers of New York, with a mosaic ticket for President and Vice President and State officers, beat the national Democracy, who supported Cass and Butler, nearly twenty thousand votes, by the agitation before the people of that political heresy, the Wilmot proviso, meanly applied as it was to the three million bill to enable us to carry on the war with Mexico. The anti-slavery sentiment of the North has become a religious sentiment, and is now particularly powerful, growing out of the domineering and aggressive spirit of a portion of the South. The State of New York was carried by the Democrats last fall, because nearly one hundred thousand citizens, who had the fall before voted the Republican ticket, remained at home, induced to do so by the inaugural of Governor Walker, by the President's instructions to him, and the telegraphic dispatch to my colleague, [Mr. SICKLES,] that he would not remove the Governor for throwing out the Oxford and McGee frauds, (morally right, but technically wrong,) and to believe that the people of Kansas, under this Administration, would have fair play, and that the State would be admitted as a free State under the auspices of the President, in accordance with the wishes of a large majority of its people. In my district alone, nearly six thousand Republicans did not vote.

Now, force Kansas in as a State under this obnoxious Lecompton constitution, and I predict that the anti-Lecompton party will carry New York next fall by over fifty thousand majority; that a majority of the Representatives elected to Congress next fall will be anti-Lecompton; and

that an anti-Lecompton statesman will be the next President of the United States. Stop agitation upon this subject by a presidential edict, or by office-holders crying "peace, be still!" Impossible! When this can be done we shall not be fit for the liberty we enjoy; and the present Democratic party will be buried so low in political infamy as to prevent its resurrection by the united efforts of the entire South. Stop that agitation which demands that popular sovereignty shall reign omnipotent in this Republic! No, never! Sir, it is the child of light; it gambols on the hill-tops and in the valleys, throughout our beautiful country. It is that spirit which lived where a Tell dwelt; it had a Hampden for a votary; it wrested *magna charta* from King John; gave the *habeas corpus* act to Britain; and the Declaration of Independence to this country. It has ever been the life of the Democratic party. Jefferson was an agitator. Monroe was an agitator, when he announced the doctrine of "non-interference of European Powers on this continent"—a sound doctrine, and one that I hope to see this Administration enforce. Andrew Jackson was an agitator, and agitated the United States Bank out of existence. We agitated Texas into the Union; and, by a system of hard agitation, fought "Kansas" and "popular sovereignty" into favor with the people, and agitated Mr. Buchanan upon it into the presidential chair. Opposition to agitation is the child of darkness; it was begotten by a despotism, and fostered by kings and emperors. It has in France established the censorship of the press, and is used to keep light from the oppressed people, and them in ignorance. As a Democrat, considering how much benefit agitation has conferred upon the people of this country in the adoption of all the wholesome progressive measures of the Democratic party, I can never consent to oppose agitation, especially when I believe justice will finally follow right. No, sir, I glory in agitation, and am proud of being an agitator against the Lecompton constitution.

This Administration should be controlled by principles; not seek to control by patronage. I honestly believe that, but for patronage, fast becoming the bane of the Republic, not ten Democratic members from the free States would be found supporting the Lecompton constitution as it has been presented to us. For myself, not being one of those who

"crook the pregnant hinges of the knee,
Where thrift may follow fawning,"

I am irrevocably against it.

The President, in 1844, in his speech on Texas, not only occupied the position of favoring the submission of the constitution to the people, but recently, in his message, promulgated sound doctrines upon this subject, which I am disposed to indorse and follow. He says:

"All were cordially united upon the great doctrine of popular sovereignty, which is the vital principle of our free institutions. Had it then been insinuated from any quarter that it would be a sufficient compliance with the requisitions of the organic law for the members of a convention, thereafter to be elected, to withhold the question of slavery from the people, and to substitute their own will for that of a legally-ascertained majority of all their constituents, this would have been instantly rejected. Everywhere they remained true to the resolution adopted on a celebrated occasion, recognizing the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly-expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without slavery, and be admitted into the Union upon terms of perfect equality with other States.

"I trust, however, the example set by the last Congress, requiring that the constitution of Minnesota should be subject to the approval and ratification of the people of the proposed State, may be followed on future occasions. I took it for granted that the convention of Kansas would act in accordance with this example, founded as it is on correct principles; and hence my instructions to Governor Walker, in favor of submitting the constitution to the people, were expressed in general and unqualified terms."

It is true that Florida and Iowa were, Siamese-twin like, admitted, yoked together; but Florida was not affected by the Missouri compromise, and was isothermally adapted for slave labor. Arkansas and Michigan were admitted after the same fashion; but Arkansas was also slave territory south of the Missouri line. Neither of these cases can fairly be quoted as applicable and binding precedents. By the passage of the Kansas act the want of unanimity in the admission of new States was intended to be remedied, and by fixed principles thereafter, new States were to be formed and admitted pursuant to the mode prescribed in

that act, viz: by the "act and deed" of the bona fide inhabitants of the Territory speaking to Congress, through a constitution framed by themselves, submitted to the people, and approved by them. The doctrine that the convention in Kansas had the right to adopt the constitution, was in express violation of the fundamental act for the organization of the Territory; and unless, in the act of the Territorial Legislature calling the convention, it was expressly provided that the convention should have the power to adopt the constitution, they had no authority to do it, and it was their duty to refer the instrument—the most important for their welfare, happiness, and government, that could ever be passed upon—to the vote of the people, for their ratification or rejection. The people in a territorial state cannot, before the formation of a State government, confer any authority, "inferentially or by implication," and they cannot be divested of any of their rights of sovereignty or otherwise, without express warrant of law.

Hence I argue, without referring to the written pledges violated by Calhoun and his disgraced associates, that they would submit the constitution to the people, that under the Kansas-Nebraska act, no express authority having been conferred by the Territorial Legislature upon the convention to adopt, but simply to form, a constitution, the convention usurped authority in attempting to do so, without submitting it to the people, whose approval alone can give vitality to their organic law. The Constitution of this Union had to be approved by the several States, or a large majority of them, before it became the Federal compact. The constitution of my own State, referred to by the President in his recent message, was submitted to the people for approval or rejection. The constitutions of about one half of the States of the Union were submitted and approved by the people before they had force and effect.

But, notwithstanding this has been the custom, I care not, for argument's sake, if every State constitution before 1854 had been adopted by the convention and not by popular approval; insisting, as I do, that the passage of the Kansas-Nebraska act formed an epoch, and settled precedents, in the admission of new States to be formed out of our immense territories. If not, why was this act drawn with so many general provisions, among which is contained one for the protection of slave property in the new States to be formed? Why was it made the shibboleth of party faith, from the time of its passage, and during the whole of the campaign of 1856? Why was it that every Democratic orator in that campaign, in Pennsylvania and in the North and West, insisted that this principle of "popular sovereignty," legitimately and fairly carried out, was the principle which would banish the discussion of the slavery question from Congress, and localize the subject in the Territories, unless it did form an epoch on the subject, and commence the Democratic Olympiad in the admission of new States, from which, and not anterior to which, precedents were to be quoted? Let us inquire; what national precedent have we had, since the passage of the Kansas-Nebraska bill, which we, who are opposed to "Lecompton," now proudly refer to, as indorsing our views?

Sir, at the last session of Congress a bill was passed by this body for the establishment of a territorial government in Minnesota, and the formation of a State government, in which it was affirmatively provided that the constitution should be submitted for the approval or rejection of her people. This was the first and only precedent that can appropriately be applied to the existing Kansas question; and we, as the Representatives of the people, should indorse, approve, and insist upon the application of this precedent in the admission of Kansas, as recommended in the President's annual message. In the last presidential campaign, "popular sovereignty" was, to the Democracy of the North, in its beneficent influence among the people, what the sermon on the Mount was to the early Christians, fixing the belief of the former in the truth of republican principles, as in the latter case in the purity of Christianity.

Let me refer to the vote upon this issue in the Union, for the purpose of proving that if its fair and honest application is ignored by this House, the entire body of the voters in the free States, at least, will be deceived worse than the ten thou-

sand majority of citizens against the Lecompton constitution will be in Kansas. Mr. Buchanan received in the free States 1,272,783 votes, Mr. Fillmore 407,843 votes, and Mr. Frémont 1,333,675 votes. In the South Mr. Buchanan received 578,177 votes, Mr. Fillmore 478,117 votes, and Mr. Frémont 878 votes. Mr. Buchanan received in the North 634,606 more popular votes than he received in the South. Mr. Fillmore received 70,274 more votes in the South than he received in the North.

It will be seen that a large majority of those who voted for Mr. Buchanan were from the free States, who believed in the honesty of the professions of the party in favor of "popular sovereignty." Not only did the vote in the free States elect him, but he was nominated by the delegates from those States in the Cincinnati convention. The entire South, with but a few exceptions, were against his nomination, although after it was made that section reluctantly supported him in preference to Frémont. Mr. Buchanan therefore owes his nomination and election to the free States; yet he now presents to the world the spectacle of ignoring their rights, inside and outside of the Democratic party, as it appears to me, for no other purpose than to appease the clamor of southern malcontents who are continually talking about a dissolution of the Union. For myself, I love the Union as much as any one of my countrymen; but rather than be put in a state of vassalage to the minority of the people of the Union, south of Mason and Dixon's line, by the falsification of the platform of my party, and the disgrace and destruction of that party, I would consent to the withdrawal of some of those southern States whose Representatives on this floor talk so rashly of secession, provided they can legally and constitutionally do so, if, upon mature reflection, a majority of their people, in violation of their national compact, shall deem it to their interests to "let the Union slide."

Millions of our people having, in 1856, decided in favor of the principle of non-intervention by Congress, and of the people of Kansas regulating their own affairs, I shall never hereafter, unless the Kansas-Nebraska act be repealed, consent to the admission of any new State whose constitution is not submitted to the people for approval or rejection. The adoption of a constitution by a territorial convention will not be sufficient, unless the power to do so is expressly delegated to them. The southern Senators and Representatives passed the Kansas-Nebraska bill and repealed the Missouri compromise. Until the *obiter dicta* of the Supreme Court in the Dred Scott case, it was believed by northern Democrats that the legal Territorial Legislature in Kansas had the power to prohibit slavery there. But the dicta of that court has shaken the belief with some; and the extreme southern, Calhoun doctrine, is indorsed by the President, that there can be no interference with slavery in the Territories, until a State constitution and government exist. Well, in the long battle waged upon this subject, the South has now the vantage ground under judicial sanction. But in the application of the principle of "popular sovereignty," they made the bargain and entered into the contract, and agreed to sustain it. I imagine they will gain nothing; but we of the North expect them to do as we intend doing, "live up to the bargain."

I have been surprised to hear gentlemen on this side of the Hall indulge in flings at compromises. Society itself is a compromise. The Federal Constitution is a great compromise. Calhoun, Clay, Webster, and the greatest minds the country ever produced, originated and supported compromises. In my judgment, so far as the extension of slavery into new territory is concerned, the repeal of the Missouri compromise was the most fatal error the South ever committed; and I believe that if Mr. Calhoun had been living he would have opposed that repeal. Duty and good faith now require the South to live up to the bond; and if, in the competition of emigration, they should be beaten, certain it is that they cannot be any worse off than they now are if they are always protected in their rights at home. The President, Mr. Clay, and other statesmen of the country, have been averse to the extension of slavery into free territory.

Mr. HUGHES. I rise to a point of order. We have had innumerable written essays read to the House, in violation of parliamentary law, and

now we have a printed speech. I raise the point of order that it is incompetent for the gentleman from New York to read a printed speech to the committee.

The CHAIRMAN. The Chair overrules the point of order.

Mr. HASKIN. Mr. Chairman, I do not know that I can do the country more service, or better justify my course to my constituents, than by copying, as a part of my remarks, the beautiful exordium of our President in his celebrated speech in the Senate, June 8, 1844, upon the annexation of Texas, though, from a perusal, it will be discovered, when compared with his present attitude on the Kansas question, and the condition of affairs there, and the continuance of slavery in the States, to which he then so feelingly alluded, that he miscalculated the tenacity with which the slaveholding States would cling to their peculiar institution, upon which they rely to maintain that control in the Union which it is the recent boast of a distinguished champion of the South [Mr. Hammond] they have held for sixty years past.

"Mr. President, the present is a question of transcendent importance. For weal or for woe, for good or for evil, it is more momentous than any question which has been before the Senate since my connection with public affairs. To confine the consequences of our decision to the present generation would be to take a narrow and contracted view of the subject. The life of a great nation is not to be numbered by the few and fleeting years which limit the period of man's existence. The life of such a nation must be counted by centuries, and not by years. 'Nations unborn and ages yet behind' will be deeply affected in their moral, political, and social relations, by the final determination of this question: Shall Texas [Kansas] become a part of our glorious Confederacy? Shall she be bone of our bone and flesh of our flesh? or shall she become our dangerous and hostile rival? Shall our future history and that of hers diverge more and more from the present point, and exhibit those mutual jealousies and wars which, according to the history of the world, have ever been the misfortune of neighboring and rival nations? or shall their history be blended together in peace and harmony? These are the alternatives between which we must decide.

"In arriving at the conclusion to support this treaty, I had to encounter but one serious obstacle, and this was the question of slavery. Whilst I ever have maintained, and ever shall maintain, in their full force and vigor, the constitutional rights of the southern States over their slave property, I yet feel a strong repugnance, by any act of mine, to extend the present limits of the Union over a new slaveholding Territory. After mature reflection, however, I overcame these scruples, and now believe that the acquisition of Texas will be the means of limiting, not enlarging, the dominion of slavery. In the government of the world, Providence generally produces great changes by gradual means. There is nothing rash in the counsels of the Almighty. May not, then, the acquisition of Texas be the means of gradually drawing the slaves far to the south, to a climate more congenial to their nature; and may they not finally pass off into Mexico, and there mingle with a race where no prejudice exists against their color? The Mexican nation is composed of Spaniards, Indians, and negroes, blended together in every variety, who would receive our slaves on terms of perfect social equality. To this condition they never can be admitted in the United States. That the acquisition of Texas would ere long convert Maryland, Virginia, Kentucky, Missouri, and probably others of the more northern slave States into free States, I entertain not a doubt."

In my opposition to the admission of Kansas under the Lecompton constitution, I am actuated by no feeling of hostility to the President or the South. There are those here who know that I was one of the earliest, most devoted, and most serviceable of Mr. Buchanan's friends for his nomination and election. I am still his friend. But I cannot here stultify myself by voting to legalize what I deem the most stupendous fraud that Congress has ever been called upon to countenance, upon the plea of expediency—a word the Democracy have ever despised—that good may come of evil. That gross and infamous frauds were committed by the pro-slavery party in December and January last, at the elections in Kansas, is patent in every hamlet and workshop in the country.

"According to the official returns of the vote of December 21, on the Lecompton constitution, the result stood as follows:

Constitution with slavery.....	6,143
Constitution with no slavery.....	569
Majority.....	5,574

"At this election 3,347 votes are officially reported as having been polled in the following precincts:

Oxford.....	1,226
Shawnee.....	753
Fort Scott.....	329
Kickapoo.....	1,017
Total.....	3,325

"The evidence of the judges and clerk of the election of December 21, who have testified before the Board of

Commissioners to investigate the Kansas frauds, prove that the actual vote was:

Oxford precinct.....	42
Shawnee precinct.....	115
Fort Scott precinct.....	150
Kickapoo precinct.....	385
Total.....	692

"It will be seen, therefore, that of the 6,143 votes counted in the 'official' returns' as having been polled, 2,655 were fraudulent; which, deducted from said official returns, leave but 3,488 votes for the Lecompton constitution, a portion of which were no doubt as fraudulent as those of Oxford, Kickapoo, &c."

The frauds proven to have been committed by the pro-slavery party in Johnson, Shawnee, Oxford, and McGee counties, and at Kickapoo and the Delaware Crossing, are sufficient to forever disgrace self-created president and would-be-Senator Calhoun, who, like a thimble-rigger, holds the destinies of the Kansas Legislature and her State officers under his thumb, and offers to wager "five, ten, or twenty you can't tell where the little joker is." From what we know of him, it is plain that he will cheat everybody in making his final returns, but himself. How humiliating and insulting to the nation to have the admission of a sister State depending upon such a man, who usurped his whole power through his being an officer of the Federal Government.

When California applied for admission into the Union, Senators Mason and Hunter, of Virginia; Butler and Barnwell, of South Carolina; Turney, of Tennessee; Soule, of Louisiana; Jefferson Davis, of Mississippi; Atchison, of Missouri; and Morton and Yulee, of Florida—all Democrats—signed a protest, which was entered upon the Journals of the Senate, objecting to the passage of the bill admitting her as a State into the Union, for the following reasons:

"1. That it gave the sanction of law, and thus imparted validity, to an unauthorized action by a portion or the inhabitants of California.

"2. Without any legal census, or other evidence of their possessing the number of citizens necessary to authorize the representation they may claim.

"3. Without any of those safeguards about the ballot-box, which can only be provided by law, and which are necessary to ascertain the true sense of a people.

"4. As 'not having sufficient evidence of its (the constitution) having the assent of a majority of the people for whom it was signed.'"

This is exactly what Wise, Walker, and Douglas are now saying about the admission of Kansas; and yet the Senators who set the example on California now propose to read them out of the party for following the text too closely.

Mr. Chairman, the doctrine of the sovereignty of the people is too dear to me, to forsake its just application here, to gratify those who dispense patronage. In speaking of it, De Tocqueville says:

"Whenever the political laws of the United States are to be discussed it is with the doctrine of the sovereignty of the people that we must begin. In America the principle of the sovereignty of the people is not either barren, or concealed; it is recognized by the customs, and proclaimed by the laws; it spreads freely, and arrives without impediment at its most remote consequences." * * * "From their origin the sovereignty of the people was the fundamental principle of the greater number of the British colonies in America."

Montesquieu, in his "Spirit of the Laws," says:

"There is no great share of probity necessary to support a monarchical or despotic government. The force of laws in one, and the prince's arm in the other, are sufficient to direct and maintain the whole. But in a popular State one spring more is necessary, namely, *virtue*. When virtue is banished, ambition invades the hearts of those who are disposed to receive it, and avarice possesses the whole community. The desires now change their objects; what they were proud of before now becomes indifferent; they were free while under the restraint of law; they will now be free to act against law; and as every citizen is like a slave escaped from his master's house, what was a maxim of equity they call *rigor*, what was a rule of action they call *constraint*, and to precaution they give the name of *fear*. Frugality, and not the thirst of gain, now passes for avarice. Formerly, the wealth of individuals constituted the public treasure; but now the public treasure has become the patrimony of private persons. The members of the commonwealth riot on the public spoils, and its strength is only the power of some citizens, and the licentiousness of the whole community."

I have thus quoted from the philosophical Montesquieu, because what he so ably wrote in the last century, is applicable to the present state of affairs in our Republic. Corruption stalks abroad throughout the land. It is to be discovered in the municipal, in the State, and in the Federal Governments, and few objects other than amassing fortunes, right or wrong, now actuate those who seek and obtain positions of power and patronage. The old fashioned Democratic party in the better days of the Republic viewed offices

as a necessity to carry on the Government, and sought only integrity of purpose in those who were to occupy them, repudiating the thought that Federal officials were in any manner to interfere with, much less control, the people. But, alas, the times have changed and are now "sadly out of joint." An army of Federal officials has usurped where it could the polls, and the servants of the people have attempted to become their masters. The Administration has erected a test of Democratic orthodoxy by insisting that all who desire its smiles or favor must ignore the principle upon which it lives, and stultify and disgrace themselves, under penalty of being called "Republicans." It has erected, too, the standard of *patronage* against principle, and with revengeful hand strips of the former, all Democrats who have independence and character, in order to confer it upon more servile tools. I fear that this Administration is doomed to the fate of Dr. Guillotine, who fell by an instrument which he had invented to cut off the heads of others.

Mr. Chairman, I really regret the position of the Administration in its Federal attempt to force Kansas into the Union under the usurped Lecompton constitution, thus creating a State out of a population of about fifty thousand people, not half so large, intelligent, or wealthy, as that of the congressional district I have the honor to represent; and thus forcing two Senators into the Senate of the United States, and one Representative in this House. This latter fact alone would induce me to hesitate before voting for her admission, if she were not, as she is under the Lecompton constitution, covered all over with damning frauds.

Sir, the President may yet live to see his error in this matter; and, in considering the injustice done the northern Democracy, may have reason to exclaim, "had I served the North with half the zeal I served the South, they would not, at mine age, have left me naked to mine enemies."

Mr. DOWDELL. Mr. Chairman, it is not my purpose to detain the committee at this time, by a consideration of all the points involved in the Kansas question. Under the rule, I will not have the time, did I so desire. But I do not desire it. The subject has been freely and fully discussed for the last four years. The country is in possession of all the facts and all the arguments. It remains for us to pronounce the decision. What the judgment of Congress will be, I know not; but of its results I propose to say a few words. Before proceeding to speak, however, upon this great and leading question, I will briefly allude to another subject which has occupied largely the public attention, and is intimately connected with the public interests. In some form its consideration will become, at an early day, the duty of the House. Not by any means underrating its importance, I simply allude to it for the purpose of protesting against an assumption of power of dangerous precedent exercised in the arrest of William Walker and his followers, by our naval forces, on foreign soil. The act was in violation of laws, the strict observance of which is of the utmost importance to the peace of the country, and a regard for the rights of its citizens. It was the duty of the Executive to enforce observance to the neutrality laws, to prevent illegal expeditions being fitted out and carried on against foreign nations, with whom we are at peace. No good citizen can complain of his discharge of this duty, whatever opinion may be entertained of the wisdom of those laws. They do not, nor were they designed to, interfere with the right of an American citizen to expatriate himself—to emigrate with his arms in his hand. Even illegal expeditions, when within the jurisdiction of a foreign Government at peace with us, are beyond the reach of this Government. The act of arrest was not only a "grave error," but the exercise of power unauthorized, and demanded signal rebuke. The purity of motive, however it may palliate the offense of the individual in the court of conscience, cannot cure the violation of law, restore the losses of the injured, nor avert the danger of the precedent.

With these words I leave this subject for the present, and pass to another, more immediately demanding our attention, which I regard to be of the gravest character. No more important subject can be presented for our action than the admission of a sovereign State into our political Union. To the case now before us additional im-

portance attaches, because of violent opposition, and the danger of results involving the peace of the country and the integrity of the Republic. States have been refused admission upon their first application. The postponement, although inconvenient, did not disturb the operations of the Government, nor interrupt the harmony of our relations. The cause of refusal was not violative of the spirit and fundamental condition of union. Therefore no serious consequences followed. The reason offered by the opposition for refusing to admit Kansas with the Lecompton constitution, strikes a blow at the rights of all the slaveholding States. Before venturing upon a decision of such momentous magnitude, it becomes us well to deliberate.

In the history of all Governments, no principle is better established than that a division of power is essential to the preservation of liberty. Political power, wherever located, under any form of government, unrestrained, is despotic. It matters not whether lodged in the hands of one, a few, or many; only in the latter it is the more dangerous. A monarch, with a conscience to restrain him, might relent, hesitate, stop short of his victim; majorities never. Without souls or consciences, they would pursue their purposes and their victims to the bitter end. The founders of our system, well understanding this truth, attempted to frame a government of divided power, with such checks, balances, and limitations, as would effectually guard the weaker against encroachment from the stronger, and forever prevent the concentration of power in any of its departments.

For all the ordinary ends and purposes of society, this has been achieved. The system is found to work admirably in practice. The three great departments of Government, the legislative, executive, and judicial, have been kept distinct and independent. Neither House has infringed the rights and privileges of the other. Nor has the executive power been enlarged at the expense of the legislative or judicial. All this granted—the great departments are in the possession of all the power bestowed on each by the Constitution—and further, that the States, in their separate jurisdictions, hold their reserved rights and powers intact: let me ask, of what benefit to public and private liberty becomes our beautiful theory of a Confederacy, with its checks and balances between State and Federal authority, the division of power between the different departments of each, if, by a combination of States, all these departments of power, executive, legislative, and judicial, should pass into the hands of a majority, become united, and wielded in a line of policy hostile to the rights of the minority? Of what avail, I repeat the question, with this state of facts, are paper constitutions to the protection of the minority, however admirably they may be contrived, or stringently guarded, without power is conceded to negative aggressive legislation? Do not our systems of government, State and Federal, with their multiplied limitations upon power, demonstrate the aim of our fathers to have been to guard the rights of individuals and minorities against the tyranny of majorities? And will not this design be totally thwarted, and our constitutional Government be essentially changed, by a permanent combination of a majority of the States with strength sufficient to hold and control all the powers of Federal legislation? Most assuredly so. And especially is it true, when the cause and continuance of such combination spring from hatred and hostility to an institution peculiar to the minority. And it may be added, the more dangerous because of geographical distinction.

In this connection the reply may be given, that the proposition is an impossibility under our present form of government, because the Constitution positively prohibits a State "to enter into any agreement or compact with another State." This is true, and yet my proposition does not fail. No two or more States may formally enter into any agreement or compact against another State; and yet, through the agency of the Federal Government, a majority of the States may effectually combine, hold possession of all the departments, and with the facility of construction common to aggressors, torture the meaning, without altering a letter of the Constitution, so as to most grievously oppress the minority. Thus it will be seen how we may be oppressed, and how easily the spirit of the original compact may be extinguished whilst

its beautiful body remains. The next question is, will this dangerous combination be made? Are there any signs of such approaching madness?

Mr. Chairman, we all know the power and influence of party associations. Those who march under the same banner are always friends when an enemy is before them in the field; the stronger the antagonist, and the more desperate the encounter to be met, the stronger are the ties of union, and the warmer the sympathies of friendship. After the battle, the common joy of victory, or commiseration over defeat, cements more closely the bonds of fellowship. The cry of the old Shibboleth, with all its exciting associations in the past, will rally the clansmen long after the objects of combination have passed away. In this country numerous instances can be cited where political party feelings have proved superior to the ties of personal friendship, and party animosities have destroyed kindred and church relations. Notwithstanding the strength and stubbornness of this feeling, dividing and swaying the masses of our countrymen, controlling the operation of the Government from the beginning, who has not seen strong national parties go down under the tread of sectional columns—bonds stronger than steel dissolve in the fires of sectional strife? But a few years ago the proud old Whig banner was triumphantly waving in a majority of the States, and the gallant leaders, with a patriotism as broad as the Union, commanded the love of their followers and the admiration of their opponents. They have passed away. The banner no longer floats upon the breeze. The voice of the multitude hailing it with loud acclaim is now hushed; no vestige remains.

"Not a rose is left on the stem,
To tell where the garden had been."

Sectionalism divided and conquered it. Such, too, was the fate of the American party. That organization, after a feeble attempt at nationality, even with the strong declaration for "the maintenance of the Union of these United States, as the paramount political good, or the primary object of patriotic desire," could not stem the waves of sectionalism. It passed as a shadow—fled away as a vision of the night. There was left but one great political association, whose professions and policy looked to the interests of the whole country—the last hope of the patriot. To its ranks were gathered the conservative of all sections. Whigs and Americans, who sympathized with us in the conflict with sectionalism, to this national standard were rallied. The battle was fought; we won the victory. Hope revived for a peaceful and glorious future to our country. Confidence in the strength of the Government and the perpetuity of our republican institutions was partially restored. How long to last? Ere the temporary fruits of victory are gathered, a cloud comes over us—the shadows of death settle upon the path. The steps of the destroyer are heard within our borders, and the spirit of dissension has fastened upon our vitals. Shall the national Democracy fall a prey to sectional jealousy? Shall the glorious old party of the Constitution, who, in peace and in war, have upheld the honor of the country and maintained the principles of republican liberty, go down in the shock of battle? Let this disaster overtake us, let this evil day come, and it will be followed by a long night of direful calamities. There will be left, I doubt not, in every northern State, patriotic men, devoted and true to the Constitution—many who would willingly lay down their lives for the constitutional rights of the South, I believe. But, overshadowed and borne down by a sectional majority in every State, they would be powerless for good.

Now, sir, under this state of facts, with the causes which have brought it to pass, let me ask, what security will the minority States have against oppression? If party cords, however stubborn and strong; the cohesive iron bands of common interest; the ties of kindred blood, and personal friendship; the sacred and holy links of brotherly love, hallowed by the strong memories of the glorious past; if these, if all these, cannot withstand the dissolving fires of sectional hate, I repeat the question, what security is there against oppression? Do you point me to the checks, balances, and limitations of our federative system? to the constitutional declaration of rights, its definitions and prohibitions of power? These, sir, would snap asunder like the green withes wherein

Samson was bound; "as a thread of tow is broken when it toucheth the fire." The power of construction could easily remove all these wholesome obstacles which fence the path of tyranny. They would bend to the desires of the majority, as the tall oaks to the sweep of the tempest. The history of mankind, the world over, proves it. Collisions only can be avoided by effectual limitations to power. There must be a potent voice to say, "thus far shalt thou go, and no further;" or else, "the waves will roll not back." Hitherto our system of government has furnished that check, and our Constitution spoken that voice. Hitherto obedience followed the command, and the "proud waves were staid." Did the spirit of the old Union live, liberty would live; State rights and private rights would be sacred, shielded against even the stealthy and insidious power of construction. But, sir, once let all the departments of the Government pass into the hands of a combined majority section; and, whether the united powers would be used aggressively or not, the Constitution would immediately lose its vitality, the distinctive conservative feature of our system be destroyed, and the minority would become dependent upon the capricious will of the majority States.

But suppose the majority, thus armed with power, disclaim all designs to injure—suppose them, for the time being, to be actuated by a love of justice: does this alter, in the least, the subject condition of the minority? To test the supposition, let us say we believe your professions sincere; you intend us no harm; you have the power, but will refrain from its exercise to our injury; what objection have you then, in the absence of evil designs, to submit to wholesome restraints upon that power? If you never intend to exercise it oppressively, give us the evidence by laying a portion of it down. If you refuse, however sincere may be your professions, we are warned, by the history of the past, to be on our guard. Equality between States, so essential to liberty, cannot long be maintained under an inequality between sections or combinations of States, unless the stronger be circumscribed in their powers. The dangerous state of affairs in which we find ourselves was clearly not contemplated by the fathers of the Republic, or else, with their intense opposition to centralized power, they would have guarded against it. The fears of our predecessors, soon after this Government went into operation, were aroused to this danger, and herculean efforts have been made to prevent disaster to the system by preserving equality between sections. The struggle has been a fierce one. With this view, for a long period, States have been admitted in pairs—a slaveholding and a non-slaveholding together. The equilibrium has thus been maintained up to a very recent period. The admission of California, in 1850, turned the scale against the South. Up to the time of that compromise we were safely guarded against encroachments. The Senate stood like a mountain in the path of the aggressor. By the admission of California we lost the balance—both the great legislative departments passed into the hands of the free States.

Sir, holding this department of power, we could not, if we would, invade the rights of the other section; but we could prevent encroachments upon our rights. That important negative power, helpless to injure, mighty to protect, has been lost. We now stand relying for safety on national parties, and the love of justice which may remain in the bosoms of the majority. In ordinary times, these subordinate securities may prove beneficial; but we know they are as nothing in the path of avarice, ambition, and fanaticism. Parties are but the creatures of a day, the accidents of the hour. They are liable to change from constant occurring combinations, as new interests arise, or new whims are to be gratified. The lovers of justice have been too often driven by the wicked multitude to "mountains and deserts—to the dens and caves of the earth; have been doomed to wander about in sheep skins and goat skins, destitute, afflicted, tormented"—for us to rely solely upon this principle for protection. Something more than the mere love of justice in Governments, however civilized, is found necessary to prevent wrong. In framing the organic law, the people must be imbued with the wisdom and sense of right sufficiently great to part with a portion of their powers, and thereby extract the teeth and claws of the lion of authority;

or else the weaker will, sooner or later, become a prey to the stronger. Whatever be the form of the government, this evil tendency in man, to usurp and wield power, must be provided against to escape tyranny.

If necessity, then, be laid upon a people whose interests are identical, to bridle power to preserve freedom, how much more urgent the reason for restraints upon a Government whose authority extends over large Territories, holding dissimilar and often antagonistic interests?

In thus contending, Mr. Chairman, for better safeguards to liberty than political parties can furnish, I do not mean to disparage the worth of the Democratic party. In all the sectional conflicts of the past, that party has given to the councils of the country men good and true, who have faithfully stood by the constitution. My own section, demanding only her just and equal rights under that instrument, have found in that noble party a trusty and faithful ally. Hitherto it has deserved, in maintaining its integrity, the confidence bestowed by the South. It is to be lamented that many have fallen in the battle; some have deserted the standard; distinguished leaders have wandered off, and united their fortunes with the enemy; but the party still lives, and, I am proud to believe, holds in the North a host of patriots with hearts still true to the right. Unwilling to despair of the Republic, I must hope that the little band, though weakened by desertions and depressed by the diminution of confidence, will, with the daring courage of noble hearts, bravely face the storm. In time, they may gather the pure and the good, and rally strength to save the Constitution from the hand of the destroyer. Whatever be our destiny, the true men of the North will live long in the affections of the generous and patriotic sons of the South.

Mr. Chairman, I trust that I have shown to the committee the danger to our institutions of unrestrained majorities. I have not alluded to the increasing hostility between the two sections, to be gathered from legislative resolves and acrimonious articles in the public press, both religious and secular. The spirit of crimination and recrimination prevails to an alarming extent. From this source reasons could be multiplied leading to the same conclusion. But none are so blind as not to see that perils environ our position of the gravest character. With all my confidence in the Democratic party, and notwithstanding the hope expressed in its fidelity, I must still believe that some more potent and enduring check is imperatively demanded for our security against invasion. Upon this point, were any doubts left, my opinions would be confirmed by the bold declarations of a northern Senator, who is regarded the head and front of the Black Republican party; one who speaks the sentiments and shadows forth the designs of that infatuated organization. His philosophic eye discerns the condition of affairs and takes in the future. The boast of power which he makes discloses the dangers to which the minority are exposed. In a recent debate on the Army bill, the Senator from New York [Mr. SEWARD] said to the Senator from New Hampshire, [Mr. HALE:]

"I am very sorry that the faith of the honorable Senator from New Hampshire is less than my own. He apprehends continual disaster. He wants this battle continued and fought by skirmishes, and to deprive the enemy of every kind of supplies. Sir, I regard this battle as already fought. It is over. All the mistake is that the honorable Senator and others do not know it. We are fighting for a majority of free States. There are already sixteen to fifteen; and whatever the Administration may do—whatever anybody may do—before one year from this time we shall be nineteen to fifteen."

Mark well the language. These words were not delivered in haste. Coolly and deliberately uttered, they were the convictions of his judgment. I was in the Senate at the time, and heard them. To me it was a note of warning from the enemy. "We are fighting for a majority of free States;" "this battle is already fought;" "sixteen to fifteen;" and soon "nineteen to fifteen." If the rights of States and sections are to be respected, if the Constitution of the United States is to be regarded, let me ask the reason for the boast of a majority of free States. It is given in another speech of the Senator's. He said:

"I expect to see this Union stand until there shall not be the footstep of a slave impressed upon the soil that it protects, although that soil will be extended, for aught I know, from the North Pole to the Caribbean sea, as it has already extended from the Atlantic to the Pacific ocean."

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, MARCH 12, 1858.

NEW SERIES....No. 67.

Whatever opinions others may entertain, there remains upon my mind not the shadow of a doubt as to the action of a party with such sentiments, when they shall be clothed with the power to legislate. They will, in a majority, wield powers destructive of our rights and property. If designs dangerous and despotic are not meditated, let me again ask why the exultation at the "majority of free States," coupled with the expectation of seeing "no footstep of a slave upon the soil" of the country? And subsequently the same opinions were reiterated in a set speech by that Senator. Sir, this spirit of aggression will not stop at the seizure of all the common territory. Nothing short of universal dominion will satisfy its voracious appetite. The sight of ruined cities and desolated fields from the fanatic and his object will not arrest him in his wild career, nor curb the passion for conquest.

By virtue of the Constitution, interpreted by the highest judicial authority, the southern States have the right to carry their slave property and plant their institutions upon the common territories of the Union. This right must not be impaired, nor our progress and expansion impeded. The law now in force allows it; stern necessity in time will demand it; woe betide that people who shall, even under the forms of legislation, attempt to forbid its exercise. Sir, is there a man who doubts the attempt will be made, should the Black Republicans control the Government? Hatred to African slavery is their bond of union; its ultimate and entire suppression the corner-stone upon which they build. To this end, the declaration, "no more slaveholding States to be admitted into this Union." Not a Representative of that party would vote to admit a slaveholding State this day, however legal and regular her application. Were the slavery clause the only possible objection, it alone would be sufficient to control the action of their representatives in both branches of Congress. Thus stands the case now. The prospect of a change of opinion on the part of the representative will at once vanish, when it is known that the constituency behind are far in advance of the delegate in hatred to our institutions. To their fixedness of purpose and bitterness of feeling, intensified by fanatic religious zeal, may be added the motives of imaginary spoils to be reaped in victory, and supposed immunity from harm to themselves in the conflict. Under these circumstances, I must confess that I can imagine no probability of a change of opinion that will inure to the benefit of the South.

The rapid growth of Abolitionism, its power to dissolve national parties so unmistakably given, its present strength and bold attitude in Congress, and its constantly augmenting power, should teach the minority section to look to remedies, in addition to national parties, for their protection. The admission of Kansas, should she continue to be a slaveholding State, will not remedy the evil, nor materially alter the condition of things. The disparity between the two sections will not be diminished. Oregon and Minnesota come immediately after, if not before, to swell the majority of free States. Soon will follow Washington and Nebraska, Utah, and probably New Mexico. With this great probable preponderance of northern power, to be inflamed by the ruthless madness of a fiery fanaticism, to grow in its excesses by each succeeding victory, what remedy short of a change in the organic law can be found equal to the emergency? What other plan to be devised which will lead to a peaceful solution of our difficulties? Sir, appeals to patriotism, invocations of right and justice, the recounted memories of a common struggle for liberty, will fall upon the dominant majority like the voice of flattery upon the "dull, cold ear of death." These will not do; they are temporary expedients, vain and illusory. In the dark hour, party organizations, with professed devotion to national platforms, cannot withstand the advance of sectional legions. With a fell purpose to uproot and trample upon the old landmarks of friendship, they come with the tread of the Behemoth and the blast of the hurricane.

They propose by this interference with our domestic institutions, through a sectional organization controlling the majority States, to pervert our Constitution, one of whose main objects was "to insure domestic tranquillity, so as to inaugurate domestic violence."

Sir, the great patriot statesman of the South, Calhoun, who, whilst living, had no superior, and dead, leaves not his like behind, has placed upon record, after a life of the largest experience, the profound reflections of his matured judgment on this subject. He was devotedly attached to the Union, and he endeavored most earnestly to impress upon the minds of his countrymen the means for its preservation. He said:

"This spirit of fanaticism aims openly and directly at destroying the existing relations between the races in the southern section; on which depends its peace, prosperity, and safety. To effect this, exclusion from the Territories is an important step; and hence the union between the Abolitionists and the advocates of exclusion, to effect objects so intimately connected. All this has brought about a state of things hostile to the continuance of the Union, unless timely prevented."

After speaking of the inadequacy of a restoration of the Federal character of the Government to furnish a remedy, he continues:

"The nature of the disease is such that nothing can reach it short of some organic change—a change which shall so modify the Constitution as to give the weaker section a negative on the action of the Government."

Sir, the deliberate opinions of this profound thinker and wise statesman deserve something more than a passing thought. Every day since they were written their truth becomes more and more evident. A few more years in the same direction, and the "disease" of which he speaks, "unless timely prevented," will result in death to the body politic.

Mr. Chairman, although the admission of Kansas will not restore the equilibrium between sections, as before stated, our right decision of the question is none the less important. Be the result what it may, the vote will teach a most useful lesson, and go far to establish the truth of the position which I have assumed. I will not now review the course of this and the previous Administrations, or their agents, subsequent to the organization of this Territory, and preliminary to the formation of the constitution which is here presented. Many things have been done which do not meet my approval, and yet there is much to deserve the approbation of the South. The main fact that both the present Administration and its predecessor have unwaveringly supported the regular authorities of the Territory, and promptly suppressed faction and rebellion—have interpreted the Kansas-Nebraska act to mean that no power less than the constitution-making power can permanently fix and regulate their domestic relations, and thereby secured to the people of the South the right to carry and hold their property in the Territory—furnishes a good and sufficient reason for me to have given and to continue my support. Whilst, therefore, differing with the President in his reasoning upon the propriety and necessity of submitting the constitution, or any part of it, to the masses for ratification or rejection, I cheerfully accord to him patriotic motives, and fully concur in the conclusion at which he arrived. For the bold and manly tone of his last message, the just sentiments, the clear and unequivocal declarations of right, and the firm determination avowed to maintain the act of the Lecompton convention, he is justly entitled to the respect and gratitude of all good men in the Union. Did the same spirit animate the masses of our countrymen, the same opinions of, and regard for, constitutional law prevail throughout the North, the dangers to which I have adverted would be long postponed, if not entirely avoided. To accomplish this desirable end, a rapid and radical change must take place in northern feeling and opinion.

Mr. Chairman, the gentleman from New York, [Mr. HASKIN,] who preceded me, is mistaken in stating that the State of Alabama has passed resolutions condemnatory of Mr. Buchanan. They justly condemned the course pursued by Governor Walker, but expressed confidence in the

President. His position, in his late message, has vindicated the wisdom of that confidence. I am truly sorry, that the gentleman and his associate Democrats, who oppose the Lecompton constitution, have placed themselves in the category with Governor Walker, and have not verified a like confidence expressed in their behalf by many in the South.

Kansas stands knocking at the door for admission. Were her slaveholding policy fixed, her entrance would not restore political equality to the South. But this policy is by no means permanent. Yet, because her constitution recognizes the right in her citizens to hold African slaves, so inimical is the feeling among northern Representatives to that institution, her admission is doubtful. This reason controls the entire Republican party. It is true, other grounds are also relied on; no one doubts, however, the chief objection with that party to be the slavery clause in her constitution. A part of the northern Democratic Representatives coöperate with the Republicans. They assert themselves to be influenced by another consideration; still they are found in a line with the enemy. In this crisis it is deeply to be regretted that all who do not make the slavery clause an objection are not found acting together. The question of submitting, by the convention, its work directly to the vote of the masses, is one only of expediency, about which there may be legitimately difference of opinion. Its decision belongs to the people of the State, not to Congress. Our inquiry extends only to whether the constitution be the will of the people legally expressed; whether there are in the State the requisite number of inhabitants, and whether the government is republican in form. The fact that a majority of the States admitted into the Union presented constitutions which had not been submitted to the vote of the masses, beyond all doubt settles the controversy that, with this question, we have nothing to do. To refuse a State admission for this cause—to require compliance with such a demand as a condition precedent to admission—would not be leaving them "free to act in their own way," but it would be the exercise of power not granted us by the Federal Constitution, and certainly in the very teeth of the act organizing the Territory.

Doubtless some confusion has arisen, from a misapprehension in the public mind as to the force of the term *the people* when used in a political sense. When it is declared to be the intent of the Kansas act "to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way," does the term "people," here used, include all or a part of the inhabitants; those acting without legal form, or in accordance with law? Does leaving them "free to act in their own way" contemplate or warrant action in any sense, without legal forms? In my opinion, clearly not. It has been asserted that the convention, although legally assembled, is not the *master* but the *servant* of the people. Reference to the Constitution of the United States, and many of the State constitutions, satisfies me that both positions are false. A convention is neither the *master* nor the *servant* of the people. It is the potent voice of the people; or, to be more emphatic, it is, in the highest legal and constitutional sense, *the people*. "We, the people, do ordain," is the language of the Federal Constitution, spoken by the Federal Convention which framed it. "We, the people, do ordain," is the language of some of the State conventions which ratified it. It was not submitted to the masses of the Union, for, constitutionally, there is no such people; nor was it submitted to the masses of any one State. Yet *the people* both ordained and ratified it. What people? A representative people, a *people* in the republican sense of the term. Such is likewise the fact in regard to many of the State constitutions. The same term is used, "we, the people of the State, do ordain," and yet the constitutions adopted were not submitted to popular suffrage. Conventions assembled in accordance with law, are *the people* in an organized capacity. Now, shall we presume to violate the sovereignty of a State,

by polling her masses to ascertain whether the voice spoken by her convention is the truly expressed will of the people? To do so, would be to exercise arbitrary power.

The people of Kansas have, in accordance with authorities duly constituted by Congress in the organic act, in accordance with the laws of her government, in conformity to the requirements of the Federal Constitution, in a line with numerous precedents of States of the Union, adopted for themselves, in their own way, a constitution republican in form. Shall we admit or reject her? In my humble judgment there is not the shadow of a sound reason for refusal. The Lecompton convention was a political body, duly invested with power to make and ordain a constitution. The discretion to refer its work back to the masses belonged to it exclusively. They saw proper to submit the most material portion. All the *bona fide* inhabitants qualified to vote were invited to express their opinions by their votes. An election was held, of which due notice was given, and a large majority of those voting indorsed the portion submitted. Those who refused to vote, according to every sound principle of law, are presumed to acquiesce—are bound by the decision. Otherwise, there is, through the ballot-box, no safety to constitutional liberty. To delay admission, to require her to reconstruct her organic law, will be to countenance a rebellious spirit in her midst which has denied the authority of her government from the beginning. The dividing line in that Territory, truly says the President, is "between those who are loyal to this government, and those who have endeavored to destroy its existence by force and by usurpation."

The constitution presented is the expression of the sovereign will of the people who acknowledge the authority of law. Those who voted against it, under an unconstitutional act of the Stanton Legislature, were composed mostly of those who have uniformly resisted regular authority. To admit is to regard the will of the loyal and law-abiding; to reject will promote rebellion. If the Stanton Legislature had the legal right to alter the requirements of the convention, it had the power to repeal the constitution. The assumption of such a right reverses the whole theory of our Government. Its action, under the circumstances, was of no more authority than any other peaceable assemblage of citizens; and the voice of the people evoked cannot be regarded, because they speak only through legal channels.

There is a manifest tendency in the public mind to revolutionary ideas and doctrines. This growing impatience of legal and constitutional restraints—the thirst for something new and startling—is an evil omen of the times. The rapid progress of the spirit of change will, ere long, unless counteracted, place our dearest rights at the mercy of uncontrolled numerical majorities. The prevalent idea that a mere majority can, at will, assemble and change the organic law of a State, and that no legitimate restraints can be imposed upon their action, is at war with old republican ideas, and will lead to popular despotism. Another distinguished son of South Carolina, Hugh S. Legaré, now no more, on this point has most eloquently said:

"The restraints which modern society has imposed upon itself in the exercise of its sovereignty are only an acknowledgment of the fallibility of man. In our own republican institutions this self-denial has always struck me as something sublime. All absolute power, if allowed to act on sudden impulses, will and must be tyrannical; nor does it signify in the least by what name it is called, except, perhaps, that the galling severity of the bondage is in proportion to the number of masters. In the true spirit of Christian humility, the most sublime of all virtues, the people have taken care that they shall not be led into temptation by that omnipotence which God alone may not abuse, and reserving to themselves ultimately an absolute control over their own destinies, have practically restrained the exercise of their sovereignty, by withholding from their agents some of its highest attributes."

Sir, I will not deny to the people their right, when assembled in their sovereign capacity, to modify and change their form of government. This right, asserted in the Declaration of Independence, was stationed outside of constitutions as an additional guard to the liberty, safety, and happiness of the people. But as "all changes in the fundamental laws of a State, ought to be the work of time, ample discussion, and reflection," it would be much safer to confine its exercise within the forms prescribed by the Constitution. For a government of a State to call into action the sov-

ern power, on ordinary occasions, contrary to a prescribed rule by the people, to say the least, is inexpedient. Such a procedure, in my judgment, can only be justified by the highest public necessity. I know that this responsibility has been assumed by some of the State governments, and in this manner New York, Indiana, Maryland, and others, have amended their constitutions, and no immediate evil results have followed.

But the fact that in all the State constitutions guards have been thrown around the amending power, requiring concurring votes of successive Legislatures, and in many cases a majority of two thirds, and thereafter a ratification by the qualified electors, shows the opinion of the people to be adverse to sudden alterations, and that danger was to be apprehended at this point. Mr. Chairman, in this age, the danger to liberty is not in hampering majorities, but the opposite; not in restraining public opinion, but in giving a loose rein to its ebullitions and excesses. Sir, majorities can always take care of themselves; but private interests and minority rights appeal to limitations and restrictions upon power to protect them. The more tardy the process, the more cumbrous the machinery in effecting a change of the fundamental law, the greater the security to the citizen.

Objection is made by some to the admission of Kansas, because, in the schedule attached to her constitution, the Legislature is not authorized to call a convention for purposes of amendment until after the year 1864. Now, sir, whatever may be our individual opinions as to the wisdom and propriety of this provision, I humbly submit that Congress has nothing to do with this question—it belongs exclusively to the people of that State. But do those who object, remember that Indiana was admitted with a similar clause in her constitution, only the time-interdicting amendment was twelve years—just double that of Kansas. Who objected to her admission upon this ground? She was a free State. No one in the North, so far as I know, cared about the limitations which she imposed upon her government. But the force in the objection, in the present case, may be found in the fact that Kansas is a slaveholding State. Indiana, notwithstanding the limitation, changed her constitution before the time fixed had expired. Kansas, if she so desires, can do the same thing. I do not say that it will be wise in her people to do so. I believe it imprudent for any State to act differently from the forms prescribed in her constitution. But what is my opinion; what the opinions of all the members of this House? Has not a State the power to pursue her own policy; to carry out the wishes of her people "in her own way?" This clause in the constitution of Kansas does not change its republican form. We are not permitted to look for any other objection.

Mr. Chairman, the State of Alabama, whose people I have the honor in part to represent, by the unanimous voice of her Legislature has, in the event of the rejection of Kansas, authorized a convention to be called to determine her course of action. Taking her position by the side of the State of Georgia, "she will and ought to resist, even (as a last resort) to a disruption of every tie which binds her to the Union, any action of Congress upon the subject of slavery in the District of Columbia, or in places subject to the jurisdiction of Congress, incompatible with the safety, domestic tranquillity, the rights and honor of the slaveholding States; or any act regulating the slave trade between the slaveholding States; or any refusal to admit as a State any Territory hereafter applying, because of the existence of slavery therein; or any act prohibiting the introduction of slavery into the Territories of Utah or New Mexico; or any act repealing or materially modifying the laws now in force for the recovery of fugitive slaves." Sir, to her I owe my allegiance. Whatever course she may in her wisdom pursue, as one of her sons, bound to her by every tie, in weal or in woe, I shall cling to her fortunes.

I will not disguise my feelings on this question. It is indeed painful to me to contemplate the necessity laid upon my State to invoke her sovereign power to resist aggression. Believing, as I solemnly do, unless some constitutional check be placed upon northern power—increasing daily in numbers, and in fanaticism—the minority States will be, at all times, liable to oppression, I heartily concur in the resolutions adopted by her Legislature. The time for action is at hand. Did I

not warn my people of the dangers which threaten the overthrow of their rights, I should not be a faithful sentinel. That the deliberations of her convention when called, may result in some plan furnishing additional safeguards to liberty—protecting the rights of the South, without severing the bonds which unite the States, is my most earnest desire. To this end, limitations upon the powers of the combined majority section are absolutely indispensable. Those who profess to love the Union "may cry peace," at the passage of this or that measure, "but there will be no peace;" there will be, if I rightly comprehend the strength and designs of the Black Republicans, no cessation of hostilities; no pause in the march of aggression; no security for our rights, nor safety to the country, until this end be attained. The responsibility rests upon the majority section. Consenting to this necessary check upon their powers, they can restore harmony between the two sections—they can dry up the bitter waters of strife. Otherwise these dark waters will flow on until all the feelings of friendship are poisoned; all motives to union destroyed; and all the blessings that we now enjoy in common so richly, forever engulfed.

Mr. CASE, at half past five o'clock, obtained the floor.

Mr. GROW. If the gentleman from Indiana will give way, I will move that the committee rise.

Mr. CASE. I must decline to yield.

Mr. WASHBURN, of Maine. I would inquire if the gentleman from Indiana has made a bargain with the chairman to speak until six o'clock.

Mr. CASE. No, sir; I have made no bargain.

Mr. MAYNARD. I call the gentleman to order.

Mr. WASHBURN, of Maine. I protest against farming out the floor of the House in this way.

Mr. MORGAN. I rise to a point of order, and that is that there is not a quorum present.

The CHAIRMAN. The Chair overrules the point of order.

Mr. MORGAN. I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Indiana [Mr. CASE] has the floor.

Mr. MORGAN. I took an appeal from the decision of the Chair.

The CHAIRMAN. The gentleman has not the floor to take an appeal.

Mr. MORGAN. I made a point of order, and I appealed from the decision of the Chair on it.

The CHAIRMAN. The gentleman has not the floor. The gentleman from Indiana is entitled to it.

Mr. MORGAN. The Chair overruled the point of order.

Mr. MAYNARD. It is not a point of order from which an appeal can be taken.

Mr. GROW. Any decision which the Chair can make is subject to appeal.

The CHAIRMAN. The Chair will not entertain the appeal.

Mr. MORGAN. The Chair will not?

The CHAIRMAN. No.

Mr. MORGAN. I appeal from your decision.

The CHAIRMAN. The gentleman from New York is not in order.

Mr. MORGAN. The Chairman is certainly out of order.

The CHAIRMAN. The gentleman from New York is not in order, and will take his seat.

Mr. MORGAN. I do not propose to take my seat. I appeal from the decision of the Chair; and I say, Mr. Chairman, you are bound to entertain it.

The CHAIRMAN. There is no way by which the Chair can ascertain whether there is or is not a quorum of members present. The gentleman from New York had not the floor to submit that point of order; and, if he had not, he had not the floor to take an appeal from the decision of the Chair.

Mr. MORGAN. Then I ask the Chair how an appeal could ever be taken?

[Cries of "Order!"]

The CHAIRMAN. When the question arises. It does not now arise. The gentleman from Indiana will proceed.

Mr. MORGAN. The Chair knows perfectly well that I am in order.

The CHAIRMAN. The gentleman from New York is not in order.

Mr. MORGAN. I am in order, but the Chair is decidedly out of order.

The CHAIRMAN, (rapping with the gavel.) The Chair is the judge of that.

Mr. MORGAN. The Chair may pound away till doomsday, but he will hear me.

Mr. LEITER. I insist that the rules of the House be enforced.

Mr. MORGAN. If I did not know that I was in order, I would make an apology and take my seat. No man would do it sooner. But I am only adhering to my rights, and I will have them.

Mr. KUNKEL, of Maryland. Is the appeal of the gentleman from New York debatable?

The CHAIRMAN. The Chair will decide that question in a moment.

Mr. KUNKEL, of Maryland. I wish to suggest, that inasmuch as the gentleman from Indiana has the floor—

The CHAIRMAN. The gentleman from Indiana has the floor. The gentleman from New York, however, raises a question of order, and the Chair feels it to be his duty to read the rule upon the subject.

Mr. MORGAN. If I am not in order, I will apologize to the House and the Chair.

The CHAIRMAN. The gentleman has committed no offense against the Chair. [Laughter.]

Mr. MORGAN. I did not suppose it would be possible to offend the Chair, from what I have seen of him.

The CHAIRMAN. The rule is as follows: "125. Whenever the Committee of the Whole on the state of the Union, or the Committee of the Whole House, finds itself without a quorum, the Chairman shall cause the roll of the House to be called, and thereupon the committee shall rise, and the Chairman shall report the names of the absentees to the House, which shall be entered on the Journal."

Mr. MORGAN. I now ask that it be ascertained if there is a quorum here.

The CHAIRMAN. The Chair will count the committee.

Mr. KUNKEL, of Maryland. Before a count is made, I desire to make a suggestion to the gentleman from New York, who has taken this appeal.

The CHAIRMAN. The gentleman from Maryland is not in order at this time.

Mr. KUNKEL, of Maryland. I was about to suggest to the gentleman from New York—

Mr. MORGAN. With all due deference to the gentleman, I wish that it shall first be ascertained if there is a quorum here.

The CHAIRMAN. The Chair will entertain the appeal of the gentleman from New York.

Mr. GROW. Did the Chair ascertain whether there is a quorum present?

The CHAIRMAN. There is not.

Mr. GROW. Then the roll must be called.

Mr. KUNKEL, of Maryland. Is the appeal debatable?

The CHAIRMAN. Not in the judgment of the Chair.

Mr. GROW. The rule is imperative, that when the committee finds itself without a quorum the roll shall be called.

The CHAIRMAN. The fact that there is no quorum here has been ascertained by the Chair, but not by the committee.

Mr. POTTER. How can you find out whether there is a quorum here unless the roll is called?

Mr. GROW. I understand the Chair to decide that there is not a quorum here.

The CHAIRMAN. The Chair has not yet decided.

Mr. MORGAN. I ask for a division on the appeal. That will show whether there is a quorum here or not.

The CHAIRMAN. The Chair decided that the gentleman from Indiana [Mr. CASE] could proceed, a quorum not being present, but the Chair having no means of ascertaining that fact. The gentleman from New York [Mr. MORGAN] appeals from the decision of the Chair; and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. MORGAN. On that question I ask for tellers.

Tellers were ordered; and Messrs. MORGAN, and KUNKEL, of Maryland, were appointed.

The committee divided; and the tellers reported—ayes 2, noes 20; no quorum voting.

The roll was accordingly called, and the following members failed to answer to their names:

Messrs. Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Billingshurst, Blair, Bliss, Bock, Branch, Burlingame, Burnett, Burns, Burroughs, Campbell, Caruthers, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clemens, Clingman, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Covode, Cragin, James Craig, Crawford, Damrell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dimmick, Durfee, Edie, Edmundson, Elliott, English, Eustis, Farnsworth, Faulkner, Foley, Garnett, Gartrell, Gillis, Gilman, Gilmer, Goode, Goodwin, Granger, Greenwood, Groesbeck, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Haskin, Hatch, Hickman, Hill, Hoard, Houston, Hughes, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Kellogg, Kelly, Kelsey, Knapp, John C. Kunkel, Landy, Lawrence, Leidy, MacLay, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Matton, Miles, Miller, Milson, Montgomery, Moore, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Niblack, Palmer, Pendleton, Pettit, Peyton, Phelps, Phillips, Pike, Pottle, Powell, Purviance, Quitman, Ready, Reagan, Reilly, Ricard, Ritchie, Royce, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stanton, Stephens, Stevenson, Talbot, Tappan, George Taylor, Miles Taylor, Thayer, Tripp, Underwood, Walbridge, Walton, Ward, Warren, Elihu B. Washburne, Watkins, White, Wilson, Winslow, Wood, Woodson, Augustus R. Wright, John V. Wright, and Zollieoffer.

So the committee rose; and the Speaker having resumed the chair, Mr. FLORENCE reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and especially House bill No. 6, making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th June, 1859, and finding itself without a quorum, had caused the roll to be called and the absentees noted, and had instructed him to report the names of the absentees to the House—there being only sixty-nine members present.

On motion of Mr. LETCHER (at fifteen minutes to six o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, March 11, 1858.

Prayer by Rev. F. W. GREEN.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. BROWN presented a petition of residents of the city of Washington, in the District of Columbia, for an appropriation for lighting Four-and-a-half street, in that city, with gas, from Pennsylvania avenue to the Arsenal; which was referred to the Committee on the District of Columbia.

Mr. MASON presented the memorial of Alexander C. Good, in behalf of his wife, heir, and co-heirs of John Swan, late of Baltimore, deceased, praying for indemnity for spoliation by the French prior to the year 1800; which was ordered to lie on the table.

Mr. DOOLITTLE presented the memorial of John Shaw, praying for remuneration for losses sustained by him in furnishing six companies of rangers on the Mississippi with provisions, ammunition, &c., during the last war with Great Britain; which was referred to the Committee on Military Affairs and Militia.

He also presented a memorial of the Legislature of Wisconsin, in behalf of the claims of John Shaw to pay for services as a spy or scout in the war of 1812, and compensation for losses sustained in furnishing supplies for the Missouri and Illinois mounted rangers during the war; which was referred to the Committee on Military Affairs and Militia, and ordered to be printed.

Mr. CAMERON presented five petitions of citizens of Philadelphia, praying that the proposals of Thomas Rainey for carrying the mails between Philadelphia and Brazil, touching at Savannah and certain places in the West Indies, may be accepted; which were referred to the Committee on the Post Office and Post Roads.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MASON, it was

Ordered, That the petition of the legal representative of James Purvis be withdrawn from the files of the Senate and referred to the Committee on Revolutionary Claims.

On motion of Mr. CAMERON, it was

Ordered, That the memorial of Mrs. A. P. Derrick, widow of William S. Derrick, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. JOHNSON, of Arkansas, it was

Ordered, That the petition of George J. Knight, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. JOHNSON, of Arkansas, it was

Ordered, That the petition of Theresa Dardenne, on the files of the Senate, be referred to the Committee on Public Lands.

RESOLUTIONS.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate any information in possession of any of the Executive Departments in relation to alleged discoveries of guano in the year 1855, and the measures taken to ascertain the correctness of the same; and also any report made to the Navy Department in relation to the discovery of guano in Jarvis and Baker's Islands, with the charts, soundings, and sailing directions for those islands.

Mr. FITCH submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to communicate to the Senate copies of all instructions from his Department to the United States marshal for the district of Utah.

Mr. HARLAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate such information as his Department affords in relation to the sale of Fort Crawford military reservation, within the State of Iowa.

PRINTING DEFICIENCY BILL.

Mr. HUNTER. The Committee on Finance, to whom was referred the bill (H. R. No. 307) providing for deficiencies in the public printing, have instructed me to report it back without amendment. There is a pressing necessity for its immediate passage. It is a bill providing for payment for work actually done, the money for which is due, and the Printers want it very much. I hope it will be taken up and considered now.

There being no objection, the bill (H. R. No. 307) to appropriate money to supply deficiencies in the appropriation for paper, printing, binding, and engraving ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and which has been executed, was considered by the Senate as in Committee of the Whole.

Mr. HALE. Read the bill through.

The Secretary read it. For the purpose of defraying the deficiencies in the appropriations for the paper for the printing, for the printing, and for the binding, engraving, and lithographing ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, it appropriates the following sums: To pay for paper, \$104,000; to pay for the printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, \$57,619 94; to pay for the binding, lithographing, and engraving ordered by the Senate during the Thirty-Third and Thirty-Fourth Congresses, \$179,569 64.

Mr. HUNTER. These are amounts that were reported, after close scrutiny, by the Committee of Ways and Means of the House of Representatives, on an estimate presented by the Superintendent of Public Printing.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EPHRAIM HUNT.

Mr. FESSENDEN. If there is nothing before the Senate of particular importance, I should like to have a little bill taken up. It is a bill (S. No. 107) for the relief of Ephraim Hunt. It has passed the Senate twice, and been unanimously reported a third time.

There being no objection, the bill (S. No. 107) for the relief of Ephraim Hunt was read a second time, and considered as in Committee of the Whole.

It directs the proper accounting officers of the Treasury to settle and adjust the claim of Ephraim Hunt, of the State of Maine, for bounty and pay for service, as a private in the Army of the United States, from the 25th of September, 1813, to the 14th of September, 1815; and to allow and pay him the same bounty and the same pay as he

would have been entitled to had he been regularly discharged.

Mr. KING. I should like to hear the report in that case.

The Secretary read the report made by Mr. POLK on the 1st of February, from which it appears that the claim is for the pay and bounty alleged to be due to the petitioner for services as a soldier in the war of 1812. In December, 1812, Mr. Hunt enlisted at Topsham, Maine, as a private, in the service of the United States, as a volunteer for one year, and went, with his company, to Plattsburg, New York. He remained in the service until the 25th September, 1813, when he re-enlisted into Captain Buck's company, United States Army. This enlistment, according to his own affidavit, and the affidavits of John Dusten and Daniel Greenlee, who swear that they were present at the time of the enlistment and personally cognizant of the fact, was distinctly stated and understood at the time to be for "during the war," and not for "five years." It was, however, held by the officers to be for five years. He continued in the service until the 14th September, 1815, when, the war being closed, he claimed that his term had expired, and requested his discharge, which he was refused on the ground that the enlistment was for five years.

Believing, as he says, that he had faithfully served out his term of enlistment, he left the Army without his discharge, and without having received either his bounty or any pay for the time he had served. The accounting officers decided, on his application for pay, that he had forfeited all claim on the Government by the act of desertion. He is now in necessitous circumstances, advanced in years, and deprived of the use of his hands by the loss of his fingers; and prays that Congress will cause his pay and bounty, for services rendered in fighting the battles of his country in time of war, to be allowed him. The committee are of opinion, from the evidence presented, that when he enlisted it was his understanding and intention to enlist for the period of the war, although, by some error, he was enrolled for five years. That upon the termination of the war and the restoration of peace to the country, he thought he had faithfully complied with his engagement, and, under that belief, he left the Army. The committee do not intend to sanction or excuse the course he adopted, but think he should have remained in service until he could have obtained his regular discharge; still, under the peculiar circumstances of the case, and in view of faithful services rendered during the war and till some time after its close, they are of opinion that the Government ought not to withhold from the old soldier the small pittance to which his previous patriotic services had entitled him.

The bill was reported to the Senate, ordered to be engrossed for a third reading, was read the third time, and passed.

JOHN B. HAND.

Mr. BROWN. I ask the indulgence of the Senate to take up a bill of some half a dozen lines, for the relief of John B. Hand.

There being no objection, the bill (S. No. 136) for the relief of the heirs of John B. Hand was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to them \$1,340.

Mr. KING. There is a report, I suppose, in that case. I ask that it be read.

The Secretary read it, as follows:

The Committee on Indian Affairs, to whom were referred the petition and papers of John B. Hand, of Mississippi, make the following report:

Mr. Hand became the purchaser of certain Indian reservations under the treaty of Dancing Rabbit Creek, and paid to the Indians, according to contract, fifty cents per acre for the land so purchased. Afterwards, the President of the United States (General Jackson) directed the patents to be withheld until said Hand should pay an additional sum of seventy-five cents per acre. This Hand agreed to do. In December, 1838, A. A. Kincannon, Esq., was appointed an agent by the President to investigate, adjust, and settle the matter in dispute, growing out of the purchase of these reservations. To this agent, Hand paid the additional seventy-five cents per acre, and Kincannon reported the payment to the Department. He failed, however, to account for the money, and subsequently died insolvent. The Department refused to acknowledge the validity of the payment, and required Hand again to pay seventy-five cents per acre for the land, which he did, protesting that it was unjust. The official correspondence exhibits the facts that Kincannon was the agent of the Government; that he received the money, a part on the 6th of February, 1840, and the balance on the 22d of February, 1841, and that no ob-

jection was made to its reception until March, 1843. Then, for the first time, the Secretary of War notified the agent that the currency in which the payment was made had depreciated, and that the Government would not receive it. The committee think the last payment was improperly demanded, and report a bill for the relief of the petitioner.

An official letter from the Commissioner of Indian Affairs is appended to this report, as follows:

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS, February 11, 1858.

SIR: In respect to the claim of the heirs of John B. Hand, deceased, to have refunded to them the sum of one thousand three hundred and forty dollars, (\$1,340), that being the aggregate amount paid on the 6th of February, 1840, and the 22d of February, 1841, to Colonel Andrew A. Kincannon, commissioner appointed to certify Choctaw contracts for the sale of their reserves under the treaty of 1830, and which money was never paid into this office by Colonel Kincannon, I have the honor, in compliance with your request, to state as follows:

I find, upon examination of the papers in the cases of "Louie," "Kashanohla," and "Nahomastubbee's" reserves, under the nineteenth article, and "Hop-can-che-hubbee," under the supplement to the above-mentioned treaty, that Colonel Kincannon acknowledges, in his report and letters, the receipt of the following sums from John B. Hand, the then claimant by purchase from the original grantees, being the amounts necessary, in addition to the sums satisfactorily shown to have been paid, to make up the minimum price of \$1 25 per acre, viz:

1. For Louie's reserve, in addition to the \$240 proved to have been paid.....	\$160
2. For Kashanohla's reserve, in addition to the \$100 proved to have been paid.....	100
3. For Nahomastubbee's reserve, in addition to the \$80 proved to have been paid.....	120
4. For Hop-can-che-hubbee's reserve, in addition to the \$640 proved to have been paid.....	960
Total.....	\$1,340

This money having been paid in a depreciated currency, the Secretary of War decided, in March, 1843, that, as a condition precedent to the approval of the deeds, the purchasers, or their assignees, should pay into this office, in specie or its equivalent, the several sums above named, as required by Colonel Kincannon under the decision of President Jackson that Choctaw Indian reserves should not be sold below the minimum price of \$1 25 per acre.

To enable the purchasers to comply with this requirement, Colonel Kincannon was requested to return the money deposited with him to the depositors; and on the 10th of March, 1843, he acknowledged the receipt of the letter communicating the Secretary's decision, promising to attend to the matter without unnecessary delay; but notwithstanding this promise, nothing further was ever heard from him on the subject, and it is now understood that he died several years ago entirely insolvent.

The heirs of John B. Hand, therefore, in compliance with the requirements of the Department, paid the money into this office, through their attorney, John J. McKee, Esq., and the deeds were approved by the President on the 1st of March, 1845, as follows:

The sale of the northeast and northwest quarter of section seventeen, three, fifteen east, being the land reserved to Louie, to James B. Trotter.

The sale of Kashanohla's reserve (the southeast quarter of section six, three, fifteen east,) to Joseph B. Earle and Thompson; and

The sale of Nahomastubbee's reserve (the southwest quarter of section eight, three, fifteen east,) to Joseph Kemp—the patents, in each case, to issue in the name or names of the original purchasers, in trust for the legal representatives of John B. Hand, deceased.

The sale of Hop-can-che-hubbee's reserve, which was located on sections seventeen and eighteen, and lots one and two of section twenty, in township three, of range fifteen east, to Joseph B. Earle, was also approved on the same day, with the proviso that the patents should issue to Earle in trust for the use of the legal representatives of John B. Hand and Colonel Alexander Trotter, according to their respective legal rights under conveyances from Earle.

The petition of James M. Hand, and the accompanying papers, are herewith returned.

Very respectfully, your obedient servant,

CHARLES E. MIX,
Acting Commissioner.

Hon. A. G. Brown,
Committee on Indian Affairs, United States Senate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

KANSAS—LECOMPTON CONSTITUTION.

Mr. HUNTER. I gave notice yesterday that I would submit a motion this morning that, from and after to-day, we should have a recess from four to six o'clock. Since that time I have been assured, by gentlemen on the other side, that, in their opinion, it will be unnecessary, and that we shall be able to get the question next week without it. Certainly, if we can get the question as early as Thursday of next week, without this motion, it will be much better for us all; and I shall be willing to withdraw the motion. If gentlemen on the other side think we can take the vote by that time, I will withdraw the motion.

Mr. WADE. I do not know but that the Senator alludes to a conversation he had with me on this subject. I should not wish it to be understood that it was my opinion that we certainly could get through, in the ordinary course of de-

bate, perhaps in all next week. I should not like to say that there was any particular time in which we should get through. All I would be willing to promise is this: that I think there is no disposition upon this side of the House to prolong the time unnecessarily. But this question is deemed of exceeding great importance on this side of the Chamber, and we think we ought to have a right to debate it the usual time in which debates have generally been had here, without being crowded particularly into unreasonable hours. We see no reason for that. No reason has been assigned, on the other side, why there is any very great haste on this subject. We certainly have not been very diligent this session, so far. I believe we have never sat here, during this session, but on one single Friday, but have constantly adjourned from Thursday over to Monday. The exception was on the occasion when the Treasury note bill was under consideration. On every other occasion, I believe, we have supposed that we were not very hard pressed for time to do all the business. Now, sir, what is the exigency that demands any extraordinary exertion on this present occasion? This a great question—

Mr. GREEN. I rise to a question of order. There is no proposition before the Senate. I call for the order of the day.

Mr. SLIDELL. Let us have this motion about a recess settled.

The VICE PRESIDENT. The point of order is well taken. The Chair calls for the special order. There is no proposition before the Senate. The Chair was indulging remarks because no Senator objected to them.

Mr. WADE. I do not wish to prolong any argument. I only wish to set myself right as to the conversation I had with the gentleman from Virginia. I should not like to say on what particular time the question can be had. I can say for myself that I claim the right to speak in behalf of the people of Ohio on this floor upon this question, and I claim, too, that I ought to have the same right to do it at a seasonable hour that other gentlemen have had; and that we ought not to be crowded into an unreasonable hour. If there was any particular exigency that required it, I should yield to any reason that could be urged; but I see none. I propose to spend, however, only a very little time on the question myself.

The VICE PRESIDENT. The Chair calls for the special order, which is the bill for the admission of Kansas into the Union.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. POLK. Mr. President, a constitution and State government have been formed in the Territory of Kansas; and Kansas having tendered to her constitution, asks admission into the Union. The birth of a new State into the great American family is an event of profound concern, not merely to the patriot statesman, but to every reflecting mind in the nation. But there are good reasons, sir, why I, as one of the Senators from Missouri, should feel a special interest in the admission of Kansas. She, as well as my own State, is a part of that Louisiana ceded by France to the United States. The treaty of cession guarantees to Kansas, as well as to Missouri and the other States to be formed out of that territory, admission into the Union on an equal footing with the original States. Kansas is in the nearest neighborhood of my own Missouri, stretching for the whole length of her eastern boundary coterminously with the western limit of Missouri, and separated from her, by only an imaginary line, from the Missouri river on the north to her uttermost southern extremity. Are there any good reasons why we should not admit her? If so, what are they? Has she not the requisite population? All concede that she has. No one raises an objection on this ground. Do not her people desire to be admitted? There can be as little question on this point. No party, and as far as I know, no person, in Kansas has opposed her admission, for the reason that the people prefer that she should continue to occupy a territorial condition. Even the disorganizers there, the opponents of the party who favor the constitution now before Congress, the opponents of order and of law, and of the Democratic party, had themselves, before the Kansas constitutional convention assembled at Lecompt-

ton, assumed to form a State constitution at Topeka, and had actually presented it to Congress, and asked to be admitted as a State of the Union under it. Of course, the party which has presented the Lecompton constitution as the organic law of the Territory are in favor of the admission of Kansas as a State. Hence all parties and all individuals are in favor of Kansas coming into the sisterhood of States.

One other question, and only one, remains to be settled. Is the constitution before us republican in its form? I know of no one, unless it may be the Senator from Connecticut, who maintains that this constitution is not republican in form. That I consider a conceded point.

Thus, Mr. President, the whole case is presented in a nut-shell. The Territory of Kansas seeks to be admitted into the Union as one of the equal confederate States. She has the requisite population. Her people desire to be admitted; and her constitution meets the only demand of the Constitution of the United States. It is republican in form; yet her admission is opposed. It is resisted by argument, by denunciation, by strategy, by all the means that can be brought into requisition, "*per fas et per nefas*." As Senators, realizing the importance of the questions involved, and the momentous consequences that may be at stake, and penetrated with a sense of the responsibilities under which we are acting, let us examine the case fully, fairly, and dispassionately.

The constitution before us is the deliberate, formal, and solemn act of a convention chosen by the people of Kansas Territory, for the express purpose of making it. That convention was the result of a series of acts of the people, done under all the solemnities and all the forms of law; done, not all at once, but at regular and proper intervals; not in hot haste and without time to examine and reflect, but with sufficient time, at each successive stage of the proceedings, to enable the people to ascertain all the facts, and to weigh their consequences and bearings, and then to judge of every step and its tendency, before taking it.

Sir, let us look at these successive steps. The sense of the people is first taken as to the propriety of forming a constitution and State government. This was done by taking a vote of the people, at the polls, by a regular election, with all the forms and sanctions and officers proper to elicit a true expression of the popular will. This election was held in pursuance of a statute law, passed by the Territorial Legislature, acting under the authority, and according to the forms, of the organic act. This law was passed at the July session of the Territorial Legislature, in the year 1855; and the sense of the people was taken in compliance with it, on the first Monday of October, 1856—a year and a quarter thereafter. There was, therefore, full time given them for reflection, and for the formation of deliberate opinions. Not hasty, not precipitate, but calm, and fair, and temperate, and even slow. This vote of the people to express their opinions on the propriety of forming a constitution and State government for themselves, was not taken at a special election, at which only a few voters might have turned out to the polls; but it was fixed on purpose, at the same time and place as the general election for members of the Territorial Legislature and the other territorial officers. Thus, it was so ordered and ordained that there might be the fullest possible turn out of the people, and consequently the fairest utterance of the popular voice. That the popular will was fairly expressed by this election, I hold to be beyond doubt. No one can successfully impugn it. In the mean time, in the October preceding this election and next after the passage of the law for it, there was an election holden for a Delegate to Congress, from the Territory, which had the effect to fix the attention of the people upon this constitutional election.

Now, the next step in the progress of events: three months after it transpired, the result of this election for testing the sense of the people upon the question of forming a constitution and State government comes before the Territorial Legislature for their consideration and action. Time enough had intervened for the result to be known in every log-cabin in the Territory, and indeed throughout the whole country. This very Legislature had been chosen by the people, with the clear knowledge, on the part of both constituent

and delegate, that the result of the election therefore held to test the sense of the people upon the expediency of a change from a territorial to a State government would come before it. The Legislature enter upon the consideration of the subject. Every member has had long time to inquire into all the circumstances of the election—its legality and significance; and after abundant time for deliberation—for they met on the first Monday of January, and acted on the 20th of February—they bow to the will of the people, and provide for the election of delegates to a constitutional convention. For this purpose they pass a statute law. In the mean time—in 1856—the matter of passing a law for directing the people of Kansas as to forming a constitution and State government had been before Congress, and a bill for the purpose, known as the Toombs bill, had passed the Senate of the United States. This Legislature, in deference, it would seem, to the views of the Senate of the United States, pass an act providing for the election of members of a constitutional convention, which it is conceded on all hands embodies the main provisions of the Toombs bill, especially in the matter of the registration of voters. And it establishes a liberal standard of qualification for voters. It fixes the day of election on the third Monday of June, 1857. Thus there is an interval of four months between the passage of the law and the day of the election—a period long enough for making all the necessary preparations—for complying with all the requirements of the law, for bringing out candidates and canvassing their merits before the people—long enough for full investigation and intelligent voting.

The meeting of the convention is appointed for the 4th of September, 1857. A three months' interval is given between the day of the election and the session of the convention—an interval all-sufficient to enable any person who might desire to do so, to contest the seat of any member who may have received a certificate which he was not entitled to; and giving the members elected ample opportunity for preparing themselves to discharge well the responsible trust committed to them by their sovereign constituents. Contrast this with what transpired in Minnesota. (I do not by this mean to say that I am opposed to the admission of Minnesota into the Union.) There they elected delegates to a convention; and these delegates, when assembled, first determined by vote whether it was the wish of the people to be admitted into the Union. Yes, sir, on this first step of the procedure, the will of the people was determined by these delegates; and then these very delegates immediately proceeded to form a State constitution. What a contrast does this present in favor of Kansas! The great primordial question, whether they wished to come into the Union at all or not, under any constitution, and which must necessarily precede the formation of a constitution, is determined—how? Not by the people themselves, but by these delegates. To the people of Minnesota this question was never submitted for a direct vote. In Kansas it was. If it was necessary in the case of Kansas that the whole constitution should be submitted to the people at the polls, was it not equally necessary, in the case of Minnesota, that the question of whether they would have a State constitution at all, or not, should have been submitted to the people? In Kansas they submitted to the vote of the people the question whether they wished to come into the Union. In Minnesota they did not. In Minnesota they submitted the whole constitution to a vote of the people. In Kansas they submitted only a part—but that was the single and vital question before the people. The convention of Kansas met and framed a constitution. They made provision for submitting to the people, by direct vote, whether they would tolerate slavery by their constitution. That question was so submitted on the 21st of December last, according to the provisions of the constitution itself; and it was decided by an almost unanimous vote, and thus indisputably settled.

Mr. President, when we view these proceedings of the people of Kansas in forming for themselves a State constitution, in the successive stages of their development—not from the low arena of partisan strife and passion, but from the elevated stand-point of the patriot, who reveres the sovereignty of the people and loves representative lib-

erty—liberty reposing on written constitutions and regulated by law, what a majestic spectacle is presented! The people marching forward in stately pace to the accomplishment of their purpose, with a movement as grand as the lapse of the tide or the travel of a planet.

This Kansas constitution, so formed, is now before us, conformably to the Constitution of the United States; and the nascent State prays to be admitted into the Union as one of the equal States of our glorious Confederacy. What its several provisions are, it is not for Congress, under the Constitution of the United States, to inquire, beyond the single question, is it republican in form? If inquired into, however, it will be found to be quite as unexceptionable as the constitutions of most of the States of the Confederacy. And, sir, if it did not contain an article tolerating slavery, I apprehend it would have passed without challenge from most of the persons throughout the land who are now raising the most vehement clamor against it.

But, objections are urged here against the admission of Kansas under this constitution, because, as it is alleged, there have been irregularities in some of the proceedings which preceded its adoption. And Senators, Mr. President, who have embarked with great zeal in this enterprise of opposition, and of consequent agitation in Kansas, and throughout the country, have fallen, in my judgment, into flagrant errors of fact and of theory, and, of course, have been led to conclusions most fallacious.

The Senator from Maine seems to have spoken against the admission of Kansas, under the mistaken impression that the delegates to the Lecompton convention were elected under the operation of a test oath; that persons were precluded from voting for them, unless they would do violence to their consciences by swearing to support the fugitive slave law. Sir, I don't understand how a man's conscience can be violated by assuming upon it the obligation to do only what the Constitution of his country imposes upon every one of its citizens as a sacred duty. That Constitution expressly declares that "persons held to service in one State, escaping into another, shall be delivered up on claim of the party to whom such service may be due."

But, sir, the Senator is grievously mistaken. The law providing for the election of delegates to the constitutional convention, ordained in its eleventh section that—

"Every bona fide inhabitant of the Territory of Kansas, on the third Monday of June, 1857, being a citizen of the United States, over the age of twenty-one years, and who shall have resided three months next before said election in the county in which he offers to vote, and no other person whatever shall be entitled to vote at said election."

These, sir, are all the qualifications the voters for delegates to the convention are required to possess. The act of the 20th February, 1857, fixing the qualifications for voters in all other elections, expressly excludes from its operation the election of delegates to the constitutional convention, though its standard of qualifications is exactly the same as that just given, except, only, that a residence of six months is required instead of three; and this law repeals all the laws referred to by the Senator from Maine as requiring "test oaths," as he termed them. And so it was expressly held by Governor Walker in his opinion published by him officially to the people of the Territory with reference to this very election.

Another Senator has told us that the sheriffs and probate judges, whose duty it was to make the enumeration of the voters for the purposes of the election of the members of the convention, were selected by the first Legislature. He then assumed, against the facts and the truth—as I will show—that that first Legislature was illegally elected; and concluded that the convention was, therefore, a fraudulent one. Sir, any such a conclusion is unwarrantable, even if it had been true that this first Legislature elected the sheriffs and probate judges. For, I hold, first, that it is the very essence of all uncharitableness to pronounce men dishonest and fraudulent knaves, (as this charge does, the sheriffs and probate judges,) against whom not a particle of proof is produced to condemn them. Again, it is the verdict of common fairness, I do not say charity, that every officer intrusted with the discharge of a legal duty, and sworn to its performance, has discharged that duty fairly and impartially. Sir, even the stern law,

which knows neither mercy nor compassion, presume that every officer has faithfully discharged his legal duty. Would the Senator have had the first Legislature create these offices and leave them without incumbents until a popular election could be held? On the contrary, it was clearly their duty to have filled them, as they did. But, sir, before the election of delegates to the constitutional convention, and at the very next Legislature after the first, and at the very earliest moment at which it could be done, these offices were made elective by the people.

Mr. President, almost every gentleman who has either spoken or written in opposition to the admission of Kansas on the Lecompton constitution, both in and out of the Senate, and including both the actual Governor Walker and the acting Governor Stanton, seems to have labored to produce the false impression that about half of the legal voters in Kansas were disfranchised, and not allowed to vote for delegates to the convention for want of a registration of their names. When this had been substantially affirmed, on a former occasion, in the course of the debate on Kansas affairs, and when a semblance of verity had been assumed for it, by quoting the declaration of Governor Walker, and asserting that it had not been denied, I then took occasion to dissipate the untruthful inference by proving that the statement had been denied by gentlemen of respectability, both in the Territory and out of it; and among them, two of the members of the Lecompton convention itself, and also the Democratic candidate for Governor at the late election for State officers. And when that statement of facts presented by me had swept from under him the foundation upon which he had built up a charge of fraud in the election of members to the constitutional convention, the Senator from Michigan said that "there was but one reason for requiring a registration of voters in the election of the members of that convention," and that was, that under a show of fairness they might defraud the people, and the result had justified the prediction." And yet he admitted that the Kansas Legislature had taken the provisions of the Toombs' bill, and conceded that the provisions of that bill were wise and good. To show I do not misrepresent him, I read the paragraph of his speech on this point:

"It was perfectly clear to me that that Legislature had taken the provisions of the Toombs' bill, which was to be executed by men appointed by the President and confirmed by the Senate of the United States, whose character should be such as to secure an honest exercise of its provisions, and the provisions of that bill were designed for the purpose of excluding all who were not actual inhabitants and residents of the Territory."

Indeed, so highly did the Senator think of the excellence of that bill that he voted for it here in his place. I wonder if he then thought that the provisions of that bill might be used "to defraud the people." I wonder if the same provisions that were wise and good in the Toombs' bill can be any less so in the act of the Kansas Legislature. I read another extract:

"But, sir, there is an additional fact stated in that newspaper extract which goes to show either that those gentlemen did not understand the subject, or did not intend fairly to present it. It is this: that if anybody was aggrieved in that Territory they could apply to the Governor for redress, in regard to the registration of votes. There is not a single word in the law that authorized the Governor to act at all, and he had no more power to act in that case than I had."

This is strong language—strong assertion—Mr. President.

Let me now call the attention of the Senate to the provisions of that law. Its second section is as follows:

"In case of any vacancy in the office of sheriff, the duties imposed on such sheriff by this act shall devolve upon, and be performed by, the judge of the probate court of the county in which such vacancy may exist, who may appoint deputies, not to exceed one in each municipal township; and in case the office of both sheriff and probate judge in any county shall be or become vacant, the Governor shall appoint some competent resident of such county to perform such duty, who shall have the same right to appoint deputies, take and subscribe the same oath, and perform all the requirements of this act, as applied to sheriffs."

Sir, I forbear any remark, further than to inquire which is nearer the truth, nearer the very letter of the section just read, that "newspaper extract," as the Senator termed it, or the Senator's asseveration?

Let me here say, Mr. President, that since I read the statement in question, in regard to the fifteen counties in Kansas Territory attached to other counties for civil, and, of course, for elec-

tion purposes, I have been able to get access to the laws of Kansas. And I find that that statement—that "newspaper extract"—is in the very words of the thirty-fourth section of the act of 20th February, 1857, which is as follows:

"The counties of Weller and Richardson are hereby attached to the county of Shawnee.

"The counties of Madison, Butler, and Wise, are hereby attached to the county of Breckinridge.

"The county of Coffey is hereby attached to the county of Anderson.

"The county of McGee is hereby attached to the county of Bourbon.

"The counties of Greenwood, Hunter, Dorr, Wilson, Woodson, and Godfrey, are hereby attached to the county of Allen.

"The county of Brown is hereby attached to the county of Doniphan.

"The county of Davis is hereby attached to the county of Riley."—*Acts of Kansas Territory, 1855, p. 163, sec. 34.*

But, sir, if we look at one of the exhibits accompanying the report of the Committee on Territories, we find that the Territory of Kansas was divided, for the purpose of this election, into eighteen districts. What else do we find? Why, that of these eighteen districts, there were only four in which there were no returns of the enumeration of voters. There were returns from every other district. We further find, that there were twenty-one counties represented; so that it took the whole number of the counties unrepresented to constitute four out of the eighteen election districts. Of course the population of these counties must have been exceedingly sparse. The fact is, that three of them, as has been already said—Clay, Dickinson, and Washington—are without inhabitants down to this present speaking. The four most populous of these counties were Anderson, Allen, Franklin, and Breckinridge. In the three first named, the rebellious Abolitionists prevented the census being taken by force and threats; and in Breckinridge, the judge of probate, being an Abolitionist, refused to execute the law. Anderson and Franklin severally constituted each one election district. This disposes of two out of four of the districts unrepresented; and as to the two others, it is sufficient to say that, to the county of Breckinridge, where an Abolitionist probate judge refused to act, were attached, for election purposes, the counties of Madison, Butler, and Wise; and to the county of Allen, in which Passmore Williams, the judge of probate, was not allowed to take the census, but driven out by the Abolitionists, were attached the counties of Greenwood, Hunter, Dorn, Wilson, Woodson, and Godfrey. What, then, becomes of the assumption that half of the voters of the Territory were disfranchised, and that by no act or default of their own?

It has been moreover said that this first election of a Legislature in Kansas was carried by illegal means—by frauds and violence—and that consequently that body was an illegal body. He who makes such an assertion ought to stand ready and able to prove it. The proof has not yet been produced. Can it be produced? I maintain that it cannot be. By the organic act, the Governor was empowered to declare who was elected, and to give certificates of election. Accordingly, he gave certificates to seventeen out of twenty-six members of the House, and refused them to nine. Of the members to the Council, he declared nine elected, and refused certificates to four. A new election was ordered by the Governor to fill these vacancies; and two of the members of the House and two of the Council, whose election had been set aside by the Governor, were reelected by the people, and he gave them their certificates. There were seven contested cases in the House, and two in the Council. All of the members, both of the Council and the House, attended at the time and place of the meeting of the Legislature. The two Houses passed on the questions of the contested seats in them respectively. They were the sole judges of the election and qualifications of the members of their respective bodies; and from their decision there was no appeal. This is as old as parliamentary law, and is one of its elementary principles. That decision, therefore, was final and conclusive; and accordingly it was submitted to and acquiesced in, both by the Governor and the contestants. The question, therefore, is forever closed, and it is too late to attempt to except to what has been done. But, sir, who ever heard of one legislative body claiming the power of passing on the election and qual-

ifications of the members of another one? To my mind, the assumption of such a power is a monstrous proposition. What right has Congress to pass upon the election or qualification of the members of the Legislature of Kansas? None in principle, none in parliamentary law, none in the act organizing the Territorial Legislature.

Mr. President, I have looked into the voluminous House document that has been referred to in this debate, containing the evidence taken by the committee raised to investigate Kansas affairs. The census was completed in February, a month before the election. There were 2,905 legal voters registered. From the southern States there were 1,670, and from the northern 1,018, and from other countries 217; there was a majority, therefore, from the southern States, over and above those from the northern States, of 652, and over and above all other voters, of 435. The men from the southern States had the numbers, therefore, of registered voters in the Territory to carry this first election over all opposition and combinations.

Again, there were fourteen representative districts. In eleven of these, there were majorities of registered voters from the South, and majorities from the North in only three. And the majorities of the voters from the South in these eleven districts would give twenty-one members, while the majorities from the North in the remaining three would only give five members.

There were ten Council districts. Of these, there were majorities from the southern States in eight, while there were majorities from the northern in only two. And the majorities from the South in these eight Council districts would give ten out of the thirteen members of the Council, leaving only three for the North. I cannot take time, Mr. President, to make this demonstration more full. For a complete analysis of all the facts of this first territorial election, I refer to the masterly *expose* of the whole subject by the Hon. A. H. STEPHENS, made in the other end of the Capitol, on the 31st of July, 1856.

In such a condition of things, why talk of Missourians going over to Kansas in order to vote and carry this election? Sir, there was no necessity for any such thing. It would have been a work of absolute supererogation. There were pro-slavery men enough there already to carry the election overwhelmingly.

The Senator from New Hampshire [Mr. HALE] admitted that the Missourians did not resort to fraud to carry the election. But he said that they marched over as an invading army and took possession of the polls, and so usurped the government of the Territory. And this has been repeated so often, and in so many forms of expression, that it would seem that Senators think to practice upon the credulity of the country, and to compel credence by pertinacious reiteration—vainly dreaming that falsities may be made to pass for truths by plausible and unceasing repetitions of them.

A sufficient and conclusive answer to all such charges, for all time to come, is the simple statement of the fact that there was no necessity for any such action; for the pro-slavery party, as it has been called, had already a controlling majority of the voters of the Territory.

But, sir, I make bold to assert that there can be no proof adduced to make good the charges. In the mass of evidence taken by the House committee, in 1856, there is not a single witness who swears that a single voter, in any single precinct, in any single representative or council district, was prevented from voting by any single Missourian, or any number of them. They were there with arms, it was said; but they made no aggression or attack upon anybody. It was strikingly a peaceful election—not interrupted by fights or violence. In that respect it contrasted well with similar occasions in some of the oldest of the States in the Union. The electors may have been at the polls, in some instances, in their wagons and with their rifles, their inseparable companions. To the mercenaries sent out by emigrant aid corporations, from the cellars and alms-houses and tombs of the great New England cities, this may have seemed strange and even alarming; but to those accustomed to frontier life, in a new country, it is known to be common and habitual.

I propose, Mr. President, to examine for a moment, the circumstances attending the election of

the first Legislature in Kansas. Previous to the passage of the Kansas-Nebraska act, on the 30th of May, 1854, the settlements of Missouri had pressed up against the boundary of the unopened Territory, until an almost unbroken length of fences and farms marked the line for long miles of its course. The neighboring population were ready to pour in and occupy the land so soon as the Territory should be opened to settlement. And immediately upon the passage of the act, they did immigrate into the Territory. They "staked out their claims" and commenced their improvements. They built houses, made inclosures, and began to plow and to plant. During the fragment of this first season, many of them had not been able to make crops, nor surround themselves with warm houses, necessary to enable them to endure the rigors of an inclement winter on the inhospitable prairies of Kansas. They sought a temporary winter shelter in Missouri. They had, however, in most cases domiciliated themselves in Kansas, and when they left it, they left it "*animo reverendi*." So soon as the water should flow and the grass should grow in the spring, they intended to return to complete their houses and farms and to abide in their permanent homes. Sir, Mr. Webster, speaking eloquently in the language of filial veneration for his own revered sire, said of him, that in order to raise his children to a condition better than his own, he had moved up into the border settlements of New Hampshire so far that there was not a human habitation between the smoke that curled from his humble home over the frozen hills of the North, and the far off settlements of Canada. These fathers of families had gone into Kansas urged by the self same desire to improve the condition of their offspring, to raise their children to a condition better than their own. They went under the promptings of the better instincts of our nature, and in the same manner as these promptings have carried immigration into the other Territories that have grown into States.

Now, in contrast with such settlers, look at the emissaries sent into the Territory for political purposes by the Abolition fanatics. So soon as the first steamers began to navigate the Missouri river in the early spring, the dwellers on its shores were surprised to find their decks and cabins crowded by the New England immigrants making their way into Kansas with nothing but black carpet sacks in their hands, containing all their worldly goods. It was too early to go into the Territory in the way of ordinary settlement, and it was matter of wonder to see these immigrants pushed into this new and unsettled region in such crowds, and in such premature haste, before there were provisions there to feed them, and when all their supplies must be furnished from abroad. But, on inquiry, it was ascertained that Governor Reeder had issued his proclamation for the election of the members of the Territorial Legislature for the unusually early date of the 30th of March. This proclamation had been published in the East and northeast long before anything was known of it in Missouri or Kansas. The men who had been shipped into Kansas by associations organized and endowed for the express purpose, were among the first to bear the intelligence to the citizens of the borders of Kansas and Missouri. Sir, the Senator from Vermont [Mr. COLLAMER] well said of these men, "*they went there to vote, and they staid there to vote*;" and he might also well have added that they staid there, many of them, no longer than to vote, and then came away forever.

To the citizens of Kansas who had settled there from Missouri this looked like a deliberate purpose to disfranchise them. They determined to defeat the consummation of the foul plan. Accordingly those of them who had temporarily left their homes, at once returned, in order to secure themselves against this outrage upon their rights. The party with which they acted had a majority of the qualified voters, and triumphed at the election. The men who had been hurried into the Territory by aid societies, who could not be trusted to manage their own removal, but who had to be sent under the conduct of overseers specially appointed for the purpose, and who had boasted, as they passed through Missouri, that they were flocking into Kansas in order first to abolishize that, and then to overrun Missouri, were disappointed in their unpatriotic designs. And then the plotters, foiled in their efforts, set up a shriek

for bleeding Kansas, which has been retched by anti-slavery fanatics until the clamor has reached the remotest hamlet of the land.

After awhile these operators changed their tactics, and instead of sending their instruments into the Territory with black carpet sacks, they sent them with Sharpe's rifles and Colt's revolvers, and bowie-knives, and artillery. The armed invader was substituted for the unarmed hireling; and these were sent into the Territory in bands and companies, armed and equipped for the most desperate enterprises. One such company, two hundred and forty strong, came down into the Territory through its northern border, organized with military officers and discipline, and with all the equipments of a military camp.

But, in spite of all this original wrong, and of the lawlessness and rebellion which followed it, fortunately for the welfare of Kansas, the law and order party there, by their forbearance, their fortitude, their numbers, and their character, were able until the close of the labors of the Lecompton convention, to maintain and preserve the supremacy of the legal government in that Territory. The dominion of law and of legitimate authority there has produced and presented to Congress a constitution for Kansas.

Now, Mr. President, I understand the Senator from Vermont to concede, that if there was authority for the action of the Lecompton convention, then the constitution framed by it is binding, and that the vote cast on the 21st of December last was decisive and conclusive.

I do not stop to controvert or to discuss his distinction between "legal" and "authoritative." I think it is manifest, from what I have already said, that that constitution was authoritative. But how does the Senator undertake to prove that it is not authoritative? By maintaining, first, that the unlimited sovereignty of the Territory is in Congress; and, therefore, secondly, that the Territorial Legislature could take no step towards forming a constitution and State government without an enabling act; and then, that Congress had passed no enabling act.

Sir, it will not be questioned that the sovereign power of the Territory could form a constitution for its people. The sovereign power is the highest power; and if there is any power higher than the power to form a constitution and State government, I would like to be told what it is. I know of no better definition of sovereignty than that it is the power of forming a constitution and government for a people. If, therefore, Congress has the actual and present sovereignty over the Territory, it follows that Congress could form a constitution and State government for Kansas. That is a position it is useless to controvert. I do not understand anybody to assert it. It is against the very letter of the Federal Constitution. Even the power in Congress to establish a temporary territorial government is only inferential and by implication, not expressly granted. Anything beyond this, is utterly without warrant in the Constitution. The postulate, then, on which the Senator builds up his argument fails, and of course his whole effort to prove the Lecompton convention, and the constitution ordained by it, not to be authoritative, must, of necessity, fail also. That authority remains still untouched.

Sir, the State government which is to supersede a territorial organization, can be formed only—first, by the Congress of the United States; or, secondly, by the people of the Territory themselves. I have already shown that Congress cannot form a constitution and State government for a Territory. It follows, therefore, that the people of a Territory, and they only, can perform that high function. And, Mr. President, as citizens of a Government which recognizes the people as the only legitimate source of power—and especially as Democrats—we should never lose sight of the great cardinal truth, that it is the high prerogative of the people of a Territory, and of the people only, to form a constitution and State government. On this point, with all due deference to the Senator from Illinois, [Mr. DOUGLAS,] it is perfectly idle, it seems to me, to talk about the sovereignty of the Territories being "in abeyance, suspended in the United States in trust for the people when they become a State." For whenever a State government is formed—be that when it may—it must be made by the people of the Territory. Sovereignty is not vested in them

after they have become a State, but before. For they exert the highest attribute of sovereignty in the very fact of forming a State government. And though we should concede that before then their sovereignty may have been, as it were, in adolescence; still, before that act is achieved, it has attained the maturity and perfection of its growth. It has been upon the recognition of this fundamental truth of our American political science, that a majority of the new States have been received into the Confederacy. The instances in which enabling acts have been resorted to, are the exceptions which establish the rule.

But, Mr. President, it seems to me that even those whose opinions differ from my own on this point, must be convinced, on examination, that the people of Kansas needed no authorization to form a State government beyond the Kansas-Nebraska act. This is the opinion of the President of the United States, as announced in his instructions to Governor Walker, and in all his messages to Congress touching Kansas. It is the opinion of Governor Walker often repeated. In the same opinion, too, Mr. Secretary Stanton concurs. And the Senator from Illinois, himself, on the 12th of June, 1857, at the capital of his State, spoke as follows:

"Kansas is about to speak for herself through her delegates, assembled in convention to form a constitution, preparatory to her admission into the Union on an equal footing with the original States. Peace and prosperity now prevail throughout her borders. The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every *bona fide* inhabitant the free and quiet exercise of the elective franchise. "If any portion of the inhabitants, acting under the advice of political leaders in distant States, shall choose to absent themselves from the polls, and withhold their votes, with a view of leaving the free-State Democrats in a minority, and thus securing a pro-slavery constitution, in opposition to the wishes of a majority of the people living under it, let the responsibility rest on those who, for partisan purposes, will sacrifice the principles they profess to cherish and promote. Upon them, and upon the political party for whose benefit, and under the direction of whose leaders they act, let the blame be visited of fastening upon the people of a new State institutions repugnant to their feelings, and in violation of their wishes. The organic act secured to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitation than that which the Constitution of the United States imposes. The Democratic party is determined to see the great fundamental principle of the organic act carried out in good faith. The present election law in Kansas is acknowledged to be fair and just. The rights of the voters are clearly defined; and the exercise of those rights will be efficiently and scrupulously protected. Hence, if the majority of the people of Kansas desire to have it a free State, (and we are told by the Republican party that nine tenths of the people of that Territory are free-State men,) there is no obstacle in the way of bringing Kansas into the Union as a free State by the votes and voice of her own people, and in conformity with the great principles of the Kansas-Nebraska act; provided all the free-State men will go to the polls, and vote their principles in accordance with their professions. If such is not the result, let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy, and bloodshed in Kansas, that their party may profit by slavery agitation in the northern States of this Union."

Sir, this quotation from the Senator's Springfield speech is pregnant with meaning at this juncture, and bears on the question of the admission of Kansas in many other points than the one just now indicated. If authority, sir, can have any weight on this point, can any man ask for it any higher, or ask for any more? The very first Legislature that ever assembled in Kansas passed an act to take the sense of the people upon the question of forming a State government, and the topic has been before the country from that time to the present; and yet I have, for the first time, during the present session of Congress heard it affirmed that the Kansas constitutional convention "had no power to do any act, as a convention, forming a constitution; and that the act calling it was null and void from the beginning." By the terms of the act, "the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States, and the provisions of this act."

Now, I remark, first, that passing a law to initiate proceedings to erect a Territory into a new State, is consistent with the Constitution of the United States, because that Constitution expressly provides for the admission of new States formed out of the Territories of the United States. Secondly, it is consistent with the provisions of the act. I know it has been argued that the Territorial Legislature could do nothing to destroy itself; but the argument does not apply to this case

for the act itself expressly declares that the government organized by it is to be a *temporary* government. If so, then the act itself contemplates that the territorial government is to have an end put to it; in other words, it is to be superseded by a State government. How, then, can it be inconsistent with the provisions of the act that the Legislature should institute proceedings for facilitating the people in the formation of a State constitution?

The Lecompton convention, then, was not only legal, but it was vested with full authority to form a constitution for the people of Kansas. It was authorized by the Territorial Legislature. It was authorized by Congress. And last, and highest, and chief of all, it was authorized by the people of Kansas. It has made a constitution, and that constitution is authoritative.

But, it is objected that the constitution it made was not submitted—the whole of it—by the convention to the vote of the people. I answer, first, that of the eighteen new States that have been received into the Union, the constitutions of thirteen were never submitted to the votes of their people prior to their admission, while the constitutions of only five were submitted; secondly, of the thirteen original States, the constitutions of not more than a single one was ever submitted to a vote of the people before coming into the Union; and thirdly, the Constitution of the United States was never submitted to the votes of the people of a solitary State preparatory to entering into the national Union; that great act was done, in every instance, by a convention chosen for the purpose; and lastly, the very delegates to the Convention itself, which framed the Federal Constitution, were not elected by the votes of the people of the several States, but were chosen, in every instance, by the Legislatures of the States.

But, sir, what has Congress got to do with this question? Have we any right to reject a constitution made in a legal convention, clothed with full power to act in the premises, because we may not happen to like the manner in which it was made? Under the Constitution of the United States, which authorizes us to inquire only whether the constitution offered to us is republican in its form; have we any right to go beyond this, and to inquire what was the *method* the people saw fit to adopt in making their constitution? Especially, what right have we to set aside the great principle of the Kansas-Nebraska act—non-intervention—and to obtrude ourselves into the affairs of the people of the Territory by objecting to the manner selected by them for framing their fundamental law? This, it seems to me, would be a flagrant violation of the very spirit of the Kansas-Nebraska act. That act declares, in so many words, that "its true intent and meaning is not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." Thus, the people were not only to be left free to form domestic institutions, of whatever kind they might please, but they were to be perfectly free to do this in their own way; that is, they shall determine the mode and manner of forming them, whether it shall be done by the people in mass meeting or through their representatives chosen expressly to that end. Now, sir, shall Congress take upon itself to prescribe the way they shall pursue in forming their domestic institutions by their constitution? Shall we arrogate to ourselves the authority to reject the State because its people have seen fit to adopt a way of forming their constitution which we do not approve?

Further, sir, the delegates constituting the Lecompton convention were the representatives and agents of the people of Kansas, not of Congress, nor of the United States. What right, then, has Congress, on the well-known law and relation of principal and agent, of constituent and representative, to inquire whether those delegates did right or wrong in not submitting their work to the vote of the people? "Who are we, that we should judge another man's servant? To his own master he shall stand or fall." But, sir, we know the fact to be that on this point these delegates faithfully discharged the trust committed to their hands. The people of the Territory had not re-

quired them to submit the constitution they should make to a popular vote. They were willing to give their delegates a commission in the same terms as had been used by the people of more than half of the Territories that had come into the Union as new States, and of every one of the Old Thirteen, in the formation, both of their own State constitutions, and of the Constitution of the United States. And this course was pursued deliberately and purposely. Governor Geary, it is well known, vetoed the bill providing for the convention for the very reason that it did not require the constitution that might be framed by it to be submitted to a vote of the people. It was yet passed, by a two-thirds vote, over his veto. All this was known, not merely to the party sustaining the Lecompton convention, but also to the disorganizers and rebellious recusants. These factionists were more than notified of it. They were appealed to on this very ground by both Governor Walker and Secretary Stanton to come forward and vote for delegates. They were argued with, and entreated—addressed in public and private—in season and out of season. They were warned of the consequences of standing out, and told that a constitution might be formed for them tolerating slavery which they professed so intensely to hate. And now, if they refused to vote after all this, does it lie in their mouths to complain? And if they do complain, has Congress any right, on account of their complaints, to reject an authoritative constitution legally formed, and that, too, against what has been its course and custom in all similar cases—against the express letter and spirit of the Kansas-Nebraska act, and against the plain provision of the Constitution of the United States on the subject of the admission of new States into the Union? The Kansas convention did not submit the constitution, as a whole, to a vote of the people; but it did submit the article on slavery.

I have not time, Mr. President, to stop to explode the shallow sophism that the convention resorted to a trick in the mode of submission, by which no man could vote either for or against the slavery clause without voting for the constitution. No man, it seems to me, can carefully read the schedule on this point without being convinced that this is a mere pretense, (if I may be allowed to use so harsh an expression in this presence,) and more deserving of the epithet of trick than that part of the schedule to which that epithet has been applied.

The article on slavery, sir, was the only part of the instrument about which there was any serious difference of opinion. Has any man ever heard any objection, even from the rebellious Abolitionists in Kansas, against the articles on banks, or taxation, or the qualifications prescribed for Governor, or against any other part of the instrument, except the article on slavery? Who has ever heard any exception taken against its provisions on these subjects, except from the Senator from Illinois? And he frankly admitted that his difference of opinion from the committee on these subjects, would not be sufficient ground for voting against the admission of Kansas. Where was the necessity, then, of submitting to a vote of the people provisions of the constitution about which there was no difference of opinion, and about which a difference of opinion is conceded to be unimportant?

The article in her constitution which was to fix the condition of Kansas as a slaveholding or non-slaveholding State, was the sole point of contest. This was the question that had agitated that Territory from the period of its first organization. Indeed, it was this that had populated her with emissaries sent out by the Emigrant Aid corporations. And this it was that had drawn to Kansas the attention of every section of the entire country. This question was submitted to a fair vote of the people; and that, too, in the fairest mode in which it could be done; that is, it was submitted alone, as an isolated issue. If it had been incumbered with other questions there would not have been so fair an expression of the popular will upon it. A man might have voted for or against the slavery article, in order to reach some other object. And, sir, this submitting a particular provision of a State constitution, as a single question, to be voted on by the people, is no strange proceeding. It has been done in the case of Oregon, whose constitution is now before

this Senate. And it has often been done in other States.

Mr. President, in the estimation of those who profess to consider this action of the Lecompton convention a great outrage upon the rights of the people of Kansas, the people of Indiana must have been most deeply aggrieved by Congress when that State was admitted into the Union; for I am told, by one of her Senators on this floor, that an article establishing slavery in that State was voted out of her constitution by a majority of two votes only; and yet that constitution was never submitted to a vote of the people of that State. Still, she was admitted into the Union as a non-slaveholding State. Sir, when that vote was so very close in the convention, it is altogether possible that the result would have been different if it had been submitted to a direct vote of the people. But Congress did not stop to make this a condition precedent, which must be met before the State should be admitted.

So, too, the same was true in Illinois. There, an article proposing to establish slavery by her constitution was voted down, in her constitutional convention, by but a small majority of votes; and that constitution was never submitted to a vote of the people. Yet the people of Illinois have never found out that their rights were trampled on by Congress when that State was admitted into the Union. The submission of this article of the constitution was in exact compliance with the requirements of the Kansas-Nebraska act. That act repealed the Missouri restriction. That restriction excluded slavery from the Territory of Kansas. The repeal of the restriction left the people of that Territory free, "perfectly free," to introduce slavery into it at their option. What was the grand question that immediately followed? It was, shall slavery be introduced into the Territory of Kansas, or excluded therefrom? This question is left by the convention to the decision of the people, by a direct vote, clean and naked; separated from every other issue.

Again, this act declares that its true intent and meaning is, not to introduce slavery into any Territory or State, nor to exclude it therefrom—yes, sir, *slavery* is the thing that it neither introduces nor excludes—"but to leave the people thereof perfectly free to form their domestic institutions in their own way." What domestic institution is meant by this language? Sir, does not the first part of the sentence make it perfectly plain what domestic institution is meant? Before the passage of the Kansas-Nebraska act were not the people perfectly free to form all their other domestic institutions in their own way, except the institution of slavery only?

But, Mr. President, this issue was not only submitted to the people in the best possible way to procure a true decision upon it, in the grand fact that it was disentangled from every other issue, but in the further fact that it was submitted in such manner, as to time, as was best calculated to reach the unbiased judgment of the people. It was submitted, not at a general election, when offices were to be filled—offices both of emolument and of a political character, calculated to enlist personal feeling and the might of party discipline—but it was submitted with perfect fairness at a special election, held for this purpose only, where no disturbing influence could be brought to bear upon it; and that, too, in spite of the certainty that a comparatively small vote would be the consequence. After proceedings of such a character, shall any man be heard to accuse the Lecompton convention of contriving to secure the adoption of the slavery article into the constitution of Kansas by trickery? Sir, if they intended to impose this constitution upon the people of Kansas by contrivance, they were certainly bunglers in the business. They might have learned a lesson, perhaps, from the Minnesota convention. That convention first fixed the election of the State officers under the proposed constitution, on the very same day the people were to vote upon the constitution. They thereby secured a full vote. They next provide, in the eighteenth section of the schedule, that "no voter should vote for or against the constitution on a separate ballot from that cast by him for officers to be elected at that election under the constitution." Why not? Why should he not be permitted to vote on a separate ballot? Why subject the voter to this compulsion? I would say that, so far from compelling him to vote for or

against the constitution *only* on the same ticket he should cast for State officers, if any compulsory mode was to be prescribed, it ought to have been the reverse. Could the mode adopted have any other effect than to compel votes for the constitution? Similar means were resorted to by the disorganizers in the Kansas Legislature when called together by acting Governor Stanton, no doubt for this very purpose. They fix the time for their illegal and fraudulent voting upon the Kansas constitution on the very same day ordained by the convention for the election of State officers under that constitution, but to be conducted, not by the same officers, but by officers of their own.

But, Mr. President, that Legislature proceeded without the shadow of authority, in attempting to take any action at all on the Lecompton constitution. The whole authority to make a constitution had been delegated, by the people of the Territory, to the convention that made that constitution. That convention had already acted, and was *functus officio*. The duty and trust committed to it had been already discharged. Its entire work had been executed—nothing remained to be done. Its members had fallen back into the mass of their fellow-citizens. A mere Territorial Legislature, therefore, could not interfere with the completed work of that convention, clothed, as it had been, with the sovereign authority of the people. Moreover, that Legislature was a body with only subordinate powers. It could act only within the limits prescribed to it by the act of Congress organizing the Territory. It could neither make a constitution, nor intervene in the making of one. Why, sir, think of the consequences of a contrary doctrine. If the Legislature which undertook to submit the Kansas constitution to a vote of the people was competent to do it, so could any subsequent Legislature do the same thing. And if it could be done within six weeks, it could equally be done within six years. What could be more anarchical or destructive? The calamities that must flow from such a theory put into practice are sufficient to demonstrate its fallacy.

I beg, Mr. President, to call attention for a moment to this 4th of January vote on the Lecompton constitution. The facts and figures, I think, demonstrate that the vote pretended to have been cast is fraudulent.

The vote cast for the slavery clause, at the special election on the 21st of December last, when there was not a full turn-out of the people, was 6,226. The vote, according to the certificate of C. W. Babcock and G. W. Dietzler, on the 4th of January was 10,226, making an aggregate of 16,452. But the average vote for the disorganizers' ticket, on the 4th of January, according to Babcock and Dietzler's *pronunciamiento*, omitting "returns received since," was 6,304, and that for the Democratic ticket was 6,519, making an aggregate of 12,823. So that the aggregate of the vote cast on the constitution, according to these figures, is 3,629 more than the whole vote of both parties cast at the election for State officers, when there was a full turn-out of the people.

Again, no fair-minded man will think I go too far, in assuming that all the electors who voted the constitutional ticket as against the ticket of the disorganizers, at the election for officers and members of the Legislature, on the 4th of January, under the Lecompton convention, were in favor of that constitution. Now, in the light of this position, how does the matter stand? The average vote cast for the pro-slavery ticket was 6,519. The vote for the constitution with slavery, on the 21st of December, was 6,226, or 293 votes less than the vote of the constitutional party on the 4th of January—a difference which is more than accounted for when we recollect that the voting on the 21st of December was at an election where no officers were to be chosen—where there had been no previous canvassing before the people.

How, Mr. President, does this refute the charge of fraud in the vote on the 21st of December? For the constitutional vote on the 4th of January was larger than the vote of the same party in December by near three hundred. So, too, it is justifiable to assume that those who were opposed to the constitution would vote for the disorganizers' ticket on the 4th of January; yet the vote purporting to have been cast against the constitution is 10,226; while the average vote for the disorganizers' ticket is only 6,304, or 3,922 less than the vote against

the constitution. This election on the 4th of January, Mr. President, presents this still further singular spectacle: grown-up men, not under twenty-one years of age, citizens of the United States, saying they were opposed to the constitution, and yet at the same time voting for the State officers and legislators provided for by that very constitution; estopping themselves, in the most solemn manner, by the exercise of the highest franchise possessed by freemen; contradicting their words by their acts.

"Verba non audiam quum facta videam."

Mr. President, this *pronunciamiento* of Babcock and Dietzler about the votes for State officers under the Lecompton constitution, and which is quoted from by the Senator from Illinois, in his report of one, is certainly a most extraordinary paper. It bears date the 14th of January, 1858. They say, after giving a tabular statement of the votes, "returns received since." Since when, I ask? The only date that the paper gives is the 14th January, 1858. Therefore the word "since" must refer to that date. But that is impossible, because that is the very date of making the proclamation. It is contradictory, and necessarily false—absurdly so.

But there is this further extraordinary feature about these "returns received since;" and that is, that, according to them, each one of the candidates of the disorganizers gets exactly the same number of these votes, to wit, 637. But it does not stop here. Each one of the constitutional candidates, too, gets exactly the same number of them, to wit, 6.

How happens it, too, that of the "returns received since," the disorganizers get 637, while the constitutional candidates get only 6?

Why, sir, it appears from their own figures that, unless they can count "returns received since," their ticket is defeated; but 637 for the disorganizers, against 6 for the constitutional party, would prevent defeat. I read from that *pronunciamiento* as follows:

On the State ticket, the vote as returned stands as follows:

FREE STATE.					
Smith, Gov.	Roberts, Lt. Gov.	Schwiler, Sec. State.	Mead, Treas.	Goodin, Auditor.	Parrot, Cong.
6,236	6,310	6,230	6,248	6,176	6,623
Returns received since.					
637	637	637	637	637	637
6,873	6,947	6,867	6,885	6,813	7,260
PRO-SLAVERY.					
6,539	6,440	6,560	6,508	6,593	6,568
Returns received since.					
6	6	6	6	6	6
6,545	6,446	6,566	6,514	6,599	6,574

Mr. President, after a patient investigation of the case, I can see no serious obstacle to the admission of Kansas into our Federal Union, upon the constitution now before us. On the contrary, I see controlling reasons demanding this consummation for that people, reasons of expediency and right, reasons of legality and constitutional obligation. The welfare of the inhabitants of the Territory, and the exigencies of the whole nation, conspire to demand it, and the past action of the Government in like cases justifies it. For myself, sir, I cannot hesitate as to the vote I ought to give. With the convictions I entertain, I can meet my own responsibilities according to my own estimate of them, but by one course. But it is suggested that civil war may be the result of doing justice to Kansas. No man, sir, can contemplate that most direful of all calamities with more horror than I do. Hide, oh hide me from the day when American soil shall be reddened by fraternal blood, shed by fratricidal hands! That may be the day when the dying agonies of my country will begin. But, Mr. President, I cannot be deterred from duty by any such vain surmises of evil. I am convinced that the temperate, industrious, and order-loving citizens of Kansas want quiet and repose. The heads of families desire peaceful homes for themselves and their households. The people are not all, nor are the most of them, restless factionists and agitators, but solid men of worth and substance. And if the accounts we get from there are at all reliable, such men are longing for a cessation of the turmoil which political agitators from abroad have

imposed upon them so long. Let the people of Kansas once assume the responsibilities of a State government, let them realize that they must bear its burdens and expenses, and soon their contentions will be composed. The heavy load of quelling turbulence, and of maintaining the officers and the supremacy of the law in that Territory, has heretofore been carried by the Government of the United States. Let it fall upon the shoulders of the people there, and it will reduce insubordination with marvelous rapidity.

Sir, the whole country is sighing for peace. It wants this slavery agitation banished from the halls of legislation, both State and national, and localized in Kansas, where it can be dealt with by those who alone are interested in the question. The admission of Kansas, therefore, so far from exciting rebellion in that Territory, I verily believe will prove a measure of pacification—pacification there and throughout the country.

I cannot sit down, Mr. President, without a word of comment upon another topic. A portion of the constituency which I have the honor, in part, to represent on this floor, have been stigmatized, in connection with Kansas, with infamous names, and charged with vile outrages, without proof. Sir, I am one of those who think that vilifying epithets are seldom justifiable, under any circumstances, even against individuals—never against whole communities; that they are justly and always more disgraceful to the utterer of them, than to the subject. Moreover, that he who puts himself forward to make base charges, and does not fortify them with proof, by the fair-minded and the just will be classed in the same category with those who are denounced by Heaven's law as ready to "bear false witness against their neighbor." My constituents border ruffians! Sir, I undertake to say, that among the population inhabiting the counties of Missouri bordering on Kansas, are men who, in point of natural endowments, in point of breeding, education, and intelligence, will not suffer by comparison with the population of the same number of counties in any part of our wide-spread country.

The frontiersmen may also be found in these counties. Sturdy, and even sometimes rough of exterior—not sullen, and slippery, and supple, and yielding—the fit instruments of deception and treachery—but true, brave, generous, intrepid, hospitable. They are the stern and manly virtues which constitute the strongest intrenchments for the preservation of liberty, and the safest barriers against degeneracy and decline.

As a western man I may claim to know in some degree—inadequately, I admit—how much our country and the cause of humanity owe to these frontiersmen. They have been the first to follow "the star of empire" in its westward way. The wilderness has disappeared before them. The seeds of liberty and learning have been scattered by them broad-cast as they have advanced in their onward career, and, falling into the rich and virgin soil, they have sprung up and produced abundant fruit for the people who shall succeed them in all generations. In their march have risen cities and villages, and agriculture, manufactures, and commerce. Pioneers they truly are—pioneers of progress and population and prosperity; pioneers of liberty and law; pioneers of science and civilization. Our country and the race are their debtors. Courageous, and uncaring of personal consequences, the impetuosity of passion in moments of excitement may urge them sometimes to violence; but they are never false, never fraudulent—never.

Mr. BENJAMIN. Mr. President, after the very able and eloquent discourse of the Senator from Missouri, [Mr. POLK,] if I had regard simply to my own reputation in giving utterance to the thoughts which I have conceived upon the subject now before us, I should better consult its interests by seeking another occasion for addressing the Senate; but I am admonished by the increasing impatience of the Senate, by the desire, not only in this Chamber, but in the public at large to arrive at an early vote on this subject, that all personal considerations must be made to give way, and that each of us must do his duty as promptly as he can.

Mr. President, the issue to which the American people have been looking forward for some years past, with almost instinctive apprehension, is now before us. The urgent, the imperative

necessity for its decision is upon us. Again is a slaveholding State demanding admission into the Union, and again is that admission opposed by a large majority of the Senators and Representatives of the non-slaveholding States of the Confederacy. I am aware that every effort is being made to conceal the true motive for this hostility. Pretexts about the irregularity of the territorial government, charges of fraud and deception, vehement asseverations of a disregard of the popular will in the formation of the State constitution—every pretext, every cause, every motive, that the ingenuity of their ablest and most practiced debaters can suggest, have been brought forward as the grounds of this hostility. But, sir, as the discussion has progressed, as the excitement of debate has overcome the cold teachings of prudence, various Senators have made admissions; the truth, which has been concealed behind a cloud, has become apparent to us all, and it is now boldly avowed that Kansas shall never be admitted as a slaveholding State into the Confederacy, not even, to use the words of the Senator from Maine, [Mr. FESSENDEN,] if the whole people of the Territory should establish a constitution recognizing that institution.

Opinions thus maturely formed, thus openly avowed, are not to be affected by any argument that I can hope to offer. But, sir, as long as the Constitution of my country endures, as long as I have a constitutional duty to perform upon this floor, I feel myself under the most sacred of all obligations to protest against the doctrines thus asserted, and to expose, as far as I can, the fallacies by which those doctrines are upheld.

I have still, sir, another duty to perform. As a member of that committee which is charged in the Senate with the examination of all subjects touching the judiciary of the country, it is my duty to make answer to those charges which are brought against the highest judges of the land with a violence, a recklessness, and, I regret to be compelled to add, with a disregard of truth and decency which will yet bring down upon their authors the indignant condemnation of their outraged countrymen.

Mr. President, the whole subject of slavery, so far as it is involved in the issue now before the country, is narrowed down at last to a controversy on the solitary point, whether it be competent for the Congress of the United States, directly or indirectly, to exclude slavery from the Territories of the Union. The Supreme Court of the United States have given a negative answer to this proposition, and it shall be my first effort to support that negation by argument, independently of the authority of the decision.

It seems to me that the radical, fundamental error which underlies the argument in affirmation of this power, is the assumption that slavery is the creature of the statute law of the several States where it is established; that it has no existence outside of the limits of those States; that slaves are not property beyond those limits; and that property in slaves is neither recognized nor protected by the Constitution of the United States, nor by international law. I controvert all these propositions, and shall proceed at once to my argument.

Mr. President, the thirteen colonies, which on the 4th of July, 1776, asserted their independence, were British colonies, governed by British laws. Our ancestors in their emigration to this country brought with them the common law of England as their birthright. They adopted its principles for their government so far as it was not incompatible with the peculiarities of their situation in a rude and unsettled country. Great Britain then having the sovereignty over the colonies, possessed undoubted power to regulate their institutions, to control their commerce, and to give laws to their intercourse, both with the mother country and the other nations of the earth. If I can show, as I hope to be able to establish to the satisfaction of the Senate, that the nation thus exercising sovereign power over these thirteen colonies did establish slavery in them, did maintain and protect the institution, did originate and carry on the slave trade, did support and foster that trade, that it forbade the colonies permission either to emancipate or export their slaves, that it prohibited them from inaugurating any legislation in diminution or discouragement of the institution—nay, sir, more, if at the date of our Revolution I can

show that African slavery existed in England as it did on this continent, if I can show that slaves were sold upon the slave mart, in the Exchange and other public places of resort in the city of London as they were on this continent, then I shall not hazard too much in the assertion that slavery was the common law of the thirteen States of the Confederacy at the time they burst the bonds that united them to the mother country.

The first permanent colonial settlement made on this continent by the English was made under a charter granted in 1606, in the fourth year of James I., to Sir Thomas Gates and his associates. I leave out of view, as a matter of course, the few abortive attempts that were made toward the close of the sixteenth century by Sir Gilbert Humphreys in the north, and by Sir Walter Raleigh in the State which is represented by my friend from Virginia. Those attempts were all abortive. It is familiar to us all how disastrously they terminated. I say the first permanent settlement made under the authority of the British Crown on this continent was under the charter of 1606. That charter was subsequently superseded upon *quo warranto* issued at the instance of the British Crown, and in 1620 another charter took its place, granted to the Duke of Lenox and his associates, who were incorporated under the name of the Plymouth company. To that company the coast was granted from the fortieth to the forty-eighth degree of north latitude. This charter was followed by successive grants to different noblemen and companies, until the entire coast was disposed of. In 1664, to the Duke of York was granted all the territory as far south as Delaware Bay; and in 1663 and 1666, to Lord Clarendon and his associates the entire coast of the continent from the twenty-ninth degree of north latitude to that celebrated line of 36° 30' north, since so famous in the history of our intestine disputes. Thus was conveyed the whole coast comprised within our present limits.

Prior to this very first settlement, the slave trade had been inaugurated and established in Great Britain. The first notice which history gives us of it is the grant of a charter by Queen Elizabeth, to a company formed for the purpose of supplying slaves to the Spanish-American colonies. The Virgin Queen herself was a slaveholder. Subsequently, in 1662, under Charles II., a monopoly was created in favor of a company authorized to export to the colonies three thousand slaves per annum; and so valuable was this privilege considered, so much influence was required for the purpose of obtaining a share in it, that it was placed under the auspices of the Queen Dowager and the Duke of York. The King himself issued his proclamation, inviting his subjects to establish themselves on this side of the Atlantic; and as an encouragement to the migration, tendered a grant of one hundred acres of land for each four slaves that they would employ in the cultivation of it.

The merchants of London found their trade to the slave coast very much cramped by this royal monopoly, granted to royal favorites; and they continued to stun the ear of the Commons with loud complaints that they were excluded from the advantages of so prosperous a traffic; and in 1695 the Commons of England, in Committee of the Whole, resolved "That for the better supply of the plantations, all the subjects of Great Britain should have liberty to trade in Africa for negroes, with such limits as should be prescribed by Parliament."

In the 9th and 10th William III., an act was passed partially relaxing this monopoly, the preamble to which states that—

"The trade was highly beneficial and advantageous to the kingdom, and to the plantations and colonies thereunto belonging."

This partial relaxation was unsatisfactory. Petitions continued to pour in. In 1708 the Commons again resolved—

"That the trade was important, and ought to be free and open to all the Queen's subjects trading from Great Britain."

And in 1711 they again resolved that "this trade ought to be free in a regulated company; the plantations ought to be supplied with negroes at reasonable rates; a considerable stock was necessary for carrying on the trade to the best advantage, and that an export of £100,000 at least, in merchandise, should be annually made from Great

Britain to Africa." Finally, in the year 1749, these repeated resolutions of the Commons, and petitions of the merchants of London, accomplished the desired result. They gained their object by the passage of the act of 23d George II., declaring "the slave trade to be very advantageous to Great Britain, and necessary for supplying the plantations and colonies thereunto belonging with a sufficient number of negroes at reasonable rates."

This legislation, Mr. President, as I have said before, emanating from the mother country, fixed the institution upon the colonies. They could not resist it. All their right was limited to petition, to remonstrance, and to attempts at legislation at home to diminish the evil. Every such attempt was sternly repressed by the British Crown. In 1760, South Carolina passed an act prohibiting the further importation of African slaves. The act was rejected by the Crown; the Governor was reprimanded; and a circular was sent to all the Governors of all the colonies, warning them against presuming to countenance such legislation. In 1765, a similar bill was twice read in the Assembly of Jamaica. The news reached Great Britain before its final passage. Instructions were sent out to the royal Governor; he called the House of Assembly before him, communicated his instructions, and forbade any further progress of the bill. In 1774, in spite of this discouraging action of the mother Government, two bills passed the Legislative Assembly of Jamaica; and the Earl of Dartmouth, then Secretary of State, wrote to Sir Basil Keith, the Governor of the colony, that "these measures had created alarm to the merchants of Great Britain engaged in that branch of commerce;" and forbidding him, "on pain of removal from his Government, to assent to such laws."

Finally, in 1775—mark the date—1775—after the revolutionary struggle had commenced, whilst the Continental Congress was in session, after armies had been levied, after Crown Point and Ticonderoga had been taken possession of by the insurgent colonists, and after the first blood shed in the Revolution had reddened the spring sod upon the green at Lexington, this same Earl of Dartmouth, in answer to a remonstrance from the agent of the colonies, replied:

"We cannot allow the colonies to check or discourage in any degree a traffic so beneficial to the nation."

I say, then, that down to the very moment when our independence was won, slavery, by the statute law of England, was the common law of the old thirteen colonies. But, sir, my task does not end here. I desire to show you that by her jurisprudence, that by the decisions of her judges, and the answers of her lawyers to questions from the Crown and from public bodies, this same institution was declared to be recognized by the common law of England; and slaves were declared to be, in their language, merchandise, chattels, just as much private property as any other merchandise or any other chattel.

A short time prior to the year 1713, a contract had been formed between Spain and a certain company, called the Royal Guinea Company, that had been established in France. This contract was technically called in those days an *asiento*. By the treaty of Utrecht of the 11th of April, 1713, Great Britain, through her diplomatists, obtained a transfer of that contract. She yielded considerations for it. The obtaining of that contract was greeted in England with shouts of joy. It was considered a triumph of diplomacy. It was followed, in the month of May, 1713, by a new contract in form, by which the British Government undertook, for the term of thirty years then next to come, to transport annually 4,800 slaves to the Spanish American colonies, at a fixed price. Almost immediately after this new contract, a question arose in the English Council what was the true legal character of the slaves thus to be exported to the Spanish American colonies; and, according to the forms of the British constitution, the question was submitted by the Crown in council to the twelve judges of England. I have their answer here; it is in these words:

"In pursuance of his Majesty's order in council, heretofore annexed, we do humbly certify our opinion to be that negroes are merchandise."

Signed by Lord Chief Justice Holt, Judge Pollexfen, and eight other judges of England.

Mr. MASON. What is the date of that?

Mr. BENJAMIN. It was immediately after the treaty of Utrecht, in 1713. Very soon afterwards the nascent spirit of fanaticism began to obtain a foothold in England; and although large numbers of negro slaves were owned in Great Britain, and, as I said before, were daily sold on the public exchange in London, questions arose as to the right of the owners to retain property in their slaves; and the merchants of London, alarmed, submitted the question to Sir Philip Yorke, who afterwards became Lord Hardwicke, and to Lord Talbot, who were then the solicitor and attorney general of the kingdom. The question was propounded to them, "what are the rights of a British owner of a slave in England?" and this is the answer of those two legal functionaries. They certified that "a slave coming from the West Indies to England, with or without his master, doth not become free; and his master's property in him is not thereby determined nor varied, and the master may legally compel him to return to the plantations."

And, in 1749, the same question again came up before Sir Philip Yorke, then Lord Chancellor of England, under the title of Lord Hardwicke, and, by a decree in chancery in the case before him, he affirmed the doctrine which he had uttered when he was attorney general of Great Britain.

Things thus stood in England until the year 1771, when the spirit of fanaticism, to which I have adverted, acquiring strength, finally operated upon Lord Mansfield, who, by a judgment rendered in the case known as the celebrated *Somerset* case, subverted the common law of England by judicial legislation, as I shall prove in an instant. I say it not on my own authority. I would not be so presumptuous. The Senator from Maine [Mr. FESSENDEN] need not smile at my statement. I will give him higher authority than anything I can dare assert. I say that in 1771 Lord Mansfield subverted the common law of England in the *Somerset* case, and decided, not that a slave carried to England from the West Indies by his master thereby became free, but that by the law of England, if the slave resisted the master, there was no remedy by which the master could exercise his control; that the colonial legislation which afforded the master means of controlling his property had no authority in England, and that England by her laws had provided no substitute for that authority. That was what Lord Mansfield decided. I say this was judicial legislation. I say it subverted the entire previous jurisprudence of Great Britain. I have just adverted to the authorities for that position. Lord Mansfield felt it. The case was argued before him over and over again, and he begged the parties to compromise. They said they would not. "Why," said he, "I have known six of these cases already, and in five out of the six there was a compromise; you had better compromise this matter;" but the parties said no, they would stand on the law; and then, after holding the case up two terms, Lord Mansfield mustered up courage to say just what I have asserted to be his decision; that there was no law in England affording the master control over his slave; and that therefore the master's putting him on board of a vessel in irons, being unsupported by authority derived from English law, and the colonial law not being in force in England, he would discharge the slave from custody on *habeas corpus*, and leave the master to his remedy as best he could find one.

Mr. FESSENDEN. Decided so unwillingly.

Mr. BENJAMIN. The gentleman is right—very unwillingly. He was driven to the decision by the paramount power which is now perverting the principles, and obscuring the judgment of the people of the North; and of which I must say there is no more striking example to be found than its effect on the clear and logical intellect of my friend from Maine.

Mr. President, I make these charges in relation to that judgment, because in them I am supported by an intellect greater than Mansfield's; by a judge of resplendent genius and consummate learning; one who, in all questions of international law, on all subjects not dependent upon the peculiar municipal technical common law of England, has won for himself the proudest name in the annals of her jurisprudence—the gentleman knows well that I refer to Lord Stowell. As late as 1827, twenty years after Great Britain had abolished the slave trade, six years before she was brought to the

point of confiscating the property of her colonies which she had forced them to buy, a case was brought before that celebrated judge; a case known to all lawyers by the name of the slave *Grace*. It was pretended in the argument that the slave *Grace* was free, because she had been carried to England, and it was said, under the authority of Lord Mansfield's decision in the *Somerset* case, that, having once breathed English air, she was free; that the atmosphere of that favored kingdom was too pure to be breathed by a slave. Lord Stowell, in answering that *legal* argument, said that after painful and laborious research into historical records, he did not find anything touching the peculiar fitness of the English atmosphere for respiration during the ten centuries that slaves had lived in England.

I desire to call the attention of the Senate to some passages in that celebrated decision, in answer to another proposition which the Senators who are opposing this bill assume in nearly all their arguments, and that is, that slavery is the creature of positive legislation, and cannot be established by customary law or usage. That point was raised in this case, and Lord Stowell thus disposed of it:

"Having adverted to most of the objections that arise to the revival of slavery in the colonies, I have first to observe that it returns upon the slave by the same title by which it grew up originally. It never was in Antigua the creature of law, but of that custom which operates with the force of law; and when it is cried out that *malus usus obolendus est*, it is first to be proved that, even in the consideration of England, the use of slavery is considered as a *malus usus* in the colonies. Is that a *malus usus* which the court of the King's privy council and the courts of chancery are every day carrying into full effect in all considerations of property, in the one by appeal, and in the other by original causes; and all this enjoined and confirmed by statutes? Still less is it to be considered as a *malus usus* in the colonies themselves, where it has been incorporated into full life and establishment; where it is the system of the State and of every individual in it; and fifty years have passed without any authorized condemnation of it in England as a *malus usus* in the colonies."

This, sir, was fifty years after Lord Mansfield's speech in the *Somerset* case:

"The fact is, that in England, where villenage of both sorts went into total decay, we had communication with no other country; and, therefore, it is triumphantly declared, as I have before observed, 'once a freeman, ever a freeman,' there being no other country with which we had immediate connection, which, at the time of suppressing that system, we had any occasion to trouble ourselves about. But slavery was a very favored introduction into the colonies; it was deemed a great source of the mercantile interest of the country, and was, on that account, largely considered by the mother country as a great source of its wealth and strength. Treaties were made on that account, and the colonies compelled to submit to those treaties by the authority of this country. This system continued entire. Instead of being condemned as *malus usus*, it was regarded as a most eminent source of its riches and power. It was at a late period of the last century that it was condemned in England as an institution not fit to exist here, for reasons peculiar to our own condition; but it has been continued in our colonies, favored and supported by our own courts, which have liberally imparted to it their protection and encouragement. To such a system, whilst it is supported, I rather feel it to be too strong to apply the maxim, *malus usus obolendus est*. The time may come when this institution may fall in the colonies, as other institutions have done in other flourishing countries; but I am of opinion it can only be effected at the joint expense of both countries, for it is in a peculiar manner the crime of this country; and I rather feel it to be an objection to this species of emancipation, that it is intended to be a very cheap measure here by throwing the whole expense upon the country."—2 *Haggard's Reports*, 126, et seq.

After that decision had been rendered, Lord Stowell, who was at that time in correspondence with Judge Story, sent him a copy of it, and wrote to him upon the subject of his judgment. No man will doubt the anti-slavery feelings and proclivities of Judge Story. He was asked to take the decision into consideration and give his opinion about it. Here is his answer:

"I have read, with great attention, your judgment in the slave case. Upon the fullest consideration which I have been able to give the subject, I entirely concur in your views. If I had been called upon to pronounce a judgment in a like case, I should have certainly arrived at the same result."

That was the opinion of Judge Story in 1827; but, sir, whilst contending, as I here contend, as a proposition, based in history, maintained by legislation, supported by judicial authority of the greatest weight, that slavery, as an institution, was protected by the common law of these colonies at the date of the Declaration of Independence, I go further, though not necessary to my argument, and declare that it was the common law of the whole continent of North and South America alike. Why, Mr. President, the Euro-

pean continental powers, which joined and co-operated with Great Britain in the discovery and establishment of colonies on this continent, all of them followed the same views of policy. France, Spain, Portugal, and England, occupied the whole continent, North and South. The legislation of all of them was the same. Louis XIII., by royal edict, established slavery in all his colonies in America. Everybody knows that it was through the interference of Las Casas that the Spanish Crown inaugurated the slave trade with a view of substituting the servile labor of the African for that of the Indians, who had been reduced to slavery by their Spanish conquerors. As regards Portugal, she inaugurated the trade; she originally supplied all the colonies; and the Empire of Brazil to-day, with its servile labor, is the legitimate fruit of the colonial policy of the Portuguese Government in the sixteenth century. She began her trade in 1508, and some authors say even before the colonization of America in the fifteenth century.

I say that slavery was thus the common recognized institution of the New World. I do not thereby mean to admit for a moment that it was not the common law of the Old World when this nation was formed. Have we all forgotten that white slavery existed in England until a comparatively very recent period? It did not finally disappear until the reign of James II. What was that system of villenage, of which all the old law-writers speak? They were all slaves. These villeins were divided into two classes—villeins-regardant and villeins in gross—both slaves. The only difference between them was, that the villeins-regardant were attached to the soil; they could not be sold away from the glebe; they followed the conveyance of the estate into the hands of the new lord; but the villeins in gross were mere chattels, sold from hand to hand, just as negroes are sold at the present hour. If any gentleman is curious to see something on this subject, he will find a concise account of it in the first volume of the celebrated treatise of Mr. Spence, on the equity jurisdiction of the courts of chancery. That volume contains a very concise and admirable history of the English law. He will find there some statements in relation to the law of villenage in England. But, sir, a true picture, a fair picture of the state of the villeins of England, is nowhere better given than in the celebrated argument of Hargrave, the great lawyer who was the counsel for the slave in the *Somerset* case. One passage will give us his description of what the villain was under the common law of England:

"The condition of a villain had most of the incidents which I have before described in giving the idea of slavery in general. His service was uncertain and indeterminate, such as his lord thought fit to require; or, as some of our ancient writers express it, he knew not in the evening what he was to do in the morning; he was bound to do whatever he was commanded. He was liable to beating, imprisonment, and every other chastisement his lord might prescribe, except killing and maiming. He was incapable of acquiring property for his own benefit, the rule being '*quicquid acquiritur serco, acquiritur domino*.' He was himself the subject of property; as such, salable and transmissible. If he was a villain-regardant, he passed with the manor or land to which he was annexed, but might be severed at the pleasure of his lord. If he was a villain in gross, he was a hereditament or a chattel real, according to his lord's interest; being descendible to the heir where the lord was absolute owner, and transmissible to the executor where the lord had only a term of years in him. Lastly, the slavery extended to the issue, if both parents were villeins, or if the father was a villain; our law deriving the condition of the child from that of the father, contrary to the Roman law, in which the rule was '*partus sequitur ventrem*.' The origin of villenage is principally to be derived from the wars between our British, Saxon, Danish, and Norman ancestors, whilst they were contending for the possession of this country. Judge Fitzherbert, in his reading on the fourth of Edw. I., stat. 1, entitled '*extenta manerii*,' supposes villenage to have commenced at the Conquest, by the distribution then made of the forfeited lands; and of the vanquished inhabitants resident upon them. But there were many bondsmen in England before the Conquest, as appears by the Anglo-Saxon laws regulating them; and therefore it would be near the truth to attribute the origin of villeins as well to the preceding wars and revolutions in this country as to the effects of the Conquest."—20 *Howell's State Trials*, pp. 35-7.

I say, then, sir, that white slavery was the common law of England down to James II.; and if any man is peculiarly curious to learn the process by which it gradually disappeared, and has any taste for antiquarian lore, if he will look to the appendix to the twentieth volume of *Howell's State Trials*, he will find a commission issued by Queen Elizabeth to Cecil, Lord Burleigh, and Sir William Mildmay, giving them authority to

go into her counties of Gloucester, Cornwall, Devon, and Somerset, and there to manumit her slaves, by getting from them a reasonable price for their liberty. That is the way slavery was abolished in England. It was abolished by the gradual emancipation of the slaves, resulting from the sale by the lord to the slave himself, of his right over him. I will read a passage of this commission:

"ELIZABETH, by the Grace of God, &c. To our right trustee and well-beloved counsellor, sir W. Cecil of the Garter Knights, lord Burghley and High Treasurer of England, and to our trustee and right well-beloved counsellor, sir Walter Mildmay, Knight, chancellor and under treasurer of our exchequer, greetings.

"Whereas, divers and sundrie of our poore faithfull and loyal subjects, being borne bonde in blode and regardant to divers and sundrie our manors and possessions within our realm of England, have made humble suite unto us to be manumysed, enfranchised, and made free, with their children and sequells by reason whereof their children and sequells may become more apte and fite members for the service of us and of our common wealtie.

"We therefore, having tender consideration of their said suite, and well considering the same to be acceptable to Almighty God"—

Now, we all suppose she is going to give them their freedom. Not at all. She is willing to sell them to themselves at a fair price; and so she goes on:

"And we do commytt and give unto you full power and authoritie by these presents, to accept, admitte, and receive to be manumysed, enfranchised, and made free, suche and so many of our bondmen and bondwomen in blood, with all and every their children and sequells, their goodes, landes, tenementes, and hereditaments, as are now apperteynyng or regardaunte to all or any of our manors, landes, tenementes, possessions, or hereditaments within the said severall counties of Cornwall, Devon, Somerset, and Gloucester, as to you by your discretions shall seeme mete and convenient, compounding with them for suche reasonable fines or sommes of money to be taken and received to our use for the manumysion and enfranchisement, and for the possessions, and enjoying of all and singular their landes, tenementes, hereditaments, goodes and chattells whatsoever, as you and they can agree for the same after your wisdomes and discretions."

Here, then, was slavery in its widest and broadest acceptance, in Great Britain, in the time of Elizabeth, and it never finally disappeared from the kingdom until the reign of James II.

How was it in France? In France they had a system of white slaves of the same kind. There they called them *gens de main morte*—mortmain people, because they belonged to the estates; and they, in 1779, were enfranchised by royal edict, in these words:

"We have been greatly affected by the consideration that a large number of our subjects, still attached as slaves to the glebe, are regarded as forming part of it as it were: that deprived of the liberty of their persons, and of the rights of property, they themselves are considered as the property of their lords; that they have not the consolation of bequeathing their goods, and that, except in a few cases rigorously circumscribed, they cannot even transmit to their own children the fruits of their own labor."

That caused the last remnant of white slavery to disappear in France in 1779, after our independence.

As regards Spain, let any one who is in the habit of reading the literature of that country for the eighteenth century tell me if he remembers a solitary tale or romance of her authors in which some Moorish or negro slave is not introduced as the familiar inmate of the household. As regards the remainder of the European continent, it is still governed with beneficent sway by the civil law, and all know that that law protects, in every aspect, the relation between master and slave.

Thus, Mr. President, I say that even if we admit for the moment that by the common law of the nations which colonized this continent, the institution of slavery at the time of our independence, was dying away by the manumissions either gratuitous or for a price of those who held the people as slaves, yet so far as the continent of America was concerned, North and South, there did not breathe a being who did not know that a negro, under the common law of the continent, was merchandise, was property, was a slave, and that he could only extricate himself from that status, stamped upon him by the common law of the country, by positive proof of manumission. No man was bound to show title to his negro slave. The slave was bound to show manumission under which he had acquired his freedom, by the common law of every colony. Why, sir, can any man doubt, is there a gentleman here, even the Senator from Maine, who doubts that if, after the Revolution, the different States of this Union had not passed laws upon the subject to abol-

ish slavery, to subvert this common law of the continent, every one of these States would be slave States yet? How came they free States? Did not they have this institution of slavery imprinted upon them by the power of the mother country? How did they get rid of it? All, all must admit that they had to pass positive acts of legislation to accomplish this purpose. Without that legislation they would still be slave States. What, then, becomes of the pretext that slavery only exists in those States where it was established by positive legislation, that it has no inherent vitality out of those states, and that slaves are not considered as property by the Constitution of the United States?

When the delegates of the several colonies which had thus asserted their independence of the British Crown met in convention, the decision of Lord Mansfield in the *Sommerset* case was recent-known to all. At the same time, a number of the northern colonies had taken incipient steps for the emancipation of their slaves. Here permit me to say, sir, that, with a prudent regard to what the Senator from Maine [Mr. HAMLIN] yesterday called the "sensitive pocket-nerve," they all made these provisions prospective. Slavery was to be abolished after a certain future time—just enough time to give their citizens convenient opportunity for selling the slaves to southern planters, putting the money in their pockets, and then sending to us here, on this floor, representatives who flaunt in robes of sanctimonious holiness; who make parade of a cheap philanthropy, exercised at our expense; and who say to all men, "look ye now, how holy, how pure we are; you are polluted by the touch of slavery; we are free from it."

I say that was the position of the delegates when they met in convention; and it was necessary to make provision in relation to slaves. In the northern States slavery was about to be abolished. If Lord Mansfield's decision in the *Sommerset* case was to be followed as the rule, it was obvious that southern slaves were exposed to being plundered, robbed, carried away from their masters. On the other hand, by a compromise between the North and the South, slaves had entered into the representative basis of the country. What was to be done? Two clauses were put in the Constitution, one to guaranty the South its property—it provided for the return to the southern owner of the slave that was recognized as his property; another clause for the North, to prevent a disturbance of the representative basis by importation of slaves. The North said to the South, "You shall not increase your laboring population by importation after twenty years, because we of the North have an interest in that question; we have agreed they shall be counted in the representative basis, and we want protection as well as you." That is all the Constitution says on this subject. It guaranties to the South the sanctity of its peculiar property; it protects the North against any abnormal augmentation of the number of slaves in the South which might give them an undue preponderance in the representation of the different States of the Union.

Now, sir, because the Supreme Court of the United States says—what is patent to every man who reads the Constitution of the United States—that it does guaranty property in slaves, it has been attacked with vituperation here, on this floor, by Senators on all sides. Some have abstained from any indecent, insulting remarks in relation to the court. Some have confined themselves to calm and legitimate argument. To them I am about to reply. To the others, I shall have something to say a little later. What says the Senator from Maine, [Mr. FESSENDEN?] He says:

"Had the result of that election been otherwise, and had not the [Democratic] party triumphed on the dogma which they had thus introduced, we should never have heard of a doctrine so utterly at variance with all truth; so utterly destitute of all legal logic; so founded on error, and unsupported by anything like argument, as is the opinion of the Supreme Court."

He says, further:

"I should like, if I had time, to attempt to demonstrate the fallacy of that opinion. I have examined the view of the Supreme Court of the United States on the question of the power of the Constitution to carry slavery into free territory belonging to the United States, and I tell you that I believe any tolerably respectable lawyer in the United States can show, beyond all question, to any fair and unprejudiced mind, that the decision has nothing to stand upon except assumption, and bad logic from the assumptions made. The main proposition on which that decision is founded; the

corner-stone of it, without which it is nothing, without which it fails entirely to satisfy the mind of any man, is this: that the Constitution of the United States recognizes property in slaves, and protects it as such. I deny it. It neither recognizes slaves as property, nor does it protect slaves as property."

The Senator here, you see, says that the whole decision is based on that assumption, which is false. He says that the Constitution does not recognize slaves as property, nor protect them as property, and his reasoning, a little further on, is somewhat curious. He says:

"On what do they found the assertion that the Constitution recognizes slavery as property? On the provision of the Constitution by which Congress is prohibited from passing a law to prevent the African slave trade for twenty years; and therefore they say the Constitution recognizes slaves as property."

I should think that was a pretty fair recognition of it. On this point the gentleman declares:

"Will not anybody see that this constitutional provision, if it works one way, must work the other? If, by allowing the slave trade for twenty years, we recognize slaves as property, when we say that at the end of twenty years we will cease to allow it, or may cease to do so, is not that denying them to be property after that period elapses?"

That is the argument. Nothing but my respect for the logical intellect of the Senator from Maine could make me treat this argument as serious, and nothing but having heard it myself would make me believe that he ever uttered it. What, sir! The Constitution of our country says to the South, "you shall count as the basis of your representation five slaves as being three white men; you may be protected in the natural increase of your slaves; nay, more, as a matter of compromise you may increase their number if you choose, for twenty years, by importation; when these twenty years are out, you shall stop." The Supreme Court of the United States says, "well; is not this a recognition of slavery, of property in slaves?" "Oh, no," says the gentleman, "the rule must work both ways; there is a converse to the proposition." Now, sir, to an ordinary, uninstructed intellect, it would seem that the converse of the proposition was simply that at the end of twenty years you should not any longer increase your numbers by importation; but the gentleman says the converse of the proposition is that at the end of the twenty years, after you have, under the guarantee of the Constitution, been adding by importation to the previous number of your slaves; then all those that you had before, and all those that, under that Constitution, you have imported, cease to be recognized as property by the Constitution, and on this proposition he assails the Supreme Court of the United States—a proposition which he says will occur to anybody!

Mr. FESSENDEN. Will the Senator allow me?

Mr. BENJAMIN. I should be very glad to enter into this debate now, but I fear it is so late that I shall not be able to get through to-day.

Mr. FESSENDEN. I suppose it is of no consequence.

Mr. BENJAMIN. What says the Senator from Vermont, [Mr. COLLAMER,] who also went into this examination somewhat extensively. I read from his printed speech:

"I do not say that slaves are never property. I do not say that they are, or are not. Within the limits of a State which declares them to be property, they are property, because they are within the jurisdiction of that government which makes the declaration; but I should wish to speak of it in the light of a member of the United States Senate, and in the language of the United States Constitution. If this be property in the States, what is the nature and extent of it? I insist that the Supreme Court have often decided, and everybody has understood, that slavery is a local institution, existing by force of State law; and of course that law can give it no possible character beyond the limits of that State. I shall no doubt find the idea better expressed in the opinion of Judge Nelson, in this same *Dred Scott* decision. I prefer to read his language. He declares:

"Every State or nation possesses an exclusive sovereignty and jurisdiction within her own territory; and her laws affect and bind all property and persons residing within it. It may regulate the manner and circumstances under which property is held, and the condition, capacity, and state, of all persons therein; and, also, the remedy and the modes of administering justice. And it is equally true, that no State or nation can affect or bind property out of its territory, or persons not residing within it. No State, therefore, can enact laws to operate beyond its own dominions; and, if it attempts to do so, may be lawfully refused obedience. Such laws can have no authority extra-territorially. This is the necessary result of the independence of distinct and separate sovereignties."

Here is the law; and under it exists the law of slavery in the different States. By virtue of this very principle it cannot extend one inch beyond its own territorial limits. A State cannot regulate the relation of master and slave, of owner and property, the manner and title of descent, or

anything else, one inch beyond its territory. Then you cannot, by virtue of the law of slavery, if it makes slaves property in a State, if you please, move that property out of the State. It ends whenever you pass from that State. You may pass into another State that has a like law; and if you do, you hold it by virtue of that law; but the moment you pass beyond the limits of the slaveholding States, all title to the property called property in slaves, there ends. Under such a law slaves cannot be carried as property into the Territories, or anywhere else beyond the States authorizing it. It is not property anywhere else. If the Constitution of the United States gives any other and further character than this to slave property, let us acknowledge it fairly and end all strife about it. If it does not, I ask, in all candor, that men on the other side shall say so, and let this point be settled. What is the point we are to inquire into? It is this: does the Constitution of the United States make slaves property beyond the jurisdiction of the States authorizing slavery? If it only acknowledges them as property within that jurisdiction, it has not extended the property one inch beyond the State line; but if, as the Supreme Court seems to say, it does recognize and protect them as property further than State limits, and more than the State laws do, then, indeed, it becomes like other property. The Supreme Court rest this claim upon this clause of the Constitution: "No person held to service or labor in one State under the laws thereof, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due." Now the question is, does that guaranty it? Does that make it the same as other property? The very fact that this clause makes provision on the subject of persons bound to service, shows that the framers of the Constitution did not regard it as other property. It was a thing that needed some provision; other property did not. The insertion of such a provision shows that it was not regarded as other property. If a man's horse stray from Delaware into Pennsylvania, he can go and get it. Is there any provision in the Constitution for it? No. How came this to be there, if a slave is property? If it is the same as other property, why have any provision about it?"

It will undoubtedly have struck any person, in hearing this passage read from the speech of the Senator from Vermont, whom I regret not to see in his seat to-day, that the whole argument, ingeniously as it is put, rests upon this fallacy—if I may say so with due respect to him—that a man cannot have title in property wherever the law does not give him a remedy or process for the assertion of his title; or, in other words, his whole argument rests upon the old confusion of ideas which considers a man's right and his remedy to be one and the same thing. I have already shown to you, by the passages I have cited from the opinions of Lord Stowell and of Judge Story, how they regard this subject. They say that the slave who goes to England, or goes to Massachusetts, from a slave State, is still a slave, that he is still his master's property; but that his master has lost control over him, not by reason of the cessation of his property, but because those States grant no remedy to the master by which he can exercise his control.

There are numerous illustrations upon this point—illustrations furnished by the copy-right laws, illustrations furnished by patent laws. Let us take a case, one that appeals to us all. There lives now a man in England who from time to time sings to the enchanted ear of the civilized world strains of such melody that the charmed senses seem to abandon the grosser regions of earth, and to rise to purer and serener regions above. God has created that man a poet. His inspiration is his; his songs are his by right divine; they are his property, so recognized by human law; yet here in these United States men steal Tennyson's works and sell his property for their profit; and this because, in spite of the violated conscience of the nation, we refuse to give him protection for his property. Examine your Constitution; are slaves the only species of property there recognized as requiring peculiar protection? Sir, the inventive genius of our brethren of the North is a source of vast wealth to them and vast benefit to the nation. I saw a short time ago in one of the New York journals, that the estimated value of a few of the patents now before us in this Capitol for renewal, was \$40,000,000. I cannot believe that the entire capital invested in inventions of this character in the United States can fall short of one hundred and fifty or two hundred million dollars. On what protection does this vast property rest? Just upon that same constitutional protection which gives a remedy to the slave owner when his property is also found outside of the limits of the State in which he lives.

Without this protection, what would be the condition of the northern inventor? Why, sir, the Vermont inventor protected by his own law would come to Massachusetts, and there say to the pirate who had stolen his property, "render me up my property or pay me value for its use."

The Senator from Vermont would receive for answer, if he were the counsel of this Vermont inventor, "Sir, if you want protection for your property go to your own State; property is governed by the laws of the State within whose jurisdiction it is found; you have no property in your invention outside of the limits of your State; you cannot go an inch beyond it." Would not this be so? Does not every man see at once that the right of the inventor to his discovery, that the right of the poet to his inspiration, depends upon those principles of eternal justice which God has implanted in the heart of man, and that wherever he cannot exercise them it is because man, faithless to the trust that he has received from God, denies them the protection to which they are entitled?

Sir, follow out the illustration which the Senator from Vermont himself has given; take his very case of the Delaware owner of a horse riding him across the line into Pennsylvania. The Senator says: "Now, you see that slaves are not property like other property; if slaves were property like other property, why have you this special clause in your Constitution to protect a slave? You have no clause to protect the horse, because horses are recognized as property everywhere." Mr. President, the same fallacy lurks at the bottom of this argument, as of all the rest. Let Pennsylvania exercise her undoubted jurisdiction over persons and things within her own boundary; let her do as she has a perfect right to do—declare that hereafter, within the State of Pennsylvania, there shall be no property in horses, and that no man shall maintain a suit in her courts for the recovery of property in a horse; and where will your horse-owner be then? Just where the English poet is now; just where the slaveholder and the inventor would be if the Constitution, foreseeing a difference of opinion in relation to rights in these subject-matters, had not provided the remedy in relation to such property as might easily be plundered. Slaves, if you please, are not property like other property in this: that you can easily rob us of them; but as to the right in them, that man has to overthrow the whole history of the world, he has to overthrow every treatise on jurisprudence, he has to ignore the common sentiment of mankind, he has to repudiate the authority of all that is considered sacred with man, ere he can reach the conclusion that the person who owns a slave, in a country where slavery has been established for ages, has no other property in that slave than the mere title which is given by the statute law of the land where it is found.

I never heard this question disputed before; I never heard a suggestion that slaves were not protected as property by the Constitution of the United States till I heard it from the Senator from Maine here the other day. In the sixteenth volume of Peters's Report there is the report of a case which occurred between the States of Maryland and Pennsylvania. It was elaborately argued. The Commonwealth of Pennsylvania sent her attorney general into the room below to affirm her right to the legislation which she had passed. Although the suit was in the name of an individual, really it was the rights of Maryland that were concerned, and it was the State of Maryland that was interested in the decision. The case is known by the title in the law books of *Prigg versus the State of Pennsylvania*. Every judge on the bench gave his decision in that case. Every judge on the bench concurred in the decision. Judge Story delivered the opinion of the court, the other judges delivering their individual opinions, where they did not precisely agree with the general language of the court. Amongst those judges was Judge McLean, one of the dissentient judges in the *Dred Scott* case. Let us hear what he says about slaves being property under the Constitution. I shall read a short passage, a paragraph or two only. I take this out of his statement of his opinion at page 661, of 16th Peters. He quotes the clause of the Constitution that protects us in our rights to fugitive slaves, and he says:

"It was designed to protect the rights of the master, and against whom? Not against the State, nor the people of the State in which he resides; but against the people and the legislative action of other States, where the fugitive from labor might be found. Under the confederation, the master has no legal means of enforcing his rights in a State opposed to slavery. A disregard of rights thus asserted,

was deeply felt in the South. It produced great excitement, and would have led to results destructive of the Union. To avoid this, the constitutional guarantee was essential."

Now, what is this guarantee? He tells us, at page 671 of the same volume:

"I cannot perceive how any one can doubt that the remedy given in the Constitution, if, indeed, it give any remedy without legislation, was designed to be a peaceful one; a remedy sanctioned by judicial authority; a remedy guarded by the forms of law. But the inquiry is reiterated, is not the master entitled to his property? I answer that he is. His right is guaranteed by the Constitution; and the most summary means for its enforcement is found in the act of Congress. And neither the State nor its citizens can obstruct the prosecution of this right."

That was Judge McLean's language. When I find language like this, even from the minority, of the court in the *Dred Scott* case; when I find the entire court, man for man, concurring that the constitutional rights of the South are guaranteed in slaves as property by this clause in the Constitution, I must express my intense surprise at hearing the Senator from Maine declare that the *Dred Scott* decision was not to be supported, because it rested as a corner-stone on the assumption that slaves were recognized by the Constitution as property, and that he denied that fact.

But, Mr. President, all these gentlemen who thus fall in the slightest degree to impugn the opinion of the court by argument, attempt to shake its authority by an assertion entirely destitute of the slightest foundation. Every Senator who has spoken on the subject of this decision has declared that the court said it was without jurisdiction to determine it, and then determined it. I say that all the judges declared that they had jurisdiction of the merits, and determined that point before they decided the merits; and I am prepared to prove it. There was not a judge on the bench who did not declare that he had jurisdiction of the merits. There were some of the judges who declared that they had jurisdiction of no other question; and Judge McLean was one of them. He said the question of jurisdiction was not before them at all, and so did Judge Catron; and both those judges said that the court had nothing before them but the merits. Every judge said that he had the merits before him. I will prove it.

When this decision was first published; when, as I am sorry to say, two of the judges of that court so far forgot the proprieties of their judicial station as to send forth a minority opinion, to forestall the public judgment, and to produce among the people of the country the impression that the integrity of their judiciary was no longer to be relied upon, and thus to subvert one of the foundations of our Government; when those opinions first went abroad, they were seized upon by the Republican presses through the land, and it was said everywhere, "this court is usurping power; it has no such power as that which it assumes; it first says it has no jurisdiction, and then, after declaring itself to be without power over the subject-matter, presumes to determine it." Every Senator on this side of the Chamber, who has spoken, has repeated this. I want to nail the assertion to the counter; the coin is false.

Mr. FESSENDEN. The Senator will allow me to make a suggestion as to the statement of the court.

Mr. BENJAMIN. Undoubtedly.

Mr. FESSENDEN. I understand the Senator to assert that two judges sent forth their opinions. Did they do anything more than put their opinions on file in the clerk's office, where they were copied?

Mr. BENJAMIN. I think they did; but I am not going to enter into that now.

Mr. FESSENDEN. I understand it is not the fact. They simply put their opinions on file in the clerk's office, as was the rule of the court; the others kept theirs back.

Mr. BENJAMIN. The gentleman is mistaken about that.

Mr. FESSENDEN. I am so instructed.

Mr. BENJAMIN. The gentleman is mistaken. The copies of those opinions were not furnished by the clerk of the court.

Mr. FESSENDEN. They were not sent forth by the judges, that I am aware of.

Mr. BENJAMIN. I do not mean to say that the judges themselves took their opinions and carried them to the printing offices; but they furnished them for publication. It is idle to deny it. Everybody knows it.

Now, sir, I come back to the point from which

I started. I say that every judge of the court, in his opinion, declared that he had jurisdiction—jurisdiction over the merits of this case. First let us take the Chief Justice, who was the organ of the court. I cannot read all the reasoning; I should detain the Senate too long if I were to do so, and I see too many visible signs of impatience about me to desire to detain them any longer. The Chief Justice said this:

"But, before we proceed to examine this part of the case, it may be proper to notice an objection taken to the judicial authority of this court to decide it; and it has been said, that as this court has decided against the jurisdiction of the circuit court [not its own jurisdiction] on the plea in abatement, it has no right to examine any question presented by the exception; and that anything it may say upon that part of the case will be extra-judicial, and mere *obiter dicta*."

"This is a manifest mistake; there can be no doubt as to the jurisdiction of this court to revise the judgment of a circuit court, and to reverse it for any error apparent on the record, whether it be the error of giving judgment in a case over which it had no jurisdiction, or any other material error; and this, too, whether there is a plea in abatement or not."—19 *Ibid.*, 427.

That it is the language of the Chief Justice, the organ of the court, who delivered the opinion of the majority. Judge Wayne says the same thing, at page 456. Judge Nelson says, in giving his opinion:

"In the view we have taken of the case, it will not be necessary to pass upon this question, [of jurisdiction,] and we shall therefore proceed at once to an examination of the case upon its merits."—*Ibid.*, p. 458.

Judge Grier says:

"The record shows a *prima facie* case of jurisdiction, requiring the court to decide all the questions properly arising in it; and as the decision of the pleas in bar shows that the plaintiff is a slave, and therefore not entitled to sue in a court of the United States, the form of the judgment is of little importance."—*Ibid.*, p. 469.

Mr. Justice Daniel (p. 482) says that the questions arising on the pleas in bar might be passed by after determining the plea in abatement; but he does give his opinion on the merits, although he thought it would be possible to decide the case without a decision on its merits.

Mr. Justice Campbell says:

"My opinion in this case is not affected by the plea to the jurisdiction, and I shall not discuss the questions it suggests. The claim of the plaintiff to freedom depends upon the effect to be given to his absence from Missouri, in company with his master, in Illinois and Minnesota, and this effect is to be ascertained by a reference to the laws of Missouri."—*Ibid.*, p. 493.

He determines nothing but the merits. Mr. Justice Catron (p. 518) says that the judgment of the circuit court upon the plea in abatement—that is, the plea to the jurisdiction—was not, in his opinion, open to examination in the Supreme Court; and that they had nothing before them but the merits.

Mr. Justice McLean says:

"The plea to the jurisdiction is not before us, on this writ of error. A demurrer to the plea was sustained, which ruled the plea bad, and the defendant, on leave, pleaded over."

"The decision on the demurrer was in favor of the plaintiff; and as the plaintiff prosecutes this writ of error, he does not complain of the decision on the demurrer. The defendant might have complained of this decision, as against him, and have prosecuted a writ of error, to reverse it. But as the case under the instruction of the court to the jury, was decided in his favor, of course he had no ground of complaint."—*Ibid.*, p. 530.

Judge McLean then says that the court had no question of jurisdiction before it at all, nothing but the merits. Mr. Justice Curtis says the same thing.

"That as the plea to the jurisdiction in this case shows no facts, except that the plaintiff was of African descent, and his ancestors were sold as slaves, and as these facts are not inconsistent with his citizenship of the United States, and his residence in the State of Missouri, the plea to the jurisdiction was bad, and the judgment of the circuit court overruling it was correct."—*Ibid.*, p. 588.

And, therefore, he goes on to determine the merits. Now, shall I detain the Senate by reading passages from the speeches which I hold in my hand, and in which every Senator in succession, who has spoken of this decision, has spread before the country the bold, plain statement that the Supreme Court first decided that it had no jurisdiction, and then went on to determine the merits?

Mr. FESSENDEN. I must beg the Senator to give me leave to explain, because I do not know that I shall have an opportunity to answer him.

Mr. BENJAMIN. I will yield for a few minutes, of course.

Mr. FESSENDEN. I merely wish to explain on this specific point. I do not know what par-

ticular language I used myself in the speech I made on this subject. I remember very well the idea which I meant to convey; and I presume that idea is conveyed in sufficiently distinct language. It is this: I did not speak of the individual judges, but I said that, in the opinion of the court, which was delivered by Judge Taney, and to which only I alluded, the point decided in the first place, was, that the court below, and consequently the court above, had no jurisdiction of the case, for the reason that the party plaintiff was not qualified to sue; he had no standing in the court. That was the decision; and the inference I drew (I do not know whether I used the term or not) was, that the court admitted they had no jurisdiction. I did not mean to say that they admitted in terms that they had no jurisdiction beyond that, and over the merits of the case; but that the substance of their decision was, that the plaintiff having no standing in the court whatever, the case must consequently be dismissed; and that, whatever they undertake to say afterwards, was mere assertion.

I know they go on to give a reason for expressing their opinion, and that is, that in all writs of error they may confine themselves to the particular error which they find in the record below, or do not find, as the case may be; but that, in certain cases, they may look into other parts of the record in order to preclude the necessity of revising the case afterwards. The Senator, however, is perfectly aware that this idea has been answered over and over again by the remark, that the case could not possibly come before them again, when the decision was that the plaintiff had and could have no standing in court. What my particular language was I do not undertake to say. I may have said that the court admitted they had no jurisdiction of the case; not that they admitted it in terms, but by the original decision they made that the plaintiff had no right in the court below, and consequently could have none in the court above. I did not undertake to dispute that the Supreme Court of the United States had power to revise the decision of the court below, if properly brought there; but I say, when they decided that the plaintiff had no standing in the court originally, there was an end of the whole matter, and the court could not properly, and it was contrary to all custom, go into an examination of other questions that did not necessarily arise. That is the position I mean to take. I did not go into it at length, as perhaps I may hereafter; but the Senator misrepresents me, not intentionally; he misunderstands me if he asserts that I said, or meant to be understood as saying, that the court had in terms admitted that they had no jurisdiction of any question beyond the first. He may read the language of my speech, if he sees fit to do so.

Mr. BENJAMIN. It is rather late in the day, and I have not time to go at any length into this discussion, but I have the Senator's language before me; I have the language of the Senator from New York [Mr. SEWARD] and of the Senator from Vermont, [Mr. COLLAMER.] Every one of those Senators said that the Supreme Court had decided that it had no jurisdiction. The language is here; and now what does the Senator from Maine answer to that position? That although the Supreme Court decided it had jurisdiction, in his judgment its decision was wrong!

Mr. FESSENDEN. That is not what I said.

Mr. BENJAMIN. It cannot be anything else. The Supreme Court of the United States was the only tribunal to determine in the last resort whether it had jurisdiction or not over the question. It determined that it had. The Senator says it began by determining that the plaintiff in the court below had no right to come into the court, and by reason thereof determined that the circuit court had no jurisdiction, and he puts in himself that consequently the Supreme Court had no jurisdiction. It is precisely his "consequently" that Chief Justice Taney says is a manifest mistake. Here is what the honorable Senator from Maine said:

"It is said that this question has been carried to the Supreme Court of the United States and settled there. Does the honorable Senator from Louisiana?"

The Senator turned to me. We are always having some little legal quarrels in this corner between us, particularly on the slavery question.

"Does the honorable Senator from Louisiana, as a lawyer, undertake to tell me that the question has been settled

by a judicial decision in that court? Did that question ever arise and present itself to the mind of the court with reference to any necessity of the case? To what extent does the honorable Senator, or anybody else who is a lawyer, undertake to say that the decision of the court is binding? It is binding so far, and so far alone, as it can issue its mandate. Its opinion is of force only upon the question which settles the cause."

Who is to say what the question is that settles the cause in the opinion of the court? Is it the court or the Senator?

Mr. FESSENDEN. The court had settled it originally.

Mr. BENJAMIN. The court said, "in our judgment, there are two points which settle the cause; one is the jurisdiction, the other the merits." The Senator says that by the time they had got through stating the first half of their opinion, he has a right to shut their mouths and say, "you shall not go on and give any other reason; the reason you have given is enough; you cannot say another word." This is a most curious proposition to maintain to anybody that has ever heard decrees or opinions rendered in courts of justice. Hear the Senator again:

"Am I bound to recognize opinions that may be advanced by any set of judges, in any court, simply because, after they have decided a cause, they undertake to give their opinions? They may be bad men, they may be weak men, but their mandate in the cause before them must be obeyed; and I will go as far and as readily as any man to obey the mandate of any court to which I am bound to render obedience; and I am bound to render obedience to the Supreme Court of the United States; but when they undertake to settle questions not before them, I tell them those questions are for me as well as for them."

Then, sir, the honorable Senator declares, point blank, that this question was not before the court. They consider that it was; the dissenting judges said it was; everybody there said it was; everybody but the Senator from Maine and his worthy colleagues, the Senator from New York and the Senator from Vermont. This notion was first started by some indecorous expressions in the opinions of the dissenting judges. They themselves, declaring that they had jurisdiction over the subject-matter, suggested that they would not consider the opinion of the other judges binding, because, in the opinion of other judges, the court below had no jurisdiction; "but," said Judge Taney, "this question is before me on its merits; I must decide it; it is my duty to decide it; I cannot avoid the duty." That is the language, if the gentleman will refer to it.

Now, Mr. President, I come to another point in my argument, which I approach with extreme pain, with unfeigned regret. From my earliest childhood, I have been taught to revere the judges of the highest court in the land, as men selected to render justice between litigants, not more by reason of their eminent legal acquirements, than because of a spotless purity of character, an undimmed luster of reputation which removed them far, far beyond even a doubt of their integrity. The long line of eminent judicial worthies which seemed to have culminated in a Marshall, has been continued in the person of one upon whom the highest eulogium that can be pronounced is to say that he was eminently worthy of being the successor of that illustrious judge. I know not, Mr. President, whether you, as I, have had the good fortune to see that magistrate in the administration of justice in his own circuit, or in the court sitting below us, of which he is the honored chief. I know not, sir, whether it has been your good fortune, as it has been mine, to hear the expressions of affectionate reverence with which he is spoken of by the people amongst whom he has passed his pure, his simple, and his spotless life. I know not, sir, whether you have listened, as I have, with interest to the expressions of respect and admiration that come from the members of his bar in their familiar intercourse with each other—spontaneous tributes, worth a thousand labored eulogies, to his eminent sagacity, to his vast legal learning, to the mild and serene dignity of his judicial deportment; above all, sir, above all, to the conscientious, earnest, almost painful sense of responsibility with which he holds the scale of justice in even and impartial hand between the litigants whose rights depend upon his judgment.

Mr. President, he is old, very old. The infirmities of age have bowed his venerable form. Earth has no further object of ambition for him; and when he shall sink into his grave after a long career of high office in our country, I trust that I

do not rudely or improperly invade the sanctity of private life in saying that he will leave behind him, in the scanty heritage that shall be left for his family, the noblest evidence that he died, as he had lived, a being honorable to the earth from which he sprang, and worthy of the heaven to which he aspired.

This man, sir, thus beloved, thus revered, thus esteemed, has been compared upon this floor to the infamous Jeffreys, by the Senator from Maine, [Mr. HAMLIN.] This man has been charged by the Senator from New York [Mr. SEWARD] with a corrupt coalition with the Chief Magistrate of the Union. He charges in fact—not always in direct language, but partly by bold assertion and partly by insidious suggestions—that the Supreme Magistrate of the land and the judges of our highest court, and the parties to the Dred Scott case, got up a mock trial; that they were all in common collusion to cheat the country. He represents the venerable Chief Magistrate of our country, whose reputation hitherto has been beyond reproach; he represents the venerable Chief Justice as enacting a solemn farce in the face of the American people on the eastern portico of this Capitol; and he tells us that on the day when that great sea of upturned faces was here presented, all looking on the solemn pageant that was passing before them, the Chief Justice of the nation was whispering into the ear of the President the terms of this nefarious bargain, and that, too, at the very moment when the former was administering and the latter taking the oath of office by which the high majesty of Heaven was invoked, as witness to the purity of his intentions in the administration of the Government of his country.

Mr. President, accursed, thrice accursed, is that fell spirit of party which desecrates the noblest sentiments of the human heart; and which, in the accomplishment of its unholy purposer, hesitates at no reckless violence of assault on all that is held sacred by the wise and good. It was difficult, extremely difficult, for us all to sit here and hear what was said, and observe the manner in which it was said, and repress the utterance of the indignation that boiled up within us. All this is charged by the Senator without the proof of a solitary fact, without the assertion even of a fact on which to base the foul charge. Luckily, sir, luckily for us, these eminent men are too highly placed in the reverence, the estimation, and the regard of the American people, to have their bright escutcheon injured by such attacks as these. Mr. President, in olden times a viper gnawed a file. Although it may not be possible to make direct answers to all these insinuations, because no fact is even suggested on which they rest, there are certain facts so insinuated, in relation to which I have the authentic evidence upon my desk in proof of their falsity.

Was this case got up? What are the facts? Men should be a little careful in making such accusations as these; unless, indeed, they care not whether they be true or false, being intended to answer some purpose, whether the one or the other. This case was got up, was it? By accident or design? In the exquisitely decorous and appropriate language of the Senator from New York, the Chief Justice of the United States and the Chief Magistrate of the Union were gambling at cards for the case, and Dred Scott was dummy in the imaginary game! What truth is there in these insinuations of design? Why, sir, Dred Scott had sought his freedom by the assertion of his rights in the State courts of Missouri years before the Kansas-Nebraska act was ever suggested, and years before the President of the United States was even a candidate for office; years before he was even Minister to England.

This case was determined in the supreme court of the State of Missouri, in 1852, adversely to Dred Scott, and was remanded to the lower court for further trial. Mr. Buchanan had, I believe, not then gone to England. The Kansas bill had not been heard of, and was not in the imagination of any man. When the case got back into the lower court, the counsel for Dred Scott, finding that the opinion of the supreme court of the State was adverse to his rights, withdrew his case from the State court, and endeavored to better his client's chances by going into another jurisdiction. That is the way the case got into the Federal court; and when was this? The case was carried into the Federal court in the city of St.

Louis, in November, 1853, before even the meeting of the Congress which passed the Kansas-Nebraska act; of course months before Mr. Dixon, the Senator from Kentucky first sprang upon the country, by his amendment, the question in relation to the repeal of the Missouri compromise. Here is the record:

"Be it remembered that heretofore, to wit: on the second day of November, in the year of our Lord 1853, came the abovenamed plaintiff, Dred Scott, by his attorney, and filed in the clerk's office of the circuit court of the United States for the Missouri district, the following declaration against the defendant, John F. A. Sandford."

Was that a case gotten up by design, between the President and the court here? It was never carried there until they had lost all chance in the State court; it was carried there as the last desperate resource of defeated counsel; eager to maintain what he conceived to be the rights of his client. Who was the counsel? The Senators from Missouri can tell us who R. M. Field, of St. Louis, is, and probably they will verify the assertion which I make here upon hear-say—I give it only upon hear-say—that he is one of the most determined Free-Soilers in the State of Missouri; has always declined to vote at elections until he was able to cast his vote for a Free-Soil candidate, and until he aided in the election of the Free-Soil Representative from the St. Louis district who now sits in the other Chamber.

This case, thus brought up in November, 1853, was determined in the court below, and a writ of error was taken to the Supreme Court of the United States, before the Kansas bill was passed, and whilst Mr. Buchanan was in England! When it reached the Supreme Court of the United States what became of it? What does the Senator from New York say became of it?

"The counsel who had appeared for the negro had volunteered from motives of charity, and ignorant of course of the disposition which was to be made of the cause"—

—which the Senator had previously insinuated was gotten up by design—

—"had argued that his client had been freed from slavery by operation of the Missouri prohibition of 1820. The opposing counsel, paid by the defending slaveholder"—

I happen to know, however, whatever may be the fact with the other, that one of the opposing counsel was not paid by any slaveholder at all; that one of the opposing counsel volunteered as *amicus curiæ* by virtue of his position as head of the bar of the Supreme Court of the United States, by virtue of his position as ex-Attorney General of the United States, by virtue of his position as a compeer of the honorable Senator, and his former colleague on this floor from the State of Maryland, Mr. Reverdy Johnson. That gentleman volunteered in the case as *amicus curiæ*, because the whole section of the country to whose interests he had been devoted from his birth had an interest in this great question to be decided, and which, at the time of his volunteering in the case, he did not yet know to be represented by counsel. The honorable Mr. Geyer, of Missouri, afterwards entered his name of record, and appeared for the defendant.

Says the Senator from New York:

"The opposing counsel, paid by the defending slaveholder, had insisted, in reply, that that famous statute was unconstitutional. The mock debate had been heard in the chamber of the court in the basement of the Capitol, in the presence of the curious visitors at the seat of Government, whom the dullness of a judicial investigation could not disgust. The court did not hesitate to please the incoming President!"

Where are we, sir, that such language as this is used? Is this the Senate of the United States, and are we here, the ambassadors of coequal sovereignties, to be insulted by language like this? Is not this an insult to every one of us, direct and personal?

"The court did not hesitate to please the incoming President by seizing this extraneous and idle forensic discussion, and converting it into an occasion for pronouncing an opinion that the Missouri prohibition was void, and that, by force of the Constitution, slavery existed, with all the elements of property in man over man, in all the Territories of the United States, paramount to any popular sovereignty within the Territories, and even to the authority of Congress itself."

"The day of inauguration came—the first one among all the celebrations of that great national pageant that was to be desecrated by a coalition between the executive and judicial departments, to undermine the National Legislature and the liberties of the people."

Is there a solitary word of truth in this? Not one. Is a solitary fact alleged? Not one; but a broad and naked charge is made, which is in-

tended to stamp infamy upon characters hitherto beyond the breath of reproach. Shame, shame upon the Senator that makes such charges as these and has no proof to support them.

"The President, attended by the usual lengthened procession, arrived and took his seat on the portico." The Supreme Court attended him there, in robes which yet exacted public reverence. The people, unware of the import of the whisperings carried on between the President and the Chief Justice, and imbued with veneration for both, filled the avenues and gardens far away as the eye could reach. The President addressed them in words as bland as those which the worst of all the Roman Emperors pronounced when he assumed the purple. He announced (vaguely, indeed, but with self-satisfaction) the forthcoming extra-judicial exposition of the Constitution, and pledged his submission to it as authoritative and final."

Does anybody find that in the President's inaugural? Does anybody find in the President's inaugural anything on this point, except that he learns the question is to be decided by the highest tribunal of the land, and that he, as every other good citizen is, is willing to render obedience to that tribunal?

"A few days later, copies of this opinion were multiplied by the Senate's press, and scattered, in the name of the Senate, broadcast over the land, and their publication has not yet been disowned by the Senate."

As if we were going to disown publishing the opinions of the Supreme Court of the United States.

"Simultaneously, Dred Scott, who had played the hand of dummy in this interesting political game, unwittingly, yet to the complete satisfaction of his adversary, was voluntarily emancipated; and thus received from his master, as a reward, the freedom which the court had denied him as a right."

Now, does not the Senator from New York know, was it not published in every newspaper in the country, that the slave's master had died? Was it not known that the man who emancipated the slave was a Black-Republican compeer in the other House, of the Senator of New York, [Mr. CHAFFEE, of Massachusetts,] who was forced to give this emancipation after having long hesitated, by the indignant denunciations of the fellow-Republicans around him. Everybody knows that, and yet here we are told by the Senator that this gift of freedom to the slave was the reward granted by his master, the defendant, for playing the hand of dummy in a game of cards—a political game—with the venerable Chief Justice and Chief Magistrate of the Union. Shame, shame once more, upon the Senator who makes charges like these, without the shadow of ground for their support.

Mr. President, I am tired. I have no doubt that others are too. I have gone so much at large into these collateral subjects that, so far as regards the simple question before us, as to the admission of Kansas under this constitution, what I have to say is little indeed. The subject has been exhausted, thoroughly so, admirably so, this morning, by the honorable Senator from Missouri. I will, however, make one or two suggestions and close.

I take the ground that the Congress of the United States is not bound to give to the people of a Territory any more protection than they are willing to receive. I take the ground that about eighteen months ago, the Congress of the United States listened to the complaint of the present rebels in Kansas, who said to us this: "A band of armed marauders has invaded us from a neighboring State; they have possession of our Territorial Legislature; they have passed a law by which they are about to call together a convention to form a constitution for the new State of Kansas; they will not allow us to vote fairly; we are a majority, and unless you come to our relief, there is no help for us." They asked us then to admit them as a State into the Union under the Topeka constitution, as the best of all possible remedies against the usurpations of which they complained. At that time the Territorial Legislature had inaugurated the scheme for the adoption of a constitution. The law for calling a convention had been passed. They were about to vote for delegates. That was the precise time in which this vaunted majority of Free-Soilers in Kansas approached the Congress of the United States with complaints that they were down-trodden.

What did the Senate of the United States reply? The Democrats were in a majority here, and they said, "it may be that what you say is true; it may be that you are down-trodden and oppressed in violation of law; you assert it yourselves, and you have complainant advocates here on this floor to

prove it; but it is no remedy for that, that we shall admit you as a State into this family of States, under a constitution formed by one party in the Territory. We cannot do that. You say that if the territorial law is carried out, a constitution will be formed by the other party alone. Come now, we will do justice to both sides; we will pass a law by which all shall be protected, Free-Soilers and Democrats, by the strong arm of the Federal Government, by which you shall be free all to vote, free all to exercise this vaunted popular sovereignty, free all to make manifest to the nation that great majority of which you boast." The Senator from Georgia elaborated a bill for the purpose with the greatest possible care; and every possible safeguard that human ingenuity could throw around the rights of these people to protect them from invasion, was there employed. Every Senator on this side suggested amendments, and when the bill finally passed the Senate, it extorted from the Senator from New Hampshire [Mr. HALE] the admission that it was fair, that it was unexceptionable; "give us that, and we are content."

Now, what occurred? In the progress of the debate upon that bill the leaders of this Republican party in the Territory informed their advocates here, in both branches of Congress, that that would not suit them; that it would put a stop to violence; that it would put a stop to uproar and confusion; and that thus the Black Republican candidate for the Presidency would be in a very lean minority, as the injured form of "bleeding Kansas" could not be presented to the eyes of the people during the impending canvass. So, sir, after the Democratic party—being in a majority in this Hall—had passed the bill to do justice to these men, and sent it to the other House, they, who now stand up for the outraged rights of these down-trodden people, defeated the bill; themselves prevented the protection which they now say it was our duty to give; and then tell us here to-day that it would be a monstrous outrage to admit Kansas into the Union with the constitution which the people formed under their own legislation. Both modes were before them; the Territorial Legislature was proceeding to pass enactments which were to result in the formation of a constitution for the new State, and the Republican party—the Free-Soil party—was imploring us for help. We told them, "choose now between the territorial legislation, and take your own chances at the polls; or take the full, strong, firm, protection of the Government of the United States, which is now tendered you." They refused the latter. They said they would have Topeka or nothing; and having taken that choice, nothing, with my consent, shall they have. Topeka! Topeka! that miserable rabble of insurgents; a miserable raking together of men, the very scum of the large northern cities, seeking naught but violence and bloodshed; presuming to set up their populace law, their will, against the Government of this country; presuming to come and dictate to the Congress of the United States, "you shall do this or we will fight; you shall give us this Topeka constitution, or there shall be blood shed!" Miserable, miserable, indeed, would be our dereliction from duty; despicable, indeed, would fall the Congress of the United States if it grounded arms and bowed in submission to the insurgent violence of these traitors. Every law that has been passed for their protection has been scorned by them. Every attempt to give them full and adequate maintenance of their rights, has been repudiated. Now, again, the attempt is made to make us do what they please, to sacrifice all rights to their threats of violence, and we are again told, upon this floor, where a cheap display of valor is made, that they will be cowards if they do not fight for their rights; and some Senators even insinuate an intention of going to help them. Mr. President, the day of that fight will never come, and the vaunt coats nothing.

The territorial legislation has gone into effect in the absence of congressional legislation, which they refused. All the forms of law, which gentlemen around me so deride, but which I respect, have been observed, and the last and sole question that remains for us, is, shall Kansas still be "bleeding Kansas?" shall she still continue to display her wrongs and to cry aloud to the people of the land during another presidential canvass? or shall that noise be hushed forever? That is

the sole question, sir. The object is to keep up the excitement for another canvass. We say to these men, you shall not do it. Their object is to keep the people of this country constantly inflamed and excited. They shall not succeed in it. And now, now the great wrong and outrage that is to be done to this community is to admit her as a State into the Confederacy! Great heavens, they are crying all around us, "what an outrage, what an outrage!" The history of the world has never seen anything like this.

This outrage, this horrible wrong, consists in admitting them into the Union! That is all, all. Who is to organize this State government? Who is to administer it? Who will have supreme power over it, uncontrolled by congressional intervention, uncontrolled by the Federal bayonet? The people of Kansas; none but the people of Kansas. What a foul wrong it is to give them sole control of their own affairs! The Senator from Illinois [Mr. DOUGLAS] would have us believe that this is an abandonment of the principle of popular sovereignty. Mr. President, it is its very essence; it is carrying out its true intent and meaning. Let any man here tell me what higher, what more exalted example can be afforded of the right of a people to govern its own institutions, than that which is given by the people of a sovereign State of this Confederacy. That is the right we now want to bestow upon Kansas. That is the legitimate fruit of the Kansas bill. That is the act now before us. For that act I will vote.

Mr. CHANDLER and Mr. WADE addressed the Chair. ["Adjourn." "Go on."]

The VICE PRESIDENT recognized Mr. CHANDLER.

Mr. BROWN. Will the Senator from Michigan yield me the floor?

Mr. CHANDLER. Yes, sir.

Mr. BROWN. Senators ought to recollect that the Senator from Michigan is about to make his first speech in the Senate, and it is not usual to force a Senator to proceed at this late hour of the day; I move therefore that the Senate adjourn.

Mr. JOHNSON, of Arkansas. It seems to me strange that Senators should undertake to act thus.

Mr. BROWN. I insist upon my motion.

Mr. JOHNSON, of Arkansas. I call for the yeas and nays. I do not think it right that the Senate should now adjourn. We are too close to the time of taking the final vote to adjourn thus early.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 19; as follows:

YEAS—Messrs. Bell, Broderick, Brown, Cameron, Chandler, Clark, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Harlan, Houston, Seward, Simmons, Trumbull, Wade, and Wilson—20.

NAYS—Messrs. Allen, Bayard, Biggs, Bigler, Clay, Green, Gwin, Hammond, Hunter, Johnson of Arkansas, Johnson of Tennessee, Jones, Polk, Pugh, Sebastian, Sliedell, Thomson of New Jersey, Wright, and Yulee—19.

And thereupon the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 11, 1858.

The House met at twelve o'clock, m. Prayer by Rev. L. D. FINCKEL.

The Journal of yesterday was read and approved.

The SPEAKER stated that the business first in order was the consideration of House bill No. 313, to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers; on which the gentleman from Ohio [Mr. STANTON] was entitled to the floor.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, informing the House that the Senate had passed, without amendment, a bill (H. R. No. 307) to appropriate money to supply deficiencies in the appropriations for paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and which has been executed.

RESOLUTIONS OF TEXAS.

Mr. REAGAN. I desire to introduce for reference only two sets of resolutions of the Legislature of the State of Texas.

Mr. STANTON. I yield for that purpose.

Mr. REAGAN presented joint resolutions of the Legislature of Texas relating to Indians west of the Pecos river; which were referred to the Committee on Indian Affairs, and ordered to be printed.

Also, joint resolutions of the Legislature of Texas, asking the establishment of a military post and relating to Indians in Texas; referred in part to the Committee on Military Affairs, and in part to the Committee on Indian Affairs.

BILL TO RAISE VOLUNTEERS.

Mr. STANTON. Mr. Speaker, as a member of the Committee on Military Affairs, it is, perhaps, my duty to state to the House my reasons for opposing the propositions of both the majority and minority of that committee. If the gentleman from Virginia [Mr. FAULKNER] referred to the gentleman from Massachusetts [Mr. BURNINTON] and myself, when he said that the proposition of the majority of the committee received votes in the committee which it will not receive in the House, I have only to say in reply that he is entirely mistaken. If he will take the trouble to turn to the minutes of the committee, he will find our names recorded, with his own, against the bill reported by the chairman of the committee from the majority. It is true that we voted for volunteers in preference to regulars, but we also voted against any increase whatever.

Mr. FAULKNER. That is precisely what I stated. I said that you would be found opposed to both bills; that although you voted for the bill proposed by the chairman in committee, you would oppose it here.

Mr. STANTON. I voted against the volunteer proposition in the committee; against reporting the bill; and my record here will be precisely what it was in committee. Can the gentleman from Virginia say as much?

I desire to say in the outset that, if it is the pleasure of Congress to make any addition to the present military force of the country, I have a very strong and decided preference for the plan reported by the chairman of the committee [Mr. QUITMAN] from the majority, over that reported by the gentleman from Virginia [Mr. FAULKNER] from the minority of the committee.

In the first place, if it can be claimed that any increase of the military force of the country is required, it can only arise out of the disturbances in Utah, which I think it may be safely assumed may be settled in a single campaign; and hence the increase should only be temporary.

In the next place, regular troops who enlist permanently in the service as a refuge from starvation, will consist mainly of the refuse population of your cities and large towns, who have no knowledge of border life or border warfare, and will therefore be peculiarly unfit for the service which will be required of them. On the other hand, if volunteers are called into the service, they will be taken mainly from the border States, accustomed to border life and border warfare, and therefore peculiarly fitted for that kind of service.

But there is a still stronger reason for my preference of the proposition of the chairman of the committee. By his bill, the volunteers are to be raised and officered according to the laws of the States from which they come. It gives the President the appointment of no officer, from a colonel to a corporal. By the proposition of the gentleman from Virginia, the officers are all to be appointed by the President, and will amount to about one hundred and eighty-five in number. I am at all times opposed to any increase of Executive patronage. I am especially opposed to it at this time, because I have no confidence in the President, and believe that any patronage we may confer upon him will be prostituted to base and unworthy purposes. I may add that the bill reported by the majority has been well considered by the committee, and will be found well adapted to the object which it proposes to accomplish.

But I am opposed to any increase of the military force of the country, either permanent or temporary, because I do not believe the exigencies of the service require it. The power to "raise and support armies" is vested in Congress. Congress, therefore, is responsible, not only for the unnecessary expenditure which will be required for the support of the increased force, but for the improper and unauthorized use which may

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, MARCH 13, 1858.

NEW SERIES... No. 68.

be made of them by the President, under whose command they are to be placed. It is our duty, therefore, carefully to scrutinize the exigencies of the service, that we may be able to judge whether any increase is required.

The Army now consists, in round numbers, of eighteen thousand men. That is, the President is authorized by existing laws to call that number of men into the service. The question before us, therefore, is, whether the public service required a larger number? I confess myself wholly at a loss to imagine what purpose of safety or utility can require a larger force. It seems to be generally conceded that eight thousand men is all that will be necessary, and, indeed, all that can be advantageously employed in the Utah expedition, even if it is designed to exterminate the whole population. Indeed, I do not understand it to be denied that if the two thousand five hundred troops in Kansas were employed in the Utah expedition that they would be sufficient for the next campaign upon the plan adopted or contemplated by the War Department. The question would therefore seem to resolve itself into this: whether Congress will furnish the President with a military force to aid him in establishing slavery in Kansas?

The gentleman from Iowa [Mr. CURTIS] says that this is not a party question, and that he does not wish to urge considerations of a party character in the discussion of it. Mr. Speaker, you and the House will bear me witness that I am not in the habit of appealing to party prejudices, or urging arguments of a party or sectional character, when they do not legitimately belong to the subject under consideration. But I am not so fastidious as to withhold a legitimate and proper argument which, in my judgment, ought to be conclusive upon the question under consideration, because it may have a sectional or party application. I believe this whole movement for the increase of the Army is essentially a sectional and party measure. This Administration has staked its very existence upon the admission of Kansas under the Lecompton constitution, and the permanent establishment of slavery there. To secure the admission of Kansas, it is very important to secure the additional patronage which these regiments would give to the President. The troops themselves are indispensable to the establishment and maintenance of slavery there. I think I understand the secret counsels which control the Executive in this movement.

Kansas is to be admitted under the Lecompton constitution, if party discipline and Executive patronage can accomplish it. Calhoun is then, in the face of the most infamous frauds, to issue certificates of election to the pro-slavery State and legislative tickets. And no man in the nation knows better than the President that, when this is done, the State government cannot be organized in Kansas under these officers without United States troops. That they cannot enter the Territory, except, as was well said by the gentleman from Massachusetts, [Mr. DAWES] the other day, in a hollow square of United States troops. In this state of things, Calhoun's bogus Governor will represent that there is an insurrection in Kansas too powerful to be overcome by the militia of the State; that the Legislature cannot be convened; and that he wants United States troops to suppress the insurrection and execute the laws. The President will insist that it is his duty to guaranty to every State a Republican form of government, and protect it "against domestic violence." And these troops are asked for to carry out this interesting programme. And in this aspect of the case, I do not see that it is much difference whether we give him regular troops, or give him volunteers, for the Utah expedition, so as to enable him to use the troops now in the service in Kansas. If he gets either, he will get them without my vote.

Believing this to be the real issue, I am not to be frightened from my propriety by any apprehensions of danger to the troops now engaged in the Utah expedition.

If the President chooses to expose these troops

to destruction by keeping in Kansas, for the purpose of accomplishing his own unhallowed purposes, a sufficient body of troops to protect and save their comrades in Utah, I am willing to let the country judge whether Congress or the President is justly responsible for whatever calamities may befall them.

But every sensible man in the country knows that no force that can be raised under this bill, whether volunteers or regulars, can be organized and marched to the scene of operations until the fate of the troops now engaged in that expedition shall have been definitively settled. The idea, therefore, of passing this bill with the view of raising troops under it, for the relief of the troops now engaged in that expedition, is a sheer delusion. If there was really a necessity for additional troops to quell the disturbances in Utah, it would be the duty of Congress, before granting them, to inquire into the causes of the disturbances, that we might judge whether the sword was the only proper remedy for the evils complained of. But, as there are other reasons which satisfy me that there is no necessity for any increased force, I do not propose to go into that question.

There is another view of this question, which to my mind is equally conclusive, and vastly more important than any that I have yet alluded to. For some seven or eight years past the President has claimed and exercised the power of using the regular Army as a police, to aid the civil officers in the execution of process, in arresting fugitives from justice, in capturing runaway slaves, in suppressing riots and partial and temporary insurrections, in guarding the polls, in preserving the peace at elections, and in performing the various duties of a civil *posse* or a municipal police.

Thus the Army and Navy were used to aid in the arrest of Anthony Burns, in Boston; to aid the bogus authorities of the Territory of Kansas in executing process in execution of the bogus laws of that Territory; to disperse the Legislature elected by the people of that Territory; to overawe the people of Lawrence, and prevent them from adopting municipal regulations for the government of the town, in surrounding the polls and controlling the election, not only in that Territory, but in this District, and under the very shadow of this Capitol.

We may differ in opinion as to the wisdom and expediency of using the troops upon any or all of the occasions I have enumerated; but I deny the power to use them for these or any similar purpose. Some gentlemen may think the use of the troops in Boston and in Kansas all very proper, who may entertain an entirely different opinion of the use of them in this city. For myself, I see no difference. I think the use of the marines in aid of the Mayor and municipal authorities of this city, (who had the whole police force of the city at their command,) and shooting down peaceful and inoffensive citizens in the streets as though they were so many dogs, has no parallel in the history of this country, except in the still more atrocious outrages that have been committed against the people of Kansas.

But it is not now my purpose to inquire into the necessity for the interference of the Executive in the cases referred to. I refer to them for the purpose of showing the importance of examining carefully the power which was claimed and exercised in these cases.

Mr. WRIGHT, of Georgia. While engaged in efforts to execute the fugitive slave law, was he not engaged in executing the law of the land?

Mr. STANTON. That is just the question I am discussing. I hold that he had no right to use them in executing the laws of the land. I am not very particular about terms. I am not certain that the fugitive slave law is a constitutional law of the land. But if it is proper for him to use the regular Army in executing the law of the land, then it is proper for him to use it in executing that law.

Mr. COBB. If the gentleman will excuse me

for interrupting him, I desire to know if the party with which the gentleman is acting did not, during the last Congress, denounce the President for not sending an army to Kansas, when our side was in power there?

Mr. STANTON. It is most unquestionably true that the Republican party, in the last Congress, did insist that it was the duty of the President to send the regular Army to Kansas; but that was for the purpose of preventing an invasion of a neighboring State. But, sir, they never asked for an army to be sent to the Territory of Kansas for the purpose of protecting the people there against their own citizens, or to execute the laws. And I contend now that it is the duty of the President to use the regular Army to protect every portion of the Confederacy against invasion.

I desire to lay down the constitutional proposition which I submit, in definite and explicit terms, so that there may be no misunderstanding.

I claim that the President has no power to use the standing Army, or any part of the regular military force of the country, except in open, public war, either foreign or domestic, or to repel invasion. That they can in no case be used as a *posse* to aid the civil authorities in the execution of the laws, nor to act as a police force for the preservation of the public peace, nor to quell riot, disturbances, or insurrections, not amounting to open and organized rebellion.

At the foundation of every argument on the constitutional power of any department or officer of the Government, lies the proposition, that this Government is a Government of delegated powers, having such powers as are specifically granted by the Constitution, and such incidental powers as are necessary to carry into execution the powers that are expressly granted, and no others. From what part of the Constitution does the President derive the powers that are claimed for him? By article two, section two, of the Constitution, he is made the Commander-in-Chief of the Army and Navy of the United States. By article two, section three, he is required to see that "the laws are faithfully executed." These are the only provisions of the Constitution granting power over the Army to the President. The power of the President as Commander-in-Chief of the Army depends upon the state of the country, whether we are at war with any foreign nation, or rebellious State or Territory, or at peace with all the world.

When war has been declared by Congress, the President has the absolute control of the Army, and, if public safety require it, may declare martial law and suspend the writ of *habeas corpus* within such places, and subject to such limitations, as the public safety may require; may compel citizens to enter the military service against their will; appropriate private property to public use, and exercise various other oppressive and despotic powers. But the moment peace is restored, there is instantly an end of all this. The laws resume their sway, and the power of the President to commit acts of hostility upon anybody, except in repelling an invasion, is at once extinguished. He has no power in time of peace to "make war," either upon a foreign nation, or any portion of the American people. He may control the location of the troops, and keep them so posted as to meet the exigencies of the service in any anticipated war or invasion that he may have reason to apprehend. He may exercise such discretion as may be conferred upon him by Congress in increasing or diminishing the rank and file of the Army, &c. But this is the end of his powers over the Army in time of peace, as Commander-in-Chief.

I presume, however, it will hardly be claimed that he may, in his capacity, or by virtue of his authority as Commander-in-Chief, use the Army in aid of the civil authorities in executing process, or in the preservation of the public peace. This is supposed to result from the duty which is enjoined upon him to "see that the laws be faithfully executed." This grant of power is supposed to carry with it the power to use all the means necessary to enforce their execution. There would certainly be great plausibility in this, if the means

which he might use were not specifically enumerated and pointed out in another provision of the Constitution.

But the Constitution expressly requires Congress to provide for calling forth the militia to execute the laws. And it is a well-settled rule of construction, that when the mode of executing a given power is prescribed, it excludes the use of any other mode. If the law requires the execution of the sentence of death upon a person convicted of a capital crime, by hanging, the sheriff may not shoot him, although the party convicted may desire it. If he depart from the mode of execution prescribed by the law, he is guilty of murder.

Now take these two clauses of the Constitution together, and what is their plain, common-sense construction? He shall see that "the laws be faithfully executed." To that end, he shall require his subordinates, who are immediately charged with the execution of the laws, to perform their duties with fidelity and in good faith; and if they are resisted by combinations or associations of persons too powerful to be overcome by the officer and such force as he may be able to command, then the President shall call forth the militia. This is certainly the plain, natural import of these two provisions of the Constitution, when taken together and construed with reference to their subject-matter. It is also worthy of remark in this connection, that while Congress is authorized to organize, arm, and discipline the militia, the officers are to be appointed, and the militia trained by the States.

The subject of the power of calling forth the militia to execute the laws was very much discussed in the Virginia convention which adopted the Constitution of the United States. It was said, by the opponents of the Constitution, that it armed the President with a despotic power which was capable of being greatly abused. In reply, it was said that the militia was taken from the body of the people; was identified with them in interest and in feeling, and therefore could not be used as instruments of despotism to oppress the people. Nobody, then, seemed to have imagined that the Army could be used to execute the laws.

Mr. Madison, in reply to an argument of Mr. Henry, says:

"The constitution does not say that a standing army shall be called out to execute the laws.

"Is not this (calling the militia) the more proper way? The militia ought to be called forth to suppress smugglers. Will this be denied? The case actually happened at Alexandria. There were a number of smugglers who were too formidable for the civil power to overcome. Should a number of smugglers have a number of ships, the militia ought to be called forth to quell them."—*Elliott's Debates*, vol. 2, p. 309.

Mr. Nicholas urges the necessity of giving the power to call out the militia on the express ground that it will save the necessity of giving power to use the standing Army. (*Elliott's Debates*, vol. 2, p. 218.)

The legislation of Congress, and the acts of the Executive during the administrations of Washington and the elder Adams, were in strict conformity to this construction of the Constitution.

The first law that was passed on this subject, was in 1793, on account of the Whisky Insurrection in western Pennsylvania. It followed closely the language of the Constitution, and gave no power to call any force into the service, for the purpose of executing the laws or suppressing insurrection, except the militia. This law expired by its own limitation in 1795, and was then reenacted in substantially the same terms.

In 1807 a law, containing but a single section of half a dozen lines, was passed, authorizing the President, in all cases where he was authorized by law to call out the militia to execute the laws or suppress insurrection, to call out the regular troops. This is doubtless the origin of the power which has been exercised so freely of late years, of using the troops as a *posse* to aid civil officers in the execution of process. I have no doubt, in my own mind, that this law is unconstitutional, and ought to be repealed at once, that it may no longer be used as a cloak for further usurpation. Public opinion ought at once to be aroused to the magnitude of this question. If a standing army of mercenary troops, whose officers are appointed by the President, are to be recognized as a proper and legitimate police force to aid in the execution of the laws, suppress riots, and keep the peace at the polls on election days, in the States and Ter-

ritories of the United States, it is time the people knew it.

The rank and file of the regular Army is made up mainly of the lowest class of foreign emigrants, and such native-born citizens as are found about the purlieus of your cities and large towns, who have become so depraved in their habits and character that they are no longer able or willing to procure a livelihood by honest labor. Destitute of family or friends; they have no feelings or sympathies in common with the people at large. Such an Army, so constituted, looking to the President as the fountain of patronage and promotion, is well fitted to become the blind instrument of despotism. As the gentleman from Virginia [Mr. FAULKNER] truly remarked, regular soldiers are mere machines, moved by the hand of superior intelligence. But the militia is composed of the whole body of the people; and such portions of them as may be called into the service when an exigency arises, will sympathize with their neighbors, and will be commanded by officers elected by themselves, who will have no patronage or promotion to expect from the President, and will not be used as instruments to promote the ambitious schemes or purposes of the President.

But the idea of requiring the Army to follow the heels of the sheriff as a *posse comitatus* to aid in the arrest of thieves and smugglers, is a total perversion of the first principles of civil government. The *posse comitatus*, as the term imports, means simply the "power," or people, of the county who are within the jurisdiction and bound to obey the commands of the sheriff. He cannot go out outside of his bailiwick to command the services of a single citizen of an adjoining county. But this idea of using the Army authorizes persons who may have been mustered into the service in Maine, to be called upon to act as a *posse comitatus* to aid in the execution of the laws in California or Texas. This is "intervention" with a vengeance. The people will not long submit to the idea of having strangers and foreigners brought from distant States to compel submission to laws which they may regard as odious and oppressive, at the point of the bayonet.

The people of this country are very deeply impressed with the conviction that they are capable of governing themselves, and will resist to the utmost all attempts to govern them by mercenary soldiers from distant States.

I insist upon it, that the Constitution does not tolerate any such thing; and that we are not at the mercy of the President in this particular.

It is the constitutional right of the people, when the laws are resisted, to be called upon to execute them themselves, and not to be subjected to the tender mercies of a mercenary soldiery whenever it may suit the sovereign will and pleasure of the President of the United States. Suppose the militia of the District of Columbia had been called upon to keep the peace, at the last municipal election in this city. Does anybody believe that a dozen of the peaceable and inoffensive citizens of this city would have been shot down in cold blood? And does anybody doubt that the peace would have been as well kept, and that the people would have been as well protected in the exercise of the right of suffrage? Very grave and serious questions may grow out of that and similar transactions. Suppose the officer in command of these marines should be indicted for murder, and the court should hold, as I have no doubt it should do, that the President had no right, no power, to give the order under which they acted? Could he escape a conviction? It is true that the President, who gave the order, would undoubtedly grant him a pardon. But it is possible that a President may one day be in power who will be of a different opinion from the one who gave the order.

But what ought to be done with a President who would give an order that would expose his subordinate to such consequences? That question I leave for the country to answer. It is not only dangerous to the country, but disgraceful to the Army to employ it in any such service as this. Officers of the Army must feel themselves degraded, by requiring them to follow the heels of a constable with their companies or regiments to aid in capturing thieves and smugglers. How would the gentleman from Mississippi like to have that laurel crown which he has earned so richly, and wears so gracefully, interspersed with such herbage as he would gather by following with

his brigade at the heels of policemen and making an onslaught upon a nest of pickpockets or counterfeiters?

I insist upon it, therefore, that for the honor of the service, if for no other reason, this practice ought to be abolished. If I am right in supposing that the President has no right to use the regular Army to aid in the execution of the laws, or to suppress an insurrection which does not amount to an open organized rebellion, it follows that the troops which are proposed to be raised by the bill of the gentleman from Virginia cannot be used in the Utah service, unless we first declare that Territory to be in a state of rebellion. This I do not understand that his bill proposes to do.

Mr. CURTIS. The Governor of the Territory, in his message to the Legislature, speaks of the time when peace shall be restored, and the Legislature also speaks of the time when peace shall be restored. I therefore reply that they regard themselves in a state of war.

Mr. STANTON. That may be so; and there may be very good reason why Congress should declare them in rebellion. But I deny that the Executive has any power to declare any portion of the country in rebellion, or to make a declaration of war against it without the authority of Congress. No, sir; the idea of the gentleman from Iowa, that there may be a rebellion without the authority of Congress, is utterly subversive of all the distinctions provided by Congress between the powers of the different departments of this Government. There may or there may not be occasion for declaring that Territory in rebellion; and I do not care, for the purpose of my argument, whether there is or is not. All I say is, that that has not yet been done. Whether the forces proposed to be raised by the bill reported by the chairman of the Military Committee can be used in that service, depends upon the question whether they are regular troops or militia, within the meaning of the Constitution. The chairman of the committee is certainly correct in saying that they are not strictly either the one or the other. But the Constitution only recognizes two kinds of military forces—regulars and militia. But it recognizes more than one kind of militia; it recognizes State and United States militia. State militia, in the common acceptation of the term, means the whole body of the people, who are enrolled as militia under the laws of the State, and are liable to be called to perform military duty. Certainly the forces provided for in the bill reported by the Military Committee are not "militia" in this sense of the term. But they are required to be organized by States in separate and distinct corps; and their officers are to be appointed according to the laws of the States from which they come. After they are mustered into the service, they will still be recognized and known as troops of the State from which they come, called into the service of the United States. By the Constitution of the United States, the States can have no troops, or military force of any kind, except militia.

I think, therefore, that these troops will come within the constitutional meaning of the term militia. It will be recollected that the Constitution expressly authorizes Congress to provide for organizing, arming, and disciplining the militia, and for governing such parts of them as may be called into the service of the United States, reserving to the States the power to appoint their officers, &c. I think the troops here provided for will be raised under the power granted by this provision of the Constitution.

I certainly mean no disparagement of this kind of force, by calling them militia; for I certainly regard them as the most effective and desirable troops of any that can be provided for—certainly in every way preferable to regular troops, except in the mere matter of military drill and discipline. It will, therefore, in my opinion, be competent to use the forces to be raised under this bill in quelling the disturbances, or suppressing the insurrection, or whatever you may call it, in Utah, without declaring the Territory in rebellion. But, believing the present military force of the country is quite as large as is necessary for all the purposes for which the President is authorized to use the regular Army, I must vote against any increase whatever.

Mr. PENDLETON obtained the floor.

Mr. J. GLANCY JONES. I ask the gentle-

man from Ohio to yield me the floor, that I may move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. MARSHALL, of Kentucky. I hope the gentleman from Ohio [Mr. PENDLETON] will proceed with his remarks now; otherwise we will not get through this bill for a week.

Mr. PENDLETON. I should be very glad, indeed, to yield to the suggestion of the gentleman from Pennsylvania; but those who are around me, and who feel an interest in the bill now under discussion, seem to indicate to me that it is proper for me to go on with what I have to say.

Mr. J. GLANCY JONES. I do not wish to take the floor from the gentleman from Ohio, but I wish to suggest to him, that within ten minutes from this time the morning hour will have expired, and I will then be obliged to ask to go to the business on the Speaker's table. I do not wish to interrupt him in ten minutes, and I would say that it is for the gentleman's benefit to yield the floor now.

The SPEAKER. The gentleman from Pennsylvania will be entitled to move to go to the business on the Speaker's table, but it will depend on a vote of the House whether the House will pass from the Army bill.

Mr. PENDLETON. If that is the case, I will give way.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

QUESTION OF PRIVILEGE.

Mr. HARRIS, of Illinois. Before that question is put, I wish to submit a question of privilege to the House. The question to which I wish to call the attention of the House is connected with the action of the special committee appointed by order of the House on the 8th of February last. Myself and six others, members of that committee—

Mr. LETCHER. Is that a question of privilege?

Mr. HARRIS, of Illinois. If the gentleman from Virginia will wait till he hears the statement, it will be then time enough for him to object.

The SPEAKER. The Chair will hear the statement of the gentleman from Illinois far enough at least to ascertain whether there is a question of privilege involved or not.

Mr. HARRIS, of Illinois. Myself and those who act with me on that committee—seven members in all—feel it due to ourselves and to the House under whose order the committee was appointed, to present facts to the House sustaining the view which they entertain, that the committee has failed to execute the order of the House.

The SPEAKER. The Chair is of opinion that that does not involve a question of privilege.

Mr. HARRIS, of Illinois. I have not yet presented the question fully, unless the Chair wishes to decide it before presented. I desire to state, in behalf of myself and Messrs. ADRIN, MORRILL, WADE, BENNETT, WALBRIDGE, and BUFFINTON, of the select committee, appointed under the order of the House of Representatives of the 8th of February last, to whom was referred the President's message concerning the Lecompton constitution with instructions, that in their opinion said committee had failed and refused to execute the order of the House contained in the resolution for their appointment, and has adjourned *sine die*; and in proof thereof I propose, as a question of privilege, to read the journals and minutes of said committee, and a written statement relating thereto.

The SPEAKER. The Chair decides the question that no privilege can be involved from the statement of facts submitted by the gentleman.

Mr. HARRIS, of Illinois. If the facts turn out to be as stated, does the Chair decide that that does not involve a question of privilege?

The SPEAKER. The Chair undertakes to decide this point: that no report of facts can emanate from the minority of a committee.

Mr. HARRIS, of Illinois. With deference to the Chair, I wish to present my statement, that there may be no misapprehension of it either on my own part, or on the part of the House.

Mr. STEVENSON. I rise to a point of order.

The Chair has decided that this is not a question of privilege, and the gentleman's remarks are not in order.

Mr. HARRIS, of Illinois. The point which I wish to present to the House is this: that the select committee has not discharged its duty or executed the order of the House; and that I claim to be a question of privilege.

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Illinois on two grounds. In the first instance, there is no such thing known to parliamentary law, or to practice, as a report from a minority of a committee. It has been usual in the practice of this and other deliberative bodies to receive the views of a minority of a committee, but it is a matter of courtesy, and not of right; and secondly, the majority have submitted no report, and the House cannot, therefore, know whether its order has been obeyed or not.

Mr. HARRIS, of Illinois. With the permission of the Chair, I wish to say that this is not a report from a minority. It is simply a statement of facts on which to present a question of privilege to the House.

The SPEAKER. The Chair is of opinion that, in that aspect of the case, the gentleman cannot present this as a question of privilege, inasmuch as no report has been submitted from the committee appointed in the matter, and inasmuch, therefore, as the House can have no official information of what that committee has done.

Mr. HARRIS, of Illinois. I appeal from the decision of the Chair; and I would inquire of the Chair whether it is not the practice to submit to the House whether it be a question of privilege or not?

The SPEAKER. That is sometimes done, and at other times is not done. The gentleman from Illinois will recollect that the first question of privilege raised during the present session was decided by the Chair, because it was clearly a question of privilege. On two subsequent occasions, when there was doubt in the mind of the Chair, the Chair referred the question to the House for decision. The Chair has no doubt on the present question, and decides it for himself, giving the gentleman from Illinois, as a matter of course, the right to appeal from the decision of the Chair.

Mr. HARRIS, of Illinois. I do appeal from the decision of the Chair; and on that I ask the yeas and nays.

Mr. STEPHENS, of Georgia. I move to lay the appeal on the table; and on that I ask the yeas and nays.

Mr. WASHBURN, of Maine. Does the Chair hold that it is not a privilege of the House that its committees shall obey the instructions of the House?

The SPEAKER. That is a matter for the decision of the House. If it shall appear from the report of the committee that the committee has not obeyed the order of the House, it is competent for the House to recommit to the committee, to discharge the committee, or to censure the committee.

Mr. WASHBURN, of Maine. Does the Chair, then, hold that a minority of a committee, or a single member of the House, cannot bring the question before the House that the majority has been guilty of malfeasance of duty, or disregard of the orders of the House?

The SPEAKER. The Chair undertakes to decide—and the gentleman from Maine knows it as well as the Chair—that, according to parliamentary law, no report can emanate from a committee, except that from a majority of the committee. As the Chair has stated, it is the practice of the House to receive the views of the minority of a committee. That is done by courtesy, but not as a matter of right.

Mr. CLINGMAN. Is it in order at this time for the majority of that committee to report?

The SPEAKER. It is not.

Mr. FLORENCE. Is this question debatable?

The SPEAKER. Debate is not in order.

Mr. WINSLOW. I move a call of the House; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 99, nays 108; as follows:

YEAS—Messrs. ADRIN, ABL, ANDERSON, ARNOLD, ATKINS, AVERY, BARKSDALE, BISHOP, BOCKOCK, BONHAM, BOYCE, BRYAN,

BURNETT, CASKIE, JOHN B. CLARK, CLAY, CLINGMAN, COBB, JOHN COCHRANE, CORNING, JAMES CRAIG, BURTON CRAIG, CRAWFORD, CURRY, DAVIDSON, DAVIS OF MISSISSIPPI, DIMMICK, DOWDELL, EDMUNDSON, ELLIOTT, FAULKNER, FLORENCE, GARTRELL, GILMER, GOODE, GREENWOOD, GREGG, HATCH, HAWKINS, HILL, HOPKINS, HUGHES, HUYLER, JACKSON, JENKINS, GEORGE W. JONES, J. GLANCY JONES, OWEN JONES, KELLY, JACOB M. KUNKEL, LAMAR, LANDY, LETCHER, MACLAY, MCQUEEN, MASON, MAYNARD, MILES, MILLER, MILLSON, MOORE, NIBLACK, PENDLETON, PEYTON, PHELPS, PHILLIPS, POWELL, QUITMAN, READY, REAGAN, REILLY, RUFFIN, RUSSELL, SAVAGE, SCALES, SCOTT, SEARING, SEWARD, HENRY M. SHAW, SHORTER, SICKLES, WILLIAM SMITH, STALLWORTH, STEPHENS, STEVENSON, JAMES A. STEWART, TALBOT, MILES TAYLOR, UNDERWOOD, WARD, WARREN, WATKINS, WHITELEY, WINSLOW, WOODSON, WORTENDYKE, AUGUSTUS R. WRIGHT, JOHN V. WRIGHT, and ZOLICOFFER—99.

NAYS—Messrs. ABBOTT, ANDREWS, BENNETT, BILLINGHURST, BINGHAM, BLAIR, BLISS, BRAYTON, BUFFINTON, BURLINGAME, BURROUGHS, CAMPBELL, CASE, CHAFFEE, EZRA CLARK, CLAWSON, COCKERILL, COLFAX, COMINS, COVODE, COX, CRAGIN, CURTIS, DAMRELL, DAVIS OF MARYLAND, DAVIS OF INDIANA, DAVIS OF MASSACHUSETTS, DAVIS OF IOWA, DAWES, DEAN, DICK, DODD, DURFEE, EDIE, ENGLISH, FARNSWORTH, FENTON, FOLEY, FOSTER, GIDDINGS, GILMAN, GOODE, GOODWIN, GRANGER, GROW, ROBERT B. HALL, HARLAN, J. MORRISON HARRIS, THOMAS L. HARRIS, HICKMAN, HOARD, HORTON, HOWARD, KELLOGG, KESEY, KNAPP, JOHN C. KUNKEL, LAWRENCE, LEACH, LEITER, LOVEJOY, MCKIBBIN, HUMPHREY MARSHALL, SAMUEL S. MARSHALL, MATTESON, MONTGOMERY, MORGAN, MORRILL, EDWARD JOY MORRIS, ISAAC N. MORRIS, FREEMAN H. MORSE, MOTT, MURRAY, NICHOLS, OLIN, PALMER, PARKER, PETTIT, PIKE, POTTER, PURVANCE, RICAUD, RITCHIE, ROBBINS, ROBERTS, ROYCE, AARON SHAW, JOHN SHERMAN, JUDSON W. SHERMAN, ROBERT SMITH, SPINNER, STANTON, WILLIAM STEWART, TAPPAN, THAYER, THOMPSON, TOMPKINS, WADE, WALBRIDGE, WALDRON, WALTON, CADWALADER C. WASHBURN, ELIHU B. WASHBURN, ISRAEL WASHBURN, WILSON, and WOOD—108.

So the House refused a call of the House.

Pending the vote,

Mr. LETCHER stated that his colleague, Mr. GARNETT, had been called from the city on public business, and had paired off with Mr. MORSE, of New York.

Mr. MILES stated that his colleague, Mr. KEITT, had paired off with Mr. CLARK B. COCHRANE.

Mr. REILLY stated that his colleague, Mr. LEIDY, was confined to his room by sickness.

The question recurred on Mr. STEPHENS's motion to lay the appeal on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 97, nays 112; as follows:

YEAS—Messrs. ANDERSON, ARNOLD, ATKINS, AVERY, BARKSDALE, BOECK, BONHAM, BOYCE, BRYAN, BURNETT, CASKIE, JOHN B. CLARK, CLAY, CLEMENS, CLINGMAN, COBB, JOHN COCHRANE, CORNING, JAMES CRAIG, BURTON CRAIG, CRAWFORD, CURRY, DAVIDSON, DAVIS OF MISSISSIPPI, DIMMICK, DOWDELL, EDMUNDSON, ELLIOTT, FAULKNER, FLORENCE, GARTRELL, GILMER, GOODE, GREENWOOD, GREGG, HATCH, HAWKINS, HILL, HOPKINS, HUGHES, HUYLER, JACKSON, JENKINS, GEORGE W. JONES, J. GLANCY JONES, OWEN JONES, KELLY, JACOB M. KUNKEL, LAMAR, LANDY, LETCHER, MACLAY, MCQUEEN, MASON, MAYNARD, MILES, MILLER, MILLSON, MOORE, NIBLACK, PENDLETON, PEYTON, PHELPS, PHILLIPS, POWELL, QUITMAN, READY, REAGAN, REILLY, RUFFIN, RUSSELL, SAVAGE, SCALES, SCOTT, SEARING, SEWARD, HENRY M. SHAW, SHORTER, SICKLES, WILLIAM SMITH, STALLWORTH, STEPHENS, STEVENSON, JAMES A. STEWART, TALBOT, MILES TAYLOR, TRIPPE, WARD, WARREN, WATKINS, WHITELEY, WINSLOW, WOODSON, WORTENDYKE, AUGUSTUS R. WRIGHT, JOHN V. WRIGHT, and ZOLICOFFER—97.

NAYS—Messrs. ABBOTT, ADRIN, ANDREWS, BENNETT, BILLINGHURST, BINGHAM, BLAIR, BLISS, BRAYTON, BUFFINTON, BURLINGAME, BURROUGHS, CAMPBELL, CASE, CHAFFEE, EZRA CLARK, CLAWSON, COCKERILL, COLFAX, COMINS, COVODE, COX, CRAGIN, CURTIS, DAMRELL, DAVIS OF MARYLAND, DAVIS OF INDIANA, DAVIS OF MASSACHUSETTS, DAVIS OF IOWA, DAWES, DEAN, DICK, DODD, DURFEE, EDIE, ENGLISH, FARNSWORTH, FENTON, FOLEY, FOSTER, GIDDINGS, GILMAN, GILMER, GOODE, GOODWIN, GRANGER, GROW, ROBERT B. HALL, HARLAN, J. MORRISON HARRIS, THOMAS L. HARRIS, HICKMAN, HOARD, HORTON, HOWARD, KELLOGG, KESEY, KILGORE, KNAPP, JOHN C. KUNKEL, LAWRENCE, LEACH, LEITER, LOVEJOY, MCKIBBIN, HUMPHREY MARSHALL, SAMUEL S. MARSHALL, MATTESON, MONTGOMERY, MORGAN, MORRILL, EDWARD JOY MORRIS, ISAAC N. MORRIS, FREEMAN H. MORSE, MOTT, MURRAY, NICHOLS, OLIN, PALMER, PARKER, PETTIT, PIKE, POTTER, PURVANCE, RICAUD, RITCHIE, ROBBINS, ROBERTS, ROYCE, AARON SHAW, JOHN SHERMAN, ROBERT SMITH, SPINNER, STANTON, WILLIAM STEWART, TAPPAN, THAYER, THOMPSON, TOMPKINS, UNDERWOOD, WADE, WALBRIDGE, WALDRON, WALTON, CADWALADER C. WASHBURN, ELIHU B. WASHBURN, ISRAEL WASHBURN, WILSON, and WOOD—112.

So the appeal was not laid on the table.

Pending the motion,

Mr. TAYLOR, of Louisiana, stated that his colleague, Mr. SANDIDGE, was detained at his lodgings by sickness.

Mr. COX stated that his colleague, Mr. HALL, was detained at home by sickness in his family.

Mr. TRIPPE asked to be excused from voting, on the ground that he had not been in the Hall, and did not understand the question.

Objection was made.

Mr. TRIPPE. Well, I vote "Ay."

Mr. WINSLOW, (at four minutes before two o'clock, p. m.) I move that the House do now adjourn; and on that I call for the yeas and nays. I make the motion merely to allow time for ab-

sent members to come in, and to secure a full House on the vote.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 89, nays 129; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bocock, Bonham, Bowie, Bryan, Burnett, Caskey, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Corning, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Gartrell, Gillis, Goode, Greenwood, Gregg, Hatch, Hawkins, Hopkins, Houston, Huyler, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Letcher, Maclay, McQueen, Mason, Miles, Millson, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Scales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Trippe, Underwood, Ward, Warren, Watkins, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—89.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Binghamurst, Bingham, Bishop, Blair, Bliss, Boyce, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Caruthers, Chaffee, Chapman, Ezra Clark, Clawson, Cockerill, Colfax, Conins, Covode, Cox, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hill, Hoard, Horton, Howard, Hughes, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Mateson, Maynard, Miller, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Nicholas, Olin, Palmer, Parker, Pendleton, Pettit, Pike, Potter, Pottle, Purviance, Ricaud, Ritchie, Robbins, Roberts, Royce, Savage, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollicoffer—129.

So the House refused to adjourn.

Pending the vote,

Mr. EDIE stated that he had paired off on all questions, till Monday at twelve o'clock, with the gentleman from Alabama, [Mr. Moore.]

The question then recurred upon the appeal from the decision of the Chair.

Mr. MARSHALL, of Kentucky. This matter involves a very important question of parliamentary law, upon which I should like to consult the books. I move that this question be postponed till to-morrow at one o'clock, p. m.

Mr. STEPHENS, of Georgia. I have no sort of objection to the motion of the gentleman from Kentucky, if, as I suggested yesterday, the House will allow the majority of the committee to make their report. Then set down the consideration of the subject for to-morrow, or any day the gentleman from Illinois [Mr. HARRIS] pleases, when the subject will legitimately come up; and it may be recommended to the committee, or the committee may be discharged from its consideration.

Mr. HARRIS, of Illinois. The gentleman from Georgia is willing that this question shall be postponed until to-morrow, provided the report which he says he offered to present yesterday shall be allowed to come before the House.

Mr. HUGHES. I rise to a question of order. Is this motion of the gentleman from Kentucky debatable?

The SPEAKER. It is debatable to a limited extent.

Mr. HARRIS, of Illinois. Has the gentleman from Indiana the right to take the floor from me? That gentleman is prolific in questions of order. I say the gentleman from Georgia is willing this question shall be postponed until to-morrow, provided the House will give its unanimous consent to the reception of the report which he yesterday asked to leave to make. So far as the propriety of having that report go with the proposition which I make is concerned, I shall not object to it. It then comes in as a part of the minutes and proceedings of the committee, which I proposed to read to the House. I think it may very properly be embodied as a part of the minutes and proceedings of that committee.

Mr. SEWARD. What is before the House?

The SPEAKER. The motion of the gentleman from Kentucky to postpone.

Mr. HARRIS, of Illinois. I find that report published in the Union of this morning. By what authority that was done I shall not now undertake to discuss. It is a most singular proceeding that this report should have thus gone before the country without the authority of the House, and

in contravention of the rule of the House. It is in keeping with the whole proceeding on this question. But, sir, the report, as published and printed here, I believe is the same as that read to the committee and adopted by them. I have no objection whatever to its being embodied in the minutes of the proceedings of the committee, as I now desire to present them, and have the whole printed by the House, and postponed until some given day for consideration. But, sir, I am not willing to accede to the proposition of the gentleman that his report shall be received as the report of the committee for the action of the House, when I stand here as the representative of six other colleagues on that committee, who unite with me in declaring that the committee, in their action, have not executed the order of the House. We deny that a report can properly emanate from that committee until it has executed the functions which were imposed upon it by the House. I am unwilling, therefore, and I will not consent, that their report shall come before the House as the report of the committee. I am, however, willing, as I have said, that the report which was read to the committee and adopted by them shall go into the minutes of the proceedings of the committee and be printed with them, so that the House may see and judge to what extent the committee has executed the order under which it was raised. The gentleman from Georgia, by that means, will accomplish his purpose of getting his report printed, which he desired yesterday to have done.

Mr. SEWARD. I rise to a question of order. The gentleman from Illinois is not discussing the question of postponement.

The SPEAKER. The Chair hopes the gentleman from Illinois will confine his remarks to the question of postponement.

Mr. HARRIS, of Illinois. I am peculiarly unfortunate in being interrupted. When the gentleman from Georgia rose to submit his report, which had nothing to do with the question of privilege which I had presented, there was no objection, no interruption of points of order; but when I attempt to speak in reply, I am interrupted at least three times in four minutes. It is still in keeping with the whole proceedings, from the beginning to the end of the Kansas question.

The SPEAKER. The Chair is of the opinion that the gentleman from Illinois is hardly in order. The gentleman from Georgia has the right to submit a point of order.

Mr. SEWARD. If this whole question is to be opened to debate on both sides, I withdraw all objection.

The SPEAKER. On the motion to postpone, a general discussion of the question is not in order. The Chair hopes that gentlemen will confine themselves to the question of postponement.

Mr. HARRIS, of Illinois. I will endeavor to confine myself to the question of postponement. The gentleman from Georgia stated that he did not object to the postponement proposed, provided he should have an opportunity of presenting his report. I have endeavored to confine my remarks to the question of the propriety of his presenting that report as the report of the committee. I will say again that I presume there is no gentleman in the House who will object to having that report go as a part of the minutes of the proceedings of the committee. Let it be printed, and go before the country.

Mr. STEPHENS, of Georgia. The effect of the proposition of the gentleman from Illinois is just this: to deny to the majority of a committee, appointed by this House in pursuance of its own resolution, to make this report, and to give to a minority of the committee that right.

The SPEAKER. The gentleman from Georgia must confine himself strictly to the question of postponement.

Mr. STEPHENS, of Georgia. I am confining myself strictly to a reply to the remarks of the gentleman from Illinois.

The SPEAKER. The remarks of the gentleman from Illinois were objected to as not in order. The Chair feels it to be his duty to insist that gentlemen must confine their remarks to the question under consideration.

Mr. STEPHENS, of Georgia. I believe all objection was waived. But, sir, I do not wish to detain the House, and will confine myself strictly to the merits of the motion pending. The object of the gentleman from Illinois is, that the report

of the majority shall never be brought before the House. He says he will allow me to put it upon the minutes.

Mr. HARRIS, of Illinois. If the gentleman will allow me a minute: he says it is my object that the report of the majority shall never come before the House. I deny that such is my purpose. I said this: that if the House shall determine, from the records which I propose to place before it, that the committee has executed the order of the House, then I shall not object at all to the report being made.

Mr. STEPHENS, of Georgia. That is a question which the House can judge of when their own committee have made their report. That is what I said just now; and what I said yesterday. According to parliamentary law, a majority of a committee constituted by the House certainly have the right, in due time and order, to present their views in response to the instructions of the House. I am, therefore, willing to pursue that course. Let the majority make their report, and if, in the opinion of the House, the majority have failed to execute the order of the House, let the report be recommitted, or the committee discharged, or the committee enlarged. Let gentlemen then take such course as they please.

But, as I stated and I must repeat, as I understand the motion of the gentleman, it raises this extraordinary question of privilege—the privilege of a minority of a committee to come into the House, and to say that the majority have not discharged their duty. Ransack parliamentary law, from the beginning of the British Parliament, and the like of it cannot be found. No such motion, no such precedent, I venture to say, from the foundation of the British Parliament, can be found either in England or in this country.

I cannot discuss the merits of this matter under this motion; but I was anxious yesterday, and I repeat it now, that the majority of the committee should be permitted, by general consent of the House—as was the case last Congress with the Kansas investigating committee, and as is usual in all such cases—that they may present their report, and then the question will come up. Let us make our report; let the question then be postponed until to-morrow, or the next day, or any other day the gentleman may desire, and then the whole question will be before the House as to whether the committee have discharged their duty or not.

Mr. SHERMAN, of Ohio. I desire to correct the statement of the gentleman from Georgia. The report of the Kansas investigating committee was presented, and strenuously objected to upon the other side of the House; and it was only admitted as a question of privilege as affecting the right of a Delegate to a seat upon this floor. The objection was strenuous, and the report was only admitted after a vote on the yeas and nays.

Mr. STEPHENS, of Georgia. I recollect very well that the report was received, and that there was an understanding that the minority should have ten days to prepare and present a minority report; and that then the majority and minority reports should go together and be printed. I have nothing further to say.

Mr. HARRIS, of Illinois. The gentleman from Georgia, in reply to remarks made by me, has undertaken to denounce the proposition which I introduced this morning as one unheard of in parliamentary proceedings; that you might ransack the whole parliamentary law and find no precedent for it. I think the gentleman will find himself mistaken, when he comes to examine this question; and if there were not a particle of law upon the question, a common-sense view of the matter would make a law for the occasion. I think the gentleman will find law sufficient to justify any member of the committee, or any member of the House, on any occasion, whenever he sees fit, to rise in his place and bring to the knowledge of the House that its order upon any subject whatever has not been obeyed. If the question is postponed until to-morrow, I will present the law on this point, which I think will satisfy the House.

Mr. QUITMAN. I ask the gentleman from Illinois how it is possible for this House to hear from the committee until they receive the report? It seems to me that the gentleman from Georgia is perfectly right, and that the House cannot move in the matter in order, until they have re-

ceived the report of the committee; and upon that—

The SPEAKER. The Chair would suggest to the gentleman from Mississippi that he has indulged the gentlemen from Illinois and Georgia in remarks not strictly in order. The Chair feels it to be his duty to confine any further remarks strictly to the pending motion. If the House does not choose to postpone, the general subject will be in order; but so long as the pending proposition is a motion to postpone, all remarks must be confined strictly to the propriety of postponing.

Mr. QUITMAN. Does the Speaker intend to intimate that my remarks are not in order?

The SPEAKER. The Chair is of opinion that the remarks of the gentleman from Mississippi are not strictly pertinent to the pending proposition; which is a motion to postpone the consideration of the appeal from the decision of the Chair.

Mr. QUITMAN. At the proper time I can repel the intimation thrown out in reference to a settled purpose and design to suppress any investigation.

Mr. HARRIS, of Illinois. My friend from Mississippi will pardon me, I know, for saying that no imputation has ever been cast by me, of any settled design to suppress anything, or to do any improper act. I have a high regard for the gentleman as a man, and a high regard for the members of the committee, and I hope there will no idea remain lingering in the mind of any gentleman that any such imputation was intended. A question of opinion, as to whether a gentleman has discharged the duties imposed upon him, and an imputation of a settled purpose to suppress anything, are quite different things.

Mr. MORRIS, of Pennsylvania. If the House should receive the report, would it discharge the committee?

The SPEAKER. This being a special committee, the Chair is of the opinion that the reception of the report would discharge the committee.

Mr. SICKLES. But would it not be in order to move to recommit with instructions?

The SPEAKER. The House could then recommit it, of course, if a majority were in favor of that course.

Mr. HUGHES. I move to lay the pending motion on the table.

The SPEAKER. It is not in order to move to lay upon the table a motion to postpone.

The question was then taken on the motion of Mr. MARSHALL, of Kentucky, to postpone until to-morrow; and it was agreed to.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act to appropriate money to supply deficiencies in the appropriation for paper, printing, binding, and engraving ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and which has been executed; whereupon the Speaker signed the same.

The question then occurred on the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. FLORENCE in the chair,) and resumed the consideration of the

DIPLOMATIC AND CONSULAR BILL.

The CHAIRMAN stated that the debate was closed upon the pending bill.

Mr. SHERMAN, of Ohio. I presume the gentleman from Indiana [Mr. CASE] is entitled to the floor.

The CHAIRMAN. Debate is closed upon this bill.

Mr. SHERMAN, of Ohio. I do not propose to debate the bill, but I desire to know if the gentleman from Indiana will not be entitled to the floor when the next bill is taken up?

The CHAIRMAN. If the present occupant of the chair still occupies it when another bill comes up, he will decide that question when it arises. The Chair, however, thinks it due to the gentleman from Ohio to say, that he would feel it to be his duty to accord the floor to the gentleman from Indiana.

Mr. SHERMAN, of Ohio. That is all I desire. The CHAIRMAN. The Chair desires to say that he is not governed by the censure attempted to be cast upon him yesterday by the gentleman from Maine, [Mr. WASHBURN.] The Chair has made no bargains to farm out the floor.

Mr. REAGAN. I rise for the purpose of interposing an objection to the Chairman saying, in advance, who shall be entitled to the floor. I have a few remarks which I desire to submit, and I must object to any violation of the parliamentary rule, by intimations from the Chairman that he intends to give the floor to a particular gentleman.

The CHAIRMAN. The Chair will endeavor to exercise all the judgment he can in assigning the floor.

The bill was then read by clauses for amendment.

Mr. J. GLANCY JONES. I move to amend the bill by striking out the following clause:

"For compensation of the commissioner provided in the first article of the reciprocity treaty with Great Britain, \$2,000."

The amendment was agreed to.

Mr. J. GLANCY JONES. I offer the following as a substitute for the clause just stricken out. The estimate for this item was not furnished until after the bill was printed. My amendment is as follows:

For compensation and per diem of the commissioners, compensation of the surveyor, and for the payment of all expenses of the commission under the reciprocity treaty with Great Britain, \$23,000.

I will merely say, in relation to that amendment, that an appropriation of \$2,000 was put in the bill for this purpose before the estimate had been made. Subsequently the estimate came from the State Department, and it will require the whole amount proposed in the amendment for the next year, although a portion of the balance now in hand will go back into the Treasury, under the law providing for reversions to the surplus fund.

The amendment was agreed to.

Mr. SHERMAN, of Ohio. I offer the following amendment:

SEC. 2. And be it further enacted, That no part of the money herein appropriated shall be paid out of the Treasury for any expenses which accrued, or shall accrue, before the commencement, or after the termination of the fiscal year ending the 30th day of June, 1853; and so much of the act approved August 26, 1843, as authorizes the surplus of an appropriation to be applied to supply any deficiency of any other item in the same department or office, be, and the same is hereby, repealed.

I trust the amendment will meet with the general consent of the committee. It is intended to correct certain abuses which have grown up in the application of appropriations.

Mr. J. GLANCY JONES. I rise to a question of order. I submit that the amendment is not germane to the bill.

Mr. GROW. I submit that the amendment is in order. It merely proposes to limit the appropriations contained in the bill.

The CHAIRMAN. The Chair decides that the point of order is well taken, as the amendment proposes to repeal an existing law.

Mr. SHERMAN, of Ohio. To avoid any question of order, I will modify my amendment so as only to embrace the first clause of it.

My purpose in offering this amendment is to correct certain gross abuses that have arisen in some of the Executive Departments. These abuses have all grown out of a law passed in the second session of the Twenty-Seventh Congress, when Mr. Fillmore was then chairman of the Committee of Ways and Means. He ingrafted on the general appropriation bill the following section:

"SEC. 23. And be it further enacted, That in case the sum appropriated for any object shall be found more than sufficient to meet the expense thereby contemplated, the surplus may be applied, under the directions of the head of the proper Department, to supply the deficiency of any other item in the same Department or office."

The construction given by the Departments to this section was that, where a fund was specially appropriated in an appropriation bill and any of it remained unexpended, the balance of the fund might be applied to any other purpose, or to supply deficiencies in any other item in that Department of the public service, and for any other year. There have been many gross abuses growing out of this law. The law was, in my judgment, only intended to apply to the appropriations then made, and was not intended to have general application to all future legislation. The

effect given is much more extensive. It was but the other day that complaint was made to us that the Secretary of War had diverted appropriations made for one purpose to another purpose. We have another case, which is, perhaps, somewhat of a political kind, and I will mention it as an illustration. We appropriated money last Congress for the fiscal year ending 30th June next, to pay the expenses of the Kansas Legislature; and now I am informed that that appropriation was used to pay the expenses that had accrued prior to the commencement of the fiscal year, of a body which was declared by the House of Representatives to be a usurping body, entitled to no authority whatever.

This, in my judgment, was clearly a violation of law. The construction given by the Departments in repeated instances makes this law, which was only intended to apply to that particular appropriation bill, one of general application, so that now any Department of the Government may apply money appropriated for a certain specified purpose to another purpose and for another year. Such a construction is, in my judgment, not only unjust, but it is unconstitutional. The Constitution vests in Congress, and in Congress alone, the right to appropriate money, and to designate the purpose for which it shall be expended; and Congress cannot delegate this power to the Departments. But whether it is or is not unconstitutional, it seems to me to be unwise and improper. Therefore we ought to limit the expenditures of money by the Executive Departments of this Government, and ought to require them to apply the expenditure to the purpose for which the appropriation is made, and to the fiscal year, and for that only. I hope, therefore, there will be no objection to the amendment.

Mr. J. GLANCY JONES. Before the gentleman takes his seat I wish to ask him if the purpose of his amendment is to confine the appropriations contained in this bill to the specific purposes for which they are made, and to the fiscal year beginning 1st of July next?

Mr. SHERMAN, of Ohio. That is my purpose.

Mr. J. GLANCY JONES. Well, the bill on its face purports to be for that purpose, and I have no objection to the gentleman's amendment. But I may remark that I am not aware of the abuses to which the gentleman alludes. I do not know that the practice is followed except in those cases in which it is supposed that a discretionary power is lodged in the Departments. I know that there are frequent instances in which a Department applies to Congress to give it power when there is a reappropriation of money, to use the balance on hand. There is a case in this very bill where a reappropriation is asked for; but in consequence of there being a balance on hand which would go to the surplus fund, the appropriation is made in accordance with the provisions of law. I concur, however, with the gentleman from Ohio in all that he has said. I am decidedly in favor of having specific appropriations, and that balances shall not be used for other purposes; but unless they are used during the fiscal year they shall pass to the surplus fund, and afterwards be reappropriated.

Mr. SHERMAN, of Ohio. I trust the gentleman from Pennsylvania will allow me to add a remark. I hope that now since the attention of the House has been called to this abuse, that it will be corrected. I hope this clause in the act of 1842 will be repealed. There should be no objection made to it. This clause stands there as a monument of unwise legislation, and ought to be repealed; and I trust the gentleman will allow that to be done.

Mr. J. GLANCY JONES. I may possibly agree with the gentleman in the propriety of having that clause repealed; but I have taken ground against independent legislation in appropriation bills. I do not object to the gentleman's amendment as now modified, because it is germane to the bill; but I must object to the other, because it proposes to repeal a law. If the gentleman brings it up in the shape of an act to repeal that clause, I may concur with him, and vote for it.

Mr. GROW. I move to amend the amendment by adding to it the portion omitted by the gentleman from Ohio, [Mr. SHERMAN,] and I presume that my colleague [Mr. J. GLANCY JONES]

will agree to it, for this reason: the amendment will cover this whole question as to every appropriation bill as it comes up, and will obviate the necessity of offering it as an amendment to each. It is the proposition to confine appropriations to the specific purposes for which they are made, and to the fiscal year. The gentleman from Ohio, my colleague, and myself, all agree that the Departments should not have the discretion of diverting appropriations.

The CHAIRMAN. The gentleman from Pennsylvania will permit the Chair to suggest that the amendment which he proposes is not in order.

Mr. GROW. I was proposing to my colleague to accept the amendment in order to obviate the necessity of offering it to each appropriation bill as it comes up. I hope, therefore, as attention has been called to it, that there will be no objection. Its object is to confine each appropriation to the specific object for which it is appropriated, and that it may not be diverted to any other purpose. The habit has grown up in the Executive Departments of estimating very low on some things and very high on other things, and diverting appropriations from one to the other. I hope, therefore, there will be no objection, and that this question may be disposed of now.

The CHAIRMAN. The amendment is not in order.

Mr. GROW. I hope there will be no objection to it.

Mr. JONES, of Tennessee. I think that the gentleman from Ohio [Mr. SHERMAN] is mistaken, and that his amendment will not effect the object he intends.

The CHAIRMAN. The Chair suggests to the gentleman from Tennessee that there is no proposition before the committee on which debate is in order.

Mr. JONES, of Tennessee. Well, I move to strike out so much of it as relates to the money appropriated in the act.

The bill before the committee is to make appropriations to defray the consular and diplomatic expenses of the Government for the fiscal year ending June 30, 1859. The amendment of the gentleman from Ohio, as read, prohibits the payment of any money appropriated by this act for any expenses that shall accrue after the expiration of the present fiscal year ending June 30, 1858. If you incorporate this amendment as proposed by him, it defeats every appropriation in the bill. The gentleman must have meant that it should be the fiscal year ending June 30, 1859.

Mr. SHERMAN, of Ohio. I think the gentleman misunderstood the amendment. It provides that the money appropriated in this bill shall not be used in payment of expenses which shall accrue after the fiscal year commencing with the 30th of June, 1858.

Mr. JONES, of Tennessee. I certainly understood the amendment as I have stated it.

Mr. SHERMAN, of Ohio. If the gentleman is correct, the copy of the amendment sent to the Clerk contains a clerical error, and I modify it so as to make it apply to the expenses accruing after the fiscal year ending 30th of June, 1859.

Mr. GROW. I move to amend the amendment by adding the clause which the gentleman from Ohio first proposed, to make the provision general.

Mr. J. GLANCY JONES. I hope my colleague will not insist upon that amendment. I may be with him as to its adoption if it is incorporated in a separate bill.

Mr. GROW. My colleague knows very well that we shall never have an opportunity of incorporating it in a separate bill.

The CHAIRMAN. The amendment to the amendment is not in order if any gentleman objects.

Mr. J. GLANCY JONES. I must object. The amendment was agreed to.

Mr. MARSHALL, of Kentucky. I move to amend by increasing the appropriation to \$15,000, in the following paragraph:

"For salaries of the secretaries of legation of the United States, \$12,000."

And to strike out the following paragraph:

"For salary of the secretary of legation to China, acting as interpreter, \$5,000."

And insert as follows:

For salary of interpreter of legation to China, \$5,000.

Mr. Chairman, the appropriation in this bill is only \$12,000 for secretaries of legation of the United States; and in it there is no provision made for the secretary of legation to China. In the law, provision is made for an interpreter to the legation to China, at a salary of \$5,000 per annum, when not acting as secretary of legation, and that the secretary of legation, when not acting as interpreter, shall get \$3,000. I propose, therefore, to modify the bill so as to make it conform exactly to the law. I state from my experience, also, that it would be a very hard case to make the interpreter act as secretary of that legation. A separation of these offices is not only advisable, but proper.

Mr. LETCHER. It strikes me that this is a proposition to increase salaries.

Mr. MARSHALL, of Kentucky. Not at all. It only makes an appropriation for the salaries of such officers as are provided for by law. The bill as it now stands does not conform to the law.

Mr. J. GLANCY JONES. The law provides, as the gentleman from Kentucky has stated, that the interpreter to the legation to China shall receive a salary of \$5,000 a year, when acting both as interpreter and secretary of legation, or when he acts simply as interpreter, and not as secretary of legation; and that, in that contingency, the secretary of legation shall receive a salary of \$3,000 a year. I understand the object of the amendment of the gentleman from Kentucky is merely to make an appropriation for the salaries of these officers, in the contingency that they shall be vested in different persons. If that is the understanding, I have no objection to it.

Mr. MARSHALL, of Kentucky. I think the gentleman from Pennsylvania has misstated the law in this respect. The law provides that the interpreter shall receive a salary of \$5,000 a year when not acting as secretary of legation.

Mr. J. GLANCY JONES. I so stated.

Mr. MARSHALL, of Kentucky. I understood the gentleman to state that he was to receive that salary when discharging the duties of both offices.

Mr. J. GLANCY JONES. I stated that, as I understood the law, when the interpreter acts as secretary of legation, he is to receive a salary of \$5,000 per annum. If he acts as interpreter alone, he is to receive a salary of \$5,000 a year; and the secretary of legation is to receive a salary of \$3,000 per annum.

Mr. LETCHER. That comes back to the point where I thought it stood. It makes an appropriation for an additional sum of money for a contingency which may possibly arise. Now, sir, that is not the kind of economy I go for. I raise the question of order upon this amendment, upon the ground that it is to raise the salary of officers, and that you cannot change salaries in an appropriation bill.

The CHAIRMAN. The Chair overrules the question of order.

Mr. LETCHER. I think the Chair does not understand my point of order. It is that it is not competent for the Committee of the Whole, on an appropriation bill, to raise the salaries of officers.

The CHAIRMAN. The Chair will state to the gentleman from Virginia that he overrules the point of order, because he believes that there is a provision of law which authorizes the appropriation of the money.

Mr. LETCHER. I appeal from the decision of the Chair.

Mr. J. GLANCY JONES. I will read from the act of 1856:

"Sec. 2. And be it further enacted, That the President be, and is hereby, authorized to appoint, for the legations at London and Paris, respectively, an assistant secretary of legation, who shall be entitled to compensation for their services, respectively, at the rate of fifteen hundred dollars per annum; for the legation to China, an interpreter, when the secretary of legation shall not be acting as such, who shall be entitled to compensation at the rate of five thousand dollars; and for the legation to Turkey, a dragoman, when the secretary of legation shall not be acting as such, who shall be entitled to compensation at the rate of one thousand dollars per annum."

Mr. MARSHALL, of Kentucky. In a previous part of the same law we find this proviso:

"Provided, That the compensation of the secretary of the legation to China, acting as interpreter, shall be at the rate of \$5,000, and if not acting as such, at the rate of \$3,000; and that of the secretary of legation to Turkey, acting as dragoman, at the rate of \$3,000, and if not acting as such, at the rate of \$2,000 per annum."

Then in another section it is provided that the

President be authorized to appoint, for the legation to China, an interpreter, when the secretary of legation shall not be acting as such, who shall be entitled to compensation at the rate of \$5,000.

Mr. LETCHER. As I understand it, the interpreter, when acting as secretary of legation and interpreter both, shall receive a salary of \$5,000. Now, what my friend from Kentucky is after is to separate the duties of the secretary and the interpreter, and to make two distinct officers in that connection. I hold that, under the proviso which the gentleman has read, a secretary of legation may be appointed, who shall be an interpreter; and that the secretary of legation, so being an interpreter, shall receive a salary of \$5,000.

Mr. MARSHALL, of Kentucky. I would inquire whether, under the law as it now exists, the President cannot appoint an interpreter at a salary of \$5,000, who shall not be secretary of legation?

Mr. LETCHER. A correct interpretation to that act has been given in the appointment of a secretary of legation who is an interpreter. That is the interpretation given to the law by the President. But it is proposed now to set aside that executive interpretation and construction, and to make two officers, instead of one, and to pay \$8,000, instead of \$5,000.

The CHAIRMAN. The gentleman from Virginia has made a point of order which the Chair has overruled.

Mr. J. GLANCY JONES. I desire to say a word or two upon it.

The CHAIRMAN. The point of order is not debatable.

Mr. J. GLANCY JONES. I know it is not debatable; but it has been debated.

Mr. QUITMAN. I object to debate.

The CHAIRMAN. The question before the committee is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. BOWIE. Will the Chair state what the point of order is, on which the decision appealed from was made?

Mr. LETCHER. I will state it. It is that under the law which has been read, and executive interpretation has been given to it by the action of the President, and that that interpretation carries with it a given salary for a given work; that under the present amendment it is proposed so to construe that law as to expend upon a new officer \$3,000 more than is provided for by the bill.

The Committee was then divided, and eighty-four voted in the affirmative.

Mr. LETCHER. I will not insist upon a further count, but I give notice that I shall ask the yeas and nays upon the amendment in the House.

The CHAIRMAN. The decision of the Chair is sustained.

Mr. JONES, of Tennessee. I move to amend the amendment by striking out "five" in each case and inserting "three."

As I understand the law, it provides that if there is a secretary of legation and interpreter in the same person, then the salary shall be \$5,000; but that if there is a secretary who does not discharge the duty of interpreter, he shall receive \$3,000 per annum, and that an interpreter shall have \$5,000. The Executive is left free to appoint the same person to discharge both duties at a salary of \$5,000. And, sir, the President has so appointed an interpreter and secretary of legation in the same person, as is shown by the Blue Book; and, as I understand it, an estimate was made for one officer at \$5,000. The Committee of Ways and Means have reported in accordance with that estimate, as made by the Administration; and the effect of this amendment will be to require the President to appoint both a secretary of legation and an interpreter. The President has now the power, when he cannot get a person competent to perform the duties, both of secretary and interpreter, to get different persons to perform the duties of those respective offices. I have no doubt that hereafter the President will be able to find some person who is competent to perform the duties of both offices, as he has now. The effect of the amendment will be to require the President to appoint a person to each office.

Mr. PHILIPS. I oppose the amendment submitted by the gentleman from Tennessee, and I think it brings the whole question before the committee. The amendment proposed by the gentleman from Kentucky [Mr. MARSHALL] has been

ruled to be in order; and it is a proposition to increase the appropriation from \$12,000 to \$15,000 with a view of giving to the secretary of legation \$5,000 even when he does not discharge the duties of interpreter, and also to pay an interpreter \$5,000.

Mr. MARSHALL, of Kentucky. I beg the gentleman's pardon. That is not the object.

Mr. PHELPS. Then why propose to increase the amount for the payment of the salary of the secretary of legation? I am opposed to this modification, in an appropriation bill, of the salaries of officers. Certainly there is a sufficient amount contained in the bill to compensate the secretary of legation if he is acting as interpreter. Were it not for the amendment which has been adopted, and to which the chairman of the Committee of Ways and Means did not object, there would have been no difficulty in compensating the secretary of legation, if he did not act as interpreter, at the rate of \$2,000 per annum, and the interpreter at the rate of \$5,000. But the construction given to the amendment of the gentleman from Kentucky will be to give the secretary of legation, as such, \$5,000, and to pay the interpreter, if the office is held by another person, \$5,000.

The amendment of Mr. Jones was not agreed to.

Mr. MARSHALL, of Kentucky. I offer a *pro forma* amendment, for the purpose of explaining this matter, for gentlemen seem to have gone off in the dark about it. When the bill was introduced into the last Congress, which became a law, I myself introduced these amendments, and I introduced them with the intent to separate the offices of interpreter and secretary of legation. There is no possible relation between the duties of the two offices; and my opinion is, that no one man can fill the two offices. You give the interpreter, by law, a salary of \$5,000, when you do not impose upon him the duties of secretary of legation. With what sort of propriety can you force him, for the same salary, to discharge the duties of an office for which, in another clause of your law, you provide a salary of \$3,000? Do you not perceive that, by so doing, you are either taking his services as secretary of legation for nothing, or cutting down his salary as interpreter to \$2,000?

The gentleman from Missouri [Mr. PHELPS] said that the effect of my amendment would be to increase the salary of the secretary of legation to \$5,000. Not at all. It only proposes to give the secretary of legation the salary provided by law when he is not acting as interpreter, and to give the interpreter \$5,000 when he is not acting as secretary of legation, as is provided by law. The gentleman says that the amendment would force the Executive to appoint two officers. Not at all. It merely gives the Executive power to appoint two officers, provided in his judgment the two officers ought to be appointed. It only appropriates the salaries now provided for by law, and which the Committee of Ways and Means ought to have reported.

Sir, the interpreter to the legation at China has to be a scholar who knows all the dialects of the eastern languages. You have now such a man in the office—a man of delicate health, but a scholar. Your Minister has to pass from point to point and must have the secretary with him to transcribe the documents that he receives in his correspondence. He has to act most of the time as a mere amanuensis to copy the dispatches that pass between the Minister and this Government and the Minister with the Chinese Government.

I know very well that when I was Minister to China, I not only had a secretary, but I had a private secretary, who was paid out of my own pocket; and I know that he was almost constantly employed in transcribing papers that were in my office. You want your interpreter for other purposes. You want him for the purpose of translating to your Minister the thousand and one papers that exist in the Chinese language, and that may give him important information.

Mr. LETCHER. I do not think that this amendment ought to pass; and the more I hear about it, the more perfectly am I satisfied of that fact. Under the existing law, you have had a secretary of legation appointed, who has acted as interpreter.

The Congress of the United States has said by law that the secretary of legation performing this

additional duty was justly entitled to a compensation of \$5,000 per annum; and now my friend from Kentucky [Mr. MARSHALL] introduces his amendment, for the purpose of paying to the interpreter, when he does not act as secretary of legation, \$5,000 a year for that simple duty alone, while he has been heretofore performing both duties for that amount of compensation.

Then, sir, the more we see of it, and the more we hear of it, the more perfectly apparent is it to this committee that the object of the amendment is to give to this interpreter now, for that service alone, a compensation greater than he received for performing that and the additional service of secretary of legation. And then what is bound to come on the heels of it? According to the gentleman from Kentucky, after you have taken this \$5,000 for this branch of the service, you will have to appoint a secretary of legation, who is to be paid \$3,000 more, making \$8,000 for the service to be performed, instead of \$5,000, as now provided.

Well, then, what more? The gentleman says it is creating no new office. Is it not a direct invitation to the President to select a secretary of legation who is not an interpreter of the language, and who will get \$3,000 a year for his services? Is it not an invitation, having selected him, to select another man as interpreter, who is to get a compensation of \$5,000 a year? And how does the gentleman sustain his position on this subject? He tells you that the present interpreter there is a man of fine education, but of a feeble constitution. Then, is not the object palpable? Is it not clear, on that argument, that he intends that this man of feeble constitution shall be relieved from labor, and shall have a large compensation for what he does? Can it mean anything else? No, sir; that is its meaning, direct, palpable, and positive.

Mr. MARSHALL, of Kentucky. Will the gentleman allow me to ask him one question. Suppose the President of the United States appoints this man of feeble constitution as interpreter alone, what provision then have you made by this bill for the salary of the secretary. And does not the law require you in making up this bill, to make provision for the secretary, in case the President shall choose to appoint this man interpreter alone?

Mr. LETCHER. "Sufficient unto the day," Mr. Chairman, "is the evil thereof." If the President of the United States desires to divide these offices and to increase the expenditure of the Government \$3,000, I imagine he will say so to this House, either through the Secretary of State or through somebody else. Whenever he does say so, it will be time enough then for this House to appropriate money. But when the President comes here to the Committee of Ways and Means through his Secretary of State, and tells you that he wants a secretary of legation who shall also act as an interpreter, at a salary of \$5,000, I take it that it is the duty of the Committee of Ways and Means not to appropriate money for a purpose which the Executive in his construction of the law, disclaims and repudiates.

I do not conceive it to be our business to appropriate more money than is asked for. God knows there is money enough asked for under this Government for various purposes, and I would rather see these demands cut down than, by an invitation to the President of the United States, ask him to increase them, and offer him the temptation of appointing another one of a hungry crew of officers.

Mr. MARSHALL, of Kentucky, having withdrawn the last modification of his amendment, the question recurred on his amendment.

Mr. MARSHALL, of Kentucky, asked leave to withdraw it.

Mr. SEWARD objected.

Mr. COBB demanded tellers.

Tellers were ordered; and Messrs. COBB and COLFAX were appointed.

The committee divided; and the tellers reported—ayes 55, noes 63.

So the amendment was rejected.

Mr. BOWIE. I move the following amendment, to come in at the end of the eighty-seventh line:

Sec. —. And be it enacted, That it shall be, and hereby is, made the official duty of all consuls of the United States, in all foreign ports, to make out and send to the Department

of State, at least once in every month, a statistical table or tables of the retail and wholesale prices of all articles of import, the produce of the United States, both in the form of the raw material and the manufactured article, which said tables of prices shall be published by the State Department from time to time, as it may direct, for the information of the people.

Sec. —. And be it enacted, That if any consul of the United States, in foreign ports, shall fail to comply with the requisitions of this act, his name shall be stricken from the list of foreign consuls, and the vacancy thus created shall be filled by the President of the United States.

The CHAIRMAN. The Chair decides that the amendment is out of order.

Mr. BOWIE. The Chair has no right to decide that my amendment is out of order, when no question has been raised upon it. Why is my amendment out of order?

The CHAIRMAN. The amendment is not in order under the 81st rule, which is as follows:

"81. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law—September 14, 1837—unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying."

Mr. BOWIE. That has just as much to do with the question as I have to do with the man in the moon. [Laughter.]

Mr. J. GLANCY JONES. I move that the bill, as amended, be laid aside to be reported to the House with a recommendation that it do pass.

The motion was agreed to.

DEFICIENCY BILL.

On motion of Mr. LETCHER, the committee then proceeded to the consideration of House bill No. 306, making appropriations to supply deficiencies in the appropriations for the year ending the 30th of June, 1858.

The first reading of the bill was by general consent dispensed with.

Mr. LETCHER. I should like to make a statement in reference to the merits of the bill; but unless the committee wish it I will not do it to-night.

Mr. CASE. I desire to speak, and if the gentleman will allow me I will go on to-night.

No objection was made.

KANSAS AFFAIRS.

Mr. CASE. Mr. Chairman, the argument in favor of the admission of Kansas under the Le-compton constitution that has had the most extensive circulation throughout the country, and which, from the official position and prestige of its author, has attracted, and will yet attract, most attention, is that which the President sent us on the 2d ultimo. The local press has everywhere published it; and it is being scattered broadcast by the Administration party as the latest gospel of Democracy. I propose, therefore, to use my hour in examining some of its propositions and sentiments. When that document was read by the Clerk, and when its startling statements and bitter charges were so heartily and promptly indorsed by one of my colleagues, [Mr. HUGHES,] I felt a desire, for the first time, to speak—to say something of a State paper so extraordinary in its phraseology, assertions, and conclusions. Rising at this late period to gratify that desire, it is proper to say that some of the remarks I have to submit were prepared soon after the delivery of that message. In the mean time, it has been quite boldly discussed here and in the other branch of Congress; and many of the ideas which lie directly in my path have been better expressed by others. Some of them will bear repetition, and for the rest, I have no apology beyond this explanation.

Though addressing this body for the first time, it will hardly be necessary in advance to multiply words in defining my position. The subject will give sufficient opportunity to indicate it. Let me only premise that, while I was elected to a seat in this House as a Republican—charged, too, by political adversaries with being a very black one—while I cling to the leading tenets of that party as tenaciously as ever, and am ready, in my poor way, at all proper times to defend them, yet I propose to-day to say but little on the distracting subject of slavery—not that the able and earnest vindications of that institution, to which I have listened here, have in the least shaken old and deep convictions. In its essential characteristics I can see nothing to love or admire—much, very much, to abhor and condemn. I ought, perhaps,

to add; that my intense objection is to the principle of the institution; to its inherent injustice, which no kindness on the part of the master can compensate, though such kindness may be, and probably is, quite generally practiced; for I have never supposed our southern brethren to be sinners above all others. I dismiss this thought without further comment, content that for the present my remarks shall be confined to the rights of freemen, and the manner in which they are treated and proposed to be treated by the President; alluding only incidentally and necessarily, if at all, to the rights or interests of any other class. The subject demands great plainness of speech; and that demand is a sufficient apology for its use. The President has set the example. He has not been choice in his words, or mealy-mouthed in his opinions. Those words and opinions are immediately in my way. I cannot avoid them if I would; though he is old, and I am young.

Towards the close of his message, the President throws out a suggestion upon which he had done well to have acted if he would have it control the actions of others. He tells us, as in his annual communication, that "already have the affairs of Kansas engrossed an undue proportion of the public attention." Ah! have they? Why did not this occur to him at the outset, and, as has been well suggested by others, induce him to send us the Lecompton constitution, as he did that of Minnesota, without lengthy comments of his, instead of accompanying it with a long argument, every sentence of which is provocative of discussion, and acrimonious discussion too? Not thus will he succeed in calming the troubled political sea; not thus can he brush away "the dark and ominous clouds" to his vision "impending over the Union." Sir, when from his high position he assumes to pass judgment upon ten thousand free citizens of Kansas, pronouncing them rebels, insurrectionists, and traitors, when he substantially tells us that by their conduct they have forfeited all right to complain, that though the burden of their wrongs be never so heavy we must not hear them groan, he should remember that these men are our brethren and kinsfolk, that they have sympathizing friends in every free State certainly, probably in every State, of this Confederacy; that but a little time ago they were a part of the seventeen millions of northern freemen, that every congressional district in the free North has contributed its fifties and its hundreds to the population of Kansas, and of these, ninety-nine of every hundred are now standing and acting with those whom he denominates usurpers and rebels.

Besides, sir, the President is probably familiar with the political platforms of 1856. It will be recollected that he yielded his personal identity to the solicitations of patriotic friends, and was no longer James Buchanan, but the impersonation of one of them. He doubtless studied the others, and can hardly have forgotten that the Topeka constitution and movement, which he asserts to have been, from the first, the ultimatum of his Kansas rebels, received the indorsement of the Republican organization of that year. The work of a convention elected by a popular vote in its favor larger than the aggregate of that cast for the members of the late Lecompton convention, and ratified by a vote nearly or quite as large, they deemed it then the voice of the people, which Congress should heed. When, therefore, he brands that measure as rebellious and treasonable, he indirectly makes every Republican of that year an abettor of these monstrous crimes. He has studied American character to little purpose if he has not learned that such charges, from any quarter, must provoke severe scrutiny and criticism. Rebellion, charged against American citizens grates harshly on American ears, and he must not complain if facts and precedents are examined to determine its justice and propriety.

My colleague (Mr. HUGHES) told us that "the President had struck the key note of all this difficulty," and that was "rebellion! REBELLION!" He might have added that, having struck it, he adhered to it with marvelous steadiness. There were no half notes, nor even thirds or fifths in the whole strain. Let us cull some of the mellifluous sounds which still linger on the ear—first pausing a moment to inquire to whom they are applied. They are designated in the message, beyond a peradventure, by names and localities. They are

called Republicans and Abolitionists; the localities are "the towns, cities, or counties where the Republican party have a majority," or "Lawrence, the hot-bed of all the abolition movements in the Territory." The persons accused are "the great mass of the Republican party of the Territory." True, these designations occur in the more ancient dispatches of Governor Walker—dispatches sent off while he was *Saul* instead of *Paul*; before the scales had fallen from his eyes; but the President incorporates them in his message, and makes their sentiments his own. Who does not know that the men thus designated are none other than the free-State party of Kansas, very few of them being Abolitionists; many of them not claiming to be Republicans, but old-fashioned Democrats rather, who went there to carry out what they thought to be "the true intent and meaning" of the organic law, but found themselves of necessity siding with the party of freedom in that Territory, and have therefore been dubbed Republicans and Abolitionists by the loyalists there and elsewhere.

How are these men and their acts characterized in the message? Why, sir, as having from the first "endeavored, by force and usurpation, to overthrow the government established by Congress," as "subverters of government," "defying government," and "setting up a revolutionary government." They are spoken of as insurgents, as insurrectionary, rebellious; and to those deeds of shame, all culminating in the Topeka movement, we are told they have adhered "with treasonable pertinacity." These are specimens, only, of the choice literature of the Executive. How many times some of these adjective phrases occur in the message, I cannot say. They constitute its warp and woof; and, to return to the figure of my colleague, are but the same key-note, or its octaves above and below. What a harmony of soft words, if not of soft music!

While the tones of its lofty patriotism and heaven-born charity yet captivate the sense, while friends are praising its signal ability and opponents smarting under its benevolent castigations, it is grievous to be compelled to say, in truth, that the production is scarcely original. Key-note and all, it is little more than a recast of an old chant—of a tune sang many years ago, perhaps before Yankee Doodle had become a national air. Painful as the task may be, and precious as my time certainly is, I must take occasion briefly to demonstrate this, both as a matter of justice to the dead, and that the living may see which way the Administration is drifting. The data may also be useful to the friends of the President elsewhere. His message has been assailed by the Opposition press as being without parallel or precedent in the past. To his friends throughout the country it must be interesting to learn that in sentiment it is not new to American history. Republicans are prone to refer to early writings to sustain their doctrines—to show that they were those of the fathers; that even their territorial policy had its origin in a Jeffersonian ordinance older than the Constitution. And while the public heart venerates the deeds and the patriotism of those great men, they will not appeal in vain to the voice which comes to them through the vista of years, and assures them they are right. It must please the friends of the Administration (not here, but in the rural districts) to learn that they, too, can appeal to writings older than the present Government to vindicate the language of this remarkable State paper—to show that in tone, argument, and phrases, it has its prototype in the productions of that past generation whose law-loving spirit the President so beautifully commends.

This earlier document I have before me. It is an unpretending book, occupies but little space, and has probably attracted little attention among the sixty thousand volumes of your congressional library. Certainly it is a kind of literature to which Republicans are not partial, and of which Democrats, in other days, were not specially fond. It was written in 1774. That, like the present, was a time of excitement. Then, as now, there was a controversy between Governors and governed; then, as now, a party which asserted the Governors ever right, the governed ever wrong. To this party the author seems to have belonged. His name does not appear in print, but some hand, (I had almost said an unkind one,) has penciled it on the title page; it shall not escape my lips.

He was undoubtedly a Tory; but he has gone to his grave, and no descendant of his, if he has one, would thank me for proving, or intimating, this work to be the deed of his ancestor. It is entitled—"A Friendly address to all Reasonable Americans on the subject of our Political Confusions, &c.," and seems to have been published for purchasers, at the moderate price of one shilling sterling. A few extracts from both will show the striking resemblances between the ancient book and the modern message. I begin with the latter. The President says:

"A great delusion seems to pervade the public mind in relation to the condition of parties in Kansas. This arises from the difficulty of inducing the American people to realize the fact that any portion of them should be in a state of rebellion against the Government under which they live. When we speak of the affairs of Kansas, we are apt to refer merely to the existence of two violent political parties in that Territory, divided on the question of slavery, just as we speak of such parties in the States. This presents no adequate idea of the true state of the case. The dividing line there is not between two political parties, both acknowledging the lawful existence of the Government, but between those who are loyal to this Government and those who have endeavored to destroy its existence by force and by usurpation—between those who sustain and those who have done all in their power to overthrow the territorial government established by Congress. This government they would long since have subverted, had it not been protected from their assaults by the troops of the United States. Such has been the condition of affairs since my inauguration. Ever since that period, a large portion of the people of Kansas have been in a state of rebellion against the government, with a military leader at their head of a most turbulent and dangerous character. They have never acknowledged, but have constantly renounced and defied the government to which they owe allegiance, and have been all the time in a state of resistance against its authority. They have all the time been endeavoring to subvert it, and to establish a revolutionary government under the so-called Topeka constitution in its stead. Even at this very moment the Topeka Legislature are in session."

Similar in sentiment is the extract from one of the dispatches of Governor Walker, adopted by the President, which says:

"Lawrence is the hot-bed of all the Abolition movements in this Territory. It is the town established by the Abolition societies of the East; and, whilst there are respectable people there, it is filled by a considerable number of mercenaries, who are paid by Abolition societies to perpetuate and diffuse agitation throughout Kansas, and prevent a peaceful settlement of this question. Having failed in inducing their own so-called Topeka State Legislature to organize this insurrection, Lawrence has commenced it herself; and if not arrested, the rebellion will extend throughout the Territory. And again: In order to send this communication immediately by mail, I must close by assuring you that the spirit of rebellion pervades the great mass of the Republican party of this Territory, instigated, as I entertain no doubt they are, by eastern societies, having in view results most disastrous to the Government and to the Union."

In the same strain are the two following key-note extracts:

"The truth is, that up till the present moment, the enemies of the existing government still adhere to their Topeka revolutionary constitution and government."

"This Topeka government, adhered to with such treasonable pertinacity, is a government in direct opposition to the existing government prescribed and recognized by Congress."

Observe, sir, the grave charges and causes of complaint: "regular authority defied and denied;" loyalty at a discount, leaning on paid soldiery for support; particular places in open revolt, and by their hot-bed movements striving to make the dire disturbance universal; legal officials repudiated, and legislators, Governors, even a turbulent and dangerous military leader of their own choice set up in their stead! And yet the people all unconscious of an existing continued rebellion. The picture is graphically drawn, but lacks one great merit—originality, as a few extracts from the book before me will clearly prove. In the deeds and designs of his countrymen eighty-four years ago, the author saw and painted the same rank mischief and treason that constitute the startling features of the modern drawing. He says:

"Friends, countrymen, and fellow-subjects: Let me entreat you to rouse up at last from your slumber, and to open your eyes to the danger that surrounds you—the danger of being hurried into a state of rebellion before you are aware of it, and of suffering all that resentment which a mighty nation can discharge on a defenseless people."

"If you persist in the steps which many of you have taken, the time cannot be distant in which both you and they will be legally proclaimed rebels and traitors—they as principals, you as their abettors; and especially if you go on to encourage the New England fanatics to attack the King's troops!"

Again he says:

"To this wretched and accursed state of rebellion, the principles that have been propagated, and several steps that have been taken in the American colonies, directly tend. Nay, a rebellion is evidently commenced in New England, in the county of Suffolk, without room for retreating; the inhabitants of that large and populous county have openly

hid defiance to the united authority of the King, Lords, and Commons in Parliament assembled; they have most contemptuously rejected the regulations of their courts of justice, &c., established by Parliament; and not only so, but they have set up in direct opposition to their authority a Government of their own. In the spirit of outrageous licentiousness they have compelled, by brutal violence, those respectable gentlemen that held commissions under the Crown to resign them, in forms of their own inditing, and to relinquish their stations, and they have appointed others of the same factious and turbulent disposition with themselves to fill their places, till their long projected Republic shall be settled; which is the glorious object. They have already, if we may believe *credible information*, marked out the inland town of Worcester for the seat of this Republic; they are now collecting artillery for its defense, and some of them have nominated the man who is to be their PROTECTOR. Whether this be so or not, it appears from authentic intelligence from Boston, that they have done as bad. For the selectmen and committee of correspondence have proclaimed the King's troops to be public enemies."

Quoting from a dispatch of the King's Governor, he makes the charge against these Bostonians yet more explicit; for Boston then, and that New England region, like Lawrence now backed by its New England aid, seems to have been the hot-bed of sedition. Plymouth Rock is, I believe, somewhere in that vicinity, and it seems that the pernicious principles of the Pilgrim Fathers were even then working out legitimate fruits! The Governor (not Mr. Buchanan's, but the King's) says:

"They have given orders to prevent all supplies for English troops; straw purchased for their use is burnt, vessels with bricks sunk, carts with wood overturned, and all this is not the effect of rash tumult but of evident system."

Why, sir, you can scarcely find in the history of Lawrence such systematic lawlessness as this, unless in that spontaneous municipal organization that demonstrated its contempt for the authorities, in the willful removal of sundry dead animals from the streets of that town, and rendered the presence of United States troops necessary to preserve order! Our author adds:

"Now these rebellious republicans, these hair-brained fanatics, as mad and distracted as the Anabaptists of Munster, are the people whom the American colonies wish to support."

Let full justice be done to both productions. In the message we are informed that there "are respectable people in Lawrence." So in the elder author we learn that even in Boston there were "many innocent and respectable persons—many more than was commonly imagined."

The comparisons made sufficiently indicate the family resemblances; but there are others equally striking and suggestive. More than once we are told in the message, in reference to the Lecompton convention and its results, that if that body did not represent the sentiment of the Territory, if its doings were an outrage upon the wishes of the people, it was their own fault; that by their votes that should have sent to that body different men—men representing their views—and having failed (refused, if you please) to do so, "it is not for them to complain that their rights have been violated." What an argument, sir, for a statesman and moralist! The plain English of it, as we must apply it, is this: admit that this constitution does violate the people's rights: they committed the first wrong, and that will excuse ours. We may, therefore, thrust it down their throats without even asking them how they relish the prescription. When and where did the President learn that in politics, more than elsewhere, one wrong justifies another? Ah! I forget myself; he might have learned it in the very book before me.

In those early days, as we all know, the legislation of the parent Government interfered with the tea drinking of the Colonies—imposing a tax on that "*domestic institution*." Then arose a contest among the people—the rebellious asserting that they should have a voice in the making of laws that taxed them. Our author, ever loyal to those in power, was upon this grave question true to the administration. He first denies the right claimed by the people, and then concludes his argument as follows:

"Yet, notwithstanding all this, they (the people of the Colonies) have lately been told by their agents, who had it from the best authority, that if they chose to send over persons to represent them in Parliament, they should be admitted to seats in the House. In my opinion, they have done wisely in not accepting the offer; but after refusing it, they surely have no reason to complain that they have no representatives in the Parliament that must govern them."

Sir, if the work is good authority, the language of the message is vindicated by a precedent of respectable years.

The analogies are by no means exhausted.

Passing from the question of right, the Executive missive invites our attention to arguments of expediency. We are asked to consider the benefits that will result to Kansas and the country from its immediate admission and the disasters which may follow its rejection. In the catalogue of benefits to be assured by its admission, we have "domestic peace restored, and that fine Territory, hitherto torn by dissensions, rapidly increasing in population and wealth, and speedily realizing the blessings and comforts which follow in the train of agricultural and mechanical industry."

The figures of the other and darker picture are not clearly brought out. We have dim images of "agitation renewed in a form more alarming than it has ever yet assumed," "people of sister States estranged from each other with more than former bitterness," and "consequences which no man can foretell," on a background of "dark and ominous clouds impending, which, if Kansas is rejected, will become darker and more ominous than any which have yet threatened the Constitution and the Union." I shall not attempt to finish the picture, especially when it is intimated that the background may yet require a deeper shading. But our ancient author, in his "address to reasonable Americans," left neither of these sketches unfinished. He reminded them that under British laws and protection "they were already rich, from practicing at their ease the peaceful arts of agriculture and commerce; and they had but to pursue the same path to flourish and prosper, till, in process of time, they would excite either the admiration or envy of the whole world." Then, turning the canvas, he pointed to them "the darkness of a rising tempest," while "the roar of distant thunder broke upon their ears." In bold relief stood out the frightful images of his grouping. The demon of discord rising to distract; the dogs of war let loose; brother fighting against brother; the rebels vanquished and treated accordingly; their estates forfeited and confiscated; themselves handed over to the hands of the executioner; and "only the lower classes spared," to speak of the mercy of their conquerors!

All honor to those same reasonable Americans, for whom arguments of advantage had no controlling charms; pictures of disaster no restraining terrors; whose steady and practical reply to all expediency men was that noble adage, "millions for defense, not one cent for tribute;" or that other immortal sentiment, "give me liberty, or give me death!"

In strange contrast with the reasoning just considered is the argument of insignificance to be found in the old work as well as in the new, the subjects discussed being different, but the principle involved the same. In the former, submission to British power was counseled, because the tax imposed was too insignificant to be ground of complaint, and because the people could themselves cure the evil, and yet be loyal to constituted authorities. The author says:

"In what do you suffer? Why, it seems a duty of three pence a pound has been laid by Parliament upon their teas exported to America; and we cannot purchase the tea without paying the duty. But, if this may be called a burden, so may the weight of an aton on the shoulders of a giant. Besides, this burden may be easily avoided; for we have no occasion to purchase the tea, and unless we do purchase it, we are under no obligations to pay the duty."

Sir, why did not this argument settle the confusions of 1774? Because, above and beyond the insignificance of the tax demanded, rose the eternal principle that the people's consent must be the basis of all laws to which they are subjected; and because trifling and insignificant violations of it were then, as now, more dangerous to the public good than flagrant denials of its justice. The one, adopted, might become a precedent; while the other, if successful, would be branded as tyranny.

And yet, though the same principle is involved now as then, we are told in the message—

"If Kansas is rejected, agitation more alarming than we have ever known will be revived; and this from a cause more trifling and insignificant than has ever stirred the elements of a great people to commotion."

What is the argument by which we are to be convinced on this point? Why, in substance, this: if the proposed constitution does not accord with the popular will of Kansas, we have only to drag her into the Union under it, and then the people can immediately help themselves! Thus, we are told there is "only a difference of time"

between us. Granting the legal view to be sound, (and upon that I express no opinion now,) why do we not yield the point at once, and have done with this angry strife? Because thereby we would yield that undying principle which, in the eyes of our fathers, towered like a mountain peak above the trifling impost that violated it, and which must never, never be surrendered—the assent of the governed to laws, and above all, fundamental laws, to be imposed upon them. When that principle is involved, nothing which demands its abandonment, or postponement for a single hour, is trifling or insignificant.

One other characteristic of both documents deserves a passing notice. It is the common standpoint from which they view and judge the actions of the authorities on the one hand, and of the people on the other. Read the old book through, and from beginning to end you can find in it no admission of any real wrong on the part of British power. The rulers were ever right, submission to their behests ever a duty; the people were always wrong, their remonstrances unreasonable, their action "brutal violence and rebellion." So, sir, in the message, from its first line to its last, there is not an intimation that, in a solitary instance, pretended authorities or real ones have outraged public decency or private rights in Kansas; not a word from which you can infer that there has been the slightest excuse for the continued rebellion and pertinacious treason which is charged, without scruple, upon ten thousand freemen in that Territory. Like the Tory writer of 1774, the President sees no act of the authorities in Kansas to condemn, scarcely one act of its people to approve. I shall return to this feature of the message soon, and therefore dismiss it for the present.

Enough, perhaps, has been said to show, not where the President did find, but where he might have found, "the key note" of his message—enough to remove all wonder that even Democrats are startled at the strain and loth to keep time to the tune. And now, sir, I have done with comparisons between these extraordinary productions. As to the justice and propriety of the one, the public voice, if consulted, would give no uncertain sound. Let but an American come forward now and thus speak of the deeds and men of eighty-four years ago, and he would be deafened with the hisses of the civilized world. Let us leave the author where we found him, sleeping in a political oblivion that perchance should not have been disturbed, while we return to the document of our own times, with the charitable prayer that similar errors may not ultimately be rewarded by a similar repose.

Time fails me to notice many important propositions of the message. I must be content with a hasty glance at one or two more. Here is one deserving attention, not only for its indication of executive partiality, but for its grave error as to the real issue to be settled. It is a sort of postscript to the argument of insignificance which has been considered, and shows that in the President's opinion the struggle may not be so trifling to others as it is to the people of Kansas. He says:

"In considering this question it should never be forgotten that—in proportion to its insignificance, let the decision be what it may, so far as it may affect the few thousand inhabitants of Kansas who have, from the beginning, resisted the constitution and the laws—for this very reason the rejection of the constitution will be so much the more keenly felt by the people of fourteen of the States of this Union where slavery is recognized under the Constitution of the United States."

Sir, does the President imagine that northern men are statues, that in the free States of this Union there will be no "keen feeling" on this question? If our southern brethren may be so strenuous about a barren victory, may not we as strenuously decline to yield? Suppose we reverse the argument, and say, "in proportion to its insignificance, &c.; for this very reason the adoption of this constitution will be so much the more keenly felt by the people of the sixteen States of this Union where slavery is not recognized." Is not the reasoning equally sound? Yet he seems to be blissfully unconscious that the people of the North have any interest, or any right to be interested, in this matter. But on this I do not dwell. I wish rather to refer to a graver error, apparent in the passage last quoted, and more prominent still in other parts of the message. It is the assumption that this constitution is to be rejected, if at all, because it tolerates a

certain peculiar institution. In another place, you may remember, he speaks of the "disasters to result, if we reject Kansas because slavery remains in her constitution." Now, sir, this assumption is sadly wrong. With me, and with many others, under the circumstances, it would be a sufficient reason for voting against the adoption of that constitution, if there were no other. But the President must know, or should know, that in this House there are those who are earnestly opposed to its adoption, with whom the slavery clause is of secondary or no importance; and, sir, he ought to know, if he does not, that all over the land there are thousands of men—men who were his supporters a twelvemonth ago—who care little about slavery, but who will look upon the admission of Kansas under this constitution as an outrage unparalleled in all our past legislation. Does the President wish to put such men, holding seats here, and the thousands who sympathize with them elsewhere, in a false position?

Nor is this sentiment confined to those who were so lately of his political household. For one, I am free to say that if there were no question of negro slavery involved, I would never, by my vote, make that instrument the constitution of Kansas; because that involves a question to me equally important, whether white men shall be robbed of their rights. The free men of that Territory have cast it out as an unclean thing, and that is objection enough with me without looking at the face of the paper. As an American citizen, and as a Republican, while I do not hold that Congress is bound to approve and adopt a constitution, regardless of its provisions, because it embodies the people's will, I do hold that we should never force one upon them, for a single moment, which they have never approved, but have emphatically condemned. On this latter proposition I would not have supposed, six months ago, that there could be a difference of opinion between men or parties.

In this connection I am reminded of another singular statement of the message. It is this:

"The people of Kansas have, then, 'in their own way,' and in strict accordance with the organic act, framed a constitution and State government; have submitted the all important question of slavery to the people, and have elected a Governor, a member to represent them in Congress, members of the State Legislature, and other State officers. They now ask admission into the Union under this constitution, which is republican in its form."

A brief prefix to this statement, with one slight omission, would have added vastly to its truthfulness. Had he commenced by saying "a meager minority of the people of Kansas," and omitted the phrase "in strict accordance with the organic act," he would have made a capital hit. Then it would have read, "a meager minority of the people of Kansas have framed a constitution, and ask admission under it." Thus he would not have ignored the fact, then and now notorious in all the land, that only in the previous month, and as the latest utterance of the ballot-boxes of that Territory, the people had almost unanimously repudiated this constitution. Of that fact he must have had an unwavering conviction when he penned his message, and yet who would suspect it from what he says? I am aware of his excuse, and will give it in his own words. He says, "I have yet received no official information of the result of this election." Quite likely; and on his own theory he probably never will; for, in the same connection, just preceding this last quotation, he strongly intimates that in his judgment the whole proceeding was unofficial and unauthorized; though he says "it was peaceably conducted under his instructions." But is it so that when a man becomes President he loses his natural organs—has only official eyes and official ears, and may not, by ordinary channels of information, learn, believe, and act upon an unquestioned fact? If this is not true, then did he know and believe, when his message was written, that the people of Kansas make no such request as he attributes to them.

Passing through this maze of old-fashioned heresy and new-fashioned Democracy, it is pleasant to find a commendable sentiment. It is this: "popular sovereignty should be exercised here only through the ballot-box," and "through the instrumentality of established law"—a general proposition which none should deny. Republicans do not controvert it. On the contrary, that sovereignty having been conferred on the people

of Kansas by an established law, Republicans, in that Territory and out of it, have insisted from the beginning that they should be protected in the enjoyment of the right. Its violation by the raid of March 30, 1855, when the established law was ignored, and the voice of Kansas stifled at the ballot-box, and the continued recognition, by the Executive and his agents, of the usurpation then inaugurated, have been the grand causes of the political confusions of that Territory. It is that usurpation, in all its ramifications, and not the established law, that the people there have resisted. I know the apology for that interference; I say apology—for no one can pretend that it would amount, if true, to anything like a justification. It was said, and is said, that it was to counteract the efforts of eastern aid societies and their agents who, it was alleged, had flooded and were flooding Kansas with emigrants, through whose votes they sought to shape its laws and institutions. Suppose this was done. So long as they sent there only *bona fide* settlers, what right, legal or moral, did they violate? Not even to this extent would legitimate evidence sustain the charge; much less would it convict them of sending to that Territory mere transient squatters, to interfere with the rights of actual residents. Why, sir, when the Kansas-Nebraska bill was pending in Congress, through all the long discussion upon it, it was a point conceded that the peculiar institution could never be established in either of those Territories. Passing over the admissions of distinguished friends of the measure in the Senate, I will rest the proof of this assertion upon the language of my colleague, [Mr. ENGLISH.] In a speech made by him in favor of the bill, on the 9th day of May, 1854, he used these words:

"I have said that in my opinion the people of these Territories will never adopt the institution of slavery; and I have yet to hear a member of Congress, of either House, express a contrary opinion."

Sir, what was such language, in substance uttered and reiterated by many from the South as well as from the North, but an invitation and a license to the whole North to go there and settle and establish their own institutions? And if they accepted the invitation, and rushed in by thousands as soon as Kansas was opened to them, what right, express or implied, was interfered with? Was there a law providing that emigrants to a new Territory should go solitary and alone, and that no more than a given number should enter it within a given time? If not, then if it were true that a million of New England emigrants stood upon the Kansas line and poured themselves into it the first moment it was open to emigration, it was no wrong to anybody.

I come back now to this charge of rebellion. Is it well founded? To settle that question correctly we must determine one preliminary, namely: what is the governing power of Kansas? Happily, so far as the President and his supporters are concerned, this question is conclusively settled by an authority which he says is the highest known to our laws, and that, too, in a decision which he and they most heartily approve. Once, there was much noise and confusion about popular sovereignty as applicable to Territories. Once, a portion of the President's friends denied or doubted the right of Congress to legislate for them. Their theory seemed to be, that the people of a Territory, like those of a State, were sovereign; and that Congress had not constitutional power to interfere with that sovereignty in either case. The Supreme Court, in the famous Dred Scott decision, set that to rest. They decided, in substance, (indeed it was no new doctrine in that court,) that Congress is the law-making power for all our common domain; that the Federal Government is the governing power of that domain. True, they said that Congress could not interfere with a certain institution there, not because it was not the legitimate law-making authority, but because that institution was above all legislation. But equally explicit were they in the doctrine that whatever laws may be enacted for a Territory, Congress may pass; whatever power a Territorial Legislature may have, is such as Congress gives it, and no more. That these points were ruled, or attempted to be ruled in that celebrated case, is past dispute. It follows that, though Congress may grant to the people of a Territory the right of self-government, only a delegated right is conferred, which may, at any time,

be resumed, no matter how unconditional the grant be on its face; for Congress cannot, if it would, yield past reclamation, sovereignty vested in it by the Constitution. It follows, too, that, if Kansas has had a government, it has been the Federal Congress, or such officials—Governors, judges, marshals, and legislators—as Congress may have designated and authorized to act as its agents. We all know what the fact is: Congress provided, by an organic act, for a government through agents, prescribing for the people of that Territory, Governors, Secretaries, judges, and marshals, to be appointed by the Executive, and legislators to be chosen by themselves.

Such having been and being the legal governing power of Kansas, when, and by whom, has it been repudiated or defied? When have the people there resisted the officers of Federal appointment, or denied their authority? I do not ask for individual acts of resistance to officials. Such have doubtless occurred there, as they have everywhere else. But no lawyer will pretend that such acts amount to rebellion. I go further, and ask when have they denied the authority or resisted the enactments of any Legislature called into being by their voice? Remember, sir, they were licensed by the organic act to elect their own legislators, and were told that thus they should freely govern themselves. That license was at any time subject to congressional modification or recall; but so long as it remained, it was to them a sufficient warrant to deny the authority and resist the enactments of any pretended Legislature, not chosen by their votes; and, though I do not profess to go into details, the investigations of a prior Congress sufficiently prove that only when such a body of pretenders was thrust upon them by others did they deny its authority, repudiate its enactments, and refuse to recognize the swarms of officers by those enactments called into being. I have spoken of that first Legislature as a body of pretenders. It is a borrowed phrase, sir, borrowed from high Democratic authority—none other than the State Sentinel, the central and leading organ of that party in my own State, of the date of July 27, 1855. To avoid the charge of plagiarism, I quote the article in full:

"KANSAS.—The public were informed, a few days since, that the Kansas Legislature had changed its place of meeting from Pawnee Village to Shawnee Mission. Governor Reeder, it seems, dissents from the usurpation of power in the case in point, and refuses to meet that incendiary body at its new habitation, or to recognize its action as of legal authority."

"Were we the Governor of Kansas, backed by the Administration, we would treat that body of pretenders much as the Long Parliament was treated by Cromwell, and subject the outlaw leader to a test similar to that imposed on the weak and unfortunate Charles the First. In other words, as beheading is out of fashion, we would hang that fellow, Stringfellow, to the first tree that presented the proper convenience for a little episode of this peculiar character."

Of course I am not responsible for the personalities of this editorial, and need not make them my own; nor would I vouch for its entire truthfulness. One error is manifest. It speaks of Governor Reeder as being backed by the Administration, whereas he was simply backed out by it.

But to return: I have shown that there were but two possible legislative bodies to whom the people of Kansas owed allegiance. Congress being one, and the other a Territorial Legislature of their own free choice. Congressional enactments they have not resisted; a Legislature of their own choosing they never had, prior to the one which has but recently adjourned. Thus is the alleged key-note of the message disposed of. The authority of Federal officials has been respected, even while those same officials have joined with the oppressors of Kansas, in attempting to subjugate its people. Only the power of those pretended officials, thrust upon them in shameful violation of their pledged rights, have the people of Kansas denied. That this has been their consistent course, is more manifest in view of the fact that the first Legislature of their own choice has been respected by them, as a legitimate Legislature should be; and in view of the further fact that all the Democratic Governors, save one, who have been sent to that Territory, and who went there breathing threatenings and slaughter against those same free-State men, speedily became such ardent sympathizers with them that they were no longer fit repositories of Executive confidence. Like Saul, of olden time, they have all been suddenly and marvelously converted. Only thus far, however,

does the comparison hold good. Divine Power struck down the persecuting Jew, that he might be converted; Executive power struck down these Governors because of their conversion!

It is true that acts of violence have been committed by free-State men in Kansas, for which there is no apology, save the aggravation of lawlessness, under color of law, that provoked them. And yet the President, as I have said, utterly ignores all these insults and provocations, though they constitute a catalogue of crime such as has disgraced no other civilized land in the nineteenth century. He is growing old—perhaps forgetful. I propose to jog his memory on one or two matters too significant to be overlooked; to remind him, humble as I am, and impertinent as it may seem, that if he has not read the papers, the people have; or, if he has forgotten the history of Kansas past, there are those into whose hearts the record has been burned too deep to be erased. I pass over all acts of individual violence as causes of complaint. These, on both sides, the President and his friends may make a matter of mutual set-off; though, for the balance over, there would be a heavy judgment against them. Still, it is not of the greatest moment that one man was butchered here, another hewed to pieces there, and another shot and scalped in another place. It is, perhaps, of little consequence that these bloody deeds became every-day occurrences in Kansas. Nor need we stop a moment to sympathize with friends of the butchered dead. Assassination and murders are not peculiar to Kansas. They have occurred elsewhere, and will occur again—ever attended, too, with scores of living bleeding hearts for every one that ceases to beat. Human life is, after all, far less precious than the rights we live to enjoy.

Of one or two of these transactions, viewed in another light than as simple wrongs to persons, I shall have something to say. As to all, let me add that, while such enormities are comparatively trifling, there is a fact connected with them of the deepest significance; and that is, that all the perpetrators of these atrocious deeds are still at large, and unwhipped of justice. Nor to this hour has there been an effort, which deserves the name, on the part of the officials of that Territory, to bring them to an account; except perhaps one on the part of Governor Geary, which was successfully thwarted by judicial interference. This fact, sir, constitutes one of the great wrongs of which the free-State men of Kansas justly complain, and against which (if you please to say so) they revolt. A murder, even if the victim be a helpless, unoffending cripple, (as was the case of Buffum,) or if he be scalped as by the hand of a savage, (as was the earlier case of Hoppe,) may be too small a matter to be remembered or noticed by the President or his Kansas friends; but, sir, when the officers of the law become indifferent to even such trivial wrongs; when, by the conduct of Governors, marshals, judges, and district attorneys, the community is advertised that such deeds are to go unpunished, that, sir, is a wrong which he should not overlook—a wrong to the whole community, which, in one way or another, and in some way at all hazards, that community has a right to remedy. There is another fact, deserving notice at this point. During the whole time when these wrongs were being perpetrated, all the instrumentalities and machinery of justice were in the hands and under the control of what is now the Administration party. They made the Governors, judges, marshals, and public prosecutors, who pretended to administer the laws in that Territory. With them, during all that time, rested the power of removal; and there it rests still. At their door, therefore, is piled up this mountain of unavenged crimes. I commend these facts to the consideration of the venerable President, who so piteously exclaims for the return of the good old days of "reverence for law." When he and his advisers shall have purged that Territory of all officials who overlook or wink at deeds which would disgrace savage haunts, will it be time for him and them to arraign the freemen of Kansas for doing something to protect and defend themselves.

And now, sir, for some examples of "loyalty;" for you know the message tells us that "the dividing line in Kansas has been between those who are loyal to this government, [the territorial,] and those who have endeavored to de-

stroy its existence by force." Who are meant by the latter class, we have already seen. They are designated as the Republicans. Of course the loyalists of the message are those who have opposed these Republicans. From their ranks, choosing only their burning and shining lights, my examples shall be selected. You shall have, chiefly, specimens of official loyalty and respect for the laws. I begin with the judiciary, not being confined, however, exclusively to judicial acts.

Searching the history of Kansas, we find the chief justice of the supreme court of that Territory an active participant in a public meeting held at Leavenworth on the 30th of April, 1855; which meeting passed an order that "all persons who should, by the expression of abolition sentiments, produce a disturbance to the quiet of the citizens, or danger to their domestic institutions, should be notified, and made to leave the Territory." The Kansas Herald, an Administration organ, tells us that "the meeting was ably and eloquently addressed by Judge Lecompte," and that its doings were harmonious. They appointed a committee of ten to carry out their orders. How faithfully that committee endeavored to obey instructions, one William Phillips can testify. I mistake, sir; once he could have testified, but I remember now he was afterwards shot down in his own house by a band of "law and order men," under command of one who is an officeholder under the present Administration. But this is a digression. I wished to show a specimen of reverence for law on the part of a judicial functionary, and not to trace its consequences.

This was no judicial act; but here is one that was. It is the charge of Chief Justice Lecompte to the grand jury of his court, delivered on the 5th day of May, 1856. It has been cited in this body before by my worthy colleague, [Mr. Corfax,] and may be found in the National Intelligencer for June 5, 1856. The Judge says:

"Gentlemen, you are assembled to consider whatever infringements of law may come under your notice, and bring in bills as your judgment may dictate against those whom you may find guilty of such infringements." * * * "You will take into consideration the cases of men who are dubbed Governors, Lieutenant Governors, Secretaries, and Treasurers, within this Territory, and will find bills in accordance with the following instructions:

"This Territory was organized by an act of Congress, and, so far, its authority is from the United States. It has a Legislature, elected in pursuance of that organic act. This Legislature, being an instrument of Congress by which it governs the Territory, has passed laws. These laws, therefore, are of United States authority and making, and all that resist these laws resist the power and authority of the United States, and are therefore guilty of high treason.

"Now, gentlemen, if you find that any persons have resisted these laws, then you must, under your oaths, find bills against such persons for high treason. If you find that no such resistance has been made, but that combinations have been formed for the purpose of resisting them, and individuals of influence and notoriety have been aiding and abetting in such combinations, then must you still find bills for constructive treason, as the courts have decided that, to constitute treason, the blow need not be struck, but only the intention be made evident."

Sir, since the day when the infamous Jeffreys sent Algonson Sydney to the block for constructive treason, so monstrous a doctrine as this charge enunciated, has not emanated from the bench of any Christian country—a doctrine which would have made any man who resisted a tax-gatherer in Kansas, guilty of high treason! Nay, more and worse, which declared that not the act, but an intent to do the act, constituted the crime! We all know the result. Scores of free-State men were indicted, arrested, and confined in jail. Judge Lecompte for months refusing every offer of bail. Plenty of officers could be found to arrest and incarcerate such men on the shortest notice. This was done on alleged indictments, which a Democratic Senator and able lawyer, [Mr. Pugh,] pronounced defective, in both substance and form. And while this solemn mockery was going on, boasting assassins, with the blood stains yet upon their hands, went at large and undisturbed.

This calls up another judicial reminiscence. It begins with one of the chivalric deeds of the Kickapoo Rangers, on the 15th September, 1856, which I must read as it is narrated in the "History of Governor Geary's administration in Kansas," prepared by his private secretary, Dr. John H. Gihon. I read from page 167 of that work:

"Six men of this detachment, (Kickapoo Rangers,) when within a few miles of Lecompton, halted by a field, where a poor inoffensive, lame man, named David C. Buffum, was at work. They entered the field, and after robbing him of his horse, one of them shot him in the abdomen, from

which wound he soon after died. The murderer also carried away a pony belonging to a young girl, the daughter of a Mr. Thom, residing in the neighborhood. Almost immediately after the commission of this wanton crime, Governor Geary, accompanied by Judge Cato, arrived upon the spot and found the wounded man weltering in his blood. Although suffering the most intense agony, he was sensible of his condition, and perfectly mindful of the circumstances that had transpired. Judge Cato, by the direction of the Governor, took an affidavit of the unfortunate man's dying declarations. Writhing in agony, the cold sweat-drops standing upon his forehead, with his expiring breath he exclaimed, 'Oh, this was a most unprovoked, horrid murder! They asked me for my horses, and I pleaded with them not to take them. I told them that I was a cripple, a poor lame man, that I had an aged father, a deaf and dumb brother, and two sisters, all depending on me for a living, and my horses were all I had with which to procure it. One of them said I was a God-d—d Abolitionist, and seizing me by the shoulder with one hand, he shot me with a pistol that he held in the other. I am dying; but my blood will cry to Heaven for vengeance, and this horrible deed will not go unpunished.' * * * "The Governor was affected to tears. He had been on many a battle field, and familiar with suffering and death, but says he 'I never witnessed a scene that filled my mind with so much horror. There was a peculiar significance in the looks and words of that dying man, that I never can forget: for they seemed to tell me, that I could not rest until I brought his murderer to justice, and I resolved that no means in my power should be spared to discover, arrest, and punish the author of that most villainous butchery.'"

The Governor went to work in earnest. He caused process to be issued, and offered a large reward on his own account, for the arrest of the murderer. The result was, the guilty man was discovered, arrested, indicted for murder in the first degree, and committed to await his trial. The proof on which he was committed, says this same work, "clearly and positively established that he left the ranks; that he was absent long enough to commit the crimes alleged; that he was seen to take Buffum by the shoulder with one hand, and to shoot him with the other, calling him, as the dying man testified, a d—d Abolitionist, and that he was in possession of the stolen horses." What subsequently became of him shall appear from a dispatch of Colonel H. T. Titus to Governor Geary, which I will read:

LECOMPTON, November 21, 1856.

SIR: I have the honor to state that during your recent absence from this place, a writ of *habeas corpus*, issued by Chief Justice Lecompte, was served on me, by which I was commanded to produce the body of Charles Hays before him, with the cause of his detainer. That in obedience to the writ, I caused the body of Hays to be produced before Judge Lecompte, and returned as the cause of his detention the finding by the grand jury of a true bill of indictment against him for murder in the first degree, committed upon the person of one David C. Buffum; together with your warrant commanding the rearrest of said Hays, and his detention until his discharge by a jury of his country, according to law. I have further to state that Judge Lecompte discharged the said Hays from my custody, notwithstanding my return, and that he is now at large.

I have the honor to remain your obedient servant,

H. T. TITUS.

His Excellency JOHN W. GEARY,
Governor of Kansas Territory.

What a sublime spectacle of "reverence for law!" I would do this functionary no injustice. He had once before discharged this culprit on *habeas corpus*. I know his explanation. Not a witness on behalf of the prosecution was present at the examination. The judge was particular to have them "called;" but, being forty miles away, they did not happen to hear. Witnesses were examined for the prisoner to prove an *alibi*—the stereotyped defense of villains everywhere—and the district attorney consenting thereto, Hays was discharged on bail! But I have nothing to do with the judge. My business is with the Executive; to show him how justice is administered in Kansas by men who hold their offices at his will, and can be removed whenever he says the word. Remember, too, that I am not now complaining of the murder of Buffum; but of that greater wrong done to community, when the criminal was discharged, unpunished and untied, by the very tribunal which should have exerted itself, as a matter of justice, to send him to the gallows.

As specimen chapters from the judicial history of Kansas, these must suffice. If we look, now, to the acts of ministerial officers in that Territory, we shall find that they were sometimes marvelously thorough. I have before me two accounts of one transaction, strikingly illustrative of the zeal with which they proved their loyalty and reverence for law. These accounts I may publish, though they are too long to be read now. They are from the Lecompton Union and St. Louis Republican, both then administration organs, and gave the Democratic version of what is

known among the rebels as "the sacking of Lawrence," on the 20th day of May, 1856.

You may remember, Mr. Chairman, the outlines of that patriotic demonstration. The marshal had been there to execute a writ. It is said that the person to be arrested resisted. The marshal taking this to be the act of the whole town, summoned the rest of mankind to assist him. The people of Lawrence, astonished at his proclamation, assembled *en masse*, and by unanimous resolves informed the officer of his mistake; that they were ready to assist him in the execution of all legal process, and that they only awaited an opportunity to testify their fidelity to the laws of the country, the Constitution, and the Union. The marshal did not believe them. The posse had been called, and to the number of eight hundred, armed with muskets, rifles, swords, and cannon, they came. He made his arrests, no one resisting him, and dismissed the posse. They were immediately resummoned to the assistance of Sheriff Jones. What they did under his chivalric lead, must be told in the words of these Democratic organs.

The editor of the Union, who was one of the posse, and writes his narrative in camp, says:

"Jones had a great many writs in his hands, but could find no one against whom he held them. He also had an order from the court to demand the surrender of their arms, field and side, and the demolition of the two presses and the free-State hotel as nuisances. The arms were immediately demanded and surrendered, but very few could be found—four pieces of cannon, one two-pound howitzer, and four small pieces, and a few Sharpe's rifles. When they agreed to surrender, our men were marched down in front of the town, and one cannon planted upon their own battlements. Over the largest piece, commanding the Emigrant Aid Hotel, was unfurled the stars and stripes, with this motto:

"You Yankees tremble,
And Abolitionists fall,
Our motto is
Southern rights to all."

"The cannon were then brought out and thrown down in front of our lines. During this time appeals were made to Sheriff Jones to save the Aid Society's hotel. This news reached the company's ears, and was received with one universal cry of 'No, no, blow it up! blow it up! We will not injure private property; but our motto is, Destruction to everything belonging to the Aid Society. The court has declared it a nuisance, and we will destroy it.'

"About this time, a banner was seen fluttering in the breeze over the office of the Herald of Freedom. Its color was blood red, with a lone star in the center, and South Carolina above. This banner was placed there by the Carolinians—Messrs. Wright and a Mr. Cross. The effect was tremendous. One tremendous and long-continued shout burst from the ranks. Thus floated in triumph the banner of South Carolina—that single white star, so emblematic of her course in the early history of our sectional disturbances. When every southern State stood almost upon the verge of ceding their dearest rights to the North, South Carolina stood boldly out, the firm and unwavering advocate of southern institutions.

"Thus floated victoriously the first banner of southern rights over the abolition town of Lawrence, unfurled by the noble sons of Carolina, and every whip of its folds seemed a death stroke to Beecher propagandism and the fanatics of the East. Oh that its red folds could have been seen by every southern eye!

"Mr. Jones listened to the many entreaties, and finally replied that it was beyond his power to do anything, and gave the occupants so long to remove all private property from it. He ordered two companies into each printing office to destroy the press. Both presses were broken up and thrown into the streets—the type thrown in the river, and all the material belonging to each office destroyed. After this was accomplished, and the private property removed from the hotel by the different companies, the cannon were brought in front of the house, and directed their destructive blows upon the walls; the building caught on fire, and soon its walls came with a crash to the ground. Thus fell the abolition fortress, and we hope this will teach the Aid Society a good lesson for the future."

The account from the Republican is also so striking in some of its statements, that I must trouble the committee with one or two extracts. That paper says:

"As soon as the deputy [marshal] and posse returned with the prisoners, the troops were dismissed by Colonel Adie, acting for Major Donaldson, and were immediately summoned by him, for Sheriff Jones, to assist in carrying out an order of the United States court. The Emigrant Aid hotel and the two printing offices (the Herald of Freedom and Free State) had been indicted [not tried, convicted, or sentenced, mark you,] for being nuisances, and the sheriff ordered to remove them."

Giving a statement of the demand and surrender of the arms of the free-State men, and of the notice given by the sheriff to the host of the hotel to remove his furniture within two hours, which I pass over, the account proceeds:

"Meanwhile the sheriff proceeded to demolish the two printing presses, which was effectually done in a very short time. Most of the type was thrown into Kansas river, and the cases and presses smashed. This was done with less excitement than could have been expected. Indeed, few

excesses were committed. Private property was ordered to be respected, and it was respected. There was no liquor in the ranks, and that accounts for the coolness of our citizen soldiers. It is true that Robinson's house was burned; but that was contrary to express orders."

"At the expiration of two hours, the artillery was drawn up in front of the public entrance of the hotel, and a dozen or fifteen shots fired into it, completely riddling the inside and breaking holes in the walls; and, after shaking the walls with two or three blasts, the structure was fired; and before the sun went down, all that remained of the Aid hotel was a solitary wall, holding itself up as a warning to law-breakers, and seeming to say, 'look at me and beware!'"

Mark, sir, the peculiarities of this new mode of executing process. It was not a mere mob—a gathering of professed marauders in defiance of legal restraints and legal authorities; but, sir, it was professedly the instrument of the law—summoned, organized, directed, and disbanded by officials—Federal officials, too, Mr. Chairman, the agents of the then Administration; for, as I have already shown, every territorial official is only a Federal agent. See, too, what exemplary, thorough agents the Administration had there to do their deeds of burning patriotism. They were not rowdies, not drunken either, but citizen soldiers, cool and sober, under civil orders, and strictly obeying. True, they were ordered not to burn a certain house, and did it; but that was only a trifle when we consider how completely they vindicated the authorities, leaving only one smoked and blackened wall to say to all lawbreakers, "look at me, and beware!" It was a thorough job, sir, which left only that dumb yet speaking monument of its completeness!

Sir, the President, about that time, was, I believe, in this country, and therefore his knowledge of this transaction may fairly be presumed. Does any friend of his remember that, in view of it, he wrung his hands, and cried out in the words of the beautiful apostrophe in his message: "Would that the respect for the laws of the land which so eminently distinguished the men of the past generation could be revived?" Or was he as dumb then as he is now as to all wrongs committed by his "law-and-order" men in Kansas?

Observe, again, this was no ordinary mob. If it were, I would pass it unnoticed; for mobs, disgraceful and destructive mobs, are not peculiar to Kansas. It was *legalized lawlessness*—a specimen of that execution of the laws to which, according to the tone of the message, the freemen of Kansas were bound to submit. Viewed in this light, it becomes an enormity of the deepest dye. I need not say, in the presence of the lawyers of this House, that property, indicted as a nuisance, is not, by any law, to be destroyed without a trial of the question of fact.

Once more, and only once, I return to the message. On the 1st day of December, 1857, acting Governor Stanton summoned the Territorial Legislature to convene on the 7th of that month. Looking into a dispatch of his, contained in the message, we learn that he deemed this course necessary to preserve the peace of the Territory. Turn now to the letter of the Secretary of State to General Denver, of the date of December 11, and, strange to say, you will find that for this very act Governor Stanton was removed from office! Will it be replied, the President did not know his motive in convening the Legislature? The answer is ready. He could have waited until he learned it. There was no necessity for such hot haste.

Sir, I have done with the sickening record. The message has gone to the country. Let it go. I shall ask my constituents to read it. I hope it will be read by every voter in the land; and when next the people in the North utter their voice at the ballot-box, my word for it, sir, they will pronounce a verdict upon its author similar to that long since pronounced by posterity on those who libeled the patriots of revolutionary times.

Mr. LETCHER obtained the floor.

Mr. GROW. If the gentleman from Virginia will give way, I will move that the committee rise.

Mr. BOYCE. I have a few remarks to submit to the committee; and if the gentleman from Virginia will yield me the floor I will submit them this evening. I will not occupy more than fifteen minutes.

Mr. REAGAN. I must object to any farming out of the floor.

Mr. LETCHER. If I yield the floor, the time occupied by the gentleman from South Carolina will be deducted from my hour.

The CHAIRMAN. Is there any objection to the proposition of the gentleman from Virginia?

There was no objection.

Mr. BOYCE. Mr. Chairman, I consider the question of coercing the Mormons of Utah, involved in the bill to increase the Army, as one of the gravest nature. This singular people, the wonder and the opprobrium of the age, have established themselves in the heart of this continent, at a vast distance from the civilized world, and separated from it by vast deserts and mountains. Their voluntary exodus from the Christian world, their selection of the great central basin for the seat of their power, their peculiar system of religion, their domestic institutions, so opposed to the spirit of the age, their singular unanimity of action—all excite our astonishment. Whatever else we may think, there is one thing we must all perceive, that they are actuated by the fiercest fanaticism. They are, what we have not recently seen in the civilized world, an entire community of fanatics. It has been apprehended, from their first development in Utah, that we would have trouble with them, and the apprehension is now being realized. Mr. Fillmore has been a good deal censured for permitting their great leader, Brigham Young, to act as Governor of the Territory. This was not the wish of Mr. Fillmore; but the result of a supposed political necessity. Perhaps it would have been wiser to have met the question then, for it has only been postponed, and comes up for a solution now, when they are far stronger than they were then. The same considerations of political necessity acting on Mr. Fillmore acted also on Mr. Pierce, and Brigham Young was permitted to remain in office as Governor. The public mind of the United States, during the administration of Mr. Pierce, seemed to become fixed in opposition to the retention of Brigham Young in power by the Federal Government. One of the political parties of the country, in the recent presidential election, made opposition to the Mormons one of the planks in their political platform. Influenced, perhaps, in some degree, by the laudable desire of meeting the wishes of the country, and, also, I have no doubt, upon general views of public policy, the present Administration determined to supersede Brigham Young as Governor, and appointed Mr. Cumming to the position, a gentleman well fitted for the place.

During the period that Brigham Young had been allowed to act as Governor, though we had some cause of complaint, yet there was no general revolt against the authority of the United States. Having things pretty much their own way, the Mormons seemed formally to submit to our authority. Individual Gentiles complained of bad treatment; some of the Government officials in the Territory also complained; but a formal obedience was kept up. The emigrant trains to California passed through Utah, as a general rule, undisturbed. But recently matters have changed. The effort upon the part of our Government to put Governor Cumming in authority has been resisted by force, and we appear to be on the eve of a war with the Mormons. A portion of the army, with Governor Cumming, are in the mountains of Utah waiting for reinforcements with which to begin their march, and put the question to the arbitrament of the sword. This is a sad spectacle in a Republic, and demands our serious consideration.

The question is before us now, what shall we do with the Mormons? We must decide upon it; we cannot postpone it if we would. Fortunately, it is a question with which nothing of sectionalism mingles. The laws of Utah, it is true, recognize and provide for slavery, but there are no slaves there. Utah, while it is technically a slave community, is actually a free community. The President of the United States has simply undertaken to perform his duty in seeing that the laws are executed in Utah. He has no power to institute a policy, though he may suggest one; he can only enforce the laws as they exist. It is for Congress to determine the policy to be pursued in reference to these people. Whatever that policy may be, I have no doubt the President will carry it out, as far as it depends upon him, and is possible.

War, even with a foreign nation, is a grave matter; not to be gone into inconsiderately. But domestic war, war upon a portion of our own people,

even if they be fanatics, madmen, fools, rebels, traitors, is a matter of far graver importance. The genius of our Government in its internal relations, is peace. It is presumed that the laws will enforce themselves; that the people will submit to the laws. Though force is not excluded from our system, yet it is considered a sad alternative, only to be resorted to in the last extremity. Such a condition of affairs as exists in Utah was, I apprehend, never considered as possible by the framers of the Constitution. That a whole people should rise in arms and defy the central Government in the exercise of its undoubted authority, without even a plausible pretext, never entered into their minds. They had no conception that an American Mohammed would rise up in the United States in the middle of the nineteenth century and promulgate a new dispensation, made up of Christianity and Oriental sensuality, which should fascinate multitudes, and establish a distinct nationality in the bosom of the Rocky Mountains. The condition of Utah, then, is one which, while it has no precedent in our history, will, I trust, for the sake of humanity, have no imitation.

Before we undertake to determine what we should do in reference to the Mormons, it is necessary that we should understand precisely what we wish to accomplish, the benefit to be attained, or the evil to be averted. Utah is settled almost exclusively by Mormons; there is scarcely a handful of Gentiles—as those are called who do not adopt their faith—there. So far as good government, order, and obedience to law is concerned in Utah among the Mormons, it is a matter of very small importance to us, except from the general desire we have that even the Mormons should prosper. But as that region of country is not now wanted for settlement by our citizens generally other than Mormons, and is not likely to be wanted for an indefinite period, we would have no special motive to exert our power to restore order, so far as the interests of the inhabitants of that region may be concerned. If, therefore, Utah, instead of being in the center of the continent, on the highway of our emigration to the Pacific, were in some other portion of our dominion not traversed by emigrants, we might feel under no necessity to concern ourselves about their proceedings, no more than we do about remote tribes of Indians. But the local position of Utah, the fact that our great emigration trains to the Pacific coast must necessarily pass through Utah, or make a considerable detour to the north or the south, invests the condition of affairs in Utah with great practical importance to us. So far as the people of Utah are concerned, we might, without loss to ourselves, abandon them to their own anarchy or madness. The only practical aspect of the case of immediate interest is the necessity we are under of preserving undisturbed our communications through the middle route to our Pacific possessions. It seems to me that this is the extent of our present practical interest in the question. If all Utah were to transform itself into Pandemonium, it would not materially affect us, provided our communications were left undisturbed. While we should, of course, desire to see order in Utah, yet no degree of disorder would at all disturb us, except in the single matter of having our communications disturbed. This is, I think, fairly stating the extent of the present practical interest we have in the Utah question; it is to continue the central route, open and undisturbed, to the Pacific.

There are two modes of solving the Mormon question—first, by peaceful means; second, by force. There can be no doubt that the first mode is infinitely the best, if it can be made efficacious. The peaceful mode is more congenial to the spirit of our institutions. Our Government is, and should be, reluctant to draw the sword against any portion of the people. It is dangerous to inaugurate the reign of the sword in our Republic. The great leading idea upon which our Government proceeds is that all government rests on the consent of the governed. Whilst on the one hand we have not been able entirely to ignore the sword in enforcing the laws, yet we should be very careful not to proceed to this fatal extremity except under the most imperative necessity. The Spanish Republics on this continent could never settle any dispute without the sword. The result is they are all dying out from the fatal effects of their own violence. For my part, I shall be sorry to see a

question involving the fate of so large a portion of our population as this Utah question, incapable of any other solution than civil war. We have had two rebellions in our history; the first, Shay's rebellion in Massachusetts during the Confederation, and the Whisky Insurrection in Pennsylvania, since the formation of the existing Constitution. In both of these instances order was finally restored without the effusion of blood. Massachusetts, by a course of singular prudence and firmness, succeeded in subjugating their rebels without a battle, though hostile armies were actually in the field.

It became the duty of General Washington, the then President, to deal with the Pennsylvania insurgents. In reading the history of that period, we are struck with the forbearance with which Washington treated the insurgents. He sent commissioners to remonstrate with them; and exerted every possible means to solve the difficulty by a peaceful solution. When all peaceful means seemed to have failed, he displayed a strong military force, and advanced against the insurgents with the power of the Government, still tending peace. The result justified the wisdom of Washington. The supremacy of the law was established without bloodshed. General Washington was a man of profound wisdom; though it was an easy matter for the Government to beat down the rebellion, and extinguish it in the blood of the insurgents, yet he knew that the Government could not strike any portion of the people without wounding itself. The same grave consideration which made General Washington reluctant to shed the blood of misguided men in Pennsylvania, makes me anxious, if possible, to avoid the calamity in Utah. I am unwilling, if it can possibly be avoided, to put a whole community of our people to the sword, great as their errors or their crimes may be. It is a dangerous precedent. I would avoid it if possible. I fear its consequences.

Peaceful solution costs nothing; whereas war will entail an expenditure of the most astonishing amount. It will be the most expensive military expedition, to the force employed, ever set on foot in modern times. Utah is eleven hundred miles from the Missouri; a land passage through an uncultivated wilderness; a portion of the way through deserts and difficult mountains. Subsistence will have to be carried by wagons from the Missouri; even the animals with the army cannot be sustained at all seasons along the route by the native grasses. The expedition of Napoleon to Moscow has been looked upon as a great folly. Yet Moscow was only five hundred miles from Napoleon's supplies in Poland. It will take tons of gold to support our troops in Utah. The expense of the army there will, I believe, amount to \$3,000 per man for the year. The Seminole war cost something in the neighborhood of one hundred million dollars. The Seminole war was a war with a few hundred savages, in a country easily approachable by sea, and to which supplies could be readily carried. A war with the Mormons will have to be carried on at a vast distance from our supplies, eleven hundred miles, against a people mad with fanaticism, and able to bring ten thousand fighting men into the field. It is true, the Mormons have not the swamps of Florida; but they have the mountains and boundless plains, and vast desert steppes of Utah. To prosecute successfully the war in Utah will require an expenditure absolutely astounding. I say, then, that the peaceful adjustment of this difficulty is a great economy.

The peaceful mode of solving the Mormon question is the most conformable to humanity. No one wishes to shed the blood of this misguided people. However great may be their errors or their crimes, they are still a portion of our people, entitled to our protection and good offices. To devastate their country and shed their blood cannot but be a most painful alternative. A government glorifies itself on the victories gained by its armies over a foreign foe; it regrets those gained over its own people. It erects triumphal arches to perpetuate the memory of the first; it draws a veil of oblivion over the second. When we consider the infinite miseries we shall inflict upon the people of Utah by an offensive war, we cannot but deplore the necessity, and, if possible, endeavor to avoid it. If we could punish the guilty leaders alone, it would be well enough; but we cannot

reach them, except by destroying a vast number of their misguided followers. As a matter of humanity, then, we should be glad to escape from the necessity of making war upon this people.

The peaceful solution of the question, besides the advantages I have already mentioned, is also by far the most efficacious. If we can restore order in Utah without bloodshed, then we will have accomplished all we desire. Law and order will reign there; we will have avoided all the evils and sacrifices of war, and secured the object we have in view; the rebellion will have ceased to exist, and our communications will be open and undisturbed to the Pacific. It is evident, then, that the peaceful solution of the question is the best, if it be possible. The material question, then, in this regard, is, whether this peaceful solution be possible? If it be possible, we should resort to it.

Now, is it possible? This can never be known until the experiment is fairly made. I am not sanguine that it would succeed, but still I do not see why it should not; at any rate it is worth while to make the effort. One advantage of this mode is, that if you try it, and fail, then force is still open to you. Whereas, if you try force first, and fail, in vain will you resort to negotiation; force failing, you have no other resource but acquiescence in defeat.

Mankind are usually controlled by their interests. The Mormons are scarcely exempt from the operation of this universal principle. It is clearly their interest to adjust their difficulties with this Government peacefully. They cannot but realize the fact, that if we exert our power against them we must drive them before us, destroy their cities, and inflict a multitude of evils upon them. Besides even the injuries we may inflict upon them by actual war in their country, we can subject them to great inconvenience, by cutting off all trade with them, thus interrupting the supply of many articles of prime necessity. Furthermore, the corner-stone of their policy is addition to their power by foreign immigration, which we can entirely cut off from them. Besides, our annual appropriations for their territorial government is a very convenient addition to their income. From these considerations, and others which will naturally suggest themselves, it is clearly the interest of the Mormons to listen to reason, especially when that reason is backed by the great power of our Government. I think, therefore, the prospect of success is sufficiently great to induce us to resort to negotiations with this people. The wisdom of resorting to pacific measures first is sustained by another view of the case. Brigham Young has impressed the Mormons with the idea that this Government wishes to interfere with their religion, to punish them for their polygamy, and generally to crush and destroy them. I have no idea that Brigham Young believes any such thing; but it is his policy to have it believed by his people. It is our policy to disabuse the people of this false impression. This false idea is a tower of strength for Brigham Young. Let us so act as to overthrow this tower. If we can remove this impression from the popular mind in Utah, Brigham Young will be shorn of a large portion of his strength. The people of Utah may proceed to the most desperate extremities if they believe that our purpose is to destroy them, that we are naturally hostile to them, and are seizing upon pretexts to subjugate them. Let us pursue such a line of policy as will circumvent the policy of Brigham Young. Brigham Young wishes us to manifest nothing but the most settled hostility to the Mormons, in order to consolidate his power over them. Let us do exactly the thing he does not wish us to do. Let us go to the utmost verge of moderation; let us manifest our intentions of peace, of kindness, and generosity, in the most unmistakable manner to these people; let us, before a gun is fired, gain a moral victory over Brigham Young. That moral victory may supersede the necessity of resorting to force. If it does not accomplish that much, it will weaken the grasp of the Mormon hand upon the sword, and cannot but operate favorably to us in the progress of the struggle. The Mormons can only be stimulated to the resistance of desperation by having their minds poisoned as to the purposes of this Government. A resort to a peaceful policy will be the most effectual way of counteracting the diseased condition of the public mind in Utah. It has been forcibly said, that "the pen is mightier

than the sword." There is infinite truth in this, as expressive of the greater power of ideas over materialism. I would try the force of ideas on the Mormons before resorting to the scourge of humanity, the sword. Let our Government present itself to them in the image of a generous, kind, paternal, and affectionate Government, anxious, if possible, to forgive even them; and if this fails, then let destiny take its course.

But let us now suppose that all efforts to settle matters peaceably in Utah shall have failed, and that the sword must be drawn—that terrible instrument of the avenging Nemesis, which even Christianity has not been able to supersede; let us suppose that the sword must be restored to its old office of sprinkling the bosom of mother earth with the blood of the children of men: what then? There are two modes of prosecuting this war:

1. By what I shall call offensive war; invasion, destruction, devastation.

2. By cutting off all communication with Utah, placing the Mormons in quarantine, letting none come out and none go in, and guarding our trains of emigrants over the northern and southern routes.

As regards the first mode, I shall say nothing of the distance of Utah from us, practically further than Europe, nor of the difficulty of carrying subsistence so far, nor of the difficult approaches through wild gorges in the mountains, nor of the army of fierce fanatics to be encountered. I shall say nothing of all these, because such is my confidence in our indomitable Army, that I believe we shall carry everything before us, and plant our victorious standards in the heart of their sacred city. I grant you that we shall beat down the Mormon chivalry upon the plains of Utah. But what I fear is, that our greatest success will be our greatest disaster. The defeat of the Mormons will, I fear, be the dispersion of the Mormons through the boundless plains and vast mountain ranges of the middle of the continent. Once they are thus dispersed, they become a fierce banditti; every mountain gorge will resound with the crack of their unerring rifles. Their very women will give forth from their envenomed wombs a race of monsters more horrible than Milton describes as pursuing Sin at the gates of hell. Confederated with the Indian tribes, a race of American Arabs, they will become enemies of the human race. In vain will your emigrant trains endeavor to cross the center of the continent. The march of every train would be a succession of battles, and you will have upon your hands, for a hundred years, a perpetual war with banditti. Study the physical geography of the globe, and nowhere else do you find a vast conformation of the earth's surface so well adapted to tribes of robbers as the great basin of the Salt Lake.

I said in the beginning, that the immediate practical interest we had in the Mormon question was securing our emigrant routes to the Pacific. This interest, I fear, will be more endangered by a successful war against the Mormons than in any other way. We wish a railroad; we wish the telegraph wires to "wreak themselves upon expression" through the center of the continent. How can you accomplish either of these great ideas, after you have driven the Mormons in desperation and fury to the mountains? My objection to offensive war is, that, even if successful, it defeats, more completely than anything else, the very purpose we have in view—securing our communications with the Pacific.

The second mode of employing force against the Mormons, shutting them up in Utah, interrupting all communication with them, seems to me the wisest kind of force to adopt towards them, at least at first. By that mode, with proper criminal legislation, we may place the Mormons in such circumstances as may make them willing to obey the laws. The only inconvenience this mode of procedure will cost us will be some addition, perhaps, to our military strength, and a more circuitous route for our emigrant trains. The question is not free from difficulty in any aspect. We should choose the least of evils. Let us try peaceful means if they be possible; then the isolating process. If all fail, then war outright will still be left to us. In the mean time something may turn up in the chapter of events. There may be a schism among the Mormons, or something else that may give us the opportunity of acting to more advantage.

There is one consideration should not be over-

looked in this Mormon question. It is this: that the greatest danger to the integrity of the Mormon faith is prosperity. The greater their material, moral, intellectual development, the less hold a false faith will have upon them; the more likelihood of woman asserting her divine mission among them. In short, the more they become civilized, the less they are Mormons. This development will most certainly take place by peace. Mormonism may be eternal among nomadic tribes, Arabs, or banditti; it must perish out under the blaze of civilization. Prosperity will destroy Mormonism; slowly, it may be, but certainly. The Turks, the Mormons of Europe, are perishing from contact with civilization. They only proclaim a great philosophical principle when they recognize that they are only camping on this side of the Bosphorus, and that it is their destiny to return into Asia. Civilization is death to Mohammedanism or Mormonism. Let us not lose sight of this consideration in determining our policy towards the Mormons.

Before I close, I would cite the House to some remarks of Mr. Burke, in the British Parliament, on the subject of coercing the American colonies. Mr. Burke, in his celebrated speech on conciliation with the American colonies, says:

"First, sir, permit me to observe that the use of force alone is but temporary. It may subdue for a moment, but it does not remove the necessity of subduing again; and a nation is not governed which is perpetually to be conquered."

Suppose you defeat the Mormons in a series of battles, and they do not fly to the mountains, but remain sullen, yielding an enforced obedience under the shadow of their holy temple: how long will this last? As soon as you have withdrawn your troops they trample your authority under foot. It will be necessary to keep a large military force permanently in Utah. Do you propose to do this? It will be a very expensive operation.

Again, Mr. Burke says:

"We have no sort of experience in favor of force as an instrument in the rule of our colonies. Their growth and their utility have been owing to methods altogether different. The last cause of this disobedient spirit—the colonies is hardly less powerful than the rest, as it is not merely moral, but laid deep in the natural condition of things. Three thousand miles of ocean lie between you and them. No contrivance can prevent the effect of this distance in weakening government. Seas roll, and months pass, between the order and the execution; and the want of a speedy explanation of a single point is enough to defeat a whole system. You have, indeed, your winged ministers of vengeance who carry your bolts in their pounces to the remotest verge of the sea. But there is a power steps in, that limits the arrogance of raging passions and furious elements, and says, 'so far shalt thou go, and no further.' Who are you? that you should fret and rage and bite the chains of nature? Nothing worse happens to you than does to all nations who have extensive empire, and it happens in all the forms into which empire can be thrown. In large bodies the circulation of power must be less vigorous at the extremities. Nature has said it. The Turk cannot govern Egypt and Arabia and Cardistan, as he governs Thrace; nor has he the same dominion in the Crimea and Algiers which he has at Brusa and Smyrna. Despotism itself is obliged to truck and huckster. The Sultan gets such obedience as he can. He governs with a loose rein, that he may govern at all; and the whole of the force and vigor of his authority in his center is derived from a prudent relaxation in all his borders. Spain in her provinces is perhaps not so well obeyed as you are in yours. She complies too, she submits, she watches time. This is the immutable condition, the eternal law, of extensive and detached empire."

I will not make the application of these remarks to the present condition of affairs. I only commend them to the consideration of this House and the country.

This Mormon question is a great question. It is not one of those common-place matters which you can summarily dispose of. It is not a question of partisanship, but a question of statesmanship. You may turn from it, but there is Utah; there are the Mormons; there is the cancer on your body-politic. How will you get rid of it? Will you strike at it with the sword? Those rough remedies sometimes aggravate the disease. It needs, in my opinion, to be dealt with gently, and with consummate wisdom. With these remarks I leave the question, at least for the present.

Mr. REAGAN took the floor.

Mr. GROW. I rise to a question of order. I understood that the gentleman from Virginia only yielded the floor to the gentleman from South Carolina, [Mr. BOYCE,] and is entitled to it now to proceed with his remarks.

Mr. REAGAN. I understand the rules to be that when a gentleman yields the floor he yields it altogether. The gentleman from Virginia

yielded the floor; and having obtained it, I now desire to proceed with my remarks.

Mr. GROW. The gentleman only yielded the floor temporarily to the gentleman from South Carolina, the time occupied by him to be taken out of the time of the gentleman from Virginia.

Mr. LETCHER. I so understood it.

The CHAIRMAN. The gentleman from Virginia, then, is entitled to the floor.

Mr. LETCHER. How many minutes of my time have been consumed?

The CHAIRMAN. Thirteen.

Mr. GROW. If the gentleman will yield to me for that purpose, I will move that the committee rise.

Mr. LETCHER. I yield for that purpose.

Mr. GROW. I then submit the motion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. FLORENCE reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and especially House bill No. 6, making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th June, 1859, and had instructed him to report the same to the House with amendments, and with a recommendation that it do pass; that the committee had also had under consideration the bill of the House No. 306, making appropriations to supply deficiencies in the appropriations for the year ending the 30th June, 1858, and had come to no resolution thereon.

Mr. J. GLANCY JONES demanded the previous question upon the engrossment and third reading of the bill.

The previous question was seconded; and the main question was ordered to be put.

Mr. GROW. I move that the House do now adjourn.

Mr. BOWIE. I ask the gentleman to withdraw the motion, to allow me to introduce a bill for reference.

Mr. HARLAN. I object.

The motion was agreed to; and the House accordingly (at ten minutes before five o'clock) adjourned.

IN SENATE.

FRIDAY, March 12, 1858.

Prayer by Rev. P. D. GURLEY, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. GWIN presented a resolution of the Legislature of California, instructing the Senators and requesting the Representatives from that State in Congress to use their efforts to prevent the removal or change in the location of the Sebastian Indian reservation, in California; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. KENNEDY presented a petition of several residents and property holders of Montgomery county, Maryland, praying that the plank road in the District of Columbia leading into that county may be made free of tolls; which was referred to the Committee on the District of Columbia.

Mr. TRUMBULL presented the petition of Webster B. Steele, a soldier in the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. HAMLIN presented resolutions of the Legislature of Maine, requesting the Senators and Representatives of that State in Congress to use their influence to prevent the repeal of the law allowing bounties to vessels engaged in the cod fisheries; which was ordered to lie on the table, and be printed.

Mr. CAMERON presented a petition of operatives and citizens of Blair county, Pennsylvania, praying that a sufficient protection may be extended to American labor engaged in the manufacture of iron; which was referred to the Committee on Finance.

Mr. JONES presented the memorial of the register and receiver of the land office at Mineral Point, Wisconsin, praying that the compensation of registers and receivers may be increased; which was referred to the Committee on Public Lands.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FOSTER, it was

Ordered, That the memorial of Emma A. Wood, on the

files of the Senate, be referred to the Committee on Pensions.

MEXICAN BOUNDARY REPORT.

Mr. JOHNSON, of Arkansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be, and is hereby, requested to furnish for the information of the Senate, a statement of the progress of the report of Major W. H. Emory, on the United States and Mexican boundary survey, together with the cost of engraving the maps, views, sections, &c., pertaining to this report, specifying the several classes of maps and illustrations, and the number in each class, and where those maps and illustrations are being executed, and by what authority, and who are now engaged upon the preparation of materials for the continuation of this report, how many volumes it will require to complete the work, at what time the compilation will be complete and prepared for delivery to the Public Printer, and an estimate of the approximate cost of publishing the entire work, if it be within his power, as ordered by the Senate and House of Representatives.

BILLS INTRODUCED.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 192) to provide for the general introduction of an international code of marine signals; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CLARK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 197) providing for the arrest and return of fugitives from justice in the District of Columbia; which was read twice by its title, and referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 41) for the relief of Manuel Leisa, Joachim Leisa, and others, and to provide for the location of certain private land claims, reported it with an amendment, and submitted a report; which was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom was referred the petition of A. S. H. White, reported a bill (S. No. 195) for the relief of Ashton S. H. White; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of A. Waterhouse and others, reported a bill (S. No. 193) authorizing the issuing of certain bounty land warrants to the legal representatives of deceased persons entitled thereto; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the memorial of James Bawden, reported a bill (S. No. 194) for the relief of James Bawden; which was read, and passed to a second reading.

Mr. DURKEE, from the Committee on Private Land Claims, to whom was referred the memorial of the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States, submitted a report, accompanied by a bill (S. No. 196) authorizing the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States to enter a certain tract of land in the State of Wisconsin. The bill was read, and passed to a second reading; and the report was ordered to be printed.

JOHN HAMILTON.

Mr. WILSON. I am directed by the Committee on Military Affairs to report back to the Senate, with a recommendation that it pass, the bill from the House of Representatives (H. R. No. 8) for the relief of John Hamilton. I should like to have the bill considered, and put on its passage at once.

The Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Secretary of the Treasury to pay \$200, with interest from the 1st of June, 1852, to John Hamilton, of Champaign county, Ohio, in full compensation for his time, services, &c., during his imprisonment with the Indians in the war of 1812 with Great Britain.

The bill was reported to the Senate; ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed the Senate joint resolution to authorize certain officers and

men engaged in the search for Sir John Franklin to receive certain medals presented to them by the Government of Great Britain.

NAVAL COURTS OF INQUIRY.

The Senate resumed the consideration of the following amendment of the House of Representatives to the joint resolution (S. No. 4) to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

"Except as to any case pending, undetermined, before any court of inquiry under the act of the 17th of January, 1857, at the expiration thereof."

The Committee on Naval Affairs of the Senate reported back the amendment of the House of Representatives, with an amendment to strike out "17th" and insert "16th," which was agreed to; and the pending question is on the following amendment, offered by Mr. FESSENDEN, to add to the House amendment:

And excepting, also, the case of any officer who was absent from the country at the time of the passage of said act, and had not returned previous to the 16th of January, 1858, and any such officer shall be entitled to all the privileges conferred by said act: *Provided*, He applies for the benefit thereof at any time within sixty days after his return.

The amendment was agreed to.

The VICE PRESIDENT. The Senator from Mississippi, who is now absent, [Mr. DAVIS,] gave notice of an amendment; but it has not been offered.

Mr. STUART. I would inquire if there was not also an amendment proposed to change the date from the 17th to the 16th of January?

The VICE PRESIDENT. That was agreed to. But the absent Senator from Mississippi gave notice of his intention to offer an amendment, which will be read.

Mr. BENJAMIN. I move that the resolution and amendment lie on the table informally.

The motion was agreed to.

COMMITTEE SERVICE.

Mr. BENJAMIN. I ask the unanimous consent of the Senate to make a motion in reference to the business of the committee of which I am chairman. We have a large accumulation of business in the Committee on Private Land Claims, but have not sufficient help to dispose of it. We have now sent to us all the private land claims from New Mexico. I have the consent of the Senator from Missouri [Mr. POLK] to move that he be added to that committee. He is familiar with that class of business, and his services would be exceedingly valuable to us. I hope there will be no objection to his being added to that committee. I make that motion.

Mr. IVERSON. I have no serious objection to the passage of the motion of the Senator from Louisiana, with an amendment. The Senator from Missouri is upon the Committee on Claims, of which I have the honor to be chairman, and that committee is probably the most laborious committee of the Senate. It has a vast number of cases to examine, some of them of a very complicated character; and I understand the Senator from Missouri is also upon another committee already. If we now put him on the Committee on Private Land Claims, which is also a very laborious committee, it will detach him from the service of the other committees of which he is a member. I have no objection to letting him go on the Committee on Private Land Claims, provided the Senate will give the Committee on Claims another member. We have now but five; and I move to amend the motion of the Senator from Louisiana, so as to add another member to the Committee on Claims, to be appointed by the Chair.

The amendment was agreed to.

Mr. COLLAMER. I would inquire if we can add to our committees without changing the fixed rule which provides the number of which each committee shall consist? Can this rule be altered on a mere motion?

Mr. BENJAMIN. I would suggest to the Senator from Vermont that this is not a proposition for a permanent increase of the number of the members who constitute the Committee on Private Land Claims. This motion, if acceded to by the Senate, will expire by its own limitation on the termination of the present session. It does not change our rule. It merely gives a temporary additional force to a committee which is overcharged with business. I do not think we are changing the

permanent rule, or affecting it. I do not propose to make any change in the rule which says the Committee on Private Land Claims shall be composed of a certain number of members; but simply that, for the time being, the Senator from Missouri, who is willing to give us his assistance, be added by the Senate to the committee. It is not a change of the rule at all, that I propose.

Mr. COLLAMER. The gentleman is more astute, probably, in legal discriminations than I am, but I cannot understand why the addition to a committee does not change the rule. That the addition is to be but temporary, does not remove my objection. It is, for the time being, *pro hac vice*, a change of the rule. I take it, if we have a committee composed of five, and we make it six, and that man vote in committee, he determines the report. If, by his casting vote, he determine the report, it makes it a different committee for the time being, and, consequently, a different rule for the time being. I ask for the decision of the Chair whether this is not, in effect and practically, a change of the rule? and whether this change can be made in this manner?

The VICE PRESIDENT. The Chair, upon reference to the rules, thinks the point taken by the Senator from Vermont is well taken.

Mr. BIGGS. I suppose, however, it can be done by unanimous consent.

Mr. COLLAMER. But I do not consent to it.

The VICE PRESIDENT. The Chair understood the Senator from Georgia to say his committee was composed of but five members.

Mr. IVERSON. That is under the rule.

The VICE PRESIDENT. The Chair decides, then, that both of these motions are out of order, objection being made.

Mr. IVERSON. If I am in order, I should like to move to add another member to the Committee on Claims. I am satisfied, from my experience on it, that we have not enough.

The VICE PRESIDENT. The Senator can give notice of a motion to change the rules in that respect.

Mr. IVERSON. I give notice, then, of my intention to move to change the rules to-morrow in that respect.

KANSAS—LECOMPTON CONSTITUTION.

Mr. GREEN. As there seems to be nothing of pressing importance before the Senate, I move that the Senate proceed to the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. STUART. I am entirely willing that the Senate shall proceed to the consideration of that bill if my colleague is ready to proceed with his remarks on it.

Mr. GREEN. He is ready. I consulted him on the subject.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. CHANDLER. Mr. President, it was not my intention originally to participate in the debate on the Lecompton constitution. I had intended to leave the subject to older and abler and more experienced colleagues; but the occasion seems to me to be so great, and the consequences which may result from our decision so dangerous, that I cannot permit this bill to pass without, at least, entering my protest against it. I shall oppose this bill for the following reasons: First, because the whole matter was conceived and executed in fraud; second, because this constitution does not emanate from the people of Kansas Territory, or express their will; third, because it is one of a series of aggressions on the part of the slave power, which, if permitted to be consummated, must end in the subversion of the Constitution and the Union; and, fourth, because it strikes a death blow at State sovereignty and popular rights. I shall proceed as briefly as possible to give the reasons upon which I base these objections.

It is well known, sir, that, at the close of the revolutionary war, and at the formation of this Federal Government, all the States of the Union were slave States, but all looked upon slavery as an unmitigated evil; and all looked forward hopefully to the day when it should no longer exist. No man, then, was bold enough to advocate the extension of slavery or even its long continuance, but all looked forward to an early period when it

should cease to exist. These views being prevalent throughout the land, one of the early acts of the Continental Congress was the adoption of the ordinance of 1787, forever prohibiting slavery and involuntary servitude in all the then Territories of these United States. This was itself a southern measure to a considerable extent, although, at that time, there was no diversity of opinion in regard to it. Some of the northern States, as was well known, intended to abolish slavery at a very early day, while some of the southern States desired that it might be deferred to a much later period. Those States which expected to be cursed, as they then termed it, with the institution for a longer period, desired the power of reclaiming their fugitives from service or labor if they should escape. Those States that proposed soon to abolish the institution yielded that power; and upon that compromise the ordinance of 1787 was adopted. Many of the members of the Constitutional Convention were likewise members of the Continental Congress, and the ordinance of 1787 was one of the compromises which led to the adoption of the Constitution itself; and, without that ordinance, it is extremely doubtful whether that instrument would ever have been adopted by the States.

This was a finality upon the slavery question. It settled that question forever. No further agitation ever could take place upon the subject of slavery; it was supposed, under that compromise. The settlement was this: slavery was a creature of municipal law; it was left to the States in which it then existed to continue it or abolish it, whenever they might see fit; and in all the Territories of the United States it was forever prohibited. This was the finality of a finality. There never could be any further agitation of the question of slavery in the Union, under it.

Under this settlement, the country remained in peace for more than thirty years. No agitation of the subject took place, and none could take place, for it was not in a position to be agitated. I say the country remained in peace for more than thirty years, and until the State of Missouri applied for admission into the Union as a slave State. During the intermediate time, the Louisiana territory had been purchased, and Louisiana had been admitted as a slave State, without objection on the part of the North. It was quietly assented to; scarcely a protest was entered against it; but when Missouri applied for admission as a slave State, the North objected to the admission of any more slave States, and declared that it was not only distinctly understood, but agreed to, that no more slave States should ever be admitted into this Union. The North claimed that that was the basis of the original compromise, the ordinance of 1787. Agitation ran high. The South then, as now, threatened a dissolution of the Union, unless all her imperious demands were assented to. The North then, as now, denied her right or her power to dissolve the Union for any such reason, or for any reason.

During this excitement the hearts of brave men quailed in view of the danger to the Constitution and the Union, and finally a proposition of compromise was brought into Congress from the South, as a southern measure. The compromise was upon this basis: you of the North consent to the admission of Missouri as a slave State, with the tacit understanding that when Arkansas applies she shall likewise be admitted as a slave State; and we will guaranty to you forever that the ordinance of 1787 shall be spread over all the territory lying north of 36° 30'. So utterly objectionable was this compromise to the North, that not a single man who voted for it was ever heard of again, politically, at the North. Each northern man who voted for that compromise voted for his own death-warrant, politically—not as has been asserted at the North, because they voted to prohibit slavery north of 36° 30', but because they voted to admit the State of Missouri as a slave State into this Union. For that they were blamed, and not for assenting to the restrictive line.

But, sir, the compromise was adopted, and peace again reigned throughout the land. The question was settled, and settled forever. Here was another finality, so far as agitation upon that subject was concerned. The South was to have the State of Missouri and the State of Arkansas by tacit consent, whenever she should apply for

admission into the Union; the North, as an equivalent, was guarantied all of that territory lying north of 36° 30' forever. The South received her equivalent in the States of Missouri and Arkansas; the North waited patiently for the day when she should receive hers. The compromise was acquiesced in, and again the country had peace so far as agitation on the slavery question was concerned, and continued at peace, with some slight ripples here and there, until Texas applied for admission into the Union. Then again there was an agitation; then again the Union was threatened, and threatened from the South; then again another compromise was entered into; to wit, a renewal of the Missouri line. The country remained in peace until, in process of time, a new light broke upon the vision of the people of these United States; to wit, the light of popular sovereignty. It so happened that many of the slave States, during the fall of 1847, in solemn political conventions resolved that they would support no man for the Presidency who was not opposed to the principles of the Wilmot proviso, so called. In December, 1847, my illustrious predecessor, for reasons best known to himself—although he had time and again expressed his regret that the Hon. John Davis, of Massachusetts, should have talked against time to the end of a session, thus depriving him of the power of recording his vote for the Wilmot proviso—wrote the "Nicholson letter," in which he said:

"But certain it is that the principle of interference should not be carried beyond the necessary implication which produces it. It should be limited to the creation of proper governments for new countries, acquired or settled, and to the necessary provision for their eventual admission into the Union, leaving, in the mean time, to the people inhabiting them to regulate their internal concerns in their own way. They are just as capable of doing so as the people of the States."

Here, sir, permit me to say, you find the basis of the Democratic Cincinnati platform, which has been commented on time and again; here you find the basis of the Kansas-Nebraska bill; and, in fact, you find the basis of this very Lecompton constitution in the Nicholson letter. This was the first time this doctrine was inaugurated at the North: scarcely a man at the South ever uttered the sentiment. But I will read further:

"Briefly, then, I am opposed to the exercise of any jurisdiction by Congress over this matter; and I am in favor of leaving to the people of any territory which may be hereafter acquired the right to regulate it for themselves under the general principles of the Constitution."

"Subject only to the Constitution," I believe, in the new version; but this is the original text.

"Leave to the people who will be affected by this question, to adjust it upon their own responsibility, and in their own manner, and we shall render another tribute to the principles of our Government, and furnish another guarantee for its permanence and prosperity."

There, sir, is the origin of this great fraud upon the North, yclept "popular sovereignty," and "perfect freedom for the people of a Territory to regulate their domestic institutions in their own way." It is true, that when the doctrine of squatter sovereignty was first introduced, some of the gentlemen on the other side of the Chamber entered a faint protest, but it was so faint that it never reached the ears of northern men; and when on the stump, before the people of my State, I asserted that the doctrine which is now introduced here as the doctrine of the Constitution, was the doctrine of the Democratic party, I was told that that was not the doctrine of the Democratic party; that it was merely the opinion of some few southern fire-eaters; that the great national Democratic party was firmly planted on the principles of squatter sovereignty, the right of the people of the Territories to regulate their domestic institutions in their own way, including the institution of slavery.

Sir, up to the writing of the Nicholson letter, the right of Congress to make all needful rules and regulations for the Territories of the United States was never called in question. No Executive of the United States ever doubted it; no Congress of the United States ever doubted their full power to legislate for the Territories as they saw fit; and up to that date the Supreme Court never doubted the power of Congress to legislate on slavery in the Territories as they saw fit. That was the inauguration of a new principle; to wit, the principle of squatter sovereignty—not popular sovereignty, as is here explained, but squatter sovereignty—the right of the people to introduce or prohibit slavery in the Territories, while they were in a territorial condition.

The South held up the glittering fantasy of a presidential nomination before the eager eyes of the northern aspirants for that honor, and at the same time exhibited the Nicholson letter, as the highest bid that was made, and asked, "who bids higher?" Mr. Fillmore followed with the fugitive slave law and the compromise measures of 1850. Mr. Webster followed again, with his 7th of March speech; and last, though not least, came the repeal of the Missouri compromise line.

I do not propose to discuss the repeal of the Missouri compromise. If I should enter upon that discussion, I should only weary the Senate, for I should not know where to leave off. I look upon it as the greatest fraud ever perpetrated before the eyes of this nation. The price had been paid, and the terms of the bargain were repudiated after one side had received the equivalent. It was a violation of a solemn compact. But I do not propose to go into the discussion of it at this time.

But, sir, how did you pay those men who were bidding and overbidding, and outbidding each other for presidential nominations? First, to the writer of the Nicholson letter you gave the empty honor of a nomination for the Presidency, and then defeated him by southern votes; to the second, you refused even the poor compliment of a nomination in a national convention, when it was well known to everybody that under no circumstances could he have been elected if he had received the nomination. The third you consigned to the grave. He received but four southern votes in the convention to which I have just referred, and it broke his heart. The fourth you are now pursuing with all the powers of this Government; with the keen scent of the blood-hound; you are after his scalp; and yet, sir, this Administration owes to him, more than to any other man, its present possession of power. There are three men in this nation to whom the present Administration owe their present position more than to any other three thousand men in the United States. Those men it is needless for me to name, although I will do so. One of them is the Senator from Illinois, [Mr. DOUGLAS,] another Mr. Walker, late Governor of Kansas, and the third is John W. Forney, of Pennsylvania. But for these men, James Buchanan, President of the United States, would be rusticated at Wheatland, instead of occupying the White House. Poor pay indeed have they got for their subserviency to southern interests, and their rejection of the principles upon which they had previously acted.

Mr. President, while all these aggressions of the slave power were made their cry was, "stand by the Constitution and the Union." I have heard it from every stump in Michigan: it was the rallying cry while they were undermining the Constitution and sapping the foundation of this Union. Although I am not a lawyer, I wish to refer to two or three clauses of the Constitution of the United States; for I claim that it is so plain in language, and its intent so transparent, "that the wayfaring man, though a fool, need not err therein." I do not believe that it requires any hair-splitting of lawyers to comprehend that immortal instrument, the Constitution of the United States. It is true that the Supreme Court has endeavored to mystify two or three of its plainest provisions in its late opinion, or late speeches, delivered on a question that was not before it; but, sir, it does not require a lawyer, in my estimation, to show that that instrument is not what they are attempting to make it, and what the framers of it abhorred, a pro-slavery instrument. I claim that slaves are not recognized as property in that instrument anywhere. They lay great stress upon that clause of the Constitution which protects the slave trade for twenty years. I consider that fully, fairly, and forever answered by the honorable Senator from Maine, [Mr. FESSENDEN.] If property in slaves, he said, is based upon that clause of the Constitution allowing the slave trade for twenty years, of course, at the end of those twenty years, that property ceases to receive the protection of that clause of the Constitution; it extends protection to it only for twenty years. But I shall say no more upon that point. There is, however, one other clause upon which the court dwells yet more fully, and that is the fugitive-slave clause, so called:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in conse-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, MARCH 13, 1858.

NEW SERIES....No. 69.

quence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due."

Not giving a lawyer's opinion, but the opinion of a man of common sense, if you please, I should say that if that clause proved anything at all, it proved the direct reverse of what the Supreme Court endeavored to make it prove. Is it necessary to introduce into the Constitution a clause protecting property already protected by the very instrument into which that clause is introduced? If slaves were property under the Constitution, were they not property everywhere? If they were protected as property, were they not so protected everywhere? The proposition is an absurdity; and, if there were no other clause in the Constitution upon that point, I should say that that proved conclusively that they were not recognized as property under the general clauses of the Constitution. What would have been thought of a clause like this: "that horses, sheep, cattle, mules, &c., escaping from one State into another, shall be given up on proof of ownership to the person to whom such property belongs?" and yet such a clause would be just as appropriate as that on the subject of fugitive slaves, if they were recognized as property under the Constitution. There was no such right claimed as property in man at that day; and, as was remarked by the honorable Senator from New Hampshire [Mr. HALE] the other day, even the word "servitude," which was in the first draft of that clause of the Constitution, was stricken out on the motion of a distinguished Virginia gentleman, and the word "service" introduced, because servitude might be construed to mean slaves, and service could not. The whole of the debates upon the adoption of the Constitution, show that its framers never meant that it should recognize slaves as property. If they had intended it, is it not a little singular that nowhere throughout the entire instrument can the word "slave" be found, or anything that can be tortured, or ever has been tortured heretofore, into a recognition of slaves as property under the Constitution?

But again, sir, so far from recognizing slaves as property, they spread the common law over that Constitution; they adopted the common law as part and parcel of the Constitution; and it is well known, and settled in numerous cases, that the common law does not, and never was claimed to, recognize property in slaves. Here is a decision of the supreme court of Georgia, in 1851:

"I now consider the decisions of the English courts, upon the subject of slavery, and I think it will be seen that slavery has never been recognized to exist there under the common law. On the contrary, it is well settled that the moment a slave, whether African, Indian, Jew, or Gentile, sets his foot upon British soil he is a freeman, and entitled to the protection of the laws as such."—*Neal vs. Farmer*, 9 *Georgia Reports*, p. 565.

Lord Mansfield, in his opinion in the Somerset case, declared:

"So high an act of dominion must be recognized by the law of the country where it is used. The power of a master over his slave has been extremely different in different countries. The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by positive law, which preserves its force long after the reasons, occasion, and time itself from whence it was created, are erased from memory."—*Howell's State Trials*, vol. 20, p. 62.

Innumerable cases might be cited to prove that the common law does not, and never did, recognize property in slaves; and yet the framers of the Constitution spread that law all over the Constitution, instead of saying that slaves were property.

What was the object of the Supreme Court, in traveling out of the record to show that the Constitution did, or would, if the case were brought before them, recognize property in slaves? I look upon this as one of the most dangerous aggressions which has ever been attempted upon the Constitution of the United States. Their object was covered up; it was not announced; you may hear it in private conversation, but it has never been announced publicly. The object was insidiously, first, to recognize slaves under the Constitution; secondly, to make out by construction

of the property clause that the Constitution itself carried slaves everywhere. They declared in that decision that the Constitution carried slaves into a Territory. Well, sir, if the Constitution carries slaves anywhere outside of the limits of the municipal law creating slavery, it carries them everywhere. If slaves are property under the Constitution, Michigan is as much a slave State to-day as South Carolina, if any man or set of men see fit to take slaves there. They are protected under this property clause, if they are property under the Constitution; but we deny that they are. We deny the authority of the Supreme Court to insert any new provision into the Constitution making them property. Here is the clause which it is said carries slavery now into any Territory, if it is carried there; and the same clause will carry it into any State by the same rule. They dare not attempt, at this time, to break down State sovereignty; they dare not assert their whole meaning; but they take it piecemeal. The clause in which they pretend to find this power is that which declares that no citizen shall "be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

That is the clause which they mean to render effective; under which they are endeavoring to strengthen slavery by their illegal decision, as I regard it.

That is not the last aggression. After having established the property clause, and carried slavery all over these United States, there is something left yet to be done. The intention is then—it has ceased to be problematical—to open the African slave trade. Why not give us the whole dose at once—property clause, African slave trade, and all? Why, sir, you southern men are more cruel than the heathen gods. They were satisfied with the sacrifice of hecatombs of human victims; but you take one hecatomb after another. You sacrifice one in adopting the Missouri compromise line; another in repealing it; and now you sacrifice another in passing the Lecompton constitution; and anon you will sacrifice another in spreading this property clause; and afterwards you will sacrifice another hecatomb in opening the African slave trade. Why not take all your victims at once, swallow them *en masse*, and let future generations live? You do not appreciate your northern tools; you are afraid to crowd them too far; you are afraid to give them the whole dose at once; but I tell you, sir, that you cannot give them a dose that they will not swallow. You need not give it to them in homeopathic portions. Give them the slave trade, the property clause, and the whole series at once; for so long as your Federal patronage holds out, so long you can rely on your northern allies. You see they will swallow Lecompton—it does not require an effort—with all its frauds. They would take the property clause, and resolve to-morrow that every State in the Union is a slave State, and it would not require an effort for them to get down that doctrine. Then you might introduce the African slave trade, and they would take that with the same facility that they take all the rest. Do not fear to crowd them, sir. They are few, and growing beautifully less, rapidly, but they are reliable just as long as you have the Government with its patronage.

I come now, sir, to the first organization of the Territory of Kansas under the bill of 1854. The first election under that act was for a Delegate to Congress. At that election there was no very great violence attempted, but there was fraud. Some nineteen hundred Missourians, I think, actually passed over into the Territory, voted in General Whitfield, and then went home. That terminated that campaign; but between the election of General Whitfield and the election of the members of the Legislative Council, there was a large influx of population from the North. It was deemed important then to strike a final blow for the institution of slavery in Kansas; then the forces were organized and drilled; they were organized in companies and regiments, with mus-

kets and cannon, with bowie knives and revolvers, with baggage wagons, tents, and whisky. Under banners inscribed "for Kansas and slavery," they marched over and took possession of the land. They went to every voting precinct in the whole Territory of Kansas except one, and they drove from the polls the honest settlers of that Territory, and from their seats the judges of election appointed by the Governor of the Territory. By a comparison of the census returns with the poll-books of the Territory, and by the oral testimony of more than three hundred witnesses under oath, it is proven that four thousand nine hundred votes were cast in that Territory for members of the Legislature, by persons who were not residents of Kansas.

Very much has been said about a great influx of voters under the auspices of the Emigrant Aid Society. I have taken a little pains to ascertain just how many of the men sent out by the Emigrant Aid Society voted at that election. Four thousand nine hundred border ruffians from Missouri voted, and they left the Territory the next day; but of all the men who were ever sent to that Territory under the auspices of the Emigrant Aid Society, only thirty-seven voted on the 30th of March, 1855. Thirty-seven of the honest citizens sent out under the auspices of that society, who were there residents, cultivating the soil, cast their votes on that day, and no more. This is proven—proven beyond cavil or controversy; and it demonstrates that a great cry has been made over a small matter.

The members of the Legislature elected in this way applied to the Governor for certificates. Governor Reeder knew the frauds that had been perpetrated. He knew that not a man of them was entitled to a certificate; but many of the voting precincts were distant; and where there was no contestant he issued his certificates to these fraudulently elected men, most of them being Missourians. Where there was a contestant he ordered new elections; and in every such instance free-State men were elected, in place of the pro-slavery men previously said to have been elected. But, on the assembling of the Legislature, the first act was to wipe out these after elections—these honest elections—to throw out of the Legislature every man honestly elected; to organize, and proceed to enact a code of laws. In a very brief period they enacted laws that fill eight hundred and twenty-two pages. They took the whole code of Missouri, and after they got through they were afraid there might be some mistake somewhere, and they added the following addendum:

"Wherever the word 'State' occurs in any act of the present Legislative Assembly, or any law of this Territory, in such construction as to indicate the locality of the operation of such act or laws, the same shall in every instance be taken and understood to mean 'Territory,' and shall apply to the Territory of Kansas."

Their whole code would have been arrant nonsense, if they had not put in that singular addendum; for the word "State" was copied into almost every enactment. They carried most of the statutes of Missouri over there; but they were not satisfied with enacting the Missouri code; some of the Missouri laws were not sufficiently stringent for the Territory of Kansas, and they enacted a little postscript to the extent of four or five pages of laws, which met their views.

Mr. POLK. I wish to ask the Senator if he really means to assert, without qualification, as I understand him to say just now, that the entire Missouri code was adopted by the Legislature of Kansas? I wish to say, if he does, that he is mistaken.

Mr. CHANDLER. I presume they had not time to put in all the resolves the Legislature of Missouri had enacted, and the amendments to their enactments. I do not mean to say that there might not have been some additions to those laws; but, in the main, these eight hundred and twenty-two pages were taken from the Missouri code, except four or five pages of infamous laws to which I shall have occasion to allude in a few moments.

Mr. POLK. Will the Senator allow me to ask him to specify any one law there that is copied exactly from the Missouri code?

Mr. CHANDLER. I have not the Missouri code before me, but if I had time I could point out a great number. I have examined them, and in the main they are identically the same. If it were not so, I want to know why they adopted this little addendum? If it were not so, what does this clause mean?

Mr. POLK. I will state that that takes for granted that all those who voted there were from Missouri.

Mr. CHANDLER. More than six sevenths of them were, as I can prove at the other end of the Capitol. I can prove to your satisfaction, or to that of any man on this floor, that more than six sevenths of the votes cast at that election were from Missouri. I will prove it by over three hundred witnesses. I will prove it by three men who spent weeks in comparing the census list with the poll list. I have the evidence on hand to prove what I assert.

Mr. POLK. I shall be glad to have you prove it.

Mr. CHANDLER. I can prove it at any time. I could send to the other House now, and get three men, and put them under oath, and they will swear to the truth of every word I say. It would take some time to go over the testimony.

Mr. POLK. I should like to know their names.

Mr. CHANDLER. WILLIAM A. HOWARD and JOHN SHERMAN; the other I forget. I go by the record. I shall have occasion to allude to certain of those laws that were not taken from the code of Missouri, but which were considered an improvement upon the Missouri code; but I pass them by for the present.

Under this code of laws the territorial government was organized; and the Army of the United States was sent there to enforce them. Men were hunted down by sheriffs and by posses from other States, by border-ruffianism everywhere, under the color of law. Sir, the State of Michigan has over one thousand of her people in Kansas to-day. Three of her citizens, and many other good men, have been murdered in cold blood. Two of them, Barber and Brown, I know were as good men as can be found on the face of the earth. The other—Gay—was Mr. Pierce's land agent for the Territory. He was a Nebraska pro-slavery Democrat. He was met one day, with his son, on the road, and asked whether he was for free-State or pro-slavery. He had become a little free-Statish in his views, and not dreaming of danger, he said, "I am a free-State man," and he was shot down; and his son, in attempting to defend his father, received a bullet in his hip, and is now a cripple, in Michigan. I speak with some feeling, sir. I have a right to speak with feeling. My own constituents, my own people, have been brutally murdered, and I should be recreant to my trust if I did not speak with feeling on this subject. I know the men from Michigan who are in Kansas to be as good men as can be found within these United States, and when any man says that the emigrants from Michigan to the Territory of Kansas are picked up from the purlieus of cities, I tell him he knows nothing about the subject, and that it is not true. They are as good men as the State of Michigan produces; they are honest and brave; they know their rights, and knowing, dare defend them.

I come next to the election of members of the constitutional convention. The laws to which I have referred were still in force. In the mean time the Governors had been changed three times, and Governor Walker was then in office. We are not left to assertion with regard to the frauds in the election of the constitutional convention. I refer you to Executive Document No. 8, for the present session, page 128. There I find a letter from the Hon. Robert J. Walker, Governor of Kansas, to the Hon. Lewis Cass, Secretary of State, supplied to us by the Department of State, in which Governor Walker says:

"On reference to the territorial law, under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken and the voters registered; and when this was completed, the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters.

"These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give a solitary vote for delegates to the convention. This result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty by law of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and, therefore, they were entirely disfranchised, and could not, and did not, give a single vote at the election for delegates to the constitutional convention. And here I wish to call attention to the distinction, which will appear in my inaugural address, in reference to those counties where the voters were fairly registered and did not vote. In such counties where a full and free opportunity was given to register and vote, and they did not choose to exercise that privilege, the question is very different from those counties where there was no census or registry, and no vote was given or could be given, however anxious the people might be to participate in the election of delegates to the convention. Nor could it be said these counties acquiesced, for whenever they endeavored by a subsequent census or registry of their own to supply this defect, occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention.

"I repeat, that in nineteen counties out of thirty-four there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given, or could be given, for delegates to the convention in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties in which there was no census constituted a majority of the counties of the Territory; and these fifteen counties in which there was no registry gave a much larger vote, at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Leecompton constitution on the 7th November last."

Here the fact is shown that for the constitutional convention the people of Kansas did not and could not vote. It is not true, as has been asserted, that even in other counties, where a registry was taken, it was fairly taken. I was informed by the Mayor of Leavenworth, one of the oldest citizens there, said to be a man of wealth, certainly a man of respectability, that his own name was not placed on the registry list, nor were one half the names of the free-State settlers in that city. In every county where a registry was taken, it was taken fraudulently; free-State men were left off, and pro-slavery men, who were never known or heard of in the Territory, were placed on the list.

When more than half the counties in that Territory were disfranchised, when no fair registry was taken; when the very parties who had defrauded the people twice in previous elections, were to count the votes and make up the poll lists, it is not surprising that the free-State men of Kansas did not and would not vote at the election for delegates. They could not vote, as is asserted by Governor Walker. This, it must be remembered, is the evidence of the favorite Governor, of James Buchanan's own selection. This is no free-State Abolitionist. This is a man who went there honestly intending to make Kansas a slave State if he could; but like all other honest men who have been sent to Kansas, he was very soon converted from the opinion that the ruffianism was on the side of the free-State people, and law, order, and peace on the other side. Sir, I believe that if you or any other member of this body—I care not who it be—were sent to Kansas as Governor, and should remain there three months, you or he would stand where Governor Walker stands to-day. There is not a member of this Senate that I would not trust there; and I aver that such would be the result. But I shall allude to that matter hereafter. I now proceed to the submission of the constitution.

Illegally elected as it was—elected by only two thousand votes, when, as is asserted by Governor Walker, there were more voters in the counties where no registry was taken than cast at this election—the convention met. I assert it to be the truth that but for the pledges given by Governor Walker and Secretary Stanton, that convention would never have assembled in the Territory of Kansas. You had not United States bayonets enough there to have kept it in session but for the pledges given by Governor Walker and Secretary Stanton, that the constitution should be fairly submitted to a full vote of the people. But, sir, I come to the submission. President Buchanan, through his Secretary of State, General Lewis Cass, gave the following instructions

to Mr. Walker when he went to Kansas as Governor:

"It is 'the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved; and, that being accomplished, nothing can be fairer than to leave the people of a Territory free from all foreign interference to decide their own destiny for themselves, subject only to the Constitution of the United States.'"

Again:

"When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence."

These are the instructions under which Governor Walker acted. Mark the words: "When such a constitution shall be submitted"—not when a slavery clause, but when the "constitution shall be submitted" to the people of the Territory—"they must be protected in the exercise of their right of voting for or against that instrument."

But again, on page 111 of the same document to which I have alluded, you will find, in General Cass's letter to Mr. Stanton, the same language reiterated as late as November 30, 1857:

"When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence."

Here is iteration after iteration that the constitution should be submitted to the people, and that no fraud or violence should interfere with its fair submission. Then we come to the assurances given by Governor Walker, which satisfied the free-State people that it would be submitted, and submitted to a fair vote. He says, in his letter of July 15:

"It was, however, universally admitted that, but for the position assumed in my inaugural address, and emphatically repeated at Topeka, the people of Kansas, so far as my power extended, should be permitted, by a full vote of the actual residents of Kansas, to decide upon the great question of the adoption or rejection of the State constitution to be prepared by the constitutional convention which should assemble at Leecompton in September next, that the more violent course would have prevailed, and the Territory have been immediately involved in a general and sanguinary civil war, postponing, for the present at least, if not indefinitely, any pacific settlement of these momentous questions."

He says further, in the same letter:

"I urged that they were pursuing a course in opposition to the laws, which never could lead to any successful result, and urged them to unite in voting for or against the adoption of such a constitution as might be submitted for their consideration by the constitutional convention which would assemble in September next on the call of the Territorial Legislature. I endeavored to convince them that the so-called Republican party of Kansas, and their associates in the United States, had endeavored, and still desired, as set forth in their platform, to deprive the people of Kansas of the right to adopt their own social institutions, and had referred this question to Congress, where the people of the Territory would have no vote whatever; and continued my efforts on this ground, in connection with other topics, to separate the free-State Democrats from any alliance with the Republicans."

Here we get the meat in the cocoanut at last: "to separate free-State Democrats from any alliance with Republicans." They were going to destroy the Republican party then! These pledges were given in the broadest and most emphatic manner—given everywhere—from the stump, from the rostrum, in private conversation, and everywhere throughout that Territory. Governor Walker, under the instructions which I have read you from James Buchanan, through his Secretary of State, Lewis Cass, that it should be submitted, gave them the most positive assurances that, in any event, this constitution should be submitted to a fair vote of the people. Then, speaking of the Democratic convention in Kansas, he says:

"A resolution was offered by the pro-slavery delegate, instructing the nominee of the party for Congress to support there the adoption of the State constitution, which might be framed by the constitutional convention which should assemble in September next, whether the same had been submitted for ratification by the vote of the people or not. Very able addresses were made on this resolution, and especially by Judge Elmore, of Alabama, who earnestly advocated the submission of the constitution to the vote of the people, as the only course that was safe or proper. This is the more important, as Judge Elmore is a man of very decided ability and of great influence with the pro-slavery party. He was president of this Democratic convention, and is a delegate to the constitutional convention which assembles in September next. This resolution, which was regarded as substantially against the submission of the constitution to the vote of the people, was laid on the table as a test vote, by a vote of forty-two to one."

Forty-two to one of this Democratic convention

were in favor of submitting the constitution, when it should be framed, to a vote of the people. So you see, sir, that from the beginning to the end the free-State men were led to believe, and did believe, that, in any event, this constitution must and would be submitted to the people, or that it would be rejected by Congress. It was admitted on all hands that the convention did not represent the people of Kansas. No man pretended that it represented the people of Kansas; and its members did not pretend it themselves. They only represented a very small fraction of the people of Kansas. Neither does the constitution now upon our table represent the wishes of one in ten of the people of Kansas. The people are opposed to it, and they have resolved, by an emphatic vote of more than ten thousand against it, that they will have nothing to do with it. I trust the attempt may never be made to force them to touch the unclean thing.

The next step in this programme was the election of the Legislature last fall. Again the free-State men were urged and implored by Governor Walker to go to the polls and vote under the code of laws. The more objectionable test oaths were repealed, or decided to be null and void; they were not operative. Through the influence of Governor Walker, and by the advice, I believe, of the Administration here, or of the President and Secretary of State, perhaps, it was decided that those test oaths should not be enforced, and that the people, the *bona fide* residents of Kansas, who had been there three months, should be entitled to vote. Under these pledges, and believing that Governor Walker was sincere and in earnest, and that they would have a fair chance to express their views through the ballot-box, they did go to the polls and vote; they elected their Legislature overwhelmingly; but the moment this was discovered, new returns began to come in, and at last up came a return from Oxford precinct, of Johnson county, with sixteen hundred fraudulent votes attached to that return list; and those sixteen hundred fraudulent votes, if allowed, secured a pro-slavery majority in the Legislature. I am informed that the Cincinnati Directory was copied alphabetically until they had taken sixteen hundred names, and returned them as having voted at that election—Governor Chase voting the pro-slavery ticket!

When Mr. Walker and Mr. Stanton learned these facts, they said, "we will go down to Johnson county and see whether this can be so." They went down to Johnson county, and brought up a report that there were some six houses in that voting precinct; that there was a small village across the street in Missouri; and they were informed by the people there that not one tenth of the number returned as having voted there were in the town during the two days the poll books were open. They ascertained that there was not one tenth of the number on the poll books in the voting precinct; and ascertained that even the Missourians had not come over in those numbers and voted. Not because of the fraud, but because these returns were not put in legal form, the Governor rejected them. He did not claim that he had a right to look into fraudulent returns; but because they were returned to him illegally, he threw them out. Even the provisions of the law under which they were acting were not complied with; and therefore, for that reason, as he informs us, he went behind the record. Up to this time Governor Walker had done everything that had been demanded of him; but for this one honest act, for redeeming this one pledge, Mr. Walker's head was dropped at the block. This alone was his unpardonable sin. He had taken the responsibility of throwing out these fraudulent returns, when they had not even the color of law to thrust them in; but for that act, and for that act alone, his head was brought to the block. After he left the Territory, Secretary Stanton saw fit to call the Legislature together, as he assures us, to prevent civil war or bloodshed, and he, too, lost his place. But before I come to that, I will touch upon the submission of this constitution to the people. Mr. Buchanan, in his special message transmitting the Lecompton constitution, says:

peace to the distracted Territory: but they again refused to exercise their right of popular sovereignty, and again suffered the election to pass by default." * * *

"They now ask admission into the Union under this constitution, which is republican in its form. It is for Congress to decide whether they will admit or reject the State which has thus been created. For my own part, I am decidedly in favor of its admission, and thus terminating the Kansas question. This will carry out the great principle of non-intervention recognized and sanctioned by the organic act, which declares, in express language, in favor of 'non intervention by Congress with slavery in the States or Territories,' leaving 'the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.'"

Thus, you see, the President informs us that a fair submission of the slavery clause has been made to the people of Kansas. Now, sir, in the instructions of the President, and in the pledges given by Governor Walker and Secretary Stanton, has there been one word said about submitting the slavery question to the people of Kansas? No, sir; not a word. It was the constitution, and the whole constitution, of Kansas, that was to be submitted to a fair vote of the people. But, suppose I admit, for the sake of the argument, that the great important clause was that on the subject of slavery? I acknowledge no such thing, for it was not the only one, still it was a very important matter. But admitting, for the sake of the argument, that that was the all-important thing to be submitted: was it fairly done? Was even that clause fairly submitted to a vote of the people? Section nine of the Lecompton schedule provides:

"Any person offering to vote at the aforesaid election upon said constitution, shall, if challenged, take an oath to support the Constitution of the United States, and to support this constitution, under the penalties of perjury under the territorial laws."

The voter was required to take an oath to support a constitution which he in his heart meant to subvert the very moment he could obtain power to do so. Would any honest man vote under such a test oath as that? No, sir; no honest man could vote, for there was not a free-State man in that Territory but what utterly abhorred, and would never support, that constitution, if it was in his power to resist it; and yet Mr. Buchanan informs us that this was a fair submission of the slavery clause to the people of Kansas! Let us see whether it was a fair submission of even the slavery clause. In case they voted out the slavery clause itself—

"Then the article providing for slavery shall be stricken from this constitution by the president of this convention, and slavery shall no longer exist in the State of Kansas, except that the right of property in slaves shall in no manner be interfered with."

So if they voted out the slavery clause, still the right of property in slaves could not be affected; and there is another provision that any constitutional convention which may meet to amend this constitution shall not interfere with slavery.

There was no submission of the slavery clause; and President Buchanan, if he had read this constitution, must have known it. The right of property in slaves, it was said, shall never be interfered with in this Territory, if they vote out the slavery clause. It was a fraud from beginning to end. I have shown you how these laws were enacted; and now, for fear some of those laws might be repealed, they settle that point in this constitution itself, by declaring:

"All laws now of force in the Territory of Kansas which are not repugnant to this constitution, shall continue to be of force until altered, amended, or repealed, by a legislature assembled under the provisions of this constitution."

It must be remembered that the present Legislature of the Territory of Kansas is a free-State Legislature. The first act, of course, of that free-State Legislature would be to repeal the infamous code; but to perpetuate their power they put into the constitution a bar to any action of the Legislature on that code; and yet any man voting for that constitution swore to support that code, swore that the present free-State Legislature should not alter those laws. There was no submission of this constitution to the people. It was a fraud from the beginning to the end.

Besides, there was no punishment at that time for illegal returns. Mr. Stanton says on this subject:

"I have already expressed the grave doubts I entertain as to the power of the Legislature in any manner to interfere with the proceedings of the convention. But there can be no question as to your authority to provide, by a suitable law, for a fair expression of the will of the people upon the vital question of approving the constitution."

This is in his message to the free-State Legislature. Again he says:

"The laws now prevailing in this Territory provide for the proper punishment of illegal and fraudulent voting, but there is no provision which will reach the case of fraudulent returns. The case of the late Oxford precinct in Johnson county was an enormity so great that it has nowhere been defended or justified. Yet the evil consequences of it are seen in the fact that even the late convention has been so far imposed upon that in its apportionment for the State Legislature, under the constitution, it has assigned to Johnson county four representatives, which must necessarily be based on the notoriously false returns from that county. In order to meet the apprehensions naturally growing out of these circumstances, I recommend the adoption of a provision making it felony, with suitable punishment, for any judge or clerk of election knowingly to place on the poll books the names of persons not actually present and voting, or otherwise corruptly to make false returns, either of the election held by order of the convention, or of any other election to be held in this Territory."

Here, sir, is what was recommended by Secretary Stanton to the Legislature, to prevent frauds. The constitution was submitted to the people, to a fair vote of the people, under the authority of law, by the present Legislature of Kansas; and it was rejected by the people, by a majority of more than ten thousand votes; while it is proven that at the former submission, on the 21st of December, of the six thousand pro-slavery votes cast, not exceeding two thousand were actual voters in the Territory of Kansas. They were fraudulently made up. We have returns again from Oxford precinct as outrageous as the first. We have almost the whole vote of Johnson county a fraudulent vote; and upon that vote are based four members of the Assembly and one or two of the other branch.

I deny, then, that this constitution has been submitted to the people of Kansas in any proper form but once, and then it was rejected by an overwhelming vote of more than ten thousand. Then the returning of fraudulent votes could be punished. It was made felony. No man dared bring in a fraudulent return, for he would go to prison for so doing; but at the fraudulent election of December 21st, when fraudulent returns might be received, accepted, and counted, it was done.

Complaint was made here the other day, that some of the officers of Kansas had fled for fear of their lives. I should think they would flee for fear of their lives. They have come to the only city of refuge that can afford them any protection. They have committed crimes in Kansas against the law, and if they go there they will be punished according to law, and if they ever get their deserts it will be at the end of a halter. I should think they would dread the Territory of Kansas, and the climate there as unhealthy for their particular complaints.

Mr. President, we have upon our table a very singular document. I do not know what business it has here, but it is here. I should not consider myself entitled to quote from it, or talk about it, if it had not been laid upon our table in an official manner. In accordance with resolutions of the Senate of the 16th and 18th of December last, requiring the President to furnish certain information concerning the government of Kansas, he has transmitted to us a letter from some gentlemen in New Haven and his reply to them. I do not know what business that has here, but being laid on our table I suppose it is a fair subject for comment. In this Senate Document No. 8, at page 74, President Buchanan says:

"Slavery existed at that period and still exists in Kansas, under the Constitution of the United States. This point has at last been finally decided by the highest tribunal known to our laws. How it could ever have been seriously doubted is a mystery."

How that assertion ever could have been made is to me a mystery. We have very distinguished authority for entertaining doubts. In a letter of Mr. James Buchanan, dated Washington, August 25, 1847, directed to a Harvest Home of the Democracy of Berks county, Pennsylvania, I find this language:

"After Louisiana was acquired from France by Mr. Jefferson, and when the State of Missouri, which constituted a part of it, was about to be admitted into the Union, the Missouri question arose, and, in its progress, threatened the dissolution of the Union. This was settled by the men of the last generation, as other important and dangerous questions have been settled, in a spirit of mutual concession. Under the Missouri compromise, slavery was 'forever prohibited' north of the parallel of 36° 30'; and south of this parallel the question was left to be decided by the people. Congress, in the admission of Texas, following in the footsteps of their predecessors, adopted the same rule; and, in my opinion, the harmony of the States, and even the secu-

"The question of slavery was submitted to an election of the people of Kansas, on the 21st December last, in obedience to the mandate of the constitution. Here again a fair opportunity was presented to the adherents of the Topeka constitution, if they were the majority, to decide this exciting question 'in their own way,' and thus restore

erty of the Union itself, require that the line of the Missouri compromise should be extended to any new territory which we may acquire from Mexico."

The James Buchanan who wrote this letter is now astonished that any man should ever doubt that slavery existed in Kansas under the Constitution of the United States! Again, in the same letter, he says:

"Such has been my individual opinion, openly and freely expressed, ever since the commencement of the present unfortunate agitation; and of all places in the world, I prefer to put them on record before the incorruptible Democracy of old Berks. I therefore beg leave to offer you the following sentiment:

"The Missouri Compromise—its adoption in 1820 saved the Union from threatened convulsion. Its extension in 1848 to any new territory which we may acquire, will secure the like happy results."

And that compromise covered the very Territory that he is astonished anybody should ever doubt was covered with slavery! But again, from the same distinguished authority, we find this:

"Having urged the adoption of the Missouri compromise, the inference is irresistible that Congress, in my opinion, possesses the power to legislate upon the subject of slavery in the Territories."

This is the man who is astonished that any one should ever doubt that slavery exists in all the Territories under the Constitution of the United States! It is only ten short years since he wrote the letter; it is less than ten years since he uttered the sentiments I have just quoted.

But I have other distinguished authorities on this very point; among them, the honorable Secretary of State. You see we have had distinguished teachers. We have learned our lessons from high authority, and our doubts are honest. General Cass, in his speech at Romeo, in Michigan, in 1854, said:

"But you cannot put your finger on the power thereby ceded to carry slaves into our new Territories. Does the Constitution give authority to interfere? No. The word slave is not to be found in that instrument."

True.

"There is no power of interference recognized by our statute-books except in the case of fugitives. Go to the Constitution, and if authorized, interfere, but otherwise touch not the fostering evil."

And further, he says:

"Again, it has been said that the passage of this bill opens Kansas and Nebraska to the slave power. There never was a worse misrepresentation."

This is General Cass, the present Secretary of State, who utters that sentiment—"there never was a worse misrepresentation" than that the repeal of the Missouri compromise opened these Territories to slavery:

"Slavery is created by municipal law, and Judge McLean says that without law slavery cannot exist. The negroes of Kentucky and Pennsylvania would alike be free unless slavery had been legalized. How can the master hold slaves without positive law?"

This is General Cass in 1854. Now, sir, had Mr. Buchanan any reason to utter the sentiment I have read from his letter to the gentlemen from New Haven? I hold that he had not. It was under his teachings and those of his present Secretary of State that I learned the doubt. But again he goes on—I have not done with this letter to New Haven—

"If a confederation of sovereign States acquire a new territory at the expense of their common blood and treasure, surely one set of the partners can have no right to exclude the others from its enjoyment, by prohibiting them from taking into it whatsoever is recognized to be property by the common Constitution. But when the people, the *bona fide* residents of such Territory, proceed to frame a State constitution, then it is their right to decide the important question for themselves whether they will continue, modify, or abolish slavery. To them, and to them alone, does this question belong, free from all foreign interference."

What I have read before of Mr. Buchanan's former views answers that in full, and therefore I shall not comment on it; but here is what I am coming at:

"I have entire confidence in Governor Walker that the troops will not be employed except to resist actual aggression or in the execution of the laws, and this not until the power of the civil magistrate shall prove unavailing. Following the wise example of Mr. Madison towards the Hartford convention?"

Now I am not disposed to take this evidence in regard to the Hartford convention unquestioningly; for it is a well-established principle of law that a man who turns States' evidence must have some confirmatory testimony, or you cannot convict. I am not disposed to take this imputation unless there is some corroborative testimony, and I do not find any; therefore, I do not give any weight

to this slur on the Hartford convention or the Topeka convention—

"illegal and dangerous combinations, such as that of the Topeka convention, will not be disturbed, unless they shall attempt to perform some act which will bring them into actual collision with the Constitution and the laws. In that event, they shall be resisted and put down by the whole power of the Government. In performing this duty, I shall have the approbation of my own conscience, and, as I humbly trust, of my God."

Mr. President, what laws are these that he is going to use the whole power of the Government to enforce? There was a code of laws enacted in Kansas which the present Secretary of State, General Cass, declared to be a disgrace to the age—a code of laws which the same high authority declared to be unconstitutional, and therefore void. It certainly cannot be those laws which he was going to bring the whole power of the Government to enforce. Let us see. Let us see what those laws are that he proposes to bring the whole power of the Government to enforce, and then humbly trusts he will have the approbation of his conscience and his God! In the code of Kansas, at page 605, will be found the following enactment:

"Sec. 11. If any person print, write, introduce into, publish, or circulate, or cause to be brought into, printed, written, published, or circulated, or shall knowingly aid or assist in bringing into, printing, publishing, or circulating, within this Territory, any book, paper, pamphlet, magazine, handbill, or circular, containing any statements, arguments, opinions, sentiment, doctrine, advice, or innuendo, calculated to produce a disorderly, dangerous, or rebellious disaffection among the slaves in this Territory, or to induce such slaves to escape from the service of their masters, or to resist their authority, he shall be guilty of felony, and be punished by imprisonment and hard labor for a term not less than five years."

And yet the Constitution, to which I called your attention a short time since, declares the freedom of speech and of the press shall not be interfered with. This enactment is unconstitutional and void; and yet Mr. Buchanan says, in the enforcement of this law "all the power of the Government shall be brought into requisition, and in performing this duty I shall have the approbation of my own conscience, and, I humbly trust, of my God." Sir, I do not know of what material his conscience may be made, but there are few men who would have the approbation of their own consciences in that, and there is no attribute in the Divine Being that authorizes any man to say that he humbly trusts he will have the approbation of his God in such an effort.

But again:

"Sec. 12. If any free person, by speaking or by writing, assert or maintain that persons have not the right to hold slaves in this Territory, or shall introduce into this Territory, print, publish, write, circulate, or cause to be introduced into this Territory, written, printed, published, or circulated in this Territory, any book, paper, magazine, pamphlet, or circular, containing any denial of the right of persons to hold slaves in this Territory, such person shall be deemed guilty of felony, and punished by imprisonment at hard labor for a term of not less than two years."

This law he is going to enforce in the same way and have the same approbation! I might go on *ad libitum*, but I shall detain the Senate but a moment on this point. I will read one more law:

"Sec. 4. If any person shall entice, decoy, or carry away out of this Territory, any slave belonging to another, with the intent to deprive the owner thereof of the services of such slave, or with the intent to effect or procure the freedom of such slave, he shall be adjudged guilty of grand larceny, and, on conviction thereof, shall suffer death, or be imprisoned at hard labor for not less than ten years."

For the enforcement of that law all the powers of the Government are to be brought into requisition, and Mr. Buchanan, in performing this duty, will have the approbation of his own conscience, and, he humbly trusts, of his God. I have done with that New Haven letter. It would be better if it had never been laid upon our table, in my estimation.

Mr. Buchanan asserted in his message—I read from page 20 of the first volume of the Message and Documents for this year—

"The friends and supporters of the Nebraska and Kansas act, when struggling on a recent occasion to sustain its wise provisions before the great tribunal of the American people, never differed about its true meaning on this subject. Everywhere throughout the Union they publicly pledged their faith and their honor that they would cheerfully submit the question of slavery to the decision of the *bona fide* people of Kansas, without any restriction or qualification whatever. All were cordially united upon the great doctrine of popular sovereignty, which is the vital principle of our free institutions."

"Had it been insinuated from any quarter that it would be a sufficient compliance with the requisitions of the organic law for the members of a convention, thereafter to be elected, to withhold the question of slavery from the people,

and to substitute their own will for that of a legally ascertained majority of all their constituents, this would have been instantly rejected. Everywhere they remained true to the resolution adopted on a celebrated occasion, recognizing 'the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without slavery, and be admitted into the Union upon terms of perfect equality with the other States.'"

I think that the friends of Mr. Buchanan pledged more than that. I aver that throughout the whole North the subject of slavery, in that constitution, was never alluded to as the question to be submitted to the people. I aver that pledges were given that the whole constitution should be submitted to the people, and to a fair vote of the people of Kansas. I have shown that there was no submission even of the slavery clause itself; but that was not enough. They pledged more. They pledged Mr. Buchanan as being favorable to making Kansas a free State; and, in my own State, the embattled hosts of the Democracy marched to defeat under flaunting banners of "Buchanan and free Kansas." In Pennsylvania, I am told, it was the same. Mr. Buchanan was everywhere throughout the North represented as being in favor of making Kansas a free State, and it was asserted over and over and over again that the surest way to make it a free State was by the election of James Buchanan. James Buchanan occupies the presidential chair to-day in consequence of the belief of the people of the North in these fraudulent representations. But for these false assertions he never would have been elected. He never would have carried a single northern State but for the belief in these fraudulent assertions. Now let them carry out their pledges made before the election. Let the constitution be submitted to a fair vote of the people, or else let the whole subject be sent back again to the people to manage their domestic institutions in their own way.

Sir, throughout the North, for many years past, we have had a set of men in great trouble and tribulation about this Union. From every stump in my own State the cry has gone forth, time and again, of "danger to the Union." Throughout all the northern States the same cry has gone forth; and whenever an aggression has been made by the South upon the North, these Union-savers have come before the people, and, in piteous tones, averred that they assented to it to save the Union. That set of people, who have been in labor, and suffering, and trial, for so long a time on account of the Union, have passed off the stage. In their places are men who love this glorious Union, and love it as it was made by the fathers; men who will not whine "danger to the Union;" but brave men, who will fight for this Union to the death. The race of Union-whiners, the old women of the North, who have been in the habit of crying out "the Union is in danger," have passed off the stage. They are dead; their places will never be supplied; but in their stead we have a race of men who are devoted to this Union, and devoted to it as Jefferson and the fathers made it and bequeathed it to us.

Any aggression upon the Constitution has been submitted to by the race that have gone off the stage. They were ready to compromise any principle; anything to save the Union. Sir, the men of the present day will compromise nothing. They are Union-loving men; they love all portions of the Union; and they will sacrifice anything but principle to save the Union. They will, however, make no sacrifice of principle—never, never. No more compromises will ever be submitted to to save this Union. If it is worth saving, it will be saved; but if you sap and undermine its foundations, if you place it in such a situation that it must topple, what can you expect but the legitimate results of your own action? The only way that we shall ever save the Union and render it as permanent as the everlasting hills, will be by restoring it to the original foundation upon which the fathers placed it. Those are the "mud-sills" that cannot be undermined; and there, sir, this great national Republican party proposes to place it. Sir, we are the national party of the Government, and in opposition to us is a purely sectional party that knows no issue but one, and that is the slavery issue.

But I am occupying more time than I intended, and I must hasten to a conclusion. One question

I wish to propound. I wish to know from some friend of the Lecompton constitution how he proposes to force a State into this Union against the wishes of its government and its people? I wish to know from what clause in the Constitution of the United States you derive the right to force a State into this Union? I assert that should you adopt this constitution for Kansas, you make a dead letter. The government of Kansas, which your own present Executive has admitted to be legal is opposed to this constitution. The people of Kansas are overwhelmingly opposed to it. Now, sir, will some man tell me how, with a government and a people almost unanimously opposed to a constitution, you are going to force it into this Union? The Government of the United States has not bayonets enough, nor money enough to pay for sufficient bayonets, to force a constitution on the necks of any people. It cannot be done. There is no constitutional right to attempt to do it. I respect the President of the United States so long as he obeys and stands by the Constitution of the United States; but let him step one inch beyond that Constitution; let one drop of blood flow in Kansas, or anywhere else, and James Buchanan, President of these United States, will be liable to impeachment, and to be hanged for murder also. James Buchanan, so long as he stays within the Constitution and within the laws, is to be respected by everybody; but let him step beyond the Constitution and beyond the protection of the laws, and he is no longer James Buchanan, President of the United States, but James Buchanan, the criminal. There is no power in this Government to force a constitution on the necks of an unwilling people. It cannot be done. If you adopt the Lecompton constitution to-morrow, you cannot enforce it; it will be a dead letter. Blood may flow—blood will flow if you attempt to enforce it—but it cannot be enforced.

The honorable Senator from Mississippi [Mr. DAVIS] the other day stated that it was the purpose of the opponents of the Army bill, in civil war, to shed blood on the soil of these United States. I am sorry that Senator is not in his seat; I am sorry that he is unwell, for I intended to comment on this remark. In answer to some observations which I had the honor to submit on the Army bill, he said:

"I do not think the United States Senate can fail, under such an argument as has been offered by the gentleman who has just taken his seat, to see that the opposition springs from the purpose, in civil war, of shedding blood on the soil of the United States."

The opposition to the Army bill sprung from no such purpose. The opposition to that and to the Lecompton usurpation springs from no such purpose. It is our purpose to avoid the shedding of blood upon the soil of the United States by civil war. While I will not charge on the supporters of the Lecompton constitution the purpose, in civil war, of shedding blood upon the soil of the United States, I do charge that they, and they alone, will be responsible for every drop of blood that may be shed in consequence of the adoption of that constitution. I trust in God civil war will never come; but if it should come, upon their heads, and theirs alone, will rest the responsibility of every drop that may flow. I trust in God, sir, that this question will never be pushed to that extremity, for I should have less respect for the people of Kansas than I now have, if I supposed they would tamely submit to have a constitution thrust down their throats without authority of law, and against law, without their making resistance. I would disown them as the descendants of the men who fought our revolutionary battles if I did not think they would resist any such illegal attempt to force a constitution upon them. I believe they will resist it if the attempt be made, but I do not believe that the attempt will be made. I trust it will not.

Mr. President, I have occupied more time than I intended, and yet I am not quite through. I shall be as brief as I possibly can, but I desire to allude to some remarks of the honorable Senator from South Carolina, [Mr. HAMMOND.] That Senator said:

"In all social systems there must be a class to do the menial duties, to perform the drudgery of life. That is, a class requiring but a low order of intellect, and but little skill. Its requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, civilization, and refinement. It constitutes the very mud-sill of society and of political government: and you might as well attempt to build a house in

the air, as to build either the one or the other, except on this mud-sill. Fortunately for the South, she found a race adapted to that purpose to her hand. A race inferior to her own, but eminently qualified in temper, in vigor, in docility, in capacity to stand the climate, to answer all her purposes. We use them for our purpose, and call them slaves. We found them slaves by the 'common consent of mankind,' which, according to Cicero, '*lex nature est*.' The highest proof of what is Nature's law. We are old-fashioned at the South yet; it is a word discarded now by 'ears polite'; I will not characterize that class at the North with that term; but you have it; it is there; it is everywhere; it is eternal.

"The Senator from New York said yesterday that the whole world had abolished slavery. Ay, the name, but not the thing; all the Powers of the earth cannot abolish that. God only can do it when he repeals the fiat, 'the poor ye always have with you;' for the man who lives by daily labor, and scarcely lives at that, and who has to put out his labor in the market, and take the best he can get for it; in short, your whole hiring class of manual laborers and 'operatives,' as you call them, are essentially slaves. The difference between us is, that our slaves are hired for life and well compensated; there is no starvation, no begging, no want of employment among our people, and not too much employment either. Yours are hired by the day, not cared for, and scantily compensated, which may be proved in the most painful manner, at any hour, in any street in any of your large towns."

After reading and reperusing that speech, I proceeded to consider the state of society where such a happy population were found; and I began to examine into the condition of the people of South Carolina. I am not in the habit of saying, and I will not now say, one word to disparage any State, or the people of any State, in this Union; but I think that attack requires a reply; and I shall read from some distinguished southern authorities in elucidation of this statement. I find in an address of a late Chief Magistrate of South Carolina, Governor Hammond, before the South Carolina Institute, the following exposition:

"According to the best calculations which, in the absence of statistic facts, can be made, it is believed that, of the three hundred thousand white inhabitants of South Carolina, there are not less than fifty thousand whose industry, such as it is, is not, in the present condition of things, and does not promise, hereafter, to be, adequate to procure them, honestly, such a support as every white person in this country is, and feels himself entitled to.

"Some cannot be said to work at all. They obtain a precarious subsistence by occasional jobs, by hunting, by fishing, sometimes by plundering fields or folds; and, too often, by what is, in its effects, far worse—trading with slaves, and seducing them to plunder for their benefit."

Fifty thousand out of three hundred thousand, I am told by this authority, are in that condition in the State of South Carolina. I find other high authority upon this same question. Mr. De Bow, in his Review, says:

"It is too obvious to require extended illustration, that the slow advance of our population mainly arises from the impoverished condition of our lands. As lands become exhausted, the returns are not only small and unremunerating, but crops become uncertain, from casualities and vicissitudes of season, subsistence more precarious, and obtained at greater cost. The striking fact that those districts possessing naturally the best soils are almost stationary in population, while districts of inferior soils naturally are filling up, show not only the exhausted state of the soil in the former, but prove that the character of slave labor, and the system of cultivation adopted, are unfriendly to density of population.

"The exhaustion of our lands, above alluded to, is further evinced by the fact that, in the last thirty years, they have remained generally stationary in price; and, in many instances, have actually declined. Another fact, very significant of this truth, is the regularly increased amount of lands cultivated in different crops per hand, particularly in cotton, while the amount produced is proportionably less."

And again, the business committee of the South Carolina Agricultural Society reported, August 9, 1855:

"Our old-fields are enlarging, our homesteads have been decreasing fearfully in number." "We are not only losing some of our most energetic and useful citizens to supply the bone and sinew of other States, but we are losing our slave population, which is the true wealth of the State; our stocks of hogs, horses, mules, and cattle, are diminishing in size and decreasing in number; and our purses are strained for the last cent to supply their places from the northwestern States."

That is not so flattering an account as I hope to give of Michigan by-and-by. In the message of Governor Seabrook, of South Carolina, to the Legislature, I find:

"Education has been provided by the Legislature but for one class of the citizens of the State, which is the wealthy class. For the middle and poorer classes of society it has done nothing, since no organized system has been adopted for that purpose. You have appropriated \$75,000 annually to the free schools; but, under the profusion of the profligating it, that liberality is really the profusion of the prodigal, rather than the judicious generosity which confers real benefit. The few who are educated at public expense in these excellent and truly useful institutions, the Arsenal and Citadel academies [military schools] form almost the only exception to the truth of this remark. Ten years ago, twenty thousand adults, besides children, were unable to read or write, in South Carolina. Has our free school system dis-

pelled any of this ignorance? Are there not any reasonable fears to be entertained that the number has increased since that period?"

Again, writes a distinguished traveler of the "sand-hillers" of South Carolina:

"Not very essentially different is the condition of a class of people living in the pine-barrens nearest the coast, as described to me by a rice planter. They seldom have any meat, he said, except they steal hogs which belong to the planters or their negroes, and their chief diet is rice and milk. They are small, gaunt, and cadaverous, and their skin is just the color of the sand-hills they live on. They are quite incapable of applying themselves steadily to any labor, and their habits are very much like those of the old Indians.

"A northern gentleman, who had been spending a year in South Carolina, said to me, after speaking respectfully of the character of some of the wealthier class, 'but the poor whites, out in the country, are the meanest people I ever saw: half of them would be considered objects of charity in New York.'"

The picture is not so flattering when you come to examine it closely. It is one of those beautiful paintings where "distance lends enchantment to the view." I should not have alluded to this subject but for the attack of the honorable Senator upon my constituents, the laborers of the North. Sir, under his version, under his exposition of slavery, nine tenths of all the people of the North are, or have been at some period of their lives, slaves; for nine tenths of the people of the North have, at some time, been hiring laborers. We do not feel degraded by being hiring laborers. We believe it to be respectable. You may travel on any road in the State of Michigan you see fit to select, and you will find flourishing farms on almost every one hundred and sixty acres—nice farm houses, comfortable dwellings, fine barns, a very high state of improvement and cultivation; and you do not find the fifty-thousand class that you find in South Carolina. Sir, we deny that the laboring men of the North are, or can be, construed into slaves. They are men. These very laboring men are the foundations of society there. Go through the agricultural portion of Michigan, and you will find the farmer with four or five of the sons of his neighboring farmers employed as hirelings by the day, by the month, or by the year. A young man goes out to service—to labor, if you please to call it so—for compensation until he acquires money enough to buy a farm, and then he gets married and settles upon his farm, and anon he becomes himself the employer of labor. He never feels himself degraded by his labor. Some of those men who are at work by the month, during the summer, on farms, are in the Legislature making laws for us in the winter.

We have an eminent example of the class of which the Senator from South Carolina terms slaves. The late Speaker of the House of Representatives of the United States, Mr. Banks, now the Governor of Massachusetts, only fifteen years ago was working by the day, for his support, in a machine-shop. Fifteen years afterwards you find him occupying certainly the third place within the gift of the people of this nation; ten years hence, and you may see him in the executive chair. He never deemed himself degraded by the labor that he performed in that machine-shop; nor do our men admit that there is degradation in such employment.

But, sir, I have already occupied too much time. I have hurriedly passed over topics which I could have desired more time to discuss. They teem with interest and instruction. Nevertheless, with thanks to the Senate for the courteous attention with which it has heard me, I yield the floor.

Mr. HUNTER. Mr. President—
Mr. GREEN. Will the Senator from Virginia permit me to make one remark?

Mr. HUNTER. Certainly.
Mr. GREEN. I merely wish to remark that I desire to prevent an adjournment over this evening until Monday. We desire a session to-morrow especially. I give notice that I shall resist any attempt to adjourn over, and shall insist on holding a session to-morrow by all means.

Mr. HUNTER. Mr. President, the question before us is undoubtedly attended with difficulties. Some of these are inherent in the subject itself, but most of them, in my opinion, have been created in the heats and party divisions of the day and by the manner in which that subject has been treated. I believe that if the case could be fairly presented to any impartial mind, it would come to the conclusion that the President had suggested the best remedy for the difficulties by which we

are envired and had hit upon the true solution of the Kansas problem. To test the correctness of this position, it will only be necessary to examine the facts as they have occurred.

It was in the year 1854 that the Congress of the United States repealed that restriction which denied to the slaveholding States of the Confederacy equal rights in certain portions of the territory of the Union. That restriction was declared by that Congress, and by the President of the United States to be unconstitutional, inoperative, null, and void. The opinion which they expressed was afterwards sustained by a solemn adjudication of the Supreme Court of the United States; and I think I may say that the election of the present President of the United States, and a majority of the members of the House of Representatives upon this issue, affords probable evidences of the fact that this opinion was sustained by a majority of the people of the United States.

Soon after the passage of this act, the people of Kansas met to elect their first Territorial Legislature. I know that objections have been raised to the manner in which that election was made, and I shall presently come to the consideration of those objections; but it is indisputable that a Legislature was thus elected, and not very long after its election, it submitted to the people of Kansas to say whether they would call a convention for the purpose of forming a constitution and applying for admission into the Union. At that election, a majority of those who chose to vote, declared in favor of a convention. Upon this, the Legislature passed another act to provide for a registry of the voters, and a census of the people; and also to provide for the election of members to that convention.

Again, sir, at this election where all voted who chose to vote, a representation was elected to constitute a convention for the purpose of forming a constitution. When this convention met, it proceeded to the creation of a constitution, and when that constitution had been formed, it submitted it to the people of Kansas to say whether the provision in favor of slavery, which it contained, should remain in the constitution or whether it should be stricken out. On that question again, in my opinion, all who chose to vote were allowed to do so; because it was no restriction to say that when a constitution was once adopted they should maintain it until it was regularly and legally altered. Upon that vote it was determined by a majority of those who did vote, that the provision in favor of slavery should be retained. Afterwards, a vote was taken for the election of members to the new government which was ordained by this constitution, and upon that occasion a large vote was cast, some eleven or twelve thousand in number, who, not only by that act, gave their implied assent to this constitution, but who expressly declared when they voted, that they would support and maintain it. It is true that in the mean time a session of the Territorial Legislature had been convened, to meet after the convention to form a constitution, was in session, and that this Legislature provided for taking the sense of the people on the 4th of January, in regard to the Leecompton constitution. It is also true that upon that occasion a large vote is professed to have been cast, by which a majority of some ten thousand declared against this constitution.

These are the circumstances, as I understand them, under which Kansas presents herself here under this Leecompton constitution asking for admission into the Union, and to that admission there are two classes of objectors; the one maintain that the original Legislature, the first Legislature which was elected, was not clothed with legal authority, because, as they assert, an armed invasion of Missourians took possession of the ballot-box, and interfered with a fair expression of popular opinion. Assuming that the action of such a body was invalid, they say there was no law in the proper sense of the term for taking the sense of the people as to a convention; there was no law in the proper sense of the term providing for a registry, and for enabling them to vote for members of a convention; and that the convention itself when it assembled was, therefore, without authority and invalid. They have also maintained, I believe, that some of the counties were not allowed to vote, and that, therefore, the representation in the convention was incomplete.

At this point there comes in another class of

objectors, who deny the validity of this convention, because they say that it was not authorized to act by means of what is called an enabling act on the part of Congress. They also insist that that constitution is not the act of the people, because it was not submitted as a whole by the convention to the people for their ratification; and as evidence of the fact that the constitution does not only not express the sentiments of the people, but that it is repugnant to their wishes, they refer to the fact that a majority of ten thousand was cast against it, under the law passed by the Territorial Legislature requiring the sense of the people to be taken on the 4th of January.

I propose to take up these objections in their order; and, first, as to the authority of the Legislature. I know that, on one side, the statement has been made that an armed invasion of Missourians took possession of the ballot-box and disturbed the fair expression of opinion; but, on the other hand, it has been asserted that these Missourians consisted of persons who had "staked out their claims," as it was called, for settlement and preemption in the preceding autumn, and had returned to Missouri, where they could winter, with the intention of coming back again in the spring, when the growth of the grass would enable them to sustain their stock and take possession of their new homes. It has been said that most of those persons did return to Kansas, and did settle upon these claims. That is the statement of the subject on the other side; and I find that, in the report of the Senator from Illinois, [Mr. DOUGLAS,] made two years ago, upon this subject, he took that view of the question. He said:

"For the successful prosecution of such a scheme, the Missourians who lived in the immediate vicinity possessed peculiar advantages over their rivals from the more remote portions of the Union. Each family could send one of its members across the line to mark out his claim, erect a cabin, and put in a small crop, sufficient to give him as valid a right to be deemed an actual settler and qualified voter as those who were being imported by the emigrant aid societies."

In the same report he states the fact, which is worthy of observation, that enough members were elected to each House of the Territorial Legislature to constitute a quorum, in the opinion of the Governor, who, as some thought, was the only judge of the elections and returns; and enough were elected to constitute a quorum of each House in the opinion of the Legislative Assembly itself. In referring to the two reports which were made on that subject, he says that according to either report, there was a quorum of each House elected without and beyond dispute.

Mr. COLLAMER. Does the gentleman say both reports show that to be so? It is directly the other way. They were elected; but they were elected, as my report shows, by that violent invasion.

Mr. HUNTER. I will quote:

"So far as the question involves the legality of the Kansas Legislature, and the validity of its acts, it is entirely immaterial whether we adopt the reasoning and conclusions of the minority or majority reports, for each proves that the Legislature was legally and duly constituted. The minority report establishes the fact, by the position that the Governor's certificate was conclusive, and that he granted certificates to ten out of the thirteen councilmen, and to seventeen out of the twenty-six representatives who finally held their seats, which was largely more than a quorum of each branch of the Legislature. The majority report establishes the same fact, by the position that after going behind the Governor's certificate, and carefully examining the facts, they confirmed these same ten councilmen and seventeen representatives in their seats, and then awarded the seats of the other three councilmen and nine representatives to the candidates whom they believed to have been legally elected at the general election on the 30th of March."

Mr. COLLAMER. That is not the election I was speaking of. The special election was only in those districts which the Governor set aside. I speak of the election of the body of the Legislature itself, the first election of the 30th of March. You say that both reports then made show that there was a majority legally elected.

Mr. HUNTER. I said the reports of the majority and minority of the committee of the Legislature of Kansas showed it. I did not refer to our committee.

Mr. COLLAMER. I beg the Senator's pardon. I thought he alluded to the majority and minority reports of the Committee on Territories.

Mr. HUNTER. I said the reports of both parties in the Legislature of Kansas proved this fact. The gentleman will find it so stated in this report. But, Mr. President, this much is certain: that the

laws passed for the protection of life and property by that Legislature, were administered by the courts of the land; that the legal existence of that Legislature was acknowledged by Congress, and by the President of the United States; that it has received the assent of the people of Kansas because they have lived under its laws, and they have been the only ones which have been administered for the protection of their lives and of their property. The validity of the Legislature is sustained by as many sanctions, if we look to the forms of law for evidence, as the Legislatures of Virginia or of Massachusetts.

But suppose that these gentlemen were right; suppose there were some irregularities in the election of this Legislature; still there is one great fact which is indisputable, and that is, that it was the only government in Kansas, and that it had all the authority of a government *de facto*. Now, sir, we know that all civilized nations and all publicists recognize the authority of a government *de facto*. They recognize that authority because, as was well said by President Polk when he declared that the military government in California was the only government in existence, unless you acknowledge such a government you permit anarchy; and civil societies not only presume against it, but they defend themselves against anarchy as animated beings protect themselves against death. It is the very necessity of their existence. The law of their being requires them to do so. I say, then, that if it were not a government *de jure*, it was indisputably a government *de facto*; and according to all the prescriptions of society, according to all the maxims of law, its action is obliged to be recognized as valid, for there was no government in that Territory to dispute its authority.

Then, sir, if its action was valid, it was by law that it ordered the sense of the people to be taken in regard to a convention; it was by law that it ordered members to be elected to that convention; and it is nothing to say that a majority of the people of Kansas, although allowed to do so, refused to vote at that election. There is nothing in this objection, because it is everywhere admitted that those who do not vote in a free representative government are bound by the action of those who do. What is the right of a majority according to those who claim most for it? The right of a majority is to determine a question which is submitted to the vote of a people for decision; it is their right, too, to elect the members when they are to be elected by popular vote; but that is the full extent of all they can claim. A majority have no right to say that they will refuse to vote, and thereby create anarchy, chaos, and confusion. No such right could be acknowledged consistently with the existence of representative government itself; and yet it is precisely this which is claimed in this case. The very existence of free representative government itself requires that you should insist that the majority, who could control if they would, must be governed by the minority who do vote, if they themselves refused to act. This is necessary because the Government must go on; and you must presume against anarchy, and save civil society from its evils.

It is nothing, then, that these persons refuse to vote at a time when they might have done so. I know that it is said, in relation to the question whether there should be a convention, that there were some tests required; but the same cannot be said in regard to that election in which members of the convention were chosen. The majority, if it existed, could have controlled things as they desired. The right thus to control has never been disputed; that right has never been taken away from them; but when they come here and claim more, and affirm the right by refusing to act, and refusing to discharge their legal duties, to create a state of anarchy in a community, they claim what never can be, and never ought to be, accorded to them.

In regard to the other objection, that some of the counties were unrepresented, it has been so fully and completely answered that I think I need not take up your time by further adverting to it; for it has been shown that it was a minority, at best, who lived within them; that, if the census was not taken there, it was because the free-State party would not permit it to be taken; and that, in any point of view, there were not persons enough in these counties to have affected scri-

ously the representative character of the convention.

I come now to the other class of objectors; to those who object to the authority of this convention because it wanted the support of an enabling act on the part of Congress. What, let me ask, are the functions of an enabling act? An enabling act is, in the first place, a declaration on the part of Congress, that within certain boundaries there is a people who are sufficiently numerous and matured as a society to claim admission into the Union, if they present a constitution republican in its form. It is also an invitation to those people thus to meet and present their constitution for admission. When they do that, Congress is bound in good faith to pass whatever further acts may be necessary, in order to admit them into the Union. But, Mr. President, all that is necessary in order to justify the admission, is that there should be the application of a people who, within proper boundaries, are sufficiently numerous and sufficiently matured as a society to qualify them for entrance into the Union, and that their constitution should be republican in its form. Whenever that case is presented, there is the justification for Congress to enter into the compact with the State which is necessary in order to admit it; a compact to which there are two parties—the people of the State applying for admission on the one hand, and the Congress of the United States agreeing to admit it on the other. The difference between the two cases is, that in the one Congress is morally bound by its previous pledge, and in the other it acts merely upon the propriety of the application, judging it by the circumstances under which it is made. As a proof that it is so, we have been referred, over and over again, to the numerous instances in which States have been admitted without any enabling act.

Let us proceed now to the other objection, that the constitution is not to be considered as the act of the people, because it was not submitted as a whole to that people for their ratification. This idea proceeds on the supposition that it is not competent to the people of a State to express their sense of their interests and their wishes on the subject of a constitution through the means of representatives in a convention; that it is not competent to a people to meet and declare that they wish to confide their whole power in this convention, and that their act, whatever it might be, should be final. To assert this, is to declare that there is no capacity in representatives to represent the views and interests of the people; because, if there be a capacity in representatives thus to express their wishes and interests, surely the people have the right to express themselves in whatever practicable mode they may themselves prefer. If the capacity be admitted, no man can doubt the right of the people to say that the acts of their representatives shall be final and conclusive. If, then, we say there is not a capacity in a representative assembly to express the opinions and wishes of the people in regard to matters of constitution, is it not obvious that that capacity does not exist in relation to matters of law? And the result would be that a popular form of government is only possible in those communities where there is a small number of people, and where they can meet and deliberate together.

But, sir, I think it will not be difficult to show that this principle is impracticable, and could not possibly be executed. If you must have the sense of the people in regard to a constitution, in order to make it their will and make it valid, then you must not submit it as a whole, but must submit it in parts; you must submit it proposition by proposition to gather their will precisely; because, although they might prefer the instrument, when submitted as a whole, to the old form of government, it does not follow that they are in favor of all the provisions which it contains. If, then, you should submit it to them proposition by proposition, this result might follow: that after the majority had struck out such parts as they disliked, the constitution, as a whole, would turn out to be a very different thing from what anybody had expected or desired. Then you would be forced to resubmit it again, or call another convention to change the form in which it is to be presented a second time; it would then be found that, in a large community, it would be impossible to take the sense of the people on the different parts of the constitution. I say, therefore, that it would be

impossible to carry out this doctrine in order to ascertain the popular will on the subject of their constitutions.

But, sir, Congress is to send it back, and require its submission as a whole. Let me ask you what right has Congress to send this constitution back, and require its submission to the people, if the people, through their representatives, say they do not desire it to be thus submitted? The right to require this ratifying vote must rest with those people, or it must rest with the Congress of the United States. It cannot be in both; and if the Congress of the United States can say it shall be submitted, it must also declare to whom it is to be submitted; it must prescribe the right of suffrage; it must say who shall constitute the body-politic. It may provide that it must be submitted, not merely to whites, but to negroes, to Indians, and to aliens; and in thus prescribing who shall be the body-politic, and who are the voters to decide upon it, they may determine that no constitution shall be brought here that does not permit an absolute equality among those races. That is a matter not within the jurisdiction of Congress, but within that of the people of this inchoate State, who are acting in the capacity of the people of a State. To deny them such a right would be to deny their equality with the other States of the Union. It may be said that the people of a Territory have no such sovereignty. True; but the people of a State do possess it, and if Congress agrees to their application, its act of admission relates back, and recognizes their action as that of the people of a State.

Not only, then, is this doctrine, in the latitude in which it is laid down, impracticable, but I affirm that the submission which was made was the very fairest that could possibly have been offered. The great question of division among them was in regard to slavery. Who can doubt that? This was the only question submitted. If the constitution had been submitted as a whole, you could have ascertained their sense accurately in relation to the great matter of dispute. An anti-slavery man might, perhaps, have voted for the constitution because there were other provisions which he liked; and a pro-slavery man might have voted against it because there were other provisions which he disliked; but when you presented it to him to determine that question, and that question only, you took the precise expression of the popular voice in regard to that subject.

I know, sir, it has been said that the question was not submitted because the people were required to vote for the constitution before they could express an opinion on the subject of slavery. That, I say, with all deference to the respectable gentlemen who have maintained the proposition, seems to me to be a mere verbal quibble. Why, sir, what was it for which the voter was responsible when he voted under this submission? He was responsible only for expressing an opinion in regard to that matter which his vote could affect, and not for any declaration of sentiment as to other provisions in the constitution which his vote could not affect; and what was there in that instrument which his vote could affect? Surely it was only the subject of slavery itself.

Well, Mr. President, to confirm this action of the Lecompton convention, we have the fact that some eleven or twelve thousand persons—I will not be precise as to numbers—voted for the officers who were to compose the new government under this constitution, and that they did so not merely with a simple assent to the constitution, but with the express declaration that they would support it, for they were not allowed to vote until they agreed to sustain the constitution—that is to say, to sustain it if adopted, until it should be legally changed or abolished. Such, in my opinion, was the pledge when fairly construed.

Against all this, we are referred to the vote which was taken on the 4th of January under the law of the Territorial Legislature, as evidence that the people of Kansas are opposed to this constitution. Mr. President, I deny that this vote is an element in the argument. If the convention at Lecompton was valid, if its acts were authorized, then this Legislature had no authority to pass a law, to take the sense of the people; they had no authority to do that which belonged to the convention itself to do; for it was for that body to take the sense of the people in regard to its action, and not for a Legislature which came into being

afterwards. If we admit the State under that constitution, and thus acknowledge that it was a State, the act relates back to the time of the adoption of the constitution; and nothing that was inconsistent with that provision is legal and valid. If, on the other hand, this convention was not an authorized body, that settles the question itself; and it is useless to look further to the votes in relation to it. If it were an unauthorized body, there is no validity in its acts, and it is idle to count the votes that were cast against it.

But, sir, we are told that whatever may be the evidence which has been taken, according to the forms of law, whatever may be the legal presumptions in this case, we ought not to regard them when there is such palpable evidence that a majority of the people of Kansas are against the adoption of this constitution. Here lies, in my view, the most plausible of all the arguments which have been urged against it. We must remember that the very existence of popular government itself requires that we should take no evidence in regard to the popular will, save that which is presented according to the proper forms of law. That principle is necessary to protect the right of self-government in a representative system; and I think I have shown you, sir, that according to that evidence which has been taken in conformity with the forms of law, this constitution is to be considered as the valid act of the people of Kansas. But I put aside that for the present; and I come to this other argument, that whatever may be the legal presumption, here is positive evidence that a majority of the people are against this constitution.

Mr. President, I pass over the circumstances that this vote on the 4th of January was an *ex parte* proceeding; that it has not been exposed to the wholesome test of an adversary scrutiny; that circumstantial evidence has been adduced to show that more votes were cast in certain places than could possibly have been fairly given there. I pass over all these considerations, and I ask whether this fact itself does present conclusive evidence that the people of Kansas are against this constitution? What is it that is expressed by this vote in which the ten thousand majority was given? We are not to infer from it that this majority were not allowed to carry out their will in regard to the constitution, and that therefore we are to afford them some redress for that grievance; we are not to infer that, because it is plain they could have carried out their will had they chosen to do so. If this majority did exist, they could have prevented any convention. If it did exist after a convention was called, they could have elected their own members, and made the constitution what they pleased. If, after the constitution was formed and submitted, they had chosen to do so, they could have stricken out that feature of slavery which presented to their minds the only real objection to it. They come here, therefore, not to complain that their will was defeated; for, in that event, they would have been entitled to the respectful consideration of Congress; they make no such complaint, because such was not the fact; but they come here to complain because we will not agree to say that a majority of the people, under a representative government, shall, by refusing to vote, and by refusing to discharge their duties under the law, create a state of anarchy and confusion, and put an end to all government in the country to which they belong. Is such a demand as that entitled to respect? Can there be any equity which should induce us to regard such a claim? If they came here to say that a majority had not been allowed to vote on the question of the convention—if they came here to say that a majority had not been allowed to elect the members to this convention—there might be something in the complaint; indeed, there would be good cause of remonstrance; but that is not their objection, as I understand it. Their complaint, I repeat, is that we will not agree that they, by refusing to act at all, shall produce a state of anarchy, of chaos, and confusion, in that Territory.

But, sir, suppose that we were to lay aside all law, all the presumptions as to legal evidence, and endeavor to ascertain the natural equity of the case, in order that we might conform to it—I do not say it would be safe, or proper, or right to do that; but I will suppose we were endeavoring so to act: what would be the equity which we should

consult? The equity is, that the will of a majority of those who are *bona fide* inhabitants of Kansas, who intend to make a common fortune with that Territory, and who are guided in reference to its constitution by a view to its interests, should be respected. But suppose it were proved—I will make the case a suppositive one—that most of those composing this majority consisted of persons who did not cast their votes in reference to the interests of Kansas, but in reference to undue outside influences in Massachusetts or Missouri; suppose it were proved that this number was not composed of *bona fide* residents, who intended to live permanently in Kansas, but that many of them were persons who would leave the moment affairs were regularly settled; suppose it were proved, too, that many of them were maintained by money furnished from without the Territory of Kansas, for the purpose of keeping up a state of disorder and confusion; would any man say that, in equity, the votes of such persons, were entitled to any more respect here, because they happened to be cast in Kansas, than if they had been given by assemblages in Massachusetts or in Missouri? Surely not. Is there not strong, circumstantial evidence to prove that such must have been the case with many of those voters? If it was their desire to settle the matter in reference to the interests of Kansas, and they did constitute a majority, why did they not vote for members of the convention? Why did they not make the constitution conform to their wishes? They had the power to do so under the laws. Why did they fail? How are we to account for it, unless we suppose that they desired to keep this question open with all its agitations, no matter what might be the expense or the injury to the people of Kansas, or the destruction of the interests of that Territory? If we can suppose that, I ask, as I did before, are they entitled to our respect upon any consideration of equity which may be alleged?

But, Mr. President, I take another view of it. Suppose that this wrong was about to be perpetrated; suppose that in the admission of Kansas we were going to bring into the Union a people, the majority of whom did not desire the constitution under which it is admitted, it is a wrong which carries its own remedy with it. It will carry its own remedy immediately and swiftly, because the main subject of grievance, as we all know, is that of slavery, and the Lecompton constitution itself allows a majority of the Legislature to emancipate the slaves, provided they will pay for them; and is there any civilized Government in the world which would emancipate slaves without paying for them? Did not the English and French Governments compensate the owners? Would the Legislature of any State emancipate the negroes without paying for them? What would be the burden on that Territory of paying for some one hundred, or two hundred, or perhaps three hundred negroes? Is it a matter to be considered when they could thus accomplish their wishes and give peace to the country at so small an expense? and shall we say that we will keep up all the complications and agitations of this question because they are unwilling to make even that small exertion in order to carry out their wishes? This matter, it seems to me, cannot be considered by gentlemen who have been complaining that the will of the people of Kansas has been disappointed. In the second section of the seventh article the Lecompton constitution provides that "the Legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners, previous to their emancipation, a full equivalent in money for the slaves so emancipated." Is not the power to emancipate upon compensation expressly given by these words?

It has been said, however, that the question of slavery was not the only one in regard to which there was controversy; and that the people might desire to change the constitution itself. I believe there is a large majority in Congress, a large majority everywhere, who think that the people of Kansas will have the right to change this constitution even before 1864—not for the reason given by the President of the United States, for I am not one of those who believe it is not in the power of a convention to limit the right of its successors as to a change, (that is for a limited period of time,) or to prescribe the mode in which

it shall be done; but I incline to think there is no provision for the case before 1864. If there be no provision, it stands like all other States in *consimili casu*; and then, with the assent of the existing government to the call of a convention, such a body could change the constitution.

Whether this be so or not it will depend on the people of Kansas themselves to say; because if there be a majority who believe they have the right, and who desire to change it, that majority will get possession of the Legislature, and there will then be harmony between the existing government and the new one called into being under the second constitution. The same majority would control them both, and if there were harmony between both, there is no one that could apply to the General Government for its interference. The case in which a Legislature would apply for Federal interference, under such circumstances, is when there is an old government which is contesting with the new for authority and jurisdiction; but no such case could arise here because the same majority would rule them both.

If this be so, if this people would have the power to change their constitution, I ask if they could not remedy the evil much more readily and completely after they were brought in as a State, than if they were remanded and sent back to their territorial condition? If they came to act on this subject as a State, they would act on it in reference to the interests and feelings of Kansas alone. They would not be disturbed by the fear that unless their constitution should suit the views of a majority of Congress, they would not be admitted; but being in the Union, they would have nothing to consider except the interest of Kansas itself. They would therefore come to a conclusion much more readily, and under much sounder and safer influences than if they were to attempt it after they were remanded to a territorial condition.

I say, then, sir, that if it be the great object of their wishes to be enabled to govern Kansas according to the wishes of a majority, and they do constitute such a majority, that the readiest and easiest mode of gratifying that desire is to admit Kansas as a State in the Union. We do the majority no wrong, therefore, by such an admission; but, on the contrary, we afford them the most certain and easiest mode of securing their rights.

The argument, then, as it seems to me, stands thus: We are bound to take the evidence of the popular will, according to the forms of law as prescribed in such cases. But if we are bound to take this evidence in conformity with law, then Kansas is entitled to admission under the Lecompton constitution. If it be said on the other hand, that to do that would be to inflict a wrong on the majority of the people of Kansas who do not desire such a constitution, the answer is, that if it does inflict a wrong it will afford them the means of righting themselves more speedily and easily than any other mode which can be devised. All they could claim would be the right to mold their institutions according to the wishes of the majority. A majority could mold those institutions much more readily and safely, and under much sounder influences, after they were admitted as a State, than if they were sent back to their territorial condition.

Why, then, sir, should any party resist the admission of Kansas under the Lecompton constitution? Not because they desire to make it a free State, for if this majority exists it is manifest they would make it a free State if they desired. They could make it so through their Legislature alone. They could make it so in the opinion of most persons by a change of the constitution. They could make it so readily and expeditiously. The opposition cannot be much for that reason. It must either be because those who oppose it desire to keep the question open for political purposes, or else because they are unwilling to admit, even for a moment, any State which tolerates slavery by its constitution.

Now, Mr. President, I will not suppose, I will not argue upon the supposition that any numerous party in this country would desire to keep open such a question, in order to continue the agitation and the differences which it might occasion. And is there any party which would be willing to declare to this country that they would not admit another slaveholding State into this Union again, no matter what might be its claims to admission in other respects? To assert the

right to look into the constitution to see whether it contains slavery or not, is to assert the right to look into it for every other purpose. If you can look into it and refuse admission to a State because its constitution tolerates slavery, you can refuse it admission because it contains other things which may not be agreeable to you. You must either claim that general power, which is contrary to the equality of the States and to all our notions of their rights, or else you must insist that slavery comes under the ban of a law higher than the Constitution, and that all the constitutional guarantees are worthless and good for nothing, so far as that institution is concerned. Sir, I will not comment upon the consequences of such a declaration, at this time, to the American people. In the name of this mighty Union, and of the hopes and aspirations of thirty millions of people, I protest against any such expression of opinion on the part of this Government; and yet it does seem to me that the Senator from New York [Mr. SEWARD] rests his objection upon grounds very like this. He says, speaking of this controversy:

"I would have it ended now, and would have the wounds of society bound up and healed. But this can be done only in one way." * * * "It can be done only by the simple and direct admission of the three new States as free States, without qualification, condition, reservation, or compromise, and by the abandonment of all further attempts to extend slavery under the Federal Constitution."

To sustain this extreme, and I think I may say, extraordinary conclusion, the Senator has resorted to a novel course of argument—argument I can hardly call it, for he has thrown up his brief and abandoned the bar, and taken his post in the witness stand to give what he calls a statement of the case, a history of the affair; and such a history I think I never read before. It must have been with histories of this kind that Sir Robert Walpole was familiar when he declared against any such reading as being unsuitable to the last hours of life. Here, sir, I would say that I do not impute to the Senator from New York any design willfully to misrepresent facts, but I must say that this statement is so colored by his party views as to make it, in my opinion, utterly unreliable. Let us see how it runs:

"The people of Kansas, thus deprived, not merely of self-government, but even of peace, tranquility, and security, fell back on the inalienable revolutionary right of voluntary reorganization. They determined, however, with admirable temper, judgment, and loyalty, to conduct their proceedings for this purpose in deference and subordination to the authority of the Federal Union, and according to the line of safe precedents."

And of whom do you suppose that is predicated? Of the Topekaites, among whom are to be included General Jim Lane and his band of marauders. Those are the persons whom he thus characterizes in his history. But, *pauca majora canamus*, he has given us a chapter on the Supreme Court, and, although it is not my purpose to trench upon the province of the Senator from Louisiana, [Mr. BENJAMIN,] who made, on yesterday, a defense of that august body so complete and eloquent, that any attempt on my part to add to it might mar, but certainly could not improve it, and yet, sir, by way of testing the character of this history, it may not be amiss to read a few extracts from that chapter:

"The new President, under a show of moderation, masked a more effectual intervention than that of his predecessor, in favor of slave labor and a slave State. Before coming into office, he approached, or was approached by, the Supreme Court of the United States."

Again:

"The day of inauguration came—the first one among all the celebrations of that great national pageant that was to be desecrated by a coalition between the executive and judicial departments, to undermine the national Legislature and the liberties of the people."

And yet again:

"The pageant ended. On the 5th of March the judges, without even exchanging their silken robes for courtiers' gowns, paid their salutations to the President, in the executive palace. Doubtless the President received them as graciously as Charles I. did the judges who had, at his instance, subverted the statutes of English liberty."

Such are the choice excerpts from that chapter of his history which is not only unsupported by authorities, but, as the Senator from Louisiana has shown, contrary to the facts of the case.

And what is it that he proposes to do with this court as a punishment for all these things? He says:

"Sir, the Supreme Court of the United States attempts to command the people of the United States to accept the principles that one man can own other men, and that they must guaranty the inviolability of that false and pernicious property. The people of the United States never can, and

they never will, accept principles so unconstitutional and so abhorrent. Never, never. Let the court recede. Whether it recede or not, we shall reorganize the court, and thus reform its political sentiments and practices, and bring them into harmony with the Constitution and with the laws of nature. In doing so, we shall not only reassume our own just authority, but we shall restore that high tribunal itself to the position it ought to maintain, since so many invaluable rights of citizens, and even of States themselves, depend upon its impartiality and its wisdom."

That is to say, the court is to be so reorganized as that it shall deny the right of property in slaves; it shall be so reorganized as to put the institutions of nearly one half the States of this Confederacy beyond the pale of the Constitution; it is to be so reorganized as to reform its "political sentiments and practices," and to conform to what he calls the Constitution and the laws of nature. Mr. President, I think the Senator has endeavored to teach us before that our Government ought to administer a higher law than the Constitution itself; a law which resides in the breast of the Governor, and which is to be interpreted by himself. Now, sir, he invites us to destroy the judiciary system, and to reorganize it upon principles which are directly inimical, not only to the Constitution, but to the peace and the harmony of the Union. But that is not all. He tells us, for the future we are to have a perpetual internecine war. He says, speaking of free labor:

"It will henceforth meet you boldly and resolutely here; it will meet you everywhere, in the Territories or out of them, wherever you may go to extend slavery. It has driven you back in California and in Kansas; it will invade you soon in Delaware, Maryland, Virginia, Missouri, and Texas. It will meet you in Arizona, in Central America, and even in Cuba. The invasion will be not merely harmless, but beneficent, if you yield seasonably to its just and moderated demands." "The interest of the white races demands the ultimate emancipation of all men. Whether that consummation shall be allowed to take effect, with needful and wise precautions against sudden change and disaster, or be hurried on by violence, is all that remains for you to decide."

Thus, sir, it seems that we are to have perpetual war—an internecine strife, which is to last until slavery is abolished everywhere; a war which, if it be not perpetual, must, as every man sees, last at least for centuries. Such are the vaticinations of his prophetic inspirations; such is the prospect which he holds out for our future—a government, as I said, to be guided by a law higher than the Constitution which it abandons; a court to be reorganized, I suppose, to minister to the passions and the feelings of the mob, and a state of things which is to entail upon us a perpetual civil strife here at home.

Mr. President, is this what that gentleman calls progress? Is this the future which he predicts for us? The great Italian poet, when he punishes the prophets in his hell, turns their faces behind instead of before, and compels them to walk backward for the residue of time. It seems to me that our prophet must have received the sentence before his time. The Oceanas and the Utopias, which figure in political fiction, were organized for peace; but this Senator condemns his imaginary Republic to eternal war.

But with your permission, Mr. President, I will follow his history a little further. He tells us that "all other nations have already abolished, or are about abolishing, slavery." This is to reconcile us to that catastrophe which, with so little emotion, he predicts for us. This, too, is said in the face of the fact that the French Government has really revived the African slave trade itself. Such, at least, is the opinion of the English people and the English Government. If you compare their present mode of supplying their colonies with African labor with that older one which was called the slave trade, I think it will be found that the comparison will be in favor of what is denominated slavery, for that does at least afford the slave the protection of interest which is given to him by the master who owns him.

This, too, is said in the face of the fact that the British Government, ever since its emancipation of slavery by name, has, under its system of apprenticeship and of Cooly labor, been subjecting the inferior to the superior race, so as to enable the latter to command a servitude scarcely more voluntary than the older form, and probably not as advantageous to the laborer himself. But, sir, John Bull has seen a vision lately which may well cause him to pause in his path, and to ponder over his prospects for the future. He has seen the mighty shades of Akbar and of Aurengzebe coming like Necuba, "from the gates of darkness

and the recesses of the dead," to haunt the marble halls of the palaces of the Great Mogul, for the purpose of rekindling, if possible, some latent spark of manhood in the hearts of their degenerate successors; and to challenge the stranger for the cause of his presence in what were once the high seats of Oriental power. He feels that it was an avenging Nemesis which, on the hundredth anniversary of the battle of Plassy, that gave him India, proclaimed that saturnalia of blood and of crime which spared neither the strength of man, nor the purity of woman, nor the innocence of childhood. He now knows that in the settlement of nations, they may reckon in a day for the accumulated wrongs of a century. He feels that these doctrines of the abstract equality of all men, whatever may be their condition or color, are absolutely incompatible with that subordination of the inferior to the superior race, upon which depend his power and his empire. He must see how useless was the sacrifice of the West India colonies, amongst the noblest jewels of the British Crown. He must feel, too, that the course of sentimental legislation, in which he has been engaged of late, is fast sapping the foundation of the fabric of power which he raised in the lusty strength of his manhood. He may be too proud to own his error; but depend upon it he will apply the proper remedy. He will resume his empire in India, but it will be on the imperial maxim, *parcere subjectis, et debellare superbis*. He will crush out the last spark of resistance under the armed heel of the conqueror; and when more than a hundred millions of people are placed under his absolute rule and control, when they will hold their lives, their property, and all that is dear and sacred in the rights of man under his arbitrary will, he will hardly have the face to stand before the world again to preach against African slavery.

Sir, of the two, I prefer to see him as he used to be, surly, domineering, if you will, but truthful, honest, and brave, rather than in that more modern part of philanthropic professions and puritanic pretenses which he enacts so poorly. I know that his buffets are hard to stand; but if I am to have his opposition, let me meet him rather in open and manly encounter than receive him as the priest who wears the gown and the robes merely to conceal the coat of mail that lies within. But he will have to strip him of his robes; the Philistines are upon him, and the day is coming, I fear, which will try his strength to the utmost. Although we of the South have much to complain of at his hands, yet, sir, I wish him well through with that day; for I cannot but feel that with him would fall the last hope of regulated liberty in the Old World.

Nor, Mr. President, do I read the signs of the times in regard to sentiment at home, as they are read by the Senator from New York. I believe that even here, a reaction is going on. It is said that our population, by a natural law, is to gravitate to the equator. It is believed that a manifest destiny will draw our people to the tropics, those evergreen regions of a "never wintering sun." I will not say how well-founded is this prediction, in my opinion; but I will say, that if we play for these prizes of empire, it can only be upon the condition of preserving the proper subordination of the inferior to the superior races, when they are thrown together on the same soil to struggle for a subsistence. Unless that condition is observed, such acquisitions would prove to be nothing but a continual curse and a perpetual plague. If made, it will be found that this institution of slavery, so far from being a cause of dissension, and of difference, will prove a common bond of union and strength, because it will be by such means that each white man, no matter what the section in which he may live, will enjoy the largest share of power, of influence, and of wealth.

The Senator from New York says the white man will have this continent. I say so too; and when he does possess it, he will take it, not as the Senator from New York would place him, as the equal of the Indian and the negro; but he will hold it as the master, and by right of dominion. There are some regions of the world which he can only hold in such a way. As yet I do not know whether the Senator from New York, in his scheme of society, contemplated the continual existence of these inferior races. I do not know whether he designs for them a fate which he did not care to describe, because it is to be one of utter and en-

tire extermination; or may be that he did not consider himself as their keeper, or choose to be so considered, when he was thus consigning his brethren to this wholesale destruction; but I will tell him that they hold to existence by a tenure as firm in certain regions of this world as that by which the white man holds his in other portions of the globe. There are certain parts of the world which are peculiarly adapted to each of these races; and I do not know that it is in the decrees of Providence to consign any of them to utter extinction. If it be true, as I believe it to be true, that there are certain regions in which the labor of the inferior races is the only labor that can develop their resources, it follows as a consequence that the white man cannot enjoy those regions unless he goes there as the master, to govern and direct. I say then, sir, that this is the only condition—that of preserving the proper subordination of the inferior to the superior races—upon which the white man can rule this continent. Are we to suppose that when the American people shall perceive this necessity, they will be blind to it, especially if urged by those views of ambition, of progress, and of absorption which the Senator from New York would seem to attribute to them?

Mr. President, the mind of Young America is, perhaps, this day pondering upon things of which neither the Senator from New York nor myself can be said to be properly conscious. It may be engaged in tracing out the shadows of those coming events which as yet are but vaguely defined, and in nursing aspirations for other and newer forms of development. To give a proper direction to this emotional excitement, and to open up just and legitimate avenues for the movement of the power of this pent-up energy, should be the highest objects of the care and the provision of American statesmen.

The other great nations of the earth are now exploring the land and the sea to open up new avenues to power and to wealth; but to us, if the waifs of commerce come, they must be brought to us as *flotsam* and *jetsam*—by the impulse of the wind and the wave. The three chief nations of Europe are playing for the mighty stakes of fortune and the prizes of empire; but we are engaged in an earnest scrutiny into the ballot-box at the Delaware Crossing or at Shawneetown, or busily employed in studying the campaigns of General Jim Lane, whose *spolia optima* consist, I believe, in the capture, perhaps, of women and children. If empires were to go to pieces, we should be incapable of extending an arm to catch but a fragment of the wreck that might be floating on the stream of time beside or before us.

In the Eastern world spoils of empire that have been accumulating since the earliest records of time, begin now to attract the regards and the cupidity of the great Powers of Europe. Their fleets are already coasting along that slender barrier which separates them from the mighty prize, but which they are deterred from grasping more from the fear of each other than from the dread of any opposition which they are to encounter there.

The eagles have indeed gathered to the banquet. But one alone is absent from the feast, and she is the youngest mother of them all. She is at home, guarding her nest, because she is afraid that if she leaves them her young will not dwell together in peace. Sir, such a state of things cannot long endure. The instincts of power and of empire must of themselves prevent it. This Kansas question has been reduced to proportions quite too small further to impede our progress, or to mar our march. If the Senator from New York will allow me to use his tripod for a moment, and to venture a prediction for the future, I would say that the American people will preserve their Constitution, and the Union which is founded upon it; they will maintain their courts; they will continue to cherish respect for the judicial crime and for the majesty of the law; and they will cultivate hereafter, as I trust, a spirit of peace and of friendship at home. For one, I hope for the day when, in the beautiful language of Mr. Jefferson, "we may unite with one heart and with one mind to restore to social intercourse that harmony and affection without which liberty, and even life itself, are but dreary things." Yes, sir, I will venture still to hope—

"For I have seen
The thorn frown rudely all the winter long,
And after beat the rose upon its top."

But, sir, if the American people would secure these blessings, they must cast far from them the counsels of the Senator from New York; they must beware of the asp which lies concealed under those flowers of rhetoric with which he sought so carefully to cover it. One drop of that venom may corrupt the blood which has flown through royal veins for centuries, and distemper the brain, on whose proper balance the power and the peace of an empire may depend.

Mr. KENNEDY. Mr. President—

Mr. COLLAMER. The usual time of adjournment has arrived.

Mr. GREEN. The Senator from Maryland prefers to go on.

Mr. KENNEDY. I have but little to say, Mr. President, and that I should prefer saying upon some other occasion, after the very eloquent and the very able remarks made by the distinguished Senator from Virginia. The time, however, has come for me, occupying the peculiar position that I do here, to define the ground that I mean to take in the controversy now before the country. I do not intend, in any manner whatever, to go into an elaborate discussion of the questions connected with the principles of the Kansas-Nebraska bill, or to examine whether the doctrine of popular sovereignty has been fully maintained or not. I stand here representing a party almost without a voice in this Congress. I am here to give utterance to sentiments and principles upon which I believe the permanency and durability of this Government depend. I am not a party in any manner to the contest which is waged here as to the meaning of the Kansas-Nebraska bill. I believe, if I believe anything in the world, that it is simply a construction of a party principle with which I have not had anything to do.

Mr. President, I have repudiated, and at the very outset let that be understood, the whole principle of the Kansas-Nebraska bill. I have opposed it, because it repealed the Missouri compromise line. I have opposed it, because in the repeal of that line it worked injustice to the southern States of this Union. I have opposed it as a Union man—not as a "Union-saver," as an honorable Senator said this morning—but because I believe this Union can only be maintained and preserved by a just regard to the rights of all the States, and by observing the rights of that minority now to be found in the southern States. Therefore, I do not mean to be held responsible in any manner for any results that may have ensued from the disturbance of that compromise. If my own views had been carried out, I should have preferred to see the country rest on the Missouri compromise line. It had served its purpose for more than thirty years. It had been a measure of peace throughout this country. And when, either for sectional or selfish purposes on one side or the other—I speak with all deference to the motives and the action of gentlemen here—that line was disturbed, and the bone of contention dug up and thrown recklessly before the American people, without regard to the sectional strife it would engender, I, for one, deprecated that movement, because it brought into unequal contest, upon the principle of popular sovereignty, or upon the faith of the people, a contest between six or seven millions of whites on one side, and twenty millions on the other.

That was the reason why I opposed the repeal of the Missouri compromise line; that was the ground on which I opposed the principle of the Kansas-Nebraska bill; and I am sorry to be compelled to say, perhaps in violence to the sentiment or to the feelings of other gentlemen on this floor, that the principle in that bill contained is nothing more nor less, as it has been carried out, than squatter sovereignty and alien suffrage. If both measures should become in the ascendant in this country, they must subvert every principle on which this Government was formed and based.

In the position that I assume, I do not conceive that I am called upon to investigate allegations of fraud, or to go further into the merits of this question than simply to ask myself whether this constitution is here by the authority of law, and whether it is republican in its form. After the very elaborate and the very able argument of the distinguished Senator from Virginia, I can add little to the views he has presented on those points. I am happy to have an opportunity to say now that though I have differed with the Democratic

party of this country, and though I am in no manner under obligations to that party for any favors whatever, yet the present Administration has presented a measure to me that so accords entirely with my own view in the settlement of this question, that as an American Senator, having a just regard to my duty and to the obligations of the oath I have taken, I cannot for an instant hesitate as to the course I shall adopt.

If I had been bound by any of the principles contained in the Kansas-Nebraska bill, or by any of the obligations of faith promulgated by the Cincinnati platform, perhaps my action on this question might be different; but repudiating that whole bill, because it disturbed the great principle of equality between the northern and southern States; because it disturbed the equilibrium that had been preserved for thirty years; and because it gave to a reckless majority the power to crush out the rights of the South, I find myself here to-day pleading for that principle of equality, and maintaining it in accordance with the oath I have taken to support the Constitution of the United States.

It is said that every resident inhabitant of Kansas has not exercised the right to vote in accordance with the principles proclaimed by the distinguished Senator from Illinois. Whether they have or not is not a question of the slightest importance to me. I do not recognize the right; I do not admit that principle as being a prerequisite to the admission of any State whose application is presented to us for our consideration. I do not believe that the principle of popular sovereignty can be properly applied to a Territory. I believe that true popular sovereignty begins with the organized government of a State. I do not think popular sovereignty can be carried out and maintained in a Territory when the representatives on this floor of thirty-two States have the right to prescribe the terms upon which that popular sovereignty shall be enforced or exercised. I believe that so long as a territorial government exists, and so long as the people of Maine or Georgia, through their representatives, have a right to interfere with it, the people of the Territory cannot exercise popular sovereignty in the strict meaning of the term. To me it is a paradox to suppose that the people of a Territory, coming from every section of the globe, influenced and controlled by the action of this body and the other House, relying upon Congress for enabling acts for a dispensation of power on their part, can exercise popular sovereignty according to what I have been taught to believe true popular sovereignty to be.

Mr. President, this so-called popular sovereignty in the Territories is nothing in the world but squatter sovereignty. It is the exercise of the power of a mob who may choose to get together upon factious or other grounds, and who may, by possibility, fall into a form of government which might be in conformity with the recognized laws of the land, or might be otherwise. That is not, in my comprehension, true popular sovereignty. Being called upon to vote on the question now at issue, I am free to declare that I am not the advocate of the right of every resident inhabitant of a Territory to vote on the constitution to be presented to Congress for its adoption. I do not feel myself bound to consider that point. I belong to a party which, small as it may be regarded by gentlemen on this floor, and, in the language of the distinguished Senator from New York, [Mr. SEWARD,] "ephemeral," gave in the last presidential contest nearly a million of votes against this doctrine. That party holds sentiments and principles which I will compare with his own. On this point I will, however, allude to the Senator's remarks hereafter.

But there is one other consideration that is weighing heavily upon me. It is the conscientious desire to discharge my duty here as an American Senator, uninfluenced by the future, perhaps for myself having no political future. God knows I aspire to none. Ay, and elevated as this position is, I did not seek the place I now hold; and while I stand here to-day, taken upon trust by the people of my own State; while I am here to represent the principles, as I conscientiously believe, of my own people, I mean to discharge that duty in accordance with the principles of honor and my own conception of right under the Constitution of this country.

I have nothing to look forward to politically,

perhaps. It has been my misfortune to have always been in the minority in this country. I was a member, an humble member, of the old Whig party, which received its death blow at the hands of the distinguished Senator from New York, in 1852. When the old Whig party was disorganized and broken up, and when the great and conservative principles of that party were lost and gone, I had to seek some plank to save myself from the wreck. In doing so, I put myself upon the Constitution of the country, and not above it. In standing with the party that I am now representing here, in the small minority that it is, I conscientiously believe that its principles are so deeply ingrafted in the American heart that, however much trodden upon, misrepresented, and perverted, as they have been, when they are rightly understood they will come to be regarded as the principles of the early fathers of this Government.

Sir, I am proud to have an opportunity to stand here in the face of the world, upon the floor of the American Senate, and to say that I am not ashamed to proclaim that an American nationality must be preserved; that American interests must be promoted; that the decisions of the Supreme Court must be maintained; that alien suffrage and squatter sovereignty must be repudiated; that the rights of conscience must be respected. I am not here to vindicate myself from the mere paltry charges that may be made in misrepresentation of what have been vulgarly denominated Know Nothings in this country. The first and highest and the holiest principle to me is the maintenance of the Constitution of this country, the enforcement of its guarantees, the preservation of the rights of the States under the Constitution, without which you can have no Government, you can have no law.

These, Mr. President, are some of the leading measures of that contemned and despised party that I have the honor to represent. Is there a principle here, let me ask, that is not in conformity with our great charter of law and of liberty? Is there one thing I have uttered that is not taught by that paper? The distinguished Senator from New York the other day paid his respects to my party by alluding to it as an "ephemeral organization, based upon frivolous and foreign ideas." It is not so ephemeral as he imagines. I should be happy if I could say that the principles of the gentleman's party were only frivolous. They might possibly be characterized by a harsher term. The principles which I have the honor to advocate here to-day are to be found in the Constitution of the United States, not outside of it, not above it. I say this with emphasis, but with all respect to the distinguished gentleman, and for this reason: I cannot, in the decision of the present question, hold the slightest political affiliation with the tenets or doctrines of that Senator.

While I have all the feeling that I am uttering now for southern interests, and for the South, born, reared, and educated, as I have been, in the South, yet let me say that no Senator on this floor has a heart more expanded and more thoroughly in consonance with all the principles of the Union than I have. No man will stand here longer than I will vindicating the Union. The principles of the party to which I belong are based on one great idea—the preservation of this Union, by preserving the rights of the States in the Union. All other questions that came into its party platform were collateral questions, connected intimately and directly with, and pointing to, this one particular purpose and object. I might go further, and say more perhaps than would be justifiable upon the floor of the Senate of the United States, in vindication of a party, the members of which, whom I find in this body, I am happy to say, however few they may be, are gentlemen who command the respect of those who are associated with them here, and of the country.

But, Mr. President, to come back to the bill before us, this question is presented to me in an isolated form. I have to vote with the one party or the other on this floor. I am brought to the naked proposition whether I will vote to admit the State of Kansas with a constitution made under the authority of law, and professedly republican in form. These are the only points that I regard of vital importance in the consideration of the question. I have heard from no quarter any suggestion of a doubt that the Lecompton

constitution is not here in accordance with law. All the steps leading to its formation were regular and lawful. I regard that point as settled.

The next consideration is, is this constitution republican in its form? I have read it carefully, and I can see nothing to force upon me the conclusion that it is not republican in its form and character. Then, sir, being under no obligation whatever to put a construction upon the Cincinnati platform or the Kansas-Nebraska bill as between the Administration and the distinguished Senator from Illinois, I shall vote to admit Kansas into the Union under the Lecompton constitution. In doing so, I believe before God, that, as an impartial and independent Senator, I am acting in accordance with the requirements of duty, and which I consider every honorable gentleman placed in similar circumstances would be compelled to adopt. There may be party obligations upon some gentlemen influencing them to take a different view of this question from myself; but I have no embarrassment of that sort. If the Administration comes upon the same great highway of right that I am following to maintain and to preserve the guarantees of the Constitution, it is no reason for me to turn from it, and to be factious in my opposition to the Administration. I must vote on the one side or the other. I cannot upon national questions vote with the party upon the other side of the Chamber. I cannot vote with them because they are sectional, and not national; because I am the representative of a Union State, one not allying itself to sectional questions or sectional issues in any manner; and because every principle advocated by that party, in my humble judgment, is against the preservation of the Union, and in direct conflict with the guarantees and the requirements of the Constitution of the United States. I am aware, sir, that I may bring down upon me the accumulated wrath and denunciation of that whole phalanx; but I have a duty to discharge, and I will discharge it in the utterance of this sentiment, fearlessly and regardless of all consequences.

Sir, it has been announced by the distinguished Senator from New York, that the slavery question is settled. I believe it is settled, because the agitation of that question was only originally raised for the purpose of creating sectional strife, and uniting and banding together twenty millions of white people in the North against the ten or twelve millions to be found in the southern States, for nothing more nor less than to obtain the balance of power in this country. The question is settled upon the principle the gentleman himself has stated; and, on this floor there will, in the course of a very short time, be a majority of eight Senators from the non-slaveholding States. It was, in its incipency, a question merely of sectional agitation, and not one of national politics; and I do not believe that the question of politics has anything to do with it, further than to wrest from the hands of those who have heretofore held it, the control of the Government, in order that they may exercise it in their own way and for their own purposes.

Mr. President, this agitation of slavery, upon which so much has been said; this harp of a thousand strings, which has vibrated from one extreme of the country to the other, has no practical political bearing on the institution of slavery in the South to-day. It is a matter of political economy simply; and if gentlemen will turn to the tables with which your Departments are filled, they will find that, with your three million two hundred thousand slaves, taking the very strongest view you can possibly admit, you cannot get more than half that number—some one million six hundred thousand slaves—as laborers and producers in this country. Gentlemen of the South talk to me with much excitement as to whether Kansas shall be a free State; but permit me to say that I regard it as useless agitation. Slavery will be controlled by the immutable laws of political economy alone. If this body should declare to-day that no more immigrants should go into the Territories north of 35° without slaves, I do not believe that you could retain it there five years.

My reasons for making this broad statement are based upon the demand for slave labor in the southern fields in the production of those staples which form three fifths of the whole exports of the United States. It is shown by the book before me—one of the best compiled authorities I have

yet found—Andrews's colonial report, published by order of the Senate in 1852, that the production of the cotton crop is some five or six hundred thousand bales short of the absolute requirement. Of the three million two hundred thousand slaves which we have in the whole United States, there are only two million two hundred and twenty-four thousand in the cotton-growing States. I deduct from this number two for every slaveholder for domestic purpose. There being two hundred and twenty-seven thousand slaveholders in those States, there would be over four hundred thousand slaves abstracted by household duties from the production of cotton and other southern products. I find that in the production of sugar, seventy-nine thousand nine hundred and eighty-four are employed; in the rice crop, sixty-six thousand six hundred and fifty-three; and the urban slaves in the towns are upwards of three hundred thousand. Then you have in the nine cotton-growing States only one million three hundred thousand slaves adapted to field labor. When you subtract still further, in accordance with the census, all the slaves below ten and over sixty years of age, you have, in fact, but eight hundred thousand to produce the cotton of the whole United States.

Now, I ask gentlemen here who are engaged in the cultivation of this crop, if four bales of cotton to the hand is not an excessive average in the production of the southern States? According to the census, the average production is three and one fifth bales; but I will say four bales. I judge from the census tables, and from the document to which I have already alluded, that this is a reasonable estimate; though perhaps it may be too large. This gives three million two hundred thousand bales of cotton as the maximum crop that you can cultivate with the slave labor that you have now in the southern States. My friend from Mississippi [Mr. Brown] told me the other day that there were perhaps one hundred thousand other hands, white laborers, in Texas and other States, small holders who are engaged also in the production of cotton. That will account for the excess of production over three million two hundred thousand bales, which would be the production at four bales to the hand of the present slave labor.

The crop of cotton last year fell short some five or six hundred thousand bales of the absolute and imperative demand. What was the consequence? It rose to eighteen and nineteen cents a pound; and but for the financial crisis that overtook this country, breaking up all the avenues of trade and of commerce, we should have this day been compelled to pay twenty or twenty-one cents a pound for cotton. Last year the exports of cotton, according to Mr. Guthrie's report, amounted to \$130,000,000; the year before to \$88,000,000.

In 1852, according to Mr. Andrews's report, the total consumption of raw cotton in the United States amounted to \$46,340,000; and in this the late Secretary of the Treasury fully and entirely accords. That added to the \$130,000,000 of exports, makes the cotton crop of this country in 1855, when these tables were made, \$180,000,000; and allowing for the increased production, the crop of that staple now is worth not less than \$220,000,000—all or the greater part of which you must grow with slave labor, for the simple reason that the greater part of the lands adapted to the cultivation of cotton are in an insalubrious climate. They are exclusively adapted to slave or black labor; so situated that the white immigration to this country will not and could not readily mix with it.

Without depopulating the whole of the five non-cotton-growing States of the South, the production of cotton in this country is limited for the want of labor. According to the returns to which I have alluded, and to Mr. Guthrie's report of 1855-56, six hundred and fifty thousand bales of cotton were that year consumed at home, while our exports amounted to two million nine hundred thousand bales. I do not mean to say that the six hundred and fifty thousand bales added to the two million nine hundred thousand bales was the production of that year; for there was an accumulation of a portion of the crop of the year before, which had been held back by low water and from other causes, and which had been prevented from getting to market. Hence it was, that last year we found cotton rising to eighteen, nineteen, and twenty cents a pound without a corresponding rise in the price of the manufactured

article; and we found half of the manufacturers of this land suspending and turning off their laborers because they could not afford to buy it.

What was the picture presented last year in Manchester? Meetings of the people were held to form Cotton Leagues to grow cotton elsewhere. I might read, for the edification of the Senate, if they had not turned their attention to it before, statements showing that, up to 1852, all the cotton that was produced in the world was 1,809,800,000 pounds, of which the United States produced 1,350,000,000—seven tenths almost of the whole production of the world, notwithstanding all the fostering care that the English and French Governments have given to the cultivation of cotton, in order to render themselves independent of us and of the productions of slave labor. The time was when the English Government, in endeavoring to crush out a rising and successful competitor, was willing to make large sacrifices, in order to have the monopoly; but that day is passed. With every exertion she has made—with all the fostering care she has given to the cultivation of cotton in every part of the world—in Egypt, the East Indies, the West Indies, Demarara, Pernambuco, Brazil, China, and all other places, I have given you the sum total of the cotton crop of the world, the United States producing seven tenths of the whole.

Well may England look to it when the peace, the happiness, and the prosperity of her people; when the strength, power, and glory of her own country is dependent upon it; because without her manufactures she is nothing. The two million bales that she takes from us form a bond of peace, a guarantee, a surety, not stronger, however, than that bond we have upon our northern brethren, who consume now as the basis of the whole manufacturing system of this country, seven hundred thousand bales of this same southern staple, upon which all the manufacturing system of the northern States is ramified and expanded. The manufactures of cotton, according to the Secretary of the Treasury, for the year 1855, are estimated at \$70,964,712; and the value of all manufactured articles was \$1,391,031,293. The whole value of agricultural products was \$1,211,322,000, making in the aggregate the sum of \$2,600,000,000 of productions in this land. Allowing \$1,000,000,000 of these productions to be consumed at the points of production, where they were made by the planters and by the manufacturers themselves, we should have left for our internal and external trade \$1,600,000,000. Deducting \$310,000,000 of exports, we should have \$1,300,000,000 of products sent from one section to another in this country upon the basis of a legitimate free trade—the mere exchange of equivalents.

Sir, is this not a question for my northern friends to consider? Out of that \$1,300,000,000, of manufactured articles, I concede to the northern States two thirds. My own little State of Maryland, with six hundred thousand people only, not so many as the great city of New York, after deducting ninety-two thousand slaves and seventy-three thousand free colored people, produced \$45,000,000 of manufactures, and \$20,000,000 of agricultural produce. After giving to the northern States two thirds of the whole manufacture, I shall claim, then, two thirds of all the agricultural products of this country for the southern States, with ten millions of people altogether. But I shall be told, perhaps, that slave-labor is profitable in other pursuits than the cultivation of cotton. So it may be; so I grant you it is; but no other crop in this country stands upon the same footing as that crop—which is a monopoly, and controls, not only the destiny of this country, but, I may say, the destinies of the world. It is the great bond of peace between us and the strongest Government on the face of the earth. It is a bond of peace which ought to be shared between the northern States and ourselves.

I merely throw out these views, not in any reproach to the northern people, but simply as a consideration for them to regard the great interests of this country, to look to the permanency of this Union, to the working of this system that imparts to them greater benefits than they can derive under any other system of government. You may talk, sir, about this Union being in danger. I, as a conservative, middle man in this country, tell you that I believe in my heart of hearts that this Union is in danger; and I believe that it is endangered

because certain principles have been promulgated in that section of the country holding the large majority—principles of higher-lawism; principles which set the Constitution at naught; principles which abrogate the opinion and the decisions of the Supreme Court; principles which have been introduced into this country at variance and in direct conflict with all the received opinions of a popular, free, representative form of government.

Mr. President, I am representing here in part a State as truly devoted to her southern associations and southern glory as any other State. I am representing a city, two thirds of whose commercial capital is southern. I am representing a people whose hearts are as nearly allied to the South as those of the people of any other southern State; but, sir, at the same time, I am representing a State and a city whose whole future is based upon this Union, who have signalized their devotion to the Union, who have contributed as fully and as freely to the formation of this Government as any other State in the Confederacy; and I should be recreant to the trust that has been confided to my hands if I did not protest against the agitation of this question, which has no practical bearing upon the subject of slavery. It has been said on the other side of the Chamber, that the majority of the people of Kansas have the right to amend their constitution in their own way, and for their own purposes, in their own time; and, sir, I admit it. I believe the people of Kansas, in their sovereign capacity as a State, have that right, and not before. I believe that by the agitation of that question here on this floor, you are keeping up, giving pabulum to that sectional strife which, unless it ceases, must deal the death-blow to this Union, and finally tear in pieces the wide charter of our American citizenship. I believe it in my heart and in my soul. I am conservative in all my feelings and views. I am as much opposed to ultraism or higher-lawism, whether it comes from the far South or the far North, as any Senator here. I believe that our destiny is in this Union, under the Constitution, and it is only under it; for when the Constitution ceases to be respected, when the decisions of the Supreme Court fail to be regarded—that umpire, that referee in the very construction of this Government, to whom all litigated cases are referred—there is an end to free representative Government here.

Gentlemen talk of dividing this Union. You may, by a convulsion, break up the Union; but you cannot divide it. You cannot, in my judgment, bring upon this continent two separate and distinct Powers. They cannot exist with the sources of their mighty rivers in one section and their mouths in the other. They cannot exist together in peace. Free government will then have failed; its soaring spirit will have departed; and then you will come to a stronger and more consolidated Government than that under which we now live. I trust in God that I may be spared that day; I trust in God that time may never come; but if the spirit of sectional strife is allowed to maintain in this country; if this question is allowed to be longer presented to the masses of the people—appealing directly to their sectional prejudices and passions; if the elements of discord be not removed from here; then, sir, I have but little hope for the settlement of the question without blood.

Mr. President, in voting, as I mean to do, for this measure, I greatly regret that the dominant party on this floor have seen fit to connect it with another; for, to my taste and to my sense, a more odious principle has never been promulgated in this country than is contained in the Minnesota constitution. I am not aware whether Senators have looked into that clause of the Minnesota constitution to which I refer. I admit, frankly and freely, that it is not my province or my right to amend, to alter, or to consider the provisions of the constitution of a State for whose admission I am about to vote, further than to enter my protest against them. The provision to which I allude is odious; it is dangerous. It is part and parcel of the doctrines of the distinguished Senator from New York; not "frivolous," but it is foreign to the principles of the founders of this Government. The Minnesota constitution provides—

"SECTION 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes,

who shall have resided in the United States one year, and in this State for four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people:

"1st. White citizens of the United States.

"2d. White persons of foreign birth, who shall have declared their intention to become citizens, conformably to the laws of the United States upon the subject of naturalization.

"3d. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

"4th. Persons of Indian blood residing in this State, who have adopted the language, customs, and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State." * * * *

"Sec. 7. Every person who, by the provisions of this article, shall be entitled to vote at any election, shall be eligible to any office which now is, or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election, except as otherwise provided in this constitution, or in the Constitution and laws of the United States."

Mr. President, here is a principle to which I will never subscribe. It is in direct contravention of every notion of mine in regard to the doctrines of our Government. It is a principle which, if carried out, will aggregate in the masses of the twenty millions of the North all power, and deny to the seven or eight millions of white people at the South any equality in this Government. *Squatter sovereignty and alien suffrage* are principles that I *abhor and repudiate*. If carried out they will subvert every doctrine of our free Government that we have cherished and regarded. But, sir, I have to vote upon the Minnesota constitution upon the same basis as the Lecompton constitution, because it is here by the authority of law, because it is republican in its form. I vote for its admission, but I do say that the Minnesota constitution is in direct conflict with both the letter and the spirit of the Constitution of the United States in this respect. I have no remedy in my hands to right it. A wiser and a greater man than myself so proclaimed on this floor in 1836 against this doctrine in the constitution of Michigan. I protest against that doctrine which, if carried out, must break up that equality which exists in this Government, must destroy the rights of the southern States, and must eventually change the form and character of the Government under which we live.

I alluded, a little while ago, to a remark made by my distinguished friend from New York. I speak of him as my friend, because, really, I have no motive for addressing him otherwise than as a friend.

Mr. SEWARD. I hope not.

Mr. KENNEDY. I may speak with earnestness, but I feel kindly towards all my associates here, and I trust I shall never violate the rules of courtesy or gentlemanly decorum on this floor. I say at the same time that the gentleman thought proper to allude to that party, which I represent here, as "ephemeral and as frivolous" in its views. The head and front of the offending of Millard Fillmore prior to 1852 was that, under the solemn obligations of his oath, he enforced and maintained the fugitive slave law as one of the laws under the Constitution of this country, for which act the gentleman and his party repudiated him; on account of which they broke up every conservative principle that had been advocated by the old Whig organization in this country. I do not mean here to say one word against the distinguished nominee of the Whig convention in 1852, though his nomination was very much the work of the Senator's hands; but I say that convention dug the grave of the Whig party. That convention forced and led to the formation of the American party; and, in the incipency of that party, many of the distinguished gentlemen of the North, not perhaps the Senator himself, but some of his present followers, joined it until the question of slavery was brought into it.

Mr. SEWARD. The Senator will excuse me for asking him not to put any "perhaps" before my name in that category. There is no doubt about it at all.

Mr. KENNEDY. I did not mean to say that the gentleman himself had ever been a member of the American party.

Mr. SEWARD. Or had connection or sympathy with it.

Mr. KENNEDY. I said perhaps some of your friends had.

Mr. SEWARD. That is fair.

Mr. KENNEDY. I was perfectly aware where the Senator himself stood, and where his present party stands; and it is upon that knowledge that I have to take my position now. I have to choose between them and their opponents here. Upon national questions there is no affiliation between the party of the Senator from New York and myself. Upon mere questions of policy I make no pledges. So long as that great gulf has been made between us on sectional issues in contravention to the guarantees of the Constitution of this country, in violation of compacts and compromises, while we shall be very good friends we cannot work on the same side. I am free to admit (I say it in order to set myself right here) that I mean to vote for the Lecompton constitution because it takes the slavery question out of this Chamber, because it gives you no pretext, no legitimate right upon this floor to agitate further the question of slavery except upon that responsibility which all agitators and persons and parties found in rebellion against the organized authorities of the Government, choose to take.

Sir, the responsibility of agitation will rest upon the gentlemen here who initiate it when once the mantle of sovereignty has been thrown upon the people of Kansas, and outside pressure has been removed. I am happy to say, frankly, I am perfectly free to admit that the message of the President upon this question, however much he may have been wrong in his policy before, in my judgment is the only measure of peace that can now be adopted. Assuch I accept it. Upon that ground I take it. I believe, before God, he is right; but whatever result may come, *I am not to be held accountable for it*. The authors, and beginners, and originators, of this question must take the responsibility to themselves. I do not mean to vote to keep up agitation in Kansas by letting the people of Maine or Georgia, Maryland or Vermont, claim the right to frame a constitution there. A constitution has been presented to me in conformity with law, legal in all its bearings. The question of fraud I ignore. There has been fraud on all sides. There has been chateury of every kind. I do not mean to consider it. If representatives come here under a fraudulent vote it is competent for this body to purge itself of them, and to investigate frauds affecting the election of its members.

I have stated my views, Mr. President; I have protested against the principle of the Minnesota constitution. I speak for a State that I believe to be as truly, I know to be as thoroughly, sensitive upon all questions affecting the rights of the South as any; yet, at the same time, with every pulsation of her heart beating for the preservation of this Union; with every commercial tie and connection that she has with the South and Southwest, she is endeavoring to act as a mediator in all this war of strife upon an impractical issue—one, really in my humble judgment, of not the slightest moment or the slightest importance, for the reasons I have stated; because slave labor will be controlled by the principle of political economy, the immutable law of supply and demand. I vote, then, to take the question of slavery away from these Halls by the only means that is in my power. I vote in accordance with the principle of the party that I have the honor to represent, which has for one of its cardinal doctrines that alien suffrage and squatter sovereignty must be repudiated. Believing that the proper authority has decided it not to be necessary to submit the Lecompton constitution to every resident inhabitant of Kansas for a vote of approval or rejection, I shall vote for the acceptance of that constitution.

One other point of view I will allude to before I conclude; and that is the inalienable right of the people of a State, in the exercise of popular sovereignty, in conformity to law, to amend their constitution in their own way and for their own purposes. The Legislature of my own State of Maryland has, within the last three days, passed a bill on precisely that ground, all parties concurring in it. Americans and Democrats have just passed a bill to take the sense of the people on amending the constitution of Maryland, which now has in it a clause prohibiting the change or amendment of that constitution until 1862. It has been done in accordance with the forms of law. It is to be submitted to the people. If there be any question of difference as regards this partic-

ular constitution of Kansas, how can you so readily, in what manner can you so soon and so easily, remedy the evil as by admitting the State? If there be a majority of ten thousand against it, that majority can control it. Take it away from here, and let us get to the real business of the country. Let us take away the exciting subject of dispute and quarrel, for which this Congress has been agitated now for three months, and give it to the people of Kansas to settle.

For these reasons, sir, I shall vote for the admission of Kansas under the Lecompton constitution.

Mr. WADE obtained the floor.

Mr. GREEN. Will the Senator give way? I suppose he does not desire to speak to-night; and therefore I move to postpone the further consideration of this bill until to-morrow at half past twelve o'clock.

Mr. SEWARD. Say one o'clock.

Mr. GREEN. To-morrow will be Saturday, and we shall wish to get through before it is very late. Half an hour devoted to morning business to-morrow will suffice.

The motion was agreed to.

On the motion of Mr. THOMSON, of New Jersey, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 12, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. L. ELLIOTT.

The Journal of yesterday was read and approved. EXCUSED FROM SERVICE ON A COMMITTEE.

Mr. RUFFIN. I have sought the floor for the purpose of asking to be excused from service on the Committee of Accounts. I have already stated my reasons for making this request. I will state, in addition, that the regular number of members of that committee is five. There is a good deal of work to be done by that committee; and it is but just to the members of the committee who are still acting that the full number should report at the committee-room. I do not expect to go there again. I have not been there since the action of the House upon the bill reported from that committee; and I think it is but just and right that I should be excused. I am already a member of one of the most important committees of the House—the Committee on Public Lands; and I prefer to devote my attention to that committee.

The question was put; and Mr. RUFFIN was excused.

Mr. MAYNARD. I ask the unanimous consent of the House to introduce a bill, of which previous notice has been given.

Mr. HARLAN objected.

CONSULAR AND DIPLOMATIC BILL.

The bill of the House No. 6, making appropriations for the consular and diplomatic service of the Government for the year ending 30th of June, 1859, yesterday reported from the Committee of the Whole on the state of the Union, with amendments, was taken up, and the amendments reported by the committee concurred in.

The bill was then ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time.

Mr. J. GLANCY JONES moved the previous question upon the passage of the bill.

The previous question was seconded and the main question was ordered to be put; and under the operation thereof the bill was passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House the following communications, which were disposed of as indicated below:

A message from the President of the United States, transmitting a report of the Attorney General, and accompanying papers, dated March 1, 1858, detailing proceedings under the act approved March 3, 1855, entitled "An act to improve the laws of the District of Columbia, and to codify the same." The message and accompanying papers were referred to the Committee for the District of Columbia, and the message ordered to be printed.

A communication from the Secretary of the Navy, transmitting a list of clerks and others employed in the Navy Department during the year 1857; which was laid on the table, and ordered to be printed.

A communication from the Treasury Department, containing a statement showing the number of clerks employed in the Treasury Department during the year 1857, per the eleventh section of the act of 20th of August, 1842; which was laid on the table, and ordered to be printed.

A communication from the Treasury Department, transmitting the application of the Postmaster General for additional appropriations for temporary clerk hire; which was referred to the Committee of Ways and Means, and ordered to be printed.

A communication from the Navy Department, transmitting copies of the Official Navy Register, for the use of members of the House of Representatives; which was laid on the table.

A communication from the Secretary of the Treasury, in reply to resolutions of the House of Representatives of February 9, calling for the amounts appropriated and expended in each of the different Territories of the United States, for roads, bridges, &c.; which was laid on the table, and ordered to be printed.

A communication from the Secretary of the Treasury, transmitting a statement of the amount paid from the Treasury, during the last fiscal year, for the legislative expenses of the Territory of Kansas—in answer to resolutions of the House of Representatives of March 1, 1858; which was laid on the table, and ordered to be printed.

A communication from the Postmaster General, transmitting orders of the Postmaster General for fines, deductions, &c., on contracts from July 5, 1856, to June 30, 1857; which was laid on the table, and ordered to be printed.

REPORTS FROM COMMITTEES.

Mr. PHILLIPS. I ask the unanimous consent of the House to take from the Speaker's table a Senate bill granting a pension to Christine Barnard, and that it be referred to the Committee on Military Affairs.

Mr. CLINGMAN. I call for the regular order of business.

The SPEAKER. The regular order of business is called for. Reports are in order from the Committee of Claims.

Mr. WASHBURN, of Maine. I ask unanimous consent to report a private bill from the Committee of Elections.

Mr. STANTON. I ask the unanimous consent of the House, that all the bills reported from the Committee of the Whole House on Friday last, be now taken from the Speaker's table and reported to the House.

Mr. CLINGMAN. I prefer the regular order of business.

The SPEAKER. Under the rules of the House reports are first to be called for from the Committee of Claims, for such reports as refer to business from the Court of Claims. Reports are therefore in order from the Committee of Claims.

No reports were made from that committee, and the Chair then proceeded in order with the call of committees.

R. L. B. CLARK.

Mr. WASHBURN, of Maine, from the Committee of Elections, reported a bill for the relief of R. L. B. Clark; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

E. B. TALLCOT.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported a bill for the payment of extra compensation to E. B. Tallcot, for his services and expenses in recovering Government funds, embezzled by Jacob Richardson; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

A. A. MILLARD.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, made an adverse report on the petition of A. A. Millard; which was laid on the table, and ordered to be printed.

LAWS OF THE DISTRICT OF COLUMBIA.

Mr. MORRILL. I would inquire if the order to print, made in reference to the President's message, laid before the House this morning, in regard to the improvement of the laws of the District of Columbia, carried with it the printing of the code of laws recently rejected by the citizens of the District of Columbia?

The SPEAKER. It does not. The Chair propounded the proposition that the message itself be printed, and not the accompanying documents.

THOMAS YOUNG AND NAHUM WARD.

Mr. MAYNARD, from the Committee of Claims; made adverse reports on the petitions of Thomas Young and Nahum Ward, respectively; which reports were laid on the table, and ordered to be printed.

Mr. MAYNARD also, from the same committee, reported a bill for the relief of Ely W. Goff; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

COURTS IN NEBRASKA.

Mr. CHAPMAN, from the Committee on the Judiciary, reported back, with an amendment in the nature of a substitute, House bill (No. 59) in relation to courts, and the holding of the terms thereof, in the Territory of Nebraska; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

HEIRS OF CAPTAIN MILLER.

Mr. CLAWSON, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of Captain Samuel Miller; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HEIRS OF WILLIAM EDMUNDSON.

Mr. LOVEJOY, from the same committee, reported a bill for the relief of the heirs of William Edmundson; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ROSWELL MINARD.

Mr. FENTON, from the Committee on Private Land Claims, reported a bill for the relief of Roswell Minard, father of Theodore Minard, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ABEL M. BUTLER.

Mr. FENTON, from the same committee, reported a bill for the relief of Abel M. Butler; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HANNAH LITTEL.

Mr. FENTON also, from the same committee, reported a bill for the relief of Hannah Littell, and for other purposes; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

NORWEGIAN BARK ELLEN.

Mr. CLINGMAN, from the Committee on Foreign Affairs, reported a bill for the relief of Duncan Robertson.

The bill was read a first and second time.

Mr. CLINGMAN. I hope the House will pass that bill now. It is a bill to refund to the Norwegian consul the sum of \$749 92, which he paid for the repairs of the bark Ellen. It will be recollected, that when the Central America was lost, this vessel brought a number of the passengers to Norfolk. She was found to be in a very bad condition, and had deviated from her course. The commodore commanding at the navy-yard had no authority to pay the money for the necessary repairs, and it was advanced by the Norwegian consul. The letter of the Secretary of State, and the accompanying accounts, show how the money was paid. I think it ought to be refunded at once. I hope there will be no objection to the passage of the bill. It will be remembered that

the captain of the bark was presented by the President with a handsome watch on that occasion. I presume every gentleman is aware of the circumstances. I hope that the bill and report will be read, and that the House will then pass the bill.

The bill and report were read.

Mr. JONES, of Tennessee. I wish to inquire if this vessel was a national one, or private property?

Mr. CLINGMAN. It was private property, I think. The bark rescued the American passengers from the Central America; it was repaired at our own navy-yard, and the consul, who happened to be there, advanced the money to pay for those repairs. It appears from the letter of General Cass, that the commodore would have willingly advanced the money if he had had authority to do so. I hope the bill will pass.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

GEORGE P. MARSH.

Mr. CLAY, reported back, with a recommendation that it do pass, Senate bill (No. 1) for the relief of George P. Marsh; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. LETCHER moved to reconsider the vote by which the bill was referred to a Committee of the Whole House; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JOHN P. BROWN.

Mr. CLAY, from the same committee, reported a bill for the relief of John P. Brown; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

WILLIAM RICH.

Mr. GROESBECK, from the same committee, reported a bill for the relief of William Rich; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

INVALID PENSIONS.

Mr. FLORENCE, from the Committee on Invalid Pensions, reported the following bills; which were severally read a first and second time, referred to a Committee of the Whole House, and, with the respective reports, ordered to be printed.

A bill for the relief of Mrs. Mary Anne Henry;

A bill giving an invalid pension to Henry Miller;

A bill giving a pension to Mary A. M. Jones;

A bill for the relief of Mary B. Dusenbery;

A bill giving a pension to Jeremiah Wright; and

A bill for the relief of John Duncan.

Mr. FLORENCE. I am directed by the Committee on Invalid Pensions to ask that that committee be discharged from the further consideration of the case of John McGinnis, and that he have leave to withdraw his papers.

Mr. LETCHER. I object to the latter part of the proposition.

Mr. FLORENCE. Well, I will qualify it by a condition that he leave copies.

Mr. LETCHER. Let him take copies.

Mr. FLORENCE. Well, I ask that the committee be discharged, and that the petitioner be allowed to take copies of his papers.

It was so ordered.

On motion of Mr. FLORENCE, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the case of Anne W. Angus, and that the same be referred to the Committee of Claims.

Mr. FLORENCE. I am likewise directed to report a bill to equalize the Army, Navy, and marine pensions.

The SPEAKER. That is not a private bill.

Mr. FLORENCE. Well, it struck me that it was not exactly a private bill, although it is a bill of a private nature. I had not concluded in my own mind whether it was a private bill or not, and I thought I would test the sense of the House on the subject.

AMENDMENT OF PATENT LAWS.

Mr. STEWART, of Maryland. I am instructed by the Committee on Patents to make a general re-

port, embracing an amendment of the patent laws. It is a matter of general interest, and I hope there will be no objection to its being presented, ordered to be printed, and referred to the Committee of the Whole on the state of the Union.

Mr. LEITER. I object.

Mr. LETCHER. That is a general law. I want no special privileges here. Let it take its place with other general laws.

DEPREDACTIONS OF CREEK INDIANS.

Mr. WOODSON, from the Committee on Indian Affairs, reported a bill to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

SPEAKER'S TABLE.

Mr. SHERMAN, of Ohio. I hope the House will now proceed to the consideration of bills upon the Speaker's table.

RHODE ISLAND RESOLUTIONS.

Mr. DUFFEE, by unanimous consent, presented joint resolutions of the Legislature of the State of Rhode Island, relative to the appropriation of public lands by the Government of the United States for the benefit of agriculture and the mechanic arts; which were laid on the table, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKER, one of their clerks, informing the House that the Senate had passed bills of the following titles; in which he was directed to ask the concurrence of the House:

An act (No. 136) for the relief of the heirs of John B. Hand; and

An act (No. 107) for the relief of Ephraim Hunt.

Also, that the Senate had passed a bill of the House (No. 8) for the relief of John Hamilton.

Also, that the President of the United States had notified the Senate that he had, on the 10th instant, approved and signed a joint resolution (S. No. 3) to extend and define the authority of the President, under the act approved January 16, 1857, entitled "An act to promote the efficiency of the Navy in respect to dropped and retired officers."

SENATE BILLS REFERRED.

Mr. SHERMAN, of Ohio. I move that the House proceed to the business on the Speaker's table of a private nature.

The motion was agreed to; and the following Senate bills on the Speaker's table were severally taken up, read a first and second time, and disposed of as indicated below:

An act (No. 52) for the relief of William B. Trotter. Referred to the Committee on Indian Affairs.

An act (No. 57) for the relief of James Beatty's personal representative. Referred to the Committee of Claims.

An act (No. 59) for the relief of James G. Benton, E. B. Babbitt, and James Longstreet, of the United States Army. Referred to the Committee on Military Affairs.

A resolution (No. 5) to authorize certain officers and men engaged in the search for Sir John Franklin to receive certain medals presented to them by the Government of Great Britain.

Mr. JONES, of Tennessee. I suppose that joint resolution will pass some time, and perhaps it may as well be passed at this time. I ask that it may be read.

The joint resolution was read *in extenso*.

The resolution was ordered to a third reading; and was accordingly read the third time, and passed.

An act (No. 35) for the relief of Michael Kinny, late a private in company I, eighth regiment United States Army. Referred to the Committee on Invalid Pensions.

An act (No. 61) for the relief of Frederick A. Beelen. Referred to the Committee on Foreign Affairs.

A resolution (No. 9) for the compensation of R. R. Richards, late chaplain to the United States penitentiary, for his salary to June 30, 1857.

Mr. FENTON. I ask that that joint resolution may be read; and I presume there will be no objection to its being put on its passage.

Mr. JONES, of Tennessee. I think that resolution had better go to the Committee of the Whole House. I think, if I am not misinformed in reference to it, it is based upon no principle of justice which should be recognized by this Government.

The resolution was read at length.

Mr. GOODE. I would state to the gentleman from Tennessee that the Committee for the District of Columbia now have that subject under consideration.

Mr. JONES, of Tennessee. Then I will move that the resolution be referred to the Committee for the District of Columbia.

The motion was agreed to.

Mr. KELLY. I ask the consent of the House to take up Senate bill No. 76, and put it on its passage.

Mr. SHERMAN, of Ohio. I object, until the bills on the Speaker's table shall have been disposed of.

An act (No. 60) for the relief of Tench Tilghman. Referred to the Committee of Claims.

An act (No. 67) for the relief of Jonas P. Kcller. Referred to the Committee of Claims.

An act (No. 68) for the relief of Elias Hall, of Rutland, Vermont. Referred to the Committee of Claims.

An act (No. 69) for the relief of Dr. Charles Maxwell, a surgeon in the United States Navy. Referred to the Committee on Naval Affairs.

An act (No. 70) for the relief of John Dick, of Florida. Referred to the Committee on Private Land Claims.

An act (No. 72) for the relief of Daniel Whitney. Referred to the Committee on Private Land Claims.

An act (No. 73) authorizing Mrs. Jane Smith to enter certain lands in the State of Alabama. Referred to the Committee on Public Lands.

An act (No. 74) for the relief of J. Wilcox Jenkins. Referred to the Committee on Naval Affairs.

An act (No. 81) for the relief of Laurent Millaudon. Referred to the Committee on Private Land Claims.

An act (No. 83) to vest the title to certain warrants for land in George M. Gordon. Referred to the Committee on Public Lands.

An act (No. 92) for the relief of George A. O'Brien. Referred to the Committee of Claims.

An act (No. 94) for the relief of Major Benjamin Alvord, paymaster United States Army. Referred to the Committee on Military Affairs.

An act (No. 95) explanatory of an act entitled "An act for the relief of Dempsey Pittman," approved August 16, 1856. Referred to the Committee on Military Affairs.

An act (No. 96) for the relief of Susanna T. Lea, widow and administratrix of James Maglenen, late of the city of Baltimore. Referred to the Committee on Military Affairs.

An act (No. 100) releasing to the legal representatives of John McNeil, deceased, the title of the United States to a certain tract of land. Referred to the Committee on Public Lands.

An act (No. 71) to amend an act entitled "An act to authorize the relocation of land warrants Nos. 3, 4, and 5, granted by Congress to General La Fayette," approved February 26, 1845. Referred to the Committee on Public Lands.

An act (No. 123) for the relief of Henry Hubbard. Referred to the Committee of Claims.

An act (No. 91) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army. Referred to the Committee on Military Affairs.

An act (No. 173) for the relief of Mary Petery. Referred to the Committee of Claims.

An act (No. 185) for the relief of Anna M. E. Ring, Louisa M. Ring, Cordelia E. Ring, and Sarah J. De Lannoy. Referred to the Committee on Private Land Claims.

An act (No. 122) for the relief of Captain Thomas Ap Catesby Jones. Referred to the Committee on Naval Affairs.

An act (No. 107) for the relief of Ephraim Hunt. Referred to the Committee of Claims.

An act (No. 136) for the relief of the heirs of John B. Hand. Referred to the Committee on Indian Affairs.

RESOLUTIONS OF A LEGISLATURE.

Mr. GILMAN, by unanimous consent, presented to the House the joint resolutions of the State of Maine in reference to bounty on cod fisheries, and in relation to the distribution of a portion of the public lands belonging to the United States; which were referred, the resolution relating to fisheries to the Committee on Commerce, and the resolution referring to the distribution of lands to the Committee on Public Lands.

BILLS PASSED.

On motion of Mr. SHERMAN, of Ohio, the House then proceeded to the consideration of the bills reported from the Committee of the Whole House on Friday last, when the following bills, reported without amendment, were ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time and passed.

A bill (H. R. No. 65) for the relief of Thomas Smithers;

A bill (H. R. No. 208) for the relief of the heirs of Alexander Stevenson;

A bill (H. R. No. 210) for the relief of the legal representatives or assignees of James Lawrence;

A bill (H. R. No. 212) for the relief of N. C. Weems, of Louisiana;

A bill (H. R. No. 213) for the relief of Francis Wlodecki;

A bill (H. R. No. 216) for the relief of Dr. Charles D. Maxwell, a surgeon of the United States Navy;

A bill (H. R. No. 218) for the benefit of the captors of the British brig Caledonia in the war of 1812; and

A bill (H. R. No. 225) for the relief of John Richmond.

RESOLUTIONS OF MAINE.

Mr. FOSTER, by unanimous consent, presented joint resolutions of the Legislature of the State of Maine, relative to the bounties on the cod fisheries; which were laid upon the table, and ordered to be printed.

ADJOURNMENT OVER.

Mr. FLORENCE moved that when the House adjourns, it adjourn to meet on Monday next.

Mr. MORGAN demanded the yeas and nays.

Mr. WARREN called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. BILLINGS and HAWKINS were appointed.

The House divided; and the tellers reported—yeas 20, nays 134.

So (one fifth not voting in favor thereof) the yeas and nays were not ordered.

Mr. FLORENCE's motion was then agreed to—yeas 151, nays 49.

Mr. SICKLES. I ask leave to make a report of a private bill that it may be referred to a Committee of the Whole House on the Private Calendar.

Mr. JONES, of Tennessee. I call for the regular order of business.

QUESTION OF PRIVILEGE.

The SPEAKER. The business first in order is the consideration of the appeal of the gentleman from Illinois [Mr. HARRIS] from the decision of the Chair. The Chair desires to call the attention of the House to the appeal, and to the ground on which the decision of the Chair was made.

The gentleman from Illinois rose in his place, and stated, in behalf of himself and Messrs. ADRAIN, MORRILL, WADE, BENNETT, WALBRIDGE, and BEFFINTON, of the select committee appointed under the order of the House of the 8th of February last, to whom was referred the President's message concerning the Lecompton constitution, with instructions, that, in their opinion, said committee had failed and refused to execute the order of the House contained in the resolution of their appointment, and had adjourned; and, as a proof thereof, he proposes, as a question of privilege, to read the journal and minutes of said committee, and a written statement relating thereto.

The Speaker decided that the *opinion* merely of a minority of a committee could not present a case involving the privileges of the House; and that inasmuch as it is not competent, except by the courtesy of the House, for a minority of a committee to submit a report, the *facts* upon which such opinion is based could not be ascertained in

the manner proposed. In the opinion of the Chair, the instructions in the present case having reference neither to the time nor the manner of making the report, the House could not know whether there had been a failure or refusal to execute its order until the report of the committee had been submitted. He therefore decided that no question of privilege was presented by the gentleman from Illinois.

The proposition of the gentleman from Illinois was to read the journal, and to submit a *written statement*. The Chair decided that it was not in order, and that it would not be in order even if the committee had been called, if there was objection. The Chair refers to a precedent, exactly in point, in the first session of the Twenty-Fourth Congress, on page 562 of the Journal:

"Mr. HALL, of Vermont, a member of the Committee on the Post Office and Post Roads, to whom was referred so much of the message of the President of the United States at the commencement of the session as relates to the report of the Postmaster General, the condition and operations of the Post Office Department, and everything connected therewith, offered to submit to the House a paper in the form of a report, which, he stated, contained the views of the minority of the committee on that part of the said message which suggests 'the propriety of passing such a law as will prohibit, under severe penalties, the circulation, in the southern States, through the mail, of incendiary publications intended to instigate the slaves to insurrection.'"

"The SPEAKER decided that when reports from committees are called for, a report cannot be made from a minority of a committee, as a minority is not a committee; that the paper offered was not a report authorized to be made to the House by authority of the committee, and could not be received as a report from the minority; and that, consequently, it was not in order to offer the same."

"Mr. HALL then asked the unanimous consent of the House to submit the paper containing the views of the minority upon the subject aforesaid; which was objected to," &c.

Not only do the precedents show that a report from the minority of a committee is not in order, but they go so far as to show that it is not competent to refer, in debate in the House, to what transpires before a committee, much less bring the matter in the form in which it is proposed to be brought here by a minority, before the majority has reported. The Chair asks to refer to the Journal of the first session of the Twenty-Sixth Congress, page 418:

"Mr. PETRIKEN submitted the following as a question of order:

"That neither the chairman of a committee, nor any other member of the committee, or of the House, can be permitted to allude on the floor to anything which has taken place in committee, or in any way relate in debate what was done by said committee, or by the individual members of that committee, except it is done by a written report made to the House by authority of a majority of the committee."

"The Chair decided, generally, in favor of the question of order raised by Mr. PETRIKEN."

"Mr. FILLMORE, in debating the question before the House, made allusions to the proceedings in the Committee of Elections, and while reading a resolution which had been adopted in that committee, was called to order by the Speaker, on the ground that a member had no right to read papers containing the proceedings of the committee, (not reported by the committee,) although the amendment under consideration proposed to print their proceedings."

A question of order was made, and, after two or three days' debate, the decision of the Speaker, in ruling the remarks of the gentleman out of order—although it was a proposition to print that which had transpired in debate—was sustained by a vote of 98 to 84.

In the Thirty-First Congress, in a similar case, there was pending a proposition to authorize the taking of testimony in a contested-election case from Iowa:

"During the debate, Mr. ASHMUN and Mr. ASHE were proceeding to discuss and refer to certain matters which had transpired before the Committee of Elections, but which had not been reported upon to the House."

"Mr. FREDERICK P. STANTON raised the point of order that it was not in order, in the House, to refer to matters that had transpired before the committee, and not reported upon to the House."

"The SPEAKER sustained the point of order; and decided that such reference was not in order."

"From this decision of the Chair, Mr. SCHENCK appealed."

"The question was stated, 'Shall the decision of the Chair stand as the judgment of the House?'"

"And, being put, it was decided in the affirmative."

So that, in the opinion of the Chair, the question of privilege does not arise in the case presented. If the majority of the committee had submitted the report, and it was proposed by the minority to submit a report, it, as the Chair decided yesterday, would be received as a matter of courtesy—universally granted, I concede, because it was with difficulty that I found the precedent which I have already read. It is generally received, and it is in this point of view that the Chair decided

that the House could not know whether the committee had or had not discharged its duty, until the committee reported, and there was no time fixed in the instructions, requiring the committee to report at a particular time, or in a particular way.

Mr. HARRIS, of Illinois. It is not my purpose to enter into a lengthy debate of the question presented to the House in the appeal that I have taken from the decision of the Chair. The question which I raised yesterday, connected with the proceedings of the committee, was one which I thought it my duty to present as a member of this committee, and as a member of the House. Nothing but the most imperative sense of duty would have caused me to come before the House, and to make the statement which I have made, and the proposition which I designed to connect with that statement. Neither was it made rashly. It was made with a firm belief that, as a question of privilege, I had a right to make it. I believe still, as I believed then, that, as a question of privilege, I had a right to make it, and that, as a question of privilege, it ought to be entertained and sustained by the House.

The cases which the Chair has read in support of the decision which it made yesterday, are, in my judgment, not analogous to the one presented. In the one case, there was a proposition made to report, by a single member of a committee, a bill for the action of the House. If I understand it, the case cited was, that Mr. Hall, a member of the Committee on the Post Office and Post Roads, proposed to report from that committee a bill for the action of the House. Such being the case, it was a proposition to report something for the legislative action of the House; it did not relate to any conduct in the committee, or anything which had transpired in the committee room. It was a proposition to report, under the authority of the committee, that which could only come from a majority of its members.

"Mr. HALL, of Vermont, a member of the Committee on the Post Office and Post Roads, to whom was referred so much of the message of the President of the United States at the commencement of the session as relates to the report of the Postmaster General, the condition and operations of the Post Office Department, and everything connected therewith, offered to submit to the House a paper, in the form of a report, which he stated contained the views of a minority of the committee on that part of said message, which suggests the propriety of passing such a law as will prohibit, under severe penalties, the circulation in the southern States, through the mail, of incendiary publications, intended to instigate the slaves to insurrection."

He proposed to make a formal report of a bill upon which the House should legislate for the country. That has no analogy to the case presented here. We do not propose to present a case for legislation at all. We, as individual members of the House, rise in our places, and call the attention of the House to the fact that we have every reason to believe and assert that certain other members charged with a particular duty have disobeyed the order of the House; that certain members, charged with the performance of certain duties, have failed to perform those duties. We report no bill. We report nothing calling for legislative action. Suppose six of us should rise in our places and charge that the other seven, a majority of the committee, were in a state of mutiny in committee; that they would allow no question to be put, and no business to be done; that they would assemble when they were called, but absolutely refused to do any business whatever—I put it as an extreme case: could we not have the right to rise in our places and present that fact for the consideration of the House, that it might either discharge the committee, or reconstruct the committee, or compel them to obey the order of the House and proceed to the investigation with which the committee was charged? Would gentlemen rise in their places and say, "wait, and see what the committee will report; let us see whether the committee will report that this state of disorder exists in committee or not, and then we can tell whether we will hear you or not?" I venture to say, an instance cannot be found where a case like this has been presented, which has not been considered a proper and legitimate subject for the consideration of the House. The House, whenever a question is raised as a question of privilege; whether it relates to the action of one member or more; whether it relates to their action as an organized committee, or to their individual action; whether they are disorderly, or

not, if their conduct is not in accordance with the order of the House, it is a question of privilege for any member of the House to call the attention of the House to the fact, that the error or disobedience may be corrected.

In the other cases cited, where it is alleged that so far does the rule go that a member has no right to allude in debate to what has transpired in committee, with all deference to the opinion of the Chair, it strikes me that they have no relevancy to this case at all. They are dragged in, incidentally. They have no relation to the question before the House. Here the whole question before the House is the very thing itself. There is no other question, but whether the proceedings of the committee, when presented to the House, as I ask they shall be, will show the facts which I rise in my place and inform the House exists. As to the authority on this point, it is true that the proceeding in committee cannot, as a general rule, be alluded to in debate:

"1731. Where, however, a motion is made, relative to the committee itself, or its proceedings, the rule admits of an exception. Thus, where a committee on a private bill had brought its proceedings and its existence to a close, before making a report, by an adjournment without day, and a motion was made that the committee be revived and proceed with the business referred to it, a discussion ensued as to the extent to which the proceedings of the committee could regularly be stated or introduced as a ground for the motion, in which the Speaker (Mr. Manners Sutton) said, 'it was difficult to lay down a strict rule as to the statements which might be made of transactions in a committee,' but that if it was necessary to read from or introduce the minutes of their proceedings, 'the regular course was first to move the House that the minutes be produced'; and it was agreed that every member who had attended an open committee might state in his place what had occurred there, and that what had occurred in the committee might be stated, to lay a ground for the production of the minutes, though the minutes themselves could not be read until regularly before the House."—*Cushing's Law and Practice*, p. 169.

Well, now, sir, what is the motion here? I move for leave to present the minutes of the committee. I make a statement to the House, that the committee has not discharged the duties devolved on it by the order of the House, and I ask to present the minutes of the committee to show the correctness of the position I take. The proposition which I make is in substance the proposition quoted in *Cushing's Law and Practice of Legislative Assemblies*, from which I have just read, that, when the subject presented relates to the action of the committee, I have the right to refer to the action of that committee; but that is the very subject itself. It further states that the mode of reaching the minutes is by motion that the minutes be produced. The form and phraseology of the motion is not material. The substantive proposition is here, that the privileges of the House have been infringed, and that the minutes of the committee show that fact. I ask to present the minutes of the committee, and the whole question is contained in the proposition that I make. Therefore, the proposition I make is abundantly sustained by the cases I have cited. A case in point is referred to us in the tenth volume of *Hansard*, second series, pages 10 and 11. On reference to the book I do not find the case, and there is probably some mistake in the reference. But the case is here referred to as one directly sustaining the point I have made: that, where a question is raised before the House as to the action of the committee itself, the minutes are in order to be read and referred to.

Keeping in view the broad distinction I make between the case, as cited by the Chair, which purported to be a report to the House from a committee, and the case now before the House, which is simply that members of the committee rise in their place, and state to the House that the order of the House directing a certain thing to be done, has not been done, the cases are entirely different. There is no proposition to report from the minority of a committee. It has nothing in the character of a report; is not intended to be a report; is not characterized as a report; nor has it emanated from the committee by its authority. It is simply this: members of the House, charged, in part, to execute certain duties, bring to the knowledge of the House certain facts which they state.

There is another rule, which I think is pertinent to the case directly before the House. It is this, as laid down in *Cushing's "Law and Practice of Legislative Assemblies"*:

"A committee is bound by, and is not at liberty to depart from, the order of reference, a principle which is essential to the regular dispatch of business, for if it were admitted

that what the House entertained in one instance, and referred to a committee, was so far controllable by that committee that it was at liberty to disobey the order of reference, all business would be at an end; and, as often as circumstances should afford a pretense, the proceedings of the House would be involved in endless confusion and contests with itself."

There is a necessity that the committee shall strictly adhere to the order of the House; and, if it is alleged that there has been a departure from that order, it presents a case which the House may entertain at any moment as a general question of privilege.

In the same volume, page 748, it is further laid down:

"When a committee is remiss in proceeding or making its report; or when a committee has adjourned without day, or to a day beyond the session, without reporting; or when it becomes necessary to fill vacancies in the committee, or to enlarge it by the appointment of additional members—in all these cases there is ground for further proceedings in the House."

There the doctrine is laid down, that, when a committee is remiss in its proceedings, there is ground for the further proceedings of the House. How is it ever to be brought to the knowledge of the House that a committee is remiss before a report is made? The committee are a majority of its members; and a majority will not report that the majority itself are remiss. How is the fact ever to get before the House, if, as is said here, that nothing can be heard from a committee unless it comes from a majority? A majority of a committee are remiss, and refuse to obey the order of the House; and yet, according to the rule I have read, when they do refuse, and when they are remiss, there are grounds for further proceedings in the House.

Now, Mr. Speaker, if that point can be got over I would like to see it done. How is it ever to be brought to the knowledge of the House that a committee are remiss in their proceeding, before making a report? You may say that we may order a committee to report, and then we may know that fact. But you are not necessarily required to issue that order, as the law is laid down. They may be ordered to report upon a given day, and knowledge may come to the House of remissness prior to that day; because the parliamentary law says that, when there is remissness upon the part of the committee in their proceeding, or in their report, then, &c. The two branches of remissness are presented in the same view. Now, how are you to know whether they are remiss, unless you get it through the proper channel of a member of the committee laying it before the House for its action?

I do not propose to enter into any lengthy discussion of the question. I think, myself, that the plain rule, which would suggest itself at once, would be that the course I have pointed out is the only course which could be taken. Gentlemen say that no direct precedent can be found for reports of this kind. There is great difficulty in finding precedents growing out of the construction of committees in the British Parliament. Those committees are generally named by the person calling for the committee, and they are always constituted, if that course is pursued in harmony with the objects in view. There is scarcely a possibility, therefore, that such a state of things should arise there as is presented in this case. Hence there is not the same room for a difficulty such as exists here. But instances have occurred under which the law, which I have just cited from *Hansard*, has grown up.

Now, sir, it is not necessary, in order to make a principle good, that you should be able to find a precedent for it. Go back to the first precedent, and what is it? It is but the action of the body, based upon its good sense in judging of what the law ought to be, that makes the law. It is not necessary to hunt up precedents; and in nine cases out of ten, where they are sought for, they are not analogous; there is some shade of difference; and it is a most dangerous thing to attempt to force analogies for the sake of saying that you rest upon precedent, when it is a great deal easier to rest upon good sense and sound judgment. I shall not occupy the attention of the House any longer.

Mr. STEPHENS, of Georgia. I do not wish either, Mr. Speaker, to prolong this debate; but I wish, before the question is taken, to reply briefly to the gentleman from Illinois. I stated yesterday, sir, that, in my judgment, no prece-

dent, sustaining this motion, could be found in the British Parliament, or in our own Parliament, or in the history of any legislative body in the world. I have listened patiently to-day to the gentleman, to see if he could produce a single authority to sustain his position. He has not done it. He cannot do it. The strength of his argument, everything in it that has any force at all, is in the last clause of the authority which he read. I will read, sir, what precedes that:

"But besides instructions to committees, there are frequent occasions on which proceedings take place in the House with reference to committees, after the order of reference, and before a final report."

Section one thousand nine hundred and twenty-nine, that follows that, gives instances in which it may be done—as when a committee is remiss in proceeding or making a report. That authority goes to this extent, and to this extent only; that a committee, before making a final report, are subject to the order of the House. How? By a question of privilege? No, sir; when you can make, in order, and according to order and rule, a motion requiring a report to be made, or giving further instructions, you can thus control the committee. That is parliamentary law. To that extent, this authority sustains the gentleman, and to that extent only. That I do not deny. The question which we now have before us is not that. The question is, is the remissness of a minority or majority of a committee a question of privilege? That is a question well known in parliamentary law. There are questions of privilege higher than privileged questions. The question we have to-day before us is, is the remissness of a committee a question of privilege? I say, sir, it is not; and the precedent and the authority cannot be found in *Hansard*, or in any writer in the books on parliamentary law. I defy its production, sir. What would be the effect of the establishment of such a precedent? You might have fifty questions of privilege here every morning, or at least thirty-eight. I think we have thirty-eight standing committees, and the minorities in each one might suppose that the majorities were not discharging their duty under the rules; for, mark you, there is no difference between a select committee and a regular committee—none. Under the resolution under which a select committee is raised, their duties are there pointed out, just as the duties of all other committees are pointed out in the rules. If it is a question of privilege in the case of a select committee, it is equally a question of privilege in regard to a regular committee. And the doctrine of the gentleman is, that a minority of any one committee can come in here on any day, override the business of the House, raise a question of privilege, and take possession of the attention of the House to bring the action of the majority of the committee before the consideration of the House. That is the gentleman's doctrine; that, sir, is his position.

Now, sir, what would be our condition in this House? How could we legislate? The minority of the Committee on Pensions might come forward and say that the majority were not acting in accordance with the rules of the House, that require them to examine and report upon all matters before them, because they did not look into a particular piece of evidence upon which the merits of a particular claim for pension rested, and raise a question of privilege. And then, while that committee was going on with its question of privilege, the minority of the Committee on the Post Office and Post Roads might come in with a question of privilege, because the majority of that committee would not examine a certain piece of evidence in relation to a claim, and ask the judgment of the House in reference to it. We should have nothing but questions of privilege of this sort.

Mr. Speaker, questions of privilege are well understood in parliamentary law. We have privileged questions, as I have said, such as to adjourn, to lay upon the table, and the previous question. These are privileged questions; but there are questions of privilege above and higher than them. They relate to the conduct of members, the rights—the personal rights and comforts, if you please—of members.

Mr. STANTON. And their duties.
Mr. STEPHENS, of Georgia. Their duties, if you please. Their duty to behave themselves in the House and in committee. I call for the production of a precedent for anything more than

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, MARCH 16, 1858.

NEW SERIES....No. 70.

that, either in the British Parliament or in the American Parliament. The only authority the gentleman has cited on the subject relates to disorderly conduct; and it is right. If the members of the minority or of the majority behave in a disorderly manner in committee, then it is a question of privilege; it affects the rights, the comfort, the decorum of members; then it becomes emphatically a question of privilege; and if any such thing had been done in this committee, the gentleman would have had a right to bring it before the House for its consideration; but not as to what may be their judgment, not whether they shall think that this fact or another fact ought to be inquired into. No, sir; that is not a question of privilege. It is a question for the judgment of the member as much as his votes upon this floor. When you constitute a committee in the regular way, and intrust matters to them, it is the high prerogative of every member of it to be governed, until he reports to the House, according to the dictates of his own intellect and judgment. This House has no control over him. If he is disorderly, that is a question of privilege to be brought to the attention of the House.

Then, as I said before, the gentleman has utterly failed to produce a precedent for the course which he now pursues. He says that it is difficult to get precedents. Why, sir, there is hardly a subject connected with privilege, from the arrest of a debtor, the arrest of a member's servant, insult to him on the street, a challenge to fight—there is hardly a single conceivable case of privilege which there are not precedents for in the British Parliament.

Now, sir, I ask if the bare absence of a precedent is not conclusive that I am right in saying that such an idea never before entered the brain of any man in the British Parliament, or in this country, as that, because the minority of a committee think that the majority have not taken the view of a question which they ought to take, they have, therefore, a right to bring the matter before the House as a question of privilege.

I say, therefore, Mr. Speaker, that it is not a question of privilege. The fact that no such precedent is to be found in the British Parliament is conclusive to my mind that it never entered into the brain of a British statesman or Commoner that such a thing was a question of privilege.

Now, Mr. Speaker, as I have said before, I do not wish to prolong this debate, and I do not intend to. I look upon this as one of the most important movements that has ever been made in this House since the foundation of the Government. I have endeavored to show what would be the effect of it. Any member of a committee in the minority might rise any day to a question of privilege; no matter whether it was a special or a regular committee. The movement is revolutionary. It strikes at the foundation of the rules of order of this House. If the House establish it, its operation would be to prevent the House from doing any business whatever, for it would be perfectly competent for any member of a committee that does not act in accordance with his views to raise a question of privilege and have the matter decided by the House.

Now, sir, on turning over the authority from which the gentleman [Mr. HARRIS] read, I find, on page 750, what I conceive to be the entire doctrine on this subject. And I wish gentlemen to hear it:

"When a committee has gone through with the business referred to it, and has agreed upon a report to be made to the House, the duty of preparing the report is devolved upon some one of the members, usually the chairman, by whom it is prepared accordingly, and submitted to the committee for their consideration. When the report is agreed to by the committee, the chairman, or some other member, is directed to present it to the House; and the committee, having thus performed its functions, adjourns without day, and is dissolved. But the committee can only act when together, and not by separate consultation and consent, nothing being the report but what has been agreed to in committee actually assembled. The report of a committee, both in its form and as to its substance, ought to correspond with the authority of the committee. If it does not, it will either be recommended, disagreed to, or directed to be withdrawn."

There is the parliamentary law. The majority

of the committee, in this case, has agreed to its report, and I have repeatedly offered to present it. It has been prepared conformably to law; and, if it be not in conformity with the order of the House, then the House has got control over the matter. When it is presented, that will be the time for action. The House can disagree to it, can recommend it, or can discharge the committee. The House has complete control over it. But the committee is first to report, and to report by the mouth of the majority.

Mr. STANTON. Will the gentleman from Georgia permit me to ask him a question?

Mr. STEPHENS, of Georgia. Yes, sir.

Mr. STANTON. I ask the gentleman whether, if the refusal complained of be a refusal on the part of the majority of the committee to discharge their duties or make a report, there is, on his principle, any mode by which the question can be brought before the House, except by a suspension of the rules by a vote of two thirds?

Mr. STEPHENS, of Georgia. Under our rules there are two different ways, I tell the gentleman, that occur to me on the instant. One is by a suspension of the rules. Another is, that on resolution day, any member has got a right to offer any resolution he sees fit to present; and it may be done by unanimous consent. Still, it is no question of privilege. The rules provide the remedy. The rules are ample. I have never yet known an instance of wrong complained of that could not be remedied under the rules. Why should time-honored rules be overridden in such a case as this? If you complain of the non-execution of the order of the House by the committee, why not hear the committee? I, as the organ of that committee, am prepared to meet the complaint before the House. I am prepared here to say and to show that the order of this House has been fully executed. If it has not been, it is for the House to recommit the subject, discharge the committee, or turn the subject over to another committee. I am ready to meet the issue. The majority are ready to meet the issue. But do not come in this sidelong way, overturning the rules and orders of the House, and upsetting parliamentary law, which would be just as unfortunate for one side of the House as for the other. I am for abiding by the rules and by the laws of the House, and for accomplishing nothing in an indirect way. Hence, as I said the other day, I am perfectly willing to let the report come before the House. Let it be printed; let members read it; and let a day be fixed for its consideration. And if the gentleman can show, by the printed reports, that the order of the House has not been executed, let them do it. I am prepared to meet them. Hence, I ask that, by general consent, the proposition may be agreed to; because, under the rules of the House, it is well known that the committee may not be called for three months. The Congress before last, the regular committees were not called after this period of the year: The Committee on Public Lands was the last called after this period; and all the regular committees have to be called before the special committees. That is why I was anxious to bring the report before the House, and to let the House consider it. I repeat the same now. I will not detain the House longer at this time.

Mr. GROW. I presume that there is no difference of opinion in this body as to the fact that the orders of any legislative body are to be obeyed by its committees. And if they be not obeyed, the subject is a question of privilege for the legislative body. The Chair so decided the other day in answer to a question propounded by the gentleman from Maine, [Mr. WASHBURN.] The only question that arises in this case is, how is this question of privilege to be got at? In order to ascertain whether a question of privilege arises, it is necessary to know what the orders of the House were. I will therefore ask the Clerk to read the resolution passed by the House under which this committee was raised.

The resolution was read, as follows:

"Resolved, That the message of the President concerning

the constitution framed at Leecompton, in the Territory of Kansas, by a convention of delegates therein, and the papers accompanying the same, be referred to a select committee of fifteen, to be appointed by the Speaker; that said committee be instructed to inquire into all the facts connected with the formation of said constitution, and the laws under which the same was originated, and with all such facts and proceedings as have transpired since the formation of said constitution, having relation to the question or propriety of the admission of said Territory into the Union under said constitution, and whether the same is acceptable and satisfactory to a majority of the legal voters of Kansas; and that said committee have power to send for persons and papers."

That is the order of the House made to this committee. It was, that they should inquire into all the facts in reference to the formation of this constitution. That was the subject-matter referred to this committee. The resolution did not direct them to report any bill, or anything to the House for its legislative action. It was simply a committee of inquiry. Now, have that committee obeyed the order of the House? If they have not, then they have violated the privileges of the House, and are subject to its action.

Mr. STEPHENS, of Georgia. The merits of that report are not before the House; and I rise to a question of order, that the gentleman shall confine himself strictly to the appeal from the decision of the Chair.

Mr. GROW. Mr. Speaker, it comes with an ill grace from the gentleman from Georgia, who, in his remarks, went over the whole question in all its bearings, to make a point of order on me. The gentleman spoke freely, without objection from this side of the House. No point of order was raised on him.

Mr. STEPHENS, of Georgia. I confined myself strictly to the merits of the question before the House. If the gentleman wants to go into a discussion of the resolution, and what the committee has done, it is what I want, but it is what this proceeding will not let us do.

Mr. GROW. If the gentleman rises to a question of order, let him state it. He cannot take the floor from me to debate the question.

Mr. STEPHENS, of Georgia. I raise the question of order that the gentleman is not confining himself to the question before the House.

Mr. PALMER. I wish to know whether the gentleman from Georgia did not declare to this House that the committee had executed its order fully; and yet the gentleman says that he did not go into the merits of the question as to what the committee had done at all.

Mr. STEPHENS, of Georgia. I stated that I was prepared, at the right time, to show it; but I did not go into any argument to show it.

Mr. PALMER. The gentleman declared that the committee had executed its order fully.

Mr. CRAIG, of North Carolina. I call the gentleman from New York to order.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor, and he will confine himself to the question before the House.

Mr. GROW. The question before the House is, whether the question raised by the gentleman from Illinois [Mr. HARRIS] is a question of privilege? Then, to show whether it is a question of privilege or not, I propose to ask the House, whether the committee have obeyed the orders of the House? If they have not, I take it the Chair will decide that it is a question of privilege. Then I come to the point, how is the House to have their orders obeyed? and to show that, I have read the language of the order. You have raised a committee, which has been appointed by the Speaker, to inquire into all the facts and circumstances connected with the formation of a constitution for Kansas at Leecompton last fall, and presented to the House by the President of the United States, accompanied by a message. That was the subject referred to them. Now, it may be difficult to find in the books an exact precedent which shall apply to this case precisely, for the reason that the parliamentary law requires that when a legislative body orders a thing to be done through the medium of a committee, the presiding officer shall appoint a majority of that committee from those who are in favor of carrying out that

order. And when the presiding officer appoints a committee, a majority of whom have declared themselves against the proposition, it is a violation of parliamentary law, and we should be at a loss to find a precedent to apply to such a case. I presume, under the circumstances, the raising of this committee has no precedent. The parliamentary law is clear. There is no question on either side of the Chamber in reference to it; that when a special committee is raised, the friends of the subject on which it is raised, are to compose the majority of the committee. I need not read the old phraseology of the rule in which it is prescribed; as it is said by Grey, "that a child is not to be put to a nurse that cares not for it."

Mr. WINSLOW. I rise to a question of order. The gentleman from Pennsylvania is out of order. His remarks are foreign to the point before the House.

The SPEAKER. The Chair feels some delicacy in ruling upon the question, inasmuch as the gentleman is commenting upon the action of the Chair.

Mr. GROW. I am commenting on the subject in this view of it, that if a majority of a committee are opposed to the order of the House, and were known to be so opposed to it before they were appointed, how are you to compel them to obey the order of the House, except it be upon the report of the minority?

The SPEAKER. If the gentleman from Pennsylvania will pardon the Chair for correcting him, he is mistaken in the fact which he assumes. The matter referred to the committee was the President's message.

Mr. GROW. That is a difference of opinion between the Chair and myself; and the difference arises out of the construction of the resolution. My construction is, that the only subject-matter referred to the committee is an inquiry into all the facts.

Mr. DAVIS, of Maryland. I rise to a question of order. I am very reluctant to interfere with the gentleman's remarks, but the constitution of this committee has nothing to do with the question before the House.

Mr. GROW. I have no further remarks to make upon that point. If the majority of the committee, then, choose to violate the order of the House, and the minority of the committee have not the right to bring the facts to the attention of the House, how is the House to take action on it at all, and compel the committee to obey the order of the House? For instance, if you refer a bill to a committee, a majority of whom are against it, and opposed to any legislation on the subject, with instructions to make certain inquiries in relation to it, and report it back to the House, the majority of the committee being opposed to the bill refuse to report it back at all; I ask you if it would not be a question of privilege for any member to rise in his place and state that the order of the House had not been obeyed; that the committee had refused to carry out the instructions of the House in order to prevent legislation on the subject; I take it, that would be a clear case. We need no precedent for it. Common sense is precedent enough. This committee, a majority of it, are opposed to making any investigation. A member rises in his place and states that the committee have refused to make the investigation which the House has ordered, yet the gentleman from Georgia says we must wait until the majority of the committee have reported before we can raise the question.

Mr. STEPHENS, of Georgia. I wish to correct the gentleman. The gentleman from Pennsylvania says that the majority of this committee are opposed to investigation. Now, sir, so far as I am concerned, I am in favor of investigating every material fact bearing upon the subject. I think the committee has done it, and at the proper time I shall be ready to show it. I did not wish the remark should go into the gentleman's speech that the majority of the committee are opposed to investigation, without reply. The committee have investigated every material fact having any bearing upon the propriety of admitting Kansas as a State into the Union.

Mr. GROW. The resolution instructs the committee to inquire into all the facts connected with the formation of that constitution, whether they are material or not.

Mr. STEPHENS, of Georgia. I rise to a

question of order. The gentleman is speaking upon the report of the committee. When that report is before the House will be the time to discuss that subject; and I shall then be prepared to show that it does cover every fact.

Mr. GROW. I was just speaking upon the point made by the gentleman from Georgia, that the report had not come in, when the gentleman from Georgia interrupts me; and now when I commence to answer the point of the gentleman's interruption, I am interrupted by a question of order. So it seems that there is great trouble upon that side of the House. When no objection was made to the gentleman's proceeding in his own way, I hoped I should not be broken up in my argument.

Mr. STEPHENS, of Georgia. I rose to interrupt the gentleman after he had made a statement of fact in regard to the committee. I corrected that statement of fact. Then the gentleman went on to make another statement which involves a fact as to the report.

Mr. GROW. I made no such statement; but I read from the Journals of the House.

The SPEAKER. The Chair thinks the gentleman is getting beyond the line of legitimate debate.

Mr. GROW. I have no disposition to get out of the line of debate; but I do not like to be interrupted by the gentleman, after he has been allowed to proceed in his own way.

The resolution provides:

"That said committee be instructed to inquire into all the facts connected with the formation of said constitution and the laws under which the same was originated, and into all such facts and proceedings as have transpired since the formation of said constitution, having relation to the question or propriety of the admission of said Territory into the Union under said constitution, and whether the same is acceptable and satisfactory to a majority of the legal voters of Kansas."

That was the order of the House. No discretion was left to the committee whether they were to investigate as to what they conceived material facts. They were to investigate all the facts relating and pertaining to the formation of the constitution. Such being the order, how can it be violated? By the committee refusing to investigate the facts. And when they do that it is a question of privilege, and the House have the right to have their orders obeyed. How can they have them obeyed? The gentleman from Georgia says, only by waiting until the majority make a report, when the minority can come in and raise the question that they have not obeyed the order of the House.

Mr. Speaker, you read the law, and I need not state to the House that the minority has no right to make a report except by unanimous consent. Then the majority can trample down the order of the House; and will they come in and say that they have violated it? Of course not. They are wrong-doers, and they will not report that they are in the wrong. If a single member objects to the minority stating the facts, it can be ruled out, and thus you can prevent the House from ever arriving at that point of privilege of compelling its committee to obey the orders of the House. It is only by courtesy, then, that it is to come in! Are the privileges of the House to rest upon the courtesy of members? They are rights higher and above the rules of the House. They rest upon no courtesy. The gentleman from Georgia said you could compel your committee to obey the order by offering a resolution on resolution day. When is resolution day? When you can get two thirds to suspend the rules of the House, you can offer your resolution, and in no other case, unless the States be called; and when the States are called a member can offer a resolution. But you may go through a whole session without ever reaching a call of the States. A large minority of the House could prevent it for a whole session, and thus again the privileges of this House are made to rest upon courtesy.

After its rules and orders are violated, and the majority refuse to obey them, it is the right of any member upon this floor to present that fact to the House, and they may determine what shall be their action; and in this case, supposing it is entertained as a question of privilege, the House may determine the proceedings of the committee when they are presented, whether they have complied with the order. Then we shall know whether the rights of the House have been in-

vaded, and what wrong has been done. In that way the House has the means of knowing whether its order has been obeyed. If they determine that it has not been obeyed, they can issue new instructions, or they can discharge the committee and raise another, or they can lay aside the whole subject, as they please.

In the mode pointed out by the gentleman from Georgia, the privileges of the House, so far as compelling its committee to obey its order, rests upon courtesy, and courtesy alone; for there is no way of compelling them to obey, so long as there is one single man to object.

The gentleman from Georgia read from parliamentary law to show how the remissness of the committee could be obviated. I agree with him that it is to be obviated in the way pointed out. But this is no case of remissness. It is where there is a total disregard of the order of the House, which is a contempt of the House. How are we to reach such a case as that? We may read the parliamentary books, and I presume we will find no such case as this. We have an order of the House upon a certain subject, and the committee is formed with a majority against that subject. They voted against it when it was on its passage. That was the subject referred to them. No subject or measure of legislation can be reported under the order. They can only report these facts. The majority of them voted against any investigation.

Mr. WINSLOW. I call the gentleman to order. He is discussing matters not before the House. The gentleman cannot know what the committee did, until they report.

The SPEAKER. The gentleman is not in order.

Mr. GROW. I mean to say this; a majority was placed upon that committee who voted against the resolution. It was a violation of parliamentary law, then, in the beginning, in appointing that committee; and the committee then violated the order of the House in their conduct if they refused to investigate.

Mr. MAYNARD. I rise to a point of order. It is out of order to state that parliamentary law was violated by the action of the Speaker. He has no right to arraign the Speaker of the House.

The SPEAKER. The Chair intimated as much to the gentleman from Pennsylvania, and hoped that he would not repeat it again.

Mr. GROW. I take it that the acts of the officers of this House, and the acts of members, are proper subjects for consideration.

The SPEAKER. At the proper time it would be so. In the discussion of this subject, the Chair is of opinion that the action of the Speaker, in constituting the committee, is not the proper subject of debate.

Mr. GROW. Then the Chair rules that that is not pertinent, and the subject of legitimate argument on the point before the House.

The SPEAKER. The opinion of the Chair is that it is not pertinent.

Mr. SEWARD. Do I understand the gentleman to say that the appointment of the committee was a violation of parliamentary law?

The SPEAKER. The Chair thinks it is hardly in order for the gentleman from Pennsylvania to make a response to that question, as the Chair has ruled that discussion in that connection is not in order pending this question.

Mr. GROW. All I purpose to do in this discussion is to comment upon the acts of men. With their motives I have nothing to do. I disagree with men upon this floor in regard to matters of legislation. I believe that some matters of legislation now pending are as great outrages as were ever attempted to be perpetrated by a legislative body; but I charge no want of sincerity to those who advocate them, because the human intellect is so constituted that men hold all shades of opinion on the same subject, owing to diversity of education, or the stand point from which they view the same subject.

But I pass that by. But before taking my seat I wish to say one word upon a point to which I should before have adverted had I not been interrupted—that is, where a committee of this House is raised, and a subject-matter of legislation is referred to it, under an order of the House, and that committee comes in and reports to the House through its majority, and the minority of the committee are allowed to report only by the courtesy of the House. There is no question about that.

But if a committee is charged with an express duty, separate from the general duties of the committee, by resolution of the House, and the committee refuses to carry out that instruction, then, sir, I hold that it is a question of privilege that can be raised by any member of this House. And then the facts are presented to the House; the journal of the committee, showing its action, is laid before the House; and the House determines whether the committee has complied with its order or not. If it has, then, of course, the committee is free from censure; if it has not, then it is subject to the censure of the House, and the House can either give the committee new instructions, or discharge it entirely and raise a new one.

The question now presented by the gentleman from Illinois is: Has this committee obeyed the orders of the House? He proposes to lay before the House the journal and proceedings of the committee, all that they have to say in their defense, as well as what is charged upon them. That presents the question of privilege in the only shape in which it can be presented as a right. In any other mode it can only be presented as a matter of courtesy, and I hold that the privileges of the House can rest upon no such basis. In my judgment, this is a clear case of privilege which any member has a right to raise, and it becomes the duty of the House to act upon it, and to take such a course as they may think proper.

Mr. ENGLISH. Mr. Speaker, I am one of those who believe that parliamentary law and practice required that this committee should have been so constituted as that a majority of it should have reflected the opinions of the majority of this House; but whether so constituted or not, I hold that it is the duty of the committee to carry out the order of the House; and if they fail in so doing, that they would be in contempt of the House, and ought to be discharged, and another committee appointed that would carry out the order of the House, or such additions made to the committee as would attain that end. But, Mr. Speaker, how are we to know whether this committee has carried out the order of the House in the present aspect of the case? Here we have, on the one hand, the gentleman from Illinois, [Mr. HARRIS,] who states that the committee have not carried out the order of the House; and here is the gentleman from Georgia [Mr. STEPHENS] on the other, who comes forward and takes precisely the opposite ground, and alleges that the committee have executed the order of the House. Well, they are both highly honorable gentlemen, gentlemen of undoubted veracity. How can the House tell, in this state of the case, what the facts are, and whether the committee has discharged its duty or not? Sir, it cannot be done by allowing individual members to come forward and make statements of what has transpired in the committee. The proper way to get at it, in my humble judgment, is to submit here the official record of the proceedings of the committee. I understand that such a record was kept. I understand that that record includes the entire action of the committee, includes the report of the gentleman from Georgia, includes everything connected with the whole investigation, from beginning to end.

Now, sir, in my judgment, the proper way is not to take verbal statement of any member of the committee, or to allow it to be made; but let the gentleman from Illinois submit his statement—call it a report, or record, or what you will—and let the gentleman from Georgia do the same with his. We shall then have all the facts before us.

Mr. QUITMAN. I am sorry to be obliged to call the gentleman from Indiana to order, but I feel bound to do so. My point of order is, that the question before the House is whether the decision of the Chair, that this is not a question of privilege, shall be sustained? That is the whole question.

Mr. ENGLISH. That is the very point I am speaking to.

Mr. QUITMAN. I am not prepared at this moment, before a report has come in, to go into the question, whether the committee has discharged its duty? We shall be able, I think, to show, at the proper time, that we have not failed to perform our duty, as gentlemen charge.

The SPEAKER. The pending question is, whether this is, or is not, a privileged question?

Mr. ENGLISH. I am alluding to these facts

for the purpose of giving my views in reference to that point.

Now, I desire to inquire of the Chair whether, if the House should allow the gentleman from Illinois and the gentleman from Georgia to submit their statements, reports, or whatever you may call them, so that all the facts may be brought before the House, it will not then be in order to move to print those statements or reports, and to postpone their consideration to some future day, in order that gentlemen may examine the records, to see whether the committee has executed the order of the House? for this is the point in dispute. I submit that question to the Chair.

Mr. STEPHENS, of Georgia. That is exactly what I have been desiring all the time, that the House should allow our report to be presented, and also the statement, or report, or record, or what not, of the minority, and order them to be printed.

Mr. GROW. I rise to a point of order.

Mr. ENGLISH. I have the floor.

Mr. GROW. My point of order is, that the gentleman from Georgia cannot interrupt the gentleman from Indiana except for personal explanation. The gentleman was so kind to me when I was speaking that I want to return it.

The SPEAKER. The gentleman from Indiana propounded the question to the Chair, whether or not, if the report and journal and the views of the minority of the committee should be presented, it would be in order to move to print them, and postpone their consideration to a day certain?

Mr. ENGLISH. Yes, sir; that is my question.

The SPEAKER. The report can be received by unanimous consent; and when the report shall have been received by the House, and also the views of the minority, it will then be competent for the House to take such order as it chooses in regard to them; and a motion to print and postpone would be in order.

Mr. ENGLISH. I desire to ask further, whether, in the event that this matter shall be postponed to a day certain, after receiving the statements of these gentlemen, and adopting an order to print, it will not be in order, when that day arrives, to discharge this committee, to recommit with instructions, or to add to the committee?

The SPEAKER. The papers will be within the control of the House; and it is the impression of the Chair—the Chair throws it out as an intimation—that the House can make whatever disposition of them it chooses, either by discharging the committee, recommitting, re-instructing, or in any other way.

Mr. ENGLISH. Then, I appeal to parties on all sides to allow that course to be adopted, to receive the papers from both these gentlemen, and fix a day when the matter shall be considered; and then let the gentleman from Illinois withdraw his appeal. [Cries of "No! no!"] I ask the unanimous consent of the House that the gentleman from Illinois and the gentleman from Georgia be allowed to submit their reports.

Mr. WASHBURN, of Maine. I object now, and at all times.

Mr. HARRIS, of Maryland. I ask the gentleman from Indiana to yield to me for a suggestion.

Mr. WASHBURN, of Maine. I would like to state to the gentleman from Indiana the reasons why I object.

[Loud cries of "Object!"]

Mr. HARRIS, of Maryland. I ask the gentleman from Indiana to permit me to have read a resolution which, if he do not see fit to adopt it as his own, I will offer after he has taken his seat, if I am fortunate enough to get the floor. I think it will meet fairly the difficulties of this case.

The resolution was read for information, as follows:

Resolved, That the whole matter now before the House be made the order of the day for Tuesday, the 16th instant, at one o'clock, when the majority report of the special committee on Kansas affairs, together with the report of the minority of said committee, shall be submitted to the House.

Mr. WASHBURN, of Maine. I object.

Mr. ENGLISH. I take it that my proposition is a better one than that. I want these reports to be printed, so that we may have an opportunity of considering them.

Mr. UNDERWOOD. With the leave of the gentleman from Indiana, I desire to present a

proposition which I think will exactly meet his views, and meet the exigencies in which the House finds itself placed. Hoping that this controversy and difficulty may pass away as a summer cloud, leaving no trace behind it, and enabling the country to come directly to a proper understanding of all this matter, and to arrive at a just and patriotic conclusion, I ask the unanimous consent of the House to offer the following resolution:

Resolved, That both branches of the special committee to whom was referred so much of the President's message as relates to Kansas, &c., be permitted, each, as fully as it pleases, to submit to this House all proceedings of said committee, or failures to proceed, and all facts which either branch may regard as material or proper; that such reports, when made, be printed, and be made the special order for Wednesday next.

Mr. WINSLOW. I object.

Mr. STANTON. If the report of the majority of the committee recommends no action by the House, so that there can be no danger from its presentation, I certainly can see no objection to the proposition of the gentleman from Indiana, [Mr. ENGLISH.]

Mr. ENGLISH. I understand this to be the state of the case. Even if the gentleman from Georgia should, in the statement which he submits, recommend the adoption of a resolution by the House, it does not follow that the House is bound to adopt that resolution, or to concur in the statement of the gentleman from Georgia. Not at all. The whole subject will be open for the action of the House when the day arrives. Therefore, the objection of the gentleman from Ohio amounts to nothing. We are not going to be entrapped in this thing. When the day arrives to which this matter will be postponed, it will be then open to the action of the House. We may then discharge this committee, and provide for the appointment of another committee that will execute the order of the House; or we may get at it in some other way, by recommitting it with instructions, or adding to the number of the committee. There are various ways in which the House can secure that which it desires to be done.

Mr. MONTGOMERY. I desire to ask the gentleman this question: suppose that after we have got the reports in the House the previous question should be called, and that it should be seconded: what would then become of the question?

Mr. ENGLISH. If they have a majority, I say let the will of the majority prevail, no matter what that may be. That is my answer to the gentleman from Pennsylvania. I apprehend, however, that the majority will be the other way, and that the order of the House will be carried out, as it ought to be carried out.

Mr. STEPHENS, of Georgia. I reply to the gentleman from Pennsylvania, [Mr. MONTGOMERY,] that I have repeatedly stated that I wish to give ample time for debate on this report. Perhaps the gentleman did not hear me. I wish the House to understand that I will allow ample time for debate. I will allow three days; and I think that is enough.

Mr. MONTGOMERY. The honorable gentleman from Georgia is but one member of the House. There are a great many others. If the previous question should be called and seconded, that would be an end of this controversy.

Mr. STEPHENS, of Georgia. I generally speak for my friends.

Mr. MONTGOMERY. I do not know that the gentleman is authorized to speak for them.

Mr. ENGLISH. I have this much further to say on the subject. I understand that the gentleman from Georgia proposes, in his contemplated report, simply to submit a resolution, expressing an opinion. That resolution will not be final at all. He does not propose, as I understand him, to submit a bill, or joint resolution, providing for the admission of Kansas under the Lecompton constitution. I ask the gentleman from Georgia whether he designs anything of the sort?

Mr. STEPHENS, of Georgia. I do not.

Mr. ENGLISH. Very well; then there is no way in which the anti-Lecompton men in the House can be entrapped, because the gentleman simply proposes to submit a resolution.

Mr. CAMPBELL. If the subject be brought legitimately before the House, it would be, in my opinion, the right of a member to move to amend by inserting a bill, and the House might be

brought speedily to a vote, without debate; and I rise for the purpose of suggesting to the gentleman from Indiana, that he affix a proviso to his resolution, excluding any right on the part of any member, when that report is made, to introduce a bill to admit Kansas under the Leecompton constitution, and to have it put to a vote, so long as five members of the committee may desire further time to present the facts before the House and the country. With a proviso of that kind, I will support it.

Mr. HOUSTON. I desire to ask this question: whether it would be in order to move to strike out a resolution and to insert a bill; whether any such proposition was ever made or entertained by the House of Representatives?

The SPEAKER. The Chair thinks it would not be in order. The Chair never knew such a proposition to be made.

Mr. CAMPBELL. I recollect that a foreign State was once admitted into the Union by a joint resolution. Why not admit another State in the same way?

The SPEAKER. Did not that joint resolution originate in the Committee of the Whole on the state of the Union?

Mr. COLFAX. I desire the ear of my colleague for a suggestion to be made to him. He must see that the objections on this side of the House, to allowing unanimous consent for the introduction of these reports out of their order, are insuperable. But I have no doubt that if he would modify his proposition so as to call for the official journal of this committee, it would be heartily acceded to on this side. With the arguments of the majority and minority of the committee before us, we can judge by the official record whether they have carried out the instructions of the House.

Mr. STEPHENS, of Georgia. If the gentleman will allow me for a moment: it is not in order, but I must do it in reply to the gentleman in the latitude of debate he has taken. There was no official journal kept by this committee. If there was any record kept of the proceedings of the committee, (and I think there was,) it was unofficial. The committee had no clerk, and no journal was ever read to the committee.

Mr. COLFAX. I am perfectly willing, then, that the committee shall get together and agree upon what shall be their official record. Those fifteen gentlemen can certainly remember every material proposition that was presented to them.

Mr. HARRIS, of Illinois. I desire to say a word.

Mr. ENGLISH. I desire to say a word in reply to my colleague, [Mr. COLFAX,] and then I will yield to the gentleman from Illinois. There is no necessity for the course suggested by my colleague. A journal was kept by the gentleman from Illinois, who is chairman of the committee, and he now presents what purports to be a record of the proceedings of the committee, in which is embodied the identical paper which the gentleman from Georgia [Mr. STEPHENS] desires to report; and I take it that if the gentleman from Georgia reports a portion of the same facts embraced in the statement which the gentleman from Illinois proposes to submit, it makes no material difference.

Mr. HARRIS, of Illinois. I wish to reply to the statement of the gentleman from Georgia, [Mr. STEPHENS,] that there was no journal kept of the proceedings of the committee.

Mr. STEPHENS, of Georgia. No official journal.

Mr. HARRIS, of Illinois. I do not know what the gentleman calls an official journal. I do know that it has been the uniform practice of the committees of this House to keep a journal of their proceedings, and that the chairman is charged with that duty, unless the committee is allowed a clerk by order of the House. As chairman of that committee, I kept a careful record of every proceeding of the committee, which was signed by me, and is as regular and correct as if it had been made out by forty clerks, and is the official journal of the committee.

Mr. STEPHENS, of Georgia. All I can say is, that as far as I know, if there was an official journal kept, the majority of that committee never heard it read. It could not be an official journal of proceedings unless it was read and approved by the committee, as the Journals of this House

are read and approved by the House. It could not be an official journal, unless it received the sanction of the committee itself.

Mr. GROW. I desire to understand the proposition which is made, for there seems to be a diversity of opinion in reference to it on this side of the House. It is, as I understand it, that the journals of this committee, with the reports of the majority and minority of the committee, are to be submitted to the House, and postponed until some day when the question of privilege will again come before the House. Is that to be the record upon which we are to act when the question of privilege comes up? Is that what the gentleman means?

Mr. ENGLISH. What I propose is simply this: that the gentleman from Illinois [Mr. HARRIS] and the gentleman from Georgia [Mr. STEPHENS] shall have leave to present their statements or reports, or whatever you please to call them, that they shall be printed; and that all further action on the subject be postponed until some subsequent day—say until this day week. Then, if I understand it, the question before the House will stand precisely as it does now.

Mr. STEPHENS, of Georgia. I understand the proposition to be this: the gentleman from Illinois withdraws his appeal from the decision of the Chair. By unanimous consent, then, the reports of the majority and minority of the committee shall be received, and that they shall then be postponed until this day week. I will agree to that.

Mr. ENGLISH. I hope nobody will object. Mr. WASHBURN, of Maine, Mr. DEAN, and others, objected.

Mr. HOUSTON. I hope the rules will be administered strictly and let us go on and vote.

[A message was here received from the President of the United States by J. B. HENRY, his Private Secretary, informing the House that he had approved and signed the printing deficiency bill.]

Mr. QUITMAN. I call the previous question.

Mr. ENGLISH. I have not yielded the floor.

Mr. MORRILL. I wish the gentleman from Indiana to yield to me for a moment.

Mr. ENGLISH. I prefer to say what I have to say, and then yield the floor altogether.

Mr. MORRILL. Being a member of that committee I desire to make a single suggestion.

Mr. ENGLISH. I will yield to the gentleman.

Mr. MORRILL. The suggestion I have to make is, that the gentleman from Illinois shall submit his proposition, and that the report of the committee shall be received informally and printed, and then the whole subject shall be postponed for one week.

Mr. ENGLISH. I wish to submit to the Chair whether, if these majority and minority reports are submitted now and ordered to be printed, the matter will not then come up in precisely the shape in which it now stands?

The SPEAKER. In the opinion of the Chair the papers would be before the House for debate and consideration.

Mr. ENGLISH. In the same condition in which we have them to-day?

The SPEAKER. The papers would be before the House, and the question pending would be on the appeal from the decision of the Chair.

Mr. ENGLISH. I understand, then, that the questions will come up in the same order in which we leave them to-day?

The SPEAKER. In the same.

Mr. ENGLISH. Then I hope there will be no objection.

Mr. GREENWOOD. I object to this discussion.

Mr. WASHBURN, of Maine. I desire to give an explanation of my objection to the proposition of the gentleman from Indiana. It is that when the report of the committee comes before the House, by unanimous consent or otherwise, it is in the possession and under the control of the House. Then, if a majority be opposed to the recommitment of the report and these papers, they can vote down that proposition. Then, if there is a majority in favor of sustaining the previous question, they can sustain the previous question, and it will bring the House directly to a vote upon the resolution reported by the committee; and it will also be in order for the gentleman from

Georgia to move a joint resolution for the admission of Kansas, as a substitute for the resolution reported by the committee; and then the majority of the House will have it in their power to pass that resolution. And I go one step further, and say that even if there were no resolution appended to the report, if the House accept that report, and nothing more, there is no gentleman here at all conversant with the views of gentlemen on the other side of the House, and recently expressed in the other branch of the Legislature, but would hold that the adoption of a report like that of the majority of the committee would be equivalent to a vote on the part of the House to admit Kansas as a State, and the adoption of such a report by each of the two Houses of Congress would amount to a sufficient legislative admission of Kansas, or recognition of it as a State. For these reasons, and unless this report comes in merely upon a question of privilege, and as ancillary and subordinate to that, and not as the foundation of any substantive legislative action, and in no contingency to be construed to admit Kansas into the Union, I object to it.

Mr. STEPHENS, of Georgia. I would state to the gentleman from Maine, and to that side of the House—not, however, by way of concession at all, but simply because I want them to know it—that it is not my object, nor is it the object of this side of the House to introduce anything, or any joint resolution, or to take any action further than the resolution itself, in reference to the admission of Kansas.

Mr. WASHBURN, of Maine. Then the gentleman will accomplish his object by allowing his report to be introduced as a part of the record by the gentleman from Illinois.

Mr. STEPHENS, of Georgia. No sir; I stand by the rights of that committee.

Mr. ENGLISH. I have been requested to yield the floor a moment to the gentleman from New Jersey. I will do so, and then I will yield no further.

Mr. ADRAIN. I am a member of the investigating committee, and that is the only reason that I have risen to say a word. I see we are approaching a definite point in this matter. At that we ought to be rejoiced. It appeared here, this morning, as if we should be involved in a great excitement; but it is passing away, and I hope it will pass away with good feeling. The proposition now made by the gentleman from Indiana is a correct proposition, and one which ought to be adopted by this House, on this side and on that. It was said by the gentleman from Georgia [Mr. STEPHENS] that he hoped there was nothing unfair in this matter. I say to him that there is nothing unfair, so far as my action is concerned. I think it is fair to the House, and fair to the country, that the reports should be received by this House, and that they should be printed, so that the House may know what they are, and what the definite question is to be decided when this matter comes up next week.

Mr. PHILLIPS. I rise to a question of order. I wish to know whether it is in order to discuss anything except the merits of the question of privilege?

The SPEAKER. It is not strictly in order; but other gentlemen have been allowed considerable latitude of debate.

Mr. ADRAIN. I know it is not in order; but a great deal has been said out of order; but we are on a sort of compromise this morning.

Mr. CLAY. I object to these compromises.

Mr. ENGLISH. I have listened to all the objections which have been urged against my proposition, and it does not seem to me that any of them have sufficient weight; and I hope, upon further consideration of the subject, that they will be withdrawn. In order to accommodate the views of some gentlemen who have interposed those objections I will modify my proposition still further so that it shall be in this shape: that the gentleman from Illinois, and the gentleman from Georgia, be allowed by unanimous consent to submit their reports; that an order be made to print them; but that their reports shall not be accompanied by any bill or joint resolution.

Mr. WASHBURN, of Maine. I object to that for the same reasons that I objected to the other proposition.

Mr. HUGHES. I rise to a question of order. Mr. WASHBURN, of Maine. If the gentle-

man from Indiana will add to his proposition, that no bill or resolution shall be offered by way of amendment, or adopted by the House, and that no action of the House shall be construed as an admission of Kansas, I will not object to it.

Mr. HUGHES. I rose to a question of order; and I wish the Chair and the members to understand that I insist upon my rights. I have the right to be heard, and I intend to have it. My question of order is this: that the question before the House is upon the appeal of the gentleman from Illinois [Mr. HARRIS.] I recognize no form of submitting a proposition for the action of a legislative body, except in the form of a motion or resolution. I conceive that the line of argument my colleague has pursued has no reference to the question before the House. It has been objected to by other gentlemen; and I insist upon the objection.

Mr. ADRIN. I rise to a question of order. The gentleman from Indiana is continually rising to questions of order, and he is not in order in doing so. [Laughter.]

Mr. HUGHES. The gentleman is too late.

Mr. ENGLISH. I have no disposition to participate further in the debate, and I appeal to the House for the last time, whether the proposition I have submitted will receive the unanimous sanction of the House. Let each of the gentlemen submit their reports now, but without bill or joint resolution; let an order be made to print them, and that the whole subject be postponed until this day week; and I would here remark, that neither of the gentlemen propose to submit either bill or joint resolution; and it is well known, and has been so stated by the Speaker, that a simple resolution cannot be amended so as to make it a bill or joint resolution, and consequently no advantage could be taken. Is there any objection?

Mr. WASHBURN, of Maine. I object.

Mr. HUGHES. I object.

Mr. ENGLISH. Then I move to postpone the further consideration of this subject until this day week, and call for the previous question upon it.

Mr. STEPHENS, of Georgia. I hope it will not be postponed, but that we will have a vote directly upon the question.

Mr. JONES, of Tennessee, moved to lay the whole subject on the table.

Mr. STEPHENS, of Georgia, called for the yeas and nays.

Mr. DAVIS, of Indiana. Was not that question taken yesterday?

The SPEAKER. It was.

Mr. DAVIS, of Indiana. Is it in order to make that motion again?

The SPEAKER. The Chair is of opinion that it is, under the ruling the Chair made the other day upon a question raised by the gentleman from Virginia. The Chair is of opinion that it would not be in order to repeat a motion to lay on the table while the matter is in the same legislative condition; but in this instance debate has ensued, and the House is entitled to the privilege of a motion to lay upon the table after that debate.

The yeas and nays were ordered.

Mr. MILLSON. I desire to inquire of the Speaker whether, if the previous question should be sustained, it would not cut off the motion to postpone?

The SPEAKER. It would.

Mr. HARRIS, of Illinois. Has the previous question been demanded on the motion of the gentleman from Tennessee, [Mr. JONES?]

The SPEAKER. It has not. The gentleman from Tennessee has moved to lay the appeal upon the table. The Chair would suggest to the gentleman from Indiana that, if the previous question should be sustained, it would cut off the motion to postpone.

Mr. ENGLISH. Very well; then I withdraw the demand for the previous question.

Mr. STANTON (at three o'clock, p. m.) moved that the House do now adjourn.

The motion was disagreed to.

The question was taken on Mr. JONES's motion; and it was decided in the negative—yeas 109, nays 111, as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bockock, Bonham, Bowie, Bryan, Burnett, Burns, Caskey, Chapman, John B. Clark, Clay, Clemens, Cushing, Cobb, John Cochrane, Corning, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis, of Mississippi, Dewart, Dimmick, Dowdell, Edmundson,

Elliott, Eustis, Faulkner, Florence, Gartrell, Gillis, Goode, Greenwood, Gregg, Haich, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Maclay, McQueen, Mason, Maynard, Miles, Miller, Milson, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbott, George Taylor, Miles Taylor, Tripp, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—109.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Billinghurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Matteson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottier, Purviance, Ricaud, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—111.

So the House refused to lay the appeal upon the table.

During the call of the roll,

Mr. FENTON stated that Mr. CLARK B. COCHRANE had paired off with Mr. KEITT.

Mr. PURVIANCE stated that Mr. EDIE had paired off with Mr. MOORE.

Mr. PHILLIPS stated that Mr. HICKMAN was detained from the House by indisposition, and had paired off with Mr. SICKLES.

Mr. DAVIS, of Maryland, stated that Mr. HILL had paired off with Mr. McKIBBIN.

Mr. KEITT stated that he had paired off with Mr. CLARK B. COCHRANE upon all questions relating to this subject.

Mr. SHORTER stated that Mr. MOORE was confined to his room by indisposition, and had paired off with Mr. HICKMAN.

Mr. SPINNER stated that Mr. MORSE, of New York, had paired off with Mr. GARNETT.

Mr. JOHN COCHRANE stated that Mr. CLARKE, of New York, was confined to his bed by indisposition.

Mr. LAWRENCE said: I have voted "ay;" but with the understanding I have had that the appeal will be withdrawn, I change my vote, and vote "no." I believe the decision of the Chair is correct.

Mr. ENGLISH said: Without intending to commit myself against the decision of the Chair, I shall, upon this question, vote "no."

Mr. GROESBECK said: With the same understanding as my colleague that the appeal shall be withdrawn, I vote "no."

Mr. HALL said: Before I vote I desire to say that some two weeks since, upon an understanding with Mr. WINSLOW, I paired off with Mr. BRANCH. My understanding of the terms of that pair is that it expired on Monday last. I wish to inquire of the gentlemen from North Carolina [Mr. WINSLOW] if that was his understanding also?

The SPEAKER stated that the gentleman from North Carolina was not in the Hall.

Mr. HALL. Well, sir, I learn from members around me that my understanding is correct, and I desire to vote. Without committing myself against the decision of the Chair, I vote "no."

The result of the vote was then announced, as recorded above.

Mr. HARRIS, of Illinois, obtained the floor. Mr. MARSHALL, of Kentucky. Will the gentleman yield me the floor?

Mr. HARRIS, of Illinois. I will yield to the gentleman for a moment.

Mr. BURNETT. I object to this farming out of the floor. I insist upon proceeding regularly. Let the gentleman from Illinois make his speech; and, then, if my colleague can get the floor—

Mr. HARRIS, of Illinois. Well, I yield the floor unconditionally.

Mr. MARSHALL, of Kentucky, (at twenty-five minutes past three o'clock, p. m.,) moved that the House do now adjourn.

Mr. GREENWOOD demanded the yeas and nays.

The yeas and nays were ordered.

Mr. MARSHALL, of Kentucky, withdrew the motion to adjourn.

The question recurred on the appeal: "Shall the decision of the Chair stand as the judgment of the House?"

Mr. HARRIS, of Illinois. Mr. Speaker, after the long discussion that we have had this morning upon the question pending before the House, I do not feel disposed to occupy much of its time, particularly in view of the action that I propose to take. It was my purpose to have replied fully to the remarks of the gentleman from Georgia, [Mr. STEPHENS.] Both the arguments adduced and the positions taken by him I think I could meet and most successfully rebut. In that opinion all that has since been said more fully confirms me. But in view of the influence of friends who desire that the question should come up in a more simple form, I propose to adopt a different line of action.

When I proposed to submit the journal and minutes of the committee, I proposed to embody in them the report made by the gentleman from Georgia as I find it in the papers, as I supposed, published, as he announced it would be, by his authority. In that manner I should have presented the whole question to the House, embodying everything connected with the action of the committee, so far as the record of the committee is concerned, and so far as the action and views of the majority of the committee are concerned. The proposition, then, that I had in view, was one that, in my judgment, presented the whole case fully and fairly before the House; so that it could act understandingly and express its opinion upon the full case as presented. I am still satisfied that this can be done in a different way, and done as effectually.

Among the various propositions that have been presented, however, there has been none that fully meets my approbation. The gentleman from Georgia proposed that by unanimous consent he should be allowed to present his report; that the views of the minority respecting the action of the committee, which, in the opinion of the minority, embraced a question of privilege, should also be submitted; that both should be printed, and that their consideration should be postponed to some day next week. I would not consent to that arrangement in the form in which it was presented. Something further is requisite. The House will observe the position in which I and those who entertain opinions like those which I have expressed, stand. To attempt to report upon the merits of the propositions embraced in the resolution under which we were appointed, entertaining the views we now do, would be, to a great extent, to stultify ourselves, by attempting to report upon that which we allege has not been duly and properly investigated by the committee. Therefore, in discussing the proposition that I have made in connection with this question, which I hold to be a question of privilege, I have not discussed the merits or demerits of the proposed admission of Kansas. I have not alluded to that subject directly or indirectly, except as bearing upon the question that now arises. But I intend to reserve to myself and those who act with me, whatever the action of the House may be upon this special report, the right to present hereafter such views and opinions as we entertain upon the questions embraced in that resolution. The document embodying the views of the minority upon the action of the committee, amounts to little more than a demurrer to the action of the majority. If that demurrer should be overruled—of which I entertain no apprehension or fear whatever—then we of the minority will ask to present our views upon the question, so far as those views can be properly deducible from matters in the possession of the committee and in the possession of the House. And I here ask the gentleman from Georgia, whether, in case anything should occur hereafter, there would be any objection to the minority of the committee presenting their views on the question, which they have not done in this point of submission that I have made? I want to know from him now, whether there will be any objection on the part of him or his friends, as far as he is authorized to speak for them, to the adopting of such a course?

Mr. STEPHENS, of Georgia. I say to the gentleman, none whatever. That is why I delayed a week in presenting the report of the committee.

I have no doubt that the House would be willing to allow a week or ten days for the minority to present their report. I have no sort of objection; and I think I may speak with confidence for this side of the House.

Mr. LETCHER. I should like to understand this matter exactly. I do not know that I do understand it; but, if I do, I shall object. I understand the gentleman from Illinois to claim the right now to file before the House a demurrer to the action of the majority, as presented in the report of the committee. He asks that, on that demurrer to the action of the majority, he shall have the benefit of a trial before the House; and that, if he be defeated on that trial, he may come up again with a second report, and try the question over again.

Mr. HARRIS, of Illinois. I, and those with whom I act, claim nothing as a matter of benefit or privilege at the hands of those who oppose us in this thing; and if they want to object to the minority making a report, let them do so when this thing comes up.

Mr. LETCHER. I have no objection at all to the gentleman making his report in the regular way; but what I object to is this: that a minority of the committee should take one chance with their report, or their demurrer as the gentleman calls it, which is in fact a report, and then, having failed in that, be allowed to take another chance. I do not want any person to bind my action here, I have only risen in order to place myself in my proper position hereafter, that my own action may be controlled fairly and with a distinct understanding on the part of members.

Mr. HARRIS, of Illinois. I am very glad that the gentleman from Virginia has expressed himself so fairly as he has done. He only misapprehended—very greatly, however—the object which I had in view. It was not to claim anything at the hands of those who oppose those who have acted with me in this matter. But, as gentlemen have been anxious for a proposition on which all parties could agree, I proposed to submit that as a question of the purest fairness in the world; and one which I really supposed would not be objected to. I did not propose it from any particular desire that the House should assent to it; but because I apprehended that if I did not, some member might, when the question came up, do as the gentleman from Virginia declares he will do. I therefore thought proper to call the attention of the House to it. If that be the course which the gentleman is determined to take, then my course is determined.

Mr. CLAY. May I be allowed to ask what is the question before the House?

The SPEAKER. The appeal from the decision of the Chair, taken by the gentleman from Illinois.

Mr. CLAY. Has the gentleman withdrawn that appeal?

Mr. HARRIS, of Illinois. I have not.

Mr. CLAY. Then how came up these questions of compromise?

Mr. HARRIS, of Illinois. These questions have been before the House for the last two hours, by universal consent. That is how they came up.

Mr. CLAY. They have been objected to time and again.

Mr. HARRIS, of Illinois. They have been objected to and acquiesced in.

Mr. CLAY. I ask the gentleman whether he now withdraws his appeal.

Mr. HARRIS, of Illinois. I have not withdrawn it.

Mr. CLAY. Then I call for the regular order of business.

The SPEAKER. The gentleman from Illinois will confine himself to the subject-matter of the appeal.

Mr. HARRIS, of Illinois. If these propositions have been made with a view of coming to a common understanding in relation to the question presented to the House, the anxiety did not originate with me. I was anxious, however, to meet the views of friends with whom I have been acting upon this question. When I took the appeal from the decision of the Chair, I did it with a consciousness that the decision of the Chair was wrong, and ought to be reversed by the House.

Still, however, reserving to myself the same right which I claim, to make this report of mine whenever the report of the gentleman from Georgia shall be presented, I can withdraw the appeal which I have taken from the decision of the Chair, and shall do so without assenting to the presentation of the report of the gentleman from Georgia. I am compelled to that course by the declaration made by the gentleman from Virginia, [Mr. LETCHER.]

Had there been an understanding that this arrangement should be carried out as it was originally proposed to be carried out by gentlemen, in the spirit in which they professed to act, I would have been willing, for one, to withdraw any objection to the presentation of their report. After the declaration of the gentleman from Virginia, objecting to that arrangement, I shall withdraw my appeal from the decision of the Chair, and let the gentleman from Georgia take his chances to make his report.

On motion of Mr. SEWARD (at fifteen minutes before four o'clock, p. m.) the House adjourned till Monday next.

IN SENATE.

SATURDAY, March 13, 1858.

Prayer by Rev. C. H. HALL.

The Journal of yesterday was read and approved.

STANDING COMMITTEES.

The VICE PRESIDENT appointed Mr. HENDERSON to fill the vacancy in the Committee on the Post Office and Post Roads, which was created by the retirement of Mr. Thomson, of New Jersey.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 6) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1859—to the Committee on Finance.

A bill (No. 65) for the relief of Thomas Smithers—to the Committee on Pensions.

A bill (No. 208) for the relief of the heirs of Alexander Stevenson—to the Committee on Revolutionary Claims.

A bill (No. 210) for the relief of the legal representatives or assignees of James Lawrence—to the Committee on Public Lands.

A bill (No. 212) for the relief of N. C. Weems, of Louisiana—to the Committee on Private Land Claims.

A bill (No. 213) for the relief of Francis Wlodecki—to the Committee on Public Lands.

A bill (No. 218) for the benefit of the captors of the British brig Caledonia, in the war of 1812—to the Committee on Naval Affairs.

A bill (No. 225) to increase the pension of John Richmond—to the Committee on Pensions.

The message by which the above-named bills were communicated to the Senate, also transmitted a bill (H. R. No. 216) for the relief of Doctor Charles D. Maxwell, a surgeon in the United States Navy. It was not referred, the Senate having heretofore passed a bill of the same character.

PETITIONS AND MEMORIALS.

Mr. HOUSTON presented a resolution of the Legislature of Texas, requesting the Senators and Representatives of that State in Congress to use their best exertions to procure the enactment of a law for the payment to that State of the balance remaining in the Treasury of the United States of the appropriation for the payment of a certain portion of the public debt of Texas; which was referred to the Committee on Finance, and ordered to be printed.

Mr. BRIGHT presented the petition of D. Meriwether, praying that an appropriation be made for the payment of his salary as superintendent of Indian affairs in the Territory of New Mexico, from July 27, 1854, to April 30, 1857; which was referred to the Committee on Indian Affairs.

Mr. HAMLIN presented the petition of Cynthia Cony, widow of Samuel Cony, a seaman in the Navy in the last war with Great Britain, praying to be allowed a pension, to date from the time of her husband's death; which was referred to the Committee on Pensions.

Mr. BIGLER presented three petitions of citizens of Philadelphia, praying that the proposals by Thomas Rainey for carrying the mails by steamers between that city and Brazil, via Saran-

nah and certain places in the West Indies, may be accepted; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of George Chorpennig, praying remuneration for losses sustained by himself and Absalom Woodward, by Indian depredations, while carrying the mails from California to Salt Lake City, under contracts with the Post Office Department; which was referred to the Committee on Indian Affairs.

Mr. CAMERON presented the petition of Charles Knap, praying payment for iron furnished, under the contract with the Secretary of the Treasury, for the new custom-house at New Orleans; which was referred to the Committee on Claims.

Mr. GWIN presented the memorial of Arnold Harris and S. F. Butterworth, sureties of William G. Kendall, late postmaster at New Orleans, praying to be released from the payment of a judgment against them; which was referred to the Committee on the Post Office and Post Roads.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BRODERICK, it was Ordered, That the memorial of the Penny Post Company of California, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

REPORT OF A COMMITTEE.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Joseph Hardy and Alton Long, submitted a report, accompanied by a bill (S. No. 198) for the relief of Joseph Hardy and Alton Long. The bill was read, and passed to a second reading; and the report was ordered to be printed.

ABIGAIL NASON.

Mr. FESSENDEN. I ask the Senate to take up a little bill which once passed this body without objection, and has been twice unanimously reported by the Committee on Claims. It is the bill (S. No. 137) for the relief of the heirs-at-law of the late Abigail Nason, sister and devisee of John Lord, deceased.

There being no objection, the bill was read a second time, and considered as in Committee of the Whole.

It directs that there be paid to the heirs-at-law of the late Abigail Nason, sister and devisee of John Lord, deceased, late of South Berwick, in the State of Maine, the sum of \$322, in full for the amount due to John Lord for services performed by him as a seaman on board the United States ship Ranger, during the revolutionary war.

This claim is founded upon the allegation that John Lord served his country, during the war of the Revolution, as a seaman on board the United States ship-of-war Ranger, from April or May, 1779, to May, 1780, when she was taken at the surrender of Charleston, and that he was detained on board a guard-ship some time afterwards, and finally liberated about the last of July—making in all fifteen months.

In the original petition of Mr. Lord for the payment of this claim, which was presented to the Twentieth Congress, he assigns as the reasons why his claim was not sooner urged, that at the time of his discharge he did not know that any provision had been made by Government for paying off the seamen; nor until 1798, when, on his return from a foreign voyage, he was informed by Captain Wardwell that he and other rangers had been paid. He then applied to an agent to assist him in procuring his pay, but without success.

It appears that there are no records of the Ranger in either the Treasury, War, or Navy Departments; but the case has been twice favorably reported in the House of Representatives, and once a bill passed for its payment; but it being near the close of the Congress, the bill does not appear to have received any action in the Senate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ROSS WILKINS AND OTHERS.

On motion of Mr. CHANDLER, the Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 58) to authorize and direct the settlement of the accounts of Ross Wilkins, James Witherell, and Solomon Sibley.

It authorizes the Secretary of the Treasury to

pay to Ross Wilkins, judge of the district court for the State of Michigan, and to the legal representatives of James Witherell and Solomon Sibley, late judges of that court, such amount as may be due to them for services performed in the capacity of a land board, at the same rates as were allowed to William Woodbridge and their associates on the land board.

Mr. KING. There is a report, I suppose, in this case. If there is, let it be read.

Mr. HUNTER. I should like to hear the report.

Mr. CHANDLER. There is no report on this bill, but there is a report on this subject made in the Thirty-Fourth Congress, and I send it to the Chair that it may be read. The committee did not deem it necessary this year to make another report.

Mr. HUNTER. I should like to hear it.

The Secretary read it. It was a report made by Mr. SIMMONS, from the Committee on the Judiciary of the House of Representatives, on the 26th of December, 1856, to accompany the bill (H. R. No. 645) on the petitions of Ross Wilkins and B. F. H. Witherell. These applications were from one of the judges of the Territory of Michigan, and from the son and legal representative of another, to be allowed the benefits of the act of the last session of Congress, entitled "An act to provide compensation for the services of George Morell, in adjusting titles to land in Michigan." That act allowed compensation to Judges Chipman and Woodbridge, as well as to Judge Morell; and the same reasons which justified the payment to them, as members of the "land board," in virtue of their judicial tenures, would seem to require that like compensation should be allowed to the other judges; and the committee reported a bill for that purpose. The facts and arguments in that case are set forth in a report made during the first session of the Thirty-Third Congress. The case of Judges Woodbridge and Henry Chipman was reported upon in 1848.

Mr. HUNTER. I suggest to the Senator, as I do not want to oppose his bill, to let it lie over, in order to give us some time to examine it.

Mr. CHANDLER. Very well.

The bill was postponed until to-morrow.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a bill for the relief of Duncan Robinson.

KANSAS—LECOMPTON CONSTITUTION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. WADE. Mr. President, I would gladly forego the task that is now before me, especially as the whole subject has been debated by those much more able to enlighten the Senate and the country upon it than I can claim to be. Indeed, after the able report of my colleague on the Committee on Territories, the Senator from Vermont, [Mr. COLLAMER,] on all the points involved in the controversy, which met with my entire approbation, backed by that masterly speech which he made on the case, it would be arrogant in me to suppose that I could add anything that would tend to enlighten either the Senate or the country on the subjects therein discussed. I would not speak at all, sir, if I did not know that the people of the State which I in part represent are more deeply moved with the consideration of this question than they ever have been before. They consider it a question of the first magnitude. They are alarmed at the boldness with which a constitution is urged upon a reluctant people against their will. They are alarmed at the progress of the principle of despotism which they think they perceive connected with the administration of this Government.

The people whom I represent are not alone in these gloomy apprehensions. If I can judge from all I can see around me, and from all that I read in the papers, the minds of the American people are pondering on very little else than the great question which we have before us for discussion. I regret, as much as any Senator upon this floor can regret, that the great question of slavery dividing the different sections of our country should be so often thrust upon us; but its enormous

magnitude seems to throw every other question into the shade. Until it shall be settled one way or the other, I do not expect to hear much else discussed.

Mr. President, I am aware that there are those within my hearing who seem to underrate the importance of this issue; but the President, in his annual message, did not underrate it. He understood the importance of it, very much as I have now stated it to be; for he said in that message that, from the time of the abrogation of the Missouri restriction, there had been no other question before Congress or the country of any considerable importance. That declaration is the truth. We cannot ignore the subject if we would. I know that blame is frequently thrown on various individuals because superficial observers suppose that a man can raise all this agitation, as they call it, or that a man may allay it, at his pleasure. Sir, those who take such a view of this great overruling question are but very superficial observers of what is passing. This controversy has its root deep in the institutions of our country—unfortunately so. The fact is not to be ignored; the agitation is not to be put down by the will of any man, and not by any set of men. It has grown with our growth, it has strengthened with our strength, and it has become more dangerous and alarming now probably than at any other period in the existence of this nation.

I know, sir, there are crimination and recrimination on both sides. It is said by southern gentlemen that the North are aggressive; that we are trespassing upon their rights under the Constitution of the United States. I claim that the aggression is and always has been on the other side, and I shall endeavor briefly to specify of what it has consisted. I shall not deal in those generalities in which gentlemen on the other side have indulged. If the North feel keenly on this subject, I think I can easily show that they have great reason to feel so. I will not go back to the foundation of the Government. I intend, as far as possible, in the remarks that I shall make, to endeavor to strike out a new course, and avoid, as much as I can, those topics which have been so ably and so thoroughly discussed by those who have preceded me.

I arraign the South, then, first, (for I will go back no further than the annexation of Texas,) with an enormous aggression upon northern rights in seizing upon Texas, and bringing her into this Union for no other purpose than to uphold, strengthen, and render predominant in this Government the institution of slavery, and that in derogation of the political rights of the North. Not only so, sir, but I stand here to arraign the South, and their northern allies also, of having done it in flagrant violation of the Constitution of the United States. There was no warrant in that instrument for this great act of aggression. Especially there can be no doubt that the manner in which she came into this Union was a flagrant, undeniable violation of the Constitution of the United States. Did the Constitution of the United States make any provision whereby you could make a treaty with a foreign Power, and bring her into this Union as a State? I would ask the strict constructionists, on the other side, where do you find it?

Is there any other provision in the Constitution that warrants an act like this? If Mr. Jefferson could not find in the Constitution power to acquire Louisiana, if he could not purchase a vacant territory, much less could he treat with a foreign nation to merge her own Government and come into this Union as an independent State? I only mention this, however, in passing, as an accusation that I bring against the ambition of the South in trespassing on the rights of the North. I do not propose to discuss it at large; for if we were to undertake it, it would exhaust our time, and furnish a topic, probably, as fruitful of argument as the one under consideration. But if gentlemen claim to have constitutional authority to do such an act, I say it belonged to the treaty-making power.

Texas, at the time we united our destinies with hers, was an independent State, with a government and officers of her own, in the same way that we existed as an independent State. We had recognized her independence; and we might as well have taken into our Government any Power on the face of the earth, and embarked our

fortunes with them, as with Texas. Was there any other way to treat with a foreign independent State, except through the treaty-making power mentioned in the Constitution of the United States? Could you, by a joint resolution of Congress, do that which the Constitution had provided should be done by treaty? I know that you tried to do it in a constitutional way. When it was first proposed, there was no man so bold or so reckless as to suppose it could be done in any other way than by the exercise of the treaty-making power by the President, by and with the advice and consent of the Senate, it requiring two thirds to ratify the act. It was found that that would be impossible. It was found hard to procure a majority here to assist in doing the deed, much less could you muster two thirds; and the darling project must have failed without a violation of the Constitution of the United States.

But, like every other attempt you make, Constitution or no Constitution, your ambition must be gratified; slavery must be upheld at all hazards; and come what may, her will is law. Cotton is king, and many of you are lords of cotton. You brought into competition with the political power of the free States a vast slaveholding region, with the stipulation that you might make it into five States, and thus bring ten Senators here to face down and vote down the free Senators of the North. It was a vast acquisition. It was in derogation of our political rights, and we had a right to complain of it. If it had been sought for the general good of the nation, if it had been contended that its object was to inure to the general benefit, that would have done something towards extenuating the iniquity of the deed; but that was not even pretended. If you look at Mr. Upshur's letter, you will find the object stated; if you look at Mr. Calhoun's communication at the time, you will find that, with a boldness and directness characteristic of the man, he places it upon the ground that it is to extend and strengthen the institution of slavery.

But I pass over that. Texas had been a free country. Under the just rule of Mexico, recently acquiring her own liberty, she could not, with a hypocrisy characteristic of older Governments, fail to accord liberty to all her people. She had, by her decree, before this region was seized upon by us, abrogated the institution of slavery through all her borders. Texas was seized by our agents; the seizure connived at by the Government; she was reenslaved; and then, in the language of the time, reannexed to this Government.

The next great and flagrant aggression upon the rights of the North, upon the honor of the North, upon the pride of the North, was forcing upon us your accursed fugitive bill, as a badge of servitude and subjection. Following us into every hole and corner of the North, you cannot go where you may not find the fugitive hunted within our own borders and to our own doors. We cannot teach the great lessons of freedom to our children without being in danger of having this accursed act come in conflict with all our teachings. If a northern man endeavors to impress his posterity with the glorious old doctrines of the Revolution—if he undertakes to teach them that all men are equal—the first thing he may know is a marshal dragging a man back to slavery, for no crime that he has committed. Sir, those that live in the slave regions know not, and cannot appreciate, the feelings of outrage and indignation consequent upon witnessing an act like this. I do not claim that it comes in violent conflict with any of our pecuniary interests; but it is a badge of inferiority, of servitude, in violation of our principles, that a free people cannot tolerate, and ought not to tolerate, for a moment. The old law was bad enough; but the new one was not only more rigid, but it transcended and violated the Constitution of the United States in many particulars that might easily be pointed out.

But you were not content with all this. The tame and easy servility of the North, our ready acquiescence in these aggressions, I have no doubt, tended to invite the more serious aggressions of a still later period. Now, sir, we approach another and greater aggression; for these encroachments upon northern rights are in direct proportion to our easy forbearance towards injustice. They now begin to come upon us thick and fast and more serious still, until the whole country is alarmed at

the prospect of despotism now thundering at our very doors. Next was the bold, reckless—attempt shall I say; no, the perpetration of the perfidious national, or rather sectional act of the abrogation of the old Missouri restriction. I know it has been harped upon enough; it is thoroughly understood by our people, and the indignation of all just men rises in proportion to the enormity of the act. There was no palliation; there was no excuse for it. The ingenuity of man has never yet been able to conjure up a reason that would cover the enormity of that wicked and unjustifiable act. You say the restriction was unconstitutional. I will not argue that point. I know it was constitutional, because the principle of it had the sanction of all the great lights of constitutional law for more than seventy long years. Every department of the Government had sanctioned it as a constitutional act. The greatest jurists in the land had so pronounced it—men whose prejudices were all the other way, southern gentlemen who would have been glad to find an excuse in the Constitution to abrogate or get rid of it. Mr. Calhoun, the great light of southern rights, conceded its constitutionality. Your Presidents all upheld it; your judiciary sustained it; your Congress ratified it as often as the question was made. It was left to lesser lights, in a less pure period, I fear, of the administration of our Government, to discover that the Constitution had no warrant for this great act—this act of peace as it was called. It had been an act of peace, whether just or unjust, and I think it was unjust in the commencement. I believe, as a northern man, that if I had been in Congress at that day, I should have stood with those who repelled all the pretensions of the South. It is said they agitated then, and shook this nation to its very center, making direful threats of what would be done unless some compromise could be made in regard to that Territory. I would have stood, looking them in the eye, hand to hand, and I would have settled the question then. I would have settled it so that it should stay settled forever. All their croaking and grumbling I would treat as a surgeon would treat such conduct on the part of his patient. I would have amputated the limb, and the question should have been settled then.

But a few northern men thought otherwise. A few of them joining with the entire South, settled that controversy by that great compromise, as it was called, and the country reposed in peace under it. It is true that the indignation of the North momentarily arose, and, I believe, they politically laid in their graves all the representatives from that region who consented to it; but, nevertheless, it was finally acquiesced in as a final settlement of the controversy, and it preserved the peace, for thirty-three years, of our Government. After that lapse of time it was discovered that the act was unconstitutional, and a great and violent aggression upon southern rights. Why did not Mr. Calhoun, who was in the Cabinet at the time it was passed, discover it to be unconstitutional? Why did not all those men from that region of country discover that the Missouri compromise was unconstitutional? Why did they sleep upon their rights for more than thirty-three years before waking up to a sense of the outrage and wrong?

But, sir, passing by the point of its constitutionality, for I want to leave nothing to cavil here, suppose it was flagrantly unconstitutional, as you claim that it was, is there no obligation of honor, is there nothing sacred in a solemn agreement between men who have a controversy and settled it? Is there no obligation that they shall not open it again? If a man, who had a controversy in a court of justice, and being doubtful how it would be decided according to the rigid principles of law, should agree with his adversary, and they should pledge their honor to each other, "right, or wrong, we will compromise," what would you think of him if, after the price which had been paid to him to accept the compromise was safely in his pocket, he should turn around and say to the court, "we made no compromise, and if we did, it was not a legal one?" Sir, there used to be such a thing as southern honor; but it was not made manifest upon the abrogation of that compromise. That act was a flagrant aggression. It was an outrage, viewed in any way you please. It was done, as all the rest of your aggressions are done, for the purpose of upholding human

slavery and rendering predominant in the nation, politically, those who maintain it.

That act was done four years ago. Encouraged again by our acquiescence in it, and growing bolder by the impunity with which these lawless deeds had been done, you have ventured at last upon an act, the doing of which was in principle precisely that which aroused our forefathers, and induced them to look Great Britain's power in the face, and to put her at defiance. They sought to rule us; they sought to put down our principles of popular sovereignty by force and violence, by what they called law; they denied to a majority here the right to legislate for themselves, and claimed the right to legislate for us; they roused the lion in the heart of the people of this whole country, and everybody knows the consequence. I am amazed at the boldness with which this act is attempted. The people are alarmed. I do not believe that those who are urging this measure with such vehemence upon the people, understand at all how it is viewed in the country.

Now, sir, I have given you a few specifications of southern aggressions. I do not claim that they were purely southern, for I know you had the mercenaries of the North joined with you to help you to do the deed; but nevertheless, you cannot cover up your own want of principle behind those traitors of the North, because you knew that they were not backed by northern sentiment, nor authorized to do what they did.

How is it on the other side? It is claimed by southern gentlemen that the aggressions are all from the North; but they specify nothing. The Senator from South Carolina, [Mr. HAMMOND,] the other day—I do not see him now in his seat, and I am sorry for it—said that, although they dealt so kindly by us, though they had been of such great advantage to the North, we had repaid them by plunder and slander; we had constantly plundered the South; and, almost in the same breath, he declared—and he declared it triumphantly; and, sir, it makes my blood tingle in my veins, when I have to admit that it was true—that the slaveholders of the South have ruled this Government for sixty long years. That was true, sir. With more than two to one freemen against you, you have had the fortune to rule, with absolute despotism, this nation for sixty years. If that gentleman were here; I would propound to him this inquiry: if you have ruled us, as you have for sixty years, how do you reconcile that fact with the assertion that we have robbed you; and why did you permit the robbery? What act have we—a conquered people, domineered over from the outset—done? How could we commit aggressions upon you? Will any of you upon the other side explain it? I know you are howling frequently of aggressions at the North—of northern fanaticism; and you cast upon us every opprobrious epithet that you can muster from the dictionaries, in order to show that we are not, somehow, well-behaved towards you; but you govern us—you boast of it, and it is true. To-day every department of this Government lies prostrate under your heel, as it has for sixty years, as you confess. Tell me, then, wherein we have trespassed upon your rights? How could we do it, if we would?

He wanted to know what guarantees we could give that we would not plunder them with tariffs and restrictions upon trade. Sir, we never have plundered you in that way. If there has been a tariff, your leading men have proposed it; you have forced it upon the nation. If there has been a Bank of the United States, your statesmen have proposed it, and your votes have fastened it upon the country. All those policies that you deprecate sprang from your own section, were propounded by your own statesmen, and were upheld by their votes. We are the conquered people whom you boast you have ruled for sixty years; and you, the conquerors, complain of aggression and wrong! The idea is perfectly ridiculous. You have molded the policy of this Government; you have shaped the administration to suit yourself; no measure has passed without your assent, within my memory. I should like to hear southern gentlemen to-day mention to me the act that has passed Congress, or the policy of the Government that has been carried into effect, unless it has met the entire approbation of the southern section of this Union. I ask for information—what is it? I hope you will either answer me, or

forever hold your peace. Let us hear no more of northern aggression, unless you can specify in what it consists; for, as Lord Coke well said, "fraud lurketh in generalities." We have plundered you; we have trespassed on your rights; but your bill of indictment specifies nothing. Who can meet your charges?

It is thought that we are very unreasonable because we take so much interest in the institution of slavery. Now, sir, it requires but very little sagacity to see how that must be. I have been here long enough to know that that great body of northern people who remain true to the traditions of their fathers, who act up to the spirit of those who inaugurated our institutions, are just as much proscribed from any of the benefits, emoluments, or honors of this Government, as if they were alien enemies. There are nearly thirteen hundred thousand voters belonging to the great Republican party of the North, who, year after year, see the Government administered by hands that to them are alien, and they cannot participate in it. Why? Because, when a nomination comes before you, the question is asked, how stands this northern man upon the institution of the South? What are his views? Did he ever, in an unguarded moment, give utterance to the impulses of the heart of every freeman? Did his tongue ever pronounce that which the heart of every freeman feels? If he did, and any spy can fish it up, and bring it here, he is proscribed from any favors from the Government under which he lives, and which he supports. This should furnish a reason to you why almost everything political that is unpurchasable in the market, that grounds itself upon principle, and cannot be swerved by those appliances, now ranks in the great Republican party of the North. If men are purchasable, if executive favor can reach and sway them, if any of those appliances that are brought to bear in political controversies can swerve them from the truth, they have gone over to you; they have repudiated the principles under which they were born; they have forgotten the sentiments that they imbibed even from their mothers' breasts. Such men have repudiated all this, and sworn fealty to an institution that they hate; such are the men of the North who find favor in this Government; the rest are aliens, proscribed by you. Yet, sir, because they are not perfectly patient under this state of things, they are said to be fanatical Abolitionists. I should like to know how long the patience of the South would hold out? Let us reverse this nefarious judgment; let northern majorities come here as inexorable as are you; let us inquire, is he a slave holder that is proposed for office? does he train in their company? and if he ever dropped a word that favored the institution of slavery, let us proscribe him—would there be any shrieking? would you bear it like lambs? I do you the credit of saying that you would rise up under such proscription as this, and show a spirit more worthy of the fathers than we do on this side. I know you would. If we should undertake to hold you to those same intolerant and proscriptive principles that you exercise towards us, you would hear a howl worse than Mr. Buchanan heard from the South when Walker would not count fraudulent votes.

Mr. President, I have stated some of the reasons why northern men take a deep and abiding interest in the question of slavery, because it tends to fasten its nefarious shackles upon them. We may just as well look it right straight in the face, for it never will be allayed with sentiment; you may sing hosannas to this Union until you are hoarse; you may talk of our common blood and our common memories; and you may eulogize that great flag under which our fathers fought; and you may go into hysterics on the subject; but I tell you that governments, in the long run, will be governed by their interests as they understand them, and by nothing else. These are all very pretty matters in their place, but the administrations of government are made of sterner stuff. They are never perpetuated by sentiments like these. I say to you, Mr. President, there is, unfortunately—and I regret it as much as any other man—a diversity between us in our government that seems almost irreconcilable. I do not know but that means may be found by which this great gulf can be bridged over; but on the one hand you find the freest communities that the world

ever saw, where real and unadulterated democracy does not reign as a sentiment, but is lived out in practice by all the people; where there is no aristocracy; where there is no man so high that he can claim a privilege beyond his most humble fellow-citizen. This is the nature of the communities of the North, and of none more so than of that State which I have the honor in part to represent here. That is the freest of the free. It was there that the mind of that great patriot, Thomas Jefferson, fixed his eye the moment we had repelled the force of Great Britain. His philanthropic eye saw that great and beautiful wilderness lying open, soon to be peopled by the citizens of the United States. It was a leading object with him there to carry into practice those beautiful theories of equality which had charmed his great mind so long. He labored unceasingly until he had fixed out a document fully to carry out there his great idea that the people should rule the governments of the earth. He found nothing in the way of his theory; there was a blank sheet of paper. There was a government to be laid, unstained by any of the crimes of ancient Rome. No institutions had grown up there inconsistent with right; and he fixed upon that soil to carry out the great theory of self-government for which the world had labored and sighed for so many generations; and there the work was completed. In that region there is no aristocracy. In that glorious region there is no slave. Whoever comes there impressed with the image of God, is acknowledged to have an inalienable right to liberty that none but God can take away.

This is the character of the communities composing more than one half the States of this Union. How is it on the other side? Why, sir, I understood the Senator from Virginia, [Mr. HUNTER,] in the beautiful speech that he made yesterday, which would have challenged the admiration of every one, except for some sentiments that were scattered through it, to say—I have not had the benefit of seeing his speech printed, but I think he said—that these ideas of political equality which were held up before our communities were utopian and fanciful, and never could be realized. This probably was not his language, but it was his sentiment. Those principles of equality, asserted in the great charter of human liberty, the Declaration of Independence, he believes to be utopian, incapable of practice; mere abstractions, not to be lived out.

I wish southern gentlemen were better acquainted than they seem to be with northern institutions. I tell the Senator from Virginia, you are wrong in believing this to be an abstraction. It is, thank God, a truth, the realization of which any man can witness who will cross over into my State. I have heard these sentiments uttered so often on the other side of the Chamber that I have come to know that our views of government are just as diverse as men's views possibly can be. There is, as I said before, an antagonism existing between us which I know not how you are to cover up. The Declaration of Independence an abstraction! Are the great rights which it proclaimed, and which were the boast and glory of our fathers, "glittering generalities," having no practical meaning? If so, I would ask any man what did you gain by that boasted Revolution of yours? Wherein does your Government differ from any despotism on the face of the earth? Once break loose from the glorious doctrines of that great charter of liberty, and you are in the slough of despond; you have nothing to distinguish you from the most horrible despotism that ever reigned over prostrate human nature. I ask again, why do you boast of what your fathers did, if they established a mere abstraction, or, as it is sometimes called, a "glittering generality?" The Senator from South Carolina, carrying out the same idea, said:

"In all social systems there must be a class to do the menial duties, to perform the drudgery of life. That is, a class requiring but a low order of intellect, and but little skill. Its requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, civilization, and refinement."

Now, suppose you had not that class which leads progress, civilization, and refinement: which class can you dispense with best? Of what use is your idle aristocracy? In God's name, have they not been the curse, the blight of every nation of the earth? You cannot have this refined aris-

tocracy, says the gentleman, unless you have a class to do your drudgery; and that is the sentiment of the whole South. How diametrically opposed to it is the whole practical system of the North! Is it reasonable, is it right, that "a class" shall do your drudgery—"a class" that shall obey? Sir, labor should never be done by a class. If you obeyed the mandate of the Almighty, and labor were distributed among all the able-bodied men, it would cease to be a task; it would become a mere amusement, and it would tax no man's physical powers above what would consist with his health and his welfare. It was designed—for God is just—that this drudgery of which the Senator speaks should be distributed among all the able-bodied men so as to make it light, and then it would not be inconsistent with the highest perfection of civilization and refinement; but, on the other hand, would lead directly to it. Labor done by a class! That, sir, was the old curse of the Old World. A class has been assigned to do the drudgery, to do all that is valuable, to produce everything that is beneficial; and the system leaves aristocratical drones, useless, vicious idlers, whom any community can well dispense with. I say this class you can dispense with to the advantage of any community that I know of; but the class who do your labor cannot be dispensed with. The Senator says you must have a class to do your degraded labor. I deny that labor is degraded; and here is the point of difference between us, which I fear can never be overcome. That is one grand reason why we resist your system coming into our Territories; it is because you are determined to contaminate all labor by this degraded class. Will the free, intelligent laborer place himself upon a level with your mere abject chattel, and toil there? Sir, he cannot do it, and ought not to do it, and will not do it.

What an idea of labor! The Senator supposes that the laboring class want but very little mind and very little skill. Sir, there is nothing on earth that puts the human intellect to all that it can attain like the varied labor of man. What does your drone, your refined aristocrat, do in his mind? What problems does he work out? He consumes the products of labor; he is idle, and ten to one he is also vicious. He never invents. Go to your Patent Office, and see what are the products of your degraded labor and your refined aristocrat. The latter never invents anything, unless it is a new way of stuffing a chicken or mixing liquor. [Laughter.] He invents nothing beneficial to man. Degraded labor, with a low intellect, is all you want! Sir, the machinery brought into operation by intelligent labor is doing now more drudgery than all the slaves upon the face of the earth. The elements are yoked to the machines of human usefulness, and there they are doing the work of bone and muscle, and your system cannot abide with it. The doom of slavery would be fixed, if it was by nothing else than the products of intelligent labor. You drudge along in the old way; you invent no steam engine, because your labor is degraded. You do not want skill; you want but very little mind; and the Senator thinks the more ignorant the laborers are the better, for he says they are so degraded that they have no ambition, and they never will endanger this refined class that eats up the proceeds of their labor!

That is the idea of government that prevails all through the slaveholding regions of the South. Again, the Senator says of the degraded class that do the drudgery:

"It constitutes the very mud-sill of society and of political government; and you might as well attempt to build a house in the air, as to build either the one or the other, except on this mud-sill."

And then he goes on to say that we of the North have white slaves; that we perform our labor by white slaves. This class must exist everywhere, and they must be a mud-sill upon which you must erect civil societies and political organizations. How little that gentleman understood of the spirit of our northern laborers! I would like to see him endeavoring to erect his political institutions upon their prostrate necks as mud-sills. I think it would be a little troublesome. He might as well make his bed in hell, or erect his building over a volcano, as to undertake to build on his northern "mud-sills." Then, with a simplicity that shows he knows nothing of northern society, he says we have sent our missionaries down to their very hearthstones to endanger their system.

I do not know how that is; but he turns round and asks how we would like them to send their missionaries up to teach our laborers their power. I was astonished at such an idea as that being presented to political men of the North, who know and see and feel the power of the laboring class of men. We are all laboring men, and the politician cannot live unless they breathe upon him; he cannot move unless he moves with their approbation. They are the soul, the strength, the body, the virtue, the main stay of all our society. Deprive our State of its laborers and what would it be? We have nothing else, and we have none of your refined society that is spoken of. We all labor, and are all disgraced, as the gentleman would call it, in our community. Labor with us is honorable; idleness is disreputable. That is the state of things with us, and the laboring man knows full well, and needs no missionary to tell him, the potency of his vote.

We should like to have your missionaries come up and endeavor to endanger our society! Good heavens! One man has the same interest in upholding it as another. Suppose one man is richer than another in Ohio. There is no very great diversity, as a general thing; but suppose he is; take the child of the poorest man in our State; and has he any temptation to overthrow our Government? No, sir; full of life, full of hope, full of ambition to go beyond him who has gone furthest, he wishes to avail himself of the same securities which have ministered to the upbuilding of others. He is a citizen, who holds all the rights of citizenship as dear as the most wealthy. His stake in society is the same; his hope is the same; his interest in good government is the same. He is none of your prostrate mud-sills, deprived of those rights which God Almighty has given him, trampled under foot, and made to minister to the interests of another man. There is no such system as that with us.

But the Senator spoke about a degraded class in our great commercial cities. I have to confess that there is some truth in that. We have a degraded class in the cities. They are the offscourings generally of the Old World—men who come here reduced to beggary by their ignorance; reduced to beggary by their vice; ignorant, vicious, dangerous. I do not deny it. They are incident to all large cities; but the Senator should not complain of them. They are the chief cornerstone of your political strength in the North. Find me the vicious ward of any city that does not uphold your system of slavery, vote for its candidates, support its measures, and labor for its men. No, sir, you should not complain of this vicious population. In truth and in fact, they are about the only stay and support you have there now, and you ought not to traduce them. From their very natures, they attach themselves to you, and I do not think by any treatment you will be able to drive them off. They are naturally with you; they were slaves in their own countries; they do not know anything else than to be the understrappers of somebody; and when they hear that here are slaveholders contending with freemen, you find them with the former all the time.

Mr. President, I think this shows the antagonism between the institutions of the North and the South. We have not made them so. Nobody here is particularly to blame for the state of things that exists. It has grown imperceptibly with our growth. Our lot has been cast either on one side of the line or the other. Our habits and our education have conformed to that state of things existing where our lot has been cast. I can appreciate and make allowances for that, but I cannot be biased as to the right of the matter. I know where that is.

Now, what is the remedy for this? If you bring us into collision, your system of despotism encountering our system of freedom here on this floor, do you suppose there will be no excitement? Is any one so superficial as to believe that it will depend on the temper and disposition of a man, how this great controversy shall be settled? Not at all, sir. You may preach harmony, you may preach forbearance till doomsday, but a violent conflict will take place every time these principles meet on this floor or elsewhere, because they are naturally antagonistic. God Almighty has made them so, and man cannot reconcile them. What, then, is our safety? It is to stand upon the princi-

ples you once professed, rigid State rights, yielding to the General Government just as little power as is possible to cement it together so far as to provide for the common defense; for the moment you drag these things into the General Government, I assure you that you may preach conciliation until doomsday, and conciliation will not come.

I do not know, sir, what is to be the result of this controversy. I know some of you threaten to leave the Union unless you are gratified every time a collision takes place between us; and that Texas of ours with which I opened this debate, stands in a singular attitude towards us to-day. I have in my drawer three resolutions of her Legislature presented to us at this session asking for men for her protection, and for sums of money to indemnify her for expenses incurred, as she claims, in protecting herself; and urging upon the General Government to make further provision for that State, which has already cost us so much. Her Legislature has sent to us a fourth resolution. I have not got it here, but I heard it read at the table; and, if I understood it aright, she has given us fair notice that she is about to go out of this Union. At all events, I do not think that was in good taste. I do not think it was politic; because we may say to her, "if you are really going to leave us, perhaps it is best for us to make no further appropriation for you." Why beg of us protection, and turn right around and tell us, "we are going to put you at defiance; we are going to hold a Hartford convention of the South, to deliberate whether we shall leave the Union?" Before I vote for the supplies she asks, I think I shall want to hear an explanation of this. I may want to know whether they are to inure to the benefit of the Union, or to furnish powder to blow out our own brains.

Let me say here, Mr. President, that I have no apprehensions about the Union. The people I represent have got bravely over any qualms about your dissolving the Union. You may preach about it, and howl about it, until your lungs are sore; it will not move a muscle of my constituents or of myself. I know that our destinies are cast together; and whether it is beneficial or not—and I do not know whether it is or not—you can obtain no divorce. We are wedded for better or for worse, and forever; and we had better make the best of our lot. You cannot go out. The Senator from Alabama [Mr. CLAY] asked the Senator from Wisconsin, [Mr. DOOLITTLE], in the course of his remarks, whether, if they undertook to go out of the Union, we were going to forcibly interpose to prevent it? I do not remember exactly what the answer was, but I wanted to ask another question, for it has taxed my ingenuity to know how it is you can get a State out of this Union. If the most violent resolution, if the most flaming declaration, could have done it, your Union would have been blown to atoms long ago. It wants something more than conventions; it wants something stronger than resolutions. I do not know how you propose to effect it. How can a State go out? A man may commit treason under the Constitution of the United States, if he levies war against them; he may be hauled up and punished; but how, in Heaven's name, is a State to go out of the Union? I should like to have some one who talks about it show me the *modus operandi*.

There was one aggression of the South—I will call it an aggression—that I failed to mention in its proper place. I allude to the late nefarious decision of your Supreme Court. They made a new discovery—a discovery that, by vigor of the Constitution of the United States, you can carry slavery all over the continent wherever your flag may float. I approach that subject with no pleasure. I wish I could entertain a good opinion of the judges of that court. I wish I could believe they were patriotic. I wish I could believe they held the scales of justice equal between the rich and the poor, the great and the small, unswayed by political considerations, uninfluenced by anything but their duty, which is the most Godlike that man can ever administer; that is justice unmixed, unbiased justice. I wish I could believe that that court were actuated by no other than these great Godlike principles in the decision they have made. It was a most extraordinary decision. The mode of coming at it, the decision itself, the time when it was made, are all calculated to inspire the mind with a suspicion that all is not

right. I affirm that the Supreme Court, in making this decision, has done what no court of the United States had ever done before; but I do not hold this court, and never did hold it, in that reverence which some gentlemen pretend to entertain. I remember that it seems to be the mere instrument of political power. It follows it as the incident follows the principal. In the old Federal times when your alien and sedition law was passed and it came before that court, they found no difficulty in maintaining that most flagrant violation of the Constitution. Your sedition law was upheld by the judges of that court, and men were imprisoned by its process; and yet to-day there is not a man to be found in these United States but what considers that law a most disgraceful law to remain on the statute-book. It does not remain there as a law, but it stands there as a memorial of the madness of party and the easy method in which men will violate the Constitution of the United States. That was upheld. All men now consider it as infamous, notwithstanding it had the sanction of that court.

Almost the entire speech of the Senator from Louisiana—and I wish he was here—was made for the purpose of sustaining the validity of that decision. I am not going extensively into it, for I have not time, nor does it need a very extensive examination to show that it is a fallacy, a mere sham; that it has not the semblance or color of authority.

Dred Scott, the plaintiff, claimed that he was a free man; and according to the course of practice from the earliest organization of the Government, in every district, (for the cases establishing it are numerous enough,) he sued for his freedom in the circuit court of the United States. The pretended claimant put in a plea to the jurisdiction. He said that Dred Scott was a negro; that his ancestors came from Africa; that they were slaves, and therefore he was not a citizen of the United States, and he had no right to a hearing in that court. Dred Scott demurred to that plea; and that demurrer came up before the court, and it was the only question they could decide. After getting the plaintiff out of court, and saying he has no standing here, after murdering him, the court go on to declare principles most fatal to the liberties and rights of many of the American people. The like was never done before in any court. No court in this Union has been heretofore more chary of giving decisions that were not called for by the case, than the Supreme Court of the United States. They have always repudiated it. They would never go further than the necessities of the case required them to go. Was not the decision of the question of jurisdiction an end of this case? A majority of the judges decided that Dred Scott had no right to be in the court. They dismissed him from their consideration. What further was there to do? The Senator from Louisiana, in his argument, did not pretend, as a lawyer, to argue that this was not the effect of the decision; but he uttered what seemed to me very much like sophistry. He read from the opinions of the court, claiming that they had a right to go further. I do not care what they claimed. Any man that ever went through a lawyer's office knows that when they decided that the plaintiff had no standing in court, the case was at an end; and any opinion they should give after that was a mere *obiter dictum*, entitled to no more respect than though it had been delivered here or in the streets.

Mr. President, there is another thing to be considered in reference to that case. Here, to be sure, was a poor negro, having no friends, no consideration, nobody to look to his interests. He was a member of a degraded class, with whom the court might deal with perfect impunity. I fear that the court, swayed by political reasons, forgot the rights of Dred Scott, and plunged into this political whirlpool in order to control its currents. Is it not remarkable that America, the first nation in the world, should decide that a man may be so low that he cannot even seek his rights in the courts of the country? Was there ever anything like it in any community before, whether civilized or barbarous? The court tells us we have men among us so low that they can have no rights; that they are mere merchandise. But I will not travel into that field, which has been so ably discussed by the Senator from New Hampshire, [Mr. HALE.] They grounded their decision upon his-

tory, not the Constitution. They traveled out of the Constitution of the United States, and sought to found their decision upon what they picked up as scraps of history here and there; and that history was entirely and utterly perverted, as was proved by the Senator from New Hampshire so palpably that no gentleman on the other side has yet risen to challenge its accuracy; and they cannot do it. I have a law of Virginia here in my drawer, which was passed at about the period of which the Supreme Court speak when they say that negroes were considered as chattels whom any man might seize and convert to his own use. At that very instant, in old Virginia, he was a citizen, made so by statute, if he was free; and I do not know but that he had all the rights of a white man. At all events, he was declared there to be a citizen. He was then a citizen in at least eight of the States of this Union.

Mr. MASON. Will the Senator advert to that statute and give me its title? I will not interrupt him now, though.

Mr. WADE. I will show it to the gentleman.

Mr. MASON. I will not interrupt the gentleman now.

Mr. WADE. I have it here, though I may not be able to put my hands on the exact place at this moment. In eight States of the Union a black man was a citizen; and I do not know but that he was entitled to all the rights of a white man; for at that period you will find, if you search the history of the country, that a distinction between black and white was not taken. It was between slave and free. That was the question. Up to the time alluded to by the Chief Justice, I can find nothing that discriminates between the color of men. The only question was whether a man was a freeman. If he was, he was entitled to all the rights of a freeman; if he was not, he was a slave. But the Chief Justice says that all of them were so held. Good heavens! Had he not heard of the scathing anathema of Thomas Jefferson, of Judge Tucker, and of other great lights and worthies of the Old Dominion about that same period, in language more pointed than any other men could use? When was it that Thomas Jefferson said he trembled for his country when he reflected that God was just, and that his vengeance would not sleep forever? Yet the Chief Justice says it was not controverted by anybody. Sir, it was controverted by every man of the Revolution. They, seeking their own rights at the cannon's mouth, claiming for themselves the utmost freedom, and invoking the aid of God to help them to work it out, had not the impudence to look to Heaven and ask a blessing on their exertions in favor of a liberty which they denied to their fellow-men. No such reproach, Judge Taney, can be brought on the heads of the great worthies of the Revolution.

But I will not pursue that subject. I hand the Senators over to the refutation of this position contained in the speech of the Senator from New Hampshire, which cannot be answered. I say it was a flagrant perversion of constitutional law to go into these scraps of history to determine what your Constitution is. I recollect very well a decision by Judge Story—I have not the book, and I care not to quote it except from memory—where the lawyers plied him with the consideration of what gentlemen said in the convention which framed the constitution, and what exponents of it outside of the convention thought of it. Judge Story said, "if you make the least trade with your fellow-man and put it in writing, you cannot call coteremporaneous declaration to explain what was meant by it, but you must stand upon the bond; what is not there, cannot be explained;" and then he adds, "if in a simple contract such rules are to prevail, with how much more force in this great charter of American liberty when the rights, the interests of all hang upon it?" You cannot look out of it, for if you do you have no Constitution. Then it will depend upon the memory of man, the opinions of frail men, transmitted to posterity without any authority at all. I say to you that the court, in traveling out of the principles of law and going into scraps of history to construe your Constitution, have entered a field of more danger to your Constitution than has been broached by any other department of the Government.

I know that, to gloss this over, the honorable Senator from Louisiana, with that plausible and beautiful style of which he is so completely mas-

ter, escaped from the rugged inconsistencies of this nefarious decision by passing a eulogy on the old Chief Justice. It was beautiful; it relieved him from the burden of encountering the enormous, glaring unconstitutionality and breaches of law summed up there. Why, sir, he went so far as to send the old man to Heaven even before he died. I do not think that decision will help him on his road. He coolly joins the current of popular opinion, turns away from the poor man who had sought the administration of law in his behalf, and says to him, "you are a negro, and you cannot sue in court; if you have rights, we cannot investigate them; you are a mere chattel!" Sir, if that helps a man to Heaven, God forbid that I should act upon such principles.

There is another consideration connected with this decision. I have not time, and I have not made it a point, to go into all its enormities. There are only one or two points in it that I wish to bring before the Senate. So far as I have heard them, those who yield to the decision of the Supreme Court seem to suppose that it is obligatory on everybody, and that the Senate of the United States, like poor Dred Scott, are barred and thrown out of court; that the President of the United States, and the House of Representatives, and every department of the Government, are ignored, and no better off than poor Dred Scott. I deny the doctrine—the most dangerous that could be admitted in a free country—that these judges, holding their office for life, reposing with total immunity, have any right to decide the law of the land for every department of this Government. Sir, you would have the most concentrated, irresponsible despotism on God's earth if you give such an interpretation to the decisions of that or any other court. No, sir; each department must act for itself. I stand here, clothed with the same power, to proclaim what is the Constitution upon the passage of any law that comes before us, as that or any other court. I follow my own interpretation of the Constitution; I am bound to do it; I have sworn that I would, and I beg of the Senate never to yield to this arbitrary doctrine that the Supreme Court can bind the other departments of the Government; that we must yield to the decisions that they make. No, sir; never. They may decide on the poor man's rights, who is so unfortunate as to fall within their grasp. They have decided that Dred Scott could not sue in the court. Right or wrong, constitutional or unconstitutional, that stands. It is the highest court; it has decided in the last resort. Dred Scott's rights have been determined, and determined forever; but no other department of the Government, no other right, was touched. Talk about their deciding that slavery exists in Kansas as much as in South Carolina! Talk about the highest tribunal in the land deciding that slavery is in your Territories; that every inch of ground outside of the free States is slave territory! I pity the weakness of the man who yields to any such idea as that. That court has no such transcendent power. It could bind nobody but the suitors in the court. It would be unfortunate if it could.

I know with what avidity your facile President seized upon the idea, and stultified himself by saying that it was a mystery to him that any man should ever doubt it. The Senator from Michigan [Mr. CHANDLER] yesterday disposed of him in that particular. He disposed of him forever, and showed a hypocrisy, I am compelled to say, disgraceful to a man even in a private station. He who had deliberately put forth the doctrines of the Missouri compromise; he who had sought, over and over again, in the ripeness of his judgment, after full deliberation, to procure its extension and recognition by Congress, now turns coldly around and tells us it is a mystery that any man should ever have doubted it! Well, sir, if Mr. Buchanan is a mystery to himself, he is no mystery to me.

There is one other consideration that I wish to bring before the Senate. Why is it and how is it that the southern States, with one third, or less than one third, of the free population of this nation, have been enabled for sixty years to rule the destinies of the country? It has been done, in the first place, (and that is one reason why I contest every inch of ground,) because in a close oligarchy you have a power that a democracy of the same numbers can never have politically. The power of the Government seems to be in in-

verse ratio to the number of people that participate in the Government. And this is obvious enough. You have a class of not more than three hundred and fifty thousand slaveholders in the United States. They have governed this Union (so says the Senator from South Carolina, and he says truly) for sixty long years; not the people of the South, mind you; he says the slaveholders have ruled the nation. That is true. First of all, they placed their feet on the necks of all those who do not hold slaves. The poor men of the South he utterly ignores as having any political power, and I suppose they have none. They have votes, no doubt; but those votes are given in accordance with the will of this aristocracy, who are all-powerful; for it has been observed, and truly observed, that he who has the power over the subsistence of another has the power over his will. You, the wealthy slaveholders of the South, wield absolute dominion over your poorer white neighbors; therefore it was that the Senator from South Carolina said the slaveholders have ruled the nation. You three hundred and fifty thousand slaveholders have ruled your six million whites, (I go according to the census of 1850;) you have not only ruled your six million, but you have also ruled the fourteen million free people of the North.

How have you done it? You have done it because you had a general bond of interest uniting you, tying you together as if animated by one soul. What was the interest to me was the interest of another. You are forced all on the same platform, all acting to one end. You found the Democracy of the North divided in various pursuits, laboring in their various avocations, with very little time to study this problem of politics; and you have always been able to seduce enough of us over to you to enable you to carry your government along. I know that gentlemen smile at this; but I am compelled by truth to state facts here that I wish I could hide from the world. It is a rottenness at the North that you do not have. It is disreputable to us, but I am compelled to admit it. Your allies, the doughfaces of the North, in my judgment, are the most despicable of men. The modern doughface is not a character peculiar to the age in which we live, but you find traces of him at every period of the world's history. He is void of pride; he is void of self-respect; he is actuated by a mean, groveling selfishness that would sell his Maker for a price. Why, sir, when old Moses, under the immediate inspiration of God Almighty, enticed a whole nation of slaves, and ran away, not to Canada, but to old Canaan, I suppose that Pharaoh and all the chivalry of old Egypt denounced him as a most furious Abolitionist. [Laughter.] I do not know but that they blasphemed their God, who had assisted the fugitives from labor to escape. I have no doubt at all that when some southern gentlemen of the gospel come up to preach to the North, they will say that the Almighty acted a very fanatical part in this business. I am afraid they will say so; for He was aiding and abetting in the escape. But amidst the glories of that great deliverance, even feeding upon miracles of the Almighty as they went along, there were not wanting those who loved Egypt better than they loved liberty; whose souls longed for the flesh-pots of Egypt; and who could turn from the visible glories of the Almighty God to worship an Egyptian calf. These were the doughfaces of that day. They were national men. [Laughter.] They were not exactly northern men with southern principles; but they were Israelites with Egyptian principles. [Laughter.]

Again, when the Savior of the world went forth on his great mission to proclaim glad tidings of joy to all the people of the earth, to break every yoke, and to preach deliverance to the captive, He met with the same class of men in the persons of Judas Iscariot and the chief priests. In the days of our own Revolution, when Washington and his noble associates were carrying on that struggle to establish justice, and to secure the blessings of liberty to themselves and their posterity, they met with the same class of men in the admirers of George III. and Lord North.

They are all of the same class—false to the education of their fathers—false to the great principles which have been instilled into them by their mothers from their birth—willing to do anything that will minister to the cupidity of their masters, let the consequences be what they may. It is this

class of men, aided by a close aristocracy at the South, that has enabled the minority to rule with iron hand the majority since the organization of this Government. I have endeavored to daguerreotype these men for the benefit of future ages; for I believe that, like the Indian tribes, they are disappearing. You have put them to very hard service, sir. They die faster than the northern negroes in your rice-swamps—politically, I mean. You put them to service that they cannot stand. When you ask them to vote for a fugitive bill, they may do it once, but political death stares them in the face. When you ask them to go with you for the repeal of the Missouri restriction, you find the same state of things. And now, worst of all, when you ask them to fasten upon their fellow-men, in a Territory of the United States, a constitution which that people abhor, I tell you every northern representative who participates in this act, is not only politically dead, but he may thank his God if he escapes with that.

I find, sir, that I am detaining the Senate longer than I wished; and yet, if I am to go over the argument of the subject immediately under consideration, I shall have to detain them some time longer. ["Go on!"] I shall be as brief as possible on this part of the case. I desire first to notice some things in the argument of the able and eloquent gentleman from Louisiana, [Mr. BENJAMIN,] who addressed us on the day before yesterday. He endeavored to show that slavery was recognized by the common law of this country; and he even went to the continent of Europe, and entertained us with a very interesting discourse as to the old system of feudal slavery existing there under the title of villenage in its various forms. It is a little humiliating to us Anglo-Saxons, who claim that our race never has been, and never can be, enslaved, to show us that our ancestors, many generations ago, were the most abject of slaves. That, however, is the truth; but I did not wish to parade it before the Senate, for I had sufficient pride to endeavor to make the world believe that we were above these weaknesses, and that our ancestors always had been. In return, I have briefly alluded to the fact that his ancestors also were slaves; but they were very honorably discharged.

In the course of the Senator's argument, his astute and gifted mind entered upon a subject that he could not get along with very well. He endeavored to show that there was a distinction between the right of a slaveholder to his slave and the remedy he might have; and hence he claimed that when a slave went into a free country, the master did not lose his right over him, but lost the remedy. He said that in a free country where there was no law for the protection of the rights of the master, he did not lose his right to the slave, but lost his remedy—lost his power to control the slave. He likened it to the case of a man who had a patent right, or a poet who had a property in the productions of his own inspiration. I will read the Senator's language to show how the most gifted man, when he is not on his guard, may admit away his own case. He said:

"There lives now a man in England, who, from time to time, sings to the enchanted ear of the civilized world strains of such melody that the charmed senses seem to abandon the grosser regions of earth, and to rise to purer and serener regions above. God has created that man a poet. His inspiration is his; his songs are his by right Divine; they are his property, so recognized by human law; yet here in these United States men steal Tennyson's works, and sell his property for their profit; and this because, in spite of the violated conscience of the nation, we refuse to give him protection for his property."

Again, following out the same idea, he said:

"Does not every man see at once that the right of the inventor to his discovery, that the right of the poet to his inspiration, depends upon those principles of eternal justice which God has implanted in the heart of man, and that wherever he cannot exercise them, it is because man, faithless to the trust that he has received from God, denies them the protection to which they are entitled?"

That is a very sound doctrine, in my judgment—it is an appeal to that higher law which has been so much traduced. The poet has a divine right to the inspiration of his genius and the products of his mind; the inventor of a machine has a God-given right to the use of his discovery. Does not the honorable Senator see that if these rights are from God, above human law, no constitution and no law of man can take them away? And how much more has a man a right to his own body and to his own soul, than he can be said to have to his own productions. How could the gentleman fail to see that if the poet and the

inventor had this divine right, the slaveholder could not claim the right of ownership over another man? Would not that man have the same God-given right that he claims for the poet and the discoverer? Most assuredly he would. This admission stultified his whole case. He admits, then, that slavery would be impossible. It is not a matter of right. No, sir; he might as well admit at the outset that slavery is not a matter of right. It is a matter of positive law. It is a matter of force. It is a matter of fraud. It is not a matter of right; and the moment the slave gets beyond the power to enforce the mandate, he is as free as his master. Has God Almighty put any mark on him by which you can say when he gets into a foreign jurisdiction, which is the slave and which the master? The slave might as well claim a right to the master, as the master to the slave, the moment he passes beyond the jurisdiction.

Now, Mr. President, with regard to the Kansas question, I shall treat it very briefly, for I have detained the Senate so long that it would not be pardonable in me to detain them much longer; nor have I strength to continue the argument. I contended here, four years ago, that the abrogation of the Missouri restriction would be attended by the same train of circumstances that has taken place. I contended then that you were opening this Territory to strife and to contention; that you were putting it up to a vendue, to make it a theater where the most selfish and outrageous passions would contend for the mastery; that you were begetting a state of civil war. You claimed that it was going to be all peace; that it was done for the purpose of withdrawing this terrible controversy from the Halls of Congress to your Territories. Do you gain anything by it? Agitation begins in your Territories. Is it not sure to find its way into these Halls?

The Senator from Missouri, [Mr. GREEN,] the other day, in the eloquent speech which he delivered here, proclaimed that he who made an assertion to the detriment of a man that he could not prove, stood forth as a calumniator. I endorse the doctrine—that is so; and I stand here with the proof to show that the Territory of Kansas has been governed by a system of fraud, force, and oppression from the time the law was passed even until now. I assert it without fear of contradiction, and I stand here charged as a calumniator unless I prove it.

It does not come, however, well from the other side of the Senate to deny these things. It comes with very bad grace from them. The House of Representatives sent into that Territory a commission of the most honorable men, not on one side of politics, but on both, there to investigate the charges that were made against the first Legislature who, it was claimed, had usurped themselves into their positions by force, by fraud, by an invasion unparalleled in the history of the world—plain, palpable, known, premeditated, in open day. The commission went there. I have its report before me. I have read more than ninety of the depositions that were taken of men who are not impeached, men who were partisans, many of them, against the side of the question which I advocate. Here are their depositions. Perhaps I had better read some of them. They go to show you that even before this law was passed, there were organized upon the borders of Missouri divers lodges, under different names, for the sole and only purpose of carrying slavery into that Territory at all hazards. That was the object of their organization. They had all the paraphernalia of a secret society. They had their grips, their pass-words, their modes of recognition of one another; and before the day of election they went over there, embodied in military array, in vast numbers, with their colors flying and their drums beating, with guns, cannon, pistols, and bowie knives. They disseminated themselves through all the Territory, took possession of all the polls but one, and frequently removed the judges, giving them a certain time to deliver the poll-books—a few minutes—holding watch in hand, and pointing pistols at the heads of the election judges. They drove them off with force and fraud. This is undeniable. The volume before me proves it. It will go down to the latest posterity that these nefarious acts are proved. They are part of the records of your legislation. They never shall be gainsayed.

I know the Senator from South Carolina, and a good many other Senators, have been willing to divide the odium of this transaction with us. He thought there were disgraceful frauds on both sides—"disgraceful," said he, "to the country," and he has not sought to investigate them. He says it is a disagreeable subject, and he has no doubt both sides are guilty. Sir, it was not on both sides. It was only on one side. You took possession of those polls. You elected your own men, members of a foreign State, who came in there to control the destinies of this Territory, which it was especially said should be ruled as its own citizens pleased.

I do not want to detain the Senate by reading the pages which I have turned down in this document, unless some gentleman wishes to hear them. They are long, but they are all pertinent. All go to show the facts I have stated, and there is nobody to deny or contradict them. Now, you say we do not prove them. Did not we ask you for a commission to examine them during the last Congress? We made charges; we said they were true; we had letters and communications imploring us to investigate the state of things that was prevailing there; but as often as we asked you to give us a commission you refused it. Standing on that refusal, you turn around and deny the weight of the authorities we produce. Sir, that will not go down. Now, at a later day, when your candle-box frauds, your forgeries most disgraceful, are coming to light—when they are known of all men—we ask you for a commission to investigate this matter; and as often as we ask it you turn around coolly and vote us down, and then deny that there is any such thing! Sir, the country will take cognizance of that.

The fraud by which the election of March 30, 1855, was carried, is established. I know you undertake to estop us by saying that Governor Reeder gave certificates to a majority of the members. So he did; but that did not cure the usurpation. I think the Governor allowed but four days to receive protests contesting the seats of the members elect. The people, scattered as they were, could not prepare their memorials to the Governor and get them there in time. In every instance where it was done, the election was set aside for most palpable frauds; but the setting them aside availed nothing. There were your blue lodges, your usurpers, in power. They were taking their seats by a usurpation; they were not to be turned aside by anything like this. New elections were ordered in several of the districts, and in every instance the free-State men were returned; but, on the very first day of the meeting of the Legislature, without investigation, without referring to a committee, they just turned every free-State man right out of the Legislature. What good would it do to give certificates? But is a man to be estopped on a gross usurpation like this? Is an American citizen to be cheated out of his rights under forms of law? I ask any honorable gentleman on the other side, would you submit to it? No, sir, you would not. Would you submit to be governed by a gang of usurpers who, without right and in defiance of right, had taken possession of your ballot-boxes, defeated your election, turned your countrymen out, and foreigners usurped your places? Would technicalities avail? No, sir; I have too high an opinion of you to believe that.

It would be idle, mere miserable pettifoggery, to come in and say, oh, you have certificates from the Governor and that cures everything, and we cannot be admitted to prove that it was a usurpation. Sir, there was not a man who received his certificate as having been elected on that day, who had any more title to a seat in the Legislature than he had to the kingdom of heaven; and can a certificate give a man the right to rule in this country? Sir, American liberty rests on no fragile basis like that; and shame to the man who will say that he would succumb to a fraud like this.

Such was the original usurpation. It was the result of fraud. It was worse than void. It was a result brought about by the commission of the highest crimes against American liberty that man can be guilty of. It was a Legislature elected in this manner, that took the initiatory steps towards the convention which framed this constitution. I say a body elected in such a manner could do no legal acts. They got together, however, and in hot haste passed all the laws of Missouri in a

body, as the Senator from Michigan stated yesterday. They did not alter their titles, but they took a short road, by saying we will take the whole code, and wherever it says State it shall be construed to mean "Territory." I have looked through that code somewhat, and there I find the provisions for patrols to keep the slaves in order at night, as they have in Missouri. Those laws were transferred into the Territory of Kansas before there was, perhaps, a single slave there. Laws were passed ordering the people to patrol the districts to see that the slaves kept in order. The fact is, that they swallowed the Missouri statute-book whole, and did not know what was in it, and to them it made no difference what was in it. They went further, and passed laws which would have been disgraceful to any king or country, from Nero to Nicholas. You can find no such laws on any statute book. They were unconstitutional; and even General Cass, on this floor, was compelled to say that they were infamous and disgraceful to the age; but yet the Senate of the United States would not repeal them.

The Senator from Louisiana did not touch on this subject. He passed it by as easily and as lightly as he could. He dwelt on the beauties of old Judge Taney more than he did on the frauds and violence in Kansas. He talked about the Toombs bill, and said we would not vote for it. He said the people of the Territory sent here petitions and wanted Congress to accept the Topeka constitution, but the majority in this body would not do that, but were willing to pass an enabling act. There is a little curious history mixed up with that act which has come out at this session. It is all of a piece with the candle-box frauds, and shows that that was intended as a snap-judgment. The Toombs bill was plausible upon its face, and really the great objection to it at the time was the state of the Territory. It was then in the hands of the border-ruffians, the usurpers, and it was impossible to get officers there who would act with any fairness, or give any certainty that anything like justice would be done. That was our real objection to it, for I was in my heart so convinced that the principle was universally acknowledged that a constitution formed by a convention ought to be submitted to the people, that I did not know but it was contained in that bill; I was off my guard. I could not believe any American citizen would endeavor to rob a people of this God-given right of forming their own institutions, especially as you had said that the people of Kansas above all others should be perfectly free to make their own institutions in their own way.

How was that? I have learned during the session, by what has come out at side-bar here, that this was a matter of deliberation at that day, that the Committee on Territories, as I have understood the statement, were summoned to the house of their chief, there to sit in judgment on this very clause, whether the people should or should not have this right; and I understand that there such a clause in the first bill was stricken out, and it was passed by this body without any such clause.

Mr. HALE. For "peculiar reasons."

Mr. WADE. Yes, sir, for peculiar reasons. It was a matter of premeditation. It did not happen by accident. You did not intend at that period or at any other, that the people should have the right to sit in judgment on the constitution by which they were to be governed. I do not know that I understand this matter aright, but I state my impressions in regard to it just as I have understood it as it came out here.

Mr. STUART. The Senator will allow me to interrupt him at this point. I think there has been sufficient importance given to that statement to have it corrected; and I deem it my duty, having, I think, as much knowledge of that matter as anybody else, to say that at no time during the discussions upon that bill, by those who framed it and perfected it, was that subject consulted about at all. Although I voted for that bill, the fact of whether it contained such a provision or not, never came under my notice, and I took it for granted, as the Senator from Ohio says he did, that any constitution which might be formed under it, would be submitted to the people. I only say that in the preparation of the bill, and the consultations that were talked about by the Senator from Pennsylvania, (I believe I was present at every

single one of them,) there was no such subject considered.

Mr. GREEN. I wish simply to make one remark. How it should be taken for granted by anybody that there would be a resubmission of the constitution after it was formed by the convention, when it had never been required in a single instance in the history of this Government, in an enabling act, is to me inexplicable. It was not so regarded.

Mr. STUART. Well, Mr. President, the Senator from Ohio will allow me to say—I ask pardon for interfering with him in this matter, but I do not mean to state the argument—the Senator from Missouri was not here at the time, and knew nothing about the consultation on that subject. I am stating my impression; at the proper time I will state the argument. I have given my own impression and expectation on that subject; and I stated, also, that the discussion referred to was not so regarded.

Mr. GREEN. Mr. President, I beg leave to explain—

Mr. WADE. I wish first to state that I am told I made a mistake. The gentlemen who assembled and deliberated on this subject were not the Committee on Territories. I thought that was the statement, but I am corrected in that particular. The meeting is said to have been composed of some gentlemen; I do not know who was there.

Mr. GREEN. I merely desire to remark, in justice to the Senator from Michigan, that I do not pretend to say what was in his mind; I do not pretend to say what he thought or supposed; but I do pretend to say there had never, up to that period been a single enabling act requiring the constitution to be submitted to a vote of the people.

Mr. PUGH. Will my colleague allow me to say a word? I was not in Washington city when that bill was framed. I arrived here the very day when it was put on its passage. I never saw the bill except in the form in which it finally passed. I had had no consultation with any person in regard to it. I read the bill in my seat here, and I approved the bill, and I still approve it. As to the question whether the constitution was to be submitted to the people, I have no recollection that my attention was called to the fact one way or the other; because, like the Senator from Missouri, I never had known such a provision in an enabling act of Congress before. I supposed it would be left to the discretion of the convention.

Mr. TRUMBULL. With the permission of the Senator from Ohio, as this seems to be rather a conversational matter, I wish to state that for myself, when that bill was under consideration in the Senate, I objected to it distinctly on the ground that it contained no provision requiring the constitution to be submitted to the people. That was one of the objections which I made to the bill. I do not know that the remarks which I made attracted the attention of anybody else; but in the views which I submitted at that time, which are published in the Globe—and I have sent out for the volume, but it has not yet come in—it will be found that I made it a distinct point of objection to the Toombs bill, as it was called, that it contained no provision for submitting the constitution which the convention should form to the people for their approbation; and I thought it was going quite too far, as I stated, to allow a convention to be assembled under such authority as then held sway in Kansas, to form a constitution and fix it forever upon the people of Kansas without consulting them in regard to it.

Mr. SEWARD. The honorable Senator from Ohio will indulge me for a moment. It is due to myself to state that I understood distinctly at that time that there was no such provision in that Toombs bill. That was one amongst other reasons for not giving it my support; and I rather think the honorable Senator from Ohio [Mr. WADE] himself mentioned it at the time.

Mr. MASON. The honorable Senator from Ohio has been so considerate and forbearing that I hope he will indulge me for a moment.

Mr. WADE. Certainly.

Mr. MASON. I think I may supply facts which have lapsed from the memory of other Senators, because when that question was made, at an early day in this session, by an honorable Senator from Illinois, now absent, [Mr. DOUGLAS,]

I looked at the record to see what the facts were, and I think it will be found that the facts were these: the Senator from Illinois, as chairman of the Committee on Territories, reported a bill, which he has since called an enabling act, and in that bill there was a provision requiring that the constitution to be formed under it should be submitted to the people after it was formed. The Senator from Georgia, I think, some two months afterwards, introduced into the Senate, on leave given, a bill of like character, and in the bill of the Senator from Georgia there was no such provision. Afterwards both the bill reported by the Senator from Illinois from the Committee on Territories, and the bill introduced by the Senator from Georgia, I do not recollect on whose motion, were committed, sent back to the Committee on Territories, and then the chairman of the Committee on Territories reported the bill, which afterwards passed the Senate, without any provision for submitting the constitution to the people; so that his bill went back to the committee with that provision in it, and came out without it. I think that is the correct statement.

Mr. COLLAMER. I wish to say in connection with the remarks of the Senator from Virginia, that the bill reported from the Committee on Territories during the last Congress, called the enabling act, was in pursuance of the recommendation of President Pierce, providing that when Kansas had a sufficient population she might form a State government. The bill introduced by the Senator from Georgia, called the Toombs bill, was a provision for taking the sense of the people by commissioners, and providing for the formation of a State government immediately. The great difference between them was, that one was provisional, providing for a future time when the Territory should have a sufficient population, and the other contemplated immediate action.

Mr. BIGLER. I regret exceedingly, sir, that I happened to be out of my seat when this topic was presented. I do not know how it originated—I presume, with the Senator from Ohio in the course of his remarks. I understand that the Senator from Michigan has alleged that the question of the right of the people to vote on the adoption of the constitution was not discussed on a certain occasion to which I have heretofore referred, and in regard to which some feeling grew up between the Senator from Illinois and myself. I regret, in addition, that the Senator from Illinois is not now in his seat, for if it be necessary to discuss that unpleasant question again, perhaps it would be as well to do it now as at any other time. For my part I am perfectly prepared for any ordeal on that subject. The Senate will bear me witness, and the country will bear me witness—

Mr. WADE. I did not intend to yield the floor for an argument, but simply for an explanation in regard to this matter.

Mr. BIGLER. I must beg the Senator's pardon. I came into the Chamber under the impression that he had closed his remarks. ["Oh, no."] Still, sir, I trust the Senator from Ohio will indulge me on a question so peculiarly personal and interesting.

What I said when this point first came up, I reassert—every word of it; and all the examination I have given the question has confirmed me in the truth of what I then said. I did not say that the distinct proposition was discussed; I did not say what this Senator or that Senator did or said on the occasion. This I did say, and this I repeat, that the result of that interview and discussion was, to leave the impression clear on my mind that the intention of the bill, known as the Toombs bill, was to bring Kansas into the Union as a State through the agency of one popular vote, and that for delegates to the convention. Did I not show that the bill reported by the Senator from Illinois, in March, 1856, contained an express provision requiring for the constitution the sanction of the people? Did I not show that the bill read in place by the Senator from Georgia, in the subsequent month of June, contained the same provision? Did I not show that both those bills were referred to the committee of which the Senator from Illinois is the able chairman; and that the bill reported as an amendment to what was known as the Toombs bill, or one supplying both those referred to the committee, contained no such provision? I gave that history in justification of the impression which I expressed; and

I repeat it as a complete vindication of all I said.

I know, sir, that I have been told that I entirely misunderstood the nature of the discussion on that occasion; that it had reference, not to a vote of the people, but that the question was whether, when the proposed law should have been fully executed, and the commissioners to be appointed had performed their functions, Kansas was a State in the Union, or whether it would require another vote in Congress. I admit that was a leading topic; but can I find any stronger evidence, in addition to what I have given of the correctness of my impressions, than that history itself? It is clear, that if it was a question whether Kansas was in the Union when that law had been fully administered, I could have had the impression that there was to be a vote of the people on the constitution.

I do not desire, at this time, in the absence of the Senator from Illinois, to go into this question at any length. I stated a distinct recollection only in reference to what the Senator from Georgia had said. The impression made on my mind was in this way: He related to me the history of Ohio; the peculiar facts in the history of that State; that it had been in the Union for years without having been voted in by Congress; and that, when a committee was appointed to inquire into the fact whether Ohio was in the Union, the answer by the committee was that the constitution of Ohio was republican. That item of history left its impression upon my mind. Now, sir, on no occasion have I attempted to impugn the motives or the integrity of any Senator who participated in that consultation and discussion; but I have defended myself; I have done it by the history of the case. I inquired on this floor how the provision requiring the people to vote was stricken out of the bill. Who did it? Why was it done? It surely was not done to secure to the people of Kansas the right to vote. A provision similar was afterwards inserted in the Minnesota bill, and that went still further to strengthen the impressions I had entertained as to the character of the Toombs bill.

Mr. President, I have no pride of opinion in these things. I think I am as ready to bear and forbear as any man. But in a matter that concerns my personal integrity, I shall allow no man to question me. I represent a proud and a patriotic people here; and when I know that I speak the truth, I shall stand by the right, regardless of consequences. My impressions are clear that it was the intention to bring Kansas into the Union through the agency of one popular vote under the Toombs bill; that it was not contemplated that the constitution to be prepared, in the way prescribed in that bill, should be submitted to the vote of the people. No provision was made for an election of that kind. It was a scheme complete in itself, and there was no arrangement for a popular vote on the constitution. The agency of the commissioners ceased when the convention was elected.

Now, sir, I feel greatly at a loss, for I do not know precisely what was said on this subject—

Mr. PUGH. There was no issue made with the Senator at all, on any of the points to which he has alluded; and therefore I suggest that my colleague is entitled to continue his remarks, and the Senator may proceed afterwards.

Mr. WILSON. I wish to ask the Senator from Pennsylvania a question. I want to ask him if he did not make a speech in the Territory of Kansas, last summer, in which he advocated the submission of the constitution to be made to the vote of the people of that Territory?

Mr. BIGLER. That is very irrelevant. What has that to do with the question I have been discussing? If, however, the Senator from Ohio is perfectly willing to allow me to do so, I shall answer the Senator from Massachusetts. I have seen that story embellished and circulating in the papers. Now, sir, I said in Kansas just what I have said on this floor. I was in favor of submitting the constitution to a vote of the people. I was not in the habit of making speeches in Kansas. On one occasion, and one only, perhaps for ten minutes, I expressed my views, speaking generally about the character of the Territory and the importance of peace and quiet to the people, and the blessings of a State. I did say that the constitution ought to be submitted to a vote; but it is

justice to myself to say, that when I said that I had no other question in view than that of slavery; and had any man, with sufficient authority, said "we will submit the slavery question," my answer would have been, that is sufficient. But I did not say I would not vote for the admission, unless the constitution was voted on by the people. Furthermore, I happen to have a reply at hand, here in my desk, in a speech which I made in August, immediately after my return from Kansas, in answer to Mr. Wilmot, in which I took precisely the position which I have occupied on this floor; that was, if the popular sense was ascertained on the slavery question, that was all that we, outside of the Territory, had any right to expect, or require, or look into.

Mr. BRODERICK. Will the Senator from Ohio yield to me for a moment?

Mr. WADE. Yes, sir.

Mr. BRODERICK. Mr. President, this debate has taken a very extraordinary turn; and, after the speech of the Senator from Pennsylvania, I think it is proper that the Senator from Illinois should be sent for, or that the Senate should adjourn over until Monday. [A laugh.] I know that some gentlemen have a habit of coughing and speaking in an insulting manner when Senators rise here. I think that is very unworthy of a gentleman. I do not think any gentleman would indulge in it.

Now, Mr. President, I have listened very carefully to the speech of the Senator from Pennsylvania; and I recollect very well, that when on a former occasion the Senator from Illinois interrogated him on the point to which he has just spoken, he did not at that time speak positively, or have any positive recollection of what did take place in the house of the Senator from Illinois; but he said his impression was that such a debate did take place. The Senator from Illinois flatly denied it within the hearing of every Senator on this floor. He is now confined to his bed, I understand, very sick; though I do not know but that he might be sent for.

But, sir, it is now after three o'clock, and I hope that the Senator from Ohio will give way to a motion to adjourn, or that the Senate will proceed to other business this afternoon, the Private Calendar for example, because I am very anxious that the Senator from Illinois should be present if this debate is to be continued this afternoon. I think every friend of his upon this floor—I do not speak of his political friends, but every gentleman who respects him, should vote to give him an opportunity to be here so that the Senator from Pennsylvania may again repeat what he so valiantly repeated a few moments since.

Mr. WADE. If there is a motion to adjourn I am willing to give way, for I am very tired myself; but I shall get through very soon.

Mr. GREEN. I object to an adjournment.

Mr. BIGLER. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Pennsylvania?

Mr. BIGLER. I think I am entitled at least to that courtesy for a moment. I know the Senator from Ohio will extend it to me. I cannot permit the Senator from California to place me in a false position. His intimation is, that I have said in the absence of the Senator from Illinois what I did not say in his presence.

Mr. BRODERICK. Such is my impression, sir.

Mr. BIGLER. Well, your impressions are wrong. The variation is simply so far as relates to the discussion of the question of Kansas being in the Union under that bill. That is the only essential variation. I have made no issue with the Senator from Illinois, and I have been careful not to do so because of his absence; more so than I should have been if he had been present. The Senator from California would put this question in a false view before the Senate. Now, sir, I hope the Senator from Ohio will proceed.

Mr. BRODERICK. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from California?

Mr. WADE. I yield to the gentleman.

Mr. BRODERICK. Only a few moments, sir. My memory must be very treacherous, if the Senator from Pennsylvania is correct. My impression is that he did deny that the Senator from Illinois was present when this meeting took place.

I think that when the Senator from Illinois further interrogated him, he again said that he did not know whether that gentleman was present, or had any knowledge of the fact. I may be mistaken.

Mr. HALE. No, you are not.

Mr. BRODERICK. I am very confident as to the accuracy of my recollection. I think the Senator from Pennsylvania will find that he did it with a great deal of tremor. I thought he had taken it all back in the most submissive manner; and therefore I intended, out of the respect I bore him at that time, to talk to him upon the question. But, sir, I let it pass, and said nothing to him about it. I believe four fifths of the Senators who are now present were upon the floor at the time that debate took place, and will concur with me in this respect. The Senator from Illinois is now confined to his bed by sickness; and I hope that, out of respect to that gentleman, the Senate will adjourn, and then we shall be able, on Monday, to ascertain whether the Senator from Pennsylvania is correct or not.

Mr. BIGLER and Mr. WADE addressed the Chair.

The VICE PRESIDENT. Does the Senator from Ohio claim the floor?

Mr. WADE. Yes, sir; and I only wish to say that, since this matter has come up in the shape it has, if there are personal considerations requiring time for explanation, I will not stand in the way of an adjournment; I will give way to a motion of that kind.

Mr. GREEN. I merely wish to remark—

The VICE PRESIDENT. Does the Senator from Ohio yield the floor?

Mr. WADE. For the purpose of allowing a motion to adjourn to be made, if any gentleman sees fit to make it.

Mr. GREEN. I wish to make a suggestion. If you are determined to postpone this subject, there are other matters to attend to. Do not let us adjourn.

Mr. BRODERICK. If there are other matters to attend to, let us proceed to their consideration. I move that this question be postponed until Monday at half past twelve o'clock.

Mr. GREEN. I hope that motion will not prevail. This debate must be ended.

Several Senators rose

The VICE PRESIDENT. The Chair will state the question before hearing anything that may be said. The Chair will not recognize any Senator until he states the question before the Senate. It is moved and seconded that the further consideration of this subject be postponed until Monday at half past twelve o'clock.

Mr. SEWARD and Mr. BRODERICK called for the yeas and nays; and they were ordered.

Mr. BIGLER. Mr. President—

Mr. PUGH. I hope the Senator from Pennsylvania will allow me to say a word which may relieve him probably from some embarrassment. I heard the allegations of the Senator from Illinois and the Senator from Pennsylvania on a former occasion; and I took it on myself, as their common friend, to bring them together to have a conversation on this subject. My own impression was that the Senator from Pennsylvania was distinct and correct in his statement, but that the conversation transpired in another portion of the room when the Senator from Illinois did not hear it; and I understood that to be their mutual understanding.

Now, if I thought the honor of the Senator from Illinois were involved in any degree, even in the slightest degree, I should move to postpone the further consideration of this question; or, if my colleague says it will be convenient to him, and that he desires it, I will vote to postpone it; but I do not understand how a collateral matter brought in here by the Senator from Pennsylvania, who did not hear my colleague, is to usurp the whole attention of the Senate, and to lead off the Senate into a great many other collateral matters. That is the reason why I shall be compelled to vote against the postponement, unless my colleague desires it. I thought the matter between the Senators from Pennsylvania and Illinois was all happily understood between them at that time. I tendered my good offices as their friend, and thought it was ended.

Mr. BIGLER. The Senator from Ohio is substantially correct in what he has stated. He will remember, however, that it was subsequent to

that time that I made my prepared speech and gave the history of this case in justification of what I had previously said. It will be remembered, and the debate would show if I had it at hand, that I said to the Senator from Illinois that I only intended to hold him accountable by the record. I stated that I did not pretend to recollect that the Senator from Illinois participated in the particular discussion to which I referred. I so stated in the first debate. It is not becoming in the Senator from California to characterize the manner in which I did what I conceived to be an act of propriety. I could not recollect the particular part which the Senator from Illinois had in the discussion, nor was it necessary. I only gave the general impression made on my mind. I afterwards gave the history of the case as confirming it. That is consistent with all I said.

Mr. BRODERICK. I think it a duty that I owe to the Senate, as well as to the Senator from Illinois, to state that when the Senator from New Hampshire, some fifteen or twenty days since, made his speech, I understood, at that time, the Senator from Illinois to say that the Senator from New Hampshire intended to allude to the meeting which took place in his room. The Senator from Illinois informed the Senator from Pennsylvania, that if the Senator from New Hampshire did allude to that subject again, he would, upon this floor, denounce the allegation as a falsehood, if the Senator from Pennsylvania did not qualify it in some manner. Now, sir, the Senator from Illinois is absent—

Mr. BIGLER. The Senator is talking about what the record here or the debate will not show one word of. It never occurred.

Mr. BRODERICK. I am talking about what the Senator from Illinois informed me; so that it is a question of veracity between the Senator from Pennsylvania and the Senator from Illinois.

Mr. BIGLER. The Senator shall not attack the Senator from Illinois in his absence. The Senator from Illinois never did any such thing on the floor of the Senate.

The VICE PRESIDENT. Will the Senator from Pennsylvania pause? The Chair must attempt to control debate and make it regular, and therefore the Chair will not allow it to proceed until he asks the Senator entitled to the floor whether he yields the floor to the Senator interrupting. That will enable the Chair to exercise some control over the manner of proceeding.

Mr. BRODERICK. I yield.

Mr. BIGLER. Every Senator here knows that the Senator from New Hampshire did discuss that subject pointedly and distinctly. The Senator from California says that the Senator from Illinois asserted that he would rise here and denounce it as false. The Senator from Illinois never did any such thing. Now, sir, where is the issue? Denounce as false, what, sir? The assertion that that interview left the impression on my mind, as I over and over repeated, that the intention and the effect of that bill was to bring Kansas into the Union through the agency of one popular vote, and that vote for delegates—that is all.

Mr. BRODERICK. Well, Mr. President, I suppose when the Senator from Illinois takes his seat in this body, he would like to speak upon this question. It is now three hours since the Senator from Ohio commenced his remarks. I understand there are a great many private bills upon the table, and I hope the Senate will postpone this matter until half past twelve o'clock on Monday, so that we can proceed with private business on the Calendar. On that motion I call for the yeas and nays.

Mr. CRITTENDEN. I move that the Senate do now adjourn. We have been sitting here, very intensely engaged, all the week.

Mr. BROWN. On that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KING. Before the vote is taken, I will state that I was requested by the Senator from Maine [Mr. HAMLIN] to inform the Senate that he had paired off with the Senator from Florida, [Mr. YULEE.]

The question being taken by yeas and nays, resulted—yeas 20, nays 18; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Fessenden, Foot, Foster, Hale,

Harlan, King, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—20.

NAYS—Messrs. Allen, Benjamin, Bigler, Brown, Clay, Fitch, Green, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mason, Polk, Sebastian, Sidel, and Toombs—18.

So the Senate adjourned.

IN SENATE.

MONDAY, March 15, 1858.

Prayer by Rev. W. D. HALEY.

The Journal of Saturday was read and approved.

PETITIONS AND MEMORIALS.

Mr. BROWN presented a joint resolution of the corporation of Washington, asking Congress to make an appropriation for opening and grading Massachusetts avenue from Twelfth street to the northwestern boundary of the city; which was referred to the Committee on the District of Columbia.

He also presented a joint resolution of the corporation of Washington, in relation to lighting certain avenues and streets in that city with gas; which was referred to the Committee on the District of Columbia.

Mr. COLLAMER presented the memorial of Ebenezer Watson, praying an increase of his pension; which was referred to the Committee on Pensions.

Mr. WRIGHT presented a petition of citizens of Patterson, New Jersey, for the adoption of measures for the gradual and peaceful extinction of slavery; which was ordered to lie on the table.

Mr. MASON presented the petition of R. F. Mason, Passed Assistant Surgeon in the Navy, praying that his pay may date from his examination, and not from the time of his commission; which was referred to the Committee on Naval Affairs.

Mr. JOHNSON, of Tennessee, presented a petition of citizens of Fort Dodge, Iowa, praying that the public lands may cease to be considered a source of public revenue, and that hereafter all entries of them may be confined to actual settlers; which was ordered to lie on the table.

He also presented two petitions from citizens of Wisconsin, praying that the public lands may cease to be considered a source of public revenue, and that hereafter entries of them may be confined to actual settlers; which was ordered to lie on the table.

Mr. SEBASTIAN presented the petition of citizens of Arkansas, praying for the establishment of a mail route from Fort Smith, in that State, to Albuquerque, in New Mexico; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of steamboat officers and citizens of Napoleon, Arkansas, praying the establishment of a board of inspectors of steamboats at Memphis, Tennessee; which was referred to the Committee on Commerce.

Mr. SEWARD presented a petition of inhabitants of Yates county, New York, praying that a pension may be granted to Martha Brown, widow of a revolutionary soldier; which was referred to the Committee on Revolutionary Claims.

He also presented resolutions of the New York State Agricultural Society, recommending that a grant of land be made to each of the several States and Territories of the Union, including the District of Columbia, for the maintenance and endowment of agricultural colleges therein; which was referred to the Committee on Public Lands.

He also presented a petition of citizens of New York, praying that the public lands may be granted in farms or lots, free of cost, to actual settlers only; which was ordered to lie on the table.

He also presented a resolution of the Legislature of New York, instructing the Senators and Representatives of that State in Congress to use their influence to procure the enactment of a law granting pensions to the surviving soldiers of the Indian wars from 1791 to 1795, and to the widows of such as have died; which was referred to the Committee on Pensions and ordered to be printed.

He also presented a resolution of the Legislature of New York, instructing the Senators and Representatives of that State in Congress to urge the enactment of a law granting to the militia of the States arms and equipments of the most efficient patterns, and in increased quantities, and also the enactment of a law to reorganize the mili-

tia system; which was referred to the Committee on Military Affairs and Militia, and ordered to be printed.

Mr. FOSTER. I present the petition of Charlotte Taylor, now residing in the State of Connecticut, the only surviving child of the late William Scarbrough, of Savannah, Georgia. As the petition is very short, and as it will more clearly explain its purport than I can, I ask that it may be read.

The Secretary read it, as follows:

To the Senate and

House of Representatives of the United States:

The petition of Charlotte Taylor, now residing in the State of Connecticut, respectfully shows: That your petitioner is the only surviving child of the late William Scarbrough, of Savannah, Georgia; that her father, being an energetic and enterprising man, of great mechanical genius, caused to be constructed, in the years 1818 and 1819, with his own means and those of every friend he could enlist in the effort, the first steamer that ever crossed the Atlantic—the Savannah, of Savannah, Captain Stevens Rogers, of New London, commanding; that her voyage was entirely successful, and inaugurated a new and brilliant era in the history of the naval and commercial marine of the country. For the details of said voyage, and for other interesting details connected with the enterprise, your petitioner refers to the affidavit of Captain Rogers, hereto annexed, and which, she prays, may be taken as a part of this her petition. Your petitioner prays that your honorable bodies will take into consideration the great sacrifices which her father made in accomplishing this great work, (for it utterly ruined and impoverished him), and that you will award to your petitioner such pecuniary acknowledgment as you may see fit for the great and lasting benefits which have resulted to the country from the enterprise, and pecuniary sacrifices of said William Scarbrough. And your petitioner will ever pray, &c., &c.

CHARLOTTE TAYLOR.

I move that it be referred to the Committee on Claims.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FESSENDEN, it was

Ordered, That the petition of the heirs of John W. Pray, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. HENDERSON, it was

Ordered, That the petition of Thomas W. Ward, on the files of the Senate, be referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. COLLAMER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 200) in relation to the duties of postmasters; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. BIGGS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 201) to execute the treaties of 1817 and 1819, with the Cherokees, by making provision for the reservations under the same; which was read twice by its title, and referred to the Committee on Indian Affairs.

HOUSE BILL REFERRED.

The bill (No. 359) for the relief of Duncan Robertson, was read twice by its title, and referred to the Committee on Naval Affairs.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, their Clerk, announced that the Speaker of the House had signed the following enrolled bills; which were thereupon signed by the Vice President:

An act for the relief of John Hamilton; and
A joint resolution to authorize certain officers and men, who have been engaged in the search for Sir John Franklin, to receive certain medals presented to them by the Government of Great Britain.

REPORTS OF COMMITTEES.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the memorial of Charles A. Kinkead, submitted a report, accompanied by a bill (S. No. 199) for the relief of Livingston, Kinkead & Co. The bill was read, and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of citizens of St. Louis county, Minnesota, and the petition of citizens of Copper Harbor, Lake Superior, respecting an agency for the Indian bands of Lake Superior, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred resolutions of the Legislature of Texas, relative to the adoption of measures for

the protection of citizens of Texas against Indian depredations, presented February 16 and February 24, and the resolution of that Legislature relative to the removal of Indians west of the Pecos river, asked to be discharged from their further consideration, and that they be referred to the Secretary of War; which was agreed to.

Mr. JOHNSON, of Arkansas, from the Committee on Military Affairs and Militia, to whom was referred the memorial of Jeremiah Y. Dashiell, submitted a report, accompanied by a bill (S. No. 202) for the relief of Major Jeremiah Y. Dashiell, paymaster in the United States Army. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the memorial of David Gordon, submitted a report accompanied by a joint resolution (S. No. 21) devolving upon the Secretary of War the execution of the act of Congress entitled, "An act supplemental to an act therein mentioned," approved December 22, 1854. The resolution was read and passed to a second reading; and the report was ordered to be printed.

ROSS WILKINS AND OTHERS.

The VICE PRESIDENT. If there be no further morning business, the business next in order on the Calendar is the resolution offered by the Senator from Illinois, [Mr. DOUGLAS.]

Mr. STUART. I suppose it is not desired to discuss that question to-day. There is a bill on the table which I observed my colleague desired to have passed a day or two ago, but it was laid over. I hope it will now be taken up.

Mr. GREEN. It was laid over at the request of the Senator from Virginia, [Mr. HUNTER,] who is absent on account of sickness in his family.

Mr. CHANDLER. The Senator from Virginia, I think, has withdrawn his objection.

Mr. STUART. There is no objection to it certainly. The Senator from Virginia has examined it. The case is one of great merit.

Mr. CHANDLER. It is the bill (S. No. 58) to authorize and direct the settlement of the accounts of Ross Wilkins, James Witherell, and Solomon Sibley, which was laid over on Saturday until to-day.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. BIGGS. Is there any report accompanying the bill? If not too long, I ask that it be read.

Mr. STUART. The Senator from Vermont can state in a moment the facts of this case.

Mr. COLLAMER. This bill relates to a claim for services as members of the land board of Michigan, some years since. As judges of the Territory they were directed to adjudicate on the French land claims in Detroit and that vicinity, and had a great deal of service of that kind to do. Their colleagues on that board have been from time to time provided for by two different acts, and for the services of these two judges, one of whom is deceased, it is proposed by this bill to pay at the same rate as the others; and that is the whole bill. Congress has passed upon it for the different members of that board from time to time, and have made provision for all of them except two. They now apply to have pay at the same rate as the others have received.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

WASHINGTON MILITARY ASYLUM.

Mr. HALE. I wish to offer the following resolution of inquiry:

Resolved, That the Committee on Military Affairs and Militia be instructed to inquire into the expediency of abolishing the military asylum near Washington city, District of Columbia, and of resorting to some other means for providing for the inmates of that institution.

I ask for the consideration of the resolution at this time.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HALE. Before the resolution is passed, I wish to say that a resolution of similar character was passed by the Senate at the last session, and an inquiry was instituted and pursued by the Committee on Military Affairs. They made a report, and the result of that report was an act of

Congress abolishing the military asylum at Harrodsburg, in Kentucky. Since that, I have received several communications, and I am told that there have been communications also received by the chairman of the Committee on Military Affairs, showing a most gross abuse of the purpose of Congress, and of the fund which is created by a tax on the soldiers' pay.

In the military establishment of this city, the pensioners are made menial servants of the officers, subjected to military discipline, fed just as they would be if they were in the deserts of Utah, arbitrarily fined if they take an apple from the ground, or a cucumber from the vines, which are bought with their own money, together with the asylum which Congress has furnished, and for which they pay. It costs \$600 a year for each man at this asylum; and yet the men are stinted and treated worse than they could be in any desert in which they might be put. But while they are thus robbed, the officers, as will appear by this report, have had double pay—their pay in the Army, and their pay as superintendents. The money of the men has been taken to make splendid accommodations for entertaining the President of the United States and the Secretary of War last summer, so as to blind their eyes and get them to wink at the gross frauds which are perpetrated on these old soldiers. I will submit the resolution to the Committee on Military Affairs; and if they will go into it, they will find a system of abuse in this city, right under the very nose of Congress, that ought to make every man ashamed. The case would be bad enough if it were the public money and the public funds that were thus used; but these men are not dependent on the charities of the Government, for it is their own money of which they are robbed to feast and entertain military officers, the President of the United States, and the Secretary of War, and these poor old creatures are subjected to hard work, and compelled to menial services and menial offices for the officers. If an old man, perhaps eighty years of age, happens to be guilty of any dereliction, he is fined. In addition to gross misappropriation of his money by fines and exorbitant exactions, he is again defrauded. I hope the resolution will pass and the inquiry be made. The resolution was agreed to.

KANSAS—LECOMPTON CONSTITUTION.

Mr. GREEN. With the consent of the Senator from Ohio, I move to take up the unfinished special order.

Mr. WADE. I am ready to go on at any time. It makes no difference to me.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. WADE. Mr. President—

Mr. BRODERICK. Will the Senator from Ohio yield for a moment?

Mr. WADE. I will yield, sir; but I hardly want to get postponed as long as I was the other day, for I am very anxious to finish my remarks on this subject. I will yield, sir.

Mr. BRODERICK. When the Senate adjourned, Mr. President, on Saturday, I stated that Judge DOUGLAS would be in his seat to-day, for the purpose of replying to the speech made by the Senator from Pennsylvania. I saw the Judge yesterday, and he informed me that he would be here to-day if his doctor would permit him to leave his room. I have just received a letter from him, in which he states that it will be impossible for him to be in the Senate to-day, but he will try to be here to-morrow or the following day. By that time, I suppose, as the speech of the Senator from Pennsylvania has been reported, the Senator from Illinois will have been able to see what was stated by the Senator from Pennsylvania.

While I am up, I desire to call the attention of the Senate to a paragraph which I find in the New York Herald, a paper that has a very large circulation. I suppose the largest of any paper in the Union. It is in these words:

"Quite a personal wrangle occurred in the Senate to-day between Messrs. BIGLER and BRODERICK. Mr. BRODERICK took exception to remarks made by Mr. BIGLER in reference to Mr. DOUGLAS, who is detained at home by sickness, and asked that the Senate adjourn, in order to give DOUGLAS an opportunity to vindicate himself from this insidious attack. Mr. BRODERICK promptly rebuked the Senator from California for his impertinence, and here the matter ended."

Now, sir, I did not think on Saturday that I received any rebuke from the Senator from Pennsylvania, or from any other Senator upon this floor. I have never yet received a rebuke in this Chamber, and I hope I never shall. I try to conduct myself here as becomes a Senator. It cannot be possible that the man who wrote this paragraph was present when the debate took place on Saturday. If he was present he has fabricated a deliberate falsehood, which is unbecoming in any one who is entitled to privileges in this Chamber as a reporter. I am sure that when the editor of that paper finds out that this paragraph is untrue, he will correct the erroneous statement. I thought it proper to direct the attention of the Senate to this subject to avoid misapprehension.

Mr. BIGLER. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield the floor?

Mr. WADE. Well, sir, I suppose I must.

Mr. BIGLER. I rise, Mr. President, simply to set myself right in reference to the debate of Saturday, not to account for this newspaper paragraph. I know nothing about it, and of course no Senator is responsible for what is said in the newspapers. There is scarcely a day of my life that I do not see some unaccountable statement in them. What I feel it due to myself to say is, that I came into the Chamber on Saturday, after the question, to which I then referred, had been in some way suggested. I spoke under mistaken apprehensions of what had been said. I am satisfied from what I know now, that if I had been in my seat I should not have felt required to take notice of what passed.

Now, sir, an additional remark, and one only; and that is as regards the relations of the Senator from Illinois and myself. I certainly was not sensible of making any attack upon him, or saying what could be understood as offensive. I rose for the purpose of defending myself against what I thought was an imputation on what I had previously said on the unpleasant topic under consideration. I am not in the least disposed, in the absence of the Senator from Illinois, to say anything on this question, or any other, that I would not say in his presence; and I feel satisfied that, when that honorable Senator and myself discuss this question, if ever we do discuss it, or any other, the Senator from California will be convinced that we are each controlled by honorable bearing and manly motives. We have a difference of opinion on this question, but I do not know that we have anything more unpleasant, and I did not intend to be offensive to the Senator from Illinois in his absence, but to say what I thought was just to myself.

Mr. WADE. Mr. President, when I alluded on Saturday to that enabling act, which was called the Toombs bill, I had no idea that I was about to wake up so many reminiscences as I have, in almost every direction in this Chamber. I called attention to it, not with any purpose whatever of raising any question over the manner in which a clause in that bill seemed to have been stricken out. I do not care who struck it out; I do not care what deliberations were had about it. The reason, and the only reason, why I alluded to it was, that I thought the Senator from Louisiana, [Mr. BENJAMIN,] in calling attention to it, had given it a consequence to which it was not entitled; and I had some observations that I thought proper to make on that point. But the Senator from Pennsylvania, [Mr. BIGLER,] always exceedingly jealous of any imputation as to his differing with the President on any question, supposed that some one was about arraigning him for a departure from the Democratic faith on this subject. Now, sir, I should have been the last man in the world to suspect him of any such thing. I supposed he and the President were just as much alike as the Siamese twins. [Laughter.] I supposed what one thought the other thought; what befel one always befel the other at the same time. I have no doubt that he is always orthodox. I hardly know from his remarks who was the great discoverer of this improved idea of popular sovereignty. The President, to be sure, tells us that, in regard to submitting constitutions to the people, he formerly held that this constitution must be submitted to the people of Kansas, to the whole people; and that they must have a fair opportunity to vote on it, and must not be interrupted by fraud or vio-

lence; but in his late message he tells us that his mind at that period was fixed entirely on the slavery clause; he did not think of anything else. I understand the Senator from Pennsylvania to have declared on Saturday that he formerly held that a constitution certainly should be submitted to the people for their approval or dissent; but he also observed that he, like the President, when he said so, thought of nothing except the slavery clause. I do not know but that it may be prudent, in the view of some, to withhold the whole of a constitution from the consideration of the people who are to live under it at the time. It might be an overdose; it might be a little too much for the stomachs of the people to take a whole constitution; and if the people are not to judge of it, who can do it better than Doctor Buchanan, or the Senator from Pennsylvania? They give it to the people by clauses; they suppose there are some things too high for the consideration of the people, when they come to investigate a constitution. There are other matters, if I understand them, which it is safe to intrust the people with, and they are to be the judges of what shall be submitted.

But, sir, I was led to this course of remark from the zeal of gentlemen to define their positions on this subject. I suppose it is a principle of the Democratic party always to be in line with the President on all subjects. I suppose if he takes snuff, every true Democrat ought to sneeze, or else be read out of the party; and I suppose all true Democrats are willing to do that. I have taken it for granted that such would be the fact. But I will state my object in calling attention to the Toombs bill. I was not invited into the famous council where all the clauses of that bill were taken under consideration, and yet I doubt not that I understand it just about as well as they did, and they will correct me if I do not state it aright. A bill admitting Kansas under what was called the Topeka constitution had lately passed the House of Representatives, at the period at which the Toombs bill was framed. It was sent here; and this body had voted it down. The Republicans voted for it, and the Democracy voted against it. We were outnumbered, and the Topeka constitution was killed. As the presidential campaign was approaching, it did not look exactly right, considering the commotions that had taken place in Kansas Territory, that, after voting down the proposition the people of the Territory had given you, you should go into the canvass without substituting anything for it. If I was to guess now, I should think that council was held for the purpose of getting up a very plausible measure, which they knew the Republicans would have to vote against, and which could not pass the House of Representatives, and which would be a very good thing to take on the stump in the canvass. My opinion is, that that is about all the importance that is to be attached to what was called the Toombs bill.

I do not care much what clauses it had in it. It was plausible enough on its face, I know, except in this particular; and I was off my guard in relation to it. I did not look to see whether it had that or not; I did not care whether it had it or not. I knew then, as now, that the Administration had everything their own way in that Territory; and when you provided for officers to execute your law, if it were made by an angel from heaven, it would be perverted to the very worst of purposes, and it would be turned into a party channel that could not be got rid of. I knew that was so, and I voted against the bill because no bill could be properly, justly, and equitably carried out in the Territory under the officers who then presided there. It gave the Democratic party a little advantage over us, because our ideas were not patent on the face of the bill, and people would probably look to its language more than they would to the circumstances prevailing in the Territory, which rendered it exceedingly inexpedient that anybody should then vote for the immediate organization of the Territory into a State under the officers who were to take charge of it.

The Senator from Louisiana alluded to it as a reproach to the Republicans here that they did not vote for it, as though it was an olive branch held out by the Democracy that we refused, and the people there refused. He intimated that while we professed to wish that something might be done to make peace in the Territory, and give the

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, MARCH 17, 1858.

NEW SERIES.....No. 71.

people a State constitution with a right to regulate their affairs, we stood here to reject it. He said that while the people were calling for assistance, we were voting against the measure proposed, to which he argued there was no objection. That is a very lawyer-like argument, and very shrewd, and it might possibly deceive the people; but it will not deceive Senators. We all understand these little policies that prevail here. I will say no more about that bill. It is a thing of the past; let it go.

A great deal has been said in regard to the Topeka constitution. It has been a great source of reproach to the people of Kansas that they got up the Topeka constitution. They have been denounced as traitors, as rebels, as everything vile and contaminating, because they sent to us, for ratification, their Topeka constitution. It has been a fruitful theme for the President of the United States. Availing himself of the impunity of his position, he has hurled these opprobrious epithets without stint on the heads of a people struggling for their rights. He had no business, as Chief magistrate of the nation, to visit on the heads of the people, without proof, such epithets as he has bestowed on them through all his messages. His messages teem with those vile epithets, as bad as any that were thundered from the royalists to the leaders of our Revolution. Indeed, sir, if you trace them as they have been traced in the other House, the parallel is so near that a man would suppose the President himself had copied the old royal edicts. But what does all that signify? I take no pleasure in stating that it was false, slanderous, and calumnious, because there was no truth to found it upon.

What did the people of Kansas do, that was unlawful, in getting up the Topeka constitution? Look at their notices. They are all before us; they are all officially here; and gentlemen, whenever they speak of it with reproach, do not avail themselves of the light that is on their tables. Did those people propose to revolutionize that Territory? No, sir. They called a great meeting of the people. They invited everybody to come up and see if they could not agree on some method by which a State constitution should be provided. They held a convention for that purpose, which consisted of an overwhelming majority of all the people in the Territory, and their constitution was ratified by a deliberate vote of that people not less than twice.

But did they propose to organize under it in defiance of the laws of the United States? Not at all. From the time they called the convention, they always accompanied their action with a notice that it was to be submitted to the Congress of the United States for their approval or disapproval. It took barely the form of a petition; nothing more nor less. Has it come to this, sir, that the people of the United States cannot petition Congress for a redress of grievances, unless they submit to be accused as traitors and rebels to the Government? Is this the way you are to meet the respectful calls and applications of the people of the United States for a redress of grievances? Is this the way your President expects to get along in dealing with the high-spirited people of this nation? He will have a hard road in traveling that Jordan.

Are they rebels? The Senator from Louisiana said they were rebels; the President says they were rebels. If they were, there are a great many more rebels than are to be found in the Territory of Kansas. I stand here as a champion for those rebels. Were the framers of the Topeka constitution rebels? So am I. Were they rebels? If so, a majority of the House of Representatives were rebels, for they approved of all their doings, and, so far as they could, gave effect to their petition.

Mr. BENJAMIN. Will the gentleman allow me to ask him a question?

Mr. WADE. Certainly.

Mr. BENJAMIN. Does the Senator remember the resolution of the Topeka people declaring their right to organize their government in defiance

of the Congress of the United States, and their determination to do it?

Mr. WADE. I do not recollect any such thing.

Mr. BENJAMIN. I can show it to the gentleman.

Mr. WADE. But the gentleman, as a lawyer, will not pretend that that made rebels or traitors of the people. I suppose that does not help the case at all, if it be so. Treason, by the grace of God, does not consist in words of mouth in this country. It did in Kansas, for there their wise judges got up a great many constructive treasons. I am talking of the language which gentlemen here have used with a full knowledge of all its opprobrious import. A man may say a great many things with perfect impunity, which he may not act out. There was no rebellion in the action of these people; nothing unlawful in it. Whatever they may have said—and I do not know what they said, for I do not watch men's words much; their actions are what I take cognizance of; their actions are what the law takes cognizance of—the people of Kansas, in framing that constitution, have done nothing more than they had a perfect right, as American citizens, to do; and I challenge all the legal acumen of this body to contradict what I now declare.

Then, sir, let not your President of the United States, let none of his champions, stand up and charge those people, struggling for their rights, with being rebels. I hold that a man ought not to stand here on the immunities thrown around him to assail others who have no such immunity. I hold that it is not right for him to do so. The men who framed that constitution communicated with General Cass, a member of the Senate on this floor at the time. They asked him if he was willing to take charge of their petition, and to present it to the Senate of the United States? And he answered them that he was willing to do it. If they were traitors, General Cass was little less than a traitor, because he assented to what was done; and in treason, I believe, there are no accessories. He presented it to the Senate of the United States. I know how it was assailed by partyism. I know that the man who brought it and delivered it to the Senator who presented it here, was denounced as a forger. The instrument was denounced as spurious, as never having come from the people assembled at Topeka; and the Senate disposed of it under that hypothesis. But you did not arraign General Cass for presenting it as being a traitor. I do not like to hear quite so much about rebellion as we have heard for the last year or two. I know that everybody who did not yield a quiet assent to be trampled under foot by border ruffianism was denounced as a traitor. I know that on the other side of this Chamber, for more than two years, you have invoked nothing else but the mere technicalities of law to cover your utter nakedness of principle. You have sought to steal the liberties of a whole people, and screen yourselves behind the technicalities of what you call law, but which, on closer investigation, turns out to be a bare usurpation, without color of authority.

Mr. President, it will be an evil day for the American people when they, through the forms and meshes of crooked lawyers, are to lose their liberty. It will be an evil day for the liberties of this country whenever men will submit that their liberties shall be taken away in this nefarious manner. It has been well observed by others in the course of this debate, that it is the usual, and I might say the vulgar, course of despotism, to entrap their victims through the forms of unjust laws. But perhaps enough has been said on that point. I feel a little warmly on it because I do not like to see men struggling for the rights of American citizens in a distant province of this nation, denounced by these high authorities as infamous traitors, who ought to lose their lives instead of having any favor granted to them.

I say again, sir, there is not one particle of substance in the charge. The get-together of the Topeka convention were here petitioners to the Government of the United States for redress of

grievances, and they asked you to give them redress by accepting the constitution which they had framed. I believe nobody denies or doubts that that constitution had the sanction of a vast majority of the people of the Territory; and you had allured them to make just such an application. Had you not invited them to do anything that they thought would minister to their welfare, by saying that they should be left perfectly free to form their domestic institutions in their own way, without consulting anybody? When a vast and overwhelming majority of the people were anxious to do this, who would suppose that the very moment they took all of you at your word, from the President of the United States down or up, they would be charged with treason, treachery, and crime? Sir, if there was anything wrong in it, you had lured them into it—you had entrapped them into it, by the inviting manner in which you had made your law; but as a lawyer, I say to the Senator from Louisiana, and I say to the President, that the Topeka constitution was just as much authorized by law as was your Lecompton constitution, or any other that has been made there.

Even if the so-called Territorial Legislature were clothed with authority to act as such—if they were not mere usurpers, as they were—I say they had no power to abrogate the law of Congress, and set up a government for themselves. I know the President seeks to find the power in the particular clause of your Kansas bill to which I have already alluded; but that shallow sophistry of his is rejected in this Chamber by every respectable lawyer here. I think he has no second on this floor to back him in what he says about the power of that bill as an enabling act to authorize the people of the Territory, independently of Congress, to frame a State constitution for themselves. Then, did you authorize them, by your act, to do it? No, sir; Congress has given them no authority to abrogate the law of Congress; to destroy the very law under which they were organized. You had authorized no such thing. Therefore, your Lecompton constitution was just as naked of all authority of law as was the Topeka constitution. It was all well enough as a petition; I do not deny that. The people had a right, through their Legislature, if they had a Legislature, to take measures to form a constitution. They had a right to meet outside of all Legislatures, and call the people together, and consult upon the same thing; for the very knot of the combination, the very touchstone that could make anything legal, was, that when they had done their part of the proposition, they should obtain the sanction of Congress to it. Without that sanction, the action of your Lecompton convention is as bare of legal authority as it can be. What the Topeka convention did had no authority of law until it had the sanction of Congress. Therefore, these acts stand on precisely the same footing in point of legal authority.

How is it, then, that an impartial Chief Magistrate will denounce the friends of the one as rebels, and those of the other as patriots? It is because he has turned partisan himself, because he hears nothing but what is breathed in his ear by sycophants. The truth he never hears; or, if he does, his mind is so perverse that he does not appreciate it.

I am not in a condition to prolong this debate a great while, and therefore I shall pass to the next phase of the matter. You say the Legislature authorized a convention. They could call it; there was nothing wrong about it; but I contend there was no authority about it. They called a convention. Now, this is the position I assume, and I invite attention to it from any part of this Chamber, from the most eminent lawyers in it: If the Territorial Legislature had no authority to call a convention; if it still required an enabling act to give it real legal validity; then, when they called their convention, it was perfectly optional with the people to comply with the act or not. It was a mere voluntary call on them, not authorized by law, inviting them to vote for delegates to

frame a constitution under which they would live.

This act having no binding authority of law, it was at the option of every man to do just as he pleased about it. If he went, it was well enough. If he failed to go, you could not denounce him as having done anything wrong, because there was no law compelling him to go. It was a mere invitation from an irresponsible power to come up and aid them in doing a certain act. That is all the shrewdest lawyer can make out of it. So we strip you even of the technicality of law, upon which you seek to deprive the people of Kansas of the right of self-government. Your technicality has failed you. It is not even necessary for us to go back and show your Legislature to be arrant usurpers and enemies to the great mass of the people there, as they were. We may, if we see fit, denounce you as rebels with as much reason as you have denounced us, because you got together without authority of law, and sought to frame a constitution under which you would live.

The President has said over and over again that this was done by authority of law, that the people had a perfect right to go and vote, and that it was their duty to go, and that if they did not go they were in default. He said it was all fair. Now, sir, I take no pleasure in saying that the President at the very time he made this declaration, if he was not blind, deaf, and dumb, must have known that it was not true. If he had read the communications that were sent to him constantly from that Territory by its Governors and its other officers, he could not fail to have known at the time he made this declaration that in one half of the counties no census was taken or record made of the voters, and the law required that as a condition upon which a man should vote. No man need rise and tell me here that that is not so, because I will face him down with authorities that he cannot overcome. I have the law that required the registry; I have the law that required the census to be taken. The question is, was it taken? If it was not taken, why was it not done? Governor Walker says it was not taken for no fault of the people there. He says in some of his letters that it was not taken in many counties because there was no pay provided for those who should do it, and they would not do it for nothing; and in other places the people, suspecting that it was all a trick and a fraud, were reluctant. But that was no excuse. You never have taken a census of the United States where there were not vast numbers of people who were most strenuously opposed to it; and on inquiring, your deputy marshals, as they go round, were frequently chased out of the houses by the women with broomsticks, thinking, probably, that the object was to levy a tax on them. Would that be any excuse for not taking a census? You find one or two men who are reluctant or opposed to it for any reason. Can the President plant himself upon a solitary objection like that and say it was an excuse that the people would not submit their names to be registered? If a man would not comply with the law, if he would not give his name when he was asked, he would be no gentleman, I grant you; but you could not convict him of any crime for not doing it, and certainly you could not deprive his neighbor, who was perfectly willing to give his name, of his rights. You indulge in these generalities; you say that A, B, C, or D, went into a county, and Tom, Dick, or Harry said "I will not have my name registered," and then turn about and say the people can lose their liberties by a default consequent on such proceedings as these! Sir, it is arrant nonsense, come from what source it may.

The fact was, that the people could not vote if they would; and, in a great many instances, would not if they could; and I commend them for it. The experience they had had in that Territory had shown them already that it was a mere empty humbug to vote, for votes did no good. Cincinnati Directories and candle-box returns have been infinitely more potent than the real votes of the inhabitants of that Territory. What good would it do them to vote? You had already taught them that there was a purpose to be accomplished; and, if votes would not answer, Cincinnati Directories, forged returns, anything would be resorted to; the thing would move on, majority or no majority.

The American people are supposed to be a

shrewd people. They understand pretty well Peter Funk auctions. Once in a while, a greenhorn gets taken in; but the great mass of the people will not be taken in by them. But the President of the United States has set up and devised schemes as shallow, as fraudulent—yea, as infamous as that; and he supposes the people of the United States are going to be defrauded by any such nefarious means as those. Sir, he will find they will not work. They would not work in the days of the Revolution, and much less will they work now.

Well, sir, a Legislature was elected shortly after the time these delegates were elected to frame a constitution. You attempted an outrageous fraud then in order to carry the Legislature. Your Oxford and Delaware-Crossing frauds were resorted to. I have the evidence of them all here. Nobody doubts them. There is not a man here who will rise and say that it is not the truth that these frauds were open, palpable, notorious, understood by everybody. Governor Walker investigated them, and said so. He even went up into one of the precincts where these frauds were committed, and found that it was impossible such a vote could have been cast there. He found the people amazed that any such pretenses should be made; and he found that the names of your best men, whose names were notorious, known all over the country, were on the voting lists, because they did not seem to have great facility in inventing names. They seized upon all the great names of the country and placed them upon their list. Governor Walker took the returns of Johnson county and others. He seemed to ponder over that subject a little; and I am sorry that he did. I am amazed that any man, in any section of the country, the very moment that he found that such a gross, insulting fraud had been sought to be palmed off upon the people, should hesitate an instant to throw it into the face of the scoundrels who had presented it. He hesitated, and after he knew how it was, he saw fit to place his rejection of the return on a technicality, rather than on the naked deformity—the want of votes. They had not certified the fraud in technical language, and therefore he threw it out. I should have thrown it out for the substantial reason, and thrown your technicality to the dogs.

How was he met? It was said—I do not know with what truth, it was in all the papers—that the fortunes of the Governor and Secretary declined from the moment they rejected these infamous frauds. It changed the character of the Legislature. It gave a vast majority in that Legislature to the Republicans; whereas, if these frauds were made effectual, they would have made this Legislature just like that which preceded it. It was a great disappointment, and it is said that some sections of the country "howled" over it; and President Buchanan, as they began to howl, trembled at their howling, and it resulted in the dismissal of both those honest officers from their trust. Sir, future ages will be amazed at the audacity of the President who would make it a matter of reproach to one of his officers that he had failed to give effect to a fraud which should confine a man to the penitentiary for life.

But, sir, the fraud was discovered; nobody could gainsay it; the free-State legislative ticket was triumphant; and now what is to be done? Your Lecompton convention quailed and trembled under that aspect of the case. They went to drumming up their men, and they hardly got a quorum, because they saw that the scepter had departed from this Judah, and it had got into the hands of honest men. Your Lecomptonites did not like to brave public opinion, and enact this famous Lecompton constitution. I believe they never did get a quorum there. The fact is, that every man who had the least sense of decency or shame about him, never appeared in the convention at all; but a minority appeared, and they conjured up a constitution. We have it here, sir. We have it sent to us for ratification by the President of the United States; and when he sent it, he was in full possession of all these nefarious facts. Instead of sending it to us, he should have trampled it under his heel as a spurious thing, disgraceful to all who gave assent to it. They made their constitution, and they provided for submitting a part of it to the people. How? It is sometimes contended on this floor that it was understood when this convention met that they were to be clothed

with plenary, sovereign, irrevocable power, to make just such a government for that people as they pleased; that their doings, under no circumstances, were ever to be submitted to the people. There is plausibility in that, because you recollect that the act calling the convention was vetoed by the Governor because it did not contain a clause submitting the constitution to the people; but it was passed over the head of your Governor by a two-third vote of these patriots. So it was premeditated malice. It was deliberated upon; and fraud was meditated by them. They knew very well, they could not make a mistake about it, that the people who had just returned a Legislature against them by more than three to one, would nullify this beautiful constitution of theirs mighty quick if it were submitted to them; and hence they were going to steal a constitution, and fasten it on the necks of their fellow-citizens behind their backs, and against their will. The President has aided and abetted this fraud.

Now, sir, after the Lecompton convention made this constitution, even if there had been any legality about it, before it became binding on the people, the Legislature whom the people had just chosen took the subject under consideration, and they sent forth their edict of more than ten to one, (for they represented more than ten to one of the people of the Territory,) that this constitution should be submitted to the popular vote. But Mr. Buchanan says, "ah! it was a little too late." Good God, sir! When a man lets judgment go against him by default, I know of no court that will not permit him to pay the costs, open the default, and try the case on its merits; but when the great cause of human liberty and right, when the great cause of the American citizen is concerned, when the question is, shall the American citizen have a voice and a vote as to the constitution under which he and his posterity are to live, perhaps forever, ah! then he is debarred, he has no power to set it aside! He is foreclosed just as the people were foreclosed because they would not go and vote at your Peter Funk election for a convention.

There was a default! Who was to take advantage of their default? That would be a material inquiry, it strikes me. They were too late, says President Buchanan. Too late for whom? Were they not making a constitution for the people of the Territory of Kansas? Who had a right to interfere? Were they to lose their right by laches, if they committed laches by suffering a default? To whose benefit was it to inure? What tyrant is there that is ready, when the people make default, to claim that meed of liberty which should have belonged to them? Why, sir, in an adversary suit, I understand that if a man will not take care of his rights judgment will pass against him; and, after all the provisions of law have been complied with, he may forfeit his rights to his adversary; but here there is no adversary. It is the people themselves asking to make a constitution for themselves; and President Buchanan and many Senators here likened it to some adversary suit in which there is a party that has some right to take advantage of any want of compliance with the law. Is this your new-fangled popular sovereignty? Who is to take advantage of it? Why, sir, it is as much a slave State, says the President, as Georgia or South Carolina. Was it to inure to their benefit if the people should lose a day in asserting their rights? Was any other State to gain what they lost? If there ever was a tissue of legal nonsense dished up and sent to the Senate of the United States, it is such a message as the President has sent here. I hate to use harsh terms, but I have reason for them. If it is new in the history of this Government, the things I comment on are new.

The people lose their own rights; they are a day too late; the tyrant has bestrode their necks; the constitution is framed; and Mr. Buchanan says, "ah, you are too late to retrieve your rights; somebody has got hold of them; I do not know who, but you have lost them. You ought to have been on the alert; you have lost a day, and your liberties are gone forever." Why, sir, even in the good old Norman days they said the dignity of a freeman was such that even their highest courts could not force him to come in under ten days. First, they must go to him and invite him to come in like a gentleman, tell him what the business was for which he was wanted, because

it was beneath the dignity of a free citizen in England at that period, to have a summons come in such a mandatory form that he must obey it in a moment. It seemed to be a mark of servitude that our sturdy ancestors would not submit to. It is not so now, however. In one day your liberties may be gone. In one day you may become a slave and be denied all chance of liberty. Why do you say these men are rebels and traitors? You have had an army of two thousand men in Kansas and all the paraphernalia of war, for what purpose? To compel that people to conduct their domestic concerns in their own way! [Laughter.] They would not do it. Did you ever hear of so perverse a race as there is in that Territory? Two thousand soldiers with all the paraphernalia of war are required to force a people to do just as they please. [Laughter.] Governor Walker wrote to the President over, and over again, before he got the hang of these men. The first persons he met in the Territory when he got there were those busy border ruffians, always in communication with the President, who seem to have mesmerized him and entranced him. The Governor, no doubt, took letters of introduction to some of the first border-ruffians in the Territory; and they seemed to have obtained their knowledge at first from that source. They wrote ferocious letters for about a month. Governor Walker, however, finally took it upon himself to act the missionary. He thundered forth his proclamation. First, he told the people he would enforce those border-ruffian usurped laws upon them; but he had the grace to say that when the constitution came to be acted upon, all of them should have a fair opportunity to vote. He said "such are my instructions from the President, such is my will; and in that respect you shall not be thwarted." He went amongst the people; he found them uneasy about the government which was ruling them. He wrote to the President, over and over again, that there was reason to fear there would be civil war if tyranny was persisted in, and that the only way he could pacify them was by assuring them on the authority of the President that they should have the right to make their own constitution, in their own way. He said that was the only pacification he could offer them, and if he had not done it the Territory would have been in a blaze of war. He wrote to the President that he had told the people of his consultations with the President; he informed them that they had the faith of the President and the Cabinet that the constitution would be submitted to them. The people there had had a little experience of Presidents and Cabinets. They said to Governor Walker "these are very fine words of yours; but we have been dealt with so falsely and perfidiously by our government that we fear even your good faith cannot protect us;" but he gave such assurances as ultimately pacified them.

There must be some secret history connected with the course of the Administration in reference to this matter, which it would be exceedingly interesting to have unfolded. The President in his inaugural had proclaimed in the hearing of the whole people of the United States that the people of Kansas should have a free and fair opportunity to vote on their own constitution. He proclaimed that, as a matter of course, that must be done. He admits it in his last message. He acknowledges in that message that he made these general statements; but he says his mind dwelt on the question of slavery only. Well, sir, I am not a man who wishes to keep anything back, and I tell my friends here who expect to support the people of Kansas in their course, you cannot blink the question; it is slavery that the people are opposed to. I have no doubt they would like to express their sentiments on every part of the constitution; but I candidly admit that if there were no slavery in it, there would not be much contention about it on the other side of the Chamber, nor on this. Let not my friends say that it makes no difference whether there is slavery in it or not, and that the bare question is on the submission. I agree that they are right in principle on that. The people should pass upon anything and everything connected with their welfare touching the constitution under which they are to live; but nevertheless the slavery question is the great matter that divides us.

Mr. BIGGS. Will the Senator from Ohio permit me to make an interrogatory of him at this

point of his remarks? I feel very much interested in his speech, and desire to put one question to him.

Mr. WADE. Certainly.

Mr. BIGGS. He has argued about the course of the President as to the expression of the voice of the people of Kansas on this constitution. He has stated, however, that the important question involved, is the question of slavery. Now I desire to ask him, and I know he will answer me with his characteristic frankness: if it was satisfactorily shown to him that a majority of the people of Kansas were in favor of that provision of the constitution which recognizes, tolerates, and protects slavery, would he vote for the admission of Kansas into the Union, or would he vote for the admission of any State into the Union with a constitution tolerating, recognizing, or protecting slavery?

Mr. WADE. Well, sir, I would not do any such thing under any circumstances; I never will; I give you notice of that. I have no idea of spreading slavery into country now free. I do not discuss the merits or demerits of it. The reason why I do not discuss them is, that they are nothing to me, so far as my vote goes, and more especially in this Territory that you have stolen from freedom against good faith. I know the question you have put was outside of the record. It was like the opinion of the court in the Dred Scott case; but I am willing to answer it. This Territory was proclaimed to be free; the best guarantees that the best men in this country could ever give made it free; and you have undertaken, by fraud to steal it for slavery. I might rest on that; but, as you expect some effect to flow from it beyond that, I give you the full benefit of my views. But they are my views; do not proclaim them as anybody else's. I do not know or care about the views of the Republican party on such questions. I am very apt to consult my own views of propriety.

Mr. BIGGS. I believe the Senator concurs entirely with the Republican party. In their platform, I believe, they took that position.

Mr. WADE. Well, sir, you may get that from the platform, not from me. [Laughter.]

Mr. President, there is something extraordinary in the manner in which this constitution was submitted. Was the like of it ever heard of before? I have heard floating rumors that the ingenuity of this whole District was invoked to invent that form of submission; but I do not know how the fact was. I do not believe that rude border-ruffianism had the ingenuity to invent these meshes of slavery. I fear that the fingers of men at the other end of the avenue may be tainted with it. I do not know that; but I have shrewd surmises about it. How was it submitted? I will ask first, why did you submit it at all? On the other side of this Chamber you claim that the convention was under no obligations whatever to the people; that the convention was supreme; that it might do as it pleased; that, if it did not submit it, the people must be content—a doctrine as much fraught with despotism as anything that can be found in the eastern world. You say that a set of men called into a convention can, at their will, frame an instrument by which the whole people are to be bound, hand and foot, against their will. Why, sir, it is an absurdity, in my judgment, altogether too palpable for argument in any part of the United States.

If we hold our liberties by such a tenure as that, they stand on a more fragile basis than I have supposed. Why, sir, I have always supposed that everybody understood that when a convention was framing a constitution, it was merely making a proposition to the people who were to be governed by it. They say to the people: "Will you have this? We have done our best to make a constitution which we, as members of this community, have believed would be acceptable to you. We propose, therefore, that you look into it, and, if it meets with your approbation, make it your constitution." I have always supposed that that was the meaning of the action of such a convention; and certainly it is, if American liberty means anything.

The men assembled at Leecompton dare not present their constitution to this body without some attempt to cover it up; they must make an attempt to submit it. How have they done it? Why, sir, they have contrived, by ingenuity, to

get up a scheme whereby the form of voting might be preserved to the people, and the result be the same, let them vote as they would. It makes me think of a man who built a hog-pen up in our country once, and the rails were so crooked and winding, that when his hogs got through and thought they had got out, as they wound along they came right in again. [Laughter.] So here, the people were to say "constitution with slavery," or "constitution without slavery." If they said "constitution with slavery," that gave them slavery up to their ears; it never could be done away with. If they voted "constitution without slavery," what would an unsophisticated man suppose would come then? He would suppose he had got out of the pen; but the fact is, it twisted him right in where he was before. He had not gone an inch; slavery was there; it was to be there; it was to be protected there forever, vote as you would. And they extorted an oath, before they put this nefarious fraud to the people, that they should support it!

Now, sir, whoever devised this scheme had a more mean and contemptible opinion of the American people than is consistent with republicanism or Democracy. I do not believe there is a despot on God's earth that dare deal thus with his people; and you say they are to be bound by such a Peter Funk operation as that! Do you suppose men are to be entrapped and deprived of their liberties in this way? The only difference in the result, whether they voted for the constitution with slavery or without it, was, whether they would allow the future importation of slaves into the State, or whether those now there should be kept in slavery, with their posterity, forever. It was to be a slave State, and, in the language of the President, as much a slave State as Georgia or South Carolina, whether the people voted that they would have the constitution with slavery, or whether they said they would have it without slavery. Is not that a fine aspect to hold up to the American people, to suppose they are to be gulled by such a thing as that?

Then they provided, in the schedule, that the vote should be returned to one John Calhoun, the president of the convention. I deny, as a legal proposition, that Calhoun could politically live one moment after the convention had expired. All the incidents die with the principal. He was defunct, and it was not in the power of the convention to keep him on foot in his official form one hour after that.

But, passing by that point, we see the shrewd ingenuity with which it was done. This Calhoun was empowered, as dictator there, to fix all the election districts, to appoint the judges, his own mere creatures and instruments, to make the returns, and they were to make them to him, and, as it is construed now, to make them either this year or next year, just as he pleases. They said the returns should be made to him in eight days after the election, but he need never exhibit them at all; and he has proclaimed in this city, to the honorable Senator from Illinois, who has stated it on this floor, that unless this constitution be adopted, he, in his sovereign majesty, never will make known what was done!

Mr. President, is it not an open, downright insult offered to the American Senate, to send this fugitive from justice, armed with this tremendous power of turning a constitutional majority one way or the other, just as he sees fit? Will the liberty-loving people of the United States submit to this kind of authority and dictation? Who is this John C. Calhoun?

A SENATOR. He drops the "C."

Mr. WADE. I am glad he does so, for the honor of his predecessor. Who is he? We know nothing about him. The only history of him we have, is that he has been indignantly driven out by that people, as a violator of their laws, as a man so infamous that they would not suffer him to live there at all, and he has fled to the place where everything that is anti-republican and tyrannical seems to fly—he has sought a city of refuge here, where everything too vile to live at home seems to find a place. Here we are waiting on John Calhoun for light as to who shall govern the Territory of Kansas. ["The State."] Well; the State of Kansas, when it gets to be a State. I know the President calls it a State now, and did it a great while ago. Was ever anything done like it on this continent before? When before—

was a man armed with authority to take the votes of the people of a State, bury them up in a candle-box, if you please, or carry them in his pocket, not letting anybody be witness of what he has got, and there hold them in the face of the whole people just as long as he pleases, and, if he pleases, so forever? Sir, if you give sanction to frauds like this, American institutions are on their last legs, and they ought to be. John Calhoun, sitting in some public house in this city, with the destinies of a great State in his pocket, and he refusing to exhibit the truth to the Senate of the United States, to the President of the United States, to the House of Representatives, or to anybody interested to know anything about it! Dictator John Calhoun is to say who shall rule Kansas. A gentleman here said the other day, "Cotton is king." He was mistaken. Sir, it is John Calhoun who is king.

But I do not wish to pursue this subject any further. I am sick of it. The honorable Senator from South Carolina [Mr. HAMMOND] said he had seen enough to satisfy him that these frauds were sickening and shameful, and he did not want to investigate them. It is sickening; it is loathing to the American mind to contemplate these nefarious frauds that are flouted in our faces; and we have no means to redress them. Sir, we should scout them from us with indignation; and I hope, for the honor of the American name, that all these proceedings, so fraught with most palpable and undeniable fraud, will receive the stern denunciation of this body.

I omitted to notice one little point that I ought to have mentioned, and that was the disagreement between gentlemen on this floor as to what should be done with a constitution formed in this way. The Senator from Louisiana did not tell us what he would do in a matter of this kind. It was a rough spot for him. I believe he did not intimate whether he thought, if there was a majority in favor of this constitution, we ought to reject it, or not. I believe his speech is barren on that subject. The Senator from South Carolina, finding himself pressed to the wall, came to the conclusion that, in framing constitutions, a minority ought to rule. That was a new discovery! Minorities should rule, because you have not got a majority! He spoke that which seems to be acted out by many others.

Now, we are told, as a kind of salvo, by the President of the United States, after he has consigned us, soul and body, to the South and to slavery, that this constitution can be changed. He seems not to have a single idea of the North; he has forgotten that there is a North; and yet he turns around in his message, and finally says to us two or three times over, that the best way is to admit Kansas into the Union as a State, because they can then make a free State so much quicker than they could if you referred the whole matter back to them. Was there any sincerity in that? Is there any southern gentleman on this floor who is going to contend that this constitution shall be crowded down the throats of that people because then they can, with greater speed and facility, make Kansas a free State? Is that it? Was that view of it designed for the other side, or was it to cheat us? It was not designed for both, everybody knows, and nobody will vote for it with that view.

The President, however, has said that the people can alter their constitution when they please. That point has been so ably argued by other gentlemen that I am not going to enter into it elaborately. I will ask southern gentlemen, are you willing to yield to that doctrine? If the constitution prescribes the mode and manner of its amendment, can you, without revolution, go across roads, run counter to it, and amend it in a different manner from that pointed out in it? Southern gentlemen have an equal representation on this floor, gentlemen of the small States on this floor compete with the largest; but if a bare majority can alter constitutions at our will, how long will we submit to be outvoted by mere minorities who, in this body govern, so far as they can govern, the people of the United States? It was a compact made, it was part and parcel of the Constitution of the United States; it cannot be abrogated without revolution, and he who should attempt it would be a rebel; and yet your Chief Magistrate is preaching up to us such doctrines as these, and telling the people that although your fundamental

law prescribes the mode of its amendment, all such restrictions are void, and a bare majority can rule. He says these limitations in the constitution are no more than limitations upon a municipal corporation; a majority can alter it at their will.

Sir, the doctrine is as new as it is revolutionary and dangerous. Other gentlemen have hinted that this could be done. My colleague [Mr. PUGH] upon this floor has presented an amendment, which contemplates that we can help a people to make their own constitution—that we may say they shall construe it for themselves. I know very well that my honorable colleague did not intend to deceive anybody when he offered this amendment; but I know that if it be adopted, its only effect will be to deceive thousands of unsophisticated men who are not lawyers. Will State-rights men on this floor contend that we can modify a constitution for the people of a State? You who have repudiated the old Jefferson proviso; many of you who claim even that a State of this Union may secede at will, do you hold that you may force a State into the Union against her will on just such conditions as you please? Sir, such doctrines as these will hardly answer with the American people. You can no more force a people into this Union against their will, with a constitution which they repudiate, than you can force them out of the Union against their will; nor any more than they can secede of their own will. Both attempts are revolutionary, having no warrant in the Constitution; and I am amazed that a man of the age of the President of the United States, a man of the conservative ideas that he has been supposed to entertain, should have put forth a doctrine that would root up and overturn at the mere will of the majority, not only the Constitution of the United States, but every constitution in the States of the Union.

There is one other idea that has been constantly put forth here by many gentlemen who are attempting to justify the admission of this Territory into the Union under the Lecompton constitution. They say that other States have been admitted without an enabling act. Sir, all that is said on this subject I will not say is mere sophistry; but it ought to deceive nobody. Perhaps more than half the new States have come into the Union without any enabling act. I do not think that such an act is at all essential. Here are a people all homogeneous, all having the same interests, having no matter of contention between them; they could get together, and, without any dissent, frame a constitution, and ask us to admit them under it. The evidence must be such, always has been such in every instance, that there has been no reason to doubt that the constitution had the approbation of the whole people, or of a vast majority. Why do you require a popular vote on that point? Because, when there is dispute, it is the only means of ascertaining where the majority is; but if there is no dispute you can have that evidence in another way, and it is just as legitimate. What has that to do as a precedent with a case where civil war even is raging in regard to the constitution that is presented; where strife, contention, and arms are invoked to settle the controversy? You are likening that to a peaceful gathering of homogeneous people, all agreed to fix their institutions in their own way. Sir, there is no parallel. One throws no light on the other. The people of Kansas, in three days, can settle this matter, if you will let them. You are convulsing the whole nation by the attempt to force a constitution on the unwilling necks of a people, which they abhor and detest. Withdraw your force, withdraw your coercion, say to that people, "assemble yourselves together peacefully, and determine what constitution you choose to live under;" and my word for it, sir, the hour you do so, peace and tranquillity will reign throughout the whole of Kansas. Every man knows it.

This contention is kept up for no other reason than to hang on the necks of that people this pet institution of slavery. In one hour you can make peace. Adopt the other course, and God only knows to what it will lead. I do not know what may be the result now; but it has never yet been found that by external interference, by force, or by fraud, you could coerce any set of American people to submit to a government they abhorred and detested. If they do it now, it will only mark the degeneracy of this age and of this people, and

show that we are verging toward slavery and despotism. In my judgment, it is as necessary for us to rebuke and overthrow the frauds to which I have alluded as anything else we possibly can do. If there is anything more dangerous to this Union than another, it is the immunity that is given to fraud, allowing your ballot-box to be invaded. Why, sir, the hour your ballot-box is undermined to that degree that American people shall not have confidence in it, from that very hour you render free government impossible. Will you encourage it, will you foster these infamous attempts to undermine and overthrow the institutions of this country, and render representative democracy utterly impossible?

Sir, I am a member, and I am proud of it, of the great Republican party. It is no sectional party. It is accused of all manner of sins; but it is organized upon the broadest equity—to give every man his rights, and invade no man's rights. It intends to render impartial justice to every section of this nation; it invokes the aid of good men from all sections and from all parties, who loathe the frauds which have beset the old parties. It is the only hope of those who see the Government, in the hands of the old parties, now running waste and suffering shipwreck. This great party was not organized by any man, any more than the Whig party was overthrown by the interposition of any man. The Senator from Maryland, [Mr. KENNEDY,] the other day, supposed that the old Whig party was entirely obliterated and overthrown by the Senator from New York, [Mr. SEWARD.] Well, sir, I admit his power; I admit his ability; I admit his worthiness to mold parties for good, and they would be as safe in his hands as in the hands of anybody; but he has not the power, and there never was a man armed with power to put down or put up a great party, like the old Whig party, or to substitute in its place the Republican party. The great Republican party has grown out of your abuses. Your old friends have distrusted you. They could not follow the corrupt lead of their old partisans longer; and, as if animated by a single voice and by one soul, they have come up in order to correct these evils. It is not the work of any man. There is no man so high as to say; "I have organized the Republican party." No set of men can say that they have done it. This great party is yet in its infancy. It looked your old organizations, two years ago, in the second year of its age, sternly in the face, and contended for the highest honor of this nation. Those corrupt means, that led to her organization, are as rife now as they were when she was organized. Her principles are just.

I would not speak of a party in this high tribunal, were it not that we are constantly maligned with the idea that we belong to a sectional party. I deny it. The mission of this great party is to overthrow fraud; to reinstate the Government on her old glorious republican foundation; to administer it as the fathers administered it. With that view, she plants her feet firmly on the Declaration of Independence. She takes the Constitution of the United States in the one hand, and the union of the States and the rights of the States in the other; and she intends, with those banners flying, to march directly on until she has corrected these abuses, and brought back the ship of State to her good old moorings.

A struggle was continued until five minutes past six o'clock on Tuesday morning, the night having been consumed by innumerable motions to postpone and to adjourn, on which the yeas and nays were taken. An occasional speech diversified the scene. The majority at length yielded, and the Senate adjourned. The residue of this day's proceedings will be published in the Appendix.

HOUSE OF REPRESENTATIVES.

MONDAY, March 15, 1858.

The House met at twelve o'clock, m. Prayer by Rev. C. H. HALL.

The Journal of Friday was read and approved.

The SPEAKER stated the regular order of business to be a motion submitted on Monday last, by the gentleman from Indiana, [Mr. ENGLISH,] to suspend the rules to enable him to introduce a bill providing for erecting a building in the city of New Albany, in the State of Indiana, for a post office and custom-house.

CALL OF THE STATES.

Mr. CRAIG, of Missouri. I ask the consent of the House to introduce the following resolution:

Resolved, That the States be called, beginning where the Speaker left off; and that upon such call members may introduce bills for reference only, of which previous notice has been given, and resolutions for reference, to which no objection shall be made; and that said bills shall not be brought before the House, by motions to reconsider.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title: "An act (H. R. No. 8) for the relief of John Hamilton;" when the Speaker signed the same.

LOUISVILLE AND PORTLAND CANAL.

Mr. ENGLISH. I propose to withdraw the motion now pending, believing that I can accomplish the object I had in view in making it in another and better way. I withdraw the motion, and in lieu thereof I submit the following resolutions.

Mr. JONES, of Tennessee. What would be the regular order of business?

The SPEAKER. The call of the States for resolutions.

Mr. DOWDELL. I call for the regular order of business.

Mr. ENGLISH. I ask to have my resolutions reported.

The resolutions were reported, as follows:

Resolved, That the Secretary of the Treasury be requested to inform this House the amount of tolls collected on the Louisville and Portland canals since the United States became the owner of a controlling interest in the stock of said company, and what disposition has been made of the money so received from tolls; and if any portion thereof has been used for the purpose of enlarging said canal, that he inform this House how much and under what law or authority the same has been expended. Also, that he inform the House the nature and extent of the interest of the United States in said canal; and whether he has any information that the parties in charge of the same have appropriated, or propose to appropriate, the income of said canal, or the funds on hand belonging to the United States, without the concurrence of Congress; and if so, under what law and by what authority.

And resolved, further, That the Committee on Roads and Canals be instructed to inquire into the expediency of providing for a reduction of the tolls upon the Louisville and Portland canal; and also to inquire what further legislation, if any, is necessary to secure the interest of the United States in said canal.

Mr. MARSHALL, of Kentucky. I object.

Mr. ENGLISH. I move a suspension of the rules.

Mr. MARSHALL, of Kentucky. I object, because I—

Mr. ENGLISH. Debate is not in order. I want to debate the resolutions myself, if debate is to be allowed.

Mr. MARSHALL, of Kentucky. So do I.

Mr. ENGLISH. I move to suspend the rules.

Mr. MARSHALL, of Kentucky. I ask for tellers on the motion.

Tellers were ordered; and Messrs. EDIE and HAWKINS were appointed.

Mr. ENGLISH. I call for the yeas and nays. The yeas and nays were ordered.

Mr. ENGLISH. I think if the resolutions be again read, the gentleman from Kentucky will withdraw his objection to them.

The resolutions were again read.

Mr. ENGLISH. If the rules be suspended, I do not propose to discuss the resolutions. I will call for the previous question.

The SPEAKER. Debate is not in order.

The question was taken; and it was decided in the affirmative—yeas 147, nays 42; as follows:

YEAS—Messrs. Abbott, Adrian, Ahl, Andrews, Atkins, Avery, Barksdale, Bingham, Bishop, Blair, Bliss, Bocock, Bonham, Boyce, Branch, Brayton, Bryan, Buffinton, Burlingame, Burnett, Campbell, Caskey, Chaffee, Chapman, John B. Clark, Clawson, Clay, Clemens, Clingman, Cobb, John Cochrane, Coffay, Collins, Corning, Covode, Cox, James Craig, Crawford, Curry, Curtis, Dandrell, Davidson, Davis of Indiana, Davis of Massachusetts, Daves, Dean, Dinwiddie, Dodd, Dowdell, Durfee, Edmundson, English, Faulkner, Florence, Feloy, Foster, Garnett, Cartrell, Gilman, Goode, Goodwin, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Robert B. Hall, Thomas L. Harris, Hawkins, Hoard, Hopkins, Jevett, George W. Jones, J. Hughes, Jackson, Jenkins, Kilgore, Jacob M. Kunkel, Glancy Jones, Owen Jones, Kilgore, Jacob M. Kunkel, Lamar, Leidy, Leiter, Letcher, Macay, McQueen, Samuel S. Marshall, Miles, Milton, Montgomery, Moore, Mort, Morrill, Edward Joy Morris, Paudleton, Pettit, Phelps, Niblack, Nichol, Olin, Parker, Quintan, Reagan, Reilly, Phillips, Pike, Pettit, Powell, Quinan, Scott, Searing, Aaron Russell, Sandidge, Savage, Seales, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Robert Smith, Samuel A.

Smith, Spinner, Stanton, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Thayer, Thompson, Tompkins, Trippe, Wade, Walbridge, Waldron, Walton, Ward, Warren, Israel Washburn, Watkins, White, Wortendyke, John W. Wright, and Zollcoffer—147.

NAYS—Messrs. Anderson, Bennett, Burroughs, Ezra Clark, Cragin, Davis of Maryland, Davis of Iowa, Dick, Edie, Giddings, Gilmer, Granger, Harlan, Bill, Kellogg, Kelsey, Knapp, Lovejoy, Humphrey Marshall, Maynard, Miller, Murray, Peyton, Potter, Purviance, Ricard, Ritchie, Roberts, Royce, Ruffin, Seward, John Sherman, Judson W. Sherman, William Smith, William Stewart, Tappan, Underwood, Cadwalader C. Washburn, Elihu B. Washburne, Wilson, Woodson, and Augustus R. Wright—42.

So the rules were suspended (two thirds voting in favor thereof.)

Pending the above call, Mr. JOHN COCHRANE stated that his colleagues, Messrs. KELLY and FENTON had paired off.

Mr. FLORENCE stated that his colleague, Mr. LANDY, was detained at home by indisposition in his family.

The result of the vote having been announced, Mr. ENGLISH moved the previous question.

Mr. MARSHALL, of Kentucky. I hope the gentleman from Indiana will withdraw the call for the previous question, to allow me ten minutes in which to submit an explanation to the House.

Mr. ENGLISH. I should like to accommodate the gentleman; but if he submits any remarks I shall feel myself under a necessity of submitting some in reply, and therefore I must insist on my call for the previous question.

Mr. MARSHALL, of Kentucky. Then I trust that the call for the previous question will be voted down.

The SPEAKER. Debate is not in order.

The House divided; and there were—yeas 66, noes 88.

Mr. ENGLISH demanded tellers.

Tellers were ordered; and Messrs. BILLINGHURST and BRYAN were appointed.

The House divided; and the tellers reported—yeas fifty-five.

Mr. ENGLISH. I do not ask for a further count.

The SPEAKER. Then the House refuses to sustain the call for the previous question.

Mr. ENGLISH. Mr. Speaker, about the year 1825, the Legislature of the State of Kentucky incorporated a company for the purpose of constructing a canal around the falls of the Ohio river, on the Kentucky side. The Government of the United States became a subscriber to the stock of that company to the amount of about two hundred and forty thousand dollars. The canal was completed about the year 1830; and since that time the dividends which have been declared on the stock belonging to the Government of the United States have gone to the credit of the United States. They have amounted to such a sum as not only to reimburse the Treasury for the \$240,000 which the United States invested in the stock of said company, but to such an amount as to enable the Government, out of these extra dividends, to purchase the entire stock in that company owned by private individuals. The original stock only amounted to \$1,000,000, and yet there has been exacted from the commerce of that river more than \$3,000,000 in the shape of tolls. We find, on examination of the record, that in the year 1855, the Government of the United States became the owner of all the stock excepting a mere nominal interest; and that for several years previous to that time, the tolls received exceeded the expenditures something like the sum of one hundred and fifty thousand dollars per annum; and if I am not mistaken, the average toll received per annum since the completion of the canal, is about the sum of one hundred thousand dollars. The Government, when it purchased the stock owned by private individuals, not only paid par value for it, but in some instances paid as much as three dollars for one dollar of stock. The United States has virtually owned this entire canal for the last three or four years; and, sir, the object which I have in view in introducing these resolutions, is to ascertain what has become of the hundreds of thousands of dollars collected since that time from the boatmen on that river by this canal company, and which, so far as I am advised, have not gone into the Treasury of the United States, where it belongs. On the contrary, I understand that this canal company not only claim to collect tolls on that canal, but to appropriate it to such uses as they may

deem expedient, without consulting the Congress of the United States.

I find, sir, that the Legislature of the State of Kentucky has actually passed an act authorizing the construction of a new canal, as a branch of the old one, out of the canal revenues accrued and to accrue, which ought to and do belong to the Government of the United States. Here is the act: An act to amend the charter of the Louisville and Portland Canal Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the charter of the Louisville and Portland Canal Company be so amended as to authorize said company to construct with the revenues and on the credit of the corporation, a branch canal sufficient to pass the largest class of steam vessels navigating the Ohio river; and the said company are hereby vested with all the power and authority to acquire and hold the necessary lands for said branch, and to construct the same, vested by the charter and amendments for the construction of the original canal; and all the provisions of the original charter and amendments shall be and are hereby made as applicable to the branch as to the original canal.

I desire now to call the attention of the House to a statement of Mr. E. Lockhart, superintendent of the canal. He says, alluding to the law I have just quoted:

"The board, thus clothed with full authority to go on with the work, intend to commence the construction of the branch canal this spring. They have provided themselves with a plan of the new locks, and are only awaiting good weather to make a beginning. The charter authorizes them to borrow money on the credit of the company to the extent of \$1,000,000. The navigation of the canal through the present locks will not be in the least interrupted by the construction of the branch. The money now in the treasury of the company, with the accruing tolls, will first be used, and when exhausted, a loan will probably be resorted to, and the work will be carried on to completion as speedily as possible. The work will probably cost \$500,000, and will require two years for its completion, in which time the tolls will pay about two hundred thousand dollars, requiring \$300,000 to be raised by loan, which can easily be done on the credit of the company."

Now, Mr. Speaker, this is the state of the case. The United States has been reimbursed the amount of money which she originally subscribed to the stock of this company, and the toll collected upon the canal, over and above what was required for that purpose, has been sufficient to sink the entire amount of stock owned by individuals, so that virtually the Government of the United States is this day the owner of the entire stock, and has been so for many years, and yet we have no account of what has been done with the tolls which have been levied upon the boatmen and the commerce of that river, and now the fact is disclosed by the superintendent, and by the action of the Kentucky Legislature, that it is actually proposed to take the accrued tolls, and the tolls hereafter to be collected, and which belong to the United States, and dispose of the same without the assent of Congress. How many private fortunes are to be made out of it remains to be developed. Mr. Speaker, I maintain that we have no satisfactory account of what has been done with the revenues since the United States Government has become the owner of the stock, and the object of these resolutions, in part, is to call upon the Secretary of the Treasury, upon whom this subject has been devolved, to give us the information in his possession, in regard to it. I propose, also, that the Committee on Roads and Canals inquire into the expediency of reducing the tolls to such a sum as will be sufficient merely to keep the canal in repair and pay the expenses of the same. My object is to relieve the commerce of the Ohio river from the onerous tax now imposed upon it by that canal, and to get at all the facts so that the House may act intelligently upon the subject. I say there is nothing unfair in the proposition, and I think it should be adopted without a dissenting voice. When the Secretary of the Treasury makes his response it will be proper to refer it to the Committee on Roads and Canals, that they may inquire into the whole subject. If it shall turn out that there should be legislation in regard to it, that committee will report the fact, and the House will take action accordingly.

Mr. MARSHALL, of Kentucky. I do not know but that the gentleman from Indiana has himself made about the speech I could have desired, in explanation of the affairs of the Louisville and Portland Canal Company; but he has made some very wide inaccuracies, which are extraordinary; coming, as they do, from a gentleman directly from the locality of the canal. I agree with the gentleman that, about the year 1824 or 1825, the Legislature of Kentucky chartered a company to construct a canal around the falls of the Ohio. The

number of shares of the stock of that company was ten thousand, of \$100 each. Of these shares the United States subscribed for twenty-three hundred, and private individuals subscribed for the other seventy-seven hundred. As a shareholder, the United States Government drew in dividends from the company, \$257,000 in money, being the whole amount that the United States had subscribed, and \$27,000 of clear profit upon the investment. All this cash went into the Treasury of the United States.

About that time these gentlemen on the Indiana side of the river commenced petitioning Congress to make a free canal on their side of the river; and by these petitions, and their agitation of the subject, they endangered the property of the private stockholders in the Louisville and Portland canal. By the growth of western commerce it had become palpable that that canal was not equal to the wants of commerce, and that it must be enlarged, or a new one be constructed. The western people objected to the collection of any tolls whatever on the commerce of the Ohio, and they insisted upon having a free canal. To accommodate them, the Legislature of Kentucky, at the instance of the Louisville and Portland Canal Company, amended the charter of that company, by which it was provided that the canal company might take the whole proceeds of the annual working of the canal, and thereby create a fund, which, instead of being divided among the stockholders, should be appropriated to the purchase and absorption of the private stock. By that instrumentality the private stockholders got rid of their shares, and the canal company absorbed its whole stock, except five shares. The Kentucky statute provided that the company was to take this amendment of the charter on the condition that, when, by this process, the whole stock had been taken out of private hands, it should be first offered to the United States, on the condition that the United States should make the canal equal to the wants of commerce, and should impose no larger tolls than such as would keep the canal in repair. If the United States did not take it on that condition, then the canal company was to offer it to the State of Kentucky on the same conditions; and if the State of Kentucky did not take it, the canal company was to offer it to the city of Louisville on the same conditions. The whole proceeds of the canal were invested year by year, in obedience to the amended charter, and with the knowledge of the United States, in purchasing in the private stock, till there remained but five shares of the seventy-seven hundred.

The gentleman commits a wide mistake in supposing that by that process of absorption merely, the United States became the proprietor of the shares so purchased. The United States have not now a share more than they had when the charter was made. They still hold their twenty-three hundred shares, and no more. And let me say to the Congress of the United States that they will never hold another share until the United States perform the conditions on which the trust declared in the Kentucky statute is to inure to the benefit of the United States. Year in and year out the Representative from the city of Louisville has been before Congress with this offer made by the company, asking that an appropriation may be made to make the Louisville and Portland canal "equal to the wants of commerce," so that the United States might become the proprietor of the work, in conformity with the Kentucky statute; and year by year the constitutional scruples of gentlemen on the Democratic side of the House have prevented that being done. Year by year, when I have attempted to get an appropriation for this purpose, these same Indiana gentlemen have proposed to acquiesce in it with the condition that the Government of the United States, in appropriating money to make the Louisville and Portland canal equal to the wants of commerce, should also appropriate money to build another canal on the Indiana side of the river. I have been urged, year by year, to accept this sort of compromise, but I have rejected it, and have stated on the floor of this House that there was no necessity for a canal on the Indiana side of the river. I have stated again and again that in my opinion, from being conversant with the locality, no canal could be made on the Indiana side of the river that would ameliorate the condition of commerce, unless it shall be built some seven or eight miles long, and

that then it would have to cross the valleys of a creek which could be crossed in time of flood only by constructions that would throw the aqueducts to Rome by the Campagna into perfect insignificance.

Mr. ENGLISH. I rise to a question of order. I do not understand that the construction of a canal on the Indiana side of the river is a question in controversy here now; if so, I shall have something to say upon that subject.

Mr. MARSHALL, of Kentucky. I had no doubt in the world, Mr. Speaker, that the gentleman would flinch in this controversy, and I have not been mistaken.

Mr. ENGLISH. I insist upon my point of order. The gentleman has no right to discuss the propriety or impropriety of constructing a canal around the falls on the Indiana side, and if he has, I shall claim the same right, and shall be able to show that a new and better canal can be made on the Indiana side, and for less money, and with less obstructions to commerce, than the Louisville and Portland canal can be enlarged.

Mr. MARSHALL, of Kentucky. It will be observed, Mr. Speaker, that the gentleman seemed to go into the whole history of the Louisville and Portland canal—its revenues and the proceedings of its company; but whenever I commence to develop and exfoliate the proceedings of those who want a canal on the Indiana side, and to show the point that they are after, the gentleman suddenly discovers that there is a point of order necessary to be intervened. I object to the gentleman's resolutions for this reason, that they do injustice to the five honorable men who now hold that stock. And I say here that there are no more honorable men on the face of the earth than those five men; and I am sure that the gentleman does not intend, even darkly, to insinuate, or to cast the most distant imputation, that these men have soiled their fingers by corruption.

Mr. ENGLISH. The object that I had in introducing these resolutions is to arrive at the facts through official sources. I make no imputation. I simply desire to get at the facts.

Mr. MARSHALL, of Kentucky. The condition of this company has been reported to Congress by the Secretary of the Treasury at the opening of each year, and they who feel disposed to inquire into the proceedings of the company have had an opportunity—from the day of its charter down to this day—to look at the annual exhibit of its debits and credits, and at the manner in which every dollar that came into its treasury was disposed of. There has been no secrecy about this matter; the company has come here again and again with this offer to the Government of the United States, and their offer has again and again been rejected.

The late Secretary of the Treasury, without undertaking to give any directions, (as he clearly had no right to do,) but representing, as he did, the two thousand three hundred shares of the stock of the United States in the corporation, suggested to the managers of the corporation; first, that they should reduce the tolls one half. They did so; and still the commerce of the Ohio, on the reduced tolls, created a large surplus in the treasury of the company. What was to be done with that surplus? The directors determined, in conformity with a suggestion from the Secretary of the Treasury, that they would appropriate the surplus to the improvement of the canal, and they did proceed, as the Secretary of the Treasury reported to Congress in 1856, to widen and deepen the canal, cut a turn-out, so that steamboats could pass, and made a variety of improvements, such as a pivot bridge, booms, &c., to facilitate the passage of vessels through the canal. They, finding that a surplus of some fifty-odd thousand dollars had accumulated, have gone to the Kentucky Legislature and asked for an amendment of their charter, by which they may go forward and do the whole work, so as to make, upon their own responsibility, a canal equal to the wants of commerce, when it will be handed over to the United States, if the United States shall choose to receive it, without costing them a dollar. The Kentucky Legislature of course passed the act for amending the charter without a word; and I stand here the Representative of the district in which that canal is situated, to inform the gentleman from Indiana, and the House, that I do not propose again to ask a dollar from Congress for that work.

But when the fact leaks out that, under the amendment passed by the Kentucky Legislature to the charter of this company, the company is going forward to make the improvements according to the wishes of the commercial men of the country, and in accordance with the design that has been submitted, year by year, to Congress, those gentlemen representing the Indiana side become suddenly alarmed lest the commerce of the Ohio river may be mulcted and fined. They now want, when they find that these improvements are to be made without costing the national Treasury a dollar, to inquire by what authority it is to be done.

Mr. HUGHES. I want the gentleman from Kentucky to leave me out.

Mr. MARSHALL, of Kentucky. I will leave the gentleman from Indiana out. I say the Representatives of the Indiana side of the river, and the Representatives of the Cincinnati interest, become suddenly alarmed; and the gentleman from Indiana wants to get the Secretary of the Treasury to write a letter showing the gross amount of proceeds that have been drawn from this canal since the Government of the United States have had the controlling interest. Why, sir, God knows she has never had the controlling interest; and she never will have a controlling interest until she has performed the condition under which she was to acquire that stock; which was, that she should make the canal equal to the wants of commerce. Sir, year by year have I been here exhausting my lungs, more than once, in trying to obtain an appropriation for the purpose of making that canal equal to the wants of commerce. Congress has failed to make such an appropriation; and now, I do not propose to ask Congress for any more appropriations. The canal company then went to the Kentucky Legislature for an amendment to their charter, and their charter was amended. Under their amended charter they have gone on and acquired property to make a branch canal; and they announce that they are ready to commence the work in the spring, and that they have entered into a contract for a canal equal to the wants of commerce for \$600,000. They will go on and complete this canal, and then what will become of the proposition for the construction of a canal on the Indiana side of the river by an appropriation from the Federal Treasury? When a canal shall have been completed, which shall permit your Cincinnati boats to travel through free; what will become of these propositions to build a canal at the Government expense, at a cost of ten or fifteen million dollars, which will never be reimbursed? There will not be left an excuse for appropriating a dollar in that way.

Mr. ENGLISH. I desire to inquire of the gentleman from Kentucky when I have ever made a proposition in this House of the character he has just mentioned?

Mr. MARSHALL, of Kentucky. I do not know that the gentleman has introduced such a proposition. I refer to the interest that has been here, year in and year out, ever since I have been a member of Congress. I do not recollect whether the gentleman from Indiana ever introduced such a bill; but I recollect that, whenever I have introduced a proposition for my canal, it has always been incumbered by opposition from Indiana and from Cincinnati. They would not let my canal be improved, unless I would take it *cum onere* of a big canal on the Indiana side of the river.

Whether the gentleman is the sponsor of that movement, I do not know. That has been the countervailing interest which has caused the dilatoriness of the United States Government. And that interest, with the constitutional scruples of gentlemen, have prevented the United States from carrying forward the improvements upon which this stock in the hands of private individuals was to be transferred. But, sir, now, beyond the two thousand three hundred shares owned by the Government, there are seven thousand seven hundred shares in the hands of other parties. And now, if you want to know the dividends they have earned and the dividends they have declared, raise a committee, and gentlemen of this House shall learn the history of the matter from the commencement to the present time. I pledge my word to gentlemen that they shall have a fair and satisfactory exhibit of every dollar that has passed through the hands of these gentlemen.

But I do not want resolutions like these passed.

They carry upon their face the inference that the Government of the United States may have been injured, and that there may have been a misapplication of the funds by the gentlemen who have, from time to time, been in the discharge of that trust. I do not want the Secretary of the Treasury to write down its history. I want the books to be examined. They may be brought here, and they shall be brought here if you choose. I understand the history of it from beginning to end, as perfectly as I do my ABC's.

Mr. ENGLISH. If the gentleman understands this matter from the beginning, as I have no doubt he does, I should like to ask him if he denies the assertion which I made, that the Government of the United States owns the whole of the stock except five shares?

Mr. MARSHALL, of Kentucky. I do, most emphatically.

Mr. ENGLISH. Then I desire to call the gentleman's attention to the official report of the Secretary of the Treasury, in which he says:

"In January, 1855, the net receipts of the canal were sufficient to purchase the balance of the private stock, and all was purchased and transferred to the United States except five shares left standing—one to the name of the president, and one to the name of each of the directors of the canal."

This, sir, is the statement of a distinguished citizen of Louisville—the Hon. James Guthrie—when he was Secretary of the Treasury; and it will be seen that it fully sustains the statement made by me.

Mr. MARSHALL, of Kentucky. I have already explained that. I have told the gentleman that, under the Kentucky statute, the canal stands ready to be transferred to the Government of the United States, whenever the Government of the United States shall make an appropriation. But Mr. Guthrie did not understand it, and nobody else could understand, that the United States have become the proprietors of the canal; because, in addition to the action of the Secretary of the Treasury, the action of the corporators of the State corporation was required to discharge the trust created by the statute. And I take this further legal position, and refer it to any gentleman of the House learned in the law, that if these five corporators had attempted to transfer it to the United States Government, without the performance of the condition upon which the trust was declared, any court of equity would have enjoined against that transfer. The State of Kentucky and the city of Louisville were reversioners in the matter, and they both had legal interest in the transfer. Like bidders at a sale, if they stood forward ready to put down the bid that they thought equal to the wants of the commerce upon the transfer of the stock, they had the equitable right, the legal right, to do so. And, sir, Mr. Guthrie and your Comptroller together, could not have deprived them of it. You have got no property; and all I ask is, that Congress, at this stage of the proceeding, shall not go forward to make an *ex parte* investigation, by which I fear that injustice may be done to these gentlemen. Give a committee, by which every dollar that has been collected, and how it has been expended, shall be shown, and I will venture my head that there will not be a fourpence missing from the accounts, and that there will not be a dollar exhibited in the accounts, except what has gone to the improvement of the canal itself, and the amelioration of the commerce of the Ohio river.

I think the passage of this resolution would be wrong. You might, it may be, without any such intention, spread upon the records of the Government that which would stain these men, and might create a presumption against them. They might be put down here without giving them a hearing at all. They have not come forward, but they will come forward. This canal will be made, and it will be made equal to the wants of commerce, and they will not ask a dollar from the Treasury to do it; and when it is done, it will be ready to be handed over to the Government of the United States, who have so long and so pertinaciously been unjust to the commerce of the Ohio river, unless you burden the Government with another useless and wasteful expenditure of the public money.

Mr. COVODE. Mr. Speaker, I discover, during the progress of this argument, that there is a contest lying behind the question between Kentucky and Indiana. Now, to any person familiar

with the commerce of the Ohio river, it is well known that the commerce of at least half of the States of the Union has been suffering for years for want of sufficient capacity in that canal to accommodate that commerce. So long as the question occupies its present position, there is no probability that the Louisville canal will be sufficiently enlarged to accommodate the trade of the Ohio river, and to allow the boats from New Orleans to pass uninterrupted to Pittsburgh. While the advocates of the Indiana canal are embarrassing the enlargement of the Louisville canal, there is no probability of completing a great work that ought to be completed, which is the building of a dam at the narrows below Louisville, high enough to raise the water over the rapids, to accommodate both sides of the river and the entire trade of the Ohio. The sooner this is done the better. I have the opinion of scientific engineers that it must ultimately be done. It is the proper way to remedy the difficulties, and settle the contest between Kentucky and Indiana. I voted in favor of the resolution for the purpose of bringing out the testimony which would demonstrate that this canal has not the capacity to accommodate the trade that is now passing over the Ohio river. But, while I have done that, I am satisfied that a thorough investigation of this question will result in the adoption of the plan which I suggest to accommodate all parties.

Mr. RITCHIE. Mr. Speaker, the district which I represent has a great interest in some means of getting around the falls of the Ohio without obstruction, or with as little obstruction as possible. Ever since I have been in Congress, any effort to improve the navigation around the falls has been opposed by difficulties between the members from Kentucky and the members from Indiana. I have been desirous, ever since I have been here, to procure an appropriation from Congress, or money in any way it could be obtained, in order to enlarge the present canal at the falls at Louisville, so that it could be made adequate to the wants of commerce. I believe, from a report of the engineers on that subject, which I have examined, that that purpose can be accomplished in less time, and at a smaller expense, in that way than in any other. For that reason I have uniformly supported that plan. If I should be mistaken in that, if it be impracticable, I should then go for an appropriation of money to make a canal upon the Indiana side—for, as between the two sides of the river, I have no choice. My only object is to have the means of getting around the falls with the least possible obstruction to commerce, and the least possible expense in the way of toll.

I find now, sir, that this subject, as it stands, is in this situation: we have no prospect of getting from this Congress, or of obtaining the sanction of the Executive for any appropriation for the building of a canal on either side of the river; and as a practical measure we have this company in the very act of applying the tolls now collected for the enlargement of the canal on the Kentucky side. If let alone, they will, in my judgment, have a canal there in a short time, which will probably answer the purpose of the commerce of that river. I see no possible way of getting at this result in any other mode than the one now adopted. I see no hope in the present state of the national finances and in the present aspect of the political forces in this House and in the Senate, with the constitutional scruples of the Democratic majorities, of getting money from the National Government for this purpose, either to enlarge the canal on the Louisville side, or to build a canal upon the Indiana side. I therefore go for what I consider the only practical measure on this subject, and that is to permit these men, who have now the Louisville canal, to go on collecting their tolls and to enlarge the present canal, which is now in existence upon the Kentucky side, until it is adequate for the purposes required.

Mr. HUGHES. The gentleman from Kentucky was mistaken when he intimated that I did not represent a district bordering upon the Ohio river. Two counties in my district border upon the river, and the flourishing city of Madison is the county seat of one of them. The statement of this fact alone will show that my constituents have an immediate interest in every question connected with this transit around the falls of the Ohio. There are now, Mr. Speaker, and have

been for years, two rival interests contending in reference to this matter—one is the interest of the Louisville and Portland Canal Company, and the other the interest of the proposed canal on the Indiana side of the river. I believe that the facts with reference to the past history of the Louisville and Portland canal have been fully and fairly stated by the gentleman from Kentucky. Whatever may be the interest of this corporation or that, or the interest of Kentucky, or the interest of Indiana, with reference to this matter, it must be apparent, I think, to the judgment of every man, that the interests of the trading community, and the commercial people upon that river, whether upon the one side of the river or the other, is the same. If a man starts with a cargo of produce for New Orleans from the city of Madison, it is his interest to get his cargo to market by the shortest and cheapest route. It is not important to him whether he gets around the falls upon the Kentucky side or upon the Indiana side. What he wants is to get around the falls as quickly and as cheaply as possible. It may be important to the stockholders and corporators who shall take the tolls; but that is a question in which the commercial portion of the community has no interest whatever. Their interest is that no one shall take any tolls at all; and that, if possible, the canal shall be free.

Now, sir, a bill has been introduced into this House during the present session, by the gentleman from Ohio, and referred to the Committee on Commerce, and is now in the hands of that committee, proposing the construction of a canal around the falls of the Ohio, on the Indiana side. What is the question which presents itself to this Congress as legislators? Why, sir, their object will be, as it is their duty, to accomplish the construction of a commodious and ready transit around these rapids, in the cheapest and most expeditious manner. How shall it be done? By the appropriation of money from the public Treasury to construct a new canal on the Indiana side, or by so fostering the interests of the canal already constructed, as to open there a cheap and speedy transit for commerce? Now I undertake to say—and I base my assertion upon information derived from some of my constituents whose daily business is to trade up and down that river—that it will meet the wants and wishes of the commercial portion of the country to widen the Louisville and Portland canal as speedily as possible, and allow the commerce of the river to pass through it. I do not know that these resolutions strike a blow at that canal. I do not think that I should support them if they did. The Indiana Legislature, some years ago, chartered a company for the purpose of constructing a canal upon the Indiana side. That company made an extensive survey and examination, and that project has been in the stock market for years.

Mr. BURNETT. I rise to a question of order. I dislike to make the point upon the gentleman from Indiana, but I do not understand that any question is now before this House in regard to the practicability of building a canal upon the Indiana shore, or damming the river at the narrows. The simple question embraced in these resolutions is as to the propriety of calling upon a certain Department for information, and the gentleman from Indiana should confine himself to that point.

The SPEAKER. The Chair is of opinion that the point of order is well taken. The Chair had supposed, during most of this discussion, that very much of what has been said was not directly pertinent to the subject-matter under discussion; and would have so decided if the question had been raised upon any gentleman preceding the gentleman from Indiana.

Mr. HUGHES. I would like to make a suggestion on this subject. There are three propositions before the House. These resolutions call for information, and the relevancy of this information to the propositions before the House must be taken into consideration when voting upon them. I will endeavor, however, to proceed in order; though it is difficult, in my judgment, to vote understandingly on this call for information, unless we may discuss what are the proposed acts of legislation to which the information relates.

Now, sir, why do we want information in regard to the manner in which the finances of the Louisville and Portland canal have been administered? Why, to enable us to determine whether

we will make a new canal, enlarge that one, or adopt some proposition to slack-water the navigation of the river. An intimation on the latter point has been thrown out by the gentleman from Pennsylvania, [Mr. COVODE.] I purpose to show, with the permission of the House and of the Speaker, that the true policy is to let the existing canal be enlarged and widened as soon as possible. Therefore, we ought not to trouble the Department for information, the very giving of which will require that a considerable portion of the clerical force of the Department be diverted from their appropriate employment to get up this information; and I would say here, in regard to resolutions of inquiry generally, (and I have it from a reliable and high source,) that the Departments are unable to meet the frequent calls that are made on them by this House for information, unless additional force be furnished them to do the labor thereby imposed. I was going on to say that the proposition for a canal upon the Indiana side is in the hands of the Committee on Commerce. The president of the company is here as an agent, sent by the Board of Trade of Cincinnati; and the very fact that this charter has existed for years—

Mr. BURNETT. I must insist upon my point of order.

The SPEAKER. The Chair is unable to see the pertinency of the remarks of the gentleman from Indiana, to the pending resolutions. It may be that there is something intended by the resolutions which the Chair does not see or cannot comprehend. All that the first resolution looks to is information with reference to what has been done by certain officers connected with the Louisville and Portland canal; and there is a second resolution directing the Committee on Roads and Canals to inquire into the expediency of providing for reducing the tolls on that canal. That is all that the resolutions purport; and as to whether there be a proposition to build other canals at other points, the Chair cannot perceive how that can be considered pertinent to the resolutions before the House.

Mr. HUGHES. Well, then, I will put a question, for information, to the mover of the resolutions. I wish to inquire of my colleague whether he is not in favor of the construction of a new canal on the Indiana side of the river?

Mr. BURNETT. I object to his answering the question.

Mr. ENGLISH. Under the ruling of the Chair it would not be proper for me to answer the gentleman's inquiry, and therefore I will not answer it; but I am always for Indiana interests and would answer it fully if it would be in order.

Mr. EDIE. I desire to know, whether it is not competent for the gentleman, at this stage of the proceedings, to presume that the object of the proposed reduction of tolls is to destroy the canal, and thus pave the way for constructing a canal on the Indiana side?

The SPEAKER. The Chair is of opinion that it would require a rather metaphysical mind to see the application of that to the pending proposition.

Mr. HUGHES. If I cannot be permitted to take the same range of discussion which other gentlemen have taken on this question, and if I must close my mouth under points of order, I shall endeavor to close the mouths of other gentlemen by calling the previous question; and I do it.

Mr. BURNETT. I appeal to the gentleman from Indiana to withdraw his call for the previous question.

Mr. HUGHES. Withdraw your point of order.

Mr. BURNETT. You were out of order, and I will confine myself to the resolutions before the House. I desire to make a few remarks, and ask the gentleman to withdraw the call for the previous question.

Mr. HUGHES. Will you renew it?

Mr. BURNETT. I will.

Mr. HUGHES. I withdraw the call for the previous question.

Mr. BURNETT. I do not understand, as my colleague from the Louisville district does, that these resolutions contemplate depriving the State of Kentucky of any rights that she or any of her citizens may have in this canal. I cannot, for my life, see why there should be any objection to the calling for the information asked for by these resolutions.

What are the facts, as conceded by my colleague, and the gentleman from Indiana? There is no proposition here for the building of a canal on the Indiana shore, or for the damming the Ohio river at the Narrows. There is nothing of that sort here; but merely a simple inquiry, asking for information as to the management of this canal. If it has been fairly managed, if there has been nothing wrong done, then the gentlemen who are interested in this canal are not injured by the information being given.

My colleague says that there was originally \$1,000,000 of this stock—the United States owning twenty-three hundred shares, and private individuals seventy-seven hundred shares. Now, my colleague and the former Secretary of the Treasury of the United States do not understand this matter alike. The Secretary of the Treasury, in his report to the House of Representatives in 1855, says that this stock has been purchased—that is, the seventy-seven hundred shares owned by private individuals—and has been transferred; to whom? My colleague says that the Government does not own it; but the late Secretary of the Treasury says that the United States have it by transfer. If that be so, then the Government of the United States is the owner of all this stock, except five shares. Now, what is the next inquiry?

Mr. MARSHALL, of Kentucky. My statement is this: that the offer to transfer it was made by the company to the United States on the performance of the conditions required by the Kentucky statute, and there it stands to-day. I know that that is the fact; for I have been myself written to this winter, since I have been here, advising with me as to the propriety of formally withdrawing the offer.

Mr. BURNETT. I now desire to ask my colleague a question. It is this: if the United States do not own the seventy-seven hundred shares of stock, (except five,) to whom do they belong?

Mr. MARSHALL, of Kentucky. They are held in trust by these five men for the United States, if the United States will perform the condition of the trust, for the State of Kentucky as a second chooser, and for the city of Louisville as a third chooser.

Mr. ENGLISH. If the gentleman from Kentucky [Mr. BURNETT] will allow me, I can set this matter right by showing the precise language of the late Secretary of the Treasury, Mr. Guthrie, who, it is well known, is himself a resident of the city of Louisville. He says, in his official report:

"In January, 1855, the net receipts of the canal were sufficient to purchase the balance of the private stock, and all was purchased and transferred to the United States except five shares."

Mr. MARSHALL, of Kentucky. That is nothing more than what my colleague [Mr. BURNETT] has just stated. The emphasis does not make it any stronger. My colleague said that that was the statement of Mr. Guthrie, and I know that such was his statement. But I suppose the state of facts to be this: that Mr. Guthrie spoke of a transfer having been made while there was only an offer to transfer, which offer the General Government has never accepted. In my country it takes two to make a bargain.

Mr. BURNETT. My colleague, the gentleman from Indiana, and myself, agree as to the facts. Now, let us examine the question as to whether we, as the representatives of the people of the nation, ought not to have this inquiry. Why should we not? My constituents are as much interested in the navigation of the Ohio river as are the constituents of any gentleman on this floor. The people of the whole country are interested in the navigation of the Ohio river. We all alike have an interest in it, and it is our duty to protect the people in their rights on that river. These resolutions ask for information—for what? With a view that we may determine the question as to whether there is any action on the part of the General Government necessary to protect the rights of the people of the country against five shareholders in this Louisville and Portland canal.

The Legislature of Kentucky, it is true, passed a bill in which they provide that this company may enlarge this canal. How? Out of the proceeds arising from the tolls collected from the commerce of that river.

Then the General Government owns every dollar of that stock, except the five shares owned by private individuals. The Legislature of Kentucky does not contemplate making this a free canal. But, sir, these five shareholders of this canal are to enlarge it, and the commerce of the whole country is to be taxed—for whose benefit? For the benefit of these five private shareholders.

Now, sir, I take as deep an interest in the affairs of Kentucky as any man in this House, and will go as far to promote the interests of the citizens of my own district and of that State, but I will not sit here in my seat, and by my vote aid in refusing to call for information which will enable us to determine intelligently what the action of the House should be.

I am opposed to the project for building a canal on the Indiana side. I am opposed to the Cincinnati project. But suppose, for instance, these five private shareholders who own this individual stock, go on and enlarge the canal, has not the Government some voice in this matter? She owns all the stock, which has been paid up and transferred to her, except five shares; we are now calling for information to see how this money has been expended, and by what authority they have appropriated the tolls which have been collected to widening and deepening the canal.

Mr. MARSHALL, of Kentucky. I will read to the gentleman from the report of the Secretary of the Treasury, where the authority comes from:

"In April, 1855, the Department authorized the president and directors of the canal to make certain improvements; to be paid out of the surplus tolls, with a distinct instruction that nothing was to be expended but the excess of the tolls over and above the expenses, and no debts to be contracted. The improvements authorized were a floating and swinging boom at the head of the canal, two additional basins at passing-places for boats, and the making smooth the ledges on each side of the canal, and the widening it somewhat. These improvements, it was considered, would benefit the navigation and facilitate the free passage of boats, and could be effected in two years with the surplus receipts, and were strictly within the expenditures for improvements as contemplated in the act of 1842, and impliedly consented to by the United States."

There is the authority giving the assent of the United States to making these improvements.

Mr. BURNETT. It may be that the Secretary of the Treasury had not the power to give the assent of the United States. But I will not discuss that question, for it is not the question before us. I am for protecting the interests of commerce, and of the people of this country, for we are all interested in it. I am for protecting my constituents against any attempt upon the part of these five shareholders to levy upon the commerce of that river for the purpose of enlarging this canal.

Mr. MARSHALL, of Kentucky. I want to understand my colleague. Suppose Congress makes no disposition of the surplus revenue which arises from the tolls collected from the canal: the Government owns but twenty-three hundred shares; seventy-seven hundred shares are owned by private individuals; and do I understand my colleague to say that the Secretary of the Treasury has no power to give the assent of the Government to the dedication of the surplus to making improvements?

Mr. BURNETT. The basis upon which my colleague rests his question will not do. Why? He bases it upon the supposition that the Government does not own the seventy-seven hundred shares formerly in the hands of individuals.

Mr. HUGHES. I rise to a question of order. I insist on applying the gentleman's own question of order to himself.

Mr. BURNETT. Well, sir, I will keep within the bounds of order. My colleague rests his question upon the basis that seventy-seven hundred shares of this stock are owned by private individuals, when in fact the General Government owns them, and the General Government has the right to control them. Private individuals have surrendered their rights to them. Who says so? The Secretary of the Treasury—an official of the General Government, who has the right to speak upon the subject. He says the right of ownership of these seventy-seven hundred shares is in the General Government.

I was remarking that I had an interest in the navigation of the Ohio river. My constituents are interested in it. There is no gentleman upon this floor whose constituents are more deeply interested. I am for protecting the rights of these

private shareholders; but I am for protecting the interests of the Government, and, above all, I am for protecting the interests of the people themselves.

Mr. MARSHALL, of Kentucky. Will the gentleman allow me?

Mr. BURNETT. No, sir; I cannot, I feel further. I say I am for protecting the rights of the people; and how do I propose to do it? I propose to do it by voting for these resolutions, in order that we may have this information before us. If there is nothing "rotten in Denmark," then we do not do those five gentlemen who own shares any injustice. I will bear testimony to their high character, so far as I know them. I will not for a moment intimate that they have done anything that is not fair and right, or that they have not properly and legitimately appropriated the funds which have come into their hands; but, believing they have so acted, as a Kentuckian, I want the facts before us, so that everybody may judge for themselves.

Mr. SHERMAN, of Ohio. I desire to ask a question.

Mr. BURNETT. I cannot yield the floor.

Mr. SHERMAN, of Ohio. I wish to ask whether this information has already been given us from the Department?

Mr. BURNETT. It has not, according to my understanding.

Mr. SHERMAN, of Ohio. Then we ought to have it.

Mr. BURNETT. Now, sir, the Kentucky Legislature have passed this act enlarging the powers of this corporation, composed of these individuals owning five shares; and the question with me is, will you get the information which is necessary to enable you to judge how you can best protect the interests of the people against, if need be, those five individuals who claim the power to build this canal, and then to go on and collect what tolls they please? In compliance with my agreement with the gentleman from Indiana, I now call the previous question.

Mr. WASHBURN, of Illinois. I ask the gentleman to withdraw the call for a moment to allow me to offer an amendment.

Mr. BURNETT. I cannot.

Mr. WASHBURN, of Illinois. I desire to state to the gentleman from Kentucky the object of my amendment.

The SPEAKER. Debate is not in order unless by general consent.

Mr. WASHBURN, of Illinois. I do not propose to detain the House with debate. The Committee on Commerce have jurisdiction of this subject. They had the subject before them during the last Congress, and they have the subject before them now.

Mr. HOUSTON. Let us have the information.

The previous question was seconded, and the main question ordered.

Mr. MARSHALL, of Kentucky, called for tellers on the resolutions.

Tellers were not ordered.

The resolutions were adopted.

Mr. ENGLISH moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MILITARY PENSION BILL.

The SPEAKER stated the first business in order to be the consideration of House bill No. 259 granting pensions to the officers and soldiers of the war with Great Britain in 1812, and those engaged in Indian wars during that period; the consideration of which had been postponed to this day.

Mr. SAVAGE. I have a resolution to offer in relation to that bill.

Mr. SHERMAN, of Ohio. Before the resolution is read, I ask to have entered a motion to reconsider the vote by which a communication from the Treasury Department was on Friday last laid upon the table.

Mr. SAVAGE's resolution was read, as follows:

Resolved, That bill No. 259, granting pensions to the soldiers of the war of 1812, and those engaged in Indian wars during that period, be referred to the Committee of the Whole on the state of the Union, and made the special order therein for the 6th day of April next, and continue the same from day to day until disposed of.

The SPEAKER. The resolution will be in order if the gentleman will withdraw his pending motion to recommit.

Mr. SAVAGE. I withdraw the motion to recommit.

Mr. CLINGMAN. Does it not take a two-thirds vote to adopt that resolution?

The SPEAKER. It does.

Mr. CLINGMAN. For how many days does it make this bill the special order?

The SPEAKER. Until disposed of.

Mr. CLINGMAN. If the gentleman will limit the resolution so that the bill will be made a special order for three days, I will not object to it.

Mr. JONES, of Tennessee. If this resolution comes in by unanimous consent, would not a majority vote adopt it?

The SPEAKER. A two-thirds vote is required to make a special order. It changes the order of business.

Mr. CLINGMAN. I have no objection to the bill being made a special order, if the time be limited.

Mr. SAVAGE. I am ready to make any fair compromise. I stand here to-day to carry out my original promise to do everything that is necessary to bring the question to a fair vote of the House. If it suits the policy of the House to limit debate on a bill of so much importance, very well. It requires, in my judgment, some time for discussion; and I doubt the propriety of limiting it to a few days.

The SPEAKER. The Chair, inadvertently, perhaps, stated to the gentleman from Tennessee that the resolution could be submitted. If there be objection, it requires a two-thirds vote to introduce the resolution.

Mr. CLINGMAN. I object, unless it be limited as to time.

Mr. SAVAGE. I will modify my resolution so as to provide that the debate shall only continue for three days.

Mr. CLEMENS. I object.

Mr. SAVAGE. I move to suspend the rules to enable me to introduce the resolution.

Mr. CLEMENS. Will not the effect of making this a special order be to give this bill precedence over business which we may be considering at the time?

The SPEAKER. It will give this bill, on the 6th day of April, precedence over all other business.

Mr. CLEMENS. Then I object to it.

Mr. HUGHES. I wish to inquire whether this bill was not before us regularly before the resolution was submitted?

The SPEAKER. It was.

Mr. HUGHES. Is it not in order, then, to move to make that bill a special order for the 6th day of April next? Does it require unanimous consent to make that motion?

The SPEAKER. It requires unanimous consent or a suspension of the rules.

Mr. SAVAGE. And I have moved a suspension of the rules.

Mr. J. GLANCY JONES. Does the gentleman move to make it a special order?

The SPEAKER. He does.

Mr. J. GLANCY JONES. Then I hope the motion will not prevail.

Mr. SAVAGE. At the suggestion of gentlemen around me, I will put the time further off, and afford opportunity for other business to come up. Instead of the 6th of April, I will say the 22d of April.

The SPEAKER. Does the gentleman agree to the further modification that debate shall continue only for three days?

Mr. SAVAGE. I agree to that, also.

Mr. CLEMENS. As there seems to be so much unanimity in the House in regard to this bill, I will withdraw my objection on a condition. As no danger can be incurred by postponing the period, I will suggest the 26th day of May.

Mr. FLORENCE. Oh, no! We will adjourn before then.

Mr. CLEMENS. Then I object to the resolution.

The rules were suspended.

Mr. SAVAGE demanded the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SAVAGE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. QUITMAN. Is not the next business in order the motion to recommit the volunteer bill?

The SPEAKER. This is resolution day.

INTRODUCTION OF BILLS AND RESOLUTIONS.

Mr. CRAIG, of Missouri. I now call up the resolution I offered this morning.

The Clerk read the resolution, as follows:

Resolved, That the States be called, beginning where the Speaker left off, and upon said call members may introduce bills for reference only, and of which previous notice has been given, and resolutions for reference to which no objection is made; and said bills shall not again be brought before the House by motions to reconsider.

Mr. CLINGMAN. I ask the gentleman to modify his resolution. He says resolutions to which no objection is made. Let them all come in and stand upon an equal footing.

Mr. FLORENCE. I ask the gentleman from Missouri to allow me to offer a preamble to the resolution, the purport of which he will see when it is read.

Mr. CRAIG, of Missouri. I cannot yield.

Mr. SEWARD. I rise to a question of order. The rules cannot be suspended so as to take in a mass of business. If the gentleman has a bill which he wants action upon, he can move to have the rules suspended in order to take up that particular bill.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Georgia. The proposition of the gentleman from Missouri is to suspend any and all rules of the House which prevent him from submitting the resolution; and if two thirds vote in favor of the resolution, every rule is suspended.

Mr. SEWARD. I appeal from the decision of the Chair, and I desire to say—

The SPEAKER. Debate is not in order.

Mr. SEWARD. The other day the Chair allowed great latitude of debate upon an appeal from the decision of the Chair.

The SPEAKER. That was a question of privilege. This is a question involving the priority of business, and under the rules of the House it is expressly provided that every such question shall be decided without debate.

Mr. SEWARD. I desire to call the attention of the Chair to a decision made last Congress—

Mr. WRIGHT, of Georgia. I call my colleague to order. I object to debate.

Mr. SEWARD. The objection comes with a bad grace from my colleague.

The SPEAKER. The gentleman has the right to make objection.

Mr. SEWARD. I know that; and the Chair has the right to call me to order; and I will sit down. [Laughter.]

Mr. CLINGMAN. I demand the yeas and nays upon agreeing to the resolution. Will not the regular order of business be the calling of States for bills and resolutions?

The SPEAKER. It will be; but notwithstanding that any gentleman has the right to set it aside by moving to suspend the rules.

Mr. CLINGMAN. The effect of the resolution will be to allow a single member, by objecting, to cut off the introduction of a resolution. I call for tellers upon the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The rules were then suspended, (two thirds voting in favor thereof,) and the resolution was introduced.

Mr. CRAIG, of Missouri, moved the previous question upon the adoption of the resolution.

Mr. JONES, of Tennessee, called for tellers. Tellers were ordered; and Messrs. JOHN COCHRANE and LOVEJOY were appointed.

The House divided; and the tellers reported—ayes 100, noes 29.

So the previous question was seconded.

The main question was then ordered; and under its operation the resolution was adopted.

Mr. CRAIG, of Missouri, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

In compliance with the resolution, the Speaker proceeded to call the several States for bills for

reference, and resolutions to which no objection would be made, commencing with the State of Virginia.

CHANGES IN DEPARTMENTS.

Mr. FAULKNER offered the following resolution:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the expediency of repealing so much of the act approved March 3, 1849, as transferred from the Secretary of War to the Secretary of the Interior the supervisory and appellate powers then exercised by the War Department in relation to the acts of the Commissioner of Indian Affairs; and of reporting a bill to restore to the War Department its former supervision and control of Indian Affairs.

Mr. LOVEJOY objected.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKEY, one of their clerks, informing the House that the Senate had passed an act (S. No. 137) for the relief of the heirs-at-law of the late Abigail Nason, sister and devisee of John Lord, deceased; also, an act (S. No. 58) to authorize and direct a settlement of the accounts of Ross Wilkins, James Witherell, and Solomon Sibley; in which he was directed to ask the concurrence of the House.

DISTRIBUTION OF DOCUMENTS.

Mr. WINSLOW introduced a joint resolution as to the distribution of certain documents; which was read a first and second time, and referred to the Committee on the Library.

SURPLUS IN THE TREASURY, ETC.

Mr. GILMER introduced a bill to prevent the accumulation of unnecessary surpluses in the Treasury, and to equalize the grants of lands to the several States; which was read a first and second time.

Mr. JONES, of Tennessee. I would inquire of the Chair whether, under the resolution, bills can come in as a matter of course?

The SPEAKER. They are entitled to be introduced, as a matter of course, where notice has been previously given.

Mr. GILMER. Notice has been given ever since the 9th of February.

Mr. JONES, of Tennessee. I do not understand that the gentleman can introduce, as a matter of course, a bill of which previous notice has been given. He merely gives notice, under the rule, that he will ask leave to introduce a bill.

The SPEAKER. The gentleman from Tennessee is right in that.

Mr. JONES, of Tennessee. And if there be objection, it requires a vote of the House to give that leave.

The SPEAKER. But a majority of the House can give it.

Mr. JONES, of Tennessee. Certainly, sir. That I supposed. I am opposed to this bill in any shape in which it can come up here.

Mr. GILMER. I merely want it referred to the Committee on Public Lands.

Mr. JONES, of Tennessee. With all due respect to the gentleman, I do not want it referred anywhere.

Mr. BILLINGHURST. Has not the gentleman a right to introduce his bill under the resolution that was adopted?

Mr. GROW. Under the phraseology of the resolution, do we not suspend this rule?

The resolution was again read.

Mr. JONES, of Tennessee. I do not see why objection does not apply to bills as well as to resolutions.

Mr. GROW. According to the phraseology of the resolution, the rule is suspended. It specifies expressly that bills, of which previous notice has been given, may be introduced for reference only.

The SPEAKER. The Chair is of opinion that the adoption of the resolution supersedes the necessity of propounding the question to the House, "Will the House allow the bill to be introduced?"

Mr. JONES, of Tennessee. I move that the bill be rejected.

The SPEAKER. The order of the House prevents that motion being made, because it provides that bills shall be introduced for reference only.

Mr. GILMER. I only ask to have the bill referred.

The SPEAKER. The Chair can entertain no motion in reference to a bill presented, except a motion to refer; and that without debate.

Mr. JONES, of Tennessee. Was the vote adopting the resolution reconsidered?

The SPEAKER. The motion to reconsider was laid on the table.

Mr. JONES, of Tennessee. Then I move that the House do now adjourn.

The motion was not agreed to.

The bill was referred to the Committee on Public Lands.

ADMISSION OF KANSAS.

Mr. GILMER asked leave to introduce a bill for the admission of Kansas into the Union.

Mr. GREENWOOD. Has previous notice been given of that bill?

Mr. GILMER. It has not; but I desire to introduce it.

Mr. GREENWOOD. I object.

Mr. GILMER. I desire, then, to give notice that I shall introduce the bill when it is in order.

PRINTING OF COAST SURVEY REPORT.

Mr. MILES asked leave to offer the following resolution:

Resolved, That seven thousand copies of the Coast Survey report be printed for the use of the House, and for distribution by the Coast Survey office.

Mr. JONES, of Tennessee, objected.

PRINTING OF THE PATENT OFFICE REPORT.

Mr. MILES asked leave to introduce the following resolution:

Resolved, That there be printed, of the mechanical portion of the Patent Office report for the year 1857, sixty thousand copies.

Mr. JONES, of Tennessee, objected.

AMIN BEY.

Mr. BOYCE asked leave to introduce the following resolution:

Resolved, That the Secretary of State be requested to furnish this House, if not incompatible with the public interest, with copies of all credentials or other evidences on file in his Department showing the official character of Amin Bey who visited this country as the representative of his Imperial Majesty the Grand Sultan of Turkey; also, copies of all correspondence touching the official character of the said Amin Bey, either with the Turkish Government or others; also, a statement of the amount of money appropriated, and copies of the papers upon which said appropriation was based; how much of said appropriation was expended, and why any portion of it was withheld.

Mr. MORGAN objected.

FORT RIDGELY AND SOUTH PASS ROADS.

Mr. KEITT. At the request of the Delegate from Minnesota, [Mr. KINGSBURY,] I introduce a bill making an appropriation for the completion of the Fort Ridgely and South Pass wagon road.

The bill was read a first and second time.

Mr. KEITT. I move to refer it to the Committee of Ways and Means.

Mr. LETCHER. I hope not. I move to refer it to the Committee on Roads and Canals.

Mr. GROW. This is in continuation of an appropriation originally made through the Committee on Territories. The Secretary of the Interior has regularly estimated for it, and the estimates, I suppose, are before the Committee of Ways and Means. I would suggest that for the purpose of facilitating business it had better go to the Committee of Ways and Means.

Mr. COVODE. I understand that this appropriation is needed immediately for military purposes. I move that it be referred to the Committee on Military Affairs.

Mr. GROW. I desire to ask the Delegate from Minnesota what reference he wishes the bill to take?

Mr. KINGSBURY. I would prefer the Committee on Military Affairs rather than the Committee on Roads and Canals.

The bill was referred to the Committee on Military Affairs.

GOVERNMENT BARRACKS AT SAVANNAH.

Mr. SEWARD presented a bill for the transfer and cession of the Government barracks at Savannah, Georgia, to the city of Savannah.

Mr. LETCHER. Has previous notice been given of that bill?

Mr. SEWARD. No, sir.

Mr. LETCHER. Then I object.

Mr. SEWARD. I move to suspend the rules.

The SPEAKER. The motion is not in order.

Mr. SEWARD. Well, sir, I beg leave to report a bill from the Committee on Naval Affairs.

Mr. PHELPS. I object.

HOMESTEAD BILL.

Mr. WRIGHT, of Georgia, introduced a bill giving to citizens above the age of twenty-one years, male and female, who will settle on the same and make certain improvements thereon, a square tract of one hundred and sixty acres of the public land, free from any incumbrances, past, present, and future; which was read a first and second time, and referred to the Committee on Public Lands.

ROME POST OFFICE.

Mr. WRIGHT, of Georgia, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be, and is hereby, instructed to inquire into the expediency of building a post office at the city of Rome, Georgia, or making an appropriation to repair the damages lately done by fire.

Mr. SHAW, of North Carolina. When North Carolina was called, I was absent from the Hall. I therefore ask unanimous consent to introduce a resolution.

Mr. MORGAN. I object. When we get through the call the gentleman can then offer his resolution.

SOLDIERS OF THE CREEK WAR.

Mr. DOWDELL offered the following resolution:

Resolved, That the Committee on Public Lands be directed to inquire into the propriety of so amending the act entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved March 3, 1855, and the act amendatory, being approved the 14th day of May, 1856, as to extend the benefits and provisions of said act to embrace the volunteers and militia in the State of Alabama, who have rendered fourteen days' actual service in the Creek Indian war of 1836, whether such persons served with the armed forces, or were regularly mustered into the service of, or paid by, the United States or not, and that they report by bill or otherwise.

Mr. KELSEY objected.

EUFULA A PORT OF DELIVERY.

Mr. SHORTER introduced a bill to constitute the city of Eufaula, in the State of Alabama, a port of delivery; which was read a first and second time, and referred to the Committee on Commerce.

VOLUNTEER BILL.

Mr. QUITMAN submitted the following resolution:

Resolved, That House bill No. 313, to provide for the organization of a regiment of mounted volunteers, and to authorize the President to call into the service of the United States four additional regiments of volunteers, be made the special order of the day for to-morrow, and each succeeding day for three days, or until the same be disposed of.

Mr. PHELPS. I will not object, provided the resolution says that it shall not interfere with the present order.

Mr. KELSEY. I object.

PATENT OFFICE REPORT.

Mr. EUSTIS submitted the following resolution:

Resolved, That there be printed of the mechanical portion of the Patent Office report for the year 1857, sixty thousand copies.

Mr. STANTON objected.

COAST SURVEY REPORT.

Mr. EUSTIS submitted the following resolution:

Resolved, That seven thousand copies of the Coast Survey report be printed for the use of this House, and for distribution by the Coast Survey office.

Mr. LETCHER objected.

CLERK TO COMMITTEE.

Mr. SANDIDGE submitted the following resolution:

Resolved, That the Committee on Private Land Claims be authorized to employ a clerk at the usual rate of compensation.

Mr. SEWARD objected.

DISTRIBUTION OF SEEDS.

Mr. BLISS submitted the following resolution:

Resolved, That the Committee on Agriculture be instructed to inquire into the expediency of so changing the mode of distributing seeds from the Patent Office as to send them to the several State agricultural societies, or to otherwise so distribute them as to relieve members of Congress from the duty of distributing the same; and that they report by bill or otherwise.

Mr. LETCHER. Allow me to make a sug-

gestion. Where there is no agricultural society, let the seeds be sent to the clerk of the county court.

Mr. COBB. I object to the resolution.

AMENDMENT OF JUDICIARY ACT.

Mr. BLISS introduced a bill to repeal the twenty-fourth section of the judiciary act of September 24, 1789, and the seventh section of the act further to provide for the collection of debts, passed March 2, 1833; which was read a first and second time, and referred to the Committee on the Judiciary.

MEXICAN VOLUNTEERS.

Mr. HARLAN introduced a joint resolution directing the payment of certain Mexican volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

CENSUS OF 1860.

Mr. SHERMAN, of Ohio. I submit the following resolution:

Resolved, That a special committee of five be appointed by the Chair, and to continue during this Congress, whose duty it shall be to inquire into the best mode of taking the census of 1860, with leave to report, by bill or otherwise, at any time during the session of Congress commencing on the first Monday of December next.

Mr. HUGHES. I object.

Mr. SHERMAN, of Ohio. I give notice that I shall try to get the resolution in whenever another opportunity presents itself.

Mr. HOUSTON. I think there is an existing law to provide for that.

DISTRIBUTION OF BOOKS.

Mr. COX submitted the following resolution:

Resolved, That the Committee on the Library be requested to consider the propriety of reporting a joint resolution authorizing the Clerk of this House to furnish (in lieu of books already ordered and not delivered, and which he has not now on hand,) to those entitled thereto, either as members or the representatives of the members of former Congresses, such books as he has on hand of equal value, with those already ordered and never delivered to such members or their representatives.

Mr. HUGHES. I object.

ELECTION OF POSTMASTERS.

Mr. LEITER introduced a bill to provide for the election of postmasters by the people; which was read a first and second time.

Mr. LEITER moved that it be referred to the Committee of the Whole on the state of the Union.

Mr. ENGLISH. It strikes me that the bill ought to go to the Committee on the Post Office and Post Roads, and I move that reference.

Mr. LEITER. I modify my motion, so that it will be to refer it as the gentleman indicates.

The bill was referred to the Committee on the Post Office and Post Roads.

APPOINTMENT OF PERSONS TO OFFICE.

Mr. LEITER asked unanimous consent to offer the following resolution:

Resolved, That the President be requested to communicate to this House the names of members of the Thirty-Third Congress, who voted for the Nebraska-Kansas act on its final passage, who were thereafter appointed to office under the late and present Administrations, the office to which each member was appointed, the time of appointment, and by whom such appointment was made.

Mr. McQUEEN objected.

JURORS FOR UNITED STATES COURTS.

Mr. STANTON asked unanimous consent to offer the following resolution:

Resolved, That the standing Committee on the Judiciary be instructed to inquire into the expediency of so amending the law providing for the selection of jurors in the circuit and district courts of the United States by suitable and proper officers in various parts of the several circuits and districts, to be appointed in such manner as may be prescribed by law.

Mr. HUGHES objected.

REPORTS OF THE SUPREME COURT.

Mr. GROESBECK introduced a joint resolution in relation to purchasing and distributing a certain number of the reports of the Supreme Court, with Notes and Digest by R. R. Curtis; which was read a first and second time, and referred to the Committee on the Judiciary.

DELIVERY OF BOOKS.

Mr. COX asked unanimous consent to introduce the following resolution:

Resolved, That the Clerk of this House be requested to deliver to the widow of Jonathan Taylor, a member of a

former Congress, from books which he has now on hand, books of equal value with those ordered to said Jonathan Taylor by the resolutions of Congress.

Mr. LETCHER objected.

CENSUS OF 1860.

Mr. SHERMAN, of Ohio. I understand that the objection made to the resolution which I offered a short time since, in relation to the appointment of a committee to inquire into the best mode of taking the census of 1860, has been withdrawn. I ask that the resolution may again be read.

The resolution was accordingly read.

Mr. KEITT objected to its introduction.

REMOVAL OF DESKS FROM THE HALL.

Mr. PENDLETON asked unanimous consent to introduce the following resolution:

Resolved, That the Doorkeeper be directed to remove from the Hall all the desks which have been provided for the use of the members, and to rearrange the chairs in such manner as may be convenient after such removal; and that he provide two writing-tables, one to be placed on each side of the Hall, in the vacant spaces behind the chairs.

Mr. GREENWOOD objected.

FURNISHING BOOKS.

Mr. COX. I renew the resolution I offered a short time since, in reference to instructing the Committee on the Library to make certain inquiries, as the objection has been withdrawn.

The resolution was again read.

Mr. JONES, of Tennessee, objected to its introduction.

PRINTING EXTRA COPIES OF A BILL.

Mr. COX asked unanimous consent to introduce the following resolution:

Resolved, That there be printed for the use of the members of the House, five hundred extra copies of the bill reported from the Committee on Revolutionary Claims, "to provide for the settlement of the claims of the officers and soldiers of the revolutionary army," &c.

Mr. KEITT objected.

Mr. COX. I have numerous requests from members of the House for copies of this bill, and I cannot supply them.

Mr. KEITT. Well, I withdraw my objection.

Mr. GREENWOOD. I object.

PUBLICATION OF BOOKS.

Mr. BURNETT asked unanimous consent to introduce the following resolution:

Resolved, That the Joint Committee on Printing be, and he same is hereby, requested to inquire into the expediency and propriety of dispensing with the publication of any book or books, or any volume thereof, heretofore ordered by Congress and which have not been executed; and that they report thereon as soon as practicable; and that they inquire whether any of said books may be dispensed with, the printing of which has been commenced; and that they report, &c.

Mr. TAYLOR, of New York, objected.

POST OFFICE AND CUSTOM-HOUSE.

Mr. BURNETT introduced a bill to provide for the erection of a post office and custom-house at Paducah, in the State of Kentucky; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

POST ROUTES.

Mr. BURNETT offered the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety of establishing a post route from Paducah, in Kentucky, to Paris, in the State of Tennessee, via Palma, Benton, Wadsworth, and Murray; also, from Paducah to Hickman, in the State of Kentucky, via Hickory Grove, Mayfield, Feliciana, and Lodgetown; also, from Mayfield, Kentucky, to Paris, Tennessee, via Boydsville; from Mayfield to Paris, Tennessee, via Farmington and Murray; also, from Paducah to Blandville, via Newton's Creek and Hazlewood; also, from Hopkinsville, in Kentucky, to Paducah, via Cerulean Springs, Wallonia, Ferry Corner, Birmingham, and Briarsburg.

Mr. MORGAN. I object.

Mr. BURNETT. I hope the gentleman will withdraw his objection. This is nothing but a resolution of inquiry.

Mr. MORGAN. I withdraw my objection.

Mr. EDIE. I renew the objection, on the ground that the gentleman can have the committee attend to the matter without a resolution.

POST OFFICE AT COVINGTON.

Mr. STEVENSON introduced a bill to provide for the erection of a post office at Covington, in the Commonwealth of Kentucky; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ELECTION RIOT IN WASHINGTON CITY.

Mr. MARSHALL, of Kentucky, offered the following resolutions:

Resolved, That the memorial of sundry citizens of Washington, touching the interference of the United States marines at the election of corporation officers in Washington, in June, 1857, be, and the same is hereby, referred to a select committee of seven members of this House, to be appointed by the Speaker, with instructions to said committee to inquire—

1. Whether the President of the United States exceeded the authority vested in his hands, by law, in ordering the United States marines to be marched into the city of Washington, and to be placed under the orders of the Mayor of Washington to quell an alleged riot that interfered with the privilege of a peaceable corporation election in this city.

2. Whether any facts exist implicating the Secretary of War, or any other executive officer of this Government, in the charge of having procured an order for said United States marines before the President had given an order for them to be furnished to the Mayor of Washington.

3. Whether there has been any obstruction to the impartial administration of justice in connection with said alleged riot, interposed by any judicial or ministerial officer or officers of the United States in the District of Columbia, and, if so, what facts exhibit such improper conduct upon the part of the said judicial or ministerial officer or officers.

4. Also, to inquire into and report all the facts which will fairly exhibit the conduct of the United States marines, and the officers in command of them on the occasion referred to in the memorial, and the extent of damage done by them to persons and property upon that occasion.

Resolved, That said committee have leave to send for persons and papers, and may sit during the sessions of this House, and may report, by bill or otherwise, whatever may, in their opinion, be demanded by the facts of the case.

Mr. REAGAN objected.

Mr. MARSHALL, of Kentucky. Then I present the memorial referred to.

The SPEAKER. The memorial can be presented under the rules.

Mr. MARSHALL, of Kentucky. Do I understand the Chair to decide that I cannot present it now?

The SPEAKER. The gentleman can present the memorial under the rules. He cannot present it under the order adopted this morning providing for the presentation of bills and such resolutions as no objection is made to.

Mr. MARSHALL, of Kentucky. I am charged with the presentation of this memorial. My State is called, and I offer to present it.

The SPEAKER. The gentleman cannot present it under the order of the House. The only way in which he can present it is by unanimous consent.

Mr. MARSHALL, of Kentucky. I want to have a special committee raised on this matter.

POST OFFICE ADVERTISING.

Mr. SHAW, of North Carolina, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Postmaster General be requested to inform the House what number of newspapers published in the city of Washington is employed, under the existing laws or regulations, to advertise the mail lettings, and what amount of compensation is paid to each thereof; also, what number of papers in the several States is employed to advertise the same, and at what price; and whether, in his opinion, the former cannot be hereafter altogether discontinued, and the latter curtailed, without detriment to the Post Office Department.

PUBLIC BUILDINGS AT JACKSON.

Mr. AVERY introduced a bill to provide for the construction of a post office, court-house, and pension office, at the city of Jackson, in the State of Tennessee; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. AVERY. I introduced, the other day, under the rule, a memorial on the same subject, which was referred to the Committee on the Judiciary. I ask that that committee be discharged from its further consideration, and that the same be referred to the Committee on the Post Office and Post Roads.

It was so ordered.

PUBLIC BUILDINGS AT MEMPHIS.

Mr. AVERY also introduced a bill to increase the appropriation for public buildings at the city of Memphis, Tennessee, and that the same be used for a custom-house and post office; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. AVERY also introduced a bill to provide for the construction of a marine hospital at Memphis, Tennessee; which was read a first and second time, and referred to the Committee on Commerce.

PACIFIC RAILROAD.

Mr. SMITH, of Tennessee, introduced a bill to establish a communication by railroad and telegraph between the Atlantic States and California; which was read a first and second time, and referred to the special committee on the Pacific railroad.

Mr. PHELPS. I perceive that that bill covers a large amount of manuscript, and I desire the gentleman from Tennessee to submit a motion to have it printed.

Mr. SMITH, of Tennessee. I adopt the suggestion. I move that it be ordered to be printed. The motion was agreed to.

TENNESSEE LEGISLATURE.

Mr. SMITH, of Tennessee, by unanimous consent, presented joint resolutions from the Legislature of the State of Tennessee; one in reference to the postal laws of the United States, and the other instructing the Senators and requesting the Representatives from that State to vote for the admission of Kansas under the Lecompton constitution, and in reference to the Hon. JOHN BELL. The first were referred to the Committee on the Post Office and Post Roads; and the second were laid on the table; and all were ordered to be printed.

BOUNTY LAND.

Mr. MAYNARD introduced a bill to extend the provisions of certain acts granting bounty land to certain officers and soldiers in the military service of the United States; which was read a first and second time, and referred to the Committee on Public Lands.

COMPENSATION OF JUDICIAL OFFICERS.

Mr. MAYNARD asked leave to introduce the following resolutions:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency and propriety of increasing the compensation now allowed to the clerks of the circuit and district courts of the United States; and to report by bill or otherwise.

Resolved, That the Committee on the Judiciary be instructed further to inquire into the expediency of supplying each of the clerks of the circuit courts of the United States and each of the district attorneys of the United States for the use of their respective offices, a copy of the reports of the decisions of the Supreme Court of the United States; and to report by bill or otherwise.

Mr. MORGAN objected.

THE POSTAL LAWS.

Mr. ATKINS introduced a bill to amend the postal laws of the United States; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LAND OFFICE RECORDS.

Mr. FOLEY introduced a bill to provide for granting exemplifications of records and papers relating to lands, the entry, location, and purchase thereof, remaining in the General Land Office, and fixing the fees to be charged therefor; which was read a first and second time, and referred to the Committee on Public Lands.

NEW ALBANY POST OFFICE, ETC.

Mr. ENGLISH introduced a bill to provide for erecting a building in the city of New Albany, in the State of Indiana, for a post office, custom-house, and pension office; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LANDS FOR AGRICULTURAL PURPOSES.

Mr. UNDERWOOD. I was not present when the State of Kentucky was called. I ask the consent of the House to present certain resolutions from the Kentucky Agricultural Society, asking an appropriation of the public lands for agricultural purposes. I ask that the resolutions may be printed, and referred to the Committee on Agriculture.

Mr. COBB. The resolutions relate to a donation of the public lands, as I understand, and I hope they will be referred to the Committee on Public Lands.

Mr. UNDERWOOD. I have no objection. The resolutions were so referred.

SUSPENSION OF CERTAIN PUBLIC PRINTING.

Mr. HUGHES asked leave to introduce the following resolution:

Resolved, That the Superintendent of Public Printing be directed to report to the House the amount of work now done on the unpublished volumes of the Pacific railroad sur-

veys, and the cost thereof, and how many volumes are yet unfinished, and the probable cost of printing the same; and to suspend the printing thereof until otherwise ordered by the House.

Mr. TAYLOR, of New York, objected.

JOHN W. WOLCOTT.

Mr. HUGHES asked leave to submit the following resolution:

Whereas, The record of the proceedings of the House, in the case of John W. Wolcott, a witness now in custody of the Sergeant-at-Arms, does not show that said witness was imprisoned for refusing to testify in a matter wherein the House has jurisdiction to enforce the testimony of witnesses by attachment for contempt: Therefore,

Resolved, That the said John W. Wolcott, be, and he is hereby, released from said imprisonment.

Mr. WRIGHT, of Georgia, objected.

Mr. STEPHENS, of Georgia. Is it in order to suspend the rules?

The SPEAKER. It is not.

Mr. STEPHENS, of Georgia. I then give notice that when the call shall have been completed, I will move to suspend the rules. I understand the grand jury have indicted this gentleman, and I think the House ought to pass a resolution turning him over to the courts to be tried.

ADMISSION OF KANSAS.

Mr. DAVIS, of Indiana. I offer, at the request of my friend from Pennsylvania, [Mr. MONTGOMERY,] a bill for the admission of Kansas into the Union.

Mr. KELSEY. Has previous notice been given of that bill?

Mr. DAVIS, of Indiana. The gentleman from Pennsylvania gave notice.

The SPEAKER. In the opinion of the Chair, one gentleman could not give notice of the intention of any other gentleman to introduce a bill.

Mr. DAVIS, of Indiana. Well, sir, no one objects.

Mr. HUGHES. I object.

Mr. DAVIS, of Indiana. Is it in order to move to suspend the rules?

The SPEAKER. Not until the order of the House has been executed.

CUSTOM-HOUSE, ETC., AT PEORIA.

Mr. KELLOGG introduced a bill making an appropriation to erect a building suitable for a court-house, post office, and custom-house, at the city of Peoria; which was read a first and second time, and referred to the Committee on Commerce.

CIRCUIT AND DISTRICT COURTS.

Mr. KELLOGG submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of authorizing the granting of change of venue in cases pending for trial in the circuit and district courts of the United States, under such restrictions as may be fixed by law; and that they report by bill or otherwise.

FORT RIPLEY MILITARY RESERVATION.

Mr. KELLOGG submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to inform this House if any portion of the military reservation at Fort Ripley, in Minnesota, has been sold; and if sold, to state at what price the same was sold, and to whom; and if such sale has been confirmed; and if not confirmed, if any reason exists which will prevent the confirmation of the same.

EXECUTIVE APPOINTMENTS.

Mr. MORRIS, of Illinois, submitted the following resolution:

Resolved, That the heads of the Executive Departments be, and they are hereby, respectfully requested to communicate to this House, at as early day as possible, the names of all persons appointed to office since the 4th of March, A. D. 1853, who may be connected officially or otherwise with their respective Departments, and the names of such persons, and their actual, bona fide place of residence at the dates of their said appointments.

Mr. TAYLOR, of New York, objected.

TERRA JAPONICA.

Mr. LOVEJOY. I submit the following resolution:

Resolved, That the Committee on Agriculture be instructed to inquire into the expediency of an appropriation for the purpose of obtaining a supply of the seeds and cuttings of the terra japonica for cultivation in this country.

Mr. LETCHER objected.

PUBLIC LANDS IN ILLINOIS AND INDIANA.

Mr. SHAW, of Illinois, submitted the following resolution; which was read and adopted:

Resolved, That the Secretary of the Interior be instructed

to furnish to this House a statement showing the amount of public lands in the States of Illinois and Indiana subject to entry at the sum of \$1 25 per acre, or at any less price.

SWAMP AND OVERFLOWED LANDS.

Mr. SHAW, of Illinois, introduced a bill to amend an act entitled an "Act for the relief of purchasers and locators of swamp and overflowed lands," approved March 2, 1855; which was read a first and second time.

Mr. SHAW, of Illinois. I move that it be referred to the Committee of Claims.

Mr. COBB. I move that it be referred to the Committee on Public Lands; it belongs to that committee.

Mr. SHAW, of Illinois. It does not ask for any land.

Mr. COBB. If the bill be read, members will see it ought to go to the Committee on Public Lands.

Mr. SHAW, of Illinois. I hope it will be read, for the gentleman will then see it ought to take the direction I propose to give it.

Mr. SMITH, of Tennessee. I object to the reading of the bill.

The bill was referred to the Committee on Public Lands.

ADMISSION OF KANSAS.

Mr. DAVIS, of Indiana. I understand that my colleague withdraws his objection to the bill which I introduced a few minutes ago. I am inclined to think that it is a bill we can agree on.

Mr. KEITT. What is the bill?

Mr. DAVIS, of Indiana. A bill to admit Kan-

sas.

Mr. GREENWOOD. I object to going back.

Mr. PHILLIPS. I move that the House do now adjourn.

The House divided; and there were—ayes 68, noes 79.

Mr. FLORENCE demanded tellers.

Tellers were ordered; and Messrs. Cox and Dean were appointed.

The question was taken; and the tellers reported—ayes 79, noes 59.

So the motion was agreed to; and the House accordingly (at twenty minutes to four, p. m.) adjourned.

IN SENATE.

TUESDAY, March 16, 1858.

Prayer by Rev. J. N. HANKS.
The VICE PRESIDENT. The Journal will be read.

Mr. BIGLER. I learn from the Secretary that the Journal is not completed, in consequence of our night session. It has been found impossible to have it properly prepared; and I move, therefore, that by common consent the reading of the Journal be dispensed with. If desirable, it can be read hereafter, after the Presiding Officer shall have had a fair opportunity to examine it.

The VICE PRESIDENT. By general consent the reading of the Journal may be dispensed with. The Chair hears no objection.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, copies of all instructions from that Department to the United States marshal for the district of Utah; which was referred to the Committee on the Judiciary.

Mr. FITCH rose subsequently, and said: Some information was received, I believe, from the Secretary of the Interior, a short time since, in response to a call made by the Senate on my motion. It is the last or written clause of the instructions only which refers to the resolution I offered. I understand that the report of the Secretary was referred to the Committee on the Judiciary, and I desire the following resolution to take the same course:

Resolved, That all the expenses of holding United States courts in the Territory of Utah, during the continuance of the present disturbance therein, shall be chargeable to the United States, under the limitations contained in existing laws in respect to fees, and payable out of the judiciary fund: *Provided*, That upon the restoration of peace in said Territory, the expenses of said courts, while exercising jurisdiction under the territorial laws, shall be chargeable to the Territory, or to the proper counties therein, as in other Territories.

The VICE PRESIDENT. That is a joint resolution.

Mr. FITCH. I propose to refer it to the Committee on the Judiciary, and they can report a joint resolution.

Mr. STUART. I suggest that the Senator put his proposition in the shape of a resolution of inquiry. A resolution in this form, sent to the committee, I think would be valueless.

Mr. FITCH. I have no objection to putting it in that form, and probably it would be the better course. It anticipates a joint resolution of a somewhat similar character from the Committee on the Judiciary. Perhaps it had better be so shaped as to make it a resolution of inquiry as to the propriety of such a measure.

The resolution, as modified, was agreed to, as follows:

Resolved, That the Committee on the Judiciary inquire into the expediency of defraying the expenses of holding the United States courts in the Territory of Utah, during the continuance of the present disturbances therein, under the limitations contained in existing laws in respect to fees, out of the judiciary fund: *Provided*, That upon the restoration of peace in said Territory, the expenses of said courts, while exercising jurisdiction under the territorial laws, shall be chargeable to the Territory, or to the proper counties therein, as in other Territories.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, a statement showing the action of the Department in relation to the appropriation of five years' pay to the officers of the Navy in the late Republic of Texas; which, on motion of Mr. Houston, was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. HARLAN presented a paper relating to the claim of Robert Hill to a certain tract of land in the Territory of Kansas; which was referred to the Committee on Public Lands.

BARK ATTICA.

Mr. HAMLIN. If there be no further morning business, I ask the Senate to take up a bill which was reported by the Committee on Claims, for the relief of the owners of the bark Attica, of Portland, Maine.

The motion was agreed to; and the bill (S. No. 167) for the relief of the owners of the bark Attica, of Portland, Maine, was read a second time, and considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to pay the owners of the bark Attica the sum of \$174 62, being the amount imposed on that vessel as tonnage duty by the collector of New York in the year 1855.

Mr. KING. Is there a report in this case?

Mr. HAMLIN. A letter from the Secretary of the Treasury accompanies the bill, which contains all the facts.

Mr. KING. I ask that it may be read, that we may have some explanation or knowledge of the facts.

Mr. HAMLIN. I will state to the Senator from New York the facts. The law provides a penalty in case the master of a vessel shall discharge his crew in a foreign country. In this case, the master sailed to Cuba or one of the other West India islands. The crew were in a mutinous condition. The American consul advised, under the state of things existing, that the crew should be discharged; and he so wrote to the Secretary of the Treasury. The master came home. He could not procure an American crew, as was required by law, and hence tonnage duties were imposed on him, not for any act of his, but from the state of facts arising from the mutinous condition of his crew. He came to New York; the matter was laid before the Secretary of the Treasury, and the Secretary of the Treasury suggests that he has not the power, but that the money ought to be repaid to the person, as a case which was never contemplated by the spirit of the law.

The VICE PRESIDENT. Does any Senator desire the reading of the letter of the Secretary of the Treasury?

Several SENATORS. Oh no.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

HOOR OF MEETING.

Mr. HOUSTON. I made a motion yesterday that the Senate, hereafter, should meet at the hour of eleven o'clock. I wish to call up that resolution.

The VICE PRESIDENT. The question is on taking up the following resolution:

Resolved, That after to-day the Senate will meet at eleven o'clock, and sit until five, p. m., and then take a recess of two hours, until the bill now before the Senate is disposed of.

Mr. HOUSTON. The latter part of that resolution is an amendment offered by some Senator, I presume. It is no part of my motion.

Mr. FESSENDEN. I think this subject had better be laid aside.

The VICE PRESIDENT. The Senator does not desire, then, that that part shall remain in the resolution?

Mr. HOUSTON. No, sir; I leave that to the Senate to determine.

Mr. BIGLER. With the permission of the Senator from Texas, I desire to state to him—and I make the statement with a great deal of pleasure—that I have learned this morning that an understanding has been, or is about to be, effected, by which the final vote on the Kansas question will be taken on Monday next. In that arrangement, the hours of the sessions, I understand, are also to be arranged; and I suggest to the Senator from Texas that he permit his resolution to lie over for the present.

Mr. HOUSTON. I move that it lie over for the present.

The VICE PRESIDENT. The resolution will be laid aside informally.

JAMES BAWDEN.

Mr. BIGLER. I now move, unless there be other morning business, that the Senate proceed to the consideration of the bill for the admission of Kansas as a State.

Mr. STUART. I do not desire to interfere with that matter; but there is a small bill here which will not, I suppose, occupy more than five minutes. It is important to a constituent of mine. It is a bill for the relief of James Bawden, reported by me some days since from the Committee on Public Lands.

Mr. BIGLER. I withdraw my motion, for the purpose of allowing the Senator from Michigan to take up that bill.

The motion was agreed to; and the bill (S. No. 194) for the relief of James Bawden was read a second time, and considered as in Committee of the Whole.

Mr. SLIDELL. I should like to hear the report in that case.

Mr. STUART. I can, perhaps, state the case to the Senator sooner than the report can be read. There was a large reservation at Eagle harbor, on Lake Superior, made by the Government, in the first place for a light-house, which covered a large number of acres. It has finally been reduced down to ten acres. It covered a preemption that embraced large improvements at the place. The bill proposes to still retain some four acres for the purpose of a light-house, and a highway from the land to the light-house, and to give the original occupant of the ground the right to enter the balance, some six and a quarter acres. He has a wharf upon it. That matter has been referred to the Treasury Department and the Light-House Board, and the Treasury Department concur in the propriety of the thing being done.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

KANSAS—LECOMPTON CONSTITUTION.

Mr. HALE. With the leave of the Senate, I desire to throw myself on their indulgence for a moment, to state a matter which may facilitate the business of the Senate, if Senators will be kind enough to give me their ear for a moment.

The VICE PRESIDENT. The Senator from New Hampshire asks unanimous consent to make a statement. The Chair hears no objection.

Mr. HALE. Those friends with whom I act on this floor have had a consultation this morning for the purpose of avoiding such a scene as we had last night, and we have arrived at a conclusion which I have submitted to as many of the gentlemen on the other side as I could find, though I regret to see that the member of the Committee on Territories who has charge of the Kansas bill is not in his seat. I have reduced it to writing, so that there may be no caviling about it hereafter. We agree that the debate shall end, and

the question be taken on Monday next; but if it shall appear to be necessary in the course of debate that the daily session be protracted beyond the usual hour in order to effect this, it may be done at such hour as we shall indicate on this side; that is, if we are not able, within the usual hours of session, to get in such speeches as we bona fide wish to put in, there may be an evening sitting, either by protraction of the session, or a recess, as may be agreed on. Every gentleman on the other side, to whom I have shown this proposition, has assented to it, and I have no doubt it will be carried out in good faith.

Mr. BIGLER. I desire to say on behalf of the Senators on this side of the Chamber, that so far as I have been able to ascertain their views there is a common acquiescence in the proposition. The understanding will be, therefore, that on Monday next we shall vote on this question fairly.

Mr. CLAY. I would suggest that some hour had better be designated; because it is known that there are several gentlemen on this side of the Chamber who are sick, who wish to vote, but cannot come here during the night. They will come here in the day.

Mr. HALE. I appreciate that suggestion, but I would suggest to the Senator that it is necessary to repose some confidence. We found it impracticable to go into every detail to be submitted. I will tell him there is an earnest and sincere purpose to carry out this arrangement in good faith, and it will be so carried out that the time will be fairly divided between the two sides.

Mr. GREEN. What is the proposition?

Mr. BIGLER. Let it be understood.

Mr. HALE. When I made the suggestion, I said I was sorry not to see the Senator from Missouri in his seat. We agree that the question shall be taken on Monday next; but if it shall appear to be necessary, in the course of debate, that the daily session be protracted beyond the usual hour in order to effect this, it may be done at such an hour as we shall indicate.

Mr. GREEN. But no vote to be taken at night.

Mr. HALE. No vote to be taken until Monday. In answer to the suggestion of the Senator from Alabama, I will say that while we were desirous to make this agreement explicit and plain, we found it impracticable to put every detail in writing.

Mr. CLAY. Certainly. All I wish to have understood on both sides is that the vote will be taken at an hour in the day when those who are invalids may safely come here.

Mr. HALE. Of course.

Mr. CLAY. Say before sundown, or sometime during the day; four o'clock, for example.

Mr. SLIDELL and others. That will do.

Mr. FESSENDEN. I wish to say to gentlemen, on the other side, that the difficulty about fixing an hour was this: we supposed the debate might possibly close—we could not tell how long it would be—on Saturday, and that on Monday a portion of the day might be devoted to the several amendments proposed, in order to perfect the bill; and that being the case, it would be impossible to indicate at what exact hour the vote could be taken. Senators may rely upon it that there is no disposition, and will be none, on this side of the Chamber, to protract it into the evening, but to take the vote in time.

Mr. SLIDELL and others. That is enough.

Here the conversation ended.

Mr. GREEN. I ask the unanimous consent of the Senate to say a few words with reference to personal matters between myself and the Senator from Pennsylvania, [Mr. CAMERON.]

The VICE PRESIDENT. The Chair hears no objection. The Senator will proceed.

Mr. GREEN. Something unpleasant occurred last night. I thought I was right; doubtless he thought he was right. A mutual friend has informed me that he is prepared to do me justice, if I will withdraw what he understands as a threat against him. I do not desire to threaten any one. If I did so, I will withdraw it, and wait for any explanation he may see fit to make.

Mr. CAMERON. Mr. President, I regret, as I always do, that anything should occur in the Senate, in which I was a participant; that was unpleasant to myself or anybody here. We were last night engaged in a protracted session, and I came into the Senate under some wrong impression, I imagine, in regard to the course of the

Senator from Missouri, and he supposed that I intended to be personal. I desire to say most distinctly that I meant no disrespectful personal allusion to the Senator from Missouri at all, and could have meant none; for, in common with all Senators here, I have the highest respect for him personally. If I did say anything more, it was misconstrued; and I only repeat that it was not intended to be disrespectful to him.

Mr. GREEN. It was with reference to questions of fact that the Senator was mistaken, as his own friends afterwards testified before the Senate last night. I thought he was mistaken at the time. I knew it, and I thought when he heard of his error, he would put his statement in a shape in which it would not be offensive to me. Simply to say that he intended no disrespect is not quite enough. If he will say he misunderstood, and therefore did not present it as I had presented it, it will be satisfactory; but, while he persists in his statement, to say that it is not offensive, is not satisfactory to me.

Mr. CAMERON. I do not remember what the offensive words were. I think the Senator and myself disagreed as to the words used.

Mr. GREEN. I will repeat them. ["No!" "No!"] I do not want any argument between us.

Mr. CAMERON. I desire to say that I have no unkind and disrespectful feelings; and I do not think anything was said by me last night at which the Senator, if he had understood it as I did, could have taken offense. I can only repeat that I intended nothing of the kind. It is right that I should say, that whilst I am always anxious to repair an injury if I have done one, I could not have done so if the Senator from Missouri had not, in the handsome manner in which he has done it, withdrawn what I was told was a threat.

On motion of Mr. BIGLER, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. KING. Mr. President, before the Revolution, charters were granted to the colonies by the Crown. Since then, up to this time, the people of the States of the Union have made their constitutions for themselves. Now, for the first time since the Continental Congress declared the colonies free and independent States, the question is raised of the right of the people to adopt or reject the constitution which is to create them a State qualified to come into the Union, one of the equal States of our Confederacy.

Kansas, brought to the door of the Senate for the purpose of having the Lecompton constitution imposed upon her people by the authority of an act of Congress, presents that question to us.

Benjamin Franklin, contemplating his country when her independence had been acknowledged and the Republic was established, is said to have expressed the wish that he might be permitted to look upon this country after the lapse of a hundred years. If the shade of that venerable man could appear here, and listen to these debates upon the proposition to add a new State from beyond the Mississippi to the Union, he would hear from the Government side calls for more troops, and arguments to show the necessity of an increase of the standing Army; he would hear that the people of the State proposed to be added to the Union are a factious people; that they claim the right to vote on the adoption of their constitution; to have the charter that defines their rights and their form of government submitted by the convention that made it to themselves, and to express their opinion of it; that in this new State the people are unwilling to have slavery established as one of their institutions; that, although the President declares the constitution prepared for them by the Lecompton convention to be a good one, they contumaciously reply that it is not their constitution; that they complain of fraud and corruption in the officials appointed and sustained by the central Government; that they refuse to pay the taxes levied by the Legislature, alleging that they had no voice in its election, and were not represented in it; that they agitate and annoy the Government and disturb the quiet of the country by their turbulent and disorderly conduct; that they remonstrate against stuffed ballot-boxes, spurious votes, forged certificates, and false returns at their elections, and demand of the Government investigation and punishment of

these offenses; that they insist upon the right to decide for themselves the character of their State institutions, and refuse to accept the constitution which the Government offers to them; that they complain of the intrusion of regular troops belonging to the standing Army of the Federal Government, sent to maintain law and order in their Territory; that they are seditious; that they are rebels; that they have been permitted to occupy the attention of the Government and the country too long; that they must have a local government instituted over them by Congress, and be subdued by the Army. He would hear some uncertain and mystical suggestions that the people of the State, when reduced to order, might possibly, at some future time, be allowed to alter their obnoxious constitution in some legal manner. I think, after listening so far, Franklin would inquire, "is this the American Congress, and have you established a consolidated Government? Or is this the British Parliament, and have the United States been reunited to the Crown?" Upon being told that this is one of the Chambers of the American Congress, that the United States are still an independent nation, and that the words of the Federal Constitution remain unchanged, he would say, "then these honorable gentlemen, who occupy the seats of legislators here, have not inherited the republicanism of my day and generation; this is not the democracy that thundered at Bunker Hill, at Saratoga, and at Yorktown, and rang out their battle-cry of liberty and independence through all the colonies until the royal charters were abolished, and the right of the people to institute their forms of government and to make their constitutions for themselves was acknowledged."

Mr. President, the convention held at Lecompton framed a State constitution for Kansas, and refused to submit it to the people.

The convention submitted a single provision of the constitution to the people—the question whether slaves might hereafter be imported or brought into the State; and required, as a preliminary to the right of any elector to vote for or against this single partial provision on the subject of slavery, that he should first vote for the obnoxious constitution, which contained, separate and distinct from the provision submitted, an article perpetuating slavery in the State of Kansas in the persons of those now held as slaves in the Territory, and in their posterity forever.

A very large majority of the people were opposed to the obnoxious constitution, and refused to vote for it. Without voting for the constitution, no elector could vote for or against the single provision submitted.

It is notorious that the Lecompton convention knew the constitution it framed was repugnant to the sentiments, the opinions, and the consciences of a large majority of the people; that they condemned the instrument and the institution of slavery which it proposed to establish and perpetuate among them.

It is known to every Senator and to every Representative in Congress that a very large majority of all the qualified voters in Kansas have expressed their opinion against the Lecompton constitution at an election held under the authority of an act of their Territorial Legislature on the 4th day of January last, when the constitution was submitted, and the people rejected it by their votes.

This is the case of Kansas, as presented to the Senate by the majority of the Committee on Territories in their report and bill, which assumed that the first Territorial Legislature in Kansas was fairly and legally elected by the people, and organized, and that the Lecompton convention was fairly elected by the people in pursuance of the law of their Territorial Legislature.

In the case thus made by the majority of the committee, the fundamental question of the right of the people of a Territory to adopt for themselves the constitution which creates them a State, preparatory to admission into the Union, is presented. The sovereign right of the people is denied, and the sovereign right of a convention of delegates affirmed. The question raised in the case of Kansas is not a question for Kansas alone. It is for every Territory hereafter to be organized, and for every Territory hereafter to be admitted into the Union, as well as for Kansas. It is a question of constitutional and political right of the first magnitude. Indeed, it is the question of the inhe-

rent sovereignty of the people, vital to the people inhabiting the territory now belonging to the United States, and to all which may hereafter be acquired or come within our ever-expanding borders.

It is no less vital to the people of every State now in the Union, because it is the question where sovereignty resides, whether in representatives and representative bodies, in the Federal Government, or in the people. Our existence as a republican Government rests upon the principle involved in this question.

When the sovereignty of the people is subverted or successfully denied by any representative body, or by any other power, the rights and the liberties of the people are in the hands and at the mercy of that power. The Government of the United States, inaugurated upon the principles of the Revolution of 1776, recognized the sovereignty of the States, and the sovereign right of the people of the States to frame and adopt their forms of government, and to make and adopt their constitutions. It is a constitutional right of the people of a State, essential to its equality as one of the States of the Union, and necessary to the republican character of its constitution—a right never before denied or questioned. If those who now, in the case of the people of Kansas, deny this right, had, before the day of election in November, 1856, only whispered their design to subvert this sovereign right of the people, the Administration which is now pressing upon Congress the proposition to subvert the rights of the people of Kansas, would never have come into power to make such a question. No State has ever been brought into the Union where it was denied, questioned, or doubted, that the people of the State to be admitted approved their constitution. The enabling acts, the forms of law, and the modes of proceeding on the part of the people preparatory to their admission as States into the Union, have widely varied. I do not know that they have been exactly alike in the cases of any two States. But observance of the vital principle that all just government derives its authority from the consent of the governed, has been the one essential thing required in all. Are the President and Congress prepared to go back to the reign of the Georges in England, and assume the prerogatives of the Crown and the unlimited power of Parliament? And are they ready to renew in this country the controversies of those days between the prerogative and power of the central Government, and the constitutional power and political rights of the people—questions supposed to have been forever settled in America by the success of the Revolution, and the adoption of the Constitution of the United States? Whatever the President may be willing to do, is Congress prepared to deny the absolute and sovereign right of the people of a new State to form and adopt their own constitution? And is Congress prepared to assume the sovereign power to impose a constitution upon the people of a new State? Congress has the power to admit new States into the Union, but it has not the constitutional power to make a constitution for a State, or to adopt one made by others, and impose it upon the people of a State.

The President possesses no such constitutional power, and cannot be invested with such authority by an act of Congress. The President, who recommends such a measure to Congress, and proposes to enforce such an act upon the unwilling people of a State, is false to the high trust reposed in him by the people of all the States in the Union. It is a subversion of the rights of the States. It is consolidation. When the Federal Government shall exercise the power to impose a constitution upon the people of a State, who shall say what limitations to its power remain; what shall stay its arbitrary will; and how and where shall its tyranny be arrested? But, Mr. President, monstrous and utterly indefensible as the proposition to bring Kansas into the Union under the Lecompton constitution stands upon the case as made by the majority of the committee, dark colors are yet to be added to the true picture of violence to the constitutional principles of republican government, and of outrage against the rights of the people of Kansas.

The report of the majority of the committee does not state the facts of the case correctly. The assumption that the first Territorial Legislature of Kansas was fairly elected, and valid in law, is

contradicted by record evidence. The assumption that the Lecompton convention was fairly elected by the people of Kansas, is contradicted by evidence that can be neither contradicted nor controverted. Upon these two assumptions the majority of the committee maintain the sovereignty of a convention, and deny the sovereignty of the people.

The history of Kansas, from the beginning to the end of it, is one of fraud and violence, of wrong and outrage. Although the majority here have refused to authorize any inquiry or investigation that would bring the facts officially before the Senate, yet they are notorious to the whole country, and they cannot be excluded from our sight. The act of Congress that organized the Territory repealed the eighth section of the act for the admission of Missouri into the Union, commonly called the Missouri compromise law—a law which excluded slavery from the Territory of Kansas. This was a breach of that faith and honor among men which statutes can neither create nor destroy; a breach of that faith and honor between communities which is their only strong bond of peace and friendship. Successive statutes are monuments that mark the existence and decay of faith and honor in the men who make them, and in the nations which accept them.

Under a charter for a territorial government, instituted by such a statute, the President appointed a Governor, Secretary, judges, marshals, and other officers, and the day was appointed for an election of members of a Legislature by the people, which would complete the organization of their territorial government. As the time for the election of members of the Legislature approached, four thousand nine hundred armed men, not residing in Kansas, organized for that purpose by secret lodges in the State of Missouri, passed over from that State into the Territory of Kansas, and on the day fixed for the election of the first Territorial Legislature, seized, by force, the control at most of the precincts in the Territory, displaced by violence the judges of the election, took possession of the ballot-boxes, and excluding the citizens residing in Kansas from the polls, proceeded to stuff the ballot-boxes, and in that way to designate and appoint persons to be legislators for Kansas. Incontrovertible evidence of these facts stands on record in the proceedings of the House of Representatives of the last Congress.

The invasion from Missouri was successful and complete, and the invaders, having accomplished their purpose, returned in organized bands to Missouri. The persons thus created legislators for Kansas, assembled, organized, and, assuming to be the Legislature, proceeded to pass laws for the government of the Territory, and to levy taxes upon the people. Their enactments were arbitrary and oppressive, designed to drive the people from the settlements they had made, and compel them to abandon the Territory. The people of Kansas denied the authority of this Legislature. In an evil hour, the President of the United States recognized this usurpation as the government of Kansas, and large bodies of Federal troops have been stationed in the Territory to overawe the people by their presence and to enforce the authority thus nefariously imposed upon them.

The call for the Lecompton convention was made by this usurpation, and upon its submission to the people less than twenty-three hundred persons responded. The large majority of the people denied its authority and refused to vote on the call for the convention, or at the subsequent election for delegates. Sufficient reasons existed for their refusal to vote; they would not acknowledge the authority of the usurpation. For the election of delegates, an act for the registry of voters had been passed, and the people in many of the counties were disfranchised by the omission on the part of the registry officers to register the voters. In these counties no places were appointed for holding the elections, and none could be held, and no delegates could be elected. In the counties where registries were made, they were partial, omitting large numbers of the qualified voters. The people of the Territory reasonably apprehended that, without regard to the number of votes which might be deposited in the ballot-boxes by the electors, the inspectors and returning officers of the election would, by false certificates, return, as elected, men for their own pur-

poses, and not the men who would receive the votes of the electors.

The origin and proceedings of the territorial authorities fully justified this apprehension. At the election under their authority in October last, to continue the Missouri usurpation, in the election of a new Legislature, although the original invaders did not reappear, sixteen hundred spurious and fictitious votes were returned by the inspectors of election upon false certificates, from a single poll, the Oxford precinct, in Johnson county. One of the officers of the election at the Oxford precinct—the very man, it is said, who manufactured the false certificate returning the sixteen hundred fraudulent votes—was one of the secretaries of the Lecompton convention. One thousand fraudulent votes at the same election were returned from McGee county, and more or less from various precincts, sufficient to decide the elections without regard to the votes of the electors. The returns of the election were in accordance with the wishes of the usurpation, and not in accordance with the votes of the electors. President Buchanan, with the concurrence of his Cabinet, in their official instructions to Governor Walker gave express and positive assurances to the people of Kansas that the constitution, preparatory to their becoming a State, should be submitted to a fair vote of the people, to be adopted or rejected by them.

Governor Walker, in his official communications to the people, repeated and affirmed these assurances. The candidates proposed for delegates to the Lecompton convention—afterwards returned as delegates—before the election voluntarily pledged themselves to the public, verbally and in writing, that the constitution the convention might frame for Kansas should be submitted to a vote of the people. The Governor of the Territory, invested with authority by the President of the United States, proclaimed to the people of Kansas that at an election, to be held with security against fraud or violence at the polls, and against false certificates by the returning officers, a fair opportunity should be afforded to all the qualified voters to vote; and that a majority of the votes of the people should determine the adoption or rejection of the constitution; that his official reports to the President and Congress, and his action for or against the constitution should be governed by the vote of the majority at such an election. Governor Walker adhered to his declarations; he rejected the false certificates returning the spurious and fictitious votes in Johnson and McGee counties for members of the Legislature, and persisted in requiring that the constitution of the Lecompton convention should be submitted to a vote of the people. For this he fell under the displeasure of the President, and repaired to Washington to make explanations and represent the condition of affairs in the Territory. He failed to satisfy the President and his Cabinet, or to induce them to fulfill the assurances which had been given to the people of Kansas, that they should have an opportunity to vote on the adoption of their State constitution. Governor Walker is reported to have said that he went with the Administration to the gates of the penitentiary in this business, and he would go no further. He had left the Territory; he declined to return to it, and resigned his commission.

Secretary Stanton, who went to the Territory by the appointment and as a friend of President Buchanan, became acting Governor by the resignation of Governor Walker. Upon assuming the executive power, Mr. Stanton refused to sustain the frauds by which the usurpation designed to perpetuate its power, and persisted, as Governor Walker had done, in requiring that the constitution of the Lecompton convention should be submitted, for adoption or rejection, to a vote of the people; whereupon, he was summarily removed by the President, and General Denver, a bureau officer of the Administration in Washington, was appointed, first Secretary and then Governor. It is this last Governor of Kansas, General Denver, who has certified the votes of the people of Kansas at the election authorized by the law of their new Territorial Legislature, and held on the 4th day of January last, in which the vote of the people is nearly unanimous, and the majority more than ten thousand against the Lecompton constitution. The Lecompton constitution is not the constitution of the people of Kansas. It is an instrument

of the Lecompton convention and the Federal Administration, and is stained with false pretenses and fraud from the beginning to the end. To impose this instrument upon the people of Kansas as their constitution, by an act of Congress, would outrage justice and truth. It would be a violation of the Federal Constitution by the exercise of power neither granted to the Federal Government nor remotely hinted at in the Constitution. It would be an act of tyranny. It is a mockery of State sovereignty, in the report of the majority of the Committee on Territories, to call the proposition they make to the Senate "An act for the admission of the State of Kansas."

The question is not that of the admission of Kansas; an act of admission implies, at the least, the concurrence of the party to be admitted. The proposition before the Senate, whatever may be the name and style given by the majority of the Committee on Territories to their bill, is no question of the admission of Kansas. It is the monstrous proposition to impose upon the people of the Territory of Kansas a constitution and form of government known to be obnoxious to a very large majority of that people, accompanied by every indication on the part of the Federal Administration of a disposition to compel the submission of the people of the State by the power of the Federal Government. To call such attempted coercion an admission of the State of Kansas, is to deride the sovereignty of the people of the State. I repeat, this is no question of the admission of a State. It is one of a series of acts in the scheme conceived by the nullifiers who have obtained thorough control of the organization of the Democratic party, to change the Constitution of the United States by the judicial construction and decisions of the Federal courts, and to subvert our free form of government. Whether a settled plan and a combination exist to provoke disturbances with a view to a dissolution of the Union, time will fully disclose. There should be no fear of the full development of any such scheme, no matter by whom the idea may be entertained, and no matter who may be concerned in it. The American citizen who would fear it has little of the spirit which animated the men who fought the battles of the Revolution, and established the independence, the liberties, and the union of our common country.

The wild schemes of men long accustomed to wield the power of a disciplined party organization are not always guided by reason. To inquire into the desperate conceits of mad ambition, and to direct the public attention to them, is to dissipate them. The Hartford convention, held under the auspices of the Federal party, was suspected of entertaining the idea of dissolving the Union in certain contingencies. This suspicion, whether well or ill founded, excited the jealousy of all the friends of this country. It exasperated the prejudices and hostility of the Republicans of that day, and completed the full weight of accusation against the Federal party, already loaded with the alien law, the sedition act, the stamp act, the midnight judges, and the standing Army. The power of that once proud and patriotic party, which, at an early day, had borne the heat and burden of the political contest that adopted the Constitution and established the Union of the States, gave way, and was destroyed forever. The word "Federal," as the name of a party, became so odious in the popular ear that no party, for a great many years, has claimed, or would accept it. The Nashville convention, held under the auspices of the Democratic party, at a more recent day, flaunted its proclamations and purposes of a dissolution of the Union; but the Nashville convention was believed to be a humbug. I remember to have heard a distinguished citizen of Tennessee, at the time, speak of that body. He said that but very few of the citizens of Tennessee had anything to do with it; its members were mostly from a distance, and strangers in that State; "and," said he, "if the convention should do any act by which the people of Tennessee should come to believe it menaced the safety of the Union, it would become so weak that its members could be driven out of the city of Nashville by the women of that town with no other weapons than their broomsticks." This convention, although held only eight years ago, has less lodgment in the memory of the country than the Hartford convention, which was held more than forty years ago.

All remember the abortive treason of Burr; and the movements for nullification in South Carolina, in 1832, dissipated by the pen of General Jackson, whose proclamation at the time invoked a demonstration of devotion to the Union from the people of every one of the United States.

Recollections of the conventions at Hartford and at Nashville remind us that the idea of dissolving the Union has been imputed to some and entertained by others in this country. I have never believed that the people of any State of the Union favored it; although it has become too common to talk of it in the Halls of Congress, and to pass resolutions on that subject in party conventions and State Legislatures.

For the purpose of extending slavery into Kansas, a great wrong has been committed against the principles of republican government, and against the rights of the people of that Territory. Let the Federal Government retrace its steps; restore the Administration to the principles and practices of Washington and Jefferson; abandon the Lecompton constitution; withdraw the troops from Kansas; permit the people to make a constitution for themselves; admit the State into the Union as every other State has been admitted, in the constitutional manner in which her people desire to come—and the wrong which has been done, great as it is, may be forgiven. The country would be at peace; and, in rejoicing over the return of the Government to reason, might forget the past.

Persist in accomplishing the object for which so much has been ventured by the present Administration and the one which last preceded it—attempt to force the Lecompton constitution upon the people of Kansas by the authority of an act of Congress, and the power of the Federal Army—and you will have insubordination, resistance, bloodshed, civil war. The people of Kansas will never consent to have slavery established among them; they will never accept the Lecompton constitution; they have already rejected it. In such an issue of blood between the Federal Army and the people of Kansas, the Government will be wrong, and the people of Kansas will be right. Will the people of the States remain spectators of the conflict? They will not. The people of Kansas are the countrymen and the kindred of the people of the States. Your law opening the Territory for settlement invited them to go there. Let the Federal Army spill American blood in Kansas, and you kindle a fire which the Federal Government and its Army cannot extinguish.

Who, Mr. President, is responsible for the long series of wrongs out of which these troubles come? And who can be held accountable to the country for pernicious acts occurring during so large a space of time, performed in so many places, and participated in by so many and various persons, for two successive Administrations of the Government?

Plan, system, design, moving and directing the action of all the varied agencies to a common end and object, are now plainly visible, from the act repealing the Missouri compromise to the bill before us, which proposes to impose the slave constitution of the Lecompton convention upon the people of Kansas.

The act of the Congress that repealed the Missouri compromise; the course of President Pierce, stimulated to be a candidate for renomination, and persuaded to rely upon the authors of this scheme for his success; the institution of the blue lodges in the State of Missouri; the resignation of office by the President of this Senate, who went straight from the Capitol in Washington to organize in those lodges, on the borders of Missouri, the armed invasion of Kansas; the march from that State of forty-nine hundred armed men, not residents of Kansas, organized in companies and detachments, to the places for holding the elections in that Territory; their seizure of the polls on the day of the election, and their appointment of legislators for Kansas by force and usurpation; the recognition of that usurpation as the government of Kansas by the Administration of General Pierce; the odious and oppressive laws they enacted; the indictments for treason against the usurpation in the Federal courts of the Territory, which were never tried; the total prostration of the rights of franchise in elections; the repeated removal of Governors who refused or failed to sustain the proceedings of the usurpers; the decision of the Supreme Court of the United States

in the case of Dred Scott; the Lecompton convention and its constitution, with the faithless assurances to the people of Kansas that the constitution for their State should be submitted to their vote for adoption or rejection; the quartering large bodies of Federal troops in Kansas; the election of State officers ordered by the Lecompton convention, appointing the president of the convention (Mr. Calhoun) sole judge of the elections; the false and fraudulent returns of votes at that election, now and for nearly three months in the possession of Mr. Calhoun, and his refusal to decide who were elected until Congress shall have acted on the constitution; and the bill now here to impose the Lecompton constitution upon the people of Kansas—are all parts of one continued plan and design. Those who have performed the various parts are responsible and accountable in their several degrees for what they have done; but they have been mere agencies of the power that controlled and directed their action. That power is the national organization of the Democratic party, and it is responsible for the long series of outrage, and for the great wrong which the bill before us proposes to consummate. The organization of the Democratic party has fallen irretrievably under the control of nullifiers and slave propagandists, many of whom, in all the States, but especially in the slave States, were, until very recently, the open enemies of the Democratic party, virulent denouncers of General Jackson and the measures of his administration; men who have not now, and never did have, a drop of Democratic blood in their veins. The organization of the Democratic party, controlled by the counsels of such advisers, has abandoned its principles and its trust. Public meetings and conventions of veteran Democrats remonstrate in vain. Why is there any apprehension that the Lecompton constitution will be adopted by Congress, and the attempt be made to force it upon the people of Kansas? Many of the Democratic members of the Senate and House of Representatives abhor the Lecompton constitution and detest its frauds.

Is there a man in or out of Congress who doubts for a moment that the Lecompton constitution would be rejected by Congress if the Democratic party did not demand its adoption? The severest discipline of party, the most indecent dispensation of executive patronage, are made use of to influence the action and control the independence of Congress.

In this dark hour, when the Republic is in danger, I hail the coming day of emancipation from servile obedience to party, heralded in this Chamber by the independence of the distinguished and fearless Senators on the Democratic side of the Senate from Illinois, from Michigan, and from California, upon whose limbs the bands of the Democratic party that would bind them to Lecompton are like the green withes of Deliah upon the limbs of the unshorn Samson. I hail, too, the hosts of thousands and tens of thousands of honest Democrats, who, all over the country, at this moment are renouncing the long-cherished party name of Democrat because it has become tainted with treason to the rights of the people, and are rallying under anti-Lecompton banners to resist the Administration and the faithless organization of the Democratic party. Let us all be anti-Lecompton men; let us all be Republicans; let us fraternize and overcome the enemies of public liberty.

The Whig party is gone forever, because, in the hour of its responsibility, it failed in the courage and firmness required for the high trust committed to its charge.

Noble as have been the achievements of the Democratic party while it adhered to its principles; when it has become faithless to the rights and liberties of the people its organization must be dissolved.

The honest Democracy of the country—its real Democracy—buried deep the name of the Federal party. They will consign the tainted party name of Democrat to the same grave; and they will make the grave deep and large enough to hold all the treason that dare show itself within the boundaries of the Union.

Mr. MALLORY. I do not suppose, Mr. President, after the exhibition we have just had, in which the history of Federalism, the Hartford convention, and "modern Democracy," are so singularly mixed up with "border ruffianism"

and the doings in Kansas, that any effort on this side of the Chamber, without a revelation from heaven itself, could produce the slightest impression on the mind of the gentleman who has just spoken, [Mr. KING,] or those who think with him. If apology were needed for speaking upon so trite a subject, and one on which speaking is so unprofitable for myself, it would be found in the fact that from the introduction of the Kansas-Nebraska measure to the present time, neither upon that, nor upon any of the kindred measures legitimately flowing from it, have I ever opened my lips in the Senate. Nor would I do so now, but for the fact that some little pains are being taken by persons in my own State to misrepresent me there, and to say that I, with other Democrats, was going off on this question of Kansas.

Mr. President, it was my intention, after having heard the speech of the honorable Senator from New York [Mr. SEWARD] on this question, to have reviewed, briefly at least, what I considered a most extraordinary production; but during my absence from this body I find it has been done so ably and so thoroughly by the Senator from Louisiana, [Mr. BENJAMIN,] and the Senator from Virginia, [Mr. HUNTER,] that any effort of mine would but weaken the effect of what they have said, or mar its beauty; but I must be permitted to remark, that if I were called upon to designate what speech I have heard since I have occupied a seat on this floor, which was most calculated to awaken and to cherish sectional excitement, and to produce discord throughout this Confederacy, I should have to point to the speech of the honorable Senator from New York. If it was not expressly designed for this, if it was not cunningly designed for it, it is exceedingly well calculated for it. It is not a broad, large, comprehensive view of facts, argued out to their legitimate conclusions and logical deductions without regard to where they may lead; but it is a cunning scheme of fact and error—a web skillfully devised to bolster up the preconclusion at which the Senator's mind and the Senator's party had already arrived.

But, sir, the feature that struck me as most disagreeable in listening to the honorable Senator was the perfect barrenness of the whole production, the want of light and life throughout. It reminded me of the cold northern blasts, telling of their icy origin. It was like the treacherous guide to the traveler, which takes us through a vast desert; and, after pointing us to every error on the road, leaves us without a spark of light to emerge from it. Nothing but the subjugation of the southern States seemed to be the conclusions of the honorable Senator's efforts. And he told us, in a manner half complaisant and half triumphant, in effect, that if we submitted gracefully to our fate, we might, perhaps, die easily, but die we should. Sir, it was altogether a remarkable production; and in what I say of that honorable Senator I speak with great respect for him personally, for I have no reason to speak otherwise of him; but I must say of his speech, that whatever in it was new, in my judgment was not true; and whatever in it was true was not new. It was not an effort of statesmanship, such as he usually treats this body to; but it hovered more upon the regions of special pleading. It was my purpose, on hearing it, briefly to express my own impressions, hastily conceived at the time. I suppose the manner of its delivery produced its impression, but a subsequent reading of the production has confirmed it, and with these remarks I leave it.

I expect, Mr. President, in the few remarks I shall make, to confine myself to the question before the Senate. The 23d day of January, 1854, I think, inaugurated a period of political excitement throughout a large portion of this Confederacy, which, still progressing and undetermined, has thus far been characterized by such bitterness, such a spirit of rancor toward the southern States of the Confederacy, as, in the judgment of judicious men everywhere, not only to weaken the bonds of our social, but to have a direct tendency to destroy the bonds of our political, Union. On that day the obliteration of the Missouri compromise line, so called, was made a feature of the Kansas-Nebraska bill. A great national wrong had been done to the southern portion of this Confederacy by the act admitting Missouri into the Union in 1820, the eighth section of which provided for the prohibition of involuntary servitude,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, MARCH 18, 1858.

NEW SERIES...No. 72.

except for crime; or, in other words, the exclusion of southern institutions from all that portion of the territory acquired by the treaty with France in 1803, which lay north of 36° 30'.

When we were called upon to form a government for this Territory, the South demanded, as a recognition of her political equality, the repeal of a measure, the unconstitutionality and injustice of which time had made as apparent to her judgment as it was offensive to her pride. Standing where she has ever stood, and where I trust she will always be found, by the Constitution, she demanded nothing from the fraternal feeling, from the forbearance of her sister States; but she did demand, as a recognition of the political equality of the States, the right to go with her property into the common domain of the Confederacy. Upon this demand we went before the country; and after a heated and excited contest, the offensive statute was wiped from the statute-book. This was followed by such a political storm throughout the non-slaveholding States, as none but a free government, resting upon the enlightened judgment of a free people, can ever withstand.

Under the guidance of leaders, in many instances as reckless and ambitious as they were able, every element of political discord and sectional strife was invoked and brought into activity; and while the bench, the bar, the hustings, and the press, entered upon a crusade against the people of the southern States, the pulpit, no less impious than the rest, invoked upon them the curses and denunciations of Heaven itself. But, sir, the South threw herself into the contest; she knew her rights, and determined to maintain them. She appealed to the enlightened judgment of the people, and there she met a vindication as unequivocal as it was triumphant—a vindication which has since received the indorsement and support of the highest tribunal in the country.

In addition to the repeal of the eighth section of the Missouri act, the Kansas-Nebraska bill contained a clause which, in my judgment, was as unequivocal as it was totally and absolutely unnecessary; but which has been facetiously termed a "stump speech injected into the bill," declaring that it was the true and *bona fide* intent and meaning of the bill not to legislate slavery into any State or Territory, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States. I say, I deemed this perfectly unnecessary at the time, but it may perhaps aid us in interpreting the whole measure. Under this great enabling act, (for it was nothing more than an enabling act authorizing the people of Kansas and Nebraska to form their State governments,) the people of Kansas did enter upon the formation of a State government, following the legitimate precedents of their country. They held elections, chose their members of the General Assembly, sent their Delegate to Congress, and then, proceeding in the legitimate steps pointed out by the history of their country, their Legislature passed an act for taking the sense of the people for calling a convention to form a State constitution at the general election to be held in October, 1856. The sense of the people was taken at the time designated, and their decision was in favor of calling a convention.

In obedience to this indication of the will of the people, the Territorial Legislature passed an act on the 27th of February, 1857, providing for the election of delegates on the third Monday of June, to form a State convention; and under this act, which was singularly fair and just, providing, as it did, for the registration of every legal voter within the Territory, for the purpose of excluding outside influence, members of the convention were elected, and nine thousand two hundred and fifty-one qualified voters were registered. In conformity to the provisions of this act, the delegates to form a State constitution were legally elected in June, 1857. They assembled at Lecompton, and proceeded legitimately to perform the duty for which they had assembled—the formation of a

State constitution—and terminated their labors and adjourned on the 7th of November, 1857.

The honorable Senator from New York, who last addressed the Senate, [Mr. KING,] has chosen to say that every one of those acts which I have recited is characterized by illegality. I deny it *in toto*. I affirm—and I have no doubt whatever that it will be sustained by the voice of the American people—that neither one of those acts is tainted with illegality. That there may have been illegal voting, I will not deny; but that the acts of the *bona fide* voters in these elections are to be affected by the illegality of others, I deny.

The convention, justly regarding the question of slavery as the lion in the path of the progress of Kansas, as the question which had created all the difficulty, turmoil, and civil war in Kansas, provided—though I by no means acknowledge that the convention was bound to do so—for the submission of the slavery question to the popular vote; and, on the day so fixed, it was submitted to the people of Kansas; who, by their popular vote, did decide in favor of the constitution with the slavery clause.

I have thus far traced, step by step, the action of the people of Kansas, the *bona fide*, law-abiding people of Kansas in the formation of their State government, from the passage of the enabling act here in 1854, to the time when the President of the United States informs us that he has received a copy of a constitution from the president of the convention; and that she stands here to receive her robes of State sovereignty at our hands. In doing so, I have chosen to ignore and totally disregard all those violations of election laws which have been alleged; all acts of "border ruffianism," come from whatever quarter they may; because they can no more affect the *bona fide* legal acts, legally done by the people of Kansas, than can the illegal acts of your mobs tend to affect the legal action of your proper authorities.

I have also chosen to ignore and totally disregard the illegal assemblage at Topeka—a mob, an assemblage of people without the authority or the pretense of law, and in direct violation of, and in opposition to, the laws of their country. If the steps which I have narrated as the steps of the *bona fide* people of Kansas were legal and proper; to say that the acts of those Topeka people are illegal, is to characterize them by the mildest terms known to our language. I have chosen also to ignore the alleged violations of election laws. No great political change in the condition of any people, I presume, has or can ever take place without violations of law to some extent; but I do not conceive that such considerations affect this application of Kansas. We have no power to punish violations of the ballot-box in Kansas directly; and I trust that the Senate of the United States will never be called upon to resort to measures to do it indirectly.

Now, Mr. President, it is not denied that the Lecompton constitution is republican in form. It is not denied that the steps which I have traced have been legally taken. Why, then, should Kansas be rejected? The evils which must in my judgment inevitably flow from such rejection, may present themselves to my mind in an exaggerated form. I may misconceive the times; I may misapprehend the temper of the people to whose sense of right such a rejection would be an outrage; I may magnify the feeling of deep but silent scorn and indignation with which they now view this whole programme of opposition; and I may miscalculate the resort which they may take to correct the wrong which it contemplates; but if I do not, if I am not mistaken, then the rejection of the State of Kansas will be fraught with evils which it will require all of human wisdom here to avert.

I am aware that it is alleged that the South is pursuing an abstraction; that the majority of the people of Kansas are in favor of a free State; and that, when admitted, they will take the legitimate steps to let their power be felt. Sir, I admit the power of a majority; but that does not affect us, for we cannot ignore the great fact that the shib-

boleth, the war-cry, which this party, warring against the South, have inscribed on their banner under which they are now rallying, is, "no more slave States to be admitted into the Union;" and that this is here this day receiving a practical test; and if Kansas shall be rejected, it will be because of the slavery clause in her constitution. Our opponents on this measure, invigorated by the temporary alliance of the honorable Senator from Illinois, [Mr. DOUGLAS,] have assailed, and are assailing, the unanswerable arguments, as I conceive, of the Executive, with equal ingenuity and power; but if they were to rise, and speak with the lips of an angel, the South has too much at stake not to see the utter hollowness and want of truth of this opposition, not to feel that similar pretexts will ever be found when similar occasions may demand them.

Sir, the vital principle of the Kansas bill, non-intervention, was carefully considered by some of the purest and best men from every section of the country, and by some of the prominent men of its leading political parties. It was brought forward by the honorable Senator from Illinois, to whom it had been intrusted as chairman of the Committee on Territories; and throughout the three years' history, in which its enemies have so bitterly assailed it, so nobly and firmly has he stood forth as its champion, under all circumstances, at all times, and in all places, showing its right, wisdom, and justice, that he has been understood popularly to be its sole and exclusive author. So well had he borne himself in this intellectual fight, that he had carved out for himself a place in the hearts of his countrymen rarely accorded to a living public man. In this position he was nobly sustained by a united South, and by nearly every national Democrat in both Houses of Congress. He was sustained by the people in their conventions, in their Legislatures, and finally by the supreme judicial tribunal of the country itself. Thus did he stand then; but now, when the battle has been fought, and when the legitimate fruits of victory—the admission of a sovereign State into the Confederacy—are within our grasp, we see the honorable Senator, not only withdrawing himself from his old companions in arms, but, with a bitterness hitherto unlooked for, opposing them in gaining the legitimate fruits of their victory. In this extraordinary attitude, we see him surrounded by strange allies, the leaders of those with whom hitherto he has fought hand to hand in every phase of the fight; the leaders of those who have been the unrelenting enemies of the Kansas-Nebraska bill and himself; and who, failing in every agency of human evil, have invoked upon both the curse of Heaven itself. These are the allies with whom he is now associated. I trust the honorable Senator from Illinois will understand that, in reciting these facts, showing his position in this case, I do it in all kindness to himself. My past relations to him it is unnecessary to allude to to show that fact.

I concede that an attitude so extraordinary has only been assumed on the most conscientious convictions of right, though we are all liable to error; and his position, therefore, will not be readily surrendered. His efforts to sustain it are worthy of his fame; but depend upon it, sir, that like a strong man struggling in a morass, every effort that he may make will but show the unstable ground on which he stands. Those who may oppose this measure may succeed, or they may fail; Kansas may be admitted with her Lecompton constitution, and every element of her legitimate prosperity may be developed, or she may be rejected, and discord and civil war may continue, just as wisdom and prudence, or folly, may control their counsels; but whether we admit her, or whether we do not, whatever may be our efforts here, if I am right in my conclusions of the policy which governs the Opposition, there will be but one effort for the South.

Mr. SEWARD. Will the honorable Senator allow me, as an act of kindness to himself, to say that his speech is a very interesting one, and I am listening to him with great pleasure; but I am

sure he speaks so low that he is not doing justice to himself. If he will raise his voice a little louder, he will be heard more distinctly across the Chamber.

Mr. MALLORY. Thank you, sir. I cannot expect to overcome any noise that may be made in the Chamber, but I will endeavor to make myself heard.

The PRESIDING OFFICER. (Mr. STUART.) The Chair will endeavor to preserve as good order as can be maintained in the Chamber; and he submits to Senators that it is important, on account of the evident condition of the health of the Senator from Florida.

Mr. MALLORY. I was going on to observe that whatever may be the effect of our efforts here from this vexed question of Kansas, the South, looking boldly out on the dangers which are before her, surveying with calm resolve her darkening political skies, will, in my judgment, take a new departure. She will be warned, nerved, invigorated, saddened perhaps, but un intimidated by the past. That must inevitably be the position of the South. She cannot ignore the fact that her enemies are gathering in strength around her; every day shows it; and whether the war-cry against her life be uttered by some wretched village fanatic, whose insane ravings and mad ambition rise no higher than to induce the slave to cut the master's throat, or whether it be uttered by some higher intellect here, in large and philosophic phrase, who, with the Union upon his lips, but with treason to its best interests nestling in his heart, tells us of the coming dawn which is to welcome the last footprint of African slavery upon this continent—whether the war-cry be uttered by the one or the other, it is opposition to her that forms their common bond of union. Nor, sir, let her any longer underrate the strength of her enemies. I have before me some notes, which are very brief, but they are instructive. I refer to a well-known book, recently published, in which political facts are collected. In speaking of the anti-slavery party, the author says:

"It first made its appearance in national politics in the presidential contest of 1840, when its ticket, with James G. Birney, of Michigan, as its candidate for the Presidency, and Francis J. Pickens, of Pennsylvania, as its vice presidential candidate, polled 7,000 votes. In 1844, with Mr. Birney again as its candidate, it polled 62,140 votes. In 1848, with Martin Van Buren as the presidential candidate of the Buffalo Convention, and Gerrit Smith as that of the more ultra anti-slavery men, it polled 296,232 votes. In 1852, with John P. Hale as its nominee for the Presidency, it polled 157,298 votes. In 1855, with John C. Fremont as its presidential candidate, it polled 1,341,812 votes."—*Chase's Political Text Book*, page 1.

With these facts before us, and they are succinctly summed up, I do not pretend to ignore the coming fate of the South. I do not pretend any disguise on the subject. Who doubts that he is yet to see one of this sectional party in your chair, sir; this Government administered by its behests, and the South in a doomed minority, still appealing to the Constitution? No man here can doubt it, and it is useless to preach otherwise. One by one the gallant and patriotic band of northern men, who, valuing the Union beyond the behests and commands of party, struggled here, struggled everywhere to maintain the common rights of their whole country, have been crushed out; and here, in this forum of equal States, we are yet to see the Constitution interpreted by that dreaded antagonism which is founded upon geographical distinctions alone.

The constitutional rights of the South, Mr. President, never have depended, and I trust they never will depend, on an equality of slave and free States in this Confederacy. If they depend on such an equality, their rights are gone now, for that day has passed. This political equality cannot be maintained. It can neither be maintained by expansion, by acquisition, nor by division of territory; for these are resources equally open to both parties. Had the South, in days gone by, been united on the expediency of adding Cuba, and, when the apple was ripe, plucked it, and made it a southern State—nay, sir, were she to adopt a wise policy now, and resolve to take it and talk about it afterwards—friendly and contiguous Canada, fast gravitating towards the North, would come in to establish northern political supremacy. Therefore, in my judgment, we must look inevitably to a preponderance of free States in this Confederacy. If I believed that the rights of the South were to depend on an

equality, I would use every human effort of which I am capable to induce the South to go out of the Union to-morrow. It is folly for a man, when he sees his doom ahead of him, to wait hour after hour until the stern reality is upon him.

Much has been said by the Senator from New York, in his remarkable address, about the white man's occupying this continent on the doctrine of expansion; but I did expect to hear a gentleman, who is evidently a statesman, who always takes enlarged views—I did expect him, in this rhetorical, epigrammatic production of his, to define under what circumstances the white man was to occupy this continent. My friend from Virginia, I find on reading his speech, has referred to this part of the address of the Senator from New York, and leaves me but little to say; but on this doctrine of expansion, let me remark that the hour has come when judicious minds begin to doubt the propriety, the wisdom of the expansion on this continent of our Government, and judicious minds begin to doubt the applicability of our system of government to a widely-expanded territory. Sir, the surface of our territory now is more than double that of Great Britain, France, Spain, Portugal, Italy, Switzerland, Germany, Austria, Turkey in Europe, Poland, Prussia, Belgium, Holland, Denmark, Norway, and Sweden, whose united populations exceed two hundred and fifty million. With a soil teeming with everything adapted for the usefulness of man, with a sparse population compelled to cultivate neighborly affections, with wealth almost at the command of every industrious man, with every inhabitant almost having stakes deeply driven into the soil, identified with the country, and making the laws which he himself is to administer, our Government has reflected more blessings on the human race than any other which the mind of man has ever conceived.

But let our country once be as populous as France, Belgium, or Prussia, and let trouble arise in a part of it distant from the seat of Government, and then see where the doctrine of expansion will lead you. Judicious minds, as I say already, point to San Francisco, ruled by a vigilance committee; to Utah, ruled by a priestly despotism; to Kansas, whose laws are enforced only at the point of the bayonet; to the large mobs in your cities, overawing the peaceable inhabitants, and going abroad unpunished; and to the powerful cries of "bread or blood," raised in open daylight by agrarians; and when this doctrine of expansion shall be carried out, and the elective franchise shall be given into the hands of men of this character, it will be a most fearful engine of wrong, as it has been heretofore a fruitful engine of right.

But, Mr. President, I will not digress on this subject longer; I desire to keep to the point before us, which is the question of the admission of Kansas. I will not go into all the objections, the technical objections which have been urged by gentlemen on the opposite side of the Chamber, because I think it will be fair to meet the objections of our friends on this side, and I will treat them as made in all fairness. I understand that the objections of the honorable Senator from Illinois, made in his opening speech immediately after the presentation of the President's annual message, have been surrendered one by one, or tacitly so, and that they are all now to be summed up in this: that the constitution framed at Lecompton was not submitted to the vote of the people, and that it does not reflect the will of the people of Kansas.

Who are the people of Kansas? The honorable Senator from New York, if I did not mistake him, the other day said the people meant the majority. I deny any such doctrine in this country. I deny that "the people" necessarily mean a majority, politically, or in any other sense. The only people of Kansas known to us are the law-abiding inhabitants thereof, who, under the shadow and by the power of law alone, have made their wishes and their wants known to us. They are the people of Kansas, whether they be the majority or the minority. States have conferred, and may at any time confer, their whole political power upon a minority. They may make disqualifications dependent upon the tenure of freehold estate, upon the payment of tax, upon militia duty, or upon the color of the skin; but whoever the State chooses to confer her political authority upon, and whoever she confers the right to exercise political power upon, are the people.

Politically speaking, they are the people. It is said the majority are to rule. Sir, as the people are represented in the House of Representatives, do a majority always rule there? Is not a quorum of the House sufficient to transact its business? And is not a majority of that quorum, who represent only a small number, comparatively, of the people of this country, enough? Do they not transact business? Do not some seventeen members of this body, a minority of it, transact its business? It is the political people we speak of; and when I speak of the people of Kansas, I refer alone to those people who come within the definition of law, and who, clothed with the mantle and authority of law, come here to make their manifestations known.

I do not pretend to investigate whether the convention which formed the Lecompton constitution was in fact elected by a minority or a majority of all the persons in Kansas who had a right to vote. That convention may, in fact, have been created by a less number than a majority—by a minority of the actual voters of Kansas; but if we suffer ourselves to go behind the proper exhibition of political power by the ballot-box, we may perhaps come upon the fact that those who refused to vote did so from no pure motive; they did so for the sole purpose of defeating the rights of those who did choose to exercise them; and I ask, where the elective franchise has been permitted at all, has it ever been heard that those who refrained from voting can thereby defeat the just rights of those who choose to exercise them? There is scarcely a town, scarcely a city, scarcely a State, in which elections occur, year after year, where you cannot point to candidates elected by a minority of the whole number of *bona fide* voters.

In reply to the objection that the constitution should have been submitted to the popular vote, I must say that it is becoming on those who claim this to show that any necessity existed for such a submission. The people of Kansas did not provide for it through their Legislature; they did not provide for it through their convention; and so far as Congress could, they expressly left it to the people of Kansas to decide for themselves; for they said they should be left "perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution." That was the only limitation. There was nothing there, I apprehend, commanding them to submit their constitution to a vote of the people of Kansas. If, therefore, we are to keep our pledge to the people of Kansas, we cannot interfere with their rights; and it is to me exceedingly strange that those who set up this doctrine that the non-submission of the constitution is fatal to it, cannot put their hand on the authority for their doctrine. The precedents teach us that the people of Kansas have followed in the safe path of custom in refusing to submit their constitution. My friend from New Jersey [Mr. Thomson] has shown this in a close analysis of all the constitutions of the States of this Union; and there are but two constitutions that I know of, formed by the States of this Union, which were submitted by convention. His statement is as follows:

"The constitutions, now in force, of the following named States, were not submitted for ratification to the people, but adopted in convention:

"Vermont adopted her constitution July 4, 1793, in convention at Windsor. (Compiled Statutes of Vermont, page 15.)

"Connecticut, by convention, in 1818. (See Compilation of Statutes of Connecticut, 1854, pages 29 and 45.)

"Delaware, by convention, in 1831. (See Acts of 1831, page 49; and Revised Code, page 43.)

"Pennsylvania, by convention, in 1838, with a provision for future amendments to be ratified by the people. (See Purdon's Digest, page 17, section 10.)

"North Carolina adopted her present constitution in 1776, by convention; amendments in 1835.

"South Carolina, in 1790, by convention.

"Georgia, by convention, on the 23d of May, 1793.

"Alabama, in 1819, by convention under enabling act. (See Code of Alabama, page 26, section 5, page 28.)

"Mississippi, by convention, in 1817; and revised in like manner in 1832.

"Tennessee, by convention, in 1835.

"Kentucky, by convention, in 1799.

"Arkansas, by convention, without enabling act. (See Revised Statutes of Arkansas, pages 17-48.)

"Missouri, by convention, in 1820; and not submitted to the people.

"Illinois, by convention, in 1818; also appears not to have been submitted to the people.

"The following were compelled by statute to submit the constitutions framed by the conventions to the people:

"New York, constitution adopted in 1846. (Section 9, act of 1845, providing for the convention, required its ratification by the people.)

"New Jersey, act of 1844, approved February 23. Section 9 required its submission to the people. It was submitted and ratified in 1844.

"Maryland, formed in 1851, and ratified by the people, in accordance with previous act of Legislature. (See Act of 1849, chapter 346, section 8.)

"Virginia, formed in 1851. Act March 13, 1851, required its ratification by the people.

"Indiana, formed in 1851, ratified by the people, as required by the law authorizing the convention. (See Act of 1851, approved January 18, sections 14 and 15.) The section relative to the exclusion and colonization of negroes was submitted as a distinct proposition. (See Revised Statutes, volume 1, page 72.)

"Wisconsin, 1848. Section nine of schedule required its ratification by the people. (Revised Statutes, 1849.) In April, 1847, the constitution was defeated by over seven thousand majority. (Niles's Register, volume 72, page 114.) A new constitution was then formed, and the State admitted under it May 29, 1848.

"Iowa, formed in 1846. Previous laws of June 10, 1845, (over the veto of the Governor,) and of January 17, 1846, required ratification by the people.

"Ohio, the first constitution, formed under an enabling act of Congress, adopted 29th October, 1802, was not submitted to the people; that of the 10th March, 1857, was submitted to the people and approved by them.

"Louisiana, formed 1852. The constitution was, by previous enactment, required to be submitted, and was ratified by the people.

"Michigan, formed 1850. Act of March 9, 1850, required it to be submitted to the people. (See Laws of 1850, No. 78, section 6, on page 66.)

"Maine, formed in 1819, by convention, (page 432 Hickey's Constitution;) amendments submitted to the people 1834, 1837, 1839.

"New Hampshire, formed 1792. (See Compiled Statutes, page 15.) Approved by the two third vote of the people, and established by convention September 5, 1792.

"Rhode Island, formed 1842. Ratified by vote of the people, in pursuance of act of the Legislature.

"Massachusetts, formed 1780. Convention adjourned till constitution was ratified by two third vote.

"Texas, formed 1845. Submitted to and ratified by the people.

"The constitutions of the following States were submitted by conventions to the people, without their being required by law to do so:

"Florida, formed in 1838. Territorial act of 1838 (see Act of 1838, page 5) did not require the ratification of the constitution by the people. There was no authority of Congress. The convention (see Digest of Laws of Florida, page 9) required ratification by the people.

"California, formed in 1849. Convention required the ratification of the constitution by the people. There was no authority of Congress or legislative act to frame a constitution. (See Statutes of California, page 24, sections 5, 6, and 7.)"

But, sir, if this argument really had any strength in it, it comes, perhaps, with less force from the honorable Senator from Illinois, than it would from any of the gentlemen on the other side of the Chamber. Anything which the distinguished Senator may say on this subject has peculiar pertinence and significance, because, from first to last, he has been identified with the measure. It will be remembered that, to expedite the admission of Kansas into the Union as a State, the Senator from Illinois reported a bill from the Committee on Territories on the 17th of March, 1856, entitled, "A bill to authorize the people of the Territory of Kansas to form a constitution and State government, preparatory to their admission into the Union, when they have the requisite population." After providing for a convention, this bill continues, and contains the following clause. It is the third section of the bill reported by the Senator from Illinois:

"Sec. 3. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection, which, if accepted by the convention and ratified by the people, at the election for the adoption of the constitution, shall be obligatory on the United States, and upon the said State of Kansas, to wit:"

This bill was not immediately acted upon; and on the 25th of June a substitute was introduced by the honorable Senator from Georgia, [Mr. TOOMBS,] of which he gave due notice. In the twelfth section of this amendment—for the substitute was introduced as an amendment—the precise words of the third section of the bill of the Senator from Illinois were retained, giving the power to the convention to adopt, and to the people of Kansas to ratify, the constitution. Here, then, were two bills before the Senate; one reported by the Senator from Illinois, containing a clause requiring ratification by the people; and the other introduced by the Senator from Georgia, incorporating this identical clause. Subsequently the Senator from New York [Mr. SEWARD] introduced a substitute, ignoring equally the people and the convention, providing for the immediate admission of Kansas as a State into the Union, on the acceptance of certain conditions by her Legislature.

These substitutes, together with the original

bill reported by the chairman of the Committee on Territories, the Senator from Illinois, were referred back; and seven days after this, on the 30th of June, the Senator from Illinois brought forward from the committee a new bill, which, though it embraced many of the provisions of the bill introduced as a substitute by the Senator from Georgia, omitted this very important provision, which his own bill and the substitute itself of the Senator from Georgia had contained. It left out totally the provision requiring the ratification of the constitution by the people of Kansas. In fact it recognized in that manner, unequivocally, the right of the convention over the whole subject. I think that is a legitimate conclusion. The right of the people to ratify the constitution was therefore abandoned; and it was abandoned when the Senator from Illinois himself reported the bill. I say, with great respect, that when the opposition comes from him, on the ground that it is a fatal objection to the constitution that it was not submitted to the popular vote, it comes with less force from him than it would from any gentleman on the other side of the Chamber. His bill contained, instead of the clause before quoted, these words:

"Sec. 19. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon the said State of Kansas, to wit:"

This bill passed the Senate, but it will be remembered that it failed in the House of Representatives. In this body, with the clause requiring popular ratification abandoned, after it had been twice reported to the Senate, it received the vote of every Democratic Senator, including the Senator from Illinois. He recognized the principle, in the first place, by reporting the bill; he recognized the principle by having it referred to his committee; he recognized the principle by reporting this back; and he recognized the principle of leaving the matter entirely with the convention by voting for the passage of the bill himself.

It was my purpose, Mr. President, to have pursued somewhat the line of argument which has been indicated and pointed out by the opponents of this measure, connecting itself with the subject of slavery in Kansas; but feeling as I do on that subject, feeling as I did last night when I heard gentlemen going back two hundred years to show the tenure of slave property, as if the opinions of all the benchers of England could affect the right to a single slave in any of our States, or induce a master to surrender it, I see the labyrinth of discussion into which gentlemen are led when they touch that subject—I do not come here to discuss the abstract question of slavery. I am willing to meet gentlemen on the other side upon the practical workings of the institution in this country. I am willing to take it up as a practical issue, and to show to those who here maintain the controversy, that even in their own States, in their own towns, and in their own homesteads, the practice belies the theory; that the negro there, with all the privileges which their enlarged philanthropy has thrown around him, is in a more wretched condition than that from which they seek to relieve him in our States.

We might go further, and show that wherever he is found on the face of this earth, he is never found in a condition so beneficial to himself, so useful to others, so progressive to whatever the Deity has destined him to, as he is in the southern States of this Union; but I will not go into that discussion now. I will merely observe that as long ago as we know anything of the southern coast of Africa, when the creeping commerce along the shores of the Mediterranean unfolded the habits and customs of the tribes of Africa, they were a savage set of cut-throats, knowing no law but might, intractable, showing no mercy to age, sex, or condition; and the very usages and customs which existed then exist up to the very latest hour of our researches in Africa; the African is not changed one iota; and in fifty years of attempt by British philanthropy to Christianize a single African on the coast of Africa, they have not yet got one to point to—not one African Christian. The only one that British philanthropy could point to, on Cape Coast Castle, died a short time ago, over fifty years of age, and then, in his dying hour, relapsed back again into infidelity. The southern States of this Confederacy, training them

in the light of Christianity, can point to hundreds of thousands of devoted Christians among them. I might, on this practical issue, take these gentlemen who oppose us at their own homesteads, and they cannot point me to a single one of their cities where you do not find its negro quarter; where you do not find its place for colored people; where you do not find evident marks of their being treated as an inferior race; and no gentlemen are more ready to recognize and practice on this condition of things than those who preach a contrary doctrine here; but I am not disposed to pursue that issue now.

Mr. President, we have been told by the honorable Senator from New York [Mr. SEWARD] that the South has governed the Confederacy, but that the reins of power are falling from her grasp, and that to other hands are our destinies to be committed. I concede it. The genius, the knowledge of government, the constitutional, conservative spirit of southern men, have as unequivocally stamped the policy of this Government in the Cabinet and in the Senate, as their valor has led their banners in the field. Seven of your Presidents have been themselves slaveholders; and whenever the country has demanded the intellect, the genius, or the courage of her sons, they have found no more brilliant illustrations than amongst slaveholders. Under the guidance of their policy, with their hand upon the helm of the ship of State, her onward progress in all that ennobles, and all that elevates our race, has been the marvel of mankind. I do not deny that domestic discords, family jars, have from time to time intruded themselves upon the pathway of the progress of our country. But while they are as inseparable from it as is the dust from the wheel of the locomotive, they have impeded it as little. Under the guidance of those same southern men, national policies, national purposes, and national men, lending their cheering influence, like the gentle dews of heaven, shedding them over every hill and valley of their country equally, have combined to awaken and cherish in our hearts obedience to the Constitution, and through it a love for the Union. Under their policy sectional discords have from time to time brought here sectional extremes and their common grievances, laid them on this common altar, and renewed a common vow to sustain it. If the South has governed, such has been the spirit and such are the results of her government.

Sir, we are told by the Senator from New York, in a tone half complaisant and half exultant, that she is to rule no more. Well, sir, be it so. I foresee the time when she shall stand in a minority here. We ought not to ignore it. The sooner we come up to a knowledge of it the better; but, in parting with the good old ship of State, we can at least look back with pride upon the track which she has traced under our guidance, with the Constitution as her only chart, upon the pathway of nations, illustrated as that is by the imperishable monuments of man's hopeful progress; and we may point to the discords, to the storms of faction, to the open assaults of foreign and domestic enemies, to the treacherous deceits of pretended friends, which she has nobly weathered. In withdrawing from her now, with all her banners aloft, with her fame established and her name unsullied, with placid seas beneath and smiling skies above her, freighted with the hearts, the hopes, and the liberties of mankind—if we surrender her, we surrender the noblest trust that ever passed from the hands of man; and, in the language of my friend from South Carolina, [Mr. HAMMOND,] if we do surrender her, great will be your responsibility, and great will be our honor. I only wish to remind you, that when we demand her back, as demand her we shall, let us see that no stripe of the glorious banner is erased, that no star of it is dimmed.

In speaking of this departure of power from the South, I neither deplore it nor do I fear its consequences to the South. It will but wake her up. It will but make her more watchful of her rights, and more resolved and determined to maintain them. If the South has shown from time to time a high degree of excitement, a high degree of sensitiveness on the agitation of the slavery question in Congress, when that agitation was dwarfed by the consideration that the balance of power here rendered it almost an abstraction, what will she feel and what will be her degree of watchfulness when she finds her voice smothered in this forum, whea

she recalls the threat of her enemies, when she understands the threat of the Senator from New York, who speaks of the conquest of the southern States, and when she sees every department of this Government in their hands to enable them to execute it?

Mr. President, it is a painful subject, but, in my judgment, the continuance of this Union is soon to be in the hands of this very sectional party. It is to depend upon the conservation and constitutional action of that party; and as successful aggression never yet paused in its career, it becomes the South now, while time for counsel and reflection still exists, to know what place she is to occupy in this Confederacy. Conservative and hopeful as I am, hoping, and I may say believing, as I do, that our political skies are brightening, believing that we shall illustrate politically the axiom that the darkest hour is just before the dawn, I yet trust, nay, sir, I know, that the people of the southern States will never submit to that last degradation of a free people—a voluntary acquiescence under a violated constitution.

Mr. CRITTENDEN. If there be no disposition to pursue the debate further by other gentlemen, I wish to make some remarks to the Senate on the subject. I am not prepared to go on at this moment. If no gentleman desires to speak further on this subject now, the motion I propose to make is to adjourn.

Mr. PUGH. If the Senator from Kentucky will permit me, I wish to say a few words on the amendment I have offered, and then he can move to adjourn.

Mr. CRITTENDEN. Very well.

Mr. PUGH. Mr. President, it was not my purpose originally to speak to the question at large. The vote I should otherwise have given, in accordance with my own opinions, has been taken from under my control by the instruction of the General Assembly of Ohio, in which the political party to which I belong has a decided majority. I will say, however, individually, that I regard the act passed by the Territorial Legislature of Kansas, on the 19th February, 1857, a true and substantial copy, in every material provision, of the bill which passed the Senate of the United States on the 2d of July, 1856. That bill, at the time, after the most thorough discussion, and the most careful and anxious consideration, received my vote and unqualified approval. Afterwards, before the people of my State, in their primary assemblies, it was my duty and my pleasure to explain, as fully as I was able, the purposes, the principles, and the details of that bill; and, at all events, the party to which I belong, and with which I have always been associated, gave the bill a like approval.

Nor, sir, do I regard it material whether that bill was passed by the Congress of the United States, or by the Territorial Legislature. I know some distinction has been attempted in that regard; but after a thorough examination of the history of all the cases of the admission of States into the Union, my own judgment is, that the most regular manner, and, originally, the only regular manner, for the application of a new State, is through a convention called by the Territorial Legislature. The first three of the States admitted, after the formation of the Constitution, had no enabling act. Vermont and Kentucky were not authorized by Congress to take any steps toward the formation of State governments. They proceeded under the authority of the States from which they were separated. Tennessee, the third State, proceeded under the sole authority of her territorial government.

The first enabling act ever passed was in the case of my own State, and the reasons for it were peculiar and imperative. Under the ordinance of July 13, 1787, the people did not elect the Council or Senate of the Territory. The Councilors were nominated by the House of Representatives, and chosen by Congress. No man could be a representative, even in the most numerous branch of the Territorial Legislature, unless he owned a fee-simple estate in two hundred acres of land, nor could any man be a voter for a representative unless he owned a freehold estate in fifty acres. As a consequence, the Federal party, although a minority of the people, controlled the Territorial Legislature. Without going at large into the circumstances which, in some other form, I shall lay before my constituents, it is enough to say that

this Federal control of the Legislature, with the assistance of an absolute veto in the hands of the Governor, was so exercised as to prevent the admission of Ohio into the Union at the proper time, and exercised for merely partisan purposes. It was to redress this usurpation on the part of the Territorial Legislature that Congress, for the first time in our history, passed an enabling act. It was not based on the ground that the Territorial Legislature lacked the power. It was based on the ground that the Legislature had the power and refused to exercise it.

The next case was that of the State of Louisiana. In the petition of the Territorial Legislature of Orleans, which will be found in the American State Papers, it appears that the people of that Territory, through their Legislature, had at one time endeavored to form a State government, and Congress had refused to recognize their proceedings; and, therefore, at a subsequent period, the Legislature petitioned Congress for an enabling act, and that enabling act was passed in response to the petition. These two cases, although special in their circumstances, were followed without any question in the instances of Indiana, Mississippi, Alabama, Illinois, and Missouri, over all of which States the ordinance of 1787, with or without the restriction of slavery, extended.

The difficulty in the case of Missouri was this: she had complied with every condition in the act of Congress; she was entitled to have her Senators and Representative sworn upon the presentation of their credentials. When the first enabling act for the State of Ohio was before Congress, when the Federal party denounced it as usurpation by Congress, the Democratic Republican party defended it on the ground that it was a conditional act of admission; that whenever the Territorial Legislature had taken steps for the assembling of a convention, and the constitution of the new State had been formed, then Congress had merely to admit the State; but whenever no convention had been called, and no constitution had been formed, that then Congress might pass the act of admission beforehand, defining the boundaries and prescribing the conditions; so that I take an enabling act to be, as I said some time since on this floor, a conditional act of admission. Missouri had complied with the condition; she was, therefore, entitled to have her Senators and Representative sworn, for it is literally true, as has been stated several times on this floor, that the State of Ohio, in which case the first enabling act was passed, never had any other admission into the Union. Her constitution was presented here; it was referred to a committee with special instructions to inquire what more was necessary to enable the State to enter the Union. The committee reported that nothing more was necessary, that as soon as the laws of the United States had been extended over the State, and a district court established with a judge, marshal, and attorney, the State was as completely one of the United States of America as any of the original thirteen. I say the outrage in the case of Missouri, was, that her Senators and Representative were not sworn. The Republican members contended at the time that Missouri was a State of the Union, unjustly deprived of her representation in Congress, as will appear from an examination of the reported debates. Finally, however, it resulted in the famous compromise of May 2, 1821, by which, under a joint resolution, the Senators and Representative were admitted.

After the case of Missouri, more than quarter of a century elapsed without another enabling act by Congress; and during that time Maine, Michigan, Arkansas, Iowa, Florida, and Texas, entered the Union. The next enabling act was in the case of Wisconsin, August 6, 1846. That would have been sufficient, when complied with, to entitle her Senators and Representatives to be sworn; but the convention of Wisconsin altered the boundaries of the State, and therefore it was necessary to apply to Congress for a consent to this alteration. This appears by the joint resolution for her admission, March 3, 1847. The next case was that of California, which was admitted in September, 1850—a State received not only without an enabling act, but without any previous territorial organization.

Of the eighteen new States, eight had enabling acts, and ten had not. The majority of instances is against an enabling act; the history of the

question is against it. Where do Senators find a power in the Congress of the United States to prescribe the assembling of a convention and the formation of a State constitution? It is not given in the Constitution of the United States. Our power is to admit new States; and we can as well admit them with a constitution already formed as upon a constitution formed at our express instance. The justification for an enabling act, when first proposed during the administration of Mr. Jefferson, was, that Congress admitted the State upon a condition to be complied with afterwards. I therefore repeat that the convention act of February 19, 1857, passed by the Legislature of Kansas, is as regular, as authoritative, as perfect in every respect, as if the other House of Congress had agreed to the Toombs bill, which we passed in July, 1856. The convention originated, then, under an act to which I, in common with all my political friends in this body, gave unqualified approbation.

Now, sir, it seems to me individually, speaking for no one else, meaning no imputation on any one else, that two questions remain to those who voted for the pacification bill, as we called it in 1856, namely: First, has the act of the Territorial Legislature of February 19, 1857, been substantially pursued? Second, has anything since transpired in the history of Kansas which ought to require some additional provision, some special provision, before her full admission into the Union?

Under the first of these questions arose the difficulty to which I adverted on almost the first day of the session, to wit, an allegation that nineteen counties of the Territory were not represented in the convention which formed this constitution. I am free to say, that if such an omission had been even the result of accident, I should have considered it a fatal objection; I should have considered that the convention did not comply with the charter of its organization; but, with all the information which I can derive, I am brought to this conclusion: that, with the exception, I think, of four of those counties, they were merely nominal districts of country laid off, with names given, but with practically no population. As to the four counties which had population, it was by the fault of the inhabitants, not by the fault of the officers that the census was not taken, resulting from the fact that those inhabitants had given their adhesion to what was known as the Topeka constitution and form of government—a constitution and form of government which Congress had rejected, but in which they persevered.

A remarkable fact occurs with reference to one of those counties—the county of Anderson. It was alleged that the people of the county proceeded to take a census therein, and to elect a delegate, at their own instance. This delegate attended the constitutional convention. To be sure, he was supernumerary, the full number of sixty having been apportioned, by Mr. Stanton, to the other counties. However, he petitioned to be admitted as a delegate. His petition was referred to a committee. The committee reported in favor of his admission, and the moment this report was made, the petition was withdrawn. I know it will be said that the delegate could not legally sit there. Suppose that to be true, the people of Anderson county could not complain of his admission; none could complain but the people of the other counties; but the people of the other counties did not complain. The people of the other counties, through their delegates, offered to admit him; he himself withdrew. My inference, from this fact, is, that the delegate never wished to be admitted; that, supposing his application would be rejected, he preferred it; but as soon as he discovered it would not be rejected, he withdrew it. Here is a key to the whole case. There was no good faith in this transaction.

Would it have injured the constitutional convention, or the constitution of Kansas, if the delegate from Anderson had been admitted? Why, let us turn to the Minnesota case. Congress passed an act authorizing a convention to be called in Minnesota, to consist of twice as many delegates as there were Representatives in the Territorial Legislature. Our Committee on Territories, through the honorable Senator from Illinois, inform us that the people of Minnesota construed that to mean twice as many delegates as there were Councilors and Representatives in the Legislature, and

accordingly they elected that number. The act of Congress required this convention to assemble on a given day in one chamber, and there, by united councils, with opportunity for personal conference and mutual debate, as the deliberation and judgment of all the delegates together, to form a constitution and State government. The fact is, there never was any such convention. There were two conventions on that day, neither of them consisting of all the delegates, both of them together consisting of more delegates than even the extraordinary construction placed on the act of Congress would authorize, consisting of men who were merely claimants for seats on each side; and the constitution was formed by a committee of conference between these two bodies.

It is said that this irregularity was cured by the subsequent vote of the people ratifying the constitution. I can discover no reason why Minnesota was at liberty to dispense with the convention more than with the vote of the people. They were both required by law. But, sir, be it so; then we come to inquire what was this vote of the people of Minnesota, which is said to have healed all the former irregularities? I have heard Senators complain bitterly that no man was allowed to vote in Kansas on the 21st of December, for or against slavery, unless he would vote for the constitution. That has been said again and again. It has been said that every elector was compelled to vote for "constitution with slavery," or "constitution with no slavery;" and therefore a man who was opposed to some provision of the constitution, or who did not wish to vote on the constitution, could not vote either for or against slavery; and that has been a constant theme of declamation in this Chamber since the 9th of December last. Now, sir, let us turn to the case of Minnesota.

I shall read three sections from the constitution of Minnesota, by which it is provided not only that the vote upon the constitution shall be held on the same day and at the same polls with the vote for all the officers to be chosen under the constitution, thus electing men to offices not in existence at the time, but that no man should vote for or against the constitution unless he would vote for officers under it. He that runs may read:

"SEC. 16. Upon the second Tuesday, the 13th day of October, 1857, an election shall be held for members of the House of Representatives of the United States, Governor, Lieutenant Governor, supreme and district judges, members of the Legislature, and all other officers designated in this constitution, and also for the submission of this constitution to the people for their adoption or rejection.

"SEC. 17. Upon the day so designated as aforesaid, every free white male inhabitant over the age of twenty-one years, who shall have resided within the limits of the State for ten days previous to the day of said election, may vote for all officers to be elected under this constitution, at such election, and also, for or against the adoption of the constitution.

"SEC. 18. In voting for or against the adoption of this constitution, the words 'for constitution' or 'against constitution,' may be written or printed on the ticket of each voter; but no voter shall vote for or against this constitution on a separate ballot from that cast by him for officers to be elected at said election under this constitution."

If the form of submission on the 21st of December, 1857, in Kansas, was fraudulent, what will become of the ratification of the constitution of Minnesota by the people? It is admitted that her convention was irregular, or rather there was no convention at all; it is admitted that, from the very initiation of the proceedings the act of Congress was not observed; but Senators stand here to-day insisting on the admission of the State by the sole virtue of a popular vote. Here is the vote. Is it valid or invalid? If it be valid, so was the vote in Kansas on the 21st of December. If it be invalid, Minnesota has no more title than Kansas to be admitted into the Union. But, sir, in my judgment, in neither case, are the objections material.

I might give another illustration. If we are to look into the constitutions of States applying for admission, as the Senator from New Hampshire [Mr. CLARK] proposed last night, to pass upon the wisdom or the justice of their provisions, to decide whether the State should admit or exclude African servitude, should admit or exclude free negroes, what shall we say of this constitution for Minnesota, under which the Representatives chosen in October, 1857, are elected for life? There is absolutely no provision of the constitution of Minnesota limiting the terms of the Representatives already chosen. I grant it is a mere omis-

sion; I have no doubt the convention intended to make such a provision; but none appears. There would be no limitation of the terms of the Senators in that Legislature but for a provision, that whenever a census shall be taken by the United States, or by the authority of the State Legislature, then the seats of all the Senators shall become vacant. If it were not for that, the Senators in the Legislature of Minnesota would be chosen for life as well as the Representatives. But, I repeat, these objections are wholly immaterial, just as were all the arguments addressed to us in reference to the provisions of the constitution of Kansas.

My honorable friend, the Senator from Illinois, [Mr. DOUGLAS,] who is not now in his seat, as a minority of the Committee on Territories, urges this proposition: that the convention in Kansas derived its whole power from the Territorial Legislature, and, therefore, the vote ordered to be taken on the 4th of January, 1858, by the Territorial Legislature, was a proper vote upon the adoption or rejection of the constitution. It is said, furthermore, that Kansas presents herself to us now with a simple petition in her hands. In my judgment, the convention of Kansas derived no authority from the Territorial Legislature; it received all its authority from the people in the election of the delegates. What has the Territorial Legislature done? It has prescribed, in the act of February, 1857, the time, place, and manner of electing delegates, and the time when they shall assemble in convention; that is all. Does that constitute the Legislature the source of the power to be exercised by the delegates when assembled? Then let us turn to the case of Minnesota. Congress passed an act prescribing the time, place, and manner for the election of delegates in Minnesota, and prescribing the day when those delegates should assemble in convention. Did the convention of Minnesota derive its power to make a constitution for that people from the Congress of the United States? Are we the source of authority from which the constitution of Minnesota is derived? If so, the constitutions of the States, instead of being an expression of the will of the people to be governed by them, are merely the acts of Congress through its agents and delegates assembled in the various States and Territories. No, sir; in the act of electing a delegate, the people have clothed him with power, and, from the hour of his election, he is a representative of the people, not of the Legislature, and those delegates proceed, when assembled, in the exercise of a power which the Legislature never had, and never could confer—the power to make a constitution, which is above all Legislatures. And therefore, in my opinion the attempted interference of the last Territorial Legislature of Kansas, at the special session called by Mr. Secretary Stanton, was unauthorized, factious, and void. The Legislature had no more right to interfere with the constitution, to alter the mode of its submission, to touch any provision in it, than we have this day to revise the constitution of Minnesota.

It is true, sir, Kansas presents herself to us with a petition in her hand; but what are the contents of that petition? Honorable Senators seem to imagine that Kansas petitions us to approve her constitution; to pass our judgment upon its provisions; to say, "this is wise, that is unwise." Why, sir, Minnesota is also a petitioner with a constitution in her hand. What is the petition? To approve the constitution? No, sir; it is to admit the State. It is not necessary that a State should have any written constitution. Many of the original States had no written constitutions, or none reduced to an exact form, until years after the Constitution of the United States had been ratified and was in operation. The State of Rhode Island was received into the Union in May, 1790, with a form of government organized under the royal charter of Charles II., and modified by mere usage; and I believe she did not change that for a written constitution until within about fifteen years. The Constitution of the United States does not require the States to have written constitutions. It only requires them to have republican forms of government; and those forms may rest on parol or usage. That is the reason why the States of the Union have an unlimited power to alter their own constitutions, their forms of government, without the consent of Congress, provided they still continue to be republican. It

is only requisite that a new State, as an old one, should have a form of government.

Well, sir, let us look as well at the case of Kansas as of Minnesota. I looked far enough to see that, in each, provision is made for a Governor and a Legislature, to be chosen by the people, to exercise the authority of the State, to make the laws, and to execute the laws; a government responsible to the people; a government over which, by the clearest principles of constitutional law, the people have complete power of revision. There, I am satisfied, is a republican form of government. If there be any mistake in the constitutions, any omissions, if there be unwise provisions in them, or provisions which, upon experience, prove not satisfactory, the people of these States, like the people of the old States, can reform their institutions so as to suit themselves. Such being the case, I attach no serious importance to any of the objections I have shown in the constitution of Minnesota, and none to those which others have made against the constitution of Kansas. Each has a form of government—a republican form of government. In the case of Minnesota, she has the requisite population. In the case of Kansas, all parties here, and all parties in Kansas, the friends of Topeka, the friends of Leecompton, the Senate and House of Representatives of the United States, have agreed to waive that question.

It is next said that Kansas cannot be allowed admission into the Union, because she never submitted her constitution to a direct vote of the people. I have already said that, in my judgment, we have nothing to do with her constitution except to inquire whether it provides for a republican form of government; and we have no right to specify how, or in what manner, or by what solemnities she shall form or adopt her constitution. She has formed it by a convention of delegates. That is the old form. That is the form under which the original States acted. That is the form under which nearly all the new States have acted. I think only six of the constitutions of the new States were ever submitted to the people, and none of the first constitutions of the old States. Governor Walker, in his letter of resignation, says that no constitution can ever be legitimate, or rightly enforced, until it has been submitted to the people; because, he says, sovereignty can only act directly and never through delegates. If this be so, Senators, we are the sheerest usurpers in the world; for the Constitution of the United States, under which we assume to act, never was submitted to the people of any State. It is in force to-day by the ratification of conventions in the original States, and by the adoption of conventions in the new States. I have stated that the original States neither submitted their own constitutions nor the Constitution of the United States to a vote of the people, and only six of the eighteen new States thus submitted their constitutions.

Does Governor Walker mean seriously to assert that sovereignty can never be exercised through delegates or representatives? Is it not in virtue of a delegation of sovereign power by the people, that a Legislature defines every offense and fixes the punishment; that the judiciary examines into every accusation, and in the proper case inflicts the punishment? Sir, is there a higher act of sovereignty than to take the life of a citizen? And that is taken by an executive officer in obedience to a mandate of the judiciary. Sovereignty, forsooth, is so exalted and omnipotent, quoth Governor Walker, that it can make and unmake constitutions, dynasties, and all forms of government whatsoever; but so restrained withal, so humble, so helpless, that it cannot even choose its own instruments, its forms of expression, its modes of operation. We know, from the history and received opinion of all past time, that the people can as well authorize delegates to make a constitution as make it themselves. They do this because it is inconvenient for the people to assemble in one place, as they did in the ancient democracies; and on account of this inconvenience, they choose representatives, and instruct those representatives as to their wishes; and the representatives, assembled in due form of law, are the people by substitution. They act for the people, and in the name of the people, and by the authority of the people. If they choose to take the advice of their constituents, if they choose, in a question of doubt or

of difficulty, to remit the whole question, or any part of the question, to the people in primary assemblies, nobody can object to it; but if they feel sufficiently assured of the will and the wishes of their constituents, they have the power to proceed without any further sanction. In the present case of Kansas, I admit that the people might have prescribed a charter for their delegates. They might have said to the delegates, "we will authorize you simply to form and propose a constitution, but we reserve to ourselves a right, on appeal or submission, to revise, to accept, or to reject your proposition;" but the convention act of 1857 contained no such reservation. On the contrary, when it was returned to the Legislature by Governor Geary, without his approval, on the distinct ground that it contained no such provision, it was passed over the veto by a two-thirds vote of each House. Therefore, the question, whether such should be the charter of the delegates, was considered and decided in the proper mode. Whatever might have been the question, if the convention act had required submission, or if there had been no discussion of the subject, in this case the authority of the convention is as absolute as if the act had said to the delegates, "you may submit it or not, as you please."

Now, sir, it is argued that Congress must substitute its discretion for the discretion of the delegates; and because, (some say,) the delegates abused their powers, broke their promises, deceived their constituents. It would not be singular if this were so. I think every honorable Senator will admit that he has never completed, during the period of his official life, one tenth of what he proposed; and probably not one tenth of what he promised in good faith. Some have altered their opinions; some have found their designs impracticable. I doubt whether there is a Legislature assembled in any State of the Union, with regard to which it could not be proved that one half or more of the members, in their various exhortations to the people, had promised a great many things that they never even attempted to perform. That, however, is not the question. The question is, whether we shall substitute our discretion for that of the delegates chosen by the people?

I do not say there might not be a gross case of usurpation, of fraud, and outrage, where some interposition, but very little, would not be pardonable. The allegation is here that the delegates did not submit the constitution as they promised; that they did not keep certain pledges, published in the newspapers, or in the speeches which they made to the people. Well, sir, unless we assume a right to revise the proceedings of every convention and every Legislature in every State, I see no cause for interference. If the agents of the people have violated their trust, let the people call them to account. We are not the people. We do not make the constitution; we do not ratify the constitution; we do not approve the constitution; we have no right to pass judgment upon the constitution. It is submitted to us, as I said, merely to show that Kansas has a constitution republican in form, and upon that instrument the petition is to admit her as a State. I say you can admit her without a constitution; and wherever you have passed an enabling act for any State, you have admitted that State without a written constitution; you have admitted her by anticipation; you have prescribed her boundaries, and you have said to her, "proceed to the election of your delegates, the assembling of your convention, and the formation of your government; and upon compliance with these requisites you shall become a State;" for so, and not otherwise, the State of Ohio entered this Union.

Where will this course of objection to the provisions of a State constitution end? In the State which I have the honor to represent, the first constitution established annual sessions of the Legislature. The present constitution establishes biennial sessions. I have a very decided opinion as to this question. I consider frequent sessions of the Legislature essential to the liberties of the people, and I have never hesitated to denounce the system of biennial sessions as dangerous, as a delegation of authority for too long a period to mere executive officers. Therefore, sir, if I had such a latitude as the Senator from New Hampshire claimed last night, I should refuse to admit

a State whose constitution provided for biennial sessions of the Legislature. But I have no latitude of the sort—no right to say, in the case of a new State, "unless every provision made for your internal affairs corresponds with my judgment, you shall not be received into the Union." If we could say this to the new States, why not to the old ones? New States are to be admitted on the same footing with the old ones; and if we have any such power, it applies to the old States as well as to the new, and the manifest duty of Congress would be to call for the constitution of Ohio, adopted in September, 1851, and examine its provisions.

Sir, it is another development of that difference which began with the organization of our Federal Government. The claim is, in substance, that the end will always justify the means; that if we dislike the local institutions of any people we must alter them; that the Congress of the United States, instead of restraining itself within its own charter, shall regulate the affairs of the people in all the States of the Union. I think the people of the States can take better care of themselves than we can.

These observations lead to the amendment which I propose. The minority of the Committee on Territories, the Senator from Illinois, uses language of this character:

"Inasmuch as the Lecompton constitution provides a mode of amendment after the year 1864, and thereby excludes the possibility of any lawful change until that period, the President suggests that Congress may remove this obstacle by inserting a clause in the act of admission annulling so much of the constitution as prohibits any change until after the year 1864, and requires two thirds of each House of the Legislature to authorize the people to vote for a convention, and declaring the right of the Legislature already elected to call a convention, by a majority vote, in violation of the constitution under which its members were elected, and which they were sworn to support."

In the first place, is it true that the constitution of Kansas "thereby"—that is, by the provision of a method of amendment after 1864—"excludes the possibility of any lawful change until that period?" Suppose the constitution had no provision at all on the subject of an amendment at any time; suppose it was perfectly silent, as many of the constitutions of the original States were—for our good, honest, republican ancestors, in the days of the Revolution, proceeded on the idea that there were some principles which it was not necessary to declare, which every man of ordinary comprehension, imbued with the principles of civil liberty, would at once acknowledge. Among these was the principle that any power which could do an act could undo it; that, inasmuch as the constitution of a State was formed by a convention of delegates, authorized to be elected and assembled by the Legislature, and that convention of delegates so elected and assembled had made a constitution, another convention, elected in the same manner and assembled in the same manner, by like authority, could undo it in whole or in part. That is the ground on which the earliest constitutions of the States, or many of them, were formed. Nothing was said about the right of amendment; it was considered a matter of course.

The doctrine is indisputable. It is a universal maxim that any compact—I hear gentlemen call a constitution a compact; be it so—any compact, any covenant, any promise, any agreement, any law can be abrogated by the power which made it: in the case of a compact, by the consent of the parties; in the case of a law, by the Legislature. I grant that where a right has been vested under a constitution or a law, so as to have assumed the character of property, you cannot divest that right without compensation, because, as to that, all the faculties of the constitution or of the law are fully executed; but as to its future operation, as to a new case which may originate under it, the constitution or law is entirely revocable. I have, from curiosity, applied to the old common lawyers on this subject, since we have heard so much of them; and am rather amused at the number of forms in which they express the principle. Lord Chief Baron Gilbert is very terse:

"Solvitur eo ligamine quo ligatum est."

Speaking of covenants, of deeds, of agreements between parties, signed, sealed, and delivered, with all the solemnity which can bind man to man, here is Lord Coke:

"Nihil tam conveniens est naturali æquitati quam munus quodque dissolvi eo ligamine quo ligatum est."—2 Inst. 260.

Here is one sentence from Croke James, a very ancient book, and good authority:

"Unumquodque eodem modo quo colligatum est dissolvitur."—Cro. Jac. 63.

Tindal, Chief Justice, one of the lights of modern jurisprudence, says:

"Quodque dissolvitur eodem ligamine quo ligatur."—3 Scott's new Rep., 215.

That is the law. These famous judges have not thought it necessary to indulge in argumentation. They have done here as with the fundamental principles of our jurisprudence; they have resorted to brief, pungent maxims expressed in the Latin language. *Let it be dissolved by the power which made it.* The civilians are of the like opinion:

"Jura"—laws, constitutions, for a constitution is nothing but an organical law—"Jura eodem modo destituntur quo constituantur."—Bell's Digest of the Roman and Civil Law.

And so in the French law:

"Le pouvoir législatif a nonseulement la faculté de faire des lois, mais encore celle de les abroger."—Rogron, Les Cinq Codes expliqués, introduction, tit. 2.

"The legislative power has not only the faculty of making laws, but also that of abrogating them."

Since we have come to first principles, I will quote from the Institutes. I read now from Rutherford's Institutes of Natural Law, volume 2, chapter 3:

"The legislative power, as it is here defined, implies a power not only of making laws, but of altering and repealing them. As the circumstances, either of the State itself or of the several individuals which compose it, are changed, such claims and such duties as might once be beneficial may become useless, burdensome, or even hurtful. If, therefore, the legislative power could not change the rules which it prescribes, so as to suit them to the circumstances of the body politic, and of the members of that body, it could not answer the purposes for which it was established; it could not at all times settle their claims and their duties in such a manner as is most conducive to the good of the whole, and of the several individuals which make up that whole."

There is the rule and the reason of the rule. It stands on the most solid foundation. But, Mr. President, what need of books here: we have it in our own charter of liberty. As one of the truths declared to be self-evident, by the representatives of the United States in Congress assembled, on the 4th of July, 1776, I find this: "that governments are instituted to secure" certain inalienable rights there defined; "and that whenever any form of government becomes destructive to these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

This indeed, sir, is the principal element, the essential requisite, in every republican form of government—the right, namely, of the people, in some peaceable and definite manner, to reconstruct their government, and provide for the reformation of abuses. I hear Senators on this floor talk about constitutions in the States which are revolutionary. A revolution against whom? Who is the mighty sovereign offended by this? One would suppose, forgetting the old suggestion of the Scriptures that the Sabbath was made for man and not man for the Sabbath, that governments are not formed for the people, but the people for the governments. What is the object of any government? It is to protect the rights and to secure the liberties of the people. There is no other just government. Every other is a usurpation. It may be maintained by arms; it may remain in power thousands of years; but a just government, an honest government, is organized to protect the rights and secure the liberties of the people.

Well, sir, suppose it fails—and I do not care whether it fails at the end of a century, or fails in the first half hour of its existence—if it fails in the very act of putting it in operation, as in the case of the constitution of Minnesota, where a Legislature has been elected for life—if, I say, the Government fails in the very act of attempting to put it into operation, the right of the people to form another government which will protect their rights and secure their liberties is as perfect and as absolute as if they had endured a thousand years of despotism. No convention can prevent it, for one convention is no higher than another. I go further, sir. The people who were in Minnesota in October, 1857, have no right to say to the people who may be there next year, or the year after, or twenty years hence, "we have, by

a sort of testamentary disposition, provided a government for you in all time." Men can devise or bequeath their own property, but I never heard that they could make last wills and testaments of a political character, calling them constitutions, by which they could bind their children, and their children's children for a hundred years; and if they cannot do it for one hundred years, they cannot do it for ten years, as was provided in the Topeka constitution; no, sir, not for one week, for one day, for one hour. It is the same in principle.

What is the object of government? I come back to that again and again. It is to protect and secure the liberties of those who live under it; and when it fails of that object, the people have a right to another government. If they cannot obtain it peaceably, our fathers said they had a right to take it by force of arms; but the essence of a republican government is that they can get it peaceably and in regular form; that they need not resort to arms; that they need not resort to what Senators call revolution; but in pursuance of the great idea of all government, of the very authority which they conferred on their delegates at first, they may assume to themselves at any time, in a due legal and orderly manner, prescribed by law, the power of amendment. "Blessed," said Lord Coke, "be the amending hand."

Let me guard against misconception here. I do not say a constitution may not provide the manner of its amendment. I do not say that it may not interpose provisions calculated to require more thorough deliberation. I do not say that it may not require a majority of each House of the Legislature, or two thirds, or three fifths; because, after all, the Legislature is elected by the people, and what the people want they will compel the Legislature to grant. I do not say that the people may not require, to prevent hasty or improper action, that the question shall be submitted to them twice, or thrice, if you please; or that it shall remain so many months for consideration; or that notice of the intended amendment shall be published in this or that manner. I do not even complain of such provisions; but I say that when a constitution declares, as the Topeka constitution did, that in no manner, neither by a convention nor by the people, not by the unanimous vote of all those who live under it, and all those who exercise authority under it, whether as legislators or executive officers, can it be changed—whenver a constitution declares that, the declaration is merely void; it needs no abrogation; it never had any life.

It has been suggested that the people, unless restrained, will too frequently or too rashly change their government. To what does all that amount? To an impeachment of the wisdom of the people—nothing else; an assertion that it is necessary to provide some guardian for the people, to prevent them from doing an injury to themselves, and as there is no such guardian alive, that it shall be written down in somebody's last will and testament. No, sir; the danger is exactly the opposite. The danger is, and always has been, that the people will tolerate oppression and abuses from year to year, from generation to generation, rather than interrupt the ordinary course of public affairs by an appeal to their original, inalienable, and indefeasible right to form and reform their constitution and government. That, sir, was the opinion of Thomas Jefferson, and of all our illustrious ancestors who, with him, on the 4th of July, 1776, declared the causes which impelled them to separate from the dominion of the British Crown. "Prudence, indeed will dictate," you see it is a mere question of prudence. How prudent are the people? If they are not prudent, who is any more prudent? Where shall we find the appointed class which monopolizes all the wisdom of the world? "Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed."

And now, sir, do the apostles of popular sovereignty come hither at last to declare that some ninety thousand people for the present inhabiting a new State of this Union, or a new State about to be admitted, may chain the people of that State when they shall have grown to be two millions,

when all who made the present constitution shall have passed away, when all the purposes which they had in view have been accomplished, and new schemes of ambition or views of life are opened to the popular apprehension—that these two millions of freemen, whose rights and whose liberties are as sacred as those of the first ninety thousand, are bound by an inexorable fate, which no human power can unbind, to the terms of a constitution made for them in ages past? Is that popular sovereignty? I should call it the sovereignty of dead men's bones.

One of the ablest, most learned, and purest judges of the Supreme Court, I mean Mr. Justice Campbell, has expressed his views on this subject in the judicial forum. It is admitted that the case of Kansas does not stand upon mere silence in her constitution; it is admitted that the Kansas bill of rights contains an unqualified declaration, to which I shall advert by and by—a declaration copied from the first constitution of the State of Ohio. Mr. Justice Campbell, in expounding those very words, not in a case of revolution, but in a case of peaceable amendment, spoke to this effect. I read now from his opinion in *Dodge vs. Woolsey*, 18th Howard, page 374:

"The inquiry arises, to what did the authority of the people extend? It was their right to ameliorate every vicious institution, and to do whatever an enlightened statesmanship might prescribe for the advancement of their own happiness; and for this end, persons and things in the State were submitted to their authority."

Again, page 375:

"If the powers of the people of a State are inadequate to this object, then their grave and solemn declarations of their rights and their authority over their governments, and of the ends for which their governments and the institutions of their governments were framed, and the responsibility of rulers and magistrates to themselves, are nothing but great swelling words of vanity."

Amen, Mr. Justice Campbell: you never spoke more truthfully in all your life. I next read what he said at page 379, on the next question whether the people could be trusted, or stood in need of somebody to hold their hands for five or six years:

"It may be that the people may abuse the powers with which they are invested; and, even in correcting the abuses of their Government, may not in every case act with wisdom and circumspection."

"But, for my part, when I consider the justice, moderation, the restraints upon arbitrary power, the stability of social order, the security of personal rights, and general harmony which existed in the country before the sovereignty of governments was asserted; and when the sovereignty of the people was a living and operative principle, and governments were administered subject to the limitations and with reference to the specific ends for which they were organized, and their members recognized their responsibility and dependence, I feel no anxiety nor apprehension in leaving to the people of Ohio a 'complete power' over their government, and all the institutions and establishments it has called into existence."

Sir, Mr. Justice Campbell has drawn the very distinction to which I adverted. Popular sovereignty, according to the new interpretation, means the sovereignty of a government. I prefer a sovereignty beyond the government. The same principle was recognized by Daniel Webster. I cite him because, certainly, as a constitutional lawyer, our opponents cannot except to him; and if gentlemen think these propositions too radical, although supported by the authority of Mr. Justice Campbell, and of Mr. Justice Catron, and Mr. Justice Daniel, who concurred with him, I will introduce the very apostle of conservatism. In his famous argument in the case of *Luther vs. Borden*, 7th Howard, 31, 32, Mr. Webster said:

"The opposite counsel have cited the examples of the different States in which constitutions have been altered. Only two provided for conventions, and yet conventions have been held in many of them. But how? Always these conventions were called together by the Legislature; and no single constitution has ever been altered by means of a convention gotten up by mass meetings."

It seems Mr. Webster had not much opinion of the Topeka business.

"There must be an authentic mode of ascertaining the public will somehow and somewhere. If not, it is a government of the strongest and most numerous."

How was that will to be found out? The Legislature chosen by the people—the same authority which first directed the people when, where, and in what manner to elect delegates to form a constitution, each member of the Legislature, speaking on the instruction from his constituents received in the act of his election—inquire of the people: "will you have a revision of your constitution?" If so, choose your delegates; let them assemble at such time and place as we have pro-

vided by law, so that the business may be rightful and orderly and peaceable; and when those delegates shall have assembled in convention and made a constitution, whether upon their own motion or a popular ratification, instead of being a petition, as we are told here, that constitution is the fundamental and organic law of the land.

I have argued thus far as if the constitution of Kansas had no provision at any time for any amendment. What, then, would have been the case? I think I may say, without the citation of more authority, or further argument—it is a proposition too plain to be disputed—that the power which made a constitution can unmake or amend it. But, sir, is it true, as stated by the minority of the Committee on Territories, that the constitution of Kansas forbids any amendment? The minority allege that "inasmuch as the Lecompton constitution provides a mode of amendment after the year 1864, it thereby excludes the possibility of any lawful change until that period."

That is an argal for you. What does the constitution say? If the specific method of amendment therein contained be of any force, it is in derogation of the general, the universal, the indubitable power of amendment which would exist if no method had been prescribed. It is in derogation of a fundamental principle. Let us read the clause:

"After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention; and if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the Representatives."

"After the year 1864." What may be done before that? The constitution is simply silent. There is no negative word here. The whole clause is in derogation, as I have said, of a universal principle; and yet, contrary to all the canons of interpretation I have ever read, instead of being strictly construed, Senators enlarge it to a circumference which its language cannot possibly embrace. What is the case before 1864? What it would be if there had been nothing in the constitution—just exactly the same. But the case does not end there. The constitution of Kansas has carefully guarded the rights of the people. Having provided a special method of amendment after the year 1864, it has taken pains to prevent any false construction. There are two principles which I think can be taken for certain. One is, that all the parts of an instrument must be taken together: one shall not destroy the rest—but each, in its place and in its order, shall receive a construction compatible with the integrity of the other parts. In addition, whatever derogates from the rights of the people must be strictly construed. That is another universal maxim of the law. Accordingly, the people of Kansas, in this constitution, have declared in their bill of rights—in that which declares the great principles behind all constitutions and above all governments—

"That the great and essential principles of liberty and free government may be recognized and established, we declare."

Declare what? Let us hear:

"all political power is inherent in the people, and all free governments are founded on their authority"—

Not the authority of somebody who lived a hundred years ago, but—

"on their authority, and instituted for their benefit; and therefore"—

because political power is inherent in the people; inherent, so that it never can be separated from them by any wit of man, by any form of language, by any provision of any constitution; "and therefore," because all free governments are founded on the authority of the people, and instituted for the benefit of the people—

"—therefore they have at all times"—

not after the year 1864, but—

"at all times an inalienable and indefeasible right to alter, reform, or abolish, their form of government, in such manner as they think proper."

They must do it, as Mr. Webster says, in a peaceable and orderly manner. The will of the people must be ascertained according to law. You cannot have it according to the doctrine of Topeka. It must be by form of law. The Legislature must give assent to the form of the law.

This constitution has said, after the year 1864, the form of law shall be thus and so; before 1864, it shall be the very same form of law by which the constitution was made. What was that? An act of the Legislature, in the first instance, inquiring of the people whether they would have a convention; and when the people responded, another act of the Legislature, providing for the election of delegates, and the assembling of a convention; and thereupon the act of the people in choosing the delegates, and of the delegates in assembling in convention, and forming a State constitution and government.

What is the effect of that provision in the fourteenth section of the schedule? I can state my views on that point distinctly. This constitution is an experiment; it is untried in all its provisions; it may work well, it may work badly; and therefore the good people of Kansas have said, until 1864, this which is new, this which is untried, this which is a mere experiment, shall remain subject to the will of the people, by their proper authorities, in due form of law to amend and perfect it, just as we are allowed in the Senate, I believe, to perfect a clause before any motion to strike it out; but, after 1864, if the constitution should stand so long, if, on experience, it proves to be sufficient, you shall be subject, not to a prohibition of amendment, but you shall proceed with the utmost deliberation. It shall then require more than a majority in the Legislature to submit any question to the people.

For these reasons, sir, it is my opinion, carefully and deliberately formed, that the people of Kansas, under this constitution, have as ample powers of revision and amendment as they could desire. If there be anything improper in their constitution, if there be anything which the delegates have inserted without due regard to the wishes of the people, whether it be African slavery, or a railroad system, or a banking system, or the qualification of State officers, or what not, then the people, if they deem it material, if they find it of any consequence to the administration of their government, the protection of their rights, the security of their liberties, may amend that, and amend it in due form of law. That is my opinion of the constitution, given, as I have said, after the most thorough examination of it, and all the principles which relate to this subject.

If any State, applying for admission, were to present a constitution declaring that, for some indefinite period, there should be no power of revision or amendment by the people, I would turn to that clause of the Federal Constitution which declares that the United States shall guaranty to every State a republican form of government. It would not be republican; it would be a despotism of parchment; it would compel the people to revolution. I think the essence of republican government is, that the people need never resort to violence. What is this guarantee contained in the Constitution of the United States? It is not a guarantee to the State government; it is not a guarantee to the Governor and Legislature of the State, because they are the very persons to be guarded against. It is a guarantee to every citizen of the State against his own government; and it has been placed under the guardianship of the Federal Government representing all the States, in order to prevent any usurpation, by anarchy, by the lapse of time, by the accumulation of abuses, in any of the States.

This brings me to the language of my proposed amendment. Entertaining the views which I have expressed, that a provision such as the minority of the committee impute to this constitution would be void, and therefore of no consequence; and entertaining furthermore a deliberate opinion that the right to alter, reform, or abolish the constitution in due process of law, in a peaceable and orderly manner, is not only admitted, but is declared and guaranteed, some gentleman may ask me what need of any amendment? I offer the amendment to silence a false clamor—for no other purpose in the world. As to my own judgment, individually, I should be perfectly satisfied to vote for the bill without it; but the Senator from Michigan, [Mr. STUART,] early in this session, commented on that paragraph, in answer to several pertinent suggestions. He was reminded of the fact that the State of New York had changed her constitution in disregard of the mode of amendment provided in it—not by a revolution, for it

was peaceably done; the people voted for it. He was reminded that many other States had done likewise. The Senator from Maryland [Mr. KENNEDY] told us that his State has determined to do it, I believe within the last ten days, and neither party in the Legislature dissented. I believe the State of Indiana altered her constitution without pursuing the form of amendment prescribed in it. But what was the answer of the Senator from Michigan to all this? He was fully possessed of the idea that the people of Kansas were under some sort of terror and disability; that there was a great hostile influence ready to seize upon them; and he said to us, suppose they do alter the constitution before 1864: it will never avail. Indeed? The Legislature submits the question to the people; the people vote for amendment; then the Legislature provides for the election of delegates; the delegates are chosen and assemble, and they form a constitution; that constitution, if you please, is submitted to the people and ratified by the people. Who can prevent that constitution from taking effect? Not the Legislature, because the Legislature consented; not the people, because they voted for it; not the Governor, for he signed the bill, or his veto was overruled; not the courts of the State, for they will stand or fall by the constitution, and their judges are chosen by the people, either directly or through an appointment of the Governor.

Who is to prevent it? Oh! said the Senator, the Governor, or the man who claims to have been Governor, and to be serving out the fragment of a term, with or without the assent of the Legislature, (it must be without the assent of the Legislature, for they have already committed themselves to the new organization); the Governor, pretending that the Legislature could not be convened, will apply to the President of the United States to subdue the people of Kansas, and overthrow their new constitution, and the President will use the Army of the United States to subdue them. I do not believe that James Buchanan will, for he has declared twice, in the most unqualified manner, that he admits this right of the people to amend their constitution. But suppose that James Buchanan has ceased to be in office; let the Senator have the utmost limit to his imagination; let us suppose he can find a Governor in Kansas, serving out a fragment of a term, to call on some President who is regardless of his duty, and the President should attempt to use the Army of the United States for the purpose of subverting a constitution established by the people: then I say to the Senator, although it is the most improbable suggestion I ever heard, the farthest possible from all our experience, yet still, that there may be no excuse left, I will give him in this bill a curb for the mouth of any future President of the United States.

I believe it was also suggested that the judiciary of the United States might make some decision. Suppose the judiciary did; of what effect would be their mandate? I believe the judiciary of the United States sent a mandate to the State of Georgia, once upon a time, reversing the conviction of a prisoner for murder. The mandate was that the prisoner should be discharged. How did the judiciary of the United States succeed? The Legislature of Georgia passed a joint resolution directing the sheriff to hang the man on a day certain, and he was hanged. The mandate was of no effect; and if ten thousand judiciaries of the United States were to attempt to say to the people of a State, acting through the forms of law, "we will make your constitution; we will say what your constitution shall be;" they will have as little satisfaction as from that mandate addressed to the State of Georgia.

But, sir, the Supreme Court of the United States never will entertain such a question. The court has solemnly decided upon argument of eminent counsel in the case of *Luther vs. Borden*, that it had no power to decide which of two instruments was the constitution of a State. The decision is here in the book to which I have referred. I will even guard that. The Senator shall have such a declaration in the act of admission that no President and no judiciary shall ever interfere with that construction of the constitution of Kansas which her own people and her own duly constituted authorities may place on it. I will protect the right of the State of Kansas to interpret her own constitution; for it is her right, through her

judiciary, through her Legislature, and through her State officers. I will protect it against the Federal Government; and that is the sole purpose of my amendment—not that I think the amendment necessary—not that I think any such emergency as the Senator suggests will ever arise, for I have not the slightest expectation of that; but, as I said, to silence a false clamor, that it may not go forth to be asserted from Maine to Georgia, from the Atlantic to the Pacific, that the Congress of the United States has oppressed the people of Kansas—has forced on them a constitution (I believe that is the phrase now) which is unalterable for eight, ten, or twenty years. To be sure, sir, there is a paragraph at the end of that section of the schedule to this effect:

"But no alteration shall be made to affect the rights of property in the ownership of slaves."

Why, said the Senator from Connecticut, [Mr. FOSTER,] although the rest of the constitution may be altered, they cannot abolish the institution of slavery! Mr. President, I would answer to that, if it were true, just what I answered before: the constitution could no more provide that one part of it should not be altered than none of it should be. This very clause, this fourteenth article of the schedule to the constitution of Kansas, was copied from the first constitution of the State of Ohio, with the single exception that the unalterable condition, as Senators call it, at the end, is the converse of what was in the first constitution of Ohio, namely, that no alteration should be made to introduce slavery into the State.

We had a convention of delegates in the State of Ohio, in May, 1850, of which three of my honored colleagues in the other House were members. I propounded to one of them, in December last, the question, "What was your view, as one of the delegates of the people of Ohio, when you formed our present constitution; did you understand that slavery could not be tolerated in this, if the people wished it?" "No," he said; "certainly we thought our powers unlimited; we excluded slavery in the new constitution because we did not like it, not because we were prevented by the old constitution." But the difficulty with this provision in the constitution of Kansas is, that it has no reference to the institution of slavery at all; it is a mere protection of a vested right in property; it extends simply to the persons held as slaves at the time of the alteration. In that the clause is simply a repetition of the bill of rights, namely, the tenth section: "Nor shall any person's property be taken or applied to the public use, unless compensation be made therefor." That clause would have been sufficient without the proviso contained in the schedule.

In that connection permit me to say here, rather as an episode, a few words as to the unfairness said to have been practiced on the people by the submission of the 21st of December. At one time I thought the complaint might possibly have some foundation, not having examined thoroughly the constitution of Kansas. When I heard eloquent Senators on this floor declare that no man was allowed to vote for or against slavery without also voting for the constitution, it struck me as the interpolation of a test in the right of suffrage as obnoxious as the test laws passed by the first Territorial Legislature of Kansas. When, however, I came to look at the question further, I saw that the constitution at large was not submitted at all, but only the seventh article. The seventh article has a name prefixed to it in the constitution; a title given to it—"Article seven, Slavery." That is the name of the article. It is just as much known by that name as each of us is known by his name. That seventh article is a simple addition to the constitution. The constitution is perfect without it; it would have been just as good a constitution without the seventh article as with it, and might have gone into effect without it; and at one time when I thought of offering a proposition to the Senate for the settlement of this question, before we knew fairly what the vote had been on the 21st of December, I proposed to admit the State of Kansas, and allow her people to vote afterwards, whether they would add the seventh article to the constitution or not, for it was just as good without the seventh article as with it; and they could add that afterwards if they chose.

What was the question submitted? The constitution with slavery; that is, with the seventh article; or the constitution with no slavery; that

is, without the seventh article. The whole question submitted was, will you have the seventh article, "slavery," added to the constitution or not? Of course, the form of words must be brief, and can never, in any such case, perfectly express the issue; but I do not think, after full consideration, it could have been more satisfactorily done.

But now follows a difficulty. The Senator from Michigan declares it a pro-slavery constitution without the seventh article; and the Senator from Wisconsin [Mr. DOOLITTLE] says: "I would rather have it with the seventh article than without it; it is a better anti-slavery constitution with the seventh article in than without it." On what is all this founded? Because the constitution does not confiscate a vested right of property. I am not going into Dred Scott's case. God forbid. We have had enough of that this session. I will take the broadest doctrine of squatter sovereignty ever proclaimed in the Senate by my venerable friend, General Cass, the late colleague of the Senator from Michigan. General Cass always claimed that the Territorial Legislature might either exclude or establish slavery. I think a great many denied that it could exclude, or, in strictness, establish. They said it could not forbid, but might regulate. But General Cass, who was said to be the father of all squatter sovereignty, uniformly proclaimed—I could not tell how many times I have heard him proclaim it in this Hall—that every Territorial Legislature could establish or prohibit slavery.

Well, sir, the first Legislature of Kansas established slavery. It is not material whether they were right or wrong in this, whether they acted wisely or unwisely; that is not the question. Nor is it material whether that Legislature was rightly chosen or was a usurpation. Let me grant all that is claimed in that regard; let me admit for the sake of the argument what otherwise I never have admitted and never will admit, for I consider it a mere bald assertion—that every man, or the majority, if you do not require so much, of that Legislature in both branches was a mere naked usurper. What then? It has been settled from the earliest time that the act of a man under color of office, actually in office, exercising the authority of the office, although it cannot advantage himself, although it cannot prevent him from punishment, although it cannot prevent him from being ousted by *quo warranto*, although it does not authorize him to recover the fees of the office, is nevertheless valid as to third persons.

Here was a body of men *de facto* the Legislature of the Territory of Kansas. They passed a law authorizing slaves to be taken into Kansas. Here was an honest citizen of your State, sir, or of the State of Tennessee, or of the State of Missouri, who did not know whether the Legislature had been rightfully chosen or not; he had not read this great Kansas book of the last Congress; he was in the same state of blissful ignorance in which our Republican friends say most of us are to this day, including the President. He had slaves which were his by the laws of Kentucky, Tennessee, or Missouri. The title was recognized by the laws of his own State. It was property, valid property, for which he had paid, and he read in the statutes of Kansas that he had a perfect liberty to take that slave into Kansas with him, and that he and his slave might live peaceably together, and till the soil, and he went thither. Now they come to make a constitution; and do Senators seriously pretend that the cause of human freedom or the cause of honesty as between man and man requires that one who has acted in good faith, against whom no imputation of being connected with any usurpation or outrage can be made, shall be punished by the loss of that which was declared to be property by the laws of Kansas, as well as by the laws of the State whence he emigrated? That would be the confiscation of private property.

I grant that property in a slave may be taken by due process of law, but you must make compensation for it, as for any other property. It can be done under the constitution of Kansas. It is expressly declared that any man's property may be taken for the public use by making compensation. Even the Government of Great Britain, thoroughly anti-slavery as she is, provided compensation for every slave she emancipated in Jamaica, St. Christopher, and the rest of her West Indian dominions. Now the complaint is, that this constitution has not divested a present right

of property. It extends no further than a present right. It follows the principle of the emancipation acts of New York, Pennsylvania, New Jersey, and other States. It declares that a slave, now a slave in the Territory of Kansas, shall remain such for his life, subject to be enfranchised by an act of the Legislature or by the act of his master—by the act of the Legislature on compensation. But is has no relation beyond those who are there now. The emancipation acts provided that the slaves then held as such should remain slaves for life, and their issue should remain slaves until the age of twenty-five. The constitution of Kansas is a better emancipation act than that one which Dr. Franklin proposed in the State of Pennsylvania, for it enfranchises the child from its birth. It is a great deal better than Dunn's bill, about which we heard so much in the last Congress; for Dunn's bill did make slaves of all the children born in Kansas, within two years from its date. Let us see whether this be not so. The schedule provides:

"If upon such examination of said poll books, it shall appear that a majority of the legal votes cast at said election be in favor of the 'constitution with no slavery,' then the article providing for slavery shall be stricken from this constitution by the president of this convention, and slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in this Territory shall in no manner be interfered with."

The institution of slavery is excluded by the sovereign voice of the people: "slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in this Territory shall in no manner be interfered with." I believe the Senator from Michigan undertook to say the issue would be slaves; but the "issue" are not slaves—not a whit more than if they were already in being and residents of the State of Michigan. It is the plain distinction between a present vested right of property and a contingency which may never happen. A vested right partakes of the character of property. When you confiscate or condemn a vested right of property, you must pay for it; but a right which may never accrue, and therefore is not vested, may be barred in advance, as this constitution has done. It simply amounts, without the seventh article, to a declaration that those slaves which had been taken into Kansas under the solemn authority of the territorial law, and who were there held as property at the date of the constitution, shall remain such, and the right of property in them be protected, unless the Legislature should emancipate them and provide compensation to the owner. I believe the State of New Jersey is in that condition at present. Certainly I think as late as the last census quite a number of negroes in the State of New Jersey were slaves. They were slaves before her act of emancipation, and that act did not divest the right of the owner in them. The consequence is, that, although we call New Jersey a non-slaveholding State, because she has abolished the institution of slavery, there are slaves held within her limits.

Mr. President, I have detained the Senate much longer than I expected. My principal purpose was to speak to my own amendment. I think—I am frank on that point—that the president of the constitutional convention is bound to finish his trust before Kansas ought to be admitted. I have always thought so. I do not think he has a right to withdraw his trust from our examination. I style him the mere trustee of an express trust. And whatever the constitution might be, if it were one entire and perfect chrysolite, what difference if the people do not control it? If those who have been elected to the various offices by the people do not obtain them? But, passing by that objection, which I hope will be obviated by his action—if not before the bill comes to a vote in this branch, before it be passed in the other—it appears to me, that although the history of Kansas has been a history of conflict, of quarrels, of troubles, which appear almost interminable, an opportunity is now presented for better times. There cannot be an election, there cannot be a Legislature, there cannot be a convention, without dispute. If regular on its face, some say it is fraudulent behind its face; and if not regular on its face, then it is void. We, grown men, some of us men of mature judgment and ripe experience, are to sit here in the Chamber of the Senate of the United States, in our comfortable chairs, and imagine that a scattered population on the prairie, who have been

hastily gathered there within the last three or four years, will transact all their business, take their censuses, register their votes, hold their elections, and pass their laws, with the absolute accuracy of a clerk of the red tape in one of our Government offices. We ought never to expect that.

Now, instead of relating the history of past controversies, let us behold what the future has in store. I have always approached the case of Kansas with a disposition to avoid recriminations, and an anxious desire that in some wise and timely measure, which could receive the approbation, if possible, not only of Senators from the North and the South together, but of Senators from every political organization, we might, as an offering of common patriotism and devotion to our common country, redeem Kansas from the anarchy which has been coeval with her existence. At the first term of my service in this body, that engaged our attention before all other subjects; but only, as at this session, to provoke apprehensions and animosities. Now, sir, I trust that by enfranchising Kansas as a sovereign State, by vesting in her people, in the most ample and perfect manner known to our Constitution and our laws, the power to conduct her own government, to alter, amend, and reform her institutions in whatever particular those institutions may be objectionable, we shall redeem that which thus far has constituted the most sorrowful page in all the history of our Republic.

Mr. STUART. I desire to say now simply that at an early day I shall take occasion to allude to the most remarkable argument of the Senator from Ohio; but my purpose at this time is to perform a small office for the Senator from Kentucky [Mr. CRITTENDEN] who had the floor and yielded to the Senator from Ohio. He desired to leave the Senate before the Senator from Ohio concluded his speech, and he wished it could be understood in the Senate before the adjournment that he would like to occupy the floor in the morning, to which I thought I could assure him there would be no objection. ["Certainly."] With such an understanding I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 16, 1858.

The House met at twelve o'clock, m. Prayer by Rev. W. A. HARRIS.

The Journal of yesterday was read and approved.

The SPEAKER announced that the business first in order was the continuation of the call of the States for bills and resolutions.

QUESTION OF PRIVILEGE.

Mr. CLINGMAN. There is a little matter of privilege which I would like for a moment to bring to the attention of the House. It will consume but a moment, and I think the Chair will see that it is a question of privilege as soon as I state it.

The SPEAKER. The Chair is of opinion that no question of privilege can intervene until the order of the House of yesterday has been executed—an order by which the rules were suspended, and the Chair directed to call the States for bills and resolutions.

Mr. CLINGMAN. I understand that that resolution makes the call a special order; but I think a question affecting the privileges of the House might come in even during the consideration of a special order. It is a matter I desire very much to bring to the consideration of the House.

Mr. GROW. I understand that the resolution of yesterday was only to apply to that day.

Mr. CLINGMAN. My question of privilege grows up under the rule regulating the proceedings of the committees of the House, in regard to publishing their reports before they are submitted to the House. I see the reports of some of the committees of the House appear in the public prints before they are made to the House.

Mr. MORGAN. Let us have the question of order settled, before the gentleman proceeds.

The SPEAKER. In the opinion of the Chair, the question cannot intervene until the order of the House of yesterday has been executed.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

The SPEAKER then proceeded to call the

States for bills and resolutions, under the following order adopted yesterday:

Resolved, That the Secretary be called, beginning where the Speaker left off, and upon said call members may introduce bills for reference only, and of which previous notice has been given, and resolutions for reference to which no objection is made; and said bills shall not again be brought before the House by motions to reconsider.

GRANT OF LANDS TO THE STATE OF IOWA.

Mr. WASHBURN, of Illinois, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to communicate to the House the amount of land certified to the State of Iowa for the purpose of building a railroad "from the city of Dubuque to a point on the Mississippi river, near Sioux City, with a branch from the mouth of the Tête des Morts to the nearest point on the said road, to be completed as soon as the main branch is completed to that point;" whether the said branch has been completed, and, if not, whether he has certified to the said State any land for building the main line of the said road beyond the point of intersection of the said branch from the mouth of the Tête des Morts.

SHADE CALLOWAY.

Mr. WASHBURN, of Illinois, introduced a bill for the relief of Shade Calloway; which was read a first and second time, and referred to the Committee on Commerce.

TERRA JAPONICA.

Mr. LOVEJOY. I wish to call the attention of the House to a resolution I introduced yesterday in reference to seeds and cuttings of the *terra japonica*. I think the matter was not understood. The article referred to is used in the process of tanning leather. From what I learned after the resolution was introduced, I judge that the matter was not understood. I therefore ask unanimous consent to introduce the resolution now.

The resolution was read, as follows:

Resolved, That the Committee on Agriculture be instructed to inquire into the expediency of an appropriation for the purpose of obtaining a supply of the seeds and cuttings of the *terra japonica* for cultivation in this country.

Mr. LETCHER objected.

DISTRICT COURTS IN ILLINOIS.

Mr. MARSHALL, of Illinois, introduced a bill providing for holding terms of the United States district court at Cairo, Illinois; which was read a first and second time, and referred to the Committee on the Judiciary.

POST ROUTE IN ILLINOIS.

Mr. MARSHALL, of Illinois, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety of establishing a post route from Golconda, Pope county, to Raleigh, in Saline county, Illinois, and that they be directed to report by bill or otherwise.

PAYMENT OF MONEY TO MISSOURI.

Mr. PHELPS introduced a bill to pay to the State of Missouri the amount expended by said State for repelling the invasion of the Osage Indians; which was read a first and second time, and referred to the Committee on Military Affairs.

PACIFIC RAILROAD.

Mr. PHELPS also introduced a bill to aid in the construction of a railroad from St. Louis to San Francisco, with certain branches thereto, and securing to the United States a perpetual right to the priority of use of the same for all Government transportation; which was read a first and second time, referred to the select committee on the Pacific railroad, and ordered to be printed.

POST ROUTES.

Mr. PHELPS offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing post roads in the State of Missouri, from Bolivar, via Pleasant Hope, to Marshfield; from Fremont, via Wheatland, to Lamar; from Pilot Knob to Houston; and from Marshfield, via St. Luke, to Buffalo.

KANSAS BOUNDARY SURVEYS.

Mr. PHELPS offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be hereby requested to communicate to the House a copy of the report of the survey of the southern boundary line of the Territory of Kansas, and the map accompanying the same; also, the report of Lieutenant Colonel Johnston, of the practicability of the country explored by him last summer, for a railroad; and that he also communicate to this House a copy of the report and of the map of the survey of the Creek Indian boundary line made by Captains Sargeant and Woodruff.

SHEPHERD AND CALDWELL.

Mr. ANDERSON introduced a bill for the relief of John H. Shepherd, and Walter K. Caldwell, of Pike county, Missouri; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

POST ROADS IN MISSOURI.

Mr. ANDERSON also introduced a bill to establish certain post roads in the State of Missouri, namely: from Florida, in Monroe county, via Santa Fe, to Mexico, in Audrain county; and from High Hill, in Montgomery county, on the North Missouri railroad, by Price's Branch and Tiviot, in said county, and Truxton, Lost Branch, and Louisville, in Lincoln county, to Ashley, in Pike county; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LAND OFFICES IN MISSOURI.

Mr. CLARK, of Missouri, introduced a bill to continue, temporarily, certain land offices in the State of Missouri; which was read a first and second time, and referred to the Committee on Public Lands.

MAIL ROUTES IN MISSOURI.

Mr. CLARK, of Missouri, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a tri-weekly mail route from the town of Fayette, Howard county, via Bunker's Hill to Sturgeon, in Boone county, Missouri, and that they report by bill or otherwise.

ACCOUNTS OF LATE JOHN G. MILLER.

Mr. WOODSON offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Speaker of the House be, and he is hereby, directed to adjust and settle the accounts of Hon. John G. Miller, deceased, late a member of the House, in the Thirty-Fourth Congress, from the State of Missouri, under the provisions of the compensation act passed at the first session of the said Congress, and on the same terms as the accounts of other members of said Congress were settled; estimating his salary from the 3d of March, 1855, when said Congress commenced, to the 11th day of May, 1856, the day of said Miller's decease; and deducting from said salary any amounts heretofore paid on account of said Miller's per diem during the said Congress; and that the remainder be paid to his legal representative.

RAILROADS IN KANSAS.

Mr. WOODSON introduced a bill granting the right of way to the Kansas City, Galveston and Lake Superior Railroad Company; and a portion of the public lands to the Territory of Kansas, to aid in the construction of the Kansas City, Galveston and Lake Superior railroad; which was read a first and second time, and referred to the Committee on Public Lands.

POST ROADS IN KANSAS.

Mr. WOODSON offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing the following post roads, to wit: from Waynesburg, in the State of Missouri, via Harrisonville, to Minnesota, in Kansas Territory; and from Independence, Missouri, via Hickman's Mill and New Santa Fe, to Fort Scott, in Kansas Territory; and that they report by bill or otherwise.

KANSAS VALLEY RAILROAD.

Mr. WOODSON introduced a bill granting the right of way to the Kansas Valley Railroad Company, and a portion of the public lands to the Territory of Kansas, to aid in building the Kansas valley railroad; which was read a first and second time, and referred to the Committee on Public Lands.

ST. JOSEPH AND TOPEKA RAILROAD.

Mr. CRAIG, of Missouri, introduced a bill granting the right of way to the St. Joseph and Topeka Railroad Company, and a portion of the public lands in the Territory of Kansas, to aid in the construction of a railroad from the city of St. Joseph in the State of Missouri, via Topeka, to the boundary of Kansas, in the direction of Santa Fe, in New Mexico; which was read a first and second time, and referred to the Committee on Public Lands.

ST. JOSEPH MARINE HOSPITAL.

Mr. CRAIG, of Missouri, also introduced a bill to provide for the construction of a marine hospital at the city of St. Joseph, in the State of

Missouri; which was read a first and second time, and referred to the Committee on Commerce.

BOUNTY LAND LAW.

Mr. CRAIG, of Missouri, also introduced a bill to amend the existing laws in relation to bounty lands; which was read a first and second time, and referred to the Committee on Public Lands.

MISSISSIPPI RIVER AND TRIBUTARIES.

Mr. BLAIR introduced a bill making an appropriation for the improvement of the Mississippi, Missouri, Ohio, and Arkansas rivers by contract; which was read a first and second time, and referred to the Committee on Commerce.

MISSOURI RESOLUTION.

Mr. BLAIR presented a joint resolution of the Legislature of the State of Missouri in relation to additional townships for seminary lands; which was referred to the Committee on Public Lands, and ordered to be printed.

IMMIGRATION OF FREE NEGROES.

Mr. BLAIR asked leave to offer the following resolution:

Resolved, That the Committee on the Judiciary be instructed to report a bill to prohibit the importation or immigration of free persons from Africa under indentures of apprenticeship, or stipulations for service, into any port of the United States, and to make the same punishable with the same penalties inflicted upon persons engaged in the African slave trade in the act prohibiting that inhuman traffic.

Mr. LETCHER. That resolution gives absolute instructions; does it not?

Mr. BLAIR. Yes, sir.

Mr. LETCHER. I object to it.

CHOCTAW LANDS.

Mr. SINGLETON by unanimous consent introduced a bill for the relief of certain purchasers of lands within the limits of the Choctaw cession of 1830; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. SMITH, of Illinois. I ask the consent of the House to present a resolution which was not ready when the State of Illinois was called.

Mr. LEACH. I object, until the call shall have been gone through with.

NEGRO STEALING IN THE INDIAN COUNTRY.

Mr. GREENWOOD introduced a bill to punish negro stealing in the Indian country; which was read a first and second time, and referred to the Committee on the Judiciary.

REPORT ON INDIAN AFFAIRS.

Mr. GREENWOOD asked leave to offer the following resolution:

Resolved, That one thousand copies of the report of the Commissioner of Indian Affairs be printed for the use of the Indian office.

Mr. LOVEJOY objected.

INSPECTORS DISTRICT AT NAPOLEON.

Mr. WARREN introduced a bill providing for the establishment of an inspectors district at Napoleon, Arkansas.

Mr. LOVEJOY. Has previous notice been given?

Mr. WARREN. Yes, sir.

The bill was read a first and second time, and referred to the Committee on Commerce.

DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. HOWARD introduced a joint resolution respecting the distribution of certain public documents; which was read a first and second time.

Mr. HOWARD. This resolution is merely to supply a deficiency in the Department of the Interior for distributing some seven, eight, or ten copies of the public documents which have been furnished to the Territories and the District of Columbia, instead of going to the congressional districts. I suppose, if there be no objection, it may be put on its passage.

Mr. MORGAN. I have no doubt that, upon a minute's explanation, members will see that the resolution is right. At the close of the last session of Congress, a law was passed requiring two hundred and thirty-five sets of the public documents, formerly lodged in the hands of the Secretary of State, and since placed in the hands of the Secretary of the Interior, to be distributed in the several congressional districts. The Secretary of the Interior sent seven of those sets into the Territories; and the consequence is, that some of the con-

gressional districts have not been supplied with them. This resolution is to supply the deficiency, and to enable the members of the several districts to designate the libraries to which they shall be sent, instead of the Secretary of the Interior. I understand the Secretary of the Interior desires it. The resolution makes no appropriation; and I hope it may be passed without delay.

Mr. NICHOLS. I desire to ask the gentleman from New York if the object is not covered by the resolution introduced by the gentleman from North Carolina yesterday?

Mr. MORGAN. No, sir; the bill introduced by the gentleman from North Carolina does not relate to this at all. These books are on hand to be distributed, and the Secretary of the Interior would like to have the order passed.

The joint resolution was read *in extenso*.

Mr. JONES, of Tennessee, objected to its passage.

The resolution was then referred to the Joint Committee on the Library.

INDIAN RESERVES IN MICHIGAN.

Mr. LEACH introduced a bill for the relief of the settlers upon certain Indian reserved lands in the State of Michigan; which was read a first and second time, and referred to the Committee on Public Lands.

LIGHT-HOUSE AT THUNDER BAY RIVER.

Mr. LEACH introduced a bill making an appropriation for the construction of a pier and light-house at the mouth of Thunder Bay river, in the State of Michigan; which was read a first and second time, and referred to the Committee on Commerce.

HARBORS AT MACKINAW CITY.

Mr. LEACH introduced a bill making an appropriation for the improvement of the harbors at Mackinaw City, in the State of Michigan; which was read a first and second time, and referred to the Committee on Commerce.

MARINE HOSPITAL AT APPALACHICOLA.

Mr. HAWKINS introduced a bill for the erection of a marine hospital at Appalachicola, Florida; which was read a first and second time, and referred to the Committee on Commerce.

DISTRICT JUDGE OF FLORIDA.

Mr. HAWKINS introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the propriety of increasing the salary of the judge of the northern district of Florida; and that they report by bill or otherwise.

FORTIFICATIONS IN FLORIDA.

Mr. HAWKINS introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire as to the propriety and necessity of fortifying the mouth of the river St. John and the harbors of Tampa and Appalachicola, in the State of Florida; and that they report thereupon by bill or otherwise.

CUSTOM-HOUSE AT POINT ISABEL.

Mr. BRYAN introduced a bill to provide for the erection of a custom-house at Point Isabel, in the collection district of Brazos Santiago, in the State of Texas; which was read a first and second time, and referred to the Committee on Commerce.

FORTIFICATIONS IN TEXAS.

Mr. BRYAN introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to report by bill or otherwise, a provision for the erection of suitable fortifications at the mouth of Brazos river, San Luis Pass, and Pasa Cabello, in Texas.

RESOLUTIONS OF TEXAS LEGISLATURE.

Mr. BRYAN presented a joint resolution of the Legislature of Texas, in relation to the payment of the public debt of Texas; which was referred to the Committee of Ways and Means.

Also, a joint resolution of the same body in relation to Kansas; which was laid on the table, and ordered to be printed.

ADDITIONAL LAND DISTRICT IN IOWA.

Mr. DAVIS, of Iowa, introduced a bill to establish an additional land district in the State of

Iowa; which was read a first and second time, and referred to the Committee on Public Lands.

JOHN R. NOURSE.

Mr. DAVIS, of Iowa, also introduced a bill for the relief of John R. Nourse; which was read a first and second time, and referred to the Committee on the Judiciary.

GRANTS OF LAND TO IOWA RAILROADS.

Mr. DAVIS, of Iowa, also introduced a bill making a grant of land to the State of Iowa in alternate sections, to aid in the construction of a railroad from McGregor, on the Mississippi river, to the west line of said State; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. DAVIS, of Iowa, also introduced an act making a grant of land to aid in building a railroad in the State of Iowa; which was read a first and second time, and referred to the Committee on Public Lands.

JOINT RESOLUTIONS OF IOWA LEGISLATURE.

Mr. DAVIS, of Iowa, presented the following joint resolutions and memorials of the Legislature of the State of Iowa; which were laid on the table, and ordered to be printed:

A memorial for a grant of land to aid in the construction of the Lansing and Northern Iowa and Southern Minnesota railroad;

A memorial asking Congress to appropriate a sum sufficient to the State of Iowa to indemnify the said State for all necessary expenses incurred in an expedition raised under authority of the Governor of the State of Iowa, to relieve the settlements on Spirit Lake, in March, 1857;

A joint resolution asking for bounty land warrants for the volunteers of the Spirit Lake expedition;

A joint resolution asking Congress for a grant of land to aid in the construction of certain railroads;

A memorial to Congress in favor of restricting the sale of public lands to actual settlers; and

A memorial for the relief of James B. Thomas and family.

THE VOLUNTEER BILL.

Mr. CURTIS offered the following resolution:

Resolved, That House bill No. 313, to provide for the organization of a regiment of mounted volunteers, and to authorize the President to call into the service of the United States four additional regiments of volunteers, be made the special order of the day for to-day, and each succeeding day for three days, or until the same be disposed of.

Mr. WASHBURN, of Illinois, objected.

ADJOURNMENT OF CONGRESS.

Mr. BILLINGHURST offered a joint resolution fixing the time for the adjournment of Congress.

The resolution was read, as follows:

Resolved, That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses of Congress *sine die* on the first Monday in June next, at twelve o'clock, m., of that day.

Mr. BILLINGHURST. If there be no objection I ask to have the resolution put upon its passage.

Mr. MILLSON. I object.

POST OFFICE DEPARTMENT.

Mr. POTTER offered the following resolution:

Whereas, the true policy of government requires that the legislative power shall not intervene between the legitimate objects of individual enterprise and competition; and whereas, the purity of government requires that its patronage shall be reduced and kept at its lowest possible limit; and whereas, the patronage dispensed by the Government of the United States through the Post Office Department is rapidly increasing, thereby extending and enlarging the influence and power of the central Government; and whereas, the Federal Government, while monopolizing the transportation of the mail matter of the country, and assuming the business of a common carrier, refuses to hold itself responsible to her citizens for losses which may occur through the negligence or default of its agents:

Resolved, That the Committee on the Post Office and Post Roads be, and they are hereby, requested to report to this House as to the expediency of abolishing the present postal system of the United States, and "leaving the people thereof perfectly free" to transmit and receive their letters and other mail matter "in their own way."

Mr. CLEMENS. I object to that resolution.

Mr. POTTER. It is merely a resolution for reference to a committee.

Mr. CLEMENS. Strike out the last two lines, or add "subject to the Constitution of the United States," and I will withdraw objection. [Laughter.]

Mr. REAGAN. I object to the resolution.

LIGHT-HOUSE MATTERS.

Mr. POTTER offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, requested to transmit to this House a report, in detail, of the disbursements made by the engineer, officer in charge, and the inspector of light-houses in district No. 11 on the northwestern lakes, stating how many, and at what points, lights have been exhibited during the season of 1857; also, what new works have been commenced and what completed, the repairs made, and at what points, the amount expended at each point; also the cost for material and subsistence, and the amount required to complete the work at each point where the work is unfinished; also how many, and what vessels, steamboats, tugs, or other water craft, have been chartered, purchased, or employed for the light-house service in the tenth and eleventh districts, and the tonnage of, and the nature of the service performed by, and the cost of each of said vessels, boats, or other water craft so chartered, purchased, or employed; also the cost of repairs of said vessels, boats, &c., and the cost of running the same up to the close of navigation of the year 1857; also the amount, in detail, of any outstanding claims against the Department for the use of any of said vessels, boats, tugs, &c., or for any work, labor, or materials, performed or furnished on any contract made and entered into on behalf of the board in district No. 11, and also the names of the claimants.

EXPLORATION OF AMOOR RIVER.

Mr. SCOTT offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be, and he is hereby, requested to furnish to this House, as soon as practicable, if not incompatible with the public interest, all information that may be on file in the State Department relative to the exploration of the Amoor river.

HARBORS IN CALIFORNIA.

Mr. SCOTT also offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce is hereby instructed to inquire into the expediency of making an appropriation for the protection and preservation of the harbors of San Diego and San Pedro, in California; and to report by bill or otherwise.

PACIFIC RAILROAD.

Mr. McKIBBIN introduced a bill to authorize the President of the United States to contract for the construction of military roads, and for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by said roads, from points on or near the Mississippi river to the Pacific ocean; which was read a first and second time, referred to the select committee on the Pacific railroad, and ordered to be printed.

CALIFORNIA BONDS AND CERTIFICATES.

Mr. McKIBBIN also introduced a bill making an appropriation for the payment of bonds and certificates issued by the State of California, for the payment of expenses incurred in the suppression of Indian hostilities in that State; which was read a first and second time, and referred to the Committee on Indian Affairs.

S. W. HOLLODAY.

Mr. McKIBBIN also introduced a bill for the relief of S. W. Holloday; which was read a first and second time, and referred to the Committee on Private Land Claims.

BILLS ON THE SPEAKER'S TABLE.

Mr. KINGSBURY. I ask the consent of the House to offer the following resolution:

Resolved, That the House take up Senate bills lying on the Speaker's table, and refer them to their appropriate committees, immediately after the House shall have completed its present order of business.

Mr. SEWARD. I object.

MAIL ROUTES IN OREGON.

Mr. LANE, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be requested to inquire into the expediency of establishing a mail route by way of the military road from Salem, Oregon, to Astoria in said Territory, and also from Roseburg via the Coquill valley to Empire City, at Coos bay; also from Salem to Tillamook bay.

TERRITORY OF WASHINGTON.

Mr. STEVENS, of Washington, introduced a bill to extend the provisions of an act to amend an act to establish a territorial government in Oregon, and of an act to establish a territorial government in Minnesota to the Territory of Washington; which was read a first and second time, and referred to the Committee on Territories.

MISSOURI AND COLUMBIA RIVERS.

Mr. STEVENS, of Washington, also introduced a bill for the construction of a wagon road connecting the navigable waters of the Missouri and Columbia rivers; which was read a first and second time, and referred to the Committee on Military Affairs.

PUBLIC LAND SURVEYS IN WASHINGTON.

Mr. STEVENS, of Washington, also introduced a bill to authorize augmented rates for surveying the public lands in the Territory of Washington; which was read a first and second time, and referred to the Committee on Public Lands.

CHARLES H. MASON.

Mr. STEVENS, of Washington, also introduced a bill for the relief of Charles H. Mason; which was read a first and second time, and referred to the Committee on Military Affairs.

RESOLUTIONS OF WASHINGTON TERRITORY.

Mr. STEVENS, of Washington, presented joint resolutions of the Territorial Legislature of Washington relative to making Vancouver a port of delivery; which were referred to the Committee on Commerce, and ordered to be printed.

Also, joint resolutions of the Territorial Legislature of Washington relative to the erection of a marine hospital in that Territory; which were referred to the Committee on Commerce, and ordered to be printed.

Also, joint resolutions of the Territorial Legislature of Washington asking a donation of the public lands for the erection of a lunatic asylum; which were referred to the Committee on Public Lands, and ordered to be printed.

LANDS TO ACTUAL SETTLERS IN KANSAS.

Mr. PARROTT introduced a bill to donate portions of the public lands to actual settlers in Kansas Territory; which was read a first and second time, and referred to the Committee on Public Lands.

RAILROADS IN KANSAS.

Mr. PARROTT introduced a bill to aid the Territory of Kansas in the construction of certain railroads, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

PRE-EMPTION RIGHTS, ETC.

Mr. PARROTT, also introduced a bill to amend the act of 4th September, 1841, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preëemption rights;" which was read a first and second time, and referred to the Committee on Public Lands.

SURVEYOR GENERAL, ETC.

Mr. PARROTT also introduced a bill to amend an act entitled "An act to establish the offices of surveyor general in New Mexico, Kansas, and Nebraska, to grant donations of lands to actual settlers therein, and for other purposes;" which was read a first and second time, and referred to the Committee on Public Lands.

MILITARY ROADS IN KANSAS.

Mr. PARROTT also introduced a bill making appropriations for the repair of certain military roads in Kansas Territory; which was read a first and second time, and referred to the Committee on Military Affairs.

PRISON FOR KANSAS.

Mr. PARROTT also introduced a bill making appropriations for the erection of a public prison in Kansas Territory; which was read a first and second time, and referred to the Committee on Territories.

BILLS ON THE SPEAKER'S TABLE.

Mr. KINGSBURY asked leave again to present the following resolution:

Resolved, That the House take up the Senate bills lying on the Speaker's table, and refer them to their appropriate committees, immediately after the House shall have completed its present order of business.

Mr. MORRIS, of Illinois, objected.

BILLS IN REFERENCE TO NEBRASKA.

Mr. CRAIG, of Missouri. The Delegate from Nebraska is unable to be in his seat, being sick at his hotel. He has sent me four bills and joint

resolutions, which he requests me to present for him, all referring to territorial matters.

No objection being made,

Mr. CRAIG, of Missouri, introduced the following bills and joint resolution for Mr. Ferguson, of Nebraska; which were severally read a first and second time, and referred as indicated below:

A bill to complete the capitol buildings of Nebraska Territory. Referred to the Committee on Territories.

A bill to authorize the Secretary of War to settle and adjust the expenses incurred in defending the frontier settlements of Nebraska against the Indians in the year 1855. Referred to the Committee on Military Affairs.

A bill for the relief of Monroe D. Downs. Referred to the Committee on Public Lands.

A joint resolution authorizing the accounting officers of the Treasury to adjust the expenses of the board of commissioners appointed under a joint resolution of the Territorial Assembly of Nebraska to prepare a code of laws for the government of said Territory. Referred to the Committee on Territories.

CAPTAIN HIRAM PAULDING.

Mr. FOSTER introduced a joint resolution tendering the thanks of Congress to Captain Hiram Paulding; which was read a first and second time.

Mr. WRIGHT, of Georgia. Has notice of that resolution been given?

The SPEAKER. The Chair is informed that it has.

The resolution was then referred to the Committee on Naval Affairs.

Mr. FOSTER. Is it in order to fix a day for the consideration of that resolution?

The SPEAKER. Only by unanimous consent.

Mr. WRIGHT, of Georgia. Is this a proper time to move a substitute for the resolution?

The SPEAKER. The resolution is not before the House for amendment.

COST OF PUBLIC PRINTING.

Mr. CRAGIN submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Superintendent of Public Printing be requested to report to this House the aggregate cost of the public printing, including cost of paper, binding, engraving, lithographing, and electrotyping, ordered by the Thirty-Third Congress; and also the aggregate cost of the same ordered by the Thirty-Fourth Congress.

PREVENTION OF THE COOLY TRADE.

Mr. WALTON asked unanimous consent to introduce the following resolution:

Resolved, That the Committee on the Judiciary be instructed to report a bill more effectually to prevent the slave trade, under guise of the "cooly trade," so-called, or of "apprentices," or of "African labor importation companies," or under any other name, or in any other words, the real purpose or effect of which may be, directly or indirectly, immediately or ultimately, to make slaves of the persons so procured and transported.

Mr. HOUSTON objected.

CHANGE IN NAMES OF VESSELS.

Mr. COMINS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to the House of Representatives the number of vessels the names of which have been changed under the act of March 5, 1856, entitled "An act authorizing the Secretary of the Treasury to change the names of vessels in certain cases;" also, by whom such vessels were owned at the time of the change of names, and how many of such vessels have been lost or foundered at sea; and, also, the reasons assigned for changing the name of the late United States mail steamship George Law, to that of Central America.

MARINE HOSPITAL AT BOSTON.

Mr. DAVIS, of Massachusetts, introduced a bill authorizing the Secretary of the Treasury to ascertain and pay the balance due on a tract of land heretofore ceded for the purpose of a marine hospital for the district of Boston and Charles-town, to the credit of the naval hospital fund; which was read a first and second time, and referred to the Committee on Naval Affairs.

RESOLUTIONS OF NEW YORK LEGISLATURE.

Mr. KELSEY presented concurrent resolutions of the State of New York, in favor of granting pensions to the surviving soldiers of Indian wars, from 1791 to 1795; which were laid upon the table, and ordered to be printed.

Also, concurrent resolutions of the same body, in reference to the distribution of arms to the militia of the several States; which were referred to the Committee on the Militia, and ordered to be printed.

DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. MORGAN. I offer the same joint resolution, respecting the distribution of certain public documents, which was presented just now by the gentleman from Michigan, [Mr. HOWARD.] Objection is withdrawn.

Mr. SANDIDGE. I would like to inquire what will be the effect of that joint resolution?

Mr. MORGAN. In reply to the gentleman's inquiry, I will say this: by resolution of the last Congress, two hundred and thirty-five copies of public documents were placed in the hands of the Secretary of the Interior for distribution among the congressional districts. The Secretary of the Interior sent seven copies to the seven Territories, and gave two to the District of Columbia, taking out, in all, nine copies. The consequence was, that nine congressional districts have been left without copies, and this joint resolution is to supply the deficiency. The books are all on hand, and have not to be published.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FLORENCE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COURT OF CLAIMS.

Mr. TAYLOR, of New York, introduced a bill to amend an act entitled "An act to establish a court for the investigation of claims against the United States;" which was read a first and second time, and referred to the Committee on the Judiciary.

PAY OF THE ARMY AND NAVY.

Mr. TAYLOR, of New York, also introduced a bill to regulate and equalize the pay of the Navy and Army; which was read a first and second time, and referred to the Committee on Naval Affairs.

INSTITUTION FOR PROMOTION OF SCIENCE.

Mr. TAYLOR, of New York, also introduced a bill for the relief of the National Institute for the Promotion of Science; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

PATENT OFFICE REPORT OF 1857.

Mr. RUSSELL offered the following resolution:

Resolved, That the Committee on Printing be instructed to report to this House the proper number of copies of the mechanical branch of the Patent Office report of 1857 to be printed for the use of this House.

Mr. JONES, of Tennessee, objected.

NEW YORK BARGE OFFICE.

Mr. JOHN COCHRANE introduced a bill making an appropriation for strengthening and securing the foundations of the United States barge office in the city of New York; which was read a first and second time, and referred to the Committee on Commerce.

LANDS FOR AGRICULTURAL COLLEGES.

Mr. JOHN COCHRANE also presented resolutions of the State Agricultural Society of the State of New York, for the distribution of certain portions of the public lands to the States and Territories, for the benefit of agricultural colleges therein; which were referred to the Committee on Public Lands.

CONVENTION OF ARTISTS.

Mr. JOHN COCHRANE also offered the following resolution:

Whereas, a convention of delegates from the different art institutions of the United States is to be held in the city of Washington on the 20th day of March, 1858: Therefore,

Resolved, That the convention be allowed the use of the old Hall of Representatives for its meetings.

Mr. BURNETT objected.

NEW YORK AGRICULTURAL SOCIETY.

Mr. HATCH. I hold in my hand resolutions of the Agricultural Society of the State of New York, and I desire to have them read.

Mr. JONES, of Tennessee. I object.

NIAGARA SHIP CANAL.

Mr. BURROUGHS introduced a bill granting land to the Niagara ship canal in the State of New York; which was read a first and second time. He moved that it be referred to a select committee of nine to be appointed by the Speaker.

Mr. COBB. This is an important bill proposing to give away a large quantity of lands. I move that it be referred to the Committee on Public Lands.

Mr. LETCHER. Out of regard to my friend, who sits by me, [Mr. JONES, of Tennessee,] I move its reference to the Committee on Roads and Canals, as that committee has nothing to do.

Mr. JONES, of Tennessee. I think it would be a good thing for the country if many of these committees had less to do.

Mr. BURROUGHS called for tellers on Mr. LETCHER's motion.

Tellers were ordered; and Messrs. BURROUGHS and JOHN COCHRANE were appointed.

The House divided; and the tellers reported—ayes 56, nays 67.

So the House refused to refer the bill to the Committee on Roads and Canals.

Mr. SHERMAN, of Ohio. I move that the bill be referred to the Committee on Commerce. That committee have always had charge of such subjects.

Mr. COBB. I moved to refer it to the Committee on Public Lands, because the bill makes an appropriation of the public lands.

The SPEAKER. Debate is not in order.

Mr. BURROUGHS. I ask for tellers on the motion to refer to the Committee on Commerce. Tellers were ordered; and Messrs. WINSLOW and BUFFINTON were appointed.

Mr. SHERMAN, of Ohio. I withdraw the motion.

Mr. COBB. As my friends around me wish to indulge the gentleman from New York in having his bill referred to a select committee, I will withdraw my motion to refer to the Committee on Public Lands.

Mr. JONES, of Tennessee. I move to lay the bill on the table.

Mr. COVODE. Is it in order to move to lay the bill on the table in this stage of the proceedings? I thought the order of the House provided that a bill should only be introduced for reference.

Mr. JONES, of Tennessee. It is in order, I imagine, if a majority choose to send it there.

The SPEAKER. The Chair has some doubt whether the motion is in order.

Mr. GROW. The same point arose yesterday, and the Chair decided it was not in order.

Mr. STANTON. I think the motion is not in order. The order of the House does not contemplate that any action shall be taken on bills introduced. Now, sir, to lay a bill on the table is direct action on its merits, and I think is not in order.

The SPEAKER. The language of the order is, that "the States be called, beginning where the Speaker left off; upon such call members may introduce bills for reference only, and of which previous notice has been given."

Mr. JOHN COCHRANE. "For reference only" is the object of the member who introduces the bill; but the House has power to dispose of what is introduced. I move that the bill be laid on the table.

Mr. LOVEJOY. Is debate in order?

The SPEAKER. It is not.

Mr. LOVEJOY. Then I object to debate.

Mr. STANTON. If you may lay it upon the table you may engross and pass it.

The SPEAKER. Unquestionably the bill could not be put upon its passage.

Mr. STANTON. Then I submit that you cannot lay it upon the table.

Mr. JONES, of Tennessee. Does the Chair decide that my motion is in order?

The SPEAKER. The Chair thinks it is not in order.

Mr. JONES, of Tennessee. Then I make another motion. I move to refer the bill to the Committee of the Whole on the state of the Union, and upon that I demand the yeas and nays; and ask for tellers on the yeas and nays.

Tellers were ordered; and Messrs. CRAIG, of North Carolina, and WALDRON were appointed.

The House divided; and the tellers reported—ayes thirty-five; (a sufficient number.)

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 87, nays 101; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bocock, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caskey, John B. Clark, Clay, Clingman, Cobb, Cocke, Cox, Burton Craig, Crawford, Davidson, Davis of Indiana, Dewart, Dowdell, Edmundson, Elliott, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gregg, Groesbeck, Thomas L. Harris, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, McClay, McQueen, Samuel S. Marshall, Mason, Maynard, Millson, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Powell, Quitman, Ready, Reagan, Reilly, Rufin, Seales, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stevenson, James A. Stewart, Talbot, Miles Taylor, Tripp, Warren, Watkins, Winslow, and John V. Wright—87.

NAYS—Messrs. Abbott, Adrain, Arnold, Bennett, Bingham, Blair, Bliss, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, John Cochrane, Colfax, Comins, Corning, Covode, Cragin, James Craig, Curtis, Damrell, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dick, Durfee, English, Farnsworth, Foster, Giddings, Gilman, Goode, Granger, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Hatch, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Olin, Palmer, Parker, Pettit, Phelps, Phillips, Pike, Potter, Poule, Ricard, Ritchie, Roberts, Royce, Russell, Sandidge, Searing, Seward, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, George Taylor, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Woodson, Wortendyke, and Augustus R. Wright—101.

So the House refused to refer the bill to the Committee of the Whole on the state of the Union.

Pending the call,

Mr. STEPHENS, of Georgia, stated that had he been in the Hall when his name was called he should have voted in the affirmative.

Mr. GROW stated that Mr. FENTON had been called home by urgent business, and had paired off with Mr. KELLY.

Mr. FAULKNER stated that Mr. GOODE was absent from indisposition.

The question recurred upon the motion to refer the bill to a select committee.

Mr. JONES, of Tennessee. I move to refer the bill to the Committee on Public Lands.

Mr. BURROUGHS. That motion has been once made.

The SPEAKER. It was withdrawn. The House did not vote on it.

Mr. JONES, of Tennessee. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 83, nays 94; as follows:

YEAS—Messrs. Adrain, Ahl, Atkins, Avery, Barksdale, Bishop, Bocock, Bonham, Bowie, Boyce, Bryan, Burnett, Caskey, Chapman, John B. Clark, Clingman, Cobb, Cocke, Cox, James Craig, Burton Craig, Crawford, Damrell, Davidson, Davis of Indiana, Dean, Dowdell, Edmundson, Elliott, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Greenwood, Hopkins, Houston, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, McQueen, Samuel S. Marshall, Mason, Maynard, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Russell, Sandidge, Savage, Seales, Aaron Shaw, Henry M. Shaw, Shorter, Robert Smith, Samuel A. Smith, Stevenson, James A. Stewart, Talbot, Miles Taylor, Watkins, Winslow, Wortendyke, and John V. Wright—83.

NAYS—Messrs. Abbott, Arnold, Bennett, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, John Cochrane, Colfax, Comins, Corning, Covode, Cox, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Farnsworth, Foster, Gilman, Goodwin, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Hatch, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Humphrey Marshall, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pettit, Potter, Ritchie, Ricard, Roberts, Roberts, Royce, Russell, Searing, Seward, John Sherman, Judson W. Sherman, Singleton, Spinner, Stanton, William Stewart, George Taylor, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Woodson, and Augustus R. Wright—94.

So the House refused to refer the bill to the Committee on Public Lands.

The question was then taken on the motion to refer the bill to a select committee of nine; and it was agreed to.

CUSTOM-HOUSE AT SAG HARBOR.

Mr. SEARING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be, and they are hereby, instructed to inquire into the expediency of erecting a custom-house and post office in the village of Sag Harbor, New York; and that they report by bill or otherwise.

COMPENSATION OF CERTAIN POSTMASTERS.

Mr. SPINNER, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Whereas, by a joint resolution of Congress, approved April 27th, 1816, the Secretary of State is required to compile and print, once in two years, a register which shall contain "correct lists of the officers and agents, civil, military, and naval, in the service of the United States, and which shall exhibit the amount of compensation, pay, and emoluments allowed to each officer;" and whereas, it appears from the register lately published by the present Secretary of State that the postmasters of New York, Philadelphia, Baltimore, New Orleans, and other principal cities, receive \$2,000 per annum, only; and whereas, it is the generally received opinion that in addition to a compensation of \$2,000 per annum, postmasters in all cities receive large emoluments in the shape of box-rents; and whereas, postmasters are required by law to report to the Postmaster General, under oath, the amounts collected at their respective offices for box-rents: Therefore,

Be it resolved, That the Postmaster General be directed to furnish the House of Representatives with a statement showing the amount collected for box-rent at the principal post offices for the year ending June 30, 1857; and that he be also directed to inform the House of Representatives whether the respective amounts set opposite the names of postmasters in the biennial register, include all emoluments retained by said postmasters, or whether said amounts exhibit the compensation alone, exclusive of emoluments.

WITHDRAWAL OF PAPERS.

Mr. ANDREWS offered the following resolution:

Resolved, That Thomas Duer, of Monroe county, State of New York, have leave to withdraw his petition and the accompanying papers, a copy thereof being retained on the files of this House.

Mr. JONES, of Tennessee. I object.

Mr. ANDREWS. It is proposed to leave copies on the files of the House. I hope the gentleman will withdraw his objection.

Mr. JONES, of Tennessee. The gentleman can take copies, and leave the originals here.

ELECTION OF POSTMASTERS.

Mr. HOARD offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the propriety of providing by law for the election of postmasters by the legal voters doing business at the several post offices of the United States.

MARINE HOSPITAL AT PLATTSBURG.

Mr. PALMER introduced a bill to provide for the construction of a marine hospital at Plattsburg, in the State of New York; which was read a first and second time, and referred to the Committee on Commerce.

BREAKWATER, ETC., AT PLATTSBURG.

Mr. PALMER also introduced a bill for the completion of the breakwater at Plattsburg, New York, and the erection of light-houses thereon; which was read a first and second time, and referred to the Committee on Commerce.

JOB STAFFORD.

Mr. PALMER submitted the following resolution; which was read, and agreed to:

Resolved, That the Committee on Private Land Claims be instructed to inquire into the expediency of granting to Job Stafford, of the State of New York, who was a soldier in the war of 1812, one hundred and sixty acres of land, in consideration of his having been engaged in an action with the enemy, and totally disabled by a cannon-ball from a British war-brig or gunboat, at the mouth of the river Boquet, on the 13th of May, 1814.

DUTY ON COAL AND IRON.

Mr. DEWART offered the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of so altering the revenue laws as to increase the duty on coal and iron.

Mr. LETCHER objected.

PUBLIC BUILDINGS AT CAMDEN.

Mr. CLAWSON offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of purchasing a site and constructing a building for a post office and custom-house at Camden, New Jersey.

EXTENSION OF BOUNTY LAND LAW.

Mr. CLAWSON also introduced a bill to extend the provisions of the act entitled "An act in addition to certain acts granting bounty lands to certain officers and soldiers who have been engaged in the military service of the United States," to the officers and soldiers of the companies of Captains John Scull and Robert Smith, of Gloucester county, New Jersey; which was read a first and second time, and referred to the Committee on Military Affairs.

ADMISSION OF KANSAS.

Mr. MONTGOMERY introduced a bill to provide for the admission of Kansas into the Union; which was read a first and second time.

Mr. PHELPS. Has notice of that bill been given?

Mr. MONTGOMERY. It has been given. Mr. JONES, of Tennessee. Read the bill.

The bill was read. It provides for the calling of an extra session of the Legislature of the Territory of Kansas, which shall apportion the Territory into sixty districts, from which delegates shall be elected, to whom shall be referred the Lecompton constitution, with power to amend the same. The amendments to be referred to a vote of the people.

Mr. MONTGOMERY. I move that the bill be referred to the select committee having charge of the subject.

Mr. STEPHENS, of Georgia. I move to refer the bill to the Committee on Territories.

Mr. MORRIS, of Illinois. I move to lay the motion of the gentleman from Georgia on the table.

Mr. PHELPS. That will carry the bill with it.

The SPEAKER. The Chair cannot entertain a motion to lay on the table a motion to refer.

Mr. HUGHES. I call for the yeas and nays on the motion of the gentleman from Georgia.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 93, nays 105; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Booneck, Bowick, Branch, Bryan, Burnett, Burns, Cackie, John B. Clark, Clay, Clingman, Cobb, John Cochran, Corning, James Craig, Burton Craige, Crawford, Curry, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Garrett, Gillis, Greenwood, Gregg, Hatch, Hawkins, Hopkins, Houston, Hughes, Hoyer, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, McClay, McQueen, Mason, Maynard, Millson, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ricard, Rubin, Russell, Sandidge, Savage, Seales, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Frippe, Ward, Warren, Watkins, White, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—93.

NAYS—Messrs. Abbott, Aldrain, Andrews, Bennett, Bingham, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Danrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Lurwence W. Hall, Robert B. Hall, Harlan, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Mattoon, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Potter, Pottle, Purviance, Ritchie, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, and Israel Washburn—105.

So the House refused to refer the bill to the Committee on Territories.

Pending the call of the roll,

Mr. McQUEEN stated that his colleague, Mr. KEITT, had paired off with Mr. CLARK B. COCHRANE.

Mr. CLAWSON stated that his colleague, Mr. ROBBINS, had paired off with Mr. WHITELEY.

Mr. COVODE stated that Mr. MILLER had paired off with Mr. EDIE.

Mr. BONHAM stated that his colleague, Mr. MILES, was detained from the House by indisposition; and that he [Mr. BONHAM] should have voted "ay" if he had been within the bar when his name was called.

Mr. HALL, of Massachusetts, stated that Mr.

Wood was detained from the House by indisposition.

The bill was then referred to the select committee on Kansas Affairs.

DUTIES ON IMPORTS.

Mr. PURVANCE asked the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reporting a bill changing the duties on imports, so as to give increased and adequate protection to American manufactures; to abolish the warehousing system; establish a home valuation, and provide additional securities against defalcations of officers connected with the collection of the public revenue.

Mr. McQUEEN objected.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, one of their clerks, informing the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act for the relief of the owners of the brig Attica, of Portland, Maine; and

An act for the relief of James Rawden.

BANK OF PENNSYLVANIA.

Mr. FLORENCE. I ask the unanimous consent of the House to introduce the following resolution:

Whereas, the commissioners appointed by the Governor of the Commonwealth of Pennsylvania to investigate into the condition and affairs of the Bank of Pennsylvania, in the city of Philadelphia, in their report recently made, referring to certain expenditures, have stated that "to one of these accounts \$25,000 is charged, which was given as a compensation to one individual, for services rendered in effecting the sale of the banking house to the Government for a post office;" and rumor having connected these transactions with persons holding high official position under the General Government, it becomes important to ascertain the truth thereof: *Therefore*,

Be it resolved, That a committee of five be appointed to investigate the matter, with power to send for persons and papers, and to report at any time.

Mr. LETCHER. If the gentleman will strike out that part of the resolution which provides for a select committee, and insert Committee on the Post Office and Post Roads, I will not object. We already have nine select committees, and we shall soon all be on select committees if we go on at this rate.

Mr. FLORENCE. I hope that will not be done. I think the whole matter will be disposed of by the examination of three witnesses.

Mr. LETCHER. What objection is there to sending it to the Post Office Committee?

Mr. FLORENCE. Because the Committee on the Post Office and Post Roads have already more business on hand than they can dispose of, and it is important that we should have immediate action on the subject. I trust my friend from Virginia will not interpose an objection.

Mr. LETCHER. Well, I will withdraw my objection.

Mr. CLEMENS. I believe we have five or six select committees now. I move to lay the resolution on the table.

Mr. FLORENCE. I trust the gentleman from Virginia will accede at least to this proposition?

The SPEAKER. Debate is not in order.

Mr. FLORENCE. Here are high officials [cries of "Order!"] charged with misfeasance, and the gentleman objects to an—

The SPEAKER. Debate is not in order.

Mr. FLORENCE. I trust the gentleman will withdraw his motion and his objection.

Mr. CLEMENS. I do not understand that any officers—

Mr. FLORENCE. I was about to state that the objection came too late, as the question was about being propounded, all objection having been withdrawn.

Mr. CLEMENS. I do not understand that any officer of the Government, either now or in the past, is included in the subject-matter of that resolution.

Mr. MORRIS, of Pennsylvania. This charge was made in an official report to the Legislature of Pennsylvania.

Mr. CLEMENS. Against whom?

Mr. MORRIS, of Pennsylvania. Against certain persons connected with the Government.

Mr. CLEMENS. I withdraw my objection then.

The resolution was then agreed to.

PENSION ACTS.

Mr. FLORENCE introduced a joint resolution declaratory of the pension acts granting pensions to widows for the revolutionary services of their husbands; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

WITHDRAWAL OF PAPERS.

Mr. FLORENCE asked unanimous consent to introduce the following resolution:

Resolved, That the consent of the House is given to the withdrawal of the petition and papers of Rebecca J. Birdsell from the Court of Claims, to be referred to a standing committee of this body; and also to the withdrawal of the petition and papers of the heirs of General Harry Miller, from the files of this House, to be referred to a committee in the Senate.

Mr. LETCHER. I have no objection to the last part of that resolution, but I have to the first.

Mr. FLORENCE. Well, I will take the first part out, and leave the second standing.

The resolution was modified accordingly; and, as modified, agreed to.

COLONEL CRABB.

Mr. UNDERWOOD. I had the honor, some time since, to present a resolution to the House, which was adopted, calling upon the President for information in regard to the massacre of Colonel Crabb and his men, upon the limits of the Republic of Mexico. I have in my hand the response which has been made by the President to that call. I have not yet had time to read it entirely. It contains, however, very important information which requires, to some extent, the action of the Government. I ask the unanimous consent of the House that it be referred to the Committee on Foreign Affairs.

No objection was made, and it was so referred.

PAY OF BOOK-FOLDERS.

Mr. FLORENCE asked unanimous consent to introduce the following resolution:

Resolved, That the Clerk of the House of Representatives be directed to pay, out of the contingent fund, to the eight book-folders in the folding-room, the rate of three dollars each per diem, beginning with the present session: *Provided*, That no greater number be employed, unless under the direction and by order of the Committee of Accounts.

Mr. RUFFIN objected.

ADJOURNMENT OF CONGRESS.

Mr. COVODE introduced the following concurrent resolution; which was read, considered, and agreed to:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the Senate and Speaker of the House of Representatives declare their respective Houses adjourned *sine die* on the first Monday of June next, at twelve o'clock, meridian.

Mr. FLORENCE moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

INFORMATION CONCERNING KANSAS.

Mr. GROW asked unanimous consent to offer the following resolution:

Resolved, That the President be requested to communicate to the House copies of all instructions, by himself or any head of Department, to the Governor or other executive officer in the Territory of Kansas, and all correspondence with the same, together with a copy of the executive minutes of said Territory not already communicated to the House. Also, a copy of the constitution formed at Lecompton, together with a copy of the census and returns of the votes in the election of delegates to said convention in each election precinct in said Territory; and the returns of the election held in said Territory on the 21st of December last and 4th of January last, with the number of votes then polled respectively in each election precinct in said Territory, and copies of any other official papers in possession of the Secretary of State relative to Kansas affairs, not already communicated to Congress.

Mr. JONES, of Tennessee, objected.

ADMISSION OF KANSAS—AGAIN.

Mr. REILLY offered to introduce a bill for the admission of Kansas into the Union.

Several MEMBERS. Read the bill.

Mr. SEWARD. No good can grow out of the introduction of so many bills on this subject, and I object.

Mr. GROW. Has notice of that bill been given?

Mr. REILLY. It has not been.

Mr. SEWARD. Then I object.

MARYLAND HISTORICAL SOCIETY.

Mr. HARRIS, of Maryland, presented a memorial of the Historical Society of Maryland; which was referred to the Joint Committee on the Library.

HARBOR OF ANNAPOLIS.

Mr. BOWIE introduced a bill to improve the harbor at Annapolis, in the State of Maryland; which was read a first and second time, and referred to the Committee on Commerce.

DUTIES OF THE UNITED STATES CONSULS.

Mr. BOWIE, also introduced a bill further to define and prescribe the duties of the consuls of the United States, in foreign ports; which was read a first and second time and referred to the Committee on Foreign Affairs.

NATIONAL FOUNDERIES.

Mr. KUNKEL, of Maryland, offered the following resolution:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested, and he is hereby authorized, to direct examinations to be made by a board of competent officers, selected from the Army and Navy, of suitable locations for three national foundries, for the manufacture of cannon, projectiles, and other munitions of war, and castings for the service of the United States; and that the report of said board of examiners, when made, be communicated to Congress as soon as practicable.

Mr. DEAN. I object.

CAPTORS OF TENDER OF THE DAUNTLESS.

Mr. STEWART, of Maryland, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of extending the provisions of the bounty land laws to the gallant captors of the tender, with eighteen men, from the British ship of-war Dauntless, in the war of 1812, in the waters of Choptank river; with power to report by bill or otherwise.

WITHDRAWAL OF PAPERS.

Mr. STEWART, of Maryland, also offered the following resolution; which was read, considered, and agreed to:

Resolved, That permission be granted to Doctor Bernard M. Byrne to withdraw his petition and accompanying papers as to losses in the Florida war, from the files of the House, for the purpose of transmitting the same to a committee of the Senate.

AMENDMENT OF PATENT LAWS.

Mr. STEWART, of Maryland, by unanimous consent, reported from the Committee on Patents, a bill to amend the several acts now in force in reference to the Patent Office; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STANTON. I rise to a privileged question. I move to reconsider the vote by which the bill introduced by the gentleman from Pennsylvania [Mr. MONTGOMERY] was referred to the select committee; and I also move to lay the motion to reconsider on the table.

The SPEAKER. The motion is not necessary. The bill cannot be brought back by a motion to reconsider.

NATIONAL FOUNDERIES.

Mr. KUNKEL, of Maryland. I desire to move instructions to the Committee on Naval Affairs, that they inquire into the expediency of constructing three national foundries. I hope gentlemen will not object to that.

Mr. JONES, of Tennessee. The gentleman from Maryland can offer a resolution like this: "Resolved, that the Committee on Naval Affairs be instructed to inquire into the propriety of proposing the following joint resolution."

Mr. DEAN. I object.

MEMORIAL OF THE LEGISLATURE OF UTAH.

The SPEAKER laid before the House a memorial from the members and officers of the Legislative Assembly of the Territory of Utah to the President and Congress of the United States. [Calls of "Read! read!"]

Mr. CLINGMAN. I object to its being read. I move that it be laid on the table, and ordered to be printed; or that it be referred to the Committee on Territories.

The SPEAKER submitted the question, "Shall the paper be read?" and it was decided in the affirmative.

The memorial was read, as follows:

Memorial from the members and officers of the Legislative Assembly of the Territory of Utah, to the President and Congress of the United States:

GENTLEMEN: Your memorialists beg leave to represent that, at the last session of the Legislative Assembly of this Territory, resolutions and a memorial to the President of the United States were adopted, and presented to him, which partially set forth our grievances, and made known to the Government at Washington our desires and wishes in regard to the appointment of the Federal officers for Utah. We have received no response to these documents, unless it is to be understood that the appointment of a full set of officers for this Territory, backed by an army to enforce them upon us—as reported by common rumor to have been ordered and fitted out, and sent to this Territory by the President—is to be deemed an answer. Certain it is that such an army is now invading our Territory, claiming to have been sent by the authority of the President of the United States.

We now forward to you, respectively, to wit: the President and each House of Congress, a printed copy of those resolutions and memorial; and if it is true that the army now menacing this Territory is at the instance of the President, and by the authority of the Government, we request to be informed of the fact, and why it is so; for what reasons our resolutions and memorial are treated with silent contempt, and a hostile course pursued towards an unoffending people; why it is that our eastern mails have been stopped, and the communication between this Territory and the General Government cut off?

If officers had been appointed and sent in accordance with the voice of the people, as ever should be the only course in a republican government, there would have been no need of an army being sent here. Were the resolutions and memorial disrespectful or defiant? Read them again, and see. There is not a word or sentiment in them that can fairly be construed to throw obstacles of any kind in the way of good men that might be appointed to rule over us; they simply express a fixed determination not to submit to the misrule of corrupt demagogues who are a disgrace to the Government, and who, as subsequent events have proved, expended their time in endeavoring to create a disturbance between us and the General Government. Cannot American citizens, upon American soil, be heard in their own defense? Can they not petition the parent Government without incurring its hot displeasure? Are we to be sacrificed because lying officials and anonymous letter-writers wish it so? And does the Government rely upon their false statements to base its action—and such action; to send an army compromising the constitutional rights, the liberties, of freemen? Are the horrid scenes of Missouri and Illinois to be reenacted by the General Government? Are we to be robbed and plundered, our best men slain, and the residue again driven from their homes by a merciless and infuriated soldiery under authority usurped by the General Government? Do you not know, gentlemen, that when Government ceases to perform its legitimate functions to the people, and to protect them in their inalienable rights, among which, as our fathers declared, are "life, liberty, and the pursuit of happiness," and seeks to oppress and destroy; it becomes an object of dread, of terror, a foul disgrace to its name, and cannot expect the support, respect, and esteem which should be its pride, and is its duty to inspire? We appeal to you as American citizens who have been wronged, insulted, abused, and persecuted; driven before our relentless foes from city to city, from State to State, until we were finally expelled from the confines of civilization, to seek a shelter in a barren, inhospitable clime, amid the wild and savage tribes of the desert plain. We claim to be a portion of the people, and as such have rights which must be respected, and which we have a right to demand. We claim that in a republican form of government, such as our fathers established, and such as ours still professes to be, the officers are and should be the servants of the people, and not their masters, dictators, or tyrants.

To the numerous charges of our enemies we plead not guilty, and challenge the world, before any just tribunal, to the proof. Are we mistaken in our views in regard to the policy and intention of Government? We hope that you will prove to us that we are. We ask you to reconsider the course that has been taken; to censure by some act of returning justice, that you respect our constitutional rights, and see whether it will not lighten the burden of oppression which you have inflicted; and that the people may have just cause to rejoice in and applaud—not condemn—your acts, withdraw your troops, and give us a voice in the selection of our officers; thus proving to us your willingness to extend peace, rather than to continue this Territory is a part of the public domain of the United States; but how was it acquired? Did not the people of Utah furnish, at the call of the Government, an altogether unprecedented quota of troops to aid in the war then raging with Mexico; and that, too, under the most adverse circumstances? And did not the people settle that Territory while it was still under the dominion of Mexico? And did not the Government discharge the Mormon battalion in an enemy's country, after a most toilsome march of over two thousand miles, without furnishing them the means to return? Your present acts would deprive of life and liberty those very men who so gallantly periled their lives for the common good. We do not charge the acts of his predecessors upon the present incumbent; but now restore unto us our rights in Missouri and other States, of which we were most inhumanly robbed; reinstate and guarantee unto us the peaceful possession of lands, for which you have taken and yet retain our money; bring to justice the murderers of Joseph and Hyram Smith, who were massacred while in the custody of the law, under the pledged faith of a sovereign State; punish the assassins of Parley P. Pratt, who slew their unresisting victim

beneath the portals of the court which had pronounced him guiltless; restore unto us our political, religious, and inalienable rights, that we may have reason to believe that you are our friends, and not our enemies; execute justice and judgment upon the guilty, and spare the innocent; let truth, honesty, industry, love of right and liberty, stand unmoled and protected by your acts, as they are by the very genius of our loved institutions. Do that, and you will do more towards rescuing our beloved country from its foul pollution and its fearful doom, than can be accomplished by endeavoring to destroy a people who, under the broad folds of the Constitution, deem it no sin to unite in worshipping God according to the dictates of their own consciences. Pay us a few hundred thousand dollars, which the Government honestly owe us for suppressing Indian hostilities, and maintaining peaceful relations with the native tribes, instead of expending millions to deprive a portion of your citizens of "life, liberty, and the pursuit of happiness." Try on the plaster of friendly intercourse and honorable dealing, instead of foul aggression and war. Treat us as friends—as citizens entitled to and possessing equal rights with our fellows—and not as "alien enemies," lest you make us such.

You have never cherished nor fostered this as you have other Territories, though having more claim to your generosity, forbearance, and protection. In 1856, we adopted a republican constitution and form of government, and forwarded those documents, a census report, and a petition to be admitted into the Union as a free, sovereign, and independent State, but an unhallowed prejudice was so strong against us that our Delegate found no member of Congress willing to present and advocate our position. Why not grant us admission, and thereby, at the same time, act justly and peacefully and wisely dispose of a vexed question? You have appointed, the newspapers state, a full set of officials for Utah from among entire strangers, and to do so were obliged to hawk about the offices from State to State, every honorable and principled man indignantly declining your appointments, until at length you succeeded in finding the requisite number from among the reckless, the drunken, the unprincipled, the dissolute, the houseless, and penniless, who alone feel the need of the backing afforded by bayonets, and for this reason had far better remain where society is more congenial to their depraved and corrupt tastes. No doubt such is the character of the present appointees, for what other class would accept offices among a people where they well knew they were not wanted, and hence had no right officially to be? All we have further to say of them is, they had better tarry with their friends, if they really have any.

We claim that we should have the privilege, as we have the constitutional right, to choose our own rulers and make our own laws, without let or hindrance. Examine our reports, our laws, our acts, they have ever been before the public—they speak for themselves. All we want is the truth and fair play. The Administration have been imposed upon by false and designing men; their acts have been precipitate and hasty, perhaps through lack of due consideration. Please to let us know what you want of us before you prepare your halts to hang, or "apply the knife to cut out the loathsome and disgusting ulcer?" Do you wish us to deny our God and renounce our religion? That we shall not do. We are at the defiance of earth and hell to prove that we have done aught to offend the ood. You have not extended to Utah so much as the customary usage of investigation, which would have placed in your possession the facts in the case. Do you wish us to permit a hurling soldiery to come into our settlements? If so, for what object? Is it to protect the citizens in their rights? That is needless, because those rights have never been the least infringed upon in Utah; and we are far better prepared to protect ourselves than when we first settled in this Territory, while our young and healthy men were in the United States Army in Mexico. United States troops, acting in their legitimate capacity, are only sent to protect the citizens or suppress insurrection, and never, in any case, to make war upon the people. We feel as competent to protect ourselves as we have hitherto, and there is no insurrection to quell.

That "white heap" within our borders contains something besides meat; there are the deadly fangs to hold the innocent prisoners still, while assassins kill them. We shall not again hold still, while fetters are being forged to bind us. We have no confidence to believe the present armies, which claim to have been sent by the Government, have openly said, from the time they have left the Missouri river, and even before, that they were coming to destroy the leaders of our people, and that that was their object. That has been their constant speech by day, and the burden of their songs by night. They have threatened to take our lives, and to sport at pleasure with our wives and daughters. That is their openly avowed object, but woe to all who undertake to accomplish it. We trust, therefore, that you will excuse us if we do not entertain a very exalted idea of your humane (?) intentions, in sending armies hither. Give us our constitutional rights; they are all we ask, and then we have a right to expect. For them we contend, and feel alone justified in so doing.

We are aware that we have many enemies, and that they make a strong party against us. From them we expect no mercy. A large portion of them know that, if justice had its due, they would either be pulling hemp by the neck, or learning a trade in the confines of a prison. They roam at large in your community, are boon companions in your halls of business and of pleasure, adorn your circles of fashion, and participate in your festivities; but there is a chord of right, of honesty, integrity to the institutions of our country, of a love of freedom, and a respect for the rights of the weak and comparatively defenseless, that will yet thrill with emotion, vibrate through the honest heart, and respond to the cry of usurpation, tyranny and oppression exercised upon an innocent people. To that we appeal, and trust that a stern sense of justice yet remaining among the worthy sons of patriotic sires will stay the suicidal hand of crawling sycophants and corrupt rulers, and that American liberty may not be immolated upon her own altars, nor strangled in the halls of her own citadel, by those whose sworn duty it is to be her protectors.

Withdraw your troops; give us our CONSTITUTIONAL RIGHTS; and we are at home.
GREAT SALT LAKE CITY, Utah Territory, January 6, 1858.

HEBER C. KIMBALL,
President of the Council.

Daniel H. Wells, Reddick N. Allred,
Albert Carrington, Chauncey W. West,
F. D. Richards, Aaron Johnson,
Lorenzo Snow, James C. Snow,
Wilford Woodruff, Pinton Thomas,
Lorin Farr, J. G. Bigler,
Benjamin F. Johnson, George Peacock,
Leonard E. Harrington, Philo T. Farnsworth,
Joseph Holbrook, J. C. Haight,
Warren S. Snow, John L. Lee,
Lewis Brunson, Isaac Bullock,
George A. Smith, George D. Grant,
Leo Hawkins, Secretary of Council;
John T. Caine, Assistant Secretary of Council.

JOHN TAYLOR,

Speaker House of Representatives.*

W. V. Phelps, Samuel L. Sprague,
A. P. Rockwood, John Sharp,
J. C. Little, Alexander McRae,
Daniel Spencer, J. W. Cummings,
Orson Hyde, Joseph A. Young,
Hosea Stout, John Rowberry,
B. H. Clawson, C. H. Wheelock, Chaplain;
J. D. Parker, B. Young, Jr., Messenger;
William Derr, Jesse Haven, Chaplain;
James Ferguson, Chief Clerk House of Representatives;
Patrick Lynch, Assistant Clerk House of Representatives;
William H. Kimball, Sergeant-at-Arms;
William H. Harper, Secretary pro tempore, Utah Territory.

Pending the reading of the above paper,
Mr. JOHN COCHRANE and Mr. COX severally made motions to suspend the reading; which motions were not agreed to.

The SPEAKER. The Chair felt it his duty to lay this communication before the House, inasmuch as it purports to be from the Territorial Assembly of Utah, and appears to be signed by all the members of that body.

Mr. HARRIS, of Maryland, moved to lay the memorial on the table.

Mr. MILLSON demanded the yeas and nays on the motion; and tellers on the yeas and nays.

Mr. SHERMAN, of Ohio, moved that the House adjourn.

The motion was agreed to; and the House thereupon (at four o'clock, p. m.) adjourned.

IN SENATE.

WEDNESDAY, March 17, 1858.

Prayer by Rev. W. A. HARRIS.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with resolutions of the Senate of February 15 and March 8, a copy of Captain T. J. Cram's military and topographical memoir, report, and maps, on the department of the Pacific, together with a letter from the Hon. I. I. STEVENS and a report of Captain A. A. Humphrey on the character of that memoir; which, on motion of Mr. BIGLER, was referred to the Committee on Military Affairs and Militia.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT. The Chair has received a memorial from the members and officers of the Legislative Assembly of the Territory of Utah, addressed to the Congress of the United States, in which they set forth their grievances, and desire the withdrawal of the troops of the United States from the Territory.

Mr. STUART. I suppose it is hardly necessary to read that document. I move its reference to the Committee on Territories.

Mr. HAMLIN. It should go to the Committee on Military Affairs.

Mr. KING. Had it not better be printed?

Mr. HOUSTON. Let us have it read.

Mr. STUART. I think it should go to the Committee on Territories, although it asks for a withdrawal of the troops. It is a statement of the internal affairs of the Territory, if it is anything. I think it ought to be printed, but it certainly ought to go to the Committee on Territories.

Mr. BIGLER. I think it ought to be printed. The motion to print was agreed to.

The VICE PRESIDENT. Unless some motion to a different effect be made, it will be referred to the Committee on Territories.

It was so referred.

Mr. BIGLER. I have been requested to pre-

sent to the Senate the memorial of James C. Chisty, Edward Wickersham, William M. Armstrong, C. McAllister, and others, citizens of the city of Philadelphia, who are creditors of the State of Texas. The memorialists express their surprise that the Legislature of Texas should have passed resolutions claiming for the State of Texas the balance of the appropriation now in the Treasury, made on the 28th day of February, 1855, for the creditors of that State. They remonstrate against the purpose of that resolution. They claim the balance of that appropriation for the benefit of the creditors, and pray Congress to pass a law authorizing the Secretary of the Treasury to distribute the balance now remaining in the Treasury among the creditors who have filed their claims in pursuance of law. I ask its reference to the Committee on Finance.

The motion was agreed to.

Mr. SEWARD presented the petition of Eliza E. Ogden, praying to be allowed a commission on certain disbursements made by her late husband, Major Edmund A. Ogden, while acting as assistant quartermaster in the Army; which was referred to the Committee on Claims.

Mr. WRIGHT presented the memorial of Lawrence Kearny, a captain in the United States Navy, praying compensation for certain expenses incurred and services rendered; which was referred to the Committee on Naval Affairs, and a motion by him, to print the memorial, was referred to the Committee on Printing.

He also presented papers in support of the claim of Catharine Kellar to a pension, for the services of her husband, Conrad Kellar, in the Revolution; which was referred to the Committee on Revolutionary Claims.

Mr. GREEN presented the petition of James H. Birch, Jr., for himself and others, praying to be protected in their location of certain lands in the Plattsburg land district; which was referred to the Committee on Public Lands.

Mr. BRODERICK presented a petition of residents of Klamath county, California, praying that the Pacific mail steamship company may be required to land the mails at Trinidad; which was referred to the Committee on the Post Office and Post Roads.

Mr. WADE presented resolutions of the board of trade of Cleveland, Ohio, in favor of an appropriation of public lands to aid in the construction of a ship canal around the falls of Niagara; which was referred to the Committee on Commerce.

Mr. HARLAN presented a memorial of the Legislature of Iowa, praying for a donation of land for the establishment of a scientific agricultural school in that State; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. GWIN presented petitions of citizens of California in favor of the establishment of the following post routes: From Sacramento City by Davis's Ranch, Putah, Vacaville, Suisun City, Sonoma, to Petaluma in Sonoma county; from Belmont to Purcell's Store, Piscadary and William's Landing, to Santa Cruz, in Santa Cruz county; from Oroville by Bidwell's Bar, Peaville, Brush Creek, Meadow Valley, to Quincy in Plumas county; from Jackson to Volcano, in Amadore county; from Sacramento City, by Washington, Cashville, Cache Creek, Yolo City, and Cañon, to Clear Lake, Napa county; from Sacramento City by Onisleo and Walnut Grove, to Georgian Slough in Sacramento county; from Mokelumne Hill by Rich Gulch, to West Point, in Calaveras county; from Knight's Ferry by La Grange, to Honilas, Mariposa county; from Nevada City by Alpha, to Washington, in Nevada county.

They were referred to the Committee on the Post Office and Post Roads.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. GWIN, it was

Ordered, That the petition of John Brown, on the files of the Senate, be referred to the Court of Claims.

On motion of Mr. KENNEDY, it was

Ordered, That the heirs of Joshua Barney have leave to withdraw their petition and papers.

NATIONAL FOUNDERIES.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and

Militia be instructed to inquire into the expediency of selecting three sites for national foundries for the manufacture of cannon, projectiles, and other castings, for the service of the United States; one of the said sites to be east and one west of the Alleghany range of mountains, and the third in the State of California.

SENATORS' DESKS.

Mr. SEWARD submitted the following resolution for consideration:

Resolved, That the use of desks for members ought to be dispensed with in the new Senate Chamber.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 204) to provide for issuing patents in certain cases where grants of the public lands have been made by Congress; which was read twice by its title, and referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Revolutionary Claims, to whom was referred the petition of the legal representatives of Charles Porterfield, deceased, submitted a report, accompanied by a bill (S. No. 203) for the relief of the legal representatives of Charles Porterfield, deceased. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of the Legislature of Iowa, in relation to indemnity for expenses of the State in the Sioux outbreak in 1857, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the memorial of Susannah Hayne Pinckney, submitted a report, accompanied by a bill (S. No. 205) for the relief of Susannah Hayne Pinckney, sole heir of Captain Richard Shubrick. The bill was read, and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of the heirs of Colonel Samuel Hammond, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Jane M. Kean, Mary A. Reynolds, and Catharine E. Kean, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Sarah Smith Stafford, submitted an adverse report; which was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred a petition of lieutenants in the United States revenue marine service, submitted a report accompanied by a bill (S. No. 206) increasing the pay of certain officers of revenue cutters, while serving in the Navy of the United States. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Douglass Ottinger, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

He also, from the same committee, to whom was referred the papers relating to the application of Commander Thomas J. Page, and other naval officers of the La Platte exploring expedition, for extra pay, asked to be discharged from its further consideration; which was agreed to.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the House had passed a resolution (H. R. No. 19) respecting the distribution of certain public documents; and a resolution for the adjournment of Congress; in which the concurrence of the Senate was requested.

PRIVATE CALENDAR.

Mr. STUART. It is understood that to-day the Senator from Kentucky intends to speak upon the Kansas question, and inasmuch as there seems to be no further morning business, I wish to move that the Senate proceed to the consideration of the Private Calendar, and so continue until one o'clock, unless the Senator from Kentucky should desire to go on before that hour. There is nothing

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, MARCH 18, 1858.

NEW SERIES....No. 73.

on the table, I think, in the shape of resolutions, that we shall profit by the discussion of.

Mr. BIGGS. I suggest to the Senator from Michigan the impropriety of taking up business of that character in the absence of so many Senators. It may be that many of them have objections to some of these private bills, and it seems to me to be very improper to take them up for consideration with so few Senators in their seats.

Mr. STUART. If any bill be objected to, it will go over of course. I only wish to take up such business as there can be no objection to.

Mr. BIGGS. It may be that those very Senators who are absent would interpose an objection if they were here. Some of those bills are important.

Mr. STUART. What are we to do?

Mr. BIGGS. Go on with the debate.

Mr. STUART. We cannot go on with the debate, for the Senator from Kentucky is not here. I think we can take up the Private Calendar and dispose of much of that class of business without debate.

The VICE PRESIDENT. The Chair will put the motion to the Senate. It is moved that the Senate proceed to the consideration of the Private Calendar.

The motion was declared to be agreed to.

Mr. BIGGS. I suggest the propriety of ascertaining whether there is a quorum present, because I certainly shall object to the transaction of any business, whether on the Private Calendar, or any other business, without a quorum.

The VICE PRESIDENT. The Chair will ascertain whether there is a quorum present. There are twenty-five Senators in the Chamber. There is not a quorum present.

Mr. BIGGS. (Mr. CRITTENDEN having arrived.) I hope, if the honorable Senator from Kentucky is prepared, he will proceed with the discussion of the special order.

Mr. STUART. There is evidently a quorum about the Senate Chamber. Senators are rarely ever in their seats at this hour.

The VICE PRESIDENT. The Chair counted every Senator within the walls of the room.

Mr. HALE. I have come in since.

The VICE PRESIDENT. There is still not a quorum.

Mr. HALE. Send down to the Committee on Naval Affairs. There are three or four Senators there.

A pause ensued.

Mr. STUART. I think there is a quorum of the Senate present now.

The VICE PRESIDENT. The Chair will ascertain whether there is a quorum present.

Mr. STUART. I will ask for the yeas and nays on my motion. I think that will determine whether there is a quorum here or not. My motion is that we now proceed to the consideration of the Private Calendar.

The VICE PRESIDENT. You cannot call the yeas and nays on the motion, when there is not a quorum.

Mr. STUART. I submit that that is the real and true way of ascertaining whether there is a quorum. Senators are all about here; and, on a call of the yeas and nays, will answer to their names.

The VICE PRESIDENT. If there be no objection, the Chair will direct the yeas and nays to be taken; but it is not in order if anybody objects.

Mr. BIGGS. I shall certainly object.

PERSONAL EXPLANATION.

Mr. HALE. Has the Senate been called to order?

The VICE PRESIDENT. Yes, sir; and the Senate has transacted some business; but there is not a quorum here at present.

Mr. HALE. With the consent of the honorable Senator from Kentucky, I wish to make a little speech, about five minutes long, in answer to a suggestion made by the Senator from Louisiana [Mr. BENJAMIN] a short time since; and I

would as lief do it to a minority as to a quorum. If there be no objection, I will make it now. ["Go on."]

The VICE PRESIDENT. If there be no objection, the Senator will proceed.

Mr. HALE. The honorable Senator from Louisiana, in a speech which he made on Thursday, the 11th instant, used this language in reference to the Toombs bill:

"Every Senator on this side suggested amendments; and when the bill finally passed the Senate, it extorted from the Senator from New Hampshire [Mr. HALE] the admission that it was fair, that it was unexceptionable: 'Give us that, and we are content.'"

The latter part has quotation marks.

During the last presidential campaign, in the State of Pennsylvania, one of the leading papers of that State had, I do not know for how long, but, I believe, nearly throughout the whole campaign, this same quotation: "Be it remembered, that Senator Hale said that the Toombs bill was unexceptionable." Now, I have not the slightest idea that the Senator from Louisiana supposed he was quoting anything else but exactly what I said; and he was only saying what a great many other people have declared, who put any sort of confidence in what I do say; but as an issue is attempted to be made out of that, I wish to state, for the benefit of the truth, what I did say. I have the Globe before me, and I will read the extract:

"But, sir, I do not want to dwell on that subject, but to speak a very few words in reference to this bill, which has been introduced by the Senator from Georgia. I take this occasion to say that the bill, [that is, the Toombs bill,] as a whole, does great credit to the magnanimity, to the patriotism, and to the sense of justice of the honorable Senator who introduced it. It is a much fairer bill than I expected from that latitude. I say so because I am always willing and determined, when I have occasion to speak anything, to do ample justice. I think the bill is almost unexceptionable; and if it could be put in the hands of agents who would carry it out faithfully, I think it would be less exceptionable than it now appears to be; but you will perceive that it is committed to the present Administration to carry it out; and the action of that Administration in the affairs of Kansas, whatever else may be said of it, I can say, and nobody can deny it, has not been such as to inspire any confidence in me. I have no confidence at all in them; and that is one of the objections to the bill."

I then went on to point out several objections to the bill, and proposed to remedy them by amendment, and in the close of my remarks, I said, "I have stated my objections to this bill;" and to show you that it was not so understood during the pendency of the bill, when the gentleman who introduced it [Mr. Toombs] spoke in reference to what I said, he declared:

"My convictions are confirmed by the honorable contrast to these gentlemen presented by the Senator from New Hampshire, [Mr. HALE,] who though he may differ from me—and I doubt not we shall differ in the end on this matter—presents his objections in a manly and patriotic manner. Though we disagree, I respond to the spirit with which he offers his amendments, and makes his objections."

That is what he said. I desired at that time, as I always desire, to be perfectly candid; but I find it is getting to be dangerous to be candid, because the qualified commendation which I gave to it was stripped of the qualification I put on it, and it was trumpeted through the papers as an endorsement by me of the whole bill. I believe that the bill in its terms and upon its face was a fair bill, and if we could have had honest men to administer it, it would have done well. I had faith that we should get a better set of men after the 4th of March than we had before, but that faith has not ripened into reality. I have no such idea now. Having made this explanation, I leave the subject.

Mr. BENJAMIN. One word, and one word only, sir. The Senator from New Hampshire does me no more than justice when he says that I would not willingly misconstrue or pervert anything he may have said on the occasion referred to. I cannot help the fact that in the report of my speech in the Globe, quotation marks may have been put to the phrase to which he refers. I desire to say simply that I did not refer to his speech when, in the course of the remarks I made in the Senate the other day, I made allusion to his statements at the time the Senator from Georgia

introduced his bill. What I stated was from memory. I heard the Senator at the time, and the impression was made on my mind very distinctly that he considered the Toombs bill as a fair and just bill. I do now, from his statement, recall distinctly to mind that he said, at the time, his principal objection was the want of confidence in those who were to administer it. What the Senator has just said, I think, as a whole, confirms what I stated in my speech; that is, the intimation that he had no objection to the bill, but that he was afraid it would not be executed fairly. He had not confidence in the public officers to whom its execution would be intrusted. I say this in a spirit of entire kindness to the Senator, and disclaim any desire to pervert or misconstrue anything he declared.

PRIVATE CALENDAR.

Mr. STUART. I move to proceed to the consideration of the Private Calendar. I understand that the Senator from Kentucky would prefer to go on at one o'clock, and I wish to consume the intervening time—that is all.

The motion was not agreed to.

ELECTIONS IN KANSAS.

The VICE PRESIDENT. The next business in order is a resolution offered by the Senator from Illinois, calling for information in reference to the elections in Kansas.

Mr. STUART. I move to postpone the consideration of that resolution until to-morrow.

The motion was agreed to.

MR. MEADE'S INSTRUCTIONS.

The VICE PRESIDENT. The next business in order is the resolutions of the Senator from Massachusetts, in reference to the instructions of the Minister at Brazil.

Mr. WILSON. I move that it be passed over until to-morrow.

The motion was agreed to.

PROVIDENT ASSOCIATION OF CLERKS.

Mr. BROWN. The Senate seems to find some difficulty in finding a subject to act upon. I have been very much importuned by parties interested to call up the bill (S. No. 151) to amend an act entitled "An act to incorporate the Provident Association of Clerks in the civil Departments of the Government of the United States, in the District of Columbia." It is not likely that it will lead to any debate. It is a private bill which will put the Government to no expense. I move to take it up.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

Mr. BIGGS. I understand by that bill that some section of a former act is proposed to be repealed. I should like to understand what is the object of the repeal.

Mr. BROWN. I will explain in a single word. There has for a long time existed here a society known as the Provident Association of Clerks, of Washington City. They propose to surrender their franchise and divide whatever money there may be on hand. The scheme has not worked according to the expectation of the parties engaged in it, and they want to get clear of it—that is all. They desire that any money that is left may be returned to the parties.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

KANSAS—LECOMPTON CONSTITUTION.

Mr. WILSON. I learn that the Senator from Kentucky is ready to proceed with his remarks, and I move that the Senate take up the special order.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of Kansas into the Union.

Mr. CRITTENDEN. I feel how inadequate I am, Mr. President, to add anything to the various

arguments that have been employed on this subject during the long discussion through which we have passed; and yet I should not perform my duty, according to my views, if I omitted to express my sentiments and feelings on the subject before the Senate. I do not intend to occupy your time with exordiums, sir. The right of the people to govern themselves is the great principle upon which our Government and our institutions all depend. It seems to me that this great principle is not inapplicable to the present subject.

The President of the United States communicated to us an instrument called the constitution of the people of the Territory of Kansas, and he has, with unusual earnestness, advised and recommended to us to admit Kansas under that constitution, as a State, into this Union. The question, as it has presented itself to my mind, involves an inquiry as to the matters of fact bearing upon this instrument of writing, and whether these authorize us to regard this instrument as the constitution of the people of Kansas. Is it their constitution? Does it embody their will? Does it come here under such sanctions that we are obliged to regard it, or ought to regard it, as the permanent, fundamental law and constitution of this new State? I do not think it comes with such a sanction, or ought to be regarded as the constitution of the people of Kansas. Sir, I shall not occupy your time long on this point.

What are the evidences that it is so? It is made by a convention, to be sure, called under the authority of an act of the Legislature of Kansas. It is made by delegates regularly elected by this people, and *prima facie* it would appear that it had the sanction of the people of Kansas; but I think there are evidences of a higher character to show that it is not so, that it is but in appearance a constitution, and not in reality.

In the first place, the fact is established beyond all controversy that an overwhelming majority of the people of Kansas are opposed to this instrument as their constitution. The two highest officers of the Federal Government lately there under appointment from the President of the United States, Governor Walker and Secretary Stanton, both assure us of that fact upon their personal knowledge. That is high evidence to establish the fact that it is against the will of an overwhelming majority of the people upon whom it is to be imposed as a constitution.

That constitution in part was submitted to the people. I shall not stop now to inquire how it was submitted, whether fairly or not. A part of it was submitted, however, to the people, and, upon a vote taken by the people on the clause thus submitted, it received six thousand votes, and a little more. These are the sanctions with which it comes to us. To this extent, it would seem to have the popular approbation. But, sir, when you come to look a little further into the investigations which have taken place in that Territory, it appears that of those six thousand votes, about three thousand were fictitious and fraudulent. That is reported to us by the minority reports of our Committee on Territories; that is verified to us by the proclamation issued by the President of the Council and the Speaker of the House of Representatives of the Territorial Legislature of Kansas. These high officials, who were invited by Mr. Calhoun to witness the counting of the votes which were returned to him, certify from their personal knowledge that more than two thousand of the three thousand votes which were given at three precincts in the counties of Johnson and Leavenworth were fictitious votes. I only call your attention to this in order that it may appear truthfully who it was that approved of this constitution.

That vote was taken on the 21st of December. Before that vote was taken, however, a Legislature, which was elected in October last, and which met on the call of the acting Governor, Mr. Stanton, in December, passed an act postponing that vote from the 21st of December to the 4th of January. On the 4th of January, under the provisions of that act, a question was taken upon the constitution itself broadly. It provided that the question should be taken upon the Lecompton constitution with slavery, upon the Lecompton constitution without slavery, and generally upon the constitution itself. Upon that occasion, over ten thousand voted against the constitution; and the Legislature of the Territory of Kansas have

passed resolutions unanimously protesting against the reception by Congress of this instrument as the constitution of the State, declaring that it was obtained by fraud, and that it has not the sanction or concurrence of any, except a small minority of the people. This is the substance of their resolutions.

Now, I ask you, sir, upon this evidence, as a judge, to say whether this is the constitution of the people of Kansas or not? whether the evidence before you is that it is an instrument signifying their will and declaring that general and permanent law upon which they wish their government to be founded? Unless you shut your eyes to the vote taken on the 4th of January, here is a direct popular evidence and protest against the constitution; and, even supposing the whole of the six thousand votes which were given for it on the 21st of December to be true and real votes, fairly expressed, it shows that there were ten thousand other people in the Territory of Kansas who are opposed to this instrument and who have legitimately declared their opposition. Here is the solemn act of the Legislature of the Territory protesting against it. These are recorded evidences, as much so as the constitution itself is a record, having the same legal sanctions and the same legal title to our faith and our confidence. How are you, in law, to make any difference between these testimonials; to say that you will give effect to one and will reject the other; that you will give effect to that which testifies for the minority of the people, and will reject that which testifies for the majority of the people; that you will accept that which was first given, and reject the last expressions of the popular will?

It is these last expressions of the popular will that ought to govern on every principle, just as much as that a former law must yield to a subsequent law in any point of conflict between them. The last evidence, then, is the vote of the people on the 4th of January, of ten thousand against it; and the evidence nearly cotemporaneous with that is the resolutions of the Legislature of Kansas, protesting and imploring you not to accept this instrument, that it is a fraud and an imposition upon them. I want to know why it is that this evidence is not entitled to our consideration and to have effect? The President, it seems to me, has given us a most unsatisfactory reason. The President says that in recommending the adoption of this constitution to us, as implied in the admission of the State, he has not overlooked the vote of ten thousand against the constitution given upon the 4th of January; he has considered it; but he holds it, and he holds the law of the Territorial Legislature under which that vote was taken, to be mere nullities. Why? The law was passed by the regularly elected Legislature of the Territory providing that a vote should be taken on that day; and why not? Is there anything in the organic law, is there anything anywhere that forbids it—that more forbids it than the passage of the act for calling a convention by a previous Legislature?

The President had anticipated that the constitution itself, in whole, and not in part, was to be submitted to the people. The Governor had so contemplated, and had so assured and promised the people. The President regrets that it was only submitted in part. He regrets that the entire constitution was not submitted. Though he accepts as an equivalent the partial submission, he regrets that it was not submitted as a whole. The Territorial Legislature, after this constitution was published, immediately afterwards passed a law to have a vote taken upon the entire constitution, which the President had preferred, and which Mr. Walker, the Governor, had preferred. What do they do but carry out and act in perfect accordance with the wishes and opinions of the President and Governor? And yet the President, who was for a general submission, and would have preferred it, says the act of the Legislature, in accordance with his opinion, is a mere nullity. Why? Because, he says, by the previous acts of the people and of the territorial government the Territory was so far prepared for admission into the Union as a State. That is the reason. He gives no application of it, but announces as a reason that it was so far prepared because the constitution had been made, ready to be offered to Congress, though that constitution had not yet been submitted to the people when this law was passed. That was her condition; that was the

preparation she had made. The only preparation was, that under the authority of a previous Territorial Legislature, a convention had been held, and a constitution made and published.

That was the condition of her preparation; and, because of that preparation, the Territorial Legislature had no power whatever to pass a law to take a popular vote upon the adoption of that constitution, to see what the people thought of it; to collect the evidence of the public will! What could the Territorial Legislature do, to satisfy themselves, to satisfy the country, to satisfy the just rights of the people, but to say a vote shall be taken on the 4th of January next, in which all the people shall declare their assent to, or disapprobation of, this constitution as an entire instrument? What is there in this preparation to prevent it? What force had the constitution? Could the constitution, unaccepted by you, unauthorized by you, paralyze and annihilate the legislative power which your act of Congress had conferred upon the territorial government? Does not that power, and all that power, remain as perfect as when you granted it? And could the power which your act gave be diminished or lessened by any act of mere territorial authority? It is palpable that it could not. No matter what act might be done by the people of Kansas, call it by what name you please—law of the Territorial Legislature, constitution made by the people—no matter by what name you call it—the supremacy of the Government of the United States remains untouched and unimpaired, and all the power of territorial legislation which it gave may be exercised by the Legislature.

Of what avail is this constitution until accepted by Congress, and the State admitted upon it? Whom does it bind? Is it anything more than a proposition by the people of Kansas that "we shall be admitted with this instrument, which we offer as our constitution?" What more is it? Does it bind anybody? Where does it derive its authority? The organic law authorized no legislation by a convention. The convention could exercise no legislative power which Congress had given, because Congress gave its power to a Territorial Legislature, to be elected in a certain manner, and to be exercised in a certain manner. The convention could exercise no legislative power. It bound no one. It did not bind the future State; for, until you accepted it, what prevented the people from calling a convention the next day, and altering or modifying it according to their own views? Is there anything of reason, of argument, or of law, to support such a proposition as that the people are restrained from making another constitution because they have proposed one not yet accepted and acted upon by Congress? I think not.

In my judgment, we have a precedent on our books which shows I am right in this view, in the case of Wisconsin. She presented herself here with a constitution, and asked for admission according to the boundaries which she had assumed and declared in that constitution. Congress admitted her, but admitted her conditionally only. Congress objected to the boundary. It included a portion of territory which Congress thought did not properly belong to her. It admitted her, however, as a State conditionally; on condition that she should hold another convention and assent to the new boundary that Congress prescribed; and upon that assent being thus given, the President was to proclaim it, and without further proceeding, she was afterwards to be a State in the Union. What did the people of Wisconsin do? Did they proceed according to this act of Congress, and call a convention simply for the purpose as required by the act of Congress, of assenting to this altered boundary? No, sir; we hear no more of that. They passed that act by, called another convention, made another constitution, applied to Congress, and were admitted at a subsequent session.

Was not their state of preparation greater than the preparation of the Territory of Kansas? Here Wisconsin was not only in a state of preparation, by having made a constitution, but that constitution, with a single exception, had received the approbation of Congress, and she had authority to call another convention for the solitary and particular purpose of assenting to the boundary. She passed it by as she might well do. Her people said, "it is a wise and more satisfactory mode to pass by

this act of Congress and to act upon our acknowledged rights—a Territory to call a convention, make a new constitution, and submit that to Congress, passing by the President, and the President's proclamation, and receiving our adoption and admission from the hands of Congress; and they did so.

If they could do that, if, prepared as they were, that preparation did not preclude them from making another constitution, how is this less state of preparation, on the part of Kansas, to preclude the Territorial Legislature, not from performing the high act of calling a convention, but simply of taking another vote on a constitution which was yet to be proposed to Congress? Can any reason be shown? No, sir, none. That constitution was inoperative. How long would it have operated? Suppose circumstances had occurred which had prevented any application to Congress for years, how long would this instrument have retained its vitality and retained its vigor and authority? One year? A short-lived instrument. Two years? Three years? Four years? How long? Suppose the president, Calhoun, had put this instrument in his pocket and kept it there all the days of his life, would it all the days of his life have restrained the people of Kansas from taking other steps and calling other conventions, and making other constitutions?

If its authority would not have continued a lifetime, how long could it continue? No man can set a limit; and the conclusion, therefore, is that it never had any binding influence—at any rate, never such binding influence (and that is all I am required to show) as to have prevented the people, if they had changed their minds after making the first constitution, from calling another convention, and resorting to all means necessary for the establishment of another constitution, and then to offer it to you. It is theirs to offer, and ours to dispose of, and they are free up to the last moment to make known to Congress what is their will and what is their determination in relation to the fundamental law of the State which they are about to establish.

Is not this all perfectly clear to our reason? Are there any fictions of law; are there any technicalities springing out of these instruments, governing their force and effect, to prevent this conclusion? Is this constitution to be made up into a little plea of estoppel against the people? Are the little rules which we are to gather from Westminster Hall, the little saws in actions at law that do well enough to decide little questions of *meum and tuum* among A, B, and C, to be applied as the measure to those great and sovereign principles on which States and peoples rest for their rights and their liberties? No, sir. This is a great political question, open, free to be judged of according to God's truth and the rights of the people unrestrained, unincumbered, unimpaired by any fiction or by any technicality which could prevent the full scope of your justice and your reason over the whole subject.

Therefore, sir, this state of preparation of the Territory of Kansas for admission into the Union has no effect. The argument is not applied; the fact is merely stated that there is a state of preparation, and there it would be necessary to stop on any doctrine on that subject; for, in my own judgment, no argument can be made even of any ordinary plausibility to show that the state of preparation restrains the people of their natural and indefeasible right and their legal right as proclaimed by you to form with perfect freedom their own institutions before they come into the Union. There is no technicality about it.

Here, it seems to me, applies that great principle to which I adverted at first, that the people have a right to govern themselves. I mean of course according to the constitutions and laws such as they have. This people had no constitution, could have no constitution; and when the act of the Territorial Legislature was passed requiring a vote to be taken on this constitution, they had full authority to pass that law. Their hands were not bound. Here was a great act about to be done, an act to bind the State, to give it a new character, to give it new institutions, to put upon it a constitution—that panoply of the rights of all. This was the great act to be done; it is an act which none but the people can do through themselves or their proper representatives. It is in all cases directly or by reference the act of the people.

The laws which they establish are not of that transient character which can be made to-day and repealed to-morrow. They are made for permanency. They are the great immutable and eternal truths and principles on which all government must rest. They are expected to be permanent. The people delegate to others the power of passing your temporary and repealable laws. They reserve to themselves the great right of passing those which are permanent and irrevocable except by themselves.

Was it not of consequence, was it not of importance to know the will of the people, whether they really did approve of this constitution which was about to be offered to Congress—a law which, when Congress puts its imprimatur on it by admitting the State, is to be permanent? Would it be any harm to take the vote over and over again? What objection could there be to it? You might have said "it is an unnecessary care of the people's rights; you have had their decision once; therefore, it is not necessary to have it again;" but out of abundant care, and abundant zeal you may choose to take it again and again, and ascertain whether there may be change or variation in the public opinion. Where is the man who can say aught against it? Do you object to it because it is taking too great care of public liberty, paying too great respect to popular rights? Nobody will take that ground.

But it may be said you might delay the application to Congress by these repeated elections. Not at all. You must avoid that as far as you can. In this case it has not delayed it. In this case this vote was taken before this constitution came before you; while it yet slumbered in the hands of President Calhoun. No objection can be made, then, that this was made the cause of, or intended merely for the purpose of delay. The result shows that it was necessary and proper. The result shows that notwithstanding the vote of six thousand, though all real, here were ten thousand who were opposed to it. I say, therefore, this is not the constitution of the people of Kansas. It may in a certain sense be a constitution offered by the convention to the people of Kansas; but which the people of Kansas by ten thousand majority have rejected, have lawfully rejected in the last vote, as it was lawfully approved by the six thousand first voting in the preceding December.

I say, then, Mr. President, upon the record evidence, upon all the evidence, this is not the constitution of the people of Kansas. It is not the constitution under which they desire that you shall admit them into the Union. Now, will you, against their will, force them into the Union under a constitution which they disapprove? That is the question. You know the fact that ten thousand against six thousand are opposed to the constitution. You know that by the act of their Territorial Legislature that they entreat you not to admit them with this constitution. They tell you, moreover, as one of their reasons, not only that they disapprove of the whole constitution, but that it is particularly hateful to them because the votes given for it, or apparently given for it, were, to a great extent, fraudulent and fictitious. The Legislature tells you that nine tenths of the people there are opposed to it.

Now, would it not be strange, that under these circumstances, we should, without any motive for it that I know of, as the common arbiters of all Territories and States to the extent of our constitutional power, force her into the Union? What motive can we have, what right motive, with the knowledge of these facts, to force her into the Union, and to enforce upon her this constitution? I cannot feel myself authorized to do such a thing. Of course I do not impugn the motives and the views of others, who, taking a different view, act from different motives from mine. They act upon one view, and I upon another; but it seems to me that to do this is a plain, unmistakable violation of the right of the people to govern themselves.

I have endeavored to show you, sir, that this is not the constitution of the people of Kansas, according to the recorded evidence of their will. It seems to me, furthermore, that this constitution is a fraud. It is not only not their constitution, according to their will, but it is got up and made in fraud, to deprive them of their rights. I believe that, and I think it can be shown.

The President of the United States has furnished us an argument on this subject, and it has been oftentimes repeated here in the debate—of course a plausible and ingenious argument, as all must admit, even those who deny the solidity of the reasoning. What is the argument? The President says that the sense of the people was taken, and proved to be in favor of calling a convention. The convention was called; delegates were elected; those delegates made a constitution; that constitution was submitted to the people in part, and approved by a vote of six thousand, taken according to law. Well, all these, you will observe, constitute a tissue, a long series of little legalities, regularities, and technicalities; and the reasoning of the President is founded on technical points on each of these facts. You must admit all the facts. Yes, sir, the facts are all true; and if they alone constituted the case, the conclusion would be fair and right that this constitution has been regularly made; that this constitution has been sanctioned by the people as well as by the convention. But is there no more in the case than this? There is a great deal more in the case than this.

When frauds have been alleged and charged against this government of Kansas, gentlemen say, "ah, but these frauds were in other elections; these frauds do not particularly and specifically touch this constitution, or the proceedings which led to this constitution." But suppose there were frauds in relation to it: is it not something if I show you that, in regard to that part of the constitution which was submitted to the people to be ratified by them, and was nothing until the people had ratified it even according to the constitution itself, there was fraud in that election, and abundance of fraud? So glaring, so impudent, and so fearless had frauds in elections become there, that upon that very poll list, in one of the precincts, (I forget whether it was in Oxford, or Shawnee, or that other precinct that emulates these in its character for fraud, Kickapoo,) you find that the President of the United States, Colonel Bouton, and the gentleman from New York, [Mr. SEWARD,] were there, it seems, or fictitious votes were put in for them by somebody, and a long list of persons of that sort figure on the poll-book at these miserable precincts as actual voters. That was the vote on the constitution on December 21; that was on the part submitted to the people. They were the constitution-making power there, and there I show you the fraud.

What further frauds there were I know not; but this much is apparent—and later developments show greater frauds still—that in one single precinct, where there were only thirty or forty votes to be taken legitimately, there were over twelve hundred; and under the investigation lately made by commissioners in Kansas, that upon sworn testimony is stated to be the fact. In one precinct there were twelve hundred fraudulent and fictitious votes out of twelve hundred and sixty; seven hundred in another, and over six hundred in another; making in the aggregate twenty-six hundred votes in three precincts, entirely fraudulent and fictitious, or to a great extent fictitious, written out by hundreds on the poll-book after the election was over, put on without scruple upon the poll-book, upon the election return, put down without scruple during the election, of those who were qualified, and those who were not qualified; and that is the way this constitution in part has received its sanction.

But, sir, I think that we should take a very partial view of this subject, one very unsatisfactory to our judgment, if we were to isolate these facts which have direct relation only to the formation of this constitution, and leave out all the surrounding circumstances. It seems to me that the proper and the just mode of regarding this constitution is to consider it as one of a series of acts, and see if we can find that the whole action and operation of all those acts were to lead to one general purpose—that of maintaining by fraud and by falsehood the power and the government of the minority, and their offices to them against the will of the great majority of the voters. I say it is an act connected with all the other acts. The whole case is to be taken, and every part of it judged of in this connection.

Now, what was the first act? That is historical. We may all speak of it now, though we disputed it at the time. The first Legislature that was elected in Kansas under the organic act, was

not elected by the people of Kansas. It was elected by persons who intruded into the polls, intruded themselves with arms in their hands, and seized upon the ballot-boxes, put in their own ballots, driving away the legitimate voters, and elected the members to the Legislature. That is the way the government of Kansas was inaugurated. There was an opposition to it from the first. Those who had been driven from the polls, those who were opposed to the party that was installed in power by these means, conceived such indignation and such disgust that they proclaimed aloud, whether wisely or unwisely, they renounced obedience to this spurious government, as they called it. It is not material to me whether their complaints are well-founded and true, or not. I am endeavoring to depict the course of things, to show their motives and the motives of the persons who were thus installed into the territorial government. They came to their power by violence; they came to their power by fraud. That was the complaint of the opposing party in Kansas. They renounced their rule, they renounced their laws, refused to commit themselves in any way to their support, refused to go to any election afterwards. They said, "What is the use? This corrupt minority who have got into power, who have in their hands the means of controlling the election, who are not too good to do it, and who will do it, who have done it, will practice the same means; we shall be again driven from the polls, or, if not, they, having the control of the elections, and of all the officers who conduct and manage them, will have what returns made they please. We will subject ourselves no more to the humiliation of attempting to execute a right which we know will be frustrated and defeated by fraud, or by violence, or by force." Under these impressions, and with these feelings, which it is not my part here either to justify or rebuke, but simply to state the fact, they withdrew from the elections lest, by voting according to the laws passed by this corrupt Legislature, they should seem to acknowledge its authority and their allegiance to it.

Now, what would be the condition of the men who had been installed into power in this way? They were very glad of this. In all the elections to be held afterwards, this power of the minority, however small, would be continued; as their enemies would not come up to vote, they would be reelected and would retain and perpetuate their power. So they went on—the field abandoned by the majority, and the minority ruling everything in this way. Look at the evidences that are before you from these high officers lately returned from Kansas—Stanton and Walker. They tell you of frauds regularly perpetrated there; and, although they had thought before that the people were acting factiously, that they were acting seditiously, that they were acting rebelliously in attempting to withdraw themselves from this government altogether and to act for themselves, and that their complaints of fraud and imposition upon them in elections were rather affected for the purpose of giving color to their conduct than otherwise, yet when they went among the people and heard them, and learned all about the dealings that had been practiced, they could not doubt their truth and their sincerity in the resentment which they felt and in the conduct which they pursued. However unwise, it was sincere on their part. They had been defrauded; they had wrongs enough to sting and humiliate them. This is what these officers say. I know nothing about it; we know nothing about it, except on the testimony. That these persons were capable of committing fraud, we know. They began in fraud. Has any gentleman here denied, is there any gentleman who discredits, the history which we all have of the frauds practiced in the first election that was held in Kansas? However we might doubt this, however we might have disagreed, however we might have believed or disbelieved heretofore, have not every mist and doubt been cleared away from around this fact, and is there one here now to say that the right of election was not trodden down in the first election for a Territorial Legislature in Kansas, and that a minority government was not elected? That they have continued that government by fraud since, is shown at every step of their progress.

It was in the midst of this self-suspension of the right of suffrage on the part of their oppo-

nents, that they called the convention by which this constitution was made. Look at the constitution itself. On its own face, does it not contain the amplest preparation for fraud, visible and apparent? Look at the internal evidence marked on its face. They pass by all the sworn officials of the territorial government who had before conducted elections. They authorized, by the schedule to the constitution, President Calhoun to take this whole matter into his hands, to appoint the officers to conduct the elections, giving him control over that official body, and the appointment of them all; and the returns were not to be made to any permanent officer of the government, not to the Governor, but to this same Mr. Calhoun. He was to appoint the officers to conduct the election, receive the returns, count the ballots, and declare the result. Well, Mr. Calhoun has performed all this business!

Another thing: every human being, in respect to that part of the constitution which was submitted to the people, before he could vote for or against it, was required to swear that he would support that constitution when it was adopted. In that constitution, those who framed it well knew were provisions intolerable to all the free-State men in the Territory, and they would not swear to support it. They so believed and hoped and expected. This was under the show of a fair election. Not only have they secured all the advantages resulting from the appointment of the officers to conduct it, but, to leave their consciences more easy, these officers were not even sworn. There was no provision for that. Every man voting for the constitution, or that part of it submitted to him to vote upon, was required to be sworn beforehand that he would support that constitution. This, it was supposed, if nothing else, would keep off the free-State men.

It is said, in this testimony, that Governor Walker, from the time he went there, had been diligently persuading all the people of the Territory to throw aside this inaction of theirs, come into the elections, and participate in the Government. For this, Mr. Stanton says, Governor Walker became the object of utter hostility to Mr. Calhoun's party. They did not want conciliation. They demanded, as the same witness says, repression. They wanted penalty, not persuasion. They did not know what the result of this persuasion might be in the elections afterwards to take place on the constitution. It was necessary, therefore, to make provision against the possible effect of these persuasions and arguments of Governor Walker; it was, therefore, necessary to put in, through nobody opposed them, six thousand votes for the constitution, they believing that that was a majority of the greatest number of votes ever given on any occasion in the Territory, and so it is stated here. They just went beyond the line; and for fear of rendering it more monstrous, and the fraud more visible, they went just so far as the necessity demanded the fraud. They did not choose to use it superfluously. They rather husbanded it, to be used as the occasion might require, and no more than was required. I cannot shut my eyes to this fact. These preparations, then, in the schedule of the constitution, were made in anticipation of the vague dangers that were apprehended. It was greatly important to carry through this constitution, greatly important to preserve their authority under the constitution. There were two Senators of the United States to be elected. All the officers of the State government were to be constituted. These were to be the reward of those who had labored.

These seem to me to be preparations made for fraud; and when I come to compare them with the action which took place afterwards, the design and the act, the purpose and fulfillment of it, make the proof perfect. The means of doing it, the means of facilitating it, are given in the constitution. The actual perpetration of it afterwards at the polls is seen. It is seen in the election upon the constitution. It is seen in the election of the 4th of January, for officers under the new constitution. There is where these frauds, lately developed, were practiced to such an enormous extent. There is where these little precincts distinguished themselves.

Another fact may be noticed, that this convention to make a constitution were to meet, by law, in September, and go to their work. They met

then. Did they go to work? No. Why did they not? There was an election of the Territorial Legislature to take place in the October following. They wanted to know the result of that election; to know how the land lay; whether all was safe or not; whether any point was necessary to be guarded in the constitution; whether there were any unexpected majorities rising up; whether there were any obstructions in the way of ordinary frauds. They wanted to see what was the character of the new Legislature, that they might meet the emergency and meet the exigency with any constitutional provision that might be necessary to perpetuate their power. They adjourned. The Legislature was elected; and that Legislature turned out, notwithstanding all the frauds that were practiced, to be against them. What then? The Legislature being against them, now what is the provision in the schedule? The officers of election, and other officers of the Government, were, many of them, appointed by the Territorial Legislature. They said: "Now, here has come in, in October, a Legislature opposed to us. What so likely but that they who have complained of frauds from Government officials, will now change the officers and change the mode of election?" What then? They declare in the schedule that all who are in office now shall hold their offices; that all the laws in existence now shall continue in existence until repealed by a Legislature which shall meet under the State organization under the constitution. That silences completely the Territorial Legislature, paralyzes the power of the Territorial Legislature. That was certainly against them; and to take the chances of a future election under that constitution, that future election was to take place, by the same schedule, on the 4th of January, and then they were to make another death-struggle for supremacy; and then they did. I have seen the report of the commissioners lately appointed by the Territorial Legislature of Kansas to investigate the frauds. There this Government party did make efforts more than worthy of all their former practices in fraud, in order to secure the Legislature, which, under the constitution, would make Senators of the United States. It was here that Oxford, that Shawnee, that Kickapoo, distinguished themselves in the multiplicity of votes, feigned and fraudulent.

And when you see such things as these in the constitution, when you see such things as these all around the constitution, when you see the same men who made the constitution rulers in the land during the whole time, do you not see that the frauds have been everywhere, that the imposition upon the people has been everywhere? And how can you exempt from the contagion (if there was nothing more than this general association from which to infer it) this constitution and those who made it? Judging from the positive internal evidence that exists in it, and the facts that surround it, I cannot. I believe it violates the right of the people to govern themselves, to impose it upon them. I believe this constitution is the work of fraud—fraud upon the rights of the people.

I do not undertake to defend this people for their conduct. It is not my part nor my province. I should agree, perhaps, with the President, that much of their conduct had been of a disreputable, disorderly, and seditious character. It may be that it deserves the epithet of "rebellion," which the President applies to it. I have nothing to do with that. I am not their advocate. I have disapproved of their conduct in many instances. There were many bad men among them, as I believe, but for that the law assigns its proper punishment. The majority of the people have their political rights, that remain, notwithstanding their legal offenses. It is in that point of view, it is in their political character as the people of a Territory, that I look at them in respect to this subject. Whether they be more or less vile on one side or the other, is not the question. I fear that neither party could take the chair of impartiality and justice, and be shameless enough to attempt to administer rebuke or justice to the other.

One great objection to their admission at all is that they have not shown, by their conduct on any side, that they are altogether fit for association with the States of this Union. A little more apprenticeship, a little more practice of honest and fair dealing, a little more spirit of submission and subordination to law and authority, would be well learned by them, and fit them and qualify them

much better for citizens of the United States. That is my opinion. I have, however, spoken of their political rights as men, and it is not for me to sit in judgment to condemn and deprive them of the right of suffrage on one side or the other, because of frauds committed by one, or violence practiced by another. This is a political question.

It is said, however, that the series of legalities and technicalities, to which I have alluded, of a regular election, of a regular convention, of a submission to the people, and of votes of the people upon all these questions, have been regular; and what then? All the people had a right to vote, and those who did not vote forfeited their right to complain; and we are not to inquire whether there were any people who did not vote, or whether those who did vote voted fairly, and were entitled to vote or not. It is said we are precluded by the forms in which this transaction is enveloped; that the formal election, the formal certificate of election, the formal constitution certified—these formalities are enough for us, and that we are not permitted to look further; that we ought not to look further. Sir, I do not think so. We are applied to now to admit a new State into the Union. The instrument which she presents as her constitution is opposed by people from the same Territory. They say, "this is not our constitution; it is against our will; it is not only against our will, but it has been imposed upon us by devices and fraud. It is void for fraud. If it is not void for fraud, for that is rather a legal than a political term, we present these frauds and this opposition as a reason why you should not admit our Territory into the Union under this constitution."

That is the state of the question before you. The complainants admit all the regularities just as the President states them. Perhaps they admit the effect these forms would ordinarily have, but they urge other facts in opposition to the apparent evidence of the constitution itself, as I have before adverted to. A majority of the people have protested against it. The present Legislature, by its inquiries, have developed the vast frauds which were practiced in the convention concerning and relating to all around this constitution. They say, "do not accept that; do not admit us under it; send it back; let it be submitted to a fair vote of the people." Sir, upon such a complaint as this, are we not bound, in justice to that people, to examine the whole case? Can any Senator turn away and refuse to look at the testimony that is offered? Can he be justified in so doing by naked legal presumptions from naked regularities or irregularities?

Do not suppose that I would disparage all these conclusions and presumptions from a formal regular manner of doing business. In many cases, and to many of the transactions of society, especially to your courts of justice, they are necessary, and they subserve the purposes of justice. They were not made to sacrifice justice, but to uphold it and maintain it and protect it as an armor. That is the proper business of forms—not to crush down justice, but to promote it. We are not now sitting here governed by any technicalities. This is a grand national political tribunal, to judge according to our sense of policy and our sense of justice. That is our high province—not to be controlled by presumptions of law when we can have the naked truth. It is the truth that ought to guide it; and for that we ought to look wherever we can find it, and where you find the truth on one side, and the fiction on the other side: which is to be followed, the truth or the fiction? I take the fact; I take the truth; let the fiction return to those tribunals who are by law made subject to it. This is a question above that sort of argument. It is inquirable into. Else how can we judge that it is their constitution? It is the first time, I believe, that such a question has ever come up in the Senate of the United States. In all former applications for admission, there has been one thing about which there has been no question; and that was, the willingness to be admitted, and the constitution under which they desired to be admitted. There has been no question about the authenticity of a constitution, or about its expressing the true will of the people before this, that I know of. I am satisfied there has been none; but now that there is, we must inquire into the authenticity of the instrument offered to us; we must inquire whether it is better, on full consideration, to admit this instrument and the State with it or not; and, in the

exercise of that judgment, we are bound to look abroad for the truth wherever we can find it. I think, therefore, these matters are all fairly subject to our consideration.

Now, Mr. President, convinced as I am from these imperfect views of the evidence in the case, that this instrument is not really the constitution of the people of Kansas, or desired by them to be accepted by you in their admission into the Union; believing that it is not their constitution; and believing, moreover, as I verily do, that it is made in fraud and for a fraud; believing that these matters are inquirable into by us, and that the inquiry has led us to abundant light on this subject, I cannot, I will not vote for it. Viewing it as I do, I should think that, with the opinions I entertain, I could not put my hand to her admission without violating my sense of right and justice; and I would submit to any consequence before I would do that.

Now, sir, what considerations are there, apart from these which I have stated, which could lead me to give, or could compensate me for giving, a vote against my sense of what was right and just? What is the advantage to our whole country, or to any portion of it, to result from taking Kansas into the Union now with this constitution? Is anything to be gained? Is the South or the North to gain anything by it? I see nothing to be gained by it. I think there is not a gentleman here who believes that Kansas will be a slave State. Before this territorial government was made, many of the leading men of the South here argued that Kansas and Nebraska never could be slave States. By the law of climate and geography, it was said they could not. So said my friend from Georgia, [Mr. TOOMBS,] and so said Mr. STEPHENS.

Mr. TOOMBS. Never.

Mr. HALE. Mr. Badger said so.

Mr. CRITTENDEN. Mr. KEITT and Mr. Brooks, of South Carolina, said so. The opinion was expressed by numerous southern gentlemen that Kansas could never be a slave State. It was for the principle that they contended; and the principle, the abstract principle, was a just one.

Mr. HAMMOND. With the permission of the Senator, I will ask him, "Did I understand him to say that Mr. KEITT had declared Kansas never would be a slave State?"

Mr. CRITTENDEN. Yes, sir; so it is reported. Mr. HUNTER, of Virginia, said: "Does any man believe that you will have a slaveholding State in Kansas or Nebraska?"

Governor BROWN, of Mississippi, said:

"That slavery would never find a resting place in those Territories."

Mr. DOUGLAS said:

"I do not believe there is a man in Congress who thinks it could be permanently a slaveholding country."

Mr. BADGER, of North Carolina, said:

"I have no more idea of seeing a slave population in either of them than I have of seeing it in Massachusetts."

Mr. MILLSON, of Virginia, said:

"No one expects it. No one dreams that slavery will be established there."

Mr. FREDERICK P. STANTON, of Tennessee, said:

"The fears of northern gentlemen are wholly unfounded. Slavery will not be established in Kansas and Nebraska."

The late Mr. Brooks, of South Carolina, said in his speech of the 15th of March, 1854:

"If the natural laws of climate and of soil exclude us from a territory of which we are the joint owners, we shall not and we will not complain."

Mr. BUTLER, of South Carolina said, on the 2d of March, 1854:

"If two States should ever come into the Union from them, [the Territories,] it is very certain that not more than one of them could, in any possible event, be a slaveholding State; and I have not the least idea that even one would be."

Mr. KEITT, of South Carolina, in his speech of the 30th March, 1854, quoted Mr. Pinckney, of his own State, that—

"Practically, he thought slavery would not go above the line of 36° 30' by the laws of physical geography, and therefore, that the South lost no territory fit for slavery."

This is all the authority I have; it is a compilation.

Mr. GREEN. I wish to inquire what book the Senator reads from. What is the title of it?

Mr. CRITTENDEN. It seems to be a book written with the most downright Democratic propensities and purposes. [Laughter.] It is "An

Appeal to the Democracy of the South, by a southern State-Rights Democrat." [Laughter.]

Mr. MASON. I suppose the pamphlet is anonymous. No name is given.

Mr. CRITTENDEN. Yes, sir.

Mr. MASON. The name of the writer of the pamphlet is not given.

Mr. CRITTENDEN. Will the gentleman take it? It contains a great deal of good Democratic reading. [Laughter.] The writer of it thought he was doing great service to the Democratic party.

Mr. HAMMOND. I wish to say that Mr. Keitt quoted that passage from Mr. Pinckney's speech on the Missouri question, which had been quoted on the opposite side of the case previously. His object in quoting it was to show that Mr. Pinckney did not support the Missouri compromise upon principle, but he did not indorse the sentiments expressed by Mr. Pinckney in that extract.

Mr. CRITTENDEN. I accept the explanation. Certainly I had no intention to misrepresent any gentleman by reading the statements expressed in this pamphlet. I say it was not anticipated at first that Kansas would be a slaveholding State. What is the South to gain now by having it admitted? It will gain a triumph in the admission of this constitution—admitted against the will of the majority of the people. It is a triumph, but is it not a barren one? Is it a triumph worthy of the South? It is not entirely barren. It will produce increased bitterness and exasperation, perhaps, on the part of those against whose will it is forced, not only in the Territory, but elsewhere. It may give new exasperation to the slavery question; new agitation, which God forbid. It would be a victory without results, without profit, barren, sterile, as to all the ordinary and beneficial fruits. There is none of them; but it will give exasperation, perhaps, to the slavery question. It will not allay agitation. Is that policy? Is that justice? Will that gain anything to us? I do not know how anything is to be gained to the South, supposing, as I verily believe, and as every gentleman here believes, that it cannot be a slave State; that there is a majority there opposed to it, and who will put it down. Pass this, and we may have a few years longer of exasperated struggle and exasperated agitation in the country. That is all the consequence of the barren victory which would be obtained by admitting Kansas with this constitution. That is not a fruit, I think, which any one would wish to gather. Now, if you attempt to enforce it, we are told by Mr. Walker—I know nothing about it, but from all that he and Mr. Stanton tell us, and they are Democratic witnesses—there is danger of resistance and danger of rebellion.

Where is the necessity, then, for our doing it now? Can we not resort to some other means by which we may avoid all these consequences of exasperation, of danger, of resistance, of tumult, or of agitation, upon this subject; and end this contest in a short time by authorizing the people of Kansas now, under the high mandate of this Government, to form for themselves a constitution, if they want to come into this Union—a constitution fairly to be made, fairly to express the will of the people, and to bring it here, when they shall be admitted? It defers the subject but a little while. Is it not better to do that; is it not better to stand by the evils we have, than to fly to others we know not of, either North or South, to result from the rejection or the admission of this constitution? I think every prudent consideration is in favor of our forbearing to enforce this constitution on the people of Kansas, and leave them an opportunity of making their views fully and perfectly understood. This will be in accordance with the generous principles and policy that the South has pursued here.

What recommended the Kansas-Nebraska bill to the South? For one, I think it was a great blunder to pass it; but what was the recommendation that it contains? It adopts, I think, a right principle in respect to a Territory belonging to the people of the United States, and in regard to which Congress has made no law of admission or exclusion, that any citizen of the United States, with any property of his, has a full right to go there. When people go upon that Territory to make a law, to become a community, when they have the power of legislation, they may admit it

or exclude it; it is all within the compass of their power. But while it is a Territory of the United States, there is no law there, I think, to divest the title which a man has to his property, whether it be a slave or a horse. If he has title by the laws of his own State to that property, he has, in a Territory, as much right to be there, and as much right to be there with his property, as any other citizen, until there is some law which shall prevent it and shall divest it, leaving to the people afterwards the right to form their own final constitution as they please for or against slavery. That is the principle upon which that bill rested; that is the principle upon which the South have always contended for the right. They contended for it in that bill; and, so far, I think they were in the right.

Now, I say, I want the full practice of that principle here. Let the majority make such a constitution as they please. That is the great American principle, that rises above all others. Let them govern themselves, and as the majority declare, so let the constitution and so let the laws be. I think we are infracting that great principle—the principle of the South itself, on this very identical subject, by forcing this constitution, at least of doubtful authenticity, upon the people. If there is a majority in favor of it, it is not much trouble for them to ratify it. If there is a majority opposed to it, they are entitled to have their will and their way. They are entitled to that upon principle; they are entitled to it by the express pledges of the Kansas-Nebraska law.

Sir, I feel that I have already occupied a great deal of your time—more than I expected to do; and yet there are some general topics upon which I wish to say something, though not so immediately connected with the direct question before us.

Mr. President, I am, according to the denominations now usually employed by parties in this country, a southern man. I have lived all my life in a southern State. I have been accustomed from my childhood to that frame of society of which slavery forms a part. I am, so far as regards the necessary defense of the rights of the South, as prompt and as ready to defend them as any man the wide South can hold; but in the same resolute and determined spirit in which I would defend any invasions of its rights, and for which I would put my foot as far as he who went furthest, I will concede to others their rights, and I will maintain and defend them. With the same feeling with which I know I would defend my own rights, I will respect theirs. I never expected Kansas to be a slave State. I believed that those at the South who expected it would be deluded. There was some vague hope that when the Missouri compromise line was taken away and abolished, slavery might be extended in that direction, but I did not believe it. I believed that the Missouri compromise line fixed in 1820, was about that territorial line, north of which slavery, if it could exist, would not be profitably employed; and our experience since has shown that the wise men who made that compromise judged rightly. We have found no instance in which it has been found profitable anywhere there. I believed that the idea of making Kansas a slave State was a delusion to the South; that her hopes would never be realized, if she entertained such a hope as that. I thought, therefore, it would have been better, without examining scrupulously into its constitutionality, to let the Missouri compromise stand. I regretted its repeal. I did not believe the South would gain anything by it, or that the North would gain by it.

That compromise was a bond and assurance of peace. I would not have disturbed it. It was hallowed in my estimation by the men who had made it. It was hallowed in my apprehension by the beneficial consequences that resulted from it. It was hailed, at the time it was made, by the South. It produced good, and nothing but good, from that time. Often have you, sir, [addressing Mr. Toombs,] and I, and all of the old Whig party, triumphed in that act as one of the great achievements of our leader, Henry Clay. It was from that, among other things, that he derived the proudest of all his titles—that of the pacificator and peace-maker of his country. We ascribed to him a great instrumentality in the passage of that law, and over and over again have I claimed credit and honor for him for this act. This, for thirty years, had been my steadfast opinion. I have

been growing, perhaps, during that time, a little older, and am a little less susceptible of new impressions and novel opinions. I cannot lay aside the idea that the law which made that line of division was a constitutional one. I believed so then. All the people believed it. I must be permitted to retain that opinion still; to go on, at any rate, to my end with the hope that I have not been praising, and have not been claiming credit for others for violating the Constitution of their country.

Sir, the men who passed that measure were great men; they were far-seeing men. Without argument now, I am content to rest my faith upon the authority of those great men—Pinckney, Clay, Lowndes, old President Monroe, the last of the patriarchs of the Revolution, with his learned and able Cabinet, and then, what is more than all, thirty-five years of acquiescence in it, and peace under it in these States. Whatever quarrels you may have had about it in Congress, there was always enough to uphold and sustain that law; and never, until 1854, was it repealed, or its constitutionality questioned, that I know of. I regretted its repeal, because I feared that it would lead to new agitations and new dangers. Has it not? What has been our experience?

The authors of the measure which repealed that compromise—honorable and patriotic I know them to be, many of them my personal friends—promised themselves from it greater peace and greater repose by localizing the slavery question, as it was said. Then this act was to localize the question of slavery, and all agitation was to be at an end. It was to give peace to the country. So the President said. The President in his message at the commencement of this session, or in his special message—I do not know which—imagines the country to have been in great agitation on the subject of slavery, when the Kansas-Nebraska act came and put a stop to it until, some time afterwards, it was revived. Why, sir, exactly the contrary seems to me to be the true history of the transaction. We were becoming tranquilized under the compromises of 1850 in addition to the Missouri compromise; all was subsiding into submission and acquiescence, when, to obtain a greater degree of peace and secure us for the future against all agitation, this bill of 1854 repealing the Missouri compromise was passed. What has it produced? Has it localized the question of slavery? Has it given us peace? All can answer that question. It has given us everything but peace. It has given us everything but a cessation of agitation. It has given us trouble, nothing but trouble. That has been the consequence of it so far.

I am as anxious now as any man here to close up this scene. I would vote for the admission of Kansas upon almost any terms that would give peace and quiet. If I thought this bill would do so, I should vote for it. I would suppress all scruples for the sake of that peace. If I was sure such would be its result, I would vote for it, thinking myself justified by the price that was to be paid—the peace of my country and the restoration of good will among my fellow-citizens. I do not hope for it. I fear further trouble. We are again told that this will have the effect, at any rate, of localizing the question of slavery, and that we shall be no more troubled with it; that the mischief and clamor and agitation will all be confined to the limits of Kansas. This is the same hope that was disappointed when the Kansas-Nebraska bill was passed. The same hope was indulged in then, and since then there has been nothing here but agitation on the subject increasing with every day.

Again, we have the idea of localizing it presented. Now, sir, if it is to be debated anywhere, it will be debated here; and, perhaps, if it is to be debated anywhere, it is best that it should be debated here; because we might hope, Mr. President, that in this body it would be debated with a spirit of moderation and conciliation that would deprive it of many mischievous consequences if it were agitated and debated among men without our years, without our responsibilities, and without the restraints which our condition and our knowledge impose upon us. We do not debate it in the right way here. We allow ourselves to become too much excited about it. To this great country, now, what is Kansas and this Kansas question, and the two or three hundred slaves who are there, that you and I and all

the American Senate should be here day and night, and using such language of vituperation and invective on this subject as we often do? Look at our great country, and the great subjects which claim our attention as her legislators; look at them all in their majesty and their magnitude, and then say, how little, pitiful, in comparison, is the question about which we are making so much strife and contention.

On this subject, and on many others, it seems to me that it becomes us, of all the citizens of this great Republic, to set to our fellow-citizens examples of moderation and conciliation. What good does the mutual charge of aggression, often fiercely repeated? What good do these invectives of one against another? Especially let me say to my friends of the North, why indulge in invectives of the most reproachful character, upon those who, in fourteen or fifteen States of this great country, are slaveholders? Does that give you any cause to traduce them? Cannot you live content with the institutions which please you better, and leave these fellow-citizens, who have just the same right to adopt slavery that you have your institutions, to enjoy their liberty in peace also? Is there anything in the difference of our institutions which ought to make us inimical to one another? How was it with our fathers? Did not they live together in peace and harmony? Did not they fight together? Did not they legislate together? Did they ever abuse and reproach each other about the question of slavery? Never, that I have read of. Why is it that we cannot do as they did? Have we degenerated from those fathers, or have we grown so much better and purer than they were? I doubt whether we are any better; and I do not believe, notwithstanding all that is said about progress, that we are at all more sensible than those fathers who made the Constitution of the United States, and laid the foundation of this great Government of ours. They gave us an example of brotherhood; and when we look at all that connects us, all that unites and makes us one people, how much more powerful would its influence seem to be to connect us together, than the power of slavery and anti-slavery to divide us? We are united by circumstances of which we cannot divest ourselves. We are united in language, in blood, in country, in all the memories of the past, in all the hopes of the future. This is our connection, leading and pointing to the brightest destiny that ever awaited any people. All the unnumbered blessings of the future are in full prospect; but there is this little, this comparatively small matter of contention, that we seem disposed to nurse up into continual occasion for philippics and for reproaches. This is not the right temper with which to regard the subject. Crimination and recrimination is not the way to strengthen our Union—that Union of brotherhood, of good will, of cooperation for all great national purposes, which our fathers formed.

I was gratified to hear comparisons made of the mighty resources of the different sections of this country. It was a proud exhibition. The honorable Senator from South Carolina [Mr. Hammond] gave us, in a very interesting and eloquent manner, the mighty resources of the South. They are beyond estimate—beyond calculation. This is replied to by a gentleman from the North, who gives us the mighty resources and the mighty power of New England and the non-slaveholding States. Well, sir, if the conclusion which might be drawn from it was true, that each of those sections would by itself make a mighty country and a country that any one of us might be proud of, what a magnificent country is made when we put it all together! What a magnificent abode for man, such as the Almighty never gave to any other people, and never placed on the surface of this earth!

It seems to me the most natural union in the world—the South, with her great and her rich productions, while the North abounds with ingenuity, labor, mechanical skill, navigation, and commerce. The very diversity of our resources is the natural cause of union between us. It would not do for us all to make cotton, nor would it do for us all to work in your manufactories. Nature seems to have organized here this country, adapted to a union of people North and South. Nature has given her sanction to the Union. Nature has traced that Union, and you alone disturb it. Gentlemen, you alone disturb it by making this

subject of slavery the cause of dissension. Of the dissension itself it is not so much the cause, for we seldom come to a question that calls upon us to act on the subject. Now, if we were through with this petty Kansas affair, what a summer sea of boundless expanse lies before us, where there is nothing but repose. There is no other territory that you can dispute about in my lifetime, or the lifetime of any man here. This is the last point on which a controversy can probably be made. We went through many difficulties on this subject before the Missouri compromise, but, on other occasions, the question has presented itself with practical consequences. Now we have reached the last of it, the least of it. Let us settle this matter in peace; let us settle it in good temper; and I see nothing before us but a long period of repose, and, I hope, of mutual conciliation. Of one thing I am certain, that crimination and re-crimination between the North and the South, the getting up and maintaining of sectional feeling, sectional passion, sectional prejudices, can do no good to any section; and there is not one Senator here who does not recognize and feel all this as much as I do. I am certain of it.

My vote on this subject, sir, has nothing sectional in it. The difficulty I have really in voting is, that this is regarded by some as a sectional question; and I am on one side of that section, and I am voting for the other side of it, if we divide on it as a sectional question. Now, I do not regard it as a sectional question. My allegiance is not to any particular section. I do not want to know any such thing as a section in my conduct here. I want to be governed by a constitutional spirit, and a constitutional and a just principle, in all I do, no matter whether it relates to the North or to the South. I do not want to increase the sectionality which exists in the country by placing myself or my vote upon it so far as regards this question. I want to wipe out that sectionalism. I wish that no one here would vote upon it as a sectional question. I do not. I vote upon it as a Senator of the United States of America. That is my country, and my great country. The Constitution of the United States intended to wipe out all these lines of division and sectionalism. It is we, we, that disturb our own Union. It is we that make sections; it is we that make sectional lines to divide and distract the country, whose Constitution, whose present interest, whose future hopes, all tend to unite us.

There are some doctrines which have been advanced here with which I disagree, and upon which I will briefly express my views. Some gentlemen have argued, and they have the high authority of the President to sustain them, that the Kansas-Nebraska act gave all the authority that is usually conferred by what is called an enabling act on the people of a Territory. I never considered it so. I do not believe it is to be considered so. Some gentlemen, on the other hand, maintain that, under the Kansas-Nebraska act, the convention were bound to submit the constitution to the people for the popular suffrage; indeed, that it is the right of the people to have every convention submit every constitution to them. I do not agree to that doctrine. The people are too sovereign to be required to do that. They can confer upon a convention the power to make a constitution that shall be good without reference to any other power. The sovereignty over the Territory is in this Government. It belongs to the people of the United States, one and all. The people of the States own it; and they are the real sovereigns of the Territory, and we as their representatives. They have no more power in the Territory than we give. They have no government but what we give. It is not in the nature of things that they should have. All squatter sovereignties, and sovereignties of all sorts, vanish before the sovereignty of the people of the United States.

But the President says, in reference to this Kansas constitution, that, although it contains a provision that after 1864 a convention may be called to change it, the people can, nevertheless, change it before that time. That is to say, the people, by their irresistible power, can at any time, notwithstanding the provisions of their constitution to the contrary, change it as they please. Sir, this is a very high authority, the President of the United States; but it is, in my humble judgment, a very dangerous doctrine and a very untrue one. The people cannot bind themselves by

a constitution! I thought that was one of the great virtues and purposes of a constitution. We admit them to be sovereign. Why cannot they make what sort of a constitution they please? The constitution which sovereignty makes, in all its parts and in all its purposes, must be the rule of conduct for all. It cannot be abolished, except in the manner prescribed and pointed out in the constitution itself, if any manner is prescribed.

If the President's doctrine on this subject be true, what becomes of the Constitution of the United States? Instead of following the mode of amendment prescribed in the Constitution, the people, by their irresistible power, may in any other manner at any time change the whole frame of our Government. There is not a State constitution in the Union that does not impose some restraint as to the manner of change. What would a constitution be if it were just as liable to change as any ordinary act of the Legislature? It would lose its character. Those who talk to the people about the unlimited and illimitable power they possess are teaching a dangerous doctrine. That is a sort of sovereignty which the people cannot exercise. It may be made very flattering to their ears, but it is impracticable in the nature of things. It cannot be exercised at all. The people must exercise their sovereignty through agencies. They must exercise it through representatives and governments; they must exercise it safely through constitutions. If they could not make constitutions bind themselves their sovereignty never would be safe. If it were not invested in the constitution, it would be constantly escaping into the hands of some of those gentlemen who could talk most eloquently to the people about their irresistible sovereignty. That would be the end of that sort of sovereignty in the people.

The people must understand that their sovereignty, their practical sovereignty, is to be exercised through representatives and delegates, over whom they are to hold the proper control; and to hold that control, and to fix and make permanent and operative their sovereignty, they must put it in the form of a constitution. That is the only security for popular sovereignty. Therein it exists, and therein alone can it exist. It is not true that the people cannot bind themselves, and are not bound, by the restrictions of their constitution. They may rebel against their own constitution; they may violate their own law and constitution, just as they could violate the law or constitution of any other people; but it does not follow that, because they could do that, they have not created a political obligation on themselves by a constitution, only to amend that instrument in the guarded, temperate, gradual method which the constitution may have provided for and prescribed.

Sir, I am sorry to have occupied the time of the Senate so long. I can say, with the President of the United States, that on this important occasion I have endeavored to do my duty, with a full sense of my responsibility to my God and to my country. Under the conviction that the best results to be obtained under the present circumstances, unless some material amendment can be made to the bill, will be attained by rejecting this constitution, I shall give my vote against it; but so anxious am I to conclude this subject, that I intend, before it is finally acted upon by the Senate, to propose an amendment. This would not be the proper time to offer it; I am not prepared now to offer it; but the effect of it will be to admit Kansas into the Union upon condition that this constitution of hers be submitted to a fair vote of the qualified electors of Kansas, to be ratified by them; and if so ratified, the President, on information of the fact, shall proclaim it a State of the Union without further proceedings; and, if it be not ratified, to have a new constitutional convention convened. My amendment will be an enabling act in effect, but admitting Kansas for the present.

Mr. TRUMBULL. Mr. President, after the very eloquent and conclusive speech of the distinguished Senator from Kentucky, [Mr. CRITTENDEN,] with the most of whose remarks I heartily concur, and after the exhibition which he has given of the iniquity of the constitution that is sought to be forced upon the people of Kansas, this would seem to be the most appropriate time to take the vote. It would seem that no person could have listened to the detail of facts given by him, to his statement of the management that was

resorted to for the purpose of adopting this constitution and forcing it upon the people of Kansas under color of the forms of law, without being satisfied that it was an iniquitous and infamous thing, that ought not to receive the approbation of any fair minded man in any portion of the Union. I rejoice that we have had such a speech from such a quarter. I believe it is only necessary that this question should be understood in the South to bring up from that section an opposition to the Lecompton iniquity almost as unanimous as that which we have in the North. It is because this matter has been mixed up with the slavery question, it is because the cry of abolition has been raised against those who have exposed these iniquities, that they have found advocates in any portion of the country. I think the remarks of the distinguished Senator from Kentucky will do great good. I hope they will be extensively read. If they are, I have no fear of the result with the people of this country, North or South. There is too much honesty in the South, and just as much there, I admit, as in the North—there is too much honesty among our people everywhere, knowingly to wish to deprive any people of self-government, or to force upon any State a constitution obnoxious to a majority of its people.

But, sir, although this question may seem so clear to the impartial listener to the masterly exposition of the Senator from Kentucky, the measure has many advocates on the opposite side of the Chamber, and it is sought to be consummated by the aid of the power and patronage of this Government. Iniquitous as it is, there are those—and, I am sorry to say, a powerful and a numerous party—in the country who are seeking to force this instrument on the people of Kansas, and to cause the bill now pending to be enacted into a law. Therefore it is that I feel at liberty, and deem it to be my duty, to state my objections to this constitution, and the reasons which govern me in opposing the admission of Kansas into the Union under it; although in doing this, I shall necessarily have to restate much that has been better said than I can hope to state it.

It is admitted that we are in the midst of a great excitement. It is admitted that a question is pending before us which threatens the peace and the harmony of the Union. Upon the one side it is said that if this constitution be accepted by Congress, there will be resistance to it in Kansas; a civil war will follow which may extend to other portions of the Union, and involve all the States in a conflict before it is over, leading to a destruction of the Government itself. Upon the other side it is said, and we know that certain Legislatures in the southern States have adopted resolutions to the effect, that if it does not pass, conventions are to be called to take steps preparatory to a dismemberment of the Union. Here, in the Senate, we have seen that the Kansas question is of such vast importance that everything else is laid aside for its consideration. No other business affecting the interests of the Government can receive our attention until this is disposed of.

Now, sir, what has brought us to this condition of things? What is the origin of this difficulty? We should know the occasion, the cause of the mischief, before we undertake to provide a remedy. Doubtless the slavery question lies at the bottom of this difficulty; and, but for it, I apprehend there would be no considerable party in the country advocating the admission of Kansas into the Union under this constitution. But the immediate cause of our trouble arises out of the passage of the Kansas-Nebraska act in 1854, which repealed the Missouri compromise. In my discussion of this subject, I do not propose to go further back than 1850. I go back to that period, and trace the history of the Kansas-Nebraska act, not for the purpose of reproaching those who were instrumental in its passage—that matter has gone by—but for the purpose of showing the correctness of the position which I occupy; and I shall be exceedingly glad, if, in the contest which is now raging, we can have the assistance of any or of all of those who were in favor of the Kansas-Nebraska act.

What was the policy adopted in 1850? It was non-intervention; that is, that Congress would not interfere with the subject of slavery in the Territories, for no one ever contended that Congress had authority to interfere with that subject

in the States of the Union. The whole controversy has been, and is, in regard to slavery in the Territories. The policy adopted in 1850 was to have nothing to do with it. If we subsequently acquired territory in which slavery existed at the time of the acquisition, Congress was not to interfere for its abolition; if the territory was free by virtue of any existing law, as was the case with the territory acquired from Mexico under the Mexican laws, and of that lying north of 36° 30' of the Louisiana purchase by the Missouri compromise, Congress should not interfere to repeal those laws, but should leave the country in the condition it then was. In fact, slavery was then excluded from all the Territories of the United States by virtue of some positive law, except from that portion of the territory acquired from France which lay south of 36° 30'.

This policy gave peace to the country. All parties acquiesced in it. After a most exciting contest, and a great deal of agitation in 1850, the country became quiet, and it was not until 1854 that agitation again commenced. To show what was the condition of the country from 1850 to 1854, I will read an extract from a speech delivered in this body when the Kansas-Nebraska bill was pending, in 1854, by a Senator from Michigan, now the Secretary of State. Mr. Cass said, in language more beautiful than I can use:

"Mr. President, but four brief years are passing away, brief in the life of a nation, since this Hall resounded with angry and agitating discussions upon the very topics that now disturb and divide us, and since every breeze that spread out to the heavens the flag that waves over us—our fathers' flag, and, blessed be God, yet our own—brought us from crowded city and from lonely cabin, from hill, valley, and prairie, from ocean and lake, the echoes of anxiety and alarm, passing over the country, and which announced that a great people had reached a crisis in their destiny, which, for weal or for woe, might mark their history during long ages to come. Well, all this passed away, by the mercy of Providence rather than by the wisdom of man, and a beautiful tribute was furnished to the inestimable value of free institutions; for there is not another Government under heaven which could have entered into such a trial and come out of it unscathed. Peace and prosperity and good feeling were restored, and we looked forward to long years of tranquillity. The events now upon us are another illustration of the vanity of human expectations. But yesterday, the whole hemisphere was without a cloud, even on the distant horizon—to-day, the signs of an approaching tempest are audible and visible, and the only question which can ever put to hazard our Union and safety, presents itself for solution."

"Mr. President, I have not withheld the expression of my regret elsewhere, nor shall I withhold it here, that this question of the repeal of the Missouri compromise, which opens all the disputed points connected with the subject of congressional action upon slavery in the territory of the United States has been brought before us. I do not think the practical advantages to result from the measure will outweigh the injury which the ill-feeling, fated to accompany the discussion of this subject through the country, is sure to produce. And I was confirmed in this impression by what was said by the Senator from Tennessee, [Mr. Jones,] by the Senator from Kentucky, [Mr. Dixon,] and by the Senator from North Carolina, [Mr. Badger,] and also by the remarks which fell from the Senator from Virginia, [Mr. Hunter,] and in which I fully concur, that the South will never derive any benefit from this measure, so far as respects the extension of slavery; for legislate as we may, no human power can ever establish it in the regions defined by these bills."

I have read this extract for the purpose of showing what was the opinion of a distinguished Senator at that time, and one who felt constrained to vote for the Kansas-Nebraska bill that brought these difficulties upon the country. The passage of that bill opened up, as he eloquently remarked, the discussion of that question which alone has hitherto put to hazard the safety and the peace of the Union. It was a departure from the non-intervention policy adopted in 1850, for Congress, by the Kansas-Nebraska act, intervened to repeal an existing statute which excluded slavery from the Territories then organized. Here was the mistake. Many of those who advocated that measure did not, perhaps, see the consequences which were to flow from it. I do not suppose they did.

The reasons which they gave were that by repealing the law excluding slavery from Kansas and Nebraska, the question of its existence in those Territories would be left to the people who should settle there, and that this disposition of the subject would remove it from the political arena and from the Halls of Congress, and transfer it to the people of the Territory to be affected by it, where it properly belonged. This was the argument. How ill that measure has answered the purposes for which it was designed by those who took that view of the subject, history shows. So far from removing this exciting topic from our

congressional discussions, the Halls of Congress have not ceased from that day to this to resound with speeches made upon the subject of slavery. So far from transferring the matter to the decision of the people who should settle in the Territory, most of those who advocated the passage of the Kansas-Nebraska act now deny wholly the right of the people of a Territory to act upon the subject at all while the territorial condition continues.

Both the objects which it was said were to be accomplished by the passage of that bill have signally failed. The right of the people of a Territory, while in a territorial condition, to act upon this subject is now denied, notwithstanding what is said in the bill about leaving to the people of the Territory the regulation of their domestic institutions in their own way, upon the ground that constitutionally they have no such right; that the Constitution of the United States extends slavery to the Territories and perpetuates it so long as the territorial condition continues. In support of this proposition, we are referred to what is called the Dred Scott decision. No such question was decided in the Dred Scott case. The only point decided in that case was that a person descended from Africans, who were held as slaves, had no authority to sue in the circuit court of the United States. The Supreme Court did not decide whether Dred Scott was a freeman or a slave, and it was wholly immaterial to the decision made whether he was the one or the other. They decided the case upon the ground that the court had no jurisdiction to hear him, and then proceeded, in an extra-judicial manner, without having the questions legitimately before them, to pronounce opinions upon political questions; and to my utter astonishment, the Senator from Louisiana, [Mr. BENJAMIN,] a distinguished lawyer, undertook, the other day, to show that that portion of their opinion upon these political questions as to the authority of Congress to exclude slavery from a Territory, and the right of slaveholders to introduce it, amounted to a decision and was properly before the court. He reproached those of us who had asserted that the only question decided by the court was one of jurisdiction. I will read a few sentences from what he said:

"It was said everywhere, 'this court is usurping power; it has no such power as that which it assumes; it first says it has no jurisdiction, and then, after declaring itself to be without power over the subject-matter, it presumes to determine it.' Every Senator on this side of the Chamber, who has spoken, has repeated this. I want to nail the assertion to the counter; the coin is false."

"Every Senator who has spoken on the subject of this decision has declared that the court said it was without jurisdiction to determine it, and then determined it. I say that all the judges declared that they had jurisdiction of the merits, and determined that point before they decided the merits; and I am prepared to prove it."

"Now, shall I detain the Senate by reading passages from the speeches which I hold in my hand, and in which every Senator in succession, who has spoken of this decision, has spread before the country the bold, plain statement that the Supreme Court first decided that it had no jurisdiction, and then went on to determine the merits?"

Every careful reader will observe the different forms in which this is stated. The Senator from Louisiana is going to nail to the counter the assertion that the Supreme Court decided it had no jurisdiction, and then decided upon the merits; and he is going to do that by showing that each judge said he had jurisdiction. Who denied that? That is not the point in issue. The question is, what did the court decide, not what each judge said about his having jurisdiction. Suppose they had said that they had jurisdiction to try the honorable Senator from Louisiana for misstating their opinion: would that have given them jurisdiction? The charge made by us, which is not refuted, and cannot be refuted, is, that the court decided that they had no jurisdiction, and then went on to decide, or rather express opinions, upon the merits of the case. I will prove this; and I will prove it from their own decision; and will show that the nails with which the honorable Senator from Louisiana has attempted to fasten to the counter the assertion that the court had authority to decide anything else than as to the jurisdiction, broke in the driving, and cannot hold the assertion to any such place. The court say in their opinion delivered by Judge Taney:

"It will be observed that the plea applies to that class of persons only whose ancestors were negroes of the African race, and imported into this country, and sold and held as slaves. The only matter in issue before the court, therefore, is, whether the descendants of such slaves, when they shall be emancipated, or who are born of parents who had become free before their birth, are citizens of a State, in two

sense in which the word citizen is used in the Constitution of the United States. And this being the only matter in dispute on the pleadings, the court must be understood as speaking in this opinion of that class only, that is, of those persons who are the descendants of Africans who were imported into this country, and sold as slaves."

In the conclusion of his opinion the Chief Justice says:

"Upon the whole, therefore, it is the judgment of this court"—

Now we come to the actual decision:

"that it appears by the record before us that the plaintiff in error is not a citizen of Missouri, in the sense in which that word is used in the Constitution; and that the circuit court of the United States, for that reason, had no jurisdiction in the case, and could give no judgment in it."

Could anything be plainer? The court first state the only question before them to be whether a particular class of persons can sue as citizens in the United States courts, and then decide, that the party is not a citizen of Missouri; and that for that reason the circuit court had no jurisdiction of the case, and could give no judgment in it. Now it matters not what each individual judge may have said upon matters not involved in the decision made, and it is a most singular way of proving that such sayings were not *dicta* because the judge said they were not. What is *dictum*? It is the expression of the opinion of judges upon a matter not necessary to the decision of the case and not involved in the decision made. What is involved in the decision made in this case? Not the freedom or slavery of Dred Scott, nor the effect of his residence north of 36° 30' north latitude, or in the State of Illinois. Why, sir, every judge who delivers a decision, and then goes on to express an opinion on matters not necessary to the decision of the point which determines the case, in the very act of so doing asserts his authority for his course, and yet such expression of opinion is clearly *dictum*. No judge ever so far stultified himself as to declare to begin with, "what I am now going to say is out of the case, and is of no authority whatever, but I will go on to say it." Because these judges say they have authority to express their opinions on questions not involved in the decision made, the Senator from Louisiana says it makes their opinion authority. So far will men be blinded on this slavery question, by their prejudices or feelings, that it seems they cannot look impartially even at the decision of a court.

What further position does the Senator from Louisiana take? He says the Supreme Court, it is true, decided that the circuit court of Missouri had not jurisdiction to determine the case, but they did not decide that they themselves had no jurisdiction. Sir, can it be possible that the Senator from Louisiana contends that the Supreme Court had any larger or greater jurisdiction than the circuit court whence the case came? It is not one of that class of cases over which, by the Constitution, the Supreme Court has original jurisdiction; it is a case where it has only appellate jurisdiction. Can the appellate jurisdiction be larger than the jurisdiction of the court from which the appeal is taken? Can the stream rise higher than the fountain? When it was decided that the circuit court had no jurisdiction, and could give no judgment in the case, how idle it is to say that the Supreme Court had jurisdiction and could give judgment.

Having disposed of the jurisdiction of the court, and shown that the opinions which the judges expressed, outside of the decision which they made, are entitled to no authority, and are merely the expression of opinions upon political questions, entitled to no more weight than they would have if coming from the same gentlemen off the bench, I wish now to follow up a little further the argument of the Senator from Louisiana. He stated:

"The whole subject of slavery, so far as it is involved in the issue now before the country, is narrowed down at last to a controversy on the solitary point whether it be competent for the Congress of the United States, directly or indirectly, to exclude slavery from the Territory of the Union. The Supreme Court of the United States have given a negative answer to this proposition, and it shall be my first effort to support that negation by argument, independently of the authority of the decision."

I have shown that the Supreme Court have made no such decision, nor do I believe they ever will. Again, the Senator said:

"It seems to me that the radical, fundamental error which underlies the argument in affirmation of this power, is the assumption that slavery is the creature of the statute law of the several States where it is established; that it has no existence outside of the limits of those States; that slaves

are not property beyond those limits; and that property in slaves is neither recognized nor protected by the Constitution of the United States, nor by international law."

In support of his views, the Senator stated, that

"Down to the very moment when our independence was won, slavery, by the statute laws of England, was the common law of the old thirteen colonies."

This statement seemed to me to be paradoxical. I did not know how statute law could make common law. I understood the common law to be the unwritten law which was evidenced by the decisions of courts and by treaties on the subject of law, and that there was a distinction between statute and common law. But in order to show that slavery existed by the common law in this country, he referred to various statutes in England and did show that persons had been held in slavery, both whites and blacks, in various parts of Europe. I only wish to refer to the two cases which he read, to show—I was about to say, the fallacy, but I wish to use no harsh terms—of his whole argument; they do not support the position for which he quoted them. The two cases upon which he commented at length are the *Somerset* case, decided by Lord Mansfield, before the Revolution, in 1771, and the case of the slave Grace, decided some fifty years later, by Lord Stowell. It was decided by Lord Mansfield in the *Somerset* case, that

"The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by positive law, which preserves its force long after the reasons, occasion, and time itself, from whence it was created, is erased from the memory; it is of a nature that nothing can be suffered to support it but positive law."

Here was a decision as to how slavery existed. It was of such a character that nothing could be suffered to support it but positive law. This is the highest evidence of what the common law of England was at that day; and that decision has never been overturned. Lord Stowell's opinion, delivered fifty years later, is not in conflict with it. The case here was as to the condition of a person who had been in England, but afterwards returned to a colony where slavery existed. Lord Stowell decided, that having gone voluntarily back into a state of slavery, she could not, in that colony, assert her freedom; but he did not decide that she was a slave in England, although the Senator read from a portion of the argument that might leave that inference, or, rather, stated it in his speech. His statement was this—to be accurate, I will read what he said:

"I have already shown to you, by the passages I have cited from the opinions of Lord Stowell and of Judge Story, how they regard this subject. They say that the slave who goes to England, or goes to Massachusetts, from a slave State, is still a slave; that he is still his master's property; but that his master has lost control over him; not by reason of the cessation of his property, but because those States grant no remedy to the master by which he can exercise his control."

I say they decided no such thing. Lord Stowell did not decide that Grace was a slave in England. He only decided upon her condition after she had voluntarily gone back into a state of servitude. To show Lord Stowell's views as to the condition of the person while in England—and I have already stated the point decided—I will read from a portion of his opinion:

"I observe that, by the papers transmitted by the Advocate General to his Majesty's Secretary of State, this notion of a right to freedom by virtue of a residence in England is universally held out as a matter which is not to be denied; but it is contested by the judge upon the ground that the residence in England conveys only the character so designated during the time of that residence, and continues no longer than the period of such residence. The person who is a *freeman* in England, returns to slavery in Antigua; that is the whole question in the cause; if to be decided in favor of this female, she has a right to maintain this cause, and to claim a judgment; but if, on the contrary, her freedom ceased with her residence in England, she has no right to claim it, and, consequently, no power of maintaining the present suit. The judge of the court below was perfectly correct in entering into this general question, and required no apology for so doing, for it is really the hinge upon which the whole of this case depends."—2 *Haggard's Reports*, p. 104.

Lord Stowell admitted the freedom of the slave while in England. The hinge upon which the case turned was whether she had a right to claim free, dom after returning back into servitude. But, sir, that slavery is the mere creature of local law, and can exist only where the local law operates, has been established by the highest tribunal in this country. The very Supreme Court to which the gentleman appeals, have settled this question, and why should we now contend about it? In the case

of *Prigg vs. the Commonwealth of Pennsylvania* (and I read an extract from it which I have compared with the text and found to be correct), it is decided by the court, upon which question there was no disagreement between its members, that

"The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the range of territorial laws."

Here is a decision of the highest tribunal in the land; the very one to which the gentleman appeals to conclude us by extraneous opinions not involved in the case. I could read other authorities. The authorities are numerous in the slave States themselves, where similar decisions have been made. The courts in Kentucky have expressly so decided. But I need only read the opinion of Lord Mansfield as to what the common law was when our independence was achieved; and the opinion of the Supreme Court of the United States, delivered only a few years ago, to show that slavery can only exist by virtue of positive law, and is the creature of municipal regulation. I am willing to leave this part of the matter with these two decisions. They are conclusive, and there is no escape from them.

The next proposition which is sought to be maintained by those who contend for this extraordinary doctrine that slavery extends into the Territories without any law to create it, is that it goes there by virtue of the Constitution; and this seems to be the President's opinion. The clauses of the Constitution upon this subject, and the only ones which relate to it in any shape, are four. The first is that which apportions representation, and includes as the basis,

"The whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, and three fifths of all other persons."

That clause is supposed to relate to slaves, under the name of "all other persons," the Constitution not using the word "slave." But it by no means creates or makes slaves. Another clause of the Constitution is:

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808; but a tax or duty may be imposed on such importation not exceeding ten dollars for each person."

It was contended the other day that under this clause the Constitution of the United States established slavery and carried it to the Territories. Now, what is the Constitution of the United States? It is a compact made between the States of the Union, establishing a government possessing only those powers which have been surrendered to it. Because here is a clause denying certain powers to the Congress of the United States, denying their authority to prevent the importation of a certain class of persons before 1808, it is therefore contended, strangely, as it seems to me, that that clause establishes property in those persons and creates slavery. The Congress of the United States, before the expiration of that period, possessed the power, under the general grant of authority to regulate commerce, to prohibit the importation of slaves, and did so in regard to the Territories of the United States. Congress also possessed power to prohibit their importation into any new States which should be created; but as to the old States they had not this authority down to 1808. Certainly this is not the establishment of slavery by the Constitution, but it is a limitation on the power of Congress to prevent the importation of slaves after a certain period. It was a refusal on the part of the States to surrender to the Federal Government the power which they had to import slaves under their own law for a limited period, and does not tend in the least to establish the proposition that of itself it creates slavery.

Another clause of the Constitution is that relating to the surrender of fugitives. That clause reads as follows:

"No person held to service or labor in one State under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

It will be observed that this is a provision for the surrender of persons escaping from service, who are held to service by virtue of a State law. Could there have been any necessity for a provision to reclaim persons held by virtue of a State law, if the Constitution of the United States had provided that they should be held to service by any

of its provisions? It is very clear that there is no provision for reclaiming a slave held by virtue of the Constitution of the United States as the President tells us slaves are held in Kansas. Suppose a fugitive escapes from Kansas, where slavery exists, according to the President, and gets into the State of Iowa; his master comes for him and claims him: what must he show? Under this clause of the Constitution, he must show that he is held to service or labor in consequence of some law or regulation in the State from which he escaped. This clause has no application to Territories; and if it did apply to Territories, still the slave could not be reclaimed, unless it was shown that he was held by virtue of a law or regulation in the Territory or State whence he escaped.

The Supreme Court of the United States, in the political part of their opinion, in discussing this pretended right of a slaveholder to take his slaves into free territory, refer us to still another clause of the Constitution. They say:

"The rights of property are united with the rights of person, and placed on the same ground, by the fifth amendment to the Constitution, which provides that 'no person shall be deprived of life, liberty, and property, without due process of law.' And an act of Congress which deprives a citizen of the United States of his liberty or property, merely because he came himself or brought his property into a particular territory of the United States, and who had committed no offense against the laws, could hardly be dignified with the name of due process of law."

Let us examine this clause, which is to be found, I believe, in all the State constitutions, that no person shall be deprived of his life, liberty, or property, except by the judgment of his peers or the law of the land. If, under that provision, the importation of slaves into a Territory cannot be prohibited, it follows, as a matter of course, that their importation into any of the States cannot be prohibited. The law against the slave trade would be unconstitutional; for, if a citizen of any of the slaveholding States, having a slave in Cuba, were to bring him to the United States, you could not deprive him of that slave, because it would be depriving him, in the opinion of the Supreme Court of the United States, of his right to property, if that is the meaning of the Constitution. What becomes of that provision in the Constitution which authorizes Congress, after the year 1808, to prohibit the importation of this class of persons? The Constitution would be inconsistent with itself if this were the meaning of the clause quoted. What becomes of the law in the District of Columbia—for there was a statute, passed here in 1850—one of the compromise measures—declaring that if any person brought a slave into this District, for sale or with a view of placing him in a depot, and afterwards removing him elsewhere to be sold, the slave should become free? Did anybody suppose this act was a violation of the Constitution of the United States? They have had a similar law in Virginia ever since it was a State. Similar laws exist in Mississippi. It was part of their constitution to prevent the bringing of slaves into the State, except by persons who came there to settle; and the courts of Virginia have decided that a person born in Virginia, taken subsequently into the State of Maryland, and afterwards purchased and brought back into Virginia, was thereby made free.

It is not a deprivation of the right to property to declare that the introduction of a particular class of persons or things, into a State or Territory, shall operate as a forfeiture of the person or thing imported; and this is what the Missouri compromise amounted to, and nothing more. This is the penalty for importing a forbidden article. We pass laws forfeiting goods which are imported in violation of our revenue laws. Apply this principle to the act of 1820, to the territory lying north of 36° 30'. At that time it was uninhabited. No white persons, no slaves, lived there. Had Congress then authority to pass a law prohibiting the importation of slaves into that territory, and providing, as a penalty, that if they were introduced they should be free? It clearly had, if it had any authority to pass the law prohibiting the slave trade in the District of Columbia, or if any of the States of the Union have authority to pass laws prohibiting the importation of slaves. Many of the slaveholding States have such provisions in their constitutions, and many of them have laws against the importation of negroes, and declaring them to be free when imported in violation of such laws. It is a penalty to prevent the importation of persons whom

they do not want. On this point, let me refer to an opinion of Judge Taney himself, in the case of *Groves vs. Slaughter*, 15 Peters, page 449, where he says:

"In my opinion the power over this subject is exclusively with the several States, and each of them has a right to decide for itself, whether it will or will not allow persons of this description to be brought within its limits from another State, either for sale or for any other purpose."

So, sir, when you come to examine each and all of these clauses, it will be found that none of them establish slavery or prohibit to Congress the right to pass a law preventing the importation of slaves into the Territories.

There is, however, another argument, which perhaps I may denominate the common blood and treasure argument. It is that the Territories of the United States belong to all the people of the United States, that they were acquired by the common blood and treasure of all, and that every citizen has the same right to go into the Territories. I admit it. A citizen of South Carolina has precisely the same right that a citizen of Massachusetts has to go into a Territory—no greater, and no less; and if there be a law prohibiting the importation of slaves into a Territory, it is equally obligatory on the citizen of South Carolina and of Massachusetts. There is nothing in the position we take in conflict with the common rights of all; but no citizen, as a citizen, has a right to go upon the public lands, or into any Territory of the United States, appropriating to himself any portion of the common property of the Union, unless Congress authorizes it. Congress exercises its discretion in organizing territorial governments. It may prevent their settlement by white men or black men, as it has done for a series of years. Congress might have refused to organize territorial governments in Kansas and Nebraska until this day, and thus have prevented the settlement of a single person, white or black, in either of those Territories. The fact that the property belongs to the United States, gives no individual citizen a right to take it and possess it.

This Capitol belongs to the United States; the White House belongs to the United States; but what would you think of a citizen of South Carolina coming here with his negroes, and taking possession of the White House, because it was acquired by the common blood and treasure of the whole country; or of a citizen from Massachusetts coming here, and taking possession of the Senate Chamber, because it was acquired with the blood and treasure of the whole country, and he has equal rights? He has equal rights in subordination to the Constitution and laws of his country. This Capitol and the White House are for the benefit of the citizens of Massachusetts and of South Carolina, and of each alike; but the citizen of neither has a right as such to come and occupy them. So it is with the Territories. They belong to the United States to be taken care of and governed by Congress so long as the territorial condition continues, and citizens are to go there and settle in subordination to such laws as Congress may pass.

It is incumbent on those who say that the Constitution of the United States extends slavery to Kansas, to point us to the clause. We deny it. Not only does the Constitution of the United States not extend slavery into any of the Territories, but the Constitution itself does not go there until it is extended by the operation of law. The Constitution was made between the States and for the States. It has nothing to do with the Territories, except to confer on Congress the power to govern them. The Constitution was made by the States for their own government, and power was conferred by the States, through that Constitution, on the Congress which they created to regulate and govern the Territories. But the Constitution itself does not operate over Territories unless Congress extends it there by law. This was the view of those who passed the Kansas-Nebraska act, for it contains an express provision extending the Constitution over these Territories.

Now, sir, what power has Congress over the Territories? I answer, such power as the Constitution has given, which is to make all needful rules and regulations respecting them—no greater and no less. I am not going into the history of the legislation of Congress from its organization down to the present period, to show that under

all administrations Congress has exercised power over the Territories, and that, too, on the subject of slavery. But I will make a little time to prove, if I can, that the Supreme Court of the United States has itself established the doctrine firmly that Congress has authority over the Territories; to govern them in its discretion, and to prohibit slavery therein. I would ask those who deny this power, and who at the same time sing hosannas to the court below, and who assail us for refusing to indorse the extra-judicial political opinions of its judges, to stand by the decisions of that court on this subject. As long ago as 1810, Chief Justice Marshall, in the case of *Sere vs. Pitot*, (6th Cranch, 336,) used this language:

"The power of governing and legislating for a Territory is the inevitable consequence of the right to acquire and hold territory. Could this position be contested? The Constitution declares that 'Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.' Accordingly, we find Congress possessing and exercising the absolute and undisputed power of governing and legislating for the Territory of Orleans."

In 1828, in the case of *Canter vs. the American Insurance Company*, (1 Peters, 511,) which has been often referred to, the same distinguished judge, in delivering the opinion of the court, said:

"In the mean time, Florida continues to be a Territory of the United States, governed by that clause of the Constitution which empowers Congress 'to make all needful rules and regulations respecting the territory or other property belonging to the United States.' Perhaps the power of governing a Territory belonging to the United States which has not, by becoming a State, acquired the means of self-government, may result necessarily from the facts, that it is not within the jurisdiction of any particular State, and is within the power and jurisdiction of the United States. The right to govern may be the inevitable consequence of the right to acquire territory. Whichever may be the source whence this power may be derived, the possession of it is unquestioned."

In another part of this opinion the court say, that in legislating for the Territories, "Congress exercises the combined powers of the General and a State government."

Again, in the case of *McCulloch vs. the State of Maryland*, (4 Wheaton, 422,) Chief Justice Marshall, speaking for the whole court, and in another case decided in 1840 by Judge Thompson—the *United States vs. Gratiot*, reported in 14 Peters, 537—both refer without qualification to the clause and power in Congress to make all needful rules and regulations respecting Territories, as the true undoubted source of the power of Congress over Territories. In a late case, that of *Cross vs. Harrison*, reported in 16 Howard, 193, Judge Wayne, in delivering the opinion of the court in regard to a case from California, uses this language:

"The territory has been ceded as a conquest, and was to be preserved and governed as such until the sovereignty to which it had passed had legislated for it. That sovereignty was the United States under the Constitution, by which power had been given to Congress 'to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.'"

Here are five decisions of the Supreme Court of the United States, reaching from 1810 down to 1854, every one of them affirming the sovereignty of the Territories to be in Congress, and the authority of Congress over the Territories to legislate for them. Now, if the sovereignty of the Territories be in Congress, and if they may make all needful rules and regulations for them, may they not pass a law prohibiting slavery in them? Who is to judge what is needful and necessary? That is not a judicial question. It is a question for the discretion of Congress, to determine what laws are needful, necessary, and proper, for the government of the people who are to settle in the Territories, till they become sufficiently numerous to form a government for themselves.

Now, sir, what shall we say of those gentlemen who assail us for attacking the *obiter dicta* sayings of the Supreme Court of the United States when they are denying the authority of five decisions of that court, reaching through a period of nearly fifty years? What shall we say of the opinion of the court in this *Dred Scott* case—I do not mean the decision, I mean the opinions of the judges—when they say that this clause giving to Congress authority to make all needful rules and regulations respecting the Territory of the United States applies only to the territory which we held at the time the Constitution was formed, directly in the teeth of as many as three of the decisions on that point, to which I have referred, which related to territory acquired after the Constitution was

adopted? Florida, Louisiana, and California were all acquired subsequently; and yet the Supreme Court of the United States in cases relating to those Territories has said that Congress had the power to make all needful rules and regulations respecting them under the clause of the Constitution which I have quoted. Shall the opinion of certain judges of the United States overturn the settled decisions of that court? What right have Senators to attack those decisions? Where was their reverence for the Supreme Court when they were calling upon it here, a year ago, to overturn its own settled decisions for a period of nearly half a century? Are we to be reproached when we say that these last political opinions outside of the case before the court are not to be treated as authority, and that we will not abide by them, when they assail its settled decisions?

We expect to show, if a case involving the question should ever arise, that the opinions lately expressed by some of the judges in the *Dred Scott* case are in conflict with the decisions of their own court, in conflict with the Constitution of the United States, and I do not believe such a decision as has been indicated will ever be made. Congress have the power, as I insist and as the Supreme Court has repeatedly decided, to make all needful rules and regulations respecting the territory of the United States, this extending as well to territory which should be acquired as that which we then held; for it is idle to contend, as some of the judges do, and I believe Judge Taney, that because the definite article "the" is used in this connection it only applies to "the" territory which we then had. The same reasoning would apply the authority of the President as commander of the Army and Navy, to the Army and Navy in existence when the Constitution was made. It is "the Army and Navy," of which the President is made Commander-in-Chief. Does not that mean any army and any navy which the United States may ever raise? Would it not be absurd to confine it to the one which was then in existence? Equally it seems to me is it absurd to confine the language which I have quoted in regard to the authority to govern the territory of the United States, to that territory which we then possessed.

Congress, then, having this authority, in its exercise ought to use a sound discretion and establish for a Territory such a government as it believes will be best for the interests of the people who are to settle it; and this brings up the question of slavery. If slavery, as an original institution, is a good one; if it is a benefit to the slave and to the white people, then Congress in its power to establish all needful rules and regulations for the government of the Territory, would not be required to pass a law to keep it out. If, however, in the opinion of Congress, it is better to have no slavery where it does not already exist; if as an original question in this country, it would have been better had no slaves been introduced; then Congress, in opening a free territory to settlement, ought to provide against its introduction.

I believe it to be better for the white race that negro slavery should not exist among them. If that be so, it is the duty of Congress to provide against its spread wherever it has the power, and here is the whole question; that is all there is of it. Nobody proposes any interference with slavery in the States of the Union where it exists under the laws of the States. All that any one proposes is to prevent its introduction into the Territories so long as the territorial condition continues, and if it be excluded for that length of time the result will be that our new States formed from such Territories will all be free States. Why should this be so objectionable to the South? The South is not settled entirely by slaveholders. I believe only about one in twenty of the white population in the southern States own slaves. I know that those who do not own them help the slaveholders to sustain the institution. Why? Because they do not want negroes to be placed on an equality with themselves. If laborers themselves, they wish at least to keep up the distinction between them and the laboring negroes, that the latter have a master. But, sir, I believe to-day that if it were practicable to get rid of the black population, the great mass of the laboring people of the South would be in favor of such a measure. Then labor would be elevated. Then the laboring man of the South, like the same class

in the North, would occupy an honorable position in society.

That, however, is a matter with which we do not propose to interfere. Our only object is to prevent the extension of slavery among the people of the new Territories. We find that emigrants from the southern States, of moderate means, who have come into our northwestern States where slavery did not exist, have been as much opposed to introducing it as emigrants from other portions of the country. A large portion of the State of Illinois is settled by persons from the slaveholding States. Nearly all the early settlers were from Kentucky and Tennessee, and North Carolina, persons not of large wealth, gaining their livelihood by their own labor, and the great mass of that population is as much opposed to slavery as the emigrants from New England. Such would be their condition at home if it were not an existing institution. Now, sir, when Congress comes to form a government for a people which is to last only until that people becomes numerous enough to establish one for itself, is there anything wrong in excluding slavery from among them?

When the Missouri compromise was repealed, and strife arose as to what should be the future condition of Kansas, those of us who opposed that repeal were anxious that the inhabitants themselves should make it a free State. People went to the Territory from the North who did not desire the existence of slavery among them; persons came from the South who owned slaves and desired their introduction. Hence arose strife and contentions. The history of those difficulties has been given here to-day. I will not take up the time of the Senate by detailing it again at any length. I wish merely to say that it has been a history of usurpation from the beginning. The territorial government was usurped in the first instance, and that usurpation has continued, and the people have been wrongly blamed for not voting, and not taking the government out of the hands of the usurpers, when they were utterly powerless to do so while the usurpation was upheld by the Federal Government and Federal troops. The whole difficulty existed in the original usurpation. Men having once got into power, and having the whole control of the government, and then having the Federal Government to back them, had the ability to perpetuate their power, if they were unscrupulous enough and dishonest enough to do it. How they have done it has been shown to-day. As an illustration of the condition of things in Kansas, I will refer to one case.

A young gentleman, by the name of Phillips, went to Kansas as a settler, at an early day. I knew him some six or eight years ago, in the State of Illinois, when he was studying law. He was a modest, unassuming, unobtrusive young man. He went to Kansas as early as 1854. In the fall of that year I met him upon the Mississippi river traveling on a steamboat; learned from him that he had settled in Kansas, at Leavenworth, and was going to make it his home. Knowing that fact, conversation sprang up between us in regard to the repeal of the Missouri compromise. The difficulties had not then commenced. I ascertained that he was in favor of the Kansas-Nebraska act. He took the ground which was common to persons in the northern States who advocated the measure at that time, that the people of the Territory ought to have the right to settle the slavery question for themselves. He said that he was opposed to slavery; that there was no danger of Kansas being made a slave State; but that the people there wanted to settle that matter for themselves; they did not want Congress to settle it for them; they would take care of it. I remonstrated with him, and said to him, "if you are opposed to slavery, and if the people of Kansas are opposed to the introduction of slavery, why are you not willing to let well enough alone? The law of Congress excluded it, and why do you want to do it yourself? Why not allow it to be excluded by virtue of the act of Congress? Because you have power, it is not always wise or advisable to exercise it." I referred him to the language of a celebrated orator in the English Parliament, who, replying to the argument that, because England had the right to tax America, therefore she ought to tax America, illustrated its absurdity by relating the story of the man who insisted on shearing a wolf because he had the

right to shear the wolf. When remonstrated with as to the impropriety and danger of undertaking to shear the wolf, he insisted that man had dominion over the beasts of the field; that he had a right to shear the wolf, and therefore he would shear the wolf. [Laughter.] It was so, I remarked to him, with the people of Kansas. They insisted upon exercising the right of excluding slavery themselves, without considering the dangers and the difficulties that would arise from its exercise. However, I was unable to satisfy him.

The next I heard of Mr. Phillips was shortly after the election of March 30 following. He resided at Leavenworth; and being a believer in the Kansas-Nebraska bill, and the right of the people to regulate their own affairs, and to exclude slavery for themselves, he was very much astonished when the Missourians came over and carried the election, and drove him and his friends from the polls. He immediately made an affidavit of the facts, went to Governor Reeder, who very properly set the election aside, and ordered a new election.

Phillips, from that day, was a marked man. He was seized upon directly after this by a mob, taken across the river, his head shaved and he blacked, set up at auction, sold by a negro as a negro, and other indignities heaped upon him. He continued to reside at Leavenworth, and was joined there by a brother, I think. During the reign of Governor Shannon, when military companies were parading that Territory and expelling free-State settlers under the pretense of searching for arms, a company assembled about the house of Phillips, and demanded entrance. Phillips having once fallen into the hands of these men, and been treated with all sorts of indignities, did not care to surrender himself up a second time. He refused to open his doors. The company demanded entrance, and commenced forcing the doors. He defended himself as best he could, killing two of the assailants, and fell himself, pierced, I believe, by a dozen balls. That was the kind of government they had in Kansas. His wife was taken from Leavenworth, and the last I heard of her, she was in the lunatic asylum at Jacksonville, in the State of Illinois.

Who do you suppose commanded that military company? Captain Emery, who was subsequently indicted for this killing—indicted even by a grand jury, while the usurpers had authority in Kansas; and while laboring under that indictment for the murder of Phillips, he was appointed by the President of the United States to a land office, which, I understand, he now holds. A *nolle prosequi* was entered on the indictment, I believe, as was generally done throughout the Territory, during Governor Geary's time. Emery was never brought to trial. He had no process authorizing him to enter the house of Phillips—no sort of authority.

This one case is an illustration of the condition of things in Kansas, under the despotism which has prevailed there from the day of the organization of the territorial government down to 1857, or, I may say, down to the meeting of her last Legislature.

Governor Walker went to that Territory and blamed the people for not voting; for not going to the elections and taking the control of the government; taking it out of the hands of these men. The President of the United States blames them. He says they ought to have been registered and voted. What chance would the people have of carrying an election? The quantity of fraud, the number of votes returned was measured by the quantity and the number necessary to win. The people knew that it mattered not whether they polled five hundred or five thousand votes; the returns would be against them. Governor Walker told them that that should not be so, and urged upon them to vote, and he so far prevailed as to induce them to vote at the October election in 1857; and what was the result? Do you say they succeeded? No, sir; they did not succeed by the returns. They did not succeed by what they did; but providentially, as it were, Governor Walker, to their utter astonishment, stepped in to their relief. Their all was risked upon him, because, had he carried out the frauds and iniquities of the returning officers, and counted the votes they returned, the same usurpers would have perpetuated their power. He threw out the Oxford votes and some others, and by that means the control

of the Legislature was given to the real citizens of Kansas; but such a storm of indignation did that raise that his life was threatened, and provision was made that a rejection of fraudulent votes should not happen a second time. The usurpers then went on, under their convention, which had been previously called, to form a State constitution, and provided, through its machinery, to take the canvassing of the votes out of the hands of Governor Walker, and hold the conducting of future elections, and their returns, in their own hands. They intended, for the future, to provide against an honest count of votes. Although it so happened that the free-State men got the control of the Legislature, by the vote in October, yet it was an accidental circumstance. The frauds were sufficient to have defeated them if allowed.

I say that the people of Kansas are not to be blamed for not going to these elections. The registry law, fair enough on its face, was to be executed in such a way as to retain control in the hands of the usurpers. They appointed all the officers to execute it; and it is a notorious fact that they not only left out whole counties and districts of country in the registry, but I am told, and I have no doubt of the fact, that thousands of names were put on that list of persons who did not live in Kansas at all. Nine thousand persons were registered as voters, but these were not real citizens of Kansas. I do not suppose one fourth of them were citizens of Kansas. These names were registered to be used for ulterior purposes, while thousands of citizens known to the officers taking the registry were not put on the list. As part of this system inaugurated in 1855, and continued by heaping fraud on fraud, a constitution has been framed, and admission into the Union asked. Who asks it? Is it the people of Kansas? I deny it. There is no evidence that the people of Kansas ask to be admitted under this constitution. There is evidence that they do not.

That matter has been so fully and so clearly presented this morning by the Senator from Kentucky, that I should hardly be pardoned for going over the facts again. They show a concerted scheme of the usurpers to keep the control in their own hands. They have taken the appointment of the judges of election, and the counting of the votes, out of the hands of the territorial officers, and placed the whole thing in the hands of men selected by themselves; and we do not know to-day the result of the election held on the 4th of January last. I do not suppose we shall know until after this bill is acted upon. I apprehend we shall know very soon if Kansas be admitted into the Union under this Lecompton constitution.

Mr. SEWARD. But if it is not, what then?

Mr. TRUMBULL. If it is not, I presume we shall never know. There will then be no occasion to commit fraud; and men without a motive are not likely to commit great crimes.

This constitution is sought to be maintained on the ground of legitimacy—the old doctrine set up by monarchs, who claim to have been born to rule, to trample upon the rights of other people. We deny this legitimacy entirely; but if it were all true, still it would not alter the case. Congress may admit Kansas as a State. It has a discretion on the subject. It may admit a State under a constitution formed without authority, but there is no legitimacy in the proceedings here. The Territorial Legislature clearly had no authority to call a convention. The Kansas-Nebraska act is not an enabling act. It is an act for the organization of a territorial government, and did not authorize that territorial government to destroy itself. Although the Legislature thought proper to call a convention, and delegates were elected by those who thought proper to vote, their proceedings would have no legitimacy about them, even if the Legislature had been valid. It would simply not be illegal, and it might be the means of satisfying Congress that the people desired to come into the Union, and that this constitution expressed their wishes, and was the government of their choice. We have ascertained, however, by the votes taken in January last, that the people are opposed to this constitution. A legal, orderly election has been held since it is said a part of the constitution was voted on by the people on the 21st of December. It matters not, so far as we are concerned, when the election upon the constitution was held. That election is a manifesta-

tion of the wishes of the people, and it shows that they are opposed to this constitution.

Then, what excuse have we for admitting Kansas into the Union in this mode? This constitution was not made by the people of Kansas, because they did not participate in the election of delegates to the Lecompton convention. I know it is said they ought to have participated in it, but I have given the reason why they did not. Frauds were practiced upon them; the apportionment was not fair; the registry was not fair; the officers having charge of the poll-books were not men in whom they had the least confidence; and that they judged rightly is manifest from subsequent events. Under such circumstances, the great body of the people did not go into the election; and only some two thousand persons voted for delegates. I grant that if all had a fair opportunity to vote, and two thousand out of twenty thousand voted, those two thousand would control the others; but in this case the others had no such fair opportunity. They did not stay away from the polls for the reason that they were willing that the two thousand who did vote should act for them, but they stayed away because they believed their voting would do no good; they would be outcounted, at any rate. Is it not idle to say that this constitution was made by the people of Kansas, when it was made under such circumstances as those? That it has never been ratified by the people of Kansas, we all know. They have never had an opportunity to pass upon it by the authority of the convention. It is said they have passed upon one clause of it; that is, those who thought proper to vote.

Why should Kansas be admitted into the Union at the present time under this constitution? The President tells us it should be done in order to get rid of this exciting question. Sir, that is exactly what we were told in 1854 when the Missouri compromise was repealed. We were told, if you will repeal that compromise, you will localize the question of slavery, and transfer it to the Territory, where it properly belongs. We are told now, if you will admit Kansas under the Lecompton constitution, you will localize it. Sir, I believe the promise now will be as futile as was the promise before. This will not remove the slavery agitation from the Halls of Congress. We shall be as greatly disappointed if we put faith in the assurances now given by the President, as we were in the assurances which were given in 1854.

Now, sir, what have been some of the assurances which have been given by Mr. Buchanan heretofore, and how has the present state of things been brought about? I desire to call your attention, for a few moments, to the manner in which this constitution is sought to be forced through Congress, and to some of the contradictions and inconsistencies of its advocates. A few years ago, as was shown the other day by the Senator from Michigan, [Mr. CHANDLER]—and I shall not trouble the Senate by reading again the extracts which he presented—Mr. Buchanan gave it as his opinion that the Missouri compromise excluding slavery in what is now Kansas, was constitutional, and he stated that he had supported it. Within the last year, he has said that it was a mystery to him that anybody should ever have questioned the right to introduce slaves into Kansas under the Constitution of the United States. In his letter accepting the nomination for the Presidency, he distinctly avowed the doctrine that the people of the Territory had the right to exclude slavery while in a territorial condition. I have that letter before me. In it he says, after alluding to the legislation in regard to Kansas and Nebraska:

"This legislation is founded upon principles as ancient as free government itself, and, in accordance with them, has simply declared that the people of a Territory, like those of a State, shall decide for themselves whether slavery shall or shall not exist within their limits."

That does not mean that they shall decide it when they form a State government, but it means that they shall decide while in the territorial condition whether slavery shall exist within their limits as a Territory. This is manifest from what follows:

"How vain and illusory would any other principle prove in practice in regard to the Territories! This is apparent from the fact admitted by all, that, after a Territory shall have entered the Union and become a State, no constitutional power would then exist which could prevent it from either abolishing or establishing slavery, as the case may be, according to its sovereign will and pleasure."

So that he was speaking in regard to the right of the people of the Territory to exclude slavery from their limits while in a territorial condition. It was with this letter before the country that he was elected President. No sooner was he elected Chief Magistrate than we find him uttering this doctrine in one of his messages:

"It has been solemnly adjudged by the highest judicial tribunal known to our laws, that slavery exists in Kansas by virtue of the Constitution of the United States."

I have already shown that no such decision has been made. He assumes that it has been.

"Kansas is, therefore, at this moment as much a slave State as Georgia or South Carolina. Without this, the equality of the sovereign States composing the Union would be violated, and the use and enjoyment of a Territory acquired by the common treasure of all the States would be closed against the people and the property of nearly half the members of the Confederacy. Slavery can, therefore, never be prohibited in Kansas, except by means of a constitutional provision, and in no other manner can this be obtained so promptly, if a majority of the people desire it, as by admitting it into the Union under its present constitution."

He does not explain how slavery is to be prohibited, except he says the people may change their constitution. First admit them as a slave State in order to afford them a quick means of becoming a free State! He says further in his message that the convention "did submit the question whether Kansas should be a free or a slave State."

Is that true? Did they submit any such question to the people? They submitted whether a slavery clause should be stricken out or retained in the constitution, but they did not submit to the people of Kansas to decide whether it should be a free State or a slave State, because it was a slave State to all intents and purposes, whether the slavery clause was stricken out or not. If stricken out the constitution still provided that the slavery existing there should never be interfered with. I could not make this clearer if I were to talk about it for an hour. The constitution is before us declaring that the existing institution of slavery shall not be interfered with even if the slavery clause be stricken out. In the face of this record the President has the assurance to say to the Congress of the United States that—

"The question can never be more clearly or distinctly presented than it is at the present moment."

Is that true? Was it clearly and distinctly presented? We know the impediments that were thrown around the right of franchise, that no matter how the people voted on the question submitted to them, Kansas was to be a slave State in any event.

The difficulties attending this question are not to be got rid of by the admission of Kansas under this constitution, as the President supposes. I know that support of this measure is now sought to be made a test of Democracy; a test of party faith; and in this respect it is the counterpart of the Kansas-Nebraska act. I remember very well when that act passed, and the attempt was first made to make it a test of Democracy. I had no idea then that it would succeed. I had myself always been a Democrat. I disapproved of that measure, as did most of the Democracy, as far as I know, in the State of Illinois. Some thought it injudicious; some thought the principle right enough, but doubted the policy; and nearly all concurred in expressions of regret that the Missouri compromise was interfered with. I had no idea at that time, when I expressed my dissent from the measure, that I was to cease to be a Democrat. But, sir, then was inaugurated that test of Democracy which had never before obtained in this country. It was then determined that as a man acted in regard to the extension of slavery into the Territories of the United States, he was to be considered a Democrat or not. I chose to adhere to my position, and oppose a measure which I thought would lead to the spread of slavery, although it should be followed by excommunication from a party calling itself Democratic. I deny that after it set up this new test, it was the real old Democratic party. Admission to its ranks or its offices did not, after 1854, depend upon the principles which a man individually entertained in regard to any of the great measures which formerly distinguished Democrats from Whigs, but depended entirely upon his views on the slavery question; and hence we see that many of the champions of the old Whig party are now the trusted leaders of the so-called Democracy.

Now another test is sought to be introduced; a test involving not only the question whether slavery shall go into Kansas, but involving also the principle of self government, and whether the free white people of Kansas shall be permitted to form a government for themselves. I do not believe we should have had this test but for the slavery question. If slavery were not connected with this Kansas matter, I think there would be no considerable party in the country advocating the admission of that Territory into the Union as a State under this constitution. Slavery lies at the bottom of the difficulty. But there is involved in this issue another principle besides that of African slavery; a principle reaching to white men. For the purpose of carrying out the views of this so-called Democratic party in regard to slavery, we see them now willing to force upon a people a constitution they never made, abandoning the professed principles upon which they passed the Kansas-Nebraska bill. That bill never could have been sustained; that measure would have met with utter condemnation throughout the northern States, if it had been understood at the time it passed, as it is understood now—that is, as denying to the people of the Territory the right to exclude slavery while in a territorial condition. It was the self-government principle; it was the supposed right to regulate the matter for themselves that induced many of the people of the North to approve that measure. I was not one of those who believed that the bill established any such principle, but there were others who did; and although, when the Kansas-Nebraska act passed, they had not the sagacity to foresee the consequences to which it would lead, I commend their honesty, now they do see them, in coming to the rescue of the country, and to the great principle of free government which has now, at all events, been brought into peril.

Sir, I look upon this as a great question. It is no insignificant matter, as has been intimated; it is a question vital to the existence of this Government. You pass this Lecompton constitution, and what is the example which you set to the country and to the world? You refuse to investigate these frauds, you bring a State into the Union with the evidence staring you in the face that it comes in under a constitution formed in fraud and in iniquity, and against the will of the people, upon whom it is sought to be enforced. Do you suppose that the example will not be contagious? There is already too much cheating at elections.

We hear of it in Philadelphia. We have heard of ballot-box stuffing in California. We have heard of fraudulent returns in Minnesota. To cap the climax, here we have these fraudulent returns from Kansas, of which we not only have heard, but which have been proved to exist. Do you believe, if they are sanctioned, that they will not lead to other frauds in other parts of the Union? Will not bad men everywhere, who love power, resort to similar means to attain or to perpetuate it? Will not those holding the ballot-boxes and making the returns of election in other parts of the Union, follow the example set them at Delaware Crossing, Kickapoo, and Oxford, and sanctioned by Congress? I tell you that the purity of the ballot-box is necessary to the preservation of republican government; and when you cease to regard it, or protect it, you sap the very foundation upon which the Government rests.

Therefore, I regard it as an all-important question in its consequences, not only upon Kansas, for I will not undertake to say, nor do I know, the consequences which will result there. I think I do know the consequences which would result from a defeat of this measure. There would be peace. All that Congress has to do is to cease from legislation—do nothing. The people of Kansas will now manage their own affairs in peace if let alone. The government has been wrested from the hands of the usurpers who had control of it. The people themselves have taken possession of it. They will go on, and in due time form a constitution and be admitted into the Union. But, sir, if you pass this constitution, I will not undertake to be responsible for the consequences; nor can I foresee what they will be. No good can result from it—nothing but evil. The South itself will have gained nothing, for surely the South does not wish to perpetuate injustice and wrong. The South cannot wish to bring a State into the Union upon fraudulent returns. Then, if you are

not satisfied that the returns are fraudulent, why not investigate them? If you are satisfied that they are, why not refuse to have anything to do with this constitution, and leave the people in their territorial condition?

The Senator from Virginia [Mr. HUNTER] told us the other day that this was an unimportant question; that we ought not to be engaged in it; that greater questions should receive our attention. He pointed very beautifully to the eastern world, where the spoils of accumulated ages were attracting the cupidity of the European Powers. The spoils were there ready, and the eagles, he told us, were prepared for the banquet, except one, the youngest mother of them all. She was at home watching her nest lest the young should not live together in peace. He thought this state of things could not long endure, but that she would burst her manacles; and I suppose he meant the inference to be drawn, that we should join with these European Powers who are about to despoil eastern nations of their wealth and their rights.

Sir, I disagree with the Senator from Virginia on that subject. I believe it better, far better, that we should be at home watching the nest, preserving the ballot-box and our free institutions in their purity, rather than joining with the crowned heads of Europe to seize upon the spoils of empire upon the eastern continent, and subject to our rule an inferior class of people. God forbid, sir, that republican America shall ever be united in any unholy alliance for the partition of another Poland, and the subjugation of its inhabitants. Better, far better, to remain at home and preserve our institutions as our fathers made them, and above all, preserve the elective franchise pure and uncontaminated. Then, sir, we shall set an example to other nations which they will not be slow to follow; and the time will come when republican institutions will prevail, not only throughout the American continent, but throughout the world; and every man of every clime will be permitted to sit down beneath his own vine and fig-tree, without any to molest or to make him afraid.

Mr. FOOT. It has been my purpose to submit some remarks to the Senate upon this question, at some time during the progress of the debate. I have been willing to defer my own personal convenience in the matter, to the convenience and wishes of other gentlemen. We have had a long session to-day. I think I may say we have had an exceedingly interesting session, an instructive session. We have reached a rather late hour this afternoon, and if it be agreeable to those members of the Senate now present, that the further consideration of this question be deferred until to-morrow morning, I will regard it as a personal favor; not, however, to be accorded to me to the prejudice of the public business.

Mr. CLARK. If the honorable Senator will permit me, I will move that the Senate do now adjourn.

Mr. FOOT. With the understanding that this subject will be taken up as the special order at half past twelve o'clock.

Mr. HOUSTON. If the gentleman from New Hampshire will withdraw his motion for a moment, I wish to have taken up and considered now a resolution I offered some days since, to meet at eleven o'clock.

The PRESIDING OFFICER. (Mr. GREEN in the chair.) Does the Senator from New Hampshire withdraw his motion?

Mr. CLARK. Certainly.

Mr. HOUSTON. Then I move to take up the resolution to change the daily hour of meeting to eleven o'clock.

Mr. FESSENDEN. I would suggest to the Senator that he vary his resolution, so that instead of meeting at eleven o'clock, we shall hereafter have evening sessions.

Mr. HOUSTON. We cannot do that under the rules. I hope that the Senate will now act on the resolution I have offered, that the daily hour of meeting be eleven o'clock until otherwise ordered.

Mr. FOOT. I suggest to the honorable Senator from Texas that we can hardly entertain the resolution this afternoon. Certainly there can be no consideration of it for want of a quorum. The manifest want of a quorum is in the way of any action upon that resolution.

Mr. HOUSTON. The absence of a quorum is

not manifest unless the yeas and nays are called. It is a rule that a Senator is always presumed to be in his place.

Mr. WILSON. By agreeing to this resolution, and resolving to meet after to-morrow at eleven o'clock, we can have this question come up at half past eleven o'clock. There are quite a number of gentlemen who desire to address the Senate, and we must press the matter now, if we intend to act up to the understanding.

Mr. SEWARD. A great number of Senators are absent, and I think that there is unmistakably a minority now present. We have had no notice of such a resolution, and we have no quorum present.

Mr. WILSON. I understand, by common consent or conversation among members, that it is understood three or four gentlemen will speak to-morrow. If we meet to-morrow at the hour suggested in the resolution, we shall be able to take the subject up at half past eleven o'clock, and we thereby gain an hour. Those Senators who intend to speak to-morrow can be informed of the change in the hour of meeting. I think the matter can be settled by common consent.

Mr. SEWARD. I will not agree to it.

The PRESIDING OFFICER. Does the Senator from Massachusetts make a proposition?

Mr. WILSON. The Senator from Maine suggests to me that we can have an evening session.

Mr. FESSENDEN. To commence after to-morrow.

Several SENATORS. Oh, no.

Mr. WILSON. I do not know whether evening sessions will be necessary or not. Perhaps they will not be necessary until after to-morrow. When we meet to-morrow, we shall be able to see whether we ought to have an evening session on to-morrow and the day after. If the Senator from New York objects, we cannot act on the matter. I think, therefore, we had better adjourn, as suggested by the Senator from New Hampshire.

Mr. SEWARD. I object, simply because the Senator who, it is understood, will take the floor to-morrow morning, is not prepared to take it earlier, inasmuch as he is not in his place.

Mr. HOUSTON. He could be here by twelve o'clock, and then go on with his speech. By meeting at eleven o'clock we can dispose of all the morning business before twelve o'clock, and he can then proceed.

Mr. CLARK. I move that the further consideration of this bill be postponed until half past twelve o'clock to-morrow.

Mr. SEWARD. Say twelve o'clock.

The PRESIDING OFFICER. Half past twelve is the motion.

Mr. CLARK. There may be petitions and other morning business which will occupy the first half hour.

Mr. SEWARD. I wish to make a suggestion, if the Senator will allow me. With a view to make this subject the unfinished business, so that it can be taken up at twelve o'clock, I will move that the Senate do now adjourn. It will then come up as the unfinished business.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 17, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. A. HARROLD.

The Journal of yesterday was read and approved.

PUBLICATION OF COMMITTEE REPORTS.

Mr. CLINGMAN. I yesterday rose to what I regarded as a question of privilege. I do not design calling up that question now. I may do so at some future time; but I desire to say, that the report of the Committee on Foreign Affairs in reference to the conduct of Commodore Paulding was not authorized to be published by that committee. I say this much now. I may bring the subject regularly before the House on some other day. I will say further, that I should have made that report yesterday, if the committee had been called on to make reports. The report, however, as I have stated, was not directed to be published by the committee, and a minority of the committee dissent from the views there expressed.

Mr. RITCHIE. I wish to say that I dissent from the views expressed in that report. I think

Commodore Paulding was justified in the course taken by him in arresting General Walker and bringing him to this country; and I shall endeavor to show it to the House when the proper occasion presents itself. That is all I have to say now.

MEMORIAL OF THE LEGISLATURE OF UTAH.

The SPEAKER stated the first business in order to be the motion made by the gentleman from Maryland [Mr. HARRIS] yesterday to lay on the table the memorial of the Territorial Assembly of Utah.

Mr. HARRIS, of Maryland. I made the motion yesterday to lay on the table this memorial. Upon consideration, however, in order that that document may go on the records of the House, I propose to withdraw my motion, and make another motion which will accomplish that object. I desire, therefore, to withdraw that motion.

Mr. MILLSON. I demanded the yeas and nays yesterday upon the motion of the gentleman from Maryland, because I thought the Chair had announced the vote in the negative upon the motion to lay on the table. I wanted that motion to prevail. I was utterly opposed to any reference of a document so insulting, so insolent, and so defiant. But, sir, if it is desired to have the memorial printed, and then laid on the table, I have no objection; and I therefore withdraw the call for the yeas and nays.

Mr. HARRIS, of Maryland. I now move that the memorial be printed and laid on the table.

The motion was agreed to.

VOLUNTEER BILL.

The SPEAKER stated the business next in order to be the bill (H. R. No. 313) reported by the Committee on Military Affairs, to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers; upon which the gentleman from Ohio [Mr. PENDLETON] was entitled to the floor.

Mr. QUITMAN. Before the gentleman from Ohio proceeds, I would ask the attention of the House for a moment to a few suggestions which I desire to make. This bill seems to have been peculiarly unfortunate in its position. It has been obliged to give place for many others, and still drags its slow length along. I believe that gentlemen in this House, both those favorable to the bill and those opposed to it, desire to see it finally disposed of.

Now, I will not move to make it a special order, because the interposition of a single objection would prevent me from making the motion, and prevent the House from acting upon it. But I desire to appeal to the House to allow the debate upon this bill to go on, for it is in the power of the House, at the expiration of the morning hour, to refuse to take up other business. I would suggest that that course would facilitate the transaction of public business. My own opinion is, that we can bring the debate to a termination in the course of the day, and take the vote to-morrow morning. I hope, then, the House will decline to take up other business at the expiration of the morning hour.

EXCUSE FROM COMMITTEE SERVICE.

Mr. HOUSTON. I made a motion some days ago to reconsider the vote by which the gentleman from Kentucky [Mr. Mason] was excused from serving on the Committee of Accounts. I am aware of the fact, if the motion be withdrawn it cannot be renewed by another member, in consequence of the time provided in the rules having expired; that it cannot be withdrawn except by unanimous consent. I therefore desire the House to understand precisely what I say. I am informed that the effect of the pendency of the motion is to prevent the committee from being filled, and to prevent them from acting. The accounts are postponed, and it is producing confusion. I had hoped that on Monday I should have been able to have called up the bill fixing the number and compensation of the employes of the House; but not having obtained the floor for the purpose, unless some gentleman desires the motion to remain pending, I now propose to withdraw it.

Mr. KEITT. What will be the effect of granting the permission asked for? Will it excuse the member?

Mr. HOUSTON. I understand that the effect would be to excuse the gentleman.

Mr. CAMPBELL, of Ohio. Then I object.

Mr. FLORENCE. I move that the motion be laid upon the table.

Mr. HOUSTON. I have the floor when it is called up.

Mr. PENDLETON. I yielded only for a moment. I shall object to this being taken out of my time.

Mr. FLORENCE. Will the gentleman yield for a motion to lay the motion to reconsider upon the table?

The SPEAKER. The gentleman from Alabama is entitled to the floor when the motion is called up.

Mr. JONES, of Tennessee. If you proceed with the bill reported from the Committee on Military Affairs by the gentleman from Mississippi, [Mr. QUITMAN,] will it be in the morning hour?

The SPEAKER. It will.

Mr. JONES, of Tennessee. I wish to inquire whether this bill can consume the morning hour, morning after morning, under the rule as amended at the convenience of this Congress?

The SPEAKER. The Chair is of the opinion that it can. The amendment to the rule is in the following language:

"That whenever any committee shall have occupied the morning hour on two days it shall not be in order for such committee to report further until the other committees have been called in their turn."

A committee occupying two mornings in submitting reports could not occupy the third; but when the subject-matter is before the House, it must be disposed of.

Mr. JONES, of Tennessee. Would it not be a better practice, that when a committee has reported a measure occupying two morning hours the House should go on with the remaining committees and then come round to the question left undecided?

The SPEAKER. That might be so; but the Chair has to administer the rules as he finds them.

THE VOLUNTEER BILL—AGAIN.

Mr. PENDLETON. Mr. Speaker, when I obtained the floor last Thursday I had no intention of detaining the House at any length. I did not design to follow my colleague [Mr. STANTON] through the many surmises which he made as to the intended use of the Army in case it should be increased, nor to argue with him the constitutional and legal power of the President to use the Army in the way in which he asserted it was intended to use it. I designed merely to express my gratification at the notice which was given to us by the gentleman from Virginia, [Mr. FAULKNER,] that pending this discussion he would introduce a bill as a substitute for that proposed by the chairman of the Committee on Military Affairs, which should provide for a permanent addition to the Army of the United States. I hope, sir, that the gentleman will mature his bill; that he will mature its details in such a way as to obviate, as far as possible, the objections of members of this House, and at the same time secure the greatest efficiency to the Government. I hope that he will avail himself, too, of this opportunity to carry into effect the suggestions of the Secretary of War for the amelioration of the condition of the Army; that he will facilitate promotion from the ranks; that he will regulate promotions by merit, not by seniority; and provide that, in the organization of this additional force, the appointments of one half of the officers shall be made from civil life. When he shall have done that, his bill will receive my cordial support.

I speak, Mr. Speaker, with unfeigned diffidence on the subject now before the House. My taste has not led me to have any experience in military affairs, and I know but little of the movements and organization of the Army, except that which the current history of the country affords; that which I have derived from an examination of the official documents upon our table—an examination, sir, which I found it necessary to make, in order that I might vote intelligently on the subject under discussion. I came to that examination with the strong impression that no augmentation of the military force was necessary, and that the suggestions, or rather the recommendation to that end, from the Executive Government, arose, not from an actual necessity, but from that inevitable

tendency in our system, no matter by whom it may be administered, to aggrandize the General Government and to accumulate within its control constantly-increasing power. That examination has removed this impression; and I desire to state, as briefly as I can, to the House, the considerations which have led me to the conclusion that we ought to increase the Army of the United States, if we expect the Executive Government to perform faithfully, promptly, and efficiently, the duties confided to its charge by the Federal Constitution.

Let me ask you, sir, why is it that we have an army at all? For what purpose is it that we organize and equip and maintain it? I take it to be this: that it may defend the country from all those attacks which leave no time for preparation for defense; that it may protect our people in the West from the incursions of the Indians; that it may man our posts and keep up our fortifications, and be at all times a nucleus of military knowledge and discipline, around which may gather in times of danger the myriad hosts of citizen soldiers, who, at the first blast of the bugle, will rise from every mountain and valley, from every city and village, and from every farm and hamlet, to resist invasion and repel attack.

Sir, no gentleman upon this floor, I think, will say that I have overstated the purpose for which we should have an army. No gentleman, I think, will disagree with me in the opinion that, if the Army is not large enough to subserve these purposes, it is not large enough for any useful purpose whatever.

I have said that the first duty of the Army was to prevent attacks which would leave no time for preparation for defense. I have before me, sir, a military map of the United States, upon which the boundaries of our country are delineated, and I ask you for one moment to trace the external boundary of our magnificent domain. Commence, sir, at Maine, and follow it along the Atlantic coast, past Massachusetts and New York, by Virginia and the Carolinas, around the Cape of Florida, along the Gulf of Mexico, across the plains of Texas, across the desert wilds of New Mexico, until it dips into the waters of the Pacific. Follow it thence northward along the whole length of California, across Oregon, across Washington, until it intersects the line of the British possessions; and then, sir, your eye will weary as it follows it for miles and miles, over hill and mountain, through valley and plain, by lake and river, until it strikes the initial point in the Atlantic. And in that round you have more than eleven thousand miles of external boundary, of which one half is sea-coast, and liable to the incursion of any maritime Power, and the other half marks the boundary of two nations, with each of which, in the period of your existence, you have had long and bloody wars, and with each of which you have outstanding, difficult, and troublesome questions. Look across the country beyond the teeming bosom of the States, to your western frontier, and you will find that the march of civilization has received a check, and that a line of more than two thousand four hundred miles on both sides of the Rocky Mountains divides the habitations of your people from the abode of those savage tribes which roam the plains of the great central basin. That line extends from Canada to Mexico; and throughout this whole extent, from Minnesota, where Ink-pah-dutah holds his bloody revels, at Spirit Lake, to the banks of the Rio Grande, where the Camanches murder and pillage, is subject to incursions of the Indians.

Sir, between these two lines, and on each side of the Rocky Mountains, lies the great central tract of this continent—a tract of barren, sandy desert, inhospitable for man and beasts, the fit abode of the Digger Indian, whom its poverty has dwarfed, (if, indeed, he were ever a man,) to the being which runs upon all fours, and lives on roots and grass. That country extends a thousand miles to the west; and across its trackless plains extend the three great routes, which alone, within your control, unite your domains upon the Atlantic with those upon the Pacific; the pathways of that on-crowding emigration through whose influence alone you will be able to subdue the Indian and subjugate the soil to the plow and the scythe. Beyond this line lie your Pacific possessions—an empire of themselves—Oregon and Washington, and the young and vigorous California, that new empire whose golden treasures dwarf into insignificance

when compared with the fertility of its soil and the magnificent returns of its commercial enterprise.

That country is all our own. Step by step we have acquired it. The thirteen colonies which skirted the Atlantic coast have extended their possessions westward, until now, from British America to Mexico, from the Atlantic to the Pacific, every acre of this country is covered by the flag of the Union, and every acre of it must be defended by the Army of the Union.

Sir, you have difficult questions pending with England and Spain. They may present now a peaceful surface, as they do; but you know, and I know that, underneath this apparently peaceful surface lie smoldering fires which may burst out into the flame of war. These are contingencies; but if you will look at the West you will see a sad reality. I have spoken of the great central portion of the continent. It extends one thousand miles, from east to west, and twelve hundred miles from north to south, and is the abode of two hundred and fifty thousand Indians. They hold that country by right of occupation, by the traditions of their tribes; and it is with emotions we can well understand that they claim that you are intruders, and the lives and property of your citizens forfeit to their vengeance. Sir, they are gathering for the war; they have attacked your people in Washington; they have invaded the Mesilla Valley; they are hovering upon Iowa and Minnesota; and they have, as my friend before me will tell you, [Mr. BRYAN,] carried desolation to the very heart of western Texas. They are as brave, cunning, and treacherous, as their forefathers. They are determined to resist, if they cannot prevent, that immigration which they feel is encircling them, to their own destruction. In their midst is Utah in rebellion. That Territory is inhabited by more than eighty thousand people, brave, hardy, resolute, accustomed to bear arms, well supplied with munitions of war, well supplied with necessities of life. They are led on by a cool and determined leader; one who is ambitious to be prince as well as prophet; one who holds in his hand all the powers of the government and the church; one who, as said by the gentleman over the way, wields at the same time the sword of State and the anathema of God. They and he block up your pathway to Oregon; they bid defiance to your Government; they mock at your authority; they murder your citizens; and they combine and discipline, and incite to deeds of devilish cruelty, the Indians by whom they are surrounded.

Sir, it is the imperative duty of the Government of the United States to protect its frontiers, to protect its emigrant routes, to vindicate its own dignity, and the power of its law. The only instrumentality by which you can do these things is the Army of the United States.

Now, sir, what is your Army to which you intrust such gigantic interests? By reference to the official documents laid upon our tables, you will find that on the 31st day of June last, the Army of the United States amounted to seventeen thousand nine hundred and eighty-four men. That is to say, if every company had been full; if every man had been at his post; if every sick man had been well; if every weak man had been strong, officers and soldiers all told, the Army of the United States would have amounted to seventeen thousand nine hundred and eighty-four men. How was it in reality? Upon that day the Army of the United States, officers and soldiers, those who were on duty, and those who were on leave, those who were able to perform duty and those who were not, amounted to fifteen thousand seven hundred and sixty-four souls—an Army less than that of any State of Europe; less than that of almost any State on these American continents; an Army less than General Washington sent to Pennsylvania, for the purpose of quelling the Whisky Insurrection; less than the body-guard of a European Emperor to keep watch and ward over his palace when he sleeps.

Now, sir, how is that army posted? The first military department embraces all the territory of the United States which lies east of the Mississippi river, except Florida. On the 1st day of July the army of the United States, charged with the duty of that department, amounted to 1,082 men, officers and soldiers included; and I see, by a foot-note appended to the document

giving us that information, that the army, then embracing seventeen companies, has now been reduced by removal to twelve companies; leaving in that department not more than eight hundred men. In the department of Florida, on that same day, there were nine hundred and fifty-four men. It then embraced thirteen or fourteen companies; but since that time the army there has been reduced to less than four hundred men. The department of Texas embraces a territory which, by your law, is large enough to make five States. It is charged with the protection of the Mexican frontier, and embraces within its limits the most warlike and hostile tribes of Indians upon the continent. And yet the whole army that has been there for several years does not amount to more than two thousand men. In the department of New Mexico, which lies entirely surrounded by Indians—the Mexican Indians on the south, the Camanches on the east, and the Apaches on the north—and which we cannot reach in less than a six weeks' journey, we have eighteen hundred men. In the department of the Pacific, which extends from the Gulf of California to the British possessions, and where we could not send reinforcements in less than three months, the army that is to defend the honor of our flag and the interests of our citizens is less than twenty-five hundred men. While all that great central tract extending from the Mississippi to the Rocky Mountains, from Texas to British America, including the whole Territory of Utah, is intrusted to the guardianship of about forty-six hundred men.

Let me, for a moment, recapitulate. To defend the whole frontier of the country from Maine to New Orleans; from New Orleans, along the Mexican frontier, to the Pacific coast; and thence to Puget Sound—more than ten thousand miles—you have an army of less than six thousand men; while, for the purpose of protecting that vast interior country, you have an army of less than seven thousand.

I had supposed that our Army was in a state of profound repose, and that the troops in the West would stagnate in their posts for want of exercise. It was a most egregious mistake. The territory of the United States lying west of the Mississippi river contains more than two million square miles. It is greater than France, Spain, Italy, Holland, England, and all the German States. It is subject to peculiar dangers, danger from the character of the climate, danger from the character of the country, danger from the paucity of provisions, from the scarcity of water, from the wide and barren region over which emigrants must travel. It is dotted with military and trading posts, intersected with emigrant routes and mail routes, subject to be overwhelmed by the ordinary pressure of these extraordinary dangers. And yet if you will concentrate within it the whole Army of the United States, leaving not a drummer boy east of the Mississippi river, you would not have a force there in the proportion of one man to every hundred and fifty square miles, a territory nearly twice as large as the District of Columbia ever was.

Sir, we are told by competent authority that the Army of the United States, of fifteen thousand men, performs more service than any army of a hundred thousand that the world has ever seen. The country that it protects is larger than all Europe together. Marches are made longer than all the marches of the armies of Napoleon. Look at the report of the Adjutant General; and you will see that, in the last year, three divisions of troops were to have crossed the continent; one from the Pacific to Fort Leavenworth, constructing a military road on their way; another from Fort Leavenworth back to the Pacific; and a third from Fort Laramie, by the South Pass, to California. Look at the general orders that accompany the report of the General-in-Chief, and you will see an account of a march of three hundred and fifty miles in seven days, in pursuit of Indians—marches at the rate of eighty miles a day; and that, too, while the men were three days without water, and lived on coffee and rice. Look at the report of the march of Colonel Sumner last summer, and you will find that, after the 18th of May, he marched eighteen hundred and fifty miles, and transferred his army, without the least repose to men or horses, to the army of Utah, to commence a six weeks' journey to Fort Scott.

Look at the report of the Quartermaster Gen-

eral, and you will see that last year you paid more than two million nine hundred thousand dollars for the transportation of troops, and that that sum will be infinitely increased for this year, and that you will not be able to diminish the cost the subsequent year.

Look, again, at the losses of the Army of the United States, and you will find that it lost last year six thousand men—two thousand nine hundred being from desertion, and the rest from deaths and discharges. Look at all these circumstances, and tell me whether you do not overtax the energy and courage of our Army, and whether you do justice to them or to yourselves, when you commit these gigantic interests to powers so inadequate? And if these things do not convince you, I point to the smoldering villages of the West; to the bleached bones of murdered pioneers; to the trails of emigrants, marked with white and red, the ashes and blood of Indian depredations: I point to your army, fifteen hundred strong, shut up in the mountains of Utah, cut off from succor and supplies, in the face of a legion of ten thousand armed men.

Now, why should not the Army be increased? I think the necessity is apparent.

One gentleman tells us that the increase would be too expensive. Now, an official document, which was used in the discussion of this subject in the other end of the Capitol, tells us that every regiment of infantry costs \$308,000; and the expenses of five regiments of infantry would be \$1,500,000.

Mr. CURTIS. That document is shown to be erroneous. The annual cost of the Army of the United States is about \$19,000,000, which would make the average cost of each of the nineteen regiments just about \$1,000,000; and that has been so for the last forty or fifty years.

Mr. PENDLETON. I am aware that the expenses of the military department of the United States have gone as high as the gentleman says. I am aware that we have nineteen regiments, and that the military expenses of the Government have been nearly nineteen million dollars. But I am yet to learn that there are not included in that sum many expenses which do not extend to every regiment of the Army. The expenses of fortifications, of the ordnance department, of the various departments of the military service of the Government are included in it, and these expenses would not be in any degree increased by the addition of men. If gentlemen will take up the official report, they will see that the expense of the Army is increased comparatively little in proportion to the increase of men, and that you may add one or three thousand men without enhancing in any considerable degree the cost of the Army. Now \$1,500,000 is a large sum of money. This is no time to expend such a sum unnecessarily. This is no time for extravagance. But \$1,500,000 is not more than we appropriate every year to the expenses of this legislative body. \$1,500,000 is the sum that you have appropriated to build the dome of this Capitol; \$1,500,000 is about the expense of the Japan expedition; \$1,500,000 will not cover the cost of printing the three books to which the gentleman from Virginia [Mr. LETCHER] alluded the other day, and I say that although the expense may be great, if an increase in the Army is necessary, neither the practice nor precedents of the Government will justify us in refusing to incur it.

Another gentleman, my friend from Ohio, [Mr. STANTON], said he could not vote for an increase of the Army, or that he would object to an increase of the Army, because troops have been used as a *posse comitatus* in Kansas. Sir, I will have no quarrel with my friend about terms. I do not believe it is in the power of the President to use the regular Army as a *posse comitatus*. The right to use the Army begins where the power of the *posse* ceases. The power to use the troops of the United States is regulated by law, and the law gives the President power to use the troops in the execution of the laws of the United States in all those cases in which he might call upon the militia. He has the right to call upon the militia whenever combinations exist sufficiently formidable to obstruct the judicial process under the power of the marshal. My friend from Ohio makes no difficulty about the construction of that law. He has read it as a lawyer, and understands it. It is plain in giving the President power to use the regular troops in all those cases in which it is proper to

call out the militia. But the gentleman says that law is unconstitutional; that he can find no warrant for it in the Constitution, either in that portion which makes the President Commander-in-Chief, or in that provision which says the President shall see that the laws shall be faithfully executed.

Sir, I do not find the power in either of these clauses, but I find in the Constitution power given to Congress to raise and support an army, and I take it for granted that the right to raise and support an army includes the power to dispose of it, and to use it for all proper and legitimate purposes for which an army may be used. But admitting that the power "to raise and support" implies the power to control the Army, the gentleman tells us that the power is limited by another clause in the Constitution, which provides that Congress shall have power to call out the militia for certain purposes; and that the expression of the power to call out the militia in those cases excludes the power to accomplish the same objects by any other means. Sir, that construction will not do. It is not a grammatical construction of the clause. That clause contains a limitation upon the right of Congress to call out the militia for any other purpose than those expressed there. It implies no limitation upon the power of Congress to accomplish the same object by other means.

The argument of the gentleman would prove too much. He says you cannot call upon the Army to execute the laws of the United States because the Constitution has conferred upon Congress the power to call out the militia for that purpose. I would ask my colleague if the same construction of the same clause would not prevent Congress from using the regular Army under any circumstances for repelling invasion. The Constitution says that Congress may call out the militia to suppress insurrection, to repel invasion, and to execute the laws. The gentleman says that because the Constitution confers the power upon Congress to call out the militia for those purposes, it cannot use the regular Army for the same purposes. Then, according to that construction, the Congress of the United States cannot repel invasion by our regular Army. I know the gentleman will not be led to that conclusion.

I say, then, that the President of the United States has power to use the Army in certain specified cases; and I am not prepared to say that such a case has not arisen in the Territory of Kansas. I know the President, in his discretion, thought it had arisen. I know the Governor whom he sent there thought it had arisen. I know the result of their use there has been good. Not one drop of blood has been shed. No man has been interfered with in the enjoyment of his civil rights; and for the first time in the history of that Territory, the two political parties have met at an election upon an issue joined, and have conducted it peacefully.

Another gentleman tells us that he objects to the use of an army because he is dissatisfied with the condition of affairs in Utah. Sir, I make no question with him upon that point. I have not read the voluminous papers which have been sent us on that subject; but I am prepared to say from the examination which I have been able to make, that, in my opinion, much of the difficulty in that Territory has arisen from the character and conduct of the officers who have been sent there; that, if other men, pursuing a different line of conduct, had been sent as Federal officers, the position of the Mormons toward the Government would have been different.

But that is not now the question. The President, in the exercise of his undoubted authority, has seen fit to remove certain officers from that Territory, and has appointed others in their places. He has, in the exercise of a like undoubted authority, erected Utah into a military department of the Government, and sent the troops there. The people, led on by their Governor and legislative body, have refused to these newly-appointed officers admittance to the Territory. They have refused admittance to the troops; they laugh when you talk of the allegiance due to the Government of the United States.

Sir, it is a case of flagrant rebellion; and the recommendation made to us by the President in his annual message was the suggestion of a humane, as well as a wise policy—the recommendation that while we should go there with the olive branch in one hand, imploring them to return to the allegi-

ance which they have forfeited, conjuring them by every tie which binds man to man, to remain with us, loyal citizens of a common country, we should go there carrying the sword in the other hand with power sufficient, if they spurn our appeal, to crush out the rebellion even if it should be with the entire extermination of the rebels.

Sir, if there is one sentiment more deeply engraven upon the hearts of the American people than any other, it is this: that they will obey law, and will require obedience in others. The public sentiment of this country will never justify the American Legislature in withholding from the Executive a sufficient power to enable him to assert its dignity, and to execute the law.

We are told that a standing army is dangerous to the liberties of the people. I will not quarrel with that maxim. I know that its truth is sustained by history. I know that in ancient Rome the people and Government were the sport of the cohorts of the Prætorian camp; but before that time arrived the imperial purple had been stained with the blood of its victims, and liberty had disappeared forever from the seven-hilled city. I know that in modern times a usurper, in one night, by the power of his army, seated himself upon a throne which seems firm; but before that night the liberties of the people had been crushed out under forms of a free government, and the presidency was as great a despotism as the empire now is. But sir, was it ever heard that an army of twenty thousand men, scattered over three millions of square miles, coming from the people, returning to the people, supported by taxes raised from the people, and voted by their Representatives, was dangerous to the liberties of twenty-five millions of freemen? It is the suggestion of a weak imagination, and not the sober apprehension of a manly judgment.

The history of our Government gives us an instructive lesson on this subject. In the days of the elder Adams the Army of the United States amounted to four thousand one hundred men, and then you had scarcely a post west of the Alleghany Mountains. In 1815 the peace establishment of the United States amounted to ten thousand men, and yet at that time we had scarcely a military post as far west as the Mississippi. In 1839 the Army of the United States amounted to nearly thirteen thousand men, and at that time you had but two posts west of a line drawn north and south from Fort Leavenworth. Now, sir, in 1857, you have an Army of fifteen thousand seven hundred men, having acquired all that vast reach of territory west of this line, with the consequent duty devolving upon you from its possession to defend and take care of it; a territory which in process of time, as independent and sovereign States, is to add new beauty and glory to your political system.

These are the considerations which have induced me to think that the Army of the United States should be increased—considerations which have led me to the conclusion that now is the time when we should construct the skeleton, of which Mr. Calhoun spoke, upon such a scale as that, in any emergency, we can fill it with nerves and sinews, and flesh and blood, to the full proportion of a large and vigorous life. Other considerations have had their effect—considerations, sir, which connect themselves with the pending questions with Great Britain and the relations of Central America to this Government; considerations which connect themselves with the questions pending with Spain and the relations of Cuba to this Government. I believe, sir, that the time has come when Cuba will fall, as has been said, like a ripe apple from its parent stem. I believe now is the time to break the ground and sow the seed in Central America, which shall mature to the perfection of American fruit.

To drop the metaphor: I believe that it is the duty of this Government, demanded alike by its own dignity and by the just expectation of the American people, to demand peremptorily from Spain, indemnity for the past and security for the future; and if she fails to give them, to consider whether, as a means of self-defense, as a measure of prudence, we ought not to take from her that island by which she has been enabled to command our commerce, to outrage our citizens, to confiscate their property, and to insult our national flag. I believe that the time has come when we should abrogate the Clayton-Bulwer treaty, because of its constant infraction by Great Britain, and notify that Government and all others

concerned, that henceforward the interests of this country and the interests of this continent require that American influence, American interests, and American policy should predominate throughout the land covered by the treaty, and that we will assert that policy even if need be with the persuasive tones of the cannon. I believe, sir, that Mexico has failed, unaided, to attain the high destiny to which she is by nature entitled; and that the time will come when she will approach you for aid, and ask the assistance of a friendly hand and a strong arm, and I think they ought to be given to her.

Sir, these things cannot be done in a corner. They will be done openly. They will be done in daylight. They will be done under the disapproving eye, perhaps the frowning batteries of interested nations. But, sir, I believe they will be done, and I think they ought to be done; and I, for one, am in favor of putting ourselves in such position as that, at the right time and in the right way, they shall be done.

When I turn from all these facts and considerations which have led me to the conclusion that the Army should be increased, I find that the President of the United States, who certainly is not ambitious for military glory; I find the General Commanding, who is certainly a prudent man on subjects of this kind; and I find the Secretary of War, who is especially charged by law with the discharge of these particular duties—I find them all uniting in the recommendation that the Army should be increased. And their recommendations meet the entire approval of my judgment, and shall have my cordial and hearty support.

I have not said one word derogatory to the volunteers. I do not design to do so. I could not do it with justice to myself or the truth of history. I believe, as was told us by the gentleman from Mississippi, [Mr. QUITMAN,] that a body of volunteers ingrafted upon a body of the regular Army makes the best troops the world has ever seen; that they impart to it vigor, and receive from it discipline; that they have the courage, the patience, the obedience, and the discipline which belong to the soldier, and that they have, at the same time, the independence and dignity of the citizen, and a just appreciation of the rights and liberties of the people. I would say no word depreciatory of them; I know that around their history cluster the choicest glories of the Republic; that their exploits are written upon the brightest pages of its annals. It is only because I find myself constrained by the convictions of my judgment to support a permanent increase of the Army, that I shall be compelled to vote for the bill presented by my honorable friend from Virginia, [Mr. FAULKNER,] rather than for the bill reported by the chairman of the Committee on Military Affairs, [Mr. QUITMAN.]

Mr. MARSHALL, of Kentucky. Mr. Speaker, I did not expect to address the committee to-day; for when I yielded to my young friend from Ohio, [Mr. PENDLETON,] I thought he and I were on the same side on this question. If this measure fails, and the country understands the reasons, I shall be satisfied. The opposition which thus far has displayed itself presents two fronts, each of which is led, singularly enough, by a member from the Committee on Military Affairs. On the one hand, the Administration, represented by the member from Virginia, [Mr. FAULKNER,] is not pleased because the bill does not provide for an increase of the standing Army; on the other, a class of statesmen, represented by the gentleman from Ohio, [Mr. STANTON,] is not pleased because the military force is increased at all. *In medio tutissimū*. The committee thought the force should be yielded to the call of the Executive, to meet the exigencies of public affairs known to exist, but that the standing Army should not be increased. Hence the bill which is under discussion, which provides the five regiments called for by the War Department, but selects them from the citizen soldiery rather than from regularly enlisted recruits.

The speech of the gentleman from Virginia was an elegant amplification of the same views which had been presented by the report of the Secretary of War. He treated the subject in two points of view: first, without regard to the condition of affairs in Utah; second, embracing the condition of affairs in Utah as a proper element in the decision of the question. I propose briefly to follow

his argument, and to make, in military phrase, a close reconnaissance of his positions, for I am impressed with the idea they have no great strength.

The gentleman commenced by stating the actual strength of the Army at about thirteen thousand men. How strong the Army is depends upon where it is; for, under the laws, the company may be composed of only fifty-two privates, or it may contain seventy-four members. The President has the legal right to expand the companies whenever the Army is posted in certain localities; otherwise he has no right. "The Army, as posted," says the Adjutant General, "is seventeen thousand nine hundred and eighty-four; its actual strength on the 1st of last July was fifteen thousand seven hundred and sixty-four." The gentleman from Virginia says a deduction should be made from this statement of the Adjutant General by taking off engineers and ordnance men. Well, that would reduce it some three hundred and fifty; indeed, if he were to subtract the whole general field and staff, as well as engineers and ordnance department, it would not reduce the number to fifteen thousand men. He thinks the non-commissioned officers should also be deducted; but since these serve in the line, they are to be counted, and are the best and most effective of all the troops in the Army; so that the gentleman failed at the beginning to tell us the strength of the Army. His first position is this: the Army is *overworked*. The extended field of its labors so demands the presence of force at a variety of points at the same time, that it is quite impossible for the existing Army to meet the public requirements. Its efficiency is impaired by the subdivisions to which it is subjected, and its energies are exhausted by the constant toils, fatigues, and sufferings to which it is exposed. Hence it should be increased.

To demonstrate this statement the testimony of Generals Scott and Jesup is appealed to; incidents of service are recounted from the Army reports; we are told of hard marches; rapid and long pursuits of the enemy; extreme suffering from thirst and hunger; exposures to the inclemencies of weather; and of brilliant achievements under all these difficulties. Yes, exclaims the member from Virginia, these men have been compelled to sleep upon the snow; to eat their horses which had given out under the toils of service; and yet they have stormed three Indian encampments in a single day! The arsenal from which he derives all this artillery of declamation is the special order of General Scott, to be found accompanying the report of the Secretary of War. In that order the commanding General introduces twenty-five cases of actual conflicts between detachments from the corps of the Army and the Indians of this country. He says these "are all which have occurred since the beginning of last year, to which my attention has been directed." It is fair to infer that the list comprises all that have in fact occurred; for, as these have been selected to grace the annals and to illustrate the exploits of a gallant Army through eighteen months of service, surely none of equal moment or brilliancy have escaped the vigilant eye of the brave old veteran who kindly indorses them to the applause and gratitude of the country.

Marked for a place in the Pantheon by the chief of the Army, and reproduced for special admiration here, under the fervid and glowing declamation of the gentleman from Virginia, you will be surprised, sir, when I declare to you that the impression I received from a perusal of the statement of these "gallant exploits" was far different from his. When I saw the number of men on detachment, the time employed in service, the rank in command, the ultimate achievement, and the manner of the history, I could but exclaim, If this is all, if this is the best, then indeed does "Peace tinkle on the shepherd's bell, and sing among our reapers."

If a whole year of service brings forth no more of toil, of hardship, of conflict and conquest, than this hunting down of "a few lone Indians," we are a happy people, and our Army is as innocent as an army can well be. No wonder that the President has determined to use the Army in the civic employment of a *posse comitatus* to keep the peace at popular elections!

It is not my purpose to depreciate the gallantry of our Army officers or men, or to detract from a proper estimate of their public services. The

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, MARCH 19, 1858.

NEW SERIES.....No. 74.

Army has no friend to its true interests warmer than I am, for no one knows better than I do the sterling worth, the accomplished education, the disciplined intellect, the chivalric sense of true honor, that pervades the officers of that Army. It was well enough to mention these cases in an order from headquarters, if there was nothing else to mention, for I know such honorable remark is a spur to young ambition, and has a most beneficial effect upon the *esprit de corps* of the Army; but, sir, it is out of the question to draw on such an order, addressed to the Army by General Scott, as material to be gravely introduced into debate here, to influence the nation's judgment to an increase of the Army! Overworked! Why, Mr. Speaker, of these twenty-five cases of "conflicts," it appears thirteen occurred during last year in the military department of Texas. The actors in each case, except two, were detachments from the second cavalry; the whole number of days in the aggregate of service, specified in these reports, was sixty days in the eighteen months; and the whole number of men employed in all of these exploits, when aggregated, was less than two hundred and fifty. Usually, the "gallant exploit" was that of a young lieutenant with his platoon, or of a sergeant with his squad, and most frequently the expedition or the pursuit did not last through more than four or five days. Now, sir, as I said before, it was kind and considerate in the Commanding General to stimulate the ambition and rouse the pride of these young officers, by letting their names and gallant service be attested by his signature to their comrades and the country; but what do you think must be his emotions when he beholds the uses to which they have been put in this debate? Let me illustrate the whole by that which the gentleman from Virginia selected as the climax for one of his rounded periods—that in which he says three Indian encampments were surprised in a single day! If members will look to the record, they will see that this expedition consisted of about sixty men under a captain, and that, from its commencement to its close, it lasted all of one day; that it went forth from Fort Clark on a September morning in 1856, when everybody knows it was more pleasant to be out of doors than in the house, and it returned before the dews of evening tarnished the luster of their sabres. In the course of the day, this expedition surprised three parties of Indians; but whether they were together or separated is not stated; of what force they were, respectively or in the aggregate, is not stated; how many actions took place is not stated; but it is stated that they were all surprised "between the Rio Grande and the Pecos, near their junction," and the returns from the field foot up thus:

	Killed.	Wounded.	Missing.
Americans	none	none	none
Indians	4	4	

And I suppose all the rest were missing, for the report concludes with this account of capture and confiscation: "Their animals and other property were taken or destroyed;" from which, I take it, the inference is clear that there was no regular capitulation, but that the captain made "a clean sweep;" and that so many of the Indian armies as escaped went, "nor stood upon the order of their going," but went like the Roman legions who passed the Caudine forks, stripped of arms, baggage, property, and clothes. It is from the history of this adventure that my friend from Virginia rises, all enthused with military ardor, to exclaim, in tones of gushing eloquence, "Let the Army be increased!"

The Army overworked! Where? How? When? What foe has it encountered worthy the name of an enemy, except in the service performed by Lieutenant Colonel Buchanan in Oregon, and possibly in a gallant repulse given to the Indians in Washington by Steptoe and Keyes? None; I dare say, none, sir; for I do not suppose Colonel Sumner regards his pursuit of the Cheyennes, in Kansas, as worthy of mention among his deeds of real war.

But Quartermaster General Jesup is cited as

having said that our Army travels over more ground than any hundred thousand men in any other service, and therefore the Army should be increased, argues the gentleman from Virginia.

The Quartermaster General forms his judgment upon the length and magnitude of his own transportation accounts, I suppose; and I quite agree with him, that they would seem to represent the movement of a hundred thousand men rather than of the little corps of our skeleton Army. I do not believe such amounts for "transportation" can be exhibited in any other service in the world; but I confess my inability to perceive how the public burden, in this particular, is to be alleviated by adding to the number of men to demand additional transportation! I do not mean to impugn the integrity of the accounts, for I have no doubt they are all right upon the requisitions they have filled; their magnitude is occasioned by the long voyages by sea and river, and by the long distances overland by which supplies have to be furnished to outposts. But the Quartermaster General would concur in my opinion, I imagine, that the only remedy for this misfortune would be such an increase of the Army that divisions of it might be permanently assigned to military departments, to remain therein for a term of years; so that, when detachments might be required to move from one point to another of the department, the movement might be made by marches instead of by steam and rail over great distances, and so that the soldiers might earn their subsistence, in great part, by working fields and raising stock around their permanent military homes. Then his transportation accounts would diminish; but the Paymaster General's pay accounts would increase; and we should probably find, in the result, that transportation was only exchanged into pay for additional personnel to the Army corps. I doubt whether such an exchange would be either a sound or wise economy.

So much for the first position of the gentleman from Virginia. He assumed another, thus: the policy of Government having concentrated the Indian tribes west of the Mississippi, as the emigrant routes to the Pacific traverse the region through which the Indians now roam, the safety of the emigrants demands a military police of the paths of emigration, which the existing Army cannot furnish, but to which the public faith is implicitly pledged by the obligation every Government owes to afford protection to its people when legitimately employed. When the policy was adopted of removing the Indians to the west of the Mississippi, the chief motive was to concentrate them so as to avoid the requisition of an additional force to guard against their hostilities. This was General Jackson's avowed policy; and it seems to me singular that this very concentration of the Indians should afford the especial reason upon which now to base the application for an increase of the military force. If the argument succeeds, the vote will be a pointed condemnation of Jackson's administration, and a rectification, at the public expense, of the errors to which he subjected the country. Is that a point the Democratic party now proposes, under the guidance of the gentleman from Virginia, to attain?

But, independently of this view of the question, let me ask what amount of force and what kind of force will meet the demand for a military police of the paths of emigration from our Atlantic to our Pacific shores? The routes are numerous—the points of destination for the emigrant as various nearly as the differing latitudes of neighborhoods in our western and southern country. We are told by the gentleman that, as a police force, we now have scarcely one man to every two miles of these emigrant routes. What additional security would five regiments yield, if disposed in detachments along the same lines? But when you commence the system, in response to the alleged governmental obligation, where will you stop? Directly the tide of emigration will flow towards Arizona, and possibly to Dacotah. Will you also respond to these routes? Will you apply this military police to the route from Bexar to El

Paso; from Arkansas to Santa Fe; from El Paso to San Francisco; from Dacotah to Washington Territory? Where will the emigrant go, that he may not with equal justice demand your protection, provided he has to travel over wilderness and wastes? The men who settled the valleys of the Ohio and the Mississippi had no such protection thrown around their adventures in search of new lands. They had no army to watch their footsteps, or to ward off the ambuscade of their savage and relentless foes. They went forth from the Atlantic settlements with their wives and children, depending upon their own sagacity, prudence, and courage, for success, and there established that great domain beyond the mountains which is now the heart and power of this Republic. Who is it that calls for help to go to Oregon and California? What native American has ever complained or filed his petition here for a safe-guard of regular soldiers to escort him across the continent? I am disposed to afford whatever security Government can render to the American citizen, wherever he may be; but the idea is not welcome to me that the people demand a cordon of soldiers to police a wilderness through thousands of miles that they may be protected who leave their homes in one part of the country to seek their fortunes in another. It involves the idea of an enormous and exhaustive expense; for these troops must be supplied; they must be sheltered from the snows of winter and the rains of summer; their clothing and provisions must be transported to them; and, after all, they will be of little or no service in preventing small bands of roving and starving Indians from crossing the route of the emigrant when no soldiers are near. You now have a number of posts in Texas, but the Indian goes wherever he feels an inclination to pass, turns your forts by a detour of a mile or so from the direct path and swoops down upon the traveler, or upon the homestead almost with impunity. It cannot be otherwise, where the frontier is so extensive. This bill provides the best kind of force for Texas that the condition of her settlements will allow. It is a provision with which she is content, I understand. It will relieve her of the regulars, and afford a considerable disposable force of these to meet the other wants of Government, so far as regulars can supply a force.

I have thus reviewed the gentleman's speech, so far as it excluded the condition of affairs in Utah from consideration in the discussion. I trust I have proved to the House that the evidence has not been even persuasive that the regular Army has been overworked, or that any practical good could be accomplished by increasing it, under the notion of affording a military police to the emigrant routes across the continent.

There was another view taken by the gentleman, in which he includes the condition of things in Utah as a proper element in the decision of this bill, and of the general proposition to increase the military force of the country. I propose, as briefly as the nature of the case will permit, to follow his lead through this part of his argument also. It will not be necessary, for this purpose, that I should discuss the question whether the Territory of Utah is in a state of rebellion. For the sake of the argument, we will assume that Utah is in a state of rebellion, and that an addition to the military force of the country is demanded for the service in Utah. This brings forward the questions, what amount of additional force is required? shall it consist of regulars, or of the citizen volunteers?

As to the amount of force, the Committee on Military Affairs has adopted the basis presented by the Executive. He demands five regiments; the bill provides for five. But the gentleman from Virginia says we do not furnish such troops as the President desires; that he asks for one sort and we offer him another. Sir, the bill leaves to the President the option to have the troops mounted or afoot, as he may prefer, armed as riflemen or musketry, as dragoons or light cavalry, voligeurs or lancers, just as he may wish. Congress could

not be more liberal. That is not the point of complaint with the Administration. It demands regulars—regulars, sir; and the bill provides for citizen volunteers. The gentleman from Virginia acknowledges this to be the difficulty, and, as I think most unfortunately for the Administration, has undertaken to prove, by reference to the reports from the War Office, that the citizen soldiery of this country is less efficient, more expensive, less worthy of confidence in every military point of view than troops enlisted in the regular Army. I deny this proposition in the name of the American people. It is not sustained by the history of our country; it is not sustained by the facts in any war in which the United States have ever engaged. Unroll the roster of the military names of America, and for every one that is conspicuous for gallantry, service, or skill belonging to the regular Army, I will furnish two from those who sprang from the body of the people to meet the crisis, were actors at the head of your forces in the same campaigns, and stand the peers in every respect of the regulars who now seek to institute this invidious comparison. It was the young Virginia volunteer who saved the wrecks of the British Army from utter destruction drawn upon it by the folly and ignorance of Braddock, its regular commander. It was that same officer who conducted our war of independence to its great result. The Tennessean, drawn from civic pursuits, illustrated the valor of American volunteers upon the plains of Chalmette. The leading spirit of the North—Jacob Brown—in the same war, came from the pursuits of civil life to recover ground lost by the regular general theretofore in charge of your armies. It was Old Tippecanoe who left his territorial government to fight in the second war of independence, and to win the battle of the Thames.

I will not multiply instances. They crowd upon the memory to illustrate the truth of my general proposition; but I will stand upon the results of the Mexican war to vindicate the claim of the citizen volunteer to the confidence of his country against the aspersions which have been cast upon his efficiency. It may be possible that the list of the dead and wounded of the regulars, including the charge on Molino del Rey, exhibits a greater number of regulars than of volunteers in the valley of Mexico; but does it exhibit that superiority in proportion to the numbers of each engaged in the actions? If it did, I ask whether it proves the point of the gentleman from Virginia, to wit: that the regular walks to death where the volunteer soldier fears to tread; or that the volunteer is not selected in the service for dangerous and destructive efforts, when the regulars are at hand? I say no such deduction can be fairly drawn from the facts, and that the history of the Mexican war does not exhibit a single instance in which the regular soldiery of our Army recovered ground that the volunteer had abandoned, or led into the deadly and imminent breach which the volunteer shrank from. I defy the War Office and those who have got up this assault upon the volunteers, to bring forward a single case which can truthfully illustrate such a statement. On the contrary, I think the history of that war affords the proudest vindication of the title of the citizen soldiery to the confidence of their country.

How many volunteer corps were in the valley of Mexico? Only some two or three regiments, I am informed by the gentleman who so gallantly commanded them. And, sir, nearly all the regulars you had in Mexico were there. Is it just to the volunteers, when you come to consider the numbers of the one and of the other, that you shall assume upon such data the superiority of the regular over the volunteer?

Mr. QUITMAN. There were three regiments of volunteers in the valley of Mexico: the second Pennsylvania, the New York, and the Carolina regiments. The first Pennsylvania was at Puebla, and there met the assault of Santa Anna.

Mr. MARSHALL, of Kentucky. The right plan is to take equal numbers of both. It is said that the volunteers are more sickly than the regulars, and the letter of the Surgeon General is paraded to prove that fact. In addition to the reason given by the chairman of the Committee on Military Affairs, I will make a special reply to the reference of the Surgeon General to the Kentucky cavalry, which regiment was in that service under my own command. That corps

was mustered into service on the 9th of June, 1846, at Louisville. It was not moved until after the 4th of July; and young men who had left comfortable homes were exposed at once for nearly a month to the inclemencies of the weather without sufficient tenting to cover them from the storms of the season. The corps was embarked on steamers and transported to Memphis, and there encamped for two weeks between the Arkansas swamps and the Mississippi. It would have been strange had not the fevers of the climate begun their ravages upon the troops. Finally, without orders, except as I gathered them from the general directions of the Department of War, I put the regiment in motion on the 15th of July, and, in the depth of the southern summer, marched from Memphis through Arkansas and Texas, on towards San Antonio; when I was commanded in September, at a time when the regiment was in first rate health and order, to move to Port Lavacca, in Texas, and there to halt, and to await orders from General Taylor, who was at Monterey, in Mexico. At such a season, after months of daily activity in the saddle, to be brought to a state of repose, and so exposed on the shore of the Gulf of Mexico for another month to the autumnal sun, and in the lowlands of that region, it would have been very wonderful if that regiment had not become sickly. In that situation, it is true, sir, we had, some days, two hundred and fifty on the sick list, and the southern fever passed with such fierceness through the command that again, on my own responsibility, I determined to move the regiment on towards Mexico; and I found, as I expected to find, that with action came renewed health to my troops. So soon as the corps left the Gulf, the condition of the men improved; and when we reached the Army at Monterey, the health of the regiment was reestablished; though the bitter experiment to which the corps had been subjected had cost the lives of many gallant sons of Kentucky.

The facts in my case are the history of nearly every case in the service. Every one who was in that service will remember that the volunteer regiments were not pressed to the front, until the regulars were ordered to Vera Cruz; and therefore, sir, a comparison of health instituted between them might be expected to exhibit the natural tendency to disease, by persons sheltered in a high and healthy region, and of others exposed in a low and sickly region. I do not now complain of the positions assigned to the troops in that service; but I mention these facts merely to prove how utterly absurd it is to attempt to arrive at a general conclusion by comparison, when the data from which the calculations are made present such widely differing circumstances. Why should not the volunteer soldier be as healthy as the regular, under the same circumstances? Do they not feed upon the same rations? Are they not entitled to the same camp equipage? Does the healthy man, whose habits have been regular, and whose life has been devoted to the pursuit of honest industry, present a constitution more predisposed to disease than such men as enlist at your recruiting stations for service in the regular Army? It is said the regulars undergo a physical examination before they are accepted; so do the volunteers, when they are mustered into service; and such an examination can be ordered in the one case as well as in the other.

As to expense, you may say that the men waste their rations, and do not know how to take care of them; but I tell you if they do they get no more on that account. It is useless then to talk about expense. I saw some of my men at the commencement of the campaign, throw away their rations. I well recollect when I crossed at Fulton upon the Red river, I had to make a march of twenty days through a wilderness. Putting all my rations upon the wagons, I plunged into the wilderness. One day one of the captains came to me, saying it was impossible for his men to eat such bread as was given to them. Said I, "Call a board of survey and have it condemned. You are entitled to have your rations commuted for money." "What shall I do here," said he, "with money? We want bread." "Open another barrel," I replied. He opened another barrel, and it was no better. "Well, we will pay you in money." "We want no money," he replied, "we must eat this, or die."

The idea that it is more expensive to feed, clothe, and give shelter to a volunteer will not be

sustained by any gentleman who has seen service. I have not gone into an examination of this matter, but if you will take fifty regulars and fifty volunteers, and serve out to each company the same amount of rations, give them exactly the same place to sleep in, it is inconceivable to me how one company will cost more than the other; and I respectfully submit to my friend [Mr. FAULKNER] that his arithmetic is quite as bad as his logic.

I regret, Mr. Speaker, that Congress should have witnessed this onslaught by the Administration upon the volunteer soldiery of the country. I have never met a volunteer officer, in or out of the service, who has exhibited a disposition to snatch a leaf from the laurels of the regular Army. But this is not the first time I have seen the attempt to condemn the efficiency of the volunteers by those who are the constant advocates of an increase of the standing Army. The effort will fail this time—fail signally; for in both wings of this Capitol are men who have served both as regular and as volunteer officers, whose united verdict will resist the attempted distinction. They would be untrue to the interest of the Army itself were they to fail to frown upon this unwise mode of influencing the opinion of Congress to vote an increase of the regular Army.

The gentleman made an extraordinary declaration, to which I desire to recur. He characterized the citizen volunteer as the representative only of popular passions; and preferred the regular because he is "the child of obedience"—"the mere machine that can be wielded by superior intelligence." I listened to this sentiment with great surprise; for, though I had been prepared, by events which have heretofore transpired, to expect the action of the absolutist from the Executive, I did not presume that, in the call for more troops, it would be urged as an argument that the Administration objected to the intelligence of the citizen soldier, and wanted a machine only that could be wielded to any purpose by command of the superior. When Napoleon assumed the empire, he proposed to do so "to preserve the liberty of France." I do not remember the occasion when heretofore the Executive has boldly advanced, as a reason for choosing a particular kind of troops, that he wanted a soldiery without sensibility, which he could handle as a mere machine by the exertion of executive will. There was a time, within my recollection, when Democracy rejoiced in the sentiment that the citizen soldier is the main strength of the Republic, and a well-regulated militia the chief bulwark of popular liberty. Shade of Patrick Henry! what voice is this from your Virginia that now rejects the citizen soldier because he is the child of passion, and adopts the regular because he is the mere machine in the hands of power? Shade of Jefferson! look upon this example and sample of Democracy, and tell us if these sentiments are the same you inculcated, and by yielding to which the American people will preserve long the liberty which they have inherited!

In my judgment, given as that of a man somewhat conversant with military affairs, the force provided for by this bill will be as efficient in service as any ever mustered by the United States. That judgment rests first upon the general capacity of the American citizen to make himself a soldier when his duty calls to arms. He brings health, physical vigor, courage, activity, capacity for endurance, intelligence, patriotism, and a stake of personal reputation in the community to which he expects to return when the service shall have terminated; that, taken altogether, afford the best possible guarantees for his military efficiency. He combines, in his own person, all these qualities of the true soldier to as high a degree, certainly, as the kind of men who usually enlist in the regular service. The length of the term for which this force will be mustered into service—eighteen months, if necessary to the public interest—avoids the objections of gentlemen to short enlistments upon economical considerations, and insures the Government, in the material point, that the service of the volunteer will be continued long after he has, by drill and discipline, become accustomed to the duties of the soldier. The length of time fixed by the bill for the engagement of the volunteer, was determined by the nature of the expected service. It insures his service to the Government for a second campaign if

the public interest shall demand it, yet avoids the hardships and expense of wintering the force the second year in the snows of Utah. Suppose the regiments were ready for muster by the 1st of April. Their engagements would extend to the 1st of October, 1859, which would give the country the benefit of their service, not only for the campaign of this year, but of next year; for, after October, in that climate, the troops must go into winter quarters. The volunteer, discharged in Utah in the fall of 1859, could return to the States before the winter usually sets in with severity in this climate. The Military Committee considered all these points in establishing the length of time for their service.

The regiments will probably be called from the western States, because these are nearest to the locality at which the troops will be wanted, and afford the men whose modes of life and customs promise those qualities which fit them peculiarly for the expected service. The Mormons of Utah are inured, by fifteen years of experience in border life, to all the hardships of the frontier, and they have become experts in the use of the rifle and in the management of the horse. Doubtless they can muster a formidable force, which, being perfectly familiar with the general topography of their country, and accustomed alone to scout the mountain ranges of that frontier, would be most efficient light troops in a war upon our transportation, which, at that distance from the general depots for the Army, becomes a most important part of our actual strength. These volunteers will be as familiar as the Mormons with the rifle, as expert in horsemanship, and as ready of device in all the strategy of border men. They will be as capable of action individually, or in small parties, as quick on the trigger, and as ready to pull it. In these respects, which are all important, should the tactical operations of a campaign determine a resort to a guerrilla war, the volunteer force would be far superior to the regular Army, in which it is apprehended there is a deficiency in these very qualities, that, in the event referred to, would be so essential to success. If, on the contrary, the campaign should demand the evolutions of troops in masses, the volunteer corps would possess all the activity, valor, intelligence, and endurance which constitute the best elements on which to make the successful application of military skill.

There is another consideration which should control the decision of the choice between volunteers and regulars. The volunteer regiments are ready to-day; they can be moved on the instant; the regulars would have to be recruited, and afterwards drilled and disciplined in the schools of the soldier, the company, and battalion, before they would be ready to be in the field. This necessity would cost the United States the loss of this year's campaign, and, possibly, protract a struggle in Utah until it became chronic and most difficult of adjustment. The gentleman from Virginia supposed that the additional recruits authorized in case of an increase of the Army, would be maintained at the posts for the purpose of learning the duties of the soldier, and thus the veteran regiments, already disciplined, might be moved immediately to the theater of these disturbances. But this supposition fails to have practical point for the reason that the veterans cannot leave the posts until the raw recruits shall have been enlisted; and this process must consume so much time as to leave none for a campaign this year. You cannot enlist the men for five regiments in a week, or a month, or two months. The statistics of the recruiting service prove that the business goes slowly on, and that it is unequal to the task of providing men to fill up the ranks of the Army to its present authorized strength. How can it be expected, then, that the increase of the Army by five additional regiments, will so stimulate the recruiting service as to enable the veterans to leave the posts at once for Utah! If they can leave at once because the law shall authorize recruits to be raised to supply their places at the posts, then they can leave also without such a provision, for their places at the posts cannot probably be supplied by the process of enlistment in the lapse of a whole season. For the last year the returns show that the aggregate of enlistments for the regular Army was only five thousand five hundred and nine, while the casualties in the Army, by deaths, discharges, and desertions, were five thousand seven hundred and twenty-nine; so that the process

of enlistment failed, by more than two hundred, to supply the present wants of the service. How can it be expected, then, continuing at the same rate, ever to fill up the new regiments in time for immediate service, or so as to release the old regiments from their present duties at the existing posts? Pass this bill, and the ranger regiment for Texas will immediately place at the disposal of Government more than two thousand regulars, who are returned as posted in that military department so late as July, 1857. If these are wanted for immediate service in Utah, is it not astonishing that the gentleman from Virginia should oppose a bill which provides Texas with the troops which, according to her experience with both, is preferable to regulars for frontier service, and which, at the same time, gives the Administration the immediate use of two thousand men?

But there is another reason: We do not know that there is going to be a Mormon war; but I think prudential considerations suggest to us the propriety of reinforcing the troops now in that quarter, and of doing so rapidly. But suppose that when they reach Utah the Mormons be all found in their fields engaged in the daily avocations of common labor. We cannot commence, under such a state of things, to exterminate them on account of the past; and you perceive that we can get rid of the volunteers by marching them home, that the President may discharge them. Not so with the regulars. If we want troops at all, we want them now. And that consideration determines in part this bill. More than five regiments of volunteers are now ready for the service. They are ready to march to-morrow, so that you may be assured of the benefit of a summer's campaign with them.

We propose to give you men who will be the equals of their foes, in the knowledge of horsemanship, in the use of the rifle, and in individuality of character. You cannot act with masses of troops on a scattered and dispersed population like the Mormons. They will harass your trains, they will cut off your straggling parties, and they will sweep down on small bodies of men wherever they are found unprotected. It will be a war of transportation. It will be a war in which your unprotected messenger or express who carries orders from point to point will be garroted in the mountains; and you will never know the hand that struck him. Your men from Ireland and your men from Germany may be gallant. I do not pretend to detract from their reputation for gallantry. They have not, however, been accustomed in their former life to this thing. It does a western man's eye good to see one of them get into a saddle. It would be absurd to send such men to act against the Mormons, who furnished a battalion in the California war, and who, I understand, have got the very finest cavalry.

If, therefore, you want to act instantly, take the volunteers. If you want troops for the occasion, take the volunteers. If you want troops who will execute evolutions in masses, begin with men who will have all the aptitude to learn, who have all the energy to execute, who have all the interest to perform effective service. I can speak for my own State. They have there raised a regiment by order of the Legislature, to be tendered to the President for this very service. I personally know that there is not a field officer in that regiment who has not seen a year's service in Mexico, and there is scarcely a captain in it who has not also served his year in Mexico. And these officers would be as ready to-morrow to march into the field, and as ready to drill the troops as any officer of the regular service. If you wait here to recruit, what will be the season by the time you get recruits?

By the by, this Mormon war is going to exhibit some very strange peculiarities. I heard to-day from one who is well informed that it was likely the Mormons would bring a larger transportation train from the States to Utah than General Jessup's train; that they have one thousand three hundred wagons now prepared in Chicago.

Mr. Speaker, I find myself a good deal exhausted, and I will bring my remarks to a close. But I want first to notice the power claimed by the President, and the censure that was administered to this House the other day, by the gentleman from Virginia, for its apathy. [Here the hammer fell.]

Mr. BINGHAM. I have no desire, Mr. Speaker, to protract this debate unnecessarily;

but, as at present advised, I shall cast my vote against the bill offered by the majority of the Committee on Military Affairs, as also against the substitute proposed by the honorable gentleman from Virginia, [Mr. FAULKNER.] And I desire, inasmuch as my vote shall be so recorded, to state, as briefly as I may, some of the reasons that will control that vote.

It strikes me, Mr. Speaker, that the Secretary of War has said enough to determine me, at least, in my opposition to the bill reported by the majority of the committee. The President of the United States is, under the Constitution, charged to take care that the laws be faithfully executed. It is his business to advise this House, by his message, and through the proper Departments, not only of the measures which are needful to the execution of the laws; but also of the measures the cheapest and most efficient to that end. The American people have a right to demand not only an efficient administration, but an economical execution of the laws. I take it that no gentleman on this side of the Chamber, or on that side of the Chamber, will be swift in objecting to that proposition.

Well, sir, the President of the United States, in the proper discharge of his duties through the channel of the War Department, has advised us officially, and has officially advised the country, against the very bill which the majority of the Military Committee are now pressing upon the consideration of the House. The bill reported by the majority of the committee, as the House has been advised, is a bill temporarily to increase the Army of the United States, by a volunteer force of some four thousand men. That project is condemned by the Administration, notwithstanding the ingenious attempt of the gentleman from Iowa, [Mr. CURTIS,] the other day, to throw the weight of the Administration in favor of this bill. I undertake to say that the bill is condemned, emphatically condemned, by the Administration.

Mr. CURTIS. I wish to correct the gentleman. I am not at all certain that the Administration is in favor of this bill, and I did not intend to assert that it was. What I said was that the Administration asked us to authorize the raising of four or five additional regiments, and did not say of what character of troops. But I did not say the Administration favored the volunteers. On the contrary, I am afraid they are not right on this question.

Mr. BINGHAM. I have no disposition to misstate the argument of my friend from Iowa; but, sir, I attended very carefully to what he said at the time when he addressed the House, and I am certain that I am not mistaken in saying that he sought to press the Administration into his service in the advocacy of this bill; because his reported speech, corrected by himself, states that the President is entirely silent as to the description of troops that he wants! The gentleman from Iowa argues, from this alleged silence of the President, that the Administration is not opposed to the bill reported by the majority of the Committee on Military Affairs. The gentleman from Iowa was right, so far as the President's message was concerned, in saying the President was silent as to the character of the troops. But the President has further advised us on the subject through the Secretary of War; and by looking to the official report of that officer you will find that he expressly condemns the project which is recommended in the bill of the majority now before the House. The Secretary says:

"It will not be denied that an army properly organized and of sufficient strength, constitutes at once the cheapest and most efficient means by which the indispensable services it is designed to perform can be secured by the Government."

That is the general proposition; and it would seem, from what follows, that the Secretary of War designed that the attention of Congress should be especially called to it, in anticipation that this bill, or some kindred measure, would be presented to Congress. The Secretary further says:

"It will be seen from a paper carefully prepared in the office of the Adjutant General, that no increase of forces is so efficient or near so cheap as the augmentation of our regular Army."

Now, sir, if the Secretary of War be right in this, it is very apparent that the majority of the committee was wrong, altogether wrong, in recommending this bill to the House at all.

Efficiency and cheapness in any increase of the Army, whether that increase be permanent or temporary, ought not to be lost sight of. The opinion of the Secretary of War condemns the proposed measure of the majority because it lacks efficiency and economy.

Mr. CURTIS. The gentleman has the opinion of the Secretary of War as to his belief against that of the committee. That is true. But I would not give the opinion of the committee for that of three such Secretaries of War upon the subject of efficiency and economy, because he has not had as much experience as three or four of the members of the committee. I say this with due respect to the Secretary of War.

Mr. BINGHAM. The gentleman from Iowa is mistaken if he supposes that I undertake to hold the scales of justice here in any judgment to be passed upon the comparative ability—the comparative military ability, if you please—of the Secretary of War and the honorable gentlemen who compose the Military Committee of this House. I am perfectly willing that that grave question shall be settled elsewhere and by a different tribunal. I am willing to leave that important question for settlement to the calm, dispassionate judgment of the future historian. At all events, sir, I respectfully decline the office of arbiter or judge upon the relative merits of the military achievements and experience of the honorable three to whom the gentleman refers, and the military achievements and experience of the Secretary of War.

Mr. CLEMENS. I desire to ask the gentleman from Iowa a question. I believe the gentleman was in command of a volunteer force in the Mexican war?

Mr. CURTIS assented.

Mr. CLEMENS. Will he be kind enough to tell me of any civilian in this country who has happened to have command of a volunteer force in any war, who did not, through his self-pride, prefer the force he commanded, and contend that it was superior to a regular force? We have volunteer gentlemen on the Military Committee, and they, forsooth, are better judges of what the military defense of the country requires than the officers of the regular Army!

Mr. CURTIS. I will say that I do not think so. I do not think the volunteers claim to be better soldiers, but they always claim to be equal to the regular forces.

Mr. QUITMAN. The modesty of the gentleman from Iowa has prevented him from stating that he was educated at West Point as an officer of the regular Army; and I believe that before the close of the war he commanded a regiment of regulars.

Mr. CURTIS. No, sir.

Mr. QUITMAN. At any rate, he was regularly educated to the military profession.

Mr. SAVAGE. I think it quite unfortunate that this comparison should be made. It devolves upon me now, however, to answer also as to my position. In the late war with Mexico I belonged to the regular branch of the service. I had the honor first of being a major in the fourteenth division, and of being at Molino del Rey a lieutenant colonel in the eleventh division. Prior to that time, many years ago, I had been a very high private; and that is the sum of my experience.

Mr. CLEMENS. I understand this to be a question between the military department of this Government and certain gentlemen of the Committee on Military Affairs. I desire to know from the gentleman from Mississippi, how many other members of the Military Committee who have reported against the plan recommended by the Department for the increase of the Army, happened to be educated at West Point? I would like to know whether the whole of them, with the exception perhaps of the gentlemen from Iowa, were not in command of volunteers in the last war, and whether whatever military reputation they have has not been derived from that war, and that war alone?

Mr. QUITMAN. If I am permitted, I will answer the gentleman. I will say that I believe that two members of the committee were educated at West Point for the profession of a soldier, and that four have commanded regulars. As the gentleman appears to be unacquainted with my poor military history—

Mr. CLEMENS. I beg the gentleman's par-

don. I am familiar with it, and the country is familiar with the great deeds it sets forth.

Mr. QUITMAN. I, of course, as a major general, belonged to the regular service of the United States. I trust that I have never shown any hostility to that service. I do not regard this as a controversy between gentlemen, but as a controversy as to the great powers of this Government. I felt it to be my duty, as a member of Congress, to advocate what I believe the country wants—a temporary increase of its military force. The high duty is devolved upon Congress of raising, organizing, and equipping armies. For doing this, the responsibility rests with us; and we are not to be judged by the opinion of the Secretary of War, or the President, or anybody else, in the discharge of that duty.

Mr. BINGHAM. I agree with the gentleman from Mississippi. Every member, in his official action on this question, as upon all other questions, should be governed by what, in his judgment, is needful and right and just in the premises, irrespective of any opinion of the Secretary of War or any executive officer. But, sir, when I made the remark which I did, it unexpectedly called from my friend from Iowa [Mr. CURTIS] a comparison of the military qualifications of the Secretary of War and the honorable gentlemen of the Committee on Military Affairs of this House. It was furthest from my purpose to make any suggestion to the gentlemen that they ought to be controlled in the discharge of their official duty here by the mere dictum of the Secretary of War. I wished to have this conflict of opinion understood. I thought I spoke plainly enough. By the Constitution of the United States, the executive department of this Government is especially charged with the execution of the laws of the United States. In time of peace, the Army of the United States is kept organized chiefly, if not exclusively, to enable the President to discharge that duty. If, therefore, any increase of the Army of the United States, either temporarily or permanently, be needful in this time of profound peace, (for it is a time of profound peace between the United States Government and all foreign nations,) it is for the President, above all others, to know it, and to bring that fact before Congress; and also to suggest and recommend such necessary increase, as well as the kind of force required. I say that the increase of the Army is an Administration measure. If an increase had not been recommended by the President, does anybody suppose that this House would, upon its own motion, have proceeded to increase the Army of the United States? I think not. The remarks which I have submitted upon the kind of forces recommended would not have been indulged in by me at all, if one of the members of the committee had not attempted, as I understood him, to press the weight of the Administration into the support of this bill. In answer to that attempt I thought it perfectly legitimate to present to the House the fact that this bill stands condemned by the war officer of the Government.

I do not know whether this ought to have weight with other gentlemen. In my view of the subject, I allow it to have weight with me. I shall vote for no increase of the Army, as at present advised. I will hold the Administration responsible for any increase that may be made. Unless the Administration needs an increase of the Army, it ought not to have it; and unless it asks it, it ought not to get it. The Administration has taken particular pains to condemn this bill. It has said in express terms, through its war officers, that the increase of the regular Army is the most efficient and least expensive to the country. I state this that it may have its due weight with the House and the country.

Mr. QUITMAN. Will the gentleman allow me to ask him a question? It seems to me that we differ as to our duty as members of Congress. We have before us the application of the Legislature of the State of Texas, and that is reported on in a part of this bill. We have, also, advices from General Twiggs that the Indians are committing depredations on the frontier. This was brought directly before us from the Legislature of Texas. I ask the gentleman whether he would refuse to act upon it, although he might believe some additional force was required for the defense of Texas, or wait to act upon it until he received a recommendation from the Administration?

Mr. BINGHAM. I am greatly obliged to the gentleman for his suggestion. He will observe that in my remarks, I used the words "as at present advised." The case of Texas had entirely escaped my mind at the moment. The truth is, that in the remarks I have been making, I was directing my attention especially to that section of the bill which provides four additional regiments of volunteers temporarily to be employed, not in Texas, but in Utah and the northwestern frontier. I had not in my mind the application of the State of Texas. I am ready to respond to the suggestion of the gentleman from Mississippi. On the petition of the State of Texas, setting forth that additional force was necessary for the protection of life and property in that State, and being satisfied that such force was necessary, I trust I would be as ready as the gentleman from Mississippi to vote that additional force. I shall come to that part of my argument presently, which covers the application of Texas, and that section of the bill which provides for volunteers for Texas.

Allow me to remark, in passing, that the language of the Secretary of War, which I have quoted in condemnation of the provisions of this bill for raising four additional regiments, applies with equal force to the first section, which provides for raising one regiment of volunteers for Texas. My chief objection to this bill does not originate in the report of the Secretary of War by any means, and applies alike to the bill reported by the majority and the substitute proposed by the honorable gentleman from Virginia, [Mr. FAULKNER.] That objection is, that I am not advised of any condition of things in Texas, in Utah, or anywhere else within the limits of the United States, which renders it necessary that there should be any increase of the Army, either temporarily or permanently, either by means of volunteer regiments or by means of regulars. Until that necessity is made apparent, I shall vote for no increase of the Army.

It is well understood and conceded on all sides of the House, that the Army of the United States numbers some fifteen thousand efficient men, and liable to be increased, I believe, by addition of recruits, eighteen thousand, under the existing laws. How is this force employed at present? In the eastern department, I believe, there are only about eight hundred of them; in Florida there is only a small number—not to exceed a thousand. Where is the residue—where the remaining thirteen thousand efficient men? In the departments of the Northwest and of the Pacific. What condition of things exists in that section of the country, which requires there the immediate presence just now of this force of thirteen thousand men? Can anybody answer? Three thousand of those efficient soldiers of the Army of the United States are within the limits of the Territory of Kansas, or in its immediate vicinity. Does anybody know that there is any necessity at all for the continuance of that force in that Territory? Two thousand troops have been thrown forward toward the Territory of Utah, in the direction of Salt Lake City, under command of Colonel Johnston, for the purpose of enforcing the law in that Territory; and the four additional regiments provided for in this bill were recommended by the President, solely upon the ground that there is threatened insurrection in Utah, and this force is necessary to suppress it. For that purpose alone does the President ask for this increase. The majority of the committee, of course, speak for themselves, and they say that this additional force is wanted for some other purposes. They want it not only for Utah, but to defend the emigrant trains, and the northwestern frontier. I deal with this matter, however, not as a measure which particularly belongs to the majority of the Military Committee of this House, but as an Administration measure. When it is proposed to increase the Army on the recommendation of the Executive, I want to know the necessity for it; and to the President it belongs to show to the House and the country that necessity. That showing is the more needful when the committee report no facts in support of their bill. How does the President show this necessity? What does he say about it? In his annual message, he uses this language when speaking of the insurrection in Utah:

"Governor Young has, by proclamation, declared his determination to maintain his power by force, and has already committed acts of hostility against the United States. Un-

less he should retrace his steps, the Territory of Utah will be in a state of open rebellion."

What those acts of hostility are, the President has not been careful to tell us. The President further says:

"A great part of all this may be idle boasting; but yet no wise Government will lightly estimate the efforts which may be inspired by such frenzied fanaticism as exists among the Mormons in Utah. This is the first rebellion which has existed in our Territories; and humanity itself requires that we should put it down in such a manner that it shall be the last. To trifle with it would be to encourage it and to render it formidable."

There is no rebellion in Utah, according to that passage of the message first cited. The President, however, says, in the last passage cited, "this is the first rebellion which has existed in our Territories." I do not intend to impeach the veracity of the President at large; but, sir, when he is the sole witness upon the stand to satisfy the House of the necessity of this increase of the Army, I will apply to him strictly the rule of the law of evidence, that when he is false in one material matter in issue, he is to be treated as false in all; and I shall so hold, whether his falsity arises from corrupt motives, or from a simple want of the necessary information to enable him to tell the truth. The President says further, in relation to this increase of the Army to suppress the alleged insurrection in Utah:

"We ought to go there with such an imposing force as to convince these deluded people that resistance would be vain, and thus spare the effusion of blood. We can in this manner best convince them that we are their friends, not their enemies. In order to accomplish this object it will be necessary, according to the estimate of the War Department, to raise four additional regiments; and this I earnestly recommend to Congress."

For what object? To subdue these Mormons that threaten rebellion. I have already read from the message the words of the President that, "unless he (Young) should retrace his steps, the Territory of Utah will be in a state of open rebellion." These words clearly import that something remains yet to be done before rebellion shall take place; that Young must pursue his course, must advance, or there will be no rebellion in Utah. "Unless he retrace his steps the Territory of Utah will be in a state of open rebellion."

Now, he says, in order to "put down this rebellion," in order to enforce the law, it will be necessary, according to the estimate of the War Department, to raise four additional regiments; and this he earnestly recommends to Congress. It would have been very satisfactory to me, Mr. Speaker, as I doubt not it would have been to every gentleman on this floor, now that we are required to vote on this bill, if the President had advised us whether or not the people of Utah, as a people, have done any act that would justify us in committing against them, as the President proposes to do, an act of war?

Disguise it as you may, the proposition underlying this whole project—this recommendation of the President, this bill of the majority—is a proposition to wage war upon the people within the valley of Salt Lake. Now, I am just as ready as any other gentleman on this floor, when the proper occasion arises, to vote the necessary supplies of men and money to suppress rebellion in Utah, or anywhere else within the limits of the United States; but I must demand, on my oath and my conscience, before I vote any such supplies, the evidence of their necessity. And I but echo the voice of the civilized world, when I say that no nation should wage war, either foreign or domestic, but upon absolute, stern, inevitable necessity. It is the teaching of one of the greatest of all jurists, "that war is one of the highest trials of right." Sir, a *rius* must be involved before this highest trial can be justly invoked. What right is involved here? The right, I suppose, of killing indiscriminately the men, women, and children, of Salt Lake City. I have no other information than that which appears in the message. It strikes me that the chief ground of all this quarrel, the chief ground of this attempt to be made with your Army and four additional regiments to subdue the people of Utah, is their having established in their midst the institution of polygamy—an institution abhorrent to the whole civilized world, a shame and burning disgrace to the people of the United States. I am willing—and, I trust, as desirous as any one can be—that this institution of polygamy in our midst shall be abolished. Every good citizen of the United States must feel a sense

of shame that such an institution has been permitted—nay, fostered—under the protection and sanction, if you please, of the Government of the United States.

But, I would ask, was not this Brigham Young appointed Governor of that Territory and superintendent of Indian affairs by the late Democratic President, (Pierce,) when Young was the chief and head, as he still is, of the institution of polygamy? Young is no more a polygamist to-day than he was the day he received his commission. The only real ground of complaint that appears against him, so far as I know, is that he refuses, for the time being, to surrender the power thus voluntarily conferred upon him by the Government. The reason of this refusal, as made known here by their petition, is that your Army now invading their Territory threatens their destruction. I do not know that, even if they have violated, as I admit they have, the laws of morality and decency in establishing such an institution, that puts them entirely outside of the pale of humanity, or subjects their women or children, who have had, perhaps, as little hand in the matter as the President of the United States himself, to massacre.

I do not see any necessity for it. There is an easy way for suppressing polygamy in the Territory of Utah. That is for the Government of the United States, through Congress, to resume and exercise its rightful authority over that Territory. I need not be told here that it would be unconstitutional to legislate against polygamy in Utah. Why would it be unconstitutional? Because the Constitution is entirely silent on that subject? You may make all needful rules and regulations for the government of that Territory. You propose now to make one alleged needful rule and regulation for its government, and that is, to organize four additional regiments for the purpose of holding it under military rule. The Constitution of the United States is, I admit, silent as to the crime of polygamy; but it is equally silent as to the crime of murder, or the crime of robbery, and yet you have spread upon your statute-books laws prohibiting the crime of murder anywhere within the Territories of the United States, or within the exclusive jurisdiction of the United States, and punishing it with death; and you have also United States laws prohibiting the crime of robbery within the Territories or exclusive jurisdiction of the United States, and punishing it by fine and imprisonment. It is equally constitutional to enact that polygamy, committed anywhere within the Territories or exclusive jurisdiction of the United States, shall be held a crime, and that, on due conviction thereof, the party committing it shall be punished with appropriate penalties. I believe there is not a State within the Union in which polygamy is not made a crime by statute, and punished as such.

Why should not this offense be at once prohibited by law within the Territory of Utah before we make it the pretext for exterminating that people by the sword? I think it does not become the American Congress to imitate the pernicious example of Caligula in punishing as offenses against the law, acts done before the law was passed, or before the subject had the opportunity of knowing what the law was.

I will say further touching this controversy with Utah, that the people of that Territory were literally told by the law of 1854—told by the Democratic press from Maine to California—told by the official communications of the Democratic Chief Magistrate of the United States, that they, in common with the people of every United States Territory, were perfectly free to establish their domestic institutions in their own way, and whatever domestic institutions they chose, even that of polygamy. They were further told, sir, that they would be protected in their domestic institutions whatever they might be, by the Army and Navy, if need be, of the United States. That was the real position assumed heretofore in regard to this question. In this loathsome institution of polygamy you may see one of the legitimate results of that demagogue cry of "squatter sovereignty" or the right of the first fifty or five hundred adventurers in any Territory of the United States to set up any domestic institutions not expressly in conflict with the Constitution of the United States. Young has literally acted upon your suggestions, and now you propose to destroy

him and all his people for doing precisely what you said he might do.

I would, then, in this emergency, as the case now stands, say this: that so far as that great offense has anything to do in this matter, let us reach it by statute; at least let us start in the right direction, by prohibiting it in the future. Let us do that, and then let us go a step further. Let us first try in the language of the law of nations—that law which ought to govern our municipal regulations, and apply to the domestic wars as well as to national wars—let us try all peaceful means. To suppress polygamy we are asked to resort to the sword. Have their people otherwise offended? We have before us the memorial of the Legislative Assembly of that Territory, in which they say they are ready to receive any civil officers that may be appointed by the Government of the United States, recognizing the authority of the Government of the United States, and praying that the Government of the United States will not subject them to the ravage and destruction attendant upon an invading army. Why not try the experiment of first sending out civil officers to Utah before you send your Army? Send your Governor and send your chief justice, without any military parade, into the Territory, and see if the people there will not peaceably receive them and recognize their authority. If they do, then these four additional regiments are unnecessary.

But suppose they are unwilling to listen to the voice of reason, or, as the gentleman from South Carolina [Mr. Boyce] the other day well said, they have become blind to their own interest, and willing to provoke an extermination by the sword; suppose that to be the actual condition of things, of which I protest I am not advised, nor is any gentleman in this House so advised: still I aver there is already a sufficient force of the Army of the United States in Kansas, which is not needed there, to supply the required four regiments; and which, in conjunction with the force now under Colonel Johnston in Utah, would be sufficient to exterminate all the Mormons in the Utah valley.

Mr. Speaker, if I were alone in this opinion, although it would suffice for myself, I would not impose it upon any man with a view to affect his vote upon this bill. But, sir, the sufficiency of this Kansas force is not my opinion alone. The late Secretary of War, now a distinguished Senator from Mississippi, [Mr. Davis,] a man as distinguished in the field as in the Cabinet, has recently spoken to the country upon this question. I think that gentleman fully competent to judge upon this point. He has recently made this distinct announcement: "that the force under the command of Colonel Johnston was, in his judgment, sufficient to put down all resistance in that Territory if they could reach Salt Lake City." He says further: "if Colonel Johnston has the transportation which will enable him to move, he will subdue resistance with the force he has." Colonel Johnston's force is now two thousand men. An additional force of two thousand or twenty-five hundred men would enable him to move. That is the opinion of the late Secretary of War. The President only asks for four additional regiments, or about three thousand men. There is that force of three thousand men, or more, in Kansas and its vicinity. The President may supply the four regiments from that force now wrongfully kept in Kansas. This is clear. Where, then, I beg leave to ask, is the necessity for these additional four regiments of seven hundred and forty men each? There is no necessity for it, unless you deem it necessary to keep the four regiments of the regular Army in Kansas perpetually, to enslave, in the future as in the past, her free citizens.

The argument of the gentleman from Iowa [Mr. Curtis] proceeded upon the hypothesis that the President of the United States is already armed with sufficient authority, under existing statutes of the United States, to employ the Army of the United States in the suppression of insurrection or resistance to the laws in Utah. The argument of the gentleman from Mississippi [Mr. Quitman] proceeded upon the same hypothesis. I think those gentlemen were right in their assumption, and that my colleague [Mr. Stanton] was wrong in suggesting that the law which gave the President that power was unconstitutional or inoperative. I believe the statute of 1807 is valid

and in full force, authorized by the Constitution of the United States, and in accordance with the plain letter of that instrument. The Constitution authorizes Congress to raise an army, and to provide all necessary rules and regulations for its government, and to provide for the common defense. That is a plain and express grant of power to Congress. Where words are plain, there is an end to all construction. The act of 1807, which authorizes the President to employ the Army to suppress obstruction or resistance to the laws of a Territory, is valid. He may, therefore, draw from Kansas three thousand men, if needed to reinforce Colonel Johnston, and enable him to move and subdue all resistance in Utah. These three thousand men are now subject to that service, and useless where they are; I might say they are offensive where they are, but by reason of no fault of theirs.

Let Governor Cumming, then, take care, at the proper time, to make requisition on the President for the troops, and that is all that is wanting to give the President full authority to act during the vacation. This bill, of course, is not intended to go into operation until after the close of the session. There is, therefore, nothing in the present condition of things in Utah, nor in the present regular force of the Army, to create a necessity for the proposed increase of either volunteers or regulars. At all events, Mr. Speaker, with the distinguished ex-Secretary of War, [Mr. Davis,] I say of the deluded people of Utah, "I want not their blood shed by the Government of the United States." Sir, I do not intend that the blood of that people, or any other people, shall be upon my hands, or upon the Army of my country, by any act or vote of mine, until the necessity for it is not only apparent, but absolutely unavoidable. Let the Government of the United States act affirmatively. The Government should not occupy a mere negative position in this matter. Let us first try peaceable means for the settlement of this difficulty. Let us try negotiation. Let us try the organization of a civil government. Let us try to bring that people back to their allegiance, not by force of arms, but by civil, peaceful, quiet, and just means. When every peaceful measure has been faithfully tried, and has failed, then, and not till then, let us try the dread arbitrament of the sword.

Mr. CURTIS. I understand the proclamation of Brigham Young and the resolutions of the Legislature of Utah to say distinctly that no officer shall be permitted to exercise power in that Territory, unless an officer of their own choosing.

Mr. BINGHAM. I must say to the gentleman from Iowa that I understand the very converse of that. I have not had the opportunity to read the petition of the Legislature of Utah, sent here and presented yesterday. I do not know that the gentleman has. I heard that petition read from the Clerk's desk. I understand that it asks that the Government of the United States shall appoint good and true men over them—not men who will abuse and libel and slander them. Be that as it may, so far as the proclamation of Brigham Young is concerned, I do not know how the gentleman knows anything officially concerning it beyond what the President knows and states; that is, that Young says he shall maintain his power in Utah by force. It is not that he will maintain his power wrongfully against the United States by force, but merely that he will maintain his power by force; of course, against any power wrongfully brought against him or his people!

Mr. SAVAGE. Here are the concluding words of the proclamation of Brigham Young, to which I would direct the gentleman's attention:

"Therefore, I, Brigham Young, Governor and Superintendent of Indian Affairs for the Territory of Utah, in the name of the people of the United States in the Territory of Utah, forbid,

"First. All armed forces of every description from coming into this Territory under any pretense whatever.

"Second. That all the forces in said Territory hold themselves in readiness to march at a moment's notice to repel any and all such invasion.

"Third. Martial law is hereby declared to exist in this Territory from and after the publication of this proclamation; and no person shall be allowed to pass or repass into, or through, or from, this Territory without a permit from the proper officer."

Mr. BINGHAM. I do not intend to waste much time on that document. I do not intend to enter into a special defense of anything it contains. Suppose we treat it here as an authentic document

emanating from this man who signs himself Brigham Young, Governor and Superintendent of Indian Affairs? What does it amount to? That he will resist any armed invasion. He is out in the wilderness, three thousand miles from the capital of the country. He is advised that an armed invasion is being made into his Territory. He has no evidence that the United States Government sanctions that invasion, or even knows anything of it. If Young is guilty of treason, first indict him for it, and try to arrest him and bring him to trial and judgment by the ordinary process of the law. Until you at least try to do this, you have no right to make his treason the pretext for the indiscriminate murder of his people. I put it to the gallant gentleman from Tennessee [Mr. SAVAGE] whether upon a showing of this sort he is willing to send an army of invasion into that Territory not only for the purpose of destroying Brigham Young, but of putting women and children to the sword? That is the point which is involved here. It is not whether Young has acted wrong in issuing a document of that sort; but is there any evidence of the necessity of an increase of the Army, and the proposed invasion of that Territory? I have searched for that evidence, but I have searched in vain. I have challenged the production of that evidence from the other side, but I have challenged its production in vain; and until the evidence of that necessity clearly appears I shall not record my vote for this measure of blood and murder, so help me God!

One word more and I have done with this matter. If it were perfectly apparent that the proposed increase of the Army of the United States was necessary, as provided in this bill, while the bill authorized the President of the United States to control that force, I could not and would not vote it. I say that it is a humiliating confession to make, but I make it because it is my felt conviction that the President of the United States has already proved himself wholly unfit for the trust; and to-day let me say that, in my judgment, the House would be more in the line of its duty to prefer articles of impeachment against the President of the United States for high crimes and misdemeanors than to vote for four or five additional regiments to be put under his control and authority. That necessity, as I have shown, does not exist; but if it did I could not and would not vote for this bill because it allows the President to control the new force, and I believe him unworthy of that trust.

I am not alone in this opinion, that the President should not be intrusted with this additional force, or with any additional force. This measure has been before another body in the other end of the Capitol—a majority of whom profess to be of the party of the President—and yet, strange to say, that body has rejected both these propositions of an increase of the Army, either by volunteers or by regulars. If his professed political friends refuse to intrust this additional power to the President, I think those of us who never professed, much less felt, over-confidence in the President, may be pardoned if we hesitate and doubt his fitness or fidelity. Mr. Speaker, I would not wantonly speak harshly of the President, but a sense of duty constrains me to say that, in my judgment, the President has proved himself unfit for the trust proposed to be confided to him by this bill. He has grossly abused and betrayed the power conferred upon him by the existing statute which authorizes the employment of the Army for the suppression of obstructions to the laws of the United States, or of any State or Territory. Under color of that statute, sir, he has sent three thousand of your Army into Kansas and its immediate vicinity to coerce its freemen into obedience to enactments which they never framed or authorized, which Congress never sanctioned, and which have no sanction but that of the usurpers and marauders who invaded and defiled that Territory.

As a pretext for this act of oppression, for this gross breach of trust, the President, in his special message of the 2d of last month, says, that ever since the period of his inauguration "a large portion of the people of Kansas have been in rebellion against the Government;" and that they "would have long since subverted the government established by Congress, had it not been protected from their assaults by the troops of the United States—that they have constantly re-

nounced and defied the Government to which they owe allegiance, and have at all times been endeavoring to subvert it, and to establish a revolutionary government under the so-called Topeka constitution." I aver, sir, that this charge of the President against the people of Kansas, that they have been in rebellion against the territorial government established by Congress, ever since the 4th of March, 1857, or at any time, is a calumny—that it is put forth by the President as a pretext for the military despotism which he has wrongfully established over them, in violation of his duty, of their rights, and of the laws of the country. Against the President's assertion that there is or has been rebellion in Kansas, I interpose, and hold up to the House and the country his solemn declaration in his annual message, of the 8th of last December, in which he says that the rebellion in Utah is "the first rebellion which has existed in our Territories."

Both of these assertions of the President cannot be true. If there has been rebellion in Kansas ever since the President's inauguration—if that people have been "all the time" since then in resistance to the laws and authority of the Government of the United States, it cannot be that the rebellion in Utah is the first rebellion which has existed in our Territories. If this statement concerning the rebellion in Utah be true, the charge of rebellion in Kansas is false; and is, therefore, what I aver it to be, a calumny upon that injured people, and a shameless pretext for the President's invasion of their rights and betrayal of his duty.

Mr. BRYAN. Mr. Speaker, I wish to say a few words in reply to the gentleman from Ohio, [Mr. BINGHAM.] From what I had learned from the friends of volunteers, and from the friends of an increase of the regular force, I supposed that no objection was raised to the first section of the bill, providing for a regiment for the protection of Texas. The gentleman from Ohio has called for information, and I will give him information in regard to the necessity of that provision which may perhaps enlighten others as well as himself.

The gentleman has taken as evidence for the formation of his opinion, the memorial of the people of Utah which was read yesterday—a people whom the Executive of this country has thought it necessary to send a force to subdue. If, sir, he gives credence to that memorial, he will surely give credence to a joint resolution of the Legislature of a State at peace with this country. At an early day of the session, the joint resolutions of the Legislature of Texas were presented, and referred to the Committee on Military Affairs. Those resolutions stated that it was necessary that this additional regiment should be raised.

In addition to that, we have the request of General Twiggs that an additional force should be raised for the protection of the frontiers of Texas. In addition to that, the delegation from Texas have letters from the Executive of that State, and from their respective constituencies, stating that the Indians all along our borders are capturing and killing the inhabitants. If, sir, the gentleman from Ohio [Mr. BINGHAM] wishes information, I will refer him to those sources which will not fail to enlighten him upon the subject. Twenty-eight persons have been killed and captured upon the frontiers of Texas; and one woman and two children have been carried into captivity. Men have been killed in their fields, on the high ways, and on the prairies. Blood has freely flowed along our borders; and when the government of Texas has requested the commanding General of that department to protect the frontiers, he tells us he is powerless. And a few days since the Secretary of War informed me that the whole military force of Texas would be ordered to Utah. If the gentleman takes that Department for authority for his representations in one instance, he will take the authority of that Department in the report it has made to the delegation from that State. Then, when that is done, (the removal of the troops,) our frontiers will be destitute of soldiers, and the Kickapoos, the Wichitas, and Camanches, will cross the whole length of our borders. If they make repeated incursions into our State in the face of over two thousand troops, the moment they know that the soldiers are removed they will make a rush upon the defenseless inhabitants, and desolate our borders.

We ask for this force, again, because we believe it is the most efficient force for the protection of

the frontier. Regulars have done their duty well, sir, elsewhere. I wish not to pluck one leaf from the laurels they have won. More gallant officers are not to be found anywhere than those that belong to our little Army; but, in order to protect the frontier of our country, place upon that frontier troops who are accustomed to the mode of warfare which is carried on there; place upon the frontier those who have been habituated to follow the Indian into his fastnesses from their early manhood, and who know how to meet him. When the Indians find that theft and murder will be surely punished, they will sue for peace; their treaties will be respected. But when they visit our frontier on a foray, and return to their homes on the mountains and the plains unharmed, and are never punished, it is an invitation to them to commit similar offenses again. But mounted volunteers, in threes and fours and fives, can follow similar squads of Indians to their retreats and punish them there. When they are punished they are conquered; and when conquered you may collect them on the reserves and try to civilize them. The Choctaws and Chickasaws have proved that the Indians can be instructed in the habits of civilized life. I will say, with all respect to the gentlemen on the Republican side of the House, *here is an object worthy of your intelligence and philanthropy. Let us civilize these Indians, that once possessed those vast domains; collect them upon the reserves, and teach them to read and write, and instruct them in those arts that have made us the great and mighty people that we are. It can be done. The reserves upon the Arkansas frontier afford evidence of this fact; and the reserve upon our own northwestern border, under the direction of that efficient Indian agent, Major Neighbors, proves that fact.*

These are the reasons why Texas asks for this regiment. You have now a frontier of over twelve hundred miles in length on our State to protect. That protection can be made efficient with a few artillery companies upon the Rio Grande bordering on Mexico; and with a regiment of volunteers ranging between the Rio Grande and the Red river, a distance of four hundred and fifty miles, you will afford a complete protection to the citizens south of that line, and drive back the Indians north of it. That course will be the least expensive. You will remove much of the expenses incident to transportation of supplies from the coast to the interior to supply those posts. Nearly one half of the expense incurred in protecting the frontiers of Texas has been incurred in the transportation of supplies. Nearly half a million has been expended annually in transportation. The ranger, on an emergency, needs no transportation but that which he carries upon his horse, and the grass of the prairie frequently furnishes that horse with food. He can camp where duty calls him, without a tent. He can go where duty calls him, without a kettle or a coffee-pot. He is accustomed to that life; he is identified with the soil; and in protecting the frontier he protects his home, his fields, and his fireside.

These are the reasons why we ask for this additional regiment. I trust that the gentleman from Ohio has received the information he desired.

Mr. GIDDINGS. Mr. Speaker, I propose merely to occupy the attention of the House for two or three minutes upon the question on which the gentleman from Texas has so eloquently spoken. I barely wish to repeat what fell from the lips of a distinguished gentleman from Tennessee, in a former debate in this body—I refer to Mr. Cave Johnson, formerly Postmaster General of the United States. Speaking upon this very subject, he once said, that, if the Government of the United States would give him the money and rations paid to our troops defending that frontier, he would guard it himself. I say, from all the observation of my life—and I have some knowledge of the Indian character, for I have mingled with them perhaps more than the gentleman from Texas has; I have seen them in battle and in various conditions of life; I say, from the convictions of my heart, that, if you feed the Indian and do him justice, he will never injure the white man. I refrain from further remarks from prudential motives.

Mr. SAVAGE obtained the floor.

Mr. FARNSWORTH. Will the gentleman allow me to offer an amendment to the original bill?

Mr. SAVAGE. I yield for that purpose. The SPEAKER. The amendment is not now in order, inasmuch as there is a motion pending to recommit; but it will be reported for information. The amendment was read, as follows:

Strike out the words "and required," in the third and fourth lines of the first section. Also add the following: Sec. 7. *And be it further enacted*, That so much of this act as authorizes the President to receive into the service of the United States one regiment of Texas mounted volunteers shall not take effect, or be in force, unless the said State of Texas shall remain in the Union, or so long as the said State of Texas shall occupy an attitude of hostility or disloyalty towards this Federal Union.

Mr. SAVAGE resumed the floor.

Mr. CURTIS. The hour is late, and the House is exhausted; and, as I should like to have my friend from Tennessee come fresh to the field, I will move to adjourn, if he will allow me to do so.

Mr. SAVAGE. I yield for that purpose.

Mr. CURTIS. Then I move an adjournment. The motion was agreed to; and thereupon (at twenty minutes to four o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, March 18, 1858.

Prayer by Rev. J. A. HARROLD.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, information in relation to Rock Island in the State of Illinois, and its use as a military reservation; which was ordered to lie on the table.

EVENING SESSION.

Mr. WILSON. There is a sort of informal understanding amongst Senators that the floor on the Kansas question has been yielded by the Senator from Vermont [Mr. Foor] to the Senator from Georgia, [Mr. Toombs,] and it is thought best to have an evening session. For that purpose, I move that at half past four o'clock the Senate take a recess until seven o'clock.

The motion was agreed to.

Mr. FOOT. I suppose that will be taken subject to this qualification, that if a member should be upon the floor, and should not have quite concluded his remarks at that time, they shall not be interrupted if he prefers to conclude them.

The VICE PRESIDENT. The Chair supposes so.

PETITIONS AND MEMORIALS.

Mr. WADE presented additional evidence in support of the claim of S. W. and A. A. Turner; which was referred to the Committee on the Post Office and Post Roads.

Mr. BIGLER presented the petition of Ann L. Rogers, wife and assignee of John A. Rogers, praying for compensation for his services as examiner of the land offices in the States of Alabama and Mississippi; which was referred to the Committee on Claims.

Mr. KENNEDY presented a memorial of merchants of Baltimore, remonstrating against the repeal of the law establishing the Light-House Board; which was referred to the Committee on Commerce.

Mr. BENJAMIN presented the memorial of B. F. Simms and Arthur Barbarin, inventors of an electro-magnetic fog bell, praying for an appropriation to test its practicability and usefulness; which was referred to the Committee on Naval Affairs.

Mr. SEWARD presented a petition of citizens of the State of New York, praying that pensions may be granted to those who served in the war of 1812, and to the widows of those who have died; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SEWARD, it was

Ordered, That the letter of T. J. Bowen, on the files of the Senate, in relation to the exploration of the river Niger, in Africa, be referred to the Committee on Commerce.

On motion of Mr. WILSON, it was

Ordered, That the petition of Sarah Smith Stafford, with the adverse report thereon, be recommitted to the Committee on Revolutionary Claims.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on

Claims, to whom was referred the petition of John Hastings, submitted a report, accompanied by a bill (S. No. 207) for the relief of John Hastings, collector at the port of Pittsburgh. The bill was read, and passed to a second reading, and the report was ordered to be printed.

BILLS BECOME LAWS.

A message was received from the President of the United States, by Mr. HENRY, his Secretary, announcing that the President of the United States had approved and signed, the 16th instant, a resolution (S. No. 5) to authorize certain officers and men engaged in the search for Sir John Franklin to receive certain medals presented to them by the Government of Great Britain.

COURTS IN UTAH.

Mr. COLLAMER. I am directed by the Committee on the Judiciary to make a short report, which I desire to have read. It is accompanied by a joint resolution, which I ask may be put on its passage at this time.

The Secretary read the report, as follows:

By the existing laws of Congress, no expenses incurred in prosecutions before the United States courts within the Territories, for offenses against the territorial laws, can be paid from the funds of the United States. This, in the present condition of Utah, renders it impracticable for the courts there to administer the laws, and requires some temporary provision for the present emergency. The committee recommend the adoption of the following joint resolution:

Joint resolution (S. No. 22) providing for the payment of certain expenses of holding the United States courts in the Territory of Utah:

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the expenses of holding the United States courts in the Territory of Utah, during the continuance of the present disturbances therein, be paid out of the judiciary fund, under the limitations contained in the existing laws in respect to fees: *Provided*, That on the restoration of peace in said Territory, the expenses of said courts, when exercising jurisdiction under the territorial laws, shall be chargeable to the Territory, or to the counties, as in other Territories.

The joint resolution was read twice by its title, and considered as in Committee of the Whole. It was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DISTRIBUTION OF DOCUMENTS.

The joint resolution from the House of Representatives (No. 19) respecting the distribution of certain public documents, was read twice by its title.

Mr. HALE. Let it be read in full.

The Secretary read it, as follows:

Resolved, &c., That the words "so many," in the third section of the joint resolution of January 28, 1857, "respecting the distribution of certain documents," be, and the same are hereby, stricken out, and the words "two hundred and fifty" be, and the same are hereby, inserted in their place; and further, that the words at the end of the section, "by him," be, and the same are hereby, stricken out, and the words "to him by the Representative in Congress from each congressional district and by the Delegate from each Territory in the United States," be, and the same are hereby, inserted.

Mr. SEWARD. I hope that resolution may be put on its passage, if there is no objection made to it. I will state exactly what it is, as I am informed from the House of Representatives. There are certain numbers of the Journals and documents which are ordered, by the act referred to in this resolution, to be delivered to the Secretary of State for the purpose of distribution to the several congressional districts. At the time the last census was taken, the number of Representatives remained the same, but there has been an increase of Delegates from Territories, so that there is a small deficiency in the number. It falls short of furnishing an equal number to each district and Territory.

Mr. JOHNSON, of Arkansas. I ask the Senator to allow the subject to lie over until tomorrow. There is really no more annoying thing that I know of than the distribution of public documents.

Mr. SEWARD. I will state the object, and then I will consent to the postponement. The object is merely to increase the number by a very small addition that is necessary to give to each congressional district the same number intended by the law providing that the distribution should be made by Congress. With that explanation, I move that it be referred to the Committee on Printing.

Mr. JOHNSON, of Arkansas. Let it lie over

until to-morrow morning. I do not know that I shall even insist on a reference of the subject to the Committee on Printing.

The joint resolution was postponed until to-morrow.

Mr. SEWARD subsequently said: A joint resolution from the House of Representatives, in relation to the distribution of some public documents, was before the Senate a few minutes ago, and its consideration was arrested on the motion of the chairman of the Committee on Public Printing. He finds it all right, on examination, and with the leave of the honorable Senator from Georgia, who is entitled to the floor, I ask that it may be put on its passage.

The resolution was again taken up.

Mr. JOHNSON, of Arkansas. There is no necessity for the reference of the joint resolution. It is a very simple matter, and may as well be passed at once.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

QUESTION OF ORDER.

Mr. STUART. On last Monday evening a motion was made by the Senator from New Hampshire [Mr. HALE] that the Chair be directed to request the Sergeant-at-Arms to send for absent members. I raised a question that such a motion was not in order. The Chair decided that it was; and from that decision I appealed. The Senator from Ohio [Mr. PUGH] moved to lay that appeal on the table, and it was done. I now move to proceed to the consideration of that appeal, and upon that question I ask for the yeas and nays.

The VICE PRESIDENT. The Chair will take the liberty of saying to the Senator from Michigan, as he recollects the decision made by him, that he ruled to be in order a motion by the Senator from New Hampshire to direct the Sergeant-at-Arms to request the attendance of absent Senators. The Chair subsequently ruled that, at that period of the session of the Senate, in his opinion, there was no power, in less than a quorum, to compel the attendance of absent Senators.

Mr. STUART. That may be. I only want to take up the question of the appeal which was laid on the table; and I say very frankly that my object is to bring the attention of the Senate to it at this time, to show that there is nothing here, and that there was nothing then to lay upon the table, to show the absurdity of the proposition; because a subject which could be laid on the table would remain there to be taken up at any subsequent time. My point was, that a mere motion could not be laid on the table; and when I took the appeal, the Senator from Ohio seemed to think that it could be laid on the table. I did not wish to pursue a disturbing system of inquiry by the Senate, and I let it go. But at this time, when the Senate is calm and cool, I make the motion for the purpose of showing that there is nothing on the table now, and the honorable President cannot find what was laid on the table on the motion of the Senator from Ohio; the Secretary cannot find it. There is no paper there; there is no subject; and that is the view taken when the Senator from Virginia [Mr. MASON] read from the Manual, to show that a proposition might be laid on the table, and it seemed to be considered that a motion was a proposition. A subject can be laid upon the table—such a subject as you can find again—and take up again when the Senate has disposed of the business under consideration, and is ready to proceed to the consideration of that. But, sir, if you are to look for this appeal of mine, laid on the table, you cannot find it; there is nothing there.

Now, sir, I have accomplished all that I desired, simply to call the attention of the Senate to the fact that a mere motion which can be renewed at any time, is not such a proposition as can be laid upon the table.

The VICE PRESIDENT. Does the Senator insist upon his motion?

Mr. STUART. I have accomplished all that I desired.

The VICE PRESIDENT. If there is no motion made, the Chair will take up the business upon the Calendar.

MASSACRE OF EMIGRANTS TO CALIFORNIA.

Mr. GWIN. I offer the following resolution,

and if there be no objection I should like to have it considered at the present time:

Resolved, That the Secretary of War be requested to communicate to the Senate what steps have been taken, if any, to punish the parties implicated in the massacre of one hundred and eighteen emigrants to California, at the Mountain Meadows, in the Territory of Utah.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GWIN. I have not called attention to the subject-matter embraced in this inquiry before this for the reason that I had supposed that a military expedition would have been organized in California for the purpose of cooperating in Utah Territory with Colonel Johnston. When it is considered that a force composed of as fine a material as the world affords could have left California, and, long before this, could have traversed half their journey to Salt Lake City, it cannot be denied, if the Federal Government need additional troops in Utah, that my supposition had some foundation. Contrary to my own ideas and vote, the executive authority has been denied by Congress the increased military means which were asked; and hence it is now apparent that no large force can be sent from California to Utah.

I am afraid that in this we have committed a grave error. I am afraid that if the Federal arms should be resisted by misguided and rebellious men, the power and dignity of our country will not be vindicated by so imposing a force as the serious necessities of the case may require.

But, sir, I am induced by reasons peculiar to my position as Senator from California, to invite your attention to the incidents referred to in my resolution.

In September last, an emigrant train, composed of fifty-six men and sixty-two women and children, according to the best information that I can procure, were passing through Utah Territory, on their way to my own State. They were on our own soil, engaged in no unlawful pursuit; and yet, Mr. President, they were all murdered except a few children. I am unable to give to you the details of this horrid massacre, as they still remain shrouded in mystery. All that I can tell you, sir, is that one hundred and eighteen American citizens, including in this number sixty-two women and children, have been massacred without cause, and that as yet their blood is unavenged.

It is true, sir, that this outrage was not committed within the limits of California, or we, ourselves, without awaiting the tardy action of the Federal Government, would have sought and obtained a bloody vengeance; but the murdered victims had an intention to become Californians. They had left their homes in what you call the Far West, and, gathering their household gods, had taken up their march for our golden land of promise. Nay, sir, when they had reached the fatal Mountain Meadows, their longing eyes could almost behold the snow-covered peaks of our mountain ranges.

In all that constitutes unity of feeling and interest, they had become citizens of California, and as such, sir, as a Senator of that State, I am here to ask an account of the blood of my constituents.

As I before remarked, the details of this awful massacre are not known. There is no doubt that the various Indian tribes in the vicinity of the Mountain Meadows were the immediate agents in this butchery; and, sir, it is lamentable to say that, in the opinion of many well-advised parties, the Mormons themselves were their instigators and approvers. Upon this point no such positive evidence has been received as would justify me in asserting positively that they were guilty; and charity will gladly avail herself of any doubt which would hold our common nature to be free from so horrible a crime.

It is true, sir, that an intelligent and respectable meeting of citizens of Los Angeles, after an examination into the facts, expressed their deliberate conviction that the Mormons were equally guilty with the Indians, and asked the interposition of the President.

But, sir, there is no doubt that the Indians are culpable, and whether their guilt be shared by the Mormons or not, still their responsibility is the same, and the exactions of vengeance against them are undiminished.

Mr. President, since the Americans commenced to travel over the plains, since our hunters and

adventurous trappers penetrated the remote valleys and gorges of the vast country lying between the Mississippi and the Sierra Nevada, since the Indian tribes between the Oregon and Sonora lines first heard the American name, no such reverse, no such loss, has been inflicted on us as the destruction of these one hundred and eighteen emigrants. We are accustomed to pity the poor Mexicans along our frontier line who suffer from the fierce inroads of the Camanches and Apaches; but, sir, the sad history of their border warfare will show but few, if any, more mournful and disgraceful massacres than the one of which I am speaking.

The intelligence of this massacre has spread throughout the numerous Indian tribes. The impunity with which it was effected, and the richness of the plunder that rewarded it, will be incentive to similar acts. Heretofore, when American citizens traveled together, particularly in large numbers, no Indian tribe would dare to attack them, for fear of the vengeance of a Government represented to them as strong and warlike; but, sir, if this matter be permitted to go unavenged; if this reverse be unrepaired, our prestige is destroyed, and new and more frequent massacres will take place.

We are now opening up the center of this continent, we are crossing it with wagon roads and mail lines, and unless we crush these vile and savage tribes with a strong hand, we expose to dreadful massacres our citizens, invited to travel in these inhospitable regions by our own action.

I have before remarked that these emigrants were murdered without cause. There was a report, derived from the Mormons, that the emigrants had poisoned the Indians back at Corn creek; but investigation has proved this statement to be utterly unreliable, and I have no hesitation in stating my belief that it is a calumny on the unburied dead. Yes, sir, on the unburied dead! No Christian hand has ever extended the rites of sepulture to the bodies of these victims; and an American who traveled near there, in a Mormon train, a few days after, was informed, by Mormons living in the vicinity, that it would be unsafe to attempt their burial.

Therefore, sir, I ask that the Secretary of War may be charged to investigate this matter. If this be proved true, I hope that an expedition will be sent from southern California to inflict upon the guilty parties a vengeance so summary as to be talked of with terror in every wigwam in the great Salt Lake basin.

Mr. HOUSTON. I think the resolution would be more perfect if it were to require an inquiry to ascertain who did this act—to find out first who perpetrated the act. Before we punish them, I think we had better ascertain who they were.

Mr. GWIN. We know that our fellow-citizens were murdered. There is not one left to tell the story.

Mr. HOUSTON. Some persons killed them. The Mormons are suspected of it. Some Indians must have been in the vicinity. Now, Indians frequently go several hundred miles to start an expedition for the purpose of killing the Indians resident near that place; and Indians from another quarter may come there, and be inculpated and brought into jeopardy, while those who committed the crime escape. I think the inquiry would be more proper to ascertain who perpetrated the act, and not make war without any foundation.

Mr. GWIN. It is well known that the Indians in the neighborhood had a part of the spoils. That has been ascertained. They were implicated; they ought to be punished, and every one to whom it can be traced. I have no doubt that an expedition, if sent there, could soon ascertain the tribe of guilty Indians, and the white persons, if any, who instigated it, as has been charged.

Mr. HOUSTON. That would be very unsatisfactory evidence, because Indians traffic, as well as white people, and exchange commodities. The murderers may have stripped them, and in passing back may have disposed of the articles to the tribes contiguous to where the massacre was perpetrated. I am opposed to this indiscriminate warfare upon Indians, or Mormons, or any other people, until their guilt is ascertained. I want the facts as to who perpetrated the crime ascertained, and then inflict punishment according to the offense. But to imagine that somebody has done it, and therefore that some one must be killed or massa-

ced in retaliation, is not the way to retaliate; it is the way to produce war by inflicting chastisement, as they call it, on people who have perpetrated no offense on the Government. That is the way our Indian wars are kept up. The Treasury would be drained of hundreds of millions annually, if every occasion of an outrage were immediately to be redressed by falling upon the first Indians upon our extended frontier that are suspected, or upon any tribe, because they had in their possession articles taken on the occasion of a massacre.

A resolution requiring the Secretary to ascertain and to report the facts, I should be glad to pass; and if it can be ascertained who were the perpetrators of the deed, inflict upon them a punishment commensurate with their offense; but do not fall indiscriminately on the Indians who are at peace on our borders, and thus provoke hereafter the massacre of perhaps ten for every one that has fallen. We know that the Indians, if they can, never go unavenged of injuries done to them, and you may attack an innocent tribe that had no participancy in this transaction, and inflict on them a great wrong. Redress on their part is the consequence, and other innocent persons have to fall victims to this indiscriminate mode of warfare that we are conducting on our frontier.

Mr. GWIN. I did not think that a member of the Senate of the United States could be found who would object to punishing what we know has been one of the most outrageous massacres that has ever been committed in the country. What does the Senator propose? That we shall make inquiries; that is to say, send persons there to be murdered as these emigrants were. I ask that a force shall be sent there that shall punish these persons, and they will only punish them when it is ascertained who they are. That is what I propose. I want a force sent there of sufficient power to inflict the most condign and summary punishment on these murderers, who have massacred men, women, and children—American citizens—passing peacefully through the country, and then, after they were murdered and left unburied, bring forth a false accusation that they had attempted to poison the Indians, as some excuse!

It is a charge which has never been sustained by any testimony. All that I ask is that the murderers shall be punished. I do not want innocent Indian tribes attacked, and I do not expect they will be attacked. They have made this attack on American citizens. On nearly the only emigrant route now open to California this massacre has taken place. We hear a great deal of sympathy for the massacres of citizens by the Apaches and other tribes of Indians, but there is nothing like this atrocious deed in the history of our country. Not one of the whole party of one hundred and eighteen was left. They only spared a few children under five years of age, in order to make slaves of them; all the adults were murdered so that they should not have an opportunity to divulge who committed this terrible crime. I want a force to be sent there to make the inquiry, and then to inflict punishment. That is all I ask.

Mr. FOOT. I move to postpone the further consideration of this question and all other orders, and that the Senate now proceed to the consideration of the bill for the admission of the State of Kansas into the Union, which was the unfinished business yesterday.

Mr. GWIN. Does the Senator from Texas object to the passage of the resolution?

Mr. HOUSTON. I do not, if the gentleman will amend it in such a way as to ascertain—

The VICE PRESIDENT. The Senator from Vermont is on the floor, and has made a motion.

KANSAS—LECOMPTON CONSTITUTION.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) to provide for the admission of the State of Kansas into the Union.

Mr. FOOT. The floor was assigned to myself upon the adjournment of the Senate last evening; and by way of explanation, I will remark that it has been a subject of mutual private arrangement among those, or a portion of those, at least, who expect to address the Senate yet on this subject, as to the order of time in which they will address the Senate. I took the floor last evening on the

adjournment of the Senate in the absence of the honorable Senator from Tennessee, [Mr. BELL,] at his request and for his benefit, he having expressed a desire, to which we all cordially acceded, to address the Senate upon this question this morning. Aware as I was that whatever opinions that honorable Senator might entertain upon this important question were of vastly more consequence and importance to the country than any opinions I might entertain upon it, that whatever he might have to say upon this question would be sought for with vastly more interest by the country than anything I could say, or might be expected to say, I have most cordially resigned to him whatever right I may have obtained to the floor this morning, taking my chances, of course, to obtain the floor at some other time to offer a few remarks on this question before the close of the debate.

I also further understand, perhaps it is proper to say here, that by agreement between the honorable Senator from Tennessee and the honorable Senator from Georgia, [Mr. TOOMBS,] the latter is to precede the former in the discussion this morning. I have thought it proper to make this explanation, as I am put on the record as having the floor assigned to myself this morning.

Mr. TOOMBS spoke for two hours in support of the bill, and in reply to Mr. CRITTENDEN's remarks of yesterday.

His speech was followed by an explanation from Mr. CRITTENDEN.

Mr. BELL commenced a speech in opposition to the bill, but had not concluded when the Senate took a recess until seven o'clock, p. m.

After the recess, Mr. BELL resumed, and concluded his speech.

Mr. FOSTER obtained the floor, and the Senate adjourned, at ten o'clock.

[The residue of this day's proceedings will be published in the Appendix.]

HOUSE OF REPRESENTATIVES.

THURSDAY, March 18, 1858.

The House met at twelve o'clock, m. Prayer by Rev. T. N. HASKELL.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, one of their clerks, informing the House that the Senate had passed, without amendment, the joint resolution of the House respecting the distribution of certain public documents. Also, that the Senate had passed a bill entitled, "An act to amend an act entitled 'An act to incorporate the Provident Association of Clerks in the several Departments of the Government of the United States, in the District of Columbia;'" in which he was directed to ask the concurrence of the House.

VOLUNTEER BILL.

The SPEAKER stated the business first in order to be the bill (H. R. No. 313) reported by the Committee on Military Affairs, to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers; upon which the gentleman from Tennessee [Mr. SAVAGE] was entitled to the floor.

Mr. SAVAGE. Mr. Speaker, if I had the powers of oratory and learning at my command I should not deem it proper to use them on this occasion. We have before us a subject of great national interest, requiring plain statements and common-sense views, rather than elaborate oratory; and if I succeed in presenting my views in a plain, common-sense manner, I will have done all that I intend to do on the present occasion. It is a subject of great importance; one which ought to call forth our most deliberate considerations, and one which has already elicited opposing views from various gentlemen. This is an attempt to establish a policy, different, to some extent, from the policy that has governed us in times past. The question is, shall we increase the military force of the United States? That question is addressed to us by the President and Secretary of War, and I always feel a great delicacy in opposing one who is considered my file-leader. I have been, myself, a soldier, and am a lawyer; and my habit, as a Democrat, has been to carry my experience,

as a lawyer and as a military man, into politics. I acknowledge the great doctrine of following the flag and fighting under it, no matter in whose hands it shall be borne. It is a very great responsibility, when a man, at any time, or under any circumstances, refuses to follow his flag. But, in acting on this great subject, I acknowledge no command from any source. I consider that, on this subject, Congress is the highest authority. As I read the Constitution of my country, Congress has the power to declare war; Congress has power to raise and maintain armies; and Congress has power to provide for the calling out of the militia to execute the laws, and to repress insurrection or rebellion. It is our power; it is our responsibility; it is our duty; it is our high authority, to provide the elements of defense, by which the safety of this great country is to be guarded. We may receive the opinion of the Executive, as a suggestion, or advice; but it is not to be binding on us. It is the business of the Executive to take and use the force that we furnish; and if we furnish the Executive with a force different from what it asks, the responsibility is with us. I am ready to assume my share of the responsibility, for it is no part of my character to dodge responsibility. When we furnish the force which, in the judgment of Congress, is the proper force to meet this exigency, if the Executive fails to make proper use of it, let the responsibility lie on the Executive.

This is my law. This is my conviction of right. I am an advocate of the bill reported by the majority of the committee. I shall support it here; and I have supported it elsewhere. Hence it follows that I am one who has been willing to see such an increase of force as is recommended by this bill; and it also follows that I am not willing to see the increase of force recommended by the Secretary of War. And I will show my reasons why I am not in favor of the kind of force asked by the Secretary of War. I was a little surprised to hear my distinguished friend from Ohio [Mr. BINGHAM] state that he was against the bill simply because there was another one recommended by the Executive, and cite the authority of the Secretary of War as the reason why we should support the bill introduced by the gentleman from Virginia, [Mr. FAULKNER,] instead of the bill reported by the majority of the committee. Now, sir, at the very outset of this discussion, I join issue with the Secretary of War. I take issue with him in the whole of that statement, cited by the gentleman from Ohio, wherein the Secretary of War alleges that it will not be doubted that an army, properly organized, constitutes at once the cheapest and most efficient means by which these indispensable services can be secured to the Government. Now, sir, I declare that statement to be, in its broadest sense, entirely in conflict with all past experience; and the proof brought here to sustain it wholly fails to do so. The tables on which the statements are based are wholly unreliable.

I know that by certain unfair assumptions this conclusion may be arrived at. But, sir, when these tables are scrutinized, their assumption is as apparent as the noonday sun. If you will take the account of cost of a volunteer for three months, and the account of cost for the regular for five years, it may be that the volunteer will cost most; but then when you come to make a calculation of what you get for what you pay, I stand here to maintain that the volunteer furnishes the cheapest service the Government has ever had in any direction whatever, and that they are the main defense of this great nation; and that hosted Army of which gentlemen talk so much, is a very small part of our national safety. If we were to rely upon that system which is endeavored to be settled and fixed for all future time, then, indeed, would you soon have an army establishment such as every European Power now has. I do not believe that is the intention of the Secretary of War, but I say the inevitable effect of his argument would lead to the establishment of a regular Army in all future time, for the defense of the nation; the effect will be in less than twenty years to fix an enormous military establishment on this country in time of peace. This, sir, is the first step for treading in the pathway which other nations have trod; and, for one, I stand here to oppose it. The whole system will have been reduced to that corps of regular

troops upon which we are to rely in all time for our defense. Once establish that idea in the public mind, and I say it will not be twenty years before you will have a standing Army of one hundred thousand men in time of peace.

Sir, I am not willing to pass this bill, particularly when founded upon such reports and such military documents as those of the Adjutant General and the Surgeon General, which have been laid before us. It is true that we already pay an enormous sum for the support of a very small Army; but taking into view the vast military establishments of other Powers, and we have the cheapest national defense of any nation on the face of the globe. Why is it so? It is because of the universal reliance upon the fact that on the tap of the drum unnumbered men will rush to the battlefield from civil life, who will bear aloft the banner of the stars and stripes, and carry it on to glory.

Now, sir, I want to show, as intelligently as I can in the brief time allotted to me, that I have not characterized this policy too strongly. But, before I pass to that, I will read from the Secretary's report a few words, going to show what this Army is. The description given by the Secretary of War of our Army, leaves no doubt that that Army is not the flattering thing which the gentleman from Virginia [Mr. FAULKNER] seems to think it is. The Secretary says in his report:

"The basis of our existing system is the British army as it served in the colonies before the Revolution, retaining many of the defects, since corrected in Great Britain, under the experience and necessities of long wars. Provisions inconsistent with the existing system, copied from other nations, and partial legislation designed for particular interests, have augmented these evils, and we have committed the fault of adapting our fundamental organization to a time of peace, instead of basing it on the exigencies of war."

The Secretary goes on to point out many other defects of our present Army organization, saying that we have adopted many errors, and retained many errors, which should be stricken from the system; and if the gentleman will introduce a bill to reorganize the whole Army system it will have my vote. He goes on to say:

"If our Army was put upon the proper footing, the anomalous spectacle of having two thirds of our rank and file composed of foreigners would certainly not be witnessed."

Now, I understand from this same document, right here upon the same page nearly, that the Secretary of War tells us that the Mormon rebellion is composed principally of foreigners. Do you propose to fight them with an army composed of two thirds foreigners? Sir, what we wish to accomplish by this bill is to send there the citizen soldiery—men from home, men who have been raised among us.

Now, sir, I come to deal with the facts and figures presented in the reports of the Surgeon General and of the Adjutant General. I call the attention of the House especially to an examination of these reports, for they will find that the assertion made by these officers, that the regular service is cheapest, is wholly a delusion, notwithstanding the intimation that it is founded upon reliable figures. The data upon which they estimate the expenses of volunteers is taken from the three months' service, the most expensive in their raising. They have taken the regulars at the time when they were the least expensive. They generally go back to the time when a regular cost only some two hundred and eighty or three hundred dollars a year; and the estimate for the volunteers when the cost had greatly increased. I say, therefore, that these reports are the greatest delusions ever presented before a legislative body to influence its action, and I characterize them as such. If you will look at the reports, you will find that they rely in nearly every instance upon what Mr. Poinsett, the Secretary of War for Mr. Van Buren, said, and upon calculations made in 1839.

Who is this Mr. Poinsett, who originated the proposition that regulars cost less than volunteers? Is not the thing absurd in itself? The volunteer cannot eat more, and is not paid more, than the regular, and yet he is more expensive. Take this absurd proposition as you will, give the statements made all the force they can have, and where does this whole thing rest? Why, sir, as I have said, it rests upon something said long ago by Mr. Poinsett. They prove, indeed, that the regular is cheaper, by the same logic that the negro proved in what way the world was upheld. A negro philosopher exercised himself to ascertain how the world was supported. He gave the sub-

ject grave consideration. After mature reflection he arrived at the conclusion that it was an absolute fact, in the organization of the spheres, that the world was not a self-existing body, but that it rested upon the shoulders of a huge negro. Said a bystander, as our negro philosopher explained himself, "What does the negro stand upon?" "He stands upon a huge terrapin." "Where is the terrapin?" "Why, he is nowhere." [Laughter.] So in this matter. You trace the reports of the Surgeon General and the Adjutant General back to Mr. Poinsett's statement in 1839; and when you seek to know where Mr. Poinsett's statement rests, you find that it rests nowhere. [Renewed laughter.]

Mr. FAULKNER. I desire to inquire of the gentleman from Tennessee whether the report of the Paymaster General, upon which Mr. Poinsett's communication to Congress is based, is not predicated upon the actual data contained in his office, in the Third Auditor's office, and in the other bureaus of the Government? It is not a conjectural or a speculative statement. It is founded upon the actual data of the office.

Mr. SAVAGE. Mr. Speaker, I have examined the report of Paymaster Towson so far as I could. It was made in the year 1838 to Mr. Poinsett. I say that it fails to establish the conclusions which have been stated here. How could it establish them? I put it to the common sense of every man. There is not a man to whom the proposition can be proved that the volunteer who eats and is paid no more than the regular is more costly than the regular. I say that the proposition is an utter absurdity. It is impossible of proof. The proposition goes back for the evidence upon which it is made to Mr. Poinsett. Who is Mr. Poinsett? You will find a fact to discredit Mr. Poinsett as a witness from the start. Look to the report which follows the one referred to, and you will find that Mr. Poinsett recommends to the American people to divide this country into eight military districts; he recommends that two hundred thousand militia shall be put under arms; that they shall be divided into squads of twelve thousand five hundred, or that twenty-five thousand should be allotted to each district. One hundred thousand men are to be held in reserve, and one hundred thousand men to be held in active service. When I say active service, I use the words of the report. That was the military recommendation of Mr. Poinsett, and he is the man upon whose authority rests the proposition that regulars are cheaper than volunteers.

I have not a word to say against the distinguished Secretary of War. He is a gentleman. I think he is a soldier. The opinions which he expresses in his communication to the House are rightfully taken from the officers in his Department, if he believed them. But the recommendation amounts to nothing if these opinions fail. The Surgeon General and the Adjutant General really are the witnesses. They are the witnesses to establish this proposition, if it can be established, which is to overturn the military policy of the country, and for the future do away with those gallant volunteers, whose bright deeds are undying in our records; whose valor achieved our liberties at the beginning and protected them since. These are the witnesses; and, sir, they stand here discredited at the start. I do not mean to be understood that they are discredited as honorable men, but that they are discredited as witnesses. They are discredited by the facts and circumstances surrounding them. It is a universal principle in law, that when a witness testifies under bias, and that bias is known, it discredits what he says. Let us see what position these witnesses occupy. It is to be expected that the Commander of the Army, the Adjutant General, and the Surgeon General, should favor an increase of our forces. It is the bias of their profession. It is that bias which always will control men, no matter in what sphere of life they move. When the farmer wants less land and lighter crops, when the merchant wants fewer goods and smaller profits, when the lawyer wants lower fees, when the preacher wants a slimmer congregation, and when the politician gets tired of being elected, then will these Army men get tired of an increase of the Army, and not until then.

My friend from Virginia, [Mr. FAULKNER,] in his calculation put down the cost of the soldier at \$300 per annum. In fact he costs us about one

thousand dollars per annum. He charges the volunteer in the time of high cost, and the regular in time of low cost. Now, that sort of calculation will not do. Gentlemen talk about the sickness of the volunteers. Look to your regular Army. The number of casualties in the Army by death, discharge, and desertion, during the year ending June 30, 1857, was five thousand seven hundred and twenty-nine—one third of the whole force; and in making this calculation no deduction for the losses to the Army occasioned by the last cause is made. Now, what do you think of that? Here is a loss, by desertion alone, of two thousand nine hundred and fifty-four men, making one fifth part of the force. And yet we are told that regular troops are the cheapest and most reliable force! Now, if they had put this argument on another ground, it might have been sustained; but they have put it upon ground untenable, unreliable, and that could not be sustained—namely, that regular troops were the cheapest force.

If Congress will declare Utah in rebellion, and not have the Executive make war on his own hook, then I will talk to you as to whether we ought to give ten or twenty additional regiments to carry on war. But I have not seen any proposition of that sort. If we think that the Territory of Utah is in rebellion, it does not become us, as the Representatives of the people, to stand here quietly and leave the Executive to struggle with the difficulty. It is our business to act; to take the responsibility one way or other; to declare war against that Territory, and to make provisions for its prosecution.

So far as I am concerned, Mr. Speaker, I think that there is a great deal of ignorance about the people of Utah. There are things there which ought to attract the attention of a wise and careful Legislature. Small though this matter may be, smaller things than that have grown into the mightiest empires on the face of the globe. When we look at the results of religious movements in all ages of the world, we find that, from small beginnings, they have grown to be very stupendous things. There seems to be a striking parallel between the case of Mohammedanism and that of Mormonism. We see that when Mohammed came upon the world, he was too insignificant to attract the attention of the Christian and idolatrous nations that surrounded him; but in a very short time we find him at the head of an army, going on to conquest. That such is the object and design of Brigham Young I have no more doubt than I have that the sun shines. I do not stand here to interfere with the religion of any human being on the face of God's globe. I wish all to travel their own road to heaven. For my own part, I wish to chalk out my own road, uncontrolled by any power on earth. So much as to my religious feeling in this matter. And let it be distinctly understood here, that my action is not in any degree controlled by what is considered the odious feature of Mormonism; nor do I wish to be understood as approving of that. I stand here, not as a priest, but as a legislator; as a man whose business it is to look at the rise and fall of power, and to maintain a Government which is the model of wisdom.

It has been stated by a distinguished Senator, that, so far as this odious feature is concerned, there are already, in many of the larger cities, such as New York and others, more polygamy than there is in the valley of the Salt Lake. I do not know how far that is true, but I know that, so far as the cities of my State are concerned, it is not true. But whether it be true or false, it has no effect upon me in reference to this great question. Whether the Mormons have two wives or forty, is not a question to be considered here. I do not know that, as a theologian, I could decide the question correctly. As a legislator, I believe it wrong to have more than one wife; and in making laws, I would make them in that view. I know that there are great authorities to the contrary. I remember, as I read the Holy Book, that there was a man, whose name was David, who was much beloved of the Lord, and who had many wives. I remember, too, that there was Solomon, who was the wisest of human kind, and who had seven hundred wives and three hundred concubines; and I remember that this same Solomon spoke three thousand proverbs and one thousand and five songs to the Supreme Being.

Still this is a question which we have now nothing

to do with. But as a friend of this great Union, as a man whose business it is to look to the power and glory of the Union, I must look at the foundation of this Mormon dynasty; and that will show that it is the work of ambitious men, for the purpose of building up a power that should destroy the Union. I see, in the person of Joe Smith, not a deluded fanatic, not an inferior man—for he was a man who might have stood by the side of Cæsar, of Cromwell, or of Napoleon. He was a man of genius, though a priest. He was a man of ambitious design, and of steadiness of purpose, in a higher degree than Kossuth. And he is not mistaken about Brigham Young. He is the equal of Joe Smith. Look at his letters. No small brain could concoct them. Ambition is at the bottom of this matter. Brigham Young stands out like a second Cæsar. Having had command intrusted to him, he now insists on retaining it; and evidently shows that he is ready to make that last appeal which the gentleman from Ohio [Mr. BINGHAM] says is the trial of right by the highest tribunal. Whether he wins or loses, he seems to be fully prepared for the contest. He defies you. He spurns you. He hates you. The Mormons look to you as their great persecutor; the great destroyer of the power of their Church; the great enemy which, if they can conquer, they will be supreme.

Now I read from the proclamation of Brigham Young, which was referred to yesterday, declaring martial law in the Territory:

"Therefore, I, Brigham Young, Governor and Superintendent of Indian Affairs for the Territory of Utah, in the name of the people of the United States in the Territory of Utah, forbid—

"First. All armed forces of every description from coming into this Territory, under any pretense whatever.

"Second. That all the forces in said Territory hold themselves in readiness to march at a moment's notice to repel any and all such invasion.

"Third. Martial law is hereby declared to exist in this Territory from and after the publication of this proclamation; and no person shall be allowed to pass or re-pass into, or through, or from, this Territory, without a permit from the proper officer."

Can language be bolder? Can a declaration of war be more impudent? Cæsar, when he crossed the Rubicon, made no higher assumption than Brigham Young when he declared war. He does not march upon us, but he stands defying us to march upon him, and is ready to make that last trial in defense of his position.

Then, sir, Brigham Young has expressly declared that no soldier of the United States shall, for any purpose, set foot upon the soil of his Territory. He is already in open rebellion, so far as any act of his can place him in rebellion. I will read from a letter of Captain Van Vliet, who repeats the language of Governor Young himself. I read from his letter to the Secretary of War, dated 20th November, 1857:

"At present Governor Young exercises absolute power, both temporal and spiritual, over the people of Utah, both of which powers he and the people profess to believe emanate directly from the Almighty. Hence the opposition of the people to a new Governor, and the remark of Governor Young, that should Governor Cumming enter the Territory, he would place him in his carriage and send him back."

Sir, notwithstanding the humble petition which was read yesterday from the Territorial Assembly, saying that if you will send peaceable officers there they will obey them, I say that it is a false, miserable subterfuge, by which they seek to delay and divert the attention of their adversary. Now hear what Elder Taylor says:

"I heard Elder John Taylor, in a discourse to a congregation of over four thousand Mormons, say that none of the rulers of the earth were entitled to their position unless appointed to it by the Lord, and that the Almighty had appointed a man to rule over and govern his Saints, and that man was Brigham Young, and that they would have no one else to rule over them."

Now let me call your attention to an extract from the memorial which was read a day or two ago in this House:

"You have appointed, the newspapers state, a full set of officials for Utah from among entire strangers, and to do so were obliged to hawk about the offices from State to State, every honorable and principled man indignantly declining your appointments, until at length you succeeded in finding the requisite number from among the reckless, the drunken, the unprincipled, the dissolute, the houseless, and penniless, who alone feel the need of the backing afforded by bayonets, and for this reason had far better remain where society is more congenial to their depraved and corrupt tastes. No doubt such is the character of the present appointees; for what other class would accept offices among a people where they well knew they were not wanted, and hence had no right officially to be? All we

have further to say of them is, they had better tarry with their friends, if they really have any."

Now, sir, can language be plainer than that?

Mr. WASHBURN, of Illinois. I understand the gentleman from Tennessee to be in favor of an additional force, and that a volunteer force. Hence I infer that he does not consider the present military force of the country sufficient to conquer that rebellious people.

Mr. SAVAGE. That is a military question about which I would like to say something. I say, sir, that the present Army is sufficient to conquer them.

Mr. WASHBURN, of Illinois. That is my opinion; and I wish to state to the gentleman the reason why I agree with him in that opinion. I have some little knowledge of the character of these Mormons. They made a settlement in my State, at Nauvoo, and what was then the congressional district in which I live. They soon became numerous and powerful, and undertook to rebel against our laws and set up for themselves. They were guilty of great outrages, and defied all law. They raised a military force, and undertook to defy the whole power of the State. You might have supposed then, as now, from their proclamations and threats and defiance, that it would take the whole power of the Government to put them down. But, sir, when forbearance had ceased to be a virtue, and a small force of the citizens of the surrounding country undertook to expel them from Nauvoo, where they had intrenched themselves, and which they swore they would defend to the last extremity, they made no resistance, but ingloriously fled. These Mormons are a set of cowards as well as scoundrels. One of the men who signed that memorial that the gentleman has just alluded to—a man by the name of Rockwood—murdered a man in Hancock county, Illinois, in cold blood. He was arrested and kept in jail in my own city for several months; but, the Mormons having control in the county where the crime was committed, he was enabled to get clear. He went to Salt Lake City, and is now one of the chief priests of the Mormon Church, and one of the leading spirits in this rebellion against the Government, and which must be put down; but I contend that the force already in the field is amply sufficient for the purpose without additional force.

Mr. SAVAGE. I express no opinion as to whether the Mormons are cowards or not. My experience has taught me never to presume on a man's cowardice. It is something I never take for granted. But, sir, I say from my experience and observation, that five thousand men are amply sufficient to send out there. Sir, Cortez conquered Mexico with less than a thousand men. Scott marched to the capital of Mexico, and placed the American banner in triumph upon the walls of the capital, with a population of two hundred thousand, and in the face of an army near forty thousand strong, with less than ten thousand men—having only about six thousand when he entered the city. You do not want a large number of men. An immense army train is sufficient to cripple the best army in the world. If I had a world of soldiers, I would not send exceeding five thousand to Utah.

Mr. FAULKNER. I have already stated that there will be a column on the march in the month of May for the Territory of Utah, of near three thousand men; and I will inquire of the gentleman from Tennessee how he proposes to protect the eastern Indian frontier, from which these troops will be taken, and which frontier should be protected if this army is sent to Utah?

Mr. SAVAGE. That is the easiest thing I have ever tried to answer. I will give the President the charge of these five regiments of volunteers, and if he cannot protect that frontier with them, then I shall think the Secretary of War understands his duty very little. As far as protecting the Indian frontier is concerned, I would not give one single company of rangers, western border men, who know the Indians, for a whole regiment of these undrilled foreigners.

Mr. MARSHALL, of Kentucky. If the gentleman will permit me, I will make a suggestion in reply to the inquiry of the gentleman from Virginia. It is this: when Congress is in session the President of the United States has no authority to move soldiers from Fort Leavenworth to Utah; and if the Congress of the United States does its

duty, it will regulate the departure and the march of the troops; it will countermand the movement of the regulars, and furnish volunteers in their stead. The attempt of the President to move the regulars is a clear usurpation of power on his part.

Mr. FAULKNER. Is the gentleman prepared to vote for a resolution here to recall the troops from Utah; those already sent there, and those proposed to be sent?

Mr. MARSHALL, of Kentucky. I will say to the gentleman, without a moment's hesitation, that, as a member of Congress, I am prepared to control the direction of these troops, and I am prepared to do that on my congressional responsibility; I am prepared to let the Executive know what is the determination of Congress on this subject, and to compel him to obey it.

Mr. SAVAGE. I will say that I am not disposed to interfere with the discretion of the Executive. I will furnish him with the troops; I think necessary; and if he makes an unwise employment of them, then the responsibility will be his. But I have not that want of confidence in the Executive to believe that there will be an unwise employment of those troops.

I think that it is not a matter of importance whether volunteers or regulars are sent there. If it should so happen that volunteers would be raised too late for this service, then I would be willing to see the regulars take up the line of march for that Territory.

I have been drawn from my regular course of remarks. I will now read another extract in regard to the charges made against us by the Mormons:

"The troops, which claim to have been sent by the Government, have openly said, from the time they have left the Missouri river, and even before, that they were coming to destroy the leaders of our people, and that that was their object. That has been their constant speech by day, and the burden of their songs by night. They have threatened to take our lives, and to sport at pleasure with our wives and daughters. That is their openly avowed object, but woe to all who undertake to accomplish it. We trust, therefore, that you will excuse us if we do not entertain a very exalted idea of your humane (?) intentions in sending armies hither. Give us our constitutional rights; they are all we ask, and them we have a right to expect. For them we contend, and feel alone justified in seeking."

Is it possible for us to misunderstand language so plain? Brigham Young, I was going on to remark when I was interrupted, has made a mistake. I have thought in times past, that if I were head of the Mormon Church, looking to its real intentions to secure power, I would have written a little more in the Mormon Bible, and made a prophecy, locating the promised land somewhere nearer the city of Mexico. In a short time the Church would have been ingrafted upon a weaker nation than is the United States. Then would the Church have established an empire for itself. But Brigham seems to have been more ambitious. He seems to look to the planting of his standard upon the bosom of the American people. The Mormon organization is, in its character, rather military than religious. Their leaders thirst for empire. Look to the history of all usurpers and of all aspiring priests, and you will find that Young and Smith are the representatives only of those who have gone before them, and attempted to build up empires. Their history is so much like that of Mohammed, that, strike out the names, and it is difficult to distinguish the difference. The first thing Mohammed did was to convert his wife. That was a small church. A short time afterwards, and he converted his slave. The third convert was Ali. When driven from the city of Mecca, the Church only had eighty-three members. It was not half so powerful as the Mormon Church when it was driven from Nauvoo. The first expedition sent out by Mohammed consisted of nine men, and was directed against a caravan. It is recorded as one of the brightest victories of the Ottoman empire, and as a great dispensation of Providence; yet when Mohammed died, he left troops enough to overrun the surrounding Christian States, and to conquer them.

Is it not evident that these Mormon leaders are seeking to establish upon this continent an empire of their own? Are we, then, to let the pestilence spread, or are we to cleanse our land of it? Are we to wait until the Church grows stronger and stronger? Are we to wait until it subverts the Republic? I want Congress to endorse the President in his movement against

them. I want to see who will and who will not indorse him. I want this thing done upon the square. Brigham Young throws down the gauntlet. He wants war; let us give it to him. We know the power of appeal. Let war rage in the Territory of Utah, under doubtful circumstances, and you will hear appeals come up to us from every State of the Union. I have seen a jury shed tears under the cloquence of the advocate, while defending the most unworthy criminal that ever stood charged at the bar; and if this Mormon war shall commence under circumstances that will permit it to be an element of party warfare, the Mormons will not be without their defenders.

[Here the hammer fell.]

Mr. WASHBURN, of Maine. You will remember, Mr. Speaker, the very judicious recipe of Mrs. Glass for the cooking of fish; first catch the fish. And I would like to inquire of the distinguished gentleman from Mississippi, [Mr. QUITMAN,] and also of the distinguished gentleman from Virginia, [Mr. FAULKNER,] if they have considered whether there is any legal authority whatever for the use of the additional military force proposed to be raised under the bill, or under the substitute before the House? It seems to me that there is now, by law, no authority whatever for the use of this additional military force, or of any military force of the country, in Utah, under any state of things that has existed, that now exists, or that will probably exist hereafter; and that if there is to be an addition to the military force of the country, both the bills before the House ought to be amended. The bill of the majority of the committee should be amended in the sixth line of the fourth section, by adding, after the words "President of the United States," the following words: "be, and he is hereby, authorized to employ the military forces of the United States;" so that there may be authority on the part of the President to use the military force of the country, independent of these volunteers, in Utah. The bill provides that the volunteers to be raised may be used for the purpose of quelling disturbances in the Territory of Utah. This amendment will give the President authority to use not only these regiments of volunteers, but also any other troops; and it seems to me that that authority ought to be given to him. I do not suppose that it would be in order to offer this amendment now, pending the motion to recommit, but I indicate it as one that ought to be made. I would also suggest the necessity of inserting an amendment in the second section, seventeenth line of the substitute, as follows:

That the President of the United States is hereby authorized to employ the Army of the United States for the purpose of quelling disturbances in the Territory of Utah.

Now, sir, the Constitution of the United States authorizes the President to see that the laws are faithfully executed; but this is in subordination to another section of the Constitution, which provides that Congress shall have power to provide by law for the calling out of the militia to "execute the laws of the Union, to suppress insurrection, and to repel invasion;" so that the power of the President is under such law, and such law only, as Congress shall see fit to pass. He has no other power. There are two laws, and only two, on our statute-books, giving authority to the President to use the military power of the country in any case whatever—the acts of 1795 and 1807. The act of 1795 provides for the use of the militia of the States in three cases, and no more. The law of 1807 provides that wherever he may use the militia of the States he may use the land and naval forces of the United States, in such cases and no others: so that there can be no doubt whatever that whenever the President may, by law, employ the militia of the States, he may also, by law, employ the regular Army or Navy of the United States. But he can use the Army and Navy only in those cases. Let me read this act of 1807:

"In all cases of insurrection or obstruction to the laws, either of the United States or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ for the same purpose such part of the land and naval forces of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect."

I think, then, it is very clear that we must look to the law of 1795 for all the cases in which the Administration has the right to use a military

force, of whatever description, in any case. That law enacts that, whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action as he may deem necessary to repel invasion.

Now, it is not pretended that there is any invasion, or danger of invasion from a foreign State, or that the Army is to be used, or that this additional force is necessary to be used, to repel any invasion by a foreign nation, or threatened by such.

And in case of an insurrection in a State, this act further provides that it shall be lawful for the President of the United States, on the application of the Legislature of such State, or of the Governor when the Legislature cannot be convened, to call forth such number of the militia of the State, or of any other State or States as may be applied for, as he may judge necessary to suppress such insurrection. But there is no law or authority whatever, and I challenge gentlemen to produce any, for the President of the United States to use the militia or the Army—for now, by the act of 1807, the Army may be used wherever the militia may be—in a Territory. Our fathers were jealous of executive power; and they were wisely jealous of the Army; and they took care that it should not be used against the people of a State, except there should be a sufficient and legal occasion—an occasion to be ascertained by the people themselves, speaking through their own government. And, sir, wise was it that the framers of that act did refuse to grant to the President power to use the militia and Army of the United States against the people of a Territory—against those, indeed, who might be the majority of the people—on the call, not of the Executive elected by them, but of an Executive whom the President himself had appointed, thereby authorizing and enabling the President to make his own occasion—by the removal, if necessary, of a refractory Governor, and by the appointment of his own creature—for calling out the troops for the purpose of oppressing the people of a Territory; and who, as I have remarked, might be the majority of the people, standing in resistance to a faction.

I think, sir, it was no oversight that the Congress of 1795 neglected to provide that the President should have power, upon his own mere motion, to call out the Army of the United States for the purpose of trampling upon the rights of the people of the Territories. But suppose he is thus authorized; suppose the President has the power to employ the Army or the militia in a Territory: can he use either in Utah? He can only use them in Utah (provided he can use them in a Territory at all) upon the call of the Legislature, or, when the Legislature cannot be convened, of the Governor. Thus, sir, if the Legislature is in session, or can be convened, the President cannot remove troops to the Territory and use them there, without the requisition of the Legislature; if not in session, he must have the call of the Governor. But, sir, Brigham Young has not sent a requisition to the President for troops to conquer his own people, and he will not do it. The Legislature, which may continue in perpetual session there, have not called upon the President to destroy their own people, and they will not.

Mr. FAULKNER. Does the gentleman from Maine regard Brigham Young as the Governor of Utah?

Mr. WASHBURN, of Maine. I beg the gentleman's pardon. I had forgotten for the moment that he was not Governor. But, sir, it makes no difference, for this reason: the law requires the Legislature, if in session or if it can be convened, to ask for troops, before they can be called out by the President. The Legislature of Utah may continue in perpetual session; and so long as they do, the Governor cannot, upon his own motion, under the law, make a requisition for troops; or if not in session, they may be in a situation to be convened at any time. So much, Mr. Speaker, for the first section of this law. The second section provides that whenever the laws of the United States shall be opposed, or the execution thereof obstructed, &c., in any State—not in any Territory—the militia (or, by act of 1807, the Army)

may be used to enforce the laws. The provisions of this section do not apply to the Territories at all; and I do not know by what authority the President has construed the law to authorize the use of the military power to enforce the laws of the United States in one of its Territories. But, even if this section applied to Territories as well as States, the President would not be empowered to use the Army at this time in Utah, to enforce the laws of the United States. He can only do this "during the recess of Congress, and until the expiration of thirty days after the meeting of the next session of Congress." Congress is now in session, and while they are in session it is for it to provide for the execution of the laws, if their execution is obstructed. Congress has taken care that when they are in session the President shall look to it for the means and authority to see that the laws are faithfully executed. It is a tremendous power to be vested in one man, the right to control the Army and Navy of the United States. It ought not to be left in the hands of one man, when it can be exercised by the Representatives of the people.

Mr. SAVAGE. I wish to ask the gentleman from Maine, if the President has not the authority to use the Army for the purpose of suppressing rebellion in a Territory, would he be willing to give him that authority?

Mr. WASHBURN, of Maine. I think the President should have authority, and authority equal to the emergency. I have no doubt of that; not the slightest; and I am willing at any time to vote for a law that shall give the President whatever power is necessary to quell the disturbance which exists in Utah. I do not believe there is a gentleman in the House, certainly not on this side of the House, who will refuse to give the President that authority. But while there may be, and, I think, is, a large majority for giving him authority to use the force now at his command, I do not believe it is necessary, that there is any occasion whatever, for enlarging the military force of the country. There always has been a wise jealousy in this country against a large standing army. The pages of history are covered with examples of the dangers of standing armies—examples which we now and at all times shall do well to heed. They are always increasing in numbers and power, and their tendencies are ever to extravagance—extravagance in all the departments of the Government—and to the centralization of power. Mr. Speaker, if we go on as we have gone on for the last five or six years with the Army, its expenses by the year 1865 will be greater than the entire expenditures of the Government ought to be. They have already exceeded the enormous sum of twenty millions per annum; and where they are to stop, God knows. Think of the power twenty millions give to the arm of the Government which spends it.

Mr. QUITMAN. While the gentleman is upon that point, I would ask him whether the President of the United States has not the right, by virtue of his command of the Army and Navy, to send the Army into any department in this country where he thinks they ought to be used, and whether, if the troops thus sent are resisted by the inhabitants of that portion of the country to which they are sent, he has not the power to reinforce them, and, if necessary, to fight? I think there is an entire misapprehension on the part of gentlemen as to the objects and purposes for which the President desires to send additional troops to Utah. It is to accompany the newly appointed civil officers of the Territory as a protection to them, and to establish military posts in the department of Utah, which has now become a military department of the Government. Now I ask the gentleman if the President has not the right, if the troops are obstructed in the performance of these duties, to repel that obstruction?

Mr. WASHBURN, of Maine. I do not doubt that the President has the right to station or sub-sist troops wherever he pleases; but I hold that, under the Constitution, Congress has the sole and exclusive right of declaring how, and when, and where they shall be used in the States and in the Territories. An officer in command might be justified, in the case supposed, in resisting, upon the general law of self-defense. Nothing should be left unnecessarily to the discretion of the officers.

Mr. GIDDINGS. I want to inquire whether my friend from Maine admits that the President may send the Army into the State of Maine, or into any State, and station it there, unless he is called upon to do so, not but what the President has the right to send the Army to any portion of the country when he has been asked to do it? But, sir, has he the right to send the Army into the gentleman's village or town and quarter it there, unless he has been called upon to do so?

Mr. WASHBURN, of Maine. The President of the United States has the power to send troops wherever, by law, there has been provision made for quartering them, wherever there are military posts or reservations; and I thought I should be so understood, without the trouble of qualifying my language. My opinion is, that the President would have the right to station troops in the Territories; for in all of them we have already established military posts, and they are themselves the property of the United States.

Mr. REAGAN. I desire to call the attention of the gentleman from Maine to this proposition before leaving this part of his argument. The President of the United States, by virtue of his office, is clothed with the power of Commander-in-Chief of the Army. That, I understand, invests him with the right to direct the movement of the Army to whatever place the public service may require it to go. The gentleman makes the objection that the President cannot call out troops in the States for the suppression of rebellion and insurrection. Is it not true that this exception is for the preservation of the sovereignty of the States—that he shall not send troops into the States for the purpose of suppressing domestic insurrection and rebellion, without the consent and authority of the States—and without any intention to abridge the right of the President to send troops to the Territories, and anywhere else under the exclusive jurisdiction of the Federal Government?

Mr. WASHBURN, of Maine. The President of the United States has authority to use the Army of the United States wherever and whenever, by law, he may; but when Congress makes a law he cannot go outside of that law. No matter what are the reasons for the law, no matter what is the occasion of it, he cannot step beyond it. I think the reason why the law did not extend to the Territories was because its framers did not intend that the President should have the authority to make his own occasions for using the Federal bayonets against its own citizens, in its own Territories. I think that is the reason why there was this omission in the act of 1795. One reason for the requirement in reference to States may have been that which the gentleman has suggested, but while Congress was keeping the rights of the States in safety, I think it did not overlook the rights of the people of the Territories.

Mr. MAYNARD. I will ask the gentleman a question. Suppose his position to be true that the President is not authorized to send United States troops into the several States of this Union; but suppose that in violation of his duty and his right, he does so send them, I wish to know whether that confers upon the people of the States in which they are sent the right to levy war upon the Government of the United States, and to make forcible resistance, and to drive them out by violence?

Mr. WASHBURN, of Maine. There would then be at most one illegality against another; a case of cross-illegalities.

Mr. MAYNARD. Does the gentleman hold that the people of the several States of this Confederacy have the right when the Executive violates the law, in their opinion, to resist him by violence? And if so, who is to be the ultimate judge between them?

Mr. WASHBURN, of Maine. I have been talking about Territories and not States, but to answer the gentleman's questions, I suppose that the people have some rights; and, sir, I must say that if the President manifestly, palpably, steps beyond the law and wholly outside of his power, the people, in that case, are not bound to stand quietly and be shot down by a despot, by one exercising a power never granted to him. In such case the President would be no more than a trespasser, or if it comes to killing, a murderer. Does the gentleman deny that?

Mr. MAYNARD. I will ask the gentleman

whether he predicates that upon the legal rights of the people or the ultimate right of a revolution which is beyond and above all law and all constitutions.

Mr. WASHBURN, of Maine. I think the people have a pretty good right to resist any illegal interference with them, no matter whether on the part of the President or any of his officers; a right recognized by law, too, though one must be sure where he stands before he resorts to it.

Mr. GIDDINGS. If the gentleman will yield to me, I will cite a precedent, a distinguished precedent, and one, I have no doubt, which will be acknowledged to have force by the other side of the House, as it comes from high Democratic authority. During the Dorr rebellion, in Rhode Island, the President ordered troops there. The Democrats complained, and took the distinct ground that it was a violation of State-rights for him to march troops through that State. This was Democratic doctrine then. It was Democratic authority that the President, without the consent of a State, could not march troops within its limits.

Mr. WASHBURN, of Maine. Just see what the doctrine shadowed forth by the gentleman from Tennessee would lead to. The President is to be the sole judge, and whatever he does has the vigor of law, and no man can resist the gross usurpations without subjecting himself to punishment—simply for resisting a known, admitted wrong-doer. The President has the Army, and he may use it where and when he pleases, whether he have authority under the Constitution to do so or not, and no man has the right to call him in question. If his marshal breaks into the gentleman's house, commits burglary, would the gentleman from Tennessee think his answer a good one, that he had the President's authority for so doing? I ask the gentleman whether he believes himself in the doctrine intimated in his interrogation?

Mr. Speaker, there are in this country two great dangers to liberty; one the Supreme Court and the other the Army. Of the two, I think the Army is most to be feared. It is itself, a power for the execution of its own designs. If we are wise and faithful we will resist all attempts unnecessarily to increase it, for experience has shown us that when once increased it is impossible ever again to reduce it against the immense power and influence brought to bear against a reduction. The safety of the people is, not to increase it. Our strength and defense is, and must be, in the militia of the country, composed as it is in my section, of the active, the intelligent, and the brave, the vigorous, educated laborers of the country, of all men the most efficient and useful that we have. They are equal to all occasions, as good for fighting as for other employments or enterprises, easy to be called out when their aid is required, ready to act, and in my unprofessional judgment, the very best soldiers that can be produced; for in an army of such, behind every gun there is a living soul, an intelligent, patriotic man. On such, sir, is our dependence in all cases; and we may ever rely on it. The relations of these men to society are not to be illustrated by calling them "the mud-sills of society;" a better figure would speak of them as the corner-stone of our institutions. They will do the thinking and the voting, and the fighting too, for their country, so long as it shall be a free country; and when they cease to do so there will be no longer a freeman within our borders, and the republican of this land, if republican there shall be, will breathe his prayers and aspirations for liberty in faint whispers and suppressed sighs. Sir, other classes of men we may spare, for their places will not be long unsupplied, but the intelligent laboring men of this country, from whose ranks the militia are formed, are the men on whom our republican institutions must forever rest, and when once they shall be broken down I know not by what power they are to be reproduced.

"Princes and lords may flourish or may fade;
A breath can make them, as a breath can make.
But a bold yeomanry, their country's pride,
When once destroyed, can never be supplied."

Mr. CURTIS. The bill of the majority provides for just that kind of force.

Mr. WASHBURN, of Maine. That is true. The bill does so provide, and in that respect it is

right. But I think there is no necessity for any increase of the Army. If I believed there was any such necessity for the purpose of suppressing the rebellion or quelling disturbances in Utah, I would vote for the raising of volunteer regiments very cheerfully, provided power could be granted to the President to use the force for this purpose; but I do not think there is the slightest occasion for it. There is, as I have shown, no contingency in which the volunteers or the Army can be used in Utah; and there is no probability that any such contingency will exist, as the law now stands. And, sir, there has existed no exigency in which the President had a right to use the forces of the United States in Kansas. There is only one possible event in which he can use them under the forms of law and with a pretence of the authority of law; and that is this: Suppose this Congress should admit Kansas as a State under the Leocompton constitution; and further suppose the free-State men, who compose nine out of every ten of the people of that Territory, should say, as they must say, and act as they should and must act, if they would not be disgraced forever and ever—then, sir, and in that event, the President will be called upon by the Governor—his Governor Marshall—or by the slave-State Legislature there, to send the Army of the United States to Kansas, to shoot down our people, because they resist a constitution in which they have had no hand, and which is most hateful and abhorrent to them.

Sir, I will not vote for an increase of the Army that is to be used in any other way than that known to the laws of the land. Nor will I vote for a force that is to be used in fixing upon a people a constitution which they have not formed, and one which no people ought to have in any event, no matter by whom formed. I hold that the people of Kansas would be justified in resisting this constitution from its intrinsic defects, as well as from the manner of its formation; and I believe, too, that we here have no right to vote for the admission of Kansas under that constitution.

Mr. FLORENCE. I rise to a question of order. The gentleman's remarks are not in order.

The SPEAKER. The gentleman from Maine cannot now discuss the propriety of the admission of Kansas.

Mr. WASHBURN, of Maine. I am discussing the question of the increase of the Army; and it seems to me that my remarks are directly pertinent to that question. How is this Army, when increased, to be used? Is it to be used to enforce on the people of Kansas a constitution not republican in form, and to which they are utterly opposed? I submit to the Chair that that line of discussion is in order.

The SPEAKER. It is not in order for the gentleman, in his remarks, to assign reasons why he shall or shall not vote for the admission of Kansas. It may be competent for the gentleman to discuss the condition of affairs in Kansas in reference to the increase of the Army; but certainly not as to the question of the propriety of voting for or against the admission of Kansas.

Mr. WASHBURN, of Maine. One reason why I shall vote against an increase of the Army is, that the Army may be used and is likely to be used in Kansas, for what? For doing what I hold to be wrong. If what it is intended to do be right I ought to have no objection on that account; but if it be wrong, then I ought to have objection; and I desire to show that it is wrong.

I was saying, Mr. Speaker, that I believe the Army ought not to be used in any contingency, to maintain this constitution—that it is not republican in form. The seventh article of the constitution declares that the right to property is before and higher than any constitutional sanction; and the right of an owner to his property in slaves and their issue is of the same character.

The SPEAKER. The Chair is of opinion that the gentleman cannot discuss the question of the constitution of Kansas.

Mr. WASHBURN, of Maine. Very well, Mr. Speaker; I do not want the Army of the United States to be used for the purpose of enforcing a constitution which I desire to show very briefly was one which ought not, under any circumstances, to be made, and which a free people can not submit to. But if I am out of order I will pass from it.

I have not come to the determination, which I

have here expressed in reference to my vote on this question, without a careful examination of the considerations which may be addressed to this side of the House to dissuade us from voting against an increase of the military force of the country at this time and for the present exigency. I will endeavor to present them fairly, and to state the reasons why they have not controlled my decision.

It is or may be said from the doctrines which you, Republicans, maintain, and the principles you profess, you ought to be willing to give the Administration the necessary means to execute, speedily and thoroughly, its purposes in Utah. You are opposed to Mormonism. It is a vile despotism and a hideous immorality. It is anti-Christian and anti-human. Its creeds are impious and its practices revolting. It makes men slaves and brutes. Seventy thousand of these people, intrenched in the mountains between us and our young empire on the Pacific, living in the practice of the worst and most debasing immoralities—liars, thieves, polygamists, blasphemers, murderers—are now in open rebellion against the Government of the United States. Are you earnestly against slavery and indifferent to polygamy? Dissatisfied with "Americans," but prepared to tolerate Mormonism? Certainly not. And here is this imminent and fearful Mormon question upon you; it must be decided now; it has already been postponed too long. The Mormons are now no mere handful of wretched fanatics in your midst, whom the laws of the land can easily take care of; but they are a large and rapidly augmenting community, drawing to their folds great numbers of the weak and ignorant, and also many of the strong and crafty. Seventy thousand to-day; the next census, if you let them alone, will find their numbers more than one hundred thousand. Have you considered how to get rid of this abomination, or when you will seriously try? Will you wait till they are stronger—will you tolerate, and not disturb them—or will you, since they are, of their own motion, in flagrant rebellion, seize this opportunity to vindicate the rights of human kind, and the honor of the American name? And who, in this work, shall be foremost but you, who are so deeply enlisted in the cause of human welfare—you, who have in your platform of principles and duties, declared with marked emphasis against those "twin relics of barbarism, polygamy and slavery?" Who, of all men, is bound by his principles and professions to tender his counsels, skill, and efforts to those who may be intrusted with the responsibility of removing this moral and political cancer from the body-politic? Who, if not the Republican?

Mr. GIDDINGS. There is one point to which I desire to call the attention of my friend from Maine and the attention of the country. We have passed no law prohibiting polygamy in the Territory, and according to my friend's argument, we are sending an army there to butcher innocent people. We have been told that we have no power to regulate the domestic institutions of the people of the Territories. The opposite party have denied that power, and now deny it. Now, I say that I will never send an army to that Territory until we have prohibited this crime by law. Let us say distinctly to the country that this vile and infamous crime shall never be permitted in our Territories, and then if the people of any Territory violate that law, I will send an army to enforce it.

Mr. WASHBURN, of Maine. I am stating, and thought I was understood as stating, the reasons addressed to us on this side of the House to induce us to vote for this bill. Will you not, it is said, consider well before you refuse to the Administration the increase of military power, which, we are told, is necessary to accomplish the difficult but most important work it has in hand, in such way as to prevent the unnecessary loss of life, and a vast waste of treasure? If you refuse, may you not be held to a grave responsibility before the country? You say you have no faith in the President, none whatever; knowing the crimes he is capable of committing you dare not trust him. You allege that he has been transferred and made over, body and soul, to the slave oligarchy, and is laboring to his utmost to crush out everything like liberty and democracy in America. But the real question is, will you help him in these ungodly purposes?

Will you permit him to place you in a false position before the country, and weaken your power to oppose him in his attempts to subvert the Constitution he has sworn to support? He knows that on these Kansas and slavery issues he is defeated in all the free States, and growing weak day by day, in the northern slave States, and hence he is endeavoring, with his low, characteristic cunning, to raise up a new issue to take the place of those now before the people. He means to divert the attention of the country from slavery and Kansas to Mormonism and Utah. Let five hundred of our men be cut off in the gorges of the Rocky Mountains, and he will cause a cry to be raised in every dwelling in the North that the Republicans refused him troops, and hence this disaster to our gallant but unprotected little army; and then painting the vices and crimes, foul and loathsome, of these people, he will hope to excite a fury of zeal, and raise a storm of indignation against the Republicans which shall demoralize and break down their party, and insure the success of the pro-slavery Democrats in the next election, and, in the mean time, the accomplishment of his purposes in Kansas, and the complete handing over of the government—its prestige and power—to the unchallenged uses of the slavery propaganda. Now, are you willing to be caught in such meshes as these, and will you allow the President to obtain the advantage he desires by any such misstep on your part? Will you not, rather, signalize your loyalty to the central ideas of your political faith, by giving to the Administration a necessary power for the execution of a worthy object, leaving to it the responsibility of abusing that power? And can an abuse of that power work any very serious injury, in the worst event, to the cause of freedom; and may not your refusal to grant it, expose your party, which is its defense, to dangerous, if not fatal, assaults? On the whole, therefore, is it not the part of wisdom to vote the President the increase of force which he asks for, doing so in the least objectionable form? Will you not give him volunteers for operations in Utah alone, and for a limited period?

Mr. Speaker, I feel the force of these considerations, and am aware that events may go very far to justify their wisdom, but they have failed to convince my judgment of the necessity or propriety of increasing the military power of the country at this time. I believe the present force, if employed as it should be, is sufficient for all necessary purposes. It consists of some seventeen thousand men, not one thousand of whom, I think, are east of the Mississippi river. Twenty-five hundred are in Kansas; at least as many more can be removed from other stations with perfect safety. These numbers added to those now in and on the way to Utah, said to be about three thousand men, will constitute a force equal to the emergency, and as large, I presume, as is contemplated by the Administration as necessary for suppressing the disturbances in Utah. Inasmuch as these men can and ought to be employed in the Utah expedition, there can be only one reason why they are not so employed, and that is, that they are to be kept where they may be used to impose upon the people of Kansas a constitution which the slaveholders' Administration have prepared for them, but which they loathe and abhor, I shall hold, and doubt not the people will justly hold, the Administration alone responsible for any reverses which may befall the Army of the United States in Utah, or on its way thither. The Administration has the necessary and sufficient military force already, and only needs the authority of law to use that force in Utah.

Mr. CURTIS. If the gentleman will allow me, I desire to say that he has very much overstated the number of troops stationed in Utah. There were sent there only two thousand men. There are there now not more than fifteen hundred men, and by the next spring there will not be more than one thousand. Then in Kansas we have three thousand, which makes four thousand. These are all the regular troops which can be relied on to meet the emergency. The regular Army is too much scattered in Oregon, in Washington, and in Florida, to be collected in time for this expedition.

Mr. WASHBURN, of Maine. The gentleman from Iowa understands military matters much better than I do; but I had understood differently in regard to the numbers in, and on the

way, to Utah, and the feasibility of removing men from other stations.

Mr. COVODE. In reply to the remarks just made by the gentleman from Iowa, I wish, with the consent of the gentleman from Maine, to state that I now hold in my hand a letter from an officer now in Utah, written at Fort Bridger, in which he says there are men enough in Utah; that they do not want any more men; that they have men enough to conquer Salt Lake City, if they were there.

Mr. CURTIS. I should like to know what officer that is.

Mr. COVODE. It is an officer of the regular Army, who knows all about it.

Mr. WASHBURN, of Maine. I will state in reply to the gentleman from Iowa, that I understood the gentleman from Texas [Mr. BRYAN] to state yesterday that he had been informed by the War Department that the troops now stationed in Texas had been ordered to Utah. He says:

"A few days since, the Secretary of War informed me that the whole military force in Texas would be ordered to Utah."

Now, I believe, as I have before remarked, that the standing Army consists of about seventeen or eighteen thousand men in all—perhaps of about sixteen thousand effective men. Twenty years ago, when the northeastern boundary was yet unsettled, and a thousand troops were stationed in Maine, when a large force was required in the Florida war, our entire force consisted of only some eight or ten thousand men. Now, sir, at this day, I do not suppose there are a thousand men of the Army east of the Mississippi river; and there are something like fifteen thousand between the Mississippi and the Pacific. That is my impression from the weight of testimony before me. I may be mistaken. There are now nearly six thousand men in Utah and in Kansas, and more are being transferred from Texas and other points to Utah. So that I think there is a sufficient force now under the control of the President—so far as numbers go, authority to employ them only being wanted—to meet whatever emergency exists; and if, in consequence of his failure to forward troops from Kansas, or elsewhere, any sacrifice of life should occur, any disasters shall happen, the Administration alone will be, as I have already observed, responsible, and will be so held by the country.

Now, sir, while these are my views of what we should do, I have no disposition to censure or complain of the gentlemen upon this side of the House, or, so far as that goes, on either side, who believe with my friend from Iowa [Mr. CURTIS] that the Army is not sufficient for the necessities of the service at this time, and who therefore will vote for an increase of the Army by regiments of volunteers. I agree with them that if we are to have any troops, they should be volunteers; but I cannot bring my judgment to say that there is a necessity for raising more men, and increasing unnecessarily the expenses of the Government at this time.

This debate has been protracted long enough, and, in my judgment, the time has arrived when it ought to be terminated; and if there is no gentleman who wishes to address the House on the subject, I will call for the previous question.

Mr. QUITMAN. I ask the gentleman to yield to me for a moment to make an amendment.

Mr. WASHBURN, of Maine. I yield to the gentleman.

Mr. QUITMAN. By some oversight in copying the bill, some words were left out. I move to insert them, so that surgeons and assistant surgeons shall be provided for these regiments, if they are raised.

The SPEAKER. The gentleman must first withdraw his pending motion to recommit.

Mr. QUITMAN. I withdraw that motion. I hope, too, the courtesy will be extended to the gentleman from Virginia, to allow him to submit the amendment of which he gave notice.

Mr. WASHBURN, of Maine. I yield for that purpose.

Mr. FAULKNER. I move my amendment as a substitute for the fourth, fifth, and sixth sections. It provides for an increase of the regular force.

Mr. SMITH, of Illinois. I ask the gentleman to withdraw his call for the previous question. I want to express briefly the wishes of the people

I represent in relation to this bill. They have tendered more than two regiments to the President for this service.

Mr. WASHBURN, of Maine. I withdraw the call for the previous question.

Mr. SMITH, of Illinois. I do not wish to detain the House long; but on a question of this importance, and one in which my constituents feel so deep an interest, I could not be content to give a silent vote. I am in favor of giving to the Administration troops enough to settle the difficulty in Utah. If the matter were open to contract, I would guaranty that the State of Illinois would undertake to subdue these Mormons, and force them into obedience to the laws of the country. In the early part of the session, I tendered to the President the service of two regiments from my district, to maintain the supremacy of our laws and the honor of the country. I stated, in my letter of tender, that, at a very short notice, two regiments could be furnished.

Now, sir, as to whether regulars or volunteers are best suited for this service, my mind is made up as to what is the true policy and the duty of this Government. We have had too many demonstrations of the gallant services of the volunteers to doubt their efficiency. I believe that, at the battle of Buena Vista, if our force had been composed entirely of regulars we would have been defeated. I am told that a distinguished officer stated that the volunteers had been whipped, according to the science and rules of war, twice, but that they did not know it. If they were whipped, they were like the boy we have all heard of—they would not stay whipped! They went there to win a victory, to maintain the honor and integrity of the country, and they did it effectually.

In my judgment, sir, there is no force equal to that of regulars and volunteers combined. There is a rivalry created as to which shall do the most efficient and the most gallant service. I believe that the glorious deeds of our Army in Mexico are attributable to the fact that the force there was composed of regulars and volunteers.

I am willing to vote any amount of troops I may deem necessary. I am not sufficiently conversant with the subject to say whether more troops are needed or not; but I am willing to take the message of the President, and the report of the Secretary of War. I have great confidence, too, in the chairman of the Committee on Military Affairs, [Mr. QUITMAN.] He has seen service, and I am willing to follow in his lead in this matter. There may be one or two provisions in his bill which I would be glad to change. He provides that the troops shall be received in regiments. If they only give to my State one or two regiments, I shall be satisfied. But, sir, as we of Illinois are not exactly in good odor, just at this time, I am afraid that my constituents, much as they may wish to serve the country and to fight its battles, and much as they may wish to take out an old grudge against the Mormons for outrages committed by them in my State, unless some provision is made for receiving less than a regiment, will not have an opportunity to show their devotion to the country, and to help to maintain the supremacy of its laws.

When I got up I stated that I had no intention of making a speech; nor have I. I simply wished to express the views of my constituents, and, as I believe, those of the State of Illinois, in this matter. They are patriotic, and they are willing to vote any amount of men and money, at any time, to maintain the supremacy of the law, and the honor and integrity of the country.

Mr. BLAIR. Representing a region of country as much interested in this question as any other, I have for several days sought the floor, but without success. The principal points involved in this discussion, that I desired to present, have been already submitted by the gentlemen who have addressed the House, and they have been treated in much better language than I could hope to employ. It will be especially unnecessary for me to make any defense of the volunteers, after the able defense of that branch of the service by the chairman of the committee, [Mr. QUITMAN,] who reported the bill to the House, and I shall pass to other topics.

The question which I desire to present to the House is, whether the National Government is prepared to exercise a wholesome control over its dependent territories, distant three thousand miles

from this seat of central power, or whether it is intended that they shall run riot yet longer in the privileges of "squatter sovereignty." I say it is the duty of the Government, and especially if it has any regard for the interests of the people who live in the valley of the Mississippi, to reduce the Territory of Utah to a condition which will enable the people of that valley to pass across the continent to the Pacific ocean. As it is, the Mormons have created a blockade in the midst of our own territories against the citizens of our own Government. They send to this body what they call a petition, or memorial, but which really amounts to a defiance of the Government, telling you which of the citizens of our Government shall go to Utah; and who shall not be allowed to enter that Territory. This House is called upon to entertain that petition, to consider it; and, if I am to take the speeches of some gentlemen upon this floor as indicating the sense of the House at all, we are to permit that people to settle upon the territories of this Government, and prevent the entrance into them of any persons obnoxious to them.

I do not exaggerate; I have their own words for it. They tell us in that memorial that we may send there the Governor and other territorial officers, but that we may not send other persons—these troops—because they may not come into the Territory with good intentions.

Not only is that true which they themselves have stated, but it is also true that they have driven from that Territory the civil officers we have heretofore sent there. And who knows but that they will drive out those whom we have recently sent there, unless they are accompanied by a body of men sufficient to support them? Who knows but what they will repeat the insolence of which they have already been guilty, and the outrages which they have already perpetrated upon American citizens?

I desire, Mr. Speaker, to call the attention of the House to some of the legislative acts passed by that people. I had in my hand the other day a copy of the laws of Utah, which, however, is not to be found in our Government libraries, where the law requires that it should be found. The government of Utah has never conformed to that provision of Congress which requires that copies of their laws should be sent to Congress. They have for many years enjoyed the privileges of squatter sovereignty, and have passed laws which have never undergone the revision of Congress as required by the law under which that government was organized. I obtained the privilege, however, of perusing that volume of laws at the hands of one of the officials who were recently driven from that Territory.

In that volume I find one law for the incorporation of the Church of Jesus Christ of Latter-Day Saints, giving that body the power to hold property, personal and real, to an indefinite amount, and the power to inflict punishment for breaches of church discipline. These same laws have granted out to individuals among the saints all the valuable land in the Territory, and invested them with every valuable ferry privilege in the Territory. They have also imposed taxes upon all who pass through that Territory; and those taxes are paid to the Church. Now, sir, those lands have never yet been thrown open by the Government to preemption. It used to be the policy of this Government, up to a very recent time, to dragoon the citizens off from the public lands. But here a people who have very little claim to the clemency of this Government have absolutely taken possession of all the valuable lands in that Territory, and have partitioned it out among themselves.

They have established, among other things, an emigrant fund, by which they bring into their Territory as many as are useful to them, and as they are willing to allow to come in. They have legalized African slavery and the system of Indian peonage. I can refer gentlemen to the pages of the statute where these laws are found; and I will say to gentlemen who are desirous of consulting these laws, that they will find a copy of them in the hands of Mr. Burr, who was the late surveyor general of that Territory.

They also provide for the compromise of criminal suits between the indicted criminal and the prosecutor, at any stage of the suit before trial and conviction. They grant the territorial probate court a jurisdiction equal to that of the Uni-

ted States courts; and they forbid the reading of any law in the United States statute-books, or of any of the decisions of the United States courts, in their courts, under a penalty. They punish attorneys with fine and imprisonment for not telling what has been confided to them by their clients, and they authorize very loose construction of the laws, declaring that a law may be construed in any tense, and that the plural may be taken for the singular; a provision by which almost any construction in the world may be placed upon a law. They establish polygamy, and make its observance a religious duty.

I have already referred to the fact of their disposing of the lands belonging to the Government of the United States; and I will now also allude to another law, which may be found on page 120 of the statute-book, which was made for the purpose of harassing non-residents and driving obnoxious people out of their Territory, by a confiscation of their property. There never was such a system of laws invented as this people have. They have united every power, both political and religious, in the hands of one man; and by the connivance of this Government, for a series of years, that man was made Governor of the Territory, and has been kept in that position.

They come here now and complain, in their memorial or petition, as they call it; that we have sent to that Territory non-resident civil officers, while probably that Territory is the only instance among all our Territories where they have had a man appointed over them selected from among their own people. Now, sir, we sent to New Mexico, to a people who lived in that country years before almost any of our States were settled, and certainly before any of them were organized into States, and long before the American Revolution, a Governor selected from this part of the country. This case was made almost the solitary exception, on account, perhaps, of a tenderness of feeling for those people, who had some peculiarities which we did not then suppose would lead to the distressing consequences which have resulted. We have indulged them; and what has been their conduct growing out of the indulgence granted to them? They manufacture a code of laws intended to wrest the whole of that Territory from this Government, and to harass every man sent out there who does not belong to their persuasion, and rob them of their property and murder them upon the plains.

I believe that in any court of the United States Brigham Young and his Mormon followers would be convicted of the murder of Captain Gunnison and his party. It could not have been done by the Indians. All of Gunnison's party were found with their scalps on, and not a mark was found upon them that would indicate that they had been killed by the Indians. On the contrary, they died from gun-shot wounds, and the Indians in that part of the country almost invariably use the bow and arrow. There were other marks upon them, as proved by the party which discovered their remains, which indicated to every man familiar with Indian warfare, that they had been slain by the Mormons.

Mr. Bridger, an old mountaineer, who had lived in that country for upwards of thirty years, at a place now called Fort Bridger, was driven out of the Territory, and barely escaped with his life. He was robbed of all he possessed, and he came on here and hovered about the city of Washington until his feet were almost worn off, begging the Government to interpose in his behalf. But in that he failed. This Government has suffered more by that people, and endured more from them than any other Government in the world would have suffered and endured.

Now, gentlemen object to raising an army to rescue our own people there, for there are many of them now there, and to take back again our rights in that country, of which we have been robbed by those Mormons; and more and greater than all, to prevent that country from being blocked up against our own citizens who desire to cross the continent. I say that the people who live in the West and Northwest will not tolerate, for a single instant, that that country shall be blocked up against them by the Mormons.

Again, objection is made that we have force enough already. Gentlemen have argued that, if you withdraw troops from this place and that place, we have troops enough to rescue our people

and to take and exercise wholesome control over that Territory. One gentleman has read to us the opinion of an officer of the Army. I am always very glad to hear what the officers of the Army have to say about matters of this kind. But, Mr. Speaker, if we wish to regain and assert our ascendancy in that quarter without bloodshed, if we want to accomplish what these gentlemen say we ought to accomplish, we must have such a force to proceed there in the spring as will command ascendancy without striking a blow. The larger the force you precipitate upon that Territory, in my opinion, the less bloodshed you will have, and the sooner you will command peace. With the force now there, you will not have peace without first a great deal of bloodshed, and the loss of many lives. And I would tell that officer in the Army, if he were here, that I would prefer that his commanding officer had three or four times as many troops under his command, with which to take Salt Lake City, than he now has, and that thereby would be saved the lives of many gallant officers and many men upon our side.

The policy, in my opinion, which this Government ought to adopt, would be to send there a force which Brigham Young could not resist, and which the people of Utah and Salt Lake City would know it would be impossible to resist; and then, without striking a blow, we should have a surrender. Otherwise, you will have the loss of many lives in the Territory, and a protracted guerrilla war from the heads of all the cañons in the country; and one which can be maintained by those desperate men, inured to the hardships of a life in that country, and acquainted with its geography, as no other people are, for a series of years to come.

Now, sir, I do not participate in the alarm which some gentlemen feel, that this army will be used elsewhere. In the first place, if it is the intention of the President to do the thing which they fear he will do, he has the army and the men with which to do it already in that Territory; and he is as likely to do it with those men as he would be if we gave him the additional five thousand volunteers, for it will make hardly any difference in the conflict which that act would provoke, whether he had these additional five thousand men or not.

As I said, I do not participate in that alarm. It may have been, and I believe it was the case, that the President, in the flush of his first ascent to power, did do mischief; but he has learned some lessons since that time which he is not likely soon to forget, nor the men who back him. He has learned that there is a power which can check his career, and which will not submit to have the Army of this country turned upon the peaceful citizens of this country, for an illegal and an abominable purpose. In my opinion, he has already learned that lesson from what has transpired since the attempt was made. If he has not learned it, and persists in going forward in the career he seems to have marked out for himself, he will meet with a power which can check his career. There is a mode of doing these things which the President well understands; and we all feel and know that it will be exercised if he undertakes to use the Army against the peaceable citizens of the country in Kansas.

Therefore, I do not participate in that alarm, nor do I intend to hold myself responsible here for refusing to do what I believe the country demands of us, for fear that the President, or some other man, may do some other thing equally obnoxious. I am as willing to confront him in this matter as to confront Brigham Young in the mountains, and to apply that remedy to his conduct here which I shall vote to apply to Brigham Young. I think, if he does persist, he may himself be a fugitive as well as Brigham Young, and the fate of Comonfort may await them both.

Now, Mr. Speaker, I think it is due to the exigency that we should at least place these troops at the disposal of the President, so that, if there should arise any emergency in Utah requiring the troops, he may have them. If, as gentlemen say here, there is no such necessity now, I argue that there may be; and if, as has been already remarked on this floor, any evil should befall the gallant army that is now shut in by the snows of the mountains, I do not wish, for one, that I individually, or the party with which I act, should be held responsible for that calamity. So far as

anything has occurred already in this matter, we know where the responsibility is. We know that the planning of that campaign, and the imbecility which marks every step of it, are to be fixed upon the President and his Administration. We know that, if he had not kept the troops in Kansas to do a work which of itself was infamous, they would have been, before the winter snows fell, in the valley of Utah, and have brought that people to subjection. Now, while up to this period the responsibility does rest on the President from his failure to do his duty in this matter, I trust that we shall fix the whole responsibility on him and on the executive arm of this Government, in the future conduct of this campaign.

I have no difficulty—none at all—on the subject of the power of the President to move the Army into the Territories of this Government. Nor have I difficulties about the power of this Government over the Territories; and I trust that, if no other good thing comes out of this unfortunate affair—so to characterize it—it will give the last and fatal blow to that heresy of squatter sovereignty that has grown up in this land. I am one of those who believe as strongly in the doctrine of popular sovereignty as any man on this floor; but it is the sovereignty of the whole people of the country in regard to their territories. It is the right of the people of the country to govern what belongs to them; and I say it is rank cowardice to abdicate a power conferred on Congress by the Constitution, to shirk it off upon the first two or three hundred individuals that may reach a territory to be organized by this Government.

I make these remarks, Mr. Speaker, in view of what I have read from the laws of that Territory. I think that, while we are preparing to bring Young and his deluded followers into subjection, we should, at the same time, take proper measures to prevent the recurrence of similar events. I think that we should, before the adjournment of this Congress, pass a bill, copied from the bill organizing the old Northwestern Territory, giving to the Governor and judges of that Territory legislative power. It is the only means by which that Territory can be regulated, if it retains a territorial organization. These people have already, as is well known to the whole community, driven out from their midst every man who does not agree with them in their polygamist code; and now the Mormon community is nothing but a great brothel.

Mr. Speaker, I have not examined with a great deal of care, nor do I consider myself competent to pass to an examination of, the details of the bill before us. The confidence that I repose in the Committee on Military Affairs, and especially on those members of it who are most conversant with military affairs, would constrain me to vote for the bill they have reported. I shall therefore vote for the bill to place five regiments of volunteers at the disposal of the President, but I will not, under any consideration, vote to add a single man to the regular Army.

Mr. QUITMAN. I think now that this debate has been sufficiently extended, and that the views of all the subdivisions of the House have been presented on this bill. I therefore move the previous question.

Mr. GROW. I ask the gentleman from Mississippi to give way for a moment.

Mr. QUITMAN. I would willingly comply with the gentleman's request, but I think we have already had debate enough on the bill.

Mr. FAULKNER. I move that there be a call of the House.

Mr. HOUSTON. On that I call for the yeas and nays.

Mr. BURROUGHS. I move that the House do now adjourn.

The motion was not agreed to.

The yeas and nays were ordered.

Mr. COLFAX. Let me suggest to the gentleman from Alabama to let the previous question be seconded, and then the gentleman from Mississippi can close the debate at this time; and that will give time for members to be sent for.

Mr. HOUSTON. After the previous question is seconded, a call of the House is not in order. If, by general consent, a call of the House can be then had, I have no objection. I simply desire to have members present when the vote is being taken.

Mr. COLFAX. The gentleman from Mississippi will, of course, speak for some time,

Mr. HOUSTON. I am willing to withdraw the call for the yeas and nays, as I understand the gentleman from Mississippi intends to occupy his hour now before the previous question is seconded. Then the call of the House can be had.

The SPEAKER. Under the practice of the House, the gentleman from Mississippi can occupy his hour after the previous question is seconded.

Mr. HOUSTON. Then, with the consent of the House, I will withdraw the call for the yeas and nays.

Mr. FAULKNER. And I ask leave to withdraw the motion for the call of the House.

There being no objection, the motion was withdrawn.

Mr. MORRIS, of Illinois. I hope the gentleman from Mississippi will withdraw his call for the previous question. I want to say a few words on this question.

The call was not withdrawn.

The previous question was seconded; there being, on a division—yeas 70, nays 48; and the main question was ordered.

Mr. QUITMAN. After the somewhat protracted debate upon this bill, I shall endeavor to confine my remarks to those points which, in my judgment, need reply or explanation.

There seem to be two classes of opponents to this bill. First, those who distrust the Administration, and are therefore unwilling to place at their disposal any additional military force whatever. While some of these gentlemen admit that an emergency has arisen such as to require an additional force, yet their distrust of the Administration overrules their good judgment, and induces them to oppose this bill.

The other class is composed of gentlemen who desire to increase the regular standing Army. Well, Mr. Speaker, I think gentlemen who thus oppose this bill for the first reason, mistake altogether the views of the President in regard to the expedition to Utah. I do not appear here as a special defender of the President's measures. I have had no part in them, and perhaps might find, were I to look into them, some objection to the way the Army has been employed within the last year. But, Mr. Speaker, the President is right in his determination to support the officers appointed to take charge of affairs in Utah by some military force. The gentleman last up, on the other side of the House, [Mr. BLAIR] has presented this question in a very strong light. There may be some doubt whether Utah, strictly speaking, is in a state of rebellion or insurrection; but no man can doubt that it would be unsafe to send civil officers of the United States there to enforce the laws of the United States over that Territory, unprotected by a military force.

As I understand it, the Territory of Utah has been constituted into a military department of the Government, and the President wishes to station a sufficient number of troops there to prevent resistance to the laws, and to suppress the rebellious spirit which appears to exist there. No man in this House will deny that it is the duty of the President, as it is his right, to appoint officers to administer the government of that Territory, in accordance with the laws of the United States. Finding the laws made by the existing Legislature of Utah such as the gentleman from Missouri [Mr. BLAIR] has shown—finding that they are arrayed against the authority of the United States—who doubts that it is the duty of the President, in sending officers there, to protect them with a military force, not for the purpose of making war, but for the purpose of performing the peaceful duty of applying the laws of the United States to the Territory of Utah? Who doubts the propriety or even the necessity that they should thus be protected? Besides, it is the right, I believe it to be the duty, of the President, under existing circumstances, to station a strong force in that military department of the country. There is no intention, so far as I have heard, upon the part of the Administration, to make war upon the Mormons, or to murder their wives and children. On the contrary, I doubt whether there is a man upon this floor who does not know that the whole American people would repel the idea of making war upon the Mormons, if they submit to receive the officers legally appointed over them, and obey the laws rightfully made for their government. I see, therefore, no reason to suspect that this mil-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, MARCH 20, 1858.

NEW SERIES....No. 75.

itary force is intended to be used otherwise than on the defensive, and not in the aggressive. I doubt whether any man in this House will rise and say that he has any fears, if the Mormons will peacefully receive the officers of the Government, respect them as they should, and permit the laws to be executed in that Territory, that one drop of blood will be shed, or a single injury inflicted upon Mormon life, limb, or property, or even their social institutions be disturbed. However odious they may be, the Government has not yet pretended to interfere with them.

Mr. MORRIS, of Illinois. If I understand the distinguished gentleman from Mississippi, he informs this House that when this army is raised and sent out to Utah, it will find no work to perform there.

Mr. QUITMAN. Not if the Mormons submit to obey the laws.

Mr. MORRIS, of Illinois. And he has no doubt the Mormons will obey the laws.

Mr. QUITMAN. No; I did not say that.

Mr. MORRIS, of Illinois. I understand him to say, then, that, in his opinion, they will not obey the laws. Then I propound to him this question: suppose they refuse to obey, and the Army are used as a *posse comitatus* to enforce the laws, and to assist the Governor and judges and marshal in the enforcement of the laws: the Mormons have the grand and petit juries; and if they are arrested, as they will be, my word for it that when this army gets there they will offer no resistance. If they be resisted, how can those laws be enforced? How can you enforce them when there is to be a Mormon grand and petit jury?

Mr. QUITMAN. I am told that the new government is now organized at Colonel Johnston's camp; that the court is in session, and progressing with its business. If without forcible resistance the execution of the laws be defeated, we may be compelled to repeal their territorial acts; we may be compelled to place them under the government of some adjoining Territory. Whenever it is clearly manifested that the laws cannot be enforced through the ordinary channels of the courts of justice and the ministerial officers, then it is time for us to resort to some other means for their enforcement. So long as we can, we should endeavor to pursue justice through its ordinary channels; but if Mormon juries and Mormon judges will not suffer the law to be executed, then we must devise some means, by changing the territorial organization or otherwise, to transfer the trials before the courts there to other courts in other places, in some of the other Territories, or in some of the States, if you choose. So long as justice can be administered in the ordinary way, it is improper to use military force. When justice cannot be administered in that way, and there is no force used to resist it, we must apply the remedy of further legislation. There are now some portions of the Union in which the laws could not be executed by State tribunals. When this became manifest, we did not resort to military force; we resorted to legislation, and gave power to United States judges and courts to try such cases. I admit, then, in the contingency stated by the gentleman, there is now no remedy; but it at once becomes the duty of Congress in its wisdom to apply the remedy. I will say, as the frank expression of my opinion, that there is nothing in the President's message which exhibits a disposition on his part to wage war upon these people. It simply asks for a protecting force in Utah to enable the government, appointed under law by the Administration, to go into operation. But I cannot dwell on this point.

If the present Army of the United States could be entirely withdrawn from the frontier, there would be no reason for this additional force; but as that cannot be done without serious disadvantages and dangers, the emergency which now exists demands that there should be an additional force voted. The bill before the House provides for the organization of one regiment to defend the frontier of Texas, to serve for eighteen months;

and it authorizes the President, in his discretion, to call for an additional number of volunteer regiments, not to exceed four. If things take a peaceable turn, they may not be wanted, and therefore will not be called out. With our largely increased frontier, this rebellious spirit which exists in Utah will create disturbances amongst the Indians upon that frontier—a contingency for which we should provide; and, at any rate, it seems to me that it would be unwise to create so great a derangement in the position of the Army as would be produced by a withdrawal of the entire force from our frontier to send it to Utah.

We find that the Administration, in reinforcing Colonel Johnston, are stripping the frontier of Texas of the troops necessary to defend that frontier. What is the consequence? Before me is a file of papers from the Governor of Texas, General Twiggs, and many others, showing that the Indians are taking advantage of the withdrawal of the troops, and are already committing depredations upon our citizens. The withdrawal of the troops would lead to the raising of several regiments of volunteers by the State of Texas, for the defense of her frontier. These would not be under the control of the United States, and would, in the end, cost ten times more than if the United States had provided, under their own control, a corps for that purpose.

From what information I possess, I do not believe it was the best policy on the part of the Government to allow the Governors of the Territory of Kansas to control the movements of the Army. It is the power which was given to these Governors to withdraw the troops from the line of march which has, in a great measure, caused the partial failure of the expedition now under command of Colonel Johnston. It was a mistake to grant these extensive powers to control the movements of the Army to the civil Governor of Kansas. I have never believed it necessary to employ more than a battalion of troops for the purpose of aiding in preserving the peace in Kansas. They are now, I believe, in an actual state of removal, and there is no desire on the part of any one to keep them any longer in Kansas.

I, however, Mr. Speaker, will pass over the many answers which might be made to those who oppose this bill on account of their objection to increasing the military force of the country in any wise. I must now confine my remarks to the objections which are raised to the use of volunteers; or rather to answering the arguments which have been used by those who prefer a regular force, especially those presented by the distinguished gentleman from Virginia, [Mr. FAULKNER,] a member of the Military Committee, against the use of volunteers and in favor of increasing the number of the regular troops.

I stated, in the opening of my remarks upon this bill, that, in my judgment, a permanent military establishment was necessary for the protection of every government; but that military establishments should only be composed of regular troops, when that establishment is permanent and intended to be permanent; but that, for all temporary purposes in this country, we ought to use the force so peculiarly American—the volunteer. Prejudices may have existed against this force, as for a long time they did against the use of the American weapon—the rifle; yet now the armies of the world are arming their soldiers with the American rifle, or grooved gun. The volunteer is the best force to be used for temporary purposes. There are other objections besides those which I urged in my opening remarks, to the temporary increase of the regular Army. No one, I believe, contemplates a permanent increase. Without going into the argument against the increase, it is enough to know that, from the indications in the other branch of the national Legislature, and the indications coming from all parts of the country, public sentiment is opposed to a permanent increase of the regular Army of the country. No man, or very few men, contemplate that it is possible to effect anything more than a temporary increase.

In addition to the many objections I have already urged to a temporary increase, I should state one which I have not yet mentioned, and that is the derangement which is produced in the permanent establishment of the Army, either by a temporary increase, or by the withdrawal of that addition from the Army. Suppose you should adopt the substitute proposed by the gentleman from Virginia, [Mr. FAULKNER,] it amounts to this, that we raise three additional regiments of regulars for the space of two years. What will be the result? In the first place, it produces a derangement of the divisions and brigades of the Army, and a remodeling of the whole system—a derangement made at the moment when so large a portion of those troops are to be placed in service. Upon their going out of the Army, it will produce bickerings and heart-burnings among the officers. Both a temporary increase and the withdrawal of that increase, have ever produced a moral derangement in the regular Army, serious in its nature. Suppose a bill like that proposed by the Secretary of War is passed, as a temporary addition to the army: there would be one hundred and eighty-five officers to be appointed, and one hundred and eighty-five officers, at the expiration of two years, to be discharged. These derangements create disturbances throughout the whole country, and tend to demoralize the regular Army; whereas the coming in or going out of a temporary volunteer force produces no effect upon the regular establishment.

But, say some gentlemen upon both sides of the opposition to this volunteer bill, the President has not called for volunteers; and, say some, that the Secretary of War strongly implies that he does not desire volunteer soldiers. The President has confined himself to a call for an increase of the Army. He does not inform us in his message what description of forces he desires. He might, perhaps, with propriety, have laid before Congress his own wishes and opinions upon the subject. But, when recommendations come here, if they come at all, they come addressed simply to the discretion of Congress. As I said before, it is the right of Congress, and of Congress alone, to raise armies and to support them; and it is our right and duty alone, under the Constitution, to make rules and regulations for their government, and to prescribe what description of forces shall be raised, and what shall be the period of their service. Neither the President nor the Secretary has any responsibility upon the subject. The responsibility lies here; and as much as we may respect the wishes and opinions of the President and Secretary of War upon this subject, their duty is simply to recommend; and upon us, and us alone, rests the responsibility of raising troops, of prescribing rules and regulations for their government, and determining the period of their service. And even we are prohibited, by the Constitution, from appropriating money for their support for a longer period than two years.

But I cannot forbear, in the course of my remarks, to abstain from noticing that much stress has been placed upon the opinion of the Secretary of War in regard to the character and number of troops required. From his position, much regard should be given to his opinions; but these appear not to have undergone as thorough an investigation as they might, because the President differs with the Secretary of War. The President recommends four regiments, and the Secretary of War five. The President says nothing about description of forces, and makes no argument upon the subject. On the contrary, the Secretary of War presents arguments, and introduces documents for the purpose of showing that volunteers are the more costly forces, and more objectionable, and that the increase ought to be regular troops, as being less expensive and more reliable.

The matter, in another point of view, does not appear to have received that consideration which would justify us in giving to the matter that consideration which it might otherwise receive, com-

ing as it does from the War Department. The point is this: the President asks for additional forces upon the ground of the Utah disturbances; while the Secretary places the application upon the ground of the general condition of the service. I admit that the recommendations of these high functionaries deserve our best consideration; but in the last resort it comes to us to be the judges as to what description of forces we shall give, and what shall be their period of service. We raise them and place them under the control of the President; and it will not do for gentlemen to intimate, as did the gentleman from Virginia, [Mr. FAULKNER,] that they would not be used if we tendered them. Let us tender them, as it is our duty to do, and throw the responsibility, in case necessity should arise for them, where it belongs. If we tender them, and the brave and gallant Johnston should be overwhelmed by the forces of the enemy, and should suffer for want of provisions, the responsibility will be averted from our heads.

Mr. STANTON. I wish to inquire of the honorable gentleman from Mississippi, as a military man, whether he supposes that, if regular troops could be recruited for this service, and sent to the relief of Colonel Johnston, they would be able to reach him in time to afford assistance?

Mr. FAULKNER. I wish to call the attention of the gentleman from Ohio to the fact that the supporting column will leave Fort Leavenworth in the month of May, for the support of Colonel Johnston. It is already under marching orders.

Mr. QUITMAN. I presume that every effort will be made by the Administration to avert evil, and to support the army now in advance. I have no doubt it will be successful.

Mr. STANTON. Another question. That army will march at all events, whether this bill passes or not?

Mr. FAULKNER. It is already under marching orders.

Mr. STANTON. Certainly.

Mr. FAULKNER. My object is to supply, upon the frontier, the place of those troops removed to Utah.

Mr. QUITMAN. It has been done, to a great extent, at the expense of the defense of the frontier of Texas; and perhaps the Indians seeing our forces upon the northern frontier weakened, may commence depredations there. Now, I propose to furnish the Government with forces equal to those they are now marching away, by supplying them with volunteers. If the bill should pass both Houses and become a law, in less than forty days each regiment of volunteers can be placed upon the field of action, and immediately commence their guardianship of the train, and move on in time for the army to move. If it is necessary to retain any of the veterans upon the frontier posts, the volunteers raised by this bill will take their places and move on to the scene of action. And I pledge my word, from a knowledge of the facility with which our frontiersmen become soldiers, that in one month they will become as well drilled and trained for the immediate service required, as the new recruits which have been enlisted within the last six months, and are now marching for Utah. The former already have what it requires perhaps some months to impart to those who enlist in the regular service—a thorough knowledge of the general use of arms—having been trained in the militia, or having belonged to some volunteer companies, or having had experience in the war with Mexico.

I will now answer the question of the gentleman from Ohio, [Mr. STANTON.] I believe there are already, as well as my memory serves me, some five regiments of volunteers offered to the President of the United States. The gentleman from Illinois [Mr. SMITH] informed us this morning that two regiments had been offered from that State. If so, six regiments have been offered by the different States to the President of the United States. I will ask how long it would take to bring a regiment from Illinois, or from Kentucky, or from Missouri, during this high stage of the waters of the West, to Fort Leavenworth, or at any other point, and be ready to move forward? Probably some time before the general movement should be made, which cannot well be made before the grass grows upon the plains. Most of the troops upon the northwestern frontier have

been enlisted within the last year, and are therefore mostly fresh, and unused to the horse and to fire-arms; whereas, the volunteers in general are already accustomed to ride the horse, and to use fire-arms of every description; and every man who has seen anything of the service knows that he can soon become a soldier.

Mr. SMITH, of Virginia. I would ask the gentleman if he intends to include foreigners? If foreigners are allowed as volunteers, there will be four out of five of them who would be unaccustomed to riding the horse.

Mr. QUITMAN. I am surprised to hear such an expression from the gentleman from Virginia. Such has not been the case. There are, of course, exceptions. In general, twenty to one of our volunteers have been American-born citizens. But I do not see the pertinency or the importance of the question.

Mr. SMITH, of Virginia. I would say to the gentleman that the reason of making the remark, just at this time, was that he seemed to lay a good deal of stress, in his argument, on the skillful horsemanship of the American volunteer, and I thought that if foreigners were to be taken as volunteers, there was nothing in that argument.

Mr. QUITMAN. I think that the Irish boy or the German boy who comes among our people at a tender age is likely to follow American habits and become a good rider.

Now, Mr. Speaker, some comparison has been made between the two descriptions of force—volunteer and regular. I know the force of early ideas and of prejudices, and the imposing effects of professional knowledge, and make allowance for it; but still, as my friend from Virginia [Mr. FAULKNER] has indulged in some comparison of the two descriptions of forces, I feel myself in duty bound to reply to him. He prefers, for this description of service, regulars to volunteers; and one of his principal reasons is, that the regular is the unimpassioned instrument, subject to the commands of his superiors; that he is patient and submissive, without any other feeling than that of obedience; and that he is therefore preferable to the volunteer for this species of service for which we wish to use him. There seems to be an idea in the mind of the gentleman that there exists in the American breast a natural bloodthirstiness and cruelty. Sir, such an idea is contrary to all our experience and to all our history. By whom have murder, rapine, and devastation, been committed, in the sacking of towns and cities, in the history of European wars? Why, by regular troops. Where have there been more terrible butcheries perpetrated than in India by the regular soldiers? I do not mean to condemn their conduct. This retaliation may have been necessary. But, sir, you could not have bought an American volunteer to commit the cruelties that were committed by British soldiers on the inhabitants in India after a surrender. Our whole history shows that. There is a marked instance of the forbearance and humanity of American volunteers which I cannot pass—I mean the battle of San Jacinto, where all the American troops were volunteers. While their blood was boiling with the remembrance of the massacre of their brethren at the Alamo and on the field of Goliad, they nevertheless took between six and seven hundred Mexican prisoners after the battle; and that was an occasion when they would have been, perhaps, justified, for the butcheries and cruelties and violations of plighted faith on the part of their enemies, in putting to the sword every man that was in their power, and in giving no quarter. And yet we find the number of prisoners taken in that battle greater than the force of the successful army. Why was that? Because there rests in the breast of our citizens—from our institutions, from our respect for the other sex, from the gallantry and spirit infused by American institutions and American manners—a humanity which forbids them to commit outrages upon a conquered enemy. I might multiply instances of this kind, but I deem it unnecessary. Why, then, should the gentleman argue that if volunteers were used for the purpose of forcing the Mormons into obedience to the laws of the United States, greater cruelty would be perpetrated than by regular soldiers? Why should men who can be influenced by reason, by the love of glory, by other feelings of humanity, be more cruel than those who, the

gentleman says, are mere instruments in the hands of higher intelligences?

Mr. FAULKNER. I can well imagine what the feelings are that would lead men to volunteer for service against a foreign enemy; but I ask the gentleman what is there to induce volunteers to serve on this expedition?

Mr. QUITMAN. I will give the gentleman the best answer I can. One inducement may be a love of military achievements; but the principal is the desire of the volunteer to maintain the laws of the country. There is something in the pleasure of military organization; but the principal object is to maintain the laws. I commanded for twelve years a company of volunteers in the city of Natchez; and I found them at all times ready to move, to a man, in support of the laws. There certainly was no other inducement for their action than a desire to maintain the laws. And I will venture to say further, that though volunteers might be led to join the service from military ardor, still, the moment they found an inoffensive people, they would cease to use their arms. I would rather rely upon these moral sentiments than alone on the mere power of officers to control their men, because officers cannot always have their eyes on the men under them. I would rather rely on the natural feeling of the soldier himself than on his mere habits of obedience.

But, sir, there is another reason alleged why volunteers should not be employed; and that is, because they are not so easily controlled as are regular troops. Now, in the Mexican war, (I do not like to refer to my own experience, but it is the best information I have,) I commanded at times fifteen regiments of volunteers; and throughout the war I was never willfully disobeyed by officer or soldier. There was never an instance of disobedience on the part of officers or men; and no officer or man was ever punished for willful disobedience.

Now, Mr. Speaker, it is my duty to look at some of the comparisons made by the gentleman from Virginia, at the conclusion of his very able speech the other day. He instituted a comparison between the number of regulars who were engaged in actual service in the Mexican war, and the number of volunteers. And, taking his data, no doubt, from the books, he says that the aggregate of regular forces engaged in that war was twenty-six thousand nine hundred and twenty, and of volunteer forces seventy-three thousand five hundred and thirty-two; and that the aggregate of officers and men killed and wounded was, of the volunteers about two thousand, and of the regulars about three thousand.

Now, Mr. Speaker, why introduce this? The gentleman in question has taken some interest in the history of the Mexican war, and he must know that more than ten thousand of these volunteers were included in his estimate who did not arrive in Mexico until after all the battles had been fought, and ought not, therefore, to be included in this estimate.

He must be aware, too, that some thirty thousand of them were detained upon the Rio Grande; and that more than three fourths of these volunteers were never engaged in any battle at all, much to their regret. Generally speaking, the regulars were preferred, and thrown forward into action, although the volunteers eagerly solicited this description of service. It was regarded as a favor to be permitted to take part in it.

I will venture to say this, and I challenge denial from any quarter, that there was no occasion, when regulars and volunteers were jointly engaged, that the volunteers did not lose more men in proportion to the force engaged than the regulars did. There are some cases also put by my friend from Virginia, which may deceive the reader. I read from his speech:

"In the battles of Contreras and Churubusco, fought 19th and 20th of August, 1847, there were, volunteers killed and wounded, two hundred and thirty-nine; regulars, seven hundred and fifty-nine."

Does not my friend know that there were some twelve regiments of regulars engaged in these actions at Contreras and Churubusco, and but two regiments of volunteers under General Shields, and that those two regiments lost two hundred and thirty-nine men? While the whole of the twelve regiments of regulars lost only seven hundred and fifty-nine? Showing that the two regi-

ments of volunteers lost vastly more in proportion to their numbers in these actions than the regulars! Again, he says:

"In the battle of El Molino del Rey, fought 8th September, 1847, there were, of regulars killed and wounded, seven hundred and six; volunteers, none. There were, I presume, no volunteers engaged in that fight. In the battles of Chapultepec and city of Mexico, fought 12th, 13th, and 14th of September, were, volunteers killed and wounded, two hundred and seventy-three; regulars, five hundred and thirty-eight.

The gentleman in making this statement should have recollected that in the first action there were no volunteers, and that in the remaining two of these actions there were only three regiments of volunteers engaged, and I think fifteen regiments of regulars.

Mr. FAULKNER. I desire to say here, and the gentleman will see it in the whole course of my remarks, that I have not sought to cast the slightest imputation upon the volunteers at all, but I deemed it due to the regular Army, as a historical fact which has been lost sight of in the blaze of glory which has been thrown upon the volunteers, to show that the bones of the regulars upon the battle-fields of that war, attest by whom the service had been done, and not to cast any reflection upon the volunteers.

Mr. QUITMAN. I have no doubt the gentleman intended no reflection upon the volunteers; but the statistics he has given go forth to the world, showing first the whole number of regulars engaged in that war, and then the whole number of volunteers, then giving the number of regulars and volunteers killed in that war. If the gentleman intended to give a fair exhibit, he should have stated the number of each engaged in each action. I submit whether these statistics, thus presented by the gentleman to go forth to the world, may not produce a false impression?

Mr. SAVAGE. Mr. Speaker, I will make a statement in regard to the battle of Molino del Rey. It is true there were no volunteers, but there were some of the new regiments, among others the fourteenth, under the gallant Trousdale, composed of men from Louisiana, Illinois, and Tennessee, and who, though enlisted but a few months, in this battle and the storming of Chapultepec showed themselves in every way equal to the old regiments. We will furnish just such a force by this bill, with the exception that the President in that case appointed the officers.

Mr. QUITMAN. Well, Mr. Speaker, I did not intend to intimate that the gentleman from Virginia made these comparisons for the purpose of disparaging the volunteer services, but I thought the statement should not in justice go to the world without explanation. A large portion of the volunteers were left in garrison. They were not unfrequently (although earnestly soliciting it) refused active service. I fear their efficiency, even, was questioned until at the battle of Monterey they fought their way into the notice of their general. They fortunately had an opportunity at Buena Vista of removing all doubts of their efficiency, bravery, and steadiness. Where they had an opportunity of being employed, they did service equal to that of the regulars. I have shown, and I challenge denial, that in every action where they were both engaged, the volunteers lost, in proportion to their force, as many men as the regulars.

In my opening speech on this subject, I stated what I believed at the time to be true, that no desertions had ever taken place in the volunteer ranks. As I presume the statistics of the gentleman from Virginia [Mr. FAULKNER] are technically correct, I of course must retract that remark. Since he has drawn my mind to it I have seen that there is a number of desertions reported in the volunteer service. Engaged as I was during the whole war with the volunteer service, I pledge my word that I never knew an instance of desertion except under some peculiar circumstances, where some worthless man, by common consent, of officers and men, was driven from the company, and merely for form's sake reported as a deserter. [Here the hammer fell.]

Mr. LETCHER. As the House is not full, and in order that we may have a full vote on this question, I move that the House do now adjourn.

The motion was agreed to; and thereupon the House (at a quarter to four o'clock, p. m.) adjourned.

IN SENATE.

FRIDAY, March 19, 1858.

Prayer by Rev. T. N. HASKELL.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented resolutions of the Legislative Assembly of the Territory of New Mexico, in favor of the organization of the Territory of Arizona, and the removal of the Indian tribes in the Territory of New Mexico to that part of the proposed Territory of Arizona, north of the thirty-fourth parallel of north latitude; which, on motion of Mr. GREEN, was referred to the Committee on Territories; and a motion by him to print it was referred to the Committee on Printing.

Mr. SEWARD presented a petition of citizens of the town of Dix, New York, praying for the adoption of some practical measures for the peaceful and gradual extinction of slavery, by which compensation shall be made out of the national Treasury, or the public domain, to the owners of slaves that may be manumitted; which was ordered to lie on the table.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin, praying that the amount due to that State, under the act for its admission into the Union, from the proceeds of the sales of the public lands within its limits, may be paid; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. MALLORY presented the petition of George L. Bowne and William Curry, praying to be allowed a portion of the money paid as duties on certain coal saved from the bark Rainbow; which was referred to the Committee on Commerce.

Mr. JOHNSON, of Tennessee, presented a petition of citizens of Washington county, Texas, praying that the public lands shall no longer be considered a source of public revenue, but be subject to entry hereafter by actual settlers and cultivators only; which was ordered to lie on the table.

BILL INTRODUCED.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 23) to authorize a change of the location of the South Pass wagon road, for the purpose of giving greater security and protection to emigrant travel; which was read twice by its title, and referred to the Committee on Territories.

REPORTS OF COMMITTEES.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of Fabius Stanley, submitted a report, accompanied by a bill (S. No. 208) for his relief. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Joseph C. G. Kennedy, submitted a report, accompanied by a bill (S. No. 209) for his relief. The bill was read, and passed to a second reading; and the report was ordered to be printed.

MASSACRE OF CALIFORNIA EMIGRANTS.

Mr. GWIN. I offered yesterday a resolution of inquiry, to which the Senator from Texas [Mr. Houshron] objected. I understand that this morning he is willing to withdraw his objection, as he finds that the resolution simply provides for an inquiry. I move that it be taken up.

The motion was agreed to; and the resolution was adopted, as follows:

Resolved, That the Secretary of War be requested to communicate to the Senate what steps have been taken, if any, to punish the parties implicated in the massacre of one hundred and eighteen emigrants to California, at the Mountain Meadows, in the Territory of Utah.

CHARLES D. MAXWELL.

Mr. YULEE. There is a bill of the House of Representatives for the relief of Dr. Charles D. Maxwell, lying on the desk of the President, which I ask to have taken up and acted upon. It will lead to no discussion at all.

The VICE PRESIDENT. The Chair will state that this is a House bill, which he did not lay before the Senate for reference heretofore, on account of a suggestion of the Senator from Florida.

The bill (H. R. No. 216) for the relief of Dr.

Charles D. Maxwell, a surgeon in the United States Navy, was read a first and second time, and considered as in Committee of the Whole. It provides for allowing the difference of pay between that of the grade of passed assistant surgeon and surgeon, from December 22, 1845, to July 7, 1848, being the period during which Dr. Maxwell performed the duties of surgeon and assistant surgeon on board the United States ship Cyane.

Mr. YULEE. This bill is identically in the same words as one reported from the Committee on Naval Affairs of the Senate at this session, and passed by this body. There is, therefore, no occasion for its reference, and I ask that it be now put on its passage.

Mr. JOHNSON, of Tennessee. I think it would be better to have it referred.

Mr. YULEE. A bill, in the same words, has been reported by our Committee on Naval Affairs, and passed by the Senate.

Mr. JOHNSON, of Tennessee. How much money does it appropriate?

Mr. MALLORY. The identical bill now before us was passed by the Senate and sent to the other House; but that body, instead of passing the Senate bill, has sent us this, which is in the same words. It may, perhaps, give one thousand or fifteen hundred dollars to this gentleman. It is in the usual form of bills which we are in the habit of passing for the relief of officers under like circumstances. It passed the Senate at the last session.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed a bill (H. R. No. 313) to provide for the organization of a regiment of mounted volunteers, for the defense of the frontier of Texas, and to authorize the President to call into service of the United States four additional regiments of volunteers; in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker had signed the following bill and joint resolution:

An act (H. R. No. 216) for the relief of Doctor Charles D. Maxwell, a surgeon in the United States Navy;

A joint resolution (H. R. No. 19) respecting the distribution of certain public documents;

And they thereupon received the signature of the Vice President.

KANSAS—LECOMPTON CONSTITUTION.

On motion of Mr. WILSON, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. FOSTER spoke in opposition to the bill.

Mr. CLAY supported the bill, and entered into a defense of the course lately pursued by the Legislature of Alabama in the adoption of resolutions prescribing the course they will pursue if Kansas shall be rejected with the Lecompton constitution.

After which Mr. DURKEE took the floor, and spoke in opposition to the bill. [These speeches will be published in the Appendix.]

Mr. WILSON. It was understood that the Senator from Rhode Island, [Mr. SIMMONS], and the Senator from Vermont, [Mr. Foor,] were to speak to-day; but both those gentlemen, on account of the condition of their health, are unable to do so. This breaks up the arrangement of to-day. Several Senators are to speak to-morrow, and in order to accomplish all that we can possibly do, I move that the Senate adjourn until eleven o'clock to-morrow. I have consulted gentlemen in regard to this proposition.

Mr. GREEN. I suggest that we ought to make this bill the special order for to-morrow, without any morning business.

Mr. SEWARD. The motion should be, that when the Senate adjourns to-day, it be to meet to-morrow at eleven o'clock.

The PRESIDING OFFICER, (Mr. BRAGS.) The Chair will put the motion in that form.

The motion was agreed to.

Mr. SEWARD. Now, I move that the bill be

made the special order for to-morrow at eleven o'clock.

The motion was agreed to.

On motion of Mr. WILSON, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 19, 1858.

The House met at twelve o'clock, m. Prayer by Rev. STEPHEN P. HILL, D. D.
The Journal of yesterday was read and approved.

SELECT COMMITTEES.

The SPEAKER announced that he had appointed the following select committees:

Select committee under the resolution of Mr. BURROUGHS—Messrs. BURROUGHS, CASKIE, BLISS, WRIGHT of Tennessee, DAWES, DEWART, POTTER, JACKSON, and PALMER.

Select committee under Mr. FLORENCE's resolution—Messrs. FLORENCE, MACLAY, GILMAN, SCALES, and WALDRON.

COMMITTEE OF ACCOUNTS.

The SPEAKER also announced that he had appointed Mr. KUNKEL, of Maryland, on the Committee of Accounts, vice Mr. RUFFIN, excused.

RESOLUTIONS OF NEW MEXICO.

The SPEAKER laid before the House resolutions of the Legislative Assembly of New Mexico relative to the proposed Territory of Arizona; which were referred to the Committee on Territories, and ordered to be printed.

DES MOINES RAPIDS.

The SPEAKER also laid before the House a communication from the War Department, containing information relative to the improvement of the Des Moines Rapids.

Mr. CURTIS. I move that the communication be referred to the Committee on Military Affairs, and ordered to be printed.

Mr. WASHBURNE, of Illinois. I think it ought to be referred to the Committee on Commerce.

Mr. CURTIS. The work has been under the control of the War Department, and I think it ought to go to the Committee on Military Affairs.

Mr. WASHBURNE, of Illinois. It is information in relation to the improvement of the rapids of the Des Moines river, and of course appertains to the commerce of the country; therefore, sir, I think it ought to be referred to the Committee on Commerce. I move that it be referred to that committee, and ordered to be printed. A bill on the subject, reported from that committee, at the last session, passed this House.

Mr. WASHBURNE's motion was agreed to.

LIGHTING PRESIDENT'S HOUSE, ETC.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in reference to additional appropriations for lighting the President's House, the Capitol, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

EXPENDITURE IN THE NAVY DEPARTMENT.

The SPEAKER also laid before the House a communication from the Navy Department, containing a detailed statement of the expenditure of the contingent fund of the Navy Department for 1857; which was laid upon the table, and ordered to be printed.

MEMORIAL OF UTAH LEGISLATURE.

Mr. STEPHENS, of Georgia. What has become of the memorial of the Legislature of Utah, which was read here the other day?

The SPEAKER. It has been laid on the table, and ordered to be printed.

Mr. STEPHENS, of Georgia. I ask the unanimous consent of the House to have it referred to the Committee on Territories.

There being no objection, it was so referred.

INDIAN LANDS IN MINNESOTA.

Mr. KINGSBURY. I ask the unanimous consent of the House to have a Senate bill taken from the Speaker's table and referred. It is an important bill, and I think that there will be no objection to its reference. It has been on the Speaker's table these five weeks.

There being no objection, Senate bill (No. 82) to amend an act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota, belonging to the half-breeds or mixed bloods of the Dacotah or Sioux nation of Indians, and for other purposes," approved July 17, 1854, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

SOLDIERS OF THE CREEK WAR.

Mr. DOWDELL, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be directed to inquire into the propriety of so amending the act entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved March 3, 1835, and the act amendatory, being approved the 14th day of May, 1836, as to extend the benefits and provisions of said act to embrace the volunteers and militia in the State of Alabama, who have rendered fourteen days' actual service in the Creek Indian war of 1836, whether such persons served with the armed forces, or were regularly mustered into the service of, or paid by, the United States or not, and that they report by bill or otherwise.

VOLUNTEER BILL.

The SPEAKER stated the business first in order to be the bill (H. R. No. 313) reported by the Committee on Military Affairs, to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers; the pending question being on Mr. QUITMAN's amendment, to add, in line twelve; section one, after the word "rank," the words, "one surgeon and two assistant surgeons."

Mr. BURROUGHS. Was that amendment offered before or since the previous question was seconded?

The SPEAKER. It was offered before the previous question was seconded.

Mr. QUITMAN. It is simply to correct an omission in the bill.

The question was taken; and the amendment was agreed to.

The question recurred on the amendment offered by Mr. FAULKNER, as follows:

Strike out the following sections of the bill:

"Sec. 4. *And be it further enacted*, That, for the purpose of quelling disturbances in the Territory of Utah, for the protection of supply and emigrant trains, and the suppression of Indian hostilities on the northern and northwestern frontiers, the President of the United States be, and he is hereby, authorized to call for and accept the services of any number of volunteers, not to exceed in all four regiments, of seven hundred and forty privates each; the same, or any portion thereof, to be organized into mounted regiments or infantry, as the President may deem proper, to serve for the term of eighteen months from the time of their being received into service, unless sooner discharged by the President. Said volunteers, if called for and received as mounted men, shall be constituted in the same manner as is provided in the first section of this bill for the Texas regiment of mounted volunteers, and shall receive the same pay and allowances, and, except the appointment of officers, shall be subject to the same rules and regulations as are provided in this bill for said corps; and if called for, and if received as infantry, they shall be placed on the same footing, in every respect, with the infantry regiments now in the service, shall receive the same pay and allowances, and be governed by the same rules and regulations; and the said regiments, whether organized as mounted men or infantry, shall be subject to the rules and articles of war.

"Sec. 5. *And be it further enacted*, That the said volunteers shall not be accepted in bodies of less than one regiment, whose officers shall be appointed in the manner prescribed by law in the several States or Territories to which said regiments shall respectively belong.

"Sec. 6. *And be it further enacted*, That the pay of said volunteers shall not be due until received into the service, but each officer and man shall then be entitled to one day's pay for every twenty miles he may have been required to travel from his residence to the place of muster."

And insert in lieu thereof the following:

"Sec. 4. *And be it further enacted*, That in addition to the present military establishment of the United States, there shall be raised and organized, under the direction of the President, one regiment of dragoons and two regiments of infantry, each to be composed of the same number and rank of commissioned and non-commissioned officers, buglers, musicians, privates, &c., as are provided for a regiment of dragoons and infantry, respectively, under the existing laws, and who shall receive the same pay, rations, and allowances, according to their respective grades, and be subject to the same regulations, and to the rules and articles of war: *Provided*, That it shall be lawful for the President of the United States alone to appoint such of the commissioned officers authorized by this act, below the grade of field officers, as may not be appointed during the present session of Congress.

"Sec. 5. *And be it further enacted*, That the said officers, musicians, and privates, authorized by this act, shall immediately be discharged from the service of the United States

at the expiration of two years from and after the passage of this act.

"Sec. 6. *And be it further enacted*, That the President of the United States be authorized to select such officers of the Army as he may think proper, and assign them to command, with temporary and increased rank, in the regiments hereby authorized, and who, while exercising the temporary rank thus conferred, shall receive the pay and emoluments of the commands to which they have been assigned, and be entitled to no other pay and allowances whatever during the period of said detached service; officers so employed shall succeed to vacancies in their own corps, according to the ordinary rules of promotion, and, if not previously ordered to do so, shall, upon the disbandment of the regiments to which they have been assigned, rejoin their own regiment, corps, troop, or company, as the case may be. The field officers of the regiments herein authorized and provided for shall be selected from the officers of the Army, and appointed by the President, with the advice and consent of the Senate, to temporary commissions, the effect of which will cease and discontinue on the disbandment of the corps to which they may be assigned.

Mr. MAYNARD called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 143; as follows:

YEAS—Messrs. Ahi, Barksdale, Bishop, Bocoek, Bonham, Bowie, Branch, Clemens, Clingman, John Cochrane, Burton Craige, Dimmick, Faulkner, Florence, Gilmer, Goode, Gregg, Hatch, Hawkins, Hopkins, Huyler, J. Glancy Jones, Owen Jones, Keitt, Jacob M. Kunkel, Letcher, Maclay, Millson, Pendleton, Phillips, Pottle, Powell, Russell, Scales, Henry M. Shaw, Singleton, William Smith, Stevenson, George Taylor, White, Whiteley, Winslow, and Wortendyke—43.

NAYS—Messrs. Abbott, Adrain, Anderson, Andrews, Atkins, Avery, Blair, Bliss, Boyce, Braxton, Bryan, Buffington, Burlingame, Burns, Burroughs, Campbell, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Cobb, Cockerill, Colfax, Collins, Cowdore, Cox, Cragin, James Craig, Crawford, Curry, Curtis, Danrell, Davidson, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Dowdell, Durfee, Edie, Edmundson, Elliott, Farnsworth, Foley, Foster, Garnett, Gartrell, Giddings, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Hickman, Hill, Hoard, Horton, Howard, Jewett, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, McKibbin, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Palmer, Parker, Pettit, Peyton, Pike, Potter, Purviance, Quitman, Ready, Reagan, Ricard, Ritchie, Robbins, Royce, Ruffin, Sandidge, Savage, Scott, Searing, Seward, Aaron Shaw, Judson W. Sherman, Robert Smith, Samuel A. Smith, Spinner, Stallworth, Stanton, Stephens, Talbot, Tappan, Miles Taylor, Thayer, Thompson, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Warren, Ellihu B. Washburne, Israel Washburn, Watkins, Wilson, Woodson, Augustus R. Wright, John V. Wright, and Zollicoffer—143.

So the amendment was rejected.

Pending the vote,

Mr. BISHOP stated that his colleague, Mr. ARNOLD, had been called out of the city on pressing business.

Mr. CASE stated that he had paired off with his colleague, Mr. NIBLACK.

Mr. BOWIE stated that Mr. CORNING had paired off with Mr. SHERMAN, of Ohio.

Mr. MOORE stated that his colleague, Mr. SHORTER, had paired off with Mr. WASHBURN, of Wisconsin.

Mr. ENGLISH stated that he was not within the bar when his name was called, being detained at the Departments, attending to the business of his constituents, but that if he had been he would have voted in the negative.

Mr. HOUSTON. I have been desired by Mr. GREENWOOD, to say that on the Kansas bill, and matters pertaining to it, he has paired off till Monday next at twelve o'clock, with Mr. DICK, and on the bill reported by the Committee on Military Affairs, he has paired off with Mr. MOTT.

Mr. POTTER stated that his colleague, Mr. WASHBURN, of Wisconsin, had been called away by sickness in his family, and had paired off with Mr. SHORTER.

Mr. EDIE stated that his colleague, Mr. STEWART, had paired off on Kansas matters with Mr. KUNKEL, of Maryland, for a few days.

Mr. BURNETT. I ask leave to vote, having been absent on the business of the House when my name was called.

Mr. KELSEY. I object.

Mr. BURNETT. If I had been in my seat, I should have voted "ay."

Mr. CHAPMAN asked leave to vote, he having been absent from the House, engaged in other business, when his name was called.

Mr. CLARK, of Connecticut, objected.

Mr. HUGHES stated that his colleague, Mr. NIBLACK, had paired off on political questions with Mr. CASE; and that if he [Mr. HUGHES] had

been in the House when his name was called, he would have voted in the affirmative.

Mr. STEWART, of Maryland, asked leave to vote, he having been absent when his name was called.

Mr. DEAN objected.

Mr. STEWART, of Maryland. Then I desire to say that, if I had been present, I would have voted in the affirmative.

Mr. CLARK, of New York, asked leave to vote, he having been engaged in his committee room when his name was called.

Objection was made.

Mr. BILLINGHURST stated that Mr. Houston and himself, differing on this bill, and being in the committee room when their names were called, had paired off.

Mr. SANDIDGE stated that his colleague, Mr. EVERTS, was detained from the House by indisposition.

The result of the vote was then announced as above recorded.

The question recurred upon ordering the bill to be engrossed and read the third time.

Mr. BONHAM. I would like to ask if it would be in order to introduce the first section of the minority bill, as a substitute for the first three sections of the bill before the House.

The SPEAKER. It would not be in order pending the execution of the order of the House under the main question.

Mr. HUGHES. I move to reconsider the vote by which the previous question was seconded.

Mr. WASHBURN, of Illinois. I move to lay that motion on the table.

Mr. KEITT. I have never known the vote by which the previous question was seconded to be reconsidered; and I raise the question of order, that the motion is not in order.

Mr. HUGHES. I think if I could be permitted to make a single explanation, there would be no objection.

Mr. HOPKINS. I submit that the motion cannot be in order. A second merely cannot be reconsidered.

The SPEAKER. The order of the House having been partially executed, the Chair is of the opinion that the motion is not in order.

Mr. HOUSTON. It is true that the previous question has not exhausted itself; but does the Chair hold that it would be in order to reconsider the seconding of the demand for the previous question at all?

The SPEAKER. That question has not presented itself.

Mr. HOUSTON. If the Chair holds that the second can be reconsidered at all, it can be reconsidered now as well as at any time. If it can be reconsidered at all, it can be reconsidered like any other motion to reconsider.

The SPEAKER. The gentleman must perceive that if the motion to reconsider be entertained, the vote last taken must first be reconsidered.

Mr. HOUSTON. The previous question only serves to bring the House to a direct vote upon the propositions before it. The House has voted upon one proposition before it; but the fact that another remains to be voted on would not prevent the vote seconding the previous question from being reconsidered.

Mr. CLINGMAN. Is debate in order?

The SPEAKER. It is not.

The question was then taken; and it was decided in the affirmative—yeas 128, nays 74; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Billingshurst, Bishop, Blair, Bocoek, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Campbell, Chapman, Horace F. Clark, John B. Clark, Clay, Clingman, Cobb, John Cochrane, Cokerill, Cox, James Craig, Burton Craige, Crawford, Curry, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Dewart, Dick, Dimmick, Dowdell, Edie, Edmundson, Elliott, Florence, Foley, Garnett, Gaultrell, Gillis, Gilmer, Goode, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Hatch, Hawkins, Hickman, Hull, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Macley, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Montgomery, Moore, Edward Joy Morris, Isaac N. Morris, Pettit, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippe, Ward, Watkins, White, Whiteley, Wilson,

Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—128.

NAYS—Messrs. Abbott, Andrews, Bingham, Bliss, Bratton, Buffinton, Burlingame, Burroughs, Chaffee, Ezra Clark, Clawson, Clemens, Colfax, Comins, Covode, Cragin, Danrell, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, English, Farnsworth, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert E. Hall, Harlan, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Matteson, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Murray, Palmer, Parker, Pike, Potter, Pottier, Purviance, Ritchie, Robbins, Roberts, Royce, Judson W. Sherman, Spinner, Stanton, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Ellihu B. Washburne, Israel Washburn, Wood, and Zollcofer—74.

So the bill was ordered to be engrossed and read the third time.

Pending the call of the roll,

Mr. MOTT stated that he had paired off with Mr. GREENWOOD.

Mr. KUNKEL, of Maryland, stated that he had paired off with Mr. STEWART, of Pennsylvania, upon all questions relating to Kansas. If any gentleman on the other side of the House thought this bill had any relation to Kansas, he would decline to vote. ["Vote!" "Vote!"] He voted "ay."

The bill, being engrossed, was read the third time.

Mr. QUITMAN. I demand the previous question upon the passage of the bill.

Mr. HUGHES. I ask the gentleman to withdraw that demand for a moment.

Mr. QUITMAN. I am sorry that I cannot accommodate the gentleman; but I do not feel authorized to do it.

The previous question was seconded; and the main question ordered to be put.

Mr. QUITMAN demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 124, nays 73; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Barksdale, Billingshurst, Bishop, Blair, Bocoek, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Campbell, Chapman, Horace F. Clark, John B. Clark, Clay, Clingman, Cobb, John Cochrane, Cokerill, Cox, James Craig, Burton Craige, Crawford, Curry, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Dewart, Dick, Dimmick, Dowdell, Edmundson, Elliott, English, Florence, Foley, Garnett, Gaultrell, Gillis, Gilmer, Goode, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Hatch, Hawkins, Hickman, Hill, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Jacob M. Kunkel, John C. Kunkel, Landy, Lawrence, Leidy, Letcher, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Millson, Montgomery, Moore, Edward Joy Morris, Isaac N. Morris, Pettit, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippe, Ward, Warren, Watkins, Whiteley, Wilson, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—124.

NAYS—Messrs. Abbott, Andrews, Bingham, Bliss, Bratton, Buffinton, Burlingame, Burroughs, Chaffee, Ezra Clark, Clawson, Clemens, Colfax, Comins, Covode, Cragin, Danrell, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Farnsworth, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert E. Hall, Harlan, Haskin, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Matteson, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Murray, Parker, Pike, Potter, Pottier, Purviance, Ritchie, Robbins, Roberts, Royce, Judson W. Sherman, Spinner, Stanton, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Ellihu B. Washburne, Israel Washburn, Wood, and Zollcofer—73.

So the bill was passed.

Pending the call of the roll,

Mr. AVERY, not being within the bar when his name was called, asked permission to vote.

Mr. DEAN objected.

Mr. AVERY stated that, if he had been within the bar when his name was called, he should have voted "ay."

Mr. ADRAIN, not being within the bar when his name was called, asked leave to vote.

Mr. PHELPS objected.

Mr. ADRAIN stated that, if he had been within the bar when his name was called, he should have voted in the affirmative.

Mr. QUITMAN moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKLY, one of their clerks, informing the

House that the Senate had passed, without amendment, a bill of the House for the relief of Dr. Charles D. Maxwell, a surgeon in the United States Navy;

Also, that the Senate had passed a joint resolution of the following title, in which he asked the concurrence of the House: "A joint resolution providing for the payment of certain expenses for holding the United States courts in the Territory of Utah."

ENROLLED RESOLUTION AND BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled a joint resolution respecting the distribution of certain public documents;

Also, a bill for the relief of Dr. Charles D. Maxwell, a surgeon in the United States Navy; when the Speaker signed the same.

Mr. LETCHER. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CHAFFEE. Is not this private bill day?

The SPEAKER. It is.

Mr. CHAFFEE. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. CLINGMAN. I hope we shall have the committees called for reports of private bills.

Mr. DAVIDSON. The Committee of Claims is a privileged committee. I want to make a report from that committee.

PERSONAL EXPLANATION.

Mr. PHELPS. I have a statement I want to make to the House. I am reported as having the other day introduced a bill for the admission of Kansas into the Union, and comments have been made upon that report. Now, sir, I have introduced no such bill. I suppose the bill introduced by the gentleman from Pennsylvania [Mr. Montgomery] was attributed by the telegraphic reporters to me.

ADJOURNMENT OVER.

Mr. JOHN COCHRANE moved that when the House adjourns, it adjourn to meet on Monday next.

The question was put; and, on a division, there were—yeas 60, nays 70.

Mr. JOHN COCHRANE. I withdraw the motion.

Mr. PHILLIPS. I renew the motion.

Mr. JONES, of Tennessee. I demand the yeas and nays.

Mr. LETCHER. I hope the House will not take the yeas and nays. It is useless to consume the time of the House in that manner.

Mr. CAMPBELL. I wish to suggest that, by unanimous consent, the House shall meet to-morrow, and go into the Committee of the Whole on the state of the Union, for the purpose of general debate. There are many members who desire to make speeches.

Mr. FLORENCE. I hope that course will be pursued, so that those of us who wish to do so, can go to the Departments to attend to our business. That will obviate the necessity of adjourning over.

Mr. PHILLIPS. I withdraw the motion.

Mr. SEWARD. I hope we shall go on with our business, or else adjourn over promptly.

Mr. DAVIS, of Indiana. I move that when the House adjourns, it adjourn until Monday next; and upon that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 125; as follows:

YEAS—Messrs. Anderson, Bishop, Bowie, Bryan, Burroughs, Caskie, Chapman, Ezra Clark, Horace F. Clark, John B. Clark, Clay, Clingman, John Cochrane, Burton Craige, Crawford, Davidson, Davis of Maryland, Davis of Indiana, Dimmick, Elliott, English, Faulkner, Florence, Gillis, Goode, Gregg, Groesbeck, Robert B. Hall, Haskin, Hatch, Hawkins, Hughes, Jewett, Keitt, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Macley, McKibbin, McQueen, Samuel S. Marshall, Miles, Montgomery, Edward Joy Morris, Phillips, Powell, Quitman, Ricard, Ritchie, Rogers, Rufin, Russell, Scott, Aaron Shaw, Robert Smith, William Smith, Spinner, Stallworth, Stephens, Stevenson, Tappan, George Taylor, Ward, Winslow, Woodson, and Augustus R. Wright—67.

NAYS—Messrs. Abbott, Adrain, Ahl, Atkins, Avery, Barksdale, Billingshurst, Bingham, Blair, Bliss, Bocoek, Branch, Bratton, Buffinton, Burlingame, Burnett, Burns, Case, Chaffee, Clawson, Clemens, Cobb, Cokerill, Colfax, Comins, Covode, Cox, Cragin, James Craig, Curry, Curtis,

Danrell, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewar, Dick, Dodd, Dowdell, Edmundson, Farnsworth, Foley, Foster, Garnett, Gartrell, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, Hickman, Hoard, Hopkins, Horton, Houston, Howard, Huyler, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leidy, Leifer, Leicher, Lovejoy, Humphrey Marshall, Mason, Matteson, Maynard, Millson, Moore, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Palmer, Parker, Pendleton, Pettit, Peyton, Phelps, Pike, Potter, Pottle, Ready, Reagan, Robbins, Royce, Sandidge, Scales, Seward, Henry M. Shaw, Samuel A. Smith, Stanton, James A. Stewart, Talbot, Miles Taylor, Thayer, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Warren, Ellihu B. Washburne, Watkins, White, Whiteley, Wortendyke, John V. Wright, and Zollicoffer—125.

So the House refused to adjourn over.

The question recurred upon the motion that the rules be suspended, and that the House resolve itself into a Committee of the Whole on the Private Calendar.

Mr. CLINGMAN. I hope the gentleman from Massachusetts will withdraw that motion for a few minutes, and allow the committees to report private bills.

Mr. DAVIDSON. I hope the gentleman will withdraw the motion, and allow me to move to discharge the Committee of Claims from certain memorials which have been referred to them, and have them referred to another and more appropriate committee.

Mr. CHAFFEE. I will cheerfully do that if I do not lose the floor thereby. If, by general consent, the committees can be called for reports, I cheerfully withdraw the motion.

The SPEAKER. The question then recurs upon the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. DAVIDSON. I ask the gentleman to withdraw that motion.

Mr. LETCHER. I would gladly accommodate my friend from Louisiana, but I want this question tested.

Mr. COVODE. I do not understand that the gentleman from Massachusetts has withdrawn his motion.

Mr. CHAFFEE. I withdrew my motion simply for the purpose of allowing the committees to be called for reports.

Mr. TAYLOR, of New York. I renew the motion of the gentleman from Massachusetts.

Mr. HAWKINS called for tellers.

Tellers were ordered; and Messrs. SAVAGE and BLISS were appointed.

The House divided; and the tellers reported—ayes 70, noes 70.

The SPEAKER voted in the negative.

So the motion was not agreed to.

THE DEFICIENCY BILL.

The question recurred on Mr. LETCHER's motion.

Mr. DAVIS, of Indiana, demanded tellers.

Tellers were ordered; and Messrs. DAVIS, of Indiana, and SMITH, of Tennessee, were appointed.

The House divided; and the tellers reported—ayes 93, noes 30.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Boveck in the chair,) and resumed the consideration of House bill No. 306, to supply deficiencies in the appropriation for the service of the fiscal year ending the 30th of June, 1858, upon which Mr. LETCHER was entitled to the floor.

Mr. LETCHER. Mr. Chairman, knowing the universal anxiety to engage in discussions of an exciting character in this House, I really have felt some hesitation about occupying any portion of the time of the committee in the consideration of the merits of the bill which is now before it; but, sir, on further reflection and consultation with friends, it was deemed advisable that I should at least call attention to some of the more prominent features of the bill, with the various recommendations from the several Departments of the Government, upon which its provisions are based. I propose to do nothing more now; and if I can get the attention of the House, I desire to call attention specifically to each document, so that it will be in the power of every member himself to procure the documents from his box and examine them, and to satisfy his own mind as to the propriety of the passage of this bill. This bill is a bill (No. 306) to supply deficiencies in the appro-

priations for the service of the fiscal year ending the 30th of June, 1858.

The first provision of this bill relates to the compensation of the officers, clerks, messengers and others receiving an annual salary in the service of the House of Representatives. Upon reference to Miscellaneous Document No. 36, of this session, the items which are intended to be embraced in this provision of the bill will be found on page 5, under classification No. 4. It provides for messengers, authorized by resolution of 23d December, 1857, which was the resolution adopted upon the report of my colleague, [Mr. FAULKNER,] in regard to the officers of this House, which made that number of additional messengers necessary, and which demands of us, therefore, that we should provide the means for paying them.

By the same resolution an additional number of laborers was also provided, and the appropriation for that purpose is \$2,000.

"For furniture for Speaker's room, and committee's rooms, Clerk's offices, Sergeant-at-Arm's office, Doorkeeper's room, &c.," \$30,000 more is rendered necessary by the removal of this body into the present building, and their occupancy of the committee rooms in this building.

The next item is an appropriation of \$3,000 for newspapers, which is found necessary to make up the deficiency to that amount in the contingent fund of the House for that purpose. And so with the item of stationery.

Here, then, are five items embraced in the first clause of the bill; and the explanation for each of them will be found in the Miscellaneous Document to which I have referred, and which is accessible to members of the House.

The next item embraced in this bill is to pay the reporters of the House for reporting the debates of the present session in the Congressional Globe. If you will refer to the proceedings of the second session of the Thirty-Third Congress, Congressional Globe, volume 30, page 817, you will find that appropriations for that purpose were made at that time by the House. They were continued during the first and second sessions of the Thirty-Fourth Congress, as can be found by reference to the Congressional Globe, volume 32, page 1916, and Congressional Globe, volume 34, page 801. That item of appropriation is \$800 for each reporter, being \$4,000 for the five.

Then come the items of appropriation in this bill, about which, I apprehend, will be the subject of most controversy in this House—a deficiency for the supply of the Army. For that purpose \$1,200,000 is asked for, under the first clause.

This deficiency has been growing up, as I shall probably have occasion to show in the event of a discussion upon the subject, for some considerable period of time anterior to the coming in of the present Administration. Several quarters, prior to that time, were short, in consequence of a deficiency which had occurred in those previous quarters, in part in consequence of demands upon the War Department in connection with the controversy now going on with the Mormons. It was found absolutely necessary to provide additional means in order to meet the various items of expenditure which are embraced in this clause of the bill. If gentlemen will refer to Miscellaneous Document No. 22, of this House, they will find on the 10th page of that document the reasons stated for this and the other items of deficiency in the War Department, amounting to the sum of \$6,700,000. The Quartermaster General, in the report to which I have referred, states:

"It is ascertained that a deficiency existed at the close of last year, which has been a charge upon the present year of about one million of dollars: in addition to which the extensive operations against the Cheyennes and other Indian tribes, and the extensive arrangements for the operations in Utah, have exhausted the appropriations for the present year so far that there is not a sufficient balance in the Treasury to fill the estimates now on my table for December; and the whole balance in the hands of disbursing officers will not be sufficient for the service for one half of the present month. Appropriations will therefore be required to carry the service through the year, and to make the large outfit for the operations in Utah for the following objects, namely:

For regular supplies, including fuel, forage, straw, and stationery	\$778,000
Mounts and remounts	252,000
Fiscial expenses	190,000
Baracks and quarters	80,000
Army transportation	5,400,000
Making	\$6,700,000

deficiencies, and for the service in Utah, taking the Army

as it is, and limiting the expenditures to operations already determined on, as they have been communicated to me. Should operations be carried on from the Pacific, or should a larger force be sent from this side, an increase in the appropriation in proportion to the increased force will be required."

The gentleman will find, by reference to the bill, the items which make up this \$6,700,000, commence on the second page of the bill, and terminate on the sixth page. And the items which are embraced are predicated on this recommendation of the War Department, as presented in the report of the Quartermaster General and the other officers in charge of the various branches of the public service.

I refer gentlemen also to Executive Document No. 33, and Miscellaneous Document No. 41, for information upon the subject to which I have just been referring.

The next item is under the head of miscellaneous expenses, on the sixth page of the bill. It is:

"For contingent expenses of the northeast executive building, viz: for fuel, light, and repairs, \$1,000."

By reference to Miscellaneous Document No. 23, the reason for this appropriation will be seen. General Cass, the Secretary of State, in asking this sum to supply the deficiency, says:

"I have the honor to state that, in consequence of the increased price of fuel, and the expense of lighting with gas, together with the extensive repairs necessarily made, the annual appropriations for the contingent expenses of the northeast executive building will be insufficient. These appropriations, originally \$3,350 per annum, were, for the fiscal year ending 30th June, 1844, reduced to \$3,300, at which sum they have continued."

"I therefore have the honor to request that the appropriation for the fiscal year ending 30th June, 1858, may be increased to \$4,300; and that an appropriation of \$1,000 may be made for a deficiency in the appropriation for contingent expenses of the northeast executive building for the fiscal year ending 30th June, 1855."

The next item is:

"For the erection of stables and conservatory at the President's House, to replace those about to be taken down to make room for the extension of the Treasury building, \$3,005."

It will be recollected that at the last session of Congress an appropriation of \$20,000 was made for this purpose. After the work was commenced, and had been in progress, it was ascertained that the old stables could not be taken down and the new stables built for the sum of \$20,000; and the Secretary of the Interior, on the report of the Commissioner, (Dr. Blake,) sends in an estimate, asking \$3,905 to pay the amount of bills due to two or three parties. Executive Document No. 42 furnishes full information in regard to the item.

Now, in regard to this matter, I take occasion to say, as I have said heretofore in this House, that I do not very well see how we can get over the paying of balances contracted to be paid to these parties, for work which they have faithfully executed. But it does seem to me that the officers of this Government, when money is appropriated for a specific purpose, if they ascertain that that purpose cannot be accomplished for the sum appropriated, should not undertake to apply any portion of it till they come to Congress, report the sum deficient, and ask the House to provide the full amount of means necessary for the purpose. But, in this case, these parties, who are mechanics about the city, have faithfully executed their contract. These bills are outstanding and due to them, and it is not their fault that they have been contracted with and that their labor has been performed.

A MEMBER. Who made the contracts with them?

Mr. LETCHER. They were contracted with by the Commissioner of Public Buildings, Dr. Blake. It is proper they should be paid.

The next item is a pretty large one. It is:

"For surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, being the amount of surveying liabilities incurred by the surveyor general during the fiscal year ending 30th June, 1857, over and above that authorized under the appropriation of \$50,000 for that period, \$20,000."

At the last Congress, I believe, \$50,000 was appropriated for this purpose; but the surveyor general, then in office, not confining himself to the amount of money appropriated for the purpose, continued his surveys on a large scale, and contracted debts with surveying parties and others to the extent of \$20,000, which is now asked for to discharge the obligations which he thus

incurred. The Government disapproved of his course, and he was not reappointed to office, or perhaps he was dismissed before the close of his term. I am not sure about that; but I know that, if he was not dismissed, the President declined to reappoint him, and that he has gone out of office in consequence, as I understand, of his having incurred these liabilities exceeding the appropriation made by Congress for the service committed to his charge. The Secretary of the Interior recommends this appropriation in Executive Document No. 41. He says:

"In the estimates of this Department, submitted to you with my letter of the 7th of November last, was an item (\$220,000) for surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, being the amount of surveying liabilities incurred by the surveyor general during the fiscal year ending June 30, 1857, over and above that authorized under the appropriation of \$50,000 for that period."—(See printed estimates, pages 119 and 150.) As this item appears not to have been included in the estimates communicated by you to Congress at the opening of the present session, I have the honor now to invite your attention thereto, and to request that the oversight may be corrected."

The next item is:

"For payment to clerks temporarily employed in the Post Office Department, on account of the extraordinary labors connected with the lettings of new contracts for the term commencing on the 1st July, 1858, \$3,311 89."

The explanation of this item will be found in Executive Document No. 51. The Postmaster General states, as the reason for asking this sum:

"In the first place, the advertisement of three thousand two hundred routes had to be prepared; then these routes, with the names of all the post offices supplied, must be carefully registered, for which purpose fifteen folios are required. After the time for receiving bids expire, they must all be indorsed, carefully examined, and recorded—numbering many thousands. Then separate acceptances are sent for each route, and duplicates filed. Duplicate contracts must also be prepared and sent out, making six thousand four hundred, which, upon being executed, are all again examined and recorded. And all this work must be done by the 1st of July, in addition to the ordinary current business, which is sufficient to occupy the regular force of the Department."

The next item is a sum of \$1,469,173, to supply deficiencies in the revenue of the Post Office Department for the year ending June 30, 1858.

I refer gentlemen to Executive Document No. 43, for information on this subject. On the second page of that document will be found a statement which shows the revenues and expenditures of the Department, and which shows the precise balance that is embraced in this item of the bill.

The Postmaster General says:

"The aggregate sum appropriated by the act of Congress, approved March 3, 1857, (Statutes, third session Thirty-Fourth Congress, p. 188,) for the regular expenditures of the Department for the fiscal year ending June 30, 1858, exclusive of the transportation of foreign mails, of payments for foreign postages, and to letter carriers, was \$11,173,247 00

For transportation of the mails across the Isthmus of Panama, Statutes, third session Thirty-Fourth Congress, p. 249.....	135,000 00
For the transportation of the mail between Charleston and Havana, Statutes, third session Thirty-Fourth Congress, p. 249....	50,000 00
For the transportation of the mails between New York and Havre, and New York and Bremen, under the new contracts authorized by the acts of July 2, 1856, section 83, Statutes, vol. 5, p. 86, and March 3, 1845, Statutes, vol. 5, p. 748, a sum not exceeding.....	230,000 00
For payments to letter carriers, act March 3, 1851, section 10, Statutes, vol. 9, p. 591; estimated at.....	165,000 00
For payments for foreign postages, act 16th September, 1850, Statutes, vol. 9, p. 461; estimated at.....	300,000 00

Total of expenditures..... \$12,053,247 00

"The means relied upon to defray the foregoing expenditures consist of—

1. The balance standing to the credit of the Department on the Auditor's books on the 1st of July, 1857..... \$1,163,886 00
2. The estimated gross revenue of 1858, including foreign postages and receipts from letter carriers..... 7,795,188 00
3. Balances of appropriations remaining in the Treasury subject to the requisition of the Postmaster General.... 1,625,000 00

10,584,074 00

"Estimated deficiency year ending June 30, 1858..... \$1,469,173 00

"Since this Department has been made to depend upon the Treasury for a portion of the means necessary to defray its expenditures, it appears to have been the practice in estimating for the deficiencies of a coming fiscal year, to ask only for an amount deemed sufficient to pay expenses until the meeting of the next session of Congress, and then to

submit an estimate for such further sum as the service of the year may be found to require. Following this rule, the sum of \$2,500,000 was asked for and appropriated for deficiencies in the year ending June 30, 1858, Statutes, third session Thirty-Fourth Congress, p. 189; and the estimate now presented is for the means which will be needed for the remainder of the year."

The last item of this bill, I have no doubt, will give rise to a good deal of objection, and probably a good deal of controversy, when this bill comes to be considered by sections. It is this:

"Sec. 3. And be it further enacted, That the accounting officers of the Treasury be authorized and directed to allow credit to the Clerk of the House of Representatives for such payments out of the contingent fund as have been or may be made under the authority of the House of Representatives, during the last Congress: *Provided*, That said allowances shall have been duly approved by the Committee of Accounts: *And be it further provided*, That said allowances be paid out of any moneys in the Treasury not otherwise appropriated."

Just here, before it escapes me, I will remark, that when this section comes up, I propose to move to strike out the words, "allowances authorized by the House of Representatives," and to insert "resolutions passed by the House of Representatives;" and to strike out the word "allowances" where it occurs afterwards, and to insert "resolutions."

My reason for this is, that I am inclined to think, from an examination of the facts in connection with the matter, that the chairman of the Committee of Accounts of the last Congress, not by virtue of any resolutions passed by this House, or laws passed by Congress, seemed to have considered it his duty and his right to pass upon all accounts presented to the committee. He did pass upon such allowances as I have mentioned, which were subsequently paid by the Treasury. I come to this conclusion from an examination of the reports on the finances of 1856-57.

It will be recollected that, at the close of the last session of Congress, sundry resolutions were passed giving compensation to various officers and various employes about the House, some specific and some general. These resolutions, numbering some four or five, embraced different classes of employes, to whom was given twenty per cent. extra compensation. Now, sir, while I do not know the fact, I say, from the best information I can get, from an examination of the statements made in the reports of the Secretary of the Treasury, that there are some allowances here made, which are not justified by any resolution which has passed this House, or by any law which has passed Congress. I notice here, in the first place:

"For additional compensation for settling and adjusting the outstanding bills under the book resolution, found on file in the office which belonged to my predecessor, \$750."

Now I find that wherever an allowance is made under a resolution of the House or law of Congress, the authority is always referred to specifically by its date in the statement which precedes the receipt. In this case, I find no such reference, either to the law or to the resolution of the House directing the payment of this money out of the contingent fund, or any other fund to which it is chargeable. This is only my conclusion. I do not know how the facts may be; but, from the information I have, I think I am warranted in drawing this conclusion from the manner in which these items are stated in this report. I refer gentlemen to this report from page 82 to page 89, for information on this subject. Now in the very next item for Mr. Barclay, it reads:

"For compensation allowed by the resolution of the House of Representatives of March 3, 1857, \$5,706 97."

But in the next item, there is no resolution referred to. Then I refer to the item for Mr. Ingram:

"For services as clerk to the Committee of Accounts of the Thirty-Fourth Congress, \$650."

Now, sir, there is no law or resolution authorizing the Committee of Accounts to pay Mr. Ingram for this service.

Then is an item for Mr. John Bailey:

"For compensation for additional service as clerk in the office of the House of Representatives of the United States, twenty-five dollars a month, from the 1st of May, 1850, to June 30, 1853, being thirty-eight months, \$950."

Now, sir, I see no reference to any resolution or law authorizing this money to be paid; nor have I been able to find any resolution or law of Congress which authorizes the payment of this money to Mr. Bailey. I understand he is a mere assistant clerk in the Clerk's office, and entitled to no additional compensation for any services.

Now, sir, unless I can get some information which shall satisfy me that these allowances were properly made, I cannot vote to give them credit for these allowances. Now, sir, I know there will be objection upon the part of many of our friends to this section of the bill, but, sir, it strikes me the objection ought to have been made at the time the resolutions were passed in the last Congress giving the extra compensation. I opposed those resolutions; but now I concur with the Secretary of the Treasury in recommending an appropriation for the payment of the parties embraced in the resolutions. Besides these claims, there are, I understand, others which have been authorized by resolution, which have not been paid.

The Secretary says, on the eighty-fifth page:

"There are other claims, as I am informed, which have not been presented, of a similar character."

"A portion of these payments were made under resolutions of the House, directing the Clerk to make them. The others were made under the direction of the Committee of Accounts of the House; all of them were made out of the contingent fund of the House. Upon this statement of facts, the question arises, shall the Clerk be allowed credit for them by the accounting officers of the Treasury in the settlement of his accounts?"

And then again: after going on to examine the various laws now in force, and having satisfied his own mind that those laws prohibited him from allowing the extra compensation provided under these resolutions, the Secretary closes his report in these words:

"The greatest reluctance I have felt in coming to this conclusion arises from the apprehension that injustice may be done to the persons whose claims have thus been recognized, and the officers of the Senate and House, who have acted in good faith in complying with the directions of their respective Houses."

"I have no doubt that these officers have so acted, and in refusing to settle their accounts no imputation is intended to be thrown upon their official conduct."

"In paying these accounts, they have only done what they were required to do, and what long-established usage justified them in doing. Under such circumstances, they should be protected from any loss or injury, and I have no doubt Congress will do it. The accounts must be suspended, however, until the meeting of Congress, when I will recommend the passage of a law authorizing the Department to pass them."

"In this way, these officers can be amply protected, a wise and good law vindicated, and a bad practice corrected."

Mr. MASON. I will ask the gentleman whether he undertakes to say that these have been paid?

Mr. LETCHER. I undertake to say that I have made an inquiry of two I have fallen in with this morning, both of whom say that they have been paid. I undertake to say further, that this record contains, upon its face, the receipt of these parties for the money, and the Secretary of the Treasury avers that these receipts are on file in the Treasury Department.

Mr. MASON. In opposition to that, I have to say this: when I was last in the Committee of Accounts there was a large number of applications from employes of the House asking for the payment of this money, because it had not been paid by the Clerk of the House. In deference to the opinion expressed by the Secretary of the Treasury, that the claims were illegal, we did not pay them. Some had been paid, but the Clerk subsequently deducted the amount paid from the monthly pay. These parties, too, are applicants for repayment.

Mr. LETCHER. Who were they?

Mr. MASON. I do not recollect. The clerk in the Sergeant-at-Arms's office was one. Mr. Buck has also been before the committee for the allowance of his claim. It was rejected. He filed an argument for a reconsideration, but it has not been granted. I understand that the Clerk declined to pay these claims, because he was afraid that if he did so he would lose the amount.

Mr. LETCHER. What was the amount of that of Mr. Buck?

Mr. MASON. It was \$340. I can send to the committee room and get that, and also his argument.

Mr. LETCHER. The gentleman is after a horse of another color.

Mr. MASON. It was under a resolution of the last House, passed on the last night of the last session.

Mr. LETCHER. I refer to the receipts that the Secretary of the Treasury sends here. On page 83, there is a receipt from Mr. Buck for \$43 20, in full of the above account; and that is one of the suspended items.

Mr. MAYNARD. What is the date of that receipt?

Mr. LETCHER. The 31st of March, 1857.

Mr. MASON. All these men made out their accounts and sent them to the chief clerk, accompanied with their receipts. That is the usual way in which the thing is done. They do not get the money then. The Clerk waits until they pass the Committee of Accounts. He did not pay these until that committee acted on them; and he very properly waited for the action of that committee. They have never been indorsed, and they remain in that committee yet. It is considered that the amounts asked for are not legally due to these men. It is only a pretext that the Clerk has paid them, and will lose the amount paid if this appropriation be not granted.

Mr. LETCHER. These accounts I have referred to are certified to by the Committee of Accounts, and they have been paid and receipted for, if there is any faith to be placed in the public documents. Here is "B. B. Thurston, chairman of the Committee of Accounts," attached to each of them, showing that they were allowed by that committee. They were paid by the Clerk after that allowance, and they are now suspended in the Department because the Secretary of the Treasury came to the conclusion that the resolutions under which they were paid were in violation of a previous act then upon the statute-book. They were paid under a resolution of the House, passed when the gentleman from Tennessee [Mr. JONES] and myself were here; and beside that, we came into the last Congress, and neither the gentleman nor anybody else raised a question about it to stop the payment at that time or to prohibit the Clerk from getting credit for the amount. Why is it that the thing is now stirred up? It has been going on ever since I have been here. I have voted against it uniformly. The money has been appropriated, and it has been applied. Why did not these gentlemen raise the question then? Why is it raised now when the Secretary of the Treasury brings it up here for the purpose of enabling him to adjust the accounts of one of the parties who has accounts outstanding in his Department?

Mr. JONES, of Tennessee. I wish to make an inquiry. I understand the gentleman to say that these accounts and receipts have been allowed and are indorsed by the Committee of Accounts. I wish to ask him this question: was there any House of Representatives in existence, or any Committee of Accounts in session in this Capitol, on the 31st of March, 1857?

Mr. LETCHER. There is one allowed on the 7th of March.

Mr. JONES, of Tennessee. Was there a House then?

Mr. LETCHER. There was not.

Mr. JONES, of Tennessee. Was there a Committee of Accounts?

Mr. LETCHER. There was not. Now, as one good turn deserves another, let me ascertain from the gentleman from Tennessee whether he has ever known, in any previous Congress, of allowances being made by the Committee of Accounts after the close?

Mr. JONES, of Tennessee. I do not know of any.

Mr. LETCHER. If they were not made after the close of the Congress, when were they made? Here were the resolutions passed on the last night of the session, when the very last sands of an expiring Congress were running out, authorizing these payments to be made; and if they were not to be allowed then, when were they to be allowed?

Mr. JONES, of Tennessee. I am not asking when they were to be allowed. I asked the gentleman if there was any Committee of Accounts in session at that time?

Mr. LETCHER. I tell him there was not.

Mr. JONES, of Tennessee. Then who allowed these accounts?

Mr. LETCHER. They were allowed by the chairman of the Committee of Accounts, as you can see upon reference to the books—

Mr. HOUSTON. But he was not a member of Congress at that time.

Mr. LETCHER. Yes, sir, who was not a member of Congress at that time.

Mr. RUFFIN. Do I understand the gentleman to say that the Clerk actually paid them?

Mr. LETCHER. I do say he has paid two whom I have inquired of, and I understand that

he has paid all the others. It so appears in this book.

Mr. RUFFIN. Can the gentleman show it?

Mr. LETCHER. Here are the receipts, and the Secretary of the Treasury avers that the receipts are filed in the Treasury Department.

Mr. MASON. They are either paid, or not paid—one or the other.

Mr. LETCHER. Certainly.

Mr. MASON. And the gentleman is either mistaken, or not mistaken.

Mr. LETCHER. Certainly; that is so.

Mr. MASON. The gentleman makes his argument upon the ground that the Clerk will suffer loss unless an appropriation is made to pay them. If the Clerk will not lose, will the gentleman back down from his appropriation?

Mr. LETCHER. Yes, sir; I say so, distinctly and unequivocally. I have no secret here or elsewhere about such matters. If the receipts have been sent to the Treasury Department, and no money has been paid by the Clerk in discharge of them, I say frankly that I will not stand up and ask a single dollar to pay them. And now I ask the gentleman from Kentucky whether it is the fact that they have not been paid?

Mr. MASON. The fact is, that the Clerk will not lose a single dollar, if you do not make an appropriation.

Mr. LETCHER. Where is the evidence of that? I have none. The gentleman says he entertains opinions which would do to bet upon; but still such opinions may be very erroneous opinions, notwithstanding. Now, I would like to know where is the evidence of the fact that these receipts have been taken improperly, and that they have been sent there without any payment having been made?

Mr. MASON. Do not understand me to say that the Clerk has acted improperly.

Mr. LETCHER. If they have been sent to the Treasury Department and filed as vouchers for so much money actually paid, is there nothing improper in it—nothing improper in their remaining there twelve months in that condition? It strikes me there is a very decided impropriety, and that it is calculated to make a very unfair impression upon the mind of the Secretary of the Treasury, in regard to the obligation upon the part of the Government, to indemnify that officer for money disbursed. Well, I want the facts, and the evidence of the facts.

Mr. MASON. I say it is so.

Mr. LETCHER. You say it is so; but the Secretary of the Treasury says otherwise in his report. Show to me in any satisfactory manner that none of this money has been paid by the Clerk of the House of Representatives, and I will not vote to give him a single dollar of it. It is upon the presumption of the action of this House in directing the Clerk to make the payment, and upon the presumption raised by these receipts presented to the Secretary of the Treasury, that I am for allowing to the Clerk the amount which will enable him to square up his accounts. That is my only reason. I am as much opposed, as everybody knows, to extra expenditures and to extra compensation as is the gentleman from Kentucky, or as any member of this House. I have voted against all of them; and I imagine that the gentleman cannot, in the six years I have been a member of this House, refer to a solitary vote which I have given in this Congress, or any preceding Congress, in which I have undertaken to apply any portion of the public money, in the way of extra compensation, to the employees about the House. I do not want to do it now. I disapproved of these resolutions then, as I do now. I voted then as I shall vote hereafter, in the event of such a proposition being presented. And I say now, if the gentleman will furnish the evidence to show that this money has not been paid, and that the Clerk is not liable for a dollar of it, I am ready to go with him, and strike this section from the bill. I am not going to stickle upon words. I want the evidence to show that the money has not been paid. If the gentleman from Alabama, or the gentleman from Tennessee, or any other gentleman, will furnish me with evidence to show that what appears upon the face of this paper, declaring that the Clerk has paid the money, is not true, I will vote to strike out this provision of the bill.

Mr. JONES, of Tennessee. I say to the gen-

deman from Virginia that his side has the affirmative, and he has the men in the Capitol who gave those receipts. There are two of them in the Clerk's desk now. Put them under oath to say whether they have been paid the money or not.

Mr. LETCHER. One of them says he has. [Here the hammer fell.]

Mr. MONTGOMERY obtained the floor.

Mr. REAGAN. I have been trying to get the floor for some time. I understand that there is some sort of a system by which gentlemen are allowed to get the floor. I have been promised it from time to time, but have not succeeded in getting it; and I desire to say that I do not wish to be postponed simply because I am a new member, or because I may not be able to say much to interest the House.

The CHAIRMAN. The gentleman from Texas is out of order. The gentleman from Pennsylvania is entitled to the floor. The Chair will state that he has promised nobody the floor. It is true there are certain rules observed by all Chairmen—one to alternate between the different sides of the House. But if any gentleman takes the floor decidedly before anybody else, no matter who he may be, the Chair will recognize him. Where two or more gentlemen rise about the same time, the present occupant of the Chair will consult various considerations in assigning the floor, which he thinks are based upon just and proper principles.

Mr. REAGAN. I have no objection to the exercise of a sound discretion, but I solemnly protest against the exercise of a power which excludes me from the floor.

The CHAIRMAN. As to any promises that may have been made to the gentleman from Texas heretofore, the present occupant of the chair knows nothing about them. Unless the gentleman rises to a question of order, the Chair rules him to be out of order. The gentleman from Pennsylvania is entitled to the floor.

Mr. REAGAN. I do not rise to a question of order. I only rise to insist that I shall not be postponed for the benefit of other gentlemen. I was upon the floor as soon as the gentleman from Pennsylvania.

The CHAIRMAN. By what right does the gentleman ask the floor if he was upon it only as soon as the gentleman from Pennsylvania? The Chair did not hear him until after he had recognized the gentleman from Pennsylvania.

Mr. REAGAN. I must submit to the decision of the Chair, but I do it with a sense of injustice.

Mr. FARNSWORTH. I was upon the floor as soon as either of the gentlemen, and I would propose a compromise—that both gentlemen retire, and that the floor be awarded to me. [Laughter.]

Mr. REAGAN. If the floor is a matter of privilege, I would like now publicly to enter my name upon the privileged list, for I do desire to speak, and think I ought to have the floor.

Mr. MONTGOMERY. Mr. Chairman, I rise to defend the right of the white man to govern himself. We have frequently, in the past, discussed the question of the right to hold the negro in slavery, but never before has the right of the white man to self-government been disputed. Our forefathers, who framed the Constitution of the United States, made concessions to, and compromises with, the institution of negro slavery as it then existed, and those concessions and compromises the Democracy of the North are willing to abide by and carry out. The terms of partnership arranged by the Federal compact must be faithfully fulfilled by the several copartners. But when any portion of our people demand of us to take from the white man the right of self-government, and to substitute the act of a convention for the will of the people, we, as Democrats, indignantly refuse obedience. No such concession is in the bond of Union.

Conceal it under the most specious pretexts; disguise it by legal quibbles and technical quibbles; yet you never can deceive the people into the belief that you are not attempting to impose a government on the white men of Kansas against which they have protested, and still protest, in every form in which they can legally speak. When we consult the Leecompton constitution itself, we learn that it has never been submitted to the people for their approval or disapproval. We turn from the constitution to the legal authorities of the Terri-

tory; we ask the Delegate on this floor if he approves this instrument; and, in the name of his constituency, he indignantly answers no. We turn to the legally-elected Legislature, recently in session, and they point us to our Journal, on which stands the most solemn protest against this high-handed usurpation. We turn to the people, and learn that a majority of ten thousand have already spoken its condemnation with a voice so loud that it must be heard, and so decided that it cannot be mistaken.

The issue between us and those who contend for the admission of Kansas is radical and fundamental. We contend that the constitution must be the work of the people, express their will, and speak with their authority. On the other side, it is contended, that a convention, no matter how constituted, binds the people by its action. We contend that the people shall rule the convention; our opponents, that the convention is above the people, and that the people must be ruled by its edicts. We contend that although the convention can frame a constitution, it cannot put it in operation against the consent of the people. The advocates for the admission of Kansas contend that the power of the convention, like the power of Parliament, is omnipotent, and that they can frame a constitution and put it in operation, not only without the consent of the people, but against the solemn protest of every man, woman, and child in the Territory. This is the question for consideration; this the issue presented. For the first time in the history of our country has the great principle of self-government been openly attacked; for the first time we are called upon to stand up in the Halls of Congress to defend the right of white men to frame their own institutions and regulate their own government.

It is vain to seek to disguise the issue. It cannot and shall not be done. The question presented for consideration is a plain one. It admits of no equivocation. No ingenuity of argument, no combination of high sounding words will conceal it.

The Lecompton convention either had the power to frame and put in operation a constitution, without the consent, nay, even against the wish of the whole people of Kansas, or it had not. If that convention could impose a constitution on an unwilling people, then Kansas should be admitted. If, on the contrary, that convention was not clothed with this almost omnipotent power over the freedom of the people, then that constitution should be rejected. If the convention had not the power to force the whole constitution upon the people, they had no power to force a part of it upon them. If it is admitted that it was necessary to submit any part of the constitution to the approval of the people, it was necessary to submit all parts of it. The parts of a constitution are all equally important, and if any part is invalid until it has been approved by the people, it is clear that all parts are equally invalid until they have been approved in the same manner. If the power given by the Legislature of Kansas authorized the convention to frame a constitution and put it in operation, it authorized them to put it all in operation; not to put a part in force and leave another part dependent on the will of the people. Either the grant made by the Legislature to the convention "to form a constitution," included and carried with it the power to ratify and put it in force without the consent, or even against the consent, of the people, or it did not. The grant of power was as ample in reference to the slavery clause as it was in reference to any other subject. The convention was clothed either with absolute or with qualified power. If absolute, it was absolute in all respects. If qualified, it was qualified in every respect. I am determined the friends of this Lecompton constitution shall not evade the issue; that they shall be held to the responsibility of the measure they advocate. The people of this country shall understand that you admit Kansas on the principle that the Lecompton convention had power to force a constitution on the people of Kansas, even if every voter in the Territory had opposed it. It will not do for gentlemen to contend that a part of the constitution was submitted to a vote of the people. If the power to put the constitution in operation belonged to the convention, then it gained no additional force by being submitted to a vote of the people, and such submission was an idle ceremony. If, on the contrary,

it was necessary to give validity to the constitution that any part of it should be submitted for the approval of the people, it is an indisputable sequence that it was equally necessary to submit the whole constitution to the people. The argument is, that the power to "form a constitution" carries with it the power to ratify and put such constitution in operation without the consent of the people. The power is not to put one clause, but every clause which the convention may think proper to incorporate, in operation; so that the man who predicates his advocacy of the Lecompton constitution on the submission of a part of the slavery clause to a vote of the people, is acting inconsistently with his own doctrine, for if it was necessary to submit the slavery clause, it was necessary to submit the whole instrument; for the power over the slavery clause was as ample as it was over any other part of it, and no necessity could exist in the one case which did not exist in the other. If the vote of the people gave validity to the slavery clause, the balance of the instrument was invalid, because it did not receive the approval of the people.

The President of the United States, in his very able message, delivered at the beginning of this session, felt the full force of this argument, and attempted to show that there was a distinction made in the Kansas-Nebraska act which rendered it necessary that the slavery clause should be submitted to a vote of the people, whilst the other provisions could be put in force without such submission. The President says:

"In the Kansas-Nebraska act, however, this requirement, as applicable to the whole constitution, had not been inserted, and the convention were not bound by its terms to submit any other portion of the instrument to an election, except that which relates to the 'domestic institutions' of slavery. This will be rendered clear by a simple reference to its language. It was 'not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way.' According to the plain construction of the sentence, the words 'domestic institutions' have a direct, as they have an appropriate reference to slavery. 'Domestic institutions' are limited to the family. The relation between master and slave and a few others are 'domestic institutions,' and are entirely distinct from institutions of a political character."

I think there is not a man on this floor bold enough to follow this interpretation. The "domestic institutions" of a State—what are they? The domestic institutions of a house refer to the internal affairs of such house. The domestic institutions of a State mean its whole internal polity; the home institutions as contradistinguished from those outside relations which States have with each other. The domestic institutions of a State have reference to the internal relations of the citizens of such State to each other, in the same manner as the domestic institutions of a family have reference to the relations which the members of such family bear to each other. When we use the term "domestic institutions" in reference to a family, we confine and limit the meaning of the term to those relations which exist in a family. When, however, we use the words in reference to a State, the meaning is enlarged by the connection, and it embraces the relations which the citizens of such State bear to each other. Used in this sense, a bank is as much a domestic institution as the relation of husband and wife, or parent and child. This is the clear meaning of the terms used in the Kansas-Nebraska act. The term "domestic institutions," as used in that act, had reference to the domestic institutions, not of a family, but of a State; and the domestic institutions of Kansas are the provisions for its government found in its constitution.

If we were to admit that the term domestic institutions referred only to the family relations, it would include a great many things besides slavery; and if the provisions of the Kansas-Nebraska act required the provisions of the constitution of Kansas relating to her domestic institutions to be submitted to a vote of the people, then the Lecompton convention most clearly violated this part of the organic law, for nothing but the slavery clause—and that only in part—was submitted. The President admits that the term "domestic institutions" includes "a few other relations" besides those of master and servant. We all know that it includes a great many more, and those of the highest importance. The relation of husband and wife, parent and child, guardian and ward, are universally admitted to be "domestic institutions," in the most confined sense in which

the terms are ever used. Yet no submission of the legislative power in reference to any of these relations was made. These are the most delicate and important relations which we sustain. Why, then, were they not submitted? The President says the Kansas-Nebraska act required the provisions relating to the "domestic institutions" to be submitted. It was not done; and, therefore, on his own showing the constitution is clearly in violation of the organic act. But it may be argued that I have given a more enlarged significance to the term "domestic institution" than the President did, and that therefore my conclusions are unjust to him. I intend no injustice, and will be guilty of none where I know it, and more especially to our Chief Magistrate, whom I honor and respect. But I do not intend to let this matter pass from me until I have shown that even in relation to slavery, the Lecompton convention has not complied with the President's interpretation of the organic act.

The President contends that it was the duty of the convention to submit the slavery question to a vote of the people. Was this done? If it was not, then the action of the convention is in violation of the law of Congress, and is therefore void. Was the slavery clause submitted to a vote of the people? No one dare contend that it was. The only question submitted to be voted upon was the importation of slaves from places without the Territory. Slavery, as it existed in the Territory, was not only not submitted, but, on the contrary, it was fixed and established, so that all who were slaves at that time, and all their descendants, throughout all time to come, were to be and remain slaves. And not only was this true, but the voter was compelled to vote for this continuance of slavery before he would be allowed to even vote for prohibiting the importation of slaves; for it is to be remembered that the tickets were "For the Constitution," or "For the Constitution without Slavery." The ticket was all the time "For the Constitution"—never against it. "For the Constitution," with all its slavery clauses, was the ticket. Now, if the President's construction is correct, the question of slavery should have been submitted to a vote of the people. Not a part of the question, but the whole question of slavery. Not simply whether any more slaves should be imported, but whether slavery should continue to exist. The law provides that the State is to be admitted with or without slavery, as the people should determine. Notwithstanding this provision of the organic law, slavery was fastened upon them by the Lecompton constitution without their consent, and no opportunity was afforded them to vote on that question. Is this what you define "leaving the people perfectly free to form and regulate their domestic institutions in their own way?" Is this your interpretation of the meaning of that boasted law extending popular sovereignty? Let us examine this question still further.

Not only was the slavery question not submitted, but before the voter was permitted to deposit his ballot on the future importation of slaves, he might be required to take an oath to support the constitution if adopted. He was required to swear to support what he might desire to vote against. The history of the Old World furnishes instances where oaths of allegiance have been required from a conquered people, but never before in our free land has an American citizen been insulted, when he approached the polls to deposit his ballot, with a demand to swear allegiance to a constitution which was not adopted, and which he might not desire to have adopted. If I had been a citizen of Kansas, I would have regarded such a demand an accusation against my patriotism, and an insult to my manhood. I would not have taken it, and I would therefore have been disfranchised. But I will waive the implied charge of treason, which lies in the demand to take such an oath, and which was intended to drive high-minded men away from the polls, and I will take it for granted that the voter was willing to secure his rights by such degradation. The next question is, was the oath one which a man could safely take? Follow me, whilst I examine this question. The first section of the seventh article of the Lecompton constitution reads as follows:

"The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and is as inviolable as the right of the owner of any property whatever."

Is this the declaration of a legal and constitutional truth? Is it true that the right of property in a slave rests on the same foundation as that of a horse or a cow? We are told in that great good Book, that when God had deluged the earth and destroyed the antediluvian race, except Noah and his family, he made a solemn covenant with Noah, as the representative and father of the tribes and nations of men that were to live in the countless ages of future time; a part of which covenant is in this beautiful and impressive language: "And the fear of you, and the dread of you, shall be upon every beast of the earth and upon every fowl of the air; upon all that moveth upon the earth, and upon all the fishes in the sea; into your hand are they delivered." Upon this grand and glorious covenant with the great Creator of the universe, we predicate our title to property in animals—but man is not included. The right to the "beasts of the field, the birds of the air, and the fishes of the sea," is derived from the covenant of the rainbow; and wherever its triumphal arch spans the heavens with its web of brilliant beams, the right of man to such property is acknowledged and respected. This right of property does indeed stand above human laws and constitutions—it comes from Deity; and it will remain above human constitutions as long as the bright bow in the clouds shall gild the heavens "when storms prepare to part."

Now, I will not dispute the right of our southern brethren to their slaves, but that right comes from the local enactment of the State; it is not derived from the law of God, but is the creature of human legislation. The right to hold a slave is a matter of positive enactment, and, being but a human law, can be repealed by the legislative authority of any country where it exists.

I am as willing to carry out the compromises of the Constitution on this subject, in good faith, as any other man. I respect the right possessed by Virginia and all the southern States over slavery, within their limits, and I would not interfere with it. The jurisdiction over the subject is in their hands. But when I am asked to support it as a fundamental truth, that the right to hold a "slave and its increase" is a right above the reach of law and constitutions, I cannot do it. It is not so. There is no statesman who will dare contend for such a doctrine. If it be true, then slavery never can be abolished; and if we admit Kansas into the Union on the Lecompton constitution, slavery must continue to exist there through all time to come. The Legislature cannot abolish it, for it stands above the law. Constitutional conventions cannot overthrow it, for the voter in Kansas is required to swear to support it as "higher than any constitutional sanction." Think of it, my Democratic friends who vote for the admission of Kansas on the Lecompton constitution. You say that it was a fair submission of the slavery question to require a voter to swear to support it as a fundamental truth, that the right of a slaveholder to his "slave and its increase" stands on the same basis as the right of the farmer to his ox. "Go home, if you can; go home, if you dare," and tell your constituents that you supported a constitution which required the citizen to take an oath to support such doctrines before he was permitted to vote, and that you called that a fair submission of the constitution. Yes, go home and tell them that you have forced Kansas into the Union with a constitution which declares slavery above the reach of constitutional prohibition, and that, although the people may change the constitution, they never can abolish slavery, for the right of the master to the "slave and its increase" is higher than all constitutional sanctions. Tell the people who elected you that you have given up all the Territories to slavery; that the slaveowner has the right, according to the Dred Scott decision, to take his slave property into any of the Territories of the Union, and that you have established it as a fundamental truth, that constitutional conventions and Legislatures have no greater power to abolish it than they have to abolish the title of an owner to his ox or his horse. Yes, tell them that slavery is universal, and that they must submit to it.

My Democratic colleagues from Pennsylvania who vote to force the Lecompton constitution on Kansas, go home and tell our people that slavery yet exists in Pennsylvania—that the title to slave

property has been declared by you to be above legislative enactments and constitutional provisions; that the gradual emancipation bill passed by the patriotic and philanthropic fathers of the glorious old Keystone is void; and that slavery yet exists in full vigor in the land of Penn. My northern Democratic friends from the old original thirteen States, if this doctrine is true as enunciated in the Lecompton constitution—and you say by your votes that it is true—then slavery exists in the northern part of the old thirteen States as completely as it does in Alabama or South Carolina. If it is true that constitutions cannot prohibit, nor Legislatures abolish, then slavery is universal, and exists everywhere.

Nor was this all. Not only was the voter required to take an oath to support the clause I have quoted, but the whole constitution. Now, the fourteenth article of the schedule of the Lecompton constitution provides as follows:

"After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention, and if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the Representatives. Said delegates, so elected, shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution; but no alteration shall be made to affect the rights of property in the ownership of slaves."

The Legislature may provide for any amendment they may deem proper, except the right to amend the constitution so that slavery could be abolished and Kansas be made a free State. Slavery is to be fastened upon them forever. Not only was the voter to take such an oath, but every officer of every class and kind who might be elected through all time to come, is required to swear to support this and every other clause of this extraordinary constitution. Will my Democratic friends still contend that the slavery clause was fairly submitted? Let me ask whether there is a northern man on this floor or elsewhere, who would swear to support a constitution which fastened slavery upon the people of Kansas forever, and which prohibits its abolition through all time to come?

But I have not done with this branch of the case. We have been told that the Lecompton constitution is a legal instrument; that it is made in conformity to law, and in obedience to the provisions of the Kansas-Nebraska act? What will my Democratic friends say, when I assure them that not only is this not so, but that the Lecompton constitution not only violates, but actually repeals, the Kansas-Nebraska act? I desire the attention of the committee to this matter; for, of all the infamous devices ever contrived by cunning and unprincipled men to deprive the people of their right of self-government, I consider this the most adroitly arranged and deeply laid. And, here, I must call the attention of members to the dates of these transactions. I will raise the curtain and give them a peep at the actors behind the scenes. The delegates to the Lecompton convention were elected in June—the Legislature had repealed the test oaths—and the intention of the free-State party to vote in October had been openly proclaimed, and was well understood throughout the Territory. The convention assembled in September, and although their labors could have been completed in a week, they appointed committees, and adjourned until the 19th of October.

The object of this long adjournment is obvious to every mind—the convention desired to know the result of that election, as it would demonstrate which party was in the majority in the Territory; they could then see whether it would do to submit the constitution with its slavery provisions to a fair vote of the people. They could also take proper precautions to deprive the free-State Legislature, if that party succeeded at the election, of all power. The October election was held, and the free-State men swept the State, and elected all the officers. Since the organization of the Territory, they had been deprived of all political power; they had been driven from the polls at the first election by armed bands; they were afterwards disfranchised by test oaths, so odious, and so clearly in violation of the Constitution of the United States, that every Democrat on this floor, and

every Democrat in the Senate, voted for Toombs's bill, which declared them void. Now, that party had succeeded in electing their officers at a fair election, and the power to repeal the unjust and oppressive laws of which they complained, was in their own hands. We, as Democrats, rather regretted the result of this election, as it was looked upon as a Republican triumph; but the election was a fair one, and we were perfectly willing to submit. Not so the Lecompton convention. Let me turn the attention of members to the second article of the schedule to the Lecompton constitution. It provides as follows:

"All laws now in force in the Territory of Kansas, which are not repugnant to this constitution, shall continue and be of force until altered, amended, or repealed by a Legislature assembled under the provisions of this constitution."

The free-State Legislature elected in October is thus blotted out of existence. It might assemble and adjourn, but it could not change the laws—its power of legislation was gone. The only way the laws in force on the 7th of November, 1857, could be "altered or repealed," was by a Legislature elected under the provisions of the Lecompton constitution. The October election was treated as though it had never taken place; and the existence of the officers then chosen was completely ignored. Now, permit me to ask, what right did the Kansas-Nebraska act secure to the people? We must answer, the right of electing their own law-makers, and making their own laws. And this right was guaranteed to them so long as they remained a Territory. Now, a legally and fairly elected Legislature has assembled since the 7th of November last; that Legislature has passed many important laws; those laws have been signed and approved by Governor Denver—are now on the statute-book. If you admit Kansas with this Lecompton constitution, those laws are thereby repealed. And the right of legislation secured by the Kansas-Nebraska act is negated and nullified. This, gentlemen, is the constitution which we have been so often and triumphantly told was a legal instrument, made in obedience to that "enabling act," the Kansas-Nebraska bill. This provision, too, the voter was required to swear he would support. My Democratic friends, will you dare to tell me this was a fair submission of the slavery clause, hedged around, as it was, by the most monstrous enunciation of startling principles, which voters were required to swear they would support as an equivalent for the privilege of voting?

The slavery question has never been submitted to a vote of the people. The President says the organic law required such a submission, and, therefore, the Lecompton constitution is not, on his own showing, a legal instrument.

I have run this matter out in detail, for the benefit of that very respectable body of Democrats on this floor who, with the President, base their support of this measure on the submission of the slavery question. Gentlemen, you cannot stand on such a platform. It is too narrow. If you admit that the slavery question should have been submitted, it has not been done; and the failure to do what you say was required under the organic law, should compel you, on your own principles, to oppose the admission of Kansas on the Lecompton constitution. You have two horns of a dilemma. You must either construe the law to mean that the convention had power to force the constitution on the people whether they were willing or unwilling, or you must, with the President, contend, that the organic law, which he construes into an "enabling act," required the submission of the slavery question to a vote of the people. If you take the former, then you give mere delegates despotic power. If the latter, the constitution is in violation of your "enabling act," and is most clearly void. The choice is before you—take which horn you will.

The extraordinary power claimed for the Lecompton convention is derived from the mere election of the delegates. We are told by honorable gentlemen that, by the election of delegates, the people ratify the constitution which the delegates may afterwards form. I must beg to dissent from this monstrous doctrine. At the time of such election no constitution has been formed, and, consequently, none is before the people for consideration. How, then, can they be said to ratify that which is not in existence? The election of delegates determines only who shall be

delegated to draw up a constitution, and nothing more. It settles whether a Democrat or a Republican shall be chosen; or, to apply the rule to Kansas, it determines whether pro-slavery or free-State men shall be delegates. It determines nothing else and nothing more. The constitution which is not in existence is not in issue; its provisions are not known, and cannot be passed upon.

But it is contended that when we delegate the power to a convention to "form a constitution," this includes not only the power to "form," or draw up, the instrument, but also to ratify and put it in force. I regard this as a monstrous doctrine; one that cannot be sustained on any fair and legitimate construction of the terms. To "form a constitution" means to draw up and arrange the provisions of such an instrument in methodical shape. The agents employed are mere clerks or attorneys, clothing the contract between the members of society in legal phrases and set terms of art.

We may gain great light on this subject by first determining upon a proper definition for that technical word constitution.

We hear the term in courts and Congress—in the pulpit and the press; but it is not an easy matter to find a true and exact definition of its meaning. We have in our country a great many kinds of written constitutions; but an exact idea of the import of the word is, perhaps, not very generally had.

Some years since, in the Senate Chamber of the United States, two of the intellectual giants of the last generation struggled for the mastery. They were endeavoring to give a definition to that word constitution. Webster and Calhoun have passed away; but, thanks to the art of printing, their thoughts still live. Mr. Calhoun, in his speech in reply to Mr. Webster, on the 26th of February, 1833, defined the Constitution of the United States to be a "compact" between the several States.

Mr. Webster admitted that the "Constitution was founded on a compact" between the whole people of the United States, and not between the several States as States. I refer to these definitions, not to renew the controversy as to whether our Constitution is a confederation of the people or a compact between the States, but only to show what these enlightened statesmen defined it to be. I have always concurred with Mr. Calhoun in his definition of the term. I think none other could be properly given.

Mr. SINGLETON. I would like to know who it is that the people make the compact with? Who is the other contracting party?

Mr. MONTGOMERY. I will tell you. According to the definition of Mr. Calhoun, the Constitution of the United States was a compact between the States; according to Mr. Webster's definition, it was a compact between the people of the whole country. The gentleman asks whom the people of a State compact with? Why, each man compacts with all the rest. A constitution may be defined to be the compact or contract made by the citizens of a State, each one with all the rest, defining the principles on which the association is to be conducted. The citizens of a district of country agree to form themselves into a body politic; the individual members compact or agree to give up certain portions of their individual rights, to take upon themselves certain burdens in consideration of the mutual advantages of security, protection, and power, which flow from the association.

This is the highest and most important compact that ever has or ever can be made by the race of man. None other is exactly like it or can compare with it in the importance of its objects or the greatness of its results. In every other compact, after the agreement is drawn up, it must be ratified and confirmed by the contracting parties. It matters not how learned the attorney, agent, clerk, or delegate employed to put the contract in form, nor how greatly he may be celebrated for his wisdom and integrity, after he has completed his part of the work the instrument is of no validity, it remains a mere blank until it receives the approbation of the parties.

Is it possible that we will be told the agreement, contract, or compact of a sovereign State does not require as great solemnities as the most trivial agreement between man and man? No, the mere power to draw up a constitutional compact

gives no greater validity to the instrument drawn than is given by contracting parties to a mere clerk who embodies the terms of their agreement in legal form. They are but agreements, unexecuted, until they have received the approbation of the high contracting parties—the one at the ballot-box, the only way in which the people signify their consent; and the other by the signature of the parties. Here permit me to embody the language of "the god-like Webster." Speaking of the Constitution of the United States, he says:

"It is to be remembered that the Constitution began to speak only after its adoption. Until then it was but a proposal, a mere draft of an instrument. It was like a deed drawn up, but not executed. The convention had framed it, sent it to Congress, then sitting under the Confederation. Congress had it transmitted to the State Legislatures, and by the latter it was laid before the conventions of the people of the several States. All this while it was inoperative. It had received no stamp of authority; it spoke no language. But when ratified by the people, then it had a voice, and spoke authentically. Every word in it had received the sanction of the popular will, and was to be received as the expression of that will."

It can matter nothing whether we agree with Mr. Calhoun or Mr. Webster in their definition of the nature of our Federal Constitution; all I desire to show is, that, after it was drawn, it had to be ratified by the contracting parties. It matters not whether it is considered as a compact between the several States, or as a compact between the people of the whole Union, still it was invalid until it had the sanction of the people, whose compact or contract it was.

Mr. SINGLETON. Then I wish to know if it be a compact, unless it be sanctioned and approved by all the people, is it binding on those who refuse to give it their sanction?

Mr. MONTGOMERY. It is a fundamental principle of society that the majority shall rule.

The Constitution of the United States was a compact between the several States, and the States ratified it. A State constitution is a compact between the people of the State, and the people must ratify it. I trust the honorable gentleman from Virginia [Mr. BOGGS] will notice how easy it is to answer his ingenious argument, that the Constitution of the United States was not ratified by the people.

There are several kinds of compacts, but I know of none which does not require the consent of the high contracting parties after it is drawn. Leagues and treaties are both international compacts, yet after the terms of the instrument have been agreed upon, and signed by the commissioners or delegates of the contracting powers, the league or treaty has no validity, until it is approved and sanctioned by the sovereign power of the several nations interested. A constitutional compact is a branch of the same family, but higher in authority and greater in importance. What satisfactory reasons can be urged why delegates cannot bind the nations for whom they compact in leagues and treaties, that will not apply with greater force, and more convincing clearness, to a constitutional compact? I confidently say there is none. The right of the people to ratify their constitution is such an important power, so indispensable to good government, and such a safeguard to national freedom, that I regard it as inalienable.

But it would not weaken my position if I were to admit that the people might delegate away this right; but in such a case, the terms of the grant should be made in the clearest language, and the most unquestionable form. Such a power is never to be derived from mere inference. It could not arise from a grant of the power "to form a constitution." This is clearly shown in the case of the Constitution of the United States. The power was given to the convention "to form a constitution;" yet, the delegates, composed of the greatest men our country ever produced, decided that after the instrument was drawn up, it should be submitted to the people for ratification. I know it may be said that the Constitution of the United States was not submitted to a vote of the people; but it was, under the direction of Congress, submitted to a vote of delegates chosen by the people for that purpose; and the concurring action of the convention and of Congress shows incontestably that they esteemed the power to form, and the power to ratify, as entirely distinct and separate. Nor will it do to say, as the honorable gentleman from South Carolina [Mr. KEITT] did, in his manly and eloquent speech, that State constitu-

tions and the Constitution of the United States are different in character. They are both constitutional compacts, differing slightly in their provisions, but exactly identical in character. Mr. Webster, in the great speech to which I have already referred, says:

"We do not need to be informed in this country what a constitution is. Is it not an idea perfectly familiar, definite, and well settled? We are at no loss to understand what is meant by the constitution of one of the States; and the Constitution of the United States speaks of itself as being an instrument of the same nature."

This is the language of the greatest constitutional lawyer our country ever produced, and I place his opinion against that of the honorable gentleman from South Carolina.

Constitutions may differ in their provisions, but still they are none the less constitutional compacts; and being the basis on which the law-making power rests, are properly called fundamental laws. The power of the Legislature to pass laws must always be in subordination to the warrant of attorney contained in the constitution. The law-making power must act in strict subordination to the limitations of the constitution; and, like all other agents, when they exceed the powers granted, their acts are not binding on the people; hence it is called a fundamental law.

But, beyond this there is no resemblance between a constitution and a law, and the arguments founded on such a resemblance have no solid foundation. The consent of the people to the laws passed by their Legislature is express, and not implied, and is found in the warrant of attorney contained in the constitution, which authorizes the Legislature to pass laws. A law is from its very nature an act of sovereignty. A law is defined to be a rule of human conduct "prescribed by the supreme power of a State." If the Legislature was not supreme their legislation would not be binding, and would want the essential requisite of a law. If the Legislature were to pass a law which was made dependent on the approval of the people for its validity, such law, although afterwards approved by the people, would be void, because the power of legislation must rest with, and be exercised by, the Legislature. Will any one contend, however, that, if a constitutional convention were to make the legal validity of the constitution depend on the approval of the people; it would therefore be void? No man will say so. And therein consists the difference. Legislation is the act of a supreme power, their act is a finality; but a constitutional convention has only the power to draw up the provisions of a compact; but its ratification belongs to the contracting parties—the people. The distinction is clear and obvious, and no unprejudiced inquirer can be misled by reasoning founded on analogies drawn from the acts of a Legislature.

I will conclude my remarks on this branch of the case with the following quotation from the *Federalist*, No. 43. Speaking of the old Articles of Confederation, the writer says:

"Resting on no better foundation than the consent of the State Legislatures, it has been exposed to frequent and intricate questions concerning the validity of its powers; and has, in some instances, given birth to the enormous doctrine of a right of legislative repeal. Owing its ratification to a law of a State, it has been contended that the same authority might repeal the law by which it was ratified. However gross a heresy it may be to maintain that a party to a compact has a right to revoke that compact, the doctrine itself has had respectable advocates. The possibility of a question of this nature proves the necessity of laying the foundations of our national Government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of the consent of the people. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority."

I have thus shown, both by reason and authority, that the constitution framed at Lecompton should have been submitted to a fair and full vote of the people of Kansas.

It is, however, contended that there are precedents where constitutions have been formed and put in operation without submission to the people. It might be a sufficient answer to say, that I have established the rule for which I contend from principle, and precedents can never change principles. Precedents are changed and molded by circumstances; but principles are eternal and unchangeable. But I will admit that instances of this kind may be found, but they prove nothing. In those cases, the people waived their rights, and are estopped by their acquiescence; but the people of Kansas have never waived theirs. The Lecompton

constitution has never been ratified by the people, and they protest against it going into operation until it has been approved. Constitutions have been put in operation in several States without a submission to a vote of the people, but those were cases where the constitution met with the approval of the large body of the people whose contract it was. But I here defy the production of a precedent of a constitution being forced upon an unwilling people, who have repudiated it by every means in their power. When such a precedent can be found, then I will look into it; until then, I desire to hear no more of precedents. But even if we were to consider it as a question to be ruled by precedent, the force of authority is greatly in favor of submission. I think there is not a single State now in this Union whose constitution, either as an original or amended instrument, has not been submitted to a vote of the people. I here give a table, showing the dates at which the constitutions of the several States have been voted upon. I have seen it frequently published in the newspapers, and have never seen it contradicted; and so far as I have any personal knowledge, it is correct:

California.....	November 13, 1849
Connecticut.....	October 5, 1818
Georgia.....	1st Monday October, 1839
Illinois.....	March 7, 1848
Indiana.....	August 4, 1851
Iowa.....	August 3, 1846
Kentucky.....	1850
Louisiana.....	November 2, 1852
Maine.....	1820
Maryland.....	June 4, 1851
Massachusetts.....	1780
Alabama.....	1819
Arkansas.....	January 4, 1836
Delaware.....	December 2, 1831
Florida.....	1839
Mississippi.....	October, 1832
Michigan.....	November 5, 1850
New Jersey.....	August 13, 1844
New York.....	November 2, 1846
North Carolina.....	November 9, 1835
Ohio.....	June 17, 1852
Rhode Island.....	November 21, 1841
Tennessee.....	March, 1835
Texas.....	October 13, 1855
Virginia.....	October 23, 24, 25, 1851
Wisconsin.....	April, 1848
Missouri.....	July 19, 1820
New Hampshire.....	September, 1792
Pennsylvania.....	1838
South Carolina.....	1790
Vermont.....	1850

I have shown that there is nothing in the mere authority "to form a constitution" which authorizes the convention to put such constitution in force, without a submission of the instrument to a vote of the people.

Now the question recurs as to the intention of the people of Kansas when they elected the delegates to the Lecompton convention. It will be remembered that only one party participated at that election. The pro-slavery party in the Territory elected all the delegates. Now, what was their intention? Did they intend that the convention should "form" a constitution, and put it in force without submitting it to a vote of the people? That no such intention was entertained, is incontestably shown, by a variety of circumstances. Previous to the election of delegates, pledges were required by the party from many of the candidates, that the constitution when formed should be submitted for approval or rejection to a vote of the people. Upon these pledges the party voted. Amongst others, Calhoun gave a pledge, that "the constitution"—not a clause or section of it, but "the constitution"—should be submitted to a full and fair vote of the people. I do not refer to these pledges for the purpose of arraigning these delegates for a violation of their plighted faith, as was claimed by my colleague, [Mr. PHILLIPS:] that is a matter between them and the people whom they deluded and betrayed. I merely mention it to show that no party in Kansas ever understood that the constitution should be put in operation without a vote of the people. But I may be permitted to say, in passing, that the man who violated his solemn pledge given to his own party; who betrayed the constituency by whom he was elected, who, if we may rely on the testimony recently taken in Kansas, is a party to the most disgraceful and outrageous frauds ever perpetrated upon a free people, is hardly a fit person to carry the election returns of this distracted Territory in his pocket, and when Kansas has been admitted, give certificates of election to whom he pleases.

In July last, a pro-slavery convention of delegates from all parts of the Territory assembled at

Lecompton. A resolution was offered pledging the support of the party to the constitution which might be formed, whether it was submitted to a vote of the people or not. But a single delegate voted for that proposition in all that large convention, and every other delegate voted against it. Governor Walker, as is well known, was an open advocate of the submission of the whole constitution. That convention called upon him to address them, which he did in his usual clear and convincing style, and when he had closed his remarks the convention indorsed his principles and pledged him their zealous support.

There, now, is the declaration of that party, after the election of delegates, but before the convention assembled at Lecompton, in favor of submitting the constitution to a vote of the people, and an unequivocal indorsement of the course of Governor Walker. Here, then, we learn, that neither party in Kansas ever intended that the constitution should be put in force without it was first approved by a full and fair vote of the people.

Let us now go outside of the Territory and see the opinion entertained on this question by the Democratic party. The Kansas-Nebraska bill, passed by that party, declared as a legal and fundamental truth, "that the people"—not a convention of delegates—but "the people should be left perfectly free to form and regulate their domestic institutions in their own way." The Cincinnati convention, representing all parts of our mighty Confederacy, declared in most emphatic terms, "that we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

This is a recognition, not of the rights of a convention, but of the people, to form a constitution; and, as if in prophetic anticipation of the events which have subsequently occurred, the resolution declares the manner in which this recognized right of the people shall be exercised. It was not only to be the "legally," but "fairly, expressed will of a majority of actual residents."

If we were to believe the statements of gentlemen on this floor, the question is not whether the constitution reflects the will of the "majority of the actual residents," nor whether that will has not only been "legally" and "fairly" expressed in its favor, but simply whether the Lecompton constitution was the work of the convention. The Cincinnati convention thought that the will of the majority of actual residents should be consulted. I think so too. That convention thought that the election at which this will of the people was expressed should not only be a legal but a fair election. I think so too; and in the name of that convention, and by its authority, I demand an investigation into the frauds attending the formation of the Lecompton constitution.

Upon this platform, with this interpretation, we went into the great contest of 1856. The people relied on these solemn pledges and we triumphed. I gave a part of those pledges to the people of my home amongst the hills, hundreds of miles away; that part shall never be forfeited nor violated. I told the companions of my childhood and the friends of my maturer years, that those were the principles of my party, and they confided in me; and although they cannot hear me now, I confidently repeat the declaration in the face of the American Congress. I stand now, as I then stood, on the Cincinnati platform, and contend now, as I contended then, for the inalienable right of the people to govern themselves.

The President of our choice was triumphantly elected on this platform; and deeply impressed with these truths, he said in his inaugural message:

"It is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant [of Kansas] the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved."

This language is too clear to need comment. "It is the imperative duty of the Government to secure to every resident inhabitant"—not to a convention of delegates—"the free and independent expression of his opinion by his vote." Not

a right to speak through delegates, but "by his vote," directly, freely, and independently.

But I must pass on. A Governor was to be appointed to rule the Territory. A southern gentleman, with a national reputation, eminently distinguished for his ability as a statesman, had been selected for this place. General Cass, communicating to Robert J. Walker his appointment, by the direction of the President, gave him the following instructions:

"The regular Legislature of the Territory having authorized the assembling of a convention to form a constitution, to be accepted or rejected by Congress under the provisions of the Federal Constitution, the people of Kansas have the right to be protected in the peaceful election of delegates for such a purpose, under such authority; and the convention itself has a right to similar protection in the opportunity for tranquil and undisturbed deliberation. When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence."

Here, then, we have the interpretation given by the President and his Cabinet to the Kansas-Nebraska law and the Cincinnati platform. The language is not equivocal, doubtful, or conditional; it is not if the convention submit the constitution, but it is undoubting, unhesitating, having in view a fixed event. "When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of voting for or against that instrument." It was not the right of the people to vote on the slavery clause, nor on the "domestic institution," but "for or against the constitution."

Governor Walker accepted the appointment in the following bold, clear, and explicit avowal of his understanding of the requirements of the law and of its interpretation by the President and his Cabinet:

"I understand that you and all your Cabinet cordially concur in the opinion expressed by me, that the actual bona fide residents of the Territory of Kansas, by a fair and regular vote, unaffected by fraud or violence, must be permitted, in adopting their State constitution, to decide for themselves what shall be their social institutions."

Nor is this all. In his inaugural message, Governor Walker put the matter beyond all controversy. No man can mistake it. There is no room for equivocation or denial. The message was published, at the time, throughout the whole length and breadth of the land. It was forwarded to the President, and filed in the archives of the nation with the Secretary of State, and remains there now. The Governor says:

"With these views, well known to the President and Cabinet, and approved by them, I accepted the appointment of Governor of Kansas. My instructions from the President, through the Secretary of State, under date of the 30th of March last, sustain 'the regular Legislature of the Territory' in 'assembling a convention to form a constitution,' and they express the opinion of the President, that 'when such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence.'

"I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress."

The Governor declares his clear conviction that the convention must submit "the constitution," not "the slavery clause," nor any other isolated clause, to a vote of the people. The vote must be "for or against it," not "for the constitution," or, "for the constitution without slavery." The people were to be secured the right to vote against the constitution; and, if this right was not secured, the Governor declares that "the constitution will be, and ought to be, rejected by Congress." If this was not the intention of the President; if he never meant to oppose the admission of Kansas if the constitution was not submitted to a full and fair vote of the people, then was the time to speak. Free-State and other voters might well stand aloof from the election of delegates, confidently relying on this promise of the Chief Magistrate, made through his official representative, that the constitution should be submitted to a vote of the people; and, if not submitted, that it would be rejected by Congress. It is monstrous injustice to the people of Kansas that this declaration should now be repudiated, when their rights under it have been denied. The great Democratic party of the North anchored their hopes for the final and eternal settlement of this angry controversy in the faithful fulfillment

of that declaration. It was what we had always understood as the true interpretation of the Kansas-Nebraska law. We took our stand upon it, and we cannot be driven from it now. Others may abandon the doctrine of popular sovereignty; but I pledged myself to my constituents to adhere to it, and that pledge shall be redeemed.

Governor Walker adhered to this doctrine of submission, and resigned his office rather than desert the principles which he had been instructed to support, and which he had pledged his party to carry out. Secretary Stanton clung to this inalienable right of the white man, and was dismissed from office for his devotion to the people. The author of the Kansas-Nebraska bill insists that its provisions shall be fairly interpreted and honestly carried out, and Douglas is proscribed. Governor Wise, Governor Packer, and the great historian, Bancroft, refuse to strike the flag of popular sovereignty, and they are denounced as renegades. The Democracy of New Jersey, New York, all New England, Ohio, Indiana, Illinois, Michigan, Wisconsin, Iowa, and California, devotedly and persistently adhere to the principles of the Cincinnati platform, and demand that the Lecompton constitution shall be rejected, and they are read out of the party as deserters from the great Democratic army. Thank God, the people of the North are true on this question, and although they may be betrayed and deceived, they will never abandon their devotion to the principles of self-government, nor strike the Democratic flag.

I have thus shown that the Lecompton constitution can be supported on neither principle nor precedent. I have shown that it should have been submitted to a full, fair vote of the people, and that such submission was not had. I have shown that we, as a party, were pledged to this submission by the Cincinnati platform; and that this pledge was recognized by the present national Administration in every act and declaration concerning Kansas, until after the Lecompton convention had refused to submit the constitution to a vote of the people. I have shown all this from the record, and from the constitution itself. I have not gone behind the constitution, but I speak from the record, and by the record. The constitution shows on its face that it never was submitted for adoption by the people. I hope, therefore, I may hear no more about going back of the record.

But even if I were to admit that the election of delegates to a convention conferred on such delegates the power not only to form a constitution, but to force it on an unwilling people, still the Lecompton constitution would not be a legal instrument. Now, I freely admit that, where the people have an opportunity to vote, and a part of them refrain from voting, that they are bound by the action of those who do vote. Nor is it material whether those who refuse to vote are a majority of the people or not. This doctrine is disputed by nobody on this floor, or elsewhere. Yet it has been repeated, by every speaker on the other side of this question, with a triumphant confidence in its power to overthrow the whole opposition to the Lecompton constitution.

Permit me to say, once for all, that no man predicated his opposition to the Lecompton constitution on the refusal of the free-State party to vote—nothing of the kind. Our opposition stands on higher and broader grounds. We say, that if all other reasons should be abandoned, and were we to admit your premises, still you cannot sustain that instrument, because the whole people of Kansas were not represented nor permitted to vote. Nineteen of the thirty-eight counties were not registered—had no delegates apportioned to them, and were not permitted to vote. Some weeks ago we were told by gentlemen on this floor, that a part of these counties were annexed to other counties for election purposes, and it is true that they were so annexed for some election purposes, but not for the election of delegates. No man could vote unless he was registered. No registry was made in nineteen counties, and therefore no votes could be given in those counties; they were all disfranchised. Four of these counties were comparatively old and thickly settled, and gave at the election in October over nineteen hundred votes, nearly as many as were cast at the June election, for the Lecompton delegates, in all the rest of the Territory. The people of Kansas were not permitted to vote for delegates. The sixty delegates

were apportioned amongst nineteen counties; the other nineteen counties had no delegates and no right to vote. It is idle mockery to say that the people of those counties did not desire to be registered. It was the duty of the Legislature to have them registered. All the officers of the Territory, it must be remembered, were appointed by the Legislature; they were not elected by the people, and were not responsible to the people. They were the creatures of the Legislature, and it should have seen that they discharged their duty faithfully.

The question presented is not whether the people voted or did not vote, but whether they had the privilege of voting; and the record shows that they had not. We are asked to decide that one half the counties of the Territory of Kansas can disfranchise the other half, and can elect delegates and force a constitution, not upon themselves, but upon the people of the whole Territory. We are told that the constituent is bound by the act of the representative; but nineteen counties had no representatives. Were they bound? If a portion of the counties of the Territory can bind the rest, where will your principle stop? If one half of the counties of a Territory can act for themselves and the other half, why cannot five or ten counties act for the whole? Such a principle once recognized, then farewell to all free government. Nineteen counties are not represented in the convention, and yet we are told that they are bound without representation, or even the right of representation. If this is not despotism I do not understand the meaning of the term. You tell me that the Lecompton constitution is a legal instrument. What legislative power exists in our Government to deprive the people of representation, and bind them by the act of the representatives of others? If that is legal, then we do not live in a Republic, and our revolutionary fathers braved the dangers of battle in vain. Nor is it an answer to say that the number disfranchised was not large. The principle is the same, whether the number was small or large. If we concede the right to disfranchise two thousand voters in four counties, we concede the principle on which our Government rests. If we can deny two thousand men their rights, we can deny the same to ten thousand, and free government is at an end. Then, if we were to concede to the Lecompton convention the power to form and put in operation a constitution, such constitution could only extend to the nineteen represented counties, and not to the nineteen unrepresented. So much for the legality of the proceeding.

It is claimed, as a kind of an apology for forcing this Lecompton constitution upon the people of Kansas, that the whole constitution, or any of its objectionable features, may be changed at any time by the people. If this were even true, it would furnish but a poor excuse for depriving the people of their rights. If the people possess this power to "make and unmake constitutions" at their will, it belongs to the people of Kansas now, and we cannot deprive them of it. If such an extraordinary, supreme, and inalienable power exists, why deny its exercise at this moment to the people of Kansas? If the people of Kansas had the right to draw up and adopt a constitution, and the power to change or abolish it belongs to them, they have a perfect right to exercise that power now.

The right which is claimed is, that the people who form a constitution have an inherent right to alter or abolish such constitution whenever they determine to do so, even if the constitution provides that it shall not be changed.

Admit this doctrine to be correct, and what becomes of the Lecompton constitution? Let us examine that question. The Lecompton constitution was adopted, as it is claimed, on the 21st of December last. Before that date the legally elected Legislature of the Territory passed a law, submitting this constitution to a vote of the people, to be adopted or rejected, on the 4th of January, 1858; the election was held, and a majority of near ten thousand votes were cast against it. The people abolished it. Now, if they have this right to alter or abolish the constitution, for which the President and a very few southern members contend, the Lecompton constitution has been abrogated and has no legal existence. I cannot conceive the mode in which the ingenious advocates of the admission of Kansas will extricate them-

selves from the difficulties which attend this position. It will not do to contend that the power to alter or abolish only arises after the State is admitted; for if the people have the power to form and adopt a constitution, the right to amend or abrogate it, if it exists, must arise at the same time. There is nothing in the act of admission which gives any power of amendment. All the advantage which they derive from being admitted into the Union is that they are placed on an equality with the sister States. But "the power to frame and regulate their domestic institutions" existed before their admission as full and ample as it does afterwards. And if we construe the Kansas-Nebraska bill into an enabling act, and derive the power to form a constitution from the language I have just quoted, then the word "regulate" can have no other meaning than to change "their institutions" after they have been "formed." They are to be "formed" first, and then "regulated" afterwards. I defy the ingenuity of man to show a reason why this power to alter or abolish a constitution, if it exists, is not possessed by the people as fully before their admission into the Union as a State, as it does afterwards. And if it exists, then the Lecompton constitution has been abolished by the people of Kansas in a legal and formal manner, and in subordination to, and with the full approbation of, the legislative power of the Territory.

If we admit Kansas into the Union, and thus give validity to the Lecompton constitution, can that constitution be changed previous to 1864, or in any other manner than that pointed out in the instrument itself?

I entirely concur with the honorable gentleman from South Carolina, [Mr. KEITT,] that no such power exists.

If the Lecompton constitution is a legal instrument, I have not the slightest hesitancy in saying, that no authority to change it will exist until 1864; and then only in the method pointed out in the instrument itself. If the constitution is a compact, then most clearly the people who made it are bound by its stipulations, and have no power to change it except in the method pointed out in the instrument itself, unless the change were made by unanimous consent of the people. But I am told that there are precedents for such a change. Precedents are of little value where they are in violation of well-settled principles. Where, however, various precedents can be found consistent with each other, and generally acquiesced in, they have almost the force of a law; but where they are contradictory, they lose their importance as elements of proof.

In 1846, the people of New York undertook to change their constitution, in violation of its provisions. Very recently, a case came before the court of appeals, the highest legal tribunal in that State, which involved the validity of one of the provisions of this amended constitution—and the court decided that the limitations imposed on the Legislature by the constitution of 1846 were not binding. So much for that precedent. I am not familiar with one other case which has been quoted, and I therefore will not discuss it.

I have been told that the constitution of Pennsylvania was changed by the people. I admit it; but in that case the constitution of 1790 had no provision prohibiting nor limiting the power of amendment. The constitution of 1790, in the progress of time, had been found defective in many respects. The garment that once fitted the boy was found to be much too small for the full-grown man. Amendments were almost indispensably necessary; and after a great deal of controversy amongst the best lawyers on the subject, a convention of the people assembled at Harrisburg, and a memorial was drawn requesting the Legislature to provide by law for the election of delegates to a convention to amend the constitution. The Legislature passed the law; the delegates were chosen; the constitution was amended; and the amendments agreed upon were submitted to a vote of the people, and ratified.

Now let us apply this precedent to Kansas. In the first place, a convention of the people must be called. Now, will any one tell me what number of members of that convention took the oath at the election on the 21st of December to support the Lecompton constitution? It will be remembered that the constitution provides the manner and fixes the time in which it shall be amended.

After 1864 the Legislature is authorized to submit the question of calling a convention to a vote of the people. Most clearly the intent of the instrument is, that until 1864 no amendment shall be made. Now, every man in the convention, who has sworn to support the constitution, is clearly bound by his oath to oppose any amendment until 1864, and thus may prevent a memorial to the Legislature from being agreed upon. But we will suppose that it does not. When the question is presented to the Legislature, every member of that body has sworn to support the constitution; and, surely, it will not be contended that he supports the constitution when he expressly violates one of its provisions. The constitution provides that the question of amendment shall not be submitted until 1864; if the member votes to submit it at an earlier period he violates his oath. I have heard members say that this oath to support the constitution only means to support it as long as it remains in force; but this does not free us from the difficulty; for, at the time the member of the Legislature is called upon to vote, the constitution is in force. How, then, can the man who votes against its provisions avoid committing perjury? But, for the sake of argument, I will admit that the legislators consent to commit perjury. Now, will some of your constitutional lawyers oblige me by stating the number of votes it will require to pass the bill? After 1864, the constitution provides that it shall require two thirds to pass a bill providing for a vote on this question of amendment. But, previous to that time, what number will it take? Time and experience may demonstrate the imperfections of the constitution; and the older the instrument the smaller should be the number of votes required to change it. Does it require a less number to change the Lecompton constitution previous to 1864 than it would after that period? When gentlemen break loose from all legal restraints in their anxiety to advance a favorite theory, they are sure to be brought up by unforeseen troubles. But I will suppose that the law has been passed. That bill must contain a clause prohibiting the convention from the introduction of any amendment which would "affect the rights of property in the ownership of slaves;" for so the constitution provides, as we have already seen; and no member could refuse to vote for this prohibition in the bill providing for the call of a convention without disregarding his oath.

But I will suppose that the convention is called. It must be remembered that the constitution provides that "every person chosen or appointed to any office under this State, before entering upon the discharge of its duties, shall take an oath to support the Constitution of the United States and the constitution of this State, and all laws made in pursuance thereof," &c. Each of the delegates to that convention must take this oath. I desire to ask how those delegates can observe that oath if they make amendments directly in conflict with its provisions? The constitution prohibits any amendment being made which destroys the relation of master and slave. The President says that the slavery question is the only one in controversy, and the delegate is prohibited from amending the constitution so that it may be abolished. My colleague, [Mr. PHILLIPS,] who destroys constitutional barriers by a breath of air, may do this easily enough; but those who regard the provision of a constitution as binding on the people, might have more trouble. But I will suppose that the amendments are made: what then? Simply this: if there is one single citizen in the State who chooses to object to the amended constitution, he has nothing to do but to carry the question into a court, and the court will decide the whole matter invalid, because the Legislature had no power to provide for amendments until 1864. And here would end this miserable delusion by which men are deceived into the support of the Lecompton constitution.

The object of those who seek to fasten this constitution on the people of Kansas is to permit the minority to rule the majority. The constitution fastens slavery upon the people. That constitution can only be amended by a vote of two thirds of the Legislature; and thus one third of the people will continue slavery against the will and wish of the other two thirds. This trick is too transparent, and no sensible man should permit himself to be deceived by it.

The admission of a State into the Union is a contract between the people of the State admitted and all the other States previously admitted. This contract, like all others, requires the consent of the contracting parties. Congress has no power to force a State into the Union. If a State is admitted as a member of our Confederacy, such admission must be predicated on the consent of the people. She must become a party to our national compact. Now, this is a very simple matter, and can be understood by everybody. Congress cannot force Kansas into the Union without her consent. Nor can such consent be inferred from the adoption of a constitution. A Territory may intend to apply for admission—may form and adopt a constitution, and afterwards it is discovered that it would be detrimental to the best interests of the Territory to apply for admission at that time, and they signify their determination to Congress not to become members of the Union—no one can deny their right to do so. Now, let us apply those plain principles to the case of Kansas; and for the sake of the argument, we will admit that the Lecompton constitution has been regularly adopted. Subsequently to its adoption, the people of Kansas have the question of their admission into the Union submitted to them, and by an almost unanimous vote they determine that they will not be admitted with that constitution. The legally recorded votes of ten thousand men have spoken the disapprobation of that constitution. The Legislature of the Territory have placed on our Journals their solemn remonstrance against the admission of Kansas with the Lecompton constitution. The legally elected representative of the Territory, clothed with her authority, and speaking her voice, stands on this floor, and in her name earnestly protests against this act of usurpation and tyranny upon the rights of her constituency. Admit, then, all you can ask in reference to the Lecompton constitution, and still, unless you override all precedent and act in flagrant, open violation of the Constitution of the United States, Kansas cannot be dragged into the Union like a thief to a prison. She must come, if she comes at all, voluntarily, freely, and with the consent of her people and representatives. She must knock at the door of Congress, and be received into the bosom of the sisterhood of States upon her own petition.

Thank God we live in a land of liberty, and the broad shield of the Constitution is between Congress and the freedom of the people. When Kansas comes into the Union, let it be like a young bride approaching the altar, with light step and buoyant hopes, with her young heart's virgin affections freely bestowed, and the dearest desires of life all centered in the solemn contract which unites her destiny with ours forever. Let her not be dragged in like a beautiful, unwilling orphan, forced by a tyrannical and mercenary guardian into a union she loathes and despises; who approaches the altar with tears upon her eyelids, entreaty upon her lips, and despair in her heart.

But we are told that the people of Kansas are rebellious, and that therefore we should bring them into the Union. I never learned before that admission into the Union was a panacea for lawlessness and rebelliousness. Admission into the Union should be looked upon as a great blessing, and we should be careful to bring into it no discordant elements. If rebellion exists in Kansas, let the rebellious be punished. The President has taken an oath to see the laws faithfully executed; let him look to that matter in Kansas. Can we, because a part of the people of Kansas are rebellious, disfranchise them all, and force upon them, at the point of the bayonet, a government which they have never adopted. If admission to the Union is a remedy for rebellion, why not admit the Mormons, who at this moment have repudiated our authority over them, and have assembled armies to repel all attempts to enforce our laws, and invite us to reason on the field of battle, and to settle our claims by the edge of the sword and the point of the bayonet?

Mr. Chairman, I have no wrongs to right—no grievances to complain of. I am actuated by no sinister motive—impelled to the course I have taken by no impulse of blind passion. I was the early and steadfast friend of Mr. Buchanan, and when others in my own district, who are now claiming to be *par excellence* his peculiar friends, were waging an unrelenting warfare against him,

I was his advocate and defender. When the Democratic thousands were gathering in their might for the great battle of 1856, I was with them and of them, whilst the cold-hearted sycophants who now come here to ask offices and honors, then sat calmly in their houses, and refused even their presence to swell the great Democratic councils assembled under the very shadow of their dwellings. James Buchanan was not worth fighting for then, when a single vote might have determined the result of the election; but now, when he has honors to bestow and offices to grant, these men can come forward to denounce those who fought the battle which made him President.

I have seen the same men, in former years, when the dark spirit of bigotry and intolerance gathered their sworn forces in their secret places and secret dens, fraternizing and encouraging those who were banded for our overthrow. And when the Know Nothing force had swept the land like an avalanche, these men were loudest in their shouts of exultation at our defeat. But I can afford to treat with cold contempt the opposition of those who denounced the immortal Jackson, and who only come into the Democratic party to share its spoils.

I have calmly and patiently investigated this question. I have taken no steps without deliberation and careful reflection. I stand now where I stood in 1856—on the platform reared for us by the grand council of the Democratic party which assembled at Cincinnati. I acknowledge the right of no man, or set of men, to alter or amend that creed until that national council shall again assemble. I have not changed, and I will not permit those who have, to charge me with inconsistency. I have attempted the discharge of my humble duty in a feeble way, with a singleness of heart and a purity of purpose. I would rather have the confidence and respect of those amongst whom I began the journey of life, and who have never wavered in their devotion, nor faltered in my support, than to win the smiles of power or the glittering honors of ill-gotten place. I am now, and have been from the beginning of this controversy, the steadfast and unwavering friend of compromise and conciliation. If I have spoken boldly, it was because I felt deeply. If I have fearlessly laid bare the monstrous deformities of the Lecompton constitution, it was that my fellow members might be the more ready to aid in adopting some honorable and satisfactory scheme by which these unjust provisions might be corrected and adjusted.

I have already introduced a bill which I intend for this purpose. As I intend to discuss my bill hereafter, I propose now only to call attention to some of its prominent features. But before I do this, it may be more satisfactory that I should give my reasons for opposing the amendment now pending in the Senate, offered by the honorable Senator from Ohio, [Mr. PUGH.] That proposition is, that Congress shall incorporate a declaration in the act admitting Kansas, that the people of that Territory have the right to amend their constitution at any time. Now, what is that declaration worth? I say emphatically—nothing. It is a mere opinion of Congress, not worth the paper it is written upon. No court would look at it; it is binding on nobody; and is of advantage to nobody. It will only operate as a delusion and a cheat; be a sort of shelter to those northern Democrats who disobey the will of their constituents by voting for what the people do not approve. It is also intervention; for it attempts to give an interpretation to the constitution of Kansas, which should be, and must be, its own interpreter. There is only one other proposition of compromise matured, so far as I have heard; and that is, to insert a condition in the act of admission securing the right of amendment to the people. That kind of intervention can only be justified on the ground that the right of amendment is inalienable; and that, as the fourteenth section of the schedule of the Lecompton constitution denies this inalienable right to the people of Kansas, that section is therefore anti-republican. And it is certainly true, whatever denies the inalienable rights of the people is most clearly anti-republican; and as the Constitution of the United States guarantees a republican form of government to every State of the Union, that clause in the Lecompton constitution must be stricken out. This proposition is, however, much less objectionable than the other

There is substance in this, for it is a positive condition. I will not stop to examine whether the section in the constitution I mentioned is anti-republican or not. All those who agree with the President must admit that the fourteenth section is an attempt to deprive the people of an inalienable right. I, however, object to the proposition, because the condition, even if it is obligatory, does not secure the power to amend in a practicable shape. The returns of the election for State officers are held in the pocket of a man in whom I have no confidence. No one can certainly predict which party will receive the certificates of election.

The representatives are elected for two years, and the senators for three. If Calhoun declares the pro-slavery ticket elected, of what value is your condition? The Legislature will not pass an act to call a convention, and there the matter ends for years to come. Disguise it as we may, there is hardly a doubt now that the intention is, not only to force a constitution on the people of Kansas which they never adopted, but to place over them rulers and law-makers who were never elected by their votes. The uncertain result, not of the election, but of the future decision of John Calhoun, is the chief obstacle to amicable adjustment of the whole Kansas difficulties. To avoid this my bill has been especially framed. I provide that Governor Denver, an honest man, who has the confidence of all parties, shall be required to call an extra session of the Territorial Legislature, a legally-elected body, whose term of office does not expire until next October, and that the Legislature shall provide for the election of delegates to a convention, who shall assemble at a time and place fixed in the act; and to this convention the Lecompton constitution shall be submitted for amendment. If the convention refuses to amend the constitution it shall go into operation as it is. If, however, the convention propose amendments, such amendments shall be submitted to a vote of the people, in such manner that the several amendments can be voted for or against by each voter separately. Those amendments which have a majority of the votes in their favor, shall be incorporated in the constitution; and from and after the termination of these proceedings, Kansas shall be one of the States of this Union.

This avoids all the clumsy machinery provided for in the Lecompton constitution, and places the representatives under none of the terrors of violating the oaths required by its provisions. This bill is formed in exact conformity to the suggestion of the President, as contained in his late message. The President says:

"The will of the majority is supreme; they can make and unmake constitutions at pleasure. It would be absurd to say that they can impose fetters upon their own power which they cannot afterwards remove. If this is true, they might tie their own hands for a hundred as well as ten years. These are fundamental principles of American freedom, and are recognized, in some form or other, by every State constitution. And if Congress, in the act of admission, should think proper to recognize them, I can perceive no objection to such a course."

This right to alter or amend their constitution, as contended for by the President, is recognized in my bill. It secures the people no right they do not already possess, according to the President's argument, and, therefore, there can be no objections on the grounds that we are conferring extraordinary privileges, and intervening in the affairs of the Territory. There is not the slightest intervention. We do not add to or take from the constitution. We neither interpret its provisions nor fetter it with provisos, but we recognize, in an unquestionable form, the power of amendment, and then leave the people "perfectly free" to amend the constitution or not, at their pleasure. Pass this bill, and in ten days thereafter peace and prosperity will prevail throughout Kansas; and in ninety days her member will fill a seat on this floor. If gentlemen desire a safe, satisfactory, and speedy settlement of the troubles in Kansas, let them help to pass this bill, not because it is mine, but because it is right. It rests on correct principles; does injustice to no section of the Union. It obviates all the difficulties I have pointed out in the Lecompton constitution; it frees us from the charge of forcing a constitution on an unwilling people, and unites and harmonizes all discord in the great Democratic party of the North. Reject this bill, drag Kansas into the Union, and the

most fearful consequences may ensue. Civil war may deluge the Territory with blood, and the brow of the future may grow dark with fearful events, the end of which none living now may see.

Permit me to ask southern members what they hope to gain by forcing on the people of Kansas a constitution which has never received their approbation, and which almost one third of the delegates of the Lecompton convention repudiated and refused to sign? Slavery never can exist long in Kansas. Public opinion, the soil, climate, and productions, all combine to drive it out. You may continue, by the extraordinary provisions of the Lecompton constitution, to fasten it there for a time, but it will eventually die out like a sickly exotic. The violence of the agitation occasioned by the convulsive efforts of the people to cast out the offensive intruder, may shake the foundations of our great Confederacy. Sectional hate and party hostility will destroy the last vestige of that fraternal feeling which should bind together the people of the North and the South. You will break down and destroy that great national party which in all the years of the past has, with its strong arms, held the national Union together.

In the name of that glorious Democracy, let me implore you to pause before it is too late. Think of the hallowed memories which crowd around the past history of that party. There is no event of which we feel proud as a nation, or which excites the admiration of our own or other people, which was not the achievement of a Democratic head or hand. Go to the battle-fields of the Revolution; and as you stand on the sod once crimsoned with the blood of brave and true hearts, remember that the men who fought and died there were the sturdy Democracy of the revolutionary time. Turn to the Declaration of Independence; and as you read its solemn truths, you will remember that its author was the first great apostle of American Democracy. Take up the Constitution of the United States; and as the wisdom, justice, and liberality of its admirable provisions and generous compromises challenge your admiration, the name of James Madison, its Democratic draftsman, will come back with its rich inheritance of fame. Elevate your vision and look abroad over our glorious country—see on the map the contracted limits of the old thirteen States, and behold it now extending from ocean to ocean; and remember that every acre of that vast domain was secured by Democratic wisdom, foresight, and legislation. The broad sweep of the boundless prairie, the swelling hillside, and the mountain summit, are each proud monuments of Democratic wisdom, whilst the

"Meanest rill, the mightiest river,
Roll mingling with its fame forever."

The battle-field is red with Democratic blood shed in defense of our country's honor. The deep sea has heard the roar of Democratic cannon, but has never seen our country's flag go down in equal fight.

Permit me, then, to implore you, with the memory of the past so fresh upon us, that by no act of folly and injustice, by no measure of tyranny and oppression, you stain the hitherto untarnished reputation, and paralyze the power, of that proud old party. Oh! let it stand in the future as it has stood in the past, like a rock in the sea, against which the waves of fanaticism will break in vain. And when we have given the inheritance we received from our fathers to those who come after us, its strength will be unimpaired, its glory unstained, and its freedom unshaken.

Mr. REAGAN obtained the floor.

Mr. CLAY. With the permission of the gentleman from Texas, I move that the committee do now rise.

Mr. COLFAX. I desire to speak, and am willing to speak this evening. I trust, therefore, that the committee will not rise.

Mr. CLAY. I insist upon my motion.

Mr. ADRAIN. I hope the committee will not rise. There are several gentlemen wishing to speak this evening, and I hope the gentleman will go on.

The question was taken; and the motion was not agreed to.

Mr. REAGAN. I do not propose, Mr. Chairman, to discuss the right of the people of Kansas to admission into the Union; nor do I propose to discuss the question as to whether the people of

Kansas have been guilty of frauds or not. It is enough that I feel satisfied that great irregularities have existed with both the contending parties in Kansas. It is enough for me that the result of the action of the people of Kansas before us in the form of a constitution which I deem republican in its character. But I propose rather to speak of the general question of the anti-slavery agitation; regarding this Kansas struggle; as I do, as one of the acts in that great drama. I propose, before I take my seat, if I can accomplish what I desire to accomplish, to meet as plainly as I can and as distinctly as my poor abilities will permit, what I regard as the great paramount issue fairly tendered to the people of the South by an all-pervading and all-controlling sentiment that exists in the free States of the Union.

Gentlemen who represent the free States, the people of the free States, the governments of the free States, have their action controlled, as I humbly conceive, by a set of principles violative of the Federal Constitution, revolutionary in their character, and destructive of the sovereignty and equality of the States. These principles of action of the people of the free States have caused the deepest apprehensions on the part of the people of the South: In view of the new phase of the anti-slavery excitement, resulting from the proposed admission of Kansas, a few of the southern States have, through their Legislatures, taken action. I have the honor to represent, in part, one State which has taken action on this question. The action of the Legislature of my State has been called in question more than once on the floor of this House; but I apprehend that those who have called it in question misapprehend the true character and object of that action, or desire still further to press us to the wall. To this I shall try to call the attention of the committee hereafter. The gentleman from New York, [Mr. BURGESS,] in a speech which he made some weeks since, made allusion to Texas, and to the resolution of the Legislature of that State. I desired then to have replied to his argument, not so much because of any intrinsic merit in the argument, not so much because of anything that was calculated to mislead the minds of members here, as because it was one of that delusive character of arguments resting upon a false basis, which was calculated to urge a fanatical people at the North on to the destruction of our Government.

I shall refer to some statistics before me, in order to reply to those remarks in reference to Texas; and some of them in reference to the South generally.

It was charged by that gentleman that Texas had cost the Union \$200,000,000, and that now Texas proposes to leave the Union unless Congress admits Kansas under the Lecompton constitution. Now where the gentleman obtained his figures that Texas cost the Union \$200,000,000 I am at a loss to know. Why, sir, Texas, after throwing off the power of a despotism which disregarded constitutional liberty, after she had thrown off the fetters which had been intended to bind her from the assertion of her civil and religious liberty, after having stricken down the tyrant who would have enchained her in slavery, and erected a government, and after having passed through the trials of infancy for nine years and more, she came here with three hundred and eighteen thousand square miles of the finest country the sun of heaven ever shone upon, with the finest productions of earth, and with a people who appreciated constitutional liberty—a people who had imbibed the spirit of American independence—a people who had learned its value from suffering from the powers of despotism: they tendered you an empire of three hundred and eighteen thousand square miles of territory without price—without any \$200,000,000.

We surrendered this territory, and we did more than this. We surrendered our national existence; we surrendered our national banner, around which, in its short history, had been thrown a halo of glory unsurpassed by that of any other nation of the same age; we surrendered a territory nearly as large as one half the original thirteen States.

Mr. GIDDINGS. The gentleman certainly does not intend to say that the State of Texas has ever surrendered her lands to the United States?

Mr. REAGAN. Of course I do not say she

surrendered to the United States the fee to the lands. I only intended to say that her national existence was merged in that of the United States. She brought her commerce, her industry, and her resources, and made them a part of the commerce, the industry, and the resources of this Union.

Mr. GIDDINGS. I want to inquire of the gentleman a little further. Has the State of Texas ever contributed one half as much to the revenues of the Government since she came into the Union as she cost the Government?

Mr. REAGAN. I am not prepared to answer the question propounded by the gentleman from Ohio, because I have not attempted to make the calculation. I might answer it in this way: by asking if it is expected that any State shall contribute, as it goes along, the exact amount of expenses which the Federal Government is driven to incur within its limits? Whether the cost of its defense and of the mail facilities for Texas has been greater than the revenues contributed from that State, I am not prepared to say. But, sir, the prospective resources of that State, its advantages in the future to this country, are incalculable.

If, in order to make out the cost of Texas, the gentleman includes the cost of the Mexican war, he must include, on the credit side, the results of that war.

Mr. GIDDINGS. Did not the United States assume the debts of Texas when she came into the Union? If they did, then Texas did not come into the Union costing nothing.

Mr. REAGAN. I beg the gentleman's pardon, but I am a young member of the House, and these interruptions break up the line of my argument.

Mr. GIDDINGS. I beg the gentleman's pardon; I do not wish to interrupt his argument.

Mr. REAGAN. I was proceeding to say that if the cost of the Mexican war is to be charged to Texas, then the results of that war should be placed to her credit. As the result of that war, you acquired California, which, as was stated the other day by one of the members from that State, [Mr. SCOTT] has furnished the city of New York alone, within the last two years, \$74,000,000 in specie. You have that great golden State with 155,980 square miles; that must go to the credit side of this account. You have acquired New Mexico, with 207,007 square miles; which must also go to the credit side of the account. You have acquired Utah, with 269,170 square miles; which must go to the credit side of the account. You have acquired altogether by that war 632,157 square miles of territory, in addition to the territory of Texas; which, if the cost of that war was \$200,000,000, would entitle her to a credit of nearly one hundred and fifty million dollars, being nearly three times as much territory as is included in the State of Texas.

This sort of calculation, indulged in by the gentleman from New York, is designed not to satisfy the House, but to be thrown before the people to excite their jealousy and fanaticism against the people of the South. It is in this point of view I have been led to expose this fallacious argument. I regret the gentleman is not here to hear what I have to say.

Then the gentleman from New York went on to argue that the territory acquired by the United States, since the cession of Florida, in 1819, for the benefit of the South, had cost \$800,000,000; and that three fourths of this amount was paid by the North for southern territory. I was astonished to hear such a statement coming from a member of this House. I do not reply to it now because I believe that it has the sanction of this House, or that confidence is reposed in it by Congress, but because such statements are calculated to mislead the people, and to engender in their minds a prejudice against the South; to create the belief that the people of the North have conferred benefits upon the South which they really have not conferred. When the gentleman made that statement had he so far forgotten the history of his own country? Does he not know that the only territory acquired by the Federal Government since the acquisition of Florida, in 1819, was that of Texas, and that part of northern Mexico which was acquired from Mexico by the treaty of Guadalupe Hidalgo, in 1847. He has already charged us \$200,000,000 for that territory. What a statement to go before the country from a member of this House! The gentleman must have intended

to include the acquisition of Florida, the acquisition of Louisiana, the acquisition of Texas, the acquisition of northern Mexico, and added to these the cost of all our Indian wars. He says that nearly all these wars have been in the South; but I believe that he did have the grace to admit that the Black Hawk war did not occur in the South.

I have taken great pains to look into the statistics on this subject; and I am inclined to give a more liberal construction to the gentleman's statement than he has given it himself. I say that he certainly intended to embrace the acquisition of all territory since the organization of the Government. In the acquisition of Florida and Louisiana, we secured 1,334,531 square miles. By northern Mexico and Texas we acquired 840,955 square miles. This would make all our territorial acquisitions amount to 2,174,486 square miles. Our territory before these acquisitions amounted to 820,680 square miles. So, adding these two amounts together, we find the present territory of the United States to contain 2,995,166 square miles. Of this 2,174,531 square miles of acquired territory we have the slave States of Florida, Louisiana, Missouri, Arkansas, and Texas, containing 457,605 square miles, and the unquestionably free territory of California, Wisconsin, Iowa, Minnesota, Dacotah, Nebraska, Washington, and Oregon, containing 1,070,775 square miles. Then we have in Kansas, and the Indian territory to the south of it, and in New Mexico and Utah, 662,102 square miles, which may become free or slave territory, but which northern men regard as already secured as free territory. If they are right in this, then we have acquired of free territory 1,732,877 square miles, and of slave territory 457,605 square miles, which shows a balance in favor of free territory of 1,275,172 square miles, a larger amount by one half than the size of the original thirteen States. And this is the territory which the gentleman says has cost us \$800,000,000, and which has inured entirely to the benefit of the South. But here, sir, is the fact staring him in the face that the North has more than three fourths of this territory. While this is so, the gentleman comes here and charges that all the money spent for the acquisition of territory has gone for the benefit of the South. Such statements may delude the unthinking and the unlettered fanatic, but they will never mislead the man who calmly reviews the history of the country.

The gentleman goes on to say that \$600,000,000 of this \$800,000,000 has been paid by the free States. Here is another evidence of the exceeding kindness and generosity of my friend's argument. Has he forgotten that the southern imports come through the free-State ports? Has he forgotten that the commerce of the South is building up the commercial cities of the North? Has he forgotten that the patronage of the South has done much to build up the literary institutions of the North? It is building up the manufactures of the North, as he cannot forget. Yet the North avails itself of our patronage; it receives our commerce; has the benefit of our trade to make it rich, and then turns round and insults us because we have made it rich and great and powerful. Is not there something in this, in connection with the issue tendered to us that another slave State shall not be admitted into the Union, which is calculated to make the heart beat quicker, to excite the mind, and to awaken the South from its lethargy to a knowledge of the spirit of equality and independence? Is there not in this that which should demand of us to give a warning to our friends in the North not to press us too far? We know, sir, that our commerce will build up our own cities when you drive us to it. We know that our products will command friendly overtures from every commercial nation upon the globe. We know that, if it comes to that extremity, we have the power to strike down your commerce, to bankrupt your manufactures and in every way to diminish your greatness. We feel a pride in the city of New York. It is our city as well as yours; its commerce is ours as well as yours. We are proud of it because it is the great commercial metropolis of this Union; we are proud of it because, if your fanaticism does not prevent it, it may be not only the commercial mistress of the whole western continent, but of the whole world. It lies with you to say whether it shall be so or not; it is not for me or for the South to decide.

But, sir, we are told that the North has paid

three fourths of this amount; and this is said in view of the fact that nearly all of our imports come through your northern cities. We first give you our commerce; we pay the duties upon that commerce in your cities; and then you, after receiving those duties, as a tax upon our imports, resulting from the vast amount of our exports, have the modesty to turn round and charge the South with the very money which she has paid out to build up your cities, and to defray the expenses of the Federal Government. What a representation to come from a Representative of a proud State! Is that the sentiment of New York? Is that the feeling of New York? Is that the conviction of New York? Is that the passion for fraud and injustice of the proud State of New York? I would go into the gentleman's own district, and take this evidence of injustice to the South, and appeal to his people, to their sense of justice and fair dealing, and ask them to repudiate those sentiments, if not to repudiate the man.

As I said in the outset, it is not my intention to present these arguments for the purpose of refuting them. That refutation is made by the history, by the condition and relations of this country. I would that my remarks could go into the gentleman's district to incite inquiry, and induce them to tell him, when he comes back again—for I think he is a worthy man—not to try to make capital by doing injustice to his fellow-countrymen, by attempting to incite ill blood amongst them, by trying to induce them to think that they have been oppressed and wronged for the benefit of the South. You have the territory, you have the commerce, you have everything; you command the South, and I am ashamed, or rather sorry and ashamed too, to say that the South is but one of your customers; and yet you come here to insult and defy and deride that customer which has made you all rich. I cannot think that such a sentiment prevails in New York, in Pennsylvania, in Massachusetts; nor do I think it prevails even in Ohio.

Now, sir, having disposed of these statistics, I desire, for a moment, to perform a still more painful duty; and I do it because, after a little, I shall have something to say about the position Texas has occupied—something to say in reference to the amendment proposed by the Representative from Chicago [Mr. FARNSWORTH] to the Army bill.

The same gentleman, the honorable gentleman from New York, who presented these statistics, went on to make some other statements; and I allude to them to show that all-pervading feeling which exists to strike down the rights of the South. While I believe my heart is as faithful to this Union, as long as it is a Union under the Constitution, as that of any other man North or South, I want my people to know what sort of feeling is prevailing here, and what sort of feeling pervades the National Legislature; and, so far as my feeble voice and efforts are concerned, they shall know it. I am not one of those who are prepared, by compromises and expedients, to yield up the last hope of my country. No, sir, the issue is tendered boldly, and I call your attention to it. It is tendered in such a way that there is no longer mistaking what that issue is, and if the representatives of the South are worthy of themselves, worthy of the chivalry of the States from which they come, worthy of the confidence of those who sent them here, they will meet that issue, and they will place themselves as distinctly upon the record as gentlemen upon the opposite side have done. I will tell you, before I take my seat, what that issue is. I say we are better prepared for that issue to-day than we will be a year hence, and I wish to meet it upon the very threshold. There is but one way in which men can deal fairly with each other; and that is, to tell the truth, just as it is.

And just here let me say what I ought to say, lest I should be misunderstood. Some gentlemen upon the opposite side have expressed very strong anti-slavery feelings, which perhaps were unpleasant to us; but, sir, I do not come here to speak harshly of those gentlemen at all. The day was, in my opinion, when in the history of the country anti-slavery fanaticism was under the control of the politicians. In that day I would have denounced them. The day has now come, in my humble judgment, when politicians themselves are under the control of the people, and

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

MONDAY, MARCH 22, 1858.

NEW SERIES....No. 76.

when this question is under the control of the people. I believe that those gentlemen who utter these strong sentiments against the South, and against her institutions, who have branded us as infidels, as tyrants, as slave-drivers, and as guilty of almost every crime in the catalogue, are the representatives of the feelings of their constituents, and that they are sustained by the sentiments of the masses of the North. So believing, I prefer to meet the issue by a dignified and equally explicit declaration of the views of the people of the South. And when we have met and compared opinions, let us act as statesmen. Denunciation is unnecessary; epithets and insults are unnecessary. I care nothing about hard words, for, as it is said, they break no bones. It is action, the action of political parties, the action of States, and the results of anti-slavery movements, as developed in action, that we have to meet. So far as I, an humble Representative of the South, am concerned, I shall try to place myself correctly and distinctly on this issue.

The great question now agitating the public mind is whether Kansas shall be admitted into the Union under the Lecompton constitution—a constitution recognizing the existence of slavery. Her admission is resisted on the ground that this constitution does not embody the will of the people of the Territory. But then, when the interrogatory is presented to those who take that ground whether, if all the people of Kansas approved of slavery, and placed it in the constitution, they would vote for her admission, some of them have answered that they would not. Many of them do not like to answer the question, if they can help it, but some have volunteered their answers. Honorable members on this floor, and honorable members in the other wing of the Capitol, declare, that if it was the clear will of the people to have slavery in their constitution, they would have voted against the admission of Kansas into the Union. With what consistency does it come from those who resist the admission of Kansas because her constitution is not the declared will of her people, to say that if the will of the people were clearly expressed in favor of the existence of slavery, they would still vote against her admission? They are ready to trample on the rights of the people in obedience to fanaticism. That is all the answer I want. That illustrates the object of every speech they make. Kansas is not the great question. The great question is, shall another slave State be admitted into the Union? The opponents of the admission of Kansas are determined on their part to carry out that deep and dark and portentous threat made to the nation in 1847, that no other slave State should ever be admitted into the Union. It is that threat that has caused apprehension in the South. It is the fact, that since that threat has been made, the party which made it has grown from a small and unimportant party into a great party, contending for the political mastery of the nation, and well-nigh electing a President of the United States at the last presidential election. I do not like to make an unfortunate prediction; I do not like to predict the misfortunes of the country; but in view of the history of the past, and of the influences that control human actions, that party is sure to give this country a President, if the Union stands; and that President will be elected in 1860.

Therefore let us not blink these facts. Let us not shrink from the truth because it is unwelcome to us. Let us take these facts into consideration, and say what our action is to be. A party that rests on principles destructive of constitutional liberty, destructive of the equality and sovereignty of the States, destructive of the rights of the people, revolutionary in its character, purely sectional in its organism—that party is to elect the next President, if this Government lasts so long. In view of its history, what are we to expect from it?

But I have been digressing; and now I come

back to my line of argument. The gentleman from New York [Mr. BURROUGHS] said in his speech the other day:

"Now, sir, I have not time to-day to present the careful calculations by which I arrive at the fact that the northern fifteen States of this Confederacy have paid three fourths of the entire amount expended for the purchase of these lands. Eight hundred million dollars have been paid in the form of indirect taxes for that purpose."

And again:

"Now, sir, I propose, in a spirit of all kindness, to ask gentlemen who make this charge of sectionalism against us, to tell us where this money—this eight hundred millions—came from? Where did the money come from? I have facts and figures here to satisfy any gentleman where it came from. Look to the importing and tax-paying States of this Confederacy."

Well, I have answered that, and I pass it by. Again, the gentleman says:

"Well, sir, I now come here with the complaint that the northern States have not quite half the territory you of the southern States have; and I say further that our land is not as good as yours."

Well, I have shown that the North has three fourths of the territory, and I will not go over that ground again.

The gentleman further says:

"I expected, when Texas came into this Union, that she would have had the kindness to bear with our section of the Union a little. Twelve years ago, when Texas was young, and needed our help, we bought her lands and fought her battles; but now she has grown to be a Hercules, and says that, unless we admit slavery into Kansas under the Lecompton constitution, she will not live with us any longer. That would be a nice job for her, to get us to expend \$200,000,000 on her account, and then to back out."

I have referred to that before; but I may say here that Texas fought her own battles, and proved herself equal to the emergency, and helped to fight the battles of the United States after her proud empire was annexed to the Union.

The gentleman goes on:

"Texas, I was going on to say, has passed resolutions; I will not say they are defiant, I will not say they are threatening, I will not say that Texas will not come down on us with an avalanche of some sort, if we do not admit Kansas into the Union under the Lecompton constitution. Texas will do—I know not what. Certainly, she has adopted resolutions, and is going to be represented in the southern convention, (if held.) What that southern convention is to do, I do not know."

And again, he says:

"We have got twice the amount of population that you have, and have got but half the quantity of land. This land was bought by the common treasure, North and South; and should be fairly divided. I might rather say that the earth belongs to the people on it; and that no one section has a right to monopolize and keep it to the exclusion of every other class. You have in the single State of Texas territory equal to six times that of the State of New York. On that territory you can support no less than fifteen million human beings. You have got there territory enough for four States, on which there are comparatively no white settlements; and yet you now stand in your place in the Halls of your Legislature and say that you cannot live in the Union with the North unless we consent to let Kansas come in as a slave State."

"I cannot make any comment on this. It does not tally with my notions of justice and propriety, and I believe that when you come back to the sober second thought you will agree with us in our opinion, and you will say that we are entitled to these lands."

I will not comment on this at this moment. It is proper that I should remark here that the resolutions to which the gentleman from New York referred, did not emanate from the Texas Legislature at all. They were resolutions proposed in a State Democratic convention, recommending action upon the part of the Legislature of Texas. That Legislature has acted; but before I refer to their action, I desire to call the attention of the House to some expressions which have fallen from gentlemen on this floor in relation to the Kansas question. The gentleman from New York, [Mr. BURROUGHS,] in a speech made the other day,

"A gentleman now in my eye has several times asked members on my side of the House whether they would vote to admit Kansas as a slave State if it was well ascertained that a majority of her people were in favor of slave institutions. I can answer that question without any difficulty. I would not vote to admit Kansas as a slave State under any possible circumstances, and I place my justification on the ground that that country belongs to the North."

The honorable gentleman from Ohio, [Mr.

TOMPKINS,] in a speech made in this House, used this language:

"I am opposed to the admission of Kansas as one of the States of this Union with her present constitution. The paramount reason is, this constitution establishes and sustains slavery. I shall oppose her admission with her present constitution. It is wholly immaterial to me whether that constitution has been submitted to the people of the Territory for their sanction or not. I will not, at this time, stop to inquire whether it meets the approbation of the present inhabitants. The time was when I would have felt justified in voting for the admission of a State with a slavery constitution, if it was formed out of Territory south of 36° 30' north latitude, that belonged to this Government at the time the Missouri compromise was adopted."

I now quote from the gentleman from Illinois, [Mr. LOVEJOY:]

"What, then, is the source of this moral strife, which at times wears an aspect so threatening and terrific?" "Not the discussion, not the agitation of the subject of slavery, but the existence of slavery itself."

And he denounces, with the greatest bitterness, slavery, and those who sustain it. The venerable gentleman from Ohio [Mr. GIBBINGS] regards and argues this as purely a religious question. I quote the language of his speech made here a few days since:

"Under these circumstances, I have thought that the best service I can render the people on the present occasion would be to analyze the subject which now absorbs the popular mind; and, so far as able, to define the issue now pending before the nation."

"That issue is founded upon fundamental religious truths, which are maintained by one political party and denied by the other."

"Immediately after the last Congress adjourned, the men who wield the judicial and executive powers of Government publicly denied the great primal doctrine of our Government, 'that all men are endowed by their Creator with inherent, equal, and inalienable rights.' They essayed to obliterate the line of demarcation drawn by our patriot fathers between the despotisms of a darker age, and the rights of mankind as understood in this nineteenth century."

He would thus make the Government more a theocracy and the Congress more a place for the settlement of religious dogmas than the disposition of the purely political duties with which they are charged.

I come now, sir, to the resolutions of the Legislature of Texas, which I will read. They are as follows:

"Whereas, there exists, and has existed, a violent determination on the part of a portion of the inhabitants of the Territory of Kansas to exclude, by force, the citizens of the slaveholding States from a just, equal, and peaceful participation in the use and enjoyment of the common property and territory of the members of the State; and whereas, this determination, owing to the state of political feeling in the northern States of the Confederacy, operating upon the Federal Government, may become effectual, and the exclusion perpetual: Therefore,

"Be it resolved by the Legislature of the State of Texas, That the Governor of this State is hereby authorized to order an election for seven delegates to meet delegates appointed by the other southern States in convention, whenever the Executives of a majority of the slaveholding States shall express the opinion that such convention is necessary to preserve the equal rights of such States in the Union, and advise the Governor of this State that measures have been taken for the appointment of delegates to meet those of Texas; and that the sum of \$10,000, or so much thereof as is necessary, be, and the same is hereby, appropriated to pay the mileage and per diem of such delegates, which shall be paid at the rates paid to members of the United States Congress, according to the law in force in the year 1854."

"2d. That should an exigency arise, in the opinion of the Governor, in which it is necessary for the State of Texas to act alone, or by a convention representing the sovereignty of the State, he is hereby requested to call a special session of the Legislature to provide for such State convention."

"3d. That the Governor is requested to transmit copies of these resolutions to the Executive of each of the slaveholding States, and to our members of Congress."

These resolutions were adopted by a vote of 23 to 5 in the Senate, and by the unanimous vote of the House of Representatives.

These resolutions are not defiant, they are precautionary; not aggressive, they look to defense. They comprehend more than Kansas; they look to the whole anti-slavery excitement. They are not merely the reflex of a transient feeling; they look to the decision of a great question, elemental and paramount in its character. They rest upon the Constitution and theory of our Government, and look to the revolutionary principles by which anti-slavery men propose to destroy that Constitution and subvert the Government. They look

to the decision of the question by the nation, of whether the Constitution shall be preserved, of whether the States shall remain coequal sovereign parties of that Constitution; and whether the citizens of all the States of this Union have equal rights in the Territories of the Union. And if these be decided against the South, they look to the decision by the people of the South for themselves of the question of whether they will remain degraded inferiors, bound to the car of destiny of the colossal power of the North, under a violated Constitution, whose guarantees afford them no protection or security; or whether they will preserve their rights, their honor, their equality, and their independence, under a separate government.

I shall not discuss these questions with a view of dodging the real issues, or concealing the dangers which surround us. Honorable gentlemen on the other side speak out, boldly and plainly, their position. We cannot misunderstand them any longer; and we of the South would be unworthy of ourselves and of the people we represent, if we failed to define, with equal clearness and precision, the position we occupy.

Now, sir, I have said that these resolutions were precautionary. They were not adopted as a hasty act. The South has made some flashes and the North has taken advantage of them. Texas, I am proud to say, has taken a position which involves the necessity of consulting with her sister States of the South; not depending upon the action of politicians, but resting on the will of her people; for it is a question which involves the welfare of the whole South. The great issue tendered to us by gentlemen of the North is, that no more slave States shall be admitted into the Union. Kansas is now but a mere pretext for this agitation. Southern men, in my opinion, make a great mistake when they express the opinion that the admission of Kansas into the Union at the present time will prove a finality of this slavery agitation. I have heard of finalities before. I believed, in 1850, that the passage of the compromise measures would be a finality of this agitation, because it decided the great principle of congressional non-intervention with slavery in the Territories.

But if I could have looked forward to what has transpired since that time, I would, for myself, have gone out of the Union before I would have consented to surrender eighty-four thousand square miles of land belonging to Texas to the grasp of anti-slavery men. I was in favor of that compromise, because I thought it would be a finality to the slavery agitation. Experience has shown how delusive are these finalities. And, sir, when the question arose on the passage of the Kansas and Nebraska bill, we were told again that that would be the end of the slavery agitation, by the establishment of the principle of congressional non-intervention with the subject of slavery in the Territories. The proposition was so reasonable, so constitutional, and so perfectly removed every ground for agitation, it seemed to me so just and so right, that again I believed we had found a finality.

But we were disappointed in that just expectation. Agitation goes on, increasing in volume and virulence. We are told now that the control of the Government is to pass from Democratic hands into the hands of a sectional majority. We are warned in advance that we are to have the intervention of the Federal Government against the South. We see the action of northern Legislatures. We see a disregard of the fugitive slave law in many States; it is not universal, I admit. We see that there is a determination to exclude our people from the Territories. We see a determination to resist the admission of any more slave States. We see all this; and do gentlemen suppose, with our convictions of what the Constitution is, and our understanding of the character of the Federal Government, that the States are coequal sovereigns and the Territories common property, that there is no ground for the action of the Legislature of Texas? I think that action is amply justified by the facts, and I am proud that Texas has taken her position boldly. I hope she will never back down from it. We had better meet the issue while we have the power to do so.

All we ask, and it is not much, is to be let alone. Slavery in the States is a domestic institution with

which neither the Federal Government, nor the free States, nor the people of those States, have the most remote connection, except in so far as the obligation rests upon them to carry out the compromises of the constitution. They are not responsible for slavery in the States where it is, and yet some of them complain that the constitution allows it. Some of them denounce the guarantees of the constitution, but say that they have no right to interfere with slavery in the States. If they have not, why this universal assault upon slavery in the States, why these violent harangues, why these denunciations of southern States? Why continue a series of acts which, if they were committed between foreign nations, would be constant cause of war?

The issue tendered us by the North, as presented by them, and as indicated by the representatives in this House and in the Senate, as shown by the action of the northern States through their Legislatures, as shown by the political press of the North, as shown by the platforms and avowed principles of the Republican party, as shown by every index to the political sentiment of that section, is, that no other slave State shall be admitted into the Union. And there can be no doubt that their fixed purpose is to continue agitation until they extinguish slavery in the States.

The issue, as accepted by us, is, shall the Federal Constitution and the sovereignty and equality of the States be preserved, and shall the Territories be recognized as the common property of all the States?

The Republican party stand pledged to maintain their side of this issue, at whatever hazard; and no member of that party dare deny this without endangering his position and influence in his party.

Are we of the South prepared to maintain our side of this issue? This is the question.

For one, I am prepared to pledge myself to maintain it; and, maintaining it, to ride out the storm in the proud ship of State, the Constitution, freighted with all the hopes of the Union; or, failing, to go down with the wreck.

I will conclude by the expression of the belief that, if the people of the South would with one united, defiant, and unfaltering voice, demand their rights under the Constitution, they would receive them at the hands of the North, and the Union would be preserved. But if we continue to temporize and resort to compromises and expedients, the Constitution will soon cease to protect our rights, and constitutional liberty be numbered with the things of the past.

Mr. FARNSWORTH obtained the floor.

Mr. WASHBURN, of Illinois. As my colleague is not in good health, I will, if he will yield the floor for that purpose, move that the committee rise.

Mr. FARNSWORTH. I will yield for that purpose.

Mr. COLFAX. If the gentleman is not ready to go on now, I will speak this evening, with his consent, and he can have the floor for to-morrow morning.

Mr. KELLOGG. If we are to alternate speeches from the different sides of the House, it strikes me that this yielding the floor is not the way to get on.

Mr. STANTON. Is it in order to move that the committee take a recess until seven o'clock?

The CHAIRMAN. As an original question the Chair would rule the motion out of order; but he has been informed that such a motion has been entertained heretofore.

Mr. JONES, of Tennessee. By unanimous consent.

Mr. STANTON. I make that motion.

Mr. JONES, of Tennessee. I object to it.

Mr. WASHBURN, of Illinois. With the consent of my colleague I have moved that the committee rise. I have no objection, however, to a recess, if it be agreed to by others. My colleague is willing to go on with his speech at seven o'clock.

The CHAIRMAN. Is there objection to the motion for a recess?

Mr. DAVIS, of Indiana. I object.

Mr. JONES, of Tennessee. So do I.

Mr. FLORENCE demanded tellers on the motion that the committee rise.

Tellers were ordered; and Messrs. FLORENCE and ADRAIN were appointed.

The committee commenced dividing, when Mr. WASHBURN, of Illinois, said: I withdraw the motion that the committee rise.

Mr. DAVIS, of Indiana. I think the gentleman cannot withdraw the motion when the committee is dividing.

The CHAIRMAN. There has been no decision on the question, and the rule is, that until there has been some decision, the gentleman has a right to withdraw his motion.

Mr. LAMAR. I submit, as a point of order, that the question has been decided. The question was first taken before the tellers were demanded; and the committee is now proceeding to ascertain what that decision is. The committee is voting to ascertain whether the decision was for or against.

The CHAIRMAN. The Chair overrules the point of order on the ground that no vote has been taken, and until the vote is announced the gentleman from Illinois has the right to withdraw his motion.

Mr. QUITMAN. If the gentleman from Illinois will yield to me, I will move that the committee rise, and I will not withdraw the motion.

Mr. FARNSWORTH. I yield for that motion.

Mr. QUITMAN. I move that the committee rise.

Mr. OWEN JONES called for tellers.

Tellers were ordered; and Messrs. BLAIR and HASKIN were appointed.

The committee divided; and the tellers reported—ayes 42, noes 28.

So the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, Mr. BOGOCCK reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the services of the fiscal year ending the 30th of June, 1858, and had come to no conclusion thereon.

ADJOURNMENT OVER.

Mr. CLAY. I move that when the House adjourns, it adjourn to meet on Monday next.

Mr. COVODE. I move that the House adjourn.

The SPEAKER. The motion of the gentleman from Kentucky must be first put.

Mr. STANTON. I call for tellers on that motion.

Tellers were ordered; and Messrs. MORGAN and JOHN COCHRANE were appointed.

The House divided; and the tellers reported—ayes 24.

The SPEAKER. That is not a sufficient number to adjourn over.

Mr. CLAY demanded the yeas and nays.

Fifteen members voted for the yeas and nays.

Mr. FLORENCE demanded tellers on the yeas and nays.

Eleven members sustained the call for tellers.

The SPEAKER. Tellers are not ordered; it requires a particular number to order tellers.

Mr. JONES, of Tennessee. Did not fifteen vote in favor of the yeas and nays on the motion to adjourn over?

The SPEAKER. Fifteen only.

Mr. JONES, of Tennessee. Is not fifteen more than one fifth of those present?

Mr. LETCHER. We have got beyond that point, and we are now upon the question of tellers.

The SPEAKER. The Chair decided that there was not a sufficient number to order tellers. The Chair decides that the yeas and nays are not ordered, from the fact that fifteen is not a sufficient number to order the yeas and nays on this motion, as it requires a quorum to adjourn over, and fifteen is less than one fifth of a quorum.

Mr. CLAY. Does the Chair know whether there is a quorum present or not?

The SPEAKER. The Chair does not.

Mr. CLAY. It is to ascertain that fact that I desire the yeas and nays.

The SPEAKER. There are not enough voting for the yeas and nays in any point of view.

Mr. JONES, of Tennessee. Cannot one fifth of those present order the yeas and nays on any question? It is a constitutional provision.

Mr. LETCHER. I have a point of order to raise upon that. The Chair took the vote upon the call for yeas and nays, and announced that fifteen only had voted for them. Tellers were then called for, and eleven gentlemen rose, and the Chair announced that there were not enough, and then a division was called for.

The SPEAKER. A division upon what?

Mr. LETCHER. A division upon tellers, I suppose. It could not have been upon the question of yeas and nays, for that was passed.

The SPEAKER. The gentleman knows that it requires one fifth of a quorum to order tellers.

Mr. LETCHER. So I say; but the gentleman from Tennessee is raising a question in reference to the yeas and nays. He contends that fifteen members can order the yeas and nays. Now, I say we have passed that question; and now another question has arisen, upon which the Chair has acted.

Mr. JONES, of Tennessee. What was the call for tellers for?

The SPEAKER. Upon the yeas and nays.

Mr. JONES, of Tennessee. And consequently, the question of yeas and nays was not decided; and, if there were fifteen gentlemen in favor of the yeas and nays, they were ordered, if that was more than one fifth of those present.

Mr. COLFAX. I call the gentleman from Tennessee to order. When a motion is pending, which is not itself debatable, no question of order arising out of it is debatable.

The SPEAKER. The Chair does not understand the gentleman as debating it. He is only stating his point of order.

Mr. CLAY. I propose to submit a proposition which, if it is in order, will obviate all this difficulty. The question seems to be, whether there is a quorum present; and, to ascertain that fact, I move a call of the House.

Mr. WASHBURN, of Illinois. I move that the House do now adjourn.

The SPEAKER. That motion is already pending.

Mr. CLAY. I move that when the House adjourns, it adjourn to meet on Monday next.

The SPEAKER. No business has intervened since that question was decided adversely.

Mr. DAVIS, of Indiana. Is it not in order to have a call of the House?

The SPEAKER. The motion to adjourn must be first put.

Mr. FLORENCE demanded the yeas and nays upon the motion to adjourn.

Mr. COVODE withdrew his motion to adjourn.

Mr. CAMPBELL. Many members have business before the Departments which they desire to transact to-morrow. Many others desire to discuss the general policy of the country, and particularly the Kansas question. I propose that, by general consent, we agree to adjourn with the understanding—

Mr. CLAY. I call the gentleman to order.

The SPEAKER. Debate is not in order.

Mr. CAMPBELL. The Committee of the Whole on the state of the Union may take a recess till to-morrow at twelve o'clock; and I propose that the House do now resolve itself into the Committee of the Whole on the state of the Union with that view.

Mr. GROW. I move that the House do now adjourn.

Mr. STEVENSON called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 17; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bingham, Bishop, Blair, Bocoek, Brayton, Horace F. Clark, Clawson, Colfax, Conins, Covode, Cox, Dawes, Dodd, Dowdell, Farnsworth, Foley, Foster, Gartrell, Gilman, Gooch, Grow, Haskin, Hoard, Hopkins, Howard, Huyler, Jewett, George W. Jones, Kellogg, Lamar, Leach, Leiter, Letcher, Moore, Morgan, Morrill, Oliver A. Morse, Mott, Murray, Olin, Parker, Pike, Potter, Quitman, Reagan, Ricard, Robbins, Roberts, Royce, Seales, Searing, Aaron Shaw, Singleton, Robert Smith, Spinner, Stallworth, Stanton, Tompkins, Wade, Waldron, Walton, Ellihu B. Washburne, Winslow, Wortendyke, and John V. Wright—68.

NAYS—Messrs. Bryan, Campbell, John B. Clark, Clay, Cockrill, Davis of Indiana, Dewart, Dimmick, Faulkner, Florence, Groesbeck, Owen Jones, Maynard, Pendleton, Stevenson, James A. Stewart, and Talbot—17.

Thereupon the House (at half past five o'clock, p. m.) adjourned till to-morrow at twelve o'clock, p. m.

IN SENATE.

SATURDAY, March 20, 1858.

The Journal of yesterday was read and approved.

REPORT OF A COMMITTEE.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred a message of the President of the United States, communicating a letter and decree of the Commissioner of the United States in China, made on the 4th of March, 1857, for the regulation of the consular courts of the United States in China, have instructed me to report a resolution declaring that no revision of these regulations is requisite. As the attendance of Senators is quite thin at present, I shall not ask that the resolution be adopted now; but I presume it will be agreed to as a matter of course when a statement is made of its object. It is of some importance that the opinion of the Senate should be expressed as to the propriety of the regulations made by the United States Commissioner.

The resolution was laid on the table for the present.

KANSAS LECOMPTON CONSTITUTION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) to admit the State of Kansas into the Union.

Mr. WILSON. By an understanding among ourselves that we have all entered into in regard to this debate, it was arranged that the Senator from Vermont and the Senator from Rhode Island would speak before to-day, and that I was to speak this morning. I took the floor last evening, but I have concluded to yield the floor to the Senator from Vermont and the Senator from Rhode Island who have not spoken on this subject, and to postpone any remarks I may wish to make, until seven and a half or eight o'clock, after others shall have had an opportunity to be heard.

Mr. FOOT addressed the Senate in opposition to the bill.

Mr. SIMMONS also entered into an argument on the same side.

Mr. BRIGHT sustained the policy involved in the course pursued by the friends of the measure, and urged the immediate admission of the State of Kansas.

The Senate then took a recess until seven o'clock. Upon reassembling,

Mr. WILSON addressed the Senate, chiefly in reply to the speech of Mr. HAMMOND, of South Carolina, on the free labor of the North, which he contrasted with the slave labor of the South.

[These speeches will be published in the Appendix.]

The Senate then adjourned until ten o'clock on Monday morning.

HOUSE OF REPRESENTATIVES.

SATURDAY, March 20, 1858.

The House met at twelve o'clock, m. Prayer by the Rev. A. HOLMEAD.

DEFICIENCY BILL.

Mr. LETCHER. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FLORENCE. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The question was taken on the latter motion; and it was not agreed to.

The question recurred on Mr. LETCHER's motion; and it was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Bocoek in the chair,) and resumed the consideration of House bill No. 306, to supply deficiencies in the appropriation for the service of the fiscal year ending the 30th of June, 1858, upon which Mr. FARNSWORTH was entitled to the floor.

Mr. FARNSWORTH. Mr. Chairman, before proceeding to the subject on which I propose to address the committee this morning, as allusion was made to me last evening by the gentleman from Texas, [Mr. REAGAN,] as having proposed an amendment to the Army bill, in reference to the volunteers of the State of Texas, I wish to say that I did give notice of that amendment in

good faith, with the intention of asking for a vote upon it, it not being in order at that time to offer an amendment; but, the previous question being subsequently seconded, I had no opportunity of doing so. This notice I gave, not with any purpose of injuring the feelings of any gentleman from Texas, but because I had understood, from the resolutions of the Legislature of that State, that that State had taken preliminary steps towards secession from the Union in case Kansas should be admitted under the Lecompton constitution.

Mr. REAGAN. I desire to say that Texas does not desire to secede from the Union; and she only fears that the Union will secede from her.

Mr. FARNSWORTH. Well, if Texas does not intend to secede from the Union—and I do not suppose she does—I am very well satisfied that the amendment was not offered.

In the month of January last, at the city of Moscow, in Russia, there were gathered together a large number of the nobles and great men of that great Empire, at a banquet in honor of the abolition of serfdom in that despotism; and on that occasion, in response to the first toast—"The health of the Emperor"—the respondent said:

"The Emperor has struck at the roots of this evil. The glory and prosperity of Russia cannot rest upon institutions based on injustice and falsehood. The Emperor has ceded this great reform, which he might have accomplished by his own powerful will, by asking the nobles to take the initiative. Let us, then, hail this noble idea, inspired by the sole wish for the welfare of his people, with that enlightened heartiness which may now be expected from Russia."

Thus the strange spectacle is presented of one of the most absolute despotisms which ever existed emancipating its slaves, while the project is hailed with "enlightened heartiness" as a "noble idea" by the nation; whilst at the same time, in this free and enlightened Republic, the Congress of the United States is engaged from day to day, and week to week, yea, and, I may say, from year to year, in excited and fierce discussions of the rightfulness and propriety of the extension of a system of slavery a hundredfold worse in its nature and effects than Russian serfdom.

For, after all, this Kansas question, whatever may be said about the regularity of the formation of the Lecompton constitution, or of its being the constitution of the people, is really a question of the extension or non-extension of slavery; as such it is discussed, and as such it will be determined. And such has been the character of this controversy ever since it was first proposed in the Senate of the United States to repeal the Missouri compromise by the passage of the Kansas-Nebraska bill. In the remarks which I may now have the honor of addressing to the House, I do not expect to be at all singular in this respect.

I propose, briefly, to give some of the reasons why I oppose the extension of the slave power, by the admission of Kansas under the Lecompton constitution; and first, I oppose it because it is contrary to the genius and spirit of our declaration and Constitution, and the designs of the fathers of the Republic, as exhibited in the history of the Government, until a recent period. I know it is now roundly asserted by the Democratic party, that Congress has no rightful authority to interdict or prohibit the introduction of slavery into the Territories of the United States; that to do so would violate the principle of the equality of States; and that party has recently invoked the aid of the Supreme Court, in the Dred Scott case—a tribunal which sits yearly, in an appropriate dismal room in the basement of this Capitol, where one can easily realize Dickens's description of the Foggy high court of chancery; and they have obtained the side bar dictum of a majority of those judges to sustain this doctrine. The President of the United States wonders that a doubt could ever have existed, that the Constitution carries slavery into the Territories, and declares that Kansas is as much a slave State as Georgia.

I know that in those opinions in the Dred Scott case, made for political purposes, to aid a corrupt party in subverting the principles of the Constitution, some of those judges contended that the Declaration of Independence does not mean that all men were endowed with the inalienable rights of life, liberty, and the pursuit of happiness, as it reads; but that our fathers only meant all white men then in this country; that they were equal in rights with Great Britain, &c., and that when the framers of the Constitution inscribed upon the porch of that temple of liberty the purposes for

which it was made, and declared that it was ordained to "establish justice, and secure the blessings of liberty," they did not exactly mean that in its general sense, but only meant it so far as they, the persons framing it, and their individual posterity, were concerned.

Now, sir, with all these sentiments and opinions I take issue. I insist that the signers of the Declaration of Independence meant to assert a fundamental truth, and to place before the world this truth as the great principle for which they contended. Why, they say that this declaration is made from "a decent respect to the opinions of mankind;" not a part of mankind, not Europeans, Americans, Englishmen, white men, or black men, but MANKIND. Did they intend to insult the mankind for whose opinions they entertained this decent respect, by declaring that a part of them had rights which another part had not? They were not then talking of political rights, or rights of government, but human rights; and they say that "governments are instituted among men to protect these rights."

After the close of the war, Congress issued an address; and, to impress this doctrine still more deeply and firmly upon the people, in that address they used these words:

"Let it be remembered, finally, that it has ever been the boast and pride of America that the rights for which she contended are the rights of human nature."

According to the Democratic party, they meant Anglo-Saxon, or white human nature! To show what Mr. Jefferson understood by the "rights of human nature," I quote from his Notes on Virginia. He says:

"In the very first session held under the Republican Government, the Assembly [of Virginia] passed a law for the perpetual prohibition of the importation of slaves. This will, in some measure, stop the increase of this great political and moral evil, while the minds of our citizens may be ripening for a complete emancipation of human nature."

And again, in the same book, when speaking of the corrupting influence of slavery upon both the morals and manners of the people, and of its baneful effects in destroying that reverence for the true principles of liberty and justice which ought always to exist, he says:

"And can the liberties of a nation be thought secure, when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the gift of God? That they are not to be violated but with his wrath, &c."

But, without going further into the subject of the meaning of the declaration, in regard to "human rights," I propose to examine this most startling doctrine of the President—this new-fangled Democracy, that the Constitution carries slavery into the Territories, and that Congress has no right to prohibit its existence in them. There are several modes of meeting this proposition; one is by reasoning from the provisions of the Constitution itself; another is by showing that those who made and adopted that Constitution did not so intend or understand it. I propose, as it is not my purpose, and I have not time to enter largely into this constitutional argument, to present a few facts and considerations, showing what the understanding of the framers of the Constitution was upon this subject.

I said that this doctrine was contrary to the spirit of the Constitution, as exhibited in the history of the Government until a late period; and I propose to prove it by a few direct references. One thing is clear and self-evident; and that is, that if Congress may rightfully prohibit slavery in the Territories, then the Constitution does not carry slavery into them; as a law of Congress cannot be of higher authority than the Constitution.

The first example I will cite is the ordinance for the government of the Northwestern Territory which comprised the present States of Ohio, Indiana, Michigan and Wisconsin; every rood of organized Territory possessed by our Government when the Constitution was ratified. By this ordinance, passed by Congress on the 13th July, 1787, slavery was prohibited in all that Territory.

I am well aware that these latter-day Democrats are in the habit of attempting to avoid the force of this historical fact, by the answer, that the Constitution had not then been adopted. Well, true it is, that this ordinance was passed by the Continental or Confederate Congress, while the Constitution was not adopted until some two months afterwards. If this were all, it would

furnish but a slim objection to my argument, for the Constitution was then being made, and slavery existed as much in the slave States, as it did two months afterwards. But the very first Congress under the Constitution, reënacted that ordinance, in order as they said that it "may continue to have full effect," and they made "certain provisions so as to adapt the same to the present Constitution of the United States."

And who were these men who were so wild and foolish as to assume the right in Congress to prohibit slavery? I will mention some of them, who were also members of the convention which framed the Constitution. There was Rufus King, Elbridge Gerry, John Langdon, Roger Sherman, George Read and Richard Bassett of Delaware, Daniel Carroll of Maryland, Hugh Williamson of North Carolina, Pierce Butler of South Carolina, Few and Baldwin of Georgia, James Madison of Virginia, and George Washington, the president of the convention, and the President of the United States who signed the law. Thus were our fathers in haste to prevent the curse of slavery from spreading itself over more territory, and provided for five free States. Nothing was heard then of "equilibrium," "balance of power," or, "a slave State for every free State," which we hear so much of now; already was it well understood that seven of the thirteen original States were to be free States, and here were to be five more, and yet the framers of the Constitution, slaveholders, even Washington and Madison, had no constitutional scruples about the prohibition, and no fears about the balance of power.

In December, 1789, North Carolina ceded to the United States the territory which forms the present State of Tennessee, which was accepted by an act of Congress of April 2, 1790. Slavery then existed in this Territory under the laws of North Carolina, and that State incorporated into the deed of cession an express provision that slavery should not be prohibited therein, &c.

If Congress had no power to prohibit or abolish slavery in the Territories, why this provision? Sir, it was inserted because it was well understood at that time that Congress not only possessed the power, but that it was the settled policy of the Government to exercise it.

So, when, in 1803, we acquired the Territory of Louisiana from France, Congress prohibited the importation of slaves therein, from beyond the United States; and yet, so far as the States were concerned, Congress had no right to prohibit the foreign slave trade until 1808; but, as to the Territories, this was another recognition of the right of Congress to restrict slavery.

When Missouri was admitted into the Union, Congress again exercised this right of prohibiting slavery in the Territories, by what is generally known as the Missouri compromise. That measure was brought forward, and principally urged and carried by the South. Its principal mover and advocate was Henry Clay; the free States were mostly opposed to the admission of Missouri as a slave State; and this was finally agreed upon as a "pacification," a "compromise." This measure was, less than ten years ago, pronounced by a distinguished Senator from my own State a "sacred thing," having an origin akin to the Constitution, which no ruthless hand dared to assail. Before signing this act, the President, Mr. Monroe, took the written opinions of his Cabinet as to its constitutionality, and they all agreed that it was constitutional—John Quincy Adams and John C. Calhoun among the number.

In 1848, in the act organizing a territorial government in Oregon, Congress again exercised this right by prohibiting slavery therein. This was generally voted for by the Democracy of the North, and the bill was approved by James K. Polk.

In 1848, Mr. Cass, being a little over anxious for the Presidency, wrote a letter, wherein he undertook to substitute squatter sovereignty for the Wilmot proviso, and he was overwhelmed by a perfect deluge of honest indignation.

In 1850, when Congress passed the "omnibus bill," or what are commonly designated "the compromise measures," it again recognized the validity of the Missouri compromise. I know, sir, that it is asserted in the Kansas-Nebraska bill that the Missouri restriction is "inconsistent" with the principles of the compromise measures of 1850; but let us see if that assumption is true. In that portion of the compromise measures of 1850 which

provides for the boundaries of Texas, it is enacted—

"That nothing herein contained shall be construed to impair or qualify anything contained in the third article of the second section of the joint resolution for annexing Texas to the United States, either as regards the number of States that may hereafter be formed out of the State of Texas, or otherwise."

Now, one of the provisions of the third article of the second section of that joint resolution is as follows:

"And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crimes) shall be prohibited."

That was one of the provisions which was neither "impaired or qualified" by the compromise measures of 1850, and remains in full force, unreppealed to this day. Then, sir, is it not a bald assumption to say that the Missouri compromise was inconsistent with the compromise measures of 1850? I think so. Why, sir, when the Nebraska bill was reported to the Senate by the committee, in June, 1854, they had not made this discovery of inconsistency, for in that report the committee say:

"They do not feel themselves called upon to enter into those controverted questions, [referring to the power of Congress to prohibit slavery.] They involve the same grave issues which produced the agitation, the sectional strife, and the fearful struggle of 1850. As Congress deemed it wise and prudent to refrain from deciding the matters in controversy then, either by affirming or repealing the Mexican laws," &c., "so your committee are not prepared now to recommend a departure from the course pursued on that memorable occasion, either by affirming or repealing the eighth section of the Missouri act, or by any act declaratory of the meaning of the Constitution in respect to the legal points in dispute."

Yet, sir, in a few days after that, at the dictation of David Atchison, of Missouri, as he himself says, this committee did take their departure from the course pursued in 1850; and then pretended to have suddenly made the wonderful discovery that the two acts were in conflict; that there were more passengers in the omnibus than had paid fare.

I have thus referred to a few of the numerous instances where this power to legislate upon the subject of slavery in the Territories has been exercised and fully recognized. Webster, the great expounder of the Constitution, always recognized it. I have done this, Mr. Chairman, not that I expect to convince any of these wise, latter-day Democrats that they are in error, because, of course, they are much wiser than their fathers; but only to show how far they differ from the men who made the Declaration and the Constitution, who fought for their own and our liberties; how they differ from Washington and Jefferson, Madison and the Adamses, Monroe and Polk, Calhoun and Webster, and Benton and Clay; yea, and Douglas and the rest of them, up to the month of June, 1854.

Perhaps I can illustrate this point by an anecdote. A lawyer in one of the western States was arguing a point before a justice of the peace. The justice overruled him. The lawyer wished to read some law on the question from Blackstone. The justice very abruptly declined to hear anything further on the subject, saying that he had already decided, and that it was useless. The lawyer replied that he did not propose to convince the court that he was wrong, but he just wanted to show him what an old fool old Blackstone was.

So far from the Constitution carrying slavery into the Territories, I assert that slavery can only exist by positive municipal law; it must have actual, direct, legal protection; and here I will give my answer to the oft-repeated argument, that "unless the slaveholder can carry his slaves with him, from the slave States to the Territories, and hold them there, then there is an inequality of right; that the Territories are purchased with the common blood and common treasure of the slave as well as the free States, and that therefore they of the slave States should have an equal right," &c. This is the argument of "State equality."

Now, I answer, true it is, the Territories are the common property of the people of the slave as well as of the free States, and their rights should be equal; and I contend they are equal. By the common law slavery is not known; there is no such thing as property in man under that law; there is property in horses, cattle, in goods, wares, and merchandise; property in things personal and real; but no property in persons. We

require neither constitution nor statute to hold our property, nor do you to hold yours, except your human property; for the Almighty made it property when he gave man "dominion" over it. This property the people of the free and the slave States alike may remove to the Territories, and hold it there. Thus we are equal. But you have under your State laws a "peculiar" kind of property, which is, so far as the common law is concerned, an outlaw, a species of property for which you cannot show a patent from the Almighty—a kind of property which we have not—which neither our State laws nor the common law will allow us to have; and you want the right to carry this peculiar property into the Territories—a right which we have not. I say, sir, that, instead of that being equal justice, it would be very unequal. This would be allowing the people from a part of the States of this Union not only the right to carry their property with them, but to transfer their peculiar laws and institutions also.

I presume that my proposition—that slavery is unknown to the common law and can only exist by virtue of municipal law—will not be disputed; but lest it should be, I will cite a few cases in point.

In giving his decision in the celebrated *Somerset* case, Lord Mansfield said:

"The state of slavery is of such a nature that it is incapable of being introduced on any reason, moral or political, but only by positive law."

In the case of *Rankin vs. Lydia*, (2 Marshall, page 479,) the supreme court of Mississippi say:

"We view this [the condition of slavery] as a right existing by positive law, of a municipal character, without foundation in the law of nature or in the unwritten or common law."

The supreme court of Missouri, of Louisiana, of Georgia, and, in fine, of every slave State in this Union, have decided the same. It is useless to multiply cases. (Harry vs. Decker, Walker's Reports, page 42, Missouri; Martin's Louisiana Reports, page 114.)

Why, sir, this equality of State doctrine, as now taught and construed by the Democratic or Administration party, (the slavery propagating party of the present time,) is, like the other discovery of that party, that all men who labor are slaves, a recent discovery. In December, 1837, John C. Calhoun introduced into the Senate of the United States some resolutions, one of which embraced that doctrine. It read as follows:

"Resolved, That the Union of these States rests on an equality of rights and advantages among its members; and that whatever destroys that equality tends to destroy the Union itself; and that it is the solemn duty of all, and more especially of this body, which represents the States in their corporate capacity, to resist all attempts to discriminate between the States in extending the benefits of the Government to the several portions of the Union; and that, to refuse to extend to the southern and western States any advantage which would tend to strengthen, or render them more secure, or increase their limits or population by the annexation of new territory or States, on the assumption, or under the pretext, that the institution of slavery, as it exists among them, is immoral or sinful, or otherwise obnoxious, would be contrary to that equality of rights and advantages which the Constitution was intended to secure alike to all the members of the Union, and would, in effect, disfranchise the slaveholding States, withholding from them the advantages, while it subjected them to the burdens, of the Government."

This was the last of a series of six resolutions proposed by Mr. Calhoun. Let us see what was done with it. By reference to the Congressional Globe, volume 6, page 98, from which I read, we find it was disposed of in the following summary manner:

"Mr. Preston moved to lay the resolution on the table, giving the reasons on which he founded his motion; on which a short debate ensued; after which, the question was taken by yeas and nays; and carried by a vote of 35 to 9; as follows: [Buchanan dodged the vote.]

"YEAS—Messrs. Allen, Bayard, Benton, Black, Brown, Clay of Kentucky, Clayton, Cuthbert, Crittenden, Davis, Grundy, Hubbard, King of Alabama, Knight, Lyon, McKee, Merrick, Morris, Nichols, Niles, Norvell, Pearce, Prentiss, Preston, Rives, Robbins, Smith of Tennessee, Strange, Swift, Talmadge, Tipton, Webster, White, Williams, and Wright—35.

"NAYS—Messrs. Calhoun, Clay of Alabama, Fulton, Lumpkin, Roane, Robinson, Sevier, Walker, and Young—9."

Such was the estimate in which those sentiments were held twenty years ago. It is strange, is it not, that they now constitute the chief plank—the chief principle of this Democratic Administration? Verily, "the stone which the builders rejected has become the chief stone of the corner."

I oppose the admission of Kansas as a slave

State, also, for the reason that slavery is a curse to any country, and to any people; it corrupts the morals and the manners of the people where ever it exists; it promotes poverty and ignorance; it degrades labor, and consequently banishes the free laborer from the land. You might as well prohibit by an act of Congress the emigration of the free laboring man of the North to that State, as to permit slavery to exist there. Slavery cramps and clogs the energies and progress of a State; retards improvements; wears out, and depreciates the value of the soil; in fine, sir, it is in, almost every conceivable light, a curse! In this connection I wish to refer to some of the sentiments which have been uttered by a number of gentlemen, members of this and the other branch of Congress, during the present session, and to reply to this threat of disunion, which has become so common of late, if we do not admit Kansas under the Lecompton constitution.

A distinguished Democratic Senator from South Carolina declared, the other day, that "every man who sold his labor was a slave; that the whole hiring class of laborers and operatives [at the North] were slaves;" and argued that they were not so well off as their black slaves. He also insisted that the South had the best frame of society in the world; and that it was owing to the institution of slavery; and that the southern States would be much the gainers by the dissolution of the Union, &c.

The gentleman from Mississippi, in a speech on this floor, said, in substance, that "the system of slavery was promotive of the highest state of civilization." Another gentleman from Mississippi, [Mr. DAVIS,] in his speech upon this floor, recently, argued that the North was making war upon the institution of slavery; that there were only two million persons engaged in agriculture in the United States; who are chiefly in the southern States; and, therefore, the commercial and manufacturing interests of the North were seeking to "break down the political power of that portion of the Union which is engaged in agriculture," (viz: the South,) by opposing the extension of slavery. This gentleman also argued the probability of a disruption of the Union; and stated that the people of the South contemplated civil war and revolution with a calm, serene, and self-sustaining mind!

Another gentleman from Georgia, [Mr. GARRETT,] in a speech, a few days since, declared that, "in order to preserve this Union, we must admit Kansas under the Lecompton constitution, as a slave State;" "that the threat of dissolution was no idle threat, but that the people of the South meant it," &c.; "that the institution of slavery in the South was right in principle and practice; that it had developed the resources of the country to an untold extent, and, by its influence, had elevated the people of the South in the scale of morality, wealth, enterprise, and intelligence, to a point never attained by any other people."

Another gentleman, from Missouri, [Mr. ANDERSON,] who declared himself to be a Know Nothing, or Native American, and who thought the principles of this Administration harmonized so well with his own, also declared, in his speech the other day, in favor of slavery as a principle, as it exists in this country, &c.

Another gentleman, from Alabama, [Mr. SHORTER,] declares that, "if Kansas is rejected under the Lecompton constitution, the sun of the national Democratic party will go down to rise no more"—that is a consummation devoutly to be wished—and he prays Heaven "that the State of Alabama may become a nucleus around which shall spring into existence a southern confederacy." That gentleman further told us that he had a "sovereign contempt for the memory of the Pilgrim Fathers;" which must make the descendants of the Pilgrims feel monstrous bad. He regretted that there ever had been a Plymouth Rock; had "rather be vassals of Old than New England;" and declared that Alabama could very well go it alone as the "independent Republic of Alabama;" and command the respect of the whole world, &c.!

Such, sir, are but a sample of the speeches and sentiments uttered in this Hall almost daily. A few words in reply to these menaces, these disunion threats. They have ever been most potent weapons for the slavery propagandist in carrying any measure, no matter how repulsive it might be to the people of the free States. It has always

been used to frighten craven, faint hearts, and to mold doughfaces. "If you do not annex Texas, and thereby extend the area of slavery, we will dissolve the Union;" and forthwith the thing is done; Texas is annexed; we assume her quarrels; fight it through; pay her debts; give her \$10,000,000 for a naked claim to territory which was very doubtfully hers; set her agoing flourishingly and swimmingly; and now Texas is going to dissolve the Union again! "If you do not catch our runaway human property, we will dissolve the Union!" and we all set to chasing their slaves—to save the Union. So with the repeal of the Missouri compromise: the Union was threatened, if it was not done. And now we are asked to force this damnable curse upon an unwilling people, and to drag that people into the Union under a constitution which is not of their making, or the Union must be dissolved. Well, sir, I tell you that we will not do this thing though you dissolve a hundred Unions. But we are not at all scared about the Union. It may be that this is the last straw, which breaks the camel's back. But I have no fears about it; and for one, I wish to test its strength a little. It has been saved a great many times. If we are to believe the stories which have been told about how the Union has been saved, one would suppose that it had passed more "hair-breadth escapes in the imminent deadly breach" than ever Othello did. And yet, sir, I do not believe that the Union has received much of a strain after all.

Sir, if these Democratic politicians of the South are going to dissolve this Union, I ask them to begin; do not stand there like empty braggarts boasting what you will do, but let us see how stout and valiant you are. Yet, before you begin, I would like you to tell me where the line of separation is to be; which are to become the border slave States of this "southern confederacy," and how much of the Mississippi and the other national arteries do you expect to take? Where are you going to divide the railroads, which, like muscles of steel, bind together this mighty Confederacy? How will you divide the Capitol and other common property of the nation? Will you cut in twain our country's bright history, the memory of the fathers, and all their noble deeds? and all that slavery may be extended and human bondage increased and perpetuated! I ask those gentlemen if they have contemplated the truth, for truth it is, that disunion would be the death-knell to all their hopes, not only of extending slavery, but of slavery itself.

Sir, the Republican party has been charged with being a disunion party. The charge is false. We are for the Union and the Constitution. We would maintain both, and when we get the power (as we surely will in 1860) we mean to preserve both in all their excellence.

In some of the southern States they raise hemp, I am told, an excellent article. Well, sir, there is a theory, I believe, of the botanic physicians, that every country and locality produces a vegetable remedy for the diseases peculiar to that locality. Now, sir, I have no doubt that southern hemp would be, if properly used, as sovereign a remedy for disunion as East India hemp is for the consumption, in the hands of "old Doctor James." So much for disunion.

But, Mr. Speaker, I wish to present a few facts, bearing upon the question of the relative merits of freedom and slavery, and in answer to the statements and assumptions of the gentlemen which I have alluded to. I take it that if slavery is better than freedom, if slave society is better than free society, its comparative excellence will be manifest in the growth, progress, and prosperity of the slave States, and the intelligence and education of the people where slavery exists. Now, let us see what the statistics show upon this subject. Take, for example, the States of Virginia and New York.

Virginia has something over sixty thousand square miles of territory, while New York has some forty-seven thousand square miles. Virginia had as good a soil, and a better climate than New York—and had much the start in settlement! I have prepared a table which I will give, showing the progress of the two States up to 1850:

Total population at different periods, including slaves.				
	1790.	1800.	1830.	1850.
Virginia.....	748,398	880,390	1,311,405	1,421,661
New York.....	334,120	580,755	1,918,603	3,037,394

Again, sir, in 1850 there was invested in church property in New York \$21,134,207, and in Virginia the sum of only \$2,856,076. At that time there were published in New York 428 newspapers, with an aggregate circulation of 115,385,473; while in Virginia there were but 87, with a circulation of 9,223,068. New York expends \$2,500,000 yearly for educational purposes, while Virginia expends about \$700,000. In Virginia, taking the entire free white native population, there are 75,868 adults over twenty years of age who cannot read or write, while in New York there are but 23,241 of the same class. In New York it is about one in fifty of the adults, while in Virginia it is about one in five! Sixty years ago, Virginia ranked as the noblest and richest State of them all; she was then justly regarded as the mother of statesmen and of States; then she had ten Representatives, while New York had only six. Now New York has thirty-three, and Virginia thirteen. Why, sir, John Randolph said a good many years ago, "Virginia is so impoverished by the system of slavery, that the tables will sooner or later be turned, and the slaves will advertise for runaway masters."

Take another example: Kentucky and Ohio, nearly equal in area, Kentucky having the advantage in climate; and in all other respects as to soil, position, and natural resources equal to Ohio; and how do they stand in the race of progress? Kentucky had much the start, having, in 1790, 73,000 inhabitants, while Ohio had none. Kentucky was admitted into the Union by act of Congress of February, 1791. Ohio was admitted in 1803, with one Representative. In the year 1800 Kentucky had 221,000 inhabitants, and Ohio had only 45,365. In 1820 Kentucky had 564,000, while Ohio had 581,000! and in 1850, Kentucky had 982,605, while Ohio had 1,980,329! It will be borne in mind that this enumeration in Kentucky includes over 210,000 slaves, while in Ohio they are all freemen.

In 1850 Kentucky had 62 newspapers, with a circulation of 6,582,838; and Ohio had 261 newspapers, with a circulation of 30,473,407. Kentucky had 131,205 pupils and students attending schools, and Ohio had 514,809 attending schools. Kentucky has now 10 Representatives, and Ohio 21; and after 1860 the disparity will be much greater. Upon the adoption of the Federal Constitution, I think South Carolina had five Representatives. In seventy years this State, which, if we are to believe her statesmen, has such an excellent social and political system, and such a pure and genuine democracy, has managed, principally by the increase of her slaves, (who now number more than half her entire population,) to grow just one Representative.

Take one other example, Mr. Speaker, and I have done with this subject—Alabama, the most flourishing of all the slave States. In 1820 she had 127,900 inhabitants; while Illinois, at the same time, had but 55,200. They were admitted into the Union about the same time. I think Illinois was admitted in December, 1818, and Alabama in December, 1819. Well, there they are, fairly started in the race of progress. Alabama having more than twice as many people as Illinois, situate directly upon the Gulf of Mexico, with the harbor of Mobile, capable of accommodating almost the entire shipping of the world; her products of a much more valuable character than those of Illinois; whilst Illinois was a far western State, difficult of access, far away from the sea-coast and from an inviting market. Now, sir, let us see "what time they have made" in the race, and how they come out.

Population.

	1820.	1830.	1840.	1850.
Alabama.....	127,900	309,527	590,756	771,623
Illinois.....	55,200	157,445	476,183	851,470

This includes slaves and all. The white population of Alabama in 1850 was only 426,514; and to-day, sir, whilst Illinois has more than a million and a half of freemen, there are not probably more than half a million in Alabama. In Alabama, in 1850, there were 60 newspapers, with an aggregate circulation of 2,662,741; and in Illinois there were 107 newspapers, with a circulation of 5,102,276. In Alabama there were 62,846 pupils and students attending schools, &c.; and in Illinois there were, at the same time, 182,292 attending schools.

Sir, I think it was the present Governor of Vir-

ginia, who, in Congress, a few years ago, thanked his God that there were no newspapers in his district. Now, sir, it is an occasion of much pride to me that there are in my district over forty newspapers at this time, regularly issued; and that district gave me more than 21,000 votes.

For this prosperity we in the North are apt to acknowledge that we are indebted, in great measure, to the Pilgrim Fathers and to Plymouth Rock; and while the gentleman from Alabama curses and contemns their memory, we bless their memory, and thank God for the old sea-beaten rock, and for the weary pilgrims who landed upon it. Sir, let me tell that gentleman from the "independent Republic of Alabama," that had there been no Pilgrim Fathers, there would have been no Alabama; had there been no Plymouth Rock, he would be the vassal of Old England to-day. Compare the intelligence of that New England, which the gentleman derides, with that of his own State; yes, with that of all the slaveholding States. In Massachusetts, in 1850, there were but one thousand and fifty-five native white persons over the age of twenty years who could not read and write; or about one to every seven hundred and seventy-eight of the entire white native population. At the same time there were of the same class in Alabama thirty-three thousand six hundred and eighteen who could not read and write, or one to every twelve and a half of the entire white native population; and that is about the average in the slave States. Why, sir, in the slaveholding States to-day, from eighteen to twenty per cent. of all the free white native voters cannot read the ballots they cast, nor sign their own names to a poll-book. Talk about the "independent Republic of Alabama," sir, setting up for itself, and going it alone! Why, how long is it since a man was driven from Alabama for selling Uncle Tom's Cabin, or some book of the kind? And when his wife sought to stay there to collect a few debts which that chivalrous people owed her husband, a public meeting was held, and it was resolved that she too must go. The institutions of Alabama were not strong enough to stand the presence of one poor woman! and yet the gentleman talks of the "independent Republic of Alabama!"

I do not make these remarks, sir, from any disposition to disparage any State of this Union; I would not do any of them an injury if I could; but it is proper that we should repel the assaults made upon the free States; and when it is sought to extend the slave power, by the addition of another slave State, under the pretense that it is right, and that slavery is better than freedom, or to maintain an equilibrium, or balance of power, then we are called upon to show the blighting, desolating, and retarding influence of the system; and that it is utterly impossible to preserve a balance of power between them; that freedom cannot be hemmed in, cramped, and finished, like a Chinese lady's foot; but it must, and will, burst its fetters and expand; while slavery produces palsy and stagnation and death.

The natural resources of the slave States of this Union are immeasurable; and, without slavery, they would have untold wealth and greatness; but now, so it is, this accursed system has shut out enterprise, has shut out the free laborer, and has spread itself like a pall over the land, with its enervating and baneful influence, like blight and mildew, wherever it falls.

Mr. Chairman, I am opposed to the admission of Kansas with the Lecompton constitution, because the people of Kansas never made that constitution, and do not wish to be admitted under it; but it is an attempt by the Administration to consummate a conspiracy begun nearly four years ago, to make a slave State, and which has been carried on by a series of frauds and outrages unprecedented and unparalleled in the history of any nation under the sun. During all that time, various agencies have been used to effect this purpose, of which the Lecompton constitution seems to be the crowning glory! I have only time to mention a few of these agencies.

The Territory of Kansas was carved out, and bounded, to make a slave State. Stuck in there behind Missouri, being almost inaccessible except through Missouri, slavery was given much the advantage in the outset.

From time to time forays were made by people from the State of Missouri, and other slave States, into Kansas, especially when elections were to be

held, and the people of Kansas were forcibly driven from the polls; judges of election, of the invaders' choosing, were substituted, while they did the voting. A Legislature was in this manner chosen, the members of which, many of them, resided in Missouri; they went over when the Legislature convened, enacted the whole code of Missouri, and some additional statutes, and then returned again to their homes in Missouri. Murders and robberies were committed with impunity, provided the victims were only free-State men. Free-State towns, printing-presses, and hotels, were destroyed under the direction of United States officials, without ever being even asked why they did so by the Administration. Every man met upon the highway was asked if he was for a free or slave State; and if he had the temerity to answer the former, he had to run the gauntlet for his life.

Finding that the people from the free States would emigrate to the Territory, induced thereto by its excellent lands, and to provide homes for themselves and their families, these marauders and their abettors obstructed the travel upon the Missouri river, a great national highway, and day after day, in broad daylight, boarded the steamers which were bearing emigrants to Kansas, robbed them of their property, and compelled the boats to turn about and descend the river. When the free-State men of Kansas sought to make a little feeble resistance to this tyranny, and to defend their homes and families from these worse than savages, they were arrested by United States authority, and confined in a loathsome prison on charges of treason and other offenses, while their families could be plundered and robbed, or driven away; and then, ruined and heart-broken, they were discharged without trial.

During her brief history five Governors, and nearly as many Secretaries, have, by turns, governed the Territory; and if we are to believe the President and the Democratic party, a strange kind of fatality has attended them all. It would seem that there was something in the very atmosphere of Kansas repugnant and poisonous to Democratic Governors; or else the complaints of the free-State men are true, and they have been crushed and abused worse than ever were a people before, in any half-civilized country.

The first Governor of Kansas, A. H. Reeder, was one of the few honest Democrats left in the North, after the passage of the Kansas and Nebraska bill. He was weak enough to suppose, however, that nothing more was intended than was expressed in the Kansas bill, and that the people of the Territory were really to have the privilege of protection in a fair expression of their wishes at the polls. He tried to govern accordingly; but for this he was set upon by the ruffians in the Territory, and the rascals at Washington; he was persecuted with false charges for the purpose of disgracing him, and removed from the office to make room for another Democrat, of a different class, Wilson Shannon; a man who was bad enough when sober, and worse when drunk. He served his masters as well as he knew how; but (to borrow a saying from a distinguished Senator) he failed for want of capacity; though I have no doubt Shannon would have been continued, but just then it was thought necessary, in order to carry Pennsylvania for Mr. Buchanan, that a more respectable man, and, if possible, one from that State, should take the place of Shannon: whereupon President Pierce proceeded to appoint John W. Geary, another Kansas-Nebraska Democrat from Pennsylvania, who reached Kansas in September, 1856, with strong prejudices against the free-State men there; a strict Democrat, but, like Reeder, having some honesty mixed with his Democracy. Well, sir, he remained Governor of Kansas about seven months; when he was, like Reeder, obliged to flee for his life. He had got his eyes opened, while there, to the real state of the case. He could not be made to sink his entire manhood and honesty by the pro-slavery ruffians of Kansas, or a corrupt Administration at Washington. But he had served a purpose, and Buchanan had carried Pennsylvania. Now he, like Reeder, was denounced as an "Abolitionist," and contemptuously tossed over to the Black Republicans.

Now, Buchanan being elected, with a majority in both Senate and House, the slaveholders demanded that the governorship of that Territory should be

turned over to them; they said that northern Governors were not to be trusted. The President, full of gratitude to the South, which had so well sustained him, and perhaps not having much of that excellent quality which was possessed in some degree by Reeder and Geary, said to them, "do with me as thou wilt;" and straightway appointed two slaveholders, from the States of Mississippi and Tennessee, Governor and Secretary of that ill-starred Territory. Now, everything seemed to be going on swimmingly for the slavery propagandists. Governor Walker was to have full sway, with an army to back him. General Harney, supposed to be an excellent butcher, especially where Abolitionists were to be disposed of, was sent for to command the army in Kansas, where the people were enjoying such sweet repose, under the quieting influence of the repeal of the Missouri compromise! Well, sir, the result is known to the whole country—how Walker and Stanton began, filled with bitter prejudices against the free-State men there; how they menaced the city of Lawrence while camped before it; how gradually their eyes became opened; and at last, like the messengers who were sent out by Saul to take David a third time, even they prophesied also.

After a service of a few months Walker was invited to resign; and Stanton was removed for calling the Territorial Legislature together, that they might provide some method by which the people could express their assent, or dissent, to the Lecompton constitution, which had been denied them by the constitutional convention. That did not suit this squatter-sovereignty Democracy, nor did it please his majesty James I.; for with all the obstructions which had been thrown in their way, notwithstanding the obstacles opposed to emigration from the free States, and the oppressions and outrages they experienced, still the great pulsations of freemen could not be suppressed; and when our emigrants to Kansas could not get in the front way by the ordinary channels of travel, their steady tramp was heard over the prairies and through the wilderness of western Iowa and Nebraska, and into Kansas they would get some way; and it was well established that the free-State men constituted the great body of the people of the Territory; and if the constitution should be submitted to a fair vote of the people, why, they would vote it down. So said the Democracy of Kansas; and what was the use of making a constitution if it was to be voted down?

It is said by the President that the slavery question was submitted to the people by the Lecompton convention. Now, sir, without noticing—for I have not time—the conditional submission of the slave-importation clause to a vote, (which was the only thing submitted,) I deny that the question of Kansas being a slave or free State was ever submitted to the people by that constitution.

Slaves are held in Kansas—some hundreds of them; I do not know how many, and it matters not for my argument how many; for if any are held there by constitutional authority, it is a slave State. Now, the Lecompton constitution provides, that even if the slavery article should be voted down, still "the right of property in slaves now in this Territory shall in no manner be interfered with." And this the President, in his message, approves, and thinks it would be very wrong for the constitution to drive the slavery already existing in the Territory out of the State, or to deprive the masters already there of their slave property.

Sir, to this complexion has popular sovereignty come at last: first, deny the right of either Congress or a Territorial Legislature to prohibit slavery in a Territory; next, procure a decision of the Supreme Court that the Constitution of the United States carries slavery into the Territories; and then, deny the right of the people of a Territory, when they form a State constitution, to drive out the slavery already existing there, upon the ground that it is interfering with vested rights.

Mr. Chairman, I turn from this doctrine with disgust; and I tell you that I trust the last slave State has been added to this Confederacy. So help me God, none shall ever be admitted with the assistance of my vote; and whether here or anywhere else, wherever or whenever it is in my power to strike a shackle from a human limb, or from human progress, that power shall be exercised.

Mr. MAYNARD. Mr. Chairman, I feel that

an apology is due to you and to the committee, on my part, for presuming to trespass longer on their patience in the discussion of this subject, on which they have heard so much. I originally intended to take no part in it. My purpose was to cast my vote *sans phrase*, and to leave it on record to vindicate itself; but reasons of a personal nature, as well as of a nature affecting the few gentlemen on this floor with whom I have the honor to concur in sentiment, have induced me to seek an opportunity to state the reasons why, and the principles on which, I shall vote for the admission of Kansas as a State under the Lecompton constitution. It might be enough to say that, after a discussion of upwards of three months, I have neither seen nor heard assigned any sufficient phrase, the rule is on the opposition to show reason why I should not thus vote; for, in legal cause, if any they have or can show, why Kansas, with that constitution, should not be admitted. I take it, sir, that when the people of a Territory, being citizens of the United States, in numbers sufficient to give them a Representative in Congress, united as a body-politic, under a constitution republican in its form, come here and apply to us to be admitted as a State, their right to admission is complete. We might, as has been done in some instances in the history of the country, by factious opposition, deny that right; and the people so applying may have no legal means of enforcing it. The remedy may not be in their power; but, as I hold, their right is nevertheless complete.

I have been told by a gentleman having the best means of knowing, and having no interest whatever in misrepresentation, that the inhabitants of the Territory, at the present time, number upwards of one hundred thousand. That statement I have seen no one controvert. As to the numerical sufficiency of her population, I have not heard it seriously doubted. I think that you, Mr. Chairman, [Mr. BOGGS,] made the statement, the other day on the floor, and that statement remains uncontradicted in any of the speeches that I have had the honor to listen to. These people, Mr. Chairman, come here with a constitution that, I suppose, no one will deny is republican in its form, and ask to be admitted. Now, sir, why should they not be admitted? What is the reason?

Mr. GIDDINGS. The gentleman asks why Kansas should not be admitted? I will assign the reason why she should not be. It is that they ask us to give them power in this body in the election of a President of the United States, and in the Federal Government, in proportion to the number of their slaves, allowing three slaves in that Territory to equal one such man as he [Mr. MAYNARD] and I. Now, I am unwilling to surrender my own dignity in this way.

Mr. MAYNARD. I am very glad that the gentleman has mentioned that point; and probably I shall allude to it before I sit down. That is an old idea, which has been repeated again and again, and which has been suffered to pass unchallenged and uncontradicted, to my utter surprise and amazement.

But I was going on to speak of the reason why we are told Kansas should not be admitted under this constitution. The reason is because her constitution does—what? Establish slavery? Not a bit of it. It does not do that. But because it recognizes a property in slaves that are already there. Because it provides that these slaves shall not be emancipated, except on one of two conditions: either that the consent of the owner shall first be obtained, or that the pecuniary value of the slave shall be paid him in money; and that so long as slavery is recognized in Kansas, the emigrant who comes there shall be permitted to introduce the slaves which he actually and *bona fide* owns.

That, sir, is the reason why the Opposition on this side of the House insist that Kansas shall not be admitted into the Union under the Lecompton constitution.

But, sir, what are the pretexts which they set up? One is, that the convention which framed that constitution had no authority to frame a State constitution. The second is, that after they had framed the constitution, they did not submit it for ratification or rejection at the ballot-box. The third is, that the constitution in itself does not contain any provision by which it may be changed

until 1864. The fourth is, that because in the election, under the convention which framed the constitution, held on the 21st of December, frauds intervened at the ballot-box.

Now, sir, I shall not attempt to discuss these various pretexts, or either of them. They have been discussed, ably and ingeniously discussed, for the last three months; and if the discussion has advanced one step since the first arguments which were made in the other end of the Capitol at the very outset of the session, I confess I have not been able to see it. The arguments have been varied; the phraseology has been changed; form and variety have been given to illustration, but the discussion stands to the logic of the mind exactly where it did after the first week or ten days of the session. And, sir, we might stand here and refine and discuss the question of the sovereignty of the people; whether that sovereignty is subject to be delegated; whether it is divisible or indivisible; whether it is complete or only partial; we might dwell here upon the various questions of political metaphysics to our dying day, and we would never arrive one step nearer a result that would be either conclusive or satisfactory. And what is the use of it? What does it all amount to? Other gentlemen may differ with me in opinion; I speak only for myself. I would bind no man to my opinion. I profess to bind no man to my opinions, but, sir, in my opinion, let these questions be discussed as ably as they may be, and decided either the one way or the other, and it will amount to nothing in settling the great point which we have before us for our ultimate decision. I know that a man who wants to pursue a particular course for reasons best known to himself, who does not like to give the true reason, will sometimes be very ingenious in assigning false reasons, untrue reasons, reasons, I mean, which are not his real reasons. I do not intend by this, or by any other remarks I shall make, to be offensive; I mean not to be offensive to any one, and I hope that every gentleman will understand me, that if in the heat of debate, I shall use any language that shall jar upon the feelings of any member of this House, I shall be ready to make all due reparation.

We may just as well come right up to the question. There is no use in beating about the bush. We have been told repeatedly by gentlemen on this side of the House, when pressed for a reply, that if every man, woman, and child, in Kansas, were in favor of admitting her into the Union as a slave State, they would resist it. This is the very last expression of sentiment we have heard on this floor, from the honorable gentleman from Illinois, [Mr. FARNSWORTH,] who has just taken his seat, and who closed with an enunciation. I understood him to make an appeal to God—to say with solemn emphasis, "So help me God! I will never vote for the admission of another slave State into the Union." There, sir, is the ground we have to stand upon, the ground we have to contest, and we might as well come right up to the point like true soldiers, and like men meet it. "When Greek meets Greek then comes the tug of war." But, sir, they must meet upon the plains of Helles, upon the shores of the Hellespont, or the tug of war does not come.

Mr. Chairman, I might, if I chose, commend to my Democratic friends for their consideration—just here, I might show them and point to them as a warning—how their principles and their policy, which they have been for years inaugurating upon the country, and which have greatly tended to change the Government from a pure republic to a simple democracy, have now returned upon them to plague the inventors. This idea of submitting a constitution to the people for the popular vote, is only one of them—perhaps the least objectionable. I have no time to discuss the subject as I conceive it should be discussed; but when gentlemen rise here, and insist that it is necessary, to give validity to a constitution framed by a convention of the people that it shall first be submitted to the people at the ballot-box, for their ratification or rejection, and approved by them, they announce a doctrine that would have startled George Washington, James Madison, Alexander Hamilton, Roger Sherman, Benjamin Franklin, Rufus King, the Morrises, and Pinckney, and the other sages who framed our American Constitution. Those great men unanimously recommended that the Constitution of the United States should be submitted "to a convention of dele-

gates, chosen in each State by the people thereof, under the recommendation of its Legislature, for their assent and ratification." The idea of submitting their handiwork to the test of the ballot-box to give it vitality and validity did not occur to them. They did not deem it expedient even.

Before I proceed to discuss the great question before us, I beg to be indulged in a single suggestion with regard to the Lecompton constitution. There is one feature of that instrument which, permit me to say, meets my most cordial approbation; call it "Americanism," "Know Nothingism," or what you please. It provides that the Governor and Lieutenant Governor of that State shall be at least thirty years of age, and shall have been citizens of the United States for at least twenty years, to be eligible to office. And it furthermore provides that those who are entitled to vote shall be *citizens of the United States* above the age of twenty-one years, and shall have resided in the State one year. That, sir, is one of the principles which has ever been regarded as among the fundamental principles of the American party. Compare that with another constitution which we are called on to ratify. I mean the constitution of the Territory of Minnesota, the getting up of which I have learned, indirectly, was by frauds, in comparison with which the alleged Kansas frauds amount to comparatively little. That constitution, sir, provides that foreigners, unnaturalized, who have been twelve months in the United States, and four months in the State, shall be entitled, at the ballot-box, to the same privileges as a citizen born here, who has studied our Constitution and our institutions until he is presumed to know something about them. Indians, too, are permitted to vote, provided they put off the garments of savage life and put on broadcloth or jeans made up in the form of coat, vest, and pantaloons.

Mr. Chairman, I have said that this slavery question is the great question which we are considering. It is the practical issue. It is another form of the same old question which for many years has come up in one shape or another for the consideration of Congress; and although it has often been attempted to bid it "down," yet it will not *down* at our bidding; and we are told that if we admit Kansas under the Lecompton constitution that the agitation still will not stop. We are told with taunt and sneer and jeer that that shall not stop this agitation. Perhaps not; but do you think the agitation will stop if we refuse to admit her? Let the final vote in this House be a rejection of Kansas as a State under the Lecompton constitution, and it will go with lightning speed, upon a thousand wires, to every part of the North, and you will hear an answering echo rattling along upon the same wires: "We have triumphed; we have crushed out these tyrant slaveholders; we have got the slave-drivers under our feet"—appealing to Black Republicans, in terms the most impassioned and denunciatory, to rush on and to subjugate them. It may be that admitting Kansas with the Lecompton constitution may not still this unhallowed, fratricidal strife. I fear, indeed, and the times are ominous and portentous, that it will not have that effect; but if it is stopped, that is the only mode, in my opinion, by which it can be stopped for a long time to come. Refuse to admit Kansas, reject her, keep the question open, keep the subject of strife still before the people undecided, and I feel justified in saying that I know this unhappy contest will not cease. It will wax fiercer rather.

Now, what is this slavery agitation? It is not a thing of to-day. It is not a thing of the year past, or even of the age just gone by. We have had it for a long time. It originated before the adoption of our Federal Constitution, and it has continued ever since; and it has raged since, perhaps, with more violence than before. Under that instrument, which we all know is a compromise—an agreement which our fathers mutually entered into for themselves, their heirs, and their representatives forever; under the Constitution, slavery was made an element of political weakness in every State where it existed. And I come now to answer the idea which was thrown out, not for the first time, by the gentleman from Ohio, [Mr. GIDDINGS.] I say that, under the Federal Constitution, slavery is an element of political weakness in the States where it exists.

Let me illustrate. We have had comparisons

instituted here between the State of New York and the State of Virginia, between the State of Kentucky and the State of Ohio. Whether these comparisons were fair and just, I do not undertake to say; but, suppose I should go back into the history of your proud old State, Mr. Chairman, and institute an inquiry of another sort. The greatest product of a civilized government is its men, said Mr. Burke, when shedding eloquent tears over the grave of his only and much-loved son: "At this exigent moment the loss of a *finished man* cannot easily be supplied." I might point to the scroll of history, written so plain that we may all read, and say, "There is Virginia; look at her names. There, too, is Kentucky—glorious old Kentucky; and there are her names;" and leave you to point to the glorious sons of New York and Ohio, and array them, for I would not make any invidious comparisons.

Let me institute a comparison illustrative of the doctrines which I enunciated just now, between, I may say, the State of my youth and the State of my manhood; the noble old State where I had the honor—for I do esteem it an honor—to draw my first breath, and the glorious State where, I hope, in the providence of God, I shall be permitted to lay down what shall be left of my mortal remains—Massachusetts and Tennessee. It appears from the census of 1850, under which was made the apportionment by which we are now representing those States in the national Legislature, that Massachusetts has a population of less than one million, whereas Tennessee is shown by the same authority to have a population of more than one million. The precise numbers, it is not necessary to state for the purpose of the argument. On this floor, Tennessee, with a population of upwards of one million, is represented by ten members only, while Massachusetts, with a population of less than a million, is represented by eleven members. This inequality occurs under the provision of the Federal Constitution referred to by the gentleman from Ohio, [Mr. GIDDINGS,] in the outset of my remarks in connection with an idea repeated here and elsewhere, I will not say how many times.

Mr. FOSTER. Will the gentleman allow me to make a remark?

Mr. MAYNARD. I do not wish to be discourteous, and I hope I am not discourteous when I decline to yield the floor. Owing to an indolent habit, I have not reduced my remarks to writing, as is often done by other gentlemen, and which, I admit, may be the better mode. Therefore I hope, as my time is fast running out, that gentlemen will not interrupt me, unless the interruption is necessary. If I may "guess," my friend from Maine [Mr. FOSTER] was going to state, that of the population of Tennessee three hundred thousand, or more, are negro slaves.

Well, sir, let me ask how many of the people of Massachusetts that go to swell the numbers in the census tables are convicts in their penitentiary and in their prisons? How many of them are paupers? how many of them are foreigners, unnaturalized and unamericanized? Why, sir, in one school they have there—and that is a fact I would commend to the attention of those who are fond of dealing in comparative statistics—in one institution, the details of which I happen to have, a sort of juvenile penitentiary—a reform school they call it: I believe an excellent and most necessary institution for that State—they have six hundred and more bad boys, to be reformed. I suspect that, Mr. Chairman, is a greater number of graceless lads than you could find in all your State whom your civil authorities would deem it necessary to take away from their parents at that early age, and to shut them up in a reformatory institution, in order to keep them from becoming rogues when they grow up to be men. And these unfortunate children are a part of the population of the State, counted by the poll in the Federal enumeration? Why should we not reckon our negroes, as well as Massachusetts her convicts? But you say negroes do not vote. That has been true, in fact, in Tennessee, since 1834, when, by a change in our State constitution, the free negroes who had previously enjoyed the elective franchise, were excluded for the first time from the ballot-box. But what does that signify? How many persons in Massachusetts vote? The whole number amounts to some one hundred and forty or one hundred and fifty thousand, out of a pop-

ulation of something less than a million. So that among the whole people, only one in five or six can vote; and that one voter, by a political necessity, governs the other four or five. I am aware there has been some objection made to that state of affairs by an interesting portion of her population; that her fair daughters—and they are very fair and learned to a degree—have often petitioned the Legislature, and have held conventions without count, insisting that things ought not so to be; that the old-fashioned mode of petticoat-government and certain lectures are not exactly suited to the progress and refinement of modern civilization; that they desire a little more authority—something more effective than persuasion—which, under the present state of political privileges, they do not enjoy. But at present, less than one fifth of the whole population do the voting, exercise all the political power. For the purpose of this discussion, it matters little who compose the other four fifths, whether men, women, or children; criminals or the virtuous; black or white; freemen or slaves. They are not governors, they are the governed.

What else? We are told that our slaves are not people, not population at all; that they are mere property. "Why," they say to us, "would you let our property vote—our oxen, our horses, our mules?"—or to use an illustration which I would not venture upon in this presence, except that I borrow it from a distinguished son of Massachusetts, afterwards a distinguished citizen of Pennsylvania, Benjamin Franklin—"would you allow our 'jackasses' to vote?" meaning the four-footed ones, of course.

That brings us exactly to the point of practical difference upon this subject between the people of the North and the people of the South. The people of the South hold the slave to be a person. Northern men say he is merely property, a chattel, and nothing more. We were told the other day by the gentleman from Ohio [Mr. BINGHAM] that he could not admit this "guilty fantasy"—I think that was his expression—of property in man. My dear sir, where do you get that idea from? No property in human beings? Do you state that as a proposition of law, or an assertion of fact that can be maintained? What is property? What do we mean by it? Property, *proprietas*—what is it?

Mr. BINGHAM. The gentleman from Tennessee, I presume, refers to me. The gentleman asks me whence I get my authority for saying as I did say on this floor, that there could be no property in man; and the pretense of property in man was an atrocity, a wild and guilty fantasy. I am surprised that the gentleman should put that question. I tell the gentleman, in the first place, that I feel perfectly confident that the gentleman's own immortal spirit bears witness, in spite of his logic to the contrary, to the truth of the assertion that there can be no property in man; that his right to life and liberty is inherent and imperishable; therefore, I put the question to the gentleman, can he himself be rightfully reduced to a chattel and sold as a chattel? Can his wife be rightfully reduced to a chattel and sold as a chattel? Can his child be rightfully reduced to a chattel and sold as a chattel? Answer me that.

Mr. MAYNARD. It is that same immortal principle alluded to by the gentleman—the unanswerable logic of personal conviction—upon which I was proceeding to predicate my argument. But before doing so, I submit to his better judgment that it is, to say the very least of it, in questionable taste for a member standing here to put forth his particular opinions, then to throw them into the face of another, who, by position, if not otherwise, is his peer as long as he stands upon this floor, and cry "answer me that;" as if our opinions and convictions were not entitled each to the same respect. I assure the gentleman his question is not difficult to answer. I am happy to answer it.

I was proceeding to ask what property is. Why, sir, it is the peculiar right which one man has in some person or thing, paramount to, and to the exclusion of, anybody else. That is the idea, if not the definition of property. It is the right peculiar to myself, exclusive of all others, by which I hold my farm; the right by which I hold my horse. It is the right by which I hold the very clothing I wear as my protection. And, sir, I ask the gentleman from Ohio if he has not a property

in his own wife? Has he not a property in his own child? has he not a property, as a guardian, in his own ward? has he not, as a master, a property in his own apprentice, which the law will protect, as well in his own State as in every other State in the civilized world? I imagine he thinks he has. Property in slaves a solecism! a guilty fantasy! Property in man a principle which you appeal to my immortal spirit to contradict! Sir, I have stated that, after all, the great difference between the people of the North and the people of the South, was in the mode of looking at the status of the negro, whether, in hiring a slave, he is not to be regarded as a person.

I am aware that anything I might say upon this point would probably be attributed to the heat of argument, to the pressure of circumstances, and to the force of this particular occasion, if it did not expose me to insinuations equally ungenerous and unfounded. I hold in my hand a legal decision made not long ago by one of the best of men, slaveholder though he be, a man candid and conscientious in his convictions, cool, calm, and deliberative in his judgment—Nathan Green—made when he adorned the bench of the supreme court of Tennessee, and announcing the opinion of the entire court. The question presented to their consideration was this—exactly the one I am now considering: whether a slave be a person, and as such can be a legatee and take under a will? Hear what he says on the subject, announcing, so far as the highest legal authority of my own State is concerned, the view that is entertained on this identical question:

"But we are met with the objection that none but free persons have a right to sue, and that the persons of color in this case are still slaves. A slave is not in the condition of a horse or an ox. His liberty is restrained, it is true, and his owner controls his actions and claims his services. But he is made after the image of the Creator. He has mental capacities, and an immortal principle in his nature, that constitute him equal to his owner, but for the accidental position in which fortune has placed him. The owner has acquired conventional right to him, but the laws under which he is held as a slave, have not and cannot extinguish his high-born nature, nor deprive him of many rights inherent in man. Thus, while he is a slave, he can make a contract for his freedom which our laws recognize, and he can take a bequest of his freedom, and by the same will he can take personal or real estate."—*Ford vs. Ford*, 7 Hump., 94.

Sir, I drop that portion of the argument. Such, I have attempted to show, is the effect of this provision in the Constitution of the United States; that by reason of it, the people of the free States have been enabled to encroach upon the southern or slave States, and that with the continual cry of "slave power," "property representation." This argument, predicated upon the "slave-power" idea, was thrown in my teeth at the very outset of my remarks by the gentleman from Ohio, [Mr. GIDDINGS,] as though it was wholly unanswerable. And just in this connection, sir, for I may be permitted to refer to a speech which the venerable gentleman—venerable from his age, I mean—made on this subject a few days ago. I commend it to his further consideration; and I ask him to say whether he would, coolly and deliberately—for I know he is subject to undue excitement—approaching, as he is, almost to the verge of the other world, repeat it. I ask him to say whether, as he expects the solemn court, which I hope may be still remote—for I mean something more than mere compliment when I say to him, or to any other aged man, *serius in calum redeas*—I ask him to say whether he would ratify or approve it? He is denouncing the idea of property in man as rank infidelity, and says:

"Could I hope that my remarks would meet the eye of British ministers, I would in an especial manner invoke their official influence against this infidelity. I would beseech them not more to sanction, by their action, that blasphemy which seeks to transform the image of God into property; which degrades man, with his undying aspirations, his eternal destiny, to the level of the brute."

My God! has it come to this, that the oldest member honored with a place in this House, from which the lightest whisper is carried on the wings of the wind to that autocratic, overpowering, unfeeling domination, should utter such language?—such fearful invocation upon the most determined foe we have ever had?

Does he in his place call on the British power to crush out and put down the sons of the men who fought for his country's deliverance from the same power, at Yorktown, at Camden, at Eutaw, at King's Mountain, and who resisted that same British power at New Orleans, ay, the sons of

the men who in former times, when the gentleman's own Western Reserve was in peril and in trouble, went from their distant homes, and resisted the same British power, aided, as it was, by the savage foe, to protect the settlements of his now flourishing State? Has it come to this?

Mr. GIDDINGS. Will the gentleman allow me to interrupt him—

Mr. MAYNARD. I prefer that the gentleman should hear me a little further, before he undertakes to answer. Sir, is that all? Not only does he commend us to the tender mercies of that hateful Power—and I regret that he should have had some little pretext for the utterance of such a sentiment, in something said a few days since, as I would fain hope in the excitement of debate, by a gentleman on the other side of the Hall [Mr. SHORTER]—but he goes further, and says:

"I would also warn the Spanish Crown and other continental Powers, that our present Executive is seeking, by all the various means and arts of diplomacy, to detach Cuba from its allegiance, to annex it to the United States, in order to increase the influence of the slave power, and add strength to this American infidelity."

"I hope and trust that this conspiracy may be defeated; that all Christian Governments may exert their power against the further extension of this scourge of our race."

Sir, in history there have been two aged men, who have been conspicuous. One, we are told, sat day after day and year after year in the Roman Senate; and when called upon to speak, all that he said was "*Delenda est Carthago*." That is not the speech which my compeer from Ohio indulges in. No, no, no! He is not speaking of a foreign Power. He is not speaking of the enemies of his country. It is not Carthage, hated and feared, which he would destroy. No, no, no! There was another venerable man—venerable for his years—the jabbering, jibing old infidel of Terney, whose one speech was aimed at the Holy One, under whom we all hope for salvation—"Crush the wretch!" "Crush the wretch!" And, sir, I fear, I fear—I hope not, I will not believe—that "crush the wretch!" will ever be the exclamation of any who may ever come to have a place here. "Wretch!"—word of baleful omen, which should include the loved ones whom you and I have left in our far-away homes. What mean these things? I am speaking to gray hairs. I bow down to age, and do it reverence. But let me appeal to the gentleman, in a spirit of kindness, and say to him, "do not, although you bring your own neighbors, your own Black Republican hosts, to make war upon us—do not, do not, do not, I beg of you, invoke upon us British power or the Spanish inquisition!"

I would be glad to have gone a little into the history of the slavery agitation, to show how it sprung up in this country, and to show how it had its origin in a faction in the North; then, as now, actuated by hatred to the South, and everything southern, from the time when, during the revolutionary war, it tried to supplant Washington in his high command; how it attempted to prevent the formation and adoption of the American Constitution; how, in 1803, when we acquired Louisiana, it stated in this House that it was a cause sufficient to dissolve the allegiance of the States to the Federal Government; and that while it was the privilege of all, it was the duty of some, to go out peaceably if they could, *forcibly if they must*; how, when we were engaged in another war, with the same British power, they met in convention at Hartford, in that odorous land of the nutmeg and the onion; and how, worse than that, they hoisted blue-lights at New London, that this same deadly enemy might know where to strike us; how, in 1820, they resisted the admission of Missouri into the Union, for the simple and sole reason that they now resist the admission of Kansas; how they flooded this floor with petition after petition, for the most absurd and impracticable objects, apparently for the purpose only of aggravating and annoying the South; how they continued this aggressive and annoying system of policy until 1850, when we believed that the laws then passed were, in the language of a gentleman then representing a southern State, "a finality in their totality." And then I would like to have reminded our Democratic friends how, when we had got the snake scotched but not killed, at the commencement of the Thirty-Third Congress, now four years ago, in every department of the Government they held the reins in their hands, wielding a power deemed irresist-

ible; they committed what, in politics, is said to be worse than a crime—a blunder—which again brought up the slavery agitation in a form more fierce and rampant than ever before.

Mr. Chairman, you know that one of the institutions peculiar to the South is the yellow-jacket, a very irritable little insect, whose nest, with the boys, is a practical *noli-me-tangere*. Sir, the boy who would deliberately put his finger into a yellow-jacket's nest might be admired as a model of prudence and sound discretion in comparison with the politician who would stir up the abolition element in our political affairs.

But, sir, I have not time to dwell upon any of these matters. I would like, if I had time, to follow that same element, this same abolition fury, for it is such, through all its ramifications in the Kansas troubles; I would like to follow it in the form of grave and learned professors, in the form of reverend clergymen—ay, sir, in the form of lovely woman; sending to that troubled land emigrants from public meetings, armed with the rifle in one hand, and, for a counterpoise, a Bible in the other. I would have liked to have shown, if I had had the time, how those rifles were used for the murder of some of my own neighbors, people who were not slaveholders—and there is a gentleman now in my eye, who knows very well to whom I allude—people who went into Kansas because they were poor, with the hope of providing for their children a condition better than their own. These men, I say, were shot down, shot down by free-State men, decoyed from their beds at the hour of midnight, under false and wicked pretenses—not only were their lives taken, but their bodies mutilated and mangled, in a manner that would have disgraced a troop of sepoys. And yet, the Administration is *censured* and *denounced* for sending an army into Kansas to preserve the peace!

The gentleman from Maine [Mr. WASHBURN] the other day, if I understood him, took the ground that the army was sent there in violation of law, and that the people would have been justified in levying war upon them and driving them out by force.

I might pass on, and if I had time I would be glad to do so, until we come down to the very latest act in this great drama of fanaticism—an act which has just closed in that same State to which I have referred—the State of Massachusetts—and of which the slower progress of the mails has yet failed, I believe, to bring us the intelligence which has reached us by a shorter mode of transmission. I refer, sir, to the removal from the office of judge of the probate court of the county of Suffolk, in that State, of Edward Greely Loring. The mere removal of the man is a matter of little consequence. We see men go out of office every day without much, if any, feeling. When at the commencement of the session the little page boys were sent home to their widowed mothers under the stress of party discipline, I confess that my sympathies were affected tenfold more deeply than by the removal of this gentleman, who is known to me only in his public character. But the cause for which he was removed is matter of higher consideration, matter which it concerns us to notice. What is that cause? That he has been unfaithful in the exercise of his office? That widows and orphans have suffered under his administration of the affairs of his court? Not at all; not at all. But because, some four, five, or six years ago, he assisted, in the character of a commissioner of the United States, under the act of Congress known as the fugitive slave law, in restoring to a gentleman in Virginia a slave who had escaped and taken refuge in Massachusetts.

Mr. HALL, of Massachusetts. Will the gentleman allow me to correct him?

Mr. MAYNARD. My time is nearly exhausted.

Mr. HALL, of Massachusetts. I wish to correct a statement made by the gentleman.

Mr. MAYNARD. My time is nearly out and I must go on. I am very sorry indeed to seem even to be disobliging. I am not so. I wish I had time to hear all the gentleman has to say. If the removal of Judge Loring is susceptible of explanation I would be glad that it should be explained, but I cannot yield for that purpose now.

Mr. HALL, of Massachusetts. I wish to correct him as to a point of fact.

Mr. MAYNARD. I cannot yield.

Mr. HALL, of Massachusetts. Judge Loring was removed for a violation of a State law.

Mr. MAYNARD. The State of Massachusetts has, through all the departments of her government, her Legislature, and her chief Executive, decided that the citizens of a slave State shall not have their constitutional rights upon the soil of Massachusetts. I care very little about that. I presume that there are few people of the South who care to go into Massachusetts, but I fear this is going to result in retaliation from the South. I fear it.

I have remarked privately to gentlemen who represent that State upon this floor, and I tell them publicly now, that before they are aware of it they may find their State out of the Union. The people of Massachusetts do not, like the people of the South, stay at home to attend to their business. The people of the South, when they go abroad, go for pleasure, rarely for business. The people of Massachusetts, on the contrary, are all over the world. They have business, and much business, in the South. How easy would it be for the people of the different southern States, as one of them has proposed to do, to pass laws disfranchising the citizens of Massachusetts, so that they should have no *locus standi in curia*, no legal remedy for the protection either of life or property; so that no Massachusetts vessel should be protected from pillage if she landed upon the southern coast by accident or otherwise; so that not a solitary article of Massachusetts manufacture should be sold there? I might go on and show that these measures of retaliation are practicable; that they can be done. But I should be sorry to see when they are done.

You may say that such a policy would be unwise, that it is impolitic and unconstitutional. I would be very sorry—and I say it here without hesitation—to see such a policy adopted, and I would resist it as unwise and injudicious. But, sir, I know very well that there are prominent men who differ from me in the matter of policy and the matter of propriety. These things, too, never stop with the act itself. There is always a result and a consequence which you cannot trammel up, which I, as a citizen of our common country, would deprecate and deplore. I am one of those who have no belief in a dissolution of the Union as a remedy for the evils under which we suffer. In my judgment, it is much wiser to

—“bear those ills we have,

Than fly to others that we know not of.”

[Here the hammer fell.]

Mr. WALDRON. I am aware, Mr. Chairman, that the discussion on the Lecompton constitution has been prolonged in this Hall until it has, to a certain extent, lost novelty and interest; and, if I consulted only my own feelings, I should content myself with a silent vote on the proposition which the President's message brings to our notice; but the vote that I cast here is the expression of men with whom this question is one of deep and engrossing interest; and, in justice to them, I would avow publicly the views and convictions which control that vote.

The special message of the President, and the constitution which it indorses, are documents in every respect worthy of each other. An instrument like this Lecompton contrivance ought to be accompanied by exactly such a message. There has been exhibited in the construction of that instrument a shameless disregard of even the appearances of honesty, which is paralleled only by the bold and reckless statements of the message. There has been in every movement of the framers of that constitution a cool and wanton violation of popular rights, which is appropriately followed up by a deliberate perversion of truth, and reckless suppression of facts. The conspirators at Lecompton treated the citizens of the Territory as slaves, and the Executive of the nation denounces them as rebels. It was not enough that these men should suffer wrongs at the hand of usurped authority, but there must be added to them opprobrium, accusation, and insult; and the Executive now steps in, so that no part is left unacted in this programme of outrage. There is symmetry in the design, as well as harmony in the execution. No trifling matters of form or fact are allowed to interfere where congenial tastes and a common purpose draw men together; and Buchanan and Calhoun strike hands in mutual admiration of each other's work.

The citizens of this broad land will peruse this message with varied emotions. A few will exult over it with exceeding joy. The men who indorsed its author in the last canvass as “one who had never, by vote, or speech, or act, pained the most sensitive southern heart,” will be delighted with it; for it establishes their political sagacity beyond doubt, and affords them renewed evidence that their confidence has not been misplaced. There are others who will join with them in admiration of its ability. The armed men who invaded Kansas in 1855, and elected, over the heads of its people, a Territorial Legislature, will be delighted at the earnestness with which the President rebukes the free-State men for attempting to establish a government by force; and they will breathe freer and easier when they find that there is at the head of affairs an officer who is so conscientiously the advocate of peaceful and legitimate suffrage. The President will also have his admirers among the past legislators of that Territory—the men who were kind enough to leave Missouri at the call of their neighbors, and take the interests of Kansas under their guardianship. These men will be horrified, in common with the President, at the usurpation which he charges upon the free-State men—the usurpation of men who would govern themselves! Then there are the disinterested patriots in that Territory, who manufacture poll-lists out of Cincinnati Directories. How sensibly will they appreciate the denunciations of fraud that are hurled by the President at the heads of the Topekaites, and how gallantly are they vindicated against the calumnies of their slanderers! And then, last of all, there are the southern apostles, who, under the lead of Atchison and Titus, undertook missionary labor in that Territory. With what holy unction will they roll their eyes heavenward, when they read the concluding paragraphs of this message, where the President so sincerely recognizes his obligations to his conscience and his Maker.

To these invaders and usurpers, Mr. Chairman, this message affords “aid and comfort,” with them it will find much favor; but there are others in the Democratic household who will not so readily subscribe to its reasoning and conclusions. There were, in 1856, men at the North who were so fervently devoted to the interests of freedom that they were thrown into spasms at the sight of “Dunn's bill”—men who denied with an air of virtuous indignation that slavery had a shadow of right in Kansas, or could acquire it without the consent of its people. What are these men now told by the President for whom they voted? Why that Kansas is just as much a slave State as Georgia or South Carolina, made so by the Federal Constitution and despite the wishes of its people; and this doctrine is now the standard of Democratic faith; the test of Democratic orthodoxy! And, then, there are the innocent mortals at the North who voted for Mr. Buchanan because they wanted to make Kansas a free State—the men who marched under the banner of “Buchanan and Breckinridge,” and kept step to the music of “Free Kansas.” What an air of injured innocence and misplaced confidence will these men assume when they read this message, abounding, as it does, in doctrines which forge and fasten upon the Territories the fetters of oppression. Well may these men ask, is this the feast to which we were invited? Is this the Democracy of which we were the advocates? Why, Mr. Chairman, the Democrats of my State were told during the last canvass that the nomination of James Buchanan was a virtual rebuke of the official conduct of Franklin Pierce; and they were assured that the Cincinnati convention had not indorsed his administration. When we prophesied that the election of James Buchanan would result in the very condition of things that we to-day witness, the answer was, that the Republicans were the men who by their acts endangered the cause of freedom in Kansas, and that the Democrats were the men to be relied on to save it for free men and free institutions.

A Democratic paper (the *Adrian Watchtower*) published during that canvass, and which I now hold in my hand, charges the Republicans as follows:

“To you belongs the honor of voting to extend over free territory the institution of American slavery, for the first time in the history of our country.”

“Do not attempt to dodge the responsibility and the glory! They are yours, and yours alone.”

And the same paper informs its readers that—
“If Kansas should now come into the Confederacy as a free State, its settlers may thank the United States Senate for the blessing; not the Republicans in the House, who voted in solid phalanx for Dunn's slavery bill.”

And at another time, in noticing the issues involved in the contest between my honorable opponent and myself for a seat on this floor, it warns its readers “that a vote for John S. Barry is a vote for freedom in Kansas, and a vote for Henry Waldron is a vote for slavery in Kansas.”

I also hold in my hand a copy of the *National Democrat*, a paper which carries at mast-head the names of Buchanan and Breckinridge, and immediately under them the following advertisements:

“Keep it before the people, that we will give the editors of the *Dowagiac Tribune*, or any other person, one hundred dollars, if they will show us a resolution in the Cincinnati platform indorsing the Administration of Franklin Pierce. We will also give one hundred dollars to any person who will show us a resolution, or even a sentence, in the Cincinnati platform, from which it may be inferred that the Democratic party is in favor of the extension of slavery.”

“Keep it before the people, that, at the last session of Congress, the Republicans voted to extend slavery into Kansas and Nebraska until 1858; the Democrats voted against the measure. The House passed the bill; the Senate defeated it. Here are the acts of the two parties—not mere empty professions.”

It was by such representations as these that votes were secured for James Buchanan. I might say that the men who cast them were cheated with their eyes open, and that they were duped no worse than they deserved to be; but I will not unnecessarily wound their tender sensibilities in this day of their humiliation; I leave them to settle with their betrayers, if any self-respect is left them, or submit to the swindle, if their manhood is “crushed out.” It is my purpose to address myself for a few moments to the question which this message introduces to our attention—the question of the admission of Kansas under the Lecompton constitution.

The Constitution of the United States declares that Congress may admit new States into the Union. The language used implies the exercise of a discretion on the part of Congress; not a discretion to be exercised arbitrarily and recklessly, without reason or judgment, but a discretion in accordance with well-settled rules and well-defined principles. In determining the question of admission, there are three considerations involved which demand the scrutiny of the national Congress. First. Does the Territory present itself with proper boundaries and the requisite population? Second. Are the people of the Territory satisfied with the constitution under which admission is asked? And lastly. Is that constitution republican in its provisions? I take it that these three questions are pertinent to the issue; that they cover the entire ground, and determine, by the facts they elicit, our duty in the premises. I pass by the first of these inquiries with the simple statement, that no question is raised, here or elsewhere, on the score of population or boundaries. It is conceded that the Territory of Kansas contains a population sufficient to bear the burdens of a State government at home, and to entitle it to its representative votes in this Capitol. In fact, a bill passed this branch of the national Congress nearly two years ago, admitting it into the Union as a State; and, although bitterly assailed and contested at the time, yet it was on other grounds than that which I have indicated; and, since the passage of that act, the steady current of immigration has thrown into that Territory thousands more of our fellow-citizens.

The second inquiry that commends itself to the attention of the American Congress is this: Are the citizens of Kansas content with the constitution that is here presented in their name? Is it their own free offering and the untrammelled expression of their will? This is a most material inquiry. In the determination of it, it becomes us to examine all the facts and circumstances that surround the inception, the framing, and the indorsing of this instrument, so that we may decide how far it meets with popular sanction and approval. For I take it for granted that no Congress should force into the Union a State with a constitution that its citizens abhorred and repudiated. I take it that such an act is an act of despotism, at war with the spirit of our institutions, and repugnant to every republican impulse. It is a

most pertinent inquiry, therefore, how far this Lecompton constitution embodies and expresses the sentiments of the people over whom it is attempted to be ordained, and it requires the rehearsal of a few facts only to show most clearly that it was conceived in sin, born in iniquity, nursed in fraud, and can only reach the maturity of manhood in violation of every principle of justice, honor, and good faith.

It is not necessary here to go back to the organization of this Territory and note, step by step, the successive outrages and usurpations that stain its history. I shall only take time to recur to the proceedings more immediately connected with the framing and pretended ratification of this Lecompton constitution. I commence at the 19th day of February last; when we find a Territorial Legislature in session, claiming to exercise authority—a Legislature which owed its existence to bare-faced outrage and fraud—a band of usurpers, whose authority never was recognized out of sight of your soldiers. This bogus Legislature passes a law providing for a constitutional convention to be held on the first Monday of September, and the election of its delegates on the first Monday in June. The President of the United States, in his anxiety to indorse the action of a usurping Legislature, and to smooth the passage of another slave State into the Confederacy, tells the country, in his annual message, that this enabling act of the Territorial Legislature "was in the main, just and fair; and it is to be regretted that all the qualified voters had not registered themselves, and voted under its provisions." He states moreover, that "a large proportion of the citizens of Kansas did not think proper to register their names, and to vote at the election for delegates; but an opportunity to do this having been fairly afforded, their refusal to avail themselves of their right could in no manner affect the legality of the convention."

Now, Mr. Chairman, against these bold statements of the Executive, I place testimony that cannot well be gainsayed. I give the statements of the gentlemen who were sent there by the Administration as executive officers of that Territory—men whose antecedents and associations commended them to the Administration as fast friends of that peculiar institution which it is the province of the Democracy in these latter days to cherish. Governor Walker says:

"That [the Lecompton] convention had vital, not technical defects, in the very substance of its organization under the territorial law, which could only be cured, in my judgment—as set forth in my inaugural and other addresses—by the submission of the constitution for ratification or rejection by the people. On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken, and the voters registered; and when this was completed, the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters."

"These fifteen counties, including many of the oldest organized counties in the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give a solitary vote for delegates to the convention." * * * "Nor could it be said these counties acquiesced; for, wherever they endeavored by a subsequent census or registry of their own to supply this defect, occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention."

"I repeat, that in nineteen counties out of thirty-four, there was no census. In fifteen counties out of thirty-four, there was no registry; and not a solitary vote was given or could be given for delegates to the convention in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one-tenth of the present voters in Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent."

And Secretary Stanton, a pro-slavery Democrat, confirms this statement in the following extract:

"The census therein provided for was imperfectly obtained from an unwilling people in nineteen counties of the Territory; while in the remaining counties, being also nineteen in number, from various causes, no attempt was made to comply with the law. In some instances people and officers were alike averse to the proceedings; in others, the officers neglected or refused to act; and in some there was but a small population and no efficient organization enabling the people to secure a representation in the convention."

In investigating, therefore, the regularity and fairness of this convention, we find that in nineteen counties out of thirty-four there was no cen-

sus, and in fifteen counties out of thirty-four there was no registry, and consequently there could not be a vote in them for delegates to the convention; and it appears moreover that this failure to take a census or make a registry, disfranchising as it did a majority of the counties, was chargeable to the territorial officers; men who were the creatures of this usurping authority, and who denied the people of these counties the privilege of an election, because that election would result contrary to the wishes of the conspirators who were plotting and scheming to defeat a fair expression of the popular will. Nor does this record of wrong stop here. The citizens of one county, whose officers had refused to make a registry, met and elected two delegates to the convention, being the number to which they were fairly entitled, and when these delegates present themselves, they are rejected by the convention because they were not elected under the territorial law. And yet, in defiance of these facts, which are blazoned forth to the scrutiny of an intelligent people, in the face of the evident truth that the failure of these men to vote was no fault of their own, we have the President of the United States assuring us that *an opportunity to vote has been fairly afforded, and that it is to be regretted that all qualified voters had not registered themselves, and done so.* To what humiliating expedients do not the necessities of slavery drive its instruments, when a Chief Executive of the nation is compelled to resort to so flagrant a misstatement of facts?

So much, Mr. Chairman, for the manner in which this Lecompton constitution was instituted and organized. Instead of representing the sovereignty of the people it is but the representative of an insignificant faction; instead of being the exponent of the popular will, it has been created in flagrant disregard and defiance of the popular sentiment of the Territory. It has only been able to hold its sessions with Federal bayonets around it to protect it from an outraged and exasperated people; and yet this body of men is indorsed by an Administration and a party that professes to subscribe to the doctrine that the people of a Territory are free to form and regulate their own institutions!

And now, let us pass from the organization of this convention to its action. It assembles in Lecompton; it frames a constitution; and here another fraud is invoked to subserve the purposes of the conspirators against freedom. The people of the Territory had a pledge in the organic act, that they should determine for themselves the character of the institutions under which they were to live—a pledge which the men who sustained the act were bound in good faith to keep. Then they had been assured in the name of the Democracy at Cincinnati, that the right to form a constitution rested with the people of the Territory, "acting through the *legally and fairly expressed will of a majority of actual residents.*" And at a still later date the President of the United States, in his inaugural, says:

"It is the imperative and indispensable duty of the Government of the United States to secure every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved."

And, still later, the Governor of the Territory, speaking for the President and Cabinet, assures them that they shall be protected in the right of voting for or against the instrument, and that the popular will shall not be defeated by fraud or violence.

And then John Calhoun and his colleagues, when candidates for seats in that convention, pledged themselves that the constitution to be framed shall be submitted to *every bona fide actual citizen of Kansas*, "in order that the said constitution may be adopted or rejected by the actual settlers of the Territory, as the majority of voters shall decide." Here were pledges and assurances made and renewed to the people of that Territory, that they should have the privilege of ratifying or rejecting the instrument that was framed by the convention. How were those pledges redeemed? Was this constitution submitted by the convention to the popular judgment? Never; the submission under the schedule was a most transparent fraud and swindle. It provided that the resident might vote "constitution with slavery" or "constitution with no slavery;" but for the constitution he must vote in any event. No mat-

ter how obnoxious the provisions of that instrument may be to him, he cannot vote against it. He cannot express his dissent on any question of finance, or taxation, or schools, or banking, or the numerous questions that enter into State policy and politics. In reference to all those matters, he must take this instrument just as it came from the hands of its framers. He cannot even vote to make a free State of Kansas, by a ballot for the "constitution with no slavery," for the schedule provides that if the votes for the "constitution with no slavery" prevail, then "slavery shall no longer exist in the State of Kansas, except"—now mark the words—"except that the right of property in slaves now in the Territory shall in no manner be interfered with." In other words, the slaveholders in the Territory were made secure in the right to their slaves and their increase forever; and the only effect of a vote for the "constitution with no slavery" was to determine the future source of supply, namely: that it shall be by increase of the slaves within, and not by importation of slaves from without. As has been well remarked, the only question submitted was whether Kansas should be a slave State with the slave trade, or a slave State without the slave trade.

Such was the submission of the slavery question—a mockery and an insult. It gave no power to the people of the Territory to prohibit African slavery; but it fastened it upon them for all time to come. It bound them hand and foot, and placed them at the feet of Calhoun and his confederates. And yet the President adds insult to injury by telling them and us, that at that election every citizen had "an opportunity of expressing his opinion, by his vote, whether Kansas shall be received into the Union with or without slavery"—a statement which the facts show to be utterly without apology or excuse.

But passing from the form of the submission, let us look at the manner. The president of the convention, John Calhoun, appointed three commissioners for each county. These commissioners established precincts for voting in each county, as they deemed proper, and selected inspectors of election for the several precincts—then the returns were to be made to this John Calhoun, who determines the result. Sir, when this scheme was devised for holding an election, it needed no prophet to foretell the result. It was already a foregone conclusion. The history of Kansas elections, under the control of those men, had been a history of villainous fraud, unknown before in the experience of the Republic, and this election was no exception to the rule. The creatures whom John Calhoun placed as inspectors at the Oxford precinct returned thirteen hundred votes for the "constitution with slavery," when a census, subsequently taken, establishes the fact that there were only forty-two white male inhabitants in the township over twenty-one years of age. His inspectors at Shawnee returned over one thousand votes for the "constitution with slavery," when the same census shows but one hundred and fifteen male inhabitants of legal age in the township; and the return from Kickapoo was likewise threefold the actual number of its legitimate voters; and by such unblushing frauds a vote of some six thousand has been returned for the "constitution with slavery"—a vote more than double the real pro-slavery strength of the Territory.

Nor did these men content themselves with retaining in their own hands the entire machinery and control of this election, but they prescribed a test oath for the express purpose of repelling free-State voters. The ninth section of the schedule provides that—

"Any person offering to vote at the aforesaid election, upon said constitution, shall be challenged to take an oath to support the Constitution of the United States, and to support this constitution, under the penalties of perjury under the territorial laws."

Yes, sir, the man who went to the polls to deposit his ballot is met by an oath that he will support this constitution, under the pains and penalties of perjury. He must make an unconditional surrender at the very outset. He must submit to the humiliation of bowing down before his oppressors, and calling Heaven to witness that he recognizes, acknowledges, and will support, the work of their hands. He may be a man whose instincts and impulses are all on the side of freedom and humanity, but before he can vote, he

must swear fealty to an instrument which declares the right of a slaveholder to be inviolable, and the institution of slavery to be before and higher than any constitutional sanction. All this must he do, in defiance of his own conscientious convictions of right, or stand back from the ballot-box. There was no freedom of suffrage there, except for such men as were willing to pledge themselves by an oath that they would maintain, uphold, and defend a system that is founded on piracy and maintained by force. Sir, the free State men of Kansas were disfranchised by this test; they could not vote under it, and they did not.

But we are not left in the dark as to the will of the people of Kansas in reference to this question. An election was held on the 4th of January, by authority of the Territorial Legislature and its Governor, for the purpose of ascertaining the sentiment of its citizens. Its result has been announced over the hand of the Governor. It shows a majority of ten thousand votes against this Lecompton constitution. It was an indication of public sentiment, clear, distinct, and decisive—one that no man can deny or evade. It stamps the seal of popular condemnation on this document. It brands it as a swindle that has escaped from the Territory to deceive with lying pretenses, and counterfeit with brazen arrogance.

And now, Mr. Chairman, I ask, are members of the American Congress ready to become actors and participants in this scheme? Are they, in the noonday of the nineteenth century, and with the flag of the free floating above their heads, willing to commit this great crime against justice and right? Are they, with the impulses of manhood in their hearts and the obligations of official duty upon their consciences, ready to become parties to this trickery and fraud? Will they force upon an unwilling, a protesting people, a constitution that is rank with usurpation and rotten with the leprosy of falsehood and fraud? I will not yet believe that an American Congress will lend itself to such despotism, or stoop to such degradation.

I now reach the last point of inquiry: is this Lecompton constitution republican in its provisions? Let me read one of them. The first section of the seventh article declares:

"The right of property is before and higher than any constitutional sanction; and the right of the owner of a slave to such slave and its increase is the same, and as inviolable, as the right of the owner of any property whatever."

Now, I assert that a constitution indorsing and avowing such a principle is not a republican constitution, in any true signification of the word. I deny that the institution of slavery is founded on natural right, or that it has a sanction before and above any constitutional law. It is a monstrous doctrine, contravening every fundamental principle of our Government, and falsifying the testimony of the living and the dead.

Washington, when he took his farewell of earth, left his recorded opinion of slavery as a moral and political wrong. Jefferson denounced "the whole commerce between master and slave" as "a continual exercise of the most unrelenting despotism on the one part, and degrading submission on the other;" and asked, emphatically—

"With what execration should the statesman be loaded, who, permitting one half of the citizens thus to trample on the rights of the other, transforms those into despoils and these into enemies, destroys the morals of the one part and the *amor patriæ* of the other! Can the liberties of a nation be thought secure, when we have removed their only firm basis, a conviction, in the minds of the people, that these liberties are the gift of God? that they are not violated but by His wrath? Indeed, I tremble for my country when I reflect that God is just, and His justice cannot sleep forever."

And even southern courts stamp this doctrine of the Lecompton constitution as false; they declare that slavery is an unnatural right, existing only by virtue of local laws. It was decided, in the State of Mississippi, (see Walker's Reports, 86,) that—

"The right of the master exists not by force of the law of nature or of nations, but by virtue only of the positive law of the State."

In the same State, the court say, (Walker's Reports, 42:)

"Slavery is condemned by reason and the laws of nature. It exists and can only exist through municipal regulation."

A Kentucky court, in the case of Rankin vs. Lydia, (2 Marshall's Reports,) declare that slavery is

"A right existing by positive law, of a municipal character, without foundation in the law of nature or the unwritten and common law."

I place by the side of this Lecompton instrument the Constitution of our fathers—a Constitution that comes down to us as a sacred legacy from the sages of the Revolution. The men who framed it avowed it to be their object to establish justice and secure the blessings of liberty to themselves and their posterity. That Constitution you and I have sworn to support. It is a standard by which we can determine the political doctrines of a better day; and when we contrast them with those of the present, we have startling evidence of our downward progress. It is a significant fact that the framers of the Federal Constitution excluded even words that would imply an idea of property in man; while this Lecompton contrivance indorses property in man as founded on good policy and natural right!

Sir, I will never recognize the doctrine that this Lecompton constitution teaches, or the principles that it avows. If it had received the sanction of every citizen of the Territory of Kansas, it would make no difference with my vote; for a constitution which places slavery over and above law, is a constitution which no community or people have a right to make; and, standing here by virtue of the suffrages of seventeen thousand free-men, and in their name, I declare that I will never, by my vote, recognize any extension of slavery outside of the limits where State sovereignty now protects it. The motto of my people is, "No more slave States." Their position is unequivocally on the side of free labor and free institutions. They protest against the extension, by the influence of this Government, of a system which inevitably degrades the white laborer, and which gives to the owner of five slaves political power equal to that of four of our own free electors. So far as that unfair advantage exists under the compromises of the Federal Constitution, they yield to it; but they go not an inch beyond. They yield to no men in loyalty to the Union and allegiance to the Constitution, which is our common bond; but they insist that the power of that Union shall not be prostituted in behalf of an unhallowed system that is at war with the teachings of patriotism and the lessons of humanity—a system that contains the elements of weakness and the seeds of disunion. They protest against a perversion of the plain principles of the Constitution to shield a great social and political evil—an evil that is fatal to economy, industry, and liberty. They deny the new interpretations which the necessities of slavery place upon our organic law, and the false theories that they ingraft upon our judicial decisions. They abide by the precedents of the past and the faith of their fathers. They are not yet prepared to believe that civilization and freedom are failures, and only slavery and oppression possible upon the earth; but they do know that but one hope remains, one remedy is left, and that is the remedy of the ballot—wresting power from the hands of the slave Democracy, and vesting it with those whose political creed is founded on the eternal principles of humanity and justice.

You may talk to these men about secession, disunion, and dissolution. If you use such language for purposes of intimidation, then their answer is the laugh of scorn. Your threats of a divided Confederacy pass by them like the idle wind. They realize that this Union is worth much more to you than it is to them; and that it is worth too much to every section, it is too dear to every interest, to suffer any damage when it is administered in accordance with the high purposes of its founders. They realize that the strength and perpetuity of this Union rest in a faithful adherence to the eternal principles of liberty, justice, and right, on which it is founded. They know that it is only weakened and endangered by a departure from those principles; and that when, in the service of oppression, it becomes powerless for good and only efficient for evil, then it is a Union no longer worth preserving. They therefore best evince their devotion to the Federal Union by a cordial support of the principles which constitute its glory and its strength, and by hostility to an institution which is its weakness and its shame.

But before I pass by the consideration of this constitution, let me call the attention of gentlemen to the section providing for its amendment. It reads as follows:

"Sec. 14. After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this con-

stitution; they shall recommend to the electors at the next general election, two-thirds of the members of each House concurring, to vote for or against calling a convention; and if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the Representatives; said delegates so elected shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution; but no alteration shall be made to affect the rights of property in the ownership of slaves."

This section makes slavery perpetual in that Territory. It coils fetters about the people, and then ties up their hands so that they cannot remove them. The edict establishing and protecting slavery is like the laws of the Medes and Persians—irrepealable. The institution of slavery is so dear, so sacred to the men who compose this convention, that they place it above and beyond all law; and also beyond the sovereignty of the future State. This section denies any amendment until 1864, by which time it is expected that the "peculiar institution," under the kind care of your Army, your Supreme Court, and your Executive, will have taken deep root and firm position. Then it is necessary to secure a two-thirds vote in both branches of the Legislature in order to call a convention; and these conspirators have carefully guarded against that by giving the pro-slavery counties representation in both Houses, founded on fraudulent returns; and then, to guard against all and any contingencies, they demand that the citizen shall swear allegiance to this constitution, which declares plainly and distinctly that "no alteration shall be made to affect the rights of property in the ownership of slaves." There is therefore no mode under this constitution by which the citizens of that Territory can free themselves from this evil.

I know that it is claimed by some gentlemen, that notwithstanding this provision of the constitution, the people of the future State will have the power to amend it as they deem best. I shall not argue that question now. Whether they have it or not, is immaterial, for we all well know how an attempt to exercise that power will be met. Suppose that this constitution is forced upon that Territory, and after it becomes a sovereign State, its people amend it in another mode than that which the constitution itself points out, and in so doing, abolish the institution of slavery? Why, sir, the slaveholder will go to the Supreme Court of the United States and cite the clauses of this constitution; and no man can doubt what the decision of that court will be, when the slaveholder goes to it for protection; and that that decision will be maintained as against this alleged right of a people to amend its constitution, in violation of its provisions.

Mr. Chairman, this Lecompton constitution is not an isolated wrong; it is not the first aggression on popular rights in Kansas; but it is the necessary result, the fitting sequel, to a series of villainies and wrongs.

For four years past the Democratic rulers and the Democratic party, have been engaged in an effort to extend the institution of slavery into the Territory of Kansas. The effort has been unceasing, untiring, and unscrupulous; and the means used have been, in every respect, worthy of the end to be accomplished. First, the Missouri compromise was repealed—repealed by the aid of Executive influence and by the force of party drill, because it stood in the way of the extension of slavery. Then a section of territory, that did not contain one hundred American citizens, was divided into two territorial organizations, at an annual expense to the Government of \$100,000, so that the southern subdivision might, from its location and climate, be better adapted to the institution it was sought to introduce; then territorial officers were selected, who were supposed to be orthodox on the subject of African slavery, and willing to use their official position in its behalf; and when they shrank back from deeds of fraud, and injustice, and outrage, they were replaced by men who acknowledged less allegiance to conscience, and more loyalty to party; then armed bands from the southern States invaded that Territory, nullifying the will of its citizens, and electing a Legislature of usurpers as appropriate instruments to forward the unhallowed work.

But it is needless to recur to that catalogue of wrongs as evidence of a long-settled purpose. No

man can now dispute it. It was the design of the men who devised and engineered the repeal of the Missouri compromise to make Kansas a slave State. It was cloaked over at first in order to stifle the sensibilities of the northern conscience, and beguile northern Democrats out of their votes. When the party was halting and hesitating about indorsing the Nebraska bill, General Cass assured it that the South never could derive any benefit from the measure, for no human power could ever establish slavery in the regions defined by that bill. These were his very words; but now when the Democratic party is brought to the sticking point, the mask is thrown off and he stands as the very Premier of an Administration glorying in the avowal "that Kansas is as much a slave State as Georgia or Alabama."

Sir, I am not surprised that a portion of the Democracy finally recoil from the work of usurpation, to which they have so long been parties by their votes. I only wonder that they have so long allowed themselves to be instruments in the hands of the slave power to strike down the cherished interests of freedom. I only wonder that their indignation has so long slumbered, whilst these fetters have been forging for their fellow-citizens in that Territory, and I now regret that they content themselves with so tame and so limited a measure of remonstrance. I regret that they confine themselves to a denunciation of this last outrage, when every argument that they use and every word that they employ apply with equal force to the long chain of usurpations that stain the pages of our history.

The fraud and outrage involved in the formation of the Lecompton constitution is not more odious and sickening than the violation of public faith and honor involved in the destruction of a sacred compact. There has been no enormity perpetrated at the recent elections in that Territory, which had not its model and pattern in the first elections under the Nebraska act. The government of that Territory, from its first inception, has been a despotism, created by armed invasions, and maintained only by Federal bayonets. The Legislature of that Territory has been maintained in power by the same military authority that interfered to protect this Lecompton convention from the indignation of the people it assumed to represent. The laws of that Territory have, from the first, been enforced, at the risk of violence and bloodshed, upon an unwilling people. The officers of that Territory, from the day of its organization, have been men selected with reference to their ability and disposition to do the bidding of the slave power—men whom the people of that land never selected—and their task has been to enforce laws which the people never made. The man who presented himself to the appointing power with the blood of a free-State man upon his hands, was the man favored as the recipient of executive patronage; and when an official has manifested a disposition to do half-way justice to the people—when he has for a moment recoiled in disgust from the work of usurpation—he has been beheaded by the executioner at the White House. The elections that immediately preceded and followed this Lecompton convention have been just as fair, just as honest, just as legitimate, as those which elected Territorial Legislatures and congressional Delegates. All of them have been alike outrages on the right of the elector. All of them have been carried by fraud in voting or in counting, except the election of last October, and then the usual frauds were perpetrated, but they failed of their object through the interference of Governor Walker and Secretary Stanton; and that interference lost them favor with the Administration, and finally cost them their official positions.

Mr. Chairman, it may be that this Lecompton constitution is to be forced through Congress by the strength of party drill and executive influence. I fear that result; and, in anticipation of it, the Administration is asking an increase of Federal troops to enforce it upon the protesting people of the Territory. I am aware that they do not openly avow this object; and yet they but half conceal it. They talk about Mormon rebellions and Indian disturbances, while at the same time they retain three thousand men in the Territory of Kansas to protect usurpers in their wrong, and deprive freemen of their rights. The resources which the Administration has at its command

are abundant for present emergencies, if it will use them; and I vote not another man nor another musket to be placed at its disposal.

This great wrong, Mr. Chairman, may be consummated; but, if it is, then I rejoice that there is in this land a power higher than Presidents, and greater than Congresses—the power of the sovereign people—constituting a tribunal of last resort, to which the friends of freedom will take an appeal with a consciousness of power and strength that a righteous cause always gives to its advocates.

Mr. GIDDINGS. Mr. Chairman, the gentleman—I trust he will permit me to call him my friend—from Tennessee [Mr. MAYNARD] has made a most solemn appeal to me, in consideration of some remarks which fell from me on a former occasion. Of his perfect sincerity I have no doubt; and I presume that he will do me the honor to say that he has as little doubt of my own integrity of purpose. That gentleman and myself, from the professions we make to the world, recognize mankind as responsible, in the broadest sense, as eternally existent intelligences, who are destined to a glorious future. We recognize that he and myself, at a future day, will meet face to face, before the bar of retributive justice, with the most abject slave that treads the earth. It is to such men I reply, and not to those who deny those great and, to the gentleman and myself, important and undying principles.

Sir, show me any being made in the form of the Creator, and I will show you a brother, no matter what may be his position, how degraded, how trampled on. If he bears the impress of immortality upon his countenance I recognize in him one who will stand with me, my equal, at the last day. True, my first duty is to my wife and children; next to those around me; then to the State and nation; and then to mankind in its broadest and most comprehensive sense, no matter whether they toil under an African sun, or upon the plains of India; whether in freedom, or oppressed by slavery. I see in man, wherever he may be, the handiwork of God; and I see in him a being destined to immortality. It was this great principle that prompted those mighty men, J. Q. Adams, J. A. Bayard, Henry Clay, Jonathan Russell, and Albert Gallatin, to enter into a solemn compact and declaration of sentiment with Lord Gambier, Henry Goulburn, and William Adams, commissioners on the part of Great Britain, which I will read:

"ART. 10. Whereas, the traffic in slaves is irreconcilable with the principles of humanity and justice, and whereas, both his Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object."

Mr. Chairman, clothed with the opinions of those illustrious names, Great Britain and the United States stand committed to the civilized world to use their whole influence to put down—not the African slave trade merely—but the traffic in slaves on our own shores, and among the British West India islands. And, sir, as a member of the American Congress, as an American citizen, as a Christian, as a statesman, and as a man, I will carry out that solemn compact, that solemn pledge. It was with these views that I made the remarks to which my friend from Tennessee [Mr. MAYNARD] has replied with so much zeal and eloquence. It was with the intention of exposing this misrepresentation of our Government in the length and breadth of its iniquity, that I called the attention of the country to the fact that our Minister at the Court of St. James had made statements to the British ministry that were unfounded in fact; and I challenged contradiction to that important assertion, as I did sixteen years since. I then declared the utterance of our representative at the Court of Great Britain as slanderous of the American nation—as false, unfounded, and a libel upon our Government. I call upon the gentleman from Tennessee to contradict that; and my friend had better acknowledge the fact at once, than to attempt to evade it as he did.

I rise to call the attention of the gentleman and of the country to the important fact that this Government has violated this solemn compact, by its authorized agent in Great Britain. And I called on British ministers not to be again misled, but to carry out the solemn pledge which that nation and our own had thus made to the civilized, the Christian world. I felt that the British ministry

had violated this pledge by consenting to pay for men, immortal beings, as *property*. Now, sir, here is my position. It is no appeal to this man or that, but an appeal to the whole British and all other nations, to all people of whatever language, whatever may be their form of government, that they stand up in favor of *humanity*, maintain the dignity of man, and to see that this pledge, so solemnly made by this Government, shall be redeemed. Now, will my friend from Tennessee stand up to this pledge?

Mr. MAYNARD. I do not understand that any pledge has been made that requires either to be redeemed, or stood up to, or violated; or that there is a category, such as is suggested, to which it is necessary to respond; but as I am upon my feet, by permission of the gentleman—

Mr. GIDDINGS. Will my friend redeem that pledge? Will he use his efforts, so far as he can, to abolish this traffic in human flesh?

Mr. MAYNARD. If the gentleman will hear what I have to say—

Mr. GIDDINGS. I only ask the question, will he carry out that pledge, or will he not? I do not ask for any other explanation.

Mr. MAYNARD. If the gentleman will not give me my own mode of replying—

Mr. GIDDINGS. I only say that Henry Clay, when he stood before the country as a candidate for the Presidency, and when I, before the country, supported him in that canvass, had made this solemn pledge, that he entered into that compact to destroy the traffic in slaves.

[Here the hammer fell.]

Mr. BARKSDALE obtained the floor.

Mr. MAYNARD. May I ask the gentleman from Ohio a question?

Mr. BARKSDALE. One single question.

Mr. MAYNARD. I was going to ask the gentleman whether he did not understand that this tenth article of the treaty with Great Britain related to the slave trade? And then I was going to ask him whether there was not a very grave question of casuistry, as to the right and title under which we hold the lands once belonging to the Indians, and whether there was not a great difference between the propriety of getting their lands now, and giving up what we have already acquired?

Mr. GIDDINGS. I will answer the gentleman's first question, but will not answer his second question, it having no relation to the question.

Mr. MAYNARD. The question which I asked was this: whether there is not the same difference between the question of the African slave trade; either as a question of ethics or of policy, and the holding of persons in slavery who are now slaves; that there is between plundering the Indian tribes of their lands, and the holding of the lands which we have now got, and refusing to give them up to the first Indian who comes along?

Mr. GIDDINGS. The gentleman must meet my question, or back out. When the gentleman asks me whether that provision was not intended for the slave trade, I tell him *no*; not exclusively. One man who made that compact declared upon this floor that it was designed to overthrow the entire traffic in human flesh. There is no reference to the foreign slave trade, nor to the domestic or coastwise slave trade; and I believe that Mr. Clay, and those men who acted with him, thought as much of our own country as they did of Africa; and that they would not say that the slave trade upon the African coast was piracy, and on our own coast was a commendable vocation. They did not hold that crime was to be determined by the latitude and longitude in which it was committed; but they held that a man who, upon our own southern coast, dealt in those who were created in the similitude of God, ought to be hanged, as much as those who engaged in the same trade on the African coast. And let me tell the gentleman that, if he had consulted the history of the country, he would have known these declarations, which were publicly made in the Halls of Congress.

Mr. MAYNARD. Then I ask the gentleman whether he intends to say that, when the treaty of Ghent was made, on the 24th of September, 1814, by John Quincy Adams, Bayard, Clay, Russell, and Gallatin, they invoked the aid and instrumentality of Great Britain acting here in putting down the buying and selling of slaves in our own country? Sir, such a supposition as that I

hold to be a calumny. I hold it to be a slander on the memory of those distinguished statesmen. They never could have done so. I will never believe—I will believe anything first—that they would make a treaty with the Power with which we were at war; the Power which we met on the northern lakes; the Power which we met on the seas; the Power which had impressed our seamen, by which that Power, as one of the high contracting parties, should come upon our own ground, into our own country, and interfere to prevent a citizen of the United States from either buying or selling a household servant as the exigency of his household or the requirements of his business might make proper or necessary.

Mr. GIDDINGS. I wish to have one minute, to say that this pledge of Henry Clay, and John Quincy Adams, and Bayard, and Gallatin, was on behalf of the United States and of this Government; not on the part of England, but for this nation and Government. England owned, at that time, slave colonies herself, and tolerated traffic in slaves among her West India islands; and the British ministers proclaimed their intention to put down the traffic in slaves in the West India islands. Now, I appeal to the nation, I appeal to the House, whether we ought not to carry out that compact?

Mr. MAYNARD. I ask why, if that had reference to slavery, and not to the slave trade, they did not use the word "slavery?" It was as easy for them to have inserted a word about which there could be no controversy and no misunderstanding.

Mr. GIDDINGS. It was because the United States Government had not the power to abolish slavery in Tennessee, or in any other State, but had the power to abolish the slave trade on our coast. They said "traffic in slaves," not slavery, not the slave trade.

Mr. BARKSDALE resumed the floor.

Mr. UNDERWOOD. I ask the gentleman from Mississippi to give way to a motion that the committee do now rise.

Mr. BARKSDALE. I prefer to go on now.

Mr. ATKINS. Will the gentleman yield to my colleague, [Mr. MAYNARD,] that he may ask a question of the gentleman from Ohio, [Mr. GIDDINGS?]

Mr. BARKSDALE. For one moment only.

Mr. GROW. I hope the gentleman will also yield for an answer?

Mr. BARKSDALE. Certainly.

Mr. MAYNARD. I dislike, Mr. Chairman, to pursue this course of discussion. The question which I desire to propound is—

Mr. HARLAN. I feel under the necessity of raising an objection.

The CHAIRMAN. By the settled usage of the committee the floor cannot be yielded without unanimous consent, except to ask a question. Objection is made, and the gentleman from Mississippi will proceed.

Mr. BARKSDALE. Mr. Chairman, the third section of the fourth article of the Constitution of the United States declares that new States may be admitted by Congress into the Union; and the fourth section of the same article provides that the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of the Executive when the Legislature cannot be convened, against domestic violence.

Under these clauses of the Federal Constitution, Mr. Chairman, from the beginning of the Government to 1820—in its purer and better days—in the days of Washington, Jefferson, Madison, and Monroe, of the great men who fought the battles of the Revolution, and achieved our independence, free States and slave States were admitted into the Union without any discussion as to their domestic institutions. During that period Vermont, Kentucky, Tennessee, Ohio, Louisiana, Indiana, Mississippi, Illinois, and Alabama, were all admitted into the Union on terms of perfect equality with the original States that formed the Confederacy. In 1820, however, when Missouri applied for admission, her application was resisted, not because her constitution was not republican in form, not because there was any objection to her boundaries, not because she did not have the requisite population, not because she had not undergone a territorial pupillage, but because her constitution recognized slavery.

Here, sir, commenced the agitation of that fearful question of slavery, which, though presenting at different times somewhat varying aspects, remains unchanged in its essence and character, and is to-day what it was then—a contest for sectional aggrandizement on the one hand, and existence on the other.

This fierce struggle was finally ended by the admission of Missouri; but, in order to secure it, the South was forced to yield to an unjust and unconstitutional restriction, by which slavery was prohibited north of 36° 30'.

It is unnecessary for me, sir, to repeat the events of that period. They have been often depicted during the present session of Congress in the discussion of this Kansas question, and are well known to the country. And from that period to the present, whenever a slave State has applied for admission into the Union—as in the case of Arkansas, of Florida, and of Texas, the country has passed through the same scenes of agitation, of excitement, and of turmoil, through which we are passing now.

Mr. Chairman, when a State applies for admission into the Union, what are the inquiries to be made by Congress? First, whether her constitution is the act and will of the people of that Territory, or inchoate State; and secondly, whether her constitution is republican in form. To arrive at a satisfactory solution of these questions as connected with the application of Kansas, I propose to call the attention of the House to certain facts, the authenticity of which no one can successfully controvert.

On the 3d of February the President of the United States, in the patriotic discharge of his duty, transmitted to Congress a constitution formed by Kansas, with her application for admission into the Union, accompanied by a message marked with extraordinary ability, urging her admission. The question for us to ask is, is this the constitution of the people of Kansas? Have they made it? Is it their act and deed, and are they applying for admission into the Union under it?

The objects of the Kansas-Nebraska bill, introduced into the Senate by Judge DOUGLAS, who was its avowed champion, were to organize these Territories, to confer upon the people whatever powers of legislation were possessed by Congress, and to repeal the Missouri restriction—thus establishing the principle of non-intervention. That bill became the law of the land. The Missouri restriction was repealed, and Kansas and Nebraska became organized Territories. A Governor of Kansas and other officers were appointed. A Territorial Legislature was elected by the people, and all the machinery of a territorial government put in operation. It has been charged, however, that there were frauds practiced in the election of the first Legislature of the Territory of Kansas. I do not know how that may be. I do know, however, that before the Kansas-Nebraska bill passed—after it became evident that it would pass—an organization was gotten up in the State of Massachusetts, with a capital amounting to \$3,000,000, for the purpose of sending emigrants into Kansas with a view, *not of becoming citizens*, but of shaping and controlling its institutions, and defeating the objects of the law. Now, sir, what does Judge DOUGLAS say with reference to the organization of this Emigrant Aid Society?

Mr. DAWES. The gentleman is mistaken in what he says about a society organized, as he says, in Massachusetts.

Mr. BARKSDALE. I understand, sir, what are the facts in connection with the organization of this society. Its objects were to defeat the law; and many of those who went to that Territory under its auspices, left it, never to return, immediately after the first election.

Mr. DAWES. Will the gentleman let me correct him?

Mr. BARKSDALE. No, sir; I do not mean to treat the gentleman discourteously, but I cannot yield.

Mr. DAWES. I wish to say to the gentleman, that no such society was organized in Massachusetts as he has described.

Mr. BARKSDALE. Why, sir, it has never been denied before, to my knowledge.

Mr. DAWES. It is denied now. He is mistaken about the society.

Mr. BARKSDALE. The Senator from Massachusetts [Mr. SUMNER] boldly avowed it in the

Senate, and it was admitted upon this floor by the gentleman from Indiana, Mr. Mace, a member of this House in the Thirty-Third Congress.

Mr. SINGLETON. Mr. Mace acknowledged that he was the president of the association.

Mr. DAWES. The gentleman says that the Legislature of Massachusetts incorporated such a society.

Mr. BARKSDALE. The gentleman is mistaken. I did not say the Legislature incorporated the society. I said there was an organization formed with a capital of \$3,000,000.

Mr. DAWES. And formed in Massachusetts, I understand you to say.

Mr. BARKSDALE. Yes, sir; that is my understanding.

Mr. DAWES. The gentleman is mistaken. There was no such society formed in Massachusetts.

Mr. BARKSDALE. I repeat, sir, that I have never heard the fact denied before. It has been gloried in by the Representatives from Massachusetts heretofore. I recollect that the Senator from Massachusetts avowed it and exulted in it on the floor of the Senate. I allude to Mr. SUMNER, in that celebrated speech of his, which gentlemen on the other side of the House will remember, perhaps, forever.

And let me state here that the candidate of the anti-slavery party for Congress, in the first election, left the Territory immediately after the result was made known, and never returned.

The object of that organization, I repeat, was to defeat the purpose of the law, and to prevent slaveholders from enjoying their property in that Territory. Here is what Judge DOUGLAS says:

"The passage of the Kansas-Nebraska act was strenuously resisted by all persons who thought it a less evil to deprive the people of new States and Territories of the right of State equality and self government than to allow them to decide the slavery question for themselves, as every State of the Union had done, and must retain the undeniable right to do, so long as the Constitution of the United States shall be maintained as the supreme law of the land. Finding opposition to the principles of the act unavailing in the Halls of Congress and under the forms of the Constitution, combinations were immediately entered into in some portions of the Union to control the political destinies and form and regulate the domestic institutions of those Territories and future States through the machinery of emigrant aid societies."

Here, I have quoted the language of your great leader in this war upon Kansas and the South, in regard to these emigrant aid societies—

Mr. DAWES. If the gentleman will permit me, I will in a moment set him right in this matter.

Mr. BARKSDALE. I only have an hour, and the gentleman will see that I have no time to spare. Judge DOUGLAS continues:

"In order to give consistency and efficiency to the movement, and surround it with the color of legal authority, an act of incorporation was procured from the Legislature of the State of Massachusetts, when a powerful corporation, with a capital of \$5,000,000, invested in houses and lands, in merchandise and mills, in cannon and rifles, in powder and lead, in all the implements of art, agriculture, and war, and employing a corresponding number of men, all under the management and control of non-resident directors and stockholders, who are authorized by their charter to vote by proxy to the extent of fifty votes each, enters a distant and sparsely settled Territory, with the fixed purpose of wielding all its power to control the domestic institutions and political destinies of the Territory, it becomes a question of fearful import how far the operations of the company are compatible with the rights and liberties of the people. Whatever may be the extent or limit of congressional authority over the Territories, it is clear that no individual State has the right to pass any law, or authorize any act, concerning or affecting the Territories which it might not enact in reference to any other State. It is a well-settled principle of constitutional law in this country, that, while all the States of the Union are united in one, for certain purposes, yet each State, in respect to everything which affects its domestic policy and internal concerns, stands in the relation of a foreign Power to every other State. Hence, no State has a right to pass any law, or do or authorize any act, with a view to influence or change the domestic policy of any other State or Territory of the Union, more than it would with reference to France or England, or any other foreign State with which we are at peace. Indeed, every State of this Union is under higher obligations to observe a friendly forbearance and generous comity towards each other member of the Confederacy than the laws of nations can impose on foreign States."

I have thus established the fact of the organization of this society by the testimony of Judge DOUGLAS, who was eloquent in denunciation of its objects.

The fact that there was such an organization in existence, I repeat, has never been denied before, to my knowledge.

Mr. DAWES. I do not deny that

Mr. BARKSDALE. There may have been frauds in that election. I do not pretend to know how the facts are. If there were frauds on one side, there were frauds, doubtless, on the other; and if Missourians invaded that Territory, it was for the purpose of counteracting that which had been improperly and illegally done by the Emigrant Aid Society of Massachusetts.

But, sir, how was it? Members of that Legislature were commissioned by Governor Reeder himself. He issued their commissions and he did not object to that Legislature upon the ground of its illegality, until after it removed the place of its meeting. The Territorial Legislature of 1855, passed an act, submitting the question to the people, whether they desired a convention to be called to organize a State government or not. That question was submitted to the people. Every man in that Territory had the right to vote; the United States troops were there to protect them in that right, if they did not have the courage to protect themselves. If the anti-slavery party of the Territory were opposed to organizing a State government, why did they not say so? They refused to obey the law; they refused to exercise the privilege which had been guaranteed to them under it; a large majority, almost a unanimous vote, was given in favor of calling a convention of the people to organize a State government. Sir, the object of these emigrant aid societies was to set at defiance the authority of the Federal Government and the Territorial Legislature, and they were successful.

Sir, are we to be influenced by conduct like this? They not only refused to obey the law, but property was rendered insecure, and human life itself was put in constant peril. The country was ever and anon shocked with accounts of murders and assassinations committed by the abandoned outcasts, who were gathered from the dens and purlieus of northern cities and transported into that Territory by these emigrant aid societies. Arson, robbery, and murder, and every crime known to the black catalogue of crimes, were committed by these outlaws and traitors. Yet we are told that, because they did not vote, this constitution is not the will of the people of Kansas. The true people of Kansas, those who had fixed their homes and cast their destiny in that Territory, and whose interests were identified with it, decided, under the forms of law, that a convention should be held; the succeeding Legislature passed an act requiring all the voters of the Territory to be registered preparatory to the election; officers were regularly appointed to register the names; and time was given for every man in the Territory to register his name. But these men refused to obey the law, or avail themselves of the rights which had been so carefully secured to them. Law-abiding citizens of the Territory, however, did observe the law, to the number of more than nine thousand.

After this opportunity had been given to every man in the Territory to register his name, an election was held for delegates to this convention; the apportionment having been made by Mr. Secretary Stanton himself. Here, again, was another opportunity afforded to the free-State men of that Territory to have secured a majority in that convention, and thus to have made a free-State constitution, or a constitution prohibiting slavery if they desired to do so. They did not vote; or, if they did vote, they were in a minority, and hence a large majority of pro-slavery delegates was elected to that convention.

In due course of time—the time specified by law—the convention met, having been elected by the people at the ballot-box, every man in the Territory having had an opportunity of participating in the election of those delegates. The validity of this convention was recognized by the President in his instructions to Governor Walker, and by Judge DOUGLASS himself in a speech delivered by him at Springfield, Illinois, in which he declares that:

"Kansas is about to speak for herself, through her delegates assembled in convention to form a constitution preparatory to her admission into the Union on an equal footing with the original States. Peace and prosperity now prevail throughout her borders. The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every bona fide inhabitant the free and quiet exercise of his elective franchise. If any portion of the inhabitants, acting under the advice of the political leaders in distant States, shall choose to absent

themselves from the polls, and withhold their votes with a view of leaving the free-State Democrats in a minority, and thus securing a pro-slavery constitution in opposition to the wishes of a majority of the people living under it, let the responsibility rest upon those who, for partisan purposes, will sacrifice the principles they profess to cherish and promote. Upon them, and upon the political party for whose benefit and under the direction of whose leaders they act, let the blame be visited of fastening upon the people of a new State institutions repugnant to their feelings, and in violation of their wishes. The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitations than that which the Constitution of the United States imposes. The Democratic party is determined to see the great fundamental principle of the organic act carried out in good faith. The present election law in Kansas is acknowledged to be fair and just. The rights of the voters are clearly defined, and the exercise of these rights will be efficiently and scrupulously protected. Hence, if the majority of the people of Kansas desire to have it a free State, (and we are told by the Republican party that nine tenths of the people of that Territory are free-State men,) there is no obstacle in the way of bringing Kansas into the Union as a free State by the votes and voice of her own people, and in conformity to the great principles of the Kansas-Nebraska act; provided all the free-State men will go to the polls and vote their principles in accordance with their professions. If such is not the result, let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy, and bloodshed in Kansas, that their party may profit by slavery agitation in the northern States of this Union."

Governor Walker and Mr. Stanton, who are now reaping the rewards of their treachery to the South in the adulation of their Abolition friends at the North, both repeatedly acknowledged the legality of this convention.

As I said, the convention met and proceeded to form a constitution for the people of Kansas. That constitution recognizes slavery, and throws around it protecting sanction. But it is said in reference to this constitution, in the first place, that there ought to have been an enabling act, and that the Territorial Legislature had no right to call this convention.

Now, sir, let us look into that matter. When, sir, did the author of the Kansas-Nebraska bill, and the leader of the forces in opposition to the admission of Kansas, become a convert to the doctrine that it is necessary that there should be an enabling act in order to the admission of a new State into the Union? Why, sir, if it is necessary to have an enabling act, the Kansas-Nebraska bill is itself an enabling act. Now let me read the language of that bill:

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, or to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

Here, sir, was the enabling act, if one was necessary. But Kansas is a portion of the territory which we acquired from France. It is a part of the Louisiana territory, and, by the treaty under which we acquired it, Kansas has a right to be admitted into the Union. Then, sir, two enabling acts have been passed already for the people of Kansas to form a State constitution; and, acting under this authority, the people of Kansas, through their Territorial Legislature, called a convention to organize a State government.

But, sir, was it necessary that an enabling act should be passed at all? What has been the practice of the Government? Why, sir, seven out of eighteen States, which have been admitted into the Union since the foundation of the Government, came in without an enabling act: Vermont, Maine, Arkansas, Iowa, Tennessee, Michigan, Florida, and California. In the case of Tennessee, a convention was called, a constitution framed, and an application was made to Congress for the admission of that State, without any enabling act, or without any authority from Congress. And it is a fact worthy of note that General Jackson himself was a member of that convention, and that General Washington urged upon Congress the importance of admitting Tennessee into the Union without delay.

What were the facts in relation to California? Acting under the authority of a military commander, an election was held, and delegates chosen to a convention to form a State constitution, when no census had been taken, when no registry of votes had been made. The inhabitants of the Territory at the time, whether Mexicans, Chilians, Frenchmen, or Dutchmen, were allowed to march up to the polls, and usurp the political sovereignty of that vast Territory. Thus it was that California, with its one thousand miles of sea-coast, its one hundred and fifty thousand square miles of

territory, its boundless resources, and vast treasures, was forbidden to the South, and appropriated for the purposes of free soil.

Mr. TAYLOR, of New York. I desire to say that Florida was admitted under a constitution adopted by a convention some nine years before its admission, by a people different from those in the Territory at that time, and it was admitted against the wishes and protests of the people of the Territory at the time of its admission.

Mr. BARKSDALE. That is true, I believe. Why, sir, it has not been the practice of the Government to require an enabling act, nor was an enabling act necessary in the case of Kansas.

But it is said, sir, that this constitution should have been submitted to the vote of the people, and that it is not their act because it was not so submitted. Sir, I would ask, have constitutions been formed in this way alone, by the people of this country in organizing States? A portion of the States have submitted their constitutions to the people after they were framed; but in eighteen States of the Union the constitutions were not submitted. And why? Because here the people do not act *en masse*. They act through delegates elected by themselves. Ours is a representative government. The convention of Kansas embodied the sovereignty of the people, carried out the will of the people, spoke the voice of the people, and was, in fact, the people. The Constitution of the United States was never submitted to a vote of the people. The delegates to the convention that framed that Constitution were not even elected by the people. They were appointed by the Legislatures of the States. And after they had finished their great work, it was indorsed and ratified, *not by the people* at the ballot-box, but by *conventions* of the States, acting for them in their sovereign capacity. Vermont, Tennessee, Louisiana, Mississippi, Alabama, Arkansas, Kentucky, Ohio, Indiana, Illinois, Missouri, and Wisconsin, were admitted into the Union with constitutions that were not submitted to the people. Kentucky presented herself for admission into the Union before her constitution was formed or her convention had met; and hence was admitted into the Union without any constitution.

But, sir, while this constitution was not submitted as a whole to the people of Kansas, the only question in dispute—that of slavery—was submitted. It was submitted to a vote of all the people of Kansas. It was submitted, too, in such a way as to secure a fair vote on that article of the constitution. Now, sir, what do the gentlemen on the other side of the House care about the school question, or the bank question, or the internal improvement question, in the Territory of Kansas? Has there been any agitation of these questions? I ask my friend from Illinois [Mr. HARRIS] if he is interested in these questions in that Territory? The only question in dispute was the slavery question; and that, I repeat, was submitted to a vote of all the people in that Territory. Now, I believe that that convention acted unwisely in submitting it to a vote of all the inhabitants. I believed that a residence of three or six months should have been required as a qualification for voting; but it was the province of the convention to prescribe the qualifications of voters, and they allowed all to vote who happened to be there on the day of election, claiming to be residents. If an individual arrived in that Territory five minutes before the polls closed, and came up with the sweat and dust of travel upon him, and claimed to be a resident of Kansas, he was allowed to vote on the question whether this slavery article in the constitution should be retained or rejected.

Mr. CURTIS. The constitution says "inhabitants."

Mr. BARKSDALE. All were allowed to vote, as I have already said. And what was the result? More than six thousand votes were given to the constitution with slavery, and but a few hundred against it.

But it is said that the majority of the people of that Territory did not vote. I do not know how that may be. The right to vote was given them, and every safeguard provided. If they desired Kansas to be a free State, and did not so vote, that is their own fault. But it is said that Kansas must be rejected because a majority of the people are opposed to it. How do we know that? Where do you ascertain that fact? Do you find it in the

election returns of the 4th of January? Why, the question had then been settled. The people had acted on it. The pro-slavery clause of the constitution had already been ratified by the people. Those who were in favor of its insertion did not vote on the 4th of January, because it was a question which had been settled, and which perished with the settlement of it.

Where, then, do you find evidence that the constitution framed at Lecompton is not acceptable to the majority of the people of Kansas? I think I have shown that it is the constitution of the people of Kansas; that they have made it; that it is theirs; and that under it they are applying for admission into the Union.

Now, the next question is, is this constitution republican in form? I hardly suppose there is any dispute with regard to that fact. It is a republican constitution. It is founded on the will of the people. Under its provisions the Governor is elected by the people; the Legislature is elected by the people; even the judiciary are elected by the people. All the officers are so elected. If the constitutions of the other States are republican in form, no objection on this ground can be urged against that of Kansas.

Then, sir, I have endeavored to answer the only questions that Congress ought to ask in the admission of new States: first, that it is the will of the people; and, next, that the constitution which they present is republican in form. What, then, is the ground of the opposition to the admission of Kansas? The true ground, sir, disguise it as gentlemen may, is that its constitution recognizes slavery. I see near me the gentleman from Indiana, [Mr. COLFAX,] who is one of the leaders of his party in this House, and I desire to ask him now whether, if all the people of Kansas desired to have a pro-slavery constitution, he would vote for her admission into the Union?

Mr. COLFAX. The gentleman from Mississippi asks me a question. I have listened very attentively to his speech, and I desire to say to him that if I get the floor when he concludes, as I hope to, I intend to answer every point he has made in his speech.

Mr. BARKSDALE. I do not know that I will be here. I should like to have the answer now. I ask you, gentlemen on the other side of the House, of the Black Republican party, would you vote for the admission of Kansas into the Union with a constitution tolerating slavery, if a hundred thousand people there wished it?

Mr. GIDDINGS. Does the gentleman ask me?

Mr. BARKSDALE. I ask all of you.

Mr. GIDDINGS. Then I answer the gentleman that I will never associate, politically, with men of that character, if I can help it. I will never vote to compel Ohio to associate with another slave State, if I can prevent it.

Mr. BARKSDALE. I desire to ask the gentleman from Ohio if he speaks for his party?

Mr. GIDDINGS. I speak for the thinking, reflecting, humane portion of mankind generally. [Laughter.]

Mr. BARKSDALE. Black Republican mankind you mean. [Laughter.] I have no doubt of it. I repeat that the true ground of opposition to the admission of Kansas is, that her constitution tolerates slavery, and I now have indubitable evidence of the fact in the declaration of the gentleman from Ohio. Why, sir, gentlemen on the other side of this Hall voted for the admission of Kansas into the Union under the Topeka constitution—a constitution framed not only without authority of law, but in violation of law—a constitution which did not embody the will of the people—a constitution which, notwithstanding their professed devotion to the negro, as I am told by a friend near me, [Mr. KEITT,] prohibits the immigration of free negroes.

Mr. BINGHAM. If the gentleman will allow me for a moment, I wish to say that the statement which I have heard made before, that the Topeka constitution excluded free negroes from Kansas, is an entire mistake. It excludes nobody from that Territory. On the contrary, so far from excluding free negroes, it provides that no person shall be transported from the State, not even for crime.

Mr. BARKSDALE. Was that constitution ever submitted to the people and voted on by them?

Mr. BINGHAM. It was submitted, and I believe voted on, though the vote was not a large one.

Mr. BARKSDALE. Was it ratified?

Mr. BINGHAM. Yes, sir.

Mr. BARKSDALE. The gentleman is mistaken; it had not been submitted before it was sent here. While the gentleman from Ohio is on the stand, I ask him if he would vote to admit Kansas into the Union with a pro-slavery constitution if the people of that Territory all desired it?

Mr. BINGHAM. Certainly not.

Mr. BARKSDALE. I repeat, then, sir, that the opposition to the admission of Kansas into the Union is based upon the ground that her constitution tolerates slavery.

Mr. STANTON. I will say, if the gentleman will allow me, that the Republican members of this House, so far as I know, will never vote for the admission of any slave State north of 36° 30'.

Mr. KEITT. Will you south of 36° 30'?

Mr. STANTON. A good many of them will.

Mr. BARKSDALE. The gentleman speaks for himself, I suppose, when he makes that declaration. He certainly did not speak for his colleague over the way, [Mr. GIDDINGS.] Then, sir, this question involves the rights, the equality, and honor of the southern States of this Confederacy. Upon the floor of the Senate it has already been avowed by the Senator from New York, [Mr. SEWARD,] that no more slave States shall be admitted into the Union. I will read the language of the Senator:

"The white man needs this continent to labor upon. His head is clear, his arm is strong, and his necessities are fixed. He must and will have it."

This, sir, is not only a declaration that no more slave States shall be admitted into the Union, but that slavery must yield even in the fifteen slave States. He must have the whole continent. That is his declaration.

And, sir, with this formal and well-considered proclamation by the leader of the Black Republican party, in the Senate, reiterated by chiefs and subalterns of the same party here on this floor, can there be any misapprehension as to the purposes and the inevitable end to be accomplished by this opposition to the admission of Kansas.

Mr. Chairman, it is time the North and South understood each other. If this is the position of the North, we of the South desire to know it. If no more slave States are to be admitted into the Union, our people should be informed of your determination. In the language of one of the noble statesmen of the South, [Mr. TOOMBS,] delivered in the Senate a day or two ago, I too have counted the cost of this Union; and I think I understand something of its value. Sir, this Union was made by slaveholders. The battles of the Revolution were fought by slaveholders. A slaveholder headed your armies, and led them on to victory. Slaveholders laid the foundations of this Republic deep and broad. The Declaration of Independence was published to the world in behalf of thirteen colonies—all of them slaveholding. The Union which they afterwards formed—"the more perfect Union"—was a Union of equality, of equal rights, and of equal privileges. If you intend to deprive the southern States of their rights, it is well for us that you have so frankly and unreservedly avowed your purpose. In every period of our history, when dangers impended over us, the South has been true and loyal to the Union. When, sir, in the hour of danger, has she ever faltered? The bones of her sons are bleaching upon the very soil from which her people are excluded, and the achievements of her heroes adorn the brightest pages of your history. But, sir, that same patriotic devotion which inspired them to bare their breasts and shed their blood for our Union when it was a glorious Union of equals, will arouse their hearts and nerve their arms to resist its aggressions upon their rights and honor.

[Here the hammer fell.]

Mr. COLFAX obtained the floor.

Mr. ADRAIN. I thought, Mr. Chairman, that I took the floor and addressed you first?

The CHAIRMAN. The Chair will say, once for all, that he does not mean to set aside any gentleman who has first addressed the Chair. When he gives the floor to any gentleman, it is conclusive that he considers him in time with any other gentleman.

Mr. ADRAIN. I bow to the decision of the Chair.

Mr. MAYNARD. I hope the gentleman from Indiana, as this is Saturday afternoon, will yield to a motion to adjourn.

Mr. COLFAX. I prefer to go on now.

The CHAIRMAN. The gentleman has the floor.

Mr. COLFAX. Mr. Chairman, when the gentleman from Mississippi [Mr. BARKSDALE] was upon the floor, a little while ago, he put some interrogatories to me. He wished to know whether, if Kansas came here with a constitution adopted by her people recognizing slavery I would vote for her admission under that constitution? I tell him now, emphatically, in advance of the speech which I have prepared, that I would not. When the Missouri compromise, that time-honored compact, was repealed, I declared then, and I maintain it now, that by no vote of mine shall that repeal be carried out to what I feared was intended to be its result; and therefore I would refuse to admit Kansas as a slave State under any contingency. But all who oppose the ratification of the Lecompton constitution do not agree on this point; and I pledge myself to the gentleman from Mississippi and other members from the South upon this floor, that, if I do not prove that there are sufficient reasons, apart from slavery, to demand its rejection, that the Lecompton constitution is not republican in its form, that it does not speak the voice nor the will of the people of the Territory of Kansas, then I do not ask any man of any party to join me in voting against it.

Nineteen years ago, the House of Representatives was convulsed with an exciting question, which threatened to prevent its organization, which hazarded even the continuance of the body itself, and which, affecting as it did the political majority of this branch of the National Councils, and thus deciding which party should wield its power, baffled all attempts at its adjustment, until the strong mind of the "old man eloquent" brought it from chaos to order once more. The incidents of that struggle must be fresh in the minds of every Representative within the sound of my voice; for they were discussed at every fireside throughout this broad land. Five citizens of New Jersey presented themselves at the bar of the House, with commissions certifying their election as Representatives from that State, signed by its Chief Magistrate, and attested by the broad seal of the State itself, the symbol of its sovereignty. These commissions were in the exact form required by law; and the gentlemen thus commissioned demanded that they should be admitted to seats upon them during the organization of the body, and till the proper committee was appointed before whom their contestants could present their claims. No other gentlemen claimed to have legal commissions for the seats on this floor belonging to New Jersey, except one whose right was uncontested; but five other citizens presented certificates signed by an inferior officer of State and by two county clerks, asserting that the votes of two townships had been omitted in the executive computation, which, if included with the others, would have entitled them to the commissions given to their adversaries. To this it was replied, by the members commissioned according to law, that gross frauds and irregularities existed in the returns of these townships, justifying their exclusion, as they would show at the proper time; but that meanwhile they claimed the seats in this body to which their legal credentials, the signature of the Governor of their State, and its broad seal, entitled them. Such is a fair abstract of the points in controversy in the celebrated New Jersey case. The application which I shall make of them may already be apparent.

Then, a sovereign State, by a fulfillment of all the formalities under which members are officially accredited to this body, demanded, under the signature of its highest functionary, who, by law, had the right thus to speak for his State, that certain citizens thereof should be received to membership here. But the remaining members of the American Congress persistently, and to the end, despite the excitement which reigned here for two long weeks, resolved that they should not be admitted into their midst; but that, going behind these credentials, regular though they were on their face, they would, at all hazards, regardless of broad seals and gubernatorial signatures, ascertain what was the actual will of the people of New Jersey. And the political majority of this

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

MONDAY, MARCH 22, 1858.

NEW SERIES....No. 77.

body, with these claimants excluded, being adverse to their views, their credentials, broad seal, executive signature, and all, were finally thrown back into their faces, and their uncertified contestants admitted in their stead.

Now, the scene has changed. A constitution is before us, not framed by the authority of an enabling act, the last Congress having failed to concur in the passage of one—not ratified by the people interested, at any election in which the right to choose, the simple power of saying yes or no, had been conceded—but framed by a convention, elected under an imperfect, unfair, disfranchising, and therefore swindling, census and registry, whose members represented, on an average, exactly thirty votes apiece—who needed an army to protect them, while in session, from the indignation of the people, whose organic law they pretended to have been commissioned to make—who themselves conceded all that I have charged against them, by submitting the constitution only to those who were willing to vote for it, and to swear besides to support it; and whose ill-shapen and illegitimate offspring was repudiated as spurious by the overwhelming majority of ten thousand, at a fair, open election, authorized by the Governor and Legislature of the Territory. And yet this fraudulent instrument, which no one here is hardy enough to claim as the voice of the majority of the people of the proposed State; which no more speaks their will than does the constitution of conquered and enthralled France speak the will of the freemen of America; and which every one, here or elsewhere, knows full well is loathed and scorned and repudiated by the people, who are to be forced, with the bayonet, to live under it,—this instrument is pressed upon us for ratification on the technical ground that it emanated from a body which was nominally a convention, representing the people of Kansas—that it has passed the ordeal of a pretended, one-sided, submission; and that we have, therefore, no right to go behind it, and inquire whether it is or is not the will of the people of that distant Territory.

But, sir, I propose to hold up to these defenders of the Lecompton constitution the emphatic utterances of the leaders, the very magnates, of their party upon this floor, during the discussion of the celebrated New Jersey case, to which I have referred; for, if it was right, if it was legal, if it was constitutional, to look behind the regular credentials of Representatives, and to decide, before admitting them to seats, whether those credentials actually spoke the voice of the people interested, then are gentlemen on the other side "estopped" (to use that favorite term of the Lecomptonites) from arguing that, when an instrument of such vital, far-reaching importance, as a State constitution, is before us for ratification, we may not also go behind even the fairest face that it may wear on the outside, to see if it is not a fraud and an outrage, a tyranny and a wrong.

My quotations are from the eighth volume of the Congressional Globe, session of 1839-40.

And, first, to all the gentlemen, from the President down, who tell us so complacently that the Lecompton convention was a legal body, that their constitution was a legal instrument, that its formation has all been technically regular, and that, therefore, we have no right to consider the nearly unanimous protest against it by the Territorial Legislature, and the overwhelming repudiation of it by the people themselves, I quote the outspoken language of Aaron Vanderpool, then the leader of the Democratic delegation here from the Empire State:

"These (said he) were his views and answers to the technical points—the mere questions of form—raised here, to preclude us from looking at the real truth and justice of the case." * * * "He implored the House not to acknowledge itself so impotent, or so mystified by form as to be blinded to substance; not to promulgate to the world that the potent voice and will of the people of a sovereign State, constitutionally expressed, could here be practically frustrated and drowned, even for a season, by the pitiful, squeaking notes of form and technicality."—*Congressional Globe*, p. 9, 1839.

That was the robust language in which a Demo-

cratic champion of that era spurned the argument of "form and technicality," and sought rather, as he declared in another part of his speech, to ascertain what was "the right and truth and justice and conscience of the case."

Nor was this all. After him stood up the champion of the Democratic delegation from Ohio, who for years afterwards occupied a still higher seat in the other end of this Capitol, and who now presides as the Executive of the Golden State. Said John B. Weller:

"His object was to do full and ample justice to these men and to the people of New Jersey; and he was not to be tied down by forms, or stand upon technicalities, when he saw a gross fraud practiced upon the rights of a people of a sovereign State." * * * "Whenever he saw an effort made to disregard the expressed will of the people, and trample upon their constitutional rights, he would be heard in their defense. Yes, sir, as long as God gives me a voice to speak, that voice shall be heard in vindicating the cause of an outraged and insulted people."—*Ibid.*, p. 10.

That voice, Mr. Chairman, is still spared to its owner; and as it spoke so emphatically, when merely a representation in a single Congress was at issue, I shall look to hear the solemn pledge which I have quoted most eloquently redeemed when John B. Weller, from the Pacific coast, lifts his voice in vindication of "the cause of an outraged and insulted people," and condemns, in the severe language which he so well knows how to use, and will use if he is faithful to his vow, the imposition of an odious constitution upon a protesting and indignant community.

Virginia, too, in that day, spoke in a different tone from her Representatives of 1858, but in striking accordance with the fearless declarations of her present chief magistrate. George C. Dromgoole—and I need not state here what rank he held among the statesmen of the Old Dominion—uttered language which was both truthful and prophetic. Listen to his words of warning:

"If you establish the principle that the credentials given by the State authorities, no matter how fraudulent, no matter how much at variance with the will of the people of the State, as expressed in the elections, shall outweigh the popular voice, you strike at the existence of the elective franchise, and destroy every principle that makes democracy both lovely and practicable."—Page 59.

And yet the successors of Dromgoole tell us that we cannot go behind the official certificate of John Calhoun to ascertain whether the instrument he bears is or is not "at variance with the will of the people." To them comes the stern condemnation from their eloquent predecessor, who, though dead, yet speaketh—"You strike at the existence of the elective franchise, and destroy every principle that makes democracy both lovely and practicable."

Time will not permit more copious quotations, but I must call yet another witness upon the stand, who "still lives" in his own State of South Carolina. I allude to Francis W. Pickens, to whom the President not long since tendered one of his most important foreign missions, and who should therefore be good authority at the White House, as well as with his successors here. Mr. Pickens thus spoke in the same debate, says the Globe:

"He asserted the power of the House to take what course it thought proper. It might pass by the great seal of the State of New Jersey as insufficient evidence, and it was accountable to nobody but its own constituents."—Page 18.

And it cannot be denied that our obligation to admit Representatives here is more imperative than to admit new States. We must do the former; but the Constitution declares that we may do the latter; and if we may, we certainly also may not. A rightful Representative we are bound to admit without compromise or stipulation. Even a legal State we may admit or reject as we see proper, and if we admit, can do it with or without conditions.

But the warning of this eminent State-rights Democrat was still more impressive than Mr. Dromgoole's. Let it ring in the ears of those who now spurn the will of the majority, for its truthfulness has lost nothing by age:

"He called," says the Congressional Globe, "upon gentlemen to beware how they set at defiance the will of the people when clearly expressed. He did not desire to preach revolutionary doctrine, but he was ready to declare a great

truth, that history would bear him out in, which was that the thunder of Heaven might sometimes be heard to roll in the indignant murmurs of an outraged but free people."

* * * "When the people come to decide upon that question, they will tear off and trample in the dust the technicalities of special county court pleading, which are thrown around us here for party purposes or otherwise."—Page 13.

I cannot dismiss this retrospect of what used to be Democratic argument in the olden time, without quoting an extract from one of the editorials of the Lecompton organ here, the Washington Union, but a fortnight since, and the emphatic and truthful reply to it from the lips of one of the Democratic champions of the debate of 1839. Says the Union, in an article showing the perfect indifference it exhibited to what was the desire of the majority of the people of Kansas:

"We do not care whether the people like or dislike the constitution. We are unwilling to take any more testimony. The case has been closed; the judgment entered up; and the execution is now in the hands of the officers."

Said John B. Weller, in the famous New Jersey debate, prophetically and justly characterizing such sentiments as these:

"They [his opponents] had always practiced upon the principle of the incapacity of the people to govern themselves—that the minority should rule. That was the cornerstone of Federalism."—Page 10.

How appropriately, too, does the language of Governor Weller reply to the bold avowal of a champion of the Lecompton constitution in the other branch of Congress, [Mr. HAMMOND, of South Carolina,] who in that famous speech of his justified "the rule of the minority," as follows:

"If this was a minority constitution I do not know that that would be an objection to it. Constitutions are made for minorities. Perhaps minorities ought to have the right to make constitutions, for they are administered by majorities."

The brief hour allotted me speeds so rapidly away that I must hasten to another branch of the discussion. The stronghold, the very citadel, of the supporters of the Lecompton constitution is the argument that the free-State men have thrown away their opportunity to vindicate their principles by failing to vote, and have therefore no right to complain. To every appeal for justice to Kansas—to every denunciation of this great wrong—the ready answer is, "Why did your friends fail to vote?" It is the key-note of every Lecompton speech; it is the burden of the President's message; it is the staple of those editorials, able but utterly sophistical and fallacious, with which the Government organ abounds; it is the inspiration of its echoes all over the land. Cabinet officers ask, in their letters to political conclaves, "What right have those to complain who did not vote?" Custom-house officers join in the melody of this stereotyped tune; and postmasters, who do not swell the chorus with cordial alacrity, find their official windpipes suddenly stopped, so that others may sit in their gates and proclaim to the people this fundamental argument of Lecomptonism. The answer is plain, and I shall strive to make it thorough, although it will compel me to show that the President has either willfully, or, what is even worse, ignorantly, misstated historical facts.

It is not needful to speak at much length of the first important election in the Territory of Kansas, on the 30th of March, 1855, when the people, under the organic act, were called upon to elect their first Legislature. It was an election of vital, commanding importance. On that body would devolve the enactment of an entire civil, criminal, and miscellaneous code of laws, which would embody the wishes and protect the interests of the pioneer settlers of the Territory. It would also be required to enact statutes governing future elections, to appoint or provide for the election of the various county and township officers who were to assist in putting the machinery of government in operation; to establish counties and county seats; to select a site for the capital; and, in a word, by representatives fairly chosen, to concentrate the popular will into a body, which, in every free land, speaks with potential voice, because it springs from the hearts and votes of the people for whom it acts. Need I repeat the his-

tory of that organized invasion from a neighboring State, as large in numbers as the army with which Zachary Taylor achieved the crowning victory of his life at Buena Vista; which, with all the equipage and paraphernalia of war, surrounded the various polls, drove the actual voters from their own ballot-boxes with violence and imprecations; forced unsubserving election judges to carry out their will, or, with pistols at their breasts, gave them five minutes to die or to yield their places to their serviceable tools; stuffed the ballot-boxes with nearly five thousand fraudulent, illegal, ruffian votes, electing an entire pro-slavery Legislature, with the exception of a single representative from a distant precinct in the interior; and then returned to their Missouri homes with drums beating and banners flying, exulting over this unparalleled outrage which they hailed as a brilliant victory? Though at the risk of life, a few districts were contested, and new elections ordered, this bogus Legislature, when it met, promptly repudiated every one chosen at the second election, and installed in their stead the persons elected by the invading army, thus appropriately "perfecting their organization." And this was the first step in the progress of affairs which has so fittingly culminated in the Lecompton juggle, which, as it did not have the people for its sponsor at the baptismal font, appears before us with John Calhoun as its foster-father, and the President as its next friend, sticking closer than a brother.

I pass over, for the present, the infamous code of laws which this sham Legislature enacted, to oppress and degrade the free people, whose legislative rights it had so shamelessly stolen; (confessed by eminent Democratic Senators to be a disgrace to the age; and yet, which, enshrined and guaranteed and sustained as they are in the Lecompton constitution, do not render that instrument less palatable to these very same gentlemen now;) for I wish here specially to refer to the various elections which followed. Bold and reckless in their determination to maintain their ill-gotten power, this Territorial Legislature not only withheld from the people for two and a half years the election of all their county, township, and election officers, filling all these posts from the pitiful minority, which, with the power of the General Government at their back, sustained this shameless usurpation; but they fenced up the way to the ballot-boxes of future elections, by restrictions purposely intended to exclude and disfranchise the majority of the people of Kansas. Tax laws were passed, to defray the expenses, amongst other equally repulsive charges, of the so-called militia, who roamed over the Territory with Government muskets, harassing the free-State settlers, destroying and stealing their property, committing that last inexpressible outrage on their wives and daughters, sacking towns, and burning houses; and they made the payment of these taxes an essential prerequisite for the elective franchise. But worse than this even, they added unconstitutional test-oaths as another qualification, which they knew no free-State man, who was worthy to be called a man, would consent to take; and with these restrictions, and their own creatures presiding at the ballot-boxes, they felt that they were safe. Sir, these disgraceful facts, which banished from the polls the liberty-loving people of Kansas, cannot be unknown to the President; and yet, when speaking of the election of October, 1856, at which he claims that the people, at the polls, decided in favor of a constitutional convention, he coolly says:

"It is true that at this election the enemies of the Territorial Government did not vote. BECAUSE they were then engaged at Topeka," &c.—*Congressional Globe* edition, p. 5.

It is eminently fitting that the first point in favor of the legality and regularity of the Lecompton constitution, which is cited by the President, should be a meager vote at ballot-boxes not presided over by impartial judges chosen by the people, but guarded by the tools of the usurpation, and hedged in by test-oaths, which even the usurping despot of France has not yet imposed on the voters of his empire.

The convention having been thus called, the usurping Legislature, yet unwilling to concede the people a fair, honest, open ballot-box, though compelled, as they were that winter, to repeal the test-oath, by the odium which it had justly incurred, looked around for some new plan to prevent a free-State majority, and at last devised the

registry, which should limit the franchise at the election of delegates to those who were placed upon it, and which is well known in Kansas history as the census swindle. No other State constitution had ever thus been framed—utterly disfranchising, as this enactment did, every voter whom hostile officers, not elected by the people, either neglected or refused to enroll. Besides the nineteen counties, whose people were all ignored, and the facts in regard to which are now so well known to the public, the registry in the other counties shows that there was a method in their madness and wickedness. In the flourishing town of Topeka, not a soul was enrolled. In Leavenworth, all the workmen in the pro-slavery printing office were duly included in the registry, while not a single one in the free-State printing office was discoverable by the deputy sheriff. Henry J. Adams, the Mayor of Leavenworth itself, was omitted. So was Marcus J. Parrott, who, from his triumphant election here at the first fair election ever held in Kansas, the succeeding October, must have been known even then to some few citizens of the Territory, though the bogus officer was oblivious to his existence. Nay, more: this very official failed to find out that such a man lived in Leavenworth as his own landlord, Doctor Morris, who was, therefore, disfranchised by not being on his sacred registry, because he happened to prefer freedom to slavery. And Judge Johnson, of Kansas, a most unimpeachable witness, declares that of the nine thousand persons purported to be registered, from four to five thousand were citizens of Missouri, whose names were included expressly to be used in case they were needed at the ballot-box. And this census swindle is most appropriately another step in the fraudulent formation of this Lecompton constitution—of which the President, however, says in his message:

"It is impossible that any people could have proceeded with more regularity in the formation of a constitution than the people of Kansas have done."—Page 4.

This census having been thus completed, with half the counties omitted, the registry in the others, willfully and intentionally one-sided and fraudulent, and thousands of Missourians added to it to swell its aggregate and to make success certain in every possible contingency, the election of delegates was the next act in the drama.

And here I quote from the President's message, what he says of this election, as I am compelled to make a direct issue with him upon the facts involved, and shall produce my testimony to disprove his allegations. Says the President:

"The enemies of the territorial government determined still to resist the authority of Congress. They refused to vote for delegates to the convention; not because, from circumstances which I need not detail, there was an omission to register the comparatively few voters who were inhabitants of certain counties of Kansas in the early spring of 1857; but because they had predetermined, at all hazards, to adhere to their revolutionary organization, and defeat the establishment of any other constitution than that which they had framed at Topeka. The election was, therefore, suffered to pass by default; but of this result the qualified electors, who refused to vote, can never justly complain."—Page 5.

I could answer this by saying that, as all three sessions of the Thirty-Fourth Congress had expired, without the passage of any of the acts proposed in either House, to authorize the formation of a State constitution, those who thereupon declined to participate in the unauthorized action of the Territorial Legislature for that purpose, really maintained, instead of resisting, "the authority of Congress." But I put the issue with the President on even higher grounds, on the very facts alleged in his statement.

On the 24th of April last, acting Governor Stanton, within a few days after his arrival in Kansas, having heard as yet only the apocryphal statements of the enslavers of that Territory, the leaders of that minority which basked in the sunshine of presidential favor, proceeded to Lawrence and there, at the request of its citizens, made a public address. He concedes now, with a frankness that does him honor, that he had not, for several months after this time, any conception of the enormity of the minority, who having, by fraud and violence obtained possession of the forms of law, used them systematically for still further injustice to the rights of the people. But like a bold and brave man, as he is, he frankly told the citizens of Lawrence that he had come to Kansas determined to enforce the territorial laws. He was met by equally resolute replies, that while they would submit, as

they always did, to any oppression by the officers or soldiers of the United States Government, no power on earth could induce or compel them to yield allegiance to a felon code, imposed on them by a foreign invasion, which had driven them from their own ballot-boxes with contumely and violence, and then used the power they had stolen to oppress and degrade those they had robbed. But having appealed to them to redress their grievances, if they had any, at the polls, he was surprised to find the free-State leaders willing and even anxious to do so if a fair and honest election was guaranteed. He asked them to put their proffer in writing, and the next day it was done. Although this was extensively published in the newspaper press of the day, and I have one here with me to prove this fact, and to show that the proffer was not kept a secret, I prefer to read it from an attested manuscript copy, furnished me by Governor Robinson, who heads its list of signatures:

LAWRENCE, April 25, 1857.

DEAR SIR: In your address to the people of Lawrence, last evening, we understood you to say, in substance, that you would enforce the laws enacted by a Legislature elected by the people of an adjoining State, until they should be repealed; also, if the laws are unjust or distasteful, our remedy is the ballot-box. History has indelibly recorded the fact, which General McLean admitted in our presence last evening, that the ballot-box was taken from the people of Kansas Territory on the 30th March, 1853, and has not to this day been returned. From that time until the present, the people have had no voice whatever in making laws, or in selecting officers to administer them, notwithstanding the world-wide declaration by the Administration at Washington, and its friends elsewhere, that the people should be perfectly free to regulate their own institutions in their own way, subject only to the Constitution of the United States.

We are now invited to participate in an election of delegates to a convention, to meet September next, to frame a constitution and State government. We are told that the election law is a good one; that the voice of the actual settlers can be heard at the polls, and that justice will be meted out to all parties. We regret that the past conduct of the officers to superintend this election has not been such as to permit us to believe that they will secure a fair vote of the people, and the fact that many well-known citizens in Kansas are omitted from the registry list, and that as well known citizens and residents of Missouri are registered, is conclusive proof to us that a fair election is not intended and will not be permitted by the officers who have thus far had the matter in charge. But if a fair election is intended, notwithstanding the body of men calling it was not elected by the people of Kansas, and notwithstanding the people have already framed a constitution of which a large majority approve, we, the undersigned, are willing to overlook the past, and go into the election of delegates to a constitutional convention, should a convention of the people of Kansas convene, if the following course be adopted by the officers of the election, to wit:

First. Two persons shall be selected in each township or district to correct the registry list, one by the pro-slavery and one by the free-State party, who shall proceed in company to take the census and register all legal voters, and the probate judges shall correct the first lists, and the apportionment of delegates shall be made according to the returns thus made.

Second. Four judges of election shall be selected for each voting precinct, two of the pro-slavery and two of the free-State party, and the names of three of said judges shall be required to have a certificate of election to entitle a person to a seat in the convention.

We think that your Excellency will at once perceive that some such course must be pursued to correct the list, or no correction can be made. We are informed by credible reports that, in some districts, non-residents to the number of thousands have already been registered, while actual free-State settlers have been refused; and how clear can the lists be corrected than by a retaking of the census by some person or persons who have regard for an oath? Testimony of a negative character can avail nothing; and to obtain positive testimony with reference to the residence of those enlisted from another State, would be impossible in the short time remaining before the election.

That you have the power to take any course you may think proper to secure a fair election, we have no doubt. It is not material that the letter of the law calling the election should be strictly followed; indeed, no law at all is requisite, so that the will of a majority of the people can be ascertained. Congress can give legality to a constitution formed in accordance with a previous territorial act or without one; and we trust your Excellency will restore the ballot-box to the people of Kansas in all its purity, at any risk of informality on minor and non-essential provisions of the election regulations.

Very respectfully, your obedient servants.

C. Robinson,	G. W. Smith,
William Hutchinson,	George F. Earle,
Ed. Clark,	Joseph Crankin,
Ephraim Nute, jr.,	G. Jenkins,
John Hutchinson,	S. S. Emory,
G. C. Brackett,	J. H. Wakefield,
E. D. Ladd,	G. A. Finley,
C. A. Babcock,	

Hon. F. P. STANTON, Acting Governor, Kansas Territory.

A true copy. Attest: S. C. Smith.

I submit this frank and manly document as proof beyond all contradiction that the charge of the President, reiterated in the report of the Senate's Territorial Committee, is not in accordance with the facts as they exist. All that the lead-

ing free-State men asked or desired was a perfect registry and an honest election. Though the majority of the people, they claimed only equal rights with their opponents—one man of each party to fill up the registry, and make the census complete. The probate judge, the very officer and the only one authorized by the law to correct the census, to add to it the names of the citizens thus mutually ascertained by a chosen representative of the two contending parties in each precinct, and each party to have one half of the election judges. What could have been fairer, if an honest, unfettered expression of all the legal voters of Kansas was really desired? And even if the requirement in the election law for three election judges forbade their equal division, and the addition of one to each election board was considered impracticable, the completion and filling up of the registry, which was to be the test of the elective franchise, was perfectly attainable, for the election was not to be held for fifty-three days afterwards.

It is well known in Kansas that Governor Stanton was struck, as he might well have been, with the fairness and justice of this proffer, and promised them a reply in writing. This, to use the language of the President in arguing this very point, "was the propitious moment for settling all difficulties in Kansas." But when Governor Stanton returned to Leecompton, and consulted with the men there who had taken such pains thus far to stifle the honest expression of the popular will so as to perpetuate their ill-gotten power, they insisted on its refusal; and five days afterwards he replied in an argumentative letter, declining to interpose his authority, without which the plan had no prospect of accomplishment. And a month later, the apportionment was made; that apportionment which Governor Stanton has so frankly declared he would have utterly refused to proclaim, if he had then known what he has since learned, the base plot of the engineers of this gigantic fraud. I do not allude to this refusal to arraign the conduct of Governor Stanton, much as it is to be regretted, but to show that it was the furthest thing possible from the wish of the enslavers of Kansas, who were then his only counselors, to allow even a single fair opportunity of voting to be given, in the whole procession of events, which culminated in the Leecompton constitution. And in full view of this fact, is it not extraordinary, to say the least, that a committee in the other end of the Capitol, who knew of this correspondence, as they quoted copiously from Governor Stanton's reply to this proffer, should use the following language afterwards in their report:

"The people having, by a direct vote, ordered the calling of a convention to form a constitution, the abolition agitators and disturbers refused to vote at the election of members of said convention, and then, after an obstinate refusal, raised an outcry that the convention was unjustly constituted inasmuch as they were not represented therein."—*Senate Report*, p. 14.

And this same idea is even more offensively repeated in a subsequent part of the report:

"So, again, when the members of the convention were elected, the abolitionists shrunk from the contest. So, also, when the question came up whether there should or should not be a clause retained in the constitution allowing slavery to be established in Kansas, they again shrunk from the contest, conscious of their weakness, or from sinister political design."—*Senate Report*, p. 16.

The election was held; but during its pendency, Democratic meetings resolved and reresolved and promised over and over again that the constitution when formed should be submitted for ratification or rejection to a full vote of the people. Numerous candidates for delegates, including the man who walks the streets of this city, with the entire and despotic power in his own hands, of deciding who shall be the Governor, State officers, and Legislature of the new State of Kansas, solemnly pledged themselves to the same action, and declared that the rumored intention to withhold the constitution from the popular verdict was all a Republican lie. Governor Walker and Governor Stanton traversed the Territory, reiterating the pledge that the people should have the opportunity of deciding for or against the organic law, under which they were to live, before it should be submitted to Congress. And the following extract from the instructions of the Administration to Governor Walker was presented to the people of Kansas as a voucher more solemn and sacred than any other which could possibly be given:

"When such constitution shall be submitted to the peo-

ple of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence."

I look in vain in the President's Leecompton message for this most important point in the history which he has written for our instruction, of the constitution which he presses upon us for adoption. But the people, who regard presidential pledges as of too much importance and solemnity to be cast aside, like actors' robes, after they have accomplished their purpose, find in this, which I have quoted, the following points, which Presidents, Senators, Representatives, or organs cannot write down:

1. That on March 30, 1857, the President of the United States regarded a submission of the constitution to a popular vote as a "RIGHT."

2. That this "right" extended to "voting FOR OR AGAINST THAT INSTRUMENT."

3. That to "interrupt" "the fair expression of the popular will" is nothing less than "FRAUD."

I appeal, therefore, from the Leecompton message to the presidential instructions to his Executive in Kansas—from the James Buchanan of March, 1858, to the James Buchanan of March, 1857; and I have no fears of the popular verdict on that appeal.

I pass rapidly over the subsequent history. The delegates elected by an aggregate vote, not equal to a common county in all, assemble at Leecompton and adjourn over till after the election of October, 1857. For the first time in Kansas a fair election was held. The free-State men swept the field; and though the old game of fraud was played to the last, by forged returns, which, if admitted, would have continued the legislative power of the Territory in the hands of the reckless men whom the people, by an overwhelming vote, had repudiated, the convention reassembled with a full and unmistakable knowledge of the actual will of the people whom they pretended to represent. I intend to speak hereafter of some of the details of the instrument they framed; but I wish to devote this part of my remarks to the history of the elections, by virtue of which this constitution is now here, and which the President eulogizes as so fairly conducted that it would be impossible for the people to have proceeded more regularly in this work. Instead of either framing their constitution in accordance with the known will of the people who were to live under it, or submitting it when framed to their adoption or rejection, they outraged their own pledges—the pledges of the executive officers in Kansas, which they heard made to the people without dissent—and the pledges of the President, by submitting it "for the constitution with slavery," or "for the constitution with no slavery;" and fettering even this restricted choice by the extraordinary provision that no one should be allowed to vote at all unless he was willing to take an oath to support the yet unadopted constitution under the pains and penalties of perjury. I must quote here again from the President:

"The question of slavery was submitted to an election of the people of Kansas, on the 21st December last, in obedience to the mandate of the constitution. Here again a fair opportunity was presented to the adherents of the Topeka constitution, if they were the majority, to decide this exciting question in their own way; and this restore peace to the distracted Territory; but they again refused to exercise their right of popular sovereignty, and again suffered the election to pass by default." * * * "They did not think proper to submit the whole of this constitution to a popular vote; but they did submit the question whether Kansas should be a free or a slave State to the people."

The President must have read the Leecompton constitution; and have seen there that even if "constitution with no slavery" was adopted, it was still expressly enacted in the schedule that, notwithstanding that vote, "the right of property in slaves now in this Territory shall in no manner be interfered with"—(Section seven of schedule); and again, in section fourteen of schedule, that whatever amendments may hereafter be adopted to the constitution, "no alteration shall ever be made to affect the rights of property in the ownership of slaves." And yet, though he argues, with apparent gratification, that "Kansas is, at this moment, as much a slave State as Georgia or South Carolina," he declares (even in full view of these provisions in the Kansas constitution, which every voter who approached the ballot-box was compelled to ratify if he voted at all, and swear to support besides) that the convention fairly sub-

mitted to the people the question whether Kansas should be a free or a slave State!

An important point must not be omitted in this rapid review: that no instance exists, during our entire history as a nation, that I can find by the most diligent search, where a special clause of a new constitution was submitted to a popular vote, that the whole instrument was not also submitted to the same ordeal at the same time. And the reason is, that nowhere else in this whole land have the framers of a constitution sought or desired to impose it upon a people against their well-known hatred and detestation of its provisions. Where constitutions, in previous generations, have not been submitted to the people, it has been where the assent to their principles on the part of the people has been well known and undeniable. This Leecompton fraud is, I rejoice to say, the first instance of the kind in our country, and I trust that it will be so utterly repudiated that it will be the last. My views in regard to the extension of slavery are known to my fellow-members, and need not be repeated; for this is not a question whether Africans are to be slaves, but whether freemen, of your own race and color, are to be made the serfs of the Leecompton usurpers: whether, in a word, the majority of the people of Kansas have any rights that Congress is bound to respect.

Resuming this almost completed history of Kansas elections, I must quote a remarkable admission of the President, where he is speaking of the future power of the people to amend the constitution—an admission which destroys his whole case, utterly and irretrievably:

"The will of the majority is supreme and irresistible when expressed in an orderly and lawful manner. They can make and unmake constitutions at pleasure. It would be absurd to say that they can impose fetters upon their own power which they cannot afterwards remove."—*Leecompton Message*, p. 7.

The President's whole argument, previous to this admission, was that the Legislature, having passed an act calling a constitutional convention, had thereby surrendered to that body all power over the instrument they were commissioned to make; but I meet him on this new ground that he has taken, and ask, in his own language, if it is not "absurd to say that they can impose fetters upon their own power which they cannot afterwards remove?" What are the facts? Before any vote was taken upon the constitution—before, by its own terms, it had gone into effect, or possessed the slightest vitality—for, by section sixteen of the schedule, it was "to be in force from and after its ratification by the people as hereinbefore provided"—the same legislative authority which called it into existence, convened and ordered a vote of the people for or against its adoption; and, on the 4th of January, a majority of ten thousand of the people of Kansas branded it with an indignant repudiation. If their previous action, therefore, had been construed to impose any "fetters" upon the people, their action before the convention's election on the 21st of December removed these fetters, and enabled the people to speak their will unmistakably.

But again: if a Legislature of the people, after a constitution has been adopted, ratified, and confirmed, both at home and by Congress and the Executive, have then the power to proceed, contrary to the terms of the instrument itself, in the necessary steps to amend or overthrow it, as the President argues "the Legislature already elected may, at its very first session," proceed to do, is it not extraordinary that they have not this same power before it has gone into force at all? Is not this position, to use the President's expressive language, "absurd?"

But I have still another point to make, on this head, which will leave the President and his friends no room to escape from the position he has taken above. They may say that the language is that "the will of the majority" must be "expressed in an orderly and lawful manner;" and that the election of the 4th of January does not comply with this condition. The President, in his message, though refusing, as he did also in his instructions to Governor Denver, to recognize its result as material, says, "it was peaceably conducted, under my instructions." But still more conclusive is the following extract from the instructions to Governor Denver, which were dated December 11, 1857, ten days before there had been any voting on the constitution at all, in full

view of the fact that a bill would probably be passed by the Legislature authorizing the people to vote for or against it. Speaking of the Governor's duty, the instructions say:

"It extends, of course, to the protection of all citizens in the exercise of their just rights, and applies to one legal election as well as to another. The Territorial Legislature doubtless convened on the 7th instant, and while it remains in session its members are entitled to be secure and free in their deliberations. A rightful action must also be respected. Should it authorize an election by the people for any purpose, this election should be held without interruption, no less than those authorized by the convention. While the peace of the Territory is preserved and the freedom of election is secure, there need be no fear of disastrous consequences."

"From whatever quarter it is attempted to interfere by violence with the elections authorized by the constitutional convention, or which may be authorized by the Legislature, the attempt must be resisted, and the security of the elections maintained."

Whatever, therefore, the President may argue as to the inefficacy of that vote, these instructions recognize it as a "LEGAL ELECTION," as a "just right" of the people, as a "rightful action by the Legislature," and as entitled to precisely the same protection as the elections authorized by the convention. And this being conceded by the President, I contend that that election is decisive of "the will of the majority," that that will has been "expressed in an orderly and lawful manner;" that the people, whom the President says "can make or unmake constitutions at pleasure," have decidedly *unmade* this one at an election "peaceably conducted under the President's instructions;" and that if they ever did "impose fetters upon their own power," by authorizing this convention to meet, it is "absurd" to say that they "cannot afterwards remove" them, as they have done so decisively by repudiating the convention's work.

I must, before passing to another point, expose the absolute and emphatic contradiction, on a vital point, of the two champions in Congress of this Leecompton constitution. I allude to the authors of the senatorial report from the Committee on Territories, and the yet undelivered House report from the select Kansas committee, as published by its author, Mr. STEPHENS, of Georgia, in the Union. It is in regard to the right and power of the Legislature calling the convention, to restrict its authority, or to stipulate, in advance, that their work should be submitted to the popular vote.

Says Senator GREEN, of Missouri, in his report, speaking of the failure to require the submission of the constitution:

"If the Legislature could direct the convention what they should do on one subject, it might with equal propriety have given commands on all other subjects. This would have been a flagrant violation of all rules of right and of justice to the people."

I would respectfully suggest that, before these champions of convention omnipotence go before the people on this issue, they should revise their reports so as to make them agree instead of antagonizing on this essential question; and settle the point, whether a condition that a constitution should be submitted to the people who are to live under it, would or would not be "a flagrant violation of all rules of right and of justice to the people."

The next question which confronts us in the discussion of this question is, whether the constitution is "republican in form." The report of the Senate's Committee on Territories, on page 10, after discussing the slavery clause, says:

"No real or valid exception can be taken to any other part of the constitution. On this subject President Buchanan has well said, in his message:

"In fact, the general provisions of our recent State constitutions, after an experience of eighty years, are so similar and so excellent, that it would be difficult to go far wrong at the present day in framing a new constitution."

Yes, Mr. Buchanan; but if there is one provision, more than another, in our recent State constitutions, in which there has been a universal concurrence of sentiment, it has been in their submission to the people. All parties, all sections, all States, have agreed upon this "excellent" provision. Though in the earlier days of the Republic, when the public sentiment was unequivocal, State constitutions were allowed to go into

operation, by general consent and universal acquiescence, yet, for over twenty years, no constitution has gone into operation, in any new State or old, without having been submitted to the ordeal of a popular ratification or rejection. This forms the only exception, during the present generation; and the following reason, very frankly given by the President, on page 4 of his Leecompton message, does not strike me as either "excellent" or truly Democratic:

"Had the whole Leecompton constitution been submitted to the people, the adherents of this [the Topeka] organization would doubtless have voted against it."

But, sir, besides the fact that the constitution is not really republican, because it does not represent the actual and well-known will of the people, I dissent from the senatorial report, in its assumption that "no real or valid exception can be taken to any other part of the constitution," besides its provisions in favor of perpetual and irrepealable slavery.

And first, the constitution flatly contradicts itself on a most essential point. In section one, of article seven, it is declared that "the right of property is before and higher than any constitutional sanction"—a new higher law; while section two, article twelve, authorizes even a soulless corporation to take and pay for private property, even against the consent of the owner, if a jury, which is usually rather inferior in power to a constitution, only consents.

And secondly, these sagacious constitution-makers, in their deep interest for the people, enact in section five of article twelve, that no bank bill shall go into force unless it is submitted to a vote of the people, after its passage by the Legislature, and shall be approved by a majority of the electors voting at such elections, while they themselves refuse to submit their own work, binding up though it does all the institutions, the legislation, and the interests of the people, to this test which they command hereafter, on a single question. Such gross and shameless inconsistency cannot receive the sanction of my vote. To be consistent with their idea of a "fair submission," they should have provided that the Legislature should order a vote "for banks with branches," and "for banks without branches," and exclude all votes of anti-bank men by requiring the voters to swear fealty to the banks before they could be allowed to choose between the two.

And thirdly, a single word in this constitution indicates the *animus* of its framers. The Constitution of the United States allows the writ of *habeas corpus* to be suspended *only* "in cases of rebellion or invasion;" but the Kansas constitution (section fourteen, bill of rights) authorizes it to be suspended "in cases of rebellion, *insurrection*, or invasion." The unconstitutional addition of that single word, "INSURRECTION," so capable of latitudinous construction, becomes doubly significant when we remember what these same men have considered "insurrections" during the past four years. And section twelve allows them also to dispense with grand juries or impeachments, even in capital or infamous offenses, "in cases of rebellion, *insurrection*, or invasion." With the *habeas corpus*, indictments, and impeachments, all brushed aside, they can indeed be "a law unto themselves," and become the irresponsible and unrestricted Robespierres of the State.

And fourthly, in full view of the fact that, before the constitution was framed, or even fairly commenced, the people, by a vote six times greater than that by which the delegates had been chosen, had elected a Legislature, which, by the act of Congress, approved by the President, had been clothed with full power of legislation on all rightful subjects, they attempted to legislate through their constitution, even before its ratification by Congress, and to trammel and restrict the legal power and authority of a legislative body, whose commissions sprang from as high an authority, at least, as theirs. They declare, in section two of the schedule, that all laws then in force shall continue in full force until the State Legislature, to be elected under the constitution, should assemble. Such arrogance is in fit unison with the conduct of the reckless men who framed this instrument in open, undisguised contempt of the known will of Kansas, and who ask us to force it down the throats of the people they seek to punish by its adoption. But there is an object in this, and it was to prevent the repeal or amendment of that

atrocious code which for years this usurpation had been vainly striving to enforce on the people of Kansas. Some of its features I quote from a speech I had the honor of delivering during the last Congress; and those who vote to ratify this rejected constitution, give their willing suffrages to also maintain and uphold those laws which the constitution so jealously preserves from amendment or repeal:

"I will now invite your attention to a contrast in the penal code of this Territory, singular in its character, to say the very least. Section five of the act punishing offenses against slave property, page 604, enacts as follows:

"If any person shall aid or assist in enticing, decoying, or persuading, or carrying away, or sending out of this Territory, any slave belonging to another, with intent to procure or effect the freedom of such slave, or with intent to deprive the owner thereof of the services of such slave, he shall be adjudged guilty of grand larceny, and on conviction thereof shall suffer death, or be imprisoned at hard labor for not less than ten years."

"A person who, by a pro-slavery packed jury, is convicted of aiding in persuading out of the Territory a slave belonging to another, is to suffer at least twice as severe a penalty as he who is convicted of committing the vilest outrage that the mind of man can conceive of on the person of your wife, sister, or daughter! Nay, the contrast is still stronger. The jury, in the first instance, are authorized even to inflict the punishment of death—in the latter, see page 208, the penalty is 'not less than five years.' Such is the contrast in Kansas between the protection of a wife's or daughter's honor and happiness, and that which is thrown as a protectingegis over the property of the slaveholder!

"Again, on page 208, you will find that the ruffian who commits malicious mayhem, that is, without provocation, knocks you down in the street, cuts off your nose and ears, and plucks out your eyes, is punished 'not less than five nor more than ten years;' the same degree of punishment that is meted out in section seven of the above act, page 605, on a person who should aid, or assist, or even 'harbor,' an escaped slave!"

"On page 209, you will find that the man who sits at your bedside, when you are prostrated by disease, and, taking advantage of your confidence and helplessness, administers poison to you, but whereby death does not happen to ensue, is to be punished 'not less than five nor more than ten years,' though it is murder in the heart, if not the deed. And this is precisely the same penalty as that prescribed by the eleventh section (quoted in my remarks above on the five violations of the Constitution) against one who but brings into the Territory any book, paper, or handbill containing any 'sentiment' calculated, in the eyes of a pro-slavery jury, to make slaves 'disorderly.' The man who takes into the Territory Jefferson's 'Notes on Virginia' can be, under this law, hurried away to the chain gang, and manacled, arm to arm, with the murderous poisoner."

"On page 210, the kidnapping and confinement of a free white person, for any purpose, even, if a man, to sell him into slavery, or, if a woman, for a still baser purpose, is to be punished 'not exceeding ten years.' Decoying and enticing away a child under twelve years of age from its parents, 'not less than six months, and not exceeding five years.' But decoying and enticing (mark the similarity of the language!) a slave from his master is punished by death or confinement not less than ten years. Here is the section, page 634:

"Sec. 4. If any person shall entice, decoy, or carry away out of this Territory, any slave belonging to another, with intent to deprive the owner thereof of the services of such slave, or with intent to effect or procure the freedom of such slave, he shall be adjudged guilty of grand larceny, and, on conviction thereof, shall suffer death, or be imprisoned at hard labor for not less than ten years."

And fifthly, this constitution, section three, article ten, expressly empowers the Legislature, besides poll taxes, income taxes, and uniform taxation on property of all kinds, to levy additional taxes on "all persons pursuing any occupation, trade, or profession." Under this, the gentleman or the sluggard, who is too wealthy or too lazy to work, is to be exempt from this tax on industry, while the mechanic, the laborer, the manufacturer—in a word, the men who earn their living by the sweat of their brow—are to pay a tax for so doing, over and above all the other taxes which they share in common with their fellow-citizens of every degree. Before I will vote to ratify or indorse so shameless and insulting a discrimination against the free laborers and working men of Kansas, my tongue shall palsy in my mouth. Let gentlemen on the other side, who insist that we cannot look behind the constitution to see how it was formed or adopted, shut their eyes, if they can, to this unreplicable provision which stares on them from its face.

Nor is this all. The Leecompton delegates appeared as anxious to rob the United States of their lands in the Territory as they had the people of Kansas of their rights. And they have sent us an ordinance declaring that, to induce the new State to yield the right she claims of taxing the unsold Government lands within her borders, four sections out of each township, instead of the usual number of one, must be given her for schools; all the salt, gold, silver, and lead mines; seventy-two sections for a college, and an enor-

mous railroad grant besides of alternate sections of land, for a breadth of twenty-four miles wide through the Territory from east to west, and another of the same extent from north to south. It is well known that this wholesale "land-grab" would kill the Lecompton constitution in Congress, if coupled with it here; and hence the President has sent it to us in a separate form from the main body of the constitution itself; and the Senate report says:

"The committee do not approve the ordinance accompanying the constitution, and report against its allowance; but they do not regard it as any part of the constitution, nor will its approval or disapproval by Congress affect the validity of that constitution if the State be admitted into the Union as recommended."

The friends of this Lecompton fraud cannot, however, rid themselves of this undesirable handiwork of the usurpers. I shall prove that it is part and parcel of the constitution, inseparable from it, and will be ratified fully and unequivocally if the State is admitted. For—

1. It is part of the proffer made by the framers of the Lecompton constitution, on which they agree to come into the Union.

2. It was framed by a body whose only authority was to prepare a constitution.

But still higher and more indisputable authority is the positive testimony of the chief conspirator, their own witness, John Calhoun, president of the convention and bearer of the constitution, whose official certificate they are, by their own argument, "estopped" from looking behind. I quote this certificate, attached to the ordinance, from page 48, Senate report:

"The within is a true and perfect copy of the ordinance adopted by the constitutional convention, and submitted as PART OF THE CONSTITUTION BY THE CONVENTION which assembled at Lecompton on the 5th day of September, A. D. 1857.

"J. CALHOUN,

"President Constitutional Convention.

"LECOMPTON, Kansas Territory, January 14, 1858."

"Submitted as part of the constitution by the convention." Gentlemen, can you escape that? Your Senate committee, in the teeth of this, and to avoid saddling this extra weight on your consciences, may say "they do not regard it as any part of the constitution." But the Lecompton convention declares that it is. Its President and mouthpiece certifies most unequivocally that it is. Nay, more: he says it was part of the constitution which was submitted by the convention. It has been ratified by the people, therefore, exactly as much as any other part. It is of as much validity as any other section or article. You cannot, you say, vary in the slightest degree from the action of the convention, not even to consult the popular will, not even to adopt the constitution, subject to its satisfactory ratification hereafter. Then you cannot vary their proffer to you. You cannot accept part of the constitution and reject part. The ordinance is declared in an official certificate of the President of the convention which framed it to be "part of the constitution;" and you will be compelled, therefore, when you strike down the rights of the people of Kansas, to strike, at the same time, a heavy blow at the rights and interests of your constituents there, and to sanction a land-theft that, uncoupled from this model constitution, would not command five votes in this body.

I have not time to notice other provisions equally objectionable, but which have been already widely criticised and condemned; and I must hasten to another branch of the discussion.

The report of the majority of the select committee of this House, as published by Mr. STEPHENS, of Georgia, insists that no further enabling act was necessary to authorize the formation of a State constitution than the original Kansas-Nebraska law itself. In order not to do him injustice, I quote his exact language:

"Another objection of the same class is, that no enabling act was passed by Congress; or, in other words, that the Legislature of Kansas did not have the legal right to call the convention that formed the constitution. This objection is equally untenable both on principle and authority. The power to call a convention to form a State constitution is clearly within the rightful subjects of legislation granted in the organic act."

Others in debate, in both branches of Congress, have deduced the argument that a congressional enabling act was unnecessary, because of the following language in another section of the Kansas-Nebraska bill:

"And when admitted as a State or States, the said Ter-

ritory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission."—United States Laws, vol. 10, p. 283.

But these gentlemen, perhaps, forget that precisely the same argument would authorize Utah to demand admission without any previous enabling act. The language of her organic act, on this point, is exactly the same as that of Kansas, and I copy it here to prove the fact:

"And, when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission."—United States Laws, vol. 9, p. 453.

But, I prefer to meet the gentleman from Georgia on his own ground, where he finds the power, as above quoted from his report, in the following section of the organic act:

"Sec. 24. That the legislative power of the Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act."—United States Laws, vol. 10, p. 285.

Passing over the question whether the overthrow of the territorial government established by Congress, is a "rightful subject of legislation, consistent with the provisions of this act," which established it, I reply to the gentleman from Georgia, that Utah has precisely the same authority, in the following section of her organic act:

"Sec. 6. The legislative power of the Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act."—United States Laws, vol. 9, p. 454.

Do the gentleman from Georgia, and the other prominent champions of the Administration, dare to stand by their own argument when applied to the Territory of Utah? Will they maintain, while asking us for appropriations for the Army which is to assist in sustaining and upholding the new territorial officers there, that the whole territorial government itself can be superseded or trammelled by the spontaneous formation of a State constitution in Utah, and the Lecompton-like election, before even the instrument itself is submitted to our inspection of a governor, state officers, judiciary, and Legislature? And yet the language of the two acts being identical on the very point where he finds the authority for Kansas, he must acknowledge its fallacy, or concede a license to Utah utterly destructive of the national authority in that rebellious Territory.

I leave the gentleman from Georgia to select whichever horn of this dilemma he chooses, and ask attention to the two following extracts from the speeches of distinguished advocates of Lecompton upon this floor.

The gentleman from Mississippi, [Mr. LAMAR,] in his speech on the 18th of January, lays down the following proposition:

"The people act in their sovereign capacity when they elect delegates; and the delegates thus elected and convened are, for all practical purposes, identical with the people. Sir, I take higher grounds. I hold that the highest embodiment of sovereignty, the most imposing political assemblage known to our Constitution and laws, is a convention of the people legally assembled, not en masse—for such an assemblage is unknown in our representative system—but by their delegates, legally elected. When such a body, with no declared limitation upon their powers, are deputed to form a constitution, and they execute their trust, the constitution, *ipso facto*, becomes the supreme law of the land, unquestionable and unchangeable by any power on earth, save that which ordained it."

"It [Kansas] is no longer a Territory of these United States. She has, by your own authority and permission, thrown off the habiliments of territorial dependence, and stands now a State, clothed with all the attributes and powers of a State, and asks admission as an equal in this noble confederation of sovereignties. You may reject her application, if you will; but it will be at your own peril. To remand her to her territorial condition you cannot, any more than you can roll back to their hidden sources the waters of the Mississippi. Kansas is a separate, organized, living State, with all the nerves and arteries of life in full development and vigorous activity. Between your laws and her people she can interpose the broad and radiant shield of State sovereignty, and may laugh to scorn your enabling acts."

The gentleman from Alabama, [Mr. SHORTER,] just a month later, declared himself also as follows:

"When the Kansas and Nebraska bill was passed, this doctrine of the right of the people in the Territory to establish a slave or a free State, and be admitted into the Union free from all congressional interference, was adopted as a fundamental principle. That bill declares that Kansas, as well as Nebraska, has the right of admission into the Union as a sovereign State, with or without slavery, according to the legally-expressed will of the majority of her people.

Kansas to-day presents herself at the door of this Hall with her constitution, and demands admission into the Union."

"If the organic act establishing a territorial government for Kansas was, as I contend, an enabling act, then she is to-day a sovereign independent State, and the Federal territorial officers should be instantly withdrawn. She is a free, independent, sovereign State, outside of the Union, and by the consent of Congress."

These, sir, are bold sentiments, daringly expressed. But when you apply to them the touchstone of Utah, their monstrous character, their fatal results, are plainly exhibited to all men. Even their authors themselves would shrink from carrying them out. No more dangerous blow could be wielded at the authority of the Federal Government in our Territories than this. Indorse them by your ratification of the Lecompton constitution, for which they are the chief argument, and you, gentlemen of the opposite side of the House, will be responsible for the consequences in the other Territory which you are striving to force back to its allegiance. In the path that these gentlemen have marked out for him Brigham Young can walk, and doubtless will. With precisely the same enabling act that Kansas has, a vote of the people could be at once taken on the propriety of forming a State constitution; an election of delegates to a constitutional convention ordered by a unanimous vote of the Kansas Legislature, even over the Governor's veto, as the Lecompton act itself was; a constitution framed, fair and republican on its face; the whole completed within a very few months; and if Congress rejected it, the rulers of Utah could tell you, in the language of Mr. LAMAR, that they are "no longer a Territory of the United States;" that "you cannot remand them to their territorial condition;" that "between your laws and her people she will interpose the broad and radiant shield of State sovereignty;" and, in the language of Mr. SHORTER, she could declare herself "a sovereign, independent State," and could demand that "the Federal territorial officers should be instantly withdrawn."

Do you say in reply, gentlemen on the other side, that these are speeches of only two members of your party, and do not bind the whole? I will give you, in addition, the even weightier declarations of the authorized exponents of your party, the organs of the Senate and House committees on this subject, to show you to what arguments even your champions are compelled, in their attempts to vindicate this Lecompton constitution.

The senatorial Committee on Territories close their report with the following summing up of their argument:

"In conclusion, this committee is of opinion that when a constitution of a newly-formed State, created out of our own territory, is presented to Congress for admission into the Union, it is no part of the duty or privilege of Congress either to approve or disapprove the constitution itself, and its various provisions, or any of them, but simply to see whether it be the legal constitution of the new State; whether it be republican in form; whether the boundaries proposed be admissible; and whether the number of inhabitants be sufficient to justify independent State organization."

And the gentleman from Georgia, in his report from the select committee of this body, also declares:

"When a new State presents a constitution for admission, Congress has no more power to inquire into the manner of its adoption than the matter of its substance. The matter cannot be inquired into further than to see that it is republican in form; and the mode and manner of its adoption cannot be inquired into only so far as to see that it has been formed in such way as the people have legally established for themselves."

To such extraordinary positions do the necessities of this extraordinary case unwittingly hurry its ablest defenders. We, on the contrary, who do not believe that Congress is so powerless, so bereft of legislative discretion, so tongue-tied, that it has not even "the privilege" of saying "no," when a State asks for admission, would meet the application of Utah, did she come here with a constitution republican in form, with proper boundaries and sufficient people, as we meet this Lecompton fraud—by the declaration that, in the exercise of our power and authority, we decline admitting you into the partnership of States, and remand you, for reasons good and sufficient to ourselves, to your territorial condition. You, gentlemen, however, will be "estopped" by the doctrines you have deliberately indorsed; and having ratified the humiliating declaration of the Senate's report, that it is neither your duty, nor even your

"privilege," to look behind a constitution fair on its face, even if you know it be a "whited sepulcher," you will have to welcome Utah into the Confederacy, as the first fruits of your Lecompton doctrine of 1858, with Brigham Young and Heber C. Kimball in your national Senate, to assist you in applying it to still other Territories of this Union.

Imagine, sir, George Washington sitting in the White House, that noble patriot, whose whole career is a brilliant illustration of honor and purity in high places: and who doubts that if such a constitution as this had been submitted to him for his sanction, he would have spurned from his door with contempt and scorn the messenger who bore it? Or, ask yourself what would have been the indignant answer of Thomas Jefferson, who proclaimed as the battle-cry of the Revolution that great truth enshrined in the Declaration which has made his name immortal, and which scattered to the winds the sophistries and technicalities of the royalists of our land, that "all Governments derive their just powers from the consent of the governed;" not the implied consent of enforced submission, but the actual, undeniable, unquestioned consent of the freemen who are to bear its burdens and enjoy its blessings. If a messenger had dared to enter the portals of the White House when that stern old man of iron will, Andrew Jackson, of Tennessee, lived within it, and asked him to give his indorsement and approval, the sanction of his personal character and official influence, to a constitution reeking with fraud, which its framers were seeking to enforce on a people who protested and denounced and loathed and repudiated it, and to go down to history as its voluntary advocate and champion, that messenger, I will warrant, would have remembered the torrent of rebuke with which he would have been overwhelmed, till the latest hour of his life.

I turn gladly, joyfully, from the consideration of the extraordinary arguments to which I have alluded, to a brighter, happier picture, if you will only allow it to be painted. The President complains that he is tired of Kansas troubles, and desires peace. How easy is it to be obtained? Not by forcing, with despotic power and hireling soldiery, a constitution hated and spurned by the people upon a Territory that will rise in arms against it; not by surrendering the power and authority of an infant State into the hands of a pitiful minority of its citizens, who, by oppressive laws, and persistently fraudulent elections, have continued to wield the power which a shameless usurpation originally gave them; but by simply asking the people of Kansas, under your own authority, if you insist on rejecting the vote authorized by their Legislature, the simple and yet essential question, "Do you desire Congress to ratify the Lecompton constitution, or the new constitution now being framed?" How easy is the pathway to peace, when justice is the guide! how rugged and devious the pathway of error when wrong lights the road of her followers with her lurid torch, I have endeavored to show.

The people of Kansas, through every possible avenue which has not been closed by their enslavers, have remonstrated to you against this great wickedness. By ten thousand majority at the polls; by the unanimous protest of their Legislature; by public meetings; by their newspaper press, and by the voice of their Delegate upon this floor, overwhelmingly elected less than six months past, they ask you to repudiate this fraud. Dragged here, bound hand and foot by a Government officer-holder; who, besides drawing his pay as surveyor general, acts also as president of the Lecompton convention; who becomes, by its insolent discarding of all your territorial officers, as well as the people's, the recipient of all the returns, fraudulent as well as genuine, and the canvasser of the votes—she appeals to you to release her from the grasp of this despot and dictator, and to let her go free. In the language of an eloquent and gifted orator of my own State, I say, "When she comes to us, let it be as a willing bride, and not as a fettered and manacled slave."

Mr. ADRAIN obtained the floor.

Mr. SCALES. If the gentleman will yield the floor I will move that the committee rise.

Mr. ADRAIN. If that be the disposition of the committee I will yield to the gentleman to submit that motion.

Mr. SMITH, of Illinois. I hope not. There

are many gentlemen here who wish to address the committee on this question, and I hope the committee will not rise.

Several MEMBERS. We will speak this evening.

Mr. MORGAN. Allow me to make a suggestion. If the committee is to continue in session I hope it will be the general understanding that no business will be transacted, so that those who wish to go may go, and those who wish to stay may remain.

The CHAIRMAN. There is no quorum present, and even if it were proposed, no business could be done.

Mr. MORGAN. A quorum might be gathered here.

Mr. FLORENCE. I can say, so far as this side is concerned, that there is no purpose on this side to transact business, if the committee remain in session. We do things on the square. I think the gentlemen on the other side may be assured that nothing will be done.

Mr. SINGLETON. I hope that the understanding will be entertained, as many members desire to be heard, that this debate shall not be terminated for a day or two longer.

Mr. MORGAN. I only propose that, if the committee continue in session, there shall be no business transacted. There is no gentleman here who is authorized to speak for others.

Mr. FLORENCE. There seems to be a general understanding to that effect.

The CHAIRMAN. The Chair will consider that it is the understanding of the committee that no business shall be transacted this evening.

Mr. ADRAIN. Mr. Chairman, the Territory of Kansas has been the occasion of a long and deep excitement, and it was fondly hoped, on the accession of Mr. Buchanan to power, that peace and happiness would have been restored to that much-distracted Territory. It was no doubt his strong desire, as it was that of every good and patriotic citizen, that so great an object should be accomplished; and a policy was laid down which gave assurance that such would be the result. He selected, as Governor of that Territory, one of the most able, fearless, patriotic, and experienced statesmen of the country and the age. Relying fully on his sound judgment, integrity of purpose, and strong devotion to the sacred rights of the people, he sent him forth with such powers and bearing such instructions as promised every reasonable prospect of success. The Hon. Robert J. Walker, who was thus singled out as best fitted for this most delicate and responsible position, at an advanced stage of life, with comparatively feeble health, and at a great sacrifice of all the comforts and endearments of home, set forth on his most important and trying mission. He was now about to accomplish, if he could, what his predecessors in office had failed to effect. And many a man, with less energy of will, and less love of country, would have shrunk from the undertaking; but not fearing the result, with honest intentions, and confidently relying on the support and promises of the Administration, he went forth into Kansas; and soon, by his wise, peaceful, and judicious management, restored order and brought the people into quiet submission to his authority. He proclaimed to them a great principle—a principle not new, but old as the Government itself, and constituting the very corner-stone on which our political institutions rest—that the will of the people, the will of the majority, must and shall rule—that the people are sovereign, and have the right to form and regulate their domestic institutions in their own way. And as the Territory was preparing to form itself into a State, and be admitted as such into this glorious Union, he declared that the constitution, framed by the delegates chosen for that purpose, should, and of right ought to be, submitted to the people for their ratification or rejection. And, in making this declaration, he was but carrying out the policy agreed upon, on his accepting the office of Governor, as fully appears by his letter of acceptance and the instructions issued to him. In writing to Mr. Buchanan, he says:

"I understand that you and your Cabinet cordially concur in the opinion expressed by me, that the actual *bona fide* residents of the Territory of Kansas, by a fair and regular vote, unaffected by fraud or violence, must be permitted, in adopting their State constitution, to decide for themselves what shall be their social institutions. This is the great fundamental principle of the act of Congress organizing that

Territory, affirmed by the Supreme Court of the United States, and is in accordance with the views uniformly expressed by me throughout my public career. I contemplate a peaceful solution of this question by an appeal to the intelligence and patriotism of the people of Kansas, who should all participate fully and freely in this decision, and by a majority of whose votes the decision must be made, and by the only and constitutional mode of adjustment.

"I will go, then, and endeavor to adjust these difficulties, in the full confidence, as strongly expressed by you, that I will be sustained by all your own high authority, with the cordial cooperation of all your Cabinet."

And he was instructed, as follows:

"The institutions of Kansas should be established by the votes of the people of Kansas, unawed and uninterrupted by force and fraud.

"When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right to vote for or against the instrument, and the fair expression of the popular will must not be interrupted by fraud or violence."

But this convention failed to do what Governor Walker expected, and promised to the people would be done. The President was disappointed—the whole country was disappointed—and because the convention did not do what it ought to have done, a justly excited feeling of indignation has been aroused. It submitted to the people of that Territory but one single question, and that unfairly, without affording them an opportunity of deciding any other, or of rejecting the whole constitution if they pleased. This was not right. It was in violation of the direct promises of Governor Walker—of the clear and emphatic instructions of Mr. Buchanan; but above all of that great right guaranteed to the people by the Kansas and Nebraska act. This act gave them the right of determining not one, but all of their domestic institutions; it was full and complete, and not limited to the single question of negro slavery. And although much regretting to take a position not in accordance with the views of the President, yet feeling a deep and conscientious conviction that it rests on sound principles, I will stand by the right of popular sovereignty, the will of the majority; and as the Lecompton constitution does not embody or express the will of the majority of the people of Kansas, I shall vote against her unqualified admission as a State, with such a constitution, into this Union—a constitution stamped, as I conceive it to be, with gross wrong, injustice, and fraud, and not the people's choice. How can I consistently give my sanction to it? If I did, I could not return to my constituents and face them as an honest man and honest Democrat. They would turn upon me and say, "You proclaimed to us in your addresses during the presidential campaign, the popular sovereignty of the people, the right of the people in Kansas to form and regulate their domestic institutions in their own way. We believed you, and elected you to Congress, and almost the first thing you do is to trample in the dust the principles you urged upon us with all the ability of which you were master; the fundamental principles on which the whole fabric of our political institutions rest." Such would be the greeting the Democracy and people of my district and State would give me. In New Jersey, sir, the right of popular sovereignty, the right of self-government, is strongly and deeply imbedded in the hearts and affection of her sons. It is a right which they early learned and early fought for; and New Jersey's soil is rich with some of the best blood of the American Revolution in defense of that right. The plains of Princeton, Trenton, and Monmouth, all tell of the heroic valor and patriotic devotion of the Jersey Blues. And coming, sir, as I do, from such glorious revolutionary soil, hallowed by so many blood-dyed battle-fields in defense of popular rights and popular liberty, I would be an unworthy son of that small but gallant State if I did not raise my voice in defense of the same great rights and same priceless liberty.

It shall be now my purpose, as briefly as possible, to give the reasons why I object to the present unqualified admission of Kansas with the Lecompton constitution.

The Democratic party, sir, is a party of truth, and has ever adhered to its principles and pledges, and this is the reason why it is now in the ascendancy in the country, and guiding the destinies of this great and prosperous people. Other political parties have arisen in the land, but their existence was brief, for the simple reason that their principles were only ephemeral and for a day, and not founded on truth and the rights of the people. But not so with the great party to which I claim

to belong. It is the same party now that it was in the days of Jefferson, Jackson, and of Polk, and will continue to be the same party for years to come, if we only steadily adhere to the rights of the people and the fundamental principles of popular government; and it is because the unqualified admission of Kansas with the Lecompton constitution would be a gross departure from those great rights and principles, that I now object to it.

At the last presidential election, sir, which resulted in the elevation of Mr. Buchanan to the Presidency, the Democratic party proclaimed to the people a principle which it was pledged and bound to carry out. It was the principle of the Kansas and Nebraska act. Now, what was that principle which was proclaimed by all of our Democratic orators and presses, both North and South, East and West—a principle which entered so largely into that memorable contest? It was that the people of each State and Territory should have the right to form and regulate their domestic institutions in their own way, subject only to the Federal Constitution. Now, by that act, was it intended that the negro question of slavery was the only one that the people of Kansas had the right to vote directly upon and to decide? The act speaks of "domestic institutions," which certainly embrace more than one—that of master and slave. If the distinguished author of that celebrated act had intended to limit and confine its meaning, he would have said the *domestic institution of slavery*, and then it would have been clear and specific. But this was not his meaning, nor his intention. It was broader, and embraced all domestic institutions of every kind and character. If the people of Kansas, then, by virtue of this act, had the right of voting on one question, why not on another? It is a very narrow and mistaken idea to suppose that the question of slavery was the only important one for the people of Kansas to decide by a direct vote. It is all true that it has been for some time past the most exciting and prominent one, overshadowing all the rest; but are the questions of public schools, banking, taxation, internal improvements, and the like, of no moment? These questions are of deep and vital importance to the people of Kansas, as they are to the people of every State in the Union; and ought they not to have the right of voting upon them, and deciding them for themselves? Are they not questions which have deeply excited the people of the several States, giving rise to most important discussion, and diverse opinions? What question can be more important and interesting to the people of Kansas than that of common schools—the system best adapted for the education of the young? If the stability of our free institutions depends on the education and virtue of the people, the highest and most important question of all is the mode of educating the masses. Then again, in regard to the incorporation of banks—another question of vital importance, particularly at the present time, when many attribute our financial difficulties to these moneyed institutions—ought not the people of Kansas to have the right to say whether they will have banks or not, or how many? And then again, the system of taxation, a subject on which the whole American people have ever been, and are now, peculiarly sensitive. Now, upon all these questions, and many others of like moment, by the action of the Lecompton constitution the people of Kansas have been deprived of expressing their opinion by a vote.

The only way of clearly ascertaining the will of the majority of the people, on any important subject, is by a direct vote. This is the fair, honest, and Democratic method, and no other will ever satisfy a jealous and watchful people of their dear-bought rights. It was for this reason that the question of slavery or no slavery was submitted to the people of Kansas for their decision; and, for the same reason, the whole Lecompton constitution ought likewise to have been submitted. Says President Buchanan, in his annual message, in speaking of the Kansas and Nebraska act:

"Did Congress mean, by its language, that its delegates elected to frame a constitution should have authority finally to decide the question of slavery? or did they intend, by leaving it to the people, that the people of Kansas themselves should decide this question by a direct vote?"

On this subject, in the same message, he further adds:

"I confess I had never entertained a serious doubt; and,

therefore, in my instructions to Governor Walker, of the 28th of March last, I merely said that, when a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence."

It is at once seen, then, what was the meaning of Congress and the understanding of Mr. Buchanan on this subject. He never entertained a serious doubt about its true meaning; nor did anybody else. And hence he did not hesitate to instruct Governor Walker what to do when the constitution shall be submitted to the people of Kansas. It will be perceived that he uses the word *shall*, not *may*—a word implying an imperative authority on the convention to submit their labors to the people for their ratification or rejection. And again, it will be perceived that President Buchanan speaks, in his instructions to the Governor, of the submission of the *constitution*, the *whole constitution*; not a *part*, but *all*. This is what Congress intended should be done—this is what President Buchanan instructed to be done, and took for granted would be done; and hence he says:

"My instructions to Governor Walker in favor of submitting the constitution [not the mere slavery clause] to the people, were expressed in general and unqualified terms."

Now, why did he give such instructions, and why did he and the whole Democratic party expect that this constitution would be submitted to the people? Was it not because it was in strict accordance with the letter and spirit of the Kansas and Nebraska act, and the intention of Congress; and, to use the President's own language, "*founded on correct principles*?" Now, what are those "*principles*?" Are they not the right of self-government, and that the only way of clearly ascertaining the will of the people is through their votes? "In emerging from the condition of territorial dependence into that of a sovereign State," says the President in his annual message, "*the will of the people can only be known by a majority of votes*." And he gives us the following reason for it:

"The election of delegates to a convention must necessarily take place in separate districts. From this cause it may readily happen, as has often been the case, that a majority of the people of a State or Territory are on one side of a question, whilst a majority of the representatives from the several districts into which it is divided may be upon the other side. This arises from the fact that, in some districts, delegates may be elected by small majorities, whilst in others those of different sentiments may receive majorities sufficiently great not only to overcome the votes given for the former, but to leave a large majority of the whole people in direct opposition to a majority of the delegates. Besides, our history proves that influences may be brought to bear on the representative sufficiently powerful to induce him to disregard the will of his constituents. The truth is, that no other authentic and satisfactory mode exists of ascertaining the will of a majority of the people of any State or Territory, on an important and exciting question like that of slavery in Kansas, except by leaving it to a direct vote. How wise, then, was it for Congress to pass over all subordinate and intermediate agencies, and proceed directly to the source of all legitimate power under our institutions!"

"How vain would any other principle prove in practice! This may be illustrated by the case of Kansas. Should she be admitted into the Union with a constitution either maintaining or abolishing slavery, against the sentiment of the people, this could have no other effect than to continue and to exasperate the existing agitation during the brief period required to make the constitution conform to the irresistible will of the majority."

Well may the President say that any other principle of deciding great and important questions than that by a direct vote of the people, who are the legitimate source of all political power, is utterly void. And what question can be higher or more important than that of a constitution? The people cannot, and never will, rest satisfied, except by their own direct action. They will be restless and excited as the heaving ocean, which is only stilled by omnipotent power. So with a dissatisfied and exasperated people: their own potential voice alone will quiet their agitated feelings and give them peace.

If there ever was a Territory in which the whole people should have a direct vote upon their constitution, it is that of Kansas. The people there have long been divided in political sentiment, and bitter and deadly feelings of hate have been engendered, leading to civil war and bloodshed. If such had not been the case, and the people were harmonious in sentiment in regard to their constitution, no great evil would result in admitting Kansas as a State, if her people desired it. But such is not the fact. It is boldly declared that the Lecompton constitution is not of their making, but has been condemned and disowned by them

at the election on the 4th of January, by a majority of over ten thousand votes against it.

At the election on the 21st December, the majority for the constitution was 5,574
More than one half of which, however, was cast at those very sparsely-settled precincts in the Territory, two of them in the Shawnee reserve, on land not open for settlement:
Oxford, Johnson county..... 1,266
Shawnee, Johnson county..... 729
Kickapoo, Leavenworth county..... 1,017
— 3,012

Which being deducted from the pretended majority leaves in favor of the constitution..... 2,562

But assuming this election to have been all fair and valid, and the returns to have been genuine, and the voters to have been citizens of the Territory, notwithstanding the recent developments of the enormous frauds at the polls and in the returns, how does the case then stand on a comparison of the result of the two elections?

At the election on the 4th of January, the majority against the constitution was..... 10,064
At the election on the 21st of December, the majority in favor of the constitution, as presented to Congress, was..... 5,574

Showing a clear majority against the constitution, on comparison of the returns of the two elections, and supposing each to have been fair and legal, of 4,490

If, from this calculation, are deducted the fraudulent votes, according to the statement of the presiding officers of the two Houses of the Legislature, who were present at the opening of the polls and the counting of the votes, by the invitation of the President of the convention, there is, then, a majority of more than eight thousand, or four to one of all the legal voters of Kansas in opposition to the constitution.

And here, Mr. Chairman, I would say a word in regard to the votes cast at the election in Kansas on the 4th of January. We are told by the President that we must disregard that vote as being illegal. Whether so or not, we have the important fact, that a majority of over ten thousand votes were cast against the Lecompton constitution at that election, and that is the expression of the will of the people of Kansas through the ballot-box, spoken at the very first opportunity they had of making it known; for on the 21st December last they were not permitted to cast a single vote against the constitution, although at full liberty to vote for it.

The vote on the 4th January was under a law of an extra session of the Territorial Legislature, convened by the late acting Governor Stanton. He at once communicated the fact to Secretary Cass of the calling of the Legislature, and the Secretary, by the authority of the President, instructed Governor Denver, who succeeded Stanton, who was removed, to respect the rightful action of the Legislature convened by his predecessor. And further more, "should it (the Legislature) authorize an election for any purpose, this election should be held without interruption, no less than those authorized by the convention." Here, then, was an election held by the authority of a legal Legislature, and protected by the Governor of the Territory at the instance and by the authority of the President, and yet the President says that the votes cast at that election against the constitution are not to influence or affect our minds; or in other words, we are utterly to disregard the clear and emphatic will of the people. Why did he not say in advance to Governor Denver, that the vote against the constitution would be considered as illegal, and not to regard it? But he permitted it to go on, and Governor Denver received the returns of the vote, cast them up, and certified to the result, yet we are now gravely told that the whole thing is illegal and wrong.

But the vote, Mr. Chairman, on the Lecompton constitution on the 4th of January, was a legal one. The law of the Territorial Legislature authorizing it was legal. That Legislature had full power to make it, and it would have been derelict in its duty to the people of Kansas, not to have done so. It was the Territorial Legislature which authorized the holding of the convention that adopted the Lecompton constitution; and it was the Territorial Legislature which authorized the vote on the 4th of January. The convention had no power to deprive that Legislature of the right of passing laws for the benefit and protection of

the people. Here was a convention which framed a constitution, not in accordance with the sense and wishes of the people of Kansas, but in direct opposition to both; and the Territorial Legislature, acting as the guardian of the rights and liberty of the people, passed the law affording to them the right to say whether the Lecompton constitution was acceptable to them or not, before it was sent to Congress. If it had no such authority to pass the law, then the convention was above the Legislature, the very power which called it into being. The Legislature was still in existence, and only ceases its territorial power on the admission of Kansas as a State into this Union; and "its power over the whole subject was as full and absolute on the 17th day of December, when the law was enacted providing for the submission of this constitution to the people at the election on the 4th of January, as it was on the 19th day of February, 1857, when the Legislature passed the act calling the Lecompton convention into existence."

If the submission of a constitution to the people who are to be bound by it, is founded, as the President says, on correct principles, and hopes that the example set by the last Congress requiring that the constitution of Minnesota should be subject to the approval and ratification of her people, may be followed on future occasions, it is an example which ought to be followed now. We cannot begin too soon to imitate good examples; and let us commence at once, and provide in some way for the people of Kansas to decide upon their constitution. It is an example which ought to be set by a Democratic Congress; and I am greatly surprised that Mr. Buchanan, in opening his administration, did not throw the weight of his official position in favor of its immediate application to Kansas. And in doing that, he would have been carrying out the great principle on which he was elected—that of popular sovereignty—and been warmly sustained by the great majority of the people. "Do unto others as ye would others should do unto you," is the golden rule, but little regarded in this degenerate age, and particularly by politicians. Now, if I were in Kansas, I would claim the right of voting upon the constitution, and insist upon it, too, which is there to become the governing law. In New Jersey, sir, but a few years ago, the people determined to make a new constitution in the place of the old one; and one of the reasons urged for it was, that the latter had never been submitted to the people for their approval or rejection. The new constitution was submitted to the people, which they ratified; and it became the supreme law of that State; but it had the stamp of the people's will, without which, in that State, it would have been a dead letter. Having claimed, then, for myself the right of voting upon that constitution, I cannot refuse to accord the same right to the people of Kansas; and I am but carrying into practice the golden rule of "doing unto others as ye would others should do unto you."

And here, Mr. Chairman, I cannot refrain from expressing my great surprise that the Senator from New Jersey [Mr. Thomson] who addressed the Senate the other day, should have advocated the admission of Kansas with the Lecompton constitution. It was this Senator who was greatly instrumental in having the old constitution of New Jersey abolished, and a new one substituted in its stead. And, if my memory serves me, he urged as one of the reasons against the old constitution, that it had never been submitted to the people for their ratification or rejection. And in his recent speech, he says:

"I do most heartily approve of the submission to the people of a State of all great questions affecting their interests, not only their forms of government, but also legislative acts involving the creation of debt and the faith of the State."

And yet he would force upon the people of Kansas a constitution which they have condemned, by a majority of over ten thousand votes against it, and which he knows does not truly express their will. Why does he approve, sir, and "most heartily," of submitting a constitution to the people? Is it not because that is the only fair and true way of ascertaining their sense in regard to it? It would have been, in my opinion, much more consistent in him if he had declared against the Lecompton constitution, and insisted upon its submission to the people of Kansas; and in doing that, he would have given us the best evidence of what he so

heartily approves. As it is, his sentiments are one way, and his actions directly opposite. And he further says, that to reject the Lecompton constitution on the ground of its non-submission to the people of Kansas, "at this day would be most cruel and unjust." Why, sir, at this day all the recent State constitutions have been submitted to the people. This is the popular, correct, and Democratic principle of the day. And the Senator has been compelled to admit in his speech, when speaking of the different State constitutions which have been adopted of late years, that seventeen of them were submitted directly to the people. And yet the poor people of Kansas, most of all entitled to a fair and honest vote upon their constitution, are not to enjoy that right if it can be prevented; and to accord it to them, in the opinion of the New Jersey Senator, "would be most cruel and unjust." All I have to say, sir, is that his notions of cruelty and injustice are widely different from my own. I can see nothing either cruel or unjust in rejecting the Lecompton constitution and permitting the people of Kansas to vote upon it; but on the contrary, every principle of right, justice, and humanity demands it.

But it is said that the Lecompton constitution is the legally-expressed will of the people of Kansas; that delegates were chosen, who assembled in convention, and framed this constitution; and that it was not incumbent on that convention to submit the constitution to a direct vote of the people, as there was no provision in the legislative act authorizing the convention, which required it. Now, it is all true, there was no such provision; but the convention did submit one question to the people, that of slavery—admitting the right of the people to pass judgment upon that; and if they had the right to vote on one question, why not on all others? or, in other words, on the whole constitution itself?

It is admitted by the President, in his annual message, that the delegates to the Lecompton convention had no right *finally* to decide the question of slavery without a direct vote of the people upon it. He says he never had any doubt about that. And why? Because the true intent and meaning of the Kansas and Nebraska act was, that the people were to be left perfectly free to form and regulate their domestic institutions in their own way. Now, if domestic institutions mean more than one, and slavery be one of them, and the delegates to that convention had no right *finally* to decide that, neither had they any more right, by the said act, to decide any other domestic institution. If they had the right to decide one, then all; and if not one, then not all; for the people were to be left perfectly free to form and regulate *all* their domestic institutions in their own way. And this freedom of the people at the ballot-box, or, in other words, popular sovereignty, the President says is the vital principle of our free institutions, and upon which the whole Democratic party was cordially united during the last presidential campaign—"everywhere remaining" true to the resolution adopted on a celebrated occasion, recognizing "the right of the people of the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and, whenever the number of their inhabitants justifies it, to form a constitution, with or without slavery, and be admitted into the Union upon terms of perfect equality with the other States." Now, according to this resolution, which the President admits embodies the great doctrine of popular sovereignty, the people were to form—what? Why, a constitution, with or without slavery, it is true; but the chief and important thing was the constitution—slavery a mere incident. Now, suppose in this resolution nothing had been said about slavery, but simply to form a constitution: would it not embody the great doctrine of popular sovereignty—the right of the people to vote upon that constitution? How does the mere question of slavery affect that right? The President, in his annual message, refers to this resolution, as proof to show that the delegates to the Lecompton convention had no right *finally* to decide the question of slavery and to withhold it from the people, and substitute their own will for that of a legally-ascertained majority of all their constituents; and if it proves that, it also proves that the delegates had no more right to substitute their will for that of the people, and *finally* to decide any other provi-

ion; but that the whole constitution itself was to be submitted to the people.

If, then, this convention, in the opinion of the President, had no right *finally* to decide the question of slavery, and, as I have shown, had no more right *finally* to decide any other provision of the constitution, and substitute its will for that of the people, then it necessarily follows that this constitution is not the act and deed of the people of Kansas, and we are bound to reject it.

The position taken that the people had no right to vote upon the whole constitution unless the convention saw fit to give them that right, is one which places the convention above and beyond the very power which called it into being. It is making the delegates to that convention, who were mere agents of the people, their masters; and the poor people are absolutely bound by their acts, right or wrong; good or bad. The delegates to that convention did not carry with them a law-making power absolutely binding, without the sanction of the people, and against their will. The constitution of a State is the supreme law, and its organic form of government; and, as all free government derives its power from the consent of the governed, how can it be authentically ascertained whether the people of Kansas approve of the Lecompton constitution without a vote upon it? It is not my purpose to waste time upon the mere abstract question of delegated and sovereign power; upon how much and what power the people may delegate, and what retain as an inherent right. The far more important and practical one is, whether the delegates who framed the Lecompton constitution fully and fairly represented the will of the great body of the people of Kansas?

If there is any man living who ought to know the real facts in regard to that convention it is Governor Walker. And I would here beg leave to read a portion of his able letter to the President, resigning his position as Governor, which discloses facts which ought to be conclusive on this subject. He says:

"That convention had vital not technical defects in the very substance of its organization under the territorial law, which could only be cured, in my judgment, as set forth in my inaugural and other addresses, by the submission of the constitution for ratification or rejection by the people. On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties, it was required by law that a census should be taken and the voters registered; and when this was completed, the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give a solitary vote for delegates to the convention. This result was superinduced by the fact, that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty by law of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and therefore they were entirely disfranchised, and could not, and did not, give a single vote at the election for delegates to the constitutional convention. And here I wish to call attention to the distinction, which will appear in my inaugural address, in reference to those counties where the voters were fairly registered and did not vote. In such counties, where a full and free opportunity was given to register and vote, and they did not choose to exercise that privilege, the question is very different from those counties where there was no census or registry, and no vote was given, or could be given, however anxious the people might be to participate in the election of delegates to the convention. Nor could it be said these counties acquiesced; for wherever they endeavored, by a subsequent census or registry of their own to supply this defect occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention."

"I repeat, that in nineteen counties out of thirty-four, there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given, or could be given, for delegates to the convention in any one of these counties. Still, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties, in which there was no census, constituted a *majority* of the counties of the Territory; and these fifteen counties in which there was no registry gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution on the 7th November last. If, then, sovereignty can be delegated, and conventions, as such, are sovereign, which I deny, surely it must be only in such cases as when such conventions are chosen by the people, which we have seen was not the case as regards the late Lecom-

ton convention. It was for this, among other reasons, that in my inaugural, and other addresses, I insisted that the constitution should be submitted to the people by the convention as the only means of curing this vital defect in its organization. It was, therefore, among other reasons, when, as you know, the organization of the so-called Topeka State government, and as a consequence an inevitable civil war and conflict with the troops must have ensued, these results were prevented by my assuring, not the Abolitionists, as has been erroneously stated—for my address was not to them, but the people of Kansas—that in my judgment the constitution would be submitted, fairly and freely, for ratification or rejection by their vote; and that if this was not done, I would unite with them, the people, as I now do, in "lawful opposition" to such a procedure."

And in addition, we have the statement of Frederick P. Stanton, late Secretary of that Territory, in his recent letter of the 29th of January, who fully corroborates the assertions of Governor Walker. He says:

"The registration required by law had been imperfect in all the counties, and had been wholly omitted in one half of them; nor could the people of these disfranchised counties vote in any adjacent county, as has been falsely suggested. In such of them as subsequently took a census or registry of their own, the delegates chosen were not admitted to seats in the convention."

It appears, then, that this convention was not composed of delegates from all the counties in Kansas; and a very plain and satisfactory reason is given for it. In nineteen of those counties there was no census taken, and in fifteen no registry of voters; and hence there was no basis on which to make the proper apportionment of delegates. And, as Governor Walker alleges, it was no fault of the people of those counties that this was not done. And, consequently, having had no voice or hearing in that convention, they ought not to be bound by its action, and made to receive a constitution in the framing of which they have been excluded, without first having the opportunity of deciding by a vote whether they will accept or reject it. Under these circumstances, to force a constitution upon them would shock every sense of right, justice, and law, and strike down the great principle of representation, without which there would be no political freedom in this country. It would be a perfect piece of despotism; and I am not willing to take part in inflicting it upon any people, much less upon a large body of my own countrymen.

Why, sir, did Governor Walker promise to the people of Kansas, as he was instructed to do by the President, that they should have the right of voting for or against the constitution? Was it not because a very large majority of the people complained that they were deprived of delegates in that convention; that it did not fairly and fully represent the popular will; and that they would not submit to its action? And did he not allay all their fears, and subdue their exasperated and outraged feelings, by the solemn assurance that they should have a vote on the constitution? Its submission to the people was to rectify the radical and vital defects in the organization of the convention; and to the promise of such submission may be attributed the peace and order which reigned in Kansas up to the very time when the convention refused such submission.

It is not my purpose to discuss the question whether the Territorial Legislature had the legal authority to authorize the assembling of the Lecompton convention to frame a constitution. It certainly had no such direct power given to it by any act of Congress. But whether it had or not, I would not object to the legality of the convention, if the people of Kansas were satisfied with it as the fair and honest organ of their will and political sentiments. The great point with me is the will of the people; and I care not whether it is expressed through their representatives, or by their direct vote, if it is only honestly and fairly done, and truly expresses that will.

Now it is clear that this constitution does not express the will of the majority of the people of Kansas. In the first place, they were not all represented in the convention which framed it, nineteen of the counties having had no delegates to speak for them. And in the second place, the people have had no opportunity of giving their assent or dissent to the constitution, so as to ascertain their will. It is all very true, that a vote was taken on the 21st of December last; but were the people of Kansas permitted to vote as they saw fit on that constitution? It was submitted to them—but only to vote for, and not against it. The form of the vote was, "constitution with slavery," or "constitution without slavery;" but the con-

stitution had to be taken—good or bad, right or wrong—not in part, but in the whole. Now what a complete farce—nay, more, what a bold and disgraceful attempt, in this free land, to stifle the people's voice, and to defraud and rob them of their dear and blood-bought right to say what shall be their form of government! Can any man wonder that the people of Kansas are roused to the highest pitch of excitement, and are determined not to submit to a government not their own; and that freemen at the North, and freemen at the South, and freemen everywhere, cry shame! shame! at such high-handed fraud and tyranny? Did not the King of Great Britain once try to force our brave ancestors to submit to laws in the making of which they had no voice? And did not the soul-stirring rallying cry ring out from hill-top and from valley, "No taxation without representation?" And is not the same cry now heard in Kansas, and throughout the country, "No constitution without representation?"—a principle that finds an echoing response in every free, manly, and patriotic heart.

In the instructions of President Buchanan to Governor Walker, he said the people of Kansas, in the exercise of their right of voting for or against the constitution submitted to them, must be protected, and the fair expression of the popular will must not be interrupted by fraud or violence. Now, were they not defrauded of the right of fairly expressing their will by the form of the vote which was required? Every man who could not conscientiously subscribe to the provisions of the constitution, and did not vote on that account, and was not permitted to vote against it, was as much deterred from voting as if a strong police force had been stationed at the polls to keep him away. Was not this, then, a great fraud? And will we sanction it? Mr. Buchanan's own strong words were, in his inaugural address, on assuming the oath of office:

"It is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinions by his vote. This sacred right of each individual must be preserved!"

I repeat it, sir, this sacred right of each individual must be preserved.

Why, Mr. Chairman, was not this Lecompton constitution submitted to the people of Kansas? There is but one short and conclusive answer; which is, that the people would have voted it down—which they had a right to do. This fact, then, by itself, clearly shows that it does not embody the will of the people of Kansas; and without that it ought to have no binding force. Why, then, should we receive Kansas as a State with such a dead constitution, not speaking the living voice of her people? It is said that the sooner we receive her as such, the sooner the Kansas excitement will die out. That, however, is a mere supposition, and by no means a certainty. Now, there is no one who desires peace more than I do; and I would go very far to purchase it, but never at a sacrifice of great fundamental principles of government, and of the faith, integrity, and solemn pledges of the Democratic party. But there would be no peace. Why, sir, the President himself says, in his annual message, that—

"Should Kansas be admitted into the Union with the constitution either maintaining or abolishing slavery against the sentiment of the people, this could have no other effect than to continue and exasperate the existing agitation during the brief period required to make the constitution conform to the irresistible will of the majority."

Are we, then, to keep up this agitation, and exasperate still more the people of Kansas, by admitting her with this Lecompton constitution, which everybody knows is against their known and declared will? Suppose, Mr. Chairman, this constitution is accepted by us, and the people of Kansas say—as they do—we will not submit to it: what then? Why, sir, the President will have to use the military power of the Government to suppress the resistance, and force a much-injured and wronged people into quiet submission. If this is done there will be bloodshed, and a far deeper excitement throughout the country than has yet occurred in regard to Kansas.

Governor Walker says:

"Disguise it as we may to ourselves, under the influence of the present excitement, the facts will demonstrate that any attempt by Congress to force this constitution upon the people of Kansas, will be an effort to substitute the will of a small minority for that of an overwhelming majority of the people of Kansas; that it will not settle the Kansas question

or localize the issue; that it will, I fear, be attended by civil war, extending, perhaps, throughout the Union; thus bringing this question back again upon Congress and before the people in its most dangerous and alarming aspect."

But, sir, is this constitution to be forced upon the people of Kansas on the mere ground of a supposed peace? Is that a sufficient reason for denying to the people of Kansas the right of self-government? Why, sir, the great and heroic spirits that broke the fetters of British tyranny, and gave freedom to America, often heard the siren song of "peace, peace," and they might have easily purchased it; but it would have been an ignominious and slavish peace. What they contended for was a great principle. They did not suffer any very great hardships. "The oppressions which roused them," says the accomplished orator, Edward Everett, "had in their day no worse form than that of a pernicious principle. No intolerable acts of oppression had ground them to the dust. They were not slaves, rising in desperation from beneath the agonies of the lash, but freemen, snuffing from afar 'the tainted gale of tyranny.' The worst encroachments on which the British ministry had ventured, might have been borne consistently with the practical enjoyment of many of the advantages resulting from good government. On the score of calculation alone, they had much better have paid the duties on glass, painters' colors, stamped paper, and tea;" but it was the principle of taxing them without their consent, against which they arose and fought. And on principle alone they fought it out with such glorious success; and we are now reaping the priceless blessings of that great and memorable contest. And yet, what is most extraordinary, we find the sons of such illustrious sires endeavoring to force upon the people of Kansas a constitution against their consent, and denying to them the right of self-government, for which seven long years of a bloody war was waged to accomplish.

But in refusing to admit Kansas with the Lecompton constitution, it is said we will not be carrying out the principle of the Kansas and Nebraska act, that of non-interference. Why, sir, that is the very way to carry it out. If we admit Kansas with that constitution, against the solemn protests of her people, and force them to accept it, that would be direct interference; nay more, it would be tyranny with a high hand. I say, let her alone, and let her have a fair and honest vote upon the constitution under which her people are to live and have their political existence, as a free and independent State.

Says the late Secretary Stanton, who is just fresh from among them, and well knowing their disposition, determination, and outraged rights:

"If Congress will heed the voice of the people, and not force upon them a government which they have rejected by a vote of four to one, the whole country will be satisfied, and Kansas will quietly settle her own affairs, without the least difficulty, and without any danger to the Confederacy. The southern States, which are supposed to have a deep interest in the matter, will be saved from the supreme folly of standing up in defense of so wicked and dishonest a contrivance as the Lecompton constitution. The moral power of their position will not be weakened by a vain and useless defense of wrong, when it is perfectly certain they will gain nothing even by success in the present attempt."

It is said again, Mr. Chairman, that our only inquiry on the application of Kansas for admission is, whether her form of government is republican? and that we are bound, under the Federal Constitution, to guaranty to her one of such a character. It is all true that we must see that her government is republican; but how are we to ascertain that? Why, it is said, here is her constitution; is not that republican? Yes, sir, I answer, as far as form goes. But are we merely to look at that? Are we not bound to see that the will of the people is enshrined within that outward form? for if it lacks that, it lacks the very life and being of a republican government. A written constitution is supposed to express that will; but if it does not, it is valueless; it is worse, sir, it is a gross fraud upon the rights and liberties of those who are to live under it. Just like a last will and testament, if it does not express the intentions and will of the testator the very object in view has been defeated.

But we are told that we cannot go behind the constitution to ascertain the will of the people; that the constitution is the only evidence of it. *Prima facie* it is; but this presumption may be overcome by the real facts in the case. A presump-

tion in law, as every lawyer knows, has only weight in the absence of the truth, but cannot stand against it. And what fact is better known, or about which is there less doubt, than that this constitution does not express the will of the people of Kansas? And yet we are called upon to believe this constitution, and accept it as true, when the people themselves have stamped it with falsehood. Now, are we to close our eyes against this startling fact? This would be sanctioning fraud, and making forms everything and substance nothing. Are we not to hesitate, or doubt, or inquire, because this shameless fraud and villainy is a thing in "form?"

The language, Mr. Chairman, of the Federal Constitution is, "new States may be admitted by the Congress into this Union"—not *shall*—implying a discretionary power, and not to admit under all circumstances. And, besides, we are to *admit*, not *force* a State into this Union against her solemn protest and will.

But it is said again, Mr. Chairman, that after Kansas is admitted as a State, her constitution may be immediately altered so as to conform to the wishes of the people. Why, sir, this very remark would seem to intimate that the Lecompton constitution is not acceptable to them; or else why speak of a change? And is it not a most singular fact, occurring for the first time in the history of our Government, that we are called upon to force a constitution upon a people, with the consolatory reflection that they can have the right immediately thereafter to change it? Why, sir, the most natural inquiry which springs up at once in our minds is, why force them to accept it at all? Why not permit them to make a constitution which is in the first place acceptable to them, and will require no immediate change? The constitution is for their benefit and government alone, and the important inquiry ought to be, are they satisfied with it?

But, Mr. Chairman, can the people of Kansas, if admitted with the Lecompton constitution, change it as easily and as soon as contended for? If we receive Kansas as a State with that constitution, it at once becomes the fundamental law of that State, and the people are bound to submit to its provisions and authority. Now, by one of its provisions, after the year 1864 that constitution may be altered or amended, necessarily implying that it is not to be done until that period. And this is the opinion of the eloquent gentleman from South Carolina, [Mr. KERR], who addressed us the other day; and I have no doubt it is fully concurred in by many other southern gentlemen. He says:

"Can the constitution of Kansas be legally changed prior to 1864? In my judgment it cannot. There is a clause in the constitution of Kansas prohibiting the assembling of a convention prior to that time, and this inhibition precludes it. This clause is regarded by some as a nullity. I do not so regard it. Every government that is created by a written charter rests upon it as a foundation. All the agents under it are subordinate, and must act in conformity to its provisions. Whenever an agent, in its exercise of power, exceeds the power granted to it by the author of its being, such exercise of power is illegal and nugatory. A Legislature, then, which is prohibited by the sovereign authority in the organic law from assembling the sovereign authority, acts, in thus assembling it, against or dehors the constitution, and the act is void from lack of authority."

There must have been, Mr. Chairman, some object in inserting such a provision in the constitution, and that object alone was to prevent a change. Those that put it there must have supposed it sufficient to carry out their object. And you will find, sir, if Kansas is admitted as a State, that every pro-slavery man in Kansas will assume the ground that no change can be made before the year 1864, and plant himself defiantly on this provision of the constitution.

It is all true, sir, that the people can make and unmake constitutions at pleasure; but there are only two ways in which it can be done—according to law, or without law. It may be done in the manner prescribed by the constitution, the fundamental and binding law of the State, or in the face of the constitution, and then it becomes revolutionary.

It does not necessarily follow that this revolution would be a bloody one. It may be peaceful and bloodless where the people all acquiesce in it. The constitution of a State, I admit, may be at any time changed, even where it contains an express provision forbidding it, provided the people agree to it, and make no resistance; and yet it would be against the fundamental law of the State.

But suppose Kansas is admitted, and her people should desire to alter or amend their constitution, and the Legislature should refuse to pass any law calling a convention of delegates for that purpose, taking the position that the constitution itself prohibited it until the year 1864: what then? How are the people to proceed to effect a change in their constitution? It is all true, they may meet together, and appoint their delegates to a convention, which convention may adopt an entirely new constitution, and new form of government; but then we would have two forms of government, and pray, sir, which would be the lawful one? Which one would Mr. Buchanan recognize? Why, unquestionably the first; for the last would be without law and revolutionary, and, if attempted to be put in force, would inevitably lead to all the horrors of a civil war.

Before, Mr. Chairman, the people of Kansas could make any alteration in their constitution, even admitting, for the sake of the argument, that it could legally be done before the year 1864, it is a vital and all-important question, which party has the majority in the Legislature elected on the 4th of January last? If the pro-slavery men have it, and the Lecompton constitution is against the will of the great body of the people of Kansas, I ask how it can be changed, as proposed by the President? He urges, as one of the strong reasons for the admission of Kansas, that "the Legislature already elected may, at its very first session, submit the question to a vote of the people, whether they will or will not have a convention to amend their constitution, and adopt all necessary means for giving effect to the popular will." But, if the pro-slavery men have the majority in that Legislature, they will submit no such question to the people, or take any steps to make the constitution conform to their will; and the necessary consequence will be, that the vast majority of the people of Kansas will be forced to submit to a constitution not their own, but directly opposed to their political sentiments, or else rise in rebellion against the State government and effect a change in the constitution by a bloody civil war. Their only alternative will be a slavish submission or a bloody revolution. Is it not a most extraordinary fact, that the people of Kansas, as well as of the whole country, are kept in a state of suspense and ignorance in regard to the political character of that Legislature? On one day it is given out by John Calhoun that the pro-slavery men have the majority in that body, and that he will give certificates of election to them; and on the next, that the free-State men have it. So it goes, from day to day, and the truth may never be known until after Kansas is admitted, if that should ever take place, under the Lecompton constitution. If admitted, he will then show his hand; and if the pro-slavery men have the majority in the Legislature, good-by to all change in the constitution; it will prove to be a mere empty dream.

Mr. COX. I would ask the gentleman from New Jersey whether he has examined the Lecompton constitution to see whether or not there be not a clause in it which, in the absence of the president of the convention from the Territory, gives to another officer the power to issue these certificates?

Mr. ADRAIN. I believe that is so. The right of self-government, Mr. Chairman, is dear to us all. It is a right as dear to the men of the South, as to those of the North. And are they willing to deprive the people of Kansas of this blood-bought right? Was it not in the South that a Patrick Henry proclaimed, with a matchless power and eloquence, which fired the hearts and nerved the arms of American patriots, the right of the people to make their own form of government? And his soul-stirring exclamation, bursting forth from a heart glowing with patriotic fire, seems still to linger, as it were, in the distance, "Give me liberty, or give me death!" And many a man in Kansas may echo back the sentiment, if the Lecompton constitution is thrust upon her, "Give me liberty, or give me death!" Was it not Thomas Jefferson who embodied the great right of self-government in the charter of American liberty—the Declaration of American Independence? And was it not the immortal Washington who won by the sword that great right for our fathers, for us, and those who shall come after us? And we now see the gifted, fearless, and pa-

triotic Wise standing proudly forth in defense of the same great right, although a strong slavery man—but who dares to do right, let the consequences be what they may! And it would have been a most singular fact, if, from the gallant State of Virginia, which gave to the country and the world a Henry, a Jefferson, and a Washington, no voice had been raised in behalf of the same great principle for which they contended, and were ready to seal with their blood.

The South, Mr. Chairman, can gain nothing by the admission of Kansas with the Lecompton constitution into the Union. It is true that the slavery clause is in the constitution, but the people of Kansas will have it out, and will never rest satisfied until this is the case. What, then, is gained? Is it merely for the sake of an empty triumph that the South is contending? Does the South claim the Lecompton constitution as its work, and wish to boast and exult over the free-State men at the North, and say—there, see the slavery clause which is in it? For this, after all, must be it; and this is what the eloquent gentleman from Georgia [Mr. GARTRELL] declared the other day, when defending the institution of slavery, and depicting in glowing colors its great blessings: "It is true," said he, "the South has achieved a triumph in Kansas;" but permit me to say that it was an unworthy triumph over the constitutional rights and liberty of the people. Do not say that you are resisting an encroachment upon your rights by insisting upon the admission of Kansas. What rights, I pray you? No one is interfering with your right to hold slaves in your respective States where your laws permit it. I certainly am not, and would not.

But remember, gentlemen of the South, you have no right to say that slavery shall exist in Kansas, and force it upon her people. In doing that you are becoming the aggressors, and I charge upon every southern gentleman upon this floor, who attempts to force this Lecompton constitution upon the people of Kansas with the slavery clause in it, when he knows that the great majority of the people are opposed to it, as a gross interference with their just political rights. And if you do, the consequences rest with you; if a civil war rages, deluging Kansas with human blood, and perhaps involving the whole Union and its existence, it is your creating and not ours. Why, then, persist? Why not give Kansas up, and let her people be a free people? She is gone to the South, as a slave State. The laws of climate and her free population have fixed that, now and forever. Come, then, men of the South—sons with us of the same glorious ancestry, inheritors of the same common country, and ever actuated as you are by high, noble, generous, and patriotic sentiments—discard as ignoble, ungenerous, and wrong, any attempt to force a people to accept a constitution for the mere sake of an empty triumph. A far higher and nobler triumph would await you by according to the people of Kansas their just right of self-government. If you do that, the Democracy of the North will stand by you, as they have ever done, in your just constitutional rights. And it would greatly tend to appease the bitter feeling, with many at the North, against the domestic institution of slavery. But to press this Lecompton constitution through, would only have the effect to heighten and strengthen that feeling, and widen still further the breach now unhappily existing between the North and the South.

Pause, then, I pray you, men of the South, and not permit mere imaginary wrongs to urge you on, as you threaten, to a dissolution of our glorious Union. Suffer not your warm blood and heated imaginations to betray you into an act which would destroy the last resting-place of human liberty. If the goddess of Liberty ever takes her flight from our loved land, it will be forever; and then, oh then!—but I will not and cannot look into such a dark and harrowing future. All else is shut out from my gaze, and I can only see before me a hallowed Union of States, bound together by fraternal love, mutual interest, and a common glory—a Union cemented by the blood of our fathers, and founded on the great and inherent principle of popular rights and popular sovereignty; and the same great and benignant God who has watched over and protected us in the past, and brought us to so high a pinnacle of national prosperity and power, will not, I am sure, desert us now, in the midst of threatened

and imminent danger, but still lead us on in the path of peace, safety, and stability, as one and a free people.

Mr. WORTENDYKE. I would like to ask a simple question of my colleague upon a matter in which I did not exactly understand him. He spoke of the alteration of a constitution by revolution. I wish to inquire of him, whether the change of the constitution of New Jersey, in 1844, was a revolutionary change?

Mr. ADRAIN. We did change our constitution, but it was done peaceably, all the people acquiescing in it. I wish the gentleman to understand that when I speak of a revolution, I do not necessarily mean that the people must rise and engage in a bloody revolution in order to accomplish the object they desire. A constitution may be changed even against an express provision of the constitution, if all the people acquiesce, yet it is no less a revolutionary change.

Mr. SEARING. Mr. Chairman, I rise, sir, surrounded with all the embarrassments that are usually attendant upon the first effort to address a legislative body; and, sir, I feel the position I occupy more sensibly, from the fact that I see around me, in the occupancy of these seats, gentlemen skilled in legislation, versed in the history of the country, and who, from education and experience, are most aptly fitted for the discharge of the high and responsible duties the country has enjoined upon them. But, sir, I bring to the discharge of the duty which my constituents have assigned me, very little legislative experience; I stand here to-day sustained by none of those advantages or influences which the collegiate institutions of my country confer, but springing directly from the ranks of the people, with whom, from my earliest infancy, I have been identified, and fortified only by the confident assurance on their part, that here, in my place in these Halls, I will honestly attempt to give utterance to their sentiments, protect their interests, sustain the honor and dignity of my native State, and by every honorable effort, preserve and perpetuate the harmony, peace, and concord, of all the States of the Federal Union. I shall not, Mr. Chairman, attempt to enter into a long and argumentative debate upon all the points involved in this discussion, but will content myself with assigning some few of the reasons which, in all human probability, will govern my action in the final disposition of this question.

If a stranger to our political history and institutions should be doomed to listen to all the speeches of our members and Senators, and peruse the many reports, messages, and statistics, relating to Kansas, her organization as a Territory, and her proposed admission as a State in this glorious Confederacy, he would necessarily consider the question as a grand political puzzle, to which there was no beginning and no end; and it would seem impossible for him to gain the thread or clew of this American labyrinth, and to trace and follow out correct and sound conclusions towards its final solution. And, at times, I must confess that the ingenious and special pleadings of the opponents of this measure seem to cover and include the merits of the case. And to clear my mind from doubts as to my own duties in the premises, I have to refresh my own memory upon the history of our country and her institutions prior to any serious agitation upon the subject of slavery, and coolly review the obligations each part of this great nation must preserve to the others, whether those obligations are written in the Constitution and laws that govern us, or are made clearly apparent and necessary by the experience of the past, to preserve our existence as a great Republic, a free and independent nation, indissolubly bound together in the bonds of political concord and union.

Digressing, sir, for a moment from the subject at issue, I would say for myself, as a sort of prologue to my remarks, that I am a Democrat; and, in the application of local adjectives, as used too much in this House, would be called a "northern Democrat." But I cast these local distinctions aside; I am a national Democrat; and I will not vote or speak in this House upon any question unless I can do so in the capacity of a national legislator. I come here to act for the North and the South alike; to act for my country, and my whole country. I can well recollect of years bygone, when Maine, Louisiana, Massachusetts,

and South Carolina, members and Senators, met in this Capitol, with no objects of legislation but those supported in common by the representatives of the several parties; and those representatives were divided upon the floor of the House and the Senate, not by the number of degrees their homes happened to be from the equator or the north pole, but the Massachusetts Whig or Democrat sat down with the Kentucky Whig or Democrat; and while they differed, in principle and policy, from their Democratic friends of New York and Carolina on the other side, all were actuated by the same national feelings, and sought, in their own way, (by supporting their respective party measures,) to promote the prosperity and advancement of this great nation.

But now, sir, when I am called to act as a legislator for my country, I find that it is only the representatives of one of the great parties of the day that seem to fraternize now as then. The opponents of the Democracy seem to herd themselves together as a party whose boundaries are defined by the compass and chain, and whose principles and policies must be shaped by, and subject to, the passions, prejudices, and interests, of a portion of our people, whose physical constitutions are inured to a latitude north of Mason and Dixon's line; and I find, when a great party measure is to be moved, wherein all our national men should act in concert, and wherein, of old, members and Senators elected as Democrats acted unitedly, that many of those whom the nation trusted for support become weak and helpless, and surrender to this geographical humbug their party fealty. I hope, sir, yet to live to see this state of things changed; to once more realize that, in our national halls of legislation, the terms North, South, East, and West, shall no longer exist, except to designate the bounds of new Territories and States for this glorious Union.

I am not one who fears that this Union is in danger, until I know that a majority of this House and the Senate have forgotten their manhood, their love of liberty and liberal institutions, and forsaken the principles that were taught them by freedom-loving mothers and fathers, and which have been preserved by them as the "magna charta" of their future hopes and happiness. And, sir, should the time come when appearances would betoken this position, I would cling to the hope of preserving the Union still; and would struggle to postpone to the very last year, the last day, and the last hour, such a terrible conclusion to the history of my country.

But to return to the question before us: to understand clearly the merits of this question we must review briefly the position of affairs for a brief period prior and up to the time Kansas became a Territory.

The present Territory of Kansas became American territory in 1803, by the treaty of France, known as the Louisiana treaty. We received this territory under an engagement that it should be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution; and in the mean time the inhabitants should be maintained and protected in the free enjoyment of their liberty, property, and the religion which they professed—"mean time," as I understand it, referring to the time it remained until its population and institutions made it suitable to become a sovereign State, when, according to the stipulations on our part, it must be admitted on a footing of perfect equality with the original States. These treaty stipulations bind us, as a nation, with all their original force. To be sure, in 1820, a geographical line of limitation was adopted as to a part of this territory, and was acquiesced in for many years, for the reason that there was no opportunity or necessity of enforcing it or claiming it, unless in the admission of Texas, which came in under another treaty than that. But when it was sought to be applied upon territory acquired by us from Mexico, the North refused to be governed by this limitation; and on the occasion of the admission of the State of California, and the organization of the Territories of New Mexico, Utah, and Washington, the enactment known as the Missouri compromise ceased to be of any binding force, and very properly, too; for believing, as I do, thereby a geographical line between one portion of this great nation and the other, that never should have been established, was virtually repealed, as it then

ceased to have any binding virtue upon the North or South, although it stood upon our statute-book—

Mr. OLIN. Did I understand the gentleman to say that either the North or the South understood that the Missouri compromise restriction was repealed by the act of 1850?

Mr. SEARING. I said that virtually it was repealed.

Mr. ATKINS. I will answer the gentleman. It was so understood by Mr. Toombs, of Georgia, and so declared by him in an address to his constituents in 1850.

Mr. SEARING. When the time arrived for the organization of Kansas and Nebraska, and although it was virtually repealed before, and was dead and inoperative, still the formal repeal of that enactment was seized upon as a subject of political excitement and agitation in the North, and was perhaps the original corner-stone of the organization of a sectional party in this country, and in my opinion as dangerous and odious a political organization as ever cursed a nation in the world. It owed its conception in opposition to the law of the land, and to the general principles that should govern all our national legislative action. And the history of the Republican party since its organization is just such a history as might be expected from an origin so illegal, unconstitutional and anti-national in its character; and the staple articles of its progress have been agitation, opposition to law and order, revolutionary movements, robberies, arsons, murder, and crimes in general, perpetrated and perpetuated under the guise of liberty and freedom. Yet Kansas and Nebraska became a Territory without a geographical line of distinction to determine what their local institutions should be as to the question of slavery; and since then Kansas alone has become the theater where have been played the political comedies and tragedies, prepared for political effect in regions remote from her borders.

The game of the Republican party has been the anti-law-and-order game from the beginning to the present time. They refuse to act and vote unless in the way and at the time prescribed by them as a political party, and then only when they can insure to themselves the whole game. At one time pronouncing the acts of the territorial officials and Legislature as bogus and not binding, and at another recognizing them and acting under them, in the election of officers, just as the move seemed to be the one conducive to their ascendancy. But in the midst of all these erratic movements, a legally constituted Territorial Legislature passed an act to take the sense of the people of Kansas on the subject of forming a State government, and asking admission into the Union. At this election the vote was almost unanimous of the people of Kansas in favor of a convention; and afterwards the Territorial Legislature, by a two-thirds vote, passed a law providing for the election of delegates to a constitutional convention. Under that law delegates were elected, who met in convention and made this constitution, submitting to the people of Kansas, at a special election, on the 21st of December, 1857, the question whether the slavery clause should be stricken out or not. At this election the majority of votes cast were in favor of the constitution as it was passed by the convention; and now this constitution comes to us, and the question is, can we refuse to admit Kansas under that constitution or not?

Our opponents say, no; Kansas should not come in as a State until the constitution has been submitted. I answer, it has been submitted by the fact that the people, by almost a unanimous vote, decided and authorized their representatives in the Territorial Legislature to provide by law for a convention of delegates to form this constitution. They said so; and the delegates to that convention were elected by the people to form and frame a constitution, and the constitution framed by them became the constitution and law of Kansas, as far as we are concerned, from the time it was made complete and final by them until the same power, the people, altered that constitution. The convention wisely deemed that the people themselves should finish this constitution by their own act, at a special election on the 21st day of December, 1857, and this was also done; and we have the constitution of Kansas before us, made by their regularly elected repre-

sentatives and finished by the people themselves. This statement of the matter is, as it appears to me, fully divested of all the *clap trap* attendant circumstances, with which we have, in my opinion, nothing to do; and when it comes to me thus, I can see no other way than to accept it, and enroll Kansas among the States of the Union; and with these convictions, my heart and reason are in favor of this course.

But I shall not leave the question, Mr. Chairman, without a due brief consideration of some of the views supported and held by the other side. I do not consider myself so much an orator or a political reasoner, that I wish to take up the time of this House with a lengthy review and reply of all that has been said against the admission of Kansas under this constitution, for much has been said that is unanswerable, because it has no point or force in it. It is of the Buncombe, *spread-eagle* style of argument, that tends more to amuse and confuse men than to convince their reason. In what I have said I have tried to elucidate this question, as it appears to me, without prejudice or passion concerning the circumstances surrounding it; and I will try to answer the main objections to this bill in the same way. The people of any State or Territory have the right to empower others to represent themselves in making constitutions or laws. To deny this would be to deny the sovereignty of the people. Our opponents say the people of Kansas have never delegated their powers to others in this question, nor have they ever expressed their assent in any manner to this Leecompton constitution. It is true, however, that they expressed their will to be that a constitution should be formed. The Territorial Legislature was the only organized body representing the people to make the necessary arrangements to carry their will into effect; and that the convention might represent truly the people, the act provided that between the 1st of March and 1st of April, 1857, a complete list of all qualified voters should be taken and filed in the office of the probate judge, and copies of the lists posted in public places; and from the 1st day of April to the 1st of May, the probate judge should hold court to correct said returns, so that if any were not registered in the returns, they might be added. This list or register of voters was then to be returned to the Governor and Secretary, who upon them made the apportionment of the members of the constitutional convention throughout the Territory.

The qualification of voters at this election of delegates, was, every "*bona fide* inhabitant of Kansas, on the third Monday of June, 1857, being a citizen of the United States, and over twenty-one years of age, and a resident of the county where he offers to vote, for three months prior to said election." This act was a fair one, and well calculated to obtain a fair expression of the people of Kansas. But many refused to be registered: that is, refused to act as citizens in this matter. Here was the first disposition manifested by a portion of the inhabitants of this Territory to refuse to express themselves on this subject. However, over nine thousand were registered and returned, making over three fourths of the voters of the Territory. Governor Walker and Stanton tried to induce the people all to act; but their advice was not heeded. Governor Stanton made the apportionment, and at the election of delegates, the people of Kansas had another opportunity to express their action on this question; but if reports are true, many refused or neglected so to do.

The convention assembled, duly and legally constituted, and afterwards, as our opponents say, the majority of the people of Kansas expressed no opinion as to the slavery clause in the constitution; and thus a constitution has been made by a convention originating with the people, and from the people; but, as they say, not by the people.

This, I am inclined to think, presents what may be aptly called a political *paradox*. If what our opponents say is true, that this constitution is repugnant to the majority of the people of Kansas, and the majority are opposed to slavery, it presents two points to me: either they were cowardly and were afraid to contest the matter for fear of being beaten, and preferred irregular action; or they were willing that the constitution should be made in this manner, and, by their silence and inaction, gave consent. Either point is conclusive

as against them. Our opponents say the *bona fide* voters of Kansas could and might do so and so. If so, why in God's name did they not do it? If they were opposed to a slavery constitution, why did not they vote down the slavery clause? Their neglect or refusal to exercise the power to make or alter this constitution, if they had it, is inexcusable; and I think that if they have had the opportunity, and refused to act, they should have the power again only when they are members of a sovereign State. And this kind of assertions only strengthen us in the conviction that it is time the people of this Union should no longer be vexed and harassed by the internal political partisans and political fights of Kansas; and we should not be obliged to correct their evils, if such exist in her borders, because she is yet a Territory. Make her a State; and if her sons needs must fight, let it be a free one among themselves.

On the other hand, if these Kansas republicans are not as strong as they pretend, and cannot succeed or make a show of strength, except in irregular *guerrilla* political manifestations, that they show great talent in maintaining, then and in such case, this constitution represents the voice of Kansas, and should be received, of course. I cannot for my life see any merits in the opposition to the constitution. It is a mere technical question. If all they say is true, the remedy is in their own hands, and sooner, by being admitted as a State, than in any other mode whatever can it be obtained. It resolves itself into a mere question of political *finesse* or *practice*—one calculated to prolong these difficulties, and by their increase, and corresponding increase of sectional bitterness, endanger the future of Kansas and the peace and safety of the Union.

I have said that the basis of the opposition to this bill was laid in mere technicality. The logic of its opponents is what lawyers call special pleading, and does not go to the merits of the matter at issue. I believe they all profess to wish the speedy admission of Kansas, but object to her admission under this constitution. It is in reality a plea of delay; and if they succeed in defeating this bill, they wish to go back to Kansas for another trial, another *passage at arms* in that distracted Territory, with the whole Union as anxious spectators, and deeply excited in the issues, and new embarrassments will surround the question; and before it shall again come before us for action, this great nation may be convulsed from center to circumference with deep, lasting, and direful agitation. I tell you, Mr. Chairman, in a matter of this kind, "delays are dangerous," perhaps ruinous to the body-politic of this great Union. And we now have it in our power to prevent and provide against these consequences; and if we refuse so to do, we are blind to our duty, careless and indifferent to our obligations as the representatives of a great nation, bound by the conditions of a solemn treaty that they must admit this Territory into their Federal Union as soon as possible, and bound by that treaty and the Constitution of the Union to secure to the inhabitants of this Territory all the rights and privileges of a sovereign State of the Union, which gives them full power to regulate their social institutions as they wish, without let or hindrance or control by the Federal Government.

We have given to the people of this Territory, in general terms in their organic act, the right to act for themselves as to the manner and form they shall present themselves for admission as a State. If I were to act as a legislator of this nation, in organizing a new Territory, I would seek to prevent the troubles of this question by providing in the organic act creating the Territory, for the submission of the constitution, under which they might hereafter seek admission as a State, to a popular vote. But it is too late, in my opinion, now to compel the people of Kansas to do this. If we assume to dictate to them now, as in the manner they shall adopt this constitution before they can become a State, we may also dictate to them what the provisions of that constitution shall be; and by carrying out this principle still further, there will be no end to the power we may presume to exercise over their action; and thus shall we establish a precedent in the action and power of the Federal Government in direct conflict with the constitutional doctrine and principles that, as a Federal Government, we can exercise no power unless created by the Constitution itself—that all

other rights and powers remain with the people themselves; a precedent which, if followed in the future, would be the beginning of a warfare against the sovereign rights of the people as secured by the Constitution; it would be the annihilation of State rights and popular sovereignty; it would centralize in this capital a despotism that might exercise its sway from Maine to Georgia and from the Atlantic to the Pacific. In the French revolution, amid the days stigmatized throughout the world as the "days of terror and blood," when thousands of the wisest, most ardent champions of true popular freedom were led to the scaffold as victims of freedom's vengeance, when our own beloved La Fayette was forced to flee from this deluge of uncontrolled passion and violence, the popular cry of the masses and their leaders, who moved in these terrible scenes, and became the ministers and executioners in this bloody work, was "liberty and equality."

It is said that when Madame Roland, than whom no one was more devoted to the cause of freedom, no one more opposed in every principle and action of her life to tyranny and despotism, was brought to the scaffold of death as a victim to the uncontrolled passions and prejudices of the misguided multitude, the popular cry of "liberty and equality" was heard around this fearful death scene; and on the public square fronting this terrible scene arose the statue of the Goddess of Liberty. Madame Roland raised her eyes towards this statue, and said: "Liberty! oh, Liberty! what horrors are perpetrated in thy name!" And when I hear the Opposition arrayed against this bill, and using as their battle-cry, "popular sovereignty," I think they are misguided and deluded, or they are determined in the wrong and against the right, and are willfully arrayed against the very principles they profess to advocate.

I have been a Democrat all my life, and as such been a close observer of all the tactics of the opposition to the Democracy; and I notice this fact, that when the people have indorsed the conservative action of that great national party, and our opponents have been routed "horse and foot," that they seize upon the very principles advocated by the Democracy, and by distorting and misinterpreting them seek to gain their original objects, and build up anew their scattered army.

In 1856, with James Buchanan as our leader-in-chief, we met the combined forces of abolitionism, sectionalism, and all other "isms" that have cursed our country for a quarter of a century; and with "popular sovereignty" as our watchword and principle, we triumphed. And now we have these men here advocating this doctrine in our national Halls of legislation, and by their special pleadings, their misinterpretations of the whole principle, seeking to distract and divide their opponents, and in many cases altogether too successfully.

Democrats, will you be deceived and drawn from your high and noble position? It is the same "old coon," only with a new coat of hair. They are doomed to be again disappointed. The national Democracy can spare those of their forces who are weak and trembling, and who have put their hands to the plow and look back. And still they will triumph, and their triumph will be the joy and the pride of the Union; for it will be the union of the North and the South, and the East and the West, in stronger bonds than ever; and which, God grant, may be as enduring as time itself.

Mr. WRIGHT, of Tennessee. Mr. Chairman, the gentleman from Indiana, [Mr. ENGLISH], when addressing the committee a few days ago on the admission of Kansas into the Union, said that of all the Democrats from the northern States who had voted for the Kansas-Nebraska bill, only three were members of this Congress. This he gave as a warning to those Democrats who, like the honorable gentleman from New York, [Mr. SEARING], who has just taken his seat, had avowed their intention to vote for the admission of Kansas. This, sir, was only one side of the picture; and I desire to call the attention of my friend from Indiana to the other side. I ask him where are all those Democrats, from that section, who voted against that measure? It is true that some of them were returned to Congress, and are now here as Representatives; but most, if not all, of them have gone into the arms of the Black Republican party, and they now help to swell the

ranks of that great army which is warring upon the constitutional rights of one section of this Confederacy. The first false step from the ranks of the Democratic party having been taken, they went on and on and on, until they found themselves in company which I am confident my friend from Indiana has no affinity for whatever, and where I am sure I would deeply regret to see him. But, sir, I have not risen for the purpose of delivering a lecture to my friend, nor to those who agree with him in sentiment. I shall vote for the admission of Kansas into the Union under the Lecompton constitution, and I have obtained the floor for the purpose of stating my reasons for so doing. I trust that I have not been actuated by selfish motives in coming to this determination. It is not alone because I see in the accomplishment of my desire that benefits are to arise to the State which I in part represent, but because I believe it to be a measure of justice, by which peace will be secured to the people of Kansas, and harmony and brotherly feeling restored to the people of the whole country. I wish to localize this question. I am anxious that it shall be removed from these Halls. I am desirous to see the country relieved from an agitation which has resulted in no good, and which, if continued, may lead to the most fearful consequences. I see but one way by which these ends can be accomplished, and that is by the prompt admission of Kansas into the Union. The peace and quiet of the country demand this at our hands, and these considerations outweigh all questions of mere party or sectional triumph.

In the few remarks which I design to present in the advocacy of this measure, I do not propose to enter upon any new fields of argument. Indeed, were I disposed to do so, it would be a difficult task to attempt to add anything to what has already been said in support of it. I regard it as a question upon the determination of which much depends, no matter which way it may be decided. I wish to approach the subject in a spirit of candor and fairness. I do not intend to conceal the fact that the people of that portion of the Confederacy where I live feel, and justly feel, that their independence and equality are at stake in the adjustment of this question; but, nevertheless, I will not undertake to induce others to agree with me by threats or menaces. I have long since determined neither to say nor do anything which tends to weaken the attachment of our people to their Government, or to sever the ties which bind together the States of this Confederacy; but, upon the contrary, actuated (as I believe I am) by an honest zeal for my country's welfare, and inspired with a brotherly affection for the people of every section of the Union—North, South, East, and West—and conscious of the obligations which rest on me as a representative of the people, I shall endeavor to promote, in my humble way, and with the best judgment I can command, the prosperity, the happiness, and greatness, of a common country.

Unhappily for mankind, the dangers which were foreseen by the fathers of the Republic, and of which we have received many faithful and solemn warnings, are upon us, and threaten us with disasters of such a character that no man can calculate them. Every question of any magnitude which presents itself assumes a sectional cast before it has been long under consideration. If an appropriation to pay necessary expenses incurred already, or about to be incurred, is presented, it is not long before some watchful and never-sleeping "freedom-shrieker" shrewdly discovers in it a plot to advance the interests of the "slave power," and thus crush the so-called spirit of liberty. Is an effort made to increase the Army to crush out rebellion in some distant Territory, it is no sooner done than it is insultingly said that its object is to aid a tyrannical chief Executive in forcing upon the necks of an unwilling and martyred people institutions and laws not their own, and against which they most solemnly protest. Has an officer of the Navy, in violation of the laws of nations, and in disregard of our obligations of neutrality, invaded neutral territory and taken citizens captive, pretenses are soon found for complimenting him for his gallantry, and reasons given for sustaining him; and all this because it is feared that in the acquisition of more territory in the South, by the progressive and indomitable spirit of our people, there will be new fields opened to southern enterprise, and new outlets for

the "peculiar" institution. Does a new State present her constitution, and ask for admission into the Federal Union, she is welcomed to the glorious sisterhood if she comes with a free-State constitution. Our ears are shocked with no threats of "disunion and civil war," nor are our tastes offended by unjust and unparliamentary reflections upon the characters and institutions of other States. But, sir, if, in the exercise of her sovereign rights, and in the limits of her constitutional authority, she sees proper to form a constitution like those of the fifteen southern States, and then asks to be admitted into the Union on an equality with the original States, how changed the scene! It is immediately said that slave labor and free labor cannot exist together. The South is charged with a desire to encroach upon the rights of the North; our institutions are abused; our people insulted; our independence derided and scorned. Such has been the case, sir, in every instance where slave States have been admitted into the Union. It was so with Texas, and Arkansas, and Missouri. Even when they have been admitted, it has been through scenes of excitement, and in some instances with conditions and provisions inconsistent with their sovereignty, and insulting to their independence.

Sir, we have not been unmindful of these things. We have not been unobservant of that power which has been gradually yet surely growing in strength and importance, and which to-day threatens to brand us as inferiors and vassals, in a Confederacy which recognizes us as equals and sovereigns. If we had been actuated by that aggressive spirit with which we have been charged, might we not have avoided this calamity? In the original organization of the Federal Government, there were twelve out of thirteen States which recognized African slavery as a part of their institutions. Might not these twelve States have maintained their supremacy in the Government? Might they not, by prudent counsels, and, had they been actuated by selfish considerations, and desires for power, have disregarded principle and looked only to their own safety and independence? But, sir, what has been the history of this question? From twelve they have grown to fifteen, whilst from one the so-called free States have increased their number to sixteen, and will soon be increased to eighteen. And is this aggression? Do these facts sustain that class of complaining politicians, who, disregarding the history of the past, as well as their obligations to truth, still prate about the "slave power," and its aggressions upon the interests of the northern States? Sir, can any intelligent man in the North, or anywhere else, listen with patience to these men, who, having no merit of their own, seek to obtain position by perversion of history and by an unwarranted crusade against those whom they ought to regard as friends, and not as enemies?

When the Kansas-Nebraska bill became a law of the land, it was hailed as a measure which was to bring peace to a distracted country. It was regarded as a measure of justice which was forever to withdraw the question of slavery from Congress, and leave it where the Constitution left it—to be determined by the people of the Territory, and to be by them settled in their own way, subject only to "the Constitution of the United States." In the discussion and settlement of that question it was ascertained that there were two parties in this country; one contending for the principle that Congress had the power to legislate in all things whatsoever for the Territories, and calling themselves the Republican party—a name, which, like their principles, was a usurpation and a fraud, and which "to be hated needs but to be seen;" and the other, the Democratic party, which, following in the pathway of the Fathers of the Republic, and adhering to the immortal principles of the patriots of the Revolution, declared its devotion to the doctrine of self-government and popular liberty, that "the people of the Territories were to be secured in the right of framing their own constitution in their own way, subject only to the Constitution of the United States." Upon this issue the contending parties entered the memorable contest of 1856; and the result was, the elevation of the present Chief Executive to the head of the Government. Heartily imbued with the great doctrine of non-intervention, advocating and defending it, because it was not only just, but because in it they recognized

the soul and life of the Federal Constitution, the Democracy of the country, North and South, staked their existence upon this issue. They were not guided and directed by that selfish spirit which their enemies charged them with entertaining. They did not favor the repeal of the Missouri restriction, and the establishment of the great doctrine of non-intervention, because they believed that thereby the institutions of the South alone would be benefited. Those who utter that charge are guilty of the vilest slander upon the patriotic masses of the North and South, who, in the eventful contest of 1856, were found united and doing battle under the banner of the Democracy.

I will not here endeavor to follow the Territory of Kansas through the many difficulties which have embarrassed her since the formation of her territorial government. They are familiar to every one, and need not be recited. That wrongs have been done there, no one who is familiar with her history denies. That individual cases of violence and outrage have been perpetrated by persons who have gone there from the North and from the South, is equally certain. No man regrets this more than I do; but I hold that with it we have nothing to do further than to aid in the execution of law, and in the maintenance of constituted authority. Why these scenes of violence and disorder are so constantly paraded here, I cannot understand, unless it be intended thereby to keep open the wound produced by sectional excitement, which, it occurs to me, every loyal citizen ought to endeavor to heal. The excitement which grew out of these difficulties had spread its poisonous contagion throughout the country, until every good citizen longed for its settlement; and we all looked, with eager hope, to that happy result, when it was known that the Legislature of the Territory had authorized the election of delegates to a convention to form a constitution preparatory to the admission of Kansas into the Union as an independent State. The delegates were elected, the convention assembled, and the constitution was framed. The only question which had divided and excited the people of the Territory and of the States, was submitted to the decision of the people. Every voter in the Territory was called on to express, at the ballot-box, his views on the question of *African slavery*. If he desired its existence in the new State, he had an opportunity to say so by his vote; and if, on the contrary, he thought it unwise and inexpedient to establish it there, he had the right and the opportunity to say so by his vote; and whatever might be the verdict of the majority was to be the fundamental law, until changed by the competent authorities. On the day fixed by law for the election, a majority of the votes which were cast decided in favor of African slavery.

It is said that only a minority voted, and that the will of the majority was not thereby expressed. I hold, sir, that no man has any legal authority for coming to such a conclusion. But let us admit, for the sake of the argument, that it is true: are we to be thus trifled with? Are we, by our action here, to await the pleasure or caprice of factious and disorderly men, who have shown by their conduct that they are ready and willing to hazard not only the peace of the Territory, but the peace and quiet and safety of the whole country, by their disregard for law? Suppose, sir, that we were to act thus in this instance: what would be the effect of our example? Shall we say, because a portion of our people—a majority of them, if you please—were to refuse to vote at all on our election day for President or other officers, that therefore we are to let the Government stand still, and await the whims of such men? Sir, it is a doctrine which strikes at once at the very root of popular government. If they did not see proper to vote, it was not because an opportunity was not presented. For my part, sir, I am sincere in the belief that the refusal of the Republicans and Abolitionists to vote was but in obedience to the instructions of their friends in the States, who desired this question kept open in order that they might still further inflame the public mind, and thus the more certainly advance their own selfish ends. I believe this to be true, sir, and I have no hesitation in so declaring.

But, sir, passing from this part of the subject, I ask what is the question to be decided by this Congress? Is it, shall we admit Kansas as a State

at once, and thus forever settle this question, and take away from agitators their only source of excitement and discontent? Or shall we refuse her application, give new energies to the enemies of popular liberty, and endanger again the peace and quiet of the country? As for myself, I have no hesitation in coming to a conclusion. I would admit her at once as a State, on terms of perfect equality with the original States; give her a place in the bright constellation, and hail her as a sister worthy of our kindest care and tenderest solicitude. I would rescue her from that band of lawless marauders who have grown fat upon her blood, and made themselves happy in her desolation. I would place her where she, in her own power, and clad in her own garments of sovereign strength, can protect her people from outrage and wrong without the help of Federal armies, or Federal power. But, sir, when these things are within our control; when we have it in our power to relieve ourselves from all the difficulties which have incumbered us since 1854 with regard to this question, we are startled with the announcement that it must not be done because there has been no enabling act. That the Black Republican party should have taken this position would have astonished no man; for it was expected that that party would assume any position, however untenable, unwarranted, or ridiculous, to cripple the energies of the Administration, and thus better their chances for the succession. I say, sir, that we expected their opposition. We have long and patiently endured their insolence and borne their misrepresentations, and we have expected their opposition. But I was not prepared to look for opposition in some quarters from which it is coming. I confess that I was no little surprised when it was announced that the admission of Kansas into the Union was to be resisted, and one reason that was assigned was, that Congress had failed to pass an enabling act. When the admission of California into the Union was under consideration in the Senate of the United States, this same objection was urged against that measure. But a distinguished Senator [Mr. DOUGLAS] met the objection in a speech of great power and eloquence, a portion of which was ably commented on by my friend from Mississippi, [Mr. LAMAR]. I give a portion of that speech because it contains arguments applicable to the present question, which are, in my opinion, the best answer to that objection that can be given. I commend them, and the whole speech, to those members who have urged this objection to the admission of Kansas. The Senator said:

"Surely you will not punish the people of California for your own sins—sins of omission, if not of commission. The people of California were entitled to a government, ought to have had one, and it is not their fault that one was not given to them. Nor was it my fault. It will be recollected by every Senator present—and I trust the fact will not be forgotten by the country—that more than one year ago, in December, 1848, I brought in a bill to authorize the people of California to form a constitution and State government, and to come into the Union. Had that bill passed, the proceedings would have been regular. Everything then would have been prescribed by law, and done according to law, so that the most fastidious could have found nothing to complain of. The people of California would then have done in obedience to law precisely what they have done without law. The previous assent of Congress would have been given; the qualification of voters defined; the mode of conducting elections prescribed; the time and place for the convention to assemble fixed, and, in short, all the rules and forms of proceeding would have been established by law, according to the most approved precedents. I pressed the passage of that bill upon Congress during the whole of the last session, from the first week until the last day. But it failed; and why? The arguments urged against it were, among others, that it was unnecessary; there was no satisfactory evidence that the people of that country desired it; and if they did, they could form their constitution and present themselves for admission at this session without an act of Congress authorizing it, just as well as with. Precedents were referred to for the purpose of showing that such a law was wholly unnecessary, as in the case of Vermont, Tennessee, Maine, Michigan, and perhaps others, where nothing of the kind was required. Well, the bill was defeated; and the people of California, acting upon these suggestions, and relying upon the precedents cited, have formed a constitution and presented themselves for admission. Now they are to be told that they cannot be received because Congress failed to pass such a law, and the proceedings are irregular without it. I do not precisely understand what is meant by the irregularities of these proceedings. I have examined the precedents in all the cases in which new States have been admitted into the Union, from Vermont to Wisconsin. I will not go over them in detail and point out the peculiarities in each case; that duty has been well performed by the Senator from Maine, in his speech a few days ago. Those precedents show that there is no established rule upon the subject; each case stands upon its own peculiar state of facts.

"There are several cases in which there had been no pre-

vious assent by Congress; no census taken; no qualification for voters prescribed; and, in short, when they were situated precisely as California now is."

The Senator, in another part of the same speech, went on to say:

"Whose rights have the people of California usurped? Certainly not the rights of the United States, for they expressly acknowledge our sovereignty—they claim to belong to us—and only ask that they may be permitted to enjoy the same rights and privileges with us." * * *

"What provision of the Constitution of the United States have they infringed? They recognize to the fullest extent that Constitution as the paramount law, and have formed for themselves a State constitution in strict obedience to it."

"I hold that the people of California had a right to do what they have done. Yea, that they had a moral, political, and legal right to do all they have done."

He further says:

"Have the people of the Territories of the United States no rights? I had supposed the principle was universally conceded in this country, that all men have certain inherent and inalienable rights; and I have yet to learn upon what grounds the people of the Territories are to be excluded from the benefit of this principle. I hold, also, as a political axiom, that all mankind have an inherent and inalienable right to a government."

Thus spoke the distinguished Senator from Illinois, when it was proposed to admit California into the Union as a State. It will be perceived that the same objections were urged against that measure that are now urged against the admission of Kansas; and the arguments and facts adduced in favor of that measure will apply equally well to the present question. But now, sir, gentlemen oppose the admission of Kansas, and give, among other reasons for their action, that Congress has failed to pass an enabling act. I have not referred to the position occupied by the Senator from Illinois, for the purpose of making him appear inconsistent, but because his arguments against the doctrine of refusing to admit a State because Congress has failed to pass an enabling act, are clear and comprehensive, and because they weigh heavily in determining the grave and important question now before us.

It will thus be seen, sir, that when the question for the admission of California (a free State) was under consideration, there was no indignation manifested by that distinguished gentleman, because there was no enabling act; but when Kansas comes, with a constitution recognizing and establishing slavery, it is said that a great outrage, a great violation of law, is about to be committed, because there has been no enabling act. Sir, it is not for me to say why there should be so manifest and decided a change in the opinions of distinguished men. But if I were to venture the opinion that it is because of the fact that Kansas does establish slavery, whilst in California it was prohibited, that changes have been effected in the minds of Senators and Representatives, I hope I would offend no one.

Again, sir, when the same question was under debate in the House of Representatives, I find that my friend from Illinois, [Mr. HARRIS], when addressing the House, advocated the immediate admission of California into the Union with her constitution and proposed boundaries. He said, (Appendix to Congressional Globe, page 410, Thirty-First Congress, first session):

"Mr. Chairman, I am for the admission of California as a State into this Union—California, as she is with her constitution and proposed boundaries. I wish her to be admitted now; I wish no remanding, a thing that never was done at all, and never ought to be done in such a case as this."

"The organization of government in California was the work of the people, urged by the necessity which existed from the neglect of Congress. If the people have a right to govern themselves, they have a right to originate government. The people of California have nobly exercised that right, and now ask Congress but to confirm what they have done. It will afford me pleasure to vote for that confirmation at the earliest possible moment."

Here, sir, is high authority, coming as it does from a gentleman of talents and spirit, a gentleman who has, from my first acquaintance with him, commanded my highest regard and friendship; and I would commend his arguments, made then, to all who doubt the propriety of admitting a State into this Union because Congress has failed to pass an enabling act.

I will pass by the fact, merely alluding to it, that by some able men it has been contended that the Kansas-Nebraska bill was of itself an enabling act. It was certainly intended by that act to allow the people to regulate their affairs in their own way; and I am at a loss to understand how those gentlemen, who oppose the admission of

Kansas into the Union because the constitution was not submitted to a vote of the people, can deny that the organic act was an enabling act; for they say that it was the true intent of that bill that the constitution should be submitted to a vote of the people. Then the act must have conferred the power to create a constitution; for how could it be submitted until it was first framed? To those gentlemen whose action here is attempted to be justified by precedents, I would observe, that, on that score, the cases are about equal. It must be known to every one who has given the subject any attention, that there are precedents on both sides of the question. Acts of Congress were passed previous to their admission, authorizing the States of Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama, Missouri, and Wisconsin, to form constitutions preparatory to their admission into the Union. But in the cases of Vermont, Tennessee, Maine, Arkansas, Michigan, Florida, Texas, California, and Iowa, no such acts were passed.

But, sir, whilst I have referred to these precedents, I have done so more for the benefit of those who rely much on precedents than for the purpose of justifying my own action. As for my part, whilst I am always anxious to know what has been the course pursued by the great and good men of the past, yet, I confess that I have but little faith in what are termed precedents. I believe that every measure ought to stand or fall on its own merits, regardless of all precedents; and I will endeavor always to shape my course so as to do what I think to be right and just and proper, though a thousand precedents may be against me.

Thus, sir, it will be seen that resistance to the admission of Kansas into the Union, under the Lecompton constitution, for the reason that Congress has failed to pass an enabling act, is neither justified by reason and argument, nor by precedents; and, having said this much with regard to this part of the subject, I pass to the other objections urged by those who have taken grounds against the Administration on this question.

It has been said, that because the whole constitution was not submitted to a vote of the people for their ratification or rejection, the great doctrine of popular sovereignty was violated; and that for this reason we ought to refuse to admit Kansas into the Union. I do not agree with those who argue thus; for, sir, whilst I would not object to the principle of allowing the people of any Territory or State to vote directly on their fundamental law, yet I can, by no means, come to the conclusion, that because they have seen proper to do otherwise, and delegate to their representatives the power to form their constitution, the doctrine of popular sovereignty is violated. Our governments, State and Federal, are representative in their character. Can it be said that the laws which we enact here do not embody the will of our constituents, because they are not all submitted for their ratification, after we have enacted them? And is it true that the Legislatures of the various States, in regulating the domestic concerns of the people, do not represent the popular judgment? Are not their enactments in fact the acts of the people? It may not be true, sir, and doubtless it is not true, that every law which has received the sanction of the Legislature does reflect popular sentiment properly and entirely; but in the meaning of the phrase, when applied to our system, it is true in theory, that the representatives of the people are the people. Sir, it was the business of the people of Kansas, not ours, whether they would have their constitution submitted to themselves for ratification. They did not see proper to do so. If sovereignty resides with the people, the right to delegate their authority is inseparable from their sovereignty. The right to delegate their power is as important to the people as the right to act for themselves. The people of Kansas, through their lawful agents, the delegates, framed their constitution in their own way, and ratified it in their own way, as was very forcibly argued by my friend and colleague, [Mr. AVERY]; and, in my humble opinion, if we complain that they have formed their constitution in their own way, as they had a right to do under the wise provisions of the Kansas-Nebraska bill, and demand of them before they are admitted that they shall form it in our way, or as we may choose to dictate to them, or that they shall ratify it in a manner prescribed by a

majority of Congress, we violate the great doctrine of non-intervention, and open afresh the wounds which have so long afflicted the country. A majority of the States that have been admitted into the Union since the formation of the Federal Constitution, came in without having had their constitutions first submitted to the vote of the people. Many of them did thus vote upon their constitutions, and ratify them; and to that plan I offer no objection, where the people of the Territories themselves see proper to take that course.

But shall it be said that all those States which have been added to the Confederacy, which did not take that course, committed great outrages and violations of sacred principles? Does any one assert that an outrage was committed when my own native State was admitted into the Union, because her people had confidence in the integrity and honor of the delegates who molded her fundamental law; and because they saw proper to abide by its provisions without having first voted on it themselves? It strikes me, sir, that it would be going very far for any one to assume that position; and that it cannot successfully be maintained by any course of reasoning. Sir, they who are the real friends of popular sovereignty, and who honestly believe that the doctrine, when fairly and properly construed, leads to a submission to the vote of the people of every question involved in the fundamental law, may be excused for their course, to some extent, on this question. If they believe that in no other manner can the popular will be made manifest, I say, sir, that in my heart, I can find some excuse for their action, were this the only consideration involved in the question; but I can find no excuse, even for them, when I consider the other great results which a wrong step may bring about. But, as for the Black Republican party—that party which has for its fundamental doctrine that Congress has full and entire authority to legislate in all things whatsoever for the people of the territories, and which denies to the people thereof the right to govern themselves in their own way—it has no excuse for its pretended love for the will of the majority; and I confess that I can hear them prating about popular rights and the freedom of the people with no other than feelings of disgust.

Sir, have they not resolved in their platforms, and published it to the world, that Congress has authority to legislate in all things for the people of the Territories? Have they not pledged themselves, before the people and on this floor, time and again, never to vote for the admission into this Union of any State in which slavery is tolerated, though all its inhabitants might favor that institution? And will one honorable member of that party rise in his place and announce that he is ready to vote for the admission of a slave State, under any circumstances? No, sir; no, sir. Take this from their platform of principles, and the party would be at an end. And yet we are, from day to day, having long speeches from members of that party, arguing that Kansas ought not to be admitted because, they say, the Lecompton constitution is not the will of the people, and because there has been no enabling act. Is it not remarkable to hear gentlemen arguing thus, when they know, and when we all know, that not one of them would dare to vote for the admission of Kansas under the Lecompton constitution, had they proof "strong as Holy Writ" that every man, woman, and child in the Territory approved it? Sir, who that has been at all observant of the course of the Black Republican party on these questions, believes, for a moment, that there is any sincerity in these pretended objections which they urge to the admission of Kansas? Does not every one know that the true reason which actuates them is their deep-rooted and eternal hatred to the South, her people, and her institutions?

There is one gentleman [Mr. HICKMAN] who has spoken on this subject, who, in the very beginning of his remarks, told us that he was an early, earnest, and sincere advocate of Mr. Buchanan's election to the Presidency of the United States, and he now expresses his deep regret that he is forced to differ with the President in relation to his present policy. Sir, that member was here as a Representative in the Thirty-Fourth Congress; and to those who observed his course then, I suppose it is no matter of surprise that he occupies his present position on this question. To those who witnessed his desertion of that Spartan band of

Democrats who were here in that Congress, in the hour when, of all others, they could not well spare a man from their ranks—I say, sir, it is no matter of astonishment that he is found in the company he is now in. If the President ever expected him to come here and sustain his Administration on this question further than the gentleman thought it would advance his own political ends, I say, sir, Mr. Buchanan is not so good a judge of men as I had given him credit for being, and by far more hopeful in his disposition than most of his friends on this floor. The member was kind enough to warn us not to read too many men out of the party. Sir, I claim no authority to read anybody out of the party, nor do I think that the Democracy have yet conferred that power on any member here. But, sir, if they had conferred it, and were I the one who was to act in the capacity of "reading out" refractory members, there are some whose sins are so heinous, and whose treachery to Democratic principles so palpable, that I would not stop to read them out; no, sir; I would be in such hot haste to get rid of them that I would resort to some more summary method of ejecting them.

But, sir, so far as the member from Pennsylvania is concerned, there would be no necessity for either of these processes of getting rid of him. Sir, if he was ever a Democrat, (I deny that he ever was, except in name,) he has read himself out of the party; and no one need put himself to any further trouble on his account. If he was ever a member of the great Democratic church, I am sure he did not "enter in through the strait gate;" he must have climbed over the walls; and you all know the category in which a certain high authority places such a character.

But the most remarkable portion of the gentleman's speech was his closing sentence—remarkable because it contains an imputation upon the people of the northern States—upon his own constituency. He says:

"The time has come at last, and not too soon, when a new requisition will be made by northern constituencies—an earnest and manly defense of northern honor and of northern rights, whist giving the utmost demands of justice to their brethren of the South. If unpardonable to insist upon so much equality, then we have reached the end of national platforms, and the beginning of sectional Presidents—to my mind the last calamity to be survived; for then will begin those acts of aggressive interference which, leading to protracted and desolating wars, must end in establishing among children of the same blood the cruel relation of conqueror and captive."

Did the member from Pennsylvania mean to insinuate that, up to this time, northern constituencies have not required a "manly and earnest defense of northern honor and northern rights?" Does he mean to say that heretofore they have been content to be not equals, but inferiors in this Confederacy? If he does, sir, I, from my knowledge of the character and history of my countrymen in the northern States, deny the truth of his insinuations; and I have no hesitation in asserting that they are not the cringing, submissive vassals which his language makes them appear to be.

The gentleman assumes to himself the leadership in making these "new requisitions," when, as he says, northern honor and northern rights are to be vindicated, in that day when "national platforms are to have an end," and when "sectional Presidents are to have a beginning," which are, in his opinion, to lead to "protracted and desolating wars," and which "must end in establishing among children of the same blood, the cruel relation of conqueror and captive." Sir, I would regret to see such a state of things; but if unhappily it should ever come, I am very sure I will be on the opposite side from the gentleman from Pennsylvania. Yet I would regret to see the brave and generous people of the northern States under the leadership of a man, who, if he prove not more true to this new cause, which he assumes to be theirs, than to other causes which he has espoused, may leave them without a commander when most they need one.

The gentleman from Pennsylvania [Mr. MONTGOMERY] took the ground that in voting for the admission of a State we thereby indorse the provisions of its constitution. Sir, I was astonished that a gentleman of so much reputation as that member enjoys, should have taken such a position; and I was the more astonished when I remembered that he professes to be a Democrat. It would not have astonished me if the senior mem-

ber from Ohio [Mr. GOODINGS] had taken that position; for he boldly declares that he has a right, and it is his duty to look into the provisions of State constitutions, and reject them if they do not suit his taste. But, sir, I have ever thought that the doctrines of the Democratic party forbid us looking further into the constitution than simply to inquire whether it is republican in form. What else is the doctrine contended for by the gentleman from Pennsylvania, but intervention of the rank and most odious nature? If his doctrine be correct, he can never vote for the admission of a slave State, no matter how large a majority of its citizens may favor the institution of slavery; and he will see that he has placed himself upon distinct Black Republican ground.

In voting for the admission of Kansas and of Minnesota, (and I expect to vote for both,) I do not understand that I indorse every provision in either of their constitutions. There are, doubtless, provisions in both of them that I do not like; and, indeed, I know of clauses which, had I been a citizen of either Territory, I would have opposed. Yet these constitutions are republican, and the people have made them to suit themselves, and I hold that it is no business of ours that they have seen proper to incorporate provisions in the fundamental law which I cannot approve. If the rule argued for by the gentleman from Pennsylvania be correct, I doubt whether another State, free or slave, could ever be admitted into this Union, for the representatives coming from thirty-one different States could rarely ever agree that any constitution was perfect, in their opinion. There is but one legitimate inquiry for us to make, after we have decided that the people of any given Territory are entitled to a State government, and that is: do they present us a constitution republican in form?

But it is alleged here, and in the other end of the Capitol, by the press of the Opposition, and by their orators, that frauds have occurred in the recent local elections in Kansas; and, sir, they are loud in their denunciation of these frauds and these pretended outrages upon the rights of the people of Kansas. They condemn the constitution framed at Lecompton, as not having received the sanction of the majority of the people, and call that document a fraud and an outrage. I shall not endeavor to exhibit the folly and falsity of those assertions, by showing that every man, who had a right to vote in Kansas, could have voted at the election for delegates to frame the constitution, and, at a later election, on the adoption of that instrument; this task having been already performed by the clear, explicit, and patriotic message of the President accompanying the constitution now before Congress. My object is simply to call the attention of the country to the inconsistency and insincerity of those who clamor so violently about popular rights and popular sovereignty, as it relates to Kansas; because one of the institutions of the southern States is involved in the question, and lightly pass over greater frauds and outrages, and a greater violation of popular rights charged to have been committed nearer home, in a State adjoining to this District—*ny*, sir, I may say almost in the very shade of this Capitol—a violation of the dearest rights of freemen, in which the white men of the country alone are interested. I speak of these things without having any personal knowledge of their truth or falsity; but we have the same authority for the one that we have for the other. During the past fall, two elections were held in the State of Maryland; one in the city of Baltimore for local officers, and the other throughout the State for State officers and members of Congress.

It is charged, sir, that, at the first of those elections, fearful outrages were committed; that old men, who were born in that city, and who had for more than thirty years exercised the highest as well as the dearest right of freemen—the right of the elective franchise—were driven from the polls; that hundreds of others, legal voters, were scourged and beaten, and prevented from voting; hundreds more, who were entitled to vote, through fear of the armed bands who surrounded the polls, kept away, preferring rather to lose their votes than to lose their lives. It is charged, further, that, while our party was thus outraged, the other, the dominant party, not only had free access to the polls, but the ballot-boxes were permitted to be packed with fraudulent and illegal

votes, and this in the most open and daring manner. In the late elections for State officers and members of Congress, it is a matter of history that these things were so notorious that the Governor of the State felt called on to interpose his authority to protect the people in their rights. His late message to the Legislature of Maryland discloses circumstances (if true, and I have no reason to doubt them) compared with which the alleged frauds in Kansas sink into insignificance. Baltimore is but forty miles from this capital. She is a great commercial emporium. Her people are civilized and educated. Kansas is far out upon our borders; and her citizens, though intelligent, in a wild and newly-settled region could not be supposed, in the very nature of things, to be so obedient to the laws and regulations of society as the people of a great commercial city. Yet, sir, whilst the Black Republican members and others grow indignant over the few instances of violated law in Kansas, as yet I have seen no outbursts of patriotic indignation about the rights of the people of Maryland. Sir, is it not a significant fact that a whole country is to be aroused, and the very existence of the Government itself put in jeopardy by agitators, on account of alleged frauds in Kansas, when alleged frauds of mightier magnitude, occurring within forty miles of the Capitol, scarcely elicit a passing notice?

Sir, it occurs to me that no man can doubt for a moment the lessons which are to be derived from the scene which is now being enacted in this Capitol. Having an eye to the past history of this question, and accurately observing the position which men and parties are now assuming, I am deeply impressed with the conviction that the lessons which we are to draw are anything else but flattering to the future welfare of the country. Whatever reasons may be assigned by gentlemen, and however specious and accurate their reasons, for refusing to admit Kansas into the Union now, I suppose, sir, that no man doubts that the secret cause which is operating on the minds of members to hold her out of the Union, is the fact that her constitution establishes the institution of African slavery there. There may be, and doubtless are, some exceptions to this proposition. If this be so, sir, and I think it was clearly shown by my friend from Mississippi, [Mr. BARKSDALE,] and I am sure that a large majority of those who differ from me on this question will not deny it, I ask, what is the proper and legitimate inference to be drawn by those of us who represent southern States and southern constituencies here? It is this, sir—and it is an inference which must sink deeply upon our minds—that henceforward no more slave States are to be admitted into this Union. In other words, that the time has come when we are to take an inferior position in the Confederacy; when the Government is to mark us and brand us with all the epithets which our Abolition enemies have been heaping on us for years; when we are to be the vassals of the Government, paying our due proportion of the taxes, and bearing our part of all the burdens, in peace and in war, without the right equally to participate in the blessings which the constitution confers. Sir, if Kansas is unworthy to come into the Union as a State because she has institutions like ours, then are we unworthy of our places here; if Kansas is unfit for the association of the States, so are we unfit.

Sir, this is a matter which strikes at the personal honor of every true southern heart. By declaring, as did the senior member from Ohio, [Mr. GWINN,] in his speech this morning, (and the sentiment pervades his whole party,) that he is unwilling to associate with any State whose constitution tolerates slavery, he flings a direct insult into the faces of the southern people. Born under a southern sky, nurtured in the lap of a southern State, which in intelligence and virtue, in noble bearing, in council, and upon the field of battle, has shown herself to be equal in everything to the proudest State in the Confederacy, as one of her humblest children, I stand ready to resent the insult and hurl it back into the teeth of those who offer it. They are unwilling to admit Kansas into the Union, because her constitution tolerates the institution of slavery. Sir, had this sentiment prevailed when the Constitution was made, we had had no Government. It did not prevail then. It did not prevail after the Constitution was made, in the earlier and better days of the Re-

public. It was reserved for the Black Republican party to announce a doctrine which directly strikes at the honor and independence of fifteen States of this Confederacy. These are conclusions which must force themselves upon every mind; and if they be fair and proper conclusions, strange as it may seem and revolting as it may appear to patriots everywhere, if my own native State of Tennessee were out of the Union she could not get in. No, sir; bright and glorious as has been her history, with the blood of her sons reddening almost every battle-field since she has been a State, loyal to the country, true and devoted to the Constitution, with the bones of her Carrolls and her Coffees, her Jacksons and her Polks, quietly reposing beneath her soil, under the operation of this principle of excluding States, because their institutions do not suit the tastes of Abolition traitors, were she to-day out of the Union, and come and humbly ask for admission, she would be hurled back with scorn and contempt.

If this is to be the ruling in the future, it is but right that the people who are to suffer from it should know it. I am not here to threaten or intimidate anybody. I expect every member to be guided by his own convictions of duty. I speak for a people who are not given to threatening, but who always deal candidly with friends and with enemies. But when the startling fact is made known to the people of Tennessee that hereafter they are to be considered as inferiors and not as equals in the Confederacy, whilst I do not assume now to say what they will do, I am warranted, from their past history, in asserting that they will take a position. It will be a position, too, not inconsistent with their honor, their independence, or their past history. And when they plant themselves upon a principle, they will stand by it. I say, sir, I do not know what they may do; but whatever steps my native State may see proper to take, I expect to go with her, and stand by her through storm and through sunshine, though her footsteps may lead through fire and blood and desolation. I have thought proper to say thus much, sir, but not in the spirit of unkindness or menace. I trust that wise and prudent counsels may govern us; and, above all, I call upon members to remember to do justice to every part of the Confederacy. It is only through just measures that the spirit of our Constitution can be administered. I call upon you of the North who have the courage, to stand up boldly in the midst of the storm, to heed not the appeals of demagogues, who urge you to flatter in your devotion to the constitutional rights of the people.

In some of the remarks which have been made on this subject, gentlemen have attempted to depict to those Democrats of the North who are standing by the President in this issue, the political graves to which their course is leading them. Sir, might we not infer from this that questions of political success, and not of principle, govern those gentlemen in their course on this question? And may we not come to the conclusion that it is "fear," and not "duty," which actuates them in opposing this measure of justice? The true hero is he who, when he knows the right, pursues it with a firm step and a steady eye, and lets consequences take care of themselves. In morals, in politics, and in war, he is a coward who consults anything else but his own convictions of duty. Had Washington listened to the "siren song" of those who counseled selfishness, the Revolution would not have been fought, nor American independence achieved; and had the immortal hero of the Hermitage heeded the warnings of false friends or the threats of coward foes, the crowning act of his life would have proved a failure, and his great name would have been shorn of half its glory.

Then I ask you again to be guided alone by your convictions of duty. Remember that perhaps upon the fate of this question depends in a great measure the confidence which one portion of the Confederacy, the weaker one, is to repose for the future in the justice of the dominant section. For if you succeed, as I trust you may not, in fully convincing the minds of the people of the southern States that they have no hope in the Confederacy but in degradation and oppression, you know too well the spirit which animates the children of the revolutionary fathers to doubt the result. The crowning feature of our Confederacy, and that one which wins for it admiration throughout the civ-

ilized world, is equality. I ask you not to destroy this, but let your energies be aroused, and your arms nerved, to maintain it and perpetuate it forever. If this be done, then will we not bring shame upon the memories of those who staked so much in the achievement of our liberties. But, sir, if tyranny and oppression are to take the place of independence and equality; if one section of this Union is to assume to govern the other because that other is the weaker; if, in short, the unbridled will of mere numbers is to rule without constitutional authority, then is the glory of our system departed, and we shall soon see the beginning of those scenes which foretell and foreshadow an end too dark and sad to contemplate without shuddering.

Let us hope, sir, that a spirit of justice and moderation may prevail, and that soon, very soon, our constituents may be made glad by the announcement that their Representatives have so guided and directed public affairs as to bring peace and quiet to the whole country, and give new assurances to the world of the wisdom of the framers of our noble form of government, and our high appreciation of the blessings which it confers.

Mr. MORSE, of New York. Mr. Chairman, the gentlemen who have spoken on this side of the floor, on this Kansas policy, have stated all the facts. I shall not go over that ground. I regard this whole business, from the repeal of the Missouri compromise to the measure which is now sought to be forced through this body, as one undivided indivisible crime, and so it is regarded everywhere in the free States. We care not to dwell on the odious particulars; as a whole and in all its parts, from its inception to the depth to which it is now sunk, it is a blot on the face of this continent. That picture of fanaticism and ignorance which disfigures the basin of the great Salt Lake, described in nervous and graphic language some time ago by my friend and colleague, [Mr. THOMPSON,] has in it no colors and groupings so frightful and forbidding as that scene which, for four years past, has been presented on the soil of Kansas. In Utah we witness a social system, organized by men who, by their ignorance, low culture, and mental and spiritual debasement, belong to the ninth century, rather than the nineteenth; and its developments are the natural outgrowth, in any age, from any body of men so low and homogeneous in their civilization. In Kansas, on the contrary, the events are unnatural and monstrous, in the degree in which the actors and instigators are enlightened and exalted. The one spectacle we look at as on any slough in the abhorred past, which mankind has struggled through, but in which they were once mired. The other we regard as a violent assault on all that is best in our present life. The one is an excrescence on the American soil; the other dishonors the American name.

The facts, Mr. Chairman, I say have been stated, but the question recurs, why have these facts happened? Why, in the last four years, has the moral sense of the nation received shock after shock, till faith is weakened, not only in the stability of our institutions, and in the integrity of our public men, but in the virtue of mankind in our day? Four years ago an act was done here, which five years ago would have been looked upon everywhere, South as well as North, as an impossible crime; and yet we find here a Congress from the people, with a majority to sanction and even laud the act, and a President of the United States elected by the people, seeking to carry it to its ruthless consummation. The primal instinctive idea in the breast of every American man and boy, the central idea on which his citizenship rests, is that the election precincts should be sacred as a temple. Yet that idea has been mocked at, that sacred place invaded and defiled like butcher's shambles, and now we find a hundred men on this floor, who, if they do not excuse it, not only refrain from denouncing this violation of the most distinctive idea of American life, but are willing to avail themselves of it as an auxiliary to their ends. Where would this Kansas question be now except for the profanation of the ballot-box? It would not be in this House.

I know the special pleading, the fine-spun theory, under which men here claim the right to avail themselves of these frauds; but their reasoning is a flimsy form of words, satisfying neither themselves or others. I shall not attempt to reply

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, MARCH 23, 1858.

NEW SERIES.....No. 78.

to it. In all the concerns of life, not in legal only, but in all social arrangements, fraud vitiates where it touches; no technicalities, no casuistry can make it anything than infamous, or give credit or stability to any structure founded on it. We have seen worthy, honest men deny that there can be a law for the people higher than the Constitution, and charity should be extended to the inability to see so fine a truth; but the doctrine that a fraud must be acquiesced in merely because it has fully accomplished its object and enthroned itself in the place of law, can only be characterized as revolting and absurd. Yet, men here; men high in position; that portion of the great Democratic party which now controls the country, contend for this monstrous proposition; and the President of the United States has insulted the moral sense of Congress and of the country, in reasoning to the same conclusion. A fraud has been successful, and so it is to be honored as a right. There has ever been a class of thinkers who professedly and practically hold that nothing is intrinsically right or wrong, but that either is made by the dictum of power. Government determines what shall be moral and right, not morality and right what shall be government. Clothe a wrong in the form of law, cover it with the most ragged habiliments of law, and straightway it is to be respected and honored like the right in unspotted ermine. Politicians of this creed are not now for the first time heard of. The rights of conscience have never been violated in modern times; truth and liberty have never been betrayed and slain, except under form and color of law. Power, though backed by the minions of power, unscrupulous judges, and willing bayonets, seldom in history has ever dared to assault the rights of man, except under some pretext such as the President now urges; but I will venture to say, that for two hundred years—not since King James the Second attacked the liberties of England under this same old stained and dishonored guise—have the men of our blood and language, on either continent, been so assaulted in their most cherished rights, as in this Kansas policy.

To reach the result which is now attempted to be consummated, what has been encountered and overcome? The cherished traditions of our race were in the way, and they have been set at naught. The ballot-box was in the way, and it has been destroyed. The consciences, the bias of the well-meaning men of the Democratic party in favor of order and truth and right, were in the way; but now men are everywhere found among them to uphold a lie. The dignity of the President's office, the integrity of his pledged word, the respect which he owed to his own good name and his gray hairs, were all in the way, and they have all been set at naught to accomplish this purpose. I make no exaggerated statement. Men are aghast and appalled at these rapidly-maturing events. In every village in the North, in every school district, on the porch of every church, on the corners of every street, men ask each other the meaning and the wherefore of these things. Language fails them to give expression to their confounded thoughts. They find themselves precipitated in a new era, transferred in four years from a state in which homage was paid to truth and right, to one in which both are perverted and defied.

Mr. Chairman, it is my purpose to inquire whence comes this condition of things that now so weighs on us and on the country? The most superficial observer may see that it arises from a conflict of principles, of principles, too, which reach the foundations of society. In the North, we have all the elements evolved and beginning to work harmoniously, of the grandest civilization which man has yet reached; and at the South, another, and antagonistic system has arisen. They are derived from two opposite principles, which I must attempt briefly to indicate. In the North we have learned that it is the business and destiny of man in this world, and in every world, to work, *each man for himself*. That unceasing individual labor is his only means of acquiring those material, mental,

and spiritual possessions which are within his reach; and that material wealth can be had in profuse and exhaustless abundance from nature only. In the South, the meaning of labor and the resources of nature are not understood, and of course the true mode of acquiring wealth is unappreciated. Men there seek it in some other way than by going themselves for it to the great storehouse. They hope to find it through the labor of their brothers, but fail to seek it themselves in the lap of their bounteous mother. The people of the one section flourish by positive production, of the other by what I may call aggression. The people at the South have not learned the mighty secret of the treasures locked up for them in nature; they have not learned that they prosper most when their brothers prosper, and that it is folly to try to acquire anything for themselves at the cost of others, when by so doing they must leave riches untouched which utterly beggar the present gains of men.

The North has some just perceptions of these truths. The effect of this principle at the North, and of the civilization which it has created there, is to make men averse to aggression; but the South are still laboring on the exploded theory that they can prosper by disregarding the rights of others. The one theory has quickened the entire North into a noble life, has heaped up on every side material riches, has stimulated the intellect to the highest efforts, and has, with thousands, opened the spirit to see the meaning and significance of this life, and of all this labor and strife in it. The other theory, that there can be any source of prosperity than hard individual labor, has measurably deadened the activities of the South, paralyzed their industry, and done much to pervert their best intuitions and instincts. The North is at this moment the most prosperous and progressive nation in Christendom; in every element that gives the highest dignity to man, it is the most hopeful and advanced; the South, deceived and betrayed by the other principle, so malign and hostile to everything good, presents an anomaly in the history of our Anglo-American race; its soil is neglected; from its people little is added to the intellectual wealth of the world; and how distorted are some of their spiritual perceptions may be seen from the fact that quotations are made from the Bible, on this floor, to prove that slavery accords with the law of eternal justice!

Under our national Constitution, then, two distinct and opposing forms of civilization are found. The one governed by the grand idea of the living present, that the true life of man in this world, and in all worlds, is unceasing individual labor; the other governed by the idea of the barbarous past, that men can prosper at the cost of the rights and labor of others.

These two principles, so antagonistic, have met in conflict in Kansas, and it is no marvel that the scenes enacted there should be marked by aggression and violence. The vital principle of the movement which we are resisting, of necessity involves the use of those means. When the President's special message on Kansas affairs was read here, we listened in consternation. But its false statements, its forgetfulness that there was any conscience left among men, its assumption that gross wrong should be sanctioned because successful, are the natural and necessary emanations from the principle which underlies the civilization of the southern States. It is, however, a valuable paper, for it verifies more completely than anything which has yet occurred how fully this principle pervades our national organization and animates the highest functionaries of the Government, and it has compelled the settlement now of the issue, which of these ideas shall shape the destinies of the country. The alternative is the triumph of one or the other under the Union, or the working out of each of its own destinies outside of the Union.

Can this present domination continue? The career it has been pursuing for four years past has shaken from all allegiance to it the majorities of all the free States. The time seems near by when

it must give way to its antagonist; and it is a question of deep interest whether this surrender of power which it must so soon make will be temporary, as heretofore, or perpetual.

What are the reasons, Mr. Chairman, for believing that the North will hereafter be the controlling political power in the Republic. No man, even the most sanguine of northern men, can appreciate the inherent essential power of industry guided by science. It is this alone that gives vigor and vitality to nations. The expansion and growth of the free States, derived from this sure source, founded on eternal law, cannot cease, or, for a day, be stayed. Every part of the old States, and I may say every settled portion of the new, are filled with earnest working men, and though many or most of them may not be conscious of the end to which they toil, they are laying broad and deep the foundations of an empire which must exist, till higher conditions for man have been developed than any he has hitherto enjoyed. The lands of Nebraska, Kansas, Minnesota, Dacotah, and of States not yet born and named, in the West, have been kept pure and clean for the theater of the triumph of the race over a large share of the evil and barbarities of the past. Northern men have not been unmindful of the significance of the fact, that these gardens of the earth have been reserved for the men of the present age. Many see with eyes which are not mortal, are told by a voice which never deceives, that this combination of science and work, trained and ready, and so vast a field for their exercise, is not arranged to be frustrated. They know that through all this fluctuation of events, there runs an eternal purpose that man shall, from time to time, attain higher stages of life; and they see the future to which these western Territories are destined, with as much certainty as if it had now been achieved. I may say here, it was the impulse of such thoughts and anticipations that sent so many earnest men to Kansas from the North; their purpose was not to rescue that country from the South, but to save it for mankind, free from any blight or stain. These irrepressible activities within the free States cannot be thwarted by any political action; they may be dammed up and checked, but only to flow on in a fuller tide.

The stimulus of these transactions in Kansas, the warning of this message, have quickened and intensified the conviction, which had already penetrated the North, of their duty and destiny on this continent. Hitherto occupied with their private pursuits, the tendency among them has been to be neglectful of public concerns. Though national legislation had been adverse to their interests, they had learned to accommodate themselves to it; and, with a versatility as great as their energy, had found new channels of industry, preferring rather to yield to the encroachments of power, than to turn aside from their more lucrative and congenial work to arrest them. But it is a fact with our northern people, that when, by their neglect, political wrongs accumulate, and the mischief therefrom becomes intolerable, they pause from other pursuits, and with spontaneous and irresistible impulse, restore the right to its proper status.

The late charter election in the city of New York has a national significance in this respect. That city government had passed into the hands of men who act from what I have called the principle of aggression, and not of industry; and the inevitable results of misrule, violence, and corruption followed. The people at length combined to put down the evil. On the one side stood the true workers in northern life, and on the other its opponents, backed by the Democratic party, and by the President of the United States, with the power of his office. The result of the contest is before the world. So it ever is when right and wrong meet in the last encounter. The just thing is often postponed for the unjust; but, in the end, in the final summing up, the right and the might are ever found to be one. The principle which underlies and regulates the whole northern life is yet to master this continent. In its unfathomable

depths lie untold wealth and strength and knowledge and purity and glory; political wrongs and lies and barbarities will drop therein like rain, and disappear; it winds through all channels of society; it pervades the North; it will penetrate the South; it will dispel all false lights; and it will shame and rout and confound that other principle, and all its hosts, which has so long controlled the action of this Government, and with which we are now contending on this floor. The most sagacious statesmen of the South have long seen this coming result. When Mr. Calhoun, a few years before his death, advanced the doctrine that an equilibrium between the northern and southern States should be maintained, he discerned the preponderating, though then in many respects latent, power of the North, and thought to check it by an abstraction; but he overlooked the fact that the North derived its strength, not from any constitution or statute, but by her men working in conformity with a law higher than all constitutions or statutes. Other statesmen think this growth can be balanced and checked by adding to the Union new Territories near the tropics; but they do not realize that infinite nature coöperates with the North; that her subtle forces transcend any lines of latitude and longitude; and that there is more wealth and national power in the little Merrimac river than in the Territory of Arizona. Others endeavor to contend more directly, hand to hand, with this power; but the example of Kansas shows how futile has been this, and ever will be any such attempt. That country has now concentrated in it a larger share of the best spirit of the North than any other equal portion of the West; and, instead of being conquered, has been made the vigorous, tried, and intelligent advanced guard of the best northern ideas. Others, and perhaps all, have endeavored to resist this power by controlling it through the Federal Government; but the result they have now reached demonstrates how feeble and powerless is legislation against just ideas—official influence against a living principle.

Sir, the result of this contest has never been doubtful to men who looked beneath the surface and considered the principle from which the energy and growth and wealth of the giant North comes. It has been obvious that, for a long time, the national power has been kept from the North, not by the proper strength of those who kept it, but by political stratagem and management. The control of this country cannot permanently be held by such means; but when, at length, force and fraud are practiced to such a degree as to make all former party meanness and trickery seem legitimate and respectable, the consummation, the *felo de se*, has been reached. The special message of the President has inaugurated a new era. Already do we feel, while he and his party are still in office, that the scepter has been taken from them.

The success or defeat of this measure can have little bearing now on the doom of this national Democracy. The fact is apparent that the party which represents the sentiment of the North is about to take possession of the Government; and what party or class, North or South, has not reason to regard this event with satisfaction?

What should be the feeling of the masses of the Democratic party at the North towards it? Have they not reason to rejoice at the emancipation which awaits them? There is no despotism like that of party. The constitution and temperament of most men incline them to yield to it, though they may at heart repudiate it. In no country has there ever been a thralldom more tenacious and binding than the discipline of this Democratic party. Its subjects or victims, from year to year, have been compelled to sacrifice their personal independence and freedom of political thought. Many yielded their assent to national legislation which their judgment assured them was prejudicial, not only to the interests of the country, but to their own private interests. Others—and they number by thousands—have been forced by this master to reject and degrade the very cornerstone of their faith, and to sacrifice their highest moral convictions as to their duty in the guardianship of the Territories. They saw the whole influence of the party and of the Government, the Constitution, the judiciary, and the Army, perverted and abused in repeated attacks on the traditions and conscience of the free States, and on

their own proclaimed and cherished principles; and yet they still sat mute, abject, and helpless, under this party control. An exodus escaped from it when the Missouri compromise was repealed. The shock of the act startled many into a consciousness of their true position, of their recreancy to themselves and humanity, in longer adhering to a party which made the approval of such a deed a test of political faith. Still, there were enough left in the party to return fifty members to this Hall from the free States; and to bring this remnant to a like consciousness, a still stronger and more effective remedy was needed. That remedy has been administered. They are now required to approve of, and make themselves parties to, directly or indirectly, all the crime and turpitude of these Kansas transactions. They are specially required to approve of this message of the President, a document which cannot be characterized by language fit to be used in this Hall. This is a lower deep to which not even party discipline could carry the masses of its most conservative adherents. At last their manhood has aroused itself, and they, too, have thrown off these fetters.

I say, then, is there any portion of the Democratic party at the North who can regret that this domination is at an end? As they look back at the hard and barren path which they have been drilled and marched through with bleeding feet, will they not rejoice to find themselves out of it? and will not even the most undying adherents of party, who would cling to it as long as it had any life, rejoice to be relieved, by its death, from a fidelity which must be so odious? I say, then, that the Democracy of the North are ready for the advent to power of the party representing the ideas of the North.

I would like now, sir, to consider what will be the sentiment and action of the South at this change? Will our countrymen of the South dissolve the Union when they find the Government in the absolute control of the most advanced northern thought?

While the southern people, for the most part, I believe, have given up the notion that what they call abolitionism extends to the interference with slavery in the slave States, they charge that we are Abolitionists, because we object to their carrying their slave property, and the laws which regulate it, into the Territories. The Territories, they say, are their property as well as ours; but that if we prevent their carrying their slaves thither, we necessarily exclude them from their share of the estate; for the effect of this exclusion, as they contend, will be to concentrate and hem in their redundant and increasing slave population within the limits of the present slave States till that property becomes valueless and unmanageable. They admit that though slave labor, as they say, produces quick and large profits, it exhausts the soil, and hence requires an indefinitely large area to expand upon and exhaust. Therefore, they claim the right to take possession of these Territories for this purpose. Whether or not this pretension is a just one has been the issue before the country; and as it has been decided against them, what will they do in the advent to power of a party to carry out this decision?

The party of the free States contend, on this point, that this admission of the slave owners is conclusive against them, for they can have no right to injure and exhaust the soil which we hold in common with them. We do not exhaust it; we dig into it and fertilize it; we ransack science and art to fructify it; we publish newspapers and books, and institute societies, to illustrate the best manner of improving it, and therefore can never admit that it is the privilege of our tenant in common to waste it. "Then," say our coöwners, "divide it; give us our share to use after our own fashion, and you take yours." We answer, "the division was once made; you took your part and have it still, and now claim ours. Henceforth, all this property, acquired, as you say, with our common blood and treasure, shall be held in common, and neither party shall use it to its detriment. It shall be used as the lands of all civilized nations are used. No rude, barbarous, blighting tread shall crush the processes of industry and science, which alone can develop the wealth hidden in its depths. Its wastes and wildernesses shall be made the homes of happy men, the homes of southern men as well as northern; and it shall not be converted

into an empire of negroes, from which the industrious sons of the South, as well as the North, will be alike excluded." Though firm in this determination, the North is not indifferent to the problem as to what shall be done with slavery in the slave States if excluded from the Territories; they are far from being indifferent over the apprehensions of the South on this grave question. The condition of the South no man can regard without deep solicitude. No nation was ever in a more painful strait. Every pulsation of slavery is against the law of production, and where it exists it will waste and dry up every source and spring of prosperity. It can only flourish by expansion; but expansion over fertile and beautiful virgin lands, in like manner to curse and blight them, is an alternative which the voice and arm of the North and of the nation will never permit.

As an offset to this evil of slavery with them, southern gentlemen on this floor have adverted to, and quoted statistics to show, the huge masses of poverty, degradation, and want in the northern cities. The existence of the frightful fact we admit to its fullest extent. It is, as our southern friends charge, a cancer on the fair face of the North. It, like slavery, weighs heavily on our national life; and both seem beyond removal by this generation. What may be their ultimate fate, who can determine? For myself I would say that my faith is, that science is now a child; and when its power shall grow, these and like evils will be resolved by its resistless analysis. But as to the course now to be adopted, of one thing only we are positive: if we cannot remove them, we can and should prevent their extension. Slavery and poverty both come from the same source—the fruitful source of all evil; they come from perverted and vicious ideas of the value of human labor; and their removal can never be effected while those ideas are fostered, fought for, and defended as eternal truth. In reference to this matter of slavery in the slave States, a suggestion has been made on this floor which is worthy of scientific and careful scrutiny. There are tropical and equatorial lands on this continent suited to negro labor; and in the developments of the future, it may be that this redundant negro population will flow in that direction, and leave our southern brethren free from that incubus, and at liberty to join us at the North in a right career.

But, sir, the South accept none of these views. They deny and vilify them, and threaten that a party which avows or tolerates them shall never control this country. The answer to these threats is a brief one. When the party of the North ceases to act in obedience to the great principle which underlies the civilization of the North, it will find no support there; but while it does so act it will commend itself to the candid, thoughtful, controlling men of the South. We do not claim that this party will be, or is, spotless. We do not pretend that there are not, and will not be in it, sordid, selfish, sectional, narrow-minded men; and that men of that character will never hold office under it of trust and dignity. We know too well that, in the North as well as the South, every stratum of society is crowded with men of low aims and instincts. But I say here, and in saying it I utter a truth that finds its home in the breasts of thousands of noble men, that the one grand aim of the Republican party—I will not say of the Republican party, I will discard all party in stating the fact—the one aim of the intelligence, thought, refinement, spirit, and genuine true life of the North which now finds its best expression through the Republican party, is to bring this whole nation—the South as well as the North, the slave States as well as the free, Kansas and Mississippi, Georgia and New York—under the dominion, not of any party called by any name, new or old, or originated in any latitude, North or South, but under the dominion of just ideas and eternal principles under the dominion of that incessant presence, which, brooding over the concerns of men, has already lifted this nation to a new plane of national life, and will carry it, and every part of it, yet higher, in spite of all ignorance, obloquy, and prejudice in the southern States. This now dominant party, I assert, has no sectional ends in view; its sole purpose is to give full scope and development to the power of human industry; and through that, as the only possible instrumentality to add to the strength and well-being of every community. Its devotion is not to the interests of a

section, but to a principle—a principle on which all that is valuable in the world rests.

Why should the men of the South resist this sway? They have tried the operation of the opposite principle; and are they satisfied with the experiment? Has it carried them to the heights of this century? Has it given them riches equal to the North? Has it invited population among them? Has it driven penury and ignorance from the masses of their people through their broad country? Has it dotted their land with schools and colleges? Has it given them a literature? Has it infused among them an enlightened, catholic perception of the best thought of the present day? I do not wish to underrate the gains of the South. I am not unmindful that that great country, in many parts, exhibits wealth and growth, and that in every part it is adorned by men of high aims and culture; that the virtues and graces of hospitality, charity, and good will, abound; and that patriotism and a generous enthusiasm find there a natural soil. The men of the South, in blood, lineage, and endowment, like the men of the North, are foremost in the files of time; they, with us, are the inheritors of the ages; and, of course, under any circumstances, however adverse, must collect around them much that is valuable and elevating. But the most superficial observation shows, and statistics prove, that, though they have as fertile a soil, a more genial climate, and are under the same political institutions, yet, in their progress and prosperity, they halt far behind their sister States. They have had the control of the Government, and have used it for their own benefit; but the trouble in their midst has proved beyond all remedy or relief from that quarter, as administered by them. The North, governed in its most essential economy by a principle discarded at the South, presents a boundless prosperity, ever young and vigorous; while the South, under the other control, presents the picture I have hinted at, and which it is painful to dwell upon. These two systems have been tested. The South have ever existed under the one; and will they now refuse to receive any influence and aid from the other? Is the fruit of the tree under which they live that of the tree of life?

Here on this point, and in reference to this matter directly before us, let me ask how they relish this Kansas-Lecompton policy of the Administration, the necessary legitimate product of that tree? How do they like being compelled to keep silent at that violation of good faith committed in their name by the repeal of the Missouri compromise? How do they fancy being made the allies of that horde of ruffians who elected the Kansas Legislature in 1855? How do they feel at being obliged to take John Calhoun to their bosom, and to keep silent over the frauds, villainies, and outrages committed in Kansas, in furtherance of what is supposed to be their interests? They see in all their deformity and hideousness the facts on which our opposition to this Lecompton constitution is founded, and must regard the policy under which that instrument is enforced as disgraceful to themselves and the age under which they live. The men of the South claim to be men of honor; that honor is their star; that their skies are not brighter and purer than is the escutcheon of their sons. We, too, admit that honor is not a tradition among them, but a living, vital essence; it marks their popular life at home and accompanies their Representatives to this Hall; and therefore, I ask, are they not restive under this necessity of upholding these Kansas transactions; the offspring of brutish, vulgar men, marked by meanness, lying, treachery, and blood, as well as by the violation of law and the rules to which civilized men conform? Do the men of the South willingly uphold these villainies? Do they voluntarily unite themselves with such foul allies? Do they wish to advance what they conceive to be their interest in the Republic by the sacrifice of all law and principle and precedent, and by the aid of force and fraud and crime? I ask, are the people of the southern States, their gentlemen, their men of honor, willing to stand in the presence of the sun as the aiders and abettors of these deeds? Are they satisfied to be recorded in history as seeking to promote even what they may regard their rights by means so shameful? I cannot believe that the light of honor—the peculiar glory of the South—has become so faded and dim in our southern horizon. I believe it would be a libel to say that

the people of the South, in their own home convictions, do not repudiate these deeds, and revolt at being dragged through such foul waters.

Mr. Chairman, what is the meaning, then, of the fact that we have no expression from the people of the southern States denouncing all this business done in their name? Why is it that these things are either defended, as the President defended them, and as they are defended on this floor, and in the southern press, or else an ominous silence is observed? Why do we wait in vain for a loud, indignant, trumpet-tongued disclaimer of all participation in this unclean thing? I will do them the justice to say that I believe they abhor it, but that they are forced by this, their evil genius, this principle and law under which they live, into this startling submission and acquiescence; and, I ask, can they see no reason to be reconciled to the necessity which is now upon them, of trying some other policy of government and life than one which produces such results? While I do not claim for the North any special exemption from the vices of meanness and illiberality, or from any other vices, greater or smaller; and while I may admit that in their personal dealings and intercourse with each other and the rest of mankind, they are marked by no higher and more scrupulous sense of honor than their southern fellow-citizens; yet I assert that this Kansas policy never for one hour would have been tolerated by northern men if attempted in their name, and by an Administration controlled by their influence and for their interest. They would not touch with gloved hands, they would abhor as sacrilegious, accursed, and ill-gotten, any acquisition by such disreputable measures. The southern constituencies would not be obliged to send Representatives to this House, chosen with the sole intent to prevent such a policy. They would not now be watching the proceedings of Congress from day to day with painful apprehension lest grosser wrong may disgrace the nation. The sentiment of the North would itself rebuke the outrage, and put it to shame, and take care that no stain from it should be left on the garments of the people. Such instrumentality to aid northern progress would be regarded as destructive to its own end, and no party which adopted and approved it could survive one election.

The contrast here presented is a fact which is well worth the study of our southern friends; and it is commended to their consideration in view of the other fact, that the Government henceforth is to be controlled by the ideas of the North. If this assertion which I make be a fact, do they not recognize in it a true thing, and feel that the spirit which calls it out is that which will and should possess the Government?

Sir, there is no contest by the North with the South, though the southern people persist in assuming that there is one. The contest which the North is waging, and will carry on from generation to generation, is with the obstacles which delay human advancement, and in this fight they desire to meet the South as allies, and not as foes. If the institution of slavery is one of those obstacles—and however gentlemen may argue here and elsewhere, the experience of the southern States proves that it is a mighty one—they are ready to aid, as far as possible, in obviating the evil it engenders. They believe in the inexhaustible power of science, and that when its calculus is brought to bear on this matter of slavery, a way in which the southern States may rid themselves of it will be discerned. But they engage in no Quixotic enterprise, and believe the southern people will have to study and solve the problem for themselves. But while this is true, the North have more than a mere negative opposition to slavery. Like every other impediment to the progress of man, it is hateful to the North. Regarding it as the offspring of a principle deadly hostile to their own highest life, they will drive it, and every influence arising from it, from their borders. When the southern people claim the right to introduce it in the Territories, it is considered by the North that they are not asking anything valuable and beneficial for themselves; but are claiming the right to obstruct the expansion, not of the North and northern interests, but of those principles which contain the best and highest hopes of the South as well as the North. We do not claim the right to exclude slavery from the Territories to increase northern political power;

but to hasten the civilization of the continent, and the redemption of man from the thralldom and barbarities that have hitherto beset him.

Our southern friends may be unable to see, or may refuse to see, the earnestness and integrity of these connections and purposes; but whether appreciated or not, and though they may be misrepresented and maligned, they cannot be shaken; and we shall continue to fight the battle, for the South and the North, and for humanity, in resisting the introduction of slavery into the Territories. Here we take our stand. No interference with slavery in the slave States, except that which science and sympathy will necessarily create; no influence from slavery in the free States; and no print of a slave's foot on the soil of the Territories.

Are all these principles so odious to the southern people that they will not try their operation? or will they try them, and submit, submit not to the North, but to the truth and eternal law?

Mr. SMITH, of Illinois. Mr. Chairman, in rising to address the committee on the all-exciting and engrossing subject, the admission of Kansas into the Union under the Lecompton constitution, I do not flatter myself that I can say anything new or that will interest the members of this House; but I owe it to my constituents and to the people of my State, that my views should be known and declared on this question. Sir, I earnestly protest against the issue which is attempted to be made in this House upon the Kansas question—that it is a question of slavery and anti-slavery. So far as I am concerned, and so far as the Democratic party of Illinois is concerned, the question of slavery has nothing to do in the admission of Kansas into the Union. We are as ready to take Kansas into the Union with as without slavery. The only question with us is, "Does the Lecompton constitution express the views and wishes of the majority of the bona fide settlers of Kansas?" That is the only fact we want to know. That was the question upon which the late presidential contest turned—the right of the people to form a constitution for themselves, unawed and unmolested. While I believe, with the President, it to be the true policy to lay down a rule that no new State shall be admitted into the Union unless its constitution has been submitted to a vote of the people, and approved by a majority of the actual settlers thereof; still, in this case, satisfy me that the Lecompton constitution embodies the wishes of a majority of the actual residents of Kansas, and I will vote for admission to-morrow; but until I am convinced of that, I cannot and will not vote for the admission.

The Lecompton constitution is evidently obnoxious, not only to the people of Kansas, but to a large majority of the people of the whole country. To show this, I shall quote from some of the prominent public journals North and South, and from the opinions publicly expressed by many of the distinguished Democratic statesmen, who have long stood prominent in the ranks of the party, and whose eminent public services have gained for them the admiration and confidence of the people throughout the Union. When I find opinions expressed by distinguished Democrats agreeing with my own, I prefer indorsing them to expressing my own.

I quote from Mr. Bancroft's eloquent letter to the people of the city of New York, in relation to the admission of Kansas into the Union under the Lecompton constitution. He says:

"The policy of enforcing the Lecompton constitution on an unwilling people is neither wise, nor expedient, nor possible. Principle is the true diviner's wand, by which the President of a free people sways the millions, and secures majorities for his measures in Congress. The neglect of principles for temporizing expediency always loses the respect of majorities in Congress and out of it. The ship of State is water-logged; throw the fraudulent Lecompton constitution overboard; let principle take the helm, and the bark will spring forward on its way as in the best years of our Republic. Ours is the cause of peace, of order, of true Democracy, of union, freedom. All good omens are with us. For our part, we are resolved to walk in the central path of humanity, stunning sectionalism and fanaticism on the one side, and subservience to dictation on the other. True Democracy inscribes on its banner the rights of the States and the sovereignty of the people; it upholds freedom to the individual in the State, freedom to the State in the Union, and the indefeasible right of the majority, whether in a State or in a Territory, calmly, deliberately, and undisturbed, to form and accept, or reject, a constitution for themselves."

Mr. Bancroft is too well known as a statesman

and a sound Democrat to require any indorsement from me.

Again, I read from the letter of the Hon. John A. McClernand, to the people of Illinois. He says:

"The Topeka and Leecompton constitutions alike deserve the condemnation of all just men—the first as a rebellion against the authority and laws of the United States; the latter as a fraud and usurpation upon the rights of the people of Kansas. One was an act of moral treason against the Government; the other is an act of moral treason against the people. Nor does the submission of the slavery clause to the vote of the people of Kansas extenuate the enormity of the Leecompton outrage; on the contrary, it aggravates it—aggravates it by adding insult to injury. Why not submit the whole constitution? It is answered, because it would have been voted down! If so, is not this the very reason why it should have been submitted, and should not be forced upon the people of Kansas?"

The South never had a firmer or truer friend. Many of the members of this House will recollect his course when a member, and his uniform support of the constitutional rights of the South.

Mr. Chairman, the Leecompton constitution, not having received the ratification of the people, and not fulfilling the requirements of the Kansas act, and disregarding the Democratic principle of popular sovereignty, should be treated by the President and Congress as a nullity until it receives such ratification. It is passing strange that certain public journals and individuals, who were loud and bitter against the Leecompton constitution before the commencement of this session of Congress, are now its warm and zealous advocates. I would call upon an enlightened and honest community to judge in regard to the means and influences which have produced this sudden and marvelous change in their opinions and actions. The Leecompton constitution is the same now as when it was framed by the convention; and, sir, I can see no reason for such sudden conversions of gentlemen, unless it be to enable them to bask in the smiles of the Administration, and participate in the favors it has to bestow.

Let me call the attention of the committee to certain articles from the New York Herald before the commencement of this session of Congress:

"KANSAS IN A NEW SHAPE." * * * * "This is a coup d'état which nobody outside of the secret affiliations of this convention could have anticipated. It is, in fact, a revolutionary movement, which puts the local affairs of Kansas in a more critical shape than any of the many other phases through which they have passed. It appears that the Solons of this aforesaid convention have decided—

"1. A strong pro-slavery State constitution, which is not to be referred to the people.

"2. A separate reference of the slavery question to a vote of the people, which will not affect the slavery provision of the constitution in the slightest degree; either one way or the other.

"3. That Governor Walker is deposed.

"4. That the regular Territorial Legislature is superseded.

"5. That a regency or provisional government is established, with dictatorial powers, of which Mr. John Calhoun is the chief, under the title of Governor, and that this regency is to go into operation immediately.

"Now, this beats the Topeka government of Generals Lane and Robinson all hollow. It surpasses anything that we have seen of the political pretensions of Brigham Young; for with all his assumptions of divine right and squatter sovereignty, he has never so flatly repudiated the supreme authority of the General Government as these Leecompton constitution makers. Their proceedings are without a parallel, and there is nothing like a precedent for them in the case of any other Territory of the Union, past or present. On the contrary, the Federal Constitution, the organic law of Kansas, all popular rights, and territorial claims and usages, are boldly set at defiance by these Kansas dis-organizers.

"The proceedings in question would amount to nothing more than a contemptible farce did we not know that they are intended for mischief, and that the mischief makers are dispersed over a much larger area than that of Kansas Territory. It is thought that the design of this Leecompton regency is to stifle the Legislature and the popular voice of Kansas upon the main issue, in exciting a general squabble among all parties in the Territory upon the local question of jurisdiction. It is further supposed that this regency, through this cloud of smoke and dust, will push off to Washington and attempt to hurry through the admission of Kansas upon the basis of their pro-slavery constitution, in advance of the meeting of the Territorial Legislature.

"The party of the Topeka constitution some time ago, in an irregular attempt to set up their peculiar government, were dispersed by the United States troops; and if a milder process should prove inadequate against any overt act of this Leecompton regency, the dragons should again be called into requisition. We have no fears of the ultimate issue of this Leecompton movement. It will fail. The parties interested in it cannot entertain a serious hope of its success. We presume that their objects are agitation, sectional discord, and a southern ultra-sectional rebellion. We believe that their immediate purpose is to cast the fire-brand into Congress upon which our southern fire-eaters have resolved to cut loose from the Administration, and to set up a sectional party on their own account for the next Presidency."—*New York Herald*, November 18, 1857.

Little did I think, Mr. Chairman, during the

late presidential campaign, when contending against the Republican party, led by Colonel Fremont, and backed by the New York Herald, that this same Herald would read me out of the Democratic party the first year of Mr. Buchanan's administration; and that many politicians who have been as vacillating in their politics as the Herald, would join in the hue and cry of reading Democrats out of the party, who never gave a vote for President to any one but the regular nominee of the party. The Herald, when writing the above, was the warm friend of the Administration, and it is fair to presume that he expressed his views at that time.

The Union, I believe, has been the organ of the Administration since it came into power. I quote from an article of that paper, of the 7th July, to show the opinions of the Administration at that time on Kansas affairs:

"We repeat, that the constitution of Kansas must come from the people of Kansas. Other power to make such an instrument there is not under heaven.

"We do most devoutly believe that unless the constitution of Kansas be submitted to the direct vote of the people, the unhappy controversy which has heretofore raged in that Territory will be prolonged for an indefinite time to come. We are equally well convinced that the will of the majority, whether it be for or against slavery, will finally triumph, though it may be after years of strife, disastrous to the best interests of the country, and dangerous, it may be, to the peace and safety of the whole Union.

"Again: this movement of the territorial authorities to form a constitution is made, not in the regular way, in pursuance of an enabling and authorizing act of Congress, but in the mere motion of the Territorial Legislature itself. Nay, it has been begun and carried on in the teeth of a refusal by Congress to pass such an act. This irregularity is not fatal. There are other cases in which it was overlooked. But it can be waived only in consideration of the fact that the people have expressed their will in unmistakable language. If we dispense with the legal forms of proceedings we must have the substance.

"We think, for these reasons, that Governor Walker, in advocating a submission of the constitution to a vote of the people, acted with wisdom and justice, and followed the only line of policy which promises to settle this vexed question either rightfully or satisfactorily. In this respect, at least, he has done nothing worthy of death or bonds."

I am not unaware of the means and measures resorted to to affect public opinion. Already prominent Democrats are being removed from office, and, as I believe, for no other reason than that they are against the admission of Kansas under a constitution to which three fourths of the people are opposed, and because they rigidly adhere to the true principles of the Kansas-Nebraska bill, which guarantees to the people the right to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States. I look, Mr. Chairman, with fearful forebodings to the future, if opinions are to be changed for offices or patronage in the gift of the President; if the principle of popular sovereignty is to be set aside, and the rights of the people of a Territory disregarded, because the President, on the ground of expediency, recommends it, while he admits that the opposite course is just, are we not on the road which, if pursued, will lead to despotism or dissolution?

The President, in his annual message, says:

"Under the earlier practice of the Government, no constitution framed by the convention of a Territory preparatory to its admission into the Union as a State, had been submitted to the people. I trust, however, the example set by the last Congress, requiring that the constitution of Minnesota should be subject to the approval and ratification of the people of the proposed State, may be followed on future occasions. I look it for granted that the convention of Kansas would act in accordance with this example, founded, as it is, on correct principles; and hence my instructions to Governor Walker, in favor of submitting the constitution to the people, were expressed in general and unqualified terms."

Governor Walker acted upon these instructions, and says, in his letter to the Indiana Democracy, in speaking of his pledges that the constitution should be submitted to a vote of the people:

"These pledges, and these alone, it is conceded, prevented revolution and civil war. And why should they not now be redeemed? For myself, these pledges have been thus far most faithfully maintained, and they will be redeemed by me, if necessary, with the last drop of my life's blood, and to the latest hour of my existence. These were pledges well known to the President and all his Cabinet. They were pledges given by me in good faith, and any abandonment of them now on my part, after the people had accepted and acted upon them, would be to cover myself with infamy and dishonor. Whatever, then, may be the action of the wavering, timid, or corrupt—menace and proscription have no terrors for me. I will continue to tread the path where conscience and duty call me, regardless of all consequences or sacrifices, personal or political."

Governor Walker proceeds to argue the case.

He grows indignant and eloquent as he considers how this case is treated by the Executive:

"Where are we, and in what direction are we drifting? Are we upon the banks of the Bosphorus or Danube, or upon soil consecrated to popular sovereignty by the blood of the Revolution? Is it Executive edicts or sovereign rights that constitute the liberties of our country? Are we freemen 'who know our rights, and knowing dare maintain,' or are we vassals, serfs, or slaves, palace slaves, that will cringe or change at the stamp of the foot of a master? Is it the people and the States, as represented in the Senate and House of Representatives, who are to record their votes as indicated by their unbiased judgment; or are they merely to register Executive edicts, under penalties for refusal, of denunciation and proscription? Is the President the master, or servant of the people, that he should thus dictate to them or their Representatives, under threats of exclusion from the party of their choice? Is Democracy a name and shadow, or a substance? It means the power of the people. This is its vital essence. Or has it lost its true significance, or are we moving from it with viewless but rapid strides towards despotic power, to make and unmake the rules of political faith under pains and penalties abhorrent to the souls of freemen? Is this the eighty-second year of our Independence, or is it the first year of American monarchy that is now dawning upon us? Let the people—let the masses composing the true Democracy, arouse from their slumbers. Let them break the chains that would fetter their free thought and free opinion, and assert their blood-bought rights, and especially the great indefeatable sovereign right of self-government."

It is clear, by his instructions to Governor Walker, that the President designed to have the constitution which should be framed by the convention, submitted to the people for their decision, and that they should be protected in the expression of their wishes at the ballot-box, for or against the constitution. His present opinion is, that Kansas should be admitted under the Leecompton constitution, on the ground of expediency. He regrets that it was not submitted to the people for their action, but thinks it will be sufficient to satisfy justice, to submit to them one clause of that instrument. We differ from him in this opinion. The convention might better have refused the whole, than to select one clause and say that was the only part upon which the people should vote. The course pursued by the convention is an arbitrary assumption of power, not warranted by the act calling a convention, nor by the principles of the Kansas-Nebraska act, and is in violation of the spirit and genius of our institutions; and is such a course as might be expected only from a despot who dared not trust his subjects to express their wishes in relation to a matter in which their dearest rights and interests were involved.

I ask, Mr. Chairman, are those of us who are opposed to the Leecompton constitution to be denounced as renegades and traitors to the party, while we stand upon the principle which the President himself says is right; and because we are unwilling to yield that principle on the ground of expediency?

Talk, Mr. Chairman, about reading the anti-Leecompton men out of the Democratic party! When you read out such men as Governor Wise, Governor Walker, Stanton, Bancroft, Senator Douglas, and other prominent Democrats opposed to this constitution, when you expel the Democracy of Illinois, with the rank and file throughout the country, the Democratic party will be as powerless as was Samson when shorn of his locks.

I give an extract from the Louisville Democrat. It says:

"We publish this morning the letter of Henry A. Wise to the anti-Leecompton meeting at Philadelphia. It is only one of a number sent to that meeting by prominent Democrats, and among them DOUGLAS, the Senator from Illinois. The Democrats of this Commonwealth will recollect that, since 1851, no names have stood higher in the Democratic party than those of STEPHEN A. DOUGLAS, of Illinois, and Henry A. Wise, of Virginia. If they are not Democrats, who are? If they are not entitled to be heard, who are? Read this letter of Wise's, and say if it be not sound Democracy, and as sound sense, too, as you ever did read. DOUGLAS and Wise are not mere party Democrats; they are such from impulse and principle, and protest against this Leecompton business with all the energy of their natures. Flippancy scribbles who deal in cant may call them renegades. There is no danger that they will ever grapple with the argument of this letter, or that of DOUGLAS's speech. Does the Leecompton constitution embody the will of the people of Kansas? Until this is made out, the Democrat who supports it may be honestly doing what he thinks best on the ground of expediency; but he departs from his creed, and will live to repent it when he sees its fruits. The Democratic party has been invincible, because it has been generally true to its antecedents and its faith."

I read from a letter of an old editor, addressed to the editor of the States, to show the position of the German papers in the Union on the Leecompton

ton constitution, and the impolicy of reading them out of the Democratic party:

"That among the one hundred and odd German Democratic papers published in the Union, but three are sustaining the Kansas policy of the Administration, namely: the Philadelphia Democrat, the Buffalo Democrat, and the St. Louis Chronic; and, if it should be found necessary, it can be proved that the just-named three papers are 'in for it,' for very material reasons at that. Now, if you like, gentlemen on the Lecompton side, read the millions of heretofore faithful German Democrats out of the Democratic ranks!"

Mr. Chairman, it is both the right and duty of a political party to lay down principles and establish platforms; but it is not the right of either a minority or majority of such party to compel its members to violate the principles agreed on as rules of action, and, on their refusal, to deny them the name, and dismiss them from the party whose principles they would maintain.

To speak of reading out the Democracy of Illinois from the party is absurd. Sir, they have fought many a hard battle in that cause, and have always come off conquerors; while the Keystone, the Empire, and many southern States, have, at different times, fallen in the fight. The men who fought at Buena Vista and Cerro Gordo, and their friends, are not to be driven from the support of measures which they know to be just and Democratic, by the fear of being read out of the party. They stand upon the Cincinnati platform, and will abide by the principles of the Kansas-Nebraska bill, and are adhering to that principle, which the President admits to be correct. He says:

"I trust, however, that the example set by the last Congress, requiring that the constitution of Minnesota should be subject to the approval and ratification of the people of the proposed State, may be followed on future occasions."

Those of us who oppose the admission of Kansas under the Lecompton constitution, are not to be driven from our course, because, on this question, the Republican party are found voting with us. We oppose the admission for different reasons. We, however, agree on one point—that the Lecompton constitution is a fraud upon the people of Kansas; and being such, we rejoice in their aiding to prevent the outrage of forcing a constitution upon a people against their wishes or consent.

I read from the letter of a distinguished Democrat, published in the Bardstown (Kentucky) Gazette, to show the position of a large portion of the southern Democracy on the Lecompton question. The writer says:

"Let the friends of the Administration attempt reading out of the party those who will not bow down and worship the Lecompton swindle, and they had as well assign. They had better never been born. If Lecompton has become the test of Democracy, the party is dead sure enough. I am opposed to such a test. Let us differ, if necessary, and do so without quarreling or fighting. Douglas is right, as sure as the sun shines. Harey is right, and so is Wise, and so is N. The South seems mad. Pass Lecompton, and all faith in southern honor in the North is destroyed. Read Douglas and Co. out of the party, and we are as much sectionalized as was Sam in '56."

"But, say the Lecomptonites, Douglas is acting with the Black Republicans! Demolishing logic! Black Republicans eat good dinners—ergo, Douglas must confine himself to saw-dust pudding, or he is not a Democrat. Free-Soilers drink good wine—ergo, poor Douglas and Co. must confine themselves to cistern water, or they excite suspicion. Pshaw! for such sophistry! and pshaw! for the asses that use it. Let us stand by the right, whether the Black Republicans are for or against it. We are pledged by our platform, for our solemn promise to the North, to leave this cursed question of slavery to the people of the Territory—this, as well as all others. An overwhelming majority of the people of Kansas are opposed to the Lecompton constitution. Then, as a Democrat, I am opposed to it—opposed to forcing it upon a protesting people, even if they are Free-Soilers."

"One word by way of prophecy. Pass Lecompton, and not insult Douglas and Co., and we may survive. Pass Lecompton, and ostracise Douglas and Co., and the Democratic party is broken down; and when it perishes, our glorious Union perishes too."

Mr. Chairman, the anti-Lecompton Democrats stand precisely where the Democratic party stood in the late presidential contest—fighting for the right of the people of each State and Territory to regulate their own affairs in their own way, without any interference from abroad. We shall be found in opposition to all those who disbelieve the doctrine of popular sovereignty, be they who they may, Republicans or southern ultraists. The Kansas question was the great, indeed the only, question at issue between the parties in the late presidential contest; and I hazard the assertion that if Mr. Buchanan, after his nomination, had declared the views expressed in his message accompanying the Lecompton constitution, no free State in the Union would have given

him its vote. Illinois was carried for Mr. Buchanan, by convincing the people that we intended in good faith to carry out the principle of the Kansas-Nebraska act; that the actual citizens of the Territory should have the power and means of determining the form of constitution which they would adopt. Mr. Chairman, the recent election in New Hampshire shows the effect upon the free States of the position of the Administration on the Lecompton constitution, and proves the position I have taken, that if you admit Kansas with the Lecompton constitution, you will defeat the Democratic party in all the free States except Illinois. There the Democracy are united against Lecompton, and will maintain their ascendancy. I read from the Concord Patriot, the leading Democratic paper in the State, of the 10th instant. It says:

"The Kansas question has again crushed us with its ponderous, blind, unreasoning power. Before the Lecompton constitution question was brought before the country, our prospects for success were highly flattering; our triumph seemed to be certain; that matter, with the course of the Administration upon it, fell like a wet blanket upon the rising courage and earnest zeal of our friends, and from that day we were doomed; our defeat was certain and apparent to all well-informed persons. Yet the Democracy, hoping against hope, continued the struggle with a courage and zeal never before excelled by them, even under the most encouraging circumstances. They hoped the people might be induced to think and act with reference to their own immediate interests, and they labored to direct their attention to the sole questions to be affected by the election; but their labors were vain. 'Kansas' and 'Lecompton' were the magic words which directed the action of thousands of honest voters."

It was charged by the Republicans that the repeal of the Missouri compromise, and the passage of the Kansas-Nebraska act, were for the express purpose of making Kansas a slave State. They wished slavery excluded from Kansas by an act of Congress; we were for leaving that, with other points, for the decision of the people of the Territory, subject to the judicial tribunals and the Constitution of the United States.

During the canvass I was repeatedly questioned in regard to my course in Congress on the admission of Kansas, if I should be elected. My reply was ever, that if Kansas applied for admission, and presented a constitution which was republican in its provisions, and I believed acceptable to a majority of the actual settlers of the Territory, I should vote for admission, with or without slavery; but if fraud or improper influences had been used in procuring its adoption, and if it were not, in my opinion, in accordance with the desire of a majority of the people, I should vote against it, without regard to any clause it might contain. This was the stand taken by Democratic speakers in southern Illinois during the campaign of 1856; and the reason of my present opposition to the admission of Kansas is, not that the Lecompton constitution admits slavery, but that it is a wanton violation of the principle of popular sovereignty, since it does not express the views of a majority of the people who are to be governed by it, and should not be forced on them by Congress, when every member here must be aware that more than three fourths of the people are strongly opposed to its provisions.

I quote from the New York Freeman's Journal, a Catholic and Democratic journal. It says:

"What is the practical difference between the 'royal prerogative' claimed by the weak and tyrannical Stuarts, and the executive influences so imprudently flaunted in our faces by the advocates of the fraudulent constitution of the Lecomptonites? The only difference is, that this 'executive influence' is viler in its nature, more demoralizing, and more potent, than the 'royal prerogative,' which lives in the execration of free men. We have been told, day by day, by the servants and the seekers of the Government pelf, that some ten millions of dollars of patronage are to be employed in buying the absence or the votes of a sufficient number of the Representatives of the people, to secure the passage of an act deadly to the interests of the country, and to the fundamental principles of our institutions."

Mr. Chairman, it is argued by many in favor of admission under the constitution presented, that the people could have voted for delegates to the convention which framed it, and not having done so, have no right to complain of its provisions. Let us hear what Secretary Stanton says on this question:

"On my arrival in the Territory in April last, in advance of Governor Walker, I confess that I had an imperfect knowledge of the real condition of affairs. I supposed the question of slavery to be the only cause of dissension and difficulty among the people; and, in my brief inaugural address of the 17th of April, I treated this as the chief subject of difference upon which a submission to the people would be likely to be demanded. I soon found, however, that this

view was altogether too limited, and did not reach the true ground of controversy. The great mass of the inhabitants of the Territory were dissatisfied with the local government, and earnestly denied the validity of the existing laws. Asserting that the previous Legislature had been forced upon them by the fraud and violence of a neighboring people, they proclaimed their determination never to submit to the enactments of legislative bodies thus believed to be illegitimate and not entitled to obedience."

After the arrival of Governor Walker, Mr. Stanton says:

"I was often with the Governor when he addressed the people, and gave my best efforts in aid of the great purpose of conciliation. It was too late to induce the people to go into the June election for delegates to the convention. The registration required by law had been imperfect in all the counties, and had been wholly omitted in one half of them; nor could the people of these disfranchised counties vote in any adjacent county, as has been falsely suggested. In such of them as subsequently took a census or registry of their own, the delegates chosen were not admitted to seats in the convention. Nevertheless, it is not to be denied that the great central fact, which controlled the whole case, was the utter want of confidence by the people in the whole machinery of the territorial government. They alleged that the local officers, in all instances, were unscrupulous partisans, who had previously defrauded them in the elections, and who were ready to repeat the same outrages again; that, even if intruders from abroad should not be permitted to overpower them, they would be cheated by false returns, which it would not be possible for the Governor and Secretary to defeat. Although, at that time, these apprehensions seemed to me to be preposterous and unfounded, it was impossible to deny the earnestness and sincerity with which they were voiced, or to doubt that they were the result of deep convictions, having their origin in some previous experience of that nature."

Mr. Chairman, let it be admitted that many who had the right to vote for delegates to the convention did not exercise that right. Their reasons for that neglect may be justifiable. Great excitement existed at the time, and violence and outrage were constantly occurring in their Territory. Fear of personal injury, or the thought that aiding in the election would in a measure commit them to the constitution which might be framed, may have prevented many from voting for delegates. They may have believed that taking no part in the election would tend to conciliate their opponents, and that their wishes might be more regarded were they to remain quiet, and if the constitution framed did not meet their wishes, they could then, as in the case of Minnesota, have the power of voting against its acceptance. Be this as it may, the only question which it seems to me Congress now has to determine, is, whether the Lecompton constitution expresses the opinion of a majority of the residents in Kansas, and whether they have been left free to form and adopt a constitution for themselves.

In what manner were they required to vote on the adoption of the constitution? I will read the clause prescribing the mode of voting:

"The voting shall be by ballot, those voting for Kansas as a slave State shall vote a ballot with the words 'constitution with slavery,' and those voting for Kansas to be a free State, shall vote a ballot with the words 'constitution with no slavery.'"

Sir, when the people found that the convention refused to submit the whole constitution for their ratification or rejection, they urged upon acting-Governor Stanton the necessity of calling a session of the Legislature to protect them, and provide for submitting the constitution to a vote of the people. I quote from Senator Douglas's minority report. He says:

"The power of the Territorial Legislature over the whole subject was as full and absolute on the 17th day of December, when the law was enacted providing for the submission of the constitution to the people at the election on the 4th of January, as it was on the 19th day of February, 1857, when the Legislature passed the act calling the Lecompton convention into existence. The convention was the creature of the Territorial Legislature, was called into existence by its mandate, derived whatever power it possessed from enactment, and was bound to conduct all its proceedings in strict subordination to the existing territorial government, as well as 'in entire subservience to the power of Congress to adopt, reject, or disregard them at their pleasure.'"

The Legislature, in addition to the law providing for the submission of the constitution to a vote of the people, adopted a preamble and resolutions, setting forth the facts in relation to the election of delegates to the convention, and protesting against the admission of Kansas into the Union under the Lecompton constitution. Copies of this preamble and resolutions were forwarded to the President and both Houses of Congress.

"Preamble and joint resolutions in relation to the constitution framed at Lecompton, Kansas Territory, on the 7th day of November, 1857."

"Whereas a small minority of the people living in nineteen of the thirty-eight counties of this Territory availed

themselves of a law which enabled them to obstruct and defeat a fair expression of the popular will, did, by the odious and oppressive application of the provisions and partisan machinery of said law, procure the return of the whole number of the delegates of the constitutional convention recently assembled at Lecompton; and whereas, by reason of the defective provisions of said law, in connection with the neglect and misconduct of the authorities charged with the execution of the same, the people living within the remaining nineteen counties of the Territory were not permitted to return delegates to said convention, were not recognized in its organization, or in any other sense heard or felt in its deliberations; and whereas it is an axiom in political ethics that the people cannot be deprived of their rights by the negligence or misconduct of public officers; and whereas a minority—to wit, twenty-eight only of the sixty members of said convention—have attempted, by an unworthy contrivance, to impose upon the whole people of this Territory a constitution without consulting their wishes and against their will; and whereas the members of said convention have refused to submit their action for the approval or disapproval of the voters of the Territory, and in thus acting have defied the known will of nine tenths of the voters thereof; and whereas the action of a fragment of said convention, representing as they did a small minority of the voters of the Territory, repudiates and crushes out the distinctive principle of the Nebraska-Kansas act, and violates and tramples under foot the rights and the sovereignty of the people; and whereas, from the foregoing statement of facts it clearly appears that the people have not been left free to form and regulate their domestic institutions in their own way, but, on the contrary, at every stage in the anomalous proceedings recited, they have been prevented from so doing:

"Be it therefore resolved by the Governor and Legislative Assembly of Kansas Territory, That the people of Kansas being opposed to said constitution, Congress has no rightful power under it to admit said Territory into the Union as a State; and the representatives of said people do hereby, in their name and on their behalf, solemnly protest against such admission."

"Resolved, That such action on the part of Congress would, in the judgment of the members of this Legislative Assembly, be an entire abandonment of the doctrine of non-intervention in the affairs of the Territory, and a substitution in its stead of congressional intervention in behalf of a minority engaged in a disreputable attempt to defeat the will and violate the rights of the majority."

"Resolved, That the people of Kansas Territory claim the right, through a legal and fair expression of the will of a majority of her citizens, to form and adopt a constitution for themselves."

"Resolved, That the Governor of this Territory be requested to forward a copy of the foregoing preamble and resolutions to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and to the Delegate in Congress from the Territory."

From the facts set forth in the foregoing preamble and resolutions, it is evident that the Lecompton constitution does not express the wishes of a majority of the people of Kansas. They were not allowed to vote for or against the constitution. If they voted at all, either for or against slavery, they must vote for the constitution; they could not vote against it.

I will read what Governor Wise says on this point in his letter to the Philadelphia convention:

"No man was allowed to vote for slavery who did not also vote for the constitution; and no man was allowed to vote against slavery who did not vote for the constitution. He might reject slavery or adopt it, provided he would vote for the constitution; his vote for or against slavery was not allowed to be counted."

"But it is argued in the message that the people, if opposed to slavery, might have voted it out of the constitution on the 21st of December. I deny that they could have voted for or against slavery under this schedule, unless they voted also for the constitution. As I have said, nine hundred and ninety-nine might have gone to the polls and voted for or against slavery, and yet have been out-voted by one man, if they voted against the constitution and the one voted for it. In a word, no one who voted against the constitution could vote at all? How unfair, then, to urge that those who were opposed to the constitution, though for or against slavery, stand away from the polls on the 21st of December, and let the election go by default. Could they have voted at all if they were against the constitution? Could they be counted for or against slavery, unless they voted for the constitution? Why hold the people responsible for not attending the polls, when, if they had attended them, they were not allowed to vote but in one way, not all allowed to vote in their own way, and the minority of one was given the majority of one over a thousand? Do you call this election? Election has which of the two 'at least to choose.' But here there was no alternative but in respect to slavery, and that was not allowed unless you voted the one way on the constitution. Such monstrous injustice and inequality never offended the moral sense of freemen before in this country."

Mr. Chairman, it does not seem wise or statesmanlike to force upon a people a constitution obnoxious to them, even though they may have committed an error, or might have prevented a wrong. If they have committed an error in failing to exercise a right in the election of delegates to the convention, could our act be called by so mild a name if we forced upon them a constitution to which four fifths of them are opposed?

Now, sir, I ask if there is any member of the committee who has any doubt on this question? If any one has, I would refer him to the vote

given at the election on the 4th of January, in accordance with the law of the Legislature of the Territory. This was a legal act, and the President instructed acting Governor Denver to protect the rights of the people at the ballot-box.

The result of the election of the 4th of January on the ratification or rejection of the Lecompton constitution was officially announced by the Governor and presiding officers of the two Houses of the Legislature of the Territory, in the following proclamation:

"In accordance with the provisions of an act entitled 'An act submitting the constitution framed at Lecompton under the act of the Legislative Assembly of Kansas Territory, entitled "An act to provide for taking a census and election of delegates to a convention,"' passed February 19, A. D. 1857, the undersigned announce the following as the official vote of the people of Kansas Territory on the question as therein submitted on the 4th day of January, 1858: the vote against the Lecompton constitution, 10,236; for the Lecompton constitution with slavery, 138; for the constitution without slavery, 24."

"January 26, 1858."

From the official proclamation it is shown that the Lecompton constitution was rejected by the people by a majority of 10,064 votes.

At the election held on the 21st December, the reported vote for the constitution with slavery was 6,143, and for the constitution with no slavery 589; leaving a majority in favor of the constitution with slavery of 5,574, as presented to Congress for admission.

It is stated in the same proclamation that more than one half of this majority was cast at those very sparsely settled precincts in the Territory, two of them in the Shawnee reserve, on land not open for settlement, viz:

Oxford, Johnson county.....	1,266
Shawnee, Johnson county.....	729
Kiekapoo, Leavenworth county.....	1,017
Total.....	3,012

At the election on the 4th of January, the majority against the constitution was..... 10,064

At the election on the 21st of December, the majority in favor of the constitution, as presented to Congress, was..... 5,574

Showing a clear majority against the constitution, on comparison of the returns of the two elections, and supposing each to have been fair and legal, of.... 4,490

If, from this calculation, we deduct the fraudulent votes, according to the statement of the presiding officers of the two Houses of the Legislature, who were present at the opening of the polls and the counting of the votes, by the invitation of the president of the convention, we have a majority of more than eight thousand, or four to one of all the legal voters of Kansas, in opposition to the constitution.

Mr. Chairman, I consider it the duty of the American Congress to reflect the will of the majority of the people in their legislative acts. It is in this that our Government differs from others, and is superior to them. It is a just cause of pride, that our Government confers upon every citizen enjoying its protection, the right to have a voice in the election of those who are to make the laws that are to govern him.

It is one of the cardinal principles of the Democratic party, that the representative is bound in honor to carry out the wishes of the people he represents. I believe this to be correct; and sir, I would not retain an office one hour, after knowing that I could not carry out the clearly expressed views and wishes of a majority of my constituents. No question has arisen since I have been in public life, on which the people in our State are so nearly unanimous as on this. The friends of the Lecompton constitution in Illinois "are few and far between." Of some sixty Democratic papers published in our State, over fifty are against the Lecompton constitution, and five or six in its favor. All, as I believe, who support it, either hold office under the Administration, or have Government patronage, or expect by their course to obtain it. I will read a few extracts from the Democratic Union at Peoria, to show how that paper stood on the Kansas question at the opening of Congress, and its position now:

"We are loth to give credence to a thousand rumors afloat that President Buchanan sanctions the outrage which the convention of Lecompton is attempting to impose upon the people of Kansas."

"The Washington Union claims to be the organ of the Administration. We do not believe, nor can we believe, without evidence beyond what we have yet seen, that President Buchanan subscribes to its grossly anti Democratic

sentiments. They belie the political professions of his whole life. They speak a language which has never, on any occasion, come from his lips or his pen; a language that no southern would utter unless he had first become besotted in his mad devotion to the peculiar institution; a language which no national political organization could proclaim and live for a twelvemonth; a language more revoltingly sectional to the northern mind than the insane ravings of the wildest Abolition enthusiasts. That President Buchanan approves of sentiments so utterly subversive of State sovereignty, and which, if nationally predominant, would carry slavery into every one of the northern States, we do not for a moment credit."—*Peoria Union, December 5.*

"The Democratic party will see that the Nebraska bill triumphs in the assertion of that great Democratic principle, that the people shall make their own laws and establish their own institutions. They will frown out of existence the work of the Lecompton convention, because it attempts to override the voice of the people, and they will establish upon an impregnable basis the right of the freemen of Kansas to govern themselves in their own way."—*Peoria Union, December 9.*

"Admit Kansas, we say, under the Lecompton constitution, and her people will be left perfectly free to regulate their domestic institutions in their own way, and this everlasting agitation will cease. The South will be satisfied in having earned this abstraction, their honor untarnished, and the North will be content with the prize, and the harmony of the party and the peace of the Union will be restored."—*Peoria Union, February 8 and 9.*

The editor came here to procure public printing, and said he would have it. He succeeded, and his paper now advocates the admission of Kansas under the Lecompton constitution.

I read from the Joliet Signal, a Lecompton paper, to show the popular will of the Democracy of Illinois. This editor is postmaster at Joliet. His remarks are candid and temperate, and I fear it may lose him his office:

"That a great majority of the Democratic party of Illinois sustain the views of Senator DOUGLAS relative to the Kansas imbroglio, is doubtless true. Evidence of this comes to us from every quarter. The Democracy of Illinois are proud of their distinguished Senator, and will stand by him as long as he recognizes his party obligations, and is devoted to the great national principles which have united the party since the days of Jefferson."

"The fact that a large majority of the Democratic party of this State should endorse Senator DOUGLAS's course, is no evidence that they are not devoted to the great national party, and to its head as represented by the present Chief Magistrate of the nation."

"The Democracy of Illinois have never wavered in their defense of the Constitution, the rights of the States, and the great national principles enroled upon the Democratic banner. Amid the confusion which has reigned in the political arena, and the yielding to sectional and factious temptations which has been manifest in other quarters, the Democratic party of this State, with true devotion to the national platform, has ever been found faithful. There has been no pandering to popular prejudice, nor bending to present policy, displayed in our State contests, but the enemy have been met on broad national ground and vanquished."

Again I read from the Bureau County Democrat of February 18, 1858:

"We have, for weeks past, expected to be removed, and we expect it still, and say, let it come; but, our readers will learn, when the blow comes, that we can look above and beyond the mere bounds of personal feelings and considerations. We do not think the Princeton post office, or our own private feelings or interests, of so great importance as the perpetuation of the Democratic party, and, in no event, will we make open war upon the Administration, or advocate or approve any course of action that would tend to the disruption of the party. As to the present Kansas difficulty, we think it would have been proper as well as politic to submit the Lecompton constitution to the people; we believe that Mr. Buchanan acted unwisely in committing himself and the Administration to that constitution, instead of merely giving all the facts of the case and turning it over to Congress to be decided upon its merits rather than to be decided upon as an Administration measure. We think Mr. DOUGLAS's view of the case accords with the spirit of the Cincinnati platform, and we regret that his views have not been carried out."

Since this article was written I believe Mr. Pine has seen new light, and goes for Lecompton.

The minority on this question, in my district, is so extremely small, that it cannot well be said there are two opinions on the subject. I know the opinion of my constituents, and, although I regret to be found in opposition to the majority of my Democratic friends here, I shall sustain the views of my people, and vote for what I believe correct principles, resisting any attempt to oppress or trample upon the dearest rights of the people of Kansas. No power could induce me to vote for the admission of that Territory into the Union, under the Lecompton constitution, while I believe three fourths of the people are opposed to its provisions. Mr. Chairman, I would rather have the approval of my course by the people I represent on this floor, than, by misrepresenting them, to receive the highest office or honors in the gift of the Administration.

I am somewhat surprised at the anxiety of my southern friends to bring Kansas into the Union, under this constitution, when, I believe, they ad-

mit that a majority of the people are not in its favor. What permanent advantage will, in that case, accrue? Is it believed that it will give peace to Kansas to force her into the Union with a constitution which she has unmistakably repudiated by her vote of 4th January?

Let me here quote from Governor Wise's letter. In answer to the deceptive suggestion that the people of Kansas may at once repudiate the constitution, when Congress accepts it, and they have acquired State sovereignty, the Governor says:

"In other words, Congress is to do a thing in order that it may be immediately undone! Why do it to be undone? Is Congress to give the Territory a constitution obnoxious to a majority, in order that that majority may have State sovereignty to put it to the torture of its indignation? Why not rather allow the sovereign people, directly and at once, to select for themselves the form of government they prefer, instead of submitting to their passions an instrument which the argument admits they abhor."

The Governor puts a case to show that now it is the southern bull that is going the anti-slavery ox. Supposing the majority in the Territory were pro-slavery, the minority anti-slavery, and the minority were oppressing the majority, as now in Kansas, he asks what would be the consequence, and thus answers:

"I tell you that every southern man would have been in arms, and would be roused to the shedding of blood, rather than submit to Congress fastening upon a majority of pro-slavery people an arbitrary rescript of a mere convention, unauthorized to proclaim its constitution without an express grant."

Supposing further that the swindle should be forced through Congress, the Governor goes on to predict the consequences:

"The ulterior effects of adopting the Lecompton constitution, with its schedule annexed, will be worse than referring back the question to territorial decision. It will arraign this Administration and the Democracy and the South for demanding more than is right, and for forcing resistance to wrong. It will be juggling the lion of a majority whilst the hand of a minority is in his mouth. It will return the chalice to our own lips when the Kansas question again and again arises in North Texas, in New Mexico, in Mesilla Valley, and in all our boundless domain of unsettled and fast settling territory. It will drive from us thousands of honest Democrats in the North, who would willingly stand by us for justice and equality, but who must leave us when we demand more, and refuse justice and equality to others. It will raise the Black Republican flag over the Capitol, in the next struggle for power, and that then will raise the last dread issue of union or disunion! Are not some aiming to drive us to such extremities as will raise that issue past being laid?"

No one can doubt Governor Wise's devotion to the South, and all her interests and institutions. His long and distinguished public services have given evidence of this, and entitle his opinions on this question to great weight.

The Memphis (Tennessee) Eagle of the 4th instant repeats, "in the most earnest manner, that the admission of Kansas under the Lecompton constitution is a precedent fraught with imminent peril to the South. There are great constitutional landmarks erected by the fathers of the Republic by which the priceless blessings of liberty and law are perpetuated to after times. But break down those barriers against illegal party enactments, and the future will bring nothing but anarchy and ruin." The New Orleans Bulletin, one of the most reliable and steadfast State-rights journals in the South, in referring to the Lecompton constitution, says:

"While desiring that Kansas may be admitted, in order to get rid of the whole vexed question, we frankly confess that we think the President labors under a 'grave error' in thinking that this instrument represents the real voters of Kansas in any proper sense. It seems to us clear as noon-day that it does not. The testimony on this point comes from various sources, and is entirely conclusive that the people of Kansas do not recognize this instrument as theirs, do not approve it, and do not wish to come into the Union under it. Shall they be forced to? Out of twenty newspapers or treatises published in the Territory, only one, it is alleged and not contradicted, is in favor of the Lecompton constitution. The State officers just elected under this constitution have formally protested against admission under it.

"Was such a phenomenon ever before witnessed in this country of forcing a Territory into the Union, against the solemn protest of its public representatives, of its public press, of three fourths, at least, of its voters? And was such a threat ever before heard, that unless Kansas be now thus forced in against her will, the Union shall be dissolved? But why did not the legal voters of Kansas exercise their elective franchise when they could have done so? The President, it seems to us, is in a mighty fog upon this point. The real reason, it seems beyond dispute, was that they thought they could not do so without stultifying themselves. They were actually compelled to vote for the constitution or not at all. However obnoxious portions of the instrument might be to them, they were obliged to vote for it or not vote at all.

"None know better than those in Congress who oppose the Lecompton instrument that the question of slavery or no slavery in Kansas is not, in fact, involved in the question of its reception at all. That question was settled long ago. Wise, Stringfellow, and every other southern man, know this as well as the Black Republicans do. The rejection of the Lecompton instrument, if rejected at all, will be due to the failure of its friends to submit it to the legal voters of the Territory; and they foolishly refused to submit it, because they undoubtedly felt sure that it would be indignantly rejected by them. And yet we are told that if Kansas be not admitted into the Union under this extraordinary and unprecedented state of things, it will show a settled purpose on the part of the North to admit no more slave States, and will be good ground upon which to dissolve the Union. If the politicians attempt this latter game, we imagine the people will have a word to say in the matter."

Many of the pro-slavery journals of Missouri are very severe upon the Lecompton constitution. The Northwest Democrat, published at Savannah, Missouri, has the following comments on the subject:

"As for ourselves, as citizens of a slave State, and opposed to the agitation of that 'pestiferous question' here, we should have preferred similar institutions for our neighboring Territory; but we say frankly we are not, and have never been in favor of forcing that, or any other institution on them, against their sovereign will. We go further. The late election, which appears to have been as fair as the nature of the case would admit, indicates a large free-State majority, and that being so, as is generally admitted, that majority should have the undoubted democratic right of molding their own institutions to suit themselves.

"We think the convention gravely erred in refusing to submit their work to the voice of the people to be governed by it. To deprive the people of their inherent right of passing on their organic law, is to strike at the very foundation of our Government, and the attempt must prove futile. As well attempt to stay the waters of Niagara with a feather, as to stem the will of the majority with mere parchment. It would have been better policy, because more correct in principle, for the whole constitution to have been voted on direct, ay or nay; and if the majority voted it down—there let it lay. To say they shall 'not vote at all,' because it is feared they are opposed to it, is to concede at once that it does not spring from the popular will. And if that is so, vain will be every expedient to stave off the inevitable result. It will be only a question of time; sooner or later the popular torrent, gathering only additional impetus by the attempted obstruction, will break through every barrier, and irresistibly vindicate that great axiom of our Government—the right of the majority to rule."

Gentlemen will be deceived if they hope to strengthen the South in this manner. Instead of strengthening the South, you will prostrate the northern Democracy, throwing them into a minority in every free State in the Union. You will render powerless a class of men who have always stood firm and unwavering in defending the rights guaranteed to the South by the compromises of the Constitution. Strike down the national Democracy of the North, and where is the safety of the South? Where is the safety of the Union? The perpetuity of the Union depends on the conservative doctrines and principles of the Democratic party being in the ascendant. I am surprised to find gentlemen from the South so strenuous in having a free and a slave State admitted at the same time into the Union, and seeming to fancy that this course is necessary in order to protect them in their rights and to prevent aggressions from the North upon their domestic institution.

Their security is not in this. It lies in the deep devotion of the northern Democracy to sustain and sacredly protect all the rights conferred by the Constitution upon every part of our Union; not as conferring a favor, but as fulfilling an obligation under which we were placed by our fathers, who achieved for us liberty and independence, and framed for us a Constitution which, if we are true to ourselves and worthy of being their descendants, we shall cherish and preserve at all hazards.

Mr. GARNETT then obtained the floor; but yielded it to

Mr. BONHAM, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. Bacon reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and had come to no conclusion thereon.

And then, on motion of Mr. PEYTON, (at fifteen minutes past nine, p. m.) the House adjourned till Monday next.

IN SENATE.

MONDAY, March 22, 1858.

Prayer by Rev. A. HOLMEAD.
The Journal of Saturday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a letter from the Secretary of the Interior, transmitting a report of John Claiborne, special agent appointed by the Commissioner of Patents, to collect information in relation to the consumption of cotton in Europe; which was ordered to lie on the table.

HOUSE BILL REFERRED.

The bill (No. 313) to provide for the organization of a regiment of mounted volunteers for the defense of the frontiers of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers, was read twice by its title and referred to the Committee on Military Affairs and Militia.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT. The bill for the admission of the State of Kansas into the Union was made the special order for ten o'clock to-day. If, however, Senators have petitions to present, or reports from standing committees, and insist upon it, they must be received.

Mr. BRODERICK presented the memorial of Andrew Glassell, praying compensation for services as assistant United States district attorney for the northern district of California in the year 1856; which was referred to the Committee on the Judiciary.

ADMISSION OF LADIES.

Mr. SEWARD. There are a great number of persons attending who take an interest in this debate, and I move that the rules be suspended so that ladies may have the privilege of access to the floor.

Mr. PEARCE. I object to it.
The VICE PRESIDENT. The rules cannot be suspended, except by unanimous consent.

KANSAS—LECOMPTON CONSTITUTION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. STUART spoke for nearly three hours in opposition to the admission of Kansas under the Lecompton constitution.

Mr. BAYARD entered into the general argument in support of the bill.

Mr. BRODERICK followed in opposition to the bill; and, at the close of his remarks, the Senate took a recess until seven o'clock.

On reassembling, Mr. DOUGLAS proceeded to address the Senate; and he occupied its attention for three hours in a general review of the various topics that enter into the Kansas controversy.

Mr. TOOMBS replied, and his observations elicited comments from Mr. KING and Mr. STUART.

[These speeches will be published in the Appendix.]

At eleven o'clock the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, March 22, 1858.

The House met at twelve o'clock, m. Prayer by Rev. Mr. DEAN.

The Journal of Saturday was read and approved.

PERSONAL EXPLANATION.

Mr. HICKMAN. It has been brought to my notice that in the proceedings of the House of the 12th instant, reported in the Daily Globe of the 13th instant, my colleague [Mr. PHILLIPS] announced to the House, that in consequence of indisposition I was absent from the House, and had paired off with Mr. SICKLES. At the same time, or immediately thereafter, Mr. SHORTER announced that I had paired off with Mr. MOORE. I desire to say that I paired off with Mr. SICKLES, on that occasion, and not with Mr. MOORE.

JOHN W. WOLCOTT.

Mr. STEPHENS, of Georgia. I wish to offer to the House a resolution, relating to the case of

John W. Wolcott, who is now in confinement, by order of the House, for a contempt of its privileges.

The resolution was read, and is as follows:

Whereas, on the 15th day of February last, the House, by its resolution, did commit John W. Wolcott to the common jail of the District of Columbia, for an infringement of the privileges of the House in refusing satisfactorily to answer certain questions put to him by order of the House, and is still held in custody under said order; and whereas, afterward, in pursuance with the provisions of law, the Speaker of the House did certify to the district attorney of the District of Columbia the facts pertaining to said case, and the same were laid before the grand jury of said District, and a presentment was thereupon found against said Wolcott for the same offense; and whereas, the court, in which said presentment is pending, have determined that said Wolcott cannot be tried on said presentment, so long as the House holds him in custody under its rights of privilege: Therefore,

Resolved, That the Sergeant-at-Arms is hereby authorized and directed to cause said Wolcott to be released from jail, and to deliver him over to the marshal of said District of Columbia, or other person authorized to receive him, to answer to the presentment pending in said court.

Mr. STEPHENS, of Georgia. I ask for the reading of the first and third sections of the law passed last Congress, in reference to witnesses.

The sections were read, as follows:

"Sec. 1. That any person summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter before either House, or any committee of either House of Congress who shall willfully make default, or who, appearing, shall refuse to answer any question pertinent to the matter of inquiry in consideration before the House or committee by which he shall be examined, shall, in addition to the pains and penalties now existing, be liable to indictment as and for a misdemeanor in any court of the United States having jurisdiction thereof, and, on conviction, shall pay a fine not exceeding \$1,000, and not less than \$100, and suffer imprisonment in the common jail not less than one month, nor more than twelve months.

"Sec. 3. And be it further enacted, That when a witness shall fail to testify, as provided in the previous sections of this act, and the facts shall be reported to the House, it shall be the duty of the Speaker of the House, or the President of the Senate, to certify the fact under the seal of the House or Senate, to the District Attorney for the District of Columbia, whose duty it shall be to bring the matter before the grand jury for their action."

Mr. STEPHENS, of Georgia. I now ask for the reading of the finding of the grand jury against this party.

The presentment was read, as follows:

DISTRICT OF COLUMBIA,
Criminal Court, March Term, 1858.

United States } Presentment returned by the grand
vs. John W. Wolcott. } jury, in the following form, viz:
District of Columbia, County of Washington, to wit:

The jurors of the United States for the county aforesaid do, upon their oath, present John W. Wolcott for failing and refusing to answer questions propounded to him by order of the House of Representatives, through one of their investigating committees, as required by the act of Congress entitled "An act more effectually to enforce the attendance of witnesses," &c., &c., approved January 24, 1857, on or about the 27th of February, 1858, on the evidence of Benjamin Stanton, a member of the House of Representatives of the United States.

Attest: J. A. SMITH, Clerk.

Mr. STEPHENS, of Georgia. This resolution that I submit provides for the discharge of this witness by the Sergeant-at-Arms. I ask that, for further information, the letter from his counsel be read.

The letter was read, as follows:

March 6, 1858.

MY DEAR SIR: I send you a copy of the presentment found by the grand jury in your case. In order to expedite the matter, I proposed to the district attorney to try you on that; but both he and Judge Crawford are of opinion that you cannot be brought out for trial. Their understanding of the case is that as you are committed by order of the House, you cannot be brought before the criminal court so long as that commitment is in full vigor.

It is complicating the matter more and more, and the effect is that the House imprisons you for an imputed contempt, and certifies that fact to the district attorney. The district attorney brings it to the notice of the grand jury. The grand jury charge you with a misdemeanor under the act, and the court declines to try you because it cannot take you into its custody. There must be a remedy somewhere.

Yours, respectfully,
J. W. Wolcott, Esq.

JOS. H. BRADLEY.

Mr. STEPHENS, of Georgia. From what has been read, it must be clear to the House that, this person being in the custody of the Sergeant-at-Arms for a violation of the privileges of the House, this is a question of privilege, and as such I present it to the House. I do not desire to discuss the subject at all, and move the previous question.

Mr. PURVIANCE. I ask the gentleman from Georgia whether it would not be as well to withhold offering his resolution for the present until

the members of the committee which has charge of this subject are in attendance. I believe the chairman is not now in his seat. I will further state, for the information of the gentleman from Georgia, that I believe it is the intention of that committee to offer a similar resolution to-day; and I think it would be better for it to come from the committee. I hope, therefore, the gentleman from Georgia will withdraw his resolution.

Mr. STEPHENS, of Georgia. I cannot withdraw it, because it is my duty to present it.

Mr. LETCHER. Has the Chair decided that this is a privileged question?

The SPEAKER. The point has not been raised.

Mr. LETCHER. I object to the introduction of the resolution.

Mr. STEPHENS, of Georgia. I present it as involving the question of privilege. The party is in prison for a violation of the privileges of the House, and it is clear to my mind that this is a question of privilege.

Mr. HOUSTON. May I ask the question whether the committee has made its report, or whether it is likely to do so very soon? I shall object to handing over or discharging this witness until the committee shall have reported to the House and been discharged.

Mr. STANTON. I do not wish to make any objection on the ground of a question of order, or to raise the point of its being or not being a question of privilege. If it be the pleasure of the House to discharge the witness, I certainly shall not interpose any technical objection to prevent his discharge.

The SPEAKER. The Chair is of opinion that the resolution involves a question of privilege.

Mr. LETCHER. As I understand questions of privilege, they relate to the members of this House. Now, I do not understand that Mr. Wolcott has any privilege here at all; and, if he has not, I do not understand how this can be a question of privilege.

The SPEAKER. The witness is under the execution of the sentence of the House. The order of the House has not been executed. It is being executed. The witness is imprisoned because of a breach of the privilege of the House, inasmuch as he was adjudged to be guilty of a contempt of the House in refusing to answer a proper and pertinent question propounded to him by one of the committees of the House. The matter came before the House as a question of privilege. He was imprisoned by virtue of the order of the House arising out of that question of privilege; and the Chair is of opinion that the resolution presented, under the circumstances, involves a question of privilege.

Mr. LETCHER. The order of the House, as I understand it, was in consequence of a law upon your statute-book; and he was imprisoned for violating that law. That was the offense for which the House sent him to jail.

Mr. SEWARD. The rule was applied strictly to me last week; and I must object to all debate.

Mr. LETCHER. Let us wait until the committee have made their report, and then he may be handed over to the court.

Mr. STEPHENS, of Georgia. I call for the previous question upon the resolution.

Mr. PHILLIPS. Will the gentleman from Georgia allow me to have read a substitute for his resolution. It provides merely for suspending the order of the House. I desire to accomplish the same object as the gentleman.

The substitute was read, as follows:

Whereas, under the order of the House, of the 15th day of February last, the Sergeant-at-Arms did commit to the jail of the District of Columbia one John W. Wolcott, for a contempt of the authority of this House, and said Wolcott is still kept in custody under said order; and whereas, the grand jury of the criminal court of the District of Columbia has found, as a true bill, an indictment against said Wolcott, for a violation of the provisions of the act of Congress, passed January 24, 1857, relating to witnesses, arising from the same transaction for which he is now in custody: Therefore,

Resolved, That the further execution of the order of this House in relation to said Wolcott be suspended until said indictment be disposed of; and that the Sergeant-at-Arms be directed to hand over to the authority of the district court for action under said indictment, and upon the termination of the proceedings under said indictment, the Sergeant-at-Arms keep him as directed under the order of February 15th last.

Mr. PHILLIPS. I would suggest that this

merely provides for suspending the execution of the order of the House, as the witness has in no manner purged himself of the contempt committed against the House. And it leaves it in the full control of the House whenever it sees fit to act upon it.

Mr. LEITER. Is debate in order? If it is, I propose to call the previous question.

Mr. HOUSTON. I move to lay the resolution on the table.

Mr. STANTON. I hope the gentleman from Alabama will withdraw that motion for a moment, and that the previous question will also be withdrawn. The select committee on this subject, at whose instance Mr. Wolcott was imprisoned, wish to make an explanation, and I think it is due to them that they should have a few minutes to explain.

Mr. STEPHENS, of Georgia. I will accept the resolution proposed by the gentleman from Pennsylvania, [Mr. PHILLIPS,] as a substitute for my own; and I demand the previous question upon it.

Mr. STANTON. I desire to inquire if I understand the resolution of the gentleman from Pennsylvania as he does?

Mr. HOUSTON. If the gentleman from Georgia accepts the amendment of the gentleman from Pennsylvania I will withdraw the motion to lay on the table.

Mr. JONES, of Tennessee. If the gentleman from Alabama withdraws the motion to lay on the table, I will renew that motion. I think Mr. Wolcott was wrongfully imprisoned by order of the House. I will vote for the resolution of the gentleman from Georgia to hand him over to the authority of the court, and there leave him; but I will not vote to retain him longer in the custody of the Sergeant-at-Arms.

Mr. HOUSTON. Is debate in order?

Mr. STANTON. If the House will allow me, I wish to say a word or two. The committee expect to close the evidence in this investigation in the course of the present week. The view of the matter taken by them was, that while the trial was in progress, and before the evidence was closed, it would certainly be improper to discharge Mr. Wolcott so long as he refuses to testify. After we have closed the taking of testimony in the case—perhaps during the present week—we proposed to report a resolution handing him over to the judicial authorities for trial. It would certainly be improper to discharge him during the trial, and thus deprive us of any possibility of obtaining his testimony, and allowing him, by going at large on bail, perhaps to frustrate the object we desire to accomplish.

Mr. STEPHENS, of Georgia. I will state to the House that the extreme indisposition of the wife of Mr. Wolcott is the reason why I think the House should act upon the resolution I have offered, and pass it speedily.

Mr. STANTON. I will state to the gentleman from Georgia that a messenger of the committee has been in Boston recently, and from the information we have, there is no serious indisposition on the part of Mr. Wolcott's wife. However, Mr. Speaker, it is perfectly clear that it comes with a bad grace from a witness who might at any moment purge himself from contempt by answering the questions propounded to him, to appeal to the humanity of the House to postpone action upon this matter.

Mr. SEWARD. I object to further debate.

Mr. STEPHENS, of Georgia. I have a word in reply to the gentleman from Ohio.

Mr. SEWARD. I withdraw my objection for a reply, and for nothing else.

Mr. STEPHENS, of Georgia. The information which I have received may be wrong, but it is such as I believe. I do not know to whom the gentleman alludes, to what messenger of the committee, but the information that the wife of this gentleman is really ill is such as I believe.

Mr. STANTON. I dislike the resolution of the gentleman from Pennsylvania. It occurs to me that when the witness is once discharged from the custody of the House, it is improper to remand him; that we ought to hold him so long as we think the purposes of justice require, until the contempt of the House is purged, and the object of the investigation is answered. Then we may discharge him finally.

The SPEAKER. The gentleman from Georgia objects to debate.

Mr. JONES, of Tennessee. I renew the motion to lay upon the table.

Mr. HOUSTON. Is it in order to move to postpone the whole subject for a week?

The SPEAKER. Not pending the motion to lay upon the table, or the demand for the previous question.

Mr. HOUSTON. If the gentleman from Tennessee withdraws his motion to lay upon the table, will it be in order then?

The SPEAKER. Not pending the call for the previous question.

Mr. STEPHENS, of Georgia. At the request of friends I adhere to my original preamble and resolution, and give way for the gentleman from Pennsylvania to offer his resolution as an amendment.

Mr. PHILLIPS submitted his resolution as a substitute.

Mr. STEPHENS, of Georgia, called for the previous question.

Mr. HUGHES. In order that every phase of this question may be presented to the House, I hope the gentleman from Georgia will consent that I may offer, as an amendment to the amendment, the resolution I sent to the Clerk's desk the other day.

Mr. STEPHENS, of Georgia. I will hear the gentleman's resolution.

The SPEAKER. Will the gentleman send it to the Clerk's desk?

Mr. HUGHES. I will draw it up in a moment.

Mr. NICHOLS. Was not the previous question called?

The SPEAKER. It was.

Mr. NICHOLS. Then I object.

Mr. STANTON. I move that the resolution and substitute be laid upon the table.

Mr. CLEMENS. I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 59, nays 123; as follows:

YEAS—Messrs. Ahl, Bliss, Branch, Cobb, Cox, Crawford, Darnell, Davis of Maryland, Davis of Indiana, Eustis, Foster, Harlan, J. Morrison Harris, Hawkins, Hickman, Hoard, Hopkins, Houston, Howard, Huyler, Jenkins, Owen Jones, Kellogg, Kilgore, John C. Kunkel, Leach, Leidy, Letcher, Lovejoy, McQueen, Miles, Montgomery, Isaac N. Morris, Mott, Parker, Pettit, Phelps, Potter, Pottle, Powell, Reagan, Ricard, Ruffin, Russell, Sandidge, Aaron Shaw, Judson W. Sherman, Singleton, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, Miles Taylor, Thayer, Walton, White, Wortendyke, and Augustus R. Wright—59.

NAYS—Messrs. Abbott, Adrain, Anderson, Andrews, Atkins, Avery, Bennett, Billingshurst, Bingham, Bishop, Boock, Bonham, Bowie, Brayton, Bufinton, Burlingame, Burnett, Campbell, Case, Claflin, Ezra Clark, John B. Clark, Clawson, Clay, Clemens, Clingman, John Cochran, Cockerill, Colfax, Comins, Corning, Covode, James Craig, Burton Craige, Curry, Curtis, Davidson, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Edie, English, Farnsworth, Gooch, Goodwin, Granger, Greenwood, Grow, Lawrence W. Hall, Robert B. Hall, Hatch, Horton, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelsey, Knapp, Lamar, Landy, Leiter, MacLay, Mason, Maynard, Milson, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Nichols, Olin, Pendleton, Phillips, Pike, Purviance, Quitman, Ready, Ritchie, Robbins, Roberts, Royce, Savage, Seales, Searing, Seward, Henry M. Shaw, John Sherman, Samuel A. Smith, William Smith, Stephens, Stevenson, Talbot, Tappan, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Warren, Ellihu B. Washburne, Israel Washburne, Watkins, Whiteley, Wilson, Wood, Woodson, and Zolliecoffer—123.

So the House refused to lay the resolution and substitute upon the table.

Pending the above call,

Mr. McQUEEN stated that Mr. TRIPPE was detained at his lodgings by sickness.

Mr. FENTON stated that he had paired off with his colleague, Mr. KELLY.

Mr. FLORENCE stated that he was absent when his name was called, and asked leave to vote.

Objection was made.

The SPEAKER. The gentleman from Indiana [Mr. HUGHES] has sent up the following amendment to the amendment:

Whereas, it does not appear by the record of the proceedings in the case of John W. Wolcott, a witness now in custody for alleged contempt of the House, that he was imprisoned for refusing to testify in a matter in which the House had jurisdiction and power to enforce the testimony of witnesses by attachment for contempt: Therefore,

Resolved, That the said John W. Wolcott be, and he is hereby, discharged from custody.

Mr. STEPHENS, of Georgia. I have no objection to allow the gentleman to offer that as an amendment, and I withdraw the previous question, and yield the floor to him for that purpose.

Mr. HUGHES. I submit it, then, as an amendment to the substitute.

Mr. STEPHENS, of Georgia. I renew the call for the previous question.

Mr. STANTON. I should like to know how the gentleman gets the floor again in preference to all others to renew the call for the previous question. If the gentleman yields the floor to the gentleman from Indiana, to offer his amendment, I suppose anybody is entitled to the floor who can get it.

Mr. HUGHES. I presume that I have the floor, as I submitted the amendment.

The SPEAKER. Nobody sought the floor but the gentleman from Georgia.

Mr. STANTON. I do not understand that the gentleman from Indiana yielded the floor.

The SPEAKER. The gentleman from Georgia yielded the floor to the gentleman from Indiana to submit his proposition.

Mr. STANTON. My point is this: the gentleman from Indiana having obtained the floor, for the purpose of offering an amendment, he is entitled to it absolutely; and that, to renew the call for the previous question, the gentleman from Georgia must get the floor *de novo*. I do not understand that the gentleman from Indiana has surrendered the floor.

The SPEAKER. The Chair did not understand that the gentleman from Indiana had the floor.

Mr. STANTON. He must have had it to submit his amendment.

The SPEAKER. If objection had been made, the gentleman from Georgia had no right to surrender the floor to the gentleman from Indiana to submit his amendment; but there was no objection.

Mr. HUGHES. If I had retained the floor, I would have renewed the call for the previous question.

The SPEAKER. The Chair understood, too, that the gentleman from Georgia retained the floor all the time.

Mr. STEPHENS, of Georgia. Certainly.

Mr. HUGHES. I ask that the question be divided—taken separately on the preamble and resolutions.

The SPEAKER. That is always done.

The previous question was seconded, and the main question ordered.

Mr. CAMPBELL. Do I understand that we are brought to a direct vote upon the proposition of the gentleman from Indiana?

The SPEAKER. The first question will be upon the amendment of the gentleman from Indiana.

Mr. CAMPBELL. That, I understand, was accepted by the gentleman from Georgia.

The SPEAKER. The gentleman from Georgia permitted it to be offered, that the House might vote upon it, stating that he did not accept it.

Mr. STANTON. Are there two substitutes pending?

The SPEAKER. There is a substitute and an amendment to the substitute pending.

Mr. STEWART, of Maryland. I understand the Chair to have decided this to be a privileged question.

The SPEAKER. The Chair did so decide.

Mr. STEWART, of Maryland. Would it not be in order to take up any single one of these propositions at any future time?

The SPEAKER. In the opinion of the Chair, it would, as a question of privilege.

Mr. HUGHES. I wish to put a question to the Chair. Is there any better time to dispose of this question than the present?

Mr. JOHN COCHRANE. Does the gentleman want a categorical answer?

The SPEAKER. The Chair thinks it might be postponed a month or two very well.

Mr. DAVIS, of Maryland. I call for the yeas and nays upon the amendment. All the propositions amount to the same thing, and I want the yeas and nays here.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 22, nays 161; as follows:

YEAS—Messrs. Bennett, Bliss, Bowie, Campbell, Claflin,

fee, Cockerill, Covode, Burton Craige, Grow, Lawrence W. Hall, Hughes, Jewett, George W. Jones, Leiter, Maynard, Quitman, Royce, Henry M. Shaw, Tappan, George Taylor, Thompson, and Walbridge—22.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Atkins, Avery, Barksdale, Billingshurst, Bingham, Bishop, Blair, Bonham, Boyce, Branch, Brayton, Bryan, Bufinton, Burlingame, Burnett, Burns, Case, Ezra Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochran, Colfax, Comins, Corning, Cox, Cragin, James Craig, Crawford, Curtis, Darnell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dodd, Dowdell, Durfee, English, Eustis, Farnsworth, Florence, Foley, Foster, Garrett, Gartrell, Giddings, Gillis, Gilman, Gimer, Gooch, Goode, Granger, Greenwood, Robert B. Hall, Harlan, J. Morrison Harris, Haskin, Hatch, Hawkins, Hickman, Hill, Hoard, Hopkins, Horton, Houston, Huyler, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kilgore, Knapp, John C. Kunkel, Landy, Lawrence, Leach, Leidy, Letcher, Lovejoy, MacLay, McQueen, Samuel S. Marshall, Mason, Miles, Milson, Montgomery, Moore, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Parker, Pettit, Phillips, Pike, Potter, Pottle, Powell, Purviance, Ready, Reagan, Ritchie, Robbins, Roberts, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, Talbot, Miles Taylor, Thayer, Tompkins, Underwood, Wade, Waldron, Walton, Ward, Ellihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Wilson, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, and Zolliecoffer—161.

So the amendment was not agreed to.

Pending the call of the roll,

Mr. SEWARD said: The House has decided this question, and it has been acted upon. I want the decisions to be uniform, and although I objected to the jurisdiction in the first place, I shall, for the reason I have stated, vote "no."

Mr. UNDERWOOD. I concur in a very great degree, in the facts stated in the preamble and resolution; but understanding that the courts of the District have taken jurisdiction of the case, and believing that it is better to let the matter have a judicial investigation, I shall vote "no."

Mr. BLISS. I wish to state that I am opposed to this resolution; but, at the same time, I prefer to vote for it rather than to put ourselves in the custody of any court whatever to guard ourselves or to guard our rights; I therefore will change my vote, and vote in the affirmative.

The result was then announced as above recorded.

The question recurred upon the substitute for the original resolution.

Mr. THOMPSON. I wish to inquire what the effect of that substitute will be? I understand that the original resolution says, that the court declines to try this gentleman, upon the ground that he is held in custody by the House. Now, sir, the substitute proposes simply to elongate the chain, and swing him out into the possession of the court.

Mr. EDIE. Is debate in order?

The SPEAKER. It is not.

Mr. HOUSTON. I object to debate, then.

Mr. THOMPSON. Then I call for the reading of the substitute.

Mr. STEPHENS, of Georgia. First read the original resolution and then the substitute, and then the House will understand the difference; and I hope they will vote down the substitute and adopt the original resolution.

The resolution and substitute were read.

Mr. STANTON. I rise to another question of privilege. I desire to state to the House that Mr. Wolcott's attorney is upon the floor of the House, in violation of the rules of the House—a man who is himself proved to have received \$4,000 of this money to assist in the passage of the tariff act—and members are running to him every moment for instructions as to what vote they shall give. I move that the Doorkeeper enforce the rules of the House, and show him the door.

The SPEAKER. The Doorkeeper will enforce the rules of the House; and close the doors upon all persons not entitled to admission.

Mr. HUGHES. I rise to a question of privilege. I understand the gentleman from Ohio to say that members upon this floor were going to the attorney of this party for instructions how to vote.

The SPEAKER. The Chair has entertained one question of privilege already; and another cannot be entertained until the first one is disposed of.

Mr. HUGHES. I want the gentleman to specify what members he refers to.

The SPEAKER. Debate is not in order.

Mr. HUGHES. Is it in order to move to lay the substitute on the table?

The SPEAKER. It is.

Mr. HUGHES. I make that motion.

Mr. KUNKEL, of Pennsylvania. I move to lay both resolutions on the table.

The SPEAKER. That is the effect of the motion of the gentleman from Indiana. If the substitute be laid on the table, it carries the original resolution with it.

The House refused to lay the substitute on the table; there being on a division—ayes 57, noes 87.

The question was taken on the adoption of the substitute; and it was not agreed to.

The question recurred on Mr. STEPHENS's resolution.

Mr. COBB called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 125, nays 67; as follows:

YEAS—Messrs. Abbott, Adran, Ahl, Anderson, Andrews, Atkins, Avery, Barksdale, Bennett, Bishop, Blair, Bockock, Bowie, Boyce, Brayton, Bryan, Bufanton, Burlingame, Burnett, Burns, Campbell, Case, Chaffee, Clawson, Clay, Clemens, John Cochrane, Cockrell, Colfax, Comins, Corning, Covode, Cragin, James Craig, Curry, Curtis, Davidson, Davis of Massachusetts, Davis of Iowa, Daves, Dewart, Dodd, Dowdell, Edie, English, Florence, Foley, Garnett, Garrett, Giddings, Gillis, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Hatch, Hill, Horton, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Kellogg, Kelsey, Knapp, Lamar, Landy, Lawrence, Leidy, Leiter, McClay, Samuel S. Marshall, Mason, Maynard, Miller, Milson, Moore, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Nichols, Pettit, Peyton, Phillips, Pike, Purviance, Quitman, Ready, Ritchie, Robbins, Roberts, Royce, Savage, Seafes, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Tappan, George Taylor, Thompson, Underwood, Walbridge, Waldron, Wade, Watkins, White, Wood, Woodson, John V. Wright, and Zollieffler—125.

NAYS—Messrs. Billingshurst, Bingham, Bliss, Bonham, Branch, Ezra Clark, Horace F. Clark, John B. Clark, Clingman, Cobb, Cox, Crawford, Danrell, Davis of Maryland, Davis of Indiana, Dean, Durfee, Edmundson, Eustis, Farnsworth, Foster, Goode, Greenwood, Harlan, J. Morrison Harris, Haskin, Hiekinan, Hoard, Hopkins, Houston, Howard, Jenkins, John C. Kunkel, Leach, Letcher, Lovejoy, McQueen, Miles, Montgomery, Isaac N. Morris, Mott, Olin, Parker, Potter, Potie, Powell, Reagan, Ricaud, Ruffin, Russell, Sandidge, Singleton, Spinner, Stanton, Stevenson, James A. Stewart, Talbot, Miles Taylor, Thayer, Tompkins, Wade, Walton, Warren, Ellihu B. Washburne, Winslow, Wortendyke, and Augustus R. Wright—67.

So the resolution was agreed to.

Mr. STEPHENS, of Georgia, moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The question recurred on the preamble.

Mr. STANTON. I would suggest to the gentleman from Georgia that there may be a difficulty in this matter, as there is now no marshal of the District.

Mr. STEPHENS, of Georgia. I would say to the gentleman that the Sergeant-at-Arms will of course deliver the witness to nobody but the marshal.

Mr. LETCHER. Well, there is no marshal to deliver him to.

Mr. STEPHENS, of Georgia. Well, the nomination of marshal is before the Senate, and I suppose they will reject or affirm it. That is not our business.

The question was taken on the preamble; and it was agreed to.

ORSAMUS B. MATTESON.

Mr. SEWARD. I rise to a question of privilege. The special committee to which was referred the resolution affecting the right of the gentleman from New York [Mr. MATTESON] to hold his seat, has directed me to report. I desire to present that report now, together with a statement made by the gentleman from New York; and I understand there will be also a minority report presented. I ask to have all these papers printed, and to have the matter made a special order for some day in the future—say next Wednesday or Friday.

Several MEMBERS. Say Saturday.

Mr. GROW. Is it understood that the papers which accompany the report will be printed?

The SPEAKER. Yes; and the views of the minority.

Mr. GROW. There is no minority report.

The SPEAKER. The Chair is informed by the gentleman from Georgia that there is

Mr. CURTIS. I submit the views of the minority.

The report and accompanying papers were ordered to be printed, and the subject was postponed till Saturday next.

DEFICIENCY BILL.

Mr. STEPHENS, of Georgia. If agreeable to the House, I will now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. The gentleman from Virginia [Mr. GARNETT] has the floor; and I understand that the gentleman from Connecticut [Mr. BISHOP] has to leave town this evening, and is anxious to speak before he leaves.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Bockock in the chair,) and resumed the consideration of House bill No. 306, to supply deficiencies in the appropriation for the service of the fiscal year ending the 30th of June, 1858, upon which Mr. GARNETT was entitled to the floor.

Mr. GARNETT. I am well aware, Mr. Chairman, that to address the House on the Kansas question at this period of the debate is

"as a twice-told tale,

Vexing the dull ear of a drowsy man."

And yet, sir, I am constrained by the importance of the question to give utterance to my earnest convictions of the consequences involved in the true issue presented for our decision. To recognize the existence of a new sovereignty amongst the Powers and principalities of earth, and to admit it as one of the allied members of the Federal Union, is always a momentous act. Yet, so accustomed are we to the noble spectacle of the birth of another republic, and its addition to our system, that we usually pass it by almost unnoticed. It excites no more emotion than the announcement, year by year, from the astronomers, that a new planet or asteroid has been found wheeling in its appointed course through the heavens, according to the same laws that govern and guide the elder luminaries. Even at this time, three new States, crowned with the emblems of sovereignty, appear at our door, and demand seats at our council-board—Minnesota and Oregon and Kansas. The Roman general boasted that he had but to stamp on the ground, and armed legions would spring up at his command. With greater truth might we say, that the footstep of the American pioneer is no sooner heard upon the wilderness, than a sovereign republic springs into being around him; and he erects empires to mark the successive stages of his dauntless march.

One republic on the headwaters of the Mississippi, and another on the shores of the Pacific, ask admission, and no word of objection has been heard from any quarter. Why, sir, is Kansas alone singled out for opposition? Disguise it as you may, gentlemen; deceive yourselves, or deceive others, with specious pretexts and technicalities; there can be but one answer from any straightforward, plain-minded, disinterested man—the true reason of opposition to the admission of Kansas is, that her constitution recognizes African slavery, while the constitutions of the other two new States prohibit it. The existence and recognition of slavery in Kansas is the very core of your opposition; this alone supports and gives it vitality. Gentlemen may talk about irregularities as much as they please; they may tell me that they object to Kansas because there was no enabling act—I demand of them, why do they not object to Oregon? What enabling act does she come under? Why have they not objected to the many States that have heretofore been admitted into the Union without enabling acts?

I grant that the regular course is for Congress to withdraw the Federal jurisdiction, so as to enable the people of the Territory to form a State government; but such a procedure—commonly called an enabling act—is not always pursued, nor is it essential; for Congress is competent to waive the objection, as it has frequently done. It is immaterial for the argument whether the Nebraska-Kansas bill was an enabling act or not, in the present case. That bill organized a government in Kansas, with all rightful powers of legislation not inconsistent with the Constitution of the United States. The validity of that government, and of its acts, has been recognized in every possible

way. A Delegate, elected under its authority, admitted on this floor. The obligation of contract, the tenure of property, the protection of life and limb, the sanctity of marriage, all depend for their guarantees and remedies upon the authority of this government. In every act of daily life, Democrats and Black Republicans alike have recognized this government as the only government *de facto* now existing in Kansas, or that has existed there since 1854.

Well, sir, the people of Kansas, acting in the only way a people can act, as a political community, through the forms and by the voice of the actually organized and recognized government, called a convention to make a State constitution. That convention was elected; it met, made and adopted a constitution; and, then, in reference to one article, submitted an alternative proposition to the popular vote. Could any procedure be more regular? Its result comes here as the act and deed of the people of Kansas, speaking through the only political organism by which they are a people at all, and acting by authority of the Government *de facto*, the only Government known to them at the time. Governor Walker and Mr. Stanton, themselves, the new lights of the Black Republican party, admitted that all was fair and legitimate up to the meeting of that body. But then you object that the convention did not submit the constitution to a popular vote, which you contend was necessary to its validity, and you bring up all kinds of loose, outside evidence to show that a majority of the inhabitants are against it. If so, why did they not say so at the polls? Why did they elect a Legislature that called a convention? Why, when that Legislature had positively refused to insert in the act that called it a provision requiring the constitution to be submitted to a popular vote, why, then, did they not reject that act at the polls? It was submitted to their vote; they had the opportunity to reject it; but fully knowing that it contained no limitation on the powers of the convention, they yet approved it. Why, next, did they not elect such a convention as would submit the constitution to the popular vote? Sir, they had every opportunity, and they neglected to use them, either because they really were in a minority, or because they belonged to the factious party which was in open rebellion against our laws, and which desired to perpetuate the agitation and anarchy on which they thrive. In neither light are they entitled to any consideration at our hands. We cannot listen to those who refuse to take their lawful part as citizens, and still less to men who come in rebellion—Beecher rifles in their hands, and treason and murder in their hearts. We can only know the will of a people, that is, of a body politic, by its lawful acts. Lawful and orderly government is at an end if we depart from legitimate forms of ascertaining the sense of the people, and those forms give every facility to the citizen to exercise his just share of influence. Depart from them, and you have the rule of the mob, not of the people.

But I am told that one of these forms, established by a *natural right*—by a sort of higher law—is, that the constitution shall be submitted to the popular vote, and ratified by the numerical majority, and this, even when the people have refused thus to limit the power of the convention. I deny it. Sir, the sovereign people may act, when they choose, in their highest political capacity, through a convention; and I deny that they are bound thus to restrict their own authority. On what grounds do gentlemen base such an assumption? Surely not on precedent, for that is decidedly against them. Many of the present State constitutions, and all of the Old Thirteen—those standards of republican government and practice—never were submitted to a popular vote. The Federal Constitution itself, which, to the extent of its powers, is the constitution of each several State, was never submitted to a popular vote; it was adopted and ratified by the people of each several State, acting through a convention. As the gentleman from Pennsylvania [Mr. MONTGOMERY] said, the other day, quoting from Webster:

"When ratified by the people, then it had a voice, a *de facto* authenticity. Every word in it had received the sanction of the popular will, and was to be received as the expression of that will."

Thus his own authority identified the people

and the convention, and accepts the latter as an authentic and final expression of the will of the former.

Mr. Chairman, this assumed necessity of submitting a constitution, in all cases, to a popular vote, rests in a radical misconception of the true nature of popular government; it rests upon the idea that the true sense of the people can only be ascertained by the numerical majority of the aggregate inhabitants; that a *people* does not mean an organized political community, but the mere residents within certain geographical boundaries, and even then only their numerical majority. On the contrary, sir, I assert that the mere majority of numbers is one of the least authentic means of ascertaining the sense of the people. It is only when you allow to all the diverse interests and sections of the community a fair representation, and a controlling voice in their own protection, that you have truly an expression of the will of the people; then only is the *vox populi* indeed the *vox dei*. Frequently it may be expedient to submit a constitution, adopted by the people in convention, to a ratification by the numerical majority at the polls. It may be well to do so, where the interests of the sections and classes are nearly identical, and where the people are intelligent, harmonious, law-abiding, orderly, and peaceful. But suppose a State, torn by civil dissensions, where there can be no election without grave charges of fraud and violence; suppose factious men expelling the registers of voters and the commissioners of elections, and refusing to vote, in order to make a pretext for anarchy; suppose an armed rebellion against law, and an organized war upon the property of a portion of the citizens; suppose, in one word, the very case existing in Kansas: and I ask you, shall we submit to the rebels the constitution whose very object is to restrain their disorders, especially when they have refused to use the abundant opportunities of participating in its formation? The government of the majority of mere numbers is the *absolute* form of popular government: unlimited and unrestrained, it is as truly a despotism as can be the government of one man; and it is more oppressive, because stronger. A constitution imposes these limits and restraints. Its primary purpose is to protect the minority, the weak against the strong; and there may be, and are, cases where it is neither expedient nor just for a majority, which has given evidence of its disposition to oppress and plunder, to determine the measure of that protection. Both parties, the weaker as well as the stronger, have a right to a voice in making that compact; and both parties had it in the calling and election of this convention.

I cannot, therefore, attach any importance to such objections—either to the want of an enabling act, or to the loose and irresponsible assertions that there is a numerical majority opposed to this constitution, or to the fact that the convention did not submit it to another vote. Nor, sir, can I think that the real motives of the Opposition are to be found in any of their objections. Oregon has formed a constitution without any enabling act; and yet these same gentlemen who oppose Kansas will vote to admit Oregon. It is doubtful whether the constitution of Minnesota was adopted by a convention at all; and though it was nominally submitted to the popular vote, yet nobody was allowed to vote who did not also vote for State officers. But the Opposition make no objection there. Kansas, and Kansas only, excites their hostility, and the burden of their song is the existence of slavery there. And, in the same breath, they tell me that there are very few slaves in Kansas; that slavery can never go there; that climate and isothermal lines exclude it; that it is not a practical question; and they ask me why force such an abstraction upon them? It is only a principle involved, and that is all they care for. Yes, sir, and that is what we care for; we, too, know the inestimable worth of a principle! The more you assert that there is no practical advantage to be gained by the slaveholding States, the more odious becomes your opposition; the more plainly do you avow your fixed determination never to admit another State that is actually slaveholding, when you thus bitterly resist one which you tell us is slaveholding only in theory. I agree fully and entirely that the principle is involved and the issue fairly raised, perhaps the more fairly, because you assert it is not practi-

cal. And that you may not escape or conceal the true issue, I mean to show, from the constitution of Kansas, how completely the legal question is raised, and how every guarantee and protection that could be devised is given to the slave property, which, however small, now actually exists in the Territory.

First, sir, slavery is there at this moment as an existing fact. The slaves may be few in number. Perhaps so. Yet there they are, under the authority of the Constitution of the United States; and while this Kansas constitution endures, they cannot be emancipated without the consent of the owners; and while they are there, the Legislature cannot prohibit the introduction of others. Let us read part of clause two, of article seven, of the constitution:

"The Legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners, previous to their emancipation, a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to the State from bringing with them such persons as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State."

You see the power to emancipate is denied, except upon a double condition—compensation and consent of owners. Both are necessary. The power to emancipate with consent is a matter of course, especially as a subsequent clause gives the Legislature a power to pass laws to permit owners to emancipate. It would be unmeaning and superfluous, except as coupled with the power to emancipate upon compensation, which it explains, defines, and limits. This is made still clearer by other clauses. Thus, the preceding clause asserts that the right to slave property is sacred, and higher than constitutional sanctions. How inconsistent with this it would be if the Legislature could emancipate, that is, divest, property, without the owner's consent. In another place, it is even declared that "no alteration [in the constitution] shall be made to affect the rights of property in the ownership of slaves." Again, the bill of rights copies the Federal Constitution in declaring that no man shall be deprived of his property except by due course of law. The Supreme Court, in the *Dred Scott* case, says of this provision:

"An act of Congress which deprives a citizen of the United States of his liberty or property, merely because he came himself, or brought his property, into a particular Territory of the United States, and who had committed no offense against the laws, could hardly be dignified with the name of due process of law."

But, sir, if this clause in the Federal Constitution forbids emancipation by Congress in the Territories under its jurisdiction, equally does the like clause in the constitution of Kansas forbid emancipation by the Legislature there. Sir, any other construction would have this strange result, that slave property in Kansas might have been more secure had this slavery article been struck out than with it in. For in the former event, it was expressly provided that "the right of property in slaves now in this Territory shall in no manner be interfered with;" no, neither with nor without compensation.

But the constitutional guarantees of slavery do not stop even here. The constitution itself cannot, in my judgment, be lawfully changed until 1864. It was seen that the property of a part of the citizens was peculiarly exposed to the assaults of the lawless fanatics who had so long been waging war against the Government. It was known that in a new State there is especial danger of hasty change and rash innovation in the forms of government; and by a wise foresight, as I deem it, the constitution secures a fair trial for the government it erects, and a reasonable stability for organic institutions and fundamental laws, by forbidding change for six years. I know, sir, that this has been denied; and it is asserted that the people of Kansas have a natural right to abolish their government at pleasure, and that this right they have asserted in the bill of rights, by declaring:

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit, and, therefore, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

Mr. Chairman, I heartily subscribe to this declaration; but it asserts a natural right—a right of

revolution, which, like all other natural rights, belongs to the people individually, to be exercised in extreme cases on individual responsibility, and not to the people as an organized political community or State. Sir, this point has been so well treated by Mr. Calhoun, in a letter addressed to my colleague, [Hon. WILLIAM SMITH,] that you will excuse me for adopting his words, so much better than any I could offer.

"With this answer to your second question, I shall now proceed to reply to your third. It is in the following words: 'After a State has been admitted into the Union, has the numerical majority of the people of such State the right to alter or abolish the constitution, regardless of the mode prescribed for its amendment, if any; and where there is none, of the refusal or assent of such State?'

"I answer—no; neither after nor before admission. If the right exists at all, it must be either a natural or acquired right. It cannot be the former; because all such rights belong to man in what is called the state of nature—that is, in the state which is supposed to precede the existence of government, or what is called the political state. Although the human race cannot exist without society, nor society without government, yet, in the order of things, man must have existed before society, and society before government. And hence it has not been unusual for elementary writers on morals and politics, in treating of the rights and duties of man, to regard him in each of these states. In his natural state, he is considered simply as an individual, with no superior; and his rights and duties are deduced from those faculties and endowments, physical, intellectual, and moral, which are common to the race. Regarded in this state, all are equal in rights. In it, each individual is the sole master of his own actions; and there are neither majorities nor minorities, nor the rights of majorities and minorities. In the other, or political state, he ceases to be regarded in this isolated and independent character, and is viewed as a member of a body-politic, or a State; that is, a society organized under a government, which represents its sovereign will, and through which it acts. It is in this state, and this only, that majorities and minorities are known, or have, as such, any rights. Whatever rights they possess, are political rights—the whole class of which are acquired—and are called conventional; that is, rights derived from agreement or compact, expressed or implied. How absurd, then, is it, to suppose the right of a majority to alter or abolish the constitution is a natural right—a right belonging to man regarded as existing in a state of nature—when, in that state, majorities and minorities are unknown."

"If, then, the right of the majority exist at all, it must be as a conventional right; and fortunately for the decision of the question, if it really exists in that character in our system, there will be no difficulty in finding it. The provident foresight of our ancestors has not left to conjecture or implication, in whom the right to abolish constitutions, or forms of government, resides; or how, for the most part, it is to be exercised. In every case (including the Federal Constitution) except New Jersey and Virginia—and recently Rhode Island—the authority by which it is to be exercised, and in what manner, is designated in the constitutions themselves."

"Now, as the right, if it exists at all, must exist as a conventional right—that is, a right founded on express agreement or compact, or, in the absence of such an one, implied, it follows, from the statement, that it does not exist by express agreement or compact, in any of the cases where provision is made for amending the constitution; nor can it exist by implication, in any State, unless in the only two where constitutions make no provisions on the subject."

"Why was it not left to the discretion of Congress to add the State Legislatures, to call conventions, or propose amendments to the people for their ratification? It is not because the power of doing either was doubted, but because those who framed them, while they were too wise not to see that amendments would become necessary, were, at the same time, too deeply impressed with the danger of frequent changes in the fundamental law of a State, to permit amendments to be made with too much facility. 'To meet the one, it was necessary that they should be left open to amendments,' and to guard against the other, that restrictions should be imposed on the amending power; or, without them, the numerical majority of the Legislature might call conventions, or propose amendments at pleasure, to be adopted by a like majority of the people. The consequence would be, that constitutions might be changed with almost the same facility as ordinary acts of the Legislature. It is to restrain this facility, that in all cases, where the constitution provides for its amendment, it imposes restrictions on the power of amending, which would not otherwise exist."

"In denying, however, the right of the numerical majority, as such, to alter or abolish the constitution of a State, regardless of the forms prescribed, or where there are none, without the consent of the Government, I am far from denying that the people are the source of all power; and that their authority is paramount over all. But when political, and not natural rights are the subject, the people, as has been stated, are regarded as constituting a body-politic, or State, and not merely as so many individuals. It is only when so regarded that they possess any political rights. Viewed individually, as the elements of which the body-politic is formed, they possess none but natural rights. Taken in either light, the people may alter or abolish their constitution; but with this difference—that in the former they can only do so by acting according to the prescribed forms, where there are such, and when there are none, through the agency of its representative and organ, the government of the State; while in the latter they act individually, and on individual responsibility. The one is a political, and the other a natural right, or, as usually called in such cases, the right of revolution; and can be resorted to, rightfully, only where government has failed in the great objects for which it was ordained—the security and happiness of the people; and then only where no other remedy can be applied. In such cases, the individuals who compose the con-

munity rightfully resume their natural rights, which, however restricted or modified they may be in the political state, are never extinguished. But as a natural right, it is the right of individuals, and not that of majorities; although it may not be so safely and prudently exercised by one man, or a minority as a majority, it belongs to one as well as the other."

This admirable reasoning, Mr. Chairman, leaves us only to inquire, what mode has Kansas provided for the amendment of her constitution? The fourteenth section of the schedule answers:

"After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention; and, if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the Representatives. Said delegates, so elected, shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution; but no alteration shall be made to affect the rights of property in the ownership of slaves."

The time here named—after the year 1864—is as much a part of the prescribed mode of amending as the two-thirds vote, or any of the other conditions. It goes to the very essence of the provision, and wisely, I repeat, as a guarantee against rash and precipitate change. Suppose the clause had said that, whenever the Legislature think it necessary to amend, it may, at its regular session, by a two-thirds vote, call a convention; would it follow that, at an extra session, a mere majority vote might call a convention? Surely not; and neither does the power of two thirds to call a convention after 1864 imply the power of a majority only to call one before. The constitutional prescription of a particular mode of exercising a power precludes all other modes; in legal phrase, "*expressio unius, est exclusio alterius.*" This clause determines who shall amend—a convention; who shall call a convention—two thirds of the Legislature; and the time when—after 1864. It defines the entire amending power.

Sir, I go a step further. I say that even a convention cannot divest or destroy the rights of property in slaves already there. Provided it does not impair the security of that property, it may prohibit the future introduction of slaves, or any other species of property; but it cannot emancipate slaves already in the State. For I agree with the declaration of natural law in the Kansas constitution that—

"The right of property is before and higher than any constitutional sanction."

Yes, sir, property is not the creature of legislation; but it is coeval with government, with society, with man himself. It springs from those instincts and capacities with which man is endowed by his Creator, and which find their inevitable development in his social institutions—the power to love, which becomes real in the family and its relations. Property, in all its varieties and incidents, arises from the power and the wish to subdue the material world, to endow matter with the forms of mind, to contract with his fellow; from the capacity and instinct of the superior races to command, and of the inferior to obey, and thus mutually to aid each other in fulfilling the work of God in the universe. Upon these instincts, divinely implanted in the human breast, spring the relations of the family and the rights of property—the primordial elements of man's social existence—and to protect and preserve them is the primary object of government, which Divine Providence instituted when man was created a political as well as a social being.

Therefore, it is true, that the rights of property exist independently of, and above, constitutional sanction. And it is equally true, as this article in the Kansas constitution goes on to declare, that—

"The right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever."

The gentleman from Pennsylvania [Mr. MONTGOMERY] lifted up his hands in horror at this assertion, and said that no statesman would maintain so monstrous a proposition. I do not know whether the gentleman will think I forfeit any title to the name of statesman, yet I unhesitatingly tell him that I maintain it. And more than that, let me tell the gentleman from Pennsylvania that the people of Kentucky, who ratified their constitution, and the convention who adopted

it, maintained it; for the words are copied *verbatim et literatim* from the constitution of Kentucky, made in 1850; and it is now the almost universal faith of the southern States. The right of property in slaves not as sacred as the right to any other property? Why should it not be? Because, I am told, it is essentially local, and dependent upon local and positive laws. I tell the gentleman, on the contrary, that African freedom is local, and dependent upon local law. I tell the gentleman that there is not a civilized country in the world where the African can claim his freedom, except by positive law. I say that the natural status and condition of the black is slavery. After the splendid argument of the Senator from Louisiana, the other day, I need not speak on that point. The civil law recognizes it, the common law recognizes it. I might quote the father of philosophy, the immortal Staggyrite himself. Aristotle says:

"It is clear, then, that some are free by nature, and others are slaves by nature; and that in the case of the latter, the lot of slavery is both advantageous and just."

Go back to the oldest monuments of the human race, search the catacombs, explore the temples and pyramids of Egypt, and wherever you find the African depicted, he is represented as a slave. Penetrate the recesses of central Africa with Barth and with Livingstone, and there still you find slavery existing now, as ever before; still you find the lighter colored tribes subduing, mastering, controlling, and enslaving the darker. From that great laboratory of the black race, from that teeming womb of mysterious Africa, one unbroken stream of emigration has poured through all the ages, still winding its sable line through the deserts and the forests, until caravans and fleets should receive and bear it away to fulfill its destiny and attain its highest point of civilization under the control and care of the Caucasian races. Continue your investigation, sir; open the oldest written records, the Divine books of the Hebrews. The gentleman from Pennsylvania quotes God's promise to Noah, that the fear and the dread of him should be upon every beast of the earth and every fowl of the air, and that every moving thing should be delivered into his hand. Why did he not go a little further, and quote the Divine decree that the descendants of Ham should be the servants of Shem and of Japheth, and of their posterity? Some one near me says it did not suit his purpose! So I am aware! Why did he not go to Sinai, and read from the tablets of stone, written by the finger of God Himself, thou shalt not covet thy neighbor's man-slave, nor his maid-slave, nor his ox, nor his ass, nor anything that is his? I can reply for the gentleman; this Divine recognition and sanction of slave property did not accord with the prejudices of modern philanthropy; it did not square with the Wilmot proviso, for which I am told he voted.

Mr. MONTGOMERY. I should like to know how that is? I anticipated all this attack, and am ready to reply.

Mr. GARNETT. The gentleman would not permit any interruption the other day. I must decline to yield.

Mr. MONTGOMERY. Does the gentleman refuse to give me an opportunity to set him right? I will say to the gentleman that I now stand in the first legislative capacity I ever occupied in my life; and I could not very well have voted for the Wilmot proviso.

Mr. GARNETT. I understood the gentleman was in favor of it; and advocated it in some political meeting in Pennsylvania. I did not intend to misrepresent him.

Mr. MONTGOMERY. I would like to have the gentleman allow me to put this matter in the proper shape.

Mr. GARNETT. Well, be that as it may, he advocates what is equivalent in the case of Kansas.

I repeat, therefore, when I am asked if any statesman can maintain that the right of property in African slaves is as sacred as any other right of property, I reply, yes! a thousand times, yes! It is consecrated by reason, which points out that Providence has assigned different parts in the economy of the world to different races, and this seems the natural condition of the African. It is consecrated by our own experience, because under it the negro has attained a far higher civilization than he has ever known in any other condition,

and because it has been the foundation of a highly refined culture of the richest and most potent industry of a powerful empire, and a rational, a stable, and a noble freedom for the white race in our own southern States. It is consecrated by the experience of ages. Search the records of history, and point me to mighty empires founded; systems of jurisprudence established, not merely for the day, but as possessions and rules for all time; the bounds of human knowledge enlarged; turn to deathless strains of poesy, or eloquence, or heroic deeds performed, which still vibrate along the chords of feeling, and thrill the human heart from generation to generation; and I will point you to a nation of slaveholders, whose sons achieved these glorious deeds! Yes, sir! it is sacred because it is hoary with the prescription of six thousand years of human history, and its origin runs so far back into the misty past, that, like the Nile of its native Africa, its source cannot be explored. It is consecrated by religion, because it has brought millions of benighted heathens within the bosom of the Christian church; because the church has sanctioned it in all time; because Christ and His apostles recognized it; because it was baptized amid the thunders of Sinai, and its title deed was sealed by Almighty fiat, when the black race was created to obey as servants, and the white to command as masters.

I say then, Mr. Chairman, that while the constitution remains unchanged, the Legislature cannot abolish slavery, or prohibit the entry of slave property; that the constitution cannot be lawfully changed until after 1864, and that even then no vested rights of property can be impaired or destroyed. And, I say, finally, that it is for these reasons, openly avowed on the Republican side, at least, of Congress, that the admission of Kansas meets with such opposition. Sir, take away that party, and what opposition could be left? Would the dissentient members of our own party ever dream of it? Doubtless amongst them there are gentlemen who personally have no objection to the admission of another slave State, but they are constrained by the fear of the power of the Black Republicans at home. Their course is at least an evidence that their constituencies are unwilling that another slave State shall be added to our Union, and it is the sentiment of the northern people, not merely of the northern members, which is important for us truly to know. But for this anti-slavery feeling, either in themselves or their constituents, little would they care for these alleged irregularities—as little as they regarded them in the case of California. She came with a constitution framed by a convention assembled by military authority, and under executive dictation and advice that unless she prohibited slavery she never could obtain admission, or indeed a regular government at all. They vote even now for Oregon and Minnesota whose irregularities I before noticed. And yet they cannot overlook like flaws in the claim of Kansas! No, sir! the Senator from New York disclosed the true secret, when he declared that it was a dynastic struggle between North and South whether another slave State could be admitted into the Union. And on that issue hang the most momentous consequences.

I beg you, Mr. Chairman, to look back at its history. In 1820 we were excluded from more than nine tenths of our common territory; slavery and slave States were forever prohibited in nine hundred and sixty-five thousand square miles of the Louisiana territory, while only one hundred and ten thousand miles were left open to southern immigration and the possible extension of southern institutions. For the sake of union we submitted to this unjust decree. In 1845, Texas, a sovereign State which had formed and maintained her institutions outside of the Union, came in by annexation. And here let me warn my southern friends that if our Federal boundaries are to be further enlarged, it is far safer to annex slave States, ready formed to our hand, than to acquire Territories to be struggled and disputed for.

A few years after, we acquired a vast region on the Pacific—some four hundred and sixty-four thousand square miles. But were we of the South allowed to enter on its possession as equals? Gentlemen on the other side tell me, yes; the Massachusetts man could no more carry a slave there

than the Virginian. Sir, when the man of the North went there, he took with him all his property, all his institutions, his whole system of society; he was free to give honor and power to his native land by establishing another New England, kindred and sympathizing republics, on the Pacific shore. But the southerner had no such privileges. He must qualify himself first by selling his property, by severing the kindly ties and life-long affections that bind master and slave together, and by abandoning the institutions under whose shelter he was born, and amid which he was proud to live and hoped to die. Here was a vast and almost uninhabited region; its secular silence was unbroken, save by the monotonous roar of the Pacific waves and the sighing of the wind amid the gigantic trees, which seemed relics of the elder world—fit shelter for the Titanic races of an earlier creation. At last, the man of fate, the Anglo-Norman, came, the Aladdin of a more wondrous story than ever Arabian dreamed. The forests fell; light broke through their primeval shades. The wilderness blossomed. Streams, lately dark and turbid, rolled bright o'er golden sands, and mountains, but yesterday somber and barren, now gleamed and glittered with the shining metal that shot and sparkled through every vein. But when the Virginian, or the man of the South, came to the portals of this mighty region, he was denied admission. He found the gates spread wide. He saw all the tribes of the earth—the Celt and the Teuton, the copper-visaged Chinese and the swarthy Hindoo—gathering like eagles to the banquet. He saw, day and night, the restless stream of northern emigrants pouring through the gates; the men of New England and New York, bearing with them their property and their laws, their households and their household gods, their Lares and Penates. All, all were admitted; he only excluded! In vain did he recall that his valor had helped to unbar those portals; in vain did he tell that one Virginian had driven back the foe in northern Mexico, while another made a march, more wonderful than Cortez's, from Vera Cruz to the palace of the Aztecs; in vain did he recount how the Mississippi rifles stemmed the tide of battle at Buena Vista, and the Palmettoes reaped the harvest of death and of glory amid the fires of Churubusco; in vain did he point to the honorable scars upon his body, won in many a tented field—still, still he was forbidden to pass, unless he would first despoil himself of his property, abdicate his duties as a master, desert his household, and forswear his nationality. He might then, indeed, degraded, enter; but he must never sing the song of his own country, or transplant its laws into that strange land. And this, we are told, is equality!

Even now my heart thrills to the gallant northern men; and I thank them, wherever they may this day stand, that they came to our aid in 1854, and forever wiped from the statute-book the law of exclusion which dishonored it, and declared that henceforth the Territories should be our common and equal domain. That great repealing legislation of the Kansas-Nebraska act has resulted in this application of Kansas for admission; and I appeal to you to crown and consummate the work of justice and constitutional equality by showing us that another slave State can be admitted into this Union, even though the North has a majority in Congress.

I ask gentlemen to consider calmly the effects of an opposite course, and its pledge that there shall be no more slave States. You may dot our entire territory over with new free States; you may spread over all Mexico, which now threatens to fall to pieces; you may, and probably will, if this policy is adopted, some day incorporate with your Union her entire territory and population as free States: I ask, sir, when this *dynastic* triumph, as Mr. SEWARD calls it, is achieved, what use will you make of your power? He proposes first to overthrow the Supreme Court, to subvert the independence of the judiciary; or, as he more politely phrases it, to reorganize it until it is made the pliant organ of northern popular will. I suppose the next step will be to amend and overthrow the Constitution itself. And then comes the last fell act of all—the abolition of southern slavery. Even now you avow your desire to effect this by the moral influence of your cause; you yet disclaim the wish to interfere by law.

But how long can you resist, even if you are sincere, the raging fanaticism, which waxes strong upon every concession you make, and every step it advances? You rashly venture into the current; but the cataract is at hand, and you are helplessly swept downward, you know not whither. And when all is done, when the work is finished, when your long wished-for abolition is attained, where will you be? Suppose slavery abolished to-morrow, and sooner or later, if you persist in your present policy, and the South submits, it must be: what will you have gained? A Hayti or Jamaica of gigantic dimensions—from the Potomac to the Rio Grande, an unproductive barbarism—instead of populous, powerful and civilized States! You will have satisfied a blind fanaticism, and lost the staples that gave employment to your population, wealth to your Treasury, and the command of the world's commerce, and peace to your hands. You will have exiled from the seats of power the sons of your revolutionary compatriots; and, instead, representatives from the emigrants of all countries, and barbarian Senators from the colored races of Mexico, whose natural equality is part of your theory, will ascend the marble steps of your Capitol, and hold the curule seats and the fasces of authority! Such is the noble consummation of your policy! And where will be the security of your own property, when you have rudely thrust aside the protection which judicial independence and constitutional guarantees gave to ours? Your population already outgrows their means of subsistence; your city population increases at the expense of the country, and in many towns, as in New York, Cincinnati, and Chicago, it is half foreign born. When such becomes the general condition of your country, when the men without property are decidedly more numerous than those who have it, when the men who "live to toil, and toil to live," as a Senator from Maine described them, constitute far the greater part of your population, let me ask what is to become of you, with your doctrine of the Divine right of numbers and unlimited voting? Already, in New York, you have heard of the Socialist doctrine of a right to labor, and to support from the taxes of the property-holders; and the chief magistrate of the city pandered to their destructive sentiments. May you not hereafter need the conservative influence of the South in the Union, which, in times past, has been so often felt? I speak, sir, in no spirit of reproach. I make no invidious reflection on any portion of the people of the North. I know their intelligence, their energy, and their manly virtues. I admire the wonders they have wrought, the wealth they have heaped up, the cities they have built, the good they have done in their day and generation.

But, sir, I appeal to candid and conservative men there, to say whether there are not signs of a fearful proclivity among them to the despotism of numbers and the tyranny of mobs; whether the South is not comparatively free from this danger; and whether, if their progressive spirit is a valuable ally to us, they, on the other hand, could well spare our national conservatism, and its weight in the Confederacy; and whether they can afford to obliterate southern civilization, any more than southern cotton, from the Union and the world? Yet to both these results surely, inevitably, are we driven onward, if the doctrines of Mr. SEWARD and his Republican followers are to prevail, unresisted.

I say, sir, *unresisted*; for it may well be asked what will the South be doing meantime? I wish to say nothing that even appears like a threat. I but wish calmly to calculate consequences either way. The South does not desire disunion; but, I say, beware how you convince her that her institutions can never be extended on an equality with yours; that she must remain in the Union, unresistingly to submit to increasing assaults on her property, until, as a leading paper of New York has lately said, her planters work their plantations but as managers for northern owners, and her people are hewers of wood and drawers of water for a sectional majority! Do you believe she will submit to the consequences of such a belief and such a policy? If you do, I ask why? Is it that her pecuniary interest in slavery is so small? It is valued at not less than two thousand million dollars. Will it be because she is weak? She feeds all her own people, and holds

the keys of the commerce of the world, and of the industrial fabric of England. Is it that she is torn by divisions and jealousies? Her population is the most homogeneous in race, and the most closely identified in interest and in social institutions, that the world has ever seen on so large a scale. Do you believe her people less brave, less jealous of their rights and their honor than yourselves? You would not submit to exclusion from the common property; you would not quietly be denied all participation in the appointed work and destiny of your race—the extension of your peculiar system of labor and civilization. Can you desire—do you think—that they will be less attached to their system, less determined to fulfill their mission in fairly and honorably upholding and strengthening it? Let their history answer! They may not be the equals of their revolutionary sires; it may seem to you that time has made them comparatively weaker; but

"—that which they are, they are,
One equal temper of heroic hearts,
If weak by time and fate, yet strong in will,
To strive, to seek, to find, and not to yield."

Sir, I speak for myself, and the people whom I sincerely represent on this floor, and I think I can speak with equal confidence for the whole South, when I say that while we love our mother States above all things—first, last, and forever—yet we are sincerely attached to the Union of all the States; that we love every star which glitters on the azure field of its banner; we prize the common glories that consecrate that flag; we wonder at the beneficence of a kind Providence, which has made a vast granary in the northwest, which has lavished water power and mechanical advantages and ingenuity in the northeast, and has endowed the agricultural-loving South with the staples of man, and the scepter of his commerce; we are grateful to the wisdom that has united these different sections into one grand alliance, which secures a perfect free trade in the exchange of our varied productions, and the supply of our mutual wants; and we admire the universal peace which the Union has spread over a mighty continent. I say we value all these things, and it is, therefore, that we stand here this day, as in days past, to do battle for the only means of preserving these to you and to us—to defend the Constitution of our country. It is because we value them that we will ask nothing but what is right and submit to nothing that is wrong. And what is right is State equality in the enjoyment of our Territories, and the opportunity peacefully to extend our several institutions.

I appeal to you, then, in the name of the Constitution and the Union, to pause before you reject Kansas, and thereby declare that there shall be no more slave States. I appeal to Democrats on this side of the House. Your Republican opponents care nothing for Kansas; but they urge the rejection in order to keep open the agitation. They know that, once admitted, all sections will acquiesce in what cannot be undone, and their occupation will be gone; but if rejected, agitation may be kept up, and the Democratic party beaten next fall. And then the road is open to sectional parties. Church after church has been torn asunder by this fanatical sentiment of anti-slavery. Its remorseless waves have washed up the very foundations of the old Whig party, and scarcely left a ruin to mark its place. The pasteboard castle of the Americans has been blown down by its fierce breath. The Democratic party alone remains—the only organization coterminous with the Union itself. It alone knows all sections, and is just to all. Conservative, Union-loving, law-abiding men everywhere, are gathering within its camp. It has carried our country to its present grandeur. Amidst all the wanderings and fluctuations of its long campaigns, it has worked into the pure light of constitutional truth and State equality. It is endeared to the hearts of our people by many a glorious wound, received in bravely battling with the common foes of our hearths, our Constitution, and our Union. It stands this day and hour the last bulwark against fanaticism, the last defense against disunion. The enemy swarms about its position, and assails every weak spot in its line. Alas! that I should see amongst them men whom the Democracy has honored by gallant services in times past, or that any should desert their posts. Are they unconscious of what they do? My heart bleeds for them; and I say,

God forgive them! Even now I appeal to them. It is not too late to redeem your error. The foe may have passed round your unguarded station; Randolph may have lost a rose from his chaplet; it may yet be replaced in his wreath, where it will bloom with an immortal luster; for it will be the memorial that you joined us in time to save the battle, and to crush out the fanatical enemies of State equality; that you aided to close up the dim vista of disunion which was seen through the breaches of the Democratic ranks, and you will share with us the triumphant defense of our Constitution and our Union, now and forever, one and inseparable.

Mr. POTTLE obtained the floor.

Mr. BISHOP. I would appeal to my friend from New York to let me have the floor now, as I shall be called away by the first train to visit a sick child, and I trust unanimous consent will be granted that he may follow.

Mr. POTTLE. I am anxious to speak now; but, under the circumstances, if I will have the floor for the following hour, and nobody objects, I yield to the gentleman.

Mr. HOWARD. I object.

Mr. POTTLE. Then I yield unconditionally.

Mr. BISHOP. Mr. Chairman, it would be much more gratifying to my feelings, at the present time, to remain silent; but I find that I cannot, in justice to myself and to those Connecticut Democrats whom I, in part, represent, permit this occasion to pass without expressing my views on this great question.

I find, sir, that an attempt has been made to create the idea, throughout the North, that the friends of the Administration from the North were restrained by fear, or some other cause, from expressing their sentiments on this subject. A intimation was thrown out the other day, by a gentleman from Illinois, [Mr. MORRIS,] that but one Democrat from the North had, at that time, dared to open his mouth on this subject, and that the political crucifixion which was in store for him, had frightened the rest of us out of our consistency. The gentleman said:

"I doubt whether there is a single northern Democrat on this floor, who is sustaining this Leconte outrage, that does not feel he is stepping into his political grave, and that a fearful retribution awaits him at home."

Now, sir, that explains to my mind the motives by which some men are influenced in their action on this question. I will not say that they are preparing the way for a reelection to this House; I will not say that they have got their fingers upon the public pulse, and are administering medicine just as that beats faster or slower; but I will say that I thank them for the announcement which they make to the country and the world, that there are some northern Democrats still left so devoid of political ambition, so regardless of the evils which may await them, that they are willing to meet a premature political grave, and a fearful retribution, in order to carry out what they believe to be for the best interests of the country. [Applause on the floor and in the galleries.]

Mr. MORRIS, of Illinois. When the gentleman quotes from my speech, let him quote in connection with what follows—let him quote the whole paragraph.

Mr. BISHOP. I was going to remark that I regretted that the gentleman, after having conferred this compliment upon a few of us, should have made a qualification to it; for he says:

"Relieve this question to-day of the pressure of the Administration, which has marked upon it the imprint of its power and its favor as plainly as the sun is marked upon the heavens on a cloudless day, and I have no idea that three Democrats from the North could be found willing to admit Kansas under the circumstances."

Now, Mr. Chairman, it is a very great pity that the gentleman should have marred the beauty of the compliment by such a qualification. What does he mean? Does he mean to say that all these men of the North who stand by the Administration on this question are actuated by base and unworthy motives? Does he mean to say that they have sacrificed their political honor and integrity for the sake of Executive patronage and favor? If he means to bring this charge against the Democracy of Connecticut, all I have to say is, that I very much doubt the propriety and consistency of a Representative from Illinois calling in question the integrity of Connecticut Democrats until the people of Illinois have paid our people at least the

interest upon the money they owe them. [Laughter and applause.]

The CHAIRMAN. The Chair feels it his duty to say that applause in the galleries cannot be tolerated—nor upon the floor—and hopes that these demonstrations of applause will not be repeated.

Mr. BISHOP. Now, Mr. Chairman, before proceeding to the Kansas question I wish to say a word or two in regard to the position of the Democratic party in Connecticut upon this important question, which for years has disturbed the peace and harmony of the country—I refer to the question of slavery. Under the Constitution of the United States, as understood by its framers, the Democracy of Connecticut accord to our brethren of the South the right to control and manage the institution of slavery in their own States as to them shall seem best; we accord to them the right to move into the Territories of these United States with their property whenever and wherever they please, so long as they are Territories; we accord to them the right to bring into this Union new States, either with or without slavery, according to the legally and fairly expressed will of the majority of the people of such States at the time of their admission. We believe, Mr. Chairman, that these were some of the great compromises of the Constitution which our fathers were willing to make in order to establish this Government—a Government which has done more for humanity and more for religion than any which has existed since the world began.

And because, Mr. Chairman, we are disposed to accord those constitutional rights to the South, we have been denounced by Abolitionists and Republicans as dough-faces—as northern men with southern principles. The charge is false. We are northern men with national principles. We take the Constitution as we find it, and not as we wish it was; and if gentlemen have any fault to find with that, let them heap their curses upon their slaveholding ancestors. If gentlemen really profess such sentiments as they seem to entertain in regard to the sin and wickedness of the institution, as recognized under the Constitution, let them go to some New England grave-yard, and there, amid the decayed and broken tablets, which mark the last resting places of their fathers, they will find one monument more conspicuous than the rest, which has not felt the withering effect of time, and which stands as bright and beautiful as it did upon the very day when the Legislature of some northern State planted it there as a feeble token of respect to their delegate in the national convention; and after having read the inscription which a grateful posterity has engraved upon its polished side, let them ease the vindictive feelings of their philanthropic breasts by inscribing beneath it: "here lies buried a man who has bequeathed to the country a heritage of infamy and shame; cursed be his name for ever."

If still their virtuous feelings oppress them, let them visit the consecrated soil of Mount Vernon, ransack its honored tomb, gather up the bones of the slaveholding Father of their Country, clothe them in the revolutionary garments which lie preserved within the walls of yon marble building, and hang them in effigy upon the nearest tree, as they hang in effigy those men at the North who only seek to carry out the obligations of the Constitution which such men have imposed upon them. [Applause in the galleries.]

Mr. KILGORE. I rise to a question of order. I protest against these demonstrations of applause from the employes of the Government in the galleries.

The CHAIRMAN. The gentleman from Connecticut will pause. The Chair once more appeals to gentlemen upon the floor and in the galleries not to make these demonstrations of applause. They are unsuitable to a deliberative body.

Mr. BISHOP. I do not ask any applause from the galleries.

The CHAIRMAN. The Chair hopes that gentlemen will remember that it is his duty to preserve order, and will not require that this matter shall be mentioned again.

Mr. BISHOP. I trust, Mr. Chairman, that these views of the Connecticut Democracy are satisfactory to all the conservative men of the South, and when we stand by them in all their constitutional and just rights, they can ask and expect no more. Such a Democracy as this it

behooves our southern friends to strengthen, and encourage, and not to weaken and destroy. Most of our friends feel and appreciate this, but some there are, I regret to say, actuated, no doubt, by pure motives, but certainly by misguided zeal and an unfortunate judgment, who are doing more in a single day to weaken and paralyze our organization than all the combined forces of the opposition could accomplish in a year. I refer to that class of arguments so often delivered upon this floor in which the slave is compared with the free laborer of the North; in which slavery is set forth as a moral and religious institution; in which the crime and pauperism existing at the North are attributed solely to the absence of the reforming and enriching qualities of the peculiar institution.

Now, Mr. Chairman, the Democratic party in Connecticut is composed, to a great extent, of the bone and sinew of the State, of honest, faithful, hard-working men, who earn their bread by the sweat of their brows. If any gentlemen of the South really believe that they are not as good or as well off as the southern negroes, they have the right to think so; but it would be much more satisfactory to me, and much more gratifying to them, if they would only think so, and not incorporate their thoughts into their speeches, [Laughter:] for just as sure as one of these speeches is delivered on this floor, you find the Republican members on the other side subscribing for it by the hundred and the thousand, scattering it broadcast through the North; and the Republican orators read extracts from it to the people, and sneeringly tell them: "These, these, are the sentiments of the South, which place you lower in the scale of humanity than the African negro, and such are the men whom the Democratic party in the North is calling on you to sustain." They are put forth as the sentiments of the South; and I can assure gentlemen they do more to send Republican members to this House than any other cause that could possibly be invented.

Mr. Chairman, there is another argument which I have heard advanced on this floor by our friends, which injures us at the North, particularly among the moral and religious portion of our party—which constitutes a very large portion of it—and that is, such an argument as was presented the other day by my friend from Georgia, [Mr. GARTRELL,] in which he endeavored to prove that slavery was an institution from God, enjoined upon us by the inspired Word; and that it was necessary, in order to give an elevated tone to the morals of the community. Now, I have no doubt the gentleman really thinks so; he has a right to think so; but we do not think that God has got anything particular to do with it. [Laughter.]

I apprehend the gentleman from Georgia does not advocate the institution so much out of respect for the old Levitical law, as he does out of his zeal to promote the interests of his constituents and of his State. But if he does, Mr. Chairman, he must take the whole as well as a part of the law; and if he refers to chapter xi., verses 7, 8, of that same law of Leviticus, he will find the following:

"And the swine, though he divide the hoof and be cloven-footed, yet he cheweth not the cud; he is unclean to you."

"Of their flesh shall ye not eat, and their carcass shall ye not touch; they are unclean to you."

Now, when the gentleman from Georgia is again a candidate for reelection, should he tell his constituents from the stump that it was contrary to the Divine law for them any longer to eat pork or bacon, and that he considered it his religious duty to have that law made the law of the State of Georgia, I think it would be a long time before we should see him here on this floor again clothed with representative power. He would fall a martyr to his religious zeal. [Laughter.] Well, now, the Democracy of Connecticut are a God-fearing, Christian people. Their standard of morality is high.

Mr. GARTRELL. I dislike very much to interrupt the gentleman; but—

Mr. BISHOP. I cannot spare the time. They think they are right. The gentleman from Georgia may think he is right. If we are both right, let us drop the subject, and content ourselves with the reflection that your people are not our people, neither is your God our God.

But there is one more argument which does us at the North great injury, and which does the

South no good: and that is, the argument in which the crime and pauperism existing at the North is compared with that existing at the South. Now it is true, Mr. Chairman, that according to the census there is more crime and pauperism at the North in proportion to the population than there is at the South. But it is not true in point of fact. In the State of Connecticut our paupers consist of the poorer portion of the laboring classes, supported at the public expense, who are either too young, too old, or physically disqualified for labor. I imagine that you have laboring people at the South; and I apprehend that your negroes, like white men, are born, have their childhood and their old age, have their times when they cannot work, and when they must be supported by their masters. I presume you have just as many of them with you, in proportion to your population, as we have with us; but ours go into the census; on the record, and yours do not. The only difference between us is, that our paupers are supported at the public expense, and yours by private individuals.

In regard to foreign criminals, the gentleman says we have more of them with us than they have with them. That is undoubtedly true. But it will be remembered that nineteen twentieths of all the foreigners in the country reside north of Mason and Dixon's line; that nearly every one that emigrates to this country emigrates to northern ports. In regard to the native criminals, the gentleman is right again. But why is this? Is it because there is really less crime committed at the South, in proportion to her population, than there is at the North? Is it because your people are not just as bad, and just as wicked, as ours are?—I will not say more so. The very fact that the census shows less crime at the South than at the North, in proportion to the population, is *prima facie* evidence either that your laws are less stringent or less rigidly enforced, or that the census-taker has not been as willing to expose your vices as ours has been. Why, Mr. Chairman, we have laws at the North which, if you had at the South, and enforced them, would imprison half your people. [Laughter.] We have Maine liquor laws, Sunday laws, swearing laws, gambling laws, lottery laws, horse-racing laws, and hundreds of other laws, which you do not have, or, if you do, do not enforce. We used to have a law in Connecticut which forbade a man kissing his wife on Sunday. How would such a criminal law be enforced in Georgia? [Laughter.]

Mr. GARTRELL. We would have no such law there.

Mr. BISHOP. Were such a law enforced there amongst that warm-blooded and affectionate people, every dwelling-house would be converted into a prison. [Laughter.] But, Mr. Chairman, I will not pursue these points. I trust I have said enough to convince our southern friends that we are a very decent people in our way, after all, and that slavery would not improve our condition.

I have only alluded to these topics in the hope that gentlemen would abandon such a course of argument. The Democrats of Connecticut, and of the North, will stand by you in all that is constitutional and right, and you can ask no more. Do not, then, gentlemen, I implore you, weaken us—and by weakening us injure yourselves—through such unnecessary and useless comparisons. But, Mr. Chairman, I hasten to the consideration of the Kansas question.

In discussing the Kansas question, Mr. Chairman, I deem it unnecessary to go back any further than February, 1857, when a law was passed by the Territorial Legislature providing for the calling of a convention to adopt a State constitution. I am aware that it is claimed on the other side, that the Territorial Legislature was a bogus Legislature from the beginning and void of all legal authority. This was the claim made by the Republican party during the last presidential election. Every Republican orator throughout the North, with the report of the Kansas investigating committee for his Bible, and the bogus Legislature for his text, endeavored to convince the people that the Topeka Legislature was the legal Legislature of Kansas, and that the Territorial Legislature was a usurpation. Congress, by providing for the payment of the members of the Territorial Legislature, and by other provisions, has decided in the most solemn manner the legality of that body. The people of these United States, by a vote of

two million seven hundred and fifty thousand against one million three hundred and seventy-five thousand, have acknowledged the validity of that Legislature.

Mr. SHERMAN, of Ohio. Congress—

Mr. BISHOP. I cannot yield any of my time. The majority against the Topeka Legislature was one million three hundred and seventy-five thousand more than the entire vote in its favor. And not only this, but the free-State men of Kansas themselves have acknowledged the validity of that Territorial Legislature. Under the laws of that same body they, last October, elected a majority of the present Territorial Legislature of Kansas. Under those same laws, they elected the free-State Delegate to this House, who now holds his seat upon this floor; and not a solitary member has been heard to question the right of that Delegate to his seat here. Thus we find, Mr. Chairman, that the executive and legislative departments of the Government, that all political parties in Kansas, and all political parties in this country, have, by their acts, acknowledged the validity of the Territorial Legislature of Kansas. The verdict of the country is unanimous on that point; and it is now too late to claim that the Lecompton constitution is null and void because the Legislature which called it into existence had no legal authority.

But, Mr. Chairman, it is claimed that even if the Territorial Legislature was a legal body, still it had no power under the organic act to provide for the calling of a convention to form a State constitution. This is one of the chief arguments which is presented by Democrats who oppose the admission of Kansas. Upon what substantial ground that argument is based, I must confess I have been unable to discover. Certainly not upon precedent, for the precedents are every way. Not upon the Constitution of the United States, and not upon any prohibitory provision in the organic act. The Kansas and Nebraska bill, so far from denying any such power to the Territorial Legislature, in my judgment expressly confers that authority in plain and unmistakable language. The President finds the authority in that clause of the act which authorizes the people to form and regulate their institutions in their own way, and that would seem to be sufficient. But I find an additional authority. In section twenty-two of the Kansas bill, it is provided that the legislative power and authority of the Territory shall be vested in the Governor and General Assembly; and in section twenty-four it is provided that the legislative power and authority of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution or with this act. The first section provides by whom the legislative powers of the Territory are to be exercised, and the latter sections provide how far that authority shall extend. The power granted is general, and extends to all rightful subjects, not inconsistent with the Constitution, or with the organic act.

Now, will it be pretended, Mr. Chairman, that that Territorial Legislature can legislate upon no subject except what is specifically mentioned in the act itself? The idea is ridiculous; but yet such is the ground which gentlemen must assume in order to deprive the Legislature of authority to call a convention to adopt a State constitution. Why, under that idea, the Territorial Legislature would be a body devoid of all power—with no power to incorporate cities or prescribe their boundaries; with no power to enact criminal laws and punish offenders; with no power to preserve peace or protect the lives and property of their people, for not one of these powers is specifically mentioned in the act itself, but they are only included in the general clause "all rightful subjects of legislation."

In my judgment, therefore, Mr. Chairman, the legislative power of the Territory is just as full and ample as the legislative power of the States, except in so far as it is limited by the organic act. Not one word or syllable can be found in the Kansas-Nebraska bill by which Congress reserves to itself the right to prescribe the manner in which the people or the Legislature shall call a convention to adopt a State constitution. It is a "rightful subject of legislation," upon which the people are to act through their legal representatives. In my judgment, therefore, the Territorial Legislature of Kansas had as much right to call a convention to adopt a State constitution for Kansas

as the Legislature of Connecticut has to call a convention to adopt a constitution for Connecticut.

This legal right the Legislature of Kansas exercised in 1857. They called a convention to adopt a State constitution; they decided upon the number of districts, and the number of delegates to be elected from each district. Whether the apportionment was equal or unequal, just or unjust, was a matter for the Legislature alone to determine. Under this law of the Legislature, delegates were elected, and by these delegates the Lecompton constitution was adopted. That portion of the constitution relating to slavery was submitted to the people for their adoption or rejection. A majority of those who voted, decided to have that constitution as the convention had left it. The convention was not instructed by the law to refer any portion of the constitution to the people. Inasmuch, therefore, as the Territorial Legislature was a legal body, endowed with full power to legislate upon all rightful subjects, I cannot for the life of me discover upon what ground it can be claimed that the constitution formed by the Lecompton convention is not a legal instrument.

Mr. LEITER. I should like to ask the gentleman a question just there.

Mr. BISHOP. I cannot yield. But it is said, Mr. Chairman, that in many of the districts no census was taken, no election was held, and no votes were cast. This is undoubtedly true; and the question arises, does the fact that several districts were unrepresented in that convention, either on account of the refusal of the people to be registered, or because the proper officers were by threats or fear prevented from doing their duty, or, if you please, because they themselves neglected or refused to do their duty, render the delegates from those districts where the census was taken, and where an election was held, legally incompetent to assemble in convention and adopt a State constitution? I hold not. Suppose that at our next election in Connecticut one third of all of the towns in the State should, on account of the negligence or refusal of their officers, fail to open their polls, and those towns should be thus unrepresented in the Legislature: will any man pretend to say that the delegates elected from the remaining towns would not constitute the legal Legislature of Connecticut, and that their laws would not be binding upon the people? for if the fact that twenty towns were unrepresented makes the Legislature void, the same fact would exist if only one town was unrepresented.

But we are told, Mr. Chairman, that if the steps were legal up to this point, still they ceased to have any binding force upon the people when the convention failed to submit the whole constitution to the people. There is no man upon this floor who has more respect for the principle of popular sovereignty than myself, or who will go further to secure to the people the right to govern themselves in their own way. But who are the people in a legal sense, and how do they express their will? Our Government is a representative Government, and the will of the people is expressed through their representatives. Will any man pretend to say that a law passed by the Legislature of a State, to which a large majority of the people are opposed, is illegal and void because the people would vote it down if an opportunity was offered? Most certainly not.

Why, Mr. Chairman, candidates are nominated as exponents of the will of their parties. If elected, the power and authority of the people is vested in them; and even should they turn traitors to those by whom they were elected, still their voice would express the voice of the people. The people of Kansas were asked to form and regulate their institutions in their own way. When a law was passed by the Legislature authorizing delegates to be elected to a constitutional convention, all the people were included in the invitation. They must have known the character and the opinions of the candidates. The majority refused to vote, and allowed the minority to elect their candidates, the legal presumption is, that they were satisfied with the result. How, then, can it be claimed that the Lecompton constitution does not express the legal will of the people of Kansas? The Legislature of Kansas being a legal body, being invested by the organic act with full power to legislate on all rightful subjects, having passed the law

for the election of delegates to a convention to adopt a State constitution, having conferred on those delegates full power, without limitation or restriction, and the delegates elected not having transgressed the authority conferred upon them, not having violated the law under which they were elected, I cannot, for the life of me, see how the constitution framed by them was not a legal instrument.

I have thus far, Mr. Chairman, spoken of the constitution only as a legal instrument. The question now arises, is it right and just, under all the circumstances of the case, to admit Kansas into the Union under that constitution? I care not how strictly in accordance with law the constitution of a State may have been framed, if the people, whose rights are to be affected by it, have never had an opportunity of engaging in its formation, or of expressing their opinion upon it, I would avail myself of that little word "may," and never vote for its admission until such an opportunity had been offered. How stands the Lecompton constitution in this respect? Have not the people had a full and fair opportunity to elect just such delegates as they pleased, who would have adopted just such a constitution as they wanted? Has any deception been practiced upon them? Were they not told by the President of the United States—were they not told, in advance, by Governor Walker and Secretary Stanton—that the law providing for the election of delegates to this convention was binding upon them? Were they not warned of the consequences in case they refused to vote? Were they not warned not to delude themselves with the idea that the constitution would be submitted to them for their approval or disapproval? Were they not invited, urged, implored even, by Walker and Stanton, to vote? Most certainly they were. Why, then, I ask, did they not vote? No man can deny that a fair opportunity was offered to them. The faith of the Government was pledged to insure them a fair election. The Army of the United States was pledged to protect them against invasions from abroad and intimidation at home. Yet a majority, it is said, did not vote. They staid away, and allowed the two thousand men who did vote, to express their will for them. Why, I ask again, Mr. Chairman, did they not vote?

I can tell you why. The returns were to be made to Walker and Stanton. They were to count the votes; and they had no reason to believe that these men would cheat and defraud them. Why, then, I ask again, did they not vote? Ah! the soil of Kansas had already been seized upon by the Republican party as the proper field for political warfare. Her trials, her sufferings, and her blood, were necessary to furnish sustenance to that starving political organization. Republican Senators and wire-pullers were prowling about that Territory by day and by night, urging the people not to undertake to manage their institutions in their own way. The Republican press of the whole country, from the New York Tribune down, was giving them fatherly advice, and urging them not to vote. "Do not vote!" "Do not vote!" was the universal exclamation of those men who are now complaining and lamenting that the dear people of Kansas have been deprived of their sovereignty. Why, Mr. Chairman, did they tell them not to vote? Ah! they knew that if they voted, Kansas would be a free and prosperous State. They knew that when peace was restored to Kansas, the days of the Republican party would be numbered. They knew that when the wounds of "bleeding Kansas" should be healed, the life of Republicanism would be extinguished. Twice previous to the adoption of the Lecompton constitution, was the opportunity offered to the people of Kansas to assume the control and management of the affairs of their own government. The fact that, upon every occasion when they did vote, they were in the majority, is conclusive evidence that, if they had voted upon the other occasions they would have been in the majority. An opportunity was given to them to assume the control of the Legislature by which the convention was called. Opportunity was given them to elect the delegates to the constitutional convention; and the whole power of the Army of the United States, sent into the Territory at their own request, was pledged to protect them against invasion from abroad and intimidation at home. Guided by the advice of

outside politicians, twice did they refuse the proffered boon.

After these two distinct refusals upon the part of the people of Kansas to have anything to do in the formation and regulation of their own domestic institutions, still, a legally elected convention of Kansas told them, "though you have declined to participate in this election; though you have defied our authority and trampled the laws under foot, still your voice may yet be heard upon that great question which has so long agitated the country, and disturbed the peace of the Territory." They told them, "though we have the power in our own hands, though we are anxious to make Kansas a slave State, still we will leave that question for you, and you alone, to determine." What was the response? "Away with your constitution; who cares about slavery? let us kill the whole constitution; let us undo all that you, the legal representatives of the people, have done; let us open afresh the wounds of 'bleeding Kansas'; let us keep up this agitation until 1860, until, upon this sea of popular excitement, we have wafted our candidate into the presidential chair, and you may make Kansas a slave State as soon as you please."

Under these circumstances, Mr. Chairman, Kansas presents herself for admission into the Union under the Lecompton constitution. She asks to be admitted under a constitution legally adopted and republican in its form; and, so far as the facts now appear, I deem it due to Kansas, and due to the country, that she should be admitted. She has been forced upon us by the action of the Republican party as a slave State, with a slave constitution; and after that action, they now say they will raise the cry at the North, if she is admitted, "Behold how our prophecy has been fulfilled! We told you the effect of the Kansas-Nebraska bill would be the making of Kansas a slave State. See how our predictions are verified."

Well, it is true, Mr. Chairman, she may be a slave State in name, and in name only; and that for a brief period. I care not how deeply slavery may be ingrafted into that constitution; for there is an unwritten law, far above all human constitutions and laws, which must ever regulate and control that institution. I refer to the irrepealable law of nature—climate, production, and soil. That law I, as a northern man, am willing to trust. We have seen its operation in California, in New Mexico, in Oregon, in Washington, in Nebraska, and in Utah. Under the operation of the same law, behold slavery, limited as it is in Kansas, and even in Missouri growing "small by degrees and beautifully less." The South, Mr. Chairman, will get the legal principle, and the North the naked substance. If she is satisfied with the shell, we certainly should be with the oyster.

Now, if disgrace is to attach to any party because Kansas may be a slave State in name, let that disgrace fall upon the free-State men of Kansas, and the Republican party of this country. This dust which is being thrown before the eyes of the people of the free States will soon be swept away; and when they see, as they will see, that the negligence, the obstinacy, and the rebellion of these men have made Kansas what she is; when they see, as they will see, that the Democratic party was in honor bound to admit Kansas into the Union, whenever she should present herself with a constitution legally adopted, and republican in form; and when they see, as they will see, that every movement on the part of the Opposition has been to force that constitution with slavery upon the Democratic party, in order to heap the responsibility upon their shoulders, then will the current of public opinion be changed; then will the finger of scorn and indignation be pointed at the leaders of the Republican party, and to each one of them will the charge be brought home, "Thou art the man!"

I have but a moment left, and I will say a word or two in regard to the claim set up that the constitution cannot be altered previous to 1864. I take the position that, so far as the total abolition of slavery is concerned, it is not necessary for them to be able to change their constitution. I claim that, under this constitution, the Legislature of Kansas can, by the mere passage of a law, sweep slavery entirely from the State of Kansas without any alteration of the constitution, without any submission to the people.

I read from the second section of the seventh article:

"The Legislature shall have no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners, previous to their emancipation, a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants into the State from bringing with them such persons as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State."

That is the only section of the constitution of Kansas by which the power of the Legislature, in respect to slavery, is limited or restricted. They are only prevented from passing laws against the importation of slaves from abroad, so long as slavery exists in the State. As soon as slavery is abolished in the State, they can pass a law forever prohibiting the introduction of a single slave. Well, now, it is estimated, Mr. Chairman, that there are some one or two hundred slaves in the Territory of Kansas. What their assessed value would be, before a free-State jury, called together by a free-State Legislature, I do not know; but I imagine it would not be very high—perhaps \$50,000. If the people of Kansas cannot afford to pay that to make Kansas a free State, then, of course, our Republican friends on the other side would willingly do it. But if they, too, should decline, I pledge my word that the Democratic party of the North will raise sufficient funds for the purpose, provided they give good security that it shall be faithfully applied to the object. [Laughter.] But it is not necessary, Mr. Chairman, that there should be any expense. I hold that every State has a right to take possession of private property for public use on paying a just compensation therefor. The free-State Legislature of Kansas can deem it extremely necessary for the public benefit of Kansas that she should own all the negroes in the State; can have their assessment made by a free-State jury, and can get them at a very small figure. Then they can turn round and sell them to the citizens of Georgia, Alabama, South Carolina, and the other slaveholding States, and can realize a tremendous speculation by the operation. [Laughter.]

Thus we see, that after all the talk of slavery being forever fastened on the virgin soil of Kansas, she can be made a free State in six weeks, and money can be made by the operation. But it is said, Mr. Chairman, "why force this constitution on the people?" Why, there is no force about it. She comes and asks us to take her with her constitution. I consider that Kansas is in a very unfortunate condition. She is very sick. She has been wild and wayward, and has committed many indiscretions, and it is necessary to administer a very severe dose; and though she may not like the remedy, though it may grate harshly upon her sensitive nerves, and somewhat reduce her system, yet she will soon come forth invigorated, fresh and blooming as a new-blown rose. She will then be at the age of maturity and discretion, and she can become the thirty-second wife of Uncle Sam without any charge of having adopted the Mormon faith.

I remember, Mr. Chairman, reading, while I was quite a boy, of a certain island which was created by the gods in the midst of the sea, and by them dedicated to warfare and bloodshed. On that island the tribes from the lands lying round about, were accustomed to assemble, in order to avenge their wrongs and to test their strength. So frequent and so bloody were these battles, that the chiefs of the several nations found their tribes diminishing, and the glory of their kingdoms departing. These chiefs assembled in council to devise means whereby the destruction of their tribes might be avoided and the strength of their kingdoms preserved. After considerable discussion of the question, an old chieftain, with gray hairs, arose and suggested that they should all kneel down and offer a fervent supplication to the gods that they would sink the island beneath the surface of the ocean. They did kneel down. A fervent prayer was offered up, and in an instant Neptune appeared on the island, struck it with his trident, and sent it hissing and bubbling to the depths below. The result was—

[Here the hammer fell.]

Mr. POTTLE obtained the floor.

Several MEMBERS. Go on; go on.

Mr. EDIE. I object. Not a syllable more; not a word.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, MARCH 24, 1858.

NEW SERIES....No. 79.

Mr. CLEMENS. I hope that the gentleman will have liberty to finish his remarks.

Mr. POTTLE. I will yield to the gentleman for three minutes.

Mr. BISHOP. The result was—

Mr. EDIE. I object.

Mr. HOUSTON. The gentleman has no right to object.

Mr. MORRIS, of Illinois. I would like to appeal to the courtesy of the gentleman from New York, [Mr. POTTLE,] and ask him to give me a few minutes of his time.

Mr. POTTLE. I yield to the gentleman.

Mr. MORRIS, of Illinois. Mr. Chairman—

Mr. HOUSTON. The gentleman from Pennsylvania [Mr. EDIE] objected to the gentleman from Connecticut [Mr. BISHOP] having a few moments of the time of the gentleman from New York, [Mr. POTTLE.] As that objection prevailed, I now object to the gentleman from Illinois [Mr. MORRIS] getting the time of the gentleman from New York.

Mr. MORRIS, of Illinois. I presume, sir—

Mr. HOUSTON. I object.

The CHAIRMAN. The gentleman from New York cannot yield, except by unanimous consent, unless it be for explanation or to allow a question to be asked.

Mr. MORRIS, of Illinois. It has been the universal practice in this House—

Mr. HOUSTON. I object. The gentleman from Connecticut was not allowed to proceed, and for that reason I object—

Mr. MORRIS, of Illinois, (amid loud cries of "Order!") and the rapping of the Chairman's gavel.) The gentleman from Connecticut has perpetrated a foul slander on the State of Illinois in saying that she did not pay the interest on her public debt, and that her citizens did not pay their obligations. I repel that slander; and if I am denied the privilege of replying now, I shall take the earliest opportunity of doing it.

Mr. HOUSTON. I move that the committee rise and go into the House, that we may see if we cannot keep proper order in the House.

Mr. COMINS. The gentleman has not the floor to make that motion.

The CHAIRMAN. The gentleman from New York [Mr. POTTLE] is entitled to the floor.

Mr. POTTLE. Mr. Chairman, before the vote shall be taken which will either leave the people of Kansas the control of that Territory, or, denying the right of self-government, compel them to submit to laws to which they never gave their assent, and to institutions which they loathe and protest against, I desire the indulgence of the committee for the brief time allotted, that I may place upon your records the fact—important to me, if to no one else—that in all the stages of this Kansas matter, I have, to the extent of my constitutional right, opposed this contemplated outrage upon a portion of our people.

Sir, I have not the foolish vanity to suppose that anything which I can say will change a vote upon this question, for I suppose that every member of this House has already in his own mind settled the question as to his vote upon this measure, according to the dictates of his conscience, or under the influence of surrounding circumstances.

If there were some voice among us potent enough to hush the jarring elements, and restore us to that harmony which once characterized the Representatives of the various sections, it would indeed be well. But, sir, I doubt that any one will be found able to hush the wild storm of passion which has taken possession of the public mind; surely not, unless we can better understand one another, and the points upon which we differ. Bound together by the ties of common brotherhood, and with a history which proves that our Union has thus far proved a success almost or quite unexampled, we yet meet here day by day, with feelings more embittered than we ever felt against the people of any other government, even in times of war. And it would seem as though we had indeed reached that point of our history when the strength of this Confederacy was to be

severely tried; that period when the antagonism between our two systems of labor, free and slave, will no longer be put off. Compromises have been resorted to, in order to delay this struggle, until they have been exhausted and discarded by all parties. This is a struggle which is not confined to Kansas. It neither began there, nor is it likely to end there. It began with the Government, has kept pace with it, and will not be likely to end until there is nothing left to struggle for. Nor do I think that it is a mere struggle for political power. That may be a means of its progress, but is neither its cause nor its end. I believe, sir, if the Union were to-day dissolved, that this struggle would still go on, and wax fiercer from that very cause. It is one of the evidences that the world moves, and that progress is slowly, surely, and certainly, undermining and sweeping away those old abuses which deny to labor its proper reward, and to man that dignity to which he is by nature entitled.

In my judgment, sir, it only remains for us to say whether that struggle shall be peaceful, and according to the ordinary course of events or otherwise. The immediate point of this contest, now presented, is, whether Kansas shall be now admitted into the Union, or rather, to speak more properly, forced into the Union, under the Lecompton constitution. Now, sir, the question of slavery is certainly not the only one which the people of a new State have the right to pass upon, in framing for themselves a constitution; nor are they bound to accept a constitution until it shall, upon that and all other questions, be in accordance with their wishes. Yet I think none will dissent when I say, that if it had not been for this question of slavery, the people of Kansas would have been left unmolested, to settle and arrange their affairs in their own way, and would have come into the Union in proper time almost without question.

Now, sir, I desire to say, and I wish to be distinctly understood, here and elsewhere, that while I am opposed to slavery as a great political and moral evil, determined to oppose and resist it whenever I have the right so to do, there is not one constitutional right, one guarantee, which State sovereignty has thrown around this institution, which I have ever sought, or which I now seek, to interfere with.

As I said, I look upon slavery as a great wrong to the black man, and equally so to the white man, whose labor and political rights are affected by it; but I have looked upon it, and still look upon it, as a question which belonged to the States where it is, and not to me. Deeply deploring its existence anywhere, and hoping for the time when those having the right to put an end to it would see how much it was for their interest to do it, I have been willing to leave it there, and to them. I speak, sir, for no one but myself and that constituency whose opinions I mean faithfully to represent; but I believe, that in the position just stated, I share a common feeling with the party of which I claim to be a member.

Sir, I desire just here to say one word in regard to the charge so often made, here and elsewhere, that this party is sectional; that it has for its object interference with slavery in violation of its rights under the Constitution, and in defiance of the sovereignty of the States. These are charges easily made, but not so easy to sustain. If gentlemen who make them would but take the trouble to look into the platform of the Republican party, they would meet with greater success than I have if they could there find anything to sustain these charges. The first resolution of that platform is, in substance, that the maintenance of the principles of the Declaration of Independence and of the Federal Constitution is essential to the preservation of republican institutions; and that the Federal Constitution, the rights of the States, and the union of the States shall be preserved. The second resolution contains a denial of the right that slavery can, under the Constitution, be established in the Territories. The third, that Congress has, under the Constitution, authority to govern the Territories, and is bound to prohibit

slavery therefrom. The fourth recites, substantially, the "bill of rights" and its infringement in Kansas. The fifth, the right of Kansas to be admitted into the Union under the constitution which the people of that Territory had adopted. The sixth takes ground against the doctrines of the Ostend manifesto. The seventh, in favor of a Pacific railroad. The eighth, in favor of the improvement of rivers and harbors for certain purposes; and the ninth, an invitation to free men of all parties to unite and uphold the principles above set forth. And this is all.

Now, sir, I call upon the gentlemen, one and all, who make these charges, to inform the House and the country upon which of these they base the charge that the Republican party is a sectional party. Let us, Mr. Chairman, have the specifications. Let us have the proof. Sir, I ask you, and I ask the members who make these charges, if there is anything upon the subject of the rights of slavery in this platform that was not to be found in the platform of that party upon which the honorable member from Georgia [Mr. STRENNES] stood and battled so long and so well?—upon which a score of honorable members from the slave States, whom I now see around me, fought so valiantly? Were these gentlemen, during all these years, standing upon a sectional platform, and one at war with the principles of the Constitution? No, sir, the charge is not true. The Republican party stands to-day upon a platform as broad as the Constitution, and no more. It is opposed to slavery under the Constitution, and only under it. Its principles embrace and guarantee the right of every section of the Union under the Constitution, and if you have denied it a hearing in one half of the Union, it is because its principles are national, and conflict with the sectional dogmas that have taken possession of that section—dogmas which admit of no right but slavery—no nationality but slavery—no Constitution but slavery—no Democracy but slavery. And because we will not subscribe to this new revelation, we are called sectional and fanatics. Because we stand by principles as old as the Government, and much older, you say we are inflicting wrongs upon the South. Mr. Chairman, I tell you, and I tell gentlemen, that I am not here with an intention to inflict a wrong upon any section of the country; and if gentlemen, instead of asserting it, will show me facts to prove that by my action I interfere with the constitutional rights of any section, I pledge myself not only to desist, but, by my future action, to make such reparation for the past as I can.

I have listened long and with attention to the many eloquent gentlemen from the slaveholding section of the country, who have spoken upon the question of admitting Kansas under the Lecompton constitution, but I have yet to learn the wrongs which it is said we of the North have inflicted and are seeking to inflict, upon them. And yet, these wrongs are said to be so flagrant, that if we persist in them the South cannot and will not longer remain in the Union. I am exceedingly anxious to preserve the Union. I have been taught to love it; and I believe I can truly say, in the language used by my colleague, [Mr. BURROUGHS,] the other day, that "if need be, I am ready to lay down my life in its defense." But, sir, I do not expect it to stand, and further, I do not desire it to stand, unless upon the broad principles of justice, and with a full and constant recognition of the rights of all the parties who compose it.

When, now or hereafter, instead of protecting the rights of all, it is found that it has become the means of oppression to a portion, then, sir, I say, let the oppression cease; let the rights of all be respected, or let the Government end—peaceably or forcibly; let it give place to one which will better accomplish the purposes for which governments are instituted.

If I have correctly understood gentlemen in their charges against the North, they are, that we are seeking to deprive the South of its just share in the Government; that we are endeavoring to compel them to take a position subordinate to us. If, at

any time, there has been any disposition upon the part of the North to accomplish this, it should, in fairness to all parties, be admitted that we have, thus far, met with very indifferent success; and that, as far as holding offices under the Federal Government is concerned, the charge would much more properly come from the other side. Sixty years the Government has substantially been in the hands and under the control of the slaveholders. If you look at the amount of territory which each section has acquired, (that of the slaveholding section nearly or quite doubling that of the free States,) you will be forced to the same conclusion; that is, that we, not you, ought to complain of being deprived of our "just share of the Territories." And yet gentlemen gravely tell us, (and look and act as though they were in earnest,) that we are depriving the South of her just share of the territory; and that, unless we cease to do so, the Union must and will come to an end.

Sir, I propose briefly to examine this question. I know that it has been many times done, and yet in these debates these old facts seem to be utterly forgotten or ignored. At the beginning of the Government, slavery had no share in the territory not organized into States. It was confined to the States; looked upon as a local evil, which was soon to be got rid of; and was expressly prohibited from occupying the Territories, or any portion thereof. It was the settled policy of all sections to prevent it from spreading:

If proof were needed for facts so common-place and widely known, it would only be necessary to refer to the "ordinance of 1787," and to the expressed opinions of every distinguished gentleman, North or South, who took such part in the formation of the Government as required the expression of an opinion upon that subject.

When subsequently we acquired additional territory, you requested that this policy should be abandoned; and then, as now, you threatened a dissolution of the Union unless your request should be acceded to on our part. We of the North asked, as we had the right, that the then settled policy should be adhered to. But a proposition was brought forward by a distinguished statesman of your section to compromise by dividing the territory between us; and it was acceded to on our part—reluctantly, I confess; unwisely, I have never doubted; but still, it was agreed to. Our portion, as a part of the agreement, being forever devoted to freedom; and yours—by far the better portion—was left free to you as to us. In that agreement you gained all that we yielded; we gained nothing; we simply reserved to a part of the territory that principle which before applied to the whole. You entered into that agreement as a fair compact between us—one which, as I have said, was made at your request; and whether, in your estimation of it at this time, you gained or lost, you were in honor, and by all the rules of fair dealing, bound to carry out its provisions. We have faithfully abided by all the obligations which it imposed upon us. How have you kept faith with us? I have no time to trace the history of bad faith and of wrongs on your part, and shall leave the compromises of 1850 and 1854 to answer my question. By the first you obtained rights and defenses for slavery which we believe were not intended by the Constitution; and by the other you have broken all faith upon this question, and by legislative enactment canceled your agreement.

But gentlemen tell us that the Supreme Court has decided that the compromise of 1820 was unconstitutional. I deny it, and appeal to the record of the court to sustain my assertion. I say that the Supreme Court has made no such decision. It is true that a partisan court, packed for the purpose, has so far forgotten what belongs to the power and dignity of a court that individual members of it have passed out of the record before them, and given extra-judicial opinions to that effect. Opinions as binding upon that question as if given by the same gentlemen at a political meeting, and no more so. By the repeal of the compromise of 1820 you threw open all the Territories to the occupation of slavery. Starting with none, you acquired the right, in common with us, to all. Does this look like oppression on our part? Was this depriving you of your just share in the Territories? What was the plea under which this was accomplished? That the restriction was not democratic. That congressional in-

tervention, as you call it, was not democratic. That the true rule was to open the Territories to all sections, and allow the people occupying them to settle their domestic institutions in their own way, subject only to the Constitution of the United States. We at the North, or a portion of us at least, took issue with you upon this question, and went to the people, and were beaten. And now, when we call upon you to carry out this principle which you have introduced into the government of the Territories, and to which you have procured the sanction of the popular will; when we ask of you to abide by the will, again and again expressed, of the people of the Territory of Kansas, you refuse. You say that the popular majority in Kansas are factious. That to admit them into the Union under a constitution of their choice which excludes slavery deprives you of your rights, and that they must be admitted under the Lecompton constitution or you can no longer remain with us in the Union.

Sir, if any gentleman shall say that I beg the question, and that this Lecompton constitution is to be regarded as expressing the consent of the majority of the people of that Territory, I beg to remind this House of the preamble and resolutions upon this subject which the people of that Territory have placed upon our records, and which I desire to incorporate into and make a part of my remarks:

Preamble and joint resolutions in relation to the constitution framed at Lecompton, Kansas Territory, on the 7th day of November, 1857:

Whereas, a small minority of the people living in nineteen of the thirty-eight counties of this Territory, availing themselves of a law which enabled them to obstruct and defeat a fair expression of the popular will, did, by the odious and oppressive application of the provisions and partisan machinery of said law, procure the return of the whole number of the delegates to the constitutional convention recently assembled at Lecompton; and whereas, by reason of the defective provisions of said law, in connexion with the neglect and misconduct of the authorities charged with the execution of the same, the people living in the remaining nineteen counties of the Territory were not permitted to return delegates to said convention, were not recognized in its organization, or in any sense heard or felt in its deliberations; and whereas, it is an axiom in political ethics that the people cannot be deprived of their rights by the negligence or misconduct of public officers; and whereas, a minority, to wit, twenty-eight only of the sixty members of said convention, have attempted by an unworthy contrivance to impose upon the whole people of the Territory a constitution without consulting their wish, and against their will; and whereas, the members of said convention have refused to submit their action for the approval or disapproval of the voters of the Territory, and in thus acting have defied the known will of nine tenths of the voters thereof; and whereas, the action of a fragment of said convention, representing, as they did a small minority of the voters of the Territory, repudiates and crushes out the distinctive principle of the Nebraska-Kansas act, and violates and tramples under foot the rights and the sovereignty of the people; and whereas, from the foregoing statement of facts it clearly appears that the people have not been left "free to form and regulate their domestic institutions in their own way," but on the contrary, at every stage in the anomalous proceedings recited, they have been prevented from so doing.

Be it therefore resolved by the Governor and Legislative Assembly of Kansas Territory, That the people of Kansas, being opposed to said constitution, Congress has no rightful power under it to admit said Territory into the Union as a State, and we, the representatives of said people, do hereby in their name, and on their behalf, solemnly protest against such admission.

Resolved, That such action on the part of Congress would, in the judgment of the members of this Legislative Assembly, be an entire abandonment of the doctrine of non-intervention in the affairs of the Territory, and a substitution in its stead of congressional intervention in behalf of a minority engaged in a disreputable attempt to defeat the will and violate the rights of the majority.

Resolved, That the people of Kansas Territory claim the right, through a legal and fair expression of the will of a majority of her citizens, to form and adopt a constitution for themselves.

Resolved, That the Governor of this Territory be requested to forward a copy of the foregoing preamble and resolutions, to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and to the Delegate in Congress from this Territory.

G. W. DEITZLER,

Speaker of the House of Representatives.

C. W. BABCOCK,

President of the Council.

— SECRETARY'S OFFICE,

LECOMPTON, (K. T.), January 12, 1858.

I certify the above to be a true copy of the enrolled resolutions deposited in this office.

[L. S.]

HUGH S. WALSH, Clerk.

Originated in the House of Representatives.

C. F. CURRIER, Chief Clerk.

Sir, with this protest before us, how can it be said that the Lecompton constitution legally expresses the will of the people of the Territory? That there has, in all its stages, been a large actual majority against it, is a fact which has been

so fully established as to require no comment; indeed, I think it is not seriously denied here or elsewhere. But the friends of this constitution, including the President, say that if a convention be duly elected, although by a minority of the people, and frame a constitution, it is as binding upon the people as though all had voted; in other words, those who had a fair opportunity to vote, and yet refused or neglected to do so, are bound by the action of those who did vote. Sir, I have no fault to find with that position; it is one incident to our form of government. But, while conceding this, I take occasion to say to the gentlemen, and to the President, that this position cannot avail them here against the fact which they know, against the fact established, not only by the whole history of this Kansas difficulty, but also by the evidence taken by a committee sent there by Congress to inquire into that history. There never was a legal convention to frame that constitution. The Legislature which authorized the election of delegates to it was a fraud, and held their seats, not by the votes of the citizens of Kansas, but through the violence and ruffianism of those who never had been citizens of the Territory. The Legislature thus elected had no legal right to their seats, no power to order a convention, and were only kept in their seats by the force of Federal troops. When they ordered the election of delegates, without the legal right so to do, there could be no obligation upon the people to recognize that order by voting; nor is it possible to fairly raise an intendment against them by reason of their refusal to sanction this outrage, not only upon their rights, but upon the principles which underlie our whole structure of government.

But, sir, suppose, for the sake of the argument, we adopt the view of the friends of this Lecompton convention. What then? Gentlemen tell us that there are many precedents where States have been admitted without referring the constitution framed by the convention to the sanction of the people. Granted; but, sir, I call upon them, one and all, to point to a precedent in this Government where a State was forced into the Union against its will; where a constitution was ever forced upon the people of a State against the protest of a majority of that people. And yet that is precisely what is sought to be done in this case. Those who claim that the convention was regular cannot, will not, say that the Legislature which put this protest upon our records is not also regular. If the convention must be deemed as embodying the will of the majority of the people, are you not much more bound to say that the Legislature, also, represented and expressed the will of a majority of the people? And, sir, in the name of that majority, they protest against being brought into the Union under this constitution. Now, sir, I ask by what precedent, by what reasoning, by what right, you can do this in a Government resting upon popular will—in a Union made up by the voluntary agreement of each new member that becomes a party to it?

I would like to have gentlemen explain. I desire to be informed in relation to this new creed of Democracy, which puts minorities in power and compels majorities to submit against their legally expressed will. Sir, there is but one answer; and if it were fairly given, it would be simply that slavery, in its determined spirit of propagandism, defers to majorities when to its purpose, and overrides and disregards them when they conflict with its interests; heeds the will of majorities as it keeps compromises and compacts, and that is just so long as it is for its interest, and no longer. These are harsh and unpleasant truths, sir; but truths nevertheless—truths which I take no pleasure in uttering, yet established so that neither I nor you can change or falsify the record if we would.

You say, with the President, that the country wants peace, and a stop to this excitement. So say we; but we want a peace founded upon justice, and none other could be obtained if we desired it. If you really desire such a peace, abide by your compacts, and we will abide by ours; abide by the principle of "popular sovereignty," which you have established, whether it works against you or for you, and not make complaints and threats at its results. We protested, as I have said, against the introduction of that principle into the Territories. But, sir, while it remains, we

shall adapt ourselves to it, contest every inch of territory, and beat you in every one if we can.

You complain that we did all that we could to induce the emigration of those in favor of free principles into Kansas. We did so. We intend to do so in every one of the remaining Territories. We had and have the right so to do. You did the same thing in the same way in relation to emigration from your section of the country, and you are preparing to do it in relation to Arizona and the other Territories. It is your right; and we have not complained, and shall not, on our part, that you had not the right so to do. I repeat, sir, that this new way of settling the "domestic institutions" of the Territories is a spirit which you called up from the political depths to serve your purpose; and if it will not "down at your bidding," surely, complaint does not come from you with a good grace. It is true, we have more people to spare in the settlement of the Territories than you, and their position gives them greater facilities for emigration; but you knew that fact before you broke up the division line between us. You submitted the question as to what share slavery should have in the Territories to the popular will; and if that popular will decides that you shall have none, where is the wrong or injustice in asking you to abide the arbitrament of your choice?

Some gentlemen tell us that slavery is a God-ordained institution, justified by the Holy Scriptures—the type of the highest civilization known; and that if we do not desist from our opposition to its spreading, the South intends to invade us with the sword in one hand, and a Bible in the other. Now, sir, I beg gentlemen of that section not to take offense at my interference in their preparation for this mighty onslaught, if I suggest to them that it would be better to leave their Bibles at home. We have a good many of those North now; and besides, sir, in such a district as that represented by the honorable gentleman from Georgia, [Mr. GARRELL,] where he says there are fifteen thousand freemen—and I add, that to make up a congressional representation there must necessarily be about one hundred thousand slaves—it would be wise to leave your Bibles for the slaves, that they may read them and be kept quiet by the knowledge that it is God's will that they should occupy their present position. After mustering the army necessary to compete with the one hundred thousand freemen of my district, (if the gentleman will allow me to offset one district against the other,) I do not see what else he could leave to keep them quiet. Mr. Chairman, it may be that gentlemen are serious in these threats of war and dissolution of the Union; but they have been so often repeated in Congress and have so often failed of fulfillment, that we must be excused if we do not at this time give to them that attention which their importance demands.

We were told the other day by the honorable member from Virginia, [Mr. SMITH,] that "any State of this Union had a right to secede at pleasure." Without stopping to comment upon that position, the gentleman will pardon me if I inquire of him if he expects there will be a peaceable dismemberment of a Government like this? Does he believe that if we were, by common consent, to make the effort, we could separate our entangled interests so as to satisfy both parties?

But what, I ask, do gentlemen propose to gain by dissolution—supposing it could be peacefully accomplished? You have, by the compromise of 1854, got the right to all the territory in common with us. A portion of this you would certainly lose. We now, in great part, support your mail service; that we should no longer do. We guard your frontier; that we should no longer do. We pay a very disproportionate part of the cost of the Government; you, alike with us, would be left to pay your own. We hold your millions of slaves in subjection to you; a service which we shall not regret to be absolved from. We return the fugitive, which escapes, to your service, except an occasional one who prefers death to your higher civilization; and we not only return them, but we pay the expense of our own dishonor in this respect. Now, sir, it is very clear that, in a division, this business will be handed over to you. We shall neither perform it ourselves, nor allow you to do it for your slaves upon our side of the line. And you surely do not expect to lessen our objections to human bondage by absolving us from all obli-

gations to respect it as a system, and from even indirectly yielding it support.

I tell the gentleman from Virginia, [Mr. SMITH,] and I tell honorable members who threaten disunion, that there will be no peaceable dismemberment of this Government, even if we endeavored so to have it; and the gentleman's colleague well said that, if disunion ever comes, it will not begin in Congress. It will begin as other revolutions have begun—among the people. It will begin only when the conviction is forced upon the minds of the people that the Government, in its corruption, has left them no hope of peaceable means of redress. It will not be hastily begun, nor even by the ordinary causes of popular outbreaks in other Governments. We are a law-loving, law-abiding people, North and South. I speak now, sir, of the people—the masses—and not of ambitious political leaders. Were it not so, we should now be deciding this question upon the battle-field.

But, sir, there is a point in this matter which it will be fatal to pass; a point upon which trembles the lives of millions of men. Should we ever unsheath the sword of civil strife, it will be no common feud. We are children of the same family, actuated by the same courage, as has been proved upon many a battle-field, feeling the same unyielding determination to stand by our rights, or fall in their defense. Sir, I believe that the page on which is recorded the history of that struggle (should it ever come) will be the reddest page which God has ever permitted to be written upon this earth. I hope, I pray, it may never come. But, sir, I may add, should it come, we of the North are not responsible for it; we have tried to keep peace; we have made sacrifices to this end which few people ever made. And we will not be responsible for its results. If you begin a revolution to spread slavery, you should not complain if, like all other revolutions, it breaks the fetters of the slave, and lets up the oppressed. If you begin the war, and find in its results that your millions of slaves, hardly now held to subjection, shall rise up and enact upon you, your wives and children, the awful atrocities of British India, charge us not with the fault. We want peace, not war; union, not discord; brotherly feeling, not hatred. And we can have these only upon the terms of justice and fair dealing. Sir, as dearly as we prize these blessings, and great as are the sacrifices which we have made, and are willing to make, to obtain them, for one, I say—and I have well considered the words—rather than see a continuance of the wrongs and outrages, the frauds and villainies which have been connived at and sustained by this Government in this matter of Kansas, I would prefer to see an end of the Government, and abide the result.

Mr. Chairman, the people of the North are not "negro worshippers," as they have been termed on this floor. Nor are they Abolitionists. As I have already said, they dislike your institution, and believe it to be wrong in the sight of God, and unworthy of the civilization of our age and country. They would gladly assist—not force—you to abolish it where it now exists. But the great objection with the masses of the North, and one which will ultimately unite them in the same manner to oppose its progress that the South is united to spread it, is the effect of this institution upon the growth and prosperity of the people—is its bearing as a question of political economy. These effects are no longer matter of doubt or speculation. Gentlemen may talk about the value of their annual product of cotton and sugar; what do such facts weigh against the comparison of States side by side—in wealth, in population, in schools, in general intelligence, in all the comforts and blessings of life? Weigh Virginia against Pennsylvania, Kentucky against Ohio, and the slave States which have been admitted since the formation of the Government, against the free States admitted within the same time, and answer the question for yourselves. There is no chance for mistake here; for in soil, in climate, in everything, you had the advantage; and yet with all these, how far you have fallen behind! I do not deny but that your system gives, in individual instances, the very highest opportunity for improvement. The individual who reaps the unpaid toil of others, may have, and will have, leisure and means for cultivation beyond that of him who toils for his support. But, sir, we hold that governments were made for the good of all, and that

one the best which consults the interest and happiness of all. In striving to keep the Territories free, we seek not only the interests of the people of Kansas, but of free labor every where.

I know that we are told by the honorable Senator from South Carolina, [Mr. HAMMOND,] that labor is servile, and laborers everywhere slaves. To make sure that I do him no injustice, I quote what the honorable Senator said on that point:

"In all social systems there must be a class to do the mean duties, to perform the drudgery of life. That is, a class requiring but a low order of intellect and but little skill—its requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, refinement, and civilization. It constitutes the very mud-sills of society and of political government; and you might as well attempt to build a house in the air, as to build either the one or the other, except on the mud-sills. Fortunately for the South, she found a race adapted to that purpose to her hand. A race inferior to herself, but eminently qualified in temper, in vigor, in docility, in capacity to stand the climate, to answer all her purposes. We use them for the purpose, and call them slaves. We are old-fashioned at the South yet; it is a word discarded now by ears polite; but I will not characterize that class at the North with that term, but you have it; it is there; it is everywhere; it is eternal.

"The Senator from New York said yesterday that the whole world had abolished slavery. Ay, the name, but not the thing; and all the powers of the earth cannot abolish it. God only can do it when he repeals the fiat, 'the poor always have with you'; for the man who lives by daily labor, who scarcely lives at that, and who has to put out his labor in the market, and take the best he can get for it; in short, your whole class of manual laborers and operatives, as you call them, are slaves. The difference between us is, that our slaves are hired for life and well compensated; there is no starvation, no begging, no want of employment among our people, and not too much employment either. Yours are hired by the day, not cared for, and scantily compensated, which may be proved in the most deplorable manner, at any hour, in any street in any of your large towns. Why, sir, you meet more beggars in one day, in any single street of the city of New York, than you would meet in a lifetime in the whole South. Our slaves are black, of another, inferior race. The status in which we have placed them is an elevation. They are elevated from the condition in which God first created them, by being made our slaves. None of that race on the whole face of the globe can be compared with the slaves of the South, and they know it. They are happy, contented, unassuming, and utterly incapable, from intellectual degradation, ever to give us any trouble by their aspirations.

"Our slaves are white, of your own race; you are brothers of one blood. They are your equals in natural endowment of intellect, and they feel galled by their degradation. Our slaves do not vote. We give them no political power. Yours do vote, and being the majority, they are the depositaries of all your political power. If they knew the tremendous secret, that the ballot-box is stronger than an army with bayonets, and could combine, where would you be? Your society would be reconstructed, your government reconstructed, your property divided, not as they have mistakenly attempted to initiate such proceedings by meeting in parks, with arms in their hands, but by the quiet process of the ballot-box. You have been making war upon us to our very hearthstones. How would you like for us to send lecturers or agitators North, to teach these people this, to aid and assist in combining, and to lead them?"

Sir, I tell you, and I tell the honorable Senator, that the very thing which he holds up to frighten us—viz: that those who labor will yet rule us—is what we have already accomplished; and therein lies the difference of our system of labor and that of the gentleman's section. With him, power in the hands of the laborer is his greatest dread; with us, it is our highest boast. In his section, the "mud-sills of society" are slaves, who would use power if they had it, to repay long years of wrong and degradation; with us, the "mud-sills," the laboring men, are in power already, and using it, not to avenge injuries, but to perpetuate and increase blessings which are common to all. Labor, instead of being a stigma, is the proudest dignity which we know. With us, those only are dishonored who are the *drones* of society, and refuse to labor. Our laboring men, our "mud-sills," are representing themselves; the gentleman can meet them in the Senate, or here upon the floor of this Hall; and however much he may disallow their claims, they will here, and everywhere, insist that they are the peers of all those who represent his system of labor.

The honorable gentleman from Georgia, [Mr. CRAWFORD,] who, I think, has made up the strongest case upon the Lecompton side, indulged in a course of remarks calculated to convey the impression that all the wrongs and outrages which had been perpetrated in Kansas were by the free-State men. From the high character which the gentleman sustains, I was prepared to hear from him a different statement, and I was not a little surprised when the gentleman dwelt so long and so pointedly upon our northern "Emigrant Aid Society," and the combinations by northern men in Kansas, that he omitted, possibly forgot, to

mention southern "emigrant aid societies" and "blue lodges," as connected with this Kansas history.

Sir, I do not intend to go over the history of these wrongs. The people of my section know them all, and those of your section would never see the evidence were I to collect it. It has already been many times done more perfectly than I could do it, and presented in a way no hour speech can present it. But I have just received a letter from a distinguished citizen until within a few months a resident of my district, and now a resident of Kansas, which, from his high standing and from long years of untiring, unfaltering support to whatever has been called "democratic," will entitle it to credit in my district, if nowhere else. He, for years, shared the toil and the triumphs of that party; he was the supporter of Mr. Pierce and Mr. Buchanan, and he left his old home for the West with feelings toward the "Black Republicans" similar to those taken to Kansas by Reeder, Geary, Walker, and Stanton, and you will see by his letter that his conversion has been not less perfect than theirs:

LEAVENWORTH CITY, February 23, 1858.

DEAR SIR: You may not know that I have been a resident of this place since May last. Supposing that the political storm which raged here with such fury had passed away, I came here with my family, together with Mr. Brown, (who married my youngest daughter,) with the intention of making this my future home. The end, however, it seems, is not yet. No man out of the Territory can form any just idea of the enormity of the wrongs to which the free-State people have been subjected. Very little reliance can be placed on the public press. To know the facts, a person must live here. The free-State people outnumber the rest of our population in the proportion of five to one; and yet, through the atrocious frauds committed on the ballot-box, we are never sure of securing our rights. By this time you will have seen something of this in the testimony taken by a committee, &c. We care nothing for what may be done by our opponents, if the ballot box can be *secretly* secured to us. Until that right is secured, we are at the mercy of the most unscrupulous gang of marauders that Heaven ever suffered to live.

You know I have always voted the Democratic ticket—one of the Hard-Shells of New York; but if the treatment we receive at the hands of Government be *Democracy*, I am no longer one of them; and, from my inmost soul, bid you and your Republican brethren God speed in any and all honorable means to hedge up their way in all attempts to violate the great principle on which the Kansas-Nebraska bill is based.

This is a fine country; and, when peace is restored, and the right shall prevail, will rapidly fill up, and ultimately become a first-class State.

I shall be happy to hear from you, from time to time, at your leisure.

With much respect, I am, dear sir, yours,
JAMES TAYLOR.

Hon. E. B. POTTER.

Mr. Chairman, I have but few words to add in conclusion. I will only repeat, I desire peace; I desire that the present excitement shall pass away and give place to that brotherly feeling which ought to exist between those of the same nation, of the same blood, and speaking the same language. War and strife is ever hateful, and doubly so when waged by members of a common family against each other. But, as I said, there will be no peace except it be founded in justice—fraud and violence never yet produced peace, and never will. They are ever the harbingers of strife and of war; and so will they prove if a continuance of them is persisted in. The people of Kansas have patiently waited and borne wrongs which would have shaken any monarch in Europe from his throne. They have waited in hopes that finally they would be allowed the peaceful constitutional remedy of the ballot-box, and thus put a stop to their oppressions. Compel them into the Union under this constitution and take from them that hope, and they will wait no longer. They will resist, I doubt not; and I think they will not be left to resist alone and unaided. The cause of constitutional right is the cause of millions who never saw Kansas.

The honorable member from Georgia already referred to, told us the other day that "the North in this Kansas matter had fought with a steadiness and zeal worthy of a better cause." Sir, I tell the gentleman, and all who seek to fasten this great wrong upon the people of Kansas, that, should they succeed, they will see a zeal and steadiness upon the part of the North hitherto unknown. They will yet come to realize that our "fanaticism" has already reached that point where we recognize no better, no holier cause than that of human liberty—no higher duty than opposition to fraud and oppression. They will come to know that, however we differ as to whether any more

slave States shall, under any circumstances, be admitted into the Union, there is one point upon which we agree, and that is, that slavery will not be allowed to add new States by fraud or by violence without meeting our determined, unfaltering, resistance; and from this position we cannot be driven by any threat of danger to the Union.

Mr. ABBOTT obtained the floor.

Mr. MORRIS, of Illinois. Will the gentleman yield to me a few minutes of his time?

Mr. ABBOTT. I dislike to appear discourteous, but I have been trying to get the floor for some time, and I prefer to go on.

Mr. MORRIS, of Illinois. I hope the gentleman will yield to me, and that the time I shall occupy will not be taken out of his time.

Mr. ABBOTT. I have no objection to yielding to the gentleman if the Chair decides that it shall not come out of my time.

Mr. FLORENCE. If there is a general understanding that no business shall be done, I can see no objection to the committee sitting on as long as gentlemen wish to speak. There was such an understanding on Saturday night, and I trust that understanding will be considered as applying to this evening, so that gentlemen need not remain here if they do not desire it.

Mr. ABBOTT. I yield, then, to the gentleman from Illinois.

Mr. MORRIS, of Illinois. The gentleman from Connecticut, [Mr. BISHOP,] in his address to the House to-day, thought it necessary to travel out of the record to assail the character of Illinois. He left, or he undertook to leave, the impression upon the minds of members of the House, and of the country, that that State was unfaithful to her obligations. I sought the floor earnestly, the moment he resumed his seat, but was unable to secure it. I said, however, while I was up, and I repeat now, that the assertion of the gentleman is a base slander upon Illinois, and I hurl it back with indignation as such. Sir, she is not unfaithful to her engagements, nor does she refuse to pay the interest upon her public debt. Her character stands as fair as that of any other State in this Union, and it is unjust that she should be assailed, nor will I allow it to be done with impunity. She has not only been faithful to her pecuniary obligations; not only has she maintained her character at home and abroad in this respect, but she has been faithful to her political obligations. Never has she voted for any other than the Democratic candidates for President and Vice President; and it comes with an ill grace and in an ill time, for the gentleman from Connecticut thus to attack her. Can he say as much for the State from which he comes? Sir, the instances of her support of Democratic men and Democratic measures have been "like angels' visits, few and far between." Illinois has never faltered in her course. She gave her electoral vote for James Buchanan; can the gentleman say as much for Connecticut? Does the gentleman from Connecticut come here to assail the character of Illinois, when he represents a State which has resting upon it the disgrace of a Hartford convention, and the blue lights set out upon the shore of New London to indicate aid and assistance to the enemy? A State which enacted the code of blue laws? I seek not to assail the character of Connecticut; but, if the gentleman wants a parallel drawn between the character and standing of his State and mine, I am ready to meet the issue.

Mr. FLORENCE. If the gentleman will yield to me, for a few minutes, I simply want to say to him and to the committee, that the gentleman from Connecticut [Mr. BISHOP] is not here. He has been called home by an affliction in his family. I do not wish to interrupt the gentleman or call him to order, but I merely make the suggestion for his information. I thought, perhaps, the gentleman did not know of his absence.

Mr. MORGAN. The gentleman from Connecticut fired a shot, and then ran away.

Mr. MORRIS, of Illinois. I presume the gentleman from Pennsylvania has accomplished his purpose in announcing that the gentleman from Connecticut is not here, by asking whether I knew it. I tell the gentleman that I did know it, or, at least, that I supposed such to be the case; but the gentleman and the committee will bear me witness when I say, that I endeavored to get the floor as soon as he was done speaking, and I appealed to the gentleman from New York, [Mr. POTTER,]

who obtained it, to allow me a few moments of his time to reply to the gentleman from Connecticut when he was still in the House to hear me; and, while he was still standing here, I did all I was allowed time to do—brand his assault upon Illinois as a foul slander. I have no great fears of the gentleman from Connecticut. This is not the place where we should stand in intimidation of each other. It is a place where the language of truth should be spoken and the character of history vindicated.

Mr. FLORENCE. If the gentleman will allow me a word of explanation, I shall be obliged to him. I desire to say to him, and to this committee, that I had no other desire and no other purpose in interrupting the gentleman than to inform him, supposing, perhaps, that he was not aware of it, that the gentleman from Connecticut was absent. I desire to make no defense of the gentleman from Connecticut, or any other gentleman, and I do not think it is quite fair that the gentleman should take my conscience into his keeping.

Mr. MORRIS, of Illinois. That is two or three times the gentleman has communicated that information to the committee, and I think by this time we understand it. I think, at least, it will not be necessary for him to announce it again.

But, sir, I desire not to detain the committee, but for a moment to vindicate the character of my State; a State, sir, for which I ask no favors. She speaks for herself, Mr. Chairman, and occupies a proud position, pecuniarily, socially, and politically. She has spoken for herself upon our battlefields, and will soon speak here in a manner to be felt; for after the next census she will be equal, on this floor, in power, with the State from which the gentleman comes.

Mr. FLORENCE. I am glad to hear it.

Mr. MORRIS, of Illinois. I am glad the gentleman from Pennsylvania has no jealousy, and I only wish the gentleman from Connecticut had been equally as considerate, and refrained from his aspersions. They were unnecessary, and in using them he went out of the legitimate line of remark and argument. But the gentleman did use them, and thought proper to assail Illinois without the slightest provocation. Whether for that, or for his defense of the Lecompton constitution, or his attack on the Dred Scott decision, or for some other cause, gentlemen from the South clustered round, congratulated, and shook him heartily by the hand, I do not know. Perhaps it was for the lecture he gave them for making what he was pleased to denominate imprudent speeches upon this floor, and the imploring manner in which he besought them to cease placing the poor white man of the North and the negro of the South on an equality. I did not think it was from the argument, for it was difficult to tell upon which side he was speaking, or who was hit. Gentlemen from the South had not much certainly to congratulate themselves upon. If they can stand the speech, we certainly can. I was considerably amused when the distinguished gentleman from Virginia, who spoke before him, took the position that the constitution of Kansas could not be altered by the Legislature, or by the people until 1864, to find the gentleman from Connecticut, sleeping in the same Lecompton bed with him, say not only that the constitution may be changed by the people, but the Legislature itself may abolish slavery by a mere legislative act at any time it pleases. Will southern gentlemen go with the gentleman from Connecticut in favor of that doctrine? I apprehend that no southern gentleman on this floor will subscribe to it; so that I repeat that I do not see much in the speech of the gentleman that they can find to congratulate themselves upon. The gentleman seems to have fired at the whole world, and missed it, too, at that.

But, sir, I will not attempt, nor was it my purpose in rising, to follow the course of the gentleman's remarks. He took the position here, as others have done, that Kansas should be admitted under the Lecompton constitution. Without noticing his assumption or following his argument, I will only express my surprise that Connecticut, which has voted so rarely with the Democratic party, and so seldom given her allegiance to Democratic principles, of all the New England States, should be found upon this floor advocating, through her Representatives, the doctrine, not of freedom, but of the extension of slavery, by a system of the most damning frauds that ever

disgraced the country. I do not undertake to account for it. It is a matter of astonishment to me, and doubtless will be to others, that she should be found thus acting. The country may account for it. I do not undertake to say for her whether she is right or wrong—I am only surprised to find her where she is. I will not undertake to interfere between the gentleman and his constituents: that I will never do with any gentleman. But, I repeat, it is a matter of astonishment to me that Connecticut is the only State in New England in favor of receiving Kansas under the Lecompton fraud. The assumed legality of that instrument, upon which the gentleman planted himself, I would not care the snap of my finger for, if I thought I was acting in violation of the public will, and I am astonished he should. Like all others who preceded him, he ignored that, and rested himself upon the merest technicality. There is the ground-work of his argument; it is the only basis upon which he stands.

I regret, sir, the necessity for these remarks. I would have preferred that the gentleman from Connecticut should have been present when I made them. I tried to make them in his hearing, but I failed to get the floor, and I did not want this day to pass without submitting them. Hence I availed myself of this, the first favorable opportunity to do so.

I hope that hereafter the character of the States will not be dragged into this controversy. I hope, if the gentleman deems it proper to assail the Representatives of Illinois, that he will, at least, spare that gallant State. She deserves no anathemas at his hands. I wish he were here, so that I might interrogate him, as I should like to ask him when and where Illinois has acted dishonorably? I am sure Connecticut cannot boast of anything over Illinois. It is true that she has a magnificent school fund, but she obtained that, amounting to about a million and a quarter of dollars, from the public domain which she held on to with a deathless grasp; while Virginia, God bless her memory, for I love her! magnanimously surrendered her lands to the General Government. Why, sir, Illinois could buy Connecticut, without feeling her treasury had been depleted, for a cow pasture. But I see the gentleman, who so kindly gave me a few moments of his time, thinks I have occupied enough of it, and is desirous of proceeding. I will not, therefore, trespass further upon his patience, or that of the committee. The present proud position of Illinois is the best vindicator of her character, and I leave her reputation where it will be safe—in the hands of impartial history.

Mr. ABBOTT. Mr. Chairman, the Constitution of the United States makes it the duty of the President to communicate to Congress, from time to time, information of the state of the Union, and I need not add that the information contemplated by the Constitution is truthful, reliable information—such information as Congress would be justified in acting upon. Information of an opposite character, known to be such, is not only an insult to Congress and the American people, but it is the highest evidence of executive corruption or of executive servility to a corrupt power behind the Executive himself. I propose, in what remarks I make, to call the attention of the committee to the character of the information communicated to Congress in the President's late Lecompton message. I regard that message as the most singular document that ever emanated from an American President, or even from an American political partisan—singular for its weakness and its folly, singular for the multiplicity of its false statements, singular for its wanton perversion of history, and singular for the absurdity of its conclusions.

In that message the President has seen fit to fully sanction and approbate all the frauds, all the illegal acts, all the violences and usurpations which have been practiced by the pro-slavery party in Kansas since its organization to the present time. On the contrary he has unqualifiedly denounced the free-State men as rebels and traitors. When the President wrote that message, and thus characterized the free-State men of Kansas as rebels and traitors, he must have known that charge was made without any foundation in truth. He knew that all the troubles in Kansas, or nearly all of them, sprung legitimately from his own acts, the acts of Franklin Pierce, and the acts of the Democratic party, who faithlessly repealed the Mis-

souri compromise, and thereby made Kansas a battle-field between freedom and slavery? Who invited and supported the border-ruffian invasion of that fertile Territory? Who sustained and enforced the laws enacted by legislators, elected by that band of foreign usurpers? Who decapitated Reeder, Geary, Stanton, and Walker, because they faltered in the execution of the infamous work assigned them? Who have violated their faith and honor relative to protecting the people of Kansas in the right to form and regulate their domestic institutions in their own way? Who are now about to force the Lecompton constitution, that fraudulent child of a factious minority, on Kansas against the solemn protest of four fifths of its people? Who have shielded the men who have committed the numerous crimes which have been recorded in the Territory of Kansas? Who, I ask, are the guilty authors of all these unheard of atrocities? who but the President, and the party whose true exponent he is? Let us, the present guardians of popular rights in this country, examine the President's indictment against the free-State men of Kansas, and see who are the disturbers of the public peace, who the traitors to our country and its free institutions? Whether they are the accused or the accusers?

In 1820, jealousies sprang up between the North and the South, relative to the slavery question. The statesmen of that day, in good faith, for the purpose of restoring peace to the country, adopted the Missouri compromise. The people approved of the act, lived under it for a third of a century, and never, from any section of the country, sent up a petition to Congress for its repeal.

In 1850, another slavery excitement arose, and the leading statesmen of that day, of all shades of politics, united in allaying it by another set of compromises, some of which were extremely obnoxious to the free sentiments of the country; but, for the sake of peace, all sections of the country and all parties finally acquiesced in them, and agreed that they should be a finality upon the slavery agitation. The great Whig party, now dead, and the great Democratic party, now dying, each inserted in their political platforms, "no more slavery agitation, either in Congress or out of it."

Franklin Pierce, in his inaugural address, reasserted and reaffirmed the same wise and patriotic doctrine—"no more slavery agitation." Yet in less than two years afterwards, when the country was in a state of profound quiet, he employed the whole power and patronage of the Federal Government in aid of the Democratic party to repeal the Missouri compromise—an act preëminently calculated to throw the whole country into a perfect rage of slavery excitement; and that, too, for no other earthly purpose than to extend and nationalize slavery. The hypocritical pretense that it was done for the purpose of abolishing an odious exception against slavery, and to give universality to the great principle of popular sovereignty, has long since ceased to deceive any one. The acts of the pro-slavery party since its repeal, if there was any doubt before, have fully demonstrated the purpose for which it was done. Popular sovereignty! The Missouri restriction repealed for the purpose of extending its principles! What is popular sovereignty? Democratic pro-slavery, Buchanan popular sovereignty? It is the free, untrammelled right, under certain villainous test-oaths, to choose between two slavery constitutions, so nearly balanced in enormity that we cannot tell which is the worst. This is popular sovereignty under the present Administration.

Now, if the Democratic party had kept its faith, stood upon its platform, and let those compromises alone, which were made by patriots for patriotic purposes, should we have had any troubles in Kansas? would armed invaders have been sent there from Missouri to rob the people of their rights? would Beauford and his three hundred villainous followers have gone from Alabama to harass and drive out the free-State men by robbery, murder, rape, and every other conceivable crime? and if they had, would they have been sustained by the Federal Army, and favored by the National Administration with office as a reward for their infamy? No. If the Democratic party had kept its faith, let the Missouri compromise alone, we should now have been in harmony with ourselves; Kansas would have been quiet, free, and happy; the public business would

have progressed without interruption, and the great interests of the country would be cared for, and the national credit, the national honor, and the national morality, too, would be sustained.

I do not say that the Missouri compromise was unrepeatable. No; for I hold that no law, no constitution is unrepeatable, because of an ever-present, existing sovereignty in the people. But I do say, that with the knowledge that it was a peace compromise between the antagonism of freedom and slavery, no hand but a ruthless hand would have touched it; no demagogue but a demagogue seeking power or place, without regard to means or consequences, would have sought to abrogate it. I desire here to ask southern gentlemen one question: if the Missouri compromise had provided that freedom should not go south of 36° 30', and the North having the power, with the aid of a few dough-faces from the South, had repealed that old peace compact, and had made use of the same fraudulent means to force freedom south of that line that you have to force slavery north of it, would you have submitted to it? No, gentlemen, you would have boiled over with righteous indignation; you would have accused us of a breach of faith; of treachery towards the South; of hostility to the Union; you would have called us sectionalists, traitors, knaves; and the rebuke would have been just and merited; and every honest man in the country would have said that we received no more than our due.

The President, in his last annual message, admits the fact that the Lecompton constitution, with what is called the slavery clause stricken out, sustains slavery to the extent of all the slaves which may be in the Territory at the time of its admission into the Union, and their increase forever, which may be multiplied indefinitely by a little attention to slave breeding. I quote from his message:

"Should the constitution *without slavery* be adopted by the votes of the majority, the rights of property in slaves now in the Territory are reserved; and such is the constitution itself."

He admits also, in that message, that the faith and the honor of the Democratic party were publicly pledged in the last presidential canvass that the question of slavery should be submitted to the decision of the people of Kansas, without any restriction or qualification whatever; and that, without such pledge, he would not have been elected. The following is his own language:

"The friends and supporters of the Nebraska and Kansas act, when struggling, on a recent occasion, to sustain its wise provisions before the great tribunal of the American people, never disavowed about its true meaning on this subject. Everywhere throughout the Union they publicly pledged their faith and their honor that they would cheerfully submit the question of slavery to the decision of the *bona fide* people of Kansas, without any restriction or qualification whatever. All were cordially united upon the great doctrine of popular sovereignty, which is the vital principle of our free institutions. Had it then been insinuated from any quarter that it would be a sufficient compliance with the requisitions of the organic law for the members of a convention, thereafter to be elected, to withhold the question of slavery from the people, and to substitute their own will for that of a legally ascertained majority of all their constituents, this would have been instantly rejected."

What does the President now propose to do with that plighted faith on which he received his election to the high office he now holds? Simply to violate it. What does he propose to do with that plighted honor? Simply to violate it. What does he now ask Democratic members of Congress to do with their plighted faith and honor? Simply to follow his perfidious example. Now, gentlemen, what do you mean to do? You of the North, what do you mean to do? Having publicly pledged your faith and your honor to your constituents, that if the Democratic party prevailed the people of Kansas should be left perfectly free to determine the question of slavery for themselves without any restriction or qualification whatever; having elected your President, and many of you obtained the seats you now hold by virtue of these pledges, do you mean now to basely disregard them? In the name of truth, justice, honor, everything that is sacred in human nature, do you mean by your acts to proclaim to the world that your solemn pledges were nothing but shameless false pretenses? No, gentlemen, be men; cease to be dough-faces; cease, I pray you, to cringe and bow your necks to men who despise you for your servility, who hug the treason but loathe the traitor. And let me say to southern gentlemen, cease your unhallowed crusade against

freedom, against the rights of man. If you do not, and the Lecompton constitution is forced upon the people of Kansas contrary to the will and against the solemn protest of four fifths of the people of that Territory, it may lead to consequences not particularly advantageous to your peculiar institution.

Again, the President says:

"A great delusion seems to prevail in the popular mind in regard to the condition of parties in Kansas."

A great "delusion!"

Sir, there is no delusion, unless it be in the President's own brain. Never were parties better understood anywhere than they are in Kansas and in this country, at the present moment. The repeal of the Missouri compromise, the unhalloved acts of this Administration and of the pro-slavery party, in reference to the people of Kansas, have opened the eyes of men everywhere to the true condition of parties in Kansas. The two opposite and conflicting ideas of slavery and freedom are now each struggling in Kansas, and in this country, for permanent dominion; and it is perfectly apparent that we can have no peace, either in Kansas or in the country, until one of these ideas is subdued and brought into subjection to the other. They are so perfectly antagonistic that they cannot exist together in harmony. The one seeks the elevation and the freedom of man; the other seeks to bind him in fetters and chains, and to degrade him to a level with the brute creation. Heretofore compromises have been resorted to as means of reconciliation between these ideas. But experience has taught us that compromises are worse than useless. Experience has taught us that, instead of allaying the ferocity of the contest, they tend to prolong and aggravate it. For one, I never want to see another compromise between freedom and slavery; between right and wrong; between humanity and inhumanity—never! Freedom has always been the loser by them. Freedom has abided by her compacts, while slavery, whenever she has supposed it to be her interest to do so, has violated them.

Hence, I never want to see another compromise. If slavery is to be the leading and controlling idea in this country, if it is to subordinate freedom to it, let us know it. If freedom is to rule, it is quite time for us to assert her rights. On the side of slavery, in this great struggle, stand three or four hundred thousand slaveholders, supported by the Federal Army, and by every branch of the Federal Government, fully determined on victory, if any amount of fraud and violence and subterfuge and chicanery and special pleading can possibly secure it. On the part of freedom stand the great masses of the American people, North, South, East and West—more than twenty millions of free men, fully aroused to the importance of the controversy by recent events, and determined to vindicate the honor, the integrity, and the freedom of the country at all hazards. And, allow me to say, they will do it. The slavery power, having the control of the Government patronage, having every branch of the national Government under its control, may force the Lecompton constitution on the people of Kansas, contrary to their will; but neither that power nor any other earthly power will be able to put a government in operation under the Lecompton constitution in Kansas. If it should be attempted the people will resist; and, in my judgment, they ought to resist. They will never submit to have a government put in operation under a constitution which they detest and abhor, and which robs them of their most sacred rights. Already there are ten thousand men in Kansas—brave, patriotic men—who are ready to lay down their lives, if it must be so, in defense of their rights and their liberties. And there are hundreds of thousands of men, equally brave and patriotic, in the free States, if it must be so, who are ready to fly to their assistance whenever assistance may be wanted.

Sir, I am a peace man. I hate war in all its forms. I regard all collisions between man and man, State and State, nation and nation, as derogatory to the civilization of the nineteenth century. Yet I would rather see this country drenched in blood, and subjected to all the horrors of a civil war, than to see liberty dethroned for ever, and its dominion usurped by slavery. These are my sentiments.

I would say further that, notwithstanding I am

fully persuaded that a government cannot be put in operation in Kansas under the Lecompton constitution, yet I venture to predict that if Kansas should be admitted under it, John Calhoun will immediately declare a pro-slavery Legislature elected, and will assemble together a few of the members in some camp or hollow square of the Federal Army, and procure himself and the man who stands next to him in infamy to be returned to the Senate of the United States. And I further predict that they will be sustained by a majority of the Senate as having been duly elected under the forms of law; and, if need be, the Supreme Court will sanction and approve it.

Again, the President says:

"It is impossible that any people could have proceeded with more regularity in the formation of a constitution, than the people of Kansas have done."

Sir, when President Buchanan penned that paragraph, he knew that the territorial government of Kansas commenced in fraud and usurpation, and was continued by fraud and usurpation down to the time of the Lecompton convention. He knew that the territorial laws of Kansas required that a census should be taken, and that a registry should be had of all the voters throughout the Territory. He knew that that duty devolved upon the territorial officers. He knew that that duty was only performed in part. He knew that the people of more than one half the counties of that Territory were wholly disfranchised. Yet the President, knowing these facts, and knowing all these irregularities in the formation of the Lecompton constitution, tells us that the proceedings were all perfectly regular. But, sir, notwithstanding the exertion of the entire executive power of the Government to consummate the fraud, I am happy to know that there is a minority—a growing minority, too—of honorable gentlemen in the South who reprobate the President's Kansas policy and the pro-slavery outrages committed under it. The treasonable wrongs of the party in power are opening the eyes of southern gentlemen to the demoralizing tendency of their peculiar institution, and leading them to contemplate with favor a higher civilization—a civilization which will elevate both the master and the slave—the slave, by restoring to him his natural and civil rights; the master, by taking from him the exercise of arbitrary and irresponsible power, which tends to warp and debase the whole moral, social, and intellectual nature of its possessor—a civilization based on the eternal principles of truth and right; just and comprehensive; regarding free labor, free schools, and free churches, as the true sources of national prosperity; recognizing the great family of man as members of a common brotherhood, entitled to equal rights and equal privileges; and not that narrow, degrading, and cowardly civilization which trembles at the idea of a common intelligence, and dooms a whole race of men to utter ignorance by penal laws.

Again, the President says:

"From this review it is manifest that the Lecompton convention, according to every principle of constitutional law, was legally constituted, and was invested with power to frame a constitution."

No territorial government has yet been organized in Kansas, according to the organic act—according to law—by the people of the Territory.

The first Legislature was chosen by an armed invasion from Missouri. The invading army marched into Kansas, armed and equipped, forcibly set aside the regular judges of election, and appointed judges of its own. The most of the free-State men were driven from the polls without voting; yet they cast 172 more votes than the pro-slavery residents of Kansas.

The whole pro-slavery vote was 5,427; 4,808 of which were fraudulent. The free-State vote was 791. Deduct the fraudulent votes cast by Missourians, and the free-State men had a majority of 172; yet the 4,808 were all counted by the usurpers, and a pro-slavery Legislature declared elected, and put in operation. The Lecompton constitution is a lineal descendant of that fraudulent Legislature. Still Buchanan tells us that, according to every principle of constitutional law, it was legally constituted. Thus a stupendous fraud is made the basis of constitutional law, a rule of action; for every act of the territorial government of Kansas, from its organization to the Lecompton convention, has been either the child or the grandchild of the original fraud, and equally fraudulent with its paternity.

The most villainous usurpations of the pro-slavery men are legal and constitutional in the eyes of the President. Robbery is genuine honesty; treason is patriotism; rapes and murders are proofs of devotion to law and order. What a mockery! I sometimes think that we belittle and disgrace ourselves in attempting to argue with men so lost to truth and justice.

Again, the President says:

"The Kansas convention, thus lawfully constituted, proceeded to frame a constitution; and having completed their work, finally adjourned to the 7th day of November last. They did not think proper to submit the whole of this constitution to a popular vote; but they did submit the question whether Kansas should be a free or a slave State to the people."

Sir, they did not submit the question whether Kansas shall be a free or a slave State to the people. They only allowed the people to choose between two slavery constitutions—to determine whether they should raise, or import and raise, their slaves. The President, in another part of his message, says:

"Kansas is, at this moment, as much a slave State as Georgia or South Carolina."

In his annual message, he says:

"Slavery exists in Kansas, under the Lecompton constitution, with the slavery clause stricken out, to the extent of all the slaves then in the Territory."

Hence, according to the two messages, Kansas, with the constitution with no slavery, would have been as much a slave State as Georgia or South Carolina. Terrible are the exactions of slavery when it requires the President of the United States to communicate to Congress such a tissue of misinformation.

But the President not only gives to Congress misinformation relative to facts, but he misquotes the law—misquotes from the Kansas-Nebraska act for the purpose of consummating the Kansas usurpation, adding to the text the words "in framing their constitution," which changes the entire sense of the quotation, and without which his whole argument becomes supremely ridiculous. A pettifogger, in a justice court, who should thus fraudulently misquote the law, would be stricken from the rolls of the court as unworthy to practice before it; yet, as an act of the President of the United States, in the great Lecompton swindle, it is not regarded as out of the regular and ordinary course of procedure. Wherefore these gross Executive wrongs? Is the President beside himself, or is he a slave himself to relentless masters who care not whether he acquires an immortality of infamy, provided their ends are answered?

But we are told that freedom in Kansas must yield to the necessity of keeping up an equilibrium of power between the free and slave States. An equilibrium of power! Suppose one or more States of the Union should legalize polygamy, Mohammedanism, larceny, or highway robbery, either of which is less offensive and less criminal than slavery—must the Territories, in the formation of new States, be parceled out so as to give the States thus legalizing such a wrong an equal share of the public domain, on which to extend and perpetuate their peculiar iniquity? Are such the terms of our copartnership? Such the bonds which hold together these United States in one glorious Union? We are told, also, that the will of the people must bow to the forms of law. Forms of law! Are they above the substance of things—higher than truth and justice? Is Congress to rob the people of a new State of their inalienable rights, under the wicked pretense that it is complying with the forms of law? Forms are no protection to fraud, even in our technical courts of law. It is a legal maxim, recognized everywhere but in the present Government of the United States, that fraud vitiates all proceedings, and that forms and records interpose no bar to the discovery of it. The world, in past ages, has been the great theater of wrongs committed under legal sanctions. Open the book of history, and there read the soiled and blackened records of unnumbered crimes perpetrated under the forms of law. Socrates was compelled to drink the poisonous hemlock under the forms of law. Jeffreys committed his numerous judicial murders under the forms of law. The Spanish Inquisition executed its hellish purposes under the forms of law. George the Third sent his hireling army to this country, to force obedience to his oppressive and tyrannical will, under the forms of law. The blood of our Savior was shed through the forms of law. And

now, in the nineteenth century, an American President and an American Congress are about to rob a portion of the American people of their liberties, through the miserable pretense that they are doing it under the forms of law.

Again, the President says:

"It has been solemnly adjudged by the highest tribunal known to our law, that slavery exists in Kansas by virtue of the Constitution of the United States."

Sir, it has not been solemnly adjudged that slavery exists in Kansas by virtue of the Constitution of the United States. The Supreme Court, in the *Dred Scott* case, assumed to decide that fact; it assumed to decide that the Missouri compromise was unconstitutional; it assumed to decide that slaves are recognized as property by the Constitution of the United States; it assumed to decide, also, that negroes have no rights that white men are bound to respect—an assumption which is false and absurd if it had been applied to our horses and our oxen, for they even have rights which men are bound to respect by the laws of every civilized and humane community.

But, sir, these opinions, or these assumptions, of the Supreme Court were given extra-judicially. They were given after the court had determined that it had no jurisdiction in the case, after it had determined that it had no case before it upon which to found any further judicial decision. The doctrine that slaves are property by the Constitution of the United States, I hold to be utterly false, utterly subversive of the fundamental principles of our Government, and utterly destructive of the best interests of our country. If established, it will nationalize slavery, and denationalize freedom. Freedom and slavery cannot both be national, for the reason that they are direct antagonisms, and cannot coexist at the same time under the same Government. Monstrous as this doctrine is in a Republic called free, the means employed in the attempt to fasten it upon this country are equally iniquitous. So long as the official acts of public men are susceptible of a favorable construction, so long should their names be mentioned with respect; but when they prostitute themselves, and the influence of their high positions, to base purposes, to the betrayal of sacred popular rights, they then become objects of scorn and contempt; and the higher the office, the more severe and pointed should be the rebuke.

President Buchanan by his Kansas policy has acquired a reputation which will forever associate his name with oppression and villainy. And the Supreme Court of the United States, in giving its opinion in the *Dred Scott* case, descended from the high and honorable position it has heretofore occupied, and lent its influence to extend and nationalize slavery. It has put forth a document, I will not call it a decision, which for weakness in moral, mental, and legal qualities, has no parallel in the history of judicial proceedings in this or any other country. The opinions promulgated in that document all history pronounce false; all law, simply ridiculous. Some persons affect to regard that document as a judicial decision; lawyers regard it as extra-judicial nonsense, for they know the absurdity of its doctrines, and they know that when the court had decided that *Dred Scott*, being a negro, could not be a citizen of Missouri, it had exhausted all its judicial power in that case. Having decided that, it ceased to have any case before it upon which to base any further judicial decision. Hence the opinions of the court therein expressed are not only false, but they are extra-judicial usurpations, entitled to no more respect than the opinions of any other equal number of political demagogues of similar abilities and similar morals with themselves.

Slave property! human beings made property by our glorious Constitution! Shame on the men who sustain such a doctrine! God forbid that such an idea should ever be received in this free Republic of ours! Where is it to be found? In what clause, in what provision of the Constitution? It is not in the Constitution. It is to be found nowhere but in the *Dred Scott* decision and in the President's messages. If a man is to be deprived of himself, his wife, and his children, souls and bodies, by a *paper* constitution, I am inclined to think the intent to do it should be expressed, and not left to vague and strained implication.

But there is no provision of the Constitution from which such an implication can possibly be

derived. The Supreme Court assumes to derive it from that clause which provides for the return of fugitives from service or labor; but it is not there. That provision of the Constitution simply recognizes the great doctrine of State rights—State impunity, if you please, to do wrong—in regard to local matters; to hold property in man by State laws, and to reclaim it if it escapes into a sister State. If the infamous doctrine that slavery is national be true, then, I repeat, there is no such thing as a free State in this Union; and there never can be; for, if slaves are property by the Constitution of the United States, then the slaveholder may take his slaves into any State of the Union, and there enjoy their services; hold them as property, and their increase, for a day, a year, or forever, in spite of any State law to the contrary; because all State laws which conflict with the Constitution of the United States are nugatory.

Hence the irresistible and logical deduction to be drawn from the *Dred Scott* decision, and from the President's message, is, that slavery is national, and freedom has no existence in this country.

Mr. SMITH, of Virginia. I wish to ask the gentleman if, before the Constitution was adopted, and when all the States had slavery in them, was there no liberty?

Mr. ABBOTT. There might have been the liberty of individuals, but with the doctrine now contended for, there would have been no national freedom. I say that the two institutions of slavery and freedom are antagonisms; and there is no such thing as the national existence of both, for the reason that they are as much opposite to each other as light and darkness, heat and cold, and the existence of one necessarily excludes the other. Hence, if slaves are property by the Constitution, freedom has not even a sectional existence in this country. But the whole spirit of the Constitution is against the nationality of slavery, against the idea of property in man. The preamble of the Constitution declares its adoption by the people of the United States to have been to "establish justice, insure domestic tranquillity, promote the general welfare, and secure the blessing of liberty." Is there any justice in slavery, in human robbery? Does it promote domestic tranquillity or the general welfare—does it secure the blessings of liberty? If any man thinks it does, let him go and sell himself to the slave-driver, and there, driven by the side of other domestic animals, with the lash over his back, and the degradation of his wife and his daughters before his eyes, enjoy the blessings of liberty to his heart's content. I will not prevent him.

But if there were any doubt about this matter an argument might be drawn against the *Dred Scott* decision and the President's message from the historic character and aspirations of the founders of our Government. They evidently designed to form a free Republic, and not a slave oligarchy. Did the pioneers of America leave their homes, flee from tyranny and oppression in the Old World and seek an asylum in the New for the purpose of establishing and perpetuating a system of human bondage tenfold worse than that from which they fled? No, they all loved liberty and hated oppression. Did Jefferson indite the Declaration of Independence, which declares that "all men are created free and equal, endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness," for any such unholy purpose? No, he wrote and labored for the final extinction of this accursed system in this country. Did Hancock and Adams sign that immortal instrument, and pledge their lives, their fortunes, and their sacred honors to sustain it for the purpose of chattelizing man? No, they looked forward with hopeful anticipation to the time when this fair land should become free—free in fact and free in deed as well as free in name. Did Washington and his band of iron heroes fight the battles of the Revolution to establish and perpetuate a system of aristocracy which makes a part of the people absolute and irresponsible masters, and the other part abject slaves, having no rights which the aristocratic class is bound to respect?

The original draft of the Constitution, in the clause which provides for the return of fugitives from service, contains the word *slave*. Madison moved to strike out that word, so that when slavery should be abolished in all the States future

generations should not learn from the Constitution that the odious system of slavery ever existed in the country; and it was stricken out by the unanimous consent of the convention. With no word, no letter in the Constitution recognizing slavery in any form, and with such a historic fact staring them in the face, and the instincts of human nature pleading for human freedom, Buchanan and the Supreme Court have affirmed that slaves are property by the Constitution. Now, I submit, if Buchanan and the Supreme Court, when they so affirmed, did not know that the affirmation was untrue. But we are met here by the great pro-slavery argument, that God himself sanctions and approbates the system of negro slavery in this country. That argument I shall not attempt to answer. It is best answered by silence. When a member of this body so far forgets himself as to stand up in this Hall, and in the face of his constituents, in the face of the American people, and in the face of high Heaven, and proclaims that God Himself sanctions and approbates the accursed system of human slavery in this country, it is better to pass by the statement in silence. It is not for me, not for weak man, to vindicate the character of God against such a charge. God, in his own good time, if need be, will vindicate his character from such foul and infamous aspersions.

The President and members of Congress have expressed regrets that Kansas is occupying too much of the public attention. I regret it, too, as deeply and as sincerely as they do. I had always supposed slavery to be a local, a State institution, subject to State control, existing only by State laws—a mere sectional institution, having no nationality whatever. I desire to have done with it. Let it be driven back to the slave States, where it belongs, there to die out, or live, if live it must, as a just retribution to the men who foster and uphold it. Let us plant ourselves squarely on the Constitution, and construe it according to the design of its authors. Let us avoid everything calculated to alienate or estrange one section of the country from another, and secure that harmony which ought to prevail among ourselves, and which the good of the country requires. But how can it be done while such infamous doctrines and measures are being forced on the country by the dominant party? How can it be done, while such bitter sectional feelings exist as have been manifested by members on the other side of this House? The gentleman from Mississippi, [Mr. DAVIS,] in a speech in the early part of the session, remarked that he despised the members of the Republican party; and the gentleman from Alabama, [Mr. SHORTER,] has spoken with still greater asperity of the character and religion of the Pilgrim fathers, and the Boston clergy. I quote from his speech:

"The Pilgrim fathers, indeed! Sir, I have a sovereign contempt for the memory of the Pilgrim fathers. The religion of Plymouth Rock is the religion of fanaticism, of intolerance, of infidelity, of bigotry, and hypocrisy. It is the religion of the Boston clergymen, who violate the seventh commandment in going to and returning from their evening lectures; and who, when exposed to the indignation of a virtuous community, are lionized and flattered by the fawning portion of their flocks! In my judgment, Mr. Chairman, the greatest calamity that ever befell our country was that event which clothed Plymouth Rock with its historic associations."

Sir, I am a Republican; a Black Republican, if you please, and I am proud of the name—proud of my party. It is the only truly national political party in the country; the only party which sustains the true principles of our Government, as enunciated and acted upon by its founders—Washington, Jefferson, Madison, and their compatriots—the only party that can possibly save this free Republic from being transformed into the most odious aristocracy that ever existed on the face of the earth. I shall not say that I despise the Democratic party, or any member of that party. My republican manners will not allow it. But I shall say that if I were a member of that party, and had made up my mind to vote to force Kansas into the Union, under the fraudulent Leecompton constitution, against the expressed will of four fifths of its people, I should loathe and abhor myself as a traitor to free institutions. I shall not say that I despise the religion of the South. No, my New England charity will not permit it. But I shall say that I do not understand how a man, who makes merchandise of his fellow-man, can be possessed of any of that

Christ-like religion which requires us to do unto others as we would that they should do unto us. I cannot stop here to defend the character or the religion of the Pilgrim Fathers, or the character or the religion of the Boston clergy, against the aspersions of men who regard a community of masters and slaves, tools and despots, as the highest type of civilization. If their lives have been characterized by justice and humanity, no wonder they are slandered by men of opposite principles and feelings. If they are men of God themselves, they cannot hope to be appreciated by men who enslave God's image. If their religion is the religion of Christ, they cannot expect it will receive the approbation of men who claim property in the souls and bodies of Christ's living temples. Vice and virtue; religion and infidelity, are antagonisms, and will never harmonize or become the friends and supporters of each other.

But resolutions have been read to this body from the State of Texas, and several gentlemen on the South side of the House have assured us that unless they can be permitted to force the Le-compton swindle on the people of Kansas, the Union will be, or may be, dissolved; and some of them have intimated that if the Union should be dissolved, southern fire and southern swords will lay waste the entire North, East, and West; that our beautiful villages, towns, and cities, will become smoking ruins, and our streets rivers of blood. How frightful the picture! But have gentlemen duly considered the power and strength of the North, East, and West, combined, and the comparative weakness of the South? Have they duly considered that if the Union should be dissolved, and a civil war should ensue, the slaveholders will have quite business enough on hand to defend themselves, their wives, and their children against the smothered vengeance of a down-trodden race, without troubling the free States with their hostile forces? But the everlasting cry of disunion has no terrors in it. It is simply ridiculous. It is not in the power of Congress, of all the office-holders in the Government, and all the slaveholders combined, to dissolve this Union. If the question should seriously arise, the people will have something to say about it. They are the all-powerful links that bind this glorious Union together indissolubly. Their voice is for union, as well as for liberty now and forever; and their voice is the supreme law of the land, and must and will be obeyed. They have witnessed the happiness, growth, and prosperity of the country under the Union. They have seen its power at home and abroad. They know that its flag floats over every ocean and every sea; and they know that that flag is respected and feared by all nations; and they are justly proud of the Union; and they will never consent that it shall be broken up. But if there are any restless traitors in the country, who are tired of the Union, and desire to get out of it, in Heaven's name let them go. Let them go.

[Here the hammer fell.]

Mr. SINGLETON obtained the floor.

Mr. BENNETT. If the gentleman will yield, I will move that the committee rise. [Cries of "No!" "No!"]

Mr. SINGLETON. I have not occupied any portion of the time of the House since I have been here; and I would prefer, if it meets with the approval of members, to speak in the morning. I am perfectly willing to yield the floor to-night, if I can have it in the morning.

Mr. KELLOGG. I wish to say that, while it is unpleasant to speak to benches, still, as there is great anxiety on the part of many members to speak, I will, if I get the floor now, occupy half my time this evening, and finish my remarks in the morning. I presume the Chair would recognize the agreement of members.

Mr. SINGLETON. If the committee consent to it, I have no objection.

Mr. DEWART. I object to it.

Mr. KELLOGG. It will make but half an hour's difference.

The CHAIRMAN. Does the gentleman yield?

Mr. SINGLETON. If it be the agreement that I get the floor to-morrow, I have no objection.

The CHAIRMAN. If there be no objection, the Chair will recognize the gentleman from Illinois.

No objection was made.

Mr. KELLOGG. The meeting of this com-

mittee this evening reminds me somewhat of a meeting which I had an account of not long since, in a communication from my district. It is assumed there, whether true or not, that the distinguished Senator called the Little Giant has very much the advantage of the President in our State; and it is the habit of the people there to get up what they call demonstrations. It became necessary for the Administration party to get up a demonstration also; and after due consideration and consultation of the heads of that party, consisting of a few postmasters and deputy marshals, they concluded to hold a Buchanan demonstration. They posted large printed handbills, and made a display of banners, of music, and beating of drums; and after parading the streets, they marched into a spacious hall, nearly as large as this, though it had not so much tinsel as decorates this room; and after all had gathered together, they counted up, and had precisely three—two postmasters and one deputy marshal; and one being a little more facetious than the rest, proposed they should adjourn by singing, "When shall we three meet again?" And they did adjourn by singing, altering the original a little:

"When shall we three meet again,
In thunder, lightning, or in rain?
When the hurly-burly's done—
When freedom's lost and slavery's won,
Then shall we three meet again."

And, sir, I trust in God they will never meet again on that condition.

Mr. Chairman, what is the element that has aroused the people of this great nation to an intensity of thought and political action seldom, if ever, before known? Is it only because crimes have been committed and frauds perpetrated in Kansas? No, sir. Is it because political partisan strife has frenzied the minds of the people? No, sir, it is not that. But it is because the Government has been, and now is, prostituted to the vile purpose of restricting freedom and extending slavery. It is because the policy of the fathers of the Republic has been debauched from the doctrines of its early days as announced by Washington, Jefferson, Madison, and Monroe, who, as statesmen and philosophers, comprehended the evils of the institution of slavery, and provided against its extension by prohibiting its expansion into any of the territories of the then Confederacy; who denounced it as an evil, a despotism, an oppression, and hopefully and confidently looked forward to its ultimate extinction by the action of the States in which it was tolerated. And now, sir, in the nineteenth century, in this day of progress, improvement, and intelligence, while the moral sense of the civilized world is shocked by its contemplation, the great, the only absorbing subject of consideration before the American Congress is, shall human slavery be extended over, and established in, a new sovereign State, an empire of freemen, established on our own domain, molded and fashioned by our own countrymen, and springing into life by the breath and at the bidding of the free Government of the United States; and that even against the expressed and determined will of her people?

This, sir, has aroused the great mass of thinking mind of America that is destined to control her action, direct her energies, and perpetuate her national existence. This revolution of governmental policy so aroused the public mind that a necessity was produced that called into existence the Republican party, whose mission is to lead back the Government to its original doctrines of freedom and purity of purpose, and when that is accomplished, to keep watch and ward that it be not again despoiled; the propriety and necessity of which I propose to consider.

Mr. Chairman, four years ago the country was in repose. The two prominent political parties were emulous of each other in their protestations that there was a final adjustment of the exciting subject of slavery extension. The Missouri compromise had not been disturbed; and whether binding as a statute law or not, it was obligatory, because of the expressed consent of the people, North and South, as the settled policy of the country. Having received its strongest support from southern members at its passage, the North had acquiesced and pledged its faith for its permanency. It had challenged and received the sanction and commendation of the whole country for more than thirty years.

Men of high position and commanding intellect pointed to it as possessing not only the form and sanction of law, but the power and sanction of the will of the people, the source of all law, and therefore obligatory on their hearts and consciences as a mutual and friendly adjustment of a controversy that then endangered the union of the States. But, sir, in an evil hour, evil to the country, evil to him who conceived the bold design of its abrogation, that policy, "akin to the Constitution," was abrogated and annulled. The barrier for freedom, which had remained intact for thirty years; was as chaff in the hands of the spoiler, when its destruction was demanded to secure and advance the interest of the party then in power.

The motive that induced that act of evil consequences, the country must determine. Its results are "around us and upon us." The twenty million freemen of the North did not ask it. Did the four hundred thousand slaveholders of the South demand it? Let him answer who now most keenly feels the legitimate results of his own rash act.

Kansas was free in fact. It is now a slave Territory; and the President tells us in his message, with that complacency and apparent pleasure that always accompany the success of a darling purpose, that "Kansas is now as much a slave State as Georgia or South Carolina;" and never did result follow its immediate cause more truly than has this result followed the repeal of the Missouri compromise.

The effect was seen from the beginning, and the country warned of the results that have followed; and step after step in this sure and determined march of wrong and violence has left its record of outrage upon the natural and constitutional rights of the freemen of Kansas, until the object of that measure has been accomplished in the only way, in sympathy and keeping with the institution it has established there.

But, sir, in presenting to the committee the views I entertain on the great question of the day—I mean the question of the rights of the people of the Territory of Kansas—I propose to speak of the present: the past is beyond our reach, only as we may profit by its record. We have to do with time as it passes. What of wrong and violence there has been perpetrated in Kansas, is now of history. And while we regret and deplore the sad history of our young and hopeful Territory, all blotched as it is with outrage and crime, we must look to the present and to the future to do her justice. True, you cannot bring back to life the dead, murdered by her invading foe. You cannot obliterate the remembrance of her hearth-stones desecrated, and the sanctity of her social life involved; but, sir, you can give her security for the future; her sacked and pillaged towns can be rebuilt; her printing press restored, and her ballot-box made secure from the contaminations of fraud and the hands of violence.

You can give her back that of which she had been robbed, the right, the boast of every American citizen, the right to be free—free to form her own organic State sovereignty; free to present to Congress her own constitution in her own way and time. This, sir, is what we ask; this is what the people of Kansas ask. It is her right, and she has sworn upon her altars to maintain it; and it being her right, and because it is in strict accordance with the theory and elements of our government and its institutions, no earthly power can prevent her ultimate success. You may cripple her energies for a time; you may send an armed invading force and imprison her people; you may lay waste her country and destroy her towns, again and yet again; still, while the great American heart sends its pulsating blood through the veins of freemen, Kansas, though broken, cannot be conquered.

It behooves us then to consider well the real issue now before Congress for its immediate action. Many issues have been made; many and varied views have been taken by gentlemen upon this floor; but to my mind there is but one question to be decided. All others are but incidental, or rather as the result and fruit of the one; and that sir, is, shall Kansas be admitted as a slave State? To that at last must this question come. Gentlemen from the South appreciate this, and are prepared to meet this question upon its own merits, disrobed of all false covering, political

apparel, or the means by which it is to be accomplished. And, sir, in my judgment, he who supposes that the great questions of the day can be determined without involving the principle of the extension or non-extension of the institution of slavery, beyond the limits of the slaveholding States, mistakes the spirit of the age, and the principles involved in the issue now under discussion.

I would not be understood by this as treating lightly, or as unimportant, the course pursued by the friends and authors of the Leocompton constitution in Kansas. No, sir; I should feel that I had but illy discharged my duty, should I permit such an inference to be drawn. Too gross and too flagrant have been the outrages committed on American citizens resident in Kansas, to merit other than the condemnation of all just men. But I do mean to say that these wrongs have been the fruit, not the root; the result, and not the cause; that the determination to extend the institution of slavery into Kansas has been the first great cause of all the desolating crimes that make up the sad story of her early settlement, and but for that, a brighter page would have borne the history of her early life.

In proof of this proposition, I desire to refer to the history of the times yet within our recollection. Early in the history of those outrages, when the ballot-box was first subjugated to the vile purposes of the invaders from a neighboring State, it was declared by a gentleman, (General Stringfellow,) with whose name and fame, as connected with the introduction of slavery into Kansas, the people are but too well acquainted, and who was a leading spirit of evil in those days of terror, in a public speech, just before the election of November 29, 1854, at St. Joseph, Missouri, said:

"To those who have qualms of conscience as to violating laws. State or national, the time has come when such impositions must be disregarded, as your rights and property are in danger; and I advise you, one and all, to enter every election district in Kansas, in defiance of Reeder and his vile myrmidons, and vote at the point of the bowie knife and revolver. Neither give nor take quarter, as our case demands it. It is enough that the slaveholding interest wills it, from which there is no appeal. What right has Governor Reeder to rule Missourians in Kansas? His proclamation and prescribed oath must be repudiated. It is to your interest to do so. Mind that slavery is established where it is not prohibited."

No appeal! Freemen of my country, is there no appeal from the mandate of the slave power? Freemen of the mighty North, is there no appeal? If not, then stretch out your willing hands to receive the manacles of slavery, and march obedient in her coffee; fit only to receive the lash, and do the bidding of the taskmaster. Here, sir, is a bold declaration of the object and intention of those who have been, or assumed to be, in the confidence, and to have in keeping the slaveholding interest, of the southern States. And while this line of policy was publicly avowed by speeches and by publications, within the hearing and knowledge of Government officials, until they became a part of the history of the times, yet no disapprobation was manifested by the Executive, nor was any effort made to prevent this openly-threatened violation of the laws, both territorial and national; yea, threatened treason and rebellion.

Mr. SMITH, of Virginia. I desire to ask a question of the gentleman from Illinois. The gentleman, in the course of his remarks, spoke of that tremendous sensation in the public mind which had produced the great revulsion now in progress. I would be glad if the gentleman would tell us to-morrow how it occurred in 1856?

A MEMBER. Wait until to-morrow.

Mr. KELLOGG. I prefer to answer the gentleman just now that it is in my mind. I thank the gentleman for the inquiry. When the Kansas-Nebraska bill passed, the people took the alarm. We warned them that it was a pro-slavery measure. You knew it was. What was the result? The North revolutionized, and sent here a Republican House of Representatives. You sent the dough-faces of the North back to us—the northern Democrats who did your bidding—and they told our people that it was a fair measure, and that the object was to make Kansas a free State. Party allegiance was strong, and free-State pledges abundant. And that deceptive doctrine of non-intervention was introduced, without which James Buchanan could never have been elected President of the United States. And, sir, the people of the North were induced to send to this

House a sufficient number of northern Democrats out of which sufficient could be found, added to the number of southern Democrats, to make a seeming majority for this pro-slavery Administration. And now, sir, that the real object of the measure is developed, and the light of day is breaking through the fogs of political trickery, a revolution has commenced which will sweep the land like a thunder-storm, and result in a Republican House of Representatives, and the election of a Republican President good and true. I now yield.

Mr. SMITH, of Virginia. I suppose I cannot have the right of submitting a few remarks without wasting more time.

Mr. KELLOGG. At another time I will take turn about with the gentleman while my time lasts.

Mr. LAMAR. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOCOCK reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the services of the fiscal year ending the 30th of June, 1856, and had come to no conclusion thereon.

CENSUS OF 1860.

Mr. SHERMAN, of Ohio, asked leave to offer the following resolution:

Resolved, That a special committee of five be appointed by the Chair, and to continue during this Congress, whose duty it shall be to inquire into the best mode of taking the census of 1860, with leave to report by bill or otherwise at any time during the session of Congress commencing on the first Monday of December next.

Mr. FLORENCE. I object.

Mr. SHERMAN, of Ohio. I move to suspend the rules.

Mr. ENGLISH. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at a quarter before seven o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, March 23, 1858.

Prayer by Rev. E. KINGSFORD, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented three petitions of citizens of the State of New York, praying that pensions may be granted to the soldiers of the war of 1812, and to the widows of those deceased; which were referred to the Committee on Pensions.

Mr. HAMLIN presented the petition of Ebenezer Ballard and Rishworth Jordan, seamen on board of the United States ship Adams in the war of 1812, for themselves and other seamen in that ship, praying for indemnity for clothing, bedding, and other property destroyed by the blowing up of the ship; and also to be allowed their share of prize money for captures made by that ship; which was referred to the Committee on Claims.

Mr. HALE presented the petition of Lydia Weeks, praying to be allowed the pension to which her husband, Jedediah Weeks, was entitled at the time of his death; which was referred to the Committee on Pensions.

Mr. HARLAN presented a petition of residents of Johnson county, Iowa, praying for the establishment of a mail route from Iowa City to Des Moines City, in that State; which was referred to the Committee on the Post Office and Post Roads.

PAPERS REFERRED.

On motion of Mr. CAMERON, it was

Ordered, That the memorial and papers of the heirs of General Henry Miller, delivered by the Clerk of the House of Representatives to the Secretary of the Senate, by order of that House of the 16th instant, be referred to the Committee on Revolutionary Claims.

BILL INTRODUCED.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 210) to create additional land districts in the State of California, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

CLAIBORNE'S COTTON REPORT.

Mr. SLIDELL. A communication was received yesterday from the Department of the Interior, transmitting the report of Mr. Claiborne, who was appointed special agent for the purpose of obtaining information in regard to the consumption of cotton in Europe. I move that it be printed; and I presume this motion, as a matter of course, will go to the Committee on Printing.

Mr. BENJAMIN. If my colleague will allow me, I shall propose a resolution which I have been drawing up directing the printing of ten thousand extra copies of that report for the use of the Senate, and I presume it will be referred to the Committee on Printing.

Mr. SLIDELL. I have no objection to an amendment of that sort being moved, though I shall certainly not be disposed to vote for printing ten thousand copies.

The motion was withdrawn.

COAST SURVEY REPORT.

Mr. JOHNSON, of Arkansas. I move to take up the resolution which I reported some time since from the Committee on Printing in reference to the printing of the Coast Survey report. It can be disposed of this morning without delay and without debate.

The motion was agreed to; and the Senate resumed the consideration of the following resolution:

Resolved, That in addition to the usual number of copies of the report of the Superintendent of the Coast Survey for the year 1857, there be printed five thousand copies for distribution from the Treasury Department; that the same be printed and bound with the plates in quarto form; and that the printing of said plates shall be done to the satisfaction of the Superintendent of the Coast Survey.

Mr. PEARCE. I have had some conversation with the Senator from Arkansas, and I believe he is quite satisfied with an amendment I propose to offer to the resolution. It is to strike out all after the word "Resolved" down to the word "Department," inclusive, and insert in lieu of the words so stricken out:

That, in addition to the usual number of copies of the report of the Superintendent of the Coast Survey office for the year 1857, there be printed six thousand two hundred copies, twelve hundred of which for the use of the Senate, and five thousand thereof for distribution by the Superintendent of the Coast Survey, under the direction of the Secretary of the Treasury.

Mr. JOHNSON, of Arkansas. I am authorized to say to the Senate, that the Committee on Printing assent to this amendment. It adds twelve hundred copies to the number originally reported by the committee, and those twelve hundred are for distribution by the Senate. It is, however, a great curtailment on the former practice, and I hope it will be adopted at once, and the subject disposed of.

Mr. PEARCE. I wish to say a single word; I do not mean to enter into any debate at all. When this subject was up before, some observations fell from a member of the Senate, which I think conveyed a meaning not intended by him. There seemed to be an imputation that there was something wrong in the management of the Coast Survey office. I merely wish to say now that whenever the Senate or any portion of the Senate shall think there is any abuse in that office which requires the correction of Congress, they will find that office and all its friends very ready to meet any inquiry which may be made; and I am satisfied that such an investigation will show that this branch of the public service is conducted with a purity and an economy of administration not exceeded, if equaled, by any branch of the public service; that it exhibits the most thorough and complete scientific knowledge, the utmost accuracy and perfection of workmanship, and that in fact it places American science in the advance, or, at all events, equally far with that of any other country under the sun. I know this is the reputation of this branch of the public service abroad. It is only a year or two ago since the President of the Royal Geographical Society said of it that although the Americans were late in the field, they had at one bound taken the first rank. I only desire to say now, that whenever it shall really be thought that there are abuses, and an investigation shall be desired, it will be very promptly met, and everything fully and fairly disclosed.

Mr. HALE. I hope that investigation will be made. I do not stand here to accuse the Coast Survey office; I do not know anything about it;

but my impression is, that if it is what the Senator from Maryland says it is, we owe it to the discretion and judgment of the man at its head, and not to that supervision which, in my opinion, the legislature ought to extend over it. My impression is that there is a looseness about the appropriations for that establishment which does not exist in any other department of the Government. I do not say that it is not all the Senator from Maryland thinks; but if it is so, no thanks to Congress, for, in my opinion, in the appropriations for and supervision of that establishment, there have been a looseness and neglect on the part of Congress unparalleled in the history of this Government. I hope an investigation will be had.

Mr. CAMERON. I hope some investigation into this department of the Government, as it is called, will take place. It has heretofore not aspired to be a department, but has been considered a mere branch of some department. There is so much sensitiveness when the Coast Survey is mentioned here, that I am really of the opinion it would be well enough to look into it. No doubt it is all right; but it can be no harm, and may do the country some good, to have the whole affair thoroughly investigated.

Mr. SEWARD. Since this subject has come to the notice of the Senate, I should not do justice to my own convictions if I did not state the opinion I entertain in regard to the conduct of the Coast Survey. Circumstances have brought me into a more particular acquaintance with that than with almost any other business of the Government, and I have had occasion to know the manner in which the business at that office is conducted, and some considerable opportunities of knowing how the out-door work is performed, by whom, and with what application and diligence; and I think I also have had some means of knowing how the moneys which are appropriated for it are used and applied. I think I am able to bear witness that there is no department of the Government where the public money is more faithfully expended, and where the services rendered by the *corps*, from the chief to every subaltern, are rendered more diligently, more conscientiously, or more effectively. I have also had some opportunities of knowing the advantages of charts of the coast of the country to navigators, to merchants, and to underwriters, and, of course, to the world at large; and I can bear witness that this work is equal to that which is performed in any other country, according to the confessions of navigators, and that it is highly appreciated; and I believe it to be as necessary a department of the Government as any other.

Mr. JOHNSON, of Arkansas. I hope we shall have the vote on this resolution. I assured the Senate, on calling it up, that we should have no debate upon it. I trust the Senator from Maryland will not press this debate any further. An investigation into the Coast Survey office cannot be had on a mere motion to print.

Mr. PEARCE. I do not desire to say anything further.

The amendment was agreed to; and the resolution as amended was adopted.

KANSAS LECOMPTON CONSTITUTION.

On motion of Mr. STUART, the Senate resumed, as in Committee of the Whole, the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. GREEN having reported the bill which he has had in charge throughout the discussion, proceeded to close the debate by making his general reply to the arguments which have been urged against it. He spoke about two hours and a half.

Mr. CRITTENDEN briefly commented on some portion of Mr. GREEN's reply.

[These speeches will be published in the Appendix.]

Mr. GREEN. I withdraw the amendment which I heretofore laid on the table with a view of offering it. It was to attach Minnesota and Kansas together in one bill. I now withdraw that amendment, and adhere to the original bill. While I am a friend to the admission of Minnesota, I believe it will expedite the public business to provide for each of these States by a single proceeding, rather than in duplicate form. I move, however, three amendments to the original bill, which I send to the Chair, and ask to have read

The Secretary read the first amendment, which is to strike out the preamble of the bill, and insert the following:

Whereas, the people of the Territory of Kansas did, by a convention of delegates called and assembled at Leocompton on the 4th day of September, 1857, for that purpose, form for themselves a constitution and State government, which said constitution is republican, and said convention having asked the admission of said Territory into the Union as a State on an equal footing with the original States."

The VICE PRESIDENT. Does the Senator desire all the amendments to be read now, or that each be acted upon separately.

Mr. GREEN. If there be no objection, we may as well vote on this now.

Mr. DOUGLAS, and others. Read them all.

The Secretary read the second amendment, which is in the ninth line of the second section, after the word State, to insert:

That nothing in this act shall be construed to abridge or infringe any right of the people asserted in the constitution of Kansas, at all times, to alter, reform, or abolish their form of government in such manner as they may think proper, Congress hereby disclaiming any authority to intervene or declare the construction of the constitution of any State except to see that it be republican in form, and not in conflict with the Constitution of the United States.

The Secretary read the third amendment, which is in the eleventh line of the second section, to strike out the word "of" and insert "annexed to," so as to make it read:

Nothing in this act shall be construed as an assent by Congress to any or all of the propositions or claims contained in the ordinance annexed to the said constitution.

The VICE PRESIDENT. Is the Senate ready for the question on the first amendment?

Mr. SEWARD. The first amendment proposes to strike out the preamble of the original bill. I desire to hear that read.

The Secretary read it, as follows:

Whereas, the people of the Territory of Kansas, by their representatives in convention assembled at Leocompton, in said Territory, on Monday, the 4th day of September, 1857, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, in virtue of the treaty of cession by France of the province of Louisiana, made and concluded on the 30th day of April, 1803, and in accordance with the act of Congress, approved on the 30th of May, anno Domini 1854, entitled "An act to organize the Territory of Kansas and Nebraska," did form for themselves a constitution and State government, republican in form; and the said convention has in their name and behalf asked the Congress of the United States to admit the said Territory into the Union as a State on an equal footing with the other States.

The amendment was agreed to.

Mr. WILSON. I call for the yeas and nays on the second amendment.

The yeas and nays were ordered.

Mr. CAMERON. I desire very much to vote on this question against the admission of Kansas with the Leocompton constitution, but I am prevented by the severe indisposition of the Senator from Mississippi, [Mr. DAVIS,] who intended to come up here this morning, and would have come if no one had agreed to pair off with him. I was appealed to by a mutual friend to do so. There having been long years of kind intercourse between Mr. DAVIS and myself, I could not, under the circumstances, refuse. I could not put him to the risk of coming here to the danger of his life, as he would have done if I had not agreed to pair off with him.

The question being taken on the amendment by yeas and nays, resulted—yeas 31, nays 23; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Sebastian, Sill, Slocum, Thomson of New Jersey, Toombs, Wright, and Yulee—31.

NAYS—Messrs. Bell, Broderick, Chandler, Clark, Colamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—23.

So the amendment was agreed to.

The VICE PRESIDENT stated the question to be on Mr. GREEN's third amendment.

Mr. WILSON. Mr. Calhoun certifies in regard to the ordinance:

"That the within is a true and perfect copy of the ordinance adopted by the constitutional convention, and submitted as part of the constitution by the convention which assembled at Leocompton on the 5th day of September, A. D. 1857."

It is certified to by the President of the convention that this ordinance was submitted to the people, and voted upon as a part of the constitution. I do not know that there is any objection to this

amendment; but it seems to me there can be no doubt that the ordinance was voted upon by the people, and understood to be a part of their constitution. We may have the power, and probably we have, to disregard it.

Mr. DOUGLAS. I ask for the yeas and nays on that amendment.

Mr. CRITTENDEN. Oh, no; let the amendment go.

The yeas and nays were ordered.

Mr. DOUGLAS. Let me see if I understand what the amendment is. Perhaps I do not desire the yeas and nays upon it.

The VICE PRESIDENT. The Secretary will read the amendment.

The Secretary again read it.

Mr. DOUGLAS. I did not apprehend it. I supposed it was upon the rejection of this ordinance. If it was that, I should have wanted the yeas and nays, for the reason that it is submitted as part of the constitution; and I do not see how the Senate can divide it—accept one part and reject the other.

Mr. PUGH. I wish to make an answer to that. There has scarcely ever been a new State admitted into this Union that did not, in its ordinance, claim more public lands than Congress ever gave it. I never knew Congress to grant it in any case. It is not a part, it cannot be made a part, of the constitution, no matter what Mr. Calhoun certifies. That does not affect its legal force. It is a question of the gift of the public lands. There is no case, from the admission of Ohio to this day, in which a new State has not asked more lands than Congress has given. The attempt to make a mountain out of this molehill will certainly fail. I mean no disrespect to the Senator from Illinois; but I have said this much as the matter was pressed from behind me.

Mr. DOUGLAS. I did not suppose the Senator meant any disrespect, and did not so understand him at all. I suppose that, unless we can take the record that has been sent here by the President of the United States as true, we have no evidence of any constitution at all. The certificate of the president of the convention, which is the only authentication there is of the fact that any part of this constitution has been adopted, states that this ordinance was adopted and submitted as a part of the constitution by the convention which assembled at Leocompton. Here is the evidence that it is a part of the constitution, submitted as such, made one of the terms and conditions on which, and on which alone, this convention would agree to come into the Union with this constitution. The simple question is whether you will accept one part of the constitution and reject the other part? It is not like the ordinary case, where a new State has made a constitution, and then made a proposition separate and distinct from the constitution in regard to the public lands. If they put it into the constitution itself, submit it as part of the instrument, and send it here as a component part of the constitution, by what right or authority can we separate one part from the other—receive a part and reject the residue? That is the point I wish to make.

Mr. BENJAMIN. This, sir, is of a piece with a great many other objections that have been made to the admission of this State; and it is surprising that men of the position and intelligence of the Senator from Illinois, will stand up in the presence of this assemblage, and state as a matter of principle what he has just stated. Here is the constitution formed by this convention, signed by all the members, certified at the foot, and that is closed. What is this ordinance? The ordinance is a proposition by this new State that they will not tax the lands of the Government of the United States, which they say they have a right to tax, provided we will give them all the land they ask for in the ordinance. It is no portion of their government, it is nothing that they pretend, even upon the face of their own paper, that they have the right to exercise any control over; but asserting a pretension to tax the property of the United States, they say, we hereby agree to abandon that right if the Government will give us so much land; and in the bill now before us, we say in admitting this State into the Union, we refuse the proposition made in the ordinance annexed to the constitution whereby the proposition is made to give them land for a surrender of this pretended right. This pretended right of taxation has never been

yielded by Congress, and never will be yielded. The idea of one of the States of this Union taxing the property of the Government of the United States within its limits is one which has been frequently advanced by the new States with a view to extort from Congress an additional grant of land. It never yet has been conceded, and never will. Here is the ordinance. The ordinance is put here after the constitution. It is not signed by the members.

Mr. WILSON. Will the Senator allow me a moment?

Mr. BENJAMIN. I will.

Mr. WILSON. When the constitution was published by the convention in Kansas this ordinance was placed at the head of the constitution and the signatures were placed at the end of the constitution. It appeared as a whole. I do not mean to dispute any of the positions of the Senator, but I state that this was the order in which it was published and understood by the convention, so submitted to the people, and Mr. Calhoun tells us that it was accepted as a part of the constitution. All I wish is to get the fact right.

Mr. BENJAMIN. Mr. President, I am utterly sick and tired of discussing this question on the asseverations of gentlemen as to what may have appeared in the newspapers, or what people may have told them. I look at the record in my hand, and in that I must be constrained to differ from the example of the venerable Senator from Kentucky. I look at what is before me, and not at what is told me outside, nor at newspaper partisan statements. Now in the paper as presented to us by the President—

Mr. CRITTENDEN. Will the gentleman allow me in all courtesy to ask when have I alluded to anything said merely by newspapers, or reported merely in conversations?

Mr. BENJAMIN. I will withdraw what I said. The Senator from Kentucky cannot get me into a discussion with him. I am unequal to it, and I withdraw what I said.

Mr. CRITTENDEN. The gentleman will but do me justice—

Mr. BENJAMIN. I will do him any justice. I will withdraw all that I said, and confess myself mistaken.

Mr. CRITTENDEN. Certainly you are, and I say it in all courtesy.

Mr. BENJAMIN. Mr. President, I am referring to the ordinance alone. Now, sir, the paper that is before us is presented by the President of the United States and the president of the Kansas constitutional convention as the constitution of Kansas. It begins thus:

"We, the people of the Territory of Kansas, by our representatives, in convention assembled, at Lecompton, in said Territory," "having the right of admission," &c., "do ordain and establish the following constitution."

That is signed, and that alone, by the members of the convention. At the foot is this:

"The within is a true and perfect copy, as compared by me, of the constitution of the State of Kansas, prepared and submitted by the constitutional convention at Lecompton, on the 7th of November, 1857. J. CALHOUN,
"President Constitutional Convention."

Then follows what is called by some gentlemen "an ordinance of the constitution;" and what is it? "Whereas"—this is an entirely distinct paper.

Mr. GREEN. Will the Senator permit me to make a remark?

Mr. BENJAMIN. Undoubtedly.

Mr. GREEN. This bill was drawn by my friend from Arkansas, [Mr. SEBASTIAN.] He drew it "the ordinance of the convention." The copyist, under a mistake, wrote "ordinance of the constitution." That is the way the mistake occurred in the bill.

Mr. BENJAMIN. Here is the ordinance:

"Whereas, the Government of the United States is the proprietor or will become so"—

they do not admit us to be yet—

"—of all or most of the lands lying within the limits of Kansas, as determined under this constitution; and whereas the State of Kansas will possess the undoubted right to tax such lands for the support of her State government, or for other proper and legitimate purposes connected with her existence as a State: Now, therefore, be it ordained by this convention, on behalf of, and by the authority of the people of Kansas, that the right aforesaid to tax such lands shall be, and is hereby, forever relinquished, if the conditions following shall be accepted and agreed to by the Congress of the United States."

Then come the conditions: that we shall give

them some enormous quantities of land; and at the close of that is the following certificate of the president of the convention:

"The within is a true and perfect copy of the ordinance adopted by the constitutional convention, and submitted as part of the constitution by the convention which assembled at Lecompton, on the 5th day of September, A. D. 1857."

That is to say, the people having formed a constitution for their own government, by ordinance asserted the right to tax the public lands, and submitted to the people a proposition to be made to the Congress of the United States, whether or not the Congress of the United States would give them an enormous quantity of land, as a consideration for yielding the right to tax the land; and this is called an "ordinance of the constitution." They might have put inside of the constitution any proposition they pleased, for submission to Congress; for a bargain to be submitted to Congress; for the terms of settlement to be proposed; and, if Congress assented to them, the bargain would have been complete; but to call it a part of the constitution because it is written in it is, to my judgment, as inconsistent and as illogical as it would be to call the Lord's prayer a part of a promissory note, if it should be written on the same piece of paper. One is just as logical as the other.

This is a proposition by the new State of Kansas to us for a bargain. The amendment of the Senator from Missouri simply says on the part of Congress, we do not accept your bargain; we do not agree that you possess the consideration which you offer for the abandonment of the right to tax our lands, and we do not accept the bargain. Whether it is called an ordinance attached to the constitution, or annexed to the constitution, or an ordinance passed by the convention, is a question of pure verbal criticism; and all the ingenuity of the Senator from Illinois cannot torture that into intervention by Congress with a State constitution. Nothing of that sort is intended; no such purpose can be made out of it; and it is in order to preclude any such conclusion from the language of the act, that this verbal amendment has been made.

Mr. DOUGLAS. I shall not occupy the time of the Senate. I have neither the strength nor the voice to do so. I do not intend to display any ingenuity on this subject, nor express any surprise that gentlemen of the intelligence of the Senator from Louisiana should differ with me; but here we find the record shows that this ordinance was submitted as a part of the constitution. The record proves that; and the ingenuity of the Senator from Louisiana, nor anything he can say, can disprove the fact. This ordinance is certified to be a part of the constitution that is submitted here. The importance of that is this: the convention say we are willing to come into the Union on the terms contained in that record; and if you strike out any portion of those terms, what evidence have you that they will be willing to come into the Union? what evidence have you that they would have agreed to send here, unless these terms were embraced in it? It is proposed now to accept a part of the conditions on which they propose to come in and to reject the other part. If they say we will come in on two conditions—the one, that you take this instrument as our organic law; and the other, that you agree to these propositions contained in the ordinance; what right have we to say we take the one, and reject the other? How do you know they would have consented to come in at all, unless you acceded to both? I say, therefore, you must take it as they present it, or you must reject it *in toto*, in my opinion. I shall not argue the point. I have merely stated the proposition; I am not able to enter into an argument now.

Mr. WILSON. I wish simply to say a word, Mr. President, in reply to what seems to me to be rather an extraordinary remark of the Senator from Louisiana, that some Senators were accustomed to bring into the Senate what has appeared in the public press. Now, I have sent for the *Daily Globe*, and I find the statement I made verified. This ordinance appears at the head of the constitution, as published there, and so appeared at the time in the Territory of Kansas. Mr. Calhoun himself testifies that it was voted for as a part of the constitution, by the people. Although the Senator from Missouri has told us that the people did not vote upon the constitution at all, Mr. Cal-

houn testifies that they did, and voted for this ordinance as a part of the constitution.

I wish to say to the Senator from Louisiana that I have no contempt for the public press of this country. I have fully as much respect for what appears in the public press, as I have for what appears in manufactured official papers. I will examine the statements of the public press, to see whether they be correct, as I will examine what appears in official papers, and see if they be correct. The one can state falsehoods, and we all know the other does. I desire to say to the Senator from Louisiana, that, when I make a statement on this floor, I intend to make it upon what I believe to be good authority; and that Senator knows that, with all his ingenuity and all his knowledge, he has never yet been able to show the mistakes or the misstatements of any assertions of fact which I have made here.

I did not bring this matter up for the purpose of finding fault. All I wished was to have it set right. The Senator from Ohio [Mr. PUGH] referred to it, I thought, rather captiously. He said other States have claimed large portions of public lands. I ask the Senator—I ask it for information—whether other States, when they have made constitutions, sent any such ordinances here certified to as a part of their constitutions? It may be so, or it may not. I certainly suppose that when a constitution is before us, it is proper and legitimate for all of us to examine its precise and exact provisions, and that we have the privilege of doing so without being liable to any general reflections as to our course in reference to the admission of Kansas under the Lecompton constitution.

The VICE PRESIDENT. The yeas and nays have been ordered. It requires unanimous consent to withdraw the call. The Chair hears no objection.

Mr. COLLAMER. I should like to hear the amendment again read.

The Secretary again read the amendment; which is, in line eleven, section two, to strike out the word "of," and insert "annexed to."

Mr. COLLAMER. It is merely a verbal amendment.

The amendment was agreed to.

The VICE PRESIDENT. The next amendment printed is that of the Senator from Ohio, [Mr. PUGH.]

Mr. PUGH. I withdraw that, as the substance of it has been adopted, and I shall offer an additional section.

The VICE PRESIDENT. There is an amendment offered by the Senator from New Hampshire, [Mr. CLARK.]

Mr. CLARK. I did not offer it, but merely laid it on the table for the purpose of offering it. It has been printed. I do not propose to offer it now.

The VICE PRESIDENT. The Secretary will read the amendment of the Senator from Ohio.

The Secretary read Mr. PUGH's amendment; which is, to insert the following as an additional section:

And be it further enacted, That from and after the admission of the State of Kansas, as hereinbefore provided, all the laws of the United States which are not locally inapplicable, shall have the same power and effect within that State as in other States of the Union; and the said State is hereby constituted a judicial district of the United States, within which a district court, with like powers and jurisdiction as the district court of the United States for the district of Iowa shall be established. The judge, attorney, and marshal of the United States for the said district of Kansas, shall reside within the same, and shall be entitled to the same compensation as the judge, attorney, and marshal of the district of Iowa.

Mr. SEWARD. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. HALE. I should like to inquire for information, of some member of the Judiciary Committee, whether this has been a usual amendment to bills for the admission of new States, or is it something extraordinary in this case?

Mr. PUGH. It is not extraordinary. Whenever there has been an enabling act it has been passed at the same session with the joint resolution admitting the State; but of late years, in a number of cases, wherever the admission has been by act instead of joint resolution, it has generally been put into the act itself.

The question being taken by yeas and nays, resulted—yeas 37, nays 19; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Biggs, Bigler, Bright, Broderick, Brown, Clay, Crittenden, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Sebastian, Slidell, Thompson of Kentucky, Thompson of New Jersey, Toombs, Wright, and Yulee—37.

NAYS—Messrs. Chandler, Clark, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Sumner, Trumbull, Wade, and Wilson—19.

So the amendment was agreed to.

Mr. CRITTENDEN. I desire to offer a substitute for the whole bill. I propose to strike out all of the bill after the enacting clause, and insert the following in lieu thereof:

That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States in all respects whatever; but inasmuch as it is greatly disputed whether the constitution with which Kansas is now admitted was fairly made, or expresses the will of the people of Kansas, this admission of her into the Union as a State is hereby declared to be upon this fundamental condition precedent, namely: that the said constitutional instrument shall be first submitted to a vote of the people of Kansas, and assented to by them, or a majority of the voters, at an election to be held for the purpose; and as soon as such assent shall be given, and duly made known to the President of the United States, he shall announce the same by proclamation, and thereafter, and without any further proceedings on the part of Congress, the admission of the said State of Kansas into the Union on an equal footing with the original States, in all respects whatever, shall be complete and absolute. At the said election the voting shall be by ballot, and by indorsing on his ballot, as each voter may please, "for the constitution," or "against the constitution." Should the said constitution be rejected at the said election by a majority of votes being cast against it, then, and in that event, the inhabitants of said Territory are hereby authorized and empowered to form for themselves a constitution and State government by the name of the State of Kansas, preparatory to its admission into the Union, according to the Federal Constitution, and to that end may elect delegates to a convention as hereinafter provided.

Sec. 2. *And be it further enacted*, That the said State of Kansas shall have concurrent jurisdiction on the Missouri and all other rivers and waters bordering on the said State of Kansas, so far as the same shall form a common boundary to said State, and any other State or States now or hereafter to be formed, or bounded by the same; and said rivers and waters, and all the navigable waters of said State, shall be common highways and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll, therefor.

Sec. 3. *And be it further enacted*, That, for the purpose of insuring, as far as possible, that the elections authorized by this act may be fair and free, the Governor and Secretary of the Territory of Kansas, and the presiding officers of the two branches of its Legislature, namely, the President of the Council and Speaker of the House of Representatives, are hereby constituted a board of commissioners to carry into effect the provisions of this act, and to use all the means necessary and proper to that end. Any three of them shall constitute a board; and the board shall have power and authority, in respect to each and all of the elections hereby authorized or provided for, to designate and establish precincts for voting, or to adopt those already established; to cause polls to be opened at such places as it may deem proper in the respective counties and election precincts of said Territory; to appoint, as judges of election at each of the several places of voting, three discreet and respectable persons, any two of whom shall be competent to act, to require the sheriffs of the several counties, by themselves or deputies, to attend the judges at each of the places of voting, for the purpose of preserving peace and good order, or the said board may, instead of said sheriffs and their deputies, appoint, at their discretion and in such instances as they may choose, other fit persons for the same purpose; and when the purpose of the election is to elect delegates to a convention to form a constitution, as hereinafter provided for, the number of delegates shall be sixty, and they shall be apportioned by said board among the several counties of said Territory, according to the number of voters; and in making this apportionment, the board may join two or more counties together to make an election or representative district, where neither of the said counties has the requisite number of voters to entitle it to a delegate, or to join a smaller to a larger county having a surplus population, where it may serve to equalize the representation. The elections hereby authorized shall continue one day only, and shall not be continued later than sundown on that day. The said board shall appoint the day of election for each of the elections hereby authorized, as the same may become necessary. The said Governor shall announce, by proclamation, the day appointed for any one of said elections, and the day shall be as early a one as is consistent with due notice thereof to the people of said Territory, subject to the provisions of this act. The said board shall have full power to prescribe the time, manner, and places of each of said elections, and to direct the time and manner of the returns thereof, which returns shall be made to the said board, whose duty it shall be to announce the result by proclamation, and to appoint therein as early a day as practicable for the delegates elected (where the election has been for delegates) to assemble in convention at the seat of government of said Territory. When so assembled, the convention shall first determine, by a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State. And the said convention shall accordingly provide for its submission to the vote of the people for approval or rejection.

Sec. 4. *And be it further enacted*, That in the elections hereby authorized, all white male inhabitants of said Ter-

ritory over the age of twenty-one years, who have been residents for three months before the election, and are citizens of the United States, and none others, shall be allowed to vote; and this shall be the only qualification required to entitle the citizen to the right of suffrage in said elections.

Sec. 5. *And be it further enacted*, That the members of the aforesaid board of commissioners and all persons appointed by them to carry into effect the provisions of this act, shall, before entering upon their duties, take an oath to perform faithfully the duties of their respective offices, and on failure thereof, they shall be liable and subject to the same charges and penalties as are provided in like cases under the territorial laws.

Sec. 6. *And be it further enacted*, That the officers mentioned in the preceding section, shall receive for their services the same compensation as is given for like services under the territorial laws.

Sec. 7. *And be it further enacted*, That the said State of Kansas, when her admission as a State becomes complete and absolute, shall be entitled to one member in the House of Representatives, in the Congress of the United States, till the next census be taken by the Federal Government.

Sec. 8. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said people of Kansas for their free acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Kansas, to wit: *First*. That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands, equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools. *Second*. That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. *Third*. That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the Legislature thereof. *Fourth*. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use; the same to be selected by the Governor thereof within one year after the admission of said State, and when so selected, to be used or disposed of on such terms, conditions, and regulations as the Legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. *Fifth*. That five per centum of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State, for the purpose of making public roads and internal improvements, as the Legislature shall direct: *Provided*, The foregoing propositions herein offered are on the condition that the people of Kansas shall provide, by an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof, and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

Mr. DOUGLAS. Will the Senator from Kentucky allow me to call his attention to one point? Would it not be well to put into his amendment the further clause that the proposed State of Kansas shall never tax the lands or other property of the United States within its limits?

Mr. CRITTENDEN. I have no objection to that. I thought it was already in the amendment. That portion of it which relates to these matters is copied exactly from the Minnesota bill. I do not intend to occupy the time of the Senate unnecessarily, but I know how difficult it is to understand a proposition of this sort from the mere reading of it, and it will require a few minutes to explain it. The first section of my substitute proposes that the State of Kansas shall be admitted into the Union. Inasmuch, however, as great dispute exists in respect to whether the constitution was fairly made, or has been properly submitted, it is proposed that it shall be submitted to a vote of the people, and if a majority of the people of Kansas approve of the constitution, that fact is to be made known to the President after the election has taken place, and he is to declare the fact by proclamation, and thereupon the admission of the State of Kansas, without any further proceeding on the part of Congress, is to be considered absolute and complete. If, however, the constitution be rejected upon that election, then the people are to choose delegates to a new convention.

The VICE PRESIDENT. Will the Senator from Kentucky be good enough to pause for a moment? It is wholly impossible, I am sure, for any Senator on the right of the Chair to hear what the Senator from Kentucky says. Conversation is so general and audible on that side of the Chamber, that the Chair cannot hear the

Senator from Kentucky. If it be necessary, the Chair will arrest all discussion and all business as often as it may be required, in order to preserve the decorum of the body.

Mr. CRITTENDEN. My substitute provides that if the constitution be rejected by the people upon that vote, then a convention is to be immediately called, which is to have authority to form a constitution for Kansas, if it be the will of the people to come into the Union as a State. These elections, according to the third section, are to be taken out of the control and management of the ordinary officials of the territorial government, because of the party influence which is exercised, or may be supposed to be exercised by those officials. Great exception is made here, as we all know, to Mr. Calhoun's control of this matter; and it is said he has placed it under the direction of partisans of his own. I want to take it out of their hands. I do not know who is to be in power; but I suppose that the Legislature is to be Republican, from the last revelations made by Mr. Calhoun. I do not want to put it in their power. I want to have a fair election, which shall be conducted and managed by impartial arbiters. I propose, therefore, by the third section, that a board shall be constituted for the purpose of directing and conducting those elections, giving directions to them in all respects, and appointing proper officers to take charge of the polls. That board is to consist of the Governor, Secretary of the Territory, and the Speaker of the House of Representatives, and the President of the Council. They are to direct when the election is to be held; they are to appoint the judges of election; and they are to do everything else necessary and conducive to a fair expression of opinion by the people.

These are the main provisions of the substitute. The rest are merely formal, making propositions to the new State for lands to be granted, and other provisions of that kind which are usually made in these bills. They are the same terms that are offered to the people of Minnesota.

I do not feel disposed to enlarge on the question at all. I know that the House is weary of debate on this subject. I am certain that I am. I desire to bring this matter to a close. Those gentlemen who are not altogether determined as to their course will understand, from what I have said, what is the purpose and the object of this amendment. It is to make the admission conditional, but to make it now, so as to put it possibly beyond our reach forever. It is to make the admission now, but on the condition that a vote shall be had on the constitution; and if it be approved by the people, Kansas shall then be absolutely and permanently a State of the Union; but if the constitution be rejected, then a convention shall be called forthwith, or as soon as possible, for the purpose of making a new constitution; and these elections are to be held under the superintendence and direction of a board of commissioners, to consist of the Governor, the Secretary of the Territory, the Speaker of the House of Representatives, and the President of the Council, any three of whom shall constitute a quorum. The provisions are very simple.

Mr. KENNEDY. I desire to say simply a word in explanation of the vote I shall give on this amendment, and which may, perhaps, by some be regarded as inconsistent with the course that I announced here some days since I intended to take. I stated then that I should vote for the admission of Kansas under the Lecompton constitution without any obligations resting upon me towards either party upon this floor. I announced that I should vote for it simply as a measure of peace, as the only means, in my humble judgment, by which peace could be restored to the country; the only means by which we can get rid of this vexed question of slavery. I have been sincere in that belief, and holding it as the only ready means by which we could get clear of this whole subject, I had announced that I should vote for the admission of Kansas under the Lecompton constitution. The Senator from Kentucky has proposed an amendment to this bill, which he seems to think may produce that result. If it should be so I should be greatly rejoiced. In order to carry out the position I have taken as a conservative, middle-ground man, between the two contending parties, I am willing to vote with the Senator from Kentucky, and to try whether

his proposition can be carried. I should much prefer, myself, to get clear of the whole question at once; but as I understand that this amendment admits the State of Kansas now, subject to a conditional vote hereafter on the constitution, I am willing to vote for it, although I do not like it so much as the proposition to admit Kansas at once under the Lecompton constitution. Occupying the position I do, under no obligations whatever to sustain either the administration or the opposite party, I shall vote for the amendment of the Senator from Kentucky, reserving to myself, however, if it should not be carried, the right to vote for the admission of Kansas with the Lecompton constitution as the best and readiest means of restoring peace to the country.

Mr. HALE. I shall vote for the amendment, reserving to myself the right to vote as I please on the bill, if the amendment should be adopted. I am not entirely certain that I should not make the same use of this proposition that we did of the volunteers on the Army bill. We used the volunteers to kill the regulars, and then we killed the volunteers themselves. [Laughter.] But, sir, as this amendment covers the whole ground that has been occupied in debate, and as I have not spoken upon the bill since it has been before the Senate, and did not intend to do so, I desire now to notice one or two statements made last night which I feel that I am not willing to let go to the country unchallenged; and to them I wish to call the attention of the Senate. The honorable Senator from Illinois [Mr. Douglas] read an extract from a newspaper, in which the writer took the ground that, under the decision in the Dred Scott case, the owner of slaves could go from any slave State in the Union into any free State of the Union, and that any provision of the constitution or laws of the free State which denied his right to hold his slaves there was void. I think that statement is explicitly made in the paper. My attention had been called to it before. I had taken occasion, in addressing assemblages of my fellow-citizens in my own State and elsewhere, in commenting on that statement of that paper, to say, as I now here repeat, that I solemnly believe, and I am ready to stake what little reputation, as a man or a lawyer, belongs to me, that the newspaper has the right of the argument; and if, under the Dred Scott decision, the Constitution of the United States authorizes a man to take his slaves into the Territories, and protects him in their enjoyment there by virtue of the Constitution, it does the same thing in a State; because the Constitution of the United States is the supreme law, not only of a Territory but of a State, anything in the laws or constitution of that State notwithstanding.

After the honorable Senator from Illinois had made this statement—I am speaking from memory now entirely; I have not the paper before me; I do not know anything about it, and of course I cannot state the words with precise accuracy, but I think I shall convey the idea—the honorable Senator from Georgia [Mr. Toombs] rose in his place, somewhat excited I thought, or if he did not rise excited, I thought he got a little excited before he sat down, and he denied the fairness of that argument, and put his denial upon the assertion that no southern Senator, and no Representative of a southern State had ever put forth any such doctrine. He denied entirely that it was the doctrine of the South, that it had ever been claimed, and I thought was disposed to administer a little rebuke to the Senator from Illinois for introducing this newspaper statement into the debates of the Senate. I agree that it was in bad taste, and it must have been a direful necessity which would justify the Senator; but I felt that same necessity once before this session, and did actually quote from that same newspaper. Sir, I am not going to controvert a single word that the Senator from Georgia said, but I wish to call the attention of the Senate to two facts which I think are very significant in reference to this question: whether a slaveholder can take his slaves into a free State, and hold them there? The Senator from Georgia says no such right has ever been asserted by any southern Senator or Representative. I do not know that it has been, and I presume that they never did it, as he says they never did.

Mr. WILSON. The Senator will allow me to interrupt him a moment. In the summer of 1856, in the debate on this very Kansas question, a Representative from the State of North Carolina

made a speech asserting that doctrine. I heard that speech, and it is so in the Globe.

Mr. HALE. Then I will qualify what I said, so far as that is concerned; but the facts to which I was going to call attention were not declarations in speeches made in the Senate or House of Representatives, but to the fact that that assertion has been made in a more solemn and a more authentic form, and that is, before the judicial tribunals of the country. I beg the indulgence of the Senate while I state the facts, to remember that I am stating them from memory entirely, and that if I misstate, it will be from failure of memory; but if my memory serves me aright, there was a slaveholder from the State of North Carolina, I think his name was Wheeler, who found himself in the city of Philadelphia, not many years ago, with a number of slaves. A citizen of Pennsylvania went on-board the steamboat where they were, and notified those persons there that they could not legally be held as slaves in the State of Pennsylvania, and thereupon they went off. For the utterance of that sentiment a *habeas corpus* was issued, directed to the individual who made this statement, commanding him to come before the judge of the United States district court, and bring with him the slaves, which it seemed to be implied that he had taken possession of by the declaration to them of this principle. He made return to the writ that he had not got the slaves; and for that he was imprisoned, and held imprisoned a long time. I think the late Judge Kane, in one of the proceedings in that case, stated this same principle in substantially this form: that he knew of no law of Pennsylvania by which any citizen of the United States could be divested of his property in slaves in Pennsylvania. The matter ended there substantially. Williamson was liberated, and Judge Kane has since deceased.

But, sir, there is another case of more significance even than that, bearing on this very point. A Mr. Lemmon, I think his name was, traveling from Virginia to Texas, found himself in the State of New York with some half a dozen slaves, and the same statement was made to those slaves, that there was no authority to hold them in servitude in the State of New York; and a writ of *habeas corpus* was taken out in that case, returnable, I think, before Judge Paine; and the question was brought before Judge Paine, whether slaves could legally be holden in New York, under those circumstances. Judge Paine, if I remember correctly, substantially decided that it was legal to bring slaves from Virginia to New York; but that it was not legal to bring Virginia laws to keep them as slaves after they got there. The substance of the decision was, that when they got into the State of New York they became subject to the laws of New York, and were therefore free; and Judge Paine liberated them. There was so much patriotism, or something else, in the city of New York, that a subscription was got up to pay Mr. Lemmon the full value of those slaves. It was paid to him; Judge Paine, I think, very much to his discredit, subscribing liberally to the fund. He is dead, and I will tread lightly on his ashes. Every dollar of the value of the slaves, as I understand, was paid to Mr. Lemmon, but it did not sweeten him. Notwithstanding he got the full value of his slaves, a suit was brought; and, if my memory does not serve me very badly, this matter was alluded to in a communication of the Governor of the Commonwealth of Virginia, to the Legislature of that State; and a suit was instituted, with a view of carrying it up to the Supreme Court of the United States, to determine whether slaves could be holden in the State of New York. It has been decided by every tribunal that has had it under consideration in that State, even to the final court of appeals, I think, that Judge Paine was right; that slavery was actually abolished in New York; and that no other Legislature on God's earth had authority to introduce its regulations as to the rights of people within that State.

Now, sir, these are two facts, which, although they do not in the least contradict the statement of the honorable Senator from Georgia, I think go a very great way to obviate the force of his argument, because they show that, notwithstanding this assertion has not been made on the floor of the Senate or on the floor of the House of Representatives, the claim has been made, and is being prosecuted; and, if I mistake not it is now pending

before the judicial tribunals of the country to determine whether a slaveholder may come from a slave State, and hold his slaves in a free State. But it may be said, and it probably will be said, that this is a different question; that this relates to the right of passage through the State, to transit, to the condition of such persons while *in transitu* through the State. I agree to that. In the form in which it is now presented, it does relate to that. I think the phraseology that has been used in one of those decisions, in some stage of the discussions, was, that the right *in transitu* lasted for a convenient time. I am not sure of the phraseology, but I think I am correct. I think, in one of those decisions, or in some of those proceedings, the right to hold slaves in a free State was limited to the right of passage *in transitu*, and limited to a convenient time. But, sir, I submit to every Representative of a free State, and I present it to every Senator on this floor, if by judicial construction—

Mr. GREEN. Will the Senator from New Hampshire permit me to make one remark?

Mr. HALE. Certainly.

Mr. GREEN. With due deference to the Senator, I do not consider his line of argument very important on the amendment now pending. I am willing that he shall have a full opportunity to make that argument, but I submit this suggestion to him: there are some three or four Senators present who are very unwell. They are anxious and determined to vote, and it would be a very serious inconvenience to keep them waiting. I request, therefore, if he can postpone this subject until some convenient season, that he will do it. I will take it as great favor, and so will others.

Mr. HALE. The Senator has hit me in a very tender place, and I shall have to yield. It was with no disposition to prolong this debate, but simply because I thought the truth of history required that the passage between the Senator from Georgia and the Senator from Illinois should not pass entirely unnoticed, that I have made the remarks I have; and yielding to the suggestion of the honorable Senator from Missouri, I forbear at this time, trusting that there will be an opportunity by-and-by.

Mr. SEWARD. Have the yeas and nays been called for on the amendment offered by the honorable Senator from Kentucky?

The VICE PRESIDENT. They have not.

Mr. SEWARD. I call for them, sir.

The yeas and nays were ordered.

Mr. SEWARD. I suppose that, according to the rules of the Senate, if that substitute shall be adopted, the bill cannot be further amended in Committee of the Whole; but I understand it will be amendable in the Senate. I propose to vote for the amendment, although it contains several things against which I am committed by my opinions, and in regard to which, if the amendment shall be adopted, I should desire that it should be amended in the Senate. I will not detain the Senate to specify them, but simply say that I reserve several objections when I vote in favor of the amendment as a substitute, preferring it, in even this shape, to the original bill; and intending, if it be adopted, to move its amendment hereafter.

The question being taken by yeas and nays, resulted—yeas 24, nays 34; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Clark, Colamer, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Kennedy, King, Seward, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—24.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Durkee, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Pearce, Polk, Pugh, Sebastian, Slidell, Thompson of Kentucky, Thomson of New Jersey, Toombs, Wright, and Yates—34.

So the substitute was rejected.

Mr. STUART. I wish to call the attention of the Senator from Missouri to the second section of this bill as printed. It provides:

"That the State of Kansas is admitted in the Union upon the express condition that said State shall never interfere with the primary disposal of the public lands, or with any regulations which Congress may find necessary for securing the title in said lands to the *bona fide* purchaser and grantees thereof, or impose or levy any tax, assessment, or imposition of any description whatever, upon them or other property of the United States within the limits of the said State; and nothing in this act shall be construed as an assent by Congress to all or to any of the propositions or claims contained in the ordinance of the said constitution of the people of Kansas, nor to deprive the said State of Kansas of the same

grants which were contained in the act of Congress entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to admission into the Union on an equal footing with the original States," approved February 25, 1857."

I wish to ask the Senator if he intends, in the latter clause of that section to carry to the State of Kansas the same grants of public lands that were given by Congress to the State of Minnesota.

Mr. GREEN. I will answer. The design of that is to grant nothing, but not to preclude us from hereafter doing whatever is right, just, and equitable in the premises. It is to grant nothing, but to reserve the right to make a liberal grant to Kansas according to her condition, on the same principles that one was made to Minnesota, that is all. It is to reserve that right and prevent a conclusion against the State.

Mr. STUART. I respectfully suggest, then, Mr. President, to the Senator from Missouri, that it would be better to strike out this language and leave the bill silent on the subject. There is nobody, I apprehend, who denies the power of Congress to make a grant of public lands in such proportions as it chooses to the State of Kansas on certain terms and conditions, but it is not necessary to say that nothing in this act shall deprive the State of such grants. That language is certainly susceptible of the construction that it does make a grant. I do not mean to say that it is sufficient to carry the grant to the State, but it is susceptible of such a construction. The Committee on Territories repudiate this ordinance, upon the ground of its enormity, upon the ground that it is so excessive in its demands that Congress will not agree to it. Let me call the attention of the Senator from Missouri to the peculiar terms of this clause of the second section:

"Nor to deprive the said State of Kansas of the same grants."

It does not say, "nor to deprive the State of Kansas of grants hereafter to be made;" but it does leave them to set up the idea that here is a grant to that State of this quantity of lands, without attaching to that grant the conditions on which we have made it to all other States. When we have made this grant of lands to the other States, we have attached to it conditions which are to remain fundamental, irrevocable; and we require the assent of the State, in some proper form, to the conditions which we attach to the grant.

I confess that I have more solicitude on this subject, from the fact that the Lecompton constitution, as it was first printed and presented to the country, claimed to be by the authority of the convention, made this ordinance a part of the instrument itself, and made it the first part of it. I think that when the president of the convention certifies that the ordinance was submitted as a part of the constitution to the people of Kansas, he but certifies the truth that it was done; and the separation of it has been made by him without any authority whatever from the convention, because we learn lately that the President of the United States had an authentic copy of that constitution, and the Union of this city, it will be remembered by every gentleman who saw the paper, published what it said was an authentic copy of this constitution which had been received by the President, and the authentic copy thus published was such as I have described. The first portion of the constitution thus published and described as the constitution, was this ordinance claiming these land grants. It was a part of it; it was not separated; and it was said at the time, I repeat, to have been received by the President of the United States, and to be an authentic copy of the instrument.

In a discussion which arose in the early part of the session, the Senator from Missouri took the ground, it will be remembered, that this ordinance was no part of the constitution, and that it was entirely within the power of Congress to reject the ordinance and accept the constitution. The same view was taken in newspapers throughout the country; and there was ample time for any shaping of this instrument to be made that was thought proper to be made, in order that the instrument should come here with as few objections against it as possible. The ordinance has been separated from the rest of the constitution by the president of the convention, or by somebody else—my object is not to make any charges against him; but it stands now, as sent here by the president, separated and separately certified; and yet he says,

in that certificate, that it was submitted to the people of Kansas as a part of the constitution. There is no mistaking that language. Then the people of Kansas regard it as a part of the constitution.

Mr. PUGH. Does the Senator say that Mr. Calhoun certifies it was submitted to the people? If he will read the certificate, he will find that he is mistaken.

Mr. STUART. I am as anxious to be correct as the Senator is to have me so. I will read the certificate, and the Senator from Ohio will see that it says exactly what I state:

"The within is a true and perfect copy of the ordinance adopted by the constitutional convention, and submitted as part of the constitution, by the convention which assembled at Lecompton on the 5th day of September, anno Domini 1857."

Mr. PUGH. I ask the Senator now, if he means to pretend, after reading that, that it is an allegation that the ordinance was submitted to the people; that those words say it?

Mr. STUART. I will test the accuracy of the Senator, because I do mean to say that; and I tell the Senator, distinctly, that I do mean to say it. Here is the certificate attached to the constitution itself:

"The within is a true and perfect copy, as compared by me, of the constitution of the State of Kansas, prepared and submitted by the constitutional convention at Lecompton, on the 7th day of November, anno Domini 1857."

It uses precisely the same language—"submitted." Submitted to whom?

Mr. BROWN. To Congress.

Mr. STUART. Submitted to Congress! Well, sir, it is a very great pity that the gentleman who presides over the affairs of this constitution did not say so. The instrument itself says, that before it shall be presented to Congress, it shall be submitted to the people. That is the way in which the term "submitted" is used in this constitution; and when this certificate says it has been submitted, to whom does it mean that it has been submitted? To the people. In the document before me there is another communication that submits this constitution to Congress. He writes a letter to the President asking him to communicate this constitution to Congress, and hopes that he will send along with it such suggestions as he thinks are proper. As I have said, I do not raise this question here for the purpose of cavil. If the committee who have reported this bill intend that there shall be no controversy or mistake about it, then the safe way is to strike out the language to which I have alluded, and leave the matter entirely to the future action of Congress.

Mr. GREEN. I will explain this matter to the satisfaction of the Senator from Michigan, for I am satisfied he does not wish to raise a mere captious objection.

Mr. STUART. Certainly not.

Mr. GREEN. This is an exact copy from the bill admitting the State of Arkansas, and that reads as follows:

"Nothing in this act shall be construed as an assent by Congress to all or any of the propositions contained in the ordinance of the said convention of the people of Arkansas, nor to deprive the said State of Arkansas of the same grants subject to the same restrictions which were made to the State of Missouri, by virtue of an act entitled 'An act to authorize the people of Missouri Territory,' &c."

Mr. STUART. What was done under it?

Mr. GREEN. At a subsequent period, Congress passed a law making a grant to Arkansas, and this was never construed to make a grant, but it did not preclude it, and that is the only purpose.

Mr. DOUGLAS. It carries an implication.

Mr. GREEN. It does, and to that extent it is just and proper. Some have held that the mere sovereignty of a State entitles that sovereignty to the right of taxation on all property within its limits. It has been a controverted point whether the States could tax the lands of the United States without a contract agreeing not to tax them. This part of the bill admitting the State of Kansas, says they shall not tax them. Now, there ought to be some consideration for it. We cannot stop at this time to make that consideration, but we can do as we did in the case of Arkansas. In that case, while we required the State to relinquish the right to tax, we said we will not preclude the State from insisting on a fair equivalent in the shape of grants of public land—that is all.

Mr. STUART. I do not desire to deprive the

State of that grant, and I will therefore suggest this amendment:

Nor to deprive the said State of Kansas of the same grants hereafter to be made.

If the Senator will insert those words, "hereafter to be made," all the objection I have will be obviated. ["No objection."]

Mr. GREEN. I prefer to let the bill stand as it is. I am following the example which has been heretofore set by the Congress of the United States, and that has worked well. I see no necessity for any change.

Mr. HUNTER. I hope the Senator from Missouri will accept this amendment. It cannot impair the effect of the bill. It will make it certainly mean just exactly what it says it now means.

Mr. GREEN. If you are all willing, I have no objection.

Mr. STUART. After the word "grants," I move to insert "hereafter to be made."

The amendment was agreed to.

The bill was reported to the Senate as amended.

The VICE PRESIDENT. Shall the question be taken on concurring in all the amendments together or separately?

Mr. TRUMBULL. I should like to say a word upon the second amendment before it is passed upon by the Senate. I will ask the Secretary to read it.

The Secretary read the second amendment which is in line nine of section two after the word "State" to insert:

And that nothing in this act shall be construed to abridge or infringe any right of the people asserted in the constitution of Kansas at all times to alter, reform, or abolish their form of government in such manner as they may think proper, Congress hereby disclaiming any authority to intervene or declare the construction of the constitution of any State except to see that it be republican in form and not in conflict with the Constitution of the United States.

Mr. TRUMBULL. Mr. President—

The VICE PRESIDENT. If there is to be debate, the Chair supposes it would be proper to dispose of the amendments in their order. If there be no objection, therefore, he will put the question on the first amendment in reference to the preamble.

Mr. TRUMBULL. I shall not, perhaps, object to taking the vote on all the amendments together.

The VICE PRESIDENT. The question is on the first amendment, in regard to the preamble.

The amendment was concurred in.

The VICE PRESIDENT. The Senator from Illinois now has the floor on the second amendment.

Mr. TRUMBULL. It is a sufficient objection I apprehend, to this amendment, that it is wholly unmeaning. It can have no possible effect upon the bill which we are passing. It provides that nothing in this act shall prevent the people of Kansas from changing their form of government, and then goes on to say that it is not the intention of this provision to explain or to declare the meaning of the State constitution. Such a provision, I apprehend, is entirely nugatory, of no possible effect, and can do no good by being inserted in the bill, but it contains the assertion of a fact. It asserts that it is not the intention of this bill to change or modify in any respect the constitution of Kansas. I do not remember the precise language, but that is the purport. It has already been shown that the ordinance is a part of the constitution, and that this bill changes the ordinance. That however is answered by those who vote for the bill and for this amendment, by saying that the ordinance is no part of the constitution. Well, sir, admit that to be so. I take it that the boundaries of the State are a part of the constitution.

The first article of the constitution prescribes the boundaries of the State of Kansas. Now, sir, can Congress prescribe different boundaries from those adopted by the people of Kansas? You have disclaimed in this amendment any authority to alter or change the constitution as presented. You say you do not do it by rejecting the ordinance, but if you change the boundaries do you not change the constitution? Are they not a part of the constitution? It has been said that they are. Then how is Kansas admitted? If Congress passes a law that a region of country different from that which seeks admission into the Union as a State, shall be admitted, does that admit the country which has applied to be admitted with

different boundaries? The bill proposing to admit Kansas, after describing the boundaries, contains this proviso:

"Provided, That nothing herein contained respecting the boundary of said State shall be construed to impair the rights of persons or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with such Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the State of Kansas, until said tribe shall signify their assent to the President of the United States to be included within said State, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to make if this act had never passed."

Now, sir, by this proviso there is excepted out of the State of Kansas all that tract of country which the Indians hold in the Territory of Kansas. There is an empire within an empire; a State within a State. Kansas might, and very likely would, object to coming into the Union with a district of country within her borders over which her jurisdiction did not extend, and a rendezvous for—

Mr. PUGH. The Kansas-Nebraska act expressly provides that we shall have the right to make that very provision at the time of her admission. It is reserved in the act of Congress creating the Territory.

Mr. TRUMBULL. That is a very convenient way of arguing. Because your abominable Kansas-Nebraska act contained an abomination, and was full of iniquity, is that a reason for reenacting another? Suppose it was in the Nebraska act—

Mr. PUGH. Suppose it were ever so much an abomination, if we reserve a right in it, we could hold on to the right.

Mr. TRUMBULL. Because you do it in the Kansas-Nebraska act, therefore you can admit Kansas as a State with different boundaries from those the people of the State have prescribed! Is that the proposition? One of the important questions to be considered, according to the report of the Senator from Missouri, who is engineering this bill through the Senate, is whether the proposed State has proper boundaries. He says when you come to admit a State, you are to inquire, first, has she sufficient population; second, are her boundaries appropriate; and third, is her constitution republican? Now, you say her boundaries are not appropriate, and yet you are going to admit her. She has made no exception in her constitution, and if you have a right to except out the Indian country, you can change the constitution in any other respect. It is impossible to escape from this. It is here upon the record, and it is legislation by Congress to make a constitution for the people of Kansas, and on the part of those who disclaim all the time any right to interfere with the affairs of a State or Territory.

Mr. PUGH. It seems to me that there is absolutely nothing in the proposition of the Senator from Illinois. Who ever heard before that the people of a Territory could get together and make their boundaries at their own will, without the assent of Congress? Congress has always claimed, and has always exercised in the case of nearly every new State, the right to define its boundaries. It does not affect the constitution of the State; and I have never heard a respectable lawyer pretend before that it did. Why, sir, the Congress of the United States altered the boundaries of the State of Ohio after she had been more than thirty years in the Union; and the boundaries of the State of Michigan and others. But it is not worth while to waste time on this matter. The Senator from Michigan [Mr. STUART] seemed determined, in my absence yesterday, to misrepresent my argument. Now, I have got him on his own proposition. He says there was no provision for this constitution to be submitted to Congress. Here it is:

"This constitution shall be submitted to the Congress of the United States."

That is what Mr. Calhoun means in these two certificates, when he speaks of the constitution and ordinance being submitted, for they are dated on the 14th of January, long after all the votes.

Mr. STUART. I am sorry that the Senator should wish to have a controversy with me. I am very desirous to avoid it; but still if it is really insisted upon, I do not know but that if driven

into controversy, I am as well fitted for it as anybody; but I declare to him I desire no such thing. I stated that the constitution provided for a submission to the people. I did not say that it did not provide for a submission to Congress. I said that it provided for a submission to the people. Having used that term of submission to the people, and that being really the submission which it meant, I inferred that the certificate alluded to the same thing. But the Senator is very much mistaken if he supposes I insist on misrepresenting either his argument or his position. I do not desire to do that with any Senator, and certainly not with the Senator from Ohio.

Mr. TRUMBULL. In reply to the remarks of the Senator from Ohio I wish to say that there is not an instance of which I have any knowledge, and if one exists I should like it to be shown, where the Congress of the United States ever admitted a State into this Union with different boundaries from those she had prescribed for herself, without sending her constitution back. The State of Michigan was kept out of the Union for years, until she would agree to the boundaries which Congress thought proper to prescribe. I am not aware of a single instance where a State was ever admitted with different boundaries than those she had prescribed for herself. The usual way has been for Congress, in the first instance, by the passage of what is called an enabling act, to fix the boundaries, as was done in the case of Minnesota last year. I do not think the instance can be found where Congress has undertaken to admit into the Union a different tract of country from that which has formed a constitution.

Mr. PUGH. I repeat that the tract of country is of no consequence at all, and is no part of the constitution. The first constitution of the State of Ohio did not describe any boundaries at all—I did not say a word about boundaries.

The amendment was concurred in.

The next amendment made, as in Committee of the Whole, being in section two, line eleven, to strike out the word "of" and insert "annexed to," was concurred in.

The VICE PRESIDENT. The next amendment made in Committee of the Whole is to insert the words "hereafter to be made," after the word "grants," in the thirteenth line of the second section.

Mr. STUART. I have been asked to change the language of that amendment by saying "if hereafter made," instead of "hereafter to be made."

The amendment to the amendment was agreed to, and the amendment, as modified, was concurred in.

The next amendment made as in Committee of the Whole, being that offered by Mr. PUGH, to extend the laws of the United States to the new State of Kansas, and to provide for the organization of a district court therein; was concurred in.

The bill, as thus amended, was ordered to be engrossed for a third reading, as follows:

An act for the admission of the State of Kansas into the Union.

Whereas, the people of the Territory of Kansas did, by a convention of delegates, called and assembled at Leecompton, on the 4th day of September, 1857, for that purpose, form for themselves a constitution and State government, which said constitution is republican, and said convention having asked the admission of said Territory into the Union as a State on an equal footing with the original States—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Kansas shall be, and is hereby declared to be, one of the United States of America, and admitted to be, on an equal footing with the original States, in all respects whatever. And the said State shall consist of all the territory included within the following boundary, to wit: beginning at a point on the thirty-seventh parallel of latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the eastern boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning: *Provided*, That nothing herein contained respecting the boundary of said State shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with such Indian tribe, is not without the consent of said tribe to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the State of Kansas, until

said tribe shall signify their assent to the President of the United States to be included within said State, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to make if this act had never been passed.

Sec. 2. And be it further enacted, That the State of Kansas is admitted to the Union upon the express condition that said State shall never interfere with the primary disposal of the public lands, or with any regulations which Congress may find necessary for securing the title in said lands to the bona fide purchasers and grantees thereof, or impose or levy any tax, assessment, or imposition of any description whatever upon them, or other property of the United States, within the limits of said State; and that nothing in this act shall be construed to abridge or infringe any right of the people asserted in the constitution of Kansas at all times to alter, reform, or abolish their form of government in such manner as they may think proper, Congress hereby disclaiming any authority to interfere or declare the construction of the constitution of any State, except to see that it be republican in form, and not in conflict with the Constitution of the United States; and nothing in this act shall be construed as an assent by Congress to all or to any of the propositions or claims contained in the ordinance annexed to the said constitution of the people of Kansas, nor to deprive the said State of Kansas of the same grants, if hereafter made, which were contained in the act of Congress, entitled an "Act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to admission into the Union on an equal footing with the original States," approved February 26, 1857.

Sec. 3. And be it further enacted, That until the next general census shall be taken, and an apportionment of representation made, the State of Kansas shall be entitled to one Representative in the House of Representatives of the United States.

Sec. 4. And be it further enacted, That from and after the admission of the State of Kansas as hereinbefore provided, all the laws of the United States which are not locally inapplicable, shall have the same force and effect within that State as in other States of the Union; and the said State is hereby constituted a judicial district of the United States, within which a district court, with the like power and jurisdiction as the district court of the United States for the district of Iowa, shall be established. The judge, attorney, and marshal, of the United States for the said district of Kansas, shall reside within the same, and shall be entitled to the same compensation as the judge, attorney, and marshal, of the district of Iowa.

The bill was read the third time; and on the question of its passage, Messrs. WADE and WILSON called for the yeas and nays, and they were ordered.

Mr. IVERSON. Mr. President I have not troubled the Senate during the discussion of this measure, and I do not propose to do so now. I merely wish to submit a word or two in relation to one of the amendments which has been adopted. I allude to the amendment introduced by the Senator from Missouri, that makes a declaration recognizing the right of the people of Kansas to alter or change their constitution prior to the time prescribed in the instrument itself. I did not, when my name was called, vote on that proposition. I am opposed to it, and cannot give it my sanction. I barely wish to state now, in a few words as possible, the grounds of my opposition.

In the first place, I think it altogether nugatory and useless to incorporate such a proposition into the bill. If the people of Kansas have a right to change their constitution, according to their own mode, and in their own time, nothing contained in that declaration of the bill can confer it upon them, or take it away from them. If they have not the power, it does not confer the power. If they have the power, it is unnecessary to express it in this bill.

But, sir, I do not myself admit the power of the people of Kansas, under this constitution, to change their form of government prior to the time prescribed in the constitution, and in the mode which is there pointed out. I do not, and shall not on the present occasion, stop to elaborate this proposition. I merely state it as an objection which I have to this amendment, and I will not, by any vote of mine, recognize the right of the people of Kansas to change their constitution in any other form than that prescribed by the instrument itself, or at any time prior to that prescribed by the people of Kansas in convention assembled.

When my name was called, I did not respond, although I was in the Senate Chamber, for the reason that I found that I should be in a minority of one perhaps on this side of the Chamber, and might be found solitary and alone in the ranks of the Black Republicans on the other side of the Senate, and I considered it rather a dangerous thing to be found in such company; and, therefore, I chose not to place my name amongst them. I remembered that when I was a little boy, in con-

versation with an old and valued friend, he said to me, "my son, never find yourself in bad company; for if a flock of blackbirds should light upon a tree, and a pigeon should place himself among them, and a sportsman were to shoot at the flock, he would be just as apt to hit the pigeon as the blackbirds. [Laughter.] And now I advise you always to keep out of bad company." Practicing upon that principle on the present occasion, I chose not to vote in company with my friends on the other side of the Chamber, though I was opposed to that amendment.

The amendment, as I understood, was adopted by the friends of the Lecompton constitution in caucus. It might be supposed that I might subject myself to the imputation of having violated caucus obligations in not yielding my assent to the amendment. I beg to state in explanation, that I was not present at the caucus, and am not bound by its action. As I am opposed to the amendment in principle, I cannot give my consent to it.

But, however I may object to that amendment, Mr. President, I shall vote for the bill, notwithstanding its incorporation, because I think the principle of the bill is of much more importance than the amendment. I must confess, however, that my interest in this bill has very much diminished from transactions which I understand have occurred within the last few days. I allude to the proclamation of Mr. Calhoun, president of the convention, that gives certificates of election for members of the Legislature, in the county of Leavenworth, in Kansas, to the Black Republican or Abolition candidates, which throws the government of Kansas into the hands of the Abolitionists. I believe that this was an act of usurpation on the part of Mr. Calhoun; that he had no right and no power to look behind the official returns of the election. His business was to be governed by the official returns which were placed in his hands. So far as frauds were concerned which might have affected the qualification of members, that was a question exclusively appertaining to the Legislature itself when it assembled; and Mr. Calhoun had no power to act on mere information, as I understand he did act on the mere information of Governor Denver, or any other information of an *ex parte* or one-sided character. We know that these alleged frauds have been investigated by a one-sided and partisan portion of the people of Kansas. They have examined testimony to suit themselves. They have constituted their own judges, their own officers, and their own witnesses; and, judging from what I have seen there, and what we have heard, I take it for granted that they could prove anything they chose to prove. These certificates of election have been issued upon *ex parte* evidence in this way, without a proper examination, or giving the members who have been ejected by the certificates an opportunity of being heard.

I think it was an act of usurpation on the part of Mr. Calhoun to adopt this step, and I have regretted exceedingly to understand—I do not vouch for the truth of it—that this step has been taken on the advice of southern members of Congress. We know what is to be the effect of it. It is to put the power of the government of Kansas into the hands of the Abolitionists; and in less than six months from the time they take charge of the government, the atmosphere of Kansas will be so hot that not a decent southern man can stay in it, but there will be a general stampede of all the friends of the pro-slavery party from the State of Kansas. This is to be the effect of the step which Mr. Calhoun has taken in this case, and the admission of Kansas under the Lecompton constitution, although it is founded upon principle, and therefore I shall support it, will be nothing more than a bare assertion of principles, a victory entirely without fruits, and as such I care little or nothing about it. I shall vote for the bill as a matter of principle, but under the impression that the South gains nothing by the process.

Mr. HOUSTON. Mr. President, I have not occupied the time of the Senate on this subject, nor is it my present intention to do so. I have been very much interested in the discussion of the bill throughout the great number of days which it has occupied. I have been much instructed, and much edified, but I cannot say on all occasions, gratified by that discussion. But I have a few remarks to make before casting my vote. The

Legislature of my State having superseded me in the Senate of the United States by the election of a successor for the term of six years, commencing on the 4th of March next, in harmony with my wishes, and which I refer to with sincere pleasure, I nevertheless feel that I have duties to perform to my constituents. It has always been a cardinal principle of my Democracy, that when the will of a constituency on any measure is known to the representative, he is bound to execute, in all good faith, that known will, or he is bound to resign his situation, in order that another may be selected who will carry out their views. I therefore vote for the bill, knowing it to be in accordance with the views of three fourths, at least, of the Legislature of Texas.

Mr. PUGH. The remark of the Senator from Georgia induces me to make a single observation before my name is called. I understand him to assert that the amendment on which he commented provides for an alteration of the constitution of the State of Kansas in a different method from that prescribed in the constitution itself.

Mr. IVERSON. No, sir; the Senator misunderstands me. I did not say it provided for that. I said it recognized the right of the people of Kansas to alter their constitution otherwise than in the mode prescribed in the constitution itself.

Mr. PUGH. I do not understand it so; but the principal complaint I have against the Senator from Michigan is, that if he is correctly reported, he charged me yesterday, and charged me untruly, with asserting that proposition, or in other words he set up a man of straw for the satisfaction of knocking him over, and that too when I was not able to attend in the Chamber. I have endeavored to find the Senator's speech. I can find no account of it but in the National Intelligencer, in which he is said to have "closed his able argument by contesting certain of the positions assumed by Mr. Pugh, in his recent defense of the general proposition that a majority of the people can change a constitution at their will, without respect to the mode prescribed in its body."

I not only never made any such proposition, but I denied it in express terms; and here it is in my speech. I said that I did not claim it, and I never claimed it, and this amendment does not claim it. In order that the Globe may put these two things together, I shall read one paragraph from my speech delivered one week ago to-day, on this point. I then said:

"Let me guard against misconception here. I do not say a constitution may not provide the manner of its amendment. I do not say that it may not interpose provisions calculated to require more thorough deliberation. I do not say that it may not require a majority of each House of the Legislature, or two thirds, or three fifths; because, after all, the Legislature is elected by the people, and what the people want they will compel the Legislature to grant. I do not say that the people may not require, to prevent hasty or improper action, that the question shall be submitted to them twice, or thrice, if you please; or that it shall remain so many months for consideration; or that notice of the intended amendment shall be published in this or that manner. I do not even complain of such provisions; but I say that when a constitution declares, as the Topeka constitution did, that in no manner, neither by a convention nor by the people, nor by the unanimous vote of all those who live under it, and all those who exercise authority under it, whether as legislators or executive officers, can it be changed—whenever a constitution declares that, the declaration is merely void; it needs no abrogation; it never had any life."

That was my proposition; and now Senators have got off a great quantity of cheap eloquence by misrepresenting the proposition. So it seems according to the report of what was said by the Senator from Michigan yesterday when I was prevented from attending in the Chamber. That is all I want to say on that subject; and now I am going to say a word to the bill.

A few moments ago, in obedience to the instructions of the Ohio Legislature, I voted against the amendment of the Senator from Kentucky; and in obedience to their instructions furthermore, I shall be compelled, reluctantly, against my own opinion of what the justice of the case is, to vote against this bill on its final passage. I wish it to be understood that I do it in accordance with instructions. My instructions are to vote against the admission of Kansas with this constitution. I shall so vote against her admission simply in my representative character in behalf of the General Assembly of Ohio.

Mr. WADE. I wish to ask the Senator from

Georgia whether I understood him to say that Mr. Calhoun proposed to give his certificates of election on the advice of certain southern members, or according to the truth of the vote? That struck me as a very extraordinary statement, and I should like to know whether I understood it correctly?

Mr. IVERSON. I do not recognize the right of the Senator from Ohio to catechise me on the subject; and, therefore, I decline answering.

Mr. WADE. I should be very much gratified to know what the fact is; but I shall not press the inquiry.

Mr. STUART. I know the anxiety of the Senate to take the vote on this bill, and I am certainly disinclined to delay them; but I have tried two or three times to put my honorable friend from Ohio [Mr. PUGH] right. I have assured him, in the strongest language I was capable of using, that I had no intention of misrepresenting him; and so far as I knew, I had not misrepresented him.

Mr. PUGH. Is what I have read a correct report of your speech?

Mr. STUART. The substance of what I said is probably correctly stated in the synopsis of the National Intelligencer. I took the ground that where a constitution prohibited any amendment, no amendment could constitutionally be made. I did not take the ground that the Senator now supposes; nor did I argue the *modus operandi*. I stated that there was in my opinion room for dispute as to whether this constitution did in terms prohibit any amendment prior to 1864. I said that was a debatable question; but if it prohibited any amendment before that time, I denied the power of the people of Kansas, in any legal mode, as the Senator made his proposition, to change it before that time. I said nothing in regard to the mode of doing it, further than this: that the Legislature could not pass a law upon an application of the people for a change of the constitution, against an express prohibition of the constitution under which they held their authority; that the only authority they had to pass a law at all, grew out of the constitution which created them; and when that constitution said there should be no amendment of it before 1864, if it said so, any law that the Legislature might pass, to provide for an amendment before that time, would be a nullity, falling before the supreme authority of the constitution itself. So, sir, I think the Senator will see that while I controverted his positions, I did not misrepresent them.

Now a single word in explanation. The Senator will remember that I notified him on Saturday evening, after I obtained the floor, that I should allude to his argument in the course of my remarks, and I requested him, if he could conveniently, to be here. I went on yesterday morning with my argument precisely as I had intended, and, I assure the Senator, saying nothing that I would not have said if he had been present, and stating nothing that I did not understand to be correct; and I think if he ever sees my speech in print, he will agree that I met his propositions fairly, simply denying their authority. I assure him now, in order that there may be no ground of complaint whatever, that I entertain for him the utmost respect, not only as a Senator but as a man, and that I would not misrepresent him here or elsewhere knowingly. Now, I hope the Senator will not hereafter suppose that I have courted any controversy with him on this subject.

Mr. MASON. I did not understand the Senator from Georgia to say that Mr. Calhoun had issued his late manifesto at the suggestion of anybody from the South.

Several SENATORS. Yes, he did.

Mr. MASON. If he did say so, I wish to declare, for myself, that I never heard of it, and never had any part or lot in it, being one of the members from the South.

The question being taken by yeas and nays, on the passage of the bill, resulted—yeas 33, nays 25; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Digler, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Sebastian, Shildell, Thompson of Kentucky, Thomson of New Jersey, Toombs, Wright, and Yulee—33.

NAYS—Messrs. Bell, Broderick, Chandler, Clark, Colamer, Crittenden, Dixon, Doollittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Pugh,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, MARCH 24, 1858.

NEW SERIES....No. 80.

Seward, Summons, Stuart, Sumner, Trumbull, Wade, and Wilson—25.

So the bill was passed.

The vote was unusually full, being the votes of the whole Senate, with four exceptions. Of these, Mr. CAMERON did not vote, because he had paired off with Mr. DAVIS, who was too sick to be present. Mr. BATES has not taken his seat since his election to the body; and the same cause, severe sickness, has for some time detained Mr. REID at Richmond, Virginia.

The announcement of the passage of the bill was followed by demonstrations of applause in the galleries, which were checked by the Vice President.

ORDER OF BUSINESS.

Mr. GWIN. In order to have it simply as the unfinished business, I ask that the Pacific railroad bill (S. No. 65) be taken up, in order that we may afterwards adjourn, and give me the floor for to-morrow.

Mr. HALE. I rise to a question of privilege. I wish to know whether the manifestations of displeasure at such demonstrations as we have just had, are confined to cases when they are made on different occasions? I noticed that the Senator from Virginia interfered last night when manifestations of this sort were made. This time he did not.

Mr. MASON. I think the Senator will do me the justice to say that he saw the Senator from Virginia rise immediately in his place, and was about to call the attention of the Presiding Officer to it, when it was suppressed by his hammer. ["That is so."]

Mr. GWIN, Mr. DOUGLAS, and Mr. HAMLIN, claimed the floor.

The VICE PRESIDENT. The Senator from California made a motion.

Mr. HAMLIN. I rise to make another motion; and that is, that the Senate adjourn.

Mr. GWIN. But the Senator cannot do it while I am on the floor.

Mr. HAMLIN. But you submitted your motion.

Mr. GWIN. I have not yet done so.

The VICE PRESIDENT. The Chair then recognizes the Senator from California.

Mr. GWIN. I move that the Senate take up Senate bill No. 65, which is the special order, being the Pacific railroad bill, so that it may be left as unfinished business for to-morrow.

The VICE PRESIDENT. The Senator from California will pause for a moment. The Senate must come to order. Gentlemen are requested to resume their seats, and not stand in the aisles.

Mr. GWIN. I merely wish the bill taken up now, so that, at one o'clock, it may come up for consideration as the unfinished business, it being the first and the oldest special order, and now the proper question to be taken up.

Mr. DOUGLAS. Mr. President, I regret that I am under the necessity of antagonizing again with the Senator from California. I shall feel constrained to give the preference to the bill to admit Minnesota into the Union as a State. I presume the principal objection to the prompt action on the Minnesota case is now removed, and I do not think it is just towards that new State to keep her out longer. I have not thought it just to keep her out this long. I feel it my duty to give notice that I will insist upon the Minnesota bill being first acted upon, and I am happy to hear my friend from Missouri, [Mr. GREEN,] say there is no objection to it. I see that the objection has been removed.

Mr. HAMLIN. There are various questions as we now see—

Mr. GWIN. What is the question under consideration before the Senate?

The VICE PRESIDENT. The Senator from Maine has the floor on the motion of the Senator from California.

Mr. HAMLIN. There is a controversy between the Senator from Illinois and the Senator from California as to which measure should re-

ceive precedence. It is, in my judgment, better not to determine that question to-night, when we are all exhausted; and I move, therefore, that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 23, 1858.

The House met at twelve o'clock, m. Prayer by Rev. B. N. BROWN.

The Journal of yesterday was read and approved.

EXCUSED FROM SERVING ON COMMITTEE.

Mr. DICK. I ask that the motion of the gentleman from Alabama [Mr. HUSTON] to reconsider the vote by which the gentleman from Kentucky [Mr. MASON] was excused from serving on the Committee of Accounts be taken up by the House.

Mr. HUSTON. I have been trying for some time to get the floor for the purpose of calling up that motion. I made an effort, more than a week ago, to withdraw, with the consent of the House, my motion, for the reason that it seemed as if I could not have an opportunity of getting the action of the House upon it, and it was delaying the action of the Committee of Accounts on the various accounts that had gone before them. For that reason I was disposed to withdraw it. If the gentleman from Ohio, [Mr. CAMPBELL,] who made the objection to my withdrawal of the motion, were now in his seat, I should again propose to withdraw it. I am aware that I cannot withdraw it except the House should consent.

Mr. MAYNARD. I would suggest to the gentleman from Alabama, that, by general consent, we may act now on his motion to reconsider.

Mr. HUSTON. I am perfectly willing to withdraw it.

Mr. MAYNARD. The gentleman from Ohio is not in his seat.

Mr. HUSTON. The gentleman is now in his seat.

Mr. CAMPBELL. I withdraw my objection.

Mr. HUSTON. I then withdraw my motion to reconsider, and I ask leave to offer a resolution to which I presume there will be no objection.

The resolution was read, as follows:

Resolved, That the Clerk, the Doorkeeper, and the Postmaster, of the House of Representatives, each furnish to the House a list containing the names of each and every person appointed by each one of them, respectively, together with the services performed by said appointee, the salary or compensation each appointee receives for said services—specifying the law under which said appointment was made.

Mr. CLEMENS. I object to the resolution.

Mr. HUSTON. The information is important to be had before the bill now before the Committee of Accounts shall be acted upon. I hope the gentleman from Virginia will withdraw his objection. The resolution calls for information which we all need.

Mr. ENGLISH. Is debate in order?

Mr. HUSTON. I am not going to debate it. The gentleman is very sensitive. Objection was not withdrawn.

UTAH WAR CONTRACTS.

Mr. LOVEJOY asked leave to offer the following resolution:

Resolved, That the Secretary of War be requested to furnish this House, with the least possible delay, a full and minute statement of all contracts made in connection with the Utah expedition, the names of the persons with whom such contracts were made, and also the prices paid, or to be paid, for horses, mules, corn, and all other articles furnished for said expedition; the places where the horses, mules, &c., are to be delivered, and the prices to be paid for transportation of all such supplies.

Mr. MAYNARD. I object. That might be exceedingly detrimental to the public service.

DEFICIENCY BILL—LIMIT OF DEBATE.

Mr. LETCHER. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the

Union. But first I offer the following resolution:

Resolved, That the general debate in Committee of the Whole, on the bill No. 306, shall close with the adjournment of the House on to-morrow, and from that time until four o'clock, p. m., on Friday next, the debate shall be strictly confined to the provisions of the bill; when all debate in Committee of the Whole shall terminate, and the committee shall proceed to vote on the pending amendments and such other amendments as may be offered to the bill.

Mr. GROW. I object to the resolution. It requires, I believe, unanimous consent for part of it as it proposes to change the rules of the House.

Mr. LETCHER. I would like to hear what the gentleman has to say about it.

Mr. GROW. The part of the resolution confining the debate to the bill under consideration is in violation of the rules of the House; and I, therefore, object to the resolution.

Mr. LETCHER. The bill is one of very great importance, involving nearly ten million dollars. It has been under debate here for nearly a week, and as yet not one solitary word has been said in respect to any of its provisions, except what I have spoken myself. I hope, therefore, that, in view of its importance, this short space of time of two days, out of so long a time, will be devoted to it, that objections to any of its provisions may be stated, so that an opportunity to answer them may be given before the House is called upon to vote.

Mr. GROW. I am certainly as anxious as any other member to have that bill discussed. But I am opposed to those attempts which have been made during the present session to change the rules of the House so as to cut off all general debate, and all debate upon any subject if the majority choose to put the previous question upon it.

Mr. LETCHER. I then propose to modify my resolution so as to terminate the debate upon the adjournment of the House on Thursday next.

Mr. GROW. I am opposed to that.

Mr. HUSTON. Do I understand the gentleman from Pennsylvania as objecting to the reception of a resolution for terminating debate upon this bill?

The SPEAKER. To the form of the resolution. The gentleman has no right to object to the introduction of a resolution in the usual form, closing debate.

Mr. HUSTON. If the gentleman from Virginia has a right to introduce a resolution closing debate, I suppose he has the right to terminate the general debate to-morrow and all debate the next day.

The SPEAKER. The gentleman proposed to regulate the manner in which the debate shall be conducted in committee. It is not a change of the rules, but it is a change of the practice of the House.

Mr. GROW. I move to lay the resolution on the table.

Mr. WASHBURNE, of Illinois. I would suggest to the gentleman from Virginia, that he should modify the resolution so as to close debate at the adjournment of the House on Friday next.

Mr. HUSTON. I would ask my friend from Virginia if this bill cannot be laid aside in committee, and some other bill taken up for discussion? It is evident that we shall have no discussion upon the merits of the bill now. It is the most important appropriation bill that has been before us; and it ought not to be disposed of without debate.

Mr. LETCHER. My proposition was to secure some debate upon the bill itself. I will accept the suggestion of the gentleman from Illinois, and modify the resolution so as to close debate at four o'clock on Friday next.

Mr. WASHBURNE, of Illinois. I hope the gentleman will make it on the adjournment of the House of Friday.

Mr. LOVEJOY. I hope some time will be allowed for the discussion of the bill itself.

Mr. LETCHER. That is just what I have been trying to do.

Mr. GROW. I insist on my motion to lay the

resolution on the table, and ask the yeas and nays upon the motion.

The yeas and nays were not ordered.

The motion to lay the resolution on the table was disagreed to—ayes 62, noes 74.

The question then recurred upon the adoption of the resolution.

Mr. BOCK. It may be proper for me to say that if debate is closed on this bill on Friday, I shall, if I am in the Chair, give the floor on that day to gentlemen desiring to discuss the bill.

Mr. WALBRIDGE. I move to amend the resolution so as to close the debate at the close of the session of the House on Friday.

Mr. CHAFFEE. Friday is private bill day. I object to the debate on this bill being closed on that day.

Mr. WASHBURN, of Illinois. The gentleman has no right to object.

Mr. LETCHER. If the amendment of the gentleman from Michigan [Mr. WALBRIDGE] will make the resolution satisfactory, I will modify it so as to close debate at the adjournment of the House on Friday next.

Mr. STANTON. I hope the gentleman from Virginia will take some course by which we shall have some debate upon this bill. This is an important bill, and it is evident we shall have no discussion upon it if we are to dispose of it in this manner.

Mr. LETCHER. Is there any probability that we ever can have any debate upon the bill?

Mr. GROW. I desire to appeal to the gentleman from Virginia, to lay aside this bill until some time when we can have discussion on it.

Mr. CLINGMAN. I ask for the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. CLINGMAN moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RICE M. BROWN.

Mr. HUGHES. I desire to present the memorial of Rice M. Brown for reference to the Committee on Military Affairs.

Mr. JONES, of Tennessee. That can be done under the rules.

Mr. MORGAN. I object, unless we know what the memorial is.

The SPEAKER. The Clerk will read it.

The Clerk proceeded to read the memorial.

Mr. WASHBURN, of Illinois. I object to that. Let it be presented under the rules, as all others are.

COTTON STATISTICS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a report of John Claiborne, special agent to collect statistics of the consumption of cotton in Europe; which was laid upon the table, and ordered to be printed.

LANDS IN ILLINOIS AND INDIANA.

The SPEAKER also laid before the House a communication from the Department of the Interior, in reply to the resolution of the House calling for a statement of the quantity of unsold public lands in Illinois and Indiana; which was laid upon the table, and ordered to be printed.

SALARY OF SURVEYOR GENERAL OF UTAH.

The SPEAKER laid before the House a communication from the Treasury Department respecting an item omitted in the deficiency bill of \$1,500, on account of the salary of the surveyor general of Utah; which was referred to the Committee of Ways and Means, and ordered to be printed.

Mr. KUNKEL, of Pennsylvania. I ask the unanimous consent of the House for leave to introduce a resolution calling for information necessary to be had before a committee.

Mr. HUGHES. I object.

RAILROAD FROM DUBUQUE TO SIOUX CITY.

The SPEAKER. The Chair asks leave to present a communication from the Department of the Interior, in reply to a resolution of the House of the 16th instant, calling for information relative to the construction of a railroad from Dubuque to

SiouX City, and a branch from the mouth of Tete des Morts.

Mr. WASHBURN, of Illinois. I ask that that communication be read; it is short.

Mr. CLINGMAN. I object to it.

The question recurred on Mr. LETCHER's motion; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOCK in the chair,) and resumed the consideration of the

DEFICIENCY BILL.

The CHAIRMAN stated that the gentleman from Illinois [Mr. KELLOGG] was entitled to the floor, to conclude his speech commenced last evening.

Mr. KELLOGG. Mr. Chairman, when the committee rose yesterday I was referring, in connection with the Kansas question, to the history of the last few years. I propose this morning to linger for a few moments on this point.

To resume my remarks where I left off yesterday, Mr. Chairman. As if determined that the full scope of their object should be clearly defined, and the policy of the late Administration, an Administration so like the present that the one seems but an elongation of the other, should be fully committed to the enterprise, at least by implication, we find in one of the newspaper organs of the pro-slavery interest in Kansas, not long prior to the spring election of 1855, the following language:

"The South must be up and doing; Kansas must and shall be a slave State. Mark what we say, southern freemen! Come along with your negroes, and plow up every inch of ground that is at this time disgraced and defaced by an abolition plow. Send the scoundrels back to whence they came, or send them to hell—it matters not which destination; suit your own convenience. Sound the bugle of war over the length and breadth of the land, and leave not an Abolitionist in the Territory to relate their treacherous and contaminating deeds. Strike your piercing rifle-balls and your glittering steel to their black and poisonous hearts; let the war-cry never cease in Kansas again, until our Territory is divested of the last vestige of abolitionism."

Again, Acheson, the acknowledged champion of General Pierce and his administration, in Missouri and Kansas, boldly, distinctly, and defiantly declared the objects of these hostile movements on Kansas, and called on those for whom he acted to come to the rescue—yea, to the conflict of freedom and slavery; and to never cease that conflict until freedom should, with drooping pinions, leave that rich garden spot of God's creation, a fit abode for freemen, to the polluting foot-prints of oppression, and the lowering clouds of slavery. In his appeal to the people of Georgia, he uses the following significant language, significant from its boldly-implied assumption, that no interference was to be expected from the General Government—"Kansas must be a slave State, or Missouri must have free institutions."

Here, sir, is the threatened evil; here is the dire calamity Missouri fears.

Free institutions! the very name of which madens her hot blood, and lights up the fires of civil war. But, sir, what institutions, does she want? Does she want institutions of tyranny and oppression, the antagonisms of free institutions? Does she love so well the institution that has borne as mountains' weight on her vital energies; that has crippled her powers, and prevented her rapid, onward march, in this day of progress? Does she fear the institutions that gave her sister State, Illinois, three thousand miles of railroad, before she had as many hundred; that has enabled Illinois to convert her prairies into one vast cultivated field, to build and scatter towns and cities broadcast, through her whole extent, and to nurture, feed, and support Missouri's only city, St. Louis? While Missouri can hardly boast, beside St. Louis and St. Joseph, a town of five thousand inhabitants. To this let her people answer.

He continues:

"Let your young men come forth with Missouri and Kansas. Let them come well armed, and with money enough to support them for twelve months, and determined to see this thing out. I do not see how we are to avoid civil war. Come it will. Twelve months will not elapse before war, civil war, of the fiercest kind, will be upon us. We are arming and preparing for it; indeed, we of the border counties are prepared. We must have the support of the South. We are fighting the battles of the South. Our institutions are at stake. We want men—armed men. We want money. Let your young men come on in squads, as fast as they can be raised, well armed."

With these declarations, loudly proclaimed and vauntingly published, the entire legislative branch

of the territorial government was usurped into the hands and control of the pro-slavery influence by an invading, voting force of over four thousand inhabitants of Missouri; who, on their return to Missouri, amid rejoicings and the music of bands, reported that "not an anti-slavery man will be in the Legislature of Kansas. We have made a clean sweep." And thus, amidst all the light and knowledge of the nineteenth century, in republican, free America, human slavery was extended and established, at the sacrifice of the dearest right of freemen—the elective franchise. And all this fell on the dull ear of the Executive without arousing him from the trance-like dream of that golden bauble—a second term—so securely held in the hands of that interest before which he crouched in abject submission. But when Governor Reeder, a just man, seeing the sources and channels of legislative power corrupted by fraud and obstructed by violence, interposed his official influence to purify and purge the legislative returns, then the quick ear of the President heard the wailing cry of his friends, and his eagle eye saw executive intolerance in the affairs of Kansas, and Governor Reeder went into retirement. Governor Geary found, in like manner, that any recognition of the rights of the free-State citizens of Kansas subjected him to the disapprobation of the pro-slavery power, and consequent removal. And, sir, to further show that the basis of this movement was slavery extension, and so understood in a large portion of this Union during the late presidential campaign, I desire to read from the Richmond Enquirer, of 1856, in which I find the following avowal of the issues involved in that campaign:

"The Democrats of the South, in the present canvass, cannot rely on the old grounds of defense and excuse for slavery; for they seek not merely to retain it where it is, but to extend it into regions where it is unknown. Much less can they rely on the mere constitutional guarantees of slavery; for such reliance is pregnant with the admission that slavery is wrong, and but for the Constitution should be abolished.

"Northern Democrats need not go thus far. They do not seek to extend slavery, but only to agree to its extension, as a matter of right on our part. They may prefer their own social system to ours. It is best that they should. Our friends are conservatives at home and conservatives of the Union, conservative of religion, of marriage, of property, of State institutions, and of Federal institutions; but whilst they may prefer their own social system, will have to admit in this canvass that ours is also rightful and legitimate, and sanctioned alike by the opinions and usages of mankind, and by the sanction and express injunctions of Scripture. They cannot consistently maintain that slavery is immoral, inexpedient, and profane, and yet continue to submit to its extension.

"We know that we utter bold truths; but the time has now arrived when their utterance can be no longer postponed. The true issue should stand out so boldly and clearly that none may mistake it."

Slavery enjoined by the Scriptures! That Book of liberty and life, the mission of which on earth is to expand, elevate, and ennoble the mind and soul, enjoin the observance of that slavery which, under the penalty of bars and chains, prohibits a knowledge of its truths, or the ability to read its pages—that degrades and enslaves the mind and soul of human beings! No, sir; it is not so. It is a slander on that sacred record; it is a slander on God and His attributes.

And now, sir, will gentlemen of the Democratic party who, during the last campaign, did declare that slavery was immoral, inexpedient, and profane, from the stump, in the papers, in public and in private, now consider these so-called "bold truths" then and now uttered, and no longer avoid the issue so boldly and clearly made and presented that "none may mistake it."

Mr. Chairman, I assume to say that the Republican party have not heretofore, nor do they now, mistake the real, the true issue. And, sir, I much mistake the signs of the times, if the people, now aroused by the developments made in the more advanced stage of this crusade against freedom, do not, in the future, so clearly comprehend and appreciate the real issue, that no party allegiance can seduce them from a firm maintenance of their rights at whatever cost or sacrifice; and that they will proclaim, through the potent agency of the ballot-box, and by their Representatives upon this floor, that such wrongs must cease, come from what quarter they may. And, sir, unless they do, they are but fit subjects for the iron heel of oppression.

Again, sir, the President, in his message but recently received in this House, has taken occasion to brand a large majority of the people of

Kansas as adhering with treasonable pertinacity to a government in direct opposition to the government recognized by Congress. And for what offense is this wholesale charge of treason and traitor made? Why simply and only because the inhabitants of Kansas—oppressed and wronged by invasion from Missouri, deprived of representation in their own Legislature, their towns burned, their citizens murdered, their country laid waste, and every principle of the organic law of the Territory violated—after having petitioned the General Government for relief, without success, and having been refused protection when demanded, called a convention, framed a constitution, and asked of the Congress of the United States to be admitted, as an independent State, into the Union. They asked not themselves to supersede the territorial government—their movement was in subserviency to that government, and would so remain, until the territorial government should be superseded by the action of Congress itself, in the admission of such new State. This was the letter and spirit of the movement for which they have been denounced as traitors and rebels. That constitution has been twice submitted to a direct vote of the people, and each time received a majority of all the votes in the Territory; and each time with the avowed purpose of submitting it to Congress for approval; thus directly acknowledging the power of the Government over all her organic laws in the Territory.

But, sir, this was not the objection. The real objection was, the Topeka constitution prohibited slavery and ran counter to the darling object of that portion of the Union in whose hands are held the issues of life and death of presidential aspirants. This act was the act of the people, a large majority of the people of Kansas, as I presume will be admitted on all sides of this House; still they are called rebels, traitors, and dangerous disturbers of the peace of the nation.

Why does not the President denounce the people of Minnesota, they having formed a constitution with a view to admission into the Union, have elected members of a State Legislature who are now in session, assuming to exercise control over and to pass laws for the government of the people of Minnesota; and yet it is not a State—not a member of this Confederacy. Her territorial government has not been abrogated by Congress, and yet it is practically abrogated by the assumed State government. True, they had an enabling act, yet you and they acknowledge the further action of Congress necessary to their admission and the abrogation of their territorial government. This action of Congress was what the people of Kansas asked for their Topeka constitution; nothing more, nothing less; but the interest of slavery demanded the one, and not the other; hence the one is legal, the other treasonable.

Sir, is this the low estate to which the Chief Magistrate of this great nation has fallen when talking officially of a hundred thousand freemen, as loyal to our Government as any people on earth, and whose only crime is, they love freedom and hate oppression in any form?

I have followed these indications, thus far, for the purpose of showing that the same cause and object that prompted the first wrong in Kansas has produced like results until the present hour; and for the further purpose of showing that the continued, pertinacious, and determined prosecution of the original design proves, conclusively, that no change of policy will be adopted by our opponents until the great question that lies at the bottom of all this is fully and frankly met and decided. And, sir, this question is reaching its culminating point; this momentous question must and will be decided. Whatever its results, however startling its consequences, a decision must soon be made; the day of compromises has passed; and I wish gentlemen to understand that we do not propose or desire a compromise upon this subject. It admits of no compromise. I believe that the people of the North have calmly and deliberately taken their position on this question, with a determination not to recede, but with an equal determination not to ask more than is their just right.

The immediate proposition, Mr. Chairman, then is, shall Kansas become one of the States of this Union, under the Lecompton constitution? Not, sir, whether the Topeka constitution, so called, is right, or whether it has received the ap-

probation of a majority of the people of that Territory; but simply, will Congress declare the Lecompton constitution the organic law of the State of Kansas, under all the facts and circumstances within our knowledge concerning the condition and wants of the people of that Territory? And this must depend, not only upon their wishes, but also on the authority of Congress in the premises.

The Constitution of the United States declares that "new States may be admitted into this Union." Here is found the only power, in my judgment, that Congress possesses on the subject of the formation or admission of new States. This part of the Constitution, construed with a view to and in accordance with the theory of our Government, contains ample and abundant power to accomplish the object designed, and yet in no wise infringes the great elementary principle of our Government, that the people, in their sovereign capacity, have the right, unrestricted, to form and alter their own government at will. This provision most clearly contemplates the action of two distinct powers—one, the new State seeking admission; the other, the United States Government, to which application is made. It assumes and declares that Congress is to deal with the applicant for admission as a community prepared in form of political organization, to immediately, on admission, assume the character and position of an independent State. And nowhere in the Constitution will gentlemen be able to find any power in Congress to make or form State governments, but do find, in the clause before referred to, the express recognition of the principle that the people of the State applying for admission have exercised their inherent power of sovereignty in the organization of a State government; and which only requires the consent of Congress to perfect its character as one of the States of this Union. It will be perceived that this view is correct, and in consonance with the theory of the Government of our Confederacy, when we reflect that each State government is the result of the action of the people of each State, and that the General Government is the result of the action of the States. Hence the States form the national Government, and give it all its power, which is utterly inconsistent with the position that the General Government does, or can, form or induce the forming or creation of a new State. Here, then, by an almost irresistible implication, is the right of the people of our Territories to form a State government preparatory to admission into the Union. On the other hand, the power of Congress in this clause is plain, simple, and direct; full and plenary in its grant of discretionary power to admit or reject, but full only to that extent, and no implication beyond that; because such construction would be a direct attack upon the sovereign power of the people, which is recognized and acknowledged as a natural and constitutional right.

Nor does this view of the subject in any degree impair the doctrine that the sovereign power for the government of the Territories rests in Congress, by virtue of the Constitution; for while the people of a Territory may, by reason of their inherent and constitutional right, of their own motion, prepare a State government for admission, still, until such admission is consummated by the action of Congress, such organization cannot perform the functions of a State government; and the people must remain under, and subject to, the territorial government until that government is abrogated by the action of Congress itself, by the admission of a new State. Hence the procedure of the people in such case is not in conflict with, but in subserviency to, the power of Congress in the Territories.

I am aware, Mr. Chairman, that the opinion prevails to some extent that enabling acts, commonly so called, are indispensable to the formation of a State government by the people of a Territory. But, in my judgment, they are, when they assume the right to direct the mode, time, and manner, when and by which a people are to proceed in fixing and establishing their own organic act, in direct conflict with the spirit of the Constitution and the rights of the people.

The very nature and character of a State organic law repels the assumption that its authority can be found in legislation anywhere. It is the first breathing of the sovereign power of the people; it is the formation of an independent sovereignty—a power higher and above all legislation. It is

the power from which legislation may result. If it is, then, the right of the people, in their sovereign capacity, either as a natural or constitutional right, how, and with what reason, can it be contended that it can be controlled by legislation, territorial or national? And here, in connection with this view of the subject, I propose a reference to the opinions of American statesmen and jurists:

Extracts from the works of James Wilson, of Pennsylvania, formerly Associate Justice of the Supreme Court of the United States.

"Permit me to mention one great principle, the *vital* principle I may well call it, which diffuses animation and vigor through all the others. The principle I mean is this: that the supreme or sovereign power of the society resides in the citizens at large; and that, therefore, they always retain the right of abolishing, altering, or amending this constitution, at whatever time, and in whatever manner, they shall deem it expedient."—Vol. 1, p. 17.

"As to the people, however, in whom the sovereign power resides: from their authority the constitution originates; for their safety and felicity it is established; in their hands it is as clay in the hands of the potter: they have the right to mold, to preserve, to improve, to refine, and to finish it as they please. If so, can it be doubted that they have the right likewise to change it?"—Vol. 1, p. 418.

Again, Judge Story, in commenting on the sovereign power of the people in forming the first general or national Government, says:

"Thus was organized, under the auspices and with the consent of the people, acting directly in their primary, sovereign capacity, and without the intervention of the functionaries to whom the ordinary powers of government were delegated in the Colonies, the first general or national Government."

"The Congress thus assembled exercised, *de facto* and *de jure*, a sovereign authority—not as the delegated agents of the Government *de facto* of the Colonies, but in virtue of original powers derived from the people."—*Story's Commentaries on the Constitution*, vol. 1, pp. 185, 186.

This power being, then, paramount to all law, it follows that any abridgment of it would be a restriction and abridgment of the rights of the people in their first great act of sovereignty; and this principle applies as well to the legislative acts of Congress as to the acts of a Territorial Legislature.

But again, sir: what right has Congress to prescribe conditions to the people in the formation of a State constitution? I know of none. The Constitution only provides that Congress may admit new States, not form them; and there being a discretion as to such admission, it can, of course, reject, so that the only power that Congress can exert is a negative power—the power to refuse such State admission and nothing more. If, however, Congress has power over the subject of the formation of new States, such legislation is binding; otherwise, its acts would be without force. It will hardly be denied that Congress has no power to compel the people of a Territory to assume a State form of government; and yet most clearly it would possess that power, if by the passage of an enabling act you can direct the mode, manner, and time of the formation of a State constitution. With such power conceded, it would only be necessary for Congress to direct the holding of a convention, under such restrictions as might be designated, to form a constitution, in order to compel the people of a Territory to assume a government in form and character opposed to their wishes, and in direct conflict with their acknowledged sovereignty in forming the government under which they live; and if Congress does not possess this power, I ask in what consists the validity of congressional enabling acts? And if Congress does not possess this power, most clearly Territorial Legislatures do not, they possessing only the power that Congress could, and may have delegated in their territorial organic acts.

I, therefore, can but consider all enabling acts inappropriate, only when the justness and propriety of their provisions commend them to the approbation of the people to be affected, as convenient advisory rules of action for the people, in declaring their will, but of no more force than any regulations adopted in primary meetings or conventions of the people for the same object. And in no other view can enabling acts be considered consistent with the principle of the sovereignty of the people in forming their own organic law, preparatory to asking admission into this Union. Mr. Madison, in considering the mode and manner of the formation of new governments, and the change and alterations of existing ones, with a direct view to the sovereignty of the people, in abolishing or altering governments, uses this language:

"They [the members of the convention] must have re-

fleeted, that in all great changes of established governments, forms ought to give way to substance; that a rigid adherence in such cases to the former would render nominal and nugatory the transcendent and precious right of the people to 'abolish or alter their Government as to them shall seem most likely to effect their safety and happiness,' since it is impossible for the people spontaneously and universally to move in concert towards their object; and it is therefore essential that such changes be instituted by some informal and unauthorized propositions, made by some patriotic and respectable citizen, or number of citizens. They must have recollected, that it was by this irregular and assumed privilege of proposing to the people plans for their safety and happiness, that the States were first united against the danger with which they were threatened by their ancient government; that committees and congresses were formed for concentrating their efforts, and defending their rights, and that conventions were elected in the several States for establishing the constitutions under which they are now governed. Nor could it have been forgotten that no little ill-timed scruples, no zeal for adhering to ordinary forms, were anywhere seen, except in those who wished to indulge, under these masks, their secret enmity to the substance contended for."—*Federalist*.

From this it will be seen that, in the opinion of Mr. Madison, no legislative sanction or guides are necessary to direct the people in the exercise of their sovereign power. He deemed it competent for those in whose hands was the power to direct its use.

Mr. Chairman, I deduce from all this that the manner in which the object is accomplished is not material, so that a conviction has been produced on the minds of this body that the measure has received the approbation and consent of the people to be affected by it. And it will not, with me, bear the weight of a rush whether the constitution, now presented, was formed under the auspices of congressional or territorial legislation, informal conventions, or the Lecompton-convention even, provided the people have ratified it, and given their consent to its provisions. Then, sir, and not until then, should it be considered the act and deed of the people of Kansas. This I submit as my answer to all that class of argument which has been relied on to prove that the Lecompton constitution should meet the approbation of this House, because it was, as is claimed, formed under the color and form of the law.

And this I understand to be the principle to be deduced from the action of our Government, from its formation to the present time, in the admission of new States. Enabling acts have been passed and acted upon, and yet States have been admitted without them; constitutions have been submitted to a direct vote of the people, and yet States have been admitted without such vote; but in no case, even for a moment, has the idea been seriously entertained of admitting a new State into this Union without a submission of its constitution to a fair and direct vote of the people for approval or rejection, where there was a question even in relation to the acquiescence of the entire people in its provisions. If the people are all satisfied with a proposed constitution, and that is made known by mass meetings, conventions, or otherwise, a vote under such circumstances might be dispensed with; but even then such course would be of doubtful expediency, and I know of no way by which the will of a people can be as well and fairly known, as by the submission of the question to be decided to a direct vote. And it is certainly extraordinary that the people of Kansas should be denied that mode of the expression of their will in the important act of the formation of their State constitution, when it is remembered that this mode of decision is adopted in all questions in our national or State Governments, either of a political or organic character, from the least to the greatest. And if no other object was to be attained but a clear expression of the opinions of the people of Kansas, I doubt not this vexed question would be soon settled.

This view of the subject seems to have been entertained by Mr. Buchanan so late as the date of his instructions to Mr. Walker, then Governor. He says:

"The sacred right of each individual must be preserved, and that being accomplished, nothing can be fairer than to leave the people of the Territory, free from all interference, to decide their own destiny for themselves."

Again:

"When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence."

And it would have been fortunate for the country if Mr. Buchanan had entertained these views but for a few brief months longer; but all earthly

things are changeable. Change is written upon all around us, and nowhere more plainly than in the policy of the present Administration in regard to the affairs of Kansas. At one time laboring under the delusion that the pro-slavery party in Kansas had in their influence a majority of the votes, it was safe to talk of the "sacred rights of each individual;" but, sir, when he awoke to the unwelcome fact that at least three fourths of the inhabitants were opposed to slavery, "a change came o'er the spirit of his dream;" and then, sir, before his distorted imagination, was presented the bonds of union broken, and the nation in ruin, unless Kansas becomes a slave State. And as if lashed and goaded with a recollection of the past, he implores the people of Kansas to receive the Lecompton constitution, with the sickly assurance that the time will come when they will be permitted to be a free people in the changing of their own constitution.

Mr. Chairman, it is well known and so admitted, that the great and almost only question involved in the controversy of the Lecompton constitution, is the question of slavery; and whatever may be said to the contrary, it is nevertheless true that that is the question recognized by the country as paramount to all other questions now at issue. No other question could have so aroused the country, and worked such astounding results in dissolving the iron bands of party allegiance. And on this question the people of this nation are in advance of the politicians, and are leading their forces to a direct solution of this unfortunate yet important question on which the people of Kansas have been denied the right of a fair vote in the submission of the Lecompton constitution.

But it is said that this constitution has been fairly submitted to a vote of the people for their approval or rejection. The convention which framed this constitution, with all its acts of fraud, and in this they could boast great attainments, were not bold enough to assume the power to enforce their constitution without some appearance of a submission of it to a vote of the people, and in this is conceded the want of power in the convention to declare what shall be the provisions of the constitution without the ratification of the people. With what reason, then, can our opponents say that the members of the Lecompton convention were the proper persons to exercise the entire sovereign power of the people? They themselves did not assume that power; the constitution assumes to provide for a vote, and they pretended to submit it to a vote of the people. But, sir, they intended to cheat and defraud the people into a ratification of their acts, by requiring an affirmative, and not permitting a negative vote. Hence, they provided for its submission in the following manner: they declared that the constitution should be submitted "to all the white male inhabitants of this Territory for approval or disapproval;" and "that the ballots cast at said election shall be indorsed 'constitution with slavery' and 'constitution without slavery,' and that if a majority should be found for the constitution with slavery, the constitution should be transmitted to Congress; but if there was a majority for the constitution without slavery, then the article providing for slavery should be stricken out; but the right of property in slaves then in the Territory should in no manner be interfered with."

This mode and kind of submission could not be dignified with the character of even apparent fairness. It was esteemed by the people—and justly so, I believe—as an unqualified insult to the free-State men. They, as conscientious men, were opposed to slavery, and desired to make Kansas a free State. They had been taught that freedom was no crime. They had been taught, and believed, that they had as clear a right to vote Kansas, not only partly, but entirely a free State, as the pro-slavery men had to vote it a slave State in whole or in part; but of this they were deprived. True, sir, on condition of adopting all other parts of the constitution, with its (in their estimation) monstrous provisions, they might exercise the poor privilege of not making Kansas a free State, but of making it a lesser slave State. And in this manner every man was compelled to vote for slavery, or not to vote at all. This, sir, no honest free-State man could do. Sir, it was an insult and mockery. If they believed that slavery was wrong—and I suppose they had a right to believe so—I submit to

any honest, honorable mind, whether the fact of there being one thousand or one hundred thousand slaves in Kansas, held by authority of its constitution, could make one particle of difference in the principle. And, sir, I put no high estimate of honorable intention on the motives of him who honestly desired Kansas to become a free State, that could accommodate his conscience to voting it a perpetual slave State, although it might be restricted in the number of its slaves. And this being the only question on which a vote could be cast, it did, in effect and practically so, deny the right of free suffrage to every free-State man in that Territory; and no one can fairly escape from this conclusion. How many slaves there were, or is now, I know not; nor do I care, for the purpose of this argument. Men had a right to vote for a free government, without spot or blemish. This has been denied them. With what grace they will submit to this decision, time must determine.

But not content with this monstrous provision, at section nine of the schedule we find the following:

"Sec. 9. Any person offering to vote at the aforesaid election upon said constitution shall be challenged to take an oath to support the Constitution of the United States, and to support this constitution, under the penalties of perjury under the territorial laws."

Sir, human ingenuity was profuse of evil schemes, at the formation of this constitution, to prevent any opposition to its provisions. Submitted fairly, says the President, for approval or rejection; submitted "for approval or disapproval," is the language of the schedule, and yet before a man could vote at that election, he must raise his hand before God and man, and swear to support the very instrument he abhors, and which we are told he could disapprove and reject by his vote. Was common honesty ever more at fault? Now I demand, in the name of reason and truth, can he who possesses one honorable impulse or truthful emotion reject, oppose, or disapprove a constitution he has solemnly sworn to support, by a vote given on the condition of such an oath? But, as if not content with this effect of the prescribed oath, we find in the constitution the following provision, to which this oath extends, pledging, under the pains and penalties of perjury, the support of the voter to its principles:

"Sec. 1. The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever."

Was ever such oath required before? Never; no, never. And no emergency could now have induced its requirement but the establishment of human slavery. The view I have taken of the result of this submission is fully admitted in a recent number of the *Charleston Mercury*. That paper contains the following:

"We lay before our readers this morning the message of the President of the United States. It is, as was to be expected, an able document, sound in almost all of its positions, and worthy of the Chief Magistrate of our great confederated Republic. The main point of difficulty and delicacy is in the affairs of Kansas. He thinks that the convention of Kansas, in submitting only the clause in the constitution relating to slavery, has fulfilled what he supposes to be the requisition of the Kansas-Nebraska act. We are equally satisfied with the action of the convention. We differ, too, with the President as to what is submitted to the vote of the people. We do not think that the question of slavery or no slavery is submitted to the vote of the people. Whether the clause in the constitution is voted out or voted in, slavery exists, and has a guarantee in the constitution that it shall not be interfered with; whilst, if the slavery party in Kansas can keep or get the majority of the Legislature, they may open wide the door for the immigration of slaves. But this, also, is a small matter of difference with the President. It is enough for us that he goes with the South in the policy of admitting Kansas into the Union with the constitution she shall present, whether with or without the slavery clause. We heartily support his policy, although we may not agree in all his reasoning. And, above all, we rejoice for the sake of our old partiality, and our advocacy of him before he reached the illustrious dignity of the Presidency, that he has not soiled his fame by identifying it with Walker."

The same result is admitted in the Lecompton Democrat, of November 19, in which, speaking of the submission of the constitution to the people, it says:

"But, at all events, the slavery question should have been fully and fairly put to the people for their decision. This, as we understand it, has not been done. No matter how the people may vote, if this constitution should prevail, Kansas will be a slave State. We would not object to this result if the people should so will it; but we think they should have a full opportunity to determine the character of the institutions of the new State."

And thus while it is claimed that the slavery clause was fairly submitted for approval or rejection, it must be conceded by all, that in no event could Kansas be other than a slave State.

But gentlemen, to escape these conclusions, assume that the people of Kansas, who did not vote, tacitly acquiesced in the vote on the constitution taken in December last. No such inference can be legitimately drawn. The free-State men were prevented by the terms of the submission from voting, as has been shown. How, then, can an implication arise of acquiescence by not voting? He only is concluded by the vote of others, when he himself might have voted. But, sir, there is no question of implication.

The people of Kansas are known to be opposed, by a large majority, to the Lecompton constitution. This, sir, is a matter of history of the day; and so conscious is the President of their determined opposition that he denominates their acts rebellion. This should be an answer to the subtleties of his supporters. But the people have acted directly on this question, and their will and opinions are no longer a matter of conjecture. On the 4th of January last, the people cast a vote of over twelve thousand against the Lecompton constitution in an election where frauds were not even charged, being a majority of nearly seven thousand over the vote cast in December for it, and in this estimate, I doubt not that I calculate for it, not less than twenty-five hundred fraudulent votes. Again, at the election for members of the Territorial Legislature, and for Delegate to Congress, the people, in a most unequivocal manner, decided for a free State by a large and decided majority, and yet we are told that the people of Kansas, while using every means in their power to prevent the adoption of a slave constitution, are to be presumed as acquiescing in the means used to make it a slave State. This is a kind of reasoning and logic, I think, but seldom used, and will not, I believe, be favorably appreciated by the country.

In view of all these facts, I can but consider this pretended submission as a trick and fraud upon the people, and should not, and I trust will not, be sustained.

In support of the opinion of the fraudulent design of those who originated and produced the Lecompton constitution, I desire to submit a statement of Mr. Stanton, late acting-Governor of Kansas. In his address to the people of the United States, speaking of the pro-slavery party in Kansas, he says:

"It was apparent that all the machinery had been artfully prepared for a repetition of gross frauds, similar to those which had been attempted in October; and it was in view of all these facts, after the adjournment of the convention, that the people of the Territory, by an almost unanimous demand, called upon me, as the acting Governor, to convene an extra session of the Legislature, in order to enable them peaceably to protect themselves against the wrongs evidently contemplated by the adoption of this constitution."

Again, in the same address, he says:

"Recent events have shown that their apprehensions were well founded. Enormous frauds have been perpetrated at the precincts of Oxford, Shawnee, and Kickapoo; and it may well be believed that this result was actually designed by the artful leaders who devised the plan and framework of the Lecompton constitution."

And now, through these means, and such agencies, a constitution is presented for our approval, establishing slavery in its largest extent; and the anomaly is presented of Congress, being urged by the Executive, to place Kansas in the Union as a State under a constitution which a large majority of the people detest and abhor, and with their Delegate in Congress, elected upon that issue by a majority of some five thousand free-State votes, opposing her admission; and, also, with a known majority of at least four to one of her people protesting that the constitution presented is not their act, or the embodiment of their will.

But, Mr. Chairman, there are other considerations that commend themselves more properly to the discretionary power of Congress; I mean the effect upon the rights and interests of the people of the United States by the admission of Kansas as a slave State. The interest that we all have in the character, growth, and prosperity of all new States, is a matter of no ordinary import. Our interest in the future of that Territory embraced within the limits of the proposed State of Kansas is in no wise diminished by the inauguration of a State government therein. It is yet our

domain; it is to be peopled by emigrants from among us, and of us; it is to be the home (I hope and trust the happy home) of our children and our friends. Their interest will be our interest; their destiny should be our destiny.

The people North and South, East and West, have the same equal, joint interest in all the Territories; in all the wealth, fame, and glory, of our common Republic; and, sir, it is our equal duty to maintain its honor and to perpetuate its power. And any act inconsistent with the rights of the people of any part or portion of our common country, either North or South, is a wrong and aggression that should not be tolerated or permitted. And, unless we can enjoy equally and mutually the benefits of our common country, and the purchase of our common treasure, we shall have failed in one of the great objects of our Union; and I feel bound, by a sense of duty to our common country, to oppose, as best I may, any measure that will lead to such consequences.

The equal enjoyment of the right of emigration to the Territories and new States is one of the important features of our system of government; and any element introduced into the organic act of a Territory or new State in derogation of such principle is subversive of an important element of our institutions. And for this reason, if for no other, I should feel compelled to oppose the introduction of Kansas as a slave State.

Prohibit slavery, and the laboring masses of the North and South, of the teeming East and the growing West, enter that country on exact and certain equality. The reward of honorable toil, the great avenue to wealth and power in our free government, is secured to all alike. The emigrants from every part of the extended Confederacy meet in Kansas, then, upon that high equality that American freemen alone can appreciate. With that element of wealth—free labor, undebased—they become, in fact, lords of the soil, peers of the land. Their houses reared by the industry of their own hand, are consecrated as fitting habitations of those in whose hands are intrusted the destinies of this Republic. Yea, sir, the rich, the wealthy, of the North and South, can alike enjoy the fruits and participate in the advantages of the new State. I grant you the southern planter cannot take with him his slaves—slavery is an institution of his State—nor can he remove his plantation and cotton fields; but he can enjoy there the profits that both produce, where one is located and the other tolerated. Equally so with the capitalist of the free States. The incorporations in which are invested his wealth, and which require his supervision, are institutions of the State in which he lives. His mills, his manufactories, and his wheat fields, are local in their character, and he can only enjoy in Kansas the profits they may return where they are situated; but each may take with him the same kind of property, the same elements of wealth and happiness, to his new home.

Here then, again, is found a perfect equality of rights and privileges; and more than this should not be asked. It was upon this principle that the fathers of the Republic, in 1787—when twelve of the thirteen States of the Confederacy were slave States, with a full knowledge of the effects of the institution of slavery upon the country, politically and socially—in preparing for settlement and occupation by their own people, inaugurated the first free territorial government in America; embracing all that region now included within the boundaries of five independent States of this Union; and which now gives free, happy homes to more than six million industrious, worthy, and intelligent inhabitants. If the slaveholding States were excluded from a participation in the advantages of that new country, they themselves misjudged. The clear vision of Jefferson and his contemporaries saw the result from the beginning. They acted for the whole country; not for Virginia, not for Massachusetts, not for Georgia, not for New England, not for the South—but for the people of the whole land; the toiling millions who had sustained the Republic in her greatest need, and fought her battles in her hour of peril.

Sir, I ask of gentlemen who of our common country was excluded from that territory? None, sir; none. The sons and daughters of every State, North, South, East and West, met on her rich plains, and in her fertile valleys, with equal rights and equal interests; together they dug

the rich ores from the mountains, and built cities on the plains; they worshiped at the same altar, and sung the same song of gladness; they knew but one emotion, one love of country and of home. And whatever of calamity may befall our country, mark you well, sir, no power can sunder the bonds of the early association of the kindred hearts of that people. And this policy and like results I would carry from the cold North to the milder South; from the East to the shores of the Pacific, wherever our territories extend. And is there a man so blinded by prejudice, or seduced by fanaticism, that with all these rich results before him, he regrets the policy of the *Fathers*? But establish slavery there, and you prevent and defeat all this; you rob labor of its dignity by its contact and conflict with debased, degraded slave labor. Freemen of the North will not, cannot, in their natures, in their pride of manhood, labor with and beside slaves sold as cattle in the market. The natural impulses of their natures spurn the contaminating influences of slavery. Free labor *thinks, acts, progresses, and improves*. Slave labor is denied *thought*; it is driven; corrupts and retrogrades. Antagonistical in all their elements, they cannot harmonize or commingle; one must exclude the other. And on the decision of the issue now presented hangs the fate of this great element of American prosperity within the extended boundaries of the new State of Kansas. Shall, then, the mighty tide of emigration from the free North, that surges westward in its course, leaving States in its track, be turned away from our public domain? and new States in the vigorous growing West, to the frozen regions of the North, and surrender to degraded slaves the fertile fields of our western possessions? To this, in the name of my constituents, I answer, no.

But, Mr. Chairman, we want that new State of Kansas for the abode of free white citizens. The flow of emigration has, within a few years, filled up Ohio, Indiana, and Illinois, to repletion, and spreading north, has planted out the States of Michigan and Wisconsin. Overleaping the broad Mississippi, Iowa springs to manhood, and Minnesota feels the quick throbbings of her young strength; but at the Missouri river, the dark form of slavery, in its hideous deformity, lies across, and blocks up the way of its onward march, demanding Kansas as its own. Missouri contains a slave population of some hundred thousand. Kansas may, and doubtless will, if a slave State, have as many. Georgia numbers over three hundred thousand slaves. May not Kansas, in "chattels," thrive as well. And that number of slaves in any State must, of necessity, exclude the same number of free citizens. A hundred thousand slaves will, beyond controversy, require and appropriate the same, or nearly the same, amount of our territory that would a hundred thousand free white citizens. Thus, sir, will compete for the occupation of our public domain and new States, the property of the South with the freemen of the North. And in this manner will be turned away, of our population, from Kansas, a number equal to the number of slaves introduced—a system against which I protest, as unfair and degrading to the great-laboring interest of the country, and subversive of the principle of individual and State equality. I would gladly speak of the moral effect and political power of slavery, but my time is nearly spent.

But, Mr. Chairman, what is to be the result of the wild commotion that pervades the whole country? We are told on the one hand, that to refuse the admission of Kansas under the Lecompton constitution, will result in severing the bonds of the Union, now strained to their utmost tension; and, on the other hand, that to force that constitution upon the people of Kansas will rouse that wronged and injured people to the last resort against oppression—revolution and rebellion. I regret to hear such predictions. I do not believe that the integrity of the Government and the virtue of the people are so nearly spent as to warrant such apprehensions.

The dissolution of the Union has become a topic that can be discussed and considered without abhorrence. The strange and unwelcome emotions that, but a few years since, were aroused by a suggestion of the possibility of the dismemberment of the Confederacy, have given place to a cool and dispassionate calculation of the chances of a cool perpetuity. Every breeze that ruffles or chafes

the political elements of the country induces a threat of dissolution, or a desire for its accomplishment. Sir, I hope we may not familiarize ourselves with that suggestion until its enormity will arise to startle us; and I adjure gentlemen to seek some other remedy for their real or imaginary wrongs. I cannot, nay, I will not, believe that we are in danger of that great calamity. The tenure of our Union is not so frail that the refusal to extend human bondage will work its ruin; nor will the oppression and the utter disregard of the dearest rights of our fellow-citizens of Kansas cement its power. Its attributes are humanity and justice. And when they fail, then, sir, you may fear the mutterings of the gathering storm. Then the fires that burn upon our altars will grow dim, and the spirits of the heroic past will have withdrawn from their watchings over our councils. But if, in the providence of God, that hour shall come, we have then but one duty to perform; and, sir, that is to be true to freedom, justice, and humanity, regardless of consequences, and trust the future of our country to the guidance of that Power that out of the gloom of the Revolution produced the star of its destiny.

But I will indulge in no forebodings of evil. The threats that are made here and elsewhere, pass me as the idle wind. I believe, yea, I think I know, that the great mass of the people are true to the Union, and unseduced from their attachments to its institutions. And there, sir, is my hope and confidence in its perpetuity.

Mr. SINGLETON. Mr. Chairman, did I not feel that my silence upon the question of admitting Kansas as a State into the Union under the Lecompton constitution might be misconstrued, and that it might be supposed that I was indifferent as to the result of the struggle now going on in this House, I should leave the discussion of the subject entirely to others. But the question involves too much of interest to the whole country, and especially to the South, to allow me to hazard anything by consulting my own personal comfort. Indeed, sir, I should feel that I had been recreant to my trust, did I not raise my voice, however impotent, in advocacy of the great principle of non-intervention; and did I not repel the numerous assaults which have been made in the course of this debate, upon the South and her institutions.

The question as presented for our consideration is a plain and simple one, and did we but confine ourselves to the real issue, would be one easy of solution. Shall Kansas be admitted as a State into the Union under the Lecompton constitution? As statesmen we should examine this question in the light of the Federal Constitution, and the general scope of our powers under it. We should come to our determination unbiased by any sectional interests; uninfluenced by any preconceived opinions as to the social or moral aspect of society in that Territory; and unalterably fixed in our purpose to do our whole duty, leaving consequences to take care of themselves. Principle, precedent, and patriotism might be marshaled as aids in the examination of the question; but prejudice, passion, and fanaticism should play no part in it. The nature of the question itself, the state of public sentiment in the country, the peace of society, the harmony of the States, and it may be, the perpetuity of the Union demand such a course. And yet, sir, members forgetting these solemn duties and obligations, over-stepping the limits of fair and legitimate debate, have made war, not only in this Territory, but in fifteen States of this Union, upon the institution of slavery, and the right of slave owners to their property. Scarcely a speech has been made in opposition to the bill that has not gone into the question of slavery, in a moral, social, and political point of view, and that has not made this the great turning point of the argument, the very pivot upon which the whole opposition hinges. We have been told again and again, that this opposition would never cease until this slavery clause was stricken out, though it should receive at the ballot-box the sanction and indorsement of every voter in Kansas. We have been assured that the fiat has gone forth, that no more slave States are to enter this Confederacy, in all coming time.

It matters not that a few who still call themselves Democrats, attempt to place their opposition upon other grounds, and call off our attention from the main point of attack. It matters not that

they profess to separate themselves from the body of this abolition army, and fortify themselves behind some mud redoubts, in one quarter firing at us with the hope of engaging our attention, while these sappers and miners are pushing forward their insidious operations at another point. As friends of the measure, we are not to be drawn off by such a feint; and, while it would afford us pleasure to dislodge these deserters from their hiding places, and show them that they have even less than a fig leaf to cover their nakedness, yet every consideration of prudence, of self-preservation, requires that our small arms, and our great arms, should be turned against the main body of their forces; submitting, for the time being, to the annoyances of these pseudo-Democrats, and leaving for a future day the settlement of accounts with them. I therefore beg the indulgence of this House, while I trace briefly, (before discussing the Lecompton constitution,) the slavery agitation, and the general course of the Abolition party, from its inception down to the present time; believing, as I do, that a proper understanding of this subject, and the events that have marked its past history; a proper appreciation of our rights springing out of the system, and the correlative duties that attach to us as slaveholders, should be impressed upon the mind of every citizen, who may be called upon to act a responsible part in the thrilling drama that may soon open up before us.

For a quarter of a century, or more, almost the only question which has disturbed our domestic tranquillity, threatened the integrity of the Constitution, and the stability of the Union, is that of slavery. It is true that other questions have arisen, which for a time seemed to portend fearful consequences; but not partaking altogether of a sectional character, not founded in prejudice, or poisoned by fanaticism; not constituting the capital in trade of those who live by agitation, and are borne into place and power only when the storm prevails; these questions, after being fully canvassed, have been settled to the satisfaction of every portion of our country. Compromises have sometimes been made as to other questions than slavery, which, though not coming up to the full measure of our rights under the Constitution, yet, for the sake of peace and harmony among the States, have been acquiesced in, and maintained in good faith. The South has sometimes felt that heavy exactions were laid upon her; that hard terms were imposed; that compacts had been entered into that would have been "more honored in the breach than in the observance;" and yet, sir, her pledges have been redeemed; her promises have been fulfilled; her obligations have been maintained inviolate.

Slavery, too, has been the subject of compromise. Although, so far as the power of the Federal Government over the question, is concerned, nothing is left to doubt or implication. A few plain provisions in the Constitution point out its limited jurisdiction over the subject, and its connection with it; yet pledges, outside of any just claim to intervention, on the part of the Government, have been given and received. Rights, which our enemies affected to consider doubtful, have been surrendered, for a recognition of others, the existence of which common honesty should blush to deny. But these compromises, however deliberately entered into; these pledges, however solemnly given; have constituted no barrier against insult, innovation, and injury, on the part of our enemies, who seem determined to consummate their purpose of abolishing slavery; though compromises fall, though pledges be broken, and though the Constitution and the Union themselves perish in the conflict.

When the original Thirteen Colonies made their Declaration of Independence, in 1776, slavery was one of the domestic institutions in all of them. And when the Federal Constitution was adopted in 1789, it still existed in all except Massachusetts. It is well known to all of us, that the most difficult subject of adjustment in the convention which formed that Constitution, was the slavery question. After long debate, and patriotic effort, the few plain provisions contained in that instrument touching the subject were agreed upon as follows: First, the principle, that in adjusting taxation and representation, five slaves should be considered as three white persons; secondly, that slaves escaping into free States should not thereby be discharged from servitude, but should be delivered

up on claim of the party to whom their service or labor was due; and thirdly, that Congress should not prohibit the foreign slave trade before the year 1808. And in the end, so completely did the views of the framers of that Constitution harmonize, that the two first provisions were adopted by a unanimous vote, while the remaining one in relation to the slave trade, was ingrafted upon the Constitution, mainly by the votes of the northern States, the South almost in a body voting against it, declaring their preference that an end should be put to this traffic at once. Thus it will be seen that the North is responsible for all the slaves imported into the United States from the adoption of the Federal Constitution to the year 1808, a period of nearly twenty years. This course was dictated by avarice, for at that time nearly all the shipping belonging to citizens of the United States was in the hands of northern men. Commerce was controlled by them, and the profits of the slave trade went into their pockets; and hence the opposition to interdicting this traffic as long as it could be made a source of revenue to them.

I have said that these provisions touching the question of slavery were plain and simple. So thought the framers of that instrument. No difficulty seemed to grow out of their construction while they were intrusted with the administration of the Government; and were they occupying our seats to-day, but one opinion would control every mind, but one feeling animate every heart.

For thirty years after the adoption of that Constitution, with an occasional interruption, the South received the measure of her rights under it so far as slavery was concerned; and it was not until Missouri asked to be admitted as a State into the Union, in 1819, that this fanatical anti-slavery spirit seemed to stand forth in all its giant proportions. The people of the Missouri Territory, impressed with the reasonable opinion that this Territory, being the common property of all the States, open to occupation and settlement alike by the citizens of each, who could carry with them any species of property which they held in the State from which they emigrated, and having authority of law to erect themselves into a State, regulating their domestic institutions in their own way, framed their constitution with Republican features spreading over every page of it. That constitution was presented to Congress for action upon it; and, strange to say, so rapidly had this fanatical spirit of abolitionism spread through the North, that Representatives opposed her admission upon the miserable and paltry ground that she had incorporated into her fundamental law a clause tolerating slavery, an institution that existed in every colony at the time of the Declaration of Independence, and in every State, save one, at the time of the adoption of the Federal Constitution. What a reflection was their conduct upon the memory of those good men who, thirty years before, were not ashamed to give guarantees for the protection of this species of property even by constitutional sanction. What a poor return of gratitude was this for the sacrifices which they had made in money expended, hardships endured, and blood freely poured out, to build up for us our present system of Government! It is well their spirits are not disturbed by the degeneracy of the times. It is well they are beyond the reach of cowardly knaves and canting hypocrites, lest they should be despoiled of their well-earned honors, and their names given over to infamy, because they dared to make the Constitution under which we live.

I will not go into a history of the contest over the Missouri constitution. It is humiliating to my pride to contemplate the events of that struggle. Had I the power, I would, for the honor of my own section, forever blot out the page which perpetuates the history of wrongs ignominiously submitted to, surrenders ingloriously made, to appease the rapacious appetite of that reasonable Abolition party. Thanks to the Supreme Court of the United States, that highest and best tribunal known to the land, that, by its decision, it has wiped out, as far as it could do, the disgrace which that surrender of our rights stamped upon us. Missouri came in as a State, however, with the constitution she had formed, the South, in consideration thereof, having forever parted with the right to take slaves into one half of the common territory—that portion lying north of 36° 30'—merely reserving the privilege, already belonging to her,

of taking slaves to that portion of it lying south of that line. I never contemplate this so-called compromise and the circumstances of its adoption, but my thoughts turn to the highwayman, who, with pistol pointed at the breast of the defenseless traveler, whispers into his ear, "here is a serious difficulty, suddenly sprung up. I desire that it be amicably settled, and to our mutual benefit. Just place in my hand your purse; I will spare your life, and thus an honorable compromise may be effected." The Abolition party of the North, well satisfied with the result of this experiment, seeing how easy a matter it was to despoil the South of her rights, retired, in the true spirit of a Robin Hood, to bide its time, and watch an occasion when another successful sally could be made. Having wronged us, of course that party became our enemy; for it seems to be one of the immutable laws of nature, that those we injure we come to hate and persecute. From this time forward human ingenuity seemed to be upon the rack to devise and execute plans to grieve and annoy us, and render unpleasant and insecure the domestic relations of master and servant.

For the next thirty years we were subjected to every species of attack that envy and malice could suggest; and thus the Hall of the House of Representatives was converted into a sort of Pandemonium, where the infernal orgies of this Abolition party were to be celebrated. Petitions for the abolition of slavery in the District of Columbia, territory ceded by Maryland and Virginia to the Government, as a common meeting ground for the representatives of the nation, were crowded upon the attention of this body. Incendiary documents were sought to be transmitted through the mails to the South, the object of which was to incite our slaves to insurrection and bloodshed. The trade in slaves between the southern States was to be interdicted, and the citizen emigrating from one to the other was not to be allowed to carry with him such property. The fugitive slave law, enacted by Congress in pursuance of the Constitution, for the reclamation of those who should escape from us into the free States, was sought to be repealed, or if not repealed, was to be resisted and abrogated by treachery and rebellion. The Wilmot proviso, by which we were to be excluded from the Territories, the common property of the States, was sought to be fastened upon us. Florida and Texas were resisted upon their application for admission as States into the Union, because their constitutions tolerated slavery. Our negroes were seduced from our homes and forced from our possession when traveling with them through the free States. Our churches were riven asunder, and we excluded from the sacramental board on account of owning the same property that belonged to the framers of the Constitution: the pulpit, the press, the hustings were all so many stand-points from which they hurled their poisoned shafts at us. A thousand other grievances were inflicted upon us, which an hour's speech will not allow me to enumerate, but which, if inflicted upon any foreign nation, would have been just cause for a declaration of war. Yet these indignities have been borne, coming, as they did, from those from whom we had a right to expect better things, if not upon the score of equality, at least upon the score of interest, seeing that we have been tributary to them, under our system of tax laws, with no remunerating equivalent.

Thus did matters go on from bad to worse, year after year, until the Mexican campaign opened in 1846; and our Army had been thrown into a distant country, surrounded by an enemy of semi-barbarians, and dependent entirely upon the home Government for supplies. In order to force upon the South submission to their unjust demands, the proposition to vote men and money to prosecute that war was sought to be encumbered by the Wilmot proviso, or in other words, by an amendment declaring that all territory acquired in that war should be forever closed against slavery. If up to this time sufficient evidence had been wanting to prove the hardening and corrupting influence of abolition sentiment upon the human heart, here was irrefragible proof upon that point. Our Army in the heart of an enemy's country, sustaining, almost miraculously, our flag in the midst of perils and hardships such as have seldom fallen to the lot of man; making forced marches by day and sleeping upon their arms at night, with few

of the necessities, and none of the comforts of even a military campaign; with plague, pestilence, and famine pressing hard upon them. And yet, sir, when an appropriation, out of the national Treasury, is asked for, to feed, clothe, and reinforce them, it must be coupled with this infamous amendment, and unless adopted all supplies are to be withheld, and our gallant little band in Mexico left to perish from hunger, or fall victims to the superior force of a relentless foe. What an immortality of infamy did the participants in this scheme achieve for themselves! How deep and indelibly is the brand of traitor stamped upon their foreheads! But patriotism and the good sense of the country prevailed; the war was conducted to a successful and honorable close, and a large scope of territory was added to our boundaries.

In 1850, California, formed out of a part of that territory, asked to be admitted as a State into the Union. Here was another opportunity for Abolition rapacity to gratify itself. Being the common territory of all the States, as the fruits of their common efforts, of course the South had a right to expect that her interest would be looked to in its disposition and settlement. A southern President had taken the responsibility of ordering our army to the Rio Grande to repel invasion, for which the whole Abolition pack, Tray, Blanche, and Sweetheart, broke loose upon him. Southern chivalry had given renown to every battle-field; southern blood had flowed in every contest; southern money helped to erect every fortification and to fire every gun; a southern general commanded each line of operations; a southern soldiery made up the rank and file of the army in the proportion of three to one, taking the population of the two sections into account; a southern governor was appointed to maintain and uphold our authority in Mexico after its surrender; a southern commissioner negotiated the treaty of peace between the two nations, by which that territory was ceded to us; and when the amount stipulated to be paid for the cession came to be settled, southern labor and southern capital, under the operations of our tariff system, had to bear the onus, and pay much the larger portion of it. Facts like these, even amongst a band of buccaneers, who live by their prowess and by plunder, would have secured to the respective parties a fair division of the spoils. But not so in this confederation of States. With the Abolition party, all the rules of common honesty that govern men in other conditions of life, high or low, are trampled under foot; the law of *meum and tuum* is no longer respected, but with them might, backed up by numbers, makes right. How far southern people, who fight your battles, pay your taxes, and work the soil for your benefit, will submit to this state of things, may be seen in the early future.

With the proposition to admit California as a State, the struggle was renewed—the South demanding some portion of that vast domain so lately acquired as an outlet to slavery, to relieve her from the inconvenience and miseries, at no distant day, of a crowded and mixed population. This most reasonable request the North persistently refused to grant us. Odious as the Missouri compromise line had ever been to the South, yet she was willing to adopt it as a basis of settlement of this vexed question. Having abided by it in good faith for thirty years, having permitted the Oregon territorial bill to pass, under Mr. Polk's administration, with its slavery restriction, our Representatives in Congress, bitter as the pill was, stepped forward and proposed to extend it across this new Territory to the Pacific ocean. Over and over again was this proposition submitted to the North by southern Representatives, and as often rejected; yes, sir, indignantly spurned; and the cry was, "free soil away down to the Gulf of Mexico, and over to the Pacific ocean!"

The result of this contest was not unlike all others which had preceded it. California was hurried into the Union as a free State, not under the forms of law, but in direct contravention of all law, and every precedent from the dawn of our national existence to the present time. No census was taken to show her population; no territorial government subjecting her to the accustomed pupilage; no "enabling act," about which we hear such a lugubrious howl raised in the case of Kansas; no convention of delegates elected in pursuance of an act of the Legislature competent to

provide for such election; but with a constitution, made, we know not when, where, or by whom, except from rumor, with an area large enough for half a dozen States, she was forced in against the consent of the South, and forever dedicated to free soil. At the same time it was determined to give territorial governments to Utah and New Mexico. The principle of the Missouri compromise was no longer to be observed in the organization of Territories. It was fully ignored and scornfully trampled under foot by northern men, who now affect to regard it with such holy reverence; and who, with a reckless mendacity and juggling duplicity that merits the scorn and contempt of every honest heart, essay to play "the game of fast and loose" as policy, prejudice, or plunder may dictate.

In the midst of this excitement, thirteen northern States, through their Legislatures, resolved that the Wilmot proviso should be applied to all territory, whether north or south of the Missouri line; in other words, requiring Congress, by its action, to exclude slavery from all the territory belonging to the United States. An act for this purpose had passed one branch of Congress, and was defeated in the other; and, to avert the disgrace which seemed to be impending over us, the South again proposed to extend the Missouri line to the Pacific, which was again rejected by the North. Intense excitement prevailed throughout the land. The Union was regarded as being in imminent peril. At this juncture of affairs, the North, rich in resources and fruitful in expedients, looking to the overthrow of slavery and the ruin of the South, stepped forward with a new principle of compromise, by some called "squatter," and by others "popular sovereignty," under which the people of the Territories, without any intervention on the part of the Federal Government or any of its branches, were to be left free to determine the question for themselves, whether or not slavery should exist under the constitution which they should frame. After long debate, and fierce opposition on the part of the South, the proposition was finally adopted; and, upon this principle of non-intervention, the territorial governments of Utah and New Mexico were organized, although the whole of the former, and a part of the latter Territory, lie north of that consecrated line. Not satisfied with aiming a blow at slavery in the Territories and new States to be admitted, Texas must be dragged into the arena, and that part of it lying north of the Missouri line must be made a peace-offering to our enemies, although in the same series of measures they were abrogating this line in Utah and New Mexico. The District of Columbia, too, must be brought into hotch-potch; the slave trade must be there abolished, and slavery itself, to the extent that if a man, in passing through that District, should place his slave in depot for safe-keeping, for a night only, in the morning he came out a free man, his master having lost all claim upon him.

In the same connection, as a sort of sedative to southern mortification and chagrin, as a "*quid pro quo*" for these humiliating concessions made to this great Moloch of Abolitionism, the fugitive slave law, by the united vote of the South and a few Democrats of the North, was remodeled, and given us in place of the law already in existence on the subject. The promise was distinctly made that the slavery question was forever banished the Halls of Congress; that our property should be returned to us in good faith, without obstruction or difficulty; and that a new era had dawned upon us in the history of our Government. How fallacious our hopes in this respect! The slavery agitation did not cease in Congress or out of it. The fugitive slave law was not enforced in good faith; but, on the contrary, the Legislatures of many of the northern States passed laws refusing to us the use of their jails for the confinement of our slaves when taken into custody, and attempted to give to the slave the right to sue out a writ *habeas corpus*, and have a hearing before their State courts; in some instances, as in Massachusetts, laying heavy fines and penalties upon those of their citizens who should aid in retaining a slave to his master, and disqualifying such from holding any office of honor, profit, or trust, under the State government. Although the law was explicit in its terms, and based upon a plain provision of the Federal Constitution, yet, to attempt its enforcement in Massachusetts, and in some other States, imper-

iled the lives of all who were engaged in this attempt; as well that of the officer of the law as the slaveowner. In many instances human life was sacrificed by the mob that assembled to bid defiance to the law, and trample underfoot the rights of the citizen. If, at last, the law was enforced, it was at a sacrifice burdensome to the Government and ruinous to the master. We all remember the exciting case of Burns, in the city of Boston, in which the fearless and upright Judge Loring presided, and returned the slave to his master, and, for so doing, has been removed from office by Banks, the Black Republican Governor of Massachusetts; where the deputy marshal was murdered by the mob for daring to do his duty as a minister of the law; and where it cost the Federal Government, aside from the cost to the master, the sum of \$13,115 to defray the expenses of a "*posse comitatus*," and of sixteen military companies called out to suppress the mob and enforce the law. A stronger exemplification of Punic faith is not to be found in the history of any nation, civilized or savage. A more flagrant and reckless disregard of the principles of comity, good neighborhood, and simple justice, the world cannot present.

Thus did matters progress until the meeting of the Thirty-Third Congress, in 1854. At the preceding session of that body, a territorial government had been asked for the country now embraced in Kansas and Nebraska. Petitions had been sent to Congress to that effect, and referred to the respective Committees of the two Houses on Territories, but no reports made upon them. Now, it became apparent that a government and laws must be extended over this Territory, as rights were springing up between the settlers upon this public domain, and conflicts were arising between the whites and the Indians there to be found. This must be done by Congress; and the question naturally arose, what sort of a bill shall be framed for this purpose? It would not do to frame it upon the principle of the Missouri compromise line; for this had been repudiated in the organization of governments for Utah and New Mexico, and the principle of non-intervention substituted in its stead. This, then, being the last principle of compromise or settlement between the North and South, of course the Committee on Territories, in both Houses of Congress, set themselves to work to frame a bill in conformity with this doctrine. It was prepared, and introduced simultaneously in both branches of Congress. Of course, no opposition could be anticipated from the North; for it was the principle of non-intervention which had been brought forward and urged by that section, and reluctantly accepted and acquiesced in by the South. The Abolition party of the North, caring nothing for plighted faith, utterly insensible to the promptings of fairness, or the dictates of justice, with its Protean adaptability and characteristic treachery, turned upon this principle, denounced it without stint, and made the cast-off Missouri line its ultimatum. After a most elaborate and acrimonious debate; after the fiercest struggle I have ever witnessed in legislation, the South insisting upon the principle, and the North, with a few exceptions, opposing it, the bill passed organizing territorial governments for Kansas and Nebraska.

Here, then, was a field open for northern and southern enterprise, with no odious distinctions against the institutions or rights of either, to which each man might go, carrying with him whatever species of property was held by him, and in due time, when population should justify it, form a State government, regulating in their constitution their domestic relations, as other States had done, and come into the sisterhood upon terms of equality. But in what spirit was this proposition met by the Abolition party of the North? When it was ascertained that the bill would pass, but before its passage, members of Congress met together in secret conclave, organized themselves into an Emigrant Aid Society, and set on foot a scheme for throwing into Kansas a population to be gathered up from the purlieus of Boston and other large cities, without reference to qualifications as citizens, socially, morally, or politically. The inebriate, the pauper, the criminal, (provided they were hostile to slavery,) were all accepted and put upon a forward movement for Kansas. Such an exodus of pestiferous bipeds was never witnessed before from any land. The

very highways were contaminated by their march, and a moral taint spread through the atmosphere where they passed. Could it be supposed that southern gentlemen in Missouri and other surrounding States could restrain their indignation at such a flagrant disregard of good faith, such vile machinations to defeat them in the enjoyment of their just and equal rights? The Abolitionists themselves did not expect such acquiescence; for instead of putting into the hands of these emigrants implements of husbandry, and turning their attention to the cultivation of the soil, we find that lectures were delivered from the pulpit on the Sabbath day, and contributions levied, for the purpose of procuring arms with which to equip their emissaries. Even women (I cannot call them ladies) were found to rise in a public assembly, and with a blood-thirstiness that should have mantled their cheeks with shame, subscribe Sharpe's rifles to the enterprise. In confirmation of what I say upon this point, I beg leave to read to this committee an extract from the able and lucid report of Judge Douglas, on the subject of Kansas affairs, made to the Senate, on the 12th day of March, 1856. He says:

"When the emigrants sent out by the Massachusetts Emigrant Aid Company, and their affiliated societies, passed through the State of Missouri in large numbers on their way to Kansas, the violence of their language, and the unmistakable indications of their determined hostility to the domestic institutions of that State, created apprehensions that the object of the company was to abolish Kansas as a means of prosecuting a relentless warfare upon the institutions of slavery within the limits of Missouri. These apprehensions increased and spread with the progress of events, until they became the settled convictions of the people of that portion of the State most exposed to the danger by their proximity to the Kansas border. The natural consequence was, that immediate steps were taken by the people of the western counties of Missouri to stimulate, organize, and carry into effect a system of emigration similar to that of the Massachusetts Emigrant Aid Company, for the avowed purpose of counteracting the effects, and protecting themselves and their domestic institutions from the consequences, of that company's operations.

"The material difference in the character of the two rival and conflicting movements consists in the fact that the one had its origin in an aggressive, and the other in a defensive policy; the one was organized in pursuance of the provisions and claiming to act under the authority of a legislative enactment of a distant State, whose internal prosperity and domestic security did not depend upon the success of the movement; while the other was the spontaneous action of the people living in the immediate vicinity of the theater of operations, excited by a sense of common danger, to the necessity of protecting their own firesides from the apprehended horrors of servile insurrection and intestine war."

Of course this is to be taken as good authority upon this point, coming, as it does, from the very head and front of the anti-Lecompton movement. Here, then, and in this way, commenced the scenes of riot and bloodshed which have thrilled with horror every heart in the land. I here assert today what, in my deliberate judgment and in my conscience, I believe to be true: that the Free-Soil party of the North, who organized these emigrant aid societies, are responsible to God for every battle which has been fought, every life which has been sacrificed, and every drop of blood which has been shed in Kansas. I delight not to dwell upon these scenes, but will draw the curtain over them, and pass now to the consideration, briefly, of the Lecompton constitution, and close with some general remarks.

Kansas presents herself for admission as a State into the Union with a constitution having all the forms, and bearing the impress, of law. It is contended, however, that this constitution has not been framed and adopted in accordance with law or the wishes of the people of Kansas, but in violation of both; and we are solemnly invoked to examine the question before we act upon it. The first inquiry, then, which naturally arises, is, how far can Congress push its investigation as to the regularity of the proceedings which gave birth to this constitution? On the one hand, it is argued that we must look to the instrument itself, and not beyond it; and should it appear to be republican in its character, then Congress must receive it, and admit her as a State. On the other hand, it is contended that Congress has the right, and it becomes our duty to investigate all the minutiae of the proceedings looking to the organization of a State government; and to this end, that we have a right to go out to every election precinct, inquire into all the frauds that may have been practiced in voting; that we must judge of the qualification of members of the Territorial Legislature that provided for the call of a convention, and of the qualification of the members of the convention

elected by the people; and finally, that we must sit in judgment upon the action of the convention, and see that the constitution formed by it is referred back to the people for ratification. I find myself compelled to differ from both of these positions. I do not believe we should take it for granted that the instrument before us is the work of the people of Kansas, simply because it is certified by a particular individual to be such, or because it bears the broad seal of the Governor of the Territory or the president of the convention. Nor do I believe that we have a right to go out *ad libitum* to hunt up evidence to overthrow it. The truth, according to my view of it, lies just between the two extremes. The case comes before us upon a record which it is our duty to inspect, and from that record determine whether all has been done that ought to be required of the people of Kansas to entitle them to come in as a State. What is it that constitutes that record? First, the Kansas-Nebraska act organizing this Territory. This, of course, should be examined with a view to ascertain the powers conferred and the duties required of the people of Kansas, the general scope and meaning of the act itself, and the object and intention of its framers.

As to the powers to be conferred upon the people under that act, we find, first, the power to elect a Legislature. Section twenty-two provides:

"That the legislative power and authority of said Territory shall be vested in the Governor and a Legislative Assembly. The Legislative Assembly shall consist of a Council and House of Representatives."

The authority to elect a Legislature, then, is clearly given. It is so declared in the Kansas territorial act. In the second place, we examine the act to see under what forms of law, and under whose directions, it was to be elected. The same section (twenty-two) provides:

"The first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns therefor, as the Governor shall appoint and direct."

In the third place, we must inquire what were the powers conferred upon that Legislature under that act. Section twenty-four provides:

"That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act."

Here, then, is a general grant of powers, limited only by the Federal Constitution and the provisions of the Kansas territorial act. No other restriction is imposed. What, then, are rightful subjects of legislation? Is not one of them the power to provide for a call of a convention to be elected by the people? Has not the existence of this power in Territorial Legislatures been often recognized by Congress in the fact of admitting new States which came into being precisely as Kansas has done? But to come directly to the point: Does it conflict, or is it inconsistent with, the Constitution of the United States? If so, with what clause, and where is it to be found? On the contrary, does it not conform to the spirit, at least, of that instrument, which seems to look to the organization and admission of new States into the Union? The third section, fourth article, of that Constitution provides as follows:

"New States may be admitted by the Congress into this Union."

Who are to organize these new States? Has Congress the power to do it? Clearly not; but it must be done by the people of the Territories. In confirmation of the fact that this power does belong to them, I quote the tenth article of amendments to that Constitution, as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The power to make a constitution for a new State is not reserved to the States respectively, nor to them in the aggregate, to be exercised by Congress, therefore it belongs "*to the people*." I conclude, then, that the power of the Kansas Legislature to provide for the call of a convention is, in the language of the act, "consistent with the Constitution of the United States." Is it consistent with the provisions of the Kansas act? To arrive at a proper solution of this question we must take the act itself, and determine from its language and general bearing, whether it was the intention of those who framed it, as well as those who passed it, that Kansas should remain as a Territory, or whether, in due time, she should

emerge from her pupilage and take her rank in the Confederacy as a State.

Section nineteen of the Kansas territorial act, after describing her boundaries, and defining her limits, provides as follows:

"The same is hereby created into a *temporary government*, by the name of the Territory of Kansas; and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their submission."

This language is plain and simple, and clearly establishes three propositions; first, that the territorial government was intended to be a *temporary* one; and secondly, that Kansas was to be *admitted as a State or States into the Union* after the temporary government had answered its purpose; and thirdly, that the State was to come into the Union "with or without slavery, as their constitution may prescribe at the time of their admission." There is, therefore, nothing inconsistent with the Kansas territorial act, in the provision by the Legislature, for the call of a convention of delegates to be elected by the people, but such course seems to harmonize fully with its intent and meaning.

The next point in this record to be examined, is, was that election ordered for members of the Legislature by the Governor, and was it conducted according to the provisions of the Kansas act? The Governor did order such election, appointing persons to supervise it and make returns thereof. The election took place, certificates were given by the proper officers, to members elected; they assembled, determined the qualifications of their own members, as they had a right to do, and were recognized as a properly constituted Legislature by the Governor, who had ordered the election, by having official intercourse with them, and sending in a message to them. The Federal Government has indorsed it as a constitutional and legal body, by paying its expenses and ordering out troops to uphold and enforce its enactments. It was also recognized as such by Judge Douglas, who in his able report to the Senate of 12th March, 1856, uses the following language:

"The election was held in obedience to the proclamation of the Governor of the Territory, which prescribed the mode of proceeding, the form of the oath and returns, the precautionary safeguards against illegal voting, and the mode of contesting the election."

Again, he says:

"So far as the question involves the legality of the Kansas Legislature, and the validity of its acts, it is entirely immaterial whether we adopt the reasoning and conclusions of the minority or majority reports, for each proves that the Legislature was legally and duly constituted."

Another point of legitimate inquiry, from the record, is, did that Legislature thus elected provide, by a plain and simple enactment, for the election of delegates to that convention, to take place in the ordinary way. There seems to be no controversy among parties upon this point. The law was passed by both branches of the Legislature, and although vetoed by the Governor, under some frivolous pretext, yet it passed both bodies by a two-thirds vote, thus making it a law over the Governor's veto. I cannot give room for the whole act, but submit the following sections:

"Sec. 1. That there shall be at the first general election to come off in October, 1856, a poll opened at the several places of voting throughout this Territory, for taking the sense of the people of this Territory upon the expediency of calling a convention to form a State constitution."

"Sec. 2. It shall be the duty of the judges at the several election precincts in this Territory, at the election aforesaid, to cause a poll to be opened, which poll shall contain two columns, one to be headed 'convention,' the other, 'no convention'; and they shall cause the vote of each individual voter to be set in the appropriate column."

The same Legislature that passed the act authorizing an election of delegates by the people to the convention, prescribed the qualification of voters for such delegates as it had a right under the Kansas bill to do, and passed what was called "the registration act." This required all who desired to take part in that election to come forward by a given day, some time off, and register or enroll their names, that it might be known on the election day who were citizens in Kansas.

Again, let us inquire, as it is proper to do, did an election take place for delegates under the act of the Legislature providing for it; and did they constitute a body representing the sovereignty of the people of Kansas? Just before that election, Governor Walker addressed the people of the Territory, and spoke the following language:

"The people of Kansas are invited by the highest author-

ity known to the Constitution to participate freely and fairly in the election of delegates to form a constitution and State government."

Judge Douglas, in a speech in Chicago, in June, 1857, is reported as having addressed the people as follows:

"He spoke of the fairness and justice of the law, giving the people an opportunity of expressing their honest convictions on the subject of slavery in a constitutional manner, by means of a constitutional convention soon to meet, to decide that and all other important matters connected with the future of the new State of Kansas. The people of that beautiful Territory would soon speak. We would soon have, he had no doubt, a free and quiet expression of opinion by means of the elective franchise, from that silent, but most certain weapon of a free people—the ballot-box. Should the enemies of that mode of settling the much vexed question of slavery in that Territory blindly and obstinately refuse to exercise the rights assured them by the laws of Congress, upon their heads, and theirs alone, will rest the responsibility."

Here, then, is the concurrent testimony of Walker and Douglas; that the Legislature had done its duty "fully;" that nothing remained but for the legal voters to go to the ballot-box, and "participate freely and fairly in the election of delegates." The election day came on, an election was had, certificates of election were given to those who had received a majority of the votes polled, as in other cases of popular elections. We know not, we have no right to inquire, who went to the ballot-box, or who staid away. These delegates, thus elected, went up to the convention on the day appointed for its meeting, clothed with all the authority which the people had the right to confer.

Now, sir, we come to the last feature of this record. Did this convention thus elected and convened pass upon and adopt the constitution now under consideration? What right have we to doubt it? It comes to us certified as their act, under the seal of the president of the convention, through whom it was to be transmitted to Congress. The truth or validity of that certificate I have never heard called into question. Here our investigation must stop. The question as to whether the constitution, or any part of it, was referred to the people for approval, is a matter about which we have no right to inquire. It is a matter for the consideration alone of the convention that formed it. If they chose to withhold it from ratification by a popular vote, it was entirely competent for them to do so. About one half of the States in this Union have been admitted without their constitutions having such popular indorsement, and some of them presenting constitutions formed without any authority of law whatever. If, then, the convention had a right to refer it or not, as it deemed advisable, it cannot become material to inquire whether the whole or a part of it was submitted for ratification. If the whole of it had been referred back, it would have been right; if only a part, it would still have been right; or if no part of it, the convention would yet have been in the line of its duty. I conclude, then, that all has been done which we have a right to require at the hands of the people of Kansas, and she now presents herself, not in the attitude of a supplicant, begging admission into the Federal Union; but with her constitution in her hand, embodying her sovereign will, she demands a place amongst us.

What right have we to reject her application? At whose instance is it to be done? Who is to be gratified by it? Is it the peaceable, law-abiding citizens of the Territory? No, sir, but a band of outlaws in Kansas who are just as much in rebellion against this Government as Brigham Young and his followers; who have refused to submit to legal enactments, have attempted to subvert the power and authority of the Federal Government in that Territory, and have organized themselves into a military force the better to consummate their treasonable purposes. It is to be done to gratify a set of political gamblers here at home who have dared to stake a nation's happiness and perpetuity upon the unhallowed game which they are playing for office and its poor emoluments.

In passing on to my conclusion, I will notice one point which is made by the opponents of the bill. Gentlemen object to it because they say that even the submission of the constitution, so far as relates to slavery, is not a fair one. That submission, say they, looks only to the future introduction of slavery into the State, while it recognizes and protects slavery to the extent of its present existence there. Let us see whether this

objection is well taken. It will be admitted that the right of private property, having once attached, cannot be interfered with for its destruction, nor can it be taken from the owner for public uses, except for a full and fair consideration. Did, then, the right to hold slaves in this Territory attach at any time? Under the decision in the Dred Scott case, this right did attach whenever the slaveholder went into that Territory with his slave. If this right, then, did attach, and the right to property cannot be interfered with by Government for its destruction, with what show of reason can it be argued that this matter of private rights should be referred to the people? It is the duty of Government to protect, and not destroy, the rights of property. Hence the convention acted wisely when it refused to submit the rights to private property to the people, but undertook to place them beyond the reach of the popular voice and declare that such subsisting rights should not be interfered with. The convention had unquestionably the power to submit to the people, as it did, the question whether any such rights should attach in future; but, certainly, rights already vested could not be divested by the popular voice however potent we may be inclined to regard it. Then, sir, to object to the constitution on this ground, is to strike at the inviolable tenure by which we hold private property.

But you say you deny the authority of the Dred Scott case, and that under that decision no such rights attach. Then I hold you bound by the territorial act, which, to all intents and purposes, recognizes the right of the people of the Territory of Kansas to hold slaves. In it appears the following language:

"In all cases involving title to slaves, the said writs of error or appeals shall be allowed and decided by the said Supreme Court without regard to the value of the matter, property, or title in controversy."

Is not this a clear recognition of such right? How can you establish a tribunal to determine the rights of property or title to slaves, without at the same time admitting that such rights exist? A strange anomaly would it be, and a prodigious waste of time, in Congress, to provide for the adjudication of rights which you say could never spring up. This objection to the constitution, like all others which I have heard, is as baseless as the "fabric of a vision."

Before I conclude, I wish to address a few remarks to my Democratic friends who are yielding to the embraces of the Black Republican party upon this question. Do you fully understand and appreciate your position before the country? Nine tenths of the Democratic masses are in favor of receiving Kansas as a State into the Union, under the Lecompton constitution. Nearly the same proportion of Democratic members upon this floor take the same view of the matter. The President of the United States, who has been chosen by the whole party for his experience, his integrity, and statesmanship, is urging it upon us as a peace measure, to drive this irritating and dangerous question out of Congress, to localize it, and thus cut off the supplies, the pabulum which sustains abolitionism. Can you place yourselves in antagonism to the Democratic party upon this question, which threatens to disrupt it? When it is hard-pressed on all sides by its enemies, can you give them aid and comfort?

We of the South know that you have breasted the storm in the passage and support of the Kansas-Nebraska act. We have seen you stand, like a rock in mid-ocean, while the waves of faction and fanaticism, swollen to mountain proportions, lashed you with demoniac fury; and we felt that you were entitled to gratitude, especially from southern hearts, for your manly courage and fidelity to principle. We have been taught to rely upon your aid in securing to us the measure of our just constitutional rights upon this great question. And now when the last scene has come, when the last battle is to be fought for the great principle of non-intervention, and the cap-stone is to go up with shouting, you draw back, desert your old friends, and are found holding counsel with Abolitionists, and devising plans for the defeat of this great principle; and the overthrow of Democracy. Let me tell you that the responsibility which you are assuming is a most fearful one. You are in alliance with men who compass your destruction; who would spear you in the back at any moment to forward their prospects;

who are aiming at the disintegration of the Democratic party, and in that event, the consummation of all their hopes and purposes. For years, while we have stood together, we have been able to foil them in all their attempts when they have struck at the sacredness of the Constitution, the inviolability of civil and religious liberty, and the freedom of conscience. And now is it not worse than madness to lend yourselves willing instruments to bad men in pursuit of national ruin? Better that you should forego some preferences, make some sacrifices to preserve our Democratic organization, than put to hazard the hopes of a nation, which are indissolubly bound up with it.

"Humanity, with all its fears,
With all its hopes of future years,
Is hanging breathless on its fate."

Mr. Chairman, I shall make no issues for the people of my State or district, touching this subject. I shall undertake to pledge them to no course of conduct. Mississippi, in 1851, through a convention of delegates elected by the people, after declaring that, although not satisfied with a series of acts called the compromise, yet she would acquiesce in them, resolved that a violation of the rights of the people of the State might occur, "which would amount to intolerable oppression, and would justify a resort to measures of resistance," among which was designated the following:

"The refusal by Congress to admit a new State into the Union on the ground of her tolerating slavery in her limits."

The convention which passed this resolution was not composed of Fire-Eaters, as the States-rights men of Mississippi are called; but of Union men, who look upon themselves as the peculiar friends and guardians of the Government. These positions were taken by the people in no spirit of vain glory, I apprehend, nor with a view to intimidate any party or section of the country; but with solemn deliberation, and from a sense of duty. Georgia, and other southern States, stand upon the same platform; and unless I have misapprehended the views and feelings of the people of these States; unless I have miscalculated as to their spirit and determination, in the execution of their pledges and resolves, there is strong reason to believe that, if Kansas is refused admission as a State, under the constitution now presented, measures will be taken to dissolve their connection with this Union. No power on earth can make the people of the South believe that Kansas is to be kept out for any other sufficient reason than that her constitution allows slavery in her limits. Cover up your designs as you may; make a feint in this direction or that; fly what colors you please at your mast-head; the South is not to be wheedled, cajoled, or deceived any longer by your movements. Self-proud and self-confident, she is watching your maneuvers; hoping for the best, yet prepared for the worst. Now that her numerical strength has departed, and the strength of principle only remains to protect her from Federal aggression, whenever this barrier is broken down, and she is left to trust to her own resources, I give the pledge here to-day, that her rights and her honor will be fully vindicated. Tell me not that strength lies alone in numbers. A sense of right, united with the indomitable will, makes heroes of men.

Of our enemies I would ask, do you expect to abolish the distinctions of color, of intellect, taste, and physical organization, which nature has written so legibly upon the white man and the black? Do you expect to break down the barriers which she has erected to the amalgamation of the races? Have you not seen the fruitless attempts which have been made to accomplish this end? Have you not been often pointed to the experiment of this leveling process in the island of Jamaica; and have you not seen its disastrous results? Look at the Columbian Republics of South America, and see there the effort made to abolish all the distinctions between the negro, the Indian, and the white man. Under the lead of Bolivar, the most distinguished man of his day and nation, all men were put upon a common platform of equality. Let history tell the story of this utopian scheme. We find that instead of elevating the negro to the level of the white man, instead of inspiring him with the feelings and attributes of our own color, the white man was degraded to the level of the negro. Society deteriorated; their social institutions were corrupted; their religion

became idolatry; and to-day darkness and superstition hang like the pall of death over that otherwise beautiful land.

In the war of 1812-13, between the United States and Great Britain, many of our runaway slaves were received on board of English vessels, conveyed away and colonized upon the African coast at Sierra Leone. From that day to the present England has nurtured and nourished that colony, with the hope of proving to the world that her policy in regard to Jamaica was correct, and that her theory in regard to the equality of the races was founded in truth and in nature. But all the reports from that colony go to establish exactly an opposite conclusion; and it has been ascertained in the last few years that these colonists have actually been guilty of selling their children to slave vessels coasting in that quarter. Hence you find such a revolution in public sentiment of both France and England, and a disposition manifested to open the slave trade, under the specious pretext of an apprentice system. Has history no warning voice for you? Are its teachings to remain forever "a sealed book," so far as you are concerned? Like the bewildered traveler, who fixes his eye upon the "ignis fatuus," and follows its lead along the thorny path, through dark caverns, or over the precipice, have you set your heart upon, and are you determined to follow, this phantom of abolition, though it cause you to trample under foot the very laws of nature, the experience of all past ages, the fragments of a broken Constitution, and ultimately precipitate you into the very gulf of national ruin? When you have succeeded to your heart's content in all your purposes, what will you do with the three million negroes you have liberated? Will you receive them into the free States, and endow them with all the privileges of citizenship? Will you give them a place amongst you, "a local habitation and a name?" You know you will not, for even now several of your States have passed laws preventing their ingress into their borders. Even the Canadas contemplate a scheme of separate colonization for them, satisfied that they are not fit elements of freedom for any well organized society. Do you expect them, if set at liberty, to remain amongst us, or we amongst them, upon terms of equality? If so, you have misconceived southern character. Even if we were inclined to this state of things, and were willing to coexist in the same Territory with them, the thing would be impossible. The industry of the white man would be taxed to uphold the indolence of the negro, property would have no protection, life itself no safeguards in the midst of such a population suddenly discharged from bondage. A war of extermination of one or other of the races would follow.

Then let me ask the question, and receive a candid answer—have not the United States of North America thus far pursued the most sensible and rational course in the management and disposal of the mixed elements of which our population consists? The Indian is kept in his native forest to pursue the bent of his own untamed nature, with agencies to protect his interest and supply his wants, and such means and appliances for his education and elevation as we can afford. The negro is employed, as his physical nature would seem to indicate was proper, in the cultivation of the soil, in performing menial services that in communities differently organized fall upon the poorer class of white men, and constitute them a different caste, without any difference in color, physiology, or intellectual capacity. Every man knows that, in the free States, the waiter who blacks the boots and brushes the coat is not considered the equal of him who wears them, any more than the slave upon the southern plantation is considered the equal of his master. There is this distinction, too, in these types of society. The negro is contented with his servitude, or at least does not chafe under it, and most frequently considers his master as his best friend; while the white servant performs his duties grudgingly, and feels that there is a sort of antagonism between him and his employer, between labor and capital. While we leave the Indian in his forest, and the negro upon the plantation, the white man with us is engaged in the higher pursuits of the mechanic arts, trade, commerce, science, literature, and the perfection of human government; studying the interest of every element of society,

and giving harmony to the whole; seeking not to abolish the distinctions which the Supreme Being has ordained amongst men; but leaving the great insuperable barriers of color, capacity, physical structure, appetites, and passions, to be directed into the proper channel, and made subservient to the common good.

But, in conclusion, we are told, come what may, Kansas or no Kansas, Abolition or what not, that this Confederation of States must and shall continue; that the North will see to it that southern States are kept in the Union at all hazards; that the military arm of the Government will be invoked and wielded to secure such a result. All I have to say, in reply to this declaration, is, there are stout hearts and strong arms in the South. March down your abolition cohorts into slave territory to enforce your abolition decrees. We are an enthusiastic people, and will give them a warm reception. And it shall be my highest ambition to hunt out that member of this body who dares to place himself at the head of such an expedition, that I may, hand to hand, give him a hospitable entertainment. If you are determined to baptize your nefarious purposes in blood—if justice, the Constitution, the Union—if the memories of a common struggle by a common ancestry, to secure to us the high privileges which we now enjoy—if the hopes and happiness of future generations, here and elsewhere—are not sufficient to stay this march, then, sir, a million of swords will "leap from their scabbards" to avenge our wrongs. Your abolition army will be met, not only by three hundred and fifty thousand slave owners, but by every proud and noble-hearted non-slaveholder whom you would dare undertake to reduce to the humiliating condition of negro equality.

I have been born and reared in the South. I have associated much and intimately with men in the humbler walks of life who are no slave owners; and when Abolitionists count upon their support in the event of a sectional collision growing out of the question of slavery; when they base their calculations upon receiving aid and comfort from them, or that their swords will be turned upon their brethren of the South, they display a stolid ignorance, only equaled by their frenzied infatuation. With us there is no distinction, socially and politically, between the rich and poor. Labor is not arrayed against capital, but the road to fortune and preferment is a highway open alike to every aspirant. So indissolubly are we united in feeling and in interest, that if you but touch a chord connected with either, it vibrates through our whole social system, and puts in more rapid motion the blood of every heart. Should a sectional war be thrust upon us against our wishes, against our solemn protest, against nature, and against God, you will find men arming for the conflict, not only from the sections where slavery is found, but, like Roderick Dhu's men, they will spring up from every brake and bush on the mountain top or in the valley's depth. But one feeling will animate every heart; but one cause will nerve every arm; but one common shout will go up for victory, or one common heap of the slain tell the sad story of defeat.

Mr. HOWARD. Mr. Chairman, I have long been of the opinion that speech-making was one of the evils in this body. I believe that more attention to the details of business, and less to speech-making, would greatly subserve the public interests. Acting on this principle, I served through the three sessions of the Thirty-Fourth Congress without occupying any portion of the time of the House except for explanation, and then never for personal explanation. If I consulted my own feelings I should still pursue that policy; but, Mr. Chairman, I need scarcely say that a question is pending before this House which demands the most careful consideration and the most prudent action at our hands.

The fact that certain documents purporting to be a constitution for Kansas, and asking admission for her into this Union, have been recently presented to Congress, has disclosed a division of the Democratic party on this floor, and elsewhere, which was not anticipated; and I cannot but conclude that there must be some imperative reason controlling this division, and throwing the supporters of the present Administration into a minority in this House.

Under ordinary circumstances, it might have

been expected that Kansas, applying here for admission as a State under a constitution with or without slavery, would have received an affirmative response by a fair majority vote of this body; and although I need not say what would have been my course on such a supposition, yet it is but fair to acknowledge, what I believe to be the truth, that every northern Democrat in this Hall would have stood honestly pledged to support such a measure, and his constituents would have expected him to vote for it; and I have no doubt that each of them would have redeemed his pledge in good faith. Politically, they are my enemies; and I am theirs. I have never asked nor received political favors at their hands; nor do I now ask or expect such from them. I make this statement in justice to them, and especially as due to the Democracy of my State, who are without a Representative on this floor. Open dealing demands that they should not be misapprehended or misstated with my consent. It has been aptly said that one portion of the Democratic party in this contest stands upon the "Cincinnati platform," but a much larger portion stand upon the "Cincinnati Directory." Candor requires me to say much the largest portion of the Democracy of my State stands upon the platform.

Now, sir, without further preliminary, I propose to examine the only two questions in the premises which ought to be settled in order to determine our proper course in relation to this subject. These two questions are:

1. Is Kansas properly here asking for admission into the Union under the Lecompton constitution?
2. Does this Lecompton constitution embody the fairly expressed, unbiased will of a majority of the legal voters of Kansas?

If these two questions can be satisfactorily answered in the affirmative, then there should be an end of all strife. But if the propositions implied in these questions be not true, then there is an end of all power and of all right on the part of Congress in the premises.

Nothing can be clearer than that the admission of a State into the Union is in the nature of a contract, the parties to which are the United States and the inchoate State. There can be no contract without competent contracting parties; and if Kansas be not legally here to ask for or consent to the proposed admission, then such admission on our part would be not only intervention, but oppression.

Sir, I deny that Kansas is properly here at all asking admission. The Lecompton contrivance, which is the only ground or pretense on which such admission is now urged, is the offspring of the frauds and trickery of a small number of reckless men, whom the people of Kansas regard as usurpers; and the presentation of it here is an act of rebellion against the laws of the Territory, and the authority of the United States. The convention that framed it was the creature of a Legislature brought into existence by armed intervention, by invasion, and by violence—a total subversion of the organic act, and a clear violation of the Federal Constitution.

This Legislature was chosen at an election in the Territory, at which 6,331 votes were polled. The whole Territory was divided into eighteen election districts, which were formed into ten council districts and thirteen representative districts. An invasion took place at the time of this election, which extended to every council district, to every representative district except one, and to every election district but three. By the poll-books and the census rolls, on file in the office of the Secretary of the Territory, it appears, that of the whole 6,331 votes polled at this election, 898 of them only were cast by residents of the Territory, and 5,433 by non-residents. As about three weeks elapsed between the time of the completion of the census and the election, some trifling changes may have taken place. As navigation was scarcely opened, the changes from immigration could not have exceeded a hundred. I feel authorized to say, the whole number of legal votes cast could not have exceeded a thousand. Whence came the other votes? These votes were given by the armed invaders, after they had first driven from the polls, by threats and by violence, more than two thirds of the legal voters, whose names appear on the census rolls.

So much for the documentary evidence on file in the Territory. As to who these invaders were,

I remark, it was proved before the committee, of which I was a member, by the testimony of three hundred and twenty-six witnesses, selected mainly from amongst residents of Kansas and Missouri, of every shade of political opinion, and some of them of the highest respectability, that 4,921 of them came from Missouri for the express purpose of carrying the election; that the invasion was neither accidental nor unorganized. It was deliberately formed, thoroughly organized, and extended to every council district, and to every representative district except one, for the express purpose of carrying, in both branches, the entire Legislature that was to give form and character to the institutions of the Territory, and to provide the means of controlling all succeeding Legislatures.

The organization of companies, the enlistment of men, and the payment of expenses, were promoted, if not wholly accomplished, by means of clubs or societies formed in Missouri, which met in secret, and were bound by certain oaths or obligations to use all lawful means in their power to make Kansas a slave State. Of course, they themselves were to be the judges of what was lawful in the premises. And the invasion itself furnished the first illustration of what, in their view, was lawful.

At the time the witnesses were examined before the committee, I have reason to believe, and do believe, that not one of them knew whether a comparison of the names on the census rolls and the poll lists was ever to be made; or if made, whether or not the comparison would furnish corroboration or contradiction of their statements. Nor did the committee, at that time, know what the comparison would develop. But its completion not only confirmed, beyond all controversy, the truthfulness of the witnesses, but established the fact, by this unerring test, that the fraudulent votes were some four hundred more than the parol testimony made them. The Lecompton convention was called into existence by the act of a Legislature, one branch of which was elected by those invaders at that time; the other branch was the offspring of its unjust apportionment and its illegal and unconstitutional test-oaths, and of new frauds.

But it is said that this Legislature had been recognized by the President and by both branches of Congress. This is not true in fact, nor is any recognition possible which could at all legalize these frauds. As this invasion was in direct violation of the organic act and the whole scope and spirit of the constitution, a total subversion of the law organizing the territorial government, no recognition could legalize this subversion or overthrow of the organic act, unless the recognition was equivalent to the repeal of the organic act. The act and its subversion being in their nature contrary the one to the other could, by no possibility be, without *pro tanto*, destroying one or the other. And if the recognition amounted to a repeal of the organic act, in whole or in such parts as provided for a Legislature, then it follows that the Legislature could not exist, for the law authorizing it is supposed to be repealed by the force of the recognition. The truth is, it is absurd to talk about recognizing wholesale frauds that amount to a complete overthrow of the organic act. It is a contradiction in terms. And the President might as well have undertaken to enlighten his clerical correspondents upon the subject of recognizing piracy, robbery, or murder, as the robbery of the people of Kansas of their rights by the subversion of the Kansas-Nebraska act. The recognition might make its authors "accessories after the fact," but could not at all change the nature of the crime or disprove its existence.

But, as a matter of fact, this House never in any manner recognized, or attempted to recognize, the Legislature of the 30th March, 1855, but in several different ways, at different times, treated it and its acts as nullities, as was fully shown the other day by my friend from Ohio, [Mr. SHERMAN.] I need not therefore enumerate the facts here.

We see, therefore, that the "Lecompton constitution," being, as it was, the creature of usurpation, the child of an "illegal despotism," was as destitute of all rightful authority in its origin, as it is of popular favor in its maturity. Illegitimate in its origin, it is now in its development, by at least four fifths of those who were expected to

"father it," loathed and feared, shunned and scorned.

In this connection, I wish to enter my most solemn protest against any such recognition ever being established as a precedent. If this should ever become the settled doctrine of this Government, it would not only destroy slavery in all the States, but all local control of domestic institutions of every kind; crush out and destroy every vestige of "State Rights," and speedily destroy the Union itself. For if the people of Missouri can organize an invading force of five thousand men, arm them, and march them into Kansas, distribute them through all the districts, and of the two thousand nine hundred and five legal voters of the Territory, drive from the polls all except eight hundred and ninety-eight, and by means of more than five thousand illegal votes thus distributed, elect the entire Legislature, in both its branches, in spite of the people or their organic law, then, when this Legislature, so elected, assembles and adopts one hundred and fifty-four chapters of the statutes of Missouri, without so much as dotting one *i* or crossing one *t*, but attempting to localize and apply this wholesale spurious legislation, by gravely enacting that, "whenever the words 'State of Missouri' occur in these chapters, it shall be understood to mean 'Territory of Kansas,'" and then complete this Kansas (?) code by a series of acts that would shame the worst despot that ever walked the face of the earth—one of which acts made it a felony, punishable in the penitentiary, for the people to say, write, or print, what the organic act said they might do; and when the people protest and remonstrate against this wholesale robbery of their rights, this total subversion of the organic law, utterly denying the legality of this monstrous usurpation, eloquently demanding of the President, by every consideration of patriotic duty, by every tie that binds good men to their country, by all the fearful sanctions of his oath of office, to overthrow this monster of fraud and violence, and restore their rights, and "leave them perfectly free to form and regulate their own domestic institutions in their own way, subject only to the Constitution of the United States;" if the President, with the documentary evidence on file in the office of the Secretary of the Territory, showing that of the whole six thousand three hundred and thirty-one votes, six sevenths of them were given by non-residents, in violation of the organic act, which he was sworn to execute; I say, if the President, either because the fear of the then prospective Cincinnati convention was before his eyes, or for any other reason, not only refuse all relief, but, upon the demand of the usurpers and their friends, stretch forth his arm and use the military power of the Government to compel the people to submit to the pretended laws thus imposed upon them, thus converting the Army into a contemptible posse, or bogus constables; and if this is to become the established doctrine, the ruling policy, the approved action, of Democratic (?) administrations, why may not the people of Illinois, or any other free State, organize invading forces of her own citizens; distribute them at all the voting precincts in Missouri; choose a Legislature for her; enact Illinois laws for her, particularly those prohibiting slavery; and then, if the people of Missouri are in any wise factious, call upon the Executive to follow the precedent; to declare the people of Missouri rebels, and put them down, and compel submission to the laws (?) by the whole power of the Government.

Sir, of all the domestic institutions of this country, none are more dependent for safety upon the strict adherence to State rights than slavery. Let its friends beware how they sanction a precedent that is subversive of all local organic laws. If you do not wish to plant thorns in the dying pillow of slavery, let no excitement, no hope of temporary advantage, lead you to abandon the great anchor of all your well-grounded hopes. Let no man deceive himself upon this most vital point. Whosoever acknowledges the legality of this Lecompton swindle of this monstrous usurpation, gives his sanction to this precedent, and, Haman-like, is erecting the gallows upon which, at no distant day, he may

"Feel the halter draw
With poor opinion of the law."

Away, then, with this illegitimate Lecompton bantling! this Cunningham baby! Kansas is not

here, either asking or consenting to admission under this detestable fraud.

But even if we should, for the sake of the argument, admit the validity of the law authorizing the Lecompton convention by conceding the legal existence of the bogus Legislature, still its organization was fraudulent and in utter violation of the pretended law authorizing it. If it be admitted that this political Burdell might have been the father of such a child, still it is as clear as the noon-day sun that it was never born of its pretended mother, but was a bantling from the lowest ranks of fraud, vice, and usurpation.

Mr. Walker, in speaking on that subject, says:

"That convention had vital, not technical, defects in the very substance of its organization under the territorial law, which could only be cured, in my judgment—as set forth in my inaugural and other addresses—by the submission of the constitution for ratification or rejection by the people. On reference to the territorial law under which the convention was assembled, thirty-four regularly-organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken, and the voters registered; and when this was completed, the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters.

"These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give a solitary vote for delegates to the convention."

Mr. Stanton, the acting-Governor of Kansas, under whom this registry was made, and this census taken, says:

"There are thirty-eight counties, gentlemen, in the Territory of Kansas, including the distant county of Arapahoe. In nineteen of these counties an imperfect register was obtained, giving a vote of nine thousand two hundred and fifty-one. In the other nineteen counties there was no census and no registration."

That is, nineteen thirty-fourths of the districts were left out altogether from the very basis of representation.

In nine of the disfranchised counties in which no census was taken, 1,624 votes were cast against the constitution, as certified by Denver:

Counties.	Against.	With slavery.	Without slavery.	Total.
Allen	192	1	4	196
Anderson	177	-	-	177
Breckinridge	191	-	-	191
Coffee	463	-	4	467
Davis	21	-	-	21
Franklin	304	-	-	304
Madison	40	-	-	40
Richardson	177	-	1	178
Woodson	50	-	-	50
				1624

The whole number of votes given for all the delegates to the Lecompton convention was between seventeen and eighteen hundred; but the number cast for those members who signed the constitution could not have exceeded one thousand. And yet 1,624, without any fault of their own, were excluded from voting in nine of the nineteen disfranchised counties. From the other disfranchised counties I have no returns.

As has been fully shown by the distinguished Senator from Illinois, by Governor Walker, Mr. Secretary Stanton, and others, the law directed a census to be taken in all the counties, and a registration to be made of all the legal voters, by officers appointed for the purpose, over whose appointment the people could have no control. This census was imperfectly taken in one half of the counties, and not taken, or attempted to be taken at all, in the other counties. The registration of qualified voters was not attempted in fifteen counties, and imperfectly, even fraudulently done, in the other counties. Admit, if you please, that the census and enrollment were more imperfect in these counties from the hostility of a portion of the people to the whole scheme: still the fact remains that nineteen counties were partially and fifteen counties wholly disfranchised in utter violation of the law authorizing the convention, and, as Governor Walker well says, "without any fault of the people." Grant, if you please, for the sake of the argument, that the people did wrong in not voting for delegates in the counties where they could: still the fact remains that these other counties were disfranchised without any fault of their own, and this in violation of the pretended law of the convention's existence. Every attempt made by these counties to exercise their rights

was defeated by the rejection of the members which they did elect, for the very reason that no registry had been made for them. Nine of these nineteen disfranchised counties have since, at an election authorized by the Territorial Legislature, admitted to have been fairly elected in October last, and recognized by the President in his instructions to Governor Denver, cast nearly as many votes against the constitution as were cast in the whole Territory for the delegates who framed it. Many of the delegates elected were chosen with the distinct understanding, nay, under the written pledge, that the constitution to be framed, not the slavery clause under the constitution, but the constitution itself, should be submitted to the whole people for their acceptance or rejection. Without this pledge they could not have been elected. But when their work is completed they refuse to submit it to the vote of the people, because they would vote it down—the very reason that makes submission imperative. But the President comes to the rescue by giving us to understand that the people would have voted it down without reference to its merits? Sir, who made him the judge of the reasons that control the votes of freemen? Why should our Chief Magistrate take this step in advance of the worst tyranny that ever existed? He tells us it is impossible for any people to proceed more regularly in the formation of a constitution than has been done in Kansas. Sir, I submit, it is impossible for proceedings to be more irregular or unfair; impossible that the subversion of the laws and the disregard of the popular will in any Territory could be more complete. And whatever may be our action, whether we vote for or against this Lecompton-Cunningham contrivance, it will stand for all time, whenever justice and fair dealing, liberty and truth, shall be respected as the very synonym of fraud and trickery, of usurpation and violence; in short, of every element of tyranny.

The President thinks we mistake the state of affairs in Kansas. The people are not divided into political parties simply striving for the mastery, but a portion of them are in rebellion against the laws. I give the substance of his remarks without having his language before me. Sir, if the President had characterized the invasion of 30th March, which, by the aid of a small minority—not over six hundred of the two thousand nine hundred and five legal voters of the Territory—usurped the government and trampled the organic law under their feet, and all the outrages traceable directly to this overthrow of the organic act of the Territory, as rebellion, we might, for once, have conceded that he was right. But I deny that resistance to a subversion of the law is rebellion against the law. Resistance to the overthrow of the law is in the highest sense obedience to the law. And let the Administration beware, lest by their aid and comfort to usurpers they be found violators of the law. Resistance to usurpers is obedience to law? Let us not be diverted from the real question. Away with all side issues. Let us hear no more about Kansas being rejected simply because the Lecompton constitution recognizes slavery. Sir, I repeat, Kansas is not here asking admission with or without slavery. This is not her act and deed. Its presentation here is in direct opposition to the territorial authority established by Congress, and is rebellion.

Upon the second branch of this subject I scarcely need detain the committee one moment. So far from reflecting the will of the people, this whole scheme is detested, loathed, and scorned by at least four fifths of all the legal voters in the Territory. Its friends were obliged to violate their solemn written pledges to submit it to the people for ratification or rejection, to save it from oblivion. And attempts are made to give reasons why the most unreasonable majority would have rejected it. From a careful examination of the facts, aided by some knowledge of the Territory and its people, it is my deliberate judgment that there are not two thousand five hundred legal voters in the Territory who approve of this pretended constitution. Of all the votes cast or returned on the 21st of December, in my opinion at least four thousand of them were fraudulent. Of one thing I am certain. I can demonstrate beyond all power of successful contradiction that down to the 1st of July, 1856, the time of making the Kansas report, the pro-slavery party had never polled, at any election in the Territory,

seven hundred legal votes. Gentlemen talk about Abolitionists and "emigrant aid societies." Sir, of all the free-State men in Kansas, when I was there, more than three fourths of them were Kansas-Nebraska Democrats. And especially is this true of those whose course has been most loudly condemned. This is true of Lane, Roberts, Jenkins, and others.

Another fact is apparent to every observer. A large proportion, probably more than half, of the emigrants from Missouri who came into the Territory pro-slavery men as actual settlers, have become free-State men, and are now among the most inflexible opponents of this Lecompton swindle. The better feelings of their natures revolted against the fraud and trickery and violence practiced, and they remonstrated, protesting that Kansas should be made a slave State by fair means, or not at all. They were abused and denounced, and then, as some of them expressed it, they "got on to the fence," and after a while, "come clear over"—a process similar to that developed in the history of the four Governors. Gentlemen talk of the "Emigrant Aid Society," and I was amused at the remarks of the gentleman from Missouri, [Mr. ANDERSON,] the other day, on this subject, in connection with the frauds of the 30th of March, 1855. Sir, I could have told that gentleman the precise number of votes cast at that election by "emigrant aid men," sent out during the whole four months immediately preceding that election. I could have told him how many went out under the auspices of the society; how many of them were women and children; how many men; and how many of them voted at this election; and what their names were. But for the reluctance I always feel at interrupting zealous speakers, I should have told him; for I was sorry to witness those random thrusts with his virgin blade into this oft-assaulted phantom. Right valiantly he renewed the assault upon this Quixotic windmill. I could have told him that the whole number sent out after the close of navigation in the fall of 1854, down to and including the 30th of March, 1855, (the day of election,) under the auspices of the Emigrant Aid Society, was one hundred and sixty-six persons, of whom sixty-nine were women and children, and ninety-seven men; and of these, only thirty-seven voted at this election, and they became actual settlers and had a right to vote. Sir, I measure my terms with exact accuracy when I say the number was thirty-seven. It was not thirty-eight, or thirty-six, or any other number, more or less, than thirty-seven. And yet the hundredth time, more or less, this bugbear is trotted out to divert attention from, and to excuse, palliate, and justify, a complete subversion of the organic act by an armed invasion of five thousand men, under the control of secret conclaves, gotten up for the express purpose of slavery propaganda.

Sir, I care nothing for the emigrant aid societies. I never belonged to them. I never aided them in any way. But, after the most careful examination of all the facts, I do not believe it can be shown that one single northern man ever went to Kansas for the express purpose of voting at any election without the intention of settling in the Territory. The efforts of the North, so far as they appear, were directed to promoting the settlement of the country by men who sympathized with their views, and not to the defeat of the will of the actual settlers by spurious votes, or by violence.

At the election held on the 4th of January last, an election admitted to be lawful and peaceful, at which more votes were polled than have ever been given at any other election, this constitution was voted down by more than ten thousand majority. The Territorial Legislature, who fairly reflect the will of a vast majority of the people, by a unanimous vote declare the whole thing is the work of a small minority of the people living in nineteen of the thirty-eight counties only. With the greatest possible solemnity, and in the highest forms known to the law, they protest against this being the expression of the will of the people of Kansas, or its being received as her act and deed. But why dwell longer? Amidst the most persistent, systematic efforts to stifle inquiry, to throttle every attempt at investigation, the evidences of this wicked and foul conspiracy rise on every hand, mountain high. It was so when the committee were prosecuting their labor in Kansas in 1856.

Amidst all the confusion and violence, the frauds and trickery, the cunning and treachery, the spirit of the highest seemed to brood over the surface of that vast sea of chaos, and everywhere the celestial form of truth was seen rising up from the depths beneath—more and more disclosing her symmetrical proportions, and assisting her unity, dignity, divinity, and power. All effects to crush her but hastened the development, until she stood forth telling the one complete, harmonious story of a people's wrongs. Sir, from my inmost soul I believe the hand of a just God is in this business. He who planted this glorious Republic, and has hitherto led us, will fight the battles of the oppressed people of Kansas, and, in spite of their sneers and their rage, He "will cause the wrath" of these usurpers "to praise Him, and the remainder of wrath He will restrain."

My conclusion, then, is, Kansas is not here asking admission at our hands; nor does this Lecompton swindle reflect her will; and Congress has neither the power nor the right to admit her. It is to her the emblem of usurpation, oppression, violence, and suffering. It is, for the best of all reasons, more odious to her than the "stamp act" was to our fathers.

Notwithstanding all the guarantees of the Kansas-Nebraska act, giving them the right to self-government, as was claimed by the Democratic party, they have, in the short period of their history, suffered at the hands of Democratic Administrations more oppression and tyranny, violence and usurpation, than all that the people of the whole thirteen Colonies suffered at the hands of Great Britain during the whole period of their colonial existence. I will take any man, at any time, in any place, argument for argument, fact for fact, and prove the truth of this statement. And such is the uniformity of the distinctive marks of tyranny in different ages, that nearly all of the grievances so masterly enumerated in the Declaration of Independence, apply as cases in point to the sufferings of the people of Kansas. And, sir, let me tell gentlemen they never can be conquered. There is no power on earth that can subdue them. They may be exterminated; but subdued, never! Gentlemen must consider this question is not whether negroes shall be slaves, but whether white men, Anglo-Saxons, can be free. The history of the race furnishes the answer. Besides, *fraud, oppressions, and violence*, cannot be made the substrata of the institutions of an enduring State. When will men learn this plain truth, that fraud, injustice, and oppression, cannot obtain lasting power over a free people, or enduring peace in a republican State?

But we are told that southern rights are involved, and the rejection of the Lecompton contrivance would be a humiliation to the South.

Sir, I wish to say, once for all, no vote or act of mine shall ever inflict a known wrong upon the South, or any other section of the Union, or tend to their humiliation. So far from feeling hostility, I consider their success our success; their glory our glory; their humiliation our humiliation—one and all the children of a common heritage.

But I deny that the South, as such, has any rights in the premises. Neither has the North.

The citizens of all sections have the right to emigrate to Kansas; and when they become settlers, are entitled to the rights secured under the constitution and the organic act. But there are no longer southern rights, or northern rights; but Kansas rights. The people, North and South, who do not choose to go, have the right to insist that the Government of Kansas, shall be republican in form. Is not this the whole of it? Sir, we are to look to the rights of Kansas. Every speech echoes the cry, "southern rights," "northern rights," and yet none of them tell us what rights either the North or South have. It is easy to cry out "aggression," "encroachment," but the charge is not yet proved, scarcely attempted. If any section has the right to set up this cry, it is the "West," and not the South or the North. Dismiss, then, this false issue, and meet the question upon its merits. Is Kansas here asking admission? Does the Lecompton contrivance express the will of her people? The solution of the real question involves no humiliation to the North or the South. A false issue is stated—the humiliation of the South is claimed to be involved, and a dissolution of the Union is threatened. As the old women and young children of the "North"

have ceased to be frightened at this cry, I need not dwell upon it.

Equally foreign to the real issue is the discussion of slavery in the abstract. For hours together we have listened to labored arguments by southern members to prove that slavery is recognized by the Bible. Have these arguments convinced any one in or out of this House? Suppose the proposition be true or false: does the one or the other prove that the Lecompton constitution is the act and deed of Kansas, or that it reflects the will of her people? Certainly not. Sir, I do not believe this is the proper place to discuss or determine the Bible argument of slavery. But, since it has been constantly thrust upon us, I cannot forbear to introduce here the few brief words of another, which, I believe, express the sentiments of twenty-nine thirtieths of the people of my district upon the discussion of the subject everywhere:

"The spirit of slavery never seeks refuge in the Bible of its own accord. The horns of the altar are its last resort—seized only in desperation as it rushes from the terror of the avenger's arm. Like other unclean spirits, it 'hatheth the light, neither cometh to the light, lest its deeds should be reproved.' Goaded to frenzy in its conflicts with conscience and common sense, denied all quarter, and hunted from every covert, it vaults over the sacred inclosure, and courses up and down the Bible, seeking rest and finding none. The law of love, glowing on every page, flashes around it an omnipresent anguish and despair. It shrinks from the hated light, and howls under the consuming touch, as demons quailed before the Son of God, and shrieked, 'Torment us not!' At last, it slinks away under the types of the Mosaic system, and seeks to burrow out of sight among their shadows. Vain hope! Its asylum is its sepulcher; its city of refuge, the city of destruction. It flies from light into the sun, from heat into devouring fire, and from the voice of God into the thickest of his thunders."

Alike inappropriate is the discussion, of which we have heard so much, about the balance of power between the North and the South. Sir, this fanciful equilibrium between the North and the South has proved the Pandora's box from which have sprung sectional strifes and legislative anomalies. The idea is as chimerical as it is *mischievous*. The Constitution establishes the elements of power under our system. It does not create, but only recognizes them. In their nature they were *inherent and inalienable* existing long before the Constitution. Population is the chief element of power. The number of those to be governed, whose consent is requisite to its proper exercise, is the measure of the power. By what process, then, under this system will you make six million of people equal in political power to thirteen million? Nay, if the institution, peculiar to the South and so much cherished by her, has in sixty-nine years, under the legitimate working of the Constitution, produced this disparity in numbers, what shall hinder it becoming still greater in the future, since the stream of European emigration is all the time increasing in its volume and force as the beneficent character of our institutions are becoming more known, and the great enterprises and improvements of the day furnish increasing employment, and a heartier welcome is extended to those who are escaping from the oppression of the Old World? If the South would retain power must she not have population? And can the streams of free emigration be turned into the slave States? Will the mass of free and slave laborers mingle in the same State or community? Are not the two systems of slave and free labor antagonistic and hostile to each other? And does not the establishment of the one in a State as effectually exclude the other as would a "wall of fire?" Call it prejudice if you will. Call it what you please, it exists as a fact, and must inevitably work out its results. But for slavery the South would have had more population to-day than the North, as she has more and richer soil and a milder climate. It is not for us to complain of her or her institutions. Her course rests in her own sovereign pleasure. It is not for us to dictate or complain of her action. Let her do what seemeth her good without any interference from without. But if, in the exercise of her own sovereign will, she still cherishes in her bosom an institution that necessarily drives from her the very elements of power she so much desires, why does she still complain?

Before the revolutionary war the people of Virginia and Georgia, in their primary assemblies, complained of the British Government for thrusting upon them this system, which tended to keep out free labor, the mechanic arts, and the great

elements of healthful growth and prosperity. It is not less true to-day. The sacred memories that cluster around the names of these glorious old States, prevent my speaking of either of them but in terms of the profoundest respect. But I am speaking of the power of a State and the means of its increase. Does any man doubt that but for slavery, Virginia would have had forty Representatives to-day on this floor? I make no comparison in any spirit of hostility; far otherwise. When the Constitution was adopted, the first apportionment was embodied in the instrument itself. By it Virginia had ten members, and New York six. In all the elements of greatness and power she far exceeded New York. Once and a half her size, abounding in minerals, but little waste land, a genial climate, and she possessed superior commercial advantages. Norfolk had three times the commerce of New York. Less than three fourths of a century have rolled round, and the whole trade of Norfolk scarcely furnishes a unit with which to reckon up the business of New York. Both were slave States. New York abolished slavery. Trade and commerce, and the mechanic arts began to thrive, her agricultural resources have been rapidly developed, and she is filled to overflowing with an active, bustling, enterprising, thriving population, and she has thirty-three members, and Virginia thirteen on this floor.

It does not concern me, in this connection, to dwell upon the evils or advantages attendant upon these developments under the one system or the other, nor to discuss with gentlemen the effects of emancipation in the West Indies, or any other foreign country. It is the balance of power, and the means of preserving it alone, we are considering. And emancipation in the northern States of this Union would be a more suitable example for southern statesmen to consider; especially, if the balance of power is what they desire. Just in proportion as the South has hugged this system of slavery to her bosom, has its stench repelled the laboring white men from seeking homes within her borders, bringing with them the elements of power and prosperity to the State. Do not your own white laborers instinctively recoil from every species of labor performed by slaves, and thus lead a life of miserable compromise between degradation and idleness on the one hand, and starvation on the other? and thus the very sources of prosperity and power are dried up or palsied. If no more slaves were to be sold to go out of those States, is there one single section of land in Virginia, Maryland, Delaware, or Missouri, that is worth more money with any conceivable number of slaves on it, than it would be if there were not one slave in those States? I think not. But this is no concern of ours. All we ask is, if you desire power, do not hug that to your bosoms which repels the elements of power, by a law as irresistible as the law that keeps the planets in their orbits.

But suppose that a majority of this House and of the Senate can be found in the high excitement, the utter blindness of the moment, to vote for the admission of Kansas on this fraudulent application—suppose you celebrate the nuptials with songs and rejoicings. What have you gained by going through these mocking forms of law? Proclaim the bans and perform the marriage ceremony, but you will find in the end that you have admitted into this family of sister States, not the virgin daughter of Kansas, happy in her own choice and cheerfully yielding her priceless and free-born treasures to the alliance she has sought, but only a foul and despicable courtesan begotten in wickedness and debauched in all her career; formidable only in her crime and her impudence, and destined to be driven from the soil she has polluted, under the execration and the scorn of all just men. And what will you have gained by the shameful farce? A new State to the Union? By no means. For Kansas, in the proper sovereignty of her real people, will spurn your unhallowed embrace. She will warn you away from her sacred presence as a virtuous woman would wither, by her frown, the base miscreant that approaches only to insult her.

And will you have buried the question and disposed of a most serious disturbing subject by this great peace measure, as the President would blindly and erroneously have us believe? No, gentlemen; you have done no such thing. You have only aggravated, a thousand fold, the original

wrong! Instead of peace, you have incited and inflamed the strife. You have treated the creature of five thousand invaders from Missouri on the soil of Kansas as though it were the lawful child of the lawful citizens of Kansas; and as far as your authority can go, you have invested and installed this bastard pretender with all the sovereign prerogatives and rights of the State of Kansas; while, at the same time, you have ignored the existence and the will of the real people of Kansas, and dealt with them as though they were rebels and traitors. And do gentlemen flatter themselves that this will bring enduring peace, while every fact and every principle involved in it shows, beyond all doubt, that it is only marked by fraud and injustice from the beginning to the end? What is to be the fruit of such a victory as this? I ask gentlemen to pause and consider it well before they reach forth their hands to pluck the trophies which they vainly flatter themselves are just now within their grasp.

If it is expected by gentlemen here or elsewhere, that, this act once passed, the strife will soon be over, and the people of Kansas will quietly settle down into acquiescence, leaving their usurpers to enjoy the spoils of an unholy triumph, they may as well be told at once that no such result will follow. They have suffered one outrage after another, until forbearance has ceased to be a virtue; and nothing but their desire to avoid collision with the General Government, and to leave the way open for the redress of grievances by the Federal Congress, has long since prevented them from breaking forth with desolating indignation on their oppressors. They have waited and borne on patiently, still hoping and believing that justice would be done them here; they have waited to see the closing act of the drama, and are prepared to meet it in whatever shape it may come; peacefully and gratefully, if we will but do them simple justice, and still observe the stipulations of their organic act; but, if we will not do that—if we mean to give them this fraud, baptized by Federal action, back again, to shame and outrage them—if we mean to force it on them—then there is no longer any hope of peace and reconciliation. It will "make the infant sinews strong as steel." They will do as the fathers of the Revolution did—another Washington will marshal her sons for the strife; another Henry will arise to herald the purpose of the people, to expose the despotism of our boasted constitutional Government, to show it has been made the worst of all tyrannies, that it has trampled down the most sacred rights of the people, that it has denied them every principle of self-government, and to proclaim, in a voice of thunder, rolling through the whole land, that "resistance to tyrants is obedience to God."

Mr. BURNETT. Mr. Chairman, in discussing the question of the admission of Kansas under the Lecompton constitution, I must be content to pass over an already well reaped field. Had I obtained the floor at an early period of this debate, my views would have had at least the appearance of originality, which I cannot hope to command for them now, concentrated as the discussion of this question has already had upon it the force of so many intellects in this and the other branch of Congress.

When the Kansas-Nebraska bill became a law, the country fondly hoped that Congress had at last established a permanent principle in the formation of territorial governments, preparatory to their admission as States, upon the basis of which all future Territories would be organized, and by which Kansas and Nebraska would be enabled, eventually, to come into the Union without a question as to the existence or non-existence of slavery within their limits. The repeal of the Missouri compromise, virtually effected by the principle of the compromise measures of 1850, and legally consummated by the Kansas-Nebraska bill, wiped out a fruitful source of bad feeling, and relieved one section of the Union from the inequality which, under its existence, it had so long suffered. The principle of the Kansas-Nebraska bill, as defined by its authors and supporters everywhere throughout the length and breadth of the land, cannot be better stated than by reading the material clause of that measure:

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

The party opposed to the Kansas-Nebraska bill held that the act of 1820 was constitutional. They contended that Congress had absolute power over the question of slavery in the Territories. They went even further, and contended that slavery in this country could exist nowhere except by express authority of law. Whilst each one of these propositions was untenable, and whilst the Democratic party held the opposite, these questions had never been presented to that tribunal which, under our Constitution, had alone the right to determine the power of Congress over the question. But since the passage of that bill, the Supreme Court has decided all the questions in controversy; they have declared that the Missouri prohibition was unconstitutional; that Congress has no power over the subject of slavery in the Territories, and that the people thereof have no right to exclude the institution of slavery until they reach the period of change from the condition of a Territory to that of a State. I have been taught, Mr. Chairman, to venerate that high tribunal, to regard its determination of all questions as final and binding upon every loyal citizen of the country, and to acquiesce gracefully in any decision it may make upon any issue before it. That, sir, was the school in which I was taught, as I had hoped every citizen of this country had been. I was mistaken, sir. To my surprise I find that court denounced for its decision upon this question, its decree hooted at and derided, and its spotless integrity assailed. It has been charged that it formed a corrupt and unholy combination with the slave power; that it and the present Executive formed a coalition to "undermine the national Legislature and destroy the liberties of the people;" that a mock issue by the means of which this decision could be reached had been concocted, and that the court had stretched, nay exceeded, its constitutional authority to decide these points; and that, therefore, its decision should not be regarded. These denunciations, sir, coming from the members of the Republican party, an organization so perfectly destitute of political integrity itself as to make no assault upon private or official character too detestable for its leaders to attempt, can well be attributed to that ruthless disregard of everything sacred in our Government which has characterized that party from its formation to the present moment.

But, sir, I was struck with astonishment to notice a Senator from my own State, [Mr. CRYSTENDEN,] in a speech which is paraded in full in the New York Tribune, (an unusual locality for a speech of a southern man,) instead of denouncing these infamous slanders and treasonable assaults upon the Supreme Court, giving to them the aid of a criticism of his own upon their decision in the Dred Scott case—availing himself of the occasion to protest his high opinion of the Missouri compromise, and to set up his senatorial dictum of the propriety of that measure against that of the court declaring its unconstitutionality. Sir, it was indeed a strange spectacle to behold a southern Senator finding fault with a decision of the Supreme Court declaring unconstitutional a restriction which prevented the people of his State from enjoying equally with those of others the right of property in the common territory of the Union—territory acquired as well by their blood and treasure as that of any other section of the Union. Sir, that Senator will find that the people of Kentucky will rebuke all attacks upon the decisions of the highest tribunal recognized by the Constitution, whether they emanate from their open and avowed enemies—the Black Republicans—or on the other hand are the result of the tenacious opinions of one of her own sons, although they may have been entertained for "thirty years."

We have been told, Mr. Chairman, time and again, that the passage of the Kansas-Nebraska bill was itself the cause of all the riot, treason, bloodshed, revolution, murder, and every other crime, which has marked the history of Kansas since that time. That these were the legitimate results of that bill is too absurd a proposition to require serious refutation. Why, sir, if that be true, why have such scenes and crimes not illustrated the history of Nebraska, the government of which was formed by the same bill as that of Kansas. Nebraska is quiet, Kansas is turbulent. You, gentlemen of the Republican party, are re-

sponsible for every act of lawlessness which has been committed in Kansas. You sowed the seed which has been the fruitful source of every iota of the trouble which it has been the misfortune of Kansas to suffer. You ask me how you are responsible? I will tell you. No sooner had that bill passed, than fearful that if the Territory was left to be populated according to the regular progress of settlement, that Kansas would become a slave State, you set on foot here, in Washington, a plan to stimulate an unnatural immigration from the North therein, to make war upon the security of slave title in Kansas, and to prevent your brethren of the South enjoying their property therein; your members of Congress started the thing here. The Hon. Daniel Mace, then a member of Congress, one of the founders of the scheme of emigrant aid, before a select committee of the last House testified to the fact, and stated that the leading object of the movement was "to prevent the introduction of slavery into Kansas." Your present ally, the Senator from Illinois, charged upon you in the Senate, in his report on Kansas affairs, at the first session of the last Congress, as follows:

"Finding opposition to the principles of the act unavailing in the Halls of Congress, and under the forms of the Constitution, combinations were immediately entered into, in some portions of the Union, to control the political destinies, and form and regulate the domestic institutions of these Territories and future States, through the machinery of emigrant aid societies."

Your Emigrant Aid Society, under the presidency of the gentleman from Massachusetts, [Mr. THAYER,] which followed the congressional movement here, and which has fomented most of the treason in Kansas, came in for a notice in the Senator's report. Referring to it, he said:

"It becomes a question of fearful import how far the operations of the company (the Massachusetts Emigrant Aid Society) are compatible with the rights and liberties of the people."

It was these movements—these emigrant aid societies—stimulated by the bitter, hostile antagonism of the Republicans of the North against the South, formed for the very purpose of defeating a fair operation of the Kansas-Nebraska bill, and not the bill itself, that has caused all the difficulties in Kansas.

I now, Mr. Chairman, propose to trace the history of this Territory up to the time of the presentation of the Lecompton constitution to Congress. The Kansas-Nebraska bill became a law on the 30th of May, 1854. The first Territorial Legislature assembled under that act, passed an act in July, 1855, submitting to the people the question as to whether they would call a convention to form a State constitution, preparatory to admission into the Union. This vote was taken on the first Monday of October, 1856, more than sixteen months after the passage of the bill submitting the question, giving to the people an ample opportunity to reflect upon the subject. There was no indecent haste to hurry the grave and important question to a precipitate issue. Sufficient time was afforded for additional immigration into the Territory, so as to avoid the possibility of an improper determination of the question as to whether Kansas should be a State or not. The Territorial Legislature met in January, 1857, and on the 20th of February thereafter, in accordance with the instructions of the people, passed a law for taking a census, for making a registry of voters, and for the election of delegates to a convention.

Under the provisions of this act, nine thousand two hundred and fifty-one names were returned as legal voters. In some of the counties no registration was had, from the fact that in some of them the inhabitants, urged on to do so by the Black Republican party, refused to have their names registered, and in others gave fictitious instead of their *bona fide* names. In the counties in which there was no registration, the evidence is conclusive that the voters could not possibly have exceeded three thousand. So careful was the Legislature to have a fair election and a full expression of the sentiments of the people in the election of delegates, that they provided by law that one month should be allowed for the correction of the list of voters returned, by adding to the same names which may have been omitted, or striking off others which had been improperly registered. The then Governor was actively engaged in urging the people to comply with the law, and have

their names registered. The list of voters having been completed according to the requirements of the law, the acting Governor (Stanton) proceeded to apportion the delegates, (the same being limited to sixty,) so as to secure an equality of representation. The election of delegates took place on the 3d Monday of June, 1857. The convention met in September, 1857; and, after deliberation, agreed upon what is known as the Lecompton constitution. The convention submitted to the people so much of said constitution as embraced "the only question of difference" between them—namely, the slavery question. The vote was taken on the 21st day of December, 1857, which resulted as follows: constitution with slavery, 6,226; constitution without slavery, 569—making an aggregate of 6,795 votes polled.

Thus, Mr. Chairman, I have traced the history of this constitution from its first inception down to its presentation to Congress. We see that, in every step taken, there has been a fixed and settled effort, upon the part of its friends, to give to it not only the sanction of law, but to make it the strongest reflection of popular opinion. And yet, sir, we are told that this constitution is attempted to be forced upon the people; that it is the offspring of fraud; and that to give it the addition of congressional sanction will be to impose upon the people of Kansas a monstrous wrong. Let us examine the reasons which form the basis of this assumption. Did the Legislature have the power to submit the question as to whether there should be a convention or not, to the people? That is conceded. Were there any unjust restrictions prescribed by the act submitting this question, which would fetter a fair expression of the popular will upon this subject? There were not, sir. It would seem, Mr. Chairman, that this point being conceded, it would carry with it also the concession that the Legislature had the power to pass the act calling the convention, which it did, in response to the popular vote instructing it to do so. But, sir, in order to place its power to pass the convention act upon impregnable ground, I will read from the opinions of two of the leaders of the anti-Lecompton party, which contain an answer to all the three hour speeches that the late Secretary of the Territory can deliver throughout the country, or to all the essays that the late Governor can write to anti-Lecompton meetings. Acting-Governor Stanton, before the election, in his inaugural address, said:

"The Government especially recognizes the territorial act which provides for assembling a convention to form a constitution with a view to making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention; and all preceding repugnant restrictions are thereby repealed. In this light, the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention. I do not doubt, however, that in order to avoid all pretenses for resistance to the peaceful operation of this law, the convention itself will in some form provide for submitting the great distracting question regarding their social institution, which has so long agitated the people of Kansas, to a fair vote of the actual *bona fide* residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference be thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress, without delay, as one of the sovereign States of the American Union; and the territorial authorities will be immediately withdrawn."

Mr. MONTGOMERY. I want to ask the gentleman one question.

Mr. BURNETT. No, sir; I will not yield the floor, because you take me off from my line of argument.

Mr. MONTGOMERY. You have said there were no test-oaths. I want to know if there was not an oath to support the constitution?

Mr. BURNETT. I will answer that question. The gentleman asks me if the voters were not required to take an oath to support the constitution. I answer that, if the constitution was adopted, they were; and I ask him if it is not the duty of every citizen of this country to support the constitution whenever it is adopted; and, whether he has taken such an oath or not, if there is not an implied obligation resting upon him, as high as any oath which could be administered to him, to support and maintain that government so long as it exists? Away, then, with this matter about test oaths. Does the gentleman complain that citizens of each State are required to obey and support their constitutions? All of the voters, sir, were invited to come to the polls, and by their

votes decide the question as to whether they would have a State or not. Governor Walker, on the 27th May, also before the election, said:

"Under our practice the preliminary act of framing a State constitution is uniformly performed through the instrumentality of a convention of delegates chosen by the people themselves. That convention is now about to be elected by you on the call of the Territorial Legislature, created and still recognized by Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment."

"The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress; and the authority of the convention is distinctly recognized in my instructions from the President of the United States."

"The people of Kansas, then, are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to form a constitution and State government. The law has performed its entire appropriate functions when it extends to the people the right of suffrage, but cannot compel the performance of that duty."

It will be seen that Mr. Stanton says nothing about referring the whole question to the people, as he now contends should have been done; but merely hoped that the convention would do what it afterwards did, namely: submit "the great distracting question regarding their social institutions to a fair vote of the actual *bona fide* residents." Nor did he contend for this submission as a matter of necessity—as something requisite to give validity to the work of the convention. No, sir, he made then no such absurd pretensions, but merely hoped that it would be done "to avoid all pretenses for resistance to the peaceful operations of the law" calling the convention. That is, to try and prevent what he is now aiding in doing, a factious opposition to the ratification of the Lecompton constitution by Congress. The convention was then, in his opinion, rightly the ultimate opinion of the popular will, for he says:

"The act must be allowed to have provided for a full and fair expression of the will of the people through the delegates."

Governor Walker's opinion, which I have quoted, is identical with that of Mr. Stanton; indeed, a coincidence in sentiment upon everything connected with Kansas marked their joint career in that Territory.

Mr. Stanton, who was busy speaking, urging upon all the people to vote in the election of delegates, said not a word about submitting the entire constitution to the people. Governor Walker did say he hoped it would be done; but there was no power to compel it. The single question of slavery was all that it was deemed necessary to submit. They, as well as Judge DOUGLAS, the leader of the anti-Lecompton forces of the Senate, never dreamed of the submission of any other part of the constitution to the popular vote. Governor Walker, in his inaugural address, said:

"You should not console yourselves, my fellow-citizens, with the reflection that you may by a subsequent vote defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the convention is the servant and not the master of the people, yet I have no power to dictate the proceedings of that body."

Mr. DOUGLAS, in his celebrated Springfield speech, delivered on the 12th day of June, 1857, previous to the meeting of the convention, said:

"Kansas, is about to speak for herself, through her delegates assembled in convention to form a constitution preparatory to her admission into the Union on an equal footing with the original States. Peace and prosperity now prevail throughout her borders. The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every *bona fide* inhabitant the free and quiet exercise of the elective franchise. If any portion of the inhabitants, acting under the advice of political leaders in distant States, shall choose to absent themselves from the polls, and withhold their votes with a view of leaving the free-State Democrats in a minority, and thus securing a pro-slavery constitution in opposition to the wishes of a majority of the people living under it, let the responsibility rest upon those who, for partisan purposes, will sacrifice the principles they profess to cherish and promote. Upon them, and upon the political party for whose benefit and under the direction of whose leaders they act, let the blame be visited of fastening upon the people of a new State institutions repugnant to their feelings, and in violation of their wishes. The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitation than that which the Constitution of the United States imposes. The Democratic party is determined to see the great fundamental principle of the organic act carried out in good faith. The present election law in Kansas is acknowledged to be fair and just. The rights of the voters are clearly defined, and the exercise of these rights will be efficiently and scrupulously protected. Hence, if the majority of the people of Kansas desire to have it a free State,

(and we are told by the Republican party that nine tenths of the people of that Territory are free-State men,) there is no obstacle in the way of bringing Kansas into the Union as a free State by the votes and voice of her own people, and in conformity to the great principles of the Kansas-Nebraska act; provided all the free-State men will go to the polls and vote their principles in accordance with their professions. If such is not the result, let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy, and bloodshed in Kansas; that their party may profit by slavery agitation in the northern States of this Union."

Why, Mr. Chairman, it was never contemplated by the people even that the constitution would be submitted to them, for the Legislature showed by its action that it did not deem it necessary that it should be, and did not intend it to be; for it passed the convention act over the veto of Governor Geary, who vetoed it because it did not provide for the submission of the constitution to a popular vote.

Mr. Chairman, every Democratic member of the last Congress, including Judge DOUGLAS, is committed to the provisions of the Kansas convention act. It will be recollected that the Senator from Georgia, [Mr. Toombs,] during the last Congress, introduced a bill, which was referred to the Committee on Territories and reported back amended, to the Senate, by Judge DOUGLAS. This bill looked to the same results which have flowed from the Kansas convention act, namely, the formation of a State constitution, and was passed by the Senate, and defeated by the Black Republicans in the House. For this bill every Democratic member of Congress in good standing voted. The provisions of the Toombs bill, as thus voted for, were identical with those of the Kansas convention act. The qualification for voters in both were the same. Their great leading features were alike. Neither of them provided for a popular ratification of the work of the convention. None of the gentlemen, who are now clamorous anti-Lecomptonists, moved to amend the Toombs bill by inserting a provision for submitting the constitution to the people. On the contrary, sir, strange as it may appear, the history of that measure shows that, as originally introduced by the Senator from Georgia, it contained the following provision:

"That the propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection; which, if accepted by the convention and ratified by the people at the election for the adoption of the constitution, shall be obligatory upon the United States and the said State of Kansas."

As reported back from the Committee on Territories by the Senator from Illinois, [Mr. DOUGLAS,] the words "and ratified by the people at the election for the adoption of the constitution," were stricken out; and with this provision stricken out by the Committee on Territories, it passed the Senate, and was voted for by every Democrat on this floor. How can the Senator from Illinois [Mr. DOUGLAS] reconcile the absence of this provision in the bill as originally introduced by the Senator from Georgia [Mr. Toombs] from the one as reported back by him from the committee, with his present violent opposition to the admission of Kansas because its constitution was not submitted to the people?

Mr. Chairman, it is with no pleasure that I thus refer to the Senator from Illinois, [Mr. DOUGLAS.] I have been his long and fast friend. In two successive presidential contests he was my choice of all our distinguished northern Democratic statesmen for the Democratic nomination for the Presidency. But, sir, he is now acting in opposition to his old friends; he is giving the aid of his great name, talents, and statesmanship, to the Black Republicans, in opposition to the Democratic party. As the leader of the Black Republicans upon this question, he has been the origin of the division which the Democratic phalanx in this House show. The Black Republican party had become disorganized; but now, with the potent aid of his leadership, their drooping spirits have been revived, and they have been made to attain an importance which makes them confident of a triumph over the Administration and the Democratic party. Mr. Chairman, no man regrets Judge DOUGLAS's present position more than I do.

We are told that the Kansas-Nebraska bill, by leaving the people of the Territories free to regulate their own domestic institutions, had reference to other institutions than that of domestic

slavery; that it was meant to embrace all domestic institutions. Sir, this is not a true construction of that act. Previous to its passage, under the Missouri compromise, the people were left free to regulate all their domestic institutions except that of slavery. It was in reference to that institution alone that they were restricted. The Kansas-Nebraska bill removed that restriction. It referred to no other domestic institutions, because no others were restricted. It was to the institution of slavery alone that it had reference; and it was especially to leave the people free to have slavery, or not, in the Territory, as they pleased, that that clause of the bill was inserted. The whole history of the struggle in Kansas shows that this was the only question involved; it has been the issue of every battle fought; it has been the bone of contention both in and out of the Territory. In the last presidential canvass it was an issue made upon the Democratic party by the Black Republicans. Judge DOUGLAS himself so regarded it; for in the Kansas-Nebraska bill, as originally reported by him from the Committee on Territories, the material section made reference only to the question of slavery; and he proposed to settle that, even, not by a vote of the people, but through their representatives in convention. I read it:

"All the questions appertaining to slavery in the Territory, and in the new States to be formed therefrom, are to be left to the decision of the people residing therein, through their appropriate representatives."

Thus it will be seen that Judge DOUGLAS did not then propose to go as far as the Lecompton convention has. He did not even propose to refer the slavery question to the people. The Lecompton convention did. The convention, in submitting this isolated question—it being the absorbing one of all others—had met the demands of those who in good faith desired to see it settled by the people.

Mr. Chairman, looking at the action of the States of the Union, the weight of precedent is against the position that a constitution should be submitted to the people before its acceptance by Congress. Vermont, Connecticut, Delaware, Pennsylvania, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Tennessee, Kentucky, Arkansas, Missouri, and Illinois, never submitted their constitutions to the people, which was the organic law of each of them at the time of their becoming States of the Union. We find that but two of the seventeen remaining States submitted their constitutions to a vote of the people without being required by previous law so to do—to wit, Florida and California. Rhode Island had no constitution at all. My own State (Kentucky) was admitted into the Union in 1791 without a constitution. She subsequently adopted a constitution; but Congress to this day has never seen it or recognized it in any way. (See Gluskey's Political Text-Book, or Encyclopedia, p. 300.)

Mr. Chairman, I do not deem it necessary to add to the argument which has already been adduced in reply to the objection that the State of Kansas should not be admitted because there was no enabling act passed by Congress authorizing her to form a State constitution. It has been clearly shown that the Kansas-Nebraska act was an enabling act. It would be a mockery to say to a people, in the solemn form of a congressional enactment, you are left "perfectly free to form and regulate" your "domestic institutions in" your "own way," and then to deny to them the right of doing the only thing through the means of which they can form and regulate their domestic institutions; namely, the making of a State constitution, and application to Congress for admission. The line of precedent is irregular. Some States were authorized by enabling acts to form constitutions; others were not. Vermont, Kentucky, Tennessee, Florida, Arkansas, California, and others, formed State constitutions without the authority of enabling acts. The case of Tennessee on this point was a striking one.

Tennessee formed a constitution which was transmitted by Governor Blount to President Washington. The latter communicated it to Congress with the recommendation that Tennessee be admitted. The Senate instructed its committee merely to bring in an enabling act authorizing Tennessee to form a State constitution. The report of the Senate committee on the subject took

the distinct ground that an enabling act by Congress previous to a formation of a constitution by a Territory desiring admission into the Union as a State, was essential. The committee said "that Congress must have previously enacted that the whole of the territory ceded, &c., should be laid out by Congress for one State before the inhabitants thereof [admitting them to amount to sixty thousand free persons] could claim to be admitted as a new State into the Union." The Senate carried out the views of the committee; rejected the application of Tennessee for admission, with her constitution then already formed; but passed an enabling act in the usual form. In the House, that master-mind, Mr. Giles, from a committee to whom the Senate bill had been referred, made a report contending that no enabling act was necessary, and that Tennessee should be admitted without further delay. Mr. Madison, Mr. Macon, Albert Gallatin, and other distinguished men sustained by speeches Mr. Giles's report, and a bill was passed by the House in lieu of the Senate bill, immediately admitting Tennessee. The Senate reconsidered its action, and passed the House bill. Thus Tennessee was admitted into the Union without an enabling act, and the forms of such an act were declared by that Congress, composed of many of the early great men of the Republic, entirely unnecessary.

But, sir, this objection to the admission of Kansas comes with bad grace from that party who, during the last Congress, passed a bill in this body admitting Kansas under the Topeka constitution—a constitution which was the offspring of a revolutionary movement on the part of a small minority of the people of Kansas, rotten to the core with treason—some of them with indictments suspended over their heads—miscreants who were there with the mad purpose of keeping alive agitation, so as to keep the gentlemen on the other side of the House, by means of such excitement, in power here. Yes, sir, such a constitution, without any of the forms of law, the emanation from the brain of such characters, was passed in this House by the Black Republicans. And yet, sir, they prate to us about frauds, violence, and the want of an enabling act in the present case.

Mr. Chairman, it is impossible for me to reconcile the present position of the distinguished Senator from Illinois [Mr. DOUGLAS] and that of the leader of the anti-Lecompton forces in this body, [Mr. HARRIS, of Illinois,] with that taken by them on the admission of California. Then, sir, a State, formed without any of the forms of law, by a people from every portion of the Union, and inhabitants from every portion of the world, Chinese, Mexicans, Spaniards, half-breeds, and men of all classes and character, without reference to their being aliens or citizens, upon the mere call of a military general, was admitted into the Union, not only by the assent of the Senator and Representative from Illinois, but with their active advocacy in its behalf. The Senator was the champion of the measure in the Senate; the Representative made an elaborate speech to the House in its favor. CALIFORNIA PROSCRIBED SLAVERY IN HER CONSTITUTION. And yet these gentlemen, then the champions of California, now declaim against the irregularities of the Lecompton constitution.

Mr. Chairman, it is argued that the vote on the constitution, taken on the 4th of January last, in pursuance of the act of the Territorial Legislature called together by Mr. Secretary Stanton, is conclusive that the people do not want admission as a State under the Lecompton constitution. Let us look into the vote on that day. It is true, there were some ten thousand votes polled against the constitution. Analyze it, and you will find that a large majority of this vote was polled in the counties which, under the apportionment of Secretary Stanton, had thirty-six of the sixty delegates composing the constitutional convention. The conclusion is inevitable that a large proportion of this vote was fraudulent; for if it was not, how is it that, having the power of a representation in the convention, able to control its action by a majority vote, they did not send delegates to represent their views and make just such a constitution as they wanted, or else defeat any constitution at all. But I hold, sir, that the vote on the 4th of January, on the question of the adoption or rejection of the constitution, was a nullity. The people, in the election of delegates to frame a constitution,

conferred upon them all the power that they themselves could have exercised if assembled in mass convention. The people being sovereigns, and the source of all power, under our form of government, delegated this power to their representatives in the convention. The convention being clothed with full power to make a constitution, a subsequent Legislature could no more limit, control, or destroy their power, than they could that of the people, if every individual one of them had assembled in mass convention to form a constitution. Hence I argue that the act of the Legislature, submitting this constitution to a vote of the people on the 4th of January, was in derogation of the rights of the people, and void, and is entitled to no consideration by Congress.

On this point, I refer to but one more result of the election of the 4th of January, and that to show that the people of Kansas desire and expect to be admitted under the Lecompton constitution. On that day an election was also held, regular in its character, under the authority of the constitutional convention, for State officers, a Legislature, and a Congressman. The election was a closely contested one. The pro-slavery Governor was elected by a majority of a few hundred votes. The free-State candidate for Congress was defeated by less than a hundred votes. The contest for the Legislature was so close that it was not until last Saturday that its political complexion was finally determined in favor of the free-State party. This vote shows that parties in the Territory are nearly equally balanced; and the animated contest for the offices under the Lecompton constitution proves that both parties regarded it as fixed that Kansas was to be a State under that constitution. The vote also shows, contrasted with the irregular vote cast on the same day for or against the constitution, that its friends agreed with me in regarding the vote on the same as a nullity, and took no part to carry it on that day. It shows another important fact, that in the irregular vote taken upon the constitution upon the same day, where there was no contest, and where the Black Republicans were not watched, as they were at the places of voting for State officers, there were about four thousand more votes polled against the constitution, than the highest vote given by that party for State officers. Mr. Chairman, I would like for some gentleman who has such a horror of frauds, to satisfactorily explain that vote.

Mr. Chairman, a great deal has been said here about the fact that half the counties were unrepresented in the convention. There were twenty-one counties represented. They had complied with the law requiring a registration of voters; hence they were included in the apportionment made by the acting Governor, Stanton. There were three counties unorganized. Of the thirteen others, which it is said were unrepresented, it will be found by the election returns of the 4th of January, that in seven of them there was not a solitary vote polled. In two of the remaining six there were but ninety votes returned, and in the remaining four, one thousand and thirty-five votes. So that it is clearly shown that the charge that more than one half of the people were disfranchised, and not represented in the convention, is utterly false.

Mr. Chairman, the gentleman from Indiana, [Mr. ENGLISH,] in his speech delivered upon this subject, admits that the technicalities of the law are with this constitution; but, says he:

"I thought it was the business of statesmen, in the councils of the nation, to look to great political facts, and that the quibbles and technicalities of law belonged to lawyers."

He further says:

"There have been some irregularities there, and some culpable failures on the part of a portion of the people to exercise the right of suffrage."

How long has it been, sir, since the gentleman from Indiana has ceased to regard the sanctions and forms of law as binding the action of Congress? Does he recollect his speech, during the last Congress, in the Kansas contested-election case of Reeder vs. Whitfield? This case, it will be recollected, arose in this way: General Whitfield was elected Delegate to Congress at the regular election fixed by the Territorial Legislature. He received nearly all the votes at that election. At a subsequent election, held without any authority of law, Governor Reeder was chosen to the same seat, receiving all the votes polled at that

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1st Session.

THURSDAY, MARCH 25, 1858.

NEW SERIES....No. 81.

so-called election. He claimed the seat on the ground that he received more votes at the election at which he was chosen than General Whitfield did in the regular election which returned him, and that he was the choice of the people of that Territory. It was proposed to send a commission to Kansas to investigate the matter; to make such an investigation as that desired by the gentleman from Illinois [Mr. HARRIS] the other day, for which the gentleman from Indiana [Mr. ENGLISH] voted. The gentleman from Indiana, in speaking against such an investigation then, said:

"At the election held pursuant to the act of the Kansas Legislature, Mr. Whitfield received twenty-nine hundred votes, Mr. Reeder but thirty-six; the whole number of votes polled being less than three thousand. The latter does not claim to have been elected at that time, nor does he pretend that all the votes cast for Mr. Whitfield were illegal. He alleges that some hundreds of them were illegal; but does not contend, nor does any of his friends, that any other person received more legal votes at that election than Mr. Whitfield. If Mr. Whitfield had received but one hundred legal votes, and that was the highest number of legal votes any individual received, he would still be clearly entitled to the seat."

I will read no more extracts from this speech, but let the gentleman look into it, and he will find it to be a complete answer to his speech delivered here the other day. The anti-Lecomptonites base their opposition to the admission of Kansas upon the same flimsy pretexts that the Black Republicans did their opposition to Whitfield. They tried then to override the forms of law to accomplish their purposes, as do the anti-Lecomptonites now, to reach their ends. Let the gentleman from Indiana act upon the doctrines of his speech last Congress, to which I have referred; let him again acquire a regard for "legal technicalities," for which he now affects so much contempt, and he will yet occupy a proper position on this question. Mr. Chairman, it is said that the constitution of Kansas cannot be changed until after 1864. Upon this point I might be content to refer gentlemen to the unanswerable argument of the distinguished gentleman from Pennsylvania, [Mr. PHILLIPS.] Sir, all power under our form of Government springs from the people. They alone can set up and destroy, alter or amend, their form of government at will. It would indeed be a strange doctrine which would deny to the power creating, the entire control of the creature of their own making. I admit that the people, through their representatives, in forming a State constitution, can place restrictions upon themselves; and if they do so, then their constitution is only amendable by them in accordance with the forms which they have prescribed; but this does not apply in this case, for the Kansas constitution has placed no restriction upon the power of the people to amend at will.

My construction of the fourteenth section of the schedule of the constitution is, that it is a mere limitation upon the power of the Legislature to propose amendments to the constitution; the object of the framers of the constitution being to secure to the people a stable government, not subject to amendment at the mere caprice of the Legislature. The second article in the bill of rights fully recognizes the power of the people to "alter, reform, or abolish, their form of government in such manner as they may think proper." This is the true construction of the constitution on this point. If a majority of the people desire to amend the constitution, let them petition the Legislature to take their sense thereon. The free-State party, having the majority in the Legislature, can submit to a vote of the people the question, "Shall a convention be called to amend the constitution?" If then it be true that a large majority of the people of Kansas are opposed to the Lecompton constitution, they can determine this question affirmatively. Another convention would then be the result, reflecting the popular will, and such amendments would be made as would conform the organic law thereto. I would submit this question to gentlemen who take the opposite view. Suppose this constitution had not provided for its amendment at all: then I submit would there not have been full power in the people to amend the

same? Or will the gentleman on the other hand, contend that the constitution would be a permanent one, to last for all time to come, subject to no amendment whatever, and perpetually binding upon the people now in Kansas, and those who may be there for all future time? If in such a case the people would have power to alter or amend the constitution, then they have it in the organic law as it now exists.

Mr. Chairman, the combination of parties which is opposing the admission of Kansas under the Lecompton constitution is a singular one. We find the entire Black Republican organization standing up, to a man, in both Houses of Congress, against it. A few southern Senators and Representatives, and I thank God that there are but few so unmindful of the necessity of a united South at this time, as to connect themselves with the Black Republicans to defeat the admission of a slave State. In addition to these are the anti-Lecompton Democrats, who also, notwithstanding their previous course, are now closely embraced by the Black Republicans, and regarded by them as bone of their bone, and flesh of their flesh. I say to the southern Americans, who are opposing the admission of Kansas, how can you form a part of this combination, when, on Saturday, in this House, in answer to the interrogatory of the gentleman from Mississippi, [Mr. BARKSDALE,] the leader of the Black Republicans boldly avowed that if every man in Kansas voted for a pro-slavery constitution, they would not vote for its admission as a slave State? How can you, I ask, justify this association between yourselves and the enemies of the South, who deny to her the principle that new States, containing constitutions like to that of your own State constitutions, shall be debarred admission into the Union?

Disguise it as you will, the adoption of slavery in the constitution of Kansas is the true secret of opposition to her admission. You may endeavor to palliate your course by claiming it to be the result of a patriotic conviction of duty, but the South will place every man who opposes it upon a common platform, and treat them alike as the enemies of her interests and institutions. And you Democrats of the North, who are opposing this measure of justice to Kansas, have you reflected where it will lead you? Do you not loathe the daily commendations with which you are treated by the New York Tribune and the other Abolition presses of the country? Are such compliments regarded by you as desirable? Is the proffer of a united Republican vote in your next elections grateful to your political aspirations? Senator Seward and the New York Tribune say that there must be no Republican opposition to you, if you remain firm to your present course. Will you permit these open bids to be made for you in the Abolition markets? You may tell us of the "scars which you have received," fighting the battles of the South and the country in the North. These scars will not prevent your fall, if you do not regard with careful eye the character of your associations.

"Vice is a monster of so frightful mien,
As to be hated, needs but to be seen;
Yet seen too oft, familiar with her face,
We first endure, then pity, then embrace."

You are sensitive about your position when charged with any estrangement from your party. You have warned us often not to attempt to read you out of the Democratic party. I have no power to read you out. Every Democrat in this House has no such power; the act of reading out is generally performed by the victim himself; the principles and policy of the Democratic party are clearly defined; every one of its members know what they are; the formality of reading out is not practiced. No sooner do any of its members deviate from its course than the separation becomes natural; and the line of demarcation is as distinct and as well defined as if it had been accomplished by a formal separation by the election of those whose misfortune it is not to conform to its policy. Gentlemen, then, may become the instruments of their own decapitation. They have the election;

let them not do that for themselves which they so much deprecate being done by others for them. The question upon which we are now about to act is a vital one. Its solution is of the highest importance to the country; and when the time for action comes, and gentlemen decide which side of this question they intend to take, the country will assign to each one of them his true position.

Mr. Chairman, I cannot forbear testifying my high admiration for those northern Democrats who are voting with us on this question. Unawed by fanaticism, actuated by honest convictions of duty, regardless of the threats of those of their Democratic brethren who have separated from us on this question, unswayed by the gross and unfounded aspersions upon their integrity, that they are operated upon by executive patronage, they present a picture of devotion to principle characteristic of the true northern Democrat, and which has given the northern Democracy the high character which it has, as a political organization, ever maintained.

Mr. Chairman, I have endeavored to present, in as brief a manner as possible, the views which control my action on this question; and have answered some of the leading objections which have been urged against the admission of Kansas under the Lecompton constitution. The question is, whether we will still leave this Kansas issue open; whether bleeding Kansas shall be pictured to us for years to come; whether the fate of the Union shall still continue to tremble on the result; whether it shall be the hobby of the enemies of the Constitution in the next presidential contest to defeat the Democratic party, and carry out their hostile purposes against the integrity of the Union; whether the revolutionary spirit in Kansas shall be left life to continue its course, to retard the prosperity of the Territory, and convulse the entire country, or whether, on the other hand, the question shall be removed from national politics and localized, restricted to the new State, where, through the forms of a well-constituted State government, the people can redress all their real or imaginary grievances. This is a view of the subject which must carry conviction to every mind. The condition of things in Kansas have already been permitted to exist too long. Until the Lecompton constitution was presented, no means of reaching a peaceful solution of the question was afforded us. And shall we now, sir, when an opportunity is offered of healing this "bleeding wound," which has already done so much to impair the stability of the Union, reject the panacea and permit the wound still to remain open.

Mr. Chairman, gentlemen do not seem to contemplate what would be the effect of the rejection of this constitution upon the section from which I come. The South cannot any longer shut its eyes to the purposes of that party in the North, which polled one million three hundred and forty-one thousand eight hundred and twelve votes in the last presidential contest. Its great leader in the Senate [Mr. SEWARD] has not only proclaimed that no more slave States shall be admitted, but has announced its purpose to take the Government into their own hands, and to consecrate this entire continent to freedom. The legitimate inference from this is, that slavery in the States where it now exists will become the victim of their power to abolitionize. Whenever, sir, Congress shall authoritatively announce that no more slave States shall be admitted into the Union, and this first in the gradation of acts which must necessarily reduce the slaveholding States to a condition of vassalage is perpetrated, then, sir, the Union will become a Union of inequality and oppression, and it will be a question of serious moment for the South how far it is consistent with her honor or interests to remain longer in it.

Mr. BLAIR. The attitude of the present Administration upon this Kansas question, and upon the question of slavery generally, has been discussed in almost every conceivable aspect. There is, however, one point of view in which it has not been treated in this Hall; and I propose to state, as frankly and candidly as I can, the position I

conceive the Administration and the Democratic party hold upon this question; and also to discuss it in its bearings upon a large class of citizens of the southern States—the non-slaveholding people of those States. I make no apology for approaching this subject. I consider that the system of slavery, which has made the last two or three of our Presidents “fetch and carry” at its beck and nod; which has held the legislative power of this Government in its hands for a series of years; which has swayed even the decisions of the Supreme Court—is of sufficient importance to be discussed, to be grappled with, and to be subdued; and therefore I shall not heed the querulous complaint that this subject has been too much discussed.

It is this institution which has cast its dark shadow upon our land, and which threatens the existence of our free Constitution. I know full well that there is an instinct in the hearts of the people of this country whose ken looks beyond that of the most acute intellect, and which tells them that from this question they are to apprehend danger to the institutions of our country. I am aware that those gentlemen who were elected to this House as the friends of the President, have sufficiently exposed the forfeiture of the pledges made by him in his letter accepting his nomination, made at Cincinnati; and I consider that the violation of his pledges contained in his inaugural address, and in his instructions to Governor Walker, declaring his purpose to secure the people of Kansas the right to decide for themselves the institutions under which they were to live, have also been sufficiently exposed by those who were elected here as Democrats. I never expected him to redeem those pledges. I always supposed they were made to be violated, and shall, therefore, express no surprise at the result. I always believed that Mr. Buchanan was nominated to carry out the policy of his predecessor, which was to fix slavery upon Kansas by force or fraud; and, in my opinion, not only Kansas, but the whole continent is embraced in this conspiracy. Hateful to me as is the design of forcing upon Kansas a constitution abhorred by her people, hateful as are the low and mean frauds by which that policy has been pushed, hateful as are the crimes by which, for the last three years, Kansas has been held in subjugation, still more hateful is the design which I believe has been deliberately formed to extend this constitution over the whole country. I shall give the President the benefit of his own language, to define his own position upon this question. I have in my hand his late special message transmitted to us with the Lecompton constitution; and I call the attention of his friends and admirers to this sentence:

“It has been solemnly adjudged, by the highest judicial tribunal known to our laws, that slavery exists in Kansas by virtue of the Constitution of the United States. Kansas is, therefore, at this moment, as much a slave State as Georgia or South Carolina. Without this, the equality of the sovereign States composing the Union would be violated, and the use and enjoyment of a Territory acquired by the common treasure of all the States, would be closed against the people and the property of nearly half the members of the Confederacy.”

Kansas is here called a State, and a slave State—made so by the Constitution, says the President, and not by any act of her people. And I desire to know, if the Constitution of the United States makes a slave State of Kansas, the people of which country have never yet given their assent to it, will not that same Constitution carry slavery into those States which acknowledge that constitution now assumed to establish slavery, in State or Territory, wherever the local laws are silent?

The argument of the President in this message, and in his annual message, and in the paper published by him in answer to certain gentlemen in Connecticut, goes to this point. He declares, in effect, that neither Congress, nor the people of a Territory themselves, have the power to prohibit slavery in the Territories. I think his language goes even to the extent of maintaining that a State cannot prohibit or abolish slavery; for, Mr. Chairman, if neither the people of a Territory nor Congress can prohibit slavery for the reasons assigned by the President, the same reasoning would embrace the States made from territory acquired by “the Confederacy of sovereign States.” How happens it that the people of the State of Iowa can prohibit slavery? That was territory acquired by the Confederacy of sovereign States. How can

the people of the State of Iowa reverse the rule of justice any more than the people of the Territory of Iowa? The whole argument of the President, the argument of all who agree with him, the argument of the Supreme Court, all assign that as a reason why the people of a Territory cannot prohibit slavery, and why the Congress of the United States cannot exclude slavery from its Territories. It is all grounded on the fact that it is unjust to exclude the property of the people of any one portion of the Confederacy from that which was acquired by the people of the whole Confederacy.

Now, Iowa was acquired by the people of the whole Confederacy—that is, by the Government, representing the whole Confederacy; and it was quite as just and right for Iowa, while a Territory, to exclude slavery, as it was when she became a State. There is no difference. And how can this be accomplished? How can Iowa, or any State, prohibit slavery, if the positions taken by the President and the Democratic party are correct? The people of a Territory have not the power to do it; Congress has not the power; and yet, when the people of a Territory form a constitution, and Congress accepts that constitution—neither of these agencies having the power to exclude slavery—it is found, by some mysterious process, that the State thus created has acquired a power which neither agency concerned in its creation could impart to it. It strikes me, Mr. Chairman, that, if it be conceded that there is no power in Congress, or in the people of a Territory, to exclude the institution of slavery, it follows, as a matter of course, logically and legitimately, that the people of a State cannot do it. And, sir, I find that the organ of the Administration—the Washington Union—has taken that ground; and has declared that it draws the conclusion legitimately from the opinion of the Supreme Court in the Dred Scott case.

Mr. J. GLANCY JONES. Will the gentleman be good enough to tell me what that organ is? I am not aware that the Administration has an organ.

Mr. BLAIR. If anybody has a right to know what that organ is, the gentleman from Pennsylvania is the man.

Mr. J. GLANCY JONES. Be good enough to tell me.

Mr. BLAIR. I referred to the Washington Union by name.

Mr. J. GLANCY JONES. I merely wish to remark that I know of no paper recognized as the organ of the Administration.

Mr. BLAIR. Then the gentleman is ignorant of what is known by everybody else. I say that that paper declared in an article some time ago that no State in the Union could abolish the institution of slavery; that it was unconstitutional to do so; and it grounded itself on the decision of the Supreme Court. I know that subsequently to that, the editor of that paper was elected, by a party vote, Printer of the Senate of the United States. That goes very far—though the gentleman [Mr. J. GLANCY JONES] repudiates the paper as the organ of the Administration—to fix it in the minds of the people that the Senate of the United States indorses his views on that subject, especially when we know that these offices go by favor, and that it is very seldom the case that a man is elected Printer, or to any other office, whose sentiments do not accord with those of the majority of the body that elects him. I know that last evening, in the other House, a very distinguished gentleman denied that this was the position of the Democratic party, and, in his place, called for proof. He denied that anybody from the South claimed that a State could not prohibit slavery within its limits. But I undertake to say that the claim is embodied in the extract which I have read from the President’s special message, in which he calls Kansas a State, and says that it is a slave State, and that it was made a slave State by the Federal Constitution, and not by the people. That is the language of the President, and I have heard from every Democrat that has taken the floor in this or the other House, nothing but eulogy of that message, since it was published; and I consider that as an indorsement of the doctrines it contains.

But that is not all. This doctrine is contained in the Dred Scott decision. Every argument that is made to show that neither Congress nor the

people of a Territory has the power to prohibit slavery in the Territory, is equally applicable to a State, and is more appropriate as applied to the States, because the Constitution was made for the States, and not for the Territories, and is the supreme law over the constitutions and statutes of the States. I think that is the doctrine of the Democratic party. They may disclaim it now, when it is proclaimed in all its nakedness; but they will yet come up to it whenever occasion offers to carry their principles to the result intended.

Now, Mr. Chairman, I ask those gentlemen who have been so clamorous about popular sovereignty, whether they accept this doctrine? I ask them if they propose to deny all that they have said on the subject of popular sovereignty, and if they will submit to have this institution injected into the Territories and States by what is claimed to be the Constitution of the United States? Will they do it? I suppose they will not be able to resist the majority of their own party in this matter, and they must either embrace this doctrine or be read out.

Now, it matters not to me what ground the leaders of that party assume. They may come forward to sustain this doctrine, and to sustain the policy of the last Administration in forcing upon Kansas an institution abhorred by a large majority of the people, and in forcing this institution on other States and Territories. I do not care how many judicial decisions shall sanction it, or how many regiments may be called out to enforce it; in my opinion, the attempt will fail. The Territories of this Government cannot be wrested from the freemen to whom they belong, to be given up to slaveholders and their slaves, in order to strengthen the oligarchy which rests upon this servile institution.

Gentlemen have proclaimed upon this floor that the Lecompton constitution was accepted by a majority of the people of Kansas. Sir, in my belief, there is not a town or county in Kansas where the Lecompton convention could have sat and performed the work of fraud now before us, without the support of the Federal bayonets. I do not know one town or county in Kansas where they would have had the power to defy the will of the people as they have done, except under the protection of the Federal bayonets. The President tells us, and tells the country, in no equivocal language, that the government which he calls the rightful government of Kansas, would long ago have been subverted by these factious people out there, if it had not been supported by the Federal Army. This is a clear admission on his part that the government there is an usurpation; because there can be no government in violation of the sentiments of the people, unless it be an usurpation. But, sir, that government would have been subverted long ago, but for the interference of the President of the United States; and, whether the fact be admitted by the President or not, it cannot be successfully controverted that the President has exerted his entire energies—he has perverted the whole power and patronage of the Federal Government—to drive free white men out of the Territory of Kansas to make room for negro slaves.

Now, sir, there is a parallel to the history of this transaction which took place many centuries ago, and which I find in a book published nearly a century since. But it is so appropriate to the events that are now transpiring, that I hope the House will have the patience to hear me read it through. I read from Hook’s History of Rome, to show how the great Republic of antiquity fell to decay, when it ceased to cherish the people as landholders, and became an oligarchy, by the very means now being employed in our own:

“It is recorded of Tiberius Gracchus that, in crossing Hetruria in his way to Spain, he observed that there were no other husbandmen or laborers in the country than slaves; and, according to Plutarch, the people—by writings affixed to the porticoes, walls, and tombs—daily exhorted Tiberius to procure a restitution of the public lands to the injured poor.

“From the earliest times of Rome,” proceeds the historian, “it had been the custom of the Romans, when they subdued any of the nations in Italy, to deprive them of a part of their territory. A portion of these lands were sold, and the rest given to the poorer citizens, on condition, says Appian, of their paying annually a tenth of the corn and a fifth of the fruits of the trees, besides a certain number of great and small cattle. In process of time, the rich, by various means, got possession of the lands destined for the subsistence of the poor. This gave occasion to the law obtained

by Licinius Stolo, about the year of Rome 388, forbidding any Roman citizen to hold more than five hundred acres of land, or to have on his estate more than one hundred great and five hundred small cattle, and requiring that a certain number of freemen should be employed to cultivate the farms.

"But, notwithstanding these precautions, the Licinian law (observed for some time to the great benefit of the public) fell at length under a total disuse. The rich and mighty continued to possess themselves of the lands of their poor neighbors." "To cultivate the farms they employed foreign slaves. So that Italy was in danger of losing its inhabitants of free condition, (who had no encouragement to marry, no means to educate children,) and of being overrun with slaves, and barbarians, that had neither affection for the Republic nor interest in her preservation."

"Tiberius Gracchus, now a tribune of the people, undertook to remedy these disorders;" * * * "and to soften the matter, Tiberius not only proposed to remit the fines hitherto incurred by the transgressors of the Licinian law, but also, out of the public money, to pay to the present possessors the price of the lands that were to be taken from them." "Never (says Plutarch) was proposed a law more mild and gentle against iniquity and oppression." For these were public lands of which the rich had taken possession with their slaves; "yet the rich made a mighty clamor about the hardship of being strip of their houses, their lands, their inheritances, the burial places of their ancestors, the unspeakable confusion such innovations would produce, the estates in question (acquired by robbery) being settled upon the wives and children of the possessors; and to raise an odium against Gracchus, they gave out that ambition, not a view to the public good, had put him upon this project." * * *

"The poor, on the other hand, complained of the extreme indigence to which they were reduced, and of their inability to bring up children. They enumerated the many battles they had fought in defense of the Republic, notwithstanding which, they were allowed no share of the public lands; nay, the usurpers, to cultivate them, choose rather to employ slaves than citizens of Rome. Gracchus's view was not to make poor men rich, but to strengthen the Republic by an increase of useful members, upon which he thought the safety and welfare of Italy depended. The insurrection and war of the slaves in Sicily, who were not yet quelled, furnished him with sufficient argument for expatiating on the danger of filling Italy with slaves."

"On the day when the tribes met to determine concerning the law, the Tribune maintaining his cause, which was in itself just and noble, with an eloquence that would have set off a bad one, appeared to his adversaries terrible and irresistible. He asked the rich whether they preferred a slave to a citizen; a man unqualified to serve in war to a soldier; an alien to a member of the Republic; and which they thought would be more zealous for its interests? Then as to the miseries of the poor, he said: 'The wild beasts of Italy have caves and dens to shelter them; but the people who expose their lives for the defense of Italy, are allowed nothing but the light and air. They wander up and down with their wives and children, without house, and without habitation. Our generals mock the soldiers; when in battle, they exhort them to fight for their sepulchers and their household gods; for, amongst all that great number of Romans, there is not one who has either a domestic altar or a sepulcher for his ancestors. They fight and die, solely to maintain the riches and luxury of others, and are styled the lords of the universe, while they have not a single foot of ground in their possession.'"

After much resistance from the Patricians, the Tribune finally procured the passage of the law:

"And it being resolved that Triumvirs, or three commissioners, should be constituted for the execution of it, the people named to that employment, Tiberius himself, his father-in-law Appius Claudius, and Caius Gracchus, who at this time was in Spain, serving under Scipio in the Numantine war. These Triumvirs were to examine and judge what lands belonged to the public, as well as to make the intended distribution of them."

Before the law could be put into operation Tiberius was assassinated in the Senate House by certain Senators "who possessed much of the public lands and were extremely unwilling to part with them." These Senators, it is said by the historian, were aided by their clients and slaves, and the blow "which probably dispatched him, he received from a man named L. Rufus, who afterwards gloried in the action." Cicero, who was the orator and partisan of the oligarchy, and whose false glosses in regard to these transactions have been followed by all the historians in the interest of the privileged orders, was himself constrained to admit

"That Tiberius Gracchus came nothing short of the virtue of his father, or his grandfather, Africanus, but in this, that he forsook the party of the Senate."

Sallust, the great and perspicacious historian, in a letter to the greatest general and statesman of the Romans, Julius Cæsar, exhorting him to restore the Commonwealth, gives in a single sentence the whole history of Rome, after the Roman people were robbed of all ownership in the soil to feed the grandeur and employ the slaves of the nobility. He says, and I desire to mark the sentence:

"Men of the lowest rank, whether occupying their farms at home or serving in the wars, were amply satisfied themselves, and gave ample satisfaction to their country, so long as they possessed what was sufficient to sustain them. But when, being thrust out of possession of their lands by a gradual usurpation, they, through indigence and idleness, (having nothing to do,) could no longer have any fixed abodes,

then they began to covet the wealth of other men, and to put their own liberty and the Commonwealth to sale."

The law procured by Tiberius Gracchus has been denounced by all the writers in the interest of the privileged classes from that day to this as an agrarian law, a law to take from the rich and to give to the poor, when the fact is, Mr. Chairman, that it was a law to distribute among the people the lands which belonged to the public; and now a similar attempt is made by the party of oligarchs in this country to seize the Territories of this Government and plant them with slaves to the exclusion of freemen, and they follow the example of their Roman prototypes and denounce those who oppose them in their schemes as Free-Soilers. I do not know but that the term "agrarian," taken in its true sense, might well stand for a translation of the term "Free-Soiler." In that sense, in the sense of distributing to the people the lands which belong to them, I have no hesitation in accepting the designation; and to show that there is as great necessity for this measure now as there was at the time when Tiberius Gracchus described the destitution of the Roman people, who made that Republic the mistress of the world, I will read from some high authorities in regard to the condition of the non-slaveholding white men of the South, who constitute a large majority of its citizens. I shall quote first the language of the Senator from Alabama, [Mr. CLAY.] He is giving an account, in a speech made in Alabama, of the condition of his own State, and more particularly of his own county. He says:

"In traversing that county, one will discover numerous farm houses, once the abode of industrious and intelligent freemen, now occupied by slaves or tenantless, deserted, and dilapidated; he will observe fields, once fertile, now unfenced, abandoned, and covered with those evil harbingers, fox-tail and broomsedge; he will see the moss growing on the mouldering walls of once thrifty villages, and will find 'one only master grasps the whole domain,' that once furnished happy homes for a dozen white families."

This is the language of a distinguished Senator from Alabama, describing his own county, and I should suppose that if that gentleman knew anything at all, he would know the condition of the county in which he resides. Nor is it to be supposed that he would exaggerate that which is by no means flattering to his county or his State.

Mr. William Gregg, in a paper before the South Carolina Institute, handling the same subject, remarks:

"Any man who is an observer of things could hardly pass through our country without being struck with the fact that all the capital, enterprise, and intelligence is employed in directing slave labor; and the consequence is, that a large portion of our poor white people are wholly neglected, and are suffered to while away an existence in a state but one step in advance of the Indian of the forest. It is an evil of vast magnitude, and nothing but a change in public sentiment will effect its cure."

I propose to read what was said in the Virginia Legislature in 1832, by a gentleman who is now a distinguished member of this House, [Mr. FAULKNER.] He says:

"Slavery, it is admitted, is an evil. It is an institution which presses heavily against the best interests of the State. It banishes free white labor; it exterminates the mechanic, the artisan, the manufacturer; it deprives them of occupation; it deprives them of bread; it converts the energy of a community into indolence, its power into imbecility, its efficiency into weakness. Sir, being thus injurious, have we not a right to demand its extermination? Shall society suffer, that the slaveholder may continue to gather his crop of human flesh? What is his mere pecuniary claim, compared with the great interests of the common weal? Must the country languish, droop, die, that the slaveholder may flourish? Shall all interests be subservient to one—all rights subordinate to those of the slaveholder? Has not the mechanic, have not the middle classes, their rights—rights incompatible with the existence of slavery?"

And now, sir, I shall conclude these quotations by reading from another very distinguished southern gentleman, who has recently been chosen from the very elite of the chivalry of South Carolina to represent his State in the most august and dignified body in the land—I refer to Governor HAMMOND. Here is his testimony as to their condition, in an address before the South Carolina Institute, in 1850:

"They obtain a precarious subsistence by occasional jobs, by hunting, by fishing, by plundering fields or folds, and too often by what is in its effects far worse—trading with slaves, and seducing them to plunder for their benefit."

I do not know whether this picture is an accurate one or not. It is not true when applied to the slave States in which I have resided. It is not true, where slavery obtains nominally, or where the slaves are few; and especially it is not

true of the city and county which I represent upon this floor. The working men and mechanics of St. Louis have too just a sense of the dignity of their own employments to permit themselves to be degraded by the competition of negro slaves. A man might as well attempt to educate his negro for the legal profession as to attempt to put him at a mechanical trade in competition with the mechanics of my district. But, sir, if it be true in regard to those remote southern States where the slaves fill every industrial avocation and employment, why did the Carolinian stop short in his heart-rending description? Why did he not exclaim with the Roman tribune, "shall we prefer our slaves to the citizens of the Republic; men incapable of bearing arms to soldiers?" Unless some voice shall speak that language in tones that will be heard by the people, the history of this country will be written in a sentence, similar to that I have read from Sallust. If by gradual usurpation the people are thrust out of their lands by this dominating oligarchy, they will, as they did in Rome, "put their own liberty and the Commonwealth to sale."

It is very clear that the Senator from South Carolina does not prefer the citizens of the Republic to his slaves. He has, in his recent speech, shown that he was the mouthpiece of the privileged classes—the Cicero of this new oligarchy, and not a tribune of the people. In that speech he says:

"The Senator from New York said yesterday that the whole world had abolished slavery. Ay, the name, but not the thing; and all the powers of the earth cannot abolish it. God only can do it when He repeals the fiat, 'the poor ye always have with you;' for the man who lives by daily labor, and scarcely lives at that, and who has to put out his labor in the market and take the best he can get for it; in short, your whole class of manual laborers and operatives, as you call them, are slaves. The difference between us is, that our slaves are hired for life and well compensated; there is no starvation, no begging, no want of employment among our people, and not too much employment either. Yours are hired by the day, not cared for, and scantily compensated, which may be proved in the most deplorable manner, at any hour, in any street in any of your large towns."

"Your slaves are white, of your own race; you are brothers of one blood. They are your equals in natural endowment of intellect, and they feel galled by their degradation. Our slaves do not vote. We give them no political power. Yours do vote, and being the majority, they are the depositaries of all your political power. If they knew the tremendous secret, that the ballot-box is stronger than an army with bayonets, and could combine, where would you be? Your society would be reconstructed, your government reconstructed, your property divided, not as they have mistakenly attempted to initiate such proceedings by meeting in parks, with arms in their hands, but by the quiet process of the ballot-box. You have been making war upon us to our very hearth-stones. How would you like for us to send lecturers or agitators North; to reach these people this, to aid and assist in combining, and to lead them!"

"Mr. WILSON and others. Send them along."

"Mr. HAMMOND. You say, send them North. There is no need of that. They are coming here. They are thundering at our doors for homesteads of one hundred and sixty acres of land for nothing, and southern Senators are supporting it." * * * "Transient and temporary causes have thus far been your preservation. The great West has been open to your surplus population, and your hordes of semi-barbarian emigrants, who are crowding in year by year. They make a great movement, and you call it progress."

Sir, he prefers his slaves to the citizens of the Republic, and would have the latter deprived of the right of elective franchise, as his negro slaves are. He denounces the man who lives by daily labor, and the whole class of manual laborers and operatives, as slaves. He characterizes our foreign population as a horde of semi-barbarous emigrants, and he would deny them a share of the public lands upon which to build their homes, and educate their children. How would this gentleman have appeared leading the Democratic column in the days of General Jackson's administration? Why, sir, there would have been somebody else read out of that party—rather different persons from those who are now being read out. If this is Democratic doctrine, it is a novel doctrine to me, though I have been reared a Democrat. I make no complaint, however, of having been read out of the party. I should as soon think of complaining of being read out of a chain-gang. [Laughter.] It is not a Democracy which I should wish to sustain, by any means. I have always understood that Democracy concerns itself more about personal rights than about rights of property—the rights of individuals rather than those of monopolizing institutions. In this I may be mistaken, and certainly I am mistaken, if the revelations under this new dispensation are to be received.

Suppose this doctrine had obtained at the time California was acquired. When we acquired California, and the gold discoveries were made there, it is very well known that a workingman could earn in California \$1,000 a year by his labor. That was then the value of an able-bodied slave in the old slave States. Do you not suppose that a great many of them would have been carried to California under such a stimulus as that? A distinguished politician of Virginia, in a letter which he addressed to the public press, or to some individual, pending the last presidential election, in speaking of this subject, calculated that Virginia had lost several hundred million dollars by not being permitted to carry her slaves to California; "because," he said, "if a slave could have been taken to California, where he could earn \$1,000 a year, instead of being worth \$1,000, he would have been worth \$5,000. Why, sir, the profit of the business of carrying slaves to California would have been greater than the profits of the African slave trade, without its perils. If the decision of 1857 had been made in 1847, so that slaves could have been removed to California, the whole demand for labor in that land of gold would have been supplied by slaves, and the busy marts of trade, and the gold mines of that country, would have been blackened with slaves, and not a foot of land in the whole State would have been left for the white man to stand upon, and in that way the free white men of this country would have been excluded from their own inheritance—the land they won by their own strong arms.

That is what these gentlemen call Democracy. They are willing to see the free white men of the country excluded from every Territory, and especially from those where the reward of labor is great; and they claim that it is their constitutional right that it shall be done; and they call it Democracy. Why, sir, I want to know whether the white man has not the same right of property in his own labor as the slaveholder has in the labor of his slave? If you exclude the free white man from the Territories, do not you diminish the value of his labor just as you diminish the value of the slave to the owner by excluding them? Which are we to choose between, the millions and millions of free white men in this country, or the few thousand slaveholders? Was the Government founded to protect rights of property in slave labor, and not to protect the rights of freemen to their own labor? This Democracy is very tender of the property of the slaveholder, and is utterly regardless of the rights of property of any other class of people in the Territories.

Now, I apply another test. The oligarchy say that they have the right to take their slaves into the Territories of the Union, and employ them as they see fit, under the Constitution of the United States, and nobody can take that right from them. They can take them into the Territories and make them mechanics, and work them in the mines, in the factories, or in any other way; and if white men don't like that sort of competition the Democracy will tell them to go somewhere else. In Russia, a man can educate his serf or slave, and they frequently do, and make lawyers, doctors, and merchants of them. Now, suppose these southern gentlemen should exercise their constitutional right of educating their slaves, and put them into the learned professions; do you suppose the people of this country would submit, for one instant, to this Russian innovation? Would there not be a cry raised from one end of this land to the other; and why? Have they not the same constitutional right to make lawyers, doctors, and merchants, of their slaves as they have to make them mechanics? Precisely the same. There is no difference whatever. But the Russian nobles never engage in those avocations themselves, and therefore they do not feel the degradation of putting their serfs into the professions. But with us that would be trenching upon the occupation of the slaveholders themselves—the oligarchs—and here the shoe pinches. They demand that they shall be allowed to put their slaves to work side by side with mechanics and laborers; and, in the same breath, they claim that no slave shall be allowed to degrade the employments in which they condescend to engage. I contend that they have no more right to inflict this degradation on mechanics, by placing slave labor in competition with their free labor. Not a whit more; and, as they exercise the right of excluding slaves

from the professions in which they are themselves engaged, (as they do by inhibiting their education,) I say they admit the right of others to exclude them from the mechanical trades, and from competition with every freeman who follows an honest calling.

There was a time when this Democratic party was not Democratic in name alone. There was a time when this party took ground against privileged classes, and against every attempt on the part of capitalists to usurp the power of this Government, and pervert it to their own purposes. I instance the case of the United States Bank, where the stockholders undertook to force this Government to allow them to bank on the national revenue. The Democratic party took issue with them, and put them down. Since that time we have had the tariff discussion, where the manufacturing interests of the country—a vast aggregation of wealth—undertook to influence legislation, and effect the passage of laws for their especial benefit, in derogation of the rights and interests of the working classes of the country. The Democratic party took ground against the high protective tariff, and defeated it.

And now here is another question in which this struggle between capital and labor is presented in its most odious and revolting form. Here is a colossal aggregation of wealth invested in negroes, which undertakes to seize this Government to pervert it to its own purpose, and to prevent the freemen of the country from entering the Territories except in competition with slave labor; and the Democratic party, instead of standing where it used to stand, in opposition to these anti-Democratic measures, is as servile a tool of the oligarchy as are the negro slaves themselves.

This is no question of North and South. It is a question between those who contend for caste and privilege, and those who neither have nor desire to have privileges beyond their fellows. It is the old question that has always, in all free countries, subsisted—the question of the wealthy and crafty few endeavoring to steal from the masses of the people all the political power of the Government. Those gentlemen are wrong who say that it is a question of North and South. If there is one class of people on this continent more interested than another in putting a stop to the extension of slavery into the Territories, it is the free white laborers of the South. They have infinitely more interest in the matter than any other class of the people, because they have felt the pressure of the institution. They have been shut out from all ownership in the soil, and driven out of all employment in the States where slavery now exists; and should we allow the territories of the Government to be closed against them, they will have no escape from the oppression which has ground them to the dust. No, sir, it is not a question between the North and South. It is a question which commends itself especially to the non-slaveholding and laboring white men of the South.

Now, sir, this controversy will, in my opinion, end in great good. In the struggle which terminated the American Revolution, the principles of liberty were so deeply instilled in the heart of the people, that when that struggle ended, the slaves were emancipated in a large number of the States, from the impulse which the love of liberty received in that contest. This struggle, which is on the same principle, will terminate in the same way. I know that there are as good men in the South now as there were in the days of the Revolution. There are men—slaveholders—now there who burn to emulate the noble examples of the illustrious men of the Revolution; and the noble State which I have the honor, in part, to represent on this floor, will, in my opinion, have the glory of leading the way in this magnanimous career. Her honor and interest alike beckon her, and that she will not be insensible to these high motives nor regardless of the glorious destiny which awaits her, the legend which she bears upon her shield, "*salus populi suprema lex esto*," sufficiently attests.

Mr. WORTENDYKE. Mr. Chairman, after the elaborate discussion already had in both wings of the Capitol upon the pending Kansas question, it is not to be expected that much can be wanting to complete the argument on that subject. Therefore, there can be no doubt that this House will now best advance the interests of those whose affairs are in our hands, and also sustain its own

credit before the country, by bringing this matter to a speedy determination, and directing its attention somewhat to other matters. Whatever differences of opinion may exist as to the correctness or incorrectness of the proposed measure, all must be aware that there are numerous other important measures remaining for our consideration at the present session, involving serious interests of the whole people, which we, as faithful servants, dare not neglect. I, therefore, believing as I do, that this particular subject has already engrossed more of our time than it is in justice entitled to, would be prepared, and would feel it to be my duty, to bring on the final vote upon this Kansas bill, at this very hour, had I the power so to do, and to forego the privilege, which my right to the floor now entitles me, to make known my own position and views in this matter.

Sir, for nearly four months has the debate upon this question been, at intervals, going on here; and I may say that, as to most of the material principles involved, they have been themes of almost continuous debate and declamation, both in and out of Congress, for the past four years. I am sure, therefore, that, with the intense consideration that has been exhibited on every side for so long a time, we must all be prepared at this moment to meet the issue presented, or as well prepared as we shall ever be.

Depend upon it, sir, there is no part of the annual message of the President of the United States better founded upon fact, and that more readily finds its verification in our own consciousness, than that portion which declares that Kansas has for years occupied too much of public attention, and that it is high time this attention should be directed to far more important objects. It is indeed true, sir, that the country is sick unto loathing of the slavery agitation in Congress. When I speak here of the country, I mean all those who love the general interests, the peace and prosperity of the country, better than the particular interests and selfish aims and intrigues of brawling politicians and howling demagogues, through whose instrumentality this matter has been complicated and prolonged. No matter what may be the differing opinions among the upright, honest, and patriotic masses of our citizens, or what their settled principles in reference to the constitutional rights involved on one side or the other, in the institution of negro slavery in State or Territory, they are heartily disgusted with the ceaseless agitation of this subject, from year to year, for a long series of years in succession, to the prejudice of other more urgent and important interests.

Commercially, socially, and politically, our constituents have been, and are still continuing to be, damaged by the baneful effects of such agitation. From every quarter, and through all the avenues of communication, are coming up to this Capitol the stern injunctions of the people that this unwise lingering in acrimonious denunciation over the Kansas question and the slave question shall be stopped. With the spirit of these injunctions I deeply sympathize, and I deem them well timed and well applied. As a mere politician, in quest of office and notoriety, it might be policy to keep, if I could, the public mind in a violent and bitter commotion; for I would expect, in that character, at least, to have heartlessness enough to gloat upon even the fragments of the wreck and ruin that might succeed such civil commotion. But as a man of true sagacity, I could not even place corrupt hopes upon such a basis; for the people are not fools, to be swayed to and fro to serve any man's will; nor are they disposed to immolate themselves and their interests on the shrine of any man's ambition. Therefore the policy that seems best befitting us, if we intend to meet the approval of the people, will be to take the warning in time which is significantly and patriotically given to us by the Chief Magistrate, and throw the negro question out of Congress in some way, and at the earliest possible moment.

The people of this country are not going to allow this Union to be rent in twain after the example set by a besotted fanaticism in respect to certain institutions in the land. And although great indulgence is allowed in discussion upon all subjects, yet when that discussion becomes a hobby with politicians, and is prostituted to the engendering of sectional strife and hatred between the States, the people will begin to inquire into the proprieties of time and place. You cannot

bring the people of this country to the point of letting the Union slide beneath their voluntary passiveness; and when you have succeeded in conjuring up apparent premonitions of such an event, your evil arts are exhausted, and then is the point at which you must stop, or yourselves and your laboratory of evil will be suddenly scattered to the four winds of heaven.

This negro question has now gone, in its effects upon the harmonious union of these States, so far as to boldly vaunt itself against the perpetuity of that harmony, and as far as, in my opinion, it will be allowed to go. Our people are not going to sacrifice all that they value on earth by taunting and defying their own political union, nor by allowing us, their agents, to cut asunder, for our own amusement or interest, the cords that have bound up their interests and their happiness so long and so securely. Sir, negro slavery in the States belongs to the States in all its peculiarities and responsibilities, and not to the Congress of the United States. It has no business here. It was never intended that it should come here. But having come, and remained here for thirty years or more, until its hideous contentions dared to issue great swelling words of vanity against the Union, it must now be dismissed from these Halls as speedily as we are able to give it that dismissal; or the people, now impatient and refusing further endurance, will speedily dismiss us who play with it as with a harmless toy, and loiter away our time in the seeming amusement.

Late events have concentrated all the force of the slavery agitation in that unfortunate Territory, Kansas. There has its foul work been going on for more than three years. We, like the barbarous witnesses of the gladiatorial fight in the Roman amphitheater, have been boisterous in our loud huzzas as the deadly weapons of the combatants have tasted the heart's blood of the victims of our sport. It is shocking to the moral sense of the Christian world that such dire outrage and murderous bestiality should receive its aliment and countenance from the guardians of the national honor. And never will these things cease to pollute our borders until this agitation is stopped here, the fountain from whence they took their rise; and therefore no clamor or denunciation, no vile epithets or base traduction of your patriot President, can subdue the thunder tones of the people who spoke to us through him, their trusted and honored Chief Magistrate, whose patriotism and statesmanship a long life of devoted service has demonstrated to his countrymen.

It is not my purpose to enter into a controversy at this time with those who openly assert their objection to this bill, because this constitution recognizes in form a certain domestic institution. With all such, my argument has been closed long ago in the presence of the people of my district. I then contended for the constitutional right of the people to adopt or prohibit this institution as they should deem fit, the same privilege which my own State has had, and still has, of regulating her own domestic institutions in her own way, subject only to the Constitution of the United States. I have, therefore, not a word to say now, and in this place, upon this exhausted and rejected issue that was raised for me in another place by the myrmidons of Abolitionism. I have not the patience to countenance its hideous offensiveness in this forum.

Sir, I expect to vote for the admission of Kansas into the Union as a sovereign State, because I believe by doing so I shall contribute to the result, so much to be desired, of banishing forever sectional controversy about slavery from the Halls of Congress. I shall vote for this measure because I believe that her constitution is undeniably republican in its form. I shall vote for it because it comes before us invested with all the sanctions that law and lawful authority can invest it with. I shall vote for it because I can find no reasons to sustain myself, as a legislator and judicial officer, sworn to try this case upon its merits, before the country and my constituents for withholding that vote. I shall vote for it because, if tumult and faction and sectionalism are still to continue on this subject of slavery, I want to leave no record to which an afflicted and distracted country may hereafter point with burning, withering indignation, thereby convicting myself of opening still wider the floodgates of ruin against her peace and prosperity; and I shall vote for it because I

wish to abide by the line of safe precedents which our legislative history affords on this subject, and because, at this critical juncture, I fear untried and uncertain and unwarranted innovations. The doctrines and uniform practices of the fathers of the Republic, who stood here long ago, are on my side; and I feel not the less assurance of my safe position on that account.

I am also prepared to vote for the admission of Minnesota and of Oregon, by the right of the same precedents and constitutional rules. I have satisfied myself that their constitutions, too, are undeniably republican in form, and come authenticated and sanctioned by the sovereignty of the respective communities from which they proceed. Indeed, so plain and well-established are the forms and modes of constitution making in this country, that it would indeed be a strange occurrence if any should come before us at this late day in an inadmissible shape; and I am prepared to receive and accept them all, by the same rules and tests of recognition, with hearty congratulations, into the great sisterhood of States. And I would, with pride and exultation, see them rise simultaneously to the glorious constellation that shines out in sparkling beauty over an admiring world; or I would join the escort that would lead each in succession towards that bright galaxy.

It is a remarkable fact, that while it has been long known that Oregon and Minnesota, as well as Kansas, are at our doors, yet hardly a syllable, either of welcome or recognition, has been heard among us with respect to the two former. Have you nothing to consider in respect to these, but let them in without an examination of their credentials? while, by putting unfortunate Kansas upon the rack, and inflicting the tortures of the inquisition, you would soon drive her from your doors in dismay, weak and bleeding, to merciless rancor and unpitied abuse of lawlessness and fanaticism. For remember you now have the power to make her safe and prosperous and comfortable; but you have not the power to bring her back to your doors, a suppliant, as she now is; and if you now repel her with the rude hand which you are raising against her, without good and sufficient, legal and just cause, I fear you will never see her again in the habiliments of humility and peace and friendship. You should not dare to make the rash, unparalleled experiment, especially under the present conflagration of sectional excitement and burning jealousies among the States.

What is your duty in respect to all three of these inchoate States—Kansas, Minnesota, and Oregon—and your whole duty, under the present laws and Constitution of the United States? Is it to inquire whether the constitution which has been presented for your examination and approval, recognizes or denies the right to build canals, or railroads, or balloons? Is it to ascertain and criticize the precise limits or extent of authority that may be exercised under it, through law, by parent over child, guardian over ward, master over apprentice? Is it to sit as censor over these things, or any other local, domestic affair left by the Constitution of the United States to the free will and good pleasure of each State for and by itself? Is it our business to issue the mandate that negro slavery shall in all cases be interdicted, notwithstanding the fact that the Federal Constitution recognized and protected it in any and all of the original States, and in all of which it has existed, with a single exception, under the sanction and guarantees of that Federal Constitution? If this inquisitorial power and right of interference exists now, then it has always existed, and will apply to the old as well as the new States; and would in former times have applied to New Jersey, as it now would to Georgia or Alabama; and abolitionism has gained the day.

If it never existed in regard to my State, I, in the name of some of the people of that State, by authority of the Federal Constitution, to which she is proud to be a faithful party, say to you, you shall not assume that right now in respect to Kansas, or Oregon, or Minnesota; for if you are permitted now so to interfere and usurp in reference to any of these, you will soon seek the power to effect similar usurpations against my State and other States, in some of their domestic regulations. It will not be long before you will issue your mandate to New Jersey to strike from her statute-book that law of hers by which she has provided

for the execution of her obligations under the Federal Constitution, "to deliver up, by her own officers and courts, persons coming within her borders owing service or labor in another State, to the party to whom such service or labor may be due." I have no doubt but this statute of my State is as odious to certain persons in other States, as is this slave feature in the constitution of Kansas, or in North Carolina, or Louisiana; and you have about as much right to interfere with it as you have with the other. I see no difference; there is no difference; and you had better not insist any longer upon your efforts in this behalf. It is sheer impudence and unlawful assumption and usurpation upon States-rights, and the people of my State will have no share nor part in its infamous officiousness.

We hold you to the law and the covenants. Your duty is fixed and defined; your limits of jurisdiction are clear and unmistakable, and the first step beyond this is a violation of pledges of faith.

Your power, in its precise and most comprehensive terms, is contained in article four, section three, of the Federal Constitution, in these words: "New States may be admitted by Congress into this Union." And section four, of the same article, requires "the United States to guaranty to every State in this Union a republican form of government," and to "protect each of them against invasion."

Now the form of government of a new State, as well as of an old State, is generally understood to be embodied and defined in its written constitution or organic law. Now what is the test by which it is to be tried as to its qualification? What particular form shall be denominated republican, in the sense of the Federal compact, or what anti-republican? I suppose this can best be answered by the general features of the several State governments existing at the time of the adoption of the Federal Constitution. Take any one of the States now in existence for your example, if you please, and compare with it this constitution of Kansas, in its form of government proposed, and point out to me, if you can, one particular wherein it is not strictly republican in form. It does not, it seems to me, admit of a question.

Well, then, if no objection can be raised on this point, what else is material to be known before a verdict ought to be rendered by the House of Representatives? Is it to ascertain the genuineness and authenticity of this instrument, purporting to come from the hands of the convention? I have heard of no question or dispute on this point. Is it to find out whether Kansas has expressed, in a legal and orderly way, her desire to change her territorial condition for that of a State, on an equal footing with the other States? We have before us, the acts of the Territorial Legislature, which unquestionably presuppose such willingness and desire on their part; for they prescribe the mode, time, and place in which a convention, for the purpose of forming a constitution for that very purpose, shall be elected and assembled. But even if this convention had been elected and assembled by the mandate of the sovereignty which is higher than the Legislature, and without their agency—as was claimed for the Topeka constitution—those who favored that Topeka constitution here would have been fully and effectually estopped; much more should they be estopped, and hold their peace, when all the legislative authority that was ever recognized by the country and by Congress has, in a regular and formal manner, been the willing instrument of effecting the proposed transition from a territorial pupillage to a State sovereignty. This Congress is not dealing with a State Legislature in this matter, and is not expected or required so to do in the process of admission of a new State, except in the single case provided for in section three of article four; and that is the case where a new State is to be formed by the junction of two or more States or parts of States. Then, and then only, does the Federal Constitution require that the consent of the Legislatures, *eo nomine*, of States concerned, shall be first had and obtained, before the act of admission can pass. The consent of the Territorial Legislature is in no other case required or expected.

Therefore, the argument that the expression of the present or any other Legislature in Kansas must be consulted, and be our guide in determin-

ing this subject, would be as palpably unconstitutional as it might be deceptive and subversive of the supreme sovereignty of any people. The Legislature is not invested with power to make or change constitutions, but to legislate subordinately to organic laws. The power to make constitutions is residuary in the people, and is vested in them to be exercised by them *en masse*, or by their agents specially commissioned for that purpose, with limited or unrestricted power, as they, the people, may choose when appointing. And this is the only thing that such convention can do—to follow out the articles of instruction, and no more. And it is with them, and them alone, that we have to deal, speaking to us directly and authoritatively in this case, and not with a Legislature not authorized to decide, and therefore, as to us, wholly irresponsible in the ultimate decision of the question, what shall be the people's constitution? A constitution, in the American sense of the term, is the superior of the State Legislature. It is a law unto the State Legislature. It emanates from a power higher than the Legislature—namely, the sovereignty of the people. The Legislature is an agent and representative of sovereignty, it is true; but for a specific purpose only—namely, to legislate under organic law; not to make or change organic law. A people having all power can constitute a representative agent, or agents, with higher powers than those of the Legislature. A convention to make or alter a constitution is such agent, invested with power higher than that of a Legislature. It makes laws that bind and govern a Legislature. And its mandates are higher and more authoritative in that work, and are conclusive against the Legislature. What nonsense, then, what utter inconsistency and arrogance is it, for the present or any other Legislature of Kansas to come into the Congress of the United States and proclaim itself the arbiter of its own superior—the constitutional convention; and to require us, contrary to the Federal Constitution, to treat with it and take its mandate against the formal decree of its master and superior—the sovereign people, speaking in their own chosen way!

But the Legislature of Kansas has, by the people's instructions, been made the agent of helping in the formation of the convention which made this constitution, and there its office in this work ended; for then its power of attorney, so to speak, ended. And for us to inquire further into the subsequent resolves and operations of this Legislature, or of any subsequent one, for the purpose of deciding upon the constitution framed by that convention, would be as absurd and unconstitutional, and abhorrent to American law and American practice, as to require the judge to consult the constable who summoned a jury, before the sentence of the law could be pronounced upon the finding of that jury. And yet, strange to say, there are men who stake their political reputation, it would appear, upon a persistence in such an absurdity. And no epithet is too foul for these gentlemen to utter against such as reject the absurd doctrine; no political or personal tie is too dear to be broken and spurned by them; and all the bitter rancor of malignity is let loose against the honest and unbiased expositors of law and right, if the train of thought and reasoning runs not upon their track, constructed by the Wilmot-proviso party.

But to be a little more specific as to the agency of the Legislature of Kansas in this work. I wish to inquire in what that agency consisted, and what were its limits? The Legislature existed by virtue of the organic territorial act, known as the Kansas-Nebraska act of 1854; and to it was delegated, unreservedly, by Congress, legislative power on all rightful subjects of legislation, subject to the Federal Constitution.

As early as July, 1855, so far had the desire of changing the territorial for a State government apparently taken hold of the public mind in Kansas, that the Territorial Legislature thought it incumbent upon them to ask instructions from the people themselves, to be expressed through the ballot-box, whether they desired a convention to be organized for that purpose. In October, 1856, the response was made through the ballot-box. This response was, that the people did authorize such a convention, to be called through the Legislature elected on the same day on which the response was made. Here, then, was a specific delegation of authority to the Legislature for a

given and extraordinary and carefully-limited purpose. That delegated power consisted in making for the sovereign people, and in their name, and by their authority, a system of rules and regulations to which they would conform in creating a convention to form a constitution. The Legislature was itself a convention for a specific part of this work of constitution making. Their act in this behalf, so far as they should conform to the authority vested in them by the people, was purely and clearly the act of the people. It was to be a conventional act, not strictly a legislative act in the ordinary technical sense. It was the act of sovereignty, not of mere subordinate legislation.

Well, in what way was this special power exercised? Did it overleap its design, and set to work to form a constitution *instanter*? Not at all, sir; but, in conformity to its limited and defined authority, it prepared a set of rules and regulations by which another convention should be created and limited in the further prosecution of the great end in view. These rules and regulations and definition of duties for the election and government of the subsequent convention are included in the proceeding commonly known as "the convention act," and is entitled "An act for taking the census, and the election of delegates to a convention," passed February 19, 1857.

It might, with as much propriety, be urged that this convention act was not *valid*, by our latter-day political philosophers, because it was not submitted afterwards to a vote of the people for ratification, as that the work of the subsequent convention was not *valid* and *conclusive* because not submitted to the people. This test of validity and authority, if it applies to the one case, must of necessity apply to the other. There is not a whit of difference between the two, in principle or in law. And yet I doubt whether you could find anybody bold enough to make this objection to the validity of the convention act; and therefore my surprise is the greater in seeing the dogged persistence, as a matter of *principle* and of *necessity*, in the other case. What a commentary upon our philosophical consistency! But more of this hereafter.

Well, what are the provisions of this convention act? Let us see. In the first place, that between the 1st of March and the 1st of April, 1857, all persons entitled to vote, being *free white male* inhabitants, citizens of the United States, over twenty-one years of age, and all other white persons actually residing within their respective counties, should be enrolled or registered. In the next place, that immediately after the 10th of April, 1857, a fair and legible list of such registered voters in the respective counties should be put up in three places in each election precinct, with a view to notice and correction, if errors or omissions should be discovered, and giving time for such corrections and omissions till the 1st of May following. It further provided that there should be sixty delegates distributed among the whole number of registered voters, as equally as it was within the power of man to make such distribution. It provides that on the third Monday in June an election of these sixty delegates should take place in due and prescribed form. It provides that the delegates thus elected should assemble in convention on the first Monday in September, and should proceed to form a "constitution and State government," which should be republican in form, for admission into the Union, on an equal footing "with the original States," in all respects whatever, by the name of the State of Kansas; and, lastly, it defines the nineteen election districts, comprising thirty-four counties, (if we name Pottawatomie, which belonged to Riley county.) So far as I am able to ascertain, these districts covered the entire Territory, so far as it was known to be inhabited, and more than probably was inhabited; and it includes six or seven counties, from which, it is shown by copies of the official returns of the famous election of the 4th January last, not a solitary vote was returned. I shall have occasion to refer to this again before I close.

Thus far, I think, not a reasonable and fair man can fail to acknowledge that in form, as well as in substance, the most scrupulous care and regularity are manifested in the preparatory arrangements for the formation of the constitutional convention, provided that it be conceded that the people of that Territory had a right to form such a convention at all, in any other way than by mass

meeting. The Legislature, in the first place, in view of the manifest disasters that were oppressing the people in their territorial condition, submitted the question to the people in a definite form, whether a convention should be called, by the act to which I have referred before, and which is entitled "An act to provide for the call of a convention to form a State constitution." The sixth section of that act provides that "if a majority of persons shall vote in favor of 'convention,'" at said election held therefor, "then it shall be the duty of the Legislature, held next after the said election, to provide for and make all necessary provisions for an election of members to said convention, defining their duties," &c. At the October election of 1856, the same which elected the members of the next Legislature, an almost unanimous response was given for "convention," and from that moment it became the duty of the Legislature to proceed according to the section just quoted; for that was the special instruction conveyed by the responding vote for "convention," thus constituting the assembled Legislature a special convention for a specific purpose. They were to make "all necessary provisions for an election of members to another convention, and defining their duties."

That Legislature did their work. At their session next after this vote in favor of a convention, they provided for and made such "provisions" as they deemed "necessary" for an election of members to said convention. Such provisions are embraced and contained in what is called the "convention act" before stated. Now, the passage of this convention act was as purely an act of sovereignty as the making of a constitution itself. In order to be of binding validity, it must emanate from, and be ratified by, as broad an exercise of the sovereign power as that which follows it, in the shape of a complete and ratified constitution. It was not the fruit of mere legislative discretion, that might be altered or amended by a subsequent Legislature in its ordinary capacity. It was irreversible, except by the same special authority as that which provided it. Yet I have heard nobody contend that this convention act should have been submitted to the ratification of the popular vote, before it should be valid and operative. I suppose it was not considered necessary to do so for the purpose of giving it the unction of sovereignty. There was nothing in the special instructions to the Legislature requiring such submission, and therefore, I suppose, they thought they had power to make final, as well as power to submit, that convention act for approval by separate vote. I do not think they did wrong in not submitting that convention act; nor would I have considered it wrong had they submitted it. The argument for its submission is just as strong as the argument for the submission of the constitution, in a legal point of view. Had I been in Kansas, I might have exercised my influence for both, perhaps, or for one or the other. I might have found reasons that would have made me very anxious about the submission of both, or of one or the other. But I would not have committed the absurdity of taking the position, had I been there, that one or the other or both of these important acts of sovereignty—the making of the convention act, and the making of the constitution by their respective conventions—could not be complete, without the further indulgence of my personal desire that they, or either of them, should have been confirmed by a separate vote.

But I hear no objections made that the convention act was not thus put to the popular vote after its enactment.

I have seen somewhere in the course of this controversy a suggestion that this convention act was not quite as perfect in its details as it might have been; but, strange to say, it was not made the pretext for demanding for it a popular ratification. The special advocates for popular sovereignty let it pass muster without popular ratification in their favorite style.

But I doubt whether any enactment for a similar occasion will be found more satisfactory as a whole, in fairness and equity.

Very good and evident reasons then had Governor Walker to impress upon the people in the Territory the importance of exercising the elective franchise, under the convention act, in the election of their delegates. He knew as well as we do that the act was final, and would conclude

all who stayed away from the polls and refused to vote under it, or had refused to be registered to that end. He knew full well that no remedy could be furnished by him, or by us, to such as would not conform to its requirements. And with unanswerable cogency does he conclude his appeal, in these words:

"The law has performed its entire appropriate functions when it extends to the people *the right of suffrage*, but cannot compel the performance of that duty."

And, sir, I doubt not that all law-abiding citizens of Kansas shared in the sentiments so fitly expressed, and congratulated themselves that, after all the tumult and disorder and threatened anarchy that had beset them from the beginning, they could at last rely upon a record unimpeached and unimpeachable. It now alone remained for them to settle through the ballot-box who should be their delegates to form the charter of their new State. Every hope was fixed upon that important proceeding. Every citizen of this whole Union, who loved her peace and interests, and the interests and peace of Kansas, waited with intense solicitude for the consummation of the convention act by the election of delegates. Every hope and purpose of rebellious and traitorous opposition to the free operation of law and order in the Territory expired with the successful consummation of the great work contemplated by that act. And under this apprehension on the part of the party of bad men who strove, as we are told by the then Governor himself, "to perpetuate and diffuse agitation throughout Kansas, and prevent a peaceful settlement of this question," the force of all their insurgent organization against the established authority of the Government was more than ever before exerted to defeat this particular measure. This fact is over and over again certified by the official dispatches from both Walker and Stanton, now on file in the Department of State, and copies of which are before the country. And on the other hand, all the protection that the General Government were authorized to extend for the secure and free operation of the settled law of the Territory was promptly extended. The documents also prove this fact. No dereliction on the part of the General Government at this important crisis would have been pardoned or tolerated by the country, and therefore the most scrupulous fidelity was exacted from the Federal authorities by the Governors of the Territory, and was exercised by the Executive, as the documents show. No dereliction on our part can be set up to vitiate proceedings under that convention act.

Let us look a little more into the execution of the provisions of that act. We are the constitutional judges, with our powers clearly defined in this case; and we must not be swayed by prejudices that might be tolerated outside of this tribunal. Prejudice, and personal or local feelings, must here give place to the inexorable stringency of law and established precedent. The material testimony we are bound to look for; and that must be conclusive.

What complaint, then, do we hear against the execution of the convention act? And upon what foundation is such complaint based? Was the registration of voters in March and April last not made?

The testimony is, that the registration was made of all voters whose registry was not prevented by the violence and threats of the parties now raising the objection of the non-registry of certain persons. The duties of the registering officers were performed faithfully, so far as we know, when they were not prevented by threats and violence and refusals. This is the record and the evidence. Now it is perfectly clear that the refusal of certain persons to be registered could not affect the rights nor privileges of those who were registered. Nearly a month was assigned for the correction and completion of registers by inserting persons not included, or striking off such as should be found erroneously inserted. Have we evidence that these defects or omissions were not attended to according to law where the officers appointed for that purpose were not forced away by those who now complain? None whatever.

But, say the caveaters, of the thirty-seven counties in Kansas, sixteen were utterly disfranchised, by reason of non-registry—sixteen out of thirty-seven. Well, what do they expect us to conclude from this objection? It is a startling statement, sir, and well deserving the notice of the country.

What do they expect the country to conclude from this statement, sir? These objectors well know what the country ought to conclude from such a statement, if true, and made as it is without further remark or comment. It would be this: that by willful and corrupt design, nearly one half of the population had been disfranchised by the deliberate omission on the part of the territorial officers. This is the desired conclusion, sir; and yet, if this conclusion were stated as the objection, it would at once be branded as an unblushing falsehood. Our friends ought to know, if they do not know, that they have no right to promulgate such an impression among the people of this country. I frankly say to my friends here, that were I sitting at my home, enjoying, as I love to do, the quietness and cheerful responsibilities of private life, and hear from this Capitol the oft-repeated declaration made by my political and personal friends, to whom I trusted my interests and the honor of my country; should I hear, then and there, as I hear now, the unqualified declaration that the President of the United States, or anybody else, by fraud, by perfidy, by swindling, by base truckling to the slave power, and such like indelicate means, had disfranchised sixteen out of thirty-seven counties of any State, I confess I should have felt bound to conclude that they who made the charge were at least actuated by high motives of truth and honor in exposing the damning deed.

The conclusion of this their bold argument calls upon me to denounce the President and the Democratic party of my choice, and to join hands and hearts with the political enemies of both, for the purpose of exposing such a foul outrage as the announcement implies. But what would be my mortification and shame to discover that the conclusion was a false one—utterly false; and what, suppose you, would be my detestation of the instruments who caused my deception?

Now let us see. Sixteen out of thirty-seven counties disfranchised by non-registry, is the charge. Out of every thirty-seven, sixteen repelled. Look at it, sir: to the testimony and the truth. How is it found to be? Is this charge that James Buchanan, the President of the United States, turns out, after all, to be a knave and a swindler, as the Black Republican party insist he is, and as some people used to think Andrew Jackson was? And must he be called so by his own political friends, as Andrew Jackson was by some of his political friends? And must those denouncing friends join the camp of the Philistines, as did some of Andrew Jackson's friends in his day? How is it? What is the record and the proof? Here it is.

In three of these sixteen counties so sadly disfranchised, there is not known to be a solitary voter at this hour. These are the counties of Washington, Clay, and Dickinson, lying far back in the uninhabited regions of western Kansas. Not a solitary vote came from there on the 4th of January election, which is so highly regarded by our quondam friends—not a solitary vote.

The same, so far as we know, was true on the 1st of April, 1857, with seven others of the unfortunate sixteen—Weller, Wise, Butler, Wilson, Godfrey, Greenwood, and Hunter. Not a solitary vote came from all these counties in the famous election of January 4, 1858; and certainly we could not have expected any a year ago. This disposes of ten of the sad unfortunates, whose mournful fate is so piously charged against James Buchanan and the Democratic party. As to four others of the disfranchised ones—Franklin, Breckinridge, Coffey, and Anderson—the record is, that the officers appointed for registering votes there were prevented from doing so by the rebellious ruffians who followed the behests of Lane and his associates, by violence, and threats of death and assassination, and driven from the execution of their duties. These are now complaining to us of their own wrong; complaining of a non-registration which they themselves forcibly prohibited. They thus willfully disqualified themselves in advance, with deliberate purposes of resistance to the last to the operation of the convention act in those counties. Upon their heads be the consequences of such acts of unmitigated barbarity and lawlessness; not upon the President of the United States and the Democratic party, who hold to laws which they thus attempted to trample under foot, and seek for confederates in audacity in this House.

Happily, not all of us are yet willing to sanction the Jim Lane party and their proceedings.

In two others of the unfortunate sixteen—Woodson and Madison counties—less than one hundred votes were returned on the 4th of January last; and it has not yet been shown that there was a single voter in them on the 1st of April, 1857. If there was, the number must have been exceedingly small, or we should have heard more of it.

Now, by referring to the election returns of January 4th last, nearly a year after the registration, not over one thousand six hundred votes, good and bad, were returned from all these sixteen disfranchised counties taken together; while the registration of the remaining twenty-one counties had nine thousand two hundred and fifty-one legal voters. That is the official return of the registration.

I make no further comment. This is the argument of disfranchisement upon which so much stress has been laid; and it bears its own refutation upon its face. This is the argument, sir; which, although stating the fact that in a number of counties no vote was had, yet conceals the reason, and thereby deliberately and willfully leaves a false impression upon the minds of thousands of readers who look to them for reliable information and data of reasoning—conceals and covers up the fact that ten out of the sixteen had not a solitary voter as late as the 4th of January last, and exist only upon the map in the uninhabited wilds of that frontier Territory; the remaining six showing, on that late day, only a vote of sixteen hundred or so, all told, and which it cannot but be presumed was far smaller in April, 1856; and that, such as it was, forcibly and willfully prevented from registration by the very persons who now complain that they had not a vote.

Strange indeed, and ominous, does it sound to hear the professed friends of a Democratic Administration reach a conclusion by such an argument as this against that Administration, and coalesce with the very party whose venomous spite was exercised in bringing about the very self-disfranchisement they now charge upon us. I have not so understood Democratic consistency. I say nothing about motives. I have no right here to impugn them, and would not do so if I had. I deal with the case as it stands. But I say here that, come what may, no consideration of expediency nor policy can induce me to stultify myself, and those who sent me here, to make my public record out of such materials, and rest it upon such premises.

This was the condition of things—the registry of voters being thus made agreeably to law, so far as it could be done—when the warning voice of Governor Walker was raised to the people, in these words:

"Those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency; and the absentees are as much bound, under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election; otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain the only alternative."

The election of delegates took place in the month of June, as provided by law, and was conducted orderly and peaceably; nothing appears to the contrary. The result was duly certified and made a record, and is, I think, among the documents on our tables. The members elected were commissioned, and took their seats in convention at Le-compton, on the first Monday of September, 1857, pursuant to the sixteenth section of the convention act, to perform the work assigned them by that section, to wit:

"To form its constitution and State government, which shall be republican in form, for admission into the Union on an equal footing with the original States, in all respects whatever, by the name of the State of Kansas."

That constitution, which this convention was directed to form for admission into the Union, is now before us. It is republican in form. It is authentic. No difficulty is known to exist on this score. It comes to you for your verdict on the questions which the Constitution of the United States authorizes you to settle. Is it republican? Was it made by due authority and by a qualified power? And is its identity established? These are the questions, and the only questions we have to determine. And if a judgment is rendered in the affirmative on these three points, no legal bar exists to its admission.

But, says my colleague, we are not bound to admit, for the words are "may admit," not "shall admit." True. The words are "may admit," and the truth is, I have not the least doubt, that it allows him to say "no" in this case, here, provided he can expunge the faith of the Government towards the Territories organized under the Kansas-Nebraska act, and can also expunge the third article of the treaty with France of 1803, to both of which documents I respectfully refer my colleague for the fixing of his discretion. I trust I shall not hear him spurn the authority of the Kansas-Nebraska act, and the force of treaty stipulations, as I have heard certain politicians do.

But, say my opponents, the doctrine of popular sovereignty promulgated by the Kansas-Nebraska act has not been lived up to in this case. The constitution does not come to us ratified by the vote of the people at the ballot-box, after its adoption by the convention. Says my colleague, and others on that side, constitutions must be ratified by a vote of the people after they are made. Robert J. Walker philosophizes on this point most indivisibly and unintelligibly, and most egotistically and absurdly. But, gentlemen, did you think so a few months ago, when you tried a certain Topeka constitution? Did your political philosophy not come to your aid when you ignored this inexorable rule by striking it out of the document called the Toombs bill, a year or two ago?—a document, by the way, that we Democrats circulated by the million all over the land in the presidential campaign of 1856, and for the passage of which we applauded the Democratic Senate, including the distinguished Senator from Illinois, and denounced the Republican House of Representatives for refusing to pass it. Yet this bill made the action of a constitutional convention final, as we all know, without a submission of the instrument to the people. In fact, a provision was originally in the bill that the submission should be made to the people for ratification, but afterwards stricken out, and passed by the vote of the Democratic side of the Senate. So far from issue being taken by the Democracy of my State against the Toombs bill on account of this provision, I do not remember of ever hearing a single Democrat make it a matter of essential objection, until within a few days previous to the meeting of this Congress, when the peculiar creed of Mr. Walker became all at once the only true faith with certain parties.

Neither was this particular mode of ratification considered essential enough to be made a test in the earlier stages of this Republic, in addition to the tests indicated by the Federal Constitution. Since the present General Government went into operation, in 1789, to this day, eighteen new States have been admitted into the Union by Congress, namely, Maine, Vermont, Alabama, Florida, Mississippi, Tennessee, Louisiana, Arkansas, Kentucky, Missouri, Iowa, Wisconsin, Michigan, Illinois, Indiana, Ohio, Texas, and California. According to my information, eleven of these eighteen States presented constitutions completed and adopted by convention, and not submitted to the popular vote, and were admitted by Congress, being found republican in form. The others, seven in number, were adopted by the people through a popular vote, and presented to Congress for approval, and these were also admitted without any other test than that of republican form. This is my understanding, and I believe it to be correct. Therefore the precedents do not sustain this objection. Both ways are approved as equally consistent with the American ideas of sovereignty, and the people when left to adopt a constitution in their own way, have perfect liberty to use either way and meet the approval of Congress, if they conform to the constitutional model. And if it is guaranteed that the people of the Territories now have the right to form their institutions in their own way, certainly it would seem the grossest inconsistency, and dictatorial intervention now, in the face of past examples, to say to them that they should be held to the one way, and debarred from the other. Such a course would involve a gross deception. Congress never claimed the right of making the one way or the other way a general test, and never certainly exercised it; and, in my opinion, for Congress at this late day to make this test, would be a usurpation and an insult to popular sovereignty.

Under this same head of precedents for the delegation of sovereign power to make and ratify constitutions, I cite the case of the Federal Constitution itself. It was made by a convention, and its final ratification was by conventions in the States, elected for that purpose by the people, and did not go to the popular vote. Yet that sacred instrument purports to be, and I contend that it is, the solemn act of "the people of the United States." The sovereign power, through their chosen delegates spoke authoritatively and truly the words, "We, the people of the United States of America," &c., as you see in the preamble to the Federal Constitution. Governor Walker's indivisible, undelegated abstractions were not discovered in those days of sound sense and sound learning. I have not yet heard it openly stated that the Federal Constitution was not good for anything because it had not been voted upon at a general election or special election. But if this bill under this objection fails, I shall be prepared to hear the hoarse voice of denunciation against the Federal Constitution, because it had not been so submitted to the popular vote. But should that absurdity ever be heard by me in the future, I trust I shall not be so utterly transformed and metamorphosed by modern political philosophy, as to denounce a patriotic and Democratic President, and Democratic members of Congress and Democratic constituencies as swindlers, and corrupted by patronage, and slave-drivers, and other elegant and suggestive names, because they do not choose to shout for popular sovereignty, in my new sense of the term. On the contrary, I trust I would then, as I do now, contend that the old Constitution is in fact, and in all propriety, what it purports to be, the declaration of the act of "We, the people of the United States of America." And as each of the Old Thirteen started in solid column, under this motto of "We, the people," so each successive State that afterwards joined the gallant train, also, by its own voice, uttered in its own way, joined the universal chorus "We, the people."

Now, Kansas comes with her constitution, as Vermont and Illinois and Tennessee formerly came, through her convention, saying, "we, the people of Kansas, by our representatives in convention assembled," &c.; and straight is heard, "begone, thou graceless and unshapen wretch. Did not the Kansas-Nebraska act say that the people of Kansas should form their domestic institutions in their own way, and dost thou claim to say, in thy lying words, 'we the people of the Territory of Kansas?' The day of representation is past, and that of reform and repentance has come. Old fogy notions are exploded, and so you cannot be 'we the people.'" The great overgrown sinner, the State of New York, allows her Legislature and her grand inquests to say "we the people of the State of New York;" but it is all wrong since the promulgation of the Kansas-Nebraska bill, and she should repent in sackcloth and ashes, and truly and honestly henceforth submit her statutes and her indictments to the popular vote, on pain of being made an outcast from decent society, and a graceless vagabond and swindler, according to the latest commentators on the Kansas-Nebraska bill.

But a single fact more, incidental to this branch of the subject, and I dismiss it. It is this: heretofore, in almost all cases wherein constitutions have gone to the popular vote after the convention, it has been done in obedience to a previous legislative or previous conventional act requiring such submission. And I am told that there are only two cases on record in which the convention submitted their work to a popular vote without being expressly required so to do by some previous authority of the people or of Congress. I believe those cases are Florida and California. In all other cases where a popular ratification was had, it was done in obedience to some previous legislation outside of the convention.

Now, in the case of Kansas, it is well known that the Legislature that passed the convention act were required by the then Governor to review that act, by his vetoing it on the ground that it did not direct the convention to submit the constitution to a popular vote. That Legislature passed the act by a constitutional majority over the veto, and refused to instruct the convention. Therefore the convention was elected and met with full and free legal discretion, in this respect, to submit it or not

to submit it as they deemed best; with the same discretion that similar conventions in Illinois and Tennessee and other States that had met and acted. Governor Geary preferred, decidedly, that such submission should be made, and he used his best arguments, no doubt, to effect it; but he was overruled. Had I been there, I would have preferred that the submission of the constitution should be made *in extenso*, and I would have used my best efforts to effect it, as did Geary and Walker and Stanton. But I would have been obliged to submit to the majority there, as well as in Tennessee or Illinois where similar preferences were entertained by some people. This was my feeling and preference; but that preference has no right to affect my judgment, to be rendered as a member of Congress, upon the admission of the State. I hold, and I do most clearly understand, either mode valid and legal in the light both of the Federal Constitution and the organic act and territorial laws, although I have a preference for one mode over the other.

I have no doubt I have spoken as frequently before the people of New Jersey on Kansas and territorial matters, as I found them after the Kansas-Nebraska bill became a law, as any person in that State, especially during the exciting campaign of 1856, and before my election to this floor. And I further believe that my immediate constituents have as thoroughly examined into this territorial question as any constituency in this whole country. And I know that there is no misunderstanding between me and them on this question. My authority is their will and their understanding of this thing; and, happily, my own and only judgment is identical with my official and representative action here.

We thought we had some knowledge of the way in which constitutions have been formed in this country for admission into this Union. We thought that it was fair and consistent that Kansas should be allowed to frame her constitution with no other restraint than what was, or had been, imposed upon other States, either by Congress, or by intermeddling on the part of New Jersey, or New Jersey Congressmen. I proclaimed a hundred times the right conceded by the Democratic party, of freedom to Kansas to frame her institutions in her own way, and congratulated ourselves that the Wilmot proviso doctrine was dead and repudiated by the party.

But it never, in all that campaign, entered into my mind that by proclaiming this grand fundamental and essential idea of popular sovereignty, I was tying up the people of Kansas by my speeches by a restriction upon the exercise of that very sovereignty in their own chosen way, and was imposing upon them the necessity of adopting as their own way, what, in reality, might be found to be only my way and that of several other gentlemen in New Jersey—our way, which was ours in freedom, but might, if made a restriction upon the people of Kansas, be theirs only by duress. I knew perfectly well that both ways had been approved and practiced by the States; and, as everybody knows, we had enough on our hands to settle the principle of freedom of choice, and to defend the Territories from and against unconstitutional restrictions and interference by Congress, without entering into a controversy about the then admitted powers and privileges of an unrestricted and untrammelled people in their local adjustments of sovereign rights.

Indeed, as I intimated before, this question was not one of debate or controversy. We had the example of the Toombs bill on the part of the Democratic party, recognizing the validity and finality of the work of a constitutional convention, implying the expediency of vesting the sovereignty in a convention; and so thought the Territorial Legislature of 1857, in Kansas.

But, Mr. Chairman, I must necessarily bring my remarks to a somewhat abrupt conclusion. I have only to say that the constitutional convention in Kansas, most prudently and wisely, determined to submit to the test of a popular vote the question of slavery. The whole country, especially the majority of the States in the Union, had just passed through a most terrific political contest, in which this slavery question was the only vital element. The public mind in the North was yet intensely fixed upon the operation of the Kansas-Nebraska act, and upon the repeal of the Missouri restriction. A great and powerful po-

litical combination existed in the northern States, ready to renew the contest with unabated fierceness upon the first available pretext. The first practical result from the rejection of the Wilmot proviso was to be reached before the country, on the basis of free and unrestricted sovereignty, and therefore it was that everybody in the whole Union, who desired her peace and repose from this distracting subject, was anxious that, on this topic, there should be left no pretext for objection, whatever might be the result of the decision in Kansas. It was a subject in which alone and solely, as to Kansas, the country at large felt an interest, and a deep interest, though no right of control. I rejoice, therefore, that the convention did submit it to the people for their adjustment.

The result to me was unexpected, I confess. I expected the slave clause would be stricken out. But the vote is before me. It is legal, formal, and unimpeached, as to its majority. There is no dispute as to which way the majority of the conceded legal votes is. It was argued here, on the precedent of the New Jersey broad seal controversy, the other day, that we have a right to go behind the returns for the purpose of setting aside this vote. In that case there was a suppressed vote kept back by the returning officers, which, when produced, changed the result of the election. I say, now, in answer to that argument, bring forward, if you can, a suppressed vote in Kansas on the 21st of December last, sufficient to change the majority the other way, and I will yield at once, and I will not allow this constitution. But you do not pretend that there is any such suppressed vote. Nobody believes it; and there is not the slightest evidence or allegation that there is such a vote suppressed and kept back. And, therefore, there remains not a shadow of legal or reasonable doubt that the vote of the 21st of December must be conclusive.

But it is said by some members here, that they pledged themselves before their constituents that this whole constitution should be submitted to the popular vote. I would like to know where they got authority to make such pledges? I never had authority to make them, either by the law or the constitution, or the precedents in our legislative history. And I assure you I never could have been so unguarded as to make such pledges. I did contend that Kansas must decide for slavery or against slavery herself, and arrange her institutions in her own way. And I am sure I was just as well aware then, as I am now, what ways she might choose for herself, as other States had done. All that I protested against was, that New Jersey, New York, and all or any of the other States should undertake to determine those institutions for her, and illegally interfere in the matter. And when gentlemen say they cannot go back to their constituents who elected them without requiring a popular vote on this whole constitution, or that those constituents would find fault, I ask them once more to pause and see by what right either they or their constituents can enforce now, or at any time, a thing that no constitutional, legal, or customary injunction can be found for? I rejoice that the question about which any possible technical objection could be raised—I mean the slavery clause—was submitted to the people. This appeared to interest the nation. Slavery was made a bone of contention in the councils of the nation, and it was judicious and wise to submit that question to the people of Kansas on that account. I do not say that it was necessary. But if there was a necessity, as some contend, that the slavery question must be submitted, that necessity has been satisfied, and we do wrong to indulge any cavils on that score.

But, says my colleague, if a necessity existed for the submission of the slavery question to the popular vote, after the convention had arranged the constitution, the same necessity existed as to every other part. This by no means follows, as has been shown here over and over again. What is the wording of the clause of the Nebraska bill on this subject? and what is the subject-matter of that clause? It is this very subject of slavery. The clause is as follows:

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

This clause is alone apt and germane in the plan which holds in the Kansas-Nebraska bill, in the shape of a corollary—a necessary, unavoidable corollary, from the repeal of the Missouri restriction in the same act, and an enunciation or reiteration of the doctrines involved in the compromise measures of 1850. This is the legislative character and relation of the clause; and if so, applies to slavery alone in this place. The statement of the corollary would seem to be surplusage, because self-evident; and is by some considered to be surplusage. But, inasmuch as it was inserted in the bill, many others have contended that it imposed the necessity of a popular vote on the question of slavery, before it should be incorporated in the constitution; and it was to meet the views of these latter expositors that the convention in this case did submit this question to a popular vote, so that nobody should be left unsatisfied. And yet my colleague, the other day, undertook a tilt in logic with Mr. Buchanan, upon the views he had set forth in his messages on this subject, and fairly strove to drive the President into a logical inconsistency. In my opinion, the effort was unsuccessful, although the encounter was a laudable one. I like the self-reliance and bravery which it exhibited. Unfortunately, legislative contexts were in the way, and blocked the conclusion of my colleague.

One word more, and I will dismiss this whole case for the present. It is said that this constitution cannot be altered before 1864. I think differently. I have no space for argument on that point now. If it can be altered, as I believe it can be, it will be done in some legal way. If it cannot be done, as some say it cannot, I cannot help it. I did not make it; and am not responsible in this behalf. New Jersey once had a constitution which was upon its face declared to be "firm and inviolable." But it so happened that in 1844 a constitutional convention was called by the Legislature, and a new constitution made, under which we now live and have our being, all secure and safe, as we think. That constitution was submitted to the people, as the legislative act which called the convention required it to be done. It was ratified by a majority of all the votes cast, the whole of which votes, for and against it, being 23,870, all told; while at the presidential election, held the same year, 76,207 votes were cast. It was adopted by a small minority of voters in the State. So our constitution was changed notwithstanding its declared firmness and inviolability; and that by a minority of voters in the State. I suppose the same thing may be done elsewhere, although I do not mean to dictate that it shall be done elsewhere *volens volens*.

But certain gentlemen are very much stunned by a vote taken on the 4th of January last, wherein some ten thousand votes are said to be cast against this Lecompton constitution. Now, I have to say, in the first place, that it is not fair for us to take for granted as true the record made up by our political enemies, and repudiate the proven record of our side. But for the strength of argument, it is sometimes done. In the second place, that vote was without the authority of sovereignty, and could not set aside a completed, perfected constitution, made and ratified by that sovereignty, in convention and otherwise, as in the present instance. In the third place, the supposed or ascertained dissatisfaction of a majority of voters to-day, against a member of Congress, or governor, or constable, who was legally elected last year, does not invalidate his official acts, nor screen those who elected him from the responsibility of his acts. He, by constitutional and legal intentment, does their work notwithstanding. This is all I have to say in reply to the announcement of the vote of January 4, be it what it may in reference to this constitution.

And now I have said all that this opportunity allows me to say. I shall give my vote in this matter with confidence, and under a sincere conviction of the correctness of my position. So firm and so confident am I, that I am discharging my duty in this behalf, that no consideration can make me falter or hesitate. The consequences belong to the future. I trust they may be subservient to the interests, the peace, and stability of the whole country. If they are, I shall have my reward in the common enjoyments, of a once more fraternized people. If they are not, I shall still rejoice that I have had the opportunity, in this

place of responsibility, to make an honest effort to secure those blessings.

Mr. POTTER. Mr. Chairman, while the compromise measures of 1850 were under consideration in Congress, it was asserted that their enactment was necessary in order that this whole controversy upon the subject of slavery should end; that all discussion thereafter in these Halls should cease; and that this "vexed question" should be forever settled. At the convention of the Democratic party, assembled in Baltimore in 1852, it was resolved "that the Democratic party will resist all slavery agitation in or out of Congress." President Pierce, in his annual message in December, 1853, speaking of the slavery question, said:

"It is no part of my purpose to give prominence to any subject which may properly be regarded as set at rest by the deliberate judgment of the people. But while the present is bright with promise, and the future is full of demand and inducements for the exercise of active intelligence, the past can never be without useful lessons of admonition and instruction. If its dangers serve not as beacons, they will evidently fail to fulfill the objects of a wise design. When the grave shall have closed over all who are now endeavoring to meet the obligations of duty, the year 1850 will be recalled to as a period filled with anxious apprehension. A successful war had just terminated. Peace brought with it a vast augmentation of territory. Disturbing questions arose, bearing upon the domestic institutions of one portion of the Confederacy, and involving the constitutional rights of the States. But notwithstanding differences of opinion and sentiment which then existed in relation to details and specific provisions, the acquiescence of distinguished citizens, whose devotion to the Union can never be doubted, has given renewed vigor to our institutions, and restored a sense of repose and security to the public mind throughout the Confederacy. That this repose is to suffer no shock during my official term, if I have power to avert it, those who placed me here may be assured."

That portion of those who placed him there, who exercise a controlling influence in the affairs of this nation, and whose god is slavery, wished for no such assurance. They were fully aware that he possessed no power, of any kind, which they could not control; they knew "the present was as bright with promise as the future was full of demand." That future was very near; and when it came, they found, as in the past, that the northern supplies were equal to the southern demand. On the 4th of January following, a bill was reported to the Senate repealing that solemn compact which had been entered into in good faith, in 1820, between the North and the South, after a most exciting contest in relation to the admission of Missouri as a slave State; that slavery should forever be excluded from all the Territories of the United States north of 36° 30' north latitude. After thirty-four years of peaceful acquiescence in that agreement, during which the South had appropriated all the territory south of that line to slavery, and as soon as it became necessary to organize a government for a Territory north of that line, it was then, and not until then, coolly proposed to annul that agreement. On the 24th day of May, 1854, that compact, so solemnly entered into, was, in violation of all good faith, of all honor, and of all honesty, broken by the South—in violation, too, of all the pledges made by the Democratic party that they would resist the further agitation of slavery, either in or out of Congress. Where now was the "sense of repose and security" which had been restored "to the public mind"? Where the "repose" which was to "suffer no shock during my official term"? What had become of the "deliberate judgment of the people," which had "set at rest" the subject of slavery? It was utterly disregarded by southern masters as by northern serfs.

Sir, the despotism of the nineteenth century, American slavery, grants no repose to its victims, either white or black. Its cry is "give! give!" and it is never satisfied. While seemingly reposing, it is drawing its folds more closely around its victims, or strengthening itself for new conquests. It is well to remark, that while this proposition to abrogate the restriction upon the extension of slavery was pending in Congress, it met with no favor with the people of the non-slaveholding States, and was carried in opposition to their known will and in the face of their loud remonstrances. In its passage the principles of a representative government were ruthlessly violated, and the executive power of the nation, through the immense patronage it dispenses, was brought to bear upon the representatives of the people to induce them to act in opposition to the known will of their constituents. The same corrupting

power was also brought to bear upon the public press of the free States, which, with a unanimity never before witnessed, without regard to party affiliations, had united in echoing the voice of popular indignation at the bare attempt to commit this great wrong. The result affords cumulative evidence of the truth of that great fact which stands out so boldly upon the page of history, that the patronage of Government is not only corrupting in its influences, but, when wielded by a corrupt Executive, leads, through venal subserviency, to despotism. Notwithstanding this unanimity in opposition to the perpetration of this outrage, but a few months had elapsed when the humiliating spectacle was presented to the nation of a corrupted press bowing in lowly submission to the fresh requirements imposed upon it by its acquiescence in that act which it had before designated as a great and wicked wrong. Sir, it was a great and wicked wrong; and the subsequent acquiescence of a portion of those who opposed it in its inception cannot make it right. Besides its violation of good faith in throwing down that barrier which our fathers erected against the ingress of slavery north of the Missouri compromise line, you opened wide the door for those scenes of civil strife, violence, and crime, which have been witnessed, and which are the inevitable and legitimate result of the contact of two antagonistic forces which can never exist together peaceably upon the same soil, but which must, in the very nature of things, be ever arrayed in deadly hostility to each other.

Free labor and slave labor are natural enemies. The one is honorable and ennobling; the other dishonorable and degrading. Free, honest, intelligent labor expands and strengthens all the faculties of the mind; slave labor contracts, weakens, and finally destroys them; crushing out humanity, obliterating the image of God stamped upon every human soul, and transforming the man into a beast of burden. Through the operation of the inexorable laws which control cause and effect, the punishment of all crimes against humanity follows close upon their commission. Slavery degrades not the slave only, but all with whom it comes in contact. Jefferson, on page 39 of his *Notes on Virginia*, says:

"There must doubtless be an unhappy influence on the manners of our people, produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions; the most unremitting despotism on the one part, and degrading submission on the other. Our children see this, and learn to imitate it, for man is an imitative animal. This quality is the germ of all education in him. From his cradle to his grave, he is learning to do what he sees others do." * * * "The parent storms; the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives a loose rein to the worst of passions, and thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities. The man must be a prodigy who can retain his morals and manners unimpaired by such circumstances."

If, by any possibility, free and slave labor could be brought to work in harmony with each other, it would be impossible for the former, by any influence it could exert, to elevate or ennoble the latter; for, while it is in entire, complete subjection to the will of the master, it cannot rise above it, but must remain forever degraded; and the result would be the gradual demoralization of the free laborer, until he should reach the level of the slave. In opening Kansas to slavery you invited the contest between these two opposing elements, which has been carried on in that devoted Territory for the past three years; a contest in which has flowed the blood of American citizens in deadly conflict with one another, presenting to the world the astonishing spectacle of the Government of a free nation arrayed on the side of oppression, outrage, and crime, against its own people, whose only offense was an open, bold, and manly resistance to tyranny, and a struggle to defend those civil and political rights for which our fathers contended. Under the Kansas-Nebraska act you established a government for Kansas, which professed to leave the people of that Territory perfectly free to form their institutions in their own way. It was contended by many of those in the free States, who subsequently acquiesced in the passage of that act, that under it the people of the Territory, so soon as a territorial government should be organized, could decide for themselves the question of slavery. This was the northern construction, but denied by the South, they con-

tending that the people of the Territory could not prohibit slavery therein until such time as the number of its inhabitants should be sufficiently large to warrant them in framing a constitution, and in applying for admission into the Union. The convention of the Democratic party, for the nomination of a President, at Cincinnati, in 1856, again submitted to southern dictation, by virtually adopting this construction, although it was contended by many of that party, during the late presidential campaign, in the North, that they had done no such thing, and that the resolutions of the convention would bear no such construction.

But there is now no longer any doubt upon this point, since the majority of the Supreme Court of the United States, for the purpose, undoubtedly, of relieving that party of a portion of the odium of such a position, has announced outside of the record of the case before them, the infamous doctrine that the Federal Constitution, which our fathers framed, and from which the slightest recognition of slavery was excluded, because, as Mr. Madison said: "it was wrong to admit into it the idea that there can be property in man," carries slavery into the Territory. Mr. Buchanan also, in his last annual message, fully indorses this odious doctrine, which, if carried out, would establish slavery in every State over which the Constitution extends. It will not be forgotten that this declaration of principle by the Supreme Court, was not made until after the adoption of the same principle by the Cincinnati convention, and it can only be regarded as an endorsement of the position of a political party. With all the advantages thus awarded to the slavery propagandists, by the concessions of the Democratic party, they were still fearful of their inability to establish their darling institution on the soil of Kansas. They therefore resorted to brute force, the fundamental principle of all slavery for aid in accomplishing their diabolical design. At the first election held in that Territory under the new system of territorial "popular sovereignty," for a Delegate to Congress, on the 19th of November, 1854, organized parties of armed men from beyond the limits of the Territory, took possession of the polls, and of 2,871 votes cast, it was estimated by the investigating committee of Congress, that 1,729 were illegal. On the 30th March, 1855, in pursuance of an order from Governor Reeder, an election was held for a Territorial Legislature. Again the Territory was invaded by large bodies of armed men from Missouri, which took forcible possession of the polls and elected a Legislature. Out of 2,905 voters named on the census roll, but 831 were found on the poll-books of the election, and of 1,310 legal votes, 791 were given for the free-State candidates, while hundreds of free-State voters were either driven from the polls by violence, or were prevented, by intimidation, from voting, by these same armed bands of intruders, by whom were polled more than 4,000 illegal votes. But four days were allowed in which protests against these returns could be filed, and consequently but few were made.

In the six districts in which protests were made new elections were ordered; and at these elections the free-State candidates were elected in every district except Leavenworth, which was again carried by a mob from Missouri. The free-State members thus elected were refused their seats, which were given to those originally returned. The Legislature, thus constituted by an invading army, sought to perpetuate its usurped power by the election of its own tools to the various county offices. Among the infamous acts passed by this body of men was one making it felony, punishable with imprisonment from two to five years, to circulate anti-slavery publications, or to deny the right to hold slaves in the Territory; an act conferring the right to vote upon all persons who should pay a poll-tax of one dollar, whether residents or not; and also an act requiring all voters and officers to take an oath to support the fugitive slave law and the acts of the usurping Legislature. Against these proceedings the people of the Territory earnestly protested, through delegates assembled in convention; but they protested in vain. They appealed to the Federal Government; but that Government was already enlisted on the side of their oppressors. On the 1st of October, 1855, the third election was held, the Territory again invaded, and Whitfield returned elected Delegate by two thousand eight hundred votes.

As the free-State men were disfranchised by the imposition of a test oath, as a condition precedent to their right to vote, and because they could not, in the exercise of the elective franchise, under the tyrannical acts of the usurping Legislature, obtain otherwise a full and free expression of the popular will; and because, under the organic act, they believed the people were to be left free to establish and regulate their own institutions in their own way, an election was held on the 9th of October, in pursuance of a resolution adopted by a convention of the people, held on the 5th day of September previous, for the election of a Delegate to Congress, and also for delegates to a convention to frame a constitution. At that election, twenty-four hundred votes were polled, and they were the votes of actual, *bona fide* residents of the Territory. The people's convention for the formation of a constitution met on the 23d day of October, and framed a constitution which prohibited slavery, and which was submitted to a vote of the people at an election held on the 15th of December. At that election, exclusive of the vote of Leavenworth, where the election was broken up by a mob of pro-slavery men, there were returned one thousand seven hundred and forty-one votes for the constitution, and against it, forty-six. A State government was subsequently organized under that constitution, which was presented to Congress, and ratified by the House. Notwithstanding the people of Kansas were to be left "perfectly free to form their institutions in their own way," on the 11th of February, President Pierce issued his proclamation denouncing the State government thus established by the legal voters of the Territory.

After this denunciation by the President, a regiment of men under Colonel Buford, enlisted in Alabama and other slaveholding States, arrived in the Territory with the avowed purpose of driving out the free-State men. These men were subsequently enrolled into the territorial militia by Governor Shannon, in order to give a color of legality to the atrocities which they intended to commit and which they subsequently committed. In May, Lawrence was attacked by a large force of ruffians; printing-presses were destroyed; buildings burned; stores and dwellings searched and plundered. Marauding parties scoured the Territory, destroying the property of free-State men, and committing every crime known among men. Free-State men were arrested under the slightest pretense, and without process of law. A corrupt and infamous judiciary was ever ready to lend its aid to this huge oppression. Bail was refused when offered. The great writ of right, never refused to the meanest subject of the British throne, was denied to those who were restrained of their liberty without even the forms of bogus law; while Haynes, the murderer of Buffum, a free-State man, under indictment for the crime, was admitted to bail by the infamous Lecompte, and set at liberty; and, when again arrested, the same partisan judge discharged him on *habeas corpus*. The battles of Pottawatomie, of Black Jack, of Franklin, and Ossawatimie, attest to the world the desperate extremity to which the free-State men were driven in defense of their lives, their property, and their rights as American citizens.

In October, 1857, the Council elected in March, 1855, for two years, having continued to hold over in violation of the organic law, an election was ordered for a new Legislature and for a Delegate to Congress. The majority of the people up to this time, had refused to acknowledge the legality of the usurping Legislature, which had endeavored to perpetuate its power by appointing all the local officers of the Territory; and by test oaths, the imposition of taxes, and other tyrannical means, sought to disfranchise the friends of freedom. But Governor Walker, in his speech at Topeka, having assured them that they should be protected in their right to vote, "not under the act of the Territorial Legislature, but under the laws of Congress," they went to the polls and voted. The result of that election is known to the whole country. The free-State men elected their delegates to Congress and the Legislature. But the miserable faction of usurpers who had thus far wielded the government, true to the principles which had governed them from the beginning, sought to continue their power by the most glaring frauds in the election returns from Kickapoo, Oxford, and McGee. Oxford, a small vil-

lage in the county of Johnson, returned over sixteen hundred votes for the pro-slavery candidates—more than were cast at any other voting precinct in the Territory. Governor Walker and Secretary Stanton visited this place soon after, and in a proclamation dated October 19, 1857, they say:

"Accordingly, we went to the precinct of Oxford, (which is a village with six houses, including stores, and without a tavern,) and ascertained from the citizens of that vicinity, and especially those of the handsome adjacent village of New Santa Fé, in Missouri, (separated only by a street, and containing about twenty houses,) that altogether not more than one tenth the number of persons represented to have voted were present on the two days of the election, much the smaller number, not exceeding thirty or forty, being present on the last day, when more than fifteen hundred votes are represented as having been given. The people of Oxford, as well as those of the neighboring village of Santa Fé, were astounded at the magnitude of the returns; and all persons, of all parties, in both places, treated the whole affair with derision or indignation, not having heard the alleged result until several days after it had occurred."

These villainous returns were unhesitatingly rejected by Governor Walker; but notwithstanding this, fraudulent as they were, spurious as they had been found, they were subsequently used by the constitutional convention as a basis for the apportionment of members of a State Legislature, and Governor Walker was bitterly denounced by the pro-slavery faction in the Territory and by the Democratic party at the South for daring to do that which his oath of office, his conscience, his self-respect, and his patriotism, demanded of him; for doing that which, had he left undone, would have consigned his name to infamy, and the Territory of Kansas to civil war.

In September last, in accordance with an act of the usurping Legislature, a convention for the purpose of framing a constitution assembled at Lecompton. The delegates comprising that convention were elected in June previous, by only about one tenth of the legal voters of the Territory. The majority of the people took no part in the election, a portion of them being disfranchised by the action of the bogus Legislature, and the others refusing to participate in an election from which a large number of their political friends, whose qualifications were, in every respect, equal to their own, had been excluded. Had they participated, a sufficient number of the free-State men had already been excluded to render their votes entirely nugatory. This is a conclusive reason why the voters of those counties, in which an opportunity was afforded them to register their names and vote, refused so to do. Their silence was the only protest which their despotic rulers could not prevent them from making against this flagrant villainy. Governor Walker, in his letter of resignation, speaking of the convention of Lecompton, says:

"That convention had vital, not technical, defects in the very substance of its organization under the territorial law, which could only be cured, in my judgment, as set forth in my inaugural and other addresses, by the submission of the constitution, for ratification or rejection, to the people. On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken and the voters registered: and when this was completed, the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates, based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give, a solitary vote for delegates to the convention. This result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty, by law, of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and therefore they were entirely disfranchised, and could not, and did not, give a single vote at the election of delegates to the constitutional convention.

"Nor could it be said these counties acquiesced; for, whenever they endeavored, by a subsequent census or registry of their own, to supply this defect occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention. I repeat that, in nineteen counties out of the thirty-four, there was no census; in fifteen counties out of the thirty-four, there was no registry; and not a solitary vote was given, or could be given, for delegates to the convention in any one of those counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties in which there was no census, constituted a majority of the counties of the

Territory; and those fifteen counties in which there was no registry, gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution on the 7th November last."

This is a sufficient answer to those who seek to find, in the refusal of the free-State men to vote for delegates to that convention, an argument or excuse for forcing upon them, against their will, a constitution which is as vile and base and fraudulent as the convention which brought it forth. Governor Walker again says, in speaking of the opposition of the people of Kansas to that instrument, in the letter above quoted:

"I state it as a fact, based on a long and intimate association with the people of Kansas, that an overwhelming majority of that people are opposed to that instrument; and my letters state that but one out of the twenty presses of Kansas sustains it."

He further says:

"Some oppose it because so many counties were disfranchised, and unrepresented in the convention; others oppose it because, although, in other cases, the presidents of conventions have been authorized to issue writs of election to the regular territorial or State officers, with the usual judges, with the established precincts and adjudication of returns, in this case unprecedented and vice-regal powers are given to the president of the convention to make the precincts, the judges, and to decide finally upon the returns. From the grant of these unusual and enormous powers, and from other reasons, connected with the fraudulent returns of Oxford and McGee, an overwhelming majority of the people of Kansas have no faith in the validity of these returns, and therefore will not vote."

This was written before the election in Kansas on the slave-importation clause of the Lecompton constitution, submitted to a vote of the people on the 21st day of December, 1857. The result of that election verified the implied prediction of Governor Walker, justified the want of faith of the people of Kansas in the validity of the returns, and proved the correctness of the estimate which an overwhelming majority of the people had formed of the depravity and villainy of Calhoun, the president of the convention, and the base tools whom he had appointed to aid him in his fiendish designs. The President of the Territorial Council, and the Speaker of the House, who were present at the counting of the votes, in a statement over their signatures, say:

"In obedience to the polite invitation of Mr. Calhoun, we attended on the day and at the time specified, and witnessed the opening of said returns, examined the poll books, noted the number of votes for and against the single proposition submitted by the schedule of the constitution, and find the following to be the result:

Constitution with slavery.....	6,143
Constitution with no slavery.....	569
Majority.....	5,574

"More than one-half of this majority was cast at those very sparsely settled precincts in the Territory, two of them in the Shawnee Reserve, on lands not open for settlement, viz:

Oxford, Johnson county.....	1,293
Shawnee.....	739
Kickapoo, Leavenworth county.....	1,017

Total.....	3,012
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"From our own personal knowledge of the settlements in and around the above places, we have no hesitation in saying that the great bulk of these votes were fraudulent; and, taking into view other palpable but less important frauds, we feel safe in saying, that of the whole votes polled, not over two thousand were legal votes polled by citizens of the Territory."

"The great bulk of these votes fraudulent!" So accustomed were the scoundrels to cheating, they did it from the pure love of the thing; did it when there was no real necessity for it; did it when they knew the free-State men could not and would not vote! Not over two thousand legal votes out of six thousand seven hundred and twelve! And this is popular sovereignty!

The question submitted at that election was not whether Kansas should be a free or a slave State; neither was it "for the constitution" or "against the constitution." The people were not permitted to vote against the constitution; but if they voted at all, they were compelled to vote for its ratification. They were not even allowed to vote for the exclusion or for the prohibition of slavery; but only for or against the further importation of slaves into the State. The existence of slavery in the State is distinctly recognized in this instrument; and its schedule declares

"That no slavery shall exist in the State of Kansas, except that the right of property in slaves now in the Territory shall in no manner be interfered with."

So that, with a refinement of cruelty never before conceived of, every person, however strongly

and conscientiously he might be opposed to slavery, if he voted at all, was forced to vote for the constitution, and for slavery under it. Sir, call you this a constitution? Call it rather the Juggernaut of slavery—the infernal machine of absolutism, invented by devils for the purpose of crushing out the manhood of its victims! True, Mr. Buchanan, in his annual message to us, says:

"In the schedule, however, providing for the transition from a territorial to a State government, the question has been fairly and explicitly referred to the people whether they will have a constitution 'with or without slavery.'"

"Fairly and explicitly referred!" Did the President suppose that the people of the United States were ignorant of the historical facts connected with the submission of this question to the people of Kansas? Did he forget that the statements of Governor Walker and Secretary Stanton were in direct contradiction to this? Or, presuming on the high position which most unfortunately for the country he at present occupies, did he suppose that he might, with impunity, state what every man in the country who reads a newspaper knows to be untrue? Governor Walker, in his message to the Secretary of State, before quoted, gives among other reasons for the opposition of the people to the constitution, that "the elective franchise is not free, as they cannot vote against the constitution, but only on a single issue, whether any more slaves may be imported, and then only upon that issue by voting for the constitution to which they are opposed." "Fairly and explicitly referred!" Mr. Buchanan does not believe it himself! For in the same message he subsequently says:

"Should the constitution without slavery be adopted by the votes of the majority, the rights of property in slaves now in the Territory are reserved."

Reserved how? Reserved to their masters—reserved so that the Legislature of the State of Kansas shall have no power forever to interfere with the relation between master and slave—shall have no power to abolish slavery in that State. Yes, sir, James Buchanan, the President of the United States, an American citizen, who has had some reputation as a statesman, says to the country that the question of slavery in Kansas has been fairly and explicitly referred to the people for their decision; and yet in the same breath he virtually says: "Should the constitution without slavery be adopted, slavery cannot be interfered with, but will be adopted with the constitution."

Surely, if the rapidity with which destruction follows madness be in the ratio of the dementia, Mr. Buchanan's annihilation must be near at hand. In connection with the passage before quoted, and in speaking of that provision of the Lecompton constitution which provides "that the rights of property in slaves now in the Territory are reserved," Mr. Buchanan says further:

"The number of these [slaves] is very small; but if they were greater the provision would be equally just and reasonable."

"The slaves were brought into the Territory under the Constitution of the United States, and are now the property of their masters. This point has at length been finally decided by the highest judicial tribunal of the country, and this upon the plain principle that when a confederacy of sovereign States acquire a new territory at their joint expense, both equality and justice demand that the citizens of one and all of them shall have the right to take into it whatsoever is recognized as property by the common constitution. To have summarily confiscated the property in slaves already in the Territory would have been an act of gross injustice, and contrary to the practice of the older States of the Union which have abolished slavery."

Under the last definition of popular sovereignty, given by the Democratic convention at Cincinnati, it was generally supposed that if the citizens of the Territory had no power while under the territorial government to prohibit slavery within the Territory, a time would come—that is, when they should frame a constitution for their State—when they could exercise such a power. It was understood that the slaveholder who should take his slaves into the Territory, would take them there knowing that a time would come when the people would decide upon the question; and that, in such an event, they might decide that slavery should not exist in the State, but should forever be prohibited. It was understood that he took them there subject to that risk—with a full knowledge of the facts. But it now seems that another downward step is taken; another construction favorable to the "peculiar institution" is placed on the Nebraska-Kansas bill. The Pres-

ident tells us that if the number of slaves were *even greater* than they are in Kansas, a constitutional provision that the Legislature should not interfere with the rights of property in slaves would be just and reasonable. How, then, stands the case?

The present doctrine of the Democratic party in relation to slavery in the Territories is, that Congress has no right to prohibit it, or to legislate concerning it; that the people of the Territories have no right to prohibit it while under their territorial government; that the Constitution of the United States carries slavery into and establishes it in the Territories; that it is just and reasonable, when the people of a Territory come to form a constitution under which they are to be admitted into the Union, that a provision should be inserted in the constitution reserving to the masters their right of property in their slaves; that is, slavery shall be established in every new State hereafter to be admitted into the Union, if it be the pleasure of even one slave owner to take his slave there while it is a Territory, though all others of the inhabitants of the State be opposed to it. And such is popular sovereignty, as now held by a Democratic President. In assuming this position, the great fact is ignored or forgotten that for more than seventy years Congress continued to exercise the power of prohibiting and regulating slavery in the Territories; or a better and more thorough understanding of the meaning of the Constitution is claimed by the political hucksters of the present day, than was possessed by the patriots who framed it; for, under the Administrations of Washington, of Madison, of Jefferson, and other Presidents, down to 1850—a sufficient length of time to have established the right by prescription, had there been any doubt of the derivation of that power under the Constitution—this power was repeatedly exercised by Congress, and never questioned. In assuming this position, too, the doctrine of popular sovereignty as originally understood has not only been abandoned, but it has been found necessary to place upon the Constitution of the nation a construction so monstrous, a libel so infamous, that the monarchs of the Old World laugh to scorn the results of the great experiment of popular government on this continent. In the message of the President transmitting the Lecompton constitution—the most extraordinary message, I venture to say, that ever emanated from the chief Executive of a civilized people; a message exhibiting the most envenomed hate and insane rage against the free-State men of Kansas, and blind and servile devotion to what he calls the “important domestic institution;” made up of unfounded statements, impotent arguments, and false accusations, intemperate in its language, and undignified in its style; a message which justifies the invasion of Kansas, the frauds on the ballot-box, the atrocious acts of the usurping Legislature, and the frauds, and swindles, and villainies of the miserable faction which has sought to impose its despotic rule on the majority—he says:

“A great delusion seems to pervade the public mind in relation to the condition of parties in Kansas. This arises from the difficulty of inducing the American people to realize the fact that any portion of them should be in a state of rebellion against the government under which they live. When we speak of the affairs of Kansas we are apt to refer merely to the existence of two violent political parties in that Territory, divided by the question of slavery, just as we speak of such parties in States. This presents no adequate idea of the state of the case. The dividing line there is not between two political parties, both acknowledging the existence of the government, but between those who are loyal to this Government and those who have endeavored to destroy its existence by force and usurpation—between those who sustain and those who have done all in their power to overthrow the territorial government established by Congress. This government they would long since have subverted had it not been protected from assaults by the troops of the United States. Such has been the condition of affairs since my inauguration. Ever since that period a large portion of the people of Kansas have been in a state of rebellion against the government, with a military leader at their head of most turbulent and dangerous character. They have never acknowledged, but have constantly renounced and defied, the government to which they owe allegiance, and have been all the time in a state of resistance against its authority. They have all the time been endeavoring to subvert and establish a revolutionary government, under the so-called Topeka constitution, in its stead. Even at this very moment the Topeka Legislature are in session.”

Had he told us that a great delusion seemed to pervade his own mind, it would have relieved his message from that barrenness of truth which alone distinguishes it. But the President seems to be in the situation of a man who, unconscious of his own inebriation, regards every other person whom

he meets as having imbibed too freely. My present impression, however, is, that he will find the delusion of which he speaks on the increase, if he shall succeed in his efforts to force upon the people of Kansas a government which they loathe; and that this delusion will arise from the “difficulty of inducing the American people to realize the fact that a state of rebellion against the Government under which they live” is any greater crime than is the attempt to force such a government upon them in defiance of their will, or that rebellion, under such circumstances, is a greater evil than submission. If the President means to say that the free-State men of Kansas are not, and have not been, loyal to the Government of the United States, and that they have endeavored to destroy its existence by force and usurpation, he says what is false. If he means to say that they have done all in their power to overthrow the government established by Congress, he again says what is false. That they have refused to acknowledge, down to the present moment, the legitimacy or the validity of the Territorial Legislature which was forced upon them by the armed hordes from Missouri, backed up by the Federal troops, is very true; and I thank God that they never have. As an American citizen, proud of the history of our fathers’ struggle to secure their rights, I feel grateful to the free-State men of Kansas for their bold and manly resistance to tyranny. As a descendant of revolutionary and rebellious ancestors, I rejoice that the spirit of 1776 is not yet extinct, and that Americans will still rebel against oppression. And this government of usurpation they would long since have subverted, and would have driven every oppressor from the soil, had not it and its ruffian supporters been protected by Federal troops.

Why have the majority of the people of Kansas been in a state of rebellion, as the President alleges? Why have they never acknowledged, but constantly renounced and defied, the Territorial Legislature, and been all this time in a state of resistance against its authority? The people of the United States are not apt to rebel against the Government or the laws; especially is this the case with the people of the North. The people of Kansas must, then, have had some good and sufficient reason for their open, bold resistance. And the President, with all his affectation of innocent simplicity and hollow protestations of honest intentions, knows that it was because the attempt was made to crush them to the earth; to deprive them of their inalienable rights; to drive them into abject submission to the will of a few slaveholders; to compel obedience to laws in the enactment of which they had no voice; and to force upon them, by the military power of the nation, a foreign government which they hated and loathed and spurned. Is not this sufficient cause, with American citizens, for rebellion, for defiance, for resistance? If not, then were our fathers guilty of a great crime in rebelling against England; and, undoubtedly, had Mr. Buchanan lived at that time, he would have so regarded it. The President says, “even at this very moment the Topeka Legislature are in session.” Suppose they are: whose business is that? The President’s? I think not. Is it a crime for a Legislature, elected under a constitution which was framed in strict accordance with the terms and principles of the Nebraska-Kansas act; which was—the whole of it—fairly submitted to the people for adoption or rejection, and fairly adopted by them, in the absence of all other government, except that of a foreign mob, to be in session in a Territory of the United States—a Legislature which alone has the confidence of the mass of the people, and which alone possesses the elements of popular sovereignty? With Mr. Buchanan, who has learned, since his election, to despise majorities, and who seeks to trample their will under his feet in blind subservency to the power behind the throne, this may be a mortal offense; but with freemen, who believe in the popular sovereignty of our fathers, it is at least pardonable.

Again, the President charges that—

“The very first paragraph of the Governors message of Robinson, dated the 7th of December, to the Topeka Legislature, now assembled at Lawrence, contains an open defiance of the laws and constitution of the United States.”

And for proof of the charge, he quotes from the message as follows:

“The convention which framed the Topeka constitution

originated with the people of Kansas Territory. They have adopted and ratified the same twice by a direct vote; also indirectly through two elections for State officers and members of the Legislature. Yet it has pleased the Administration to regard the whole proceeding as revolutionary.”

The charge is, that the extract which he quotes from Governor Robinson’s message contains an open defiance of the laws and Constitution of the United States! This is just as true and just as false as his other charges and accusations. Let any man, who knows enough to tell the difference between Mr. Buchanan and General Jackson, point out the words in that quotation, adduced as proof of the charge, which can, by any amount of twisting, turning, or perversion, be made to bear such construction, and such person will be a fit and proper successor, in the Democratic line, of James Buchanan. Again, the President says:

“From this statement of facts, the reason becomes palpable why the enemies of the Government, authorized by Congress, have refused to vote for the delegates to the Kansas constitutional convention, and also, afterwards, on the question of slavery, submitted by it to the people. It is because they have ever refused to sanction or recognize any other constitution than that framed at Topeka. Had the whole Lecompton constitution been submitted to the people, the adherents of this organization would doubtless have voted against it; because, if successful, they would thus have removed the obstacles out of the way of their own revolutionary constitution. They would have done this not upon the consideration of the merits of the whole or part of the Lecompton constitution, but simply because they have ever resisted the authority of the government authorized by Congress, from which it emanated. Such being the unfortunate condition of affairs in the Territory, what was the right as well as the duty of the law-abiding people? Were they silently and patiently to submit to the Topeka usurpation, or to adopt the necessary measure to establish a constitution under the authority of the organic law of Congress? That this law recognized the right of the people of the Territory, without an enabling act of Congress, to form a State constitution, is too clear for argument. For Congress to ‘leave the people of the Territory perfectly free,’ in framing their constitution, ‘to form and regulate their own institutions in their own way, subject only to the Constitution of the United States,’ and then to say that they shall not be permitted to proceed and frame the constitution in their own way without express authority from Congress, appears to be almost a contradiction of terms. It would be much more plausible to contend that Congress had no power to pass such an enabling act, than to argue that the people of a Territory might be kept out of the Union for an indefinite period, and until it might please Congress to permit them to exercise the right of self-government. This would be to adopt, not their own way, but the way which Congress might prescribe.”

Here is another gross misstatement. The government authorized by Congress was such a government as the majority of the people of Kansas should establish. The only government so established was the Topeka government. The few enemies of that government did vote for the Lecompton delegates; and they were the only persons that did so vote. The reason given by the President for not submitting the Lecompton constitution to the people, is worthy of Louis Napoleon. He says that if it had been submitted, those who were opposed to it would have voted against it. It is most remarkable that the President should have made this discovery, and it affords further proof of his great statesmanship and vast perceptive powers. And he says, too, they would have voted against it, not upon the consideration of its merits, but because they were not in favor of it! Why does he say they would not have voted against it upon the consideration of its merits? How does he know that? Who told him? Does he claim the power of omniscience? Can he look into the hearts of men and discern their motives? And what was that to him, supposing they were opposed to the constitution for other reasons than consideration of its merits? Was this a reason for depriving them of their right to vote? Again and again he repeats the slander that the free-State men have resisted the authority of the government authorized by Congress; and again and again I throw back the false charge, accompanied with the appropriate sentiment. In a tone of sadness the President asks, “such being the unfortunate condition of affairs in the Territory,” (that is, there being a majority against the Lecompton constitution,) “what was the right, as well as the duty, of the (bogus) law-abiding people?”—that is to say, of the minority. What was their duty under these unfortunate circumstances? That is the question. Were they silently and patiently to submit to the majority, or to adopt the necessary means to establish a constitution which should be satisfactory to the minority, under the organic law of Congress? That would have been an easy

question for honest men to decide, but it was a hard one for the knights of Lecompton.

But the President thinks it is no sort of use to argue about the matter, because it is clear that the people had the right to form a constitution without any enabling act of Congress; and I think the President may be right in this. I agree with him, that for Congress to leave the people of the Territory perfectly free in forming their constitution, to form and regulate their own institutions in their own way, subject only to the Constitution of the United States, and then to say they shall not be permitted to frame their constitution in their own way without express authority of Congress—and I go even further than that, and say, *the bogus Legislature*—appears to me to be, not “almost,” but quite, a contradiction of terms. But my theory differs from that of the President in this: I contend that “the people” means the majority of the bona fide inhabitants of the Territory; while the President contends that it means the pro-slavery inhabitants, even though they be a small minority. It seems to me, as it does not to the President, (and it pains me to differ from him,) “that it would be much more plausible to contend that Congress has no power to pass such an enabling act,” than to argue “that the majority of the people might be kept under the rule and control of the minority for an indefinite period, and until it might please the minority, or Congress, to permit them to share in the rights of government.” This, Mr. Chairman, has a direct application to the Topeka constitution, and brings it fully within the terms of the Kansas-Nebraska act; and the President’s reasoning is a full and complete justification of the Topeka government. And, sir, if this Government had not already degenerated into a despotism as detestable as that of Austria, whenever it chooses to manifest itself, the validity of that constitution would have been acknowledged long ago, and the Administration of the Government would have been saved from the merited disgrace which it has brought upon itself in the eyes of the whole civilized world, and the people of Kansas from the wrongs which have been inflicted upon them. The President, in his insane zeal to libel the friends of freedom in Kansas, has not been careful to make his misstatements consistent with themselves. For instance, he says:

“The truth is, that up till the present moment, the enemies of the existing government still adhere to their Topeka revolutionary constitution and government.”

And again he says:

“They have never acknowledged, but have constantly renounced and defied, the government to which they owe allegiance, and have been all the time in a state of resistance against its authority.”

Then, when speaking of the fact of the free-State men having voted, on the first Monday in January, against the Lecompton constitution, he says:

“A large majority of the persons who voted against the Lecompton constitution were at the same time and place recognizing its valid existence in the most solid and enthusiastic manner by voting under its provisions.”

In one breath he charges that they still adhere to the Topeka government and refuse to acknowledge any other, and in another he declares that they have recognized the Lecompton constitution in the most enthusiastic manner. Extracts of a similar contradictory character might be quoted. They afford a melancholy instance of the repetition in high official position of a not uncommon occurrence in our criminal courts—of the incoherence of false and perjured witnesses. Mr. Buchanan further says:

“The enemies of territorial government determined still to resist the authority of Congress. They refused to vote for the delegates to the convention, not because, from circumstances which I need not detail, there was an omission to register the comparatively few voters who were inhabitants of certain counties in Kansas in the early spring of 1857, but because they had determined at all hazards to adhere to their revolutionary organization, and defeat the establishment of any other constitution than that which they had framed at Topeka. The election was therefore suffered to pass by default; but of this result the qualified electors who refused to vote can never justly complain.”

Here the President professes to give the reason why the free-State men refused to vote; and he says it was not because there had been an omission to register the names of the “comparatively few” voters who were the inhabitants of certain counties of Kansas in the early spring of 1857. He says this, let it be remembered, with the letter of Governor Walker, of December 15, open be-

fore him; which letter states that in the territorial law; under which the convention was assembled, thirty-four organized counties were named as election districts for delegates to the convention; that in each and all of these counties the law required that a census should be taken and the voters registered, and the delegates appointed accordingly. He then states that in nineteen of these thirty-four counties no census was taken, and in fifteen no registry of voters; that the fifteen counties included many of the oldest counties in the Territory, and that the people in them did not give and could not give, and by no fault of their own, a solitary vote for delegates to the convention. He also says these fifteen counties in which the people were thus disfranchised gave a much larger vote at the October election, even with the six months’ qualification, than the whole vote given to the delegates that signed the Lecompton constitution on the 7th November last. Again, the President says:

“The question of slavery was submitted to the election of the people on the 21st of December last, in obedience to the mandate of the constitution. Here, again, a fair opportunity was presented to the adherents of the Topeka constitution, if they were the majority, to decide this exciting question in their own way, and thus restore the peace of the distracted Territory; but they again refused to exercise the right of popular sovereignty, and again suffered the election to pass by default.”

Governor Walker says, in reference to this, that the people can vote “only on the single issue whether any more slaves may be imported, and not even then, unless at the same time they will vote for the constitution. Mr. Secretary Stanton says of this:

“Leaving out of view the mode in which the constitution was submitted, that single question upon which they might vote was not presented fairly. The people could merely determine whether or not they would permit the introduction of more slaves into the Territory; for the right of those already in the Territory could not be interfered with. I should blush to present in this way such a question as this to any community upon this continent, and say that it fairly presented to them the question whether they should live under a State government with slavery or without slavery.”

“A fair opportunity,” says the President! Surely he must have adopted the same principle as that which governed another potentate, when he exclaimed, “evil be thou my good!” It is unnecessary to quote further from this gigantic fabrication, which is contradicted in all its material statements and charges by the evidence of the President’s own witnesses, Governor Walker and Mr. Secretary Stanton, and also by the published statements of the former Governors, Reeder and Geary, and Secretary Gihon. Some of the statements contained in the published speech of Mr. Stanton I will not now stop to read, but will append them. From these, as well as from the extracts already quoted from the letter of Governor Walker to Mr. Cass, it is evident that the government in Kansas, which the President constantly avers was a legitimate government established under the Nebraska-Kansas act, has been the government of a small minority, sustained and kept in force only by the military power of the Federal Government, and that the majority have ever been in a state of rebellion against this minority rule and the military power which was stationed there to enforce that rule upon them.

The Kansas-Nebraska act professed to assert a new principle for the government of our Territories—that of popular sovereignty; and we see, as its result, the entire subversion of the fundamental principle of all free government—the enlightened will of the people. The popular sovereignty of the Kansas-Nebraska act was but the whitened sepulcher of the rights of the minority. True popular sovereignty includes, regards, and protects the inherent rights of every person over whom that sovereignty is extended. It is the aggregate will of every person within its jurisdiction. It protects the rights of the minority as well as of the majority. Under it, the majority have no more right to oppress or enslave the minority, than has the absolute monarch of a kingdom to oppress and enslave those over whom he rules by virtue of his power. That monarch may have in his hands the power to enslave his people; but God has not given him, and man cannot give him, any such right. So the majority may assume the power of decreeing that the minority shall be their slaves; but that majority have no such right. The right of the minority, and of each individual of it, to life and liberty, is inherent; derived from the same source, and having

the same basis, as that of the majority to the same blessings. Congress has no power, under the Constitution, to establish slavery anywhere; hence, it could confer none upon the people of the Territories.

Congress has the right, in the institution of governments for Territories, to prohibit slavery therein; and it has hitherto exercised that right, as was its duty to do. Under the Nebraska-Kansas act Congress sought, as a matter of political policy, to shift the responsibility which the Constitution has imposed upon it, from itself to the people of the Territories. You repealed the restriction which the men of the past generation had placed upon slavery extension, and assumed to confer upon the people the right to establish it—a right which you never possessed, and which the power of Omnipotence alone could confer. You now behold the work of your hands! Can you pronounce it “good?” The soil of Kansas has been made the battle-ground for contending hosts. Her soil has been stained with the blood of American citizens. Her people have been driven into rebellion against oppressive laws, enacted by an invading army. Her towns and villages have been sacked and plundered. Her ballot-box has been desecrated and destroyed. The power of the Federal Government has been invoked on the side of tyranny, and it sprang with alacrity to its aid. The military arm of the nation has been used to enforce upon American citizens a government in which they were deprived of all participation. In the forum of legislative debate argument has been deposed and brute force inaugurated in its place. An attack, as infamous in its inception as it was cowardly and brutal in its execution, has been made upon the person of one of the representatives of a sovereign State, while engaged in his official duties, in the Capitol of the nation, for words spoken in debate. Threats of disunion and secession, as puerile in their utterance as they are lame and impotent in their intended effects upon free men, are daily uttered on this floor. The memories of the great and good of the past, whose wisdom and virtues are embalmed in the history of our country, to whom we owe all that we have worth possessing, are here openly traduced and slandered. The great truths which our fathers pronounced self-evident, the declaration of which sent a thrill of joy and hope through the hearts of oppressed humanity, are now, in this day of our country’s shame, pronounced “self-evident lies,” “glittering generalities,” and “rhetorical flourishes.” Executive interference with the legislation of Congress is notorious; and charges which, if true, should lead to impeachment, are refused investigation in this House by a party vote. Laws are enacted, systems changed, and great principles violated, without regard to the remonstrances of the people. Corruption stalks abroad at noon-day in the avenues of the capital, and sends forth in multitudinous streams to the people with its patronage, venal demands of acquiescence and subservience.

Such are the demoralizing influences of slavery which seeks to establish and extend its power throughout the length and breadth of this continent—a power which exhausts the life and vigor of commonwealths; destroys the prosperity of nations; corrupts the principles of parties; debases and brutalizes its victims, and drags down to its own level of barbarism, all that yield to its embrace. Under the system of territorial government adopted by our fathers, and which has prevailed for more than half a century, a system which asserted the right as well as the duty of Congress to exclude slavery, the will of the majority has always governed, and was always respected. The history of our country does not furnish an instance of civil commotion or even of an attempt, on the part of a minority, to usurp the power in the establishment of a territorial government previous to the enactment of the Kansas-Nebraska bill. Let us, then, return to the original policy of the Government, and peace and harmony will follow. Let us dare to do right, because it is right. Let us indignantly spurn from us the atheistic sentiment that there can be property in man. Let us declare before the world that no constitution, which recognizes man as a chattel, can be “republican” in form. Let us have the courage and the manhood to declare ourselves the friends of the down-trodden and oppressed, though the victims of oppression may be of an-

other color, or of another clime. With us, sir, the Constitution of our country has deposited a high discretionary power in relation to the admission of new States into the Confederacy—a power which devolves upon us the most important and solemn duty which we can be called upon to discharge. That power we shall soon be called upon to exercise. The instrument before us, purporting to be the constitution of Kansas, we know to be that of a small minority of her people, the great mass of whom most solemnly and earnestly protest against its imposition upon them. It recognizes the right of property in man—a principle which her people abhor.

Sir, you may disregard their remonstrances, you may treat them with scorn, you may trample upon their rights, you may attempt to force upon them this government; but, sir, you cannot subdue them, you can never conquer them. You have driven them into rebellion, but you can never drive them into subjection. They have been taught in the school of revolutionary heroes, and have not yet forgotten their lessons. Remember, sir, that they are American citizens. Indorse that constitution; decree the admission of Kansas under it, and you will then be called upon to enforce that decree at the point of the bayonet. Sir, her people, true to the principles of the American Revolution will never submit. My prayer to God is that they never will! Nor will they be left alone in their holy struggle. There lives not a man in this broad land, whose heart pulsates with liberty and a love of justice, who would not obey with alacrity her call for help. In such a contest she would command the sympathies of the civilized world. From such a struggle I would not shrink, nor would I hesitate to pour out my blood upon her soil in defense of her rights and her liberties. And when, sir, this nation engages in such a contest, on the side of despotism, against her own people, history, in recording the infamous fact, will with the same pen record her epitaph—such will be the righteous retribution of our nation's crime.

[APPENDIX.]

Extracts from the speech of Mr. Secretary Stanton, in Philadelphia, February 8, 1858.

"The substance of the complaints made by the people of the Territory, when I arrived in Kansas, was that they had had no fair participation—indeed, no participation whatever—in the government of the Territory which was established over them. I found there intelligent men from almost every State in the Union—men from your own great conservative State. I found them settled upon their farms—intelligent, industrious, sober, good citizens, desirous of peace and order. Yet I found them denouncing the territorial organization, many of them declaring that they would never yield obedience to it. And why? The simple reason offered was, as I have already stated, that they had been by violence and fraud excluded from any fair participation in the election of the officers of the Territory—in other words, that the Legislature of the Territory had not been elected by the people of the Territory, but that the House of Representatives and the Council had been elected by the population of a neighboring State, or by fraud and outrage—which left to the people of the Territory no possible opportunity of conducting their own affairs in their own way, under the territorial organization.

"Such was their complaint. I did not know certainly how much truth there might be in these complaints. But it was certainly an astonishing thing—a fact calculated to arrest the attention of any man, or any public officer who desired to do his duty to the whole country—to see the great mass of the population of the Territory resisting the laws, refusing obedience to them upon the ground (which doubtless they sincerely believed) that these laws had been unjustly imposed upon them.

"Under these circumstances, Governor Walker and myself—he as Governor, and I, in his absence from the Territory, as acting Governor, with the same power and authority—had the unlimited control of that portion of the Army of the United States which was within the Territory. When I say 'the unlimited control,' I mean unlimited so far as the law allowed the use of the forces for the purpose for which they were required; that is to say, the officers of the Army were left no discretion, but were bound to obey the command of the Governor, the whole responsibility resting upon him, and not upon the military officer. We did not doubt—we knew, as any man having the same opportunity would necessarily have known, that a vast majority of the people entertained these sentiments in reference to the territorial government. Of this fact there was not the slightest question. Three or four or five to one of the people told us to our face that they would not obey the laws, because, as they said, those laws were imposed upon them by illegitimate authority; they had been defrauded and cheated, and they would not submit.

"In this state of things, Governor Walker and myself, generally in company, went among the people for the purpose of listening to their complaints, of ascertaining their sentiments, their wants; and we endeavored to persuade them as peaceable American citizens, to submit to the laws until they could right themselves at the ballot-box. I was astounded when they laughed in my face with scorn and mockery at the very mention of the ballot-box. They said that the local officers were the merest and most unscrupulous partisans, utterly dishonest in these matters of public

elections; and that if their neighbors of Missouri did not come into the Territory for the purpose of outvoting them, these officers would cheat and defraud them by forged votes made for that purpose. I confess that I could not believe these things. I did not know certainly whether such things had transpired before in the history of that Territory."

"It was not in the power of Governor Walker, with all his persuasive eloquence, to inspire the people of Kansas with confidence sufficient to go into the election, on the 15th day of June, for delegates to the convention. I believe that if, prior to that time, a fair registration had been made of the voters of the Territory, that Governor Walker would have induced the people to go into that election. But it was not made—the people said that the great mass of their number had no power or right to vote, because their names had not been registered, and the comparatively few who had been registered refused to separate from the members of their own party who had been excluded. They did not go into the election on the 15th of June, and the consequence was, that out of the nine thousand two hundred and fifty voters, whose names had been registered, the sixty delegates who framed the Lecompton constitution received and were elected by less than two thousand votes. [Laughter.] There were in all about two thousand two hundred votes cast, and of these the successful candidates received one thousand eight hundred, which, upon an average, was about thirty votes apiece. [Laughter.] I confess to you that it never occurred to me as a thing probable, or even possible, that these sixty men, thus having placed in their hands the interests of a people of that character, could have dreamed of refusing to submit their work to the great masses who had no participation, or opportunity to participate, in their election. I did not dream of that contingency, much less did I ever suppose that any respectable authority outside of Kansas, or even in Kansas, would seriously have contended for such a proposition; least of all could I have supposed that, with the instructions of the President before me, he could have been found at this time proclaiming to the Congress of the United States, and to the world, that this constitution ought to be adopted by Congress, and fastened upon the people against their express and unequivocal protest."

"It is true that up to the time of the October election, I could not believe—I did not altogether believe—that the complaints of the people of Kansas were just, were true. No man could have credited the outrages which they asserted had been perpetrated upon them. But, immediately after the October election had transpired, when the minority, which had had entire control of the Government from its inception, saw that the power was about to depart from them, I was astounded—my eyes were opened—when I received at the executive office in Lecompton the celebrated returns from Oxford and McGee."

"They based the apportionment to the county of Johnson upon the fraudulent returns given at Oxford at the October election. To that almost uninhabited county they gave two Senators out of thirteen, and four Representatives out of thirty-nine. The great preponderance of Representatives was given to the border counties of Missouri. And in providing for the vote upon the constitution, they required no qualification for voters except the fact of *inhabitation on the day of the election*.

"I conscientiously believed that the great mass of the people of Missouri had nothing to do with these shameless violations of law and right in the Territory of Kansas. Those who did participate in them were comparatively few, and were the worst part of the border population—politicians of the lowest, most unscrupulous character.

"I had opposed the Lecompton constitution, not only because I maintained the right of the people to vote upon their fundamental law, but because I saw in that instrument itself the most unjust, the most unfair of all possible provisions. In this schedule to the constitution, they profess, in a certain way, to submit to the adoption or rejection of the people; yet they afterwards qualify the matter in such a manner as to give them only the power to vote upon a single feature of the instrument—for the constitution with slavery, or for the constitution with no slavery; but for the constitution at all events, and under all circumstances.

"The President of the United States, in his special message, had declared that the people of the Territory had a fair opportunity to decide whether the State should be a slave State or a free State. Without intending to impugn the motives of the President, far less to question his veracity, I feel bound to say that the statement was, in my judgment, utterly incorrect."

"I now discovered, for the first time to my entire satisfaction, why it was that the great mass of the people of the Territory had been dissatisfied with their government and were ready to rebel and to throw it off. There never was a moment during my residence in the Territory of Kansas that the people would not have rejected their government—utterly overthrown it, destroyed it, but for the power of the United States army within the Territory.

"The convention met in October to prosecute its work. The members of this convention were elected by, and represented a small minority of pro-slavery men—they represented scarcely anybody else.

"Mr. President, I had confidently expected that the convention would have framed that constitution fairly and properly, that they would have submitted it to the people entire, and that they would have permitted them, by a separate and distinct vote, to determine whether or not they would have slavery within the State. But to my great regret and mortification, when they concluded their work, I saw upon the face of the instrument prepared by them, the plainest indications of predetermination and preconcertance for continuing the control of the minority by the same means by which it had been maintained from the beginning."

"I do not believe it ever was the intention of Governor Walker—it certainly never was mine—to occupy a place in the territorial government of Kansas, and see frauds, wrongs, and outrages perpetrated upon the ballot-box, or elsewhere, and continue to enforce upon the people the laws thus maintained. I say here, to night, that I would have resigned my commission—I would have thrown it in the

face of the authorities at Washington, [applause]—if I had understood, or thought, that I should be required to continue the same state of things in Kansas which had existed there previous to my arrival.

"I would never have consented to become the instrument of oppressing the people, Black Republicans, or anything else which they might be, [cheers,] by maintaining a Government of the minority, by force and by means of the Army of the United States. One fact is beyond all dispute—that since I have been in Kansas, and so far as I have known anything of her history, the government there has been the government of the minority. [Applause.] It is true that the vast majority of the people, upon several occasions, have refused to participate in elections. They have stood off, and said: 'We have no lot or part in this proceeding; we have no confidence in them; we know we cannot get justice, and therefore we turn away from them, and will have nothing to do with them.' Whatever may be the truth in regard to the complaints of the people of Kansas, it certainly was a lamentable state of affairs, which must have been the consequence of some great wrong, real or imaginary, inducing the people thus to refuse to participate in their own government, at the very time when they were clamoring for the opportunity to govern themselves.

"The people of that Territory had provided for a convention, but they had not clothed them with power to put the constitution they agreed upon in operation without submitting it to the people. But the convention attempted to assume the power, and after the Legislature had been called together for the purpose of preventing it, and had authorized an election on the 4th of January, at which more than ten thousand votes were cast against it, the President tells us that he has no official information of that vote. I doubt not that the President's statement is correct; but I tell you that I was present on the 13th or 14th of January, when Governor Denver, my successor, formally, in the presence of the Speaker of the House and the President of the Council opened the votes and counted ten thousand of them, and it was then well understood that a considerable number of precincts had not yet sent in returns. Since that time I have seen by the newspapers that the vote had reached twelve thousand. The whole vote of the election of the 21st of December, held by the authority of the convention, both for and against the slavery clause in the constitution, was six thousand seven hundred, and at least one half of that was utterly fraudulent, as is known and will be acknowledged by every fair, intelligent, and candid man in the Territory and on the borders of Missouri, whilst it is evident that on the 4th of January there were from ten to twelve thousand votes cast against the constitution.

"I have heard no charge of fraud against the party who polled this large vote against the constitution. Even if these gentlemen had been as ready to commit fraud as the other party, there was no necessity for it, and certainly they showed a disposition not to do it, because they threw around the law every possible guard which was necessary to secure honesty.

"The real vote of the whole pro-slavery party could not be, Mr. S. thought, more than three thousand or three thousand five hundred; that of the free-State men was from twelve to fifteen thousand."

Mr. CLARK, of Missouri, then obtained the floor; but yielded it to

Mr. JONES, of Tennessee, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. JONES, of Tennessee, having taken the chair, Mr. BOCKOCK reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1858, and had come to no conclusion thereon.

And then, on motion of Mr. BOCKOCK, (at seven o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, March 24, 1858.

Prayer by Rev. Mr. Brown.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Postmaster General, communicating in compliance with a resolution of the Senate, a statement of allowances made to distributing and separating offices by order of the Postmaster General, under an act approved June 22, 1854, to regulate the pay of deputy postmasters; which, on motion of Mr. GWIN, was referred to the Committee on the Post Office and Post Roads.

NEW YORK ON KANSAS.

Mr. SEWARD. I present joint resolutions of the Legislature of New York concerning the bill for the admission of the State of Kansas into the Union, which I ask may be read.

The Secretary read them, as follows:

Resolved, That the State of New York is opposed to the admission of Kansas into the Union as a State with the constitution commonly known as the Lecompton constitution or any other constitution which shall not have been in all its parts fairly submitted to the legal voters of the Territory, and received their sanction and approval.

Resolved, That a copy of this resolution be transmitted to the Senators and Representatives from this State in Congress.

Mr. SEWARD. Mr. President, I wish to make a statement, in a few words, concerning the attitude of the State of New York on the great subject which has been so long under debate in Congress. In reply to the position which I have assumed here, it has been intimated that the action of the Representatives of New York in opposing the extension of slavery, is of recent origin, and of a partisan character; that the operation of the substitution of free labor for slave labor in the States which tolerated slavery at the beginning of our constitutional existence, is a state of turbulence; and that the progress of that reformation of our social system must necessarily be attended with conflicts and disasters. I have to state, sir, that when the State of New York came into the Union, every sixteenth inhabitant of the State was a slave; that in the year 1799, under the auspices of John Jay, and nine years before the prohibition of the foreign slave trade, the system for the gradual emancipation of slaves was begun in New York; that in the year 1817 it was completed by an act which abolished slavery at the expiration of ten years from that time; that it was not attended by injustice or fraud; but the same act which abolished slavery prohibited both the exportation and importation of slaves—

Mr. IVERSON. I rise to a point of order. I understand the Senator from New York to be making a speech on the presentation of this petition. The rule of the Senate, as I understand it, is that on the presentation of it, the Senator may state its contents, but cannot make a speech on it.

Mr. SEWARD. I think the honorable Senator has misapprehended the nature of the business before the Senate. I am submitting the resolutions of the Legislature of New York, and I believe that it has always been allowed that an explanation or statement might be made accompanying such resolutions. I intend to make a motion in relation to them.

Mr. IVERSON. The rule, I think, simply is that an explanation stating the contents of the paper may be made, but not a speech on the merits of the general proposition contained in it. I should have no objection to hear the Senator at another time, but there is important business that I desire to get up this morning in reference to the public interests, which I think of more consequence than any speech the Senator can make on the subject of slavery. Therefore I raise the point of order, and desire a decision as to whether he is permitted to go on and make a speech on the merits of the proposition, or to go further than merely state the contents of the paper.

Mr. SEWARD. I will submit a motion in regard to the resolutions, which is, that they be printed; and upon that motion, with the leave of the Senate, and I am sure I shall have the consent of the honorable Senator from Georgia, I wish to add a few words to the explanation which I had almost concluded.

The VICE PRESIDENT. The Chair sees that the Senator from Georgia insists upon the point of order. The rules of the Senate require that after the Journal is read the Chair shall call for petitions, and then for reports of standing committees. If the rules are strictly enforced, that would be the order of business. After that, would come resolutions from the Legislatures of States, and any other motions; but it has been usual, without objection, to offer resolutions, petitions, and reports together during the first hour of the meeting of the Senate. The Chair, therefore, did not interrupt the Senator from New York, although, if any Senator had risen and insisted on the presentation of a petition or a report, the Chair would have felt bound to receive it.

Mr. IVERSON. I beg leave to ask the Senator from New York how long he is going to speak.

Mr. SEWARD. Not five minutes.

Mr. IVERSON. If he will confine himself to five minutes, I will withdraw the point of order.

Mr. SEWARD. I had only to add, on the branch of the subject I was considering, that thirty years from the time when the first measure for emancipation was instituted, there was not left, within the borders of the State of New York, a single slave; that the result of the replacing of

slave labor with free labor is seen in the position, character, power, wealth, peace, and prosperity of the State of New York; that I know no community of three million men at this time, and know of none that ever existed, whose situation was more enviable and more prosperous.

Mr. President, in a conversation which occurred between the honorable Senator from Virginia, who is the chairman of the Committee on Foreign Relations, and myself, on a kindred subject, that honorable Senator was understood to say that he thought there were indications that the British nation were changing their opinions on the subject of slavery and the slave trade. I, in reply to him, stated that, while I thought I had discovered indications of a change of sentiment on the part of the Government, it did not reach, as I thought, to the British nation. That debate seems to have elicited the attention of the British Cabinet, and they have caused an explanation to be made, which it is due to the interests of society that I should read:

"In a brief debate which occurred in the Senate of the United States in the early part of the present session, Mr. MASON, of Virginia, expressed his gratification at what he understood to be the change now going on in England on the subject of slavery; and even Mr. SEWARD, while denying that there was any change in the English people, was disposed to admit such a change in the Government. This admission has drawn forth an express contradiction from a distinguished and most intelligent member of the late British Cabinet, speaking in behalf of the late Government. At the farewell dinner to Dr. Livingstone, in London, before his departure for Africa, the Duke of Argyle spoke as follows:

"But the main interest was to be found in the deep and abiding feeling cherished by Englishmen on the subject of the extinction of slavery and the improvement of the native tribes of Africa. It had been stated—he was surprised to learn—even by Mr. SEWARD in the Senate of the United States, that a change had come over the opinions of the British Government respecting this question. On the part of her Majesty's Government he was authorized to state that there was no ground for any such assertion, and there was no object on which the noble lord at the head of the Government had shown more consistent steadfastness of purpose than the abolition of the slave trade. Among the motives which had induced her Majesty's Government to assist in fitting out this expedition, the first and foremost was a desire to assist in putting an end to the slave trade, and improving the state of the native tribes of Africa."

I move that the resolutions of the Legislature of the State of New York be laid on the table and printed.

Mr. MASON. The Senator from New York having brought this matter before the Senate, I wish to say a word. I remember perfectly the semi-official conversation which took place between us, across the floor, on a suggestion which I made, and which is the opinion I still entertain, the Duke of Argyle to the contrary notwithstanding. Certainly he knows the purposes of his Government better than any interpretation I could place upon them; but yet the fact remains that the Emperor of France has legalized the slave-trade from Africa, under the guise of importing wild barbarian Africans on an indenture of apprenticeship for a given time; and it is historically true that the attention of the British Government having been called to it, some attempts, whether authorized by the Government or not I do not know, were made on the part of the British Government, either to induce France to abandon that policy or to contravene it, and that the result has been that the Emperor of France has persevered in it, and the Government of England has yielded. My impressions, in which I may be right or may be wrong, were that when France perseveres in that policy of repopulating her now abandoned West Indian possessions with African labor, the Government of England will find itself in a necessary condition to follow it.

Mr. BIGGS. I avail myself of this, the most favorable opportunity I have, for the purpose of making a remark in regard to my colleague, [Mr. REID.] I desire to repeat what I said to the Senate last Monday night a week ago; but which, in consequence of the accumulated debate, has not yet been published. My colleague has been confined by severe indisposition at Richmond for the last two months and a half, and he desired me to say (I ought to have taken occasion to say it yesterday, when the vote was being taken, but I did not then do so,) that if he were here when the bill was pending for the admission of Kansas into the Union, he would have voted with great pleasure for the bill, and his absence has been prevented by indisposition over which he had no control; but I am pleased to state to the Senate that he is now improving.

The VICE PRESIDENT. The question is on the motion to print the resolutions of the Legislature of New York.

Mr. KING. I have listened to the allusions of my colleague, and the honorable Senator from Virginia, as to the opinions which the Government of Great Britain may entertain on this subject. It is well known that slavery was introduced into these colonies by the Government of Great Britain; and when originally introduced into Virginia, it was remonstrated against by the people of that colony. I do not, myself, think, whatever respect we may entertain for the intelligence or for the power of that kingdom or its Government, that its opinions should be cited as entitled to influence upon the acts of this country. We are a people who have a Government different from theirs—one in which the sovereignty is with the people. We desire to make labor honorable; and we do not desire to have privileged classes here. Now whatever respect I may entertain for that Government, I would not allow their opinions upon a matter of this kind to have any influence whatever with me, and especially if they were going in such direction as the Senator from Virginia supposes they may now be going. It is a mere return to their first policy, if it be so; but I am happy to hear that there is doubt about that fact, for I should be glad to find all the nations of Christendom disposed to ameliorate and abolish slavery.

The motion to print the resolutions was agreed to; and they were ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented the petition of P. O. Beebe, praying for the aid of Congress in publishing an analysis of American law, of which he is the author; which was referred to the Committee on the Library.

He also presented a petition of citizens of Minden, New York, for the enactment of a law granting pensions to the soldiers of the war of 1812, and the widows of such as have died; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Albany, New York, praying that a quarter section of land in the proposed Territory of Arizona may be granted to each actual settler, including the right to the minerals in the soil; which was referred to the Committee on Public Lands.

He also presented the petition of John J. Rink, praying Congress to purchase the right to use certain improvements made by him in the construction of submarine masonry and in shipbuilding; which was referred to the Committee on Naval Affairs.

He also presented a petition of citizens of New York, praying for the passage of a general mercantile relief law; which was referred to the Committee on the Judiciary.

He also presented a petition of William B. Whiting, of the United States Navy, praying for an amendment of the pension and bounty land laws; which was referred to the Committee on Pensions.

Mr. SLIDELL presented a memorial of merchants of New Orleans remonstrating against the repeal of the law establishing the Light-House Board; which was referred to the Committee on Commerce.

Mr. BIGLER presented the petition of Findley Patterson, praying to be allowed payment for work done in the erection of the Capitol building at Leocompton, in Kansas, under a contract with the Governor of the Territory, and indemnity for losses sustained in consequence of the suspension of the work; which was referred to the Committee on Claims.

Mr. CHANDLER presented three petitions of citizens of Michigan, praying for the enactment of a general mercantile relief law; which was referred to the Committee on the Judiciary.

Mr. DURKEE presented a memorial of the Legislature of Wisconsin, praying for the enactment of a law which will secure the payment of the amount due to that State arising from the sale of the public lands therein; which was referred to the Committee on the Judiciary.

Mr. KENNEDY presented a memorial of the Numismatic Society of Philadelphia praying the establishment of a medal department at the Mint of the United States; which was referred to the Committee on the Library.

WITHDRAWAL OF PAPERS.

On motion of Mr. HARLAN, it was Ordered, That Benjamin Arnold have leave to withdraw his petition and papers.

Mr. GWIN. I have received a letter from a member of the other House, asking me to have the papers in the case of Joseph J. Petrie withdrawn from the files, and transmitted to him as a member of the House of Representatives for the purpose of presenting them to that body. I find there has been an adverse report made on the claim in the Senate. I state that fact, and ask the privilege of the Senate to withdraw the papers, in order that they may be presented in the House of Representatives.

Mr. STUART. I should like to inquire of the honorable Senator if he has any information from that member as to whether there is any additional testimony in the case?

Mr. GWIN. All the information I have is contained in the letter, in which the writer says: "I desire, if nothing definite has been done, that you withdraw all the papers, that I may get them acted on in some way"—I presume, before the House. This gentleman, when the papers were presented some years since, was a citizen of California. He is now a citizen of Illinois. He wishes the papers to go into the hands of his Representative. I was called upon this morning to have the papers transferred to him.

Mr. STUART. I understand the Senator to say that there was an adverse report.

Mr. GWIN. Yes; I make that statement to the Senate in order that they may judge whether they will permit the papers to be withdrawn. It was proper that I should make such a statement.

Mr. STUART. I shall not object under the circumstances; but as a general thing, I think it is bad policy to allow papers to be transferred from one House to the other in this way. I shall make no objection here.

Leave to withdraw the papers was granted.

REPORTS OF COMMITTEES.

Mr. JOHNSON, of Arkansas, from the Committee on Military Affairs and Militia, to whom was referred the petition of J. W. Brown, submitted an adverse report, and asked to be discharged from the further consideration of the case; which was agreed to.

He also, from the same committee, to whom was referred the memorial of William F. Russell, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the papers relating to the claim of Captain George E. McClelland's company of Florida volunteers, asked to be discharged from the further consideration of the subject; which was agreed to.

Mr. MALLORY, from the Committee on Claims, to whom was referred the petition of Robert A. Wainwright, submitted an adverse report; which was ordered to be printed.

Mr. HAMMOND, from the Committee on Naval Affairs, to whom was referred the petition of Martin Hubbard, submitted an adverse report; which was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Mary B. Renner, submitted an adverse report; which was ordered to be printed.

Mr. BROWN, from the Committee on the District of Columbia, to whom were referred the petition of citizens of Washington, District of Columbia, and the resolution of the corporation of Washington, in relation to lighting certain streets in that city with gas; joint resolution of the corporation in relation to opening and grading of Massachusetts avenue; and a memorial of a committee of the levy court for the county of Washington, in the District of Columbia, asking for an appropriation for certain roads in said county on certain conditions, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 197) providing for the arrest and return of fugitives from justice in the District of Columbia, reported it without amendment.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the petition of Joseph C. G. Kennedy, relative to the salary of the

secretary of the census board, submitted a report, accompanied by a bill (S. No. 212) for the relief of Joseph C. G. Kennedy. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. WILSON. The Committee on Military Affairs and Militia, to whom was referred the memorial of H. O'Reilly, J. J. Speed, and T. P. Shaffner, have authorized me to submit a report accompanied by a bill (S. No. 211) to facilitate communication with the army in Utah. I ought to state that the committee were equally divided in regard to it, and the bill is reported by the courtesy of the members of the committee opposed to the object of it. The bill authorizes the Secretary of War to make a contract for laying down a telegraph line from the frontiers of the State of Missouri to the Territory of Utah. I ask that it be read and the report printed.

The bill was read a first time, and ordered to a second reading; and the report was ordered to be printed.

BURLINGTON CUSTOM-HOUSE.

Mr. FOOT submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation of the sum of \$7,000, to fence, and grade the grounds, and to furnish the buildings erected at Burlington, Vermont, for a custom-house and post office.

Mr. FOOT also submitted a paper on the subject; which was referred to the Committee on Commerce.

SEIZURE OF BRIG MACEDONIA.

Mr. HUNTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, if it be in his judgment not incompatible with the public interest, to communicate to the Senate the correspondence between the Government of Chili and that of the United States, and other documents on file in the Department of State, in relation to the seizure by the authorities of Chili, at Litana, in Peru, of the proceeds of the cargo of the brig Macedonia, the property of citizens of the United States.

DIFFICULTIES IN UTAH.

Mr. FITCH submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of suspending the territorial laws of Utah, during the present difficulties in that Territory, and reporting, in lieu of the laws thus suspended, such temporary laws as the present exigency of the Territory requires.

Mr. FITCH. I present a volume of the revised laws of the Territory of Utah, with some manuscript comments showing the difficulty, if not impossibility, of enforcing these laws. I move to refer this to the Committee on the Judiciary.

Mr. PUGH. Would it not be better to refer the whole subject to the Committee on Territories? I am apprehensive that that committee may suppose their province has been interfered with.

Mr. FITCH. I do not see how. I think this is strictly a judicial matter.

The papers were referred to the Committee on the Judiciary.

EXPLANATION.

Mr. HALE. I want the indulgence of the Senate for a moment to make an explanation merely to do justice to the President of the United States. I made this remark in Congress, the other day, on the presentation of a resolution in regard to the Military Asylum:

"The case would be bad enough if it were the public money and the public funds that were thus used; but these men are not dependent on the charities of the Government, for it is their own money of which they are robbed to feast and entertain military officers, the President of the United States, and the Secretary of War."

Everything I said about that Military Asylum is true, and I did not say more than half the truth, but so far as relates to the President of the United States, I want to do him this justice. The President went out there by invitation of the board of officers, and roomed there, but he neither eat salt nor broke bread at the expense of the institution. Every dollar of the expense he was at while he was there, was paid from his own funds. There was not a dollar of the funds of the institution taken for his entertainment. It gives me great pleasure to do this act of justice to the President.

OBITUARY ADDRESSES.

Mr. JOHNSON, of Arkansas. I am instructed by the Committee on Printing, to whom was referred a resolution introduced by the Senator from Rhode Island [Mr. ALLEN] to print and bind the addresses made by members of the Senate and House of Representatives on the occasion of the death of the Honorable James Bell, A. P. Butler, and Thomas J. Rusk, late members of the Senate; to report adversely. It is the belief of the committee that a practice is growing up which, if it has not already gone to an extent that is vicious, certainly will do so. The expense of this printing would be considerable. The fame of these gentlemen will depend upon their acts; any books we may print will not add to it. It is in the adoption of a general rule on this subject, which the committee hope may be adhered to by the Senate, that they report adversely on the proposition to print these obituary addresses. I report the resolution back adversely, and ask that the committee be discharged from its further consideration.

Mr. HOUSTON. I regret exceedingly to be compelled to make any remarks on this, or on any subject; but it does seem to me that when it has been the custom heretofore up to this time to notice, in a particular way, events connected with the death of members of this body, it would be as well to continue the practice, and if it is proper that it should cease, a resolution of this body expressive of its purpose to end them should operate prospectively and not retroactively. From various quarters of the country—not confined to my own State, but from other States—I have received applications for the obituary notices of the decease of my late estimable and valued colleague, and I should be extremely gratified if it were in my power to respond pleasantly to those applications by furnishing them with the obituaries requested.

The VICE PRESIDENT. Will the Senator allow the Chair to interrupt him for a moment? The question is not on adopting the report of the committee. It is now before the Senate, and goes on the Calendar. The question merely is on discharging the committee from the further consideration of the subject, and the report will lie over. The Chair ventures to make the suggestion because he sees other Senators desiring to make reports.

Mr. HOUSTON. I had just stepped into the Chamber. I was not aware that the question was not on the adoption of the report.

Mr. STUART. I suppose the whole report goes over.

The VICE PRESIDENT. The whole report goes over; but by general consent, the Chair has been putting the question on discharging committees, at the request of Senators making reports.

Mr. STUART. I think it better that all should go over together.

The VICE PRESIDENT. That would be more regular; and if the Senator objects, it will all go over.

Mr. STUART. Yes, sir.

The report lies over.

COMMITTEE SERVICE.

Mr. CLAY. Some weeks since, on the motion of the Senator from Missouri, [Mr. GREEN,] my colleague [Mr. FITZPATRICK] was discharged from service upon the Committee on Territories, in consequence of his illness, and I was appointed in his stead. I am glad to see that my colleague has returned to his seat; and I now move that the Senate excuse me from further service on that committee, and that he be reinstated as a member of it.

The motion was agreed to.

PRESENTATION OF A SWORD.

Mr. MASON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 24) authorizing Lieutenant William N. Jeffers to accept a sword of honor from her Majesty the Queen of Spain; which was read twice.

Mr. MASON. This joint resolution is offered in pursuance of a letter from the Secretary of State, in which he informs me that this sword has been for some time at the Department, having been sent by the Queen of Spain, through the minister in London, to the minister here, with a request that it might be accepted. The reason of

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THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, MARCH 25, 1858.

NEW SERIES...No. 82.

it is expressed in a letter from the Spanish minister to the Secretary of State.

"As a due acknowledgment of the very efficient assistance which he gave with the vessel under his command, to the Spanish schooner Cartagena, in the waters of the Parana, on the 26th, 27th, and 28th of October, 1855.

"The undersigned is in like manner ordered by her Majesty to return thanks in her royal name to Messrs. W. L. Powell and E. W. Henry, lieutenants of said steamer, for their coöperation in extending said assistance."

It is a very honorable tribute to this young officer, and I hope the resolution will pass.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the joint resolution. It was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ADDITIONAL VOLUNTEER REGIMENTS.

Mr. IVERSON. The Committee on Military Affairs, to whom was referred the bill (H. R. No. 313) to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers, have instructed me to report the bill back with sundry amendments. I move to take up the bill now; and I will state the reasons why I make this motion.

I had a conversation with the Secretary of War this morning on this subject, and he desired me to say to the Senate that it was very important to the Government that the question of granting an additional military force should be decided as soon as possible. Every day now is important, and the Administration ought to know what they are to depend upon. This bill, as it came to us from the House of Representatives, proposes to give the Government the right to raise one regiment of Texas rangers for the defense of the frontier of Texas, and four regiments of volunteers to be used in the suppression of the rebellion in Utah, or in guarding the emigrant route, or on the frontiers of the United States, at the discretion of the President. The Administration desire to know what is the disposition of Congress on this subject, in order to take their measures for the exigencies of the service. If volunteer troops are to be allowed, as provided for by this bill, it is important that that power should be granted to the Government as soon as possible, in order that they may proceed to the organization of the regiments, if they shall determine to use in the Utah expedition these four regiments, or any portion of them. It is important, even if they do not intend to use them for the Utah expedition, but intend to use them upon the frontier, because then they can organize them immediately, put them upon the frontier for its protection, and at distant posts, and take the regular troops which are now stationed there, and send them to Utah. It is important, in every point of view, that the Administration should be informed what is the determination of Congress on this question: whether they intend to give any additional troops either in the shape of regulars or volunteers. If Congress deny the Government any power to raise additional troops of any character, then they want to understand that determination, so that they may make such disposition of the present regular Army as the exigencies of the service require. I hope, therefore, that the Senate will take up this bill, and consider the amendments which the Committee on Military Affairs have proposed, which are not very important, and determine the question whether this bill shall be adopted or not in the form in which it came from the House of Representatives, or with these amendments, or any other amendments the Senate may adopt. The amendments of the committee do not change the main features of the bill. All the amendments proposed are in relation to the appointment of quartermasters, commissaries, and surgeons; but that is not a very important matter. I move that the Senate proceed to the consideration of the bill.

The VICE PRESIDENT. This being the report of a committee, the Senator from Georgia

asks for its present consideration. If there be no objection, it will be taken up.

Mr. HALE. Does it require unanimous consent?

The VICE PRESIDENT. It does.

Mr. HALE. I do not want to delay the Military Committee; but I should really like to have the bill printed, so that we may see what it is. Let it lie over until to-morrow, and let the bill be printed.

Mr. IVERSON. If it be made, the special order for some hour to-morrow, I have no objection; and let the bill be printed, with the amendments.

Mr. HALE. Let the bill be printed, with the amendments.

Mr. GWIN. I shall give way to this bill; but I am very anxious to have the Pacific railroad bill taken up.

Mr. IVERSON. I am happy to hear the Senator from California make that statement. I do not wish to press the consideration of the bill to-day. If Senators desire to read the bill, the original bill is in printed form, and the amendments are not essential. Anybody can understand them in a moment. It is not important, I think, to have the amendments printed, because they are of such character as anybody can understand.

Mr. HALE. Let it lie over.

The VICE PRESIDENT. The report, at the suggestion of the Senator from New Hampshire, must lie over until to-morrow.

Mr. IVERSON. Cannot the Senate take it up on a motion?

Mr. HALE. Not if there be objection.

Mr. IVERSON. I move that the bill be printed, with the amendments.

The motion was agreed to.

KANSAS AFFAIRS.

Mr. GWIN. I call for the special order, being the Pacific railroad bill, which is the first special order on the Calendar.

The VICE PRESIDENT. The hour having arrived for the consideration of the special orders, the Chair will inform the Senate that the first special order is the motion of the Senator from Illinois to refer so much of the President's annual message as relates to Kansas, to the Committee on Territories; which, I suppose, the Senate may dispose of now, and get it off the Calendar.

Mr. STUART. I suggest to the Senate to vote on that motion now. It is no longer of any importance. Let us get rid of it.

The motion to refer was agreed to.

COMMODORE PAULDING.

The VICE PRESIDENT. The next special order is the joint resolution directing the presentation of a medal to Commodore Hiram Paulding.

Mr. DOOLITTLE. I move that be continued over until the time when the bill reported by the Committee on Foreign Relations shall come up for consideration.

The VICE PRESIDENT. It will be postponed by general consent.

Mr. SLIDELL. I ask whether both were not made the special order for the same time?

Mr. DOOLITTLE. I had that impression myself.

Mr. SLIDELL. I wish to address the Senate on that subject.

The VICE PRESIDENT. The Chair is under the impression that the Senator from Louisiana is right, although the Journal does not show it.

PACIFIC RAILROAD—ORDER OF BUSINESS.

The VICE PRESIDENT. The next special order is Senate bill No. 65, being the Pacific railroad bill.

Mr. DOOLITTLE. Just before the adjournment of the Senate last evening, the question arose whether the Senate would take up the Pacific railroad bill or the bill for the admission of Minnesota into the Union. The question arose at a late hour, and while the contest between the two bills was pending, the Senate, on motion of the Senator from Maine, adjourned. For myself, while I have no objection to the consideration of

the Pacific railroad bill, I am of opinion, that it is but just that the bill for the admission of Minnesota should be first considered. I think it was, in effect, agreed; such has been my understanding, that that question would come up, if not with the bill for the admission of Kansas into the Union, immediately after it. Minnesota has an interest in this very question of the Pacific railroad, and I do not know that there is to be any objection to her admission into the Union now that the Kansas question has been disposed of by the Senate. Perhaps it will occupy very little time; it may lead to no discussion. The bill may pass by unanimous consent. I think it is but just that it should be first considered. I move that the Minnesota bill be taken up, and that the special order be postponed for that purpose.

Mr. GWIN. I hope the Senate will proceed to consider the business which is now before it in regular order. The Pacific railroad bill has been a special order now for nearly two months. I am in favor of the admission of Minnesota; and whenever that question comes up, I shall vote for it. But I do not think so important a measure as the Pacific railroad bill should be postponed for any other. It has at this session heretofore been postponed for the Army bill, and for the Kansas bill, and now being the first special order regularly reached, I hope it will be considered. The Senate can, by a majority, at any time lay it aside if they choose to take up any other questions. The gentleman who has charge of the Minnesota bill [Mr. DOUGLAS] is not in his seat; and I hope the Senator from Wisconsin will permit the Pacific railroad bill to be acted upon now. Before it is disposed of the Senate can, by a majority, at any time lay it aside and take up the Minnesota bill. My only object is to proceed with the consideration of the railroad bill as soon as possible. It is my duty to insist upon it, as it is a question of vast importance to my State; and I am also charged with this duty as chairman of the select committee that reported the bill. I hope the Senator from Wisconsin will not insist on his motion.

Mr. DOOLITTLE. I ask for the yeas and nays on my motion, in order that we may find out who is for the admission of Minnesota, and who against it.

The yeas and nays were ordered.

Mr. BIGLER. I have said to the Senator from California that I should vote to take up his bill, and I mean to do so, but I am not willing that the Senator from Wisconsin shall lay this vote down as a test, and assume that Senators who vote to take up the bill for the construction of the Pacific railroad are, therefore, against the admission of Minnesota. He has said that he insists on the call for the yeas and nays, in order that he may see on this vote who is for, and who is against, the admission of Minnesota. Now, sir, I am for the admission of Minnesota, and I shall vote for it, and I know of no disposition here to delay it. The Senator from California has endeavored to get his bill considered day after day. His proposition is a reasonable one; and he says, that if the Senate hereafter desires to postpone his bill it will have the power to do so. I shall sustain him in his proposition.

Mr. BRODERICK. I desire to explain the vote which I shall give on this motion. I have been of the opinion all along that it would be an advantage to my colleague and myself to admit Minnesota into the Union before the vote was taken upon the Pacific railroad bill. But, sir, my colleague is the senior Senator from California, and I shall follow him in his vote. My mind has undergone a great change since this question came up some two or three weeks since. I understand that the Representatives from Minnesota, and one of her Senators, since their arrival in Washington, have become converts to Leecompton. They were bitter opponents of that measure when they arrived in Washington, as I understand, but this atmosphere has caused them to change their minds in regard to the admission of Kansas into the Union. As I stated a moment since, I believe both the Senators from Minnesota will vote for

a Pacific railroad bill, but I shall follow my colleague, if he insists that the railroad bill shall be first considered, and vote to take it up.

Mr. WADE. As a member of the Committee on Territories, I feel bound to urge upon the Senate the propriety of taking up and passing the Minnesota bill. It received the unanimous approval of the Committee on Territories. There was no member of that committee who could see any objection to the admission of Minnesota into the Union, and, by a unanimous report, we agreed that it ought to be admitted. That report was made some time ago. The Senators and Representatives of Minnesota have been here for a long time. They feel aggrieved; they feel that they have been kept out unreasonably, when there was no one to say that they were not entitled to come here and take their seats. When there is no objection to the admission of a State; when she has complied with the law, and has received the approval of those charged with the investigation of the question as to her right to admission, I think our first act should be to admit her, for it seems to me to be one of the first duties that we owe to ourselves to admit to seats in this body all those who are entitled to them, and to oust all those who are not entitled to seats. That seems to me to be preliminary to all other business. Inasmuch as there was no objection to the admission of this State urged in the committee, and I do not know that there is any reason which can be presented in the Senate against it, I hope the bill will be taken up, and that we shall promptly admit Minnesota into the Union.

Mr. STUART. I have a very strong desire that the Senate should proceed this morning in regard to the consideration of this question, as free as possible from any feelings that may have originated upon questions heretofore. It will be admitted, I think, that the question of admitting a State into the Union is one of the very first character in importance—a subject that is entitled to the earliest consideration of Congress. I think it will also be conceded that in this case the State having organized itself under an act of Congress and come into complete organization, having elected Senators and Representatives, who have been here, as it is known, for some time, the case presents itself in the strongest form, and it may be said fairly to be but an act of common justice to the State of Minnesota to receive her into the Union as early as may be. I hope I am justified, also, in believing that it can be done now without controversy, without any unnecessary consumption of time; and with a view to this I beg to suggest to the honorable Senator from California whether he will not facilitate his bill by allowing this question to come up and be acted upon, as I hope and believe it will be, without any unnecessary consumption of time. I think that he will. Of course I have no desire to intrude my opinions upon him at all. I acknowledge that the bill of which he has charge is an important one; and I think as important to the country as it is to the State of California. It will, however, involve more or less of discussion, as such a subject always has and always will. Without assuming that a vote upon this proposition now would be a test of any Senator's opinions, and without seeing the necessity for any such test, I think we may fairly, deliberately, with pretty much common consent, agree to take up the Minnesota bill and dispose of it. It is with that feeling, and that alone, that I shall vote to postpone the Pacific railroad bill and take up the Minnesota bill, in the belief that it is an act of paramount importance to dispose of it. I hope the Minnesota bill will be taken up.

Mr. GWIN. I have not a particle of objection to the admission of Minnesota. I am in favor of it, and have been in favor of it from the beginning. I believe her Senators are entitled to their seats on this floor now. I have entertained that opinion from the day of the presentation of the credentials of one of them by the Senator from Kentucky, and I endeavored to get the floor on that occasion to say so. I do not wish to damage the measure which I have in charge here, by being pertinacious before the Senate. I know that I occupy a position of very considerable responsibility. The Senator from Georgia has given notice that the necessity for the Army bill is pressing, and I do not wish the measure which I have in charge to be in the way of passing that bill through

the Senate, as it is so necessary to the wants of the Government; nor do I wish to put it in the way of another measure that I am entirely in favor of. Now, if the Minnesota bill can be taken up and acted upon forthwith, without unnecessary delay, I shall certainly be disposed to give way for it. If that be the case, I shall not interpose any objection in taking up that bill.

Mr. SEWARD. Let us take it up and try it.

Mr. GWIN. I understand, from Senators around me, that there will be objection to the Minnesota bill. My position is a peculiar one. I am in favor of the admission of Minnesota as a State. I am in favor of passing the Army bill as it has come to us from the House of Representatives, with the amendments proposed by the Committee on Military Affairs. Both of those measures require early action, and it seems to me will not occupy much time. At the same time, I am in charge of this other measure, and I shall be held responsible for any mistake on my part by which it may be put in jeopardy. It is now ahead of the Minnesota bill, and the Army bill, and everything else, but I do not desire any pertinacity of mine to damage it.

Mr. PUGH. I promise the Senator from California that he will assist his bill forward, if he will allow us to take up the Minnesota bill. He cannot expect a vote on his bill at once.

Mr. MASON. If the Senator from California is under the impression that by taking up the Minnesota bill, the bill which he has in charge for making the Pacific railroad may be advanced, he may probably find himself mistaken. As I said on a former occasion, I entertain no opposition to the admission of Minnesota into the Union, provided it appears that she is in a condition to be admitted, as far as all the proper requisites of State government are concerned. I shall probably make no opposition to the bill, certainly none because of the fact that she has prohibited slavery or will prohibit slavery within her limits; but we all know that on a late occasion the bill for the admission of Kansas was carried only after a most contested opposition in this Chamber, and conducted almost exclusively upon the ground that African slavery was tolerated within her limits. Now, in that state of things, the question of the admission or rejection of a State being a question of policy, proper policy, by which all Senators are to be governed, they having no right to demand it as a matter of right, I shall not only feel myself at liberty, but called upon, to look into the measure for the admission of Minnesota, as a question of policy purely; and, therefore, I am disinclined to take up this bill, or to act upon it until we see what course may be taken in the other branch of the Legislature on the bill that we have sent to them. I mean to disclaim, in the opposition I shall make to taking up the bill for the admission of Minnesota, any purpose, when it can come before us under other auspices, to resist its admission on any ground now known to me; but if it shall be found to be the will of the majority to take up this bill, I think it will not be so easily passed as the Senator from California anticipates on the suggestion that has just been made.

Mr. SEWARD. I think it will turn out, when we come to vote on this question, that the friends of the Minnesota bill, and the friends of the Pacific railroad bill, are the same persons, or very nearly so. At all events, that is my condition. I am very much in the condition of the captain in the play; I should be very happy with either of these bills, "were t'other dear charmer away." I have got to choose between the two which should come first. I think the interest of the Pacific railroad would be advanced by the passage of the Minnesota bill first. I think it is due to that measure to give the Minnesota bill a hearing, and, if there is to be a question of policy about it, there can be no better time for its consideration than now. But, independent of all these questions, I think, when a State has been invited into the Union, and has matured and completed her proceedings for that purpose and appears at the bar of the Senate, and has been kept in waiting three months, it is time her application should be received, heard, and decided. For these reasons, I shall vote for the motion to take up the Minnesota bill.

There is another consideration; and that is, that, contrary to my opinions and wishes, the Pacific railroad bill was made to yield to the Kansas question, and Minnesota was delayed for the

same reason, against my wishes. I think, therefore, that I do but an act of duty in giving my support to the taking up of the Minnesota bill; although, if I shall be overruled, I shall cheerfully go on, and support the Senator from California in his Pacific railroad bill.

Mr. GWIN. I will suggest to the honorable Senator from New York whether he thinks, after the notice I have received that this question is to be discussed for days—I have heard it said for ten days—I shall be justified in agreeing to the railroad bill being set aside to take up another question, which may delay it that length of time? I am in favor of the admission of Minnesota, and have always been in favor of it. I have not a word, by way of debate, to say in regard to it, and I am ready to vote for it; but we have been distinctly notified by Senators that it will be many days before that question can be disposed of; and, under the circumstances, I shall feel bound to insist that the special order be taken up.

Mr. BRODERICK. From the desire of my colleague to take up the Pacific railroad bill, I suppose he is satisfied that there is a majority of the Senate in favor of it. If that is the case, I suppose the sooner we proceed to discuss the measure, and take a vote upon it, the better. But it is well known to my colleague that the two gentlemen claiming seats on this floor from Minnesota are in favor of the Pacific railroad bill. If there is no opposition to the Pacific railroad on the other side of the Chamber, and if all the gentlemen on this side of the Chamber favor it, we can take it up and dispose of it to-day. The only question is, whether there is a majority of the Senate in favor of it. If not, I think that my colleague should allow the two Senators from Minnesota to take their seats on this floor before the vote is taken on the Pacific railroad bill; but, as I said a short time since, I am willing to follow his lead. On him rests the responsibility of the Pacific railroad bill; because, when I, and several other Senators on this floor, attempted to get it up before the Kansas bill was taken from the table, but a feeble opposition was made to the taking up of the Kansas bill. That effort was disposed in three or four minutes, and Kansas was taken from the table and considered, in preference to the Pacific railroad. That measure has been in the Chamber for the last four weeks. I am willing, as I said, to follow the lead of my colleague, for on him rests the responsibility of this act.

Mr. GWIN. I am willing to take it. I have never been afraid of responsibility.

Mr. BRODERICK. I am glad to hear it.

Mr. GWIN. I never will be. As to how the question is going, I do not know more than any other member of the Senate. I do not go around and poll the Senate on this or any other question. The bill is before the country as a great national measure. In favor of it were the three candidates for the Presidency during the last canvass; and their friends and partisans are on this floor. I take it for granted that they represent the public sentiment of the country, which was so unequivocally declared in favor of this measure. I have no objection to the Senators from Minnesota coming here. I do not know that they are in favor of this bill. It is the first time I ever heard they were. I take it for granted they are. Being western Senators, and deeply interested in this measure, I take it for granted they are in favor of it. I shall be glad to see them here. I have no objection to their coming here unless, by giving preference to the bill to admit Minnesota over the one I have in charge, I may put that in a position which will do it harm instead of advancing it. How do we know that these Senators will be here when we pass the railroad bill? There is another tribunal which has to act on the admission of Minnesota as a State—the other House of Congress. From the peculiar nature of their rules they may postpone it for weeks and weeks. I should be very willing to have those Senators here, and I am anxious to have them here. I think they are entitled to their seats now, but I am not disposed to give place to any other measure that will lead to discussion, and delay the consideration of the Pacific railroad bill. I have very little to say in regard to the measure. I propose merely to state its details. I do not want any obstacles thrown in its way. I should prefer to have the vote taken at once, but a question of such vast magnitude we know will be debated, and I

do not want it put backwards more than it has been. The delay that has already occurred certainly has not been by any act of mine. I had the bill reported as soon as possible, and made the special order for an early day, and from the first I have opposed its being set aside for any bill except the Army bill. As I have said, I am in favor of the admission of Minnesota. I should like to have her Senators here. But I will take the responsibility of voting not to set aside this bill for any other that will lead to discussion.

Mr. CRITTENDEN. It seems to me that this is the very first business which we ought to do. We ought to see that our body is perfectly constituted, so far as we can do so, before we proceed to any action. Now it seems that the trial is to be pressed on, and the judge kept out of doors. These gentlemen are attending here for their seats. They must have felt it something like a wrong, and considered it as a grievance, that they should have gone through all the usual and preparatory forms for admission, and should be kept out merely because the Senate refuses to consider their case. I do hope that we shall proceed at once, and give them a hearing, as a matter of primary consequence. I think the Senator from California will not delay his measure by allowing this bill to proceed. I think there is no disposition to debate it. I have none, and we should act upon it immediately. I hope so.

Mr. BRIGHT. I am sorry to differ with my friend from California on what I know is a very favorite measure of his; but he must allow me to say that I think he is prejudicing the case by insisting that we shall now take up the Pacific railroad bill. I supposed there would be no objection to taking up the bill admitting Minnesota as a State, after we had disposed of the Kansas bill. Until yesterday morning they were together, and my impression was, that so far as the Senate was concerned, they were to come in together; but, for reasons that I thought entirely proper, it was decided to separate them. Now, I hope those who voted to admit Kansas will vote with the like freedom to admit Minnesota. With the Senator from Kentucky, I see no objection to considering this subject, and considering it at once. I want, so far as I am concerned, to silence what I regard as a factious feeling in this country, by dealing justly and alike towards extremes; and, now that we have admitted Kansas, I think there is a great propriety in admitting Minnesota, unless some good, valid, and sufficient reason can be assigned against doing so. At least, I think the admission of Minnesota a matter of more moment than the Pacific railroad bill or any other bill that is now pending before the Senate; and I shall not, by my vote, consent to interpose any measure to the prejudice of the admission of Minnesota. I hope that bill will be taken up. I think it is due to Minnesota; I think it is due to those of us who were, under embarrassing circumstances, friendly to the admission of Kansas, that the Minnesota bill should be taken up and acted on. I hope the Senator from California will not press his motion.

Mr. GWIN. The Senator from Indiana has a very peculiar position in connection with this question, for he happens to be a very important member of the committee who reported the Pacific railroad bill to the Senate; and I believe it was by his casting vote that it came to the Senate. I will not assume the responsibility, when that Senator informs me that I am damaging this bill by pressing it, and therefore I withdraw all objection to taking up the Minnesota bill.

Mr. BRIGHT. Allow me to say that I was not present when it was decided to report the bill referred to by the Senator from California. I am friendly to a bill; whether the bill that has now been reported, I reserve for future consideration; but I am friendly to the general proposition to make a railroad to the Pacific. I consider that, however, under the peculiar circumstances of the case, secondary to admitting Minnesota.

Mr. GWIN. I must correct the Senator. It was his casting vote that brought the bill to the Senate.

Mr. BRIGHT. The Senator is mistaken.

Mr. GWIN. I am not mistaken. I recollect very distinctly that the bill was ordered to be reported by a vote of five to four in the committee, and it was the Senator himself that gave the casting vote in favor of it.

Mr. BRIGHT. I am quite sure the Senator believes his statement to be correct.

Mr. GWIN. There is a member of the committee sitting by me [Mr. IVERSON] who knows all about it.

Mr. IVERSON. My recollection is—

Mr. KING. I rise to a question of order. I think it is not in order in the Senate to allude to what takes place in committee, or to the action of members of committees. The deliberations of committees are not to be alluded to in this body. I raise this point, not because I have any objection in this case.

Mr. BRIGHT. It is not in order to refer to what takes place in caucus, I will inform the Senator; but it is in order to refer to what takes place in a committee.

Mr. KING. Mr. President—

The VICE PRESIDENT. The Senator from New York is addressing the Chair. While the Senator from New York is doing so, the voices of Senators on the right of the Chair are quite as audible as that of the Senator from New York. It is very reluctantly that the Chair has to remind the Senate so often of the disturbance of proceedings here; but he feels required to do so as the organ of the body, and it is but respectful to the Senator on the floor. Half a dozen Senators on the right of the Chair were all talking at once, and in audible tones. The Senator from New York will please restate his point of order.

Mr. KING. I make the point that it is not in order in the Senate to allude to doings in committee and to the action of individual members of a committee. I make the point simply that I may understand what are the rules of the Senate upon this subject. I know the point I make is good under the general parliamentary law. I do not raise the point because I have any objection to knowing the opinions of individuals in reference to this measure, or have any feeling on this particular question; but I have noticed some allusions of this sort before in the Senate, and I desire that we may have some understanding as to the rule on the subject.

The VICE PRESIDENT. Since the present occupant has been in the Chair, he has heard so many allusions in the Senate to what has taken place in committee, that he supposed it to be a usage of the Senate that such references might be made.

Mr. KING. If it is so, very well.

The VICE PRESIDENT. I did not think proper to check it.

Mr. BRIGHT. It is in order to refer to what a committee has done, when the person referred to does not object. I am the only person who can take exception, as I am the one referred to in this case.

Mr. IVERSON. I will state my recollection of what occurred on this particular question in committee. The committee, I think, was composed of nine members. The Senator from California presented his bill, which is now before the Senate. The committee were equally divided—four for the bill, and four against the bill. I think the Senator from Indiana was in favor of the bill, and the chairman gave the casting vote in favor of it. That is my recollection of it. There were four of us against the bill and four in favor of it, including the Senator from Illinois and the Senator from Indiana; and the chairman, the Senator from California, then decided the question by voting in favor of the bill. It was brought in in that way.

Mr. DOUGLAS. I do not like to say anything on this point; but I confess my recollection is clearly with the Senator from Indiana. I think he was not there, and I gave the casting vote myself. That is my recollection; but, with the counter-recollection of other Senators, I will only say, in deference to theirs, that this is my impression.

Mr. HUNTER. This shows the propriety of the point of order raised by the Senator from New York. He is undoubtedly right. Gentlemen have no right to refer in the Senate to what has taken place in committee. The committee have no journal, and their proceedings are not published.

The VICE PRESIDENT. The Chair is very clear on another point of order: that all these remarks are entirely apart from the question before the Senate—which is the motion to postpone.

Mr. BRIGHT. It is a matter of very little con-

sequence; indeed, of no consequence so far as regards the point under consideration. The Senator from California may be correct. My recollection is, that I was not present at the time the committee met to give the final vote on reporting the bill; but let that pass. The question is, whether we shall now take up the Minnesota bill? I hope the Senator from California will, and I understand he does, withdraw his objection.

The VICE PRESIDENT. The immediate question before the Senate is on the motion to postpone the Pacific railroad bill with a view to take up the Minnesota bill. On that the yeas and nays have been ordered. By unanimous consent the call may be withdrawn.

Mr. MASON. I object to the call of the yeas and nays being withdrawn.

Mr. JOHNSON, of Tennessee. I wish to make a single statement in explanation of the vote I shall give on this occasion. I understand that the Minnesota bill was reported to this body before the bill admitting Kansas into the Union, and an effort was made to take it up. The President then sent the Kansas constitution, with an accompanying message, and that was referred to the Committee on Territories. The committee reported in a short time the bill for the admission of Kansas, which was taken up by the Senate, and it was agreed that Minnesota and Kansas should come into the Union together. That was the understanding up to the last moment of action upon the Kansas bill. They were then separated, no doubt for good and substantial reasons. Minnesota was left on the table, and Kansas was brought into the Union, so far as the action of this body was concerned. Both are States applying for admission into the Union, and it was intended to bring them in together. I acted with that understanding. One has been brought in, so far as the action of the Senate is concerned, and the other has been left out. I intend to act in good faith; and I mean to vote for the admission of Minnesota. At the same time, I say to the Senator from California that I will give him all proper facilities for getting his railroad bill before the Senate at a proper time. I have said this much merely to explain the reason why I shall vote now for taking up the Minnesota bill.

The question being taken by yeas and nays, resulted—yeas 30, nays 16; as follows:

YEAS—Messrs. Bayard, Benjamin, Biggs, Bright, Cameron, Chandler, Clark, Collamer, Crittenden, Doolittle, Douglas, Durkee, Evans, Fessenden, Fitch, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Pugh, Seward, Simmons, Stuart, and Wade—30.

NAYS—Messrs. Allen, Bigler, Broderick, Brown, Clay, Fitzpatrick, Green, Gwin, Hunter, Iverson, Mason, Polk, Sebastian, Sillid, Wright, and Yulee—16.

ADMISSION OF MINNESOTA.

So the motion was agreed to; and the bill (S. 86) for the admission of the State of Minnesota into the Union was read a second time, and considered as in Committee of the Whole. It is as follows:

Whereas, an act of Congress was passed February 26, 1857, entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government preparatory to their admission into the Union on an equal footing with the original States;" and whereas, the people of said Territory did, on the 29th day of August, 1857, by delegates elected for that purpose, form for themselves a constitution and State government, which is republican in form, and was ratified and adopted by the people, at an election held on the 13th day of October, 1857, for that purpose, in pursuance of said act of Congress: Therefore, Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Minnesota shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

Sec. 2. And be it further enacted, That said State shall be entitled to one Representative, and such additional Representatives, in Congress, as the population of said State, according to the census authorized by the act approved February 26, 1856, shall show it to be entitled to according to the present ratio of representation, and no more.

Mr. PUGH. I wish to offer to the bill an amendment similar to the one I proposed to the Kansas bill yesterday:

And be it further enacted, That from and after the admission of the State of Minnesota, as hereinbefore provided, all the laws of the United States which are not locally inapplicable, shall have the same power and effect within that State as in other States of the Union; and the said State is hereby constituted a judicial district of the United States, within which a district court, with like powers and jurisdiction as the district court of the United States for the district of Iowa, shall be established. The judge, attorney, and marshal of the United States for the said district of

Minnesota, shall reside within the same, and shall be entitled to the same compensation as the judge, attorney, and marshal of the district of Iowa.

The amendment was agreed to.

Mr. DOUGLAS. I desire to call the attention of the Senate to the second section of this bill fixing the representation of the new State of Minnesota in the House of Representatives. I agreed to that section as it is presented in this bill, in order to get a majority of the committee to concur in the bill. That section allows to Minnesota one Representative, and as many more as the census shall show her to be entitled to. The census was not fully returned at the time the bill was reported, and I am not aware that the full returns have yet been received; but I have such evidence, unofficial, informal, as satisfies me that the census of Minnesota was not fairly taken. At the time the committee reported the bill, the returns showed about one hundred and forty thousand people, with seven or eight counties more to be heard from; yet I believe Minnesota had a much larger population than that. She has elected three members of Congress, and if I could, I should have allowed her the three. I had, however, to concur in the section as it is, in order to obtain the assent of a majority of the committee to the bill. I would now prefer to strike out that section entirely, and leave the House of Representatives to determine the number of Representatives to which she is entitled. I move to strike out the second section of the bill.

Mr. GREEN. I shall vote against striking out this section for one single reason. I regard it as the duty of Congress to fix the representation to which a State may be entitled; not the House of Representatives, but Congress. I am willing that a definite number be fixed; but to strike out the section entirely, and leave it to the mere option of one branch of Congress, does not, in my opinion, come up to the discharge of the constitutional duty which imposes it upon Congress to fix the number to which the State may be entitled. The census returns show about one hundred and forty-six thousand inhabitants. I have the evidence in my drawer, and it can be presented at any time. It is very clear to me that the State ought to have at least two Representatives. If from the returns subsequently received the State is entitled to three, I am perfectly willing she should have three; but I do not think we ought to leave it a blank for the House of Representatives to fix just as they please. Congress may fix the representation to which a State is entitled, except so far as the Constitution fixes it. The Constitution says they shall have at least one. That is fixed. Whenever they are to have more than one, Congress must say what the number shall be, either by establishing a rule, or naming the number.

Mr. BIGGS. I desire to ask the Senator from Illinois, if he has obtained information in regard to the census, what, in his opinion, is the probable amount of the population of Minnesota at this time?

Mr. DOUGLAS. If I take the census as a guide, my recollection is that it shows about one hundred and thirty-six thousand returned, and seven or eight counties to hear from. I think the committee came to the conclusion that, if the remaining counties contained the same proportion of people to voters, there would be between one hundred and forty-five and one hundred and fifty thousand, according to the census.

Mr. GREEN. Yes.

Mr. DOUGLAS. I am under the impression, from unofficial, verbal information, that the census was not fairly taken, but to what extent I cannot say.

Mr. SEWARD. Unfair which way?

Mr. DOUGLAS. I understand that the census-takers did not take the names of all the population, and the population is much larger than the census would indicate. That is my impression.

If the Senator from North Carolina will pardon me, I will make a remark here on another branch of the subject. One motive I have in moving to strike out the section is this: Minnesota has elected three members. If we admit the State without fixing any number, the question is how to determine who was elected, and whether it does not exclude the entire representation of the State? Three have certificates. If Minnesota be admitted with one or with two, the question is whether

any one or any two of the three already elected can take their seats; and if so, which one or two? The point is, therefore, whether we are not bound either to take the three or to leave them all out under the circumstances. I hardly see how the House of Representatives is to determine which of the three to admit; and seeing that difficulty to arise on the point, I move to strike out the whole section, and leave the House to determine the question for itself. The population, as far as returned, as furnished to me by the Senator from Missouri, is one hundred and forty-two thousand, with six counties wanting, which would bring it up probably to about one hundred and fifty thousand people.

Mr. MASON. Will the Senator from Illinois be good enough to inform me whether there was any provision in the enabling statute authorizing the election of members of the House of Representatives?

Mr. DOUGLAS. I do not distinctly recollect. My impression is that the provision in the enabling statute was the same as in this bill; that she should have one representative, and such additional ones as the census ordered by that statute should show that she was entitled to. That census shows that she is entitled to one and a fraction; and the question is, how can you give one for the fraction, if you construe that statute literally? That is my impression of the enabling act, but I may be mistaken.

Mr. MASON. It seems to me that the act of the Territory of Minnesota, in electing Senators and Representatives to Congress before they could do so—and they could not do so until they were a State of this Union—was a great irregularity. It was done in the instance of the Territory of California, and Congress, as I thought very improvidently, sanctioned it, by admitting those who had been thus elected. But if the people of the Territory of Minnesota have placed themselves in that position, electing three Representatives, without knowing, or without inquiring, even, from the census, what number they were entitled to, it is an embarrassment from which I do not see that Congress can relieve them. These three gentlemen have an equal right, if they have any right at all. I do not know how the question of selection between them could be determined. I have no idea that Congress could determine it. Minnesota is entitled to but one Representative; for whatever the fraction may be, it is not large enough to entitle her, under the existing apportionment, to another Representative.

Mr. DOUGLAS. I will state, on refreshing my memory by talking with the Senator from Missouri, that the enabling act did not provide a Representative for any fraction. It provided that she should be entitled to one member, and such additional ones as the population returned, in the census should show her to be entitled to under the existing apportionment, not giving any for a fraction.

Mr. MASON. Then, under the existing apportionment, she would be entitled to but one Representative.

Mr. GREEN. The constitution of Minnesota has this provision, section nine, article sixteen:

"For the purposes of the first election, the State shall constitute one district, and shall elect three members to the House of Representatives of the United States."

They fix the number by their own law; and if we say nothing on the subject they are entitled to them under their constitution.

Mr. MASON. I think we should restrict them to one Representative; because, under the existing apportionment, their fraction is not large enough to entitle them to more than one; but which Representative that should be is a matter that I think the Senate ought not to undertake to determine. It is a matter that seems to me belongs properly either to the House of Representatives, or to the State of Minnesota when it shall be admitted, to determine which of the three shall be that one.

Mr. BIGGS. The object of my inquiry of the honorable Senator from Illinois was, to determine as to the motion I should make for the amendment of this section before it is proposed to be stricken out, as I suppose it will be proper to amend the section before the question is taken upon striking it out. I concur with the Senator from Missouri, that we ought to determine in this bill the number of Representatives to which

the State is entitled in the House of Representatives, and I am disposed to be liberal to this new State. If you take her population now, to determine the number of Representatives to which she is entitled, of course she has an advantage over the States whose apportionment was made on the basis of the last census; but I am willing to give her that advantage, and also to give her the additional advantage of a liberal apportionment of Representatives, in admitting her into the Union. I will, therefore, move that the second section be amended by striking out the word "one," in the second line, and inserting "two;" and by striking out the rest of the section, after the words "House of Representatives of the United States," which provides for such additional Representatives as the population of the State may entitle her to. We then settle the matter; and by a liberal application of the facts, as we understand them, give her two Representatives in the House of Representatives. I move this amendment to the section, before the question is taken on the motion of the Senator from Illinois to strike it out.

Mr. COLLAMER. I will state the facts of this case as I understand them. By the enabling act it was provided that if Minnesota decided to form a constitution and State government, a census should then be taken; and she should be entitled to such number of Representatives, upon her admission, as that census should show her to be entitled to according to the present rule of apportionment. When the convention met and decided to go on and make a constitution, the Secretary of the Interior, being informed that that contingency had happened, issued his orders for taking the census; and the proper officers, the marshals and the deputy marshals, went on taking it. In the mean time the convention proceeded to make the constitution; and in that constitution, without waiting for the result of the census to transpire, they provided that the people should elect three Representatives to Congress, and declared the whole Territory to be one district for that purpose, and they went on and made the election before the taking of the census was completed. They also proceeded to submit the constitution to the people, who ratified it, and held on the same day an election for members of the State Legislature. The Legislature met, and chose Senators to Congress.

When I examined this subject in the committee, it appeared to me at the first blush that if Minnesota were admitted under her constitution, without saying anything in regard to the number of her Representatives, it would be a mere question for the House of Representatives to settle the number, and to decide which of the persons already elected should be Representatives in that House by virtue of the enabling act, which declared that she should be entitled to the number which the present apportionment would give her on the taking of the census. On more full reflection, however, I came to the conclusion, and I believe the committee agree with me in this opinion, that inasmuch as they have put into their constitution a provision for three Representatives to Congress for the time being, they will be entitled to have those three Representatives if we admit them under that constitution without any qualification. It was to exclude any such conclusion that the second section was inserted in the bill. It was ingrafted into it with the view of carrying out the provision of the enabling act, and give them the number of Representatives to which their census may entitle them, and no more, and to rebut the presumption which might arise that we agreed to let them have three members, which presumption probably would arise if it was not rebutted by some such provision as this.

The census returns have fully come in, except for seven or eight counties, and in regard to those the committee made an estimate, by taking the number of votes in those counties and estimating the same proportion of people to each voter as in the rest of the Territory; and on this basis we came to the conclusion that Minnesota has between one hundred and forty-five thousand and one hundred and fifty thousand people. The present ratio of representation is ninety-three thousand four hundred and twenty; Minnesota, therefore, has sufficient population for one Representative, and she has a fraction larger than half the ratio required for another. Now, it is suggested as the

ground of the motion of the Senator from North Carolina, that that census was perhaps short of the truth. I think the fair presumption from the facts within my knowledge is rather the other way. I believe they counted many men in that census as inhabitants of Minnesota, whose families remain in New England to this day. Those persons have gone there with a view to settle—they are making arrangements to settle—but that is not taking up a residence. I take it that a man's residence is where his family resides, whatever his ultimate purposes may be. The fact is, I believe, that that census in all probability is larger than the true number of residents in Minnesota. At any rate, I do not know how we can obtain by mere suggestion, estimation, or guess, as a Yankee would call it, what should be the rule of our duty, when we have official information before us. When we take the returns before us and make a liberal allowance for the seven or eight remaining counties, by estimating their population according to the number of votes they cast, I think we do all that we can as a basis for our action; and on that basis they are entitled to one Representative, and go half way towards another.

The question pending now I understand is on the amendment of the Senator from North Carolina to the second section. I have no very great objection to the amendment, though I think two Representatives are more than Minnesota is entitled to; but I do not see that the amendment will help the matter at all. As truly stated by the Senator from Illinois, and the Senator from Missouri, the trouble is, that if Minnesota cannot have three members she cannot have any at the present time, but there must be a new election.

Mr. PUGH. Why cannot the House of Representatives take the highest?

Mr. COLLAMER. The people have voted for three men. The people have never decided which two or which one of the three they would have, if they had to select only one or two. The House of Representatives, in admitting any of them, will have to make an election for them. They will have to select from the three who have been elected by the people; and I think they have no power to make any such election as that, any more of two members than of one. I do not know which of these men had the highest number of votes, or whether there was any difference between them in that respect, nor do I think that any criterion at all. That might depend on a man's location. If the people were to elect two members, they might locate them in different sections of the State. I do not see how it is possible to determine anything any more with two members than with one. If we strike out this section, I presume the whole three must be admitted, because the constitution of Minnesota provides for three members of Congress; and if we admit them with that constitution, and exclude no conclusion to the contrary, we provide for admitting the three members. That is evidently improper, and I do not know but that it is unconstitutional; for we have no power to give Representatives disproportioned to the different States. I think, therefore, the section should not be stricken out. As to the amendment, I do not think it will help the matter at all; but it will still require a new election, as much so as if only one Representative were provided for. Whether you allow one Representative or two Representatives, the matter will have to be sent back to the people for them to make an election of the true number to which they are entitled.

Mr. PUGH. I ask for a division of the amendment of the Senator from North Carolina. I believe the State of Minnesota is entitled to three Representatives. I think so from information I have. I shall vote for the first part of the amendment of the Senator from North Carolina, striking out "one" and inserting "two," and then I shall vote against the second part of his amendment, so as to leave the House of Representatives, on such testimony as they may receive, to decide whether or not Minnesota shall be entitled to one, two, or three Representatives.

Mr. BAYARD. I believe the pending motion is to strike out the second section of the bill reported by the committee.

The VICE PRESIDENT. The Chair will state to the Senator from Delaware that the pending question is on the motion of the Senator from North Carolina, to amend the second section by striking out the word "one" and inserting "two;"

and by striking out the residue of the section after the word "Representatives," so that the clause shall read "that said State shall be entitled to two Representatives in the Congress of the United States."

Mr. BAYARD. My objection will be precisely the same to that amendment as it would be to striking out the whole section. The enabling act for Minnesota made the proper provision under the laws of the United States. Every State is entitled, in the House of Representatives, to a proportionate representation, according to the principles of the Constitution, not to an arbitrary number; and therefore, when a new State is coming in, as her population could not be known at the time of the preceding general decennial enumeration, it is always proper to provide for ascertaining her population. Congress made that provision in the Minnesota enabling act. Section four of that act provided that, in the event of the convention adopting a constitution, the Secretary of the Interior was to cause a census of the inhabitants to be taken; and that the State should be entitled to one Representative, and such additional Representatives as the population should, according to the census, show her to be entitled to upon the present ratio of representation. That is just and fair. Whatever the State is entitled to on that basis, of course she ought to have, and no more. The whole difficulty has arisen from a perhaps not unnatural eagerness on the part of the new State to act before she was in a condition to act, and to act beyond her power. In the schedule to her constitution, Minnesota has undertaken, in violation of the very law under which she organized her constitution, to claim representation in Congress on a different basis from what the law allows her. It is for Congress, not for a State, to prescribe the basis under the Constitution of the United States. Not only has she done that, but she has, in article sixteen of her constitution, violated the existing law of the United States, which requires elections for members of Congress to be by single districts. She has provided that, "for the purposes of the first election the State shall constitute one district, and shall elect three members to the House of Representatives of the United States."

The general law requires that the elections of members of Congress shall be by single districts. Minnesota has chosen as her first act to annex to her constitution a provision making the State into one district instead of three, if she is entitled to three members. This clause is wrong in all respects. In truth, it ought to form no part of the constitution. I agree with the honorable Senator from Vermont, that this clause being there, if we admit the State under this constitution, it will be considered as an assent to the clause, unless we insert some provision excluding that conclusion. As I do not think Minnesota had a right to exercise any such power, I cannot vote for striking out or amending this section of the bill, as now proposed. She is no more entitled to two Representatives than to three, on any evidence we have. The bill reported by the committee gives her fairly all that she is entitled to; that is, one Representative certainly, to which every State is always entitled, and any additional number that, by the ratio of representation, she is entitled to for her population. That leaves the rest legitimately to the House of Representatives. It belongs to them, after we have declared what number of members the State is entitled to under the ratio, to determine as to the election of their own members, and whom they will admit. Whether they will admit the persons already elected or not, is a question for them, and not for us. Congress is to prescribe what the representation shall be in the admission of a new State, not the State herself, neither House of Congress alone. Then, as to who has been elected, and whether the election has been in accordance with the right to which the State is entitled after her admission is a question for the House in which the case arises to determine for itself.

I submit then that the section, as reported by the committee, ought to stand, and that the objection to fixing two Representatives is just as strong as to fixing three. According to the enabling act, Congress is to give to Minnesota the number of Representatives to which her population entitles her. There is no evidence before us under the law, there is no census which shows that she is enti-

led, according to the ratio, to more than one Representative. If she is entitled to more than one and has elected them under the terms of the law, it will be a simple matter of calculation when they go to the House of Representatives whether that House will admit one or two, and the right will be fixed properly by the terms of the law itself.

The VICE PRESIDENT. The Senator from Ohio has asked for a division of the question upon the amendment of the Senator from North Carolina. The Chair thinks it is susceptible of division. The first question, therefore, will be on striking out "one" and inserting "two" before the word "Representative."

Mr. CLAY called for the yeas and nays; and they were ordered.

Mr. FITCH. The question, as stated by the Chair, is on striking out "one" and inserting "two." Cannot that be divided so as to let us vote simply on striking out?

The VICE PRESIDENT. It is not in order, according to the rules of this body, to divide a motion to strike out and insert.

The question being taken by yeas and nays, resulted—yeas 12, nays 33; as follows:

YEAS—Messrs. Allen, Biggs, Bright, Brown, Douglas, Fitch, Green, Jones, Pugh, Sebastian, Stuart, and Wright—12.

NAYS—Messrs. Bayard, Benjamin, Bigler, Broderick, Cameron, Chandler, Clark, Clay, Collamer, Crittenden, Dixon, Doolittle, Evans, Fessenden, Fitzpatrick, Foot, Foster, Hamlin, Harlan, Houston, Johnson of Arkansas, Johnson of Tennessee, King, Mason, Pearce, Polk, Seward, Simmons, Sidel, Trumbull, Wade, Wilson, and Yates—33.

So the first branch of Mr. Biggs's amendment was rejected.

Mr. BIGGS. The Senate having rejected the first part of the amendment, my object cannot be attained by the rest of the proposition; and therefore I withdraw it.

The VICE PRESIDENT. The question recurs on the motion of the Senator from Illinois to strike out the second section of the bill.

Mr. BIGGS. I suppose the object of that motion is to allow the State of Minnesota three Representatives in the other House, under her constitution. That will be the effect of striking out that section, and I am therefore opposed to it.

Mr. MASON. I propose, if it be in order, to amend the section by striking out all after the word "Representative," the effect of which will be to entitle the State to one Representative only. I may be wrong, because I have not had sufficient time to reflect on it; but I do not see how the problem can be worked out to entitle this State to more than one Representative under what is contained in the second section. The provision is, that "the said State shall be entitled to one Representative, and such additional Representatives in Congress as the population of said State, according to the census authorized by the act approved February 26, 1857, shall show it to be entitled to according to the present ratio of representation." The present ratio of representation does not assign any number to any fraction of the unit prescribed by the law. The mode of ascertaining the apportionment in the law to which I have just adverted, is by first determining what shall be the whole number of Representatives, which was fixed at two hundred and thirty-three, and then it was required that the Secretary of the Interior, after ascertaining the entire population to be represented, should divide that by the number of Representatives. The law declares—

"That the product of such division, rejecting any fraction of a unit, if any shall remain, shall be the ratio or rule of apportionment."

And then it provides further that—

"The Secretary of the Interior shall ascertain the representative population of each State, and divide the whole number of representative population of each State by the ratio already determined by him as above directed, and the product of this last division shall be the number of Representatives apportioned to such State under the then last enumeration: *Provided*, That the loss in the number of members, caused by the fractions remaining in the several States on the division of the population thereof, shall be compensated for by assigning to so many States having the largest fractions one additional member each for its fraction as may be necessary to make the whole number of Representatives two hundred and thirty-three."

I do not see, therefore, how the rule provided for in the second section of this bill can be worked out, or how it can be competent for the House of Representatives, to whom it would be left, to allow, according to the rule prescribed by the existing law, to this State more than one Rep-

representative. There is none assigned to any particular fraction. This condition of things is brought about by the necessities, I suppose, that are imposed on a new State where it has not a population which will assign to it under the existing law a certain number of Representatives, equal to what may have been assigned to the States in the Union at the time the apportionment was made proportionate to its population; and that we can only get at the result legitimately and constitutionally, by assigning to this State for the present but one Representative. I move, therefore, to strike out the residue of the section.

Mr. DOUGLAS. I concur with the Senator from Virginia that under the bill as it now stands the House of Representatives would assign but one Representative to Minnesota. As I stated before, I agreed to that section in committee as a matter of necessity, in order to get permission to report the bill at all. I desired to give Minnesota the whole three members she has elected. If I could not get that, I desired to give her two, and therefore voted for the amendment of the Senator from North Carolina. My object, in moving to strike out the entire section, is to give her three. The amendment of the Senator from Virginia will certainly fix it at one. It is unnecessary to argue it. The Senate understands the question.

Mr. MASON. I do not exactly understand the Senator from Illinois. As I am informed, the population of this Territory, ascertained under the census directed by the law of 1857, so far as it has been ascertained, would not entitle her to two Representatives, unless she should have a fractional part of a unit represented. Do I understand the Senator from Illinois to say that his purpose is to give to that State a larger number of Representatives in proportion to its population than is assigned to the other States under the Constitution; or that he would fix it at three, regardless of whether, under the apportionment which is fixed by the Constitution, she would be entitled to only two, and thus make a distinction in favor of this State?

Mr. DOUGLAS. I will answer the Senator very frankly. When I reported the bill some years ago to admit Texas into the Union, we had no official evidence which warranted the belief that she had population enough for more than one member of Congress; yet there was unofficial evidence such as left the impression on our minds that she had more than that, and her population was increasing very rapidly, and Congress concluded to act on the best information they had, which was satisfactory to each member, though not official, and we allowed Texas two members of Congress. So in the case of California, the official returns would not have justified the allowance of more than one member, but we had unofficial verbal information such as to satisfy members that probably she was entitled to two. It was a very large new State, and we thought we should be liberal towards her, and we allowed her two members. I would act on the same rule with Minnesota. While technically, under the law, she would be entitled to only one member, yet the official evidence shows that she has sufficient population for one, and more than a moiety of the number required for another. For this reason I voted to allow her two members. I have had evidence which satisfies me that the census was not fairly taken, and that a large part of the population were excluded. Under that state of the case, I believe there is in Minnesota population more than enough for two members of Congress, and therefore I am in favor of allowing three. I do not think she has quite enough population for three, but she certainly has more than enough for two. I have voted for two; I shall vote for three; in other words, I shall vote for the highest number, not exceeding three, that I can get. I act on that principle.

Mr. MASON. The actual number provided for in the apportionment as the ratio of representation is ninety-three thousand four hundred and twenty. Then to entitle a State to two Representatives, if we are to be governed by the rule, she must have one hundred and eighty-six thousand eight hundred and forty inhabitants. The census, as far as taken, shows, I understand, one hundred and fifty thousand.

Mr. BENJAMIN. One hundred and thirty-six thousand.

Mr. DOUGLAS. The subsequent returns

show one hundred and forty-two thousand, with six counties to be heard from; and estimating the population in those counties according to the vote given, we should have the whole number one hundred and forty-nine or one hundred and fifty thousand, according to the census.

Mr. MASON. That is in the whole Territory.

Mr. DOUGLAS. Yes, according to the census.

Mr. MASON. Then one hundred and fifty thousand is the maximum population of Minnesota, according to the actual returns, and from a computation or estimate that, I suppose, has been liberally made. I understand the Senator from Illinois, in providing for the admission of this northwestern State, to say that because, in the case of Texas, Congress assigned two members, without having any official returns of what the population was, and allowing each Senator or member of the House of Representatives to determine for himself, by such estimate as he could form, what it was; and because, in the case of California, on conjectural estimate alone, two members were allowed to that State, he, in this case, with official information that there is not a population in Minnesota that will entitle this State to two Representatives, is prepared to give her three; and the reason for it, if I understand him correctly, is that he does not believe the census returns were accurately taken.

Well, now, Mr. President, we have a rule of the Constitution, one that is most important to preserve the equality of these States, and that is, that in the popular branch, political power shall be wielded in proportion to numbers, ascertained in the mode provided by the Constitution, and we have a law to carry that out. I would submit, then, with the great respect which I bear to the honorable Senator and his position here, whether it is not rather too liberal to say that in affecting political power in the popular branch, he will feel himself at liberty to repudiate and disclaim information provided by law, and given under the sanctions of law, in order to concede a large political weight in the popular branch to a State proposing to come in than would be conceded either by the laws or the Constitution? I cannot see, I confess, any manner by which we can, as at present informed, allow this new State more than one Representative, without doing it in flagrant disregard both of the Constitution and the laws of the land.

Mr. GREEN. I think the Senator from Virginia is a little mistaken, because the enabling act, as we call it, is not obligatory upon the present Congress. The enabling act made a certain provision. That enabling act said Minnesota should have one member, and such others as the census should show her to be entitled to; but that enabling act is not the law to govern this Congress. It was a promise and a pledge to the people of Minnesota, and they have a right to insist that we shall come up to it; but we have a right to go beyond it. The evidence before us is this: the census is imperfectly taken, and I have here letters, received by the Secretary of the Interior, showing that several of the marshals refused to take the census because the compensation was not enough to pay their expenses. I have evidence more than that: one of the marshals who had taken the census, when he ascertained what his compensation would be, threw the returns in the fire and burnt them up. We have census returns of one hundred and forty-six thousand, and other counties not heard from, that would swell the number up, according to the same rate, to more than one hundred and fifty thousand.

Mr. BAYARD. Is any return of this made to Congress?

Mr. GREEN. I have the evidences in my drawer. Part of them I presented to the Senator from Illinois. Now we know that the vote cast for the election of State officers was forty thousand four hundred and twenty-two. We have the census of certain counties, and the vote of certain counties. Strike the average to see how many inhabitants there are to the voter, and you will find it to be six inhabitants to a voter. Multiply the forty thousand four hundred and twenty-two by six, and you have got more than two hundred and forty thousand inhabitants. We know the census was taken imperfectly. The evidence is before us; the Secretary of the Inte-

rior has received letters showing that fact. As the census is imperfect, as we have other evidence bearing on the point, as it tends to prove, and, in the absence of anything conflicting with it, does prove, that Minnesota has two hundred and forty thousand inhabitants, to limit her simply to one member, as though she had but ninety-three thousand inhabitants would be unjust. I am not able to talk on this subject. My lungs are worn out; my system is exhausted; and all I can do is to present this simple point: first, that the census returns, the evidence shows, were imperfect, and the marshals were not able to take it; some of them, in consequence of the inadequacy of the pay, burnt up the census returns after they had taken them.

Mr. SEWARD. The honorable Senator will allow me to ask him a question? Does he know how these marshals were paid for taking the names? Were they paid *per capita* or by the day?

Mr. GREEN. They were paid according to the rate of proportion adopted, I think, on the motion of Senator Underwood, of Kentucky.

Mr. MASON, and others. "The square root." [Laughter.]

Mr. GREEN. I know they all said it was so inadequate that they could not afford to travel over a large extent of country for the few cents of compensation provided. We do know, however, that a certain number of votes were cast, and we also know that the average of population to the votes returned is about six to one, and that will give us over two hundred and forty thousand inhabitants. On that I feel justified in acting inasmuch as I am not bound by the prior action.

Mr. SLIDELL. It is very evident that we cannot dispose of this bill to-day. There are various executive messages that ought to be considered, and I move now that the Senate proceed to the consideration of executive business.

EXECUTIVE SESSION.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 24, 1858.

The House met at twelve o'clock, m.
The Journal of yesterday was read and approved.

DEFICIENCY BILL.

Mr. BOCOCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Boccock in the chair,) and resumed the consideration of House bill No. 306, to supply deficiencies in the appropriation for the service of the fiscal year ending the 30th of June, 1858; upon which Mr. CLARK, of Missouri, was entitled to the floor.

Mr. CLARK, of Missouri. Mr. Chairman, whatever may have been my disposition heretofore not to engage in this debate, I feel constrained at this time, in view of the speech of my honorable colleague [Mr. BLAIR] yesterday, to depart from that rule. He has attempted, by his speech here yesterday, as well as heretofore, to inaugurate a new policy in the State which he and I in part represent. When I entered the Congress of the United States as a Representative from Missouri, I expected to meet opposition to our policy from Representatives of the northern States. I expected to hear, and came prepared to hear, such arguments from gentlemen whose education and whose bias, from being reared up under different institutions, would naturally lead them to oppose the institution of slavery. But I did not expect ever to hear any gentleman from a southern State, raised and educated and living under our institutions, assuming a position of antagonism to the interests of the South, throwing the weight of his voice and influence against them, and endeavoring to shed a blight over the country.

Mr. Chairman, that gentleman indicated, in his speech yesterday, his purpose to effect one of two objects, either of which would bring direct destruction on the State he in part represents. One of those purposes is to establish the principle of

emancipation in the State of Missouri, and in the South. Now, by the constitution of the State of Missouri, its Legislature is prohibited from passing any law emancipating slaves until they first pay the owners, or get the consent of the owners. The provision is as follows:

"The General Assembly shall not have power to pass laws:

"1. For the emancipation of slaves without the consent of the owners; or without paying them, before such emancipation, a full equivalent for such slaves so emancipated."

Sir, as I remarked, the gentleman's policy tends to one of two things: either to emancipate slaves in the State of Missouri by first obtaining the consent of the slaveowners, or providing means to pay the slaveowners the equivalent for the slaves; or else to override the constitution and act the agrarian in full, by striking down the liberties of the people whom he in part represents—

Mr. BLAIR. Will my colleague allow me to interrupt him for a moment?

Mr. CLARK, of Missouri. No, sir; I do not yield the floor. It is not the usage here to do so.

Sir, as I have said, the constitution of Missouri provides that no slave shall be emancipated by the Legislature unless a just equivalent be paid to the owner. How many slaves are there in Missouri? I assert that there are now over one hundred thousand. The national census shows that, from 1810 up to 1850, there has been a gradual increase of slaves, in proportion to the increase of the white population, and as great as that of any other State. We now have over one hundred thousand slaves. These slaves, at a fair average valuation, are worth \$500 a head. What does he propose to do? To emancipate them, in the face of that provision in the constitution that slaves shall not be emancipated without the consent of their owners, or without first paying for them a fair valuation? Is he proposing to afflict his constituents and mine with a debt? Is he attempting to ingraft upon that State a policy that shall bring her into debt between fifty and sixty million dollars? Where is he to get the money? Or, is he attempting to carry out an agrarian policy that shall strike down private and vested rights, irrespective of constitutional law? In examining the census returns of that State, I find these statistics:

In 1810 Missouri contained.....	3,010 slaves.
1820.....	10,222 "
1830.....	55,081 "
1840.....	58,240 "
1850.....	87,422 "

Now, by the laws of Missouri, we take the census every four years for State purposes; and I assert that there are, according to those census returns, at this time from one hundred thousand to one hundred and ten thousand slaves in the State of Missouri.

And now I propose to show what will be the consequence of inaugurating the policy in that State which my colleague from St. Louis proposes to enforce. By the estimate I have stated, these one hundred thousand slaves, at an average value of \$500 a head, are worth to-day \$50,000,000. The State could only raise the money to pay for them by the issue of State bonds. The bonds of the State are now worth 87½ cents on the dollar. In order to pay the \$50,000,000, bonds to the amount of \$56,500,000 will have to be issued. The interest on these bonds would amount to \$3,390,000. Suppose these bonds are issued for twenty-five years, to be paid off in that time, making the average annual payments of \$2,260,000 principal, which must be paid by the people of Missouri, and in addition thereto \$3,390,000 of interest, which makes a total of \$5,650,000 annually.

But, sir, that gentleman set out in his argument by saying that there was a slave oligarchy in this country, and that that slave oligarchy had entered into a conspiracy, in the North and in the South, for the purpose of striking down free labor, and by this power ruling the country. I ask that gentleman if he does not form a part of that slave oligarchy? Is he not a slaveholder in the State of Missouri? Does not he derive his subsistence, in part, from the toil and labor of those slaves? Why, then, is he here to perform the ungrateful duty to his constituents of striking down, by his voice and his power, the peace and prosperity of the people of the State which he in part represents? Why did he not put himself into the breach, and show his own philanthropy by liberating his own slaves, before he undertook to

charge his constituents and mine with forming a part of a slave oligarchy? Mr. Chairman, it is humiliating to me to see a Representative in this House from the State of Missouri, representing slaveholding constituents, who can find no other employment in the councils of the nation than to defame his constituents. It is humiliating to me to find a colleague on this floor, representing in part the State from which I hail—a State whose prosperity has been unequalled, whose resources are inexhaustible, whose population is increasing as rapidly as that of any State in this Union—I say it is humiliating to me to see a Representative of that gallant and glorious State come here to strike down her energies, and casting a blight upon her prosperity.

My constituents are deeply interested in this question. I represent a proud and gallant constituency; it is a rural district; they have their farms and their cottages; they have their slaves and their domestic circles, where peace and prosperity reign; and when I see a policy attempted to be ingrafted, by a representative of a slave State, the tendency of which is to place daggers in the hands of our slaves, as well as torches to burn down our dwellings, power to insult our wives and children, and to break down the prosperity of my State, I should be recreant to the duties I owe to my constituents if I were to remain silent.

But, sir, that gentleman was not content with assailing the institutions of his own State, of his own constituents, and of mine, which I have the right to protect, but he charges that there is a combination between the Executive and the Supreme Court of the United States. Sir, that court is so high in the affections of the people, its character is so well established in the records of the country, that I apprehend no assault of my colleague will affect it. Mr. Chairman, I was educated in a school of politics which teaches that this is a Government of checks and balances; that we have an executive, legislative, and judicial department; that these three departments are co-ordinate and distinct; that one is not to encroach on another. That court was established by the constitutional power of our country; and it is one, the chief justice of which, and the associate justices of which, have placed themselves too high for any man on this floor successfully to assail. I consider it to be the duty of every good citizen to obey the laws of the land; and I consider the decisions of the Supreme Court upon these laws, and the maintenance of those decisions, as the most perfect guarantees of civil and political liberty.

My colleague, in the conclusion of his remarks, stated that if this discussion did no other good, it would awaken the attention of the southern poor man; and that it was his pride to believe that the State which he in part represented would lead the column of emancipation. In my judgment, this statement will not be verified. For the evidence that this doctrine does not obtain in Missouri, I turn the gentleman's attention to the census tables.

How long have you been engaged in this unholy work? How long has the party with which my colleague acts been striking at our institutions? Yet how much have they effected? The slave population of our State has gone on increasing in numbers and prosperity, just as though he were not there, and these efforts of his party were not made. Her march has not been delayed by the machinations of those who have been recreant to her interests.

Our policy is fixed in the affections of the people. It is now as it was at the beginning. At the inauguration of our State government, we had great men at the helm. We had Benton, Barton, Cook, Green, Finley, and others. They were statesmen of no ordinary stature; they were patriots and men of learning; they planted slavery as one of our domestic institutions, and those who came there to settle did so with the knowledge that they were settling in a slave State. Our people have lived and grown up with that institution; and they have prospered under it. These latter day saints, however, these young sprouts who have grown upon the body politic, undertake to undermine and destroy the State's prosperity.

Just here, Mr. Chairman, I will state, in order that Colonel Benton may have the benefit of it, that he has claimed that the provision in the constitution of Missouri which I read was the work

of his hands; and this claim is generally admitted to be just. He it was who ingrafted upon our State government the guards for securing the property of slaveholders against just such men as my colleague. He it was who provided that this property should not be taken without due compensation to its owners. And this was the sentiment of the people at the time of the formation of our State government, as will appear by the following extract from the St. Louis Enquirer, edited at the time by Colonel Benton: The date of the paper from which it is taken is October 28, 1819:

"Notwithstanding the great number of persons who are held in check by the agitation of the slave question in Congress, the emigration to Missouri is astonishingly great. Probably from thirty to fifty wagons daily cross the Mississippi at the different ferries, and bring in an average of four to five hundred souls a day. The emigrants are principally from Kentucky, Tennessee, Virginia, and the States further south. They bring with them great numbers of slaves, knowing that Congress has no power to impose the agitated restriction, and that the people of Missouri will never adopt it."

That was the sentiment of the people at the beginning, and we have lived up to it in Missouri ever since. And I turn the attention of my colleague to these words of Colonel Benton, whom he is endeavoring to imitate so far as his capacity will permit. I refer him to the opinions of the same distinguished statesman in the Panama-mission discussion. Colonel Benton stated in that controversy, that the man who would undertake to agitate the slave question in these Halls—any one who would undertake to inaugurate the policy of emancipation in a slaveholding State, was attempting to reenact the scenes of San Domingo; that such men come here with daggers in their hands and hell in their hearts. These were the sentiments of Colonel Benton, and they are the sentiments of the people of our State.

I make these remarks, Mr. Chairman, because I represent a people who are jealous of their rights and who are loyal to this Union. The people of Missouri have, indeed, upon every battle-field where we have contended, upheld the flag of our Union with all their might. The armies of the United States have always had her full quota. The people of my State are a law-abiding and Union-loving people. They are educated and intelligent, and are not ignorant of their true interests. Therefore, I supposed my colleagues from Missouri, my colleague from St. Louis included, would come here with the determination of standing fair before Congress, and ingratiating ourselves with our fellow-members, so that we might assist to secure the growing development of the great resources of our State; that we would encourage the people in their agricultural and mechanical pursuits to strengthen the arm of defense, without attempting, on the contrary, to strike at the vitals of the State, and to undermine her institutions. The people of Missouri cherish the Union; and they cherish, and will maintain with equal energy, their own rights of property. They will never tamely surrender to any fanaticism, nor will they permit any one to undermine and to destroy their institutions.

My colleague's policy, in my judgment, strikes at every institution of Missouri. He said, too, in his speech, yesterday, that he would as soon attempt to educate a negro slave for the St. Louis bar as to educate one for any of the mechanical pursuits to sit side by side to work with the white mechanic. He said that he represented a constituency who would spurn such an attempt. It is well known that in the city of St. Louis, which forms part of my colleague's congressional district, numerous negro mechanics work side by side with white mechanics. I could almost name shop after shop where this is done. And I am not sure that some of his own slaves are not mechanics, and receiving hire in the shops of the State of Missouri. I have been told by gentlemen living in the city of St. Louis, (I do not speak of the fact from personal knowledge,) that there are many negro mechanics now working in that city, and that is the case in other parts of the State as well as in the city of St. Louis.

Gentlemen speak about this being a question between free labor and slave labor. That is not the question. Whenever you free the negroes, then it is that our fellow-citizens raise objection to being put upon a level with free negroes. While the labor is performed by slaves, our sons, our brothers, and all our fellow-citizens, work in the same field and in the same shop with slaves. They

are slaves, and their labor is considered inferior; but the moment you free the slave, you raise the dignity of his labor, and bring down that of the white man, and they are put on a level; and that is the reason why the two races cannot work together. That is a well-known fact in other States, and everywhere.

But suppose the gentleman's doctrine were to obtain: he would bring his State into a debt of some sixty million dollars, the interest of which we could not pay. And then his policy is to free the slaves. He says they must not be educated, that they must not be held in bondage. I ask that gentleman, where are they to go? Are they to be turned loose in our community—a degraded, unlettered, and uneducated population? When you do that, you destroy both races, because they cannot live together. I suppose, however, from the speech made by the gentleman on another occasion, that he is looking to Central America, and expects to transport them there.

I now proceed to make a few remarks in relation to the Kansas question. In this question the State which I, in part, represent is deeply interested. Here is the naked question, as admitted on all hands, of a State claiming admission into the Union. The constitution of Kansas tolerates slavery. For that reason it is objected to by the more ultra of our Republican friends. They acknowledge that is their objection, and their main objection. Other arguments, however, are used, and other objections are seriously entertained and honestly, I have no doubt, by gentlemen upon this floor. They are objections and doctrines which have been discussed over and over again, so much so that I may seem to be imposing upon the patience of the House to discuss them further. But, sir, these are questions which will bear argument and which affect the permanency of our institutions for all coming time, and for that reason they cannot be too well understood and too elaborately argued before the American people.

Mr. Chairman, the objections to the admission of Kansas seem to me, principally, twofold. In the first place, it is denied upon the one hand by the Abolitionists upon this floor, by the Republican party in mass, that Kansas ought not to be admitted; and the main reason for it is, that its constitution acknowledges slavery. These men also oppose the admission of any other slave State. These gentlemen deserve credit for their candor, and more credit than others who object to the admission of Kansas, but do not give their true reasons for that objection.

It is said that this constitution has no verity, because the Legislature which provided for the convention had no authority in law; that it was not a legal Legislature. Now, sir, in regard to its being a legal Legislature, what authority have we in regard to its legality or non-legality? Where ought we to go in a government of written law, or in a government which has legal functionaries clothed with the authority of the people under the constitution, to ascertain the legality of any measure? We must go to the law of the land; we must go to the organs of the people to look into the authority with which they are clothed, and the extent of that authority. Then, sir, was this Legislature an illegal Legislature? Has not the Executive of the United States acknowledged its legality? Has not the Executive of the Territory acknowledged it? Have not the people acknowledged it? Have they not acknowledged that it was a legal Legislature, entitled to be respected by the people? and are not those who do not submit to be governed by the laws of that Legislature rebels against their country, and call for the exertion of the strength of the Government to force them to submission? This acknowledgment has been the avowed policy of the Government. It has been the avowed declaration of Walker, Stanton, and the President. It has been the doctrine of all good citizens in Kansas, as well as out of it. Secretary Stanton, in his inaugural address to the people of that Territory, used the following language:

"The Government especially recognizes the territorial act which provides for assembling a convention to form a constitution with a view to making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention. I do not doubt, however, that, in order to avoid all pretext

for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for submitting the great distracting question regarding their social institution, which has so long agitated the people of Kansas, to a fair vote of all the actual *bona fide* residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress without delay, as one of the sovereign States of the American Union, and the territorial authorities will be immediately withdrawn."

Governor Walker, in his inaugural, also uses the following language:

"Under our practice, the preliminary act of framing a State constitution is uniformly performed through the instrumentality of a convention of delegates chosen by the people themselves. That convention is now about to be elected by you under the call of the Territorial Legislature, created and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress, and the authority of the convention is distinctly recognized in my instructions from the President of the United States. Those who oppose this course cannot aver the alleged irregularity of the Territorial Legislature, whose laws in town and city elections, in corporate franchises, and on all other subjects but slavery, they acknowledge by their votes and acquiescence. If that Legislature was invalid, then are we without law or order in Kansas; without town, city, or county organization; all legal and judicial transactions are void; all titles null, and anarchy reigns throughout our borders.

"The people of Kansas, then, are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and where ever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative.

"But it is said that the convention is not legally called, and that the election will not be freely and fairly conducted. The Territorial Legislature is the power ordained for this purpose by the Congress of the United States; and in opposing it, you resist the authority of the Federal Government. That Legislature was called into being by the Congress of 1854, and is recognized in the very latest congressional legislation.

"It is recognized by the present Chief Magistrate of the Union just chosen by the American people, and many of its acts are now in operation here by universal assent. As the Governor of the Territory of Kansas, I must support the laws and the Constitution; and I have no other alternative under my oath but to see that all constitutional laws are fully and fairly executed.

"I see in this act calling the convention no improper or unconstitutional restrictions upon the right of suffrage. I see in it no test oath or other similar provisions objected to in relation to previous laws, but clearly repealed as repugnant to the provisions of this act, so far as regards the election of delegates to this convention. It is said that a fair and full vote will not be taken. Who can safely predict such a result?"

Well, sir, this is an after-thought, that it was not a legal Legislature. The convention being elected according to the enactment of that Legislature, they assembled as any other convention. But gentlemen speak of counties being disfranchised. When did we hear of that? We never heard of it from Stanton or from Walker, but on the contrary, up to the very time of the meeting of that convention, those two functionaries were urging the people to vote, saying that it was a legal body, a legal statute, acknowledged by the Executive of the United States, by every department of the Government; but when they turned against the Administration, when they threw themselves into the arms of those who are endeavoring to crush out slavery, as does my colleague; when they concluded to give them their aid and strength in that quarter, then for the first time we hear of these proclamations, that counties were disfranchised, and frauds practiced in this election. I say that that declaration, made under such circumstances, is entitled to no weight and ought not to be heeded.

The next objection is, that the constitution framed by this convention was not an embodiment of the will of the people. I ask gentlemen, how are we to ascertain the will of the people? We ascertain it according to the laws of the land. We have laws providing for the expression of the popular will, and when these laws are complied with, we presume that the results indicate fairly the popular will. But when we travel out of these legal channels to ascertain the popular will, we are at sea. We resolve ourselves into a mob. Whenever that policy obtains, the Gov-

ernment cannot survive a day. The members of the convention were elected by the sovereign people of Kansas. Did Missourians elect them? Governor Walker says not. He says that Missouri cannot justly be charged with interfering in that election. This, then, was a fair election, so far as was known—at least on the pro-slavery side of the question. The delegates to that convention are therefore to be presumed to have embodied the will of the people just as much as we are presumed to embody the will of our constituents. Gentlemen from New York, and from every other State, are to be presumed, *prima facie*, to represent fairly the will of their constituents; and no one has a right to step between these members and their constituents. Such an act would be at war with the representative principles of our Government.

Mr. STANTON. Does the gentleman admit that the Delegate from Kansas represents the will of the people?

Mr. CLARK, of Missouri. The gentleman asks me if I would recognize the right of the Delegate from Kansas to represent the will of the people of that Territory? I do; and it would be a very curious thing if I, a Representative in Congress, did not. But I do not know what that has to do with the question.

Now, I was proceeding to show that the delegates to that convention embodied, presumptively, the will of the people, and are therefore to be presumed to have acted honestly and fairly. No one has a right to question their action in that regard. It is a matter between the delegates and their constituents. If the delegates misrepresented their constituents, let them settle that between themselves—we have nothing to do with it; and whenever we undertake to control the matter and ascertain by other means the popular will, we bring about the scenes that we have had on this floor—scenes of crimination and recrimination—and we strike down the strongest pillar of our Government.

But, sir, it is said that some counties were disfranchised, and were not represented in the convention at all. Walker and Stanton say so now; and yet if it is true, they were the cause of it. Stanton made the apportionment himself, disfranchising these counties, if they were disfranchised; but yet he and Walker, when the constitution did not precisely meet their views, turned round and proved recreant to their duty. They then found out, for the first time, that the delegates did not represent the will of the people, and that they had no power to represent those counties to which no representation was given.

I make these remarks, Mr. Chairman, in order to relieve that part of the subject of the charge of non-representation in the convention. The charge is untrue.

Again, sir, it is said that the constitution should have been submitted to the people, and that no constitution ought to be enforced unless first submitted to the people. Will gentlemen recollect how many constitutions of States have never been submitted to the people? The original constitutions of fourteen States were not submitted to the people. Let me enumerate them. The constitutions, now in force, of the following-named States, were not submitted for ratification to the people, but adopted in convention:

Vermont adopted her constitution July 4, 1793, in convention at Windsor. (Compiled Statutes of Vermont, page 15.)

Connecticut, by convention, in 1818. (See Compilation of Statutes of Connecticut, 1854, pages 29 and 45.)

Delaware, by convention, in 1831. (See Acts of 1831, page 49; and Revised Code, page 43.)

Pennsylvania, by convention, in 1838, with a provision for future amendments to be ratified by the people. (See Purdon's Digest, page 17, section 10.)

North Carolina adopted her present constitution in 1776, by convention; amendments in 1835.

South Carolina, in 1790, by convention.

Georgia, by convention, on the 23d of May, 1798.

Alabama, in 1819, by convention, under enabling act. (See Code of Alabama, page 26, section 5, page 28.)

Mississippi, by convention, in 1817; and revised in like manner in 1832.

Tennessee, by convention, in 1836.

Kentucky, by convention, in 1799.
Arkansas, by convention, without enabling act.
(See Revised Statutes of Arkansas, pages 17-48.)
Missouri, by convention, in 1820, and not submitted to the people.

Illinois, by convention, in 1818; also appears not to have been submitted to the people.

Many gentlemen on this floor who now complain that this constitution of Kansas was not submitted to the people, represent States whose first constitutions were not so submitted. There is a great difference between submitting a second constitution made by a State, and the original constitution. There is a much greater necessity for submitting a new constitution, made in an old State, than there is for submitting the original constitution. If, in Missouri or New York, where the people have lived under established forms of government, they undertake to change those forms, it is an additional reason why the people should have an opportunity of passing upon their constitution.

But, sir, in this case, the submission of the constitution to the people is an after thought. I ask gentlemen who voted for the admission of Kansas under the Topeka constitution, why they did so?

Mr. STANTON. That was submitted to a vote of the people, as I understand.

Mr. CLARK, of Missouri. Submitted after it was sent here.

Mr. STANTON. Oh, no.

Mr. CLARK, of Missouri. I ask the attention of gentlemen here who urge that Kansas ought not to be admitted because the constitution was not submitted to the people, and particularly my Democratic friends who oppose the admission of Kansas, to the position taken two years ago, nay, one year ago, by the distinguished Senator from Illinois, [Mr. DOUGLAS,] who now heads the opposition to the admission of Kansas. The committee will remember—it has been heard here over and over again—that the distinguished Senator from Georgia [Mr. TOOMBS] introduced a bill to enable the people of Kansas to form a constitution and State government preparatory to their admission into the Union, which contained a provision that the constitution, so to be formed, was to be submitted to the people. That bill, coming from a committee of which Senator DOUGLAS was chairman, did not, however, become a law. But to prove that it was not the intention of that Senator to have that constitution submitted, that provision requiring submission was stricken out in the committee. I now come to the action of the Legislature of the Territory of Kansas. That body provided for the holding of a convention to form a constitution and State government. Governor GEARY vetoed that law, and it was passed by a constitutional majority over his head. He gave as a reason for not signing the bill, that there was no provision in it for submitting the constitution to be formed to the people. But, sir, the act was passed, and became a law in spite of the veto of Governor GEARY, thus declaring in the most authoritative form that it was not the intention of the people that the constitution to be formed should be submitted to them for their ratification. It is the right of the people to declare for themselves in what form this constitution shall be ratified. Congress can only admit States. They have no right to attach anything to or to take anything from it. The sovereign people have the absolute right to form their own government in their own way, and when so formed, all Congress can do is to determine whether that constitution is republican in form, and admit or reject. That is my duty as a Representative on this floor, and it is a duty I intend to perform.

But we are told that the people of Kansas have been oppressed; that they have been annoyed; that they have been defrauded; that the people from slave States have crowded in upon them; that they have prevented the rightful citizens of that Territory from voting. Yet, sir, that is the argument which comes from a side of the House which claims, according to some of them, four to one, and by others ten to one, in that Territory of free-State men. Could not that large majority protect themselves against the small minority which they say only exists in that Territory in opposition to them? Will they submit tamely to be overpowered by a small minority? But, say these gentlemen, they never did commit any frauds. Oh, no; no frauds were ever committed by them.

I ask the gentlemen on the other side of the House to say who the free-State party ran for Delegate to this House, from that Territory, at the time Whitfield was first elected? Where did he live? Who was he? How long had he resided in the Territory? He came up on one boat. He went back by the first boat after the election; and has never been seen in the Territory since. He came to the Territory for a specific purpose, as did many who voted for him; and when that purpose failed in being accomplished, they left the Territory in disgust, and never entered it again. They remind me a good deal of an old lady who went to consult a lawyer upon the complaint that the whole town had been slandering her. When the lawyer told her that there was no cause of action, the old lady wept bitterly; but before she left the office the lawyer asked her what she had been saying about other people. "Why," said she, "I have been so busy in finding out what other people said, that I have never thought of what I was doing myself." Now, sir, these free-State men are in precisely the same condition of the old lady.

Sir, let Senator DOUGLAS speak what these free-State men did and how they acted. In his report to the Senate, upon this subject, that honorable Senator said:

"In order to give consistency and efficiency to this movement, and surround it with the color of legal authority, an act of incorporation was procured from the Legislature of Massachusetts, in which it was provided, in the first section, that twenty persons therein named, and their associates, successors, and assigns, are hereby made a corporation, by the name of the Massachusetts Emigrant Aid Company, for the purpose of assisting emigrants to settle in the West; and for this purpose they shall have all the powers and privileges, and be subject to all the duties, restrictions, and liabilities set forth in the 38th and 44th chapters of the revised statutes of Massachusetts."

"The second section limited the capital stock of the company to five millions of dollars, and authorized the whole to be invested in real and personal estate, with the proviso that 'the said corporation shall not hold real estate in this Commonwealth (Massachusetts) to an amount exceeding twenty thousand dollars.'"

"The third section provided for dividing the stock of the corporation into shares of one hundred dollars each, and prescribed the mode, time, and amounts in which assessments might be made on each share."

"The fourth and last section was in these words:

"At all meetings of the stockholders, each stockholder shall be entitled to cast one vote for each share held by him: Provided, That no stockholder shall be entitled to cast more than fifty votes on shares held by himself, nor more than fifty votes by proxy."

"Organization, objects, and plan of operations of the Emigrant Aid Company; also, a description of Kansas, for the information of emigrants."

"Trustees—Amos A. Lawrence, Boston; J. M. S. Williams, Cambridge; Eli Thayer, Worcester."

"Treasurer—Amos A. Lawrence."

"Secretary—Thomas H. Webb, Boston."

"For the purpose of answering numerous communications concerning the plan of operations of the Emigrant Aid Company, and the resources of Kansas Territory, which it is proposed now to settle, the secretary of the company has deemed it expedient to publish the following definite information in regard to this particular:

"For these purposes it is recommended, 1st. That the trustees contract immediately with some one of the competing lines of travel for the conveyance of twenty thousand persons from Massachusetts to that place in the West which the trustees shall select for their first settlement."

"It is recommended that the company's agents locate and take up, for the company's benefit, the sections of land in which the boarding-houses and mills are located, and no others. And further, whenever the Territory shall be organized as a free State, the trustees shall dispose of their interests there, replace by the sales the money laid out, declare a dividend to the stockholders, and that they then select a new field, and make similar arrangements for the settlement and organization of another free State of this Union."

"With the advantages attained by such a system of effort, the Territory selected as the scene of operations would, it is believed, be filled up with free inhabitants."

"There is reason to suppose several thousand men of New England origin propose to emigrate under the auspices of some such arrangement, this very summer. Of the whole emigration from Europe, amounting to some four hundred thousand persons, there can be no difficulty in inducing some thirty or forty thousand to take the same direction."

"When the emigrants sent out by the Massachusetts Emigrant Aid Company, and their affiliated societies, passed through the State of Missouri in large numbers on their way to Kansas, the violence of their language, and the unmistakable indications of their determined hostility to the domestic institutions of that State, created apprehensions that the object of the company was to abolitionize Kansas as a means of prosecuting a relentless warfare upon the institutions of slavery within the limits of Missouri. These apprehensions increased and spread with the progress of events, until they became the settled convictions of the people of that portion of the State most exposed to the danger by their proximity to the Kansas border. The natural consequence was, that immediate steps were taken by the people of the western counties of Missouri to stimulate, organize, and carry into effect a system of emigration similar to that of the Massachusetts Emigrant Aid Company, for the avowed

purpose of counteracting the effects, and protecting themselves and their domestic institutions from the consequences, of that company's operations."

"The material difference in the character of the two rival and conflicting movements consists in the fact that the one had its origin in an aggressive, and the other in a defensive policy. The one was organized in pursuance of the provisions and claiming to act under the authority of a legislative enactment of a distant State, whose internal prosperity and domestic security did not depend upon the success of the movement; while the other was the spontaneous action of the people living in the immediate vicinity of the theater of operations, excited, by a sense of common danger, to the necessity of protecting their own firesides from the apprehended horrors of servile insurrection and intestine war."

They came under the auspices of a great emigrant aid society, formed, as I understand, in the State of Massachusetts, and chartered by the Legislature of Massachusetts, with a capital of millions of dollars. They went there with secret oaths, and, as they went up the Missouri river, openly boasted that they would first make Kansas a free State, and then drive the slaves out of Missouri or free them. These men were sent there with cannon, with small arms, and munitions of war. Well, sir, the people of Missouri on the borders of Kansas, who had an interest in slave property, naturally became a little excited, and as the free-State men had announced their purpose to go over into Missouri when they had made Kansas a free State, it was but natural that they should feel some interest in thwarting their purpose. They succeeded to some extent; and then the free-State men, like the gambler who commenced the game with the intention of cheating, when he found himself out-cheated, cried out, "There's cheating round the board!"

But, sir, that has nothing to do with the subject before us. Kansas comes here with a constitution that is republican in form; with a constitution that, *prima facie*, reflects the will of the people. That constitution is now here; and Kansas claims admission as a State. Is she to be admitted? Are we to give heed to the complaints, because the sovereign people in Kansas have chosen to form a constitution which recognizes slavery? If they establish a rule of action for themselves which does not coincide with the views of other States of this Union, it is none of their concern; it is a matter over which they themselves have the control.

But, sir, it is said that since the adoption of the constitution, other elections have taken place. Those elections are void and of no effect, as they were in direct opposition to law. Suppose my colleague is declared elected by the people at the polls, and that the next day or the next week people were to rise up in their power and hold another election; suppose, then, that the Legislature, before he took his seat, declared that the will of the people should be taken as to whether he was elected or not, and the majority of the people should declare that he was not elected, would he consider that he was the Representative of that district here or not? Would he consider that second election had any power to control his action? Sir, it was the fundamental law that the constitution should be submitted in a particular form, and at a particular time, and after that action, after that was done, any other action taken by the people, through the Legislature, was void. The second trial was unauthorized, and it was as if done by a mob; and should the prescribed form of law in these cases be disregarded here or elsewhere, there would never be an end to any election.

Mr. GRANGER obtained the floor; but yielded to

Mr. BLAIR. Mr. Chairman, I wish to state to the committee that I cannot hope for any indulgence at this time, after having been indulged so often during this session; but that I shall seize the first opportunity, when I can obtain the floor, to reply to the assault of my colleague upon me; and I shall undertake to show him and this House that there are other interests in Missouri besides those of the slaveholder, and that I represent interests as large—

Mr. PHELPS. I rise to a question of order. The gentleman has already spoken once, and the gentleman from New York is now entitled to the floor.

Mr. BLAIR. I have said all I desired to say.
Mr. GRANGER. Sir, passing by the all-disturbing subject of slavery, for the present, I arrive at objections to the passage of this Lecompton constitution, that, with any candid mind, ought

to outweigh every consideration that can be offered in its favor.

First, that the people of Kansas have, by the Kansas-Nebraska act, a clear and undoubted right, and they alone, to form their constitution as they, in their judgment, may think best.

This, I conclude, no one will deny, and therefore I deem it not debatable.

Secondly, that the people of Kansas are, by a very decided majority, opposed to that constitution, and have so declared at a full and fair election—an election held pursuant to an act of the Territorial Legislature, assembled by order of a Governor who was appointed by the President, and that the said election was the only one ever held in the Territory of Kansas to decide for or against that constitution.

Sir, is not this also true? I believe it is, and I trust no member on this floor will attempt to controvert it. Thus far, then, we agree.

If I am not mistaken in these two facts, to wit: that the people of Kansas have the right to decide on their own constitution, and that they have fairly and solemnly passed upon this Lecompton constitution, and rejected it; I ask, then, is there a member present who will vote to compel the people of Kansas to accept that constitution, and forego the exercise of the great fundamental right of self-government—a right on which our whole republican edifice is erected?

If, then, these two facts are true—and I do not expect to see the first member who will call in question the truth of either—I say to the Democrats, Americans, and Republicans, are not these objections paramount and conclusive against the passage of this Lecompton constitution?

Here I might rest and submit the cause, and, with a fair and candid trial on its merits, with full confidence await the issue.

Sir, it would be a curiosity to see a northern Representative vote direct to make a slave State north of 36° 30', and particularly one professing to be a Democratic Representative from the State of New York.

The members from that State must know—and you do know—first, that a vast majority of your constituents, of all parties, loathe and detest that nefarious swindle called the Lecompton constitution; and that there is not one congressional district of the thirty-four where a majority of the voters are in favor of its passage.

And secondly, you also know that if that constitution is forced on Kansas, at the dictum of the Executive, by an arbitrary vote of Congress, it is done against the will of an overwhelming majority of the people of Kansas.

Here I desire to present for the inspection and review of northern members, and their constituents in particular, one leading principle of the Lecompton constitution, which is in the words following, to wit:

Article 7—Slavery.

"Sec. 1. The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave, and its increase, is the same and as inviolable as the right of the owner of any property whatever."

Now, then, to pass the Lecompton constitution and make it the constitution for the State of Kansas, by the aid of Democratic votes from the State of New York, with New York and Kansas both opposed, would be interesting entirely. If what I have said be true, I have said enough already to bar the door against it.

If the people of the State of New York, with great unanimity, desire their Representatives to vote against it, and if at the same time, their Representatives know that the people of Kansas, with singular unanimity reject it, and will not accept it, and that their Legislature by a unanimous vote protest against it, and officially declare they never will submit to it on any terms whatever; in all conscience, I ask is not that enough—I say is not that enough to warrant, nay command, its rejection by every vote from the Empire State?

But more than that; you know that the repeal of the Missouri compromise was a scandalous violation of plighted faith, dishonest and dishonorable in its character, a costly sacrifice of southern honor, and the most dangerous move that slavery ever made. It was aggressive. It was agitation of the worst sort. It was an unexpected declaration of war—slavery against freedom, and slavery the invader; and it may prove to be a war of extermination.

Sir, it was done to steal the march and crowd slavery where it had never been before and where it was not welcome. It absolves all northern men from delicacy towards the so-called institution of slavery, and leaves them free to speak of it and treat it as it deserves, a loathsome, lawless invader of the rights of man, in direct violation of the Declaration of American Independence, at variance with the Articles of Confederation, and openly at war with the Constitution of the United States, the President to the contrary, notwithstanding.

That southern men, brought up from infancy to prize and respect it, and educated, from generation to generation, to think it right and lawful, that they be prejudiced in its favor is not a mystery.

The same relations and circumstances might produce the same results in us.

For them to seek to extend slavery is not so strange; but for northern members, brought up at Gamaliel's feet, inhaling from early life the healthful sentiments of northern freemen, and taught to believe slavery unlawful and wrong—that such a member should be found to part with the approbation of his constituents, if not of his conscience, and, in the time of trial, to desert the cause of freedom, his country, and his friends, and be himself the unlucky instrument by which the blight of chattel-slavery shall curse the soil and blast the future of a young, rising empire, is painful to anticipate.

You do know that when Kansas came to elect her first Legislature, to make her first laws, a band of ruffians, near five thousand strong, armed to the teeth, came from Missouri, took the polls by storm, and drove the honest voters away; elected their Legislature, many of whom lived then and now in Missouri, and returned back in triumph; and all to make Kansas a slave State.

You do know that for objecting to this outrage a Democratic Governor of Kansas (Reeder) was removed by the President, and lost caste with the friends of slavery.

Why, there have been about as many Democratic Governors of Kansas as there were "sons of one Skeva, a Jew," unceremoniously removed from office and turned adrift, one after another, because they refused to go all lengths to crush out freedom and drive out freemen, to make Kansas a slave State.

You do know that the free-State men of Kansas were persecuted and hunted and robbed and murdered, and that an alien ruffian Legislature would give them no protection; and all to extirpate free principles and free men; and that it was an offense against the tyrannic laws of that Legislature to even say that man cannot hold property in man. An offense, nay a felony, punishable with the State's prison.

Is that liberty of speech?—not allowed so much as to speak against slavery—and that a law the President sent his troops to execute!

Is that not despotism? For far less than that our fathers declared King George "unfit to be the ruler of a free people."

They took up arms to defend their rights. He sent Gage to Boston with three thousand men to overawe the people.

And we have twenty-five hundred sent to Kansas on exactly the same errand.

You know the city of Lawrence was burned at noonday, by border-ruffian officers, while United States troops were near at hand, anxious for orders (which they never got) to interfere and save the town.

Lawrence was the quiet home of free-State men.

You know the government of Kansas was a foul usurpation, countenanced by the President of the United States, and upheld by his troops, with a design to make Kansas a slave State.

You know that cruel and corrupt judges have been kept in office there, "to clear the guilty and varnish crimes," and all to advance the cause of slavery and make Kansas a slave State.

You know that the worst of border-ruffians have enjoyed the smiles and patronage of Federal favor in the Territory of Kansas, with a design to make Kansas a slave State.

You know that, at subsequent elections, the vilest frauds have been acted over and over again, to prevent a fair election, and to make Kansas a slave State.

You know the Lecompton constitution is to be put through, if possible, by executive power and patronage, covered all over as it is with fraud, and spotted with corruption, and thus rivet on Kansas the detested curse of chattel-slavery, and that against the faithful, persevering, manly opposition of her people, as expressed at a fair and legal election, by a majority of more than five to one.

Will you, Representatives of the free and free-labor-loving North, will you indorse this catalogue of cruelty and crimes and give your votes for the notorious Lecompton constitution, and place your names on everlasting record as the aiders and abettors of an Executive who perverts and falsifies the constitution and daily and audaciously connives at all the matchless border-ruffian villainies of Kansas, with a single eye to compel Kansas to submit to a constitution not her own, and become a slave State against her will?

And now, to cap the climax of absurdity and wrong, you are to be disciplined, and, if possible, reduced; and seduced to do an act that you could never justify, the memory of which would haunt you while you live.

Let it be known in all the North, nay, through all the land, South and North, that not one Republican member was found to falter, not one was doubtful or missing, that every one was at his post, by night or day, and stood by his integrity to the last.

If a President with his Haynaus can be upheld in this attempt to stifle liberty in Kansas, I trust it will be done, if done it must be, by Democratic votes, and none other.

Sir, if to fill the contract, and make the tally, the President can find cringing doughfaces from the North, though they hail from Democratic ranks, may the Empire State be spared the sacrifice.

Mr. CLARK, of New York. Mr. Chairman, the theme of Kansas, and her proposed admission into the Union as a sovereign State, is well-nigh exhausted. But so important is the subject to the future of that infant community, and to the harmony of the Republic of which she is destined at no distant day to become a part, and to such a degree does it seem to occupy the public mind, that I deem it my duty to inform this House and the country of the reasons which force me to vote as I must upon the distracting, and as some say vital, questions involved.

No Representative upon this floor can disregard the fact, that from the furthest North to the remotest South, from our homes upon the Atlantic to the shores of the Pacific, an intelligent people, for the most part, as I believe, loyal to the Constitution, and sincerely attached to the institutions which have, during the brief period of our national existence, elevated us to our place among the nations of the earth, are themselves considering the question which is soon to be presented for our determination. They watch our proceedings with a well-directed eye; and they listen to our debates with an interest not unmingled with alarm. And well they may; for it has been more than once asserted upon this floor, with a solemnity which betokens determination, that this Union can no longer exist if Kansas is denied admission under the constitution which has been presented in her behalf. We are informed, sir, by the resolutions of sovereign and independent States, that the announcement of the result of our deliberations may be the signal for the initiation of measures having in view the establishment of a new and independent governmental organization within the borders of the Federal Union.

Representatives of constituencies in those sovereign States—men of education and of patriotism—have spoken in the language of unquestioned sincerity, and have warned us of the dangers which may flow from our unjust decision of a question which it is alleged concerns the honor of their people and the security of the institutions upon which their prosperity rests.

If, sir, this be true; if the decision to which we may arrive upon this, in my judgment, comparatively unimportant question, is to determine the fate of the wonderful experiment of constitutional government which for the past half century has been written down in the world's history as successful, well may that people, whose fathers acquired their liberties amid the dangers of a revolution, contemplate with unusual anxiety the

hazards to be incurred in the new one which thus threatens to break upon their repose.

I have not time, sir, to speak of the Union as I would like to speak, nor will I attempt to rehearse the unwelcome but familiar story of the causes which have led to an estrangement which satisfies my mind that this gloomy foreboding may, perhaps, be no idle dream. I shall not endeavor to point out, as I think I might, where this fearful alienation of national affection began, or speculate where it may end. I shall make no charges of wrong or injustice; answer no threats; nor, if I can avoid it, utter a word to awaken one single sentiment of unkindness; but shall hasten to place upon record the views which I entertain upon the question to which I have proposed to address myself, with that frankness which should characterize a Representative of the people in his place upon this floor.

Mr. Chairman, I am a northern man, and do not feel that I have a right to boast of exemption from the influence of those prejudices which spring to the human heart from the scenes by which infancy was surrounded. I disclaim the power to discard from memory the teachings of youth, or to repel the impressions made by the experience of a life not eventful, but which has, nevertheless, afforded no inconsiderable opportunity for reflection. I love and revere my native North; and when I hear her assailed, when I hear her institutions and her people brought in ungrateful contrast with those of the South, my heart would leap to her defense. I review her history; and remembering nothing upon a single page which brings dishonor upon her fame, I am at loss to account for the spirit of those who accuse her. I reflect with natural pride upon her institutions, and the wealth and the power which they have created; and rejoice, rather than deplore, that prosperity has resulted to the people of the South from other institutions specially adapted to their more genial clime; and believing, as I ever have believed, that the immense development of material wealth, and the vast sum of individual happiness of which, as a nation, we can boast, have resulted from our national Union, I have assumed that North and South would remain forever combined, for the preservation of that common Government which furnished its just and equal protection to the whole.

Mr. Chairman, as it seems to be not unusual for gentlemen upon this floor to acquaint each other with their political views preliminarily to the discussion of this controverted question, I may be permitted to state, that I am one of that Democratic party of the North which has been often beaten and torn in its struggles for the maintenance of the constitutional rights of the South, until we have been, as it were, driven to take refuge within the walls of our northern cities. The district which I have the honor to represent embraces a population as great as, if not greater than, any other constituency in the Union, and perhaps contains more of the product of our prosperous foreign and domestic commerce. It is the site of palaces of almost imperial wealth, as well as the abode of unambitious poverty. And I venture to assert that no man in this House is responsible for his public acts to a constituency embracing a larger amount of educated, intelligent, right-minded men. The political condition of the country is a matter of their daily observation; and as connected with the protection of the vast capital and industry which they employ, and its results, they exact from their Representative upon this, as well as upon every other question of national concernment, the most careful, fearless, and conscientious discharge of duty. In respect to our national Union, and the importance of its preservation in unbroken integrity, but one sentiment pervades her people. Upon that subject, reference to which seems inevitable in every discussion connected with the formation of territorial government, the admission of a new State, or the extension of our dominions; and no section of the Union has a more direct and material interest in every new annexation of territory, they are eminently national and just.

While common candor compels me to say that the teachings of my youth left no impressions favorable to the institution of slavery, and instilled no learning to justify the opinion frequently asserted upon this floor, that its influences upon the civilization of a people are compensatory for

those repelling features which are said to be inseparable from its existence, I can, nevertheless, with equal candor, assert, that in respect to that institution wherever it exists, and in respect to the rights of the owners of slaves to an equal and just participation in all the advantages of our territorial acquisitions, I have never, since the hour of earliest manhood, entertained but one sentiment; and that sentiment was and is, that interference with it where it exists would be an outrage; and that to deny to the slaveholding States equal privileges of emigration with slaves to our territorial possessions, would be a wrong, to which a people conscious of their rights and capable of asserting them could not be expected to submit. Such I believe to be the universal sentiment of the northern Democracy upon this subject—a sentiment which no northern or southern fanaticism can weaken or destroy.

The northern Democracy occupy a middle ground between two parties which appear to have taken form—the one regarding the extension of slavery, and the other the prohibition of such extension, as the object of their political organization. While they stand pledged to the maintenance of the constitutional rights of the South in respect to territory already acquired, or hereafter to be acquired, they are not committed, nor are they to be committed, to measures having solely in view the extension of the institution of slavery.

While they are favorably inclined to the acquisition of Cuba and such other southern territory as can be acquired without violence to the principles of international law, they would not regard the existence of slavery in Cuba or in such other southern territory, or the liability to its extension and continued existence, which may result from the special adaptedness of soil and climate to that particular species of agricultural labor, a barrier to such acquisition.

I may also be permitted to say that, in conjunction with vast numbers of men at the North who gave their adherence to the principle of the Kansas-Nebraska bill, when, by the votes of southern men, it became incorporated, so to speak, in our system of territorial law, I was distrustful of its practical working. Not intending to assert the power of prophecy, I thought I foresaw that it threw open our Territories to just such a struggle as has been witnessed in Kansas. No man who had observed the character of the emigration, whose tide, setting in from the Old World, seems resistless as the flow of the ocean, or who had contemplated the repugnance to the institution of slavery, which, it is not to be denied, pervades to a great extent the hills and valleys of the North—an antipathy which, in very many instances, results from a moral conviction which no argument can reach, and in many more from a thirst for the acquisition of political power which the spirit of patriotism is unable to subdue—could have failed to reflect that this subjection of common territory to an unequal struggle for its occupation might work injustice to the South. It surrendered the power which Congress might have exercised to secure the territorial rights of both the North and the South by positive law, to the uncertain and dangerous issue of a race of emigration between the North and the South, while, from the peculiar character of our people, and the difference in their dispositions to abandon an old and seek a new home, and the difference in their facilities for the conversion of property into money, the North, in my judgment, had unquestionably the advantage. The more adventurous spirit of the North breaks away easily from the home of childhood. It cheerfully encounters greater risks; while, on the other hand, the proprietor of slaves, with attachments to the scenes of his youth less readily sundered, more deliberately contemplates the greater change to his social and domestic relations which must follow the establishment of a new home in a wilderness or among strangers.

The passion for land speculation which pervades our people—well illustrated in Kansas, whose Territorial Legislature have just removed their seat of government from the place where it had been located by law, and where Congress had recently expended a considerable sum of money in appropriate improvements, to a spot remote from its settlements, and capable of being ascertained only by the aid of natural landmarks and the theodolite—leads to the temporary occupation of our Territories by men who never contemplate

remaining longer than to invigorate themselves for a new chase after the site of some future city. The waste and squander of our public lands, and the facilities which the manufacture of new States, and our liberal and reckless grants of the national domain to encourage every scheme which promises to rise to the dignity of a successful speculation, furnish aliment to this love of adventure, and swell the flow of emigration. These, and other circumstances which I would state if I had the time, have, in my judgment, conspired to verify the prediction of thousands of intelligent men at the North, who feared that the final adjustment of the slavery question upon the principles of the Kansas-Nebraska bill, like every other adjustment of that question which we have yet made, would inevitably lead to newer difficulties and still more serious complications. Notwithstanding these just apprehensions, the Democratic party of the North united with the Democratic party of the South in giving in their adherence to this new and untried doctrine. Sir, I gave my individual adherence, not without reluctance, and solely for the reason that it seemed apparent that the growing sentiment of our northern people in favor of the exclusion of slave emigration, and the predominance in the popular branch of Congress of Representatives from non-slaveholding States, required some new, even if experimental, mode of stilling the clamors which then, as now, were supposed to endanger the harmony of our people.

Mr. Chairman, inasmuch as the Democratic party has thus solemnly adopted this principle and avowed it to the country; having declared it upon the records of the convention at Cincinnati; having conducted the late presidential campaign upon it; and having brought into power an Administration who recognize it as a binding and valid principle of Democratic faith—speaking for myself alone, and not assuming to give advice to others—I will say that I regard my personal honor and political integrity as pledged to my constituency to carry it out in the most perfect good faith. It is due to the distinguished authors of that measure, be they northern men or southern men; it is due to the Congress of 1854, who recorded that principle in the organic law of Kansas, that, in this instance, at least, it shall, at all events, have a fair test and an impartial trial.

But, Mr. Chairman, I must hasten to present my views in respect to the proposed admission of Kansas with the Leecompton constitution. In doing so, I shall, I fear, disappoint those of my constituents who had hoped that I would, in no event, give my vote for her admission. I shall also, I apprehend, disappoint any who may have expected that I would give my assent to her unqualified admission, right or wrong, without regard to the circumstances surrounding the case, to which I shall now proceed to advert.

The substitution of the principle of the Kansas-Nebraska bill for the doctrine of the right and power of Congress to enforce the claims of the respective sections of the Union to territorial privileges, constituted a new era in our national politics, and *ex proprio vigore* enacted a new set of rules applicable to the subject of the admission of new States formed out of such Territories. It cannot be controverted that the Constitution of the United States is silent as to the mode by which, the time at which, and the circumstances under which, new States may be admitted, with the limited exception prohibiting their erection within the jurisdiction of any other State, or their formation by the junction of two or more States without the consent of their respective Legislatures, and of Congress. The case at hand was evidently unforeseen. It is clear to my mind that the framers of the Constitution had not in view our subsequent vast acquisition of foreign territory, or their wisdom would have provided some mode by which we should have been spared the terrible convulsions to which the subject gives rise. I cannot conceive that it could then have been expected that the institution of domestic slavery should be driven from the confines of the Republic. The prohibition of the power to prevent the importation for a term of years, the clause providing for the restoration of fugitives, and the previous adjustment of the question of slavery, as to the territory northwest of the Ohio, satisfy my mind that it was contemplated that slavery should continue to exist within the Union; but it

seems to have been impossible that it could have been foreseen that new and foreign territory should be acquired by purchase out of the common Treasury, for the occupancy of which proprietors and non-proprietors of slaves might be brought in conflict, nor was there any ground for the apprehension that any new Territory would be the scene of a contest for political power.

This silence of the Constitution as to the terms upon which new States may be admitted into the Union, and the language in which the power to admit them is contained, in my judgment, from the necessity of the case leaves the whole subject to the discretion of Congress, subject to no restraints, beyond those which it may self-impose, for the accomplishment of the great purposes for which the Constitution was formed. Congress having never by general law attempted to regulate the subject, and its usage, in respect of the circumstances of admission, not having been uniform, it is obvious that the whole question remains open for adjustment from time to time, as may be required by the exigencies of each particular case. There is, in my opinion, not one single word in the Constitution giving countenance to the suggestion that any new State can claim admission as matter of right, or that the largest liberty should not be exercised by Congress in its decision of all such applications for admission. And here permit me to advert to the assertion so frequently made, and as constantly assumed to be incontrovertible, that Congress is prohibited by the terms of the Federal compact from looking at the constitution of a new State applying for admission beyond the point essential to determine whether the form of government it prescribes is or is not republican. I can find no such prohibition in the constitution; nor can I discover any principle from which such prohibition can be inferred. The clause which declares that the United States shall guaranty to every State in the Union a republican form of government is evidently applicable to the case of domestic revolution occurring after admission, and to the contingency of invasion or domestic violence. It is manifest that it could not have been contemplated that any State in the Union should have a form of government otherwise than republican; but there is no limitation, express or implied, upon the power and the duty of Congress, when introducing a new State to share the privileges and enjoy the protection of the Constitution, to look to the substance and far beyond the form.

To illustrate my meaning—suppose that a State should apply for admission into the Union with a republican form of government, and with a constitution establishing some mode of administering justice at variance with any now recognized by the civilized world: would it be seriously contended that, notwithstanding this, the United States were bound to accede to such application, while by an express provision of the Constitution of the United States full faith and credit is required to be given to the judicial proceedings of such new State? Would this Congress regard itself as obligated, by such act of admission, to compel the thirty-one States of the Union to enforce in their own tribunals, and without review, and that, too, against their own citizens and their property, decrees and judgments rendered not in accordance with the forms of law, nor in consonance with our commonly received notions of natural justice?

But the Kansas-Nebraska bill has, in the most explicit terms, provided that any State or States formed out of the Territory embraced in the act, shall be received into the Union with or without slavery, as their constitution may prescribe. It has become, therefore, the law of the Federal Union, in respect of that Territory, that the existence or non-existence of the institution of slavery, cannot be the subject of inquiry or objection on an application of any State for admission. Hence the arguments which have been presented on this floor, for and against the institution of slavery, although eloquent and instructive, appear to me to be altogether aside from the issue.

Upon the application made in behalf of Kansas for admission into the Union, under the Le-compton constitution, several inquiries naturally present themselves, each of which should, in my judgment, be answered. They all arise upon every application for the admission of a new State, and I do not recognize any existing pres-

sure which, in this particular instance, should relieve from the scrutiny. These inquiries are the following:

1. Have her proceedings been sufficiently regular to authorize her admission without a violation of principles already established, or which should be applied in case of every application of a new State for admission?
2. Has she the requisite population; and have that population the requisite degree of stability and order to justify her admission?
3. Is the application for her admission that of the people of Kansas or of individuals who, against the remonstrance of her people, have presented it in her name?
4. Has a constitution been made by that people; and are there State officers in existence, elected by that people, entitled and competent to assume the discharge of their executive duties upon the supercession of the territorial government, which must instantly result from the act of admission?

Mr. Chairman, I shall proceed to consider the subject-matter of these several inquiries, and because of the limitation of my time, without strict reference to the order in which I have stated them.

It must be conceded that, as I have before stated, there is no prescribed rule as to the proceedings initiatory to the formation of a new State. They have been admitted where the preliminary steps have been regular and where they have been confessedly irregular; with and without enabling acts; and with and without what, in my judgment, is a requisite population. While there can be no doubt of the very great propriety of requiring an enabling act, and a strict compliance with its provisions, as preliminary to the formation of a State government; it nevertheless has impressed me that, in view of the recent admission of California with a constitution formed by a drum-head convention, it would be ungracious to insist that in this, the first application since that event for the admission of a State with a constitution containing a slavery clause, there should, of necessity, have been an enabling act, and a rigid adherence to its provisions. I cannot conceive that the Kansas-Nebraska bill itself can properly be regarded as an enabling act. It contains no semblance of authority for the formation of a State government. It simply created a temporary government for a district of territory, reserving the power of the subsequent division of it into two or more Territories, and of attaching any portion of it to any other State or Territory at such time as Congress should deem expedient. It is, therefore, entirely competent for Congress, at any time prior to its absorption into a sovereign State, to divide it into two or more Territories, which would subsequently be entitled to admission into the Union as two or more States. How can this power of division exist in conjunction with the stipulation to admit the whole into the Union as a single State upon compliance with its provisions as an enabling act? And if the act is an enabling act, such a stipulation is to be implied. If it was an enabling act, the few hundred people scattered over her plains were authorized at once to form a constitution and State government; and although hardly sufficient in number to fill the executive and legislative offices, to prescribe for all time to come the character of the institutions of that vast region of territory. No such design could have been intended, and none such is fairly inferable from the provisions of the act. But this result is by no means fatal to her application for admission, for it is wholly within the discretion of Congress to reduce the dimensions of the proposed State, and to give consent to the application for admission, notwithstanding the absence of an enabling act.

It appears that the Territorial Legislature created by her organic law, of their own motion, and without the consent of Congress, submitted to the people, at popular elections, the determination of the question whether a State government should be formed; and an affirmative vote having been given, subsequently enacted a law for a convention to frame a constitution; and the constitution alleged to have been formed at such convention is submitted to Congress as the constitution of Kansas.

It is suggested, among other things, that the Territorial Legislature by which these proceed-

ings were initiated were not the fairly-chosen representatives of the people of Kansas; that gross irregularities took place in the apportionment for members of the convention; and that multiplied frauds characterized each and every of the elections occurring prior to the consummation of the work of the convention. It seems to me that these several allegations, if true, are nevertheless not decisive of the question before us.

When Congress constituted the territorial government of Kansas, it declared, or must be held to have ascertained and declared, that there was a sufficiency of population, and of order, and of the means of securing order, in Kansas, to justify the creation of a Territorial Legislature, and the holding of the popular elections required by the act of organization. If the population of Kansas were savages, and unfit to be trusted with the powers of self-government permitted by the organic act, the territorial government should not have been created. If there was not sufficient physical force to prevent a hostile invasion from foreign territory to override her elections, and a sufficient degree of integrity among her people, and among the officers charged with the control of her elections, to secure an honest result, these powers should not have been bestowed. I think it must be assumed that the Territorial Legislature was competent to determine all questions touching the eligibility and the elections of its members; that the Governor of the Territory made a sufficiently just and fair apportionment, the legal presumption being in favor of the correct performance of official duty; that the convention likewise was competent to determine all questions touching the membership of the persons composing it, and that all wrongs of the description referred to had their appropriate legal redress. I am not without suspicions that such is not the case; but cannot satisfy myself that, under all the circumstances, it is expedient for Congress to review those several transactions, and attempt to apply remedies at this late hour.

The question of a submission of the constitution framed by the convention to the people for their direct ratification has been the subject of much discussion. As I do not find in the organic act any authority to the people of Kansas to frame a State government, and as I cannot infer that there was any power vested in the Territorial Legislature to authorize a convention which should form a constitution, which should of necessity be binding upon Congress, it seems to me to be quite immaterial in its legal aspect whether that constitution was or was not submitted to the people for their ratification. No requisition for any submission appears in the organic act; none such is to be found in the territorial law creating the convention; and I have been at a loss to discover upon what foundation the opinion of the President, that the slavery clause must of necessity have been submitted, is predicated. He has demonstrated that there was very great propriety in such submission, and I conceive that there would have been equal propriety in the submission of the whole constitution; but I am unable to regard its non-submission as a vital defect. In view of the conflict of opinions existing in the Territory, of the notorious popular prejudice against the first Territorial Legislature, and of the complaints which were rife in respect to the organization of the constitutional convention, and especially in view of the declarations acknowledged to have been made by Governor Walker, upon real or supposed authority from the President, that the whole constitution, when made, should be submitted to the people for ratification, I think that a submission would have been most timely and most appropriate, provided the elections could have been held without fraud and without violence. But I am one of those who do not regard the popular elections of a turbulent people as the occasion for the calm and deliberate examination of the complicated details of a written State constitution; nor would their results, as declared by partisan judges, be conclusive evidence to my mind that they indicated the will of the people. I have no doubt whatever of the right of the people to delegate to their representatives authority to enact laws, organic or otherwise, with or without subsequent submission. And I regard all the proceedings preliminary to the final consummation of the work of the convention as evidence, not conclusive, but nevertheless evidence, bearing upon

the great question, is that constitution the act of the people?

The convention complete their labors and dissolve. They have formed a constitution. The people of the Territory are to be presumed to have at one time desired admission into the Union as a State. Does it necessarily follow from these facts that Congress is bound to assume peremptorily that they still seek such admission, and that such admission must be accorded? At this point, in my mind, serious difficulties arise. I have not yet heard the argument that can solve them. After the dissolution of that convention, it remained to elect executive officers and a constitutional Legislature; and, in the opinion of the President, it further remained to take a vote at a popular election, upon the so-called submission of the slavery provision. The election of the State officers and of the Legislature were necessary to provide the machinery to set the new government in operation when the territorial government should be superseded by the act of admission; and the vote upon the submission of the slavery clause was, according to the opinion of the President, essential to give vitality to the work of the convention. These elections and their attending circumstances are, in my judgment, proper and necessary subjects of inquiry by this Congress. It is asserted upon most respectable authority, that remedies in respect to wrongs at these elections can be afforded elsewhere. I cannot find the place. Where, I ask, can a false return of the vote upon the submission of the slavery clause be corrected but here? Upon the act of admission the transaction is instantly complete; and that constitution is, without amendment, the fundamental law of Kansas. Where, I ask again, but here, can a false and fraudulent return of the election of State officers be corrected? At the moment of admission they are installed in the actual possession of the government of Kansas; they become entitled to be maintained in that possession by the power of the Federal Government; and, for aught I know, a usurpation may be instantly set up, which would work an outrage upon the people of Kansas, which the Government of the United States is powerless to counteract or remove.

Now, what are the facts? The president of the constitutional convention, in pursuance of the provisions of the schedule of the constitution, appointed commissioners, who appointed judges, who held the elections and returned the results to him, and to him alone. Admit that the officers holding these elections were sworn faithfully to perform their duties as required by the tenth section of the schedule: what security have we for an honest return as to either of the elections prescribed by the schedule? What security, I ask, but the personal integrity of Calhoun? While I know nothing of this gentleman which will justify me in saying a single word in his defamation, I have not learned enough of him to satisfy my mind that we can safely sanction and give the force of precedent to the most unjustifiable measure to which that convention resorted, in violation of the usages of the country—a measure unknown to the history of any State in the Union, and, in my judgment, for every reason, altogether unwarrantable. I speak of the assumption by Mr. Calhoun, I care not whether at his own suggestion, or at that of the convention, of supreme, unlimited, uncontrolled, and unwatched guardianship of the elections which were to ensue. I speak of the entire exclusion of every territorial officer, of every grade, from the Governor down to the lowest of its officials; and I venture to assert that it is the first time in the history of constitutional conventions that any one man, however exalted his integrity or unsuspected his character, has been solely charged with the execution of trusts so important and so vast. When one of our older States changes its form of government, it invariably takes the care to entrust the elections which are to place the new machinery of State in motion in the hands of its own acknowledged and accredited officers; and in every other case than that of Kansas, which has fallen under my observation, our Territories, when about to abandon their territorial organization, and to assume the powers of State sovereignty, have, I believe without exception, resorted to the precaution of associating with the president of the convention one or more of the territorial officers,

in order that a usurpation of power may not occur in the act of transfer.

I am not satisfied that the constitutional convention had any legislative powers of a general description. None were granted them by the law of its creation. No such powers can be implied. The legislative power of Kansas, to the very hour I speak, remains vested in her Territorial Legislature. It was not in their power to alienate it, nor did they attempt such alienation. They could not declare that fraudulent voting at elections, to be held in pursuance of their schedule, should be crimes, or that fraudulent returns of such elections should be punishable. They did not prescribe punishments, and could not enforce the punishments which they might have prescribed. If this be true, these elections were held without the semblance of public security. The President, in his message of February 2, 1858, remarks, in respect to the January election for executive officers, as follows:

"If frauds have been committed at this election, either by one or both parties, the Legislature and the people of Kansas, under their constitution, will know how to redress themselves, and punish these detestable but too common crimes, without any outside interference."

With the greatest respect for the distinguished source from which that expression emanates, and satisfied that the heart of no man in America beats less in sympathy with fraud, in any of its forms, than his, I should like to be informed how the people of Kansas can redress themselves, and punish those crimes, except in the mode in which the people of San Francisco some few years since punished the stuffers of their ballot-boxes? Can the State Legislature of Kansas, which is to come into being upon her admission to the Union, enact a law to punish crimes committed before their existence began, notwithstanding the inhibition against *ex post facto* laws, declared as well in the Constitution of the United States as in the constitution of Kansas? Upon this point I cannot accede to the opinion of the President.

We thus have presented to us the case of elections in Kansas conducted without any of the safeguards which in every portion of the civilized world, where popular elections are held, invariably attend them. We thus have the case of a convention authorized by the people of Kansas, speaking through their Territorial Legislature, to frame a State constitution, and to do nothing more, usurping the powers of that people, and committing her future executive and legislative offices to the uncontrolled will of a single individual, and that individual not the man of their choice. You find that convention employing its own delegated powers to grant new ones to commissioners, to be still further delegated to judges of election, and all, so far as I can see, without the shadow of reasonable security. You find, in short, a provisional government, erected by a constitutional convention with limited authority, subverting the Territorial Legislature. Now how can this be justified? Are we bound by any iron rule to confirm any usurpation which may have followed this transaction? Where is the government which is to supervise upon the act of admission? Will you leave Kansas without government? Will you admit her to the Union, thereby repealing her territorial organization, and deprive her people of every kind of legal protection? Will you leave her murders to go unrevenged, and her incendiaries to go unrestrained, and withdraw the army, which might, for the time being at least, give her people the protection of a military despotism, until this new State government can be hunted out from its lair? Where is this government? Who are its officers? Are they known to the President? Are they known and recognized by the people of Kansas? What are their names? Where do they live? Are they in Kansas, or are they in Washington? Will they go to Kansas? When will they go? Who is to provide the armed force to set the new government upon its feet? Where is the living man that can disclose the secret of the names of the officers of this proposed new State government? Is there more than one such man? Should he perish by one of the casualties of life, would the secret die with him, or would he leave the record behind? Why has not that important secret been revealed?

Can you find a precedent in the history of the country for the admission of a State where the act of admission may, and probably will, instantly

consign her to anarchy and ruin? Is there anything in the history of Kansas, or in the character of her people, which renders such a policy wise or statesmanlike? The President has informed us that the Territory of Kansas has kept for years in a state of almost open rebellion against its government, and at this moment an Army preserves her peace. Will the people, whose turbulence and lawlessness have been kept in subjection only by military power, who have been in constant rebellion against their own territorial government, yield ready obedience to a State government, the very names and persons of whose officers are undisclosed secrets in the breast of a single man, whose lips no power on earth can unseal? Congress, the President, and the people of Kansas are each and all powerless to compel him to break his ominous silence!

Mr. Chairman, when an application is made to Congress by the people of a Territory for their admission into the Union as a State, the very act of application implies the assent of the people of the Territory. The act of admission is the consent of Congress to the application. The whole transaction is by consent. The admission is a great privilege. It entitles her to participation, through her Representatives, in the councils of the first nation upon the face of the globe. It makes her a partner in the glories of our Revolution. It makes our history hers. The faith of the Federal Union becomes pledged to her for protection against invasion and domestic violence. She is secured the advantages of a republican government, with its unnumbered blessings. Her citizens acquire the privileges and immunities of the citizens in the several States. She shares in our exhaustless wealth—receives more than an imperial dowry. It is the meeting of father and child, after the days of infancy have passed. Parental affection, if chilled by long absence, renews its care, and filial love commences a lifelong career. All this is too large a reward for turbulence and wrong. Review our history. No State has ever yet been admitted as a punishment for the crimes of her people. If Kansas is still rebellious, let us not, from any miserable spirit of economy, or mistaken notion of expediency, bring her now into the sisterhood of States. She may light among them the fires of civil discord. At any rate, do not drag her in as a convict in chains. Keep her from her father's house till, passion all subdued, the work of repentance done, with calm and stately steps she knocks at the portals of her future home.

Mr. Chairman, is the voice we hear applying for admission the voice of Kansas? What, sir, is the evidence? John Calhoun, the president of the constitutional convention, in a letter to the President, of January 14, 1858, says that Kansas asks for admission into the Union as a sovereign State. The President informs us in his message of February 2, 1858: "that he has received from J. Calhoun, Esq., president of the late constitutional convention, a copy, duly certified by himself, of the constitution framed by that body, with the expression of a hope that he would submit the same to the consideration of Congress, with the view of the admission of Kansas into the Union as an independent State." The President recommends her admission, "with a view to terminate the Kansas question." This, sir, is the evidence, and the whole evidence, in support of the application. John Calhoun indorsed and certified by himself, with the expression of his hope that the President would submit the same to Congress.

But, sir, is this the only voice we hear from Kansas or her people? No! We hear another voice from Kansas. Her people, through their Territorial Legislature, under date of December 23, 1857, remonstrate and protest against her admission. They speak in tones louder and clearer than those of John Calhoun. They say that they have been disfranchised and defrauded, and that they do not seek admission into the Union under the Lecompton constitution, and claim the right to form and adopt a constitution for themselves. No discord marked their deliberations. The voice of her people comes upon us in one unbroken column: "We protest against admission under the Lecompton constitution."

To which of these voices shall we hearken?

It is contended, Mr. Chairman, that the constitutional convention speak through their president; that the people of Kansas cannot recall the

assent which it is alleged they technically gave when their Territorial Legislature authorized its assembling; that there is no *locus penitentia*; that they signed the bond and must pay the forfeit; that the usurpation of that convention must be perpetuated by the action of Congress; and that our eyes and ears are closed to any iniquities, no matter how gross, which may have followed in its train.

Sir, shall representatives of the people of America respond by such cold and cheerless logics to the remonstrances of ten thousand men? Sir, I regard the whole argument as fallacious. That convention derived its power through the Territorial Legislature, who prescribed the limitations of the power. That Legislature still lives, exercising the sovereignty of the people of Kansas, while the convention, to whom they delegated the work of forming a constitution, shorn of their power, have become mingled and lost among her people.

Is there a man upon this floor who will lay his hand upon his heart and say, that if the constitution proffered to us had been silent upon the subject of slavery any such argument would have been deemed unanswerable?

If it had happened that the so-called free-State men of Kansas had, by similar processes or omissions, acquired control of the organization of that convention, and sought, against the wishes of the people of Kansas, as evidenced by the action of her Territorial Legislature, to impose a constitution upon them, to last even for an hour, it is my sincere belief that the representatives of the Democracy of the North would have stood, as we now stand, in calm and firm resistance to the wrong.

Mr. Chairman, can the people of Kansas change that constitution immediately, if we should place it upon them by the act of admission? If they can; if it so be that its imposition—if obnoxious to her people—if violative of the principle of the Kansas-Nebraska bill, and subversive of the theory of self-government which forms the base of our American system—can work but temporary evil, and bring about the result sought by the President, and declared by him as the sequence of admission, so cordially do I sympathize with his noble and patriotic declaration "that the peace and quiet of the whole country are of far greater importance than the mere temporary triumph of either of the political parties in Kansas," that I should with less hesitation give my vote in accordance with his recommendation.

But in the exercise of that private judgment which I have no right to resign, and with the strongest desire to accede to the policy of an Administration which I sincerely believe have the good of the country at heart, I find it impossible fully to concur. I am so constituted that I have not the power to resist the conclusions to which I arrive, after the most deliberate survey that I am able to take of the facts before me; and if the declaration of my honorable colleague, [Mr. TAYLOR,] that to err against such an Administration as that which has our confidence is *criminal*, be true, I have only to say that I would at any time commit the crime he denounces, to avoid the greater one of giving a vote which I conceive to be antagonistic to the true interests of the country, and violative of the principles of justice and of truth.

Mr. Chairman, the principle which justifies the American Revolution, namely, the right of resistance to a government which has become intolerable, and the right of the people to change their form of government, is recognized in the bill of rights of the Lecompton constitution. It underlies every State constitution, and is imbedded deep in the hearts of our people. *It is the law of America.*

In the exercise of that enduring and irrevocable right, the people of Kansas can unquestionably throw off the tyranny of any constitution which can be imposed upon them. But I find myself unable to accord with those who hold, that notwithstanding the prohibitions of a constitution, and in defiance of a specific mode of amendment or change expressly provided, the people can, at any time, subvert their fundamental law; I am inclined to agree with the honorable gentleman from South Carolina, [Mr. KERR,] and others, who regard a reasonable degree of *permanence* as a valuable feature in our American system. I have no doubt but that the Legislature of

any State may initiate the proceedings for a convention to frame a new constitution; that such convention may ordain a new fundamental law; that the people may acquiesce in the change, and thus the work of revolution be accomplished without violence or bloodshed. This spectacle has often been exhibited. But the Legislature, which is the machinery to set this train in motion, must be in the control of those who would disorganize and organize anew, otherwise an effort on the part of the people to change their constitution is the wild frenzy of the howling mob. To that dread remedy I would not subject even the rebellious people of Kansas.

It follows, therefore, that the power to change their constitution or form of government depends wholly upon the control which they can obtain of the machinery of the State.

The President has said in his message transmitting the Lecompton constitution:

"The Legislature [of Kansas] already elected, may at its very first session submit the question to a vote of the people, whether they will or will not have a convention to amend their constitution, and adopt all necessary means for giving effect to the popular will."

Make this declaration *true*, and assure its fulfillment in respect to Kansas, and I will vote for her admission as a *measure of peace*, and not otherwise. But the President's assertion of the acknowledged right of revolution, or any abstract assertion of that right which Congress may make, is very far from establishing the proposition that the people of Kansas "can make and remake their constitution at pleasure." You must, in addition, provide the machinery which will permit this great change of fundamental law to be attempted, without treason to established government, and without subversion of social order. Can this be done? I have no doubt of the power of Congress to prescribe conditions for the admission of a new State, and that without doing violence to the acknowledged principle of non-intervention. Congress cannot make or alter their constitution; but it can compel them to make one for themselves, or in default, deny their application for admission.

Mr. Chairman, something is due to the opinions of the Executive. Much of individual opinion may be sacrificed to meet the demand which the country makes, that the peace and harmony of the Union be not endangered. Something is to be yielded to produce harmony in that great party which, when united and acting in adherence to its principles, can guide the destinies of the nation. Something may, perhaps, be accorded to allay the irritability of the people of the South, excited by an entire misapprehension of the real and substantial difficulties which lie in the way of the admission of Kansas—difficulties which they themselves would regard as insurmountable could they become assured, as they ought to be, by their public men that the question of slavery is in no manner material to the issue.

And when I can be satisfied that the admission of Kansas can accomplish the ends indicated in the President's message; if it will, to employ his language, "restore peace and quiet to the whole country," "localize the excitement," "cause it to perish for want of outside aliment," "enable the Executive to withdraw the troops from Kansas," "and dissipate the dark and ominous clouds which now impend over the Union," and at the same time do no violence to the rights of the people of Kansas, and give no success to the frauds which have dishonored her name, I will no longer oppose.

But all these results cannot be secured without a clear, distinct, and unequivocal declaration in a form of a condition of admission. I will not be critical as to form, provided it shall honestly and effectually and certainly secure the great work of justice and pacification,—provided the scheme of admission shall be such as shall exonerate the Democratic party of the Union, and the Administration of their choice, from the imputation unjustly made, of seeking to impose upon the people of Kansas a constitution, which, from the evidence before us, I cannot force myself to the belief, is in accordance with the wishes of her people.

Mr. Chairman, speaking for myself alone, I doubt all the claims of Kansas for present admission; I distrust her possession of a sufficient population, or of that degree of stability and order which should be deemed preliminarily requisite

to the intrustment of her people, with the plenary powers of State sovereignty; I am not satisfied that her proceedings have been sufficiently regular; I am not entirely convinced that the application to which it is proposed to listen, is that of the people of Kansas, speaking through the form in which their voice can be unmistakably recognized. While I take no pride in her history, while I have no sympathy with the scenes of fraud and violence which have signalized her career, while I detest the invasions upon the great rights of honest suffrage which have stained her traditions, I will, nevertheless, yield my reluctant assent to her admission to the Union, provided the bill can be so framed that no permanent mischief can result to Kansas or the country; and the people, who, under the guidance of Providence, are to develop her destinies, shall have secured to them the right to form, without wrong and without violence, the institutions under which they and their children are to live.

At the expiration of Mr. CLARK's hour, the hammer fell.

Mr. KILGORE obtained the floor.

Mr. SAVAGE. I move that the gentleman from New York have leave to proceed. I want to know where he is upon this question.

The CHAIRMAN. If there be no objection, the gentleman will proceed.

Mr. KILGORE. I have no objection, if it does not come out of my time.

There was no objection, and Mr. CLARK continued his speech for ten minutes.

Mr. BURNETT. I understand that the unanimous consent of the committee was given to the gentleman from New York to proceed with his remarks for a few moments beyond his time, and not *ad infinitum*.

Several MEMBERS. It is too late to object now. The CHAIRMAN. If objection is made, the gentleman from New York cannot proceed further. The gentleman from Indiana [Mr. KILGORE] is entitled to the floor.

Mr. GROW. Is it not too late to make objection now? I rise to a question of order. My point is this: when the unanimous consent of the committee has been given for the gentleman from New York to continue his remarks is it not too late to make objection after he has proceeded?

The CHAIRMAN. The Chair overrules the point of order. Unanimous consent was not given to the gentleman for any particular length of time, but he occupied the floor during the unanimous consent of the committee.

Mr. GROW. I understood the motion of the gentleman from Tennessee to be, that the gentleman should finish his speech.

Mr. BURNETT. I understand that the gentleman from New York will conclude his speech in five minutes—I do not object to that. I am willing to allow him to go on for that length of time further; but I am not willing to concede to the gentleman, or any gentleman, the right to go on for hour after hour, in violation of our rules.

The CHAIRMAN. It is the understanding, then, that the gentleman from New York shall have leave to proceed for five minutes further.

There was no objection; and Mr. CLARK concluded his speech as above reported.

Mr. KILGORE. Mr. Chairman, I do not expect, at this late period of the session, when the all-exciting topic of controversy has been discussed in every form, to be able to introduce a single new idea, nor would I, on this occasion, open my mouth, but that it will be expected, perhaps, by those whom I represent here, that I should say something. I regret extremely to see that bitterness of feeling which is evinced on the part of gentlemen upon this floor in the discussion of this subject. I represent a peaceable, orderly, law-abiding Quaker constituency. The angry feeling with which they are denounced upon this floor would be startling to them if they could witness it as I have witnessed it for the last few months. I have been astonished to find gentlemen representing the interests of the South denouncing men upon this side indiscriminately as a band of Abolitionists, and applying to them the general charge of negro stealing. Why, sir, just such denunciations have tended to rouse that excitement of party feeling which now rages all over the country. The people of the North are denounced, and charged with every crime in the whole catalogue of crimes. It was remarked the

other day that speeches made by southern gentlemen were sent by northern men to their constituents. That is true; and, on the other hand, when we happen to have an imprudent speaker upon our side of the House, who denounces your institutions in terms of bitterness, you also flood your country with his speeches. They are sent there, if not to the mass of the people, at least to the political leaders, for the purpose of showing northern sentiment towards southern institutions. Human nature is the same, North and South. We read your speeches; and we do it for the purpose of showing the feelings you entertain towards us and our institutions; and you circulate speeches made by gentlemen of the North, and they have the same effect—to excite public indignation against us.

These things are done, too, when partisan strife is raging all over this country with unbounded licentiousness.

But, sir, we are called Abolitionists, and denounced as fanatics. Why is this? Cannot gentlemen distinguish between abolishing slavery in the States where it exists by virtue of local laws, and extending it into Territories that are free? The difference is to me so palpable that I think no man ought to confound them. I am an old-fashioned Whig; and I stand, upon this slavery question, where the old Whig party stood; where that distinguished leader of the Whig party, the statesman of the nation, Mr. Clay, stood. Where slavery exists in a State by legal sanction, there let it alone. Where slavery exists by virtue of law, there let it alone, until those having the legal authority determine to abolish it. But, sir, where slavery does not exist; where Territories are free; where there is no law creating the institution, I say what that eminent leader said among his last declarations: "I never can and never will vote, and no earthly power will ever make me vote, to spread slavery over territory where it does not exist." But, sir, I am not alone on this platform of principles. I would like to inquire of southern gentlemen upon the other side, if they have examined Mr. Buchanan's political record closely? I would like to know whether they have not taken into their bosoms an Abolitionist? If I am an Abolitionist upon this subject, on account of occupying the ground I do, James Buchanan is an Abolitionist also, and has been one for the last forty years. True, he may have been baptized since the Cincinnati convention into the true faith of the South. Gentlemen will pardon me for calling their attention to a resolution signed by the distinguished occupant of the White House, in his native State, Pennsylvania, in the year 1819, when the Missouri question agitated the whole country:

"Whereas, the people of this State, pursuing the maxims, and animated by the beneficence of the great founder of Pennsylvania, first gave effect to the gradual abolition of slavery by a national act, which has not only rescued the unhappy and helpless African within their territory from the demoralizing influence of slavery, but ameliorating his state and condition throughout Europe and America; and whereas it would illly comport with those humane and Christian efforts to be silent spectators when this great cause of humanity is about to be agitated in Congress, by fixing the destiny of the new domains of the United States: Therefore,

"Resolved, That the Representatives in Congress from this district be, and they are hereby, most earnestly requested to use their utmost endeavors, as members of the National Legislature, to prevent the existence of slavery in any of the new Territories and States which may be created by Congress.

"Resolved, As the opinion of this meeting, that as the Legislature of this State will shortly be in session, it will be highly deserving of their wisdom and patriotism to take into their early and most serious consideration the propriety of instructing our Representatives in the National Legislature to use the most zealous and strenuous exertions to inhibit the existence of slavery in any of the Territories or States which may hereafter be created by Congress; and that the members of Assembly from this county be requested to embrace the earliest opportunity of bringing this subject before both Houses of the Legislature.

"Resolved, That, in the opinion of this meeting, the members of Congress who, at the last session, sustained the cause of justice, humanity, and patriotism, in opposing the introduction of slavery into the State, then endeavored to be formed out of the Missouri Territory, are entitled to the warmest thanks of every friend of humanity.

"Resolved, That the proceedings of this meeting be published in the newspapers in this city.

"JAMES HOPKINS,
"WILLIAM JENKINS,
"JAMES BUCHANAN.

"The foregoing resolutions being read were unanimously adopted; after which the meeting adjourned.

"WALTER FRANKLIN, Chairman.

"Attest: WILLIAM JENKINS, Secretary."

Mr. J. GLANCY JONES. Do I understand

the gentleman to say that Mr. Buchanan drew up those resolutions?

Mr. KILGORE. No, sir; I do not know that he drew them up. I say he signed them.

Mr. J. GLANCY JONES. Do I understand him to say that he signed them?

Mr. KILGORE. I understand from the report of the papers published at that time, that Mr. Buchanan was one of a committee of three men who reported these same resolutions.

Mr. J. GLANCY JONES. I wish the gentleman would give us his authority.

Mr. KILGORE. You will find it in the Lancaster Intelligencer, volume 21, No. 21, published in 1819.

Mr. J. GLANCY JONES. With the permission of the gentleman I desire to say a word. I have had occasion more than once to repeat what I am now about to say upon this subject; and that is, that Mr. Buchanan never signed the resolutions, and that they never had his sanction in any shape or form. His name was attached to them without his authority—as frequently happens—without his knowledge or assent. That is the simple history of the matter.

Mr. KILGORE. It is too late to deny this record after a silence of forty years.

Mr. PURVIANCE. I desire to ask my colleague if Mr. Buchanan did ever in any shape or form disavow the resolutions at that time?

Mr. FLORENCE. No; nor at any other time that he was assailed.

Mr. J. GLANCY JONES. I am not aware that he did.

Mr. KILGORE. I cannot admit this cross-firing.

Mr. GROW. I would like to ask my colleague if Mr. Buchanan was in favor of the Missouri compromise?

Mr. J. GLANCY JONES. He gave his assent to it as a peace measure when every leading patriot in the country, North and South, advocated its passage to save the Union.

Mr. KILGORE. I am informed that this resolution was published in the newspapers of his own town, at the time, and that no one assumed to contradict it. I have no doubt, Mr. Chairman, that Mr. Buchanan's friends would be very anxious to deny a great many things connected with his political history.

But, sir, I was remarking that I occupy the position occupied by Mr. Clay, and the position occupied—as I understand it—by Mr. Buchanan at that particular time. I will not pretend to say what Mr. Buchanan's opinions are now. I admit that this is an age of progression, and that he is remarkably progressive for an old gentleman. It perhaps would not be amiss for me to remark here, that instead of being an Abolitionist, as the persons with whom I act are charged with being, I am a free-State man.

I was born and reared in a slave State, and I am proud of the State of my nativity, for it is one of the noblest of the old slave States of this Union. She has furnished heroes to the field, and statesmen to the council of the nation. It is the land of the lamented Clay. But, as I said, I now represent here a free interest. The State of my adoption is surrounded with everything that is calculated to endear me to free institutions. When I contrast the state of things there with what I learn of the condition of the extreme southern States, I am proud of my position. How do we stand? We have our free schools; we have our churches; we have our academies; we have our charitable institutions for the benefit of the deaf and dumb, the blind, and the insane. We have our thousands of miles of railroads, our fields teeming with abundance, our thriving towns, our flourishing cities—everything to endear us to our home. Can those gentlemen who have denounced us on this floor as Abolitionists say as much for themselves? I refer, for the condition of the extreme southern States, to the declarations of men who know all about them; who are not speaking at random, but who have been living witnesses of what they have described. My friend from Missouri [Mr. BLAIR] did not exhaust all the materials yesterday. Gentlemen have hunted up the records of pauperism and crime in some of the northern States, particularly in the State of New York. To that I have no objection. New York is represented here by gentlemen who are able to defend her and her institutions. But I would call

the attention of gentlemen to a few facts connected with the history of South Carolina. The gentleman from Missouri [Mr. BLAIR] quoted from a speech made by Mr. Gregg, in 1851, before the South Carolina Institute: "There is a party, however, which he did not quote, and which I will read:

"From the best estimates (says Mr. Gregg) that I have been able to make, I put down the white people who ought to work, and who do not, or who are so employed as to be wholly unproductive to the State, at one hundred and twenty-five thousand."

Out of a population of three hundred thousand, at the outside, there are one hundred and twenty-five thousand who are not employed at all, or so employed as to be wholly useless. Mr. Gregg follows this up by stating that all the capital, enterprise, and intelligence of South Carolina, are employed in directing slave labor; and that, "the consequence is, that a large portion of our poor white people are wholly neglected, and are suffered to while away an existence in a state but one step in advance of the Indian of the forest." But I am not yet through my quotations from Mr. Gregg. He says again:

"Shall we pass unnoticed the thousands of poor, ignorant, degraded, white people among us, who, in this land of plenty, live in comparative nakedness and starvation? Many a one is reared in proud South Carolina, from birth to manhood, who has never passed a month in which he has not some part of the time been stinted for meat. Many a mother is there who will tell you that her children are but scantily provided with bread, and much more scantily with meat; and, if they be clad with comfortable raiment, it is at the expense of these scanty allowances of food. These may be startling statements, but they are nevertheless true; and, if not believed in Charleston, the members of our Legislature, who have traversed the State in electioneering campaigns, can attest the truth."

Attest the truth of what? That there are thousands of men, not in her crowded cities, but in her remote districts, who are suffering for food and suffering for raiment. When gentlemen talk of the poor of the North, let them remember that they have the poor with themselves. Let them remember what Mr. Gregg says, that their poor are not more than half civilized. Here is raw material for them to operate upon. They have been operating upon it for a hundred years; and when they have been operating on it for a hundred years more, I have no doubt they will find still a surplus of that raw material.

Our churches and school-houses are prized as we prize our household gods. It is with these and with our plows, our looms, and our anvils, we advance our civilization. Would it be believed that in proud South Carolina such misery exists? And yet it is lamentably true, as Mr. Gregg attests.

It could not be otherwise when the rich and productive land is all owned and used by the slave owner, while the unfortunate poor whites are left to the sand-hills and pine-swamps, upon which a church mouse would starve if allowed the range of a thousand acres.

A Senator from South Carolina asks, what should we think if they should send missionaries among our people? Why, sir, the people of Indiana would like to see such missionaries from the South among their poor people. They would take great pains to aid them in their benevolent purposes. They would exhibit to them a people enjoying all the comforts of life; where free labor not only receives its merited reward, but is counted honorable. They would point them to the thousand monuments of general prosperity to be found all over our State. They would learn them the true value of our free institutions. When thus shown the peace, happiness, and prosperity, that pervades every class of society there; finding instead of white slaves, as the Senator seemed to think them, a noble set of freemen, fully informed as to all their rights; blessing and adorning a country where free thought, free speech, and a free press, are enjoyed to their fullest extent, and properly appreciated, I fear these same missionaries would hardly return to the South. But should they do so, and give the poor white men of the South a true history of what their eyes had beheld, they would flee from that region like rats from a sinking ship, until there would not be enough of them left to patrol the streets and plantations, and watch the slaves while their masters sleep.

But, says my friend from Mississippi, [Mr. DAVIS,] you are making war upon southern institutions; and when you make war upon their institutions, the South will visit you with fire and

sword. Well, sir, let them come. Let the gentlemen bring an army of the unfortunate poor of the South with them, with fire and sword. We will be glad to see them. We will not meet them with soldiers. We will treat them well; and the soldiers, attracted by our free institutions, will leave their colors. We have riot acts and may, perhaps, indict the leaders for riot; but we will inflict no greater punishment upon them. We will vindicate our laws, but treat them with kindness and still be just to the South; and when they get there, they will find it so great a paradise that they will be glad to find an asylum among us; and we will receive them with open arms.

A gentleman the other day read an extract from a speech delivered by the gentleman from Virginia, [Mr. FAULKNER,] in the Legislature of that State, in 1832. Sir, the page which records that speech of the gentleman will stand as the brightest page in his biography. His name will stand recorded side by side with the great names of Washington, Jefferson, and many of the most distinguished men of Virginia or of the country. I would not have that page blotted out, were it mine, for all the wealth that slavery can give.

But there is another extract which I wish to read, from a speech delivered in the same debate by another distinguished Virginian. Mr. Curtis, in the Virginia Legislature, in the year 1832, in speaking of this institution, said:

"See the wide-spreading ruin which the avarice of our ancestral government has produced in the South, as witnessed in a sparse population of freedmen, deserted habitations, and fields without culture. Strange to tell, even the wolf, driven back long since by the approach of man, now returns, after the lapse of a hundred years, to howl over the desolations of slavery."

After one hundred years, the wolf will come back to howl over the desolations of slavery in old Virginia, the mother of States and statesmen—the mother of Presidents. We have driven them back from the West; they have gone beyond the voice of civilization, and we expect to keep them there. We do not expect they will come back to howl over our fields.

But, sir, our opposition to slavery, the gentleman says, is fanaticism; and a distinguished Senator, in the other end of the Capitol, [Mr. TOOMBS,] has told us that that fanaticism must be crushed out. Crushed out, sir! Let me tell that Senator that the fanaticism of which he speaks, if he chooses to call it so, is almost universal in the North. There is no man there who is an advocate of slavery. There is no man from that section of the country who will go before his constituents and advocate the extension of slavery. My colleague [Mr. HUGHES] does not support the bill for the admission of Kansas because he is in favor of the extension of slavery. It is because he loves the Democratic party, and because it is a party measure; and so it is with every Democrat from the North on this floor who supports the bill.

But northern Democrats told the people, after the repeal of the Missouri compromise line, there was no danger of slavery going to the Territories; that there were but three hundred and fifty thousand slaveholders in the whole Union—hardly enough to people a single State; and it was said, such being the case, why raise the question of slavery at all? that freedom will always outrun slavery in a fair race? Sir, the Democrats of the North are not in favor of slavery; it is a slander upon the Democratic party; but they are in favor of allowing the people, in settling up a country, to regulate their institutions in their own way. It is the doctrine of squatter sovereignty. They will speak against slavery, and they will vote against it, but they will leave it in the Territories to the action of the people; they will not endanger the peace of our institutions by attempting to prescribe here what shall be done.

Now, sir, we have frequently heard of a class of men known as dough-faces, men for whom even the South has no respect, in whom the South has no confidence. I ask if the Richmond South is not good authority on this subject? I will read a short extract from that paper:

"So Mr. DOUGLAS has shown his cloven foot to the South at last. I never believed he was whole-footed. All that he has ever done has been to cajole the South to choose between evils, to take the best she can get, to sugar over nauseous pills and bribe the southern members to coax the South to swallow them. I never had confidence in him. I have no confidence in any man north of Mason and Dixon's line. They cannot be our friends and be honest. The inter-

ests of the two sections are antagonistic. The northern man who goes for our interest necessarily goes against the interest of the North, his country, and I can have no confidence in a traitor, no matter how high is his price."

Thus speaks an ultra pro-slavery paper of northern men who follow the lead of the South. It is true, it speaks particularly of those who believe with Mr. DOUGLAS; but we must remember the declaration, that no northern men can be their friends and be honest.

Northern Democrats are now asked to leave the principles of their party and to come to the rescue of the South in the present question. Do southern men want them to become traitors? Do they want to induce them to turn their backs upon the interests of the people they represent?

But, sir, we are told that, if Kansas is not admitted, it will be taken for granted that no more slave States can be admitted into the Union. If they always come in the manner in which Kansas presents herself hereto-day, I hope to God none ever will be admitted into the Union; but when a State comes here with a constitution formed by the people, and they ask for slave institutions, then, and not till then, if she be refused admission into the Union, will southern gentlemen have a right to take it for granted that we shall refuse admission to any more slave States. In the North the sentiment is universal, however, that no more slave States shall be formed out of the territory north of the Missouri compromise line, or any other free territory. Show us where a slave State, with a slave constitution, adopted by a fair vote of the people, is kept out of the Union, and then southern gentlemen will have some good reason to complain. But, they say that the North is disposed to encroach upon the rights of the South. Why, sir, there is no man in the North who will infringe upon a southern man's rights. Even the Abolitionists, some two thousand in number, would not interfere with your slaves in States where they are held by law. What is their position? They want to go out of the Union because they cannot separate themselves from slavery in the Union. So with some southern men; they want to go out of the Union because they cannot, by remaining in it, succeed in extending slavery as they would wish. I have about as much regard for the one as the other. I will tell you what I would do with these men. I would colonize them together upon the burning sands of the south or icy shores of the northern lakes; and there I would leave them to carry out their project of dissolution by dissolving themselves, until only a single man was left; and then I would not care if he, like the London juggler, would swallow himself. [Laughter.]

Why talk about dissolving this Union? Can that dissolution be a peaceable one? Can our honored flag be trailed in the dust without first being stained with the blood of our people? No, sir, it cannot be done peaceably, and you have no right to talk about a dissolution by force. The attempt would be treasonable. You may have the power to involve the people of the two sections of this nation in civil war; you may have the power, by force and violence, to destroy the beautiful system of government which we inherit from our fathers—to ruin everything dear to the lovers of our common country; but then, let me ask, what would the South gain by it? If the attempt should result, as it most assuredly would, in civil war, spreading all over this Union, laying waste our fruitful fields and destroying our homes, putting out the fires of our furnaces and forging, stopping the machinery of our manufactories, and silencing the hum of busy industry all over the free North, what would you of the South gain by all this? Your slaves would not be worth a dime to you, but instead of being a blessing, as you now consider them, they would prove your greatest curse; from being your submissive, obedient servants, they would become the instruments of mischief in the hands of your enemies, and the general desolation that would follow, might serve not only to remind us of the proud state from which we had fallen, but would allow the tyrants of the old world to point at us as another evidence of the incapacity of the people to govern themselves. Broken to pieces by our own madness, we would be fit objects of universal scorn.

Mr. Chairman, you say, in the South, that you have important interests. We raise cotton, say you—so you do. We raise sugar—so you do; and

we rejoice in the North, when we hear that there are good crops of sugar and cotton; and we regret it, when there is a failure of either. We rejoice when you rejoice, and mourn when you mourn. Your cotton is useful to us. We receive the raw material of your producers, and by our skill and handywork, aided by our machinery, transform it into fabrics useful and ornamental. Your sugar we need. It is, if not a necessary, at least a luxury of life that we are not willing to dispense with. Sir, as an evidence of our liberality towards you, even while your men were denouncing the doctrine of protection, when we wished to aid and protect northern interests, and you refused it, we, by our votes, aided in giving your sugar protection by a tariff that caused the consumers of that article to pay, in the form of duties, during the last year, nearly thirteen million dollars. Thus, when called upon, we have ever been ready to protect your interests—even when you have refused to aid us in protecting northern manufacturers and northern interests. And now, simply because we refuse to join you in a crusade against the rights of the people of Kansas, we are pronounced sectional and unjust to the South. Sir, you ask too much at our hands. We have given you protection, and you offer to pay us by oppression.

Mr. Chairman, I believe that if we admit Kansas under the present circumstances, it will be a violation of the rights of the people. I do believe that if we protect the rights of the people they will always protect the rights of the States. There will be no danger if their rights be guarded and protected; but when you deny them the right to the enjoyment of life and property, and the right to self-government so far as concerns the institutions under which they live; when you attempt to force an organic act upon them against their will, simply because you have the power to do so, it is not to be expected that they will respect those who have done them this wrong. You may have the power, by executive influence and aid, to consummate this outrage. But what will it profit you? Nothing, absolutely nothing. The laurels will wither in their winning; the spoils will not be worth possessing, while you may set an example—not worthy indeed of imitation, or to be cited as a precedent—but which, at no distant day, may be thus cited and imitated to your serious harm.

But it comes in due form of law, say gentlemen; and, as a gentleman said the other day, that is all there is of it. It has the form without the substance. As good and as valid a constitution might have been gotten up by this John Calhoun, and Henderson, and these other fugitives from justice in this city, in some grocery in Missouri, which, so far as forms are concerned, would have been as correct an expression of the will of the people of Kansas as that contained in the constitution which they have already presented.

I speak of these gentlemen as fugitives from Kansas. I understand that they are officers of Kansas, and ought to be there; but I am inclined to think that they have been led to believe that this is the safest place for them; for there is a marine force here that was called upon to shoot down citizens in the streets, and which may be called out to protect them from the indignation of an outraged people.

But we have the forms of law, say they. Well, sir, there are some peculiar forms which have been required in reference to this constitution. My worthy friend from Oregon [Mr. LANE] rose in his place in this House, and said, "Mr. Speaker, I present to you the constitution of the people of Oregon." There was no excitement about it, no difficulty, and no one objected. Has there been three months' discussion over it? No. Kansas had her Delegate, too, upon this floor, on this side of the House. Why was it that that gentleman was not permitted to speak for Kansas? Why was he not permitted to get up and announce to this House that he presented to this House the constitution of Kansas? Who shall speak for the people of Kansas, when they do not speak for themselves, but their representative here? Oregon comes here of her own free will, with a constitution indorsed by her people, submitted to them in every form and shape for their determination. How comes Kansas? Kansas, covered all over with violence, is driven in here against her will. She comes here with her robes soiled; she comes by force and violence, and it becomes necessary

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, MARCH 26, 1858.

NEW SERIES.....No. 83.

that the executive robes should be put upon her. The Executive sends in a long message, telling you that the people of Kansas have formed a constitution, and that he has received it from the hands of John Calhoun. Not content with that, he must read to you a history of the villainies and outrages that have been perpetrated by the majority upon the minority in Kansas.

"Well," say gentlemen, "we cannot go behind the record, where all looks right upon its face." It does look fair upon its face if you will shut your eyes to the truth, and close your ears to everything. But we tell you the whole matter is rotten, and ask you to investigate it. How are we met in that request? We have had to encounter executive influence, and an investigation is denied us. How, then, can gentlemen get up and say that this constitution expresses the true will of the people of Kansas, when they refuse to allow us to bring proof to establish beyond controversy that it is the consummation of the vilest frauds that have ever been perpetrated.

The gentleman from Connecticut [Mr. Bishop] told you the other day what you would get by it—that slavery would get the shell and freedom the oyster. There is truth in that. How can you expect to maintain slavery in Kansas with three fourths of her people opposed to the constitution? What good will it do you unless you have laws to protect your slaves? Can you maintain it against the will of a community, even if you have laws to give sanction to holding slaves? I see gentlemen from the South here who know that it cannot be done.

But we are blamed for maintaining the position we do. Here let me say that there may be no misunderstanding, that I have a very high regard for the judicial tribunals of my country; but, sir, I have no regard for political decisions pronounced by a political court. I never had, and I never will have. Slavery, I assert, cannot exist in the absence of positive law in its favor. The doctrine established, as gentlemen say, by the decision of the Supreme Court of the United States, is that slavery exists in all the Territories. Here, again, I follow my old political leader, Henry Clay. He said, in the debate on the compromise measures:

"Far different would, I fear, be our case, if, unhappily, we should be led into war, into civil war—if the two parts of this country should be placed in a hostile position towards each other, in order to carry slavery into new territories acquired from Mexico. Mr. President, we have heard—all of us have read—of the efforts of France to propagate—what, on the continent of Europe? Not slavery, sir, not slavery, but the rights of man; and we know the fate of her efforts at propagandism of that kind. But if, unhappily, we should be involved in war, in civil war, between the two parts of this Confederacy, in which the effort upon the one side should be to restrain the introduction of slavery into the new territories, and upon the other side to force its introduction there, what a spectacle should we present to the astonishment of mankind, in an effort, not to propagate rights, but—I must say it, though I trust it will be understood to be said with no design to excite feeling—a war to propagate wrongs in the territories thus acquired from Mexico. It would be a war in which we should have no sympathies, no good wishes; in which all mankind would be against us; in which our own history itself would be against us; for, from the commencement of the Revolution down to the present time, we have constantly reproached our British ancestors for the introduction of slavery into this country."

But it is said here that this was originally slave territory; that slavery existed there when we acquired it from France. Well, that was certainly so; but slavery was abolished there north of the line 36° 30', and the compromise by which it was abolished was assented to for the third of a century. But the very moment that this territory is open for settlement, it is seized upon and converted to slavery, not alone by fraud but by force and arms. An effort is made by the force of this Government to wrest it from freedom and to secure it to slavery forever. The North performed its share of the contract. The South said that we should have freedom north of that line, and we said that you might have slavery south of it; but the South now violates its compact, and insists on having slavery north of it.

But gentlemen say that this Lecompton constitution has all the forms of law in its favor. Well,

let me ask these gentlemen this question: if the delegates to that convention had been elected by a full and fair vote of all the people of the Territory, and had ingrafted on that constitution certain provisions odious to all the people, and that people, before the act was consummated, came to Congress and protested against it, is there a man in this House—if the negro question was not involved in it—who would stand up and disregard that protest? If Oregon had come here with a constitution, and if her Delegate on this floor protested against it, and her Territorial Legislature protested against it, and ten thousand of her citizens were found protesting against it; and if the North, in spite of all that, attempted to force that constitution upon them, denunciations loud and long would have come from the South. There is not a southern man that would not have been loud in his defense of the right of the people to form their own constitution. But, because there is a negro in this question, there is no such denunciation.

Mr. HUGHES. I would like to put a question to my colleague.

Mr. KILGORE. I have not time to be interrogated.

Mr. HUGHES. The question is very short. It is this—

Mr. KILGORE. I would cheerfully yield to my colleague, if I could; but I have only a few minutes left. Then, sir, we have this case presented to us: We have the protest of the people of Kansas, we have the protest of their Territorial Legislature, we have the protest of their representative on this floor. And what excuse, let me ask southern gentlemen, will you take home to your people, who love liberty, in justification of your effort to force on the people of Kansas institutions which they abhor? You may say that you wanted to test the question of the admission of slave States; but the intelligent portion of your constituents will tell you that you might have had a better ground than Kansas to test it in.

And now, let me say to southern gentlemen that I am the last man who would justify the slightest encroachment upon them. I would not tolerate it in word or deed. I hope that these gentlemen will at least acquit me of a desire to steal their negroes. I will let them alone; but let me ask gentlemen of the South to keep the negroes to themselves, and not thrust them into our faces. You have got the larger portion of the country. Keep your negroes and enjoy it. But leave the free Territory of Kansas to the unfortunate poor of the slave States and to the unfortunate poor of the free States. The Republican party, which is here opposing the admission of Kansas under this constitution, is in favor of giving the land of this Territory, in limited quantities, to the poor man South and to the poor man North, instead of giving it to overgrown corporations. We are in favor of distributing it to secure homes to the poor of both sections. Let southern men tell their constituents that, and, my word for it, they will approve the position taken by the Republican party in this matter.

Now, I know that the name of "Abolitionist" is an odious name to the people of the South. I have been told, and I have no doubt truly, that mothers in the extreme South, when their children are unruly, threaten them with an Abolitionist. I have been told that it is not unusual, when a negro becomes a little overbearing, for his master to threaten to take him to Indiana and sell him to an Abolitionist; and that the very threat causes the poor negro to almost cry his eyes out. We do not want to have that reputation among the people of the South. Let us have no more quarreling over the negro question. I have not referred to the poverty of the South with angry feelings, or with any other than those of regret. I find many very fine gentlemen here from the South. It may be in part attributable to their long association with gentlemen from the North. I hope the benefits may be reciprocal. Let us be done with wrangling, and decide this question according to the principles of righteousness and

the will of the people of Kansas, and the country will be satisfied.

Mr. STEWART, of Maryland. Mr. Chairman, this Kansas question is important in itself. It is also connected, in the course of the arguments pursued here, with many other questions and considerations which give to it an importance that is not ordinarily bestowed on questions coming up for decision by the Congress of the United States. I desire, before the vote be taken on the question of the admission of Kansas into the United States, to give my views upon the subject. I am glad, therefore, that I now have the opportunity to explain to this body, to the people whom I have the honor to represent, and to the country, if you please, the reasons which will control me in the vote which I propose to give when the question comes up legitimately.

I have the honor to represent, in part, the State of Maryland. The district which I represent is not affected by many of the considerations which control other sections. It is a quiet, beautiful section of country. All that the people there desire, in the movements of this great Government, is, that it will keep within constitutional limits; that the rights of all sections may be preserved; that aggression shall not be allowed from any quarter—neither from the South upon the North, nor from the North upon the South—but that the Government may move along in the path prescribed for it by the great charter that holds together the liberties of the people of this country.

Now, sir, Kansas has applied for admission into this Union. I take it for granted—because, I believe, it has not been questioned or denied from any quarter—that it is the will of the people of that unfortunate Territory that Kansas may be incorporated into the Union as one of the States.

The only question that embarrasses, is as to the method—the *modus operandi*, if you please. Well, sir, what is to be done? How are we to act? We are obliged either to admit Kansas or to reject her. It has been said that fraud exists, and has existed, in the proceedings of Kansas. Well, sir, we are obliged to affirm or disaffirm it. If we reject her, we assume the responsibility of saying that there have been such frauds, such malpractices, in the proceedings of Kansas, as to justify us in refusing to admit her into the Union. I present this view to the gentlemen who are willing to assume the responsibility of refusing to admit Kansas into the Union. There is no dodging the question. We must either, by voting for the admission of Kansas, affirm the regularity and correctness of the proceedings there, or, by voting against her, affirm that such frauds and irregularities have existed, and do exist, as justify us in rejecting her.

Now, I say to the men who go for law and order, to the men who go for regularity in the movements of this Government in all its dependencies, has anything existed in the proceedings of the Territory of Kansas sufficient to justify us in refusing her admission? I go back to the election of her first Legislature. Who had the right to decide who were the legally-elected members of that Legislature? That Territorial Legislature had the right to decide for itself upon all questions of contested elections, and no outside authority could interfere. We have the authority of the distinguished gentleman who was author of the organic act of that Territory, that the proceedings of that Legislature were regular and legal; that the Territorial Legislature elected in March, 1855, was in this respect unexceptionable. And I think the authority of that gentleman is conclusive upon that point so far.

Then, to follow up these proceedings, you find the people of Kansas in convention assembled. Now, in deciding upon the regularity of this body, you must look at its origin, and take it in all its stages. I ask gentlemen who are opposed to the admission of Kansas into the Union, at what stage of the proceedings of that body were fatal irregularities? The first Legislature, I have assumed, was regular and legal. They decided in relation to the election, returns, and qualifications of their

own members. Who had the right to determine in regard to the legality of the elections of the members of the convention? Why, the convention itself. It would be a gross usurpation for the Congress of the United States to undertake to decide who were the legally-elected members of that convention. They had the right to decide the question for themselves. They did decide it. They adopted a constitution. How does that constitution appear here for our action upon it? The President of the United States, by the request of the president of that convention, has sent his message to the House of Representatives, and to the Senate of the United States, conveying intelligence to us that this constitution has been adopted by the State or Territory of Kansas. We have the authority of the Administration, therefore, so far as the facts were in its possession, that the proceedings have been regular, and that the constitution here presented is such as properly to justify us in admitting the State.

Now, the question which any plain commonsense man would naturally ask is, what interest had the President of the United States in recommending the admission of Kansas under this constitution? What interest had the members of his Cabinet? Why do they recommend to the Congress of the United States the admission of Kansas under this constitution? Has Mr. Buchanan any personal object to accomplish? It has been announced by himself, it has been reiterated by his friends, that having reached the highest point of his earthly desires, he is no longer before the country for any additional honors, further than the fair discharge of his duty. The desire of his ambition, I suppose, is accomplished, and he is not a candidate for reelection. Here, then, is the President of the United States, entirely disinterested in his motives, coming from the northern State of Pennsylvania, recommending the admission of Kansas. I speak with no degree of deference to the opinion of Mr. Buchanan more than I would of any other man under like circumstances, occupying a similar position. I think his opinion, certainly, in this view, is entitled to some consideration.

But if gentlemen attempt to set aside the proceedings of the Territorial Legislature as illegal, what comes of the legislation, which is the work of that body? Marriages have been solemnized, estates have been administered, under laws enacted by that Legislature. Is there any member of this House, I do not care to what party he belongs, who will undertake to say that the whole proceedings which have taken place under the authority of the government of that unfortunate Territory are illegal? Oh no, I apprehend not.

But we are met with two classes of objectors. One class—the Black Republicans—affirm that the whole government was founded in fraud; that the public sentiment was overruled or perverted by border ruffianism from Missouri—

Mr. HUGHES. I ask the gentleman from Maryland to yield the floor for a moment.

Mr. STEWART, of Maryland. Yes, sir.
Mr. HUGHES. I understand my colleague, [Mr. KILGORE] to represent himself to the House as an old Whig, and as standing upon the platform of Henry Clay. I wish merely to read what he has heretofore said in reference to the fugitive slave law, a measure with which I believe Henry Clay had some connection, in order that it may be understood what kind of an old Whig he is. I read from the debates of the Indiana constitutional convention:

"In the discussion of the propriety of referring this section, no gentleman had as yet been found willing to take upon himself the advocacy of the odious fugitive slave law, which, since its recent passage, had created so much excitement, and upon which, in connection with this section, he desired to speak briefly.

"He would remark here that he did not wish to be misunderstood in what he should have to say upon this subject of the fugitive slave bill, so intimately connected with the section then under consideration. He was not in favor of repudiating the fugitive slave law while it remained on their national statute-book. Black and odious as it was, he had no objection to its enforcement, provided the officers of justice could carry into execution its provisions. The principle of the bill—the recapture of the slave by the master—he would not controvert; it was the details of it that were odious in his estimation. It would be the proudest hour in his life, if he should have to surrender his property and personal liberty by a refusal to obey the mandates of an officer who should attempt, in this land of freedom, to carry out those details. While he was willing, as he before said, to see the law carried out, if it could be—although he would not himself assist in its execution—he hoped no gentleman

of any party would, during their deliberations here, become the advocate of so odious a measure. He was no Abolitionist. He was under as little obligation to that party as any gentleman on that floor; but, while he repudiated all connection or fraternity whatever with that class of their fellow-citizens, so far as their peculiar action was concerned, he must be permitted to enter his protest against the doctrine that the slaveholders of Kentucky and other southern States had the right to use the freemen of Indiana like blood-hounds to catch their slaves."

I merely read this in order that it may go before the world in connection with the statement of my colleague, that he speaks as a national Whig. I will not trespass upon the indulgence of the gentleman from Maryland, or I could strengthen the point which I make against my colleague, by some other and stronger proofs.

One word more. I understand my colleague to say that he is opposed to the admission of Kansas as a slave State, because of the repeal of the Missouri compromise. Here is the resolution of the Republican State convention of Indiana of 1856, of which my colleague was a member, and upon which his party made the canvass of 1856:

"Resolved, That we will resist, by all proper means, the admission of any slave State into this Union formed out of the territories secured to freedom by the Missouri compromise, or otherwise."

Mr. KILGORE. Will the gentleman from Maryland permit me to ask my colleague a question? Mr. STEWART, of Maryland. Certainly.

Mr. KILGORE. Has not my colleague said, even since the commencement of this session, that the Dred Scott decision was not the law, and that nobody could pretend that it was the law?

Mr. HUGHES. I do not think that I ever uttered such a sentiment in my life.

Mr. KILGORE. At no time?

Mr. HUGHES. I do not think I ever did at any time. I know that the gentleman's party charged me, during the last canvass, with being in favor of white slavery. They made the charge distinctly.

Mr. STEWART, of Maryland. I presume, Mr. Chairman, it is best for me to go on with my remarks, as these gentlemen can adjust their dispute in their own way when they get home, subject only to the Constitution of the United States. [Laughter.]

Now, sir, in reference to the admission of Kansas, we are met with two objections. I understand that the gentlemen who follow the fortunes of the distinguished Senator from Illinois, [Judge DOUGLAS], to take the ground that everything was regular in the proceedings in Kansas, or sufficiently so as not to authorize any legitimate complaint; but they say that this constitution has not been submitted to the people, or is not an embodiment of the will of the people. The other objectors take the ground that the whole government in Kansas was founded in fraud. We are met, therefore, with these two objections.

Well, sir, in relation to the admission of a State into the Union, we find under the Constitution of the United States that Congress has the power to admit new States. I hold that it is not the primary consideration whether a people proposing to be admitted have a constitution or not. The great question here is whether we shall admit Kansas into the Union. The Constitution of the United States does not say that when a State is admitted into the Union that she shall have a constitution; and you do not find in the clause authorizing Congress to admit new States, anything said about a form of government. In another clause you find the language, that the United States shall guaranty to every State a republican form of government. It is not Congress, but the United States. It does not say that the United States should admit new States into the Union, and the Congress shall guaranty the States a republican form of government; but that Congress shall admit new States, and the United States shall guaranty to the States republican forms of government. Now, when Kansas comes here is she compelled, as a preliminary, to have a republican form of government. How can you guaranty this until she is in? It seems to me to be untenable to require that when a State comes in she should necessarily have a republican form of government, because she must first be admitted as a State before you can guaranty to her a republican form of government. The word "guaranty" is one of peculiar import. It does not say that the State shall have a republican form of government before admission; but that the United States

shall guaranty a republican form of government. Rhode Island came into the Union under the British charter; and she did not determine for a considerable time after the adoption of the Constitution of the United States, whether she would come into the Union or not. When she came in no question was asked as to her constitution. She had not a republican constitution when she came into the Union, according to our theory. She had not a constitution of that form, because she was living under the charter which she had derived from King Charles II. I therefore hold that it is not absolutely material whether a State, when she comes into the Union, has a constitution or not. She may, in fact, have a republican form of government without a constitution. She may settle all her proceedings in mass convention or in a Legislative Assembly.

Now, sir, States which have come into the Union have been admitted in different ways. There is no particular plan or method required. Some have been admitted by joint resolution, as was the case with Indiana. Some have been introduced by an act of Congress, express and direct, and others have been admitted by necessary implication. Ohio was never admitted formally by an act of Congress; but Congress, in the passage of a law, recognized her by reciting in the act, substantially, that she was in the Union.

Vermont was the first new State admitted into the Union, which occurred on the 18th February, 1791. Congress required no constitution, and none was submitted by her.

Kentucky, being the second new State, was admitted on the 1st of June, 1792. Her constitution was never submitted to Congress.

Tennessee was the third new State. She formed her constitution the 6th of February, 1796, and the same was submitted to Congress.

Ohio was the next. Having formed her constitution on the 29th of November, 1802; in February, 1803, an act of Congress was passed providing for the due execution of the laws of the United States within the State of Ohio, and merely reciting that she had become a State of the Union. Congress had nothing to do with her constitution, and she became a State by necessary implication, as I have before stated.

Louisiana, on the 7th of April, 1812, was admitted into the Union by act of Congress.

Indiana came in on the 11th December, 1816, by a joint resolution, as before mentioned, having adopted her constitution on the 20th June, 1816. The State of Rhode Island continued for a long time without any constitution, having for her form of government, simply the charter from King Charles II., and for a considerable period, declined to adopt the Federal Constitution, and when she came in, no question was made as to the character of her government. General Washington, President of the United States, on the 1st of June, 1790, congratulated Congress upon the introduction of Rhode Island, in the following manner:

UNITED STATES, June 1, 1790.
Gentlemen of the Senate and House of Representatives: Having received official information of the accession of the State of Rhode Island and Providence Plantations to the Constitution of the United States, I take the earliest opportunity of communicating the same to you, with my congratulations on this happy event, which unites under the General Government, all the States which were originally confederated; and have directed my Secretary to lay before you a copy of the letter from the president of the convention of the State of Rhode Island to the President of the United States.
GEORGE WASHINGTON.

There does not appear to have been much consideration as to the character of the constitutions of the new States, or whether they had any or not, or as to the method of admission, until Missouri made her application. She was admitted, after long and angry controversy, and a restriction was adopted as to the admission of any future State lying north of 36° 30', undertaking to prohibit the introduction of slavery. This was in restraint of their indefeasible right under the Constitution, producing inequality of privilege. After an experience of thirty years it was discovered to have no solid foundation, and was ignored by the general adjustment of 1850, and repealed formally by the Kansas-Nebraska act of 1854, and pronounced to be unconstitutional by the Supreme Court of the United States in the Dred Scott case. In its place, the policy was inaugurated, to submit the settlement of the slavery question, as indeed all other domestic questions, to

the respective people of each Territory, when they regularly undertook to establish State governments. This plan fully maintained the equality of the States, and disposed of the slavery question, fairly, and without subjecting any State or section to disparagement or injustice.

We find, then, from the history of the Government and from precedent, that there has been no particular form of admission adopted. Some have been ushered in by act of Congress, one by joint resolution, and another by necessary implication. I hold, therefore, that the main question which is to govern Congress when they undertake to admit a new State into the Union is, not to assume with great nicety to look into and see what sort of a constitution she has. It is not to be expected that these territorial governments will settle all matters with the same precision as you would solve a mathematical proposition. The leading inquiries are, have they sufficient numbers and the ability to assume and maintain an independent government? If they have, you admit them into the Union. As to the question whether they have a constitution or not, it is secondary and subordinate, and is a matter more of form than substance. In the case of Rhode Island, about the Dorr rebellion, as it was called, before the Supreme Court, there being a dispute as to which government had the control, the old or the new, it was decided to be a political question, and they would not, *per se*, undertake to settle it. The President and the Congress of the United States, under some circumstances, have to decide such questions. It would seem we take cognizance of the case not so much with the view to ascertain whether a State has a republican government as to identify the government.

In the discussion of this question I have heard a great deal said in regard to slavery. Why, sir, there is a great deal of humbug and flummery in that. Why should the North require any restriction? Suppose you strike out from the constitution of every northern State all restrictions upon this subject—what would it amount to? Would there be any slaves there to disturb some conscientious nerves? I apprehend not. Take Pennsylvania or Ohio, neighboring States, and strike out the restriction from their constitutions and laws, and in all probability you will have no more slaves in those States than you have now under the restriction. The people of the South are obliged, in their section of the country, to have and employ such servants as may be had where slavery exists. It suits our social institutions, and the temper of our people, and the necessity of the case, to do so. Now, I submit to our friends upon the other side of the House, if the people from the South choose to go into northern States with their families for pleasure, amusement, or other cause, why should they not be permitted to take their necessary servants with them, and be treated hospitably, in the same manner as northern men go into southern States with their families and domestics? The law of politeness and gentility recommends this in a Government like ours, founded as it was in an era when slavery existed in every State of the Union; and I submit to the other side of the House whether they are not violating the Constitution of the United States in its letter and spirit, by putting at defiance all those principles and rules of good breeding, civility, and courtesy, justly due from one freeman to another?

Why, Mr. Chairman, this is not so much a question of slavery and anti-slavery, so far as this Kansas matter is concerned, as it is of government or no government—whether we are to have anarchy or the supremacy of law. Do not gentlemen concede that Congress has the power to admit new States into the Union? No one disputes this proposition. Well, suppose that, right or wrong, *per fas aut nefas*, Kansas is admitted; is not that a legitimate decision? Can an appeal be taken from it? Will not that proceeding be recognized? or will you make war upon the action of Congress as you have made war upon the Legislature of Kansas, and upon the constitutional convention? If Congress thinks proper, in the exercise of its delegated power, to admit Kansas, will you make war upon Congress, and say that Congress acted without authority? Will you not be bound and estopped by its action?

But, sir, the opponents of this measure have, in the progress of the debate, made war upon all the institutions of the country. They have made

war upon Judge Lecompte, the chief justice of Kansas, a pure, upright, and accomplished judge, who has discharged all his duties with signal ability and fidelity under most difficult and embarrassing circumstances. On what ground has he been assailed? When you undertake to bring accusations against a judge, you ought to be prepared with proof to substantiate them. Where is the evidence here? None upon the face of the earth, but senseless clamor and insane abuse. It is an assault, not only on the Legislature and convention of Kansas, but on the judicial authority which derives its power from the Federal Government.

Is it not the same with regard to the Supreme Court of the United States—the highest judicial tribunal known to our Government? Does that high court command the respect of the opponents of this measure? Not at all. The same sort of assault is made upon that court. And I may here make a similar remark in regard to the members of that court that I have advanced in reference to Mr. Buchanan, when I said that Mr. Buchanan, now verging on threescore and ten, might be considered disinterested. Who compose the Supreme Court? Go into that tribunal and see what motives could actuate the men who wear the judicial ermine there, from the Chief Justice down. There is the honorable Roger B. Taney, the Chief Justice, a man of morality, of religion, of unimpeachable character. What motive has he for deciding in favor of the South, against the North? He is a man who must very soon, in accordance with the laws of nature, be called upon to have his actions below reviewed by the highest superhuman tribunal. What interest, I repeat, has he to decide this great question in regard to the constitutionality or unconstitutionality of the Missouri compromise in favor of the South against the North? None, none. Why then make such an assault on the Supreme Court? Look at the other Judges. Do they all come from the South? Where was Judge Nelson? Where was Judge Grier? These are northern gentlemen, representing, if you please, northern States, imbued somewhat, possibly, with the northern views. Did not they concur in the opinion of the court? The court was agreed, with the exception of Judge McLean and Judge Curtis. Judge Curtis has since resigned his seat; and, at the time of that decision, did not intend to remain on the bench. Judge McLean has been talked of for the Presidency. If I thought proper to speculate as to the motives of gentlemen here, I might have a field for doing so. But I shall not undertake to impute improper motives to these judges. I will not do it. But I will say, consider the character of that court. See how the majority and how the minority decided. You will find that the majority, consisting of gentlemen living in the North as well as in the South, adjudged this question without regard to anything but the law and the Constitution applicable to its merits, with all becoming modesty and judicial propriety, and with distinguished learning and ability.

How has it been also in the State of Massachusetts? Look at the case of Judge Loring. There was a judge who, I am told by all who knew him, was perfectly incorruptible; a man pure and undefiled. Has he not been swept by the besom of destruction, simply because he performed his duty? Alas! alas, for Massachusetts! I say, then, that this is a question involving grave considerations; whether we shall have a Government or no Government; whether law and order are to prevail, or this system of fanaticism from the North shall be permitted to run riot, to overturn the Supreme Court, upset all the hallowed institutions of the nation, and to inaugurate a reign of terror?

But, suppose you carry out your views, and emancipate, if you please, all the slaves of the South—what will be your condition? When you have made the constitutional guarantees of the Government as but a rope of sand, what will you have got to protect you at the North from the very same elements that now make war on the property in the slaves of the South? You may have a system of agrarianism there, and everything will be settled, regardless of the rights of property, of the Constitution, and of the consecrated maxims of law and order, by a wild and uncontrollable mob—popular sovereignty, if you please, with a vengeance. The very same ele-

ments that are now making war on the property of the South will, when they cut loose from all wholesome restraints and restrictions, make war upon the conservative institutions of the North; and then there will be no safety throughout the land, your Government, founded by your revolutionary fathers, overthrown, and madness and folly inaugurated in its stead.

Now let me refer gentlemen of the North to the precedents set by their forefathers. How have they acted? When did you hear anything from them about the poor Indian or the negro? Who, I should like to know, has now the original if not the best, right to the Territory of Kansas, the border ruffian, as you term him, from Missouri, the emigrant from Massachusetts, or the poor, untutored Indian? The policy now urged on the part of northern men tends, if carried out to its legitimate results, to equalize the two races—the black race and the white race—not to raise the black man up, but to pull the white man down to the level of the negro. Equality of races—that is the doctrine. Take the venerable gentleman from Ohio, [Mr. Giddings,] whom I desire to treat with no personal disrespect, who has been here longer than any other member on this floor, and whom I recognize as the head of the Black Republican party—and I deal with his political principles as I understand them. As I comprehend his speech, he considers the negro the equal of the white man, in natural and political rights, and just as estimable as the white man. I have heard no ground to the contrary taken by any other gentleman of that party, and I therefore place them all in the same category.

Mr. CURTIS. I hope the gentleman will not include the whole Republican party in that charge. I did not understand the gentleman from Ohio as taking that position.

Mr. STEWART, of Maryland. I understood him so; and those of his party who did not except to it must be considered, in all fairness, I should think, as assenting to the proposition.

Mr. CURTIS. The Republican party platform asserts no such thing, and assumes no such position.

Mr. STEWART, of Maryland. I understood the gentleman from Ohio to take this position—and I heard no one on his side of the House take ground to the contrary—that, under the Declaration of Independence there is no difference between the white man and the negro. And until we find the Republican party repudiate that doctrine and place itself in a different position, we have a right to consider that these are the views and policy of that party.

Mr. CURTIS. We agree with the Declaration of Independence nevertheless. The same doctrine was enunciated by Blackstone fifteen years before the Declaration of Independence was written.

Mr. STEWART, of Maryland. Do I understand, then, that you do not consider the negro as being as good as a white man?

Mr. CURTIS. I do not consider negroes equal to white men in this country; but I believe that they have all the natural rights of white men.

Mr. STEWART, of Maryland. Do I understand the gentleman to say that, under the Declaration of Independence, negroes can be citizens of the United States?

Mr. CURTIS. I did not say that they are not citizens of the United States; because, in some cases, they are citizens.

Mr. STEWART, of Maryland. Then, if they are citizens, why not allow them to vote?

Mr. CURTIS. I would not allow them to vote until they are capable of comprehending the duties of voters.

Mr. STEWART, of Maryland. Well, then, do you recognize the equality between the negro and white man?

Mr. CURTIS. I believe that they were created equal.

Mr. STEWART, of Maryland. All men were "created" equal. The Declaration of Independence does not say they were all *born* equal.

Mr. CURTIS. It says they were created equal. Mr. STEWART, of Maryland. But it does not say they were born. [Laughter.] Now, sir, the idea comes, perhaps, from the venerable gentleman from Ohio, [Mr. Giddings;] but I choose to place all gentlemen on that side of the House in the same class, because the course pursued by

them is tending to the same result. I maintain that the gentlemen upon the other side of the House, who are making war upon the South, are seeking to establish the equality of the white and negro races in this country—

Mr. HOWARD. I hope the gentleman will except me.

Mr. CURTIS. We all wish to be excepted.

Mr. HUGHES. I would like to hear the opinion of the gentleman from Iowa on that clause of the Declaration of Independence which complains that King George III. had incited domestic insurrection in this country.

Mr. CURTIS. I approve of the whole of the Declaration of Independence.

Mr. STEWART, of Maryland. Mr. Chairman, there is a clause in the Constitution of the United States, which provides that, when a slave shall have escaped into another State, he shall be given up. I understand the law passed, and re-passed, if you please, requiring property of that description to be delivered up. But, sir, neither the law nor the constitutional provision on which it is founded is regarded. I have heard gentlemen contend that slave property was the creature of local law, and that it does not exist outside of that. Why, sir, this very provision in the Constitution of the United States was intended to place it outside and beyond that. The local authorities of Pennsylvania, for instance, may pass a law providing that when my horse escapes into that State he shall not be delivered up to me, but given to the finder; but they cannot constitutionally pass a law which will prevent my slave from being delivered up. The restriction contained in the Constitution of the United States comes to my aid in such a case; and no local law can operate to my prejudice, as is also reaffirmed by the authority of the Supreme Court of the United States. The same principle as to such property is established by the British authorities, except in the case of "Somerset," decided by Lord Mansfield, and has been by the English judges determined over and over again. Mansfield's decision in the case of the negro man "Somerset" was considered an exception to the current of the common law authorities by Judge Story himself. I say, therefore, that slavery is recognized by the law of nations; and it is considered a violation of the international law, when the property of a citizen of one government comes within the jurisdiction of another government, to deprive him of that property without some special local law against its introduction. To refuse to recognize the same principle in the intercourse between the States is not only an assault upon the South, but it is a violation of the Constitution, and against the settled law of the land. If there is no stop put to it, we shall, in less than half a century, necessarily become a nation of aggressors, which may Heaven in its infinite mercy prevent! If it should turn out that we, as a people, are destined to become incapable of self-government; if it results that, when our forefathers established a government, laying down distinctly rights that should not be violated, those rights are to be cloven down or spirited away by noisy clamor, then the will and power of the strongest must prevail, or we shall be launched into a boundless sea, without chart or compass. The South, in such a tempest, will find *terra firma* as soon as the North.

Now, sir, I beg leave to refer very briefly to what some of the States at the North have done; which I may well commend to the grateful remembrance of those who now undertake to represent that section. Some of them, whilst they have been very eager to place restrictions upon the right of sovereignty in their neighbors, have gone to great and extraordinary lengths in the exercise of what they claim as their own peculiar and inalienable immunities.

The State of New York, by a law passed the 8th of April, 1801, seems to have declared war against strangers. Whether they designed the application to negroes alone, or to all, I am not able to say; probably to the former. The said law provides that if a stranger is entertained in the dwelling-house or out-house of any citizen for fifteen days without giving notice to the overseers of the poor, he shall pay a fine of five dollars. If such person continues above forty days, the justice may compel such stranger to be conveyed from constable to constable, until transported beyond the State; and if such person returns, the justice

may direct him to be whipped by every constable into whose hands he shall come; if a man, not exceeding thirty-nine lashes; and if a woman, not over twenty-five lashes.

The State of Vermont, on the 10th March, 1797, by a law, declared that every white citizen above the age of eighteen and under forty-five, should be enrolled. She seems by this to have excluded the negro—whether to exempt him *par excellence*, or discriminate against him as unworthy of citizenship, scarcely admits of question. By another act, passed November, 1801, her selectmen were empowered to remove from the State any persons who came there to reside; and if they returned without permission they were to be whipped, not exceeding ten stripes. I presume this must have been intended for the free negroes who were not citizens; white people would not be apt to travel that way, if they were included.

New Hampshire, by her act of 1808, provided that every white male citizen of the age of sixteen, and under forty, should be enrolled. I suppose, by this, she hardly considered free negroes as citizens. If regarded as citizens, it would appear unkind to deprive them of the same means of aggression and defense as her white citizens.

Rhode Island, by one of her statutes, authorized the town council to bind out to service, for two years, any free negro or mulatto who kept a disorderly house. Another section of the same statute prohibited all persons keeping house in any town from entertaining any Indian, mulatto, or negro servant or slave, under a severe penalty. Another section declares that Indians, negroes, and mulatto servants or slaves, should not be absent at night after nine o'clock; and if found violating this provision, any justice of the peace is required to cause such servant or slave to be publicly whipped, by the constable, ten stripes. Another law of that State declared that whosoever is suspected of trading with a servant or slave, and shall refuse to purge himself by oath, shall be adjudged guilty, and punished. No laws of the South, in regard to slaves, are equal in severity to this.

Connecticut, by a law passed in 1796, provides that whatsoever negro, mulatto, or Indian servant, should be found wandering out of the bounds of the place to which they belong, without a pass, is to be taken up. By another section they are not to travel without a pass; and every free person shall be punished by fine for buying or receiving anything from a free negro, mulatto, or Indian servant, &c. By the constitution of this same State, of the 15th September, 1818, in the second section of the sixth article, it is provided that every white male citizen of the United States shall be an elector. Thus excluding negroes, mulattoes, and Indians.

Massachusetts, by her law of the 6th March, 1783, prohibits negroes, with a few exceptions, from remaining in the State for a longer time than two months; and if found within the State after ten days' notice, shall be whipped; and if still refusing, whipped again, &c. She also, by her act of the 15th June, 1795, provided that no person authorized to marry shall join in marriage any white person with any negro, Indian, or mulatto, under a heavy penalty, and the marriage is declared a nullity.

In the original constitution of Ohio, by the fourth article, none but white male inhabitants had the right of suffrage.

The State of Indiana, shortly after her admission into the Union, passed a law declaring that no negroes, mulattoes, or Indians shall be a witness, except in pleas of the State against negroes, mulattoes, or Indians, or in civil cases where they alone shall be parties.

In the District of Columbia, under the amended act of incorporation passed the 15th of May, 1820, it was declared that none but a free white male citizen could be mayor or alderman, and power was given to prescribe the terms upon which free negroes and mulattoes may reside in the city.

By the twenty-third section of the bill of rights of the proposed State of Kansas, free negroes shall not be permitted to live in that State under any circumstances. I do not suppose they mean by this to kill any that may be there, but, I take it, none are in the State. I believe a similar provision is in the Topeka State constitution.

It will be perceived, from several of the foregoing references, that the poor Indians are placed in the same category with the negroes and mu-

lattoes. All the sympathy of the Abolitionists, it seems, now-a-days, is exhausted upon the negro, to the utter and inexcusable neglect of the Indian. From all cotemporaneous history, tradition, or record, founded on constitutional or legal provisions, does any man in his sober senses believe that negroes, mulattoes, or Indians were ever designed to be citizens of the States or United States, and on a perfect equality with the white man? that our Government intended, for them, equal rights and privileges?

In the beginning of the Government all the States were slaveholding. The Constitution and laws of the United States and of the several States demonstrate that Indians, negroes, and mulattoes have never been considered citizens. They have been excluded from voting, from serving in the militia, or from giving evidence against white persons, North as well as South, East, and West. If the Declaration of Independence was intended to embrace them, why were they not, by our revolutionary ancestors, freed from slavery, emancipated, and disenthralled? The naturalization laws of 1802 restrict all negroes from becoming naturalized, else black republicans of Hayti might come over and become a part of our body-politic. I wonder if the Indians have not, upon natural principles, a better right in Kansas than the emigrants from Massachusetts or Missouri?

I take it the Supreme Court of the United States, in their recent decision in the Dred Scott case, could not, without manifest disregard of all authority, have decided that negroes were citizens of the United States. They have only, judicially, recognized the truth of history. The constitution which was established at Topeka, and which has been the bantling of our Black Republican friends, has a provision that free negroes are not to come into the State of Kansas.

Mr. BINGHAM. Do I understand the gentleman to say that the Topeka constitution contains a clause excluding negroes from the State of Kansas?

Mr. STEWART, of Maryland. I understand that it has such a provision.*

Mr. BINGHAM. I have examined that instrument since this charge has been made, and before; and I say that it does not contain any such provision.

Mr. HUGHES. Let me set this matter right. The convention at the Big Springs, which initiated the Topeka movement, passed the following resolution:

"Resolved, That it is the opinion of this convention that the admission of free negroes, or mulattoes, into the Territory, or future State, of Kansas, will be productive of evil among the people of Kansas, and dangerous to the institutions of our sister State; and that we will oppose their admission into the Territory, or future State, of Kansas, now and forever."

In pursuance of that resolution, the proposition was submitted to a popular vote with the Topeka constitution, as to whether the first Legislature under that instrument should exclude free negroes or not, and it was carried. But the provision is not expressly in the Topeka constitution. Still, the adoption of that constitution would have brought into legal existence a State Legislature bound to exclude free negroes.

Mr. BINGHAM. And it never was.

[Here he hammer fell.]

Mr. BUFFINTON. Mr. Chairman, a little

* Mr. STEWART refers, as authority, to the speech of Judge DOUGLAS, to be found in the Appendix to Congressional Globe, first session Thirty-Fourth Congress, pages 387-388, where Judge DOUGLAS, commenting upon the memorial or constitution presented by General Cass to the Senate, and known as the Topeka constitution, uses the following language:

"I have kept my eye on the history of that document, and the proceedings connected with it; and it is well known to the country that there was a clause, adopted by a separate vote of the people, and made a part of that constitution, making it a duty of the Legislature never to permit negroes (free or slave) to enter the State of Kansas—a provision similar to the one in the constitutions of Illinois and Indiana, and some other States, which have been so severely condemned and denounced by those who have become the special champions of Kansas. Look into the constitution as they furnish it, and as the Senator from Michigan has presented it here, and you will find that clause is suppressed. That important, material provision, is not to be found in the document which they bring here. I know, from the history of the transaction, that it was voted in by a majority of the persons who voted for the adoption of the Kansas constitution. Am I mistaken? I ask, was it not adopted at the same election at which the constitution of the pretended State of Kansas was adopted, as a part of the constitution?"

less than two years ago, I had the honor to address the House of Representatives upon the application of the people of Kansas to be admitted into the Union with a constitution which they had formed for themselves. That constitution was unexceptionable in its character and general provisions. It embodied the will of a large majority of the people; and, had it been accepted by Congress, and had Kansas been admitted as a State, the then existing difficulties would have been settled, and the subsequent scenes and events which form the blackest stain upon our national reputation would have been prevented. I advocated, sincerely and earnestly, the admission, as an act of justice to the people who asked respectfully and in a proper manner to be permitted to join the Union, and also as a wise, just, and politic means of removing this exciting and dangerous question from the national councils. The Administration party then in power opposed the admission successfully; and during the time that has since elapsed, Kansas has been the theater of crime and disorder unparalleled in our history.

The arm of the Federal Government, which should have shielded and protected the people in the enjoyment of their rights, has sustained the invasion of those rights, and has sustained the minority in establishing its supremacy over the majority, until the executive power, instead of being respected and loved as a protector and friend, is slighted and detested as an enemy and an oppressor. Since the first session of the last Congress an entire revolution has taken place. Now there is an application that Kansas shall be admitted as a State; but under how different circumstances! Instead of a constitution embodying the will of the people, one is offered to which five sixths of the people have expressed their opposition. Instead of institutions which the people have chosen and prefer, there are provisions in the organic law which they loathe and detest. And this constitution, framed by a minority of a convention authorized by a Legislature chosen by a minority of the people, and adopted by a minority of one sixth of the legal voters, is attempted to be forced upon an unwilling people by the Administration and its friends. The reasons which led me to favor the adoption of the constitution presented to Congress two years ago compel me to oppose the acceptance of that which is now presented to us. And I propose to submit, as briefly as possible, the considerations which influence my opposition to it.

The debate upon this question has taken so wide a range, that almost all the issues between the two sections of the country have been discussed, and the extreme views on both sides have been presented to the House. I think that some of these do not necessarily present themselves. The question has enough of the elements of discord in itself, and I regret that topics that do not necessarily appertain to it should have been introduced. In the conclusions which I have formed upon the subject now legitimately before us, I have not found it necessary to consider whether slavery is or is not a just, moral, and humane institution. It is not merely because slavery would be established in Kansas by the Lecompton constitution, that I oppose its admission as a State. There are a sufficient number of other objections which compel me to oppose it; objections which arise in the incipient steps which were taken to organize a government of the Territory, and which increase in number and force from the first invasion of the Missourians to overpower the actual residents, down to the present time. Had a constitution recognizing and authorizing slavery been legally adopted by the people, and had they clearly and unequivocally offered such a constitution, indorsed by a majority, and demanded admission under it, the question whether slavery would be a sufficient objection to the admission of a State would be fairly before us. Should a State ever ask to be admitted into the Union with a pro-slavery constitution while I am a member of Congress, I shall then feel obliged to determine whether or not the pro-slavery provisions would be a sufficient objection to the admission to require me to vote against it.

While I say that there are enough other considerations besides that of slavery which require me to oppose the imposition of the Lecompton constitution upon the people of Kansas, it is not because I wish to avoid a discussion of that ques-

tion of slavery which has produced at different times so great excitement in the country; and which is now convulsing the people and attracting the eyes of the whole civilized world upon us, watching to see if our institutions can stand firm against these violent political shocks. Could the men who framed our Federal Constitution have foreseen the extent of the danger which then lay hidden under this question, they undoubtedly would have provided for its settlement either by giving Congress the power, clearly and unequivocally, to control the establishment of slavery in the Territories, or what is perhaps more probable considering the prevailing dissatisfaction with, and hostility to, the institution existing both North and South at that time, Congress itself would have prohibited forever its extension in all Territories, as it did in the Northwestern Territory. No human foresight could then have apprehended that slavery, which Virginia and North Carolina, equally with Pennsylvania and Massachusetts, denounced as a great evil, the gradual and entire abolition of which had, as was supposed, been secured by its prohibition in the Northwestern Territory, and the prohibition of the importation of slaves after the year 1808, could have grown into such importance, and so absorbed all other questions as to threaten the continuance of the Union which was then being consolidated. The causes which have made the slaveholding interest one of such magnitude, so dearly cherished by the South, did not exist at the time of the formation of the Constitution.

The subsequent discovery and development of the immense agricultural resources of the South, unknown at that time, offered the opportunity of rapidly accumulating great wealth by the employment of slave labor in the cotton fields, and cupidity and avarice at once operated, to convert what till then had been thought an evil and a curse, into a blessing, from which all moral and political good flowed. While the sentiment of the South underwent this change, perhaps naturally enough considering the infirmities of human nature, the North became more confident in its hostility to slavery, and this speck upon the dawn of our prosperity soon enlarged and became a black and lowering cloud, bearing a tempest in its bosom, threatening to overwhelm and destroy the fabric which was yet scarcely established upon its foundations. Timid apprehensions of the consequences or still baser influences, have at different times operated upon a portion of the North sufficiently to avoid and delay a definitive settlement of the question. Concessions of northern rights and principles, falsely called compromises, have been yielded to the clamorous demands of the South, until the natural result has ensued of an attempt at absolute domination, regardless of even the forms of justice or fair proceeding. Had the North been unanimous in its opposition to the so-called Missouri compromise act, had there been no traitors to the sentiment and interests of their constituents, it is my belief that our history would not have furnished the subsequent instances of violent sectional strife which now tarnish its pages. The question would never again have assumed sufficient importance to have produced serious agitation. The North then conceded all that the South asked, and received in return some promises, to be fulfilled in a distant future, for which fulfillment there were no guarantees, except the good faith and honor of the South.

Now, when the first occasion arises to test the good faith of the South, how is it kept? The Missouri compromise, unjust as it was, had been universally acquiesced in for over thirty years; the agitation on the slavery question had almost entirely subsided, and the most friendly relations and feelings existed between the different sections, when the South, with a few northern coöperators, by organizing a territorial government when none was there needed, and where, if there had been, there was no demand for any unusual provisions in its organization, wantonly threw a firebrand to reillumine the flames of civil dissension and revive the sectional bitterness which always attends the agitation of the slavery question. The solemn engagements of the South were disregarded. The faith which they had pledged, and for which they had received a consideration, was broken. Their honor, which they profess to regard so highly, and which had been pledged that if we would let them have Missouri they would

ask for nothing more north of the line of 36° 30', was violated. We ought not now to be surprised that the consummation of the act is attempted by the most odious frauds. In the repeal of the Missouri compromise were the "seeds and roots of iniquity and shame." From this egg was hatched all those subsequent atrocities which have culminated in an attempt to enforce upon Kansas a tyranny as monstrous as any ever attempted by a despotic government.

The North pronounced its judgment upon this first act in the series, by consigning those of their Representatives who had so basely betrayed them, to a political grave. But specious arguments and delusive pretenses were not wanting to appease the indignation which was aroused. Squatter sovereignty, the right of the people to regulate their own domestic institutions, tickled the ears and deluded the judgment of honest men at the North. Assurances were loudly proclaimed and often repeated throughout all the free States, from the Penobscot to "Lower Egypt," that if the candidate of the Democratic party should be elected, the whole influence of the Administration would be used to secure to the people of Kansas the rights guaranteed to them by the Nebraska act. The votes of thousands of honest Democrats were obtained by these falsehoods, who would have seen their hands wither before they would have deposited a ballot for this Administration, could they have foreseen that it would go beyond its predecessor in its base prostration before the shrine of slavery.

The pro-slavery party, having just broken their faith and violated their solemn pledges, by the repeal of the Missouri compromise, now offered new pledges; and to relieve, if possible, the odium which always attaches to an act of perfidy, proposed a substitute, and plighted the public faith by an act of Congress, assuring the people in terms as clear as language can make them, that the inhabitants of the Territories shall be left "to form and regulate their domestic institutions in their own way." And here begins the series of acts always attended by fraud or violence; the direct result of which, if Congress accepts the Lecompton constitution, will be to deprive the people of Kansas of the rights in the exercise of which the Federal Government had solemnly assured them they should be protected.

Contrary to expectation, however, the preconceived plan of making Kansas a slave State was not to be accomplished without a struggle. Emigrant aid societies were formed, and an "organized emigration" poured into the Territory a population who had the courage, the energy, and the will, to contend with firmness and patience, by all lawful means, against a desperate party which, sustained by the whole influence and power of the Federal Government, was striving to wrest the Territory from freedom. The projectors of the scheme to make Kansas a slave State were sorely troubled by the success of this emigration, and, in the bitterness of their rage, heaped opprobrious epithets upon the emigrants—the late Executive of the United States even descending to denounce them in a special message. They were called factious, impudent intruders into a place where they did not belong, and where they went only for a special purpose, which interfered gravely with the projects of certain political schemers. Sir, what business was it of the President, or is it of yours or mine, or any one else's, for what purpose they went there, as long as that purpose was lawful? They were a people whose education and whose moral and physical condition reflected credit on the country from which they emigrated, and gave assurance of as useful, law-loving, and law-abiding population, as ever formed a new State. If they made any sacrifices in leaving homes abounding with all the comforts of civilization, to make their abode in a wilderness, for the sake of accomplishing what they believed to be a great and good result, all honor to them for their devotion to freedom, and for their readiness to encounter hardships and dangers for the establishment of their principles, and the principles of their revolutionary ancestors, in a new State. They went to the Territory with their families and household goods, intending to remain there, to establish their homes there, to build up villages, and erect churches and school-houses and mills, and rear up their children to be good and useful citizens. No new Territory has received

a better class of emigrants, many of whom are far superior in moral worth and intellectual cultivation to those who have denounced them.

This population formed a part of the census of 1855; and the election of March 30, of that year, having been ordered, the pro-slavery party found that something must be done to defeat the decided majority which clearly existed against them. Less than one year previous, the public faith had been pledged that the people of the Territory should govern themselves as they saw fit; but the astute and unscrupulous managers of the pro-slavery party took the liberty, under the unexpected state of things which had arisen, of making practically an informal and somewhat illegal amendment to the act, so that in effect, instead of the people of Kansas, it was the people of Missouri, who should be left to form and regulate the domestic institutions of Kansas in their own way. During the few days preceding the election, the roads leading from the Missouri border into Kansas, were filled with armed men, without women or children; with no furniture, except that of the camp; everything indicating an invasion, and not an immigration. The districts where they voted were dotted with their camp-fires, and "night was made hideous by their revels."

The few days succeeding the election, the roads were again filled by these men, with their backs turned on Kansas, making their way home, to relate to their families the incidents of their little jaunt over the border. Can there be any doubt what was the duty of the government officials at that election? Unquestionably they should have so ordered it that the *bona fide* inhabitants should have voted, and those alone. If their arrangements to secure this were defeated by the irruption into certain districts of an overwhelming armed force, against which they had not the means to contend, they should have so reported it, and have never consented to make returns, for there were no legal returns to be made, until a fair election had been held by actual residents, who alone had the exclusive right to make an election.

But it was not the power, it was the will to do justice and carry out the pledges which Congress had given, that was wanting. Kansas must be made a slave State at all hazards. That had been determined upon. But as the people would not do it if, as had been promised them, they should be left perfectly free to form their own laws, the unscrupulous official agents and instruments of the slave power returned the Legislature elected by the Missourians, and these representatives of a foreign people thus fraudulently returned, immediately proceeded to perform the work which they had been chosen to execute.

The free-State people were to be oppressed, intimidated, and, if possible, crushed out and expelled; and this was attempted by robbery, arson, and murder in the country, and by tyrannical and intolerable laws in the Legislature.

The houses of the free-State inhabitants were burned; their crops were destroyed; they were subjected to the most cruel persecutions, and when they sought redress in the courts, they could procure scarcely a show of an effort to punish or arrest the ruffians. This is no exaggerated picture; it is well attested by men entitled to credit, and who came home to the communities where they were well known, to relate it. The Legislature passed laws which no one dare defend in a free, civilized community. The right of free speech, the freedom of the press, the rights of conscience were destroyed. There cannot be found to-day, in the records of any government, however arbitrary and tyrannical, laws so infamous, so disgraceful to the enacting power, as those enacted by this foreign Legislature, established by an armed invasion, over a people who are derisively told that they may form and regulate their institutions in their own way.

The pro-slavery party, however, had mistaken their men. The people of Kansas were not of that material which could be cowed by intimidation, or crushed by persecution, sustained though it was by Federal dragoons. Accustomed to obey the laws of a real government, they disdained and disregarded the enactments of a usurpation. They held a convention, chosen by a majority of the people, and framed a constitution, adopted by the same majority of the people, and formed a State government; and for this they have been declared

rebels, guilty of treason. Where was the rebellion, and what acts constituted it? There was no insurrection against the legal authorities; there was no resistance to the enforcement of legal enactments; there was never an attempt to put the Topeka government in operation against the laws or officers of the United States. There was simply an organization which Congress was respectfully petitioned to recognize; and it was never contemplated by any body of men, as far as I know, that it should go into operation without such recognition. The whole proceeding, from beginning to end, was entirely legal and proper, and in accordance with precedents established in the formation of other States.

The troops of the United States compelled an obedience to laws which the people did not believe to have any validity, because they were not permitted to have any voice in the enactment of them, and because they were the tyrannical and oppressive enactments of a usurpation. They would not have obeyed them if they had not been compelled to; but they have made no armed resistance to their enforcement. It is an every-day occurrence in all the States for the officers to be obliged to enforce some law or other; yet I never heard that those who were so compelled to a reluctant obedience were called rebels or considered such. Had the inhabitants resisted with arms the enforcement of the acts passed by the usurpers, there are many who would have applauded them; and had the people called for aid undoubtedly they would have had it, and matters would have been precipitated. But they took the wiser and more prudent course, and deserved great praise and honor for their temperance and patience. They resolved to trust to the justice of their cause. They would "test the truth of God against the fraud of man." They relied upon the justice of their countrymen, who, they believed, perhaps too confidently, would indignantly hurl the usurpers from their places, as soon as they learned the true history of their crimes. The party who sustain the oppressors would have been very glad if the free-State people had resisted ever so little, so that it had been enough to afford a slight foundation for the charges of factious and rebellious conduct which are repeated with as much persistence as if they had been true. But the free-State men heroically endured the sufferings and persecutions to which they were subjected, rather than involve themselves and their friends in a direct opposition to the United States Government, with the immense possible consequences. There would be time enough for that when there was no hope of relief or redress in any other way.

But this majority, so patient, and so cautious to keep within the strict pale of the law, continued to increase in numbers and grow stronger in their resolution. The foreign force, which had established a nominally legal authority over them by armed violence, must now devise some new mode of oppression to prevent this continued accretion to the strength of the majority. They determined to expel, if possible, some of its members, and to render it impossible for those who remained to exercise the rights guaranteed to every citizen of the United States, and especially promised to the people of Kansas by the Kansas-Nebraska act. Laws were passed such as are not uncommon in countries subject to a despotic government; for there the rulers make no pretense of deference to the will of the people; but here, under our Government, whose fundamental principle is that the people shall have perfect freedom of speech and conscience and of action, we have, for the first time, an instance where the people are deprived of all of them. There is an attempt made to establish, by violence, or fraud, or any iniquity which may be necessary to accomplish the purpose, the relation of slavery among a people, a great majority of whom detest it; a great majority of the people of the whole country sympathizing with them in their abhorrence of it. They oppose it because they believe it an institution nefarious in itself, and pernicious in its influence. It is a curse upon any State where it exists; it affects all the relations of a community, internal and external; it is a blight upon moral and social progress; it affects all the material interests; it depresses the value of lands; it discourages and debases free labor; and gives the political control and social predominance to a few aristocratic proprietors of slaves; it retards and prevents the development

of all the resources of a State, and is a withering blight upon its prosperity.

The free-State people of Kansas resist this scourge, which would afflict and injure them, and would be a curse upon their posterity. Yet by those laws, which are upheld by the pro-slavery party, they are forbidden to write, speak, or circulate in any way, the expression of their hostility to this great wrong; and the national Administration emulates the oppression of foreign despotism, in its efforts to sustain, by the employment of United States troops, the enforcement of this tyranny.

The people were also required to take an oath to support the organic act of the Territory, and the fugitive slave law. Who ever heard before of a people being required to swear that they would support a statute? If it is proper to require an oath to support one legislative enactment, why not another; why not the tariff, why not the sub-Treasury, why not any act, good, bad, or indifferent, insignificant or important, which Congress or a Legislature, in its wisdom or its folly, may have passed? Officers are required to swear fidelity to a constitution because that is the source of all law. It is an embodiment of the sovereignty of the people, to which they owe their allegiance; and if it was not sustained and enforced, there would be anarchy and an entire absence of authority for any law. But the requirement of an oath by the citizen to sustain any law, is a requirement to give up one of his dearest privileges, which is to oppose any law as far as he can do so legally. The law may be unconstitutional, and he may think it his duty, as a good citizen, to resist its enforcement. And where, as in Kansas, the people are required to sustain a law which many of them do believe unconstitutional, and which is repugnant to their consciences and their sense of right, before they can vote, it is a wanton act of injustice, calculated and designed, not to protect the law, but to oppress the citizen, and deprive him of his right by requiring him to do what, if he is an honest man, it is morally impossible for him to do. These two sections, eleven and twelve, of the law should be preserved and go down in history as examples of the extremes to which the passions and the rage for power will carry men. The law accomplished its intended; purpose, and, sustained as it was by armed numbers from a neighboring State, effectually prevented the attendance of the free-State voters at the polls at the election in October, 1856, and another House of Representatives was chosen by a foreign people "to form and regulate the institutions of Kansas in their own way."

By this Legislature was called the convention to frame a State constitution. The facts and incidents attending the choice and action of that convention have been so often repeated of late that I shall not recite the details. The people had the most solemn and earnest assurances from the Federal officers, the faith of the Executive being pledged thereto, that the constitution should be submitted to the popular vote; and strange to say, considering the number of pledges to them which had not been kept, they once more trusted to the honor of their opponents. It is due to the Governor and his Secretary to say that they did all they could to keep their word, and for so doing, one was compelled to resign, and the other was removed by the Executive. The convention framed a pro-slavery constitution. As if in mockery they offered it to the people, with the power to vote upon the slavery clause alone, while, if every vote in the Territory had been for the "constitution with no slavery," slavery would have been continued and established there by that constitution. Here were a people who believed that the question of the establishment of slavery was of greater importance than any other in the formation of their State government. It was one which would have immense influence upon their present and future prosperity. The value of their property, and their means of increasing it, would be seriously affected by it, yet they were not permitted to decide that question.

It is asserted that this, the only question of great importance to the people of Kansas, was submitted to their vote. There are many men upon this floor, who support the acceptance of this constitution, who I was unwilling to believe would consent to countenance and sustain so great and palpable an injustice as this is. The right to inter-

fers with the property of slaves in the Territory is expressly exempted. They, and, of course, their increase, must remain and continue slaves. The vote, "constitution with no slavery," could not affect them. Now, I ask any man of candor and fairness to show me how he can maintain that the question of slavery was fairly submitted to the people. Suppose that all the people had been willing to vote upon the acceptance of the constitution: I ask in what manner any means had been provided by the convention, or by the Legislature, by which the people could have rejected slavery? The vote for the Legislature, in October, 1857, showed clearly that a large majority of the people were opposed to slavery. The convention resolved to impose slavery upon them, against their expressed will; and the Administration now asks us to sustain and confirm this imposition. To make assurance doubly sure, the absolute control of the election and the returns was given to the president of the convention; he appointed the commissioners who appointed the judges of the elections, and the votes were to be returned to him; he was entirely irresponsible; he could create or destroy votes with perfect impunity. It is stated, by men competent and having the means to judge rightly, that there are not more than twenty-five hundred pro-slavery voters in the Territory. One of the Government officials who was here, in frequent communication with the Government, some three weeks before the vote on the constitution was to be taken, asserted that there would be about six thousand pro-slavery votes for the constitution. He returned to Kansas, and about six thousand votes were returned for the constitution.

The constitution had been framed and adopted by a minority of all the members of the convention. The people of Kansas have voted upon it; and, admitting all the votes to have been cast which were returned, there is a clear majority of five thousand against the constitution. And now it is before us, the product of a singular series of minorities. It is adopted by a small minority of the people, and framed by the minority of a convention chosen by a minority of the people, and appointed by a Legislature itself elected by a minority. And this is done in the name of popular sovereignty! This is leaving the people perfectly free to form and regulate their own institutions in their own way, and to carry out this new democratic system of the party which calls itself, *par excellence*, the Democratic party!

The first act, after this scheme comes before us, is to give the control of a committee, which the majority of the House voted to raise to investigate the facts, to the minority who opposed such investigation, so that this House cannot carry out their wishes in what relates to this project of forcing slavery upon Kansas. This has the merit of consistency, at least; and I do not know but what, if we reject the Lecompton constitution, there will still be found some means to annul our action, so that the voice of Congress will have as little effect against the will of the South, operating through its instrument, the Administration, as the voice of the people of Kansas has had against the violence of border ruffians, sustained by Government officials and Government troops. I have not given the authorities for the facts which I have stated, because they have been before us, and the public know them well, and I did not wish to occupy the time of the House more than was necessary to give the reasons which govern my vote on this question. The facts are sustained by the report of the Kansas investigating committee of the last Congress, by the statements of the Government officials, the evidence taken by the Kansas Legislature, and the statements of individuals worthy of credit. They are sustained beyond all dispute, and are, for the most part, uncontradicted. Can there be a stronger argument than the recital of them? They show that there has been fraud, violence, or crime at every stage of the proceedings which result in the presentation of this constitution for our acceptance. Must we use argument to convince men that they should oppose crime? Must we reason with them to persuade them to condemn the wrong and uphold the right?

Those who sustain this constitution must show that an armed invasion did not prevent a large portion of the people from coming to the polls. They must show that laws were not passed which unjustly required their submission to conditions

which an honest man could not submit to, before they could vote. They must show that the people have had a fair opportunity to express their wishes regarding this constitution; or, if they cannot show that, these charges, which now stand upon uncontroverted evidence, are untrue. In advocating the acceptance of this constitution, they must give their support to the crimes which have attended its progress:

"They see the right, and they approve it too;
They know the wrong, and yet the wrong pursue."

The Governors who have been sent to Kansas to enforce the policy of the Administration in compelling submission to the yoke, have returned disgusted with the duties imposed upon them. Once removed from the baneful influence of immediate contact with the Administration, which, like the "deadly opus," seems to poison all who seek shelter under it, they see the iniquity of the scheme, and the enormity of the wrong by which it is attempted to enforce it. They depart for their post resolved to carry out the views of the Executive, believing, as many here believe, or profess to believe, that the free-State men are factious, rebellious fanatics, who have selected Kansas as the theater of their turbulence, for no other purpose than to effect party political objects. They find them peaceful, well-disposed citizens, who have gone into the Territory intending to make their homes there, practicing the mechanical arts, pursuing agriculture, and forming all the machinery of a republican community, only asking that they may be permitted to do so themselves, without the interference of another people, and the intimidation of Federal troops. Five Governors have gone there; their sympathies and their prejudices, if they had any, wholly with those who support this constitution; their private and political interests being to carry out the slavery policy, sure of the support of the Executive and of the South, in any measure they might adopt to crush out the free-soil sentiment in the Territory. In every instance, possibly with one neutral exception, the scales have fallen from their eyes after a short residence among the people of Kansas. Actual observation, the evidence of their own senses, converted them; and their testimony in favor of the free-State men and their cause is overwhelming.

The Executive sends out the Governors to afflict the people of Kansas, as we read in Scripture Balaam sent Balaam to curse Israel—"Come curse me Jacob, and come defy Israel." But Balaam found that it was the will of God that the people should be blessed. He answers, "And He hath blessed, and I cannot reverse it. He hath not beheld iniquity in Jacob; neither hath He seen perverseness in Israel." And Balaam angrily says, "I called thee to curse mine enemies, and behold, thou hast altogether blessed them these three times. Therefore, now, flee thou to thy place. I thought to promote thee unto great honor; but lo! the Lord hath kept thee back from honor." In the same manner, our Democratic Balaam angrily rebukes the Governors of Kansas, because they obey the manifest will of the people, instead of his own. He removes them from their office, and withholds all intended promotion and reward. I ask those gentlemen who say that the statements favorable to the free-State cause are misrepresentations, and that the arguments against the pro-slavery cause are the result of sectional animosity, to consider the fact, which I think is entitled to have great weight with you, that men taken from among you, believing as you do, and acting with you, who have been on the ground, and have seen with their own eyes and heard with their own ears, with the very best opportunities of confirming their belief, have renounced the opinions which they had upheld, and tell you that they were deceived. They tell you that this Lecompton constitution is a monstrous iniquity; and that if you persist in forcing it upon the people, you commit an act of oppression upon an unoffending population. Has this opinion of your comrades, your former co-operators, no weight with you? Does it not compel the reflection that it is you who may be blinded by sectional prejudice, and actuated by partisan political influences?

The consequences of the acceptance or rejection of this constitution have been introduced into this discussion. We hear one day that the pro-slavery ticket has been elected, and the next day that

the free-State ticket has been elected. The president of the convention maintains an oracular silence regarding the result of the election. I condemn his silence, which I cannot believe is maintained with an honest purpose; but the result of that election will not affect my vote. Were every officer on the free-State ticket elected, executive, judicial, and legislative, I should oppose the acceptance of the constitution while it appears that the people have had nothing to do with its presentation to us, and a majority of them are opposed to it. The people say that they will resist with arms any attempt to force this constitution upon them. I think it more than probable that they will do so. I should justify and applaud such a course, as I do the resistance of our ancestors to the illegal and oppressive impositions of the mother country. I should deplore the occasion of the revolution as I should the consequences likely to follow it; but my belief and apprehensions do not influence me to vote for the rejection of the constitution. I believe that on a question which involves a principle it is better to vote for the right, according to one's best knowledge and judgment, and leave the consequences to God.

It is said that if the constitution is rejected, there will be attempts to secede made by some of the southern States. I do not believe it. I have no doubt that there are men who would gladly see such an attempt, and who have labored and intrigued to bring it about. But the people will not sustain them, and their traitorous efforts would be as abortive as those of Catiline. But if I am mistaken, and serious attempts to secede shall be made—if any men are resolved to try to break up the Union for this cause, I say, let them try it. We have listened with patience to these threats of disunion for a long time. They may or may not have had their intended effect; but the South has always obtained what it demanded. It was the intention of those who formed our Government, to restrict slavery to its then existing limits.

Had the North been true to itself at the time of the Missouri compromise, and firmly maintained that slavery and slave representation should never be extended into free territory, the question would have been settled forever. The South carried their point then, they carried it in the admission of Texas, and in the passage of the Kansas-Nebraska bill, always growing more exorbitant in their demands, and more violent in insisting upon them, until now they claim everything. The Executive is wholly theirs. The Supreme Court have degraded the bench to the purposes of the political stump, and from their tribunal have uttered political harangues upon a subject which they had but just before declared was not before them for judicial action. The South are exulting in the expectation that the North will continue to yield until the toleration of slavery, more or less temporary, shall be compelled in all the States of the Union. Unquestionably a large majority of the people are opposed to the further extension of slavery, and it is full time to try whether our Constitution, which is called the greatest example of popular government that has ever existed, has sufficient strength to carry out the principle that the majority shall govern.

This question has been suffered to agitate the country for nearly forty years. It is now before us in the most odious form it has ever assumed. Heretofore we have been required only to permit slavery to remain where it had existed for a long time, and where the people wished to retain it. Now we are asked to assist you to establish it where seven eighths of the people hate and detest it. To force this upon us is tyrannical as manifest and as oppressive as any that was ever exercised. It is worse than the threatened overthrow of the Constitution, for it is a violation of the great principle on which the Constitution is founded. If men will strike this blow at the foundation of our Republic, can they expect that the superstructure will long stand? I oppose the adoption of this Lecompton constitution now and always, let the consequences be what they may. Conscious that I am right, I leave the result to that Providence which has protected and favored us so long.

Mr. TALBOT obtained the floor.

Mr. PHELPS. As it is late, if the gentleman from Kentucky will yield the floor, I will move the committee rise.

Mr. TALBOT. I yield for that purpose.

Mr. PHELPS submitted the motion; and it was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOCOCK reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and had come to no conclusion thereon.

WILLS CASE.

Mr. COMINS. I move the House adjourn.

Mr. JEWETT. I hope the gentleman will withdraw the motion for a moment.

Mr. COMINS. I withdraw it to hear what the gentlemen wants.

Mr. JEWETT. The Committee on the Post Office and Post Roads reported adversely on the case of Mr. Wills, of Kentucky; and I ask that his petition and papers be withdrawn from the files of the House, and referred to the Court of Claims.

There was no objection; and it was ordered accordingly.

And then, on motion of Mr. COMINS, (at a quarter to five o'clock, p. m.,) the House adjourned.

IN SENATE.

THURSDAY, March 25, 1858.

Prayer by Rev. C. C. MEADER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of the Interior, communicating a letter of the Commissioner of the General Land Office, explanatory of a change in the schedules of all the Pueblo and private land claims in New Mexico, heretofore reported to Congress, which has been proposed by the surveyor general and adopted by the General Land Office; which was referred to the Committee on Private Land Claims.

He also laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, a statement showing the progress of the report of Major W. H. Emory on the United States and Mexican boundary survey; which, on motion of Mr. MASON, was ordered to lie on the table, and a motion by him to print it was referred to the Committee on Printing.

He also laid before the Senate a letter of the chief clerk of the Court of Claims, returning, in compliance with a resolution of the Senate, the petition and papers of James Myer; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. BIGLER presented a petition of citizens of Belldona and its vicinity, in Pennsylvania, praying for the establishment of a mail route from Waterford to Wattsburg; which was referred to the Committee on the Post Office and Post Roads.

Mr. DIXON presented the memorial of Charles H. Jackson, a commander in the Navy, who had been placed upon furlough, and subsequently restored to his rank and position in the service, praying to be allowed arrears of pay for the time he was furloughed; which was referred to the Committee on Naval Affairs.

Mr. CAMERON presented a memorial of the Board of Trade of Philadelphia, remonstrating against any change of the law establishing the Light-House Board; which was referred to the Committee on Commerce.

He also presented a petition of citizens of Bedford county, Pennsylvania, operatives engaged in the manufacture of iron, praying for protection to that branch of American labor; which was referred to the Committee on Finance.

He also presented the petition of Robert K. Smith, heir of John Smith, praying for the confirmation of his title to certain lands in the Bastrop grant in the State of Louisiana; which was referred to the Committee on Public Lands.

Mr. DOOLITTLE presented additional papers in relation to the claim of Anson Dart; which were referred to the Committee on Indian Affairs.

BILL RECOMMENDED.

On motion of Mr. DOOLITTLE, it was
Ordered, That the bill (S. No. 181) for the relief of Anson Dart be recommitted to the Committee on Indian Affairs.

SECRETARY OF THE SENATE.

Mr. MASON. I wish to bring before the Senate a matter, in the nature of a question of privilege I presume, which is interesting to the organization of the Senate. It is known to the Senate that we have been, unfortunately, deprived of the services of the Secretary of the Senate for some few weeks past by illness, which, I regret to say, although he is certainly convalescent, still continues, and which not only disables him from the active duties of his office, but which renders it desirable, in the opinion of his physician and of his immediate friends, of whom I am happy to count myself one, that he should be relieved as far as possible from any of the business of the Senate. There are some duties—very few, however—which the Secretary alone is competent to perform. He is the disbursing officer of the Senate under bonds, and none but he, of course, can act as such. Besides that, he is the only officer of the Senate who is indue with the franking privilege in sending off public documents and public papers; a duty which he alone can discharge.

My proposition is to appoint, *ad interim* only, an acting Secretary who shall be placed under the same responsibility, and who shall discharge the duties of the Secretary during the pleasure of the Senate, and during his disability, not at all to interfere with the existing office or officer. I have drawn up a resolution which I ask to have read. I shall not now ask for its consideration, but I will call it up in the course of the day to be disposed of. The immediate purpose is, from a very kind regard which I am sure all Senators entertain to that officer, (who has been very long an officer of the Senate, and a very exemplary, efficient, and well informed one,) if we can, and I think we can, to divest him, while he is disabled, from any of the responsibilities of the office, or any of the duties of signing his name, which it is supposed may prejudicially affect his convalescence. I ask that the resolution may be read, and may lie over for consideration.

The Clerk read it, as follows:

Resolved, That — be, and is hereby, appointed acting Secretary of the Senate during the temporary disability by sickness of the Secretary of the Senate, and that said acting Secretary of the Senate be, and he is hereby, authorized and empowered to do all official acts pertaining to the office of Secretary aforesaid, and under the same responsibilities now devolved on the Secretary, and after giving the like official bond, and that he shall continue so until the further order of the Senate.

Mr. MASON. I would only say, in addition, that I propose to fill up the blank with the name of the present chief clerk of the Senate.

Mr. SEWARD. I should think there would be no objection to the resolution, and I know of no reason why it should not be passed now.

Mr. MASON. There is certainly, I presume, no objection; but it occurred to me that possibly some Senators might desire to see how far this would be in conformity to any existing laws.

Mr. BENJAMIN. I would like to look at that point.

Mr. MASON. I will state that I have examined the laws, and I find the condition of the Secretary of the Senate to be this: It is an office created by the Senate only, not by law, under the general authority of the Constitution to each House of Congress to appoint its own officers. The office of Secretary is created by the Senate, and not by law. The law devolves certain duties, especially those of disbursing officer of the Senate, on the Secretary as an act of the law; but when we appoint the officer, I feel no doubt that he is competent, by resolution of the Senate, to discharge all the duties.

Mr. CAMERON and others. Let it be acted on now.

Mr. MASON. I ask that it be acted on, unless the Senator from Louisiana desires that it shall lie over for the present.

Mr. BENJAMIN. I should like to look at the law. I think probably there will be this difficulty: I do not doubt at all the power of the Senate to appoint an acting Secretary; but I think there are certain duties which, by law, are devolved on the Secretary of the Senate, and if Mr. Dickens remains titularly the Secretary of the Sen-

ate, I doubt whether our appointing an acting Secretary will confer on that acting Secretary the necessary powers of performing certain functions which are devolved by law, on the Secretary of the Senate, and I apprehend there may be a necessity for a joint resolution. It is only with that view that I make the suggestion.

Mr. MASON. Let it lie over. It is certainly worthy of consideration.

The resolution lies over.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Military Affairs and Militia, to whom was referred the petition of John Caris and others, members of Captain Campbell's company of volunteers in the war of 1812, submitted an adverse report; which was ordered to be printed.

Mr. CLAY, from the Committee on Commerce, to whom was referred a resolution of the Legislature of Iowa, relative to a post office, court-house, and custom-house at Burlington, in that State, asked to be discharged from the further consideration of that subject.

He also, from the same committee, to whom was referred the petition of citizens of Trenton, New Jersey, praying for the enactment of a law to change the name of the port of Lambertton to that of Trenton, reported a bill (S. No. 213) to change the name of the port of Lambertton, in the State of New Jersey; which was read, and passed to a second reading.

Mr. BENJAMIN, from the Committee on Commerce, to whom was referred a bill (S. No. 192) to provide for the general introduction of an international code of marine signals, reported it without amendment.

SHIP FRANKLIN.

Mr. HALE, from the Committee on Naval Affairs, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to inform the Senate of the present condition of the United States ship Franklin, and of the expediency of fitting her for sea as a screw-steamer, with full steam power.

ADJOURNMENT TO MONDAY.

On motion of Mr. BENJAMIN, it was

Ordered, That when the Senate adjourns to-day, it be to Monday next.

LAND DISTRICTS IN CALIFORNIA.

Mr. BRODERICK. The Committee on Public Lands, to whom was referred the bill (S. No. 210) to create additional land districts in the State of California, and for other purposes, have instructed me to report it back, with an amendment. If there be no objection, I hope the bill will be now considered and passed.

Mr. GWIN. I hope it will be acted on now. It is a matter of pressing necessity to have additional land districts. Our lands are advertised for sale, and it is impossible to go on with the sales unless we have the new districts.

Mr. BRODERICK. There are two letters accompanying the report, which I ask may be printed, so that they may go with the bill to the other House.

The motion was agreed to.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The amendment of the Committee on Public Lands is in line three, to strike out the words "two or three;" and in the same line, after the word "districts," insert "in his discretion, not exceeding three;" so that it will read:

"That the President of the United States be, and he is hereby, authorized to establish additional land districts in his discretion, not exceeding three."

The bill will then read:

Be it enacted, &c., That the President of the United States be, and he is hereby, authorized to establish additional land districts in his discretion, not exceeding three, in the State of California, and to fix, from time to time, the boundaries thereof as the public interests may require, which districts shall respectively be named after the places at which the offices shall first be established, and the President of the United States shall be authorized hereafter, from time to time, as circumstances may require, to adjust the boundaries of any and all the land districts in said State, and remove the offices when the same shall be expedient.

Sec. 2. And he it further enacted, That the President is hereby authorized to appoint, by and with the advice and consent of the Senate, or during the recess thereof, and until the end of the next ensuing session, a register and receiver for each of said additional districts, who shall respectively be required to reside at the site of the offices, shall be

subject to the same laws and responsibilities, and whose compensation shall be the same as is now prescribed by law for other land officers in that State.

Mr. BENJAMIN. I should like to inquire what the compensation now allowed by law for other land officers in that State is?

Mr. GWIN. The compensation is \$3,000 for each of the officers, and that is the same as other land officers throughout the United States receive. They are all the same throughout the United States.

Mr. STUART. Not to exceed \$3,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading; and it was read the third time, and passed.

WILLIAM ALLEN.

Mr. HAMLIN. I ask the Senate to consider the bill for the relief of William Allen at this time. It will be passed without objection, I think.

The bill (S. No. 117) for the relief of William Allen, of Portland, in the State of Maine, was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to cause the name of William Allen to be placed on the pension list, at the rate of six dollars per month, during his life, in lieu of the pension to which he is now by law entitled.

Mr. HAMLIN. There is a very brief report accompanying the bill, which explains it; but if there is no call for it, there is no necessity for reading it.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

MAINE ON KANSAS.

Mr. FESSENDEN. I ask leave to offer certain resolutions of the Legislature of the State of Maine, and ask that they be read.

The Clerk read them, as follows:

STATE OF MAINE.

Resolves relating to Kansas and Slavery.

Resolved, That the people of Maine are unalterable in their devotion to the Constitution and the Union, and demand of the national Administration an immediate return to the principles on which the Constitution was framed, and by which alone the Union can be preserved.

Resolved, That the Missouri compromise was a solemn compact between the free and slave States, that its perfidious breach in 1854 deserved, as it received, the universal condemnation of our Legislature and people, without regard to party, and such remains the unchangeable conviction of the State.

Resolved, That the reign of the late territorial government in Kansas presents a record of villainy and violence unparalleled in modern history, unfolding a gigantic plot to force African slavery upon the freemen of that Territory by the barbarous and bloody edicts of a foreign Legislature, sustained throughout by the Administration, with its Army, and territorial judiciary.

Resolved, That the recent message of the President of the United States is a falsification of the history of Kansas, a libel upon the free people of that Territory, and a deep disgrace to the American name and to the office once filled by Washington.

Resolved, That the President's confession that the late foreign territorial government in Kansas would have been overthrown by the people long before its annihilation in October, unless he had upheld the usurpation by military power, reveals the complicity of the Administration in the execrable scheme of governing Kansas by a minority sustained by Federal bayonets, setting up a military despotism to "crush out" the free-State majority, and the sovereignty of the people; and his estimate that a standing army of "at least two thousand regular troops" had been found necessary to maintain the equilibrium of parties in that Territory, measures the magnitude of the free State majority—so enormous as to equal in effective power "at least two thousand" of his best "troops."

Resolved, That the President's astounding assertion, that "Kansas is at this moment as much a slave State as Georgia or South Carolina," is a monstrous heresy, the slave power's latest commentary on the doctrine of popular sovereignty, and a suggestive example of the operation of the Kansas-Nebraska bill.

Resolved, That since this is his interpretation of the Constitution and the law, the people of Maine demand of the President its practical recognition by an immediate withdrawal of the Federal Army, the territorial Governor, and the infamous judiciary, that the "State" of Kansas may be left, like "Georgia or South Carolina," to the government of State officers, and to the protection of a "State" militia.

Resolved, That the Lecompton constitution was conceived in fraud, and brought forth in contemptuous defiance of the popular will and in mockery of the professions of the Kansas-Nebraska bill, by which alone the iniquity became possible. Maine enters her solemn and indignant protest against the stupendous swindle.

Resolved, That those members of Congress who at the passage of the Kansas-Nebraska bill professed a belief in its avowed principle of popular sovereignty, are now loudly called upon to vindicate the sincerity of their professions

by repudiating the Lecompton constitution, in which that principle has been shamefully betrayed.

Resolved, That if that constitution shall finally be forced upon Kansas against the solemn remonstrance of its people, then, in the opinion of this Legislature, they will be justified in resisting it at all hazards, and to the last extremity; and in so righteous a struggle the people of Maine are ready to aid them, both by sympathy and action.

Resolved, That the people of Maine have just cause for gratitude and pride that they are now fully represented in both branches of Congress by the surest guarantee that maintaining sentiments and principles in harmony with an immense majority of their constituents, require no specific instructions from this Legislature. While their past course meets our approval, it affords us the surest guarantee that they will, to the extent of their ability, strive to avert from our country the impending danger, by resisting to the end the attempted outrage of forcing upon the free people of Kansas a slavery constitution that they abhor, and in the formation of which they have had no part.

Resolved, That the Governor be requested to forward a copy of these resolves to the Governors of the several States and Territories, to be laid before the Legislatures thereof, and to each of our Senators and Representatives in Congress, to be laid before the Senate and House of Representatives of the United States.

IN THE HOUSE OF REPRESENTATIVES,
March 13, 1858.

Read and passed.

JOSIAH H. DRUMMOND, *Speaker*.

IN SENATE, March 16, 1858.

Read and passed.

SETH SCAMMON, *President*.

March 16, 1858.

Approved.

LOT M. MORRILL.

OFFICE SECRETARY OF STATE,
AUGUSTA, March 18, 1858.

I hereby certify that the foregoing is a true copy of the original deposited in this office.

NOAH SMITH, JR.,
Secretary of State.

Mr. FESSENDEN. I move that the resolutions be laid on the table and printed.

Mr. MASON. Mr. President, there is a rule of the Senate, I think, which requires that all petitions or other communications made to it should be couched in respectful language—a rule adopted not to preserve, or from regard to, the dignity of those who are Senators, but to the character and dignity of those whom Senators represent. I take for granted that the honorable Senator from Maine, who presented these resolutions, considered that his duty as the Senator of the State, whose resolutions they are, required him to present them; but the honorable Senator knows that in those resolutions, the act of the Legislature of Maine, there is charged directly and in terms, perfidy upon Congress, falsehood upon the President, and infamy on the judiciary.

Now, sir, I have always considered it a duty in the Senate to receive communications from one of the States of this Union, whatever may be contained in the general rules of the Senate, taking for granted that the States of this Union would respect themselves in their intercourse with the Senate of the Union. I have not a word to say either in censure or advice to the honorable Senator representing the State of Maine, and who has thought it his duty to present resolutions of this character. My respect for the States of this Union will deter me from doing what, if the communication came from any other quarter, I should deem it my duty to those whom I represent to do—moving that the resolutions be rejected. I will continue to respect the States of this Union who are particularly represented here in the Senate, and who are parties to the Government. But I have risen only to call the attention of the country to the fact that, because of this slavery agitation, one of the States of this Union has thought it not unbecoming in her, in a communication to the Senate, to charge, in terms, perfidy upon Congress, falsehood upon the President, and infamy upon the judiciary; I shall make no motion.

Mr. FESSENDEN. Mr. President, I suppose the fact that I presented these resolutions renders it incumbent on me to say a word or two in reply to the honorable Senator from Virginia, although he has been kind enough to say that he would not hold me responsible for the action of the Legislature in adopting them. I think he must have misapprehended somewhat the resolutions, or else I have misapprehended them; and I say to him that I have no desire to escape from the responsibility of presenting them because it was my duty to do so; but I go further, and say most distinctly, that I approve and indorse what has been said in these resolutions. I say, sir, the Senator has misapprehended them, because they make no charge whatever upon the present Congress. In speak-

ing of perfidy, they speak of the past. The resolution with reference to the Missouri restriction, has reference to a previous Congress; and I have yet to learn that it is disrespectful to this Congress to speak in disrespectful terms of one of its predecessors. I do not know that we are called upon to vindicate, in this way, what may have been done by our predecessors here.

With reference to the opinion expressed as to the repeal of the Missouri restriction, I have said the same thing upon this floor substantially, and upon any proper occasion I am ready to say it again. I always have considered the repeal of that restriction a breach of the plighted faith of the nation, and I have said so here; and I think that resolution says no more. I may have misapprehended it. I read the resolutions hastily. If I am incorrect, the Senator will correct me, as he has the resolutions before him.

The Senator has spoken of the charge of corruption upon the judiciary. Why, sir, the judiciary spoken of is the judiciary of Kansas, not of the United States. I go just as far as the Legislature of Maine does, and say that I consider it a corrupt judiciary, to all intents and purposes. I have expressed that opinion in private, and I am perfectly willing to express it in public. The acts of the judiciary of Kansas I consider to have been disgraceful to any persons holding the judicial office.

There is one other point of which the Senator has spoken, and that is the charge made upon the President of the United States of having falsified the state of things in Kansas. I am yet to learn that it is a breach of the privileges of this body to present a resolution here disrespectful in terms to the President of the United States. I do not know on what ground we should reject a petition or resolution for that reason. We have a rule or an understanding among ourselves that resolutions and petitions presented to Congress should be respectful in their terms to the body to which they are presented. That rule is very well, but I think the immunity goes no further than that; and I know of no reason why the people should not, in their addresses to Congress, speak as they feel with reference to other branches of the Government. I know nothing that they infringe.

If, in the hasty reading that I gave to these resolutions, I misapprehended their tenor in any particular, the Senator, as he has them before him, can correct me; but if there is any breach of the privileges of this body, so far as I have committed any, I am ready to be responsible for it in the proper way. Sir, I have spoken of the message of the President of the United States in a speech which I made here, not in terms so strong and so direct as those used by the Legislature, but in terms which involved the same thing. I was sorry to be compelled to do so; but I believed it to be my duty to do so, and in discharging that duty I kept myself as nearly as I possibly could within parliamentary and proper language, taking care, however, to express distinctly the idea which I entertained of that message. The Legislature of Maine has used terms rather stronger and more direct, as they were compelled to do in passing a short resolution, in expressing the same idea; but I have yet to learn that there are no occasions upon which duty may compel a member of the Senate, or may compel the Legislature of a sovereign State to speak distinctly and directly of the character of a communication made to Congress by the Chief Magistrate of the United States.

Sir, if the Chief Magistrate of the United States chooses to indorse and make his own what is false in fact, it is a matter that involves his own personal honor, and he must be responsible for it, like other men, to public opinion. The President of the United States made statements, in the communication alluded to in these resolutions, which I undertook to show upon this floor, he must have known to be incorrect when he made them. I used no offensive epithets with regard to him; I use none now, because I choose to use no offensive epithets with regard to any person, unless absolutely compelled to do so; but if my duty calls upon me to state a fact, and to expose statements that have been made by officers high in the public confidence, it makes no difference how high they are; the higher they stand, the greater is the breach of duty they perform, and the more clear and distinct we should be in pointing out the fact to the attention of the American people.

The Legislature of the State of Maine has done no more than that, and the Senator from Virginia may make such motion as he chooses. I have presented the resolutions on my own responsibility as a Senator. I do not desire to shield myself behind the fact that I am a Senator of the State, and bound to present them. I present them willingly, cheerfully, because they tell the truth, in my judgment; and whether they are printed or not, according to the common mode of proceeding of the Senate, is a matter of great indifference to me. I have presented them, respectfully, to the Senate. I leave them at the disposition of the Senate, with the ordinary motion that they be laid upon the table, and printed.

Mr. MASON. I did not mean at all to challenge or to invite any expression of opinion on the part of the honorable Senator from Maine upon the resolutions of his State. I have too high an estimate of the relation that subsists between a Senator and his State, officially and personally, to have asked or desired any opinion of the honorable Senator as to the act of his State.

Mr. FESSENDEN. I took the opportunity of expressing it.

Mr. MASON. The Senator had a perfect right to do so. I only mean to say that I did not ask it or desire it. But, sir, I would say to that honorable Senator, that however he or any other Senator, under the responsibility of his position here as a Senator, may, and may properly, attack any department of this Government, and is bound to do so when, in his judgment, the occasion for it has arisen, the question is a very different one when one of the States of this Union, in no manner responsible to the Senate, makes the Senate the medium of communicating its opinions of the correlative branches of the Government. Sir, if the State of Maine entertains the opinions, the extraordinary opinions, expressed in these resolutions of the conduct of the President of the United States, I should have thought the State of Maine—as any honorable person in society—would have addressed their opinion directly to the party himself; and what I mean to protest against is only that the Senate, a branch of the Government, should be made the medium of a communication of opinions of that kind in regard to a coördinate branch of the Government, disrespectful to the Senate, disrespectful to the country, whose organ, to some extent, the Senate is. There is a vast difference between a communication of this sort coming from one outside of the Senate, whether a State or an individual, and the expression of like opinions by a Senator on this floor, who not only has the right to do it, but is bound to do it; but does it under his responsibilities to the body of which he is a constituent member.

On looking at the resolutions since they were read at the table, I find that I was in error in the opinions ascribed to the judiciary of the United States. The Senator is right; the language leveled at the judiciary there is leveled at the judiciary of Kansas. I had thought, as the State felt itself at liberty to speak in the terms it did speak, not of the present Congress certainly, but of the Congress of the United States, and felt itself at liberty to speak as it has spoken of the present President of the United States, that it would only have made the circle complete to include the judiciary of the United States; but I find, on looking at it closely, that the judiciary there spoken of is the judiciary of Kansas. The language used by the State of Maine towards the Government, of which it is only a constituent, is this:

"That the Missouri compromise was a solemn compact between the free and slave States; that its perfidious breach in 1854 deserved, as it received, the universal condemnation of our Legislature and people, without regard to party, and such remains the unalterable conviction of the State."

Then, as to the President:

"That the recent message of the President of the United States is a falsification of the history of Kansas, a libel upon the free people of that Territory, and a deep disgrace to the American name and to the office once filled by Washington."

Now, what I mean to say is this: that if there be a State in the Union that considers itself at liberty to make the Senate of the United States the medium of conveying such opinions of the Congress or of the President to those organs of the Government, or to the people of the United States, I trust that the example set by the State of Maine will remain forever a solitary, as it will

be a memorable, example. I shall make no motion in relation to the resolutions, coming from a State.

The resolutions were ordered to lie on the table, and be printed.

EXTENSION OF SLAVERY.

Mr. SEWARD. With the leave of the Senate, I will present a communication on the same or a kindred subject, which is expressed in temperate language, and in a benevolent spirit. I perform a duty which I owe to the Society of Friends, recently assembled in the city of New York, by whose instructions I present this remonstrance to the Senate:

The memorial of the representatives of the religious Society of Friends in the State of New York, and parts adjacent, respectfully shows:

That, as the object of religious association is not only to promote the spiritual and eternal interests of the children of men, but to ameliorate, as far as may be, their moral and physical condition, we feel ourselves under obligations to endeavor practically to carry out the benign precepts of our holy religion, which, in a social point of view, are concisely summed up in the injunction—"Whatsoever ye would that men should do to you, do ye even so to them;" and which perfectly accords with the anthem which ushered in the Gospel dispensation, namely: "On earth peace, good will toward men."

Feeling our hearts influenced, we trust, by that spirit of good will which prompts us to greet every man as a brother, irrespective of nationality or color, and knowing that even millions of our fellow-creatures are now held in a state of servitude subversive of their natural rights, and derogatory to all the intellectual and physical blessings which the light of the age and the otherwise liberal institutions of our country are so well calculated to confer; and seeing, too, that a disposition is manifested to extend the institution of African slavery over territory still unblighted by its pernicious influence, we hereby remonstrate against any action whereby the evils of slavery may be in any wise extended.

Signed on behalf of the meeting of representatives aforesaid, held in New York, the fourth day of third month, 1855.

WILLIAM WOOD, Clerk.

William F. Mott, James Brown, William Cromwell, David Sands, William Titus, Committee on Presentation.

I will state that I have been on the performance of a similar duty in presenting their memorial directly to the President of the United States; and I express the public wish that, if all other agencies fail to arrest this great evil, I hope a blessing may attend this mode, which is the last that is probably open.

The memorial was ordered to lie on the table.

PACIFIC RAILROAD.

Mr. CAMERON submitted, informally, a substitute which he intends to offer for the Pacific railroad bill; which was ordered to be printed.

ADMISSION OF MINNESOTA.

Mr. IVERSON. I move that the Senate proceed to the consideration of the Army bill, (H. R. No. 313.)

Mr. DOOLITTLE. The unfinished business of yesterday is the bill admitting Minnesota.

Mr. IVERSON. The hour for the consideration of that bill has not arrived.

Mr. STUART. I would suggest to the honorable Senator from Georgia that it is within four minutes of one o'clock, when the unfinished business of yesterday will come up. Certainly within that time we cannot dispose of the Army bill. I am anxious to dispose of the Minnesota question, inasmuch as it is before the Senate, and I know of no reason why we may not dispose of it to-day; but I hope the Senator will not press his motion at this time.

Mr. IVERSON. I do not consider that the Minnesota bill is to be disposed of in this body so soon as the Senator expects. There were amendments offered yesterday, and I doubt very much whether it can be passed through the Senate to-day; and, as we are to adjourn over until Monday, I consider it important that the Army bill should be disposed of now. As I said yesterday, a single day is of great importance to the Administration in this matter. If we are to give the Government any additional force, we ought to do it promptly; but if we are not to do it, we ought to reject the bill promptly, and let them understand what they are to rely upon. I think we had better take up the Army bill and go through that; it will not probably take long; and then the Minnesota bill can be taken up, but I doubt whether that can be passed to-day. I must insist on my motion to take up the Army bill, and when one o'clock arrives, I shall insist on the Minnesota bill being laid aside.

Mr. HALE. How long will it be before the

hour will arrive for the consideration of the Minnesota bill?

The VICE PRESIDENT. Two minutes and a half.

Mr. HALE. It seems to me hardly worth while to take up the Army bill in that time. It will hardly pass in that time. I think there is nothing about which gentlemen make greater mistakes than they do as to the time necessary to pass the Army bill. I recollect that when it was first taken up the chairman, not now in his seat, intimated that he thought about ten minutes would be enough to pass it. He was rather earnest that it should be taken up at that time. It was taken up. I think that was at least ten weeks ago, and it was nearly seven weeks before the bill came to a vote in the Senate, and I am certain it will take more than ten minutes to pass or to defeat this bill. I hope, then, as the time is so near at hand, only one minute, when the Minnesota bill will come up, that we shall take up the Minnesota bill instead of the Army bill.

Mr. IVERSON. I shall move to take up the Army bill, and if that fails, I shall move when the hour comes on, to postpone the Minnesota bill. On that question I shall call for the yeas and nays.

The VICE PRESIDENT. The Chair will call the attention of the Senate to the special order, which comes up at this hour. It is the bill for the admission of Minnesota.

Mr. IVERSON. I move to postpone that bill, with a view to take up the Army bill.

Mr. STUART called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 10, nays 32; as follows:

YEAS—Messrs. Biggs, Clay, Fitzpatrick, Iverson, Johnson of Arkansas, Kennedy, Mason, Sebastian, Slidell, and Yulee—10.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Douglas, Fessenden, Fitch, Foot, Foster, Green, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, Jones, King, Pearce, Seward, Simmons, Stuart, Toombs, Trumbull, and Wade—32.

So the motion was not agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 86) to admit the State of Minnesota into the Union. Yesterday Mr. DOUGLAS moved to strike out the second section of the bill, which is in the following words:

"Sec. 2. And be it further enacted, That said State shall be entitled to one Representative, and such additional Representatives, in Congress, as the population of said State, according to the census authorized by the act approved February 26, 1856, shall show it to be entitled to according to the present ratio of representation, and no more."

Mr. MASON moved to amend the section by striking out all after the word "Representative," and inserting "in the Congress of the United States," so as to make the section read: "That said State shall be entitled to one Representative in the Congress of the United States." The first question is on Mr. Mason's amendment.

Mr. MASON called for the yeas and nays, and they were ordered.

Mr. DOOLITTLE. I do not desire to detain the Senate by speaking at all at length, but I have a word to say on this question. The Minnesota enabling act contains the very language which is contained in the second section of this bill:

"And the said State shall be entitled to one Representative, and such additional Representatives as the population of the State, shall, according to the census, show it would be entitled to according to the present ratio of representation."

That is the precise language contained in the present bill for the admission of Minnesota into the Union. They have complied with the provisions of the enabling act in this respect, and the bill now follows the language of the enabling act; and it seems to me but just to the State of Minnesota that she should have her Representatives according to her population. It would not be just to allow her but one Representative, if she has, in fact, a population of two hundred and forty thousand, as is contended by the honorable Senator from Missouri, [Mr. GREEN.]

I beg leave to state that there was other evidence, as I understand, before the convention in Minnesota, at the time the number of Representatives was fixed—proofs of the amount of population derived from the kind of census taken by the assessors of Minnesota—showing that she had sufficient population for three members. At all events, this section leaves the question to the House of Representatives, where it properly be-

longs. They are entitled to one Representative, at all events; and when the question of admission comes up in the House of Representatives, that House will determine whether there is more than one Representative entitled to admission; and they will pass on the fact. On the section as it stands, they are entitled to one Representative, at all events; and then if the House of Representatives shall be satisfied that their population entitles them to more, they will admit more to their seats; otherwise, they will not. Now, it is unjust that they should be restricted to one member at the present time. It is known that the State of Minnesota is becoming populous very fast. The State of Wisconsin to-day has a population of seven hundred thousand, and we have but three Representatives in the other branch. Minnesota has a population, undoubtedly, of two hundred thousand, according to the best evidence; and by many it is believed to reach two hundred and fifty thousand. It would be unjust to confine them to one Representative; but this section, as it is, leaves the matter to be determined by the House of Representatives. I prefer, altogether, that that section should stand as it is reported by the committee.

Mr. TOOMBS. In order to attain the object which I have in view, I do not know but that it may be necessary to strike out the whole section. I quite agree with the Senator from Wisconsin, that to strike out the latter clause, and leave Minnesota with but one Representative, is wrong. As he properly states, this section is in the identical language of the enabling act, and it may be that it would be improper to change it; but I prefer to strike it out entirely, because the enabling act is the law governing the case now, and if we strike out this provision, we shall leave the House of Representatives to interpret that act for themselves. It is their business, not the business of the Senate. Congress passed an act proposing certain terms, on compliance with which Minnesota should come into the Union. Really there is nothing to be done now but, as the Judiciary Committee reported the other day, for Congress to say that there has been a compliance. The terms of admission are all agreed upon; they are specified in the enabling act. One of those terms is, that she shall have one Representative in Congress, and as many more as her census may entitle her to. It turns out, from some defect, as they allege, or some want of attention on the part of those who were to take the census, probably the Government or its officers, that there was an imperfect census taken. The census returned in time probably did not show more than one hundred and forty thousand inhabitants; but they propose to show, by other evidence *alimunde*, that the population does in truth reach two hundred thousand or two hundred and fifty thousand. The arrangement for taking the census was inadequate, there being no provision made for payment for it; and in one case the official returns show only fifty inhabitants in a district where three hundred votes were actually polled. This is an illustration showing the imperfection of the census. Now, I propose that this section be stricken out, so that the law of the land governing the case being embraced in the enabling act, the House of Representatives may determine for themselves whether Minnesota is entitled to one, two, or three Representatives under that act. I do not see any necessity for this section. It cannot alter the rights of anybody.

Mr. COLLAMER. The honorable Senator was not present yesterday when I explained why this section was inserted in the bill. On the first view of the case, I thought, as the Senator now suggests, that we need not say anything about the representation; and that by so doing we should leave it to be settled by the House of Representatives, under the enabling act; but inasmuch as, after the passage of the enabling act, the convention which formed the constitution had put in it a provision that there should be three Representatives in the other House, the opinion was entertained that if we admitted them, without any exclusion of a conclusion to the contrary, we admitted them with their constitution, and gave them three members. This section was inserted with a view to rebut any presumption of that kind, and to leave it as the original act did. This section is in the very words of the enabling act.

Mr. TOOMBS. Then I think I can make a

proposition on which I shall agree with my honorable friend from Vermont. I attach not the slightest importance to that clause in the constitution of Minnesota, on a subject over which they have not the least control. It is a mere nullity. They cannot fix their representation in the Congress of the United States.

Mr. COLLAMER. The gentleman does not understand me. We supposed that if they put it into their constitution, and we accepted them with that constitution, we should thereby agree that they should have three members, unless we inserted some provision excluding that conclusion.

Mr. TOOMBS. I understand the Senator, and I will tell him how we can agree. Though I talk pretty fast, it seems his ideas run ahead of me. I propose to exclude any such conclusion, by inserting a provision, that nothing in this act shall be construed to entitle Minnesota to three members, according to her constitution. That is a matter over which Congress has control. The constitution was a curious place in which to insert any such provision. It does not concern any of her domestic institutions. Her relations to this Government are fixed by another standard. If she had elected three hundred instead of three persons, as Representatives, that could not have altered our rights. Nor do I think that if we admit her simply on the basis that she has complied with the enabling act, and that her constitution is republican, it can be construed into an assent by Congress to this provision of her constitution. To exclude any such conclusion, however, I propose, if we strike out this section, to move the insertion of a provision, declaring that we do not affirm her right to three members.

Mr. COLLAMER. Does the section do anything more than the gentleman now states?

Mr. TOOMBS. I think not. It says she shall be entitled to one member, and such additional members as her population may show her to be entitled to. I want the House of Representatives to settle the question of its own members under that enabling act, and say whether she is entitled to one, two, or three. To accomplish the object which I have indicated, I give notice, that if the pending amendment be voted down, as I hope it will be, and then the section be stricken out, I shall move to insert a clause, providing that nothing in this act of admission shall be construed to entitle her to the three members claimed in her constitution.

Mr. BIGLER. I concur mainly in what has been said by the Senator from Georgia on the main question. I do not propose to discuss it, except to say that I think the vote cast is perhaps the best data we have as to the population. That, I understand, was about forty thousand; which, on a moderate calculation, would give a population of two hundred thousand, or two hundred and twenty thousand. I think, on that calculation, it would be illiberal, if not unjust, to confine Minnesota to a single Representative. My object in rising is to explain the vote which I am about to give. The effect of the proposition of the Senator from Virginia will be to confine the representation to a single member. That I am not willing to agree to; but I voted yesterday against the motion to strike out "one" and insert "two." I did that with the intention of voting for the motion of the Senator from Illinois to strike out the whole section, thus leaving the question to the House of Representatives. It seems to me to be eminently proper that the House of Representatives should say whether Minnesota shall have one, two, or three members. I desire to say, therefore, that I shall vote against the proposition of the Senator from Virginia; but in doing that, I may seem to be inconsistent with my vote yesterday. I shall vote against it; and then vote to strike out the section.

Mr. POLK. For myself, sir, on this question I am in favor not only of not striking out this section, but I am in favor of leaving it as it is. I am satisfied myself that equal justice to this State requires it. If we take the vote that was cast at the election in Minnesota last fall, and multiply it by six, which has been done by some gentlemen for the purpose of getting at the true amount of population of the State, it would give two hundred and forty thousand; and still that would not reach the actual population of the State. I am well satisfied that the Indians in that Territory have not been regarded in the census as a basis of popula-

tion, nor even the half-breeds, though there are many of them settled on the lands of the Territory, and cultivating those lands as agriculturists, just as the best population in the Territory is doing.

I am also satisfied of another fact: that in many instances persons have been registered by the census-takers who went to Minnesota as a great many went into Kansas; they went there for the purpose of settling themselves; they marked out their lands; they commenced their improvements, but had not got their houses comfortably fixed yet so as to bring their families into them, and their families were not there when the census was taken for that reason. Most of those families are there by this time, or, in almost all cases, will be there by the close of the present season. I differ entirely with the Senator from Vermont [Mr. COLLAMER] on this point. I think that in such a case the domicile of a man and his family is not in Vermont or in whatever other State he may have left, but in Minnesota, if he had gone there and commenced making his home, and had not yet taken his family only because he had not made his home comfortable enough to bring his family into it.

I am satisfied, therefore, that the population of that Territory is more than the two hundred and forty thousand, which is the conclusion at which some gentlemen have arrived, by multiplying the amount of votes by six. There is a further consideration to be borne in mind. Minnesota is about equal, in point of square miles, to the aggregate territory of both the States of Ohio and Pennsylvania; and in many instances the voting precincts were so far apart that there were many men who were really entitled to vote who were not able to get to the precincts and vote; much less were they able to get registered. In some of the counties, the gentlemen who undertook to take the census were not actual inhabitants of the county. In the county of Todd, for instance, as I am informed, the census that was attempted to be taken was taken by a gentleman who did not reside in the county, but who was a storekeeper in the neighborhood; and probably he returned only such persons as came to his store and registered their names themselves. The census of that county, I think, showed about forty residents, and the vote actually cast was one hundred.

In voting upon this question, I, for one, will not consent to shut my eyes to what I know to be the condition of a new State like Minnesota—a frontier State, where society is not settled down, and where the people are not surrounded with all the conveniences for their voting or registration, that belong to the older States. I am opposed to the motion that is before the Senate, and, so far from going for that, I am in favor of giving this new State three Representatives in the Congress of the United States; and I do not believe, then, that she will have anything more than very meager justice meted out to her. I hope that, in voting on this question, gentlemen will not overlook the fact that the settlements in these new States are of such a kind that you cannot apply to them the same standard that you apply to an old State that was in the Confederacy when it was first formed under the Constitution. I have been told by a gentleman who has had the very best means of judging, that, in one county especially, nearly all the voters were in the category I first named; that is, they were there making their farms, building their houses, getting ready to bring their families there just as soon as they should make their homes comfortable; but the families were not there, not because that was not their residence, not because they did not mean to bring them there, but only because the physical circumstances by which they were surrounded were such as to make the father of a family forego their presence only because he could not do otherwise, and do his duty to his wife and children.

Mr. DOUGLAS. It is well that we should be sure that we understand the legal effect of what we are about to do. I confess that I have my doubts as to whether the legal effect of my proposition is to be what the Senator from Georgia understands that it will be. If his amendment be added to it, I think it will then produce the opposite result to that which I desire. My proposition is to strike out the second section of the bill, in order to admit three members from Minnesota. The Senator from Georgia thinks that will not be the legal effect of it, and he proposes to exclude

that conclusion by inserting a provision that nothing contained in the bill shall be construed to admit three members from Minnesota. I am very sure that if his amendment be adopted, and the bill be passed in that shape, Minnesota would have but one member under the law, as it would then stand according to the enabling act. If we are to be governed strictly by that, I suppose Minnesota can have but one Representative. The provision of the enabling act is, that she shall have one, and such additional Representatives as the census ordered by that act shall show her to be entitled to. Now, the census taken under that act, and returned here, does not show population enough for an additional member; and if, therefore, we decide the question according to the strict terms of that law, she will be restricted to one member. If we send the bill in that shape to the House of Representatives, the House will have no discretion to go beyond the law. The two Houses of Congress, by law, may say we have satisfactory evidence outside of the census, unofficial evidence, that justifies us in disregarding the official, and assigning to Minnesota two or three Representatives; but if the law provides that she shall have only such number as the census returns show that she is entitled to, and those returns only show that she is entitled to one member, the House of Representatives cannot go beyond that one.

I think, therefore, the effect of the proposition of the Senator from Georgia is to restrict the number to one, and to give the House of Representatives no discretion beyond that number. I know that he does not intend that result; I know he does not desire it; but such, it strikes me, will be the legal effect of the proposition. According to the terms of the provision, as it is now in the bill, which I move to strike out, I think the House of Representatives would be restricted to the admission of one member. If we say that Minnesota shall have as many members as she is entitled to by the census which has been taken, and if we are to decide according to the terms of that census as they are before us, she is technically entitled to but one member. I think we may act on other information that is satisfactory to us; that convinces us that, although the census shows a population of only one hundred and forty-nine or one hundred and fifty thousand, she has largely more than that, probably two hundred and twenty or two hundred and forty thousand. I think we may act upon that evidence, which, though unofficial, is yet satisfactory to us, and allow to Minnesota a proportionate number of Representatives. I go for the additional member on that kind of evidence—the same that I acted upon in the Texas case and the California case—to which I referred yesterday; but, if we are to confine ourselves to the technicalities of the law, she will be restricted to one member.

If we pass the bill with this section in its present language, so that the House must be confined to the technical language of the law, the House must restrict her to one member. I have made the motion to strike out, under the impression that if we admit the State without saying anything on the subject, we give our assent to the provision of her constitution for the election of three members. The Senator from Georgia, however, thinks that would not be the effect; but that in that event she would fall back on the enabling act; and I think, under the terms of the enabling act, she is confined to one member; in my opinion unjustly confined to one. I am inclined to think, therefore, that perhaps we had better make our propositions specifically, and say that we will give her three members, or if not three, that we will give her two; or if we cannot agree to that, we will give her one. I think we had better say exactly what we are going to give, lest we may have a result declared in the House of Representatives different from that we intend. My impression is, that the striking out of the second section would, in effect, decide that she would have three members; but I believe it is better to say so distinctly, if we think she is entitled to three; or if we cannot get three, then let us give two; but let us not deceive ourselves by the terms we may use, in regard to the effect of our own action. I make these suggestions to the Senator from Georgia, because he and I wish to arrive at the same result by our action; and I hope he will direct his attention to the use of such phraseology as will accomplish the object.

Mr. TOOMBS. I presume the Senator from Illinois and myself desire to attain the same object; but he having moved yesterday to strike out this section with a view to allow three members to Minnesota, and that motion having failed—

Mr. DOUGLAS. It has not been voted upon. The proposition to allow two members has failed; but my proposition to allow three has not yet been voted upon.

Mr. TOOMBS. I was informed that the vote had been taken, and that the proposition had been rejected.

Mr. DOUGLAS. If I knew the fate of my motion, I should know exactly how to shape my action.

Mr. TOOMBS. That being the case, I shall vote for the motion to strike out, as I think the question is one more properly to be settled by the House of Representatives. I would leave that House to determine it according to their judgment of the facts under this law, or let them make a new law on account of that one having been improperly executed; and when they send such a law to us, I apprehend the Senate will be perfectly willing to take it as they have passed it, they being judges of the elections, qualifications, and returns, of their own members. That question being so peculiarly and constitutionally within their jurisdiction, I choose to let them act upon it without being trammelled by any action of this body. I do not regard the constitution of Minnesota as in any way controlling this question. I think that provision of the constitution entirely nugatory. It is a question for the House of Representatives, or for Congress; and I prefer that the House should take into consideration all the circumstances. I am ready to vote for allowing three members; but if that be not acceded to, I will vote to leave the matter to be settled by the House of Representatives. I know that the population of Minnesota is large, and increasing; and I recollect that when Wisconsin was admitted, the argument was expressly made that the rapidity with which population was pouring in would entitle her to more Representatives before the next census; and she came in with three members, if my memory does not fail me. This was unusual: it was a larger number than any census which had been taken would allow her; but on account of her peculiar position and the rapid increase of her population, she was allowed three members of Congress. I think Minnesota ought to have three members. I believe she has sufficient population for that. Supposing that this body had already voted down the motion to strike out the second section, and thinking it a more appropriate question for the House of Representatives, I was willing to leave it a blank, to be filled by that House. The question not having yet been taken, I shall vote for the motion to strike out when it is taken.

Mr. DOUGLAS. I will make a proposition by which, I think, we can get distinctly at the object. Instead of moving merely to strike out the second section, I propose to insert, in lieu of it, a provision that until the next general apportionment the State of Minnesota shall have three Representatives.

Mr. GWIN. I hope that motion will prevail. I wish to allow Minnesota three members, and I shall do everything I can by my vote to accomplish that object. I do not place much reliance on these census returns. I recollect that in the case of California only ninety-two thousand people were returned, when we had three hundred thousand or four hundred thousand. It is evident that there is an immense emigration going to Minnesota all the time, and before the next census her population will be much more than enough to entitle her to this number of members. My State is entitled to six members at this time, according to her population. I wish to give to Minnesota the three members she has elected. I believe that if the census were properly taken, it would show that she has now population sufficient for that. It is well known that it is very difficult to take the census in a new State; it is almost impossible to get the numbers of the entire population.

Before taking my seat, I desire to ask the Senator from Illinois, the chairman of the Committee on Territories, what objection, if any, he has to inserting in this bill, now when we are disposing of the Territories that wish to become States, a

proposition to admit Oregon? We know that she has gone through all the forms. I have her constitution before me. It has been submitted to the other House, and it certainly will be here very soon. There are none of the objections to her admission that I have heard urged in regard to other States; and it seems to me that this is the proper time to dispose of the question. I hope the Senator from Illinois will have no objection to an amendment of that description to this bill.

Mr. DOUGLAS. I will say, in response to the Senator from California, that I have not brought up a proposition for the admission of Oregon, for the reason that I have received no official information that she has made a constitution. She has sent no constitution here. We have no facts, no evidence, before us, showing that to be the case. Nor has the President so informed us; nor have we any official information, from any source, on the subject. Having learned, from the newspapers, that a convention had been held there; that it had formed a constitution, and it had been submitted to and ratified by the people, I have wondered why it was that it had not found its way here. I spoke to the Delegate in the other House, General Lane, about it, and I told him that I understood that he had presented it to the House of Representatives. He said he had; but he thought he had better let it sleep until the contest about Kansas and Minnesota was over. I said to him that whenever he desired action here, and would furnish me with a copy of the constitution of Oregon, properly certified, I would take great pleasure in initiating the steps at once for her admission. He thanked me for the suggestion, and said he would attend to it. He has not done so yet, and hence we have nothing here to act upon.

Mr. GWIN. I have made this suggestion at the request of the Delegate from Oregon in the other House. He has furnished me with a copy of the constitution, which is here in House document No. 58, and he requested that I should bring the subject to the notice of the Senate. Like the Senator from Illinois, I have been somewhat surprised to find that the subject has not been brought before the Senate. The Delegate from Oregon yesterday informed me that he would be exceedingly glad if the question could be disposed of now. There being no objection to Oregon that I can see, it having gone through all those forms the want of which has been objected to in Kansas and Minnesota, the constitution having been framed and submitted to the people in various forms and voted upon, I thought the Senator from Illinois, as chairman of the Committee on Territories, with this official document before him, might frame an amendment to this bill by which it could be brought in.

Mr. DOUGLAS. I should do so, but I have never seen the constitution of Oregon. I do not know what is in it; I do not know the boundaries of the proposed new State; I do not know anything concerning it. I have never set eyes on the document; and, if I should offer a proposition, it would be at random. I do not know whether her constitution is such a one as I can sanction or not; but I suppose it is. I should think, however, the Delegate would present it to the Senate, and refer it to the committee. Let the committee read over the constitution, and report the facts. I should take great pleasure in calling a special session of the committee at any moment for immediate action upon it; and I would hurry it through as fast as I could; but I do not feel authorized to take a paper which I have never yet had an opportunity of reading, and move the admission of a State on it, when I do not know what it contained.

Mr. HUNTER. I hope there will be no effort to unite the two. In regard to the question of Minnesota, there is no doubt about it; all are prepared to vote for her admission; but there may be some doubt in regard to Oregon. At any rate, the constitution of that proposed State has not been examined and investigated by the committee. None of us have ever seen the facts (I have not, for one) in regard to the constitution; nor have I seen the constitution itself. I hope that the measures will be taken up separately. If application is made for Oregon, let it be submitted to the committee and reported upon regularly, as a separate measure. There is no doubt in regard to Minnesota; Congress has given its permission in advance in the shape of an enabling act; and if she

has complied with that, she is entitled to come in without being delayed.

Mr. BROWN. I am very desirous to vote for the admission of Minnesota. We stand agreed, honorably bound, to admit her, and I shall regret exceedingly if anything be put into this bill which shall forbid me recording my vote in favor of it. I must say, in all sincerity, that I do not like this proposition to give Minnesota three Representatives. I understand that you are to take a census of the population as a starting point, and then that your authority is to apportion your representation according to the population. I do not understand that it is within the province of Congress to guess the population of an old or a new State, and apportion its representation on mere guess-work. If you are going to guess for Minnesota, why not guess for all the States? If you were about to apportion the representation among other States, and I were to come in here as a Representative, and say, the "census was incorrectly taken in my State; I tell you that I believe we have one hundred thousand people more than the census shows," are you to depart from the rule prescribed by the Constitution, and not to apportion the representation according to the census, but according to the guess of a Representative from a State? and if so, where are you to drift to? But, sir, this does not happen to be guess-work coming from Minnesota; it is guess-work outside of the State, and made up on the loosest possible calculation. One Senator tells us the number of votes, and makes a calculation on the supposition that there are six members of a family to every voter, and thus he brings up the population to two hundred and forty thousand. What sort of a way of taking a census is that? Did the framers of the Constitution ever dream of ascertaining the population of a State by any such rule?

Then, sir, when you come to look at the State, what is it? A new State, to which young and enterprising men have gone, leaving the women and children in the older State, as they always do. Six to a family may be a very good estimate for Rhode Island, or Connecticut, or Virginia, but it is an over-estimate for any new country on the face of the earth; because to such countries men go, and the women and children stay at home. You have got no such population there. This is a proposition to give to Minnesota a representation in the other House of Congress to which her population does not entitle her—a proposition to unhinge the balance of representation between the States, and to give to one State an advantage over the other States. I protest against it. The census shows that Minnesota has a population of a little over one hundred and forty thousand. Making a liberal estimate for the three counties from which no return has been made, she probably has one hundred and fifty thousand. For the first ninety-three thousand four hundred and twenty, she is clearly entitled to a Representative. South Carolina has a Representative for a fraction, and I believe California had one awarded to her for the largest fraction. The fraction in the case of Minnesota is even larger than that, and I am willing to vote her a Representative for that fraction; but I will not vote a Representative, *ex gratia*, on a population which she has not got.

Now that I am on this subject, and as I do not care to worry the Senate again, I may say that, while I shall vote for the admission of this State, desire to do it, mean to do it, and will do it—if you do not put something in the bill that absolutely drives me away from it—I want to do it because I wish to keep faith upon the slavery question. Minnesota comes here and asks for admission as a free State. I would yield more than I would in another case, lest I might be suspected of having broken faith on that point. I want to vote for it; I mean to do it; I will do it; I say again, unless I am driven from doing it; but, in doing that, I wish now to say, that I am in no manner to be suspected of approving the constitution of Minnesota. If I thought my vote was thus to be construed, I never could record it in favor of the admission of this State. I do not approve her constitution. There is very much in it to which I object.

I object to the very provision which leads to this debate—that a State shall undertake to say in her constitution how many Representatives in Congress she will have. She has no right to say any such thing. I object to other features of her

constitution. I object to that clause which fixes the qualification of voters; and I undertake to say it is the most extraordinary that ever found its way into any constitution, State or national. Her constitution prescribes different classes of voters. The first is, "white citizens of the United States." They might as well have said white male citizens, for I believe women are citizens. The next class is, "white persons of foreign birth, who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization." I object to that. Foreigners who have merely declared their intention to become citizens, in my opinion, ought not to be allowed to vote. What is an intention? It is a myth; it is nothing. A man may to-day have a very *bona fide* intention to become a citizen, but to-morrow he may have no intention ever to become so; and yet on making a mere declaration of such intention, a man is allowed to take part, not only in the elections of this State, but necessarily in the election of a President of the United States. I would permit no man to take part in the elections of this country who did not owe allegiance to the flag. Until he had sworn his allegiance to the Government, and would be guilty of treason in case he took up arms against it, he should have no part or lot in the elections, with my consent. What right has a man who to-morrow may take up arms against your Government, and yet commit no treason, to go to the ballot-box and take part in your elections? How many thousands, nay, how many hundreds of thousands of foreigners, unnaturalized, hostile to your country, to your Government, and to your Constitution, might, under that clause, vote upon a mere declaration of intention? How are you to punish a refusal to carry out an intention? A man may swear to it honestly; he may swear to it corruptly; but whether honestly or corruptly, you can never ascertain. That is a secret locked up in his own heart; a secret which can only be seen by the eye of the all-seeing Power who ruleth above—a secret not seen of men, and therefore not to be punished by men.

That is not all. The next class of voters is, "persons of mixed white and Indian blood, who have adopted the customs and habits of civilization." Is not that beautiful? An Indian who has adopted the habits of civilization is to be allowed to vote. I should like to know what amounts to adopting habits of civilization? I suppose if he put on a pair of pantaloons, a pair of spurs, and a shirt collar, he would then be a Georgia major fixed up; and if he got drunk, he would approximate to the highest degree of civilization. [Laughter.] Under that clause, there is not a breechless savage in all Minnesota that cannot be led up to the ballot-box and made to vote.

Mr. MASON. Will the Senator allow me to make a suggestion?

Mr. BROWN. Certainly.

Mr. MASON. They possibly intended to model it on the old Scotch usage that I remember having read of in one of the ballads for indicating the approach of the Highland men to civilization—when they put on pantaloons and left off cattle stealing. [Laughter.]

Mr. BROWN. I do not know how that is; but the language is, "habits of civilization."

Mr. TOOMBS. I ask my friend from Mississippi, does he at all dispute the right of Minnesota to allow anybody she pleases to vote within her limits?

Mr. BROWN. No, sir.

Mr. TOOMBS. Then *cui bomo* the argument?

Mr. BROWN. I am making it for the same reason that my friend from Ohio [Mr. FURN] the other day moved his amendment to the Kansas bill—not that I think there is anything in it, but I want to keep down clamor. I do not want to be misunderstood on this subject. I do not want to be understood as in any manner approving these provisions of this constitution when I vote for the admission of Minnesota; and therefore I point them out and comment upon them, and file my protest against them, so as to exclude any such conclusion hereafter. That is my whole object in doing it. I said in the outset, that if I supposed myself responsible for this constitution, if I was to be considered as approving it, I could not vote to admit the State. I do not believe that any State, old or new, ought to have any such provisions in its constitution. I feel that I have

no power to strike them out; and if I had, my notion of State rights and State sovereignty is; that if Minnesota chose, she could put them back again to-morrow. I cannot control them; I can say, and will say, that I do not approve them. I do not say that I shall vote against this bill, even if you allow Minnesota three Representatives; yet I do not well see how I can vote for it then, with my notions of what is right. I hope the Senate will do no such thing. Give Minnesota the two Representatives to which her census entitles her, and then I think there can be no further controversy. If she has any right to ask another Representative on guess-work, I do not know but that I shall ask another for Mississippi. She has been populating very fast, and has a great many more people than she had when the last census was taken. I know that census in many counties was imperfectly taken. Let us stick to the record; to the census, as made under the Constitution. Make your apportionment according to that, and you will always be right, or somewhere in the neighborhood of it.

Mr. WILSON. I agree with the Senator from Mississippi, in regard to the restrictions that we ought to place on this State. Minnesota is a young, growing, and prosperous State; but we have only the evidence before us that she has about one hundred and fifty thousand inhabitants, and I do not see why we here should assume her to have a population entitling her to three Representatives. The State of Vermont, with more than three hundred thousand inhabitants has only three Representatives in the other House. Here is a State where the census has been taken. It may have been imperfectly taken; but it is here with only one hundred and forty-nine thousand inhabitants; and yet she is claiming, and Senators are claiming for her, that she should be allowed three Representatives. This State will grow, unquestionably. I am willing to give her one Representative now, and let her, if she chooses, take a new census, and have for the future, three, four, or five Representatives, if that census shall show her to be entitled to them.

The Senator from Mississippi complains of allowing civilized Indians to vote. I think the Senator ought not to complain of that, for he should remember that it was the votes of the civilized Indians that gave the State to the political party with which he acts, and without their votes it would have been beaten by a very decisive majority in the Territory. One the occasion of voting in one section of the State, a gentleman informed me that he himself witnessed this scene: there was near by the place of voting a large collection of Indians, in their native habits and costumes; one of your Indian agents, or a person connected with your Government, obtained some articles of apparel that civilized men wear; a few of those persons were robed in them, marched up to the ballot-box and voted; they were then carried back to the place where they were encamped, these articles of apparel were removed, and other persons robed in them; and this was carried on throughout the day, and a very large Indian vote was taken.

Mr. FITCH. Will the Senator from Massachusetts be kind enough to state the place where this happened?

Mr. WILSON. I cannot. It was told to me by a gentleman who said he witnessed it himself in one election precinct. I did not ask him where it occurred.

Mr. FITCH. I only wished to ascertain his informant's veracity. No such thing occurred.

Mr. WILSON. I do not certify to the fact, but I am so told.

Mr. FITCH. I understand.

Mr. WILSON. I have good reason to think that this was not a solitary instance of the kind. Now I propose to offer an amendment to the second section, if it be in order to move it now; but I suppose it is not in order to move it before the question is taken on striking out.

The VICE PRESIDENT. There is an amendment now pending.

Mr. WILSON. Let it be read.

The VICE PRESIDENT. The Clerk will again read the pending amendment offered by the Senator from Virginia.

The Clerk read the amendment, which is, in line two, of section two, after the word "Representative," to strike out the residue of the section

and insert "in the Congress of the United States," so that the section will read:

"That said State shall be entitled to one Representative in the Congress of the United States."

Mr. WILSON. The amendment I propose I will read for information. It is to strike out all after the word "additional," in line two, and insert other words, so as to make it read:

"Said State shall be entitled to one Representative, and such additional number of Representatives hereafter as a census, hereafter to be taken, shall entitle the said State to have in the Congress of the United States."

The effect of this would be to admit Minnesota now with one Representative; and if she chooses to order a new census to be taken, she can do it as soon as she is admitted, and we give her authority here to have as many additional Representatives as that census shall show that she is entitled to. If she has three hundred thousand inhabitants, she would be entitled to two additional Representatives, and she could then elect those two Representatives and send them to this Congress, even before its adjournment; and for the next Congress she could have as many Representatives as her population would entitle her to. I think this is just and fair. I propose to admit this State with one Representative—all that her census entitles her to; but in view of the fact that she has a large fraction, and is increasing very rapidly, and probably has a larger population than her returns show, I am willing to allow her to take a new census to ascertain precisely what her population is, and to have the benefit of it just as soon as she chooses to take that census; and give her the privilege of electing an additional number of Representatives, one, two, three, or four. When it shall be in order, I shall move this amendment, which I think just, liberal, and fair.

Mr. JOHNSON, of Tennessee. I wish merely to make a single statement in relation to my vote. I doubt very much whether any of these amendments will improve the section that we have now under consideration. The Constitution of the United States provides, in the organization of the two bodies, that each House shall be judge of the election, returns, and qualifications of its own members. It also provides that each State shall be entitled to at least one Representative. The section, as I now understand it in the bill, gives to the State of Minnesota one Representative, and it then goes on to provide that she shall be entitled to as many other Representatives as her population shall justify. That settles the whole question. The House of Representatives is the arbiter. It is for that House to determine, and for them to determine it upon such evidence as will satisfy the House, what number of members she is entitled to; and, it seems to me, that section, as it now stands, will not be improved by the amendments proposed. The House of Representatives must determine the elections, returns, and qualifications of its own members. We say, in compliance with the Constitution, that Minnesota shall have one member certainly, and as many others as her population may entitle her to; and it is for the House to determine that question. It seems to me that the section is better than the amendments proposed will make it; and for that reason I shall vote to retain it in its present shape, and get it through as soon as we can.

While I am up, I desire to enter my protest against a doctrine which may be supposed to be advanced here in reference to the qualification of the voters of a State. This Government has no power under the Constitution of the United States to fix the qualification of voters in any sovereign State of this Confederacy. I want to enter my protest against the doctrine being indulged in or cultivated to any extent, that this Government has power to go inside a sovereign State, and prescribe the qualification of her voters at the ballot-box. It is for the State, and not for this Government, to do that. If the doctrine be once conceded that the Federal Government has the power to fix the qualification of voters in a State, the idea of State sovereignty is utopian. There is no such thing as State sovereignty, if this Government can fix the qualification of voters. We have no right to inquire into it. There are simply two things to be ascertained here: first, have we evidence that a State has been formed? second, have we evidence that it is republican in its character? These two things being ascertained, every-

thing else is for the State that applies for admission into the Union.

Mr. MASON. In the amendment that is pending, which is the one I had the honor to offer yesterday, there is no purpose or design to deny or impair the proper representative weight of this new State of Minnesota. All that is designed by it, and its whole effect, will be to assign to her the representation to which she will be entitled according to the Constitution and the laws. All that is asked by the amendment is, that the Senate of the United States will not assign political power to that State in disregard of the Constitution and the laws—nothing more. If it appeared that she was entitled to three or to ten Representatives in the other House, I should be the last man, by any mode whatever, direct or indirect, to impair her proper power in the slightest degree; but I do humbly ask, not in my own name, but in behalf of that State which I represent, and which has, in common with the other States, a very deep interest in this question, that the laws and the Constitution shall be regarded in assigning political power to a State. That is all.

What are the facts? The enabling statute provided that when Minnesota came into the Union she should be entitled to one Representative at any rate—the Constitution assigns that, no matter what her population may be—and any other number to which she might appear to be entitled according to the census ordered by that statute of 1857. That is the law of the land. What have been the results under that census? It has been ascertained that the census has been returned from all the counties, I think, but three; the whole population thus returned amounts to about one hundred and forty-six thousand, and then making the estimate which gentlemen have chosen to do for their own information, (I hope not for their guidance,) of those counties from which there were no returns, based upon data given by those counties from which there were returns, the highest population assigned to it by the law is about one hundred and forty-nine thousand. That is the fact.

What says the Constitution in this most important matter of assigning to the States political power in the Union? The Constitution declares that that political power shall be assigned in proportion to population. It further declares that that population shall be ascertained by means of a decennial census, and the power to be assigned upon a census thus obtained. It provided for a census to be taken within three years after the government went into effect, and decennially thereafter. The last regular census was taken in 1850, a census ordered by law and by the Constitution. The representative number was then determined, in the distribution of political power among the States, to be one for every ninety-three thousand four hundred and twenty persons of Federal population; so that there is required by the Constitution a Federal population of ninety-three thousand four hundred and twenty for every Representative in the other branch; and the fact shown here is, that there is but one hundred and forty-nine thousand, at the outside, of actual population in Minnesota. What is proposed, then? That you shall assign to them political power, not only unknown to the Constitution, but forbidden by it; and for what purpose?

Mr. STUART. With the permission of the honorable Senator from Virginia, I wish to call his attention to a single point. Do I understand him to say that the Constitution of the United States governs, in this case, in that clause which provides for the general apportionment of Representatives in the House of Representatives for all the States decennially, and that it is not competent for Congress, between the time of taking each decennial census and making the apportionment, to resort to any other means of information?

Mr. MASON. Oh, no. I say the Constitution provided that there should be a decennial census for the purpose of apportioning representation, which is the assignment of political power to the different States; but, inasmuch as there is a power given to Congress to admit new States, and a provision that when admitted they shall stand on an equal footing with the other States, I do not mean to say that a power cannot be implied for Congress to do what was done in this enabling act, provide for a census to ascertain how Representatives should be apportioned to such new State in

order to insure to her equality. I do not mean to deny that power.

Mr. STUART. That was not my question precisely. It was this: whether, in the admission of a new State and giving it its representation in the other House, Congress, in the opinion of the Senator, is confined to the taking of a census, in order to define what representation it will give; or whether it may resort to other means of information?

Mr. MASON. I should say very clearly that I could entertain no doubt on the proposition of the honorable Senator from Michigan. Congress cannot, within the pale of the Constitution, assign to the new State greater relative political weight than has been assigned to the existing States. I take that almost to be a truism. Then the Constitution having prescribed the mode of ascertaining the political power to be assigned to each State in the popular branch, and having made it to rest on population, and required that population to be ascertained by a census, it would follow, almost logically, that it is not in the power of Congress to give a representation to a new State, when she comes in, upon any ratio or by any rule except that of population ascertained under a Federal census. I should take that to be the true constitutional rule, and that has been done in the present case. The law authorizing Minnesota to erect herself into a State provided for a census and for the returns; and inasmuch as until that census was made and an apportionment based upon it, the actual amount of representation could not be ascertained, the same statute provided, within the terms of the Constitution, that she should at least have one Representative, and any more that she might appear to be entitled to after the census was taken. As I have said, the census was taken, and we are here now to carry out that enabling statute. What is required of us? That we shall assign one Representative, or more than one, as may appear to be the proper quota of the State upon the census which has thus been taken pursuant to the law. That is what we are here to do; to carry out the enabling statute in good faith, because that is in conformity to the Constitution. We are here for the purpose of determining whether, under the law and the Constitution, this State is entitled to more than one Representative; for, of course, she is entitled to at least one. How are we to do it? According to the very terms of the enabling statute, by seeing what her population is under the census. We have ascertained it; and we have ascertained that, although that population entitles her to one Representative, it does not entitle her to more than one. That is not a postulate; it is a fact.

Honorable Senators said yesterday, I think, that we might assign a second Representative, at least, because of the large fraction. That is unknown to the law fixing the rule of apportionment. No representation is assigned to a fraction by the law. It is very true that, in providing for the representation assigned to a State under the rule of apportionment by the law of 1850, it was found necessary, in order to give to some of the States their due number of Representatives, that some large fractions should be represented; but yet that was not by the act of the law assigning a Representative to the fraction. It was only assigning the number of Representatives by the apportionment to belong to the State in proportion to her population, which sometimes would make a fraction represented. That I understand to be the exact condition of the apportionment law. Now, with the fact ascertained by means of a Federal census that Minnesota is entitled, under the existing rule of apportionment and under the Constitution, to but one Representative, it is not only proposed to make that fraction—less than the Representative number—the basis of representation, but to go far beyond it, and to assign to her three instead of one Representative. And how is this sustained in the debate?

Honorable Senators have said—among them, the honorable Senator from Missouri [Mr. POLK]—that we ought to be liberal, inasmuch as this is a new State, and as population has been pouring very rapidly into it, and as the exigencies of a new population would require that the head of the family (the husband, I suppose, or father) should, for his convenience, or that of his family, go alone and stake out his claim, and commence the building of his cabin; and we are to assign to him not

only what he counts numerically in the population, but we are to assign to him, not his family, but his conjectured family, and make them a portion of the population of Minnesota. This idea was first introduced here, according to my recollection, in the case of California. I remember that an honorable Senator then, but not now a member of this body, sought to establish that rule in fixing the representation of California. There had been no census there whatever. They did not give us time to make a census. California came and presented herself here, asking for admission under a constitution formed in a hurry by the act of the people, without any form of law, except the proclamation of a military officer of the Federal Government, and said, through those who represented her on this floor, "from the circumstances attending the population of California, we have a right to infer that she has a population of at least two hundred thousand"—a wilder conjecture, I think, than seems to be made in the case of Minnesota, but still a conjecture; and one honorable Senator said we are not only to estimate those who are in *pedis possessio* of California, but we are to take it for granted that every man who went from the Atlantic States to California left a family behind him, and that it is his purpose to take them there; and that in estimating the population of California, we are to ascribe to it this conjectural population which the emigrants left at home!

What is the difference between what was said there and what is said here, and what is the difference between that suggestion as a basis of our action here in assigning political power, and that which falls from the Senator from Missouri? He says that many—I do not know how many, nor does he know; but a conjectural number—of those who intend hereafter to settle in Minnesota, have gone there and made preparations by staking out their claims, I believe in the western prairie, and by beginning to build a cabin, and that we are to presume they left behind them wives and children who, because they are to follow after them at some time, we are to estimate now as a portion of the population of that State. If I were allowed to conjecture, with certainly far less information of the character of the population there than the honorable Senator possesses, I should say that the chances are in going to one of those remote Territories, and Minnesota is a very remote one from the Atlantic States, that the larger portion of the population who go there are men who have no families, young men with little more than health and enterprise and their brawny arms, to make their way in life—the very best part of our population, but the very men who have not yet had it in their power to incur the responsibilities of a family. I may be wrong in this conjecture, but it would seem to be at least as probable as that of the honorable Senator from Missouri, or those who think with him.

But be that as it may, when this Government is little more than three fourths of a century old, whose only stability can be hoped for in a regard to the written compact on which the Government reposes, are we, at this day, in so important a matter as assigning political power to the States, to depart from the Constitution, and to base it upon wild and reckless conjecture, a conjecture which may be right, but which in all probability is utterly wrong? Why, sir, see how it would work. If we have the right to assign three members in the House of Representatives to Minnesota, what earthly security have we that under an excitement which may exist in the country, actuating a majority here to carry a political act, they would not assign to a new State ten or twenty members to attain a political object? Sir, there is no curb but the Constitution, and if you depart from that, we have not the guarantee of a day for the stability of this Government.

Other Senators have said that there are evidences before them, or perhaps by written communications from that country, that this census was imperfectly taken; that, in many instances, the officers refused to take it at all, because they were not satisfied with the compensation; and that, at best, in a new country, it is a difficult thing to get an exact census. I agree to this. It is a difficult thing anywhere to get an exact census. We know that whenever the decennial apportionment of representation comes before either House, a struggle is made by the different sections of the

country, and by different States, to get more of the political power of the country, by all sorts of reasoning, which will shield them from the restrictions of the law. It is familiar to those who were here in 1850, that the complaint was from every State exactly such as is made here now from the State of Minnesota. In some instances it was said that frauds were practiced, in other instances it was said that there was such looseness that no kind of regard ought to be paid to the census; and I remember very well that we were importuned to listen to these evidences that satisfied the parties interested, to depart from the census and assign to them a larger share of political power than the census would give them. We did not do it; but we had exactly the same right and the same inducements, and we had precisely the same responsibilities, to refuse it then which should bind us to refuse it now.

The States of this Confederacy were intended to be equal. It is stipulated for in the Constitution, and I would pray and implore Senators not to depart from that equality which alone can make the condition of this Government tolerable, or to be endured.

I say again, with perfect candor and frankness, that I have no design or wish, nor is it contemplated by the amendment I have offered, to deprive this State of any portion of her due political weight in the Confederacy; but I would most earnestly remonstrate against assigning to her that which she is not only not entitled to, but which the law and the execution of the law show that she is not entitled to. I differ altogether with the Senator from Georgia and the Senator from Tennessee, that we can get at the proper representation of this State by leaving the clause as it stands in the bill now, thereby assigning it to the House of Representatives. Sir, the House of Representatives has no power over the subject; none under the Constitution; none under any existing law. The honorable Senator from Tennessee, and I think the honorable Senator from Georgia, also, referred to that clause of the Constitution which makes each House the exclusive judge of the election, returns, and qualifications of its members, and drew from that clause the power, in the House of Representatives, to determine what should be the number of the Representatives from Minnesota if the second section shall be allowed to stand in the bill. I deny that absolutely. What is to be determined under the second section of this bill? Anything affecting the election of a member? Anything affecting the return of a member? Anything affecting the qualifications of a member? Certainly not. What is to be determined under that clause, whether it be done by law or by the House of Representatives separately, is, what shall be the number of Representatives of the State of Minnesota?—a question not affected either by the election, the return, or the qualification. The point is, what shall be the number, and what does the Constitution say? The Constitution says the number shall be fixed by law. I would therefore say, as the best construction I can place on a very equivocal provision, that if the clause remains as it now is, it will be found that Minnesota is entitled to but one member, not by the express declaration of the law, but by implication and by construction, because none but the law can assign the number that shall belong to any State.

I have said in good faith that I have no desire in the world to put a straw in the way of the admission of Minnesota into the Union as a State. I am satisfied that the objections I have made, are objections founded upon constitutional faith between the States. If it is departed from, by assigning to this State more than she is shown to be entitled to under the census act and the rule of apportionment, it will be a departure from the Constitution, at the expense of all the other States of the Confederacy. I can, under no circumstances, vote to admit a State with that undue assignment to her of political power in Congress. It will be with great regret that I shall feel myself compelled to vote against the admission of this State, because, in my judgment, it would involve an absolute departure from the faith, as well of the law, as of the Constitution. The effect of my amendment only, is to assign to her one member; to fix by law the representation that she shall have, and to fix it at one member, because, as I construe the law and the execution of the law—I

mean the census act—it is shown that she is entitled to but one. At last, what practical result is attained by insisting upon more? We shall have another general census within two years. Then the political power to be assigned to Minnesota will be ascertained, as it will be for all the States, by a new apportionment under a new census, and at last she will be entitled to exactly the same political weight relatively in the Confederacy that is assigned to all the other States, as based on representation, with this advantage, if it be an advantage, that belongs to her position, that her population is increasing, I understand, from the emigration there, every week and every month, giving to her in the estimate of population that has been made, advantages that cannot be given to the other States, no matter what their population has been, or what increase may have taken place in their population since 1850; and, I doubt not, in a great many of them there has been a large increase since that time.

Mr. JOHNSON, of Tennessee. I wish to make an inquiry of the Senator from Virginia if he will permit me to do so.

Mr. MASON. Certainly.

Mr. JOHNSON, of Tennessee. In 1843, after Congress had passed a law, or rather issued a *mandamus* to each State to lay off the State into congressional districts, many of the States refused to do so, but proceeded to elect their Representatives by general ticket, in violation of the law. They presented their credentials to the House of Representatives, and the House determined that they should take their seats, that body having the power to do so under the clause of the Constitution making it the judge of the elections, returns, and qualifications of its members. That is a fact; and it does seem to me that the Senator from Virginia has made an unanswerable argument in favor of the provision of the bill as it now stands. First, the Constitution gives to each State one member, without reference to the number of her population. Next comes in this provision of the enabling act. That is the law of the case. It gives to Minnesota one Representative, and as many more as she can show herself to be entitled to under the Federal census. The law, as it now stands upon the statute-book, fixes the ratio at ninety-three thousand four hundred and twenty, and each State is entitled to one member of the House of Representatives for every ninety-three thousand four hundred and twenty Federal population that it contains. The House of Representatives is the proper tribunal to determine that question. The ratio being fixed by law, when the members present themselves it is for the House of Representatives to determine whether the State is entitled to as many as claim admission. I thank the Senator for the argument—for I think it is an unanswerable argument—in favor of the provision as it stands.

Mr. MASON. I should feel very reluctant to give a different version to the very feeble arguments which I have endeavored to advance here in opposition to the views taken by the honorable Senator from Tennessee. If the reasons that I adduced to show that the House of Representatives has no power to construe this law have satisfied him of the reverse of the position that I endeavored to show, I most certainly leave him in possession of that opinion; for I shall not endeavor to go over the ground again. It may be, and I believe it is, historically true that the law to which he alludes that was passed by Congress under the clause of the Constitution giving power over the subject, was disregarded by the House of Representatives; but I do not see how that advances the honorable Senator one step in his argument. What he has to show is this: that there is any power in the House of Representatives to construe that law. The law gives one Representative, and no more—I mean the section which I propose to strike out. It provides that if, at a future day under the census, it shall be found that it is entitled to more, more shall be given—given how? By the House of Representatives? Certainly not. Given by law; a law ascertaining the fact, and a law fixing the number on the fact.

The objection is that the law does not do it, and there is no tribunal to which it is referred to ascertain it. The clause says that the State shall have one Representative, and as many more as, under existing laws, she may appear entitled to by the census. Who is to ascertain it? The

Constitution says the law shall ascertain it. You may say the law has attempted to ascertain it, but it has not done it, for it has not fixed the number numerically, and has provided no tribunal to do it. The House of Representatives has no more power to do it than the Senate has. The law has failed to do it. It is for that reason that, with very great diffidence, I concurred in the opinion advanced by some Senators here, that if the clause remains as it is, the only construction to be placed on it will be to assign to Minnesota but one Representative, because none but the law can increase the number, and the law has failed to do it. That is my impression.

I will not detain the Senate longer, but express the regret that I have occupied so much of their time in a matter which I feel is one of the very greatest moment, not only in its effect here, but as a precedent, for it is the assignment of political power to States. It is proposed to be done upon a conjecture, and a departure from the Constitution and the law.

Mr. CRITENDEN. I have but a very few words to say. I am sure that I should be willing to extend the most liberal construction that we could properly make on the Constitution and the laws, so as to give this new State all the representation to which she is entitled, according to population. But it seems to me that the gentleman from Virginia is entirely right when he says that the apportionment of Representatives is the apportionment of power, and it ought always, upon the principles of the Constitution, upon the very spirit of the Constitution, to be strictly observed in the apportionment of Representatives. As well as I recollect, it was for some deviation in this particular that General Washington exercised, for the first time in the history of this Government, the veto power. I think we are bound to adhere to a strict observance of this provision of the Constitution, because it is the very spirit and life of the Constitution—equal representation and equal apportionment of political power. I think the honorable Senator from Virginia is entirely correct, and one Representative seems to me to be all that, according to any scale or any rule, this new State can be entitled to. She is not entitled to more by the census of her population. Make all fair, legitimate additions to that for portions of the country to which this enumeration was not extended, and still, if I understand the case, she is not entitled, she has not the number necessary, to give her two Representatives. Why are we, by conjecture, to multiply that number arbitrarily? or why are we, for a fraction, to give her a Representative? The fraction, according to what I have heard, is not half the ratio of general representation that is required, which is over ninety-three thousand. She has not a fraction equal to one half that, according to the census actually returned. I agree with the Senator from Virginia, that it would be dangerous for us to go beyond that, and make conjectural computations of people who were not there when the census was taken.

There is another fact that I will state. There is not a member from any of the old States in the House of Representatives that does not represent a population beyond the census. They have been increasing now for eight years. We make no allowances for that. If we are to interpose here by special legislation, why should we not undertake now, upon mere conjecture, to take the reported and undoubted surpluses in many of the States and give additional representation for them? Gentlemen in the other House represent districts containing twice or thrice the number of the ratio; and would it be just and fair to vote to stretch the rights of a new State coming into the Union, by taking now a census of her population, giving her a representation for her population in 1858, when the other States are represented only according to the population of 1850? I do not think it is right. I do not think we ought to have any question about it. However anxious, and I think the anxiety a laudable one, on the part of members of this House to treat with great liberality a new State just coming into the Union, and I am sure I sympathize in this sentiment, I must observe some equality and some regard to the rights of every portion of the country, and particularly must observe and confine myself to the rule which I understand is prescribed by the law and the Constitution on this subject.

Mr. POLK. I certainly have never entertained

a supposition that the honorable Senator from Virginia was indisposed to do anything else than entire and equal justice to all the States, and the new States as well as the old States. I know I have said nothing that intimates that, and I shall say no such thing; but while I concede that to the honorable Senator, I beg leave to say that, in the few remarks I submitted on this question before, I certainly did not desire, and do not now desire, and shall not contend for, anything more than what I believe to be equal justice to this new State of Minnesota. If I did not believe that she was entitled to three Representatives, I certainly would not have assumed the position that I did when I was before on the floor. I do not claim that Minnesota shall have any more political power, or that she ought to have any more political power in this Government, than any of the old States, or any rights or privileges that are not accorded to the old States; but I do claim that, in fixing the representation for that State, we ought not to shut our eyes against what we must be convinced are the facts of the case.

If I did so present them, I did not certainly intend the remarks I made, in regard to the condition of a portion of the population in Minnesota, to have the exact bearing that the Senator from Virginia seems to have taken them in.

Before I dwelt on that particular point in my remarks, to which the Senator directed the attention of the Senate, I had pointed out, very briefly to be sure, the other main facts to which I cited this as subsidiary. We know, on the documents before us, that a perfect census has not been taken. We know that some counties are entirely unreported—I shall not undertake to state the exact number—yet I believe it seems to be the common opinion of the Senate that those counties ought not to be overlooked. I say that common justice requires that we should not ignore the fact that there are people in counties where the census does not show any; when the vote cast for these very gentlemen, whose seats are now in question, shows that there were hundreds of legal voters, who were not only qualified to vote, but did actually vote in that election.

I say we ought also to look at the further fact that the proportion of population to the voter, as shown by this vote, and comparing it with the census, is much less than it is in the older States; and when we have that fact, we cannot, as reasoning men, avoid what is the rationale of the fact how it comes to be so; and when we come to look at that, we must necessarily also look at the further fact that this is a new State just being populated by emigrants who have recently gone there, to be sure, but who, though recently there, are just as much citizens of the State as those who have been born and bred in an old State are citizens of that.

Senators have said that they are willing to deal liberally with this new State. Certainly a new State is entitled to liberal dealing; but I do not even claim that. I say that what is asked for by those who claim three members for this State is supported on grounds of justice. Suppose it to be true that there are some States in which fractions are not represented; suppose it to be true, as I believe it to be in my own State, that we are here with seven members in the lower branch of Congress, whereas if a census were taken to-day we should be entitled, perhaps, to two additional ones, certainly to one additional member: yet when Minnesota comes asking admission into the Union, the fact that the State of Missouri may not have as much of political power in the Confederacy as I believe it was the design of the Constitution she should have, and cannot have it until the next decennial census shall be taken, is no reason why Minnesota should not have all that her population entitles her to.

In this view of the case I say that the fact to which I called the attention of the Senate is not to be overlooked. I did not offer it in the sense in which the Senator from Virginia seemed to receive it, as the main ground on which I based the claim of Minnesota to three Representatives in the other House of Congress; but I say, in view of the case which I have presented, it is a fact going to show not only that you would not be doing anything beyond liberality, but nothing beyond justice, in giving what this State asks as her portion of political power in the other branch of the Legislature of the United States.

I say, we cannot ignore the fact that the state of population there is what I indicate. Heads of families have gone there in great numbers; have settled there; have spent their money and employed their labor there, to make for themselves homes; and though their families were not there when the census was taken, they will be there before the end of the present season. Now, the Senator from Virginia supposes the fact to be, that many who have gone there are young, unmarried men, who have gone to win their way by their own good right arms, and their own clear heads, in that new country. I believe that is so, and, so far as that class of population is concerned, they are entitled to no more than each individual will count in taking the census; but, while that is so, we know that they are not all, nor a majority, nor even a large proportion, nor even, I undertake to say, one quarter of those who have gone into this Territory. The great majority who have gone there have gone for the purpose of making provision for the families that they could not so well raise to respectability and influence in the old States as in the new; and, having a proper paternal regard for those families, they, of course, have not undertaken to take them there when they would have nothing but canvas to put over their heads. They have gone themselves, being willing to live under canvas for a season, for the purpose of making a home to bring their families to. They may not have entirely completed those homes. As I stated when I was up before, I have information, which to me is entirely satisfactory, that, at least in one county, a great majority of those who voted, and of those who were registered, were circumstanced just exactly as that class of emigrants is circumstanced in every new State.

Now, sir, what is equal justice to this new State of Minnesota? What is giving to her not more political power than she is entitled to in this Confederacy? That is not the claim—certainly it is not the claim on my part; but what is giving to her her equal power in the Confederacy? The facts are patent before us; we have the evidence that in some counties no census at all has been taken; we have the evidence, satisfactory to my mind certainly, and I was going to say, to the mind of every Senator, that in a great majority of the counties in which the census was taken, it was imperfectly taken; and we have the further fact that this imperfection results from the circumstances of the country; and though the Senator from Virginia says the census is imperfect in the old States, and I admit it, I say, comparatively speaking, it is infinitely more perfect there than it can be in any new State, and as we know it was in this new State of Minnesota. Under these circumstances, what does equal justice require? Can we shut our eyes against these facts? Are we to say to this new State, we will bind you down to the number that is shown by this census thus imperfectly taken, when we know the fact that, if the census had been taken ever so perfectly, it would have given the true exhibit of what is the potential and the legal population of the State.

Mr. TOOMBS. Will the Senator give way for a moment to allow me to make a suggestion in this connection?

Mr. POLK. With great pleasure.

Mr. TOOMBS. The difficulty seems to me to be, that gentlemen want some certainty about the matter; and, on the other hand, it seems that this State can have no representation at the present, certainly no fair representation, if less than three be allowed. I give notice now, that if this section be stricken out, as proposed by the Senator from Illinois, I shall move, then, the following amendments, as additional sections:

And be it further enacted, That said State shall be entitled to three Representatives, until the census authorized to be taken by the act of February 26, 1857, shall be again correctly taken and returned, and then she shall be entitled to as many Representatives as the present ratio will give her population thus ascertained.

And be it further enacted, That the Secretary of the Interior shall take all proper means to retake a perfect census of said State, and return the same as soon as the same can be conveniently done.

I simply propose to give her the three, and then to have this census, which is universally admitted to be imperfect, corrected, and as soon as that is done, to let her representation be according to her exact population on the present ratio.

Mr. FITCH. I wish to suggest to the Senator

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, MARCH 26, 1858.

NEW SERIES....No. 84.

from Georgia that there is an apparent omission in his amendment; an omission which will lead to the same defective census of which we are now complaining. He makes no provision for defraying the expense, and that was the real difficulty before.

Mr. TOOMBS. That can be done in an appropriation bill.

Mr. FITCH. There was no appropriation before, and that caused the difficulty in regard to the taking of the census.

Mr. TOOMBS. I give notice that I shall move this amendment if the section be stricken out.

Mr. POLK. If proper provision shall be made for having a fair census taken, certainly the proposed amendment of the Senator from Georgia is entirely satisfactory, and I believe it is perfectly fair.

Now, sir, I shall not detain the Senate; but I was about to remark, when I was interrupted by the Senator from Georgia, that I of course do not know what took place in the discussion on the admission of California in reference to the proportion of representation that she ought to have had at that time in the House of Representatives. I protest against Minnesota being put on the arguments that were then adduced; but from the reference that is made by the Senator from Virginia to what was said by Senators on this floor in the case of California, I infer that the facts to which I called the attention of the Senate in reference to the actual and certain condition of a large proportion of the emigration into this new State of Minnesota, were such as to strike the minds of Senators who were acquainted with the condition of the new States in former cases. I agree with the Senator from Virginia in reference to his views on the propriety of fixing, by the act of both Houses, the number of Representatives to which the State is entitled; but I do say that Senators, in being very anxious to do justice to the older States in the Union, ought also to recollect that in that anxiety, unless they are careful, they may do injustice to a new State that is seeking admission into the Union. While, on the one hand, I would be as far as the Senator from Virginia, or any other Senator on this floor, from asking for Minnesota any more than she is entitled to, yet I do certainly think that we cannot look at the true state of the case in this Territory without being satisfied that she is entitled to at least three Representatives in the Congress of the United States.

As I said before, she has a territory that stretches over as many square miles, I am informed, as are contained in both the States of Ohio and Pennsylvania, or nearly so; and her population is scattered over nearly that entire territory. This census has been taken under circumstances as disadvantageous as we know must belong to a population thus sparsely scattered over a new territory, without roads or bridges or means of convenient traveling; and there was no provision made for paying the men for doing the work. This work was to be done in a new country, where wages are high, and where what may be very good compensation in such a State as Massachusetts or New York, where the population is dense—for the pay was *per capita*, I believe—would be insufficient. A man can take hundreds and thousands of names in a short time in a dense population. In Minnesota, where a man must travel hundreds and thousands of miles to get the same number of names, the compensation that would be abundant in the old States would be nothing in Minnesota, and would not tempt a man to do it. I am only surprised that this census, imperfect as it is, has been taken with the degree of fulness that it has been under the circumstances; and I think, if I may be allowed to say so now, that this enabling act, in this particular, in regard to Minnesota, did that State injustice necessarily, not intentionally; but Congress, in passing that act, did not make the machinery, did not provide the ways and means without which it was impossible that a correct census should be taken in that new State.

Mr. BAYARD. I should be disposed to do jus-

tice to a new State quite as much as to an old State, but I think it preferable to adhere to the intent of the Federal Constitution, and to the mode of the apportionment of representation among the States in accordance with its spirit and intent, rather than to adopt any new rules of evidence in regard to old or new States. Under the Constitution there are two bases of representation: one is the right of a State to a Representative without regard to her numbers; the other is, that after the first apportionment was made the Constitution provided for a decennial enumeration of the inhabitants and that the representation of the States should be based on that decennial enumeration. That is done under a general law. When a new State presents herself the proper course is, as I suppose, that which was taken in reference to the enabling act of Minnesota. We provided that she should have authority to form a constitution; and the provision goes still further, and adopts the same rule by which we apportion Representatives in the other States, the same evidence for the purpose of apportionment; that is, an enumeration of the inhabitants of the State. There has been an imperfect execution of that. So there were as regards the general census when we made the apportionment in the year 1850; there were many complaints made.

I can see no reason, arising out of the fact that there may be imperfections, for your undertaking, by conjectural calculation, to allow to a State representation based, not upon enumeration, but upon entirely conjectural estimates. I can never agree to it. If there has been a defect, I am willing to remedy that defect by a law which shall provide properly for an enumeration. In the mean time, the State should be content with the representation which the Constitution gives her, which is one Representative until you have, by enumeration, ascertained that she is entitled to more. That, I think, is the position in which every State stands. I am perfectly willing, therefore, if this enumeration is considered so defective as not to do justice to Minnesota, that, allowing her one Representative now, we shall provide in the same bill a clause for the enumeration, and the returns to be made between this and the 1st of December next, and make proper preparation for having them made; and then, when these returns come in, to give the representation she would be entitled to, according to a fair enumeration; but I am not willing to resort to any calculation of population from votes. It is the most illusory mode of calculation imaginable. It varies, in different parts of the country, from four up to nine. In the last presidential election, there were districts in Pennsylvania in which the relative proportion of population to voters was as three and a half to one. In a new State, of course the relative population of a State just settling to voters, would be greatly less than it would be in an old State; but there are variations. It is an utterly uncertain rule.

But the greatest objection I have to it, is that it is not the rule the Constitution prescribes. It is not an enumeration, it is a conjectural estimate. I see no particular hardship in admitting the State now, if she gets her constitutional representation, which is one, in the absence of the legitimate constitutional proof that she is entitled to more; to provide in the law for taking a census, and making an appropriation for the purpose of taking it; and then if she is entitled to three or more, I am perfectly willing to give her whatever she is entitled to. But if gentlemen object to that, I am willing to go thus far. Now we have the census returns, and they show about one hundred and forty-six thousand inhabitants, independent of three counties from which no returns have been made. I am willing to suppose the whole number to be one hundred and fifty thousand. By taking the ratio of representation which is ninety-three thousand four hundred and twenty, you find that the fraction over is as great as the lowest fraction under which any present State holds its representation.

I am willing therefore to give two Representatives instead of making the present provision. I

am willing to take either course; I rather think it would give two, though yesterday I was inclined to the contrary opinion; I believe the lowest fraction at present represented in Congress under the rule of apportionment is in the State of South Carolina; and my impression is, that the fraction in that case is less than one half of the proportionate number—that is, less than half of ninety-three thousand four hundred and twenty. If that be so, on the census returns as made, Minnesota would be entitled to two Representatives; and if you are willing to take the returns, although there may be irregularities, although there may be imperfections, I am willing that my vote shall accord to her two Representatives if I am right in the result that has been arrived at by the enumeration; but if gentlemen desire to abandon those returns as not reliable, then, in my opinion, there is but one constitutional course—to admit the State with the one Representative to which she is entitled under the Constitution, and to provide by law for remedying the defective enumeration by taking the census between this and the first Monday of December next, making a proper appropriation to take it rightly, and then giving the State at the next session whatever number of Representatives that enumeration shall show her to be entitled to.

I think a great deal of the difficulty has arisen from the fact, which I never shall vote in any case, whether it comes from a new or an old State, to countenance, that Minnesota, in her inchoate condition, before admission, has undertaken to violate two laws of the United States—first, she has undertaken, in the schedule to her constitution, to tell us what number of Representatives she shall be entitled to, to determine that matter for herself. I recognize no such authority in any State of this Union. It belongs, under the Constitution, to Congress, and I would keep the States, as well as the Federal Government, within their own proper orbits. Further than that, she has undertaken to violate another law of the United States, passed on solemn consideration. With a view to the protection of republican principles, and to avoid combinations, Congress has provided that the election of Representatives in Congress shall be by single districts. The Legislature of Minnesota is in session, and if that State is entitled to more than one member, it should have provided for single districts; but the schedule to the constitution undertakes, in defiance of the law, to prescribe that the State shall be one district, and shall be entitled to three members.

I recognize no such right as that; nor do I mean by any vote of mine, to recognize an assumption of authority, on the part of a new State or an old State, to override the laws of Congress, legitimately passed. I, therefore, cannot vote to strike out this provision in the bill; because, if we admit Minnesota without any provision on the subject, we should necessarily be sanctioning the number she claims, and giving her that number, with the right, also, to elect three members in one district. I mean to do neither the one or the other. If the right belongs to her, it belongs to every State; and if the policy is sound and republican that we should elect by single districts in one State, we should in all the States. I say no inchoate State, and no full-grown State, has a right to assume to herself to alter the laws of the United States that are passed in accordance with the legitimate powers vested in the Federal Government. Therefore, if this section be stricken out, I shall vote against the bill. If it remains, I shall cheerfully vote for it. I desire to see the State admitted; I desire to see her admitted according to the principles of the Federal Constitution; and I desire, also, to adhere to the Constitution as to the mode of evidence by which her right to representation is to be ascertained. From these principles I do not mean to depart; for I have seen too often that the expediency of the hour tempting you to depart once from a principle, may ultimately lead to much worse results than gentlemen suppose.

Mr. IVERSON. I see there is no probability that we shall get through with this bill to-night, as I anticipated this morning when the Senator from

Michigan and others thought we could get through with it in ten or fifteen minutes. The Committee on Military Affairs desire to promote the public business by seeking an executive session. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the doors were closed. After being some time engaged therein, the doors were reopened; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 25, 1858.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House a message from the President of the United States, transmitting, in compliance with a resolution of the House of Representatives of the 26th of January, requesting the President to communicate to the House "so much of the correspondence between the late Secretary of War and Major General John E. Wool, late commander of the Pacific department, relative to the affairs of such department as has not heretofore been published under a call of the House," all the correspondence called for so far as is afforded by the files of the War Department; which, on motion of Mr. FAULKNER, was referred to the Committee on Military Affairs, and with the accompanying papers ordered to be printed.

LAND CLAIMS IN NEW MEXICO.

The SPEAKER also laid before the House a communication from the Department of the Interior, transmitting new schedules of public and private land claims in New Mexico, reported by the surveyor general of that Territory; which was referred to the Committee on Private Land Claims, and ordered to be printed.

FOREIGN MAIL SERVICE.

The SPEAKER also laid before the House a communication from the Postmaster General, transmitting estimates of the sums required for the foreign mail service, and across the Isthmus of Panama, for the year ending July 1, 1858; and estimates of the sums of money required for the service of the year ending June 30, 1859; which were referred to the Committee of Ways and Means, and ordered to be printed.

THE KANSAS QUESTION.

Mr. STEPHENS, of Georgia. Mr. Speaker, in order that all sides may be prepared, I wish that, by common consent, some day may be fixed when action shall be taken on the Kansas bill. I am willing that ample time shall be given for discussion, and that no hasty steps shall be taken.

Mr. CAMPBELL. Mr. Speaker, this question of the admission of Kansas has been discussed during the whole of this session. Kindred questions have been discussed, to my personal knowledge, for the past nine years, and I think I may appeal to the Speaker for testimony to corroborate what I say. This Kansas question stands now in the way of all the material interests of this country. It blocks up public business and private business. For one, I am ready to meet the question to-day, or to-morrow, with or without debate. I feel it due to the great interests of the country that we should come speedily to a vote. I therefore suggest to the gentleman from Georgia that, by common consent, we agree to take up that bill to-morrow.

Mr. WASHBURN, of Illinois. I object.

Mr. STEPHENS, of Georgia. I would suggest, Mr. Speaker, to the House—

Mr. WASHBURN, of Illinois. The House is unusually thin at this moment, and perhaps upon consultation, when more members are here, some day may be agreed upon by common consent; but I am not willing now to make any agreement.

Mr. BURROUGHS. Is this question in order? If it is not, I object to the whole thing.

The SPEAKER. It is not in order.

Mr. UNDERWOOD. I would be very glad if the gentleman from Georgia would indicate a day when, in his judgment, we should take action upon that bill.

The SPEAKER. The gentleman from New

York objects to any further debate upon the question.

Mr. CAMPBELL. Neither the gentleman from Georgia, nor myself, nor any other member, has a right to indicate when this vote shall be taken, but—

Mr. BURROUGHS. I inquired of the Chair if this question was properly before the House. If not, I objected.

The SPEAKER. The Chair answered that it was not regularly before the House.

Mr. STEPHENS, of Georgia. I will then simply give notice that next Tuesday week I shall move to—

Mr. CAMPBELL. Allow me to suggest to the gentleman that he say next Tuesday.

Mr. PHILLIPS. Say this day week.

Mr. CAMPBELL. This House has already agreed to adjourn upon the first Monday of June, and it will be impossible to transact the business of the country in that time, unless we speedily act upon this Kansas question.

Mr. MONTGOMERY. I wish to suggest that, in all human probability, if not embarrassed by action now, we may make some mutual arrangement fixing the day when this matter shall be brought up and acted upon. But we never can do it by this kind of discussion in the House. We had better have an agreement which will suit all parties; and I think it can be consummated, if gentlemen will only wait. Perhaps during the day the arrangement can be made, and notice given of it.

Mr. STEPHENS, of Georgia. Well, I withdraw my suggestion.

Mr. LETCHER. Allow me a single moment. We have the deficiency bill before the committee; and as it is my desire to endeavor to get it disposed of, I trust, as the House has agreed that this debate is to close to-morrow night, we may go on with the measure and dispose of it between that time and Tuesday. If it is to go over, and other matter is to intervene, we will probably occupy three or four times as much time in the end, as we shall occupy now in bringing it to a conclusion.

Mr. STEPHENS, of Georgia. As I think an agreement will be made I withdraw my suggestions, and move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

JOHN HASTINGS.

Mr. KUNKEL, of Pennsylvania, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to this House all information in his possession, including reports by persons appointed to examine the case, relating to the alleged robbery of John Hastings, late collector of customs at Pittsburg.

MEMORIAL AND RESOLUTIONS.

Mr. BILLINGHURST, by unanimous consent, presented the memorial of the Legislature of the State of Wisconsin, for the amount of the five per cent. due from the sale of public lands lying within that State; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORGAN, by unanimous consent, presented a joint resolution of the Legislature of the State of New York, in reference to the admission of Kansas; which was laid on the table, and ordered to be printed.

BREAKWATER IN DELAWARE BAY.

Mr. LANDY, by unanimous consent, reported from the Committee on Commerce a bill making an appropriation for constructing a breakwater on Crow shoal, in the Delaware bay; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. GROW. I call for the regular order of business.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to allow me to report two bills, merely for the purpose of having them printed. They are bills relating to the mode and manner of collecting and disbursing the revenue, and to which no gentleman perhaps will object.

Mr. GROW. I object; and call for the regular order of business.

The motion of Mr. STEPHENS, of Georgia, was then agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOCOCK in the chair,) and resumed the consideration of the deficiency bill.

Mr. TALBOT, who was entitled to the floor, yielded to his colleague, Mr. PEYTON.

ADMISSION OF KANSAS.

Mr. PEYTON. Mr. Chairman, in coming before the committee to-day to present my views upon a question which has been discussed for many days, I labor under considerable embarrassment; but, in what I have to say in regard to this question, I shall give you my views frankly and candidly, and the reasons why I am in favor of the admission of Kansas under the Lecompton constitution.

In order to make up a fair and just opinion on this question, it is absolutely necessary to trace up its history and origin; and to take not only the recorded evidence, but the under current, got from newspaper reports and conversations had with various persons, and bring all in as auxiliary testimony. I admit that this question is complicated; that it admits of doubt; and I think that the only way to arrive at a just conclusion in this matter, is to lay aside all party prejudices, and examine it with scrutiny, carefully and honestly. I have no doubt that thus we can come to a just conclusion in regard to it.

Now, sir, ten years ago I was a member of this House. After the passage of the Missouri compromise in 1820, peace and tranquility were restored to the country. But, growing out of the Mexican war, we had acquired a large extent of territory. A question then sprang up as to what disposition should be made of that acquisition. The northern men said that no slavery existed in that territory, and that they never would give a vote to extend slavery into territory then free. The southern men said: "We contributed our share of men and money in the acquisition of this territory. The bones of our sons, who died to acquire it, now bleach upon the plains of Mexico; and we ask to have a fair participation in its benefits." The North refused; and the gentleman now in the chair, and others around me, well recollect the struggle that followed at the close of Polk's administration.

That was the spirit that pervaded the North. The southern men found out that, although northern men were willing to stand shoulder to shoulder with them and fight the battles of the country, yet, if territory were acquired by their joint blood and treasure, the South would be excluded from that territory. Then it was that alarm spread through the country. The sage of Ashland and the statesmen of that day came forth from their homes and settled that great question. And how was it settled? The Democrats of the North, while many of them entertained the opinion that Congress had power to exclude slavery from the Territories, agreed that it was unjust to the South to do so; and they were willing that both southern and northern men should go into the Territories, and settle there as friends and neighbors; and, when they came to form a State government, they should take the vote, and slavery should be recognized or excluded, according to the will of the majority. That was fair and just. But no sooner had that bill passed, than there was a storm created in the North in opposition to it.

Again, Mr. Chairman, in 1854, Congress met; and, inasmuch as a portion of that territory which was governed by the Missouri compromise had been taken to make up the territory governed by the compromise of 1850, Congress repealed the Missouri restriction, and applied, in 1854, the same principle that had been applied in 1850.

What then occurred, Mr. Chairman? Did parties all submit to the will of the majority, and agree faithfully and honestly to abide by the law of Congress? Not so, sir. An organization sprang up into existence at the moment. That organization contributed men and money; the avowed object being to send men into Kansas, to maintain them there, and to get them to vote slavery out of the Territory.

Now, sir, in all sorts of difficulties it is a matter of the first importance to find out who was the aggressor—who was wrong in the beginning. I do not care how pure and patriotic were the motives of the association; for they sent into the

Territory men who, if they were not bad men when they started, became bad after they got there. They were clothed, and fed, and maintained by the society, under the pledge that they would vote to make the Territory free.

Now, what was the natural consequence? What would any other State, situated as Missouri is, have done? The report spread all through the State of Missouri that Massachusetts was sending men into the Territory by hundreds, to make that Territory free. The people of Missouri thereupon determined to go there, and stand around the polls, and see that their friends had an opportunity to vote. The idea had gone out in Missouri that the free-State men in the Territory would take possession of the polls, and prevent pro-slavery men from voting. Well, the Missourians went into the Territory, and stood around the polls, and some of them, I have no doubt, voted. The great bulk of them, however, merely stood around the polls, with their rifles in their hands; kept off the marauders, and allowed their friends to vote.

Now, I say there was a majority of pro-slavery men in the Territory of Kansas, at the first election; and, as evidence of that fact, I refer to the census. A registry was taken, and there was a clear and decided majority of three, or four, or five hundred votes of pro-slavery men in that Territory. Another proof of that fact is, that the Governor of the Territory—the only official authority that we have to speak from in relation to that matter—said that, although there was fraudulent voting, yet that a majority of the delegates to the Legislature were elected without fraud; and, therefore, he unhesitatingly gave the certificates to a majority.

What next followed? That Legislature was recognized; a Delegate was elected and took his seat here; and, from that day to this, Congress, the President of the United States, and the people of the Territory of Kansas, except those who refused to submit to the laws, recognized that Territorial Legislature as legal and binding.

What next occurred? That Territorial Legislature passed a law, authorizing the people to vote for, or against, a convention to frame a State constitution; and all the people concurred in the opinion that they ought to have such convention. A free-State paper there, the *Kansas Herald*, said that the people all voted on that occasion, and that there was no opposition to the calling of the convention. Delegates were nominated and elected, and the convention met. The free-State party, if they did not wish to have that convention, could have gone to the polls, and, if they had a majority, voted it down. If they refused to vote, it was their own fault. The pro-slavery men were elected, and, in obedience to the wishes of their friends, they framed a constitution and submitted it to the people. They were elected in June. Governor Walker, who had then been sent into the Territory, called on the free-State men to come forward and vote. He went through the Territory and made speeches; he begged and implored them to take part in the election; he told them that the peace and prosperity of the Territory, in a great measure, depended upon them; he told them that if they would come forward and vote, and if they had the majority, and would go on and form a State government, he had no doubt Congress would be liberal to them, and would give them liberal grants of the public lands; and that they would do a deed that would entitle them to the gratitude of the American people. But, mark you, he told them that if they stood off, and refused to vote, the persons who did come forward and vote would elect their candidates; and those who did not vote would delegate the power to those who did to vote for them, and they would be bound by the action of the delegates elected.

Now, it is alleged that there was a fault in the registry; that some nineteen counties were disfranchised; and that the persons living in those counties were not permitted to take part in the election. Mr. Chairman, what is the fact in regard to this charge? The officers executed their duty faithfully. They registered every man they could get to register. But in three or four of the counties the people would not give their names. They threatened violence to the officers, and drove them from the counties. Others gave fictitious names. Then, sir, it was their own fault that they were not registered.

But, sir, everywhere in the counties where the registry was completed there was a large majority in favor of the constitution. There were nine thousand two hundred and odd voters registered in the Territory, and some two or three thousand voted at that election. Taking the doctrine that is admitted here on all sides, that those who did not vote authorized those who did to vote for them, and the fact that a majority of those who did vote voted for the constitution, it makes no difference what was the number, the election was binding on all. It is to be taken for granted that those who did not vote were either indifferent or were perfectly satisfied to let those who did take the trouble to vote, vote for all.

But, Mr. Chairman, there can be no dispute as to the fairness of the election in the counties where the registry was completed. Now take the vote that was polled on the 4th of January last, in which our friends on the other side of the House say ten thousand two hundred votes were cast—my own judgment is that they did not cast any such vote; but taking it for granted that they did cast that number of votes, and still nine thousand and odd of that number were cast in the counties that were registered. But unless you can show that a majority of the people were left out of the registry, unless you can prove that in those counties where there was no registry taken there were voters enough to have changed the result, then the election was valid and binding. But our northern friends tell us, "Do you want to cram a constitution down the throats of the people against their will?" I answer that I have no such wish. But, sir, when a community settle in a Territory they must have some law by which they are to be governed; they must have some rules and regulations to go by. If a portion of them desire peace and harmony and good government, and another portion desire disturbance, and will submit to no law, I say that all law-abiding men in this House and in the country should strengthen and encourage the men there who desire and are seeking to establish law and order. Now, sir, what would be the condition of a community where a large portion of the people were standing out, marauding and deprecating continually upon the community, and who were against all law? Is it not the duty of every man who desires the peace and harmony of the country to encourage and sustain the men there who are striving to maintain peace and good order?

Well, sir, the delegates to this convention were elected. They went on and made a constitution; they submitted that constitution; they applied to it all the forms of law. Is it to be thrown back upon those marauding and law-defying people? Mr. Chairman, if these men had been correct, straightforward, honest men, when Governor Walker told them to come forward and vote—that they should be protected in their rights at the ballot-box; that he had troops there to protect the polls; that if they had the majority they could make just such a constitution as they chose; that if they did not vote, the pro-slavery party would elect their delegates, and they would be bound by the result—I say, if they had been honest, correct men, why did they not come forward and vote? Why, sir, they never wanted a constitution. The object of that party, from the very moment they landed in Kansas, was to keep up a political excitement, instead of making a constitution, or abiding by wholesome laws. They came there to rob, and some of them to murder. I do not charge the party which sent them there with any improper motive. I make the charge against the men who were sent there. The party were not particular who were sent, to be sure. The emigrant aid societies raised the funds, and all who were willing to go were sent. Hence, the worst men, perhaps, men out of employment and of desperate characters, were forwarded to Kansas—the very men, sir, disposed to keep up a continual disturbance of the public peace. Yet grave legislators have told us here that these men are good and law-abiding citizens! They were refused the exercise of the right of franchise, we are told, and asked to have this constitution referred back to them, that they may make another.

Now, sir, what authority have we for thinking that if the constitution be referred back, they will make a better one? They have been at it for three years already. We have Governor Reeder's statement that they promised him to cease ma-

rauding and disturbing the peace, and abide by the ballot-box; and we have, too, the proof that they were faithless to that promise. Notwithstanding all this, and that the Legislature which authorized the convention was legally elected, and by a majority of the people, we are now begged by these men to reject Kansas, because there is a majority of the people opposed to this Lecompton constitution. I deny that there is any such majority in Kansas. Although the free-State party elected a majority of the last Legislature, and ten thousand votes were cast on the 4th of January against the constitution, there is no evidence to my mind that they have a majority in that Territory. Take the list and examine it. You find some ten or fifteen counties registered, and that those men gave, in those counties where the Lecompton constitution received a pro-slavery majority of six thousand seven hundred votes, some nine thousand six hundred votes, which is nearly the entire vote. Nearly every vote they polled was polled in those registered counties, where some six thousand seven hundred votes had been previously given for Lecompton. They gave, too, five or six hundred votes more than were absolutely registered in those counties. It is so reported and believed by many; and there is some evidence that they imported votes from Lawrence, where they had a surplus, to Leavenworth, where they were in a minority.

Mr. Chairman, let us examine this constitution. "Oh!" say our friends around us, "it should have been submitted." They say that when the people were called upon to vote, they were called to vote for the constitution with slavery, or for the constitution without slavery; and that the only question submitted was, whether the people should raise slaves without importation of new ones, or whether they should raise them and import them too. That is an unfair statement of the question. I think the convention acted more prudently than they would have done if they had followed the advice of Governor Walker. What did he tell them? He said: "Gentlemen, go on and form your constitution; make it free; protect what slaves are in the Territory, and I have no doubt in the world but that it will be adopted by a large majority of the people of Kansas." What did they do? They followed Governor Walker's advice, except in one particular. They could not take upon themselves the responsibility of making it a free State; but they would do precisely as Governor Walker recommended. They would make stringent provisions to protect what slaves were in the Territory. They would allow the men who owned slaves to be protected in their rights. What then? Then, said they, instead of making it free, they would submit the slavery clause to the people. If the people struck out that slavery clause, then what? Then, that it should be a free State, with the exception that the slaves in the Territory should belong to their masters until compensation was paid for them by the Legislature. I ask if there is any solitary free-State man, who has any idea of doing justice to the South, who would be in favor of taking the two or three hundred negroes there without compensation? What would be the consequence? It would raise a storm much more dangerous and perilous than the admission or rejection of the Lecompton constitution would raise; for the southern men who went there with their slaves, under the Constitution of the United States, never expected to surrender them without compensation. It would be unjust to take them unless compensation were made. It would be as much an act of injustice as if the slaves of Kentucky were set free by this Government without compensation.

What did this Lecompton constitution say? Look at it as you please, and slavery is the only question of controversy which is involved. Strike slavery out of the Lecompton constitution, and there would be no objection on the part of those who now oppose it. If there had been no slavery question, there would have been no trouble about Kansas. If those men of the North had wanted to do what was strictly right, and to make Kansas a free State, they would, in my judgment, have come forward and voted the slavery clause out. The Legislature had authority, by paying their owners a fair price for them, to emancipate the slaves that would be then left in the Territory. As just men, as men who desired peace, as men who desired to live in

harmony with their neighbors and brethren, ought they not to have come forward at first, and voted against the slave clause? Then what? A prospective law might have been passed by the Legislature emancipating all the slaves in Kansas, providing at the same time for paying their owners a fair valuation for their property; and thereby Kansas might have been made a free State.

But what are you now called upon to do? You are called upon to turn round and say that those men who have refused from the start to submit to law, who have organized their forces, and have their captains, their lieutenants, and other officers, that those men who have threatened and forced the free-State Democrats to join them by abusing them and their wives, and threatening to drive them out of the Territory unless they joined them—I say you are called upon to say that that party is right; and that the constitution should have been submitted to them, and that they should have had the opportunity to say whether they were in favor of that constitution or not. That is not, Mr. Chairman, the way, in my judgment, in which a good government can be carried on. The object of law always is to protect the weak from the encroachments of the strong and the vicious. Here is a party—and there is no denying it—with a military leader. He has his men, and they have decidedly the advantage of the Federal troops. The Federal troops have only the right to fight when necessary; but they have no right to vote. But General Lane and his men have both the right to fight and to vote. But they prefer to do neither. They kept up a great parade, kept themselves marshaled, and sallied out at one time to disturb one neighborhood; but as soon as they knew that the Federal troops were ordered out to punish them, they would be suddenly found in another place. Their whole object and aim from the beginning was to keep up a continual disturbance in the Territory—not to vote, nor to organize a peaceable government there, but to keep that country in continual turmoil.

Now, the newspapers in Kansas and in the northern States were filled with statements that the people of Kansas were down-trodden; that they were suffering wonderful afflictions from the border-ruffians; that they had been driven from the polls; and that they were denied the right of suffrage. What was the effect? The effect was to arouse a feeling of revenge in the bosoms of northern men. At the North they heard but one side, and that was that the people who had gone to Kansas from the North were down-trodden and abused; and hence it was that they were for seeing them placed right.

Mr. Chairman, there is a radical difference between the Democrats who stand upon the Kansas-Nebraska bill and the Republicans. The Republicans come out very boldly and honestly—and I look upon the great mass of them as being as honest as anybody—and tell us that if Kansas were to come here by a very large majority of the *bona fide* voters of that Territory, with a constitution tolerating slavery, they would not admit her; that they look upon slavery as a moral and political evil, and that they do not intend to vote for the admission of another slave State. Well, I do not know what that course will lead to, but it is frank and open, and I admire it. But what do our Democrats say? In 1856 we met at Cincinnati, and united upon a set of principles—a platform—one main feature of which was, that Kansas should have the right to regulate her own social and domestic institutions, slavery included, in her own way. The presidential canvass was opened; and the Democrats of the North came forward, and upon every stump they repudiated the idea that the Legislature of Kansas was not a legal Legislature. They spurned with contempt the reports then circulated, that Kansas was down-trodden and oppressed by the slave power. They said that this matter was all a political trick; that it was all intended to open anew the wounds of bleeding Kansas in order to elect Fremont; that it was to excite the passions of the free-State people and to induce them to believe that the people of the South had been doing injustice, and all this was done to enable the North to elect their Republican candidate.

But what do some of the northern Democrats say now? They turn round and say that they were mistaken; that those men in Kansas were

meek, and gentle, and pure men—just as pure as they make men in Massachusetts; that they had been raised and educated in that city of morals and religion, Boston; that when they left Massachusetts they were as pure as they could be. But it seems to me there was an innate diabolical disposition in their hearts, and as soon as they were brought into contact with the border ruffians they became more devilish than the border ruffians themselves. From the moment they entered the Territory they have kept up one continual disturbance, refusing to go to the polls to vote when called upon to do so. They were unwilling to take any constitution except the one which they made at Topeka; and that, too, in defiance of law. Now their friends come forward and say, “do not let us admit Kansas under this constitution; it does not embody the will of the majority.” How are we to ascertain that will? If there are ten thousand voters in Kansas, and six thousand of them refuse to vote on any occasion, how can you find out that the four thousand who have voted do not express the will of the majority? It is a very common thing in some counties, where there is no contest, that men are elected by less than a one-third vote; and in a close contest in States and counties, the men elected, nine times out of ten, do not get a majority of the votes of the State or county. There are always a number of voters who do not go to the polls; and if their votes were cast against the successful candidate, he would be defeated.

Now, Mr. Chairman, what injurious effect would follow the admission of Kansas under the Lecompton constitution? Some men say that the people there can alter their constitution before 1864, and others say they cannot. I am no lawyer, and do not propose to investigate that legal question. All I have to say is this: if they have the constitutional and legal right to alter it, let them alter it. If they cannot, let them submit. This thing was not thrown upon them suddenly. They were fully advised of the consequences by Walker and Stanton; and they were told that if they refused to vote they must take the consequences. They did refuse to vote. The convention met and the constitution was framed. That constitution is now presented. Congress ought, in my opinion, as an act of justice, leaving out the technicalities of law, to admit Kansas under that constitution. I must confess to you that I have but little sympathy for a party that stands out stubbornly, and refuses to abide by the law; and I am perfectly astonished at my Democratic friends who come forward and preach up the purity and honesty of those whom, in 1856, they denounced as traitors and rebels.

The question is not so much as to whether Kansas should be a free State or a slave State. But the question is, whether the public mind should be allowed to have repose from this matter which has been agitating it for years past. The South should have confidence in the North; the North should have confidence in the South; they should have confidence that each would do justice to the other. In 1856, when we were in conflict with the American party, we told them that their whole party in the North was abolitionized, and that, if the South expected to get justice she must look to the Democratic party North. We held up the State conventions of the Democratic party, and the speeches of their leaders, in which they stated that they intended to stand by the principle of non-intervention, by the principles of the Kansas-Nebraska bill, and that they regarded that act as just in all its parts.

Now, what did our friends of the American party say on that occasion? They said to us, your northern Democrats are promising very fairly, but you will see how they will carry out those promises if the people of Kansas recognize slavery in their constitution. They said that when our Democratic friends came to be called upon to vote on that constitution, the South would not have the support of a corporal's guard. We confidently believed otherwise; and I confidently believe still, that we have enough patriotism and love of country left in the ranks of the Democracy to carry this question. We have lost some friends whose loss I regret exceedingly. The influence of that loss will be serious in the southern States. So far as party is concerned, it would be ten thousand times better that Kansas should be rejected without Democratic votes. Some of our friends

are disposed to look upon these brother Democrats of ours, who vote against Lecompton, as having joined the Republicans. My judgment is, that we will have a hard fight in 1860 with the Republicans, and that we will need every one of these Democrats to help us. I am opposed to turning one of them out; I fear that some of them will go out themselves; but so far as I am concerned I am in favor of keeping every one of them that I can keep. My honest opinion about these Democrats is, that when they come to examine the whole ground in regard to this Lecompton constitution, if they believe that there has been fraud and wrong, and that there has been a gross violation of right in getting up this Lecompton constitution, it is their duty to vote against it. But before they cast their votes against it, there should not rest on their minds one solitary doubt as to the propriety of their course. They must be fully satisfied. They must make up their minds not as partisans and politicians. I know that when the Democratic party parts with a brother Democrat, it does so with reluctance. We have stood shoulder to shoulder; have fought the battle and won it; and it is with feelings of deep mortification and regret that we are compelled to part with them. But before they do vote against us, I ask them to examine the whole history of this matter candidly and impartially; to lay aside all outside issues; and then, if they believe that there has been a violation of right and of justice, it is their duty, I repeat, as honest men, to vote against this Lecompton constitution. Their act will make a serious impression upon us at the South. But, sir, mixed up with evils there is always some good. When we go home and commence talking about this question, and when northern Democrats are held up to derision, and their vote cast in our teeth, we can point to southern gentlemen in this House and say that we had not made all right at home; and that before we say a solitary word against northern Democrats, we ought to see that we ourselves present a solid and compact column. We should first make pure our own household before we turn round and criticise our neighbor's.

That is all I shall say on this point, for I am not at all accustomed to addressing public assemblies. I have never before addressed a legislative body in my life. But, Mr. Chairman, I did not make up my mind on this subject until I had given it a most thorough scrutiny; until I had viewed it in all its aspects calmly and dispassionately. That scrutiny has led me to the conclusion that it is right and just; that the interests of the American people require the admission of Kansas into the Union, in order to restore peace and quiet to that Territory.

Now, Mr. Chairman, if you refuse to settle this Kansas difficulty at this time, what will be the result? This Topeka party will, in all probability, have the ascendancy, and they will liberate every solitary slave in the Territory. What then? Do you suppose these Missourians will submit to it? Not at all. They will never submit to it. The troubles of the Territory will begin anew, and be kept up until 1860. The Democratic party now desire to put down the Republican party. They desire to keep a Republican out of the presidential chair in 1860, because, if he once gets there, there will be danger. If you send this constitution back to Kansas without ratification, there is danger that the excitement may go on until it produces bloodshed and border war; and the difficulty will not be settled before 1860, if then. Admit Kansas into the Union, and what will be the result? There are not a great many negroes there; there will not be a great many there before 1860; and besides that, her Legislature has the right, under the constitution, to pay for the negroes, and then make it a free State. Would it not be a great deal better to contribute thus; would it not be better to raise the necessary funds, even by contributions? I myself would contribute towards the purchase of the slaves who are there, if they want to make it a free State. That is the way to make peace in the country.

The constitution which we have before us is just in all its features. It is a good constitution. The only difficulty about it is the slavery question. But, if there is not a majority of the people there in favor of slavery they are not going to have slavery there. This constitution cannot

force slavery upon a free people if they do not want it; nor can they make a Territory or State free if its people want slaves. The only way, in my judgment, to restore peace in Kansas is to admit her into the Union with her constitution, and then allow the people there to settle their affairs in their own way. It is just like a man who has a wild boy; as long as the old man pays his expenses he will continue wild and ungovernable; but when the old man cuts loose and turns the boy on his own resources, he will reform. Just so with Kansas. The moment you give her a constitution, and leave the people to take care of themselves, they will regulate their own affairs, and peace and quiet will be restored. If it is to be a free State, they will make it a free State; if it is to be a slave State, there is no power in Congress, nor in the North, to make it a free State. So far as that is concerned, it is a matter of entire indifference to me. The great question upon which the South insists with so much pertinacity is this: Democrats of the North, will you vote to admit a State of the Union with a constitution recognizing slavery? Satisfy the South that you will do justice by her, and God forbid that we should ask for more. If they could be assured that you do not vote against the admission of Kansas into the Union because the constitution has slavery in it, they would be satisfied.

But, Mr. Chairman, you know that the very moment this constitution is rejected, and the intelligence goes forth over the land, southern men will say that northern Democrats have refused the constitution of Kansas because it had slavery in it. They will go upon the stump and vindicate the South against the usurpation. They can show more facts why Kansas should have been admitted than any man can show why she should not be admitted. The South is already united upon this question; she marches in a solid column.

I say, therefore, to northern Democrats, that unless you believe it is your imperious duty, unless you can see clearly that there has been fraud, unless you can see that the will of an honest people has been violated—for if they be a dishonest people they have no rights—I say, that unless you can see clearly that the will of the law-abiding, honest people has been overridden, do not reject this constitution. If you do so believe, then you must vote as your duty requires.

In regard to my Republican friends, all I have to say is just this: my own judgment about the whole matter is, that you men of the North are not really so solicitous whether Kansas shall be a free or a slave State as you are about the loaves and fishes—as you are about the election of the President of the United States. But, if you do not design the final and speedy overthrow of this Government, what, I ask, are you doing? It is apparent to everybody who looks over this House, that you are sowing the seeds of discord among our people. There is now, between the North and South, a feeling of distrust; a want of confidence; a belief that the North is not prepared to do the South justice. If you continue to go on and nourish this feeling—if you widen the breach, it will, before many years, grow into hate. Now, sir, the stability of our Government is dependent upon the affections of the American people, and upon their intelligence. Destroy the affection of the people for the Government, excite jealousy and distrust between the North and South, and I tell you there is not power or patriotism enough in the Union to hold the Government together.

[Here the hammer fell.]

Mr. GROW. I agree with the gentleman from Kentucky, [Mr. PERRY], who has just closed his remarks, that there should be no distrust between the different sections of the Union that the rights of each and all are not secure under the protection of the Constitution of the Republic.

By the third section of the fourth article of the Constitution, it is provided that "new States may be admitted by the Congress into this Union." Under that clause eighteen States have been added to the Union since its formation; thirteen with and five without an act of Congress authorizing the formation of a State government. But in every application, whether with or without an enabling act, the first and most important question for the determination of Congress is whether the constitution presented embodies in its essential features the will of the people to be affected by it. If it

does not, then it should be rejected, no matter what the authority or mode of its formation. The people of a Territory have the right, like any other portion of the American people, under the first clause of the amendments to the Constitution, to petition the Government at all times, and it is in the discretionary power of Congress to grant their prayer or not. The application of a people for admission as a State is, in all cases, in the nature of a petition. An enabling act is not, therefore, absolutely necessary for the people of a Territory before they can proceed to form a constitution and State government, in order to apply for admission into the Union. Yet as the territorial government is established by Congress, it cannot be superseded by any other government without the assent of Congress. It is not, however, material whether that assent be given before or after the action of the people of the Territory.

I take this occasion, in passing, to express my obligations to my colleague, [Mr. PHILLIPS,] for the notice and importance which he attached to my views on this point, expressed by me in the last Congress. As he quoted them with approval, I am rejoiced to know that he and his political associates still adhere to one doctrine of the Jackson Democracy, and I hope that they may yet return to the principles and teachings of Jefferson and the fathers of American Democracy, from which, within the last few years, they have so widely strayed.

The great question which presents itself in this case is, does the constitution meet the will of the people who are to be affected by it? That has been the first and the controlling question in the action of Congress on every application for a new State in the history of the Government. In the case of Michigan, she came here against the forms prescribed for her action; yet Congress took the will of the people, and set aside all formalities.

In the case upon which we are now called to act, we have only the form of a constitution presented by one man, and the argument of the President in its favor; while the people of Kansas, who are to be affected by it, protest against admission into the Union under it in every form by which they can make their will known.

The entire history of the Lecompton constitution proves that a large majority of the people of Kansas are opposed to it. The evidence of this fact, in the possession of the House, is the remonstrance of its citizens laid upon your table, the protest of the State officers elected under this constitution, also of the Delegate on this floor; the resolutions of the Legislative Assembly, and the vote of the people on the 4th of January. In all the reliable information from the Territory there is but one opinion expressed as to the opposition of the people to this constitution. Governor Walker, in his letter to General Cass, says:

"I state it as a fact, based on a long and intimate association with the people of Kansas, that an overwhelming majority of that people are opposed to that instrument; and my letters state that but one out of twenty of the press of Kansas sustains it." * * * * "Indeed, disguise it as we may to ourselves under the influence of the present excitement, the facts will demonstrate that any attempt by Congress to force this constitution upon the people of Kansas will be an effort to substitute the will of a small minority for that of an overwhelming majority of the people of Kansas."

Governor Stanton corroborates this statement, and adds:

"It can only be maintained by the arms of the Federal Government forcing the constitution upon the people against their declared will, and against every principle of republicanism, democracy, right, and justice."

The State officers elected on the 4th of January last, under this constitution, protest in the following language:

"We, the officers elected under said constitution, do most respectfully and earnestly pray your honorable bodies not to admit Kansas into the Union under said constitution, and thus force upon an unwilling people an organic law against their express will, and in violation of every principle of popular government."

Signed by the Governor, Lieutenant Governor, Secretary of State, State Treasurer, and Auditor.

This memorial was laid on our table with an indorsement of its truth by the Delegate from the Territory.

We also have the resolutions of the Legislative Assembly of the Territory, passed on the 12th of January, declaring:

"That the people of Kansas being opposed to said constitution, Congress has no rightful power under it to admit

said Territory into the Union as a State, and we, the representatives of said people, do hereby, in their name, and on their behalf, solemnly protest against such admission."

And on the last day of its session the Legislature passed unanimously the following resolve:

"That we do hereby, for the last time, solemnly protest against the admission of Kansas into the Union under the Lecompton constitution; that we hail back, with scorn, the libelous charge contained in the message of the President accompanying the Lecompton constitution, to the effect that the freemen of Kansas are a lawless people; that, relying upon the justice of our cause, we do hereby, in behalf of the people we represent, solemnly pledge ourselves to each other, to our friends in Congress and in the States, our lives, our fortunes, and our sacred honors, to resist the Lecompton constitution and government by the force of arms, if necessary; that, in this perilous hour of our history, we appeal to the civilized world for the rectitude of our position, and call upon the friends of freedom everywhere to array themselves against the last act of oppression in the Kansas drama."

Thus have they protested in every form known to the organism of our Government. And last of all they protested at the ballot-box, with over ten thousand voices. On the 4th of January last, a vote was ordered to be taken for and against this constitution by the Legislature, which is recognized as valid by all parties in the Territory, and by the President, in declaring to Governor Denver that the people must be protected in voting for or against the constitution on that day. Almost eleven thousand voters protested then against that constitution, as not embodying their will. On the 21st of December, the vote was only six thousand five hundred and twenty-six, half of which has been proven fraudulent by the investigating committee ordered by the Legislature; so that not more than three thousand legal votes were cast on the proposition then submitted, leaving a majority of from seven to eight thousand against this constitution. Yet we are asked to enact it into the organic law of the people, and to institute under it a State government of officers elected by fraud. We are asked to cast aside the vote of the people on the 4th of January, because they did not vote at the preceding elections.

That election, it is said, was illegal, though it is not denied that it expressed the popular will; but that the people could not vote on their constitution at any other election than the one fixed by the delegates to the convention. It was the same legislative power that fixed the election of the 4th of January that called the convention, with the exception that the Legislature that fixed the election derived its power from the people, while the one that called the convention was a usurpation. But treating them both as valid, the last one had as much power as the first, and was the legislative power of the Territory, and must continue to be till it is superseded by some government, with the consent of Congress. Until that time it has full legislative power to enact, repeal, or modify any existing laws of the Territory; and if the Lecompton convention prevents that, then, in the language of the President, it would be rebellion; for the territorial government would be superseded without the consent of Congress. Why does he not send his army to put down this constitution and its supporters, as he did to put down the Topeka party on the 4th of July, 1856? If the Territorial Legislature does not possess the legislative power of the Territory, then the people have parted with their sovereignty, irrevocably, for four months, or until the action of Congress on this constitution. If so, they could as well part with it forever, and thus your reason would subvert all the maxims of our system of government. The time and mode of voting on the 4th of January was established by the legislative authority of the Territory, an authority as valid and as legal as was the same authority in calling the convention.

It is argued that though this constitution does not embody the will of the people, yet they must submit to it because they did not vote before its formation, though they did afterwards. It is a new and a strange doctrine that the people of this country, who are the depositaries of the sovereignty of the Government, have not the right to vote upon the same subject to-morrow because they refuse to go to the polls to-day. It is one of the rights of American citizens to absent themselves from elections if they choose; and I grant you that when all have the privilege of voting, those who do not vote must submit to the action of those who do. But when the majority do vote, where is the reason for turning a deaf ear to their

voice? If the people withhold their votes at a primary election, does that deprive them of the right to vote upon the great question of what shall be their fundamental law? They did vote on the 4th of January; and why disregard the will of the people fully expressed at the ballot-box? This is not a question of whether the minority shall control the State because the majority have not voted; for in this case they went to the polls and did vote. But you say they shall not vote to-day, because they refused to vote yesterday. That is a matter which does not concern you. The people themselves are the ones to decide under what circumstances they will vote, or withhold their votes. They voted at the first election held in that Territory, at which a fair expression of the public will could be given.

At the election for the call of a convention, the test oaths were upon the statute-books of Kansas, which would disfranchise all who would not submit to degradation; all the tests and laws which were declared by General Cass, in the Senate, to be a "disgrace to the age and the country." Senator Bayard said they were "shocking to the moral sense;" and Senator Weller that they were "infamous in their character," "in violation of the Constitution," and "revolting to every feeling of humanity." Mr. Clayton denounced them as "unjust, iniquitous, oppressive, and infamous laws."

These test laws were thus denounced upon the floor of the Senate of the United States, by men who could not be charged with fanaticism. No one, then, could vote on the call for the convention who was not ready to submit to those test oaths; and but 2,670 votes were polled for the convention, though the Delegate to Congress, at the same election, received 4,276. These test oaths were repealed, it is true, before the election of delegates; but in the election of delegates half of the counties were disfranchised, and that, too, by no fault of theirs. Fifteen of the counties were entirely disfranchised, and four others partially. Governor Walker, in his letter to General Cass of the 15th December, 1857, says:

"In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates, based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give and (by no fault of their own) could not give a solitary vote for delegates to the convention."

"In fifteen counties out of thirty-four, there was no registry, and not a solitary vote was given or could be given for delegates to the convention in any of these counties."

Governor Stanton, in corroboration of this statement, in his address to the people of the United States, says:

"The registration required by law had been imperfect in all the counties, and had been wholly omitted in one half of them; nor could the people of these disfranchised counties vote in any adjacent county, as has been falsely suggested."

But it has been urged by the advocates of Le-compton that the disfranchisement of these counties was the fault of the voters themselves in not being registered; that after the census was taken, an opportunity was given for correcting the list. But how correct a list where there is none? and the voters who were disfranchised had no opportunity to put themselves upon the list, for no registry was made, and no correction could be made until there was a registry.

Mr. CLEMENS. I wish to ask the gentleman if the law does not require that the lists shall be posted up in a conspicuous place in each county, in order to give the people the right and power before the proper authorities to have their names inserted? And in addition to that, did not, in four of those counties, your party interpose every obstacle against taking the census, and interfere with the officers whose duty it was to take the census?

Mr. GROW. Can you correct a list until it is made? The law requires a copy of the lists to be posted, and then they could be corrected. I will read the law which required the census and registration, passed 19th February, 1857, which provides that a census shall be taken by the sheriffs of the several counties; and in case there shall be no sheriff, then by the probate judge of the courts; and in case of vacancy in the office of both sheriff and probate judge, the Governor to appoint some competent resident of said county.

The duty of the census-taker is thus prescribed by the third section of this law:

"It shall be the duty of the sheriff, probate judge, or person appointed by the Governor as herein provided, in each county or election district, on or before the 10th day of April next, to file in the office of the probate judge for such county or election district a full and complete list of all the qualified voters resident in his said county or election district on the 1st day of April, 1857; which list shall exhibit, in a fair and legible hand, the names of all such legal voters."

And in the fifth section, it is provided that

"Said probate judge shall remain in session each day, Sundays excepted, from the time of receiving said returns, until the first day of May next, at such place as shall be most convenient to the inhabitants of the county or election district; and proceed to the inspection of said returns, and hear, correct, and finally determine, according to the facts, without unreasonable delay, all questions concerning the omission of any person from said returns, or the improper insertion of any name on said returns, and any other questions affecting the integrity or fidelity of said returns; and for this purpose shall have power to administer oaths and examine witnesses, and compel their attendance in such manner as said judge shall deem necessary."

Now, unless a return was made by the census taker to the probate judge, there would be no list to correct, and of course there was no way for the voter to be registered, and if not registered, he could not vote. Nine of those fifteen counties which were disfranchised, gave a vote on the 4th of January, as certified to by Governor Denver, of one thousand six hundred and twenty-four against this constitution.

Mr. CLEMENS. As the gentleman from Pennsylvania is making a fair argument, I desire to ask another question. I put it to the gentleman from Pennsylvania whether, in every county in which a vote was not taken, or in which a registry was not made, the obstacles against taking a vote and making the registry did not come exclusively from the free-State party of Kansas?

Mr. GROW. No, sir, not to my knowledge; and in fifteen of those counties which were totally disfranchised the people of those counties were no way in fault for no census being taken by the officers required by law to do it; and if there was none taken, then they could not vote, as I have shown. The people of some of them, Anderson county in particular, petitioned the Governor, stating that no census had been taken, and asking what they should do. He answered that he had no power to remedy the omission, but advised them to go on and elect delegates, and that the convention would undoubtedly receive them. In Anderson they did elect delegates, but the convention did not receive them.

The votes polled by the free-State men in nine of these disfranchised counties on the 4th of January, being one thousand six hundred and twenty-four, is almost as great as the whole number of votes polled in the Territory for the election of delegates to the convention, the average of the vote on delegates being about eighteen hundred. These counties were never attached to any other counties for the purpose of electing delegates to the convention, though they were attached to other counties for the purpose of electing members to the Legislature. One half of the counties of Kansas, then, had no right to vote at all for delegates to the convention that framed this constitution, and that, too, by no fault of theirs; while the census was very imperfectly taken in the other counties, by the intentional omission of free-State men. The Delegate from Kansas upon this floor, the Mayor of the city of Leavenworth, and many other of the most prominent free-State men, were omitted, in addition to whole free-State settlements.

Under the pretended submission the 21st of December, there was no opportunity for an expression of opinion on the constitution; for nothing could be voted on save the future importation of slaves, and that only by swearing to support the constitution itself, if adopted. Even if they did that, they could only vote on the slavery clause that permitted future importation of slaves, with no power whatever to vote slavery out. For if everybody voted against what was called "the slavery clause," there still remained the clause against which nobody was allowed to vote, viz: "that the rights of property in slaves, now in this Territory, shall in no manner be interfered with." This was not submitted; and to make it perpetual, another clause, not submitted, provides that by no future "revising, altering, or amending of the constitution" shall "alteration be made to affect the right of property in the ownership of slaves."

But I pass on, having shown conclusively from the record that the people of Kansas never had, until the 4th day of January last, a fair opportunity to be heard upon the formation of this constitution, either in calling the convention, or in the election of delegates. The only time they could vote fairly was on the 4th of January, and yet gentlemen upon this floor insist that because they did not vote before, their votes then are of no consequence.

Why did they not vote before? First, on account of the test oaths at the time the question of the convention was voted on. Next, when the delegates to that convention were elected, more than half the counties were entirely disfranchised; and there were a large number of the free-State party in the other counties who could not vote. Yet it is asked why, under this state of things, they did not go to the polls and vote. These facts would be a sufficient reason of themselves for their abstaining from voting; but in addition they were assured that they would have an opportunity to vote on the constitution itself. They had a right to expect it by every consideration of fairness and justice, whether they voted for delegates or not. In the State which I have the honor, in part, to represent, should the question be submitted whether a constitutional convention should be called or not, I may stay from the polls when that question is submitted; but when the constitution is framed, and I desire to vote on it, where is the justice under our system of government of excluding me from voting upon it? Gentlemen have quoted precedents to show that it is not necessary to have a vote on the constitution. We have been told that the constitutions of New Jersey and other States were never submitted; and that therefore there is no need of submitting a constitution to the vote of any people.

The gentleman from Rhode Island on my left, [Mr. BRAYTON,] represents a State which for nearly two centuries, had a charter from Charles the Second as its constitution, and it never was voted on by the people, and for over three quarters of a century after the Declaration of Independence it continued to be the organic law of Rhode Island; and the argument is, that that being so, there is no need of the people of Kansas voting on their constitution. New Jersey never voted on her constitution; therefore, say these precedent-finders, why should the people of Kansas be allowed to vote on theirs? If each of the States of the Union had to-day a constitution that was never submitted to a vote of the people, but was acquiesced in, as framed by the delegates, would that be any reason why, when there are two great parties in a State, differing on fundamental principles and as to their proposed organic law, a majority of the people ought to be deprived of the chance of voting upon it? We often pass laws here by one vote, or no vote at all, because there is no difference of sentiment on it, but is that any reason why we should not have a chance to vote when we do differ? When there is a general acquiescence by a people in a constitution, then it is of no consequence whether it be submitted or not; but when a portion of the people demand that it shall be submitted, are they to be told that they are not to exercise the right of voting on it, because some other people did not wish to vote on theirs?

There is no precedent for a constitution being put in force, in this country anywhere, without a submission to a vote of the people, if any considerable portion of them desired it, or if there was any great diversity of sentiment as to its essential provisions. That in such a case it is not necessary to submit the constitution to a vote, is a doctrine asserted for the first time in our history on this constitution.

What is the difference in a law being passed for a people by a despot, or by nominal representatives, whose acts are beyond the supervision of the constituency?

If such a doctrine is to be established in the politics of this country, we may well ask, are we upon the banks of the Danube and Bosphorus, or on soil drenched by martyr blood in its consecration to freedom? The disregard of the will of the people, in the refusal to submit their organic law for their approval, if they desire it, is, to me, a despotism equally odious with that of Austria or any other tyranny.

The people of Kansas had a right to expect

that the constitution of the Leecompton convention would be submitted for approval or rejection, not only by every consideration of justice and the universally-recognized maxims of free government, but by the pledges of all who were supposed to have any control over the matter.

How could the popular will be so well ascertained as by an election? In no other way are you sure of embodying it, for the reason which the President, in his annual message, states why a constitution should be submitted:

"The election of delegates to a convention must necessarily take place in separate districts. From this cause it may readily happen, as has often been the case, that a majority of the people of a State or Territory are on one side of a question, whilst a majority of the representatives from the several districts into which it is divided may be upon the other side. This arises from the fact that in some districts delegates may be elected by small majorities, whilst in others those of different sentiments may receive majorities sufficiently great not only to overcome the votes given for the former, but to leave a large majority of the whole people in direct opposition to a majority of the delegates. Besides, our history proves that influences may be brought to bear on the representative sufficiently powerful to induce him to disregard the will of his constituents."

The Washington Union of 7th July, 1857, held the same views as to the duty and propriety of the constitution of a people being submitted to a vote if desired:

"Under these circumstances, there can be no such thing as ascertaining clearly and without doubt, the will of the people, in any way except by their own direct expression of it at the polls. A constitution not subjected to that test, no matter what it contains, will never be acknowledged by its opponents to be anything but a fraud."

"We do most devoutly believe that, unless the constitution of Kansas be submitted to a direct vote of the people, the unhappy controversy which has heretofore raged in that Territory, will be prolonged for an indefinite time to come."

Governor Walker, everywhere in Kansas, pledged his honor, by the approval, as he told the people, of the President and his Cabinet, that the constitution should be submitted. In his inaugural to the people of Kansas, after quoting his instructions from the President, he says:

"I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress."

Without stopping for further reference to his inaugural, in which he is most emphatic on this point, I read from a speech of his delivered at Topeka, on the 8th of June, 1857, and published in the Topeka Statesman of the 9th:

"At the next election in October, when you elect the Territorial Legislature, you can repeal these laws; and you can, also, by a majority of your own votes, adopt or reject the constitution presented for your consideration next fall. Can you not peaceably decide this question in the mode pointed out by the act of Congress, if you, as you can and will, have a full opportunity of recording your vote? [A voice, 'How are we to get it?'] You will get it by the convention submitting the constitution to the vote of the whole people. [A voice, 'Who is to elect the convention?'] That is the grand question. Gentlemen, it is a comparatively small point by whom the constitution is submitted. Don't let us run away after shadows. The great substantial point is this: Will the whole people of Kansas next fall, by a fair election, impartially and fairly conducted by impartial judges, have an opportunity to decide for themselves what shall be their form of government, and what shall be their social institutions? I say they will; but I go a step further. [A voice, 'Have you the power?'] If I have not the power to bring it about, if the convention will not do it, I will join you in lawful opposition to their proceedings. [Cries of 'Good!'] 'Good!' 'We hold you to your promise. Nothing can be asked fairer than that.']"

These promises were given in the most authoritative forms; first, on the general doctrine of free governments, that the people shall have an opportunity to pass on their organic law; and next, they had the positive pledges of the men who had authority to give those pledges. And yet, Judas-like, they were betrayed by a kiss. Governor Walker, in his letter to General Cass of December 15, 1857, says:

"In truth, I had to choose between arresting that insurrection, at whatever cost of American blood, by the Federal army, or to prevent the terrible catastrophe, as I did, by my pledges to the people of the exertion of all my power to obtain a fair election, and the submission of the constitution to the vote of the people for ratification or rejection."

"Not a drop of blood has been shed by the Federal troops in Kansas during my administration. But insurrection and civil war, extending, I fear, throughout the country, were alone prevented by the course pursued by me on those occasions; and the whole people, abandoning revolutionary violence, were induced by me to go for the first time into a general and peaceful election."

proclaimed to them that they should have a fair chance to vote, and that they would not be cheated out of their rights by fraud and violence, as they had been before in the whole history of Kansas, said that they asked nothing fairer than that; and they went to the polls holding your executive officer to his word; which, had he been permitted by the President to keep, there would have been now no disturbance in Kansas.

The Government told them that they would have the privilege of going to the polls and voting for or against the constitution; yet that right was denied them: and you insist now on consummating the wrong.

These men whom the President has arraigned as traitors and rebels, and therefore not to have the rights of freemen, were quieted by the simple declaration that they should have justice. All opposition ceases then, and they follow the course marked out by Governor Walker to pacify Kansas. You could have pacified Kansas in five minutes, at any time within the last four years, by securing to her people a ballot-box free from fraud and violence. It was all they asked. I will read you from the dispatches that came to the President, to show that he falsifies the truth of history when he charges these men with rebellion and treason. They have done what American freemen, true to the blood that runs in their veins, and true to the great heritage which they received from their ancestors, should do. They would never submit to a usurpation of their political rights. They believe in the motto of Thomas Jefferson, that "resistance to tyrants is obedience to God."

The President cannot find on record an instance of the people of Kansas ever resisting the laws of the United States. They simply refused to support the territorial organization. They said, "we will have nothing to do with it; you may go on and administer it as you please; we pay no attention to it, but offer no forcible resistance."

Governor Shannon, in his dispatch to the President of April 11, 1856, speaking of the Topeka Legislature, says:

"The legislative action of this body was mainly prospective in its character, and looks forward to the admission of Kansas into the Union as a State, or to future legislation before their enactments are to be enforced as law."

Governor Robinson, in his message to this Legislature, takes occasion to define the character of the Topeka movement in the following declarations:

"It is understood that the deputy marshal has private instructions to arrest the members of the Legislature and the State officers for treason as soon as this address is received by you. In such an event, of course, no resistance will be offered to the officer. Men who are ready to defend their own and their country's honor with their lives, can never object to a legal investigation into their action, nor to suffer any punishment their conduct may merit. We should be unworthy the constituency we represent did we shrink from martyrdom on the scaffold or at the stake, should duty require it. Should the blood of Collins and Dow, of Barber and Brown, be insufficient to quench the thirst of the President and his accomplices in the hollow mockery of 'squatter sovereignty' they are practicing upon the people of Kansas, then more victims must be furnished. Let what will come, not a finger should be raised against the Federal authority until there shall be no hope of relief but in revolution."

Governor Geary, in his farewell to the people of Kansas, bears the following testimony as to the character of this people:

"The great body of the actual citizens are conservative, law-abiding and peace-loving men, disposed rather to make sacrifices for conciliation and consequent peace, than to insist for their entire rights, should the general good thereby be caused to suffer."

What was the character of the government in Kansas that the President says would have been long since overturned if he had not maintained it with the Army of the United States? Governor Geary, in his dispatch to Mr. Marcy, September 9, 1856, (Executive Documents, Third Session Thirty-Fourth Congress, volume I, part I, page 88), says:

"I find that I have not simply to contend against bands of armed ruffians and brigands, whose sole aim and end is assassination and robbery, infuriated adherents and advocates of conflicting political sentiments and local institutions, and evil-disposed persons actuated by a desire to obtain elevated positions, but worst of all, against the influence of men who have been placed in authority, and have employed all the destructive agents around them to promote their own personal interests at the sacrifice of every just, honorable, and lawful consideration. I have barely time to give you a brief statement of facts as I find them. The town of Leavenworth is now in the hands of armed bodies of men, who, having been enrolled as militia, perpetrate out-

rages of the most atrocious character, under shadow of authority from the territorial government. Within a few days these men have robbed and driven from their houses unfording citizens; have fired upon and killed others in their own dwellings, and stolen horses and property under the pretense of employing them in the public service. They have seized persons who had committed no offense, and after stripping them of all their valuables, placed them on steamers, and sent them out of the Territory."

"In isolated or country places, no man's life is safe. The roads are filled with armed robbers; and murders, for mere plunder, are of daily occurrence. Almost every farm-house is deserted, and no traveler has the temerity to venture upon the highways without an escort."

Same document, page 72, Lieutenant McIntosh, of the first cavalry, writes Woodsen, acting Governor at the time, that—

"It is a notorious fact that some of the band who originally came into this Territory with Colonel Buford has committed gross outrages, and I can say with certainty that there are still small parties of his men now in the Territory acting in the most lawless manner."

"Great complaints are constantly made to me of the stoppage of wagons and men on the road, and in a great many instances robberies have been committed."

These men are some of the peaceable emigrants that went from the South, each presented by a clergyman of the Palmetto State with a Bible instead of a Sharpe's rifle.

Same document, page 106, Governor Geary, in a dispatch to Mr. Marcy, September 16, 1856, says:

"The whole country was evidently infested with armed bands of marauders, who set all law at defiance, and traveled from place to place, assailing villages, sacking and burning houses, destroying crops, maltreating women and children, driving off and stealing cattle and horses, and murdering harmless men in their own dwellings and on the public highways."

"Whilst engaged in making preparations for the foregoing expedition, several messengers reached me from Lawrence, announcing that a powerful army was marching upon that place, it being the main body of the militia called into service by the proclamation of Secretary Woodson, when acting Governor."

"Twenty-seven hundred men; under command of Generals Hershell, Reid, Atchinson, Richardson, Stringfellow, &c., were encamped on the Warkarusa, about four miles from Lawrence, eager and determined to exterminate that place and all its inhabitants."

Governor Geary, in his message to the Legislature, says:

"There is not a single officer in the Territory amenable to the people or to the Governor; all having been appointed by the Legislature and holding their offices until 1857. This system of depriving the people of the just exercise of their rights cannot be too strongly condemned."

Governor Geary, in his farewell to the people of Kansas, gives the following picture of its condition:

"I reached Kansas and entered upon the discharge of my official duties in the most gloomy hour of her history. Desolation and ruin reigned on every hand. Homes and fire-sides were deserted. The smoke of burning dwellings darkened the atmosphere. Women and children, driven from their habitations, wandered over the prairies and through the woodlands, or sought refuge and protection among the Indian tribes."

While such was the condition of Kansas, and these wrongs were perpetrated by the acquiescence, if not instigation, of the Administration, its supporters in Pennsylvania called upon the voters in the following language. I read from a handbill for a Democratic meeting, at Mifflinburg, September 27, 1856:

"Democrats! Whigs! Republicans! turn out and learn the fact that it is the Democratic party that is laboring for freedom for Kansas, the assertions of opposition orators to the contrary notwithstanding."

Four Governors have returned from that Territory, all telling the same story to the American people; that is, that the rights of the people of Kansas have all been trampled in the dust, the ballot-box violated, their houses burned, their presses destroyed, their public buildings battered down by United States cannon under the direction of United States officers; yet in the face of the unanimous voice of these men who have been upon the ground, seen with their own eyes, and heard with their own ears, the President and his adherents insist that they know best what is the condition of Kansas and the will of its people. The President says the free-State party have been rebellious because they have refused to vote. The free-State party in Kansas have never refused to vote, when they had a fair opportunity.

Why should this great fraud upon the rights of a people be consummated? What reason can there be, what overshadowing necessity exists, for so great a violation of the principles of free government. The only reason urged by its advocates for sustaining so glaring frauds upon popular rights is, that it will give peace to Kansas, and end the political agitations of the country.

Peace among a brave people is not the fruit of injustice, nor does agitation cease by the perpetration of wrong. For a third of a century the advocates of slavery, while exercising unrestricted speech in its defense, have struggled to prevent all discussion against it. In the South by penal statutes, mob-law, and brute force; in the North by dispersing assemblages of peaceable citizens, pelting their lecturers, burning their halls, and destroying their presses. In this forum of the people, by finality resolves, on all laws for the benefit of slavery, not, however, to affect those in behalf of freedom, and by attempts to stifle the great constitutional right of the people at all times to petition their Government. Yet, despite threats, mob-law, and finality resolves, the discussion goes on, and will continue to, so long as right and wrong, justice and injustice, humanity and inhumanity, shall struggle for supremacy in the affairs of men.

The President makes the same excuse for his treatment of Kansas that tyrants ever employ in justification of their cruelty and wrong. That is, that the injured and oppressed, because they will not kiss the hand that smites, are rebels and traitors; and the wrong-doer, while perverting the truth and suppressing the facts of history, strives, with hard words, to heap obloquy and reproach upon the character and motives of men in every way the equal, if not the superior, of the traducer.

All the wrongs of Kansas are sustained by the Administration, because they were perpetrated under the forms of law. Justice and right seem to be of less consequence than forms and precedents. The cruelest tyranny on the face of the earth rests on forms of law where it exists.

The bloodiest pages in the drama of man's existence have been written under the color of law, and too often in the name of justice and liberty. The Jew crucified the Savior because he was a fanatic, and stirred up dissensions among the people. The law-and-order conservatism of the middle ages ostracised Luther as a heretic, because, while exposing the corruptions of the church and the reigning dynasties, he proclaimed to the people the great truths first taught on the sea-shore, and along the hillsides of Judea. The *Grütli* of the forest cantons of Switzerland, planning at the midnight hour on the banks of Lake Luzerne the liberties of their country, were, in the eyes of all Europe, rebels against society, and traitors to law and order. The world's reformers have ever been, in the days in which they lived, heretics, fanatics, and agitators; and in most instances have fallen victims to the prevailing prejudices and vices which they combated. Yet such are the retributions of Heaven on earth that the crucifiers of the world's redeemers have been forced to pay homage at their graves when dead.

The President, in his special message on Kansas, seems to have imbibed the spirit, adopted the tone, temper, and language of George III., in his proclamations and manifestoes against the American colonies. While thus imitating his great prototype, let him take warning by his example how he forces a wronged and outraged people to appeal to the God of battles, in vindication of their rights, unless he is ambitious of being the Nero of the liberties of his country.

In my judgment, the first gun fired by a United States soldier in an attempt to force this Lecompton fraud upon the people of Kansas, will light a flame that seas of blood may not be able to extinguish. It will be but the echo of the British musketry, in the streets of Boston, on the 19th of April, 1775. It would be but another struggle in vindication of the great truth of the Declaration of Independence, that all governments derive their just powers from the consent of the governed.

From my personal acquaintance with the free-State men of Kansas, and what I know of their character—these descendants of Warren, Putnam, Greene and Wayne—when forced, in submitting to injustice and wrong, to a point beyond which endurance ceases to be a virtue, will prove themselves no degenerate sons of noble sires. When, ever any portion of the American people shall become so callous to a sense of justice, and so dead to the rights which belong to freemen, as tamely to submit to a usurpation, by fraud and violence, of all the powers of their government, then, indeed, will they be fit for slaves.

Mr. MILLSON. The gentleman refers to the consequences of firing a gun after the adoption of

the Lecompton constitution. I ask him whether, if the Lecompton constitution be voted down, Kansas would not be returned to her territorial condition?

Mr. GROW. She will remain under a Territorial Legislature recognized now by all sides as a valid one.

Mr. MILLSON. Is not slavery now one of the institutions of the Territory?

Mr. GROW. It is under the Lecompton constitution.

Mr. MILLSON. Outside of the Lecompton constitution, is it not recognized by the territorial laws?

Mr. GROW. The law of the Territory protects it.

Mr. MILLSON. Then the adoption of the Lecompton constitution would not effect any change in the rights or personal condition of any human being in Kansas?

Mr. GROW. I do not propose to go into that matter, as it is not a question involved. The question in Kansas now, is whether the people shall have a right to govern themselves? and whenever any portion of the people abandon that right tamely, and submit to a usurpation of the powers of their government, then they will be fit for slaves. If ever that time comes, the Genius of Liberty may wing her way back from earth to Heaven.

Mr. PHILLIPS. In this connection I will ask my colleague whether he has not, on a former occasion, said that the will of the people of a Territory could be as well expressed in the choice of delegates as in their action in the convention?

Mr. GROW. The gentleman has not understood my speech correctly. He will find that I put the admission of Kansas under the Topeka constitution upon the ground that it had been submitted to the people, and that two thousand three hundred—a large majority of all the legal voters of the Territory at that time—voted in favor of it.

Mr. PHILLIPS. Will the gentleman allow me?

Mr. GROW. I cannot yield any more of my time.

Mr. Chairman, injustice, once enthroned in power, ever strives, by every device of taunt and jeer, to divert attention from its enormities, and to avoid, if possible, all discussion of its abuses. The weapons of a self-satisfied conservatism, employed since the world began to uphold its injustice and wrong, or to perpetuate its ill-gotten power, has been to excite popular prejudice by crying "destructive," "agrarian," "leveler," "fanatic," or some other epithet made odious by sceptered cruelty and wrong. Such have been the arguments of prejudice and power from the time Socrates swallowed the hemlock, and Galileo quivered on the rack.

The history of to-day proves that power and wrong have not ceased to rely for their support upon attempts to excite the unworthy prejudices of human nature by the clamor of startling and odious epithets. By such means does the President strive to gloss over the blackest page of American history, written within the last four years, by the Administration and its minions, in the woes of Kansas. Its soil red with the blood of its murdered citizens, and its atmosphere darkened with the smoke of their burning dwellings, while women and children flee to the savage tribes of the wilderness to find protection against their less merciful white pursuers. With the wrongs of this people unredressed, and their supplications for justice and the rights of freemen still ringing in the ears of the President, he declares that "Kansas has, for some years, occupied too much of the public attention. It is high time this should be directed to far more important objects."

What more important object can this Government have than to guard the hearthstone of the hardy pioneer as he goes forth into the wilderness to found new States and build up new empires? What higher duty has it to perform than to secure to the citizen—the humblest and most obscure, as well as to the highest and most exalted—the rights guaranteed to him by the Constitution of his country? In Kansas, from the first, these have all been trampled in the dust. Hence, Kansas has, for some years, occupied the public attention. Is it possible that the Chief Magistrate of the Republic can find any more important object for the attention of the Government than the

protection of the rights and liberties of American citizens, ruthlessly violated under the flag of their country, unless the nobler and better impulses of human nature expired in his bosom as the last drop of Democratic blood oozed from his veins?

Kansas wants peace; not the peace of servile submission, to brute force, but the peace that justice ever brings. The country wants quiet and repose; not the quiet of the graveyard or the repose of death, but the quiet and repose secured by liberty, maintained by law. But so long as the power of this Government is wielded to fasten an odious despotism upon Kansas, and to propagate the institutions of human bondage, so long there will and can be no peace. You can give peace to Kansas, repose to the country—and forever this slavery agitation—if you will bring back the Government to the policy of the fathers, and reestablish in its administration their maxims of justice and humanity.

Peace is the siren song that has ever preceded the perpetration of every new outrage upon the sentiments of the North, and the rights and interests of free labor. On the 4th of March, 1853, from the steps of yonder portico, the President congratulated the country that "the agitation of the slavery question was at rest." The troubled waters of past political dissensions had subsided, and not a ripple disturbed the surface. The ark of our covenant reposed on dry ground, and the dove had found a resting-place. Every foot of territory then owned by the Federal Government was fixed in its character of slave or free, by some law which Mr. Webster, in his delusion, thought to be irrevocable. And under the then existing judicial decisions and constitutional constructions it was all fixed for freedom. No note of discord jarred on the universal harmony. The patriot was congratulating himself that the era of good feeling and brotherhood had at last dawned upon his country. What disturbed this unruffled calm, and again broke up the fountains of the deep?

On the 30th of May, 1854, five hundred thousand square miles of this territory, once consecrated to freedom forever by solemn act of our fathers, was opened to the spread of the institutions of human bondage. The passage of the bill at the dead hour of the night, was heralded from this Capitol by the boom of cannon, since echoed from the plains of Kansas in the sighs of its widows and orphans, and the wail of its martyrs to freedom. In order to drown these cries, and, if possible, to stifle the awakened sense of justice, and the excited sympathies of the humane heart, we are now called upon to perpetrate still another great outrage upon the rights of this people. There is no difficulty in giving peace to Kansas, and quieting the agitation of the country upon the exciting subject of slavery. When you will do justice to freemen, and allow them to make their own organic law, free from violence and fraud, that object will be accomplished.

There is in Kansas, to-day, a state of things which has not existed there since its organization. At their first election, their government was seized upon by invaders, who held possession of it till the election in October last, when the people of Kansas, for the first time, elected their own officers.

Mr. CLEMENS. As the gentleman is the reputed leader—

Mr. GROW. I am the leader of nobody but myself.

Mr. CLEMENS. Well, I want to ask a question.

Mr. GROW. Very well.

Mr. CLEMENS. Do I understand the gentleman to maintain that the people of Kansas have not the right to amend their constitution until 1864?

Mr. GROW. I maintain that when you make a fundamental law for the people, and put in it a provision prescribing the mode and manner in which it can be changed, it cannot be changed peaceably, except through those forms, as long as there is a party that adheres to the forms. If there is a party in Kansas who will attempt to change that constitution before 1864, except in the mode provided by it, in my opinion the Federal Administration, judging from its actions during the last four years, will send the Army of the United States to put down any such attempt.

Mr. CLEMENS. What becomes, then, of your doctrine of the sovereignty of the people?

Mr. GROW. The people place in their organic law the conditions upon which they will exert their sovereignty; and if it could be changed without any observance of forms, a constitution would be the same as a by-law of a corporation. By acquiescence of the people it could be changed at any time. While I believe it to be the absolute right of a people to change their form of government at any time, I must act on such a question in view of the probable action of the President, who, if called upon, has to quell insurrection with the Army. In Rhode Island, the people had been protesting against their constitution for twenty years, and the people, by a clear majority, came together and framed a new constitution; but the Supreme Court of the United States said that they were rebels; and the President sent the Army of the United States to put them down.

Last October, the people of Kansas regained, by the aid of Governor Walker, the control of their own government by the election of a Legislature, which is now recognized by all parties as valid; and therefore Kansas is not in the same condition she was when she asked for admission under the Topeka constitution—

[Here the hammer fell.]

Mr. REILLY. Mr. Chairman, I have, up to this hour, refrained from a public expression of my views on the Kansas question, in the hope that some fair and honorable compromise would be effected which would settle it in a way satisfactory to all parties. I begin to fear that my hope will prove a false one; and as I will shortly be called to record my vote for or against the admission of Kansas, under the Lecompton constitution, it is but proper that I should make known to my constituents and my country the reasons which induce me to vote as I shall when the time arrives for me to give that vote.

I confess, sir, that this question has given me more anxiety than all others to which I have had my attention called, or on which it has been my duty to vote since I took my seat as a member of this House. Indeed, I consider it a question of more moment, and fraught with more of good or evil to the country, than any other ever presented for the consideration of Congress since the formation of our Government. It certainly demands an exercise of the best judgment, and must appeal to the patriotism of every true American citizen. We may, perhaps, in a few days decide the fate of this Republic. How careful, then, ought we to be of our words, how sure that we do no act which will cause us regret in the future!

This subject has not occupied the minds and engaged the attention of those in authority alone; it has been and is yet being discussed at almost every fireside in our land. It has been, and is now, a fruitful theme for all classes of our citizens. The statesman and the politician; the minister, the merchant and the mechanic; the farmer, the laborer, and the lawyer, have all felt, and still feel, a deep solicitude for its rightful solution and peaceful settlement. They fear, and perhaps not without just cause, that, if not settled now, it may for years to come, continue and increase the jealousy and bitterness which now exist between our brethren of the North and South, and are, therefore, anxiously directing their attention and hopes to Congress for a speedy and amicable termination of the agitation and excitement which this vexed and dangerous question has produced throughout our country, so that peace and harmony may once more prevail among our people, and the Union stand, as it has in time past, a monument to perpetuate the fame of those whose wisdom planned it, as also the pride and boast of the nation.

How shall we meet the expectations of our fellow-citizens? How shall we drive from our political horizon the clouds which lower over our house, and cause the sunshine of peace and happiness to enter and keep possession of every dwelling in our once thrice happy land? We cannot do it by engendering and encouraging strife and contention between one portion and another of our people. We cannot do it by calling each other harsh names and using opprobrious epithets; by stigmatizing as base, mean, and vile all those who may hold a certain class of human beings in servitude. We cannot do it by condemning in harsh, unmeasured terms of abuse those who may honestly think that the institution of slavery is wrong. No, sir, this will not heal the wound inflicted

upon our country by the indiscretion of some and the madness of others. This will only tend to widen the breach, already too wide, between our fellow-citizens of the North and the South. The circumstances in which we are placed demand calm, sensible action, and unyielding devotion to the interests and welfare of the great people whose representatives and servants we are.

Mr. Chairman, in performing the duty which I undertook to discharge, I shall not detain the House by an elaborate or lengthy argument to prove that Kansas ought to be admitted into the Union under the Lecompton constitution. Nor is it my purpose to go into a history of the settlement of Kansas, to show that a portion of the people now there went there with the intention of making it a slave State, and another portion to make it a free State. In my judgment, the citizens of this free country have a perfect right to settle on any of the unappropriated territory of the United States; and, if the decision of the highest judicial tribunal of the nation is to be taken as the law, they have a right to take their slaves with them, and, if they can, even establish slavery as one of their domestic institutions. Nor will I pretend to show that the citizens of the North or of the South have not the right to appropriate money for the purpose of sending persons into a Territory to make it either a free or a slave State, provided such persons, after they have arrived in the Territory, set about the accomplishment of their work in a peaceful and orderly manner, and in obedience to the Constitution of the United States. This part of the present controversy I shall hand over to others to discuss, if they feel inclined to do so, and shall proceed to state a few facts, as I understand them, and the conclusions I have arrived at upon those facts.

In the year 1854 an act of Congress was passed organizing the Territory of Kansas. A Governor and other officers for the Territory were appointed by the President then in power. In 1855 a Legislature was elected, and convened at Pawnee. Divers laws were passed by this Legislature, among them one calling a convention to frame a constitution preparatory to the admission of Kansas into the Union as a State. This convention met at Lecompton, framed a constitution, and submitted it to a vote of the people.

There are four questions arising out of this state of facts to which I will direct the attention of the committee for a short time.

First. Was the Legislature which passed the act calling a convention to frame a constitution a legally elected body?

Second. Was the convention which framed the Lecompton constitution a legally elected body?

Third. Was that convention bound by law, precedent, or otherwise, to submit the constitution framed by it to a vote of the people for ratification or rejection?

Fourth. If Kansas shall be admitted into the Union, will the people of that State have a right to alter, amend, or abolish the Lecompton constitution in any other manner or at any other time than that prescribed in that constitution?

In answering the first of these questions, it seems to me that I need do very little more than read one or two extracts from the inaugural address of Governor Walker to the people of Kansas. I presume these will be considered good authority by those who rely with so much confidence upon his statements.

The extracts from the inaugural are as follows:

"Under our practice, the preliminary act of framing a State constitution is uniformly performed through the instrumentality of a convention of delegates chosen by the people themselves. That convention is now about to be elected by you under the call of the Territorial Legislature, created and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress, and the authority of that convention is distinctly recognized in my instructions from the President of the United States. Those who oppose this course cannot aver the alleged irregularity of the Territorial Legislature, whose laws in town and city elections, in corporate franchises, and on all other subjects but slavery, they acknowledge by their votes and acquiescence. If that Legislature was invalid, then are we without law or order in Kansas, without town, city, or county organizations; all legal and judicial transactions are void, all titles null, and anarchy reigns throughout our borders."

Again:

"But it is said that the convention is not legally called, and that the election will not be freely and fairly conducted. The Territorial Legislature is the power ordained for this

purpose by the Congress of the United States; and, in opposing it, you resist the authority of the Federal Government. That Legislature was called into being by the Congress of 1854, and is recognized in the very latest congressional legislation. It is recognized by the present Chief Magistrate of the Union, just chosen by the American people, and many of its acts are now in operation here by universal assent. As the Governor of the Territory of Kansas, I must support the laws and the Constitution; and I have no other alternative under my oath but to see that all constitutional laws are fully and fairly executed."

The position here taken by Governor Walker cannot, in my opinion, be overthrown. But, sir, both parties in Kansas, have, by their acts, admitted that Legislature to have been a legally constituted body, and the act passed by it, calling a convention, to be a binding statute. The pro-slavery party have admitted it by voting for the constitution framed at Lecompton by the convention called into being by virtue of that act; and the free-State party admitted it by voting against that constitution, on the 4th of January last. For, if the Legislature which called the convention, had no legal existence, it had no legal authority to pass any law; and it would follow, as of course, that the act passed calling a convention was without force and void, and the convention which convened in pursuance of its provisions had no legal existence, and all its acts were simply and absolutely void. Will any gentleman on the other side say that the free-State party, with Governor Stanton at their head, would act so unwisely as to have an extra session of the Legislature called for the purpose alone of passing an act submitting the Lecompton constitution to a vote of the people for ratification or rejection; if that constitution was a void instrument, as it certainly would be if the Legislature which passed the act calling the convention had no legal authority to pass such an act? It will not, I presume, be denied that the extra session of the Legislature was called at the instance of those who opposed the Lecompton constitution; and what was it called for, if the act which called the convention was an act passed by a body without legal existence or authority?

It seems to me, therefore, Mr. Chairman, that the parties in Kansas are estopped by their own acts from denying that the Legislature, which passed the act referred to, was a legally elected body, and if it was so, the laws passed by that Legislature, not conflicting with the Constitution of the United States, were valid and binding.

The second question, to an examination of which I will direct the attention of members, is, whether the Lecompton convention was a legally elected body, and if so, is the constitution framed by it a legal instrument?

It is said that the convention was not a legally constituted body, and the constitution framed by it a void instrument for two reasons. First, because a number of the counties of the Territory were not represented in the convention, and could not be represented for the reason that the qualified citizens of those counties were not registered and consequently could not vote for delegates to the convention; and secondly, because the delegates who did assemble in that convention were not legally elected.

Let us inquire whether or not these two positions are correct; and if they are correct, how the constitution framed at Lecompton would be affected by them.

By the nineteenth section of the territorial act organizing the counties therein, there were created thirty-seven counties. Three of these counties lie on the extreme western frontier, and are said to have no population to be either represented or disfranchised. These three counties are Washington, Clay, and Dickinson. It may be said that this assertion is an assumption without proof to sustain it. I would inquire, where is the evidence that there is a single citizen residing in either of these counties qualified to vote? At a time when, of all others, they would have voted, there was not a single vote given. On the 4th day of January last, when the constitution was submitted to a vote of the people, in the form in which the free-State party desired it to be submitted, not a single vote was cast in either of all of these three counties. Where were the qualified citizens at so important an election as this; an election at which, if there were any voters there, they could have voted and shown their opposition to the Lecompton constitution? The fair and legitimate

inference—at least, until it is proved to be otherwise—is, that these counties were without population. This would leave thirty-four counties to be represented in the Lecompton convention. These were arranged by law into election districts for the election of delegates to the convention, as follows:

1st district, Doniphan county.	
2d " Brown and Nemaha counties.	
3d " Atchison county.	
4th " Leavenworth county.	
5th " Jefferson county.	
6th " Calhoun county.	
7th " Marshall county.	
8th " Riley and Pottawatomie counties.	
9th " Johnson county.	
10th " Douglas county.	
11th " Shawnee, Richardson, and Davis counties.	
12th " Lykings county.	
13th " Franklin county.	
14th " Weller, Breckinridge, Wise, and Madison counties.	
15th " Butler and Coffee counties.	
16th " Lynn county.	
17th " Anderson county.	
18th " Bourbon, McGee, Dorn, and Allen counties.	
19th " Woodson, Wilson, Godfrey, Greenwood, and Hunter counties.	

There were, as the returns made to the Governor will show, nine thousand two hundred and fifty-one voters registered in twenty-one of these thirty-four counties. The names of these counties, and the number of voters registered in each, are as follows:

No. of district.	Names of counties.	No. of legal voters.
1. Doniphan.....		1,086
2. Brown.....		206
3. Nemaha.....		140
4. Atchison.....		804
5. Leavenworth.....		1,637
6. Jefferson.....		553
7. Calhoun.....		291
8. Marshall.....		206
9. Riley.....		353
10. Pottawatomie.....		205
11. Johnson.....		496
12. Douglas.....		1,318
13. Shawnee, Richardson, and Davis.....		283
14. Lykings.....		413
15. Franklin.....	no return	
16. 4 counties.....	no return	
17. 2 counties.....	no return	
18. Lynn.....		413
19. 1 (Anderson).....	no return	
20. Bourbon, McGee, Allen, and Dorn.....		645
21. 5 counties.....	no return	
Total.....		9,251

Upon this registration being returned to Governor Stanton, he made an apportionment of representation in accordance with law. That apportionment is as follows:

1st district, Doniphan county.....	7 delegates.
2d " Brown and Nemaha.....	2 "
3d " Atchison.....	5 "
4th " Leavenworth.....	12 "
5th " Jefferson.....	4 "
6th " Calhoun.....	2 "
7th " Marshall.....	1 "
8th " Riley and Pottawatomie.....	4 "
9th " Johnson.....	3 "
10th " Douglas.....	3 "
11th " Shawnee, Richardson, and Davis.....	2 "
12th " Lykings.....	3 "
16th " Lynn.....	3 "
18th " Bourbon, McGee, Dorn, and Allen.....	4 "

It will be seen, by this apportionment, that twenty-one of the thirty-four counties were represented in the Lecompton convention, leaving sixteen not represented by their own delegates.

I have shown, I think, that in three of these sixteen counties there was no population to be represented. Let us see, then, how many delegates the remaining thirteen of the so-called disfranchised counties would have been entitled to if the citizens therein residing had been registered and entitled to vote for delegates.

At the election on the 4th of January last, when the Lecompton constitution was submitted for ratification or rejection to a vote of all the qualified citizens of Kansas, in the form desired by the free-State party, there were given in six of these thirteen counties one thousand two hundred and twenty-five votes, all told, and in the other seven not one vote was cast. I would ask again, where were the qualified citizens of these seven counties at this time when they could have voted, and, if opposed to the Lecompton constitution, had an opportunity to show that opposition? Were there qualified voters in these seven counties en-

itled to be represented in the convention? If they were, their conduct was not only singularly strange, but it affords strong ground for a presumption that they were satisfied with what the convention had done, and approved the constitution. There is a trite adage, and one generally true, that silence gives consent. It is certainly so in elections.

Governor Walker assumed this position in his inaugural address to the people of Kansas. He says:

"The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

I have not read this portion of the Governor's inaugural to show that the citizens of Kansas had a right to annul, by their votes on the 4th of January last, the constitution which had been adopted by a vote of the citizens on the 21st of December preceding. I only quote from this authority to establish the rule which I have laid down, because whatever the Governor says now is taken by my friends on the other side of the House as verity itself. If this rule be a correct one, does not a fair presumption arise, from the conduct of the citizens of these seven counties in not voting against the constitution on the 4th day of January, that they either approved it; or that they would not have voted for delegates if they could have done so? To my mind it is clear that, if they approved the constitution, or if they obstinately refused to vote when they had the opportunity, they would have refused to vote for delegates if they had been permitted so to do, and in either case they are in law without remedy, and the Lecompton constitution is to be taken as an expression of their will.

Let us inquire next to what number of delegates the remaining six of the disfranchised counties would have been entitled in the convention if they could have elected delegates? The convention, by legislative enactment, was to consist of sixty delegates. The number of voters registered in the counties represented in the convention was 9,251. Add to this number the whole number of votes given in these six counties on the 4th of January last, which was 1,225, and you have as the total, 10,476. This number divided by 60, (the number of delegates of which the convention was to be composed,) and it will show how many voters it required to elect a delegate. It will be seen that it required 174. If we divide 1,225 (the number of votes polled in the six counties referred to) by 174, it will show that the six counties were entitled to just seven delegates.

Now, sir, taking it as granted that all these counties would have elected free-State delegates, there would have been just that number of free-State delegates in the convention. But, sir, let us go further, and admit, for the sake of the argument, that the thirteen counties said to be disfranchised, (not taking in the account the three where nobody lived,) had been entitled to all the delegates, except those who took their seats as members of the convention, they would have been entitled to only sixteen delegates; for it will be observed that forty-four delegates from the other districts signed the constitution. What could have been done by these sixteen delegates? Could they have controlled the action of the convention? Would not the constitution have come from the convention precisely as it did? It is but fair to presume that it would.

The position assumed by some, that the delegates who did assemble in convention at Lecompton and frame a constitution, were not legally elected, is not, in my judgment, sustained by the facts, and is without support in law. I have never yet heard it asserted, here or elsewhere, that these delegates had not severally received a majority of all the legal votes polled at the delegate election. If such is the fact, I have not seen the proof. It is said, however, and perhaps truly said, that these delegates received a great many fraudulent votes. What effect would this have on their right to seats in the convention? If they received a majority of

all legal votes polled, were they not legally elected? What is the inquiry before a committee appointed to ascertain the right of a member of Congress to his seat? Certainly it is not whether he has received fraudulent votes, but whether he has received a majority of all the legal votes polled. If he has, he is declared elected. I know of no difference in an election of a member of Congress and a delegate to a convention which would render the election of one void and not that of the other. If all the offices were to be vacated now in our Union, by those filling them, who have received illegal votes, there would be scarcely a corporal's guard of officials in all the land. I do not wish to be understood as approving the frauds committed in Kansas. I hate fraud at elections, and heartily despise the men who can commit them. But we must not be led to the other extreme, and pronounce all elections void because some illegal votes may be polled by bad men. This would destroy our Government itself, and leave us without law and all our rights insecure.

It is further urged as an argument against the Lecompton convention, that a large number of the qualified citizens of Kansas refused to vote at the election of delegates, because they apprehended violence on the part of the pro-slavery men, and that they would be outvoted by fraudulent votes; and that even if they did poll a majority of votes, false and fraudulent returns would have been made to defeat them. Would this plea answer in a court of justice if the question of the election of an officer was being inquired into before it? Certainly not. The mere apprehension of violence or fraud could not be alleged before a judicial tribunal so as to render void an election. It is the same here. We cannot inquire into the apprehensions of citizens of fraud or violence to invalidate an election. Governor Walker, when speaking of the act calling the convention, and entreating the citizens of Kansas to vote at the election of delegates, was right when he said:

"I see in this act calling the convention no improper or unconstitutional restrictions upon the right of suffrage. I see in it no test-oath, or other similar provisions objected to in relation to previous laws, but clearly repealed as repugnant to the provisions of this act, so far as regards the election of delegates to this convention. It is said that a fair and full vote will not be taken. Who can safely predict such a result? Nor is it just for a majority, as they allege, to throw the power into the hands of a minority from a mere apprehension (I trust entirely unfounded) that they will not be permitted to exercise the right of suffrage. If, by fraud or violence, a majority should not be permitted to vote, there is a remedy, it is hoped, in the wisdom and justice of the convention itself, acting under the obligations of an oath, and a proper responsibility to the tribunal of public opinion."

These people who refused to vote for this reason were badly instructed, and should have disobeyed their leaders, gone to the polls, offered to vote, at least; and if they had been turned away by violence, or defeated by fraudulent votes or returns, the convention would not have dared to sanction the outrage. By staying away from the polls they gave the right to those who did vote to secure a majority of the delegates to the convention, and that, too, in accordance with all the rules of law in such cases.

I have already quoted what Governor Walker said to the people of Kansas on this point, and agree with him that "those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency." If this rule was not to be observed, all free governments would soon be at an end.

But, sir, it is doubted by some eminent statesmen, as well as lawyers, whether we have any right to inquire into the right of a member of the Lecompton convention to his seat. They say that such a body is the sole judge of the qualifications of its own members; and that if fraud was committed in the election of one or more of the delegates, the convention alone could inquire into it. This is certainly the law with regard to members of Congress, and of all the legislative bodies in the Union. Whether it is the same with regard to the election of delegates to a territorial convention, I will not stop to inquire. I think I have shown that the delegates to the Lecompton convention were legally elected; and if they were, and once took their seats, it will not be denied that they had the right to frame a constitution for the people of Kansas.

The next question for discussion is, was the Lecompton convention bound by law, precedent, or otherwise, to submit the constitution there

framed to a vote of the people for adoption or rejection?

I confess that I would have preferred a submission of that constitution altogether to a vote of the qualified citizens. I have every reason to believe that the President desired that submission; and we all know that Governor Walker preferred it. But, let me ask, what has my preference to do with the question? What had the desire of the President or of Governor Walker to do with it? Just nothing at all. The convention was independent of all control, let it be assumed by high or low. Governor Walker says to the people of Kansas:

"You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the constitution is the servant and not the master of the people, yet I have no power to dictate the proceedings of that body."

Governor Walker was right. He had not, nor had any other human being outside of the convention, the power to dictate what its proceedings should be.

Was there any law requiring the convention to submit the constitution to a vote of the people? If there was, I have failed in my search for it.

The territorial act, under the authority of which the convention assembled, is in the words following:

"The delegates thus elected [to the convention] shall assemble in convention at the capital of said Territory on the first Monday of September next, and shall proceed to form its constitution and State government, which shall be republican in its form, for admission into the Union, on an equal footing with the original States in all respects whatever, by the name of the State of Kansas."

It will be observed that there is not one word, either in the organic law organizing the Territory, or in the territorial act calling the convention, requiring a submission of the constitution to a vote of the people, before it should become binding on them as the fundamental law of the State. By what law, then, was its submission required? By no law whatever.

Indeed, it is but fair to argue that the people of Kansas were opposed to the submission, for the reason that the act which was passed, calling the convention, was vetoed by the Governor because it did not require the convention to submit the constitution to a vote of the people, and it was afterwards passed, over the veto of the Governor, by a vote of two thirds of the members of the Legislature. If the members of the Legislature represented the views of their constituents, and it is generally supposed that legislators do so, the enactment of a law under such circumstances would be strong evidence to prove that the people were averse to a submission of the constitution, for adoption or rejection, to a vote of the citizens.

Did precedent require a submission of that constitution to a vote of the people of Kansas? Not one of the original States of this Union had submitted to a vote of the people its constitution before entering into the Union. Not one half of the remaining States which have entered the Union since, had their constitutions submitted before they were admitted. Two thirds, at least, of all our States, entered the Union without a submission of their constitutions. Are all these constitutions invalid because they were not submitted to a vote of the citizens? Who will dare assert such an absurdity? I wish not to be understood as opposing a submission of State constitutions to a vote. I am in favor of it. But I assert here that a constitution is valid and binding without it; and when the law calling a convention to frame or alter a constitution does not require such submission, the convention is not bound to submit it.

The last subject to which I shall direct the attention of the House, is the question so much controverted here and elsewhere: that is, whether or not the people of Kansas can alter, amend, change, or abolish the Lecompton constitution, at any time they may see proper so to do?

I hold the doctrine, Mr. Chairman, that if Kansas is admitted into the Union under the Lecompton constitution, the qualified citizens of that State can alter, amend, or abolish that constitution whenever they see proper. I am further of the opinion that the citizens of a State may change their constitution in any other way than that prescribed in the constitution itself; and that if they do, it will be binding upon the people of the State until it is changed again. In this opin-

ion I am at least sustained by precedent, and I think by common sense. The people of the State of Maryland are at this hour governed by a constitution framed and adopted at a different time, and in a different mode, from that prescribed in the constitution changed.

The constitution of that State provided as follows:

"That this form of government, and the declaration of rights, and no part thereof, shall be altered, changed, or abolished, unless a bill so as to alter, change, or abolish the same, shall pass the General Assembly and be published at least three months before a new election, and shall be confirmed by the General Assembly after a new election of delegates in the first session after such new election."

It will be observed that this provides that two consecutive Legislatures shall approve the law providing for the alteration of the constitution. The Legislature at a single session passed an act authorizing the people to decide by vote whether a convention should be called to amend the constitution. The people decided that a convention should be called; the convention assembled; amended the constitution; the amended constitution was adopted by the people; and they are now living under, and observing as valid and binding, its provisions. Who dared say aught against it, or who deny them the right to live under that constitution, and to punish all who violate it? Can any people out of that State deny its validity? and if the citizens in the State are satisfied with it, who has any right to complain? I am informed that the present Legislature of Maryland, which has a majority of that party usually called "Know Nothings," have passed an act to amend their present constitution before the time fixed in the constitution itself for its change. If the people of Maryland, under this act, should change their constitution, is there any power or people outside of Maryland that can interfere and prevent its going into operation? Certainly not. I do not speak with certainty; but I am under the impression that the States of New York and Indiana changed their respective constitutions in a different manner, or at a different time, from that prescribed for so doing in the constitution changed. Will any one here say that the constitutions of these States are not valid, and can be violated with impunity? I think not. Is there anything more sacred and unchangeable in the constitution of Kansas than in those of Maryland, New York, and Indiana?

If the people of Kansas shall desire to alter, amend, or abolish the Lecompton constitution, if the State shall be admitted with that constitution, all they have to do is to get an act of the Legislature passed, calling a convention to alter or amend the same; and if the people, by a vote, either adopt or acquiesce in the constitution so altered or amended, no people in any other State of this Union can interfere. I will venture to say that there is not a member on the other side of the House who will say that if the Legislature, at its first session, shall pass an act calling a convention, and the act is approved by the Governor, and the convention should strike out all the Lecompton constitution, which recognizes slavery as one of the domestic institutions of Kansas, and if the people adopt the amended constitution, it would not be valid and binding on all people residing there. If this can be done, why not abolish the whole constitution and make an entire new one? If they do so, no power under heaven can interfere with them and their rights under that constitution as long as it remains unaltered. This may be called revolution. If it is, it is a peaceful revolution, under form of law, and destroys no man's rights.

I assume the position, also, that the people of Kansas have the right to alter, amend, or abolish their constitution at any time they may see proper, because that right is reserved to them in the bill of rights. There is a provision in the bill of rights in these words:

"2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and, therefore, they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

It is said that a bill of rights in a constitution is the same as a preamble to a law. What is a preamble to a law but a statement of the necessity of a law to secure some right or redress some wrong? It simply shows that up to that time some right was left insecure, or some wrong unre-

dressed, by reason of the want of a law. It does not reserve a right. It shows the necessity of taking away from some the right to injure their neighbors. But what does this section of the declaration of rights provide? That the right of the people to alter, reform, or abolish, their form of government, in such manner as they may think proper, is inalienable; is not given up; is reserved. If this right is inalienable it cannot be taken away by any other provision of the same constitution. If it is reserved in the people—not given up by them—it is a provision above all others, and must be observed before all others; because it is for the security of the rights of the people against oppression and wrong. The rights of the people cannot be taken away or curtailed except by an express provision of law; and when that provision comes in conflict with another provision in the same instrument, by which a certain right is reserved to and declared to be inalienable and indefeasible in the people, the former must give way to the latter.

And now, Mr. Chairman, I have discharged the duty I undertook, in the best manner I could. I will record my vote for the admission of Kansas under the Lecompton constitution, because I believe the laws of my country, which I am bound to support, demand it of me. The consequences to myself I have nothing to do with. I am in the hands of those who honored me with a seat on this floor. If they think I have misrepresented them, and that there is another more worthy or capable to represent them here, I believe in their right to send that person in my place. I will not complain. When I have done my duty in obedience to the dictates of my judgment, and, as I believe, in accordance with the laws of my country, I shall be contented, whatever may be my fate in the future. I would now willingly sacrifice my position, and all my political prospects in the future, whatever they may be, if, by so doing, I could secure peace and quiet among our people. I love my native land; I am proud of the past history and present greatness of my country; and I confidently look forward to the day when all nations shall acknowledge our superiority, and when, through the benign influence of our free institutions, the kingdoms of the earth shall be regenerated, and the whole human race disenfranchised. Let us cherish these institutions. Let us environ our Union with an impenetrable wall of strong arms and stout hearts. That Union! Who does not love it? The grandest edifice the world has ever beheld—erected by the wisdom of men of whom the world was not worthy—cemented by the blood of the purest patriots who ever lived in the tide of time, and bequeathed by them to us a priceless heritage—it has resisted all the rude shocks and angry waves which have heretofore threatened its destruction, and shall stand firm upon its base in all time to come, if we, and those coming after us, shall but guard it with half the vigilance exercised by those who spent their energies and lives to secure its perpetuity. I earnestly beseech my brethren of the North and of the South to act now, when our country is perhaps in its greatest peril, not as the Representatives of a divided and distracted people, but as the Representatives of the whole country. Let us abandon all sectional feeling, and rally around the standard of our common country. Let us keep our time-honored flag waving gallantly over our heads, no star obliterated, no stripe erased, until, as State after State shall be admitted into our Union, and star after star be added to that flag, all over the land, from North to South, from East to West, the cry shall be borne on every breeze, "still they come."

Mr. THAYER. It may be expected, Mr. Chairman, that at this time I should say something in defense of the Pilgrims, and of the State of Massachusetts; for they have been repeatedly assailed on this floor, within the last two weeks. But I shall make no defense. There are some things which I never attempt to defend. Among these are the Falls of Niagara, the White Mountains of New Hampshire, the Atlantic ocean, Plymouth Rock, Bunker Hill, and the history of Massachusetts. Any man may assail either or all of them with perfect impunity, so far as I am concerned. Any words of disparagement or vituperation directed against either of these objects by any assailant, excite in me feelings very different from those of indignation—whether the assailant

comes with a bow as long as that of the bold Robin Hood, or with a bow of shorter range, like that of the gentleman from Alabama, [Mr. SHORTER.] [Laughter.] But I deprecate the disposition that impels these shafts against the sister States of this Confederacy. I deprecate this sectional animosity whenever and wherever I see it evinced. I have heard too much of the aggressions of the North and of the aggressions of the South in the past, to be very much in love with either of these ideas. I have never been accustomed to speak of the aggressions of the slave power, and I have no purpose of doing it now or hereafter. If the one hundredth part of the people of this country can make dangerous aggressions on the rights and interests of the other ninety-nine hundredth parts of the people, either by the force of strength or by the arts of diplomacy, I assure you that I will be the last man to complain of it. I think that this slavery question is altogether too small a question to disturb so great a people as inhabit the United States of America.

For myself, I was always in favor of popular sovereignty, rightly so called. I am ready, for one, to agree to-day that the Territories belonging to this Government shall be open to settlement at any time when Congress thinks fit to open them; and that the people of all parts of the country shall go into them with the assurance of *absolute and complete non-intervention*; with the assurance that whenever any chief Executive, official, or non-resident, shall interfere, by fraud or violence, in their affairs, he shall either be impeached or hanged; with the assurance that when the people shall have the ratio of representation required by law, and shall come to Congress with a constitution republican in form, they shall be admitted into the Union as a State. This, sir, is popular sovereignty, and it is what was practiced in this country two centuries ago.

The people of the Plymouth colony had the privilege of choosing their own Governor, and of making their own laws. The same was true of the New Haven colony, and of the colony of the Providence Plantations. They always did it. I believe the Crown of England never appointed a Governor for these colonies; certainly not for the last two. But were those people, without ever having exercised the right of self-government, better prepared to govern themselves than are our people, educated under our State governments, who go into our Territories? Why, then, should we continue to have an "Ahab to trouble Israel," while he lays the blame of his own misconduct upon the emigrant aid societies? Why not cut off these Territories from all connection with the General Government, legislative or executive? Then we shall have no more agitation in Congress, and no more contention in the Territories. But so long as this connection continues, so long as we have a President trying to bias, by his appointments, and perhaps by the United States troops, the will of the people, so long shall we have agitation, and we shall have enough of it.

Well, sir, I have nothing to find fault about. I am very well pleased with the present tendency of events. But, sir, there are those who are dissatisfied, and who are inclined to invoke a certain deity—I think a false deity—which presides over a portion of this Union; a deity which has been invoked by great men on great occasions, and by little men on little occasions, for a long time past—a deity in whose expected presence both the people and the politicians have sometimes stood aghast—"when he," in prospect only, "from his horrid hair shook pestilence and war." This sulphurous god is Disunion. This Capitol Hill has been a veritable Mount Carmel for the last quarter of a century, upon which experiments have been tried with this bogus deity. One day upon Mount Carmel was sufficient to determine the destiny of Baal and his prophets. But here, we, the most patient people in the world, witness these invocations year after year, with exemplary endurance, expecting that the great Is-to-be will some time come. And you and I, Mr. Chairman, even during the present session of Congress, have witnessed attempts to kindle here the fires upon the altar of southern rights. But the sacrifice, the altar, and the spectators, were as cold as alabaster. The prophets only were warm; but they were warm, not from the presence of the god, but from his absence. He does not make his appearance. The great Is-to-be does not come.

He has either gone on a very long journey, or else he is in a very deep sleep.

Well, sir, shall we have this deity of Disunion invoked forever? Who is to blame? If the North has given cause, what have we done? What cause of disunion has ever proceeded from us? Have you not had everything your own way? Have we not let you have the Democratic party to use as you please? [Laughter.] Have you not had the Government for a long time?—And have we not let you use it just as you had a mind to? We, sir, were busy about our commerce, extending it around the world; about our railroads; our internal improvements; our colleges, and all those things which interest our people. We knew that you had a taste for governing, and that by the indulgence you might be gratified without serious injury to us. For many years you have had your own way, but now you come here and cry out "disunion." Why; what more can we do?

Well, it may be that we have encouraged a mistake on your part. It may be that we have given you some reason to suppose that this temporary courtesy of governing, which we have extended, was a permanent right. However, if you have fallen into that error, we will, perhaps, at some future time disabuse and correct you. But whatever blame there is anywhere, whatever cause there is for disunion, must attach to the action of the slave power, commanding and controlling the Democratic party, and to no one else in the country. And, therefore, at this time, I come with exultation—not, to be sure, with malignant exultation—to speak for a few moments upon the decline and fall of slavery in this country—nay, sir, further, upon the *suicide* of slavery in this land. I will tell you how: by striking out from beneath the institution the two most important pillars of its support, the institution itself must fall. And these two events have been accomplished, if not by its direct agency, at least by the connivance of this same party, impelled by this same controlling agency.

I will first show you how the moral power of this institution has been destroyed, by what act, and then I will show you how and by what act its political power is forever doomed. But, sir, how did an institution like this ever have a moral power? is a question for us to examine. In the first place, we are told by southern men that we have a nation of heathen in our land; and we are told by the same authority that we have an institution here for their regeneration. Now, sir, if we have, from necessity, a nation of heathen in our land, and if slavery is an institution for their regeneration, it is very clear that slavery has a moral power. But, says the gentleman from Georgia, [Mr. GARTRELL:] "They are idle, dissolute, improvident, lazy, unthrifty, who think not of to-morrow, who provide but scantily for to-day."

"Who would credit it, that in these years of benevolent and successful missionary effort, in this Christian Republic, there are over two millions of human beings in the condition of heathen, and in some respects in a worse condition? From long continued and close observation, we believe that their moral and religious condition is such that they may justly be regarded as the heathen of this Christian country."—*Committee of Synod of South Carolina and Georgia*, in 1833.

"After making all reasonable allowances, our colored population can be considered, at the best, but semi-heathens."—*Kentucky Union's Circular to the Ministers of the Gospel in Kentucky*, 1834.

"There seems to be almost an entire absence of moral principle among the mass of our colored population."—*C. W. Gooch, Esq., Prize Essay on Agriculture in Virginia*.

"There needs no stronger illustration of the doctrine of depravity than the state of human nature on plantations in general."—"Their advance in years is but a progression to the higher grades of iniquity."—*Hon. C. C. Pinckney, Address before the South Carolina Agricultural Society, Charleston, 1829, second edition, pages 10, 12.*

The Maryville (Tennessee) Intelligencer, of October 4, 1835, says of the slaves of the Southwest, that their "condition through time will be second only to that of the wretched creatures in Hell."

Here, then, is a field for great missionary labor; and it is fortunate that under these circumstances we happen to have an institution which is perfectly adapted to the regeneration of a lost and ruined race. I quote from the honorable member from the State of Virginia, in a speech delivered here, some time ago, in the House of Representatives:

"I believe that the institution of slavery is a noble one; that it is necessary for the good, the well-being of the negro race. Looking to history, I go further, and I say, in the

presence of this assembly, and under all the imposing circumstances surrounding me, that I believe it is God's institution. Yes, sir, if there is anything in the action of the great Author of us all; if there is anything in the conduct of His chosen people; if there is anything in the conduct of Christ himself, who came upon this earth, and yielded up His life as a sacrifice, that all through His death might live; if there is anything in the conduct of His Apostles, who inculcated obedience on the part of slaves towards their masters as a Christian duty, then we must believe that the institution is from God."—*Hon. William Smith, of Virginia, in a speech in the House of Representatives.*

Again I quote from the speech of the honorable gentleman from Georgia, [Mr. GARTRELL,] in regard to this same sentiment:

"Every sentiment expressed in that eloquent extract meets my hearty approbation. As a Christian man, believing in the teachings of Holy Writ, I am here to-day before a Christian nation to reaffirm and reannounce the conclusion to which that distinguished gentleman came—that this institution, however much it may have been reviled, is of God."

Mr. Chairman, these are not the only authorities on this subject. You and I have heard from the other side, day after day, quotations from the Bible, intending to prove the same thing; and you and I know that there are honest men in the slave States who believe that this is the fact. I have seen such men myself, and have conversed with them. They have told me that slavery was an absolute curse; and that the only reason why they held their slaves a day was that they owed them certain religious duties, and must keep them to look after their spiritual welfare. They feared that if their slaves were cast loose upon the world, with nobody to look after their spiritual interests, they would be spiritually lost. I heard this from a gentleman from Kentucky, and again from a gentleman from Augusta, Georgia, and I believe in my heart that both of these gentlemen were honest in these views.

I am not here to impugn any man's motives. I put this upon the ground that is claimed by southern men; and when I listened to the gentlemen on the other side reading honestly from the sacred volume in defense of this institution, as coming from God, and as a means for the regeneration of a heathen race in our land, I felt impelled to use the language of the Apostle to the Gentiles, which he employed on Mars Hill: "Oh! Athenians, I perceive that in all things ye are exceedingly given to religion." [Laughter.] Now, sir, since this institution has done all it ever can in this capacity, and since it is now destroyed as a converting and regenerating power, I stand here to give it its proper place in ecclesiastical history, for its right place it has never yet had.

In order to understand what position it is entitled to, we must, to some extent, speak by comparison, because we cannot speak absolutely on these matters of religion. The religious journals of the free States have oftentimes most unreasonably exulted over their religious efforts, when they contrasted them with the efforts of their southern brethren. I have seen placed in parallel columns, in northern journals, the contributions of the free States and the contributions of the slave States; and there were mighty words of exultation, unbecoming a Christian journal or Christian people at any time, when it was shown that our contributions for foreign missions were a hundred-fold more than yours. It is true we make more contributions. The city of Boston gives, for foreign missions, perhaps more than all the slave States; and the city of New York, perhaps more than Boston. But what of that? We give a few cents apiece, and only a few cents, for foreign missions each year, which amounts to a great sum, because we are a great people. We send men to heathen nations far over the water, to tell them about their future destiny. We are careful not to send our best men; we keep our Notts and Waylands, and our Beechers and Cheevers, at home; but sometimes a Judson escapes from us before we know what he is. This is about the extent we submit to self-sacrifice for the sake of the heathen.

Is there any cause for exultation in this, when we see what our southern brethren have done and are doing? When have we ever taken the heathen to our hearth-stones and to our bosoms? When have we ever admitted the heathen to social communion with ourselves and our children? When have we ever taken the heathen to our large cities to show them the works of art, or to the watering places to show them fashionable society and beautiful scenery? Did you ever see a Yankee at the

White Sulphur Springs shedding a benign religious influence over a little congregation of heathen companions? [Laughter.] We have pious women in the northern States, whose bright example has made attractive the paths of virtue and religion. Conspicuous among them, in every good work, are the wives of our ministers and deacons; but not one of these, within the range of my acquaintance, would consider herself qualified, either by nature or by grace, to be chambermaid, dry-nurse, and spiritual adviser, to ten or twenty heathen in her own family. But, sir, had these worthy dames been noble dames; had they come down to us from the blood of Norman kings, through the bounding pulses of sundry cavaliers, and then had been willing to assume these humble offices of Christian charity, we would have believed the time, so often prayed for, had already come, when kings should be fathers and queens nursing mothers in the church. Where, then, is the ground for this exultation on the part of the North? I tell you that it cannot be prompted by anything but a rotund, bulbous self-righteousness. So much, then, for the social sacrifices of our southern brethren. What other sacrifices have they made to regenerate this race? Great moral and intellectual sacrifices. I will read what southern men say on this subject:

Judge Tucker, of Virginia, said in 1801:

"I say nothing of the baneful effects of slavery on our moral character, because you know I have long been sensible of this point."

The Presbyterian Synod of South Carolina and Georgia said, in their report of 1834:

"Those only who have the management of these servants know what the hardening effect of it is upon their own feelings towards them."

Judge Summers, of Virginia, said in a speech in 1832, in almost the same words:

"A slave population produces the most pernicious effects upon the manners, habits, and character of those among whom it exists."

Judge Nichols, of Kentucky, in a speech in 1837, said:

"The deliberate convictions of my most matured consideration are, that the institution of slavery is a most serious injury to the habits, manners, and morals of our white population; that it leads to sloth, indolence, dissipation, and vice."

So said Jefferson:

"The man must be a prodigy who can retain his manners and morals uncontaminated" [in the midst of slavery.]

John Randolph, on the floor of Congress, said:

"Where are the tropics of this infernal traffic? The handcuff, the manacle, the blood-stained cowhide! What man is worse received in society for being a hard master? Who denies the hand of sister or daughter to such monsters?"

I might quote a hundred other southern authorities of the same kind showing the baneful effect of this institution upon the moral and intellectual character of the South. I might also quote from the United States census. I have the papers here, but time will not allow.

Now, in addition to these moral and intellectual sacrifices which our southern brethren admit, there are pecuniary sacrifices which you know to be very great; indeed, had Virginia been free fifty years ago, had she been exempt from this great tendency to Christianize the African race, she would have been worth more this day than are all the Atlantic States south of New Jersey. And should she by any chance become free, you will see her wealth and her population increase in proportion as this missionary spirit is diminished. [Laughter.] It is true, our southern brethren, impressed with this great idea of Christianizing the African race, having for their only ambition to present the souls of their negroes, without spot or blemish, before the throne of the Eternal, have sacrificed almost everything. I could quote from southern men upon this subject. The sagacious statesman who governs the Old Dominion, in a speech two years ago, said:

"But in all the four cardinal resources—wonderful to tell, disagreeable to tell, shameful to announce—but one source of all four, in time past, has been employed to produce wealth. We have had no work in manufacturing, and commerce has spread its wings and flown from us, and agriculture has only skimmed the surface of mother earth. Three out of the four cardinal virtues have been idle; our young men, over their cigars and toddy, have been talking politics, and the negroes have been left to themselves, until we have all grown poor together."

But trials, and tribulations, and poverty, have ever beset the pathway of the saints. In the earliest days, they "wandered about in sheep-skins

and goat-skins, persecuted, afflicted, tormented." Even now, in the nineteenth century, the condition of our southern brethren is not much improved, since they are compelled "to chase the stump-tailed steer over sedge patches which outshine the sun, to get a tough steak," and to listen to the perpetual cry of "debts! debts!" "taxes! taxes!"

In this age of material progress, you have seen the North outstrip you; but, with true Christian patience and Christian devotion, you have adhered to the great work of regenerating the heathen. [Laughter.] Now, sir, when was there ever a class of men so devoted and so self-sacrificing? I have read the history of the Apostles; I have read the history of the Reformers, of the Scotch Covenanters, of the Huguenots, and of the Crusaders; and I tell you not in one or all of these have I seen any such heroic self-sacrifice for the good of another race, or for the good of other men, as I do see in the history of these slave States. I have seen Fox's Book of Martyrs, but there is nothing in that to compare at all with the martyrs of the South. The census of the United States is the greatest book of martyrs ever printed. [Laughter.] Other books treat of martyrs as individuals: the census of the United States treats of them by States. I can see how a man, impressed with a grand and noble sentiment, should perhaps, in excitement or in an emergency, give up his life in support of it; but I cannot see how a man can sacrifice his friends, his family, and his country, for a religious idea or an abstraction.

Here, then, sir, is the position of our southern brethren upon this subject. But the worst is yet to be told—the doleful conclusion of the whole matter. They have made sacrifices, and it seems to me that they were entitled to the rewards for them; and I doubt not that they have often consoled themselves in contemplating the rewards in the future which must await them for such good services in the present. I have no doubt, sir, that oftentimes, seeing they have not treasures laid up on earth, they supposed they had treasures laid up in heaven. [Laughter.] But just at that time when they seemed to be almost in the fruition of their labors, when the gentleman from Missouri, [Mr. ANDERSON,] in great exultation of spirit, was speaking of the institution that had raised the negro from barbarism to Christianity and civilization, and when the gentleman from Indiana [Mr. HUGHES] had caught the inspiration, and said, that although the body of the African might be toiling under the lash, "his soul was free and could converse on the sublimest principles of science and philosophy"—when faith had almost become sight—just then, sir, out comes the Supreme Court with the decision that A NEGRO HAS NO SOUL! [Laughter.] "Angels and ministers of grace defend us!" All these treasures that were supposed to have been laid up "where neither moth nor rust doth corrupt, and where thieves do not break through nor steal," have been, by the decision of the Supreme Court, scattered to the four winds of heaven. More than two centuries of prayers and tears, of heroic self-sacrifice and Christian devotion, of faith and hope, of temporal and spiritual agony, have come to this "lame and impotent conclusion." [Laughter.] The moral dignity of the grandest missionary enterprise of this age is annihilated. As a northern man, I stand here a disinterested spectator of these events. If I do not like the decision of the court, I have a higher law. The negro himself can appeal to the court of heaven; but what refuge has the southern church? [Renewed laughter.] None whatever. This decision is a blow, direct and terrible, falling with crushing violence upon our southern brethren. This Supreme Court, with cruel and relentless hostility, has persecuted the southern church as the dragon of the Apocalypse pursued the woman into the wilderness seeking to devour her offspring. [Much laughter.] What motives could have impelled the court to this act? I have no doubt a patriotic motive. I am not here to impugn the motives of any man, or of any set of men, much less of the highest judicial tribunal in this land. No doubt, sir, their motives were patriotic, for they had witnessed the devastation of this terrible religious fanaticism through the South. They had seen the ravages of this disastrous missionary monomania, and they determined that there must be an end of it; and how could they so effectually

end it as by annihilating at once the object of its aims and aspirations. That, sir, they have done. Here, then, endeth the moral power of the institution of slavery.

I come now to the consideration of the event which just as surely has doomed to destruction the political power of that institution—I mean the repeal of the Missouri compromise measure in the passage of the Kansas-Nebraska bill. That act, sir, I will show to you—if it ever was committed by the slave power—to have been a suicidal act. What need was there for repealing that compromise, or of admitting slavery into Kansas? Was not the South sure enough of the Territory as it was before? I think—and this is my honest conviction—that had it not been for that act Kansas would have been inevitably a slave State. We of the North had no particular interest in that Territory. It was put down in our geographies as the great American desert. We had not considered it of much importance; but we relied on the law to keep slavery out of it, and to preserve it to freedom. We of the North have had too high an idea of the power of the General Government and of law, either for freedom or against freedom. Sir, this General Government has but little power over this question. It is not a motive power. It is only a registry, an exponent of power. It is the log-book of the ship of State, and not the steam-engine that propels the ship, or the wind that fills the canvas. We would like to have the log-book kept right, to show us our true position; but we do not now consider the Government as the motive power. The motive power of this nation, as of all nations, is the people in their homes, and as the people in their homes are, so is your progress. If the people in their homes in Kansas had been pro-slavery, what could the North have opposed to it? It was emigration, and emigration only, that could have made Kansas a State, either slave or free. The great law that governs emigration is this: that emigration follows the parallels of latitude. Under that law Kansas would have been settled entirely by a pro-slavery people, as was the southern part of Indiana, and as was the southern part of Illinois. We in the North, trusting in the protection of the law, would have had no remedy. People in favor of slavery would have gone there, and if they were compelled at first to adopt a free constitution in order to shape their institutions according to any law concerning the Territory, they might have soon reversed that position. In fact, the decision of the Supreme Court has now made any such thing unnecessary. They might have formed just such a constitution as they pleased. Well, then, we would thus, in all probability, have had Kansas a slave State without the Kansas-Nebraska bill. But the passage of that bill, if slavery had been certain before, seemed to the majority of the people in the North to make it almost inevitable. History warranted this fear. Judging from the case of Indiana, there seemed to be no chance whatever for freedom in Kansas, after the opportunity for slavery to enter there had been given. There was Missouri on the confines of the Territory—and the most densely peopled portion of Missouri, too. Freedom-loving men desiring to go to that Territory, would have had to travel hundreds and thousands of miles. The men who lived on the line of Kansas, as well as other southern men who entertained the same idea—though they did not express it then for fear of losing the bill—anticipated that the passage of the bill settled the question of slavery in Kansas forever. That was the evidence of the early history of Indiana. When that Territory was opened for settlement, a few slaveholders, perhaps a dozen or a score, went over from Kentucky, and, contrary to the wishes both of the President and Congress, contrary to the ordinance of 1787, established slavery; and they obtained such control over that young Territory that petitions, signed by many of the inhabitants, praying Congress to suspend the prohibition of slavery, were presented to Congress, and year after year from 1803 to 1807. These few slaveholders of the Territory of Indiana acquired such control over the inhabitants of that Territory because they were an organization, as slavery is everywhere and at all times an organization. It was a concentration of capital, a concentration of influence, and a concentration of power, which our emigrants from the free States, coming one by one, were unable to resist; and had it not been for the overwhelming population

which poured in from the North in 1807 and 1808, the prohibition of slavery would have been suspended. Had it not been for John Randolph it would have been suspended in 1803; and had it not been for Mr. Franklin in the Senate, it might have been suspended in 1807; and both of these were southern men.

Well, sir, I have said that slaveholders are everywhere an organization. There is a community of interest, a bond of feeling and of sympathy, which combines and concentrates all efforts to defend slavery where it is, and to extend it to places where it is not. Then, what fault can be found with our efforts to organize freedom by means of our emigrant aid societies, that enable our citizens to go to the Territory in companies of twenty, fifty, one hundred, or two hundred, to take possession of the West, and to locate there the institutions under which they choose to live?

And here I come to the defense of this association. It has been assailed, time and again, on this floor, and I have never been allowed even the privilege of putting questions to its assailants. The gentleman from Missouri [Mr. ANDERSON] called it "illegal and unconstitutional." It has been so assailed by the successor of Millard Fillmore. But where is the proof? Which of its acts has been shown to be illegal or unconstitutional? If it was illegal and unconstitutional, why has not the organization been crushed by the courts? We contend that any organization which is allowed to continue its existence from year to year, and to carry on its business, has the presumption, at least, of a legal right to do so. We claim that for the Emigrant Aid Company.

But the gentleman from Missouri professes to have authority in regard to this matter. He has said that we may employ this emigrant aid society in promoting emigration to Central America and to foreign countries, but that we must "be ware" how we do so in colonizing the Territories of this Government. Mr. Chairman, if the gentleman from Missouri has any authority in these premises, I hope he will exercise it. I ask him to publish a hand-book for emigrants, telling us how we may go into a Territory; whether we may ride or must go on foot; whether we may take our wives and children with us, or must leave them at home; whether we may take some of our neighbors with us, with their agricultural implements and steam-engines, or whether we must go into the Territories without any neighbors whatever; whether we may get horses and oxen from the free States, or whether we must content ourselves to take mules from the State of Missouri. [Laughter.]

Now, sir, let us have not only the book, but the reasons for it. Let us know how far we may go according to the law in this matter of emigration. I recommend the gentleman from Missouri to take some lessons from the gentleman from Mississippi [Mr. QUITMAN] in this matter. I think he can get broader views upon this subject if he will consult that gentleman, and I think he will allow northern men to go to the places which they have a right to go to by the law of this land in such society, if it be law-abiding, as they may choose to select for themselves.

I have said that the great general law of emigration is, that the emigrants shall follow the parallels of latitude in this country. There are some exceptions to this. The gold in California led our emigrants from the extreme North across many parallels of latitude. That was a sufficient disturbing cause. The existence of slavery in the slave States of this country, has driven thirty-five out of every hundred emigrants across northern parallels to the free States of the Union. That was another great and powerful cause. But there is another cause sufficient to carry emigration southward over parallels of latitude. That is, the argument of cheap lands, with the additional advantage of organized emigration. The objections that have heretofore existed among northern men to settling in southern States are, by this mode of emigrating, entirely obviated. The northern man, with his family of children, would not heretofore go into a southern State, in the absence of schools and churches. But when, combined with one or two hundred, or one or two thousand, of his friends and neighbors, he goes into a slave State, he carries with him schools and churches, and the mechanic arts, all these difficulties are obviated; and besides, he has the in-

ducement of going where the land can be bought at slave-State prices, in the expectation of finding it come up probably in a few years to free-State prices, which are five or six times greater than slave-State prices. Here is the great inducement of increasing wealth. Let a colony start from Massachusetts, and settle on almost any land in the State of Virginia—in Greenville, Southampton, Dinwiddie, or Accomac, where the lands do not average so high as three dollars an acre, by the census of 1850—and the very day they settle there the value of the land is more than doubled. There is better land for sale to-day in Tennessee and North Carolina, for fifty cents per acre, than can be bought for ten times that sum in any free State.

How can such an appeal to the migrating population of the North in favor of organized emigration to the slave States be resisted? I know of no means of resisting it. They do not come as your enemies; they come as your friends. They do not come to violate your laws, but to improve their own condition. This movement southward is destined to continue and to increase. Sir, if slavery were as sacred as the Ark of the Covenant, and if it were defended by angels, I doubt whether it could withstand the progress of this age and the money-making tendencies of the Yankee. But it is not as sacred as the Ark of the Covenant, and nobody believes that it is defended by angels.

But, sir, there begins to be an enlightened idea in these border slave States upon this subject. A year ago, when I proposed to plant a few colonies in Virginia, several journals in the Old Dominion threatened me with hemp and grape-vine if I should ever set foot in that Territory. Well, I thought I would make the experiment. I went into western Virginia and into eastern Kentucky. I addressed numerous audiences in both of those States, and everywhere where I asked the people if they had any objection to their land being worth four or five times what it was, they said "No." [Laughter.] I asked them if they had any objection to the manufacture of plows and wagons in Wayne county. There never had been a manufacturing establishment between the Big Sandy and the Guyandot. Everything was imported. There was not a newspaper published between the two rivers. I asked if they had any objection to a good, substantial, business newspaper published there, and to have schools and churches and the mechanic arts established in that county. With one voice they replied—"none, whatever."

"We welcome you to our country, and to all its advantages." At every meeting we were welcomed by the unanimous voice of the people; and now I believe that there are at least twelve newspapers in the State of Virginia advocating these colonies coming into the State. The sagacious statesman who is the Governor of the Old Dominion, gives us a most cordial welcome. Well, the prospect is very good and inviting; and if there is any danger of a dissolution of the Union—in fact, if there is any weak spot in the Union, I think it would be a good thing to patch it over with an additional layer of population. [Applause.] There never would be any disunion, if we could only attend to it, and see where the weak places are, and mend them in time.

But there is another exception to the rule I have laid down. Central America will prove abundantly sufficient to carry emigration southward, even across many parallels of latitude. We have already commenced to move, and what to some men seemed to be the umbilical cord of an embryo southern empire, is likely, by these means, to be cut off, if it is not cut off already. [Laughter.] Everybody knows the physiological consequences.

Well, sir, I wish now to say that there is a higher power than man's in relation to this matter of freedom in Kansas. It seemed at first to the whole North that the project of establishing slavery there would exclude freedom, and the whole North was intimidated by it. There was the greatest reluctance manifested to emigration in that direction, from the North. Everywhere there was fear; everywhere despair.

"There was silence deep as death,
While we floated on our path;
And the boldest held his breath
For a time."

Six months of persistent effort in writing and speaking were required, to induce the first colony

of only thirty men to go to Kansas. The people had become impressed with the idea that Kansas was destined to be a slave State; but as soon as the first colony had reached that Territory, and had founded the famous city of Lawrence, the whole train of northern emigration was turned from Nebraska and from Minnesota to Kansas. And they have filled Kansas with free-State men—such men as are fitted for the high position they occupy; for Kansas is the geographical center of our possessions. Its position in itself makes it the arbiter of our fate in all coming time, destined to give law to all between the Missouri river and the golden gates of the Pacific, and to make its power felt all the way between the British possessions and the Gulf of Mexico. Never were more noble men needed for a more noble work. It was necessary that Plymouth Rock should repeat itself in Kansas. The Puritan character was needed there; but how could it be had, except by such discipline as made the Puritans; for if it was necessary that they should be raised like the Pilgrim fathers of New England, it was also necessary that they should have the training of the Pilgrim fathers. They were peculiar in their early history, and peculiar in their late history. They had their early education among the rocks and mountains of New England. I have known of great men in times past, who came from the forest, who came from hills and mountains; but I never have known them to be raised on Wilton carpets. These men received their early training among the rugged hills of New England, where they waged incessant war on ice and granite, on snow and gravel-stones. It is there where they acquire their energy and their power. And, sir, I think the Yankee race has at least an octave more compass than any other nation on earth. I know a Yankee doughface is half an octave meaner than any other man. [Laughter.]

Sir, some of the best of this Yankee race went to Kansas. They were stigmatized six months before they arrived there as thieves and paupers. Well, if such men as those who have built Lawrence, and Topeka, and Manhattan, and Osawatimie, and Quindaro, were thieves and paupers, what do you think those of us respectable, well-to-do people will accomplish in the Old Dominion, where we are now becoming acquainted with some of the "first families?" These men have been reviled by their inferiors at both ends of Pennsylvania avenue many times during the last three years. The other day, in the other end of this Capitol, such men were denominated slaves. Sir, we are slaves! I admit it; but our only master is the Great Jehovah. These heroes in Kansas having for their ancestors the Pilgrim fathers, "sons of sires who baffled crowned and mitred tyranny," disciplined in their early years by the rugged teachings of adversity, seem to have been well prepared for their high mission.

But the discipline of worthy examples, of New England education, and of poverty and adversity, were not enough. The discipline of tyranny was requisite for their perfection. This discipline has been of use in all ages of the world. David was not fit to rule over Israel until he had been hunted like a "partridge in the mountains" by the envious and malignant Saul. Brutus was not fitted to expel the Tarquins until after he had endured their tyranny for years. What would Moses have done but for Pharaoh? Where would have been the reformers of the sixteenth century, where the puritans in the seventeenth, and the patriots in the eighteenth, but for Leo the Tenth, Charles the First, and George the Third? But Charles the First lost his head, and George the Third his colonies, for less tyranny than has been practiced upon the people of Kansas by the two successors of Millard Fillmore. If we thank God for patriots, we should also thank him for tyrants, for what great achievements have patriots ever made without the stimulus of tyranny? Without vice, virtue itself must be insipid; and without wicked and mean men, there could be no heroes.

The brave man rejoices in the opposition of the enemy of his rights. Wicked and mean men are the stepping-stones on which the good and great ascend to Heaven and immortal fame.

These miscreants, cursed both by God and man, subvert important interests. The sacred volume which unfolds to us the life and sufferings of the Savior of men, makes record also of Pontius Pilate

and of Judas Iscariot as necessary agencies in that great redemption.

So I will denounce no man who has fought against freedom in Kansas, as entirely useless in the grand result. But what a team to draw the chariot of freedom! Atchison and Stringfellow and John Calhoun, with the two successors of Millard Fillmore to lift at the wheels.

[Here the hammer fell.]

Mr. MOORE obtained the floor, but yielded to Mr. STEPHENS, of Georgia. Mr. Chairman, I announce, for the information of both sides of the House, that, on Thursday next at one o'clock, I shall move to take up the bill for the admission of Kansas.

Mr. DAVIS, of Indiana. Is this the agreement of all parties?

Mr. STEPHENS, of Georgia. All that could be consulted.

Mr. DAVIS, of Indiana. Has it been agreed to by both sides?

Mr. STEPHENS, of Georgia. The gentleman from Ohio can answer that.

Mr. CAMPBELL. I believe the arrangement is as generally understood and agreed to as any arrangement could be under the circumstances. It is, that this debate shall be continued in the Committee of the Whole on the state of the Union; that there shall be night sessions, if necessary, for that purpose; and that, on Thursday next, at one o'clock, the Senate bill for the admission of Kansas into the Union, shall be taken from the Speaker's table and voted on under the rules.

Mr. STEPHENS, of Georgia. And without any dilatory motions.

Mr. LOVEJOY. Who does the gentleman from Ohio speak for?

Mr. CAMPBELL. I am not authorized to speak for my side of the House, but it is generally understood by those with whom I have consulted that this arrangement is mutually acceptable.

Mr. MONTGOMERY. Our understanding of the matter was this: on Monday the bill was to be taken up and it was to be subject to discussion and amendment until Thursday at one o'clock, when the vote was to be taken.

Mr. GROW. I suppose that this statement must be made by unanimous consent, to be of any force. I have no objection to gentlemen indicating that at such a time they will ask for a vote on this question—that is as far as gentlemen can go. I object to any time being fixed when we are to come to a vote, and the mode fixed in which the vote is to be taken.

Mr. CAMPBELL. The question must be taken on Monday, and if then there is not a two-thirds vote in favor of the proposition to take up the bill, then it will fall.

Mr. STEPHENS, of Georgia. What the gentleman from Pennsylvania says, is right. What I want is, that no motion shall be made until the time I have stated—next Thursday at one o'clock.

Mr. CAMPBELL. It is understood, and gentlemen will admit the fact, that this arrangement is not obligatory upon either side, unless on Monday next a resolution shall pass the House to that effect by a two-thirds vote. So that gentlemen need not be alarmed, as no advantage will be taken of either side.

Mr. CURTIS. We are not alarmed, and we do not intend to be. There has been no general consultation on this side of the House, and we are not ready to decide on a matter of such importance until there has been a consultation. I have no objection myself to taking this matter up on Thursday.

Mr. STEPHENS, of Georgia. All I have done is to give notice that the bill will be taken up on Thursday next, in order that gentlemen who may wish to go home between now and then may know that no motion will be made on the subject before that day. That is all.

Mr. CAMPBELL. All I desire to say is, that on conference with as many gentlemen as I could see, this arrangement was agreed to.

Mr. QUITMAN. I, for one, may desire to offer an amendment.

Mr. STEPHENS, of Georgia. The arrangement does not preclude amendments.

Mr. FLORENCE. I confess, sir, that I do not quite understand this arrangement. The gentleman from Pennsylvania and the gentleman from Ohio seem to think that it will require a two-thirds

vote on next Monday to fix next Thursday as the time at which this vote is to be taken. The gentleman from Georgia says that gentlemen may go home if they choose, and be here next Thursday. There are, therefore, two statements, and I do not quite understand which one is right. I have not been consulted, and I did not care to be. I only desire to be here when the vote is to be taken. I want to know, therefore, what these high contracting parties have agreed to.

Mr. DAVIS, of Indiana. I understand that on Monday next this bill is to be taken up in the House, and that the discussion is to go on until Thursday, when a final vote is to be taken. My friend from Pennsylvania so understands; and this point I wish made certain.

Mr. FLORENCE. Yes, sir; there is a difference of statement between the gentleman from Georgia and the gentleman from Ohio. Let us know exactly what the arrangement is?

Mr. STEPHENS, of Georgia. Will the gentleman yield to me?

Mr. FLORENCE. Certainly.

Mr. STEPHENS, of Georgia. It is nothing but this: that on Thursday next, at one o'clock, I shall move to take the Kansas bill from the Speaker's table.

Mr. FLORENCE. And nothing is to be done before that?

Mr. STEPHENS, of Georgia. And nothing before that. No motion is to be made in reference to it but that it will be taken up then by general consent.

Mr. GROW. There is no consent about anything.

Mr. FLORENCE. My colleague will consent to nothing where his objection will prevent it.

Mr. DAVIS, of Indiana. If I understand it, discussion is to go on in the Committee of the Whole on the state of the Union until Thursday. Then the gentleman will move to take up this bill.

Mr. STEPHENS, of Georgia. If the House chooses to go into committee, that is their privilege. I only announce that, on next Thursday, at one o'clock, and not before—and the other side will not make a motion before—I shall move to take up the Kansas bill from the Speaker's table. It is my desire that the House should go into committee and discuss this question every day between now and then.

Mr. DAVIS, of Indiana. There is no objection to that, so far as I am concerned, and those with whom I act.

Mr. MONTGOMERY. Is that bill to be taken up for the purpose of discussion, or is it at that time to be attempted to put it on its passage?

Mr. STEPHENS, of Georgia. It is to be under the operation of the rules of the House. My intention is to call for the previous question. Then it is under the control of the majority whether the call shall be seconded or not. If a majority be so disposed, they can vote down the call for the previous question.

Mr. MONTGOMERY. What I wanted to understand was whether the previous question would then be called.

Mr. CAMPBELL. The process is very simple, and ought to be readily understood by members. This discussion will probably go on in Committee of the Whole until Thursday next. At one o'clock on that day, the gentleman from Georgia, under the rules, will propose to take the Senate bill from the Speaker's table. He may move to commit it to the committee of which he is chairman, and demand the previous question. If that be voted down, the bill will be open for amendment, and for discussion at the pleasure of the House. We all understand that the opponents of the bill, or those who wish to amend it, can vote down the gentleman's proposition, should he make such a one. The bill will then be open for amendment, and the previous question can be called after amendments have been introduced. The thing is very plain. There is no attempt, I think, on the part of the gentleman from Georgia, and there is certainly none on my part, or on the part of those I represent, to take advantage either of those with whom I act or of those whom I expect to oppose throughout this whole fight.

Mr. J. GLANCY JONES. I desire to say one word.

Mr. MORGAN. I call for the regular order of business. We have had enough of this.

The CHAIRMAN. This debate has only been permitted by courtesy, and cannot continue, as objection is made. The gentleman from Alabama is entitled to the floor, and will proceed.

Mr. MOORE. Mr. Chairman, the message of the President, the reports of the committees of the two Houses, and the many able speeches which have been already made in favor of the admission of Kansas, have fully exhausted the subject, and swept away all the flimsy pretexts and excuses of those who oppose that measure.

Some have the candor to admit, what all know to be true, that if her constitution did not tolerate domestic slavery, no serious opposition would have been made to her admission. Those who advocated the adoption of the Topeka constitution, as the Black Republicans all did, cannot, without the grossest hypocrisy, pretend to have serious scruples on account of any irregularities in this of Lecompton. I should not, at this late period, have engaged in the discussion of this question, important as I regard its decision, but for the allusions which have been repeatedly made to Alabama, and more especially in the speech of the honorable gentleman from Illinois, [Mr. FARNSWORTH,] the other day, who, not satisfied with indulging in the tirade against the institution of slavery, which has been heard from day to day from that side of the Chamber, saw fit to single out Alabama, and, with a view to disparage her people, instituted a comparison between that State and his own.

First, he says, Alabama has not increased as rapidly as Illinois in population. Is not that easily explained? The census returns show that Illinois had, in 1850, of her then population, 111,860 foreigners, while Alabama had but 7,498. The former being in close proximity to the old and densely populated States of the North, would also account in part for this.

Next, as to the number of children at school: he says, in Alabama there are 62,846 pupils and students at school; while in Illinois there were, at the same time, 182,292. Out of about 190,000 white persons between five and twenty years of age, Alabama had, in fact, 100,000 at school; while in Illinois there were 350,000 white persons between five and twenty, and of these only 140,000 at school. But the gentleman, very adroitly, dropped the comparison between Alabama and Illinois when he came to speak of the number of persons over twenty-one years who could not read or write, and then contrasts Alabama with Massachusetts. I prefer to continue the comparison which he commenced with Illinois. In 1850, there were in Alabama 33,757 persons over twenty-one who could not read or write, while in Illinois there were 40,000. In Illinois there were 978,855 acres of public land appropriated for educational purposes, while in Alabama there were 902,775; and the lands of Illinois, it is well known, were far richer. Alabama had, in 1850, 1,375 churches, while Illinois had but 1,223.

The gentleman from Illinois sneeringly comments upon these results of the census as to the education of the masses in Alabama, and asserts that there are multitudes in all the slaveholding States who "cannot even read their ballots, nor sign their names to a poll-book." Does he not know that a large portion of the population of many of the States, at the period of our Revolution, were unlettered men? And yet what nobler examples of heroism and intelligent appreciation of popular rights has history anywhere afforded us? Was Rome much indebted to the literary cultivation of her masses for the sturdy virtues and practical wisdom which secured to her, for so many ages, the conquest and government of the world? Many, even, of the feudal barons who wrested the great charter from King John, made their marks, being unable to append their signatures.

The gentleman ventures these sneers against the hardy yeomanry of the South, with whom it is at other times the favorite policy of his party to claim an affiliation against what they call the slaveholding aristocracy of the South. The scorn with which the masses of the South have ever rejected these insidious appeals is a sufficient proof of the intelligent and unselfish patriotism of those free and independent citizens. If they were denied the advantages of early education, by living in a new and sparsely-settled country, as many were, or by other causes, this comparative want of education and of book-learning is not to be regretted

by them, if, with it, they had fallen into the follies of free-love associations, of spiritualism, and the thousand infidelities which prevail in New England. Remote from crowded cities, engaged in agricultural pursuits, compelled, in their solitude, to study the great book of nature, gathering information at church, in the jury-box, at the political hustings, and in the practical business of life, their store of knowledge is not always scant; but this above all, they have not been contaminated even by the suspicion of corruption, and always make the best, the bravest soldiers in the world.

The gentleman who has just taken his seat [Mr. THAYER] taunts us with the want of that commerce and manufacturing industry which we have so long assisted the North in establishing. It is another illustration of our freedom in the past from sectional jealousies, as it is also of our fond illusion that we had yet a part in David, and an inheritance in the son of Jesse.

And why, let me ask, should there be perpetual strife between us? Why should this relentless war be waged against the South? Does not the chief product of our slave labor keep in motion the spindles of Massachusetts, and create there an increased demand for your labor? We offer you a market for your manufactured goods, employment for your ships, and encouragement to your ship-builders. Every additional plow which is driven into the soil of Alabama, and each cargo that is landed at Mobile, give an increased impetus to your various manufactures.

The time was, Mr. Chairman, and at no remote period in our history, when the Representatives of the people, from the various sections of this Union, were wont to meet together to consult, to deliberate for the welfare of a common country. Party feeling might, at times, run high; differences might arise as to questions of domestic or foreign policy, or as to the true construction of the Constitution; but in these things all were agreed—namely, in recognizing the binding obligations of the Constitution in all its parts, in attachment for the Union, and in reverence for the decisions of our judicial tribunals. What a change has taken place in a few years! Ranged on opposite sides and pitted like gladiators, the Representatives of one section are arrayed against those of the other. But little has been heard during the four months of the session save violent philippics, day after day, against the South, her people, and her institutions, and occasionally re-creation and retaliation on the other side. The stormy sessions of the National Assembly of France scarcely indicated more hostile feeling between the different parties than has been manifested here.

If what we see here is a reflex of the state of feeling among the masses of the North, then it requires no prophet to tell that this Union cannot much longer endure. The crusade so long preached against the South has, it seems, maddened and estranged the North, and has at last aroused the South to the dangers that menace her.

What a change here, too, in a few short years! A little while ago, and the young adventurer from the North would often seek his home in the South, and, when deserving, never failed to meet with friends, with promotion, and advancement. The distinguished gentleman who sits before me, [Mr. QUITMAN]—the Chevalier Bayard—"without fear and without reproach," and whose military and civil services have won for him a national fame, stands a shining example of this; so do the honorable gentleman from Missouri, [Mr. CRAIG], and the honorable gentleman from Tennessee, [Mr. MAYNARD], and many in distinguished positions all over the South.

Then the southern man and the northern man could kneel at the same altars and meet around the same communion table; but now the slaveholder is accursed in the estimation of these Pharisees who "have stolen the livery of the court of Heaven to serve the Devil in," and his presence would pollute their altars. Then kindly intercourse existed, and the mutual interchange of friendly, if not fraternal feeling. In those days, we of the South felt that the Hancocks, the Otises, and the Warrens of the North, belonged alike to us; and that their glory was also a part of our inheritance. Our youths then went to your renowned institutions of learning, without feeling, as they now would have too much cause to do, in some of them, at

least, that they were the veriest hot-beds of treason and fanaticism. Then the southern man felt, as he stepped his foot upon the free soil of the North, that he was still within his own land and among his brethren. He wandered over her battle-fields, read the monuments of her heroes, and exulted in their glorious achievements.

Our pulpits, our work-shops, our factories, our legal and medical professions, our school-houses, all were open to, and many were filled by men from the North. They often married and dwelt among us, thus adding new links to the chain that bound the Union together. Some, after being treated with kindness and hospitality, encouragement and patronage, in their youth, have returned to the North to stir up strife and ill-will between the sections. Prominent among these is a distinguished Senator of New York, who in early life was thus kindly treated and patronized while pursuing the honorable profession of a teacher in a rural district in Georgia. But all kindly recollections of his early days, if any he ever had, have long since been effaced from his memory; and his life has been spent in fomenting sectional strife and ill-will, and in seeking to overturn the institution of slavery, which, he knows, if successful, would result in ruin to the black as well as the white race, and in a disruption of the ties that bind together the States of this Union.

I chanced to hear him recently exulting that there was a North side and a South side in that Chamber and in this—a northern party and southern party. Sir, no love of country prompted that exultation; for he knew too well that, wherever tried, emancipation had proved to be a failure; either bringing speedy destruction and ruin upon the land where they had been thus emancipated, resulting in the massacre of both races, regardless of age or sex, or, by their slower but not less sure, decay and ruin in the lapse of time. His motive was not prompted by patriotism, but by reckless ambition. I never see him, with his bland smile and Oily Gammon manner, that I am not reminded of Milton's description of one of the fallen angels:

"Belial, in act more graceful and humane;"

* * * * *
 For dignity composed and high exploit:
 But all was false and hollow; though his tongue
 Dropt manna, and could make the worse appear
 The better reason, to perplex and dash
 Mature counsels; for his thoughts were low;
 To vice industrious, but to nobler deeds
 Timorous and slothful."

A few persons, like the ill-used individual mentioned by the gentleman from Illinois the other day, who was banished from the city of Mobile, abuse the kindness which has been extended to them. How well it becomes that gentleman to express such heartfelt sympathy for the slaves of the South, when his State will not even allow a free negro to tread upon her soil! If one should do so, he may be seized and sold into servitude. He sympathizes deeply with the hard lot of our own sleek, well-fed, contented, and happy slaves! But the free black can say of that gentleman and his State: "I was an hungred, and ye gave me no meat; I was thirsty, and ye gave me no drink; I was a stranger, and ye took me not in; naked, and ye clothed me not; sick and in prison, and ye visited me not."

What has brought about this great change to which I have before alluded? Upon whom rests the heavy responsibility? Is it upon those who wage this unjust, unholy, sectional war against their own countrymen? Or is it upon those who have stood up and defended their section when assailed, opposing argument to argument, meeting taunts and insults with scorn, and threats with defiance?

The Abolition party was for years few in numbers and altogether contemptible. But wicked and ambitious men united with it, and drew together in one solid mass the odds and ends of all the old parties—proclaiming for their watchword hostility to the South and her institutions. They seek to array one section against the other, hoping, when that is accomplished, from being superior in numbers, to get the control of the Government and hold the South in complete subjection. To effect their unholy purposes, the South is abused and misrepresented. Their orators, their presses, and even their pulpits, are employed in fomenting strife and ill-will by continual denunciation, ridicule, taunts and threats, towards the South; a

fair sample of which we have just heard from the gentleman from Massachusetts, [Mr. THAYER.]

These bad men, to gain their ends, have shown that they do not hesitate to trample under foot the Constitution, and nullify the solemn enactments of Congress made to carry out its express provisions, and wholly indifferent to the consequences which may flow from their rashness. The President of the United States, for daring to oppose their unholy designs, notwithstanding his venerable years, his eminent position, his unsullied public and private character, is traduced and vilified, his motives aspersed, his patriotism questioned, and he openly and falsely charged with resorting to corruption and bribery, to influence the legislation of Congress. The Supreme Court, too, of the United States—the highest judicial tribunal known in our country—composed of men distinguished for their learning, their exalted wisdom and virtue, whose luminous decisions have added to the national reputation; whom the people reverence and respect for their firmness, their impartiality, and the unsullied purity of their lives, because they will not perjure themselves and mold their decisions to suit this fanatical party, is to be annihilated, or reformed, as they say; while the individual members, including the venerable Chief Justice, are denounced as vile, corrupt, and debased.

For years we of the South have patiently borne these wrongs and injuries. We have warned the people of the North of the inevitable consequences which must follow these attacks; but, with reckless indifference, they still pursue their course of madness, folly, and wickedness. They pretend to think that we of the South will tamely submit; but say, if we should resist, that they will whip us into submission. The gentleman from Illinois [Mr. FARNSWORTH] intimated the other day that hemp would be used to crush out this spirit of resistance, if any should be manifested. Great Britain threatened this against the thirteen Colonies, all of them, be it remembered, at that time holding slaves; and the gallant Hayne, of South Carolina, was actually hung; but was the proud spirit of the Colonies thereby subdued?

Talk about subduing a sovereign State of this Confederacy! of whipping her into submission! What folly! What kind of a Republic would that be, I should like to know, where one portion of it had to hold the other in subjection by force? A Republic it might be in name, but in fact it would be a pure, unmitigated despotism.

Mr. GILMAN begged to interrupt Mr. MOORE, by asking how it happened that all the threats of separation have proceeded from the South?

Mr. MOORE. Sir, I deny the correctness of this assertion, and point to the fact of the Hartford convention, assembled during a war waged for the protection of New England citizens, and in the face of an enemy threatening our coasts. It has never been under such circumstances that the South has chosen to vindicate her violated rights. When the defense of your country, the honor and glory of your empire, were involved, you have nowhere found more obedient and more emulously patriotic citizens. Do you ask me for instances of northern insubordination? Look to the nullification of the laws of Congress by Massachusetts and her surrounding States. When South Carolina threatened to resort to this remedy, she was to be dragooned into submission; when the boasted land of the Pilgrims exerts it, it is perfectly consistent with law, order, and constitutional obligations.

It is openly proclaimed that they intend, under no circumstances, to vote for another slave State. They would crib and confine us to our present limits, saying to us, "thus far shalt thou go, and no further;" knowing that ruin must thereby, if not speedily, yet sooner or later, overtake our fair land. Growing more insolent of late, they boldly proclaim that they intend to rule and govern the South, and thus allow her people none save a mere nominal participation in the administration and control of public affairs. Some, more daring than the rest, openly declare that their purpose is to crush out the South; destroy the institution of slavery, and make her a dependent province—make her sons "hewers of wood and drawers of water" for northern task-masters. And this is to be the doom, if their designs are consummated, not only of the slave owners, but of all the freemen of the South.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, MARCH 26, 1858.

NEW SERIES....No. 85.

James Watson Webb, who conducts one of the leading Republican presses at the North, hitherto claiming to be moderate and conservative, in his paper of February 20, says:

"If any State should attempt to secede, she will be whipped into subjection. Should they continue refractory, the United States would be compelled ultimately to hold such refractory States as colonies—just as Spain and other European Powers hold their slave colonies—until such time as it might be safe to rely upon their obedience."

And, again, listen to his fierce bombast. It is rich. He says:

"If a southern State should attempt to resist, she will be made to submit, and bear herself with deference and respect thereafter to those who are morally and socially her equals, and politically and physically her superiors, and when provoked to demonstrate it, if needs be, her masters."

Such is the language now employed by the Black Republican presses throughout the North—seemingly to verify the old adage, "whom the gods wish to destroy, they first make mad."

Contrast this insolent bravado with the wisdom of Edmund Burke:

"Your instructions and your suspending clauses are the things that hold together the great texture of this mysterious whole. These things do not make your Government. Dead instruments, passive tools as they are, it is the spirit of the English Constitution which, infused through the mighty mass, pervades, feeds, unites, invigorates, vivifies every part of the empire, even down to the minutest member. It is the love of the people; it is their attachment to their government—from the sense of the deep stake they have in such a glorious institution—which gives you your Army and your Navy, and infuses into both that liberal obedience without which your Army would be a base rabble, and your Navy nothing but rotten timber."

That gentleman [Mr. FARNSWORTH] spoke sneeringly of the republic of Alabama. Let me tell him that Alabama has not yet decided upon her course. She has indulged in no threats; but by the unanimous voice of her Legislature has determined, in case Kansas is rejected, to hold a convention to determine what her honor, her safety, and independence may seem to require. She came into the Union as an equal, and her equality she will never surrender.

Mr. PALMER wished to know by what process it was proposed that Alabama should be withdrawn from the Union.

Mr. MOORE. She has decided, sir, in a contingency which involves the loss of her equality and honor, to assemble a convention to decide upon her course. It is not for me to anticipate that decision; but, if she deem it necessary to dissolve a compact, of which it is openly declared that she shall no longer participate in the advantages, I have no fear that she will not have the intelligence and unanimity to devise the means of her long deferred, reluctant, but compelled withdrawal.

But she still cherishes the hope that her constitutional rights may be respected; that Kansas may be admitted, and peace and quiet restored to the country. I know the sentiments of her people, and especially of those who have honored me with a seat on this floor. They are a law-abiding though proud-spirited people, content with the Constitution and Union which were made and handed down to them by their fathers—attachment to that Union having been a cherished principle of political faith throughout the South. What but this caused her people to submit for so many years to a high protective tariff, by which her industry was taxed to enrich the North? What but this caused her to submit to be robbed of her slaves annually to the value of thousands of dollars? What but this induced her to acquiesce in those measures by which the North obtained all of those vast territories which we acquired from Mexico by, to say the least, an equal expenditure of blood and treasure on her part.

I tell these Black Republican leaders, I tell the North, that they may, when it is too late, exclaim, as a celebrated English historian did in reviewing the causes that led to the loss of America to Great Britain: "What demon of folly got possession of our councils? What malignant star shed its influence on our arms? Where were our statesmen?" All we ask is to be let alone; to be permitted to manage our own affairs; to be protected in the enjoyment of equal rights and equal

privileges with the people of the other States of this Union, as well in the Territories as in the States. Believing that all the signs around us point to revolution, that the danger of a dissolution is imminent, and ardently desiring to preserve it, if it can be done consistently with the honor, self-respect, and independence of the people with whom, for good or ill, my lot is cast, I should have a serious responsibility to discharge to my constituents if I did not warn you of the Black Republican party on this floor; and if my humble voice could penetrate even the furthest extremity of the North, I would warn her people not to be deceived by those bold, bad men, who, to gratify their insatiate ambition, would subvert this Government and deluge this land in blood. The people of the South see the dangers that menace them, and they are ready to meet them as becomes the sons of noble sires.

The sentiment, the conviction of the South, is that their safety consists in their unity. Seeing how fiercely they are assailed; that their property, their equality and independence are boldly threatened, they have, day by day, forgetful of past differences, been drawn more closely together, until they now present to the world the proud spectacle of a free, intelligent people all united as a band of brothers, in the unalterable determination to stand or fall together in defense of their rights. And this I may say, without boasting, that if the madness of fanaticism shall at last compel the South, in defense of all she holds most dear, to imitate the example of our great forefathers, when chains and slavery were forged for them, she will so act her part that her future historians will not be ashamed to record the exploits of her sons.

By what standard do they judge us? by what examples in our past history, in that of the Anglo-Saxon race, do they conclude that the South will tamely submit to occupy, in this Union, the position of inferiority and degradation to which the Black Republicans would subject her? We are the descendants of that sturdy race of patriots who were willing to expose "their lives, their fortunes, and their sacred honor," rather than submit to so much as a tax of threepence per pound on tea. But you think, perhaps, that we are degenerated. It did not appear so in the war of 1812. It did not appear so with that little band of Texans, who, in defense of their rights and liberties, bravely dared to meet the powerful armies of Mexico. What though we be few in numbers, we still possess all the elements of strength to sustain ourselves in peace or in war; and the experience of the past in history, as well as Holy Writ itself, teaches us that the race is not always to the swift, nor the battle to the strong.

The North is as much, if not more, interested in preserving this Union than are we of the South. Its destiny is in her hands. She now threatens to conquer and subdue us if we dare resist her encroachments. Remember that the same was done by Lord North and his minions towards our forefathers. See what that old Tory, Dr. Johnson, said in an article, "Taxation no Tyranny," written about that time:

"When subordinate committees oppose the decrees of the general Legislature with defiance thus audacious and malignity thus acrimonious, nothing remains but to conquer or yield; to allow their independence, or reduce them by force." * * * "It seems determined by the Legislature that force shall be tried. I would wish that the rebels may be subdued by terror, rather than by violence; that such a force may be tried as might take away not only the power but the hope of resistance. Their obstinacy may perhaps be mollified by turning the soldiers to free quarters, forbidding any personal cruelty or hurt." * * * "Since the Americans have made it necessary to subdue them, may they be subdued with the least injury possible to their persons and possessions."

You of the North ridicule the idea of a dissolution for any cause. So did, then, the ministers of England. You presume upon your strength and our supposed weakness. So did they with the colonies. The tyrants of old England sought to tax them while they had no voice, no representatives in Parliament. Our brave forefathers determined to put all to the hazard rather than sub-

mit even to the smallest tax thus imposed. The Black Republican party proclaim their determination to rule the South by their overwhelming sectional majorities. We, it is true, might have a nominal participation in the legislation of the country, but would be powerless to protect ourselves, and the heaviest burdens might, and, judging by the past, would be imposed upon us. Would the South submit? Would freemen ever submit to occupy such a position?

We do not believe that the North would submit to this under similar circumstances. We have the opinion of Mr. Fillmore, that they would not, and in his opinion they ought not. I have much mistaken the proud spirit of those with whom I dwell, if they shall prove themselves more submissive. Our fathers were loyal to the mother country—so have we ever proven to this Government, discharging all of our constitutional obligations.

The tyrants whom our fathers then opposed, sought to excite insurrection among our slaves—it is so declared in the Declaration of Independence. So do these Black Republicans. Our fathers bore long the oppressions of the mother country. The minions of power fondly dreamed that as they had submitted so long, they would never resist. So think our enemies now. Says the gentleman from Illinois, [Mr. FARNSWORTH,] why do not these braggarts put their threats in execution? It is gasconade—all threat. Sir, we make no threat—it is not our aim to frighten anybody; nor can you frighten us, or deter us from doing our duty. Our fathers met to consult in the first American Congress in 1774. They separated with no movement made for independence. Again they met, consulted, and went to their several homes, and still no serious talk of independence. Blood had then been shed, too, at Concord, Lexington, and Bunker Hill. They met again in 1776, deliberated, and at last determined on that memorable Declaration of Independence. The Abolitionists and Black Republicans repeat in our ears every day one passage contained in that instrument, and affect to believe that it was intended to include the slaves as well as whites; and therefore sustains their nefarious purposes. I beg to call their attention to another passage, which has not, perhaps, wholly lost its significance:

"That whenever any form of government becomes destructive of these ends, (for which it was created,) it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles and organizing it in such form as to them shall seem most likely to effect their safety and happiness."

In times like these, Mr. Chairman, when sectional feeling is so intensely excited, it is impossible to tell what a day may bring forth. And what does all this portend? Is it, or not, the beginning of revolution? We short-sighted mortals are not permitted to lift the veil and see what the future has in store for us. Could we do so now, it might serve to check those who are rushing headlong upon unseen dangers. If "coming events cast their shadows before"—if effects still follow causes—if history, that tells us how other republics have risen, flourished for a time, and then passed away; how empires, once hoary with age, and mighty in prowess, at last fell—if she teaches any lessons for our guidance in the story of the past, then ought we to be warned.

Our forefathers were not unsustained in the trying times of the Revolution. They had friends in England who boldly and eloquently defended their cause, and warned the British ministers of the consequences of their rashness. Among them were Lord Chatham, Burke, Fox, Pownall, and Colonel Barré.

Said the latter gentleman, on the floor of Parliament:

"I prophesied, on passing the stamp act, in 1765, what would happen thereon; and I now, in March, 1769, I now fear I can prophesy further troubles; that if the whole people were made desperate, finding no remedy from Parliament, the whole continent will be in arms immediately, and perhaps these provinces lost to England forever."

In February, 1769, said Governor Pownall in Parliament:

"The Americans do universally, unitedly, and unalterably declare, as I have before told the House, that they

ought not to submit. The slightest circumstance will now, in a moment, throw everything into confusion and bloodshed. That spirit which led their ancestors to break off from everything which is near and dear to the human heart, has but a slight sacrifice to make at this time; they have not to quit their native country, but defend it; not to forsake their friends and relations, but to unite with and stand by them in one common union. They will abominate as sincerely as they now love you. In one word, if this spirit of fanaticism should once arise upon the idea of persecuting these people, you will not, for the future, be able to govern with a rod of iron.

"If it be not the humor of the House to believe this at present, I only beg they will remember that it has been said, and that they were forewarned of it."

How applicable to our own times!

Lord Chatham said:

"When the resolution was taken in this House to tax America, I was ill in bed; if I could have endured to have been carried in my bed, so great was the agitation of my mind for the consequences, I would have solicited some kind hand to have laid me down on this floor, to have borne my testimony against it."

Again spoke Lord Chatham:

"America, if she falls, will fall like the strong man. She would embrace the pillars of the State and pull down the constitution along with her."

Again, when he spoke those words that made the tyrants tremble:

"America (says he) is almost in open rebellion. I rejoice that America has resisted."

But all these warnings were unheeded to the last.

I know not upon what to rest the hope that the North will at last yield to wiser and more moderate counsels. All the old national parties are broken up, save the Democratic party, and that is weakened by desertion and torn by divisions. I do yet fondly hope that this old party will be found strong enough, patriotic and self-sacrificing enough, to meet boldly this question, upon which its fate and the fate of the Union depends, and once more restore peace and quiet to a distracted country. It has received accessions of late from the old Whig and the American parties, and forms a nucleus around which the conservative men of the whole country may still rally. Though deserted by those once recognized as its leaders, a portion of the old guard, the true-hearted northern Democracy, still stands firm. Though their motives may be maligned, their names threatened to be cast out as despised, and public honors denied them, still, unmoved, they go on to the discharge of their duty to their country. I listened with delight to the manly and eloquent speech of the gentleman from Connecticut, [Mr. BISHOP,] the other day. While the spirit which he exhibited survives among the northern Democracy, though they may, for a time, be in a minority, we may yet have hope for the perpetuity of our institutions. All honor to them! They will yet be honored and sustained at home, cherished and respected at the South; while they will be ever cheered with the pleasing consciousness of having, like patriots, discharged their duty boldly, notwithstanding the desertion of the Douglasses, the Walkers, the Forneys, the Bancrofts, and others, once honored leaders. One of these was, but yesterday, the idol of every southern heart; the hero of many a forensic contest; the example first on the lips to refute the charge that the northern Democracy were not to be trusted. All remember how, like Saladin's, his keen Damascus blade shone so brightly on many a field in defense of the constitutional rights of the South. Admiring friends looked forward to the day when they could elevate him to the Presidency of the nation—an honor which had only been delayed yet a little while, as they deemed, for an older, though not, as we then knew, a better soldier. That he should so suddenly turn his back upon his ancient friends, and join his long embittered foes, is strange, unnatural, unaccountable.

A striking example in our early history is recalled to my mind. It is of one who was among the boldest and bravest in the early days of our Revolution—daring, resolute, and zealous in the cause of liberty. His blood was freely shed for the great cause. The Father of his Country trusted him, leaned upon him; and yet he at last, from ambition or some secret griefs, proved himself a traitor to his country. Remembering the past as I do, I will not call him to whom I have referred by so harsh a name; but from present indications from the quick nomination for the Presidency, with R. J. Walker on the same ticket for the Vice Presidency, the indications given out by his organ at Chicago, and by his late speech

in opposition to the South—to make friends, as it seemed with the Black Republicans, by misrepresenting the positions and sentiments of that section, and then attacking those falsely-attributed positions—it will not surprise me to see, very soon, the mask thrown off, and this nameless chief fighting in the ranks of his late revilers.

We of the South are falsely represented at the North, by these Black Republican presses, as being desirous of extending slavery to the free territory of the North. A distinguished Senator pretended to charge upon the South a desire to convey slaves into northern free States. This is not so. We claim the right to carry our slaves into territory belonging to all the States alike. The gentleman from Illinois says he admits this principle as regards all property save that of slaves. He denies that slavery exists by the common law, but contends that it is by statute law only; and denies that they should go to any of the Territories of the Union.

I tell that gentleman that this is no longer a question for dispute. It is the law of the land, so pronounced by the highest judicial tribunal in our country. It was also decided by twelve of the ablest judges in England—among whom was Lord Holt—"that negroes were merchandise." I refer the gentleman to Burges's Commentaries, vol. 1, p. 735; Chalmers's Opinions of Eminent Lawyers, vol. 2, pp. 262, 263, 364; and Colquhoun on Roman and Civil Law, not having time to read them now.

We do not ask you to regard slavery as we regard it. It is not suited to your northern clime, but it is suited to ours. We of the South believe that it is recognized and sanctioned by the Almighty in his revealed Word. We think their introduction into our country has been the efficient means of civilizing and Christianizing the African race. We know they are more happy and contented. Agriculture, commerce, and manufactures, have all derived benefits incalculable from this institution. By it the world has been clothed and fed. Think of it as you will, but deny to us none of our constitutional rights; cease to molest us, and we may yet live on in peace. We are content to assume all its responsibilities, both here and hereafter, and willing to abide the enlightened public opinion of the world. And may we not hope that there is sufficient virtue, intelligence, and patriotism, left at the North to correct this unsound public sentiment? or shall treason, folly, and fanaticism, be permitted to rule the day, and this Republic, with all its present greatness, and its glorious promises, be destroyed, merely to gratify the thirst for power of those Black Republican leaders, in whose hearts, as I believe, there lurks treason as dark as ever actuated the oath-bound associates of Catiline's conspiracy. They, too, meditated an insurrection of the slaves in the Roman territories, as one of their means of effecting their unholy purposes. Cicero, after detecting their plot and arresting their persons, boldly asked, if they deserve praise who laid the foundation of the republic, do not they also who preserved it from its enemies? May not those now (and I allude particularly to those residing in the North, who unite to restore peace to this distracted country, by preventing the triumphs of treason and rebellion in Kansas, and by thwarting the designs of the enemies of the Constitution and the Union) ask in the same spirit if they, too, have not deserved well of their country?

Mr. WASHBURN, of Illinois. Mr. Chairman: Representing that congressional district in this House which in the last presidential election gave to the Republican candidate for President the largest majority of any district in the United States, and which elected me to this Congress by a majority exceeding twelve thousand votes, I wish to be heard in behalf of my constituency on the great question which now so deeply agitates the country.

In 1850 the country was convulsed with agitation on the slavery question, growing out of the acquisition of territory from Mexico; but when I took my seat in the Thirty-Third Congress I was told that all the questions connected with the institution of slavery had been finally adjusted and settled by the adoption of what was called the "compromise measures of 1850;" that these measures had been acquiesced in by the people generally, and sanctified by the triumphant election of Franklin Pierce as President of the United

States in 1852. It was said that the people had lost all interest in the subject, and had become tired of the continued agitation involved in its discussion. It was dead, and buried so deep that there was no resurrection for it. There was no disguising the fact that in the election of Pierce the slave power achieved a most signal advantage. His nomination was secured by that power; and when elected he was thoroughly and completely devoted to its interest. Both branches of Congress, by majorities of more than two to one, were in harmony with the Executive on that subject. The Supreme Court was then, as now, ready for any service which the interest of the power demanded. Hence, every branch of the Government, executive, legislative, and judicial, was in concord on the slavery question. To the casual observer of events it would have been supposed that, so far as the whole machinery of government was concerned, nothing further was left to be desired by the South; and the aggression so soon disclosed in the proposed repeal of the Missouri compromise could not have been anticipated. Sir, it is not my purpose to-day to go over the history of the repeal of the Missouri compromise, that outrage upon the public honor and the plighted faith of the nation. That history has been written in the annals of the country for the last four years, and there are yet other chapters to be written in that connection.

By false issues, dodges, evasions, and frauds, the election of Mr. Buchanan was secured. No single speech can do justice to the history of that remarkable campaign, and I certainly shall not attempt it in the few remarks I propose making while I occupy the floor. I believe I can say, with truth, that almost everywhere in the North Mr. Buchanan was unblushingly claimed as a friend to freedom in Kansas, and in proportion as his chances were thought to be desperate did his friends clamor for him as the peculiar champion of the free-State cause. But all professions favorable to Kansas being a free State, made by him or his friends, were doomed to falsification, and the prediction of his opponents in that regard have become history.

Mr. SHAW, of Illinois. Do I understand my colleague to say that Mr. Buchanan was claimed as a free-Kansas man in Illinois?

Mr. WASHBURN, of Illinois. I said I believed he was so claimed almost everywhere in the North, and I know he was so claimed by his supporters in that part of Illinois I represent.

The history of events in Kansas up to the time of the election of the present Chief Magistrate, is but too well known. From the time the repeal of the Missouri compromise was first broached, there has been a concerted, systematic, and determined effort to make a slave State out of territory which had hitherto been consecrated to freedom. That effort has been aided in every possible way by the Government, which has intervened in every instance to prevent the people thereof from being left "perfectly free to form and regulate their domestic institutions in their own way." The office-holders who have been sent to Kansas who have not lent the influence of their official position to uphold fraud, violence, and outrage, have felt the weight of the displeasure of the Government officials in Washington; while those who were most active in the pro-slavery cause, and have committed inhuman crimes have been, and are yet, retained in office. The Pierce administration looked with indifference upon the first invasion from Missouri, which foisted upon the Territory a foreign Legislature. It had no words of denunciation for the lawless and revolutionary acts of the Atchisons and Stringfellow who plotted in their midnight conclaves their usurpations of power in Kansas, and the destruction of the most sacred rights of American freemen, but it addressed itself to the falsest and most vehement accusations against the emigrants from the free States who sought free homes there. The administrations of both Pierce and Buchanan have ever been in the interest of slavery and hostile to freedom; and, while the former deserves the contempt, the latter merits the execration of posterity. The history of the outrages in Kansas for the last three years is a blot upon the escutcheon of the nation, and were it not for the official proofs, an account of them would, in after times, be considered merely as a "romance of rascality."

A record of the official evidence in regard to all of

these outrages has been filed in the archives of this House and spread before the nation. Two members of the present House [Messrs. HOWARD, and SHERMAN of Ohio,] are deserving the thanks of the country for their successful efforts in exposing that atrocious conspiracy against the elective franchise. The Blue Lodges of Missouri vomited forth their bands of adventurers and terrorists to overrun and confiscate, as it were, an entire Territory, trampling under foot all law, justice, and right. The subsequent horrors in Kansas naturally flowed from this first irruption of the border ruffians. It was these same men who afterwards, in the Territory, lighted the torch of civil war; who murdered the free-State men in cold blood; who covered the smiling prairies with bones and corpses, and who sundered all the ties which usually unite men. But time will have its revenges; and the authors and participants in these great offenses will perish before time shall have effaced from their foreheads the stigma which the hand of crime has there imprinted.

A peculiar fate has attended the Governors of Kansas—they have all fallen under the hatchet of the guillotine, worked by the administrations that appointed them. It should be observed that these Governors were all appointed as friends of the Nebraska bill, and good "national Democrats," who went to the Territory to carry out the "principles of the bill" so called. They have all been removed from office, or compelled to resign. Like Saturn devouring successively all his children, the Government devours successively all the Governors it sends to Kansas.

But, to go back a little, you determined to get rid of the Missouri compromise, you determined to break down the barrier which, by a solemn compact, our fathers had interposed against the further extension of slavery. Without pursuing this matter further at this time, let us see how you stand on the record. The Kansas-Nebraska bill provides that it is—

"The intent and meaning of this bill not to 'legislate slavery into any Territory or State, nor exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject to the Constitution of the United States.'"

Then the resolution of the Cincinnati convention declared that the party recognized—

"The right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

While this resolution, fairly interpreted, explodes the humbug of popular sovereignty, and takes away the right of the people of the Territory to act upon the slavery question until they shall come to form a constitution, yet it conceded that the people of Kansas had a right to act through "the legally and fairly expressed will of a majority of the actual residents," &c., whenever they "come to form a constitution."

And, sir, what does the President say in his inaugural? Here it is:

"What a conception, then, was it for Congress to apply this simple rule—that the will of the majority shall govern—to the settlement of the domestic question of slavery in the Territories!"

"But be this as it may, it is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved!"

Such are the declarations of the President—"the will of the majority must govern;" and, further, that it is the indispensable and imperative duty of the Government to secure to every resident inhabitant the free and independent expression of his opinion by his vote. These are the declarations of the same President who is now attempting to wield the whole power of the Government to force a constitution upon a people notoriously against the "will of the majority"—an instrument conceived in crime, and brought forth in fraud and violence.

The country was promised that with the advent of the present Administration the Kansas question should be speedily settled; that a new order of things was to be inaugurated there, and that peace should soon reign throughout all her borders; that the President would call to the executive posts in the Territory men of high character and distinguished ability—men who would have the entire confidence of the Administration, and

who would challenge the respect of the country. Robert J. Walker was appointed Governor, and Frederick P. Stanton Secretary, of the Territory. They were both southern men, and of course, "national Democrats," who had efficiently and successfully labored to elevate Mr. Buchanan to the Presidency, and who were ardent supporters of his Administration. Their appointment implied the fullest indorsement and confidence of the President and his Cabinet. They were held out to the world as honest, competent, and just men, who could be relied upon to administer the affairs of the distracted Territory fairly, honorably, legally; holding the scales of justice even between contending parties. All their acts would be entitled to full faith and credit, and implicit confidence could be reposed in all their statements in relation to matters connected with their official duties. They entered upon the duties of their respective offices with a thorough and complete understanding with the Administration as to the general course of policy to be pursued. Governor Walker, in his letter to the President accepting his appointment, said:

"I understand that you and your Cabinet cordially concur in the opinion expressed by me, that the actual *bona fide* residents of the Territory of Kansas, by a fair and regular vote, unaffected by fraud or violence, must be permitted, in adopting their State constitution, to decide for themselves what shall be their social institutions. This is the great fundamental principle of the act of Congress organizing that Territory, affirmed by the Supreme Court of the United States, and is in accordance with the views uniformly expressed by me throughout my public career. I contemplate a peaceful solution of this question by an appeal to the intelligence and patriotism of the people of Kansas, who should all participate freely and fully in this decision, and by a majority of whose votes the decision must be made, as the only and constitutional mode of adjustment.

"I will go and endeavor to adjust these difficulties, in the full confidence, as strongly expressed by you, that I will be sustained by all your own high authority, with the cordial cooperation of all your Cabinet."

After Walker's acceptance of the office, in the language used in the extract just read, the following instructions were issued to him by the Administration, emanating from the Department of State:

"There are two great objects connected with the present excitement growing out of the affairs of Kansas, and the attainment of which will bring it to a speedy termination. These were clearly and succinctly stated in the President's recent inaugural address, and I embody the paragraphs in the communication, asking your special attention to them. It is declared in that instrument to be the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved; and that being accomplished, nothing can be fairer than to leave the people of a Territory free from all foreign interference to decide their own destiny for themselves, subject only to the Constitution of the United States.

"Upon these great rights of individual action and of public decision rest the foundations of American institutions; and if they are faithfully secured to the people of Kansas, the political condition of the country will soon become quiet and satisfactory. The institutions of Kansas should be established by the votes of the people of Kansas, unawed and uninterrupted by force or fraud. And foreign voters must be excluded, come whence they may, and every attempt to overawe or interrupt the free exercise of the right of voting must be promptly repelled and punished. Freedom and safety for the legal voter, and exclusion and punishment for the illegal one—these should be the great principles of your administration."

And here again we find the declaration of the Administration, that the institutions of Kansas should be established by the votes of the people of Kansas, unawed and uninterrupted "by force or fraud." The people, uninfluenced and uncontrolled, were to shape and mold their own form of government, and decide their own destiny for themselves, without foreign interference, and in their own way, "subject," in the cant phrase of the day, "only to the Constitution of the United States."

A programme having been arranged and agreed upon between the Administration and Walker, the Governor issues his inaugural address to the people of Kansas, which is approved by the President and Cabinet. In that address he says:

"Unless the convention submit the constitution to a vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress."

Now, sir, upon the face of this record, I submit that this Administration was committed, by its official action and declarations, by its plighted faith, by every obligation of honor, to a full, fair, and complete submission of any constitution that might be formed to the whole people of Kansas, at an election fairly and justly conducted, where

all the actual resident settlers might peaceably vote. And still further, when Governor Walker reached Kansas he made a speech to the people, at Topeka, to persuade them, if the opportunity were offered, to participate in the election. In that speech he said:

"I will say, then, to you, gentlemen, that if they do not appoint a fair and impartial mode by which the majority of the actual *bona fide* resident settlers of Kansas shall vote, through the instrumentality of impartial judges, I will join you in all lawful opposition to their doings, and the President and Congress will reject the constitution."

"I say to you, that unless a full and fair opportunity is given to the people of Kansas to decide for themselves what shall be their form of government, including the sectional question which has so long divided you—unless, I repeat, they grant you such an opportunity, I have one power of which no man or set of men can deprive me, and to which I shall unhesitatingly resort, and that is to join you in lawful opposition to their acts."

As late as July last, the Washington Union, the official Administration organ, contended that the will of the people of Kansas, in regard to their constitution, must have "a direct expression at the polls." It said:

"A constitution not subjected to that test, no matter what it contains, will never be acknowledged by its opponents as containing anything but fraud."

Mind you, sir, "a constitution," a whole constitution, not a particular provision, to be voted for or against, yet voting for the instrument all the time. The "organ" continues:

"A plausible color might be given to this assertion by the argument that members of the convention could have no motive for refusing to submit their work to their constituents, except a consciousness that the majority would condemn it. We confess that we should find some difficulty in answering this. What other motive could they have?"

"We do most devoutly believe that, unless the constitution of Kansas be submitted to the direct vote of the people, the unhappy controversy which has heretofore raged in that Territory will be prolonged for an indefinite time to come. We are equally well convinced that the will of the majority, whether it be for or against slavery, will finally triumph, though it may be after years of strife, disastrous to the best interests of the country, and dangerous, it may be, to the peace and safety of the whole Union."

"Again: this movement of the territorial authorities to form a constitution is made, not in the regular way, in pursuance of an enabling and authorizing act of Congress, but in the mere motion of the Territorial Legislature itself. Nay, it has been begun and carried on in the teeth of a refusal by Congress to pass such an act. This irregularity is not fatal. There are other cases in which it was overlooked. But it can be waived only in consideration of the fact that the people have expressed their will in unmistakable language. If we dispense with the legal *forums* of proceedings we must have the substance."

"We think, for these reasons, that Governor Walker, in advocating a submission of the constitution to a vote of the people, acted with wisdom and justice, and followed the only line of policy which promises to settle this vexed question, either rightly or satisfactorily. In this respect, at least, he has done nothing worthy of death or bonds."

Even John Calhoun, and his seven confidères, pro-slavery candidates for delegates to the convention from Douglas county, were obliged to come out with a card just before the election, pledging themselves, in the strongest terms, to submit the constitution of the future State of Kansas, for adoption or rejection, to every *bona fide* actual citizen of Kansas. In view of events that have since transpired, I want to call attention to that card:

To the Democratic voters of Douglas county:

It having been stated by that abolition newspaper, the Herald of Freedom, and by some disaffected bogus Democrats, who have got up an independent ticket for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we, the candidates of the Democratic party, submit the following resolution, which was adopted by the Democratic convention which placed us in nomination, and which we fully and heartily indorse, as a complete refutation of the slanders above referred to.

JOHN CALHOUN, A. W. JONES,
W. S. WELLS, H. BUTCHER,
L. S. BOLING, JOHN M. WALLACE,
W. T. SPICELY, L. A. PRATHER.

LECOMPTON, Kansas Territory, June 15, 1857.
Resolved, That we will support no man as a delegate to the constitutional convention, whose duties it will be to frame the constitution of the future State of Kansas, and to mold the political institutions under which we, as a people, are to live, unless he pledges himself, fully, freely, and without reservation, to use every honorable means to submit the same to every *bona fide* actual citizen of Kansas, at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers of this Territory, as the majority of voters shall decide."

Having thus shown the pledges of the Administration and its officials, and others, that the people of Kansas should have the opportunity fairly and freely to pass upon their constitution, I want to trace action on the question, and show how shamefully all these pledges and obligations have been violated; to show how utterly faithless the

Administration has been in this regard, and how it is now lending itself to trample down all the principles it had professed to cherish; and to impose a hated and odious constitution upon a people against their will. But let me say here that this Lecompton convention had no legal basis at all. There had been no enabling act passed by Congress. Though President Pierce had recommended the passage of such an act by the last Congress, yet Congress did not act on his recommendation. The Legislature of Kansas had, therefore, no authority to call any convention to form a constitution. That is a proposition which, in principle, cannot be controverted. No Territorial Legislature, which is a mere creature of Congress, can abrogate its government, which has been established by a law of Congress. However, as Congress has full power over the subject of the admission of a new State, it can accept any constitution, republican in form, however it may be framed; provided, always, it embody the will of the people seeking admission as a State. During the administration of General Jackson, the Territorial Legislature of Arkansas undertook, without any authority from Congress, to call a convention to adopt a constitution preparatory to admission of that Territory into the Union. A question as to the power of the Legislature to do that act was submitted to the Attorney General, B. F. Butler, and he decided that any law passed by the Territorial Legislature of Arkansas calling a convention would be utterly null and void. When, subsequently, the subject of the admission of Michigan was up in the Senate, Mr. Buchanan then being a member of that body, said:

"No Senator will pretend that their Territorial Legislature had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

Hence, we have the authority of General Jackson's administration, and of Mr. Buchanan himself, that this Lecompton convention was entirely without foundation of law. This does not imply, however, that the people would not have the right peaceably to assemble, without an act of Congress, and form a constitution to be presented to Congress, as a petition to be admitted into the Union. The Topeka constitution was the act of the people of Kansas, and undoubtedly embodied their will, as they ratified it by an almost unanimous vote; and it is to be regretted that Congress had not conformed to that will, and admitted Kansas as a sovereign State.

In July, 1855, the bogus and usurping Legislature of Kansas, without any authority from Congress, even had it been a legal Legislature instead of an imported mob, passed an act to take the sense of the people on the question of calling a convention to form a constitution. The free-State people, being a vast majority—denying then and ever, the binding force and validity of the acts of that Legislature—took no part in the election, one way or the other. Some others voted, and the proposition to call a convention was declared carried. Though Congress had expressly refused to pass an enabling act for Kansas; yet, on the 19th day of February, 1857, the Legislature of that Territory passed a law providing for the call of a convention to frame a constitution preparatory to her admission into the Union. The scope of the act was in full and complete harmony with the entire previous history of the pro-slavery party in Kansas. It conformed to the general purpose to which all their efforts had been directed; that of fastening slavery upon the State, regardless of the popular sentiment, and indeed, against the vehement protest of the people. The bogus Legislature retained in itself the power to supervise all the returns, excluding the United States officers, the Governor and Secretary, from any control over them. The whole machinery for taking the census, and registering the voters, as provided for by the act, was placed in the hands of the pro-slavery party, in order that it might be so arranged that the principal voting might be done in the pro-slavery districts. Even at that time fearing that any constitution that might be made by their convention would be voted down, they purposely failed to provide in their act for any submission to the people. For that vital omission, and for other reasons, Governor Geary very properly vetoed the bill, but it was, however, passed over his head by the requisite two-third vote.

Now, sir, let me proceed to an examination of this election of delegates, that we may ascertain how far that election approximated towards an expression of the will of the people of the Territory. Setting aside the illegal character of the Legislature which enacted the law, let us look for a moment to the practical operation of things under it. Section eight of this territorial act provides, that at the election for members of the convention no man shall vote unless his name shall have been registered. As I have stated, all this machinery for taking the census and registering the votes, was in the hands of the pro-slavery sheriffs and probate judges, and their deputies, and they performed their duties in their "own way." And what was done? Was the census fairly taken? Was a full, fair, and complete registry of all the voters in the Territory made, so they might participate in the formation of their government? The law was not complied with; the voters were not registered; they could not vote for members of the convention under the law. Here is the testimony of Governor Walker and Secretary Stanton on that subject; and they may be called the Administration's own witnesses. Governor Walker, in his letter to the President, says:

"That [the Lecompton] convention, had vital, not technical defects, in the very substance of its organization, under the territorial law, which could only be cured, in my judgment—as set forth in my inaugural and other addresses—by the submission of the constitution for ratification or rejection by the people. On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken, and the voters registered; and, when this was completed, the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census; and, therefore, there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters."

"These fifteen counties, including many of the oldest organized counties in the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give, a solitary vote for delegates to the convention." "Nor could it be said these counties acquiesced; for, wherever they endeavored by a subsequent census or registry of their own to supply this defect, occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention."

"I repeat, that in nineteen counties out of thirty-four there was no census. In fifteen counties out of thirty-four there was no registry; and not a solitary vote was given, or could be given, for delegates to the convention in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters in Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent."

Mr. Secretary Stanton corroborates Governor Walker, and says:

"The census therein provided for was imperfectly obtained from an unwilling people in nineteen counties of the Territory, while in the remaining counties, being also nineteen in number, from various causes, no attempt was made to comply with the law. In some instances people and officers were alike averse to the proceedings; in others, the officers neglected or refused to act; and in some, there was but a small population and no efficient organization, enabling the people to secure a representation in the convention."

Thus, it will be seen that, without any fault of their own, but in consequence of the premeditated neglect or refusal of the pro-slavery officers in the Territory to properly take the census and register the voters in one half of the whole number of counties, the free-State men were unable to vote for members of the convention. And yet, in face of this fact, we hear it alleged everywhere by the friends of the Lecompton instrument from the President down to the postmaster of the smallest degree, that this whole trouble has grown out of that "refusal to submit to lawful authority, and vote at the election of delegates." It is made a grave charge against these free-State men, that they did not vote, when under the law they were prohibited from voting; and it is said that they are now estopped from making any complaint.

In some of the counties, which were in effect disfranchised in the manner I have stated, the people undertook to elect delegates to the convention, in order to have a representation there, but the elections were declared irregular and the members thus elected ousted from their seats.

I now come to what took place at the election of members to the convention, which occurred on the third Monday of June, 1857. As we are looking to the will of the people in this matter of forming a government by the people in "their

own way," let us see what proportion of the people participated in this election. There were nine thousand two hundred and fifty-one votes registered, and there was undoubtedly a large number of voters who were not registered in the nineteen omitted counties. Out of this whole number of voters in the Territory, only two thousand two hundred voted in all; and the average aggregate vote for the successful candidates was about one thousand eight hundred. Although there were large numbers who were excluded from voting, there were many who did not vote, being satisfied that the pro-slavery candidates would be "counted in" with the usual frauds, and others who were indifferent on the subject, as they had been promised by the highest authority an opportunity for a full and fair vote, on the adoption or rejection of any constitution that might be made.

This convention of sixty delegates, thus elected by a handful of votes, and which would give an average of thirty voters, good and bad, to each delegate, went to work and formed a constitution in "their own way." The convention was adjourned over from September to October. In the mean time there was an election for members to the Legislature, and the free-State men carried it overwhelmingly, notwithstanding the prodigious frauds that were perpetrated. It was thought that when the convention came together again, in October, its action would be palsied by the power of public opinion. Many of the most reputable members elected to it, becoming satisfied of its dishonest and fraudulent purposes, refused to attend. Forty-three out of the sixty was the highest number participating in the work, and the most important questions were passed upon without a quorum. Violence, debauchery, and profanity characterized its proceedings. The lowest revolutionary club that ever plotted under cover of darkness in the faubourgs of Paris, during the reign of terror, could not come up to the standard of the Lecompton conspirators.

The constitution made was a fitting instrument to emanate from such a body. The October election, and other evidences, had shown that the free-State men were largely in the ascendant in the Territory, and that any constitution submitted by the Lecompton convention would be overwhelmingly voted down. As every possible committal had been made that there should be a submission of the instrument, ingenuity was taxed to the utmost for some specious pretext of submission which would accomplish the end of the conspirators, and yet cheat the public. It is unnecessary for me to dwell long on the scandalous provisions of the seventh section of the schedule, in regard to the submission. It is, in fact, no submission at all, for no man could vote against the constitution. It is all *pro*, and no *con*. If, according to section nine of this same schedule, the voter would take a *test oath* to support that constitution under "the pains and penalties of perjury," he was graciously permitted by the supreme law-makers to put in a ballot for the "constitution with slavery," or "constitution with no slavery," which was in fact construed to be voting for the constitution, and either for or against the further introduction of slavery into Kansas. The whole thing was a disgraceful swindle and contrivance, and the farce of voting upon it was gone through with on the 21st of December last, and the requisite number of votes were returned for the "constitution with slavery,"—6,143 being the number deemed necessary and proper in that election. It was also thought, under the circumstances, that a few votes should be returned for the "constitution with no slavery," and accordingly 569 votes were returned in that way. The Legislature of Kansas, elected in October last, appointed a commission of competent and reliable men to examine into the frauds committed at the various elections. This commission reports in regard to the election of the 21st of December, as follows:

"The board report that of the votes returned of the election of the 21st December, 1857, on the slavery clause of the constitution framed at Lecompton, held at the precincts of Kickapoo, Delaware, Oxford, and Shawnee, about the following numbers were illegal and fraudulent:

At Kickapoo.....	700
At Delaware City.....	145
At Oxford.....	1,200
At Shawnee.....	675
Total.....	2,720

Thus it will be seen that of the 6,143 votes counted in the "official returns," 2,720 were fraudulent, which being deducted, leave but 3,423 votes for the Lecompton constitution; and many of these were doubtless of the same character as those of Kickapoo and Oxford.

As there could be no vote given *against* the constitution, the instrument was of course declared to be adopted by a man whom the President calls "J. Calhoun, Esq.," and who was president of the convention, and made by it dictator generally in all the Territory.

The Legislature elected in October, in order to ascertain the true sense of the people of Kansas, passed an act submitting the Lecompton constitution to a fair vote of the people for or against it, for it with slavery, and for it without slavery, to be taken on the 4th day of January last. This election was a fair one; and none but legal votes were cast; and the proper officers, including General Denver, the Secretary and acting Governor, certify to a majority of over *ten thousand votes* as being given against the constitution.

But the instrument, such as it is, and framed in the manner it was, is now before us, and a bill for the admission of Kansas under its provisions has come down from the Senate, and now confronts us on the Speaker's table. The President recommends its admission; "thus," in his own language, "terminating the Kansas question," by "localizing the question of slavery." Idle expectation this, of terminating the controversy and localizing the question of slavery, by foisting an execrated institution upon a people who revolt at and loathe it. Let the President beware how he attempts much further to oppress that people, and to "crush out" their most sacred rights. He will find that there is a point beyond which forbearance is no longer a virtue; and that his bayonets, his patronage, his power and authority, will form but a feeble barrier against that storm of popular indignation which must be awakened, wherever liberty has a votary, or a representative government a friend.

There are some other matters to which I must refer. An honorable Senator [Mr. TOOMBS] was understood to remark the other night, in reply to the distinguished Senator from my own State, [Mr. DOUGLAS,] that no Senator or Representative from the South had ever advanced the doctrine that slaves could be held in the free States in defiance of their laws or constitutions. I think the Senator from Georgia mistaken. I well remember the gentleman from South Carolina [Mr. KEITT] used the following language, in a speech which he made on this floor in 1856:

"The South should establish in the platform the principle that the right of a southern man to his slaves is equal, in its length and breadth, to the right of a northern man to his horse. She should make the recognition of the right full, complete, and indisputable."

Sir, there is abundant evidence that this claim is quite generally set up in the South. To say nothing of the claim made by a citizen of North Carolina, a Mr. Wheeler, a few years ago in the United States district court of Pennsylvania, or that of Lemmon, now pending in the courts of New York, I beg to call the attention of the committee to the *dicta* of the Supreme Court of the United States in the Dred Scott case, where the doctrine is expressly affirmed that slaves may be held in the Territories of the United States under the Constitution of the United States, because the Constitution regards them as property. And Mr. Buchanan, in stating in his letter to Professor Siliman and others, what he understood to be the opinion of the court, says it is a mystery how it could ever have been doubted that the Constitution carries slavery into the Territories. Why? Because slaves are property under the provisions of the Federal Constitution. Now, sir, if this be true, they are property wherever the Constitution operates; and no lesser authority, no mere State law or constitution, can make them anything but property. No State can say that shall not be property which the Constitution of the United States says shall be. The inference is logical and irresistible; and hence the President, in his recent message, informs us that Kansas is already a slave State, as much so as Georgia or South Carolina.

Now, if it had happened that the Senator from Georgia was literally correct in his statement, how

very far would he have been from stating what is actually claimed by the South! For, is there any man who denies that the slaveholding members of the Supreme Court, who read opinions from which these doctrines necessarily result, in doing so acted in conformity to the opinions of the slaveholders? Is there a southern gentleman on this floor who denies the doctrines enunciated by those opinions, or who disputes the President's interpretation of them? Not one. No, sir, not one. And since this denial of the Senator, he and his associates from the South have, in the most formal manner, in the Senate of the United States, by voting for the admission of Kansas under the Lecompton constitution, set up this very claim that slaves may be held in all the free States, their own laws and constitutions to the contrary notwithstanding.

As this constitution is before us, I would like to allude further to some of its provisions if I had the time. While the Constitution of the United States only requires that a Senator in Congress should be a citizen of the United States for *nine* years, no man can be Governor of the State of Kansas unless he has been a citizen for *twenty* years; yet I hear no complaints of this provision from the "Democracy," who have professed to be the peculiar champions of the adopted citizen. I cannot, however, pass over the extraordinary first section of the seventh article, in regard to slavery, which declares that—

"The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever."

Here is a declaration that the Congress of the United States is called upon to indorse by voting in Kansas as a State, as is now proposed, under the Lecompton constitution, that property in slaves is higher than any constitutional sanction; and every Senator or Representative who votes for Kansas with this constitution must be held as admitting that there is nothing in that constitution incompatible with the proper institutions and just policy of a State. This provision, it must be perceived, is fundamental, and goes to the very foundation of civil polity of the inchoate State. If the proposition contained in it be correct, there can be no objection in admitting a State under it; but if incorrect and unsound, it is so important and vital as to form an insuperable objection to its admission. By voting to receive the State, we declare it is not objectionable, and that we do recognize the correctness of the declaration of the principle enunciated in the section. It is not like the ordinary provisions of a constitution, which we might deem impolitic and unwise, and over which we cannot control, as being entirely within the province of the people of the new State; but it is of that description which goes to the very foundation of the State and determines its character, and recognizes a principle which, if sound, affects the people of every State in the Union: for if we admit that it is true in Kansas, it is true in and for every State in the Union. We cannot admit Kansas as a State without thereby asserting that slavery is sanctioned by an authority transcending that of the people of the States, and which it is not competent for them practically to deny. The Senator from Georgia votes to admit Kansas, and he thereby declares that it is the right of Kansas to build its institutions upon this central idea. This idea is well founded, or otherwise. If well founded, the State may properly be admitted under it; but if not, it is so great an error, of such sweep and importance, that no man can be justified in voting for it. It is manifest, therefore, from what I have said, that a vote for the bill does, in effect, affirm the doctrines which are contained in the Lecompton constitution.

Therefore it is that I say that all who vote for this bill affirm that slaves may be held in all the States of this Union, in defiance of their constitutions and laws. I maintain, sir, that we have no right to admit Kansas under this constitution. It is admitted on all sides that we may look into a constitution to see if it provides for a republican form of government. The provision referred to in the Kansas constitution determines its character, whether republican or not. It asserts, in the most unqualified terms, that slavery is established by the law of nature; that its foundations are so strongly laid in the eternal and absolute

fitness of things, that they cannot be shaken by any human enactments. If this right to hold slaves be sacred and inviolable, constitutions denying it are, in that regard, merely void; and governments built on such denial are false. A government established upon the principle, or recognizing as fundamental the idea, that the right to own slaves under it does and must exist, and cannot be impaired, assumes that every true and legitimate government must be founded upon the existence of classes—a privileged class and a degraded class. Such government is not *republican*, but *oligarchal*. A republican form of government, if the principles of this constitution be acknowledged, is false and impossible; and every attempt to institute a government on the principle of the equality of men, on the assertion that there shall be no inferiors before the law, no slaves, will, in the end, prove a failure; for the great central and efficient law, written by God himself, has laid the basis of all government in the truth that men are created unequal—part to be masters, and part slaves. Admit Kansas, give your sanction to her constitution, and you declare that the Declaration of Independence was a work, not only of "glittering generalities," but of false generalities, and the Constitution of the United States a stupendous cheat; and the nation, instead of being a Union of republican States, is but a Confederation of oligarchies. No State, at the time of its admission, ever contained such a provision as this slavery section in the Lecompton constitution; and Congress has never before been called upon to give such an indorsement as is now required in voting for the Kansas bill.

In regard to the schedule: one peculiar feature of the schedule of this constitution will be observed in the provision which takes the entire management of the election for State officers, Legislature, &c., held on the 4th of January last, out of the hands of the territorial officers, and placed it virtually in the hands of King Calhoun, the president of the convention, acting without any law for the punishment of the offense of getting up fraudulent, spurious, and forged returns. The stupendous and unblushing frauds by which Calhoun attempted to get possession of the Legislature elected on the 4th of January last, have been fully exposed. The commissioners to examine into these frauds, to whom I have before referred, state, in regard to one precinct, that—

"From the evidence taken before them, the board state that the returns from the Delaware Agency precinct were honestly made out by the officers of the election; and subsequently three hundred and thirty-six names were forged upon them by or with the knowledge of John D. Henderson; and that John Calhoun was *particeps criminis* after the fact."

This is the same John Calhoun, or "J. Calhoun, Esq.," as the President calls him, who has so long been holding the destinies of the Kansas Legislature in his breeches pocket here in Washington. This is the man to whom this Lecompton convention confided solely the grave and responsible duty of conducting the elections in Kansas in *his* "own way," and I think it will be admitted that he stands unrivaled in that line; his natural talent in that direction has been improved by long and extensive practice. Indeed, he may now be considered the ablest bodied *voté counter* "in this or any other country." But he has recently been induced, either by the pressure of public opinion, or for the purpose of influencing action here, to write a letter to the editor of a newspaper in this city, recognizing the fraud at the "Delaware Crossing" precinct, and stating that "certificates of election will accordingly issue" to the free-State candidates of Leavenworth county. Now, sir, in view of the practices in Kansas for the last few years, in view of the peculiar provisions of the schedule of the constitution, which provides that—

"In case of removal, absence or disability of the president of this convention to discharge the duties herein imposed on him, the president *pro tempore* of this convention shall perform said duties, and in case of absence, refusal, or disability of the president *pro tempore*, a committee consisting of seven, or a majority of them, shall discharge the duties required of the president of this convention."

And, in view of the further fact that Calhoun, the president of the convention, is now "absent" from the Territory, and is here in Washington, and, therefore, has no power or authority to act in the premises, I must confess I have my misgivings on the subject. While he has words of

apparent fairness on his lips, I fear he has convenience in his heart.

There are, Mr. Chairman, a great many other topics I would like to discuss, connected with Kansas and outside of Kansas, but my limited time forbids. Many extraordinary things have been said, during the discussion of this question, in both Houses of Congress. A distinguished member of the Senate [Mr. HAMMOND, of South Carolina] has told us, in a late speech, that the slaveholders of the South have ruled the country for sixty out of the seventy years of her existence. This is extraordinary, but it is nevertheless true; and the North must acknowledge, with humiliation, the fact that she has so long submitted to the rule of an oligarchy, comparatively insignificant in numbers and weak in actual power. The history of this rule of sixty years is a history of aggression upon the rights of the North, sometimes vigorously resisted, but oftener feebly opposed and then finally acquiesced in, until another still greater outrage should be committed, to be again submitted to. This continued submission, this eternal acquiescence, has dulled the sensibilities of the people of the North to that extent, that too many of them confound the surrender of sacred rights with the dictates of an honest patriotism. No sooner has one wrong been committed and acquiesced in than another is attempted; and it might be said of this power, which has ruled us in the North for sixty years, as was said of the controlling power in the French Revolution, that it "marched from crimes to amnesties, and from amnesties to crimes."

But, sir, there is another portion of the honorable Senator's speech to which I beg leave to allude just here. In speaking of the contingency of separate organizations, and of the territory and resources which the South would then have, he says:

"But in this territory lies the great valley of the Mississippi, now the real, and soon to be the acknowledged, seat of the empire of the world. The sway of that valley will be as great as ever the Nile knew in the earlier ages of mankind. We own the most of it. The most valuable part of it belongs to us now; and although those who have settled above us are now opposed to us, another generation will tell a different tale. They are ours by all the laws of nature; slave labor will go over every foot of this great valley where it will be found profitable to use it, and some of those who may not use it are soon to be united with us by such ties as will make us one and inseparable."

In one thing the Senator is right. "The great valley of the Mississippi" will be the "acknowledged seat of the empire of the world," and the great and glorious and FREE STATE, which I have the honor to represent in part on this floor, will be the heart and center of that empire. And it will never belong to any southern confederacy; but it will belong to the Union as it exists under the Constitution, now and forever, and hereafter, by an awakened and just public sentiment, to be interpreted and carried out in the spirit and according to the intent of the fathers who framed it. But, let me say further, profitable or not, slavery will never curse another foot of the soil of that great valley. That which is now free must be protected for the free white men of our own country, and of other nations who seek an asylum upon our shores. They may be called "hirelings," or "slaves," in the language of the Senator; but they are "slaves" that know no masters on earth, and acknowledge no superiors; "slaves" who break up the prairies, hew down the forests, cut through the mountains, build up cities, towns, and villages, and lay the foundations for empires on the eternal basis of virtue, intelligence, and truth.

I have ever felt proud of the State of my adoption; yet the exalted position she occupies to-day on the great question of forcing a bastard constitution on an unwilling people, makes my heart to swell with still more lively emotions of pride. It is, indeed, a noble spectacle to see the people of that great and powerful State, and all its representatives in both Houses of Congress, standing up in defense of the great principles upon which our republican Government was formed. The people of Illinois, of all parties, rise up in mutiny against your attempts to fasten slavery upon Kansas against the expressed and determined will of her people.

Threats, persuasions, appeals to party spirit, are equally powerless to induce assent to the admission of Kansas under that hideous deformity,

the Lecompton constitution. That people stand like a wall of fire against all your appliances, and will forever condemn the outrage,

"Unawed by influence and unbribed by gain."

For thirty thousand of my own constituents I enter here a solemn protest against the perpetration of this gigantic wrong.

Mr. DAVIS, of Indiana. Mr. Chairman, on no occasion in my life have I risen to speak so reluctantly as on the present. I feel the utter impossibility of advancing anything new by way of argument or statement of facts respecting the matter I am to discuss, and yet I am under an obligation of duty to present my views and defend my position.

From the time of the introduction of the Kansas-Nebraska bill in Congress, in 1854, to the present, it has been the theme of constant discussion, not only in the national Legislature, but throughout the length and breadth of the whole country. No question of public concernment, within my recollection, has been so thoroughly and ably discussed. This is by no means marvelous when we consider the magnitude of the principles involved in its solution and settlement; and whatever excitement it may have occasioned, the lights which have been shed upon all aspects of the question in the course of this discussion have not been without their beneficial influence.

You will remember, sir, that I was a member of this House when that bill passed and became the law of the land. You will remember, too, the long and exciting struggle through which it bore itself along to its final passage. You will not fail to remember, also, that it had no truer or more devoted friend than myself. In looking back over my career, as a member of this House, no act gives me more pleasure, or brings with it fewer regrets, than my constant and unwavering support of that great measure. I believed then, I believe yet, that the principles of popular sovereignty, as then enunciated, are just and right; and, if faithfully carried out, will forever settle, upon an honorable, fair, and equitable basis, not only the question of slavery, but every other question of domestic policy properly and of right belonging to the States and Territories. But, on the contrary, if its letter and spirit, its true intent and meaning shall not be respected, its high purpose will have failed; civil discord, fraternal strife, sectional collisions, and the more fatal evils which these will occasion, may be the unfortunate consequences. No man on this floor, to whatever party he may belong, would deplore this more deeply than myself; but whatever may come, whatever troubles or difficulties may arise in the fateful future, consequent upon the admission of Kansas into the Union under the Lecompton constitution—if, by possibility, it shall be so admitted—must not be charged to the fair and legitimate workings of the provisions of the Kansas-Nebraska bill, but only to the violation and perversion of its principles.

In the examination of this question, it will become necessary for me to refer to the views of the President as set forth in his annual message and in his late special message, from certain of which I am reluctantly compelled to dissent. I shall do so; and shall express my dissent with all proper respect, but firmly and distinctly. I entertain a high respect for the honesty and integrity of Mr. Buchanan. He was my first choice for the high position he now occupies. I aided, to the full extent of my influence, in securing his nomination. After his nomination, I devoted my time, and whatever energy and ability I possessed, in securing for him the suffrage of the State which I have the honor, in part, to represent. In that contest, the most exciting through which it had ever passed, a glorious triumph crowned the efforts of our Democracy in the State election, and did much towards securing that still more signal triumph which soon followed, and by which Mr. Buchanan was borne into the presidential office. I have no feeling of hostility towards the President; no disappointments to grieve over, and no resentments to gratify; nothing but duty to my constituents and to the country to influence my action here.

Sir, I think the President has committed a great political mistake, a fundamental error; and, so believing, I would be unworthy of a seat here,

derelect in duty, and unfaithful to my constituents, were I to falsify, or fail to avow, my sentiments.

What is the issue? In 1854, Congress passed an act for the organization of the Territories of Kansas and Nebraska, commonly called the Kansas-Nebraska bill, in and by which it is, among other things, provided:

"That nothing herein contained should be so construed as to legislate slavery into or out of any State or Territory, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

The President contends that the constitution formed at Lecompton, in the Territory of Kansas, and which he has submitted to Congress for its sanction, and with an earnest recommendation that Kansas shall, under it, be admitted into the Union, has been legally formed; that it is the embodiment of the will of the people, and is in perfect accordance with the provisions of the organic act to which I have alluded.

I, and those with whom I act, dissent from these views of the President; and it is to the issue, as thus presented to the country, that I shall direct my remarks on this occasion. I take the ground, with every confidence that I shall be able triumphantly to maintain it, that the so-called Lecompton constitution, which the President has invoked us to stamp with the solemn seal of our approbation, is a flagrant violation of the letter and spirit of the Kansas-Nebraska act; in direct conflict with the doctrine of popular sovereignty as enunciated by the Democratic party in the platform of principles adopted by the national convention at Cincinnati, in 1856; in the letter of Mr. Buchanan, accepting the nomination for the Presidency; in his inaugural address; and in his instructions to Governor Walker; and further, Mr. Chairman, that this so-called constitution was conceived in fraud, and is now, by trick and stratagem, attempted to be forced upon an unwilling people, against the solemn protest of four fifths of the legal voters of that Territory. I have full confidence that I shall be able, in the course of my arguments, to show all this and more.

I know, sir, that the course which I have seen proper to mark out for myself, on this question, will subject me—nay, has already subjected me—to animadversions, and my motives to misrepresentation; but I care not for that. It shall not deter me from following the dictates of my own conscience and the lights of my own judgment; and especially when I have abundant assurance that, in thus conscientiously performing my duty, I am reflecting, in the national Legislature, the almost unanimous will of my constituents.

Gentlemen from the South attribute the opposition of myself and other northern Democrats to the Lecompton constitution to the fact that it tolerates slavery. I take this occasion to say that my opposition arises from no such cause; I place it upon other and higher grounds. I am a native of a slaveholding State. I have no prejudices against the South, nor against the institution of slavery where it exists. I make no war upon the rights of the people of the South. I have defended those rights more frequently than southern gentlemen themselves; because my position, as a public man, and as a national Democrat of the North, has required it at my hands. I am again ready to defend the South whenever she is in the right; and, sir, I here, in my place to-day, make this solemn declaration, that, if Kansas or any other Territory of the United States were here, asking admission into the Union, honestly, fairly, and with a fundamental law recognizing the institution, I would vote for her admission cheerfully, and without a moment's hesitation; provided that fundamental law was republican in form, emanated from, and embodied the will of the people for whose government it was formed. I would not stop to inquire one word beyond that; and, with equal solemnity, I declare that no constitution tainted with fraud, as this is, and which is known to be condemned by an overwhelming majority of the people for whom it is made, shall ever receive my sanction, in any manner whatever. These, sir, have ever been my principles. I have proclaimed them publicly ever since I have been in public life. After my vote for the Kansas-Nebraska bill, I returned home, and was defeated for the seat I now occupy upon these prin-

ciples; and, upon the strength of these principles, I was triumphantly reelected to the present Congress. I trust, therefore, that, so far, at least, as I am concerned, I shall hear no more of the charge made against northern Democrats of opposition to this constitution because of the slavery clause. Gentlemen may regard me as serious or not; it matters not to me. I have neither favor nor indulgence to ask from any quarter.

But, sir, to the question. It is said by the President and others, that the election which was held for delegates to form the Lecompton constitution, in June 1857, was a legal election; and that those who failed to vote at that election have no right to complain, and are bound by the voice of those who did exercise that right. I admit, *only* that the election was held under the forms of law; but, sir, was it a fair election; and had all the voters an opportunity to vote? It has been asserted by Governor Walker and Governor Stanton, and stands uncontradicted by the President or any other respectable authority, that the census and registration, which by the act of the Territorial Legislature were required to be made prior to the election, were imperfectly made in *all* the counties where made at all; and "that in nineteen counties out of thirty-four, there was no registry, and in fifteen counties of thirty-four, there was no census, and not a solitary vote was given, or could be given, for delegates to the convention in any one of those counties." If the people of those disfranchised counties were disposed to vote, they were positively prohibited from so doing; not by any act of theirs, but because the provisions of the law had not been executed in those counties, either through negligence of the officers or want of means to defray the expenses attendant upon the performance of their duties. And it is a fact not denied, that scarcely one tenth of the then voters of the Territory did vote at that election. I ask gentlemen, I ask Democrats from the South, if this was a fair election; if this comes up to their notions of popular sovereignty? If this is consonant with the principles enunciated at Cincinnati? and if, by this beggarly verdict, they seek, upon a mere technicality, to fix the destinies of the whole people of Kansas until 1864, and perhaps forever? Again, sir, we have the positive evidence before us, that, in many of these disfranchised counties, the people went on, under the advice of Governor Walker, and elected delegates to the convention, under the supposition that inasmuch as they had, by no act or omission of theirs, been debarred the right of voting at the regular election, their franchise was not thereby annihilated, and that the delegates of their choice would be entitled to seats in the convention; but the doors of the convention were closed against them by the sixty delegates chosen at the regular election.

But, sir, independent of this, I go a step further. No advantage can justly be taken of any voter who staid away from the polls on that occasion; and, although I think that they ought to have voted, yet, I repeat that they had a right to stay away from the polls without losing the right to pass upon the constitution when formed. They had the right to look to the Democratic party of the States to redeem their pledges everywhere made. They had the right to look to the pro-slavery party of the Territory to redeem their pledges made in the convention which nominated Ransom for Congress. They had the right to look to the President, acting for the Democratic party and reflecting its will, to redeem his repeated pledges. They had the right to look to Governor Walker, acting for the President, and under his instructions, to redeem his pledges so often and so solemnly made; and they had the right to look to the convention delegates chosen at the June election to carry into effect their public and solemn pledge that the constitution, when framed, should be submitted to the whole people for ratification or rejection. I need not go back to show that the very letter and essence of the Cincinnati platform was, that in establishing a constitution it could only be done "through the legally-expressed will of a majority of the actual residents" of the Territory. I need not go back and hunt up the speeches made, and the resolutions passed, during the canvass of 1856. I need not go back and pile, mountain high, the expressions of the public meetings and editorial articles, North and South, eulogizing the President and

Governor Walker for the high Democratic stand they had taken in urging the submission of this constitution to the people. It would occupy too much of my time. But, sir, if I were to do it, it would overwhelm gentlemen who have so suddenly and mysteriously changed front on this question. It will be sufficient for my present purpose to refer, first, to the pledge made by John Calhoun and his associates, candidates for delegates for the Lecompton convention. Here it is:

To the Democratic voters of Douglas county:

It having been stated by that Abolition newspaper, the Herald of Freedom, and by some disaffected bogus Democrats, who have got up an independent ticket, for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we, the candidates of the Democratic party, submit the following resolutions, which were adopted by the Democratic convention which placed us in nomination, and which we fully and heartily indorse, as a complete refutation of the slanders above referred to.

JOHN CALHOUN, A. W. JONES,
W. S. WELLS, H. BUTCHER,
L. S. BOLLING, JOHN M. WALLACE,
WM. T. SPICELY, L. A. PRATHER.

LECOMPTON, Kansas Territory, June 13, 1857.

"Resolved, That we will support no man as a delegate to the constitutional convention, whose duty it will be to frame the constitution of the future State of Kansas, and to mold the political institutions under which we, as a people, are to live, unless he pledges himself fully, freely, and without reservation, to use every honorable means to submit the same to every *bona fide* actual citizen of Kansas, at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers in this Territory, as the majority of the voters shall decide."

This man Calhoun and his associate candidates were elected on this pledge; and yet, in the face of that pledge, basely betrayed the people, and refused to submit the constitution to them, and are now here (at least some of them) urging the immediate ratification of it by Congress, and the admission of Kansas into the Union under it. Has such infamous betrayal of public trust a parallel in the political history of this country? And if it were committed in your State, sir, the guilty culprits would suffer the penalty of their treachery by summary punishment at the hands of an outraged constituency.

But again, sir, the President, in his letter of acceptance, says:

"What a conception, then, was it for Congress to apply this simple rule: that the will of the majority shall govern, to the settlement of the question of domestic slavery in the Territories!"

And in the same address, the President, after referring to the question of the time of admission of a State as unimportant, uses this emphatic language:

"This is, happily, a matter of but little practical importance. Besides, it is a judicial question which legitimately belongs to the Supreme Court of the United States, before whom it is now pending, and will, it is understood, be speedily and finally settled. To their decision, in common with all good citizens, I shall cheerfully submit, whatever this may be, though it has ever been my individual opinion that, under the Nebraska-Kansas act, the appropriate period will be when the number of actual residents in the Territory shall justify the formation of a constitution with a view to its admission as a State into the Union. But be this as it may, it is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved."

Again he says, in his instructions to Governor Walker:

"The institutions of Kansas should be established by the votes of the people of Kansas, unawed and uninterrupted by force and fraud.

"The regular Legislature of the Territory having authorized the assembling of a convention to frame a constitution, to be accepted or rejected by Congress, under the provisions of the Federal Constitution, the people of Kansas have the right to be protected in the peaceful election of delegates for such a purpose, under such authority; and the convention itself has a right to similar protection in the opportunity for tranquil and undisturbed deliberations. When such a constitution shall be submitted to the people of a Territory, they must be protected in the exercise of their right to vote for or against the instrument, and the fair expression of the popular will must not be interrupted by fraud or violence."

And again, in his letter to Professor Silliman and others, he says:

"The convention will soon assemble to perform the solemn duty of framing a constitution for themselves and their posterity; and, in the state of incipient rebellion which still exists in Kansas, it is my imperative duty to employ the troops of the United States, should this become necessary, in defending the convention against violence while framing the constitution, and in protecting the '*bona fide* inhabitants' qualified to vote under the provisions of this instrument, in the free exercise of the right of suffrage, when it shall be submitted to them for approbation or rejection."

After Governor Walker had refused to accept the office, the President again tendered it to him, and urged him to accept it, which he finally did, with the perfect understanding with the President that the people, the *bona fide* residents, of Kansas should be protected in the formation of their domestic institutions, and in the adoption or rejection of their constitution, against both *fraud* and *violence*. But I cannot as well express the understanding between them as by quoting the following paragraph from the letter of Governor Walker to the President accepting the appointment, under date of March 30, 1857, and published in the Union while Governor Walker was yet here, before taking his leave for Kansas:

"I understand that you and your Cabinet cordially concur in the opinion expressed by me, that the actual *bona fide* residents of the Territory of Kansas, by a fair and regular vote, unaffected by fraud or violence, must be permitted, in adopting their State constitution, to decide for themselves what shall be their social institutions. This is the great fundamental principle of the act of Congress organizing that Territory, affirmed by the Supreme Court of the United States, and is in accordance with the views uniformly expressed by me throughout my public career. I contemplate a peaceful solution of this question by an appeal to the intelligence and patriotism of the people of Kansas, who should all participate freely and fully in this decision, and by a majority of whose votes the decision must be made, as the only and constitutional mode of adjustment."

"I will go, then, and endeavor to adjust these difficulties, in the full confidence, as expressed by you, that I will be sustained by all your own high authority, with the cordial cooperation of all your Cabinet."

In pursuance of these instructions and this perfect understanding, Mr. Walker accepted the office of Governor, repaired to the Territory, and, as a faithful representative of the views of the President and his entire Cabinet, entered upon the discharge of his delicate and responsible duties in the month of June; and, as the first act of his administration, issued his proclamation to the people of Kansas; in which he says:

"Is it not infinitely better that slavery should be abolished or established in Kansas, rather than that we should become slaves, and not be permitted to govern ourselves? Is the absence or existence of slavery in Kansas paramount to the great question of State sovereignty, self-government, and of the Union?"

"If patriotism, if devotion to the Constitution, and love of the Union, should not induce the minority to yield to the majority on this question, let them reflect that, in no event, can the minority successfully determine the question permanently; and in no contingency will Congress admit Kansas as a slave or as a free State, unless a majority of the people of Kansas shall first fairly and freely decide the question for themselves by a direct vote on the adoption of the constitution, excluding all fraud or violence."

"The minority, in resisting the will of the majority, may involve Kansas again in civil war; they may bring upon her reproach and obloquy, and destroy her progress and prosperity; they may keep her for years out of the Union, and, in the whirlwind of agitation, sweep away the government itself; but Kansas never can be brought into the Union, with or without slavery, except by a previous solemn decision, fully, freely, and fairly made by a majority of her people, in voting for or against the adoption of the State constitution."

The course of Governor Walker met the approbation of the President and his Cabinet—an approbation frequently enough repeated in the columns of the Union newspaper, the organ of the Administration, and known to reflect implicitly their views on all important affairs. In that organ, in that mouth-piece of the Administration, of the 7th of June last, after the delegates to the Lecompton convention had been chosen, the following editorial article appeared:

"When there is no serious dispute upon the constitution, either in the convention or among the people, the power of the delegates alone may put it in operation. But such is not the case in Kansas. The most violent struggle this country ever saw, upon the most important issue which the constitution is to determine, has been going on there for several years, between parties so evenly balanced that both claim the majority, and so hostile to one another that numerous lives have been lost in the contest. Under these circumstances there can be no such thing as a certain clearly, and without doubt, the will of the people in any way except by their own direct expression of it at the polls. A constitution not subjected to that test, no matter what it contains, will never be acknowledged by its opponents to be anything but a fraud."

"A plausible color might be given to this assertion by the argument that the members of the convention could have no motive for refusing to submit their work to their constituents, except a consciousness that the majority would condemn it. We confess that we should find some difficulty in answering this. What other motive could they have? We do most devoutly believe that, unless the constitution of Kansas should be submitted to a direct vote of the people, the unhappy controversy which has heretofore raged in that Territory will be prolonged for an indefinite time to come."

And again, sir, in the same paper of July last, the editor, speaking for the Administration, says:

"Until recently, and in a few quarters, no one has ques-

tioned the propriety of such submission, while its wisdom is too apparent to be doubted, where the will of the people is the acknowledged source of all power." * * *

"The Constitutionalist insists that Governor Walker was wrong in declaring that the constitution, if not submitted to the popular vote, would be, and ought to be, rejected by Congress; and we are asked to answer whether this is not a presumptuous interference. We answer, that it was no Federal interference with the slavery question for the Governor to express the opinion that a constitution not submitted to a popular vote would be rejected by Congress. Congress have no power to reject a constitution framed by the people of a new State for anything that is put into or left out of it, provided it be republican. But whether it does or does not express the popular sentiment, is a question of fact, which Congress must determine on evidence. The best evidence which the nature of the case admits of, is the vote of the people upon it, after it is framed. If that evidence should be withheld in the case of Kansas, with all its peculiar circumstances, the chances are a thousand to one that Congress will not be satisfied with any other evidence. The prediction of Governor Walker was therefore true, in all human probability, and his warning timely and just."

No complaint was uttered by them as to any part of his policy, until a change in their own policy began to be indicated, in the month of November last. Then it was determined that popular sovereignty was a thing of convenience; well enough to use as a mere name, in election time, but not of sufficient moment to amount to an obstruction, when a question of expediency was concerned. Instead of the momentous significance we had all (the President inclusive) professed to attach to it, it was construed to admit of the interpretation that the pitiful minority who actually voted for the constitution, by permission of Calhoun and his associates, really meant the majority of the people; while the overwhelming majority who voted against the constitution, under the equally lawful authority of the Territorial Legislature, were not the people, but only a band of rebels! Popular sovereignty might mean that the minority in Kansas should rule the majority, inasmuch as the majority could not and would not vote to *suit* that, under the rule of this minority, the Representatives of thirty-one States must be called upon to force into the Union, as a State, a Territory, four fifths of whose citizens have protested, in every possible form, against its admission upon the terms proposed!

Sir, I have listened with more than ordinary interest to this discussion, waiting anxiously to hear some gentleman on the other side explain away or reconcile this sudden change—this, to me, strange inconsistency in the President's present and past position; but waiting in vain. They have not attempted the task. I am sure they cannot accomplish it; but steadily keeping this point out of view, and ever evading the true question, content themselves with vague legal technicalities, or still more vague generalities.

It is true, sir, that it is no crime for men to change their opinions; but can the Administration regard a portion of us as out of the party, because we, too, have not changed in this instance, but stand firmly where we have ever stood, and where the Administration stood with us so recently?

It has been stated here, in debate, that we oppose the constitution because it has not been formed under the permissive provisions of an enabling act passed by Congress. I maintain no such ground. That Congress has power to pass such an act, and has, on many occasions, exercised this power, I admit. I believe that course to be strictly legal and proper, and perhaps the most regular; and should the Leecompton constitution be defeated, I hold myself in readiness to vote for an enabling act for the Territory of Kansas. If my recollection is not at fault, every Democratic member of both branches of Congress voted for the bill of Senator Toombs, to enable Kansas to form a constitution and come into the Union, during the first session of the last Congress, and their course was universally approved by the Democratic party North and South. It was regarded as the olive branch of peace held out by our party to the Opposition, and was an element of strength in the contest of 1856. If it was then right, I cannot see why it should be wrong now. But I care not by what authority the people of a Territory may form a constitution; it may be under an enabling act; it may be under an act of the Territorial Legislature; or it may be by the spontaneous act of the sovereign people themselves, in their primary assemblies. I care not for the mode; all I want to know is, that it is republican in form, and embodies the will of the people for whose government it is intended; then, sir, it will receive my

hearty approbation, but without these essential and life-giving qualities, never!

Again: gentlemen impute our opposition to the fact that this constitution has not been submitted to the people for their approval or disapproval. I do not contend that such submission is legally essential. This is, certainly, the surest method of ascertaining the fact that it embodies the will of the people, and is the safest and most desirable rule in practice. I know, that in the early history of this Republic, States were admitted without such submission. It might still be done where the evidences were palpable that there were no controversies about it; that the people approve it. But, sir, is this the case with the Leecompton contrivance? No, sir; we have the positive evidence before us to-day, of its disapproval by four fifths of the voters of the Territory; a disapproval expressed with all the needful forms of law, and as peacefully and decorously expressed as the previous meager approval. The science of government is progressive like everything else in human affairs; and now, I believe, every State in the Union has submitted its constitution to the people for ratification, either originally or when subsequently amended.

I maintain that the constitution of Kansas has been submitted to the people and rejected, and I ask why are we here discussing the propriety of recognizing it? It is assumed that the vote taken in the manner prescribed by the constitutional convention was final, and that by that vote the constitution became the paramount law of Kansas; and this assumption is necessary to make the position of the friends of this constitution tenable for a moment. Now we have the authority of Mr. Buchanan himself for the proposition that, without an enabling act, the machinery by which the people of a Territory attempt to gain admission as a State, being in derogation of the territorial authorities, legislative and executive, has no force in law; and the acts of the people in this behalf only amount to a petition to Congress; that the modes of application are immaterial, and the forms of proceeding are like the scaffolding of a building, to be removed when the edifice is complete; and that the sanction of Congress is what gives vitality to the constitution. In the Leecompton constitution it is thrice repeated that the constitution is to be submitted to the people for "*ratification or rejection*." If Mr. Buchanan's theory is true, the authority of the Kansas Territorial Legislature is not yet abrogated; and as the constitution itself provides that it must be submitted for ratification or rejection, and the convention which framed it did not provide a mode whereby it should be submitted for ratification or rejection, the act of the Legislature in providing the mode is in harmony with the requirements of the Constitution itself, and has not only such force of lawful authority as existed in the Legislature, but also whatever legal sanction the very essence of the Constitution itself could give. The right to petition includes the right to remonstrate; and if Congress is in duty bound to regard the petition of the voters on the 21st of December, under how much greater obligation are they placed to regard the remonstrance of those who voted on the 4th of January? Why, sir, not only does this very constitution assert the inherent right of the people to change their constitutions at will, and whenever they please, but many of you echo this doctrine. If this right inheres in the people, whether in a State or Territory, it includes the right to *abrogate*; and as the people are sovereign, their act is law, under whatever forms it is done. If, then, I grant your proposition, that this constitution became the law paramount of Kansas in December last, it ceased to be so in January. So much for the technical legal sophistries by which the friends of this constitution attempt to prop its rottenness, and give consistency to its tottering foundations.

But the President says in his annual message:

"The convention were not bound by its terms [the terms of the Nebraska-Kansas bill] to submit any other portion of that instrument [the constitution] to an election, except that which relates to the 'domestic institution' of slavery."

This is a remarkable assumption. What gave rise to the provision in the Kansas-Nebraska act "that the people should be left free to form and regulate their domestic institutions in their own way?" Why, Congress had, from time to time, legislated on the subject of domestic slavery, but had never assumed the authority to legislate upon

any other of the domestic institutions of the States or Territories. Hence Congress ignored the right it had before assumed to legislate on that institution, and left it on the same footing with all other domestic institutions of the States and Territories, to be controlled, like them, by the people whom they directly concerned; and I think it would be difficult, indeed, to make any well-informed person give it a different construction. Again the President says:

"Domestic institutions are limited to the family. The relation between master and slave, and a few others, are 'domestic institutions,' and are entirely distinct from institutions of a political character. Reside, there was no question then before Congress, nor indeed has there since been any serious question before the people of Kansas or the country, except that which relates to the 'domestic institution' of slavery."

This assumption is still more novel and remarkable. If domestic institutions are limited to "the relation of master and slave, and a few others," the "few others" may be as important to the people as "the relation of master and slave," and they, by the President's own showing, are included in the terms of the act, and should have been submitted to the people; and why, let me ask, not submit the few others, as well as that one? Until this ingenious discovery of the President, I venture the assertion that nobody dreamed of giving to the phrase "domestic institutions," as used in the Kansas-Nebraska act, a narrower scope than that of embracing all institutions belonging to a Territory or a State, as contradistinguished from those placed under the control of Congress by the Federal Constitution.

I must insist that the President is mistaken when he says there was no question before Congress, when the Kansas-Nebraska bill passed, but that of slavery. It is true that was the engrossing and exciting question; but it will not do to say that Congress had no other object in view, when they said the people should be left free "to form and regulate their domestic institutions in their own way," and that they intended to concede to them the power to form and regulate slavery, and *nothing else*. Sir, the terms used are too broad and comprehensive for that. No man can mistake what are domestic institutions as applied to a State or Territory. Banks, revenue laws, courts of judicature, and, in fine, everything which is local to the State or Territory, and not national, is embraced under the term "domestic institutions." But suppose the position of the President to be true, that "domestic institutions" has reference to slavery alone, and that by the terms of the Kansas-Nebraska bill the convention were not bound to submit any other portion of the constitution but that in reference to slavery to an election of the people: has even that question been fairly submitted to a vote of the people of Kansas? This is an important inquiry. The President says it was "clearly and distinctly presented to the people at the election held on the 21st of December last, by virtue of the schedule to the Leecompton constitution." I think it was not. This schedule, in defining the mode of submission, says, "the ballots cast at said election shall be indorsed 'constitution with slavery,' or 'constitution without slavery.'" Hence, for the privilege of voting on this single question, the voter was compelled to vote for the constitution, whether he approved it or not. Yes, sir, he was bound to swallow it all, whether it was good or bad, just or unjust, in his estimation, or be excluded from the privilege of taking any part in the settlement of the question of slavery. This is the "clear and distinct" manner in which, as the President assures us, the question of slavery has been presented to the people of Kansas. This is the President's mode of "leaving the people perfectly free to form and regulate their domestic institutions in their own way." Is this carrying out in good faith the pledge of the President "that when such a constitution shall be submitted to the people, they must be protected in the exercise of their right to vote for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence?" I think not. It may come up to the President's present views of justice and fairness, but will, I opine, fall far short of satisfying independent freemen. The President was doubly pledged to maintain, in letter and spirit, the Kansas-Nebraska act; pledged voluntarily to the Democratic party, and the whole American people, by his ex-

for their ratification, with the full belief that such submission was the just and proper mode of subduing this spirit of rebellion, and restoring peace to the country; but he *now* informs us that the admission of Kansas without a submission of the constitution to the people for their ratification or rejection would "restore peace and quiet to the whole country." I confess my inability to reconcile and harmonize these views of the President. If a submission of the whole constitution to the people in June last would have subdued this rebellion, why is it that the admission of Kansas now, without such submission, will restore peace and quiet, I cannot comprehend; and would be thankful to some friend of the Lecompton constitution on this floor to inform me.

Again, sir, if it be true that a large portion of the people of Kansas are in a state of rebellion against the government, are they fit subjects to be trusted with the high and responsible privileges of State sovereignty? Is it not a powerful argument against their admission until they shall become good and loyal citizens, and can truly appreciate their obligations to the constitution and the laws? And, sir, is it not a novel and unsafe mode of quelling this rebellious spirit on the part of any portion of our people? The people of Utah are known to be in open rebellion against the authority and laws of the United States. Would it not, sir, be a dangerous expedient, to say the least of it, to admit Utah into the Union for the purpose of quelling that rebellion? The President does not recommend this remedy in that case; then why should it be adopted in the case of Kansas?

Sir, I cannot pursue this argument further; the whole of this transaction against which I protest has *fraud!* written upon it from the beginning to the present time. Here, sir, is John Calhoun, the immaculate president of the Lecompton convention, in this city, a fugitive from justice, with the returns of the election for State officers and Senators and Representative of Kansas in his pocket, a sealed book—the result unknown—until within a few days past; held back, in case of necessity, to "sugar-coat" the Lecompton contrivance that it may be the more readily swallowed by some fastidious gentlemen on this floor; or, perhaps, until further returns should be exhumed from his prolific "candle-box" under the wood-pile.

Sir, the corpse of the Topeka constitution has been exhumed, and made to stand before us in its most hideous and ghastly form; for what purpose, I cannot conceive, unless it be to frighten us into the support of the Lecompton fraud. What connection can it have with the present question? The Democracy of the North opposed the Topeka constitution as one man, because it was irregular and revolutionary—because it was the work of a faction, and not of the people, and because it did not embody their will. These were the causes which made that instrument so odious that the Democratic Senate would not dignify it with a reading in that body. Sir, these same reasons apply with remarkable force against the Lecompton constitution. Topeka is dead; its friends and originators are dead; no sane man, even in Kansas, dreams of galvanizing the corpse; let it sleep in an unhonored grave; and let us hope that the Lecompton fraud may soon follow its predecessor to the same tomb of infamy and disgrace, where it shall know no waking.

Yes, sir, the northern Democracy opposed Topeka from its incipency, for the reasons I have already assigned, notwithstanding it *forever prohibited slavery*; and I ask southern gentlemen if this is not a complete vindication of northern Democrats against the charge so often made against them of opposition to Lecompton, solely on account of the slavery clause?

My colleague, [Mr. ENGLISH,] in his remarks the other day, expressed a hope that some compromise might be agreed upon, so as to make this proposition of admitting Kansas acceptable to us all, and thereby restore harmony in our party, and protect its honor and integrity. I know not what was the character of the compromise my colleague had in his mind when he spoke; I know of no form which the Lecompton contrivance can assume, in which it will be acceptable to me, unless it shall be returned to the people of Kansas and approved by a majority of their votes at a fair election, or evidence of a conclusive character produced to me that it embodies their will.

In this opposition I have the support of a vast majority of my own constituents; and I have not so far lost sight of the true doctrine of popular sovereignty as to do, or contemplate doing, aught contrary to their will. The Democratic convention that assembled at Indianapolis on the 8th of January last have declared against it. The Democratic mass convention that assembled at the same place on the 23d of February repudiated it; and last of all, my own soul and conscience rebel at this flagitious outrage against all I have ever learned to regard as most sacred and indefeasible in the great principles that lie at the foundation of human rights and political prosperity.

And now, sir, let me turn to my Democratic friends of the South—for I will still call you Democrats, notwithstanding your threatened repudiation of that nationality which has been our bond of union, and the chief element of our strength—and let me ask what you expect to gain, if you should succeed in forcing upon the people of Kansas, in the face of the solemn protest of four fifths of their number, this monstrous abortion of a constitution, polluted with fraud from its inception to the last syllable of its disgraceful history? Some of you admit that slavery cannot be permanently planted there. You say that although this constitution recognizes slavery, the people have the right to change it and prohibit slavery, and that they will so change it. If, then, you are sincere, and your declarations are true, I ask what do you win? Nothing but an empty victory, a gratification for the hour. Have you coolly calculated the cost of that victory? If not, let me implore you, in the name of the Democratic party of the North, to pause; to weigh well the consequences that may result from the step. You will "crush out," for the time being, at least, the national Democracy of the North, your stay and dependence in every hour of trial. You will "crush out" your friends who have stood by you with armor on in the darkest periods of your troubles, breasting and beating back the representatives of northern fanaticism that have assailed your institutions, to the end that you might, under the Constitution and laws, enjoy in peace and unmolested your rights of property. Yes, sir, you will do more. You will strike down a great principle, the principle which underlies the whole system of free government, and which has hitherto been your shield against all aggressors—the right of the people of every State and section, by a majority of their own number, to govern themselves; to make their own laws and mold their own domestic institutions without congressional intervention. You will fill this Hall with Republicans, your common enemy, to whose tender mercies you are about so willingly to consign yourselves. If such shall be the result, as I sincerely believe it will, your momentary boast of victory will turn to bitterness on your lips. When that hour shall come, as come it must, if you persist in your suicidal policy, you cannot, and must not, reproach your true and tried friends of the North with bringing this calamity upon you. You must not say that you were not forewarned of the result inevitably consequent upon your own act. Let me implore you to look beyond the hour of barren and temporary triumph, before you take the irretrievable step you contemplate.

A great portion of the speeches of gentlemen who have advocated the admission of Kansas under the Lecompton constitution consists of denunciation of the Republican party. I have as little regard for the principles advocated, in the main, by that party, as any gentleman on this floor. I have fought that party as long, if not as ably, and have encountered as full a measure of their opposition, as any gentleman here. But let me warn gentlemen that they cannot answer before the country for the commission of a great wrong, for the violation of a great principle—a principle dearer to the hearts of the Democracy of the country than all others—by indulgence in the abuse and denunciation of the Republican party, the Know Nothing party, or any other party. The discriminating mind of the people will well understand the attempted evasion. They will well understand that denunciation of another party for their many wrongs and sins can constitute no valid justification for the violation of a great principle of our own party. Do not deceive yourselves, gentlemen, with such delusions.

But, Mr. Chairman, those of us who differ with

the President on this single measure of his Administration are charged with acting with the Republican party; in fact, that we have gone over to that party, and are no longer to be regarded as within the pale of the Democratic organization. Such charges are of daily occurrence, and are sometimes fulminated by gentlemen recently converted to the faith they presume to expound, and whose minds the pure light of Democracy has hardly had time to purge of their former errors. Yes, sir, no paper can publish an article, no citizen can talk, no member here from the North can speak against this attempted fraud, without being charged from certain quarters with having gone over to the Republican party, and branded as being, to all intents, a "Black Republican." What sanction does truth afford to this bold and shameless assumption? What, sir, were the principles advocated by the two parties in the contest of 1856 on the slavery question? There is no way of determining this question so accurately as by a reference to their respective platforms. The platform established by the Democratic party at Cincinnati, in June, 1856, in the convention which nominated Mr. Buchanan, on the subject of slavery and the Kansas issue, is in these words:

"Resolved, That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and, whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

This expresses, in its fullest and broadest sense, the doctrine of the right of the people of Kansas, "acting through the legally and fairly expressed will of the majority of actual residents" to form a constitution, and be admitted into the fraternity of States, and negatives the right of congressional intervention. Now, sir, let us turn to the platform of principles adopted by the Republican party in the convention which assembled at Philadelphia, on the question of slavery. Here it is:

"Resolved, That the Constitution confers upon Congress sovereign power over the Territories of the United States for their government; and that, in the exercise of this power, it is both the right and duty of Congress to prohibit in the Territories those twin relics of barbarism, polygamy and slavery."

Thus the issue was fairly made up between the parties, the Democratic party taking the high conservative ground of non-intervention by Congress with the subject of slavery in the States and Territories, and leaving the same to be settled by the people for themselves, through the *fairly* and *legally* expressed will of a majority of the actual residents; and that, as they should settle it, so thus should they be admitted into the Union. The platform was not only freely accepted by Mr. Buchanan, as our standard-bearer, but, in his letter of acceptance, he says:

"The recent legislation by Congress respecting domestic slavery, derived, as it has been, from the original and pure fountain of legislative political power, the *will of the majority*, promises, ere long, to allay the dangerous excitement."

Not only did Mr. Buchanan, but the Democratic party, North, South, East, and West, accept and indorse that platform as the main plank in their party creed. We fought the Republicans, and conquered, on the principles thus enunciated and thus accepted, and on the issue thus presented; and because we still fight under the same banner, sustained in our course of rectitude by the same principle, are we to be stigmatized as renegades, Black Republicans, and deserters from the Democratic faith?

The platform of the Republican party, which I have presented, is in palpable conflict with that of the Democratic party. It justifies and counsels direct intervention of Congress with the institution of slavery; and, to-day, it meets my unqualified disapprobation and hostility, as it ever did. I condemn it in theory, in principle, and in practice. I should regard its enforcement as unwise, inexpedient, and dangerous to the peace of the country, and to the integrity of the Union of these States. Then, sir, if I stand where I have always stood, in an attitude of open hostility to the avowed principles of the Republican party, who shall dare accuse me of deserting the Democratic faith for the Republican faith? Does the accusation come with a good grace from those who have so far conceded to the Republican doctrine as to attempt to stifle the voice of the majority, and who are intervening to force upon them a constitution against their "legally and fairly ex-

pressed will?" Party names are but names that may be changed as interest or fancy may dictate, but principles are unchangeable; they give to parties all their vigor and virtue, and without them names are worthless. Desert your principles if you will, and retain your name; it will not avail you. It will not be the first time that the sacred name of Democracy has been assumed by its enemies; but public opinion has stripped the maskers of their disguise, and covered them with merited obloquy. What though the Republican party should see proper to abandon their platform upon which they have suffered defeat and overthrow in the canvass of 1856, as I sincerely trust they have; it is their business, not mine. If the Republican members on this floor, in the discharge of their high duties as Representatives of their own constituents, see proper to abandon their former doctrines of congressional intervention in the domestic affairs of the people of the Territories, and to vote as I vote, and thus sustain my long-cherished principles of non-intervention and popular sovereignty, it is their right to do so. They are answerable to their constituents, as I am to mine. I shall not complain of their action, nor will I desert my principles because former friends desert them, nor because former enemies come to their support.

But, sir, it is said that we are to be read out of the Democratic party. Who is to be the executioner? I want to see his authority, his warrant. I want to know from what tribunal it issues, and whose sign manual it bears. We have a right to demand of him who attempts to exercise this omnipotent power to produce a clear, untarnished, and consistent political record. I protest against gentlemen who failed to vote for, or voted against the fugitive slave law; who voted for the Wilmot proviso in all its forms; who voted to abolish slavery in the District of Columbia; who failed to vote for the Kansas-Nebraska bill; who have advocated the abolition of the inter slave trade; who have favored the removal of this Capitol to free territory; and who opposed the last Administration from the first month of its existence to its close; who followed Mr. Van Buren in his apostasy to the Democratic party—I repeat, sir, I protest against the exercise of this omnipotent authority and establishment of political tests for me, by gentlemen of this type, either in Congress or out of it.

Certainly, the President will not assume this delicate and responsible function, so long as we firmly and persistently advocate the very principles that brought him into power, and which are found as clearly recognized in his inaugural address, and in his instructions to Governor Walker, as in the Cincinnati platform. If any gentleman here is clothed with any such power, let him avow it. Sir, such threats can have no influence upon my action here. My life has been spent in the service of the Democratic cause. I have been true to its principles, rejoiced in its successes, and mourned in its defeats. I have followed its flag through evil as well as good report; and I intend to stand by its time-honored principles, let what may come. I will not change at the behest of another. If you shall attempt to ostracize me, I will hurl defiance in your teeth. The pure fountain of political power is in the people. To them I will appeal for the rectitude of my purpose, the fidelity of my action. There is a majesty in their voice that will make it heard; and to their fiat the most censorious and dictatorial are constrained to bow.

Sir, this process of reading gentlemen out of the party is no trifling matter. Are you prepared to read out of the party such men as Douglas, Walker, Stanton, Bancroft, twenty or thirty gentlemen on this floor, and the rank and file of the party in every northern State? Are you strong enough to stand alone? Strike down the national Democracy of the North, and there will be no national Democracy. There will be a party at the South, or rather parties; and there will be parties at the North. There will be Democrats; national Democrats at the South, and national Democrats at the North; but there will be no national Democratic party. You, gentlemen of the South, think you are striking at the leaders, but your blows will fall upon the masses. You may scatter and defeat our majorities, but they will rally again. Think you they will come together animated by the same generous enthusiasm with which they

have heretofore espoused your cause? Do you believe the idle tale of those who would persuade you that because the North stood by you when you were in the right; they will, with equal zeal, defend you in the wrong? Believe me, you do injustice equally to the intelligence and to the conscience of the North.

Sir, I repeat, I respect the President. I know of no other policy of his Administration upon which I shall differ with him. It may be there will arise other occasions of difference, but I am not now aware of any. If there should be such an occasion during my service here, I shall be frank, open, manly, in that difference. If the time has come, that we must think as the President thinks, and act as the President may dictate, the necessity for a Congress has ceased. We had better surrender, at once, all power into the hands of the Executive, and talk no more of coming fresh from the people to reflect their will. Is it so, that if the President changes we must change, and quickly, too, or come under the ban of his displeasure? Away with such a doctrine. I do not subscribe to it; I repudiate it. It wars with the spirit and genius of our form of free government; it is something more than party discipline, it is political despotism; and if tolerated, must inevitably result in a central oligarchy, rob the people and the States of their rights under our federative system, and the Representative of his honor and his manhood. The President may, nay, it is his duty, under the Constitution, to advise me; but when I permit him to command me, I change masters and cease to be a Representative of the people.

But, sir, some of us seem to forget that the people are the masters of us all, both Executive and Representatives. Suppose that, pending the presidential canvass of 1856, Kansas had stood in the same attitude she does to-day, asking admission into the Union under a constitution spurned by four fifths of her people at a fair and legal election, and Mr. Buchanan had avowed his intention, if elected, to press her unconditional admission into the Union: what would have been the result? Would he have been your President to-day? Would he have received the vote of a single northern State? Would our party have had the ascendancy on this floor? No, sir; none of it. Then, why, after we have received the popular approbation; after we have been snugly ensconced in power in all Departments of the Government; why presume to disappoint the just expectations of those who placed us here, and do what we dared not do before the election; and which, if you had then done, would have resulted in our certain defeat and overthrow? Others may; I cannot, I will not do it.

Suppose I should support the admission of Kansas under the Lecompton constitution, and on my return to my constituents, an old and tried friend should approach me thus: "Did you vote for the Lecompton constitution?" "Yes, sir." "Was that constitution approved by a majority of the legal voters of Kansas?" "No, sir; four fifths of the legal voters voted against it." "Is that popular sovereignty, on the strength of which I voted for you, and on which you were elected to Congress?" "No, sir, it is not; but the President changed his position on that question. You know I am a Democrat, and I was compelled to change my opinions, stultify myself, and misrepresent you, in order to sustain the President." Sir, would this be a valid excuse for my treachery? Would this justify my conduct before an honest and intelligent constituency? Never! and I should be totally unworthy a seat in this Hall, if I were capable of meditating such an act of perfidy.

Again, sir, if this Lecompton constitution is to be made the test of orthodoxy in the Democratic faith, and the patronage of the Government is to be bestowed accordingly—and I do not know how this is; I have not stopped to inquire; I do not care to know, for it would not change my course in the least degree. But there are other questions of grave and commanding importance before Congress, some of which involve high questions of international law; others involve questions of constitutional power; and others questions of expediency and policy; all of which have been referred to by the President in his message, and on which he has fully committed himself. I allude to the Paulding and Walker affair, the construction of a railroad to the Pacific ocean, the system of banking and paper currency, the Utah troubles, and the

tariff question. In looking around me, sir, I see many Democrats from the North and the South, who differ widely and radically on all those questions, not only among themselves, but with the President; and I find these dissentients supported sometimes, and sometimes opposed, by Know Nothings and Republicans. Differences on these important measures from the views of the President and with each other seem to be tolerated, as they should be; and no test of Democracy seems to be required in regard to them. Then why, Mr. Chairman, should the Lecompton constitution be made a test of party faith, and the patronage of the Government, if such be the intention of the Executive, bestowed accordingly? The country will ask this question in due time, and exact a categorical answer.

It is contended by the President, and a few of his friends here, that the people have a right to make and unmake constitutions at pleasure, and that although the Lecompton constitution provides expressly that it cannot be changed until 1864, it can be done at any time by the people, under this general right of making and unmaking constitutions. Now, sir, it is clear to me that there are but two modes of changing constitutions. One is by and through the means pointed out in the Constitution itself; this is the lawful, legal mode; by this process the constitution of Kansas cannot be changed until 1864, and then only by a vote of two thirds of the Legislature. It is likely that even then, either party can command two thirds of the Legislature to initiate steps to change that constitution? The other mode of changing a constitution is by revolution. That revolution may be bloodless—peaceful; nevertheless, being in violation of the fundamental law, it is a revolution. These, sir, are the only modes of changing a constitution, and any declaration by Congress of the right of the people of Kansas to change their constitution after being admitted into the Union is a nullity.

Mr. DEAN. Mr. Chairman, I desire to submit a few remarks which have been very hastily prepared. Such is the aggressive nature of slavery that it was the early policy of our Government to confine it within mates and bounds. Confessed by correct jurists of every age to be a creature of positive municipal law, in defiance of the laws of nature, and of the laws of God, it was the deliberate judgment of the venerated sires of our revolutionary history that it should sustain its existence—if existence it should have—by the statute laws of the independent States. While this policy was pursued, the people of the non-slaveholding States washed their hands in innocence of this (to them) crime against the laws of God, and the rights of man. Hedged in by State sovereignty, it was as clearly beyond the jurisdiction of the other States as though it were a foreign government in some island of the sea. When the man was transformed into a chattel, a brute, a thing, by the law of force, or what is its equivalent—a statute law embodying the power of a sovereign State, he could do no less than submit to the prisoner's chain, unless by a successful revolution he emancipated himself. But when he passed the barriers of that law, then by the higher law of nature and of God his chains of servitude fell off and he walked the earth a freeman. I understand this to have been the settled doctrine of the country until a very recent period.

In the instrument which confederated the thirteen States, and made them an empire of sovereigns, a single clause was admitted providing for the rendition of persons who should, by flight, defraud others of labor or service which was their rightful due. Beyond this single point, tortured of late into an implied power in one man to claim another as a slave upon soil foreign to his State, the Constitution is silent, and guiltless of the barbarous and unchristian doctrine that one man can rightfully chattelize another. Like the several free-State sovereignties, it stood, with the Declaration of Independence, the embodiment of the doctrine of universal freedom, the practical expounder of the great, primal, God-given, "self-evident truth that all men were created free and equal," having an impartial endowment of rights. These were asserted to be the glorious trinity—life, liberty, and the pursuit of that happiness which is the desire of all.

Such, sir, from the nature of those instruments, and from contemporaneous testimony, I understand

to be the great principles which underlie our system of government. The people of my State, sir, hold those views to-day. Taught them by their revolutionary sires, and by that written history of the country with which almost every youth among us is as familiar as is any gentleman upon this floor, they cherish them, and will abide by them. Anti-slavery they are; anti-slavery they glory in being; unbought by the offers of political sycophants; unsullied by the seductions of cotton and commerce, and the wealth which they impart; uninfluenced by the crazy threats of fratricidal fanatics who proclaim disunion, or unsubdued by any fear.

Sir, my constituents and the State which I have the pride of representing in part, ask nothing more of their sister sovereignties than that they abide by the terms of the original compact. Their history is a life-long pledge of their fealty to it. But with the crazy scheme of the slavery-extendors of this day they have no sympathy, and to the doctrine they will grant no quarter. They have from time to time acquiesced in those compromise measures which have been adopted, with the expectation that each one was to be the last. When the black tide of slavery has thrown another, and still another surge far up upon the free shore of our confederated dominion, they have protested against the sacrilege in language becoming to freemen, and demanded a cessation of these attacks. But when the leading spirits of the nation have, through expediency, proposed a mutual yielding, in order to give a common repose, the citizens of my State have been the first to acquiesce, while at the same time they changed not, in a single iota, their views of the nature of this evil, or its true municipal position in this country. No single step has been taken in this aggressive march of slavery towards a national existence, or the founding of an empire whose base should be the bowed necks and crushed souls of men whom God made a portion of the human brotherhood, which has not met the stern, opposing judgment and conscience of my constituents. Loving freedom at the first, they broke every manacle within the State. Before you can force them into an acknowledgment of its existence there, you must turn the army of a Xerxes upon them, and crush the wall of living hearts, which, flying from the cottages and palaces within its borders, will close up in solid column for the defense of their sovereign rights. Sir, man-stealing is a crime of magnitude in our State. Even the making of a claim to the possession of another human body, containing a living soul, subjects the claimant to arrest and trial under our statute. Such is the love of liberty and the sense of equal justice in the bosoms of our people. I esteem it one of the proudest acts of my life, that by the suffrages of my own townsmen I was enabled, by my vote in the Legislature, to give that spirit vitality in a statute law; and that, too, because, in common with my fellow-citizens, I believe that the rights of all men are the gift of God, and the claims of property are not to be mentioned in the same breath.

Sir, when the convention which framed our Federal Constitution had under advisement that portion of the report of the committee of detail which recommended a tax upon the importation of certain persons, (meaning slaves,) one of the brightest lights of our State—whose legal power was second to none in the country—of whose name and fame every son of Connecticut is proud, arose in his place in opposition to the measure, simply upon the ground "that it implied they were property." Not that it was asserted in the provision, but simply that it might thereafter be implied. Who, sir, rises up to convict the pure-hearted, clear-headed Roger Sherman, in these utterances of the sentiments of the people of our State, so long ago as 1787? When, in the furtherance of the mad schemes of slavery propagandists, in 1814, the broad acres of the Louisiana purchase were devoted to chattel servitude, and when, in 1819, the peninsula of Florida was added as a slave State to our confederation, the people of Connecticut stood in opposition. And in the exciting scenes which convulsed the country, over the admission of Missouri as a slave State, and which finally culminated in what was supposed to be a permanent barrier to the extension of slavery northward, the citizens of my State, were not second in their hostility to this scheme for the exten-

sion of the slave system, even though a hunker portion of their Representatives upon this floor betrayed their principles. When slavery rested temporarily from "its goings to and fro" in the country, seeking an avenue for extension, and assailed the sacred right of petition in these Halls, from 1835 to 1838, my constituents were no indifferent spectators of that great struggle. And when the same power, under the "gag resolutions" brought "the venerable sage of Quincy" to the bar of this House for the presentation of a petition, the slumbering spirit of even our staid conservatives was aroused.

In 1844 you opened up the propagandist scheme afresh; and expended millions of the money of the people to take "The Lone Star Republic" into the bosom of the Confederacy; providing that from this prolific political womb should be born, at times suitable for the future emergencies which might arise in the slavery extending scheme, four slaveholding sovereignties. Did Connecticut tamely and silently acquiesce in this wholesale barter of those principles enunciated by Roger Sherman and his compeers of the constitutional convention? She has a history upon that transaction, and it is written.

In 1850 you enacted a man-hunting, heaven-defying law, which abrogated the Divine precept "to feed the hungry, clothe the naked, and shelter the oppressed;" turned every acre of our land into a Federal hunting-ground for men; made our citizens blood hounds by law to reclaim captives under the pains and penalties of a forfeiture of our hard-earned property and imprisonment in a felon's cell. Did we bow and cringe and swear allegiance in the loss of our principles and manhood? Sir, you cannot get a corporal's guard in the whole State to enforce the edict, not even of that so-called Democratic conservative portion of our citizens, who swear by James Buchanan and the Lecompton constitution, the Federal patronage of course included. You but stirred up our yeomanry to the contemplation of how they could best preserve their sovereignty as a State, and their rights as individuals, against the aggressions of that slavery propagandism which then, as it has since, held complete control over the general Administration. The action of the two great national conventions, ignoring all discussion of a question which involved our dearest rights, and promising, by all the force of party machinery, "to crush out" discussion, buried in a sepulcher too deep for the ghost of a chance of resurrection, the old Whig party in the State, and passed the Democratic party, its opponent, through the damp vaults leading to its final sepulcher—hanging a dark and murky pall over its prospects of ever becoming a victorious political organization there, unless by a division of the anti-slavery forces upon local questions. The repeal of the Missouri restriction—the prolific dam of this whole brood of villainies against the people of Kansas, from Atchison's invasion to the consummation of the scheme in the presentation of the pro-slavery Lecompton instrument—has decimated the already broken ranks of the Administration party in the State. The Dred Scott decision of the supreme judicial bench of the country has shown them that even the sanctity of our highest judicial seats has been invaded by this rabid spirit of slavery extension, and that the robe of the judge is no proof against the partisan madness of the day.

Sir, the people of Connecticut are not slaves, nor the sons of slaves. They are not vassals of the South, nor the children of vassals. They are as a body, legitimate in descent from the pilgrims of Plymouth, and glory in their puritanic character and ancestry. Their early laws recognized, and were based upon, those Divine precepts which they believed and practiced. Their code of statutory obligations, from the founding of their first colony down to the present time, will gather fresh luster by a comparison with the contemporaneous code of any other colony or country. She will blush for the weakness of a son of hers who, in the presence of the nation's Representatives, asserts as fact what has no foundation in her legal history, but was the jeer of the infidel in consequence of her puritanic character. I allude, sir, to that remarkable feature in the speech of my colleague from the fourth district, [Mr. Bishop,] asserting the former existence of a fabulous law, and passing in review the statutes of our State,

against the violations of the moral law, to excite the jeers and laughter of Representatives whom it would not injure to be brought under their restraining influence. Sir, we have a "Sabbath law," a "gambling law," a law against "profanity," and a Connecticut "liquor law," with their pains and penalties. The atmosphere of this corrupt Federal city would be much purer if those laws were a portion of the code of this District, and had Connecticut men to enforce them. We have also a law against "bearing false witness," or slander; and I much mistake the spirit of the citizens of my colleague's district, if they do not enter up the judgment of an overwhelming majority against him in the election which is to come.

Sir, a majority of the citizens of my State occupy that happy social position which is a medium between a wealthy aristocracy on the one hand, and a poverty, which is generally wedded to ignorance, upon the other. Our farmers cultivate their limited acres; our artisans and mechanics, by their intelligence and skill, always find employment at a remunerative compensation, unless the fountain of labor dries up; our merchants are second to none in the commerce chambers of the country; and our "school-masters are always abroad." There are but few who do not acquire a sufficiency of wealth to educate their sons and daughters for any walk of life which they select, and to grant them sufficient assistance with which to commence their career. The result is, they are virtuous; for, as a general rule, the idlers are the vicious ones of a community. They are intelligent, and thoroughly posted in all the principles, history, and present operations of our Government. They are political thinkers from their youth. What passes in these Halls, what is spoken in debate here, is read in their daily papers, and commented upon at their evening firesides. With such a people for a constituency—acknowledging the dignity and rights of labor, scorning the coarse taunts uttered against them, and loathing the system which holds a fellow-laborer in the most abject vassalage, as a chattel, a thing, harling back in your teeth the *pronunciamiento* which seeks to debase and degrade them—I do not wonder that the small remnant of your slavery-extending party in Connecticut lifts up its prayer that you cease the utterance of such comparisons and such slanders, for its very existence sake.

I counsel no such silence. No party good, no party existence, shall ever humiliate me enough to ask the South, or any section or party, to play the hypocrite in order to sustain my political life. If the spirit of aristocracy is in the South; if, in its narrow judgment, the great laboring class of the North is yoked with the abject servitude of the slaves of the South, to form "the mud-sills" of our political edifice, out with it, then, with all that openness of character with which you are accredited! You will soon find these despised "mud-sills" of the North rising up your peers, and towering above you in the future history of this Government, even now being regenerated by their awakening.

Sir, my colleague may speak for the party when he beseeches his southern allies to believe what they please, but to keep their counsel from the northern public ear. I speak for the people when I ask you to make a clean breast of your views and designs. As reasoners, if they cannot answer your sophistries; as politicians, if they cannot go as deep as the profoundest of you in the science of government; as readers of our own history, if they cannot rebut and overthrow your assumptions concerning the nature and extent of the powers of our federative Government; then, sir, they will, in the spirit of a true manhood, take their seats at your feet as pupils. But, sir, you can never blot out their hatred to slavery, or seduce them into crediting its morality and beneficence as a system. Born upon free soil; inhaling a free air; educated in free schools, and taught a free gospel, it is beyond any earthly power to make them love the system of a forced servitude, much more submit to the *dietum* of its masters. If the working-men of Connecticut were the only slaves in this Confederacy, it would be annihilated in a few short hours by a revolution which would be decisive and final.

Sir, it is true that we have a term of political reproach in use among us which is significant, and utters its own meaning when pronounced. A

"dough-face" is peculiar to northern latitudes. The race has flourished somewhat extensively in the past, but at present "is growing small by degrees and beautifully less." Our citizens may entertain great respect for a man born upon a southern plantation and reared amid the influences of the chattel system, taught in infancy, and strengthened in his rising manhood, in the belief that it is the best social system for all communities; taught to demand even its acknowledgment as an equal to a free system. I say our people may entertain a great respect for such a man, but none at all for his principles upon that question. But they have small respect, and instinctively inquire for a cause, when a son of their State, or of the North, becomes plastic, and susceptible of being molded into the image and likeness of a southern partisan chattel in the political market. Such seem to take the name of "dough-face," as you would take an epidemic disease, that is—"in the natural way." I do not deny but some honest men, who honestly entertain opinions favorable to the expansion of the slave system—who see in "King Cotton" the pride and glory, as well as the savior of their country, may have this badge applied to them unjustly. But it is their misfortune, and they must wait until the final judgment exposes their motives, when they will certainly be righted. It is a compound word of such significance in its application, that it will be hard to crowd it out of the northern political vocabulary while a single case of applicability remains.

My colleague admits that the Democracy of Connecticut "accord to the South the right to move into the Territories of the United States with their property, whenever and wherever they please, so long as they are Territories," (I quote his language,) and then coolly asserts, in the face of history, that this was one of "the compromises of the Constitution!" Sir, he has studied that instrument, and the history of the convention which framed it, to little purpose if he has not yet learned that the claimed rights, nay, more, the legal existence of slavery under that Constitution, were denied a place in the instrument. He would have been correct had he stated that it was one of the late compromises of the boasted national Democratic party. He may be pardoned if, like many of his political friends, he esteems the pro-slavery Democratic platform his own and his party's constitution. But the people of Connecticut do not accord that right either by an interpolation of our national charter, or at the dictum of party leaders.

Sir, the Democratic party of my State has furnished its full quota of dough-faces to aid this system of slave propaganda. In times of high party excitement over local questions, they have thrown a crop of this political seed to the surface; but almost invariably it has been with the protestations of opposition to slavery extension rolling like oil from their tongues. When the repeal of the Missouri restriction was consummated, many of its prominent men were staggered, and a majority of its representation upon this floor recorded their votes against it; but they soon succumbed to southern dictation, and took their old places in the ranks. But they have persistently deceived their people in relation to their true position upon this question. Their political pettifoggers, in the last presidential election, made flaming appeals to the Democracy to sustain "Buchanan, Breckinridge, and Free Kansas," under the workings of this new light of the party, named "popular sovereignty." They coolly argued that under the new system, slavery had met its last foe, had occupied its last inch of virgin soil in this country, and that the national Democracy had effectually checked its advancing tide. That was the local doctrine fitted for the latitude of Connecticut, and the campaign in which it was used. Now that "Buchanan, Breckinridge, and Free Kansas" has culminated in "Lecompton," and in forcing the system of slavery upon a people contrary to their will, my colleague, speaking for the party which he represents, coolly proclaims that "they concede the right to the South to move into the Territories of the United States with their property, (i. e. slaves,) whenever and wherever they please, so long as they are Territories," but most pitifully begs, as a boon in return, that the South shall not institute unhealthy comparisons between their chattel slaves and the free mechanics of the North, to prove that they occupy the same social and relative position in political society. Further

than this, he entreats them to cease attempting to prove that it is a Divine system, for it really hurts the feelings of the party in Connecticut.

The Democratic press of my State is completely under the control of this pro-slavery Administration, without a single exception of which I am aware. Every publisher or editor has one of the tears of the national udder between his lips, and, with his mouth full of the golden milk of executive patronage, pitifully moans the request to his southern brethren, to suppress the common sentiment held between them for the party's sake. The proposition of my colleague for the extinction of slavery in the Territory of Kansas, by the purchase of the slaves taken there under this Democratic doctrine, is perfectly consistent with those commerce principles which admit the right of traffic in human flesh, and which characterize the hunker portion of that party. It is the utterance of a doctrine, and the recommendation of a "speculation," so cold-blooded and godless in its character, that it will shock the religious portion of his State; while among the infidels it will, as it did here, provoke laughter under the very ribs of the moral death which it proclaims.

I sicken, sir, over the recital of those outrages against freedom which have characterized the so-called Democratic party. The child has changed its nature as a chameleon does its hues, and having become, if not black, at least tawny in color, should receive a new christening. Whatever measure it proposes, whatever act it performs, or whatever platform its changing necessities require it to inaugurate, in all these "the nigger" is prominent. Asserting that "the slave has no rights which a white man is bound to respect," it still insists that the slave system shall be the head and front, the Alpha and Omega of party allegiance and constitutional obligation. When the President of the United States stooped from his high position and entered the partisan arena to attempt a public answer to a modest petition from some of the first citizens of my State, he acted consistently, judging him by the measures of the modern Democracy. Sir, the doctrine of political ethics taught in that ancient and world-renowned *Alma Mater*, in New Haven, does not tally with the bald assumptions of the political Hotspurs of today. Her learned professors are of the school of the Shermans, the Wolcotts, and the Dwights; and the partisan fulminations of the President fell harmlessly at the feet of the noble men whom God yet permits to linger under the shadows of her venerated walls. The party of the President in my State gathered no converts to their faith from that presidential tilt with those honored citizens.

Mr. Chairman, I have felt it due to myself and my constituents to say this much in explanation of their true character, social position, and political opinions upon the slavery question. I had determined with myself not to occupy the time of the House, but to pronounce my own as well as their judgment upon that feature of slavery extension now under the consideration of Congress, in a negative vote upon every phase which it should assume. I have no desire to rehearse the catalogue of invasions and frauds practiced against the people of Kansas Territory. Neither have I the taste to dissect so foul a mass of political corruption as was, in my opinion, embodied in that Lecompton convention. For the same reason I do not desire to analyze the child that partakes so largely the paternal nature and character. Other and abler hands have done it; and, in my opinion, most successfully. On the face of the whole proceedings, from the first invasion downwards, it is marked with violence, fraud, and a pro-slavery fanaticism almost insane. Its leaders and abettors have been men high in authority, and blood-red murders have followed its serpentine trail. Its consummation has come to be a party test, and its legal crowning will be a blow which will drive that party staggering to its political death.

During the recess of Congress I visited the Territory, conversed with its citizens, and gathered up as much of its unwritten history as circumstances permitted. It harmonizes with the record already upon the page of history and before the country. I stood by the row of graves in the open field, on the summit of the hill which overlooks the city of Lawrence, and from a resident learned the history of this column of sleeping martyrs. History may be ransacked in vain to find

a parallel of brutality, savage hate, and fiendish malignity which brought these men to their bloody graves. If "the blood of the martyrs is the seed of the Church," then the blood of freemen is not lost when it is yielded up to establish free institutions. If the strong influence of this Administration, and the force of party discipline shall place this constitution as a yoke upon the necks of a subdued people, I still shall have confidence that the sons of revolutionary sires will have enough of their fathers' spirit to emancipate themselves, and found for themselves a domain of freedom, peaceably if they can—forcibly, if that is the only alternative. The arbitrament of war is a court of last appeal, and should not be tried until the hope of a peaceful revolution has exhausted itself. When that crisis is reached the people must decide to be slaves or freemen.

Mr. Chairman, before closing I wish briefly to assign the reasons why I shall cast my vote against every step which looks to the consummation of this fraud.

In the first place, reflecting the sentiments of my constituents, I will not vote to admit a single inch of slave territory lying within the limits covered by the Missouri restriction of 1820. Its abrogation was in bad faith, and was designed, to say no more, to render possible what had solemnly been adjudged, and for a long series of years acquiesced in, as impossible. I have no faith—had none—in the catch-phrase of "popular sovereignty" with which that measure was gilded in order to screen the possibility or the purpose beneath it. It was asserted by our coolest men, at the time of the passage of the Kansas-Nebraska act, that the repeal of the Missouri restriction would result in the formation of a slave State within the limits from which the restriction was removed. Their prediction finds a fulfillment. It comes here with a slave constitution, in spite of the dogma of "popular sovereignty," and a majority of ten thousand votes of its citizens cast against it. But, sir, if every man in the Territory desired its admission with slavery, under the position which I have assumed, I could not, and would not, vote in its favor.

Another reason for its rejection would be found in the frauds connected with the formation of the constitution presented, even though the first could be waived. Why, sir, if testimony is to be credited—and Democratic Governors and Secretaries join in concurrence with the other proof spread before the face of the people—then this instrument is unworthy the respectful attention of the Congress of a free country, and should be kicked lustily from these Halls. If saved at all, it must be by technicalities and special pleading. An instrument of this nature, which is to determine the political and social complexion of a sovereign State, should not be saved merely because it was able to pass through such a gauntlet as this. We are not a petty court, sitting for the trial of a meager suit at law, to be governed by its petty technicalities, granting to the special pleader his verdict in consequence of his ingenuity in shaping his case, or artfully and skillfully dodging the tough points of his opponent by legal quibbles. As the nation's tribunes, we are sitting in judgment on the legal birth of a new Commonwealth seeking to be added to this Confederacy. Standing upon the doctrine of popular sovereignty, and in the face of the ten thousand majority of its citizens against this constitution, no northern Democrat can, in my opinion, vote for this rejected instrument, and be true to his pledges to the people.

If the voice of the people is to be authoritative in the founding of new States out of the common domain, without the interposition of Congress, then it should bear their popular verdict of approval, clear as the sun at noonday. Sir, popular sovereignty does not weigh a feather in the balance when opposed to the schemes of the slave propagandists of the day. They mean slavery in Kansas, whether a majority of its citizens approve or disapprove. They mean two slave-State Senators in the other wing of the Capitol, for four and six years respectively. All the irruptions of the Goths and Vandals of Missouri in the different elections; all the slaughter of Democratic Governors by the national Executive; the quartering of a Federal army within her borders; the refusal to enroll her citizens upon the poll-lists; the disfranchisement of nineteen counties in the pre-

tended election for a constitutional convention; the creation of a peripatetic regent and supreme dictator, who holds the unannounced certificates of the late election for State officers in his breeches pocket; his absence from the Territory for months, and his hanging around the Federal city, and the reading of the author of the popular sovereignty doctrine out of the pale of the party, because he cannot shut his eyes against this outrageous swindle—all, all, sir, make the grand design of the party and this Administration perfectly apparent. They mean a "nigger" in Kansas, or no Kansas in the Union. Popular sovereignty is well enough as a text upon which to predicate speeches to please the northern Democratic ear; but when it rears a barrier against the extension of slavery, it is to the South a bird of different plumage. It will be difficult for the people of the North to harmonize the pitiful pettifoggery of the friends of Lecompton to carry this measure, with the stern popular verdict of ten thousand majority of the sovereigns against it.

Still another reason for my opposition is found in the fact that it is not for the interest of my State to depart from the first inaugurated policy of our Government under the Constitution, to which I have so briefly adverted in my opening remarks. The danger to this Government lies in its strong tendency to centralization, federation, or too much central power. The Federal Government is of limited powers; and I will go as far as the furthest to give the sacred instrument of its existence a strict construction. Far beyond the most extensive speculations of our fathers has executive patronage even now reached, in its rapidly augmenting course. It is conceded by the country that an Administration in power has the odds of almost two to one in a popular election. There is not even a village of our broad country in the which the President has not an active political agent; a local manager of the political affairs of his Administration, either for his own reelection or the candidate nominated by his party to succeed him. And this agent must have an unsullied party record, or the ax of the executive guillotine removes his official head without even saying "by your leave," or consulting in the least degree the will of the people. But, sir, when the central Government takes the system of chattel-slavery under its especial protection; when it declares that every rood of land in our broad territories, stretching away to the Pacific ocean, is, by the Constitution, the legal abode of the chattel-system, and that the central Government will enforce that system at the point of Federal bayonets, it is time that the increasing millions of northern freemen should investigate and decide for themselves this new interpretation. It, at one blow, nationalizes the chattel system, hovers it under the wing of our emblematic bird, shielding and defending it with its angry beak. At the same time, it annihilates all that makes the property valuable to northern laborers.

If a corrupt, partisan Administration usurps to itself the power of treading upon new ground, no patriot is far-sighted enough to discover the final results of that first misguided step. Already an alarmed North feels about the pillars and strong columns which support its independent State sovereignties, to discover the solidity of their foundations. Steadily increasing in strength as a central power, you are also as steadily trenching upon State rights, and you will yet claim the right to drive your coffied slaves through the very temples of freedom by the decision and with the aid of the central Government. This prophecy may be esteemed a madness; but there are children now born in the North who will live to witness the attempt. When that time comes, your Republic will become an Empire, your central Government as Paris is to France, and your elected President an Emperor. It cannot be reached but by revolution and blood; but both may be averted by nipping in the bud this tendency to centralization—this encroachment upon the rights of the free States of this Union.

It is not for the interests of the North to extend the area of slavery, for another reason. Your chattel system conflicts with the true interests of our northern laborer in almost all respects. We have all the slavery power pressing like an incubus upon us. You dictate the tariff policy of the nation, and by owning your own laborers, do not hesitate to attempt to enforce a free-trade pol-

icy which places the labor of our free mechanics upon a level with the pauper labor of Europe. At your will the governmental screws are unloosed, or turned until the cry of reduction of wages rings through all the manufactories and artisans' shops of the North, or else close their doors and stop the hum of industry.

No hired pauper of Europe, even though his remuneration for daily labor is but a scanty pittance, can compete with the owners of the human-labor machine in the South. You can restrict his daily allowance to the stand-point of actual necessity. You can compel him under the lash to labor for a number of hours per day, which, if forced upon the paupers of Europe, would revolutionize every nation upon the face of that continent. You do not need protection for such labor, and self interest alone leads you to the formation of a tariff that will, with the least possible addition essential to the carrying on of our Government, place in your hands the product of their industry at the lowest possible price. But, sir, the free labor of the North will never consent to take rank either with the paupers of Europe, or the slaves of the South. It seeks at the hands of a paternal Government protection from both. Just so fast as this slave system expands itself, in the ratio with which it fills your congressional Halls, it diminishes the chances for that protection which American industry and capital demand. I do not wonder, sir, that Connecticut Democracy, cheek by jowl with the South in her slave propagandism, and in striking down the dignity and rights of free labor, stands up in this Hall and begs of its southern coadjutors to stifle the utterance of their "mud-sill" sentiments, because such utterances ring the death-knell of the party.

But there is another and higher reason than all, which will control my vote upon this question, because it has been, is now, and, I trust, always will be, a cardinal principle of my political life. I do not, cannot, will not, acknowledge man's right of property in man. Born and educated amid the free institutions of the old Commonwealth of Connecticut, I was taught their justice and sanctity. The study of my later years has but strengthened and established my early convictions. No doctrine is so abhorrent to me, sir, as that so often proclaimed in this Hall, that one man has a social, political, moral, nay, sir, a Divine right, to hold as property the living body of his fellow-man. It saps the foundation of all rights invested in man by a high Creator. It stands between an eternal Ruler and the accountable subject. It claims the power, and exercises it, of making nugatory Divine commands. This it does by holding the marriage covenant subject to the caprices of fortune and the dictum of another's will, when the Divine Authority has declared it permanent. It claims the power, and exercises it, of shutting up the immortal mind in the prison-house of ignorance, and forbids the application of its God-given powers in fitting itself for the study of that Book by whose laws it must finally be judged, and through whose pages alone it can discover the moral beauties of the world's great Redeemer. It claims and exercises the right of seducing in the public shambles the child of another's loins, scattering families, without their consent, to the extremes of its spreading dominions. It abrogates nature's first law of self-defense. In a word, it lays its iron hand upon "the image of God" in man, and by one fell legal blow makes him a chattel, a thing, a beast of burden, an article of merchandise in the markets of the country.

Sir, I cannot acknowledge the existence of that right thus to transform a fellow-man—anywhere on this vast globe of ours, much less in my own native country, the boasted "land of the free, and the home of the brave." For that reason, also, I shall vote against this Lecompton constitution. I do not hold any party in my own State or elsewhere responsible for the doctrine set forth in this last reason for my vote against Lecompton. It will be my highest pleasure to co-operate with any man differing with me on this fundamental question in any effort to strangle this fraudulent attempt to impose a constitution upon an unwilling people in Kansas. Whatever may be the result of this local struggle, for myself and my constituents I pledge you that there will be no cessation of effort until this Government is brought back to its early practice, and a practical infidelity shall give place to the broad principles of a gen-

uine Christian morality, which was the glory of its noble founders.

Mr. BOYCE. Mr. Chairman, the sectional agitation is upon us again. In vain we seek to get rid of it, in vain we endeavor to banish it from these Halls, and transfer it, under the Constitution, to the people of the Territories, or to the judiciary. It still returns upon us. It has taken various forms in the different stages of our history. At one time it is the acquisition of Louisiana, then the Missouri question; at another, the right of petition; again, it is the annexation of Texas; then it reappears after a brief space, as the Wilmot proviso; changing its form, it now comes before us as Kansas. But in all its different aspects it is the same principle of sectional antagonism. It flows on through the different periods of our history, a dark and gloomy current, drawing its sources from the fountains of bitterness, and threatening in its accumulating floods ultimately to submerge the Republic.

The admission of Kansas under the Lecompton constitution has been so elaborately discussed that I do not propose to go over this ground in detail. I shall content myself with alluding to some of the questions raised in the discussion, and a consideration of the sectional controversy in its more general bearings. A good deal has been said as to the necessity of a submission of the Lecompton constitution to a popular vote.

As to the expediency of a submission of the constitution to a popular vote in the case of the Lecompton constitution, I have nothing to say; that was a question for the convention alone to determine. The only question, in this connection, I propose to consider, is the necessity of such submission. Is it necessary to submit a constitution to a popular vote to give it validity? I think not. I admit that no constitution can have vitality but from the assent of the people; and if a submission to popular vote were the only mode by which the people could express their assent, then such submission would be indispensable. But is this the case? Certainly not. The people may express their assent in advance, by conferring upon their delegates the power to make the constitution. Empowering others to make the constitution for them, is agreeing in advance to be bound by the action of those others, and thus in advance giving their assent to the constitution. There are several modes by which the people might give their assent to a constitution. They might meet in mass meeting, and make their constitution, clause by clause. This would come nearest, perhaps, to actually making their own constitution; but there are so many practical objections to this mode, that it will find, perhaps, few advocates; though, in the progress of the democratic mania, even this mode may come to be insisted on eventually as the only legitimate mode having due regard to popular sovereignty. Again: the people might authorize their delegates to form and establish their constitution for them; and this, perhaps, is the best mode of accomplishing the purpose, if the delegates are judiciously chosen; for it is most likely that in this mode the constitution will be the embodiment of the highest wisdom of the community, acting independent of popular errors or prejudices.

Yet further, the people might confer upon their delegates the power of forming the constitution, but deny them the power of giving it vitality, but reserve to themselves this sovereign right. At first view this mode may appear desirable; but when we consider that the mere power to say yes or no upon an entire constitution in the lump, not permitting an expression of opinion upon every clause, but only upon the aggregate, amounts to very little. If every man were allowed to vote upon every clause, it is likely that no constitution that could be devised would obtain a majority of votes for all its clauses, yet if the same constitution were submitted to a popular vote it would in all probability, as a general rule, obtain a majority of votes. When a constitution is submitted to popular vote, the question is not whether the majority favor all the provisions, the question is really whether it is better to have that constitution or no constitution. You may submit a single question to popular vote as a means of really ascertaining the public will, as for instance, "convention or no convention," or "bank or no bank," or "slavery or no slavery;" but the submission of a constitution, or frame of government, to a

popular vote is a more apparent than real mode of ascertaining the popular will.

As an illustration upon this point, I remember conversing with a gentleman from California who voted in California when the constitution was submitted to popular vote. He told me that he did not suppose half a dozen people in his section of the State had ever seen the constitution; but the people voted for it, because they wanted a government, and would have voted for anything. We all remember a recent vote in this District on submitting a code of laws to the people; we saw placarded over the city, "Workingmen vote for the Code, and go to jail for debt." And under this, and similar appeals, the Code, prepared with great care and ability, was voted down by an overwhelming vote. The submission to popular vote of a frame of government or code of laws, is, in my opinion, an illusion. Again, the people may establish a constitution, by giving the power to one man. This was the case in the master States of antiquity: in Lacedemon and Athens. Lycurgus gave institutions to Sparta, which made her supreme in Greece. Solon performed a similar great office for Athens. I do not, however, recommend this mode. It is not congenial to the spirit of our institutions, and I remember what an impracticable constitution the celebrated John Locke formed for my own State in an early period of her colonial existence. But all these modes of forming constitutions, which I have pointed out, are valid. The only essential thing is the assent of the people; any way by which that assent is signified is sufficient. The idea, therefore, that there is no mode of establishing a constitution but by a popular vote on the constitution, has no foundation, in my opinion, in reason.

This idea receives no sanction from the mode in which the Federal Government was established. Our ancestors desired to lay its foundations as deep as possible in the sanction of the States; and wishing to go behind the legislative authorities of the States, to the very sources of power, they required the Constitution to be submitted to "a convention of delegates chosen in each State by the people thereof." Such, too, was the practice of the States in the establishment of their own constitutions, until a comparatively recent period. To question the validity of a State constitution, on the ground of non-submission to a popular vote, is to disturb the foundation upon which our political system rests.

Another objection, much insisted on, is the mode in which the slavery question was submitted by the Lecompton convention to the people of Kansas. By that submission, the people were authorized to say whether any more slaves should be brought into Kansas. They were not authorized to confiscate the few already there. Now, this is the real cause of complaint. The convention did not submit the question of confiscation. To have done this would have been unjust in the extreme, for those who held slaves had taken them into the Territory under the sanction of the constitution; and suddenly, by a vote of a majority, to deprive them of their property, would have been robbery under the forms of law—what may be appropriately termed higher-law larceny.

The example set us by the northern States in their emancipation policy is most instructive in this regard. I have been at some pains to trace their legislation on this subject.

The first act for the abolition of slaves by a State Legislature was passed by Pennsylvania in 1780, which was, as its title indicated, "An act for the gradual abolition of slavery." It enacts:

"That all persons, as well negroes and mulattoes as others, who shall be born within this State, from and after the passing of this act, shall not be deemed and considered as servants for life or slaves; and that all servitude for life or slavery of children in consequence of the slavery of their mothers, in the case of all children born within this State from and after the passage of this act, as aforesaid, shall be, and hereby is, utterly taken away, extinguished, and forever abolished.

"That every negro, or mulatto child born within this State, after the passing of this act, (who would in case this act had not been made, have been born a servant for years, or life, or a slave,) shall be deemed to be, and shall be, the servant of such person, or his assigns, who would be entitled to the service of such child, until such child shall attain unto the age of twenty-eight years."

Now Pennsylvania did not, as we see by this act, proceed to an instantaneous confiscation, she only declared that the children of slave mothers born after the passage of the act, would be discharged from servitude on arriving at the age of

twenty-one years. Why did Pennsylvania act thus discreetly? It was not certainly because she counted the costs of a more rapid philanthropy and wished to be cheaply benevolent: such a construction would be unworthy of her reputation. It must have been that she thought to have gone further would have been inconsistent with the rights of property, or liable to some other equally grave objections.

In Massachusetts slavery was not abolished by any special legislative act, but by the decision of the courts on the construction to be given to a clause in the constitution declaring that "all men are born free and equal." (*Winchenden vs. Hatfield*, 4 Mass. R., 129.)

Connecticut, in 1784, by her Legislature, enacted that—

"No negro or mulatto child that shall, after the first day of March, 1784, be born within this State, shall be held in servitude longer than until they arrive at the age of twenty-five years, notwithstanding the mother or parent of such child was held in servitude at the time of its birth, but such child, at the age aforesaid, shall be free."

No sudden emancipation, no confiscation—a very gradual transition. This Connecticut law explains its spirit in a recital—

"Whereas sound policy requires that the abolition of slavery should be effected as soon as may be consistent with the rights of individuals and the public safety and welfare."

Rhode Island enacted that—

"No person born within this State, on and after the 1st day of May, A. D. 1784, shall be deemed or considered a servant for life, or a slave; and all servitude for life, or slavery of children to be born as aforesaid, in consequence of the condition of their mothers, be, and the same is hereby, taken away, extinguished, and forever abolished."

Still prospective.

New Hampshire did not pass any express act of the Legislature for the abolition of slavery, but the abolition is inferred from a general clause in her constitution, in 1792, similar to the one cited from the constitution of Massachusetts. Slave interest was merely nominal in New Hampshire.

The constitution of Vermont, 1793, provides—

"That all men are born equally free, and independent; therefore, no male person born in this country, or brought from over sea, ought to be held by law, to serve any person as a servant, slave, or apprentice, after he arrives to the age of twenty-one years, nor female in like manner, after she arrives to the age of eighteen years, unless they are bound by their own consent, after they arrive at such age, or bound by law, for the payment of debts, damages, fines, costs, and the like."

The number of slaves, infinitesimally small in Vermont, yet no sudden spoliation.

New York provided, by legislative act, that all children born of slaves after the 4th of July, 1799, should be held by the owner of the mothers of the same only, until they should attain to the age of twenty-eight years, if males, and if females, until to the age of twenty-five years. No confiscation; philanthropy, not very rampant, satisfied to wait a quarter of a century for fruition.

New Jersey, in 1804, passed an act for the gradual abolition of slavery similar to the Rhode Island law, except "that white male children born of slaves, after the 4th day of July, 1804, may be retained as servants by the owners of their mothers, until the age of twenty-five years only, and female children in like manner, until the age of twenty-one years." Philanthropy still patient and listening to reason.

We thus see that in every instance where the northern States acted specially on the emancipation of their slaves, they respected the existing rights of property. They looked to the future without damaging themselves in the present. The effect of their legislation would seem to be more to release themselves from the presence of the African race than to exalt that race into freedom. For what was to prevent the owners of slaves thus advertised in advance from moving their slaves to a warmer climate? Nothing, that I see. And that the question of emancipation, in a large degree, took this form of solution, is, I think, obvious, from the comparatively small free negro population now in the emancipating northern States to that which should, in the natural course of events, be there. Either emancipation has acted like a paralysis on the African race, or they were transferred South before the emancipating process took effect. The northern emancipating States have proved, by their own action in reference to themselves, that they repudiated the confiscating process. Why, then, should there be complaint that this process was not established in Kansas? Is

their philanthropy more vivid when it is to be exercised at the expense of others? Commend me to this prudent philanthropy, which counts the cost when it is to be operative at our own expense, but has a sublime contempt for the expense when it is to come out of other people's pockets.

I propose now, Mr. Chairman, to refer as briefly as possible to some of the prominent occasions on which the antagonism of a northern sectional party has manifested itself in our history. The review is curious and instructive, and shows in the strongest light imaginable the indefensible views which have actuated this northern organization.

One of the first instances was the purchase of that western empire known as the Territory of Louisiana, embracing that immense region lying west of the Mississippi, from the great lakes to the Gulf of Mexico. The facts that this territory embraced one bank of the Mississippi throughout its entire course; that, for a long distance near its mouth, the Mississippi flowed entire through the Territory; the boundless extent of fertile land embraced in it; its close proximity to the United States, as they then existed; that the numerous and great confluents of the Mississippi were of comparative little value without the absolute control of the "Father of Waters," which passes benignantly and sublimely across so many parallels of latitude; all rendered this acquisition not merely a desideratum, but a necessity. It is not going too far to say that the Republic would have been dismembered if this acquisition had not been made. Yet, there was a sectional party North whose horizon was so limited that they could not take in this mighty development of the Republic. The sublime flow of the great inland sea never stirred their hearts with emotion. If the question had depended solely upon them, the Mississippi would now be washing the shores of the stranger.

Another development of this northern sectional party occurred in the acquisition of Florida. Florida, from its local position, infested with hostile savages, who constantly harried our frontiers, in possession of a weak government unable to restrain these incursions, with an extended line of sea and gulf coast, along which passed so vast a portion of American commerce, was also necessary to the peace, the integrity, and the commerce of the Republic. Yet there was still an opposition at the North to its acquisition. But the common sense of the Republic burst the obstacles some wished to interpose to its rightful developments.

The next development of this northern sectional sentiment was on the admission of Missouri. Then it first attained its gigantic proportion. Three great questions of constitutional law were raised in the progress of this controversy:

1. As to the power of Congress to restrict and abolish slavery in a State applying for admission.
2. As to the power to prohibit slavery in a Territory.
3. As to the right of a State to prohibit the ingress of free negroes.

The discussion commenced on the proposition of Mr. Tallmadge to limit the existence of slavery in the new State, by declaring all free who should be born in the Territory after its admission into the Union. The amendment of Mr. Tallmadge was in these words:

"And provided, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted, and that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years."

This amendment implied the power of Congress to annex conditions upon the admission of a State derogatory to her equality as a member of a confederacy of States, necessarily equal in all their rights. According to this principle, Missouri was to be shorn of an important portion of her sovereign right to regulate her own institutions in her own way, while the other States of the Union possessed, unquestioned, this right. The result would have been, if Missouri had been admitted with this provision, that, as to a vital portion of her social policy, she was in a condition of inferiority to the other States. Illogical and untenable as this position was, it was ardently sustained by a dominant party North, and the country was convulsed upon this unfounded assumption. Now, how does this question stand? It is abandoned even at the North, I believe, except by a few fanatics. Upon this point Mr. Justice Campbell,

in delivering his opinion in the Dred Scott case, says:

"The attempt consisted of a proposal to exclude Missouri from a place in the Union unless her people would adopt a constitution containing a prohibition upon the subject of slavery, according to a prescription of Congress. The sentiment is now general, if not universal, that Congress had no constitutional power to impose the restriction. This was frankly admitted at the bar, in the course of this argument."

The case was argued for Dred Scott by Mr. Blair and Mr. G. F. Curtis, who cannot be suspected of any bias for the southern view of the question. In *Groves vs. Slaughter*, Mr. Justice McLean, who was strongly spoken of for the presidential nomination which Fremont received, says:

"The Constitution of the United States operates alike in all the States, and one State has the same power over slavery as every other State."—*Pollard's Lessee vs. Hagan*, 3 How., 212.

The Supreme Court of the United States say:

"The United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State, except in cases where it is delegated, and the court denies the faculty of the Federal Government to add to its powers by treaty or compact."

Mr. Justice Campbell, in the Dred Scott case, further says:

"This claim to impose a restriction upon the people of Missouri involved a denial of the constitutional relations between the people of the States and Congress, and affirmed a concurrent right for the latter with their people to constitute the social and political system of the new States. A successful maintenance of this claim would have altered the basis of the Constitution; the new States would have become members of a Union defined in part by the Constitution, and in part by Congress; they would not have been admitted to 'this' Union; their sovereignty would have been restricted by Congress as well as the Constitution."

Clearly upon this first question raised upon the admission of Missouri, the South were in the right, and the northern sectional party in the wrong.

As regards the second question, the power of Congress to prohibit slavery in the Territories: this power is pertinaciously adhered to by the northern sectional party; they refuse to be convinced, though the argument against it is overwhelming. They derive this power from that clause of the Constitution which authorizes Congress "to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States." From this they assume a governmental power over the territory. But this clause does not confer a governmental power; it only confers a proprietary power. This is obvious from the very terms of the clause, "territory or other property" evidently showing that the power conferred, in reference to the territory, is as property. Again: the power conferred by this clause is operative within a State where public land may be situated; thus showing that it is a proprietary power only. Again: if this power to make rules and regulations for the territory of the United States confers a governmental power, what was the use of the Constitution conferring upon Congress, in express terms, governmental powers over the District of Columbia, as this ample power would have resulted without express provision? The fact that the Constitution does confer expressly governmental powers on Congress, in reference to the District of Columbia, is conclusive that such powers were not conferred as to the territory by the clause, authorizing "rules and regulations."

Again: if the Constitution had intended to confer upon Congress governmental power over the territory, it would, as it did in the case of the District of Columbia, have done so by apt words. Not having done so, the argument is strong that they did not intend to do so. But even if a governmental power could be deduced from this clause of the Constitution, it would not authorize the prohibition of slavery in the territories by the Federal Government, because such legislation would be inconsistent with the equality which exists between the States. The power to govern the Territories is most properly deducible from the power to admit new States. Congress having the power to admit new States, has, as an incident to that power, the right to prepare a State for admission by establishing a territorial government; and in executing this derivative power, Congress has no right to discriminate in the Territories between the different forms of property, but must respect all property recognized as property by the Constitution, which slave property is. But without going any further into the argument of this question,

it is sufficient to say that it has recently come for decision before the Supreme Court of the United States in the Dred Scott case, and the question has been decided adversely to the claim of the prohibitionists. The position taken at all times in our history by all parties at the North, until within a recent period, was that the Supreme Court was the final arbiter of the Constitution, and its decision was authoritative and binding. It would be supposed, therefore, that the claim of power to prohibit slavery would be abandoned after this decision. Without myself claiming such force in the decisions of the Supreme Court, I may say I rely on its decision in the Dred Scott case as a powerful indorsement of the rightfulness of the position taken by the South upon this question.

The third question raised in the Missouri controversy was as to the power of Missouri to prohibit the entrance of free negroes. This was resisted by the northern sectional party as violative of the Federal Constitution, on the ground that free negroes were citizens of the United States. Never was a more unfounded pretension put forward by any party. The best argument on this point is a reference to the status of the free negroes in the northern States. We find, on examination, conclusive evidence that the free negro has always been regarded and treated in the free States as of a degraded class, and not admitted to citizenship, as will appear from the following summary of their legislation on the subject:

Massachusetts, in 1786, passed a law prohibiting the marriage of white persons with any negro or mulatto—declaring all such marriages unlawful, and the issue bastards. And in the revised code of 1836, the same law is substantially reenacted, except that the penalty is increased from fine to fine and imprisonment on the person joining the white and colored in marriage. Thus strongly did Massachusetts, as late even as 1836, manifest her sense of the inferiority of the African race. Again, by a law of Massachusetts, passed March 6, 1788, revised in 1798 and in 1802, it is enacted:

"That no person being an African, or negro, other than a subject of the Emperor of Morocco, or a citizen of the United States, to be evidenced by a certificate, &c., shall tarry within this Commonwealth for a longer time than two months; if he does, the justices have power to order such persons to depart, &c. And if such person shall not depart within ten days, &c., such person shall be committed to the prison, or house of correction. And for this offense, &c., he shall be whipped, &c., and ordered again to depart in ten days; and if he does not, the same process and punishment to be inflicted, and so *toties quoties*."

This looks like a very strong demonstration of the opinion of Massachusetts as to the inferiority of the African race, and their consequent non-citizenship, and her power and her determination to keep them from her soil.

The constitution with which Indiana came into the Union recognizes the inferior status of the free negro.

Shortly after Indiana became a State, she passed the following law:

"No free negro, mulatto, or Indian, shall be a witness, except in pleas of the State against negroes, mulattoes, or Indians, or in civil cases where negroes, mulattoes, or Indians alone shall be parties."

They say, in the same law, that

"Every person, other than a negro, of whose grandfathers or grandmothers any one is, or shall have been, a negro, although all his other progenitors, except that descending from a negro, shall have been white persons, shall be deemed a mulatto; and so every person who shall have one fourth part or more of negro blood, shall, in like manner, be deemed a mulatto."

This looks very much as if the people of Indiana did not think the African race as worthy of equality with themselves.

In Connecticut we find similar legislation, recognizing the inferiority of the African race, and their want of the status of citizenship. By an act of 1784, it is provided, that if any free negro shall travel without a pass, and shall be stopped, seized, or taken up, he shall pay all charges arising thereby. Again: in 1833 Connecticut passed another law, which made it penal to set up any school in the State for the instruction of persons of the African race not inhabitants of the State, or to instruct or teach in any such school, or board any such person for such purpose, without the previous consent of the civil authorities.

The constitutionality of this law was attacked in the courts of Connecticut, in the case of *Prudence Crandall*, on the ground that the persons instructed, though of the African race, were nevertheless citizens of the United States, and therefore

entitled to all the rights and privileges of citizens. Chief Justice Clagget overruled this defense, on the ground that free negroes were not citizens of a State within the meaning of the Constitution of the United States. The constitution of Connecticut of 1818, it should also be observed, provided "that every white male citizen shall be an elector." So much for Connecticut.

By the New Hampshire code, passed in 1815, no person was permitted to be enrolled in the militia but free white citizens; and the same provision is reenacted in 1855. The negro is not thought worthy to stop a bullet in battle. The defense of the country is left to the citizens; the free negro is not considered in that class.

In Rhode Island, by act of 1822, renewed in 1844, marriage is prohibited between whites and mulattoes. By another act it is provided that, if a free negro keep a disorderly house, or entertain persons at unseasonable hours, his house may be broken open, and he bound out to service for two years; that is, made a slave of for two years. Again, it is provided that no white person or mulatto keeping house, shall entertain any mulatto or slave. Again, any Indian, mulatto, or negro servant or slave, absent at night after nine o'clock to be lodged in jail until morning, then taken before a magistrate, who may cause them to be whipped. This is very inconsistent with the idea of full citizenship.

Vermont, by law of 1797, enacted that "every free, able-bodied, white male citizen, above the age of twenty-one shall be enrolled in the militia." This looks very much like counting the free negroes out of the class of citizens.

In New York, Ohio, and Illinois, legislation may likewise be found establishing the inferior status of the free negro.

The distinction between the African race and the white race has been frequently recognized by the legislative departments of the Federal Government from the earliest periods of our history, as by restricting the right of naturalizing aliens to the white race, by enrolling only white citizens in the militia. A very pointed act upon the subject was passed by Congress in 1813, as follows:

"That from and after the termination of the war in which the United States are now engaged with Great Britain, it shall not be lawful to employ on board of any public or private vessels of the United States, any person or persons except citizens of the United States, or persons of color, natives of the United States."

Congress by this act expressly negating the idea that persons of color were citizens.

Mr. Wirt, as Attorney General, in 1821, also gave an opinion denying the citizenship of free negroes.

This question of the status of the free negro came before the Supreme Court in the Dred Scott case; and it was decided that free negroes were not citizens of the United States.

The next subject of agitation by this northern sectional party was the right of petition; this was made the pretext for a wide spread agitation.

The next question was the admission of Texas. This great measure of general good was violently opposed by the same northern sectional party. I shall not enlarge upon the advantages to the whole country, North as well as South, by this acquisition.

The next agitation was produced by the efforts of this persistent northern sectional party to apply the Wilmot proviso to the territory acquired from Mexico. The discussions upon this subject, and their repugnance to enforcing the provisions of the Constitution in reference to fugitive slaves, and their desire to interfere with slavery in the District of Columbia, are so recent that it is not necessary to do more than to allude to them.

The agitation temporarily allayed by the legislation of 1850, was revived with increased intensity by the passage of the Kansas and Nebraska bill, repealing the Missouri restriction. And we are now in the closing chapter of this agitation.

From the summary I have taken of the various phases of the northern sectional agitation, several reflections will readily suggest themselves.

1. That in the various forms this agitation has taken, the South has uniformly contended for nothing more than justice, equality, and constitutional right, and that her policy in regard to the great questions involved has been wise, and in every sense unexceptionable.

2. That northern sectional agitation is unjust,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, MARCH 27, 1858.

NEW SERIES... No. 86.

unconstitutional, chronic; not accidental, but permanent.

I advance to another view of the subject. What is the purpose of this northern sectional party? Its great leading idea is power. It desires to obtain possession of the Government, and wield the Government exclusively for its own benefit. To accomplish this purpose, its instrumentality is hate—hate first, second, and all the time—hate of the South by the North. To verify this assertion, we have only to read the productions of its teeming press, the speeches of its Representatives here, and observe its legislative and individual acts. It wishes to make the North hate the South, and to attain this result it desires to make the South hate the North, that the gulf of alienation may be more profound. I do not consider that this party is primarily actuated by sympathy for the slave. That flag is held out to conciliate a portion of the North. There is a portion of the North, a minority, I think in every State, who really sympathize with the slave. To conciliate this class, the northern sectional party assumes the championship of the cause of the slave. The emancipation crusade proper, is, I think, weaker now than at any period within the last quarter of a century; and slavery, as an institution, stands upon stronger ground now in a moral and politico-economical point of view, than it has done at any time since 1830. After the great wars of Napoleon were ended, the public mind of Europe, agitated by a series of great events, could not at once subside into calmness. It needed the stimulus of some agitation, and the want was supplied by the emancipation propaganda. England yielded to it between 1830 and 1840, and abolished slavery in her West India possessions. This emancipation mania went upon three ideas.

1. That slavery was wrong *in foro conscientie*.
2. That emancipation would be better for the negroes.
3. That emancipation would be better for the civilized world, as the enfranchised slaves would produce more working as freemen.

This last assumption was, I have no doubt, more efficacious in producing emancipation than any other; for England, in common with the rest of the civilized world, has always pursued her material interests without any squeamish regard to the rights of inferior races, as is illustrated on every page of history. The emancipationists might have bawled themselves hoarse in Exeter Hall over the alleged wrongs of the Africans, without making any impression on the policy of England, if they had not adroitly held up the lure of material advantage in connection with the movement.

But the English emancipation act has led to consequences not foreseen by its advocates. A more thorough investigation has been given to the moral aspect of the question. The result has been that, on the grounds of revealed religion and natural reason, slavery, humanely administered, is founded on impregnable right. Instead of freedom being a benefit to the slaves, it has proved a curse. Upon this point the evidence from the experiment in the West Indies has been overwhelming, that the enfranchised blacks are worse off now than in a state of slavery. If my time would permit I could accumulate authorities on this point; but it will not. I can only in a general way refer to the facts as they have been developed on this point as sustaining my assertion. If this is hereafter controverted, I shall bring forward a magazine of proof upon the subject.

But the idea that the free negro would be more productive working for himself than for his master, has been, of all the assumptions, the most completely falsified. Space again does not permit me to give the statistics on this point. They have been collected by Christie, an emancipationist, in his work called "Ethiopia," a production of signal ability. His evidence is entitled to the more weight, as he is not of our camp. He concedes the failure of the West India emancipation scheme, but offers another—the transfer of the blacks to Africa.

The results of this West India emancipation have produced a profound impression on the public opinion of the world. We see this by various developments—in England, in the tone of the London Times; in France, by the recent action of Louis Napoleon.

From this short review I consider myself authorized to make the assertion I have as to the present strength of the institution of slavery. Slavery is interwoven with the material interests of the civilized world. You cannot strike down slavery without paralyzing free society. Take one single product which we grow at the South, dependent absolutely upon slavery—cotton. Abolish slavery, abolish the cotton culture, and there is not a hamlet in the civilized world that will not feel the recoil of the blow. The cold blasts of your northern winters are arguments for slavery; from the oracles of God, which you cannot disregard without entailing inexpressible suffering on all those who live by their daily toil. It is not too much to say that civilization itself hangs upon threads of cotton. The productions of hot regions are necessary to the white race in the northern zones; these productions cannot be obtained without slavery. You Free-Soilers and Abolitionists of the North are the abettors of slavery. Why do you use our cotton, our sugar, our rice? If you shudder, as some of you pretend to do, at the sin of slavery, why do you solace yourselves with the comforts and the luxuries of slave labor? Give them up; cease to use the products of slave labor, and we shall believe in your sincerity, even if we are more convinced of your folly. If not, then are you not slavery abettors, and is there not some little inconsistency in your professions and your practice?

This northern sectional party cannot be blind to the evidences of the times. They cannot but see that emancipation is a delusion. I therefore feel authorized to assume as I have, that, in a general sense, they are not agitating in the interest of the slave. They are agitating for sectional power. The truth sometimes develops itself involuntarily; and so it was recently in the memorable declaration of your great leader, [Mr. SEWARD], that "the battle was over and won;" that the North had now a majority of free States, and would soon have an excess of four free States. This was a pregnant declaration; it is true, too. The equilibrium of the two sections is at an end. The North have a majority in every department of the Government except the judiciary. In the House of Representatives the majority now is large; by the next census in 1860, the North will have a vastly increased preponderance, amounting to nearly two thirds. In the Senate they will soon have a majority of eight votes. In the electoral college they will have also a large majority.

In this aspect of the case two great questions suggest themselves to the South:

1. Will this northern sectional party get possession of the Government?
2. What policy will they pursue if in power?

In reference to the first, I think the signs of the times imply that this northern sectional party may get possession of the Government. When we see how they have increased in the last few years; when we reflect upon their persistent efforts to make the North hate the South, how alluring power is to States, the plausible pretense that they represent exclusively northern interests, their pandering to the anti-slavery sentiment, the conviction is forced upon us, however reluctantly, that they may eventually take possession of the Government.

Then the question comes up, what policy will they pursue? It is obvious that it will be legislation exclusively for what they may consider sectional interests; distributing office, patronage, and station, among themselves and such few adherents as they may have South—a process of constant agitation and impinging upon southern rights, so that the Federal Government will be the exponent of their ideas and their hate. To complete the programme of their policy, they will seize the judiciary, and from that battery discharge their

envenomed arrows upon us. Their leader [Mr. SEWARD] has already this session declared that the Supreme Court must be remodeled in the interests of "humanity." Their mode of remodeling courts is seen in the late expulsion of Judge Loring from the bench in Massachusetts.

I have not language strong enough to express my sense of the calamities and degradation which would fall upon the South by acquiescence under the domination of this northern sectional party. Their possession of power would be the installation of hate. The South could not acquiesce in such domination without abdicating her present and her future. I am a conservative by education, by all the instincts of my nature. I have been, and am, in good faith, sincerely desirous of preserving the existing Government, if its preservation be possible, compatible with the safety and equality of the South. But if the North should—a result I ardently hope may never take place—put the Federal Government in the hands of this party whose capital is hate of the South, then I shall think and proclaim to my countrymen of the South that we have nothing more to expect from the justice of our northern brethren; and that the time has come for us to take our destinies into our own hands. If the South acts, I shall rejoice; if she does not, I shall retire to my farm, and lament that we of the South have so far fallen from our high estate.

Mr. COVODE. Mr. Chairman, the doctrine of "popular sovereignty," or the right of the people of a Territory to make their own laws, without let or hindrance on the part of Congress, or interference from any quarter, had its origin in the political necessities of a presidential aspirant, and was first announced in the famous "Nicholson letter." That letter made its appearance in 1848, just prior to the meeting of the Baltimore convention, and its author, General Cass, received the nomination of that body for the Presidency. It was regarded as a happy thought at the time, inasmuch as it relieved the party on the one hand of the Wilmot proviso, and on the other of the southern demand made by a few ultraists, with Mr. Calhoun at their head, of the right of the slaveholders to carry their slave property into all the Territories of the Union. But the South was far from being pleased with the "compromise," and signaled its displeasure by failing to elect its author to the Presidency. From that time forward, although the Democratic party has nominally clung to the doctrine of popular sovereignty, it has been more and more the fashion to construe it in the manner least objectionable to the South; until at length it has been brought into harmony with the constitutional theories of the great Carolinian.

The doctrine as enunciated by its author plainly meant that the people of a Territory may, as such, admit or exclude slavery by their territorial laws, prior to the formation of a State constitution. It is due to General Cass to say that he has always contended for this construction in language as explicit as he ever employs upon any occasion. But the party, finding this interpretation almost as distasteful to the slaveholding interest as the Wilmot proviso itself, has gradually receded from it, until, as I have stated, the opposite theory, in all its latitude, has been adopted and announced by the President. Mr. Buchanan, in his letter to Professor Silliman, says:

"Slavery existed at that period, [meaning when the Nebraska bill was passed,] and still exists in Kansas, under the Constitution of the United States."

In his recent message, dated February 2, in which he communicated the Lecompton constitution to this House, he goes still further, saying:

"It has been solemnly adjudged by the highest judicial tribunal known to our laws, that slavery exists in Kansas by virtue of the constitution of the United States. Kansas is, therefore, at this moment, as much a slave State as Georgia or South Carolina."

In 1854, when the repeal of the Missouri compromise was under consideration, the party avoided ultra southern ground. They declared in the body of the Kansas-Nebraska bill that it is

"The true intent and meaning of this act not to legislate

slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

We all remember that this clause was inserted in consequence of the disputes in regard to this doctrine of popular sovereignty. General Cass and his northern friends contended that slavery is a local institution, and that it exists nowhere except under the sanction of positive law; while the southern ultraists contend that slavery exists as a matter of right in all the Territories. In 1854, the Democratic party determined not to be embarrassed by this question, and accordingly inserted the above declaratory clause in the Kansas-Nebraska bill.

It will be seen that the Democracy has been steadily gravitating southwardly for nine or ten years past, until it at length stands squarely upon the South Carolina platform.

In 1847, the northern wing of the party voted for the Wilmot proviso. In 1848, they wheeled about and denied the right of Congress to abolish slavery in the Territories; but declared it to be the inalienable right of the people inhabiting them to admit or exclude slavery at their pleasure, either by their Territorial Legislatures, or in the formation of their State constitutions. In 1850 to 1854, this right was fiercely contested by the South, and the party was induced to take a neutral, or doubtful, position; in 1855-6-7, the repugnance of the slave interest to "squatter sovereignty" grew intense, and the party yielded still further; in 1853, they throw off all disguise, and openly avow that the Constitution carries slavery into all the Territories of the Union, and that no man can be a Democrat who denies this proposition.

I can conceive of but two further steps in this downward progress. The first of these is, to declare in favor of reopening the African slave trade; and the second is, to get up another Dred Scott decision in favor of the right to carry slavery into the free States.

We know that the revival of the slave trade is earnestly demanded by the more active spirits of the South. The Governor of South Carolina had recommended it to the attention of the Legislature; and in Louisiana the Legislature, or at least one branch of it—the other, however, has rejected it by two votes—has, within a few weeks, passed an evasive act for the revival of the traffic in slaves, under the name of apprentices, or hired laborers. Indeed, it is stated in the newspapers that the trade has been actually revived, on the coast of Mississippi, in defiance of the United States laws, which brand it as piracy. I have little doubt that the trade might be successfully carried on without the formality of a repeal of the laws prohibiting it, for we all know the alacrity of the President in efforts to conciliate the South. In Kansas we have seen him trample on law and justice; violate his pledges; and give countenance to the most infamous frauds, by turning out of office Governors and Secretaries who would not connive at them. How preposterous, then, the idea that the President would hoggle at the allowance of the slave trade, or put himself to inconvenience in the enforcement of an unpopular statute of fifty years' standing! The slave trade may therefore be regarded as practically reestablished; but there is reason to believe that the South will demand its legal recognition, and the experience of the last few years would lead to the expectation that the Democratic party will adopt the African slave trade as a plank in its platform. The next national convention of the party is to meet at Charleston, South Carolina, in 1860, for the purpose of nominating a candidate for the Presidency, and the time and place will be eminently fitting for the insertion of the ebony plank.

The doctrine that the Constitution carries slavery into the free States has also found favor with the leading members of the party. There are those who insist that the Dred Scott decision covers this ground; and among this number is the official organ of the Government, the Washington Union. That paper, on the 17th of November last, distinctly asserted the right of the slaveholders to carry their slaves into the free States, and to remain with them as long as they think proper, any law of those States to the contrary notwithstanding. The South will ere long insist upon

this right, and we may expect to see the Democratic party adopt it into its creed.

I have said that the Democracy have but two more steps to take in their downward career; but there is still another demand which the South will hold in reserve: the right to reduce the poor whites of the country, and the laboring classes generally, including mechanics, to slavery. This proposition has been boldly advanced in the South. Leading editors, politicians, and preachers have espoused it; and the other day it was proclaimed in the Senate Chamber. The time may come when they may attempt to reduce it to practice. Why should they hesitate? They pronounce free society a failure—an unsuccessful experiment made in western Europe and northern America in comparatively modern times—while the whole experience and practice of mankind, from the earliest ages, attest the utility and necessity of slavery. It has become a cardinal dogma with the leaders of southern opinion, that slavery is the natural and proper condition of the laboring classes, without reference to the color of the skin or the nature of their employment. The northern Democracy are now the faithful allies of this white-slavery party of the South, and stand ready to assist them in carrying out every practical measure. I can conceive that the leaders of the party in the free States will be greatly embarrassed by this question, when they shall be called upon to make an explicit avowal of the doctrine; but it must be remembered that numbers of them have already indirectly taken ground in favor of white slavery; for whoever quotes the Bible in favor of slavery, is the advocate of white slavery. The slavery instituted and regulated by the Mosaic laws was white slavery; the nations surrounding the land of Canaan, whom the Israelites were authorized to enslave, were white men, Caucasians; and, in a later age, the servants whom Paul commanded to obey their masters were white servants. Whoever, therefore, resorts to the Bible for arguments in support of slavery, stands committed in favor of the right to enslave his white fellow-citizens.

In tracing the downward career of the Democracy in the pursuit of "popular sovereignty" it is but just that I should admit, as I do with pleasure, that a considerable wing of the party has at length awakened to a consciousness of the "base uses" to which their energies have been applied. They begin to see, at the eleventh hour, that they have done worse than stand all the day idle. The honest Democracy of the North really supposed that the propagandists of slavery were in earnest when they avowed themselves ready to "leave the people perfectly free to form their institutions in their own way." But the history of the struggle in Kansas has at length opened their eyes. It ought to have had that effect sooner, and would have done so but for the insatiation of prejudice and the pride of partisanship.

Sir, I will not fatigue the committee by going into a minute recital of the events of the Kansas history. A brief reference to them will be sufficient for my purpose.

The first territorial election took place in March, 1855. We all know how it was conducted. About five thousand men, in military array, marched over the line from the State of Missouri, "with drums beating and banners flying," dispersed themselves through the several counties or election districts; drove the peaceable inhabitants from the polls, and cast an overwhelming vote for men of their own party—many of them, like their constituents, citizens of Missouri. In a few instances protests were made by actual residents against these violent proceedings, and the Governor, Reeder, rejected the returns, and gave the certificates of election to free-State men. But, in most cases, the reign of terror established by the ruffian invaders was so complete that no one dared to make a protest; and, as a consequence—though not a legitimate consequence—the ruffian intruders secured a large majority of the Legislature.

The "Legislature" thus thrust upon the people of Kansas by violence and fraud, assembled in July. They adopted, at one fell swoop, the whole body of laws of the State of Missouri, contained in a large volume of several hundred pages, with such indecent haste, and with so little regard to what the book contained, that they neglected to erase "State of Missouri," where it occurred in the titles of the several acts, and insert "Territory of Kansas" in its place. The consequence

was, that they were compelled to the ridiculous expedient of passing a supplementary act declaring that where the term "State of Missouri" occurs, "Territory of Kansas" must be understood. Among the laws passed by this model Legislature, were the following. I am not aware whether they were partly borrowed from the State of Missouri, or whether they originated entirely with the ruffian Legislature. They appear, however, to be, at least in part, original:

"Sec. 11. If any person print, write, introduce into, publish, or circulate, or cause to be brought into, printed, written, published, or circulated, or shall knowingly aid or assist in bringing into, printing, publishing, or circulating, within this Territory, any book, paper, pamphlet, magazine, handbill, or circular, containing any statements, arguments, opinions, sentiments, doctrines, advice, or innuendo, calculated to promote a disorderly, dangerous, or rebellious disaffection among the slaves in this Territory, or to induce such slaves to escape from the service of their masters or to resist their authority, he shall be guilty of a felony, and be punished by imprisonment and hard labor for a term not less than five years.

"Sec. 12. If any free person, by speaking or by writing, assert or maintain that persons have not the right to hold slaves in this Territory, or shall introduce into this Territory, print, publish, write, circulate, or cause to be introduced into this Territory, written, printed, published, or circulated in this Territory, any book, paper, magazine, pamphlet, or circular, containing any denial of the right of persons to hold slaves in this Territory, such person shall be deemed guilty of a felony, and punished by imprisonment at hard labor for a term of not less than two years. And further providing, that no person 'conscientiously opposed to holding slaves' shall sit as a juror in the trial of any cause founded on a breach of the foregoing law. 'They further provided, that all officers and attorneys should be sworn, not only to support the Constitution of the United States, but also to support and sustain the organic law of the Territory, and the fugitive slave laws; and that any person offering to vote shall be presumed to be entitled to vote until the contrary is shown; and if any one, when required, shall refuse to take an oath to sustain the fugitive slave laws, he shall not be permitted to vote."

They removed all obstacles to voting at future elections on the part of non-residents, by providing that whoever should pay a poll-tax and claim residence for the time being, should be a qualified elector. No length of time was made a necessary part of the qualification, and the consequence was, that any Missourian who could afford the expense of a ride across the line, and the payment of a small poll-tax, was legally qualified to make laws and institutions for Kansas. It was known that the citizens of the free States could not avail themselves of this privilege, in consequence of the great distance intervening. No one would dream of traveling five to fifteen hundred miles for the purpose of casting a vote. Even Iowa could afford no aid to the free-State cause, under this convenient electoral law, since the western portion of it is, or was at that time, almost uninhabited.

Such was the "perfect freedom," and "popular sovereignty" enjoyed by the people of Kansas at their first election.

Their second election, in 1856, took place under the "laws" passed by this Legislature, which make it a felony to discuss the very questions at issue between the parties; and disfranchise all who would not take an oath to support laws which they held in abhorrence. It is the height of tyranny to compel a man to swear to support a particular statute as a condition upon which he is to exercise the elective franchise. Have citizens no right to doubt and deny the constitutionality of laws? And must American freemen stultify themselves, or be disfranchised? The idea is abhorrent to every man who is not a tyrant or a slave at heart. It is the essence of tyranny.

What would South Carolina think of such a test-oath in regard to a protective tariff? She once declared such a tariff unconstitutional and void. Suppose the Congress of that day, at the recommendation of General Jackson, had passed an act prescribing a test-oath, and declaring that no man who refused to support the tariff act should be allowed to vote, what would South Carolina have said to it? I ask her Representatives here now, what they would have thought of such a test-oath? I know what their answer must be; not one of them but will feel his blood mantle in his cheek with indignation at the thought. Then how can they countenance for one moment, directly or indirectly, this infamous test-oath in Kansas? Their candor will not permit them to deny that the cases are perfectly parallel. It is as legitimate to require a test-oath for one law of Congress as for another.

But, Mr. Chairman, is it not too plain to need

illustration, that whoever upholds the validity of the territorial election of 1856, gives his sanction to the test-oaths under which it was held? No candid man can deny the proposition. Those test-oaths are known to have kept thousands of conscientious voters from the polls. The free-State party resolved, in consequence of them, to abstain from voting; and the result was that the election went in favor of the pro-slavery party. They had no occasion to import voters. Their test-oaths were all-sufficient to secure them a monopoly of the elective franchise and an easy triumph.

The Legislature, therefore, which called the Lecompton convention into being, was elected under these infamous test-oaths, and owes its pro-slavery character to them. Without the test-oaths the result might have been, and probably would have been entirely different. Yet sir, we hear South Carolinians foremost in defense of the legitimacy of an election conducted on such principles. Sir, they should not forget that "a revolution of the wheel of fortune, an exchange of situations is among possible events," and the day may come when the "poisoned chalice" may be presented to their lips. A test-oath is a happy expedient of the central power to get rid of refractory majorities in the States, and give its own meager handful of friends the control. Sir, I am very far from threatening such retaliation; I love liberty not merely for myself and party, but for all men. But I warn the South, and particularly South Carolina against the danger of putting this tremendous weapon of despotism in the hands of this Federal Government. They should fear and tremble when they reflect upon their participation in these centralizing measures.

Test-oaths originated in a barbarous age. They were invented by religious intolerance and fanaticism, and furnished a convenient method for disfranchising and crushing minorities. England is now about to efface the last vestige of them from her statute-books, by repealing the laws which exclude the Jews from the rights and privileges of British subjects. The people of London have, several times, within the last ten years, sent a Jew to Parliament, merely as a protest against the intolerant test-oaths. The House of Commons has more than once, indeed, I believe, every time, signified its willingness to repeal the test act, and admit the Baron Rothschild to his seat, but the House of Lords has shown its characteristic repugnance to reform by opposing repeal. Every year, however, their opposition grows weaker, and if they have not already yielded, it is confidently expected that they will do so at no distant day. Sir, the House of Lords is a hereditary body, and clings with tenacity to whatever is arbitrary and illiberal; but it dare not resist the persistent demands of the British people for reform. It has always yielded—generally at the eleventh hour and with a bad grace—to the stern voice of the people, spoken through the Commons.

And, sir, shall republican America, in the latter half of the nineteenth century, transplant this relic of barbarism and intolerance to the New World, after it has been discarded by monarchical England? Sir, slavery is itself a relic of barbarism. It has no element of freedom or justice in it; but its friends pretend that it only affects the rights of black men; that white men are all the more free for holding black men in slavery. There never was a grosser fallacy. There can be no freedom where slavery is, for master or slave; for white men or black. It is itself the essence of injustice, and can only be maintained by illiberal and intolerant laws. It will not bear scrutiny, and therefore it becomes necessary to pass laws, such as I have quoted from the code of Kansas, and such as are to be found in the codes of all the slave States, forbidding, under heavy pains and penalties, any denial of the right to hold slaves. It must have test oaths, in order to disfranchise every man who dares to question, even in his heart of hearts, the justice of the system. In a word, slavery demands the same despotic regulations for its support which Louis Napoleon and the Czar of Russia find necessary to the maintenance of their tyranny.

The Lecompton convention was called into existence by this test-oath Legislature. Its parents were ruffianism and fraud. It was literally conceived in sin and brought forth in iniquity. What could we expect of such a convention but an off-

spring like itself, a foul and deformed monster, abhorred and hated of honest men?

It is true that the test oaths were repealed by the Legislature which called the convention into existence; but other precautions were taken to stifle the voice of the majority, and secure an easy victory to the pro-slavery party, even if the people had thought proper to vote.

In the first place, the Legislature authorized a census to be taken, and a registry of voters, which was very imperfectly performed in any part of the Territory, so far as the free-State party were concerned; while the greatest care was taken to register every pro-slavery man who had ever paid a casual visit to the Territory, or employed a proxy to stake out a "claim." In addition to this, about half the counties, containing an almost unanimous anti-slavery population, were entirely neglected by the census-takers, and were denied any shadow of representation in the convention. A second and still stronger guarantee of success was the fact that the appointment of judges of the election was made by the Legislature from the most reckless and unscrupulous tools of the slavery faction, and the poll-books made returnable, not to the Governor, but to the Speakers of the two Houses, in whom the people had not the slightest confidence. Under such circumstances it would have been the excess of folly on the part of the free-State men to participate in the election. But lastly, and above all, the people of Kansas regarded the Legislature which called the convention into being as a foul usurpation, which they would not have tolerated in their midst but for the support it received from the central despotism here at Washington.

The last election of a Territorial Legislature took place in October. We are all familiar with its history. The free-State party had now become too strong to be overawed by ruffian invaders from Missouri; and, as a consequence, the slavery desperadoes were compelled to resort to new tactics. In the first election, of March, 1855, their reliance was upon force. They scarcely condescended, at that stage of the struggle, to perpetrate frauds, except such as were as bold and barefaced as the violence which accompanied them. In 1856, their relative strength was considerably impaired, and force and fraud were united; while in 1857 their weakness was so conspicuous, that they abandoned force, except in a few localities, and relied almost exclusively upon the most despicable fraud and perjury. The ruffians have been completely transformed into knaves; and the people, who have grown too strong to be kept down by force, are to be cheated of their rights by the forgery of election returns, and the perjury of officials.

We all recollect how the consummation of this crime was prevented by the integrity of Governor Walker and Secretary Stanton, in the rejection of the Oxford and McGee county frauds; and we all know the reward they received at the hands of President Buchanan. For doing what any honest man would have done, Governor Walker was denounced by the pro-slavery press of the country in the most unmeasured terms, and was censured and frowned upon by the Administration, until self-respect compelled him to resign. Secretary Stanton, partly for his participation with Walker in the rejection of the Oxford frauds, and partly for calling an extra session of the free-State Legislature, has been unceremoniously dismissed.

Two more elections remain to be noticed. I allude to those of the 21st December and the 4th of January. The first of these elections was called by the Lecompton conspirators in order to gloss over their treacherable work by tricking the people into its adoption. Instead of submitting the whole constitution to the popular vote, which would have been the most easy and natural, as well as the only fair and legitimate proceeding, they submitted a single clause for the people's ratification or rejection, on condition of their voting for all the other clauses. Can any good reason be offered for this discrimination? Have not the people the same right to vote for or against the whole constitution that they have to vote upon a part of it? Sir, the members of the convention had the frankness to tell why they declined to submit the whole constitution. They acknowledged that they withheld it because they were aware that the people would vote it down; and incredible as the fact may seem, the official organ of Mr. Buchanan—the Washington Union—had the coolness to jus-

tify them on that ground! Sir, call you this Democracy? No, sir; no, sir; it is the essence of whatever is mean, odious, and tyrannical. Every honest man will detest the vile hypocrisy which attempts to cloak its despotic purposes under such disguises.

The terms of this pretended submission of the slavery clause to the popular ratification required that all who voted at all, whether for or against the slavery clause, must vote for the constitution. They must vote "for the constitution with slavery," or "for the constitution without slavery." Is it not clear that the object of the convention was to extort an indorsement of the constitution from those who were opposed to it, or compel them to refrain from voting? This dishonorable expedient originated in the same spirit with that which originated the test oaths—a desire to disfranchise all who were opposed to slavery and to the rule of the usurpers. No conscientious opponent of the constitution could vote at all; and the result was that the border ruffians and Federal stipendiaries had everything their own way.

But, sir, the question of the existence of slavery was really never submitted to the vote of the people at all. The pretended submission only amounted to this: shall Kansas exclude the further introduction of slaves? A separate clause of the constitution guarantees a perpetual right of slaveholders in the slaves already in the Territory, whatever might be the result of the vote upon the clause submitted for their ratification; and the vain attempt is made to bind future generations for all time to the maintenance of slavery. The people are permitted to alter their constitution after the year 1864, provided that the clause securing a perpetual right to hold slaves is never to be touched! Such, sir, is the "popular sovereignty" which Mr. Buchanan wishes secured to the people of Kansas. They may exclude the introduction of more slaves, provided they will vote for the perpetuation of the slavery already in existence, and the perpetual right to buy, sell, and breed from the stock already on hand! They may even alter the constitution after the year 1864, provided that this sacred right of holding, buying, selling, and breeding from those in the Territory at the time of its admission into the Union, is never to be interfered with! Sir, I should have held the Lecompton convention and the Administration in more respect if they had adhered to their first resolution, which was, not to submit the constitution, or any part of it, to the popular vote. Tyranny awakens our abhorrence, but fraud and jugglery excite contempt.

The convention ordered another election to take place on the 4th of January, under this Lecompton constitution, for State officers, State Legislature, and a member of Congress; and in the mean time the newly elected free-State Legislature met in a called session, which proceeded to order an election to take place also on the 4th of January, upon the question of ratifying or rejecting the constitution. We have heard the result of this election. More than ten thousand freemen of Kansas cast their votes against the constitution in all its parts; while on the 21st December only six thousand voted for the constitution with slavery; and of these it has been ascertained that fully half were fraudulent. We have, therefore, ten thousand against the constitution, and three thousand for it; and yet, in the face of these indisputable facts, the administration of Mr. Buchanan, backed by what is called the Democratic party, are endeavoring to force Kansas into the Union under the Lecompton constitution. Sir, the history of the worst ages of the world will furnish no more glaring invasion of the rights of a free people. The partition of Poland and the subjugation of Hungary by the despots of Russia and Germany, were not more flagrant acts of tyranny.

As to the election, on the 4th of January, for State officers, State Legislature, and member to Congress, we are not permitted to know the result to this day, on any reliable authority. The president of the convention, who is, at the same time, surveyor general of Kansas—a Federal official, who holds his place at the pleasure of the Administration—was authorized by the convention to receive and count the votes, and declare the result. In concert with the Administration, and doubtless by its command, he has held back the certificates of election in order to be ready for

any emergency. If the prospect seems fair that Kansas is to be admitted into the Union under the Lecompton constitution, without serious opposition, we are given to understand that the pro-slavery party has triumphed. If, on the other hand, the fate of the swindle grows doubtful, we hear intimations thrown out through the organs of the Administration that the free-State candidates are to receive the certificates. We have recently seen in the newspapers a letter from Calhoun, stating that he has such information from the Territory as will induce him to give the certificates to a majority of free-State men. But his information is unofficial. He has not heard from Governor Denver; and the fraud once consummated here, it is not at all improbable that the official count might foot up quite differently. It is to be remarked, also, that this letter, which will pave the way for a few doubtful northern votes, says not a word about the State officers, and membership of Congress.

Sir, I have no faith in this letter. I will not believe that the majority has been given to the free-State party, until I hear it on undoubted authority from Kansas. This knavish juggle, this thimble-rigging, has been continued too long to impose upon the public.

I regard the Administration as being equally responsible with Calhoun for the outrageous violation of all law and precedent, all justice and decency, in this matter. He is their creature, holding a high and valuable office at their hands; and he would not have dared thus to trifle with the rights of Kansas if he had not been encouraged in it by his official superiors. The Administration is determined on securing two more United States Senators to bolster up their tottering despotism, and the whole history of their career proves that they will scruple at nothing—yes, sir, literally nothing—which may secure success.

Such, Mr. Chairman, has been the history of "popular sovereignty" under the administrations of Franklin Pierce and James Buchanan. They have "held the word of promise to the ear, and broken it to the hope." They never intended that the people should be "perfectly free" to form their own institutions, unless they should include slavery among them. If the people had been unanimous for slavery, there would have been no interference on the part of the Federal Government, because there would have been no necessity for it; but, as the most unmistakable indications were given that a majority of the people were opposed to slavery, and if left to themselves would exclude it, all the power and influence of the Federal Government have been employed to defeat the popular will, not by a legitimate use of executive influence, but by stimulating ruffianism, murder, fraud, and perjury; by the appointment of the most notorious murderers and scoundrels to office, and by putting arms into their hands with which to murder and rob the free-State men.

The Government is the creature of the slave power. A Senator, in the other wing of the Capitol, has had the frankness to admit that the South has ruled the country almost from the origin of the Government. Sir, nothing could be truer; and I with humiliation confess that the southern supremacy has never been so complete under a southern President as it has been under the last and present Administrations, when northern men have nominally presided at the White House.

The present incumbent of the presidential office is reported to have said, many years ago, that, if he had a drop of Democratic blood in his veins, he would let it out. I am not aware that the fact was ever tested by a resort to the Sangrado practice; but the history of his life has superseded all necessity for surgery. He clung to the old Federal party until it broke down, and then unceremoniously marched over to the enemy. From that time forward we have seen him trimming between the extremes of North and South, until he ascertained that the slave interest predominated in the Democratic party. From the date of that discovery he at once threw himself into the arms of the slavery propagandists; and to-day his position is more ultra southern than that of Mr. Calhoun was at the day of his death. And the history of his Administration, particularly with reference to Kansas, has removed every suspicion that he has either honest Democratic blood or northern blood in his veins.

Sir, he belongs to the genus Dough-face—a name invented by John Randolph, of Roanoke, to characterize the northern champions of slavery; and that term implies the absence of blood of any kind.

The position of the Republican party with reference to "popular sovereignty," or the right of the people of a Territory to make their own laws is, in my view, the only one compatible with the Constitution and with common sense. We hold that territorial sovereignty is subordinate to Federal authority; that it is absurd to suppose that the first handful of men—five hundred or five thousand—who arrive in a Territory like Kansas, of more than a hundred thousand square miles, have an exclusive right to fix its fundamental laws for all time, without the consent of Congress. They have no right, for instance, to form a State government, and to define its boundaries, without the consent of Congress. Common sense dictates that Congress should first pass an enabling act, setting forth the number of inhabitants requisite to form the State, the territorial extent of the State, and its boundaries. Can there be any question on this point? May five hundred men erect themselves into a State, with an area of five hundred thousand square miles? The idea is utterly preposterous; but admit the principle of territorial sovereignty, and this conclusion follows.

But while we insist upon the right of Congress to legislate for the Territories, we admit that this right may be waived. The people of the Territories may be invested with the privilege of making laws for themselves as Kansas has been; and we insist that they shall enjoy the right thus guaranteed to them by the organic act, without executive intermeddling. We deny their right to come into the Union whenever they think proper, and on any terms, but we admit their right to present themselves for admission. The Republican party has been the bulwark of practical popular sovereignty in Kansas since the organization of the territorial government; and we hail with joy the recent demonstrations of a large wing of the Democracy in favor of this principle. We extend to them the right hand of fellowship, and shall be happy to cooperate with them in any measures for vindicating the perfect freedom of the people in the formation of their own institutions in their own way.

Sir, if the Government were placed in the hands of honest and fair men, I should have little apprehension of seeing slavery extended, even without a resort to congressional prohibition. There was a time when the tendency was to expand slavery faster than freedom; but that time is past. At the period of the organization of the Government there were twelve States of the Union which tolerated slavery, and only one from which it was excluded. In six of those States slavery was an interest of prime importance; and nearly the whole territory of the Union lay contiguous to them. New England and New York had no frontier Territories bordering upon them; and only Pennsylvania, of all the States then comparatively, now entirely free, had a direct outlet into the wilderness beyond its western borders. In consequence of this state of things, and of the peculiar nature of slavery, we have seen Kentucky and Tennessee spring into existence before Ohio; and from that time forward, down to 1850, slavery spread more rapidly and widely than freedom. Since that period, the tables have been turned. Up to 1850, the number of free and slave States was equal. California turned the scale in favor of freedom; and now we have no less than three more free States ready for admission into the Union. One of them we have seen a party which styles itself Democratic, with a northern President at its head, attempt to smuggle into the Union under a slave constitution, concocted by corrupt Federal officials and other unscrupulous ruffians; but every man in the country knows that Kansas is practically free, and determined to remain so. Sir, nothing can prevent Kansas from becoming a free State of the Union in twelve months or two years, together with Minnesota and Oregon.

Of the fifteen slave States, Delaware is one, with not more slaves in it than are to be found on some of the largest plantations of the South. The people are anxiously looking about them for the means of removing the last vestige of the institution; and we may set Delaware down as practically free. Missouri, too, is one of the fifteen

slave States. Her slave population is considerable, but her white population is ten times more numerous; her territory is as large as Great Britain, and the tide of white immigrants now flowing into the State is rapidly dwarfing the relative importance of slavery. It is believed that its actual strength will for the same reason decline, the slaveholders being induced to emigrate South with their slaves, by disgust and irritation at the marked change in public sentiment which has resulted from the influx of white population. As an index of the rising free sentiment in that State, I might point to the presence in this House of the distinguished Representative from St. Louis. He will doubtless have sympathizing colleagues in the next Congress.

Maryland is another of the fifteen slave States. It is now in a false position. It has no use for slaves in any point of view. It is a commercial and manufacturing, as well as agricultural State. It lies in the latitude of Ohio, Indiana, and Illinois, and has no more need of negro slaves than those States. Its slave population has been declining for fifty years. It had more slaves when the first census was taken, in 1790, than at the last, in 1850; and in the mean time, its white population has increased several fold. It has a city of two hundred and fifty thousand inhabitants, which, in fifteen or seventeen years, will number half a million. That city, and the whole tier of northern counties, are nearly rid of slavery, and are becoming averse to the institution. They embrace three fourths of the population of the State, and are growing every day more and more conscious of their strength. It is not to be credited that a barbarous and worn-out institution will be permitted to fetter the energies of such a population many years longer.

Sir, I have pointed to the fact that, at the time of the formation of the constitution, nearly the whole of our western Territories lay contiguous to the southern States, while only a portion of one northern State was in actual contact with them. From northern Virginia, on the fortieth parallel of latitude, down to the line of Florida, the South was bounded westwardly by vacant Territories stretching to the Pacific ocean. The North then literally had no West, except the strip of land between the northern line of Virginia and Lake Erie. Now, how changed! The free States are now in close proximity to nearly every foot of valuable territory in the Union; while the South has, in the progress of events, been shut off from it. We have twelve degrees of western front, commencing with the southern boundary of Kansas and running up to the forty-ninth parallel. This includes, and secures to us beyond contingency, all the territory east of the Rocky Mountains, except a strip about two hundred miles wide, west of Arkansas, which has been dedicated to the Indian tribes. Beyond the Rocky Mountains we have California, Oregon, and Washington Territories; in a word, the whole Pacific coast. Utah and New Mexico are cold, mountainous, or desert regions, and hold out no strong inducements to emigrants from any quarter; but are entirely unsuited for slavery. They are to become the great breakwater of the emigrant tide, and are destined at no distant day to turn it back upon Missouri, the Indian Territory, Arkansas, Kentucky, and, in a word, upon the whole northern tier of slave States. The fertile region of Kansas is said by Fremont, Emory, and other explorers, to extend not more than two hundred and fifty miles beyond the Missouri frontier. The emigrant crop of the North, and of Europe, will in a very few years occupy this ground, and from that time we may date the "friendly invasion" of the more northern slave States, including Maryland and Virginia. Sir, the day of their regeneration is not distant.

The friends of slavery talk of opening the Indian Territory to the settlement of white men, in order to convert it into one or more slave States. Well, let them try it; we shall be ready for them. The Indian Territory adjoins Kansas on the south, and it will be a comparatively easy task to rescue it from slavery. Kansas itself was entirely cut off from the free States by Missouri; and its most fertile portions were in immediate contact with the most populous slaveholding counties of that State. The Indian Territory, on the contrary, is bounded as well by the free State of Kansas as by the slave State of Arkansas; and it is a fact,

which any one can verify by a reference to the census, that the northern and western portions of the latter, like southwestern Missouri, are nearly destitute of slaves. In fact, slavery has no great hold upon Arkansas. In the northern half of the State, with more than a hundred thousand inhabitants, there were in 1850 less than ten thousand slaves. That State is, therefore, more likely to receive a friendly invasion of Free-Soilers from the North than to send out a pro-slavery invasion into the adjacent Territory.

The cotton region of Arkansas lies in its southern and southeastern portions, and the slave population is chiefly confined to these sections. If cotton and slavery will not flourish in the northern and western parts of this State, how unlikely that they will succeed better in the higher and colder regions west of it, to which the Indians have been assigned!

Mr. Chairman, the South owed its rapid development, or I should more properly say, its diffusion and consequent increase in the number of States, in the commencement of our national career, to the ruinous effects of slavery upon the soil. Slave labor is fitted only for agriculture. Slaves are kept in ignorance as a necessary police regulation; and, as a necessary consequence, they are only qualified for the coarsest common labor. They will not excel in even the rudest species of mechanical or manufacturing labor; and are utterly unfitted, by ignorance, by the absence of motives of interest, and by want of integrity of character, for the more ingenious operations of art, for trade, commerce, and business. The community, therefore, which holds a half, a third, or two thirds of the population in slavery, can never compete with a free community. It is as if a man should attempt to run a race with one of his legs splintered, or to wrestle with his right arm bound. It is for this reason that we see but few towns and villages in the slave States, compared with what we find north of Mason and Dixon's line; that the cities, except on the northern border, where slavery has nearly disappeared, are few in number, and dwarfed in appearance. Even agriculture itself, because it is the almost only occupation of society, wears a languid and thriftless aspect.

Towns and cities are essential to agricultural prosperity. They furnish a domestic market for whatever the earth produces; for grain and vegetables, for beef, mutton, poultry, and eggs, and for a thousand things which would otherwise be useless. Slavery starves out the towns and cities, wears out the soil, and leaves nothing to improve or recuperate it, except at a very heavy expense and inconvenience. The consequence is, that the slaveholder, after a dozen or twenty years, finds it necessary to abandon his worn-out plantation, and move further, in search of new lands; and hence it is that slavery has heretofore advanced so rapidly. Its weakness and worthlessness, as a system of labor, have been the cause of its temporary increase of political power in the Confederacy.

But, sir, the spirit of progress and improvement has invaded even the slave region; and within fifteen years, but more especially within ten years, the South has greatly improved its condition by the construction of railroads, and other facilities of transportation and travel. The effect has been to bring the farmer nearer the market, to diversify employment, and to give unwonted activity to town and country. But the legitimate development of the South has tended to hinder its expansion. The augmented demand for labor in the old States has checked emigration, and we see Virginia, Maryland, and the Carolinas improving as fast, or nearly as fast, as the newer States of the Southwest. Texas, which has an immense fertile territory, with five times as much soil adapted to slavery as Virginia, has disappointed the hopes of the South; and apprehensions begin to be felt that the western half of it will be appropriated by the Free-Soilers. Should this take place it may be attributed as much to the internal development of the old slave States as to the enterprise of the Free-Soilers.

The most feasible remedy which the South has, therefore, against the encroaching tide of white labor, is the return to her ancient lethargy and indifference to the value of internal improvements. Let her abandon her railroads, and cease to build more, let her burn down her factories and workshops, and lynch or destroy every steam-engine,

and she will soon see revived that great element of her political power, the compulsory dispersion of her population over the plains of Texas, and the formation of new slave States. A return to this policy may secure to her the Indian Territory, if not Kansas itself.

A different law has controlled the destiny of northern population. The free States were originally poor. The imports of the South, as well as the exports, prior to the Revolution, were greater than those of the North. The South, then, as now, produced the rich staples of commerce; the North produced nothing which was not grown equally cheap in Europe, except, perhaps, lumber and fish, which were exchanged for such British manufactures or colonial products as they could afford to purchase. The South, it is true, had no commerce, because that was in the hands of the merchants of England. English ships brought their cargoes to the very doors of the planters, without the intervention of an American merchant, in many cases; a fact which illustrates the utter absence of commerce in the American colonies. General Washington was in the habit of thus dealing directly with the London importer.

The planters had, however, much more to exchange for the luxuries and comforts of Europe than the poor farmers of the North. The South exported everything valuable which she produced, and imported everything which she consumed, except necessary food. Nearly everything worn, and every article of furniture was imported. Even bricks to build houses were imported from England.

The friends of slavery are in the habit of pointing to the large exports of the South—they can no longer point to its large imports—as evidence of the superior wealth of that section. They export everything valuable which they produce, and import, either from Europe or from the North, everything except necessities which they consume; and this, sir, is the ground of their boasted wealth, independence, and civilization! I am amazed, sir, that a moment's reflection has not taught them the contrary. Is it not clear that a country which produces only the raw materials of commerce, which only cultivates the ground, is in a condition of colonial dependence? Such, sir, is the condition of the South. She produces the bulk of our exports, and yet she has never, at any period of her history, exported them. Even when a majority of the exports was made from southern ports, the trade was carried on by northern or European ships and seamen. But for some years past the South has fallen behind the North in the amount of exports. The imports have always been in northern hands. The North sends its ships to New Orleans and Charleston, transports their cotton, tobacco, sugar, and rice, to Europe, and brings back return-cargoes of merchandise to New York, Boston, and Philadelphia; and from these points the South is supplied with foreign or northern manufactures. Sir, the condition of the South is strictly one of colonial dependence. She produces the very staples of commerce; she has fine harbors, fine timber for ship-building; in a word, every material element of commerce; but they are of no avail. The ignorance and barbarism of slavery have doomed her to an inferior and dependent condition.

The colonial history of New England and other northern States is a history of severe and heroic struggles with primeval nature. They had none of the advantages which the South enjoyed. They produced nothing which was not grown to equal advantage in Europe, with the exceptions of lumber and fish. The people had little to export, and therefore little to buy with. They were compelled to resort to their own ingenuity for the supply of their wants; and hence arose those diversified employments of agriculture, commerce, and the mechanic arts, which have conferred wealth and independence upon the free States. Even their superior education and literature may be traced to this humble origin—to the necessity of ministering to their own wants. The wealthy slave proprietors were able to educate their sons at Oxford or Cambridge, and therefore neglected, in a great measure, the establishment of schools and colleges at home. The northern people, too poor to imitate the example of their southern neighbors, but being imbued with the love of knowledge, set about building institutions of learning on this side of the Atlantic, and the establishment

of common schools for all classes. The result has been to foster a universal love of learning among the people, to found institutions of learning which command the respect of the civilized world, and a literature which, in little more than two centuries from the date of the first settlement at Plymouth Rock, begins to take rank by the side of that of the mother country.

Sir, this diversity of employments, which is an essential element of civilization and progress, had its germ in the poverty of the northern colonies, and it is now the glory and strength of the empire. It has kept population more at home, and caused the accumulation of large masses in cities and towns. Since the Revolution, the incidental, and sometimes direct, protection, extended by the Federal Government to manufactures, has tended to promote this diversity of employment and concentration of population. The propagandists of slavery should, above all other people, advocate the protective policy; since its effect is to prevent the emigrating tendency of northern population, which has thwarted their efforts to carry slavery into Kansas.

But it is a singular fact that the policy of the South has tended more to the spread of free institutions than our own northern policy has done. Sir, what has that southern policy been? It has been to break down, or keep down, our manufacturing system, by withholding the protection which is essential to its existence. Free trade has never been literally adopted in this country; and we have therefore to conjecture its full effects upon our mechanical and manufacturing interests. But I think the free-trade theorists will agree with me that it would produce a general dispersion of the northern town population. It would augment the tide of western and southern emigration, and fill up the Territories with free white laborers. The present revenue tariff has been in operation a dozen years. We have seen its effects. They have been only less potent than free trade. It has crippled our manufactures, prevented the growth of manufacturing towns in the old States, and sent our people out in search of new homes in the Far West. California, in the latitude of Virginia and the Carolinas, has been made a free State. Kansas, in the same latitude, has been rescued from the jaws of slavery. We have at the same time found a surplus for the peopling of Minnesota, Oregon, Washington, and Nebraska, and are now proposing to oust slavery from Missouri.

But, sir, another southern measure has removed an obstacle to the ascendancy of free labor and free institutions in this Republic. I allude to the repeal of the Missouri compromise. While that compromise existed, there was a tacit understanding that the line of 36° 30' was to be the boundary line between slavery and freedom. But, sir, the line has been effaced; and the friends of freedom, after an arduous struggle, have succeeded in placing their right to all territory north of that line on a foundation more enduring than the isothermal theories of Governor Walker, or the plighted faith of the slave power. By its free-trade policy, the South has imposed upon the North the necessity of emigration, and, by the repeal of the Missouri compromise line, they invite us into their territorial heritage. We have lost nothing by your bad faith; and, in the name of the free people of the country, of all parties and sections, I thank you for the act, though not for the motive which prompted it. We will take you at your word. We will go into your goodly land and possess it, once yours by compromise, but now as much ours as yours by your bad faith.

I am the advocate of a protective tariff, and I think the present tariff ruinously low; but if you think it too high, reduce it, and establish free trade. The effect will be to injure us of the older States, of Pennsylvania, of New England, New York, New Jersey, and Ohio; but what we lose in wealth and prosperity the North will gain in political power. Break up our factories and workshops, and our population will emigrate to the western Territories, crowd out slavery, and make free States of them. Our population will invade Delaware, Maryland, Kentucky, Missouri, and Virginia, and transform them into free States.

Commerce, too, will be unduly stimulated, thus affording additional facilities to European emigration to this country; and we may expect to see an influx of five or six hundred thousand per an-

num who will be joined to the army of northern invaders of your soil.

DISTRIBUTION OF THE PUBLIC LANDS.

Mr. ROBBINS. Mr. Chairman, I desire very briefly to give the reasons which will govern my action upon the bill, donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts.

The disposal of the public lands, the common property of the whole nation, after the payment of the public debt, for the redemption of which they were solemnly pledged, has been a subject that has occupied the thoughts of many of the ablest and most experienced of our statesmen; and at one time, as is well known, when the Treasury was overflowing with a superabundant revenue, a plan was matured and passed into a law, to distribute the proceeds of the sales among the different States; but though the Treasury was plethoric at the time this law was passed, as it was but a few months ago, yet, then, as now, it soon became exhausted, and the further process of distribution was indefinitely suspended.

Whether the States, respectively, or the people of the States were much benefited by the money that was paid over to them by the General Government, in fulfillment of this "distribution act," is seriously questioned by many; but as it is not proposed by any one to revive that act, or adopt one at all like it, it is not necessary to inquire whether any better disposition could have been made of the surplus funds then in the Treasury, and tempting Congress and the Government into extravagant expenditures, always corrupting and demoralizing to any Government, but more especially a republican government. The bill introduced by the gentleman from Vermont [Mr. Morrill] proposes to grant to the several States and Territories six million three hundred and forty thousand acres of land to be distributed in the proportion of twenty thousand acres for each Senator and Representative in Congress, to which the States are respectively entitled, and to each Territory sixty thousand acres, giving to my own State, by this ratio, one hundred and forty thousand acres.

The purposes which the donation of these lands to the several States are intended to serve, the objects they are to promote, and to which they are to be strictly and exclusively applied, are, in my judgment, those which are of all others most likely to benefit the great body of the people, by diffusing among them, especially among those who are properly termed "the bone and sinew of the country," the most important of all useful knowledge, that which teaches how to increase indefinitely the products of the earth, and improves the mechanic arts. I shall, Mr. Chairman, indulge in no rhapsodies in regard to the importance of agriculture, and its improvement, nor shall I stop to eulogize the hardy laboring men of the country, who create its wealth by their toil and sweat, and who are content with frugal fare and plain apparel, whilst others "fare sumptuously," and roll in that wealth which no toil of theirs ever produced. I would by no means depreciate the importance of academical or collegiate education; so far from it, I would have our colleges richly endowed, and enabled to confer upon the comparatively few who are designed to tread the higher walks of literature and science the most thorough education that can be obtained at any university in the world; but they are for the few, while the institutions proposed to be established by the bill under consideration, and to be supported through all time by the proceeds of the lands to be given to the States and Territories, are designed to benefit the millions, by educating them as farmers and mechanics; making them more perfect in their several occupations, by teaching them those several branches of science that are involved in those occupations.

I am aware, Mr. Chairman, that a strong prejudice exists among some of our farmers, though not to the extent and degree that it once did, against what is termed by them "book farming;" but we all know that very great improvements in farming have taken place, in almost every section of our country, within the last twenty years, and that improvements are going on rapidly. To what, sir, do we owe these? To the light which science has been made to throw upon the operations of

the farmer; to the knowledge acquired by the various experiments of agricultural chemistry and scientific, or "book farming."

What is the growth or formation of wheat, corn, apples, peaches, pears, grass, and all other productions of the earth, but a chemical operation carried on by nature? It is the change of matter from one form to another; the potato which is formed in, and the wheat which grows out of the earth, both are produced from materials which must be brought in juxtaposition, and which combine in certain proportions when brought in contact, and are furnished with a sufficient amount of heat and moisture, but not too much. Science teaches us what the materials are of which the potato, wheat or any other product is composed, and their proportions, and it also enables us to ascertain whether those materials are contained by the soil upon which we propose to raise any given crop, or not, and of course, whether the soil will produce the article we wish to raise, without an artificial supply of the material wanted. An uneducated farmer may be able to form a tolerably good judgment, from the experience he has had of soils, from their appearance, whether any given field or farm will produce any given crop; if it will not, he knows from experience that the application of manure will add to its productive qualities; but why it does so, and why one kind of fertilizer is preferable to another for the production of any given article, as grass, corn, wheat, &c., he does not, and cannot know. But of late years some men of science have turned their attention to these matters, and we are indebted to the Mapeses, the Downings, the Liebiges, the Johnsons, and others, for a large amount of information upon these subjects, which is invaluable to farmers, and which has been the means of greatly improving the agriculture of this and other countries.

But the improvement and condition of agriculture in the United States are by no means comparable to the advances made in this most important of all the branches of human employment in England, Holland, Belgium, and some other European countries, where the cultivation of the earth has become a science, and where three or four blades of grass or heads of wheat have been made to grow where but one grew before. So far from farming being considered in those countries an inferior employment, the very highest in the land, men of eminence, wealth, and of the highest rank, take pride in being farmers—practical and successful agriculturists; and emulate each other in the raising of various kinds of stock, horses, sheep, hogs, &c. It may almost be said that it is the only branch of human employment in which "kings, lords, and commons" are all engaged, and in which they emulate each other in the quality and perfection of their productions.

And why, Mr. Chairman, is it that the countries I have named are so far in advance of us in their agricultural operations and productions? Why do some of them produce three, four, or five times as much to the acre as we do? and why is it that the tenant there is able to pay more annual rent for land per acre than he can obtain the fee-simple for here? Because, sir, mind, intelligence, science are brought in as auxiliaries. Those engaged in cultivating the earth do not go blind to work, as the Indian or barbarian does. They know beforehand what are the qualities of their soils; what ingredients they lack, and what are present in superabundance; and they know, therefore, what should be supplied, and in what quantities. This knowledge may be acquired to no inconsiderable extent by such of our citizens who are engaged in farming, and are already educated men, and have leisure to study agriculture as a science. But, sir, how few of them there are who come within this category!

Most of our farmers find but little time to read; and, it is probable, find political reading and the news of the day to occupy all the little leisure they have to devote to books or newspapers. And if they had time, such is the general prejudice against all "book farming," that it is not to be expected that they would think it worth their while to read works upon farming, written, it may be, by men who never held a plow, sowed a field of wheat, or made a ton of hay. Men must feel the necessity of knowledge before we can expect them to seek it; and it may be that some find how little they know and how much more knowledge there

is to be obtained, when it has become too late for them to think of seeking it, and so keep on in their old beaten track—the same their fathers trod before them. It is the young that are to be educated; and if we expect to bring about such improvements in agriculture as are susceptible of being made; if we would raise the employment to the dignity of a profession, and make it a more remunerative occupation than it has been, we must take steps to educate the young who are intended to be tillers of the earth, and enable them to work in the light which the rays of science pour forth wheresoever they fall. It is to establish seminaries in every State where agricultural science can be taught, that I am in favor of the bill under consideration. As I have before said, I know of nothing so well calculated to improve the great body of the people and increase the productions and wealth of the country, as the giving of the young the most thorough literary and farming education; combining in that education the theory and practice of farming—just as to make a great lawyer, or a great physician, or surgeon, the student must combine the practice and theory of his profession.

I know, Mr. Chairman, that in some of the States, and especially the new ones, where the rich soil is unexhausted, and manure is not only a drug, but a nuisance, the necessity for agricultural education or knowledge is not so great as in those States where the original fertility of the soil has been exhausted; and the farmers there may laugh at the idea of educating young men for that branch of business. What! they may exclaim, educate a boy to hold the plow, or to hoe corn? Why, the man who does not know his alphabet will make just as good a farmer, and a great deal better one, than your college-educated man. A book farmer and a city farmer are their abhorrence, and, in their eyes, objects of perfect contempt. But how often have we seen these same book farmers and city farmers teach practical farmers lessons of the greatest value by showing them how much more any given number of acres can be made to produce when the mind is brought to bear upon their cultivation, and science lends her valuable aid as an assistant to labor.

This train of thought, Mr. Chairman, brings to my recollection an anecdote which a worthy gentleman of Philadelphia, some years ago, related to me; and which he then, a man somewhat advanced in life, had heard from one who lived at the time. There lived in Philadelphia, previous to the Revolution, a man named West, a brother of Sir Benjamin, the celebrated painter. Mr. West was a cooper; a man of strong mind and considerable intelligence, as he was fond of reading. Mr. West, having acquired a large property by his industry, took a notion to buy a farm and turn farmer. He accordingly looked around the country to find such a farm as would suit him. He soon found one in Montgomery county, not far from Norristown, which was for sale; but which, having been in the possession of a shiftless farmer for many years, was much out of order. The buildings were dilapidated; the fences were down; the briars had overrun the fields; the apple, peach, pear, and cherry trees had not been trimmed for a long time, and everything showed what sort of a man and farmer he was; but the soil was naturally good; and, as the farm could be purchased "cheap for cash," Mr. West bought it; and then began the farmers in the neighborhood to laugh at the folly of "the city farmer" for buying a farm so much out of order. But Mr. West was a man who asked no one's advice, and acted on his own judgment. He repaired the buildings and fences; cleared off the briars; carried out and spread upon the land the mountain of manure in the barnyard, making the land as rich as he wanted it, as far as it would go; stocked his farm with the best animals of the best breeds then in the country; and took pains to obtain the best kinds of wheat, corn, oats, &c., for seed. His plow only followed his manure cart; and, as the latter extended its journeys from year to year, so did Mr. West extend his inclosed fields and his plowed land. He was the first in Pennsylvania to apply lime to his land as a fertilizer; his neighbors, mean time, making sport of the "city farmer's" doings among themselves.

But it was not long before the farm, in the improvement of which mind and book farming had so much to do, attracted general attention; and

farmers from other counties came there to purchase seed wheat, seed corn, &c., for all of which they paid a high price. Mr. West's stock, too, attracted attention, and breeders were sent for and purchased, from far and near, though it was an invariable rule with him to reserve the best lambs, calves, pigs, &c., for stock. Mr. West's farm became what is now called a "model farm;" it was admitted to be the best cultivated farm in the State, and was visited for inspection by a great number of farmers every year. Not content with thus advancing the interests of agriculture, he took an active part in establishing the first agricultural society formed in the State, and an agricultural magazine, for which he himself wrote much, and which was greatly instrumental in promoting a spirit of improvement among the farmers; and it is related, with how much truth I cannot say, that the farmers who indulged themselves, at first, in merriment at the "city farmer," were compelled at last to admire and endeavor to imitate him at whose expense they had before enjoyed much hearty laughter.

Mr. Chairman, the people of the United States

have heard a great deal within a few years past about the large grants of public lands to different new States, for railroad purposes. Millions of acres have been given to some of these States for such purposes, and as "the Old Thirteen" had something to do in acquiring these lands, and as they had been purchased by the common fund of the nation, it is quite natural that my constituents, and the people of my State, one of "the Old Thirteen," should inquire why such large donations should be given to certain favored States, and not an acre to New Jersey? A portion of the public domain thus disposed of, they know was acquired with our independence, by the war of the Revolution, and they have also learned from history, if not from the lips of those who were actors and sufferers in that war, that her blood was freely shed in that eventful contest; that her territory was marked by the footsteps of the enemy; her cattle and crops destroyed; her houses burned; and her soil drenched with the blood of friend and foe, indiscriminately mingled on her battle-fields. Why, then, the public lands thus, in part, purchased by the valor, the suffering, and the blood

of their fathers, should be so freely, and in such enormous quantities, given to those who had no part nor lot in the revolutionary struggle, and many of whose ancestors were then, perhaps, subjects of some European prince or potentate, and withheld from them, is a question which naturally forces itself upon their minds, but to which it is by no means easy to give a satisfactory answer.

We have, Mr. Chairman, lately been furnished with a statement, by the Commissioner of the General Land Office, of the number of acres of public land given to the different States "for schools, universities, &c., for deaf and dumb asylums, for internal improvements, for seats of government and public buildings, and for railroads;" and as this table contains a great deal of useful knowledge, in a very small compass, I have taken the pains to extract some portion of it, by which it will be seen that the number of acres of land unsold and unappropriated amount to 1,088,792,498.83 acres, from which the comparatively small number of 6,340,000 acres only are proposed to be taken by the bill under consideration.

Statement showing the areas of the several Land States and Territories, the amount of Land disposed of by sale and otherwise, and the amount unsold and undisposed of on the 30th of June, 1857.

States and Territories.	Areas of the land States and Territories, exclusive of water.		Surveyed up to June 30, 1857.	Unsurveyed on June 30, 1857.	Offered for sale up to June 30, 1857.	Acres sold up to June 30, 1857.	Donations and grants for schools, universities, &c.	Grants for deaf and dumb asylums.	Grants for internal improvements.	Grants for individuals and companies.
	Sq. miles.	Acres.								
Ohio.....	39,964	*25,576,960	16,770,984	-	16,770,984	12,892,793.06	737,528	-	1,243,001.77	32,141.24
Indiana.....	33,509	*21,637,760	21,487,760	-	21,487,760	16,111,221.32	673,357	-	1,609,861.61	843.44
Illinois.....	55,410	35,462,400	35,462,400	-	35,462,400	19,236,103.92	1,001,795	-	500,000.00	954.64
Missouri.....	65,037	41,623,689	41,598,898	24,782	41,186,634	18,206,454.13	1,222,179	-	500,000.00	-
Alabama.....	50,043	32,037,520	31,993,813	33,707	31,903,283	16,128,168.57	925,814	21,949.46	50,000.00	1,981.53
Mississippi.....	37,337	23,895,680	23,895,680	-	23,895,577	11,492,671.55	860,624	-	500,000.00	15,965.31
Louisiana.....	41,346	26,461,440	24,039,319	2,422,121	19,231,161	4,404,397.08	832,124	-	500,000.00	8,412.98
Michigan.....	56,451	36,128,640	36,128,640	-	34,115,710	11,201,553.92	1,113,477	-	1,250,000.00	4,080.00
Arkansas.....	52,198	33,406,720	33,279,008	127,712	32,618,409	5,307,166.76	932,540	2,097.43	500,000.00	139,386.25
Florida.....	59,268	37,931,520	25,362,287	12,569,233	18,876,615	1,616,433.05	954,583	20,924.22	500,000.00	52,114.00
Iowa.....	54,930	35,155,200	34,074,598	1,080,602	24,888,670	11,430,815.20	951,224	-	1,385,078.22	18,226.86
Wisconsin.....	53,924	34,511,360	28,419,823	6,091,537	24,131,412	9,262,863.96	1,004,728	-	1,000,371.89	5,705.82
California.....	188,981	120,947,840	21,611,447	99,336,393	-	-	6,765,404	-	-	-
Minnesota Territory.....	141,839	90,776,960	12,188,281	78,588,679	2,508,710	1,734,098.59	5,089,244	-	340,000.00	-
Oregon do.....	196,295	125,638,800	4,443,831	121,184,969	-	41,029.20	6,692,124	-	-	-
Washington do.....	126,457	80,990,180	739,992	80,250,088	-	1,154.79	4,545,529	-	-	-
New Mexico do.....	236,309	164,037,760	107,928	163,929,832	-	-	8,826,956	-	-	-
Utah do.....	220,196	140,925,440	1,999,908	138,925,532	-	-	7,781,707	-	-	-
Nebraska do.....	342,438	219,160,320	1,902,541	217,257,779	-	28,590.58	12,175,573	-	-	-
Kansas do.....	126,383	80,821,120	3,826,326	76,994,794	-	17,350.88	4,468,662	-	-	-
Indian do.....	67,020	42,892,800	-	42,892,800	-	-	-	-	-	-
Total.....	2,265,625	1,450,000,000	399,333,464	1,041,710,500	327,066,207	129,032,865.84	67,736,572	44,971.11	10,897,313.50	279,792.07

* Includes reserves under deeds of cession.

† Exclusive of Chickasaw cessions.

‡ Includes the estimated quantity of 560,000 acres of the Des Moines river grant, situated in this State above the Racoon fork of the Des Moines river.

§ Is the estimate of the Des Moines river grant in this Territory, as above.

STATEMENT—Continued.

States and Territories.	Grants for seats of government and public buildings.	Grants for military services.	Salines granted to the States.	Reserved for benefit of Indians.	Reserved for companies, individuals, and corporations.	Confirmed private claims.	Swamp lands granted to States.	Railroad grants.	Total of acres unsold and unappropriated of offered and unoffered lands, on 30th June, 1857.
Ohio.....	-	1,804,423.96	24,216	16,330.73	8,805,976.00	26,459.80	32,438.18	-	41,651.26
Indiana.....	2,560	1,304,496.61	23,040	126,220.71	149,102.03	329,880.53	1,250,937.50	-	50,239.28
Illinois.....	2,560	9,648,850.68	121,629	48,989.69	-	188,901.61	1,533,412.94	2,595,053	294,149.52
Missouri.....	2,560	5,274,873.20	46,080	22,587.61	-	1,369,455.10	4,064,788.84	1,815,435	9,106,267.02
Alabama.....	1,620	1,040,924.95	23,040	2,542,378.82	-	213,386.65	2,595.51	2,332,918	8,292,742.51
Mississippi.....	1,280	269,573.21	-	277,612.04	-	688,083.25	2,634,090.76	1,667,550	5,268,249.88
Louisiana.....	-	637,730.30	-	-	-	2,092,903.91	10,910,792.52	1,022,560	5,072,490.41
Michigan.....	13,200	2,100,653.59	46,080	109,300.83	-	126,711.93	7,273,724.72	3,086,000	9,793,859.39
Arkansas.....	10,600	1,889,933.05	46,080	-	-	118,451.12	8,026,388.71	1,465,297	14,968,639.68
Florida.....	6,240	413,719.81	-	227.49	305.75	3,739,789.00	11,631,271.51	1,814,400	17,182,512.17
Iowa.....	3,840	11,963,713.30	46,080	119,183.34	-	-	1,739,505.15	3,456,000	4,041,543.52
Wisconsin.....	6,400	4,730,137.17	46,080	137,894.27	-	36,880.99	2,350,000.00	1,622,800	14,238,497.80
California.....	-	-	-	-	-	-	-	-	113,662,436.00
Minnesota Territory.....	-	2,867,280.00	-	-	-	-	-	4,416,000	76,330,337.41
Oregon do.....	-	-	-	-	-	-	-	-	118,695,646.80
Washington do.....	-	-	-	-	-	-	-	-	76,443,386.21
New Mexico do.....	-	-	-	-	-	-	-	-	155,210,864.00
Utah do.....	-	-	-	-	-	-	-	-	133,143,733.00
Nebraska do.....	-	37,720.00	-	-	-	-	-	-	206,918,438.42
Kansas do.....	-	125,840.00	-	-	-	-	-	-	76,217,867.14
Indian do.....	-	-	-	-	-	-	-	-	42,892,800.00
Total.....	50,860	44,109,879.83	422,325	3,400,725.53	8,955,383.75	8,923,903.21	51,948,916.24	25,403,593	1,088,792,498.83

GENERAL LAND OFFICE, February 15, 1858.

It will be seen, by this official statement, that a few States and Territories have received over one hundred millions of acres of the public land for the support of schools and colleges, for internal improvements, for railroad purposes, and for other objects, while the Old Thirteen have taken no space to themselves of their own public

domain. But I make this statement in no spirit of complaint; I do not grudge the people of those States and Territories what they have obtained, and am willing they should have more; but I desire that my own State and my own constituents should have a share in them; and I know of no way in which the public lands can be disposed of

to effect a greater, more general, or more permanent good, than in the mode proposed by the bill of the gentleman from Vermont, [Mr. Morrill.]

I trust that the bill will receive the favor of the members from those States that have already shared so bountifully of the public lands, as I am

sure that gentlemen from the eastern, northern, middle, and southern Atlantic States will give it their hearty support. The agricultural schools and colleges, contemplated and provided for by this bill, will, we feel sure, be the points from which will radiate those lights of science which, when brought to bear upon the "old fields" or exhausted lands of Maryland, Virginia, and North and South Carolina, will restore their original fertility, and become covered with heavy and abundant crops, instead of meager coverings of poverty-grass, that has not strength enough to resist the winds of autumn, and is blown away like the chaff it resembles.

There is great merit in this bill; it has nothing sectional in it, and it appeals equally to the interest of the North and the South, if not to the East and the West. As agriculture is national, not sectional, so is any measure that tends to promote the interest of this great, this most important of all branches, of industry, in which every human being, of whatever condition, is deeply interested.

Pass this bill, and in my opinion it will become a fountain from whence blessings will flow in a never-ending stream, that, like the mysterious Nile, will make the land teem with productions wherever it shall spread its vivifying waters over their thirsty and exhausted soils; and where now only gophers burrow, and owls inhabit the solitary wastes, shall rise the lofty mansion, surrounded by gardens, orchards, and fields, vocal with all that makes the habitation of man cheerful, pleasant, and attractive; the seat of elegant hospitality, of refinement, intelligence, and independence.

Mr. SMITH, of Virginia, obtained the floor and moved that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. SMITH, of Virginia having taken the chair, Mr. WINSLOW reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1855, and had come to no conclusion thereon.

And then, on motion of Mr. CLAWSON, (at five minutes to nine o'clock, p. m.,) the House adjourned.

HOUSE OF REPRESENTATIVES.

Friday, March 26, 1855.

The House met at twelve o'clock, m. Prayer by Rev. G. W. SAMSON.

The Journal of yesterday was read and approved.

COMMITTEE OF ACCOUNTS.

The SPEAKER appointed Mr. POWELL as a member of the Committee of Accounts, to supply the vacancy occasioned by the resignation of Mr. MASON.

Mr. GARTRELL. I ask the unanimous consent of the House to introduce a bill of which previous notice has been given, for reference merely?

Mr. HARLAN. I demand the regular order of business.

Mr. GARTRELL. I hope the gentleman will not object, as it is a local bill.

The objection was not withdrawn.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, in reply to the House resolution of the 16th instant, calling for information relative to the construction of the railroad from Dubuque to Sioux City, and branch from the mouth of the Tete des Morts.

Mr. WASHBURN, of Illinois. I move that the communication be referred to the Committee on Public Lands; and ask the adoption of the resolution which I send to the Clerk's desk:

The resolution was read, as follows:

Resolved, That the communication of the Secretary of the Interior in reply to the resolution of the House of the 16th instant, calling for information in regard to the amount of land certified to the State of Iowa for building a railroad from Dubuque to Sioux City, and a certain branch therein named, be referred to the Committee on Public Lands; and that they be instructed to inquire into all facts in relation to building the said branch of the railroad, whether the main trunk or said road has been completed beyond the point of intersection of the said branch, and whether the said branch has been completed in conformity with the provisions of the

act of Congress, and if not, to report such action to the House as may be deemed expedient and proper in the premises.

Mr. WASHBURN, of Illinois. I move the previous question on the adoption of the resolution.

Mr. JONES, of Tennessee. I object to that part of it which instructs the committee. If we have given lands to a State, we do not want to investigate what the State has done with them.

Mr. WASHBURN, of Illinois. I think it is the duty of Congress to see that they have been properly applied.

Mr. JONES, of Tennessee. I think that that is no part of the business of the Government or of the House.

The SPEAKER. Will the gentleman from Tennessee indicate the ground of his objection to the resolution?

Mr. JONES, of Tennessee. It is a resolution of instructions to the committee, as I understand. The gentleman can move to refer the communication, but not to give instructions.

The SPEAKER. Why not?

Mr. JONES, of Tennessee. I do not think it is in order.

The SPEAKER. The Chair is of opinion that the resolution is in order. The paper itself was laid before the House by unanimous consent. This resolution proposes to dispose of the paper now before the House, and the Chair thinks it is in order.

Mr. JONES, of Tennessee. Does the presenting of that message by unanimous consent make the resolution in order?

The SPEAKER. The presentation of the communication by unanimous consent places it before the House, and some disposition must be made of it. The gentleman from Illinois proposes to refer it with instructions.

Mr. WASHBURN, of Illinois. I move the previous question. I do not want to take up the time of the House in this matter.

Mr. JONES, of Tennessee. I move to lay the whole subject on the table.

Mr. COBB. I hope the previous question will not be sustained until I make a suggestion.

The SPEAKER. Debate is not in order.

Mr. HOUSTON. Is the resolution susceptible of division, so as to take a vote on reference, and then on the instructions?

The SPEAKER. The Chair thinks not.

Mr. CLEMENS called for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 80; as follows:

YEAS.—Messrs. Atkins, Bocoek, Bonham, Bowie, Branch, Burnett, Clay, Cobb, Corning, Cox, Curtis, Dowdell, Elliott, Faulkner, Florence, Garnett, Gartrell, Gillis, Greenwood, Hawkins, Hickman, Hopkins, Houston, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Jacob M. Kunkel, Lamar, Leidy, Letcher, Maclay, McQueen, Mason, Miles, Montgomery, Niblack, Pendleton, Peyton, Phelps, Purviance, Quitman, Reagan, Reilly, Ritchie, Rudin, Russell, Sandidge, Savage, Seales, Scott, Henry M. Shaw, Samuel A. Smith, Stephens, James A. Stewart, George Taylor, Miles Taylor, Underwood, Watkins, White, Whiteley, Winslow, Woodson, Augustus R. Wright, and John V. Wright—67.

NAYS.—Messrs. Abbott, Anderson, Andrews, Bennett, Billingshurst, Blair, Brayton, Bufington, Burlingame, Case, Chaffee, Ezra Clark, Clawson, Clemens, John Cochrane, Cockerill, Colfax, Comins, Davidson, Daves, Dean, Dick, Dodd, Durfee, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Howard, Jenkins, Kelsey, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Samuel S. Marshall, Maynard, Milson, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Olin, Palmer, Parker, Pike, Potter, Ready, Ricard, Robbins, Royce, John Sherman, Judon W. Sherman, Robert Smith, William Smith, Spinner, Stanton, William Stewart, Tappan, Tompkins, Wade, Walbridge, Waldron, Walton, Warren, Ellihue B. Washburne, Wilson, Wood, and Zollicoffer—80.

So the House refused to lay the whole subject on the table.

Pending the vote,

Mr. JACKSON stated that his colleague, Mr. CRAWFORD, was detained from the Hall by indisposition.

Mr. FLORENCE stated that his colleague, Mr. PHILLIPS, was necessarily absent, and had paired off with his colleague, Mr. EDIE; and that his other colleague, Mr. LANDY, had been called home by sickness in his family.

Mr. HOPKINS stated that his colleague, Mr. EDMUNDSON, was absent on account of indisposition.

The question recurred on the demand for the previous question.

Mr. CURTIS. I wish to say a word on this matter, and I hope the previous question will not be seconded.

The previous question was seconded; there being, on a division—yeas 86, nays 50; and the main question was ordered.

The question was taken on the resolution; and the Speaker announced that the resolution was agreed to.

Mr. HUGHES. I called for the yeas and nays.

The SPEAKER. The Chair did not hear the gentleman; and the Chair is of opinion that if the gentleman had risen in his seat he would have both seen and heard him.

Mr. DAVIS, of Indiana. The gentleman certainly did call for the yeas and nays.

Mr. HUGHES. I did rise in my seat.

The SPEAKER. The Chair begs pardon for not seeing the gentleman in time. It is now too late to correct the error. The result of the vote has been announced.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

Mr. MONTGOMERY called for the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the latter motion was agreed to—there being on a division, yeas 92, nays 42.

PACIFIC INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior requesting an additional appropriation for the bureau of Indian affairs, on account of the Indians on the Pacific coast; which was referred to the Committee of Ways and Means, and ordered to be printed.

EXTENSION OF DEBATE.

Mr. LETCHER. There has been, I believe, a general understanding, on all sides of the House, that the debate on the Kansas question shall go on for some days yet. In order that that understanding may be fairly executed, I ask the unanimous consent of the House that the time for debate upon the deficiency bill shall be extended until this day week.

Mr. MORRIS, of Illinois. I object.

Mr. LETCHER. I hope the House will take notice where the objection comes from.

Mr. JONES, of Tennessee. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FLORENCE. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. ADRAIN. I hope the gentleman from Illinois will withdraw his objection to the proposition of the gentleman from Virginia.

Mr. JONES, of Tennessee. If I understand the proposition of the gentleman from Virginia, it is, that instead of closing the debate upon the deficiency bill upon the adjournment of the House to-day, it shall be closed on the adjournment of the House on next Friday; that the general debate upon Kansas shall progress until one o'clock on Thursday next, when the Kansas bill shall be taken up and disposed of.

Mr. GROW. The statement of the gentleman from Tennessee is correct, with the exception of the last portion of it. I have no objection to the proposition of the gentleman from Virginia. I understood the agreement to be, that no motion shall be made in reference to the Kansas bill until one o'clock on Thursday, when the gentleman from Georgia [Mr. STEPHENS] proposes to make a motion to take it up, and the whole matter will be under the rules of the House.

Mr. LETCHER. Certainly, that is my understanding.

Mr. MORRIS, of Illinois. At the suggestion of gentlemen around me, I will withdraw my objection to the proposition of the gentleman from Virginia.

No further objection being made, it was

Ordered, That the general debate upon the deficiency bill be closed on Friday next at the adjournment of the House.

Mr. WRIGHT, of Tennessee. I ask the con-

sent of the House to make a report from the Committee on Revolutionary Pensions. I will state that I was not in the House when the committees were last called for reports.

Mr. DAVIDSON. I must object, unless all the committees can be called.

Mr. MAYNARD. I appeal to the gentleman from Pennsylvania [Mr. FLORENCE] to withdraw his motion for a few minutes, to allow the committees to be called for reports of private bills, so that the bills may be placed on the Private Calendar, and be printed.

Mr. FLORENCE. I should have no objection, if there was any hope of calling the committees for reports. I have no hope of being able to go to the consideration of private business at all to-day, but I felt it my duty to make the motion.

The SPEAKER. The Chair will state that, if the motions to go into committee are withdrawn, the call of the committees for reports of private business will be first in order; and, in the opinion of the Chair, the call may be gone through with in twenty minutes.

Mr. FLORENCE. If the gentleman from Tennessee will withdraw his motion to go into the Committee of the Whole on the state of the Union, I will withdraw my motion.

Mr. JONES, of Tennessee. I think the vote had better be taken upon the motion.

Mr. FLORENCE. Then, I insist upon my motion.

The motion to go into Committee of the Whole House was not agreed to.

Mr. JONES, of Tennessee. I will withdraw the motion to go into the Committee of the Whole on the state of the Union, until the committees have been called for reports.

The SPEAKER then proceeded to call the committees for reports.

PETER PARKER.

Mr. MAYNARD, from the Committee of Claims, reported back a bill (C. C. No. 85) for the relief of Peter Parker; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

FERDINAND COXE.

Mr. MAYNARD, from the same committee, reported back a bill (C. C. No. 84) for the relief of Ferdinand Coxe; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SAMUEL ANGUS.

On motion of Mr. DAVIDSON, it was

Ordered, That the Committee of Claims be discharged from the further consideration of the petition and papers of Samuel Angus, and that the same be referred to the Committee on Naval Affairs.

JOHN SHAW.

On motion of Mr. DAVIDSON, it was

Ordered, That the Committee of Claims be discharged from the further consideration of the petition and papers of John Shaw, and that the same be referred to the Committee on Military Affairs.

ASSIGNEES OF HUGH GLENN.

Mr. MAYNARD, from the Committee of Claims, reported a bill for the relief of the assignees of Hugh Glenn; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

J. C. G. KENNEDY.

Mr. KUNKEL, of Pennsylvania, from the same committee, reported a bill for the relief of J. C. G. Kennedy; which was read a first and second time.

Mr. KUNKEL, of Pennsylvania, moved that the bill be referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. JONES, of Tennessee. I have some papers which I should like to go with that report, and be printed. They are from the Department; and there is a letter from a gentleman of this city who has charge of this property. I should like them to go with the report and be printed, so that the House may have all the facts before it.

Mr. KUNKEL, of Pennsylvania. I will say that our report embraces substantially all the papers which were before the committee. I do not know that it would be right that the House

should print papers which were not before the committee.

Mr. JONES, of Tennessee. I should like to have them printed, so that we could all see them when the case comes up. They are from the Department, with a letter from the agent of the property.

Mr. KUNKEL, of Pennsylvania. They can be used in the House when the question comes up, and I therefore object.

Mr. HOUSTON. Would it not be competent for the House to order the printing of the papers as a separate proposition?

The SPEAKER. The Chair does not see how the gentleman could get the papers before the House at this time, unless by unanimous consent.

Mr. JONES, of Tennessee. I move that the bill be recommitted to the Committee of Claims, with the papers I send to the Clerk. I ask that they be read, in order that the House may know what it is referring.

The SPEAKER. The gentleman can refer his papers under the rule, but the Chair does not see how they can be referred with the motion he makes.

Mr. MARSHALL, of Illinois. If the provisions of the bill be stated, there will not perhaps be any further objection to it. It does not propose to appropriate any specific sum. It refers this case to the Secretary of the Treasury, and authorizes him to take rule on the contract made and damage done to the building rented from Mr. Kennedy, and to pay him any sum to which he may be entitled; no more and no less.

Mr. JONES, of Tennessee. The papers which I hold in my hand are the report of the Secretary of the Interior in adjudication of this case, the confirmation of that report by the President of the United States, and a statement of the agent for the renting of this property, for which the Government paid the owner \$1,700.

Mr. KUNKEL, of Pennsylvania. Rather than occupy time, I will withdraw my objection.

The bill was referred to a Committee of the Whole House, and, with the accompanying report, and the papers sent up by Mr. JONES, of Tennessee, ordered to be printed.

WILLIAM F. WAGNER.

Mr. TAYLOR, of Louisiana, from the Committee of Claims, reported a bill for the relief of William F. Wagner; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOSEPH HARDY AND ALTON LONG.

Mr. TAYLOR, of Louisiana, from the same committee, reported a bill for the relief of Joseph Hardy and Alton Long; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ADVERSE REPORT.

Mr. TAYLOR, of Louisiana, from the same committee, reported adversely on the memorial of Alexander Turner; which was laid upon the table, and the report ordered to be printed.

ALEXANDER LINDFELDT.

On motion of Mr. TAYLOR, of Louisiana, it was

Ordered, That the Committee of Claims be discharged from the further consideration of the petition of Alexander Lindfeldt, and that it be referred to the Committee on Military Affairs.

ENOCH B. TALCOTT.

Mr. GOODWIN, from the Committee of Claims, reported back a bill (H. R. No. 77) for the relief of Enoch B. Talcott, late collector of customs at the port of Oswego, New York; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

BENJAMIN DOLE.

On motion of Mr. MARSHALL, of Illinois, it was

Ordered, That the Committee of Claims be discharged from the further consideration of the memorial of Benjamin Dole, and that the same be referred to the Committee on Indian Affairs.

SAMUEL A. FAIRCHILD.

Mr. MARSHALL, of Illinois, from the same

committee, reported a bill for the relief of Samuel A. Fairchild; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

E. H. FITZGERALD AND WILLIAM P. YOUNG.

Mr. MARSHALL, of Illinois, from the same committee, made adverse reports in the cases of E. H. Fitzgerald and William P. Young; which were laid on the table, and ordered to be printed.

HALL NEILSON.

Mr. MARSHALL, of Illinois, from the same committee, reported a joint resolution for the relief of Hall Neilson; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ELIAS HALL.

Mr. MARSHALL, of Illinois, from the same committee, reported back, with a recommendation that it do pass, an act (S. No. 68) for the relief of Elias Hall, of Rutland, Vermont.

Mr. MARSHALL, of Illinois. This case, I would say, is one which peculiarly calls for the immediate action of the House. The amount involved is very small, and the claimant is an old man of some eighty years.

Mr. RITCHIE. I object to anything out of the regular order of business.

The SPEAKER. If the gentleman desires, he can ask that the bill be read a third time.

Mr. WASHBURN, of Illinois. I would ask my colleague if the bill involves an appropriation of money?

Mr. MARSHALL, of Illinois. It does, to a certain extent, though it is not a regular appropriation bill.

The SPEAKER. If it contains an appropriation, the objection of the gentleman from Pennsylvania is well taken, as it would require unanimous consent to put it upon its passage.

Mr. MARSHALL, of Illinois. I hope the gentleman will withdraw his objection.

Mr. RITCHIE. I will not withdraw objection until the call of committees for reports is finished.

The bill was then referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SHADE CALLOWAY.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported back a bill (H. R. No. 386) for the relief of Shade Calloway; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

D. O. DICKENSON.

Mr. WASHBURN, of Illinois, from the same committee, reported a bill for the relief of D. O. Dickenson; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN R. NOURSE.

Mr. COBB moved that the Committee on Public Lands be discharged from the further consideration of a bill (H. R. No. 408) for the relief of John R. Nourse, and that the same be referred to the Committee of Claims.

The motion was agreed to.

ADVERSE REPORTS.

Mr. DAVIS, of Indiana, from the Committee on Public Lands, presented adverse reports on the petitions of David Baxter, Joseph Brady, Launcelot Crane, J. D. Stewart, Joseph Weeks, and Michael Vandervoort, and certain citizens of Kansas, asking for bounty lands; which were severally laid on the table, and ordered to be printed.

Mr. MONTGOMERY, from the same committee, presented adverse reports on the petitions of John P. Bennett, Mary A. Vance, Richard S. Venables, certain citizens of New York, and certain citizens of New Jersey; which were severally laid on the table, and ordered to be printed.

JANE SMITH.

Mr. COBB, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 73) authorizing Mrs. Jane Smith to enter certain lands in the State of Alabama;

which was referred to a Committee of the Whole House, and ordered to be printed.

ADVERSE REPORTS.

Mr. WOOD, from the Committee on the Post Office and Post Roads, presented an adverse report in the case of William L. Dillard; which was laid on the table, and ordered to be printed.

Mr. TAYLOR, of New York, from the Committee on Revolutionary Claims, presented adverse reports on the petitions of Seltis Prather, Elizabeth Westcott, and the administrator of Mary Clift; which were severally laid on the table, and ordered to be printed.

HEIRS OF NEHEMIAH STOKELEY.

Mr. DAWES, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of Nehemiah Stokeley, a revolutionary officer; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

REPRESENTATIVES OF THOMAS WILLIAMS.

Mr. DAWES also, from the same committee, reported a bill for the relief of the legal representatives of Lieutenant Thomas Williams, a revolutionary officer; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ADVERSE REPORTS.

Mr. LOVEJOY, from the same committee, presented adverse reports on the petitions of Joshua Oldner, the heirs of Benjamin Harrison, the heirs of Augustine Willett, and the heirs of J. P. Harrison; which were severally laid on the table, and ordered to be printed.

NATHANIEL HEARD.

Mr. CLAWSON, from the same committee, reported a bill for the relief of the heirs of Nathaniel Heard; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

On motion of Mr. CLAWSON, it was Ordered, That the Committee on Revolutionary Claims be discharged from the further consideration of the petition of the heirs of Nathaniel Heard, and that the same be referred to the Committee on Revolutionary Pensions.

FRANÇOIS GUILLORY.

Mr. SANDIDGE, from the Committee on Private Land Claims, reported a bill for the relief of the heirs or legal representatives of François Guillory; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

JEAN BAPTISTE DEVIDRINE.

Mr. SANDIDGE, from the same committee, reported a bill for the relief of Jean Baptiste Devidrine; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

LAURA MILLEAUDON.

Mr. SANDIDGE, from the same committee, reported back with a recommendation that it do pass, Senate bill (No. 81) for the relief of Laura Milleaudon; which was referred to a Committee of the Whole House, and ordered to be printed.

ANNA M. E. RING, AND OTHERS.

Mr. SANDIDGE, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 185) for the relief of Anna M. E. Ring, Louisa M. Ring, Cordelia Ring, and Sarah J. De Lannoy; which was referred to a Committee of the Whole House, and ordered to be printed.

JOHN DICK.

Mr. SANDIDGE, from the same committee, reported back Senate bill (No. 70) for the relief of John Dick, of Florida; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

R. T. BIRCHETT.

Mr. TAYLOR, of Louisiana, from the Committee on the Judiciary, made an adverse report on the memorial of R. T. Birchett, assignee of Thomas H. Duval; which was laid on the table, and ordered to be printed.

WILLIAM B. TROTTER.

Mr. GREENWOOD, from the Committee on

Indian Affairs, reported back, with the recommendation that it do pass, Senate bill (No. 52) for the relief of William B. Trotter; which was referred to a Committee of the Whole House, and with the report, ordered to be printed.

JAMES G. BENTON AND OTHERS.

Mr. QUITMAN, from the Committee on Military Affairs, reported back, with a recommendation that it do pass, Senate bill (No. 59) for the relief of James G. Benton, E. B. Babbitt, and James Langstreet, of the United States Army; which was referred to a Committee of the Whole House, and ordered to be printed.

CHRISTINE BARNARD.

Mr. QUITMAN, from the same committee, reported back, with an amendment, Senate bill (No. 91) granting a pension to Christine Barnard, widow of the late Brevet Major J. Barnard, of the United States Army; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

SUSAN T. LEE.

Mr. QUITMAN, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 96) for the relief of Susan T. Lee, widow and administrator of James Maglenen, late of the city of Baltimore, deceased; which was referred to a Committee of the Whole House, and with the report, ordered to be printed.

ADVERSE REPORTS.

Mr. BUFFINTON, from the same committee, made an adverse report on the petition of John H. Thompson; which was laid on the table, and ordered to be printed.

Mr. CURTIS, from the same committee, made an adverse report on the petition of James Armstrong; which was laid on the table, and ordered to be printed.

DR. THOMAS ANTISELL.

Mr. BUFFINTON, from the same committee, reported a bill for the relief of Dr. Thomas Antisell; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ROBERT W. CUSHMAN.

Mr. FLORENCE, from the Committee on Naval Affairs, reported a bill for the relief of Robert W. Cushman, formerly an acting purser in the United States Navy; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

DR. CHARLES MAXWELL.

Mr. WINSLOW, from the same committee, reported back Senate bill (No. 69) for the relief of Dr. Charles Maxwell.

Mr. WINSLOW. As the House has already passed a bill for the relief of this gentleman, I move that the bill be laid on the table.

The motion was agreed to.

MICHAEL PAPPINITZER.

Mr. CLINGMAN, from the Committee on Foreign Affairs, reported a joint resolution in favor of Michael Pappinitzer; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

ADVERSE REPORTS.

Mr. CLINGMAN, from the same committee, made an adverse report on the petition of L. L. Brent; which was laid on the table, and ordered to be printed.

Mr. RITCHIE, from the same committee, made an adverse report on the petition of Francisco Lapez Urriga; which was laid on the table, and ordered to be printed.

Mr. SICKLES, from the same committee, made an adverse report on the petition of Stephen H. Weems; which was laid on the table, and ordered to be printed.

JOHN H. WHEELER.

Mr. SICKLES, from the same committee, reported a bill for the relief of John H. Wheeler, Esq., late United States Minister at Nicaragua; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

M'CAJAH BROOKS.

Mr. WRIGHT, of Tennessee, from the Committee on Revolutionary Pensions, reported a bill for the relief of McCajah Brooks; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

THOMAS MOODY AND REBECCA HALSEY.

Mr. SHAW, of North Carolina, from the same committee, made adverse reports on the petitions of Thomas Moody and Rebecca Halsey; which was laid on the table, and ordered to be printed.

Mr. HICKMAN. I am instructed by the Committee on Revolutionary Pensions to report a general resolution covering a class of cases.

The resolution was read.

Mr. HOUSTON. Is not that a general bill and not one which can be reported under the order to-day?

The SPEAKER. It is.

Mr. HOUSTON. Then I object.

JOHN JONES.

Mr. JEWETT, from the Committee on Invalid Pensions, reported a bill granting an invalid pension to Brevet Major John Jones, of Tennessee; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

KENNEDY O'BRIEN.

Mr. JEWETT, from the same committee, reported a bill for the relief of Kennedy O'Brien; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

EXTENSION OF THE PENSION LAWS.

Mr. JEWETT asked leave to report, from the same committee, a bill extending the benefit of the pension laws to certain widows and orphans.

Mr. LETCHER. Is not that a general bill?

The SPEAKER. It is.

Mr. LETCHER. Then I object to it.

CHANGE OF REFERENCE.

On motion of Mr. JEWETT, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petition of A. Knight, legal representative of Josiah Knight, deceased; and of the petition of Sena Sutton; and that the same be referred to the Committee on Private Land Claims.

EVELINA PORTER.

Mr. ANDERSON, from the Committee on Invalid Pensions, reported a bill for the relief of Evelina Porter, widow of the late Commodore David Porter, of the United States Navy; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

SILAS STEVENS, OF VIRGINIA.

Mr. ANDERSON, from the same committee, reported a bill granting an invalid pension to Silas Stevens, of Virginia; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

BENAH WRIGHT, OF NEW YORK.

Mr. ANDERSON, from the same committee, reported a bill granting an invalid pension to Benah Wright, of New York; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, order to be printed.

ADVERSE REPORTS.

Mr. ANDERSON, from the same committee, reported adversely on the following petitions; which were laid upon the table, and the accompanying reports ordered to be printed:

The petition of Reuben Apperson, of Virginia.

The petition of James Fuller.

The petition of Joseph Drake.

The petition of William Wells.

The petition of William Wolsey.

The petition of Freeman Sharp.

The petition of Thomas Floyd.

JOHN LEE.

Mr. CHAFFEE, from the same committee, reported a bill granting an invalid pension to John Lee, of the State of Maine; which was read a first and second time, referred to a Committee of

the Whole House, and, with the accompanying report, ordered to be printed.

ELMIRA WHITE.

Mr. CHAFFEE, from the same committee, reported a bill for the relief of Elmira White, widow of Captain Thomas R. White; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JAMES FUGATE.

Mr. CHAFFEE, from the same committee, reported a bill granting an invalid pension to James Fugate, of Missouri; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CHANGE OF REFERENCE.

On motion of Mr. CASE, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petition of N. G. Howell and others, citizens of South Carolina, and that the same be referred to the Committee on Public Lands.

MICHAEL KINNEY.

Mr. CASE, from the Committee on Invalid Pensions, reported back, with a recommendation that it do pass, a bill (S. No. 35) for the relief of Michael Kinney, late a private in company I, eighth regiment United States Army; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CORNELIUS H. LATHAM.

Mr. MORSE, of New York, from the same committee, reported a bill for the relief of Cornelius H. Latham; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

EDWARD N. KENT.

Mr. MACLAY, from the Committee on Patents, reported a bill for the relief of Edward N. Kent; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

SENATE BILLS REFERRED.

Mr. DAVIS, of Indiana. As the committees have all been called, I move that the House proceed to take up private bills from the Senate upon the Speaker's table, and refer them.

The motion was agreed to; and the following bills were taken from the Speaker's table, read a first and second time, and referred as indicated below:

An act (S. No. 58) to authorize and direct the settlement of the accounts of Ross Wilkins, James Witherell, and Solomon Sibley. Referred to the Committee on the Judiciary.

An act (S. No. 137) for the relief of the heirs-at-law of the late Abigail Nason, sister and devisee of John Lord, deceased. Referred to the Committee of Claims.

An act (S. No. 194) for the relief of James Bawden. Referred to the Committee on Public Lands.

An act (S. No. 167) for the relief of the owners of the bark *Atica*, of Portland, Maine. Referred to the Committee on Commerce.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, one of their clerks, informing the House that the Senate had passed the following acts and joint resolutions; in which he was directed to ask the concurrence of the House:

An act (S. No. 161) for the admission of the State of Kansas into the Union;

An act (S. No. 117) for the relief of William Allen, of Portland, in the State of Maine;

An act (S. No. 210) to create additional land districts in the State of California, and for other purposes; and

A resolution (S. No. 24) authorizing Lieutenant William N. Jeffers to accept a sword of honor from her Majesty the Queen of Spain.

Mr. LETCHER. I now renew my motion that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. COBB. I ask the gentleman from Virginia to withdraw his motion until I can make a motion to refer the bill which has just come from the Sen-

ate, in relation to additional land districts in California, to the Committee on Public Lands.

Mr. LETCHER. Very well.

Mr. CHAFFEE. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. COBB. I will not press my motion to refer, and when the bill comes up, if there is no objection to it, I will move to put it on its passage.

The motion of Mr. CHAFFEE was not agreed to.

The motion of Mr. LETCHER was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Boccock in the chair,) and resumed the consideration of the deficiency bill.

ADMISSION OF KANSAS.

The CHAIRMAN stated that the gentleman from Virginia [Mr. SMITH] was entitled to the floor.

Mr. SMITH, of Virginia. Mr. Chairman, owing to the disadvantages under which I appear to address the committee on the subject of Kansas at this time—exhausted as it seems to be—I can but little hope to impart new interest and new light to the subject. Still, however, I propose to ask the attention of the committee to those views which I shall present, trusting that, if they shall not be convincing, they will not be entirely without profit.

Mr. Chairman and gentlemen of the committee, it will be necessary, according to the view which I take, and in view of the short time now allotted to me, to avail myself of future occasions to complete that which I will not now, perhaps, be able to accomplish.

I beg leave to ask the attention of the committee to a few anterior facts—historical now, but important by way of answer to some of the objections that have been taken in connection with this matter. It is known to the committee as a historical fact that we acquired Louisiana on the 30th of April, 1803, by purchase from the French Republic, at a price of \$11,250,000. I shall not pause to comment on the then condition of that territory, nor shall I pause with any other view than simply to refer to a clause of the treaty stipulating that the people of that territory should have all the rights of American citizenship. That clause is as follows:

"The inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion they profess."

Suffice it to say now that the condition of that territory is to be found, by common consent, in the necessity which was afterwards deemed to exist, of providing by actual legislation to change its character. It was in the year 1820 that the Congress of the United States deemed it necessary to change the character of that territory by what is called the Missouri compromise, or, more properly speaking, restriction. I say "more properly speaking" because there is nothing of compromise in the eighth section, to which such frequent reference is had, but simply a restriction.

I suppose that the committee will readily perceive that there was a necessity for that restriction. They will also readily perceive that, without that restriction, there would have been none of the present difficulties that have torn and rended the country asunder, and endangered its peace and repose. Passing on from that subject, however, and having thus briefly adverted to it, in order to present a connected view, we come to the year 1853.

On the 5th of December, 1853, Senator Dodge, of Iowa, gave notice of his purpose to introduce a bill for the formation of a territorial government for the Territory of Nebraska.

On the 14th of December, on leave, Mr. Dodge introduced his bill; and it was referred to the Committee on Territories. On the 4th of January, 1854, Mr. DOUGLAS, the chairman of that committee, reported said bill with amendments, and five thousand copies of the bill, amendments, and report, were ordered to be printed. On the 16th of January, Mr. Dixon, a Senator from Kentucky, at that time a Whig, and, for aught I know, still

a Whig, stated that he should offer the following amendment when the bill came up:

"Sec. 22. *Be it further enacted*, That so much of the eighth section of the act approved March 6, 1820, entitled 'An act to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit slavery in certain Territories,' as declares 'that in all the territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30' north latitude, slavery and involuntary servitude, otherwise than in punishment of crimes whereof the parties shall have been duly convicted, shall be forever prohibited,' shall not be so construed as to apply to the Territory contemplated by this act, or to any other Territory of the United States; but that the citizens of the several States or Territories shall be at liberty to take and hold their slaves within any of the Territories of the United States, or of the States to be formed therefrom, as if the said act entitled as aforesaid, approved as aforesaid, had never been passed."

On the day following, Mr. SUMNER gave notice of his purpose to offer a counter proposition. On the 20th of January, Mr. DOUGLAS proposed to divide Nebraska, so as to make an additional Territory, to be called Kansas; and the result was that the act creating territorial governments for Nebraska and Kansas passed on the 30th of May, 1854.

I mention these facts, Mr. Chairman and gentlemen of the committee, for the purpose of letting the committee see and understand the true origin of this matter, its real patrons, and the manner in which it comes before the country. In this connection, also, it is well known, a very exciting debate sprang up; and the Democratic party, at that time in strong ascendancy in the Halls of Congress, was overthrown in the country. The elections that ensued for members of the Thirty-Fourth Congress resulted in the overthrow of the Democratic party, and, as it was thought, never to rise again. But, thank God, there is vitality enough in that great party—founded on sound principles and in popular sympathies—to enable it to defy its enemies and to recover any ground it may, on particular occasions, lose. After the election of members to the Thirty-Fourth Congress the sober second thought of the people seemed to have returned; and they sent to this Hall for this, the Thirty-Fifth Congress, a large majority, as it was believed, of those who would represent their sentiments and carry out the policy that was inaugurated in 1854.

President Buchanan, in his last annual message, adverting to the condition of things in Kansas, which is the great and absorbing question now agitating the country, indicated his purposes and opinions; without, however, recommending any particular policy, as he could not do, of course, in consequence of not having any basis on which to justify it. That recommendation, or that intimation of a purpose and policy, was, as we all know, fiercely seized upon and denounced by gentlemen who had been heretofore acting with us on this subject. It was a matter of astonishment in the country, that in this and in the other House of Congress there should have been hostility indicated to the views of the President in connection with this subject, which was wholly inconsistent, according to the general sentiment of the country, with the past history of the party. But so it is. On the 2d of February, 1858, the Leecompton constitution—and I come to the term at once—having been received by the President, was sent to Congress with a recommendation that Kansas should be admitted under it. Previously to that, however—on the 21st of December, 1857—we had a memorial presented to us by the Delegate from that Territory, asking for the admission of Kansas under the Topeka constitution. That memorial was referred to the Committee on Territories. As I understand it, the census-takers, under the Topeka constitution, submitted the petition to the people of each county, and collected their views. I advert to it thus particularly, because the Delegate has indorsed it as follows:

"Memorial of 4,170 citizens of Kansas, asking that Kansas may be admitted into the Union under the Topeka constitution."

I say, without dwelling on this subject, that here is an important fact, at least in reference to the strength of one party of that Territory; which fact I shall hereafter use.

What, then, is the condition of things? We have two applications before us; one to admit Kansas into the Union under the Topeka constitution, and the other to admit her under the Le-

compton constitution. That is the issue before us. The President, having recommended her admission under the Lecompton constitution, and the subject having come to the attention of the State of Virginia, the Legislature of that State spoke on it. I refer to the action of that Legislature with some degree of regret, but still with pleasure. As one of her citizens and Representatives, I announce my readiness to sustain the policy which she promulgates.

The resolutions of the Legislature of Virginia to which I refer are as follows:

"1. *Resolved*, That in the opinion of the General Assembly of Virginia, the conclusion to which the President of the United States has arrived, as expressed in his recent message, in favor of the admission of Kansas, as a State of this Union, under the Lecompton constitution, is just and right.

"2. *Resolved*, That Congress has no right to look further into the constitution submitted by the State of Kansas, in its application to be admitted into this Union, than to see that the said constitution is republican in its form.

"3d. *Resolved*, That it is due to the peace and harmony of this Union that Congress should speedily admit Kansas as a State, under the Lecompton constitution, without further conditions."

Thus speaks Virginia; and why did she find it necessary to speak upon this subject? Because of the words which a gentleman in high official position in our State had undertaken to speak as an individual, and not as the Governor of the State of Virginia, as the gentleman from Indiana [Mr. ENGLISH] supposes. This gentleman, in response to an invitation that was given to him to join in, on the 8th of January last, the celebration which was then to be held at Tammany Hall, uttered sentiments which it was deemed right and proper for the Virginia Legislature to disclaim; and hence the resolutions. I must be allowed to say that it was astonishing, it was amazing, that a gentleman holding his high official position, in a community where there was scarcely a diversity of opinion, should have allowed himself to utter such sentiments, and particularly on that day—on the 8th of January—the anniversary of one of the most important and patriotic events in our history. It was astonishing that he should have pronounced such sentiments as are contained in that Tammany letter. I will merely quote a line from Dr. Beattie's *Minstrel*, and pass on:

"Some deemed him wondrous wise, and some believed him mad."

Mr. ENGLISH. Will the gentleman allow me to interrupt him?

Mr. SMITH, of Virginia. I shall be very happy to yield to any gentleman if I am not to be restricted in my time.

Mr. ENGLISH. I merely wish to inquire of the gentleman whether he holds Governor Wise to be in or out of the Democratic organization?

Mr. SMITH, of Virginia. Well, sir, I hold him to be outside the Democratic organization, and I do not hesitate to say it. All gentlemen who refuse to cooperate with the Democratic party in the great measures of the party, are necessarily outside of that party organization.

Mr. BURROUGHS. I hope the gentleman will not assail the Governor of Virginia.

Mr. SMITH, of Virginia. I am surprised that the gentleman should have supposed that I had assailed the Governor of Virginia. I am protecting the Governor of Virginia from being assailed. I speak of Henry A. Wise, and not the Governor of Virginia, as being outside the Democratic party. Or rather, I say he is outside the Democratic organization, it may be not outside the Democratic party. Gentlemen may fight on their own hook, if they please.

Mr. ENGLISH. Will the gentleman allow me to ask him another question?

Mr. SMITH, of Virginia. Is it to be understood that I am not to be restricted in my time? ["Yes," "yes."] I understand that I am not to be restricted in my time; then come one, come all, come every one.

Mr. ENGLISH. The gentleman says that Governor Wise is outside the Democratic party. Now I want to know if the gentleman supported Wise for Governor; and if not, whether the gentleman, in that act, was not himself outside the Democratic party?

Mr. SMITH, of Virginia. I did not support Mr. Wise for Governor. But, sir, I never made war upon the Democratic party. What is party? It is a combination of individuals entertaining a community of sentiment. I respectfully submit to the gentleman from Indiana, that this is the

only true and proper test. It is an association of individuals for carrying out the great interests of the country in a particular line of policy from a community of opinions and sentiments. If there be no such community of opinion and sentiment upon the part of a gentleman with a particular party, how can he be considered as within that party organization? Look at the condition of things at this particular time. In the two Houses of Congress it was supposed one hundred and sixty-five gentlemen entertained such sentiments. Twenty-five of them perhaps, unexpectedly, broke off from that party and assailed it as entertaining unsound sentiments. And these gentlemen turn round, as the gentleman from Indiana [Mr. DAVIS] last night did, and undertake to lecture the great body of their former friends. Absolutely, the gentleman from Indiana lectures the Democratic party in this House.

Mr. DAVIS, of Indiana. I ask the gentleman from Virginia to state in what I undertook to lecture the Democratic party, and in what I differ from the Democratic party?

Mr. SMITH, of Virginia. Well, sir, any one who listened to the speech of the gentleman from Indiana last night, could not fail to see in what the gentleman differed with the Democratic party. I have not time to enumerate all the points of difference.

Mr. DAVIS, of Indiana. I hope the gentleman will specify.

Mr. SMITH, of Virginia. The gentleman certainly did this much: he said he could not vote for the Lecompton constitution. That is a measure of the Democratic party, vital in character.

Mr. DAVIS, of Indiana. I hope the gentleman will allow me to make one remark right here. The gentleman from Virginia has no right to read me out of the Democratic party, nor has he any right to read any other gentleman in this House out of the party. And I desire to say, further, that as far as the Democratic party of the North are concerned, I believe that nine tenths of that party hold the same sentiments as I do upon this question; and if anybody has the right to read out, we have the right to read the gentleman out of the party.

Mr. SMITH, of Virginia. Exactly. There it is. The gentleman reminds me very much of a man on a jury case in which I was once engaged professionally. There were twelve jurors; the case was a very important one; it was elaborately discussed, and was, of course, referred to the jury for consideration after the argument had closed. It was reported to the judge that the jury could not agree, and they were at length called in, to see if their objections could not be harmonized. They came in accordingly, and one of the jurors stated to the court that he could not agree with the other jurors in their verdict; that they were eleven of the most stubborn men he had ever had anything to do with in his life. [Laughter.]

Now, that is precisely the case with the gentleman from Indiana. He and a few other gentlemen have undertaken to dissent from the great body of the Democratic party, and then they come here and lecture the Democratic party for holding unsound sentiments.

Mr. DAVIS, of Indiana. I will ask the gentleman whether he has not, time and again, in Virginia, run as an independent candidate against the Democratic party and the Democratic organization?

Mr. SMITH, of Virginia. Never, sir.

Mr. DAVIS, of Indiana. That has been my understanding.

Mr. SMITH, of Virginia. -It is like a great deal of the gentleman's understanding—unsound. I will say that I have never run against the Democratic organization, although I have been tempted to do it.

Mr. DAVIS, of Indiana. Tempted!

Mr. SMITH, of Virginia. Tempted, but failed not. The gentleman from Indiana will understand the virtue of the trial, because he himself has not at all times resisted temptation.

Mr. DAVIS, of Indiana. The gentleman says that I have not always resisted temptation. I would like him to point to a single vote of mine during my five years' service in this Hall, that has not been with the Democratic party on all questions, including the fugitive slave law and everything else.

Mr. SMITH, of Virginia. I ask the gentle-

man, since he brought himself into this colloquy, how he is going to vote now? Has he not told us that he was going to vote against the Lecompton constitution? And has not the Chief Magistrate, one branch of the Government, and the presumed head of the Democratic party, elected as he was by the Democratic party, recommended and urged that instrument with all his power and influence? Does he not know that if the bill is to be got through this House, it is to be got through by the Democratic party, with some few patriotic Know-Nothing votes, to whom he has referred in no complimentary terms?

Mr. DAVIS, of Indiana. Because the President has recommended this measure, is it necessary, therefore, that every Democrat in this Hall is bound to vote for it? That the President has a right to advise me, I admit; but he has no right to command me, against the will of my constituents; and, if that be the test the gentleman wishes to apply, it is, in my opinion, a political despotism.

Mr. SMITH, of Virginia. The President is the representative of the American Democracy, and was put into the executive chair for that reason. He was put into the presidential chair as the representative of the Democratic party and of the Kansas question in all its shapes and forms. He represents both now. The gentleman asks me whether I require every gentleman to conform to the President's opinions? I do not ask him to conform to the President's opinions at all. The gentleman can do it or not. He is an American freeman, and has the right to independent thought and action. But the gentleman speaks one thing and thinks another. He professes to be a Democrat when he associates with those who are not. Do not affect to be a Democrat, I will tell the gentleman, when you refuse to cooperate with those who are struggling to carry out the policy on which you and others were elected.

Mr. CHAIRMAN, what are the facts in the gentleman's case? He was here on the passage of the Nebraska bill. He was here in the Thirty-Third Congress, and upon the anxious bench. Last night he told us he was zealous in favor of the passage of that bill. At the next election he was beaten. He was one of those who went down before the combined hosts of fanaticism, but the returning wave bore him into this Hall. He came here upon the full tide of Democratic will. He came here to do what? To pursue the policy of 1854, or did he come here to pursue the policy of those who beat him in 1855, and those who are his associates now—they encircling him now, and prompting his answers?

Mr. DAVIS, of Indiana. I came here to carry out the principles of the Kansas-Nebraska bill, for which I voted. I came here to carry out the recommendations of the President on that subject. I intend to carry them out—those I mean, which he made up to the middle of November, when he saw proper to change front on this question.

Mr. SMITH, of Virginia. Exactly; that is the language of rebellion. [Laughter.]

Mr. DAVIS, of Indiana. It is the language of a freeman, and not the language of a slave. [Cries of "Good!"]

Mr. SMITH, of Virginia. I have accorded that the gentleman had the right to go against this bill if he chose to.

Mr. CHAIRMAN, I will resume my remarks where I left them off when I was interrupted.

Mr. FOSTER. Does the gentleman acknowledge the President as a good Democrat?

Mr. SMITH, of Virginia. If I wanted proof that he was, I would only have to remember that the gentleman opposed him. I know, too, that often we can tell who men are when we are away from them and are not acquainted with them, by learning the company they keep.

The CHAIRMAN. Before there is further interruption to the gentleman's remarks, the Chair would like to understand what is the nature of the understanding of the committee. At an early stage of his speech the gentleman from Virginia said that he would not object to interruption if it was not to come out of his time. Is this the understanding?

Mr. ENGLISH. It is my understanding.

Mr. JONES, of Tennessee. I hope we shall have no such understanding as that.

The CHAIRMAN. The Chair wishes to know how he is to be regulated in determining when the time of the gentleman from Virginia is to expire?

Mr. HOUSTON. At the end of his hour.

The CHAIRMAN. The Chair thinks that a contrary concession has been already made. The gentleman from Virginia in an early part of his speech asked whether these interruptions were to come out of his time, and stated that he would not yield provided that they were to be deducted from his time. No objection was made to their being so deducted.

Mr. HOUSTON. I am willing, as he has acted under a misapprehension, that he should be allowed for the time he has been interrupted thus far, but no further.

The CHAIRMAN. The Chair thinks the gentleman has been interrupted ten minutes, and will allow that length of time.

Mr. CLEMENS. Say fifteen minutes.

The CHAIRMAN. Fifteen minutes will be allowed by consent of the committee.

No objection was made.

Mr. SMITH, of Virginia. I do not understand that there is any power to reclaim a grant already made. It was conceded that I should go on without having the interruptions deducted, and I desire to be interrogated. I stand here with as great purity of purpose as any man, and I desire to be interrupted if it be the pleasure of gentlemen to do so. I understand that I was to be allowed for such interruptions, and that concession having been made, it cannot be recalled except by unanimous consent.

The CHAIRMAN. The Chair would state to the gentleman from Virginia, that it is suggested that his proposition was not distinctly heard. The Chair did not make any proposition to the committee, and no proposition of the Chair was conceded to, and therefore, it was not considered as a binding proposition. Gentlemen of the committee now seem to agree that the gentleman has been interrupted fifteen minutes, and the Chair will allow that additional time.

Mr. QUITMAN. I beg leave to say, lest my silence be misconstrued, that I do not think that these interrogatories are of any benefit to the country or to the House, and I shall object to them hereafter; though I do not wish to be considered as an objector to extending his time fifteen minutes for interruptions already made.

Mr. HILL. I desire to ask the gentleman from Virginia if the Kansas-Nebraska bill was not considered the true test of orthodox Democracy?

Mr. SMITH, of Virginia. Yes.

Mr. HILL. Then I want to ask him which is the better Democrat—the man who voted for the Kansas bill, and now votes against the admission of Kansas under the Lecompton constitution, or the man who voted against the Kansas bill, or who, if he had been here, and had had an opportunity, would have voted against that bill, and now votes for the admission of Kansas under the Lecompton constitution?

Mr. SMITH, of Virginia. I suppose the gentleman, as a practical politician, will have no difficulty in answering his own question. "Sufficient unto the day is the evil thereof." Here is a question in which great parties are involved, and in which it is well known that if one party prevails the other party is destroyed. That is the nature of the question; and the man that is a Democrat, a real Democrat, and who means to act with the Democratic party upon its principles in this hour of struggle, will not see it swallowed up by its enemies, and much less help devour it.

Mr. HUGHES. Suppose that upon some great question of principle, such as is involved in this question of the admission of Kansas, a number of gentlemen belonging to the Democratic party should voluntarily assemble themselves together, and hold meeting after meeting among themselves, for the express purpose of devising some concert of action in order to defeat the measure, and in caucus—not a regular caucus of their party—complete an organization of their own for the purpose of—

Mr. ADRAIN. Is the gentleman in order?

The CHAIRMAN. Not if objection is made.

Mr. SMITH, of Virginia. I have not time to answer the question, in consequence of being restricted in time. Certain it is, that upon the great measure involving the important consequences to which I have referred, those who are not of us or with us, are against us.

Mr. FOLEY. I wish to ask the gentleman a question.

Mr. SMITH, of Virginia. I cannot be interrupted. I have not time.

Mr. FOLEY. I wish to ask the gentleman if Mr. Buchanan is the Democratic party?

Mr. SMITH, of Virginia. I think he is the chief head and front of the great Democratic party; and if the gentleman is a Democrat, he must have voted for him.

Mr. FOLEY. I only ask for information, whether he is the Democratic party?

Mr. SMITH, of Virginia. I say he is the great head of the Democratic party.

Mr. BOWIE. The embodiment.

Mr. SMITH, of Virginia. Yes, the embodiment; and as the head is the great controlling power of the general physical system, so the President is the head of the great Democratic body, and is united to that great party to carry out a measure which they deem essential to their success.

But I was going on with the view of calling the attention of the committee to the acts of Congress for the last two or three years; but I have been so interrupted that I must do it briefly. I first invite attention to the condition of things after the Kansas-Nebraska bill was passed. Immediately after that act was passed, a combination was formed in this city, chiefly of members of Congress, of which Mr. Goodrich, of Massachusetts, was president, for the purpose of preventing slavery from going into Kansas. And here I refer to the testimony of Mr. Mace upon that point, which is clear and explicit. He says:

"Immediately after the passage of the Kansas-Nebraska act, I, together with a number of others who were members of Congress and Senators, believing that the tendency of that act would be to make Kansas a slave State, in order to prevent it, formed an association here in Washington, called, I recollect aright, 'the Kansas Aid Society.' I do not remember all who became members of that society; but quite a number of members who were opposed to slavery in Kansas, of the lower House, and also of the Senate, became members of it, and subscribed various sums of money. I think I subscribed either fifty or one hundred dollars—I am not now prepared to say which.

We issued a circular to the people of the country, of the northern States particularly, in which we set forth what we believed were the dangers of making Kansas a slave State, and urged that steps be taken to induce persons from the North, who were opposed to slavery, to go there, and prevent its introduction, if possible. We sent a great many circulars to various parts of the United States with that object, and also communications of various kinds. I do not now remember what they were. The object was, to have persons induced to go to Kansas, who would make that their home, and who would at all elections vote against the institution of slavery." * * * "The leading primary object of the association was to prevent the introduction of slavery into Kansas, as I stated during the short session of Congress, in answer to a question propounded to me by yourself, I believe. We believed that, unless vigorous steps of that kind were taken, Kansas would become a slave State. I do not remember the caption of the subscription paper. I think no other object was mentioned or specified, except the prevention of slavery in Kansas. I think that was the sole object of the movement."

The purpose is clear and manifest; and it fully appears from the evidence adopted in the Kansas report that such was the universal impression in Missouri.

In this state of things, it was naturally to have been expected that a counter movement would have been made. Accordingly a society was formed in Missouri, the avowed object of which was to resist the aggressive movements of the free States, and make Kansas a slaveholding State. When was this society formed? The Kansas investigating committee says, about October, 1854. (Page 3 of Report.) It says:

"About the same time, and before any election was or could be held in the Territory, a secret political society was formed in the State of Missouri."

What was the object? Mr. John Scott, especially referred to and relied upon by the committee, deposes as follows:

"I was present at the election of March 30, 1855, in Burr Oak precinct, in the Territory. I saw many Missourians there. There had been a good deal of talk about the settlement of Kansas, and the interference of eastern people in the settlement of that Territory, since the passage of the Kansas-Nebraska bill. It was but a short time after the passage of that act that we learned through the papers about the forming of a society in the East for the purpose of promoting the settlement of Kansas Territory, with the view of making it a free State. Missouri being a slave State, and believing that an effort of that kind, if successful, would injure her citizens in the enjoyment of their slave property, they were indignant, and determined to use all the means in their power to counteract the efforts of eastern people upon that subject."

And again:

"I do not think I would have suggested to any one in Missouri the forming of societies in Missouri, but for these eastern societies; and they were formed as but a means of

self-defense, and to counteract the effect of these eastern societies; and I think it is the general expression, and I knew it is the ardent hope, of every man in Missouri, that I have heard express himself, that if the North would cease operating by these societies, Missouri would cease to use those she has established."

Here, then, are the movements on the one side and on the other, and they speak for themselves. Is it not clear that the Missourians acted in self-defense?

But that is not all. Even before the passage of the Kansas-Nebraska bill, the Legislature of the great Commonwealth of Massachusetts incorporated a company for a like object.

Mr. DAWES. This statement has been made upon this floor so many times, and I have sought an opportunity to contradict it so many times, that the courtesy of the gentleman, I know, will permit me to say, that when the gentleman from Mississippi, [Mr. QUITMAN,] the other day, in justification of the course pursued by the Missourians, stated that before the passage of the Kansas-Nebraska bill—

Mr. SMITH, of Virginia. I hope the gentleman will excuse me. My time is quite limited.

Mr. DAWES. I will be very brief.

Mr. SMITH, of Virginia. But then I cannot spare time. I will yield if I get the liberty of extending my remarks. Will the Chair take the sense of the committee?

The CHAIRMAN. Does the committee agree that the gentleman from Virginia shall have his time extended to the extent of these interruptions?

Mr. HOUSTON. I object.

Mr. SMITH, of Virginia. I have here the testimony on the subject. It is to be found on page 873 of the Kansas report.

Mr. DAWES. Will the gentleman let me say—

Mr. SMITH, of Virginia. I certainly would be glad, if I had the chance, to accord to the gentleman what he wishes. Let the committee give me fifteen minutes for this colloquy.

Mr. HOUSTON. I object to any addition of time.

Mr. CLEMENS. I appeal to my colleague to allow the gentleman from Massachusetts to finish his sentence.

Mr. SMITH, of Virginia. Very well.

Mr. DAWES. Mr. Chairman, it has been so often declared here, in justification of the proceedings in Missouri, that before the passage of the Kansas-Nebraska act, the Legislature of Massachusetts incorporated a company with a capital of \$5,000,000 "for the purpose of sending emigrants into Kansas, with a view, not of becoming citizens, but of shaping and controlling its institutions, and defeating the law," as was said the other day by the gentleman from Mississippi, [Mr. BARKSDALE,] of which company it was said by his colleague, [Mr. SINGLETON,] that Mr. Mace acknowledged himself to be president, and it is now repeated by the gentleman from Virginia, that I know he will permit me to set him right. It is true the gentleman has an act of the Massachusetts Legislature before him, but I want to tell him that nothing was ever done under that act. There was never an organization under it. There was never a president of the company, nor any other officer, nor a dollar raised under it. And nothing was done by Massachusetts before the passage of the Kansas-Nebraska act, which, by any one, can be construed as has been charged.

One word more. To show the gentleman from Mississippi [Mr. BARKSDALE] that the object of the act, which I have said existed only on paper, could not have been that of "defeating the law," let me tell him that several of the persons named in that act as incorporators, were at the time, and have ever been, Kansas-Nebraska Democrats, and have basked in the sunshine of royal favor from that hour to this; and some of them represented the Massachusetts Democracy in the Cincinnati convention. It is but just to those men to say, however, that they are, notwithstanding all this, men of high and honorable character.

Mr. SMITH, of Virginia. That is enough. That is an argument. Now, Mr. Chairman and gentlemen of the committee, the gentleman [Mr. DAWES] is a Massachusetts man; but he is not acquainted with the legislation of his own State. He is alluding to the act of April, 1854. I know that, according to the evidence of Mr. Lawrence, there was no action had under the act of April,

1854. But I speak of the act of February 21, 1855. There was a company formed on the 24th July, 1854; and it was organized and went into operation under the act of February 21, 1855. Mr. Webb, who was secretary of the Emigrant Aid Company, in forwarding information to that company on August 14, 1854, says on that subject:

"No pledges are required from those who go; but, as our principles are known, we trust those who differ from us will be honest enough to take some other course."

Nor is that all. Mr. Amos A. Lawrence, in his testimony, (page 879 of the Report,) says that, while entirely disclaiming on the part of the company any improper interference in the internal affairs of the Territory of Kansas, or any design to control its political or social condition, they had always hoped and expected that the emigrants who went out under its auspices would favor the establishment of free institutions.

That is not all. He goes on and says:

"It determines in the right way the institutions of the unsettled Territories, in less time than the discussion of them has required in Congress."

Nor is that all. This company, which did not interfere with the question of slavery, which was simply an emigrant aid society, lays it down in these broad terms:

"And further, whenever the Territory shall be organized as a free State, the trustees shall dispose of all its interests there, replace by the sales the money laid out, declare a dividend to the stockholders, and that they then select a new field, and make similar arrangements for the settlement and organization of another free State of this Union."

In the face of these revelations, in the face of these plans and purposes, the gentleman [Mr. Dawes] dares to get up, and, in the face of God and the country, say that this emigrant aid society was organized without any reference to ulterior objects. I say to him and every man, I do not care what may be his political relations, that here was the inauguration of a movement fraught with the most fell purposes, and the necessary results of which were to work destruction on the most gloriously organized political power that the world has ever seen. I say, then, on this point, away with the frivolous objection that these were but emigrant aid associations.

Here, then, Mr. Chairman, is the point—and I desire to impress it on the mind of every person—that this hostile and aggressive movement on the great laws of settlement and emigration; this agitation this excitement, this war upon the peace and repose of the country, originated in this Hall, in Massachusetts, and elsewhere; in the free States, not in the slave States.

Mr. DAWES. The gentleman does not understand—

Mr. SMITH, of Virginia. I cannot yield. I refer again to this celebrated Report, page 3. I do not treat this report as my Bible; for I tell you that a clear analysis of it shows that it is not entitled to any of the sacred character of that book. But here is what the report says:

"About the same time, to wit, October, 1854, and before an election was or could be held in the Territory, a secret political society was formed in the State of Missouri."

Not till October, 1854, did the Missourians—the much-abused and vilified border ruffians, as they are scornfully called—take any action. That was subsequently to the movement here—after the movement in Massachusetts, and when the emigrants were pouring into that Territory and indulging in vituperations upon the institutions of the State of Missouri. Then it was—according to the report of the majority—that the Missourians awakened to their condition, and began an organization for their own protection and safety.

Then how stands the question at this period in regard to this subject? Who is the father of this mischief and agitation? The Missourians? No. It is those who originated the movement here to defeat the free settlement of the questions involved in the Kansas-Nebraska act.

But what says Mr. DOUGLAS on this subject? I quote Mr. DOUGLAS because we have indorsed him once, and he is now indorsed on the other side. [Cries of "No, no!"] He says:

"When the emigrants sent out by the Massachusetts Emigrant Aid Company, and their affiliated societies, passed through the State of Missouri in large numbers on their way to Kansas, the violence of their language, and the unmistakable indications of their determined hostility to the domestic institutions of that State, created apprehensions that the object of the company was to abolitionize Kansas as a means of prosecuting a relentless warfare upon the

institutions of slavery within the limits of Missouri. These apprehensions increased, and spread with the progress of events, until they became the settled conviction of the people of that portion of the State most exposed to the danger by their proximity to the Kansas border. The natural consequence was, that immediate steps were taken by the people of the western counties of Missouri to stimulate, organize, and carry into effect a system of emigration similar to that of the Massachusetts Emigrant Aid Company, for the avowed purpose of counteracting the effects, and protecting themselves and their domestic institutions from the consequences of that company's operations."

As far as he has spoken, he is the accredited witness of both parties.

Mr. STANTON. I beg your pardon.

Mr. SMITH, of Virginia. Is it not so?

Mr. STANTON. No, sir. He is not authorized to speak for us.

Mr. SMITH, of Virginia. I understand very well how the matter stands. Is he not promised by the New York Tribune, and by Mr. SEWARD, the great leader of the Republican party, that he shall have a fair participation in the honors of the party?

Under the Kansas act, A. H. Reeder, of Pennsylvania, was appointed Governor, and was confirmed by the Senate on the 29th day of June, 1854.

He did not reach the Territory until October, 1854. On the 10th day of November he issued his proclamation announcing that an election would be held on the 29th of November, 1854, for Delegate to Congress. At that election J. W. Whitfield received 2,258 votes, and all others 575 votes. In the executive journal of the Territory will be found the following entry:

"December 5, 1854.—On examining and collating the returns, J. W. Whitfield is declared by the Governor to be duly elected Delegate to the House of Representatives of the United States, and the same day the certificate of the Governor, under the seal of the Territory, issued to said J. W. Whitfield of his election."

It nowhere appears that General Whitfield's right to a seat by virtue of that election was ever contested.

Yet, says Mr. DOUGLAS, in his report:

"No sooner was the result of the election known, than the defeated party proclaimed throughout the length and breadth of the Republic that it had been produced by the invasion of the Territory by a Missouri mob, which had overawed, and outnumbered, and outvoted, the bona fide settlers of the Territory."

On the 8th March, 1855, the Governor issued his proclamation for the election of a Territorial Legislature on the 30th of March thereafter. The pro-slavery party prevailed, and instantly the cry of invasion was again raised. The Kansas committee, in their Report, page 10, say:

"The details of this invasion form the mass of the testimony taken by your committee, and is so voluminous that we can here state but the leading facts elicited."

The testimony referred to established on the part of the free-State men two resolves:

1. Not to be governed by the laws to be enacted by the Legislature just elected.

Dr. Wood testifies as to the determination of the Lawrence association, of which he was a member, as follows:

"They said there was no law in the Territory; that the organic act was unconstitutional, made so by the repeal of the Missouri compromise; and that they intended to form an association, and make and enforce their own laws, irrespective of the laws of Congress, until there could be a change in Congress, by which the Missouri compromise could be restored, and the organic act set aside."

"When the Legislature was about to be elected, they held a meeting, and brought out their candidates. After the Legislature was elected, and before they met, there were several meetings held in Lawrence, and at these meetings they passed resolutions declaring they would submit to no laws passed by the Legislature." "They resolved not to obey the laws that would be passed by the Legislature, and only obey their own provisional laws, until they could form a provisional government for the Territory."

"The first general meeting while the Legislature was in session, was held in Lawrence in July or August, 1855. Before that time their meetings had been of the association; but this was the first general meeting; this was the first meeting at which I recollect hearing Colonel Lane take ground in opposition to the laws that the Legislature, then in session, should pass. All the public speakers that I heard there said they did not intend to obey the laws that should be passed, but intended to form a provisional government for themselves."

2. To resist the laws that were passed. Upon this point Mr. Wood testifies as follows:

"After the Legislature adjourned, the first meeting at which I heard any declarations with regard to the resistance of the laws was held at Blanton's Bridge. Colonel Lane, Mr. Emery, and Mr. John Hutchinson addressed the meeting, urging the people to resist the laws, let the consequences be what they might."

"In private conversation with those men, they always expressed their determination to resist the laws, and said the officers and posse should not enforce the laws. They said they had a new code of laws called Sharpe's Revised Statutes, and they were going to use them in preference to any others. It was a common remark, that they would use Sharpe's Revised Statutes in preference to any others."

"I often expostulated with Lane, Robinson, and others, both publicly and privately, as to their course, and addressed the meeting at Blanton's Bridge in opposition to their course. They said they would resist the laws, regardless of consequences."

The free-State men held their first general meeting with a view to a State government on the 15th of August, 1855. The following preamble and resolution were there passed:

"Whereas, the people of Kansas have been since its settlement, and now are, without any law-making power: Therefore be it

"Resolved, That we, the people of Kansas Territory, in mass meeting assembled, irrespective of party distinction, influenced by common necessity, and greatly desirous of promoting the common good, do hereby call upon and request all bona fide citizens of Kansas Territory, of whatever political views or predilections, to consult together in their respective election districts, and, in mass convention or otherwise, elect three delegates for each representative to which said election district is entitled in the House of Representatives of the Legislative Assembly, by proclamation of Governor Reeder of date 10th of March, 1855; said delegates to assemble in convention, at the town of Topeka, on the 19th day of September, 1855, then and there to consider and determine upon all subjects of public interest, and particularly upon that having reference to the speedy formation of a State constitution, with an intention of an immediate application to be admitted as a State into the Union of the United States of America."

At the Topeka convention, an executive committee was appointed, of which General James Lane was appointed chairman, who issued the following proclamation:

"To the legal voters of Kansas:

"Whereas, the territorial government, as now constituted for Kansas, has proved a failure; squatter sovereignty, under its workings, a miserable delusion; in proof of which it is only necessary to refer to our past history and our present deplorable condition. Our ballot-boxes have been taken possession of by hands of armed men from foreign States; our people forcibly driven therefrom; persons attempted to be foisted upon us as members of a so-called Legislature, unacquainted with our wants, and hostile to our best interests, some of them never residents of our Territory, misnamed laws passed, and now attempted to be enforced by the aid of citizens of foreign States, of the most oppressive, tyrannical, and insulting character; the right of suffrage taken from us; debarred from the privilege of a voice in the election of even the most insignificant officers; the right of free speech stifled, the muzzling of the press attempted: and whereas, longer forbearance with such oppression and tyranny has ceased to be a virtue: and whereas, the people of this country have heretofore exercised the right of changing their form of government when it became oppressive, and have at all times conceded this right to the people in this and all other Governments: and whereas, a territorial form of government is unknown to the Constitution, and is the mere creature of necessity, awaiting the action of the people: and whereas, the debasing character of the slavery which now involves us impels to action, and leaves us, as the only legal and peaceful alternative, the immediate establishment of a State government: and whereas, the organic act fails in pointing out the course to be adopted in an emergency like ours: therefore, you are requested to meet at your several precincts in said Territory hereinafter mentioned, on the second Tuesday of October next, it being the ninth day of said month, and then and there cast your ballots for members of a convention to meet at Topeka on the fourth Tuesday in October next to form a constitution, adopt a bill of rights for the people of Kansas, and take all needful measures for organizing a State government, preparatory to the admission of Kansas into the Union as a State."

While the Legislature was in session in July, 1855, a memorial to the Senate and House of Representatives was got up by the free-State party, from which I will submit sundry extracts:

"One of the States of our Union, strong in wealth, population, and resources, relying upon her accumulated strength of almost half a century, and taking advantage of our feeble infancy as a people, has invaded our soil, seized upon our rights, subjugated our Territory, and selected for us our rulers; intending also to dictate our laws and make us the slaves of their will. This may well seem an almost incredible thing in the nineteenth century, and in this republican Union, the peculiar and boasted land of liberty and self-government; but the evidence of it is as palpable and undeniable as the fact is bitter and mortifying to us and disgraceful to the public."

"This invasion of our soil and usurpation of our rights commenced in the first moment of calling these rights into action. The first ballot box that was opened upon our virgin soil was closed to us by overpowering numbers and impending force. It became not what Americans have been proud to designate it, the exponent of the people's will, but was converted into the sword of the oppressor to strike at civil liberty. So bold and reckless were our invaders that they cared not to conceal their attack. They came upon us, not in the guise of voters to steal away our franchise, but boldly and openly to snatch it with the strong hand. They came directly from their own homes and in compact and organized bands, with arms in hand and provisions for the expedition, marched to our polls, and when their work was done, returned whence they came. It is unnecessary to enter

into the details; it is enough to say that in three districts, in which, by the most irrefragable evidence, there were one hundred and fifty voters, most of whom refused to participate in this mockery of the elective franchise, these invaders polled over a thousand votes." * * *

"On the 30th day of March last we were again invited to the ballot-box under the law, which we, in common with our fellow-citizens in the States, had, through your body, enacted." * * * "The occasion came, and with it came our invading and self-constituted masters in thousands, and with all the paraphernalia of war. They came organized in bands, with officers and arms and tents and provisions and munitions of war, as though they were marching upon a foreign foe instead of their own unoffending fellow-citizens." * * * "In the morning they surrounded the polls, armed with guns, bowie knives, and revolvers, and declared their determination to vote at all hazards and in spite of all consequences." * * * "It would be mere affectation in us to attempt to disguise the fact that the question of making Kansas a free or slave State is at the bottom of this movement, and that men who thus invade our soil and rob us of our liberties, are from the pro-slavery men of Missouri, who are unwilling to submit the question to the people of the Territory, and abide the compact between the North and the South which the Kansas-Nebraska bill contains." * * * "With a feeble and scattered community first struggling into existence, without organization, and almost without shelter, we are powerless to resist an old, strong, and populous State, full of men and arms and resources; and we therefore appeal to you, and through you to the people of the States. Remedy we have none." * * *

"We make now this last appeal, not to the North, nor to the South, nor to any political party, but to the representatives of the whole Union. We beg that no men will sport with our fearful condition by endeavoring to make political capital or build up party at the expense of our civil and physical existence. We want the men of the North and the men of the South to protect us. Through yourselves, their representatives, we appeal to their honor, to their justice, to their patriotism, to their sympathies; not for favors, but for rights; not for trivial rights, but for the dearest rights guaranteed to us by the Declaration of Independence, by the Constitution of the Union, by the law of our organization, by the solemn compact of the States, and which you pledged to us as the condition of our coming here."

An election for Delegate took place on the 1st October, 1855; "but," says the Kansas report, "the free-State men took no part in this election, having made arrangements for holding an election on the 9th of the same month." (Page 44.) It is, however, alleged that the citizens of Missouri voted at this election also. But the committee adds:

"Your committee did not deem it necessary, in regard to this election, to enter into details, as it was manifest that, from there being but one candidate, (General Whitfield,) he must have received a majority of the votes cast. This election, therefore, depends, not upon the number or character of the votes received, but upon the validity of the laws under which it was held. Sufficient testimony was taken to show that the voting of citizens of Missouri was practiced at this election, as at all former elections in the Territory."

It was on the 14th February, 1856, that A. H. Reeder presented his memorial contesting the right of J. W. Whitfield to a seat as Delegate from the Territory of Kansas.

Here then had commenced the work of rebellion and revolution. Here was a determination to defeat, by every means in their power, the will of the dominant majority. We all know the excitement which sprung out of this question, and the violent struggle which ensued here. A Democrat, or one professing to be a Democrat, on that day, did the ungrateful work of offering a resolution which was then the subject of a long and angry debate. It was on the 19th of February, 1856, that Mr. HICKMAN, of Pennsylvania, offered a resolution to send for persons and papers. It does seem as if there were always Democrats at hand to perform the ungrateful task. He offered that resolution, and it was openly charged on the floor of the House that that election had been carried by violence and fraud. Bear in mind that this occurred in February, 1856. The election of March, 1855, had taken place, and other elections had taken place, and grave charges of fraud at all of them were made. It was in view of these charges that Mr. HICKMAN made his motion and submitted, in support of his application, an elaborate report, (on the 5th March, 1856,) from which I submit the following extract:

"The relative position of the contesting parties, and the disputed questions of fact, appear in the memorial of the contestant, who denies the entire validity of the election law under which the sitting Delegate obtained the certificate of the Governor of the Territory. This denial is based on the alleged fact that the Legislature which passed it was imposed upon the people by a foreign invading force, who marched into the Territory at the election, and seized upon the powers of government which Congress had provided for the actual inhabitants; which powers, it is said, have been held and exercised ever since by these strangers to the soil, under no other title than that of a strong hand and superior numbers, and to the entire subjugation of the people of the Territory."

After making a long extract from Governor Reeder's statement, the report proceeds:

"These are startling allegations; and when the contestant offers to prove their truth, your committee shrink from the deep and solemn responsibility of declining to allow him the opportunity to do so, or of casting the least obstacle in his way. When facts are proclaimed to exist, striking at the very root of our institutions, and tending to the total subversion of republicanism, it is no time to be dredging among technicalities or abstractions, for the material out of which to construct equivocal objections."

Dunn's resolutions finally superseded that recommended by the election committee, and on the 19th March, 1856, passed the House.

Why were certain gentlemen then so hostile to looking into frauds? Upon every vote, steady as veteran soldiers, they struggled on.

How were these charges met?

Without dwelling at length upon all the evidence that might be brought to the work of demonstration, I will call attention to Judge DOUGLAS's celebrated report of March 12, 1856. Nearly a year had elapsed; every development that could be made touching the prior elections had taken place. In that report, the Senator reviews the whole subject with a giant's pen. I will give a few extracts as apposite to my present views. First, as to the immediate parties to the struggle in Kansas:

"The material difference in the character of the two rival and conflicting movements consists in the fact that the one had its origin in an aggressive, and the other in a defensive policy. The one was organized in pursuance of the provisions and claiming to act under the authority of a legislative enactment of a distant State, whose internal prosperity and domestic security did not depend upon the success of the movement; while the other was the spontaneous action of the people living in the immediate vicinity of the theater of operations, excited, by a sense of common danger, to the necessity of protecting their own firesides from the apprehended horrors of servile insurrection and intestine war. Both parties, conceiving it to be essential to the success of their respective plans that they should be upon the field of operations prior to the first election in the Territory, selected principally young men—persons unincumbered by families, and whose conditions in life enabled them to leave at a moment's warning, and move with great celerity, to go at once, and select and occupy the most eligible sites and favored locations in the Territory, to be held by themselves and their associates who should follow them. For the successful prosecution of such a scheme, the Missourians, who lived in the immediate vicinity, possessed peculiar advantages over their rivals from the more remote portions of the Union. Each family could send one of its members across the line to mark out his claim, erect a cabin, and put in a small crop, sufficient to give him as valid a right to be deemed an actual settler and qualified voter as those who were being imported by an emigrant aid society."

"In tracing," says the Senator, "step by step, the origin and history of these Kansas difficulties," he adds:

"Combinations in one section of the Union to stimulate an unnatural and false system of emigration, with the view of controlling the elections, and forcing the domestic institutions of the Territory to assimilate to those of the non-slaveholding States, were followed, as might have been foreseen, by the use of similar means in the slaveholding States, to produce directly the opposite result. To these causes, and to these alone, in the opinion of your committee, may be traced the origin and progress of all the controversies and disturbances with which Kansas is now convulsed."

"If these unfortunate troubles have resulted as natural consequences from unauthorized and improper schemes of foreign interference with the internal affairs and domestic concerns of the Territory, it is apparent that the remedy must be sought in a strict adherence to the principles, and rigid enforcement of the provisions, of the organic law. In this connection your committee feel sincere satisfaction in commending the messages and proclamation of the President of the United States, in which we have the gratifying assurance that the supremacy of the laws will be maintained; that rebellion will be crushed; that insurrection will be suppressed; that aggressive intrusion for the purpose of deciding elections, or any other purpose, will be repelled; that unauthorized intermeddling in the local concerns of the Territory, both from adjoining and distant States, will be prevented; that the Federal and local laws will be vindicated against all attempts of organized resistance; and that the people of the Territory will be protected in the establishment of their own institutions, undisturbed by encroachments from without, and in the full enjoyment of the rights of self-government assured to them by the Constitution and the organic law."

"In view of these assurances, given under the conviction that the existing laws confer all the authority necessary to the performance of these important duties, and that the whole available force of the United States will be exerted to the extent required for their performance, your committee repose in entire confidence that peace and security and law will prevail in Kansas. If any further evidence were necessary to prove that all the collisions and difficulties in Kansas have been produced by the schemes of foreign interference which have been developed in this report, in violation of the principles and in evasion of the provisions of the Kansas-Nebraska act, it may be found in the fact that, in Nebraska, to which the emigrant aid societies did not extend their operations, and into which the stream of emigration was permitted to flow in its usual and natural channels, nothing has occurred to disturb the peace and harmony of the Territory, while the principle of self-govern-

ment, in obedience to the Constitution, has had fair play, and is quietly working out its legitimate results."

Nor is this all. The Senator largely participated in the debates upon his report, from which I desire to submit several extracts.

In the 32d volume, part 1st, page 639, of the Congressional Globe, he says, on the day his report was submitted, in reply to Senator SUMNER:

"The Senator says he wishes emphatically to repel the assaults which he thinks the report makes on the emigrant aid society. What am I to understand by his denunciation of the report? He certainly does not intend to deny the truth of any one fact which the report contains! What, then, is he going to deny? Why this emphatic denunciation, when there is not a fact stated in the report which he does not know to be true, and which I will not prove to be true by official documents signed by the officers of the aid society itself? By his emphatic denial is the country to understand that he intends to disprove the facts? He knows the time will never come when he will controvert the truth of any one fact which is stated in our report with regard to the emigrant aid society? Whether their action is laudable or reasonable is another question; but that the charter is truthfully set forth, that its objects and aims are copied from its own official proceedings, and that every statement of a fact is truly made, cannot be controverted. This he knows as well as I do. I do not intend to allow denials of the truth of facts to be interposed to screen men from the consequences of their action, when that action is avowed and susceptible of proof; hence the Senator's denial cannot be interposed. It is a denial of facts which he knows to be true; it is a denial of facts which shall not be controverted. If, instead of denying, he proposed to justify them, I would willingly hear him; but he cannot be permitted to deny them. Our statements are based on the records of the legislative proceedings of the Senator's own State, and on documents attested by the signatures of the officers of the emigrant aid society. The facts shall not be denied. When he comes to offer his apologies, or his excuses, or his justification for them, I shall be glad to hear anything which he may bring forward in vindication of the enormity of their conduct; but let him not make broad denials unsupported by proof."

"The Senator says that we begin our game with 'loaded dice.' I understand that to be a gambler's phrase. He may be able to explain it; certainly it will require explanation before the majority of the Senate will be able to understand it. If he means that he is prepared to go to the country to justify treason and rebellion, let him go; and I trust he will meet the fate which the law assigns to such conduct. If he means that the hopes of his party are to produce a collision in Kansas, in which blood may be shed, that he may traffic in the blood of his own fellow-citizens for political purposes, he will soon discover how much he will make by that course. We understand that this is a movement for the purpose of producing a collision, with the hope that civil war may be the result if blood shall be shed in Kansas. Sir, we are ready to meet that issue. We stand upon the Constitution and the laws of the land. Our position is, the maintenance of the supremacy of the laws, and the putting down of violence, fraud, treason, and rebellion against the Government."

"The Senator stakes himself on the minority report. I say that report justifies foreign interference in Kansas; while the majority report denies the right of foreign interference. Taking that minority report, I can justify, under its principles, every act that has been done in regard to Kansas, either by persons from Massachusetts or from Missouri. The majority report denies the right of any man to violate the law, and to pervert the principles of the Kansas-Nebraska act, whether he comes from the North or the South. The minority report advocates foreign interference; we advocate self-government and non-interference. We are ready to meet the issue; and there will be no dodging. We intend to meet it boldly; to require submission to the laws and to the constituted authorities; to reduce to subjection those who resist them, and to punish rebellion and treason. I am glad that a defiant spirit is exhibited here; we accept the issue."

"I will say no more now. At an early day I shall take occasion to express my opinions on the whole question, if my health and strength and voice will permit; and I shall hold myself responsible to vindicate every position assumed in the majority report."

Mr. HARRIS, then and now a member of this House, on the 13th of March, 1856, made a speech on Kansas affairs, from which I propose to submit a few extracts:

"We have here presented, at the very threshold of our inquiries, a question of the gravest character. Can this House, in the exercise of its constitutional right of determining the election and qualification of its members, go behind the law of their election, and question the right by which the members of the Territorial Legislature held their seats? I deny the power of this House to do it; and were I, for the sake of argument, to admit the power, I hold that there is no reason why it should be intrusted to this Committee of Elections."

"But, sir, I am opposed to the resolution of the committee for another reason. I have no sort of confidence in the committee that desires to make the investigation. I should have no more confidence in the report which they would make than I have in the one they have already presented. Upon the ordinary subjects of legislation I would regard the investigation of a committee of this House with much respect; but upon an exciting political question, where a committee has been formed by you with two thirds of its members of the Black Republican stripe, who have been thrown in here themselves by the crazy current of anti-Kansasism, with the black flag of Abolitionism in their hands, I should have no more regard than for the babble of a maniac. The country would have no confidence in such a report. It is a one-sided committee, prejudiced upon one

side—without, perhaps, being aware of it—and from them nothing could be expected but a one-sided report.”

“I then say that this whole movement was instigated, and has been prosecuted, with the objects of shaping the institutions of Kansas, and ultimately those of Missouri, and in keeping up a political excitement in the country, by which certain political leaders hoped to be advanced, and also to use that excitement in turning to good advantage the ‘almighty dollar.’”

In what has been extracted, it has been my purpose to show the positions taken by both parties, and have left it to be shown on the Democratic side by gentlemen then conspicuous in the Democratic party.

Has the Black Republican party reformed? Let us see. I have not Governor Geary's correspondence at hand; but I find one extract, which I cut from Mr. SHERMAN's speech, delivered on the 28th January last. He says:

“Governor Geary, in his letter to the President, of November 22, 1856, says:

“‘When I arrived here the entire Territory was declared by the acting Governor to be in a state of insurrection; the civil authority was powerless, and so complicated by partisan affiliations, as to be without capacity to vindicate the majesty of the law, and restore the broken peace.’”

On the 30th March, 1857, Robert J. Walker was appointed Governor of Kansas; and on the 31st of the same month Frederick P. Stanton was appointed Secretary of the Territory. Governor Walker did not immediately repair to his post. The Secretary of the Territory, announcing his arrival and the assumption of his duties as acting Governor, under date of the 17th April, 1857, says:

“It affords me great satisfaction to advise you that, so far as I have yet learned, the people of the Territory are entirely peaceable and quiet, and exhibit every disposition to remain so.”

Governor Walker, having reached Kansas in May 1857, assumed the duties of his office. In his letter of July 15th, giving an account of the state of the Territory, he says:

“Although still suffering from debility, as the result of my illness, I considered the crisis so alarming as to require my immediate presence at Lawrence, where I proceeded in company with Mr. Secretary Stanton, and after spending several hours there, ascertained to my entire satisfaction that all the facts communicated to me were true, and that this movement at Lawrence was the beginning of a plan, originating in that city, to organize insurrection throughout the Territory; and especially in all towns, cities, or counties, where the Republican party have a majority. Lawrence is the hot-bed of all the abolition movements in this Territory. It is the town established by the abolition societies of the East, and whilst there are respectable people there, it is filled by a considerable number of mercenaries, who are paid by abolition societies to perpetrate and diffuse agitation throughout Kansas, and prevent a peaceful settlement of this question. Having failed in inducing their own so-called Topeka State Legislature to organize this insurrection, Lawrence has commenced it herself, and, if not arrested, the rebellion will extend throughout the Territory.”

He then calls for troops, and a regiment being placed at his command, he proceeds:

“The regiment will be commanded by Colonel Cooke, who will act in obedience to my orders. I shall encamp in the immediate vicinity of Lawrence, and in a manner conformably to the law will put down, by military force, if necessary, this most wicked rebellion.

“In order to send this communication immediately by mail, I must close by assuring you that the spirit of rebellion pervades the great mass of the Republican party of this Territory, instigated, as I entertain no doubt they are, by eastern societies, having in view results most disastrous to the Government and to the Union; and that the continued presence of General Harney here is indispensable, as originally stipulated by me, with a large body of dragoons and several batteries.”

In his proclamation of the same date, after making most earnest appeals, he says:

“A rebellion so iniquitous, and necessarily involving such awful consequences, has never before disgraced any age or country.

“Permit me to call your attention, as still claiming to be citizens of the United States, to the results of your revolutionary proceedings. You are inaugurating rebellion and revolution; you are disregarding the laws of Congress and of the territorial government, and defying their authority; you are conspiring to overthrow the government of the United States in this Territory. Your purpose, if carried into effect in the mode designated by you, by putting your laws forcibly into execution, would involve you in the guilt and crime of treason.”

Governor Walker, in his letter to the Secretary of State, of July 20, 1857, says:

“There is imminent danger, unless the territorial government is sustained by a large body of the troops of the United States, that, for all practical purposes, it will be overthrown or reduced to a condition of absolute imbecility. I am constrained, therefore, to inform you that, with a view to sustain the authority of the United States in this Territory, it is indispensably necessary that we should have immediately stationed at Fort Leavenworth at least two thousand regular troops, and that General Harney should be retained in command.”

Again, in his letter of August 3, 1857, he urges a reinforcement to the already large body of troops in the Territory:

“The spirit of insurrection; of resistance to the laws, and to the territorial government, still pervades Kansas, and manifests itself in their newspapers, in violent harangues, in the enrollment and drilling of their troops, and in open threats for the use of the insurgent forces at the October election. Menaces, indeed, have been made in the most public manner, to drive the constitutional convention by force in September next from Lecompton. Under these circumstances, it becomes my duty to renew my request, so often made, that two thousand regular troops, chiefly mounted men, should be sent immediately into Kansas, together with two batteries.”

I have thus elaborately shown who was to be blamed for all the troubles in Kansas. Now, sir, what was the remedy, as openly avowed by all parties? A convention, a constitution, and admission into the Union as a sovereign State. Accordingly, on the 15th August, 1855, a general meeting was held by the free-State men, which initiated the movement which became general throughout the Territory. The delegates thus elected met at Topeka on the 19th day of September, 1855, and resolved upon a convention; and fixed upon the second Tuesday of October to hold an election for delegates to a convention to be held at Topeka on the fourth Tuesday (23d) of October. The convention met, drafted a constitution, which was submitted to the people on the 15th day of December, 1855, and adopted by a vote of only seventeen hundred and thirty-one, and ordered an election for State officers to be held on the 15th January, 1856. The Legislature then elected, besides various other matters, elected United States Senators, to one of whom, General J. H. Lane, was assigned the duty of presenting the new constitution and the memorial asking for admission into the Union. It was presented to the Senate, I think, on the 7th of April, 1856. It was declared in debate there to be vitiated by fraud and forgery; and, sir, the honorable Senator who presented it requested that it should be returned to him; and when it was returned, he gave it, in disgust, back to the man from whom he had received it. This constitution was urged as the sovereign remedy for all the ills of Kansas. The minority report of Mr. COLLAMER declares that “they saw no earthly source of relief but in the formation of a State government by the people, and the acceptance and ratification thereof by Congress.”

Mr. SEWARD avowed his readiness to receive it, even though the population of the Territory might not exceed twenty-five thousand souls. And this House, on the 30th of June, 1856, by a vote of 107 yeas to 106 nays, passed the bill admitting Kansas into the Union under the Topeka constitution. The Senate also passed a bill, generally called the Toombs bill, authorizing the people of Kansas to form a constitution. That bill, when introduced, had a provision that the constitution should be submitted to the people; but, when it was reported back from the committee, it was reported back with that provision stricken out. President Pierce had previously, in a special message, recommended it in the following words:

“This, it seems to me, can be best accomplished by providing that, when the inhabitants of Kansas may desire it, and shall be of sufficient numbers to constitute a State, a convention of delegates, duly elected by the qualified voters, shall assemble to frame a constitution, and thus prepare, through regular and lawful means, for its admission into the Union as a State. I respectfully recommend the enactment of a law to that effect.”

About the same time, the Territorial Legislature, at its July session, 1856, passed a law submitting the question of a convention to the people; the first section of which is in the following words:

“Sec. 1. That there shall be, at the first general election to come off in October, 1856, a poll opened at the several places of voting throughout this Territory, for taking the sense of the people of this Territory upon the expediency of calling a convention to form a State constitution.”

The election was held; and the people voted in favor of holding a convention. In accordance with this vote, the Territorial Legislature passed “An act to provide for the taking a census, and the election of delegates to a convention,” on the 19th February, 1857. The eighth section of said act provides that the delegates to the convention shall be elected “on the third Monday in June next.” And the sixteenth section provides that they shall assemble in convention “on the first Monday of September next,” (1857.) The elec-

tion was held, and the delegates duly assembled. On the 7th of November, 1857, the convention completed its labors, submitting only the clause in reference to slavery to the vote of the people, which, it was provided, should be taken on the 21st of December following.

Thus every branch of the Federal Government, and every party in the Territory, although disjoined in action, agreed in the remedy for the pacification of Kansas, to wit, admission into the Federal Union.

Allow me to remark that both constitutions had been formed in peace. Both parties had held their preliminary elections without interference. There was no contest; no struggle; no collision; and it may be fairly inferred, in the absence of all motive, there was no fraud.

Both constitutions are now before this House; the Topeka constitution, framed by the convention called for that purpose, and the Lecompton constitution, framed by the convention also assembled for that purpose; and both very similar in their organization.

Was the Topeka constitution the emanation of legal authority? and does it represent the voting population, as recognized by the laws of the Territory? I quote from Judge DOUGLAS's report. He says, speaking of the Topeka movement:

“With regard to the regularity of these proceedings, your committee see no necessity for further criticism than is to be found in the fact that it was the movement of a political party, instead of the whole body of the people of Kansas, conducted without the sanction of law, and in defiance of the constituted authorities, for the avowed purpose of overthrowing the territorial government established by Congress.”

He further says, page 33:

“Your committee have made these voluminous extracts from the best authenticated reports which they have been able to obtain of the proceedings of the convention, for the purpose of showing that it was distinctly understood on all sides that the adoption of the proposition for organizing the State government before the assent of Congress for the admission of the State should be obtained, was a decision in favor of repudiating the laws, and overthrowing the territorial government in defiance of the authority of Congress. By this decision, as incorporated into the schedule to the constitution, the vote on the ratification of the constitution was to be held on the 15th of December, 1853, and the election for all State officers on the third Tuesday of January, 1856.”

Upon this subject I need say no more. Was the Lecompton constitution the emanation of legal authority? and does it represent, truly and fairly, the voting population, under congressional and territorial laws? It is known to us all that the Territorial Legislature of Kansas, at its session in 1856, passed an act submitting to the people, at the general election in October, 1856, “the expediency of calling a convention to form a State constitution.” That, in obedience to the will of the people, the Legislature, on the 19th February, 1857, passed a law providing for the election of delegates, to take place on the 15th June, and the convention to assemble on the 4th day of September thereafter. Great efforts were made to bring all parties to the support of those laws. On the 17th of April, 1857, Secretary Stanton issued his inaugural as the acting Governor of the Territory, in which he says:

“The Government of the United States recognizes the authority of the territorial government in all matters which are within the scope of the organic act of Congress and consistent with the Federal Constitution. I hold that there can be no other rightful authority exercised within the limits of Kansas, and I shall proceed to the faithful and impartial execution of the laws of the Territory, by the use of all the means placed in my power and which may be necessary to that end.

“The Government especially recognizes the territorial act which provides for assembling a convention to form a constitution, with a view to making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light, the act must be allowed to have provided for a full and fair expression of the will of the people, through the delegates who may be chosen to represent them in the constitutional convention.”

Governor Walker, in his inaugural of the 27th of May, 1857, says:

“But it is said that the convention is not legally called, and that the election will not be freely and fairly conducted. The Territorial Legislature is the power ordained for this purpose by the Congress of the United States; and in opposing it, you resist the authority of the Federal Government. That Legislature was called into being by the Congress of 1854, and is recognized in the very latest congressional legislation.”

I see in this act calling the convention no improper or unconstitutional restrictions upon the right of suffrage. I see in it no test oath or other similar provisions objected to in relation to previous laws, but clearly repealed as repug-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

MONDAY, MARCH 29, 1858.

NEW SERIES.....No. 87.

nant to the provisions of this act, so far as regards the election of delegates to this convention. It is said that a fair and full vote will not be taken. Who can safely predict such a result? Nor is it just for a majority, as they allege, to throw the power into the hands of a minority, from a mere apprehension (I trust entirely unfounded) that they will not be permitted to exercise the right of suffrage."

And adds:

"The people of Kansas, then, are invited, by the highest authority known to the Constitution, to participate freely and fairly in the election of delegates to frame a constitution and State government."

Senator DOUGLAS, in his celebrated Springfield speech, made within three days of the election of delegates to the Kansas convention, says:

"Kansas is about to speak for herself, through her delegates assembled in convention to form a constitution, preparatory to her admission into the Union on an equal footing with the original States. Peace and prosperity now prevail throughout her borders. The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every *bona fide* inhabitant the free and quiet exercise of the elective franchise."

Well, sir, the Lecompton convention met; and on the 7th of November last completed their labors. A constitution was formed and adopted, except as to the slavery clause, and that was submitted to a vote of the people, to be taken on the 21st of December, 1857. Slavery was voted in by a large majority.

A violent outcry was raised against this constitution by those who had throughout refused to share in the necessary steps to its formation, and by Mr. DOUGLAS and his friends, who had previously and habitually denounced those thus refusing, as insurgents; a strange and ominous combination, of which we are now collecting the bitter fruits.

Mr. Chairman, every consideration that could influence a good citizen called for a speedy settlement of this territorial strife and agitation. It was an instrument of political mischief in the hands of designing demagogues, and was largely used to the disturbance of the public peace and the danger of the Union. Yet, Mr. Chairman, strange as it may be, it is a melancholy and deplorable truth, the Hon. S. A. DOUGLAS, of the State of Illinois, to the amazement of the whole country, with the exception of that portion of it in his confidence, on the first reading of the President's message, dissented from its Kansas policy; and charged the President with having committed "a fundamental error," in two days thereafter, in an elaborate speech addressed to the Senate. Various grounds of objection are taken by him; and among them, that the whole proceeding for a convention in Kansas is illegal, and refers to the case of Arkansas as in point, and in which the Attorney General gave his opinion. He says:

"But while the Attorney General decided, with the approbation of the Administration of General Jackson, that the Territorial Legislature had no power to call a convention, and that its action was void if it did, he went further:

"No law has yet been passed by Congress which either expressly or impliedly gives to the people of Arkansas the authority to form a State government."

"Nor has there been any in regard to Kansas. The two cases are alike thus far. They are alike in all particulars so far as this question involving the legality and the validity of the Lecompton convention is concerned. The opinion goes on to say:

"For the reasons above stated, I am, therefore, of opinion that the inhabitants of that Territory have not at present, and that they cannot acquire otherwise than by an act of Congress, the right to form such a government."

Again:

"If you apply these principles to the Kansas convention, you find that it had no power to do any act as a convention forming a government; you find that the act calling it was null and void from the beginning; you find that the Legislature could confer no power whatever on the convention."

In his celebrated Springfield speech he takes a different ground, and makes the following remarks:

"The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitation than that which the Constitution of the United States imposes. The Democratic party is determined to see the great fundamental principles of the organic act carried out in good faith. The present election law in Kansas is acknowledged to be fair and just—the rights of the voters

are clearly defined—and the exercise of those rights will be efficiently and scrupulously protected. Hence, if a majority of the people of Kansas desire to have it a free State (and we are told by the Republican party that nine tenths of the people of that Territory are free-State men) there is no obstacle in the way of bringing Kansas into the Union as a free State, by the votes and voice of her own people, and in conformity with the great principles of the Kansas-Nebraska act; provided all the free-State men will go to the polls and vote their principles in accordance with their professions."

Governor Walker also took similar ground in his inaugural and in public speeches. In his letter of the 15th July last to Mr. Cass, he informs him of his discussion with one Mr. Foster, in which he speaks of the Michigan case having been quoted by him as a precedent in support of the free-State party. He then adds:

"I showed them that, in the case of Michigan, the Territorial Legislature were clothed by Congress with no authority to assemble a constitutional convention and adopt a State constitution; but that, under the comprehensive language of the Kansas and Nebraska bill, the Territorial Legislature was clothed with such authority by the laws of Congress, and that the authority of such a convention to submit the constitution to the vote of the people was as clear and certain as that of Congress itself, and that opposition to such a proceeding was equivalent to opposing the laws of Congress."

To this may be added the opinion of Governor Wise, who says:

"If the Kansas-Nebraska act did not enable the people to hold a convention, or to make laws for their own self-government, it has no virtue in it at all. The Kansas-Nebraska act organized a Territory, and the people thereof were enabled thereby to govern themselves. By their own laws they organized a convention to frame a constitution of State government. That convention was, therefore, *de jure*, legitimate. It formed a constitution, and had a right to form it."

And last, though not least, the views, strong and conclusive, of President Buchanan, in his special message, in which, speaking of the organic act, he says:

"That this law recognized the right of the people of the Territory, without any enabling act from Congress, to form a State constitution, is too clear for argument. For Congress 'to leave the people of the Territory perfectly free,' in framing their constitution, 'to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States,' and then to say that they shall not be permitted to proceed and frame a constitution in their own way, without an express authority from Congress, appears to be almost a contradiction in terms. It would be much more plausible to contend that Congress had no power to pass such an enabling act, than to argue that the people of a Territory might be kept out of the Union for an indefinite period, and until it might please Congress to permit them to exercise the right of self-government. This would be to adopt, not 'their own way,' but the way which Congress might prescribe."

But were there doubts about the necessity of an enabling act, it will be seen it was unnecessary, as there was no purpose to oust Federal authority in Kansas without the consent of Congress; and thus Mr. DOUGLAS might have been saved a large portion of his remarks. I refer to the sixth section, and so much of the seventh as is pertinent, of the schedule of the Lecompton constitution, as follows:

"Sec. 6. All officers, civil and military, holding their offices under authority of the Territory of Kansas, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State."

"Sec. 7. This constitution shall be submitted to the Congress of the United States at its next ensuing session, and as soon as official information has been received that it is approved by the same, by the admission of the State of Kansas, as one of the sovereign States of the United States, the president of this convention shall issue his proclamation to convene the State Legislature at the seat of government, within thirty-one days after publication."

Here it is expressly and solemnly provided that the State shall not supersede territorial authority without the assent of Congress.

The next ground taken was that the constitution was to be submitted to the people, by the universal understanding of all parties. The position is put in the following words:

"I understand, from the history of the transaction, that the people who voted for delegates to the Lecompton convention, and those who refused to vote—both parties—understood the territorial act to mean that they were to be elected only to frame a constitution, and submit it to the people for their ratification or rejection. I say that both parties in that Territory, at the time of the election of delegates, so understood the object of the convention. Those who voted for delegates did so with the understanding that they had no power to make a government, but only to frame

one for submission; and those who staid away did so with the same understanding."

He proceeds, and says:

"It is sufficient for my purpose that the Administration of the Federal Government unanimously, that the administration of the territorial government, in all its parts, unanimously understood the territorial law under which the convention was assembled, to mean that the constitution to be formed by that convention should be submitted to the people for ratification or rejection, and, if not confirmed by a majority of the people, should be null and void, without coming to Congress for approval."

Now the statement, *in toto calo*, is denied.

I have before referred to the act passed in 1856, submitting to the vote of the people the question of convention or no convention. In that act of eight brief sections, not a word was said about the powers of the convention. That was left to the general policy which had ruled on such occasions; and yet, in that act was the place for trammeling the convention. The people having voted in favor of a convention, an act was passed on the 19th day of February, 1857, providing for the election of delegates to such convention; but it did not provide for submitting the constitution, when framed, to the people. For that reason Governor Geary vetoed the bill; and yet the two Houses passed it by a constitutional majority, the veto notwithstanding. Governor Geary argues no other question, but says:

"Passing over other objections, I desire to call your serious attention to a material omission in the bill."

"I refer to the fact that the Legislature has failed to make any provision to submit the constitution, when framed, to the consideration of the people for their ratification or rejection."

On the 17th April, 1857, Governor Stanton, speaking of the above law, and urging the people to peace and union, says:

"I do not doubt, however, that, in order to avoid all pretext for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for submitting the great distracting question regarding their social institution, which has so long agitated the people of Kansas, to a fair vote of all the actual *bona fide* residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress without delay as one of the sovereign States of the American Union, and the territorial authorities will be immediately withdrawn."

Governor Stanton did not think the convention was expected to submit the constitution. All he expected was that the slavery clause alone should be submitted to the people. And such was the policy of Governor Walker, as it appears from sundry articles, which I will now submit:

"The St. Louis Leader contains in its issue of the 6th an article on the subject, which we recognize as proceeding from one of the ablest minds in the State; a man who has long stood at the head of the national Democracy of Missouri."

"Nearly a year ago, when Governor Walker passed through this city on his way to Kansas, he was free to unfold his plans to his political friends. In a conversation with him in the Planter's House we remember that he distinctly announced as his programme, that a constitution should be formed perfectly unexceptionable, ignoring the subject of slavery, and that a schedule should accompany it submitting the question of slavery to the people. We printed it in the Leader at the time, and it went forth to the world; it was published all over the country, both before and after that time."

Nor is this all. Governor Walker, appealing to the people, and presenting various and earnest views why they should go into the convention, and referring directly to the question of submitting the constitution, says in his inaugural of May 27:

"You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the convention is the servant, and not the master of the people, yet I have no power to dictate the proceedings of that body. I cannot doubt, however, the course they will adopt on this subject. But why incur the hazard of the preliminary formation of a constitution by a minority, as alleged by you, when a majority, by their own votes, could control the forming of that instrument?"

And so late as the 10th September, in his proclamation, he said:

"The only remedy rests with the convention itself, by submitting, if they deem best, the constitution for ratifica-

tion or rejection to the vote of the people, under such just and reasonable qualifications as they may prescribe."

But it is argued and insisted that the Kansas and Nebraska act requires the constitution to be submitted to the people. It is difficult to perceive in what part of this act that doctrine is to be found. Mr. Walker sums up his doctrine in his letter of resignation, as follows:

"It will be perceived that this doctrine, that 'sovereignty makes constitutions,' that 'sovereignty rests exclusively with the people of each State,' that 'sovereignty cannot be delegated,' that 'it is inalienable, indivisible,' 'a unit incapable of partition,' are doctrines ever regarded by me as fundamental principles of public liberty and of the Federal Constitution."

I very much incline to the opinion that the Governor expresses the true doctrine. I can cheerfully agree with him that sovereignty is "a unit incapable of partition." But, with concurrence in this sentiment or principle, how different our conclusions. He denies to this "unit" the right to depute power; and in so doing, shows that "sovereignty" does not exist. I contend that this "unit" has all power—can do by another what it can do by itself—and so is "sovereignty." What is sovereignty? It is uncontrollable power. And yet Governor Walker denies the right to "sovereignty" to delegate its power. In Athens, the people, thirty thousand voters, met and exercised sovereignty. It was a pure democracy; that is impossible with us. Neither in the States nor in the federation formed by them, is that possible. Representation is therefore a necessity, without which our institutions could not last a minute. Hence, the system of delegated power is as familiar to the public mind as household words. It prevails in every form of government known to the people. Nor is it true that a sovereign delegating power thereby parts with sovereignty. It is not the less his because he allows to another the privilege or the duty of using it; for the sovereign can discharge his agent and resume the power with which he had intrusted him.

The delegates who framed the Federal Constitution were elected by the Legislatures of the several States, *not by the people*; the Constitution was adopted by conventions of the several States, *not by the people*. The fifth article of the Constitution provides for its amendment by a convention, the acts of which are to be ratified by the Legislatures or the conventions of three fourths of the States, as Congress may prescribe, *but not by the people*; and yet the preamble to the Constitution proclaims it the work of the people. It says:

"We, the people of the United States" * * * *
"do ordain and establish this Constitution for the United States of America."

Yet this language is used in the face of the facts stated, upon the well-known principle that what a man does by another, he does by himself—*qui facit per alium, facit per se*.

Let us look to the States, as divided by the Revolution. And first of the old States. There have been four constitutions in New York: the first two, that of 1776 and that of 1801, were adopted by the conventions; the other two, that of 1827 and that of 1848, were formed by conventions, submitted to and ratified by the people, because so required by law. In Pennsylvania, her only two constitutions were framed and adopted by conventions, and the latter is to this day in force, except in certain amendments that have been adopted by the vote of her people. The constitution of Rhode Island was the charter of a King, and it took rebellion and insurrection to induce that State to change her organic law. The Virginia Legislature resolved itself into a convention, on the 25th of June, 1776, and on the 29th of the same had framed and proclaimed, without popular intervention of any sort, her first constitution, under which, without any change whatever, her people enjoyed all the blessings of liberty for upwards of half a century.

Now to the new States; and I regard those as such which were admitted into the Union subsequent to the Revolution. The constitution of Vermont was "ordained" without submission to the people. This State is the birthplace of Senator DOUGLAS. Illinois did not submit her constitution to the people. This is the State of the Senator's adoption. The constitution of Missouri was not adopted by the people. Without further enumeration, it will be sufficient to state that a majority of all the States of our Union have, at

some time, lived under constitutions framed and adopted by conventions, and without any test by the suffrage of the people. And yet they are not less the government of the people.

There is, then, nothing in the law, nothing in the precedents, which requires that the Lecompton constitution should be submitted to the people; and abundance of both law and precedent which left the whole question of submission to the people, in the discretion of the convention. The pledges of Calhoun and associates, when candidates for the convention, were obviously designed, like the appeals of Governor Walker, to influence the free-State men to join in the convention movement; but it utterly failed. They are content. And it is no little assurance on the part of the free-State men to complain of the violated promises of those whose persons they reviled, in whose elections they did not share, and whose work they intended, if possible, to destroy. Then why submit the constitution? They did their best to enforce their own constitution; they refused to participate in the vote upon a convention; they refused to participate in the election of delegates; they proclaimed bitter hostility to the Lecompton constitution; and it became an interesting question with the law-and-order party how their work could be saved from the effects of factious opposition, &c.

Governor Walker, among many other similar things, says:

"The spirit of insurrection, of resistance to the laws, and to the territorial government, still pervades Kansas, and manifests itself in their newspapers, in violent harangues, in the enrollment and drilling of their troops, and in open threats for the use of the insurgent forces at the October election. Menaces, indeed, have been made in the most public manner, to drive the constitutional convention by force, in September next, from Lecompton."

Governor Stanton says, in his message of the 8th December:

"I ascertained that designs of a most desperate character were freely discussed in their private meetings, and that violent measures had probably been agreed upon to be executed at a favorable time. It was to me certain that the mass of the people were determined not to submit to the constitution, nor to participate in the election, but probably to prevent its taking place. A large military force would have been necessary everywhere to enforce order."

"It thus appears that in the election of the 15th June last, for delegates to the convention, the great mass of the people purposely refrained from voting, and left the whole proceeding, with all its important consequences, to the active minority, under whose auspices the law had been enacted, and also executed, so far as that could be done by the executive officers, without the concurrence of the majority of the people."

Are these the people to whom to make concessions?

But, Mr. Chairman, a great outcry was raised about the manner in which the registry or census was taken. I have sufficiently shown that the law itself was unexceptionable—indeed it was a substantial copy of the Toombs bill, which Mr. HALE pronounced almost perfect. After providing in the first section that the sheriff shall proceed to take the census, the second section provides:

"In case of any vacancy in the office of sheriff, the duties imposed on such sheriff by this act shall devolve upon, and be performed by, the judge of the probate court of the county in which such vacancy may exist, who may appoint deputies, not to exceed one in each municipal township; and in case the office of both sheriff and probate judge in any county shall be or become vacant, the Governor shall appoint some competent resident of such county to perform such duty, who shall have the same right to appoint deputies, take and subscribe the same oath, and perform all the requirements of this act, as applied to sheriffs."

"Sec. 4. It shall be, and is hereby, made the duty of each probate judge, upon such returns being made, without delay, to cause to be posted at three of the most public places in each election precinct in his county or district one copy of such list of qualified voters, to the end that every inhabitant may inspect the same, and apply to said probate judge to correct any error he may find therein, in the manner hereafter prescribed."

"Sec. 5. Said probate judge shall remain in session each day, Sundays excepted, from the time of receiving said returns until the first day of May next, at such places as shall be most convenient to the inhabitants of the county or election district, and proceed to inspection of said returns, and hear, correct, and finally determine according to the facts, without unreasonable delay, all questions concerning the omission of any person from said returns, or the improper insertion of any name on said returns, and any other questions affecting the integrity or fidelity of said returns, and for this purpose shall have power to administer oaths and examine witnesses, and compel their attendance in such manner as said judge shall deem necessary."

It is difficult to conceive anything more fair and unexceptionable.

The census being taken and corrected, it is pro-

vided by the seventh section of said law as follows:

"It shall be the duty of the Governor and Secretary of the Territory, so soon as the census shall be completed and returns made, to proceed to make an apportionment of the members for the convention," &c.

I have thus shown that the law was ample and carefully framed. But it was said that the registry was imperfectly taken. Let us see whose is the fault. Mr. Stanton says, in reply to complaint upon the subject:

"It is not my purpose to reply to your statement of facts; I cannot do so from any personal knowledge enabling me either to admit or deny them. I may say, however, I have heard statements quite as authentic as your own, and in some instances from members of your own party, [Republican], to the effect that your political friends have very generally—indeed, almost universally—refused to participate in the pending proceedings for registering the names of the legal voters. In some instances they have given fictitious names, and in numerous others they refused to give any names at all. You cannot deny that your party have heretofore resolved not to take part in the registration, and it appears to me that, without indulging ungenerous suspicions of the integrity of officers, you might well attribute any errors and omissions of the sheriffs to the existence of this well known and controlling fact."

In his message of the 8th December, 1857, he says:

"In consequence of this embittered feeling, and the mutual distrust naturally thereby engendered, one of the parties, constituting a large majority of the people, refrained almost entirely from any participation in the proceedings instituted under the law aforesaid. The census therein provided for was imperfectly obtained from an unwilling people in nineteen counties of the Territory; while in the remaining counties, being also nineteen in number, from various causes no attempt was made to comply with the law. In some instances, people and officers were alike averse to the proceeding; in others, the officers neglected or refused to act; and in some there was but a small population, and no efficient organization, enabling the people to secure a representation in the convention. Under the operation of all these causes combined, a census list was obtained of only nine thousand two hundred and fifty-one legal voters, confined to precisely one half the counties of the Territory, though these, undoubtedly, contained much the larger part of the population."

In his New York speech, he said in reply to complaints about the registry:

"I said to them, gentlemen, you might have gone to the probate judges and had those names put on the lists. But they said it was not their duty to go; it was the duty of the officers to register their names. Now, it is useless for any of us to disguise the truth. The great mass of the free State people did not care a fig whether their names were registered or not; they were opposed to the convention; they were opposed to all the laws and all the proceedings under it."

But it is charged that about one half of the counties were without a census or a registry, and that it would be a great wrong to put a constitution on a people who had no share, and could have had no share, in its formation. This is strongly put, and is, in effect, answered by what I have just said. But I will examine into the subject still further.

The territorial law laying out the Territory into counties, names three—Washington, Clay, and Dickinson—which lie in the extreme western portion of the Territory, and, being without inhabitants, were unorganized. The law, therefore, providing for the election of delegates did not name them. Of the thirty-four counties remaining, the registry and return was made, as appears by the proclamation of Governor Stanton as follows:

No. of district.	Names of counties.	No. of legal voters.
1	Doniphan	1,083
2	Brown	936
	Neenah	140
3	Atchison	804
4	Leavenworth	1,837
5	Jefferson	555
6	Calhoun	391
7	Marshall	305
8	Riley	353
9	Pottawatomie	235
	Johnson	493
10	Douglas	1,318
11	Shawnee, Richardson, and Davis	283
12	Lykings	413
13	Franklin	no return
14	Four counties	no return
15	Two counties	no return
16	Lynn	413
17	One county, (Anderson)	no return
18	Bourbon, McGee, Allen, and Dorn	615
19	Five counties	no return
Total		9,251

By the seventh section of the election law, it is made the duty of the Governor to form these counties into election districts, and to assign to each district its share of representation. This duty was performed by Governor Stanton, as appears by his proclamation dated 20th May, 1857.

From this it will be seen, that of the thirty-four organized counties in the Territory, twenty-one were represented in the convention. Of the thirteen counties left, seven counties had scarcely any population, so small that they did not cast a vote at the election on the 4th of January, when the free-State men had everything their own way. Of the remaining six, at the election of the 4th of January, when the free-State men reported a much larger vote than ever reported before, the following is the vote:

Madison	50 votes.
Woodson	40 "
Franklin	304 "
Breckinridge	191 "
Coffee	453 "
Anderson	177 "
	1,215 "

I have sufficiently shown why those counties were not registered. But I will resort to more direct and positive testimony as to part of them.

It must not be overlooked that during the whole period of time up to the 7th of November, 1857, when the constitution was completed, neither Governor Walker nor Stanton ever found fault with the registry, but acted upon it, and urged, with extraordinary zeal, the formation of a constitution predicated upon that basis, ay, scornfully repelled objections made thereto by the free-State men. When, however, that objection was made by them, and pressed by others, with effect, the exposition already made became a duty, to which I will add the positive testimony of one George Wilson. On the 5th day of February, 1858, he, among other things, deposed as follows:

"At the time when the census was taken under the law providing for the Leecompton convention I was the acting judge of probate for Anderson county, Kansas, and am aware of the fact that the two wings of the free-State party in that county, composed of more moderate Free-Soilers and the adherents of Lane, threatened the life of any who should attempt to take the legal census; and I can say, under oath, that the life of any one making the attempt to execute the law in that particular was in danger, and the foregoing threats were the cause which prevented the taking of the census in Anderson county within the prescribed time."

"In regard to Passmore Williams, judge of probate for Allen county, members of the so-called free-State party stated to me in person that if he attempted to execute the law, and did not leave, they would kill him; and I know the fact that he did not so execute the law, and left the county, because he believed his life in danger. Mr. Williams is from Illinois, and is a free-State man, but belongs to the Democratic party."

"In regard to Esquire Yocum, judge of probate for Franklin county, he left the county and the Territory on account of losing his negro property and having his life menaced. The office being vacant, the Legislature which passed the census law appointed a new judge of probate and other officers, who refused to serve, alleging as a reason that they were afraid so doing would cost them their lives. Consequently, no census was taken, and no legal election held."

Governor Stanton says:

"In the other eighteen counties there was no census and no registration. I think it very probable, although I do not know the fact, that in some of these counties the officers were deterred and discouraged by the people from the duty of taking the census."

"I have no doubt it is true, that the great majority of the free-State people did not wish to be represented, and did not intend to be represented at all. They determined to hold off from it."

Nor was there any occasion "to hold off from it" from any apprehension of Missouri hordes. Governor Walker, in his letter of the 27th May to General Cass, says:

"There is no longer any pretext for the suggestion that any portion of the people of Missouri intend to invade the ballot-box at any election in Kansas."

Let me say here, also, that Mr. Calhoun wrote to Judge DOUGLAS, not as a Senator, but as a friend, stating the plan that was to be pursued, and asking his advice in reference to it. No answer to that letter was ever received, but the Chicago Times came out and indorsed the proposed plan. I state, as a fact which will not be disputed in any quarter, that Senator DOUGLAS, not as a Senator, but as a conspicuous friend of this gentleman, was written to in the month of September, asking his advice as to the course to be pursued in the submission of the constitution, and that he never responded to that letter by dissent or affirmation. I repeat, the Chicago Times, understood to be under his influence, was published, containing an article indorsing the suggestions of that letter. I have not time to go into this question as I would like; but such are the facts in relation to this matter.

What then, do we see? An overwhelming

majority of the voters embraced in the registry, and the omissions in every material particular occasioned by the violence of those who now complain. In the Senate debate of the 4th March, Mr. HAMMOND said:

"Mr. President, in the debate which occurred in the early part of the last month, I understood the Senator from Illinois [Mr. DOUGLAS] to say that the question of the reception of the Leecompton constitution was narrowed down to a single point. That point was, whether that constitution embodied the will of the people of Kansas. Am I correct?"

"Mr. DOUGLAS. The Senator is correct, with this qualification: I could waive the irregularity and agree to the reception of Kansas into the Union under the Leecompton constitution, provided I was satisfied that it was the act and deed of that people, and embodied their will. There are other objections; but the others I could overcome, if this point were disposed of."

"Mr. HAMMOND. I so understood the Senator. I understood that if he could be satisfied that this constitution embodied the will of the people of Kansas, all other defects and irregularities could be cured by the act of Congress, and that he himself would be willing to permit such an act to be passed."

Away, then, goes the enabling act. Away the necessity of submitting the constitution. Away go all questions of fraud. The only question is, is the Leecompton constitution "the act and deed of that people, and embodies their will?" This is a grave question, and presents the real and substantial point in this discussion. What fact is it necessary to know? What principle is it requisite to adopt to enable us to know that the constitution of a State "is the act and deed" of her people, and embodies "their will?" The lawful authority of the Territory, at the July session of 1856, passed a law submitting the question of a convention to the people to be voted upon at the ensuing general election in October. The vote was taken, and the people decided to have a convention. This step was taken in the midst of the presidential election. The great Democratic party knew the vote that was cast—knew that one party held off claiming for itself to be largely in the majority; and yet they said that all was right and fair and proper. These are facts—undoubted facts. In pursuance of the will of the people thus expressed, the Legislature passed a law providing for the election of delegates to the convention. It was vetoed by Governor Geary because it contained no clause submitting the constitution to the people. It became a law notwithstanding; was approved by the Federal Executive; by Senator DOUGLAS; by Governor Walker and Secretary Stanton. These are facts. The election was held on the 15th June. The convention assembled—completed their labors on the 7th November last by adopting and ratifying the constitution in question, except the slavery clause, which was voted on by the people on the 21st December last. These are facts—every one of them; clear, undoubted, unmistakable facts. There is no controlling precedent or established principle which requires or forbids the submission of the constitution to the people for ratification or rejection; but, whether ratified by the convention or by the vote of the people, it is equally the act of the people, and equally authoritative and valid.

In our community of States, the people are known only when they speak at the polls. Any other mode of expression is unknown to our institutions; and any other mode of expression is sternly disregarded or rebuked. It is in this way that constitutional government is maintained, popular sovereignty preserved, and personal happiness promoted. On the 10th April, 1856, Mr. DOUGLAS, in his place in the Senate, said:

"I know of but two ways of governing men—but two ways by which men have ever been governed—by laws, or by force. If we give countenance to these people who disregard the laws, they will, of necessity, place themselves in a condition to be subjected to force only. What sanction has popular government but obedience to law? What security have we for government, if we disregard obedience to law? What is the great merit which we claim for our Government over the other Governments of the earth? That we are a Government of laws, and of laws only."

Was this doctrine sound in 1856? Is it otherwise now? Subsequent to this, and on the 12th June, 1857, at Springfield, Illinois, Mr. DOUGLAS addressed a large assembly of his countrymen. Having Kansas in view, and in express reference to the steps being taken for a convention and the extraordinary condition of things in the Territory, he carefully and deliberately said:

"If any portion of the inhabitants, acting under the advice of political leaders in distant States, shall choose to absent themselves from the polls, and withhold their votes, with a view of leaving the free-State Democrats in a mi-

nority, and thus securing a pro-slavery constitution, in opposition to the wishes of a majority of the people living under it, let the responsibility rest on those who, for partisan purposes, will sacrifice the principles they profess to cherish and promote. Upon them and upon the political party for whose benefit and under the direction of whose leaders they act, let the blame be visited of fastening upon the people of a new State institutions repugnant to their feelings, and in violation of their wishes."

Here the Senator, so recently as the past summer, recognizes the doctrine for which I am contending, and distinctly repudiates his present majority idea. Recollect that he himself states the points of this speech. He says:

"The points which I am requested to discuss are:

"1st. The present condition and prospects of Kansas.

"2d. The principles affirmed by the Supreme Court of the United States in the Dred Scott case.

"3d. The condition of things in Utah, and the appropriate remedies for existing evils."

Governor Walker also says in his inaugural address to the people of Kansas, under date of the 27th May, 1857:

"The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

It is difficult to conceive anything more explicit. This doctrine was officially avowed to the people of Kansas as a warning and a guide, and with a hope of inducing them to unite, but without avail, in the formation of a constitution.

But the Cincinnati platform embraces the same principle; and the great assembly which formed it declared as follows:

"Resolved, That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

To show how this was understood by Mr. DOUGLAS at the meeting held in this city, to rejoice over the nomination of Mr. Buchanan, he said:

"The platform was equally explicit in reference to the disturbances in relation to the Territory of Kansas. It declared that treason was to be punished, and resistance to the laws was to be put down. That was the whole question involved—whether the supremacy of the laws should be maintained, or whether mob violence should overcome the officer of the law. On this question, between law and violence, the Democracy had expressed their sentiments; they say that the laws shall be executed so long as they stand upon the statute-book. But the Black Republicans say that they will trample upon the law, and shoot down the officers who execute it, because they do not like the law. The whole question was, whether law and order and the constitution shall prevail, or whether lawless violence and mob law shall rule in their stead."

"And the principle of the Black Republicans is to obey such laws as they like, and repudiate those they do not like. They claim protection under the constitution, and refuse to yield obedience to it. The difference between them and the Democracy is, that the Democracy support the Constitution in all its parts, with equal fidelity, without reference to whether they like or dislike it. It is no excuse for a man to say that he does not like a law, and therefore will not obey it. Did they ever know a criminal who liked the law. [Applause.] Law-breakers never like the punishment that follows the act. Law-abiding men have no fear of the supremacy of the law."

Nor were such sentiments uttered by Mr. DOUGLAS for the first time. He has often uttered them:

"The Democratic party is ever a law-abiding, Constitution-loving, conservative party—a party which holds that all true liberty is to be found under the protection of the Constitution and the laws, and that the laws made in pursuance of the Constitution must be obeyed. If we dislike them, they can only be repealed in conformity with the Constitution; and we must submit to them as long as they are on the statute-book, unless they are unconstitutional, and their constitutionality is a question which must be decided by the courts. It is not to be settled by mobs resisting law, by shooting down the officers of the law, by pledging candidates for the judicial bench to decide contrary to the Constitution and their oaths as the condition of their election. The courts must decide the question according to the Constitution and the law, and all must abide by that decision. Thus we are brought back to the simple point, whether the Constitution and the laws, as expounded by the highest tribunals in the land, shall prevail; or whether a town meeting or a political organization, when it finds itself in the minority, is at liberty to become a mob, to defy the law, and shoot down its officers?"

It is difficult for doctrine to be more clearly stated. Those who "choose to absent themselves from the polls," says Mr. DOUGLAS, and "those

who abstain from the exercise of the right of suffrage," says Governor Walker, allow to those who do go to the polls the right to govern them; "otherwise," says Governor Walker, "monarchy or despotism would remain as the only alternative."

I think it not out of place, Mr. Chairman, to invite attention to the case *Luther vs. Borden &c.* 7 Howard. It grew out of the Dorr rebellion, and presents a case in many respects analogous to the one now under consideration.

When the Revolution commenced, the then colony of Rhode Island had a government formed under a charter granted by Charles II., King of England. The State of Rhode Island made no change in the form of government. This charter restricted the right of suffrage to freeholders. For years strenuous efforts were made, without success, to obtain an extension of the right of suffrage.

In 1841 the people held meetings and elected delegates to a convention to form a constitution, which was formed and submitted to the people, who, as it was alleged, ratified it by a large majority of all the qualified voters, according to the new constitution, and also according to the charter of Charles.

Under this constitution elections were held for Governor, members of the Legislature, &c., who assembled together in May, 1842, and proceeded to organize the new government.

But the charter government did not acquiesce in these proceedings. On the contrary it passed stringent laws, and finally an act declaring the State under martial law.

Martin Luther brought an action of trespass, *quare clausum fregit*, against the defendants for breaking and entering the plaintiff's house, on the 29th June, 1842. Defendants replied that they necessarily broke the plaintiff's house in seeking to arrest him for aiding and abetting an insurrection of men in arms, to overthrow the lawful Government of the State, by military force—to which the plaintiff replied generally. And on the trial offered to prove that the new constitution had been adopted by a majority of those under the new constitution, and also under the old charter; and that the citizens of this State, in their original sovereign capacity, have ratified and adopted said constitution by a large majority; and the plaintiff moved the court, Judge Story presiding, to instruct the jury that, if they so found, then the pleas of the defendants show no justification. But the court refused such instruction, and thus the case went into the Supreme Court.

The plaintiff's counsel, Mr. Hallett, among many points, laid down the following:

"The institution of American liberty is based upon the principles that the people are capable of self government, and have an inalienable right at all times, and in any manner they please, to establish and alter or change the constitution or particular form under which that government shall be effected. This is especially true of the several States composing the Union, subject only to a limitation provided by the United States Constitution, that the State governments shall be republican.

"That the sovereignty of the people is supreme, and may act in forming government without the assent of the existing government."

"If these questions are answered in the negative, then the theory of American free governments for the States is unavailable in practice."

"The anti-republican doctrine that legislative action or sanction is necessary, as the mode of effecting a change of State government, was broached for the first time, under the United States Government, by one Senator in the debate in Congress upon the admission of Michigan, December, 1846."

The defendant's counsel, Mr. Whipple, states the issue:

"Mr. Whipple, for the defendant in error, said that the question to be decided was, whether a portion of the voters of a State, either the majority or minority, whenever they choose, assembling in mass meeting without any law, or by voting where there is no opportunity of challenging votes, may overthrow the constitution and set up a new one? But he would leave the discussion of general principles to his associate, and confine himself to the more minute facts of the case."

Mr. Webster, on the same side, agreed with Mr. Hallett:

"Let me state what I understand these principles to be. The first is, that the people are the source of all political power. Every one believes this. Where else is there any power?"

Mr. Webster said:

"But, in 1776, the American people adopted principles more especially adapted to their condition. They can be traced through the Confederation and the present Constitution, and our principles of liberty have now become exclusively American. They are distinctly marked. We changed

the government where it required change; where we found a good one we left it. Conservatism is visible throughout."

"Another is, that the qualification which entitles man to vote must be prescribed by previous laws directing how it is to be exercised, and also that the results shall be certified to some central power, so that the vote may tell. We know no other principle."

"Our American mode of government does not draw any power from tumultuous assemblages. If anything is established in that way, it is deceptive."

"Always these conventions were called together by the Legislature, and no single constitution has ever been altered by means of a convention gotten up by mass meetings. There must be an authentic mode of ascertaining the public will somehow and somewhere. If not, it is a government of the strongest and most numerous. It is said that, if the Legislature refuses to call a convention, the case then resembles the Holy Alliance of Europe, whose doctrine it was that all changes must originate with the sovereign. But there is no resemblance whatever. I say that the will of the people must prevail, but that there must be some mode of finding out that will. The people here are as sovereign as the crowned heads at Laybach, but their will is not so easily discovered."

"The Constitution proceeds upon the idea that each State will take care to establish its own government upon proper principles, and does not contemplate these extraneous and irregular alterations of existing governments."

"The question which the court was called upon to decide was one of sovereignty. Two Legislatures were in existence at the same time; both could not be legitimate. If legal power had not passed away from the charter government, it could not have got into Dorr's. The position taken on the other side is, that it had so passed away; and it is attempted to be proved by votes and proceedings of meetings, &c., out of doors. This court must look elsewhere: to the Constitution and laws and acts of the Government of the United States."

The Supreme Court, in its elaborate judgment, countenanced the views of Mr. Webster, and says:

"But the courts uniformly held that the inquiry proposed to be made belonged to the political power, and not to the judicial; that it rested with the political power to decide whether the charter government had been displaced or not; and when that decision was made, the judicial department would be bound to take notice of it as the paramount law of the State, without the aid of oral evidence or the examination of witnesses; that, according to the laws and institutions of Rhode Island, no such change had been recognized by the political power; and that the charter government was the lawful and established government of the State during the period in contest; and that those who were in arms against it were insurgents, and liable to punishment. This doctrine is clearly and forcibly stated in the opinion of the supreme court of the State, in the trial of Thomas W. Dorr, who was the Governor elected under the opposing constitution, and headed the armed force which endeavored to maintain its authority."

It also says:

"By this act, the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere, is given to the President. He is to act upon the application of the Legislature, or of the Executive; and consequently, he must determine what body of men constitute the Legislature, and who is the Governor, before he can act. The fact that both parties claim the right to the government cannot alter the case, for both cannot be entitled to it. If there is an armed conflict, like the one of which we are speaking, it is a case of domestic violence, and one of the parties must be in insurrection against the lawful government. And the President must, of necessity, decide which is the government, and which party is unlawfully arrayed against it, before he can perform the duty imposed upon him by the act of Congress."

And in conclusion adds:

"No one, we believe, has ever doubted the proposition that, according to the institutions of this country, the sovereignty in every State resides in the people of the State, and that they may alter and change their form of government at their own pleasure. But whether they have changed it or not by abolishing an old government and establishing a new one in its place, is a question to be settled by the political power. And when that power has decided, the courts are bound to take notice of its decision, and to follow it."

The constitution of a State cannot be changed by domestic violence, nor can the organic act of a Territory. The Constitution forbids it. (Fourth article, fourth section, and second article, third section.)

Then there is no alternative. The will of the people can alone be known by the exercise of the right of suffrage. Those who vote must govern those who do not. There is no help for it; and the only majority our institutions can recognize, or we can know, is of those who appear at the polls, and cast their suffrage in the manner prescribed by law. How, then, can Senator Douglas do otherwise than support the Lecompton constitution?

But it is said that the election ordered by the free-State Legislature for the 4th of January, discloses the fact that there was a large majority against the Lecompton constitution. Upwards of ten thousand majority against it! And shall such a startling fact be disregarded?

In the first place, this vote was taken with a knowledge that one party alone would vote—it was *ex parte*. The act, too, was without prece-

dent. It may be safely affirmed that the whole history of constitutional government and reform cannot show its like in the United States. Repeal a constitution already adopted under an act calling upon the people to vote for or against it! But the vote reported as cast on that occasion is manifestly fraudulent. Why is it so much larger than was ever cast before by the free-State men? Why is it so much larger than that cast by them for State officers on the same day? Why is it so much larger than the memorial gotten up by them through their own census, taken only a few months ago? The free-State vote on the constitution is put at about 10,178; on State officers at about 7,000; on their memorial it is 4,170.

I have heretofore shown that the presidential election was fought upon the speedy admission of Kansas, &c., as the only means of giving peace to the country. Shall we keep it open, and thus play into the hands of those who are insurgents, and regard its agitation as necessary to success? Let us see what Judge Douglas has heretofore said upon this point.

In April, 1856, Mr. Douglas, in his place in the Senate, said:

"The policy is avowed, by the pretended executive officer of that so-called State, to continue the condition of violence by inducing Congress to withhold appropriations to pay its officers, and thus enable the revolutionary movement to be successful. When I see that the same line of policy is marked out here, showing that the object is to prevent any settlement of the question, to keep up revolution, to defeat the supremacy of the law, to perpetuate the struggle, I feel bound to give it no countenance by any vote of mine."

Gentlemen have been kind enough to say that the object of this bill is to make a slave State in Kansas. I show them that, by the provisions of the bill, its object is to allow the people to make just such a State as they wish. The Senator from Maine [Mr. Fessenden] says he has a right to go a little behind the face of the bill, and give his opinion that the object is to make Kansas a slave State. Conceding that right, and acting upon it, I have a right to come to the conclusion that all these gentlemen want is to get up murder and bloodshed in Kansas for political effect. They do not mean that there shall be peace until after the presidential election. They sent their partisan agents to get up rebellion, to commit crime, to burn houses, and then their newspaper agents are to report these acts here, and charge them on the border ruffians. This whole game of violence there, and the publication of it here, is done by the one and same set of men—done for political effect. It is a part of their game. They do not mean that there shall be peace. Their capital for the presidential election is blood. We may as well talk plainly. An angel from Heaven could not write a bill to restore peace in Kansas that would be acceptable to the Abolition Republican party previous to the presidential election. [Laughter and applause in the galleries.]

"Then, sir, if it be an evil to have laws in force infringing the freedom of speech in the Territory, why not join with us to pass this bill, which obliterates those laws? If it be an evil of such magnitude as to justify rebellion and bloodshed to have test oaths in the Territory, why not join in blotting them out? If there be such evils as are portrayed in Kansas, why not join in applying the remedy? No; you vainly hope that you can make the people believe that the Democracy are responsible for the consequences of your own acts, and thus gather political capital from the blood of your fellow-citizens, if violence can reign and excitement last until the presidential election. Hence, law must not prevail—life must not be safe—property must not be secure—peace must not be restored in Kansas, if the Abolition-Republican leaders can prevent it, until after the election. You mistake, if you suppose the people will not be able to understand this scheme."

Such was the opinion of Judge Douglas as late as the 12th June last, when, in his Springfield speech, he said:

"If such is not the result let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy, and bloodshed in Kansas, that their party may profit by slavery agitation in the northern States of this Union."

Governor Walker, in his letter of 27th May, 1857, to Mr. Cass, says:

"I am well satisfied that a large portion of the insurrectionary party in this Territory do not desire the peaceful settlement of this question, but wish it to remain open in order to agitate the country for years to come. Such a result I would regard as most disastrous, not only to the peace and prosperity of Kansas, but as putting in imminent jeopardy the Government itself."

Governor Walker says, in his official letter:

"The professed object is to protect the polls at the election in August of the new insurgent Topeka State Legislature. The object of taking the names of all who refuse enrollment is to terrify the free-State conservatives into submission. This is proved by recent atrocities committed on such men by Topekaites. The speedy location of large bodies of regular troops here, with two batteries, is necessary; the Lawrence insurgents await the development of this new revolutionary military organization."

"You are aware that General Lane commanded the military expedition which made an incursion into this Territory last year, and that the officers of the staff are all leading agitators for the overthrow of the territorial government. The object of this last requisition is believed to be to mark for persecution and oppression all those persons, and especially free-State Democrats, who refuse to unite in this

military organization. The purpose is universally regarded to be to establish a reign of terror."

"A few weeks since, one of these conservative Democrats, who had committed no other offense than permitting the use of his name as a candidate for the constitutional convention, was abused and injured in the most shocking manner, and the most revolting atrocities were committed upon his wife by some of the insurrectionary party."

"It will be perceived that this military organization embraces the whole Territory—being arranged into four divisions and eight brigades."

"August 18.—The insurgent military organization under General Lane is still progressing. Arms are being supplied, and his troops drilled for action. We are threatened with the seizure of the polls, at various points, by these insurgent forces. When it is remembered that the Topeka party claim to outnumber their opponents at least ten to one, the pretext for assembling these forces to protect the polls is evidently most fallacious."

To all this much more might be added of the same character. Can any man who loves order, peace, and harmony, desire such scenes to continue? Will Democrats who desire hereafter to be so regarded, help to continue such scenes?

So late as the 12th June, 1857, Senator Douglas had said:

"Of the Kansas question, but little need be said at the present time. You are familiar with the history of the question, and my connection with it. Subsequent reflection has strengthened and confirmed my convictions in the soundness of the principles and the correctness of the course I have felt it my duty to pursue upon that subject."

What has occurred since to induce a change of this course? I fear ambition has done its work. I fear imaginary private griefs have been actively at work. I have heard of a meeting of the Illinois delegation to consider of the policy to be pursued. I give at least one gentleman from Illinois notice that I shall bring up a matter in connection with the movement of that delegation in reference to this defection on the Kansas question, when I have an opportunity to do so. I intended to pay my respects to the gentleman from Ohio, [Mr. Cox,] but I have not the time.

Mr. MARSHALL, of Illinois. Will the gentleman yield to me a moment?

Mr. SMITH, of Virginia. How much time have I?

A MEMBER. Only three minutes.

Mr. MARSHALL, of Illinois. I want to say this—

Mr. SMITH, of Virginia. I cannot yield. How much time have I, Mr. Chairman?

The CHAIRMAN. About two minutes.

Mr. MARSHALL, of Illinois. I merely want to say that if the gentleman has anything to say about the Illinois delegation, I wish he would charge it, and not insinuate it.

Mr. SMITH, of Virginia. I do charge it as distinctly as I can.

Mr. MARSHALL, of Illinois. What does the gentleman charge?

Mr. SMITH, of Virginia. Will gentlemen give me time to go on?

The CHAIRMAN. The gentleman asks that his time may be extended.

Mr. BURNETT. I object, and I prefer to make the objection upon a gentleman on my own side.

Mr. SMITH, of Virginia. I will say this in conclusion, that the delegation from Illinois, or a portion of them at any rate, met together here, when Congress assembled, to consider the course which a certain gentleman in the other end of the Capitol should pursue, and the means he should use to secure his reelection to the United States Senate. I say that much; and I will make out the case when I have the time. I say that that certainly extraordinary action has resulted in a concerted movement, having an eye alone to his reelection.

[Here the hammer fell.]

Mr. PALMER obtained the floor.

Mr. MARSHALL, of Illinois. Will the gentleman allow me a moment?

Mr. PALMER. I will yield to the gentleman for a moment.

Mr. MARSHALL, of Illinois. I would like to state that the charge of the gentleman from Virginia is wholly and entirely unfounded.

Mr. SMITH, of Virginia. I do not know about it of my own knowledge; but when a member of that delegation speaks to that effect, when he tells it to me without reserve, tells it to another person, and, I may say, to still another—I allude to the successor of the gallant Richardson—I take it to be true. He told me that they had a conference; that in that conference they came to the

conclusion that the only chance for the reelection of Mr. Douglas to the United States Senate was in the course he has pursued. I speak openly and squarely, because I have nothing to fear nor favor to ask.

Mr. MARSHALL, of Illinois. I do not know from whom the gentleman received his information; but if he intends to include the whole Illinois delegation, I, as one of that delegation, can tell him that it is wholly and entirely unfounded, so far as I am concerned. I do not believe any such general conference ever was held.

Mr. COX. With the permission of the gentleman from New York, I wish to say, in relation to this most extraordinary attack which has been made upon the Democrats acting against the Leocompton bill here, that it becomes the gentleman from Virginia, least of all the members of this House, to read lectures to the members of the Democratic party.

Mr. ATKINS. I object to the gentleman's speaking, unless the gentleman from Virginia is to have an opportunity to reply.

Mr. COX. The gentleman will have the opportunity. The gentleman from Virginia was elected by the aid of American votes, and he has acted with the Americans.

The CHAIRMAN. The gentleman from Ohio is out of order, and will resume his seat.

Mr. COX. I am speaking in the time of the gentleman from New York, [Mr. PALMER,] and by his leave. The gentleman has turned tail upon the Democratic party, and it does not become him to turn round and read a lecture to them, after he has joined hands with the Americans.

The CHAIRMAN. The gentleman from Ohio is out of order. The gentleman from New York has the right, under the rules of the House, to yield the floor to the gentleman from Ohio to propound a question or make an explanation, but not further, without unanimous consent. Several gentlemen have objected, and, therefore, the gentleman is out of order.

Mr. KEITT. Will it be in order to make a proposition?

The CHAIRMAN. Gentlemen will resume their seats and come to order.

Mr. FOSTER. I move that the gentleman have what the underwriters call "general liberty."

[A laugh.]

Mr. SMITH, of Virginia. Let us have this little matter out now.

The CHAIRMAN. The Chair announces that unless gentlemen preserve order, he will abandon the chair and report the disorderly members to the House.

Mr. PALMER. I hope this will not be taken out of my time.

Mr. CLEMENS. I hope the gentleman will be allowed his full hour.

Mr. RUFFIN. I object to all these arrangements.

Mr. PALMER. I will proceed.

Mr. COX. I ask the gentleman to—

The CHAIRMAN. Gentlemen will be good enough to resume their seats.

Mr. PALMER. I would very gladly yield for a few minutes.

The CHAIRMAN. The Chair would suggest to the gentleman from Ohio that, even if the gentleman from New York were to yield to him, he could not proceed, except to ask a question, or to make a personal explanation in reference to something which has been said in relation to himself, without the unanimous consent of the committee; and the Chair is already informed that that consent will not be given.

Mr. PALMER. Mr. Chairman, I propose to address the committee briefly upon topics suggested by the annual message of the President, and especially by the communication he has lately made to Congress demanding the admission of a new State into the Union, in a particular manner and with a particular constitution.

In these messages the President seems to have mistaken the functions of his office. Whether Kansas shall or shall not come into the Union, with or without the Leocompton constitution, is, by virtue of the fundamental principles on which the Republic is based, a question solely for the legislative department of the Government to determine.

"New States may be admitted by the Congress into the Union," is the language of the Constitu-

tion; and this power belongs exclusively in its very nature to the Representatives of the people and of the sovereign States whose relative interests are affected by its exercise.

Washington had such a respect for the line which separates the executive from the legislative functions of the Government, especially in cases involving the sovereignty and enlargement of the States, that when the first application for admission into the Union was made, he studiously avoided even to express an opinion as to the propriety of the measure, much less to address to Congress a sectional harangue, assailing one portion of the people, eulogizing another, and insisting in the most arrogant terms that their Representatives shall adopt the particular line of action which he shall mark out for them.

In his message to Congress, in 1790, he thus alludes to the admission of a new State into the Union:

"Since your last session, I have received communications by which it appears that the district of Kentucky, at present a part of Virginia, has concurred in certain propositions contained in a law of the State; in consequence of which the district is to become a distinct member of the Union, in case the requisite sanction of Congress be added. For this sanction application is now made. I shall cause the papers on this very important transaction to be laid before you."

And there he stopped. He laid the papers before Congress, and that was the limit of his constitutional duty.

The Constitution of the United States makes it the duty of the President "from time to time to give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient;" measures which in his judgment are necessary and expedient in order to enable him to administer the Government as he finds it—as the legislative power has confided it to his hands. Such are the subjects which he may "recommend to the consideration of the Congress;" and the earlier Presidents confined themselves to the letter and spirit of this constitutional right.

They laid before Congress, in brief and comprehensive sentences, the condition of the Union; they occasionally discussed in general terms abstract principles of political economy; and whenever they alluded to specific measures of legislation, it was merely to commend them, in dignified and respectful terms, to the free and independent consideration of Congress. They did not deem it within the range of their duty or their dignity to appeal to party prejudices, passions, and interests; nor did they themselves, nor did they require or permit their subordinates in office, to attempt to control the action of the legislative department of the Government, either by the hope of reward or the fear of punishment.

In his first address to Congress, in 1789, Washington illustrates this clause in the Constitution, as well as the duty of the President under it. He says:

"By the article establishing the executive department, it is made the duty of the President to recommend to your consideration such measures as he shall judge necessary and expedient. The circumstances under which I meet you will acquit me from entering into that subject further than to refer to the great constitutional charter under which you are assembled, and which, in defining your powers, designates the objects to which your attention is to be given."

In the next paragraph of the same message, with what studied disclaimer of the right to advise, much less to dictate, to the Congress, he approaches a question not embraced within the "necessary and expedient measures of legislation." There was then a warm discussion going on in the country, in which parties were divided, concerning amendments to the Constitution.

The President, coming to this subject, says:

"Besides the ordinary objects submitted to your care, it will remain with your judgment to decide how far an exercise of the occasional power delegated by the fifth article of the Constitution is rendered expedient, at the present juncture, by the nature of the objections which have been urged against the system, or by the degree of inquietude which has given birth to them. Instead of undertaking particular recommendations on this subject, in which I could be guided by no lights derived from official opportunities, I shall again give way to my entire confidence in your discernment and pursuit of the public good."

That this uniform refusal to interfere with, or to attempt in the slightest degree to control the action of Congress, which characterized his whole administration, was not the result of accident, but rather of design; and a well-settled conviction of right and propriety, is manifest by what he

says on this subject in his Farewell Address. Among those last words of wisdom which he gave to his countrymen in an official form occurs this passage:

"It is important, likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding, in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of the Government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominate in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the other, has been evinced by experiments, ancient and modern, some of them in our own country, and under our own eyes."

In his first annual message, Jefferson says:

"I am happy in this opportunity of committing the arduous affairs of our Government to the collected wisdom of the Union. Nothing shall be wanting on my part to inform, as far as in my power, the legislative judgment, nor to carry that judgment into faithful execution."

How clearly and distinctly the line which marks the separation of the two departments of the Government is here followed. The affairs of the Government are committed to Congress. He will give them such information concerning those affairs as may be in his power; and when they shall have made up their judgment upon them, he will carry that judgment into execution.

He closes his third annual message in these words:

"I anticipate with satisfaction the measures of wisdom which the great interests now committed to you will give you an opportunity of providing, and myself that of approving and carrying into execution with the fidelity I owe to my country."

The words *you* and *myself* are italicized by Jefferson, and it is the only instance in all his messages in which he employed this mode of conveying a nice distinction and special emphasis to his sentiments.

Again, Jefferson closes his fourth annual message in these words:

"Whether the great interests of agriculture, manufactures, commerce, or navigation, can, within the pale of your constitutional powers, be aided in any of their relations; whether laws are provided in all cases where they are wanting; whether those provided are exactly what they should be; whether any abuses take place in their administration, or in that of the public revenues; whether the organization of the public agents or of the public force is perfect in all its parts; in fine, whether anything can be done to advance the general good—are questions within the limits of your functions which will necessarily occupy your attention. In these, and other matters which you in your wisdom may propose for the good of our country, you may count with assurance on my hearty cooperation and faithful execution."

President Madison, instead of charging a great and respectable body of his fellow-citizens with want of patriotism, and Congress with keeping up for years a system of dangerous agitation, as Buchanan now does, closed his first address thus:

"The source to which I look for the aid which alone can supply my deficiencies is in the well-tried intelligence and virtue of my fellow-citizens, and in the counsels of those representing them in the other departments associated in the care of the national interests. In these my confidence will, under every difficulty, be placed."

Again, as the country was about to prepare for the threatened war with Great Britain, he brought to the consideration of Congress the condition of the Army and Navy, in the following brief sentence:

"It will rest with the judgment of Congress to decide how the change in our external prospect may authorize any modification of the laws relating to the Army and Naval establishments."

All through the excitement of 1819 and 1820, concerning the admission of Missouri and the establishment of the famous compromise, Mr. Monroe does not, so far as I have been able to discover, even mention the subject in his messages to Congress.

These men, sir, had not forgotten the causes of the Revolution. The insidious encroachments of the British King upon the rights of the colonists were fresh in their recollection; and they had some respect for the wisdom of the framers of the Constitution, whose first great care in laying the foundations of the Republic was to distribute the powers of Government among its several departments so clearly and distinctly that the barriers between them should never be broken down.

But we have fallen upon evil times. We have

a President now who claims the right not only to control the action of the Representatives of the people by the most shameful abuse of executive patronage, but to prostitute his constitutional intercourse with them to the merest sectional and partisan purposes. Not a message upon any subject on which the public sentiment is divided has come from his pen, which rises above the clap-trap that belongs to the arena of party contests—to the hustings and the stump. The English language does not furnish an instance where more of partisanship under the plea of patriotism—more of sophistry under the guise of argument—more of suppression of truth and perversion of fact, more of unblushing and barefaced misrepresentation, than are condensed in those portions of his messages which relate to Kansas and the Lecompton constitution. Alas, for the infirmities of nature! alas, for the clearness with which the imbecility of age reflects, as in a mirror, the naked deformities which, in the hour of their successful career, great bad men are enabled, by cunning and duplicity, to conceal!

Surely, Mr. Chairman, these last acts of self-development on the part of the President are a work of supererogation. They were not necessary to a fair exposition of his character. History was already prepared to assign him his proper place among men. The materials, ample and unerring, were already at hand. The anti-war malediction upon the administration of James Madison which signalized his entrance into public life; the facility with which he has espoused all sides of all public questions from that time to this; the part he took in the election of 1824, embittering for a season, by his intrigues, the relations of Jackson and Clay, and earning, in the end, the contempt of both of them; the infamous Ostend manifesto—these and other sufficient materials were already at hand for the elucidation of the public character of James Buchanan. They were ample for its truthful portraiture; and these last incoherent mutterings shall only serve to strengthen and fill up the picture.

I make no apology for speaking plainly of the official conduct of the President. While I have a proper respect for the elevated station he holds—while I have a becoming reverence for age, I have no reverence, I have no respect, for him who degrades that station to the ignoble uses of sectional or party interests. The Constitution, recognizing the necessity of a power somewhere to resist and rebuke the encroachments of an ambitious or wicked Executive, has lodged that power in this House; and it is our duty to exercise it whenever, in our judgment, the public interests require.

Mr. Chairman, all through his messages, from the beginning to the end, whenever he touches upon this Kansas question, the President assumes an air of dictation to Congress. He questions its patriotism, he insults its intelligence. On every page, in every line, he exhibits the narrowest partisan prejudices, lauding the wisdom and the honesty of the few who sustain him, and impugning, in unmeasured terms, the motives of the great majority of the people in the free States who differ from him. In the first lines of his special message he insolently proclaims that "a great delusion seems to pervade the public mind in relation to the condition of the parties in Kansas." What right, sir, has he to charge the people of this country with delusion upon a great public question, open alike to the knowledge and judgment of all? Whence comes his exclusive knowledge of the truth in regard to the "condition of parties in Kansas?" Surely not from impartial official sources, for to these he turns a deaf ear, and his own Governors are beheaded for daring to tell him the truth. "The condition of parties in Kansas!" Where is his warrant in the Constitution or in the examples of his predecessors, for reading us a lecture upon the "condition of parties?" He should be reminded that he sits where Washington sat; that his party should be the American people; his section the American Union.

Again the President says:

"The dividing line between parties in Kansas is between those who are loyal to the government and those who have endeavored to destroy its existence by force and usurpation; between those who sustain and those who have done all in their power to overthrow the territorial government established by Congress. This government they would long since have subverted had it not been protected from their assaults by the troops of the United States. Ever since my inauguration, a large portion of the people of Kansas have been

in a state of rebellion against the government, with a military leader at their head of a most turbulent and dangerous character. They have never acknowledged, but have constantly renounced and defied, the government to which they owe allegiance, and have been all the time in a state of resistance against its authority. They have all the time been endeavoring to subvert it and to establish a revolutionary government, under the so-called Topeka constitution, in its stead."

For a whole year a rebellion has been going on in a Territory; and by whom and against whom? By the majority against the minority? It is abundantly shown that the people have been all along divided in parties, in the proportion of about five to one; and it is said now that they are as ten to one. Thus the legal pro-slavery vote in favor of the Lecompton constitution, on the 21st of December, is certified by the President of the Council and the Speaker of the House of Representatives, who were present at the canvass, as "not over two thousand;" while the free-State majority against the constitution, at the election legally held on the 4th of January, fourteen days afterwards, was ten thousand and sixty-four. Now, sir, it is an extraordinary assertion by the President, that four fifths of a people in this country should be in active and open rebellion to the other one fifth, and that for a whole year.

But, sir, the President says the territorial government that has been thus enforced in Kansas, by the troops of the United States, is a "lawful government," "established by Congress," "to which the people owe allegiance." These three propositions are all erroneous. The so-called government was not "lawful;" it was *usurped*, as everybody knows, and none better than the President. Usurped authority is not lawful authority. It may have some of the technical forms of law, but it lacks the vitality which usurpation cannot give.

The President says Congress "established" the territorial government in Kansas. You know, Mr. Chairman, the President himself knows, that Congress never established that government. It is true, they authorized the establishment of a government there; they pointed out the means and forms by which the people of the Territory were authorized to establish a government. Congress never established that government, nor did the people of Kansas establish that government; nor did Congress ever authorize Missourians, or any other invaders, to establish any government over the people of Kansas.

The President further says, and he reiterates it repeatedly, as though a mere assumption, by its repetition, might be made truth, that "Congress has recognized that government." Now, sir, this story about Congress having recognized the Missouri usurpation as a lawful government in Kansas is all a sheer fabrication. Where, when, and how, did Congress ever recognize that government? The President says "in a variety of forms." Will he give us one of the forms? I recollect that this branch of Congress, the direct and immediate Representatives of the American people, distinctly *refused* to recognize that government, and pronounced it a usurpation, with no lawful authority whatever. Not only that; but it passed an act admitting Kansas into the Union under the Topeka constitution, which the President pronounces revolutionary and treasonable. It sent a committee out there to inquire into it, and that committee reported that the whole thing was a fraud and crime; that it was the work of an army of four thousand nine hundred men from Missouri, who went into the Territory, voted, and returned to their homes in military array, with banners flying, with arms, with artillery, with all the accompaniments of a conquering invasion. It passed what was called Dunn's bill, which declared the acts of the Territorial Legislature void. It repeatedly refused to make any appropriation for the expenses of that Legislature, though requested to do so by the Administration. The Senate and the House concurred in that refusal, and the item for that purpose was stricken out from the legislative appropriation bill.

Now, the President suppresses all this, and declares, in the face of what everybody knows to be the truth, that "Congress has in a variety of forms recognized that government," conveying the impression, by every fair rule of construction, that neither branch of Congress ever questioned the validity of that usurped Legislature. Sir, the national Legislature never recognized the usurpation which was forced upon the people of Kan-

as by Atchison, Stringfellow, & Co., in conspiracy with the executive authority at Washington. That the President has recognized it nobody denies. Having aided and abetted in its establishment, of course he was bound to sanction and defend it. But he is not Congress; and if a majority of the Senate concurred with him, they are not Congress; he and they combined are not Congress. Thank God, the people of this country, through their local and immediate Representatives, have yet a voice in the Government; and that voice will only be awakened to clearer utterances and greater power by the attempts of the Executive to suppress and silence it.

At the election in 1856 there was a majority in the free States of more than five hundred thousand against the President; and if they could be polled to-day upon his Kansas policy, that majority would be swollen to millions. Nine tenths of the whole people in the non-slaveholding States, with very many at the South, are opposed to his attempt to coerce Congress into an indorsement of this Lecompton swindle. All these men fall under the ban of his displeasure. His denunciations apply to them as well as to the people of Kansas. Sir, he is endeavoring to force a measure through the national Legislature, not only against the wishes of the people immediately concerned, but contrary to the public conscience; contrary to the practice of the Government; contrary to the doctrines of the party which elected him; and contrary to his own solemn pledges. And all who dare to oppose this scheme are designated, directly or by implication, as traitors, rebels, and disturbers of the public peace!

The President says: "Had the whole Lecompton constitution been submitted to the people, the adherents of this organization [the free-State party] would doubtless have voted against it." This is among the excuses assigned by the President of the United States for not submitting the fundamental law under which a great people are to live, for their ratification or rejection! "They would vote against it." Why, sir, with all deference to the logic of his Excellency, it seems to me that is the very reason why it should have been submitted; for if the people would vote for it, and none against it, there could be no practical necessity for submitting it at all. The object of referring a law or a constitution to the people, is to enable them to reject it if they disapprove of it. But this is the best reason the President could give. It is the only one anybody has given. It is the one which induced the bogus Legislature to refuse, when called upon by Governor Geary to do so, to direct its convention to submit it. It is the only one given by the convention itself, notwithstanding many of them pledged themselves to the people before their election that they would submit it. And now we have the same reason assigned by the President. It was the only way to consummate the original fraud, and he must not falter in devising and defending the necessary means for its final triumph. He therefore inquires whether it was not "the right, as well as the duty, of the law-abiding people to adopt the necessary measures to establish a constitution?" There, sir, you have it all. The minority could not establish a constitution in any other way, and therefore it was their "right and duty" to do it in this way!

"Law abiding people!" In what complimentary terms the President speaks of his friends in Kansas! For Robinson, for Lane, for Walker, for Reeder, traitors, rebels, usurpers, are the appellations the President furnishes. For Jones, for Stringfellow, for Jack Henderson, for Calhoun, and their confederates—murderers, forgers, ballot-box stuffers—scoundrels of various degrees, most of them fugitives from justice—many of them with executive commissions still in their pockets—for these gentlemen he has a choicer vocabulary; they are preëminently the "law-abiding people," who were justifiable in making a snap-judgment against the majority, lest they should refuse to sanction their usurpation! This is the logic, the justice; this is the morality, the democracy; this is the popular sovereignty which commends itself to the favor and conscience of his Excellency!

The President sustains his charge of rebellion against the people of Kansas as follows:

"The enemies of the territorial government determined still to resist the authority of Congress. They refused to

vote for delegates to the convention, because they had pre-determined, at all hazards, to defeat the establishment of any other constitution than that which they had framed at Topeka."

Mr. Chairman, I never before heard that a refusal to vote was resistance of authority, or rebellion, or treason. I supposed people in this country had a right to vote or not, as they pleased. But the people of Kansas did not refuse to vote for the reasons given by the President, but for others, which I shall presently refer to. One was, however—and it was sufficient—that they knew if they tried to vote they would be cheated out of the election, and then be charged with having waived, by their participation in it, their objections to the original usurpation and its consequences. But suppose they had voted and elected, as the President intimates they might have done, a majority of the convention: could they not, through their convention, still have adhered to their Topeka constitution? So that, whether they staid away from the election, or voted and carried it, they were still, according to the President, resisting the authority of Congress!

Sir, it has been impossible for them to satisfy the President. They found no difficulty in conciliating the Governors he and his predecessor sent to them. Those gentlemen discovered in that people something besides treason and rebellion. The President can see nothing else. What they do he blames them for; what they do not do he blames them for. Throughout all these proceedings in Kansas, he has seen nothing in the conduct of the free-State people to approve, nothing in the pro-slavery to condemn. In 1856, his friends proclaimed all over the North and the West that, if elected, he would make Kansas a free State. Pierce, they said, had been unfair—he was playing for a renomination. Buchanan had pledged himself not to take a reelection, and they believed he would repair the errors of his predecessor, and adopt such measures as would restore to the free-State majority in Kansas their rights and their supremacy. The appointment of Geary, and his early attempt to secure the submission of the constitution to the popular vote, were exultingly pointed to as conclusive proof of this. The intimation in the President's inaugural that the people should vote on their constitution, his instructions to Walker to that end, and Walker's pledges to the people to the same effect, seemed to justify this claim. But the moment these concessions on the part of the President began to excite opposition among his southern supporters, how suddenly they were arrested! Geary was called home in disgrace; Walker was censured and compelled to resign; Stanton was summarily removed, and the reign of terror, under the dictator Calhoun, was again established in the Territory.

I come back to the President's message:

"Should Congress reject the constitution under the idea of affording the disaffected in Kansas a third opportunity of prohibiting slavery in the State, no man can foretell the consequences."

Now, why should worse consequences ensue from the third opportunity than from the second? The people are now declared by all your Governors to be nearly unanimous in favor of excluding slavery. The whole country is adopting this conviction. The charge that the free-State men only went there from New England to vote, and then return, is exploded. Most of those who could give the people further trouble, have disappeared from amongst them. The very delegates—most, if not all, of them—who framed this constitution, are out of the way; some have returned to their homes in Missouri—some have succumbed to *delirium tremens*—some have escaped to the Federal capital, seeking, under the roof of the President, that immunity for crime which is denied them at home. Nothing but the Army of the United States remains to plague that people.

The President warns us against this "dangerous agitation" in the Halls of Congress, and in the country. Sir, there is no agitation save what he and his policy have caused. Would he stop it, let him first arrest his career of usurpation and wrong. The American people have a right to discuss and to agitate; all free people do agitate; and when the time comes that the freemen of this Republic, or their Representatives, shall cease to discuss public affairs, or to question the wisdom of the Executive, then should these Halls be

turned into barracks; the Revolution, the Constitution, the records, the rich and glorious memories of the past, all, all should be forgotten; for then will the night of despotism have gathered over the land.

What are the lessons of history? From the time the world began, the necessity of suppressing agitation and quieting the turbulence of the people has furnished the pretexts for tyranny and usurpation. "Alarming discussion in the House of Commons," cried the Stuarts when they trampled on the magna charta of England; "unseemly agitation in the Senate," whispered the Roman consul, as he clutched the scepter of empire; "turbulent discussions in the National Assembly," exclaimed the two Napoleons, the First Consul and the President, as they slid into the imperial throne.

Sir, this agitation which the President deprecates is the inevitable consequence of the very act he so loudly applauds. As if he knew this were so, he volunteers its denial in advance, in the following remarkable passage:

"Every patriot in the country had indulged the hope that the Kansas and Nebraska act would put a final end to the slavery agitation, at least in Congress, which had for more than twenty years, convulsed the country and endangered the Union."

Now, everybody knows that directly the reverse of this is true. You, sir, remember the men—I will call them patriots, though I incur the contradiction of his Excellency—you remember the distinguished gentlemen whose services in the field and in the Cabinet have been acknowledged by their countrymen; you remember the patriots who, on this floor and on the floor of the Senate, denounced that act as a Pandora's box, from which would fly all over the land the elements of discord and strife. They "hoped it would be the final end of the slavery agitation?" They called their country and their God to witness that it would prove the beginning of that agitation, and that they washed their hands of its responsibility. The South not less than the North. What bitter, burning words of execration did the distinguished statesman from Missouri, then a Representative, formerly a Senator, always a pure patriot and an honest man, denounce it as a delusion and a snare; as an outrage upon the North, as a dishonor to the South; as a violation of her plighted faith; as the price of perfidy with which demagogues were pressing her palm. What said the distinguished Senator from Tennessee; what the gallant Senator from Texas? "If this bill passes, depend upon it, there will be a tremendous shock. It will convulse the country from Maine to the Rio Grande. We shall have seen the commencement of the agitation, but the youngest child now born will not live to witness its termination." Such was the warning, such was the prediction heard everywhere outside the circle of political tradesmen and party hucksters.

Hardly a man of the North, in Congress or out of it, could be found at first to support it. Even the venerable Senator from Michigan, now Secretary of State, who, six years before, had laid the foundation of the steps which led to its consummation, gave it an unwilling support, pronouncing it inexpedient and unwise; and he has since designated as "disgraceful to the age," a code of laws which was among the first of its legitimate fruits. Where, then, does the President find his authority for saying that every patriot in the country hoped it would "settle" the slavery agitation? Sir, it settled nothing; it unsettled everything. It unsettled the time-honored policy of the country respecting the Government of the national domain. It unsettled the "finality" which it was claimed the compromises of 1850 had established. It unsettled the obligations of compacts between different sections of the country. It has unsettled the foundations of southern chivalry, and destroyed forever all confidence in its faith or honor. It has unsettled the political boundaries of parties, displacing them with sectional and geographical lines. It has unsettled the confidence of the American people in the impartial integrity of their highest judicial tribunal.

Mr. Chairman, African slavery was early a source of anxiety to American statesmen. In various records before the Revolution, in the draft of the Declaration of Independence itself, it was enumerated among the wrongs inflicted on the colonies by the mother country, which justified the

separation. Our independence achieved, steps were immediately taken to abolish it. Virginia, foremost in those days in vindicating the principles of human liberty, was first to devise plans for its extinction; and she entered upon the task of preventing its extension as the surest and speediest mode of its destruction.

This policy was continued all along in the progress of the country, until the few fanatics who had always resisted it, uniting under the leadership of the sagacious Calhoun, pronounced it heretical and unconstitutional. They declared that slavery was a national blessing; that it furnished the "most perfect relation that can exist between capital and labor;" that it reposes for its security and for its equality with all other proprietary rights in the provisions of the Constitution; that it is an institution ordained of God, and ought therefore to be protected, enlarged, and perpetuated. The singleness of purpose, the boldness and intrepidity with which they maintained their position, soon attracted attention, North and South; and those aspiring to Federal promotion paid their addresses to this new element of political power. The movement has since advanced with that steady, certain progress, which the timidity of its opponents, no less than the firmness of its advocates, insured. Its triumphs are epochs, bold and striking, in the history of the country. Annexation of Texas in 1845; squatter sovereignty in 1848; non-intervention in 1854; the constitutional establishment of slavery in all the national territory in 1857—these are the monuments which celebrate at once the abasement of freedom and the achievements of slavery.

Such events were not wrought by ordinary agencies. To effect them the old landmarks which divided the opinions of the American people, in their domestic or foreign policy, are removed, and the demoralization of all parties is complete. Adherence to the principles of Jefferson is no longer orthodox democracy. The modern test, rather, is, not how long have you been in the Democratic party, but how late were you out of it? Have you spent the vigor of life in hostility to it? then are you fitted to take charge of its interests. Are you in the Senate by virtue of a commission granted by its traditional enemies? you shall declare its principles and direct its policy. Are you in the House of Representatives? you shall control its Territorial Committee, you shall lead its Committee on Foreign Relations. Did you desert the Democratic nominations in 1848? you shall be at the head of its Committee on Commerce. All these posts of honor you shall hold, provided, only, you are sound on the Lecompton constitution; for that only is the test of modern Democracy. Do you claim to have been born in that party, and to have followed its fortunes for half a century? it shall avail you nothing, unless you submit to the dogmas which new comers have interpolated in its creed. Those whom you have met and conquered on many a well-fought field, are hereafter to be your masters, and when they crack the whip of party leadership, the old guard must bow in silent submission. You are free on all other questions; but on this project of extending African slavery, by fraud and violence, if need be, those who question its wisdom are denounced as heretics and renegades. The thunders of the central organ are awakened, and the laqueys who throng the national capital echo its anathemas.

Sir, it is time this retrogression of the civilization of the Republic ceased. I believe it has ceased. The people of the North, of all political parties, have determined to participate in the government of this country. "Acquiescence" has lost its charm over them. Such legislation only will be acquiesced in as is just and right. What is unjust and wrong will be corrected by the appellate power of the country—discussion and the ballot. If the exercise of this power shall indeed reform the Government; if it shall take it from the exclusive control of the slaveholding States which, the Senator from South Carolina says, have held it for sixty years, gentlemen need have no fears that it will not be administered with justice and impartiality. The Republican party, when, in 1861, it shall take charge of this Government, will endeavor to reinvest it with something of the purity, the justice, the civilization, the higher law, with which it was clothed at its birth. While it will not interfere with slavery in the States, it will see to it

that the Federal Government be no longer made the instrument of its extension. In this respect, it will not go beyond the designs of that party which, ten years ago, carried the Empire State by eight thousand majority against the "national" Democracy upon this very issue. But there are other gentlemen—there may be some on this floor—who know more of that party than I do. They were its leaders; I was among the humblest of its followers; they did not then give so much importance to the exceeding virtue and intelligence of "short boys," "shoulder-hitters," and "dead rabbits" as they do now. Then they thought the people in the country had some knowledge of public affairs, some energy, and some political honesty. They came out into the rural districts, and, patting the country boys on the shoulder, exhorted them to stand firm, declaring that no more slave States should be admitted into the Union, especially from territory north of 36° 30'. They waxed eloquent upon this theme. Two of them, father and son, the one by elaborate manifestoes penned in the retirement of Lindenwald, the other by a running fire of speeches, gave themselves so thoroughly to the work, that uncharitable people suspected they were moved by motives not altogether free from personal considerations. The sequel demonstrates the justice of that suspicion.

Times change and men change with them. Ten years ago, there seemed to be an impassable gulf between these free-soilers and the pro-slavery hunkers, as they termed their adversaries. But the Wilmot proviso was struck down; the Missouri compromise has been repealed; territory, then free, has become as much the abode of slavery "as South Carolina or Georgia," and these gentlemen proclaim their "uncompromising" purpose to force that territory, with slavery, into the Union, in order that it may be perfectly free to regulate and form its domestic institutions in its own way! To this complexion has it come at last. This is the end of the entertainment to which Van Buren, Dix & Co., invited the people in 1848.

Mr. Chairman, there are three great facts respecting this Lecompton constitution, so plain, so universally admitted, and so conclusive, that I adopt them as the guide of my action upon it.

First, there is no proof that that constitution embodies the will of the people who are to live under it. This is admitted on all sides. Even the President does not deny it; and his friends in both Houses of Congress frankly acknowledge it.

Second, there being no proof that it embodies the will of the people, it ought to have been submitted for their ratification or rejection.

Third, it not having been so submitted, it is our duty to refer it back to the people.

The only pretext alleged here for not so referring it, is that the free-State men of Kansas have, by their factious, disorganizing conduct, forfeited all right to vote upon their constitution. Now, sir, I maintain that the proceedings in Kansas do not authorize us to violate the well-settled principles of popular government. I insist upon it, that looking at the whole history of that people, you cannot find an instance in the annals of the world where a community has shown itself, by its gentle wisdom, by its courageous forbearance, by its steady maintenance of right and resistance to wrong, better entitled to the full and free exercise of self-government. The great complaint against them is that they did not vote at the election of the Lecompton convention. Now, Governor Walker and Governor Stanton dispose of this objection. They show conclusively that the reason they did not vote at that election was threefold: first, they were all unwilling to acknowledge the legality of the Legislature which called it; second, many who proposed to waive this objection could not vote, because the pro-slavery officers had not taken the requisite census and registry; third, they were all assured by their Governors, speaking for the President, that the constitution to be formed by the convention should be submitted to them, and they could then act upon it as effectually as though they voted at the election of the delegates; and if not so submitted, it would be rejected by Congress.

All the Governors you have sent to Kansas, selected from the enemies of that people and prejudiced against them, concur, so far as they have made known their opinions, in the declaration that their conduct, taken as a whole, is justifiable;

and that, to-day, they are clearly and indubitably in the right, while the pro-slavery minority are as clearly in the wrong. I take their testimony as good authority; I accept it as an admission from the other side, and they cannot escape from it. Who, of all men, are best informed, and, therefore, most competent to enlighten us on these questions? Surely, the Governors who were on the spot, and were themselves a part of the transactions they describe. They pronounce this constitution the legitimate fruit of a stupendous fraud and usurpation, and they declare that an overwhelming majority of the people of the Territory utterly abhor and reject it, and will never permit it to be forced upon them. Remember, these witnesses are southern men, themselves slaveholders, supporters of the Kansas and Nebraska act, prominent leaders in the Democratic party, whose reputation for truth and veracity rests on a long career of honorable public services. It is useless to malign their motives. If proper subjects of inquiry, how strongly would they be found to urge them to go with their friends and against their political enemies. Sir, I hope the day is far distant when an American citizen shall not be permitted to bear testimony, if legitimately called upon to do so, upon a question of fact, because it may prejudice the interests of the political party to which he belongs, without being denounced as false, treacherous, and hypocritical. When such shall be the sway of party, then, indeed, shall we have a despotism in our midst as absolute and as irresponsible as the public mind shall be debauched and enslaved.

Sir, we are not bound to admit a new State to the Union merely because a part of the people of a Territory make application, accompanied by what they call a constitution. Gentlemen need not tell me that we have no right to look behind the papers laid before us, and that if those papers are technically regular we are estopped from further investigation. The Senator from Georgia likens the discharge of our duty in this respect to the execution of a process by a ministerial officer—a sheriff—which must be enforced though it be wrong. Even in such cases, courts interfere, open judgments, grant new trials, and stay final execution, till the right of appeal is exhausted, and the ends of substantial justice attained. Away with this talk about our being estopped in our legislative duties by forms and technicalities! We owe it to the people of Kansas, to justice and truth, to investigate this whole matter; and if we find this constitution tainted in the least with substantial fraud, if we find it does not embody the will of the majority of the people who are to live under it, we ought to reject it.

The President of the United States supports his charges against the people of Kansas, by quoting from Governor Walker and Governor Stanton in a manner which at once betrays the weakness of his cause, and degrades the office he holds. He selects extracts from the letters of these gentlemen, written, as they themselves say, when they were ill-informed of the condition of affairs, and prejudiced by the misrepresentations of the creatures who infested the executive departments, against the people they were sent to govern; and he weaves these adroitly-scissored extracts into his argument, and parades them before the country in justification of the calumnies which he heaps upon that people. Now, why had he not the common honesty to say that these gentlemen, the moment they made themselves acquainted with the true state of affairs in the Territory, were forced to yield to the conviction, as their predecessors had done, that an infamous fraud had been practiced upon the people by the creatures of the Executive and their ruffian confederates from Missouri? Why did he studiously suppress their later communications, made at a period immediately connected with the history of the Lecompton constitution?

Mr. Chairman, let us not force this constitution upon the people of Kansas. Let us have no contest with them. They are in the right. They have been in the right all along. They have all along borne too much of wrong. They never should have allowed that Lecompton convention to meet. It never would have met only for the solemn assurances of Walker that its work should be submitted to the people. The frightened delegates made the same promise, and the people, preferring peace, suffered them to meet. It was

a mistake; they should have driven them from the country, and if the army interfered, there should have been another Lexington and Bunker Hill. It is idle, sir, for the President to attempt a military despotism in this country. The American people are themselves accustomed to the use of arms, and they look upon the Federal Army as their servants, not their masters. The end of military rule in Kansas is at hand. The people are about to take charge of their own affairs in their own way. They have had enough of the "perfect freedom" of popular sovereignty. It has proved to them, what was predicted of it when it was inaugurated, a cheat and a delusion.

I call upon the President, then, to let that people alone. They can take care of themselves; they will take care of themselves. Let him cease the calumnies with which he is traducing them. Such conduct does not comport with his constitutional rights, the dignity of his position, nor the obligations he owes to truth. The freemen of Kansas have proved themselves worthy the name of American citizens, and the memory of their heroic virtues will live in history and tradition, when all of their traducer, save that he was once President of the Republic, shall have been forgotten.

Are not gentlemen satisfied with the experiments already tried? The President certainly has done all they ought to require of him. He cannot subdue the people of Kansas. He can place no obstacles to the full and free exercise of their constitutional rights, which they will not trample upon with scorn and contempt. He has tried faithfully to force slavery upon them. He has failed, and he is destined to fail as often as he renews the contest. No man, however high in position, however unscrupulous in the use of means, can triumph over the rights unless he shall first corrupt the virtues of the American people.

Let the President, then, retrace his steps. Let him give this constitution back to Calhoun, who made it. It was not made by the people of Kansas, it does not embody their will. There is not a man in this House, there is not an intelligent man in the country, who does not know that an overwhelming majority of the people now in Kansas are opposed to it. The President and his predecessor have sent six Governors, with an "army two thousand strong, with General Harney to command it, with dragoons and two batteries," to subjugate that people; and what have they accomplished? Nothing. Four of them have returned disgusted with the work required of them. The fifth (Shannon) nobody knows what has become of him. He was not of much account when he was appointed—he is of less now. The sixth will soon return, it is believed, to repeat the story of his predecessors. Then let the minority be advised to yield to the will of the majority. Let a Governor be appointed who will cooperate with the people in restoring peace to the country.

Mr. Chairman, it seems that the nation is to be called upon to determine which of the two antagonistic systems, freedom or slavery, is to prevail to the exclusion of the other. If the trial of this issue is insisted upon by our southern friends, the North will meet it. Thus far she has not sought to force her institutions upon the South. Whether she shall be compelled to do so, to adopt the policy of an aggressive development and extension of her system, is a question well to be considered by southern statesmen. If they will no longer abide by compromises—if they will insist upon crowding us to the wall—let them ponder the consequences. I tell them here plainly that this attempt to push slavery beyond the local jurisdiction which sanctions it, will not only fail, but it will lead, if persisted in, to an earnest inquiry on the part of the North into the means by which an institution so fruitful of continual evil may be removed entirely out of the way. The campaign, once begun on the broad plan laid down by the South, will end only in the permanent settlement of the great question, whether freedom or slavery is to control the destinies of this continent. That freedom will win is as sure as that the battle is to be fought in this country and in this age of progress and reform.

And that triumph will be at once the triumph of liberty and the triumph of the Union. There will be no disunion, no infringement upon State sovereignty, no secession. State sovereignty! When we speak of the Union there is no such thing!

There are powers, sovereign powers, which the States possess, and have not alienated; but when we speak of the unity of the States, of the Federal Government, we speak of a sovereignty absolute and indivisible. Secession! Sir, this Confederation of States is a partnership for life. As new members cannot come in, so none can go out of it save by the common consent. They are joined together for better or for worse, and there is no power of divorce.

Go on, then, "extending the area of freedom;" wage wars of conquest with your sister Republics of Central America, with Mexico, and Cuba; open the door to immigration; but all this time, be assured, Jonathan with his "organized colonization" will be there, and the free laborers of Ireland, of Scotland, and Germany will go with him; for he finds honorable employment for them; he works with them; he talks with them; he teaches them, in his homely, practical way, the new ideas of the New World about government, liberty, equality, and the dignity of labor. Thus are they drawn to him, and he to them. They assimilate; they form one body-politic; they are one people.

In his care to push forward the interests of the new community, the claims of education are not forgotten. In a little grove by the road-side is reproduced the old school-house of New England, where he learned, among his first lessons, that human institutions are founded in the Christian religion; that governments derive their just authority from the consent of the governed; that the American Union was established by the united wisdom, and cemented by the common blood, of the sages and heroes of the Revolution; and that it is to stand a monument of their virtues and their patriotism, now and forever, one and inseparable.

But, sir, the South begins to appreciate that the acquisition of new territory, in any direction, is her weakness, not her strength; and ere long she will give the order to halt in this career of southern extension. Some new dogma of "equality under the Constitution" will be found to stand in the way. Already the notes of warning have been sounded. The prophetic eye of Calhoun foresaw that annexation might endanger his theory of equilibrium, and while he was willing to take Texas, without war and with slavery already established, he opposed the invasion of Mexico, lest it should result in more territory than his peculiar institution could occupy. And northern men then in Congress were importuned to avoid the war for that very reason. In his letter to Mr. King, in 1844, deprecating the conquest of Mexican territory, he said:

"It is our policy to increase by growing and spreading out into unoccupied regions, assimilating all we incorporate; in a word, to increase by accretion, and not through conquest by the addition of masses held together by the cohesion of force. No system can be more unsuited to the latter process, or better adapted to the former, than ours."

It is a significant fact that these words were rephrased the other day in connection with the neutrality question by the Washington Union, and the attention of the South particularly called to them.

And the gentleman from Mississippi complains that annexation thus far has damaged the South. What would gentlemen have? We acquire new territory for the South, and because she cannot occupy it, they complain. Are we to stand still because she cannot advance? Are the vigor and energy of freemen and free labor to be forever repressed to the dead level of slavery? She has the Government, the Executive, the Legislature, the judiciary, all subservient to her behests, and yet, where is she? Compare her with the North and West. Take up two States of equal size that entered the Union together. What are their relative positions now? Trace the comparison all along from the beginning of the Republic—what do you find? A rapidity of growth unparalleled in the history of the world on the one side, and comparative stagnation or absolute retrogression on the other.

Let the South then abandon her insane project of slave propagandism. It and the management of the Federal Government—the enjoyment of its patronage and power, have too long absorbed her energies, preventing the development of the vast and varied resources of her material prosperity, and the moral and intellectual advancement of her people. Let her cease making this one idea

of slavery the test of patriotism; let her abandon the cry of the "union of the South for the sake of the South." Let her people reassert their individual right to think and act, to form parties and combinations as their honest differences of opinion and various local and domestic interests may dictate. Let her do this, and she will again become in spirit and truth, as she is now only in form, a living, active part of the Union, sympathizing in the advancement of its common interests and its common glory.

Mr. Chairman, we are in the midst of the last act of this drama. Its opening, its incidents, its plot, its progress, have all been arranged *secundum artem*. Its first act was the repeal of the Missouri compromise; its second, the border ruffian invasion; its third, the usurped Legislature; its fourth, the Leecompton convention; its fifth is committed to the hands of the President and Congress, and the scene is transferred to the national capital. If it shall be conducted to its legitimate catastrophe, then, indeed, will have been committed a crime almost without a parallel in the history of the world. Others have been as violent, others have been more bloody; but they were perpetrated when and where, as there was less appreciation of civil justice and political rights, so there was less accountability for their violation. But here, in the model Republic, in the middle of the nineteenth century, with the examples of the Revolution and the principles of Christian democracy throwing a flood of light in our pathway, for an American Congress to deliberately enact so great a wrong—sir, I contemplate it with horror. I cannot believe it will be consummated.

And yet I know not but this bill is destined to pass. I remember the repeal of the Missouri compromise was condemned by the nearly unanimous voice of the country when it was first proposed. And yet it passed. I know the President's power. I appreciate his material arguments, far more effective than written messages. I remember how these arguments were plied in 1854. I am prepared to see this measure pass. But I hope for the best. I look for wiser counsels among those gentlemen of the South on this floor who, I believe, are actuated by a desire to promote the peace and welfare of the country. From those of the North who have determined to support this bill I look for nothing. I regret they should have felt it their duty to place obedience to the Executive above the obligations they owe their people and their country. For the fair fame of the North, which is so often taunted with venality, I hope subsequent events may give rise to no suspicion that the votes they are about to record are in the least tainted with dishonor.

Above all, let us who have arrayed ourselves on the side of the people in their unequal contest with power, stand firm and united, doing our whole duty, be the consequences what they may. I invoke the blessings of Heaven on our efforts. I pray that the ominous clouds which are gathering over us may be dispelled; that the sounds of domestic discord which now afflict our ears may cease; and that entire harmony may once more embrace the great brotherhood of American States.

Why should we continue this fratricidal war? Let us rather all submit to the destiny of our country. We cannot resist it. It will go onward and upward until the whole Union and its now unoccupied domain shall exhibit a picture of beauty abounding in all the attributes of Christian civilization, such as the world has never yet seen. All artificial distinctions before the law will have been merged in one political brotherhood, where none shall be master and none shall be slave—where honorable labor, with her attendants, health, happiness, and plenty, shall be free to all, and shall make all free. Then, indeed, will the dreams of the founders of the Republic have been realized; then will the principles of justice and equality, as enunciated in the Declaration of Independence, have accomplished their mission, and the country they gave to the world have become the perpetual abode of charity and peace.

Mr. MORRIS, of Pennsylvania. Mr. Chairman, the question of the admission of Kansas has been unjustly made to assume a sectional character. It has, for the most part, been regarded as a southern or northern question, and it is discussed less with reference to its own merits than its bearing on the interests of antagonistic sections. Appeals are made to local prejudices and passions on

either side; the existence of the Union is menaced; and it seems as if there was a studied effort to kindle implacable feuds, and divide the nation into two warring camps.

Whatever personal advantage or consequence may be gained by mingling in this war of sections, I shall willingly forego. While the Union lasts—and I do not believe it is within the power of party zealots to so inflame the people with their own disloyal passions as to madden them to its destruction—I shall hold it my duty, as a national legislator, to look at all questions that come before this body in a comprehensive, American scope of view; to consider them as affecting the welfare of the whole country. And most jealously shall I withhold my suffrage from any scheme of party that seeks to build up the interests of one portion of the country at the expense of another.

Living on the southern verge of the northern States, representing a city eminently liberal in its political sentiments, and pledged to no inflexible line of party action, I am free to adopt such a course on this question as my own conscientious convictions assure me will be most propitious to its speedy and peaceful adjustment, and to the future tranquillity of the nation. Having the clearest evidence that a large majority of the people of Kansas are opposed to the Leecompton constitution, I shall not usurp their right to form their own fundamental law, and impose upon them an instrument which they detest and abhor. If political inconsistency were not of such frequent occurrence as to cease to excite surprise, we might well be astonished at the assertion of the right of Congress to dictate to the people of a Territory a constitution which is to bind them as a State.

It may be denied, but it is none the less true, that the power is claimed for Congress, in conjunction with a minority in Kansas, to establish a constitution for that nascent State, in defiance of the protesting voice of a large majority of its people. This arrogant pretension is made by those, strange to say, who repudiate the constitutional authority of Congress to prohibit slavery in a Territory, or to legislate upon it in any manner. While a clear and unmistakable provision of the Constitution of the United States, exercised to its full extent in the ordinance of 1787, with the subsequent sanction of the framers of the Constitution under the Federal Government and in the Missouri compromise, is set aside, the power of congressional interference in the domestic institutions of a Territory is attempted in a newer and far more questionable form.

To justify this position, every available expedient that sophistical ingenuity can suggest is employed. It is argued that it is not necessary to submit constitutions directly to a vote of the people for ratification, and that there are instances in which this has not been done. This may be so; but the necessity for popular ratification in this case arises from the policy inaugurated by the Kansas-Nebraska act. The apology for the repeal of the Missouri compromise was, that Congress ought to divest itself of all power to control the settlement of the question of slavery in the Territories, and confer it exclusively on the people. Such was the declared intent of the Nebraska-Kansas act. This was supposed to be the future and established policy of the Government. However much opposed at first by the friends of the Missouri compromise, it was gradually commending itself to the country as an easy and feasible mode of settling this vexed question; in other words, complete independence on all domestic concerns was conceded to the people of the Territories, and Congress waived all right of interference.

On this, the first application of this new policy, it seems, however, public expectation is to be disappointed as to its beneficent effects. Because a constitution, tolerating slavery, is presented to Congress, we are urged to admit Kansas into the Union under it, notwithstanding that we have the most indubitable evidence that that constitution outrages the sentiments and wishes of an overwhelming majority of her citizens. Frauds the most monstrous, and proved by evidence the most convincing, are not allowed to be investigated; and it seems to be determined to override every rule of fair action, for the purpose of securing another slave State.

All we of the Opposition ask, is that the will of the people shall be ascertained and respected;

that fraud and violence shall not be indorsed by this supreme political tribunal; that a fatal precedent shall not be set, which shall hereafter encourage base men to violate law, and trample on the rights of their fellow-citizens. Our elections are vitiated enough by illegal practices, which are stimulated and tolerated by men in authority in the great cities to such an alarming degree, that they are rapidly degenerating into mere farcical exhibitions. If election frauds shall be connived at by this body, and their perpetrators be defended and patronized by the President of the United States, the ballot-box will lose all its moral influence, and venality, perjury, and ruffianism, will rule the destinies of the country. This question has a moral aspect of immense importance, and I beg gentlemen to look at it candidly, and see if its pernicious consequences are not enduring and far-reaching.

I beg gentlemen of the South to pause and consider if the toleration of fraud and defiance of the popular will in this case are not likely to react on the interests they represent? If Arizona, or a new State to be formed out of Texas, should apply for admission into the Union with a constitution prohibiting slavery; and the evidence should be as undeniable in that case as in this, that the constitution was carried by violence and fraud; and that two thirds of the people were opposed to it, what right would the South have to complain, if we should refuse to go behind the record, and examine into the truth of these allegations; if, determined on enjoying an illegal victory, we should close our ears to the remonstrances of a protesting people, and despotically make our will paramount and absolute? If the Representatives of the free States were disposed to avail themselves of the advantages of such a fraud-gotten triumph, they could appeal for a justificatory precedent to the action recommended by the President in the admission of Kansas.

"In these cases,
We still have judgment here; that we but teach
Bloody instructions, which, being taught, return
To plague the inventor! This even-handed justice
Commends the ingredients of our poison'd chalice
To our own lips."

God forbid that any northern man should countenance such transactions, even for the purpose of extending the area of freedom! It would dishonor the cause, and destroy public confidence in our characters as just-dealing and law-regarding men. For one, I will never aid in forcing a form of government on a people which they do not wish; and I am willing to give them full and exclusive power to regulate their own institutions. I have too high an opinion of the character of the people of the South to believe that they desire to profit by a dishonest victory, or that they will sanction anything but upright and honorable dealing. To do otherwise than the latter would be in direct conflict with that high-toned sense of honor and chivalric spirit of conduct which they have always claimed as attributes of southern character.

Rejoice to see that two veteran Senators—noble relics of a generous and patriotic party—rising superior to the prejudices of section, and the clamor of faction, have led the way in the vindication of the true character of the South. They cannot be tempted to sully her fame by rendering her a party to fraud, or, for any sectional advantage, support the cause of injustice, and trample under foot the acknowledged rights of the people. To denounce such men as traitors to the South betrays an obliquity of feeling that can only spring from the intensest party hate, or a bigotry of temper that brooks no difference of opinion. Were either of those two men of immortal memory—Henry Clay and Daniel Webster—with whom, for so many years, they fought the great battle of popular privilege against executive prerogative, now living, the walls of this Capitol would reverberate with the thunder of an eloquence greater than his who

"Shook the arsenal, and fulminated over Greece
To Macedon and Artaxerxes' throne,"

rebuking, in indignant terms, the infamous scheme which this Congress is urged to consummate. Like Crittenden and Bell, they never faltered in the performance of their full measure of duty. The darker the crisis, the firmer and more lustrous shone their patriotic courage. As their gallant survivors, their motives were impeached, and their characters traduced; but the approving voice of conscience sustained them in the wildest fury

of the tempest of abuse and calumny to which they were exposed. Their names now stand out in bold relief on the pages of history, in all their native grandeur of intellect, dignity of character, and purity of purpose; while no lapse of time, and no factitious consequence, derived from high station, can ever blind the discriminating eye of posterity to the base impulses and mean spirit of their calumniators.

It is an easy task, sir, to obey executive dictation, and serve the behests of power; but it requires an exalted moral courage, and a stern and unfaltering patriotism, to be ever loyal to the country and the people. The worship of power brings place and pelf; devotion to the country little else than a sense of duty honestly discharged, and the applause of the discriminating judgment of the wise and good. Sycophants have abounded in all ages; but patriotic statesmen of the temper of Cato, Chatham, Webster, Clay, Bell, and Crittenden, are as rare as they are illustrious.

From among the vulgar and ignoble hordes who, like fawning slaves, cringe and bow beneath the lash and nod of arbitrary authority, who

"Reneged, affirm, and turn their halcyon beaks
With every gale and vary of their masters,
Knowing naught, like dogs, but following—"

such men rise up supreme and majestic, in sublime grandeur, vindicating the higher qualities of our nature, and inspiring the latest ages by the example of their heroic championship of liberty and right.

I know, sir, the power of the executive branch of this Government, and the despotic and cruel manner in which the President exercises his short-lived authority. The advocates of the Constitution, in defending it against those who, in the State conventions, denounced the power and influence of the President as likely to become an overmatch for the coordinate branches of Government, never dreamed that, within half a century after its adoption, these apprehensions would be realized. Washington, Hamilton, Madison, Franklin, and the other framers of that instrument, never believed that the President of the United States could descend to such petty tyranny as to allow no difference of opinion even in the ranks of his own party friends; that he would require the meanest office-holder under him to surrender his private judgment and accept the will of the Executive as the infallible standard of truth; and that he would punish dissent, even on a single point of party policy, with expulsion from office. The one-man power has grown to formidable and dangerous dimensions; and supported, as it is, by an army of dependent servitors, and a venal, plundered press, and clothed with a most corrupting patronage, it threatens danger alike to the liberties of the country and the independence of Congress. Every engine is brought to bear against this body, to shake its fidelity to the Constitution and the people. Important offices are held waiting the decision of great questions; independent, high-minded members' names are entered on a proscription list, as infamous as that of Antony and Lepidus; and the Government organ is daily gorged with personal abuse and vile imputations against every man who, on this floor, dares to form and express his opinions with the independence that becomes an American Representative. It really seems as if it was designed to stifle free discussion, and make this body a mere registry of executive edicts—as servile as the Senate of Caesar and of Louis Napoleon.

But, sir, tremendous as is the power of the Executive, and demoralizing as is the influence of the immense patronage he wields, it cannot control public opinion, nor stifle its intimidating voice. Like the surges of the ocean, it cannot be lashed into quietude; it cannot be fettered by chains of party discipline; no haughty mandate of power can overawe or check its free and tumultuous roll. Flatterers may intoxicate the brain of him who wields the scepter into the belief that he is omnipotent, but a mighty and puissant nation, jealous of its freedom, once aroused, will vindicate its derogated rights, and chastise, with righteous rage, the insolence of executive usurpation, and those who abet and sustain it.

When the Territory of Kansas was duly organized and opened for settlement, all men were free to come in and make it their home. Whether they came singly or in organized bands, with or without arms, from the North or the South, no one

had a right to dispute their entrance into the Territory. They who condemn the systematic plan of emigration set on foot in New England, impugn one of the most ancient and unquestioned privileges of the Anglo-Saxon race—a privilege which the most despotic sovereigns of Italy and the German States have occasionally fettered the exercise of, but which they have never dared wholly to deny or prohibit. Free and untrammelled liberty of emigration and movement, from the time that the Germanic tribes of the north first burst the barrier of the Alps, and poured down on the plains of Italy, mingling their blood and tongue with the people and language of imperial Rome, has to this day been a peculiar characteristic of the Teutonic stock. It is none the less so of the Anglo-American people.

The New England emigrants went to Kansas in quest of a new home; their object was as legitimate as that which inspired the landing at Plymouth and the settlement at Jamestown. If their aim was also to found a free State, to make a peaceful conquest for free institutions, that was purely just and proper, and it enhanced the merit of their enterprise. The founder of a free commonwealth was honored while living by the Greeks and Romans as a benefactor of his species, and raised to divine honors after death. Honor to the hardy descendants of the Pilgrim Fathers, whose enterprising and adventurous spirits carries American civilization into the remotest wildernesses of the remote West! And especial honor to them for having led the way in the achievement of this latest victory of freedom over slavery!

It was an honest victory, gained in a hard-contested battle, fairly fought and fairly won, between the advocates of opposite systems of polity. The repeal of the Missouri compromise line and the passage of the Kansas-Nebraska act rendered a contest between the friends of free and slave labor inevitable in the Territory of Kansas. It was the duty of the President to protect both the contending parties in the enjoyment of their respective rights; to act with impartial justice, and frustrate the efforts of either to accomplish its purposes by fraud or violence. It was within his cognizance that unlawful organizations, under the name of blue lodges, confederated together by secret oaths, had been formed along the Missouri frontier, for the purpose of opposing the peaceful operation of the Kansas-Nebraska act, and preventing the settlement of the Territory by free-State men; and yet he made no efficient effort to foil their iniquitous schemes.

These ruffian fraternities, which the gentleman from New York, [Mr. HATCH,] in his virtuous zeal against secret political societies, strangely overlooked, were the primary cause of all the disorders which have marked the history of Kansas. They it was who attempted to drive out of Kansas the first free-State colony of emigrants, under Branscomb, Pomeroy, and Robinson, and prevent them from laying the foundations of the town of Lawrence; who instigated the destruction of the free-spoken press of the Parkville Luminary; who tarred and feathered William Phillips, and turned the Rev. Pardee Butler afloat on a raft on the Missouri, for protesting against their arbitrary conduct; who besieged, with military array, the unoffending town of Lawrence, destroyed some of its chief buildings, and sacked, and plundered others; who lined the banks of the Missouri with armed bands, prohibited the passage of free-State emigrants, and entered steamers, and broke open and pilfered the trunks of this class of emigrants, and then forced them to return.

Not satisfied with covering Kansas with fire and blood, they determined to thwart the legal expression of the popular will at the ballot-box. Notwithstanding that provision of the Kansas-Nebraska act which declared that it was "the true intent and meaning of this act, not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States," they combined to defraud the legal voters of their rights, by polluting the ballot-box with illegal votes, and by intimidating, or violently preventing, the resident citizens from the exercise of the right of suffrage. In the first election, that for territorial Delegate, the report of the investigating committee appointed by the last Congress, shows that the polls

were, for the most part, seized and kept possession of by bands of desperate men from Missouri, who did almost all the voting themselves. Of the two thousand eight hundred and seventy-one votes cast at that election, this report proves that one thousand seven hundred and twenty-nine were illegal. In the subsequent election for a Territorial Legislature, on the 30th of March, 1855, the same scenes were reënacted. The Missouri invaders polled four thousand nine hundred and eighty illegal votes; and of the one thousand three hundred and ten legal votes, seven hundred and ninety-one were cast for the free-State candidates.

This Legislature, elected by fraudulent votes, was an alien body, imposed on the people of Kansas by alien votes, and was rightfully regarded at all times as utterly destitute of legal authority. When it met, its first act was to deprive the only free-State member of the Council of his seat, and to expel from the House the free-State members chosen at the second election. If such a Legislature was legal, then a Legislature of Pennsylvania, chosen by armed bands of intruders from New York would be legal; and the people of any State could be justified in crossing into an adjacent State, driving its citizens from the polls, and imposing on them a Legislature of their own choosing, to enact such laws as might suit their peculiar notions. If the citizens of Pennsylvania would be right in refusing to recognize such a Legislature as clothed with legal authority, the people of Kansas certainly were not wrong in acting in the same manner under like circumstances. It is neither fair nor just to expect the people of Kansas to submit to an outrage which Pennsylvanians or South Carolinians would never have tolerated for a moment.

The infamous code of laws enacted by this Legislature, and properly designated as the *black code*, would have disgraced the most absolute Government in the Old World. A Legislature which could make it a penitentiary offense to deny the right to hold slaves in a Territory, where the question of slavery was expressly made a debatable one by act of Congress, and could require all voters and officers to take an oath to support the fugitive slave law; and its other unconstitutional, inhuman, and unchristian acts, was as unfit to pass laws for the government of a free people as the Turkish Divan itself. The only wonder is, not that the people of Kansas refused to recognize it, but that they permitted it to hold its sessions at all. Whatever this counterfeit Legislature did was right in the judgment of the ruling authorities at Washington; its laws must be obeyed, odious and despotic as they were, and utterly at variance with the first principles of free institutions. Whatever the people did by way of remonstrance to its tyrannical acts, or of opposition to its usurpations, the administration of President Pierce denounced as rebellion and treason. If Lord Chatham could rejoice that three millions of American colonists rose in arms against the tyranny of the British Parliament, I may be permitted to rejoice that the settlers of Kansas, loyal to the free spirit of their revolutionary ancestors, never could be coerced into subjection to the usurped authority of this bogus Legislature. The employment of the United States troops to sustain the execution of this Draconian code of law was as futile in its results as the attempt to enforce the stamp act by British regulars in America.

The Topeka Legislature, if it was not organized strictly according to law, was chosen by the people of Kansas. The vote cast for it came from legal resident voters, while that which met at Pawnee was elected by Missourians. The former was, to all intents and purposes, the legitimate representative of public opinion in Kansas. The latter might have the strict letter of the law in its favor, but the former had right and justice exclusively on its side. It was perfectly consistent in President Pierce to authorize Governor Shannon to employ the United States troops to enforce the odious and anti-republican laws of the Missouri chosen Legislature, and to order Colonel Sumner to disperse the Topeka Legislature at the point of the bayonet. Had he acted with equal promptitude and decision against the border-ruffians, the scenes of violence and bloodshed which subsequently disgraced the Territory never would have occurred. It was the tacit approbation then extended to these men, and since continued by Pres-

ident Buchanan, which has prolonged and fomented the civil war that so long desolated the plains of Kansas.

In perfect keeping with its other proceedings was the action of the Territorial Legislature in calling a convention to form a State constitution. In the thirty-four regularly organized counties, all of which were named as election districts for delegates to the convention, a census and registry of voters was required to be taken, according to which the apportionment of delegates was to be made. Says Governor Walker:

"In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give, a solitary vote for delegates to the convention. The result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty, by law, of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last."

That the omission to take the census and registry was intentional, and that there was a deliberate design to cheat the people in these counties out of the right of voting, is shown by the fact, in the words of Governor Walker—"that where ever they endeavored by a subsequent census or registry of their own to supply this defect, occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention. Surely, then," continues Governor Walker, "it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties in which there was no census, constituted a majority of the counties of the Territory; and these fifteen counties, in which there was no registry, gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution on the 7th November last."

The report of the board of commissioners appointed by the Legislature shows how successful was this systematic scheme of fraud. They say:

"From the evidence taken before them, the board state that the returns from the Delaware agency precinct were honestly made out by the officers of the election; and subsequently three hundred and thirty-six names were forged upon them, by or with the knowledge of John D. Henderson; and that John Callhoun was *particeps criminis* after the fact.

"The board report that of the votes returned of the election of the 21st December, 1857, on the slavery clause of the constitution framed at Lecompton, held at the precincts of Kickapoo, Delaware, Oxford, and Shawnee, about the following numbers were illegal and fraudulent:

"At Kickapoo.....	700
Delaware City.....	145
Oxford.....	1,200
Shawnee.....	675
Total.....	2,720"

Of the 6,143 votes officially reported as cast for the Lecompton constitution, 2,720 are thus proved to be fraudulent, leaving only an actual vote of 3,423, much of which also is of a questionable character.

The election of January 4, 1858, witnessed a repetition of these atrocious proceedings. Of the votes returned at this election, for officers under the Lecompton constitution, the following numbers are found by the board to be illegal and fraudulent:

At Kickapoo.....	600
Delaware City.....	5
Delaware agency.....	336
Oxford.....	696
Shawnee.....	821
Total.....	2,458

Of the result of this latter election, held under officers appointed by Governor Callhoun, and obliged to make their returns to him alone, we have no certain information down to the present time. We have promises of certificates of election from a man as notoriously liberal in promises as he is unfaithful in their execution; but the certificates have not yet been given. Who are to be the State officers, this oracular pet of our law-and-order President refuses to give the slightest intimation. In vain may the President denounce

the free-State men as recreant to duty in refusing to vote on the Lecompton constitution on the 21st of December and at other elections, when it was evident, from repeated trials, that a legal election was impossible. It was useless to cast votes when no account was taken of them, and when the perpetrators of fraud enjoyed the favor and seemed to have the approving sanction of the President of the United States. A decent self-respect justified them in withholding their presence from the polls.

The culminating fraud in this history of outrage was the mode of submitting the constitution to popular vote. One single feature—whether any more slaves may be imported—was alone submitted; while, let the result be what it may, the constitution recognizes and adopts the Oxford fraud as a basis of apportionment of legislative members from Johnson county. This constitution, if adopted, would have perpetuated the minority government, and placed the conspirators against the legal voters in full possession of the new State of Kansas. That a pledge was broken and the people betrayed in not submitting the whole constitution for ratification, is evident from the following address:

To the Democratic Voters of Douglas County:

It having been stated by that Abolition newspaper, the Herald of Freedom, and by some disaffected bogus Democrats, who have got up an independent ticket, for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we, the candidates of the Democratic party, submit the following resolutions, which were adopted by the Democratic convention which placed us in nomination, and which we fully and heartily indorse, as a complete refutation of the slanders above referred to.

JOHN CALHOUN, A. W. JONES,
W. S. WELLS, H. BUTCHER,
L. S. BOLLING, JOHN M. WALLACE,
WM. T. SPICKLEY, L. A. PRATHER.

LECOMPTON, Kansas Territory, June 13, 1857.

"Resolved, That we will support no man as a delegate to the constitutional convention, whose duties it will be to frame the constitution of the future State of Kansas, and to mold the political institutions under which we, as a people, are to live, unless he pledges himself fully, freely, and without reservation, to use every honorable means to submit the same to every bona fide actual citizen of Kansas at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers in this Territory, as the majority of the voters shall decide."

Mr. COX. Will the gentleman from Pennsylvania allow me to call his attention to this fact as to the signature of Mr. Prather to that paper? I have received a letter from him, in which he states that it is a mistake, and that he never put his name to that paper, although others may have done so. He wished me, either in my place here or in some other public manner, to do him justice. He is an old Virginian, and as much opposed to the Lecompton constitution as anybody here.

Mr. MORRIS, of Pennsylvania. Then I am very glad to relieve him from the odium attaching to his name in being mixed up with such a combination.

Neither Calhoun, nor any of his fellow-conspirators, could have been elected delegates to the convention, had it been known that they intended to submit but one single provision of the constitution to the popular ordeal. They were aware of this; and, to deceive their constituents, issued the above false and deceptive address.

The State officers, elected under the Lecompton constitution, in their protest communicated to this House, against its adoption, says:

"The constitution, thus framed, was never submitted by the convention to a fair vote of the people for their ratification or rejection; but, on the other hand, their judgment was insulted, and their rights trifled with by the pretended submission of what is called the 'slavery clause,' in such manner as to present no question except that of the importation of slaves into the State in future, and forcing every one who voted to give his sanction to all the other provisions of the constitution, and to take, if required, a test oath to support said constitution, if adopted. Under the provisions of the schedule providing for said election those who voted a ballot marked 'constitution with slavery,' necessarily gave their sanction to the whole instrument, and those who voted 'constitution with no slavery,' necessarily gave the sanction of their vote to all the provisions of the constitution, except the slavery article, and in lieu thereof substituted an article prohibiting the introduction of slaves into the State in future, and confirming those now in the Territory and their posterity in slavery for all time to come. This was the simple result of the vote. It is scarcely necessary for us to say that the privilege of voting upon one proposition, thus beset with conditions so utterly inadequate and unjust, by the power of deciding upon a single, and, as submitted, by no means an important question, produced at the expense of giving the sanction of our votes to many provisions that our judgment condemned, was, and is considered by the people

of Kansas, no boon; but, on the other hand, the offer is justly held to be an insult to a people who know and appreciate the rights of freemen; and hence, eight tenths of the people rejected the offer with contempt, and refused to participate in an election the terms of which thus compromised the dignity of an American citizen."

If any doubt existed as to the real state of public opinion in Kansas, it would be removed by the vote cast against the Lecompton constitution, at the election held on the 4th day of January, 1858, which, according to the certified returns, amounted to ten thousand two hundred and twenty-six; showing a clear majority over that cast for the constitution, on the preceding 21st December, of six thousand eight hundred and three votes. Governor Walker says:

"I state it as a fact, based on a long and intimate association with the people of Kansas, that an overwhelming majority of that people are opposed to that instrument. Indeed, disguise it as we may to ourselves, under the influence of the present excitement, the facts will demonstrate that any attempt by Congress to force this constitution upon the people of Kansas, will be an effort to substitute the will of a small minority for that of an overwhelming majority of the people of Kansas; that it will not settle the Kansas question, or localize the issue; that it will be attended by civil war, extending, perhaps, throughout the Union; thus bringing this question back again upon Congress and before the people, in its most dangerous and alarming aspect."

Shall this unanswerable evidence of the hostility of the people of Kansas to the Lecompton constitution, and these warning counsels, be heeded? or shall the factious spirit of party and sectional covetousness prevail over the dictates of patriotism and discretion? You have the assurance of almost every Governor the President has sent to rule over the people of Kansas, that they have been oppressed beyond endurance, harassed to desperation, and subjected to the most atrocious outrages in their persons, their property, and rights as freemen, by organized bands of ruffians from an adjacent State; that a vile conspiracy has been formed by men lost to every sense of honor, patronized by officers high in authority, reckless of their sworn obligations, to thwart the expression of the popular will, to commit political forgery, and force them to submit to the iron yoke of mob law. You are now invoked to give your approving sanction to this long line of continuous outrage, and, as the British Parliament turned a deaf ear to the remonstrances of our colonial ancestors, to close your ears to the oft-repeated prayer of redress sent to this body by the down-trodden people of Kansas; to refuse to listen to the story of their wrongs, and strike them down by the iron heel of military power. Beware how you shut your eyes to the lessons of history, and particularly to those of our own glorious annals.

The right of the people to elect their own rulers, to govern themselves, is as ancient as the settlement of this country. First asserted and put in force in the cabin of the Mayflower, ere she anchored in the frozen waters of Plymouth bay, and before her freedom-seeking band of exiles landed on the ice-bound coast of Massachusetts, it has been maintained through all stages of our history to the present day. The invasion of that right kindled the fires of the American Revolution; and the descendants of that little band of Pilgrims, from whom kings might be proud to claim descent, though their sacred memories are sneered at and traduced on this floor, were the first to raise their voices and draw their swords in defense of that freedom we have inherited from the common efforts of all our ancestors, North and South, in the tented field.

There is a higher principle involved in this question than gentlemen are willing to admit. Deny to the people of Kansas the right to elect their own system of fundamental law, as you will do, if you adopt the minority constitution framed at Lecompton, and you establish a new epoch in this country; you turn back the tide of American freedom; and you set a baneful example which future usurpers, executive and legislative, will only be too ready to follow, and plead in their own justification. No special pleading, no subtle quarter-sessions' pretexts can mitigate or extenuate the injury you will inflict on the dearest and most cherished principles of American representative government. Pause ere you strike the fatal blow! That free and unpolluted tide which, bursting from beneath the blood-stained fields of the Revolution, has flowed on in generous swell to our own times, watering and ever freshening the roots of free institutions, you cannot divert from its channel, or arrest in its resistless course: as well

might you seek to turn back the flood-swollen waters of the Mississippi.

To palliate the wrong you commit in fastening the Lecompton constitution on the necks of an unwilling people, you are driven to the assertion of the most dangerous doctrines. The President declares that this constitution can be changed other than in the manner, and before the time prescribed in the constitution. He says that a majority "can make and unmake constitutions at pleasure." If this be true, then a majority of the people, in defiance of the mode of amendment laid down in the Constitution of the United States, can make and unmake that Constitution at pleasure, just as well as they can do the same with the Kansas constitution. Adopt this radical doctrine, and the Federal Constitution, and that of every State in the Union, will be at the mercy of every fluctuating majority. Unstable as the sand, as changeable as statute law, constitutions, under the operation of such a principle, will cease to be reliable guarantees of vested rights. They will be regarded only as mirrors reflecting the dominant passions of the day, and we shall cease to have any fixed principles of government. Real and personal rights will be equally insecure, and factious violence will usurp the place of law and order. Such a revolutionary doctrine would sound strange from any other statesman than from him, who, in the Ostend manifesto, proclaimed the piratical doctrine that we have a right to seize, and appropriate to our own uses, the possessions of a friendly nation, whenever we should deem it expedient for our own advantage.

Representatives of slaveholding States may well be startled at the announcement of such views. They know that it would justify an amendment to the Constitution of the United States, giving Congress power to legislate over slavery in the States; that it would justify an emigration into Kentucky from a free State in abolishing slavery in that State, or in any other slaveholding State. With such a policy fairly and firmly established, slave property would at any time be liable to be the sport of the majority of the moment, and it would not be worth holding.

This novel and self-refuting notion is one of the far-fetched pretexts always resorted to to justify tyrants in establishing despotism. It is a tacit confession that the Lecompton constitution does not deserve to stand, and is a crafty plea to induce credulous men to give it their sanction. Against the President's declaration, I set the provisions of the constitution itself, restraining its amendment until 1864, and the opinion of one of its ablest and warmest supporters in the Senate, Mr. GREEN, of Missouri, who, in his report to that body, says:

"However grievous its provisions may prove to be, they [the people] cannot change it, without resorting to revolution, until 1864."

My fellow Americans from the South are especially appealed to by the Administration in this its hour of trial. They are expected to sanction these new-fangled ideas of constitutional law. On the one hand they are coaxed, on the other they are cuffed. Lectures of sectional duty are daily read to them, and some of them are charged in one of the semi-official government presses, with having sold the mighty space of their large honors for filthy lucre. Not long since, the gentleman from New York, [Mr. HART,] whose especial boast was that he owed his election to the foreign vote, in his eagerness to flatter the prejudices of his foreign constituency, went out of his way, to the great delight of the Administration party in this House, and its organs out of it, to denounce the American party in the most unscrupulous manner. To believe him, his Catholic Irish friends were paragons of American loyalty, while the American members on this floor, and the million of voters who think with them in the country, were the blackest of traitors conspiring the overthrow of the Republic. For my part, I see no danger to the country—in defending it against every kind of foreign aggression, civil or ecclesiastical—in resisting all efforts to pervert the common school system to sectarian purposes—in requiring of the stranger from foreign lands to pass a sufficient apprenticeship among us to understand our institutions, before assisting in their administration—in preventing foreign paupers and criminals from being disgorged on our shores from the plethoric hive of the Old World, to fill our lazaret-houses, and crowd our criminal docks—nor

in advocating nationality, domestic peace, and in upholding the union of the States. Nor, sir, can I see any particular mischief to result to the nation, from proscribing religious intolerance, and in claiming the authority of the national Government to secure to American citizens abroad, native and naturalized, the same religious liberty which men of all faiths enjoy in this country.

Never, sir, was there delivered in this Hall a more unjust and indiscriminating impeachment of the motives and aims of honorable men, than in the speech of the member from New York. And yet, sir, he, and the Administration who applauded his philippic to the echo, are now earnestly appealing to my American friends from the South in this their hour of extremity. It is the same scene acted over in the pages of the great dramatist on the Rialto. Shylock, when his help was not needed, was a mercenary Jew—everything that was vile. But when his money was wanted, his revilers were very complaisant, and could flatter and cajole in the most nauseating style. His answer might well serve my South American friends at this time:

“Well, then, it now appears you need my help; Go to, then; you come to me, and you say, ‘Shylock we would have moneys;’ you say so; You, that did void your rheum upon my beard, And foot me, as you spurn a stranger car Over your threshold; moneys is your suit. What shall I say to you? Should I not say, ‘Hath a dog money? Is it possible A cur can lend three thousand ducats?’ or Shall I bend low, and in a bondman’s key, With ‘bated breath and whispering humbleness, Say this— ‘Fair sir, you spit on me on Wednesday last; You spurned me such a day; another time You called me—dog; and for these courtesies I’ll lend you thus much moneys.’”

No, sir, if I mistake not, my American friends will rally in sufficient force with the true friends of the country to save it from the horrors of civil war—to defeat the unconstitutional aims and doctrines of the President and his followers, and to vindicate their pledges of loyalty to the Constitution and the Union. Such an act they will never repeat, for they will be defending principles for which oceans of blood have been shed; they will prevent civil war; they will maintain the violated rights of the oppressed people of Kansas; they will restore peace to a troubled country; they will allay fanatical agitation on either hand, and they will earn the eternal gratitude of the country for a noble and inspiring exhibition of patriotic virtue, at a time when the union of brave men can ward off a dark and lowering cloud, ominous with evil of the most fearful character.

The friends of peace, they who uphold the sovereign rights of the people; they who look upon civil war as the greatest calamity that can befall the country; they who sincerely wish to put an end to the strife that has so long distracted the people of Kansas, by giving full effect to their wishes, have an easy mode of solving existing difficulties. That opportunity is presented in the amendment offered by Mr. CRITTENDEN, in the Senate, referring the whole subject back to the people to whom it belongs. If doubt rests upon such an important question, it ought to be cleared up; the true state of things ought to be ascertained, and the voice of the sovereign authority, that which makes constitutions, and to whose breath we owe our official existence, ought to be carefully sought for, and honestly enforced.

Let others act as they may, I shall stand by the people; I shall maintain their cause and rights against the excesses and usurping pretensions of power. If they are stricken down, I prefer rather to fall with them, than to rise by the betrayal of their interests.

Mr. LANE obtained the floor; but yielded to Mr. JONES, of Tennessee, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOGGS reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and had come to no conclusion thereon.

Mr. JONES, of Tennessee. I move that the House do now adjourn.

Mr. FLORENCE. I move that when the House adjourns, it adjourn to meet on Monday.

[Cries of “Oh no!”]

Mr. JONES, of Tennessee. There is no quorum here to adjourn over.

Mr. HOUSTON called for a division.

Mr. FLORENCE. No member seems desirous of continuing this debate. If the House will consent to proceed to private business to-morrow, I will withdraw my motion.

Mr. HOUSTON. I call the gentleman to order. Debate is not in order.

Mr. FLORENCE. I withdraw my motion.

The motion to adjourn was agreed to; and thereupon (at five o'clock, p. m.) the House adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, March 27, 1858.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

PACIFIC RAILROAD.

The SPEAKER laid before the House resolutions of the Legislature of Washington Territory relative to the construction of a national railroad across the continent, from the Atlantic States to the Pacific ocean; which was referred to the select committee on the Pacific railroad, and ordered to be printed.

EMPLOYÉS OF THE HOUSE.

Mr. HOUSTON, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk, the Doorkeeper, and the Postmaster, of the House of Representatives, each furnish to the Speaker, to be submitted to the House, a list containing the names of each and every person appointed by each one of them, respectively, and when appointed, together with the services performed by said appointee, the salary or compensation each appointee receives for said services—specifying the law under which said appointment was made.

Mr. HOUSTON moved to reconsider the vote by which the resolution was agreed to, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COLLECTING CUSTOM'S REVENUE.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to report two bills from the Committee of Ways and Means, in order to have them printed and re-referred to that committee. They are very short bills, but necessary to the business of the country, and my object is, to have them in the possession of the Committee of Ways and Means, so that we shall be able to have action upon them before the close of the session.

There being no objection, a bill making appropriation for the expenses of collecting the revenue from customs was read a first and second time.

Mr. JONES, of Tennessee. I wish to inquire whether that bill does not make an appropriation and will not have to go to the Committee of the Whole on the state of the Union?

Mr. J. GLANCY JONES. It will. My object is (as this is not a regular appropriation bill) to have it within the reach of the Committee of Ways and Means, and printed, so that when the committee reports between this time and the adjournment of the House, we may be able to bring it up before the House, and have it put upon its passage.

Mr. JONES, of Tennessee. There is one point to which I would call the gentleman's attention, and which, I hope, he will take into his consideration. If I recollect aright, the expenses of collecting the revenue are appropriated by joint resolution, and that is a permanent appropriation. Since the passage of that resolution in 1850, or 1851, there have been no estimates and no appropriations made for that branch of the service. I think that such large amounts, and, in fact, all sums, should be appropriated every year. For my part, I think that the best way to provide for the payment of these expenses is by having the items inserted in the regular annual appropriation bills.

Mr. J. GLANCY JONES. My object is to get this bill within the reach of the Committee of Ways and Means. When it comes up, the gentleman may offer his amendment. I hope, therefore, there will be no objection.

The bill was recommitted to the Committee of Ways and Means, and ordered to be printed.

ORGANIZATION OF THE TREASURY.

Mr. J. GLANCY JONES also, from the same committee, reported a bill modifying the first section of the act entitled “An act to amend an act entitled ‘An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenues;’” which was read a first and second time, recommitted to the Committee of Ways and Means, and ordered to be printed.

LAND OFFICES IN CALIFORNIA.

Mr. COBB. I ask the consent of the House to have taken from the Speaker's table a Senate bill establishing additional land offices in California. It is a public measure of much importance to the country.

Mr. SEWARD. I object.

Mr. COBB. If the gentleman knew what it was he would not object.

Mr. SEWARD. If it does not take the gentleman long to make his statement I am willing to hear him; but I wish to introduce bills myself.

Mr. CLINGMAN. I call for the regular order of business.

Mr. COBB. Will the gentleman allow me to state the facts?

Mr. CLINGMAN. I will hear what the gentleman wants; but I see that objections are made all round.

Mr. COBB. The Government has ordered sales of public lands in California, and the bill is to establish land offices for the purpose.

Mr. GIDDINGS. I wish the gentleman from Alabama to understand that I am opposed to this irregular mode of doing business. I object.

Mr. CLINGMAN. I call for the regular order of business.

ORSAMUS B. MATTESON.

The SPEAKER. The regular order of business is the consideration of the report of the select committee appointed in the matter of O. B. MATTESON.

Mr. SEWARD. In considering this question, and on looking into the authorities, I find that there is no well-settled judicial authority in this country in relation to the power of the House of Representatives or of the Senate. One of the first cases that I find where the question of the power of the House and Senate has been investigated thoroughly, is a case that occurred in 1798, on an impeachment before the House of Representatives, under the Constitution of the United States, which was supposed at that time to give jurisdiction to the House to impeach a Senator. It was the case of William Blount, to be found in the Annals of Congress, Fifth Congress, and volume 1, page 499, where his impeachment will be found.

The authority set up will be found in the third article, fourth section of the Constitution of the United States, which reads thus:

“The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.”

It was believed that the term “civil officers of the United States” applied to Senators and Representatives, and hence articles of impeachment were drawn up in the House of Representatives, and the case sent to the Senate for trial. But that impeachment failed for want of jurisdiction, not only of the House, but of the Senate, to try him for any crime known to the laws of the country. The basis of the charge against him was for high crimes and misdemeanors in conspiring and contriving to create and set on foot a military expedition against the Government of Spain. The whole case came up for discussion in regard to the power of the House or Senate to try a member for any crime known to the laws of the country. After the question had been debated at great length, the Senate decided that they had no jurisdiction. The following is the decision in that case, delivered by the Vice President of the United States:

“The court, after having given the most mature and serious consideration to the question, and to the full and able arguments urged on both sides, has come to the decision which I am now about to deliver.

“The court is of opinion that the matter alleged in the

plea of the defendant is sufficient in law to show that this court ought not to hold jurisdiction of the said impeachment, and that the said impeachment is dismissed."

I mention this case—the case of Blount—because it involves the powers of the House of Representatives and of the Senate. The position taken was, that the term "civil officers" did not apply to Senators and Representatives, but simply to the President, Vice President, and judicial officers. This question was discussed with great ability in the Senate by Mr. Dallas, who was the counsel for the defendant. I propose to read what he said on that subject:

"The Constitution declares, that 'the House of Representatives shall have the sole power of impeachment'; and that 'the Senate shall have the sole power to try all impeachments.' Hence, it has been urged that as there is no description of the offenders or the offenses in the Constitution itself, where the power is vested, every offender and every offense, impeachable according to the common law of England, must be deemed impeachable here; and it is alleged that the common law power of impeachment extends to every crime or misdemeanor that can be committed by any subject, in or out of office. But Mr. Dallas insisted that this doctrine is contrary to the principles of our Federal compact; that it is contrary to the general policy of the law of impeachments; and that it is contrary to a fair construction of the very terms of the Constitution.

1. That the doctrine is contrary to the principles of our Federal compact, he deduced from the design with which the Government of the United States was established: For, although it is in some of its features federal, in others it is consolidated; in some of its operations it affects the people as individuals, in others it applies to them in the aggregate as States; yet, in every view, all the powers and attributes of the National Government are matter of express and positive grant and transfer; whatever is not expressly granted or transferred, must be deemed to remain with the people, or with the respective States; and as the motive for establishing the Federal Constitution arose from the want of a competent national authority in cases in which it was essential for the people inhabiting the different States to act as a nation, so far the people gave power to the Federal Government."

"Mr. Dallas repeated, that from a just consideration of the principles of our Government, it was thus manifest that the moment there was a departure from the immediate choice of the people, the law of impeachment became necessary to secure them from the favoritism or perverseness of the Executive Magistrate. Impeachment, he observed, is, with respect to executive and judicial officers, what expulsion is with respect to the members of the Legislature. As expulsion enables the people to decide whether they will restore the evicted member to their service, a conviction on impeachment enables the representatives of the people to decide whether the delinquent shall be partially or totally excluded from the honors and emoluments of public office. But the very circumstance of declaring that a pardon shall not avail in cases of impeachment, though a reelection shall avail in cases of expulsion, demonstrates (as was before intimated) that the people did not mean to guard against the exercise of their own sovereignty, but against an abuse of the power delegated to their agents. Nor is there any legal force in the objection that a Senator or Representative, convicted upon impeachment, should be rendered ineligible; for the people are the best judges to whom they ought to confide their interests."

Now, the point I want to impress on the House is that the action of the House of Representatives in regard to the case of MATTESON, as proposed in the resolution referred to the committee, would be undertaking on their part to limit and restrict the sovereign people in the choice of their Representatives, and to show that nothing short of an impeachment in this country of such officers as are contemplated by the Constitution of the United States can work a perpetual disqualification of a member of the House of Representatives or of the Senate. It has been decided already, by the Senate of the United States, that an impeachment cannot lie against a Senator or Representative; that the term "civil officers" in the Constitution was intended only to apply to the President, the Vice President, the judicial officers of the Government, and the appointees by the President under the Constitution of the United States.

Now, Mr. Speaker, the powers of the House and of the Senate over the members of either House only extends to the right of expulsion for disorderly conduct, and that cannot be understood as working a permanent disqualification of a member. I ask any gentleman here, whether the framers of the Constitution intended that the expulsion of a member of either branch of the national Legislature involved a crime so odious as to work a personal and perpetual disqualification?

Then, sir, in this case which we are considering, no expulsion ever took place. It is true, that the House of Representatives gave a vote of censure against the member, but, prior to any action being had on the resolution to expel, he resigned his seat as a member of this House. The resolution was then laid upon the table. Now, we are called upon to expel the member on a vote of censure given during the Thirty-Fourth Congress,

and to extend the punishment to the fullest extent known to the Constitution. I should like some gentleman who may hold opinions adverse to my own to show me where the House, from some authority, the Constitution or the law, possesses the power to make the action of the last House the reason for affixing a continued disqualification? Show me where the House derives this power?

I argue that the Thirty-Fourth Congress had the whole jurisdiction of this question, either to have censured or to have expelled Mr. MATTESON. If this House has the right to declare the vote of censure of last Congress to be a disqualification, the House of the Thirty-Fourth Congress could have declared and affixed a disqualification to him by which his constituents would have been notified, and been enabled to resume the power to choose a Representative on this floor. It is evident that the Constitution never contemplated any such thing, from the fact that our elections take place every two years, while the House of Representatives possesses ample power to take jurisdiction over a member of the House then in session, to censure or punish him, yet it was never designed that a subsequent Congress could revive the same charges, assume jurisdiction, and pronounce judgment. A similar question arose in 1795. The Legislature of Kentucky preferred charges before the Senate of the United States against a gentleman by the name of Marshall, then a Senator from that State, alleging that he was guilty of perjury. The memorial was forwarded by the Governor of Kentucky, for the purpose of having the matter investigated. Mr. Marshall himself demanded an investigation, doing away with all constitutional impediments. The charge was that he committed perjury in answer to a bill in chancery in a case then in Kentucky. When the case came up in the Senate, a committee was appointed, and it decided against the jurisdiction. (American State Papers, Miscellaneous, 144.) The report of the committee, made in 1796, concludes as follows:

"And they are also of opinion that, as the Constitution does not give jurisdiction to the Senate, the consent of the party cannot give it, and therefore the said memorial ought to be dismissed."

I have read that, Mr. Speaker, because I know that gentlemen in this House believe that they have absolute power. If a man has a bad moral character, if he has committed a crime, if he has subjected himself to liabilities under any of the penal statutes in this country, so that his presence becomes odious, and they do not want to make a companion of him, they think that they have a right, by force of numbers, to expel him and rid the House of a man they conceive to be socially not their equal.

Mr. CRAIGE, of North Carolina. I will ask the gentleman whether a legislative body has not the right to protect itself against contact with one whose character, by universal consent, not by the opinion of one or two men, but by universal consent, is infamous? For instance, would we not have the right to protect ourselves from contact with a man who had been committed to the penitentiary for a high crime and misdemeanor?

Mr. SEWARD. The Constitution confers upon us certain powers, and those powers are limited. It is a question for the people to determine, and whenever this House undertakes to control and limit the sovereignty of the people of any congressional district of the United States, we may commit as great evils as were committed in the British Parliament in 1642, which, in two months, expelled forty-two members upon the theory of the gentleman from North Carolina. I put it to the gentleman from North Carolina as a State-rights man, and I wish him to answer it, whether this House has any powers beyond that delegated by the people of the States when they framed the Constitution? And if they did not delegate this power to determine the moral qualifications of its members, I ask whether it does not apply to the people?

Mr. CRAIGE, of North Carolina. I think that every legislative body has the right to protect itself against contact with scoundrelism; and whenever a man's character is so infamous that all mankind, by universal consent, affix that stain upon him, has not this or any legislative body the right to protect itself from contact with him?

Mr. SEWARD. That is so, if we can fix the

standard; but there is such a great diversity of opinion as to what is necessary to make a gentleman. What is the gentleman's standard?

Mr. CRAIGE, of North Carolina. I will fix a standard.

Mr. SEWARD. Give me a legal standard.

Mr. CRAIGE, of North Carolina. My standard is this: that when a man by universal consent has a character because of crimes committed which is infamous, a character for infamy about which there is no diversity of opinion among honorable and high-minded men, then we have the right, I say, to protect ourselves from contact with such a man.

Mr. SEWARD. I am neither the prosecutor nor the defender of Mr. MATTESON. The law defines infamous crimes. I stand here to give the law as I understand it, and to speak the truth. I ask the gentleman from North Carolina to put his finger upon the proof to show that Mr. MATTESON was interested pecuniarily one cent in this transaction.

Mr. CRAIGE, of North Carolina. I have not examined the facts of the report, but if the gentleman wants my opinion of Mr. MATTESON, I will give it. I will tell him that Mr. MATTESON, by universal consent, is regarded in this House and out of it, as an unfit associate for any man. It is his character throughout the country, and so decided by the last House.

Mr. SEWARD. I will say to the gentleman that, be that as it may, he is not bound outside of this Hall, or outside of the Constitution, to associate with Mr. MATTESON more than any other man. This House never did determine in regard to the motion to expel MATTESON upon the original question as presented.

Mr. CRAIGE, of North Carolina. It was so reported, any way.

Mr. SEWARD. No, sir; there was neither a report that way, nor a resolution that way. I know it is generally asserted here that MATTESON did commit bribery—he did enough, God knows—but the record does not show that he committed bribery, or that he was bribed. One of the charges against the gentleman was, that he libeled this House. Well, sir, if he did I am not disposed to say, even in that case, that you could expel a member; for I hold that a libel upon the House of Representatives is an indictable offense, just as much as a libel against an individual. He is liable to the criminal law, precisely as was the individual in the case of Marshall, in 1795, to the criminal courts, and not to this tribunal.

I have authority upon that subject, and while I refer to that, I beg to call the attention of the gentleman who made the minority report to the fact that he is inaccurate in regard to the Wilkes case decided by the British House of Commons. The gentleman who made the minority report says:

"In 1764, Wilkes was expelled from Parliament for being 'the author of a libel,' and many cases are cited to support the decision. Again, in 1768, he was expelled for the same libel. So far, this is a case in point. He was expelled because of the commission of a crime; and was, therefore, as the writer says, 'disabled and incapable to sit as a member.' In 1769, Wilkes having defeated an opposing member, the House resolved that he was incapable of sitting in that Parliament, simply on the ground of his having been expelled from the House. It was this last resolution of 1769, that, in 1783, was expunged from the Journals, as being subversive of the rights of electors, and not the action of Parliament in 1764 and 1768. The case, therefore, supports the text of Mr. Blackstone, showing that a crime of libel was ground of expulsion, but that a former expulsion is not a ground of expulsion."

Well, now, that is the case here. It is true that MATTESON was not expelled from the Thirty-Fourth Congress, but acting upon the presumption that he was expelled, according to the gentleman's own authority, the former expulsion is not ground for his being expelled from this House.

Again, the gentleman has fallen into the mistake of saying there was but one libel in the case of Wilkes, whereas there were two. I have searched all the authorities I could find upon that case, and I say, that the British House of Commons came to the conclusion that the expulsion of Wilkes was a violation of the rights of the electors of the kingdom. But it is said that if MATTESON had been elected since the action of the last House, and since the publication of the letter which was one of the grounds of complaint, then the House would have lost its jurisdiction. Now, I ask the gentleman from Iowa to tell me, if a former expulsion is not a ground for a subsequent expulsion, what the decision of a people has to

do, at all, with the question of the jurisdiction of the House? Now, the House of Representatives, and the people of his district cannot have jurisdiction over the crime at the same time, and the power to disqualify him rests here, or it rests with the people of his own district. Now, it is very well known to the Presiding Officer of this House, that during the investigation of this case in the last Congress, the testimony of Mr. Johnson disclosed the fact that the letter constituting the chief charge, was made public prior to the election of Mr. MATTESON to this Congress, so that so far as this letter was concerned, which letter was said to show that MATTESON had attempted to use money to corrupt the legislation of the House of Representatives, that letter was made public, discussed, and understood, not only in his district, but in Mr. MATTESON's district during his election. So, then, the people of his district did pass judgment upon that letter, and upon the qualification of that member by reason of any transaction connected with the letter, or the consideration which induced him to write it.

Suppose the House of Representatives assumes jurisdiction, and expels MATTESON, if you please, according to the gentlemen's theory upon the other side of the House, they take the position that the House, having the right to decide upon the moral qualifications of a member, can expel him if returned to the next House of Representatives, a course which necessarily works a permanent disqualification.

As was very properly remarked the other day by the gentleman from Louisiana, the various States of this Union in regard to this matter have acted upon the principle and upon the theory that unless there was some law or some provision of the Constitution disqualifying an individual from holding office, he cannot be disqualified. Hence, all the State constitutions, so far as I have examined them, have distinctly specified the crimes and offenses working a disqualification or disability for holding a civil office, or of becoming a member of a Legislature. And I venture the assertion that no gentleman can show me a solitary case in this country where an individual has been expelled from a legislative body, outside of the constitutional and legal provisions of that State.

This same question came up in 1807, in the Senate of the United States, and the Senate assumed jurisdiction in the case of John Smith, who was indicted for treason in Virginia, as an accomplice of Aaron Burr. Mr. Adams made a report to the Senate, setting forth the crime for which the party was arraigned; and when the vote was taken, there was not a sufficient number of the members of the Senate voted in favor of the jurisdiction over the cause; and the Senate refused a conviction upon the charge. They acted upon the principle that the criminal courts had jurisdiction when either the Constitution or the laws of the United States were violated, because the facts established were clear, and the refusal to convict must turn upon the want of jurisdiction and power. (American State Papers, 703, Miscellaneous.)

I might give many illustrations of the danger of establishing such a precedent. Suppose that we of the South, holding our peculiar political opinions on the question of slavery, had a two-third majority here and should undertake to expel a member because his opinions on that question might subject him to indictment in the courts of fifteen States of this Union. Would any gentleman hold that we had any right to do so? And reverse the picture; suppose that gentlemen on the other side of the House, who look upon our opinions in the South, in regard to slavery, as a crime, should have a two-third majority here, and could exercise the power of expelling us, how would the gentleman from North Carolina like that? So that the only safe course to be adopted by this House, is to adhere to the Constitution of the United States, or the laws, in relation to the qualifications or disqualifications of members.

Now, as I said before, I am not the defender of Mr. MATTESON. I voted for the resolutions censuring Mr. MATTESON in the last Congress. But, nevertheless, I am prepared here not only to do him justice, but to vindicate what I believe to be a correct principle. In point of importance Mr. MATTESON is scarcely entitled to even a secondary consideration on this question of power. We are not merely deciding what is to be done with him, but we are establishing a great principle

which is to affect those who are to come after us. If we were to assume jurisdiction in reference to political offenses or to corruption in the past, we would disqualify a great many men. Besides, I think it is not a very Christian view of the subject, because a man will sometimes repent. I do not care how bad a man may be, for it does not follow that a man who was once bad is always bad. I do not care how infamous a man may have been, whenever the people come to the conclusion that he has reformed his habits and become a good citizen and wish to confide to him representative or judicial power, (when he has not been impeached,) they have a right to do it.

Having said thus much, and not being willing to detain the House, I shall move the previous question, unless some other gentleman wants to make some remarks in regard to that subject.

Mr. JOHN COCHRANE. I trust that the gentleman will withdraw his call for the previous question.

Mr. SEWARD. I will, if the gentleman wants to be heard.

Mr. JOHN COCHRANE. I do not want to speak upon it at present; but I suggest to the gentleman that this is a question of too much importance to be disposed of in this summary method. I move to postpone the further consideration of this subject till next Saturday.

Mr. JONES, of Tennessee. I wish to submit a question of order touching this report; and it is this. A resolution was introduced into this House proposing to expel the member from New York. That resolution was referred to a select committee. The committee has reported back, and recommended the adoption of a resolution that it is inexpedient to take further action in regard to ORSAMUS B. MATTESON, without reporting back that which was referred to them. I take it, sir, that the committee should have reported back the resolution referred to them, and have recommended what should be done with it, and what should be the action of the House.

Mr. SEWARD. I will relieve the gentleman. The omission of reporting back the resolution was a piece of negligence on our part. Here it is.

The SPEAKER. The Chair is of opinion that the question of order taken by the gentleman from Tennessee is properly taken; and that the original resolution referred to the committee should have been reported back as part of their report; and any recommendation which the committee chose to submit should be offered as a substitute to the original resolution. The Chair desires to call the attention of the gentleman from Georgia to the Manual, page 86:

"Even if they (the committee) are opposed to the whole paper, and it cannot be made good by amendments, they cannot reject it, but must report it back to the House without amendments, and there make their opposition."

Mr. SEWARD. That is what we propose to do. We have recited the whole transaction in the report that we have made.

The SPEAKER. The gentleman from Georgia can be permitted to report the original resolution now, and move the recommendation of the committee as a substitute for the resolution referred.

Mr. SEWARD. That was my design. I intended to incorporate the whole proceedings in my report. If the gentleman from Tennessee will refer to the latter part of the report, he will see there express reference to the proceedings of the House. If the House order Mr. MATTESON for trial, we ask that the House shall determine the proceedings that shall be had.

The SPEAKER. The pending proposition will be the original resolution, and the amendment thereto proposed by the committee.

Mr. RITCHIE. I move to lay the whole subject on the table.

Mr. JONES, of Tennessee. How did I understand the Chair to decide?

The SPEAKER. That the committee had no right to retain the original resolution; that it should be reported back to the House; that that was the main question before the House for consideration; and that the views of the committee could be presented in the shape of an amendment to the original proposition.

Mr. JONES, of Tennessee. The House can vote on the original resolution; and if it be rejected, it will be carrying out the views of the committee.

Mr. SEWARD. I call the attention of the gen-

tleman to the latter part of the report in which the resolution is referred to, and the House asked to decide upon it.

Mr. GROW. The understanding of the committee was that the resolution was to be reported back, but the form of the report may not be correct.

Mr. WARREN. The question of order having been decided by the Chair as well taken, it strikes me that the better way is to recommit the whole subject; and I make that motion.

The SPEAKER. The gentleman from Pennsylvania [Mr. RITCHIE] moves to lay the whole subject on the table; and that motion precludes the motion to recommit.

Mr. JONES, of Tennessee. Read the original resolution.

The original resolution was read, as follows:

"Whereas, at the last session of Congress, a select committee of this House reported the following resolutions, to wit:

"Resolved, That ORSAMUS B. MATTESON, a member of this House from the State of New York, did incite parties deeply interested in the passage of a joint resolution for constructing the Des Moines grant, to have here and to use a large sum of money and other valuable considerations corruptly, for the purpose of procuring the passage of said joint resolution through this House.

"Resolved, That ORSAMUS B. MATTESON, in declaring that a large number of the members of this House had associated themselves together and pledged themselves, each to the other, not to vote for any law or resolution granting money or lands, unless they were paid for it, has falsely and willfully assailed and defamed the character of the House, and has proved himself unworthy to be a member thereof.

"Resolved, That ORSAMUS B. MATTESON, a member of this House from the State of New York, be, and is hereby, expelled therefrom.

"And the said committee also reported the facts on which said suggestions were predicated, which are published with the reports of the House.

"And whereas, the first of said resolutions was adopted by the House of Representatives on the 27th of February last, by a vote of 145 yeas to 17 nays; and the said second resolution was adopted by the House on the same day without a division; and whereas, said MATTESON had, prior to any vote being taken on the last resolution, resigned his seat in this House, and thus avoided the effect of the same, had it been passed; and whereas, the said MATTESON is a member of this House, with the imputation conveyed by the passage of the first two of the foregoing resolutions still upon him, and without having been subsequently reelected by his constituents: Therefore,

"Resolved, That ORSAMUS B. MATTESON, a member of the House of Representatives from the State of New York, be, and he is hereby, expelled from this House."

Mr. KUNKEL, of Maryland. I desire to propound a question to the Chair: inasmuch as the gentleman from Georgia failed to present this resolution with the report, is it competent now, if objection be made, for the House to receive the report?

The SPEAKER. The Chair is of the opinion that the gentleman from Georgia has the right to report the resolution at any time, inasmuch as it involves a question of privilege.

Mr. KUNKEL, of Maryland. My object was to arrest this proceeding where it is; and therefore I desired to know whether the report was in order, and whether it was in order for them to report until the committee was called in its regular order.

The SPEAKER. The question before the House is on the adoption of the following resolution reported by the select committee:

Resolved, That it is inexpedient for this House to take any further action in regard to the resolution proposing to expel O. B. MATTESON.

Mr. SEWARD. I move to amend the resolution by striking out the word "further."

Mr. FLORENCE. I trust the gentleman from Georgia will not press a final disposition of this question to-day. It was understood that there should be no business transacted in the House pending this Kansas discussion.

Mr. RITCHIE. I insist on my motion to lay the whole subject on the table.

Mr. FLORENCE. Is it in order to move to postpone the subject?

The SPEAKER. It is not, pending the motion to lay on the table.

Mr. STEPHENS, of Georgia. If the motion prevails, will that carry with it the original resolution referred to the committee?

The SPEAKER. It will.

Mr. SMITH, of Virginia. I ask for the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 69; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Arnold, Ben-

nett, Billingshurst, Bingham, Blair, Bliss, Bowie, Brayton, Bunfinton, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Corning, Covode, Cragin, Danrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Hickman, Horton, Howard, Jewett, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Montgomery, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Otis, Parker, Pettit, Pike, Potter, Purviance, Ritchie, Robbins, Roberts, Royce, Seward, Aaron Shaw, John Sherman, Samuel A. Smith, Spinner, Stanton, Stephens, William Stewart, Tappan, Miles Taylor, Thayer, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Israel Washburn, Whiteley, Wilson, and Wood—96.

NAYS.—Messrs. Anderson, Atkins, Burnett, Burns, Burroughs, Clemons, Clingman, Cobb, John Cochrane, Cockrell, Cox, Burton Craig, Curry, Davidson, Dowdell, Elliott, Eustis, Florence, Garnett, Garrett, Gillis, Goode, Greenwood, Groesbeck, Lawrence W. Hall, Hoard, Hopkins, Houston, Hughes, Jackson, Jenkins, George W. Jones, J. Clancy Jones, Kelly, Jacob M. Kunkel, Lawrence, Leidy, Letcher, McQueen, Samuel S. Marshall, Mason, Miles, Millson, Moore, Niblack, Peyton, Phelps, Powell, Quitman, Beady, Reagan, Reilly, Ruffin, Sandidge, Savage, Scales, Scott, Henry M. Shaw, Sicksles, William Smith, Stallworth, Stevenson, James A. Stewart, Talbot, Ward, Warren, Watkins, Wortendyke, and Augustus R. Wright—69.

So the whole subject was laid on the table.

Pending the call of the roll,

Mr. LETCHER stated that Mr. CLARK, of Missouri, had been called away to meet his family, and could not be present.

Mr. GOODE stated that his colleague, Mr. CASKIE, had been called home under very unpleasant circumstances, and that he had paired off on the Kansas question, with Mr. WASHBURN, of Illinois.

Mr. WORTENDYKE stated that his colleague, Mr. HUYLER, was detained at his room on account of sickness.

Mr. LAMAR stated that he had paired off with Mr. THOMPSON.

Mr. FLORENCE stated that his colleague, Mr. LANDY, was detained at home in consequence of indisposition in his family.

Mr. FLORENCE also stated that his colleague, Mr. PHILLIPS, had paired off with Mr. EDIE.

Mr. SPINNER stated that his colleague, Mr. SEARING, had paired off with Mr. MORGAN.

Mr. REILLY stated that his colleague, Mr. AHL, was necessarily detained from the House.

The result of the vote was then announced, as above recorded.

Mr. RITCHIE moved to reconsider the vote by which the subject was laid on the table, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LAND OFFICES IN CALIFORNIA.

Mr. SCOTT. I ask the consent of the House to call up the bill from the Senate to create additional land districts in the State of California, and for other purposes. The request was made this morning by the chairman of the Committee on Public Lands, and was then objected to by the gentleman from Ohio, [Mr. GIDDINGS.] I have since had a conference with that gentleman, and he has kindly consented to withdraw his objection. This, sir, is a matter of much importance to my State, and, as it is a matter in which I may be supposed to have some personal interest, I ask that the House will hear a statement from the gentleman from Alabama, [Mr. COBB.]

Mr. WRIGHT, of Georgia. I object to this bill being taken up, for the reason that there are still many gentlemen who desire to speak on the Kansas question, and it is injustice to them to have the time of the House taken up with other matters.

Mr. SCOTT. I desire to make a speech about Kansas myself, and if the gentleman from Georgia wishes to make a speech, I will give way.

Mr. WRIGHT, of Georgia. I do not wish to make a speech myself, but there are others who do.

The SPEAKER. Does the gentleman from California propose to put the bill on its passage, or have it referred?

Mr. COBB. It is proposed to put it on its passage. If the House will listen to me for three minutes, they will have no objection.

Mr. WRIGHT, of Georgia. I will withdraw my objection.

The bill was taken from the Speaker's table, received its several readings, and was passed.

Mr. SCOTT moved to reconsider the vote by

which the bill was passed, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

J. C. G. KENNEDY.

Mr. KUNKEL, of Pennsylvania. Yesterday when I reported from the Committee of Claims a bill for the relief of J. C. G. Kennedy, at the request of the gentleman from Tennessee [Mr. JONES] certain papers in his possession were ordered to be printed. It becomes necessary now, in order to present the whole case, that other papers in possession of the committee should be printed. I ask that they be ordered to be printed with the report.

There was no objection; and the order to print was accordingly made.

RESOLUTIONS OF A LEGISLATURE.

Mr. CURTIS, by unanimous consent, presented joint resolutions from the Legislature of Iowa; which were referred as indicated below:

A joint resolution asking that land entries made with warrants and cash may be confirmed. Referred to the Committee on Public Lands.

A joint resolution asking for increased mail service in Iowa. Referred to the Committee on the Post Office and Post Roads.

PERSONAL EXPLANATION.

Mr. SHAW, of Illinois. Mr. Speaker, I rise to what I regard as a privileged question. I see by the published proceedings of yesterday, that the gentleman from Virginia [Mr. SMITH] used this language in reference to the Illinois delegation:

"I allude to the successor of the gallant Richardson. I take it to be true. He told me that they had a conference; that in that conference they came to the conclusion that the only chance for the reelection of Mr. DOUGLAS to the United States Senate was in the course he has pursued."

I wish to say that no such consultation was ever held to my knowledge; that I never participated in any such consultation.

Mr. SMITH, of Illinois. I say the same for myself.

Mr. GREENWOOD. This is not a privileged question, and I object to any further statement.

Mr. ENGLISH. I hope the gentleman will withdraw his objection, so that the gentleman who has been referred to may make an explanation. [Cries of "Withdraw it!"]

Mr. GREENWOOD. I withdraw the objection, since it appears to be the desire of the House that I should do so, but with the understanding that the gentleman from Virginia [Mr. SMITH] shall also be heard. [Cries of "Agreed!"]

Mr. MORRIS, of Illinois. Mr. Speaker, I have been informed that, in my absence from the House on yesterday, the honorable member from Virginia [Mr. SMITH] stated on the floor of the House that the Illinois delegation, or the Democratic portion thereof, had held a caucus or consultation, (at some time and place not mentioned,) in which they had determined that the only chance for securing the reelection of Judge DOUGLAS to the United States Senate, was to oppose the admission of Kansas into the Union under the Lecompton constitution.

I now distinctly state that no such consultation was ever held to my knowledge; and I am confident that none such was ever held, or contemplated being held, by any portion of said delegation. And I have never had any intimation, directly or indirectly from Judge DOUGLAS, or any of his friends, that he has been influenced in any degree in his action by any such motive, nor do I believe such to be the fact.

I have frequently stated, (and probably have done so to the gentleman from Virginia)—I so stated in a speech delivered in this House—that nearly the entire Democracy of Illinois had taken their stand against forcing the Lecompton constitution, or any other constitution, upon the people of Kansas against their will, long before Congress convened; that they looked upon it as a great wrong, and an abandonment of the principles of the Democratic party, and a violation of the principle of self-government; and that neither Judge DOUGLAS, or any body else, who would support the Lecompton constitution, could, would, or ought to be sustained by the people of Illinois; and that our southern friends, who were so bitter and denunciatory in their course, and for whom we have battled so long and against such fearful

obstacles, ought to have some regard for our position and our convictions of duty. These views I entertain yet. If I have ever been understood to say more than this in substance, I have been wholly misapprehended.

In expressing these sentiments I have spoken for myself, and no one else. The statement that any such conversation as that mentioned by the gentleman from Virginia was ever held, I repeat, as far as my recollection is concerned, is wholly unfounded.

Mr. SMITH, of Virginia. Mr. Speaker, it will be recollected by gentlemen that on yesterday I made reference to a member of the Illinois delegation substantially, in the language which has been quoted by the gentleman near me, [Mr. SHAW.] That member, I stated in another part of my remarks, was the successor of the gallant Colonel Richardson. I referred to the gentleman who has just spoken, [Mr. MORRIS.] I stated, on that occasion, and my purpose is to repeat with, if possible, more distinctness than then, that after this Congress had commenced its session—I do not recollect the exact time—in a free conversation on public questions with the honorable gentleman from Illinois, he stated to me distinctly, explicitly, and precisely, according to my present recollection and my past recollection, that the Illinois delegation held a conference as to the policy that a distinguished Senator—Judge DOUGLAS—should pursue on this Lecompton question, with a view to securing his reelection to the Senate of the United States; and that the one he has pursued was deemed the only course by which he could hope to effect it. I have said this in private conversation on various occasions. It was the result of a very distinct recollection. I stated this yesterday, and I repeat it to-day, as my recollection—a recollection clear, distinct, and emphatic. When this was told to me by an honorable member from the Prairie State, I believed it, because I am in the habit of believing what gentlemen tell me, unless I have strong reasons for not believing them. If I am correctly informed, the gentleman told these things to others.

I have, in this statement, confined myself to what passed yesterday. There are other matters which might have been mentioned, if I had seen fit to do so, but which were not necessary in connection with the position I then took. I will, however, state now, though not necessarily connected with this matter, that the gentleman informed me that the delegation to the Cincinnati convention—I think it was to the Cincinnati convention—had recommended various appointments to the President of the United States for the State of Illinois; that those recommendations had been disregarded; and that that was one grief upon the part of the delegation.

I might go further, and make other statements of a similar character, but it is not necessary. [Cries of "Go on!" "Go on!"] I regret very much indeed, that there should be this collision of recollection; but, as I trust I am always careful in regard to the statements I make, I hope the House will allow me to ask the honorable member from Kentucky [Mr. BURNETT] if he had not a similar conversation with the gentleman from Illinois?

[Cries of "Hear him!"]

Mr. MORRIS, of Pennsylvania. I would ask the gentleman from Illinois if that was not a private conversation?

Mr. BURNETT. Mr. Speaker, I suppose I am the gentleman referred to. All I have to say is this: that the conversation which occurred between the gentleman from Illinois [Mr. MORRIS] and myself, was in the presence of another gentleman; and I do not feel at liberty, placed in the position that I am, to retail or to give the conversation which occurred between the gentleman from Illinois and myself, unless he calls for it. That, I think, is the correct position, and the one which I must take under the circumstances.

Mr. MORRIS, of Illinois. The conversation to which the gentleman from Virginia [Mr. SMITH] refers, he says, took place somewhere. I would inquire of him, where?

Mr. SMITH, of Virginia. If I report the gentleman truly, it does not matter where the conversation occurred; if falsely, I should be exposed. The place is a matter of no consequence. I will answer the question after we get at the main facts.

Mr. MORRIS, of Illinois. If I ever had a conversation with the gentleman from Virginia, (and I

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, MARCH 30, 1858.

NEW SERIES....No. 88.

recollect having one,) it was some time in December last, in my private room at the United States Hotel, in the presence of my family. I invited the gentleman to my room, for the purpose, as I think the gentleman will bear me witness, mainly of introducing him to an old soldier friend who formerly lived in Virginia, and who had come on here for the purpose of obtaining a pension, and I was desirous of enlisting the members of the House in his favor. The conversation to which the gentleman alludes came up incidentally. I entered into it with him with a view of ascertaining if this Kansas question could not be settled without any serious division in the Democratic party. In that conversation much was said. I remember remarking to the gentleman from Virginia that he ought to recollect that in Illinois we were differently situated from himself, that we had a different constituency; that the Democracy of Illinois had, before the meeting of Congress, with scarcely an exception, taken their position in opposition to the Lecompton constitution, and that neither DOUGLAS nor any other man could be returned from that State to the United States Senate, if he favored an instrument of that character. I recollect stating to him that southern gentlemen ought to have some charity and feeling for our position. I recollect stating further, that I had had no conversation with Judge DOUGLAS, (and he will say so himself,) in reference to his views upon this question, after the Lecompton convention had refused to submit the constitution to the people, until after my arrival in Washington, and that I did not know what his private views were. I had, however, taken my position at home, and had expressed my views freely and unreservedly, and they were in opposition to the Lecompton constitution.

I recollect, further, (and I apprehend that out of this has grown this whole trouble,) having a conversation with the gentleman from Kentucky [Mr. BURNETT] upon this subject. However he may have understood me, I have a distinct recollection in regard to it, and of stating that, after our arrival here, and after ascertaining that Judge DOUGLAS would take a position antagonistic to the Lecompton constitution, the question occurred as to the time when he should make his speech. The conference upon that subject, however, took place between Judge DOUGLAS, Colonel Richardson, and myself, without any knowledge of it on the part of the other members of the Illinois delegation. It was a mere casual meeting at Brown's Hotel, where Colonel Richardson was stopping. I remarked to Judge DOUGLAS, in that conference, that if he had made up his mind to oppose the Lecompton constitution, in my judgment he should avail himself of the earliest opportunity to deliver his views in regard to it; for if he should wait until after the election on the 21st of December, when the vote was to be taken upon the adoption of the constitution, his motives would be impugned, and his enemies thereby gain an advantage of him. This, as he freely expressed himself, corresponded with his own opinion. So far as I have now any knowledge, this is the only conference which ever took place between the Senator from Illinois, Colonel Richardson, and myself upon the subject; and in that, allow me to repeat, none of the other members of the delegation from Illinois participated; nor did they know anything about it. Why I should go to the gentleman from Virginia, and state to him that our course was dictated solely by a view to the return of Judge DOUGLAS to the Senate of the United States, I cannot imagine.

I am at a loss to know why the gentleman should imagine that I, the Senator's warm personal and political friend, should assail and impute false motives to him and the delegation from my State; particularly since no such conference ever did take place. My colleagues have stated here to-day that they know nothing about it, and never heard of it; and therefore I repeat, I am at a loss to know why I should pursue such a course, and it will be difficult to make an impartial man believe I did. The story is not a probable one. If the gentleman from Virginia, [Mr. SMITH], or any other person

so understood me, it must have been an entire misapprehension on his part.

The gentleman from Virginia has said to-day that much more occurred in that conversation. He has represented me as saying that the delegates to the Cincinnati convention had recommended certain appointments to Mr. Buchanan, which he had disregarded. Now it is a very easy matter, Mr. Speaker, to misapprehend such a conversation. I may have said, in the course of that conversation, that the congressional delegates had made such recommendations; but how could the delegates to the Cincinnati convention have made such recommendations, when that convention was held long before the election, and when the delegates have not met since? I may have said to the gentleman, and doubtless did say to him, (though I have no recollection of it,) that the Illinois delegation in Congress had made certain recommendations to the President, and that the persons recommended had not been appointed. Here then, he substitutes for the recommendations of the delegation to Congress, the recommendations of the delegates to the Cincinnati convention.

I do not seek, Mr. Speaker, to carry this matter any further. I do not want to detail all that was said on that occasion. I do not desire to retail here private conversation, as the gentleman has. I recollect that the gentleman made some remarks which it is not necessary to repeat now. I can only say, in conclusion, that I could not have stated—as the gentleman supposes I did—that a conference of this kind had taken place. All of my colleagues have spoken on that point, except Major HARRIS, who is not now in his seat; and if he were here he would state the same thing.

Mr. SMITH, of Virginia. I should like to make a very few remarks on this subject, unless the gentleman from Illinois should allow the gentleman from Kentucky [Mr. BURNETT] to speak.

Mr. MORRIS, of Illinois. I have no objection to hear what his recollection of the matter is.

Mr. BURNETT. The position in which I am placed in this matter is somewhat embarrassing. If the gentleman from Illinois prefers that I should not speak, I will not.

Mr. WRIGHT, of Georgia. I rise to a question of order.

Mr. MONTGOMERY. I object to this thing going on. I do not see what it has to do with the deliberations of the House. Here is a question of veracity between the gentleman from Virginia and the gentleman from Illinois, and we are not to sit here and take evidence.

Mr. HOUSTON. The gentleman from Pennsylvania will see at once that it would be a great injustice to smother or suppress any fact which the gentleman from Kentucky may know. I hope gentlemen will withdraw their objections; and if there are any facts to be brought out, let them come out as they may.

Mr. MARSHALL, of Illinois. I understood that general consent was given that this matter might be brought out, and that any person interested might be permitted to speak thereon; and I make the point that it is now too late to object to any explanation being made. For myself, I want to hear it all, and I want to make some remarks myself in regard to the matter.

The SPEAKER. The Chair did not understand that every gentleman in the House might have permission to participate in this personal explanation.

Mr. BURNETT. I ask the unanimous consent of the House—

Mr. STANTON. I desire to say that when a gentleman is called upon to withdraw his objection to the repetition of a private conversation, it is very difficult to refuse to do so; and I object to the gentleman going on.

Mr. HOUSTON. I ask the gentleman from Ohio [Mr. STANTON] if it is just for him now to suppress the statement to which the gentleman from Illinois referred? He has been allowed to make a statement in regard to a conversation between

him and the gentleman from Kentucky, and it is unjust to suppress the facts.

Mr. LAWRENCE. I appeal to my colleague to withdraw his objection, as a matter of justice.

Mr. ADRIN. The gentleman from Illinois is perfectly willing that the conversation should be repeated.

The SPEAKER. Debate is out of order.

Mr. BURNETT. I ask the unanimous consent of the House to permit me to make a few remarks. My reason for making that request is, that I am now placed in a position where I ought to speak.

Mr. STANTON. I withdraw any objection, if the like privilege is to be extended to other persons.

Several MEMBERS. Certainly, certainly.

The SPEAKER. Does the Chair understand that the House gives its consent to any personal explanation connected with the matter that any gentleman may desire to make?

Mr. LEITER. I object to any such thing. I have no objection to the gentleman from Kentucky going on, but I object to any other.

Mr. CAMPBELL. I wish to understand from the gentleman from Kentucky whether he considers his honor involved in this matter? If he does, I will not object. If he does not, I will object.

The SPEAKER. The gentleman from Ohio furthest from the Chair [Mr. LEITER] objects.

Mr. LEITER. I wish it understood that I do not object to the gentleman from Kentucky proceeding, but that I will object hereafter to any person else engaging in this personal explanation.

Mr. TOMPKINS. I object to the gentleman from Kentucky.

Mr. LEITER. I withdraw my objection.

The SPEAKER. The objection is renewed on the left of the Chair.

Mr. WARREN. I understand the objection is withdrawn.

The SPEAKER. It is not withdrawn.

Mr. TOMPKINS. I withdraw my objection.

Mr. BURNETT. Mr. Speaker, the gentleman from Virginia [Mr. SMITH] referred to me as having had a conversation with the gentleman from Illinois, [Mr. MORRIS.] The gentleman from Illinois also referred to the same conversation, and stated his understanding of a portion of that conversation. I will say this in advance, in order that my own position may not be misunderstood. The gentleman from Virginia, some time ago, in a conversation between us, when we were discussing the action of the Democratic party upon the Kansas question, or of those of the Democratic party who differed with us, and the reasons for their course, said to me substantially what he has stated here. I remarked to him then that I had had a conversation with Mr. MORRIS, in which he had repeated substantially the same language to me. Subsequently, the gentleman from Virginia came to me and told me that he intended to make the statement publicly, and asked my consent to use my name in connection with it, which I declined to give. The gentleman from Illinois [Mr. MORRIS] approached me this morning, and said that he understood that I had stated that I had had substantially the same conversation with him which the gentleman from Virginia repeated yesterday. I then said to him what I stated to the House this morning, that I would not make any statement in regard to the conversation between us, unless he authorized or called for it.

That was what occurred between us this morning. Now, sir, as to the facts. The time, I cannot fix. Some time early in the session, I in company with another gentleman, who is a member of this House, met the gentleman from Illinois on the street. I introduced him to the gentleman, and some conversation passed between us of a light and trivial character, I do not now recollect what. He then asked me to call at his room, saying that he desired to talk with me. I was then on my way, I think, to the War Department. I did call at his room on my return, and a long conversation took place between us. I cannot pretend to give the

whole of that conversation, nor will I undertake to give the language used, because every gentleman, whether he be a lawyer or not, knows how impossible it is to give the details of such conversations, or the precise language used by any individual. I do not desire to do the gentleman from Illinois any injustice. The conversation was commenced by him. I did not know what his purpose was. He commenced by speaking of the position which had been taken by the distinguished Senator from Illinois, and by his colleagues in this House, upon the Kansas question. I understood him distinctly to say, that upon a conference of the friends of Judge DOUGLAS—the friends from Illinois—it had been agreed that he should take the course which he has pursued in reference to the Kansas question, as the only means by which he could sustain himself at home; that unless he did take that course, he would not but inevitably suffer defeat at home himself, but his friends would fall with him.

During this conversation, which, as I have said, was one of some length, and which was held with me as a friend of Judge DOUGLAS, something was said about some arrangement by which the Democratic party could act together, and stand a unit upon this question. We talked a good deal upon that subject. During the conversation there was a statement made, that one reason why Judge DOUGLAS felt himself aggrieved, and why he had pursued this course, was, that there had been an attempt upon the part of the present Administration to destroy him, to crush him, to break him down; that his friends had been neglected in appointments, and the claims of Illinois overlooked; and that Judge DOUGLAS did not intend to be crushed by the Administration.

This, sir, is the substance of the conversation which occurred. I do not pretend to give the language; but I have given substantially the facts which were involved in that conversation.

Mr. MARSHALL, of Illinois. I wish to remark that I have nothing to do with the question of recollection, or the question of veracity, whichever it may be, between my colleague and the gentleman from Virginia, or the gentleman from Kentucky. I was never more surprised in my life than when the gentleman from Virginia yesterday made the charge, I know not upon what authority. It was the first time I had ever heard such an intimation, in any manner, shape, or form. I felt it to be my duty then to get up and state that the charge that any such conference had been held by the Illinois delegation was untrue. I repeat here to-day, upon authority, that no such conference, in any manner, shape, or form, was ever held by the Illinois delegation, or any part thereof. I was astonished at the charge made yesterday by the gentleman from Virginia. I consulted the members of the delegation last evening, and I now state distinctly and emphatically that the charge that any such consultation or conference was ever held by the Illinois delegation is untrue. That, I suppose, is distinctly understood.

While I am up I desire to allude to another subject, and I shall speak of it more at length in future, if I can get the floor. I had not intended to submit any remarks upon this Kansas question until I heard the gentleman from Virginia yesterday. It seems to be the policy of gentlemen upon this question to make it a personal one. I understood the gentleman from Virginia, and I desire to know whether I understood him correctly or not, to say that the plan adopted for submitting the Lecompton constitution had been directly or indirectly sanctioned by Judge DOUGLAS; that Mr. Calhoun, the president of the convention which framed the constitution, had written to Judge DOUGLAS upon the subject.

The SPEAKER. The Chair would suggest to the gentleman from Illinois, that if he goes into another personal explanation upon another subject it is difficult to tell where it would lead to.

Mr. MARSHALL, of Illinois. I merely desired to call the attention of the House to the subject, and to say that such a charge, if the gentleman intended to make it, is wholly unauthorized, and not in accordance with the facts.

Mr. SMITH, of Virginia. A word or two in reply to what the gentleman has said, and also personal to myself. I will be very brief, however, because with many of the questions I now have nothing to do.

Whether, Mr. Speaker and gentlemen, there was a conference or not, is a question of fact with which I have nothing to do. The only question of fact with which I have to do is that in reference to the conversation that I had with the gentleman from Illinois, [Mr. MORRIS.] Upon that fact I have now nothing further to say. There are, however, one or two other matters incidental to it to which I desire very briefly to refer. It is said by the gentleman from Illinois, [Mr. MORRIS,] that this conversation occurred in his room, in the presence of his family. That is true, sir; but I went with a view to consult with him, as he has stated, and this public subject came up in conversation after that private matter was disposed of. It was not in any degree, directly or indirectly, with an understanding of confidence. On the contrary, the gentleman and myself agree in opinion that when public men converse on public subjects, without an understanding of confidence, they can, each and all, speak at their will and pleasure. Such is the opinion of the gentleman from Illinois, and it is rather singular that he should introduce the question here for the purpose of affecting my personal position. I wish it understood, having no political secrets of my own, that, when I speak of political questions or am spoken to about them, I regard them as a part of the political interests of the country, and shall so consider and treat them, unless there is a different understanding. The honorable gentleman from Kentucky [Mr. BURNETT] has stated, what no doubt he correctly understands, that I applied to him for liberty to use his name, and he declined to agree to it. There were two gentlemen present at the conversation, one of whom did decline, and, no doubt, the gentleman from Kentucky meant to be so understood. I venture to say that I did not so understand him, because if I had I would not have referred to him. But it is a matter of no consequence. I make this explanation for the purpose of having the thing rightly understood and without any intention of pressing anybody to the wall. I say this, and I say it briefly, that I hold it to be a duty to the country if I can trace out, by any proper and legitimate means, the secret motives and private purposes of public men, to do so; and not to let them carry out their selfish objects in the name of patriotism and the country.

Mr. WRIGHT, of Georgia. I call for the regular order of business. We might as well stop this matter now as at any other time. [Cries of "No!" "No!"] Permit me to say a word. I think this controversy might stop here without the character of either gentleman suffering in the public estimation, or in the estimation of this House. If it is allowed to continue, it must of necessity run into personalities. Permit me to say now, sir, that this is not the arena to indulge in personalities, or the results of personalities. I deprecate it at all times, and there seems to be a tendency just now to drive everything to this point.

Mr. MORRIS, of Illinois. Mr. Speaker—

Mr. WRIGHT, of Georgia. I object.

Mr. FLORENCE. I move that the House adjourn.

The question was taken; and the motion was disagreed to.

Mr. WRIGHT, of Georgia. I withdraw my objection.

Mr. MORRIS, of Illinois. I desire to repeat what I first said, or to be understood as repeating it, and to add, I have not sought to implicate the gentleman from Virginia by any private conversation. I might state what he said to me in the one he refers to, but I do not choose to follow his example. So far as the remarks of the gentleman from Kentucky are concerned, they substantially agree with my statement, and I am satisfied will be so regarded. He does not say that I informed him that there had been a meeting or conference of the Illinois delegation with a view to advise Mr. DOUGLAS to oppose the Lecompton constitution to secure his reelection to the Senate, or for any other purpose, as is charged by the gentleman from Virginia; but speaks of my having alluded to a conference of Illinois friends, not delegates, which I have explained in my preceding observations. Hence he does not sustain the allegation made by the member from Virginia, and he is thrown back upon the private conversation had with me in my private room. He announces to the House it is

his settled purpose and determination to use all such conversations when he thinks the public interest requires it.

Mr. SMITH, of Virginia. I think it well to say here, Mr. Speaker—

The SPEAKER. The gentleman from Illinois is entitled to the floor.

Mr. MORRIS, of Illinois. I do not know that the gentleman draws the distinction between a public and a private conversation. He seems, or pretends to hold, that a casual conversation which occurred, as he has admitted this did, in my own private chamber, is a public conversation. I leave it for the members of the House and the country to determine whether that conversation was a public one, and to judge of it and its pretended disclosures, if it was not, as justice may require. It is a gratuitous and unauthorized remark of his, that I agreed with him as to the propriety of disclosing what passed at such interviews.

Mr. SMITH, of Virginia. I have only one sentence to utter. I did not say, as the gentleman supposes, that I would use private and confidential conversations for public uses; but I said this, that without the injunction of confidence, I regarded no conversation on public questions, between public men, as private conversations; and I will not permit a traitor to the great interests of my country to carry out his purposes in the name of patriotism and duty. [Laughter.]

Mr. MORRIS, of Illinois. I am glad to find the gentleman is so full of patriotism; and that he is determined to guard each avenue of danger, and defend it to the last.

But I did not rise to discuss that matter. I wish simply to say this, that although we may not, in our social and familiar conversations each to the other, request that they should be regarded as secret and confidential, still, sir, loose and idle remarks sometimes occur, and, without an injunction of that kind, they are not used by any man's friends. What member of this House would desire every conversation he may have had with his fellow members or his friends, in his private room, in a hotel, or at a private boarding house, to be brought in here and retailed to the country in a speech? There is not a man in this House who could not be placed, by such a course as that, in a position which he would not desire to occupy. Supposing he is talking to confidential and intimate friends or to other gentlemen, he may use expressions and make remarks for which he might not desire to be held responsible, and which, if taken isolated and alone, might be made to bear a different construction from that which he intended. Such—

Mr. GROESBECK. I rise to a question of order. Is this discussion in order? I want to put a stop to it.

The SPEAKER. It is a difficult matter for the Chair to determine what is, and what is not, in order, when permission is given to gentlemen to make a personal explanation.

Mr. WRIGHT, of Georgia. I desire to say, that there is no necessity for any personal feeling in this matter. The statements of both gentlemen can easily be reconciled. It all turns upon the word "conference," whether this delegation had a conference or not.

Mr. SEWARD. I call for the regular order of business.

The motion of Mr. LETCHER was then agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOGGS in the chair,) and resumed the consideration of the deficiency bill.

ADMISSION OF KANSAS.

The CHAIRMAN stated that the gentleman from Oregon [Mr. LANE] was entitled to the floor.

Mr. LANE. My reason for seeking the floor to-day is to place myself right before my constituents, this House, and the country, in regard to the affairs of Oregon.

It will be recollected, sir, that about the last of January I had the honor to present to the House the constitution of the State of Oregon. It was presented, referred to the Committee on Territories, and ordered to be printed. I believe it has always been the custom, or rule, of both Houses of Congress, when a document is ordered to be printed, to print two copies for each member of the House and for each member of the Senate.

About the 3d day of February, if I recollect aright, the constitution of the State of Oregon was printed, and placed in the boxes of members of the House, and one copy laid upon the desk of each member of the Senate, and a copy for each member of the Senate was retained in the document-room. We are not so kindly waited on here, for we have not the pleasure of having documents placed upon our desks; though we can always have them by sending to the document-room.

In a debate, Mr. Chairman, which took place a few days ago upon the floor of the Senate upon the subject of the Oregon constitution, remarks were made by my honorable friend from California, [Mr. GWIN,] and the distinguished Senator from Illinois, [Mr. DOUGLAS,] that would, if they should go to the country without being corrected, do me great injustice; and therefore I have felt it due to myself, and to the people I represent, to place the matter fairly before the House, that my people may know that I have not been neglectful of the duty which I owe to them upon this floor. I will refer to the report of that debate. Mr. GWIN inquired of the Senator from Illinois if there was any objection at that time to taking up the Oregon constitution, and to providing for the admission of Oregon and Minnesota at the same time. In reply to the inquiry, the distinguished Senator from Illinois said:

"I will say, in response to the Senator from California, that I have not brought up a proposition for the admission of Oregon, for the reason that I have received no official information that she has made a constitution. She has sent no constitution here. We have no facts, no evidence, before us, showing that to be the case. Nor has the President so informed us; nor have we any official information, from any source, on the subject. Having learned, from the newspapers, that a convention had been held there; that it had formed a constitution, and it had been submitted to and ratified by the people, I have wondered why it was that it had not found its way here. I spoke to the Delegate to the other House, General Lane, about it, and I told him that I understood that he had presented it to the House of Representatives. He said he had; but he thought he had better let it sleep until the contest about Kansas and Minnesota was over. I said to him that whenever he desired action here, and would furnish me with a copy of the constitution of Oregon, properly certified, I would take great pleasure in initiating the steps at once for her admission. He thanked me for the suggestion, and said he would attend to it. He has not done so yet, and hence we have nothing here to act upon."

Now, Mr. Chairman, I introduced the constitution here as soon as I received it, and had it referred to the Committee on Territories. The chairman of that committee informed me that he heard no objection to it; that at a proper time a bill for the admission of Oregon would be brought in; and that he could see no good reason why it should not go through at once.

I told Mr. DOUGLAS that I did not desire to embarrass Kansas with Oregon, or to have Oregon mixed up with Kansas. I said that Oregon had come here without an enabling act, without authority of Congress, and without the interference of the people of any State or political organization in her domestic affairs. But on learning that the Kansas matter had been disposed of in the Senate, I saw no good reason why Oregon should not be then taken up and disposed of at the same time with Minnesota. I therefore went to the Senate with the constitution of Oregon in my hand, to see the Senator from Illinois. He was not in his seat; and, after waiting some time I told the Senator from California that I would feel very much obliged if he would take the constitution and bring the matter up. The copy of the constitution which I presented was as thoroughly certified as need be—for it was a printed copy properly authenticated, which I had also presented here. The Senator from Illinois, in reply to the Senator from California, expressed himself surprised that the constitution had not been presented. He says:

"I should do so, but I have never seen the constitution of Oregon. I do not know what is in it; I do not know the boundaries of the proposed new State; I do not know anything concerning it. I have never set eyes on the document; and, if I should offer a proposition, it would be at random. I do not know whether her constitution is such a one as I could sanction or not; but I suppose it is. I should think, however, the Delegate would present it to the Senate, and refer it to the committee. Let the committee read over the constitution, and report the facts. I should take great pleasure in calling a special session of the committee at any moment for immediate action upon it; and I would hurry it through as fast as I could; but I do not feel authorized to take a paper which I have never yet had an opportunity of reading, and move the admission of a State on it, when I do not know what it contained."

Now, Mr. Chairman, if the Senator from Illi-

nois had not read the constitution of Oregon it was his own fault, for it had been printed and laid on his desk. I have not the privilege, as yet, of presenting any measure in the Senate. The time is some three or four months distant when I can have that privilege, and it is not very certain that I shall have it; but I hope I shall. I am satisfied that the people of Oregon will regulate that matter as to them may seem just and right. I shall be content with their action; believing, at the same time, that if I am permitted to occupy a seat in the Senate, it will be for the advantage of the people of Oregon and of the whole Union.

But, Mr. Chairman, if this report were allowed to go out uncorrected, the people of Oregon would at once say that their Delegate did not care a cent whether Oregon was admitted or not. Now, I think that every gentleman who has served with me on this floor will bear witness to my fidelity in the discharge of my duties. I understand my duties toward the people of Oregon, and I think they understand me. I have not been unmindful of this thing. I have not failed to speak to the chairman of the Committee on Territories from time to time; but it was his opinion that the matter had better rest until the Kansas difficulty should be disposed of, when he said he would bring in a bill for the admission of Oregon; and I am certain that all sides of the House will go for such a bill.

I conversed yesterday with the Senator from Illinois on this subject; and he said at once that he saw by the report of his remarks that he had done me great injustice, and that he would avail himself of the first opportunity to place me right. I know he will do so. And now I desire it to be understood that I shall lose no time in urging action on the application of Oregon for admission; and I hope to do so successfully, for I have yet heard no objection to it from any gentleman with whom I have conversed on the subject.

I will say, however, Mr. Chairman, that it has been unfortunately my lot here to have to wait, on many occasions, for action of the two Houses on Oregon matters. You will remember that at the last session of Congress an enabling bill for Oregon passed this House, but failed to pass the Senate, authorizing the people of Oregon to hold a convention and form a State constitution, and providing for the admission of Oregon into the Union under it. The House at the same time passed a similar bill for Minnesota. The latter passed the Senate; and a law was passed, by which a grant of lands, to the amount of six or eight million dollars, was made to that Territory. We were told over and over again that Oregon should have an enabling act; and I waited in the Senate, night after night, watching for such action, but waited in vain.

I only speak of this as a matter of fortune. It is our fortune on some occasions to be neglected. All these things were done for Minnesota, and not for Oregon. I certainly do not complain that they were done for Minnesota, but I think they should also have been done for Oregon, or at least that an enabling act should have been passed.

I see no good reason, now that Kansas is nearly disposed of, why the two new States of Oregon and Minnesota should not be admitted together. But if the Senate chooses to admit Minnesota first, and Oregon afterwards, I suppose I should be content, satisfied as I am at all times that Oregon will be admitted during the present session.

Now, sir, after I have said thus much about Oregon, I must be pardoned by my friends on both sides of the House if I express, very briefly, my views in regard to this perplexing question which has agitated the country for the last three or four years, and which continues to engross almost the entire attention of both House of Congress—the Kansas question.

Since I have been honored with a seat upon this floor, gentlemen upon the other side of the House have proclaimed, almost day by day, that no more slave States shall be admitted into this Union, and that there shall be no further extension of slavery. This declaration has been made by gentlemen from the North. Now, sir, I live in the North, further North, perhaps, than almost any gentleman in this House. I am a northern man, but a national man. My affections embrace the whole soil of this Union. If I should see any attempt upon the part of the southern States to infringe upon the rights of the North, I would be the first

to rebuke them and to resist their aggressions. If I should hear my southern friends proclaiming that slavery should be extended by the power of this American Government, I would say, "Hold, my friends, you have no right to extend slavery by such means." The South, however, has proclaimed no such purpose.

But, while I would rebuke the South for thus seeking to extend slavery, I would also rebuke the North when they proclaim that no more slave States shall be admitted into the Union. They have no right, in justice or in equity, to carry out such a policy. They have no right to say that slavery shall not be extended into Oregon, or any other Territory or State. In Oregon we have taken the liberty of regulating that matter for ourselves; and a majority of our people have decided that slavery shall not exist there. For aught I know, that will be their decision for all coming time. I say, then, to my northern friends, that it is not just, nor is it patriotic—it is not in conformity with that feeling of equality and fraternity which should exist among the people of this Union—for them to say that no more slave States shall be admitted into the Union. It is unjust, and in a bad spirit. I regret to see such a feeling exhibited upon the floor of this House.

Mr. Chairman, my affections rest on every inch of this country. The Constitution is my pillar of strength, and the rights of the States are as sacred in my view as the Constitution itself; and he who would infringe upon a single right of a State guaranteed in that Constitution, or would refuse to admit a State, with or without slavery, if her constitution be republican in form, has not, in my judgment, a proper estimate of the duties of an American citizen.

But, sir, this question of slavery is a perplexing one, and ought not to be agitated. Leave it where the Constitution leaves it. Let the people of every State regulate their own institutions for themselves.

You recollect, Mr. Chairman, that in May, 1854, the Kansas-Nebraska bill was the cause of such excitement as was never before seen in Congress—an excitement which spread all over the country. That bill passed. It secured to the people of the Territories, when they come to form their own State constitutions, the right to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States. Every means was resorted to by gentlemen on the other side of the House to defeat the bill. They fought it step by step through this House, and through Congress. Failing, however, to defeat the bill in Congress, they resorted to the plains of Kansas to defeat there the principles of the bill. They went there under the auspices of emigrant aid societies, and under the press of violent anti-slavery propagandism. They used every means and appliance to defeat the object of the bill. They did everything in their power to prevent the administration of the territorial government of that Territory. They went there not only with these agencies and appliances, but with Sharpe's rifles, for the purpose of resisting the laws of the Territory and of the United States. All their movements were revolutionary. They got up revolutionary conventions under the lead of some of the worst men that ever disgraced humanity, for the purpose of thwarting the execution of the laws and the honest endeavors of the late and present Administrations to maintain peace and quiet in the Territory.

This question, Mr. Chairman, has continued to agitate the country from the time of the passage of the Kansas-Nebraska bill to this moment; and I think gentlemen will agree with me that the country requires that Congress shall settle this question. Gentlemen will agree with me in saying that there has been agitation enough; that the people are surfeited with the discussion upon this Kansas question; that it ought to be settled; and that the time of Congress ought to be devoted to more important measures—to the construction of the Pacific railroad; to providing for the protection of the country; and to looking after the interests, not of the South alone, not of the North alone, but of every inch of our country. We want peace, harmony, and good feeling; and while this agitation is kept up there cannot be that harmony which ought to exist among the great sisterhood of States.

The Lecompton constitution is now before Con-

gress, in all respects, legally and legitimately. The people of Kansas have the right to claim admission under it, and Congress has the right to admit them under it, because it is legal, because it was formed in accordance with the laws of the Legislative Assembly; first, in taking the sense of the people upon the subject; then in providing for the election of delegates to the convention; in the election of delegates; and in the action of the convention in framing the constitution. That convention had the right to submit the constitution, or any question incident to it, to the people, for their indorsement or not, as they pleased. To deny it would be to place many of the new States without the pale of the Union, for many of them presented their constitutions without such submission. And, sir, as it is here legally, rightfully, and properly presented, I most earnestly trust the day is not far distant when Congress will bring in Kansas under that constitution.

Any man who has listened to the debates in this House for the last four months, as I have done, must come to the conclusion at once—yes, the conclusion is forced upon him, that there are but two reasons why gentlemen on the opposite side of this House refuse to vote to admit Kansas under this constitution—because the constitution recognizes slavery, or because they desire to keep up the agitation. Those gentlemen on the opposite side of the House, who live, as I do, in that portion of the Confederacy north of Mason and Dixon's line, are opposed, as they have proclaimed, to the admission of any more slave States. Every Republican Senator who voted against the admission of Kansas under this constitution favored the admission of Kansas under the Topeka constitution—a constitution which was the offspring of violence, and which was without authority of law and revolutionary in every sense. But it was seized upon here and attempted to be forced through, in order that Kansas might be brought into the Union. Is it not, then, singular that those gentlemen who were urging the admission of Kansas into the Union under the Topeka constitution, are now opposing her admission under the Lecompton constitution, which comes here under all the sanctions of law? When the Topeka constitution was presented here for admission, I believe it had not been submitted to the people for their adoption or rejection at all; and now when Kansas comes up here legally and legitimately, gentlemen oppose her admission because she tolerates slavery by her constitution.

But that is not the worst of it. Some of our good friends on this side of the House, men who have heretofore stood firm in the Democratic ranks, and have been looked upon as national men, and whose political character has heretofore been trustworthy, are now cooperating with gentlemen on the opposite side in this matter, who, for the purpose, I was going to say, of political benefit, are for keeping this slavery question before the country. If, as I firmly believe, they are keeping up this trouble and agitation for political purposes, will our friends, who have heretofore been good Democrats, act with them under such circumstances? Will they strengthen the Opposition in this way, and by these means defeat the policy of the Democratic Administration, and divide and break down the Democratic party? I know that the distinguished Senator from Illinois [Mr. DOUGLAS] has felt it to be his duty to place himself in opposition to the policy of the Administration, by opposing the admission of Kansas under the Lecompton constitution. He has fought the battle gallantly, and comes up to my ideas of a good soldier. He has fought fair and gallantly, and has died nobly, but in a bad cause. No man can regret the action of that distinguished Senator more than I do; for he has been my candidate for the Presidency for a number of years. I had looked upon him as a man of the greatest intellect, as a Democrat, as a Union-loving man, as a national man. I may say that when the Cincinnati convention met in 1856, he was my choice for the Presidency. I went to the Cincinnati convention to aid and assist in getting him the nomination; but I think it a glorious thing for the country that the present Chief Magistrate received the nomination. As soon as he got the nomination, of course he was my candidate. I have been voting for Presidents for many years, and I never gave any but a Democratic vote, for I look upon the success of the Democratic party as essential to the honor,

the integrity, and the existence, of the union of these States; and if must be sustained, for it would not be safe to risk the Government in the hands of a sectional party, which would deny the equality of the States of this Union, and which declares that no Territory shall be admitted as a slave State, though every man, woman, and child, in such Territory, should be in favor of it. That sectional idea will not do, sir. I look on the Democratic party as the Union itself. Its principles are the true principles of the country, and cannot be compromised; they must be maintained, for everything depends upon that party; and I earnestly hope the day is not distant when we shall find our friend, the distinguished Senator from Illinois, again laboring for the success of the Democratic cause. I have not yet given him up.

But, sir, it is surprising to find gentlemen on the other side of the House who voted for and favored the admission of Kansas under the Topeka constitution, now opposing its admission under the Lecompton constitution; and it is more surprising still to find men who heretofore occupied high positions in the Democratic party and in the councils of the nation, now cooperating, acting, and voting with them. I would appeal to these Democrats, and say to them that it is not good for them to continue in the position they have taken; they should get rid of their present political associates, for they are not good company for them to keep.

I listened yesterday to the speech of the gentleman from Pennsylvania, [Mr. MORRIS,] in which he appealed to the six South Americans, and said to the gentleman from Tennessee, [Mr. MAYNARD,] who stood up and asked him if he referred to him, "No, sir; you are not included in the six." Now, I ask these South Americans what are they going to do? The question now to be decided for all time to come, is, whether another slave State shall be admitted? Everybody knows that Kansas will not be long a slave State. Her people have the right to change, alter, and amend their constitution as they please. Slavery will not long exist there; but the principle, nevertheless, does exist; and that is, whether another slave State shall ever be admitted into the Union? Are the Democrats of the North willing to join those gentlemen on the other side of the House, who have proclaimed, all the time, that no other slave State shall be admitted into the Union?

Mr. ENGLISH. I should like to ask my distinguished friend from Oregon whether he knows of any northern Democrat—Lecompton or anti-Lecompton—who takes the ground that no slave State shall hereafter be admitted into the Union?

Mr. LANE. I will answer my friend with a great deal of pleasure—for he is one of those gentlemen whom I respect—that the effect is precisely the same. There is no difference. He may say he is willing to vote for the admission of a slave State, but when it comes to the point he will not do it. How are we to know that he will do it?

Mr. ENGLISH. I desire to ask my friend whether he means to say that I would not vote to admit a slave State into the Union if it were the will of the people of the State to recognize slavery?

Mr. LANE. I intend to say, and do say, that the effect is precisely the same as though he determined never to vote for the admission of a slave State into the Union, and will be so understood on all sides. This settles the question forever. This is passing a verdict which shall do justice or injustice to that portion of the country where slavery exists. Every southern member of the House is ready to vote for the admission of Minnesota and Oregon without slavery, and to live up to the doctrine that the people have a right to settle their own institutions in their own way. But while they thus walk up to that honorable position, and discharge their duty to the whole country, we find our friends acting with that party which has proclaimed over and over again that they would not vote for the admission of Kansas with slavery, if every man, woman, and child, in the Territory, should ask it.

Mr. CURTIS. Does the gentleman mean the Republican party?

Mr. LANE. I mean every one of those gentlemen who have proclaimed that no more slave States should be admitted, and those who vote with them.

Mr. CURTIS. That is not the Republican par-

ty. That party has not assumed such a position.

Mr. LANE. I want to ask my friend whether he would vote for the admission of Kansas with slavery?

Mr. CURTIS. Not while I knew the people were opposed to it.

Mr. LANE. You have no right to go behind the record at all.

Mr. CURTIS. Oh, yes; I have a right to go behind the record.

Mr. LANE. Would you vote for it if you knew the majority favored the institution of slavery?

Mr. CURTIS. I would not, because that was made free territory by the Missouri compromise.

Mr. LANE. Now, Mr. Chairman, I have heard gentlemen on the other side say, over and over again, that they would not vote for the admission of Kansas with slavery, if every man, woman, and child, should favor slavery there. The position taken by the gentleman from Iowa is the position, as I understand it, taken by the Republican party; and I regard it as a mere subterfuge.

Mr. CURTIS. Does the gentleman hold the Republican party accountable for the expression of individual sentiment in regard to this matter?

Mr. LANE. I hold it accountable for its platform.

Mr. CURTIS. The platform of the party does not say that no more slave States shall be admitted.

Mr. LANE. It pledges the party against the extension of slavery, and against the admission of any more slave States.

Mr. CURTIS. I beg the gentleman's pardon. Mr. SMITH, of Illinois. I would ask the honorable gentleman from Oregon to point out a single anti-Lecompton Democrat who does not profess to be as ready to admit Kansas into the Union with as without slavery? If he knows one, I ask him to name him.

Mr. LANE. I want to answer that question, and answer it in such a way that the gentleman will remember it; for it is an important question. I say that Kansas is here legally. Her constitution is a legal one, and you are estopped from going behind it. If that constitution says slavery shall exist, you are bound to admit the State with slavery, and leave the people free to change their constitution when the proper time arrives, if they desire to prohibit slavery. Slavery is, therefore, the only objection which can be urged to the admission of Kansas; yet the gentleman will not vote for it; and then asks me if I know of an anti-Lecompton Democrat who will not vote for the admission of Kansas as soon with as without slavery?

I repeat, sir, that that constitution is before us. The people have had a chance to vote upon the question of slavery, and nine tenths of those who have voted have voted in favor of slavery. I have no doubt that a majority of the whole people of the Territory, at the time the question was submitted, were not in favor of slavery. But their opposition to slavery did not go to the extent of recording their vote against it. What I mean to say is this, that, in ascertaining the will of the people, you are to look to the votes given for and against, not to the votes withheld, whether they be withheld on account of indifference to the result, or from factious motives. And when gentlemen say they are ready to vote for the admission of a slave State, if they are satisfied that the people of the State are in favor of slavery, and yet propose to vote against this constitution, I say, that with the constitution before us recognizing slavery, they are estopped in that argument. They cannot go behind that constitution. It is here legally; it is here legitimately; it is here properly. If there have been irregularities, bloodshed, and disorder, in the Territory, you know how it has been caused. You know it has been caused by the instrumentality of men armed with Sharpe's rifles, sent out by the emigrant aid societies, for the purpose of defeating the ends of justice, and thwarting the will of the people. The fault rests with them; and let the consequences rest upon the guilty. Do not permit the Territory and the country to suffer. It is in behalf of the country that I speak. I appeal to this House to stand by the constitution, and to allow the majority of the people to regulate their own institutions. Bring Kansas into the Union. Raise her to the dignity of a State. Place the sovereignty in the hands of her people,

and they will regulate their own affairs as they please, and peace will be restored to the country. Let us not do injustice to our friends of the South, now, and for all time. I am sure my friend from Iowa [Mr. CURTIS] would not desire to do injustice. I have a very high personal regard for the gentleman. I know him to be a man of good heart, and strong mind, although he is wrong in politics. He has only to take one step further, and come over to the Democratic party. I say to that gentleman that the decision of the Supreme Court of the United States upon this question of slavery commends itself to my judgment; that slavery nominally exists in the Territories subject to the control of the people when they come to form a State government; that Congress has no power over the subject. It cannot establish or prohibit slavery; it is not in the book; no such powers were conferred upon Congress by the Constitution. Our forefathers had the good sense to confer, in plain and unmistakable terms, all powers necessary for the good of the whole country, and they took care to provide that the powers not conferred upon Congress should be reserved to the States respectively, or to the people.

Congress, then, cannot interfere with the subject of slavery; and the people living under a territorial government cannot do, under an organic law framed by Congress, that which Congress itself could not do. It does nominally exist, and must always exist, in the Territories, until they come to form their State governments, and then it is their right to regulate the matter as they please. I appeal to gentlemen, then, northern men and southern men, to maintain and protect the rights guaranteed by the Constitution.

Now, in view of all these facts, how, I ask, can a South American, let him love or hate the Democratic party as he may, go with a party which says that slavery shall not be extended, and that no more slave States shall be admitted into the Union; how can he go for keeping Kansas out of the Union, under the Lecompton constitution, because it has slavery in it?

I have no idea that any South American can take that leap. He is too high minded, too noble, too devoted to the district or State he represents, to associate with a party that would heap an insult and indignity upon his portion of the country. Gentlemen of the South American party will do no such thing, in my judgment.

But, Mr. Chairman, my time has nearly expired, and I will return for a moment to the constitution of Oregon, to show what the people out there say about the right of the people to amend, alter, and change their constitution as they please. The first section in the bill of rights of the people of Oregon, as found in their constitution, is as follows:

"We declare that all men, when they form a social compact, are equal in rights; that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper."

[Here the hammer fell.]

Mr. HALL, of Massachusetts. I speak to-day against the admission of Kansas as a State into this Union under the Lecompton constitution, because I deem it proper that my constituents should have a voice in determining the grave issue which is under discussion here. I am not content to give a silent vote against what I consider a consummation fraught with fraud and villainy. It is due to those whom I represent, for special reasons, that their protest should be made vocal here. I have the honor to represent a people who dwell upon the shores where the first written popular constitution in the world was drawn up and promulgated; a people who are faithful to the traditions of their fathers; a people hardy, enterprising, industrious, and intelligent; a people who abhor tyranny in any and all its forms, and who are instinct in every fiber of their being with that spirit of liberty which has come down to them from their illustrious ancestors. They pride themselves on their allegiance to democratic principles and democratic institutions. When they speak of democratic principles they speak of them in their true, noble, and original sense. But I confess, Mr. Chairman, that they have but little sympathy with these phrases as they are now applied in partisan use—in the indefinite, sectarian, fanatical sense which is the parlance of the day. They

are democratic in believing that the people should rule. They are democratic in believing that the people are the source of all power. They are democratic in believing that the voice of the people, so far as political affairs are concerned, is, and of necessity must be, the voice of God. Proud of their ancestry, and rejoicing because to them belongs the honor of being the descendants of the founders of the Republic, they are emulous of that high praise which the great Roman orator has bestowed upon those whose mission it is to preserve the institutions of founders—in their case, the liberty which was bequeathed to them with the Rock of Plymouth.

Various ideas of a constitution have prevailed in the world. Constitutions have sometimes been given by royal authority as a boon to subjects. But the American idea of a constitution is the simple idea of an organic act which embodies the will of the people, and is indorsed by them. It is granted that any instrument purporting to be a constitution need not of necessity be submitted to the people in form. There are constitutions of several States which now shine in the constellation of the Union, which have never been thus submitted. But in each and every such case there have been means by which it has been practicable to ascertain what the will of the people was, and that it has been embodied in them. I do not deny the doctrine laid down by the gentleman from South Carolina, [Mr. KERR], that it is possible for the people to delegate their sovereignty to a convention, and that when they have thus delegated their sovereignty fully, they are bound by the act of their agents. I am disposed to affirm this as sound doctrine, and have no desire to deny it. But the marvel is that such a doctrine should be set up in this House, as applied to the proceedings in Kansas by the convention which produced the instrument which comes here purporting to be a constitution.

The history of this case shows that the people of Kansas, so far as they participated in the preliminary steps which called the convention into being, meant that their delegates should propose a constitution. But nowhere can be found traces of authority given to that body to adopt one. In their primary meetings they exhibited a steady indication of their purpose. The proof of this is found in the record of the pledge made by Calhoun and his associates, when they were inquired of in regard to that particular point. That pledge is in the following terms:

To the Democratic Voters of Douglas County:

"It having been stated by that Abolition newspaper, the Herald of Freedom, and by some disaffected bogus Democrats, who have got up an independent ticket, for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we the candidates of the Democratic party, submit the following resolutions, which was adopted by the Democratic convention which placed us in nomination, and which we fully and heartily indorse, as a complete refutation of the slanders above referred to.

JOHN CALHOUN,	A. W. JONES,
W. S. WELLS,	H. BUTCHER,
L. S. BOLLING,	JOHN M. WALLACE,
WM. T. SPICELY,	L. A. PRATHER.

LECOMPTON, Kansas Territory, June 13, 1857.

"Resolved, That we will support no man as a delegate to the constitutional convention, whose duties it will be to frame the constitution of the future State of Kansas and to mold the political institutions under which we, as a people, are to live, unless he pledges himself fully, freely, and without reservation, to use every honorable means to submit the same to every bona fide actual citizen of Kansas at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers in this Territory, as the majority of the voters shall decide."

It is also a fact, known and acknowledged on every side, that the President himself was in favor of such a procedure; that Governor Walker, who acted under his authority and by his advice and with the consent of the Cabinet, was also of the same opinion; and that distinct pledges were given to the people of Kansas that the constitution which should be drawn up by the convention at Lecompton would be submitted to their approval or rejection. The following extracts from official documents will establish this point beyond all contradiction. Says Governor Walker:

"I accepted [the appointment of Governor of Kansas] on the express condition that I should advocate the submission of the constitution to the vote of the people for ratification or rejection.

"These views were clearly understood by the President and his Cabinet. They were distinctly set forth in my

letter of acceptance of this office, of the 26th of March last, and reiterated in my inaugural address of the 27th of May last, as follows:

"Indeed, I cannot doubt that the convention, after having framed a State constitution, will submit it for ratification or rejection by a majority of the then actual bona fide resident settlers of Kansas.

"With these views, well known to the President and Cabinet, and approved by them, I accepted the appointment of Governor of Kansas."—Governor Walker's Resignation.

"I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress."—Governor Walker's Inaugural Address to Kansas.

"When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument; and the fair expression of the popular will must not be interrupted by fraud or violence."—Buchanan's Instructions to Walker.

The Union, the organ of the Administration, seems fully to appreciate the ground then held by the President, and, in defending that position, gives a most satisfactory reason for assuming it. I will read an extract from that paper:

"When there is no serious dispute upon the constitution, either in the convention or among the people, the power of the delegates alone may put it in operation. But such is not the case in Kansas. The most violent struggle this country ever saw, upon the most important issue which the constitution is to determine, has been going on there for several years, between parties so evenly balanced that both claim the majority, and so hostile to one another that numerous lives have been lost in the contest. Under these circumstances there can be no such thing as ascertaining clearly and without doubt the will of the people in any way except by their own direct expression of it at the polls. A constitution not subjected to that test, no matter what it contains, will never be acknowledged by its opponents to be anything but a fraud."

I will not attempt to elaborate this point more, because it has been frequently sustained on the floor of the House in the course of this debate.

Now, Mr. Chairman, under these circumstances, what did this convention assembled at Lecompton do? Were they faithful to their pledges made in the election? Did they truly and really represent the sentiments of the people of Kansas? Why, sir, they not only made a constitution, insuring, by the most ingenious contrivances possible, that a certain institution, which was known to be repugnant to the feelings and wishes of these people, should be made perpetual; but the constitution that they manufactured is unchangeable, generally, till 1864. And more than this, they have inserted an express provision that, even then, no power shall touch the slavery question. This instrument was submitted to the people in an unusual form. The only question which could come before them was not whether they would adopt the constitution or would not adopt it, but whether they would adopt a constitution with slavery, or a constitution without slavery. And in this strange and anti-republican form every man who was permitted to deposit his vote was subject to a test oath, and made to swear that he would support that constitution in all its provisions; thus effectually cutting off any opposition to it, and stifling the free expression of the will of the people.

It appears to me, on a careful review of the facts and history of the case, that no evidence whatever exists that the people of Kansas do desire, or ever did desire, to have this constitution as their organic law. I will not go back to examine the authority under which this convention was called, and refresh the recollection of the committee with the fact that it was by the power of a usurped Legislature, which is proven, of record now among the archives of this House, to have been elected by fraud. The convention was called by a minority of the inhabitants, as the proof at hand conclusively shows. Governor Walker says on that subject, in his letter of resignation:

"In nineteen counties out of thirty-four there was no census; in fifteen counties out of thirty-four there was no registry; and not a solitary vote was given, or could be given, for delegates to the convention in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one-tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties, in which there was no census, constituted a majority of the counties of the Territory; and these fifteen counties, in which there was no registry, gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution on the 7th of November last."

Nineteen counties, it appears, were disfranchised, and many others were imperfectly registered. These facts, so familiar to us all, estab-

lish it, beyond question or doubt, in the mind of any reasonable man, that it was only by a minority of the inhabitants of the Territory that the Leecompton convention was authorized. It is also a very important and significant fact, that during the time between the first assembling of the Leecompton convention and the meeting when its sessions really commenced, the opinions of the people of Kansas were taken on the very question which is the question on which turned the acceptableness or non-acceptableness of this constitution. During that very time a free-State Delegate was elected to Congress, who holds his seat among us here; and yet these men proceeded, in defiance of the known will of the people, thus contemporaneously expressed, and in the most distinct and solemn manner, to the work which they had assembled to perform. In the face of these facts, there can be no evidence that the people of Kansas desired this constitution. But on the other hand, Mr. Chairman, there is abundant evidence that these people do not desire this constitution. I will not pause to cite the testimony of numerous individuals, citizens and officials, which might be used here. I pass over the voice of the press and the sad historical incidents which prove this proposition. They have been rehearsed here, time and again. I merely point out the conspicuous fact that cannot be denied, which is of graver significance than any other fact in connection with this controversy, that on the 4th of January, there was had a fair and legal election, acknowledged to be such by the authorities, a certificate of which is signed by the Governor of the Territory and all the proper officials, and recognized by the Administration here, and on that 4th of January, ten thousand majority of the people of Kansas voted distinctly and directly against this constitution. The following is the official certificate of the result of this election:

In accordance with the provisions of an act entitled "An act submitting the constitution framed at Leecompton under the act of the Legislative Assembly of Kansas Territory, entitled 'An act to provide for taking a census and election of delegates to a convention,' passed February 19, A. D. 1857," the undersigned announce the following as the official vote of the people of Kansas Territory on the questions therein submitted on the 4th day of January, 1858: Against the Leecompton constitution, 10,225; for the Leecompton constitution with slavery, 138; for the Leecompton constitution without slavery, 24.

Some precincts have not yet sent in their returns, but the above is the complete vote received to this date.

J. W. DENVER,
Secretary and Acting Governor.
C. W. BABCOCK,
President of the Council.
G. W. DEITZLER,
Speaker House Representatives.

January 26, 1858.

The following is extracted from the instructions to Governor Denver by the President:

"The Territorial Legislature doubtless convened on the 7th instant; and while it remains in session its members are entitled to be secure and free in their deliberations. Its rightful action must also be respected. Should it authorize an election by the people for any purpose, this election should be held without interruption, no less than those authorized by the convention. While the peace of the Territory is preserved, and the freedom of elections is secure, there need be no fear of disastrous consequences.

"The authority of the government must necessarily be maintained; and from whatever quarter it is attempted to interfere by violence with the elections authorized by the constitutional convention, or which may be authorized by the Legislature, the attempt must be resisted, and the security of the elections maintained.

"The President relies upon your firmness and discretion to give effect to these instructions. It is vitally important that the people of Kansas, and no other than the people of Kansas, should have the full determination of the question now before them for decision."—Secretary Cass to Governor Denver, December 11, 1857.

Then, sir, since we have been in session in this Hall, we have had presented to us the protest of the Legislature of the Territory of Kansas—the solemn protest of that Legislature, which is acknowledged on all sides of the House to be a lawful and rightful Legislature—one which was not elected by fraud and which is confessed to express authentically the will of the people. That protest is on record, and is in these terms:

Preamble and joint resolutions in relation to the constitution framed at Leecompton, Kansas Territory, on the 7th day of November, 1857:

Whereas, a small minority of the people living in nineteen of the thirty-eight counties of this Territory, availing themselves of a law which enabled them to obstruct and defeat a fair expression of the popular will, did, by the odious and oppressive application of the provisions and partisan machinery of said law, procure the return of the whole number of the delegates to the constitutional convention recently assembled at Leecompton; and whereas, by reason of the defective provisions of said law, in connection with the neglect

and misconduct of the authorities charged with the execution of the same, the people living in the remaining nineteen counties of the Territory were not permitted to return delegates to said convention, were not recognized in its organization, or in any sense heard or felt in its deliberations; and whereas, it is an axiom in political ethics that the people cannot be deprived of their rights by the negligence or misconduct of public officers; and whereas, a minority, to wit, twenty-eight only of the sixty members of said convention, have attempted by an unworthy contrivance to impose upon the whole people of the Territory a constitution without consulting their wish, and against their will; and whereas, the members of said convention have refused to submit their action for the approval or disapproval of the voters of the Territory, and in thus acting have defied the known will of nine tenths of the voters thereof; and whereas, the action of a fragment of said convention, representing, as they did a small minority of the voters of the Territory, repudiates and crushes out the distinctive principle of the Nebraska-Kansas act, and violates and tramples under foot the right and the sovereignty of the people; and whereas, from the foregoing statement of facts it clearly appears that the people have not been left "free to form and regulate their domestic institutions in their own way," but on the contrary, at every stage in the anomalous proceedings recited, they have been prevented from so doing.

Be it therefore resolved by the Governor and Legislative Assembly of Kansas Territory, That the people of Kansas, being opposed to said constitution, Congress has no rightful power under it to admit said Territory into the Union as a State, and we, the representatives of said people, do hereby in their name, and on their behalf, solemnly protest against such admission.

Resolved, That such action on the part of Congress would, in the judgment of the members of this Legislative Assembly, be an entire abandonment of the doctrine of non-intervention in the affairs of the Territory, and a substitution in its stead of congressional intervention in behalf of a minority engaged in a disreputable attempt to defeat the will and violate the rights of the majority.

Resolved, That the people of Kansas Territory claim the right, through a legal and fair expression of the will of a majority of her citizens, to form and adopt a constitution for themselves.

Resolved, That the Governor of this Territory be requested to forward a copy of the foregoing preamble and resolutions to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and to the Delegate in Congress from this Territory.

G. W. DEITZLER,
Speaker of the House of Representatives.
C. W. BABCOCK,
President of the Council.

SECRETARY'S OFFICE,
LECOMPTON, (K. T.) January 12, 1858.

I certify the above to be a true copy of the enrolled resolutions deposited in this office.

HUGH S. WALSH, Clerk.

Originated in the House of Representatives.

C. F. CURRIER, Chief Clerk.

I claim, on these grounds, that the evidence is complete and irrefragable that the people of Kansas emphatically repudiate the Leecompton constitution as the expression of their will. Without dwelling on this point longer, I proceed to inquire what are the right and duty of Congress in these premises. The Constitution of the United States says that Congress "may admit new States." This implies to every reasonable mind a large discretion. It therefore gives us, by an implication which cannot be denied, the power to reject the application of any State for any reason that may appear to Congress to be right, if not repugnant to the Constitution of the United States.

The Kansas-Nebraska act is sometimes said to have been an enabling act. Mr. Chairman, I deny it. It is in no sense an enabling act; it is chiefly a declaratory act. The pith of it is a certain declaration, hard to be understood, and more difficult to be interpreted, if we may judge from the variety of interpretations given to it by gentlemen on the other side of the House. But in no sense was it such an enabling act as to override or to restrain the power of Congress in a case like that now before us. We are called upon to admit a State into the Confederacy against the will of the people thereof; and certainly, among the rights of Congress, under the Constitution, no right has ever been given to force a constitution on an unwilling people. Whatever may be said as to the right of Congress to admit or to reject new States, nowhere can be found anything like a color of power to force a constitution on a people who, in every form and shape possible, have repudiated and rejected it.

What, then, is the duty of Congress in a case like the present? Let us look at the nature of this case. I undertake to say that there has been fraud proved in every step of this procedure, from the inception of the convention to its final action. But if that is denied in any quarter, there is no man who will deny that there is reasonable suspicion of it in all these transactions—transactions

which are very hard to be explained by the most subtle and acute reasoners. At any rate, sir, this pretended constitution comes not here with a clean record, and no man has stood up here to defend it as a clean record; and no fair man will. On all sides it is allowed that some irregularities exist; and these irregularities are of such a kind as to make it wise for us to stop here, even if it is not our imperative duty so to do, and let the matter be disposed of in the future.

We are told here that every State must be admitted which has the requisite number of population, and whose constitution is republican in form. But no constitution can be republican in form which does not express the will of the people. It is anti-republican unless it embodies the will of the people in some distinct and unequivocal form. I plant myself on the Declaration of Independence, that great charter of our liberties, underlying our most sacred rights; and that Declaration says that "all free governments derive their just powers from the consent of the governed." There can be no free government, there can be no such thing as a republican government, that does not derive all its rightful powers from the consent of the people who live under it.

Besides this, we have a duty which we owe to Kansas. I regret that so little has been said in regard to our duty to Kansas. Gentlemen have seemed to think it was our only duty to admit her into the Union because there had been an application on the part of somebody; though who this somebody is, is hard to determine. Sir, there is a duty higher and nobler than this, which we owe to Kansas. She sustains to us, in her territorial capacity, a peculiar relation. We also sustain to the people of the Territories a peculiar relation. It is a relation which ought to be marked on each side by principles of integrity. We ought to have some regard for their good name, and they should show due respect for Congress. Kansas ought not to be thrust in among this sisterhood of States with a stain upon her honor. Kansas ought not to be permitted to become one of us in this glorious Union with a constitution that is not free from the blot of fraud and iniquity. Kansas should come here with clean hands; she should come with spotless robes to take her place in the circle of independent and sovereign States. Her territorial history has been sad; it is marked with ruffianism, rapine, blood. Be it ours to see to it that her history as a State shall not commence with foul stains overspreading her organic act. To admit her under present circumstances is not to take her by the hand with words of gratulation which awaken the sympathies of her people, but to forcibly drag her into your association, imposing on them a constitution which they repudiate and abhor. You chain her unwillingly to your victorious chariot wheels as the old Romans graced their triumphs with their captives. She cannot greet you with uplifted eyes and queenly port; but, veiled and manacled, she submissively bows her neck, and waits your pleasure; and this record will be yours and hers forever.

Sir, what is the necessity that Kansas should be admitted in this way? Why must we be called upon to contradict and deny the fundamental principles of republican government? Why depart from the wisdom of the fathers of the State? The President, who stands as sponsor for this proceeding, and urges us onward to this act, says that Kansas must be admitted to give peace to that Territory and to the country. Was there ever such a pretense as this? Restore peace to Kansas by forcing a constitution upon her which she has repudiated by her decisive vote! Peace to Kansas by denying her her rights! Peace to Kansas by heaping upon her injustice and wrong! Sir, it is most delusive. There can be no peace to Kansas while you attempt to stifle the voice of her people, and trample down what is dearer to them than life.

But we are told by gentlemen on the other side; we were told by the gentleman who has just taken his seat, [Mr. LANE,] that the reasons urged on this side of the House for resistance to the admission of Kansas are not sincere reasons; that the true reason is founded in opposition to slavery in that Territory. Well, Mr. Chairman, what are the facts in regard to the character of this discussion? Has not the admission of Kansas been urged upon the ground that the constitution recognizes slavery? Have we not been told over and over again

that Kansas must be admitted with slavery as a right, chiefly for the reason that she has made a constitution which contains slavery? This has been the spirit of the remarks of a large portion of the gentlemen who have spoken in favor of her admission.

Mr. REAGAN. I ask the gentleman from Massachusetts if any gentleman on this floor has urged that Kansas should be admitted into the Union because her constitution recognizes slavery?

Mr. HALL, of Massachusetts. I said that was the spirit of the remarks of southern gentlemen; otherwise why is it a violation of southern rights, of which gentlemen have so much complained, to refuse her admission? But, in respect to the question of slavery in Kansas, if that is the question in issue, I tell gentlemen, all other reasons apart, that we have the vantage ground in reference to this same Territory of Kansas. Every foot of the soil of that Territory has once been irrevocably consecrated to freedom by the Missouri compromise. It is said that this compromise was unconstitutional, and there seems to have been what some gentlemen seem to regard as a decision of the Supreme Court, affirming the constitutionality of that compromise; but, sir, there are authorities at least as strong upon the other side of the question. The Cabinet of the President under whose Administration the Missouri compromise became a law, contained wise men and eminent constitutional lawyers. Their opinions are on record, and are worthy of as much respect as any opinion pronounced by a part or the whole of the Supreme Court of the United States, as now constituted.

Mr. Chairman, we of the North were juggled out of our rights by the repeal of the Missouri compromise—rights for which a consideration was paid.

Mr. SINGLETON. I wish to ask the gentleman from Massachusetts if the South, in 1850, did not ask to have the Missouri compromise line applied to the Territories of New Mexico and Utah, which were then organized?

Mr. HALL, of Massachusetts. I am willing to allow it.

Mr. SINGLETON. How, then, can you say that the South has been unwilling to stand by that line which she offered to extend across the country to the Pacific?

Mr. HALL, of Massachusetts. It is a matter notorious, that that compromise was repealed by the votes of the South, and by their allies, upon a specific occasion; and no matter what other propositions may have been made from time to time, that fact stands out patent and uncontroverted. Therefore I say we have been juggled out of our rights by a breach of good faith, and we, rejecting all your refinements, are determined to avail ourselves of every opportunity to redress that wrong. Within the limits of that compromise, at least, we will have no more slave States. Never!

Mr. SINGLETON. Will the gentleman be kind enough to state what the consideration of that bargain was?

Mr. HALL, of Massachusetts. The admission of the State of Missouri, and the admission of other slave States south of that line.

Sir, the President and his advisers, prompters or guardians, would have been wise if they had well considered the effect of the repeal of the Missouri compromise before they invented and produced this Kansas embroglio. They should have considered that the non-slaveholding States were released from all obligation to the admission of any more slave States. They were bound by it to a certain extent while it existed; but, by its repeal, they were exempt from such obligations forever. The President might well inquire what party organization it had given rise to, how large it had become, and how near it reached success in the last campaign. The President is a minority President as it is. What wise man will approve of urging this irritation of northern sentiment further, and especially by such low acts of petty finesse and chicanery as we have before us in this record? Everybody must see that the progress of events is towards change, and on the side of freedom.

A Senator from South Carolina told us, in the other end of the Capitol, a few days ago, that the South had ruled the nation for sixty, out of seventy years; and the gentleman from Mississippi, [Mr. DAVIS,] who is not now in his seat,

was pleased to say that the time was rapidly approaching when power would be in the hands of the North; and the gentleman from South Carolina [Mr. BOYCE] made use of language of a similar character, yesterday. They say true; and their prescience is to be commended. Whoever turns his vision to the political firmament will behold the star which symbolizes the scepter of power tending northward. Then, the true policy is, by an enlightened spirit of moderation and forbearance, to conciliate. The time is past for martyrdom to abstractions. Your Kansas-Nebraska bill, which was to be the panacea for all political troubles, has made a very chaos of the political elements. By its interpretation and effects, confusion worse confounded has been introduced into the political system. Nobody has been found who can say what the "true intent and meaning" of it is. As applied to Kansas, to leave the people to settle their institutions in "their own way," it appears to mean upholding a constitutional convention, sitting under the protection of United States bayonets, to manufacture an organic act which the people repudiate on the first fair opportunity at the polls; and yet the Kansas-Nebraska act is said to illustrate the principle of popular sovereignty. The theory of the Democratic party is, that it recognizes all the rights of the people; that it is the very *summum bonum* of all political truth; that it, above all other things, is to be revered by the people, after the Declaration of Independence; but, mark you, whether at the North or the South, gentlemen are unable to agree wherein its manifold virtues consist.

Now, sir, I repeat that your Kansas-Nebraska act has made a perfect chaos of all political elements—such a chaos as always precedes a new creation. We live in a formative period, and the policy of the country is about to be changed. The indications of it, everywhere, are so distinct and marked that no man in his senses can overlook or deny them; and as out of original chaos, by the omnific word, the green earth arose fair and beautiful, so from the elements all around us the party of the future will spring. I say we live in a formative period. The elements thus far have been resistant, but they will become conservative as they are consolidated, and acquire power and strength. Such a party cannot have a taint of sectionalism about it, and from the necessity of its constitution it seems impossible that it can become aggressive on any constitutional or covenanted right of any portion of the people of these United States. This is the inevitable result of the forces now in operation. It is impossible that things should continue as they are. The dominion of the slave power is over, or is drawing to its close; and as it draws to its close the star of hope for the reorganization of this Government on its original pattern will rise in the ascendant. The convulsions through which we have passed have shaken the country to its very center. The convulsions through which we are now passing are but its nascent throes; and when its birth-time shall fully come it will spring up among the people, among all conservative men, among all lovers of the Union—like Minerva from the head of Jove, complete, and full-armed with all the attributes of power. Hereafter we shall strike for constitutional liberty, union, and progress, and the Government will be restored to its original pattern and parity.

There are already constituencies enough in the length and breadth of the land to produce this effect, and the men will be found to fill these seats, to regenerate your Senate, to occupy your places of executive power, and in due time to wear the purified robes of judicial authority.

In the course of this debate, dark intimations of secession and disunion have been thrown out, and we are told that if Kansas is not admitted under the present constitution, that the bond which unites us is to be broken, that there is to be no more fraternity between the North and the South, and that the rejection of this act will be a sufficient ground for a movement in favor of disunion. Sir, we do not believe in the probabilities of any such thing. We do not believe in the possibilities of any such thing. It has not been asserted on authority that any such thing will occur; but, as I said before, dark intimations have been thrown out that such a thing may occur if a certain course be pursued. Now, sir, this Union is not one of opinion. This Union is one of interest and necessity,

and while the interest is recognized, the necessity continues, and while that necessity continues, the Union will be intact. There is no portion of the Union that can afford to do without the other portion. The interests of all are interlinked and interwoven. They are and must be one, not by mere political constitution, but by the necessities of the case. This Union rests on a compact which no one party can repudiate, or be permitted to repudiate. The constitution and practical operation of the Federal Government are matters which need to be better understood among the masses of the people. It contains in itself the elements of perpetuity—it must be a perpetuity. All sorts of combinations against it must be insurrectionary, and ephemeral in their nature, while the Federal Government is clothed with authority, and has, therefore, the essential elements of stability. All hostile combinations, illegal as they are, must be suppressed and will be suppressed in due course of law. I speak not, Mr. Chairman, of war; I speak not of fratricidal strife; there are other means to be tried before so dire a result can be reached, or even thought of.

I have faith that there is a spirit underlying all this superficial excitement of to-day—a spirit of intense love to the Union among the masses of the people. It is possible for politicians, with their ambitions before them, with their disappointments and their restless machinations with personal aims, to endeavor to inflame and excite the minds of the people. They may succeed to this point, but no further. On the second sober thought, there is a loyal feeling of attachment to the ancient bond; and the larger your Union becomes, the stronger are the ties which bind you. The very diversity of interests that connect you with one another is the strongest assurance that such a Union must exist and must endure.

I was pleased with the reply of the gentleman from Texas, [Mr. REAGAN,] the other day, when he was catechized by a gentleman on this side in regard to the interpretation of the recent resolutions of the State of Texas. They seemed at first to be minatory, and involving within themselves something fearful to contemplate. But the gentleman from Texas interpreted them by saying that they did not mean that Texas would secede from the Union, but that they were afraid that the Union would secede from Texas. And so the gentleman from South Carolina, [Mr. BOYCE,] and the gentleman from Alabama, [Mr. MOORE,] do not undertake to say that the result of these conventions called in the southern States is to effect the dissolution of the Union, but that they are only to contemplate the steps they ought to take to redress the imaginary grievances under which they suffer.

And this always will be the case when the result comes. The people cannot be moved to such fanaticism. On the surface all this excitement may appear, and unwise men may indulge in violent declamations, but the heart of the people is always true; and the heart of the masses, North and South, will ever beat in faithfulness to the Union.

But another spirit has been evoked by this controversy which calls for animadversion. The gentleman from Alabama [Mr. SHORTELL] was pleased to say, a short time since, that "he despised the memory of the Pilgrim fathers," and took the opportunity of availing himself of the singular and unenviable privilege of reviling them and their principles accordingly. This, sir, is the language of irritated perplexity, and the petulance of despair, and was in keeping with the line of argument which he chose to pursue in sustaining this Lecompton constitution. Why, sir, the true idea of popular sovereignty was first announced on this continent from the cabin of the Mayflower. When the Pilgrim fathers first anchored at Cape Cod, they found themselves beyond the limit of their patent, and consequently without any delegated powers for the establishment of their community on a political basis. They were thrown back into circumstances approximating as nearly as possible to that ideal "state of nature" of which philosophers have dreamed. Prepared in the school of discipline, they were at no loss what steps to take when the exigency arose which compelled them to action. Their promptness in providing for the emergency demonstrates that their theory of government was fixed, while history renders it certain that they

had originally no intention of setting up a voluntary organization. On the next day, they formed themselves into a body-politic, on the basis of republican principles, by the signature of this brief and famous instrument which is the original charter of our present liberties:

"In the name of God, amen. We whose names are under written, the loyal subjects of our dread sovereign Lord, King James, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the faith, &c. Having undertaken, for the glory of God, and advancement of the Christian faith, and the honor of our King and country, a voyage to plant the first colony in the northern parts of Virginia; do by these presents solemnly and mutually, in the presence of God and one another, covenant and combine ourselves together into a civil body politic, for our better ordering and preservation, and furtherance of the ends aforesaid. And by virtue hereof, do enact, constitute, and frame such just and equal laws, ordinances, acts, constitutions, and officers, from time to time, as shall be thought most meet and convenient for the general good of the colony; unto which we promise all due submission and obedience. In witness whereof we have hereto subscribed our names, at Cape Cod, the eleventh of November, in the reign of our sovereign Lord King James, of England, France and Ireland, the eighteenth, and of Scotland the fifty-fourth, Anno Dom. 1620."

A sight like this the world had never seen, and such again the sun will never look upon. By that deed alone the Pilgrim fathers are immortalized. The Mayflower became classic, like the bark of Æneas, and around her cluster associations of more romantic interest than the proudest galley of the Argonauts, or the noblest of the fleets of Cæsar could ever boast.

I could not reach the theme if I were to attempt the eulogy of the Pilgrims. They need not my defense. Some words of pious recollection of their deeds, and their results, are all that the time will allow. Their history is the more attractive because it is the record of humble efforts and small beginnings. It becomes illustrious when regarded in the light of its results. If this our nation has thus far in its course gone onward and upward, and we have attained a pinnacle of greatness which lifts its fair proportions to attract the admiration of the world, it is not too much to claim that the essential elements of that greatness spring from the germ which they planted.

The fathers of New England owe their celebrity, not so much to the circumstances in which they were thrown, as to the fact that they were equal to those circumstances. They were no ordinary men who were able to establish new forms of society, to develop new principles of government, and to open new sources of human happiness and human improvement; and all these, in the face of most adverse and discouraging circumstances. The project of exploring a home in a foreign wilderness, a home for delicate women and children, was a daring enterprise in the seventeenth century, when the experiment was new. By weak minds it would be deemed absurd, and to common men it would seem rash and visionary. But to them it presented an object congenial with the brawny strength of their intellectual powers, and precisely suited to their lofty aspirations and sublime daring.

Our fathers were the true progressives of their day. They were not the slaves of precedent, but they despised not the wisdom of the past; they paid small reverence to usage and prescription, but yielded themselves ever to truth and right. The principle announced by Robinson for their guidance in religious matters was exemplified yet more perfectly in their science of government. Unflinching in their loyalty to well-ascertained principles intelligently embraced, they revered them as supreme, and used a wise policy in the selection and prosecution of the measures necessary to develop them, and to secure their ascendancy. To them we owe it that we have free elections in place of hereditary rule—that the privilege of birth has given place to equality before the law; that the power to transmit vast accumulations of wealth in perpetuity is done away; that military organizations are composed of citizens themselves; that arbitrary exactions are superseded by a system of taxation by which the revenues of Governments are provided by the voluntary assent of the people; and, above all, the system of free and universal education was of their origination. They reposed their hopes for institutions like these in the virtue and intelligence of the people. Invested with these attributes, they inaugurated the sovereignty of the people, and placed the scepter of power irrevocably in their hands. The first ornaments of every plantation were the church and

the school house. And, from these points of light, have radiated the glory which sparkles in the diadem of our national greatness.

The memory of the men who originated the system which has produced such results, is safe from the assaults of men less illustrious than themselves. Their children think they best honor them when they seek to imitate their example, and will ever be ready to defend their fair fame. They ask to be pointed to some other ancestry who have been equal benefactors to their race, ere they blush at the sneer of ignorance, or quail before the railings of the calumniator when directed against their revered names. They are content with the world's verdict, and the almost unanimous applause of their kind. The rancor of sectional hate exhausts itself in vain. The memory of the men, and the principles associated with Plymouth Rock, must endure forever.

Mr. HILL obtained the floor, but yielded it to Mr. UNDERWOOD, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOCOCK reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriation for the service of the fiscal year ending the 30th of June, 1858, and had come to no conclusion thereon.

And then, on motion of Mr. JOHN COCHRANE, (at half past four o'clock, p. m.) the House adjourned until Monday next.

IN SENATE.

MONDAY, March 29, 1858.

ELECTION OF PRESIDENT PRO TEMPORE.

On the appearance of a quorum, at sixteen minutes past twelve o'clock,

WILLIAM HICKEY, Esq., Chief Clerk (in the absence of the Secretary, occasioned by sickness) called the Senate to order.

Mr. FITZPATRICK. Senators, perhaps it is proper that I should explain the cause of the delay in the organization of the Senate this morning. I will state to the Senate that I received a communication from the Vice President, Mr. BRECKINRIDGE, informing me that he was compelled to return to his family in the South, and that he expected to leave this morning. I have delayed calling the Senate to order to be assured that he has left, and I think there can now be no question of the fact.

Mr. JOHNSON, of Arkansas. I can state that he has left; for I went with him to the boat.

Mr. FITZPATRICK. I will state further that, as the Senate is well aware, I was honored with their confidence at the opening of the session, and I know it to be the opinion of many Senators that the President *pro tempore* elected at the opening of the session remains in office during that session. I have inquired, however, of those who are intimately conversant with the practice, and who understand the history of the manner in which this officer is elected, and the prevailing opinion is that when you elect a President *pro tempore*, the appearance of the Vice President vacates that election; and when he vacates the chair again, the Senate has to proceed to elect another presiding officer. It now devolves on the Senate to elect a presiding officer.

The CHIEF CLERK. As the Constitution of the United States requires the election of a President *pro tempore* in the absence of the Vice President, Senators will be pleased to prepare their ballots for the election.

The ballots having been collected and canvassed, the result was announced, as follows: Whole number of votes cast, 41. Necessary to a choice, 21; of which—

Hon. Benjamin Fitzpatrick received.....	23
Hon. William Pitt Fessenden.....	12
Hon. Hannibal Hamlin.....	1

The CHIEF CLERK. The whole number of ballots cast is 41, of which 21 are necessary to a choice. Of the whole number, Mr. FITZPATRICK has received 23, Mr. FESSENDEN 12, and Mr. HAMLIN 1; so that Mr. FITZPATRICK is duly elected President *pro tempore* of the Senate. Mr. SLIDELL and Mr. DIXON will be pleased to conduct the President *pro tempore* to the chair.

The PRESIDENT *pro tempore*, having been conducted to the chair, said: Senators, I tender my grateful acknowledgments for this renewal of your confidence; and beg to assure you that I shall impartially, and to the best of my ability, discharge the duties of the situation to which you have called me. The Journal of Thursday will be read.

The Journal of Thursday was read and approved.

PETITIONS AND MEMORIALS.

Mr. PUGH presented a petition of citizens of Sandusky county, Ohio, praying that a pension may be granted to each of the surviving officers and soldiers who have been in the regular or volunteer service of the United States since the 1st day of January, 1848; which was referred to the Committee on Pensions.

He also presented two petitions of citizens of Cincinnati, Ohio, praying that a quarter section of land may be granted to actual settlers in the proposed Territory of Arizona, including the right to the minerals in the soil, upon the same conditions that lands are granted in the other Territories and States; which were referred to the Committee on Public Lands.

He also presented a memorial of members of the bar and others, at Toledo, Ohio, praying that a term of the United States district and circuit courts for the northern district of Ohio, may be held at Toledo; which was referred to the Committee on the Judiciary.

He also presented a memorial of citizens of Cincinnati, Ohio, praying that a system of instruction may be introduced on board the United States ships-of-war, as a means of improving the personnel of the Navy; which was referred to the Committee on Naval Affairs.

He also presented a memorial of citizens of Cleveland, Ohio, remonstrating against the repeal of the law establishing the Light-House Board; which was referred to the Committee on Commerce.

He also presented a resolution adopted at the State military convention, held in the city of Columbus, Ohio, on the 19th of January, 1858, relative to the officering of the four additional regiments recommended by the President in his message in December last; which was referred to the Committee on Military Affairs and Militia.

He also presented additional papers in relation to claims to lands lying within the Muncie Reservation, in the Territory of Kansas; which were referred to the Committee on Indian Affairs.

Mr. BRODERICK presented resolutions of the Legislature of California, against the renewal of the present contract with the Atlantic and Pacific Mail Steamship Companies, and in favor of the letting of two distinct weekly mail contracts, on separate routes, to two distinct companies; which were referred to the Committee on the Post Office and Post Roads.

Mr. JONES presented a resolution of the Legislature of Iowa, in favor of the enactment of a law legalizing certain locations of land under land warrants for which more than one dollar and twenty-five cents per acre was paid; which was referred to the Committee on Public Lands.

He also presented a resolution of the Legislature of Iowa, in favor of the establishment of certain mail routes in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. GWIN presented a resolution of the Legislature of California, in favor of the cession to that State of the Monterey redoubt, for the establishment of a military school, or for other purposes of education; which was referred to the Committee on Military Affairs and Militia.

He also presented the petition of David D. Porter, a lieutenant in the Navy, praying for the settlement, upon principles of equity, of his accounts for certain secret services performed by him in the island of St. Domingo, under an order of the Secretary of the Navy; which was referred to the Committee on Naval Affairs.

He also presented the petition of Alexander Copeland, praying for confirmation of his title to certain lands in the county of Sonora, in California; which was referred to the Committee on Private Land Claims.

Mr. KING presented a petition of citizens of New York, praying that the public lands may be granted free of cost, in farms or lots, to actual

settlers only; which was referred to the Committee on Public Lands.

Mr. CHANDLER presented the petition of Cassandra S. Witherell, praying that a land warrant may be issued to the heirs of her late father, Major General Hugh Brady, of the United States Army; which was referred to the Committee on Private Land Claims.

Mr. HAMLIN presented the petition of Hannah Thompson, praying that her pension may be continued; which was referred to the Committee on Pensions.

Mr. JOHNSON, of Tennessee, presented a petition of citizens of Detroit, Michigan, praying that the public lands may cease to be considered a source of public revenue, and that hereafter all entries thereof may be confined to actual settlers; which was ordered to lie on the table.

Mr. POLK presented a petition of citizens of the city and county of St. Louis, Missouri, praying for the organization of the Territory of Arizona, and that lands may be granted to actual settlers therein; which was referred to the Committee on Public Lands.

Mr. PEARCE presented the memorial of Beverly Diggs, late an officer in the revenue service, praying for some relief in consideration of his having been, as he alleges, without cause, dismissed from the service; which was referred to the Committee on Commerce.

He also presented the petition of Ann E. Smoot, widow of Joseph Smoot, late a captain in the Navy, praying to be allowed a pension; which was referred to the Committee on Naval Affairs.

He also presented the petition of A. G. Allen, late navy agent at Washington, District of Columbia, praying to be allowed additional compensation for disbursements to officers and others entitled by law to extra pay; which was referred to the Committee on Naval Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. KING, it was

Ordered, That the petition and papers of Agnes Slacke and the heirs of De Repentigny be withdrawn from the files and referred to the Committee on Private Land Claims.

On motion of Mr. EVANS, it was

Ordered, That the petition of Oliver Towles and others, heirs of Captain Oliver Towles, deceased, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. HAMLIN, it was

Ordered, That the petition of Lemuel Worster, on the files of the Senate, be referred to the Committee on Public Lands.

RECOMMITTAL OF A REPORT.

Mr. YULEE. At the request of the parties concerned, I ask that the adverse report heretofore made at this session by the Committee on the Post Office and Post Roads, in the case of William Moss, be recommitted. I will state that I have no authority from the committee to make this motion, nor has anything occurred to change the view of the committee thus far; but, at the suggestion of the Senator representing the State from which the parties come, I move the recommitment, with a view of affording them an opportunity of presenting the further testimony and further considerations, which they think may prevail with the committee to change their opinions.

The motion was agreed to.

BILLS INTRODUCED.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 214) to provide for the compensation of the judges of the district courts of the United States for the two districts in the State of Texas, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. KENNEDY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 215) for the relief of the executor of Brevet Brigadier General James Bankhead, late of the United States Army; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

Mr. YULEE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 25) explanatory and amendatory of the resolution approved March 1, 1845, entitled "A resolution amendatory of the resolution passed April 30, 1854, respecting the application of certain appropriations heretofore made;" which was

read twice by its title, and referred to the Committee on Military Affairs and Militia.

REPORTS OF COMMITTEES.

Mr. BENJAMIN, from the Committee on Commerce, to whom was referred the bill (S. No. 84) to provide for the better regulation of night signals on board of sail vessels navigating the north-western lakes and their tributaries, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 138) further to provide for the safety of passengers on steam vessels, reported it with amendments.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of J. W. Sullivan, asked to be discharged from its further consideration, and that it be referred to the Committee on the Post Office and Post Roads; which was agreed to.

He also, from the same committee, to whom was referred the petition of Bacchus Webster, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

He also, from the same committee, to whom was referred the memorial of A. L. Pennock and George Pennock, asked to be discharged from its further consideration, and that it be referred to the Committee on the Post Office and Post Roads; which was agreed to.

He also, from the same committee, to whom was referred the petition of Findley Patterson, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the petition of Findley Patterson, praying to be allowed for work done in the erection of the capitol of Kansas, at Leecompton, under a contract with the Governor of that Territory, and indemnity for losses sustained in consequence of the suspension of the work, together with the papers in the case, be referred to the Court of Claims for the action of that tribunal.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the petition of D. Meriwether, submitted an adverse report.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed, without amendment, Senate bill to create additional land districts in the State of California, and for other purposes.

SHIP BILLS OF SALE.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of amending the law relating to recording bills of sale of vessels, passed July 29, 1850.

MAJOR JEREMIAH Y. DASHIELL.

Mr. JOHNSON, of Arkansas. I appeal to the courtesy of the Senate to indulge me by taking up and passing now the bill (S. No. 202) for the relief of Major Jeremiah Y. Dashiell, paymaster in the United States Army. It is to indemnify him for the loss of some \$20,000 of money of the United States, which was in his possession. The loss occurred in landing him in a yawl on the coast of Florida. All the facts are proved. The yawl was upset in crossing the bar. The passengers in the yawl with Mr. Dashiell, and his son among the rest, clung to the wreck for an hour before they were relieved. They came very near being lost. The money, which was in a leather valise, was lost on the upsetting of the yawl. Every effort has been made to recover it since, but it has been found impossible; and the amount stands charged against him on the books of the Department. It is a case of peculiar hardship, and the committee are entirely satisfied that relief ought to be granted to him against any further responsibility on this account. I ask the consent of the Senate to pass the bill now, so that he may obtain that relief which, if delayed much longer, he cannot get.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It directs the accounting officers, in settling the accounts of Major Dashiell, as paymaster in the Army, to credit him with the sum of \$23,115; that being the amount of public money accidentally lost by him on the 1st day of May, 1857, in attempting to cross the bar of Indian river, Florida, for the purpose of paying the troops at Fort Capron, in that State.

The troops stationed on and near Indian river in Florida were in arrears of pay from two to six months in April, 1857, and Major Dashiell, in the due performance of his duty as paymaster of the district, drew from the assistant treasurer at Charleston, South Carolina, the sum of \$23,115, which was placed in a leathern bag ordinarily used and put in charge of an escort. There were two routes by which to reach his place of destination, Fort Capron, one by sea, and the other (the river route) partly by land and partly by water; an the latter route, owing to the shallowness of the water, as well as to certain outrages and massacres which had been lately perpetrated by the Indians in that vicinity, was considered not only unsafe, but impracticable. Major Dashiell, therefore, took the only alternative, and proceeded by sea, in the schooner William and John, to the mouth of Indian river; when he arrived there, acting under the advice of the captain of the vessel, who had six years' experience of the bar at the mouth of the river, he, with his son, proceeded to land. The bag containing the funds, which was duly identified by size, weight, and appearance, was lowered into the boat, being taken for that purpose from the iron safe in which it had been deposited. The bar, as appears from the officers of several vessels who were present, was in a favorable state for landing, and that it was so considered by Major Dashiell, appears from the fact that himself and son unhesitatingly accompanied the treasure in its transit to the shore.

It further appears that, while crossing the bar, the yawl boat which contained the party was suddenly capsized by a cross-breaker, and the bag containing the funds sunk. Major Dashiell, his son, and the crew, after clinging to the bottom of the boat for more than an hour, in imminent peril, were rescued by the boat of one of the vessels near by. Immediately after his rescue he applied for a guard to watch the spot, which was furnished by the commanding officer of the post, and took prompt and active measures to recover the money. A large reward was offered, and the most strenuous and constant endeavors made by the major and others to recover the treasure; but owing to the high winds and heavy seas which then prevailed for several days, these attempts met with no success; and he was finally compelled, with reluctance to abandon the search. The guard, however, remained, and the attempts to recover the funds were continued by the commanding officer of the post, but without a favorable result.

The Military Committee are of opinion that the funds in charge of Major Dashiell, the property of the United States, were lost by an unforeseen and unavoidable accident, and that the loss was in no manner due to negligence or want of proper precautions on his part.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DEPARTMENTAL MESSENGERS.

Mr. YULEE. There is a joint resolution on the table, reported from the Committee on the Post Office and Post Roads, some time ago, which I ask the Senate now to take up and consider. It is a very small matter, and will require no discussion. It is intended only to prevent the misconception of a joint resolution passed at the last Congress.

The Senate proceeded as in Committee of the Whole, to consider the joint resolution, (S. No. 17,) explanatory of the "joint resolution, giving an increased compensation to all laborers in the employment of the executive and legislative departments of the Government in the city of Washington," approved 18th August, 1856.

It provides that the joint resolution of 18th August, 1856, which provides that there shall be "one principal messenger in each of the bureaus of the several Executive Departments, at an annual salary of \$840 each," shall be understood to embrace within its true scope and meaning the offices of the three Assistant Postmasters General, entitling each to a messenger at an annual salary of \$840.

Mr. YULEE. The correction of the construction which is proposed by this resolution conforms to the intention of the Finance Committee, as I learn from the chairman of that committee, in reporting the original resolution at the last Congress. This is designed to give effect to the res-

olution passed by the last Congress, which was intended by the committee that reported it.

Mr. HUNTER. I had always supposed that the Assistant Postmasters General were at the head of bureaus. Undoubtedly they are. I do not know why this construction was given; but this resolution is proper, in order to do justice.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MAJOR JAMES L. DONALDSON.

On motion of Mr. KENNEDY, the bill (S. No. 145) for the relief of Brevet Major James L. Donaldson, assistant quartermaster United States Army, was read a first and second time, and considered as in Committee of the Whole.

It provides for the allowance to Brevet Major James L. Donaldson, of a credit for the sum of \$400, being the amount of public funds stolen while in his possession as acting assistant quartermaster of the Army, near Monterey, in Mexico, on the 10th of October, 1846.

The petitioner was acting assistant quartermaster at Walnut Springs, before the city of Monterey, Mexico, after the city was taken by the American Army, (in the month of September, 1846), and as such had in his possession public funds to the amount of \$400, which he kept in a box or chest in his tent, this being the only means he had of keeping it. On the 10th of October, 1846, he had occasion to go to Monterey with Captain Webster, the officer in command, on official business, and left his tent in charge of a sentinel; during his absence his tent was entered in the rear and the money stolen, and although the most diligent search was immediately made, the funds have not been found, though the box was afterwards discovered in the neighboring bushes rifled of the money. Lieutenant Bowen, who occupied the same tent, corroborates the statement of the petitioner as to the circumstances of the robbery, and gives it as his opinion that the amount lost was \$400. The testimony of the commanding officer and of the non-commissioned officers and privates all support Major Donaldson's statement; and the Committee on Military Affairs being satisfied that the money was lost without any negligence or fraud on the part of the petitioner, report a bill for his relief.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that its Speaker had signed an enrolled bill to create additional land districts in the State of California and for other purposes; and it was thereupon signed by the President *pro tempore*.

CAPTAIN CHARLES G. RIDGELY.

On motion of Mr. KENNEDY, the bill (S. No. 144) for the relief of Captain Charles G. Ridgely, of the United States Navy, was read a second time and considered as in Committee of the Whole.

It provides for the payment to Captain Charles G. Ridgely of \$6,000 for extraordinary expenses incurred when he commanded the United States squadron in the Pacific ocean, in the years 1820 and 1821, in receiving and entertaining on board of his ship the head officers of the Governments in whose ports he was, who were compelled to seek a temporary refuge under the flag of the United States, and for other extraordinary expenses which he incurred in the execution of the orders of the Navy Department.

Mr. BIGGS. I ask for the reading of the report in that case.

The Clerk proceeded to read the report made by Mr. POLK from the Committee on Foreign Relations, but was interrupted at one o'clock.

The PRESIDENT *pro tempore*. The Chair will remark to the Senate that the hour has arrived for the consideration of the special order, and this bill cannot be further proceeded with, unless by an order of the Senate.

Mr. KENNEDY. I am inclined to think there will be no objection raised to it at all. The bill has passed the Senate, as well as the lower House, on several occasions. There has been no objection to it before, and I think it can be disposed of in a few moments. I move, therefore, that the special order be passed over for a short time.

Mr. STUART. I think it will be hardly worth while to do that. From the reading of the report, so far as it has gone, there is no evidence of the amount of expenditure at all; and, at all events, it seems to me that it is likely to involve more or less of discussion. I will say to the honorable Senator that he can take it up any other morning.

The PRESIDENT *pro tempore*. It lies over, under the rule, the hour having arrived for the consideration of the special order, which is the bill for the admission of the State of Minnesota.

ADMISSION OF MINNESOTA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 86) for the admission of the State of Minnesota into the Union, the pending question being on the amendment offered by Mr. MASON, in section two to strike out all after the word "Representative" in line two, to the end of the section, and insert "in the Congress of the United States," so that the section will read:

That the said State shall be entitled to one Representative in the Congress of the United States.

Mr. HUNTER. It seems to me that there is much reason for the adoption of this amendment. This new State can claim no more than the other States. It can only ask to be put on a footing of equality with the other States. What would be a footing of equality? It would be this: if the apportionment had to be made now, we should divide the total federal numbers by two hundred and thirty-three; and we should apply the ratio thus obtained to Minnesota in common with all the other States. She would thus be represented proportionately to the others with regard to her population. We can only come at it conjecturally; but if we were to do that; if we were to take the federal numbers, and suppose they had increased at the rate of three and one third per cent. annually, which is about the average rate of increase of our population, as shown by the last census, it would be found, I think, that the ratio would be somewhere about one hundred thousand, or a little over. If we apply that ratio to the actual census (and we can have no other safeguard than the census taken according to law) it would leave a fraction, not equal to half the ratio, and she certainly would not be entitled to be represented for her fraction. I think, therefore, that one member is as much as she can be entitled to, under any fair view of the case. For these reasons I shall vote for the amendment.

Mr. PUGH. If the Senate is disposed to vote on the question I will desist; otherwise I should like to make some reply to the suggestions made by the Senator from Virginia, [Mr. MASON,] and the Senator from Kentucky, [Mr. CRITTENDEN,] at the last session of the Senate; but if no other Senator wishes to speak I will desist. ["Go on."] The burden of their argument was, that inasmuch as by the Constitution of the United States there was a general census required to be taken every ten years with a view to the apportionment of Representatives in the other House, therefore the census required by the enabling act of the last Congress to be taken in Minnesota is entitled to peculiar solemnity and even conclusiveness. That I understand to be the weight of the whole argument in favor of the pending amendment.

Now, sir, it is obvious, I think, or will be on reflection, that the regular decennial apportionment can have no manner of application to the case of a new State. What is the object of that census? It is to ascertain the population of the various States at the time it is taken, with a view to the apportionment at that time of Representatives. That was done almost or quite eight years ago. It is impossible for us to imagine that this decennial census can reach any degree of accuracy, or at least can retain its accuracy for any length of time. But the rule never was applied to the case of a new State; and it is only necessary to look at the manner in which the last apportionment was made to be satisfied of that fact. As I understand the law, a particular number was assumed for the members of the House of Representatives; the House was not to exceed so many members, and that number was apportioned among the States then in the Union. The very principle of that apportionment excludes its application to any new State. It can have no manner of application; and no legitimate argument, in my judg-

ment, can be derived for that census. In fact, sir, in the case of all the new States, we never have attached any importance to the decennial census. I do not mean to say that the ratio ascertained by that act ought not to be regarded, though I say it is not conclusive. But when it is sought from the circumstances of the last census, and from the ratio then ascertained, to carry forward the argument to the point of asserting that the census of Minnesota, taken under the enabling act of the last Congress, stands on the footing of the decennial census, and is entitled to the same controlling force, it seems to me that the inference entirely fails.

Why, sir, not so far as I can ascertain or have ever heard, has there been a census taken in the case of any new State except this one. This is the first instance. We have settled the representation of all the new States before this time without reference to any particular census. I do not mean to say that this census taken in Minnesota ought not to be regarded; but I say that it is not conclusive, and that it does not stand on the same foundation with the regular decennial census. It seems to me, therefore, that the line of argument pursued by the Senator from Virginia, not now in his seat, [Mr. MASON,] and the Senator from Kentucky, [Mr. CRITTENDEN,] is completely broken by the suggestion of those two facts.

Now, on what principles are we to deal with this discussion? For the first time, so far as I am aware, in an enabling act Congress required a census to be taken in Minnesota. Has that census been truly taken? That is the question. If it has been truly taken it ought to bind us; but here the Committee on Territories—I think a majority of them, certainly several members—have stated to us, that from the evidence in their possession, they are satisfied the census was not a fair one; that in many places the deputy marshals threw the returns into the fire; that in other districts of country they did not pretend to complete them; that in still others they made it a mere formal matter, adding a few names; and the constitutional convention, or rather this double-headed convention in Minnesota, from the information which its members had, and from official documents, I suppose laid before them from the authorities of the Territory or some other sources, arrived at the conclusion that the population of Minnesota was much larger than the official returns of the census showed. I do not presume there can be a reasonable question of that. I think that Minnesota has far more population than would entitle her to two Representatives according to the ratio established by the last census.

My friend, the Senator from Kentucky, thought we ought to regard the fact that our States have been increasing in population since the last census; that we should be entitled to an increased representation; and therefore, we ought to restrain Minnesota. Well, sir, no doubt, in some sections of the Union, there has been an increase of population since the census, and probably a right to an increased representation; but that is not the case in all parts of the Union; I will undertake to say that it is not the case in a majority of the States of the Union. It is not the case with any of the Atlantic States. Their population has decreased since the last census; I do not know but that the population of the State of Ohio has decreased since the last census, in proportion to the whole Union. It has decreased by the emigration westward. Hundreds and thousands of the very persons who have been enumerated in Minnesota, were citizens of the other States; and they aided, when their names were registered in the census, in sending Representatives from other States to the House of Representatives. We ought to consider that the largest proportion of the actual residents of Minnesota are emigrants from the old States; that they are no longer any portion of the political communities to whom representation is assigned, and that many States are having a disproportionate representation in the other House by reason of this very emigration.

There was a little controversy, not an unpleasant one, but a little discussion, between the Senator from Virginia, not now in his seat, and the Senator from Missouri, [Mr. POLK,] the other day, in reference to the character of the population of Minnesota; and it disclosed the difference between the residences of those two Senators. The Senator from Virginia is from an old settled

community. My friend, the Senator from Missouri, is from a new country; and he understood much better than the Senator from Virginia what was the character of this population. The great bulk of the settlers of Minnesota—I mean the agricultural portion of them—have gone there for the purpose of clearing their farms and building their cabins. They have not yet taken their wives and their children, because it is not the habit of the agricultural population, at least in the northern and middle States, when they migrate, to take their families with them, until they have provided homes for them. The residence of these people is in Minnesota; they intend that their families shall be there; and it is only because they have not yet fully prepared their homes that their families are not now in them. Yet this census has been taken in such a way as to exclude a large portion of that which will be the population of Minnesota. The Senator from Virginia thought that most of the settlers were young men and unmarried. Probably in the towns that may be true to a great extent; but the character of the agricultural population which migrates to the West is not that. A young farmer marries his wife, and then he goes out to the West to locate his farm.

It seems to me, therefore, that we have no constitutional obligation, as the Senator from Virginia seems to think, at all on the subject, except that we shall not give an undue representation to any State, new or old. We are pursuing the policy which has always been pursued with the new States, looking upon them as rapidly increasing in population, taking notice of the fact that of the families, of the women and children, who will inhabit the State, very few of them are there at present. Congress has always dealt liberally by them; and if Congress does not deal liberally by Minnesota, she will make an exception.

But it is suggested, in addition, that there will be very great injury to the southern section of the Union by giving more than one Representative to Minnesota. I would not allude to this, for I believe I am as little in the habit of alluding to sectional arguments as almost any Senator on the floor, but inasmuch as several gentlemen from the South have alluded to it, I feel at liberty to speak on that point. Now, sir, the Senate has passed a bill for the admission of Kansas into the Union. I do not suppose that any one seriously pretends that there are more than fifty thousand people in Kansas. I doubt if there are. There are certainly not ninety thousand; I think it will not be pretended by any one that there are eighty thousand; yet we give her one Representative in the other House. When we come to the case of Minnesota, we find that she has an actual population, according to this census, of one hundred and fifty thousand, and according to the best evidence we can get showing the insufficiency of this census, and referring, therefore, to other sources of information, her population is brought up to nearly or quite two hundred thousand people; can gentlemen complain of unfairness in allowing her three members? What would be more unfair than that Kansas, if she is to be a slaveholding State, (and I do not care whether she is such or not, if her people wish her to be so,) should be represented in the other House by one Representative, and the great empire of Minnesota be represented only by one? I am no enemy to the extension of the institutions of either section of the Union; I want them to go wherever the people wish to have them; but I object to the Procrustean system, that because one of them is not developed quite as fast as the other, that other shall have this absolute and arbitrary rule applied to her. Minnesota has three times, four times, five times, the population of Kansas, and she ought to have her full representation, and she ought not to be reduced down. My own conclusion is from the information derived from the Committee on Territories, and from other sources, that this census which was ordered to be taken by the enabling act of Congress was never perfectly taken.

Mr. COLLAMER. There was no information whatever before the committee, except the census.

Mr. PUGH. I understood the Senator from Missouri, [Mr. GREEN,] the other day, to state that he had letters and papers in his drawer showing the facts I have stated.

Mr. COLLAMER. I do not know what he has got. The committee had no information on the subject except the census.

Mr. PUGH. The Senator from Missouri was satisfied, and the Senator from Illinois was satisfied, as to the real number of the population, and the imperfection of the census. I take it, their means of information are greater than mine. They correspond with all that I have ever heard as to the population of this new State.

This enabling act has a double aspect. The enabling act is a contract on both sides. When one of the Senators elect from Minnesota presented his credentials, some weeks ago, and demanded to be sworn in, on the ground that Minnesota had complied with the conditions of the enabling act, and was therefore entitled to admission, we rejected his application because there was such informality in the proceedings of the State, that we denied that the contract had been executed on her part. Minnesota had a right to require of us a perfect census. That is a condition which we agreed to perform. We took this census; she did not; we took it by marshals of the United States; it was not her act; and when it is shown to us substantially that, from the lack of proper compensation for our own officers, or from the neglect of our own officers, or from the difficulty of the work to be performed, we on our side have not given Minnesota an honest census, the least we can do is to allow her constitutional convention to act for the present, and then adopt the suggestion of the Senator from Georgia, [Mr. Toombs,] and give her a new census, and apportion her representation finally according to the result of a true census.

These are the reasons which will induce me, as I said before, to vote against every proposition which restricts Minnesota to one Representative. I believe she is fairly entitled to three Representatives, and I shall vote to give her three. If the Senate does not agree to give her three, I shall then vote for two. I shall vote for the most that I can carry. I think she is entitled to the whole three, and I hope the Senate will allow them.

Mr. FITCH. The restriction proposed to be imposed by the amendment is wrong; and I am very sure if the Senator from Virginia knew as much of the population of Minnesota as other Senators do, he never would have moved it. The Senator from Ohio has well said that the defect of the census was our own fault; the fault of the Government. It was entirely so. The enabling act provided, it is true, that a census should be taken; but it provided no means for taking it; and I understand that the convention which framed the constitution now before us, asked that instructions and blanks, and other means for taking the census, might be sent to the Government officers in the Territory; but their request never was complied with. It was utterly impossible, therefore, that any perfect census should be taken. None was taken. One half, or nearly half, the returns are simply estimates made by the assistant marshals in their rooms, without taking the field to ascertain the exact number of inhabitants.

This was well understood by the members of the constitutional convention, and they, consequently, hoping for more correct returns, postponed their own local apportionment until the last moment, until the constitution was framed in other respects, and it became absolutely essential that they should agree on some manner of apportioning the prospective State for its local or State representation. They made this apportionment on knowledge possessed by the members of the convention—members who had come up fresh from every portion of the Territory, and who were infinitely better judges of the amount of population than the deputy marshals, who never went, in several instances, beyond their own dwellings to ascertain the number of inhabitants. The members of the convention made their estimate upon their own personal knowledge, and by comparison of notes on the part of those from different portions of the Territory; and there is a sufficiency of local jealousy there to prevent any one portion of the Territory obtaining any undue influence or advantage in representation over the others. It is known that the constitutional convention consisted, in fact, of two bodies. They had their mutual political as well as local prejudices.

Mr. GREEN. I ask permission of the Senator from Indiana to interrupt him for a moment.

Mr. FITCH. Certainly.

Mr. GREEN. I understood the Senator from

Vermont to express himself as having forgotten that there was any evidence before the committee showing that returns had been burned by deputy marshals, or that any refused to act. I wish to call attention to a letter, a copy of which was sent to us, and was before our committee, previous to the time when this bill was reported. I will read it:

OFFICE OF THE UNITED STATES MARSHAL,
ST. PAUL, MINNESOTA, December 23, 1857.
SIR: I have forwarded to your Department, as by instructions, the census returns of the different counties of the Territory, as they have been received and examined at this office.

No returns have yet been received from the counties of Mower, Waseca, Nicollet, Le Sueur, Sibley, Manomina, Pierce, Cass, Mille Lac, Itasca, Pembina, and a part of Fillmore—nearly one half of the Territory, geographically, and embracing an area of thirty-three thousand two hundred and eighty-six square miles.

Every exertion has been made on my part to get through with the census of the Territory, and report finally upon it before the meeting of Congress. Many causes have operated to produce the delay. The work was commenced too late in the season for a latitude like this, where traveling in the winter over northern prairies is a matter both difficult and hazardous. It was, moreover, very difficult to get proper and competent officers to undertake the work, for the compensation provided by the law of Congress for the census of 1850.

In many counties of large extent and few inhabitants, the compensation will not more than cover, if it does at all, the traveling expenses of the assistants. The expense is necessarily much greater in this Territory than in the States. Several of the assistants who commenced the work, threw it up, some on account of the inadequate compensation, others from sickness and business engagements. The assistant for Sibley county, after being engaged in making the enumeration for more than a month, refused to make his returns, and burned them, rather than the Government should have them for the pay. All of these causes have made my returns backward. I have written, however, and sent to the assistants of the counties not heard from, and appointed new ones in those counties, and will forward returns as soon as they are received and examined. I would respectfully request that an appropriation be made to defray the expense of this census in a more liberal rule than that of 1850.

Very respectfully, your obedient servant,
WILLIAM R. GERE,
United States Marshal.

Hon. JACOB THOMPSON, Secretary of the Interior.

Mr. COLLAMER. There is no intimation that those returns, so far as they went, were not all good. There were some counties he had not yet finished, several of which he has since returned.

Mr. FITCH. The writer of that letter himself states that there is very little reliance to be placed on the census, and the reason he alleges for an imperfect census should satisfy any one that no reliance can be placed upon it.

Mr. COLLAMER. He does not say that no reliance can be placed upon it.

Mr. FITCH. But there is enough in his letter to warrant our inference that it is entitled to no reliance. The census was imperfectly taken, as the officer under whose direction it was taken informs us. The estimates on which the convention acted were made by representatives from every portion of the Territory, who must be assumed to be acquainted with almost every voter within their several precincts. They had no motive for over-estimating the population; they could have none; and even if a representative in some particular locality in the Territory had such motive, the motive would be suspected, and his action counteracted by jealousy on the part of the representatives from other localities.

It has been my good fortune to have traversed a considerable portion of the Territory at the time this census was being taken; and, therefore, I can speak from personal observation of the manner in which it was taken, and likewise from personal observation of the number of inhabitants in much of the Territory. I know, in the immense districts assigned to the deputy marshals, it would, even if the pay was liberal, have been quite difficult, if not impossible, for them to make the census within the time it was expected. Along the borders of the rivers and the groves the population of a considerable portion of Minnesota is as dense as that of almost any other northwestern State. It is true that there are large districts not yet densely populated; but it is equally true that into those districts the tide of emigration is rapidly setting, and while this bill is under discussion in the Senate, hundreds are being added to the population of that Territory. We may properly make allowance for this increase, therefore, as well as for the population in being at the time the census purports to have been taken.

I remember to have heard it said in the other House some years since by a then Representative

from Ohio, that not within his day, or that of the then Delegates from Minnesota, would the Territory contain twenty thousand inhabitants. Well, sir, the prophecy came, I am happy to say, from a member of the Republican party, and it was consequently, from its political source, entitled then to but little credence; and subsequent events have shown that it was no exception to the usual want of reliability upon statements from the same source. That Territory has before it a future, and, indeed, a present, considering its age, of wealth, power, and prosperity, of which any State in the Confederacy might well be proud. It is a future to arise not so much from its broad, fertile prairies; not so much from its numerous lakes and rivers, and its magnificent waterfalls, capable of improvement to an almost illimitable extent, as from the character of its inhabitants. Gentlemen from the northeastern States exult at the gradual and steady relative increase of the Republican vote in their States. I can see a reason for this increase, for the best of their population is rapidly leaving them and finding new homes in Minnesota, and other northwestern States. The population of that Territory is loyal to their government, local and national. It is a law-abiding population, and therein contrasts remarkably with the population which that party, the party represented by gentlemen on this floor from the northeast, are sending for their own political purposes into Kansas. The emigration to Minnesota is a voluntary one. Emigrants go there to seek a new and prosperous home. They are not sent there by politicians for the promotion of the prospects of some political or sectional party; and their conduct when they reach their new homes is that which we would expect of good citizens. They are willing that their own prosperity and that of the land of their new home shall travel along *pari passu*. They are intelligent, industrious, enterprising; and you find their industry, intelligence, and enterprise directed to legitimate channels of business. They do not go there as politicians, as do many to Kansas, for the promotion of their own political aggrandisement, or the manufacture of political capital for their associates in the States.

I have said it was my fortune to have traversed a considerable portion of that Territory. Its southern portion is, perhaps, with the exception of a few counties, as densely populated as almost any prairie counties in Iowa. One can traverse one week a valley or skirt a grove almost wholly uninhabited, and the next week he would find towns and villages springing up in the same localities. It was asked by the Senator from Massachusetts, the other day, why we should assume a certain amount of population? Simply, because we have no other data than assumption. The same thing was assumed in the instance of California. We have assumed a certain population in Kansas. There was no complete census in either of those cases, as there has been none in the case of Minnesota.

We are compelled, if we would believe the local representatives of the Territory, to credit Minnesota with some two hundred and forty-seven thousand inhabitants, and that, too, was five or six months ago. The intervening time has given opportunity for hundreds, if not thousands, more of inhabitants to pour in there from the adjoining States of Wisconsin and Iowa, and, indeed from more remote localities; for, notwithstanding the close of navigation, it is notorious in the case of Minnesota, as it was in that of Wisconsin, that a heavy overland emigration continues through the winter. I have seen in midwinter, and in the middle of as severe a winter as that climate knows, hundreds of emigrants, some years since, *en route* for Wisconsin, availing themselves of the very means which would deter, perhaps, those accustomed to a milder climate from traveling at all, namely, the snow and ice, and the facilities these gave for transporting their household gods to their new homes. Emigration continues, and, upon the opening of navigation, it will pour into the Territory to an extent almost incredible to one who has not witnessed it.

I believe the State to be not only entitled in justice, as compared with California and other new States we have admitted, to three Representatives, but I believe them to be absolutely and unqualifiedly entitled to them by their actual amount of population. If we refuse them that number of

Representatives, we punish them for our own sin; for the Government failed to provide the means of taking their census, and thus threw them upon their own estimate in fixing their representation. There is no pretense that the census was fully taken. The marshal promises, it is true, to continue the census, and furnish further returns hereafter. He can never do so under the old law.

The amendment offered by the Senator from Georgia, not now in his seat, [Mr. Toombs,] would do the other States ample justice, if they object to three Representatives from Minnesota as an undue representation in the other House, because it would limit that representation to one Congress. That amendment provides for a subsequent census, a new one; and on that census being taken, if the population of the new State is found not to entitle it to three Representatives, it will be perfectly content with whatever a correct census does entitle it to. But, until then, if we err at all—and I acknowledge no error in giving them three—let us err on the side of magnanimity; let us err in giving them what they have claimed, and deem their due, not in adhering to the defective census resulting from our blunders or omissions. Let us not array our ignorance of their population against their knowledge of it.

I sincerely trust the amendment of the Senator from Virginia will not be adopted. It will be doing gross injustice to a people as patriotic, as noble, and as loyal, as any people in this Government.

Mr. COLLAMER. I undertook the other day to explain why, in my view, the second section about which we are talking was inserted in the bill. I have not succeeded in obtaining the attention of many gentlemen to it; but it seems to me that if my view of it is right, this amendment will alter nothing practically. The enabling act, it will be recollected, provided that a census should be taken, if the convention in Minnesota concluded to have a State constitution, and that they were to be entitled to one Representative in Congress, and as many more as that census should show them to be entitled to under the present rule of apportionment. They went on to form a constitution, and the Secretary of the Interior, on being informed that they had resolved to do so, the contingency having then happened which made it his duty to proceed in taking the census, he did proceed to take it. The census had not been wholly returned at the time the question was before the committee. Before the census was taken, it was provided by the eighth section, I think, of the constitution of Minnesota, that they should be entitled to three Representatives in the House of Representatives of the United States, and they directed an election for them to be made.

Now the question arose, if an act were passed simply admitting the State, declaring that it had complied with the conditions of the enabling act, what would be its legal effect? Would it be to carry out the assurances and the terms of the enabling act, such as I have repeated, or would it be, by accepting that constitution and receiving the State, to entitle it to the three Representatives provided for in its constitution? The prevailing opinion with the members of the Committee on Territories was, that if we simply received the State, it would be receiving it with the three members, and the act of admission being the last act of legislation, would entitle them to three. That is still my opinion. I have heard very few gentlemen controvert that opinion in any way.

In order to carry out the assurance contained in the enabling act, and give what was promised to be given, and no more, the second section was put into this bill, by which it is provided that they shall be entitled to one Representative, which every State is entitled to—even Kansas if she is admitted—and as many more as the census shall show them to be entitled to. That is the very language of the enabling act. Its terms are repeated here.

There are many propositions of amendment before the Senate. What the order of them is I do not know; but the first is the proposition of the Senator from Virginia to strike out all of the second section except the part which gives Minnesota one Representative. In the first place, according to my view, that would not alter the effect of the section at all practically, because the second section only gives them more than one, provided, by the census under the present apportionment law, they are entitled to more than one.

Now, how would it be? According to the first returns of the census, the Territory contained one hundred and thirty-two thousand inhabitants. Some more counties have since been returned, making in the whole something like one hundred and thirty-seven thousand; and then computing for those not returned by their votes, the number is brought up to about one hundred and forty-nine thousand—nearly one hundred and fifty thousand by estimation. That being the number, the second section only gives one Representative. It would not give them more than one if there was a population of one hundred and sixty thousand, or even one hundred and seventy thousand. It would give it to them if the present apportionment would entitle them to it; otherwise, it would not. Now I think any gentleman who will examine the subject, will see that that is a thing which cannot, by possibility, be done. The apportionment law is based on the assumption that two hundred and thirty-three members shall compose the House of Representatives, and the direction was that the Secretary of the Interior, on the census coming in, should take the whole Representative number and divide it by two hundred and thirty-three. In this way you get your common numerator. Then he was to take the population of each State, and divide by that numerator, and see how many Representatives it would give to each State. It would in every State leave a fraction. When you had given to each State what it would be entitled to, according to that numerator, you would have some Representatives undisposed of. You might have ten; you might have five; you might have six; you might have three. Whatever number you thus had left, in order to make up the two hundred and thirty-three, was, of course, to be given to those States that had the largest fractions. There might never one be given to a State that had a fraction of seventy thousand. The whole numerator was ninety-three thousand four hundred and twenty. Take each State's population, and divide it by that, and perhaps you would have three left, perhaps five, and you would give them to the five States having the largest fractions; but you might never get down to seventy, sixty, or fifty thousand.

Mr. PUGH. Does not that show that it is impossible to apply any principle derived from that census to the case of Minnesota?

Mr. COLLAMER. I think the Senator will understand me by the time I am through. What I say is this, that if any gentleman will take the census from Minnesota and hand it to the Secretary of the Interior, and tell him to cipher it out by the problem I have stated, no man on earth would ever give anything for the fraction. I think I have demonstrated that it would not be possible to ascertain what fraction could give them one member. Nothing, then, can entitle them to a member except the whole number of the ratio. They are entitled to one member at any rate. If they have sufficient population to entitle them to two members, according to the last apportionment, they will get two by the second section; if they have enough to entitle them to three, they would get three; but a fraction never can give them any. Unless I am exceedingly muddled about it, I think that if any gentleman has listened to my explanation, he will see that it is utterly impossible, taking this census, to give them more than one member. It cannot be done under the terms of the enabling act and the second section of this bill. I say, therefore, striking out the portion of the section now proposed to be stricken out, will make no practical difference whatever. They will have one, and no more than one, member, if the section be passed as it is, or if the amendment of the Senator from Virginia be agreed to.

Now, sir, my idea is that it would be better to keep the section in its present form, because the census is not yet fully completed, and I am willing to let them have two members, if that census, when completed, shall show them to have sufficient population for two members. There is, however, nothing of that kind really expected. I have another reason for preferring to retain the section in its present form, because there is a sort of implied faith in the enabling act. I vote for retaining these words in the section, not because I think they produce any practical effect, but because, as I view it, the enabling act contained a pledged faith on our part, and this is a renege-

ment of that assurance. If the census gives them more than one, let them have more, though I think it cannot give it by possibility. I prefer to keep the section as it is; I would not break faith either in words or in hope. I would keep my very words; and, therefore, this section was inserted in the words of the enabling act. I would preserve it in those words, so that there could be no foundation for the complaint that we had changed our position in relation to it.

But other propositions have been made which are a great deal talked about—one by the Senator from Georgia, [Mr. TOOMBS,] and one by the Senator from Illinois, [Mr. DOUGLAS.] Those propositions, if I understand them, are, in some way or other, to strike out this section and allow three members according to the constitution of Minnesota, or to insert a provision directly allowing three Representatives. That comes to the very point: ought we to give them three Representatives? I can see no foundation for it at all. I do not find fault with gentlemen who, having private information of their own, govern themselves by that information; but when they call on the Senate to act upon it, it seems to me to be entirely a different affair; we are left entirely to conjecture, mere conjecture, mere guess-work. Gentlemen say that the census returns are imperfect. What evidence is there of that? The letter of the marshal has been read, and it contains nothing but an excuse for the time that has been taken and the delay that has happened. He does not intimate that the returns, as far as they are made, are not right, that the census is not perfect enough, as far as it goes, for those counties where it was taken.

Mr. POLK. Does he not say that no census was taken in a region of country covering thirty-two thousand square miles?

Mr. COLLAMER. As has already been shown, we have returns from all the counties but four. When the first returns were made, there were seven or nine counties not heard from. That was when the returns showed one hundred and thirty-two thousand. Since then, returns have come in from some other counties, so that there are only a few left. My answer to the Senator from Missouri, then, is, that if you take the vote of the counties not returned, I do not care how many thousand or million square miles they may cover, and estimate the people by the votes, you will see that they only contain a few thousand to be added to the number returned, and do not make it come up to one hundred and fifty thousand then. Now, in Kansas, when a great complaint was made about an imperfect census, we were told that it was authentic and fair, and we must abide by it, and we were made to abide by it; but when you come to the case of Minnesota why is a different rule insisted upon? Gentlemen think that instead of taking the census they can find some safer guide of duty, some surer path to truth; and where does it lie? One says, take the number of votes returned and multiply it by six. Nothing could be more certain than this. In the first place, gentlemen who know anything about the election in Minnesota, know perfectly well that each party charged the other with importing and manufacturing great numbers of voters. In regard to one county, (Tod county,) where we have actual census returns, and no proof but that they have been fairly made, it is suggested that the gentleman who was appointed to take the census of that county did not live there, but kept a store near it, and the Senator from Missouri presumes that he took the people who came to his store. That is an entire presumption. To take the vote at the election in Minnesota returned in the manner it was, and with all the complaints that we know have been made about it, as a better guide of duty than the census for all the counties for which it is completed and returned, seems to me to be a very strange and a very extraordinary proceeding.

What ground have you for taking the number of votes, and multiplying it by six? Why you should not multiply it by twenty, instead of six, I do not know. Why not multiply it by three, or four, or five? Certain it is that in any new country the proportion of voters to the population is much larger than in an old one; and I know that in the older States with which I am acquainted we never can get out votes more than one to five. We never can get anything near that in the State to which I belong.

Mr. PUGH. The ordinary estimate, as I have always understood, is one to seven.

Mr. COLLAMER. I do not know but that that will do for Ohio.

Mr. PUGH. It will do for Vermont.

Mr. COLLAMER. Our elections do not show it. In the State of New Hampshire the proportion was one to four and a half in the last election. The idea of there being six people in Minnesota to every voter, strikes me as entirely unfounded. The great difficulty is, that you assume as a basis a vote very much questioned by both parties, even supposing the proportion to be good; but that is based entirely upon conjecture. You take one conjecture and multiply it by another conjecture, and you think this is the way to produce a great degree of certainty. It is almost equal to the way in which a man once weighed hogs in a new country. Being without steelyards, he put a large stone on one end of the slab, to balance the hogs at the other, and then he guessed at the weight of the stone. [Laughter.] That is the way in which he got at certainty. So it is here. We are to throw aside the census, and take a conjecture, and then multiply one conjecture by another, and so get certainty. That hardly contains elements of certainty enough for a proposition in algebra, where we deal with uncertain quantities. This is putting too much uncertainty on a matter of this kind. The census returns have been received for nearly all the counties in the Territory; and there is no proof here that those returns were not fairly taken. Estimating the few counties that remain on the most liberal basis, you cannot bring the population of Minnesota above one hundred and fifty thousand. Coming, as I do, from a State which, containing more than three hundred and twenty thousand people, has only three Representatives in the other House, I cannot consent that you shall allow three Representatives to another people having less than half that number, according to the returns.

But, sir, the immediate question before us is the amendment of the Senator from Virginia; and upon that I have said all that I wish to say—that its practical effect will amount to nothing at all. It will still leave the ultimate result the same as if we retain this section in conformity with the enabling act.

Mr. SIMMONS. I do not exactly agree with the Senator from Vermont or the Senator from Virginia. Gentlemen all seem to think that it is fair to give this State precisely the same number of Representatives that the old States having an equal population have had under the existing apportionment. I think that if this section, as it is now in the bill, does not accomplish this object, a slight amendment will enable it to do so. The amendment, I would suggest, would be that Minnesota shall have the same number of members as were apportioned to the old States in the last apportionment bill according to numbers.

Mr. COLLAMER. That is the section.

Mr. SIMMONS. Then I know that if they have one hundred and fifty thousand people they are entitled to two members; for with about that number Rhode Island got two members under the last census. As I understand the apportionment law, the ratio is calculated so as to give two hundred and thirty-three members in all, if there were no fractions; and when you come to apportion the members according to the fractions you begin with the State having the largest fraction, and you go down as long as there is any deficiency and supply the number of members. You might go down so that a fraction of thirty thousand would entitle a State to a member if that was the largest fraction that was left before you absorbed the overplus members. What I want to do, and what I think is fair, is to provide that this State shall be entitled to as many members as any old State with the least fraction for which a member was given. As to the idea of fixing three members arbitrarily, I think you might as well say fourteen. There is no reason, no justice, no propriety, in giving them three members unless they are entitled to three. If they are entitled to three, I would allow them that number; but to assume that a State which according to its census, estimating the counties not heard from, can only show at most one hundred and fifty thousand people, shall have three members and allow them three now, and then to go on next year or the year after and take the census to see if they cannot make out suffi-

cient for that number, is wrong in principle, is unjust to the old States, and I think is a pretty hard infraction of the Constitution itself. I should like to see the clause so amended that this State shall be put on an equality with the most favored States, and have two members, provided its fraction is as large as that of any of the old States that has a member for a fraction. With that modification I am certain she would get all she is entitled to.

Mr. TRUMBULL. The disposition seems very general to deal liberally with Minnesota. I participate in that feeling, and am disposed to deal liberally with her; but there is a right and a wrong to this question, and it seems to me that there is no difficulty in determining where the right lies, and where the wrong exists. This State is in an anomalous condition at best. She started out, as we are all aware, by holding two conventions to form a constitution. After getting over that difficulty, she has for the last four months had a State Legislature in session, elected under this constitution. They have been passing laws for the last four months, and those laws have been approved by a territorial Governor—a very singular state of things—part State and part Territory; the Legislature a State Legislature, elected under a State constitution; and the Governor approving the laws a territorial Governor appointed by the President of the United States. This is a very strange state of things.

Mr. POLK. The gentlemen will allow me to ask who is the territorial Governor that is approving laws?

Mr. TRUMBULL. Mr. Chase, I believe is his name, Secretary of the Territory and acting Governor in the absence of the Governor. I may not be correct in regard to the name, but that is my recollection.

Mr. POLK. The actual Governor is not there.

Mr. TRUMBULL. Mr. Medary is not there; but the law provides, in regard to all Territories that, in the absence of the Governor, the Secretary shall perform his duties, and be Governor *ex officio* for the time being. That is the condition of things there. I do not propose to interfere with that state of things. I do not know that there is any great trouble growing out of it in Minnesota, though I apprehend that there may be future difficulties arising from this anomalous condition of affairs. It certainly is an irregularity, and shows that the legislation of Congress, in regard to the Territories, has not been what it ought to be; and never, until Congress assumes its proper control over the Territories of the United States, and treats them as Territories subject to the laws of Congress, will you have anything but disorder and confusion in the Territories of the United States. The idea that a Territory can be an independent government and possess sovereign power, and that there is any such thing as territorial sovereignty, independent of the action of Congress, is utterly inconsistent with the government of Congress over the Territories, and will breed confusion so long as it is adhered to. I hope all future enabling acts will provide that the Territories shall not assume to act as States until Congress has admitted them. Congress has authority to admit new States, but it has a discretion on the subject; and until a State is admitted it is nothing but a Territory, and has no right to assume to act as a State. All this legislation in Minnesota, under authority partly State and partly territorial, I apprehend would be held to be a nullity before any court in Christendom.

But, sir, I did not rise to speak in regard to that matter. The question now is as to how many Representatives in Congress the State of Minnesota shall be entitled to. There ought to be no difficulty about that. It is proposed here by some that she shall have three. What is the rule by which you determine the representation in Congress from any State in this Union? You determine it according to population. That is the constitutional mode of doing it. You take a census every ten years for the purpose of determining it. Here is a new State coming into the Union between two decennial periods, and in order to determine her representation, a census is directed to be taken of her population. I am in favor of basing her representation upon her census. It is the constitutional mode, to begin with; it is the legal mode; the mode provided by Congress.

But we are told we should depart from that, and

give to this State three Representatives. I would ask some of the Senators who have argued in favor of allowing her three Representatives (and I will allude in a moment to the ground on which they assume to say that Minnesota is entitled to three) to recollect that the great State of Iowa, lying right by the side of Minnesota, according to a census taken, I think, in 1855, had some six hundred thousand people, and has probably eight hundred thousand people to-day. She polled more than ninety thousand votes at the presidential election in 1856. How many members has she in the House of Representatives? Two; and you propose here to give to the new State of Minnesota, with one hundred and fifty thousand population at the outside, by the census, and with a vote of forty thousand at most, with less than half the votes that Iowa gave in 1856, at the presidential election, three members, and leave Iowa with but two.

Sir, do the people of Minnesota ask any such thing? I apprehend that the sense of justice will be too strong in Minnesota itself to ask for such a thing. They mistook their population when they set up the claim for three Representatives, as is often the case in a new country. We know how desirous people emigrating to a new country are to build up towns and cities, and create the impression that the country is growing. Generally, many persons go to better their fortunes; they are dealers in real estate, who deal in the buying and selling of town lots. The tendency is to magnify the population in all new countries; but I apprehend that when the honest citizens of Minnesota come to see that they have but one hundred and fifty thousand population, or forty thousand voters if you please, they will not ask to have three Representatives, when the great State of Iowa, with more than double their voting population, and four or five times their actual population, has but two. Is that just to Iowa? Is it just to any of the States of the Union to give three Representatives to such a population as this?

But, sir, this mode of computing the population upon the votes is utterly fallacious; and I was astonished that the Senator from Missouri, [Mr. POLK,] with the knowledge which I presume he has, and all of us have, who have read the newspapers, and who are at all acquainted with the condition of things in Minnesota, should have made a calculation based upon the votes given at the election there, when it is notorious throughout this land that the grossest frauds and manufacturing of votes are charged to have been made in this Territory of Minnesota. Why, sir, subsequently to the election, agents were sent out from St. Paul, who traversed the remote parts of the Territory, where hundreds of votes were returned, and they reported that there was not a tenth part of the population, men, women, and children, in those counties, as there had been votes returned. These facts were published in the papers of St. Paul; I do not vouch for their truth; but I am replying to the assumption that there are forty thousand legal voters there. That is denied; there has been a contest as to who has been elected Governor of the new State. Now, sir, we have but one certain and safe rule, and that is to go by the census. That is the legal, that is the constitutional mode of determining how many Representatives the people of Minnesota are entitled to.

As I am on my feet, I wish to call attention to the constitution of Minnesota. I do not know that it is a question that we can inquire into; probably the Committee on Territories have had their attention turned to it; but I have received this morning a letter from a member of the Senate of the present Legislature of Minnesota now in session, which was in session when this letter was written—for I believe it was then about to adjourn—stating to me (and I have not had time carefully to examine the constitution to see how the fact is) that this constitution provides no limitation for the term of service of members of its House of Representatives; that they are elected without determining how long they shall hold. He says that the term of office of the Senators is fixed at two years, I think, but that the members of the House are elected indefinitely, or for life, as he expresses it, and that some of them pretend to claim that they are Representatives for an indefinite period; as long as they think proper to hold. I do not know that Congress would be authorized to reject the constitution for that reason;

but it certainly would be a very objectionable feature.

Mr. PUGH. Will the Senator permit me to interrupt him?

Mr. TRUMBULL. Certainly.

Mr. PUGH. If the Senator had done me the honor to listen to me, I stated that fact to the Senate in the speech which I made on the admission of Kansas. I said that, under the present constitution of Minnesota, the House of Representatives had been chosen for life, and had been chosen before the constitution went into effect; and that the constitution itself was ratified by the people by a vote exactly like the vote taken in Kansas on the 21st of December. I think he has hardly studied the constitution of Minnesota as thoroughly as I did.

Mr. TRUMBULL. I am not disposed to discuss over again the Kansas question. I did not listen to the Senator from Ohio, and was not aware that he had stated this fact. It seems that such is the fact. He, I presume, has examined the constitution with regard to it. I said it was so stated to me by a correspondent; but not having had time carefully to examine the constitution, I did not know how it really was.

Mr. PUGH. It is evidently an omission in the constitution. There is no limitation of the terms of the Representatives, and there would be none of the Senators, except for the fact that there is a general provision that whenever a census is taken, either by the United States or by the State, the seats of all the Senators shall be vacated. If it were not for that, the Senators would be chosen for life also.

Mr. SIMMONS. How are you going to remedy it?

Mr. PUGH. Let them amend their constitution.

Mr. TRUMBULL. I apprehend, if the constitution were of such a character that it was not republican, (I am not prepared to say exactly what a republican constitution is,) we could not with propriety admit Minnesota into the Union at all, under this constitution. I will not undertake to say, however, that that omission, as it undoubtedly must have been, in the constitution, to provide for the term of service of the members of the House of Representatives, makes it anti-republican. It doubtless should be remedied in some way. Public sentiment will correct it, I presume, and the Legislature doubtless will pass a law to meet the case. I am not aware that they have done so, though, during their four months' session. I apprehend not, from the letter which I this morning received from that country.

Having said this much, I think it is very clear that, while we should be disposed to do justice to Minnesota, and make a liberal allowance to her, we should not do injustice to other States lying alongside of her, by giving her twice the Federal representation in the councils of the nation which is given to States twice as populous as she is.

Mr. WILSON. I thought, Mr. President, from the remarks which fell this morning from the Senator from Indiana, [Mr. FITCH,] that some of us were to be held as having adopted an illiberal policy toward this new State. Now, sir, I wish to say that I am willing to deal liberally with the State of Minnesota, and to give her the full advantage of all the population she has got. The Senator from Indiana tells us that she is peopled to a great extent by emigrants from my section of the country, and that they compose the best portion of her population. Well, Mr. President, all I have to say to that is simply this: that our population is all good, all law-abiding; and those who have gone to Minnesota from New England, I have no doubt, inherit all the virtues of the population they have left, and that they have carried to Minnesota that feeling which pervades the section of country where they were reared—of obedience to law, and of devotion to liberty protected by law.

But, sir, the Senator could not let this question pass without giving a fling at those from our section of country who have found homes in the new Territory of Kansas. Before those who have left New England, and reside now in Kansas, are denounced as violators of the law, it might be well to prove to the Senate and the country that a single man who ever went to that Territory from New England, has violated the laws of that Territory, or the laws of the country, or ever been

prosecuted or punished for anything of that kind. We have heard a great deal about Jim Lane from the other side of the Chamber; but I believe he comes from the Senator's State of Indiana; and the President of the United States calls him a tumultuous sort of character, a rebellious man; but these charges are fixed on no New England man in that Territory individually.

Mr. FITCH. With the Senator's permission, I will remark that Jim Lane, like many gentlemen from New England, left his country for his country's good. [Laughter.]

Mr. WILSON. The Senator from Indiana, I think, is sometimes in error, and he is in great error in this case. There are less inhabitants in Kansas from New England than is generally understood, and they are almost all of them young educated men from New England—a better class of population than has generally gone from New England to any western State; and I think the western Senators will all bear evidence that the general character of the population from our section of the country who have gone into their States has been tolerably respectable.

Mr. PUGH. There are some very good ones in Ohio, and some bad ones.

Mr. WILSON. There is no doubt of it. Now I wish to say, in regard to this matter of Minnesota, that I do not agree with anybody, on either side of the Chamber, that we should adopt any little technical rules to govern our action. We have complained of technicalities from your side of the Chamber. We had better keep clear of them ourselves on this. When we passed the Minnesota enabling act, we provided for taking a census of the new State. We undertook to do it. The evidence is not officially before us, but it is sufficient to show clearly that we have failed to do it. We have evidence that we can rely upon, from the intelligent men of the country, that we, the Government of the United States, which undertook to take the census in the Territory of Minnesota, have failed to complete a perfect census. The responsibility is ours, and it does not attach to the people of that Territory, and they should not have the disadvantage of it.

But I see no evidence on earth that they are entitled to three members. I believe they have population enough to entitle them to two members. I have not a doubt of it in my own judgment, knowing what I do of that Territory. But, sir, in order to reach that matter properly, I think we should adopt what is fair and just towards Minnesota, and towards all the States of the Union, and that is to admit Minnesota into the Union with one member, the constitutional number that all the States are entitled to, and then put a provision in this bill that the Secretary of the Interior shall now forthwith take the census of this Territory, and that the people of Minnesota shall have the full benefit of their whole population just as soon as that census can be taken. It can be taken in a few months, and they can elect one, two, or three additional members and send them into the present Congress, and I am in favor of giving it to them. I do not want to stand on any little technicalities or any little forms in regard to this matter. We have repudiated all of them, as we ought to do, in regard to Kansas; and we should do so in regard to Minnesota, as we should do in regard to any new Territory that comes here and asks admission into the Union. When we can reach the matter, I propose to offer an amendment to carry out this idea, providing that she shall come in with one Representative now; that the census shall be taken as provided for in the act of February 26, 1857; and that she shall have the full and entire benefit of her whole population, as she ought to have in estimating the number of her Representatives.

Mr. POLK. I desire to add a few words to what was said by the Senator from Ohio on this subject, which may be an answer to what has been said by some other Senators this morning. I think, first, it is conceded that the census that has been attempted to be taken is imperfect on its very face; for it shows that there are counties in this Territory in which there has been no attempt to take a census. Now, I say that if you begin to apply the hard, strict law to the case, the very first step you take shows that you are doing injustice to this new State. I ask Senators if it is fair and equal to this new State to confine her in her representation to the population that is shown

by a census, when, on the face of the paper itself, it appears that there are counties in which a census has never been taken at all.

I call the attention of the Senate to a further fact. It seems to me that the letter which has been read from the officer who took the census is perfectly satisfactory to every candid mind that in the counties in which a census is pretended to have been taken, it was taken under such circumstances that no man can rely on it as showing the true population of Minnesota. Why, sir, he tells us that in a district of country covering thirty-two thousand four hundred square miles, (and in that space several of the small States might be set down,) no census has been taken at all. Here is a State that comes asking for admission into the Union, and claims a representation according to her population, and you say the number she shall have in the lower House shall be determined by the population shown by the census, when the very officer under whose control that census was taken tells you that upwards of thirty-two thousand square miles of the territory covered by that proposed State has never had a census taker's track upon the soil!

In addition to that, the same officer tells you that in many instances there was no attempt to take a census, because there was no adequate compensation provided for the officers; that in some instances the papers were burnt up. Now, I say, if you look to that census, it seems to me no fair minded man can for a moment entertain the belief that justice can be done to this new State in its representation, if you make that the basis on which you are to estimate the amount of political power she shall have. Does not justice require that you should look further? Is not the population in that Territory entitled to representation? Especially are not the men who are able to vote there, entitled to representation? When I was on the floor before, I referred to the case of one county as an illustration of the manner in which this census was taken. The Senator from Vermont answers it by saying it is but conjecture to suppose that the individual who lived in another county took only such names as were brought to him in his store. I suppose that the very fact that the census taker did not live in the county is the strongest *prima facie* evidence that that census taker did not do his duty in taking the population of the county. Why take a man who does not live in the county, and especially when we know the fact that the compensation was such as not to justify the man in doing the work, the pay being *per capita*?

Now, Mr. President, is it not a little hard to say to this new State, seeking admission into the Union, that we will hold you down to a census, which census is imperfect in the particulars to which I have called the attention of the Senate, and for the reason that the officers were not adequately paid! They were not adequately paid because Congress did not make a proper appropriation in that respect. We made a provision which does not enable them to have a fair census; and yet we say they shall be bound to the strictness and severity of that law, in fixing her representation in the lower House.

One Senator says shall we give Minnesota a representation that she does not ask? I answer no; I say that Minnesota asks for this representation in the most solemn manner in which that claim can be presented to the Congress of the United States. In her constitution she asks for three members in the lower House. The very instrument that organized her government proposed to organize that government with that representation. I say, therefore, that the claim of Minnesota is not to be resisted by saying that she does not ask for three Representatives, especially when we have before us her constitution with the demand solemnly preferred for that number.

But it is said that Minnesota is under a mistake. On what is that founded? Have we any evidence that Minnesota is under a mistake? Sir, this representation is claimed for her by a convention which consisted of representatives of the people from every part of the Territory. There were men there from the thirty-two thousand square miles in which no census was taken. Those men knew what was the condition of the population in those counties. Minnesota not only in her constitution asks for three Representatives, but she fixes her own representation in her own local Leg-

islature upon the same basis, as I am told, and as has been said here by a Senator on this floor, who has a personal knowledge of the facts pertaining to the formation of the State government of Minnesota. On the very same basis does she ask for representation to the amount of three members in the lower House of Congress, that she fixes her own representation upon.

Then it is said that there were frauds in the elections of Minnesota. Well, sir, frauds may have been charged; but is there any evidence here that there has been anything fraudulent in the proceedings in Minnesota? At all events, is there anything upon which such a suggestion as that can be based that is sufficient to override the glaring imperfections in taking the census in that proposed new State? I pass that by.

Mr. TRUMBULL. If the Senator from Missouri would allow me, I should like to inquire of him here whether he thinks it would be fair to give Minnesota a larger representation than Iowa, which has more than double its population, according to any estimate of votes or anything else?

Mr. POLK. I was about to say a word on that subject. I answer that by saying, that because Iowa may not have as much representation in the other House as Minnesota will get if we admit her with three members, that is no reason why Minnesota should not have her three members if she has the population, as I contend she has, that justly entitles her to three members.

I instanced the other day the case of my own State of Missouri. We have but seven Representatives in the other House of Congress. If there were a census taken to-day in Missouri, properly, correctly, taken, I believe Missouri would be entitled to two additional Representatives—certainly to one. I believe that if we admit Minnesota with three Representatives, she may have comparatively more political power than my own State or the State of Iowa; but will she have anything like as much as many of those States from which most of her population has emigrated? There is the point where the inequality arises; this population in Minnesota is not her natural increase since the last census; nor is it entirely a population that is made up by foreign immigration from abroad. It is mainly a population that has gone into that new Territory from the other States, and these other States have already a representation in the other branch of Congress based on that very population. That population has ceased to be on the soil of the old States, and has gone into this new State of Minnesota. Now that they are citizens of Minnesota with new homes, with new interests, with new political rights, with new associations, with new prospects, and new hopes, new in all respects in their locality, shall they be unrepresented in Minnesota, and Massachusetts, Vermont, New Hampshire, and all the other States from which they have gone, have a representation based on them after they have left the territory of those States?

Mr. WILSON. I think the Senator is somewhat mistaken in his calculations. In the first place, the emigration that goes to the western country from our section of the Union is our surplus of population. We have a large immigration into our part of the country. My own State, from 1850 to 1855, held her full ratio of increase, and a ratio of increase above the average of the United States. She added one hundred and fifty thousand to her population in those five years.

Mr. POLK. It may be that I was wrong in putting Massachusetts in that category. I have not looked at the census, nor am I familiar with the facts there; but I know that it is true in regard to many of the States. I made this reference to individual States merely for the purpose of illustrating a principle, which principle, I undertake to say, we must all be convinced, is beyond all question. One thing is certain, that there are very many persons in Minnesota, and I undertake to assert three fourths of the population of that State, who have emigrated from other States, when they had theretofore already been enumerated as constituting the basis of representation in the States from which they went. There is the point of the inequality and injustice. Minnesota may get the representation that in justice she is entitled to, but other States have a political power in one branch of this Government for a population that is actually in Minnesota. Minnesota does not get

it, but other States do get it. Now, I say, give it to the people who reside there, and let them have the political power that a State with from two hundred and fifty to three hundred thousand population is entitled to have.

I ask Senators only to look at the fact that here is a census, a pretended census, in the taking of which not a single individual, not a man, woman, or child, was enumerated in a space of country upwards of thirty-two thousand square miles in extent, and you say that the State shall be bound down to such a census as that. I undertake to say that Minnesota, if she is to come here with one Representative, comes in with injustice done her in the very act of admission; and that, too, when we know that her population, as the Senator from Ohio well said, and as the Senator from Indiana also repeated, is increasing constantly in a ratio, perhaps, that is unparalleled in any new State in the Union.

I will merely add, Mr. President, in regard to Iowa and my own State—and there are other States probably in the same category that we are, in the misfortune of not being able to do justice to Iowa and Missouri, because we have to wait for the expiration of the decade before a new census can be taken—it is unfortunate that Iowa has less of political power than she ought to have; it is unfortunate that Missouri has less of political power than she ought to have in comparison to other States; but I say that is no reason why Minnesota should be put in the same category with those two States, and be compelled to lie under the same injustice of insufficient representation, until a new census can be taken.

Now, Mr. President, I am not in favor of the suggestion, as the best suggestion, offered by the Senator from Massachusetts, though that is better than the section as it will stand if it should be amended in the way now proposed. I am in favor of the suggestion made by the Senator from Georgia, and I shall move the amendment which he suggested after the vote on this amendment shall be taken, if it shall be voted down; that is, to give Minnesota her three Representatives now, making provision, at the same time, for taking the new census, and giving to the officers sufficient pay to justify them in doing the work; and then, if it shall turn out that her population does not entitle her to three, give her two, or any less number that her population may show to be her due. But, sir, I have no kind of doubt in my own mind that, if the amendment to which I call attention shall pass, Minnesota will never be represented in the other branch of this Government by less than three Representatives; on the contrary, I believe she will retain her three, and by the time the general census is taken at the commencement of the next decade, she will be entitled to four, and perhaps more than that. I do not wish to detain the Senate, and I am willing that the vote should be taken, as far as I am concerned.

Mr. JONES. As Iowa has been referred to in this debate, and allusion has been made to her representation in Congress, I desire to say that my colleague, at an early day of the session, introduced a resolution which has been referred to the Committee on the Judiciary, instructing that committee to report a bill to give to the new States which have increased in population since the last census the representation to which they would be entitled in Congress according to that increase. The reason of my colleague for offering the resolution was, that he was apprised of the fact that great injustice was done to our State and other new States which have not got the representation to which they are entitled. The Judiciary Committee, I believe, has never made any report on the subject. We, in Iowa, know that we have not justice under the existing law, and we cannot have it until the law be changed. We have a population of between six hundred thousand and seven hundred thousand, and yet we have only two Representatives in the other House. Though we know that justice is withheld from us, we are not willing, at least I, as one of the Senators from Iowa, am not willing, to see Minnesota deprived of what she is entitled to.

Mr. POLK. I should like to know of the Senator from Iowa what was the population of his State when it was admitted into the Union?

Mr. JONES. I do not recollect.

Mr. HARLAN. It was one hundred and ninety-two thousand.

Mr. POLK. Did she get two Representatives on that basis?

Mr. HARLAN. Yes, sir.

Mr. POLK. It strikes me that that is the strongest argument which can be made in favor of Minnesota. Iowa was admitted with two Representatives, when she had a population of one hundred and nine-two thousand, and now her population would entitle her to four or five Representatives.

Mr. JONES. Sir.

Mr. PUGH. The population of Iowa, at the time of her admission, was one hundred and ninety-two thousand two hundred and fourteen.

Mr. BROWN. What was the ratio of representation then?

Mr. PUGH. She had enough for two members, and a small fraction.

Mr. POLK. Iowa only got two members then, and she would be entitled now, according to a fair census, to five or six.

Mr. JONES. Western members of Congress know the great difficulties which we encounter in those newly-settled countries, in obtaining a full census of the people. It is out of the question to get it. I know that, at the last census taken in Iowa, some counties were entirely left out, and that is considered an old State in comparison with Minnesota. I am certain that a great deal of the population of Minnesota could not have been taken, even if the marshals had done their utmost. The difficulty of taking the population in that country is much greater than it is even in my own State. The country is much more difficult to get through. They have no railroads, and very few stage routes; and it is a difficult country to travel in. I believe it is better to do a little too much for a new country like Minnesota, than to do too little for her. The interests of new States, such as Minnesota will be, and Iowa is, cannot be properly attended to in Congress by their limited number of Representatives. It is utterly impossible for the Representatives of those States to do all the business which is confided to them. The people of those States have an immense quantity of business to be attended to in the various Departments of the Government, as well as in Congress. Sir, it is an old maxim that it is better ninety-nine guilty men should go unpunished than one innocent man suffer. I think it is better to do a great deal too much for a new State just coming into the Union, that has a great many difficulties to encounter, than to do too little. I do not believe my constituents will blame me for doing so; but if they do, they will have to help themselves; they cannot get over it. I hope the greatest amount of representation proposed will be given to Minnesota.

Mr. HARLAN. I am willing to vote for as large a representation for the proposed State of Minnesota as she is entitled to by any fair estimate of her present population, and no more. I am willing to vote her a Representative even for a fraction of the ratio, if, by some general understanding among Senators here, the other new States may have their representation increased in a like proportion. I find, by a hasty estimate picked up here in the Senate Chamber from members of the Senate from various States west of the Mississippi river and northwest of the Ohio river, certain facts which I will present to the Senate. In the State of Missouri, according to an estimate made by the Governor of that State in his recent message, there are nearly a million of people with a representation in the other House of seven members, giving each Representative a constituency of one hundred and forty-two thousand eight hundred and fifty-seven. In the State of Iowa, we doubtless now have a population of seven hundred thousand, with two Representatives, giving to each member from that State a constituency of three hundred and fifty thousand. In the State of Wisconsin, I have been told by one of her Senators, the population is estimated at seven hundred thousand. She has a representation of three members, giving to each Representative a constituency of two hundred and thirty-three thousand three hundred and thirty-three. In the State of Arkansas, I have been informed by a Senator from that State, they believe themselves to have a population of five hundred thousand, and they have two Representatives, giving to each a constituency of two hundred and fifty thousand. In the State of Michigan, the Sena-

tors estimate a population of eight hundred thousand; and they have four members of Congress, giving two hundred thousand people to each Representative. The State of Texas is supposed to have a population of seven hundred thousand, and she has two Representatives; being three hundred and fifty thousand to each member from that State. California has probably a population of seven hundred thousand, with two members; being three hundred and fifty thousand to each. Even in the State of Ohio, I notice that the Governor states the population to be two million four hundred thousand; and she having twenty-one members in Congress, they have a constituency of one hundred and fourteen thousand to each member. In the State of Indiana, the senior Senator informs me they had, in 1855, a population of one million three hundred thousand, and he thinks it may be very safely stated now at one million four hundred thousand; and, having eleven Representatives, this basis gives to each a constituency of one hundred and twenty-seven thousand two hundred and seventy-two. In the State of Illinois the population is one million five hundred thousand, with nine members; being a population of one hundred and sixty-six thousand six hundred and sixty six to each member.

This gives an average constituency to each Representative from that part of the Union of one hundred and sixty-five thousand and seventy-nine for each of the sixty-three Representatives in Congress from those States. I suppose from this estimate, that Minnesota would not be entitled to more than one member, nor do I believe that her people will increase in a more rapid ratio than Missouri or Iowa or Illinois or Wisconsin. If there can be some general understanding that the representation in Congress shall be increased from all these new States, according to the ratio of 1850, then I am willing to commence the correction now, by giving Minnesota something more than she would otherwise be entitled to according to this estimate. There are now west of the Mississippi river and northwest of the Ohio river, according to these rough estimates, ten million four hundred thousand people, with but sixty-three Representatives in Congress. According to the ratio of 1850, they would be entitled to one hundred and eleven members, which would give them an additional representation from the new States of forty-eight. If we can all share in this increase according to our present population, I am willing to commence making the correction with Minnesota; otherwise I am not. I indorse every word that my colleague has said in relation to the feeling of the people of Iowa on this subject. We feel that our interests are greatly prejudiced by the smallness of our representation. It is impossible to district the State of Iowa in such a way as to give the people of that State a fair representation in Congress. I think it can be done much more readily in Minnesota than in Iowa, for her people are all of them, or nearly all of them, on what may be styled the Mississippi slope of that Territory; in Iowa they are extended over a much larger area of country, with diversified interests.

I close by stating, as I said in the outset, that if there can be some general understanding by which there shall be an increase of representation to the new States, according to their present population, upon the ratio of representation fixed by Congress in 1850, I am willing to be liberal in awarding a representation to Minnesota. But it is clear, I think, that one Representative would be her full proportion, according to the present basis of representation in Congress from the western and northwestern States. Hence, if restricted to the strict letter of the apportionment law, she will secure more than would be awarded by strict justice.

Mr. POLK. It has already been said that when Iowa was admitted, she had a population of one hundred and ninety-two thousand. I am told that her vote at that time was eighteen thousand, which would be something like one voter to every eleven of the population. If you apply that proportion to Minnesota, where the voters are forty thousand, it would give you a population of four hundred and forty thousand. I wish merely to add, that when Iowa was admitted, she was admitted on a representation that was fully proportioned to the amount of population that she then had. Iowa now has not a full representation, because she has been growing; but when Minnesota comes

to ask admission into the Union, shall she not have the same justice meted to her that was meted to Iowa, and to Missouri, and to Arkansas, and to Texas, when they came into the Union? That is the way, it seems to me, in which the Senate ought to look at it, not in the way the Senator from Iowa [Mr. HARLAN] seems disposed to look at it. When Iowa was admitted, she had one standard of justice applied to her. When Minnesota comes to be admitted, let us in justice and fairness apply the same standard to her. The misfortune is, that Missouri, and Iowa, and Texas, and other States, stand in a position in which you cannot do justice to them; but because you cannot do justice to them now, I think that ought to be no reason why injustice should be done to Minnesota. On the contrary, it seems to me that we ought to deal by Minnesota just exactly as all these States were dealt by at the time when they were admitted into the Union.

Mr. DOOLITTLE. The honorable Senator from Mississippi, whom I do not now see in his seat, [Mr. BROWN,] on Thursday last raised an objection to the constitution of Minnesota because it provided that persons of foreign birth, who had not yet become naturalized citizens of the United States, should be entitled to vote in that new State. I deny, in the first place, Mr. President, the right of this body to look into the constitution of a State to examine its provisions on that subject. I answer this objection for another reason, that the constitution of the State which I, in part, represent, contains a similar provision, and I therefore could not suffer the objection to pass unnoticed. It is a matter not within the province of Congress. It belongs to each State to determine who shall be its voters.

The bill before the Senate copies in the second section the very language of the enabling act. I think it is safe to follow it, and for one, I am disposed to sustain the bill as reported by the committee. I have no objection, however, to the amendment which has been suggested by the honorable Senator from Massachusetts. I think, indeed, it is just but that that amendment should be adopted. It seems to be conceded upon all hands that the census, which was taken in Minnesota, was altogether imperfect. The enabling act provided that she should have as many Representatives as her population should entitle her to on the present ratio of representation. If we should leave the matter to stand upon that act as it is, the question will be settled by the House of Representatives; the three persons who, it is said, have been elected to that House from Minnesota, will apply for admission, and the House will pass upon the fact whether the population of Minnesota entitles her to three Representatives in the present Congress. If, however, as is contended, this census be incorrect, the amendment which has been offered by the honorable Senator from Massachusetts provides for its correction by requiring the Secretary of the Interior immediately to cause the census of Minnesota to be taken; and then when it shall appear what the true census of that State is, they shall be entitled to their representation upon the present ratio; that is to say, one member for every ninety-three thousand four hundred and twenty inhabitants. I shall, therefore, favor the addition of this amendment at the end of the second section. I am opposed to the amendment offered by the Senator from Virginia, to strike out the latter portion of the section.

The question being taken by yeas and nays on Mr. Mason's amendment, resulted—yeas 8, nays 41; as follows:

YEAS—Messrs. Biggs, Broderick, Clay, Fitzpatrick, Henderson, Houston, Hunter, and Yulee—8.

NAYS—Messrs. Allen, Bayard, Bell, Bigler, Bright, Brown, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Evans, Fessenden, Fitch, Foster, Green, Gwin, Hale, Hamlin, Hammond, Harlan, Iverson, Johnson of Tennessee, Jones, King, Mallory, Pearce, Polk, Pugh, Sebastian, Simmons, Slidell, Stuart, Trumbull, Wade, Wilson, and Wright—41.

So the amendment was rejected.

Mr. WILSON. As I believe it is now in order, I offer the amendment which I send to the Chair.

Mr. POLK. I ask the Chair whether the amendment offered by the Senator from Georgia on last Thursday has not priority?

THE PRESIDING OFFICER. (Mr. Briggs in the chair.) It was not in order at that time to offer it. The question now recurs on the motion of the Senator from Illinois to strike out the whole

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, APRIL 2, 1858.

NEW SERIES....No. 89.

section. It is in order, before that motion is put, to perfect the section.

Mr. WILSON. I gave notice of my intention to move an amendment, and the Senator from Georgia also gave notice of an amendment. I believe mine comes first.

The PRESIDING OFFICER. It is in order to perfect the section before the vote is taken on striking it out entirely. The motion of the Senator from Massachusetts is in order. The Clerk will read the amendment of the Senator from Massachusetts.

The Clerk read the amendment, which is, at the end of section two, to insert:

And the Secretary of the Interior shall cause the census of said State to be taken forthwith, according to the provisions of the act of February 26, 1857, and report the same as soon as practicable.

Mr. PUGH. It will still be in order to strike out the entire section, or to strike out and insert.

The PRESIDING OFFICER. Certainly.

Mr. PUGH. This is only to perfect the section. I shall vote for this amendment, reserving the right to vote to strike out the whole section and insert the provision suggested by the Senator from Georgia.

Mr. POLK. I give notice that I shall offer, as soon as it can be done, the amendment presented by the Senator from Georgia on Thursday last.

The PRESIDING OFFICER. That was a proposition to strike out the whole section, and insert another provision. The question now is on the amendment of the Senator from Massachusetts.

Mr. WILSON. I will not detain the Senate, but I wish simply to say that I think if this amendment be adopted and sustained by the Senate, it will accomplish all that is fair and just. It gives Minnesota one Representative according to the Constitution of the United States, and it instructs the Secretary of the Interior immediately to take the census of the Territory, and then it gives Minnesota the full and entire benefit of her whole population. She can then elect such number of additional Representatives as she will be entitled to according to her population. We have undertaken to take the census by the enabling act. We have confessedly failed. I think we owe it to Minnesota to take the census now, and let her have the full and entire benefit of it. I hope the amendment will be sustained.

Mr. IVERSON. I desire that the amendment which my colleague offered the other day may be read for information.

The PRESIDING OFFICER. The Clerk will read the amendment, of which notice was given by the Senator from Georgia that he would propose when in order.

The Clerk read the amendment suggested by Mr. TOOMBS, which is to strike out the second section after the enacting clause, and insert:

That the said State shall be entitled to three Representatives until the census authorized to be taken by the act of the 26th of February, 1857, shall be again correctly taken and returned, and then she shall be entitled to as many Representatives as the present ratio of representation will entitle her to on her population thus ascertained; and that the Secretary of the Interior shall take all proper measures to renuke a perfect census of said State, and return the same as soon as it can conveniently be done.

Mr. IVERSON. I prefer the amendment which my colleague has offered to the amendment of the Senator from Massachusetts. I presume the effect, so far as the number of Representatives is concerned, will be about the same; but the amendment of the Senator from Massachusetts will refer the election back to the people. I have no doubt they have population enough, or will have, by the time the census is taken, to entitle them to three Representatives under the present ratio. The effect, however, will be that there will be a new election in Minnesota for three members, and I apprehend our friends on the other side of the Chamber think they will stand a better chance to get three of their own stripe in. I presume that is the whole policy of this amendment. If we are to have three members from Minnesota, as I have no doubt they will be entitled to three when the census is taken, I prefer to have the three already

electd. Let us take them, and then direct a census of the people of Minnesota to be taken, and when the true number is ascertained, fix permanently by their representation in the other House. I would rather take the three now than run the risk of taking three others hereafter.

Mr. WILSON. I think the Senator's imaginings are not correct. He says he has no doubt that they will have population enough for three Representatives. He has no evidence of that character. Now, sir, this amendment gives them one Representative. They have elected three. I take it that one of them will immediately come in on the admission of the State. If this amendment be adopted the population will be taken, and they will elect the additional members, whether they be one, two, or three. This is doing equal and exact justice, justice to Minnesota, justice to all. What the political complexion of the men to be elected will be, I take it is not for us here to settle or to decide. But, sir, this proposition to admit three Representatives on a population returned of one hundred and forty-six thousand, and then to take the census, seems to me to be unjust, unfair in every aspect—a proposition that no fair-minded man can sustain.

Mr. IVERSON. I ask for the yeas and nays on the amendment offered by the Senator from Massachusetts.

The yeas and nays were ordered.

Mr. HOUSTON. I am reluctant to detain the Senate by offering any remarks on this subject, but I deem it proper to say a very few words in explanation of my own course on this occasion. I discover that there is a general feeling in the Senate to extend all possible favors to the new States which make application for admission into the Union. I am very anxious to extend to them every favor and every consideration that can be beneficial to them upon just constitutional principles; but beyond that I am not prepared to go. If there is any law or provision of the Constitution by which Minnesota can come into the Union with three Representatives, or with two Representatives, I am prepared to vote for allowing her that number; but I have not heard any adduced, nor have I understood any argument to show that justice or injustice would be done here by admitting her with a greater or a less number.

Now it seems to me that it will be an act of justice to allow Minnesota one member, because she has no legal or constitutional claims to a greater number than one. It seems to me very strange that you are conferring a benefit on Minnesota by giving her three Representatives—a thing that has never been done to any new State, as far as I know. It is said she has a large fraction beyond the number requisite for one member, and that this fraction entitles her to a Representative. Why, sir, there is Iowa, and there is Texas, with four times the population of Minnesota, and they were admitted with only two members each. Why not extend this benefit to them? It would not even then be in the same ratio that you are conferring benefits on Minnesota by giving her three Representatives and two Senators. To carry out the same proposition you ought to give Iowa and Texas seven members each. I presume their population, according to the present ratio, would entitle them to seven members.

Sir, I am opposed to substituting expediency in place of principle. The Senator from Ohio objected to our applying a Procrustean principle in this case. He applied this remark to the apportionment of representation. Sir, the Constitution is my Procrustean standard by which things must be measured; and I am not for stretching the Constitution, nor am I disposed to go beyond its limits in the admission of new States. I am willing to extend them to every necessary constitutional favor, and to fill the measure to the brim; but I am not disposed to disregard the Constitution and the laws of the country. I do not see how we can allow Minnesota a representation upon suppositions in which gentlemen here indulge, that she has a large population who have not been enumerated. We are told that there are

some thirty thousand square miles of her territory where there was no census taken. You might, on the same principle, count the trees standing on thirty thousand square miles in other States, and ask that they might be represented.

We are not told that there is a solitary inhabitant living upon those thirty thousand square miles; and yet that is brought forward as a suggestion to enforce on this body and on the country a fatal precedent. If you can give three members to a new State applying for admission because her constitution asks for it, might you not as well give thirty-three? If you can transcend the ratio of representation according to population, in the admission of new States, you can extend it *ad libitum*; there is no limit whatever.

That is not all. Has Minnesota any peculiar claims to our sympathy for want of fair representation for her fraction? Not at all. Heretofore she has been represented by a single Delegate in the other House, who had no vote. Now she comes into the Union with two Senators and a Representative, who is allowed a vote. Heretofore she has been powerless in both branches of Congress; and now she comes forward with equal power to any other State in the Senate, and a fair representation for all that she has a right to claim in the other House. There is no peculiar claim, then, to our sympathy. She is fairly represented, and she is infinitely benefited by allowing her one member, because, instead of one Delegate to represent her vast interests and her growing population, she will have two full-blown Senators, and one Representative.

It seems to me that an attempt is being made to misapply our sympathies on this subject. We must come down to some practical standard; and, in my estimation, we must measure our action by the law and by the Constitution. Each State is entitled at least to one Representative and to two Senators. The Constitution does not confine a State to two Senators. It says that a State must have that number; but it does not say that it cannot have three, or four, or five Senators. It says that each State shall be represented by two Senators, and that each Senator shall have one vote; but it does not say that a State shall not have a dozen Senators. If you go on construing the Constitution, and suiting it to every emergency, without regulating emergencies by the Constitution, you will have no limits or bounds to your legislation. I cannot think for a moment that Minnesota has any claim to more than one Representative; I cannot regard her constitution as the programme that is to regulate the action of both Houses of Congress. The idea of one amendment which has been suggested, to allow her three members, and then to take a census, and to reduce the number to what that census may show her to be entitled to, strikes me as an absurdity. If you admit the three members, and then take a census, I warrant you the returns will come in for a sufficient number to entitle them to that representation, if they do not go far beyond it. We have heard frauds of a flagrant character charged in regard to the elections of Minnesota, as well as of Kansas. While these charges stare us in the face, are we to go on, from sympathy or kindness to Minnesota, to extend to her favors that the Constitution of the United States does not warrant, and that we have no precedent for? I think not. I grant that, if you allow her less than three members, you will have to send the election back to the people—the very thing that ought to be done after a census is taken, and it is ascertained correctly to what number Minnesota is entitled. Then the people will have a fair opportunity of expressing their opinions; but until that is done, you cannot arrive at it with that degree of certainty which will enable you to conform to the Constitution and the laws of the land. I admit that you cannot select from the three members already elected any one; but you must send them all back, or else admit the three, which I should consider to be a monstrous violation of the law and of the Constitution. They will hardly draw straws, or toss up heads and tails to know which shall have precedence here; but they will all be

admitted, or all go back. The only course that I can conceive to be proper, is to disregard the provisions in the Minnesota constitution, and send the Representatives back. It will require but a short time to take the census, and it will be worth much; for there will be a solvency of principle in that which will sustain us hereafter, and we shall not be setting a precedent for transcending the law and the Constitution; but, if you admit them as they are now presented, it will be a disregard of all former precedents of law, and of Constitution; and if, in this instance, they are disregarded, may they not be in all future instances? May not a State hereafter come forward when applying for admission, and declare in her constitution that she shall have five or six Representatives, and then elect them by general ticket in positive violation of the laws of the land. In this case, the three members were elected by general ticket, though the district system is established by law. If you receive the three persons elected as members in this case, you are giving every encouragement to disregard of law and positive violation of its provisions. So, sir, there is no alternative but one; and that is, upon the acceptance of the constitution to receive the Senators, let the census be taken, and let the people elect such Representatives as the present apportionment may entitle them to. Gentlemen indulge in conjectures of what their population may be, and various refinements and speculations are brought forward to sanction this transgression, as I consider it, and to give currency to a precedent that will some day be regretted, when the laxity that is now exercised in legislation regardless of the Constitution increases; when expediency usurps principle and convenience overrides the Constitution.

Mr. President, I am of opinion that we can look into the constitutions of States applying for admission. The Constitution of the United States requires that they shall be republican; and we must be satisfied of that. If they are not in conformity with the Constitution of the United States, are they republican in character? If they are not, they are anti-republican. Does this constitution of Minnesota contain no feature in violation of the Constitution of the United States? I think it does. It contains a provision allowing aliens to vote in Minnesota. I contend that a State constitution is not republican in character, unless it is in conformity with the Constitution of the United States, and I say such a provision is not warranted by the Constitution of the United States. By the Constitution of the United States it is declared that Congress shall have power to pass uniform laws on the subject of naturalization, and of course that power being conceded by the States, they have divested themselves of all power of naturalization, and conferred it upon Congress alone. A man cannot be a citizen of a State unless he is a citizen of the United States. I contend that no State has power, in derogation of Federal rights and prerogatives, (the Federal Government being the only authority to pass general naturalization laws,) to constitute any man a voter who is not a citizen of the United States. I say, then, this constitution is not republican in its character in this respect. It is so clear, that though no high judicial decision has yet taken place on the subject, I am sure, whenever it is made a question, the Supreme Court will be bound to arrive at the conclusion which I have indicated, unless they disregard the Constitution of the United States, and throw disrespect in the face of the States who constituted the Federal Government, and adopted its Constitution in the first instance. If the Supreme Court, in discussing the subject of citizenship in the recent case decided from Missouri, that has produced so much excitement, had only embraced this principle when it was fairly brought within the scope of their jurisdiction, they would have conferred an essential benefit on the country. They would have guarded us against evils that may possibly hereafter result. May not such a case as this arise? May not persons in Canada cross the border into our States, reside for the time required preceding the election for President of the United States, and determine the destinies of this country at some future day? It might be a matter of interest to foreign Powers to thrust them in upon us in that way. Those persons who can vote in a State for the most numerous branch of its Legislature, have a right to vote for presidential electors; and thus a State may

impose upon the Federal Government aliens as voters, in the face of the constitutional authority of Congress to pass Federal naturalization laws. I do not consider this feature of the Minnesota constitution republican in character, and it is within the province of Congress so to decide.

But, sir, I have not heard the first argument yet, unless it was founded on speculation, and the probable population of Minnesota, brought forward in support of the extraordinary measure now proposed. I presume, however, it will be adopted, and if it be adopted, the consequences may not be realized to-day, or in a few years, but in half a century the effects of this loose legislation, in disregard of constitutional principles, this catering to conveniences, or to influences which ought not to govern in this body, or at the other end of the Capitol, will be felt. I mean to vote for such amendments as will do ample justice to Minnesota, and at the same time discourage every encroachment upon Federal power and Federal right. I am not going to bolster it up by any adventitious means, nor am I going to cater to States, because it is a complainant thing, and because they possibly may have a great many more people than are enumerated. We must go upon certainty in laws and constitutions. If we undertake to act upon speculations or conclusions made under various influences, not dishonorable, of course, to the gentlemen who make them, we are on the eve of setting an example that will not redound to the peace, the harmony, or the perpetuity of this country or its institutions.

Mr. BROWN. I intend, Mr. President, to vote for the amendment proposed by the Senator from Massachusetts. It commends itself to my judgment as right. The second section of the bill proposes to admit the new State of Minnesota with one Representative. To that she is clearly and distinctly entitled. It then goes further, and says that she shall have such additional Representatives as the census already taken shall show her to be entitled to. That return shows technically that she is entitled to no additional Representative; but it shows that she has more than a majority of the quota. If we are to follow the precedents set us in the case of California and the case of South Carolina, she is entitled to one additional Representative. I will mete out to this young sister that justice which has been meted out to other sisters of the Confederacy. I am prepared to vote for a Representative for her fraction, because it was given to South Carolina and given to California, and it is fair to presume she is as well entitled to it as either or both of them.

Then it may be inquired why I vote for this amendment, seeing that the census has been taken, and that according to the returns there is only population enough to give her one Representative, and one for a fraction over a majority of the quota? I do it because leading citizens from this State, leading friends of the State in both Houses of Congress, assert that the census was improperly and imperfectly taken; and say that if there had been a proper and perfect enumeration of the inhabitants, she would have shown herself entitled to three Representatives. I know not whether that be so or not; and in the important matter of apportioning representation, I will not guess at the amount of population. I cannot do it, and will not do it; but when we have so much evidence that the State has population enough to entitle her certainly to two, and in all probability to three, Representatives; and a proposition is brought forward to take a new census to show whether she is not entitled, by a fair enumeration of her people, to another Representative, it is harsh treatment to say that you will refuse simply this small outlay in money, which it will require you to re-enumerate her inhabitants. What is there in the proposition? It will perhaps cost you fifteen or twenty thousand dollars in hard cash to take a re-enumeration of the inhabitants of this State, and that is all it will cost. Will you weigh that amount of money against injustice charged, and charged, doubtless, conscientiously in the judgment of many, as having been committed against this State?

There are Senators here, my friend from Missouri, [Mr. POLK.] and others, who think she is fairly entitled to three Representatives. I think not, because the return does not show it. I am not willing to depart from the record. What the record shows I must stand upon, because I feel that

when I go beyond that I get at sea and know of no stopping point. But when we have these assurances that there is a population there which if fairly enumerated would entitle her to two or three Representatives, and it only costs fifteen or twenty thousand dollars to take a new enumeration, I am ready to order it, and if she has population then give her the representation. That I understand to be the whole scope of the amendment.

Now, sir, I want a minute more to vindicate myself from any portion of the responsibility which may seem to be heaped upon me growing out of the repeated declaration that Texas was admitted here with two Representatives without an enumeration of her population, and California without it too. It is true you did introduce Texas with two Representatives, but how? She came here as an independent Republic, saying: "if you will receive us as we propose, we will come into the Union; but if you will not thus receive us, we will stay outside of the Union." It was no admission of a new State. It was a proposition on the part of an independent Republic upon terms proposed by herself to come into the Union. If you choose to accept them, well; if you do not choose, as well. In the case of California, I know you did introduce a State without an enumeration of the people, and did it wrongfully. I, and others who stood by me at that day in opposing it, predicted that that would afterwards be claimed as a precedent and that other States would ask admission on the same principle.

I was against the admission of California with two Representatives. I am against the admission of Minnesota with two Representatives. I am for admitting the State, but I repeat to Senators now, what I said three weeks ago, that with my consent, Messrs. Shields and Rice shall not take a seat on this floor, under the late election, friends or no friends. I would not care if they would vote a thousand times over for the admission of a thousand such States as Kansas. I will not vote to introduce them into the Senate, under their late election. States have the right to elect Senators; Territories have no such right. Was Minnesota a State in the Union when she elected these gentlemen to the Senate? No. The whole record, this day's debate, shows that she is not now and was not then a State. Then under what clause of the Constitution did she undertake to elect Senators and accredit them to this body? Under what clause of the Constitution did she elect Representatives? She is entitled to her Delegate as a Territory; and she is entitled to nothing more. I shall not vote to introduce her members here, and if I were a member of the House of Representatives it would not matter a fig whether she claimed one or two or three or twenty Representatives, I would vote to admit none of them.

I understand that a State must be clothed with all the immunities, privileges, rights, and dignities of a State before she can elect a Senator. Sir, this thing has been peddled down low enough; it is disreputable; it is treating the older States of the Confederacy with less dignity than they are entitled to; to allow Territories in advance of their coming in as States, to elect Senators and send them here. Then what have we got before us now? A proposition comes from the same source, from the venerable and distinguished Senator from Kentucky, in advance of the admission of the State, and it is gravely argued before us, to receive her Senators, and then right upon the back of that, to admit the State, and then not admit her. To admit her in one sentence and then allow her to turn herself out in the next sentence, to declare that she is in the Union, and then leave it to her own people to say whether she is in or not. Why, upon my soul, sir, I cannot see where we are going to. You admit Kansas one day—if what I have said, is not precisely applicable to this State, it is to both together—you admit her and declare her in the Union one day, and allow her to resolve herself out the next day. It seems to me that this involves us in unmistakable difficulty. When a State is fairly in the Union, a member of the Confederacy, let her elect her Senators and her Representatives, and do not permit her to do it before. When she is once in, she can get out but by one mode, and that, let me tell Senators, is, when you come to understand the theory of the Government properly, by the peaceable process of secession.

But, sir, I rose simply to say that inasmuch as

this amendment proposed nothing but to reënumerate the inhabitants of Minnesota when there is a grave and serious charge that errors had been made—that the census had been so imperfectly taken as to deprive the State of its proper representation—I shall vote for it. I think it ought to be done. I thank the Senator from Massachusetts for bringing it forward. I think it is just to Minnesota, and ought to be adopted.

Mr. PUGH. I do not intend to discuss that question; because, when the case of Messrs. Shields and Rice comes up, I shall decide upon their qualification and election. I do not think we have anything to do with the election of Representatives. That belongs to the other House. But I wish to call the attention of my friend, the Senator from Texas, to the question to which he has alluded. He seemed to be under the supposition that, if the point should ever come before the Supreme Court of the United States, that court would decide that no State had a right to authorize an alien to vote. Why, sir, the court have decided that the States had a right to do it; decided it in the *Dred Scott* case in so many words expressly. I sent for the report to verify it; and I have it here. If any Senator wishes to hear it, he can hear it read. There is no manner of doubt about the question that any State in the Union has a right to define the qualification of her own electors. Instead of the court being ever prone to decide against it, I say in the *Dred Scott* case they decided it in express terms. The book is here, if the Senator wishes to see it.

Mr. HOUSTON. The Senator's word would be amply sufficient to satisfy me of the fact, and my mind now has to labor under the melancholy conviction that that court is not so infallible as I thought it was. [Laughter.] I have had great veneration for it. I have heard it very much abused and spoken badly of. I am very sorry that any circumstance of this kind should have occurred to depreciate it in my estimation, for I think it a very unsound decision. I will acquiesce in it like a good citizen, but I think it is very unsound. It is the first time, I presume, that ever that court has decided against Federal right and Federal power. I would rather it had passed over this subject without any expression of opinion on it. I should hope there was some remedy for the evil, but now I despair of it.

Mr. IVERSON. I do not think there is any very great practical difference between the effect of the amendment of the Senator from Massachusetts and that which my colleague suggested the other day, and which the Senator from Missouri has given notice he will offer on the present occasion, if the amendment of the Senator from Massachusetts shall be rejected by the Senate. The difference in the practical effect of the two amendments, I think, is simply this: The effect of the amendment of the Senator from Massachusetts will finally give to the State of Minnesota three Representatives in Congress. I am satisfied of that. The Senator asked on what data I brought my mind to that conclusion. It is upon the evidence of gentlemen around me, who have stated their knowledge of the condition of the population in that State. It is predicated upon the fact that as late as last October there were forty thousand votes cast for State officers. That, on the ordinary ratio of population, the voters would give one hundred and sixty thousand or one hundred and seventy thousand people; and by the time the new census is taken, by the time the Secretary of the Interior can appoint his officers, and have all the paraphernalia of that expensive and ramified process brought to bear on the subject, the population, according to all the reports we hear from all sides, going into the State from all quarters, will doubtless very soon reach the number for three Representatives.

I have no doubt at all that when the population comes to be examined and the census returned, Minnesota will be entitled to three Representatives according to the present ratio. I believe that will be the effect of the amendment of the Senator from Massachusetts, and according to that Minnesota will be entitled to one of those Representatives who have now been elected and she will be entitled to have two others elected. A new election will be ordered. The result of that may or may not be in favor of the other side of the Chamber. The Senator supposed that my imagination on this subject was somewhat exuberant. It may

be so, but I fear there is a cat under the meal tub, and I am not willing to risk it.

The effect of my colleague's amendment is simply to give to the State of Minnesota now, what in my opinion she will be entitled to when the census comes to be properly taken—three Representatives. They have already been elected; the three Representatives are here. They have undergone the expense and trouble of an election. They have incurred the expense of a visit to Washington, and the expense of remaining here three or four months of this session. Why not admit them? Will any harm come of it? I do not think they are going to revolutionize the Government by coming into the House of Representatives. I do not see that any practical harm is going to grow out of it to any person, or to any party. Let them come in. They will do no harm in the other House. I am willing to risk them. The State of Minnesota has elected them. She has thought proper to send them here. They have undergone the expense, trouble, and annoyance of an election; and now when they come here let them be entitled to their seats under the practical operation of the amendment of my colleague, for he instructs the Secretary of the Interior to take a new census, and then when that census is taken, and the number of Representatives to which the State of Minnesota will be entitled strictly ascertained, the number can be cut down. If the three members to be admitted by the operation of this amendment, shall be more than that State will be entitled to, one or two of them may have to walk out, that is all. The question is simply now, whether the three who have been already elected shall be taken, or whether the matter shall be deferred, and three admitted who shall be elected hereafter. I would rather take the three already elected, and I go for that amendment.

Mr. WILSON. I want to say to the Senator from Georgia that I admire his frankness, while I do not at all concur in his principle of action here. He puts this entirely on a political point of view. Now, sir, I am not governed by that consideration in this matter. The Senator expresses his views to-day as frankly as he expressed them the other day on the Kansas question. He had supported that measure all through with a good deal of zeal and earnestness; but when Mr. Calhoun gave the Legislature, as he said, to the free-State party, he lost his zeal for her admission. It did not affect me at all. I would oppose it as soon if he had given us the whole Government. That is not the ground to act upon here. We undertook, Mr. President, to take the census of Minnesota as a basis of representation. We have failed in the attempt to take a perfect census; but there is no man of intelligence here who believes that we failed by one or two hundred thousand to ascertain the population. There may be from one hundred and seventy-five to two hundred thousand inhabitants in that Territory to-day. I have no idea that they exceed two hundred thousand. No man of intelligence believes there are three hundred thousand there, entitling them to three Representatives. We had better stand upon the Constitution and the laws, upon justice, upon equity, than to undertake to force in here three Representatives, when we have no evidence that they are entitled even to two. It matters not what may be the political views of the gentlemen who have been sent here. I care not what they may be. I say here to-day that if they were politically with me, I could not, I would not vote for the admission of three Representatives from Minnesota, because I have no evidence to show that she is entitled now even to two, though I believe from the information I have from a variety of sources that she has population enough for that number if that population were all ascertained. Now, the Senator says this is a choice between three who are elected, and three new ones. Not so, sir. My amendment is simply a proposition to give Minnesota one Representative; and as soon as it is ascertained that she is entitled to more, to allow her to elect more. That is all. It is fair, it is just, it is setting a good example for the future, one that I think we should not depart from. We can adopt my amendment, and then the question can be tested between that and the proposition to be made to strike it out and insert a provision for three members. I certainly do not wish to say an unkind word towards the Senator; I admire his frankness on this, as on all other questions; but I

think the ground upon which he has put this case is not the ground upon which the Senate should be governed in its action.

The question being taken by yeas and nays upon Mr. Wilson's amendment, resulted—yeas 22, nays 21; as follows:

YEAS—Messrs. Biggs, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doollittle, Douglas, Durkee, Fessenden, Foster, Hale, Harlan, Houston, King, Pugh, Simmons, Wade, and Wilson—22.

NAYS—Messrs. Allen, Bigler, Bright, Clay, Evans, Fitch, Fitzpatrick, Green, Hammond, Hunter, Iverson, Johnson of Tennessee, Jones, Pearce, Polk, Sebastian, Slidell, Stuart, Trumbull, Wright, and Yulee—21.

So the amendment was adopted.

Mr. POLK. I now offer the amendment which was suggested by the Senator from Georgia the other day.

Mr. YULEE. Before the Senate proceeds further with the consideration of this bill, I would suggest, it being now four o'clock, and it being altogether unlikely—for I know that there are several amendments to be proposed—that this bill can be disposed of to-day, that the Senate proceed to the consideration of executive business. I make that motion.

Mr. STUART. I hope the Senate will not agree to that. I think it is much better to adjourn than to do that; but I hope we shall get a vote to-day.

Mr. YULEE. You cannot get a vote to-day.

Mr. HALE. I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, March 29, 1858.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM PINCKNEY, D. D.

The Journal of Saturday was read and approved.

TAKING OF THE CENSUS OF 1860.

The SPEAKER stated the question first in order to be on the motion of the gentleman from Ohio, [Mr. SHERMAN,] to suspend the rules for the introduction of the following resolution:

Resolved, That a special committee of five be appointed by the Chair, and to continue during this Congress, whose duty it shall be to inquire into the best mode of taking the census of 1860, with leave to report by bill or otherwise at any time during the session of Congress commencing on the first Monday of December next.

Mr. HOUSTON. Does the resolution propose to continue the committee during the recess? I do not understand what scope the gentleman proposes to give it.

Mr. SHERMAN, of Ohio. It proposes to continue the committee during the Congress, but to limit its report to the next session.

Mr. DAVIS, of Indiana. Let the resolution be again read.

The resolution was read.

Mr. SHERMAN, of Ohio. It is not the intention that the committee shall sit during the recess, or incur any expense to the House.

Mr. JOHN COCHRANE. If I understand the resolution, that is its effect, whatever may be the intention; and such being the fact, I am constrained to object.

The SPEAKER. The rule is, that where a select committee is raised, it is dissolved at the expiration of the session. As the Chair understands the pending resolution, it proposes to continue this committee over to the next session.

Mr. MAYNARD. I should like to ask the gentleman from Ohio whether, by the introduction of this resolution, (and as he will be placed upon this committee if it be raised,) it is proposed to bring the matter before the House for legislation?

Mr. SHERMAN, of Ohio. The committee will, of course, report at the next session a bill for the taking of the census.

Mr. HOUSTON. Let me ask another question. I understand that this resolution proposes to change one of the standing rules of the House in reference to the appointment of committees. If so, will it not take two thirds to suspend the rules for its introduction, and then a two-thirds vote to adopt it?

The SPEAKER. The Chair thinks not.

Mr. HOUSTON. It proposes to change the rules of the House. The motion now is to suspend the rules to get the resolution before the House.

The SPEAKER. To what rule does the gentleman refer?

Mr. HOUSTON. I cannot recall the number of it. I refer to the rule or rules authorizing the appointment of committees.

The **SPEAKER**. There are some half a dozen of the standing committees of the House which, when appointed at the commencement of the first session run through the entire Congress; but there are other standing committees, the appointment of which terminates at each session of Congress. There is no rule of the House in reference to select committees. It has been, however, the practice of the House and the ruling of the predecessors of the present occupant of the chair that select committees are dissolved at each session of Congress, unless there is express authority continuing them over.

Mr. **JONES**, of Tennessee. Is it not a change of the rules to allow the committee to report at any time? There is no rule authorizing a committee to report at any time.

The **SPEAKER**. It is a change of rules in that respect. The pending motion of the gentleman from Ohio is, that the rules be suspended to introduce the resolution. When the resolution is before the House it will require a two-thirds vote to suspend the rule for the adoption of the resolution in reference to the privilege allowed to the committee to report by bill or otherwise, at any time.

Mr. **SHERMAN**, of Ohio. I will strike out the provision authorizing the committee to report at any time, so as to make it acceptable to all sides of the House.

Mr. **JOHN COCHRANE**. I wish to inquire whether the committee is to be clothed with power to report during the next session? and whether, if appointed now, it will not imply its continuance in session during the recess?

The **SPEAKER**. The Chair thinks the committee would not be dissolved at the expiration of the session, but there is no authority for it to sit during the recess.

Mr. **SHERMAN**, of Ohio. It is not intended that the committee should sit during the recess.

Mr. **STEPHENS**, of Georgia. This is a proposition to arrange in regard to the manner in which the next census shall be taken, and as directing the attention of the House to the subject I do not see any objection to it.

Mr. **MILLSON**. I would like to know whether this is not anticipating the taking of the census two years? The act authorizing the taking of the last census was not passed until the Thirty-First Congress. I think the next Congress will be soon enough to provide for taking the census of 1860.

Mr. **STEPHENS**, of Georgia. It makes no difference; we can have the bill before us for consideration. The taking of the census does require a good deal of thought to have it taken accurately and properly. I see no objection to this resolution.

Mr. **MILLSON**. While we are anticipating the time, we are also anticipating the executive suggestions which the President may deem it his duty to make when the proper time has arrived. I would ask also whether this matter has not been usually referred to the Committee on the Judiciary?

The **SPEAKER**. The bill, during the Thirty-First Congress, was reported from the Committee on the Judiciary; but the gentleman will remember that it was with great difficulty the House passed a bill to get into operation the necessary machinery before the constitutional term required the census to be taken.

Mr. **SHERMAN**, of Ohio. Yes, sir; and not only that, but I understand that, by the delay in passing that bill, the Government lost nearly half a million of dollars. It is to save expense that I now propose to introduce this proposition.

The question was put on the motion to suspend the rules; and there were, on a division—ayes 94, noes 36.

Mr. **HUGHES** demanded the yeas and nays.

Mr. **MAYNARD**. I would suggest to the gentleman from Ohio, as this is a very important matter, to make the committee consist of seven instead of five.

Mr. **SMITH**, of Tennessee. The more important a committee, the fewer the number upon it should be, if you want it to be a working committee.

Mr. **SHERMAN**, of Ohio. I will give the gentleman from Tennessee an opportunity to offer his proposition as an amendment, if the rules are suspended.

Mr. **MAYNARD**. I will move to amend, then, so as to increase the number to seven, unless the gentleman from Ohio accepts it.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 110, nays 58; as follows:

YEAS—Messrs. Abbot, Andrews, Arnold, Bennett, Billingham, Bingham, Blair, Bliss, Boyce, Brayton, Bunting, Burlingame, Burns, Burroughs, Campbell, Chase, Chaffee, Ezra Clark, Clingman, Clark B. Cochrane, Colfax, Conins, Covode, Cox, Cragin, James Craig, Curtis, Darnell, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Elliott, English, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Hickman, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Matteson, Maynard, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Quitman, Reagan, Ricard, Ritchie, Robbins, Royce, John Sherman, Judson W. Sherman, Sickles, Singleton, Samuel A. Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Troupe, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Israel Washburn, Wilson, Woodson, Augustus R. Wright, and Zollieffer—110.

NAYS—Messrs. Atkins, Bocock, Bowie, Branch, Burnett, John B. Clark, Clay, Cobb, John Cochrane, Corning, Burton Craige, Curry, Davis of Indiana, Dimmick, Dowdell, Faulkner, Florence, Garnett, Gartrell, Goode, Greenwood, Gregg, Hawkins, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Jacob M. Kunkel, Leidy, Letcher, Samuel S. Marshall, Miles, Miller, Milson, Montgomery, Niblack, Pendleton, Peyton, Phelps, Powell, Reilly, Rufin, Savage, Seales, Aaron Shaw, Henry M. Shaw, James A. Stewart, Talbot, Warren, Watkins, Whiteley, Wortendyke, and John V. Wright—58.

So the rules were not suspended, two thirds not voting in favor thereof.

Pending the call of the roll,

Mr. **LETCHER** stated that his colleague, Mr. **EDMUNDSON**, was confined to his room by indisposition, and had been for several days.

Mr. **FLORENCE** stated that Mr. **LANDY** was detained at home by illness in his family.

Mr. **WORTENDYKE** stated that Mr. **HURLER** was unable to be in his seat to-day.

FORTIFICATIONS ON CONNECTICUT RIVER.

Mr. **ARNOLD**, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the necessity and expediency of erecting fortifications at or near the mouth of the Connecticut river, and report by bill or otherwise.

ENROLLED BILL.

Mr. **PIKE**, from the Committee on Enrolled Bills, reported as truly enrolled an act to create additional land districts in the State of California, and for other purposes; when the Speaker signed the same.

PRINTING AND REFERENCE OF PAPERS.

Mr. **LETCHER**. I hold in my hand some papers from the Post Office Department, having reference to an item in the deficiency bill. I move that they be printed and referred to the Committee of Ways and Means.

The motion was agreed to.

Mr. **LETCHER**. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. **Bocock** in the chair,) and resumed the consideration of the deficiency bill, on which the gentleman from Georgia [Mr. **HILL**] was entitled to the floor.

ADMISSION OF KANSAS.

The following gentlemen then addressed the committee on the subject of the admission of Kansas into the Union: Messrs. **HILL**, **WADE**, **READY**, **GOOCH**, **TAYLOR** of Louisiana, **OLIN**, **BENNETT**, and **WILSON**.

[These speeches will be published in the Appendix.]

Mr. **SANDIDGE** obtained the floor, but yielded to

Mr. **MILES**, who moved that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. **Bocock** reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and had come to no conclusion thereon.

And then, on motion of Mr. **BINGHAM**, the House (at eight o'clock, p. m.) adjourned.

IN SENATE.

TUESDAY, March 30, 1858.

Prayer by Rev. **WILLIAM PINCKNEY**. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The **PRESIDENT pro tempore** laid before the Senate a report of the Secretary of War, in compliance with a resolution of the Senate calling for information respecting the massacre of California emigrants at the Mountain Meadows in the Territory of Utah; which was, on motion of Mr. **HUNTER**, ordered to lie on the table.

He also laid before the Senate a report of the Secretary of State, communicating, in compliance with a resolution of the Senate, information in relation to prize vessels; which was, on motion of Mr. **HUNTER**, ordered to lie on the table.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, the report of Lieutenant Beale of his exploration for a wagon road from Fort Defiance, in New Mexico, to the western borders of California; which was, on motion of Mr. **JOHNSON**, of Arkansas, referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

The **PRESIDENT pro tempore** laid before the Senate resolutions of the Legislature of the Territory of Washington, relative to the construction of a national railroad across the continent from the Atlantic States to the Pacific ocean; which were ordered to lie on the table and be printed.

He also presented a memorial of the representatives of the Religious Society of Friends, in the State of New York and parts adjacent, remonstrating against any action whereby the evils of slavery may be extended; which was ordered to lie on the table.

Mr. **BRODERICK** presented resolutions of the Legislature of California in relation to school lands in the mountainous parts of the State; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. **WRIGHT** presented a petition of the citizens of New York, praying that the public lands may be granted in farms or lots, free of cost, to actual settlers only; which was referred to the Committee on Public Lands.

ADMISSION OF MINNESOTA.

Mr. **DOOLITTLE** presented the following resolution of the Legislature of Wisconsin; which was read, laid on the table, and ordered to be printed:

Joint resolution concerning the admission of Minnesota into the Union:

Whereas, the people of the Territory of Minnesota were authorized by an act of Congress to form a constitution and State government preparatory to admission into the Union as one of the United States of America; and whereas, in conformity with the provision of said act, a constitution has been formed and ratified by the people of said Territory, and Senators and Representatives have been elected to represent said State in the Congress of the United States, who have been hitherto unreasonably denied admission to, and participation in, the deliberations of Congress: Therefore,

Resolved by the Senate and Assembly of the State of Wisconsin, That duty demands, and justice requires, that Minnesota should immediately be admitted into the Union as one of the United States of America. That the question of such admission ought not to be connected with or made to depend upon the admission or rejection of any other State, or the organization of any new Territory.

Resolved, That a copy of the foregoing preamble and resolution be transmitted to each of the Senators and Representatives from Wisconsin in Congress.

F. S. LOVELL,

Speaker of the Assembly.

E. D. CAMPBELL,

Tenant Governor and President of the Senate.

APPROVED, March 24, 1858.

ALEXANDER W. RANDALL,

State of Wisconsin, Secretary's Office, ss:

The Secretary of State of the State of Wisconsin does hereby certify that the foregoing joint resolution has been compared with the original enrolled copy in this office, and that the same is a true and correct copy thereof, and of the whole of such original.

In witness thereof, I have hereunto set my hand and affixed the great seal of the State, at the capitol, in Madison, this 25th of March, A. D. 1858.

J. D. RUGGLES,

Assistant Secretary of State.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. **WILSON**, it was

Ordered, That the heirs of Colonel William Bond and Colonel William Douglass have leave to withdraw their petitions and papers.

On motion of Mr. **CRITTENDEN**, it was

Ordered, That the memorial of the heirs of Colonel Isaac Shelby be referred to the Committee on Revolutionary Claims.

On motion of Mr. HOUSTON, it was *Ordered*, That the memorial of James Myer be referred to the Committee on Claims.

On motion of Mr. KENNEDY, it was *Ordered*, That Thomas Quantrill have leave to withdraw his petition and papers.

CALIFORNIA LAND CLAIMS.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be requested to inquire into the expediency of conferring on the district courts of California, in the investigation of facts relating to cases pending on appeal from the United States land commission, the powers given to the courts of the United States by the judiciary act of 1789, in regard to the taking of depositions.

NATIONAL FOUNDRY.

Mr. HUNTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia be instructed to inquire into the expediency of establishing a central national foundry at the city of Alexandria, in Virginia, and report by bill or otherwise.

REPORTS OF COMMITTEES.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a motion to print the report of the Secretary of the Interior, communicating Major Emory's report on the Mexican boundary survey, reported a motion to print it; and the motion was agreed to.

He also, from the same committee, to whom was referred a motion to print the resolutions of the Legislature of New Mexico, reported in favor of it; and the motion was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of War, communicating information in relation to officers of the Army absent from duty, and the cause of such absence, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of War, communicating lists of personsemployed in the War Department other than Army officers, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of the Navy, in relation to Government vessels in the Pacific ocean, and private vessels employed as Government transports, and the annual expense thereof, reported in favor of the motion, and it was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of War, in relation to surveys of the Potomac river in the vicinity of Washington, reported in favor of the motion, and it was agreed to.

He also, from the same committee, to whom was referred the motion to print the memorial of Lawrence Kearney, reported in favor of the motion, and it was agreed to.

He also, from the same committee, to whom was referred a motion to print additional copies of the report of John Claiborne on the consumption of cotton in Europe, reported a resolution for printing five thousand copies, and it was agreed to.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of seamen on board the United States steamer Missouri, which was destroyed by fire at Gibraltar in 1843, praying remuneration for the loss of their clothing, by the burning of that vessel, submitted an adverse report; which was ordered to be printed.

Mr. POLK, from the Committee on Foreign Relations, to whom was referred the memorial of George M. Weston, commissioner of the State of Maine, submitted a report, accompanied by a bill (S. No. 216) authorizing the payment to the State of Maine of certain expenses agreed to be refunded to her by the fifth article of the treaty between the United States of America and her Britannic Majesty, dated the 9th day of August, anno Domini 1842. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. CLAY, from the Committee on Pensions, to whom were referred the petitions of John S. Devlin and William R. Brownlee, submitted adverse reports; which were ordered to be printed.

He also, from the same committee, to whom was recommitted the bill (S. No. 23) for the re-

lief of Robert Dickson, of the Kentucky volunteers, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 56) explanatory of an act entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved March 3, 1855, submitted an adverse report; which was ordered to be printed.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the petition of Randall Pegg, asked to be discharged from its further consideration, and that it be referred to the Committee on Patents and the Patent Office; which was agreed to.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the petition of Cassandra S. Witherell, reported adversely thereon.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Isaac Swain, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the case of Isaac Swain, and the papers accompanying the same, be referred to the Court of Claims, to inquire and decide whether the Government of the United States is legally liable for the amount, or any part thereof, recovered against the ship Ellen Brooks, or the owner thereof, in the United States district court for the northern district of California, in the suit of Raphael Orego and others, libellants, in the year 1851, and to report to Congress what amount, if any, of said recovery, and of the costs, charges, and expenses of defending said suit, the United States are legally liable for and ought to pay said Isaac Swain, owner of said ship.

PUBLIC PRINTING.

Mr. JOHNSON, of Arkansas. The Committee on Printing have instructed me to report a bill (S. No. 218) amendatory of the act entitled "An act to provide for executing the public printing and establishing the prices thereof, and for other purposes," approved August 26, 1852. I wish to call the attention of Senators to it, as at the very earliest possible day I shall ask that it be acted on. The printing laws are very defective. All that the knowledge of the Superintendent and his office has been able to give us, and all the experience we have had ourselves by several years' service, and all the information we can get from the accounting officers, have been availed of in drawing this bill to perfect these laws.

The bill was read a first time, and ordered to a second reading.

BILL INTRODUCED.

Mr. FITZPATRICK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 217) to constitute Montgomery, in the State of Alabama, a port of delivery; which was read twice by its title, and referred to the Committee on Commerce.

LANDS FOR THE WASHINGTON AQUEDUCT.

Mr. BROWN. I ask the indulgence of the Senate to call up the bill (S. No. 176) to acquire certain lands needed for the Washington aqueduct in the District of Columbia. It is one in which the Government is very much interested. It is necessary, in order to condemn certain lands for the purpose of giving the right of way in this District for the aqueduct. The superintendent informs me that the work is virtually suspended for the want of this condemnation. There is no other way of getting the land, except by passing an act of Congress; and I suppose the bill will give rise to no debate. I move to take it up.

The motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill.

The bill, originally introduced by Mr. Brown on the 2d of March, was referred to the Committee on the District of Columbia. It was reported back by that committee on the 8th of March, with several amendments, the first of which was, in lines nine and ten of the first section, to strike out the words "justice of the peace of the said District, in which such land shall be, the said justice of the peace," and insert "judge of the circuit court of said District, the said judge," so as to read, "on application to a judge of the circuit court of said District, the said judge shall issue his warrant," &c.

The amendment was agreed to.

The next amendment was, in the thirteenth line, to strike out "eighteen," and insert "twelve," so as to read, "the said judge shall issue his warrant,

under his hand, to the marshal of the said District, to summon a jury of twelve inhabitants," &c.

Mr. BROWN. I am instructed by the committee, on reconsideration, to ask leave to withdraw that amendment.

Leave was granted; and the amendment was withdrawn.

The next amendment was, in line seventeen, to insert after the word "thereafter," the words "notice of the time and place of said meeting being given to the owners of such land, or to their legal representatives."

Mr. BROWN. I am instructed to move to amend that amendment by adding to it, "in person, if that be practicable; and if not, by publication in some Washington city newspaper daily for two weeks."

The amendment to the amendment was agreed to; and the amendment as amended was adopted.

The next amendment of the committee was, in lines twenty-two and twenty-three, to strike out after "juryman" the words "who shall appear, being not less than twelve in number."

Mr. BROWN. I am instructed to ask leave to withdraw that amendment.

Leave was granted.

The next amendment, which was, in line twenty-five, after the word "temporary," to insert the words "or permanent," was agreed to.

The next amendment was, to strike out in lines thirty and thirty-one, the words "some twelve or more of the jury," and insert "each of the said jury," so as to make the clause read, "th inquiry thereupon taken shall be signed by the marshal and each of the said jury."

Mr. BROWN. I move to amend that amendment, by striking out the word "each" and inserting "four fifths."

The amendment to the amendment was adopted; and the amendment, as amended, was agreed to.

The next amendment, which was, in line thirty-five, to strike out "session" and insert "term," was agreed to; so as to make the clause read, "affirmed by the court at its first term after said return."

The next amendment was, in line thirty-seven, to strike out the words "a reasonable time," and insert "one month," so as to make the clause read, "if, from any cause, no inquiry shall be returned to such court within one month, the said court at its discretion, as often as may be necessary, may direct another inquiry to be taken."

Mr. BROWN. I move to amend the amendment by adding, after "month," the words "after the commencement of the next ensuing term."

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

Mr. BROWN. I move to add, at the end of the first section, the following proviso:

Provided, That the work shall not be delayed pending any such proceeding in court, but the same shall be continued without obstruction thereby after the inquiry shall be returned to the court.

The amendment was agreed to.

The preamble and first section, as amended, are as follows:

Whereas, it is represented that the works of the Washington aqueduct, in the District of Columbia, are delayed in consequence of the proprietors' refusal, in some cases, to sell lands required for its construction at reasonable prices; and because, in other cases, the title to the said lands is imperfect, or is vested in minors, or persons *non compos mentis*, or in a *feme covert*, or out of the District of Columbia; and whereas, it is necessary for the making of the said aqueduct, reservoirs, dams, ponds, feeders, and other works, that a provision should be made for condemning a quantity of land for the purpose: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall and may be lawful for the United States, or its approved agent, to agree with the owners of any land in the District of Columbia, through which said aqueduct is intended to pass, for the purchase or use and occupation thereof; and in case of disagreement, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the District of Columbia, on application to a judge of the circuit court of said District, the said judge shall issue his warrant, under his hand, to the marshal of the said District to summon a jury of eighteen inhabitants of said District not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter, notice of the time and place of said meeting being first given to the owners of such land or to their legal representatives in person, if that be practicable, and if not, by publication in some Washington city newspaper, daily, for two weeks; and the marshal, upon receiving the said warrant, shall forthwith summon the said jury, and, when met, shall administer an oath or affirmation to every jurymen who shall appear, being not less than twelve in number, that he will faithfully, justly, and impartially value the land, and so damages the owner thereof shall sustain by cutting the aque-

duct through such land, or the partial, or temporary, or permanent appropriation, use, or occupation, of such land, according to the best of his skill and judgment; and that in such valuation he will not spare any person for favor or affection, nor any person grieve for malice, hatred, or ill will, and the inquisition thereupon taken shall be signed by the marshal and four-fifths of the said jury, and returned by the marshal to the circuit court for the District of Columbia, and unless good cause be shown against the said inquisition, it shall be affirmed by the court at its first term after said return, and recorded; but if, from any cause, no inquisition shall be returned to such court within one month after the commencement of the next ensuing term, the said court, at its discretion, as often as may be necessary, may direct another inquisition to be taken, in the manner above prescribed; and upon every such valuation the jury is hereby directed to describe and ascertain the bounds of the land by their valuation, and the quality and duration of the interest and estate in the same required by the said United States for the use of the aqueduct, and their valuation shall be conclusive on all persons, and shall be paid for by the said United States or its authorized agent to the owner of the land, or his, or her, or their legal representative; and, on payment thereof, the said United States shall be seized of such land as of an absolute estate in perpetuity, or with such less quantity and duration of interest or estate in the same, or subject to such partial or temporary appropriation, use, or occupation, as shall be required and desired, as aforesaid, as if conveyed by the owner to the said United States; and whenever, in the construction of the said aqueduct, or any of the works thereof, reservoirs, dams, ponds, feeders, tunnels, aqueducts, culverts, bridges, or works of any other description whatsoever appurtenant thereto, it shall be necessary to use earth, timber, stone, or gravel, or any other material to be found on any of the lands adjacent or near thereto, and the said United States or their agent cannot procure the same for the works aforesaid by private contract of the proprietor or owner, or in case the owner should be a *feme covert* or *non compos*, or underage, or out of the District, the same proceedings in all respects shall be had as in the case before mentioned of the assessment and condemnation of the lands required for the said aqueduct or the works appurtenant thereto: *Provided*, That the work shall not be delayed pending any such proceeding in court, but the same shall be continued without obstruction thereby, after the inquisition shall be returned to the court.

Mr. BROWN. I move to amend the second section, in line fifteen, by inserting, after the word "temporary," the words "or permanent."

The amendment was agreed to; and the second section, as amended, reads as follows:

Sec. 2. *And be it further enacted*, That it shall and may be lawful for the United States or its agent, in case of any dispute or difficulty arising as to the ownership of the land condemned, as above, for the use of said aqueduct, or in case the owner should be a *feme covert*, under age, *non compos*, or out of the said District of Columbia, and no person duly authorized to receive the same, that the said United States, or its agent, be authorized, by petition to the circuit court for the District of Columbia, and upon said court's order, to deposit the money for which the said land was condemned in the place directed by said court; and the certificate of the proper officer of said deposit shall be considered as a full payment for said land, and thereby vest in the United States an absolute estate in perpetuity, or with such less quantity and duration of interest in the same, as subject to such partial, or temporary, or permanent use or occupation as shall be required and described as aforesaid, if conveyed by the owner or owners of said land.

Mr. BROWN. I move, in the ninth line of the third section, being the last line in the bill, to fill the blank by inserting "sixty" before "days."

The amendment was agreed to; and the section amended is:

Sec. 3. *And be it further enacted*, That it shall be the duty of said circuit court to hear and determine to whom the said money does belong, and, upon being satisfied as to whom the land did belong, to pass their decree directing the clerk of said court to pay over to the owner the same money deposited as above, after deducting expenses. The court is further authorized to direct the mode for trying the case, and the litigants have the right of appeal, provided the appeal is taken within sixty days from the decree of said court.

The bill was reported to the Senate as amended, and the amendments were concurred in; the bill was ordered to be engrossed for a third reading, was read the third time, and passed.

SAN FRANCISCO MARINE HOSPITAL.

Mr. BENJAMIN. The Committee on Private Land Claims, to whom was referred the bill (S. No. 175) for the relief of S. W. Holladay and others, together with the papers in the case, have directed me to report them back, with a resolution directing the Attorney General to inquire into the circumstances of the transactions detailed in the papers. I will state the case in a few words. It appears that the city of San Francisco, in 1852, made a quit-claim deed to the United States for a square of ground for the purpose of building an hospital; an hospital was built on this property; and now we are told that some of the very lots which were conveyed to the United States in 1852 had been sold on execution against the city of San Francisco in 1851. The lots in question were sold at the sheriff's sale in 1851 for about eight hundred dollars, and we are asked now to buy them out for \$20,000, after we have put the hospital on the grounds that the city conveyed to

us. Under these circumstances the committee think there is grave ground of suspicion as to the *bona fides* of the whole matter, and have directed me to report a resolution, and ask for its immediate adoption by the Senate.

The report of the committee was read as follows:

The Committee on Private Land Claims, to which was referred the bill (S. No. 175) entitled "A bill for the relief of S. W. Holladay and others," respectfully report:

That from the papers accompanying said bill, it appears that the city of San Francisco, on the 11th of December, 1852, executed a quit-claim deed in favor of the United States, for a square of ground on which an hospital has been built by the Government. It further appears, that in October, 1851, two fifty-vara lots in said square were sold on execution issued against the city for \$860, and that in an action of ejectment decided in one of the State courts in California, the title of the purchasers at the sheriff's sale has been held valid.

The bill proposes to authorize a purchase of these two lots at a price not exceeding \$20,000.

These facts on the face of the papers submitted to the committee, justify the suspicion that there may be other defects in the title not only to the two lots in question, but to the remainder of the square on which the hospital has been erected. They create painful suspicion of a want of good faith, which requires a scrupulous investigation of all the circumstances attendant on the transactions. The committee, therefore, propose to the Senate the adoption of the following resolution:

Resolved, That the Attorney General be directed to make careful examination of the nature and validity of the title conveyed to the United States by the city of San Francisco, on the 11th of December, 1852, and to report to the Senate—

1. Whether any and what defects exist in said title.
2. Whether the parties to whom lots five and six, in Hospital square, at San Francisco, were conveyed by sheriff's deed in 1851, have valid title to said lots under said conveyances, and are competent now to transfer valid title to the United States.
3. What is the present value of said lots five and six, and whether the said lots are indispensable for the use of the hospital.
4. Whether there are any outstanding claims of title to any other part of said Hospital square.

Mr. COLLAMER. I should like to add another inquiry, to which I presume the Senator will have no objection; and that is, that the Attorney General inquire whether the persons who claim to have made this purchase under the execution were residents of San Francisco, and knew of the building of this hospital, and did not object to it.

Mr. BENJAMIN. I have no objection to that amendment. I supposed the Attorney General would inquire into those facts anyhow; but it is better to provide for it.

Mr. COLLAMER. I desire that it be put in. I move to amend the resolution by directing the Attorney General also to inquire "where the claimants of said lots reside, and whether they had notice of the purchase by the Government, and knew of the erection of the hospital, or made any objection thereto."

The amendment was agreed to; and the resolution, as amended, was agreed to.

ORDER OF BUSINESS.

Mr. YULEE. I ask the Senate to take up the bill (S. No. 143) which provides for the creation of the office of Fourth Assistant Postmaster General. The business of the Post Office Department is very much delayed for the want of such an officer as is provided for in this bill. It is desirable that the early action of the Senate should be had upon it, in order that it may reach the House of Representatives in season for action there during the present session.

Mr. STUART. It is certainly within a very few seconds of the time of taking up the unfinished business of yesterday, and this proposition of the Senator from Florida will involve some discussion, I can see by the character of it.

Mr. YULEE. I think not.

Mr. STUART. I am certain it will. I think we had better proceed with the unfinished business of yesterday.

The PRESIDING OFFICER. (Mr. BIGGS in the chair.) The hour has arrived for the consideration of the special order, being the unfinished business of yesterday, which is the bill (S. No. 86) for the admission of Minnesota into the Union.

Mr. YULEE. I give notice that I shall ask the Senate to-morrow, during the morning hour, to take up the bill to which I have called attention.

Mr. HALE. I know that I am not situated in such a way as to have the responsibility of what the Senate is about to do; but I think it is a reproach to us that the wheels of Government, in this city, are stopped for want of executive officers to do the business of the courts—an attorney and marshal; and I move that the Senate proceed to the consideration of executive business

The motion was agreed to. After some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 30, 1858.

The House met at twelve o'clock, m. Prayer by Rev. SMITH PYNE, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the War Department in answer to a resolution calling for information relating to the sale of the Fort Ripley reservation; which was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of the Treasury in reply to a resolution of the 5th of March calling for information as to the robbery of John Hastings, collector, at Pittsburg; which was referred to the Committee of Claims, and ordered to be printed.

Also, a communication from the Postmaster General, transmitting an abstract of offers for carrying the mails under the act of July 2, 1856; which was laid on the table, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, informing the House that the Senate had passed a joint resolution and bill of the following titles; in which he was directed to ask the concurrence of the House:

Joint resolution (S. No. 17) explanatory of the "joint resolution giving an increased compensation to all laborers in the employment of the executive and legislative departments of the Government in the city of Washington," approved 18th August, 1856;

A bill (S. No. 145) for the relief of Brevet Major James L. Donaldson, assistant quartermaster United States Army; and

A bill (S. No. 202) for the relief of Major Jeremiah Y. Dashiell, paymaster in the United States Army.

OLIVIA W. CANNON.

Mr. WHITELEY, by unanimous consent, introduced a bill continuing the pension to Mrs. Olivia W. Cannon, widow of Joseph S. Cannon, deceased, late a midshipman in the United States Navy; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. LETCHER. I now insist on my motion.

Mr. GARTRELL. Will the gentleman from Virginia yield to me that I may introduce a bill for reference?

Mr. LETCHER. The gentleman must excuse me. There are many others who want the same accommodation; and I cannot yield to all.

Mr. BLAIR. I ask the unanimous consent of the House to make an explanation in reply to language used by my colleague [Mr. CLARK] in his speech the other day.

The SPEAKER. The gentleman from Virginia refuses to yield further.

The motion of Mr. LETCHER was then agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOCK in the chair,) and resumed the consideration of the deficiency bill, on which the gentleman from Louisiana [Mr. SANDIDGE] was entitled to the floor.

The CHAIRMAN. The Chair would beg leave to say before proceeding to business, that something like twenty-eight gentlemen, who have not yet spoken, have intimated a desire to address the committee during the progress of this debate. Only two days remain before the time when, by agreement, a motion is to be made to take up the Kansas bill. The Chair states those facts to gentlemen in order that they may consider what course is proper for them to take in order to get their speeches in.

Mr. NICHOLS. I understand that debate is extended on this bill until Friday, and that discussion after Thursday will be confined to the bill itself.

The CHAIRMAN. That is so.

Speeches were then made on the Kansas question by Messrs. SANDIDGE, WALBRIDGE, LEIDY, DAVIS of Maryland, CLAY, HARLAN, UNDERWOOD, and HOARD.

[These speeches will be published in the Appendix.]

Mr. STEVENSON obtained the floor, but yielded to Mr. GILMER, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WINSLOW reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and had come to no conclusion thereon.

HEIRS OF ALEXANDER STEPHENSON.

On motion of Mr. PURVIANCE, it was

Ordered, That leave be granted for the withdrawal from the files of the House of the petition and papers of the heirs of Alexander Stephenson, in order that they may be referred in the Senate.

And then, on motion of Mr. PEYTON, the House (at fifteen minutes past seven o'clock, p. m.) adjourned.

IN SENATE.

WEDNESDAY, March 31, 1858.

Prayer by Rev. SEPTIMUS TUSTIN, D. D.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. THOMSON, of New Jersey, presented a petition of citizens of New York, praying that the public lands may be granted, free of cost, in limited quantities, to actual settlers only; which was ordered to lie on the table.

Mr. BROWN presented a petition of the lay members of the Roman Catholic churches in the District of Columbia, praying for the enactment of a law in relation to the manner of holding and transmitting the title to property of the Roman Catholic Church in the District; which was referred to the Committee on the District of Columbia.

Mr. KING presented a petition of inhabitants of Jefferson county, New York, praying for the construction of a breakwater at the port of Cape Vincent, in that State; which was referred to the Committee on Commerce.

Mr. MASON presented the memorial of H. L. Gallaher, praying that his claim for work done on the Washington aqueduct may be settled upon principles of justice and equity; which was referred to the Committee on Claims.

Mr. POLK presented the memorial of H. Rives Pollard, praying that an adequate salary may be attached to the office of the United States consul at Bangkok, in Siam, to which office he has been recently appointed; which was referred to the Committee on Foreign Relations.

Mr. DOUGLAS. I present the memorial of the Mayor and Common Council of the city of Rock Island, in the State of Illinois, praying that a portion of the island of Rock Island, which, for many years, has been a military reservation, but which has ceased to be needed or used for military or Government purposes, may be granted to that city. They ask a grant only of that portion of the island which lies within the corporate limits of the city, excluding that portion not within the corporate limits. The amount of land they ask is, I think, about one hundred and eighty acres. They desire it for school purposes and parks. It seems to me very reasonable, under the circumstances, and perhaps the wisest appropriation that could be made of that portion of the island, as it is very admirably situated for that purpose, and no longer needed for Government purposes. I move the reference of the memorial to the Committee on Public Lands.

The motion was agreed to.

DACOTAH.

Mr. DOUGLAS. I am requested to present some memorials from two or three hundred petitioners resident in that part of the Territory of Minnesota which is excluded from the limits of the State of Minnesota, and in a country which now has assumed the name of Dacotah. They pray Congress for the organization of a Territory to be called the Territory of Dacotah, to be composed of that part of the Territory of Minnesota which is excluded from the State limits, being a tract of country about the same size as the proposed State. I present these memorials, and move their reference to the Committee on Territories.

The motion was agreed to.

ADMISSION OF OREGON.

Mr. DOUGLAS. I have received from General LANE, the Delegate from Oregon in the House of Representatives, the following letter:

HOUSE OF REPRESENTATIVES, March 29, 1858.
SIR: Inclosed you will find a printed copy of the constitution of the State of Oregon. Please present it, and take such steps as may be necessary to bring us in on an equal footing with the other States of the Union, and you will very much oblige me and the people I represent.

Very respectfully, your obedient servant,
JOSEPH LANE.

Hon. STEPHEN A. DOUGLAS.
In pursuance of that request I present the constitution which he has furnished. I avail myself of this opportunity to say that it has been suggested that, in the remarks which I made the other day in reply to the Senator from California, [Mr. GWIN,] explaining why I had not moved in this matter before, I conveyed the impression that General Lane had neglected his duty in the other House. I desire to say it was far from my intention to cast any censure upon him or accuse him of neglect. I did state then that I had not moved in this matter, for the reason that the constitution had not been furnished to us. Being surprised that it had not been furnished, I asked the Delegate what was the occasion of the delay. He said he had received a copy, but had not moved in it, for the reason that he thought it was better not to get it embarrassed by the Kansas question. It is due to him to say that I concurred with him in the propriety of withholding it, and preventing it being made part of an omnibus with the Kansas question. This explanation is due to him, because I do not think it just that any reflection should be supposed to be cast on him, who, as a Delegate in the other House, does his duty very creditably. I move the reference of the constitution to the Committee on Territories.

The motion was agreed to.

TELEGRAPHIC MONOPOLIES.

Mr. BIGLER. I have been requested to present the memorial of Amos Kendall, Samuel C. Bishop, Zenas Barnum, Francis O. J. Smith, H. M. Schieffelin, a committee on behalf of the Magnetic Telegraph Company and the New England Union Telegraph Company, asking Congress to adopt measures for the protection of the companies which they represent against what they regard as a combination of the London, Newfoundland, and New York Telegraph Company, the American Telegraph Company, and the Atlantic Telegraph Company, which they say are a powerful organization, composed mainly of the same men, actuated by a common purpose and sympathy. Whilst their purpose is to some extent concealed, they regard it as powerful and conclusive and oppressive. As this subject is one of peculiar interest, I shall ask the indulgence of the Senate while I read a few paragraphs from the memorial, which will better explain the object of the memorialists and the specific legislation which they desire. They first set forth the history of the companies which they represent, the extent of telegraphic lines which they own, the facilities which they have afforded the country, and their future purposes. Then they allege a combination, and go on as follows:

"Your memorialists desire to be understood as not opposed to the great enterprise of connecting Europe and America by a telegraphic cable, nor to any assistance in ships or money which their Government may think proper to give it; but they maintain that it is the duty of their Government, whether they assist the enterprise or not, to see that it shall not be used to oppress one interest in the United States for the purpose of building up another, and that this duty becomes more imperative when the Government furnishes it with material aid.

"Your memorialists further represent that the combination of which they complain is composed of the New York, Newfoundland, and London Telegraph Company, incorporated by the Legislature of the British Province of Newfoundland; the American Telegraph Company, incorporated under the laws of the State of New York; and the Atlantic Telegraph Company, a British corporation, embracing an Atlantic telegraphic cable from Newfoundland to the coast of Ireland. Whether there is a fourth party covering a telegraphic line from the Irish terminus of the proposed Atlantic cable to the city of London, your memorialists are not advised, nor is it material.

"Your memorialists represent, that the three telegraphic companies aforesaid originated with certain capitalists in the city of New York, who are stockholders in all of them, and control two of them directly and absolutely, and the third indirectly, but effectually. The New York, Newfoundland, and London Telegraph Company, and the American Telegraph Company, are composed mainly of the same men, and are under the same control; and the same men who control them are influential stockholders in the Atlantic Telegraph Company, which could not have existed in its present shape without their consent. In fact, the Atlan-

tic Telegraph Company and the American Telegraph Company were but parts of one scheme, which was originally embraced in the act incorporating the New York, Newfoundland, and London Telegraph Company, and in interest and control they are still parts of one scheme, inasmuch that the success of one contributes, if it be not absolutely essential to, the success of all; and any aid afforded by the Government giving strength to one gives strength and power to all.

"That these three companies are one in origin and design, is conclusively shown by the act of the Legislature of Newfoundland incorporating the New York, Newfoundland, and London Telegraph Company, passed April 15, 1854."

Here follows the act of the Newfoundland Legislature, which is lengthy, and I shall not read it. I now proceed to read that portion of the memorial which sets forth the specific legislation which the memorialists desire:

"Your memorialists neither ask nor desire the interposition of Congress to protect them against competition in the United States. They neither ask nor desire the withdrawal of the aid of the Government from the Atlantic Telegraph Company, or its refusal to any other company which may be organized to span the ocean with a line of telegraph. All they ask is to be protected against combinations for the purpose of oppressing or destroying them between parties operating in the United States and out of the United States, and to be put on an equal footing with all others in their connection with foreign lines entering the United States by sea or land.

"This protection your memorialists are advised it is the province of Congress to afford them, by virtue of their constitutional power to regulate trade and intercourse with foreign nations. And they appeal the more confidently for this protection on account of the aid granted by Congress to the combination against them, increasing their power to oppress.

"Your memorialists, therefore, pray for the passage of a general law which shall prevent combinations between citizens or companies in the United States and monopolists or companies out of the United States, for the purpose of oppressing telegraphic companies and monopolizing the business of telegraphing in the United States, and shall enable all telegraphic lines in the United States to form connections with all telegraphic lines approaching their borders, on terms of perfect equality.

"Your memorialists are the more emboldened to present this prayer, from the consideration that the monopoly of telegraphic intercourse between, if not throughout, the Old and New Worlds, now sought to be established, may be applied, with fearful effect, to the commercial and political, as well as telegraphic, interests of the United States, unless regulated by law."

I ask the reference of this memorial to the Committee on the Judiciary. As it is very interesting, so far as its historical matter is concerned, I ask that it be printed.

The PRESIDENT *pro tempore*. The motion to print goes to the Committee on Printing.

Mr. HALE. I wish to make a single suggestion in regard to the reference of this memorial. It seems to me that it should more appropriately go to the Committee on the Post Office and Post Roads.

Mr. BIGLER. I think not. The Senate will perceive that it does not present a question of facilitating intercourse, or establishing telegraphic lines. It presents a question sheerly of law, for the protection of the companies which these parties represent. They complain of a combination which is to be oppressive upon their interests, and which is to be prejudicial to the interests of commerce, and possibly to the political interests of this country; and they ask for a law to protect them. I therefore thought the Committee on the Judiciary was the proper committee.

Mr. HALE. I am not strenuous about it. All memorials in relation to telegraphs have been heretofore referred to the Post Office Committee; and I think that would be the more appropriate reference.

Mr. BIGLER. It would be eminently so, if the memorial presented any question as to the establishment or regulation of telegraph lines; but it does not.

Mr. HALE. I have no motion to make in regard to it.

The PRESIDENT *pro tempore*. The memorial will be referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BROWN, it was

Ordered, That the petition of William Hunter, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. TRUMBULL, it was

Ordered, That the petition of Daniel Hay, on the files of the Senate, be referred to the Committee on Pensions.

BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 222) for the relief of Jeremiah Moors; which was read twice by its title, and referred to the Committee on Commerce.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 220) for the relief of the citizens and owners of property in the city of Omaha, Nebraska Territory, and Sioux City, State of Iowa; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. YULEE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 219) for the relief of the railroad companies of the State of Florida; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 227) authorizing the organization of a fire department in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. POLK, from the Committee on Foreign Relations, to whom was referred the memorial of the legal representatives of Seth Belknap, submitted an adverse report; which was ordered to be printed.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred a petition of citizens of Montgomery county, Maryland, praying that the plank road in that county leading to the District may be made toll free, reported adversely thereon.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of J. H. Carter, for himself and J. W. Bennett and R. B. Lowry, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of J. K. Kane and others, in behalf of the widow of Foxhall A. Parker, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

He also, from the same committee, to whom was referred the petition of Ann E. Smoot, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

He also, from the same committee, to whom was referred the petition of William Reynolds, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of W. W. Bassett, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Richard W. Meade, reported a bill (S. No. 221) for his relief; which was read, and passed to a second reading.

Mr. FOOT, from the Committee on Foreign Relations, to whom was referred the petition of Frances Ann McCauley, submitted a report, accompanied by a bill (S. No. 223) for her relief. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and Militia, to whom were referred the papers relating to the claim of Edward Ingersoll, submitted a report, accompanied by a bill (S. No. 224) for his relief. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Military Affairs and Militia, to whom was referred the memorial of Harriet O. Read, reported a bill (S. No. 226) for the relief of Mrs. Harriet O. Read, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army; which was read, and passed to a second reading.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a motion to print the report of the Secretary of War in relation to the expenses of armories and manufacture of arms thereat, for the year 1856-7, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred a motion to print five thousand copies of the map of Florida, illustrative of the recent surveys for a canal in that State, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of the Interior, communicating the report of J. Ross Browne, on the late Indian wars

in Oregon and Washington Territories, reported in favor of the motion; and it was agreed to.

Mr. JOHNSON, of Arkansas. The Committee on Printing, to whom was referred a motion to print the report of the Secretary of War communicating the report of Lieutenant Colonel J. D. Graham for the year 1857, have directed me to report in favor of the printing, but also to state that the committee do not design to recommend the printing of the maps. The cost of printing the report will not be a great deal—\$365, exclusive of the maps. With the maps, it would amount to some \$6,500 additional. The committee will not recommend the printing of the maps, as they believe it to be likely to be of no avail whatever, during the present session, at any rate, if not during the present Congress. I report merely in favor of printing the report of Lieutenant Colonel J. D. Graham in regard to lakes and harbors.

The report was agreed to.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred the resolution directing an inquiry into the expediency of suspending the territorial laws in Utah during the present difficulties in that Territory, have instructed me to ask to be discharged from its further consideration, and that it be referred to the Committee on Territories, believing that the question is one which relates to the exercise of the political powers of the Government as to its Territories, and does not appropriately belong to the Committee on the Judiciary.

The motion was agreed to.

ANDREW GLASSELL.

Mr. BENJAMIN. The Committee on the Judiciary, to whom was referred the memorial of Andrew Glassell, praying compensation for services rendered to the United States in California, have directed me to report a bill for his relief, and ask for its immediate passage. I will state, in a few words, the ground of the claim of the memorialist. The memorialist was appointed under the act of Congress of 1855 to assist the United States district attorney in California, for the term of one year, in the defense of the United States against the claims of persons demanding confirmation of grants of land there. At the end of the year the cases were not all closed, and at the solicitation of the officers of the Government, he continued his services some four months longer in order to close up the cases, his services being indispensable. The bill is to pay him the additional salary for the four months' services.

There being no objection, the bill for the relief of Andrew Glassell (S. No. 225) was read twice, and considered as in Committee of the Whole. It appropriates \$1,400 as compensation to him for services rendered as assistant counsel for the United States before the United States district court for the northern district of California, from the 10th of January to the 1st of May, 1856.

Mr. HUNTER. Is there any report in that case? From what committee does it come?

Mr. BENJAMIN. I have just stated that it came from the Judiciary Committee. It is to pay for an assistant attorney of the United States appointed under an act of Congress for twelve months, and the duties extended to sixteen months. The appropriation was only made for twelve months. This is to pay for the additional four months.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

PRIVATE BILLS.

On motion of Mr. IVERSON, the Senate proceeded to consider the following resolution, submitted by him some weeks since:

Resolved, That for the residue of the present session, after this present week, the private bills on the Calendar shall be special orders of the day on Friday of each week, at one o'clock, in the order in which they stand on the Calendar.

Mr. IVERSON. It has been usual before this time of the session to pass a resolution of this nature. Looking back at the history of the Senate during the preceding sessions, I find that the resolution has usually been passed in March. During the last Congress, it was passed on the 24th of March. There are a large number of private bills on the Calendar, and it is necessary that the Senate should proceed to the consideration of them at some time. It has been the usual custom to set apart Fridays. I have moved the resolution, but I do not propose to take Friday of the

present week, as the bill for the admission of Minnesota, and the Army bill, will probably occupy the rest of the week.

Mr. STUART. I am entirely in favor of the Senator's proposition, but I wish to suggest whether it would not be better to change it so as to provide simply for setting apart Fridays for private bills on the Calendar, without making them special orders. A special order may be postponed by a vote.

Mr. IVERSON. I modify it accordingly.

Mr. STUART. Let it read "that Friday be set apart for the consideration of private business on the Calendar, in the order in which it stands."

The resolution as modified was adopted, as follows:

Resolved, That, for the residue of the present session, after this present week, Friday of each week shall be set apart for the consideration of private bills, in the order in which they stand upon the Calendar.

BILL BECOME A LAW.

A message was received from the President of the United States, by Mr. J. B. HENRY, his Secretary, announcing that he had approved and signed the bill (S. No. 210) creating additional land districts in the State of California, and for other purposes.

FOURTH ASSISTANT POSTMASTER GENERAL.

Mr. YULEE. I ask the Senate now to indulge me by taking up the bill (S. No. 143) the purpose of which is to create the office of Fourth Assistant Postmaster General.

The motion was agreed to; and the bill (S. No. 143) to create the office of Fourth Assistant Postmaster General was read a second time, and considered as in Committee of the Whole. It authorizes the appointment, by the President, with the consent of the Senate, of a Fourth Assistant Postmaster General, who is to receive the same compensation which is paid to each of the other Assistant Postmasters General, and who is authorized to send and receive letters, packages, and other matters of official business through the mails free of postage, subject to the same restrictions as the other Assistant Postmasters General.

Mr. HUNTER. I should like to have some explanation of this bill.

Mr. YULEE. This bill does not strictly increase the officers. I suppose, however, it may be considered as an increase of one, but one only. It will add a single office, but without the necessity of increasing any further the clerical force of the Department. A very large business of inspection has grown up in the Post Office Department to which have been appropriated by existing laws the labors of seventeen clerks. This business thus far has been superintended by the chief clerk of the Postmaster General, and the duties of the desk have become so laborious and engrossing that the Postmaster General is practically left without a chief clerk at all. The purpose of this bill is to create, as has been proposed by several of the predecessors of the present Postmaster General, the office of Fourth Assistant Postmaster General, to whose bureau will be appropriated the duties of the inspection office, with a clerical force of seventeen as now existing, and without any increase of force whatever. The object is simply to improve the organization of the Department. There has been no change in the organization of the Department for the last twenty years, while the business has been increasing very largely.

Mr. HUNTER. I should be very glad to aid the Senator from Florida and the Post Office Committee, if they would come forward with some proposition of reform to reduce the immense expenditures of this Department, which is now a charge upon the general Treasury of the country to a very large amount. I am unwilling to multiply offices, unless it can be shown to be absolutely necessary. We have got along with the old organization, and I think we ought to be able to do so hereafter. I am unwilling, in the present condition of things, to vote for additional offices. Here we are to create, in fact, another bureau, and, to follow from it, I presume, we shall have another list of clerks.

Mr. YULEE. No, sir.

Mr. HUNTER. Well, if not now, we shall be asked for additional clerks at the next session.

Mr. YULEE. No, sir; I will explain to the Senator presently.

Mr. COLLAMER. I am not advised, at the present juncture, of the state of affairs in the Post Office Department; but the business of that De-

partment, as arranged some years since, divided itself, very naturally, into four distinct bureaus. One was the appointment office, relating to the creation of new post offices and the appointments and removals of postmasters, which requires a head of a bureau with a set of clerks under him. The second was the contract office, embracing within it all the contracts for the conveyance of mails, and all other post office contracts by the Government, which is a bureau by itself. The third was the financial office, conducting the pecuniary affairs of the Department. The fourth was what is called there, technically, the inspection office; that is to say, that branch of the Department which receives the reports and arranges the business in relation to the fulfillment of the contracts, into which office all the failures of mails, and all default in the performance of any contract come. The force in that branch increased, from six or seven clerks originally, to twelve when I left the Department, and there are now about fifteen constantly employed in that business. They receive every day large numbers of reports, which have to be carefully examined. The only way in which we have found it possible to get along, so as to secure the fulfillment of contracts, has been by giving to every postmaster upon each route the schedule of duties required by the contract of that route, and to require a report to be made by each post office on the route of the true hours of the arrival and departure of the mail. So long as we left it to the postmasters, as was the practice at one time, to report the failures, the difficulty was that we never got any report at all; but there is a broad difference between a man's telling a lie and saying nothing. When we required of each postmaster that he should report the true time of arrival and departure, we got the true state of things. These are reported at the end of each quarter; all the arrivals and departures in the United States are to be examined in the inspection office, compared with the schedules, and the failures noted. That increases, of course, with the increase of business.

I say these four were the natural divisions of the Post Office Department. They are those which have existed for many years; but there are in the Department only three Assistant Postmasters General, and for twelve years of this time we have been obliged to put and keep at the head of the inspection office the chief clerk of the Department. He has done the duties of an Assistant Postmaster General, in fact, and the head of the Department has been deprived of the use of the chief clerk by being compelled to put him at the head of one of the bureaus. I know that was the true condition of things while I was there. The gentleman who is now at the head of the contract office, Mr. Dundas, was then chief clerk. He was sequestered from the proper duties of chief clerk all the time I was in the office, and had been for a number of years before, and has been since. He has been passed into the contract office, and other chief clerks appointed; but the present chief clerk is at the head of the inspection office this day. This division of the business of the Department has been shown by experience to be proper. It has existed since Mr. Kendall arranged it, almost twenty years ago. During that time we have been necessarily compelled to sustain and keep up these four divisions. I cannot but think that the time has come for the creation of an officer of a proper grade to take charge of the inspection office. It ought to have been done long ago, and perhaps would have been done, if we had had the courage to ask Congress to let us have a fourth assistant. In fact we have had him, under the name of a clerk, for a great many years. I did not know that such an application was made, but I felt it my duty, knowing the condition of that Department, to say that the head of it does right in asking that a fourth assistant should be made, and called what he really is.

Mr. YULEE. I think it probable that the reading of the letter, which is not a long one, from the Postmaster General, in which he explains the occasion and the necessity for the creation of this office, will be satisfactory to the Senate, and will be corroborative of the Senator from Vermont, who was one of the predecessors of the present incumbent in the management of that Department. The Clerk read the following letter:

POST OFFICE DEPARTMENT,
WASHINGTON, February 1, 1858.

SIR: In reply to your communication of the 28th ultimo,

inclosing the Senate's resolution directing the Committee on the Post Office and Post Roads "to consider if any changes are advisable in the organization of the Post Office Department," and requesting me to furnish such views on the subject as the experience of the Department may suggest, I have the honor to submit to the Senate the accompanying bill creating the office of Fourth Assistant Postmaster General, and earnestly recommend its passage.

The necessity of this office was recognized by my predecessor, and the enactment of a law similar in its provisions to the bill herewith submitted was strongly recommended by him to Congress.

The responsible and important duties of the inspection office, which were formerly discharged by one of the Assistant Postmasters General, have been more recently assigned to the chief clerk of the Post Office Department, who is therefore required to perform the functions of the head of a bureau together with those of the chief clerk, while he is only receiving the salary which belongs to the inferior position. The rapid and enormous increase of the business of this Department renders these double duties too onerous and oppressive, and no single individual can discharge them with justice to himself and with fidelity to the Government. The consequence is, that the Postmaster General must be entirely deprived of the services of a chief clerk, which are now indispensable, or the important business of the inspection office must be neglected.

In addition to these considerations, the supervision of the inspection office, requiring the discharge of high judicial functions in the interpretation of contracts, and involving the gravest responsibility in the imposition of fines and penalties, should certainly be committed to an officer of the same grade and dignity as the heads of the other bureaus.

The business of this Department naturally and necessarily divides itself into four bureaus, each of which should be placed under the superintendence of an Assistant Postmaster General.

One of my predecessors, Mr. Kendall, in the division of labor among his officers, gave the inspection office to one of his assistants. Even then it was considered of sufficient magnitude and importance to require an officer of that grade for its proper management. Since Mr. Kendall's term of service expired, the business of the inspection office has increased to more than three times its amount at the former period, while the investigation of mail depredations and the supply of bags, pouches, locks, and keys, for the transmission and security of the mails, have added greatly to the labor heretofore performed by the head of this bureau.

The annexed schedule exhibits the organization of the different Executive Departments of the Government. By an examination of this schedule, it will be perceived that the business of the head of a bureau is not required to be performed by the chief clerk in any other Department besides the Post Office. It will also be seen that the duties assigned to the chief of the inspection office are quite as responsible, important, and onerous, as those discharged by the Assistant Postmaster General.

In view of all these facts, I would most respectfully recommend to Congress the enactment of a law creating a Fourth Assistant Postmaster General to take charge of the inspection office, now under the supervision of the chief clerk. The change suggested is necessary alike for the faithful performance of the public service, for the symmetry of the system by which this Department is regulated, and for a just distribution of labor among the officers who share with me the responsibility of its management.

I have the honor to be, very respectfully, your obedient servant,
AARON V. BROWN,

Postmaster General.

Hon. D. L. YULEE, chairman of the Committee on the Post Office and Post Roads, Senate of the United States.

Mr. YULEE. I agree with the Senator from Virginia that the expenditures of the Post Office Department are large, and require pruning. The same may be said, though, of every other Department of the Government.

The PRESIDENT *pro tempore*. The hour has arrived for the consideration of the special order; and it requires the consent of the Senate to proceed with this bill.

Mr. YULEE. Being on the floor, I presume I may be allowed to proceed. I hope the Senate will permit this bill to be disposed of, as it is now up, and can be got through with in a very few minutes.

Mr. JOHNSON, of Tennessee. I object. Let the regular order of business be proceeded with.

Mr. YULEE. I submit the question whether, being on the floor, the special order can be properly called for?

The PRESIDENT *pro tempore*. Yes, sir; at one o'clock it must be called.

ADMISSION OF MINNESOTA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 85) for the admission of the State of Minnesota into the Union.

Mr. POLK. I move to strike out the second section of the bill, and insert:

That the said State shall be entitled to three Representatives in the Congress of the United States.

Mr. CLAY. Let the section be read as it has been already amended.

The Clerk read it, as follows:

Sec. 2. And be it further enacted, That said State shall be entitled to one Representative, and such additional Representatives in Congress as the population of said State, according to the census authorized by the act approved February 28, 1857, shall show it to be entitled to according

to the present ratio of representation, and no more; and the Secretary of the Interior shall cause the census of said State to be taken forthwith according to the provisions of the act of February 26, 1857, and report the same as soon as practicable.

The PRESIDING OFFICER, (Mr. BIGGS in the chair.) It is moved to strike out that section, and to insert:

That the said State shall be entitled to three Representatives in the Congress of the United States.

Mr. IVERSON. As fair play is said to be a jewel, I desire to notify the Senate of an amendment which I will propose to the bill, by way of a substitute for the second section, in case the amendment of the Senator from Missouri shall not prevail. I am in favor of the amendment of the Senator from Missouri, and shall vote for it; but in the event of that failing to be adopted by the Senate, I shall propose the amendment which I send to the Chair, and ask to have read for information. The Senator from Indiana [Mr. FITCH] also has a similar amendment, somewhat varying its form. It is well that the Senate should understand all these amendments, so that they may take their choice between them.

The Clerk read the proposed amendment, as follows:

That said State shall be entitled to one Representative in Congress, and no more, until a new census shall be taken; that of the three members already elected by the people of said State at the election held on the second Tuesday of October last, the one having the greatest number of legal votes at said election shall be the Representative aforesaid; that when said census shall be taken, if it appears that said State is entitled to two Representatives, agreeably to the present ratio, then one of the said three persons having the next greatest number of votes shall be entitled to his seat; and if said State shall be entitled under said census to three Representatives, then all of said persons so elected as aforesaid shall be entitled to seats in the House of Representatives: *Provided*, That nothing herein contained shall interfere with or affect the constitutional power of the House of Representatives to judge of the qualifications of either of said members so elected.

And be it further enacted, That it shall be the duty of the Secretary of the Interior to cause a census of said State to be taken as soon as practicable, agreeably to the act approved February 26, 1857; and that the sum of ——— dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to defray the expenses of taking said census.

The PRESIDING OFFICER, (Mr. BIGGS.) The pending question is on the motion of the Senator from Missouri to strike out the second section, as it has been amended by the Senate, and to insert what he has proposed.

Mr. MASON. The amendment offered by the Senator from Missouri is to give to Minnesota three Representatives. I ask for the yeas and nays on that.

The yeas and nays were ordered.

Mr. KING. Mr. President, I desire to state to the Senate that my colleague, Governor SEWARD, is prevented from attending in his place here by sickness. He has been detained at his house, in this city, since Saturday last, by an attack of quinsy.

The question being taken on Mr. POLK's amendment by yeas and nays, resulted—yeas 14, nays 34; as follows:

YEAS—Messrs. Bigler, Bright, Evans, Fitch, Green, Gwin, Hammond, Iverson, Jones, Polk, Pugh, Sebastian, Sidel, and Stuart—14.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Broderick, Brown, Cameron, Chandler, Clark, Clay, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Hamlin, Harlan, Henderson, Houston, Johnson of Arkansas, Johnson of Tennessee, Kennedy, King, Mason, Pearce, Trumbull, Wade, Wilson, Wright, and Yulee—34.

So the amendment was rejected.

Mr. FITCH. I believe the Senator from Georgia has given notice of an amendment, for the first section of which I wish to offer a substitute.

The PRESIDING OFFICER. There is no pending amendment.

Mr. FITCH. Well, sir, I offer this amendment as a substitute for the second section of the bill:

That said State be entitled to two Representatives in Congress until a new census be taken; that of the three members already elected by the people of said State at the election held on the second Tuesday of October last, the two having received the greatest number of legal votes at said election shall be the Representatives aforesaid; and that when said census shall be taken again, as herein provided, if it appears that said State is entitled to three Representatives, agreeably to the present ratio of representation, then the other of the said three Representatives elected at the election aforesaid, in October last, shall be entitled to a seat in the House of Representatives.

And be it further enacted, That it shall be the duty of the Secretary of the Interior to cause a census of said State to be taken as soon as practicable, agreeably to the act approved February 26, 1857; and that the sum of ——— dollars be, and the same is hereby, appropriated out of any money

in the Treasury not otherwise appropriated, to defray the expenses of taking the said census.

Mr. PUGH. I should like to call the attention of the Senator from Indiana to the fact that his amendment, as I think, contains an inadmissible proposition. I do not think the Senate has a right to decide upon the election of the Representatives from the State of Minnesota. I think that is a question exclusively for the House of Representatives.

Mr. FITCH. That objection struck me; but I think it is untenable. As, however, the Senate have just voted down a proposition to give the people of Minnesota what I think they are fairly entitled to—three Representatives—I have proposed this amendment, in the hope of securing a majority of the Senate to give them something like an approximation to justice. I should really prefer the amendment I now hold in my hand as a substitute for the second section, to what I have already offered. I will offer this amendment, or have it read, at all events, for information.

The PRESIDING OFFICER. The proposed amendment of the Senator from Indiana will be read, the former one being withdrawn.

The Clerk read the following substitute for the second section:

That said State shall be entitled to three Representatives in Congress during this session, and thereafter to such number of Representatives as the census herein provided for shall entitle it to, according to the present ratio of representation.

Mr. PUGH. If the Senator will strike out "session," and say "Congress," I have no objection to it. They are elected for this Congress, if elected at all.

Mr. FITCH. I have no objection to that.

Mr. PUGH. Then I am perfectly satisfied with the amendment.

Mr. COLLAMER. In case the second section of the bill is stricken out, the census to which the amendment refers as "herein provided" to be taken, will not be provided.

Mr. FITCH. The Senator from Vermont misunderstands this amendment. It is to adopt this provision with the second section of the amendment of the Senator from Georgia, providing for a census.

The PRESIDING OFFICER. The Clerk will read the proposed amendment of the Senator from Indiana, as modified.

The Clerk read the amendment, which is to strike out the second section of the bill after the enacting clause, and insert:

That said State shall be entitled to three Representatives in Congress during the present Congress, and thereafter to such number of Representatives as the census herein provided for shall entitle it to, according to the present ratio of representation.

And he further enacted, That it shall be the duty of the Secretary of the Interior to cause a census of said State to be taken as soon as practicable, agreeably to the act approved February 26, 1857, and that the sum of — dollars be, and the same is hereby appropriated out of any money in the Treasury, not otherwise appropriated, to defray the expenses of taking the said census.

Mr. STUART. I wish to suggest an amendment, which, I presume, the Senator from Indiana will agree to, to strike out the words "And be it enacted," before the clause providing for a census, so as to leave the whole amendment one section, and then strike out that portion which contemplates an appropriation. We can make an appropriation in a general appropriation bill if this duty should be devolved on the Secretary of the Interior.

Mr. FITCH. The portion which the Senator from Michigan proposes to strike out was in the amendment of the Senator from Georgia. If he has no objection to the modification, I have not.

Mr. IVERSON. I have no objection to that.

Mr. FITCH. That makes it one section.

Mr. DOOLITTLE. I move to amend the amendment, by striking out "three" and inserting "two."

Mr. FITCH. I believe the amendment, as it now stands modified, is nearly the same in substance as that offered by the Senator from Georgia, [Mr. Toombs.] It was not in order at the time it was offered; but it was subsequently offered by the Senator from Missouri, [Mr. Polk,] and withdrawn, and a naked proposition submitted to give Minnesota three Representatives. Having failed in that, for which I voted, I prefer this.

The PRESIDING OFFICER. The Clerk will

read the amendment as now proposed by the Senator from Indiana.

The Clerk read the amendment; which is to strike out all after the enacting clause of the second section of the bill, and insert:

That said State shall be entitled to three Representatives in Congress during this Congress, and thereafter to only such number of Representatives as the census herein provided for, shall entitle it to, according to the present ratio of representation; and that it shall be the duty of the Secretary of the Interior to cause a census of said State to be taken as soon as practicable, agreeably to the act approved February 26, 1857.

The PRESIDING OFFICER. This is the amendment as proposed by the Senator from Indiana, to strike out the second section of the bill and insert what has just been read. The Senator from Wisconsin moves to amend by striking out "three" and inserting "two."

Mr. IVERSON. Is that in order?

The PRESIDING OFFICER. Certainly it is in order to perfect this as a substitute for the section in the original bill. The question is on the motion of the Senator from Wisconsin to strike out "three" and insert "two."

Mr. MASON. I think the history of this bill will be an important one before the country at a future day, and I desire, therefore, that we should preserve a complete record of the action of the Senate. I ask for the yeas and nays on this motion.

Mr. JOHNSON, of Tennessee. I desire to ask the Chair whether an amendment in the third degree is in order?

The PRESIDING OFFICER. This is not an amendment in the third degree. The second section is now in the bill. The Senator from Indiana proposes to strike out the second section and insert what he has proposed. The Senator from Wisconsin proposes to amend that amendment by striking out "three" and inserting "two." The question is on that motion of the Senator from Wisconsin. Upon this question the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. HOUSTON. I am disposed to concede to Minnesota everything that she ought to expect or to desire. Surely it cannot be the desire of any new State, about to enter the Union, to be admitted in an unconstitutional manner. It is conceded on all hands that the members returned from Minnesota were not elected in a legal and proper mode. They were elected by general ticket, and not by single districts, as the law requires. That was done in total disregard of law. Can they claim to be entitled to seats in the other House, when they come forward asking for them in violation of law? Has the Senate power to create Representatives for the several States or Territories? Surely not. That is a right which belongs to the people, according to certain legal forms and regulations; and unless they are elected in that way, their election is void. I say, then, that not one of those persons who claim to be Representatives from the State or the Territory of Minnesota has any right to a seat in the House of Representatives according to law. Then, has the Senate the right to create Representatives? If it has not, it has no power to say who shall be admitted, or to determine which of these gentlemen shall be entitled to a seat in the other House. It belongs to the people of Minnesota, not to the Senate of the United States, not to the House of Representatives, to say who shall be elected. All these gentlemen may be admitted; but can it be done legally? I think not. If they are not legally entitled to seats, can you admit them as a matter of grace and favor? Have the Congress of the United States any right to extend to States or Territories privileges of this kind as favors? I insist that they have not, and that these men, if we are to have any regard to the Constitution and the laws of the country, must be returned to their constituency. If, on their being returned, the people of Minnesota elect them in obedience to the Constitution, well and good. I say they have no right to elect more than one member, because the Constitution and the law give them no right to more than one. If you are, through a spirit of accommodation, to disregard the Constitution and the laws of the land, I know not what limit you are to set to favoritism and to kindness. I should be very glad to extend a favor to these gentlemen, if I could; but I cannot disregard the Constitution and the law.

What is the urgent necessity demanding of you this extraordinary stretch of power? If we do not allow Minnesota three members, will she not be represented in the Senate, and will not her Delegate continue in the other House? If he, in years past, could render to the Territory all the assistance necessary—and we have never heard of any complaint being made—certainly, with the aid of two Senators, that Delegate can attend to the interests of Minnesota until her members be admitted in the other House.

I never will give a vote here to extend, by construction, the powers of this body. No man ought to do it who regards the laws and the Constitution of his country. If you are to do it on the score of expediency or favor, because you suppose one State has a population much greater than is reported, do you not open a door by which you make yourselves judges of construction, and legislate upon false or supposititious premises, that would destroy the foundations of any government on earth? The proper way is to admit the State, and let those gentlemen who have been sent here as her Representatives return, and let one member be elected by the people; or, if the census will justify it, let two be elected in separate districts. Is it any objection that this will require a little time? Shall such a consideration induce us to infringe the Constitution? In two years, sir, in 1860, the general census will be taken; and surely there is no great emergency by which injustice will be done to Minnesota, by allowing her only one Representative in the mean time. Certainly I can see nothing which should warrant a departure from those sound rules which have heretofore governed us. I do not see any ground on which even a single one of the persons who have been sent here from Minnesota can claim to be a member of the House of Representatives. How are you to determine who shall be accepted as a member of that House? Where is your constitutional authority to say that that one of the three who received the highest number of votes shall be admitted? I cannot find any such authority; and, not finding it, I shall not vote for such a provision. Whatever I can do, under the sanction of the Constitution and the laws, towards a new State, I will do for it with a great deal of pleasure; but when I am called upon to violate the Constitution and the laws, I cannot and I will not do it.

Mr. KING. I feel reluctant to vote between these two propositions, for I am opposed to voting for either two or three. I entirely concur with the Senator from Texas that the number of Representatives from this new State of Minnesota ought not to be determined as a matter of favor by the Senate. It is a question which is to be determined by the number of their population, and is settled by the Constitution, which, by our oaths, we are bound to regard as the rule of apportionment to them.

The bill, as reported from the committee, proposes to give them one Representative, which the Constitution requires that they should have as the least number, and as many more as their population will entitle them to. Well, they have had a census taken there. It is said that it is imperfect, but it is the best information that we can have. If there be other evidence that can be had by the House of Representatives, let them determine upon that testimony and according to the population. The Constitution furnishes a rule which we have no right whatever to vary. It is no matter of favor or disfavor to Minnesota, or, at least, ought not to be. I shall not vote with any such feeling; but simply with a view to admit the State of Minnesota, as I intend to vote to admit the State, with the number of Representatives to which she is entitled. She has a right to justice, but she has a right to nothing more; and I have no idea that her people would desire anything more as good citizens of the country. I think it better, instead of attempting to determine the number here, that we leave the question to the House of Representatives, passing it, as we have done in the bill, and leaving it indefinite. I shall so vote. I have only made these remarks because I feel embarrassed in undertaking to determine between three and two. I am unwilling to determine any number beyond one. I am prepared to give her one, because she is clearly entitled to that, and perhaps to two; but there is no evidence yet before us to show that she is.

Mr. HALE. I feel very little interest in this matter, but I am placed somewhat in the position of the Senator from New York, in voting upon this amendment. I prefer the bill as it stood originally, allowing Minnesota to have what every other State has—what she is constitutionally entitled to. If you go beyond that, and confer favors on her, I know of no rule to measure them. If we are going by favor, I do not know but we might as well give her three as two. I am opposed to giving her anything; I do not conceive that I have a right to do so. There is a contract. She has a right to one. The Constitution gives her that; and, by the enabling act, she has a right to as many more as the census—not the guess of members—shows her entitled to; and if we are going to give her anything, I think we had better give three. If we are going to make a present, let us go the whole figure. At the same time, I do not feel at liberty to vote for three; and I am opposed to giving anything. We have nothing here to give. We are not here almoners of anybody's bounty, but guardians of constitutional rights. The constitution gives one member; let her have it. If she is entitled to two by her census, let her have them; or if to three, be it so, I shall not find fault; but I will not give any. For that reason, I am opposed to the amendment, and to the amendment to the amendment.

The question being taken by yeas and nays on Mr. DOOLITTLE's amendment to the amendment of Mr. FITCH, resulted—yeas 11, nays 33; as follows:

YEAS—Messrs. Bayard, Biggs, Chandler, Clark, Dixon, Doolittle, Evans, Hammond, Kennedy, Mason, and Thompson of Kentucky—11.

NAYS—Messrs. Allen, Benjamin, Bright, Broderick, Cameron, Clay, Collamer, Crittenden, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hale, Hamlin, Harlan, Houston, Iverson, Johnson of Tennessee, Jones, Pearce, Polk, Pugh, Sebastian, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade, Wilson, Wright, and Yulee—33.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Indiana as a substitute for the second section.

Mr. WILSON. I move to strike out so much of the amendment as proposes to take the census, so that the proposition will provide for three Representatives simply.

Several SENATORS. Vote it all down together.

Mr. WILSON. Well, I withdraw the motion.

Mr. CHANDLER called for the yeas and nays on the amendment; and they were ordered; and being taken, resulted—yeas 14, nays 36; as follows:

YEAS—Messrs. Allen, Bigler, Bright, Fitch, Green, Gwin, Iverson, Jones, Polk, Pugh, Sebastian, Stuart, Wright, and Yulee—14.

NAYS—Messrs. Bayard, Benjamin, Biggs, Broderick, Brown, Cameron, Chandler, Clark, Clay, Collamer, Crittenden, Dixon, Doolittle, Durkee, Evans, Fessenden, Fitzpatrick, Foot, Foster, Hale, Hamlin, Hammond, Harlan, Henderson, Houston, Johnson of Tennessee, Kennedy, King, Mason, Pearce, Simmons, Thompson of Kentucky, Thomson of New Jersey, Trumbull, Wade, and Wilson—36.

So the amendment was rejected.

Mr. FITCH. I take the two last votes to be an indication of a determination on the part of the Senate not to grant the new State its three Representatives; and I now move my other amendment, providing for two with certain conditions. The amendment is to strike out all of the second section after the enacting clause and insert—

That said State shall be entitled to two Representatives in Congress until a new census be taken; that of the three members already elected by the people of said State, at the election held on the second Tuesday of October last, the two having received the greatest number of legal votes at said election shall be the Representatives aforesaid; and that when said census shall be taken again, as herein provided, if it appears that said State is entitled to three Representatives, agreeably to the present ratio of representation, then the other of the said three Representatives elected at the election aforesaid in October last shall be entitled to his seat in the House of Representatives; and that it shall be the duty of the Secretary of the Interior to cause a census of said State to be taken as soon as practicable, agreeably to the act approved February 26, 1857.

Mr. TRUMBULL. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. HALE. I am not going to make a speech, but in one word to express my objection to the amendment. I think it is an infringement of the constitutional prerogative of the House of Rep-

resentatives, who are made the exclusive judges of the election of their own members. There are three men claiming to be elected; and the Senate undertakes to step in by this amendment and say which two of the three are entitled to seats. For that reason, if for no other, I must go against the amendment.

Mr. FITCH. I think the objection urged by the Senator from New Hampshire has been urged here before, and it was met by the response that it was a matter pertaining to both branches, as these were Representatives in Congress; but I am willing to add to the amendment the proviso which was attached by the Senator from Georgia, "provided that nothing herein contained shall be construed to prevent the House from deciding on the election and qualification of its members;" if that will satisfy him.

Mr. HALE. No, sir.

Mr. BRIGHT. The Senator from New Hampshire says he regards this as a clear infringement of the constitutional rights of the House of Representatives. The Senator from Virginia [Mr. Mason] calls for the yeas and nays on the amendment, he says, for the purpose of making a record that may be referred to hereafter as a precedent. Now let us, at least, be consistent with ourselves. Congress admitted California with two Representatives without any previous law. There was no census showing whether she had one or ten thousand people; yet we admitted that State with two members, and no Senator, that I recollect, objected to her admission on that ground. Why, I ask, then, this stringent, illiberal view of the claims of Minnesota?

Mr. HALE. Allow me a moment. The Senator misunderstands the force of my objection. It is not that it gives them two Representatives, but that of the three who present the records of their election, we undertake to step in and say which two of the three are entitled to seats. That is my objection.

Mr. BRIGHT. I do not so understand it. The House of Representatives will determine who are the legally elected members from the State seeking admission. Further, if the House should determine that Minnesota is entitled to less than three members, I will not say that it is not in the power of the three gentlemen claiming seats to determine, among themselves, which of the three will present themselves for admission. I believe they can, and will.

Mr. FITCH. With the leave of my colleague, I wish to tell the Senator from New Hampshire, that he is very decidedly mistaken in this matter. We simply declare those elected who are elected by the returns, and have the highest vote. We do not assume to set aside the returns in any one case. We propose to recognize those who come here with the highest legal vote.

Mr. BRIGHT. Mr. President, I am claiming no more for the State of Minnesota than I think she is entitled to, I will not say by the record, but by the record and the facts, which are before us in a form that we cannot shut our eyes to. The returns of the marshals show about one hundred and forty-three thousand population. It is admitted that six of the counties are without any returns; that in one of the counties, where about three hundred votes were polled at the late election, only about fifty persons are returned; thus furnishing very unsatisfactory data to guide us in the settlement of such important rights as are involved in this case.

Notwithstanding the anxiety I feel to see Minnesota admitted as a State, I would not depart from what I regard safe and legitimate rules and precedents, much less permit an infraction of any constitutional provision; and if I believed we were doing either I should not have voted as I have done. I believe, from the late vote taken in that Territory, allowing five inhabitants for every voter, (which I believe is the acknowledged mode of computation,) that Minnesota has at least two hundred thousand population, and it would not surprise me, if an immediate census, as proposed to be taken by one of the amendments offered, should demonstrate that she has two hundred and fifty thousand inhabitants. Senators say, however, that this is all conjectural, and that we cannot take notice of facts outside of the law and the returns made under the law. I answer, Congress has done so heretofore; and the case of California, which I have referred to, proves it. Again, it is not

altogether the fault of the proper authorities in Minnesota that the law directing a full return of her population has not been made. The means necessary to pay for this service were not furnished by the General Government; and the time allotted was too short in which to perform the labor required. All these considerations weigh upon my mind, and incline me to favor, as far as I can, what has been done by that people, even though it has not been done in as formal and satisfactory a manner as could have been desired.

I shall vote willingly to allow this enterprising population three Representatives; and in so doing feel that I am not violating principle, departing from any constitutional landmarks, or setting a precedent that can hereafter be construed, in any way, to the prejudice of the States or Territories.

Mr. MASON. I do not see any mode by which the constitutional objection to this amendment can be evaded. This proviso, that it shall not be construed as it must necessarily be construed, amounts to very little. It is, in my judgment, not only unconstitutional, but it is intrusive; because it is trenching on the authority of the other House, given to it by the Constitution, to determine upon the elections, qualifications, and returns of its own members. But what can we expect? How can it be possible to do an unconstitutional thing in any other than an unconstitutional manner? The unconstitutional thing sought to be done is to give to this State a representation based upon anything but her population ascertained by law. That is the constitutional mode of doing it; and if you seek to do it in any other mode, you necessarily infringe the Constitution; and all evasions—I do not mean to characterize them harshly—but all attempts to show that we have not done unconstitutionally that which we have done must be futile.

On a former day, I gave my impressions to the Senate in a very feeble manner, to show, as I thought, that strict law would give them but one Representative; but yet I am free to admit, that without a violation of the Constitution certainly, upon the census which has been taken, we might with some show of propriety at least give them two members, because upon the census as returned, they have a very large fraction over the representative number, and although fractions are not by law a subject of representation directly, yet they have been made indirectly and necessarily so by giving a portion of representation to fractions in the manner prescribed by the apportionment law. I should be willing, therefore, to go so far as to give them two members; but we must leave to the other House to judge who those two shall be. The House of Representatives may decide, and in my judgment they would decide correctly, that the election which has been made of Representatives in Minnesota is altogether void. They had no power to elect Representatives according to my impression unless the enabling statute gave it to them. No Territory can elect Representatives to Congress, and the House may decide that the whole election is void. But for us to undertake to prescribe to the other House how they shall discriminate between those who claim to be elected, is to prescribe to the House how they shall decide upon the elections, qualifications, and returns of their members. I do not see how we can escape the constitutional objection.

The Senator from Maine [Mr. Fessenden] has called my attention to the California law, which provides simply that there should be two members, without saying who those two members should be. I say again, I do not see how I can be answered when I suggest that it is competent to the House of Representatives to say that there has been no election; and therefore this is a proposition to trench on the prerogatives of the House. The Constitution gives to the House the power to decide on that question; and we cannot control them, and ought not to attempt to control them; far less ought we to attempt to say, amongst the three, whom the House shall attempt to select. But these are difficulties into which we must be plunged when the attempt is made to do that which the Constitution does not allow.

The honorable Senator from Indiana [Mr. Bright] says he has no doubt in his own mind that they are entitled to three Representatives by their population. I do not know what information the honorable Senator possesses; but if I were

permitted to confide to the uttermost in his sagacity, his means of information, and his power, to judge of that information, the Constitution and the law forbid me to do it. I can know their representation only by the law—in no other way; that law which has ordered a census. I can see no earthly use in having another census, because we have had one; and from the character of that population, judging from what they have done, their entire ignorance of the Constitution and the laws of the country, or their utter disregard of them, I should take for granted that if we give them one, two, or three additional censuses, we shall have exactly the same doubts and the same charges of a denial of justice that we have now.

The honorable Senator from Indiana did me injustice in the reason he ascribed to me in asking for the yeas and nays to make a record of this case. It is not for a future precedent in the Senate. God knows we have precedents enough, beginning with the California case. The honorable Senator is wrong in supposing there were not those who protested against allowing two Representatives to California. If he will look back to the record, he will find that the yeas and nays were recorded on that; and I, in a minority, was voting against allowing more than one Representative to California. It is not for the guidance of Congress. Sir, I want these votes to be upon the record, that the country may see what the Government is about, how we construe the law of the Constitution, and how we administer it—the enlightened minds of the country, in every State of this Union, who can appreciate the character of our institutions, and will compel their Representatives in some way to adhere to them and to preserve them. I want the enlightened men of the country to see what I am afraid I see here, that although this Government is yet little more than seventy years old, it is in an absolute state of decrepitude and decay. Questions of constitutional law are determined purely by political expediency, leaving it in the power of a future Congress, if these proceedings are recognized and tolerated, if there is any political end to be attained, to give to a new State twenty, or thirty, or fifty Representatives, in order to carry a measure. Sir, it is for these reasons that I want this to go upon the record; that the American mind, the community north and south, east and west, may see the actual decrepitude and decay into which the Government has fallen here, within seventy years of its birth.

I shall vote in such a manner as to endeavor to make the bill conform to my opinions, although they may be peculiar, of what are our constitutional duties, and with a single eye to that. I certainly can give no vote on any consideration that would trench on the constitutional duties or the constitutional rights of the correlative branch of Congress.

Mr. GREEN. I do not see any ground for raising a constitutional question with regard to the manner in which the Representatives have been elected by the State at large rather than by single districts. Although the appointment law in 1841 required Representatives to be elected by single districts, that law, by the practice of the Government, and by the solemn decision of the House of Representatives, was decided to be unconstitutional so far as it required the States to district. It was called, in the popular language of the day, the mandamus act. No one in the popular branch of Congress made such an able argument proving that fact as the distinguished Representative from Virginia, Mr. Dromgoole. It was then decided that the constitutional power of Congress to fix the time, place, and manner of choosing Representatives did not include, under the word "manner," the right to command a State to district; and Congress itself never did district. It was therefore called a mandamus act.

But whether that be so or not Congress has never required the State of Minnesota to district, and therefore her act in electing by general ticket contravenes no law. The enabling act said to her, "you may elect one, and as many more as your population may show you to be entitled to." Therefore Congress said to the State of Minnesota, "you may elect more than one if you have population to justify it," and did not prescribe the manner in which they should do it, and hence they could elect by general ticket if they thought proper to do so. I think, then, the idea of a constitutional or legal objection springing up in re-

gard to the manner of election is altogether out of the question.

It is, then, competent for Congress to admit the State. It is the duty of Congress, as I think, and not of one House, to prescribe the number of Representatives to which the State shall be entitled. The particular individual who shall fill the office of Representative is to be determined by the House of Representatives alone; but the number of offices to be filled Congress must determine by the act of admission. It then comes back to this one point, what population has the State of Minnesota, so as to determine the number of Representatives to which she shall be entitled? There is a census return which proves a population of one hundred and forty-two thousand, with five counties not heard from, and two counties only partially heard from; and we have certain evidence before us that the census was imperfectly taken.

If we confine ourselves to the actual returns of the census, we should allow one member for ninety-three thousand four hundred and twenty inhabitants; and Minnesota has, in addition to this number, a fraction larger than some other States who now have Representatives in the other House for fractions. I will give a list of the States represented by fractions: Massachusetts has one member for a fraction of sixty thousand; Rhode Island has a fraction of fifty-four thousand and has a member representing the State for it. Connecticut has a large fraction, ninety thousand. Pennsylvania has a fraction of sixty-nine thousand, and a member representing that fraction. Maryland has a member for a fraction of seventy-nine thousand. North Carolina has a fraction of forty-seven thousand, and a member representing that fraction. Alabama has a fraction of seventy-three thousand, and a member for that fraction. Tennessee has a fraction of sixty-six thousand represented by a member. Kentucky has a fraction of fifty-seven thousand, and a member representing that fraction. Missouri has a member for a fraction of eighty-six thousand. Indiana has a fraction of fifty-four thousand, and a member representing it.

Here are fractions represented, one as low as fifty-four thousand, and another as low as forty-seven thousand, both under the law of the land. Minnesota, with a fraction larger than either of these, you say shall not be permitted to have more than one Representative, though you told her in the enabling act under which she undertook to form her State organization—whether she has complied with it or not, I do not now stop to inquire—that she should have more than one Representative if her population entitled her to it. What would be the equitable construction of the promise held out to Minnesota? Would it not clearly be that the same rule of justice which had been extended to other States should be accorded to her? She has a larger fraction than other States having Representatives for fractions, and it would be gross injustice to Minnesota to deny her a Representative for her fraction. So much legally for the law and equity of the case, from which there can be no possible escape, in my judgment. When, however, we take other information, independent of the legal returns before us, there is enough to justify us in believing that she has a representative population of far more than two hundred thousand. My friend from Indiana [Mr. BRIGGS] was mistaken in supposing the vote to be forty-six thousand. Forty thousand was the highest vote for State officers. The vote on the State constitution was between thirty-six and thirty-seven thousand, some six thousand of which were rejected on account of informalities. Forty thousand votes were cast for State officers, and according to the ordinary rule of proportion between voters and population, Minnesota would have at least two hundred thousand population; but I care nothing about that; I have shown you that if you confine yourself to the strictest letter of the law, she is entitled to two Representatives.

Mr. FITCH. I was correct, I find, on referring to the debate a few days since upon this question, in my recent statement that a proposition had been before made to limit the number of Representatives to two; and objections were made to it on the ground that it was for the House of Representatives to designate the number. The Senator from Missouri has correctly stated that we, as a coordinate branch of the Government, have a

voice in fixing the number of Representatives. The objection to the manner in which I propose to admit these two members is, that by it the Senate undertakes to designate the individuals who shall be admitted. There is no such proposition in my amendment. It names no man. It proposes simply to admit, at present, the two members for whom the highest number of legal votes were cast at the October election in Minnesota; and probably that is the very means which the House of Representatives itself would indicate as the manner of selecting between the three.

It was said by the Senator from New Hampshire, who appears here as the peculiar guardian of the perquisites and honor and domain of the other House, that we are seeking to dictate to them how they shall select from these three. If this amendment be adopted, I fancy that when the bill goes to the House of Representatives with it, they will be found fully capable of guarding their own interests and their own perquisites; and if they take exception to our manner of providing for the election of these members, it will be for them to make those exceptions known, and send the bill back to us. The manner designated by us is a mere expression of our idea of the proper manner of selecting among these persons. If they object to that manner, they can indicate their own; but it is difficult to see, when the three Representatives present themselves there, all upon the same footing, with the same credentials, signed by the same officers, how the House is to select unless in the very manner I have indicated. Still I am not by any means wedded to that manner. I am perfectly willing that the amendment shall provide for the admission of those two whom the House may select. I intimated that I was not unwilling to insert at the end of the amendment a proviso that nothing in the act, as it may pass here, is intended, upon our part, to affect the right of the House of Representatives.

Mr. STUART. Allow me to interrupt the Senator. I think it would be better for him to modify his amendment by striking out that provision, and leave the House to settle the matter as it may choose, and perhaps it will take the very course he indicates. I suggest to him, that he strike out all that portion of his amendment which regulates the manner of selection.

Mr. FITCH. I was speaking of a proviso which I had indicated a willingness to add to the amendment, not because there would be any particular efficacy in the proviso, but simply to save any appearance of wounding the sensitiveness of members of the other House, which gentlemen appear to think the amendment, in its present shape, will do—a mere declaration on our part that we had no such intention. It would have no effect. Neither can the present phraseology of the amendment have the effect to limit the privileges of the House of Representatives. They can designate the manner for aught we can say, and if they take exceptions to our manner they can insert their own; but I have no objection whatever that the amendment should go down there, providing for the present admission of two members, without indicating any manner how the House shall select among the three—two during the present Congress, or for such time as the House shall fix, and providing for the admission of a third whenever the census shall show Minnesota to be entitled to the third. I propose, in my disposition to accommodate every gentleman here, if the amendment can be so shaped to do it, to amend it in such manner as to meet the objections of several.

The PRESIDING OFFICER. The yeas and nays having been ordered, the Senator from Indiana can only modify his amendment by unanimous consent.

Mr. STUART. It is amendable. The Chair refers to the power to withdraw it.

Mr. FITCH. The modification which I believe would meet the views of the chairman of the Committee on Territories—and certainly his opinion here is entitled to some considerable weight as I understand he initiated the admission of Minnesota into the Union—would make the amendment read:

That said State be entitled to two Representatives in Congress until a new census be taken; that of the three members already elected by the people of the State at the election held on the second Tuesday of October last, two shall be the Representatives aforesaid: and that when said census shall be taken again as herein provided, if it appear that

such State is entitled to three Representatives agreeably to the present ratio of apportionment, then the other of the said three shall be entitled to a seat.

Mr. DOUGLAS. The latter clause I cannot sanction. In the first place, we have no official evidence before us that anybody has been elected. In the next place the Senate has no power to look into the question and say whether anybody has been elected. By the Constitution of the United States, that is solely left to the House of Representatives. I therefore am not willing to say that two have been elected, or that three have been elected, or that one has been elected. I am willing to assert merely that Minnesota shall be entitled to two Representatives, and leave all else to the House of Representatives.

Mr. FITCH. I apprehend that the effect of the amendment of the Senator from Illinois would be to limit them arbitrarily to two members.

Mr. DOUGLAS. I am willing, then, to agree to a subsequent clause that a new census shall be taken, and, after a new census, she shall be entitled to whatever number that census shows. I am willing that that provision be added. I would provide that, until a new census is taken, she shall be entitled to two, and, after a new census, she shall be entitled to the number that census shall show.

Mr. FITCH. I will modify the amendment, so as to read:

That said State be entitled to two Representatives in Congress until a new census be taken; and if, when the new census shall be taken, as herein provided, it shall appear that said State is entitled to three Representatives, according to the present ratio of representation, then another Representative shall be entitled to admission.

Mr. COLLAMER. If I understand the proposition now presented, it is, that the State shall be entitled to two Representatives until a census is taken, and then such number as that census shall show her to be entitled to. The second section of the bill, as originally reported, allows one Representative, and such other number as the census should entitle her to, according to the original act. That was amended by inserting a provision directing the census to be retaken. When that section was under consideration the other day, the honorable Senator from North Carolina, now in the chair, [Mr. BIGGS,] moved to strike out "one," and insert "two." That is exactly the proposition now presented, and that was rejected by a vote of the Senate upon the yeas and nays. If there is any difference between the two propositions, I should like to know wherein it consists.

Mr. STUART. I may not remember distinctly, but my recollection is that it differs in this: if the amendment moved by the Senator from North Carolina had prevailed, the section, as it then stood, would have left it to be determined by the census that has already been taken, when the returns shall have been made complete; but the proposition now pending is to give two members, and provide for another census, which is certainly a different proposition within the meaning of parliamentary rules, and is in order.

Mr. TRUMBULL. If I understand the position of this bill, an amendment has already been adopted, on the motion of the Senator from Massachusetts, [Mr. WILSON,] providing for retaking the census in Minnesota; and I suppose the decision of the point of order will depend on the fact whether the motion of the Senator from North Carolina was made after the adoption of that amendment, or before it. But, sir, I prefer the bill as it was reported by the committee. The bill, as reported, gives to Minnesota one Representative, and as many more as the census shows her to be entitled to. Is not that fair? Is not that all that the people of Minnesota ought to ask, or have a right to ask?

It is said that the census is not fair, is not full. This has been assumed so many times in the debate, without any sort of evidence, that I am apprehensive that the country will get to believe that the census was not fair. I apprehend, sir, that the census which has been taken is as fair as any new census which could be taken, and especially if a new census is to be taken for the very purpose of increasing their representation in Congress. If you send out a commission to take a new census to ascertain how many members they shall hereafter be entitled to, I am inclined to think you will have practiced over again the frauds of

Kansas, and another controversy here as to the regularity of the census.

Upon what ground is it that the census now taken is assailed? Surely not upon the authority of the letter which was read the other day from the marshal of Minnesota. He says it was difficult to get persons to take the census, and he gives an excuse for not taking it as promptly as would have been desirable. That is all. It is assumed by some here that Congress undertook to take a census in Minnesota, and has not done it, and therefore the fault is ours. It is true that we undertook to take a census in case the people of Minnesota should determine to form a State constitution, and ask admission into the Union; but did Congress undertake to take a census before the State of Minnesota was admitted? Did Congress say to the Territory of Minnesota that it might go on and elect three Representatives or one Representative? Congress declared that a census should be taken after Minnesota had determined upon a State constitution, to ascertain how many members she should be entitled to in the House of Representatives; but Congress did not agree to do this while she was a Territory; and she has not been authorized to elect members at all. I think there is no doubt of the position assumed by the Senator from Mississippi [Mr. BROWN] the other day, and repeated by the Senator from Virginia [Mr. MASON] to-day, that the election, both of Senators and Representatives, by the Territory of Minnesota, is a void election, if you look to the Constitution. The Constitution authorizes the Legislatures of States, not of Territories, to elect Senators; it authorizes Representatives to be elected by the people of the States, not by the people of Territories; and if this were a new question, if the practice had not been different, I apprehend there would be no diversity of opinion in regard to it. It may be, however, that by a sort of fiction Congress may be justified in admitting to seats those who have been elected on the ground that the admission, when it takes place, has relation back to the time when the people framed their constitution; and in that way, by a sort of legal fiction, give validity to these elections. But there is no fault on the part of Congress in not having taken the census at an earlier day. The difficulty is, that these persons were elected as members of Congress before the people of Minnesota were entitled to elect. There is no evidence in the letter which has been read that the census was improperly taken. The only evidence that letter contains is such as the officer gives as an excuse for not having more speedily performed his duty.

Now, sir, we have a census from nearly the whole of this Territory, with the exception of some three or four counties only, and those counties without any considerable population. When the bill was reported by the Committee on Territories, there were seven counties deficient, but the returns of some of the counties have since been received. This census, I apprehend, is a fair one. I see nothing to impeach it; for the suggestion that a large vote has been given, so far from impeaching the correctness of the census, impeaches the validity of the vote. That is the truth about it. Hundreds and thousands of votes were returned in Minnesota where there was no population to give them. This is the charge made in Minnesota, upon sworn testimony, published in the public prints of that Territory—that fictitious returns have been made there; and this accounts for the large vote where there is a small population. I apprehend that if we pass the bill as it came from the Committee on Territories, we shall do justice to the people of Minnesota, and injustice to no one. Then if, as the Senator from Missouri says, the fraction entitles them to a second Representative, let them have it; it is right that they should have it, but if it does not so entitle them, let them have the one Representative. It seems to me that we cannot better the bill by any amendment which has been proposed to it.

The PRESIDING OFFICER. The question before the Senate is the amendment of the Senator from Indiana. The Senator from Vermont raises the question whether it is in order to move this amendment at the present time.

Mr. COLLAMER. I do not wish to trouble the Chair with the question of order, as I learn that the amendment of the Senator from Massachusetts was added to the section after the amend-

ment of the Senator from North Carolina was rejected.

The Clerk read the amendment of Mr. FITCH, as modified, as follows:

Strike out the second section, after the enacting clause, and insert:

That said State be entitled to two Representatives in Congress until a new census be taken, which census shall be taken again, as herein provided; and if it appears by said census that said State is entitled to three Representatives, agreeably to the present ratio of representation, then another Representative shall be entitled to his seat. And that it shall be the duty of the Secretary of the Interior to cause a census of said State to be taken as soon as practicable, agreeably to the act approved February 26, 1857.

Mr. DOOLITTLE. I desire to say that I have paid off on this question with the honorable Senator from South Carolina, [Mr. HAMMOND.]

The question being taken by yeas and nays upon Mr. FITCH's amendment, resulted—yeas 20, nays 27; as follows:

YEAS—Messrs. Allen, Biggs, Bigler, Bright, Broderick, Brown, Douglas, Evans, Fitch, Green, Gwin, Iverson, Jones, Mason, Polk, Pugh, Sebastian, Sidel, Stuart, and Wright—30.

NAYS—Messrs. Bayard, Benjamin, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Durkee, Fessenden, Fitzpatrick, Foster, Hale, Hamlin, Harlan, Henderson, Houston, Johnson of Tennessee, Kennedy, King, Pearce, Simmons, Thomson of New Jersey, Trumbull, Wade, Wilson, and Yulee—27.

So the amendment was rejected.

Mr. PUGH. I believe the pending question now is on the motion of the Senator from Illinois, [Mr. DOUGLAS,] to strike out the second section of the bill?

The PRESIDING OFFICER. That is the pending amendment—to strike out the second section entirely.

Mr. PUGH. It seems to me that we might as well admit the State of Minnesota, and leave the question of her representation to a subsequent bill; which will be the effect, I think, of striking out this section, for I am satisfied that, in the present disposition of the Senate, there is scarcely a majority for any proposition. I do not know how it is, but we have voted down one Representative, two Representatives, and three Representatives, simply delaying the admission of the State. I hope we shall either pass the bill, striking out this section, or that a joint resolution will be proposed admitting the State; and then, on the completion of this census, or the ordering of another census, we can fix the representation. Her Senators, at all events, are entitled to be in this Chamber. For I do not concur with gentlemen who entertain the idea that Minnesota has violated any constitutional doctrine in electing her Senators and Representatives. I believe the proper method intended by the Constitution of the United States, for electing Representatives, was by a general ticket. I have no doubt that the States have a right to subdivide themselves; but I do not believe Congress has any authority whatever to require a State to be subdivided into congressional districts; and I think Minnesota, if a State in the Union, would have a perfect right to disregard it as other States have done. As to the election of her Senators, she is a State from the day her constitution is adopted; and the moment she is received into the Union her Senators are entitled to be sworn in. No matter whether elected before or after her admission, they are her Senators.

Mr. MASON. If the Senator will allow me, I will say this: as I understand it, the objection is not that she has made one district of the entire State; but the objection is that she has elected at all; that she has made any election. Minnesota is a Territory. That is the objection. I do not know of any objection to her districting.

Mr. PUGH. That is where I think the Senator is mistaken. The Congress of the United States have authorized her to form a State government. Is she a Territory now? Then you cannot admit her. You cannot admit a Territory. You must admit a State. If she is not a State you cannot admit her. You have authorized her to form a State government, and she has formed it.

Mr. HAMLIN. Suppose we do not admit her, what will she be?

Mr. PUGH. Then you reject her. She is a State yet. You have made a State out of her. She has ceased to be a Territory. By your enabling act you have made her a State. I put the question again, can you admit Territories into the Union? She must be a State or you cannot admit her. She has a right to choose her Senators

as she pleases, in the absence of an act of Congress, at whatever time she pleases.

Mr. FOSTER. Will the Senator allow me to ask him a question?

Mr. PUGH. Certainly.

Mr. FOSTER. I ask him whether it is in the power of Congress to authorize a State to form a constitution and be an independent sovereignty out of the Union?

Mr. PUGH. Certainly; can we not alienate our territory? We have done it.

Mr. IVERSON. Will the Senator from Ohio allow me to interrupt him?

Mr. PUGH. Certainly.

Mr. IVERSON. I desire to ask Senators on the other side if they did not vote to admit Mr. Shields and Mr. Rice as Senators from Minnesota, under a proposition of the Senator from Kentucky, [Mr. CRITTENDEN?]

Mr. HALE. I did not; I am one on this side.

Mr. HAMLIN. Nor I.

Mr. PUGH. The question was debated in the Committee on the Judiciary; I do not know that we arrived at a definite conclusion on that point. I know some of us were of opinion—that was my opinion, and it was the opinion of at least one other member of the committee—that Minnesota was a State, but not a State in the Union; that, not having complied with every condition of the enabling act, she was not in the Union. But if she had complied with it, if she had held a convention of the proper number of delegates, and formed her constitution, it was my opinion then, and it is now, that she would be entitled to have her Senators sworn in without any further act of admission. I ask Senators why it is that we make fish of one, and flesh of another? That was the case of my State. There was nothing else ever done for her but to pass an enabling act; and that was the first enabling act that was ever passed. It is the example from which all the rest come. It was in the time of Mr. Jefferson. It was considered by the ablest statesmen of this country; and their excuse for the enabling act, their idea of the enabling act, was, that it was an act of admission beforehand, to become complete, and the admission to become perfect, on the performance of a condition subsequent. When Ohio performed the condition, held her convention, made her constitution, and sent it here, it was referred to a select committee, to examine into the question; and the committee reported that she was a State in the Union, and that there was nothing more necessary than to establish a district court. I have said that five or six times this session; but it is a vital fact in all this controversy. Her Senators presented their credentials, and took their seats.

If you say that Minnesota is now a Territory, Ohio is a Territory too, for she never had any act of admission. The State of Minnesota has been created by your authority; you defined her limits. She has not perfectly complied with the conditions on which you agreed to receive her into the Union, but she has complied with the conditions on which you agreed she should be a State; she has formed her State government; and now the question is, shall we, the Senators from other States, fix the time of her election for Senators? We have no power to do that. We can, by general law, provide for the time of election in all the States, but we never have done it. It belongs to the Legislature of the State of Minnesota to fix the time, place, and manner of electing her Senators and her Representatives, and to nobody else. We here, in a judicial capacity, hereafter may sit on the question of the regularity of this election. We have no power to sit on it in any legislative capacity. The other House may sit in judgment on the question of the election of a Representative, in a judicial capacity.

Now, shall we go on protracting this anomalous condition of things? Here is a State formed by our direction and consent, a State out of the Union, a State with her Legislature in session, passing laws; and on the question of whether the census was rightfully taken or wrongly taken, we are to protract the discussion indefinitely. I hope we shall simply ignore the question of the number of her Representatives; give her some representation in this branch if we cannot in the other; or leave that as a question of privilege to the other House; strike out the entire section; let the enabling act stand. That is the last legislation of Congress.

That provided that she should have one Representative, and as many more as the census should entitle her to. If it is a fair census, that fixes it. If it is an unfair census, let the House of Representatives decide that question. I hope the motion of the Senator from Illinois, to strike out the whole section, will now be carried.

Mr. IVERSON. Is the bill now open to amendment?

The PRESIDING OFFICER. Since the motion of the Senator from Illinois was made to strike out the second section, there has been an amendment to that section, but the Chair understands the effect of the motion to be to strike out the entire section as amended.

Mr. IVERSON. I wish to offer a substitute for the section:

That said State shall be entitled to two Representatives in Congress, until the next apportionment of Representatives amongst the several States.

I offer this naked proposition for two Representatives.

The PRESIDING OFFICER. The amendment of the Senator from Georgia is in order, being a proposition to perfect the section.

Mr. IVERSON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 23, nays 26; as follows:

YEAS—Messrs. Allen, Biggs, Bigler, Bright, Broderick, Brown, Douglas, Evans, Fitch, Green, Gwin, Hammond, Iverson, Johnson of Tennessee, Jones, Mason, Polk, Pugh, Sebastian, Slidell, Stuart, Thomson of New Jersey, and Wright—23.

NAYS—Messrs. Benjamin, Cameron, Chandler, Clark, Clay, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Hale, Hamlin, Harlan, Henderson, Houston, King, Pearce, Simmons, Trumbull, Wade, Wilson, and Yulice—26.

So the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Illinois to strike out the entire second section.

Mr. DOUGLAS. I withdraw my motion, as the whole question has been voted upon.

Mr. PUGH. I renew the motion to strike out the second section.

Mr. COLLAMER. I desire to renew the objection which I before made to striking out this section, because I still retain the same opinion in relation to it which I then expressed. I do not think the motion which is now made necessarily involves the question whether the Territory has become a State, or is in a transition condition. The honorable Senator from Ohio was led into the discussion of that from some interrogatories put to him. But, sir, the Senate has never passed upon that question. It was referred to the Committee on the Judiciary, and the committee were unanimous in the conclusion that Minnesota was not a State in the Union. I look upon it that when any action takes place by a Territory under an enabling act for the formation of a State—and I take the case of an enabling act because that is the strongest form in which it can be put—all its measures are subjunctive, dependent on the results of its being admitted. Everything is taken merely as an arrangement of a State dependent on that result; and if it is not admitted it goes for nothing. It is always subjunctive, dependent on the action of Congress. If Congress admit the State under the constitution it forms, all is effective; if not, it amounts to nothing. Therefore the proceedings taken in Minnesota under the enabling act, unless she be admitted by Congress, go for nothing; she is no State: she is no State out of the Union; she is no State at all.

But, sir, I come to the question, what will be the legal effect of striking out this section? The Senator from Ohio seems to take it for granted that the legal effect will be that the State will be admitted without any regulation for her representation, and that that will be a matter for future action. That is not my view of it; it is not the view entertained by the committee who reported this bill. The last legislation of Congress is the operative legislation on every subject. An enabling act was passed, authorizing the formation of a constitution in Minnesota. A constitution has been formed there by the people of that Territory, and it contains a provision that they shall be entitled to three Representatives in Congress. If we strike out the second section of this bill, and admit the State under that constitution, I take it that we allow her three Representatives; because the last legislation is the acceptance of the constitution claiming and providing for three Repre-

sentatives. That will be the effect of passing this bill without this section; and I think that cannot be avoided. Gentlemen may differ with me in opinion on this point; but, in my estimation, not only will this be the legal effect, but it will certainly be the practical effect. If Senators are prepared for that, and mean to allow the three members, as I suppose some do, then strike out the section, and Minnesota will have the three. But if you leave the section as it is, she will have one certainly, and as many more as her census shows her to be entitled to.

Mr. DOOLITTLE. As we are in the immediate neighborhood of Minnesota, the Representatives of Wisconsin feel of necessity an interest and a sympathy with this young State. I desire that justice shall be done to Minnesota; and I believe that the bill, as it was reported by the committee, with the amendment which has been already adopted, will do justice to her. I believe that she is entitled to more than one Representative; and the census would show it, if her population had been fairly enumerated. I believe that Minnesota has a population of over two hundred thousand. The census that has been taken, imperfect as it was, shows a population of one hundred and forty-two thousand. That is sufficient for one member, and leaves a very large fraction. There is other evidence going to show that her population is still greater than was returned by the census. I am satisfied from this fact, and from my own knowledge, that she would be entitled, upon a fair enumeration, to two Representatives; but the enabling act provided that she should be entitled to one Representative, and as many more as she should appear to be entitled to by a census then directed to be taken.

Such was the law. She has acted under that law; and the bill has been reported now to the Senate in the very words of the enabling act; and, inasmuch as there has been a difficulty in the taking of the census, the amendment which was moved by the Senator from Massachusetts [Mr. Wilson] has provided for that difficulty by providing that there shall be a new enumeration and census of the Territory; and, if it shall appear that she has a much larger population than is shown by the present census, she shall be entitled to additional representation in proportion to the amount of that population. This does justice to Minnesota. In relation to the present persons who have been elected, or who claim to have been elected as Representatives from Minnesota, I understand that the House of Representatives, on their application, will decide the question.

The bill as it stands declares that she shall have one member, and as many more as she is entitled to by the census which is to be taken. If the House of Representatives, therefore, become satisfied that she is not only entitled to one, but the census shows that she has so large a population that she is entitled to two Representatives, the House of Representatives will admit two to their seats. I believe that the bill as it stands is better than in any other shape which has been yet proposed. This is the ground on which I shall give my vote against the proposition of the Senator from Ohio, and for the bill as amended on the motion of the Senator from Massachusetts. I hope this matter will come to a vote, and come to a vote to-day.

Mr. BENJAMIN. I voted in the negative on the amendment to allow Minnesota two Representatives. I am satisfied that it is a compromise which we may be justifiable in making. It is about as near right as we can get, and I am willing to change my vote; and for that purpose move a reconsideration, to close debate on this subject.

Mr. PUGH. I withdraw my motion, in order to allow the Senator from Louisiana to make his motion.

Mr. BENJAMIN. I move to reconsider the vote on the amendment of the Senator from Georgia, [Mr. IVERSON,] giving the State two Representatives.

Mr. STUART called for the yeas and nays; and they were ordered; and, being taken, resulted—yeas 27, nays 22; as follows:

YEAS—Messrs. Allen, Benjamin, Biggs, Bigler, Bright, Broderick, Brown, Clay, Douglas, Evans, Fitch, Green, Gwin, Hammond, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Stuart, Thomson of New Jersey, Wright, and Yulice—27.

NAYS—Messrs. Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitzpat-

rick, Foot, Foster, Hale, Hamlin, Harlan, Houston, King, Pearce, Simmons, Trumbull, Wade, and Wilson—22.

So the vote was reconsidered; and the question recurred on the amendment of Mr. IVERSON.

Mr. SIMMONS. I should like to hear the amendment read.

The Clerk read the amendment; which is, to strike out all of the second section, after the enacting clause, and insert:

"That said State shall be entitled to two Representatives in Congress, until the next apportionment of Representatives amongst the several States."

Mr. HALE. I desire simply to say, that I prefer the bill as it originally stood; and an objection has been mentioned by some who have voted for these amendments. It is suggested that, if the amendment that has been adopted on the motion of the Senator from Massachusetts, providing for a new census, should be stricken out, and the bill should be left as it was reported by the committee, they would vote for the original bill, and prefer it to any of these amendments. I prefer the bill as originally reported; and I give notice that, as soon as it is in order, having voted with the majority on that proposition, I shall move to reconsider it, so that the bill may stand, if the amendments be all rejected, just as it came from the Committee on Territories. I hope, then, that this amendment will be voted down, and leave the bill just as the committee reported it.

Mr. WILSON. I wish simply to say that I disagree with the Senator from New Hampshire in that respect. I would rather vote to give them two Representatives than take the bill as it was originally reported, because I think that more just than it would be to have the bill stand as it originally came from the committee. What I desire with regard to this State is to do exact justice, and I made the motion to take a new census for that purpose. I am told that this motion is to strike out what I had inserted into the original section. I prefer it to stand as amended, and give them one Representative, which the Constitution gives them, and then take a census, and give them all that belongs to them—one, two, or three—in addition. By that I shall stand. But, as between the original bill, which gives them but one, and the proposition to give them two, I shall vote for the two, because I think that nearer right.

The question being taken upon Mr. IVERSON's amendment by yeas and nays, resulted—yeas 29, nays 21; as follows:

YEAS—Messrs. Allen, Benjamin, Biggs, Bigler, Bright, Broderick, Brown, Clay, Crittenden, Douglas, Evans, Fitch, Green, Gwin, Hammond, Iverson, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Sidel, Stuart, Thompson of New Jersey, Wright, and Yulee—29.

NAYS—Messrs. Bayard, Cameron, Chandler, Clark, Colamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, King, Pearce, Simmons, Trumbull, Wade, and Wilson—21.

So the amendment was agreed to.

Mr. PUGH. I offered an additional section, a few days ago, to this bill; and it is suggested to me by the Senator from Michigan, [Mr. STUART,] on the authority of the Senators and Representatives from Minnesota, that there are several cases of appeal from the supreme court of the Territory pending in the Supreme Court of the United States, in reference to which it is necessary to make some provision. I move to add this to the section I have already offered on that subject:

And in all cases of appeal or writ of error heretofore prosecuted, and now pending in the Supreme Court of the United States, on any record from the supreme court of Minnesota Territory, the mandate of execution, or order for further proceeding, shall be directed by the Supreme Court of the United States to the district court of the United States for the district of Minnesota, or to the supreme court of the State of Minnesota, as the nature of such appeal or writ of error may require; and each of these courts shall be the successor of the supreme court of Minnesota Territory as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.

The amendment was agreed to.

Mr. YULEE. I have an amendment to offer; but if it be agreeable to the Senate, and there is no haste in passing this bill, I should like to pass it over until to-morrow morning. ["Oh, no!"] The amendment I propose is not entirely perfected. I should like to make some further examination. There is business to be transacted in executive session; and I therefore move that the Senate proceed to the consideration of executive business.

Mr. CRITTENDEN. This subject, for its

character, has occupied a very undue portion of the time of the Senate. I hope it will be disposed of now, and not delayed.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time consumed therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 31, 1858.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, informing the House that the Senate had passed an act to acquire certain lands needed for the Washington aqueduct in the District of Columbia; in which he was directed to ask the concurrence of the House.

DEFICIENCY BILL.

Mr. LETCHER. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. This is the last day of the debate in committee on the Kansas question.

Mr. FOSTER. I appeal to the gentleman to yield to me for a moment.

Mr. LETCHER. I cannot. This is the last day for the Kansas debate.

The motion of Mr. LETCHER was then agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOCK in the chair,) and resumed the consideration of the deficiency bill, on which the gentleman from Kentucky [Mr. STEVENSON] was entitled to the floor.

Messrs. STEVENSON, GILMER, MILES, BURLINGAME, ZOLICOFFER, PARROTT, NIBLACK, THOMPSON, WARD, GROESBECK, TRIPPE, MORSE of Maine, HATCH, MARSHALL of Illinois, HUGHES, TAPPAN, LETCHER, and WALTON, addressed the committee on Kansas affairs.

[These speeches will be published in the Appendix.]

On motion of Mr. JONES, of Tennessee, the committee then rose; and the Speaker having resumed the chair, Mr. BOCK reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and had come to no conclusion thereon.

And then, on motion of Mr. BOCK, (at twenty-five minutes to one o'clock, a. m.,) the House adjourned.

IN SENATE.

THURSDAY, April 1, 1858.

Prayer by Rev. B. H. NADAL.

The Journal of yesterday was read and approved.

COURT OF CLAIMS.

The PRESIDENT *pro tempore* laid before the Senate reports of the Court of Claims, made in pursuance of law, adverse to the claim of Joseph Ratcliff; the claim of Oliver Dubois; the claim of Arthur Edwards, John Owen, and Ira Davis; the claim of Dennis Cronan; the claim of A. O. P. Nicholson; the claim of the heirs of Lewis Ansart; and the claim of Joshua J. Guppy, trustee for the settlers and occupants of Portage City; also, the opinion of the court on the claim of Joseph Clymer; which were referred to the Committee on Claims.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a petition of citizens of New York, praying for the enactment of a general relief law; which was referred to the Committee on the Judiciary.

Mr. DIXON presented the petition of Henry Kellogg, praying for indemnity for losses sustained in consequence of the failure of Congress to make appropriations for the continuation of the Washington aqueduct; which was referred to the Committee on Claims.

Mr. IVERSON presented a petition of citizens of Washington, District of Columbia, praying for an examination and settlement of the claims of J. W. Nye, for furnishing horses and carry-alls for the House of Representatives, for macadamizing Pennsylvania avenue, and for improving a public square in the city of Washington; which was referred to the Committee on Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the joint resolution of the Senate (S. No. 24) authorizing Lieutenant William N. Jeffers to accept a sword of honor from her Majesty the Queen of Spain.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of the heirs of Jabez B. Rooker, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Ann Mathieson, submitted an adverse report on so much of the petition as relates to indemnity for property destroyed; which was ordered to be printed; and asked to be discharged from the further consideration of the residue of the petition, praying for a grant of land, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. STUART, from the Committee on Public Lands, to whom was referred the petition of citizens of the city and county of St. Louis, Missouri, relative to the organization of a territorial government for Arizona, asked to be discharged from its further consideration, and that it be referred to the Committee on Territories; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 204) to provide for issuing patents in certain cases where grants of the public lands have been made to Congress, reported it with an amendment.

He also, from the same committee, to whom was referred the memorial of the Legislature of Iowa, presented March 19, respecting certain land titles in that State, asked to be discharged from its further consideration, the committee having already reported a bill on the subject; which was agreed to.

He also, from the same committee, to whom was referred the petition of Robert K. Smith, asked to be discharged from its further consideration, and that it be referred to the Committee on Private Land Claims; which was agreed to.

POLICE FOR WASHINGTON CITY.

Mr. BROWN, from the Committee on the District of Columbia, who were instructed to inquire into the propriety of making provision for an efficient police force in Washington city, reported a bill (S. No. 232) to establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject; which was read, and passed to a second reading. He also submitted a report on the subject; which was ordered to be printed.

Mr. BROWN. I desire to say, in a single word—not to detain the Senate—that there is a very pressing necessity for the consideration of this bill; and as it may give rise to some debate, I give notice now that I shall endeavor to get it up, and have it considered at an early day next week. I need not say more than this, because every Senator is as well aware, as I am, of the condition of the city of Washington now, in reference to its police organization.

UNITED STATES COMMISSIONERS.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary inquire whether any amendments of the laws relating to the taking of affidavits, and holding to bail, so as to enlarge the powers of commissioners, are necessary.

FEES OF MARSHALS.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary inquire whether any necessity exists for a revision of the acts declaring the fees of United States marshals.

LICENSES OF VESSELS.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of amending section thirty-seven of the act entitled "An act for enrolling and licensing ships and vessels in the coasting trade and fisheries, and for regulating the same," passed February 18, 1793.

FAYETTEVILLE ARSENAL.

Mr. BIGGS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate the present condition of the United States arsenal at Fayetteville, North Carolina, and whether the buildings, shops, and machinery, are sufficiently completed for the construction of material and munitions of war, and what appropriation, if any, is necessary to put the same in operation as an arsenal of construction upon the original plan adopted by Congress.

BILLS INTRODUCED.

Mr. FESSENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 228) making appropriations for certain public works in the State of Maine; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CRITTENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 229) for the relief of Jane Turnbull; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 230) for the relief of the legal representatives of Daniel Hay, deceased; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GREEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 231) granting public lands to the Territories of Kansas and Nebraska, to aid in the construction of railroads in said Territories; which was read twice by its title, and referred to the Committee on Public Lands.

ADJOURNMENT TO MONDAY.

Mr. HALE. I move that when the Senate adjourns to-day, it be to meet on Monday next.

Mr. MASON. I think it would be as well not to adjourn over.

Mr. JONES. To-morrow is Good Friday, recollect.

Mr. MASON. I think it would be as well to defer this motion. A very important measure is pending in the other House, and it is known will be acted upon to-day. It may be that the Senate should be in session, to receive their action, whatever it may be.

Mr. JONES. Do you know that to-morrow is Good Friday?

Mr. MASON. There is no Good Friday in legislation. It is unknown to legislation.

The motion was agreed to.

GEORGE FISHER'S REPRESENTATIVES.

Mr. CRITTENDEN. Sometime ago, sir, an act was passed, and afterwards a supplemental act, for the purpose of the adjustment and settlement of the claim of a Mr. Gordon, referring it for settlement to the Second Auditor of the Treasury. For some cause or other, he never acted on it, and has been prevented from acting by the chief of the Treasury Department. A joint resolution has been reported by the Committee on Indian Affairs for his relief, which I ask may be taken up and considered. It will not occupy many minutes I think of the time of the Senate.

The motion was agreed to; and the joint resolution, (S. No. 21,) devolving upon the Secretary of War the execution of the act of Congress entitled, "an act supplemental to an act therein mentioned," approved December 22, 1854, was read a second time, and considered as in Committee of the Whole.

It provides that the duties imposed, or required to be performed, by the act of Congress entitled "an act supplemental to an act therein mentioned," approved December 22, 1854, including the act to which it is supplemental, shall be transferred to the Secretary of War, who is to proceed *de novo* to execute the same in their plain and obvious meaning; with a proviso that from any amount which may be found just and equitably

due to the legal representatives of George Fisher, deceased, there shall be deducted all sums which may have been heretofore allowed and paid by the United States.

Mr. BIGGS. I ask for the reading of the report in that case.

Mr. CRITTENDEN. The gentleman will observe that this resolution simply transfers the execution of a law of Congress from the Second Auditor, who has been restrained and prevented from executing it, to the Secretary of War.

Mr. BIGGS. I cannot see any reason for it. I want to know the reason. I wish to hear the report read.

The Clerk read the report; but, before he had concluded,

Mr. DOOLITTLE. I can perhaps state, for the information of the Senate, without being at the necessity of reading the report at length, the precise point which is contained in it, and the reason why the Committee on Indian Affairs reported this resolution simply transferring the execution of the law from the Second Auditor of the Treasury to the Secretary of War.

Mr. BIGGS. I desire to hear the report of the Secretary of the Treasury, the original report, which I understand is among the papers, denying the right of these persons to the relief asked for by them.

Mr. DOOLITTLE. Mr. Guthrie, the late Secretary of the Treasury, makes a report, in which he states that the act of Congress which was last passed upon the subject ought not to be executed, and that the account ought not to be stated and allowed by the Second Auditor, for the reason, as Mr. Guthrie alleges in his statement, that the testimony rejected for want of authentication had already been received and acted upon by the Department; but in that respect we are satisfied that Mr. Guthrie is mistaken, because the certificate of the Governor of Alabama, authenticating this evidence, is dated long after the case was acted upon by the Second Auditor. There is the affidavit of Mr. Bibb also, swearing expressly that the testimony was rejected, and was not acted upon. Secretary Guthrie, therefore, fell into a mistake as to the fact. The present Secretary of the Treasury is unwilling to open the case and examine it, for the reason that his predecessor had decided that it should not be examined by the Second Auditor. He feels himself bound by the decision of his predecessor, and therefore he is unwilling to act.

Mr. BIGGS. Will the Senator from Wisconsin permit me to interrupt him for a moment. If the claimants here have a legal right, have they not the power to enforce it in the courts? If the Secretary of the Treasury or the Auditor of the Treasury refuses to execute this law, have not the claimants a remedy in the courts?

Mr. DOOLITTLE. Perhaps in the Court of Claims the matter might be prosecuted; but I do not understand that a claim against the Government can be prosecuted in any other court.

Mr. BIGGS. If it can be prosecuted in the Court of Claims, it seems to me it ought to be referred to the Court of Claims.

Mr. DOOLITTLE. The act of Congress provided—

Mr. CLAY. Will the Senator indulge me for a moment. That seems to involve the rights of a citizen of Alabama. Am I correct in that?

Mr. DOOLITTLE. It is the claim of the heirs of George Fisher, deceased. There is a certificate of the Governor of Alabama involved in the case, but whether the parties reside in the State of Alabama I am not certain. It may be so.

Mr. CLAY. A gentleman by that name formerly resided in my State, and I suppose these claimants are now citizens of the State. I should like to look into the matter, and with that view, I move to postpone the joint resolution for the present. I wish to look into it myself. It is evident it cannot pass now without opposition, and I should prefer to let it lie over. I move to postpone it for the present, and let it come up in its regular order.

Mr. DOOLITTLE. I have no objection to the postponement.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. YULEE. I call for the consideration of the unfinished business of yesterday, which is the

bill (S. No. 143) in relation to the office of Fourth Assistant Postmaster General.

Mr. IVERSON. I move that the Senate proceed to the consideration of the Army bill.

The PRESIDENT *pro tempore*. The motion of the Senator from Florida is pending.

Mr. YULEE. If I understand correctly from the Senator, that it is very desirable to the Government that there should be immediate and early action upon the Army bill which he is pressing, I shall, of course, give way to his motion.

Mr. IVERSON. Then I move that the Senate now proceed to the consideration of the bill (H. R. No. 313) to provide one regiment of mounted volunteers for the defense of Texas, and to authorize the President to accept the service of four other regiments of volunteers.

Mr. STUART. I ask for the yeas and nays on that motion, because I am unwilling that the consideration of the Minnesota bill shall be postponed for that measure or for anything else.

The yeas and nays were ordered.

Mr. IVERSON. This matter is urged with a great deal of force by the President and Secretary of War. They consider it very essential to the public service that the question should be decided either one way or the other, whether additional troops are to be allowed or not. We have agreed to adjourn over until Monday, and then the Minnesota bill will be in order. That will supersede the Army bill for days, perhaps, and it may be the last of next week before we can get up the Army bill in regular order, if we do not take it up now. In the mean time, the public business is suffering for the want of a decision of this question; for the President and Secretary of War do not understand what disposition they are to make of the present force, until they know whether Congress is going to allow an additional force or not. Every day now is worth an ordinary week, and perhaps more than a week to the Government on this question.

Mr. STUART. I am well aware of the importance of this bill; but it is not as important, in my judgment, as the question of admitting a State into the Union that has been applying since the first of the session. It certainly is in the power of the Senate to dispose of the Minnesota bill in a very short time, and the responsibility is with us; we can do it if we will; and I am unwilling that so great a matter as the admission of a State shall be postponed for any other business.

Mr. CRITTENDEN. I do hope that my honorable friend from Michigan will withdraw his opposition to acting on the Army bill. It is not intended that we shall act finally on the Minnesota bill to-day. We know how several days have been consumed upon it fruitlessly; and surely, in point of magnitude and public importance, it can now bear no comparison to the Army bill. Whether, after such long delays, one or two days more are to elapse before this State is admitted or rejected, is a matter of no very great national consequence. But now, when the country is in a state of *quasi* warfare, when we have been asked for additional military force as necessary for the occasion, that we should not even let the Executive know whether we intend to grant this or any additional force, is a matter of great national consequence. If nothing is to be granted, we ought to let him know it, so that he may make the best provision he can with the means he has under his control; and if we are to grant it, it is full time that we had done so, in order to enable him to bring whatever force you may allow into the field in time to be of service to the country. I hope that the call for the yeas and nays, which was made by my honorable friend from Michigan, always so judicious and conciliatory as he is, will be withdrawn on this occasion. At any rate, I hope the Senate will take such a course as will bring up for consideration the Army bill.

Mr. STUART. So far as I can hear my friend from Kentucky, I do not think he and I disagree as to the importance of this measure; but, if I understand him correctly, he says that it is not intended that the Minnesota bill shall pass to-day. Now, sir, it ought to be intended, and it ought to pass to-day. There should be no reason against its passage very soon; and if there is an intention that it shall not pass, I confess I have an anxiety to see where that intention is, who entertains it, what the motive is for detaining the bill here. I know it is not an intention which is entertained

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, APRIL 3, 1858.

NEW SERIES...No. 90.

by my honorable friend from Kentucky. He has from the first been in favor of passing this measure, and passing it promptly. It was for that very reason that I made the call for the yeas and nays. It is in the power of the Senate to pass the Minnesota bill, and pass it promptly. It has been discussed here for days, and every subject connected with it is thoroughly understood. The Senate is as well prepared to vote upon the bill this minute as it will be a month hence; and if there is any understanding or any intention that does not come to the surface, let it be known. So far as regards the Army bill, it ought to have been passed days ago, and this bill also. This bill might have been passed days ago; and it is for the very reason that the Army bill is important and ought to pass, that I think it had better stay behind this one, so that this may pass in some reasonable time.

Mr. JOHNSON, of Tennessee. If I understand the motion, it is to postpone the Minnesota bill.

The PRESIDENT *pro tempore*. No, sir; the motion is to proceed to the consideration of the Army bill. The hour for the special order has not arrived.

Mr. DOUGLAS. I am willing to take up the Army bill at any time except to the prejudice of the Minnesota bill; and as it is within two minutes of the time fixed for the special order, I vote "no," so as to take up the Minnesota bill.

The question being taken by yeas and nays, resulted—yeas 28, nays 23; as follows:

YEAS—Messrs. Allen, Benjamin, Biggs, Bigler, Brown, Clay, Crittenden, Evans, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mason, Pearce, Polk, Pugh, Sebastian, Sillidell, Thomson of New Jersey, Wright, and Yulee—28.

NAYS—Messrs. Bright, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doollittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Jones, King, Seward, Stuart, Trumbull, Wade, and Wilson—23.

ARMY BILL.

So the motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill (H. R. No. 313) to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers.

The Clerk read the bill.

The PRESIDENT *pro tempore*. The hour having arrived for the consideration of the special order, it requires the vote of a majority of the Senate to proceed with the consideration of this bill.

Mr. IVERSON. I move to postpone the special order, in order to proceed with the consideration of the Army bill.

Mr. HALE called for the yeas and nays; and they were ordered; and, being taken, resulted—yeas 30, nays 19; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clay, Crittenden, Evans, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mason, Pearce, Polk, Pugh, Sebastian, Sillidell, Thomson of New Jersey, Wright, and Yulee—30.

NAYS—Messrs. Broderick, Chandler, Clark, Collamer, Dixon, Doollittle, Douglas, Durkee, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Stuart, Trumbull, Wade, and Wilson—19.

So the motion was agreed to; and the Senate resumed the consideration of the bill.

The first amendment of the Committee on Military Affairs was in section one, lines three and four, to strike out the words "and required" after "authorized," so that it will read:

That the President of the United States be authorized to receive into the service of the United States one regiment of Texas mounted volunteers, &c.

The amendment was agreed to.

The second amendment of the committee was in section one, line twenty-two, to strike out the word "forty," and insert "twenty-five;" so as to make the clause read:

Each of said officers below the rank of major—non-commissioned officers, musicians, farriers, and privates—shall furnish and keep himself supplied with a good service-

able horse and horse equipments, for the use and risk of which, in addition to the pay and allowances herein provided, he shall receive twenty five cents a day.

Mr. IVERSON. The Committee on Military Affairs of the Senate, in proposing that amendment, acted under a misapprehension of the facts; and I am instructed, by them, to correct it. As the bill came from the House of Representatives, forty cents a day were allowed for each horse for the Texas mounted volunteers. We were under the impression, at the time we reported the amendment to insert twenty-five cents, that that was the remuneration for the maintenance of the horse. It is not so. The rations allowed the horse are at the rate of eight dollars a month. The forty cents which are allowed in the House bill are intended for the hire of the horse, not for his maintenance or feed; and that has been usual heretofore where volunteers have furnished their own horses. They have been allowed forty cents. I ask the Senate, therefore, to disagree to this amendment.

Mr. HUNTER. Do I understand that by rejecting the amendment, we leave it where it has been, according to custom?

Mr. IVERSON. Yes, sir.

Mr. HUNTER. This is the usual compensation, not more?

Mr. IVERSON. Yes, sir.

The amendment was rejected.

The next amendment of the committee was, in section two, line eleven, after the word "have," insert "mustered," so that it will read:

But no field officer shall receive forage for a greater number of horses than he may, from time to time, actually have mustered in service.

Mr. PUGH. We had better insert the word "been" before that, because "muster" is used as a verb in the passive voice. It should be "have been mustered in service."

Mr. IVERSON. That is a grammatical criticism; and I disagree with the Senator from Ohio. If the section read, "but no field officer shall receive forage for a greater number of horses than he may from time to time actually have been mustered in service," it would refer to the field officer himself being mustered into the service; but when it reads, "no field officer shall receive forage for a greater number of horses than he may from time to time actually have mustered in service," it is proper.

Mr. PUGH. Does the Senator understand that horses are mustered into the service?

Mr. IVERSON. Yes, sir.

Mr. PUGH. I never understood so before. It is the man that is mustered, not the horse.

Mr. IVERSON. The man is mustered with his horse.

Mr. PUGH. I never before heard of the horse being mustered in.

Mr. IVERSON. I have no objection to disagreeing to the amendment, and leaving out the word "mustered," so that it shall read, "the number of horses that he may from time to time actually have in service."

The amendment was rejected.

The next amendment of the committee was to strike out the third section of the bill, which is in the following words:

"Sec. 3. And be it further enacted, That all the officers of said regiment of mounted men shall be appointed or selected in the manner prescribed by the laws of Texas."

Mr. PUGH. I should like to ask the Senator from Georgia why the committee have proposed to strike out that section?

Mr. IVERSON. Because the same thing is provided for in the fifth section, which refers to all the regiments. This third section provides for the Texas regiment, and the fifth section provides for them all.

The amendment was agreed to.

The next amendment of the committee was, in section four, line four, to strike out the words "northern and northwestern" before the word "frontiers," so that it will read:

That for the purpose of quelling disturbances in the Territory of Utah, for the protection of supply and emigrant trains, and the suppression of Indian hostilities on the frontiers, the President of the United States be, and he is here-

by, authorized to call for and accept the services of any number of volunteers, not to exceed in all four regiments of seven hundred and forty privates each.

The amendment was agreed to.

The next amendment of the committee was, in section four, lines sixteen and seventeen, to strike out the words "and except the appointment of officers," so that the clause will read:

Said volunteers, if called for and received as mounted men, shall be constituted in the same manner as is provided in the first section of this bill for the Texas regiment of mounted volunteers, and shall receive the same pay and allowances, shall be subject to the same rules and regulations, as are provided in this bill for said corps.

The amendment was agreed to.

The next amendment of the committee was, in section five, to strike out the word "said" before "volunteers," and after "volunteers" to insert the words "provided for by this act."

The amendment was agreed to.

The last amendment of the committee was, in section five, after the word "belong," to insert, "except the quartermasters, commissaries, surgeons, and assistant surgeons, who shall be detailed from their respective departments of the regular Army of the United States," so as to make the section read:

That the volunteers provided for by this act shall not be accepted in bodies of less than one regiment, whose officers shall be appointed in the manner prescribed by law in the several States or Territories to which said regiments shall respectively belong, except the quartermasters, commissaries, surgeons, and assistant surgeons, who shall be detailed from their respective departments of the regular Army of the United States.

The amendment was agreed to.

Mr. HUNTER. In section four, line seven, I move to strike out the word "four" and insert "two," so that it shall authorize the raising of two additional regiments besides the Texas regiment, making three in all, instead of five. I think the sense of the Senate was pretty distinctly manifested in regard to the number of troops to be raised, when the Senate bill was under discussion. It seemed to be the impression then that three regiments would be sufficient, and I think they will be. They are designed, as I understand, simply for the defense of the frontier against Indians. One in Texas, and two others, I think, should be sufficient for the defense of the frontier against Indians. I hope it will be the pleasure of the Senate to strike out "four" and insert "two." I am not for raising any more men than are necessary, and the Senate have indicated an opinion that three regiments are enough.

Mr. PUGH. I would suggest to the Senator from Virginia that we have already amended this bill so that no difficulty can occur. This bill, as it originally stood, and the bill we had up before, were compulsory on the President. This merely authorizes him to accept the services of volunteers. He may call for as many regiments as he requires. He is not absolutely directed to call for a single one. It is purely left at his discretion to call for the mounted regiment from Texas. I think it would be better, in reference to this campaign, of which we, as yet, know very little—we do not know how long the time will be, or how large a force will be necessary—to leave the whole matter to the executive department. It amounts to five regiments, about the number the War Department requested of us. I am disinclined myself to vote for more than three regiments; but I believe the President and Secretary of War will exercise their discretion wisely. If they find three regiments sufficient, they will not ask for any more. I think we had better leave the bill, in this respect, as it came from the House of Representatives, leaving the discretion to the President to call for what number he pleases.

Mr. HUNTER. I know the bill has been altered, so as to leave it at the discretion of the President to raise as many regiments as will be necessary. I do not believe he would desire to raise a man or expend a dollar more than he believes to be necessary; but if we pass the bill authorizing five regiments, there will be an immense pressure on him to call them into service. An-

other thing: I think we ought to go before the country with such a measure as we are willing to be responsible for. I am willing, under the circumstances, to vote for three regiments; not for five. I hope the Senate will adopt the amendment, especially when we come to consider the means as well as the appropriations. We shall have to raise the means for paying these additional regiments, and we ought to look to both sides. Three regiments, I believe, will be sufficient; but the matter has been fully discussed before, and it is not my purpose to weary the Senate with any further discussion.

Mr. JOHNSON, of Tennessee, called for the yeas and nays on the amendment; and they were ordered.

Mr. IVERSON. I do not wish to discuss any feature connected with this bill, for it has been so much discussed that every Senator is perfectly familiar with it. The committee are satisfied that there is no possible chance to get an accession of the regular Army at this session of Congress. The House of Representatives have indicated their opposition to that scheme in too decided a manner to leave room for the supposition that any proposition of that sort would meet the approbation of that House. The question, therefore, is simply presented to the Senate, whether we shall authorize volunteers, or no addition to the public service. I was myself decidedly opposed to the use of volunteers, and I am still. I do not think that they are efficient in service—not that I have any doubt about their natural courage and physical capacity, but I think that undisciplined and irregular troops, such as we must necessarily have in the volunteer service, must be inefficient. If you could take the uniformed volunteer companies, such as they have in this city, in Baltimore, in New York, Boston, and elsewhere, you would have troops almost equal to regulars, perhaps quite equal to regulars, and having more pride of character; and as much efficiency probably, in every respect, as regulars. They would be commanded by skillful officers. But what sort of volunteers are we going to have under the operation of this bill? What sort are we likely to get? Raw militia, and nothing but raw militia, and most of them probably men picked up in the grog-shops of the various cities, having nothing to do, no means of employment. Such, in my opinion, will be their character. Still, the Government desires the use of those troops. I am only giving an excuse for my own vote—not to have any influence with the Senate. I am not particularly favorable to the bill; but inasmuch as the President and Secretary of War have said that they desire to have the power to take these troops, if they can get nothing better, I am willing to yield my objections to the volunteer element, and vote for this bill. My own opinion is that the Government will want more troops than they have at present. That opinion I expressed on a former occasion in the Senate. I am not one of those who believe the Mormon war is to be treated lightly, and I think the Government, from what we can see, is well satisfied that it will be a formidable obstacle to overcome. They are, if I understand properly the movements of the Government, intending to throw into Utah five or six thousand troops. The volunteers, though I do not think they will be efficient in Utah, in a contest with the Mormons, may be used by the Government, as I apprehend they will be used, to guard the trains which pass backwards and forwards between the settled portions of the United States and the Territory of Utah. They may be successfully employed in that service.

The regiment of Texas rangers may, doubtless, be usefully employed on the Texas frontier, and they will be efficient troops for that service, probably quite as efficient as regulars, because that is an irregular, erratic service which volunteer troops are quite as capable of performing as regular troops; and the use of that regiment in Texas will enable the Government to withdraw one of the regular regiments now stationed on the frontier of Texas and add it to the Utah army. The use of two other regiments of volunteers may enable the Government, perhaps, to withdraw from other service two regiments of regulars and attach them to the Utah army; so that in fact the whole Utah army may be composed of regular troops. I presume it will consist of regular troops, the volun-

teers authorized by this bill being employed on the emigrant routes or in guarding trains passing between Kansas and Utah, and upon the Indian frontiers of the United States to protect the inhabitants from incursions of the Indians. In this way these volunteers, although inefficient, may be serviceable, and I apprehend that is the mode in which they will be employed by the Government, if at all.

In regard to this amendment of the Senator from Virginia, I will say that I am willing to take the two regiments, because I believe that no more than two regiments, in addition to the Texas regiment of rangers, will be necessary. I think the Government would not call more into the service, probably, if the four be authorized, but it is proper that we should restrict the expenditures of the Government as far as possible; and whenever the question comes up before me, as to whether we shall authorize four or two volunteer regiments, believing that two will be all that the Government will require under the circumstances, I am disposed to take the two instead of the four. If they are content with that number, I can see no reason why we should provide for a larger number.

Mr. PUGH. If the Government are willing to take two regiments, I am ready to give two, and am perfectly satisfied with that; but I do not intend to have the Government put on me, as one Senator, the responsibility of refusing them any suitable number of volunteers to defend the country. When the Committee on Military Affairs, first as a committee, and next speaking on behalf of the Administration, say they are satisfied with two regiments, I am satisfied perfectly, and I shall vote for the two on that assurance. But I wish to give notice that I do not intend to have it said to me hereafter, that I was not willing to give the Government sufficient troops to defend the frontiers.

The Senator from Georgia has repeated here, that he considers volunteer troops inefficient; that they will be people picked up in the streets and gutters. That is where you pick up the regular soldiers. You never pick up volunteers there.

Mr. IVERSON. But you drill the regulars.

Mr. PUGH. But how will you drill them for the Utah campaign? You want them now, or else you do not want them at all. The demand is for soldiers now. I grant that if you were going into a permanent increase of the Army, it would be a very good idea to have regular soldiers, because a regular soldier is considered a recruit for the first three years; he is not considered a full-fledged soldier until he has been three years drilled. But if you want a man for the present service, within this present year, to go out and fight the Indians, or the Mormons, I tell you the volunteer is worth ten regulars. It was well known in the Mexican war, that, although in point of service the old regiments of the regular Army, consisting of soldiers long in the service, were very valuable—and I do not underrate them—yet the rank and file of the new regiments did not compare with the rank and file of the volunteer regiments. I tell the President and Secretary of War, that if they want efficient troops for present service immediately, within the next six months, they had better take volunteers for their own credit. I know how the regulars are recruited. They are recruited in the city of Cincinnati: that is one of the recruiting stations. They get people that are fit for nothing else. They pick them out of the gutters, truly; and the consequence is, that of the rank and file of your regular Army a large majority are not even naturalized; they are men who can find no other employment; but yet, the Senator says that volunteers, our own citizens, who are anxious to go forth and defend the honor and the flag of the country, and who offer to do so, not from the inducement of your pay, are not going to be as available as regulars!

Now, sir, if this amendment of the Senator from Virginia, to which I have no objection, provided the Administration take the responsibility of it, be adopted, I shall move to strike out so much of the fifth section as stipulates that the President shall not receive less than one regiment from a State; for if there are to be but two regiments, I want every State to have a chance. Let the rule be, "first come, first served;" let companies be offered, and let the President, as far as he can, distribute them and give all the States a chance. There are many States who want to offer the

services of their citizens. I think it is a poor business for a young man to go into. I will tell him that; and I will tell him, from a little experience, that he had better stay at home; but still, if he wants to go, give him a fair chance. Distribute these companies to the various States. If we are going to have but three regiments—one for the State of Texas—I think it wrong that only two other States should have an opportunity to furnish men; but let us provide that the President shall not receive more than one company from a State, and then there will be no controversy; otherwise there will be a controversy. I do not know how many troops have been offered to the War Department; I know that I have been beset ever since I have been here by very good men, by companies which have long been in existence—many of them served in the Mexican war, and have been under organization ever since—to present their applications. They want to offer the President a whole regiment from my State, even two regiments; but I do not suppose he can take more than one tenth part of them. I hope, however, he will give my State a chance to offer him a company or two, at all events. If I should not make that point with him and the Senate, my constituents would not be satisfied. If we are to have but two regiments, I shall move that amendment, provided this be adopted; and I presume, after the suggestion of the Senator from Georgia, that nobody will make any objection to it. We may as well withdraw the call for the yeas and nays, and let the amendment be adopted. Then I shall move, in the fifth section, line three, to strike out the word "regiment," and insert "company."

Mr. CAMERON. I desire to say a few words in reply to the remarks of the honorable Senator from Georgia, in regard to volunteers. I think what he said with reference to our volunteers is entirely incorrect; and if he had known those volunteers, he would not have said what he did say. He represents that persons hanging about grog-shops, and unfit for service, are entered as volunteers. In reply to that, I will say that I had the honor myself to offer the services of a company from Pennsylvania the other day for the Utah war—a uniformed company—composed of the best young gentlemen of the county of Fayette, in which they reside. They are not the kind of men who usually enlist, but are thrifty, industrious young mechanics, and intelligent, well-educated, young lawyers and physicians. I will add that if there is any doubt about getting men to fill up the Army, the volunteers of the State of Pennsylvania will furnish the whole number. We will give you the two regiments, and I will venture to say they will be composed mainly of men who are fit to meet us anywhere—intelligent, well-bred men. I agree with the Senator from Ohio, that it is an unprofitable business, and generally does no benefit to the young man who becomes a volunteer soldier, but it is a matter of taste. It seems to be a part of our nature in this country to be soldiers. Our people desire to put on military uniforms; and when they have done so, they like to be in a fight. I shall be very sorry indeed if the honorable Senator believed that the men I have spoken of are not fit for volunteers.

Mr. IVERSON. I am very happy to hear the Senator from Pennsylvania state that his State has so many patriotic and efficient men ready to engage in the service of the country, and I trust the Government will take these regiments from Pennsylvania, if they have so many soldiers and gentlemen very willing to fight. I apprehend, however, that by the time they have traveled twelve hundred or fifteen hundred miles across the plains in the heat of the summer, they will get sick of it, and be glad to be back again. Still, that is a matter of no consequence now. I think volunteers are efficient enough when they are drilled, but they are not efficient when they are not drilled; and the annals of the country, from the revolutionary war to the present time, show it. But I rose, principally, to speak to the amendment which the Senator from Ohio has moved to the fifth section.

Mr. PUGH. I have not offered an amendment; but as soon as the motion of the Senator from Virginia is carried, I shall move the amendment which I indicated.

Mr. IVERSON. I shall reserve what I have to say upon it until it is offered.

Mr. POLK. I am very much like the Senator from Ohio. I do not want to vote more volunteers than the Administration wants; but I should like to be very well satisfied that it will only want three regiments instead of the five proposed by the bill as it stands.

Mr. HUNTER. They have standing authority, I believe, to call out the militia if they should need them. The Senate expressed its opinion before, after long debate, that three regiments would be sufficient; and the Military Committee proposed an increase of the regular Army to the amount of three regiments. I have no doubt they acted on proper information.

Mr. POLK. I wish information to guide my own vote. I know what the Senate did; and it was not done in accordance with my judgment. My judgment has not varied all the way through. I am now for the whole number called for in the bill, if the Administration wants authority to raise that many regiments; but if the Administration says that two regiments in addition to the Texas regiment are all it wants authority to raise, then I am willing to give no more.

Mr. IVERSON. I am not authorized to speak for the Administration on this question; I have had no conference with the President and Secretary of War as to the number of regiments required. The President and Secretary both told me, in casual conversation, that they were content to take the bill as it came from the House, and that they desired the passage of that bill. I understand, from the Senator from Virginia, that they are content to take three regiments instead of five; and can get along with that number. The Administration will be satisfied if Congress give them the three. As they are satisfied with that number, I am not disposed to go beyond that. I only speak on my own personal responsibility, however, not as the organ of the committee.

Mr. HOUSTON. I do not know that it is necessary to say much on this subject, and I am not disposed to occupy any time unnecessarily. If I understood the honorable Senator from Georgia, he said that, if volunteer companies could be procured, such as are enrolled in the towns and cities, they would be qualified, perhaps, as well as regulars, to discharge this duty. Now, sir, just look to the probability of volunteers of any description being immediately prepared for service. Those volunteers are not in the habit of mustering more than fifty-two times in a year; so that a daily habit of mustering for twenty-six days in succession would qualify them as well as the fifty-two days in the course of the year that they have been drilled; and men of any degree of aptitude, in the course of twenty-five or thirty days, will not only understand the manual and the step, but they will understand the evolutions of companies and regiments remarkably well, and so as to render them perfectly efficient.

The honorable Senator from Georgia further said, they would do very well to guard trains, and such like matters, but they would not do for war. Why, sir, that is a very strange notion. I believe that in all our wars, from the Revolution down to this day, the grandest achievements have been made by the militia or by volunteers. The army of the United States in the Revolution was nothing more than an army of volunteers.

The regulars are mustered for a certain period; but if they have careful and intelligent officers to drill them, they are as well prepared for all the duties of a soldier in six months, as they are at the expiration of their five years' service, except as regards economy in the details of living and camp police. The Senator from Georgia says that these volunteers will do to guard the trains. I take it that will be one of the most important matters connected with the Mormon war. The trains will be in great danger, for if the Mormons have any sagacity, their first effort will be to cut off the supplies of the Army, to deprive them of transportation, and thus render them inefficient. If they succeed in this, the Army will be at once at their mercy. It will require the greatest degree of vigilance, adroitness, and capacity to protect the trains. You can as well go into action with volunteers, after they have been drilled for thirty days, as you can with the regiments of the regular Army now in Utah, or that will be there. Employ these two regiments as you please, and I guaranty, from the composition that they will be formed of, that they will be the most efficient

troops in the field whether you bring them in contact with an enemy, or whether you employ them in other service. They will excel in the celerity of their movements, the activity of their discipline, their indomitable valor; and in the shock of battle they will sustain themselves as well as any men can do.

But, sir, I cannot believe that there will be a necessity for more than two regiments besides the one which you propose to provide for Texas. Give to Texas one regiment of rangers, well supplied, and well armed, and Texas can dispense with every regular soldier within her limits, or, at any rate, she would not require more than fifty men at each post which the Government has established there. You will, then, have two thousand men to dispose of, and you can add them to the army in Utah. The Government will then have an Army of fifteen thousand regulars, officers and men, who can all be directed to one point if necessary, except the few who will be required to occupy the fortifications. I am satisfied that, in addition to this number, two regiments of volunteers will be sufficient for the occasion. I do not mean to offer any speculations as to what the Government ought to do, or to suggest any course in regard to the conduct of the campaign. I have no doubt of the competency of the Administration and its constitutional advisers to suggest and pursue a proper course. I apprehend that there will be difficulty in Utah, and I should be very glad to see provision made for defending the train by this light corps of volunteers. I think it will conduce to the success of the campaign; for if they are not efficient and successful in giving security to the trains, it will be a most disastrous campaign. None can do it if they cannot.

Let not the Senator from Georgia say that these volunteers will be inefficient and worthless men brought from cities. Sir, those are not the men who can equip themselves and go into this service; they are not the men who will be received; but they are the very men who would compose a regular army. I am in favor of two regiments of volunteers. I have no doubt they will give to the projected war all the efficiency that can be given by an equal number of men, whether veterans, regulars, or any new levies that you can make of any description of troops.

Mr. DOUGLAS. I desire to inquire of the Senator from Georgia, the acting chairman of the Committee on Military Affairs, whether two regiments in addition to the Texas regiment are all that the Administration deem necessary for the service?

Mr. IVERSON. I have just remarked that I cannot speak the sentiments of the Administration on the subject. I have had no conversation with them about it. I explained a little while ago—the Senator probably did not hear me—[Mr. DOUGLAS. I did not.]—that in a conversation with the Secretary of War he indicated to me a desire that the bill of the House of Representatives should pass. We only spoke then of the general terms of the bill authorizing volunteers. We did not speak specifically of the number of regiments. I understand since, however, that the Senator from Virginia has had some conversation with the President, or some member of the Administration, and that they are content with two regiments.

Mr. DOUGLAS. Is the Senator from Virginia authorized to give us an assurance that two will be satisfactory?

Mr. HUNTER. I am not authorized to give any assurance. I move the amendment on my own responsibility.

Mr. IVERSON. Perhaps I went too far in quoting the Senator from Virginia. I did not suppose it a matter of any consequence, and therefore I felt authorized in stating what I did.

Mr. DOUGLAS. I desire to give whatever force is necessary. The object of my inquiry was simply to ascertain that fact.

The question being taken on Mr. HUNTER's amendment by yeas and nays, resulted—yeas 28, nays 14; as follows:

YEAS—Messrs. Benjamin, Biggs, Bigler, Broderick, Brown, Cameron, Chandler, Clark, Clay, Doolittle, Durkee, Fessenden, Fitzpatrick, Foster, Hale, Hamlin, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, King, Mason, Pearce, Seward, Slidell, Trumbull, and Wade—28.

NAYS—Messrs. Allen, Crittenden, Douglas, Evans,

Fitch, Green, Jones, Polk, Pugh, Sebastian, Stuart, Thompson of New Jersey, Wright, and Yulee—14.

So the amendment was agreed to.

Mr. PUGH. I now move my amendment in section five, line three, to strike out the word "regiment" and insert "company."

Mr. DOOLITTLE. I should like to inquire what the effect of that will be on the field officers? By whom will the field officers of the regiments be appointed then?

The PRESIDING OFFICER, (Mr. STUART.) The section will be read as amended. The Clerk will read the section as proposed to be amended.

The Clerk read as follows:

"The volunteers provided for by this act shall not be accepted in bodies of less than one company, whose officers shall be appointed in the manner prescribed by law in the several States or Territories to which said regiments shall respectively belong."

Mr. IVERSON. I trust that amendment will not be adopted. The effect of it will be to interfere entirely with that provision in the fifth section which provides for the selection of field officers. The provision is that the field officers shall be appointed according to the laws of the States from which the regiments come. The various States have different modes of electing field officers. In some States they are appointed by the Governors; in others they are elected by the regiments themselves. If this amendment of the Senator from Ohio be adopted, suppose you have a regiment of ten companies, and each one comes from a different State, by what law are you to select the field officers? One company comes from a State where the law prescribes a particular mode of electing field officers, and another company comes from a State where a different mode is prescribed, and so on. You will introduce confusion; and you cannot have any mode by which you can elect field officers if you accept the volunteers in companies. The most convenient plan is to take them in regiments. Let a regiment come from a State, that State has laws by which field officers are elected; and then no difficulty can ensue, but the officers will be elected according to the laws of that State.

If you take this amendment, there may not be any law applicable to the election of the field officers of the regiments, and it will devolve on the President to appoint them. The volunteers do not want officers appointed by the President; they desire to have the election of their own officers, or to have them selected by the Governor of their State—men who come from amongst themselves; who feel with them; who associate with them; who understand their feelings and wishes. It is better that they should select their own field officers, men in whom they have confidence, than that they should have officers appointed over them by a stranger. Here comes one company from Georgia, another from South Carolina, another from New York, and another from Pennsylvania. They are put together in a regiment—thrown together by the Secretary of War into a regiment—all strangers to each other, and knowing nothing about the officers who are to command the companies. They know nothing of the candidates who will present themselves for field officers, and great confusion must necessarily ensue. But if a whole regiment is taken from a State, and they elect their own field officers, they will act understandingly when they come to elect their officers; and I think that is much the best provision.

Mr. PUGH. One of these regiments, it will be observed, is to be confined to the State of Texas, and therefore, as to that, no difficulty will occur. All officers there, field officers and company officers, must be elected according to the law of the State of Texas. The section confines the mounted company to the State of Texas. Then the only question occurs as to the two other regiments. Mark my prediction: if you take two other regiments of volunteers into the service, you will never have the whole of a regiment at any one place at one time; and you do not need any field officers for them; they are wholly immaterial and useless. The volunteers will be used in battalions of two, three, or four companies; and the senior captain will command. If you were going into a war like the Mexican war, where you required from ten to twenty, or thirty thousand troops in the field, you would use whole regiments at once; but when you ask that there shall be simply two regiments to be used for this service, neither of

the regiments will ever be used as an entirety. If you use them to garrison posts, they will be in detachments of two or three companies each. If you use them on the march, they will be in battalions of two companies, three companies, or five companies—you cannot tell; and if you take them to the field, it is perfectly immaterial whether they have a field officer there, because they will be commanded by a general or by a colonel of the regular Army. The fact is, if you are only going to call for two regiments of volunteers, you do not want a single field officer for them; and you might just as well save that expense. You will have better troops, because you will have a wider field to select from; you will open the rivalry to all the States. Let them all offer a company, or two companies apiece, as the case may be.

As I said before, if you were going to make a large call for ten thousand volunteer troops, it would be material to consider field officers. As it is at present, I do not think there is any use for field officers for these two regiments. You might as well save their pay and expense. Therefore, my proposition is that as to these two additional regiments, besides the Texas regiment, you call for them in companies, and you will have twenty companies. That is all there is of it. You can use them in companies, and they will be so used; especially, if, as the Senator says, they are to guard trains, take my word for it, they will be divided into battalions of two or three companies each.

Mr. JOHNSON, of Arkansas. We now see the effect of the amendment which was offered by the Senator from Virginia, and adopted by the Senate. That amendment was to restrict the additional force to two regiments, thus striking off two regiments from those provided for by the bill of the House of Representatives. Immediately upon the adoption of that, the Senator from Ohio offers a proposition which disjoins the entire bill. It may amuse the Senator. I do not know, nor do I care.

Mr. PUGH. I am amused at the Senator's idea that I have disjoined the bill. I mean nothing disrespectful to him.

Mr. JOHNSON, of Arkansas. Does not this proposition disjoin the bill? If this amendment be adopted, I should like to know how field officers are to be provided for these regiments? It cannot be done if you stick to the volunteer system upon which this bill is based. The Senator is the great advocate of the volunteer system, and yet he proposes an amendment under which, of necessity, the field officers must be appointed by the President, thus abandoning the volunteer system, in part. Therein lies the secret at the bottom of all this trouble. It is that those who represent each State want a part of this pitiful public patronage, that is to result from calling the volunteers from their own section. That this may be done, it is now proposed to prevent the Government from receiving volunteers in regiments, and restrict them to companies. Then the President may be required by gentlemen in this body, and the other House, to receive a company from this State, and a company from that. When you so receive them, where are you to rendezvous them? At what point are you to concentrate them? When these companies all get together, how are they to elect their officers? They cannot do it. It is palpable that you must change the whole character of the bill, if this amendment be adopted, or else, what is worse, defeat the Army bill.

The Senator from Ohio, who, I believe, did more than any other man, certainly as much as any one to defeat the Army bill when it was here before, now proposes to destroy it in this way. When he produces that state of things and gives the Executive the patronage of appointing these officers, which he must do, for he has no regular laws under which he can appoint them, the bill must be sent back to the House of Representatives, even if you pass it here, and be rejected there, so that the Government will not be supported in carrying on this war in any way whatever. Thus the bill will fall between the two Houses, and the responsibility must then rest with Congress of refusing to sustain the Executive in carrying on a public war, which is now existing; for if it be not a declared war we know the fact to be that hostilities are existing. Then the executive department will be shielded from the responsibility of what they may do in regard to

this matter, and throw it upon Congress. They will be able to throw on Congress the responsibility of having refused to extend to them that reasonable support which has been constantly called for, and which the facts and documents laid before us show to be necessary.

I hope the Senator from Ohio will not insist upon his amendment. If he does, and it be adopted, I think the best thing the Senate can do, will be to recommit the bill to the Committee on Military Affairs, and have it so framed that it shall present some kind of unity. If this amendment be adopted the bill will be very defective, and it will contain a provision that will prevent its passage in the House of Representatives. I believe we did wrong in adopting the amendment of the Senator from Virginia, reducing the number of regiments. I consented to it, but I had no idea at the time that it was to be followed by a motion like this, providing for receiving single companies, and in effect abandoning the volunteer system, or at least that portion of the system which took away Executive patronage, to which I have no objection. If the Senator insists on this amendment, I shall move to reconsider the vote adopting the amendment of the Senator from Virginia, so that the Executive may have it in his power to call for four regiments, and take them from whatever quarter he pleases. I am willing to leave that matter in the discretion of the Executive. The bill does not require him to call out those regiments, and I would leave with him the responsibility of determining how many to call out. I think, therefore, it would be better to leave him authority to call out four regiments, as the bill of the House of Representatives provides. I believe so sincerely; and if the Democratic party, through its representative at the head of the Government chooses to call for but two, he will only call for two. If we adopt the bill of the House of Representatives without any material amendment, it can become a law very soon. I regard the amendment reducing the number of regiments as material. The States will fight over these two, and in order to get their portion they will divide them up into companies, and when you have done that, you have abandoned the volunteer system, and when you have abandoned it, you lose all the support the bill is to receive.

I am sorry that things have advanced to this stage. And if the Senator from Ohio insists upon his amendment, and it appears likely to prevail, I shall ask the Senate now to reconsider the vote by which the amendment of the Senator from Virginia was adopted.

Mr. HUNTER. Let us take the vote on this amendment. It will not pass.

Mr. JOHNSON, of Arkansas. But if we should take the vote, and the amendment should be adopted, what will be the consequence? The regiments will be accepted in companies, piecemeal, in every direction throughout the United States. Is not that so?

Mr. HUNTER. As I understand it, whether we vote this amendment down or not, a motion can still be made to reconsider the vote by which my amendment was adopted.

Mr. JOHNSON, of Arkansas. I can move to reconsider the vote adopting the amendment of the Senator from Virginia; but who will move to reconsider the amendment of the Senator from Ohio if that should be adopted? Does he not desire that a regiment shall be called for from Ohio?

Mr. PUGH. I do not care whether it be so or not.

Mr. JOHNSON, of Arkansas. Can the Senator say as much for every member of the House of Representatives from his own State?

Mr. PUGH. I have never conversed with one of them on that subject.

Mr. JOHNSON, of Arkansas. The secret of a great deal of this contest in regard to the Army bill is to be found in the patronage connected with it. Surely the public business here ought not to be carried on with reference to such considerations. Every one of us scorns such a principle, when we examine it calmly. It is not right. That spirit is destroying the public service in more branches of it than this one. I believe it ought to meet with the condemnation of every man, wherever it does exist. That it does exist, no one can doubt. I do not say that any feeling of that kind is to be attributed to any Senator

here; but such a spirit does exist in some instances. I fear very much that if we restrict the bill to two regiments, it will stand in danger when it goes back to the House of Representatives; and certainly if, besides restricting the number of regiments, we adopt the amendment of the Senator from Ohio, and thus destroy the volunteer system in regard to the appointments of the higher officers, I am satisfied it will never pass the House of Representatives; and I doubt whether the bill, if amended in that way, could be passed in this House. I do not know that I could agree to vote for it in that shape, because it would be a mass of confusion. That amendment will leave the bill perfectly confused, unless we go on and perfect it; and to perfect it will require time to coolly deliberate upon and consider well each provision of the bill, so as to assimilate them together.

Mr. CRITTENDEN. Mr. President, I have felt some regret that, at a time of great public necessity like the present, it should have been required of us to increase the expenses of the Government by an additional military force; but our circumstances are not yet so desperate that we are not able to employ and sustain whatever force the service of this Government and the people of the United States may require. I have therefore been willing to vote for such an increase of the Army as the President of the United States has recommended. No matter who administer this Government, whether gentlemen hold them in favor or not, some degree of confidence must be conceded to every Administration to enable it, practically and efficiently, to carry on this Government. Here, the source from which we had a right to expect information, the authorities which manage this branch of the public service, the Army, all unite in saying to us that an increase of the Army is necessary. Well, sir, I act upon that necessary confidence. I act upon the idea that I am required to give a certain amount of constitutional confidence to every branch of the Government. I give it in this respect; and I am willing to vote for the additional regiments.

But, Mr. President, as to this particular case now, it seems to me that the emergency requires prompt action. We must act now, or we need not act at all. We have come to the last moment. You cannot bring any additional force that you may think necessary into action and make it useful, unless you provide for it instantaneously. Not a day should be lost. Under this sense of duty to the country, I would have been prepared to take this bill as it comes from the House of Representatives, with all its imperfections, and pass it in an hour. I did vote against the change from five to three regiments; not because three regiments possibly might not be all that was necessary, but the bill stood for five, and the President might call the whole, or a less number of regiments, as he pleased. I would rather have left it there than made so material an amendment to the bill; which, if it is to be useful, ought to pass at once.

The lapse of another fortnight, or another ten days, is fatal to the object of the bill; and yet we are remodeling it. I voted against that, preferring dispatch even to amendments that might be useful. So I am opposed to the amendment of my friend from Ohio; and I hope that he will find, in the emergency of the case, whatever merit there may be in his amendment, a sufficient reason for withdrawing it. It may make the bill better; it may be a good amendment; but it is an amendment that will occupy time. It is an amendment which will change the frame of this bill very essentially. It is a measure of procrastination. It will have that effect, though not so intended. If the amendment could be now adopted and become a law within an hour, it is not suited to this case. The President wants this force; and the public service requires this force, if at all, now. It is not a day too soon. The troops cannot get to the scene of action in time, unless you pass this bill instantly.

Under these circumstances, what is the effect of this amendment? I agree entirely with my friend from Arkansas on this question. Is the President to range in his selection of volunteers all over this great Union? take a company here and a company there? As he well says, the difficulty of collecting them, the difficulty of organizing them, the difficulty of putting strangers at their head, the inefficiency that would result from putting one company from Pennsylvania, one from Massachusetts, one from Ohio, one from Ken-

tucky, and so on throughout the Union, together, must create trouble in the organization. Two regiments will march into the field free of jealousies arising from a recent election in which there have been many complaints. It is not a system suited to the present occasion, nor good in itself. We must take them as the bill provides, by regiments that are ready to march at the word of command; and as to the mode of their election at home, or the mode of their organization at home, it seems to me we shall act wisest the less we have to do with that. For instance: in Kentucky we have a regiment all ready, with all the officers and all the men. It could march to-morrow, if you gave the order. Will they submit to be disorganized, and have a company picked out here, and a company there, and marched off? Will it do to say to the States, "we will allow you to elect, or to appoint, as high as a captain, but when you come to the higher ranks of the Army you are not to be trusted. Your citizens are to be divested of all those higher officers; your State is to be divested of the power of conferring them; you cannot go higher than a captain; all higher officers must be selected by the General Government?" No, sir, you will get very few troops in that way. They will go slowly to the field under such circumstances. If you want only two regiments you can get them to the scene of action soon. If, however, the President is sent abroad to pick up a company here and there throughout this wide domain and organize them, and have the officers selected, we shall not get them there before midsummer.

I hope this amendment will not be adopted. How the regiment in Kentucky may have been organized I do not know—I do not want to prescribe here; but it is enough that they are organized under the authority of the State, and commissioned by the Governor of the State; and you have no occasion to look any further to see how or by what process they attained their organization. I do not know myself how the regiment in Kentucky is organized. The Legislature passed a resolution on the subject, directing a regiment to be raised. They have raised it. It is now ready to march into service at four and twenty hours' notice. Is it to be changed to suit the militia mode or the volunteer mode in this, that, or another State? or had we not better leave each State to manage these matters as she pleases? The Administration ask you for volunteers in regiments, and the States are ready to give regiments. That is all you ought to require. I trust, therefore, that, on reconsideration, my friend from Ohio will withdraw this amendment. If it is adopted, like the gentleman from Arkansas, I should be disposed to go against the bill. I should take no further part or interest in it.

Mr. PUGH. My honored friend, the Senator from Kentucky, misunderstands the principle of my amendment. I have no idea of having the field officers appointed by the President of the United States to command these regiments. I propose to dispense with the field officers. There is no necessity for them, if you have but two regiments.

Mr. CRITTENDEN. I understand my friend so, but they must necessarily go under the command of the Federal officers who are already appointed.

Mr. PUGH. I said that in battle they would be commanded by a regular officer anyhow—the whole command would be.

Mr. CRITTENDEN. At all times they must be. The gentleman does not suppose that twenty companies will be serving under the command of twenty captains always. They must go into regiments. They will be organized into regiments and battalions, and officers of the regular Army will be placed over them. That is a matter of necessity, and therefore I say that is the gentleman's amendment.

Mr. PUGH. I do not expect the twenty companies ever to serve together, and I am certain they never will serve together, nor ten of them, nor six of them. If you call for twenty companies of volunteers by this bill, I never expect to see any six of the companies serving together. I said that in battle they would be under the command of a general officer—of a colonel commanding with the command of a general officer. If they are put on their march as the Senator from Georgia suggests, they will be commanded by a colonel or lieutenant

colonel of the regular Army—the whole command will be; and on the march the whole army is split up into small divisions, generally of two or three companies each. Therefore my amendment will not affect that at all.

But I intended to reply to some very severe animadversions of the Senator from Arkansas which I thought were entirely unjustifiable. I am not guilty of any of the accusations the Senator has made.

Mr. JOHNSON, of Arkansas. The Senator will allow me to interrupt him. I do not intend to be in the wrong, if I know myself, in any case where I can help it. It has been suggested to me that I made some remarks which may have been severe. They were certainly not meant to be so towards the Senator personally. That is very certain; but if any such thing was done, it was against my will.

Mr. PUGH. I did not misunderstand the Senator in that regard. I think he forgot the course of the discussion on this very measure; and he seemed to misunderstand my object and my votes. I am willing to take this bill as it came from the House of Representatives. I agree with the Senator from Kentucky in that respect. I wanted to take the bill as it came from the House, and pass it and be done with it; but the Committee on Military Affairs took it in hand—not I, but the committee, to which the Senator from Arkansas belongs, the committee to which the Senator from Georgia belongs—they put amendments into this bill which require it to go back to the House of Representatives. Therefore my amendment does not delay it a moment. It must go back to the House of Representatives; and if it goes back, I say perfect the bill; that is all. It must go back, not merely on verbal amendments, but on the vital amendment offered by the Senator from Virginia. It was when he offered his amendment that I gave notice to the Senate, that if his amendment carried, I would offer this other amendment, not otherwise. If the amendment of the Senator from Virginia is reconsidered and thrown out, as I think it ought to be, and all those immaterial amendments, for they are immaterial, offered by the Committee on Military Affairs are reconsidered and thrown out, I will vote for the bill just as it came from the House of Representatives; and, as my friend from Kentucky says, it can be a law in an hour. I say, then, I am not responsible for any procrastination. I did not begin it; but I say, after these amendments have been put on the bill, as an act of justice the amendment which I propose ought to be adopted.

Now, sir, is it true that I defeated the former Army bill? The Committee on Military Affairs reported to us two sections, first, increasing the number of companies, and second, increasing the rank and file. I offered to vote for the section increasing the rank and file of the regular Army, but I was not in favor of the additional companies, and I stated the reason at the time. The committee would not agree to that. They insisted on the two companies, not upon the increase of the rank and file, and when they had carried the two companies, they withdrew the section for the increase of the rank and file. I could not go for that bill under the circumstances. I stated my reasons. I was willing to vote for a bill simply increasing the rank and file of the Army; but the committee never would give us a chance to vote for that. Then what was the rest of my sin? That I offered an amendment for five regiments of volunteers—that is this bill. Who defeated it? Not I. I voted for it. I believe my friend from Arkansas helped to defeat it.

Mr. JOHNSON, of Arkansas. Let me ask the Senator if he did not vote to convert the bill into a volunteer bill—to make the force volunteers instead of regulars?

Mr. PUGH. Yes, sir.

Mr. JOHNSON, of Arkansas. That killed the bill. Your friends who went for putting it in that shape, when they had got it in that shape, refused to vote for it, and threw off those of us who supported the original bill.

Mr. PUGH. The amendment providing for volunteers was carried, and the question came up on ordering the bill, as thus amended, to be read a third time. I voted for ordering it to be read a third time, and voted for its passage. My friend from Arkansas voted against it. Those who wanted an increase of the regular Army joined

with those who wanted no Army at all; they defeated the bill, and the responsibility is upon them. I take none of it. I say the responsibility is upon those who insisted upon increasing the regular Army. If they had voted for the bill which was adopted, as an amendment, by the majority of the Senate, on my motion, it would have been through Congress, and the President would have had force enough, before this time. He offers to take it now. It could as well have been passed then as now. I do not say this to criminate the Senator from Arkansas, but to show him that his accusation against me is not well founded.

I say again, I am willing to vote for this bill as it came from the House of Representatives, with all its imperfections, if there be any; but if the amendment of the Senator from Virginia is to stand, it is a simple act of justice that my amendment shall be adopted. My friend from Kentucky says that Kentucky has a regiment ready and officered. I believe half a dozen other States have offered an entire regiment each, all officered and ready, and you will have a controversy. Why not, as you did in the Mexican war, divide out the whole service amongst the various applicants? It was so in Kentucky then, and in my State, and in Indiana, and in Illinois, and I suppose in nearly every other State, certainly in all the western States; there were three times as many troops offered to the Government as the Government could accept, and the Government then apportioned them fairly to the several States.

Now, my friend from Arkansas thinks the reason why I insist on this amendment is that I want the President to take a regiment from the State of Ohio. I do not care whether he takes it or not. He can have it. He can have two regiments. He can have five regiments. He can have ten regiments, if he wants them. He has never called for soldiers from my State that he did not get them, and have more offered than he could accept. If they wait for me to go to the President or Secretary of War, and ask or implore them to employ any of my constituents, either in the civil or military service of the United States, they will wait till doomsday. I never solicited any of these appointments from any President, and I do not expect to do so. Nor do I know, so far as I am concerned, that a single Representative from Ohio has ever been to him on the subject. If he has, it was not with my knowledge. The only member from my State of whose course I know anything on this subject, is one who is a member of the Committee on Military Affairs of the other House, and he voted for the increase of the regular Army, and made a speech for it—my own immediate Representative in the other House, as well as my personal friend; so that it is not true, though the Senator may think so, that in any course which I have seen fit to take on this bill, I have been influenced by any desire that the President should take any citizen of Ohio into the service.

Mr. JOHNSON, of Arkansas. I exculpate the Senator from that entirely, on his statement, so far as I am concerned.

Mr. PUGH. I am happy to be exculpated. Now, is it true that it injures the volunteer system to accept them by companies? They were accepted by companies, in many instances, in the Mexican war. The State of Florida had only two companies. She had no regiment. The State of New Jersey had less than a regiment. The six New England States together, my friend from Illinois [Mr. DOUGLAS] suggests to me, made one regiment. A battalion was called for from New Jersey, less than a regiment, I think, five or six companies, and two companies from Florida. They were as good troops as any. I served for a while with the troops from the State of Florida. I never knew that they were in any wise injured by being only two companies. They were very good companies—very good officers, and excellent men. They were none the less thought of because they had no field officers.

Mr. YULEE. They had a field officer.

Mr. PUGH. Not those with whom I served. There were two companies from Florida—no regiment at all. I know they were stationed in the city of Puebla. Perhaps at a subsequent call of volunteers there was a field officer from that State. I presume there were two calls on that State, as on most others.

Mr. YULEE. There was a major from Florida.

Mr. PUGH. I think there was no major at that station. At least I have no recollection of any such officer. Now, I say, if you raise only two regiments of volunteers for this service, you will never employ them as entire regiments, and you might just as well avoid the controversy. If Kentucky has offered her ten companies, I see no reason why the President should not take five of them, or three of them, and take three from Missouri—I presume Missouri is forward, as usual, offering her troops—and two or three from Arkansas; for I have no doubt Arkansas is as anxious to send her troops forward as any other State. My friend may not think that is the case because they want any particular employment from the Government, for not one of them will ever be paid for the trouble of going, or anything like it. They lose money in every sense. I do not know what it is that possesses these people who want to go, unless it be, as the Senator from Pennsylvania said, that there is a natural unsophisticated love of fight in the American citizen. He will go, and wants to go; not because he wants to be paid for it, for he will never get any pay comparable to his services.

As far as delay is concerned, I will say to the Senator from Arkansas, that if he will have the amendment of the Senator from Virginia reconsidered, I shall withdraw my motion with great pleasure. If we can defeat that amendment, and throw off those other amendments, we can have the House bill passed; but if we are to have the bill amended and sent back to the House, we might as well perfect it. You will have jealousy and trouble and controversy growing out of the fact that, of two regiments you take them all from two States; and there will be just as much controversy if the President were to take one of them from my State as from the State of Kentucky. You had better avoid the controversy. I do not care anything more about it than that. It is perfectly immaterial to me what disposition the Senate make of it.

Mr. JOHNSON, of Arkansas. I took notes of the remarks of the Senator from Ohio; but I know very well that if we go into this matter it will be endless, and I believe I shall not distinguish myself by rendering any subject that I take hold of one of that character. I shall therefore, although the Senator could easily be answered in regard to the points objectionable to myself, make no reply to his remarks, further than to say as to the merits of the bill, which I desire sincerely to see passed to-day, that if the Senator's amendment be adopted, it does disjoint the bill and abandon the volunteer system; it does throw us upon the conflicting laws of the different States. That result is inevitable, or we are to have the volunteer troops of the different States carried into the field, and commanded by regular officers who have no sympathy with them, and will meet with resistance at almost every step from each company, private, and company officer. I believe it will be lamentable to bring them into the service in that shape. I think the amendment of the Senator from Ohio, however good his intentions in regard to it are, is not founded in wisdom, and is destructive of the bill.

As the opinion of the Senate has been given in favor of the amendment of the Senator from Virginia, by a decided majority, I shall not move to reconsider it unless the amendment of the Senator from Ohio be adopted. If that prevails, I shall move to reconsider the vote adopting the amendment of the Senator from Virginia, hoping that those who insert the amendment of the Senator from Ohio into the bill, will, themselves, afterwards move to reconsider it, and relieve us from that which must destroy the principle on which the bill was originally framed in the House of Representatives.

Mr. PUGH. Why not move now to reconsider the vote adopting the amendment of the Senator from Virginia? Do that, and I shall withdraw my amendment.

Mr. JOHNSON, of Arkansas. I do not make the motion because I do not believe, from the expressions which I have heard from Senators around me, that the amendment of the Senator from Ohio has the least chance of being adopted. I do not wish to ask the Senate to reconsider an amendment which they have already adopted restricting us to two regiments, in the face of their last vote without anything to present to them to

show the necessity for such action. I will await the action of the Senate before moving that reconsideration, and I shall not move it unless the Senator's amendment be adopted.

I pass by the remarks of the Senator, declining to take up those points which are matters of consideration between him and myself, and not matters that really affect the merits of the bill before us, because it is unnecessary to go into that line of discussion, and it is easy to make it of an unpleasant character; and I do not wish to contribute to make it that. I hope we shall succeed in obtaining a vote upon the passage of the bill in some shape to-day, and certainly when it is passed, it should be a measure having unity within itself, and a power of organization which it will not have if the amendment of the Senator from Ohio be adopted.

Mr. HUNTER. It was obvious that this bill must of necessity go back to the House of Representatives; for as it came here, even in regard to the mounted regiment for Texas, it did not leave it to the discretion of the President to raise that regiment, but required him to raise it whether he should think it necessary or not. I presume that on consideration there are few persons here who would desire such a regiment to be raised if the President should not think it necessary. I thought that as the bill had to go back to the House of Representatives, it would be better to send it back in the shape in which we could best present ourselves to the country in support of it. I do not see, however, why reducing the number of regiments from five to three, should create any necessity for the amendment of the Senator from Ohio, if it did not exist before. If you raise five regiments, you cannot assign one to each State that will probably apply; nor do I think that that is a legitimate consideration in regard to such a bill as this, to distribute the patronage to result from raising the regiments amongst the different States. The President ought to select them where he can get the best troops, where it will be best for the public service, and there is no more necessity for distributing them in companies amongst the different States when you raise two regiments, than when you raise four or five. I hope, therefore, that the amendment of the Senator from Ohio will not be adopted. There is force in the objection which the Senator from Arkansas has urged, it would destroy the principle of the bill, and might create obstacles in the House of Representatives. As it now stands, its rejection will not delay the bill a minute. I presume it is considered necessary by almost every one here to strike out that provision requiring the President to raise the regiments whether he considers it necessary or not; and therefore we must amend the bill in that respect. Nor do I believe that, in point of fact, my amendment will delay it much. If the House of Representatives insist upon the five regiments, I imagine that the bill will pass in that shape without controversy. I think, therefore, no delay can be produced by adhering to the amendment which the Senate has adopted on my motion, and I hope they will adhere to it. I believe that if a volunteer force of three regiments be enough—and I think they will be found to be sufficient—they will be used probably on the frontiers to defend the country against the Indians. Under that belief, I hope the Senate will adhere to the amendment already adopted, and vote down that proposed by the Senator from Ohio.

Mr. HOUSTON. I have a very few words to say on this subject, and I shall endeavor to confine myself to the suggestions contained in the amendment of the Senator from Ohio. Great as is my respect for the intelligence and experience of that gentleman, I cannot concur with him in opinion in this matter. If two regiments are to be raised, besides the regiment of Texas rangers, you cannot apportion a company to each State in the Union, for there would be but twenty companies for thirty-one States. All cannot be gratified. As to the distribution of patronage, I look upon it as a trifling consideration on an occasion of this kind.

But, sir, if you desire to secure efficiency and expedition, I think the volunteers should be raised in regiments, and not in companies. If you take them in single companies from different States it will require some length of time to organize them, and to get them prepared to march to the front.

If, however, regiments are detailed from States, such as the Executive may think most proper, they can be forthwith at the point designated, and get into service without any delay whatever; they will, in the progress of the march, have assimilated themselves to each other; the men will have become acquainted with their officers; they will have officers of their own selection in whom they have confidence; and they will be prepared immediately for prompt and efficient action. If, however, you select single companies from different States, discord will arise; they will be designated as company A, from such a place, and company B, from such another place, and they will not act harmoniously. Take a whole regiment from one State, and all its companies will feel as members of a family; they will be homogeneous in their character; there will be no dissimilarity in their feelings or their objects.

It is for this reason that I desire to see the regiments taken each from a State, with the power to select their own officers. If, as the Senator from Ohio supposes, they will be detailed in small divisions for various purposes, it is most important that they should have officers of their own selection; that the field officers should not be strangers to them, but should be acquainted with the capacity and disposition of the various subordinate officers in their regiments, that they may make suitable details for special purposes, and thereby accomplish more efficient service than they could do without this knowledge. I am decidedly of opinion that it is best to select regiments from States. I do not say this because I expect any to be taken from the State in which I reside, nor would I care to have any taken from there; but I am satisfied that this matter ought to be left discretionary with the President to accept the services of volunteers in regiments, so as to give the greatest facility to the action that is expected to be taken under the provisions of this bill. I shall vote against the amendment of the Senator from Ohio, satisfied that there is no substantial reason for its adoption, and I can see many impediments to the prosecution of the campaign if it should be adopted. It will produce delays, discords, dissimilarity of character, and want of capacity in the commanding officers to make the details that might be requisite for special services.

Mr. PUGH. As the friends of the volunteers, as well as the friends of the regulars, appear to be opposed to my amendment, and I have put in sufficient protest and warning to guard myself against the consequences, I shall ask leave of the Senate to withdraw it; and when the bill comes out of committee, I shall demand the yeas and nays on the amendment of the Senator from Virginia.

The PRESIDING OFFICER. (Mr. STUART in the chair.) The Senator may withdraw his amendment.

Mr. PUGH. I withdraw it.

The bill was reported to the Senate as amended.

Mr. PUGH. I ask for a separate vote on concurring in the amendment offered by the Senator from Virginia.

Mr. IVERSON. I hope the other amendments will be concurred in.

The PRESIDING OFFICER. If there is no objection, the Chair will state the question on all the amendments except the one alluded to.

Mr. CRITTENDEN. I beg leave to inquire of my friend from Georgia whether the amendments are of an essential character, and necessary to the operation of the bill? If they are not essential, I submit to him, as one of the patrons of this measure, whether we had not better waive these amendments altogether, and take the bill as it comes from the House of Representatives?

Mr. IVERSON. I will respond to the Senator from Kentucky by saying that there are some amendments which I could not consent to waive, and especially that one which relates to the appointment of quartermasters and commissaries. The original bill gives the appointment of quartermasters and commissaries to the regiments themselves. The Secretary of War I know is decidedly opposed to any such provision, and so am I, and so are the Committee on Military Affairs. That is an essential amendment.

Mr. KING. On some of the amendments the committee were unanimous.

Mr. CRITTENDEN. But are they necessary?

Mr. KING. We thought so.
The PRESIDING OFFICER. The Chair will take the question on concurring in all the amendments, except the one reducing the number of regiments.

The amendments were concurred in.

The PRESIDING OFFICER. The question now recurs on the amendment offered, in Committee of the Whole, by the Senator from Virginia, to reduce the number of regiments.

Mr. PUGH called for the yeas and nays on concurring in the amendment; and they were ordered.

Mr. CRITTENDEN. I wish now to say a single word. By the bill as it now stands, four regiments are authorized, in addition to the Texas mounted regiment; and the President is authorized to accept as many of them as the public service requires. If the Government want but two, we can rely on the President to call for but two. The President must know the condition of the Treasury as well as we do, and that will have the proper influence, besides the general considerations of his duty. We must suppose him to have firmness enough not to be overcome by a captain or a colonel who comes there, and wants to be taken into the service. To make such a material alteration to the bill may subject it, in the other House, to serious delays, which are fatal to the measure. I shall vote against the amendment, and leave the President to his responsibility, to say what is necessary and what is not.

Mr. JOHNSON, of Arkansas. I concur with the Senator from Kentucky. In supporting the amendment before I yielded my own judgment; but upon full reflection, I am satisfied that it is better to leave the discretion to the President. Then he can and will limit the number of troops to those that he wants, rather than to those who are sought to be obtained at his hands, and therefore I must change my vote. On that point I shall vote against the amendment.

The question being taken by yeas and nays, resulted—yeas 34, nays 16; as follows:

YEAS—Messrs. Bell, Benjamin, Biggs, Bright, Broderick, Brown, Cameron, Chandler, Clark, Clay, Dixon, Doolittle, Durkee, Evans, Fessenden, Fitzpatrick, Foster, Gwin, Hale, Hamlin, Harlan, Houston, Hunter, Iverson, Johnson of Tennessee, King, Mason, Pearce, Seward, Sidel, Thomson of New Jersey, Trumbull, Wade, and Wilson—34.

NAYS—Messrs. Allen, Bigler, Crittenden, Douglas, Fitch, Green, Hammond, Henderson, Johnson of Arkansas, Jones, Polk, Pugh, Sebastian, Stuart, Thompson of Kentucky, and Wright—16.

So the amendment was concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time; and on the question "Shall the bill pass?"

Mr. WADE called for the yeas and nays, and they were ordered.

Mr. HALE. I do not wish to occupy the attention of the Senate more than a moment or two, but simply to call attention to the fact that this bill now is put upon an entirely different footing from that which was presented at the beginning of the session. Then we were asked by the Administration for an increase of the Army. That came before us in a modified shape, by the bill of the Military Committee, asking for additional companies and additional men, but still looking to a permanent increase of the Army. The idea that the Administration wanted volunteers, was then rejected. That proposition failed; and now the measure has come up in this shape, a bill simply providing for two regiments of volunteers, and one more for Texas. I look upon it as substantially a proposition for a permanent increase of the Army; and as that in the bald shape has been voted down, I look upon this as an insidious step advancing in that direction. I believe that if we vote these three regiments of volunteers now, before the time arrives when they are to be discharged, the Administration will be asking, instead of volunteers, for a permanent increase to the regular standing Army. I look upon this as a step in that direction; and looking upon it in that light, I shall vote against it. I shall make no argument, but I simply appeal to every man on this floor who is opposed to the first step—no, not the first step, but to a step by which this Government is to be converted from a Republic of law to a military despotism—to vote against any increase of the Army.

Mr. HOUSTON. I take the very opposite view

of the gentleman from New Hampshire. I have no doubt that if it is necessary to employ troops, the efficiency of the volunteers will be such as to convince the public mind that they are the only efficient description of troops that will hereafter necessarily be employed in the defense of the country. In that way it will supersede the passion that may exist for the increase of the regular Army. I think it is the only possible means of defeating, rather than contributing to, the desire for an increase of the regular Army. That is one reason which prevails with me on the present occasion to support the volunteer system in preference to the regular Army; for I have determined, as I have before expressed myself, never to vote for an increase of the regular Army, unless it is in time of war, and never for the purpose of suppressing intestine broils.

Mr. WILSON. I am a member of the committee who reported this measure. I have expressed myself heretofore in favor of granting to the Administration a volunteer force for the purpose of being used in the Territory of Utah in support of the laws of the country. This bill comes before us now, I think, in the best possible form in which a measure of this character can come at all. It confines the use of these troops to that Territory, or to the suppression of Indian hostilities on the western frontier, and on the frontiers of the State of Texas. I shall therefore give my vote for this bill, for I am in favor of maintaining the authority of the Government in the Territory of Utah. I would vote to support the Government in maintaining the laws of the country there, and, at the same time, I would send a commission to that Territory to ascertain the real cause of the difficulties there, and to see how they could be settled. I would treat that people as I would a tribe of Indians; and if I could purchase their country, and get them to leave the United States for any portion of the North American continent, I would vote any reasonable amount of money very cheerfully for that purpose. But these people lie in the heart of the continent, on the highway to the Pacific coast. They are in rebellion against this Government. I do not know that the Government of the United States has wronged them. The Government of the United States asks for sufficient volunteer force to suppress this rebellion, and this bill proposes to grant them two regiments of volunteers to be used there. I cannot see what my friend from New Hampshire sees in this measure; and I shall vote for the bill cheerfully.

Mr. HALE. I know that the Senator from Massachusetts would not do anybody injustice; he certainly would not do me injustice; but I am not willing to be put in a false position by purpose, or even by accident. When the Senator says he is going to vote for this volunteer force because he is in favor of sustaining the law, it would seem to imply that those who vote against it do so because they were not in favor of sustaining law. Now, sir, it is because I am in favor of law and against brute force; it is because I am in favor of civilization, and law, and liberty, regulated by law; because I am jealous of your Executive, and jealous of the purposes with which he comes here asking for an increase of the regular Army; it is because I am in favor of law and against violence; in favor of law in Kansas as well as in Utah; in favor of law in Washington city and in every other place, that I go against strengthening the hands of this Executive, that has now been here ever since the commencement of this session, asking in every shape in which importunity could put its requests, for an increase of the military force of this country. Is there any man in this country, civilian or military man, who is to tell me that the military force of this country to-day is not able to put down a rebellion which only consists in Brigham Young's proclamations? What is your Army of fifteen thousand men about? What is the greatest standing Army we ever had in a time of peace, employed about? Is it in fighting Indians? Sir, read the history of your Indian wars, and you will find that your Army have provoked, rather than put down, hostilities. We have pending before this Government, in some shape or other—I do not know how many, but we shall find out before the session is over—bills for paying five or six million dollars of debt, that have been incurred in these Indian wars.

A few days ago, a gentleman whose name I do not remember—but probably there are some in the Senate who can enlighten me on it, when I tell them that he was superintendent of Indian affairs in Oregon prior to the last administration—had a conversation with me on this subject. He went to the superintendency of those Indians, as he told me, and requested in the first instance that every soldier might be withdrawn; he did not want any army. It was done; and he had peace—no war, no quarrel, no \$5,000,000 claim to be paid. He was superseded or resigned; he went out of office, and somebody else succeeded him. Different counsels prevailed, and soldiers were sent there. The result was, if the accounts published by your own General Wool are to be relied upon, that there was one of the most infamous wars—it does not deserve to be dignified with the name of war, but one of the most infamous butcheries of the Indians that was ever perpetrated on the face of this globe. It was perpetrated under your command. That is the result of giving the Administration soldiers to send into the Indian country. If I had my way, I should withdraw every soldier from the Indian country.

It is for the reason that I am for peace and liberty regulated by law, that I am opposed now, as I always have been, to increasing the military power of the Government. I would just as soon vote for regulars as I would for volunteers, because I know where it leads, and I should like to take the step with my eyes open, and not to be hoodwinked or deceived. This Administration have tried and tried, as long as they could, to get regular soldiers; and you have refused, and rightfully refused. Failing in that, still having the same purpose, the same object, the same end, they now say, though before they would not have volunteers and repudiated the idea, "if we cannot get regulars we will take volunteers;" and the same men who but a little while ago rejected your volunteers with scorn are now here asking for them.

How was it on the other side of the House? Who voted down the volunteers before? The very gentlemen who are now asking for them. I think I see in his seat the honorable Senator from Mississippi, [Mr. Brown:] I hope he has not altered his mind. I heard what he said upon the subject of volunteers, and nobody rebuked him. I hope those gentlemen who voted against volunteers have not altered their minds. I have not; and it is for this reason that I am opposed to the bill. I am not willing, by expression, or by implication, or by silence, to be put in the attitude of being opposed to law because I do not want to increase the brute force of an Administration in which I have no confidence. I have no confidence in them, nor in the purposes for which they want this army. I have voted against it, and shall continue to do so.

Mr. CAMERON. I voted for the original bill providing for raising five regiments of regular troops. I did so with a protest against their becoming a portion of the standing Army; but I voted for it because my course always has been to give the Administration in power such troops as they think necessary to defend the country in time of war. They say there is a war in Utah, and they say it is necessary to have a certain amount of troops to protect the honor of the country. I think they have made a great mistake in producing that war. In my judgment it would have been much better if they had sent new governors and other officers into the Territory with a small escort, and with a conciliatory message. But the Administration have thought differently; and if there was no war before, they have provoked one now. When the country is engaged in war I cannot refuse to allow the Administration to have such troops as they think necessary to protect the honor and the interests of the country. I shall vote for volunteer regiments with a great deal more pleasure than I voted for the regulars, because I cannot believe that by any process they can be conjured into a portion of the regular standing Army. I have too much faith in the representatives of the people in the other House, and the representatives of the States here, to believe that by any trick, by any management unworthy of men, volunteer soldiers who are called out for a special purpose can be made a portion of the regular standing Army. I have always been opposed to large standing armies. I

think the interests of our country do not require them, and the genius of our institutions is against them. But this war is a war of the Administration; and I desire that the responsibility of it shall be on the Administration. I have no faith in their ability to conduct it; and I believe that before a year has passed over it will be evident to every citizen of the country that they have committed a great blunder; that they have expended millions upon millions of dollars in a fruitless endeavor to give power to themselves. I wish them to have the responsibility of it, and not the party to which I belong; and therefore I shall vote for this volunteer bill.

Mr. WILSON. Mr. President, I had no idea of saying a word that the Senator from New Hampshire would consider, by implication or otherwise, as reflecting upon his position. I have no doubt of the purity of his motives in his action upon this measure. My object was simply to state the motives that governed me in the vote I am about to give. The Administration came here asking for five additional regiments. One of the reasons given by the Administration for a permanent increase of the Army of the United States to this extent, was the necessity of using troops to put an end to the difficulties in the Territory of Utah. The Administration has failed, signally failed in both Houses of Congress, in the attempts at an increase of the regular Army. It was rejected in the Senate by a large vote. The House of Representatives rejected it, and passed a bill to raise five volunteer regiments, one regiment to be used on the frontier of the State of Texas, the object being, as I understand, to take from the State one regiment of the regular Army, and send it to Utah. We have amended the bill to-day by reducing the number of regiments from five to three; and I am told, though I do not know that it is true, this is satisfactory to the Administration.

This bill provides for the use of these volunteers in the Territory of Utah, or on the frontiers of the country, in suppressing Indian hostilities. It is a small matter of itself. I do not know what will come of the Utah difficulty. There may be trouble, and the Administration may need military force. I take it that, in the present condition of the public Treasury, the Administration will not summon volunteers to the field unless it needs force. When the proposition is put in the shape in which it now stands, I am unwilling to deny to the Administration the authority to accept the small force of two regiments of volunteers to aid, if it deems the force necessary, in supporting the laws of the country in the Territory of Utah. I am willing to give the Administration this authority, and I hope it will be followed up by a proposition to send proper men to that Territory, and endeavor, if possible, by peaceable means, to make some arrangement to preserve the peace there, or to remove the people out of the territory of the United States. Without meaning to reflect upon any one, or to question the motives of any Senator, I shall give my vote for this bill, simply as a measure connected with the Mormon difficulty in the Territory of Utah.

Mr. GREEN. I rise to a privileged question—not to interfere with the passage of this bill, but to make a motion to reconsider the order by which the Senate resolved that when they adjourned to-day, it should be to meet on Monday next.

The PRESIDING OFFICER. That motion will be entered.

Mr. BROWN. I wish to say a word in reply to the Senator from New Hampshire, who made an allusion to me a moment ago. I know that the Senate is impatient to get clear of this bill, for I learn, from an announcement just made from the House of Representatives, that "Monsieur Tonsen has come again;" Kansas has appeared again, and, of course, we can do nothing until we get her out. But, on this subject of the Army bill, in the earlier part of the session, I took very decided and emphatic ground against the use of volunteers for this service. I am opposed to them now. I think no such troops ought to be sent into the field, and especially, that none such should be sent to Utah. I want peace in Utah. I have never believed there was any danger of war there, if we should only have prudent counsels here, and a prudent execution of the law elsewhere. But our Republican friends take the ground that they will have no increase of the Army. Let Kansas bleed; let Utah bleed; let the torch belighted up all along the line

of the frontier; let women and children be indiscriminately butchered: they will stand by, coldly look on, and vote no increase of the Army. What boots it to them that one hundred and fifty women and children are murdered by the savages in cold blood, and that the Executive Government comes here and asks for additional troops to protect your emigrants? What do they care, if law and order and Constitution are all trampled under foot in Utah? They stand coldly by, and refuse to vote any additional troops. What care they, if Kansas bleeds at every pore? They only make capital of it. I want order; I want a triumph of the law and of the Constitution in Utah, in Kansas, and everywhere else; and when savages commit outrages upon our people, I want to see justice following close upon their heels, chastising them into obedience to the superior authority of this Government.

It ought to be done through our regular Army. I do not sympathize with that mawkish sympathy which is afraid of a few thousand soldiers; which is apprehensive that the addition of two or three regiments to the standing force is going to overthrow the liberty of the country. Why, sir, old Virginia, worn out and decrepit as she is, with the addition of Maryland, could take your whole standing Army and drown them man by man in the Potomac. Talk about a mere handful of soldiers, sixteen or seventeen thousand men, overturning liberty, when there are twenty-five million freemen to defend it with their strong arms and their brave and patriotic hearts! It is nonsense to talk in that way. It is underrating the energy, the physical and mental energy of your people, to indulge in and express any such apprehensions.

I am opposed to the volunteer service, because I believe the regular service will go into the field under better discipline, and be more likely to keep the peace than volunteers. I want peace. I want it with the Indians; I want it in Utah; I want it on the frontier; I want it everywhere. It is because I believe that the regular Army is a peace establishment, that it will get up no unnecessary war, that I have gone for an increase of the regular Army; but when the Senator from New Hampshire, the Senator from Massachusetts, and other Senators on the Republican side get up here and denounce the Administration, saying that there is some secret purpose to increase the Army for bad motives, then I can go with them no longer. I supposed, when I went with them against volunteers, that they were doing it honestly and sincerely; that I was to have their support for some sort of increase of the regular Army up to the standard of the actual public necessity; but I find that, instead of that, they will go for no increase. They will leave anarchy and confusion to govern throughout all the land, and the more of it the better. In that state of things, finding that the Opposition is determined to vote for no increase of the Army of any kind, I shall withdraw my former declaration, and vote for this bill.

Mr. HOUSTON. Though I am anxious to vote upon this bill, and do not desire to detain the Senate, I think it proper to allude to some remarks which have been made. In the first place, I regretted to hear an attempt, on the part of the Senator from New Hampshire, to reflect upon the President of the United States, as I thought, in an unjust manner. I am not the advocate of the President of the United States; he does not expect advocacy at my hands; but I am willing and anxious to render justice to him. It will be found, I think, by reference to the annual message of the President of the United States, that he founded his recommendation for an increase of the Army upon the suggestion of the Secretary of War and the Commanding General, who, after a conference between themselves, had informed him that it was very important that the regular force of the United States should be increased. The President, adopting that recommendation, presented it to Congress upon the authority of those officers, and suggested, as a reason for the increase, the difficulties with Utah. It was natural that the President of the United States, relying upon the heads of this branch of the Government, should have adopted a recommendation so plausible as that which was presented to his consideration, and refer it to this body. From all his antecedents, however, I am satisfied that he is not himself in favor of an increase of the regular Army to an

undue extent. Such has not been his course heretofore; nor do I believe it is his desire at this time, but it seemed to be proper that he should submit the question to Congress and ask for its action when the matter was pressed, by the high officers to whom I have referred, upon his notice. I think, then, the reflections cast upon him are hardly as courteous as the characteristic generosity of the Senator from New Hampshire would have induced him to expect.

The Senator from Mississippi deprecates any mawkish apprehension of the increase of the regular Army, and says that old Virginia could whip it. Well, sir, I do not think it is necessary to make any calculation upon the subject, but to prevent the possible occurrence of such an unpleasant event, I should regard the present establishment as all sufficient for the purposes of the Government. There are now, I think some two thousand two hundred regular troops in Utah; but it will be recollected that our regular Army amounts to fifteen thousand men, and if they be withdrawn from points at which they are utterly inefficient and unnecessary and concentrated in Utah, they will be amply sufficient for the purpose of subjugating the Mormons, if it be possible to do so.

It is said, however, that the regular troops are necessary for the protection of the frontier against the Indians. I say they are as useless as so many post oak trees upon the frontier. If you put volunteers behind the trees, they will be more efficient than regulars. Upon the frontier, the regulars are stationed in forts, and who ever heard of a fort giving protection to a settlement, unless by affording the inhabitants a place of refuge to which they might fly. A few well mounted savages can go between the forts, make a foray into the country, abstract cavalry from the citizens, and return unmolested. It is useless for you to start infantry to pursue them and reclaim the horses. They will march with great alacrity, it may be some fifteen miles a day; but the Indians make the space of fifty or seventy miles a day; and how long will it take for them at that rate to overtake the foraging party of the Indians? They would not succeed in it, and that is the history of all the efforts of the infantry. They are perfectly useless for this service. What does the Indian care for them? I have said, and I repeat, they only provoke hostilities on the part of the Indians. They can pass by the white forts, and steal horses and return in triumph to their tribes with their trophies, and it is an achievement. When the warrior returns, after having passed by the white man's fort and his great warriors, he is swelled into a man of importance, and perchance he brings back a few scalps to exhibit at the war dance. This provokes them. They can pass around the forts if necessary, and entice a soldier away, and he is as defenseless as you can imagine a creature to be, and they scalp him and bear off his scalp as a trophy, from within sight of the fortress. This is the result of your system of defending the frontier by stationing infantry in forts.

The stationing of your regulars on the frontiers provokes the Indians to hostilities; and, unless they are cavalry or dragoons, they are utterly useless. They cannot be maintained, at any reasonable expense, in a situation to give protection to our frontiers. The system must be changed; you never can give efficient protection to the frontier with infantry stationed in forts. The Indian must be a great simpleton who would go within reach of the cannon or small arms of a fort, but he can pass by the fort and go one hundred or two hundred miles into the interior, reach the settlements, and commit depredations. You may make a cordon of posts, but, unless you build a rampart connecting one with another, you will never prevent the Indians coming in between them. To suppress Indian depredations, you must have mounted rangers, who will traverse the frontier and surprise the Indian when he does not expect it—men adroit to such warfare; men capable of taking advantage of the Indians; men who have been inured to dexterity of this kind. You may withdraw all your regular troops from Texas, and thereby add two thousand to your army in Utah, if you will give us a regiment of rangers. Give us that, and I will answer for the defense of our frontier. These are the efficient men.

Sir, it is no mawkish fear of the regular Army that has ever induced me to go against its in-

crease. I am opposed—not to its influence upon the nation as a formidable assailing power; not as one that is to march to Washington city, dictate laws, and say who shall rule; not as praetorian guards, nor as janissaries that are to march here, and place an imperial scepter in some lordling's hand. I have no fear of that kind; but there is a more fearful and terrible influence at work now. That influence is felt here; it is felt at the other end of the Capitol; it is felt throughout all the veins of society; every artery thrills with it, and every nerve vibrates to its touch. It is the increase of officers in the Army, whose friends rally to their rescue if aught should menace their continuance in the service. It is the influence of friends, those who have relatives in the Army, on the Representatives at the other end of this Capitol, and operating upon Senators through the Legislatures of States, that is to subvert this Government at some future day. They are now becoming sufficiently numerous to form a privileged class in society, and that is never favorable to the perpetuity of free institutions; it never will sustain this country; but it will sap the foundations by degrees; and every increase you bring to the regular Army is but adding to the insidious influence that is to undermine the institutions of the country.

That is what I contend against. It is what I will always contend against. This is the result of no mawkishness; but, looking into the vista of future time, I perceive an influence which has grown into importance, obscured in its outset, but manifest in its terrible developments to this nation, when even Congress will legislate to contribute to its grandeur and its elevation. Yes, sir, that is what I dread and what I apprehend. I shall not live to see it, but others will witness the melancholy catastrophe that awaits this country; and gradually, in its progress, you must arrest it. I would stop here. Your fortresses can be well kept up by your regular Army now in service; but I tell you, Mr. President, whenever war comes, and your national honor has to be sustained and defended, it has to be done by the volunteers of the country—the heart and soul of this nation; for when have your institutions or your national honor been assailed or invaded when the great national heart did not throb and send a force through the arteries of this nation to every extremity, that called forth the volunteer men of the nation to vindicate your honor and defend your rights? Had you any example of delinquency on their part, you might distrust them; but as long as they are faithful to your banners, as long as they bear your eagles aloft, as they have already done, rely upon them as the great saving principle of liberty and the continuance of your institutions. But yield not to mercenaries who by accident are thrown upon our soil, forming our rank and file in the Army, who have no sentiments of nationality with us, and who only as mercenaries fight or act—men who have no national soul about them, but merely contribute to numbers without that chivalry, that *amor patriæ*, which will always give victory to your arms when you grapple with an adversary worthy of your steel.

The yeas and nays being taken on the passage of the bill, there were—yeas 41, nays 13; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Biggs, Bright, Broderick, Brown, Cameron, Crittenden, Douglas, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Harlan, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Sebastian, Seward, Shidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Wilson, Wright, and Yulee—41.

NAYS—Messrs. Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foster, Hale, Hamlin, King, Pearce, Seward, Trumbull, and Wade—13.

So the bill was passed.

Mr. HUNTER. I move to amend the title of the bill by striking out "four" and inserting "two."

The amendment was agreed to; and the title reads: "An act to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas; and to authorize the President to call into the service of the United States two additional regiments of volunteers."

KANSAS—LECOMPTON CONSTITUTION.

While Mr. WILSON was addressing the Senate on the volunteer regiments bill, and before Mr.

BROWN's allusion to that subject, a message was received from the House of Representatives, by Mr. ALLEN, its Clerk:

Mr. PRESIDENT: I am directed by the House of Representatives to inform the Senate that the House has passed the bill (S. No. 161) entitled "An act for the admission of the State of Kansas into the Union, with an amendment; in which I am directed to ask the concurrence of the Senate."

Mr. GREEN. I move to reconsider the vote by which the Senate ordered that, when it adjourned to-day, it should be until Monday next.

Mr. BRODERICK called for the yeas and nays, and they were ordered; and being taken, were—yeas 33, nays 21; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bright, Brown, Clay, Douglas, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Shidell, Stuart, Thomson of New Jersey, Wright, and Yulee—33.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foster, Hale, Hamlin, Harlan, King, Pearce, Seward, Thompson of Kentucky, Trumbull, Wade, and Wilson—21.

So the vote was reconsidered.

The question then recurred on the motion to adjourn to Monday next; which was decided in the negative.

Mr. GREEN. I move that the Senate bill (S. No. 161) for the admission of Kansas as a State into the Union, which has been returned from the House of Representatives with an amendment, be taken up for consideration. If it should give rise to discussion, I presume it will hardly be possible to get through with it to-night; and in that event, after I have submitted a motion, I shall be willing that the bill and the amendment be ordered to be printed, so that to-morrow we may consider and decide the question. But, in the first place, I move that the bill be taken up for consideration.

The motion was agreed to.

Mr. GREEN. I move to dispense with the reading of the amendment.

Several SENATORS. Print it.

The PRESIDING OFFICER, (Mr. STUART in the chair.) The Chair will suggest to the Senator that objection having been made, the amendment must be read.

Mr. GREEN. Who objects?

Mr. DOUGLAS. I presume there will be no objection to dispensing with the reading of the amendment, ordering it to be printed, and letting it go over.

The PRESIDING OFFICER. Objection was made to the amendment being acted on until it was read, I understand.

Mr. SEWARD. It is understood there will be no action to-night.

Mr. GREEN. That is the understanding. I desire to submit a motion to print the amendment; second, that the Senate disagree to the amendment; next, that its further consideration be postponed until to-morrow; and then that the Senate adjourn.

The motion to print the amendment was agreed to.

Mr. GREEN. I now move that the Senate non-concur in the amendment of the House of Representatives; and, having submitted that motion, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 1, 1858.

The House met at twelve o'clock, m. Prayer by Rev. SEPTIMUS TUSTIN.

The Journal of yesterday was read and approved.

The SPEAKER stated that the business first in order was the call of committees for reports.

POLICE FORCE OF DISTRICT OF COLUMBIA.

Mr. MAYNARD. I ask the unanimous consent of the House for leave to introduce the following resolution:

Resolved, That the Committee for the District of Columbia be, and they are hereby, instructed to inquire into the sufficiency of the present police force for the preservation of the peace, and for the protection of persons and property in said District; and whether it is expedient that Congress shall adopt any measures to give increased efficiency thereto, with liberty to report at any time, by bill or otherwise.

Mr. WRIGHT, of Georgia. The Committee for the District of Columbia have that subject be-

fore them now; but I do not know that I object to the resolution.

Mr. CLINGMAN. Let the resolution be adopted; it is important that it should be.

The resolution was agreed to.

BILLS UPON THE SPEAKER'S TABLE.

Mr. STEPHENS, of Georgia. Mr. Speaker, until one o'clock, when it is the wish of the House to take action on the Kansas bill, I hope the House will consent to take up and dispose of the bills upon the Speaker's table antecedent to that bill.

Mr. BLISS. I want to know what the bills are?

The SPEAKER. There are seventeen bills before the Kansas bill, which the House desires to vote on to-day.

Mr. BLISS. I understand that this does not include any bill which is up for engrossment? I understand that there is a bill upon the Speaker's table for engrossment, and included in the eleventh order of business.

The SPEAKER. That is after the Kansas bill upon the Speaker's table.

Mr. BLISS. That is all I wish to know.

There being no objection, the bills on the Speaker's table were taken up, read a first and second time, and disposed of as indicated below.

STEAMER FEARLESS.

An act (S. No. 57) to authorize a register to be issued to the steamer Fearless. Referred to the Committee on Commerce.

REGISTERS FOR VESSELS.

An act (S. No. 32) to repeal an act entitled "An act authorizing the Secretary of the Treasury to change the names of vessels in certain cases," approved 5th March, 1856.

Mr. WASHBURN, of Illinois. I hope there will be no objection to that bill being put upon its passage. When the bill is read there will be no objection to it.

Mr. STEPHENS, of Georgia. Let the bill be read.

The bill was read.

Mr. JOHN COCHRANE. Mr. Speaker, there should be no objection to putting that bill on its passage. Under the law passed during the last Congress, there have been ninety-two vessels which have had their names changed, and of that number thirty-five have foundered at sea. Petition after petition has come into this House asking for the repeal of that law. It is simply taking it out of the hands of the Secretary of the Treasury, and compelling gentlemen who wish to change the name of a vessel to come, as heretofore, before Congress. There can be no possible objection to it.

Mr. JONES, of Tennessee. What is the law that it is proposed to repeal?

Mr. JOHN COCHRANE. I will send the law to the Clerk to be read.

The Clerk read the law, as follows.

"Be it enacted, That the Secretary of the Treasury be, and he is hereby, authorized to permit the owner or owners of any vessel to change the name of the same when, in his opinion, there shall be sufficient cause for so doing; and he may establish such rules and regulations as he shall deem proper for that purpose."

Mr. JONES, of Tennessee. I wish to inquire whether the object is to bring everybody here who wants the name of a vessel changed? I think it is wrong, for the Secretary of the Treasury can certainly attend to it better than Congress.

Mr. COMINS. As I took some interest in the passage of the law which this bill is intended to repeal, I desire to say a single word upon it before it is put upon its passage, or referred to a committee. When foreign vessels have been purchased and rebuilt by American citizens, and the repairs upon which have been equal to three fourths of their value when ready for sea, as American vessels, it has been the universal practice of Congress to pass special acts authorizing the Secretary of the Treasury to issue a register, and under such name as the owner might desire. These cases have become frequent. That Congress might not be put to the trouble and expense of passing a special act to meet each and every case which might arise, it was deemed advisable that a general law on this subject should be passed. My attention was first called to this matter, Mr. Speaker, by one of your colleagues in the Thirty-Fourth Congress, [Mr. Aiken,] whose experience

in the Committee on Commerce, and whose general good judgment taught him the necessity of such a law. The act of March 5, 1856, was passed. It is due to myself to remark that it was considered in committee, and passed in the House in my absence from sickness; but frankness requires me to say also, that I was in favor of a general law of this kind, and had I been present I should undoubtedly have voted for it. It was intended to facilitate commercial business. Under no conceivable circumstances could it be supposed that such abuses could be perpetrated as are alleged to have been practiced under it.

It appears that the law is too broad in its character, that it gives the Secretary of the Treasury too much power; under that law the Secretary of the Treasury can change the name of any vessel at his pleasure, under such regulations as he may deem it expedient to adopt. Under that law, as the gentleman from New York [Mr. JOHN COCHRANE] has said, a large number of vessels have had their names changed, many of which have foundered, or otherwise been lost at sea. Under that act the celebrated George Law, of filibuster notoriety, was changed to that of Central America, and hundreds of our fellow-citizens found a watery grave who otherwise would never have been decoyed on board that notoriously unseaworthy ship. Its repeal has been demanded. It has been demanded by the various boards of underwriters, by the mercantile community, and by the universal traveling public. But, Mr. Speaker, the fault is not in the law, it is in the abuse of it by those who administer it. I repeat that it was passed for the benefit of the commercial and navigation interests. I am still of the opinion that a general law on this subject is desirable; that such a law can be framed in committee that will not be objectionable in its features, and be submitted for the consideration of the House. The Secretary of the Treasury having suspended all operations under this law, there need be no haste in the matter. And for the reasons which I have stated, I desire this bill may take the usual course, and be referred to the Committee on Commerce. I make that motion.

Mr. CLINGMAN. I hope it will be so referred. The gentleman from New York has told us that of the ninety-two vessels whose names have been changed under this law, thirty-five have foundered.

Mr. COBB. I call the previous question.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the bill was referred to the Committee on Commerce.

Mr. COBB moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

VICE ADMIRAL MEHMED PASHA.

A resolution (S. No. 18) for the reception of Vice Admiral Mehmed Pasha, of the Turkish Navy, and to facilitate the objects of his mission in superintending the construction of a vessel-of-war in the United States.

Mr. CLINGMAN. Whatever reason may have existed for the passage of such a law does not exist at this time; and I feel authorized to say that the gentleman at the head of the Department, at whose instance it came from the Senate, does not desire its passage. I move that it be laid on the table.

The motion was agreed to.

BENEVOLENT CHRISTIAN ASSOCIATION.

An act (S. No. 97) to incorporate the Benevolent Christian Association of Washington city. Referred to the Committee for the District of Columbia.

COLUMBIAN INSTITUTION.

An act (No. 99) to amend the "Act to incorporate the Columbian Institution for the instruction of the deaf and dumb and the blind," approved February 16, 1857. Referred to the Committee for the District of Columbia.

GONZAGA COLLEGE.

An act (No. 76) to incorporate Gonzaga College, in the city of Washington and District of Columbia.

Mr. KELLY. I trust that bill may now be put upon its passage. It is a bill to which no one

will have any objection. It was brought before this House in February, and relates solely to a matter concerning the District of Columbia. I move that it be put upon its third reading.

Mr. BURNETT. I move that the bill be referred to the Committee for the District of Columbia.

Mr. KELLY. I had the floor, and the gentleman cannot take it from me to make a motion. I call the previous question.

Mr. BURNETT. The gentleman had yielded the floor.

The SPEAKER. The Chair was of opinion that the gentleman from New York had yielded the floor, or of course he would not have recognized the gentleman from Kentucky. If the gentleman had not surrendered the floor, the gentleman from Kentucky could not have made the motion.

Mr. KELLY. Very well, I will not object. I move to refer the bill to the Committee for the District of Columbia.

The motion was agreed to.

LIABILITY OF SHIP-OWNERS.

An act (S. No. 77) to amend an act entitled "An act to limit the liability of ship-owners, and for other purposes," approved March 3, 1851.

Mr. WADE. I move that the bill be read a third time, and put upon its passage.

Mr. MARSHALL, of Kentucky. I move to refer the bill to the Committee on the Judiciary.

Mr. WADE. I move the previous question on my motion.

Mr. MARSHALL, of Kentucky. I thought I was recognized to make a motion to refer.

The SPEAKER. The Chair did not recognize the gentleman.

Mr. MARSHALL, of Kentucky. I hope the House will not sustain the previous question. It is an important bill, and ought to go to a committee.

Mr. WADE. I withdraw my motion, and move that the bill be referred to the Committee on Commerce.

The motion was agreed to.

ROME ARSENAL.

An act (S. No. 170) to grant Rome arsenal to the State of New York, on certain conditions. Referred to the Committee on Military Affairs.

PROCESS IN THE UNITED STATES COURTS.

An act (S. No. 36) to provide for the issuing, service, and return of original and final process in the circuit and district courts of the United States in certain cases. Referred to the Committee on the Judiciary.

UNITED STATES COURTS IN VERMONT.

An act (S. No. 111) to alter the time of holding the circuit and district courts of the United States for the district of Vermont. Referred to the Committee on the Judiciary.

PROVIDENT CLERKS' ASSOCIATION.

An act (No. 151) further to amend the act entitled "An act to incorporate the Provident Association of Clerks in the civil departments of the Government of the United States, in the District of Columbia." Referred to the Committee for the District of Columbia.

UNITED STATES COURTS IN UTAH.

A resolution (No. 22) providing for the payment of certain expenses of holding the United States courts in the Territory of Utah. Referred to the Committee on the Judiciary.

WILLIAM ALLEN.

An act (No. 117) for the relief of William Allen, of Portland, in the State of Maine. Referred to the Committee on Invalid Pensions.

NATIONAL FOUNDRY IN PENNSYLVANIA.

Mr. KUNKEL, of Pennsylvania, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be, and are hereby, instructed to inquire into the expediency of establishing a national foundry at Harrisburg or Lebanon, in the State of Pennsylvania.

WASHINGTON AQUEDUCT.

Mr. JONES, of Tennessee. Is there not a bill on the table to condemn lands needed for the Washington aqueduct?

The SPEAKER. There is such a bill.

Mr. JONES, of Tennessee. The superintendent of the work was here a few days ago, and spoke to me on this subject. It is very important to the progress of the work that this bill shall pass immediately. There is some land owned by minors, married women, and others, of which the Government cannot get the title except such a bill be passed. I ask that the bill be put upon its passage.

The SPEAKER. The Chair would suggest that there are only four or five more Senate bills on the table; and perhaps they can be all disposed of.

Mr. JONES, of Tennessee. Very well.

LIEUTENANT WILLIAM N. JEFFERS.

Joint resolution (S. No. 24) authorizing Lieutenant William N. Jeffers to accept a sword of honor from her Majesty the Queen of Spain.

The resolution gives the assent of Congress to the acceptance, by Lieutenant William N. Jeffers, of the Navy of the United States, of a sword of honor presented to him through the Department of State by her Majesty the Queen of Spain, as an acknowledgment of the very efficient assistance given by him and his vessel to the Spanish schooner Cartajena, in the waters of Parana, on the 26th, 27th, and 28th of October, 1855.

Mr. FLORENCE moved the previous question on the third reading of the joint resolution.

The previous question was seconded, and the main question ordered; and, under its operation, the joint resolution was read a third time, and passed.

Mr. FLORENCE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

JAMES L. DONALDSON.

An act (S. No. 145) for the relief of Brevet Major James L. Donaldson, assistant quartermaster of the United States Army. Referred to the Committee on Military Affairs.

GOVERNMENT EMPLOYEES.

Joint resolution (S. No. 17) explanatory of the joint resolution giving an increased compensation to all laborers in the employment of the executive and legislative departments of the Government in the city of Washington, approved August 18, 1856. Referred to the Committee on the Judiciary.

JEREMIAH Y. DASHIELL.

An act (S. No. 202) for the relief of Jeremiah Y. Dashiell, paymaster in the United States Army. Referred to the Committee on Military Affairs.

WASHINGTON AQUEDUCT.

An act (S. No. 197) to acquire certain lands needed for the Washington aqueduct, in the District of Columbia.

The bill was read *in extenso*. It makes provisions for the acquirement by the Government of the United States of lands needed for the construction of the Washington aqueduct, held by persons who require unreasonable compensation therefor, by minors, *femes covertis*, persons *non compos mentis*, and persons residing out of the District of Columbia.

Mr. KEITT. I see that there is a provision in that bill for condemning valuable lands. I wish to know if that provision is limited to the District of Columbia?

A MEMBER. It is.

Mr. KEITT. Then I have no objection.

Mr. FLORENCE. I demand the previous question on the passage of the bill. It seems to be conceded on all sides that it ought to be passed.

Mr. JOHN COCHRANE. I hope the previous question will not be pressed upon this bill. It is one of the most serious import—once, to be sure, of beneficial purpose, but one which, as it contemplates the disruption of private interests, should certainly not be passed under the pressure of the previous question. I think that there are many provisions in it which should be referred to some committee for consideration. I move, therefore, that the bill be referred to the Committee for the District of Columbia.

The SPEAKER. The gentleman cannot make that motion pending the demand for the previous question.

Mr. FLORENCE. I will merely say that this subject has been investigated. It was investigated by a committee of the Senate. It is absolutely necessary, if this work is to be proceeded with, that this bill should be passed. Its provisions guard every interest very carefully. My only objection to it is that it provides for a publication in only one newspaper, instead of several; but that arises, probably, from my natural desire to give patronage to the newspapers. I demand the previous question.

Mr. JOHN COCHRANE. If the gentleman will withdraw the demand for the previous question for a moment, I will renew it.

Mr. FLORENCE. As this matter would be likely to occupy some time, I will withdraw the demand for the previous question, and move that the bill be referred to the Committee for the District of Columbia; because, after an examination before that committee, its importance will be made more apparent to the House, and it may be passed at any time in half an hour; and, inasmuch as the bill is of great importance, I move that the committee have leave to report at any time.

Mr. SEWARD. Is that latter motion in order? The SPEAKER. The Chair thinks not.

Mr. SEWARD. Then I object to it.

Mr. FLORENCE. Very well, then, let the bill go to the committee unconditionally.

Mr. HOUSTON. I hope the gentleman from Georgia will withdraw his objection, and allow authority to be given to the committee to report at any time. It is important that the bill should pass speedily if it is to pass at all. The work is now partially suspended, and will have to be entirely suspended unless the bill is passed. There can be no harm in authorizing the committee to report at any time, and I hope the gentleman from Georgia will withdraw his objection.

Mr. FLORENCE. I suppose the Committee for the District of Columbia will report it back immediately, and the committees will probably soon be called for reports. The work is already partially suspended, and sympathy for those who are thrown out of employment will, I am sure, induce such a sympathizing set of gentlemen as we have here to pass the bill independently of any other consideration.

Mr. DAVIS, of Indiana. I object to this debate.

Mr. SEWARD. With my usual good nature, I withdraw my objection. I am always over-persuaded and sometimes do wrong. [Laughter.]

The previous question was seconded, and the main question ordered; and, under the operation thereof the bill was referred to the Committee for the District of Columbia, and said committee was authorized to report at any time.

Mr. FLORENCE moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LIFE-SAVING STATIONS.

Mr. ROBBINS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be directed to inquire into the propriety of making an appropriation for the payment of the keepers of the life-saving station-houses on the coast of New Jersey and New York, as was contemplated by the passage of the act authorizing the appointment of said keepers in December, 1854.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General in answer to the resolution of the House of Representatives relative to the returns for box rents at city post offices; which was laid upon the table, and ordered to be printed.

PUBLIC PRINTING.

The SPEAKER also laid before the House a communication from the Superintendent of Public Printing, in answer to the resolution of the House of the 16th of March, showing the aggregate cost of the public printing ordered by the Thirty-Third and Thirty-Fourth Congresses; which was laid upon the table, and ordered to be printed.

OFFICERS OF THE HOUSE.

The SPEAKER also laid before the House communications from the Clerk, Doorkeeper, and Postmaster of the House, in reply to the resolution of the House of the 27th instant, as to the

persons employed by them, and so forth; which were severally laid upon the table, and ordered to be printed.

REPORTS FROM COURT OF CLAIMS.

The SPEAKER laid before the House bills and adverse reports from the Court of Claims. The adverse reports were ordered to be placed upon the Calendar, and the bills were (without reading) considered as read a first and second time, and referred to the Committee of Claims.

UNITED STATES COURTS IN NORTHERN OHIO.

Mr. MOTT, by unanimous consent, and in pursuance of previous notice, introduced a bill to authorize the holding of terms of the United States district court for the northern district of the State of Ohio at Toledo; which was read a first and second time, and referred to the Committee on the Judiciary.

THE CENSUS OF 1860.

Mr. WRIGHT, of Georgia. I desire to ask the unanimous consent of the House to offer resolutions similar to the resolution which the gentleman from Ohio [Mr. SHERMAN] asked for a suspension of the rules to enable him to offer on Monday. The House on that occasion refused to suspend the rules by a small vote. I voted, however, for the resolution of the gentleman from Ohio. It was upon the subject of the appointment of a committee to report to this House the best mode of taking the next census. I think it is a useful resolution, and it seems to be generally so regarded by the House.

Mr. BURNETT. These resolutions can only be introduced by unanimous consent.

Mr. WRIGHT, of Georgia. That is what I am asking.

Mr. BURNETT. I object.

Mr. WRIGHT, of Georgia. I hope the gentleman will allow the resolutions to be read. I think he will then withdraw his objection.

Mr. BURNETT. I have no objection to their being read; but I shall object to them.

The resolutions were read, as follows:

Resolved, That a committee of three be appointed by the Speaker, whose duty it shall be to inquire into and report by bill or otherwise, at as early a period as may be convenient, to the next session of the present Congress, the best mode of taking its next census, so that it shall be national in its character, and represent fairly and truly the progress of our country and of every section.

Resolved, That said committee shall continue until such report shall be made, or until otherwise ordered by the House.

Mr. BURNETT. I object to the resolutions.

CONNECTICUT RIVER.

Mr. ARNOLD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce is hereby instructed to inquire into the necessity and expediency of making an appropriation for the removal of the obstructions at the mouth of the Connecticut river, and to report by bill or otherwise.

PRIVILEGED QUESTION.

Mr. HASKIN. Mr. Speaker, I rise to a privileged question. I have for several days observed men upon this floor who are not entitled to its privileges. I see one here now, who is a scribbler for the Herald, and who published in that paper that I had gone over to the Black Republicans, and was with MATTESON and the lobby. He is a thief of character of the name of Shaw. I move that the Doorkeeper shall show him the door, and that the Speaker shall particularly direct the attention of the Doorkeeper to the 17th rule, defining who is and who is not entitled to the privileges of this floor.

The SPEAKER. So far as the latter part of the gentleman's remarks are concerned, it is wholly unnecessary, for the Chair has repeatedly called the attention of the Doorkeeper to the rule.

Mr. HASKIN. I have called the attention of the House to this matter because I have seen men here who were not entitled to the privileges of the floor. As this is an important day in the history of the country, I hope that the Doorkeeper will be compelled to enforce the 17th rule.

The SPEAKER. The Doorkeeper will see that the rule is enforced.

ATLANTA, GEORGIA, A PORT OF DELIVERY.

Mr. GARTRELL, by unanimous consent, introduced a bill to establish Atlanta, in the State

of Georgia, a port of delivery; which was read a first and second time, and referred to the Committee on Commerce.

EXTENSION OF BOUNTY LAND LAW.

Mr. REILLY, by unanimous consent, introduced a bill granting bounty land to artificers, ship carpenters, carpenters, and blacksmiths employed under the direction of competent authority in any war in which this country has been engaged since the year 1810; which was read a first and second time, and referred to the Committee on Public Lands.

GOVERNMENT BARRACKS, SAVANNAH.

Mr. SEWARD, by unanimous consent, introduced a bill to authorize the transfer and cession of the Government barracks of Savannah, Georgia, to the city of Savannah; which was read a first and second time, and referred to the Committee on Military Affairs.

EQUALIZATION OF PENSIONS.

Mr. FLORENCE, from the Committee on Invalid Pensions, by unanimous consent, reported a bill to equalize the Army, Navy, and Marine pensions; which was read a first and second time, and referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

UNSOLD PUBLIC LANDS IN OHIO.

Mr. NICHOLS, by unanimous consent, introduced a bill to cede to the State of Ohio, the unsold public lands within the limits of said State; which was read a first and second time, and referred to the Committee on Public Lands.

SALEM, NEW JERSEY, A PORT OF DELIVERY.

Mr. CLAWSON, by unanimous consent, introduced a bill to establish Salem, in the State of New Jersey, a port of delivery; which was read a first and second time, and referred to the Committee on Commerce.

JAMES RUMPH.

Mr. MOORE, from the Committee of Claims, by unanimous consent, reported a bill for the relief of James Rumph; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

REVOLUTIONARY PENSION LAWS.

Mr. HICKMAN, from the Committee on Revolutionary Pensions, by unanimous consent reported a joint resolution, authorizing the pensions which certain officers and soldiers of the Revolution were entitled to at the time of their death to be paid to their widows, or their children, or their legal representatives; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

PACIFIC RAILROAD.

Mr. WASHBURN, of Maine. I ask the unanimous consent of the House for leave to introduce a bill to authorize and facilitate the construction of a northern and a southern and a central Pacific railroad, and for other purposes.

Mr. KEITT objected, but subsequently withdrew the objection.

Mr. CLEMENS renewed the objection.

ADMISSION OF KANSAS.

Mr. STEPHENS, of Georgia. Mr. Speaker, the hour of one having arrived, I move, in pursuance of notice, to take up the Senate bill for the admission of Kansas.

The bill was read a first time by its title; as follows:

An act for the admission of the State of Kansas into the Union.

Mr. GIDDINGS. I object to the bill.

The SPEAKER. The gentleman from Ohio making objection to the bill, under the 116th rule, the question propounded to the House will first be, "Shall this bill be rejected?"

Mr. STEPHENS, of Georgia, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. JONES, of Tennessee, called for the reading of the bill.

The bill was read, as follows:

Whereas, the people of the Territory of Kansas did, by a convention of delegates, called and assembled at Leecompton, on the 4th day of September, 1857, for that purpose,

form for themselves a constitution and State government, which said constitution is republican, and said convention having asked the admission of said Territory into the Union as a State on an equal footing with the original States—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Kansas shall be, and is hereby declared to be, one of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever. And the said State shall consist of all the territory included within the following boundaries, to wit: beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the eastern boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning: *Provided,* That nothing herein contained respecting the boundary of said State shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with such Indian tribe, is not without the consent of such tribe to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the State of Kansas, until said tribe shall signify their assent to the President of the United States to be included within said State, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to make if this act had not been passed.

Sec. 2. *And be it further enacted,* That the State of Kansas is admitted into the Union upon the express condition that said State shall never interfere with the primary disposal of the public lands, or with any regulations which Congress may find necessary for securing the title in said lands to the *bona fide* purchasers and grantees thereof, or impose or levy any tax, assessment, or imposition of any description whatever upon them, or other property of the United States, within the limits of said State; and that nothing in this act shall be construed to abridge or infringe any right of the people asserted in the constitution of Kansas at all times to alter, reform, or abolish their form of government in such manner as they may think proper, Congress hereby disclaiming any authority to interfere or declare the construction of the constitution of any State, except to see that it be republican in form, and not in conflict with the Constitution of the United States; and nothing in this act shall be construed as an assent by Congress to all or to any of the propositions or claims contained in the ordinance annexed to the said constitution of the people of Kansas, nor to deprive the said State of Kansas of the same grants, if hereinafter made, which were contained in the act of Congress, entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to admission into the Union on an equal footing with the original States," approved February 26, 1857.

Sec. 3. *And be it further enacted,* That until the next general census shall be taken, and an apportionment of representation made, the State of Kansas shall be entitled to one Representative in the House of Representatives of the United States.

Sec. 4. *And be it further enacted,* That from and after the admission of the State of Kansas as hereinbefore provided, all the laws of the United States which are not locally inapplicable, shall have the same force and effect within that State as any other State of the Union; and the said State is hereby constituted a judicial district of the United States, within which a district court, with the like power and jurisdiction as the district court of the United States for the district of Iowa, shall be established. The judge, attorney, and marshal of the United States for the said district of Kansas, shall reside within the same, and shall be entitled to the same compensation as the judge, attorney, and marshal, of the district of Iowa.

The question was then taken; and resulted—yeas 95, nays 137; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapin, Ezra Clark, Clawson, Clark D. Cochran, Coffey, Comins, Covode, Craig, Curtis, Danrell, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eide, Farnsworth, Fenton, Foster, Giddings, Gilman, Goode, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Hickman, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Matteson, Morgan, Morrill, Edward J. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spaulser, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and Wood—95.

NAYS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bockock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochran, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Haskin, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel,

Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Milson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quintana, Ready, Reagan, Reilly, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippe, Underwood, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—137.

So the House refused to reject the bill.

Pending the call of the roll,

Mr. COX said, I vote in the negative, with the view of having the bill radically amended.

Mr. BURNETT. I object to debate.

[Cries of "Order!" "Order!"]

THE SPEAKER. Debate is not in order.

The result was then announced, as above recorded.

THE SPEAKER. The motion to reject the bill having been negatived, second reading of the Senate bill.

The bill was accordingly read a second time.

Mr. STEPHENS, of Georgia. It is not my purpose to discuss this bill. I understand that the opponents of the bill have agreed to a proposition which they wish to offer as a substitute. I am willing to allow that proposition to be offered. The gentleman who is to offer it, [Mr. MONTGOMERY.] I understand, desires a few moments to explain the provisions of the amendment.

My friend upon my right [Mr. QUITMAN] also has a substitute which he proposes to offer for the amendment to be offered by the opponents of this bill. I am willing to yield for that purpose also.

I now yield, temporarily, to allow the amendments of the opponents of this bill to be offered.

Mr. MONTGOMERY. I move to amend the bill by striking out all after the enacting clause, and inserting the following:

That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States in all respects whatever; but, inasmuch as it is greatly disputed whether the constitution framed at Leecompton on the 7th day of November last, and now pending before Congress, was fairly made, or expressed the will of the people of Kansas, this admission of her into the Union as a State is hereby declared to be upon this fundamental condition precedent, namely: that the said constitutional instrument shall be first submitted to a vote of the people of Kansas, and assented to by them, or a majority of the voters, at an election to be held for the purpose; and as soon as such assent shall be given, and duly made known, by a majority of the commissioners herein appointed, to the President of the United States, he shall announce the same by proclamation; and thereafter, and without any further proceedings on the part of Congress, the admission of said State of Kansas into the Union upon an equal footing with the original States, in all respects whatever, shall be complete and absolute. At the said election the voting shall be by ballot, and by indorsing on his ballot, as each voter may please, "for the constitution," or "against the constitution." Should the said constitution be rejected at the said election by a majority of votes being cast against it, then, and in that event, the inhabitants of said Territory are hereby authorized and empowered to form for themselves a constitution and State government by the name of the State of Kansas, according to the Federal Constitution, and to that end may elect delegates to a convention as hereinafter provided.

Sec. 2. *And be it further enacted,* That the said State of Kansas shall have concurrent jurisdiction on the Missouri and all other rivers and waters bordering on the said State of Kansas, so far as the same shall form a common boundary to said State and any other State or States now or hereafter to be formed or bounded by the same; and said rivers and waters, and all the navigable waters of said State, shall be common highways and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll therefor.

Sec. 3. *And be it further enacted,* That, for the purpose of insuring, as far as possible, that the elections authorized by this act may be fair and free, the Governor and Secretary of the Territory of Kansas, and the presiding officers of the two branches of its Legislature, namely, the President of the Council and Speaker of the House of Representatives, are hereby constituted a board of commissioners to carry into effect the provisions of this act, and to use all the means necessary and proper to that end. Any three of them shall constitute a board; and the board shall have power and authority, in respect to each and all of the elections hereby authorized or provided for, to designate and establish precincts for voting, or to adopt those already established; to cause polls to be opened at such places as it may deem proper in the respective counties and election precincts of said Territory; to appoint, as judges of election, at each of the several places of voting, three discreet and respectable persons, any two of whom shall be competent to act; to require the sheriffs of the several counties, by themselves or deputies, to attend the judges at each of the places of voting, for the purpose of preserving peace and good order; or the said board may, instead of said sheriffs and their deputies, appoint, at their discretion, and in such instances as they may choose, other fit persons for the same purpose; and when the purpose of the election is to elect delegates to a convention to form a constitution, as hereinbefore provided for, the number of delegates shall be sixty, and they shall be apportioned by said board among the several counties of

said Territory, according to the number of voters; and in making this apportionment, the board may join two or more counties together to make an election or representative district, where neither of the said counties has the requisite number of voters to entitle it to a delegate, or to join a smaller to a larger county, having a surplus population, where it may serve to equalize the representation. The elections hereby authorized shall continue one day only, and shall not be continued later than sundown on that day. The said board shall appoint the day of election for each of the elections hereby authorized, as the same may become necessary. The said Governor shall announce, by proclamation, the day appointed for any one of said elections, and the day shall be as early a one as is consistent with due notice thereof to the people of said Territory, subject to the provisions of this act. The said board shall have full power to prescribe the time, manner, and places of each of said elections, and to direct the time and manner of the returns thereof, which returns shall be made to the said board, whose duty it shall be to announce the result by proclamation, and to appoint therein as early a day as practicable for the delegates elected (where the election has been for delegates) to assemble in convention at the seat of government of said Territory. When so assembled, the convention shall first determine, by a vote, whether it is the wish of the proposed State to be admitted into the Union at that time; and, if so, shall proceed to form a constitution and take all necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State. And the said convention shall accordingly provide for its submission to the vote of the people for approval or rejection; and if the majority of votes shall be given for the constitution so framed as aforesaid, the Governor of the Territory shall, within twenty days after the result is known, notify the President of the United States of the same. And thereupon the President shall announce the same by proclamation, and thereafter, and without any further proceedings whatever on the part of Congress, the admission of the said State of Kansas into the Union, upon an equal footing with the original States in all respects whatever, shall be complete and absolute.

Sec. 4. *And be it further enacted,* That in the elections hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, who are legal voters under the laws of the Territory of Kansas, and none others, shall be allowed to vote; and this shall be the only qualification required to entitle the voter to the right of suffrage in said elections. And if any person not so qualified shall vote, or offer to vote, or if any person shall vote more than once at either of said elections, or shall make, or cause to be made, any false, fictitious, or fraudulent returns, or shall alter or change any returns of either of said elections, such person shall, upon conviction thereof before any court of competent jurisdiction, be kept at hard labor not less than six months, and not more than three years.

Sec. 5. *And be it further enacted,* That the members of the aforesaid board of commissioners, and all persons appointed by them to carry into effect the provisions of this act, shall, before entering upon their duties, take an oath to perform faithfully the duties of their respective offices, and on failure thereof, they shall be liable and subject to the same charges and penalties as are provided in like cases under the territorial laws.

Sec. 6. *And be it further enacted,* That the officers mentioned in the preceding section shall receive for their services the same compensation as is given for like services under the territorial laws.

Sec. 7. *And be it further enacted,* That the said State of Kansas, when her admission as a State becomes complete and absolute, shall be entitled to one member in the House of Representatives, in the Congress of the United States, till the next census be taken by the Federal Government.

Sec. 8. *And be it further enacted,* That the following propositions be, and the same are hereby, offered to the said people of Kansas for their free acceptance or rejection, which, if accepted, shall be obligatory upon the United States and upon the said State of Kansas, to wit: First, That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands, equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools. Second, That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. Third, That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the Legislature thereof. Fourth, That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use; the same to be selected by the Governor thereof within one year after the admission of said State, and when so selected, to be used or disposed of on such terms, conditions, and regulations, as the Legislature shall direct: *Provided,* That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. Fifth, That five per centum of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the Legislature shall direct: *Provided,* The foregoing propositions hereinbefore offered are on the condition that the people of Kansas shall provide, by an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title in said soil to *bona fide* purchasers

thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents. Sixth, And that the said State shall never tax the lands or the property of the United States in that State: *Provided, however,* That nothing in this act of admission shall be construed as to ratify or accept the ordinance attached to the said constitution formed at Lecompton, but said ordinance is hereby rejected by the United States.

Mr. MONTGOMERY. By an arrangement made since the amendment was offered, it is understood that no remarks will be made by me upon the subject. The bill is its own interpreter; it speaks its own language.

I will state that I have furnished copies of the amendment to every gentleman who has indicated a desire to read it. I have a number of copies yet left, and if any gentleman in the House desires a copy he can be supplied by sending a page for it.

Mr. STEPHENS, of Georgia. I now yield temporarily to the gentleman from Mississippi, [Mr. QUITMAN,] that he may offer his proposition.

Mr. QUITMAN. I offer, as a substitute for the amendment of the gentleman from Pennsylvania, [Mr. MONTGOMERY,] the Senate bill, with the following words stricken from the second section:

"And that nothing in this act shall be construed to abridge or infringe any right of the people asserted in the constitution of Kansas at all times to alter, reform, or abolish their form of government in such manner as they may think proper, Congress hereby disclaiming any authority to intervene or declare the construction of the constitution of any State, except to see that it be republican in form, and not in conflict with the Constitution of the United States."

Mr. MONTGOMERY. With the permission of the gentleman, I desire to state that there is a slight change in the amendment I have offered from that of the printed amendment. The last two lines of the printed amendment read, "attached to said constitution; but said ordinance is hereby rejected by the Government of the United States." I have changed the language so that it reads now, "attached to the said constitution formed at Lecompton; but said ordinance is hereby rejected by the United States." The error was merely typographical.

Mr. MARSHALL, of Kentucky. I propose, before the vote is taken upon either substitute, to amend the original bill as it came from the Senate, by moving to strike out from that bill the same words which are excluded by the substitute offered by the gentleman from Mississippi.

The SPEAKER. The gentleman from Georgia has the floor.

Mr. STEPHENS, of Georgia. I cannot yield for any such purpose.

Mr. PENDLETON. I understand that it is now the intention of the gentleman from Georgia to move the previous question; I would like to ask the Chair whether, in case the previous question is sustained, it will be in order to move an amendment to the substitute offered by the gentleman from Pennsylvania?

The SPEAKER. If the previous question is sustained an amendment would not be in order.

Mr. PENDLETON. I then ask the gentleman from Georgia to yield the floor to me for the purpose of offering an amendment to that substitute.

Mr. STEPHENS, of Georgia. What is it?

Mr. PENDLETON. It is to strike out certain words from the fourth section of the substitute.

Mr. STEPHENS, of Georgia. Read them.

The SPEAKER. Perhaps the Chair can save the gentleman the trouble, by stating that an amendment to an amendment in the third degree would not be in order.

Mr. STEPHENS, of Georgia. The original bill, which I think is the best that can be passed, is before us; the amendment agreed upon, as I understand, by the opponents to the original bill, is also before us; the substitute for it offered by the gentleman from Mississippi is also before us. No other amendments, therefore, being in order, I move the previous question, that we may come to a fair vote.

Mr. MARSHALL, of Kentucky. I want the gentleman from Georgia to bear in mind, and the record to show the fact, that the gentleman from Georgia refuses to permit me to offer the amendment I have indicated.

The SPEAKER. Debate is not in order.

Mr. PENDLETON. I desire to appeal to the gentleman from Georgia to give me the floor for one moment that I may state to the gentleman

from Pennsylvania the amendment which I propose to offer, and ask him to adopt it as part of his substitute.

Mr. STEPHENS, of Georgia. I will hear the gentleman.

Mr. PENDLETON. The proposition which I would have offered if I had the opportunity, and which I now ask the gentleman from Pennsylvania to adopt as a portion of his substitute is, to strike from the fourth section of the substitute the words "who are the legal voters under the laws of the Territory of Kansas." The object which I have in view in proposing this modification is to allow the qualifications for voters at the election to be held under it to be at least as liberal as those prescribed in the Lecompton constitution, which are as fair as can be desired. I ask the gentleman from Pennsylvania if he is willing to accept that as a part of his substitute?

Mr. MONTGOMERY. I am not.

Mr. STEPHENS, of Georgia. Then I ask the previous question.

Mr. MONTGOMERY. I wish to state why I do not receive the amendment proposed.

Mr. CLEMENS. I object to debate.

The previous question was seconded.

Mr. PENDLETON asked for the yeas and nays on ordering the main question.

The yeas and nays were not ordered; only seventeen members voting therefor.

The main question was ordered.

The first question now being on Mr. QUITMAN's amendment,

Mr. CAMPBELL called for the yeas and nays. The yeas and nays were ordered.

Mr. GARNETT. I rise to make an inquiry of the Chair. I wish to know whether the question is not now on substituting the amendment of the gentleman from Mississippi [Mr. QUITMAN] for that of the gentleman from Pennsylvania, [Mr. MONTGOMERY?] in other words, if it is not a competition between the Mississippi proposition and the Pennsylvania proposition?

The SPEAKER. The proposition of the gentleman from Mississippi is offered as a substitute for that of the gentleman from Pennsylvania.

Mr. GIDDINGS. It is to amend the original bill before the question is taken on the substitute.

The SPEAKER. The gentleman from Mississippi offers his proposition as an amendment to the substitute proposed by the gentleman from Pennsylvania. There is no pending amendment to the original bill, except the substitute offered by the gentleman from Pennsylvania.

Mr. DAVIS, of Indiana. I wish to ask a question. If the amendment offered by the gentleman from Mississippi be voted down, we will then be brought to a direct vote on that of the gentleman from Pennsylvania?

The SPEAKER. That is the effect.

The question was taken; and it was decided in the negative—yeas 72, nays 160; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Boccock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, Burton Craig, Crawford, Curry, Davis of Mississippi, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Garnett, Gartrell, Goode, Greenwood, Gregg, Hatcher, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, McQueen, Mason, Maynard, Miles, Milson, Moore, Peyton, Phelps, Powell, Quitman, Reagan, Rufin, Sandidge, Savage, Seales, Seward, Henry M. Shaw, Shorter, Singleton, William Smith, Stallworth, Stevenson, James A. Stewart, Talbot, Miles Taylor, Trippie, Watkins, Winslow, Woodson, Augustus R. Wright, John V. Wright, and Zollcoffer—72.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Arnold, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Corning, Covode, Cox, Cragin, James Craig, Curtis, Damrell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dimmick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Florence, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Kelly, Kibbey, Knapp, John C. Kunkel, Landy, Lawrence, Leach, Leidy, Leiter, Lovejoy, McClay, McKibbin, Humphrey Marshall, Samuel S. Marshall, Matteson, Miller, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Phillips, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Scott, Searing, Aaron Shaw, John Sherman, Judson W. Sherman, Sickles, Robert Smith, Samuel A. Smith, Spinner, Stanton, Stephens, William

Stewart, Tappan, George Taylor, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Ward, Warren, Cadwalader C. Washburn, Ellihu B. Washburn, Israel Washburn, White, Whiteley, Wilson, Wood, and Wortendyke—160.

So the amendment was not agreed to.

The question recurred on Mr. MONTGOMERY's substitute.

The question was taken; and it was decided in the affirmative—yeas 120, nays 112; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Matteson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and Wood—120.

NAYS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Boccock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Corning, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Hatcher, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, McClay, McQueen, Mason, Maynard, Miles, Miller, Milson, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Rufin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—112.

So the amendment was agreed to.

When the Speaker announced the result of the vote there was considerable applause manifested in the galleries, accompanied by hissing.

Mr. KEITT. I move that the galleries be cleared.

Mr. McQUEEN. Not the ladies' galleries.

Mr. KEITT. I mean the gentlemen's galleries. I insist on the enforcement of the rule.

The SPEAKER. The Chair begs to remind gentlemen in the galleries that they are not in a theater; and if the disturbance be repeated, the Chair will exercise the authority vested in him for ordering the Doorkeeper to clear the gentlemen's galleries.

Mr. HOUSTON. It would be a hardship to clear the galleries of those gentlemen who behave themselves.

The SPEAKER. The Chair cannot believe that every gentleman in the gallery has been guilty of the impropriety, or he would have at once ordered the gentlemen's gallery to be cleared.

Mr. GROW. There was no objection when the applause was on the other side.

The bill was ordered to a third reading, and was accordingly read the third time.

Mr. MONTGOMERY. I move the previous question on the passage of the bill.

The previous question was seconded; and the main question ordered.

Mr. CAMPBELL called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 120, nays 112; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Matteson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer,

Parker, Pendleton, Pettit, Pike, Potter, Pottle, Purviance, Ricaud, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Wallbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—120.

NAYS.—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskey, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Corning, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Macclay, McQueen, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Tripp, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—112.

So the bill, as amended, was passed.

Mr. MONTGOMERY. Is it in order to move to strike out of the preamble a portion of the language?

The SPEAKER. The Chair is of opinion that it is not. The question has been suggested within the last few minutes. The proper time to have moved any amendment to the preamble was, in the opinion of the Chair, before the bill was ordered to a third reading.

Mr. MONTGOMERY moved that the vote by which the bill was passed be reconsidered; and that the motion to reconsider be laid on the table.

The latter motion was agreed to.

And then, on motion of **Mr. CAMPBELL**, the House (at five minutes to three o'clock, p. m.) adjourned.

IN SENATE.

Friday, April 2, 1858.

Prayer by Rev. SAMUEL ROGERS.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. SEWARD. I wish to submit to the Senate Mr. William Henry Ward's mode of signal telegraph for general marine service, together with a communication from him on the subject. This communication connects itself with the bill introduced by the Committee on Commerce authorizing the establishment of a code of marine signals for the marine service. As the bill has been reported, I shall be content to let this communication lie on the table, and ask the attention of the Senate to it when the bill shall come up.

The memorial was ordered to lie on the table.

Mr. SLIDELL presented the memorial of T. Hart Hyatt, United States Consul at Amoy, in China, praying compensation for judicial services performed under the act of Congress of August 11, 1848; which was referred to the Committee on Foreign Relations.

Mr. JOHNSON, of Tennessee, presented papers in relation to the claim of Levi Johnson and Mary Burchfield, in the right of Samuel Slaughter to bounty land; which was referred to the Committee on Pensions.

Mr. JONES presented a memorial of the Legislature of Iowa, praying for a grant of land to aid in the construction of a railroad from Fort Dodge to Sioux Falls, in that State; which was referred to the Committee on Public Lands.

Mr. FITCH presented a memorial of citizens of Martin county, Minnesota, for the establishment of a mail route from Winnebago City to Jackson; which was referred to the Committee on the Post Office and Post Roads.

Mr. HAMLIN. I have received two petitions very numerous signed by citizens of Maine, who represent that, by the provisional articles of the treaty of 1782, the boundary between the State of Maine and the Province of New Brunswick was defined to be by a line to be drawn along the middle of the river St. Croix, from its mouth, in the bay of Fundy, to its source, and from its source north, &c., and by the treaty of 1783 the same boundary was given. The boundary from the source of the river to the northernmost point has been marked and defined; but the line along the river has never yet been defined, leaving the islands in the river still in dispute. These memorialists ask that "your honorable bodies will

adopt such measures as will cause the requisite commission to be raised or appointed by the two Governments to run and define said line." I move that the memorials be referred to the Committee on Foreign Relations.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of **Mr. SEWARD**, it was

Ordered, That the petition of Townsend Harris, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of **Mr. IVERSON**, it was

Ordered, That the Committee on Claims be discharged from the further consideration of the memorial of John W. Phillips, and that he have leave to withdraw his memorial and papers.

On motion of **Mr. JOHNSON**, of Arkansas, it was

Ordered, That the petition of John B. and Thomas Johnston, on the files of the Senate, be referred to the Committee on Claims.

On motion of **Mr. KING**, it was

Ordered, That Emma A. Wood have leave to withdraw her petition and papers.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Charles Knap, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, announcing that the House had passed the bill of the Senate (S. No. 176) to acquire certain lands needed for the Washington aqueduct in the District of Columbia.

BILLS INTRODUCED.

Mr. SEBASTIAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 233) for the relief of Samuel C. Phagin and others; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. JOHNSON, of Arkansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 234) concerning the remission of fines, penalties, and forfeitures; which was read twice by its title, and referred to the Committee on the Judiciary.

ADJOURNMENT OF CONGRESS.

The PRESIDENT pro tempore. If there be no further petitions or reports, the first business in order is the following resolution from the House of Representatives:

Resolved, (the Senate concurring.) That the President of the Senate and Speaker of the House of Representatives declare their respective Houses adjourned sine die on the first Monday of June next, at twelve o'clock, m.

Mr. BROWN. I think it very manifest that we ought not to concur in that resolution now. I move that for the present it lie on the table.

Mr. HAMLIN. I hope not.

Mr. SEWARD. I call for the yeas and nays on the motion.

Mr. BROWN. If there be any objection to that precise motion, I will move to postpone the resolution until to-morrow, as Senators around me tell me that will put it on the Calendar to come up in its order. All I ask is, that there be no action on it now. I do not think we are in a condition to dispose of it now.

Mr. SEWARD. There is no objection to that.

Mr. BROWN. Then I move that it be postponed until to-morrow.

The motion was agreed to.

KANSAS ELECTIONS.

The PRESIDENT pro tempore. The next business in order is the resolution offered by the Senator from Illinois, [Mr. DOUGLAS], on the 4th of February, calling for information in relation to the elections in the Territory of Kansas.

Mr. DOUGLAS. I suppose the day has gone by when the information would be of any service, if obtained; and I move that the resolution lie on the table.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. STUART. I reported a bill yesterday, which passed the Senate at the last session; and although it is a bill of only eight or nine lines, it is very important: simply authorizing the Secre-

tary of the Interior to issue patents to the States in cases where grants of land have been made to them for purposes of railroad construction, or other similar constructions, in order that they may have evidence to put on record of their title. I suppose there will be no objection to it, and I move that it be taken up.

The PRESIDENT pro tempore. The Chair understands from the Clerk that it has not come from the Printer. It is not here.

Mr. STUART. Then I will ask the Senate to take up a bill for the relief of Mark Layman, reported from the Committee on Public Lands some days since.

Mr. BIGGS. I would respectfully suggest to the Senator from Michigan, that instead of calling up the case of which he speaks, about which there is some doubt as to whether it is on the Calendar, we proceed to take up the Calendar regularly until the hour of one o'clock arrives. I think that would be better.

Mr. STUART. Very well, sir.

Mr. BIGGS. I move to take up the bills on the Calendar in their regular order.

The motion was agreed to.

JUDGE OF CRIMINAL COURT.

The first bill on the Calendar was the bill (S. No. 54) to equalize the salaries of certain judges of the courts for the District of Columbia, and for other purposes.

Mr. IVERSON. I understand that the Senator from Maryland [Mr. PEARCE] has an amendment to offer to that bill, and he is not in his seat. I move, therefore, to postpone it until to-morrow.

The motion was agreed to.

INDIANA MEETING OF FRIENDS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 46) to grant the right of preemption in certain lands to the Indiana yearly meeting of the Society of Friends.

Mr. BIGGS. I ask for the reading of the report in that case.

The Clerk read the following report, made by **Mr. PUGH**, on the 21st of January:

The Committee on Public Lands, to whom was referred Senate bill No. 46, "to grant the right of preemption in certain lands to the Indiana yearly meeting of the Society of Friends," has had the same under consideration, and recommends its passage.

The committee adopts the report on this subject made at the last Congress, namely:

The Committee on Public Lands, to whom was referred the memorial of Charles F. Coffin, clerk, "signed by direction, and on behalf, of the meeting for sufferings of Indiana yearly meeting of Friends," has had the same under consideration, and asks leave now to report:

It appears that almost, or quite, forty years ago, the Indiana yearly meeting of Friends, in conjunction with the Baltimore and Ohio yearly meetings of the same religious society, appointed a permanent committee to found a mission with the Shawnee tribe of Indians, and instruct them, as far as possible, in the arts of civilized life, in letters, and in the doctrines of the Christian religion.

Acting under the direction of these yearly meetings, and furnished with funds by them, from time to time, the committee established a school, and made other suitable arrangements for the mission at Wapakousta, in the State of Ohio, where the Indians then resided. The school was maintained faithfully until the Shawnees disposed of their land in Ohio to the United States, and migrated to their present location beyond the Mississippi river when, at the earnest solicitation of the chiefs and councilors of the tribe, the committee removed the school and mission to what is now Kansas Territory, and there erected buildings, and made other valuable improvements, upon a tract of land designated for that purpose.

It appears, furthermore, that in the new establishment, as in the former one, these yearly meetings, by their committee, labored zealously and in good faith, to promote the temporal and spiritual welfare of the Indians with whom they have been so long connected.

Previous to the treaty dated May 10, 1854, those in charge of the school and mission were allowed, by the authorities of the tribe, to inclose and use as much land as they required, and obtain timber from any part of the Shawnee domain. By that treaty, however, the committee of Friends was restricted to a tract of three hundred and twenty acres, constituting the mission farm, which tract is almost or entirely destitute of timber. And it seems to be now impossible to maintain the establishment, even with a large annual expenditure of money from the yearly meetings above mentioned, unless a supply of timber can be secured.

The yearly meeting of Indiana, therefore, asks permission to locate and purchase, as a preemption right, at the price of one dollar and twenty-five cents an acre, two tracts in the neighborhood of the mission farm, namely, one hundred and twenty acres west of the farm, and two hundred acres on the south side of the Kansas river.

This application has been approved (the committee understands) by the Shawnee tribe in council, as well as by the Commissioner of Indian Affairs and the Commissioner of the General Land Office. The only obstacle is in the fact that our general statutes do not authorize any such pre-

emption. The Commissioner of the Land Office speaks of it, however, in this language:

"The application is one which would recommend itself favorably, I should think, to the consideration of Congress; and it would be gratifying to me to learn that it had met with favor from that body, who alone can grant relief in the premises."

It should be recollected, also, that this mission is the first ever established with the Shawnees; that they were then in a wild, and, in fact, desolate condition; that they are now comfortably established in a fertile country, and have cultivated farms, with horses and cattle, and are far advanced in civilization.

The treaty of May 10, 1854, reserved two or three entire sections of land for the benefit of the Methodist mission—an establishment of much later date—for which payment is to be made by the education of a specified number of the Shawnee children. In these circumstances the proposition of the society of Friends to purchase the mission farm assigned to it, and two neighboring tracts of woodland, three hundred and twenty acres, at the usual price in cases of preemption, seems to your committee entirely reasonable.

A bill is reported, therefore, in accordance with the prayer of the memorial, with a section (third) intended to prevent the lands, or any part of them, from ever being used for the purposes of speculation.

Mr. BIGGS. I see that the Senator from Ohio [Mr. PUGH] who made that report, is not in his seat. When the bill was up before, I think there was some objection made to it. I move to postpone its further consideration until to-morrow.

Mr. STUART. I really hope that will not be done. I can correct the recollection of my friend, I think. At the time the bill was up before, the Senator from Ohio was very anxious to pass it; but it will be recollected that the Senator from Alabama [Mr. CLAY] desired that it should be delayed until he could look into it. That I presume he has done. The Senator from North Carolina will see that this case is certainly one of the strongest that could be presented. The bill is simply to enable this society to pay \$1 25 an acre for this land for the purposes of timber connected with their school. It had a careful investigation by the committee, and an equally careful one by the Department. It is regarded as eminently just and proper. It received the favorable consideration of the committee at the last session, and passed the Senate; and it is important, as these lands are being settled up, that the question should be determined. The Indians are for it; and the executive Department of the Government having charge of such cases is for it; and I think the report shows a very good case indeed. I hope, therefore, it will not be postponed. I assure the Senator from North Carolina that the Senator from Ohio is very anxious for its passage.

Mr. BIGGS. I took it for granted that the Senator from Ohio was in favor of the bill, as he made the report. I alluded to the fact of his absence, not recollecting what Senator made the opposition when the bill was pending before. I recollect very well indeed that there was some opposition to it, and the Senator from Michigan reminds me that it came from the Senator from Alabama. The Senator from Alabama also is not in his seat; and as he wished to investigate the matter—I presume he has investigated it—and is not present now, it seems to me to be improper to take up the bill for consideration at this time. I will very frankly say to the Senator from Michigan that the principle involved in the bill does not meet my approbation. It is the extension of the preemption laws to religious societies; this being a religious organization. I think the preemption laws go far enough already. I shall not discuss the question; but as the Senator from Alabama, who heretofore made the objection, is absent, I hope the bill will be postponed.

Mr. STUART. I am very anxious indeed for the passage of this bill. I think it is important, highly so, to the Indians who are connected with and benefited by this school. If the Senator from Alabama, when he comes in to-day, shall say that he has not examined this question, and wants time and opportunity to do so, I shall have no objection to a motion to reconsider being entered, so that he may have that opportunity; for I feel assured that the more this bill is examined the more it will impress itself on the mind of every Senator here as being, as I said before, eminently just and proper.

The PRESIDENT *pro tempore*. Does the Senator from North Carolina insist on his motion to postpone?

Mr. BIGGS. Yes, sir.

Mr. JOHNSON, of Arkansas. I wish to state that, as a member of the Committee on Public Lands, I was not present when this report was

adopted. The bill extends the preemption privilege to a religious society. We have had during the last two or three Congresses, not less than one thousand petitions in behalf of various societies throughout the United States, asking for public lands. This bill, it is true, requires the payment into the Treasury of \$1 25 an acre for the land. So far it is no injustice to the public; but whenever you commence extending facilities or benefits of this character, connected with the public lands, to societies of any description whatsoever, you will have taken a step that leads to—where, no one can tell.

I am satisfied, with reference to the public lands and their disposition in the future, that this will be as unwise a step as we can possibly take. I say to those gentlemen who represent the old States, and have ever been so jealous in regard to the disposition to be made of the public lands, that by passing this bill, they now take the first step towards a system of donation of the public lands for every kind of wild scheme that can be presented to Congress. Pass this bill, and your files here will show, within twelve months from this time, certainly within the period of the next Congress, a very large increase of petitions, that will be presented here in favor of various schemes, for the disposition of the public lands. If you grant this special favor to this society, it will be taken as a precedent, and the dollar and a quarter an acre will become a matter of small consequence, the precedent having been extended of giving privileges of this kind connected with the public lands. You will find it not very long before the dollar and a quarter will be dispensed with, and they will become nothing but naked donations for the objects which the parties preferring petitions may have in view.

I hope this bill will not be passed by Congress; I hope it will never become a law. It is for charitable, educational, and various other purposes that these petitions have hitherto been presented. Hitherto the most extensive provisions have been made by the laws of Congress in the new States for educational purposes, by grants of public lands to the States for that object. Then in regard to the Indians, if it is upon that ground that the Senator wants this grant, we can well say that the Government of the United States has incurred expense without stint in every direction for the Indians; and many persons, myself among the number, think your Indian expenditures have been, in some respects, of the most extravagant character. I do not think the public lands now ought to be opened to objects of that kind. It seems to me that sound policy would forbid our embarking in any system of this nature. This is but the inception of it; and I hope it will not succeed. I know of no instance in which a bill of this nature has ever been passed and become a law hitherto. I hope very much it will not be permitted to pass now; I dread the consequences of its passage.

Mr. STUART. I confess that I had no idea of eliciting so much discussion on this subject; but I can assure my honorable friend from Arkansas that this bill does not involve the principle which he has stated, and which he says might readily be conceived to be an opening of an important question. The bill before us is simply this, and no more: this land is not in market; it has not been offered for sale; it lies adjacent to the lands these people occupy for the purposes of their school. The Shawnee Indians ask that they may, through this society, be permitted to secure a wood tract for the use of the school by having a preemptive right to pay a dollar and a quarter an acre for it. The bill limits it so that the land cannot be disposed of for any other purpose. It is singly and solely to afford an opportunity to the managers of this Indian school at their own request to buy this quantity of wood-land at \$1 25 an acre, and keep it for that purpose. I do think it is the plainest proposition of propriety, so far as the education of the Indians is concerned, that could be presented to the Senate; and it does not at all involve the question of embarking in the project of granting the public lands to religious societies, or any other societies. It is simply to aid this Indian school in having some woodland by which to sustain the school, at \$1 25 an acre.

Mr. JOHNSON, of Arkansas. I ask why it is that the parties who petition for these rights, as the land is yet public, cannot with propriety meet that species of rivalry which everybody else

has to meet in acquiring lands? It is just as open to them as to anybody else to enter the land when the time shall come that it will be open for settlement. It may be that you interfere with the rights of some others by giving exclusive privileges to them. I ask the Senator from Michigan why it is they are not equally safe with any other society, or any other individual, without the passage of a special act of this kind?

Mr. STUART. I will answer the Senator with a great deal of pleasure. It simply prevents speculators from coming into competition with this Quaker Indian school, and compelling them, perhaps, to pay twenty, thirty, or forty dollars an acre for this land when it shall be offered at public sale. The committee have ascertained, and so has the Indian bureau, that there are no settlers on the land. There is no rivalry of interest at all. The bill simply authorizes this school, as I said before, to secure a wood tract by paying \$1 25 an acre for it, and prevents them from ever alienating it. I certainly can see no objection to that.

Mr. JOHNSON, of Arkansas. I am certainly opposed to this bill. The speculators are constantly brought before this body in regard to the public lands as a scare-crow, when it is sought to secure some special and particular privilege, and establish some monopoly. I have not seen so much harm come out of these speculators to the public Treasury, for it is invariably the case that if they purchase public lands, the Treasury gets the money. If they pay an increased price for the land, it must have been worth the price to those who gave it. But it is said this is for the benefit of the Indians. Well, sir, I do not know a wealthier people on this continent, and I do not believe there is in the world, than some of the Indians we have. Absolutely at this time there are tribes worth more, *per capita*, than any people who live on God's globe. There is no question of this fact. I know that some of the Indian tribes are the richest people that live upon the face of the earth. They are worth money; they have plenty in their treasury; they are able to make public expenditures; they pay no taxes; and yet we are constantly legislating in this direction.

Now, the Senator speaks of speculators. So soon as speculators are brought up to a charge on this body, we gather in a flock and fly; we will do anything to avoid them. Speculators are terrible men! Well, sir, the petitioners in this case have the very same opportunities to enter these lands that other individuals have. Having these opportunities, I do not see that it is necessary that we should give them peculiar privileges and enable them to come in and get lands at a less price than persons who may be living upon them, and get them without regard to the rights of others. There are very honest people who may be, and I have no doubt will be, ruled out by granting a privilege of this kind. I do not think it is right. I know it is the commencement of a system that will end, not with the application of this one religious society, but will go on to all the rest. I do not believe, as one person living in a new State, that we ought to commence this system.

Mr. HUNTER. I think there is a great deal in what has been said by the Senator from Arkansas. I know we have made ample provision for the education of the Indians. As he says, some of these tribes are among the richest people on earth. Our annual Indian bill has always a large amount in it for the education of Indians. I do not see now why we should extend the preemption system to societies. It was designed to encourage settlement. But surely, as the Senator from Arkansas says, it would be a dangerous precedent to begin to allow societies to select the best lands, to enter them at preemption prices, to give them exclusive privileges. I quite agree with him that the bill ought not to pass.

Mr. CRITTENDEN. Anything concerning the Indians who have been placed under our care and protection has always been a subject of interest to me. It seems to me that the object of this bill is a very meritorious one. I did not understand my friend from Arkansas to say anything to the contrary as to this particular instance; but he is apprehensive of the consequences of its admitting a species of claims hitherto disregarded, but which may be set up by societies generally for religious or charitable purposes. Now, sir, all future Congresses must distinguish between the good and the bad; and we may trust them to

make the discrimination; and if we are satisfied that this bill is for a present and meritorious charity, can we refuse it because of our apprehensions of the evils that may grow out of the precedent? May we not trust our own discretion or the discretion of those who are to succeed us to do good without allowing it to become afterwards a precedent for evil?

The bill is not to give the Indians three hundred and twenty acres of land. If it was, would it be any great matter? We purchased all these lands from them for a mere trifle in most instances. What is the object for which this little concession is asked? The Quakers, or the Society of Friends, as they call themselves, have undertaken, with that benevolence which characterizes the whole of that body of respectable and benevolent men, to engage in the civilization and instruction of the Indians. This land they ask not for any private or personal emolument, but as necessary to maintain that school and those teachings by which they are endeavoring to lead that race from a savage to a civilized condition. That is the reason why they ask it. They propose to pay for it; and it is rendered by the bill inalienable by them without the consent of Congress; showing that they sincerely and earnestly and faithfully intend to apply this land to the very purpose which is expressed—to assist in teaching the Indian the ways of a civilized man; to teach him how to work and to teach him how to read. These are the first great elements in the progress of mankind. These they are endeavoring to teach him.

The question is, whether you will enable the teachers by this little grant to prosecute successfully, or with convenience, their labors—will you give three hundred and twenty acres of land for the purpose of enabling such teachers as these are to make the Indians better and wiser and less dangerous to you, less dangerous on your frontier? It is the best mode of obtaining settled peace. It is performing, on our part, an act of duty, an act of that high guardianship which rests upon us toward this race, going so fast to ruin and destruction. I will give this land cheerfully for such a purpose, secured as it is, to it, and I will not fear the consequences. If hereafter it be permitted to be run out into evil consequences, let the responsibility be upon those who permit them. The best way in this life always, it seems to me, in small and great matters, is to look at the duty which is immediately before us, look at the duty which is at hand close by, and if you go on so through life, there is not likely much injury to follow. Those who, for mere purposes of justice and benevolence, now grant this little tract of land, are not the men most likely hereafter to squander the public Treasury with speculative or visionary projects, or for the purpose of establishing religion in one place or another. Do the duty which is just at hand and just before us. Perform that and so go on. This seems to me to be one of the duties which lies before us, and is just at hand. I will vote for this bill.

Mr. CLAY. This bill was postponed the other day I believe on my motion. I then stated that it was my purpose to look into it. I had not had an opportunity of doing so, and indeed did not know that such a bill was pending at all. I did not suppose it would be called up on any other than private bill day, and hence I have not examined it. I hope it will go over until I can look into it. I have no desire to oppose it if I see that it is right. I would ask what committee has reported the bill?

Mr. STUART. I will say to the Senator that it was reported from the Committee on Public Lands, at the last Congress, by the Senator from Ohio, who is a member of that committee. The report, which is of considerable length, has been read this morning, and it shows that the proposition meets the favor of the Interior Department, and has been very carefully considered by the committee. Before the Senator came in I had explained it very fully. I do not think that the Senator, on looking into it, will find any real objection to the bill.

Mr. SEBASTIAN. I think the bill had better lie over. I am entirely unacquainted with its details. I have just learned from the Senator on my right [Mr. CLAY] the general object of it; and I think it at least pertains equally as much to the Indian Committee as to the Committee on Public Lands, and probably more so. It interferes with

the general policy which the Government is pursuing toward the Indians, a matter peculiarly appropriate to be examined into by the Committee on Indian Affairs. I shall not move the reference of the bill to that committee; but I ask that it may lie over, in order that the members of that committee may at least look to the provisions of the bill, and to the policy indicated in it. I hope, therefore, the motion to postpone will prevail.

Mr. STUART. I have no desire to press this subject on the consideration of the Senate without proper examination; but I trust that the Senator from Arkansas, who has last spoken, and the Senator from Alabama will take an early occasion to look into this report; and, as I said before, I think if they do so, it will meet the approbation of their judgment. I shall be very glad to have it passed at an early day, because the matter is of importance to the parties; but I will not press it further at this time.

The bill was postponed until to-morrow.

KANSAS—LECOMPTON CONSTITUTION.

The hour fixed for the consideration of the special orders having arrived, the President *pro tempore* announced the first question to be on the unfinished business of yesterday, the bill (S. No. 161) for the admission of the State of Kansas into the Union, which had been returned from the House of Representatives, with an amendment.

The amendment of the House struck out all after the enacting clause, and inserted a substitute, which the Clerk proceeded to read.

Mr. SEWARD. I do not know that it is necessary that the amendment should be read. I think the reading may be dispensed with. It has been printed.

Mr. GREEN. I should like to hear it read to know whether it is printed correctly or not. ["Proceed with the reading."]

The Clerk read the amendment, as follows:

That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States in all respects whatever; but, inasmuch as it is greatly disputed whether the constitution framed at Lecompton on the 7th day of November last, and now pending before Congress, was fairly made, or expressed the will of the people of Kansas, this admission of her into the Union as a State is hereby declared to be upon this fundamental condition precedent, namely: that the said constitutional instrument shall be first submitted to a vote of the people of Kansas, and assented to by them, or a majority of the voters, at an election to be held for the purpose; and as soon as such assent shall be given, and duly made known, by a majority of the commissioners herein appointed, to the President of the United States, he shall announce the same by proclamation; and thereafter, and without any further proceedings on the part of Congress, the admission of said State of Kansas into the Union upon an equal footing with the original States, in all respects whatever, shall be complete and absolute. At the said election the voting shall be by ballot, and by indorsing on his ballot, as each voter may please, "for the constitution," or "against the constitution." Should the said constitution be rejected at the said election by a majority of votes being cast against it, then, and in that event, the inhabitants of said Territory are hereby authorized and empowered to form for themselves a constitution and State government by the name of the State of Kansas, according to the Federal Constitution, and to that end may elect delegates to a convention as hereinafter provided.

Sec. 2. *And be it further enacted*, That the said State of Kansas shall have concurrent jurisdiction on the Missouri and all other rivers and waters bordering on the said State of Kansas, so far as the same shall form a common boundary to said State and any other State or States now or hereafter to be formed or bounded by the same; and said rivers and waters, and all the navigable waters of said State, shall be common highways and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost, or toll therefor.

Sec. 3. *And be it further enacted*, That, for the purpose of insuring, as far as possible, that the elections authorized by this act may be fair and free, the Governor and Secretary of the Territory of Kansas, and the presiding officers of the two branches of its Legislature, namely, the President of the Council and Speaker of the House of Representatives, are hereby constituted a board of commissioners to carry into effect the provisions of this act, and to use all the means necessary and proper to that end. And three of them shall constitute a board; and the board shall have power and authority, in respect to each and all of the elections hereby authorized or provided for, to designate and establish precincts for voting, or to adopt those already established; to cause polls to be opened at such places as it may deem proper in the respective counties and election precincts of said Territory; to appoint, as judges of election, at each of the several places of voting, three discreet and respectable persons, any two of whom shall be competent to act; to require the sheriffs of the several counties, by themselves or deputies, to attend the judges at each of the places of voting, for the purpose of preserving peace and good order; or the said board may, instead of said sheriffs and their deputies, appoint, at their discretion, and in such instances as they may choose, other fit persons for the same purpose; and when the purpose of the election is to elect delegates to a convention to form a constitution, as hereinbefore provided for, the number of delegates shall be sixty, and they shall be apportioned by said board among the several counties of

said Territory, according to the number of voters; and in making this apportionment, the board may join two or more counties together to make an election or representative district, where neither of the said counties has the requisite number of voters to entitle it to a delegate, or to join a smaller to a larger county, having a surplus population, where it may serve to equalize the representation. The elections hereby authorized shall continue one day only, and shall not be continued later than sundown on that day. The said board shall appoint the day of election for each of the elections hereby authorized, as the same may become necessary. The said Governor shall announce, by proclamation, the day appointed for any one of said elections, and the day shall be as early a one as is consistent with due notice thereof to the people of said Territory, subject to the provisions of this act. The said board shall have full power to prescribe the time, manner, and places of each of said elections, and to direct the time and manner of the returns thereof, which returns shall be made to the said board, whose duty it shall be to announce the result by proclamation, and to appoint therein as early a day as practicable for the delegates elected (where the election has been for delegates) to assemble in convention at the seat of government of said Territory. When so assembled, the convention shall first determine, by a vote, whether it is the wish of the proposed State to be admitted into the Union at that time; and, if so, shall proceed to form a constitution and take all necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State. And the said convention shall accordingly provide for its submission to the vote of the people for approval or rejection; and if the majority of votes shall be given for the constitution so framed as aforesaid, the Governor of the Territory shall, within twenty days after the result is known, notify the President of the United States of the same. And thereupon the President shall announce the same by proclamation, and thereafter, and without any further proceedings whatever on the part of Congress, the admission of the said State of Kansas into the Union, upon an equal footing with the original States in all respects whatever, shall be complete and absolute.

Sec. 4. *And be it further enacted*, That in the elections hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, who are legal voters under the laws of the Territory of Kansas, and none others, shall be allowed to vote; and this shall be the only qualification required to entitle the voter to the right of suffrage in said elections. And if any person not so qualified shall vote, or offer to vote, or if any person shall vote more than once at either of said elections, or shall make, or cause to be made, any false, fictitious, or fraudulent returns, or shall alter or change any returns of either of said elections, such person shall, upon conviction thereof before any court of competent jurisdiction, be kept at hard labor not less than six months and not more than three years.

Sec. 5. *And be it further enacted*, That the members of the aforesaid board of commissioners, and all persons appointed by them to carry into effect the provisions of this act, shall, before entering upon their duties, take an oath to perform faithfully the duties of their respective offices, and on failure thereof, they shall be liable and subject to the same charges and penalties as are provided in like cases under the territorial laws.

Sec. 6. *And be it further enacted*, That the officers mentioned in the preceding section shall receive for their services the same compensation as is given for like services under the territorial laws.

Sec. 7. *And be it further enacted*, That the said State of Kansas, when her admission as a State becomes complete and absolute, shall be entitled to one member in the House of Representatives, in the Congress of the United States, till the next census be taken by the Federal Government.

Sec. 8. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said people of Kansas for their free acceptance or rejection, which, if accepted, shall be obligatory upon the United States and upon the said State of Kansas, to wit: First, That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, or lands, equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools. Second, That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose. Third, That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the Legislature thereof. Fourth, That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use; the same to be selected by the Governor thereof within one year after the admission of said State, and when so selected, to be used or disposed of on such terms, conditions, and regulations, as the Legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State. Fifth, That five per centum of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the Legislature shall direct: *Provided*, The foregoing propositions hereinbefore offered, are on the condition that the people of Kansas shall provide, by an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, APRIL 3, 1858.

NEW SERIES.....No.91.

thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents. Sixth, And that the said State shall never tax the lands or the property of the United States in that State: *Provided, however,* That nothing in this act of admission shall be so construed as to ratify or accept the ordinance attached to the said constitution framed at Leecompton, but said ordinance is hereby rejected by the United States.

Mr. GREEN. I have submitted a motion to disagree to this House amendment, and that brings up the question in a direct form. It leaves this amendment open to further amendment, if its friends think proper to propose any; but the affirmative vote to disagree, even after they shall have perfected it as far as they please, if it prevail, will leave the Senate reaffirming the original bill as it passed. I submit that motion, because I believe that the peace of the country, the good of Kansas, the harmony of the Union, demand of us to adhere to the original bill. I shall not consume the time of the Senate by discussion. This subject has been, perhaps, more fully discussed than any other that has ever been before Congress. It has been discussed in every aspect in which it can possibly be presented. I should trespass on the patience of the Senate, and travel over ground which has already been occupied much better than I could myself, if I were to undertake to do so. I shall, therefore, trust this question to the judgment of the Senate without any further explanation.

Mr. BIGLER. Mr. President, I am not prepared to vote on this question without first submitting a few remarks explanatory of the views which I entertain. I do not intend to delay the Senate by an attempt at an argument, at length, against this House amendment; I shall be content to state, very briefly, some of the points which I think involve conclusive objections to the measure.

In the first place, I think this amendment involves an utter and violent abandonment of the doctrine of non-intervention. It presents a broad question, whether a doctrine which the party to which I belong have cherished, a doctrine which is found in the organic law of Kansas, and which was enunciated in the Democratic platform at Cincinnati, is to be abandoned, and we are to look for some other system of legislation with regard to the Territories.

I had hoped, sir, that when the wise men of the country, with Clay, and Webster, and Cass in the lead, presented and adopted this new mode of settling the slavery question—the enlarged and liberal doctrine that when the people of the Territories were prepared for admission as States, they should come in with or without slavery, as the constitution presented by them might provide at the time—it would have proven a finality on this question. In the liberal doctrines maintained by the Democratic party, that the people of the several States may go into the Territories with whatsoever property they possess, including slaves, and when there, and when about to organize a government, preparatory to admission as a State, on terms of perfect equality with the other States, shall be left perfectly free, not only as to the kind of government they will have, but as to the mode and manner of making it, I had hoped we were to find a simple and satisfactory solution of this unhappy difficulty which seems to arise on the application of each State for admission.

When this doctrine was proclaimed here it was at variance with and superseded the former practice of the Government; but it was one which commended itself to the judgment and patriotism of the people. It was a proposition to settle the controversy about slavery upon high principle—sacred principle; a principle that was coextensive in its operation with the entire country, with all we possessed then, or ever can possess, and as imperishable as the Government itself, equal to every emergency that may arise. An essential element in that doctrine, is that Congress will not interfere with the domestic affairs of the Territories; that as to the mode and manner of making a government, the people of the Territories should

be unrestrained; that Congress would decide only upon the question of admission under the obligations of the Constitution, and that would be on the single point whether the government presented was republican in its form, and not as to the mode of making the constitution—leaving that work with the people.

I had hoped that we were about to witness a beautiful illustration of the wisdom of this doctrine, by the admission of two States, the one slave, and the other free, under this, its principles. Thus its beauties would be illustrated and illuminated; and I tell you, Mr. President, that, in my humble judgment, no act of Congress would go further toward restoring those relations of fraternal feelings which in the younger and purer days of the Republic existed between its extremities, than the consummation of such a work. Nothing, in my humble judgment, would tend more to give peace to this great country, to promote its future progress and prosperity, to give prosperity and peace to the people of the various Territories. Sir, that is the doctrine of the Democratic party, held by them because it is consistent with the Constitution—consistent with the true interests of this great country, and with the rights of all classes of the people, and all sections of the Union.

Now, sir, I regard the House proposition as direct and violent intervention, because it proposes to discard what the people have done and to institute a new mode of proceeding. It proposes to set aside what the people of Kansas have done in the way of changing their government from a territorial to a State form, and to prescribe to them how they shall proceed hereafter in making a government. I wish to mark the distinction between a case where the people of a Territory have not acted at all, and especially where a Territory may not possess the usual population for a State, where that question has rested in abeyance, and where Congress volunteers to offer to those people an invitation to come into the Union. That we did in 1856 to the people of Kansas under the Toombs bill. They could hardly presume, with the population which they then possessed, that they would be admitted as a State. Congress extended an invitation to them, they having taken no proper legal action on the subject. It is different now. They have acted; they have presented themselves here with a republican form of government, which has come up to us through legal channels and regular steps. They have exercised the power which you gave them in the organic law, when you said their legislative power should extend over all the rightful subjects of legislation, and that the people should be left perfectly free to form and regulate their domestic institutions in their own way.

But, Mr. President, if it were allowable on principle for Congress to remand to the people this government which they have sent here, and insist upon a revision of what they have done, I could not agree to the mode and manner prescribed in the House bill. The objections I make ought to be more specially unpleasant to those who have opposed the admission of Kansas under the Leecompton constitution than to those who have favored it; and why so? Because the people of Kansas are required to vote on this constitution for the reason, as it is alleged, that it may not be acceptable to the majority. In the early part of this discussion, much was made out of the form of voting presented by the Leecompton convention. It was said to be unfair. It was said that the elector, in order to vote for or against slavery, was bound to vote for or against the constitution; that those, therefore, who were not for that constitution, had no opportunity of voting on the slavery question. I do not care now to inquire whether that view was a correct and allowable one or not; but I do say that the presentation of the question, as proposed in this amendment, would be liable to quite as conclusive objections as the mode of voting prescribed by the Leecompton convention. What is the form? It reads thus:

"At the said election the vote shall be by ballot, and by

indorsing on his ballot, as each voter may please, 'for the constitution,' or 'against the constitution.'"

That form you perceive, sir, would not present to the people of Kansas the great question at issue there, the question which has agitated the country from one extremity to the other, to wit: whether Kansas shall be a free or a slave State. Slavery is in the constitution as it stands, and the question thus presented would be, whether they would have a *slave State* or *no State* at all. Those who desire it to be a free State would have no fair opportunity of carrying out their will. They are to be disfranchised on this vote. They can have no voice. Now, sir, if this measure is to be adopted, the form of voting ought to be such as would give those people the opportunity of deciding, unembarrassed, the question of slavery which has harassed them from the first hour of their organization. Look at the practical workings of the proposition. An elector presents himself at the polls who is in favor of slavery. He sees that his ballot must be for or against the constitution. He desires to vote for slavery, but he dislikes many features of the constitution; and he is driven from the polls. If a free-State man, on the other hand, makes his appearance, he encounters similar difficulties. He likes the constitution and all its features, except that of slavery. He desires to adopt the constitution, but he cannot do that without agreeing that Kansas shall be a slave State; and he is disfranchised. Now, sir, if this proposition is to prevail, why put it in this shape? Is it that there will be no alternative left to the free-State party but to vote the constitution down and to secure an indorsement of the opinions of those who have held that a majority were against this constitution? Is it to secure a rejection of the President's policy. If I were for this measure, I should not agree to present it in this shape. I certainly could not, if I had stood so peculiarly and tenaciously up to the rights of the free-State party in Kansas.

But, sir, there are other features to which I wish to call attention. The first clause reads as follows:

"That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States, in all respects whatever; but inasmuch as it is greatly disputed whether the constitution framed at Leecompton on the 7th day of November last, and now pending before Congress, was fairly made," &c.

It is a question whether the constitution was fairly made. What is the deduction? It must be that in some way or other the obligation rests upon Congress to know that the constitution is fairly made; that fraud and violence shall not prevail. Now, sir, I do not care to raise or debate that question of fact at present. Whatever might have been held heretofore under the former policy of the Government, I cannot see how those who subscribe to the doctrine that the people should be left perfectly free to form and regulate their institutions in their own way, can investigate this question of fairness and form. Is it maintained that we sanction the constitution by voting for the admission? That is not my understanding. The government which the people send here we must take or reject. I do not speak now of mere matters of form, but the vital features of the government. These we cannot touch. Is it otherwise held anywhere? I have not heard a Senator allege that by voting for the admission of Kansas he necessarily sanctioned the constitution, or vice versa.

Now, sir, the point which I wish to make is this: if Congress has no right to touch the work of the people of Kansas—the government which they have sent here—what does it concern us that we inquire how that work was done? Here is a proposition simply to inquire how it was done; conceding that we had no power over the production itself. Not only that; but while this constitution is to be sent back on the assumption that it was not fairly made, what is proposed in addition? Why, sir, in case this constitution be voted down, the people of Kansas are authorized to elect delegates to constitute a new convention; they are to vote on that constitution, and then, if

it be adopted, they become a State by the proclamation of the President.

Where is the guarantee that that new government will be made fairly? Where is the protection against fraud in that process? Who supervises that action? If it is the duty of Congress, in the case of the Lecompton constitution, to see that it is fairly made, it is the duty of Congress in every other case. If it is the duty of Congress to inquire whether this constitution has been fairly made, it is an equal obligation not to give the opportunity of making any constitution unfairly. Here is a proposition to allow the people to make a government, put it in operation, and admit it into the Union, without its ever making its appearance before Congress at all. I do not understand how alleged frauds in this place can be claimed as reasons for returning this constitution, if we at the same time authorize the making of a State without any guarantee whatever as to how that power may be abused, without any protection against fraud, violence, and usurpation.

Then, sir, there is another point, and that is the extraordinary proposition which makes the President of the United States perform functions which the Constitution, in express words, vests in Congress. I do not speak now as to the government of Kansas that is before us; that we have seen; that constitution we have read; that Congress knows to be republican; that we may, on certain conditions, allow the President to announce admitted, and hold that the State is in the Union; but it is to the other alternative—the right to make a constitution and State government, and put it in operation, and put it into the Union by a proclamation of the President, without ever having it before Congress at all—that I object. Who knows that it will be a republican government? Who can guaranty that it will be admissible in form? And if republican, may it not contain other features, making it entirely unacceptable? Sir, I have not that measure of confidence in the men who would be likely to get hold of this government in Kansas just now. Who is satisfied that General Lane would exercise power with moderation? Who believes that if he controlled a convention, he would not indulge the excesses of his feelings of prejudice against the southern States?

Sir, I should not be surprised if a constitution made in that way would emancipate the slaves that are in the Territory and confiscate the property value in them. I should not be surprised if a constitution made in that way, without consulting Congress, should attempt to interdict or embarrass the execution of the fugitive slave law, or would set up other issues with the Federal authority; and yet, whilst Congress might not seriously entertain the idea of admitting such a State, the President would be obliged to admit it by proclamation. You will discover that it gives the President no discretion. The duty is imperative on him. When the facts are properly certified, he must announce that the State is in the Union, no matter how objectionable the constitution may be. Here is State making with a vengeance. Any measure of fraud may be practiced; any extent of violence and usurpation in making the constitution; and no matter how badly made, and yet the State must come in. The proposition is monstrous.

Now, sir, the subject-matter of the bill is suggestive; it presents a wide field for discussion. I do not intend to pursue it this morning; but I could not persuade myself to vote quietly on this question. I know that there are certain very insidious features about this measure—features which can be used with great effect before the populace. It may be alleged that we have voted against a bill which was to give the people the right to vote on their constitution. That would be true; but I answer, that I hold a still more liberal doctrine toward the people of Kansas; I hold that they can make a constitution in any way they please; making it according to law and in regular form. I would give to the people of Kansas that measure of right which those whom I represent here exercised; they made a constitution twice through their delegates; they have revised and amended that constitution through the agency of a popular ratification. It was competent for the people of Kansas to do the same thing; and if those in Kansas, who claim to be adverse to this slavery article, who object most to this constitution, had exercised their high prerogative as freemen, probably we should have had no excitement on this occasion. But, sir, they did not perform the duty. In June, when they might have decided the question of slavery by electing delegates, they would not vote; the "bogus laws" were in their way. In October, when the question of slavery was not involved, but when offices were at stake, they did vote. In December following, when they had a direct vote on the question of making Kansas a free or a slave State, they could not vote—it would not do to recognize the "bogus laws," and the "bogus convention." But, a few days afterwards, when it was a question of gaining the local offices, they rushed to the polls and elected the officers under what they termed the "Lecompton swindle." There is the source of the trouble; and as this issue stands, the most that those on the other side can make out of it would be (taking their own ground) an issue between those who, through the forms of law, had abused, to some extent, the right of suffrage, and those who had set themselves up against the use of that right; who had preferred other means; who had not exercised the high functions of freemen under our laws and under our policy of government. They avowed that determination, and they adhered to it. There may have been fraud, and there may have been usurpation, to some extent, on the one hand. The best that can be said for the other was that it presented matured, persistent, and stupendous insubordination, to the laws, if not rebellion to the government. Which of these alternatives shall we take? I shall not, for my part, cast a vote that will give success to those who have stood out persistently against the laws.

It may be said, and it is said, that this constitution is not agreeable to the majority of the people. Well, sir, I have searched in vain in the complicated history of legislation on this subject for the instance in which that question was distinctly raised and discussed, where it was claimed as a duty on the part of Congress to know that a majority of the people were for the form of government which they sent up to Congress. No such question could have arisen in the case of the State of my venerable friend from Kentucky, for that was declared in the Union a State before the form of government was made, not by the proclamation, I believe, but by act of Congress. That could not have been an ascertained fact in regard to Florida. No member of Congress, as I understand the history of that case, could have known whether the people preferred the constitution of Florida or not. Why not? I shall show. In 1838, the people of Florida held a convention, and made a constitution. They submitted it, it is true, to the ratification of the people; and, as I learn the history of it, a majority was only found by throwing out certain districts on the ground of informality. That constitution was sent up here. It was filed away in the archives of the Senate legislative department. There it lay, cobwebbed and dusted over, for six long years. When it became necessary to bring in Iowa as a State, these musty papers were drawn from their solitude, and on them Florida was made a State. Who would say that the people who held that convention, and voted on the constitution, still remained in Florida? Who would say, that in the six years which intervened, there was not a large accession of population to the Territory of Florida? There could have been no satisfactory evidence that the people of Florida approved that constitution; no man could have known that it embodied their will. I only present these historical facts for the purpose of showing that the doctrine that Congress must know that a constitution embodies the will of a majority of the people before we have the right in propriety to admit the State, is a new doctrine.

But, Mr. President, I have spoken already much longer than I intended to do. I rose for the purpose of confining myself to a very few points. I trust we are near the close of this angry debate. For one, I am free to say to the Senate and to the country that I am tired of this topic of Kansas. I am tired of it in every sense. Especially am I weary of it, because I can see in it an element of growing mischief to this great, peaceful, and happy country of ours. Why it is, I know not; but it is in the dispensation of Providence that we are to have a very plague among us in the shape of this slavery question, living and

growing as the nation advances; spreading out yearly, overshadowing the whole country like some fatal upas, whose poisonous branches shade the very extremities and deal poison and death as the seasons roll by. I say, sir, that we are near the close of this debate, and with it, I trust this feud will be put to rest forever—this strife which is so certainly and so constantly poisoning the very channels of intercourse between great divisions of this Union, severing the relations of the people who ought to be fraternal and affectionate, and abiding in a common faith. Sir, while I have my own notions of this measure, I do not cherish them with the tenacity that some do. I desire, however, to make the admission of Kansas and Minnesota an exemplification of the truthfulness, of the equity and wisdom of the Democratic policy that Congress shall no longer deal with this vexed question; but that it shall be left to the people of the Territories to settle for themselves; and they shall quietly become States, with or without slavery, as their government may provide at the time of admission.

Mr. DOUGLAS. Mr. President, I had hoped that we could vote on this question without any further debate; and I shall not protract it to any considerable length. Like the Senator from Pennsylvania, I had hoped that we should have disposed of this question in a manner that would have given a complete triumph to those great Democratic principles to which my life has been devoted. I had hoped that the principle of self-government in the Territories, the great principle of popular sovereignty which we all profess to cherish, on which all our institutions are founded, would have been carried out in good faith in Kansas. I believe, sir, that if the amendment inserted by the House of Representatives be concurred in by the Senate to-day, and become the law of the land, the great principle of popular sovereignty, on which all our institutions rest, will receive a complete triumph, and there will be peace and quiet and fraternal feeling all over this country.

We are told that this vexed question ought to be settled; that the country is exhausted with strife and controversy; and that peace should be restored by the admission of Kansas. Sir, why not admit it? You can admit it in one hour, and restore peace to the country, if you will concur with the House of Representatives in what is called the Crittenden amendment. This amendment provides that Kansas is admitted into the Union on the fundamental condition precedent that the constitution be submitted to the people for ratification, and if assented to by them, it becomes their constitution; if not assented to, they are to proceed to make one to suit themselves, and the President is to declare the result, and Kansas is to be in the Union without further legislation. Concur with the House of Representatives, and your action is final; Kansas is in the Union, with the right to make her constitution to suit herself; and there is an end to the whole controversy.

Why not close the controversy here? Why distract the country further on the subject? Why not let the North and the South, the East and the West, men of all political parties, unite upon this great measure of justice and conciliation and fairness, which has been brought forward by the Senator from Kentucky, and indorsed by the House of Representatives? The Senator from Pennsylvania tells us that it violates the doctrine of non-intervention; the doctrine of popular sovereignty; the Democratic platform; and for that reason he cannot support it. How does it violate that doctrine? Because, as he says, it requires the constitution to be submitted to the vote of the people for ratification or rejection. That is supposed to be intervention! When we passed the Minnesota act last year, we required the constitution which her convention might form to be submitted to the people for ratification or rejection as a condition of presenting it here for admission; and it never occurred to us that by so doing we were intervening, that we were violating the platform, that we were repudiating the doctrine of popular sovereignty.

Besides, the President of the United States told us in his annual message that by the Kansas-Nebraska act the slavery question was required to be submitted to a vote of the people for their decision. The President, then, does not consider a requirement by Congress, that a constitution shall be submitted to the people, to be intervention; for he says that the organic act required the sub-

mission of the slavery question; and he thinks that all future enabling acts should require the submission of the whole constitution, in all cases whatsoever. He told us in his message that the provision in the Minnesota bill requiring the whole constitution to be submitted to the people was a wise example, and should become the general rule in all time to come, never to be departed from in any instance. Does the Senator from Pennsylvania consider the President as having abandoned the Democratic party, as having violated popular sovereignty, as having resorted to the doctrine of intervention when he made that recommendation in his message that this wise provision of the Minnesota bill should be the universal and invariable rule of action in all future time, so that no Territory should ever come with an application for admission as a State until her constitution had first been submitted to and ratified by the people?

Mr. BIGLER. Will the Senator allow me to interrupt him?

Mr. DOUGLAS. Certainly.

Mr. BIGLER. The Senate will remember that I made a distinction between a case where Congress takes the initiative and invites a State into the Union, and this case, where the people had gone on under their organic act, and made a constitution and State government, and sent it up here. It is intervention, because it proposes to set aside what they have done, or to remand it.

Mr. DOUGLAS. The distinction is between your right to deal with a man who enters your house by invitation, and one who intrudes into it without being welcome. It is admitted that if Congress had taken the initiative, and invited Kansas to come into the Union, and authorized her to form a constitution and State government, it would be proper and right to require her constitution to be submitted to the people, in order to ascertain whether it was their act and deed; but, inasmuch as Kansas proceeded without the authority of Congress, having neither our assent nor our permission, Congress now should not examine the question whether the constitution presented is the act and deed of the people! What is the object of requiring a submission of the constitution to the people? Simply to ascertain whether it be their act and deed; and this amendment expressly declares that object: "Inasmuch as it is greatly disputed whether the constitution framed at Lecompton, on the 7th day of November last, and now pending before Congress, was fairly made, or expressed the will of the people," therefore it shall be submitted. Is it not your duty to know whether the people of Kansas have sent this constitution here as their will, before you put it in operation, and make it their fundamental law? The object of submission is to ascertain the fact whether it is the act and deed of the people of Kansas; whether it embodies their will. If it be their act and deed, I hold that you cannot change it or alter it; if it be not their act and deed, you have no right to give it the force of law binding upon that people. The object of this provision, therefore, is, to ascertain the fact whether this Lecompton constitution is the act of the people of Kansas; whether it embodies their will.

The Senator from Pennsylvania does not deem it a matter of any consequence whether a constitution be the act of the people, whether it embodies their will or not, when he votes to admit them into the Union; and he sustains that position by citing the case of Florida, which formed a constitution in 1838, sent it here in 1839, and was received into the Union on the 4th of March, 1845, according to my recollection of the dates. Because six years elapsed between the time of her making that constitution and the time of our accepting it, he draws the inference that it was not the will of the people at the time we acted upon it, and hence that it is proper in other cases to declare an instrument the fundamental law of a people which is known not to be their will, which is known to be repugnant to their wishes, because he infers that that was done in the Florida case.

Sir, if it was done in the Florida case, it should never be done over again. I am not willing to have Florida cited as a precedent to show that a constitution is not expected nor desired to be the embodiment of the popular sentiment, and then Kansas added as another precedent, founded on the Florida case, to establish the doctrine that a

constitution is not to be the will of the people. The Florida case, as a precedent for Kansas, proves too much. It shows an attempt to introduce a new doctrine into our political system; that the organic law is not to be the embodiment of the popular will; that the wishes of the people have nothing to do with the provisions of their constitution; that Congress may put any instrument upon them it pleases, and require them to take it and submit to it until they can get rid of it either by revolution or according to the forms of the instrument.

Sir, I repudiate that doctrine. That is not the popular sovereignty to which I am committed. That is not the great principle of self-government which I desire to see carried out. I desire to see the people of a Territory left perfectly free to form and regulate their domestic institutions in their own way. When that language is used in the Kansas-Nebraska act, "their own way," it refers to the kind, the character of the institutions that may be established by them, leaving Congress to fix the time when they may proceed to act, the number of population, the boundaries, and the other considerations. But, sir, I hold that unless a constitution be the act of the people to be governed by it, unless it be the embodiment of their will, you have no power, no right, under the Constitution of the United States, to force it on them. Citing the Florida case to sustain this attempt, only shows that there is an effort to ingraft upon the action of this Government as a principle, that hereafter Congress is not to inquire whether a constitution presented for our acceptance is the act and deed of the people or not. Sir, the illustration of the Senator's argument strikes at the basis of all free government; not only strikes the foundations from under the Democratic platform, but from under the American platform, and the Republican platform, and every other platform that was ever formed by any party in this country, with reference to controlling its political destinies. It is a great principle which underlies all our institutions—the principle of self-government—the right of a people to make their own organic law under which they are to live.

That is what is involved in this question. The House amendment sanctions and carries out that principle; it declares that Kansas is hereby admitted on the fundamental condition precedent, that this constitution shall be submitted to the people, and if ratified, the President shall declare Kansas to be in the Union without further action; if it be rejected, they shall proceed to make another constitution, and the President shall declare them in the Union, without further action, with the constitution they may make. This amendment, therefore, accomplishes two great objects. First, it settles the Kansas dispute forever by making the passage of this bill a finality, thus localizing the controversy; second, it secures the great fundamental principle of self-government, which authorizes the people to make their constitution to suit themselves, and change it whenever they please, in accordance with their own organic law. Why, then, should we not all unite on this proposition?

We are told that the country is tired of this controversy; that the country desires peace upon the slavery question; that the country desires Kansas to be taken out of politics, and out of Congress. Vote for this amendment, and Kansas is out of politics and out of Congress. Vote for this amendment, and there is an end of the controversy. Vote for this amendment, and the right of self-government is preserved. Vote for this amendment, and State rights and State sovereignty are maintained. Vote for this amendment, and there is peace in the country, founded on just, constitutional, sound political principles. I will not continue the discussion, because I know the Senate desires a vote.

Mr. PUGH. Mr. President, the question before the Senate is not any longer on the passage of the Senate bill—it is on the passage of the House bill. A liberal construction of the resolutions of instruction which I have received from the General Assembly of Ohio, and by which my vote was governed on the former occasion, would as much require me to vote against the House bill as the Senate bill. But the emergency is evidently one which the General Assembly did not contemplate, and in which, therefore, I must consult my own judgment and their views, as far as

I can gather them. According to my apprehension of what is due to this case, the House amendment is utterly inadmissible. It is a violation, as I understand it, of every principle on which Congress can admit a new State; of every safe precedent; and a violation of every principle heretofore professed by the Democratic party of the United States. It is an unfair bill. It cannot make peace. It can make nothing but disturbance in Kansas, and everywhere else. I shall endeavor to sustain these propositions as the reason why, certainly to my own entire and perfect satisfaction, I shall vote against that bill at every hazard.

The main idea of this proposition, or rather its pretension, is that the Congress of the United States remands the constitution of Kansas to a vote of the people; and what for? Who authorized us to remand that constitution to a vote of the people? Is it for us, the Congress of the United States, to dictate to the States how they shall form and ratify their constitutions? Where have we obtained any such power as that? If we can require it in the case of a new State, we can require it in the case of an old State. Our authority is the same over all of them. The new States are to be admitted on an equal footing with the original States. It is for the people of Kansas, acting through the forms of law, to say in what manner their constitution shall be formed and ratified. They have said it in every manner in which the people can speak. In the act of August, 1855, they instructed their Territorial Legislature to provide for calling a convention. That was the first act of the people. That Legislature, in obedience to a direct vote of the people, and its members being also elected by the people, proceeded to form a law and to enact it, providing for the assembling of a convention and the election of delegates. They expressly omitted any provision requiring the constitution to be submitted to a popular vote; and when the Governor returned the bill without his signature, on the express ground that it contained no such provision, the representatives of the people in the Territorial Legislature, speaking for the people, passed it over his veto, and declared by a two-thirds vote, in each House, that the constitution should be submitted to the people or not, as the convention itself might choose.

Under that charter, in full view of all these circumstances, with a full knowledge of the fact that the delegates about to be elected and about to be assembled in convention had perfect and full discretion whether they would or would not submit the constitution, the people chose those delegates. They confided to those delegates the discretion whether the constitution should or should not be submitted. Now, sir, we have had the act and deed of the people at every stage; instructing the Legislature to pass a law; speaking through the Legislature in the form of law; speaking through the Legislature again, when Governor Geary's veto was overruled; speaking by the direct voice of the people when the delegates were elected in June. This convention met. It is the impersonation of the people; it is the will of the people; it is the act and deed of the people; and it speaks the voice of the people. There is no other voice of the people; there can be no other, under our form of representative government. It seems to me a plain proposition; but that it may not stand on my authority, I shall quote again what was said by Mr. Webster, in his famous argument in the case of *Luther vs. Borden*:

"Let us all admit that the people are sovereign. Jay said that in this country there were many sovereigns and no subject. A portion of this sovereign power has been delegated to Government, which represents and speaks the will of the people, as far as they chose to delegate their power. Congress have not all; the State governments have not all. The Constitution of the United States does not speak of the Government; it says the United States. Nor does it speak of the State governments; it says the States; but it recognizes governments as existing. The people must have representatives. In England, the representative system originated, not as a matter of right, but because it was called by the King. The people complained sometimes that they had to send up burgesses. At last there grew up a constitutional representation of the people. In our system, it grew up differently. It was because the people could not act in mass, and the right to choose a representative is every man's portion of sovereign power."

That is a sentence worthy of Mr. Webster:

"The right to choose a representative is every man's portion of sovereign power. Suffrage is a delegation of political power to some individual."

Again:

"It has been said by the opposing counsel, that the peo-

ple can get together, call themselves so many thousands, and establish whatever form of government they please. But others must have the same right. We have then a stormy South American liberty, supported by arms to-day, and crushed by arms to-morrow. Our theory places a beautiful face on liberty, and makes it powerful for good, producing no tumults. When it is necessary to ascertain the will of the people, the Legislature must provide the means of ascertaining it. The Constitution of the United States was established in this way. It was recommended to the States to send delegates to a convention. They did so. Then it was recommended that the States should ascertain the will of the people. Nobody suggested any other mode."—*Howard's Reports*, pp. 30-31.

Now, sir, I say that the act and deed of the people has been made in every form known to the law up to the assembling of the convention at Lecompton. Unless you are to have what Mr. Webster properly calls a South American liberty, the liberty of those who are the strongest, the liberty of those who choose to take arms in their hands instead of abiding a peaceful arbitration of their differences, there can be no other act and deed of the people than as expressed in the forms of law. I say this convention, when it was assembled, was the representative of the people of Kansas; nobody else was authorized to speak for the people of Kansas; and the convention was authorized to speak, and it was authorized as plainly as if it had been so written in the act providing for the election of the delegates, either to submit the constitution in whole, or in part, to popular ratification. Now, we, not elected by the people of Kansas, not responsible to the people of Kansas, but elected by, and responsible to the people of the other States, propose to take into our hands the formation and regulation of all the political affairs of this new State. We propose to say to this convention that we will define their powers; that we will prescribe for them different powers from those which the people conferred. It seems to me that on no sound principle, with no just regard to the doctrine of a representative Government, with no just regard to the reserved rights and sovereignty of the States, can Congress ever undertake to require the ratification of the constitution of a new State in a different manner from that which the people themselves have prescribed. I do not say it is merely intervention; for that has come to be a catch-word; I say it is trampling under foot the sovereignty and the rights of the States. If you admit Kansas into the Union at all, you must admit her on an equal footing with the original States, and you must do nothing with her, or to her, that you would not do to any State already in the Union.

But we are referred to the act of the last Congress preparatory to the admission of Minnesota, and we are told that is a precedent which elicited no dispute in Congress. It elicited no dispute, because it attracted no attention. I observe, by a reference to the Congressional Globe, that that bill, in its present shape, passed the other House under the operation of the previous question, without ever having been printed. It was brought into the House at the last hour, as an amendment to a former bill; and, having been offered and hastily read, by the dispensation of the previous question it was put through that House. I think we debated it a week on the provision for alien suffrage; but I did not hear a single Senator, either for the bill or against it, make the least allusion to the fact that it required the constitution of that State to be submitted to a vote of the people. I do not know how many Senators were aware of that provision. Perhaps the Senator from Illinois was; I was not. I did not know there was any such provision in the bill until long after the adjournment of Congress. If I had known it, and a motion had been made to strike it from the bill, I should have voted to strike it out of the bill, for I would have required of Minnesota nothing more than had been required in former times of other States. That is the only case to be found in all the legislation of Congress, from the earliest times, in which we have required the constitution of a State to be submitted to a vote of the people. It is a case that passed without discussion; it is a case where there was no debate in either House on the question; and I certainly need not tell an assembly of gentlemen, a majority of whom are lawyers, that no case is authority upon any question that was not argued at the time of the decision.

But, sir, even the Minnesota case is not a precedent for this amendment. In the Minnesota

case we substituted ourselves for the Territorial Legislature; we called on the people to elect their delegates, subject to certain general provisions. In this case the people of Kansas have chosen their delegates under totally different provisions, under a direction to them to submit the constitution or not, as they pleased; those delegates have met; their work is complete; and now we are asked not to prescribe an original charter, but to violate the charter which those delegates received directly from the people. That case, therefore, does not warrant this amendment. Then, on what ground is it that we are asked to remand the constitution of Kansas to a vote of the people? Whence comes the suggestion that the convention which met in Kansas was not as legal as the convention which met in Ohio, or in Illinois, or in Missouri, or in any other of the States which have already been admitted into the Union, and none of which submitted their first constitutions to a vote of the people? On what pretext is founded the argument that we must not receive this constitution? It is said there was a vote taken on the 4th of January, 1858, in which ten thousand majority was given against the constitution. Very well, sir; but was that a legal or an illegal vote? I think it was an illegal vote; I think it has no legal consequence whatever; I think it was simply a signification of so many people, if they were duly qualified, that they wanted a change of the constitution, but they did not express it in the proper form, and those who were opposed to a change being under no obligation to speak on that day, we cannot even arrive at any moral result, much less a legal one, from that vote. But I will take gentlemen on their own ground; let us say that it was a legal vote, let us say that it was a full vote for the adoption or rejection of the constitution, then if the constitution was rejected, it is at an end; and by what right do you set it on its feet again, and send it back for another ratification? If there be any force in the pretext that the vote taken in January upon the adoption or rejection of the constitution, under the authority of the Territorial Legislature, was legal, it shows that the constitution is at an end, and so much of the House amendment as proposes to recognize the constitution or set it up again for any purpose, is a clear infraction of the will of the people of Kansas. It cannot stand on either leg, therefore.

But, sir, that is not the worst of it. This House amendment does not, in truth, refer the constitution of Kansas back to the people of Kansas. Who are the people of Kansas—I mean the people authorized to vote for or against this constitution? The constitution defines them. One part of the constitution was submitted to the people; one part was ratified by every argument which men can receive: I mean the seventh article. That not only passed the convention, but it passed the vote of the people; and who were they? The constitution tells us:

"At which election the constitution framed by this convention shall be submitted to all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection."

They are the people of Kansas; they are the people defined by the constitution of Kansas; they are the body of electors to ratify or reject the constitution; and we have no right to substitute any other body of electors greater or less than that. Is the seventh article to be overturned by the vote of a larger or a smaller number than provided there? If so, we might as well unmake the whole constitution of Kansas. To whom does this amendment remit it? It provides:

"SEC. 4. And be it further enacted, That in the election hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, who are legal voters, under the laws of the Territory of Kansas, and none others, shall be allowed to vote."

What is the qualification for a voter under the territorial laws of Kansas? That he shall be a citizen of the United States, and have resided six months in the Territory.

Mr. GREEN. That is not all. It also says that he must never have interfered, or been convicted of having interfered, with the execution of the fugitive slave law. If so, he is disqualified.

Mr. PUGH. Better yet. There is a test law; and gentlemen who have been clamoring about test laws for two years are absolutely renegeing them by act of Congress. But my attention was directed to the other point—the voters under the

territorial law are to be citizens of the United States who have resided six months in the Territory. When the people of Kansas came to provide for the election of delegates to the constitutional convention, they considered that too narrow a basis of suffrage, and they allowed any man to vote who was a citizen of the United States, and had resided three months in the Territory. You remit this constitution by the House amendment to a body of electors more contracted and less liberal, not only than the constitution itself provides, but less liberal and more narrow than the people of Kansas, through their Legislature, provided in the election of delegates that formed the constitution; and that is popular sovereignty, that is remitting the constitution back to ascertain if it be the act and deed of the people! You first define the people; you pick out certain men; you enfranchise some and disfranchise others; you pick your tribunal; you pack your jury; and then you talk about a true verdict! And that is done by Congress, and done in defiance of the constitution of Kansas, and in defiance of the will of the people of Kansas, as expressed in the act under which this convention was elected and assembled.

Is it to secure the rejection of the constitution? No man can pretend that it is to try the question over again; no man can pretend that it is remitting the constitution to the tribunal whence it originated. I say it is packing the jury for the purpose of having the constitution rejected; I do not say that is the purpose of those who voted for it, but I say it is the inevitable consequence of the amendment.

Again, sir, the people of Kansas, speaking through their delegates in this convention, thought it eminently proper that that great vexed question which had disturbed the Territory for four years, which had disturbed the whole Union for four years—that great question in reference to which the whole legislation of the organic act of May 30, 1854, was supposed to afford a complete settlement—should be separated out of the body of the constitution and put to a separate vote. How is it with this amendment? You require every anti-slavery man, per force, to vote against the constitution; and that, too, in defiance of the mode of submission provided in the constitution. Any man who is willing to vote for the whole of this constitution, except the seventh article, is compelled by the House amendment to vote against the whole of it. He does not have an opportunity to vote for or against the seventh article. He is compelled to vote against the whole constitution. This is the work of the gentlemen who complain of the vote on the 21st of December. They said no man could then vote for or against the seventh article unless he voted for the constitution. I say that, under this House amendment, no man can vote for or against the seventh article unless he votes against the whole constitution; the thing is impossible; and therefore I say the amendment is framed in such a manner, whatever the purposes of its authors, that it must inevitably secure the rejection of this constitution.

Then, why not reject it at once? Why travel around all this path? Why pursue this sinuous track? Come to the question. If you say it is not the will of the people; if you claim the right to go behind all the forms through which the people can speak, and reject the constitution, reject it; let us have an end of it, and let us see whether there is no other method by which we can bring Kansas into the Union; but do not let us play fast and loose. Do not let us profess to submit this constitution to the ordeal of a fair vote, when the vote itself is so arranged that it must inevitably be rejected. It would be rejected anyhow under the circumstances; because of the last alternative of this bill. If you had put the ten commandments to a vote under this bill, they would be rejected; and why? The alternative is given in the House bill that, if this constitution is rejected, then there shall be another convention; and every man in the Territory of Kansas, in all the counties, who is an aspirant for membership in the new convention—and we know that there are always about twenty candidates for every office to which one man can possibly be elected—all this body of candidates; all the outs, who are always more than the ins, are interested to defeat the constitution, in order to take the chances of being elected to a new convention, and in order to take the chances of

being elected to the Legislature, and to the State offices, which may be elective under the new constitution.

I do not understand it to be pretended in this amendment, as the Senator from Illinois said, that the Lecompton constitution is not the act and deed of the people. That is not pretended; but it is said that:

"Inasmuch as it is greatly disputed whether the constitution framed at Lecompton, on the 7th day of November last, and now pending before Congress, was fairly made, or expressed the will of the people of Kansas."

It might be the act and deed of the people, and not express their will. If I grant a man a power of attorney to draw a check or a note for me, he may draw it, but it may not be my will; yet I have to pay it. He has a proper warrant of attorney to do the act, because I authorized him to act for me. It may not be my will; but it is my act and my deed.

Now, sir, as to the last provision of this amendment. Having submitted this constitution in such a form as inevitably to secure its rejection; having submitted it, not to the people, but to a packed jury, selected in defiance of the law of the convention, and in defiance of the law of the Legislature that called the convention; having selected out the body of electors to which we remand it; having, in addition, required every man who is against the institution of slavery in the new State to vote down the whole constitution; and having offered all the temptations to ambition which can be offered in the shape of new offices as an inducement to vote down the constitution: what is to come next? I take it as positively certain that under this bill any constitution would be rejected. None could pass such an ordeal; for even if these candidates approved it, they would say, "We will make it over again after we get the offices." What is to come next? Then it is said there is to be a new constitutional convention. I think we have had constitutional conventions enough in Kansas, a Territory of about fifty thousand people. She has had three constitutional conventions in three years. We have had Topeka and Lecompton, and this new one, Minneola, now in full blast. They are the hardest people to suit that I ever knew. No, sir; I am willing to take of these three constitutions that which is the most formal and the most regular. I am willing, if Congress requires it, that a new convention of delegates shall be assembled in Kansas to pass upon this constitution, for that is the form which they have provided, and that would be granting them a new trial. But if they fail, I am against any more constitutions from Kansas. Let her stay until she gets the proper population. I voted for the Toombs bill, with a proviso, on that ground. I only assented to it for the sake of peace. I did not believe it was a good precedent to bring a State into the Union with so small a population; and I say now, if this Lecompton constitution, which is the only regular and legal one, is to be rejected in every shape and form, let us dismiss the whole subject out of Congress, and let Kansas wait until she gets a population sufficient according to the ratio prescribed for one Representative.

But, sir, this amendment authorizes four gentlemen to exercise discretion unlimited in time as well as in manner, the Governor, the Secretary, the Speaker of the Council, and the Speaker of the House of Representatives, although two of them are out of office. At an indefinite period in the future, at any time extending throughout the whole territorial life of Kansas, these four persons, two of whom, as I have said, have ceased, or will soon cease, to be officers, are to have the power of calling upon the people to elect delegates, of providing who shall be the officers to superintend the election, and when the delegates shall be elected, and when they shall be assembled in convention; and that convention is to make the constitution, and it is to be a perfect constitution from the start. If they should pass this railroad ordinance which has given some Senators so much trouble, we have no power over it provided they make it part of their constitution. It is never to come back to us; the President is to look at it, and to proclaim the State admitted.

I know there are cases, very good precedents too, in which a constitution has been submitted to Congress, and Congress has been sufficiently satisfied of its republican character, but has remanded it to a convention to alter some one or

other of its provisions, perhaps its boundaries, perhaps some clause which was supposed to infringe the Constitution of the United States; but wherever Congress has remanded a constitution in that way, to be altered or amended in some particular, and afterwards, on compliance with that condition, to admit the State into the Union on proclamation, Congress has had some sight at the constitution. I never knew of their authorizing a constitution to be formed blindly as this bill does. It is for Congress to admit a State, not the President. We have the right to require that certain provisions shall be complied with, and upon that to trust the people; but I am not so willing to trust the people of Kansas in their present condition; and therefore that provision would be evidently objectionable. What will be the result of it? We shall have discharged ourselves from all connection with the subject, and if the constitution to be framed should be like this constitution, against which one party protests, which one party charges with frauds, with outrages, with perjuries of every description, what shall we be told then? We shall hear from the Senator from Illinois [Mr. TRUMBULL] again, that Congress has disclaimed its rightful jurisdiction over the Territories, and that, therefore, all these calamities have occurred. No, sir; let us meet the direct question. If you choose to admit Kansas under the Senate bill, admit her. If you choose to admit her, remanding her constitution to a new convention of delegates, that, as a last resort, would be infinitely better than the House bill. If you will do neither of these, then reject her; or, if you must have her in the Union now, pass the Toombs bill again, or some other bill like it.

For the reasons which I have stated, I am opposed to this hybrid. I am opposed to it in every shape and form. In my judgment it cannot make peace. It is so arranged that it will secure the inevitable rejection of this constitution without any reference to its merits, and, on the other hand, it precipitates the people of Kansas, who have now come to some condition of peace and order, into a new field of anarchy, where there will be no opportunity for us, by any subsequent measures of peace and conciliation, to rectify whatever may have been done amiss. As I said before, it is the most objectionable proposition to me, that has ever yet been submitted to Congress. Believing that it will secure no peace; believing that it will repeat tenfold the anarchy, and disturbance, and civil war which lately prevailed in that Territory; believing that it violates every principle of the party to which I belong; that it violates every principle of representative government; that it asserts and assumes for the Government of the United States a power which it clearly does not possess under the Constitution; that it is a fatal overthrow of the rights and the sovereignty of the States, I am prepared, for one, to vote against it, and to take whatever consequences there may be in store for that vote.

The PRESIDING OFFICER. (Mr. BIGGS in the chair.) The question is on the motion of the Senator from Missouri, that the Senate disagree to the amendment of the House of Representatives.

Mr. GREEN. I do not intend to detain the Senate. I have heard no argument on the motion that I have made, which affects the propriety of it. I call for the yeas and nays upon the question.

The yeas and nays were ordered; and being taken, resulted—yeas 32, nays 23; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Sebastian, Slidell, Thompson of Kentucky, Thomson of New Jersey, Wright, and Yulee—32.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Polk, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—23.

So the House amendment was disagreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. MASON, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

ADMISSION OF MINNESOTA.

Mr. SLIDELL. I move that the Senate adjourn.

Mr. DOUGLAS. I call for the yeas and nays

on that motion. I think we can pass the Minnesota bill to-day without difficulty. ["No debate."]

The yeas and nays were ordered; and being taken, resulted as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Mason, Pearce, Pugh, Sebastian, Slidell, Thompson of Kentucky, Thomson of New Jersey, Wright, and Yulee—27.

NAYS—Messrs. Bell, Bright, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Jones, King, Polk, Seward, Simmons, Stuart, Wade, and Wilson—27.

The PRESIDING OFFICER. The vote stands—27 in the affirmative and 27 in the negative. The motion, therefore, is not agreed to.

Mr. MALLORY. To-day ought properly to have been devoted to private bills, and I move that the Senate now take up the Private Calendar.

Mr. DOUGLAS. As we voted against adjourning for the purpose of finishing the Minnesota bill, I hope we shall take that up.

The PRESIDING OFFICER. The question is on proceeding to the consideration of the Private Calendar.

Mr. DOUGLAS. If that motion is insisted upon, I shall call for the yeas and nays.

Mr. MALLORY. I insist upon my motion.

Mr. DOUGLAS. I call for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 21, nays 29; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Clay, Evans, Fitzpatrick, Green, Hammond, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Thompson of Kentucky, Wright, and Yulee—21.

NAYS—Messrs. Bigler, Bright, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Fitch, Foot, Foster, Hale, Hamlin, Harlan, King, Pearce, Seward, Simmons, Slidell, Stuart, Thomson of New Jersey, Wade, and Wilson—29.

So the motion was not agreed to.

Mr. DOUGLAS. I now move that the Senate proceed to the consideration of the bill to admit Minnesota into the Union as a State.

Mr. YULEE. There is some unfinished business of yesterday morning which perhaps may be disposed of now. It is not possible that the Minnesota bill can be disposed of to-day. It is useless to take it up at this hour. It is now after three o'clock, very nearly the usual time of adjournment. I should be very glad if the Senate would be so kind as to take up the bill creating the office of Fourth Assistant Postmaster General; but, as gentlemen around me say they are unwilling now to take up any question which may occupy time, I move that the Senate adjourn.

Mr. DOUGLAS. I call for the yeas and nays on that motion. I desire to see whether there is a disposition to pass Minnesota or not.

Mr. STUART. If the Senator from Florida will consent to take up the Minnesota bill, so that it may pass over as the unfinished business, I presume there will be no objection to his motion.

Mr. MASON. I call the Senator to order. He is out of order. The motion to adjourn is not debatable.

The PRESIDING OFFICER. The motion to adjourn is pending. On that motion the yeas and nays are called for.

The yeas and nays were ordered; and, being taken, resulted—yeas 25, nays 26; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Brown, Clay, Evans, Fitzpatrick, Green, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Mason, Pearce, Polk, Sebastian, Slidell, Thompson of Kentucky, Thomson of New Jersey, Wright, and Yulee—25.

NAYS—Messrs. Bell, Bright, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Fitch, Foot, Foster, Hale, Hamlin, Harlan, Houston, King, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—26.

So the Senate refused to adjourn.

The PRESIDING OFFICER. The question pending is on the motion to take up the Minnesota bill.

Mr. SLIDELL. The Senator from Michigan made a suggestion just now, which, I think, will receive unanimous assent on this side of the Chamber—that that bill be taken up, and be left as the unfinished business for Monday. I have no sort of objection to that. We cannot get a vote on the bill to-day. With the understanding that it shall go over as the unfinished business, I am willing to take up the bill.

The motion to take up the bill was agreed to;

and the Senate, as in Committee of the Whole, resumed the consideration of the bill for the admission of Minnesota into the Union.

Mr. SLIDELL. I presume now, the Senator from Michigan will make the motion to adjourn.

Mr. STUART. So far as I am concerned, unless the Senator from Illinois, who has charge of the bill objects, I am willing to carry out the suggestion I made, and agree to an adjournment.

Mr. DOUGLAS. If there is any good reason why we cannot vote to-night I shall be willing to adjourn; but I would prefer to have a vote to-night.

Mr. FITCH. I voted on the last motion against an adjournment, but I shall vote again promptly for it. I voted then against adjournment for the purpose of having an opportunity to say that I think my record in favor of Minnesota will compare with that of the Senator from Illinois, and I am not to be dragged into an appeal to the friends of Minnesota, such as he has made, to the support of any measure which I think like a refusal to adjourn is merely designed for factious purposes. We have received notice here, and we have no reason to believe that it was not well intended, that that bill cannot be passed to-night.

Mr. KING. Why not?

Mr. FITCH. Because Senators intend to debate it. When they have avowed that intention, I am not going to sit here all night. I am not only willing but anxious to vote if we could take the vote by remaining here any reasonable length of time. I should remain of course cheerfully, but having received notice that the vote cannot be had unless at a very unreasonable hour I see no reason for detaining members here.

Mr. DOUGLAS. I have attempted to drag on nobody, sir; I have appealed to nobody. I have only done my duty in submitting the motion. I made no comment upon any man's vote. I do not intend to do so. Hence, I do not know how to understand the remark of the Senator from Indiana. He is only accountable for his vote, and I am for mine. I do not pretend to prescribe to any man how he shall vote.

It is said we have received notice that we cannot have the vote to-night. That is not satisfactory to me. I want to know why. I have not found that the Senate adjourned every time when I intimated here that I desired to speak, or thought we could not get a vote on a measure. We have been forced here into the night, the middle of the night, and even towards morning, when a question concerning the admission of a State, and where certainly the title was not as clear as the title of Minnesota to admission. When we have been forced to sit here in the dead hours of the night for the purpose of getting a vote, and cutting off a debate on a question at even six o'clock in the morning, I am to be told now that it is dragging on if I insist on taking up the Minnesota bill at only seventeen minutes past three o'clock. We are not within an hour, or two hours, of the regular time of adjournment.

Mr. FITCH. With the permission of the Senator I will say that it is not to the taking up of the bill that I object. I do not object to having the bill taken up. I do not deem that an attempt to drag on any one; but when the Senator resisted the motion to adjourn, he denies having made an appeal. The reporter, I presume, has taken it down. He did say that he called for the yeas and nays, for he wished to see who the friends of Minnesota were. Was not that an appeal?

Mr. DOUGLAS. Well, I will say frankly that I desire to see who the friends of Minnesota are. Minnesota has been here applying for admission from the beginning of the session. She comes under an enabling act, comes with a population that you acknowledge, by your vote, to be entitled to two members of Congress. She comes with a constitution ratified by her people almost unanimously, with only five hundred votes against it. Why is she kept out, and at the same time Kansas, with only forty or fifty thousand population, with a constitution which is denied to be the act and deed of her people, forced through by night sessions? Even after Kansas has gone from us, we cannot, within the reasonable Senate hours, have a vote upon Minnesota; and when I ask why, the only reason is, "You cannot have the vote to-night!" That is not satisfactory. If there was a Senator sick, who desired to make a speech, it would be a different question. If there was an act that addressed itself to the courtesy of

the Senate why we should not proceed with the bill, that is a question I should be very willing to see submitted to the Senate; but when no reason is given why we should not proceed now, when the usual hour of adjournment has not arrived, I could not understand this tenacity to get rid of Minnesota, and keep it back. I do not know why it is done; and I say to gentlemen, in all fairness and frankness, that as chairman of the Committee on Territories, who reported the Minnesota bill months ago, I feel that it is my duty to ask the Senate to take it up, and proceed, at least, with it until the usual hour of adjournment. I do not wish to force night sessions. I would not ask it; but let us go on to the usual hour of adjournment, and I think before that hour arrives we can dispose of the bill.

Mr. BENJAMIN. I move an adjournment.

Mr. FITCH. Will the Senator be kind enough to withdraw the motion?

Mr. BENJAMIN. There is nobody I would indulge more willingly than my friend from Indiana, but I do not think this discussion is of any use at all, and I insist on my motion to adjourn.

Mr. HALE called for the yeas and nays, and they were ordered; and, being taken, resulted—yeas 25, nays 27; as follows:

YEAS.—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Clay, Evans, Fitzpatrick, Green, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Mason, Pearce, Polk, Sebastian, Slidell, Thompson of Kentucky, Thomson of New Jersey, Wright, and Yulee—25.

NAYS.—Messrs. Bright, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Fitch, Foot, Foster, Hale, Hamlin, Harlan, Houston, Jones, King, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—27.

So the Senate refused to adjourn.

The PRESIDING OFFICER. The bill for the admission of the State of Minnesota into the Union is before the Senate as in Committee of the Whole.

Mr. FITCH. I have a very few remarks to make—none on the bill, but a word in answer to what fell from the Senator from Illinois. He is at a loss to understand the purport or motive of my language and claims to be the special friend of Minnesota. I have no objection to that; I believe he is so; but it would have been better to have evinced his friendship on other occasions when there was a probability perhaps of an early passage of the bill. We have now received notice that we cannot pass it to-day, and I think Senators are in earnest when they say it. I am willing to take them at their word. Where was the Senator's peculiar anxiety for Minnesota yesterday morning, when the Senate agreed to adjourn over until Monday, and when of course there could have been no action until that day? Where was his anxiety, when as chairman of the Committee on Territories, having it specially in charge, he assented in the Senate that Kansas should be made a special order, and thereby placed in advance of Minnesota? It is too late now to come forward and urge Senators to sit all night, after notice that perhaps even that will not avail the passage of this bill, after having permitted opportunities to place it in advance of everything else to pass by. I do not yield to him in devotion to Minnesota and its early admission.

Mr. DOOLITTLE. I rise to a question of order. Is there any motion pending before the Senate?

Mr. DOUGLAS. The bill is pending. I trust the Senator will not interfere.

Mr. FITCH. It was simply to compare notes with the honorable Senator from Illinois, in relation to action on the bill for the admission of Minnesota, that I rose; and I am only sorry that my desire to make this brief reply has found me on the record, in the company with which I am, voting against an adjournment.

Mr. DOUGLAS. I have no notes to compare with the Senator from Indiana, or any other Senator, on this question. I have claimed no special devotion to Minnesota. My action has been governed by an entirely different consideration. I happen to be the chairman of the Committee on Territories, and, as the organ of that committee, the Minnesota bill was under my charge, and it was my duty to see that it had a fair chance. I have acted in that capacity, and in that alone. I do not pretend that I am any better friend of Minnesota than other Senators. I neither arrogate to myself nor detract from them. Each Senator must act for himself upon this question.

Now, sir, one word about my having been dil-

atory about the Minnesota bill. I could appeal to my friend from Missouri, [Mr. GREEN,] and to every other member of the Committee on Territories, that I was not responsible for one hour's delay in that committee, about Minnesota. I blame no one. I do not complain of the delay; but each member of the committee will testify that I pushed it, as far and as fast as respect for colleagues would permit me to do. On every occasion, when there was an opportunity, I have insisted upon it here. I have had to antagonize with measures of which I was the warm advocate—the Pacific railroad bill, for instance—on more than one occasion, in order to get up Minnesota. I did not agree that Kansas should be made a special order, to override Minnesota. As the Senator from Missouri knows, I refused to agree to it, and said I could not assent to it. I have never agreed to the postponement of Minnesota, for any other question whatever. I have been overridden by the Senate; and submitted, of course, as I must submit. If I am overruled again to-night, I shall submit with a good grace; but I have never consented to have Minnesota overridden by Kansas, or any other question, and I do not intend to allow it to be done, if I can prevent it—not that I am the special friend of Minnesota, more than any other Senator. I am discharging my duty as the organ of the committee that reported this bill, who is expected to bring it up on all proper occasions. The Senator does not want to be driven into a night session. I expressly disclaimed any desire for a night session. I said if you took it up and proceeded with it until the usual hour of adjournment, I would not object to an adjournment; but I object to overriding Minnesota, first with one bill, and then another, and then another, until you even come down to a motion to override it with the private bills; and then by motions and cross-motions to adjourn, over and over again. It was to that that I objected, if I could stop it. Each Senator votes according to his own judgment, and I have no condemnation of any one. I only discharge my duty, and leave each Senator to act on his.

Mr. GREEN. I think it due to the Senator from Illinois that I should bear testimony to the fact that in the Committee on Territories I thought he pressed Minnesota with a great deal of what seemed to me to be hot haste. He was far from being negligent in relation to that measure in committee. I really thought I had a right to complain that he was too eager in pressing the matter. I make that statement in justice to him. Since the matter has been before the Senate, other Senators know as much about his course of conduct as I do, and I have no testimony to bear. On the question of representation, I felt it my duty to make some remarks; whether he did or not I am not prepared to say; but enough of that. The reason why I do not desire this bill brought up to-night is not to prevent Minnesota from being admitted in the Union. I think my acts will show that I am as sincere a friend of Minnesota as any other Senator; but I am advised, and I so informed the Senator from Illinois, that it would be impossible to reach a vote on account of some amendments that certain Senators intend to propose, which amendments, from the reflection I have given to the subject, I intend to go against; but I think, by a conference with them, we can prevent that delay, and it was as a friend to the bill, not as an enemy, that I desired time to confer with them privately. Concerted action, action prepared and matured, generally has a tendency to expedite business in the Senate; and it was with that view, not as an obstacle to the admission of the State, but as a means to prevent unnecessary controversy when the subject does come up for consideration, that I favored an adjournment. Besides, it will be remembered that when, yesterday, I moved to reconsider the order by which the Senate had resolved to adjourn over until Monday, when it was known that my view was to act on the Kansas bill, and that that consideration alone moved me, every Senator on the opposite side, and some on this, voted against me. We still carried it, and thus we appropriated this day to the consideration of Kansas. Having disposed of that, which I think is a very good day's work, and this being Good Friday, I thought we ought to adjourn. I therefore renew the motion to adjourn.

Mr. CAMERON. Will the Senator from Missouri withdraw that motion for a moment?

Mr. GREEN. I will, if the Senator from Pennsylvania will renew it.

Mr. CAMERON. I will do so. I was exceedingly anxious to adjourn over yesterday, because I could have attended to some private business at home without doing any injury to the public service. To-day I do not care about it; but if the Senator from Missouri will agree to bring up this question—

Mr. GREEN. If we now adjourn it remains as unfinished business.

Mr. CAMERON. I am not certain about that.

Mr. GREEN. It will come up when the Senate next meets as a matter of course.

Mr. CAMERON. Then I shall vote to adjourn. The Senator from Missouri will permit me to ask him if there are any amendments to be moved? We shall adjourn as a matter of course if there are none to be moved; but if there are, they had better be offered now, so that we can think them over until Monday. I think one of the most pleasant features of this body is that kindness and courtesy which always characterize it, and although, not having adjourned over from yesterday, I am compelled to stay here to-morrow, I move to adjourn to accommodate gentlemen on the other side. I am exceedingly anxious that the question of the admission of Minnesota shall be decided as soon as possible; yet, if gentlemen on the other side will say that the question shall come up immediately, when we meet on Monday, without any difficulty, I, for one, will move to adjourn.

Mr. DOUGLAS. Allow me to make a suggestion. If there are amendments to be offered, it would be right that they should be offered now, so that we may consider them in the mean time, and be ready to vote upon them when we meet again. While we are debating the time is wearing away; and therefore I suggest that the amendments be offered; that the bill shall then be left as unfinished business, and I will not interpose any further objection to an adjournment. If this course is pursued, we can take up the bill on Monday and vote, the amendments being before us in the mean time.

Mr. MASON. The office of peacemaker is a very dangerous one, and I do not mean to undertake it; but it is manifest that some collateral questions have arisen in a certain section of the country on the great matter of admitting Minnesota instantly; and, to avoid further strife, and because the usual hour of adjournment has arrived, I move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 2, 1858.

The House met at twelve o'clock, m. Prayer by Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday was read and approved. The SPEAKER announced the business first in order to be the presentation of reports by the Committee of Claims in reference to the business of the Court of Claims.

Mr. PHILLIPS. I ask the unanimous consent of the House to introduce a bill for reference.

Mr. HARLAN. I call for the regular order of business.

WASHINGTON AQUEDUCT.

Mr. GOODE. I rise to a privileged question. I am instructed by the Committee for the District of Columbia to report back, without amendment, Senate bill (No. 176) to acquire certain lands needed for the Washington aqueduct in the District of Columbia, and to ask that the same be put upon its passage.

Mr. JONES, of Tennessee. I merely wish to say that we have had this deficiency bill before the House for the last two or three weeks, and the debate has been entirely on another subject. The debate on that bill closes with the rising of the committee to-day; and unless it is taken up for consideration in the committee to-day, there will be nothing said about it, and no discussion had upon it.

Mr. GOODE. I am persuaded that this bill might have been passed through the House while the gentleman has been making his speech.

Mr. JONES, of Tennessee. Yes; but I would say to my friend that he has another bill of the same sort.

Mr. GOODE. Well, let us get through with this, at all events.

The bill was read the third time, and passed.

Mr. GOODE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DEFICIENCY BILL.

Mr. CHAFFEE. I ask the unanimous consent of the House to present a resolution for reference only.

Mr. PHILLIPS. I object.

Mr. LETCHER. As this is the last day on which this deficiency bill—involving a considerable amount of money, and many items of interest to the country—can be debated, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CHAFFEE. I move that the House resolve itself into the Committee of the Whole on the Private Calendar.

Mr. LETCHER. I would like to inquire of the gentleman from Massachusetts whether his purpose is to cut off all debate on the deficiency bill?

Mr. CHAFFEE. Not at all.

Mr. LETCHER. It cannot be debated at all after to-day, for the debate closes upon the rising of the committee to-day.

Mr. CHAFFEE. Then I withdraw my motion.

The motion of Mr. LETCHER was then agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOGGS in the chair,) and resumed the consideration of the deficiency bill.

The CHAIRMAN stated that the gentleman from Tennessee [Mr. JONES] was entitled to the floor.

Mr. JONES, of Tennessee. Mr. Chairman, from the organization of this Government, in 1789, down to 1842, the calendar year was the fiscal year of this Government, commencing on the 1st of January, and terminating on the 31st of December, in each year. Congress was always in session two months, or more, at the commencement of the year for which the annual appropriations were made. Congress met in December, 1841, and continued in session, I believe, until September, 1842. From the 1st of January, 1842, until August, there were no annual appropriations passed for that year, and the Government was without appropriations to pay its current expenses. That, sir, was a Congress which had under consideration various important and highly interesting subjects to be disposed of, and hence the delay and failure in making the appropriations. And it was during that session that the fiscal year was changed, and made by law to commence on the 1st of July, and consequently to terminate on the 30th of June, in each year. Under this arrangement, and this provision of law, the estimates have to be made some seven or eight months before the commencement of the fiscal year for which the appropriations are needed. For the present fiscal year, which commenced on the 1st of July, 1857, and which will expire on the 30th of June next, the estimates were all made by the executive branch of the Government, and submitted to the last Congress, on the first Monday of December, 1856—full seven months before this fiscal year commenced; and such is the case every year.

Now, sir, we are called upon at this session of Congress to make appropriations for the services of the fiscal year, which will terminate upon the 30th of June, 1859. The estimates upon which those appropriations are to be based were submitted here at the first of this session, and were made eight months before the fiscal year will commence. And consequently, it is to be expected, it cannot be avoided, that there will be in some instances deficiencies in these appropriations. I think that it is almost impossible for the various officers charged with preparing the estimates to make them anything like exact in all particulars. And hence we may expect, as has been the case since the change of the fiscal year, that there will be annual estimates and recommendations for deficiencies in the appropriations. To this I see no objection. I know that many gentlemen are opposed to all deficiency bills. I, sir, have no ob-

jection to deficiency bills if the deficiencies estimated and asked for are in themselves right and proper. It is not because they are deficiencies that I would object to them, or oppose the passage of a law appropriating for them. But when I come to examine the items, I will determine, to the best of my judgment, however much it may be at fault, whether they are right or whether they are wrong. If they are right, I will vote for them as freely and as cheerfully in a deficiency bill as I would in any other bill.

Sir, what is the character of the bill which we have now before us? It is called a "deficiency bill." Its caption is, "a bill to supply deficiencies in the appropriations for the services of the fiscal year ending 30th June, 1858." I desire now to call the attention of the committee to the various provisions of the bill, and to see if those provisions correspond with the title.

I think, sir, on examination, it will be found not only that this is a deficiency bill, but a bill for extras and appropriations in anticipation of the regular appropriation bill—a bill for the past, and a bill for the future.

The first item is as follows:

"For furniture for Speaker's room, and committee-rooms, Clerk's offices, Sergeant-at-Arms' office, Doorkeeper's room, and carpenters' work, \$39,000; for newspapers, \$3,000."

These come in as deficiencies of appropriations for the House of Representatives. How was the furniture in this Hall purchased? Out of the contingent fund? I suppose not. The late Clerk, when he retired from office and made his report to this Congress, said that there was \$447,000 of an unexpended balance of appropriation for contingencies and other expenses of the House of Representatives. Another item is for laborers under resolution of this House of the present session; and another item which comes under the head of contingent expenses is to enable John C. Rives to pay to the reporters of this House, for reporting the debates of the present session of Congress, the usual additional compensation of \$800 each, or \$4,000 in all. Is this a deficiency? If a deficiency, under what law is it a deficiency? On what contract is it based? Your contract for reporting for this House is with the reporter, at \$7 50 per column. He employs the persons who make the reports of our debates, and their compensation is between them and him.

The next item commences with the Army—amounting to \$7,912,000, if I have made the estimate correctly—nearly eight million dollars in a bill the caption of which is to supply deficiencies in appropriations for the present fiscal year. Here is the document upon which this item, or these items, for the Army, are asked for in this bill:

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON CITY, January 12, 1858.

SIR: I have the honor to submit, in papers marked A, B, and C, the details of the calculations upon which the estimate for deficiencies for the present year, and for the additional force ordered to Utah, is based.

At the close of the fiscal year, on the 30th of June last, there was, in consequence of the greatly extended operations in that year, a deficiency in the appropriations for the quartermaster's department of the following amounts, viz:

On account of regular supplies, consisting of fuel, forage, straw, and stationery, of.....	\$279,377 57
On account of incidental expenses, of.....	129,860 20
On account of barracks and quarters, of.....	67,954 39
On account of Army transportation, of.....	751,487 15

Amounting to.....\$1,238,679 31

And it was ascertained that for the Army, as it was on the 24th of December, 1857, the deficiency for the present year, in addition to that of last year, would be as follows, viz:

For regular supplies.....	\$300,000 00
For incidental expenses.....	60,000 00
For barracks and quarters.....	30,000 00
For mounts and remounts.....	100,000 00
For transportation of troops and supplies, about.....	2,000,000 00
	2,490,000 00

Making the whole deficiency.....\$3,718,679 31
See paper marked A.

To which it is now necessary to add for the increased force ordered to Utah, and to supply supposed losses under the various heads of expenditure as explained in paper marked B, of.....\$1,400,632 04

And of the several heads of expenditure explained in paper marked C.....1,606,580 00
3,007,232 04

Making together.....\$6,725,911 35

A large portion of the items on papers B and C are for necessary outfits which, though they must be provided in

the present fiscal year, will be used principally in, and therefore properly belong to, the next fiscal year.

For several years past our Army, though called a "peace establishment," has been, in fact, an Army on a war establishment, and necessarily incurring the expenditures of war. The means for the movement of the army already ordered for service in Utah, if brought together and formed in solid column, would extend from this city to Baltimore.

I have the honor to be, sir, your obedient servant,

TH. S. JESUP,
Quartermaster General.

Hon. J. GLANCY JONES, Chairman of Committee of Ways and Means.

Here, sir, is the report of the estimate asking for this extraordinary appropriation of \$6,725,000, coming from a bureau officer of the Government to one of the committees of this House, without the indorsement of the head of the Department, without the indorsement of the Executive, and without passing through the Treasury Department, that that Department might know how to propose the ways and means to meet the demands under it. Much, of late, has been said about large contracts; and, sir, the articles which are written, published, and sent to the members here, may be based upon these very amounts. If this appropriation pass, it will pass without the least evidence that the executive department ever recommended or asked for such an appropriation at the hands of Congress.

But, sir, this document shows that \$3,718,679 of this appropriation is for deficiencies for the last and the current fiscal year; that over \$3,000,000 is for the future, a great portion of which may be used before the expiration of this fiscal year, but which properly belongs to the next. Then, until I can see some better reason for making this \$3,000,000 appropriation beyond the present fiscal year, I cannot vote for it in this shape. We have the estimates, and we have a bill here to make appropriations for the Army for the next fiscal year; and that bill, I hope, will pass before the expiration of the present fiscal year, for I hope that this session will come to a close before the 1st of July next. Then we can place this appropriation in the regular appropriation bill for the next fiscal year; and, in my opinion, it would be much more properly placed there than in this.

At any rate, I want the reasons of the Secretary himself, if of no higher authority, why the appropriation should be made. Is it for the purposes of war? And is there war existing with the people of Utah? They may be in a state of anarchy, or of opposition to this Government. What should be done if they are? Perhaps my opinions are not worth much upon this subject; but if I could counsel those who have the control of these affairs, I would say, send your officers there properly appointed to take charge of and administer that government without an army accompanying them to enforce their authority.

Mr. KEITT. The resolution on that subject declared that war existed.

Mr. JONES, of Tennessee. I voted for a resolution referring that subject to a committee. That committee has not reported, and I take it for granted, therefore, that they have not found the evidence that they were in a state of rebellion.

Well, sir, send these officers there, and if that people will not receive them, if they will not cooperate in administering the government, let us have the fact known, and then repeal the organic law establishing a territorial government, and give notice to Brigham Young and his hosts, that if they will not conform to the provisions of law and the Constitution of the United States, they must leave our soil and go somewhere else. I believe you have not yet disposed of the land upon which they are.

Mr. BURROUGHS. I desire to know when the debate terminates upon this bill.

Mr. JONES, of Tennessee. If the gentleman will read the resolution he will see.

The CHAIRMAN. It terminates at the close of the session to-day.

Mr. JONES, of Tennessee. Then, I say that if the people of Utah will not live as American citizens, under the Constitution and laws of the country, repeal your territorial law, and give them fair notice to leave your soil, and, upon their failure to do so, send your Army there and drive them off. But so long as they behave themselves, and demean themselves as citizens, I have nothing to do with their religion; nor should this Government have anything to do with them further than they have with every other religious sect in

this country—give them protection to worship under their own vine and fig-tree, unmolested by any one.

Mr. KEITT. Mr. Chairman—

Mr. JONES, of Tennessee. I do not want to get into a controversy with the gentleman in regard to that resolution.

Mr. KEITT. The preamble of that resolution is in this language:

"Whereas, it appears, from the proclamation of Brigham Young, late Governor of the Territory of Utah, from the President's message, and from later developments, that the said Territory is now in open rebellion against the Government of the United States."

Mr. JONES, of Tennessee. I refer the gentleman to my friend from Arkansas, [Mr. WARREN,] who wrote that resolution.

Mr. KEITT. The gentleman voted for it.

Mr. JONES, of Tennessee. I say, then, that the appropriation for the future, in my opinion, should not be retained in this bill.

There is another item in this bill, under the head of the Army, "for subsistence in kind, \$1,220,000," and this is in a deficiency bill. It does not say in the item itself when and how this \$1,220,000 is to be expended, and to what particular period of service it is to apply. There is no document, which I have seen, or been able to find, showing that there is any deficiency in the appropriation for subsistence in kind for the current fiscal year. The document upon which this item is incorporated in the bill tells us when and how it is to be appropriated. It is in a letter of the Secretary of War, which is as follows:

WAR DEPARTMENT,
WASHINGTON, January 15, 1858.

SIR: I have the honor herewith to transmit, for the consideration and action of the House of Representatives, an estimate of funds required for subsistence of troops for the Utah expedition, based upon the requirements of a circular issued by the commanding general, dated January 11, 1858.

Very respectfully, your obedient servant,

JOHN B. FLOYD, Secretary of War.

Hon. J. L. ORR, Speaker House of Representatives.

Estimate of funds required for subsistence of Utah expedition, as directed by circular dated Headquarters of the Army, January 11, 1858.

Aggregate force, as per circular.....	5,606
Women to companies.....	200
Servants.....	300
Employés.....	1,894
	<hr/> 8,000

One year's supply for 8,000—365 days...	2,920,000	rations.
Eight months' supply for depot—245 days.....	1,960,000	"

Total number of rations.....	4,880,000	"
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At 25 cents per ration.....	\$1,220,000	00
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Note.—This estimate is necessary to purchase, in advance for twenty months, subsistence for the troops composing the army for Utah, that quantity being required to go forward with the troops.

It is not an additional estimate, as the stores are to supply that portion of the army during the fiscal year ending June 30, 1859, and for part of the fiscal year ending June 30, 1860.

GEO. GIBSON,
Commissary General of Subsistence.

OFFICE COMMISSARY GENERAL OF SUBSISTENCE,
WASHINGTON, January 13, 1858.

Here we are told that this item of \$1,220,000, so far from being a deficiency for the current year, is to supply subsistence in kind for the Utah expedition, for the years 1859–60. Here we are, in the year 1858; and what is the necessity for making this appropriation in a deficiency bill, when it is all estimated for in the regular Army appropriations for 1859, which will, I hope, be passed before the 1st of July? Will not that give them time enough to buy supplies and to send them out there for the next year? The appropriations for the year 1860 will be made at the next session of Congress, which will terminate on the 4th of March, 1859, four months before the commencement of the fiscal year ending 30th June, 1860, which will give them ample time and opportunity to get the subsistence and forward it.

Sir, the Constitution of the United States provides that Congress shall have power to raise and support armies, and that no appropriations to that use shall be for a longer term than two years. Now, sir, it will be said, in defense of this item, that it is only for the year 1859, and for the eight months of the year 1860. Which eight months is it—the first, the middle, or the latter part of the

year? I think, at least, it is straining the Constitution to make appropriations for the Army so long in advance. Therefore I think that this item ought to be stricken out.

There is one item, however, to which I wish to call the attention of the House, under the head of quartermaster's department. There are a great many matters under this head, including horses, mules, and oxen, the purchase and repair of wagons, carts, drays, &c., lumping up the whole at \$5,400,000—a larger amount of money, by nearly one million dollars, than your whole Army establishment proper cost the Government less than fifteen years ago. Where are we, sir? Is the Army of the United States subordinate to the civil department? And if it is, at this time, how long will it continue so while your Army appropriations now are more than your whole Government cost you per annum, fourteen years since?

Then, sir, here is another item for payment of clerks temporarily employed in the Post Office Department. This item the Postmaster General tells us is for clerks whose employment was made necessary by the large amount of business in the letting of the mails.

Another item is the sum of \$1,469,173, for a deficiency in the Post Office service. Now, let us look for a moment at that branch of the public service. The whole expenditure for the Post Office service for the year ending June 30, 1845, was \$4,320,731.99. What is it this year, under the system of cheap postage that has been established in this country, for the establishment of which certain gentlemen have taken great credit to themselves? In my opinion, no man is entitled to credit for reducing the postage rates, unless he had, at the same time, devised some way by which the mail would have been carried without taxing the country for it. The Post Office establishment is one that renders private and individual service to the citizens of the United States, and I believe that every man who receives such service ought to pay for it in exact proportion to the extent of service he receives. At the last session of Congress you appropriated for this service \$14,474,000, and at this session you are asked for \$1,469,473, making together \$15,944,000. You also, at the last session of Congress, appropriated \$1,120,350 for ocean mail service, making the aggregate expense for the Post Office service for this year \$17,065,160. And what are the receipts from that branch? Seven million seven hundred and ninety-five thousand dollars, or, in round numbers, seven and three quarter millions, leaving between nine and ten millions to be drawn from the people.

It will be necessary to make this appropriation as you have incurred the liability; but you should change your postage laws, and fix the rates of postage so as to make the receipts defray the expenses, and not have that service a burden on the country, and tax those who receive no benefit from it.

Then, sir, the third and last section of the bill is as follows:

"Sec. 3. And be it further enacted, That the accounting officers of the Treasury be authorized and directed to allow credit to the Clerk of the House of Representatives for such payments out of its contingent fund as have been, or may be, made under allowances authorized by the House of Representatives during the last Congress: *Provided*, That said allowances shall have been duly approved by the Committee of Accounts: *And be it further provided*, That the said allowances be paid out of any moneys in the Treasury not otherwise appropriated."

Now, sir, I take the ground that this is not a deficiency. It is based upon no law of Congress. As I understand it, it repeals an existing law and makes an appropriation giving this extra and increased compensation to persons in the employment of this House, who have received every dollar of compensation which the law authorized them to receive when they accepted the positions which they occupy. And without this, your resolutions, passed during a former session of Congress in violation of law, have no force and no virtue. There is no amount specified in this section of the bill. It is an indefinite amount. It is to meet such payments as have been made, or may be made, under allowances authorized by the House. I believe the gentleman from Virginia [Mr. LETCHER] stated, in the remarks which he made upon this bill, that, when the committee came to this section, he would move to strike out "allowances," and substitute "resolutions" of

the House. Now, let us see what those resolutions are. Here is one of them:

"To John M. Barclay, its Journal clerk, what will make his regular annual compensation for his past services, and until otherwise ordered, equal to that now paid to the chief clerk under the Secretary of the Senate."

Now, sir, what is that resolution? The present Journal clerk—the gentleman for whose benefit this resolution was intended—commenced his service here some ten years ago, at an annual compensation of \$1,500, if I mistake not. He has received, I take it, every year twenty per cent. upon this amount in the shape of extra compensation or permanent increase of pay. And now his compensation is \$2,160. But what does this resolution do? It proposes to go back to the time when that gentleman's service commenced here, and to give him the compensation, not that the chief clerk under the Secretary of the Senate received at that time—no, sir; but it is to give him as his regular annual compensation from the period of the commencement of his service here, and until otherwise ordered, the same compensation that the chief clerk under the Secretary of the Senate received at the time of the adoption of the resolution. Now, what did the chief clerk of the Senate receive at the time that the Journal clerk commenced his service here? Eighteen hundred dollars; and his salary now, and at the time that this resolution was adopted at the close of the last session of Congress, was \$2,500. Thus you go back, and, by this resolution, you give him \$2,500 from 1847 up to this time, being \$600 a year more than the chief clerk of the Senate received at the time the service of the Journal clerk commenced here. Now, I ask if there is any gentleman here who, upon the plain presentation of that proposition, would vote for it?

But this same section is intended to cover another resolution of the last House, which provided that each of the employes of this House should have twenty per cent. extra compensation upon his salary. Then, sir, if you put this salary up to \$2,500, twenty per cent. upon that will make the compensation of this officer \$3,000, including his regular annual compensation, and twenty per cent. extra compensation under the other resolution which was adopted at the last session.

Now, sir, there was another resolution passed for the benefit of James C. Walker, the reading clerk. It provided that his compensation, from the time he commenced his service here until otherwise ordered, should be the same as that of the reading clerk of the Senate. What was the salary of the reading clerk of the Senate when Mr. Walker commenced his service here? It was \$1,500. The chief clerk did the reading then, and he received \$1,500 at the time this gentleman's service commenced. And this resolution was to go back some ten years, and give this officer \$2,160, the compensation of the reading clerk of the Senate at the time the resolution passed; and adding twenty per cent. to that, you have somewhere in the neighborhood of two thousand five hundred dollars as the compensation of that officer.

Well, Mr. Chairman, there is another resolution which is also covered by this third section; and that is, to give to another employe of the House \$360 per annum for every year that he has made a statement of the appropriations made, officers created, &c. This gentleman, Mr. Buck, is one of the clerks under the Clerk of this House. The Clerk himself is required to have this duty performed. He has had it done at each session, after the adjournment of Congress. And now this gentleman who has done the work, and who has a salary of \$1,800, must have \$360 a year more, (amounting in all to \$4,000,) and in addition to that, the extra compensation of twenty per cent. upon that.

It seems to be disputed whether the amounts voted under these resolutions were paid or not. These gentlemen would not come up here squarely, and say out and out that they have got the money, and that Mr. Cullom can look to the Government for it. The Secretary of the Treasury and the accounting officer have refused to recognize these accounts. Here they are:

TREASURY DEPARTMENT, June 30, 1857.

Sir: The Clerk of the House of Representatives submits in settlement of his accounts at your office the following vouchers:

House of Representatives, United States,

To WILLIAM CULLOM, DR.

For additional compensation for settling and adjusting the outstanding bills under the book resolution, found on file in the office, which belonged to my predecessor, \$750.

March 7, 1857, received of William Cullom, Clerk of the House of Representatives, United States, \$750 in full of the above account.

WILLIAM CULLOM.

Indorsed: Allowed.

B. B. THURSTON,
Chairman Committee of Accounts.

House of Representatives, United States,

To JOHN M. BARCLAY, DR.

For amount of compensation allowed by the resolution of the House of Representatives of March 3, 1857, \$5,706 97.

March 30, 1857, received of William Cullom, Clerk of the House of Representatives, United States, \$5,706 97, in full of the above account.

JOHN M. BARCLAY.

Indorsed: Allowed.

B. B. THURSTON,
Chairman Committee of Accounts.

House of Representatives, United States,

To JOHN M. BARCLAY, DR.

For clerical services on alphabetical index, during the Thirty-Third Congress, \$250.

February 19, 1857, received of William Cullom, Clerk of the House of Representatives, United States, \$250, in full of the above account.

JOHN M. BARCLAY.

Indorsed: Allowed.

B. B. THURSTON,
Chairman Committee of Accounts.

House of Representatives, United States,

To DANIEL BUCK, DR.

For collating, correcting, and preparing for publication the list of appropriations made, new offices created, &c., as required by the act of July 4, 1836, for the second session Twenty-Eighth Congress, first and second sessions Twenty-Ninth Congress, first and second sessions Thirtieth Congress, first and second sessions Thirty-First Congress, first and second sessions Thirty-Second Congress, first and second sessions Thirty-Third Congress, and third session Thirty-Fourth Congress, as authorized by the resolution of the House of Representatives of March 3, 1857, at \$360 per session, \$4,320.

March 31, 1857, received of William Cullom, Clerk of the House of Representatives, United States, \$4,320, in full of the above account.

DANIEL BUCK.

Indorsed: Allowed.

B. B. THURSTON,
Chairman Committee of Accounts.

House of Representatives, United States,

To W. P. INGRAM, DR.

For services as clerk to Committee of Accounts of Thirty-Fourth Congress, \$650.

March 31, 1857, received of William Cullom, Clerk of the House of Representatives, United States, \$650 in full of the above account.

W. P. INGRAM.

Indorsed: Allowed.

B. B. THURSTON,
Chairman Committee of Accounts.

House of Representatives, United States,

To JOHN BAILEY, DR.

For compensation for additional services as clerk in the office of the House of Representatives, United States, twenty-five dollars a month from the 1st day of May, 1850, to June 30, 1853, being thirty-eight months, \$950.

March 31, 1857, received of William Cullom, Clerk of the House of Representatives, United States, \$950 in full of the above account.

JOHN BAILEY.

Indorsed: Allowed.

B. B. THURSTON,
Chairman Committee of Accounts.

House of Representatives, United States,

To J. C. WALKER, DR.

For this amount allowed as reading clerk, by resolution of the House of March 3, 1857, directing a sufficient sum to be paid out of the contingent fund to make regular annual salary for past services equal to the annual amount now received by the reading clerk of the Senate, (see statement annexed,) \$1,748 67.

March 31, 1857, received of William Cullom, Clerk of the House of Representatives, United States, \$1,748 67, in full of the above account.

J. C. WALKER.

Indorsed: Allowed.

B. B. THURSTON,
Chairman Committee of Accounts.

Then there is one to Mr. Galt for a balance of \$609, and one to Mr. Tompkins for \$378 46.

This one to Mr. Ingram does not come under these resolutions, but is based upon an allowance by the Committee of Accounts for services rendered as clerk of that committee. He was the chief clerk under the Clerk of this House, at a salary of \$2,160, and this receipt is for \$650, for services as clerk to the Committee of Accounts.

How do these papers come here in the report of the Secretary of the Treasury? They were presented at the First Auditor's office as vouchers, and registered there in order to enable the Clerk to make requisitions for the money; and I learn at the First Auditor's office that these accounts or receipts are not always indorsed as allowed by the Committee of Accounts, but that the receipts are always audited and signed before they are

presented there. How it was with these particular receipts I cannot say.

Mr. LETCHER. If the gentleman will allow me, I will furnish him with the papers, so that he can say.

Mr. JONES, of Tennessee. I do not want them now. I understand that the Clerk presents them at the First Auditor's office, they are registered, and then other requisitions are allowed at the First Comptroller's office; but they are frequently presented there with the receipt allowed before they are indorsed by the chairman of the Committee of Accounts. But here are some of these accounts, Mr. Chairman, which are re-ceipted on the 31st day of March, 1857. The indorsement of the chairman of the Committee of Accounts, Mr. Thurston, is below that date, and nearly one month after his term of office as a member of the House had expired, and of course after the committee ceased to exist.

Mr. LETCHER. Just at this point will the gentleman allow me to say how this indorsement is made and the receipt prepared?

Mr. JONES, of Tennessee. I have only two or three minutes left and my friend from Virginia will have an hour when this debate is closed, in which to reply to what is said in this debate. One thing I will say to him, and to this House, that if every other item in this bill met with my approbation I would not vote for the bill while the provision to which I refer is in it. When gentlemen put a bill in such shape that I cannot vote for the good without voting for the bad too, it may appear a small matter to others, but so far as I am concerned I cannot vote for the good if I must take with it something which I cannot vote for, unless with a violation of principle held by me to be sacred. The good must go with the bad, and the responsibility must be with those who present such an obnoxious measure to the House. This is the principle on which I legislate. If the House will establish these salaries, although I will not vote for any higher pay, yet I will vote for an appropriation under that law, when it is made. Until there is a law for it, of course I will vote against it. I say that this section based upon the resolutions which I have read is in violation of law, without authority or sanction from the statute-book. I should like to speak, Mr. Chairman, of the other resolutions intended to be covered, and which will be covered, by this third section, if it passes Congress. It will give back pay; it will give extra pay, and not only under one resolution, and to one individual, but to many individuals, under various resolutions, giving them gratuities of thousands, and then the general resolutions will come in to give them twenty per cent. additional upon their regular compensation.

This resolution will give to your clerk \$720, I believe, being twenty per cent. upon his salary of \$3,600. Under that resolution, sir, however, I do not understand that there has been one cent paid. Under that compensation resolution, up to a very recent date, there had certainly been no vouchers presented at the Treasury for extra compensation paid under it. Then, if there had been none paid, why should we, by a law, enact to give this extra compensation to the persons who are specified?

[Here the hammer fell.]

Mr. NICHOLS. Mr. Chairman, with the appropriations contained in this bill, I propose to have very little to do, nor shall I examine so minutely as has the gentleman from Tennessee the question as to whether the various items embraced in it are deficiencies, or whether they are appropriations for the ordinary expenses of the current year. If they be necessary, Mr. Chairman, I am prepared to vote for them. If they be in discharge of liabilities contracted by the Government, under the authority of officers, having in charge the particular duties assigned to them, I certainly shall feel disposed to vote for them. Nor is it necessary, in the few remarks I shall make upon the question, that I shall enter into a discussion as to whether war exists in Utah; its kind, its character, or otherwise. I purpose to speak mainly upon a different branch of the question; and I have felt it incumbent upon me to take this peculiar line of policy from my connection with some of the accounts alluded to by the gentleman from Tennessee, and which are objected to so strenuously by him.

I find in the report of the Secretary of the Treasury, on page 26, this language:

"In the settlement of the accounts of the Clerk of the House of Representatives by the accounting officers of the Treasury, a question arose as to the power of the two Houses of Congress over their respective contingent funds. Under resolutions passed by the House of Representatives, the Clerk had paid certain sums to different employes of the House for extra services rendered by them, and the question was presented to me whether he could be allowed credit for such payments in view of the provisions of the act of March 3, 1845, which was evidently intended to prevent the application of the contingent fund of the two Houses to such purposes. My opinion was, that the act of March 3, 1845, was still in force in this respect, and I accordingly held that the credits could not be allowed. The reasons for that opinion are so fully stated in my letter of June 30, 1857, to the First Auditor of the Treasury—a copy of which accompanies this report, marked eleven—that it is unnecessary again to discuss the question. In conformity to the suggestions of that letter, and for the reasons therein given, I recommend the passage of a law for the relief of the parties who have acted under the different construction placed upon the law by this Department."

Now, I wish gentlemen of this House to observe that these accounts, distinctly specified by the gentleman from Tennessee, are just as distinctly recommended to the favorable consideration of this House by the Secretary of the Treasury, as any other items contained in this deficiency bill; and he recommends that they be paid on the ground that the Clerk has paid certain of these amounts; and yet in the discussion of this question, constant assertions are made that no payments have been made whatever.

Mr. Chairman, the first account is an allowance by the Committee of Accounts to the former Clerk of this House. The second is an allowance to Mr. Barclay, the Journal clerk, under a resolution adopted by the House. The third is an allowance to Daniel Buck, founded upon a resolution of the House. The next is to W. P. Ingram, for services as clerk to the Committee of Accounts of the Thirty-Fourth Congress, \$620. The next is to John Bailey, for compensation for additional services as clerk in the office of the House of Representatives. Next to J. C. Walker, an allowance by the resolution of the House. The next is an allowance to P. B. Tompkins, under a resolution of the House. Next an allowance to Thomas J. Galt, by the Committee of Accounts.

Now, sir, we are told that the Committee of Accounts has no authority to make any such allowance. I take issue with the gentleman from Tennessee as to their power. I contend, whatever the policy or expediency of any such step may be, that they have the power, and that it is given to them by the law of this House, to make these allowances; and I wish to say, Mr. Chairman, that it is not an unusual thing at all to make these allowances; and I wish to call the attention of the gentleman having this bill in charge, to precedents in the past which prove that allowances, identical with these, have been uniformly made; and I wish to call the attention of the gentlemen who opposed those accounts, and who are now opposing this bill, to many precedents, in which they have also concurred. I find an allowance to A. J. Glossbrenner, of \$500 extra, by the Committee of Accounts, when he was the disbursing and pay clerk under the Clerk of the House of Representatives, for services precisely similar to those for which Mr. Ingram was allowed extra pay by the late Committee of Accounts. This was, I believe, for the Twenty-Ninth Congress.

I find an allowance by the same committee to John Robb, resting on no other authority than the allowance of that committee; and I believe that, at that time, the present Secretary of the Treasury was a member of the Committee of Accounts, and was present and an acting member of that committee when the allowance was made. Here is another allowance in the Thirty-Second Congress to P. Barry Hays, and a similar allowance in the Thirty-Third Congress to William P. McKean, disbursing clerk under Colonel Forney.

I wish to direct the attention of gentlemen to the particular Congresses when these allowances were made, and then let gentlemen answer me this question: are these allowances, cited by the gentleman from Tennessee, so extraordinary in their character as he would have us believe?

Again, Mr. Chairman, in some remarks submitted by me on this question a few weeks ago, I said that the last House of Representatives had voted additional pay to persons where no question had been made upon it at the Treasury Department. The fact was admitted at the time. I al-

luded then, as I allude now, to the reporters for the Globe, our official paper, to whom additional pay was voted by this body, and paid. It was extra pay, as these are extras, though afterward included in an appropriation bill. But, Mr. Chairman, I believe that the Senate also voted additional compensation and pay to its employes; and when this question came up for discussion, I had the curiosity to address a note to the Secretary of the Senate to know what had been the fate of the allowances there, and I was informed by the chief clerk in the office of the Secretary of the Senate, that no question had been made as to the payment of additional pay to the employes, and that no notice of a disallowance of such claims had been received from the Treasury Department.

But now, Mr. Chairman, as to the power of the Committee of Accounts to make these allowances. I ask if it had not the power to do it? In your appropriation bills, and even in this deficiency bill, you have a head of "contingencies" for the House of Representatives. True, you point out what some of these contingencies are—so much for the binding department, so much for furniture for the Hall, and so forth; and then you have a miscellaneous item for each House. Your bill is passed, and signed by the President; and then here is a contingent fund placed absolutely at the disposal of each House of Congress. Now, I ask, how shall this contingent fund be distributed—under whose power and authority? The fund is placed by law within your control, and I ask where is the power for its disbursement, its regulation, and its control? Let any man turn to the 102d rule of the House, and he will find that it is the duty of the Committee of Accounts to superintend and control the expenditures of the contingent fund of the House of Representatives. And again, you will find by rule 152, that, in reference to articles furnished under this miscellaneous head, or under the other regular heads of appropriation, the Clerk of the House disburses this fund for this House, under the control and direction of the Committee of Accounts. Now, you have appropriated the money by law; and you placed it—where? In the hands of the Clerk of the House and under the control of the Committee of Accounts.

I think I have shown that these allowances by the committee were not a new idea. I think I have shown that gentlemen who are opposing them here have, in the past, been somewhat identified therewith. Let me ask them if they have only just now discovered that the accounts are all illegal and cannot be allowed; and if so, why have they slept so long over these abuses? Why did they not find them out before?

Let me take another view of this question. I said some time ago that I believed I had voted for some of these extra twenty per cent. resolutions, and against some. I have been investigating that fact, and I do not know how the matter stands; for I believe it has been almost impossible at any time to get the yeas and nays on most of these propositions. But, sir, what is shown by this very fact that there is no record by which the vote of members can be traced on these questions? Is it not the natural and almost irresistible conclusion that, while men may have prejudices against these propositions, when they are brought up they are willing to sit here dumb and see them pass.

Mr. JONES, of Tennessee. Will the gentleman allow me to ask him one question?

Mr. NICHOLS. I will do the gentleman justice, for I think I anticipate his question.

Mr. JONES, of Tennessee. My question is this: whether there is an occasion on record when one of these resolutions passed the House which was not resisted, and when the yeas and nays were not called for?

Mr. NICHOLS. I would have done the gentleman justice without his question. I would have said that, as for himself, I believe he has always resisted them, and has always demanded to have the vote upon them put on the record. I believe that to have been the case in respect to this twenty per cent. resolution. But how many times have these propositions passed this body? In the Twenty-Ninth Congress extra compensation was provided for in the general appropriation act which passed August 10, 1846. It was provided for in the second session of that Congress in the appropriation act of 3d March, 1847. So also in the Thirty-First, the Thirty-Second, and

the Thirty-Fourth Congresses. But now, Mr. Chairman, the Secretary of the Treasury has discovered an obstacle and barrier against the payment of the allowances made by the last House of Representatives, in the law of 1845. That is the strong point made in the Secretary's argument against the allowance of these claims. He says in reference to this, in one portion of this document, that, if he could have been satisfied that this question had undergone a full, complete, and thorough investigation in his Department, he would have been disposed to have deliberated much longer on the conclusion at which he had arrived. The Secretary of the Treasury could not have been ignorant of the fact that that very identical question made by him was made in the Treasury Department before that. I hold in my hand an argument of Mr. Whittlesey, the First Comptroller of the Treasury, on that question. We see by the report which he made to this House, February 2, 1857, and which was referred to the Committee of Ways and Means, that that precise question was raised; and he says that the law of 1845, a limitation in an appropriation bill, must be, and so it was construed by him, to have expired with the bill, because Congress and the Department had never regarded it after the expiration of the fiscal year.

But there are some other things which I wish to bring to the attention of the House, for I think we ought to have fair play about these matters. I wish to call the attention of the gentleman from Tennessee [Mr. JONES] especially to this case. I understand his objection to the resolutions for the benefit of Messrs. Barclay and Walker, to apply to their uncertainty, to their not stating the aggregate amounts to be given to these gentlemen. I understand that to be one of his objections, and the other is that these officers had pay enough before the resolutions were adopted. Now, I will take the last objection first. If the House had the power to vote these sums to these gentlemen out of its contingent fund, then it is *res adjudicata*; for a former House has judged as to the propriety of the amount they should receive, and has voted it to them while they were its employes. If they had the power to do so, the action of the members of that House was final.

I come now to the other objection. I wish to give the gentleman a case that occurred here in the last Congress, and I do not allude to it because in the particular case I believe or mean to contend that any injustice was done; but I allude to it for the purpose of showing the gentleman that all of us sometimes commit these solecisms in legislation which any one can object to and cavil at who sees fit to do so. If gentlemen will turn to the Congressional Globe, first session Thirty-Fourth Congress, page 2153, they will find in the proceedings of the Senate that this amendment was offered to the miscellaneous appropriation bill:

"Mr. BROWN. I have an amendment which does not come from a committee, but as it concerns one of the employes of the two Houses of Congress, and relates to a subject of great importance, I suppose it is admissible.

"And be it further enacted, That there shall be paid to John C. Rives by the Secretary of the Senate and Clerk of the House of Representatives, out of the contingent funds of the two Houses, according to the number of copies of the Congressional Globe and Appendix taken by each, one cent for every five pages of the work whenever it shall exceed three thousand pages for the long session or one thousand five hundred pages for a short one, including the indexes and the laws of the United States, commencing with this session."

That amendment was agreed to in the Senate. The bill came back here at a very late hour; all the amendments were disagreed to in gross, without being read, and referred to a committee of conference. Well, the amendment came back into this House; it was referred to simply by its number, and was agreed to. I never saw it in the original bill. I do not know how many members of this House saw it or heard of it, until at the next session the Committee of Ways and Means recommended an appropriation to satisfy the demand created under it. I will admit that that provision was included in a bill, and that it did not rest upon a simple resolution of the House. I allude to it simply for the purpose of showing the character of this kind of appropriation, and of showing, also, that the provisions contained in the resolutions for Barclay, and Walker, and Buck, are not so extraordinary in their character as might be supposed from the remarks of the

gentleman from Tennessee. When this amendment was introduced into the Senate, the distinguished Senator from Illinois thought that the Senator from Mississippi had made a slight mistake, and meant to give five cents for each page, instead of one cent for every five pages; but the Senator from Mississippi understood the effect of his amendment. The amount of money which has been paid under that amendment was at the first session of the Thirty-Fourth Congress, for the House, \$11,174 69, and for the Senate \$10,263 48; and for the third session, for the House \$1,488 87, and for the Senate \$1,476 10, making an aggregate of \$24,394 97.

Mr. LETCHER. How comes it that there is a difference in amount between the Senate and the House?

Mr. NICHOLS. Perhaps it was caused by the discrepancy in the number of copies taken by the two Houses. But, Mr. Chairman, at the next session of Congress, we were called upon to vote money to pay that bill, and then the attention of gentlemen was drawn to the amendment. I do not say that the amount of money was erroneously granted, but I object to the principle of the amendment. I read from the Congressional Globe, page 800:

"The next amendment was read as follows:

"To enable the Clerk of the House of Representatives to pay to John C. Rives the additional compensation for the Congressional Globe and Appendix, provided for in the sixteenth section of the act making appropriations for certain civil expenses of the Government for the year ending the 30th of June, 1857, \$11,174 69.

"Mr. JONES, of Tennessee. I believe, sir, the original price of this work was three dollars for the Globe for the long session, and three dollars for the Appendix, and a less price for the short session. At the time that that price was fixed, it was usual for the Congressional Globe to make, at the long session, some three thousand pages; and at the price then paid the cost was about one cent for five pages. Of late years, more speeches have been made, the proceedings have been augmented, fuller reports have been made, and the volumes have been largely increased. The provision which the gentleman from Ohio has read—the sixteenth section of that act—is to give the publisher of this work the same proportional allowance for the excess of three thousand pages for the long session, and of fifteen hundred pages for the short session.

"I believe those are the facts of the case. A provision for this allowance was made by Congress at the close of last session, and I suppose there was no appropriation made to pay what would become due under it at this session. It is to pay one cent for each five pages of the Congressional Globe and Appendix exceeding three thousand pages at the last session, and the same for each five pages this session, over and above fifteen hundred pages.

"The question was then taken, and the amendment agreed to."

It will be seen, sir, that the reason assigned by the gentleman from Tennessee for this appropriation would extend to the claims or accounts of the gentlemen who have been designated in the resolution of the House. If you look to the Journal of the House, you will find that the duties of the Journal clerk have been increasing, and that the size of the volume is growing larger year by year. The duties of those who fill these positions in this House increase, and must increase, with the legislation and the growth of the country; and, sir, the argument of the gentleman from Tennessee in support of this appropriation is support sufficient for the money voted under these resolutions.

Mr. JONES, of Tennessee. Do I understand the gentleman to say that that provision, allowing one cent for every five pages beyond fifteen hundred for a short and three thousand for a long session, went back and proposed this addition for Congressional Globes and Appendixes delivered and paid for, before it was passed into law?

Mr. NICHOLS. I do not mean to be understood as saying any such thing.*

Mr. JONES, of Tennessee. I can say that I do not know of any such thing; and all I said in what the gentleman quotes from my speech, was in the way of explanation of an appropriation.

Mr. NICHOLS. I allude to this, Mr. Chairman, for the purpose of elucidating a principle. I have not said, nor do I intend to, in this discussion, that there was anything wrong in the money voted to the proprietor of the Globe, that he got a cent more than he ought to; but I say that the argument which bases a claim—ay, sir, a claim for additional compensation in this case, may

well apply to that of any other employé who is brought within the rule laid down, an increase of service performed.

Mr. Chairman, let me direct the gentleman's attention to another case which occurred in the Thirty-Third Congress. I find that at the first session of that Congress a Mr. Witte introduced a resolution in these terms: that the Clerk of the House be directed to pay Thomas J. Galt, superintendent of the folding-room, the same compensation that is now paid to the librarian of the House; to commence on the first day of July, 1853. On the same day I find that an additional resolution was passed in favor of S. H. Lamborn. Both of them were retrospective in their operation. This was a matter of discussion by the gentlemen of the last House of Representatives. The gentleman from Tennessee participated in the discussion, and so did the member from Georgia, [Mr. Cobb,] who is now Secretary of the Treasury. These resolutions were retrospective in their operation; and Mr. Cobb, in debate, justified some resolution as standing upon the same ground, and referring to these as precedents. The gentleman from Tennessee said that these resolutions did not provide for the usual extra compensation, but made a permanent increase of salary to these two superintendents, nor had either of them received the twenty per cent. provided by the joint resolution of July 30, 1854, and therefore did not conflict with its provisions. Now, the fact is, that these parties did receive the twenty per cent. Resolutions to increase their salaries, retrospective in their action, were passed by the House, and the gentleman from Tennessee, in the discussion of this subject at the last session, placed his justification of them upon the precise ground that they made a permanent increase of salary. Upon what other ground do the resolutions for Mr. Barclay and Mr. Buck stand? There is precedent for them, at all events, and precedent against the gentleman's position that payment ought not to be made.

Mr. Chairman, I hold in my hand the Journal of the last House. These resolutions were passed by the House, and gentlemen who were then present recollect that they were fairly introduced, voted on, and passed. I am informed by parties interested in these resolutions, that they have been paid. If they have not even yet, I regard that the action of the House establishes a claim in their favor for the money which the previous House adjudged then due. I trust that if we are to get rid of a bad precedent, if we are to get rid of a bad system, we will do it by some mode of legislation which shall be understood in advance, and that one rule will not be applied at one time for a certain state of things, and another rule at another time in the same state of things, only when political changes have taken place.

I hold in my hand several resolutions granting this extra compensation to the employés of past Congresses, and I will read them, with the names of their authors.

"On motion of Mr. COBB, [the present Secretary of the Treasury,]

"Resolved, That the Committee of Accounts be directed to settle the accounts of the late acting pay clerk, J. E. Millard, by allowing him compensation for so much time as he was actually in the service of the House in that capacity."—*House Journal, second session Twenty-Ninth Congress, p. 518.*

Under this resolution, back pay to the amount of \$990 was paid to Mr. Millard, that being the difference between what he had received and what he was allowed by the resolution. (See *Mis. Doc. 6, p. 77—1, 30.*) This, it will be observed, was at the very next Congress to that at which the act of 1845 was passed.

Now, as the Secretary of the Treasury makes his strongest point against the payment of these claims under the law of 1845, and he, in his own Department, has been the officer who has adjudicated these cases, and referred them back to the House for relief to the parties interested, I beg leave to say that this resolution offered by him was at the first session of Congress after the act of 1845 was passed.

Again, here is another resolution:

"On motion of Mr. JACOB THOMPSON, [Secretary of the Interior,]

"Resolved, That the Clerk of the House be directed to pay out of the contingent fund of the House, to James C. Walker, the same compensation annually which is paid to the assistant clerks of the House of Representatives."—*House Journal, second session Thirty-First Congress, p. 430.*

That resolution, too, was offered after the act of 1845 was passed.

The following resolution was adopted:

"On motion of Mr. BRECKINRIDGE, [Vice President,] "Resolved, That there be paid out of the contingent fund of the House, to the Sergeant-at-Arms, Doorkeeper, and Postmaster, such sum, in addition to their present salary, as will make their compensations, respectively, equal to that of the chief clerk under the Clerk of the House, which is \$1,800 per annum, commencing with the present Congress."—*House Journal, first session Thirty-Second Congress, p. 1141.*

This is another retrospective resolution resting upon the precise ground on which the claims suspended at the Treasury Department rest.

Mr. Chairman, my only object in desiring to say a word upon this section, was simply that, as a former member of the Committee of Accounts, I felt it incumbent on me to show first, that the action complained of at the Treasury Department was consistently followed under different political organizations, under differently constituted Houses from the last, consistently followed up to the time when my action became connected with this system.

I now say that I believe another thing in reference to these accounts. I believe that when a law places the contingent fund of the House under the control of the officers of the House, or within the disposal of each House rather, any order of this House relative to that contingent fund, directing its officers to do anything with reference to it, makes it incumbent upon that officer to execute the order, and he would be in contempt of the authority of the House should he not do so. Now, what has been done? Some of these payments have been undoubtedly made, and made by an officer who was executing your order. He asks protection for his action in the execution of your orders; and the Secretary of the Treasury recommends that he shall have that protection—the sanction of law for what has been done. That I believe to be right and proper under the circumstances. I believe the allowances of this committee, under the rule of the House, under the law of the House, constitute just as valid a claim against this Government as any other which I have cited from the past. And I claim for the acts of the last House—and I claim it from just and fair men upon all sides—that degree of favor and sanction which has been extended to the action of past Houses, and in reference to which no complaint has been made. This is all I have to say upon this subject.

[*Addenda:* Manual, page 82: A resolution for an allowance of money to the clerks being moved, it was objected to as not in order, and so ruled by the Chair; but in an appeal to the Senate (*i. e.*, a call for their sense by the President, on account of doubt on his mind, according to rule 16,) the decision was overruled.—*Sen. Journal, June 1, 1796.* The compiler of the Manual says: "I presume the doubt was, whether an allowance of money could be made otherwise than by bill." So these practices are very ancient.]

Mr. LOVEJOY. For reasons which were satisfactory to them, but which were inexplicable to me, when I introduced a resolution the other day to inquire of the Secretary of War in reference to certain contracts, objections were made all around upon the part of the friends of the Administration, on the ground that it would prove prejudicial to the public service to have such an inquiry made, and to have it answered by an official statement. And, sir, it struck me as something very peculiar that a Democratic President had the power of ordering the Army and Navy anywhere he pleased, into Kansas or into Utah, and involve the nation in expenses to the amount of millions upon millions, and yet objection is made to an inquiry to know what is done with this money. I have witnessed, with a sense of humiliation and shame, the disposition upon the part of many, not only to defer with proper respect, but with apparent abject servitude, to an intimation of the Executive will, as though this House were acting the part of Caesar's or Napoleon's Senate, to register the decrees of a dictator.

I wish to call the attention of the House and of the country to the fact that the expenses of our Government in its War and Navy Departments are increasing with a rapidity that to me is appalling. Our expenses have, within a few years, gone up in magnitude from \$3,000,000 to \$19,000,000. Our expenses in 1850 and 1851

*Erroneous. In fact, the effect of the amendment introduced by the gentleman from Tennessee was retrospective; it carried the increased pay back to the commencement of the Congress. Being retrospective, no difference in time affects the principle.

were \$9,000,000, and in the years following, up to the present time, in round numbers, they were respectively, twelve, eight, nine, eleven, fourteen, sixteen, and nineteen million dollars. Thus our expenses are rolling up in geometrical progression, and where it is going to end no one can tell. What has been done with the money? Oh, that is none of our business. We have only to vote the appropriation, and let the Executive expend the money. And it is thought to be unpopular to say a word against anything asked for the Army. We must vote blindly upon everything connected with the military expenses of the Government. For one, if I understood the gentleman from Tennessee, [Mr. JONES,] as I believe I did, I am much obliged to him for taking the position, and uttering the sentiments he did in regard to the Utah expedition. I believe his remarks were true, and I hope they will lose none of their influence by my approving of them. The expenses of the Army and Navy combined are more than all our other expenses; and yet it will be said that if they are necessary, we must submit. Well, I grant you that.

But there is a suggestion or two which I wish to make, and which the American people may, if they choose, reflect upon. I suppose that the Army is not good of itself; but it is good simply as a means to attain a desirable end—the protection of the citizen in his person and property. Whatever expenses are necessary to attain that end I am willing to vote always; for I believe that it is the paramount duty of the Government to protect its citizens anywhere and everywhere on the globe where they are called in their lawful pursuits. But I am not willing to vote money blindly for the Army, simply on the pretense of its being for the protection of the citizen. I am not satisfied that responsible parties cannot be found in this country to undertake to protect our transportation from here to Utah, over the mountains, at one tithe of the expenditure which we make for the Army. If that be so, it is certainly a more desirable way of doing it. And I undertake, also, to say that, for one tithe of what we have to pay for our Army for protecting us against the invasions and massacres of the savages, responsible parties will undertake to guaranty the citizens against all of these invasions.

Mr. LETCHER. Does the gentleman propose to let out the fighting by contract?

Mr. LOVEJOY. Yes, at so much a scalp. If you want so many Mormons butchered, why, let it out. In that way, however, the regular Army would get but very little pay. They never killed a brave yet, I believe; and the squaws whom they have scalped, they have caught around the seething cauldrons preparing their dinner. Yes, sir, I propose to give out the job to responsible parties as the best means of securing the end, and a much cheaper way than the one we now adopt. At any rate, I suggest it. I do not know that, because we have heretofore protected our frontiers in one particular mode, we are bound to protect them always in that way. I do not know that we are bound to go to the mill with the wheat in one end of the bag and a stone in the other, simply because our grandfathers did so; and if I found that the cheapest way of protecting our citizens against the inroads of the savages was by contract, I am content to adopt that mode. I do not know certainly that we could do so; but gentlemen in the other end of the Capitol, who perfectly understand the habits of the savages, have declared that for one tithe the expenses of the Army in the protection of our frontiers against the savages, they could be protected in other modes—and I believe it.

I want now, for a single moment to call the attention of the House and of the country to a fact which I find here in these estimates; and that is, that according to Mr. Holt, we pay for agriculture \$69,650; and that I find in another place, we pay the Indian agents and superintendents \$89,000. Now, how many of these agents are honorable men, I do not know. How many of them cheat the Indians out of their annuities, and teach them to get drunk, I do not know. I do not doubt there are some of both classes. But I know this: that we pay more for these agents and sub-agents to take care of Indians than we do for the immense interests of agriculture throughout this agricultural country.

But, sir, the chief object that I had in address-

ing the committee this morning, was to draw the attention of the committee to these contracts that are made. And here, we have to take what we can glean from newspapers and statements of individuals, as objection was made to the resolution of inquiry which was introduced. Now I have it from one of the contractors, that he receives ninety-eight cents a bushel for corn, to be delivered in St. Louis; that he had contracted to deliver fifty thousand bushels, and all required during the war, at that rate. I had a paper here the other day—the St. Louis Republican—where the quotations of corn were made at from thirty to thirty-three cents per bushel; and any one that can subtract thirty to thirty-three cents from ninety-eight cents, can tell the profit this contractor will have without his advancing a single dollar. I want the farmers of Illinois to know that while it is difficult for them to sell their corn at from twenty to twenty-five cents per bushel, the Government is paying its favorite pet contractors ninety-eight cents per bushel in St. Louis, who buy it for thirty or forty cents; and I want them to understand that it is shrewdly suspected that all these contracts have an intimate relation with party politics.

Mr. PHELPS. Will the gentleman from Illinois inform this committee the name of that contractor; where he is to deliver that corn, and what kind of corn it is?

Mr. LOVEJOY. I will inform the gentleman all about it if he will let the resolution of inquiry pass, and let us get the official statement.

Mr. PHELPS. Will the gentleman give me the name of the contractor?

Mr. LOVEJOY. Does the gentleman deny that what I stated is the fact?

Mr. PHELPS. I do not deny anything. I desire to have the same means of information that the gentleman from Illinois has.

Mr. LOVEJOY. I stated that which I understand to be the fact. I cannot state positively that such is the fact, because I had no official means of knowing.

Mr. PHELPS. I desire the gentleman from Illinois, as he says it is shrewdly suspected that these contracts have some intimate connection with political affairs, to be so good as to tell me the politics of this contractor who gave him this information, and whether he does not cooperate with himself and his party?

Mr. GILMAN. I should like to ask the gentleman from Missouri whether or not the statement made by the gentleman from Illinois is true?

Mr. PHELPS. I cannot say. I desire to know who this contractor is, in order that I may ascertain something in respect to it. The gentleman from Illinois has done something more than cite rumor here; for, if I understood him correctly, he stated that this gentleman had informed him that he had a contract for the delivery of corn at ninety-eight cents per bushel. Now, I desire to know the name of that contractor, and his politics.

Mr. LOVEJOY. When we can get the information, then we can tell; but till then we have to rely upon these other sources.

Mr. PHELPS. Did I misunderstand the gentleman from Illinois? I understood him to state that a gentleman had informed him that he himself had a contract for the delivery of corn, at ninety-eight cents a bushel. Now, I desire to know who is that informant, and then I shall be able to ascertain something about it.

Mr. LOVEJOY. The gentleman does not deny the fact.

Mr. PHELPS. I neither deny nor admit it, because I know nothing about it.

Mr. LOVEJOY. Well, I affirm it. Now, if the gentleman wants to disprove it, let him do so. [Laughter.]

Mr. FAULKNER. Will the gentleman allow me to say a word?

Mr. LOVEJOY. Well, what about?

Mr. FAULKNER. If the gentleman desires to have any information upon this subject, perhaps I can give him some.

Mr. LOVEJOY. Ah! well, I tried to get information once.

Mr. FAULKNER. I pronounce the whole statement without any foundation, and untrue.

Mr. STANTON. I would like to inquire why objection was made on that side of the House to the resolution calling for information?

Mr. FAULKNER. There was no objection certainly from this side of the House.

Mr. LOVEJOY. Yes, there was.

Mr. FAULKNER. I believe the objection was made by the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. LOVEJOY. Well, was not that on that side of the House?

Mr. FAULKNER. No, sir.

Mr. LOVEJOY. Literally speaking, it was not; but politically, it was.

Mr. FAULKNER. I assure the gentleman that there is no objection on this side to any call which he may make.

Mr. PHELPS. I desire to ask the gentleman from Illinois a question.

Mr. LOVEJOY. Well, what is it?

Mr. PHELPS. I desire to make a little further inquiry of the gentleman in relation to the statement which he has made. The gentleman from Virginia [Mr. FAULKNER] denies the truth of the assertion. Now, let us have the name of the witness.

Mr. FARNSWORTH. I would like to inquire of the gentleman from Missouri, what the politics of General Reed, of his own State, are?

Mr. PHELPS. General Reed, of Missouri, if the gentleman refers to him, is a Democrat, and has no contract for the delivery of corn with any officer of the Government.

Mr. LOVEJOY. I am coming to horses pretty soon.

Mr. FARNSWORTH. I propose to ask the gentleman further, if he is aware that General Reed has a large contract for the delivery of horses at an exorbitant price?

Mr. PHELPS. No, sir; on the contrary, I am informed that he has no such contract.

Mr. FARNSWORTH. I wish also to know if he is aware of the fact that General Reed is the man who headed a large body of border-ruffians from Missouri in a foray into Kansas?

A MEMBER. "Bleeding Kansas" again!

Mr. PHELPS. In reply to the inquiry of the gentleman, I have to state that I am not aware that General Reed, of Missouri, has a contract for the delivery of horses or of corn; but on the contrary, I am informed he has no contract of either description.

So far as relates to the politics of General Reed, I will state that he is a Democrat and a gentleman, and possibly during the disturbances which took place in Kansas, he was in the Territory; and if the gentleman means by leading border-ruffians that he headed gentlemen of respectability residing in the Territory of Kansas or in Missouri, I am ready to admit that he did. [Laughter on the Republican side of the House.]

Mr. FARNSWORTH. I would like the gentleman from Missouri, if he can do so, to name a man who has got a Government contract who is not a Democrat?

Mr. PHELPS. Oh! I know nothing about the contracts which have been made. I know nothing about any contract which may have been made for the delivery of corn. If the gentleman refers to the contractors who are engaged in the transportation of Government stores—though that matter has not been brought up here—I can state that one of the members of the firm of Russell, Majors, & Waddell, is, I believe, an American, and another is an old line Whig.

Mr. WASHBURN, of Illinois. What is the other? There are three of them.

Mr. PHELPS. I believe he is a Democrat.

Mr. LOVEJOY. I would like to ask the gentleman what the politics of this American and old line Whig are connected with Kansas? How are they on Lecompton?

Mr. PHELPS. I presume the gentleman who represents them upon this floor has given a vote in accordance with their wishes on that question.

Mr. LOVEJOY. I return to the point that, upon information which I had no doubt was reliable, I stated that corn was to be delivered in St. Louis at ninety-eight cents a bushel. Some say that it is to be delivered in Leavenworth at that rate. I am not apprised exactly how much it will cost to transport corn from St. Louis to Leavenworth. But if the corn is to be delivered at Leavenworth, there is a clear margin of half a dollar on every bushel of corn, and that, too, while the whole country is suffering, and while we are running in debt and borrowing money to pay our expenses.

If I am correctly informed, as I believe I am, that these contractors are to have ninety-eight cents a bushel for corn delivered at St. Louis or Leavenworth, they make a clear fifty cents on every bushel, and that, on fifty thousand bushels, is \$25,000. Horses—small horses, fifteen hands high—are to be delivered for \$159 50 apiece. The contract for horses, I am told, has been made with a stage proprietor, and a very fine opportunity it will be to take all the spavined and ring-boned horses from the line and get \$159 50 apiece for them; when good, sound horses of that size, at present prices, would not cost more than half, or three fourths of that sum. I do not know how many horses there are to be. Some say fifteen hundred and some fifteen thousand.

Mr. FAULKNER. I know the gentleman does not wish to misrepresent this matter, and I will state to him, upon information of a reliable character, that there was a proposition made to deliver corn at Fort Leavenworth at ninety cents a bushel, which was rejected; and that whatever corn has been purchased at St. Louis, has not cost the Government more than from fifty-one to fifty-five cents. If deliverable at Fort Leavenworth, it might cost seventy or eighty cents a bushel. The gentleman will bear this in mind, that the corn wanted for the Utah expedition is the corn of 1856. They have to make that distinction in the corn to be transported such an immense distance, because the corn of 1856 is sound, and the corn of 1857 has been affected by the frost. And the price of the corn of 1856 may be somewhat higher than that of the corn of 1857. But in every instance they have purchased it for the lowest price for which it could be obtained in the market.

Mr. LOVEJOY. Whether that has been rejected or not I do not know. I think the gentleman is mistaken. I understand from General Jesup that this contract for horses has been completed. I know that it is written back that these parties have obtained this contract, and that the next best thing you can do is to get them out of it. The supposition about a bad bargain, and all that sort of thing, is understood. They get nearly double what they ought in the first place, they then say that they are ruined, and ask for a deficiency bill to make up their losses. The gentleman does not deny, as I understand, that this is the contract for horses: \$159 each for horses fifteen hands high, a class of horses which can be bought for seventy-five or a hundred dollars. How many are there? Whether fifteen hundred or fifteen thousand I cannot say.

Mr. Chairman, the beef is in proportion, at a price of six and a half and eleven and a half cents in gross, which amounts to thirteen and twenty-three cents in the quarter.

In regard to the transportation item, I will not detain the committee long. I wish only to get out the facts. The contractors get so much for transporting beef, flour, &c., to be delivered in Utah. The contract is, as I understand it, that if, in doing so, a descent is made upon the trains by the Indians or Mormons, and the teams, &c., are destroyed, then the Government insures that the loss will be made good, as if the army stores had been transported to their destination. Suppose they agreed to pay ten or twenty dollars for the transportation of a barrel of flour from St. Louis to Utah, and that, one hundred miles outside of the former place, the Indians came down upon them, and destroyed the teams and flour, then the contractors would get compensation for their teams, &c., and also pay for transportation as if it had been carried through. How much it would take to get up a band of Indians to do that I do not know—perhaps not half the profits of the contractors. This is an imputation on the contractors. I do not know anything about them, but I do not suppose that they are without some human nature. I know that if they get a contract under this Administration, it is presumptive evidence against them. I know that this is a loose way in which to make a contract—to agree absolutely to pay for carrying a barrel of flour to Utah when it is not carried there; and, besides that, to insure payment for wagons, horses, &c., which may be destroyed by the Indians or Mormons on the route. This, I am told, is the condition of these contracts, and I wish this to go to the country as a part of the history of this Administration.

By the way, Mr. Chairman, it occurs to me that, when history comes to trace the record of this Ad-

ministration and of the Utah war, it will be put down as the war of the plunderers and contractors, instead of the Utah war. I have yet to learn the point of collision between the Mormons and the United States. As I understand it, the gentleman from Tennessee [Mr. JONES] is correct. Say to the Mormons, do so and so; pass a law that they shall not practice polygamy; but do not enforce a thing which has not been enacted into law. This same Brigham Young has been the Governor of Utah during two or three Administrations, and it is not fair to butcher the masses of the people there, because they are polygamists, when you have winked at it so long. Pass a law; tell them what you wish; do this distinctly; and, if they refuse to obey, then if you want men and money to enforce the law, I will vote for them. But I will not vote money into the hands of these contractors and jobbers, who, perhaps, send us these horrid accounts of the Mormons, that the war may go on and they secure more fat jobs; for fat jobs may be let out when votes are valuable.

Mr. SMITH, of Virginia. I rise for the purpose of propounding an interrogatory. I want to know whether the gentleman has any evidence on which to predicate the statement he has made against the War Department? Are there such cases as he describes? If there are, I should like to know them. If he has specific information on the subject, I should be glad to hear it. I am willing to vote to put down any atrocities that may exist. I would be glad to know whether the gentleman has accurate information for these grave accusations against the Government. I do not think that a member will make grave charges against officers of the Government, unless there is some foundation for them. Is there any foundation for these charges, or are they only the rehash of some newspaper editorials? If impositions on the Government can be shown, then I will be as ready as anybody to oppose them. Is it belief with the gentleman, or is it founded on fact?

Mr. LOVEJOY. It may be that I have obtained it in conversation, and that I do not feel at liberty to make it public. [Laughter.]

Mr. SMITH, of Virginia. With the gentleman's permission, I will put a question.

Mr. LOVEJOY. I have but little more to say. If there are any incorrect charges, let the official statement from the War Department come to the House, and show their incorrectness. I confess that I am not familiar with these things. The usual way I understand is, to make the contracts through the quartermaster; and that now, for what reason I cannot say, they are made without advertisements for proposals, made by the Secretary of War, and not by the quartermaster. Perhaps, because there is too much of the old Roman about him.

Mr. PHELPS. I understand the gentleman from Illinois to declare that contracts have been made, and not let, after public advertisement, to the lowest bidder. I have nothing now to say about the contracts for corn and horses, for upon them I am not advised; but if the gentleman includes in that description of contracts made between the Government and individuals, the contract for the transportation of supplies from Fort Leavenworth to Utah, I will inform him that the quartermaster did invite proposals for that service, to be made to the quartermaster at Fort Leavenworth in the month of September last, and the only bids submitted were by the gentlemen who now have the contract; and furthermore, with reference to those gentlemen, I remark that they were the contractors—two, if not all of them—for the transportation of supplies for the Army during a portion of Mr. Fillmore's administration, and Mr. Pierce's administration, and to every administration and to every Secretary of War we have had, and to the Quartermaster General also; they have given universal satisfaction, and no more faithful and honest contractors can be found.

Mr. UNDERWOOD. With the permission of the gentleman from Illinois, for the purpose of relieving the distinguished head of the quartermaster's department, I desire to say a word in explanation. I have not turned my attention to the general merits of this case, but I know something in regard to the mode of supplying horses for the service. I believe there is no general public con-

tract for furnishing horses. I inquired into that matter, and was informed that for some years past it has been the practice of the Government, so far as the quartermaster's department is concerned under its present head, to assign to competent cavalry officers the duty of going to points where they can best accomplish that object and purchase such horses as the service requires, and that that particular supply for the Army is not obtained by contract given to the lowest or any other bidder. And I am informed that the supply of horses is thus more cheaply obtained, and a better article is purchased, than by any system of contract that has ever been devised.

Mr. LOVEJOY. Do I understand the gentleman to say that is the course which has been pursued in this instance?

Mr. UNDERWOOD. That is the mode pursued, I understand, to supply the present demand for that description of supplies.

Mr. LOVEJOY. How, then, is the price fixed at \$159 50?

Mr. UNDERWOOD. Because that is found to be the average price the Government has been compelled to give.

Mr. LOVEJOY. That was the usual mode pursued by the quartermaster, but I tell gentlemen this matter has been taken out of the hands of the quartermaster, and that he has nothing to do with it. It was done upon the ground that there was no present cash to pay with. When there is money, the quartermaster takes the money and proceeds in the mode indicated by the gentleman from Kentucky; but when there is no money, the Secretary of War makes the contract, and gets the supply by bids. That is the way this thing has been done, and the gentleman will find it to be so. They have been contracted for at \$159 50 a head.

Mr. LETCHER. I would like to make an inquiry of the gentleman.

Mr. LOVEJOY. Certainly.

Mr. LETCHER. Did I understand the gentleman to say that he obtained his information from General Jesup?

Mr. LOVEJOY. I understood him to say so. I do not know that I can add anything more to the remarks I have made. I had thought of saying something about voting deficiencies, and of voting future deficiencies in advance—which is but a mode of inviting deficiencies—but I believe that has been discussed upon the other side of the House, and I will leave it where it is. I wished these facts to go to the country, as I understand them to be facts.

Mr. STANTON. I wish to direct the attention of the gentleman who represents the Committee of Ways and Means on this bill, to one item in it, in reference to transportation.

Mr. HOUSTON. With the permission of the gentleman from Ohio, I desire to know of the committee whether this debate cannot be extended until to-morrow evening? It is a matter of interest and importance, and ought to be discussed.

The CHAIRMAN. The committee has not control of that matter.

Mr. HOUSTON. By general consent, it could be extended until to-morrow evening.

Mr. STANTON. I agree with the gentleman, but I do not see the occasion of raising the question at this moment.

The CHAIRMAN. The Chair would state to the gentleman and to the committee, that, in his opinion, the committee could not extend the debate.

Mr. HOUSTON. Except by general consent.

The CHAIRMAN. Not even by general consent.

Mr. STANTON. I desire to call the attention of the gentleman who represents the Ways and Means, to one item in the bill. It is such an unheard-of deficiency in an appropriation bill that I think it demands careful scrutiny and investigation. It is contained in the following clause of the bill:

"For transportation of the Army, including the baggage of the troops when moving either by land or water; of clothing, camp, and garrison equipage from the depot at Philadelphia to the several posts and Army depots; horse equipments and of subsistence from the places of purchase and from the places of delivery under contract, to such places as the circumstances of the service may require it to be sent; of ordnance, ordnance stores, and small arms from the foundries and armories, to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; for the purchase and hire of horses, mules, and oxen, and the purchase and repair of wagons, carts,

drays, ships, and other sea-going vessels and boats for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as from their situation require that it be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operation of the troops on the frontier, \$5,400,000.²²

Here is a deficiency for the current fiscal year of \$5,400,000. Will the gentleman from Virginia be good enough to inform me which was the original appropriation for that item of expenditure?

Mr. LETCHER. I will inform the gentleman where he can get the whole information without inquiry. He will find that this transportation is anticipated twenty months ahead, and a portion of this amount will be deducted from the regular appropriation in the annual appropriation bill.

Mr. STANTON. That unquestionably is a sufficient reason for rejecting the item as a deficiency. Now, sir, I hold that this running the appropriations of one year into another, lapping them over backwards and forwards, results in a total destruction of all accountability. Here, as I remarked, is a deficiency of almost five and a half million dollars in the single item of Army transportation. Now I submit that this enormous amount is not the aggregate of that item of expense, but in addition to what was estimated for a year ago; and the estimate for that service falls short of the actual necessities of the Department five and a half millions of dollars. I say, the very enormity of the deficiency ought to call for the most rigid investigation on the part of the House, to see that there has not been fraud. We ought to know the details of the expenditure. We ought to have the vouchers for it, so far as it has been made. We ought to have the contracts on which these estimates of deficiency are based. And when rumors of fraud are floating about in newspapers and among individuals, and when a resolution cannot be got through here to inquire into them, we ought to know what are the foundations for these things.

I must be permitted to say, sir, that when I am told that such a sum as \$100,000, or \$50,000 is wanted for this, that, or the other matter, and the expenditure seems to be enormous, it is the duty of the Committee of Ways and Means to ascertain what the nature of the contract is, what prices are paid, what amounts are required, and all about them. We ought not to rest with the general statement that so much is wanted for such a purpose, and so much for another. We ought to know whether the appropriation is necessary or not, and we cannot ascertain whether there is fraud, or whether there are two prices paid for everything, whether the expenditure is fair and honest, and legitimate, unless the committee inform us.

Expenditures of an ordinary character, deficiencies of a small amount, it may be safe enough to pass in this way, with the general information that so much is needed; but in regard to a deficiency of so much magnitude as this, we ought not to rest satisfied with that general information. We ought to know what it is for, and how it is to be expended, and I submit that the Committee of Ways and Means ought to tell us this. If corn, that can be had at thirty-five cents a bushel, is purchased at ninety-eight cents a bushel, the Committee of Ways and Means ought to know and to inform us of it. If horses are purchased at \$159 a head, we ought to know it, and to know whether this appropriation is required for the payment of these prices.

Now, Mr. Chairman, it is not enough for a gentleman to get up here and say that, according to his information, extravagant prices are paid; it is not enough for the gentleman from Virginia to say that that is not sufficient, and that men ought not to make such charges here without foundation. My point is this, that we have a right to look to the Committee of Ways and Means, which asks us to make this appropriation, for information as to whether these charges are true or not, whether this expenditure is legitimate and reasonable and economical or not. It is the duty of the organs of the House that represent the Executive Departments here, to give us the information asked for, instead of arraigning members for making charges without sufficient foundation. I do not know

whether those charges made in the newspapers, and referred to by the gentleman from Illinois, [Mr. LOVEJOY], are true or not; but I say that it is the duty of the committee having the matter in charge to give us the information, and tell us whether they are true or not; and when a resolution calling for that information cannot be got through the House, I will not vote for the bill till I know the truth of the facts alleged.

Mr. PHELPS. I understood the gentleman from Illinois to assert that the expenditures for the Army had been increased, in four or five years, from \$9,000,000 to \$19,000,000, and that that was about the case with the expenditures for the Navy Department. I desire to call his attention to the public documents to show that all of these expenditures, made under the direction of the Secretary of War, are not for the support and maintenance of the Army. A portion of them—nearly two million dollars—have been expended in the erection of fortifications for the military defense of the country. And a portion of them are connected with the construction of the very building that we now occupy, of the public buildings of the city of Washington, and of the aqueduct that is being constructed for the purpose of supplying the people of this District with water—the expenditure for these works being under the direction of the Secretary of War, and amounting to more than \$2,000,000.

Mr. LOVEJOY. I made the assertion on the authority of the statement of receipts, expenditures, and appropriations of the United States, which is a printed document of the Thirty-Fifth Congress.

Mr. PHELPS. That only exhibits the amount expended under the direction of the War Department; not the amount expended for the support and maintenance of the Army.

Mr. LOVEJOY. It is for the military service.

Mr. PHELPS. So far as fortifications are concerned, the expenditures for them are made under the direction of the Secretary of War; yet they cannot be said to be for the maintenance and support of the Army. So with the heavy expenditures for ordnance supplies. Therefore, this statement must be received with a discount of four or five millions; so that the amount of money expended during the last year for the support and maintenance of the Army, was not more than \$15,000,000. I merely desired to call the attention of the committee to this misstatement on the part of the gentleman from Illinois.

But that gentleman has also, on the ground of rumors, made some statements in regard to contracts said to have been made by the Secretary of War, or by the Quartermaster General, for supplies to be furnished to the Army during the residue of this fiscal year, and for the next fiscal year ending June 30, 1859.

I wish to correct the gentleman from Illinois about one contract only, because with regard to the other alleged contracts I am not advised on the subject. I had been aware of the existence of a contract with that firm in Missouri, which has been for years past engaged in transporting supplies for the Army. I know that that same firm had been employed in this manner under the administration of Mr. Fillmore, under the administration of General Pierce, and under this Administration, and it was expected that it would continue to be employed under this Administration during the continuance of this difficulty in Utah. And for this reason—that those gentlemen happen to perform the service cheaper than any other person would perform it—that they have the means to execute their contract, and because, for the last several years, every military officer who has come in contact with them, has borne testimony to the faithful and energetic manner in which they have discharged the duties devolved upon them, and because, when they are required, almost at a moment's notice, to fit out a heavy expedition of cattle and wagons and teamsters across the plains, they have fitted it out, regardless of the expense to themselves, in an incredibly short space of time.

The gentleman from Kentucky [Mr. UNDERWOOD] was correct in his statement of the manner in which supplies for the quartermaster's department had been purchased. The wagons and animals necessary for transportation, and the horses for the mounted troops, have been procured by the quartermaster himself, purchased in open market when he could make the purchases, and when he

could not make the purchases at the points where the supplies were needed for the public service, then he has sent men through the country who have purchased, on the best terms possible, the horses, mules, and cattle, needed in the quartermaster's department. That has been the practice of the Government for many years past.

The gentleman from Ohio [Mr. STANTON] has remarked that he desires information upon this subject. If the gentleman had bestowed his attention upon some of the miscellaneous documents, he would have found there minute estimates of the expenditures which it was supposed would be incurred for the Utah expedition, and also for any additional troops that may have to be sent out to aid in suppressing any disturbance which may exist in that Territory.

The gentleman from Illinois [Mr. LOVEJOY] commented, as did the gentleman from Ohio, upon the prices alleged to be paid for horses. So far as I am informed in relation to the value of horses which would be serviceable for the dragoon and cavalry service of our country, I doubt very much whether any gentleman can make any money by the delivery of horses fitted for the service at Fort Leavenworth for the price alleged to have been paid—\$159 50. I am not advised as to the price of horses in the States of Ohio and Illinois, but I know the price of horses in the section of country where I reside, and throughout the State of Missouri, where many of the horses for the use of the Government have been procured; and if the price of horses is the same now that it was last fall, then I am satisfied that if any person has made a contract for the delivery of horses to the quartermaster at Fort Leavenworth for \$159 50, he must procure the horses elsewhere than in the State of Missouri, if he expects to make much money by his contract. I do not speak now of broken down horses, but of horses fit for the service; for all the horses delivered for the service of the Army have to be inspected by the quartermaster, and if, upon examination, they are not deemed serviceable, they are not accepted, nor does the Government pay for them. That has been the practice for years at all the military posts where animals are purchased for transportation, for the use of the mounted troops.

I am aware, Mr. Chairman, that the appropriations which are contained in this bill, for the support and maintenance of the Army, are very large. There has been no desire, on the part of the Committee of Ways and Means, to conceal from the House the magnitude of the sum which is required to be voted by the House, if they expect the military service of our country to be kept up and maintained, and if they expect that the troops now in Utah shall receive the supplies, and the men and munitions of war, necessary to enable them to maintain the honor of the country. A portion of these deficiencies are not for the present fiscal year; they are for the last preceding fiscal year; and this Congress could not have been called upon to vote for such heavy appropriations had it not been for the fitting out, and sending to the Territory of Utah, of a military expedition. Every member of the committee is aware of the circumstances under which that expedition was sent to Utah. It was not sent as a warlike expedition. You found that the civil officers of the Government, with the exception of Brigham Young, who is the head of the Mormon Church, and was acting as Governor until some time last fall, had been compelled to flee from the Territory, in consequence of the hostility manifested towards them by the Mormons. A quiet, unassuming gentleman, who may be seen any day upon the avenue in this city—a gentleman who had long been employed as draftsman to one of the committees of the Senate—had received the appointment of surveyor general of the Territory; he was a gentleman fully qualified to discharge the duties of that office. He went to Utah; and, in the discharge of his duty, made contracts with persons to survey the public lands in the Territory. His deputy surveyors, when they went into the field, were subjected to all kinds of annoyances at the hands of the Mormons; in some instances they were driven off; and it is believed that the Mormons incited the Indians to attack them; and, in those attacks, gentlemen attached to the small surveying parties were wounded, and, in some instances, one or two were killed. This gentleman, (the surveyor general,) who

had nothing to do with political affairs; was compelled to leave the Territory, and to leave it precipitately. Mr. Hurt, an Indian agent, who had faithfully discharged the duties of his office, was pursued by a portion of the Danite band for the purpose of endeavoring to seize him, and, as it is believed, of killing him. He was a quiet, inoffensive man—not sympathizing, it is true, with the Mormons in their polygamous institutions, but abstaining from any expression of opinion calculated to excite their animosity towards him. Whilst attending to his duties, having collected a band of Indians about him who were engaged in the work of farming and endeavoring to sustain themselves, a portion of the Danite band came in pursuit of him; but, in consequence of the attachment of the Indians towards him, they warned him of the approach of danger, and accompanied him in his flight, providing him with the means of subsistence on the way, until he could reach the military force approaching Salt Lake City from the east. Every intention was manifested by the Mormons to defy the power of the United States, and drive from the Territory the civil officers of the Government. They declared their determination not to permit emigrants to pass through their Territory; and here it must be recollected that the great mass of the overland emigration to California and Oregon passes through Salt Lake valley. It is to be recollected that, for several years past, the bands of emigrants traveling through the Territory during the summer season have been subjected to a great deal of annoyance from the Mormons. In some instances their property has been forcibly taken from them, and they themselves have been seized upon and incarcerated, for no offense whatever, and without process of law. With all these acts of hostility manifested towards the citizens of the United States, I ask you whether it was not the bounden duty of the President of the United States to send a military force into the Territory of Utah, not for the purpose of making war upon the Mormons, but for the purpose of preventing them from perpetrating these outrageous acts upon peaceful and unoffending citizens who saw fit to travel through the Territory, and to prevent them from inciting the Indians to acts of hostility against the overland emigrants?

Mr. BURROUGHS. I would like to ask the gentleman whether the President, with all his army in Utah and in Kansas, ever brought a single murderer to justice?

Mr. PHELPS. I am not speaking of the operation of the army in Kansas. I know that when Colonel Steptoe, with his command, was in the Territory of Utah, men charged with the crime of murder were arrested, and handed over to the civil authorities, but where there is a grand jury composed of Mormons, and a petit jury composed of Mormons, and a gentile is to be tried, that gentile is bound to be convicted, and on the contrary, if a Mormon is to be tried, that Mormon is to be acquitted. For instance, take those who were indicted for the murder of Gunnison and his party. There are those who believe that Gunnison and his party were murdered by the Mormons, but I do not entertain that opinion, but believe they were murdered by the Indians. When the Indians were arrested and indicted for that murder, they were released by Brigham Young.

Mr. Chairman, these troops were sent to Utah not with a view to make war upon the people of that Territory, but to prevent the Indians from annoying the overland emigrants to California and Oregon. They were sent to establish a military post, to be occupied by the troops for the purpose of affording protection to the overland emigrants from the attacks of either the Indians or the Mormons themselves. They were sent there for still another purpose. They were sent there that the laws of the United States might be enforced.

In the annual report of the Secretary of War, the reasons which induced the Administration to send the expedition to Utah are stated. The Secretary says:

"This subject has very recently assumed so extraordinary and important an attitude, that I deem it proper to dwell upon it somewhat more at length than, under other circumstances, would have been required.

"The Territory of Utah is peopled almost exclusively by the religious sect known as Mormons. From the time their numbers reached a point sufficient to constitute a community capable of anything like independent action, this people have claimed the right to detach themselves from the binding

obligations of the laws which governed the communities where they chanced to live. They have substituted for the laws of the land a theocracy, having for its head an individual whom they profess to believe a prophet of God. This prophet demands obedience, and receives it implicitly from his people, in virtue of what he assures them to be authority derived from revelations received by him from Heaven. Whenever he finds it convenient to exercise any special command, these opportune revelations of a higher law come to his aid. From his decrees there is no appeal; against his will there is no resistance. The general plan by which this system is perpetuated consists in calling into active play the very worst traits of the human character. Religious fanaticism, supported by imposture and fraud, is relied on to enslave the dull and ignorant; whilst the more crafty and less honest are held together by stimulating their selfishness and licensing their appetites and lusts. Running counter, as their tenets and practices do, to the cherished truths of Christian morality, it is not to be wondered at that, wherever these people have resided, discord and conflict with the legal authorities have steadily characterized their history.

"From the first hour they fixed themselves in that remote and almost inaccessible region of our territory, from which they are now sending defiance to the sovereign power, their whole plan has been to prepare for a successful secession from the authority of the United States and a permanent establishment of their own. They have practiced an exclusiveness unlike anything ever before known in a Christian country, and have inculcated a jealous distrust of all whose religious faith differed from their own; whom they characterize under the general denomination of Gentiles. They have filled their ranks and harems chiefly from the lowest classes of foreigners, although some parts of the United States have likewise contributed to their numbers. They are now formidable from their strength, and much more so from the remoteness of their position and the difficulty of traversing the country between their frontiers and Great Salt Lake. This Mormon brotherhood has scarcely preserved the semblance of obedience to the authority of the United States for some years past; not at all, indeed, except as it might confer some direct benefit upon themselves, or contribute to circulate public money in their community. Whenever it suited their temper or caprice, they have set the United States authority at defiance. Of late years, a well-grounded belief has prevailed that the Mormons were instigating the Indians to hostilities against our citizens, and were exciting amongst the Indian tribes a feeling of insubordination and discontent.

"I need not recite here the many instances in their conduct and history on which these general allegations are founded, especially the conduct they have adopted within the last twelve months towards the civil authorities of the United States.

"It has, nevertheless, always been the policy and desire of the Federal Government to avoid collision with this Mormon community. It has borne with the insubordination they have exhibited under circumstances when respect for their own authority has frequently counseled harsh measures of discipline. And this forbearance might still be prolonged, and the evils rise amongst them be allowed to work out their own cure, if this community occupied any other theater, isolated and remote from the seats of civilization, than the one they now possess. But, unfortunately for these views, their settlements lie in the great pathway which leads from our Atlantic States to the new and flourishing communities growing up upon our Pacific sea-board. They stand a lion in the path; not only themselves defying the military and civil authorities of the Government, but encouraging, if not exciting, the nomad savages who roam over the vast unoccupied regions of the continent to the pillage and massacre of peaceful and helpless emigrant families traversing the solitudes of the wilderness. The rapid settlement of our Pacific possessions; the rights in those regions of emigrants unable to afford the heavy expenses of transit by water and the isthmus; the facility and safety of military, commercial, political, and social intercommunication between our eastern and western populations and States, all depend upon the prompt, absolute, and thorough removal of a hostile power besetting this path midway of its route, at a point where succor and provisions should always be found, rather than obstruction, privation, and outrage. However anxiously the Government might desire to avoid a collision with this or any other community of people under its jurisdiction, yet it is not possible for it to postpone the duty of reducing to subordination a rebellious fraternity besetting one of the most important avenues of communication traversing its domain, and not only themselves defying its authority, but stimulating the irresponsible savages hovering along the highway to acts of violence indiscriminately upon all ages, sexes, and conditions of wayfarers.

"From all the circumstances surrounding this subject at the time, it was thought expedient during the past summer to send a body of troops to Utah with the civil officers recently appointed to that Territory. As the intention then was merely to establish these functionaries in the offices to which they had been commissioned, and to erect Utah into a geographical military department, the force then dispatched and now en route to the Territory was thought to be amply sufficient for those purposes. Supplies were abundant there, and the position was favorable for holding the Indians in check throughout the whole circumjacent region of country. It was hardly within the line of reasonable probability that these people would put themselves beyond the pale of reconciliation with the Government by acts of unprovoked, open, and wanton rebellion. It will be seen, however, from the documents accompanying this report, that flagrant acts of rebellion have been committed by them, in the face of positive assurances given them that the intention of the Government in sending troops into the military department of Utah was entirely pacific.

"Great care had been taken, in preparing for the march to Utah, that nothing should seem to excite apprehension of any action on the part of the army in the least conflicting with the fixed principles of our institutions, by which the military is strictly subordinate to the civil authority. The instructions to the commanding officer were deliberately considered and carefully drawn; and he was charged not to allow any conflict to take place between the troops and

the people of the Territory, except only in case he should be called on by the Governor for soldiers to act as a *posse comitatus* in enforcing obedience to the laws.

"In conformity with this sentiment, and to assure these people of the real intention of the movement, an active discreet officer was sent in advance of the army to Utah, for the purpose of purchasing provisions for it, and of assuring the people of the Territory of the peaceful intentions of the Government. This duty was faithfully performed; the chief men of the fraternity were assured that no violence was intended towards them or any one, and that nothing could be further from the intention of the Government or the army than to molest any one for their religious opinions, however abhorrent they might be to the principles of Christian morality. This officer found, upon entering the Territory, that these deluded people had already, in advance of his arrival, or of any information, except as to the march of the column, determined to resist their approach, and prevent, if possible, and by force, the entrance of the army into the valley of Salt Lake. Supplies of every sort were refused him. The day after his departure from the city, on his way back, Brigham Young issued his proclamation, substantially declaring war against the United States, and, at the same time, putting the Territory under martial law. The facts connected with this mission of Captain Van Vliet will appear more in detail from his reports, herewith transmitted.

"In view of the menacing attitude of affairs in Utah, and of the importance of a prompt and thorough suppression of the spirit of rebellion reigning there, I must repeat my recommendation of five new regiments, which I am persuaded is the very smallest addition to the Army which the exigencies of the service will allow."

The expedition was a pacific, and not a hostile one.

Let me remark to the gentleman from Ohio, [Mr. STANTON,] and the other gentlemen who have referred to the magnitude of these proposed appropriations, that it was not anticipated, when the appropriations for the support of the Army were made at the last session of Congress, that this expedition would be fitted out against Utah. Let them examine the estimates which were submitted to the last Congress by the Secretary of War. Let them examine the executive documents, and they will not find any estimate submitted by which it was anticipated that this force would be sent to Utah during the past or present fiscal year. Hence the estimates which were submitted to Congress at its last session by the War Department, were submitted in the expectation that the Army would be stationed at the various military posts then occupied, and employed during the year in the manner they were then employed. Under such circumstances the appropriation made at the last Congress would have been ample and sufficient to satisfy every claim, excepting that arising from the transportation of the Army. That item was increased by the Indian disturbances in the two Territories of Washington and Oregon. Many of the troops were employed in suppressing these hostilities, and in this way the expenditures were increased beyond the amount appropriated.

Mr. Chairman, it must be recollected that the estimates for the appropriations for the Army are made at least eight months in advance of the expenditures. When this Congress assembled on the first Monday in December, the annual estimates of appropriations were printed, and laid upon the table of members; and of course they had been prepared by the Departments some time prior to that date. It must also be recollected that the estimates for the support of the Army are regulated much by the place and manner in which the Army shall be employed; and, by the casualties incident to the service, there can be no great accuracy in them. When the estimates for this fiscal year were made, who could foresee that a large part of our Army would be employed in Utah? And how could any one, unless gifted with prophecy, venture to submit estimates for service which it was not expected would be required?

Mr. LOVEJOY. Do I understand the gentleman to say that the expenses in the erection of the public buildings were included in that of the military service?

Mr. PHELPS. I stated this, that under the head of expenditures for the War Department you will find \$2,100,000 for certain public buildings and public works in the District of Columbia.

Mr. LOVEJOY. The table from which I quoted said that the expenditures have run up from \$9,000,000 to \$19,000,000. As I understand, it does not include the expenditures in the erection of public buildings.

Mr. PHELPS. From what does the gentleman read?

Mr. LOVEJOY. It is a statement made to the Senate on the 4th of March, in answer to a reso-

lution of the Senate. It is a general statement of the expenditures of the Government from 1789 up to the present time. In that table the miscellaneous expenditures, as the gentleman will observe, have ran up in equal proportion; that those for military services have increased from \$9,000,000 to \$19,000,000; and in the miscellaneous items are included the expenditures on the public buildings, (the Capitol and others,) the erection of which are under the direction of the War Department; still the appropriations are not made for the Army.

Mr. PHELPS. The actual cost of the Army is about fifteen million dollars. In this I do not embrace the appropriations for fortifications, for ordnance, or any of the appropriations for the erection of public buildings and other public works besides fortifications. The gentleman may put it down as \$15,000,000 instead of \$19,000,000, but if you add the expenditures on account of the Utah expedition; if you add the expenditures on account of the militia called into the service of the United States in the Territories of Washington and Oregon; then, of course, the amount will be largely beyond \$15,000,000.

Mr. Chairman, when interrupted I was stating the manner in which estimates for appropriations for the Army were submitted. I showed they were submitted long in advance of the time when the money was required to be expended, and the estimates might be fully sufficient to answer all public purposes if there was no sudden emergency like that in the case of the Utah expedition. The order to fit out this expedition was given in the last fiscal year, and preparations were being made at Fort Leavenworth in June last in execution of that order. Many of the expenses of the expedition were incurred in the last fiscal year.

Now when we come to scrutinize and examine these estimates, we find that there was a deficiency for the regular supplies of the Army, amounting to \$279,377 for the last fiscal year; for incidental expenses, \$129,860; and for the transportation of troops and supplies, \$750,000. So also for the erection of barracks and quarters, there was a deficiency of nearly seventy thousand dollars, which had accrued the last fiscal year.

Now these expenditures, in part—and I allude more particularly to those for the transportation of troops and supplies, and those for incidental expenses and the regular supply of the Army—belong to the expedition fitted out for Utah. From the time of commencing to fit out that expedition, the expenses have been great in sending forward supplies, and in providing the means of transporting the troops to the point of destination. You find that in the month of May last, the fifth regiment of infantry were, in a very short period of time, transported from Florida, where they were stationed, to St. Louis, and from St. Louis to Leavenworth city, where the proper outfit of mules and wagons, &c., were furnished for them, and they were started upon their line of march across the prairies.

The gentleman from Tennessee, [Mr. Jones,] when commenting upon the expenditures of the Government, seemed to proceed upon the hypothesis that the scenes of operation of troops of the United States are where they readily procure the supplies necessary for them. He is not willing to take into consideration that these men have to be marched twelve hundred miles across a wilderness. They have to take their provisions for that long distance, and they take, not only the provisions necessary to support them on their march, but the provisions necessary for their support and maintenance during the past winter, and until they can be relieved in the spring by supplies from across the plains. Does the gentleman expect that those supplies are to be made with the same facility, and at the same rate of expense, that they could be transported over good wagon roads within the limits of the State of Tennessee or Missouri?

The gentleman from Tennessee finds fault with the expenditures of the War Department; and it seems he must arrive at one of several conclusions: first, that the Secretary of War has acted in violation of the law, or that he has acted indiscreetly, or that the gentleman is unwilling to intrust him with the expenditures necessary for the support of the Army. The gentleman took occasion to remark in reference to the course he thought should be pursued towards Utah. He

said that he would send an officer there, and if the people did not obey the laws, he would repeal the organic act, and then send the troops there and drive the Mormons out of the country. Does the gentleman proceed upon the hypothesis that every person in that Territory is a rebel and a traitor to the Government? You must discriminate between those who are disloyal and rebellious, and those who are peaceable.

Mr. JONES, of Tennessee. Did I understand the gentleman to say that the appropriations for the Army, including the fortifications and the Military Academy, for the present year, were about twenty million dollars?

Mr. PHELPS. I did not speak of the expenditure of this fiscal year. I said I was replying to the assertion made by the gentleman from Illinois, [Mr. LOVEJOY,] that for the support and maintenance of the Army—using his own language—the expenditures were \$19,000,000. But \$2,100,000 of that was for constructing public buildings.

Mr. JONES, of Tennessee. But the cost of those public buildings was included in the \$19,000,000. The amount was for erecting fortifications and for the Military Academy.

Mr. PHELPS. I remarked that the expenditure for fortifications was not chargeable to the Army; for though you might not appropriate a single dime for fortifications, still the Army is upon your hands, and you must maintain it. For fortifications annual appropriations may or may not be made, as it suits the pleasure of Congress. You might as well charge the cost of this Capitol to the support of the Army, as to charge the fortifications which the Government may see fit to erect upon the sea-board; because in this Capitol we make laws for the government and regulation of the Army.

Mr. LOVEJOY. It is under the head of military services.

Mr. PHELPS. It is among the money expended by the Secretary of War; but because Congress sees fit, under existing laws, to delegate to the War Department the construction of an aqueduct in the District of Columbia, costing \$2,500,000, would you charge that to the expenses of the Army? Because Congress sees fit to delegate to the War Department the construction of the additions to this Capitol, will you charge that to the support and maintenance of the Army?

I was remarking that the gentleman from Tennessee, [Mr. JONES,] in opposing these appropriations, must proceed upon one of three positions: that the Secretary of War, in making the expenditures for which this money is needed, is acting in violation of law, or that he is acting indiscreetly, or that the gentleman is not willing to intrust him with the expenditure of the public money. As far as has come under my observation, the Secretary of War has neither acted in violation of law nor indiscreetly, and I am willing to intrust him with the expenditure of the money for the support of our military establishment.

Now, the gentleman from Tennessee voted, as I did, for the preamble which was prefixed to the resolution of the gentleman from Arkansas, [Mr. WARREN,] asserting, in our opinion, that Utah was in a state of rebellion. If it is, does it not become us to suppress that rebellion? Is it not our duty to place in the hands of the executive department of this Government the means of putting down rebellion in our midst? I am in favor of doing that. I admit that Congress only can declare war. But I refer to the report of the Secretary of War, to show that the expedition which went to Utah went there as a peaceable expedition, with no expectation of prosecuting a war against that people; and, furthermore, that a trusted officer of the Army of the United States preceded that army, to apprise Brigham Young that a new military department had been organized, and that troops were on their way to winter in that Territory.

It was understood that the Mormons had a surplus of supplies, such as might be needed for the army; and this officer, Major Van Vliet, was authorized to make contracts with the people of the Territory of Utah for such supplies as they could furnish. But in reply to the request made by that officer to purchase provisions, he was met by denunciations, was told that none would be sold, and that the troops would not be allowed to winter

in the Territory of Utah. Since that time you have had the proclamation of Brigham Young. It has been read on the floor of this House. It is the language of one who has in his own person sole authority over that Church; who rules over the people of the Territory of Utah belonging to the Mormon religion, with as despotic hands as the autocrat of the Russians rules over his subjects. The will of that people is only known by the revelations made by the prophet Brigham Young; and we have from him the declaration that this people will resist the march of the troops into the Territory of Utah.

Now, then, if heavy expenditures are incurred in consequence of sending this expedition to Utah, in consequence of this attempt to suppress this rebellion, and to maintain these troops for such time as it may be the will and pleasure of Congress to keep them there, I ask you whether patriotism does not prompt us to come forward and vote the necessary supplies? I ask you whether you would withhold appropriations thus necessary for the maintenance and support of the Army, on these idle rumors aspersing the character of the Secretary of War, wrongfully and unjustly, as I believe?

Mr. LETCHER. If my friend from Missouri will give me a moment, I desire to call his attention to some items that swell up the expenditures of the War Department, and which are now sought to be charged to the military service of the country.

If you will look at the statement, you will find that it includes private claims, appropriations for the Indian department, appropriations for arsenals and fortifications, the construction of military roads in several of the Territories, and acts of various kinds passed for the relief of military officers—all of which go to swell up the amount of \$19,000,000.

Mr. LOVEJOY. That is the official statement, under the head of "military service."

Mr. PHELPS. Well, that embraces all the expenditures made under the direction of the Secretary of War for the fiscal year, whether in the nature of private claims or for the military service of the country.

Mr. STANTON. The gentleman from Missouri is slightly mistaken about that. The expenditures for the aqueduct, the Capitol building, &c., come under the head of miscellaneous expenses; and those to which the gentleman from Illinois refers are those strictly of a military character.

Mr. PHELPS. I have no time at this moment to turn to that; but I am satisfied of the correctness of the statement I have made.

Mr. CURTIS. The gentleman from Illinois undoubtedly includes more than is properly chargeable to the Army.

Mr. PHELPS. That is what I contend.

Mr. CURTIS. If he excludes the expenditures relating to arsenals, fortifications, public buildings, and many other things that come under the direction of the War Department, he will find that the Army expenses proper do not exceed, in round numbers, \$15,000,000.

Mr. PHELPS. The gentleman from Iowa only affirms the position I have taken. I thank him for that, because it is a matter which comes under the cognizance of his committee.

Mr. LOVEJOY. Do I understand the gentleman from Iowa to state that the expenses of the Capitol and public buildings here are included in the total of \$19,000,000?

Mr. CURTIS. No.

Mr. LOVEJOY. Well, what did he mean?

Mr. CURTIS. Fortifications and other works of a stationary character.

Mr. LOVEJOY. Why, then, did the gentleman refer to public buildings, when he did not mean public buildings?

Mr. CURTIS. I did not say public buildings.

Mr. LOVEJOY. Yes, sir; you used the words "public buildings."

Mr. CURTIS. You misunderstood me.

Mr. LOVEJOY. Here is a miscellaneous item of \$19,000,000. I do not mean that the appropriation for the Army is for powder and balls merely, but for military service. It is so put down. The appropriations for these public buildings are not included in the amount of \$19,000,000.

Mr. PHELPS. I am satisfied still of the correctness of the position which I have taken in

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, APRIL 6, 1858.

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regard to this matter; but, conceding all that the gentleman from Illinois claims, what does it prove with reference to this expenditure? The question before the committee is this: is it proper, is it right, to appropriate this money for the purposes specified in this bill? Are we willing to appropriate the money, and place it at the disposal of the Executive for the purposes therein specified? The other questions we can settle at some other time.

The gentleman from Tennessee [Mr. JONES] has remarked that a portion of the money proposed to be appropriated in this bill will not be expended till the year 1860. I think the gentleman does not draw the distinction between the time of the purchase of these supplies and the time they may be issued to the troops. The Commissary General tells you that a portion of these supplies will be needed during this fiscal year, and a portion will be needed in the next fiscal year, and probably a portion will be needed in the following fiscal year—1860. Why does he seek, and why does the Secretary of War recommend, that this amount of money shall be placed at the disposal of the Executive at this time? It is for the reason that if the troops in Utah are to remain there next winter, the commissariat supplies must be purchased and transported there during the ensuing summer; and if troops are to be kept there to garrison some forts during the year 1860, the supplies must be sent the year preceding. It is a difficult matter to tell what portion of these supplies may reach these troops. They have to be transported long distances through the Indian country, where your trains may be cut off, and your provisions destroyed or taken by the Indians.

In view of such contingencies, if the Quartermaster General has not considered them in his estimate, I think he has not acted perhaps with his usual prudence and caution in submitting estimates. We know very well that lately the party having in charge a herd of cattle—a portion of the supplies for the troops—were attacked while they were crossing the plains, and the cattle were all driven off by the Indians. The same thing may occur during this summer. The cattle being driven to Utah for the use of the troops may be stampeded and scattered to the four winds of heaven; and the horses and mules that are being taken there, may be also stampeded when turned out on the prairie to graze. Sometimes the animals are driven away, and sometimes a panic seizes upon them and they all stampede from their pasturage.

But if gentlemen are desirous of knowing the details of the estimates upon which these appropriations are based, they will find them in Miscellaneous Document No. 22. They will find there the estimates for transporting the subsistence of the Army, the clothing and camp equipment, the transportation of quartermaster's stores, and hospital stores, and ordnance stores, all placed under their different heads, but aggregated in the bill which we have before us. We have now in Utah the fifth and tenth regiments of infantry, eight companies of the second dragoons, two companies of the sixth infantry, and two companies of the light artillery, and it is expected that additional regiments will be ordered there. Troops have been withdrawn from the frontier of Texas, and have been under orders to march to Utah for some time. Some of them are now on their way up the Missouri river to Fort Leavenworth, to start for that Territory as soon as the grass is sufficiently high to sustain their animals. You find that in consequence of Congress being unwilling to add to the regular Army, and in consequence of the dilatoriness of Congress in making provision for the calling out of volunteers to suppress the disturbances in Utah, the Secretary of War has been forced to the alternative of endeavoring to supply a reinforcement of the army in Utah out of the regular Army, and in consequence of that, early in January, orders were sent to the troops in Texas to prepare for service in Utah, and, as soon as possible, to leave the posts at which they were then garrisoned, and repair, by

the Mississippi and Missouri rivers, to Fort Leavenworth. The expenditure necessary for the transportation of these troops was not anticipated at the time the regular estimates were submitted to us last year, for it was supposed that they would remain in Texas as long as the exigencies of the public service should require them. It was not supposed at that time that you would have to transport troops from Texas, more than seventeen hundred miles, by way of Galveston or Matagorda, up the Mississippi river, and then six hundred miles up the Missouri river.

We learn that Captain Marcy, in consequence of the destruction of the horses and mules belonging to the army in Utah, was ordered to leave the camp at Fort Bridger and proceed over the mountains to New Mexico to procure mules and horses in that Territory to supply the places of those lost. The greater part of the dragoons, under the command of Colonel Cooke, are now performing duty on foot. Horses must be procured for the dragoons. Mules must be procured to enable the army to move from its position. A portion of the army in Utah must be mounted. The Mormons are well mounted, and they will seriously annoy our army in its march to Salt Lake.

Under these circumstances, instead of higgling whether the Quartermaster General ought to give \$159 50 for cavalry horses, or a less sum, I should think the better way would be to vote the money and hold the Secretary of War responsible for its proper and faithful expenditure.

I have no desire to stifle information or to conceal anything in relation to this matter. I have no information, other than that which the gentleman from Illinois [Mr. LOVEJOY] has given the committee, or which I have heard in the way of rumors, about any contracts being made by the Secretary of War. But even if he has made any contracts, he had authority so to do. The act of Congress authorizes the Secretary of War to make contracts, either publicly or privately, for supplies for the quartermaster's department, and does not require him to obtain them at the lowest bid by public advertisement. Proposals for the transportation of the supplies for the Army were invited by advertisement, because it was expected there would be some competition. I did advise the late Secretary of War, General Davis, and I did advise General Jesup, the Quartermaster General, during the last session of Congress, to extend the contract he had made with Russell, Majors, & Waddell, for another year, because I did not believe there was then sufficient time to advertise for proposals and make a contract with other parties who would be able to commence the service in proper time, and also because the price paid them was reasonable, and they would faithfully perform the service. But I then urged upon the Secretary of War and upon the Quartermaster General, that, for the transportation for this calendar year, they should invite proposals by public advertisement, at Fort Leavenworth, during last fall. Proposals of that kind were invited and received, but these gentlemen were the only bidders. A contract was subsequently made by the Quartermaster General with these gentlemen, on terms satisfactory to them and to the Government. The supplies are to be furnished them on the Missouri river, at Fort Leavenworth, and at suitable points above that fort.

The delivery of the supplies for the Army at different points on the Missouri river is mutually advantageous to the Government and to the contractors. Those gentlemen will have several hundred wagons upon the plains at the same time, with twelve cattle to each wagon—a number of animals which will consume all the grass upon the plains on the line of their march, and hence it is necessary that the supplies should be landed at different points in order that the trains may travel different routes and find grass for the cattle. I am not speaking of the trains which have already started. Those trains must carry with them forage, for the grass is not sufficiently grown to support the animals. The Quartermaster General tells you, that for each infantry regiment, it

will require eighty-five wagons, with six mules to each; and for each mounted regiment one hundred and five wagons, with six mules to each of them. Now, these animals are to feed on the grass, and they will sweep the prairie clean on the line of their march. There is, therefore, a necessity for making another depot on the Missouri river; but the transportation will not cost any more, in consequence of having a depot above Fort Leavenworth.

I doubt, myself, if there are any gentlemen in the country who would be willing to take the contract, which these transporters now have, upon the terms on which they have taken it. They were the former contractors, and that was one reason why the Secretary of War and the Quartermaster General desired to continue them in the service; but no injustice has resulted therefrom, either to the public or to any individual.

If gentlemen also desire to see the estimates upon which the appropriations for wagons and mules and horses are based, they will find them in this same document. The estimate for such mules as the Government desires, is \$170 a piece; and for each wagon, \$190. Examine the purchases which the Government has made heretofore, and you will find that these estimates are the prices which the Government has been in the habit of paying for these articles, except in the case of mules. In consequence of the large demand for mules for Government transportation, some fifteen hundred or two thousand having been purchased last year in Louisiana, Kentucky, Missouri, and Illinois, it is doubtful whether such as are needed by the Government for the transportation of baggage and Army supplies, could be procured at a less sum. In the estimates, I have yet to see anything which I can call unreasonable. I think they are all put at the market price, so far as I have a knowledge of the market price.

Gentlemen may say that \$20 75 a hundred for transportation is too much. Merchants themselves were paying last year eighteen dollars a hundred for their transportation from Leavenworth to Salt Lake, and they made contracts at that price before it was expected there would be any troops sent to Utah. The risks of transportation will be greater this year than they were last year; and therefore we must pay a greater price. And the cost of transportation varies with the season of the year in which it is to be performed. I believe the prices stipulated to be paid are reasonable, and I am convinced the Government cannot, at this time, perform the transportation as cheap as these gentlemen have contracted to perform it.

There is another matter, Mr. Chairman, to which the gentleman from Tennessee [Mr. JONES] has adverted, and that is the usual extra compensation proposed to be paid to the official reporters for this House. He says that there is no law authorizing it. For several years last past Congress has appropriated the same amount of money as compensation to these gentlemen. We have made the Globe the official organ for the publication of the report of our debates. As a member of the Committee of Ways and Means I was and am willing to recognize the obligation of the Congress of the United States to make the appropriation. These gentlemen who sit before us have been faithful and efficient in the discharge of their duties. We know that the proprietor of the Globe has adopted a new rule, which makes the labors of these gentlemen more onerous than ever. The remarks of gentlemen of the House must appear the next day after they are delivered, and the manuscript must be put into the hands of the proprietor, not to be altered or amended after that time. In consequence of this, I repeat the labors of the reporters have become greater than they were heretofore, and I am willing to continue this appropriation.

I recollect when this appropriation was first introduced. It was introduced by the gentleman from South Carolina, Mr. Woodward, who is no longer a member of this House, during the session, I think, of 1850. Although at that time it met with

some opposition, I have not been aware that it was serious at any time. The Committee of Ways and Means, in the discretion which they believed was intrusted to them, and in continuance of the former action of Congress, recommend that this appropriation should be made. I believe that these gentlemen are justly entitled to it; and if this were the only objection in gentlemen's minds to this bill, I am astonished to hear them say that they will vote against it.

Mr. RITCHIE. I move that the committee rise.

Mr. LETCHER. Perhaps the gentleman does not understand that, when the committee rises, all further debate on this bill is at an end, and the gentleman getting the floor will not entitle him to it in the morning.

Mr. HOUSTON. I suppose that, by unanimous consent, this debate can be extended through to-morrow. I am aware that the committee has no power to control an order of the House; but I suppose, by universal consent, we can, in the House, agree to extend the time of this debate. There are several gentlemen who wish to say something on this subject, and I do not know but what I would say something myself.

Mr. RITCHIE. This can be done in the House.

Mr. LETCHER. What is the understanding?

The CHAIRMAN. The Chair has already stated that, unless the House shall give its consent to an extension of the time for this debate, he will hold, when the committee resume its session, that debate on this bill has terminated.

Mr. JONES, of Tennessee. Will it be in order for the committee to direct the Chairman, on the rising of the committee, to recommend to the House that the time for this debate shall be extended until four o'clock to-morrow afternoon?

The CHAIRMAN. The Chair will take it upon himself, on the rising of the committee, to state to the House what has occurred on the subject.

Mr. LETCHER. If the debate is to run on until to-morrow at four o'clock, when are we to act on the bill? It is a matter of importance that this bill should be passed as soon as possible.

Mr. GARNETT. Does my colleague consider it unreasonable to give one day for the debate on a bill which appropriates \$10,000,000 more than the law authorizes to be expended?

Mr. LETCHER. If I am allowed to reply—

Mr. RITCHIE. I have moved that the committee rise. This matter can be fixed in the House.

Mr. MORGAN. I object to further debate.

The CHAIRMAN. The remarks which have been made since then have been by unanimous consent. As the gentleman from New York objects, they must now terminate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BOCOCK reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the deficiency bill, and had come to no resolution thereon; he also stated, that when it was proposed before the rising of the committee to extend the debate on that bill, there was no objection, but the Chair intimated that it was not within the power of the committee to change an order of the House.

The SPEAKER, in receiving the report of the chairman of the committee said: The Chair cannot receive as a report, the latter portion of the chairman's remarks, though the Chair will feel himself called upon to propound the question to the House, in pursuance of the recommendation of the committee, whether or not unanimous consent will be given to extend the general debate upon House bill No. 306, until to-morrow evening.

Mr. FLORENCE. I object.

Mr. CAMPBELL. I rise to a question of privilege.

The SPEAKER. The gentleman from Pennsylvania objects to the extension of time.

Mr. FLORENCE. For a very good reason.

[Mr. PIKE, from the Committee on Enrolled Bills, reported as duly enrolled, a resolution, authorizing William N. Jeffers to accept a sword of honor from her Majesty the Queen of Spain; when the Speaker signed the same.]

Mr. CAMPBELL. I move that when the House adjourns, it adjourn to meet on Monday next.

Mr. LETCHER. I hope not. I call for the yeas and nays.

Mr. JONES, of Tennessee. I call for tellers on the yeas and nays.

Tellers were refused.

The yeas and nays were refused.

Mr. JONES, of Tennessee. I call for tellers on the motion.

Tellers were ordered; and Messrs. WALDRON and Cox were appointed.

The question was taken; and the tellers reported—ayes 87, noes 45.

So the motion to adjourn over was agreed to.

Mr. RITCHIE moved that the House adjourn.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, informing the House that the Senate had passed the bill of the House for raising additional regiments, with amendments; in which he was directed to ask the concurrence of the House.

Mr. WARD. I hope the gentleman will withdraw that motion for a moment.

Mr. QUITMAN. I ask the gentleman to withdraw that motion, to enable me to move to take up the Senate amendments to the Army bill which has just come from the Senate. I should like very much to have the action of the House upon it to-day. It will take but a few moments, I think, to dispose of it.

Mr. RITCHIE. For what purpose does the gentleman want to take up that bill?

Mr. QUITMAN. My object is to have the House concur in the amendments with one exception.

Mr. FLORENCE. I rise to a privileged motion. I move to reconsider the vote by which the House determined to adjourn over.

Mr. RITCHIE. I will yield to the gentleman from Mississippi, to take up that bill for reference only.

Mr. STANTON. I will say to the gentleman from Pennsylvania, that the Committee on Military Affairs have considered that bill. They have had the amendments before them, informally, and have agreed to what ought to be done.

Mr. WARD. I rise to a question of privilege.

Mr. RITCHIE. I insist upon my motion.

Mr. WARD. I rise to a question of privilege. I desire to occupy a few moments in a matter personal to myself.

The SPEAKER. There can be no higher question of privilege than a motion to adjourn.

Mr. FLORENCE. I move to reconsider the vote by which the House agreed to adjourn over.

Mr. RITCHIE. The gentleman cannot take the floor from me for that purpose.

The SPEAKER. The question is first upon the motion to adjourn.

Mr. FLORENCE. Is it debatable?

The SPEAKER. It is not.

Mr. WARD. I hope the gentleman will withdraw his motion. I do not desire to occupy but a moment. It is a matter personal to myself. I desire to make a personal explanation.

Mr. RITCHIE. I insist upon having my motion put to the House.

Mr. WARD. I desire to occupy one moment.

The SPEAKER. When gentlemen come to order the Chair will put the question to the House whether they will adjourn, but the Chair will not put it until order is restored.

Mr. WARD. I hope it will be voted down until I can make a personal explanation.

The SPEAKER. Debate is not in order.

Mr. GARNETT. I call the yeas and nays upon the motion to adjourn.

Mr. KEITT. I ask my friend from Pennsylvania to withdraw his motion, and allow the gentleman from New York to make his explanation. I do not know what it is about, but it is a courtesy often extended.

Mr. RITCHIE. I insist upon my motion being put.

Mr. CAMPBELL. The privilege of making a personal explanation was refused to me some time ago, and I thought it cruel and oppressive; but, nevertheless, I hope the gentleman from Pennsylvania will yield to the gentleman from New York for a personal explanation.

The SPEAKER. The gentleman from Pennsylvania refuses to yield.

The question recurring on the motion to adjourn,

Mr. KEITT called for tellers on the yeas and nays.

Tellers were refused.

The yeas and nays were refused.

The motion to adjourn was agreed to.

The House accordingly (at fifteen minutes past four o'clock) adjourned until Monday next.

IN SENATE.

MONDAY, April 5, 1858.

Prayer by Rev. H. N. Sipes.

The Journal of Friday last was read and approved.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the Speaker had signed an enrolled joint resolution (S. No. 24) authorizing Lieutenant William N. Jeffers to accept a sword of honor from her Majesty the Queen of Spain; and a bill (S. No. 176) to acquire certain lands needed for the Washington aqueduct, in the District of Columbia; which thereupon received the signature of the President *pro tempore*.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a petition of citizens of New York, praying for the enactment of a general relief law; which was referred to the Committee on the Judiciary.

He also presented a memorial of the Chamber of Commerce of the city of New York, remonstrating against the repeal of the law establishing the Light-House Board; which was referred to the Committee on Commerce.

He also presented resolutions of the Legislature of New York, in favor of the enactment of a law to provide for the final settlement and payment of the half pay for life which was promised by the Continental Congress to the officers of the revolutionary army; which were referred to the Committee on Revolutionary Claims, and ordered to be printed.

Mr. STUART presented a petition of citizens of Ionia county, Michigan, praying for the establishment of a mail route from Pawamo to Portland, and a mail route from Pawamo to Mather-ton; which was referred to the Committee on the Post Office and Post Roads.

He also presented the memorial of Giles G. Isham, praying for a grant of land in the proposed Territory of Arizona, for the purpose of establishing a colony of industrious farmers, mechanics, and artisans; which was referred to the Committee on Territories.

He also presented two petitions of citizens of Michigan, praying for the improvement of the harbors of Mackinaw city, and the erection of a fort, a light-house, and a custom-house, at that point; which were referred to the Committee on Commerce.

Mr. HARLAN presented the petition of Henry King, Frederick W. De Kantzow, and Robert McCabe, praying a patent for manufacturing Russia sheet-iron; which was referred to the Committee on Patents and the Patent Office.

He also presented a petition of citizens of Iowa, praying for the enactment of a general relief law; which was referred to the Committee on the Judiciary.

Mr. WRIGHT presented resolutions of the Legislature of New Jersey, in favor of restoring to that State the ports of Camden and Jersey City, and of making them, if necessary, ports of entry; also, of establishing ports of entry at Tom's River and Atlantic City, and a modification of the laws regulating the coasting trade; which were referred to the Committee on Commerce, and ordered to be printed.

He also presented resolutions of the Legislature of New Jersey, in favor of appropriations for the better preservation of life and property in case of shipwreck, and for the more effective working of the Government apparatus on the coast of New Jersey; which were referred to the Committee on Commerce, and ordered to be printed.

He also presented resolutions of the Legislature of New Jersey, in favor of a donation of public lands to that State, in common with the other

States of the Union, for establishing and maintaining agricultural colleges therein; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented resolutions of the Legislature of New Jersey, in favor of the advancement of Lieutenant M. F. Maury to that position in the Navy to which his distinguished services entitle him; which were ordered to lie on the table and be printed.

Mr. DOUGLAS. I am requested to present the memorial of certain persons claiming to be preëmptors on the island of Rock Island in the State of Illinois. The memorial is signed by Charles Lindsay, the attorney of seven persons, who represent themselves as preëmptors. They claim to have certain rights of preëmption to the island of Rock Island, which has heretofore been set apart as a military reservation. I have not investigated the merits of the question at all, but present the memorial, and move its reference to the Committee on Public Lands.

The motion was agreed to.

Mr. SEWARD. I have received a petition, signed by Samuel Gardner, jr., of Brooklyn, in the State of New York, in which he states that he has made a valuable discovery by which he is enabled to turn on and light gas instantaneously by the use of a galvanic current through the manipulations of telegraphic lines placed at any distance from the chandelier or other apparatus used for conveying gas to the burners. For this discovery he has obtained letters patent. In view of the improvements of the Capitol, and of the public buildings at the seat of Government, he is of opinion that it would be very important to the Government of the United States to have control over his patent. He therefore submits a statement to the Senate, and asks that a law may be passed directing the purchase of his patent for public use. I move that this petition be referred to the Committee on Public Buildings and Grounds; and, in view of the importance of the subject, I move that the petition be printed.

The motion to print was agreed to; and the petition was referred to the Committee on Public Buildings and Grounds.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. KENNEDY, it was

Ordered, That the petition of the legal representatives of John G. Mackall, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. FOSTER, it was

Ordered, That the Committee on Pensions be discharged from the further consideration of the petition of Sarah W. Halsey, and that she have leave to withdraw her petition and papers.

On motion of Mr. FOSTER, it was

Ordered, That Thomas R. Carman have leave to withdraw his petition and papers.

On motion of Mr. BELL, it was

Ordered, That the petition of Major Thomas B. Eastland, on the files of the Senate, be referred to the Court of Claims.

PACIFIC RAILROAD BILL.

On motion of Mr. GWIN, it was

Ordered, That the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad from the Missouri river to San Francisco, in the State of California, be printed with the several amendments intended to be proposed thereto.

PEALE'S EQUESTRIAN WASHINGTON.

Mr. BIGLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library be instructed to inquire into the propriety of purchasing the equestrian portrait of Washington, by Rembrandt Peale, now on exhibition in the Rotunda of the Capitol.

MR. REED'S INSTRUCTIONS.

Mr. BRIGHT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, if not incompatible with the public interest, to communicate to the Senate a copy of the instructions which have been given to William B. Reed, the Commissioner of the United States in China.

BILL INTRODUCED.

Mr. STUART asked, and by unanimous consent obtained leave to introduce a bill (S. No. 236) granting public lands to the Territory of

Kansas, for the purpose of constructing certain railroads therein; which was read twice by its title, and referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of John M. Hinton, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Arnold Harris and S. F. Butterworth, sureties of Charles E. Kendall, late postmaster at New Orleans, submitted a report, accompanied by a bill (S. No. 237) for the relief of Arnold Harris and Samuel F. Butterworth. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the petition of Lucretia Bell, heir of Jane Van Deen, widow of Abraham Van Buskirk, submitted an adverse report; which was ordered to be printed.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Thomas R. Carman, submitted an adverse report; which was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom was referred the petition of Martin Layman, reported a bill (S. No. 235) for the relief of Martin Layman; which was read and passed to a second reading.

Mr. KENNEDY, from the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 212) for the relief of N. C. Weems, of Louisiana, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. BRIGHT, from the Committee on Public Buildings and Grounds, reported a bill (S. No. 238) to authorize the United States to take lands in the District of Columbia for a public purpose; which was read, and passed to a second reading.

PERSONAL EXPLANATION.

Mr. BIGGS. I rise for the purpose of asking the consent of the Senate to make an explanation as due to the character of North Carolina.

The PRESIDENT *pro tempore*. It can only be done by the unanimous consent of the Senate.

Mr. WILSON. I rise for the purpose of making an explanation in regard to the same subject to which the Senator refers, as he called my attention to it on Friday.

Mr. BIGGS. It is that and another matter on which I desire to be heard.

Mr. WILSON. During the debate the other day, if the Senator will permit me—

Mr. BIGGS. Certainly.

The PRESIDING OFFICER. The Chair hears no objection to the explanation.

Mr. WILSON. During the debate the other day, I referred, in the course of a speech made by the Senator from New Hampshire, [Mr. HALE,] to some remarks made in the House of Representatives in regard to the power of the States to abolish slavery. I stated that I heard the power denied by a member from the State of North Carolina. I happened to be present when the remark was made by Mr. BRANCH, then and now a member of the House of Representatives from that State, that he thought the State Legislatures had not the constitutional power to abolish slavery. It was a subject of remark, at the time, by others and myself; but I find on looking to the matter, my attention having been called to it afterwards by the Senator from North Carolina, that Mr. KUNKEL, of Pennsylvania, and I think some other members, made some inquiries in regard to the meaning of the expression. Mr. BRANCH explained it in this way: that he did not think the Legislatures have the constitutional power to abolish slavery; but that the people, when they frame their constitutions, could make their constitutions so as to abolish slavery. The explanation then made was that the States had the constitutional power to abolish slavery, and that the member did not wish to be understood as saying that it was any violation of the Constitution of the United States, as some of us understood at the time the remark was made. I had my attention called to the matter by the Senator from North Carolina; but, owing to the pressure of business, I was not able to examine it until

Friday of last week. This is the earliest opportunity I have had, and I wish to put the matter right; for I have no desire or wish, certainly, to misrepresent any member of either House. When I listened to the remark, I understood it as I stated it the other day; other members did so understand it; but on the explanation of Mr. BRANCH, it was made very plain and very clear.

Mr. BIGGS. I am very much gratified that the Senator from Massachusetts has made this explanation; but to make it full, it is proper that I should state, in addition to what he has already stated, that Mr. BRANCH expressly recognized the power of a Legislature to abolish slavery, provided that power was expressly given by the constitution. I rose for that purpose, but more especially for another purpose, to set the character of North Carolina right. I notify the Senator from Massachusetts that this is in reference to a speech delivered by him in this body on the evening of the 20th of March.

It will be recollected that during the Kansas debate we had several evening sessions, at one of which, that of the 20th March, I was not present in consequence of indisposition. The Senator from Massachusetts [Mr. WILSON] on that occasion delivered a speech, which, in consequence of the great press of business upon the Globe, was not published until Friday last, and my attention to it was not called until Saturday. Among other points made by the Senator, he seeks to give a faithful account of southern society—slaveholders and non-slaveholders; and as I presume he could not testify from personal observation and knowledge, and as I suppose he preferred it, he introduces as reliable testimony extracts from a book, entitled "The Impending Crisis of the South," said to be written by a "Mr. Helper, of North Carolina."

Being informed as to this author, I am unwilling that such testimony shall go upon the permanent legislative history of the country as coming from North Carolina, without placing in the same form the character of the witness. It is due to North Carolina, it is due to the Senator from Massachusetts, it is due to the Senate and the country, particularly the people of the non-slaveholding States, to expose to public contempt the author of a work whose position, whatever it is, probably greatly depends upon his representing himself as "of North Carolina." I feel a becoming pride that the word of a North Carolinian is so generally considered reliable; and, therefore, the more imperative is the duty to mark emphatically, as I propose to do on this occasion, any one that hails from that State who slanders her society and writes it in a book to deceive and delude others. The Senator from Massachusetts is a striking example of the dupes thus made by this catch-penny book; and the delusion is so strong that, without inquiry as to the character of the witness, it is placed in permanent form as evidence from North Carolina as to the state of southern society.

I want to disabuse the mind of the Senator from Massachusetts, and those who read this book, as to the reliability of the authority on which he relies. Who, then, is this Mr. Helper, of North Carolina, relied upon in the Senate of the United States as evidence from the South of the state of southern society? I speak from authority that cannot be doubted.

Hinton Rowan Helper, the author of the "Impending Crisis," is a native of Davie county, North Carolina. His first appearance in active life was as a clerk of Michael Brown, a merchant in Salisbury, North Carolina. Mr. Brown is an elder of the Presbyterian church; and after Helper removed to Salisbury he also joined the Presbyterian church, and, so far as was publicly known, conducted himself with propriety. After living with Mr. Brown several years as clerk, it was understood at Salisbury that he formed a copartnership with Mr. Coffman in the book business, and left for the North to buy in a stock of books. He did not return as expected, but shortly thereafter went to California, and there, or shortly after his return, wrote a book called "Land of Gold."

He returned to Salisbury about 1854, where he remained some time without any apparent business. In the summer of 1856, as is reported and believed, he procured surety for, and obtained money. He, however, about that time, left for the North, where he now resides, never since having returned to North Carolina. After leaving North

Carolina, he changed his name from Helfer to Helper; and it was disclosed last year that while a clerk for Mr. Brown he purloined from him three hundred dollars, and after an exposure by Mr. Brown, Helfer, making a merit of necessity, himself publicly confesses, in a handbill which I have before me, this thieving on his part, and excuses it upon the ground that he was enticed to the act by some ambiguous expression of a friend of his that it was allowable for clerks so to do; and the further excuse that it was an indiscretion of youth, although, at the time, he was in full standing in the Presbyterian church, and, as he says himself, was seventeen years of age. It is due to the Presbyterian church to say that this man is not now a member of that church.

Now, sir, when and why he altered his name I know not, except he defines Helper—one who helps himself from the purses of others without their consent; and therefore concluded the change of name appropriate to his character. He is a dishonest, degraded, and disgraced man, and although—much to be regretted—a native of the State, yet he is an apostate son, ruined in fortune and character, and catering to a diseased appetite at the North, to obtain a miserable living, by slanders upon the land of his birth; and I deeply regret that the Senator from Massachusetts has, by a reference, so dignified the creature as to render necessary this exposure. Such is Mr. Helfer, of North Carolina, author of the "Impending Crisis of the South," alias Mr. Helfer, once of North Carolina, but who has left the land of his birth for the good of the State.

Now, sir, I would respectfully suggest to the honorable Senator from Massachusetts to append a note to the edition of his speech, giving the true character of the author of this book upon which he has relied, so that the readers of his speech may not be, as he has been, so unwittingly misled by authority so degraded and unreliable.

WASHINGTON POLICE.

On motion of Mr. BROWN, the bill (S. No. 232) to establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject, was read a second time, and considered as in Committee of the Whole. The bill is as follows:

That there be established an auxiliary guard or watch for the protection of public and private property, for the enforcement of the police regulations of the city of Washington, to consist of a chief at an annual salary of \$2,000, [one] captain at an annual salary of \$1,200, four lieutenants at an annual salary of \$800 each, and one hundred men at an annual salary of \$600 each, to be paid monthly. The chief of the auxiliary guard shall be appointed by the President, by and with the advice and consent of the Senate; and the captains, lieutenants, and men, shall be appointed by the chief, with the approval of the Secretary of the Interior, and may be dismissed by the chief at his pleasure, or upon the order of the said Secretary.

Sec. 2. *And be it further enacted*, That the guard hereby established shall be divided by the chief into squads of convenient size, and the said chief is also authorized and empowered to establish guard-houses at such points in the city of Washington as he may designate, subject, however, to the approval of the Secretary of the Interior.

Sec. 3. *And be it further enacted*, That the mayor of Washington, the district attorney for the District of Columbia, the marshal of said District, and the chief of the auxiliary guard, are hereby authorized and required to make and establish rules and regulations for the government of said guard, subject to the approval of the Secretary of the Interior.

Sec. 4. *And be it further enacted*, That the sum of \$5,000 be, and the same is hereby, appropriated annually as a contingent fund, to be expended under the direction of the Secretary of the Interior, to carry out the purposes of this act in the suppression of crime and detection of criminals in the city of Washington.

Sec. 5. *And be it further enacted*, That whenever, in the judgment of the President of the United States, the same may be required, he be, and is hereby, authorized to order such temporary increase of the guard as, in his opinion, may be expedient; not to exceed two hundred men, who shall be paid at the rate of two dollars per day while in service, and be dismissed so soon as, in the opinion of the President, their services may no longer be required.

Sec. 6. *And be it further enacted*, That each member of the guard shall be required to wear a uniform dress at all hours when on duty, and on his hat, or cap, or breast, such number as may be assigned him. The captains and lieutenants, at all times, day and night, shall wear an official badge; and said uniforms, badges, and numbers, hereby required to be worn, shall also be prescribed by the chief, and shall be made public in the newspapers in Washington for one month after first prescribed, and shall not thereafter be changed.

Sec. 7. *And be it further enacted*, That all acts and parts of acts heretofore passed, authorizing or relating to the employment of an auxiliary watch, or guard, be, and the same are hereby, repealed. This section to take effect so soon as the chief shall report to the Secretary of the Interior that he has thirty men enrolled and ready for duty.

Sec. 8. *And be it further enacted*, That the sum of money necessary to carry this act into effect, not to exceed — dollars, be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated.

Mr. BROWN. There is a printed report accompanying the bill. I do not know, however, that anybody desires to hear it read.

Mr. MASON. I should like to hear it read.
The Clerk read the following report made by Mr. BROWN on the 1st of April:

The Committee on the District of Columbia, to whom was referred a resolution of the Senate, instructing them to "inquire into the expediency of providing by law for the establishment, under the authority and control of the Government of the United States, of an efficient police in the city of Washington," have carefully considered the subject, and report:

That the police force of the city consists of twenty-seven day police officers, and one chief; and of an auxiliary guard of thirty men, and one captain, who is to act as high policeman. The day police is appointed by the Mayor, with the consent of the city councils, and is paid out of the city treasury; the cost being \$18,000 per annum. The auxiliary guard is appointed by the Mayor, under an act of Congress, and is paid out of the national Treasury; the cost being \$19,000 per annum, and \$400 for contingencies.

The police force is both feeble and inefficient. Riot and bloodshed are of daily occurrence. Innocent and unoffending persons are shot, stabbed, and otherwise shamefully maltreated, and not unfrequently the offender is not even arrested. It is hardly necessary to add, that such acts are a disgrace to civilized society, and, if not put down, must result in disastrous consequences to society, and bring a lasting reproach upon this Federal city.

It is the duty of the local authorities to keep order; but they either cannot or will not do it. The obligation is thus thrown upon Congress to take the matter in hand. Congress cannot throw off the responsibility of taking care of the public property, and of defending the persons and property of Ministers accredited to this Government by foreign Powers; and Senators and Representatives may very well assume that when riot, bloodshed, burglary, and arson, are of almost nightly occurrence, they and their families are not free from danger.

The feebleness of the police is shown by a single glance at its numbers. Fifty-seven men cannot, when the spirit of disorder is rife as it now is, keep order in a city like Washington. This city has, in round numbers, a population of sixty thousand souls; but it covers an area larger than Baltimore, with a population of two hundred and sixty thousand. Baltimore has a police force of four hundred, and Washington has only fifty-seven.

The inefficiency of the police grows out of a number of causes. First and foremost is its feebleness; next, the want of proper responsibility. A police appointed by one power, and paid by another, is very likely to be inefficient. But that which, perhaps, imparts its greatest inefficiency is the fact that it is composed, to a great degree, of active political partisans; and being appointed by the local authorities alone, its efficiency in carrying elections is looked to with as much, or more anxiety, than its efficiency in keeping down disorder.

Without elaborating the subject, your committee have felt justified, from the state of facts now existing, in assuming that the obligation is upon the Government to provide a more efficient police for the city of Washington, and therefore report a bill.

SENATE COMMITTEE D. C. ROOM, March 3, 1858.

DEAR SIR: The following resolution has been referred, by order of the Senate, to the Committee on the District of Columbia:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the expediency of providing by law for the establishment, under the authority and control of the Government of the United States, of an efficient police in the city of Washington.

To enable the committee to act intelligently, I am instructed to address to you the following inquiries:

First. What is the present police force in the city of Washington, and by whom is it appointed?

Second. What is the annual cost of the police, and by whom is it paid?

Third. What suggestions, if any, have you to make looking to an increased efficiency in the police?

Fourth. Has the police been inefficient? and if so, state the reasons why, and suggest a remedy.

I am further directed to call upon you for a copy of your police rules or regulations, to be laid before the committee, and, if they think it proper, to be submitted by them to the Senate.

Very respectfully, your obedient servant.

MAYOR'S OFFICE, WASHINGTON,

March 17, 1858.

SIR: In reply to the several questions submitted to me in a communication received from the committee over which you preside, to the first I respectfully answer, that the police of the city of Washington now consists of twenty-seven day police officers, and one chief of police; of thirty members of an auxiliary guard, and one captain thereof, who act as night policemen, and are liable to do day duty whenever any emergency may occur; that during the last year it has been found necessary to appoint, temporarily, twenty-five night police officers in aid of the guard, and that the day police has been permanently increased to nearly double its previous number; that all the police are appointed by the Mayor—those of the day police by and with the advice and consent of the board of aldermen.

The annual cost of the day police is eighteen thousand three hundred and seventy dollars, and some contingencies, which expense is paid by the city of Washington. The corporation has already paid during the current year, three thousand dollars for special police service.

The auxiliary guard are paid by the Government of the United States, each receiving six hundred dollars per annum, and the captain one thousand dollars; making in all

nineteen thousand dollars, and four hundred dollars for contingencies.

I suggest that the night police (auxiliary guard) is much too small. The greatest length of the city, on an east and west line, is 4,572 miles, and, on a north and south line, is 3,779 miles. It has many crooked and narrow alleys in it, which serve as hiding and lurking places for evil disposed and disorderly persons. None of these alleys are lighted at night, and but few of the streets and avenues. It would, therefore, take at least one hundred men to effectually watch the city at night, and to meet any emergency that is likely to occur; and they ought to have one captain, and not less than four lieutenants. The day police, for the present, is large enough.

The police is not inefficient; but, on the contrary, is, and has been, as efficient as it is possible for so small a body of men to be. They have made a very large number of arrests, many of them under circumstances of great danger. They are all strong, able-bodied men, of tried courage; and a large proportion of them have received painful, and, in some instances, dangerous wounds, in the discharge of their duty, and have captured an almost incredible number of fire-arms and other offensive weapons; the return this day alone being four six-shooting revolvers of various patents, one single-barrel pistol, besides other more silent, but hardly less deadly weapons.

There is a spirit of lawlessness pervading the whole land. Deeds of violence and bloodshed are perpetrated even in villages and hamlets; and all the cities of the country are suffering to a greater extent than ever heretofore from the prevalence of this spirit in their midst.

The county constables, who are appointed by the circuit court, hold their office for an indefinite term, and are held to no responsibility for any omissions to enforce law or punish its violations; and as a recent law of Congress takes from them all fees and emoluments for services rendered in this behalf, they generally avoid them; I therefore suggest that the tenure of their office be well defined by law, that the term be limited, and that they be made responsible to the marshal of the United States for the District of Columbia, and required to obey his orders and those of his deputies, in the suppression of riots and the maintenance of the public peace; and also that some method of compensating them may be adopted, either by returning to the old fee system, or such other as Congress in its wisdom may devise.

The District of Columbia has now to rely on the city police for the discharge of duties which, in the States, belong to the sheriff of the county, or the officer representing him—a condition of things which ought not to exist, and which will be, at least partially, remedied by carrying out the above suggestions in relation to the marshal and the county constables.

Very respectfully,

W. B. MAGRUDER, Mayor.
Hon. A. G. BROWN, Chairman of the Senate Committee on the District of Columbia.

OFFICE OF THE CHIEF OF POLICE, WASHINGTON, March 5, 1858.

SIR: I have the honor to acknowledge the receipt of a communication, by order of the Senate Committee on the District of Columbia, making certain inquiries in relation to the police organization of this city, and briefly reply:

In answer to your first inquiry: "What is the present police force in the city of Washington, and by whom is it appointed?" I respectfully reply:

The present force of the police of this city consists of twenty-seven persons, with a chief or captain of police, the members of which are nominated by the Mayor to the board of aldermen for confirmation, in the same manner as all the other officers of the corporation. Previous to the 7th of January last (1858) the entire police force of the city numbered seventeen, at which date the two boards of the city council passed an act "to organize a police system for the city of Washington, and to reduce the several acts in relation thereto into one," which act increased the force from sixteen to the present number—twenty-seven persons.

The second inquiry, "What is the annual cost of the police, and by whom is it paid?" is answered:
Twenty-seven men, at \$630 per annum each...\$17,010 00
Pay of chief.....1,000 00

\$18,010 00

Which salaries are paid monthly by the corporation. In addition to the corporation police, there are thirty-one persons attached to the night-guard; which organization, by law, are auxiliary to the police established by the corporation. Their head is called "Captain Auxiliary Guard." They are paid by the Government. The contingent expenses of the several guard-houses are defrayed by the corporation. Their duties are confined exclusively to night service in patrolling the city—at the present time, from 8 p. m. until morning.

There are, in addition to the above, a number of officers called "county constables," who are entirely inefficient, for the reason that they never act except there is an almost certain prospect of pecuniary reward for their services, and are, therefore, entirely useless.

The suggestions I have to offer, looking to an increased efficiency of the police, are, hurriedly:

1. A greatly augmented force.
2. A marshal or head of police, with an adequate number of captains or lieutenants of police, who shall be assigned to duty generally in a particular locality or district; who shall be directly responsible for the proper discharge of the duties of the men apportioned to the district in which such captains, &c., respectively, shall be assigned.
3. A sufficient number of station-houses for the accommodation of the men, which will serve as headquarters in the several districts; at which a sufficient force will always be found, at all hours of the day or night, for the protection of public and private property, &c., &c.
4. Stringent rules for the government of the body, without which any police organization must necessarily be inefficient.

I have hastily thrown together the above suggestions as a kind of basis by which to form a starting point, and upon which to enlarge.

I inclose "Rules and Regulations for Government of Auxiliary Guard," and also a copy of police act.
Very respectfully, &c.,
F. A. KLOPPER,
Chief of Police.

Hon. A. G. BROWN, Chairman, &c., United States Senate.

Mr. HUNTER. In the third section I think an amendment ought to be made. As the section now stands it provides,

"That the Mayor of Washington, the district attorney for the District of Columbia, the marshal of the said District, and the chief of the auxiliary guard, are hereby authorized and required to make and establish rules and regulations for the government of said guard, subject to the approval of the Secretary of the Interior."

I think that the Mayor of Washington ought not to be connected with this matter, as the guard is to be kept and maintained at the expense of the General Government; and I move to strike out, in the first and second lines, the words, "the Mayor of Washington," and also to strike out "the district attorney for the District of Columbia." I do not know why he should be associated either. Then the section will read:

"That the marshal of said District and the chief of the auxiliary guard are hereby authorized and required to make and establish rules and regulations for the government of said guard, subject to the approval of the Secretary of the Interior."

I see no reason why we should connect the Mayor and district attorney with this matter.

Mr. BROWN. These words were not inserted carelessly, but for a reason. The Mayor of Washington is the chief conservator of the public peace of the city; at least he ought to be so. He has nothing to do with the execution of this law if it passes; but he has, by this section, a voice in establishing the rules and regulations which are to control this body of men, the execution of the rules themselves being left to a different power. There is a day police here which is exclusively under the control of the Mayor, and must always remain so. Congress neither pays them nor appoints them, nor has anything to do with them.

Mr. FESSENDEN. Allow me to ask, is this, by the bill, a night police?

Mr. BROWN. That is all.

Mr. FESSENDEN. The bill makes it so?

Mr. BROWN. The law, as it now stands, makes it so.

Mr. FESSENDEN. How is it with this bill?

Mr. BROWN. This bill does not so specifically declare it, but that is the character of this police. I was about to say that the Mayor makes rules and regulations for the day police; and if the rules for the government of the night police should be essentially different, you would have two sets of rules for the government of the police of the city. It was for that reason that the Mayor was taken in. The district attorney was named, for the reason that he had performed such services heretofore, and for the reason that the rules ought not to conflict with the law; and he being the law officer of the Government here, would be likely to solve any law point that might arise in making these rules. I do not want to detain the Senate in discussing the question. If the Senate chooses to strike out these words, very well; but I think it ought not to be done.

Mr. FESSENDEN. If this bill could be made more specific, so that this auxiliary guard should be entirely and solely a night guard, having nothing to do with the police of the city during the day, then the remark which has been made by the Senator from Mississippi would be a correct one necessarily; and the Mayor, the head of the day police, would have to be consulted in order to make a perfect system in reference to the two. I was about to remark that I listened to the bill when it was read, and it should, in my judgment, be entirely a night police, because the city authorities should take care of the police of the city in the day time. They are competent to do it, and they cannot ask properly to be relieved from that service. In that case, it would be very well to consult the Mayor, and it would be necessary to consult the officers of the city, in order to make the police a perfect one, as stated by the Senator from Mississippi. I will suggest to him, however, that he had better make his bill more specific, in order to leave no sort of question what this guard is intended for. As it stands now, it does not say that it is to be a night watch altogether.

Mr. BROWN. Nor would I have it an exclusively night guard. Its principal duty would be

to guard the city at night; but in cases of riot, or anything of that sort, I should certainly expect them to do service.

Mr. FESSENDEN. Then there might be a provision inserted in the bill that the superintendent should have power to call on this guard to aid in suppressing riots in the city in the day time, when it might be necessary; but its general occupation should be, I think, exclusively as a night guard. There is no reason in the world why Congress should be at the expense, or should take the responsibility, of furnishing a day police for the city of Washington. It is a service not very extensive, and one which the city can well render. I accede to the idea that there should be power to call upon this guard on special occasions, and perhaps on special days, when there is more danger than on other days of riots or other troubles arising in the city.

I would make one other suggestion, though I do not intend to move an amendment: I think as much power as can be possibly lodged with any safety should be vested in the commander of this guard; that he should not be hampered by general restrictions, or by a board. I believe that the ability of a police depends, in a very great degree, upon the character of the principal officer, and that the ability of the principal officer depends, in a very great degree, upon his having as much power as can safely be lodged in his hands without being troubled by a board over him; and therefore all the rules and regulations which are to be made, I think we should look upon with considerable care, and watch them.

I am not ordinarily in the habit of moving or suggesting that a sum appropriated for purposes not exactly specific should be increased; but all experience has shown, in every city, that a police is very frequently rendered ineffective from the want of ability to get information. The police officers themselves are watched; and according to the provisions of this bill, which has provided specifically for their wearing badges, notifying their characters day and night, of course all rogues will keep as clear as possible from coming in contact with them, and it is impossible for them personally to ascertain the haunts of people of this description to acquire information that is necessary. There is a want of money, and there is a want of money to pay for secret service. I believe that the secret service of a police force is among the most important duties which it has to perform. Information to be obtained by the commander of such a force, must be drawn from other sources than from the men under him—from persons who are not officially known as members of the force. I have always doubted whether the provision requiring that badges should be worn by police officers at night was not a very unwise one; because, if the badges are of any use at all, the use is to notify every vagabond who is prowling about that a police officer is very near him. In the day time it is very proper, but in the night time I much doubt its expediency or propriety. I would suggest to the honorable Senator—

Mr. BROWN. If the Senator will allow me I will state, in that connection, because I do not wish to say more than is necessary, the reason for putting that provision in the bill. The object is, that every citizen himself may be a watch on your guard. If a member of the guard does not perform his duty, and is seen not to be performing it, he can be recognized by his uniform and his badge. If he is seen in a beer-house, or other improper place, or seen in any improper association, any citizen may notify the chief of police of that fact, and have him dismissed for delinquency. But if he goes in citizen's garb, none but his acquaintances would recognize him. I saw, and the committee saw, the difficulty which the Senator points out; but that is not so great a difficulty as the other one.

Mr. FESSENDEN. You have to watch the watchmen—watch the police!

Mr. BROWN. Your whole six thousand voters, and all the strangers here, will have their eyes upon them. Wherever they are seen in the street, in whatever association, they are recognized as policemen. If any emergency arises, if a citizen is assaulted, he can see by the badge of the policeman that that is the proper man to call upon. If he does not perform his duty, you know whom to report. That is the reason for putting it in.

Mr. FESSENDEN. I know that opinions differ—

The PRESIDENT *pro tempore*. The hour has arrived for the consideration of the special order, being the bill to admit Minnesota into the Union; and that bill is before the Senate.

Mr. BROWN. I move to postpone the special order, and let us go on with this bill. If we are to do anything, surely all of us understand it is necessary to act promptly.

Mr. JOHNSON, of Tennessee. I hope the chairman of the Committee on the District of Columbia will not press the consideration of this bill at this time. There is something that ought to be said on the subject. I think Congress ought to pass no such bill. We ought to be engaged in something more legitimately within our sphere of action than in this business of paying a uniformed police out of the public Treasury to take care of this city. I hope it will not be pressed now.

Mr. BROWN. I must press a bill like this, which looks to the public peace.

The PRESIDENT *pro tempore*. The question is on postponing the special order for the purpose of considering this bill.

Mr. MASON. I should really think the Senate cannot be insensible to the pressing, the absolute, necessity for the passage of this bill, or some other bill which will preserve the lives of the people in this city. We hear every day of nightly assassinations, many of them successful. I should think that the safety and the lives of the people who are placed under our jurisdiction is of more pressing importance than the passage of any bill which is likely to engage the attention of the Senate to-day, so far as precedence is concerned—not in general importance, certainly, but so far as precedence is concerned. I hope, therefore, the business, whatever it may be, before the Senate, will be postponed, in order to pass this bill promptly.

Mr. JOHNSON, of Tennessee. I would ask the Senator from Virginia if the police authorities of this place have not power to establish and put on guard as many police officers as they think proper? or do they require a law of Congress to authorize them to appoint an additional number? Have not the city authorities now power to put on guard as many police officers as they think proper, and have they not power to establish and fix their pay, to lay taxes to meet the expense, and provide for everything else connected with the subject? If that be so, I cannot really see the necessity for Congress acting in such hot haste on this subject, and taking jurisdiction of a matter that should be left to the city of Washington to control.

Mr. SEWARD. The suggestions which are made by the honorable Senator from Tennessee seem to me very pertinent and worthy of consideration; but they are pertinent to the consideration of the bill when it shall be before the Senate. I am obliged to confess what I thought ought never to be stated, or could never be truly stated, in the Congress of the United States, that persons who have business at the capital, whether they be foreigners or whether they be our own citizens, are deterred from being abroad in the evening, whether on business or social occasions, by the terror which prevails in this city. I think every man who is a resident of the city can bear witness that persons take care to avoid being out in the night, exposing themselves to violence and brutality by offenders who are at large in the city. It was but the night before last that one of the public officers, a messenger of the Treasury Department, was assassinated in the open streets, and at an early hour of the evening. It is certainly due to the character of the capital of the country that we should give this subject immediate attention.

Mr. DOUGLAS. If this bill is not going to take any great time, I do not wish to delay it by insisting on taking up the Minnesota bill. If it is thought we can get through with it immediately, I shall waive the priority of the Minnesota bill, with the understanding that it does not lose its place. I am induced to this by this consideration: we all know that life is not safe in this city at present; men are cut down and shot down at the doors of citizens, who dare not open their doors to rescue the wounded for fear of being killed themselves. A very prominent citizen of this city told me that he saw two men shot down near his own door, and that it was not safe for the lives

of his family to go and rescue them. Such scenes occur every night on Pennsylvania avenue, the most densely populated part of the city. No man is safe. No man dares to go to his neighbor's house. He is liable to be shot down without provocation, and without notice. Something must be done in order to restore the government of law, or you drive the community to a worse alternative—an alternative that no man can look to except with shuddering—to protect their own lives. For that reason I will yield, with the understanding that this bill shall soon be disposed of.

Mr. BROWN. Mr. President—

Mr. FESSENDEN. I believe I have the floor on the bill, in case it is taken up.

The PRESIDENT *pro tempore*. The Chair supposed the Senator from Maine had yielded the floor.

Mr. FESSENDEN. No, sir. The Presiding Officer announced the arrival of the hour for the consideration of the special order.

The PRESIDENT *pro tempore*. The Senator from Maine is entitled to the floor.

Mr. FESSENDEN. I will yield to the Senator from Mississippi.

Mr. BROWN. I will say in reply to the suggestion of the Senator from Illinois, that if the bill gives rise to an extraordinary debate, I shall feel obliged to yield.

Mr. FESSENDEN. I was remarking that I had no very great confidence in the system of having a night police with badges, but I am told by gentlemen all around me that I am clearly wrong about that; and experience has shown it to be so. That is quite likely. It is an opinion of mine, which I entertain still, but which I am not disposed to urge on the consideration of the Senate. But, sir, I am perfectly well satisfied that an amount of money larger than that which is provided as a contingent fund in the bill reported to the Senate, is absolutely essential, and I hope that the amount may be increased, and that it may be understood to be a secret service fund, to be guarded in such a way as the Senator from Mississippi may think fit in any amendment he may propose; or I shall propose one myself, if he desires it, in order that the system may be more efficient, if we adopt it at all.

There is one thing more, which perhaps it does not become me to say, but which I will venture to suggest. In my judgment, much of the difficulty is owing to the very bad example which has been set in very high quarters. If it had been the case that assaults committed by men of position and standing in this city had been noticed as they should have been, and disapproved as they should have been, instead of being approved and defended as they were, I believe we should hardly have had the state of things which we are now witnessing in this city. I have no belief that the poor, the ignorant, the uneducated, and the vicious have any very great hesitation about following examples that are set them by the educated, and people holding position, both in the perpetration of acts of violence, and defending acts of violence.

I will further say that I am informed, and I have no doubt of the fact, that the officer, the judge, whose salary you are proposing to increase by one bill before the Senate, at the head of the police court, is entirely incompetent, either from age or some other reason, to the discharge of his duties; not for want of learning, but for want of ability, desire, inclination, or something else, to inflict those punishments which ought to be inflicted for crime, and to see that criminals do not escape through any misapplication of the law. It may be that it is unintentional. I am told that he is conscientiously scrupulous about capital punishment. If so, he is most unfit to administer laws which provide for capital punishment. Sir, I believe we must go deeper than merely providing an auxiliary guard; we must try to reform the character of men very much above the class who commit these crimes, and see that all are properly punished for offenses against the laws, as well those in high places as in low places.

Mr. JOHNSON, of Tennessee. Do I understand the bill as now being before the Senate; or is it the motion to postpone?

The PRESIDENT *pro tempore*. The motion is to postpone the special order for the further consideration of this bill.

Mr. JOHNSON, of Tennessee. I hope the Senate will postpone the consideration of this bill.

It involves principles of no ordinary character. In connection with the remarks made by the Senator from Illinois, I will say that I freely concur that there is a very bad state of morals here; that police regulations are needed, and that they ought to be rigidly enforced. I am fully aware and satisfied in my own mind that many persons around this city are not safe. But, while these matters are pressing themselves on our attention, it seems to me that there is another consideration immediately and strictly connected with it, and that is: who is responsible for them; where is the fault; where is the cause of this inefficiency of police regulations in Washington city? Is it because they want to force the expense and management of their police on Congress, and to get clear of them themselves? When we look at the statements in the morning papers of the outrages that are committed night after night, what a commentary is it upon the city of Washington, that the civil authority and the police regulations here are not sufficient even to preserve order and to prevent the recurrence of such acts as are published in the papers every morning! If we take upon ourselves the expense and trouble of forming a corps of police, establishing their officers, and fixing the number of buttons on their coats, and relieve the city authorities from it, of course they will be happy to have us do it.

But, while we admit that the police ought to be more efficient, what is the proper authority to enforce it and establish it? Suppose men are shot down here every night. They are shot down in Baltimore too; they are shot down in Cincinnati; they are shot down in New Orleans; they are shot down in New York. Pockets are picked, men are garroted or robbed in those cities as well as here; but because there is a man shot down in New York, must the Congress of the United States appoint a police regulation for them? Because a man is robbed in Baltimore must Congress take up the subject? It is legitimate and necessary that the city of Washington should establish and enforce its own police regulations as well as any other city. If we are to do it for them everything will be pushed upon Congress. I see a proposition to give up their charter; that the Senate, the House of Representatives, the President, and the Secretary of the Interior are all to be engaged, and their time occupied attending to the police regulations of the city of Washington. If the act of incorporation does not give the city authorities here sufficient power, let Congress give them whatever power they need, to raise a sufficient number of policemen; give them power to pass laws to punish crimes; give them power to collect taxes to defray the expenses of police officers. They have not got enough policemen; there is great inefficiency here; something ought to be done; but I think Congress ought not to incur the expense of taking up the police regulation of the city of Washington, and devolving them on the Secretary of the Interior. I hope the bill will be postponed. I think it ought to be looked into.

Mr. BROWN. I quite concur, and the report so states, that the city authorities here are bound to keep the peace; but the report states, and I repeat now, they do not do it, and you have no power to compel them to do it. Because they will not do it is the public property to be left exposed to depredation? Are foreign ministers and their families to be insulted, and their servants assaulted? Are we, the accredited ambassadors from the thirty-one sovereignties which compose this Confederacy, to expose our own lives, and our families to insult, because the authorities here will not discharge the obligation which is upon them? These are the questions which address themselves to my mind. I hold that it is your duty to see the public property defended; and when a foreign minister is accredited to this Government, it is your duty to see that he is protected, and that his property is defended against speculation, arson, burglary, and he and his family protected from insult. It is your duty to your constituents to feel at all times upon the streets, day and night, that you are not overawed by the assassin close upon your heels.

It is for these reasons that this bill was introduced, and it is for these reasons that I shall expect the Senate to pass it into a law, so far as the action of this body is concerned, as soon as possible.

Mr. JOHNSON, of Tennessee. So far as the

public property here is concerned, there is already a guard appointed by the Government to take care of and protect it; and I see no accounts of depredation committed on the public property. That now is in charge of guards appointed and paid by the Government. So far as outrages are concerned, they will increase; they are continuing to increase. The accounts of them in the city papers will be swelled every morning, until this bill is passed or rejected. I hope the bill will not be passed.

The PRESIDENT *pro tempore*. The question is on postponing the special order for the purpose of continuing the further consideration of the bill to establish an auxiliary guard for the protection of public and private property in the city of Washington.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question pending is on the amendment of the Senator from Virginia, [Mr. HUNTER] to strike out of the third section of the bill the words "the Mayor of Washington, the district attorney for the District of Columbia."

Mr. MASON. I do not entirely agree with my colleague in his suggestion. I was one of the committee that framed the bill. It seemed to us that though the Mayor of Washington should have no connection whatever with the execution of the law, yet there was a propriety in having the benefit of his suggestions—not the present Mayor of Washington only, but any future Mayors of Washington—in reference to the regulation and organization of this force. It was simply to get the benefit of his suggestions, if he had any; and if he had not, there could be no harm. No executive power is given to him of any kind or description. The experience of one who is at the head of the police of such a city as Washington must be valuable. If not, it would not be used. I should be reluctant, therefore, to strike out that provision. It was thought also that the present district attorney, and all future district attorneys, might make useful suggestions in organizing this police; but if it should be found otherwise, of course it could do no harm.

Mr. HUNTER. This bill proceeds, as I understand, on the supposition that the authorities of the city of Washington will not keep the peace here, and that Congress is therefore to interfere in order to protect the Federal Government, the Federal officers, foreign ministers, and those attached to them, and strangers. If Congress has to interfere for that purpose, because of the neglect, the laches of the city of Washington, it seems to me that we ought not to call on the city authorities to interfere in the regulation of the force which we establish and pay. So far as the Mayors of Washington are concerned, I believe they have not been very efficient in preserving the peace of the city. I do not refer to any Mayor in particular; but I think, upon general principles, if we have to interfere on that ground, and raise and pay this force, it ought to be governed by Federal officers who are appointed and removable by the President.

Mr. WILSON. I think we had better retain this section of the bill as it is. It does not give any power to the Mayor, and it is well at any rate to be in harmony so far as we properly can with the Mayor of the city of Washington. I think this section of the bill, as framed by the committee, should stand, and that the Mayor of the city should be consulted or have a voice in framing the by-laws for the government of this force. The present Mayor of the city of Washington, and the inefficiency now manifest in the executive department of this city, perhaps, will not always exist.

I shall vote against this amendment. I shall vote for the bill in the hope that something will be accomplished for the preservation of law and order here in the national capital; but I confess I do not expect, and I think the Senate has no right to expect from it the reform which we desire, and which is needed. The Senator from Maine [Mr. FESSENDEN] has made a suggestion here this morning that I thank him for making. I believe we are having now in Washington the fruits, the legitimate fruits, of the conduct of Judge Crawford of this city two years ago. I refer to his action in regard to what transpired in this body, and in regard to the murder of a man in this city by a member of the House of Representatives. I do not believe that officer is fit for the place he

occupies; and I do not believe that we shall have a proper enforcement of the laws, that we shall have order, security of property and of life, while that man occupies the place he now fills.

The Senator from Tennessee thinks the city ought to protect life and property, and he says that the city authorities have the power to do so. Certainly they have; but they do not do it; and I think very little is attempted to bring it about. Why, sir, a few weeks ago, near where I dwell, and in the presence of a gentleman with whom I board, a person in this city drew a knife, a large bowie knife, and made an assault. He was taken on the spot by individuals who intended to take him before the police authorities. A police officer came up, took him himself, stepped a few steps, and told him to cut, and then raised a hue-and-cry, and went in another direction. Sir, there are police officers in this city who, I believe, would be arrested in New York or Boston on suspicion the moment they showed their faces. They are worthless men, in sympathy, and in harmony, I believe, with some of the men who are violating the laws in this city.

I shall vote for this bill. I shall vote for it in the hope that a force will be appointed composed of men of individual character—men who do not live daily in the rum-shops or the gambling-houses of this city. I hope men will be appointed who will perform their duty, and not run away, as we have the evidence that a police officer of this city did a few days ago, when two persons were shot near the Capitol, and refused to give his testimony, because he was afraid of his life. I hope, too, if it can be done, that this force will be appointed without any connection with politics; for all over our country, in this city, in the cities in my section of the country, and everywhere, law and order, the security of property and of life, are often put in peril by the appointment of worthless partisans to these positions. New York city, and other cities, have suffered in this way; and I believe it is one of the chief troubles in this city at the present time.

I want to ask the chairman of the Committee on the District of Columbia, who has reported this bill, and has my thanks for reporting it, why it is necessary to give the power to the Secretary of the Interior to dismiss these men? I find, in the first section, that the chief is to be appointed by the President, and confirmed by the Senate; that the captain, lieutenants, and men, are to be appointed by the chief, with the approval of the Secretary of the Interior; "and may be dismissed by the chief at his pleasure, or upon the order of the said Secretary." Now, it seems to me that there is no necessity for this double power of removal. I think the chief may remove the men, and should have the power to do so at pleasure; but I cannot see why the Secretary of the Interior should have it.

Mr. BROWN. I will state to the Senator my object in putting that provision there. I wanted to increase the responsibility of these men. I know that the relations which may exist between the chief and his men may be such that he will not at all times hold them to a proper accountability; and in such a case as that, I want the Secretary of the Interior (not the present one, as the Senator from Virginia has said, but any subsequent one,) to have the power of removal, independent of the chief.

Mr. FESSENDEN. Your bill does not accomplish that. He cannot act independently of the chief, as I understand the bill.

Mr. BROWN. I think he can. Certainly that was the design—that the chief shall have power to remove a man at his own will and that the Secretary may order him to do it.

Mr. FESSENDEN. Read the bill.

Mr. BROWN. If it does not express that, it is not as I intended. The language is, "and may be dismissed by the chief at his pleasure, or upon the order of the said Secretary." If it does not carry out the idea I have expressed, let it be amended.

Mr. FESSENDEN. It reads differently from what I supposed.

Mr. BROWN. The object was, as I said before, to accumulate responsibility on these men. The chief must be appointed by the President. The President is not always accessible to those who choose to complain. Besides, his mind is too much engaged about other things. Then the

whole execution of the law having been put, as I think, most properly under the control of the Secretary of the Interior, he being the only head of a Department that has anything to do with these local affairs, I thought it right that he should hear a complaint, even against a single guardsman, and on being satisfied that he was an improper officer, have power to order the chief to dismiss him, and then the chief would have no discretion about it. He may remove a man without consulting the Secretary, but is compelled to do it if the Secretary orders it to be done.

Mr. IVERSON. I shall vote for this bill, although I confess I do it with a great deal of reluctance. One of the grounds of my reluctance is that suggested by the honorable Senator from Tennessee; it is really holding out an inducement and encouragement to the city of Washington to neglect the duty paramount to that city to protect the lives and property of its citizens. After a while, the Federal Treasury will have to feed and clothe the citizens residing in Washington city. They call upon us to pave their streets, and we appropriate from two hundred to three hundred thousand dollars a year to pave the streets for the convenience of the people of Washington. They have called on us to expend two or three million dollars to furnish them with water. I voted for that, as differing from the ordinary appropriations. They called upon Congress, some years ago, to appropriate \$2,000,000 to relieve them from a mortgage to the Dutch; and they call upon us every session to appropriate thousands upon thousands of money for the convenience and use of the people who reside here.

Is that just? Shall the people in my State be called on to contribute their mite to protect the lives and property of the people of Washington when they have their own to protect? It seems to me that the old maxim of charity beginning at home ought first to be applied before they call upon Congress and the General Government for these large sums for their protection. My opinion is, that if you pass this bill, and raise these one hundred men for an auxiliary guard, you will never hear of another policeman employed by the corporate authorities of the city of Washington. They will throw the whole responsibility, the whole expense, and the whole burden on Congress to protect their property and their lives.

Now, sir, are they not bound to perform at least some of this service themselves? Are they not interested in the preservation of order in the city? Ought they not at least to pay some portion of the public burden which is imposed upon the country to protect them from the rowdism which exists here? I think they are; and yet it seems to me that the passage of this bill will have the effect of exonerating the citizens of Washington from all this expense and all this trouble. They will go on, step after step, and year after year, until finally it will become necessary for Congress, from the public Treasury, to appropriate money every year to buy food and clothing for all the poor people in Washington city. In fact, that has been already attempted. Two years ago a proposition was introduced here to expend a large amount of money to buy wood for the poor people of the city of Washington, having no more claims upon Congress for such an appropriation than the people of New York, Boston, or any other city in the United States. Because we have exclusive jurisdiction over the District of Columbia, must we appropriate money to build up Washington city, and put money into the pockets of the people of this city? It is wrong in principle; it is not founded in justice or propriety that the people of the United States, in every quarter of the country, should be called upon to promote the individual interests of the city of Washington.

But, sir, I have much more serious objections to this bill, although, as I said, I shall vote for it as a mere experiment. I do not believe it is going to do any good; or very little good, if any. You are going to raise an auxiliary guard of one hundred men, to protect the order and peace of this city, and where are they to come from? You are to take them from the very class of society that commit these depredations. You authorize the raising of one hundred men, and where will you get them? From the very lowest class; because no respectable gentleman will enlist in this auxiliary guard. You give them a salary of \$600, to be sure, but that is the lowest salary paid to

any operative or employe under this Government here. The very workmen who work about this Capitol get that much. How many respectable men are going to engage in this menial service, to sit up all night and take care of the lives and property of citizens, on a salary of \$600? Not a solitary respectable citizen will ever engage in it. You will have to draw the men from that very class of society who commit the depredations against which you are about to provide this guard—men who have associations with rowdies; men who have family connections with them; men who are of the same tastes and of the same grade, who sympathize with them, and instead of enforcing law and order, will be more apt to screen the depredators from punishment, and perhaps commit violations of law themselves.

Why, sir, it was but the other night that two men, near your Capitol, were knocked down by some ruffians and nearly killed. It is said one of them now lies at the point of death. Only the day before yesterday it leaked out that one of the men who committed the outrage was one of the police of this city. Another policeman saw the occurrence; knew who committed the depredation, and yet has, up to this time, for more than ten days, perhaps two weeks, refrained from disclosing the facts, because, as he stated before the magistrate, he was afraid that his life would be in danger if he developed the facts.

The city police, the auxiliary guard you are about to establish, will be part and parcel of the very rowdies against whose depredations you wish to guard; and what effect will that have? I have no doubt that many of the nightly acts of violence which have been committed in this city, and against which we protest, have been committed by this very class of individuals, who are doing it for the purpose of bringing about this very bill, in order to provide a place for themselves upon this auxiliary guard. They commit these depredations to urge upon Congress the necessity of raising an auxiliary guard of one hundred men, that they themselves may get employment at the public expense. I have no doubt that many of these depredations are committed for that purpose and with that object, and the very men whom you employ will be those persons who are themselves guilty of these horrible transactions. If they are not guilty themselves, they have cousins and brothers and uncles and friends and associates who are constantly committing them, and they will never step forward to execute the law as it ought to be executed.

Sir, there is but one way, in my opinion, in which you can ever have peace and order in the city of Washington, and that is to make it a military station. Place here three, or four, or five hundred regular United States troops, and use them as an auxiliary guard or police force—men who have no associations with the rabble of the city of Washington—men who have no connections with them, who will be kept aloof, under the discipline of their officers, from associations with the rabble who commit these depredations. When you have such a force you may expect order and peace in the city, and never before, in my opinion. I do not believe much good is coming out of this auxiliary guard, though I will vote for it as a mere experiment.

Mr. HOUSTON. This subject is a new one to me, and I have not had an opportunity to look into the bill particularly; but I understand the object to be the improvement and regulation of the police of the city of Washington. If I am correctly informed, it is very important to the security, and good order, and well-being, of the people here, that such a measure should be adopted. The gentlemen who have spoken in opposition to it have presented objections to the adoption of the measure; but they have not suggested a remedy that seems to meet the occasion. The honorable gentleman from Georgia says that when this force is organized, doubtless the very persons who would be selected are those who have contrived and produced the present condition of things, and it is a very deplorable one. But in the organization of the police it is not necessary that persons should be selected from the city of Washington, who are identified, either by relationship or association, with those who have been implicated in the disorders that have taken place. They may be selected from the adjacent country. The inducement will be sufficient to bring persons who are

temperate, regular in their habits, and not identified with any of the disorders of this place, and let them know that they have a certain amount of character to maintain by their vigilance, their activity, and their fidelity, and you may organize a corps that will be very efficient, and become indispensably necessary. We all admit, that for the irregularities, the acts of violence, and other disorders, there ought to be a remedy; and it is a charge upon the people in Washington that it is necessary for Congress to make provision to employ a police force for the city of Washington. It is peculiarly situated and different from all other cities of the Union.

There is no other city that is extended over as vast an area as Washington in proportion to its population. It is in the suburbs and the streets remote from business that these outrages are perpetrated. Washington city is not a commercial place, and the men who resort here are not of the character for thrift and enterprise that are to be found in other cities. They are drawn here by various influences and circumstances. They are generally employes—certainly a large portion of them—of the Government; and they have not the means of contributing in the same proportion that the same number of inhabitants, if business men, would have. I grant you that they are not able to furnish a police, and make the improvements necessary not only to the general comforts of a city on so extended a scale; but it is very important that the members of Congress and the officers of the Government who resort here should have conveniences, some of which have been stated, as water supplies and other things necessary. The citizens cannot incur this expense. I do not think the citizens here ought to be reproached because they have needed wood for the comfort of the poor in winter, in extremely bad weather, when visitations of Providence have come upon the country. It seems to me that we ought to have some sympathy with the people of this District; and if we, from our connection with the Government, are more fortunate than they are, it ought not to exclude them from a certain degree of consideration and sympathy on our part.

It reminds me of a circumstance that took place when I was talking to a tribe of poor Indians, at Austin, in Texas. They were Lepas, or Muscalero Indians. They were charged with pilfering, robbing occasionally, and I was remonstrating against it, and inculcating the necessity or propriety for their own individual benefit, that they should assume a local habitation and a name. They were wandering, like Arabs, from place to place, encamping at different points. When game became scarce they abandoned their old encampment and went to another. They considered that it was necessary to remove in this way, and objected to having a local habitation. They said that when their deity was angry with them and called some person from among them, it was not good to stay there any longer lest some other person should die. They thought the best plan was to keep moving. I showed them, as I thought very conclusively, that the comforts of their wives and children would be greatly improved if they would build little huts and have spaces of ground around them for cultivation, where they could have domestic animals, and if game was scarce they would have the means of subsistence. After one of them had reflected for some length of time, he said to me, "you may tell the chief that I have thought of all he has said to me, and the truth is this at last: I believe that the white man's God is a very rich God, and he gives the white man everything he wants; but the Indian's God is a very poor God and he has nothing to give us, and the Indians have got nothing. That," said he, "is the difference between the white man and the Indian." It is pretty much so with legislators that come here; they have everything that is comfortable, and they do not think of the necessities of the people who have not got as rich a God as they have.

Mr. IVERSON. Will the Senator allow me to interrupt him for a moment?

Mr. HOUSTON. Certainly.

Mr. IVERSON. On this subject I beg leave to reply to the Senator from Texas, that I think the riches are on the other side. There is no city, perhaps, in the world, in which, for the population, so much money is expended out of the public Treasury as in the city of Washington. At the

last session of Congress there were over four million dollars appropriated, to be expended within twelve months, in the District of Columbia, independent of the pay of members of Congress. Four million dollars, besides the pay of the employes of the Government, were appropriated to be expended within the District of Columbia, within twelve months; and then, when you come to consider the money spent here by members of Congress, by strangers who visit the city on public business, and by the clerks and other officers of the Government, you find that there is a vast amount of money expended here for the benefit of the resident inhabitants of the city of Washington. If they are not able, with all this vast expenditure of money among them, this immense circulation of coin amongst them, to keep up a police for the protection of their own citizens from the depredations of rowdies and cut-throats, it seems to me that the seat of Government ought to be removed to some other point. The very reason why the people of Washington do not furnish an efficient police is, because they expect Congress to do it. We already employ, I understand, an auxiliary guard of thirty men, paid by the Government of the United States; and the city of Washington employs what it calls a police—a very inefficient one, I confess; but it employs a police which, added to the thirty auxiliary guardsmen, ought to be sufficient, if they are efficient men, to protect the lives and property and good order of the city; but that is not accomplished. The reason why, perhaps, they do not employ an efficient police, such a one as is necessary and proper, to protect the lives and property of the people is, because they look to Congress to do it for them; and the very inefficiency, the very neglect on the part of the public authorities here grows out of this expectation that Congress is to pass this bill and provide a police for them at the expense of the Government of the United States. Here is a call on Congress to appropriate \$75,000 or \$80,000 a year, out of the public Treasury, to preserve the peace and good order of the city of Washington, and to protect the lives and property of its own citizens, who are bound by every principle of honor and propriety to protect themselves.

Mr. BROWN. My friend will allow me, at that point—

Mr. IVERSON. The Senator from Texas is entitled to the floor. He yielded to me.

Mr. BROWN. The Senator from Texas will allow me a moment. The Senator from Georgia speaks of this as though it were entirely new. This policy of imposing upon the General Government a portion of the duty of guarding this city is nothing new at all. By this bill you are only increasing a force which has existed here for a long time. The report shows how many men you have on this guard now—

Mr. IVERSON. I beg leave to ask the Senator from Mississippi—

Mr. HOUSTON. I am not willing to refer this controversy to the gentlemen themselves; I have a hand in it. [Laughter.] I believe I shall be ruled out, if I do not assert my claim. I really thought that the Senator from Georgia had risen to propound a question to me, or to correct some misapprehension of mine; and I had no idea that he rose with the deliberate intention of injecting a speech into the middle of mine. [Laughter.] He has effectually done it; and I shall proceed now, and I hope the gentlemen will wait until I have concluded before they interrupt me again. I seldom occupy a place on the floor as an orator, and I do not like to be interrupted in a speech, though I am willing to be catechised on all occasions.

But, Mr. President, I was going on to remark, in extenuation of the imputed offenses of the people here, that I did not think it was anything unusual for them to ask for assistance from Congress. No one supposes that they are capable of making the necessary improvements to make this place inhabitable, pleasant, or comfortable; or that they have the means to do it. The honorable Senator from Georgia speaks of the amount of money appropriated for the pay of the Government employes here. That is in compensation for their labor. They have their families to sustain out of it. They are non-residents, you may say; or, if you please, they are not generally property owners who receive these large sums. The employes

of the Government here receive barely a pittance sufficient to subsist them and their families to a limited extent. They have no profusion of wealth to adorn, beautify, and decorate this city—not by any means. It is necessary that the Government should do it; and it is proper, befitting the honor of the nation. Unlike other cities, a large portion of the property here is exempt from taxation, because it belongs to the General Government. If the corporation of Washington were privileged to collect taxes from the Government upon its property erected here according to its value, they would be very well able to defray all the contingent expenses of the corporation; but they have not this privilege, and therefore they are beaten down. They have asked for nothing but what was necessary for the improvement of the city; and, if the employes of the Government have been required, and it has taken hundreds of millions to erect the public buildings, that does not make the community a wealthy one, and does not show that it is able to make all the improvements essential to the city.

The remedy suggested by the gentleman from Georgia, and the only one that struck me with great force, was, that we should have several hundred men of the regular army quartered in this city. Sir, I hope the youngest generations descending from us will never see a military guard in the city of Washington. It will never be here until liberty is crushed. Sir, I want no pretorian guards, no janizaries here. Give us guards of civilians; let them be alert, adroit, select men, who are capable of attending to their duty; and if it is an objection that men are selected here who are implicated in the disorders that have taken place, and have not character, appoint a responsible officer at the head, and if they are faulty, hold him accountable. But a military guard for such a purpose, I cannot agree to. What would be the character of such a guard? Of what men generally is your regular Army composed? Are they men who would be suitable guardians of the security and rights of citizens? Would they be beyond the temptations and allurements of vice, cupidity, and avarice? Are they the men to whose keeping you would be willing to confide the lives, the honor, the security of our citizens? Would you have individuals brought from other cities for this duty, not more moral and circumspect in their conduct, or of higher-toned honor, than citizens who could be selected here? The opportunities of gratifying thievish and pilfering inclinations are greater in other States than in the city of Washington. If you bring regular troops here for this purpose, they will be composed of persons from other cities; for it is there that the regular Army is picked up; composed of persons many of whom are not citizens of the United States, and have no sympathies with us.

I think the plan suggested by the honorable chairman of the Committee on the District of Columbia, who has properly matured it, who has considered it on former occasions as well as now, is the best plan that can be selected. Perhaps it is susceptible of amendment. If so, let us make the amendments that are necessary. The gentlemen who have been familiar with the police of cities, and who have had the misfortune to be reared under the restricted influences of cities, are the most competent persons to make the necessary suggestions of those amendments that are necessary to the perfection of this bill, if it is not now perfect.

I will vote for any bill that has for its object the improvement of the condition of the police of this city, so as to give security to person and property, suppress disorder, and put down mob violence. I will vote for any bill that seems to me to attain that object. I hope that some remedy will be found for the existing condition of things. I do not take the expense into account at all. It is true that the Treasury is poor now, and we are rather hard pinched for money. This results from having paid some of our debts before they were due. Within the last two years, I think there was great difficulty here on account of the apprehended dangers which were to result from a surplus in the Treasury. We were beset by the business men of New York and other cities to disgorge the Treasury of its vast surplus, so as to give a spring to business and sustain commercial transactions. The money was thrown into circulation, and I do not think the community has

profited by it; for I believe the crash came when our money got all out of the Treasury. I am inclined to think that it is a good plan to keep a little there. My last few years' experience, at least, has inculcated the lesson that there is no danger but an emergency will arise to relieve the Treasury whenever it is necessary to deplete it. I trust we shall proceed immediately to adopt some plan that will afford a remedy for the disorders in Washington city. Let us establish an efficient police, that will give security to persons and property. Let the officer at its head be responsible for the preservation and maintenance of peace. If he does not secure it, let him pay the penalty. I will vote for any measure that tends to secure this result.

Mr. HALE. Mr. President, I thought, when the bill was introduced, that I should vote for it. I do not know but that I may do so now; but if I do, it will be with great reluctance, for various reasons, one of which is, that I have not confidence that any good will come out of it, because all the money we have appropriated heretofore, which is about twenty thousand dollars a year, for the police of the city of Washington, has been misapplied, and has not been spent for the purposes for which it was appropriated. I will make myself a little plain. Eight or ten years ago, I think, the city of Washington was as well regulated, so far as its police was concerned, as any city in the Union. You had at the head of the auxiliary guard, a police force paid by the Government, one of the most competent, faithful, honest, and efficient officers that I think was to be found in the police in any city in these United States, Captain Goddard. It turned out that there came about a revolution in the politics of the city, and this most faithful and efficient officer, who did not happen to coincide with the politics of the majority of the city, was turned out to make way for a political favorite of the party in power. From that day to this, the thing has run down, until this has now got to be the worst governed city on the face of the earth—probably the very worst.

Mr. BROWN. My friend will allow me to interrupt him, as I know he does not want to run into any historical error. When Captain Goddard was chief of police here, the police were appointed as this bill provides. Congress very improperly and unwisely transferred the appointment of the auxiliary guard, chief and all, to the Mayor of the city. It was in that way that he was turned out. This is a proposition to correct that error.

Mr. HALE. I know that. That is what I said. I did not say who did it. I said there was a political revolution in this city, and because Captain Goddard's politics did not happen to coincide with the majority, he was turned out—of course by the city authorities, and your \$20,000 that you appropriated every year to preserve the peace of the city, was diverted from its proper and legitimate course by the city government, and made to reward political partisans, and from that day to this it has been growing worse and worse.

This bill proposes to remedy the evil in the manner suggested by the honorable Senator from Mississippi, that is, by transferring the police from the Mayor to the President. I do not know but that it may be a great improvement. I hope it will. But I want to say here that, unless we can, by some means or other, take this police out of the politics of this city and this country, and appoint men, and keep them in because they are fit for their place, you may have one hundred or two hundred men, and appropriate \$75,000 or \$175,000, and you will not remedy the difficulty at all. There is one source of the difficulty; and it is so all over the city. You have here the worst prisons in the whole country, and, I think, on the face of the earth—the worst set of prisons. What is the reason? Because when you go to appoint a warden, or a keeper, you do not look for a man that is fit for the place; it is not inquired of him whether he knows anything about it; it would be an objection to him if he knew much about it; but the place is given as a reward to some political hack. You may make this bill as perfect as human wisdom can make it; but if it falls into the same administration that your city police has, it will do no sort of good. If Captain Goddard had been let alone, and if the city government had made police, instead of politics, their business in

spending the money you have appropriated, there would have been none of these difficulties, and we should not be reduced to the situation we are now in.

I am not certain that things have come to that pass, when the appropriate question is whether the seat of Government ought not to be removed? I say if we have got into such a community that life and property are not safe, and that a man cannot walk the streets except at the risk of running the gauntlet of assassination, the question is whether the seat of Government ought not to be removed; and I would not weigh equal to the small dust in the balance, the expenditures we have been at for the public buildings here in the city, for the whole expense of all the public buildings here does not amount to the annual increase of the Government expenditures in a single year, in President Pierce's administration. It is a mere flea-bite; it is not worth being thought of for a second; and I would sacrifice all this instantly, if we have come to that pass that we have got into a community where life and property are not safe. I say that the proper inquiry will be whether the proper remedy is not to remove the seat of Government to a civilized portion of the country, and to a place where the municipal authorities, if they cannot enforce the law, will, at least, make an attempt to enforce the law.

I know that these remarks are not exactly pertinent to the single question under consideration, which is the amendment of the Senator from Virginia; but some gentlemen have undertaken to speak of the causes of the state of things around us, and I may be indulged in a word on that point. Sir, it is a part of the general disregard of law which prevails all over the country, in high and low. As has been said, when you observe law disregarded and trampled upon in high places, you cannot expect those that are in the lower grades to observe it. I thought of this years ago, and I said it. I have thought of it when I have seen your Federal and your State judiciary, by the strong hand of power, trampling down the rights that were reserved to others and belonged to others—I mean that gross judicial usurpation which has practically annihilated trial by jury in several of the States, and in several of the judicial circuits of the United States. When I have seen that lawlessness upon the bench, I have thought there was an excuse and an apology for the ruffian outside of the court-house, when he perceived law and right trampled upon by those whose sacred duty it was to administer the law.

I have not a word to say about the individual who holds the highest place in the criminal court in this District; but I will say this about his administration: I believe it is utterly inefficient. I have been told by gentlemen who have been conversant with the practice here, (and gentlemen whose names I might give, if I saw proper, but I shall not do so unless I am urged a little harder than I am now,) that one of the great causes of the lawlessness and violence that reign in the streets of this city is the want of a prompt, faithful, efficient, and energetic administration of the criminal laws as it exists upon your statute-book; and I believe it. If I vote for this bill, I shall vote against the bill to raise the judge's salary.

I think there is great force in the suggestion made by the honorable Senator from Mississippi; and I do not know but what that consideration will finally induce me to vote for this bill. It is, that this being the Federal capital, the Federal Government owes it to those whose duties compel them to be here, to give them protection. But, sir, it is a reproach to Congress, it is a reproach to the city, it is a reproach to the country and to the Government, and the civilized world will take notice of it, that to-day, past the middle of the nineteenth century, one of the most lawless places, where violence stalks abroad unchallenged and unrebuked, is the very seat of your Federal Government, where your Federal Legislature sit to make laws, your Federal judiciary to expound them, and your Federal Executive to carry them into execution. It is a most curious anomaly, and one that must provoke the censure of Christendom and of the whole civilized world, to see the state of things which is apparent and manifest to everybody. I very much doubt whether the remedy is to be found in this bill; and I reserve to myself the question whether I shall finally vote for it. I think I shall; but I

would vote for a bill to remove the seat of Government, I think, quite as readily.

Mr. CRITTENDEN. Mr. President, I think there are peculiar circumstances in this case, which require from us, as a matter of duty, that we should provide for an adequate and efficient police in this city, so as to preserve the peace and secure the lives and property of individuals. The very fact of our session here draws together great multitudes of people, good and bad. We are, therefore, instrumental, to some extent, in producing the very evils which are now upon us. This District is under our unlimited control, I may almost say. We are the rulers and the governors of this city, and it is our business and our duty so to rule it as to secure to every one the peaceable enjoyment of his rights. We have failed to do that, and we are for throwing the blame now upon the city municipal authorities. We have constituted them, with the hope that they would afford sufficient protection. They have failed to do so. Are we at liberty, on that failure, to fold our arms and say, "We have done all that can be required of us; the city of Washington requires too much of us; the city of Washington ought to do more than it has done?" Are we to make these excuses, and let the evil go on increasing from day to day and from night to night? No, sir. It is as much our duty as it is our duty to govern any portion of the territories of the United States, to govern this District, so that peace and security shall be the result. From what I have heard, too, I must concur entirely with the gentlemen who have stated the great and extraordinary prevalence of crime now in this city, so that there is no security of person. Robberies are the business of every night almost; and murders or violent assaults mark every night. It ought to be suppressed—entirely and utterly suppressed.

But now, sir, how are you going to do it? I am willing that Congress shall employ a force; but are we to employ this sort of force and place it under the Government, as this bill does? You appoint a chief at \$2,000, you appoint a captain at \$1,200, you appoint four lieutenants at \$800 per annum, to command one hundred men. I do not object to that organization, so far as it regards officers. There ought to be officers to increase the responsibility, and to head all the necessary force that may be sent out in the night to watch and guard the city and all its inhabitants. There are, though, to be one hundred men selected, and each of them paid \$600 a year. These men are to be selected by the chief, with the approval of the Secretary of the Interior, and the President is, in fact, to appoint all the officers. Now, sir, what is this but creating one hundred and six offices in the city of Washington; and all to be bestowed by the President of the United States and his Secretary of the Interior; and of the one hundred every man liable to be dismissed at any time the Secretary of the Interior thinks proper? The President can control all that force, for he can control his Secretary of the Interior; and he and the Secretary of the Interior have every man of this guard at their sovereign will and disposal every day and night in the year. Does that promise security? Do gentlemen feel security in that? You make the President and the Secretary of the Interior the masters of this city. They may preserve its tranquility, but what sort of a tranquility will it be? That tranquility which freemen are entitled to enjoy? The security which our Constitution and our laws promise to the citizens? Is it American freedom? Is it American security and American liberty? It makes the Chief Magistrate the despot of the city, if he pleases to be so. I desire not to be understood as having any allusion in these remarks to the President that now is, or to any one who may fill that high position. I speak upon principle.

This city of Washington, like every other city in the Union, is made up of parties of various politics. If I am rightly informed, there is one class of men in this city who entertain what are called American principles, and belong to what is called the American party. If I understand aright, of the class so called every one of them is hunted out of every office in this District, because of his opinions. I understand that at the last election held for municipal officers in this city, the military forces were called out to prevent these contending parties from actual violence. Where

is the remedy to come from? Here are one hundred Federal officers to be raised. That is what they are. You talk about a chief, captain, lieutenants, and you come down, then, to the one hundred men. They are Federal officers, every man of them, call them by what name you will, holding their offices at the will of the President of the United States.

It is but very seldom that we have seen the military of this country allowed to approach the places of election. They have not been regarded generally in the feelings and opinions of the citizens of this country as the safest guardians to whom the ballot-box is to be intrusted. The cartridge-box is better fitted for them. The ballot-box has been supposed to be safer in the hands of citizens. Where the Government itself happens to be warmly enlisted against any particular party, these guards will come entirely from their adversaries. Any little uproar, any little violation of the peace, or any disorder at the polls, will furnish a pretext, if not for calling out the military—and it is not hard to find pretexts for that—at least for calling out this civil soldiery, this little Prætorian guard that occupies the city of Washington. It will be an easy and everyday matter; and we shall have not only the ordinary guarantees for our rights, but we shall have the imprimatur of the military stamped upon them! That is not my sense of American rights.

I cannot vote for this bill, I will not vote for it, unless the hands of the President and the hands of his Secretary are taken off it entirely. It is to guard the city of Washington. It is municipal in its character. Let the Vice President appoint them, or let the Speakers of the two Houses appoint them. It seems, from the argument of gentlemen, that Government officers are in danger. We belong to the Government. Who is better qualified to make this appointment than the heads of the two Houses? Let the appointment be given to anybody but the President of the United States—anybody but the chief of the general Executive Government. That is what I want, but I have no allusion to this President, or that President, or any President, present or to come. I oppose it upon principle.

I remember when the original bill for creating the auxiliary guard was before this House, I had the honor of a seat here then. It was framed as this bill is, so far as regards the appointment of officers. It was given to the President. It was but thirty men I believe. I objected to it at that time, and it was upon that objection that the appointment as it was proposed to be given to the President was taken away and the appointment made entirely municipal, given, I believe, to the Mayor of the city. But that bill will show, by a reference to the record, that it first gave the appointment to the President, and the Senate disagreed to it for that reason, and I made the objection then, as I do now. Sir, the little corps of guides, twenty-five in number, was expanded in the course of a few years into the imperial guard of France, amounting, I believe, at its greatest number, to fifty thousand men. That corps of guides was the model. That corps of guides was enlarged and expanded and became the mighty and magnificent imperial guard of France.

The evil is a great one which is now to be corrected, I admit; but it is exactly in such glaring and flagrant instances that we are apt, in the impetuosity of our feelings, to go beyond strict principles, to overlook all other dangers and all other consequences, and look to nothing but the evil that is to be suppressed. I believe these one hundred men would be efficient in protecting the city, and driving out those villains who now molest it. In any other form than this, I will vote for it. It is not necessary to the President to be connected with this matter; it is rather derogatory to the President. It is rather making him the ruler of cities, like giving him the appointment of high constable of the city. The President can derive no honor from it. There may be danger; there may be mischief in it, and I do not know how far the time may be off when certain proscribed members of a Congress may be placed under the particular vigilance of this auxiliary presidential guard. I cannot vote for it, unless gentlemen can find out some other mode of appointment, and will take this matter entirely out of the hands of the President and Secretary of the Interior. Let it be municipal in its character, or let the appoint-

ments be vested in some other power than that provided by the bill.

Mr. BROWN. I am sorry to find my friend from Kentucky—and when I call him friend he knows I use the word in no light sense—opposed to this bill, because I know his power in the Senate. I propose to answer some of his objections; and I trust I shall have his attention while I do so. He complains that the military were called out during the last summer to keep the peace between contending parties, and seems to apprehend that they were called out as against the American party, of which he is a member. I believe that, to some extent, is true; and that furnished one of the strong reasons, allow me to say to the Senator from Kentucky, for bringing in this bill. That an armed soldiery should be paraded in the streets of the Federal capital, to keep the peace, was to me, in my far-off home in Mississippi, one of the most distasteful, not to call it by a stronger name, pieces of intelligence that I ever received. For the very reason the Senator assigns for opposing the bill, I justified myself in bringing it in, that you should have a police force proper, sufficient to keep the peace, so that hereafter there should be no necessity for bringing the military power of the Government into action.

But the Senator from Kentucky objects to the appointment of the chief of this police force by the President of the United States. If you have such an officer the appointing power must be somewhere. If my friend, with all his experience, had pointed out some other mode less objectionable to him through which you could get this officer, I should probably have accepted it. I never cared to impose the duty on the President, but it had to rest somewhere. Suppose you allow the people of Washington to elect him at the ballot-box, will you get efficiency then? Suppose you allow any other Federal officer below the dignity of President to make the appointment, will you get it then? Who shall appoint him? You must have a head to this police force. How are you to get him? After looking all over the field, the committee came to the conclusion that the best way was to allow the President to appoint him; not because the President desired to do it, nor because we desired to have him do it, but because it seemed to us that you could get him more readily, and more free from objection in that way than in any other. If he be elected by the people here, the very marauders, house-breakers, assassins, and murderers, who perpetrate these outrages will go to the ballot-box, and perhaps elect your chief of the guard. That will not do. I wanted to take the whole influence and power of this police force outside of the District, and intrust it to hands that would have no motive but to use it for the highest and best purposes; but if it be suggested that the chief of police can be more properly appointed by anybody else than the President, I will hear the suggestion, and adopt it, if it strikes me as being right; but I know of no other way of obtaining him.

Then it is objected that power is given to the Secretary of the Interior. Well, sir, who else would you give it to? Ought not the powers given in the bill to be intrusted to somebody? Who shall have them? Where else would the Senator from Kentucky locate them? I want responsibility, and responsibility outside of the District of Columbia. I want responsibility to the Federal Government. I want the scoundrels who parade your streets, dagger in hand, to be assured that the whole power of this Government is to be employed to put them down, cost what it may, in money or in physical force, that they shall be driven from the purlieus of the capital.

I am not willing to trust the execution of this law to anybody elected by the people of Washington. It is a Federal law. I would have it enforced by Federal authority, with the whole power of the Government to back it up. It was for that reason that the bill was so framed as to give the appointment of the chief to the President, and the carrying out of the details of it to the Secretary of the Interior. Though the present Secretary comes from my State, and is my honored and valued friend, he was not introduced into this bill on that account. If it be thought that any other Federal officer, not connected with the District, had better be intrusted with the execution of this law, say so, and I will allow it. Never a word passed between the present honored head of that

Department and myself in reference to this bill—not one word, sir. I doubt if he even knows that you propose to impose these obligations upon him. Certainly I never told him, and I dare say he has never seen the bill. The duty is imposed upon him because he is put at the head of all affairs which relate exclusively to the interior concerns of the Government.

But the Senator from Kentucky says that when the original proposition was first brought into Congress many years ago to create this auxiliary guard, he objected to allowing the President of the United States to appoint the head of it. Nevertheless, it was so passed, as I understand the history of it. Afterwards it was changed, and the appointment of the chief of the guard was given to the Mayor of the city; and from that day forward, the efficiency of the guard has dwindled, and dwindled, and dwindled, until it has absolutely become contemptible, and stinks in the nostrils of every citizen of Washington and the whole country. I undertake to say it is the most inefficient, contemptible, and disgraceful guard that ever watched over the peace of any city, and has been made so because it is mixed up in your municipal elections. The policeman, as the report states, is expected to be the guard of his own candidate at the ballot-box, and not the guard of the peace, happiness, prosperity, and security of the city. If you intend to have an efficient police force here paid by the Government, then put it beyond city influence; let neither the Mayor nor the Councils have anything to do with it. Make it a Federal police.

I gather from the general scope of my honorable friend's speech, that while he thought this police would be efficient, and while he thought it eminently necessary for the purposes for which it was designed, still he would not go for it because the bill conferred patronage in the wrong direction. I have already said, if that be his opinion, pray tell me where else you will give the patronage, and I will give it there? I am not looking to it as a question of patronage. But my friend will excuse me for saying that he and I put a different estimate on the important question of keeping the peace in this city, protecting property from the incendiary's torch, and life from the assassin's dagger. He would expose all this, leave houses to be fired at night, and lives to be taken away as men walk the streets, because, forsooth, patronage may be intrusted to improper hands! I care not who has the appointment of the chief. Give it to anybody. Elect him by the Senate; elect him by the House of Representatives; give the appointment to the Vice President or the Speaker—give him to anybody: I care not who has it. It is no design to give the President the appointment of another officer. The bill proposes to give it to him simply because he, of all men, seemed to the committee to be the most proper man to make such an appointment; and it gives to the Senate of the United States a control over the nomination.

Now, let me say to gentlemen on the other side, Americans and Republicans, that if the President sends a mere partisan nomination here, I pledge myself before the Senate and the world to vote for the rejection of it, and I think I can say as much for nine tenths of all the gentlemen on this side of the House. The committee of which I am chairman, which ordered me to bring this bill here, adopted an informal resolution that in case the bill passed, we would, as a committee, wait on the President and tell him that this bill was not in any sense to be executed as a mere party measure; that it was a bill intended for the security of life and property in Washington, and that it must be executed independent of all party considerations. If Mr. Goddard, whose name has been introduced into this debate, be the most proper man for chief marshal, I hope the President will appoint him; and if he be not, I hope he will select some one else; and if he cannot find a proper man in Washington, I feel perfectly justified in assuring Senators that he will go beyond the limits of Washington for a chief; he will go to New York, or Philadelphia, or Boston, and if a proper chief cannot be found there he may even go beyond the limits of the United States, though that enunciation, I dare say, would offend my friend from Kentucky. The imposition of a foreigner, I suppose, would not be distasteful to him; but I care not where he gets the man. The friends

of the measure expect it to be executed in the spirit in which it was brought here, that proper men are to be selected, without any sort of reference to their politics or to the place of their birth.

Mr. DOOLITTLE. I do not understand for what length of time the chief of police is to hold his office by the terms of the bill.

Mr. BROWN. No limitation is imposed in the bill; but, under a general law, he would go out of office at the end of four years, which is the limitation of the term of all officers.

Mr. DOOLITTLE. I do not rise for the purpose of discussing the bill at length, but simply to call the attention of the Senate to this clause of the Constitution:

"The Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

I think there can be no doubt that this is an officer of the United States, being an officer created by a law of Congress; and therefore the appointing power under the Constitution must necessarily be vested in the President, by and with the advice and consent of the Senate; or in the President alone, or in the courts of law, or in the head of a Department. A suggestion that the officer be chosen by the Senate and the House of Representatives, or be appointed by the Vice President and the Speaker of the House of Representatives, would, under the Constitution, be improper.

The PRESIDING OFFICER, (Mr. BIGGS in the chair.) The question before the Senate is on the amendment proposed by the Senator from Virginia.

Mr. HUNTER. I propose to modify the amendment so as simply to strike out from the third section the words, "the Mayor of Washington." My purpose is, as this is to be a force of the Federal Government, that it shall be ruled entirely by the Federal authorities.

Mr. BROWN. I am not particular whether that provision be stricken out or not, but I desire simply to assign the reason why it was inserted, and I hope the Senate will recollect it when they vote. That clause was put in because there will necessarily be a double police—this auxiliary guard, as it is called, and the day police. The Mayor of the city does appoint the day police, and he makes regulations for them; and I was fearful that unless he had something to say in fixing the regulations for the night police, there might be some conflict in the regulations for the two forces, which might work badly. As, under the bill, he had nothing to do, except simply to perform that little duty of helping to make the regulations for the force, I thought his counsels had better be taken on that ground, and that alone.

Mr. PUGH. Do I understand that this bill is purely for a night watch? I think you had better take them for the whole twenty-four hours. If you give them two dollars a day, they can very well afford to do it.

Mr. BROWN. If you make it a day watch and a night watch both, the danger suggested by the Senator from Georgia may occur that the city will withdraw its police entirely. Heretofore, let Senators understand, the city has guarded the day and the General Government the night, and we do not propose to change that regulation; but we propose, at the proper time, to introduce an amendment, making the auxiliary guard specifically a night watch, liable to be called upon for day service, in case of emergency.

Mr. CRITTENDEN. I would suggest to the Senator from Mississippi whether the power of appointing the chief had not better be vested in the chief judge of the District of Columbia. I think that would be the most proper depository of it. It is the province of the judicial department in one sense to keep order and preserve the peace, and I should be better satisfied if the power of appointment were given to the courts. I should have no objection to the bill if I were perfectly sure that it would always be executed in the spirit in which I know my friend from Mississippi offers it. But it is liable to abuse. I think it would be wisest and best, in legislating on this subject, if we can do so, to derive all the benefit possible from this bill, while at the same time we avoid all dangers of abuse. It is from no personal objection to the President, or any head of a Department, but on principle, that I prefer that the appointment should be made by another officer;

and I would suggest the chief judge of the District.

Mr. BROWN. If Senators will allow the vote to be taken on the present amendment, I will reply to the suggestion of my friend from Kentucky.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Virginia as modified.

The amendment was rejected.

Mr. BROWN. Now, I will reply to the Senator from Kentucky, and state why I should prefer the bill standing as it is, to having the appointment of this officer devolved on any of the judges here—even the chief judge of the circuit court. I hope the chief of police will be not only a man of character, but one who will feel the dignity of his position, on account of the source from which he receives it—not a man who will be above his business, but one who will feel that he is a trusted officer of the Government; that he has not only been appointed by the President, but that he has been approved by the Senate; that he is an officer in commission, a man of some consequence. I want him to feel the full degree of responsibility that is devolved upon him. I want him to feel that Congress, in passing this bill, and making this provision for his appointment, has not been acting idly and without full consideration of what it is doing. If he gets his appointment from one of the judges, he will be like the clerk of a court; he will do things by rote, by routine; he will do very well while you are watching him; but I am afraid he will not feel the same degree of responsibility to the public at large, and hardly to himself, that he would if he got his appointment in the manner pointed out by this bill. If I thought the mode suggested by the Senator from Kentucky would procure us quite as efficient an officer, I would accept it; but I do not think it will. As I said before, I want the chief of the guard, when he is appointed, to feel that he is a man of some consequence; that the Senate of the United States has passed upon him and determined that he was the right sort of man for this position. Then I shall hope for the highest possible degree of efficiency that you can get in such a man. I cannot, for that reason, accede to the suggestion.

Mr. HUNTER. I would suggest to the Senator from Mississippi that I think he has one officer too many here, which adds unnecessarily to the expense. What is the necessity for this chief of police? Why will not a captain answer?

Mr. BROWN. He will not, for the reason that the chief of police ought to be stationary, except on very extraordinary occasions, like the mayor of a city, so that every one can always know where to find him, and not have to travel about over a vast city like this, from Georgetown to the Barracks, and from the Navy Yard to the Potomac bridge, to find the chief. He ought to have an office at a stated place, and be there during stated hours. The captain of the police, on the other hand, ought to be a man pursuing his way through the city constantly, looking everywhere, attending to the wants of the city everywhere. I think, myself, that all these officers are necessary, and I cannot consent to omit any of them. At the suggestion of the honorable Senator from Maine, [Mr. FESSENDEN,] I propose to amend the bill in line of the first section, by adding after "to be paid monthly," the words "to serve during the night, and in the day time when specially ordered to do so." There is a blank in the eighth section—

Mr. FESSENDEN. Before the blank is filled, I wish to increase the sum appropriated for contingencies. It is now \$5,000. I move to make it \$10,000. The amendment is in section four.

Mr. BROWN. I shall not oppose that amendment; but it is proper that I should explain why we put in that sum, and the purpose of putting it there. We put in \$5,000, being a little distrustful at the time whether the sum was large enough; but we did not want, upon a new bill of this sort, to crowd appropriations to an extent which might possibly destroy it in the estimation of some of its friends. The appropriation is really a secret service fund. It is called a contingent fund in the bill. What the real object is I may state here. It was not so expressed in the bill, because it did not seem right to be using that sort of language in an act of Congress. The object of the money is to enable the police authorities to em-

ploy detectives, and when villains congregate in the city, to employ secret men, not with uniforms or badges, but men who can be relied upon to go out into the community and look after them, to bring men here even from other cities, to detect and expose them—that is the object of it. Five thousand dollars we thought, for the first, would be sufficient for that purpose. We did not know how it was going to work here. It may be that not a dollar of it will ever be used; it may be that the sum is not large enough. On discussion in the committee, we thought \$5,000 would do. If the Senate prefer \$10,000, very well. I do not think, myself, there is any risk to run in voting for it, because it will not be used unless there be a necessity for using it. If there be a necessity for using more than \$5,000, a larger sum ought to be voted.

The amendment was agreed to.

Mr. BROWN. I now propose to fill the blank in line three of the eighth section of the bill with the words "\$75,000," and I will explain it while I am up. The section will then read:

That the sum of money necessary to carry this act into effect, not to exceed \$75,000, be, and the same hereby is, appropriated.

The sum is made up in this way: For chief of police, \$2,000; one captain, \$1,200; four lieutenants, at \$800 each, \$3,200; one hundred men, at \$600 each, \$60,000; making \$66,400 in all. Then the bill provides that you are to have guard-houses. I have inquired into that. I think they have one now. They will probably want three more, it may be four. For that purpose we propose to add \$8,600. That every one will see will be an expense which can be incurred but once. When you have once provided the houses, they will stand for a long series of years. The whole expense of the bill, then, will be \$66,400 for salaries; and \$5,000 for the contingent item, if that should never be increased, would make the whole expense \$71,400 annually; and, for the time being, we ask an appropriation of \$75,000.

Mr. JOHNSON, of Tennessee. I have an amendment to offer as an additional section; but I present it now, as it will affect the preceding section containing the blank proposed to be filled by the Senator from Mississippi. The amendment which I propose is:

And be it further enacted, That a tax sufficient to pay two thirds of the annual expense incurred by carrying this act into effect, shall be annually assessed upon the real and personal property and polls of the city of Washington, under the direction of the Secretary of the Interior, who is hereby authorized and directed to make such rules and regulations as shall be necessary for the collection of said taxation; and the same shall be assessed and collected in the manner now provided by law for the annual collection of the municipal taxes of said city.

There seems, sir, to be a perfect agreement on one point—that the city of Washington ought to incur the expense, and ought to be held responsible for the efficiency of its police; and then the inquiry is presented, how are we to enforce this duty upon them? how can we compel the city of Washington to establish an efficient police? It is very clear, that if we go on and establish a police force for their protection, we can lay a tax on them sufficient to defray the expense of that police.

One main argument relied upon for the passage of this bill is the necessity for protecting the persons who come to the seat of Government—foreign ministers, members of Congress, and others; and on this account it is said to be the duty of the Government to aid to some extent in establishing an efficient police at this point. If this bill be passed, the result will be that the city will dispense with its police, and rely entirely upon the police established by the Federal Government. Then, it seems to me, if the Government incurs one third of the expense of this police, and thereby imparts efficiency to it, the city property, polls, and personality ought to pay the other two thirds of the expense. This seems to me to be fair and just. All the other cities of the Confederacy impose taxes upon the property of their citizens to defray the expenses of the city for keeping up a police force, and for other municipal purposes. Why should Washington city be exempt from the burden of taxation for such purposes? If you adopt this amendment requiring them to pay two thirds of the expense, we can enforce it; and when it is understood that the city of Washington must incur a large proportion of the expense incurred by the creation of this police force, they will be

more efficient, and they will come up to the aid of the Government in the execution of the law.

Several gentlemen have suggested to me to change the proportion which my amendment proposes to lay upon the city and the Government, and to divide the expense half and half. To accommodate gentlemen, I will change it so as to provide that half of the expenses shall be borne by the city of Washington. Then it will be necessary to change the preceding section, so as to read:

"That the sum of money necessary to carry this act into effect, not to exceed one half of the annual expense to be incurred in consequence of raising said auxiliary guard, be, and the same hereby is, appropriated."

And then will come in the additional section which I have proposed, and this, it seems to me, will place the matter on a fair basis.

While I am up, I cannot help stating that I concur in the principle enunciated by the Senator from Kentucky in regard to the creation of offices, and conferring additional appointments on the President of the United States. So far as the Secretary of the Interior and the President of the United States are concerned, there is no one here or elsewhere that has more confidence in them than I have. I have no sort of doubt that they would execute the law faithfully and efficiently; but there is a principle involved in this matter. I am opposed to increasing executive patronage in any shape, if it can be avoided; but here is a provision not only for one hundred officers, but for two hundred, at the discretion of the Executive. The Senator from Texas seemed to have his fears alarmed, and I agree with him on that point, at the idea of bringing any portion of the standing Army to suppress riots or put down mobs. What is the force you now propose to raise? I suppose it should be more properly called an auxiliary to your standing Army. It is to have captains and lieutenants appointed by the Executive, responsible directly to him for the manner in which they discharge their duty. I am for building up no pretorian bands here, either under a Democratic or any other Administration, I care not by what name they may be called. I am for building up no military guard here, to be placed at the discretion of the Executive. Everything must have a beginning: you begin now with two hundred at discretion, one hundred absolutely. Where will it end?

It is said that party has got into the appointment of the members of the present auxiliary guard, and that party influences have rendered them inefficient. In the name of common sense, and all that is sacred and right, will you ever have an Administration here that is not a party Administration? Will you remove the difficulty that is complained of? Will not appointments always be fashioned by party? Unquestionably; and the very difficulty which you desire to avoid will be fastened upon the country by this bill. If it is to pass, let us impose half the expense, at least, upon the city of Washington, and thereby make it feel its responsibility. If the citizens here have to pay taxes for this force, they will impart more efficiency to the execution of the law.

I had hoped that this bill would be postponed, but I am prepared to act upon it now. I have no unkind feelings towards the citizens of Washington, more than I have towards the citizens of any other city; but I must say that there is a disposition manifested here which must be apparent to all, even the most unobservant, to put the entire expenses of this District on the Government of the United States. An avenue cannot be graded unless Congress does it; streets cannot be lighted up unless Congress pays for doing it. There is a continual pressure on Congress to appropriate public money to sustain the District of Columbia. I have had some tables prepared which, at an appropriate time, when the proper measure shall come before the Senate, I will present, showing the amount that has been expended in this District for Government purposes. Over twelve million dollars drawn from the people of the different States have been poured out at this capital, expended here. The city of New York, or St. Louis, or Baltimore, or Philadelphia, or New Orleans, or Cincinnati, instead of asking you to give them donations out of the Treasury, would pay your Treasury a bonus if you would locate the seat of Government there. Is it no benefit to a community to have large sums of money, which

are drawn from the great mass of the people, poured out in its midst? Do we not know that the expenditure of large sums of money at this point is beneficial to this portion of the community at the expense of other portions of the community?

The Senator from Texas has alluded to the fact that the Government has property here which is exempt from taxation; but how did the Government get that property? A donation was made to the Government on condition that Congress would locate the seat of Government here. Parties said, we will give you so many lots, and thereby realize immense fortunes by bringing the seat of Government here; and now they turn round and talk about taxing the property of the United States, when it was speculation on their part that got the seat of Government here. In what State or county in the Union do you ever hear of the capitol of a State or the court-house of a county being taxed, or any other public buildings? Every locality that gets a location of this kind considers that the benefits conferred by the location go far beyond any advantage that would result from the little tax that would be imposed upon its property. Which is worth most to the citizens of Washington, the large amounts expended by you on public buildings and the large appropriations made for local improvements here, or the little money which they would derive from the privilege of taxing the Government property? Twelve million dollars, as I remarked before, have been expended here, drawn from the States; and of this sum, over six million dollars have been given for the local improvements of this District, for the especial and particular benefit of the people here.

I am merely looking into this matter on principle. I have no objection to the citizens of Washington getting all they can; but while they are guarding their interests, it is our duty, as representatives of the States and of the people, to guard their interests, and see that their money is not taken from them and improperly expended in local improvements in this particular locality. What authority have we to make appropriations in the District of Columbia more than we have in any other section of the country? I know that it is argued by some that we have exclusive legislative powers here. That may be true; but because we have the power of exclusive legislation, does that prove that we have unlimited legislation? I know there is no other authority that can legislate for the District of Columbia but Congress. But because Congress has exclusive legislation, it does not follow that your power of legislation is unlimited, and that you can appropriate money here under the Constitution of the United States that you cannot appropriate elsewhere. You have no more power to take money from the Federal Treasury and appropriate it to local improvements in the District of Columbia, than you have to appropriate it for such improvements in St. Louis—not a single scintilla of power more. The argument on this point results from confounding a power of exclusive legislation with unlimited legislation. We have no power to appropriate money in the District of Columbia for local purposes more than we have elsewhere.

It is said that the people of the District have no representation in Congress. Well, suppose they had a Delegate in Congress, the same as the Territories have: what would it be worth to them? Give them a Delegate; I am for giving them one; I would rather they had one; it would stop clamor, so far as that goes. They are now better represented, and get larger appropriations, than they would if they had a Delegate in the Congress of the United States.

I am willing to confer all the power that Congress possesses upon the municipal authorities here; to give them power to lay and collect taxes; to give them power, if they have it not already, to establish that description of police which will be efficient to sustain the reputation and character of the population, so that the laws may be enforced, and persons be protected in life, liberty, and property.

I make these remarks out of no unkind feeling of prejudice to the people of the District, but I have seen how these appropriations have gone on from year to year. I have seen the feeling and the disposition that are manifested here. The public mind, in this locality, seems to be exercised in one particular channel: that is not in mechanics; it

is not in agriculture; it is not in commerce; it is not in the improvement of the soil; it is not in producing and bringing the products of labor here and selling them in one of the best markets in the world; but the whole mind here is occupied and employed in devising ways and means by which we can get into the people's Treasury, divide it among ourselves, at our own discretion, for our particular benefit. If you refuse any appropriation they may ask or demand, it is very common to say: Why, you have exclusive legislation; the District belongs to Congress! I do not countenance any such idea. They are freemen. I assume that they are capable of self-government. I assume that they have got resources, as much so as the people have in other portions of the country, to pay their own taxes to enforce their own laws; and if they have not, what a commentary it is upon the population crowded around the Federal Government of the United States; that there is not enough moral power, that there is not enough capacity here to govern themselves, but they must call upon Congress to govern them—must go out to the States and bring in somebody here to govern them! Is it not a commentary on the Federal Government, on the population surrounding Congress and coming in contact with the elite, not only of the United States, but of all parts of the civilized world?

I shall vote against the bill, whether the amendment is adopted or not; but it seems to me that it is nothing but fair and just that one half or two thirds of the expense incurred in raising and sustaining this auxiliary, little standing army, whose appointment and control are under the Federal head, shall be incurred by this population. I am in hopes the Senate will adopt the amendment. After that, I am in hopes they will reject the bill.

THE PRESIDING OFFICER. (Mr. BROWN.) Did the Chair understand the Senator from Tennessee as moving his proposition as an amendment to the amendment of the Senator from Mississippi?

Mr. JOHNSON, of Tennessee. I wanted to suggest the amendment, and show the necessity of making the eighth section correspond with my amendment when added as an additional section.

Mr. BROWN. I will suggest to the Senator that he let us go on regularly with the bill, and have the vote taken on my amendment, and then he can offer his, as it comes in as an additional section. I have no objection, however, to let him go on.

Mr. JOHNSON, of Tennessee. We can come back to that section, and make it suit.

Mr. BROWN. I withdraw my motion until the Senator's amendment be disposed of.

Mr. GREEN. I intend to vote for this bill. I shall vote for it in almost any shape in which it may be placed. Exclusive jurisdiction over this District was given by the Constitution of the United States, for one very especial purpose, which can never be accomplished if we rely upon any other authority than Congress for our personal protection. It was that Congress might have the power and the means at all times to protect themselves. There is no personal security in this city. No man, in the discharge of his duty, walking the streets, according to the reports that come to me, is safe. If this power for protecting ourselves be given, and if the necessity for the exercise of the power exists, why shall we stop to say that a portion of the expense ought to be parceled out on the city, and a portion fall on the public Treasury of the General Government? Why, sir, if the city authorities will not do their duty, Congress must do theirs. It is not only personal protection to members of Congress, not only personal protection to officials having Government business to transact in this city, but it is a high, international duty, for which we could be held justly responsible, to protect foreign ministers, their agents, and their servants, as they ought to be protected in a civilized country. When the exclusive power to protect this District has been vested in our hands, and we see that that protection has not been given, to hesitate on the score of expense for twenty-five, or fifty, or one hundred, or five hundred thousand dollars, looks to me as little and beneath the dignity of the Congress of the United States.

It is true, there are other interests to be protected besides personal interests. There is property to be protected; and, so far as that is con-

cerned, the city ought to bear its proportion of the expense; but if the city does not come up and do it, we must do it. It is not enough to hold out a threat, and say the seat of Government shall be removed. Let us do our duty, not by threatening others that, if they do not do theirs, we will do so and so; but let us do ours now. Let us do ours when the necessity for the exercise of that power exists. That necessity does now exist. In the ordinary administration of municipal affairs in the city government, the city bears the whole expense. Its common council, its mayor, its administration of municipal law—all is borne by the city without the power of taxation upon any of the Federal property. It is true, doubtless, that the original proprietor of this tract of land was anxious to have the seat of Government established here; but the present citizens of Washington had no agency in that. They purchased as other men, and they are not to be held responsible for the benefits arising to the original proprietor of the land in consequence of the location of the capital at this point; but even if they were, we must discharge our duty; and how shall we do it so efficiently, to accomplish so many beneficial results, as in passing the bill now pending before the Senate?

To vest the power of appointment of the chief of police, the head of this guard, with the President, I can conceive to be no objection whatever. The appointing power must exist somewhere. If we see by experience that the corporation of Washington will not exert the power to protect us, we must protect ourselves; and we, by the passage of this bill, can vest that appointing power where we will to correct it. To say, however, that it ought to be vested in the Vice President, as the venerable Senator from Kentucky asserted, shows a total disregard of the Constitution of the United States. In no single instance can you, in conformity to the Constitution of the United States, vest the appointment of any officer in the Vice President. If it be thought most advisable to vest it in the Supreme Court, or in the district court, as the chairman of the committee well remarked, so let it be done; if it be thought most advisable to vest it in the head of one of the Departments, so let it be done; but under the Constitution, you cannot vest it in the Vice President of the United States. He is precluded by the terms of the Constitution. But I apprehend no difficulty from this, nor do I think the creation of this one office will so increase the patronage of the President as to make the Presidency an object to be scorned and shunned by aspirants for that very distinguished position. I expect it will still be sought with the same anxiety as heretofore, no more and no less. As this is a Federal power, to be exercised for Federal protection, where else could it be so properly vested as in the Federal head? And that Federal head is responsible to the whole country; not alone to the District of Columbia, but to all the States and to all the people; and an enlightened public sentiment will restrain him from an abuse of this power. I have no fear of an abuse by the present chief of the executive department, or any of his successors.

So far as this army of officers is concerned, of which we have heard so much—the six hundred now holding clerkships in the Departments here—they are not a police; they ought not to be made a police. They have their duties to do for the Government in their appropriate sphere, and doing them, we must protect them when they walk the streets, when they proceed upon their ordinary avocations. Nor is it true that all are turned out who happen to differ in opinion with the Executive. There are many instances, and, I am willing to say to the Senator from Kentucky, more than meets my approbation, in which the enemies of the Government are kept in its employment. Where the responsibility exists, let the responsibility be taken, and stand before the country for justification.

All this, however, is outside the real question. There is a pressing necessity for this measure. We know that no man is secure in his life if he walks the streets of this city, according to the common reports that come, official reports that come to us in a tangible shape, from which there can be no escape. As we have a duty imposed, corresponding with the authority vested, to protect the District, to protect the city, to protect foreign ministers, their secretaries, attaches, agents,

and servants, as we have a right to protect ourselves, as the Federal Government must perform its functions here, as we do not have that protection without the aid of Government money, sanctioned by governmental authority, we ought to pass this bill, or some other that will give an efficient police in the city of Washington.

Mr. BROWN. I want to say a word in reference to the amendment proposed by my friend from Tennessee. Even if it were right to introduce an amendment of that character to this bill, his is wrong, because he proposes to divide the expense of keeping up the specific police equally between the city and the nation.

Mr. JOHNSON, of Tennessee. I desire the Senator from Mississippi to understand my idea in offering the amendment. I am not influenced by the amount of money involved at all; but by imposing a part of this additional expense on the population here, you will give efficiency and effect to the bill, and you will impart more efficiency by reaching them through the taxing power, than in any other way.

Mr. BROWN. I never supposed that my friend from Tennessee cared anything about the amount of money involved; but his proposition is based upon no principle at all, or rather upon a false principle. It proceeds on the idea that the city ought to bear one half of the expense of this force. This, as I have once or twice explained before, is a night police. If the city is bound to bear one half the expense of the night police, why should not the General Government bear one half the expense of the day police? This whole proposition, I beg Senators to remember, goes on the idea that the city takes charge of it during the day, and you undertake to take charge of it during the night. The city provides, at the expense of the city treasury, for a day police; and you provide, at the expense of the national Treasury, for a night police.

Heretofore, notwithstanding all the charges which are made as to Washington being a constant drain on the Treasury, what is the fact? The report shows that the city has been paying all the time more than the Government; that while you have paid \$18,000, the city has paid \$19,000 and upward every year. What is true now? If this bill passes, it will call out one hundred policemen. How many has the city? At the time the report was written, they had within three as many as you have. Now, they have got their hundred, and what we propose is that you furnish your hundred. That is all there is of it; and all this outcry that the Government is doing everything, and the city doing nothing, is not true in point of fact. Senators mistake the true facts of the case, as they always do. I do not wish to delay the passage of this bill; I want action upon it, and action now; but at some convenient season, in the discussion of some District bill, I shall undertake to show that the Federal Government never has paid more than its due proportion of the expense of maintaining the city. Gentlemen who indulge themselves here in constant declarations that this city is a charge on the Federal Government, may think my statement is extraordinary; but I have looked into the record, and I tell you that Congress has never paid more than its due proportion of the expenses of maintaining the city government here. You build large houses. You build a Capitol, at an expense of seven or eight million dollars; but what of that? Does not that increase your responsibility as much as I should increase mine, if I built a house worth \$10,000? You put a vast dome on your Capitol, at an expense of \$1,250,000; and then you say you must not pay taxes, because you put a dome on your house! Because I put a dome on my house, am I to be exempt from taxation? If the Government is to be exempt from taxation, because it builds fine houses, why should not Mr. Corcoran be exempt, too, because he builds fine houses; not as fine as yours, but still, very creditable houses? Why should not the smallest house builder in the city be exempt from taxation on the same principle? Your duty is not to submit to taxation—that I would not do—but to allow a fair estimate on your property, and make a willing contribution to the support of the municipal government to the amount of what would be your taxes, according to the rate of taxation here. The city government now taxes upon its real and personal property about one hundred and ninety-five thousand dol-

lars annually, and for city purposes you have never paid that amount of money; you do not pay it now; this bill will not bring it up to that. When you make an appropriation of a million of dollars for the Capitol, you are not to charge that to Washington. If you are, why should not Mr. Corcoran, when he builds a house worth \$50,000, charge that to Washington?

But I am not going into that discussion; I reserve it for another occasion. I simply protest now that these suggestions are out of place and out of time upon this bill. There is a pressing necessity for acting upon it. What I rose especially to say, was to my friend from Tennessee, that he mistakes when he supposes the city is not doing its duty, and paying its part of the expense. Up to the hour when I speak to you, the city treasury has paid more to guard this city than the national Treasury has paid. The report shows it, and the figures are given; they are officially reported to us. I have seen by the newspapers—I have asked for no official report of it, because I have not had time, and have not thought it necessary—that the city has called out one hundred men. I have no doubt it is true. This bill proposes that you shall call out one hundred. Then you will be on an equal footing with the city. The city has her hundred, and pays them; you have your hundred, and pay them; she guards the day, and you the night.

Mr. HOUSTON. I have no disposition to prolong this debate; but I must say to the honorable gentleman from Tennessee, that he misapprehended my remarks in relation to the duty of the Federal Government to sustain this place, and make provision for the citizens here. He said that we were equally bound to the citizens of St. Louis, or any other citizen of the Union, as to the people of this city. Now, I have no doubt that a very large proportion of the appropriations made here benefit, in a great degree, other cities. The greater portion of the expense for the public buildings is paid, for their erection and embellishment, to mechanics and artists who came from a distance—from Philadelphia, New York, Richmond, and other places. They are the persons who receive the money, not the citizens of Washington; and for that reason the money expended here is not chargeable to Washington. If individuals residing in Washington absorbed all the appropriations made in the District, and all the money paid out here by the Government, doubtless they would be in a better situation, and would have an amount of wealth that would enable them to defray all the expenses incident to a city government. I think there are obligations resting upon us to appropriate money for this District that do not exist elsewhere. Other cities have no immediate connection with the legislative bodies and governmental officers of the United States. This city has; and for that reason it is necessary that appropriations be made here to promote and forward the public business which are not necessary in other cities. They are commercial cities, not dependent on the Government. They do not labor and toil for the Government, and do not receive their pay from it. A large amount of the appropriations made by this Government should be distributed here, because the people whom it employs and pays reside here temporarily, if not permanently. This circumstance makes the expense of city government fall heavily on the resident population, because the employes of the Government are generally from other places. If the property-holders here were to bear all the expenses of the city government, taxation would be exceedingly onerous—much more so than in any other city of the Union. I wish gentlemen to reflect that the money paid out here is not paid to the citizens of Washington city, but to citizens of other places, who are temporarily here; and hence the necessity of occasional provision to relieve the people here from those contingencies that the fact of the Government being located here has produced.

I have no disposition to protract the debate on this subject; but I think it is very manifest that the people of the District are not accountable for all the money disbursed here, but that other cities are to share a portion of the responsibility, whose citizens are recipients of it.

The amendment of Mr. JOHNSON, of Tennessee, as modified, was read, as follows:

And be it further enacted, That a tax sufficient to pay one

half of the annual expense incurred by carrying this act into effect, shall be annually assessed upon the real and personal property and polls of the city of Washington, under the direction of the Secretary of the Interior, who is hereby authorized and directed to make such rules and regulations as shall be necessary for the collection of such tax; and the same shall be assessed and collected in the manner now provided by law for the annual collection of municipal taxes of said city.

The amendment was rejected.

Mr. BROWN. Now I renew my motion to fill the blank in the eighth section with "\$75,000."

The amendment was agreed to.

Mr. WILSON. I move to strike out the fifth section of this bill; and I hope the chairman of the committee will consent to it. The bill provides for raising one hundred men, authorizes the President to appoint a chief, and we have appropriated; by the provisions of the bill, \$75,000 annually for the purpose. The Senator from Kentucky has warned us to-day against Executive influences and Executive powers. I think we had better strike out the fifth section, which authorizes the President to call out two hundred persons for temporary purposes, at two dollars a day. It is trusting the President with a great deal of power. I do not think it will be necessary; for I believe the raising of the one hundred men, and appropriating \$75,000, if the chief is a good officer, and appoints proper men, will accomplish all the Senate desires. I fear that this section, if it remains, will endanger the passage of the bill through Congress. There will be a great deal of opposition to this measure—more than I had anticipated. I think authorizing the President to call out two hundred men for temporary purposes will give no strength to the bill; and I do not believe it will be necessary. Therefore, I move to strike it out.

Mr. BROWN. I want to explain, in a word, to the Senator from Massachusetts why that section was inserted. I suppose one half of the friends of this bill at least, perhaps a larger proportion, think that one hundred men will not be sufficient to keep the peace here at all times, but in ordinary times it will be quite sufficient. The election comes on here in June, and I find whisperings of riot on both sides, apprehensions expressed that you are to have the scenes—I will commence South—of New Orleans, Louisville, Baltimore, Washington, and other places, reenacted. I do not feel exactly authorized to bring in a bill to keep a permanent force here as large as two hundred men, when perhaps the whole force would not be called into actual requisition more than once a year, perhaps not more than once in two years. But if you are to have the scenes of last June reenacted here, then I propose to provide in this bill that the President of the United States, instead of calling out the marines, or any portion of the Army, or anything which is recognized as the military power of this Government, shall simply increase for the time being this auxiliary force. That is all the section means.

Now, is it not better to allow the President, in case of an emergency, to interpose a civil auxiliary force, than to permit him to exercise his discretion in calling out the marines, or any portion of the Army. I have an instinctive horror and dread, which I cannot shake off, of calling in the military power of this Government to take any part in your civil affairs. As I have said before in the course of this debate, it struck me with horror when I heard that the marines had been paraded in the streets of Washington. I know to what dreadful consequences these things must lead. But if we are to have rioting at the next election—and when I speak of rioting, I do not mean to say that this party or that party is more or less to blame—this provision will be necessary. Peaceable, orderly citizens want quiet, and the Government ought to let them have it. This section will give it to them through the peaceful agency of a citizen auxiliary force, the real city police. I cannot consent to give it up. I think it is one of the vital parts of the bill. I have no dream that this additional force will ever be called for, except under the circumstances anticipated by the bill—that in the case of a riot or serious disturbance, the President of the United States may authorize a temporary increase of force, and disband it, as the bill requires, just so soon as the emergency which calls it into existence shall have passed away.

Mr. WILSON. There is a great deal of force

in what the Senator from Mississippi says. It may be that there will be riots at the next election here as there were at the last; but I would suggest to the Senator that, if this authority be put in the hands of the President to add a couple of hundred men to this force, to be called out at that particular juncture, it may perhaps be regarded here as having been brought out for the purpose of carrying and controlling the election. I apprehend this may be the case. I do not wish, however, to press this amendment, and I defer a great deal to the judgment of the Senator from Mississippi in this matter. This force of one hundred men, raised for the purpose of watching during the night, can be used to preserve the peace of the city on election day. Besides, as the Senator says, there is a city force of about one hundred men, and the Mayor has it in his power to call on the citizens, and if he is a good officer, fit for his place, he will do so. I think the Senator from Mississippi had better consent to have this section go out of the bill; but, at the same time, I shall not press the matter upon the consideration of the Senate.

I believe good men can be found for this force, and in this I disagree with the Senator from Georgia, who thinks these men will be selected from that class who are making all this trouble. I believe a good chief can find one hundred substantial, law-abiding, God-fearing men; in this city, who will serve for \$600 a year, who will perform these duties properly. I believe there are men who read their Bibles, who go to church, who are poor men, in this city, law-abiding men, whom you can hire for \$600 a year to watch during the night, who have no sympathy and no connection with rowdism. I have no fear but that you can get good men, if you put a proper officer at the head of the force, and take it out of politics. If the object is to enforce law, and have order and protection in this city, I have no fear about it at all. But I do not see the necessity of this provision, and I think it will weaken the bill in this branch and in the other, for it will be said that it is conferring too much power on the Executive of the United States. I learn that the measure has been before the other House to-day, and that a great deal of opposition was manifested to it there. I withdraw my motion, however, and leave the matter to the chairman of the committee, in whom I have a great deal of confidence.

Mr. BENJAMIN. If the motion is withdrawn, I will renew it. I really do not think this section ought to remain in the bill. I think the Senator from Massachusetts is right in his objections to it. I can see no earthly necessity for the additional corps required by this section of paid policemen. Surely not for the purposes the Senator from Mississippi suggests. If we are to have a riot at an election, if a riot is anticipated, it will be very easy for the night police and the day police, if at all efficient, so to control the polls in so small a city as this as effectually to preserve peace. This section provides for the calling out, in the discretion of the Executive, of an additional body of paid men. Why do you want men paid at two dollars a day for a few hours' service. If it is only for election purposes, the election lasts but a single day, and these riots come up suddenly. Will you have the President authorized in advance to have one hundred men employed on election day at two dollars apiece?

Mr. BROWN. I prefer answering that here. The Senator asks me whether I would have them employed in advance? I say, emphatically, I would. You always have murmurings and grumblings before an election that you are going to have a riot. When you have a proper, efficient force, you can keep down riot. A police force known to be efficient, known to be available, known to be on hand, keep down riot. If last June the power had existed in the President to call out this force, and it had been known that he had exercised the power, there would not have been a musket fired in the city of Washington, nor a drop of blood shed. The Federal city of this great nation would have escaped the odium of being a scene of riot and bloodshed on election day.

Mr. BENJAMIN. If the Senator from Mississippi is right, we had better have a permanent item in the appropriation bill of \$400 each year for two hundred policemen on election day; for if it will only require rumors of intended riot at

an election to justify the President in employing two hundred men at two dollars each, the rumors will exist undoubtedly.

Mr. BROWN. My friend puts a lower estimate on human nature than I do. I do not suppose these rumors would be put afloat to the extent of influencing the chief of police, and the captain of police, and other persons who would have access on this point to the President of the United States so as to induce him to act unless there were some real danger.

Mr. BENJAMIN. I still think the section is an injurious one, entirely so. If there be any real danger at any time of a riot at an election in the city, which cannot be quelled by the two hundred men of the permanent police, organized in advance, prepared by reason of the antecedent rumors of apprehended riot, I should think an effective temporary police could always be organized without pay. If the citizens of this District would not allow themselves to be organized, or so many of them as might be necessary for preserving the peace on an election day, without being paid at the rate of two dollars per diem, I think the further protection ought to be left to themselves. So far as Congress is concerned, so far as the Representatives of the nation are concerned, I do not see why we should go to this additional expense to protect them in their local elections. If the President of the United States were authorized to call out this additional police force, when violence was apprehended, without pay, I might, perhaps, agree that it would be a salutary provision; but if you put this provision in the bill for pay, however low my estimate of human nature may be, I am satisfied that two hundred men will be called for at every election ever held in Washington. I think it is a bad provision; I believe it will injure the bill, and I do not suppose it adds anything to its efficiency.

Mr. MASON. I should be very averse to striking this provision from the bill. I do not understand that this power is to be invoked only in order to repress riot at elections. If it should become necessary to use it for that purpose, I think it would be very well used on the part of the President; but in framing this bill, with an earnest desire to make it efficient, at the same time there was a desire on the part of the committee not to make it more expensive than the occasion might really call for. Nobody can tell, however, in such a city as this, whether one hundred policemen will be adequate to the ends to be attained by the bill of preserving the peace of the city and the lives of the inhabitants. It is a very large city in space, although not as densely populated as other cities are, but these men may be lurking in every quarter of the city. I confess that I am greatly surprised to find the extent to which they already pervade the city. My purpose was in the humble share I took in preparing the bill in committee, to give a force sufficient, effectually, and at once, to suppress the rapine, the murder which is taking place in every quarter of the city. I presume, therefore, in the exercise of his discretion if it shall be found that one hundred men are not sufficient, the President will at once employ fifty or one hundred more for the very purpose of the bill to afford a police for the city.

So far as riots at elections are concerned, or any other riots, I do not at all sympathize with honorable Senators who have expressed regret that the military arm was called in to suppress these riots. Sir, I have always considered that when men are in arms against the law, whether to prevent an election, or for any other purposes, they were to be treated as enemies, and shot down as such. No power is so effective for that purpose as the military arm. They are to be treated as the worst kind of enemies, for they are insidious domestic enemies, under the garb of friends. I am not one of those who are at all scrupulous in using the military arm when it is necessary to suppress insurrection, treating the insurgents as domestic foes, and treating them as I would treat all other foes.

I think it may be necessary also to insert another provision, and while up I would mention it. I think it has been the purpose of the Senate to make this an efficient bill; but there is one feature wanting to make it an efficient bill, and that is to authorize the proper authorities, if necessary, to employ horses for the purpose of transporting their commanders, or men, from place to place.

At the proper time I may offer an amendment for not a great number—I suppose not to exceed ten. The instances around us occurring every day show that from some quarter or other, whether they have arisen in the midst of this population, whether they have been sent here for the purpose, or whether they come here because they look upon it as a city in a lawless condition, for some reason or other it is manifest there is the most lawless population in our midst that I have known to exist anywhere.

Mr. JOHNSON, of Arkansas. It is about four o'clock; it is nearly time to adjourn; and I sincerely believe we have had this bill discussed until every gentleman here understands it. I think it is a waste of eloquence to speak any longer about it. I hope very much we shall be able to get the vote now.

The PRESIDING OFFICER. The question is on the motion of the Senator from Louisiana, to strike out the fifth section of the bill.

Mr. BENJAMIN. The suggestions of the Senator from Virginia have had, I say it with due respect to him, the effect of confirming my objections to the section. I thought, originally, this additional force was intended only for an emergency; but, from the argument of the Senator from Virginia, it seems that it is intended to vest a discretion in the President to keep an additional force of two hundred men, if he finds it necessary for the general purposes of the bill. That is a discretion that I would prefer retaining in Congress. I thought, originally, and the Senator from Mississippi so stated, that it was intended for special emergencies; but the Senator from Virginia apprehends that the one hundred we are now voting may not be sufficient for the general purposes of the bill, and, if found insufficient, he proposes to leave to the President the discretion of increasing the number.

Mr. MASON. That is my idea, clearly.

Mr. BENJAMIN. I think we ought not to do that. We ought to determine the proper number.

Mr. BROWN. I would prefer that my friend from Louisiana should judge of the section by what appears on its face, rather than by what my friend from Virginia says. Certainly the language of the bill does not justify any such construction as the Senator from Louisiana assumes that my friend from Virginia meant.

Mr. BENJAMIN. The Senator from Virginia says it does give that construction, and that that was the object.

Mr. BROWN. But what is the fair construction of the language of the section? The words are:

"That whenever, in the judgment of the President of the United States, the same may be required, he be, and is hereby, authorized to order such temporary increase of the guard as in his opinion may be expedient, not to exceed two hundred men, who shall be paid at the rate of two dollars per day while in service, and be dismissed so soon as in the opinion of the President their services may no longer be required."

This shows clearly that it is a mere temporary force which may be called out at an election or on any other occasion, and not to exist any longer than the emergency requires.

Mr. BENJAMIN. I admit that any construction of this section would accord pretty nearly with that of the Senator from Mississippi; but still these words, "temporary service," are of themselves exceedingly vague and indefinite; and it is not at all impossible that, in that appetite for power which pervades public men generally, an Executive might be disposed to give that enlarged and latitudinous construction which strikes the Senator from Virginia to be the correct one. I think, on the whole, this is an objectionable section. I shall say no more on the subject. I have given my ideas to the Senate, and I hope the section will be stricken out.

Mr. HALE. I shall vote against this section, and, it may be, against the whole bill. I vote against it because it is another departure from the great principles of this Government to give the citizens of every place local self-government, and interfere with it as little as possible. This bill is based on the idea that they want some assistance, and it goes on to give that assistance; but this section goes still further, and increases the power of the President. I was opposed to increasing the standing Army for him, as a police force all over the country. That was the ground on which it was put; and I am opposed to increasing this min-

istate army in the city of Washington, to be placed under the disposition of the President. This bill, I suppose, is reported with the consent of the city government.

Mr. BROWN. I must say that I considered the city government so inefficient that I never consulted them about it.

Mr. HALE. I supposed it was an admission, on the part of the friends of the bill, that this city corporation was incompetent to carry on the city government; and I wanted to know whether they had confessed it, or whether it was to be taken for granted. It seems they have not pleaded at all, and the chairman of the committee has taken it for granted that they are utterly inefficient. I have no doubt of it—not the slightest in the world. The very fact that they have spent your \$20,000 to pay political partisans, instead of appointing policemen, shows that they are utterly incompetent to the duties that are assigned to them. I am opposed, then, to giving the President this power, and I am not entirely certain but that it would be the safest way altogether to postpone this whole matter until next June, and see if there is not in this city a set of men that can take the government of the city in their hands, who are competent and fair and honest, who will faithfully discharge the duties which belong to a city government. I shall vote for striking out this section.

The amendment was rejected; there being on a division—ayes 20, noes 21.

Mr. JOHNSON, of Tennessee. I desire to inquire of the Chair whether it is in order to move to recommit the bill to the committee that reported it, with instructions.

The PRESIDING OFFICER. Such motion is in order.

Mr. JOHNSON, of Tennessee. Then I move to recommit the bill to the Committee on the District of Columbia, with instructions to report a bill retroceding the District of Columbia to the State of Maryland, reserving the public buildings and public grounds, &c., and that said committee report at the earliest moment practicable.

I have but one object in view. It is, if I can, to impart some efficiency to the police of this city. There is great complaint here that we do not make sufficient appropriations, that Congress has exclusive power of legislation over the District; that we are their guardians, and that we should appropriate whatever they ask. They have no Representative in Congress. Now, if we retrocede this District to the State of Maryland, they can be represented in her Legislature, and have the power to tax themselves, and appropriate the money raised by taxation for all the necessary purposes of the community. The people of that portion of the District ceded by Virginia were anxious to go back to her jurisdiction, and they were retroceded to Virginia by a law passed some years since, and we have never heard any complaints from them since. Pass this District back to Maryland, reserving the public buildings and grounds, and we get clear of all this trouble. I venture to predict now, that if you send this bill back to the committee, with these instructions, with a probability that the Senate will pass a bill of that kind, in four weeks from to-day, there will be an efficient, energetic police in this city, and you will not hear of another murder, or robbery, or assassination during the session of Congress.

Mr. HALE. I move to strike out the reservation in the instructions as to the public buildings and grounds.

The amendment was agreed to.

The motion to recommit as amended was rejected.

Mr. CRITTENDEN. In the eleventh line of the first section I move to amend the bill by striking out "the President by and with the advice and consent of the Senate," and inserting "the circuit court of the United States for the District of Columbia," so as to give the appointment of the chief of this force to the circuit court.

The amendment was rejected.

The bill was reported to the Senate as amended; and the amendments agreed to as in Committee of the Whole were concurred in.

Mr. TRUMBULL. I was not exactly satisfied with the vote on the amendment offered by the Senator from Kentucky; and I now offer that amendment again in the Senate, so as to give the appointment of the chief of this police force to

the circuit court of the United States for the District of Columbia, instead of vesting it in the President. I renew that amendment.

Mr. GREEN. I call for the yeas and nays on the amendment. I would rather trust the President and Senate combined than the court by itself. The yeas and nays were ordered.

Mr. CRITTENDEN. The honorable Senator from Missouri took occasion, a little while ago, to give me some instruction as to the unconstitutionality of the provision which I suggested. I dare say his remark would have been appropriate enough if he had not forgotten that this is legislation in relation to the District of Columbia—a territory under the almost unlimited control of Congress in all respects. I should like to know what constitutional inhibition would prevent us from conferring the appointment of this municipal force upon the Vice President and Speaker of the House of Representatives. If I understand the Constitution in regard to the Territories of the United States, there is no power that Congress may not exercise, except that which is forbidden by the Constitution. That is my understanding of the Constitution of the United States, and you have shown it in all your exercise of power. You have shown it particularly in the appointment of judges. The Constitution says that the judicial power shall be exercised by judges holding their office during good behavior. You are not limited by that in respect to the Territories. You appoint the territorial judges for a term of years. The constitutional inhibitions on that subject do not apply to the Territories, nor does any constitutional provision, that I know of, apply to the manner in which we may constitute or choose to appoint an officer as the head of an official force of this kind here. I feel myself bound to suggest this to the honorable Senator for his consideration.

I have heard, and I regret to detain the Senate a moment while I say so, the most extraordinary doctrines urged during this debate. Here is a temporary and momentary exigency demanding an additional police force. In my opinion, it sets a most dangerous example, and involves high principles. You are establishing here, in the heart of this city, a quasi military force. You are doing it, as we are told by one gentleman, especially in respect to elections. We are told by another gentleman that this provision recommends itself to him, because he thinks that persons who engage in election riots, ought to be considered altogether as enemies to the country, the worst of its enemies, and ought to be shot down as such. These doctrines are new. They amaze me, I confess; but we are making provision to shoot down people at elections, are we? Is that the idea, unless they observe a certain course of demeanor and practice a decorum which shall be prescribed by whom? They are at the hazard of their lives to observe it without anybody to teach it! What may be right in the opinion of one gentleman may not be in the opinion of another gentleman. What is right on the part of our political opponents in heated elections is, in the eyes of those who constitute the Opposition, a very different thing. Who is to decide, and who is to shoot first? Upon any principle of equality, I should think both sides ought to have military force ready to shoot down the other, in case of anything occurring which they should decide upon the instant, in the heat of an election, to be a riot.

Sir, these elections of ours do sometimes run into violence, riots, and mobs, that are to be deprecated and condemned, and nobody is more ready to do it than I am. Nobody feels a stronger repugnance to any such course of conduct than I do. The people on all occasions in my country, and that is almost the only place where I have ever seen elections, consider themselves entitled to some little license on that day. It is a free day; it is the day of the election, when a man feels rather fuller of his rights and powers than he does on any other occasion. That is the time the militia are to be ready to shoot him down, if, in the exultation of such feelings, excited feelings, he commits what they would call a riot! I am surprised at the assertion of such sentiments here. We are providing for their suppression with an injunction to shoot them down as the worst enemies of the country! These are entirely new doctrines. I have seen many elections, and I have hardly ever seen a contested election

in my country where there has not been more or less of violence, but I never heard any man suggest the propriety of having a military force or a quasi military force in the form of police there to keep the people in order.

Sir, there are worse things than rioting, bad as that is. There are worse things than occasional rioting. It is not common in our country. It is the accident of a day. It is an occurrence growing out of peculiar and particular circumstances, not often recurring. An occasional riot is made a cause of alarm now, and we are actually to sit here and make provision for it, as though it were a fixed disease, as though it were the business of this Government to watch over elections, and to watch over them with arms. I think this is worse than rioting. Would you not rather have in your county, sir, an occasional riot at an election than a permanent military force established there, through whose ranks you were to march to the polls? according to whose taste you were to regulate your conduct? who were to judge of it upon the moment, they on one side of politics chosen by a dominant party, and you on the other side? Would you like to march through their ranks, to run the gauntlet, in order to exercise your right of suffrage?

Sir, I utterly deprecate this. Give me many riots before you fasten upon my back such a provision as this is. I am willing to suppress all lawlessness everywhere, and especially am I behind no gentleman here in my readiness to vote any force, at any cost, that may be necessary to restore peace and safety to the people of this District. I think that is eminently necessary, and I regret that we have not been able to accomplish it in a manner somewhat more reconcilable with what I consider to be sound principle on this subject. These are the views which I entertain. To avoid all difficulty about conferring this appointment on the Vice President, or the Speaker of the House of Representatives, or the two together, I have changed the provision so as to vest the appointment in the court, as ancillary to their functions in the administration of the law. All depend upon that at last. Your guards, when they shall have performed their duty to the utmost, will have done nothing unless your courts follow up their preliminary proceedings by an efficient punishment of offenders, and it ought to be promptly administered. I think if my friend from Mississippi had thought of it, he would have added a section that the judge instantly, on being notified of any high criminal offense, as burglary or murder, or any felony, should hold a court and try the man, if possible, the next day.

I regret to have detained the Senate even with a word, for I know they are weary of this subject; but I have felt myself called upon to say thus much.

Mr. GREEN. I am not willing to see this question made a political one; I am not willing to see it tortured into a party question; I am not disposed to see it represented as a contest between Democrats and Americans, or between Democrats and Republicans, or between any other parties. I regard it as no party question; but a question of peace, of order, and of protection to person and property. It is in that light, and that light alone, that I have viewed it from the beginning. I never believed that this force was to be used to build up one party, and break down another, at elections; and I know that if it should be used for that purpose, the man who so uses it will be liable to indictment, prosecution, and to punishment; and hence I apprehend no difficulty from that source, on that score. We see an urgent necessity for some police force. It is admitted by every Senator in this body. How shall we accomplish that end? Congress has unlimited admitted authority over that subject. How shall they exercise it in conformity with the Constitution? It is believed that to make a police force independent of the city government, will make it more efficient to protect Congress, foreign ministers, their agents and attaches, and to protect persons and property, than if you vest it in the city government.

Then the Senator from Kentucky says the chief of this police force ought not to be appointed by the Executive, because it will increase Executive patronage. I do not think that, adding one appointment to thirty thousand, will be like the feather to the camel's back—break it. I do not

believe there is any danger wrapped up in it, when this man has no vote for a presidential office; for a congressional office, for a senatorial office, when he has no voice outside of the District of Columbia. I cannot see that any danger is embodied in the proposition.

When it was intimated by the Senator from New Hampshire that the past efficient head of the police, Captain Goddard, was removed for political reasons, I went to him and told him privately that that was not correct; but he has not corrected his statement. I, therefore, think it my duty to correct it publicly. It was a mistake into which the Senator from New Hampshire fell. Captain Goddard was not removed for political reasons. He was removed in consequence of a misunderstanding between him and the then Mayor, Mr. Maury. It happened in this wise: Captain Goddard is a bold, efficient, practical man, with no adulation, no sycophancy; a fire broke out in the city one night, and the Mayor went up to see it. Captain Goddard was not there; the Mayor met him coming up, and said, "Why have you not been here?" Without any explanation, conscious of his own integrity, he said, "I have been attending to my business elsewhere." It offended the Mayor, some words passed, and Captain Goddard resigned. This is the communication made to me by an old resident of the city this day. I merely mention it for the purpose of showing that no politics have been mixed up with this guard; and I hope the Senator from Kentucky will not suppose that this is a political movement. It is not striking at the American party, or any other party. It is simply a movement made for the protection of persons and property.

When he indicated the idea that the Executive patronage ought to be limited, and the power of appointment vested in the Vice President, I remarked that we had no constitutional power to do it; that under the Constitution, we must either vest the appointment in the President, in the heads of the Departments, or in the courts of justice. He repeats his asseveration again, but takes care not to make his amendment that way. The amendment now is to vest the appointment in the court. If he believes that we have the power to give the appointment to the Vice President, why does he not propose to vest it there? I will tell you why. Congress, while it is the executive Legislature for the District of Columbia, as was remarked by the Senator from Tennessee, is not vested with unlimited power. It cannot confiscate private property; it cannot create a title of nobility. There are ten thousand things it cannot do. The Constitution imposes restraints and restrictions upon it; and there are questions of right paramount to constitutions which Congress dare not trample under foot, even in the District of Columbia, notwithstanding exclusive power of legislation is given here. "Exclusive" means "only;" that is, Congress is the only legislative power for this District.

The Constitution says in express words that all appointments shall be made by the President, unless Congress shall direct otherwise; and how may Congress direct otherwise? Congress may vest the appointment of such inferior officers as they think proper, in the President alone, the courts of law, or the heads of Departments. But whether that be true or not, is an immaterial question now. We all want an efficient police, the Senator from Kentucky as much as we; and I do not think he apprehends any serious difficulty growing out of this patronage. I do not suppose he believes it will grow up to a magnitude to endanger the liberties of this country, or if he does, I think he must be alone in that supposition. We believe the protection of persons and property in this District demands of us to exert our right, to demand the means for that protection. Even if it is not the best means, time and experience will enable us to perfect it; and the Senator from Kentucky and myself, and our colleagues on this side of the House, can all cooperate in the accomplishment of this great common end—the protection of ourselves and the property of the District.

Mr. CRITTENDEN. The gentleman seems to me to manifest a particular spirit of a controversial character with me.

Mr. GREEN. Oh no.

Mr. CRITTENDEN. Why, he asks me, did I not propose to appoint the Vice President and the Speaker of the House, as the men to exercise this

power? It is because he objected to it, and I would rather please the gentleman, and I therefore proposed the court, thinking theirs was an extremely appropriate and kindred sort of power to that which you were vesting in this new police, and that they would work together very well. I never did say that this was a political movement. On the contrary, I said that if it could be administered in the spirit in which I knew it was proposed, there would be no danger, but I have endeavored to show its liability to abuse.

If I apprehend any danger from it, the gentleman says he rather imagines I shall stand alone. Sir, I am as little likely to be apprehensive of danger as the honorable Senator. I say the thing is evil in itself; it is the seed of evil. It is not necessary to the purpose in view; nor necessary to the occasion; and it is therefore that I have endeavored to lay my views of this subject before the Senate, for them to decide—that is all. I have no reason to apprehend that it is intended as an abuse; that it is intended, for the present, as a political movement. I am sure it is not here; but in worse hands it may be used for bad purposes. It involves principles that I do not think are safe, and which may be extended greatly for other purposes. It is therefore that I wish to check everything, as far as I can, that seems to me irreconcilable with the spirit of this Government, or its principles, no matter whether it be great or small. We can establish the object we had in view without the characteristics and features of this measure which I think make it liable to abuse. Whatever my fault may be, even in the eyes of the Senator from Missouri, there can be no more than this in it: that I am too careful of what I regard as public liberty.

Mr. GREEN. I hope that I have evinced no disposition to court a controversy with the Senator from Kentucky. I have disputed some of his propositions. If that is to be construed into a desire to enter into a controversial spirit, then I may reply to the charge, that whenever he gravely presents, with all the sanctions of reputation and character that he possesses, and possesses justly, a position that I believe to be untenable under the Constitution, I regard it as my right to correct it. But at the same time, it is only given as my own view. It is not given authoritatively, and I hope he will not so understand me on any occasion. I have believed, as he believes, that we need this strengthening of the police force. He thinks it is best now. It is the proposition of the Senator from Illinois to vest the appointing power in a judge that is now before us. If he thought the Vice President was a more safe depository of this power, I had supposed it was open to his proposition; but he did not deem it proper to make it.

Mr. TRUMBULL. The Senator will allow me to interrupt him. It is the proposition of the Senator from Kentucky. I merely renewed his motion in the Senate after it had been voted down in Committee of the Whole, without calling the yeas and nays.

Mr. GREEN. I understand. I am speaking of this present proposition. The Senator from Illinois made it. He need not try to shirk from it and throw it on the shoulders of the Senator from Kentucky.

Mr. TRUMBULL. There is no shirking from it. I said that I renewed it. It is not an attempt to shirk from it. I merely meant to have the Senator from Missouri understand that it was the original proposition of the Senator from Kentucky. I supposed that probably he might not have been paying attention, and did not know that it was his original proposition. That was why I stated it, not with a view of shirking the responsibility of it.

Mr. GREEN. The Senator is very much mistaken. I do take notice of a matter to which I think proper to turn my attention. I knew that the Senator from Kentucky had made that proposition in a different body, in the Senate as in Committee of the Whole; but in the Senate proper, the Senator from Kentucky has never made that proposition. The Senator from Illinois did make it; and it is therefore his proposition. The Senator from Kentucky had the right to move to amend it, and he did not. But enough of that. I think it best to leave it in the hands of the Executive. He is responsible, under the Constitution, to the whole country. The court is without responsibility anywhere. There is a second reason. If

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, APRIL 7, 1858.

NEW SERIES...No. 93.

the President should make an injudicious selection, here stands the Senate, representing all the States of the Union, to protect us—the very object of this bill. If the President be oversighted, misled, or deceived, the Senate can protect him; but if the judge alone should be deceived, oversighted, or misled, who is to protect him? No Senate is to pass upon it in a second view; there is no secondary power to pass it under review; and hence I think that it is far better to adhere to the original bill than to accept the proposition of the Senator from Illinois.

As to the remarks of the Senator from Kentucky about various other matters—political questions—I did not assert that he said this was a party question, but the train of his remark was calculated, I think, to lead to the belief that there was some party feeling mixed up with it. If there is, it is not with me; and, therefore, I thought it proper that I should make the disclaimer. I did it in justice to him, in justice to the country, and in justice to that part of the Senate which supports this bill.

Mr. CRITTENDEN. I shall never object to the gentleman's correcting me at any time; I shall be glad to have any gentleman correct me when I am wrong. The Senator complains as though I had interfered with his right of asserting and maintaining his opinions.

Mr. GREEN. Not at all.

Mr. CRITTENDEN. I have said no such thing. I have treated the gentleman with perfect respect. It was he, on the contrary, I thought, that manifested a controversial spirit towards me. He sees no harm, and perhaps I am wrong in supposing that I do see that this is susceptible of abuse. That is all that I have endeavored to call his attention to, and that of other Senators, to judge whether it be so or not. The Senator can see none, and if I were in his condition I should see none. He has told us that he has full confidence in the present President, and all the Presidents that are to succeed him. With full confidence in them, I might have the same assurance that there would be no abuse; but worse Presidents may come than we have. We know not who they may be; and, therefore, we ought not to legislate for a good President only, but upon the supposition that we may have a bad one at some time or other, and see that a measure which is liable to abuse, susceptible of abuse, but which we intend for a good purpose, may not be abused by him.

Mr. DOOLITTLE. This bill provides for raising an auxiliary force: for what? To execute the civil laws of the District of Columbia? Auxiliary to whom? Is it to be made auxiliary to the President of the United States, as Commander-in-Chief of the Army, or is it to be made auxiliary to that power in the District of Columbia which executes and administers the laws? I regard the amendment of the Senator from Kentucky as a very material one, and I shall give it my hearty vote. The simple reason for doing so I will state. The court of the District is the power which is to enforce the civil law of the District, and the appointment of the officers for that executive force which is to enforce the administration of the law, should belong to that court in preference to being placed in the power of the Executive, as the commander of the militia, the Army, and the Navy of the United States. I shall, therefore, vote for this amendment. I shall not detain the Senate by going into any examination of the subject.

Mr. PUGH. I should like to ask the Senator from Wisconsin if he is aware that this court has no jurisdiction of crimes? It is the court that tries civil cases alone.

Mr. HALE. I wish to say a word in regard to a remark that fell from the Senator from Missouri. He seemed to think that I had been wanting in an act of justice or courtesy in regard to a statement which I had made about the removal of Captain Goddard. The fact was, that I got my information from an old citizen of the District to-day, and the Senator got his from an old citizen of the District to-day, and he told me who he was.

We did not get the same information, and that is the reason I did not make the explanation. I have no doubt the Senator from Missouri had full confidence in what his informant told him. He told me who it was, but I had a conversation with another gentleman, who represented to me the other side.

Mr. GREEN. The Senator did not tell me who his informant was, and I told him who was mine.

Mr. HALE. I will state the fact. Captain Goddard was a Whig. The mayor that removed him was a Democrat, so called. The Democratic mayor came in and Captain Goddard went out. Perhaps the acts did not sustain to each other the relation of cause and effect, but they were what old Mr. Weller would call an astonishing coincidence to say the least of it, [laughter,] that Captain Goddard, who had been a Whig and was retained in office while there were Whig mayors, should go out when a Democrat came in. That there was some such pretext as that which the honorable Senator has suggested I have no sort of doubt, but that the cause of offense lay deeper than that, I think perfectly clear. I shall vote for this amendment.

Mr. GREEN. Let me correct the Senator by only a word in justice both to the memory of Mayor Maury and Captain Goddard. Captain Goddard remained in office for more than six months after Mr. Maury came in, and it was only after the difficulty of which I spoke sprang up that he was dismissed—not dismissed, but permitted gracefully to resign; but even after that, I am authorized to say that Mayor Maury remarked, "it was a great mistake, I ought to have retained Mr. Goddard." I say this in justice to both parties, to show that no political feelings were mixed up with it.

The question being taken on the amendment of Mr. TRUMBULL by yeas and nays, resulted—yeas 17, nays 29; as follows:

YEAS—Messrs. Bell, Benjamin, Broderick, Chandler, Clark, Crittenden, Dixon, Doolittle, Foster, Hale, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—17.

NAYS—Messrs. Allen, Biggs, Bigler, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Sidel, Stuart, Thomson of New Jersey, Wright, and Yulee—29.

So the amendment was rejected.

Mr. STUART. I desire to renew the motion to strike out the fifth section. I do not intend to make any speech about it, but it strikes me that that is a portion of the bill which is liable to the abuse suggested, and that it is liable to abuse on account of importunity upon the President of the United States, on any occasion when there shall be a large assemblage here, to add one hundred men just for the purpose of getting the pay—a constant importunity upon him, and there is no corresponding benefit to result from retaining it in the bill. I think that power which lies in the local government, to call out at all times an additional citizen force, is better for an emergency, or at least it will answer for an emergency; and that this provision is liable to abuse, and liable to very serious objection. The President will be importuned, even against his will, to add a hundred men at two dollars a day, at any time when there may be an additional assemblage of persons. I renew the motion to strike out the fifth section, and ask for the yeas and nays.

Mr. WADE. I move that the Senate adjourn.

Mr. BROWN. I hope not; we can get through with this bill in a very few minutes.

The motion to adjourn was not agreed to, there being, on a division—yeas 15, nays 22.

Mr. WILSON. On the motion made by the Senator from Michigan, I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 21; as follows:

YEAS—Messrs. Bell, Benjamin, Biggs, Broderick, Chandler, Clark, Crittenden, Doolittle, Douglas, Fitzpatrick, Foster, Hale, Harlan, Houston, Hunter, Johnson of Tennessee, King, Seward, Simmons, Sidel, Stuart, Trumbull, Wilson, and Yulee—24.

NAYS—Messrs. Allen, Bigler, Bright, Brown, Clay, Dix-

on, Evans, Fessenden, Fitch, Green, Hammond, Iverson, Johnson of Arkansas, Jones, Kennedy, Mallory, Mason, Pugh, Sebastian, Thomson of New Jersey, and Wright—21.

So the motion to strike out was agreed to.

Mr. CRITTENDEN. I have one more amendment to propose. It is an experiment that we are making, and for a necessity that I hope will not last long. I think if the city is once well expurgated, we may hope for a long continuance of peace and quiet; and, therefore, I propose that this act shall continue in force for one year only from its passage.

Mr. HALE. Let me suggest to the honorable Senator that this act repeals all the existing laws, and therefore repeals the law establishing the auxiliary guard of thirty men that we now have; and if you continue this act only one year, at the end of that year the auxiliary guard of thirty men will be at an end also.

Mr. CRITTENDEN. We shall be here next year, and can provide for it. My amendment is to add as a new section:

And be it further enacted, That this act shall continue in force for one year only from its passage.

Mr. BROWN. All that I have to say in reply to that is, that at the end of the year you will have the same scenes you have now. There will be the same necessity for reenacting this law. If it shall ever appear that the law is unnecessary, you can repeal it, but as to limiting it to a year it amounts simply to a limitation that leaves the rowdies to go away for a year and come back at the end of that time.

Mr. SEWARD. I will barely say that I think there is an epidemic in crime as there is in everything else, and that these sudden outbreaks which appear in our cities are occasional and temporary. I quite agree with the honorable Senator from Kentucky that this trouble once gotten through with, we shall probably have peace and quiet for a long time thereafter. I have felt the want of such a limitation of this bill as he has proposed, but I should not like to limit it to one year, and I suggest to my honorable friend to confine the operation of the bill to two years. Give it two years' trial.

Mr. CRITTENDEN. I accept the modification and say two years.

Mr. HALE. It would be better to say three years. We shall have a Republican President then. [Laughter.]

Mr. BROWN. One word. At the end of two years you will have, as I now predict, if you adopt this amendment, a state of profound quiet, peace, and order; nobody will suppose there is any need for an auxiliary guard or a guard of any other sort; but take it away, and in one month after the time is out, you will have all these scenes of disorder again. Congress is here, but it takes Congress three, four, five, or six months to act, and all that time you will have murder, riot, bloodshed, and disorder, in your streets.

The amendment was rejected. The bill was ordered to be engrossed for a third reading, and was read the third time. On its passage,

Mr. WILSON called for the yeas and nays, and they were ordered, and being taken, resulted—yeas 34, nays 9; as follows:

YEAS—Messrs. Allen, Benjamin, Biggs, Bigler, Bright, Brown, Chandler, Clark, Clay, Dixon, Douglas, Evans, Fessenden, Fitch, Foster, Green, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Kennedy, Mallory, Mason, Pugh, Sebastian, Seward, Simmons, Stuart, Thomson of New Jersey, Wilson, Wright, and Yulee—34.

NAYS—Messrs. Bell, Broderick, Crittenden, Doolittle, Hale, Harlan, Johnson of Tennessee, King, and Trumbull—9.

On motion of Mr. BROWN, the title of the bill was amended by striking out the words "public and private," before "property," and inserting "persons and," so as to read:

A bill to establish an auxiliary guard for the protection of persons and property, and repealing all acts heretofore passed in relation to that subject.

ARMY BILL.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had concurred in the first

second, third, fourth, fifth, sixth, seventh, and ninth amendments of the Senate to the bill (H. R. No. 313) to provide for the organization of a regiment of mounted volunteers for the defense of the frontiers of Texas, and to authorize the President to call into the service of the United States four regiments of volunteers, and had concurred in the eighth amendment of the Senate with an amendment striking out the words, "surgeons and assistant surgeons." The eighth amendment of the Senate provided for detailing the commissaries, quartermasters, surgeons, and assistant surgeons, of the new regiments from the regular Army.

On motion of Mr. PUGH, the Senate concurred in the amendment of the House of Representatives.

ADMISSION OF OREGON.

Mr. CLAY. I move that the Senate adjourn.

Mr. DOUGLAS. Will the Senator allow me to report the Oregon bill?

Mr. CLAY. I withdraw the motion for the present.

Mr. DOUGLAS. The Committee on Territories, to whom was referred the constitution of Oregon, have directed me to report a bill (S. No. 239) for the admission of Oregon into the Union, and to ask that the constitution be printed.

The bill was read and passed to a second reading, and the constitution was ordered to be printed.

On motion of Mr. CLAY, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, April 5, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. MORSELL.

The Journal of Friday last was read and approved.

LIMITATION OF ACTION.

Mr. WHITE, by unanimous consent, introduced a bill to limit the commencement of action in certain cases; which was read a first and second time, and referred to the Committee on the Judiciary.

ENROLLED BILL.

Mr. PIKE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (S. No. 176) to acquire certain lands needed for the Washington aqueduct, in the District of Columbia; when the Speaker signed the same.

NEW REGIMENT BILL.

Mr. QUITMAN. I desire very much to bring before the House this morning the volunteer bill with the Senate amendments. The amendments of the Senate are eight in number. Some of them are merely nominal, one dependent on the other. The Committee on Military Affairs have had the subject under consideration, and propose to concur in all the amendments of the Senate except one. They do not change the principle of the bill. If I can get the consent of the House to take up the bill, I will briefly explain the amendments.

Mr. BURROUGHS. I object.

Mr. QUITMAN. I move to suspend the rules.

The question was taken; and the rules were suspended—ayes 101, noes 25.

The bill was then taken up, and the amendments separately considered.

First amendment:

Section one, page 1, line five, after the word "authorized" strike out the words "and required."

Mr. QUITMAN. I will say, in explanation of that amendment, that the bill, as it passed the House, authorized and required the President to call into service the regiment raised for service in Texas. The Senate propose to strike out the words "and required," so as to leave it discretionary to call out a regiment or not, as the necessities of the service may require. The Committee on Military Affairs recommend a concurrence in that amendment.

Mr. JONES, of Tennessee. I understand the effect of this amendment to be to leave it discretionary with the President whether he will call out the regiments authorized or not.

Mr. QUITMAN. That is the effect of it.

The amendment was concurred in.

Second amendment:

Page 3, section three, strike out the whole of this section, as follows:

Sec. 3. And be it further enacted, That all the officers of said regiment of mounted men shall be appointed or selected in the manner prescribed by the laws of Texas.

Mr. QUITMAN. I have only this to say, in explanation of this amendment, that another section places the organization of all the regiments under the regulations of the several States in which they are raised. The object of the section will therefore be accomplished, without this special provision. We therefore recommend that the House concur in this amendment.

Mr. JONES, of Tennessee. I wish to inquire if the President has not the appointment of the officers of these new regiments?

Mr. QUITMAN. No, sir; they are appointed under the regulations existing in the States where they are raised.

The amendment was concurred in.

Third amendment:

Page 4, section four, line six, after the word "the" strike out the words "northern and northwestern."

Mr. QUITMAN. I will say that the object of this amendment is to extend the operation of the regiments to be raised to the whole Indian frontier. The bill as it passed the House restricts their operation to the northern and northwestern frontier. This simply removes the restriction, and allows it to extend to the whole Indian frontier.

The amendment was concurred in.

Fourth amendment:

Page 4, section four, line eleven, strike out "four," and insert in lieu thereof "two."

Mr. QUITMAN. That amendment is the most material amendment, and the Committee on Military Affairs recommend a concurrence in it. The original bill, as reported to the House and passed, authorized the President to call into service four additional regiments, besides the Texas mounted regiment. The amendment of the Senate reduces the number of additional regiments to two. For the purpose of expediting the passage of the bill, the committee recommend a concurrence in the amendment.

Mr. CURTIS. Supposing that the Senate of the United States represent more particularly the views of the Administration, I concurred with a majority of the Committee on Military Affairs in recommending a concurrence in this amendment. At the same time, I adhere to the opinion which I expressed when the bill was originally before the House, that we should send a larger number of troops to Utah instead of a smaller number, for the reason that I believe there would be less bloodshed. I have no doubt myself on the question.

I wish at the same time to correct a statement which appears in the debate of Friday, which relates to the cost of the United States Army establishment. I see by a misprint in the Globe I am represented as saying that the cost of the Army is \$7,500,000. I said about fifteen million dollars. Adding the cost of arsenals, and other military expenses of the Government, the amount will be increased to about nineteen million dollars. Then adding the cost of the public buildings, and the entire expense will be about twenty million dollars. This is the explanation I wish to make.

Mr. PHELPS. With the permission of the gentleman from Iowa, [Mr. CURTIS,] I will say with reference to the debate which took place in the Committee of the Whole on the state of the Union, on Friday last, upon the deficiency bill, that I was also guilty of a little inaccuracy. I concurred with the gentleman from Iowa in stating that the annual cost of maintaining the Army of the United States was about fifteen million dollars. Since then, I have had placed in my hands an official document, from which I find that the annual expense of supporting the United States Army for the year ending June 30, 1856, was \$13,577,559 61; and that the cost for the year ending June 30, 1857, was \$13,802,860 76.

Mr. LOVEJOY. I rise to a point of order. Is this debate pertinent to the question pending before the House?

The SPEAKER. The Chair thinks it is taking a rather wide range.

Mr. PHELPS. I have made the only explanation I desired.

Mr. MARSHALL, of Kentucky. I desire the chairman of the Committee on Military Affairs to

state whether the reduction proposed by the committee is in accordance with the wishes of the Executive?

Mr. QUITMAN. I have no information on that point, save from what appears in the debates of the Senate. I had an interview, in the latter part of last week, with the Secretary of War; and he informed me that the War Department only desired expedition in this matter, and was quite willing to receive the Senate's amendment to the House bill. I did not learn whether there was any particular preference for five or for three regiments. My own opinion, however, is, that the Administration would prefer the privilege of calling out five regiments, if deemed necessary. But I know that it was stated in the committee room that, in all probability, no more than three regiments would be required, including the Texas regiments. Under that supposition, while I concur with my friend from Iowa, [Mr. CURTIS,] in the opinion that five regiments will be needed, yet, as immediate action is so important, the Committee on Military Affairs recommend concurrence in the amendment of the Senate.

Mr. LOVEJOY. I wish to ask whether the amendments made in the Senate leave the Texas regiments on the same ground as the other—that is, leaving it discretionary with the Executive to call them out, or whether it is imperative?

Mr. QUITMAN. On the same footing exactly.

Mr. HUGHES. I desire to submit some remarks upon the bill, and as they are appropriate to this amendment, I propose to do so now. Without intending to bring about delay or disadvantage to the public service, I think the House ought to refuse to concur in this amendment. This bill proposes to fix the number of troops to be furnished by any one State at not less than a regiment. That would operate very unequally; and I think that we ought to give a fair opportunity to all the States desiring to furnish a proportion of troops, to do so. I am authorized to say that Indiana is prepared to furnish two regiments; but if there are only two regiments to be called into service, it is not right that only two States should have the privilege of furnishing them. Therefore, I think this bill ought to be amended so as to permit a State to furnish a company or battalion. In order to get the bill to a stage where that can be done, I propose that the House non-concur in the amendment of the Senate.

If the bill passes in its present form, there will be some twenty or thirty regiments tendered to the Executive. Two of these only will be accepted; and the consequence will be, that, at the next session of Congress, large bills will be presented for indemnity by men who will have raised companies at their own expense, and have been refused to be mustered into service.

For my part, I do not think that two regiments are sufficient for the wants of the service; and I will state why. Both these regiments, it is understood, are to go with the Utah expedition, or else to garrison those forts from which the regular troops are to be withdrawn to be sent to Utah. This bill gives the State of Texas one regiment, to be raised within her own borders, for self-defense against the Indians. I have no objection to that part of the bill; but a portion of the country where the citizens have need to raise troops for self-defense against the Indians more than anywhere else, has been wholly overlooked in this bill. I refer to the Territory of New Mexico, on the frontiers of which some ninety thousand Indians of the most warlike character are continually pressing—a Territory which contains men accustomed to fight Indians, and who would be very glad to have permission to defend themselves. This they cannot now do, because the intercourse laws are enforced there; and whenever the people in that Territory take up arms against the Indians, they are liable to have the troops of the United States arrayed against them.

There are serious defects in this bill. In my opinion two regiments will be wholly inadequate; and I think that this is as good a point as any other at which to refuse concurrence. In order to get the bill in a condition where it can be modified and perfected, I submit a motion—in order to get the sense of the House on the amount of force to be called out—to strike out the word "two" from the Senate's amendment, and insert the word "five."

Mr. FAULKNER. I rise simply to notice an

allusion made by the gentleman from Kentucky, [Mr. MARSHALL,] and the gentleman from Mississippi, [Mr. QUITMAN,] to a remark made by me in the Committee on Military Affairs. I arrived in the committee room after the bill, with the Senate's amendments, had been disposed of by the committee. Some gentleman, I believe the gentleman from Ohio, [Mr. STANTON,] inquired if the Administration would be satisfied with the three volunteer regiments? I remarked that I had learned that the President would be satisfied with the bill as it came from the Senate, although I had had no direct communication with him or the Secretary of War on that point. I presume, however, as the discretionary power is given to the President to call out these regiments as the public necessities of the country may require, he cannot object to the number being enlarged to five, if such is the pleasure of this House.

Mr. QUITMAN. I will suggest to the gentleman from Indiana that his amendment is unnecessary; for if the House non-concur in the Senate amendments, then the bill will stand as it was sent from this House.

Mr. OTERO. Mr. Speaker, I desire to say a few words of the point made by the gentleman from Indiana. He has referred to the Territory of New Mexico and its condition at the present time. One regiment is provided for the State of Texas—the only State which has provision for its protection; the only State which has an overflowing treasury; the only State which has almost in every hundred miles a military post; which has military posts all over it. For that State, sir, you provide a regiment by special provision; and for the Territories, which the Government is bound to protect, there is no protection provided. In the Territory of New Mexico we have men willing and able to protect our people. Instead, however, of receiving any large amount of assistance from the regular Army, we afford assistance to it. We furnish transportation and escorts for the army to Utah. Yet for this Territory not a single provision is made in this bill. The Navajos and Apaches have been committing great depredations there. The Indian bureau can furnish conclusive proof of this fact. The troops who were stationed there have been withdrawn for service in Utah. Supplies and assistance are furnished to the army for Utah from that Territory, which is proven by the fact that Captain Marcy has gone there for those very supplies. I therefore hope that the House will agree to the proposition of the gentleman from Indiana, for a non-concurrence in the Senate amendment, and to secure an increase of the volunteer force, in order that a regiment may be raised in New Mexico. I had hoped that, under the bill of this House, New Mexico would have been entitled to raise one regiment. The men have been enlisted there for that service; but if the Senate amendment prevails, she will, I am afraid, be left unprotected for.

Mr. MARSHALL, of Kentucky. It is well enough for the House to know that if the word "two" be stricken out and "five" inserted, there will be six regiments voted instead of five; there will be one for Texas and five beside. I would allay the fear of the Delegate from New Mexico, and at the same time justify the committee, by stating that no difficulty can be seen in the way of the President ordering any one of these regiments of volunteers which may be raised to the Indian frontier where there may be trouble.

Mr. HUGHES. The gentleman must perceive that the Territory desires to protect itself by raising men for that purpose who have for years been trained to the peculiar warfare of the Indian frontier. Owing to the intercourse laws, however, they are unable to go out and chastise the Indians unless they have the consent of the General Government. Their property is carried off before their faces by these Indians, who ought to be punished.

I withdraw my amendment, and move a non-concurrence in the amendment of the Senate, which will leave five regiments provided for.

Mr. HOUSTON. I was going to suggest to the gentleman what he has just done. I confess that I do not concur with him in a remark he threw out in reference to the intercourse law. I do not think it has anything to do with the question; it applies under different circumstances and to other people.

Mr. REAGAN. Mr. Speaker, I will say a

word. I concur in the main in what has been said by the Delegate from New Mexico. If this war with the Mormons continues, then a greater increase of force will be demanded. This bill will clothe the President with power, if the Senate amendment be non-concurred in, to call into service four regiments of volunteers, in addition to the regiment provided for Texas. If there can be an amicable adjustment of the difficulty, there may exist no necessity for calling them out; but, on the contrary, if the war goes on—and I do not pretend to an exact knowledge of all of the military necessities of the country—I should suppose a larger increase than five regiments will be required for its successful prosecution and speedy termination. It seems to me, that to avoid crippling the Administration, and in order to provide the means, not only to protect the frontier, but to secure peace in Utah, it is right that we should refuse to concur in the Senate's amendment, and leave the discretion to the President to call into service the number of regiments proposed in this bill.

Mr. Chairman, I make this remark without having had an opportunity to consult the Committee on Military Affairs, who, of course, are better informed on this subject; and I make it because I have been a frontiersman on the extreme frontier for the last twenty years of my life. I have seen the sufferings of the frontiersmen, and I know that they have not been overstated. In my own State we have some two thousand troops. I learn that they have been ordered away to Utah. With that force there, even, our citizens have been murdered and despoiled of their property. During the last winter, depredations have been committed upon them; and it is believed that the Indians from north of Red river have been engaged in stealing horses and taking them to Utah, to be used there by the Mormons for their mounted troops.

Mr. HUGHES. I desire to ask the gentleman if these Indians who come down into Texas, do not pass also through the Territory of New Mexico?

Mr. REAGAN. They must of necessity pass through the Territory of New Mexico. I am, of course, less informed about the condition of New Mexico than the Delegate from that Territory is; but I have no doubt that its exposed situation is such that it requires the action of the Federal Government in protecting its citizens against the incursions of Indians.

Mr. LOVEJOY. Did the gentleman say that they had two thousand regular troops now in Texas?

Mr. REAGAN. There were two thousand up to the time the orders arrived for them to move towards Utah. They are now moving. I believe that most of the troops in Texas have already received orders to move. That frontier is now exposed, and the Indians are continually making inroads on the settlements, murdering the citizens and carrying away their property.

Mr. LOVEJOY. To what extent does the order for removal go?

Mr. REAGAN. My understanding is that it extends to the whole force. The President informed me that he should order the troops in Texas and in Kansas to Utah. I do not know that the entire force will be removed; but I imagine that nearly the whole of it will be removed.

There is another fact which ought to address itself to the attention of gentlemen upon this floor. Many here speculate upon the protection of the frontier of the United States, and look to calculations of dollars and cents. It is to be remembered that immigration, the occupation of the public lands, the settling of the Territories of the country, is the great instrumentality for reducing the Territories of the United States to civilization and improvement, and it can only be done by the fostering care and protection of the Federal Government.

Any man who has been upon the frontier, and who has seen the difficulties that surround the frontier settlements, and their insecurity when unprotected by the Government, will at once appreciate the necessity of giving them ample protection. I need scarcely remark that the fact of a double line of frontier now being created by the settlement of the Pacific coast, that the fact that Utah and New Mexico stand isolated and surrounded by frontier, and the fact that the lines of travel across the continent are necessary to be pro-

tected, create a necessity for an enlarged military force to give that protection to the country which is necessary to secure the advancement of the frontier settlements of the country, and the development of the great undeveloped resources of the western wilderness.

In view of these facts, and of the fact that we are now, perhaps, involved in a war with Utah, which may require a largely increased force, I have deemed it not out of place to suggest that I would like to see the House refuse to concur in the amendment of the Senate, and leave the President authority to order out five regiments instead of three.

Mr. DAVIDSON. I move the previous question.

Mr. QUITMAN. Will that cover all the amendments?

The SPEAKER. It will.

Mr. QUITMAN. I hope the gentleman from Louisiana will allow me to offer an amendment, in behalf of the Committee on Military Affairs, to one of the amendments of the Senate.

Mr. DAVIDSON. I withdraw the previous question for that purpose.

Mr. QUITMAN. I move to amend the eighth amendment of the Senate by striking out the words "surgeons and assistant surgeons." That will leave the surgeons and assistant surgeons to be appointed in the States in which the regiments are raised, instead of being appointed by the President. This is desired by the Secretary of War, inasmuch as there are not enough surgeons in the Army for any to be detached for this service. The Military Committee therefore recommend that they shall be selected by the States, according to the State laws. They propose, however, to concur in that portion of the Senate's amendment which provides that quartermasters and commissaries shall be appointed by the President. I now move the previous question.

The previous question was seconded; and the main question was ordered to be put; being upon agreeing to the fourth amendment of the Senate.

Mr. STEVENSON demanded the yeas and nays.

The yeas and nays were ordered.

The Clerk proceeded to call the roll, but was interrupted by

Mr. SAVAGE, who said: I desire to understand this question. I understand that the Committee on Military Affairs recommend a non-concurrence in this amendment.

Mr. LOVEJOY. No, sir; the committee recommend a concurrence.

Mr. QUITMAN. I ask permission of the House to make a simple explanation of the character of the recommendation of the Committee on Military Affairs.

Mr. HUGHES. I wish to ask the gentleman if these amendments were referred to that committee?

Mr. KELSEY. I object to debate.

Mr. QUITMAN. The action of the Military Committee has been misunderstood.

The SPEAKER. Debate is not in order. It is objected to.

Mr. AVERY. I hope the objection will be withdrawn, so that we may understand what the recommendation of the committee is.

Mr. KELSEY. I withdraw the objection.

Mr. QUITMAN. I have but a word of explanation to make.

Mr. ELLIOTT. I must object, unless the House will allow a reply to be made to the gentleman from Mississippi.

Mr. QUITMAN. I beg the gentleman to understand that he does injustice to the committee. The committee has been misunderstood here.

Mr. ELLIOTT. I withdraw the objection.

Mr. QUITMAN. I shall occupy less time than this discussion has already done. Upon the publication in the newspapers of the amendments adopted by the Senate, the Committee on Military Affairs of this House immediately took up those amendments to ascertain whether I, as chairman, should report to the House, when the amendments came up, in favor of concurring or of non-concurring. We determined to act promptly. We acted in the belief and upon information that the President did not desire more than two additional regiments besides the Texas regiment. The committee preferred the bill which they had reported to the House, giving the President authority to call

out four regiments, but they yielded to the wishes of the War Department upon the subject, and I have reported the action of the committee. Since then the Committee on Military Affairs have held no meeting, but I have received information which convinces me, in my own mind, that the Administration, upon reflection, would prefer the power of calling out five regiments. Believing that, under the circumstances, the Senate will recede from its amendment, I shall, although I have moved to concur, vote, as I believe a majority of the Committee on Military Affairs will, not to concur, but to leave the bill, in this respect, as it originally passed the House.

Mr. STANTON. I understood the gentleman to say that the Secretary of War, in person, informed him that he would be satisfied with either the House or the Senate bill. Is that so?

Mr. QUITMAN. Yes, sir; on the ground that dispatch is important. The Administration would be satisfied with either, but I take it that they would prefer the House bill.

The call of the roll was then resumed and completed, with the following result—yeas 113, nays 102; as follows:

YEAS—Messrs. Abbott, Andrews, Barksdale, Bennett, Billingshurst, Bliss, Boyce, Branch, Brayton, Buffinton, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Burton Craige, Crawford, Curry, Curtis, Danrell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Dowdell, Durfee, Edie, English, Fenton, Foley, Foster, Garnett, Giddings, Gilman, Gooch, Granger, Gregg, Grow, Robert B. Hall, Harlan, Hickman, Horton, Howard, Jackson, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Leach, Leiter, Lovejoy, McQueen, Matteson, Miller, Millson, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Stallworth, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, Augustus R. Wright, and Zollcofer—113.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Bingham, Bishop, Blair, Biscoe, Bonham, Bowie, Burnett, Burns, Caskie, Chapman, Horace F. Clark, John B. Clark, Clay, John Cochrane, Cockrell, Corning, Cox, James Craig, Davidson, Davis of Maryland, Davis of Mississippi, Edie, Edmundson, Elliott, Eustis, Faulkner, Florence, Gartrell, Gillis, Gilmer, Goode, Greenwood, Greesbeck, Lawrence W. Hall, J. Morrison Harris, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Jewett, J. Glancy Jones, Owen Jones, Keitt, Jacob M. Kunkel, Leidy, Letcher, McLay, McKibbin, Humphrey Marshall, Mason, Maynard, Miles, Miller, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quinlan, Reagan, Reilly, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Sickles, Robert Smith, Stephenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, and John V. Wright—102.

So the fourth amendment of the Senate was concurred in.

Pending the vote,

Mr. WORTENDYKE stated that his colleague, Mr. HUYLER, was detained from the House by sickness.

Mr. BONHAM. As a member of the Military Committee, I voted "ay." I understood, however, the chairman of the committee to say, that it would be desirable that the Administration should be at liberty to employ the entire four regiments. Is that so?

Mr. MORGAN. I object to debate.

Mr. BONHAM. Then I beg leave to change my vote, and vote "no."

Mr. AVERY. I voted "ay," thinking that that was the wish of the committee. I change my vote now, in accordance with the will of the committee, and vote "no."

Mr. HALL, of Ohio, asked leave to vote, stating that he was not within the bar, but in the lobby, when his name was called.

Mr. KUNKEL, of Pennsylvania. Is not this whole room considered within the bar?

The SPEAKER. The Hall is.

Mr. KUNKEL, of Pennsylvania. Well, I understand the gentleman to say he was within the Hall.

Mr. HALL, of Ohio. I was outside the first door.

The SPEAKER. According to the understanding of the Chair, the gentleman is not entitled to vote.

Mr. HALL, of Ohio. Then I ask unanimous consent to do so.

Mr. KELSEY. I object; as I always will under such circumstances.

After the announcement of the vote,

Mr. HUGHES. I move to reconsider the vote by which the Senate amendment was concurred in.

Mr. KELSEY. I move to lay the motion on the table.

Mr. FLORENCE. On that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 100; as follows:

YEAS—Messrs. Abbott, Andrews, Barksdale, Bennett, Billingshurst, Bingham, Bliss, Boyce, Branch, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clingman, Cobb, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Burton Craige, Crawford, Curry, Curtis, Danrell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Dowdell, Durfee, Edie, English, Fenton, Foley, Foster, Garnett, Giddings, Gilman, Gooch, Granger, Gregg, Grow, Robert B. Hall, Harlan, Hickman, Horton, Howard, Jackson, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Matteson, Millson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Stallworth, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, Augustus R. Wright, and Zollcofer—111.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Bishop, Blair, Biscoe, Bonham, Bowie, Bryan, Burnett, Burns, Caskie, John B. Clark, Clay, John Cochrane, Cockrell, Corning, Cox, James Craig, Davidson, Davis of Maryland, Davis of Mississippi, Dewart, Dimmick, Edmundson, Elliott, Eustis, Florence, Gartrell, Gillis, Gilmer, Goode, Greenwood, Greesbeck, Lawrence W. Hall, J. Morrison Harris, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Jewett, J. Glancy Jones, Owen Jones, Keitt, Jacob M. Kunkel, Lawrence, Leidy, Letcher, McLay, McKibbin, Humphrey Marshall, Mason, Maynard, Miles, Miller, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quinlan, Reagan, Reilly, Russell, Sandidge, Savage, Seales, Scott, Seward, Aaron Shaw, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, and John V. Wright—100.

So the motion to reconsider was laid upon the table.

The fifth, sixth, seventh, and ninth amendments of the Senate were severally concurred in.

The eighth amendment was reported, as follows:

At the end of the fifth section, add:

Except the quartermasters, commissaries, surgeons, and assistant surgeons, who shall be detailed from their respective departments in the regular Army of the United States.

Mr. QUITMAN. The Committee on Military Affairs recommend concurrence with the eighth amendment, with an amendment, as follows:

Insert, after the word "quartermasters," the word "and," and strike out the words "surgeons and assistant surgeons."

The amendment is simply to allow the quartermasters and commissaries to be appointed by the President, and the surgeons and assistant surgeons to be selected by the States.

The amendment to the amendment was agreed to; and the amendment, as amended, was concurred in.

Mr. QUITMAN moved to reconsider the several votes by which the amendments were respectively concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

DEFICIENCY BILL—CLOSE OF DEBATE.

Mr. LETCHER. I offer the following resolution:

Resolved, That the resolution heretofore adopted, closing the debate on House bill No. 303 on Friday last, be rescinded; and that the debate in committee shall be extended to the rising of the committee on to-morrow; provided the debate shall be confined to the provisions of the bill.

Mr. LOVEJOY. I would like to move to postpone this debate until the information asked for in a resolution which I desire to propose shall have been received.

Mr. LETCHER. That has nothing to do with this bill. The gentleman can offer his resolution to-day; and if objection be made, he can move to suspend the rules.

The SPEAKER. Is there any objection to the reception of the resolution offered by the gentleman from Virginia?

Mr. SHERMAN, of Ohio. I object. I think

that five minutes' debate is better than the hour debate.

Mr. LETCHER. I hope the gentleman will withdraw his objection, because there are gentlemen on both sides of the House anxious to discuss this bill; and I regard it as important that they should have an opportunity of doing so, and that longer than five minutes should be allowed them.

Mr. SHERMAN, of Ohio. My objection is that, if the hour debate is extended, we will have three or four gentlemen consuming the whole day in discussing the merits of the bill generally; while under the five-minutes rule, debate will be confined to the particular point under consideration.

Mr. LETCHER. The gentleman will have the five-minutes debate in addition to the other; so that it ought to be much more satisfactory.

Mr. SHERMAN, of Ohio. I object.

Mr. LETCHER. Then I move to suspend the rules.

The rules were suspended; and the resolution was received.

Mr. LETCHER moved the previous question on the adoption of the resolution.

Mr. STANTON. I would suggest to the gentleman from Virginia to limit the debate to twenty or thirty minutes. It seems to me that that will be more generally satisfactory than the hour debates.

Mr. LETCHER. I would have to get the rules suspended to get at that.

Mr. STANTON. Not at all.

Mr. LETCHER. Certainly I would.

Mr. STANTON. I submit that there is no difficulty in amending the resolution.

The SPEAKER. The Chair sees no objection to offering any amendment that is germane to the resolution.

Mr. LETCHER. Then, as it seems to be the desire of gentlemen to limit speeches to thirty minutes, I have no objection to offer that as an amendment.

Mr. HOUSTON. I have no objection to the amendment; but I object to there being a rule adopted for the government of the House, which violates another rule that, I think, ought not to be violated. I do not object to thirty minutes. I think it is long enough.

Mr. SEWARD. I understood the previous question was asked.

The SPEAKER. The gentleman from Virginia has the control of the previous question.

Mr. JONES, of Tennessee. One of the rules of the House is, that no member shall speak more than one hour. If an amendment be adopted limiting debate to thirty minutes, will that not be a change of the rules, and will it not require either a suspension of the rules, or unanimous consent?

The SPEAKER. It will require a two-thirds vote to suspend the rules.

Mr. JONES, of Tennessee. I do not object to the amendment; but I wish it to come in by unanimous consent, so that it shall not be considered as a precedent hereafter.

The SPEAKER. The Chair is of opinion that a two-thirds vote will make it perfectly competent and in order.

Mr. JONES, of Tennessee. The amendment can be received by unanimous consent.

Mr. SEWARD. I object.

Mr. LETCHER. Then take the vote on the resolution.

Mr. HOUSTON. Is it in order to suspend the rules so as to admit the modification? The House evidently desire that there should be thirty minutes debate.

The SPEAKER. The previous question is demanded.

Mr. BILLINGHURST. If the previous question is not seconded, will not the resolution then be open to amendment?

The SPEAKER. It will.

Mr. CLINGMAN. I hope the gentleman from Virginia will modify his resolution so as to provide for thirty minutes debate.

Mr. LETCHER. I have no objection to the amendment being offered.

Mr. CLINGMAN. I move, then, to add to the resolution "and that no member shall be permitted to occupy more than thirty minutes in said debate."

Mr. SEWARD. Do I understand the Chair to

decide that the rules have been suspended so as to enable the gentleman from North Carolina to offer this amendment?

The SPEAKER. The resolution is before the House for consideration, and the Chair thinks the amendment is pertinent to the resolution.

Mr. SEWARD. I want to learn if the House has the right to adopt this resolution, which changes the rules, without suspending the rules for that purpose?

The SPEAKER. The Chair has not so decided.

Mr. SEWARD. It is clearly a change of the rules.

The SPEAKER. The Chair thinks the amendment is in order; but it will require a two-thirds vote to adopt it.

Mr. LETCHER. I suppose, of course, this does not apply to the hour to which I am entitled to close the debate?

Mr. KEITT. I suppose it embraces all members. The gentleman from Virginia is entitled, under the rules, to an hour to make the closing speech; but if this resolution supersedes the rules, the gentleman will not be entitled to the whole hour.

The SPEAKER. The resolution will only operate upon the general debate.

Mr. LETCHER. I accept the amendment.

Mr. SEWARD. I object to the amendment, as I understand it will rescind the former order of the House. I make that point of order.

The SPEAKER. The Chair overrules the point of order.

Mr. SEWARD. I appeal from the decision of the Chair.

Mr. CLINGMAN. I move to lay the appeal on the table.

The motion was agreed to.

Mr. SEWARD. I move to lay the resolution upon the table. If the rules of the House can be overridden—

The SPEAKER. Debate is not in order.

Mr. SEWARD. Well, sir, I move to lay the resolution on the table. That is in order.

The SPEAKER. That motion is in order.

The motion was disagreed to.

Mr. SEWARD. I move that the House adjourn. [Laughter.]

The motion was not agreed to.

The previous question was then seconded, and the main question ordered to be put.

The question then recurred upon the adoption of the resolution as modified.

Mr. SEWARD. I demand the yeas and nays.

Mr. JONES, of Tennessee. Does it require a two-thirds vote?

The SPEAKER. The resolution proposes a change of the rules, and it will require a two-thirds vote to adopt it.

Mr. SEWARD. I withdraw the call for the yeas and nays, because I do not think that I can carry it.

The resolution was agreed to.

Mr. CLINGMAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUPPLIES FOR THE ARMY.

Mr. LOVEJOY offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to furnish this House, with the least possible delay, a full and minute statement of all contracts made in connection with the Utah expedition, the names of the persons with whom such contracts were made, and also the prices paid, or to be paid, for horses, mules, corn, and all other articles furnished for said expedition; the places where the horses, mules, &c., are to be delivered, and the prices to be paid for transportation of all such supplies; also designating what contracts, if any, were made without public notice or advertisement, and if advertised, in what mode, and at what places.

Mr. BURNETT obtained the floor.

Mr. LOVEJOY. Is it in order to move the postponement of the further consideration of the deficiency bill until we obtain this information?

The SPEAKER. The gentleman is not on the floor to make the motion.

Mr. LOVEJOY. Then I move to reconsider the vote by which the resolution was adopted; and also move that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PUBLIC DOCUMENTS.

Mr. BURNETT. I ask the unanimous con-

sent of the House to submit the following resolution:

Resolved, That the Joint Committee on Printing be instructed to inquire into the propriety of suspending the printing of any books which may have been ordered by any previous Congress; and if the printing of any of said books has been commenced, that they inquire how far the work has progressed, and whether it is proper to discontinue their publication, and pay for the work which may have been done; and that they report by bill or otherwise.

Mr. MORRIS, of Pennsylvania. I object.

Mr. BURNETT. I move that the rules be suspended for the purpose I have indicated.

The rules were suspended.

Mr. BURNETT. I call for the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was adopted.

Mr. BURNETT moved to reconsider the vote by which the resolution was adopted, and also moved that the motion to reconsider be laid upon the table.

The motion was agreed to.

POLICE LAW FOR WASHINGTON.

Mr. GOODE. Mr. Speaker, a resolution was adopted by this House instructing the Committee for the District of Columbia to inquire into the condition of the police of this city, with a view to ascertain its ability to protect the persons and property of citizens, and the committee at the same time were empowered to report at any time. The committee has discharged that duty. It has had the subject under consideration, and has arrived at the conclusion that the present police is utterly inadequate. It has agreed upon a report unanimously, and have instructed me to report to the House a bill to establish an auxiliary guard for the protection of public and private property in the District of Columbia, and repealing all acts heretofore passed in relation to that subject.

Mr. Speaker, on the bill itself I have a very few words to say. While the general provisions of the bill command my approbation, I doubt whether the salaries fixed for the men of the police force are enough. I would be willing to pay them a higher salary. The bill contains appropriation necessary to carry its provisions into effect, and under the rules, the Speaker may deem it his duty to send the bill to the Committee of the Whole on the state of the Union, there to receive its first consideration. As its importance and urgency demand immediate action, I move that the rules be suspended, so that it may receive immediate action in the House.

The bill was read a first and second time, and is as follows:

A bill to establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be established an auxiliary guard or watch for the protection of public and private property, and for the enforcement of the police regulations of the city of Washington, to consist of a chief, at an annual salary of \$2,000; one captain, at an annual salary of \$1,200; four lieutenants, at an annual salary of \$800 each; and one hundred men, at an annual salary of \$600 each; to be paid monthly. The chief of the auxiliary guard shall be appointed by the President, by and with the advice and consent of the Senate; and the captain, lieutenants, and men, shall be appointed by the chief, with the approval of the Secretary of the Interior, and may be dismissed by the chief at his pleasure, or upon the order of the said Secretary.

SEC. 2. And be it further enacted, That the guard hereby established shall be divided by the chief into squads of convenient size; and the said chief is also authorized and empowered to establish guard-houses at such points in the city of Washington as he may designate, subject, however, to the approval of the Secretary of the Interior.

SEC. 3. And be it further enacted, That the Mayor of Washington, the district attorney for the District of Columbia, the marshal of the said District, and the chief of the auxiliary guard are hereby authorized and required to make and establish rules and regulations for the government of said guard, and to prescribe such arms for the use of the guard as they may deem necessary, subject to the approval of the Secretary of the Interior.

SEC. 4. And be it further enacted, That the sum of five thousand dollars be, and the same is hereby, appropriated annually as a contingent fund, to be expended under the direction of the Secretary of the Interior, to carry out the purposes of this act in the suppression of crime and detection of criminals in the city of Washington.

SEC. 5. And be it further enacted, That whenever in the judgment of the President of the United States the same may be required, he be, and is hereby, authorized to order such temporary increase of the guard as in his opinion may be expedient, not to exceed two hundred men, who shall be paid at the rate of two dollars per day while in service, and be dismissed so soon as, in the opinion of the President, their services may no longer be required.

SEC. 6. And be it further enacted, That each member of the guard shall be required to wear a uniform dress at all hours when on duty, and on his hat, or cap, or breast, such number as may be assigned him. The captains and lieutenants, at all times, day and night, shall wear an official badge, and said uniforms, badges, and numbers hereby required to be worn, shall also be prescribed by the chief, and shall be made public in the newspapers in Washington for one month after first prescribed, and shall not thereafter be changed.

SEC. 7. And be it further enacted, That all acts and parts of acts heretofore passed, authorizing or relating to the employment of an auxiliary watch or guard, be, and the same are hereby, repealed; this section to take effect so soon as the chief shall report to the Secretary of the Interior that he has thirty men enrolled and ready for duty.

SEC. 8. And be it further enacted, That the sum of money necessary to carry this act into effect, not to exceed \$100,000, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. GOODE. I hope that it will not be necessary to discuss the provisions of this bill. The circumstances of the times, the daily occurrence of murders and robberies in this city, imperiously demand that Congress shall take immediate and efficient action.

Mr. STANTON. What is the question before the House?

Mr. GOODE. I shall move the previous question.

The SPEAKER. As the bill contains an appropriation, it will be necessary that it shall be considered in the Committee of the Whole on the state of the Union, unless the rule upon that subject be suspended.

Mr. KELSEY. I hope the bill will be referred to the Committee of the Whole on the state of the Union, because I desire to offer an amendment providing that the police force shall be appointed by commissioners to be elected by the freeholders of this District. I want to disconnect it entirely from politics.

Mr. BURNETT. I call the gentleman to order. He has no right to discuss the proposition.

Mr. KELSEY. I merely wished to say, that I hope the bill will go to the Committee of the Whole on the state of the Union, in order that I may offer an amendment when it comes up.

Mr. GOODE. Of course, I shall be willing to allow time for any reasonable explanation and discussion; but I am not willing to discuss the propriety of the election of this force by the freeholders of the city of Washington.

Mr. STANTON. I want to know if there is a debatable question pending?

Mr. GOODE. Well, allow me to make a motion.

The SPEAKER. Is there any objection to the consideration of this bill in the House?

Mr. MARSHALL, of Kentucky, Mr. STANTON, and Mr. KELSEY objected.

Mr. GOODE. I move that the rule requiring a bill containing an appropriation to be considered in Committee of the Whole on the state of the Union be suspended.

Mr. STANTON. Upon that motion I demand the yeas and nays.

[Cries of "Oh, no," and "let us try it without."]]

Mr. STANTON. Well, I withdraw the call.

Mr. JONES, of Tennessee. I renew it. Let us have the yeas and nays.

Mr. MARSHALL, of Kentucky. Yes; I want the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 116, nays 89; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bliss, Brocock, Bonham, Bowic, Boyce, Branch, Bryan, Burnett, Burns, Chapman, John B. Clark, Clingman, Cobb, Clark B., Cochrane, John Cochrane, Corning, Cox, Jancos, Craig, Burton, Craig, Curry, Davidson, Davis of Mississippi, Dean, Dewart, Dimmick, Dodd, Dowdell, Edmundson, Elliott, Faulkner, Florence, Foley, Garnett, Carroll, Gillis, Goode, Greenwood, Gregg, Grow, Lawrence W. Hall, Hatch, Hawkins, Hickman, Hopkins, Houston, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McQueen, Samuel S. Marshall, Maynard, Miles, Miller, Milson, Montgomery, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Purviance, Ready, Reagan, Reilly, Ruffin, Russell, Savage, Seales, Scott, Searing, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Tabbot, Tappan, George Taylor, Miles Taylor, Underwood, Ward, Warren, Watkins, White, Wintley, Winstlow, Woodson, Wortendyke, John V. Wright, and Zolliecoffer—118.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingsburg, Bingham, Bratton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Coffax, Comins, Covode, Crawford, Curtis, Damrell, Davis of Ma-

ryland, Davis of Indiana, Davis of Iowa, Dawes, Durfee, English, Eustis, Farnsworth, Fenton, Foster, Gilman, Goodwin, Granger, Robert B. Hall, Harlan, J. Morrison Harris, Haskin, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Lench, Leiter, Lovejoy, Humphrey Marshall, Mason, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mur-ay, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Potte, Quitman, Ricard, Ritchie, Robbins, Roberts, Royce, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Stanton, William Stewart, Thayer, Thompson, Tompkins, Trippe, Wade, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—89.

So (two thirds not voting in favor thereof) the rule was not suspended.

Mr. GOODE. I shall submit a motion which I hope will meet with the approbation of this House—on that side as well as upon this. I move that the bill be referred to the Committee of the Whole on the state of the Union, and made the special order of the day for Wednesday next, and from day to day thereafter until disposed of.

Mr. COLFAX. I would like to ask the gentleman from Virginia a question.

Mr. GOODE. I wish to say to gentlemen that I hope, notwithstanding the vote which has just been taken, that in consideration of the absolute necessity of a police for this city, the House—gentlemen upon the other side as well as on this—will, by a two-thirds vote, make this bill a special order.

Mr. POTTLE. I will say to the gentleman from Virginia that we are ready to act upon it to-day—at least I believe that to be the sentiment upon this side of the House. We desire that the bill shall be referred to the Committee of the Whole on the state of the Union, in order that we may offer some amendments, but we are ready to act to-day.

Mr. GOODE. We cannot act on this bill in the Committee of the Whole on the state of the Union to-day, because the deficiency bill is in the way. I will move, however, if that meets the views of gentlemen, that the bill be referred to the Committee of the Whole on the state of the Union, and made the special order for to-day.

Mr. FOSTER. I would inquire whether the bill has been printed?

The SPEAKER. It has not.

Mr. MARSHALL, of Kentucky. I object to the motion of the gentleman from Virginia. I want to see the bill.

Mr. COLFAX. I would like to ask a question of the gentleman from Virginia. It must be evident to the gentleman that there are great objections to this bill, on this side of the House, and perhaps he can remove them by an answer. I would like to know whether he has any guarantee that this police force, if authorized by Congress, will be a non-partisan police—that is to say, that it will be selected from the best men, regardless of party considerations? We have a partisan police in this city now, and we want no more such; for human life is as unsafe here as it is in the Alps or the Apennines. Gentlemen upon this side of the House will coöperate with him in the establishment of a good and efficient police force.

Mr. GOODE. I cannot give the gentleman any guarantee on the subject. The police are to be appointed by the chief; and I can only say that it is not desired, by any party within my knowledge, that the force should be of a partisan character. The whole object is to provide an efficient police for the city. I disdain to bring party or religious considerations into the question.

Mr. BURNETT. With the permission of the gentleman from Virginia, I desire to state to the gentleman from Indiana, that this bill was agreed on unanimously, as I understand, by the Committee for the District of Columbia, and that the object of that committee in reporting the bill was to give to the city of Washington an efficient police, without reference to anything like party.

Mr. WASHBURN, of Illinois. Why should the Government be called upon to pay the expenses?

Mr. BURNETT. The reason why we put a provision in the bill that Government should pay for it was—

Mr. DAVIS, of Maryland. What is the motion pending?

The SPEAKER. To refer the bill to the Committee of the Whole on the state of the Union.

Mr. DAVIS, of Maryland. Can that motion be entertained without a suspension of the rules?

The SPEAKER. The only other dispositions

that can be made of it are, to recommit, to lay on the table, and to postpone.

Mr. LEITER. I would suggest to the friends of the bill that perhaps we had better agree on some time. I voted against the suspension of the rules, because we have not had time to consider the bill. It is such an important measure that I think we ought to act promptly. But I am unwilling to act on such an important measure inconsiderately—a measure which might bring on the country evils greater than those we are trying to provide against. I have not consulted any gentleman on this side of the House, but I would suggest that the bill be committed to the Committee of the Whole on the state of the Union, and its consideration fixed for Wednesday next, and until disposed of.

Mr. GOODE. I agree to that.

Mr. WASHBURN, of Illinois. That cannot be done without a suspension of the rules.

The SPEAKER. It requires a suspension of the rules.

Mr. BOCKOCK. I want to say to my colleague that general debate on the deficiency bill will terminate on Tuesday evening. The five minutes' debate then comes on, which will occupy all of Wednesday.

Mr. GOODE. Well, say Thursday. I wish to say, in all candor, to the gentleman from Ohio, that I have no wish to force this bill on the House without due consideration. I am very willing to have its consideration fixed for Wednesday or Thursday, with the understanding that it shall proceed from day to day until disposed of. But it is suggested that the deficiency bill will be under consideration on Wednesday. I hope, therefore, that the gentleman from Ohio will be willing to go into Committee of the Whole on the state of the Union now, when we will have an opportunity of considering, *seriatim*, the provisions of the bill.

Mr. LEITER. The bill is not printed; and, for one, I am unwilling to consider it until it is printed and before us.

Mr. GOODE. Very well; let it go till Wednesday.

Mr. LEITER. I would suggest further—although I know that the emergency is a great one—that we postpone this matter till an early day next week, when the deficiency bill will have been disposed of; and then let us consider it and perfect in such a manner as will make it effectual.

Mr. GOODE. How many murders will be perpetrated between this time and next week?

Mr. LEITER. Not more, on an average, than one and a half a day; and we can probably stand that till that time.

Mr. GIDDINGS. Since I have been a member of this House, we have been making appropriations for the police of this city; and the greatest performance that I ever knew them to do, was to catch negroes, or surprise them attending church at a late hour of the night. If they were told that there was a fugitive slave in the city, every one of them would be on the alert. I am opposed to making a special order for the protection of slavery within the District. If the bill restores to freedom the slaves held here, I will vote for it.

Mr. BARKSDALE. Is debate in order?

The SPEAKER. It is not.

Mr. GIDDINGS. I am sorry for that.

Mr. BARKSDALE. I object to any debate that is out of order.

The SPEAKER. The Chair is in some doubt as to whether, pending a question to refer the bill to the Committee of the Whole on the state of the Union, the general merits of the question can be discussed. The Chair refers the gentleman from Ohio [Mr. GIDDINGS] to the 133d rule, which directs that all proceedings touching appropriations of money shall be first discussed in Committee of the Whole House. The Chair is of opinion that it would be, perhaps, straining the rule to allow the merits of the question to be discussed at this stage of the bill except the House had suspended the operation of the rule requiring it to be considered first in Committee of the Whole House.

Mr. GIDDINGS. I did not intend to discuss the question. I merely objected to its being made a special order.

Mr. KILGORE. I would suggest to the gentleman over the way that we might harmoniously agree to remove the capital of the nation to some place where the people will protect themselves

without calling on the Government to take care of them. I will pledge myself that, if they locate the capital in my State, we will not call upon the Government to supply a police force to protect the citizens from the violence of ruffians. I suggest that, by way of compromise—

Mr. HOUSTON. I rise to a question of order. I understand the pending motion to be to make this bill a special order for next Wednesday. I object to debate on that motion, as questions relating to priority of business must be put without debate.

Mr. DEAN. I move the previous question.

Mr. CLARK B. COCHRANE. I desire to submit a motion to reconsider the vote by which the House refused to suspend the rules.

Mr. STANTON. I submit that the gentleman from New York voted with the side that failed, and therefore cannot submit the motion to reconsider.

The SPEAKER. If the gentleman had voted with the prevailing side, in the opinion of the Chair, he could have submitted the motion. The Chair doubts whether a motion to reconsider a vote refusing to suspend the rules could be made.

Mr. SMITH, of Tennessee. And particularly after the bill has been received.

The SPEAKER. The Chair desires to state that the motion, in the form in which it was made by the gentleman from Virginia, to make the bill a special order for Wednesday next, cannot be entertained, except by unanimous consent, or by a suspension of the rules, and that it will require a suspension of the rules to make this bill a special order after it has been referred, if the House chooses to refer it.

Mr. MARSHALL, of Kentucky. I object.

The SPEAKER. The question will then first be stated on the motion to refer, and the previous question will only apply to that motion. The gentleman from Virginia may then submit the motion to suspend the rules to make it a special order.

Mr. LETCHER. Will my colleague indulge me a moment to make some proposition by which this bill shall not interfere with the consideration of the deficiency bill?

The SPEAKER. The call for the previous question came from the other side of the House.

Mr. LOVEJOY. I propose to submit a motion to postpone the further consideration of the deficiency bill until we can get the information which we want.

Mr. LETCHER. We can get that by to-morrow morning.

The previous question was seconded, and the main question ordered to be put.

Mr. MORRIS, of Illinois. I move to lay the bill on the table.

Mr. LEITER. I am not willing to stand by and see this bill sacrificed. I think we can come to some compromise.

Mr. MARSHALL, of Kentucky. I object to debate.

Mr. HOUSTON. I rise to a point of order. My point of order is, that the House having refused to suspend the rules to consider the bill immediately; under the rule which provides that all bills making appropriations shall be first considered in Committee of the Whole House, the bill goes there of necessity, without a question.

The SPEAKER. The bill would go to the Speaker's table if no motion be made with reference to it. It might be recommitted, or postponed.

Mr. HOUSTON. If no motion be made, in the regular routine of business, I think it goes to a Committee of the Whole House.

The SPEAKER. It would go, in the opinion of the Chair, to the Speaker's table.

Mr. FOSTER. Would it be in order to move to print it?

The SPEAKER. It would not at this stage of the proceedings.

Mr. MORRIS, of Illinois. I ask for the yeas and nays upon the motion to lay the bill on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 33, nays 171; as follows:

YEAS—Messrs. Brayton, Campbell, Chaffee, Ezra Clark, Curtis, Danrell, Davis of Maryland, English, Granger, Harlan, Haskins, Kellogg, Kilgore, Knapp, Lovejoy, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Pettit, Potter, Quitman, Aaron Shaw, Judson W. Sherman, Robert Smith, Stanton, William Stewart, Thayer, Tompkins, Wade, Waldron, and Elihu B. Washburne—32.

NAYS—Messrs. Adrain, Ahl, Anderson, Andrews, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Bishop, Blair, Bliss, Bocoek, Bonham, Bowie, Branch, Bryan, Buffinton, Burlingame, Burnett, Burns, Casr, Caskie, Chapman, John B. Clark, Clawson, Clay, Cobb, Clark B. Cochrane, John Cochrane, Cockrell, Colfax, Comins, Corning, Covode, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dimmick, Dodd, Dowdell, Durfee, Edie, Edmundson, Elliott, Eustis, Farnsworth, Faulkner, Fenton, Florence, Foley, Foster, Garnett, Gartrell, Giddings, Gillis, Gilman, Gilmer, Gooch, Goode, Goodwin, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Hatch, Hawkins, Hickman, Hill, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glaucy Jones, Owen Jones, Kelly, Kelsey, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Lawrence, Leach, Leidy, Leiter, Letcher, MacIay, McQueen, Humphrey Marshall, Matteson, Maynard, Miller, Milson, Moore, Morrill, Oliver A. Morse, Murray, Niblack, Olin, Palmer, Parker, Pendleton, Peyton, Phelps, Phillips, Pike, Pottle, Powell, Reagan, Reilly, Ricard, Robbins, Roberts, Royce, Rufin, Russell, Sandidge, Savage, Seales, Scott, Searing, Henry M. Shaw, John Sherman, Sickles, Singleton, Samuel A. Smith, William Smith, Spinner, Stallworth, Stephens, Stevenson, James A. Stewart, Tappan, George Taylor, Miles Taylor, Thompson, Tripp, Underwood, Walbridge, Walton, Ward, Cadwalader C. Washburn, Israel Washburn, Watkins, White, Whiteley, Wilson, Wood, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—171.

So the House refused to lay the bill on the table.

The bill was then referred to the Committee of the Whole on the state of the Union.

Mr. GOODE. I now desire to offer this resolution, connected with the vote which has just been taken. Every member of this House is desirous of having an efficient police for the city of Washington, at as early a day as possible. I ask the consent of the House to offer the following resolution:

Resolved, That the bill of the House, providing for the establishment of an auxiliary guard in the city of Washington, be made a special order, to take effect as soon as the deficiency bill, now pending, is disposed of, and shall so continue from day to day, until finally disposed of.

Mr. SEWARD. I object.

Mr. GOODE. I move to suspend the rules.

Mr. STANTON. Is it in order to fix a special order for a time when another question is disposed of, without fixing a particular day?

The **SPEAKER.** The time to make objections as to the particular form of the resolution will be when the resolution comes up for consideration. The Chair will, however, indicate to the gentleman from Ohio that, in his opinion, the phraseology of the resolution is in conformity to the rules of the House. It fixes a specific and definite time when the special order shall commence; at a time, namely, when a particular bill now pending in committee shall be disposed of.

Mr. STANTON. Will the special order commence as soon as the deficiency bill is disposed of in the Committee of the Whole on the state of the Union; or must the deficiency bill go to the House first?

The **SPEAKER.** It will be in order in the committee as soon as the deficiency bill is disposed of.

Mr. SEWARD. I ask for the yeas and nays upon the motion to suspend the rules.

The yeas and nays were not ordered—ayes 24, noes 154.

Mr. STEWART, of Pennsylvania, demanded tellers.

Tellers were not ordered.

The rules were then suspended—ayes 123, noes 40.

Mr. GOODE demanded the previous question on the adoption of the resolution.

The previous question was seconded; and the main question ordered to be put; and, under the operation thereof, the resolution was adopted.

Mr. GOODE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. GOODE. Everybody seems desirous that this bill shall be scrutinized; and that every member may have a copy, I move that it be printed.

The motion was agreed to.

CENSUS OF 1860.

Mr. SHERMAN, of Ohio. I offer the following resolution:

Resolved, That a special committee of five be appointed by the Chair, to continue during this Congress, whose duty it shall be to inquire into the best mode of taking the census

of 1860, with leave to report by bill or otherwise, during the session of Congress commencing on the first Monday of December next.

Mr. KEITT. I object to the resolution, simply because it is provided for by law.

Mr. SHERMAN, of Ohio. The present law is defective, and admitted to be so on all hands. I move to suspend the rules.

The rules were not suspended; there being, on a division—ayes 103, noes 80.

RESOLUTIONS OF NEW YORK LEGISLATURE.

Mr. SICKLES presented joint resolutions of the Legislature of New York, in relation to officers of the revolutionary army; which were referred to the Committee on Revolutionary Pensions, and ordered to be printed.

STENOGRAPHER FOR SELECT COMMITTEE.

Mr. FLORENCE. Mr. Speaker, the committee on the Wilkins's Point investigation, have directed me to report the following resolution to the House:

Resolved, That the committee appointed to investigate the facts and circumstances connected with the sale and purchase at Wilkins's Point, New York, by the Government, for fortification purposes, in the year 1857, be authorized to employ a stenographer at the usual compensation.

Mr. JONES, of Tennessee. I understood, when this committee was appointed, that the intention was not to examine more than three witnesses.

Mr. FLORENCE. The gentleman is altogether mistaken. That was the committee to investigate certain charges in reference to the purchase of the Pennsylvania bank building for a court-house, &c. On this Wilkins's Point committee it is found impossible to get along without a stenographer.

Mr. JONES, of Tennessee. Has this committee a right to report at any time?

Mr. FLORENCE. The resolution is in.

Mr. LETCHER. I understand that you have a stenographer.

Mr. FLORENCE. We have; and now we want to pay him. We go on the rule that the laborer is worthy of his hire.

The **SPEAKER.** If there be objection the resolution cannot come in.

Mr. JONES, of Tennessee. I object.

Mr. FLORENCE. I move to suspend the rules.

Mr. JONES, of Tennessee. The committee have employed a stenographer without authority.

Mr. FLORENCE. The thing is all fair; and to give gentlemen time to see its justice, I move the House adjourn.

The motion was agreed to.

The House accordingly (at half past three o'clock, p. m.) adjourned.

IN SENATE.

TUESDAY, April 6, 1858.

Prayer by Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The **PRESIDENT** *pro tempore* laid before the Senate a report from the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, information as to the condition of the United States ship Franklin; which was read, and, on motion of **Mr. SEWARD**, was referred to the Committee on Naval Affairs.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a petition of citizens of Canajoharie, New York, praying for the enactment of a general bankrupt law, for the relief of insolvent debtors; which was referred to the Committee on the Judiciary.

He also presented a petition of citizens of Livingston county, New York, for the enactment of a law granting pensions to the soldiers of the war of 1812, and the widows of those deceased; which was referred to the Committee on Pensions.

He also presented the petition of citizens of Seneca county, New York, praying that pensions may be granted to the soldiers of the war of 1812 who served from three to eighteen months; which was referred to the Committee on Pensions.

He also presented the petition of Henry R. Schoolcraft, late acting superintendent of Indian affairs in Michigan, praying to be allowed a commission on disbursements; which was referred to the Committee on Claims.

Mr. FOOT presented four petitions of inhab-

itants of Vermont for the establishment of a mail route from Castleton to Sudbury, in that State; which were referred to the Committee on the Post Office and Post Roads.

Mr. IVERSON presented the memorial of William M. Varnum, agent of the State of Georgia, praying that the proper accounting officers of the Treasury be authorized to ascertain and pay the amount due to that State for money advanced in the suppression of Indian hostilities; which was referred to the Committee on Military Affairs and Militia.

Mr. BIGLER presented a memorial of Amos Kendall, supplemental to the memorial of the Magnetic and New England Union Telegraph Companies; which was referred to the Committee on the Judiciary; and a motion by **Mr. BIGLER** to print it was referred to the Committee on Printing.

PAPERS WITHDRAWN AND REFERRED.

On motion of **Mr. IVERSON**, it was

Ordered, That the petition of Hezekiah Miller, on the files of the Senate, be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Noah Smith, reported a bill (S. No. 240) for the relief of Noah Smith, late a private in the Army of the United States; which was read, and passed to a second reading.

KANSAS—LECOMPTON CONSTITUTION.

Mr. STUART. I wish to call the attention of the Senate to a privileged question, which I think is important in its character, not only in the present instance, but as a precedent for the action of the officers of the Senate. On inquiry, I learn that the bill for the admission of Kansas into the Union as a State, although acted upon definitely by this body on Friday of last week, is still in possession of the Senate; that it is retained here upon the motion of the honorable Senator from Louisiana, [Mr. SLIDELL,] stating that he reserves his right to move to reconsider the vote. Now, sir, the right—I speak of a strict right—in such a question, in my judgment, is simply this: it is the right of a Senator to move a reconsideration within two succeeding days of actual session after the vote is taken. The rule, however, puts another limitation. The motion must be made within two days; but the rule fixes also another limitation, which is, that no motion to reconsider shall be made after the bill or paper has gone out of the possession of the Senate. But this gives no right to retain a bill here at the request or suggestion of a single Senator.

There has been a courtesy of the Senate, and I think a very proper one, which, upon a suggestion to the Presiding Officer, has authorized the retention of a bill until a Senator could have an opportunity in actual session to make his motion to reconsider. But if the Senate now adopts the idea that, upon the suggestion of a Senator, any bill can be retained here for two days after it is acted upon, then it is in the power of any Senator to defeat any measure which passes the Senate within two days of the end of a session. If he voted in the affirmative, and says to the officer, "I reserve my right to move to reconsider, and I insist that that right lasts for two days," he can defeat a measure and you have no way to prevent it. The rules must, as a matter of course, be constructed connectedly—connectedly with the business of the Senate. The order of the Senate in every case, on the passage of a bill, is that the Secretary communicate the bill to the House of Representatives, when it is finally acted upon. That is the order of the Senate. Now there is no rule—

Mr. JOHNSON, of Arkansas. I rise to a question of order. This subject is evidently occupying the time that should be devoted to the business of the morning hour; besides, I have never seen the Senate more empty than it is now, and I ask whether it is in order to proceed with this matter, and cut off the presentation of petitions, the submission of reports, and morning business generally? I do not think it is in order, and I raise the question.

Mr. SLIDELL. I suggest to the Senator from Arkansas that this question can probably be disposed of at once. If it should be likely to lead to any argument or controversy, or if there is any difficulty in it, it can be postponed.

Mr. STUART. I desire the Chair to settle the question of order; for, if I am in order, I wish to proceed.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Michigan to raise a privileged question.

Mr. STUART. To insist that the order of the Senate be executed.

The PRESIDENT *pro tempore*. The Chair regards the Senator from Michigan as strictly in order.

Mr. STUART. Now, sir, I will complete my statement. The results I have pointed out would inevitably follow if any Senator had a right to retain a measure here for two legislative days after it was passed upon. I said that he had no such right; that his right was simply to move to reconsider; and that the Senate having ordered the communication to be sent to the House of Representatives, that order must be executed, unless there be some rule to prevent it. If there is any rule which authorizes the Presiding Officer of the Senate, or the Secretary of the Senate, or any other officer, to retain a measure here which has been acted upon by the Senate, then the rule can be produced.

Mr. SEWARD. Will the Senator allow me to make a suggestion to him?

Mr. STUART. Certainly.

Mr. SEWARD. I did not exactly understand the honorable Senator's statement. He stated that this bill was retained here on the motion of the Senator from Louisiana. Does he mean to say that the Senator from Louisiana made a motion in the Senate?

Mr. STUART. No, sir; not at all.

Mr. SLIDELL. If the Senator from New York will permit me, I will state exactly what I have done in this matter, and the reasons upon which I have based my action. For reasons satisfactory to myself I choose, if I have the privilege of exercising it, to retain this bill here to-day. I conceive that I have the right to do so under the express provisions of the rules of the Senate. On Friday last—

Mr. STUART. I shall have to yield the floor, I suppose.

Mr. SLIDELL. I am willing that the gentleman shall proceed.

The PRESIDENT *pro tempore*. The Chair thought the Senator from Michigan had yielded the floor.

Mr. SLIDELL. I thought it would facilitate matters, if I stated how the case stood. I have certainly no disposition to interfere with the Senator from Michigan.

Mr. STUART. Go on, sir.

Mr. SLIDELL. No, sir. I will hold the floor by the indulgence of no one. If you have anything to say, I will wait and respond.

Mr. STUART. Well, Mr. President, there is no necessity for any feeling on this subject whatever.

Mr. SLIDELL. I have no feeling. You have shown it, I think.

Mr. STUART. I have no desire to present anything here except what I conceive to be very important, and I have stated it with a view to that, to be the settled action and precedent of the Senate. If the Senate is disposed to settle a course of action which gives me the power to prevent a measure from becoming a law that has passed within the last two days of a Congress, I shall have no more reason to complain than any other man here; but I submit that it is not a power which can be safely intrusted to anybody.

I was saying, sir, that the courtesy of the Senate, which I thought was a proper courtesy, had been exercised through its presiding officers thus far: when a Senator notified the Presiding Officer or the Secretary that he designed to make a motion to reconsider, and wished the bill held back until he could have the opportunity to do so, that courtesy has been extended. Otherwise, the rule applying that the motion is not in order after the bill has passed from the possession of the Senate, he would be cut off unless a majority of the Senate chose to ask that it be returned from the other House. There is a conclusive reason, therefore, why he should have the opportunity to make a motion for reconsideration. But when a Senator has had the opportunity and declines to avail himself of it, but claims it as a right to keep a bill here for two days after it has passed, I submit

that it will not be safe for the business of the Senate and the country to adopt such a course of proceeding. It is, in my judgment, in clear violation of the rules of the Senate, and of the duty of its officers; and it was therefore that I rose to ask that the order of the Senate, made on Friday, that this bill should be communicated to the House of Representatives, be executed. I thought it a very proper occasion to bring to the attention of the Senate the difficulty that we should be in if we adopted a principle which would put the control of the business of the Senate into the hands of any one Senator.

I did not rise for the purpose of complaining of the Senator from Louisiana. He may exercise any rights that he thinks he possesses here, and I certainly will treat him with all the respect that is due to a Senator, and to him individually; but it is the business of the Senate which will be jeopardized, if the Senate adopts or allows this practice. My motion, therefore, is, that the order of the Senate, made on Friday last in reference to the Kansas bill, be executed at once.

Mr. SLIDELL. Mr. President, I was about to state the reason for my action in this case, and was about to appeal to the rule as fully sustaining me in the course that I have thought proper to adopt. The rule governing this matter appears to me to be free from all ambiguity. It is the 20th rule of the Senate. It provides that

"When a question has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof; but no motion for the reconsideration of any vote shall be in order after a bill, resolution, message, report, amendment, or motion, upon which the vote was taken, shall have gone out of the possession of the Senate, announcing their decision."

I believe this bill is still in the possession of the Senate; and, with all due deference to the Senator from Michigan, I deny that any order has been made by the Senate, directing this bill to be carried to the House of Representatives. It is very possible that on the Journal such an order may appear as having been made; but I take it for granted that the Senate never makes an order unless upon the motion of some Senator. Now, I have not looked at the Journal, but I have had occasion, once or twice, to observe that the Senate is said to have directed a bill to be sent to the House of Representatives, when, to my knowledge, no such order has been given. I assume that no such order has been given in this case. If the contrary appears on the Journal, it is an act of supererogation on the part of the clerk, without any authority from the Senate.

Then the bill being still in the possession of the Senate, what are my rights? The rule goes on to say:

"Nor shall any motion for reconsideration be in order, unless made on the same day on which the vote was taken, or within the two next days of actual session of the Senate thereafter."

That is a direct concession of the right, at any time within two days of actual session of the Senate after a bill has passed, to move for a reconsideration. Now, sir, I do not feel myself bound to give my reasons for the action that I choose to take in this matter. They are satisfactory to myself. As a Senator I have the right, I believe, subject always to the control of the appellate power of the Senate. I do not consider this, in any sense, a privileged question. It is in the power of any member of the majority, was on Friday, was yesterday, is at this moment, in the power of any member of the Senate who voted in the majority on this occasion, to move a reconsideration. The moment that motion is made it is a privileged question, and the Senate can entertain it. If the Senator from Michigan can find any Senator who voted with the majority, that is disposed now to make this motion, he has a very simple mode of bringing the question of privilege before the Senate. But, in the mean while, I deny that the Senate has any right to act on this matter. I say that my discretion in this matter cannot be controlled by the action of the Senate; that I have the right, until the close of this legislative day, to move a reconsideration. Whether I do so or not will depend upon circumstances which may occur in the course of the day; I may or may not.

As to the argument of inconvenience, it is very true; and I can see all the difficulties that might result from the application of this rule at a late period of the session. That may be a very good

reason for amending the rule; but until the rule be amended, it appears to me that my right is positive, and cannot be controlled by any action of the Senate, and I am not disposed to yield it. If the Senator from Michigan can satisfy me that my construction of the rule is a bad one, or rather can satisfy the majority of the Senate that such is the case, of course I must yield; but believing that I possess the right, I intend to exercise it.

Mr. STUART. I think the error into which the Senator has fallen is upon the construction of the rule. The rule has, as I said, two limitations upon the right to move a reconsideration. The first one is, that it must be done while the bill or paper is in the possession of the Senate; the next one is, that in any event it must be done within two days of actual session after the bill has passed. These are limitations upon the right to move a reconsideration. Now, sir, the right to retain a bill, in order to make a motion to reconsider, is a right that has no existence at all. It is not found in the rule. I grant that when a Senator makes his motion to reconsider, the bill being in possession of the Senate, it must be retained; and why? Because that is a motion he has a right to make; nobody can deprive him of it; and the bill still being within the possession of the Senate, no inconvenience grows out of that right, because the Senate, by a majority, can dispose of the motion. No delay can arise in that case, for it is a privileged question, and the Senate may take it right up and act upon it, and reconsider or refuse to reconsider at once. Then no inconvenience grows out of it at all.

But, sir, if you adopt the argument that because a single Senator has a right to move to reconsider, he therefore has a right to retain a bill, and in the end not make his motion to reconsider, you do most emphatically put the whole business of the Senate within the power of a single Senator. You put it, in all stages of the session, within his power for two succeeding legislative days after any bill is passed; and at the close of the session you put the whole business itself into his hands.

Now, Mr. President, let me test this idea: and I test it not for the purpose of moving to amend the rules, for they need no amendment; I will show you, I think, that they need no amendment. Suppose this to be the last day of the session, and the Senate now passes an appropriation bill; I vote for it, and immediately send a note to the Secretary or Presiding Officer that I reserve my right to move a reconsideration within two days, and demand that that bill be kept here: if the right exists now in this case, how are you going to prevent it then?

Mr. SLIDELL. Will the Senator from Michigan allow me to state to him how it can be prevented easily?

Mr. STUART. Certainly.

Mr. SLIDELL. It can be prevented by any other member of the majority asking for a reconsideration. That is a complete answer to any danger that might result from a mere factious spirit on the part of a single member. There are more than thirty members of the Senate who voted for this bill. If any one of them can be found to move a reconsideration, very well.

Mr. STUART. With all respect to the Senator, I think that is not an answer; because, not only the minority of the Senate, but the country, has a right to have the action of Congress proceed uninterruptedly. It does not follow that because in a given case there might be a majority of the Senate voting for a measure, it can be thus withheld—not at all. The Senator is not talking about what may possibly be done; he is talking about his right. He says he has this right. That is the position that I am controverting. As I said, let him make his motion. That exercises his right, and that puts it in the power of the Senate to dispose of it; to reconsider, or to refuse to reconsider. Then he enjoys his right, and he enjoys it in consonance with the rights of every other member of the body, and the body itself, and with the business of the country. But, when he neither makes his motion nor permits the bill to go to the House of Representatives, the right which he claims places under foot the rights of the country; it places under foot the rights of men who voted against the bill; and it is suggested that all difficulty may be avoided by seeking for some member, who votes in the majority, who will move to reconsider at once, and have that motion disposed

of immediately. Why, sir, what sort of business would it be for a man who wanted a bill passed, to go looking around among the majority to see if he could not find some one who would condescend to make this motion! That is not the question. As I said, the rules need no amendment. The right to reconsider is perfectly consonant with the right of the Senate to act. Let the motion be made; let the Senate say whether they will dispose of it now, or to-morrow, or at any time—whether they will reconsider or not. That leaves the Senate in full and complete control of its own business; but if you adopt the ground contended for by the Senator from Louisiana, the business of the Senate is in the possession of a single individual.

There is nothing in the rules which authorizes an officer to retain a bill at all. The rules do not say that, on notice of a motion to reconsider, a measure shall be retained; but it is sought to show that the limitations imposed by the rule upon the right to move a reconsideration, limiting it in the first place to the fact that the measure is still in the possession of the Senate, and in the next place to two succeeding legislative days in time, are, in fact, an extension of the right. Why, sir, they are limitations upon the right; and although the motion to reconsider may be made within two days, if the measure shall have gone from the Senate the right no longer exists, unless the Senate see fit, by courtesy, as they usually do, to ask that the bill be returned.

I think, with all respect, if the Senator desires to reconsider, let him make his motion. Then it will be in the possession of the Senate, and we can dispose of it. But if he does not desire to reconsider, let the bill take the usual course. He does not tell the Senate whether he desires to reconsider or not; he simply says that for reasons satisfactory to himself, he wishes this bill kept here to-day, and thinks he has a right to keep it. I say that it is not according to our rules; it is not a safe proceeding to establish in the business of the Senate; and it is one of those things which certainly will come back to plague the inventors—I mean the Senate of the United States. If we agree to it we shall find ourselves obliged hereafter to lose important measures, or to disavow the precedent that is claimed to-day. If I am understood, Mr. President, it is all I desire. I say that the rules give no authority to retain a bill at all; that power cannot be found in the rules; and the exceptions in the 20th rule are limitations on the right to move a reconsideration.

The Senator from Louisiana says there has been no order of the Senate directing this bill to be sent to the House of Representatives. I say there has been such an order. Would anybody undertake to say in court that, because an order made is one within that list which are orders as a matter of course, it is not the order of the court? I have no doubt that the strict practice would be to move that the Secretary communicate this bill to the House of Representatives; but it is one of those orders which, in long parliamentary usage here, has grown up as a matter of course; but it is no less the order of the Senate. It would be exceedingly inconvenient to require that a Senator should rise every time a bill was passed and move this order. It has come to be a settled custom. It is a motion, of course, when a bill is passed, and it is in accordance with the 46th rule of the Senate, which makes it the duty of the Secretary to communicate these messages to the House of Representatives. He must do it.

Mr. BAYARD. Will the honorable Senator allow me to ask him what is the question now before the Senate? I have just come in.

Mr. STUART. The question is this: The Senate, on Friday last, refused to concur in the House amendment to the Kansas bill. The Senator from Louisiana, on the next day, filed with the Clerk a notice in writing that he wished to reserve his right to move to reconsider that vote. Yesterday he renewed it verbally; and to-day he renews it again. My proposition is, that the officers of the Senate be directed to execute the order made on Friday, and communicate the action of the Senate to the House of Representatives; and I contend that the Senator has not a right to retain the bill on his mere suggestion.

I had only a word more to say. The Senator from Louisiana does not, this morning, say that he designs to move a reconsideration. It is, there-

fore, only using this alleged right to delay a bill in its passage between the two Houses. He had the opportunity yesterday, he has it to-day, to move to reconsider. That is a right that I would be the last man in the least degree to limit beyond the rules. I would construe the rules liberally to afford the opportunity to make the motion; but the opportunity being had, I deny that it is in the power of a single Senator to say that the bill shall stay here to the end of the time limited, and after all he will not make the motion.

Mr. BAYARD. I differ somewhat from the views of the honorable Senator from Michigan in his construction of this rule of order. It is certainly meant (whether imposed in the form of a restriction or not is immaterial) to give a right to reconsider a bill on the day on which it passes, and within the next two days on which the Senate is in session. According to my recollection, the practice is this: when notice is not given to the Secretary of any probable intention to move for a reconsideration, as soon as the bill is engrossed, it is sent to the other House in the ordinary course of business. If, however, notice is given to the Secretary, I have known many cases, I think, in which, as a matter of course, he retains a bill with a view to let the Senator who gives the notice to move to reconsider, if he sees fit. It does not require any positive enunciation that the party will move to reconsider, for the object is to give time and opportunity to any Senator who votes for a bill to move to reconsider within a limited time, a time not unreasonable.

Now, sir, to apply that rule in its fullest latitude to the end of the session would be unreasonable; and I do not say that it is obligatory on the officer in any case to retain a bill; because, even if he communicates it to the House of Representatives, if the motion to reconsider is made before it has passed the House, the Senate has frequently sent a message to the House, asking for the return of the bill, in order to allow a motion for reconsideration to be made. The practice, then, it seems to me, must be in the discretion of the officer. At the close of the session, when it would obstruct public business, the officer naturally would reply to a Senator, "The bill is engrossed, and ready to go to the House of Representatives. There will be no time to act on it if I delay it, and I feel it my duty to communicate it at once, unless some order of the Senate is made to the contrary." But, in this case, I can see no reason for refusing the right of the Senator; and it would be ungracious in the Clerk to refuse when there is no press of business, and a Senator says to him, "I desire to move to reconsider that bill, and I desire to retain it for the length of time within which I may make that motion." I do not think it requires any action, unless the Senate should be of opinion (and I do not deny the right of the Senator from Michigan to make the motion) that the bill ought to go at once to the House of Representatives, or that there is some public exigency requiring that the bill shall not be retained here for the lapse of three days. Then the Senate certainly have the power to direct it to be communicated.

It seems to me that this construction of the rule would make it work fairly all around. Any Senator can ask the Secretary to retain a bill if he thinks it probable that he will move to reconsider. If any other Senator thinks that will interfere with the public business, the bill not having been communicated, he may make a motion to the Senate; and it is in the power of the Senate to say whether the bill shall go to the House at once. That is the view I take of the rule. I think it would be the most courteous and best construction for the public business.

I know of no reason why this bill should be sent to the House of Representatives earlier than the time within which a Senator may move for a reconsideration. If there be such a reason, and it is given, I should be perfectly willing to vote, if the honorable Senator from Louisiana did not withdraw his request, that the bill should be communicated to the House of Representatives; but I see no necessity for any difficulty under the rule. I take it for granted that the bill would be communicated at once, unless some request was made by a Senator to retain it. If that request was made under circumstances that would obstruct the public business, the Secretary would have a right to refuse, and might send it at once. It is a matter

left to his discretion within that time. Then if a Senator moves to reconsider, and asks the Senate to recall the bill, they may consider whether they will recall it. On the other hand, there is no breach of duty, no impropriety, on the part of the Clerk, at the request of any Senator who voted for a bill, in retaining it for that period of time within which the reconsideration may be moved. But when the question is presented to the Senate, if there are any circumstances requiring that it should go within that period of time, it is for the majority of the Senate to say whether that ought to be done or not.

Mr. DOUGLAS. This question becomes important, inasmuch as the Senator from Louisiana claims, as a right, that he can retain the bill for three days. If it was only a question of courtesy, it would be very different; but when a single member asserts his right to detain a bill in this body after the Senate has disposed of it and directed it to be sent to the House of Representatives, it becomes a very grave and serious question, as affecting the business of the Senate. I desire the Clerk, as there has been a question about what the order was, to read the order in the Journal upon this case in regard to sending the bill to the House of Representatives.

The Clerk read from the Journal of Friday; which states, that when the Senate disagreed to the House amendment to the Kansas bill, it was

"Ordered, That the Secretary notify the House of Representatives accordingly."

Mr. DOUGLAS. The Senate disagreed to the amendment of the House of Representatives, and directed the Secretary so to notify the House. This was clearly an order that our action should be communicated to the House of Representatives. Now the question is, can a single Senator defeat the execution of that order for any length of time, or for the time claimed, which is three days after the passage of a bill? My understanding is, that it is an imperative order on the Secretary to proceed immediately to notify the House of Representatives of our action, and that the Secretary has no right to delay it at my request, or the request of any other Senator in the body.

Mr. BAYARD. It has been repeatedly done.

Mr. DOUGLAS. It is no answer to say that it has been repeatedly done, as is suggested by the Senator from Delaware. I suppose it has been done to this extent, and this only: that where a Senator had voted for a bill, and came to the conclusion that he was probably mistaken in his vote, and desired to reverse his action, the Secretary has kept the bill back until the next meeting of the Senate, to give him an opportunity to move a reconsideration. The Senator from Louisiana says perhaps that is his case. I trust, for his own reputation and the good of the country, that it is so. When a Senator comes to the conclusion that he has voted wrong, he ought to have the opportunity to enter a motion to reconsider. When a bill passes, and the Senate adjourns immediately, he may go at once to the Clerk and say: "I desire to enter a motion to reconsider, and I would like you to wait until one o'clock to-morrow;" and I suppose the Clerk would feel authorized to wait that long, simply that he might have an opportunity of introducing his motion. But when he comes in the next morning, and withholds the motion, refuses to make it, perseveres in that refusal during that day and another day, and comes the third day and will not make his motion, has he a right, without even saying that he is going to make it, to withhold the bill from the House of Representatives, in defiance of the order of the Senate? I think not. But if the Senator from Louisiana be right in saying that it is his right, under the rule, to enter the motion to reconsider at any time within three days, on the day of the passage of a bill, or within two days thereafter, then it is clear that the Clerk has no right to send the bill to the House of Representatives until after the three days expire. If it is the right of any member voting in the majority to make the motion, no written request is necessary. The written notice of the Senator from Louisiana to the Clerk does not give him any more right or power over this bill than he would have had if he had not made it. He cannot discharge the Secretary from his obligation to perform his duty under the law and the rules, by carrying out the order of the Senate. His note does not confer any additional authority on

the Secretary; does not modify the Secretary's duty. If it was the duty of the Secretary to send the bill without that note, it is his duty to send it after receiving the note. If under that note the Secretary had no right to send the bill to the House, he had no right to send it without the note being sent. A direction from an individual Senator cannot control the action of the body.

I therefore respectfully insist that no one member of this body can discharge the Clerk from the obligation to perform his duty under the rule. The order is on the Journal that he shall notify the House of Representatives of our action in this case. I know that the Senator from Louisiana denies that the Senate has directed such an order to be made. If it be true, as he insists, that the Senate has not made any such order as the Secretary has entered on the Journal, then it is his imperative duty to move that the Journal be amended, that an erroneous entry shall not remain; that an untrue order shall not be recorded upon it; and it is the imperative duty of the Senate to amend the Journal and strike out that order if the Senate have not made the order. But if you go through the history of the Government, I apprehend you will find such an order in every instance where the Senate has, by a vote, disagreed to an amendment of the House of Representatives to a Senate bill, or has passed a bill. The order is a parliamentary legal consequence of the vote.

Mr. BAYARD. What is the order, I ask?

Mr. DOUGLAS. That the Secretary be directed to request the concurrence of the House in our action.

Mr. BAYARD. I ask the honorable Senator if that does not allow a reasonable discretion to the officer to retain it at the request of a Senator, unless the Senate order to the contrary?

Mr. DOUGLAS. Clearly not; because the Senate having made its order already, and that being entered on the Journal, that is the law to the Secretary, which he has no right to violate.

Mr. GREEN. I call for the special order of the day.

The PRESIDENT *pro tempore*. The hour for the special order having arrived, the Senate will proceed to the consideration of the bill to admit Minnesota into the Union.

Mr. DOUGLAS. I shall waive my right, so as to go on with the Minnesota bill. I suppose the gentlemen have accomplished their object; but still it becomes an important question as a matter of law.

Mr. HOUSTON. I ask the unanimous consent of the Senate to allow me to introduce a resolution, which I hope will lead to no discussion. It is in relation to the report of the Committee on Printing. The resolution is not one that casts any reflection on them, but it is offered with a view to have it adopted.

Mr. DOUGLAS. If this resolution leads to debate, I shall object to its consideration.

Mr. HOUSTON. If it leads to any debate, of course it will be postponed. The resolution is:

Resolved, That there be printed, in pamphlet form, for the use of the Senate, ten thousand copies of the addresses made by the members of the Senate, and members of the House of Representatives, upon the occasions of the death of the Hon. A. P. Butler, of South Carolina; Hon. James Bell, of New Hampshire; and Hon. Thomas J. Rusk, of Texas, late Senators of the United States; and that the Printer to the Senate be directed to prepare them in a similar manner to the eulogies on the life of Hon. John M. Clayton.

Mr. JOHNSON, of Arkansas. I must make a statement in regard to the resolution—a very short one—

Mr. DOUGLAS. I do not feel authorized to waive the special order—the Minnesota bill—under the circumstances.

Mr. HOUSTON. Then I give notice that I shall call up the resolution to-morrow during the morning hour.

The PRESIDENT *pro tempore*. The rules require a resolution to lie over one day, if objected to. This resolution, therefore, must lie over.

Mr. DOUGLAS. I call for the special order.

The PRESIDENT *pro tempore*. As connected with the matter which has been under discussion this morning in the Senate, the Chair deems it proper to throw himself on the indulgence of the Senate, in order to make a brief statement in relation to his own conduct, as well as that of the Clerk. I am very frank to say that when the subject was brought to the notice of the Chair, it

seemed to him to present a question somewhat novel in its character, and not free from embarrassment. The Clerk notified me of the notice he had received, and in fact showed me the note of the Senator from Louisiana, and seemed to invoke my direction as the Presiding Officer more than in any other form. I stated to him that the question was new to me, and that I was not conversant with the practice in matters of this kind, and asked him to state to me what was the practice in such cases, as he had been long in the Senate, and intimately conversant with subjects of this character.

Mr. SEWARD. Will the President be good enough to raise his voice a little?

The PRESIDENT *pro tempore*. I was stating that when the matter was brought to my notice, I was disposed to seek the aid and advice of those more conversant with the rules and practice of the Senate than myself; and I knew of none more familiar with them than the clerk. He stated to me that in cases where an intimation had been given by a Senator that a bill should not be sent to the House of Representatives in order to allow him to move a reconsideration, the practice had been uniform to regard the wishes of the Senator. I told him, then, that the safe rule was to refer to the rules of the Senate; and on looking into the rules, I found, what has been read by the Senator from Louisiana, a provision granting to any Senator the right, within two days of actual session subsequent to the passage of a bill, to move a reconsideration. All will concede that the Senator has a right until the close of this day to move to reconsider the vote disagreeing to the amendment of the House of Representatives to this bill. If, however, the bill had been sent to the House of Representatives in conformity with the general usage of the Senate, without the interposition of the Senator from Louisiana, his right would have been forfeited. While the bill remained here, however, he had the right, and has now, to move to reconsider before the lapse of the two days.

Believing, from the general courtesy of the Senate, that they would not willingly order a bill to be sent from this body when any Senator wanted to avail himself of that right; believing that they would extend it to him as a courtesy, if not, perhaps, as a right, I told the Clerk to withhold the bill. All the responsibility, then, of withholding the bill, I say to the Senate, attaches to me more than to the Clerk, because he acted under my advice and direction. Believing that the established uniform courtesy of the Senate would tolerate a proceeding of that kind, and without attempting to determine the strict rule, I was disposed to withhold the bill until the Senate determined otherwise. I have deemed it proper to make this statement that it may go out as a part of the history of this transaction.

Mr. DOUGLAS. Had I supposed it was asked as a matter of courtesy, for the purpose of making a motion to reconsider, I should not have made the slightest objection; but the Senator from Louisiana asserts his right to keep the bill here three days, without giving the assurance that he intends, at any time, to move a reconsideration. It is not that he desires to reconsider it. He does not say that he wishes to reconsider it; he refuses now to intimate that he desires to reconsider; but he desires, for reasons satisfactory to himself, to keep the bill three days in this body, without putting himself under the obligation to move a reconsideration. I could not agree, as a matter of courtesy, to let him keep it here three days for his own purposes, when he did not wish to reconsider; but if he said to me that he did desire to reconsider, I would grant the request on the instant. It is the question of right, and not the question of courtesy, that I was discussing. But I now ask for the special order.

Mr. BRIGHT. The Chair will allow me to say that I think the order he made in this case is in accordance with all the past usages of this body. The only error the Senator from Louisiana committed, if it be an error, was filing a notice with the Clerk. It has been the uniform practice here, when a Senator voting with the majority desired to reconsider, or thought it possible that he might at a subsequent day, within the period named in the 20th rule, move a reconsideration, to suggest that fact to the Chair, and the Chair uniformly has given the order to the Secretary to suspend action until the limitation expired. I think the

order of the Chair was in accordance with past practice.

The PRESIDENT *pro tempore*. Knowing the Senator from Indiana to have been an old Presiding Officer, I designed to have a conversation with him on the subject, but I had not time on that day—in fact he was not in the Senate; and he did not come in time to enable me to confer with him this morning.

Mr. CRITTENDEN. As to the usage of the Senate, I have some little knowledge. Heretofore, when a question had been decided, and an adjournment immediately took place, without any opportunity of moving for a reconsideration, I have myself gone and asked the Clerk, "hold this, sir, if you please, until to-morrow morning, the earliest time at which I can make a motion to reconsider," and it has been acceded to. But I applied for it as an act of courtesy, and it was granted to me as an act of courtesy; and there has never been any other practice here that I ever heard of. It has never been supposed that a gentleman, by a note to the Clerk, can peremptorily require that a bill shall remain here two days to give time to consider whether a motion for reconsideration shall be made, and it is for the Senate to consider whether they will put their proceedings so under the control of any Senator. I think it would be very injurious to do so. I never heard before, long as I have been here, of any member assuming the right to retain a bill for two days, upon his mere rescript to the Clerk that he required it for consideration. If such proceedings have taken place they have been unknown to me, and, so far as I know, totally unknown to the Senate—

Mr. IVERSON. I rise to a point of order. If the special order is to be proceeded with, I desire this discussion to stop.

Mr. CRITTENDEN. I submit whether debate on this question is not in order.

The PRESIDENT *pro tempore*. The remarks of the Chair, as well as the remarks of Senators, since one o'clock, were not strictly in order, but were made by the courtesy of the Senate. There is no question before the body.

Mr. HALE, and others. There is.

The PRESIDENT *pro tempore*. The Chair threw himself on the indulgence of the Senate, and I presume the same indulgence will be extended to other Senators if the debate is not extended to any length of time.

Mr. CRITTENDEN. I thought you were suggesting that you had made inquiries, and left the subject open to inquiry.

The PRESIDENT *pro tempore*. That was done by the indulgence of the Senate when there was no question before it.

Mr. SEWARD and Mr. HALE. There is a question.

Mr. STUART. I think the Chair—

Mr. IVERSON. I call for the special order.

Mr. STUART. I was going to state that I think this question is before the Senate. This is a privileged question, which overrides the special order, unless the Senate vote it away. A privileged question may be taken up at any time when there is no other business before the Senate at that time; and being a privileged question, it overrides the special order, unless the Senate now lay it aside for the special order.

Mr. SEWARD. State what your motion was.

Mr. STUART. My motion was that the Secretary be directed to carry out now the order of Friday, and communicate this message to the House of Representatives.

Mr. SLIDELL. I am sorry to differ in my recollection with the Senator from Michigan. The Senator from Michigan, I feel very confident, made no motion of any sort.

Mr. STUART. The Senator is mistaken.

Mr. SLIDELL. He simply called the attention of the Chair to what he considered a gross irregularity.

Mr. STUART. I beg pardon of the Senator. I certainly did make a motion, and presented it distinctly. I made it repeatedly and distinctly.

Mr. SLIDELL. Was it a motion to send the bill to the other House?

Mr. STUART. Yes, sir; that the Clerk be directed now to execute the order.

Mr. SLIDELL. I was mistaken, then, as to the fact. Then the question recurs whether this is a question of privilege; and I would say to the

Senator from Illinois, who has been so extremely anxious—

The PRESIDENT *pro tempore*. Under the views taken by the Senators, the Senator from Kentucky is entitled to the floor.

Mr. CRITTENDEN. I have nothing more to say but to bear the evidence of my experience here. I never before heard even the claim made, much less the allowance of such a claim as is now made by the Senator from Louisiana, that he has a right, by his mere *ipse dixit* to the Clerk, to paralyze the action of the Senate for two days. I never heard the claim made, much less allowed, before.

Mr. SEWARD. I think it important that we should understand this subject before it passes away from us now; but I do not see any very great difficulty in arriving at a correct conclusion with regard to the practice which ought to prevail, and which is contemplated by the rules. A reconsideration may be of a measure which would still remain in the Senate after the decision of the Senate upon it. The action may not be final; the judgment given may not be final. It is not therefore transmitted either to the House of Representatives or to the President of the United States. Such a matter may remain for two days within the Senate, or for two months, or forever. The rule contemplates, then, the reconsideration of such interlocutory questions; but the same rule provides for the reconsideration of questions which may pass immediately, by order of the Senate, beyond the control of the Senate; that is, the final vote; and so, gathering and grooving the two subjects into one, the rule provides for the two cases, and at the same time fixes the limitations subject to which the motion to reconsider shall be made and take effect.

Now, I suppose that no motion for reconsideration can be offered or requested by the honorable Senator from Louisiana, or by any other Senator, within two days, if, during that time, by another order of the Senate, the matter is sent beyond its control. The honorable Senator from Louisiana thinks that no such order has, in fact, been made; and he asserts his right upon the ground that although the Journal shows such an order directing this bill to be carried to the House of Representatives, yet that the order has not, in fact, been made. I think the honorable Senator will come to the conclusion, on reflection, that he is erroneous in this view. The parliamentary law determines what shall be the effect of the votes on which a division is made. The vote in this case was that the Senate do not concur with the House of Representatives in their amendment. The Clerk embodies the sense of the Senate, thus expressed, in parliamentary language:

Resolved, That the Senate do not agree to the amendments; and

Resolved, That the Secretary be directed to communicate the fact to the House of Representatives.

That this is a solemn order of the Senate, just as effective as if it were made in so many words and assented to in so many words, will be obvious from the fact that it is the manner in which every such vote has always been expressed from the beginning of the Government, and that if such a vote has not, in fact, passed, then this bill can never go to the House of Representatives, even after the three days have expired, unless an actual order of the Senate, for that purpose, shall be made. I think, therefore, that the Senator from Louisiana is erroneous in supposing that such an order has not been made, as the Journal asserts has been made.

Now, in regard to the execution of that order, I think it is clear that when an order of the Senate is made directly to the Secretary to perform a duty, the effect of the order, the meaning, the sense, the will of the Senate, is that it shall be done immediately. That it is not to be done at a future day, is clear. It must be intended to be done at a future day or done now. If it is not to be done now, and not to be done at a future day, then it is to be done at the discretion of the Secretary; and who supposes that the Senate of the United States ever reposes in the Secretary, a ministerial officer, a discretion so important as that of deciding when he will communicate to the President of the United States, or to the House of Representatives, the will of this coordinate branch of the Legislature? It is, therefore, to be done immediately.

Then the question is whether one Senator has any right—I do not speak of things of courtesy, but whether one Senator has a right—to arrest the action of the Senate? One Senator can do nothing. One Senator is no authority known to the Constitution and the laws. A notice by him to the Clerk is no official act. Nothing can be done by the Senate of the United States, nothing can be done in its name, but what is done by a majority of the Senate itself—that is, by the act of the body. I suppose I need not inform the Senate that any notice signed and served by the Senator from Louisiana upon the Secretary, never entered into the Journal, is no part of the proceedings of the Senate; yet I need not inform the Senate that the Senate transacts no business whatever that is not recorded and solemnly entered in its Journals. It is, therefore, very clear to me that the Senator has asserted a right which he cannot maintain; and that the retaining a bill for a motion to reconsider which has been done sometimes, as has been said by the honorable Senator from Kentucky, is a practice entirely consistent with the more rigid rule which I have insisted upon. The practice stated by the honorable Senator from Kentucky is this: if the Senate is about to adjourn to-day, is to be no longer in session to-day, but will be in session to-morrow morning, or next Monday morning, or some other time, then the Secretary does practically execute the order of the Senate immediately if, instead of to-day at the closing hours of this session, he does at an early hour of the next session of this body, or the next session of the House of Representatives, if it shall have adjourned in the mean time, communicate the action of the Senate to the House. I think it is best that we should understand the rule, and have it understood rightly, in order that there may be no sort of misapprehension, and so that the consequences resulting from it may not be complained of hereafter.

Mr. BAYARD. Mr. President—

Mr. BENJAMIN. Before the Senator from Delaware proceeds, I should like the Clerk to read the order of Friday last from the Journal.

The Clerk read as follows:

"On motion of Mr. GREEN, that the Senate disagree to the amendment, it was determined in the affirmative—yeas 32, nays 23. [The yeas and nays are given.]

"Ordered, That the Secretary notify the House of Representatives accordingly."

Mr. DOUGLAS. I rise to a question of order. When the hour of one o'clock arrived the special order was called for. The Chair asked the indulgence of the Senate to make an explanation, and of course, I would not object to that. I have called twice for the special order, and I desire the decision of the Chair whether or not I am entitled to it.

Mr. BAYARD. If the Senate chooses to stop the debate, I have not the slightest objection; but I have heard it continued by other Senators without objection. I know no reason why I should be excluded from taking part in it more than others.

Mr. DOUGLAS. I assure the Senator from Delaware that my call for the special order was not with any design to prevent him from being heard, but I have called twice for it; and I am notified on this side of the House that if this debate be continued it will be lengthy. I am not willing to sacrifice Minnesota under the circumstances, when I am perfectly satisfied that the whole time will be consumed fruitlessly. The privilege of holding the bill back exhausts itself to-day; and we shall spend the day and accomplish nothing if we go on with this debate. Therefore, I call for the special order.

Mr. BAYARD. I understand that the honorable Senator from Michigan states that he made a motion that this bill be communicated forthwith—which the order does not in terms do—to the House of Representatives, and that that motion is a privileged one. If it be so, beyond all question I have the right to proceed, unless it is the will of the Senate to take up the bill for the admission of Minnesota. If it is, I am very indifferent about it. I do not desire, in this or any other debate, to take up the time of the Senate when they would rather consider something else; but if the debate is to continue, I have a few remarks to make. Whatever is the will of the Senate, I am perfectly willing to submit to. I shall not take long, however. If the honorable Senator from Illinois moves to lay this matter on the table to take up the Minnesota bill, I will yield.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Illinois to raise a question of order?

Mr. DOUGLAS. My point is, that the special order comes up at one o'clock.

Mr. BAYARD. This being a privileged question, takes precedence. A privileged question being under debate at the time of the arrival of the hour for the special order, it would not be superseded.

Mr. DOUGLAS. I submit the question of order.

The PRESIDENT *pro tempore*. The Clerk will read the motion of the Senator from Michigan.

The Clerk read it, as follows:

Ordered, That the Secretary be directed to execute now the order of the Senate, made on Friday last, directing him to communicate to the House of Representatives the action of the Senate on the amendment of the House to the bill (S. No. 161) for the admission of Kansas as a State into the Union.

The PRESIDENT *pro tempore*. The Chair will state to the Senate that, when the hour of one o'clock arrived, without examining the question particularly, his impression was that the special order superseded the motion under consideration. Subsequent reflection and examination satisfy the Chair that all matters which have reference to previous orders, or business connected with the Senate obstructed by anything whatever, are privileged questions, and that this motion is a privileged question, and overrides the special order of the day.

Mr. DOUGLAS. I will avail myself of the suggestion of the Senator from Delaware, if he is willing, and move to postpone this matter, and proceed with the Minnesota bill. I believe the day will be lost by going on with this debate. We might as well save the day, and devote it to Minnesota.

Mr. HALE. I have no disposition to debate this question; but I think it had better be decided. I have not the slightest feeling in this case; but I think really it is an important question, a very important question; one that we ought to settle. I have objection to the view that was presented by the Senator from Delaware, because he would leave it a discretionary question with the Clerk. I think the Clerk can have no discretion at all about it.

Mr. DOUGLAS. As I called the Senator from Delaware to order, I must call the Senator from New Hampshire to order. The Vice President decided and ruled me down once or twice that a question as to the priority of business was not debatable. I must ask, therefore, for the Minnesota bill.

The PRESIDENT *pro tempore*. Is the Senate ready for the question?

Mr. HALE. I want the question of order decided. What is it?

The PRESIDENT *pro tempore*. The Senator from Illinois moves to postpone the further consideration of the privileged question, for the purpose of taking up the Minnesota bill.

Mr. HALE. Is not that debatable?

The PRESIDENT *pro tempore*. It is debatable.

Mr. DOUGLAS. The Vice President ruled me down twice, and decided that it was not debatable. It was on the Kansas question, when I was trying to get an investigation into alleged frauds; and I must insist on the same rule now by which I was compelled to take my seat before. I confess I thought the decision wrong, but I submitted.

Mr. BIGGS. I think the Senator from Illinois is mistaken in regard to the ruling of the Chair. This question is certainly debatable, but debatable within a certain compass.

Mr. HALE. Exactly.

Mr. BIGGS. I think the Senator from Illinois does injustice to the Vice President in supposing that he ruled him down, and said it was not debatable at all. It is debatable; but debatable in a particular way, within certain limits, not on the merits of the questions proposed to be postponed and taken up.

Mr. DOUGLAS. It was said to be debatable to this extent: that you must not discuss the merits; but the parliamentary law is, that it is not allowable to discuss anything but the merits; and I suppose that the two exclude nearly all the debate there is here.

Mr. HALE. The Chair decides that I am in order.

The PRESIDENT *pro tempore*. The Chair decides that the Senator from New Hampshire is in order.

Mr. HALE. I think that is a very correct decision, sir. [Laughter.] I was going to say that this question ought to be decided, because, although I have not the slightest feeling in this matter, and do not care if you keep this Kansas bill here until the day of adjournment, I think that the practice is an important one in reference to the transaction of the business of the Senate. I object to the view presented by the Senator from Delaware, although I agree in the general scope of his remarks, in that it leaves a discretion to the Clerk. He says that now, when public business is not pressing, and no immediate danger can accrue, the Clerk may well retain the bill; but that near the close of the session, when the public business might be impeded, and a bill might be lost, under those circumstances, the Secretary would not be justified in retaining a bill. All that may be very true; but I object, and I call upon the Senate, at this stage, to put their vote of disapprobation upon the suggestion of a practice which will leave the Senate not subject to its own rules, or its own discretion, but subject to the discretion of the Clerk. I object to it altogether. He has no discretion, and ought to have none, and can have none. He sits there as the mere recording agent of the Senate, to record what they do, and to execute their orders.

Mr. BIGGS. I rise to a question of order. As I was on the side of the Senator from New Hampshire just now, contending that he had a right to debate this motion within certain limits, I am not to be understood as saying that general debate is in order. I did not understand the Chair to rule, and I do not understand it to be in order to discuss the merits of the proposition that is proposed to be postponed. Any reason why you should postpone one and take up another is competent; but it seems to me out of order to discuss the merits of the question proposed to be postponed, as was ruled by the Vice President, in the case to which the Senator from Illinois alluded.

Mr. HALE. I will take the ruling of the Chair upon that.

Mr. DOUGLAS. I should like the decision of the Chair on this question, for I have suffered under the decision to which I alluded this year considerably. I only wish to know what the law is, and then I will abide by it, whatever it is.

The PRESIDENT *pro tempore*. I was not present when the Vice President ruled the Senator from Illinois out of order, on the day to which he alludes. I am not conversant with that ruling of his. If any Senator present will state to me what was ruled on that occasion, I am inclined very much to be governed by it; but I happened not to be in the Senate then.

Mr. DOUGLAS. I intended that a motion to postpone and take up opened both questions to discussion, so that you could show one to be more important than the other; but it was held otherwise; and on two occasions I was required to take my seat under that decision. It was said that I could simply make a suggestion that it was important to take up one bill at once, but that I must not go into a discussion of the merits of the question at all. I might make a simple suggestion and explanation of the importance of immediate action, but I must not discuss the question on its merits. I had to submit, and I did it with a good grace. I did not complain of the Chair then, though I thought the decision was wrong. I shall not complain of the Chair now, whatever it may decide, but my object is to find out what the law is, so as to keep within it.

The PRESIDENT *pro tempore*. It is no easy matter to limit the scope of debate when a question is opened to discussion. It is more a matter for the sense of the Senate, and especially for the Senator himself who is speaking, to limit himself, than for the Chair to determine whether he transcends the proper bounds. I would say that the Senator from New Hampshire, so far as he proceeded in his observations, seems to me to be in order.

Mr. HALE. I coincide with the suggestion of the honorable Senator from North Carolina. I think his limitation is right, and I am going to keep strictly within that. I am going to suggest to the Senator from Illinois, that there is no good system that goes on without exceptional cases. I

think that his demonstration on the other side of the House on that question, under the circumstances, made an exceptional case, and there might possibly have been an administration of the rule, entirely consistent with the strictest integrity on the part of the Presiding Officer, a little more stringent than would be applied under the ordinary routine of our every day business. [Laughter.]

Now, sir, I was going to say that the practice which is attempted to be substituted now is important to be decided at this time—I address myself to the Senator from North Carolina—because we want to have a rule established that shall enable the Clerk to determine what to do with the Minnesota bill when it shall pass, if I, voting for it, should ask him to keep it here three days. It is important to have the point decided now. The Senator from North Carolina will see that I am strictly within the letter and spirit of his rule. It is therefore that I proceed now to say that I think the suggestion of the Senator from Delaware is a dangerous one, that would leave any discretion with the Secretary, and when I say that—

Mr. BAYARD. The honorable Senator probably misapprehended me.

Mr. HALE. I hope I did.

Mr. BAYARD. The honorable Senator from Illinois called me to order in the discussion of this question before I delivered my opinions, and the Senator from New Hampshire takes the floor and places them on a very different basis than I did.

Mr. HALE. I never made a bargain in legislative business in my life; but I will sit down and hear the Senator from Delaware gladly, if he will get up and make his speech. If not, I will go on. I say it is important to have this question settled now, for the reason that we want a rule adopted that shall guide the Clerk hereafter; and when I say that nothing should be left to the discretion of the Secretary, I wish to be understood as not raising the slightest objection to the individual who is Secretary, because I have as much confidence in his judgment, in his discretion, and in his integrity, as I have in that of any member of the body. It is simply an objection to the office. I say that the discretion should not be lodged there. He should have none; by the rule he has none, but the discretion belongs to the body. Any construction of the rule that leaves it discretionary with the Secretary whether he will carry a bill to the House to-day or to-morrow, or two days hence, at his pleasure, puts the Senate under the feet of the Secretary, and makes him the power to determine what the Senate ought to keep in their own hands; that is the direction and control of their own business; and any construction of the rule which goes to that extent must be a vicious one, and cannot be sustained.

Now, sir, I have no objection to its being the general understanding of the Senate that any Senator voting in the majority may go and ask the Secretary to keep a bill three days, and let it stay here. I will not complain of it; and I would not complain if it was carried even further than that, and you were to allow a person voting in the majority to go to the Clerk and say, "I mean to make an appeal to some of my friends in the majority and ask them to reconsider that vote, and I desire you to keep the bill here for that purpose." If you make that the construction of the rule, I have no objection to it, but I want it to be a fixed rule. I do not want a man there at the Secretary's desk when a Senator comes up who may be in the majority, who may be in a very large popular majority, to exercise a discretion that he, perhaps, will not feel himself at liberty to exercise when a Senator of an obnoxious minority comes up. It is putting the Secretary in an unpleasant and awkward predicament, and one in which he should not be left. He should not have it in his power to grant a favor to one Senator which he may feel himself at liberty to withhold from another; but the operation of the rule should be uniform. Either he should carry the bill, or he should not carry it; either he should retain it, if a Senator wishes him to do so, or he should not; but if he does, that should be a rule; or else if a Senator on that side of the House comes and asks the Secretary to-day to retain a bill three days, he may say, "Yes, I will;" and a week or a month hence we may pass the Minnesota bill, and I may vote with the majority, and I may go

and say to the Secretary, "retain that bill three days." He may reply, "I do not know about that; the business of the session begins to be pressing, and I do not think it will be safe; I cannot grant your request, Mr. HALE. It is true, I did grant one four weeks ago, but the circumstances are changed." Now, does not every member of the body see how vicious such a construction of the rule would be, and in what an awkward and unpleasant predicament it would place the Secretary, when it would be in his discretion to grant a favor or withhold it? It is for this reason, without the slightest feeling upon the subject, and without the slightest care how you decide it one way or the other, that I do think that now the question is here, it ought to be decided, and there ought to be a construction which shall be uniform in its operation for all Senators and for all the session.

Mr. BAYARD. I will endeavor to place my views of the construction of this rule before the Senate. I am not aware that any construction has ever been given to it by the Senate; and I desire, briefly as I can, to place it on such grounds as satisfy my own judgment, at any rate. The question now before the Senate is on the motion made by the honorable Senator from Michigan, that the Senate direct their disagreement to the amendment of the House to the Kansas bill to be communicated to the House of Representatives forthwith. The question is, as it ought to be in all cases under these circumstances, for the will of the majority to decide whether they see fit to do so or not. There is no positive rule of the Senate which requires that any measure shall be communicated to the other House the moment it has passed the Senate. The parliamentary usage is, of course, that the officer of the Senate communicates it as soon as conveniently may be. There must be time for engrossing the bill, or resolution, or whatever it may be; and, in the performance of that duty, a discretion must be allowed, and always is allowed. The more important measure will often be hurried, where the less important one will be engrossed later, though the two bills might pass on the same day. There must be a reasonable discretion.

Then the next point which arises is, whether there is anything unreasonable in the discretion; whether, when you have a rule extending the parliamentary right of reconsideration, but at the same time limiting its exercise to three days of actual session, it is an abuse of the rule to retain a bill at the request of a Senator for that period of time within which a motion to reconsider may be made, though the bill may be engrossed. I can see no danger in such a discretion, because it is always competent for a Senator, if he thinks a bill ought to be communicated at once, to make a motion for that purpose, as has been done in this case by the honorable Senator from Michigan; and then, of course, the will of the majority of the Senate will prevail. The presumption always must be, that the Senate will be governed by a regard for the public interests.

The old parliamentary law was, that a motion to reconsider could be made at any time, provided the bill or resolution remained in the possession of the body which passed it. There was no limitation of time at all; but the motion could not be made after the bill or proposition had passed out of the possession of the body. Such a motion cannot be made here after the subject-matter has passed out of the possession of the Senate; but the rule has a double effect: it fixes a distinct limitation of time within which a motion to reconsider must be made, and it also requires that it shall be made while the bill remains in the possession of the body. Both are requisite under the rule. It is the duty of the Secretary, without any positive written rule, but under parliamentary order, within a convenient time after a bill has passed, to communicate it to the other House. There is no order prescribed for doing this; there is no rule which requires bills to be communicated to the House of Representatives in the order in which they pass the Senate. That is in the discretion of the officer. If he abuses and perverts his discretion, he is responsible to the Senate for mal-administration of his duty; not otherwise; and it is in our power to say whether he has performed his duties faithfully or not. It is in the power of the majority always to require him to act. There must, however, be a discre-

tion in the performance of these ministerial duties, always subject to be corrected by the body, on the motion of any Senator who thinks precedence has been given in the engrossment or communication to the other House of one bill of less public importance than another.

Under these circumstances, the rule of the Senate being that within a reasonable, limited time, a member may move a reconsideration, (and if you think that time too long, shorten it,) I can see no impropriety whatever in allowing him to request the Secretary, or the Presiding Officer, if you please, not to send the bill to the other House, as he intends to move, or probably may move, or has not made up his mind whether he will yet move a reconsideration or not. The time allowed him for that purpose is three days; and if there is no public exigency that requires a bill to be sent to the House of Representatives at once, I think it is a reasonable discretion to leave it to the officer, on that request being made, to refrain from communicating the bill forthwith. That he shall so communicate it is not required by any order of the Senate. The parliamentary rule is, that it shall be done within a convenient time. There is no specific time fixed. It may be done on the same day, or upon any subsequent day. That depends upon the press of public business, and the relative character and importance of the bill. In other words, it is a reasonable discretion; the bill is to be sent within a reasonable time.

Looking, then, to the rule, it seems to me there is neither danger of abuse nor injury to the rights of anybody. When a member says to the Secretary, "I wish that bill retained," I presume he would always retain it. Such has been the practice heretofore. Since I have been in the Senate, I have known repeated instances of that kind, where bills have been retained, not at my request, but at the request of others. On the other hand, I have known applications made to the Secretary to expedite the engrossment of particular bills, with a view to have them sent to the other House at once on account of their public importance or pressing character. If there was any abuse on the part of the officer, any partiality practiced, growing out of a preference for particular members, or from other causes, all that would be in the control of the Senate, and the abuse could not go to any extent that would not be controlled. It comes back then, practically, to this result: a member may request the Secretary not to send a particular bill to the other House at once; he does not do it as an absolute right; he only effects in this way that which he could effect by a motion to reconsider; and then, if it is the will of the majority that the bill shall lie until the three days expire, very well; but, at the same time, it is in the power of a majority of the Senate to decide that it shall be sent at once. On the subject being brought before them, it is for the Senate to say whether they will allow the bill to be retained for the full time within which a Senator may make a motion to reconsider, in order to give him an opportunity to determine whether he will make the motion.

I see no danger of abuse in allowing the officer of the Senate, under the rule of the Senate, to exercise the discretion at the request of a Senator, if reasonable, the public business not interfering, of not sending a bill at once, because that is not his imperative duty. His duty is to send it as soon as convenient, and it is only conveniently delayed if it is withheld in accordance with the request of a Senator for the time allowed in the rule, every other Senator being at liberty to move that the bill be communicated forthwith, as has been done in this case by the honorable Senator from Michigan, and then the will of the majority prevails.

Then the question arises whether there is any such public necessity as requires the request of the honorable Senator from Louisiana to be overruled on the motion of the honorable Senator from Michigan, and the disagreement of the Senate to the House amendment to be communicated before the time allowed under the ordinary rule of the Senate for a reconsideration has expired. I do not ask the Senator from Louisiana to say that he will move a reconsideration; I do not think you have a right to ask that. Unless you think public exigency or public utility requires that the vote of the Senate should be at once communicated, it would certainly be discourteous to

say to the Senator, "Well, sir, have you made up your mind?" He replies, "I announce no determination to you on that; I only ask that I shall have the privilege that belongs to every Senator, to move a reconsideration within three days; and if it is the will of the majority of the Senate that I shall have that privilege within the three days, the majority will give it to me." If we had communicated the bill to the House of Representatives, and he should make the motion to reconsider within three days, we could send a message to the House of Representatives recalling the bill. Practically, I think under this construction of the rule it comes to the same point; and the majority of the Senate will decide. I will not assume in any case that the majority would give one member privileges that do not belong to another; but I take it for granted that the majority of the Senate will always exercise their discretion—which they have a right to do—of deciding whether it is proper that any measure voted upon in the Senate shall be communicated in one day, or two days, or three days, to the House of Representatives. That is in the discretion of the majority, and it is a legitimate discretion; quite as much so as the passage of the bill itself.

I do not admit that a Senator has any right to require the Secretary to keep back a bill; and if the officer declined to retain the bill, he could have made his motion to the Senate that the bill should be retained, and the majority, then, would have determined it. If, on the request of the Senator from Louisiana, he has retained the bill on the ground that it is not an unreasonable request to delay it for the period of time within which a reconsideration may be moved, I can see no wrong or impropriety on the part of the officer. If it be considered to be a misjudgment, any Senator can make a motion that the bill be communicated at once, and then the will of the majority must determine the matter; and after all it comes to that, the majority will control the business of the Senate.

Mr. IVERSON. I am not disposed to carry on this discussion further. I wish to know if it is the pleasure of the Senate to take up the Minnesota bill? I move to lay this motion of the Senator from Michigan on the table for the present, so that we may proceed with the Minnesota bill. If it is not laid on the table, I desire to discuss it.

Mr. SEWARD. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. GREEN. I insist that the Senator from Michigan reduce his motion to writing.

Mr. STUART. It was in writing some time ago.

Mr. GREEN. Then I ask the Clerk to read it. The Clerk read it, as follows:

Ordered, That the Secretary be directed to execute now the order of the Senate, made on Friday last, directing him to communicate to the House of Representatives the action of the Senate on the amendment of the House to the bill (S. No. 161) for the admission of Kansas as a State into the Union.

The question being taken by yeas and nays, resulted—yeas 26, nays 24; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Fitch, Fitzpatrick, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Polk, Pugh, Sebastian, Slidell, Wright, and Yulee—26.

NAYS—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, King, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—24.

So the motion was laid on the table.

Mr. STUART. I now call the attention of the Chair to the Manual, page 79, where will be found these words:

"The only case where a member has a right to insist on anything, is where he calls for the execution of a subsisting order of the House. Here, there having been already a resolution, any person has a right to insist that the Speaker, or any other whose duty it is, shall carry it into execution; and no debate or delay can be had on it. Thus, any member has a right to have the House or gallery cleared of strangers, an order existing for that purpose, or to have the House told when there is not a quorum present."—2 *Hats*. 87-129.

This is an order of the Senate, and I insist that it shall be executed.

Mr. IVERSON. Is that question debatable?

Mr. STUART. No, sir.

Mr. IVERSON. Then I protest against the execution of this order. I deny that there is any

order to send this bill to the House of Representatives before the expiration of three days.

Mr. GREEN. I inquire if the order specifies any time within which it shall be executed?

Mr. PUGH. I believe there is no question before the Senate.

The PRESIDENT *pro tempore*. A question is made by the Senator from Michigan.

Mr. PUGH. That is a demand by the Senator from Michigan on you, sir, with which you can comply or not, I suppose, as you consider the Senator's authority. I move that the Senate proceed to consider the special order.

The PRESIDENT *pro tempore*. Does the Senator from Michigan make a request of the Presiding Officer?

Mr. STUART. If the Chair will turn his attention to the page of the Manual I have mentioned, he will see that I have a right to insist that the order of last Friday shall be executed without debate or delay.

Mr. PUGH. My motion is to proceed with the special order. I presume the President will do what he thinks is his duty.

The PRESIDENT *pro tempore*. The Chair will remark to the Senator from Michigan that in the absence of any familiarity with the rules, the Chair would regard the vote of the Senate recently taken, as instructing him upon the request that he makes, and for the present declines granting his motion or request.

Mr. STUART. All I have power to do is to have it entered in the proceedings of the Senate that I insist upon the execution of this order. Beyond that, I am powerless.

Mr. SEWARD. I suppose the decision of the Chair is subject to appeal, and I beg leave to appeal from the decision of the Chair. I understand the Chair to decide that he construes the vote given, as instruction not to execute the order; and from that decision of the Chair I appeal.

Mr. BRIGHT. I think there is nothing in the point of order raised by the Senator from Michigan; but in order to disembarass the Chair and relieve the Senate from further delay in this matter, I will make a motion that I think will be in order. It is clearly in order now to move to reconsider the vote by which the Senate disagreed to the amendment of the House of Representatives; is it not?

The PRESIDENT *pro tempore*. It is in order.

Mr. BRIGHT. I voted with the majority. I have the right, at any time within two legislative days, to move to reconsider that vote. I make the motion to reconsider; and move that that motion be postponed until to-morrow, and made the special order at one o'clock.

The PRESIDENT *pro tempore*. The order will be made.

Mr. HALE. To make it a special order?

The PRESIDENT *pro tempore*. Not to make it a special order. The motion to reconsider will be entered.

Mr. BRIGHT. I move to postpone the consideration of the motion to reconsider until to-morrow at one o'clock.

Mr. DOUGLAS. I suppose that is not before the Senate. It is not up. The Senator has a right to enter the motion to reconsider, but the bill itself is not before the body.

The PRESIDENT *pro tempore*. Not at all.

Mr. DOUGLAS. I ask for the special order.

Mr. KING. Let us have this disposed of.

Mr. BRIGHT. I am willing that the special order shall be taken up; but if it is not the pleasure of the Senate to take up the special order, I have a right to have my motion entered.

Mr. DOUGLAS. It is entered.

Mr. BRIGHT. Then I have a right to move to postpone the consideration of that motion to any future day.

Mr. DOUGLAS. Not until the subject is taken up.

Mr. BIGGS. I suppose the Senator from Indiana has a perfect right to move the reconsideration, and it will be entered.

The PRESIDENT *pro tempore*. That is entered.

Mr. BIGGS. And that disposed, as a matter of course, of the question raised by the Senator from Michigan; and the order of the Senate now is to proceed to the consideration of the special order. That is the business, as I understand, now before the Senate.

Mr. YULEE. I think the Senate have given no such order as that we proceed to the consideration of any particular matter. They have simply directed that the particular subject then under discussion should be laid upon the table. Now, a motion for reconsideration, being a privileged question, can be made at all times. The Senator from Indiana has very properly exercised a right which he has within the rules. That motion to reconsider is a privileged question. It has been decided frequently, in both Houses, that it is the right of any member, the member making the motion, or any other member desiring to discuss it, on one side or the other, to call that up as a privileged question, at any time, in preference to any other business, the Senate or House not being at the time engaged in other matters. The Senator from Indiana, then, having made the motion, and having immediately followed that motion by another, that it be taken up for consideration with a view of postponing it until to-morrow, the motion, as a privileged motion, is in order; and until a question is taken upon that no other subject is in order, as I apprehend.

Mr. BRIGHT. If the Chair will allow me, I will abridge my motion. I will let it stand simply as a motion to reconsider. It is then in the power of the Senate to say whether they will consider it now or to-morrow, or any other day.

Mr. SEWARD. Before that motion was made I had raised a question of order. I think that question of order has not been disposed of, and it is my right to have it decided.

The PRESIDENT *pro tempore*. The Chair will remark to the Senator from New York, that the Senator from Indiana modified his motion before there was any action upon it, and it was strictly in order for him to do so. He now makes a motion simply to reconsider.

Mr. SEWARD. Does the Chair decide that that cuts off the question of order which I raised on the previous decision of the Chair?

The PRESIDENT *pro tempore*. Yes, sir, that supersedes the proposition made by the Senator from Michigan and all incidental questions connected with it.

Mr. SEWARD. I only want to know how the matter stands.

Mr. YULEE. I understand the state of the question now to be that the Senator from Indiana, exercising a right under the rules, has moved a reconsideration of the vote of the Senate on the Kansas bill. That question is before the Senate, and I now move that it be postponed until one o'clock to-morrow, carrying out the view of the Senator from Indiana.

Mr. BIGGS. I do not understand that the Senator from Florida can make this motion. According to the order of the Senate heretofore made, the special order for this day at one o'clock, was the Minnesota bill. This question was entertained in regard to the matter suggested by the Senator from Michigan, as a privileged question overriding the special order. Several points have arisen in connection with it, and in the midst of them the Senator from Indiana, it being in order at any time, it being a privileged question, has moved to reconsider the vote that is the subject of controversy. It is proper to entertain that motion; but it is not proper, during the pendency of the order of the Senate to proceed to the special order, to move anything more than the reconsideration, and have it entered. The business properly before the Senate now, is the special order, which is the bill for the admission of Minnesota, which came up regularly, but was superseded by the privileged question, at one o'clock.

The PRESIDENT *pro tempore*. The Chair decides that the question just disposed of was taken up in preference to the special order. That having been settled by the action of the Senate, the special order comes up now as the regular business. The bill for the admission of Minnesota is now before the Senate.

Mr. HALE. I thought the Chair decided that the motion made by the Senator from Florida was in order a moment or two ago.

The PRESIDENT *pro tempore*. It is competent for the Senator from Florida to move to postpone the further consideration of the special order if he desires to make that motion.

Mr. YULEE. What does the Chair understand to be the special order?

The PRESIDENT *pro tempore*. The bill for the admission of Minnesota.

Mr. YULEE. The point I made was this: that the Senate had passed the hour of one o'clock with what was considered to be a privileged question, and the Minnesota bill, therefore, had lost its precedence and its right of consideration, the Senate having virtually overrode it by a privileged question. That question was then laid upon the table. Before the Minnesota bill was taken up, before it was ordered to be taken up by the Senate, or before the President had announced it as being in order, the Senator from Indiana moved a reconsideration, as he had a right to do, of a vote which had been previously taken by the Senate upon the Kansas bill. That also was then before the Senate; and it was for the Senate to consider whether they would proceed with it then, or postpone it to a future time, as a privileged question. I hold that a motion to reconsider is a privileged question. It is the right of any member to insist upon its immediate consideration, or, at the pleasure of the Senate, that it be postponed for future consideration. Considering that to be the question, then, legitimately before the Senate, I made a motion that it be postponed until to-morrow; and I made that motion only because that seemed to be the desire of the Senator who moved the reconsideration, it having been part of his original proposition. It seems to me that that is the motion before the Senate. It has been ruled over and over again, in both Houses, that a motion to reconsider is a privileged question; and that, whenever no other matter is immediately before the body, it is in the power of any member—either the member moving it or any other—to insist upon the consideration of the motion, it having once been made.

Mr. PUGH. The Senator is evidently mistaken, I think. The Vice President decided this very question within the last two weeks, when the Senator from Wisconsin [Mr. DOOLITTLE] made a motion to reconsider and endeavored to keep it before the Senate. The Vice President said he had the privilege to make the motion, and it was entered; but no further attention was ever paid to it. He said the Senator from Wisconsin could not keep it before the Senate. I have no doubt the Senator from Indiana had a right to make his motion to reconsider. That is the entire extent of his privilege; and until he can get the floor regularly, he cannot move to proceed to the consideration of his motion. The special order is properly before the Senate, I think.

The PRESIDENT *pro tempore*. The Chair will state—

Mr. HALE. What is the decision of the Chair? There is so much noise I cannot hear.

The PRESIDENT *pro tempore*. The Chair will state that the special order was postponed in consequence of the precedence given to the privileged question; and when the privileged question was postponed, the special order came up in its proper place, being entitled to precedence. It is in order for any Senator, in the absence of a pending question, to make a motion to reconsider. If the Senator from Florida desires to attain his object, he must move to postpone the special order for the purpose of entertaining the motion he now makes.

Mr. HALE. As I have the floor, and the Senator from Florida has not, I will do a kindness for him, and make that motion myself, to postpone the special order for the purpose of proceeding to the consideration of the question moved by the Senator from Indiana; and upon that I have not much to say; but what I have to say will be rather in the form of an interrogatory than anything else. My interrogatory is this: I desire to know what has become of that tremendous pressure that we all felt here in the Senate last Thursday, so that having voted to adjourn over from Thursday to Monday, but having found out during the day that the House had put an amendment to our bill that we had sent over to them, we felt obligated, from high motives of public duty as disinterested patriots, to forego that relaxation which a little while before we thought necessary for ourselves, and that religious ardor which prompted us to observe Good Friday, to forego patriotism and religion both, and rescind the order by which we had agreed to adjourn from Thursday to Monday, and come here on Friday to hurry through this Kansas bill? Well, sir, we

did it. I should have opposed it, but I saw that the feeling on Thursday was so strong that it was idle for me, backed up as I was by the considerations due to Good Friday, to oppose that reconsideration. The reconsideration passed. Kansas came up, and we discharged ourselves of the duty which we owed to Kansas and to the country forthwith, and it was sent over to the House. ["Oh, no!"] It has not been sent over to the House, but it was ordered to be sent; and when it had previously gone over to the House before our second action, it came back here within, I think, ten minutes after it passed the House, showing that there was such hot haste that somebody had put the engrossing clerks to work, and actually engrossed the amendment before it was made; so that it got here almost as soon as the Speaker announced that it had passed. Then we reconsidered our motion to adjourn over; took it up on Friday and disposed of it, a great pressure seeming to rest both on the House and the Senate; and now it is all gone; there is no pressure anywhere. [Laughter.] Now, instead of a zeal to carry the thing forward, everybody seems desirous of rather setting it back, standing still, delaying, putting it off. Here is a majority, who were in such a hurry last Thursday and Friday, now moving to postpone the subject until to-morrow, which means indefinitely. We all know what to-morrow means legislatively. I remember when I first came into the House of Representatives, a good while ago, a motion was introduced, and some gentleman moved to postpone it until to-morrow. It was a new member who made the motion, and he objected. An old member sat by him, and said it was only until to-morrow. The young man gave up, and that to-morrow he did not reach for three months. The proposition here is to postpone this matter until to-morrow.

Mr. GREEN. Will the Senator permit me to ask him if it is in that view that he moves to postpone the Minnesota bill until to-morrow? [Laughter.]

Mr. HALE. I do not move to postpone it to any particular time, but to put it aside for the purpose of deciding this question. I want to follow the organ of the Committee on Territories as far as I can with safety; and I do not know that that would be a great way. [Laughter.] His zeal seemed to be to hurry up Kansas, so that Minnesota should not overtake her; but now it seems they have got Kansas along to such a place that they have concluded to put her up, tie her to the stall, and let her stand until Minnesota comes up and goes ahead. I object to it. I feel just as patriotic now as I did last Thursday. There has been no change in me; none at all. I feel just as desirous to do justice to Kansas now as I did then. If there are any reasons—if there are any particular reasons of a public character—let them be stated; and if there are any of a private character, I should like to hear them. I would not call any man to order if he should state private reasons. I would not object to any man saying something like this if he should choose: "There are some arguments that I want to address to some members of the House, that it will not do to address in open debate; and I want the thing kept open until I can have an opportunity of talking privately with some gentlemen, and pressing upon their private ear some considerations which are not proper or not expedient to be addressed in open debate." We all know, or perhaps we do not all know it, but it is a fact, that it is a part of the discipline of some churches, when there is a recalcitrant member, to go with him privately, before they take public steps; to give private admonition before public censure comes; and I would not object if anything of that sort were in the way; but I think we owe it to the country, we owe it to ourselves, we owe it to our own reputation, to assign some possible, some plausible reason why we have got over the haste that impelled us forward last week. What new feature is there? The news of the Connecticut election, of course, has nothing to do with it—not the slightest. [Laughter.] What possible object can there be in postponing, from day to day, a subject about which we were in such hot haste a little while ago? Why, sir, a few weeks ago we were in such a hurry to dispose of Kansas that we had to sit up here until morning light; until six o'clock in the morning.

Mr. FESSENDEN. The business was pressing at that time!

Mr. HALE. Yes, sir, public business was pressing then; and it has been pressing up to a certain point, and I should like to know where is the point, and what is the occasion? It used to be a maxim of the old philosophers that the atmospheric pressure would sustain a hydraulic column of thirty-three feet; and it puzzled the philosophers to tell why the pressure of the atmosphere would sustain a hydraulic column of thirty-three feet, and would not sustain it any higher. The reason assigned was, that Nature abhorred a vacuum, but when it got up to thirty-three feet she ceased to abhor a vacuum. [Laughter.] Now, sir, have we got to that point where we cease to abhor a vacuum in legislation?

For these reasons I am desirous of proceeding with this Kansas bill now; and I appeal to those gentlemen who were so anxious to take it up last week, and some time ago, to go with me. Let us stanch the wounds of bleeding Kansas. There is just as much necessity for it now as there was then. Let us see if we cannot apply a remedy. I am anxious to apply a remedy. I think the House of Representatives have offered a fair and a rational proposition. I want to send it back, and I want to make an appeal, a patriotic appeal, to the friends of popular sovereignty to vindicate the sincerity of their professions by going for this measure of popular sovereignty. It takes everything they ask, takes the Lecompton constitution, with slavery for its great divinity; it takes everything you have asked, and inaugurates it as the supreme law of the land, subject only to that great test to which you have all invited us, popular sovereignty. I want to see if we cannot do that, and I want to see if we cannot do it now. If there are any objections, let them be stated, and let them be stated now. I appeal to the friends of this bill not to wait. Who knows but that after we receive the news of the Rhode Island election, which I believe takes place to-morrow, there may be new considerations coming in that may require further delay and further postponement?

Mr. WADE. Is the Union in danger?

Mr. HALE. I do not know whether the Union is in danger or not; I have never discussed that question; but I will say this: if the Union is in danger from the fair and prompt and legitimate discharge of public duty, I am not going to be one that will try to avert it. Let the danger come, and let it be met, and let it be met now.

The PRESIDENT *pro tempore*. Will the Senator from New Hampshire state distinctly the motion he made? The Chair does not recollect it.

Mr. HALE. My motion was to postpone the prior orders for the purpose of considering the proposition made by the Senator from Florida.

The PRESIDENT *pro tempore* put the question, and declared that the motion was not agreed to; and announced that the special order was before the Senate.

Mr. WILSON. I want a division on the vote last taken.

The PRESIDENT *pro tempore*. The Chair will inform the Senator from Massachusetts that he has already decided that question, and it is too late to call for a division.

Mr. HAMLIN. How can we know, before the Chair decides, whether we want a division or not?

The PRESIDENT *pro tempore*. Senators should call for it in a reasonable time after the result is announced.

Mr. DOUGLAS. The Minnesota bill is now before the Senate?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. DOUGLAS. I hope we shall proceed to vote upon the bill, unless there are amendments to offer.

ADMISSION OF MINNESOTA.

The PRESIDENT *pro tempore*. The bill (S. No. 86) for the admission of the State of Minnesota into the Union, is now before the Senate as in Committee of the Whole, and open to amendment.

Mr. PUGH. I wish to call the attention of the Senate to the preamble of this bill.

Mr. HAMLIN. That is to be settled after the bill passes.

Mr. PUGH. It was decided in the House of Representatives the other day, that the preamble

could not be amended after the passage of the bill. I desire to amend the preamble, and I do not care whether it be done now, or at a subsequent time.

Mr. STUART. The rule is, that the preamble is always to be considered after the bill has passed.

Mr. PUGH. It was decided otherwise on the Kansas bill in the House of Representatives the other day. It is so reported in the Globe. I do not care whether I offer the amendment now or at a future time. If the Chair says it will be in order hereafter, I will not offer it now.

The PRESIDING OFFICER. (Mr. BIGGS in the chair.) The amendment will be in order after the bill shall have been perfected.

Mr. PUGH. Very well.

Mr. YULEE. As I intimated at one time my purpose to propose an amendment to this bill, I think it proper to say that I have since concluded to withhold it.

The PRESIDING OFFICER. If there be no further amendment offered, the bill will be reported to the Senate.

Mr. FITCH. Before this subject passes from the Committee of the Whole, I desire to call attention to a matter in connection with it, of very little importance except as an issue of fact between the Senator from Illinois [Mr. DOUGLAS] and myself. It will be remembered that, on Friday last, in noticing what I deemed, perhaps erroneously, a disposition upon his part to intimidate northern Senators, or, more properly, all Senators from whatever section, in favor of the immediate admission of Minnesota, into a negative vote on a motion to adjourn, by alluding to the vote as a test of friendship for Minnesota, as though those who voted in the affirmative would be deemed its enemies, I took exception to the manifestation of any such disposition, and ventured to suggest that the then zeal of the Senator for immediate action upon the Minnesota bill was new-born; that none such had been manifested by him when, in February, although the chairman of the Committee on Territories, and as such having the bill in special charge, he assented to the Kansas bill being made a special order, and thereby being placed in advance of the Minnesota bill. To my suggestion of a want of earnestness, previously to that day, in urging the Minnesota bill, the Senator entered a general denial, and appealed to the Senator from Missouri [Mr. GREEN] to sustain him; and he specifically denied having assented that the Kansas bill should be made a special order. To the appeal made by him, the Senator from Missouri responded, and bore testimony, very properly, to the anxiety manifested by the Senator from Illinois, in the Committee on Territories, for early action upon the Minnesota bill. This was but an act of justice to the latter Senator, but it was taking the case where it had not been and could not be taken by me. I knew nothing of what had occurred in the Committee on Territories, and could not know aught that had there transpired. My remarks related solely to action in the Senate. The Senator from Illinois, doubtless, did evince anxiety, in that committee, for early action on the Minnesota bill, and his anxiety must have been gratified, for he early reported that bill to the Senate. It was here in advance of the Kansas bill, and would have so remained unless the latter had been made a special order. My suggestion was that his anxiety appeared to cease, to dwindle out, soon after the bill was reported by the Committee on Territories. I am glad to see it renewed, and am more than willing to second it.

But, sir, unwilling to do injustice to any one, anxious to make no statement not in strict accordance with the facts, and determined not to rest under the imputation which a denial of any statement I had made would imply, I have since looked at the record to see whether it corroborated my statement or the denial of the Senator from Illinois. Although it affords other proof in support of my general suggestion, I shall content myself with reading a very brief extract from it in answer to the Senator's denial that he did assent to making the Kansas bill a special order. On the 24th of February, I find by the Globe of the 25th, that these proceedings occurred:

"Mr. GREEN. I move to take up the bill (S. No. 161) for the admission of the State of Kansas into the Union, for the purpose of then moving to make it a special order."

"The motion was agreed to; and the bill was read a second time."

"Mr. GREEN. I move that it be made the special order for to-morrow at one o'clock, if it meets general approbation."

A brief running debate ensued, in which the Senator from Illinois participated; but he said little of Kansas and nothing at all of Minnesota. He made no objections to making Kansas a special order; he did not give the slightest intimation that he entertained any objection; on the contrary, after this debate, the following appears as the conclusion of the report on that subject:

"The VICE PRESIDENT. The motion is to make the bill the special order for Friday next, at one o'clock."

"Mr. COLLAMER. I move to amend the motion by saying Monday."

"The amendment was adopted; and the motion, as amended, was agreed to."

It will be seen that I was correct, and that the Senator from Illinois—his denial to the contrary notwithstanding—did assent to making Kansas a special order. I have no further issue with the Senator. The issue is between him and the record.

Mr. DOUGLAS. It will be seen by what the Senator from Indiana has read, that his statement is not correct.

Mr. FITCH. I will read the entire record, if the Senator makes a question of veracity.

The PRESIDING OFFICER. The Senator from Illinois is entitled to the floor.

Mr. FITCH. Certainly.

Mr. DOUGLAS. When the Senator stated, on Friday, that I had agreed to put the Kansas bill ahead of the Minnesota bill, the Senator from Missouri, who is associated with me on the committee, said, in an undertone, "it is a mistake." The Senator from Missouri knew that I never made that agreement. I never consented to it. I knew that I should be overruled, as I was; but I appeal to every man in the Senate if, from the beginning of the session up to this time, I have not been vigilant, active, constant in my efforts to get up the Minnesota bill, and secure the admission of Minnesota. I do not think there is a man in this body who does believe in his heart that I am justly liable to the charge of having kept Minnesota back. I do not believe the Senator from Indiana himself thinks that I have sacrificed the interests of Minnesota. No, sir; on all occasions, as far as I thought it was prudent and respectful to the Senate, I have persevered over and over again in my efforts to get up the Minnesota bill.

Now, sir, one word about the Senator's remark the other day, that I was dragging men into hot-haste action on the Minnesota bill. How in the world could the Senator have considered that the remark I made applied to him? He had just voted with me on each call of the roll, and would I drag men who were voting with me? How is it, unless he goes out of the record to seek this opportunity, that he applies what I said to himself? Motions to adjourn had been made; I resisted them, voted against them, and the Senator voted with me. Other motions were made to get rid of the Minnesota bill, and on them he voted with me. Then, when another motion was made, I said a few words; and how could he, who had voted with me each time, think I was trying to drag him, when he was voting with me. [Mr. FITCH, by an inclination of his head, appeared to dissent.] I think he did each time. Well, sir, I have great aversion for these personal altercations. I claim no merit for my action in regard to Minnesota; but I repel indignantly any insinuation that I have not been faithful to the interests of Minnesota, so far as I am concerned, as chairman of the Committee on Territories, and as a Senator. I have arraigned no Senator for his action. I have gone back to no one's record. I make no issue with any one. I follow the plan of doing my own duty, and I leave every other Senator to do his. I do not deem it necessary to say more on this point.

Mr. FITCH. Mr. President—

The PRESIDING OFFICER. (Mr. BIGGS in the chair.) The Senator from Indiana will indulge the Chair for a moment. It is with great reluctance that the Chair interposes, but he really does not see the pertinency of the discussion between the Senator from Illinois and the Senator from Indiana to the bill before the Senate.

Mr. FITCH. Its pertinency is simply a question of veracity between the Senator and myself; and if I am not permitted to make the explanation

in any other way, I shall claim it as a personal privilege. No Senator shall say that I have not stated the case truthfully.

Mr. HALE. I object.

Mr. FITCH. Then I claim it as a special privilege; a personal one.

Mr. DOUGLAS. I trust the Senator will be allowed to present his proof on the point of the issue he tries to make. I hope it will be permitted.

Several Senators. Certainly.

The PRESIDING OFFICER. The Chair interposes with great reluctance, but he cannot see the pertinency of the discussion, now pending between the Senator from Illinois and the Senator from Indiana, to the bill before the Senate, and therefore respectfully suggests that this personal debate is not pertinent to the question.

Mr. FITCH. Then I shall content myself with simply saying that the denial of the Senator of the record, which I have read, is in itself an untruth. There is the record—

Mr. DOUGLAS. That last declaration is unnecessary. The record proves his statement to be an untruth, and I am willing to abide by it.

The PRESIDING OFFICER. The Chair calls the Senators to order.

Mr. FITCH. Will the Presiding Officer permit the record to be read? I read a portion of it, and it is proper, after this denial, to read the whole.

Mr. HALE. I object.

Mr. FITCH. It is too late for the Senator from Illinois to raise a question of veracity with the record, with me, or with any one else here.

Mr. HALE. I object.

Mr. DOUGLAS. I am not trying to make a question of veracity. I have not said a word about the Senator from Indiana or his course. I have only said that a charge of infidelity to Minnesota could not be truthfully urged against me [the Presiding Officer rapped for order] and I repel the charge. I have not arraigned him for his course—

The PRESIDING OFFICER. The Senator from Illinois is out of order. The Chair rules that both Senators are out of order, and that the discussion is improper. ["Question!" "Question!" "If no further amendment be offered, the bill will be reported to the Senate."] If no further amendment be offered, the bill will be reported to the Senate.

[Mr. Fitch having asked that the whole record be read, at his request it is hereto appended:

"Mr. GREEN. I move to take up the bill (S. No. 161) for the admission of the State of Kansas into the Union, for the purpose of then moving to make it a special order.

"The motion was agreed to; and the bill was read a second time.

"Mr. GREEN. I move that it be made the special order for to-morrow at one o'clock, if it meets general approbation. [Say Monday.] My object is, to get the question out of the way, for it impedes the progress of all other subjects. It will be discussed for some considerable time, and everybody will have a fair opportunity to discuss it before final action.

"Mr. SEWARD. My vote on that motion will depend somewhat on what we can ascertain as to the probable course of debate. I beg leave to ask, if the Senator has no objection, whether he intends to take the floor, as I suppose is his right, at the time appointed, and whether there is any understanding that the members of the committee are to go on with the debate, or whether it will devolve on somebody else? I want to speak on this question on such a day as I can consistently with the rights of the members of the Committee on Territories.

"Mr. GREEN. In reply to the Senator's question, I can inform him that, so far as I am concerned, I shall desire to do nothing but to make a little statement, reserving my right to answer whatever may be said against the principles of the report. I believe the majority of the committee have no desire to push themselves forward in the debate, hastily, at any time. Of course they reserve their right to be heard during the progress of the debate. What the minority may desire to do, I am not able to say. The friends of the measure generally are not disposed to prevent a fair hearing on all sides, so far as the Senate may desire, and will not undertake to crowd it through, unless a factious opposition be set up, which we do not apprehend.

"Mr. DOUGLAS. I rise to make a remark on another point. I have observed, in a very large number of newspapers, of various political complexions, that have come to me within the last few days, that during the ten days I was confined to my house in consequence of illness, reports went out from here in which it was stated that it was believed a caucus of Democratic Senators had formally read out of the party my friend from Michigan, [Mr. STUART], my friend from California, [Mr. BRODERICK], and myself. I rise for the purpose of asking my friend from Rhode Island, [Mr. ALLEN], who was the president of that caucus, whether there is any truth in those statements?

"Mr. ALLEN. I was the presiding officer of that caucus; but I heard nothing of reading out any member of the Democratic party from that caucus.

"Mr. DOUGLAS. I supposed such was the case, and yet I thought it was proper to call on the chairman of the caucus to make this statement, as I was absent and had no means of knowing what was done, except on the informal inquiries I have made, to which I received the same an-

swer. I will take occasion to remark, that during the fourteen years I have been here, no caucus has ever yet been held by which the right was claimed to make any measure a party measure. It was not done on the Nebraska bill; it never has been done on any other bill. I understand it has not been done on this Lecompton question. The friends of the Nebraska bill met—men of all parties; and the opponents of the Nebraska bill met—men of all parties. The friends of the Lecompton constitution may meet, and its opponents also; but no party caucus has ever yet taken jurisdiction of a measure to declare it a party measure, much less have they undertaken to read anybody out of a party for differing from them.

"Mr. IVerson. At the suggestion of my friend from Indiana, [Mr. FITCH], I will take occasion to make a response to the inquiry of the Senator from Illinois; and it is proper I should do so, inasmuch as the only action of that caucus was on a resolution which I offered.

"Mr. TOOMBS. I will take the liberty with my colleague, which I do in the kindest manner possible, and probably I would not have done it to any other Senator, but I can take the liberty with my colleague in account of our relations, to object to these explanations in the Senate of what took place in caucus. I hope my colleague will let it drop. I say it in the kindest spirit. Those gentlemen who choose to bring it forward here may do so.

"Mr. IVerson. My only object was to disabuse the mind of the Senator from Illinois.

"The VICE PRESIDENT. The Chair must rule that these explanations are not in order.

"Mr. DOUGLAS. I trust the Senator from Georgia may be permitted to make his statement. It is informal, but I trust there will be no objection to it. As he says he offered the resolution, I think it is proper he should now have an opportunity of explaining.

"The VICE PRESIDENT. The Chair did not arrest the remarks which have been made, though they were none of them strictly in order.

"Mr. BENJAMIN. I shall renew the objection. I do not think this is in order.

"Mr. DOUGLAS. I do not wish to push this question any further. It has gone far enough. I understand the resolution which was offered was to the effect that it was conceded on all hands that the caucus disclaimed such right, intention, or power.

"Mr. GREEN. I wish, in further response to the interrogatory of the Senator from New York, to remark that, on consultation with one of the minority of the committee, I shall waive my right to make any opening remarks at all, but let the debate go on and take its fullest range.

"Mr. COLLAMER. I understand that, by the ordinary usage of the Senate, the gentleman who presents the report of the committee has the privilege, and it is expected of him generally, that he should open the debate, that we may be possessed of the views he proposes to present, and the arguments which he calculates to rely upon in support of his position. It is also his privilege to close the debate. We understand that; but we understand generally in law, and certainly in propriety, that, if a gentleman waives his opening, he waives his close. If that is understood, it is all very well.

"Mr. GREEN. That is not understood.

"Mr. COLLAMER. Then I understand the gentleman means to close, though he does not mean to make an opening. According to that view, the gentleman is distinctly to understand that I must close upon his closing; for it is the only time I shall have to answer. I take it, there can be no objection to that.

"Mr. GREEN. Under ordinary circumstances, it might be insisted on with a little more pertinacity that I should open the debate on this matter; but I have made one elaborate speech on this subject, I have made my report; and I shall not, in my remarks, deviate from the principles and from the facts as therein set forth. My object will be to vindicate them as assailed and attacked, not to restate principles, positions, and facts that I have heretofore stated. He can reply to that, and then I will respond, if I see proper to do so.

"Mr. COLLAMER. It is my privilege, also, to have made a report, in which I have stated my views, in common with my associate on the committee who agreed with me in opinion, the Senator from Ohio, [Mr. WADE]; but I do not consider that that in any way precludes me from enlarging upon those views, nor does it relieve me from the duty, perhaps, of elaborating and sustaining them. So it is with the Senator from Missouri; but the view I have is very obvious from general usage.

"Mr. GREEN. I am willing to do it, or to waive it.

"Mr. COLLAMER. I do not mean to urge the gentleman to open the case; but I do not wish him to close a debate which he has not opened. I want it distinctly understood that he is not to close it if he does not open it. If that is understood it is all very well.

"Mr. GREEN. If the Senator desires me to open it, he shall be gratified. I supposed I was gratifying them by waiving my right to open; but if it is insisted upon, he shall be gratified to his heart's content.

"Mr. COLLAMER. I have distinctly stated, and I now restate, as the gentleman does not choose to understand me, that I do not request him to open it, but I request that, if he will not open, he will not close it.

"Mr. GREEN. I do not think he need have so much apprehension about my ability in closing.

"Mr. HALE. Before the question is taken, as I feel a little responsibility about the Army bill, I wish to know what is the intention as to that? Is this subject to supersede it?

"Mr. IVerson. I take this occasion to say what I desired to say, and should have said some time during the progress of the morning, that, as soon as the personal discussion between the two Senators from Tennessee shall have ended, I shall ask the Senate to proceed to the consideration of the Army bill, with a view to press it as rapidly as possible to a conclusion. The chairman of the Committee on Military Affairs is so unwell that he will not be able to be here for some days, perhaps a week or ten days. It is useless, therefore, to keep the Army bill back in consequence of his indisposition, and we ought to get rid of it as soon as possible. I shall endeavor to press the Army bill to-day, and, if it is possible, to get a vote of the Senate upon it.

"Mr. SEWARD. What is the motion now?

"The VICE PRESIDENT. That the bill for the admission of Kansas be made the special order for to-morrow, at one o'clock.

"Mr. SEWARD. We may have the Army bill before us, and the present day is mortgaged. I would suggest the day after to-morrow, or Monday.

"Several Senators. Say Friday.

"Mr. GREEN. Well, Friday will do. I move to make it the special order for that day.

"Mr. DOOLITTLE. I move to amend the motion by striking out Friday and inserting Monday. To-day is undoubtedly to be occupied, and the Army bill cannot be disposed of very soon. ["No, No!"] I withdraw the motion with the understanding that the Army bill is to be first disposed of.

"Mr. COLLAMER. It is a matter of accommodation with gentlemen to fix the time when it can be taken up. Putting it for to-morrow, or the next day, leaves the matter in perfect uncertainty. Those of us who feel it to be our duty to participate in the debate, perhaps early, should like to know what is the certainty. If you say Monday we shall know that there is something certain.

"Mr. TOOMBS. Let us take it up on Friday if we can get to it after disposing of the Army bill.

"Mr. COLLAMER. But that leaves us in uncertainty as to the time when it will be taken up.

"The VICE PRESIDENT. The motion is to make the bill the special order for Friday next at one o'clock.

"Mr. COLLAMER. I move to amend the motion by saying Monday.

"The amendment was adopted; and the motion, as amended, was agreed to."

Mr. PUGH. I am satisfied, on looking at the rule, that it is necessary to offer my amendment before the bill is reported to the Senate.

The PRESIDING OFFICER. The amendment is in order now.

Mr. PUGH. The preamble recited the assembling of a convention in pursuance of an act of Congress, and many other things, which, in my judgment, are not literally correct, and I prefer that the preamble of the bill should follow a much safer precedent—the precedent in the case of the State of California. The preamble to that bill was in these words:

"Whereas, the people of California have presented a constitution, and ask admission into the Union, which constitution was submitted to Congress by the President of the United States, by message, dated February 13, 1850, which, on due examination, is found to be republican in its form of government."

Nothing was said as to compliance with an act of Congress. I move to strike out all after the word "whereas" in the preamble to this bill, and insert:

"The people of Minnesota have asked for admission into the Union as a State, and have submitted a constitution, which, on due examination, is found to be republican in its form of government."

Mr. SIMMONS. Let us have the preamble that is proposed to be stricken out read.

The Clerk read it, as follows:

"Whereas, an act of Congress was passed February 23, 1857, entitled 'An act to authorize the people of the Territory of Minnesota to form a constitution and State government preparatory to their admission into the Union on an equal footing with the original States;' and whereas, the people of said Territory did, on the 29th day of August, 1857, by delegates elected for that purpose, form for themselves a constitution and State government, which is republican in form, and was ratified and adopted by the people, at an election held on the 13th day of October, 1857, for that purpose, in pursuance of said act of Congress."

Mr. SIMMONS. I should like to know what object there is in striking that out. Does it not recite the true history of the affair?

Mr. PUGH. I supposed, after the long discussion on the Minnesota case, that Senators were sufficiently aware that there never was any convention in Minnesota. In the first place, they erroneously construed the act of Congress. That required the convention to consist of twice as many delegates as there were representatives in the Territorial Legislature. They commenced by electing twice as many delegates as there were councilors and representatives in the Legislature. Then they never had a single body, but two bodies met in which persons claiming seats, contestants, sat. If you took the whole number together, you had more than the extraordinary construction would allow; and if you took either of them separately, you had not the convention which the act of Congress required. There never was any body corresponding to the convention required by the act of Congress.

Then they remitted the constitution to a vote of the people, but, as I have stated before, they expressly refused to allow any man to vote either for or against the constitution, unless he would vote for all the officers under it at the same time, and on the same ticket. Now, I want to know from my friend from Rhode Island, who has been criticising the vote in Kansas on the 21st of De-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, APRIL 7, 1858.

NEW SERIES.....No. 94.

ember, what he says to that? It is because I am not satisfied that there ever was a legal convention, or that this vote is a vote which we could approve, after what we have heard of Kansas, that I propose to do as was done in the case of California. There is a constitution in Minnesota. It is in force. The people acquiesce under it; they are satisfied with it; and I treat it as a constitution, in force by the submission to the will of the people, although irregularly formed; and I would simply say, as in the California case, that they have presented a constitution to us, and it is republican in form; they have asked admission, and we allow them admission.

Mr. SIMMONS. I did not know it was understood here that if a man asked what there was in a bill that was not correct in point of history, it followed that he must vindicate an error. The Senator asks what I will say to that? I say it is an error. I would strike that out; but is it necessary to strike out every truth that is there? That is what I wanted to know. If any part of the preamble is true, why do you want to strike it out?

Mr. PUGH. I do not think any of it is true literally. I do not mean that the Senator from Illinois has stated it wrongfully, but the language, literally construed, will not carry out the exact facts.

Mr. DOUGLAS. I will give the Senator from Ohio an explanation of the preamble. The Committee on Territories found themselves divided on the very question of which he speaks, the history of this convention. It was irregular. We went through and agreed to a bill. Then the question was asked, how the preamble should be framed to be in exact accordance with the facts? One side made this suggestion, another this, and another this; until we agreed unanimously on all sides, that the preamble reported was precisely according to the facts, and was the only possible form of words we could agree upon. That is my only objection to the taking of the Senator's form. All sides agreed that this form of words did express the truth after a thorough investigation, that lasted about two weeks, and I hope, therefore, it will be retained.

Mr. MASON. Allow me to ask the chairman of the committee a question: whether the fact is not that there was no convention held in Minnesota? whether the fact is not that the gentlemen elected to the convention met in two bodies, organized themselves separately, and remained under a separate organization until each body adjourned *sine die*. I ask whether that is not the fact?

Mr. DOUGLAS. The facts are reported distinctly by the committee, and acknowledged on all sides to be correctly reported. Delegates were elected to one convention. There was a contest as to, I think, the seat of seven members. When they met, the two political parties quarreled as to the organization; one organized in the Council Chamber, and the other in the Representative Chamber. They went on as separate bodies, each claiming that it was the true, lawful, constitutional convention. When they had got about through forming a constitution, each for itself, they found that the constitutions they had framed were substantially the same. They appointed a committee of conference, and by that committee agreed upon a constitution, and each convention ratified the same constitution, word for word, sitting in two chambers, made it the act of both bodies, and thus united all the delegates upon the same instrument. That instrument was submitted to the people as the constitution of Minnesota, and ratified by over thirty thousand votes in the affirmative, and about five hundred votes in the negative. These are the substantial facts of the case.

Mr. MASON. If the facts be as the Senator from Illinois has stated them, how could it be truthfully, according to the facts recited in the preamble that this constitution (although I dare say it embodies the sense of the people) was the work of a convention organized under the enabling act, when in truth there was no convention at all, but two separate bodies, neither of them

being a convention within the meaning of the act, who afterwards united by means of committees, but did never coalesce in a single body, and adjourned under a separate organization?

Mr. DOUGLAS. I will answer the question. The delegates were elected under the enabling act. They came together at the capital on the day provided by the enabling act, and in pursuance of it. They then disputed as to the form of organization, and separated into two conventions, in fact, each claiming to be the true one. They were the delegates elected under the enabling act; and, sitting there, with a majority of the delegates thus elected, each body claimed that it was the true convention, and that the other was not. They both agreed upon the same constitution. The preamble recites that a convention of delegates did agree upon the constitution, without deciding which of them was the true convention; and both having agreed to it, the statement is strictly true; and it was submitted to the people. I care not about the form of words which may be used. My friend from Missouri, who is a member of the Committee on Territories, with me, who is very technical, and very able, too, on these points, suggested this form of words as obviating his objections; and others, taking opposite sides of the question, at last agreed to this form. I think the language agreed upon by the committee, who differed very materially on this point, knowing all the facts, may safely be taken. I have no objection, however, to any other form of words, provided it does not force some gentleman to vote against the admission who would otherwise vote for it. I would not care if there was no preamble at all.

Mr. SEWARD. I wish to ask whether Minnesota will not be a State if we should not have any preamble to the bill at all?

Mr. DOUGLAS. I suppose she would be a State, and just about as soon without a preamble as with one, and I would as lief have the bill without a preamble as with one, and I would as lief take the preamble of the Senator from Ohio as that of the committee. I do not care what the form is, so that it does not force any one to vote against the bill who would otherwise vote for it.

Mr. PUGH called for the yeas and nays on his amendment, and they were ordered.

Mr. PUGH. The Senate will pardon me in a single observation; I do not wish to prolong the debate. My object is simply to prevent a false precedent being set in this case. I do not think it is true that any convention was held in Minnesota. It is all idle to say, in my opinion, with due respect to the Senator from Illinois, that either of these bodies was the convention required by the act of Congress. There was a schism between the delegates, and, as I have said, a great number of those who constituted both bodies were never delegates chosen under the act of Congress. I do not mean merely the claimants—the seven contestants on each side, whose right to membership never was decided, but who sat in the respective conventions. I mean to say all that portion who claimed to be delegates representing twice the number of councilors in the Territorial Legislature, were not properly elected. We do not know, by any document that has been presented by the Committee on Territories, that all the persons in both these bodies assented to the constitution. It might be so, and then you might say that all the legally-elected delegates assented, and that the assent of the illegally-elected ones did not hurt; but we do not know by what vote it passed. We are told that a majority of each of these two bodies ratified the constitution; but how that majority was constituted in each instance we do not know. I assume, therefore, that the constitution derived no validity from the enabling act of Congress so far as the delegates were concerned, and I do not wish it to be put upon the Journals of Congress, to be brought up here in judgment hereafter, when we are deciding some other case, that we have decided that to be a compliance with the act of Congress; for, in my view, it is no compliance.

Then, as to the vote of the people, I will ask

my friend from Illinois another question. Was he aware, at the time this bill was before the Committee on Territories, that there was a restriction upon the right of voting for or against the constitution, that nobody was allowed to vote for or against this constitution, except on the same ticket that he voted for State officers?

Mr. DOUGLAS. I do not understand now the precise point of the Senator.

Mr. PUGH. The section of the constitution which remits the constitution to a vote of the people, says that no man shall be allowed to vote for or against the constitution, except on the same ticket with his vote for State officers.

Mr. DOUGLAS. Read the clause in the precise form of language used by the convention.

Mr. PUGH. I have not the constitution here.

Mr. DOUGLAS. I had the clause before me, and knew its precise language when the report was drawn.

Mr. PUGH. The Senator was aware of it, then.

Mr. DOUGLAS. I ask the Senator to read the clause, and put his construction on it.

Mr. PUGH. I have the constitution of Minnesota now. It is necessary for me to read the sixteenth and part of the eighteenth section of the schedule. Here is the sixteenth section:

"Upon the second Tuesday, the 13th day of October, 1857, an election shall be held for members of the House of Representatives of the United States, Governor, Lieutenant Governor, supreme and district judges, members of the Legislature, and all other officers designated in this constitution, and also for the submission of this constitution to the people for their adoption or rejection."

Then section eighteen:

"In voting for or against the adoption of this constitution, the words 'for constitution' or 'against constitution,' may be written or printed on the ticket of each voter; but no voter shall vote for or against this constitution on a separate ballot from that cast by him for officers to be elected at said election under this constitution."

My friend said he was aware of that provision at the time he reported this bill.

Mr. DOUGLAS. Clearly; we had it before us and discussed it.

Mr. PUGH. The Senator means, then, to be understood in the language of the preamble, that a submission in this manner was a proper submission to ratification by the people.

Mr. DOUGLAS. I shall answer the Senator very carefully. I cannot stand up to be catechised yes or no, on each question. On that I tell him, unhesitatingly, yes; but I do not understand this mode of debate.

Mr. PUGH. It was not my object to provoke any controversy with the Senator, or to entrap him in any manner; but he stated that the committee had carefully examined every provision of the constitution, and every word of the preamble; that it had all been weighed; [Mr. DOUGLAS. Yes.] but I did suppose, to be frank with the Senator, that this provision had escaped his attention, for it escaped mine until a late point of the discussion.

Mr. DOUGLAS. The only point I objected to was putting one question and then another, without giving time for an explanation to accompany the answer.

Mr. PUGH. The Senator may give it now.

Mr. DOUGLAS. I will wait until you get through.

Mr. PUGH. The preamble to the bill asserts that this constitution was submitted to and ratified by the people. It was ratified in the manner I have stated. I do not pretend, individually, to pass any judgment on such a ratification. If I put any question to the Senator which seemed to him at all offensive or disposed to mislead him or treat him unfairly, I beg his pardon, but I propose to ignore the disputed question by simply taking the case of the State of California. She had a constitution formed by a convention and ratified by the people; but a serious question arose as to the regularity of the convention, and as to the legality of the vote; and the wise men who framed the compromise of 1850; ignored the question and adopted very much the form which I have pro-

posed here. It seems to me we had better avoid these questions, for they will come up hereafter.

Mr. DOUGLAS. I have only a word or two to say in reply to my friend from Ohio. If there was anything in my response to him that seemed uncourteous, I will say to him very frankly that I did not mean it, and I did not understand his language to bear any unfriendly or any unkind construction to me. In regard to this mode of submission, I think it was free, fair, and complete. The convention provided that the constitution should be submitted to the people for ratification or rejection; that every voter should be allowed to vote for the constitution or against the constitution, and on the same ballot should vote for State officers; but they could put just such State officers on the ballots as they pleased, only they must be on the same ballot. They put a Democratic ticket on it, or the Republican ticket, or left both off and put on other names; but whatever vote they gave on State officers was on one ballot. This did not control the mode in which they should vote, whether for the constitution or against it, nor whether it should be for or against this ticket or that ticket for State officers. In other words, under that mode of voting, every man was left perfectly free to vote as he pleased, for or against the constitution, or for or against either ticket for State officers. As I said before, the ratification was by a majority of over thirty thousand one way, and only five hundred votes the other way.

Now, a word as to the preamble. This preamble states:

"Whereas, an act of Congress was passed February 26, 1857, entitled 'An act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States.'"

It thus far recites a fact undeniably true; and then goes on:

"And whereas the people of said Territory did, on the 29th day of August, 1857, by delegates elected for that purpose, form for themselves a constitution and State government which is republican in form."

There is not a question of this being true. There is no doubt that, by delegates elected for the purpose, they framed a constitution. The preamble does not state whether the delegates met in one body or two bodies, but that the delegates were elected for that purpose and framed a constitution. The original draught contained the words, "delegates assembled in convention in pursuance of the enabling act;" but, on motion of the Senator from Missouri, those words were stricken out, so as to leave it in its present form, saying simply that the constitution was framed by delegates elected for that purpose. Can anybody dispute that?

What next? The preamble next recites that the constitution was "ratified and adopted by the people at an election held on the 13th day of October, 1857, for that purpose, in pursuance of said act of Congress." That is, the election was held on the ratification of the constitution in pursuance of the act of Congress. There is no dispute on that point. My friend from Missouri and myself, who mainly differed in regard to the facts connected with this case, agreed that the election on the ratification of the constitution was in pursuance of the act of Congress. I thought the assembling of the delegates was in substantial pursuance of it, but he thought not, and my friend from Vermont thought not, and hence the committee struck out those words.

Mr. COLLAMER. Allow me to say that the fact is that those two gentlemen were at issue about it, and in order to settle the difficulty, I proposed to strike out those words.

Mr. DOUGLAS. I believe that is it. The Senator from Vermont moved to strike out the words which I have mentioned, and we agreed to it. We concluded that everything now contained in the preamble is literally true. All facts which we could not agree upon, we omitted for that reason, and the preamble is perfectly acceptable to me. I would not care if it was stricken out altogether; I would not care if the preamble of the Senator from Ohio was inserted. I do not deem it worthy of a contest, but when a charge is made that the committee have reported a preamble that is not true, I deem it necessary to say thus much.

Mr. PUGH. Did the Senator understand me to say that? I said that I did not think it conveyed, by the language of the preamble, a true

impression. I did not mean to impugn any member of the committee.

Mr. DOUGLAS. I do not mean that the Senator used the word "untrue" in any offensive sense; but he meant that we had employed language which was not historically true, or justified by the events purported to be recited.

Mr. PUGH. Exactly.

Mr. DOUGLAS. I merely wished to vindicate the committee, and show that they had not acted hastily; that they had not done this inadvertently; but each line in this preamble was criticised at the time, and very keenly and severely criticised by my friend from Missouri. Though I thought his criticisms were not quite justified by the original language, yet when the Senator from Vermont suggested that we should strike it out, I yielded to his suggestion, and agreed to strike it out. The committee agreed unanimously on this form, and I was in hopes that we could all agree to it, and close the controversy.

Mr. GREEN. I think it proper to remark that the statement made by the Senator from Illinois conforms precisely to my recollection. If the employment of these last words in the preamble, "in pursuance of said act of Congress," is to be applied to all that is recited in the former part of the preamble, it is wrong, and I should be opposed to it; but if it is simply to be applied to the election on the constitution, when it was formed, I have no objection to it; and as it is a mere matter of construction, to avoid all difficulty, I propose to strike out those words, for it makes no difference either way.

Mr. PUGH. Strike them out, and I will withdraw my amendment.

Mr. GREEN. I suggest that proposition, for it makes no difference either way, and that will prevent any misconception hereafter.

Mr. DOUGLAS. Then I will move to strike out the words "in pursuance of said act of Congress."

Mr. PUGH. I withdraw my amendment.

The PRESIDING OFFICER. It requires the consent of the Senate to allow the amendment to be withdrawn. The Chair hears no objection.

The amendment was withdrawn.

The PRESIDING OFFICER. The Senator from Illinois now moves to amend the preamble by striking out the words "in pursuance of said act of Congress."

The amendment was agreed to.

Mr. KENNEDY. Before the final vote is taken, I desire to say a few words in explanation of the vote I shall give. I do not rise for the purpose of discussing at length any of the provisions either of the bill or of the constitution submitted to us. I intend to vote against the admission of Minnesota upon the simple and broad ground that in my humble judgment its constitution contains provisions directly at variance with the Constitution of the United States. I am opposed to it because it involves a principle, in my humble judgment, directly in conflict, not only with the Constitution of the United States, but with the rights of the southern States. It claims the constitutional power to confer the right of suffrage upon a class of inhabitants not recognized by the Constitution of the United States. It involves a principle which comes directly in conflict with the principles of a party that I have the honor to represent on this floor, whose great leading doctrine is directly in conflict with this principle; and I should be unjust to myself and recreant to the duty that is devolved upon me, if I did not vindicate the principles of that party, to a slight extent, at least, in giving the reasons why I vote against this bill. I am not now referring particularly to the bill for the admission of Minnesota at all; because, really, that bill is a matter of very little importance to me; but I intend to vote against the admission of the State with this constitution which she has sent here. Its seventh article, in regard to the elective franchise, declares:

"SECTION 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the United States one year, and in the State for four months next preceeding an election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all offices that now are, or hereafter may be, elective by the people:

"1st. White citizens of the United States.

"2d. White persons of foreign birth, who shall have declared their intention to become citizens, conformably to

the laws of the United States upon the subject of naturalization.

"3d. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

"4th. Persons of Indian blood residing in this State, who have adopted the language, customs, and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State."

"Sec. 7. Every person who, by the provisions of this article, shall be entitled to vote at any election, shall be eligible to any office which now is, or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election, except as otherwise provided in this constitution, or in the Constitution and laws of the United States."

Now, sir, the ground that I take, and the ground taken by the party that I have the honor to represent, is that alien suffrage and squatter sovereignty must be repudiated. Having asserted these principles before the people of my own State, and being prepared to vindicate them here, I cannot give my sanction to the admission of a State with a constitution containing so clear an infraction of the provisions of the Constitution of the United States, as that article contains; for if you admit the right of aliens, not naturalized, to take part in your elections—men who really cannot claim the protection of the Government; who have no right to come here and petition for a redress of grievances until the mantle of citizenship has been put upon them, in accordance with the laws of Congress and the Constitution of the United States—you permit that class of individuals in this country to control directly the action of Congress, and, perhaps, the destiny of this nation. Sir, I know that I am taking very broad ground in making this declaration—I know that I am assuming much in this body when I undertake to say that people who are not citizens of the United States have no right to vote by the suffrage which may be conferred upon them by the action of a State government; but it has been contended on this floor, and ably and strongly by some of the giant intellects of former days, that the principle on which I act in this matter is a correct one. We are now in some degree reaping the fruits of the loose and cheap right of suffrage which has been conferred upon the people in this country. There has been of late a power aggregating itself in one section of the country upon the adverse proposition to that which I have stated here, which, if not checked, if not controlled, will before long sweep from us that right and that equality which we of the southern States hold in this Union.

Upon a former occasion, I said that I was opposed to squatter sovereignty, because it disturbed the political equilibrium that had existed between the States, on a strict construction and enforcement of the guarantees of the Constitution of the United States. I opposed it because it opened the door to an unequal contest with persons who came here and claimed, through their Representatives who had a voice in Congress, the right to administer this Government, and to direct its policy directly in opposition to the conceded principles of the Constitution when it was framed. When the Constitution was framed the southern States of this Confederacy were upon a footing of perfect equality with all the States of the Union; and my desire has been to do nothing to destroy that equality.

Mr. President, when Congress has exercised its authority by passing a uniform law of naturalization, it excludes the right of exercising a similar authority on the part of the State; and to suppose that the States could do this would make this provision of the Constitution of the United States nugatory. The power has been given to the Congress of the United States to establish a uniform rule of naturalization for the express, simple purpose of protecting the minority in this country from an aggregation of power that might be the result of allowing States to hold out inducements to emigrants. It was to protect us against that interpolation or subversion of the principles of this Government, which will necessarily creep into it by the introduction of new members of the Government, imported from foreign countries, and brought here directly to carry out sectional purposes and for sectional objects only. To suppose that a State could make an alien a citizen, or confer on him the right of voting, would give him a direct and broad control in this Government. A man votes for Representatives in the other branch of Congress in accordance

with the laws of the State in which he resides; and, if you allow aliens to vote for members of Congress, they may control your legislation here, and introduce a system of policy entirely at variance with that upon which the Government was originally formed.

Now, sir, in presenting the views that I have submitted to the Senate, I am not standing alone. In vindication of this principle which I assert, I bring to my support the doctrine proclaimed here by one of the most distinguished Senators whose voice has ever been heard in this Hall. I will, by permission of the Senate, read upon this point the views of no less a man than John C. Calhoun, who, standing here in vindication of the rights of the South, and for the principles of this Government, foreseeing the dangerous consequences which might result, in 1836 gave the warning not only to the Senate, but to the country, of the dangers that would result from this cheap suffrage which was being bestowed, or attempted to be bestowed, upon the States then coming into the Union. Mr. Calhoun said:

"When Congress has exercised its authority by passing a uniform law of naturalization, (as it has,) it excludes the right of exercising a similar authority on the part of the State. To suppose that the States could pass naturalization acts of their own after Congress had passed a uniform law of naturalization, would be to make the provision of the Constitution nugatory."

He said further—I quote from his speech on the Michigan bill in 1836—

"To suppose that a State can make an alien a citizen of the State, or, to present the question more specifically, can confer on him the right of voting, would involve the absurdity of giving him a direct and immediate control over the action of the General Government, from which he has no right to claim the protection, and to which he has no right to present a petition. That the full force of the absurdity may be felt, it must be borne in mind that every department of the General Government is either directly or indirectly under the control of the voters in the several States. The Constitution wisely provides that the voters for the most numerous branch of the Legislature in the several States shall vote for members of the House of Representatives; and, as the members of this body are chosen by the Legislatures of the States, and the presidential electors either by the Legislatures or voters in the several States, it follows, as I have stated, that the action of the General Government is either directly or indirectly under the control of the voters in the several States. Now, admit that a State may confer the right of voting on all aliens, and it will follow, as a necessary consequence, that we might have among our constituents persons who have not the right to claim the protection of the Government, or to present a petition to it."

This, to my mind, is conclusive; it is an argument binding with such force on my judgment, that I never can yield the principle. But Mr. Calhoun went further in discussing this question, and I beg that I may be allowed to quote further from him, because surely I think that his arguments will have more force and more effect, when fairly put before the country, and fairly understood by the Senate, than anything I can say, or anything that I can offer. I gladly accept his principles and his doctrines as a text, and I am willing to abide by them. They are so entirely in accordance with the views, principles, and doctrines of the party I am representing here, that I am rejoiced to find that I have so able an advocate for the humble views that I am submitting to the Senate. In speaking of the object which the framers of the Constitution had in conferring this power, Mr. Calhoun said:

"In conferring this power the framers of the constitution must have had two objects in view: one to prevent competition between the States in holding out inducements for the emigration of foreigners; and the other, to prevent their improper influence over the General Government, through such States as might naturalize foreigners, and could confer on them the right of exercising the elective franchise, before they could be sufficiently informed of the nature of our institutions or were interested in their preservation."

That, sir, is the great principle on which I stand. It is in defense of that right that my own party has in its platform laid down the doctrine that aliens not naturalized shall not exercise the rights of American freemen. There is a wide difference between privileges granted and rights claimed. I am only contending against the right of a State to confer that power which has a direct control not only over the legislation in these Halls but that has a power to control the presidential election itself. I hope I may be permitted, in illustration of this view, to quote still further from Mr. Calhoun:

"Both of these objects would be defeated, if the States may confer on aliens the right of voting and the other privileges belonging to citizens. On that supposition, it would be almost impossible to conceive what good could be obtained, or evil prevented, by conferring the power on Congress. The power would be perfectly nugatory. A State

might hold out every improper inducement to emigration, as freely as if the power did not exist; and might confer on the alien all the political privileges belonging to a native-born citizen; not only to the great injury of the Government of the State, but to an improper control over the Government of the Union. To illustrate what I have said: suppose the dominant party in New York, finding political power about to depart from them, should, to maintain their ascendancy, extend the right of suffrage to the thousands of aliens of every language, and from every portion of the world, that annually pour into our great emporium: how deeply might the destiny of the whole Union be affected by such a measure. It might, in fact, place the control over the General Government in the hands of those who know nothing of our institutions, and are indifferent as to the interests of the country. New York gives about one sixth of the electoral votes in the choice of President and Vice President; and it is well known that her political institutions keep the State nearly equally divided into two great political parties. The addition of a few thousand votes, either way, might turn the scale, and the electors might, in fact, owe their election, on the supposition, to the votes of unnaturalized foreigners. The presidential election might depend on the electoral vote of the State, and a President be chosen in reality by them; that is, they might give us a king."

Mr. President, I think there is a clear illustration of the dangers that are likely to result to this Government from this lax administration of this power. I think, if the political equilibrium of this Government is to be maintained, it is only to be maintained by enforcing the guarantees of the Constitution, which was a compromise made between the States of the North and the States of the South, for the protection of those rights which are now so grossly assailed and so greatly invaded. I do not desire to prolong this debate any further. I rose simply for the purpose of explaining the reasons why I shall give my vote against the admission of Minnesota.

Mr. JOHNSON, of Tennessee. Before the Senator from Maryland closes, in order to understand rightly a very important question involved in his argument, I wish to propound an inquiry to him. The Congress of the United States, having the power, under the Constitution, pass a uniform rule of naturalization. Do I understand him as contending that when a man has been made a citizen of the United States by the naturalization law of Congress, any State into which he may emigrate is compelled to allow him to vote?

Mr. KENNEDY. If I understand the gentleman, I have no hesitation in answering his question. If a man has been naturalized in conformity with the law of Congress, he clearly has the right then to vote in any State.

Mr. JOHNSON, of Tennessee. Then any State into which he goes is compelled to let him vote.

Mr. KENNEDY. In conformity always with the municipal laws of the State; but he must be a citizen of the United States.

Mr. JOHNSON, of Tennessee. Has not each State the power to fix the qualifications of its voters? Has it not a right to impose any prohibition it pleases? Some of the States of this Confederacy have required a man to be a property-holder before he could exercise the elective franchise. If a State cannot permit a man to vote until he is a citizen, is not the converse of the proposition equally true—that, when he is a citizen, no State can prevent him from voting? I say this, not for the purpose of confusing the Senator, or interfering with his argument, but in order to be instructed and informed on this subject; for I desire to understand his views. If it be true that, when an individual is once made a citizen of the United States, any State into which he goes is compelled to allow him to vote, what will be the consequence of such a principle? A free negro coming here from Africa could be naturalized, if your laws allowed it. As the naturalization laws now stand, none but white persons can be naturalized; but suppose those laws should be amended by striking out the word "white:" could you not make every negro who should emigrate from Africa to the United States a citizen? and, on being made a citizen, would not the southern States, according to this doctrine, be compelled to let him vote? What would become of southern rights and interests under such a system? Free negro emigrants from Africa, being naturalized, might flood the southern States.

Mr. KENNEDY. If the gentleman will allow me to go on, I shall come directly to that point. It is to protect the rights of the southern States that I take the position which I have announced. I say a majority of the people of this country, through their State action, should not have power

to direct and control the legislation of Congress by violating the naturalization laws of the country. The distinguished gentleman from whose speech I have quoted, and whose argument is complete on this subject, says on the very point upon which the Senator has put the interrogatory:

"But, to pass to the question immediately before us. This, as I have stated, does not involve the question whether a State can make an alien a citizen; but whether Congress has a right to prescribe the qualifications to be possessed by those who shall vote for members of a convention to form a constitution for Michigan? Reason and precedent concur that Congress has the right. It has, as I have stated, been exercised in every similar case. If the right does not exist in Congress, it exists nowhere. A Territory, until it becomes a State, is a dependent community, and possesses no political rights but what are derived from the community on which it depends. Who shall or shall not exercise political power? and what shall be the qualifications possessed by them? and how shall they be appointed? are all questions to be determined by the paramount community; and, in the case under consideration, to be determined by Congress, which has the right, under the Constitution, to prescribe all necessary rules for the government of the Territories, not inconsistent with the provisions of the Constitution. This very bill, in fact, admits the right. It prescribes that the people of Michigan shall vote for the convention to form her constitution on becoming a State. It belongs to the Territory of Michigan (she is not yet a State) to determine who shall vote for the members of the convention, this attempt on our part to designate who shall be the voters would be an unconstitutional interference with her right, and ought to be objected to, as such, by those opposed to our views. But if, on the other hand, the view I take be correct, that the right belongs to Congress, and not to the Territory, the loose, vague, and indefinite manner in which the voters are described in the bill affords a decisive reason for its recommitment. I ask, who are the people of Michigan? Taken in the ordinary sense, it means everybody, of every age, of every sex, of every complexion, white, black, or red, aliens as well as citizens. Regarded in this light, to pass this bill would sanction the principle that Congress may authorize an alien to vote, or confer that high privilege on the runaway slaves from Kentucky, Virginia, or elsewhere; and thus elevate them to the dignity of citizens, enjoying under the Constitution all the rights and privileges in the States of the Union which appertain to citizenship."

Again, he said:

"My colleague insists that to deny the right for which he contends would be to confer on Congress the right of prescribing who should or should not be entitled to vote in the State, and exercise the other privileges belonging to citizens; and portrayed in strong language the dangers to the rights of the States from such authority. If his views are correct in this respect, the danger would indeed be imminent; but I cannot concur in their correctness. Under the view which I have taken, the authority of Congress is limited to the simple point of passing uniform laws of naturalization, or, as I have shown, simply to remove alienage. To this extent it may clearly go, under the Constitution; and it is no less clear that it cannot go an inch beyond, without palpably transcending its powers and violating the Constitution."

That is the only principle I have stated. It is to confine the right to vote to persons who have the rights of citizens, not only in one State, but over the whole land. It is to prevent an aggregation of power in a class of people who cannot claim the protection of this Government, who have no right to petition Congress for a redress of grievances. It is to prevent the minority of the people of these States from being overcome by a power of this character, aggregated for the purpose of mere sectional advantage. It is so directly in conflict with all the principles that I believe to be essential for the permanency of a free Government like ours; it is so directly inimical to the permanency of the principles of the Constitution itself, and to the enforcement of the guarantees of the Constitution, that I have thought proper to oppose it, and for these reasons I have entered my protest. I place my protest upon the record. I cannot recognize the principle either in a Territory or in a State, for the reasons I have quoted, of allowing aliens, not citizens, not entitled to the protection of the Government, not entitled to the right of petitioning this Congress for redress of grievances, to control me, or to control my State, and to break up that equality by which alone this Union can be preserved. For these reasons I shall vote against the admission of Minnesota with her present constitution.

Mr. JOHNSON, of Tennessee. It is not my object to consume the time of the Senate; or to delay the passage of the bill; but there is one point which has been suggested on which I have pretty well made up my mind, and if I am in error, I desire to be corrected. It is due in sincerity to the Senator from Maryland, that I should enter my protest against the doctrine enunciated by him on this occasion. I have no doubt about his sincerity and the correctness of his purpose in the great objects which he wishes to accomplish; but I think if the doctrine he has announced be sanctioned and obtain an ascendancy in this Gov-

ernment, the very idea of State sovereignty will be at an end, and the existence of the State governments will be set at naught. He has read from pretty high authority as to the qualifications of voters in the States, but there is still higher authority, in my opinion, and it is made by the Constitution, the highest authority in this Government, the Supreme Court of the United States, which has decided this question. My mind is influenced quite as much by that able, that distinguished, that discreet, that profound court, as by the opinion of Mr. Calhoun, though he was a very great man. The Supreme Court has decided that the qualification of a voter in a sovereign State is a matter to be fixed by the State, and not to be controlled by the Congress of the United States in the passage of naturalization laws. If it be true that the Congress of the United States can fix the qualification of a voter in a State, where is your State sovereignty? Where does sovereignty begin according to the theory of this Government? Is it not with the people? If Congress can fix the qualifications of a voter in a State, does it not control the sovereignty of the State? If you can fix the qualifications to entitle a man to go to the ballot-box, from which law and order emanate, from which the State itself emanates, is not that taking control of the sovereignty of the State into the hands of the Congress of the United States. If it be true that Congress can fix the qualification of a voter in a State, of course the moment Congress, by making a man a citizen, qualifies him for a voter, it follows, his qualification being fixed, that every State is bound, under the Constitution, to let him vote. To this I cannot consent.

The courts have decided that free negroes are not citizens. Now suppose you should pass a naturalization law authorizing free negroes to become citizens of the United States: is there any one here in the Senate of the United States who will assert, or who, having asserted, will sustain on sound reason the proposition that a State could not pass a law excluding a free negro from the ballot-box, because you had made him a citizen of the United States? Suppose a State requires a voter to be a property holder; has it not a right to do so? I mention this merely to test the principle. I am myself in favor of the fullest extension of the elective franchise on correct principles. But take your own State, Mr. President, (Mr. Bices in the chair,) my native State: how long has it been since you have seen citizens coming up to the ballot-box voting at one poll for Senators by property holders, and all the citizens voting at another poll for the Commons? They were all citizens of the United States; and if this doctrine be true, North Carolina had no right, either by her constitution or her laws, to fix any qualification preventing a citizen from voting.

The Senator from Maryland wants to purify the ballot-box; a great object with him is to restrain foreigners, to require them to live in the country a certain number of years, and be familiar with the nature and character and genius of the Government, before becoming citizens. With a view of purifying the ballot-box he is now striking at foreigners; but suppose the opposite idea to that which he entertains should obtain the ascendancy; what then? If we can require them to stay here five years or twenty years before being naturalized, can we not allow them to be naturalized in twenty-five minutes or in twenty-five days? Can we tell where a desire for ascendancy may carry a dominant party? It may be the policy of a party in the ascendancy at one time to make men who come to the United States citizens in twenty-five days after they get here. It may be the policy of a party in power at some time to encourage the immigration of natives of Africa, to naturalize them, to make them citizens, and push them into the States, to take charge of the ballot-box throughout the South. I protest against this doctrine. It is a blow at State sovereignty; it is the assertion of a power that will sweep away forever every vestige of State sovereignty. It ought to be repudiated and put down. I care not whether it comes in the name of Know Nothingism, or Americanism, or under any other plausible name, in which you think proper to present it. It is a heresy, in my honest opinion, to talk about the Federal Government fixing the qualification of a voter in a State.

When you turn to the Constitution of the Uni-

ted States, do you not find that it proceeds on the very idea that it is a matter within the control of the States to fix the qualifications of voters? The Constitution provides that members of the House of Representatives shall be elected by those persons in each State who are qualified by the laws of the State to vote for members of the most numerous branch of its Legislature; thus conceding the exclusive power of the States to fix the qualification of voters within their limits. We make the issue upon Minnesota or any other State; but do we not see where the doctrine would carry us? In all doubtful questions, in the language of the illustrious Jefferson, let us pursue principles. There is a great principle of State sovereignty involved in this matter; let us pursue it. What becomes, let me ask, of the resolutions of the Old Dominion of 1798 and 1799, when she took bold ground against the alien law? Was it not because that was an assertion of power on the part of the Federal Government to go inside of a State and interfere with rights of citizenship secured under State authority? One of the main points covered by those resolutions was a denial of the exercise of the power to go inside of a sovereign State and interfere with the privileges conferred upon its citizens by the States. How can we object to admitting a State into the Union because she chooses to allow foreigners who have lived there six or twelve months to vote? If I were in a body fixing the qualification of voters, I would allow none to vote in the United States, in the States or Territories, until they were citizens; but that is a question to be fixed by each State for itself. My own State, in her constitution, requires all her voters to be citizens of the United States; but we claim the power to fix that matter, and deny it to the Federal Government. We say that Congress has no such right; that it belongs to us, not to you.

I do not want to consume time or protract this discussion, or keep Minnesota out of the Union; but I repeat again, if this doctrine be carried out, and the Opposition in principle get the ascendancy, they might, if they were so disposed—I do not impute it to them—change the naturalization laws from five years to one month, or six months, or as soon as the process could be gone through with, and allow every free negro in the United States, every emigrant from Africa, to be made a citizen; and he being a citizen, the States would be compelled to admit him to the ballot-box, and allow him to exercise the elective franchise. I do not want such a doctrine sent to the country seemingly tacitly indorsed by the Senate of the United States. I merely got up to enter my protest against it.

So far as the view of the distinguished Senator from South Carolina, Mr. Calhoun, on this matter is concerned, I think it was one of those peculiar crotchets into which his mind fell. He was a great man, a distinguished man, a great logician, and could lay down propositions, and argue from premises to conclusions. His conclusions were clear; and from his premises no one could resist his conclusions. But I think this was one of the peculiarities of his mind. The courts have said differently. The opinion of the Supreme Court is entitled to at least as much respect, I think, as that of Mr. Calhoun. That is made the supreme arbiter by the Constitution of the United States, and it has decided and settled the question that the State is the competent authority to fix the qualification of a voter.

Mr. MASON. I think the hour of adjournment has arrived; and I move that the Senate do now adjourn.

Mr. PUGH. I hope we shall pass this bill. I ask for the yeas and nays on the motion.

The yeas and nays were not ordered. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 6, 1858.

The House met at twelve o'clock, m. Prayer by Rev. F. SWENTZEL.

The Journal of yesterday was read and approved.

CORRECTION OF THE JOURNAL.

Mr. LETCHER. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SEWARD. I rise to a privileged question. I desire to have the Journal corrected. The Speaker will remember that on yesterday, when the resolution was introduced in reference to the deficiency bill, an amendment was made limiting the debate to thirty minutes to each member, which I objected to because it sought to change a standing rule of this House, and was not germane to the resolution pending. I want the latter fact stated in the Journal. The Chair decided that it was germane, and he was sustained by the House.

The SPEAKER. The recollection of the Chair is, that the gentleman excepted to the decision made by the Speaker upon the first ground, and said nothing with respect to its being germane or otherwise.

Mr. SEWARD. The Chair put its decision upon the ground that it was germane.

The SPEAKER. The Chair so decided.

Mr. SEWARD. The resolution was to rescind an order of the House, and, in effect, to establish a new one. I think the Speaker's decision was wrong.

The SPEAKER. Does the gentleman want to have inserted the words, "and that it was not germane?"

Mr. SEWARD. Yes, sir.

The SPEAKER. If there be no objection, the correction will be made.

There was no objection.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. Hickey, their Chief Clerk, informing the House that the Senate had agreed to the amendment of the House to the eighth amendment of the Senate to the act to provide for the organization of a regiment of mounted volunteers, for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States two additional regiments of volunteers.

Also, that the Senate had passed an act to establish an auxiliary guard for the protection of person and property in the city of Washington, and repealing all acts heretofore passed in relation to that subject; in which he was directed to ask the concurrence of the House.

DEFICIENCY BILL.

Mr. LOVEJOY. I ask the unanimous consent of the House for leave to introduce the following resolution:

Resolved, That the further consideration of House bill No. 306, (the deficiency bill,) be postponed one week, in order to obtain information called for in reference to that bill.

Mr. LETCHER. I imagine that information is upon the Speaker's table.

The SPEAKER. It has not yet reached the Speaker's table, but it will be in the House to-day, from an intimation given to the Chair.

Mr. CHAFFEE. I ask the gentleman from Virginia to yield to me to offer a resolution.

Mr. LETCHER. There are several gentlemen asking me to give way, and I must decline to do so.

RESOLUTIONS OF NEW YORK.

Mr. FENTON. Will the gentleman allow me to present resolutions of the Legislature of my State, for reference?

Mr. LETCHER. I have no objection to that. Mr. FENTON then, by unanimous consent, presented the joint resolutions of the Legislature of the State of New York, in relation to the muskets furnished by the Federal Government to the military forces of the State; which were referred to the Committee on Military Affairs, and ordered to be printed.

RESOLUTIONS OF NEW JERSEY.

Mr. ROBBINS, by unanimous consent, presented joint resolutions of the Legislature of New Jersey, asking the passage of a law restoring to that State the ports of Jersey City and Camden, and also to establish ports of entry at Tom's River, and Atlantic City; which were referred to the Committee on Commerce, and ordered to be printed.

The question was then taken on Mr. LETCHER's motion, and it was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Boccock in the chair,) and resumed the consideration of the

DEFICIENCY BILL.

The CHAIRMAN stated that the committee last rose on motion of the gentleman from Pennsylvania, [Mr. RITCHIE,] who, according to usage, was entitled to the floor.

Mr. RITCHIE. I do not desire to address the committee. I yield the floor to any other gentleman who desires to occupy it.

No member sought the floor.

The CHAIRMAN. If no gentleman desires to debate the bill, the Chair is ready to receive a motion that the committee rise.

Mr. PHELPS. Mr. Chairman, I do not desire to enter into another discussion of the deficiency bill; but on Friday last, when this bill was under consideration, there were some erroneous statements made with respect to the cost of the maintenance of the Army. The gentleman from Illinois [Mr. LOVEJOY] made the mistake of charging to the cost of the Army all of the expenditures made under the direction of the War Department. Since that time, sir, I have obtained from the office of the Register of the Treasury a statement of the actual cost for the support of the Army for the last two fiscal years; but yesterday, when I attempted to present that statement to the committee, the gentleman from Illinois called me to order. I have now sought the floor for the purpose of giving the precise sums. The gentleman from Illinois spoke also of the expenses of the Navy Department, and said that the expenses of that Department had been swelled from \$9,000,000 to \$19,000,000 within the few years last past. The gentleman was equally unfortunate in his statement in regard to that Department, because, under the head of the expenditures of the Navy Department, all the amounts were charged—as appears from the tabular statement to which he referred—which were expended under the direction of the Secretary of the Navy, whether expended for the support of the Navy or for the transportation of the United States mails in mail steamers, (for some of the contracts for that service are made by the Secretary of the Navy,) and for many other objects.

I have also a statement here of the expenditures for the support of the Navy proper for the last two fiscal years, furnished me by the Register of the Treasury. The letter of the Register of the Treasury, and those statements, are as follows:

TREASURY DEPARTMENT, REGISTER'S OFFICE,
April 3, 1858.

SIR: In compliance with your oral request of this date, I herewith inclose statements showing the expenses of the United States Navy and Army for the fiscal years ending June 30, 1856, and 1857.

I have the honor to be, very respectfully, your obedient servant,

F. BIGGER,

Register.

Hon. JOHN S. PHELPS, House of Representatives.

Statement showing the expense of supporting the United States Navy, during the years ending June 30, 1856, and June 30, 1857.

Expenses.	Navy.	Marine Corps.
Year ending June 30, 1856.	\$7,024,422 42	\$488,881 28
Year ending June 30, 1857.	7,050,707 68	503,670 93
	<u>\$14,075,130 10</u>	<u>\$992,552 21</u>

Statement showing the expenses of supporting the United States Army during the year ending June 30, 1856, and 1857, including Army proper, Military Academy, ordnance and equipment of the militia, armories, arsenals, &c.

Expenses.	Amount.
Year ending June 30, 1856.....	\$13,577,539 61
Year ending June 30, 1857.....	13,802,860 76
	<u>\$27,380,400 37</u>

F. BIGGER, Register.

TREASURY DEPARTMENT,
REGISTER'S OFFICE, April 3, 1858.

If any gentleman will refer to the annual statement of the receipts and expenditures of the Government, he will find that the expenditures for the construction of military roads, expenditures for the construction of forts, for the improvement of rivers and harbors, and for the settlement of private claims directed to be paid by the Secretary of War, are included in the aggregate amount of \$19,000,000 expended by the Secretary of War. And so with reference to the Navy.

One word more. The gentleman from Illinois seemed to suppose that the statement which he had of miscellaneous expenditures embraced the miscellaneous expenditures made under the direction of the Secretary of War and of the Secretary of the Navy. That is not so. It embraced

those miscellaneous appropriations which were formerly included in the civil and diplomatic appropriation bill, and in private bills, which are to be settled under the direction of other Departments than those of the Secretaries of War and the Navy, and which were expended under the direction of the President of the United States or the Secretary of the Treasury. This, sir, is all I desire to say.

Mr. UNDERWOOD. Mr. Chairman, on Friday last when this bill was up for consideration, I was induced to make a statement in order to correct an erroneous impression which the gentleman from Illinois [Mr. LOVEJOY] seemed to labor under in relation to the purchase of horses. I find that I was myself led into some inaccuracies in the statement which I then made. I felt, however, that it was due to the distinguished head of the quartermaster's department that the facts should be placed properly and correctly before the country. I took it upon myself, therefore, to call upon him for certain information, but on that occasion he was not present. I then addressed him a note, and he has returned an answer in writing, which gives so fully that information which is necessary to a proper understanding of this subject, that I shall be obliged to you if you will have it read. It contains a statement of the basis of the action of that department, and the law under which that action is justified. I ask that the paper may be read.

The letter was read, as follows:

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON CITY, April 3, 1858.

SIR: In reply to your inquiry of this morning in relation to the manner of purchasing of horses for the public service, I have the honor to state that it has been the practice generally heretofore, to send officers of the quartermaster's department, or officers of the mounted corps, to make the purchases; but this can be done only where we have money to pay for them. The heavy expenditures in 1857, as well before as after the close of the fiscal year on the 30th of June, on account of the operations against Utah, for which no appropriations had been made by Congress, had left this branch of the public service without funds by the last of January of the present year.

On the 24th of December last, I had obtained the data on which I was enabled to make an estimate for the deficiencies in the appropriations for the present fiscal year. That estimate was made for the Army as it then was, without allowing a cent for any increase of the force for Utah; and it amounted to \$3,700,000. Early in January, I was informed by the Secretary of War that an additional force of thirty-five hundred men would be sent to Utah, as well as recruits to fill the companies there, and he required an estimate of the increased expense; and as the estimate for deficiencies had not been sent to Congress he returned it to me, and requested that I should include the whole in a single estimate. I submitted the consolidated estimate on the 6th of January, amounting to \$6,700,000. On the 12th of January, I received from the headquarters of Lieutenant General Scott a circular dated the 11th, directing the movements to be made, and the arrangements to be carried out, for the reinforcement and supply of the army operating in Utah. The appropriations being exhausted, I called the attention of the Secretary of War verbally to the provisions of the sixth section of an act of Congress, entitled "An act in addition to the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," approved the 1st of May, 1820, which gives authority to the Secretary of War, when appropriations fail, to make the contracts necessary to carry on the service. Perceiving no movement in Congress in regard to the appropriation for deficiencies, and feeling myself responsible for the efficient performance of the duties of the department confided to me, connected with the service ordered by the General-in-Chief, I, on the 17th of February, addressed the Secretary of War a written communication asking his attention to the provisions of the act above referred to, an extract from which is inclosed.

On the 2d of March, I was detailed as a member of a general court-martial directed to convene for the trial of an officer at Carlisle, on the 10th of that month. Before leaving Washington for the court-martial, I considered it alike due to myself and to the public service to invite the attention of the Secretary of War again to the act of Congress before referred to; and accordingly I addressed him a written communication on the 5th of March, an extract from which is inclosed.

I left on the 8th for Carlisle, to attend the court. During my absence the Secretary of War, acting, as I understand, under the authority conferred upon him by the act before mentioned, gave orders for the making of contracts for the purchase of horses, mules, and grain. A contract has been made under these orders by Captain Van Vliet, for fifteen hundred horses. These horses are to be inspected by cavalry officers, who have been sent to the proper points for this purpose. No other contracts have yet been reported under the instructions given by the Secretary of War.

That for grain has not been made, as the quartermaster at St. Louis reports to me, because there is a difference between him and the bidders about the price.

I believe myself that the Secretary of War was bound either to authorize contracts for that which was necessary to the service, or to abandon the operations against Utah.

I have the honor to be, your obedient servant,

TH. S. JESUP,

Quartermaster General.

Hon. W. L. UNDERWOOD, House of Representatives, Washington, District of Columbia.

Mr. UNDERWOOD. I wish now to have read the general circular from the Lieutenant General of the United States to the quartermaster's department, which constitutes the basis of the estimates for the Utah expedition.

The circular was read, as follows:

[Circular.]

HEADQUARTERS OF THE ARMY,
January 11, 1858.

The General-in-Chief with the sanction of the War Department, issues the following instructions, to be promptly executed by the chiefs of the respective staff departments, in connection with General Orders No. 1, of the 8th instant:

1. According to said order, the troops to be put in march this spring to reinforce the army of Utah, from Fort Leavenworth, &c., filled up to the maximum standard, will be, as follows:

	Officers.	Men.	Aggregate.
First cavalry.....	35	855	890
Two companies second dragoons.....	6	170	176
Two light companies second artillery.....	8	172	180
Sixth infantry, (seven companies).....	25	592	617
Sixth infantry, (one company at Fort Kearny).....	3	84	87
Sixth infantry, (two companies at Fort Laramie).....	6	168	174
Seventh infantry, (eight companies).....	28	676	704
Seventh infantry, (two companies at Fort Laramie).....	6	168	174
Staff officers.....	16	...	16
Total.....	133	2,885	3,018

2. The force now in Utah under Colonel Johnston, (eight companies second dragoons, fifth and tenth infantry, Phelps's light battery fourth artillery, and Reno's heavy battery,) if up to the maximum standard, would amount to one hundred and eighteen officers, two thousand four hundred and seventy men; two thousand five hundred and eighty-eight aggregate. It is estimated that these troops require eight hundred and fifty recruits, which number will be put at Fort Leavenworth to accompany the reinforcement, with forty-four officers.

3. The entire force to be provided for on the march is one hundred and seventy-seven officers, three thousand seven hundred and thirty-five men; aggregate three thousand nine hundred and twelve. The whole army of Utah (reinforcement included) to be supplied with subsistence, is two hundred and fifty-one officers, five thousand three hundred and fifty-five men; five thousand six hundred and six aggregate.

4. All disposable recruits will be put in march for Fort Leavenworth as early in the spring as practicable. The number required for the seventh infantry can be sent to Jefferson Barracks from the nearer rendezvous.

5. The troops to march from the points indicated must be supplied with three months' subsistence for consumption on the route, and one year's supply for the entire army of Utah will be sent with them. A reserve supply of eight months to be thrown forward to Fort Laramie before the setting in of winter. Three days' bacon and four days' fresh beef in the week will be issued. Beef cattle to be sent on the hoof. In addition to the ordinary ration, there will be allowed two extra rations per week of tea and sugar, and two of dehydrated vegetables.

6. The eight companies seventh infantry will halt at Jefferson Barracks only a sufficient time to receive recruits and equipments, and then proceed to Fort Leavenworth for transportation and subsistence.

7. A full complement of disbursing and medical officers will be immediately designated by the chiefs of the respective departments concerned; the senior in each case to be an officer of rank and experience, and also an officer of ordnance and two of topographical engineers.

8. Besides the necessary trains and supplies, the quartermaster's department will procure fifty tents of Sibley's pattern; also such number of storage tents as may be necessary.

9. The surgeon general will provide the necessary medical supplies.

10. The colonel of ordnance will furnish such ordnance stores, including traveling forges, as may be necessary.

11. The first cavalry and the two companies second dragoons in Kansas will be supplied with horses and equipments for the full organization.

12. Requisitions for transportation will be made as early as possible, to enable the quartermaster general to comply therewith in season.

By command of Brevet Lieutenant General Scott.

L. THOMAS,
Assistant Adjutant General.

Quartermaster General.

Mr. UNDERWOOD. I desire also to have read extracts from communications from the Quartermaster General's department to the War Department.

They were read, as follows:

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON, February 17, 1858.

SIR: It is time that all the arrangements of the Quartermaster's department were being made for the operations in Utah already ordered; but the appropriations, as you are aware, are entirely exhausted, and nothing can be done either in the procurement of supplies, of the means of transportation, or of cavalry and artillery horses, unless an appropriation be speedily made by Congress, or the Secretary of War exercise the authority vested in him by the sixth section of an act of Congress entitled "An act in addition to the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," approved the 1st of May, 1820, which authorized contracts to be made without appropriations for their fulfillment, for the subsistence and clothing of the Army, and for the Quartermaster's department.

Hoping that the necessary appropriations would be made, I have delayed asking your attention to the act above referred to from day to day, and week to week, until it would perhaps be jeopardizing the best interests of the service to delay longer.

TH. S. JESUP,
Quartermaster General.

HON. JOHN B. FLOYD, Secretary of War, Washington.

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON, March 5, 1858.

SIR: * * * * * The estimates now on my table from the departments and posts throughout our territory, extending from the Atlantic to the Pacific, and from the Kennebec and Puget's Sound to Florida Point and Arizona, including the drafts before mentioned, exceed a million and a half of dollars.

If appropriations cannot be obtained in a very few days, I most respectfully, but urgently, recommend that the power vested in the Secretary of War, by the act of Congress of the 1st of May, 1820, which authorizes contracts for the subsistence and clothing of the Army, and for the Quartermaster's department, without appropriations, be exercised. Every hour's delay will add to the expenditure.

TH. S. JESUP,
Quartermaster General.

Mr. UNDERWOOD. I will now read a brief extract of the law for the establishment of the Departments:

"Sec. 6. And be it further enacted, That no contract shall hereafter be made by the Secretary of State or of the Treasury, or of the Department of War or of the Navy, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; and excepting, also, contracts for the subsistence and clothing of the Army or Navy, and contracts by the Quartermaster's department, which may be made by the Secretaries of those Departments."

Mr. LOVEJOY. Is that the whole of the law?

Mr. UNDERWOOD. It is the whole of the law bearing on that question; and the committee will perceive from it that it became absolutely and indispensably necessary, in order to carry on the operations of the Army against Utah, that the power given to the Secretary of War, by this sixth section, should be exercised. There was no money whatever, subject to draft for these purposes; and, as the Quartermaster General says, unless this power, delegated by the law to the Secretary of War, was exercised, the enterprise would necessarily fail. Thus, you perceive that those officers of the Government have faithfully conformed to the law and discharged their duty, or, at all events, that no censure is to be applied to them for their action. Having thus vindicated them, and corrected my own statement, I have nothing more to say.

Mr. RITCHIE. I desire to make an inquiry of the gentleman from Missouri, [Mr. PHELPS], the gentleman from Virginia, [Mr. LETCHER], or some other member of the Committee of Ways and Means. I find in the bill, in the item appropriating \$5,400,000, provision made for clearing roads and removing obstructions from roads, rivers, and harbors, as may be required for the operations of the Army. I desire to know whether it is made clear what rivers and harbors this refers to, and what amount of this appropriation is intended to be applied for that purpose?

Mr. PHELPS. In reply to the inquiry submitted by the gentleman from Pennsylvania, I have this to say: it is not designed by this appropriation to make any permanent improvement of any river or of any harbor. Several years since, in consequence of the extensive acquisitions of territory by this Government, and in consequence of its occupation by troops necessary to keep the Indians in subjection, it was found necessary to employ in the Quartermaster's department, and for the Government to become owner of, some small vessels; and it was found necessary to deepen some streams so as to enable the steamers to pass up and down in carrying supplies to the posts. These are not designed as any permanent works of improvement, but as mere contingencies incident to the transport of supplies. So far as military roads are concerned, it is oftentimes found necessary, when the Army is marching through a mountainous region beyond the verge of civilization, to employ a portion of the Army in cutting down the roads and throwing temporary bridges across the streams. And if the soldiers of the United States are employed in labor of that sort for more than ten days at a time they become entitled, under the laws of the United States, to extra compensation therefor.

Mr. RITCHIE. I understand that; and my question was simply to ascertain whether esti-

mates were submitted to the Committee of Ways and Means for this purpose; whether any specific amounts were named and set apart?

Mr. PHELPS. None, sir. It was to provide for a mere contingency that may arise or may not arise. This is not an appropriation merely to cover expenditures already incurred, but also to cover expenditures that may be incurred during the rest of the fiscal year.

Mr. RITCHIE. I find this difficulty here, that the discretion of the Department is not restrained, either as to the rivers and harbors to which this appropriation may be applied, or as to the amount to be applied to them. The matter is left entirely to the discretion of the Department.

Mr. PHELPS. I would remark to the gentleman from Pennsylvania that the language used in this appropriation is the same as has been used for the last six or eight years in the regular appropriation bills for the support and maintenance of the Army, under the head of "transportation of the Army." And yet there has not been submitted at any time, to my knowledge, any estimate for the improvement of a single river or harbor, or the construction of a military road, to be paid out of such appropriation for the transportation of the Army. It is a contingency that may arise or that may not arise. If the contingency does not arise, no money will be expended; if it does, only such amount as will be necessary will be expended. If, for instance, one of the boats owned by the Government of the United States should be sent up the Kansas river—which is sometimes navigable—and if the boat should run aground, would it not be an act of wisdom to employ men to deepen that point, so that the boat should be extricated and got into a deeper channel, and the expenses thereby taken out of the appropriation for the transport of the Army? That is a case embraced in this item.

Mr. RITCHIE. I merely desired to refer to the subject for the purpose of obtaining information in reference to it. It seemed to me that to embrace this particular item, in this general form, in so large an appropriation, is placing too large a discretion in the officers of the Government. They may carry these improvements to a greater extent than the House or Congress intended. That was all.

The CHAIRMAN. If no other gentleman desires to address the committee, the Chair will receive a motion that the committee rise.

Mr. JONES, of Tennessee. If no other gentleman desires to occupy the floor, I will occupy the attention of the committee for a few minutes. Mr. Chairman, the gentleman from Ohio, [Mr. NICHOLS], on Friday last, in his remarks upon this bill, referred to the proceedings of a former Congress.

Mr. NICHOLS. I wish to make an inquiry. I wish to know if the gentleman from Tennessee has not already addressed the House upon the subject of this bill?

The CHAIRMAN. The Chair will state to the gentleman from Ohio that, after the gentleman from Pennsylvania [Mr. RITCHIE] had completed his remarks, no gentleman claimed the floor. The Chair waited for a sufficient time, and announced that he would receive a motion that the committee rise. No other gentleman still claiming the floor, the Chair awarded the floor to the gentleman from Tennessee.

Mr. JONES, of Tennessee. The gentleman from Ohio, on that occasion, referred to the Congressional Globe of the last session, and to the discussion which took place between myself and the present Secretary of the Treasury.

Mr. SEWARD. The gentleman from Tennessee has already occupied his thirty minutes in debate. I was opposed to the order of the House of yesterday; but that order says: "And no member shall occupy more than thirty minutes in said debate." Now, unless the gentleman from Tennessee is not a member of this House, he has no right to speak under that rule.

The CHAIRMAN. The order of the House was designed to be prospective in its operation only. The provision is, that no member shall occupy more than thirty minutes in debate after the passage of that resolution. The gentleman from Tennessee occupied more than thirty minutes before the passage of the resolution, but not since its passage.

Mr. SEWARD. Very well; I think the con-

struction of the Chair is correct. I withdraw my question of order.

Mr. JONES, of Tennessee. I move to strike out the third section of the bill.

The CHAIRMAN. That motion, in the opinion of the Chair, is not in order in the present stage of proceedings.

Mr. JONES, of Tennessee. I move, then, to strike out \$30,000 from the first clause for the contingent expenses of the House, in the bill.

Mr. LETCHER. Will the gentleman from Tennessee indulge me a moment? I appeal to this House to allow whatever members may wish to say in anyway, in opposition to this bill, until the time fixed for the termination of this debate. It has been said that there are contracts covered up in this bill, and that there are provisions in it which are indefensible. Now, I trust that any gentleman who has anything which he desires to say, in regard to the provisions of this bill, will be heard until the time fixed for the termination of this debate.

Mr. JONES, of Tennessee. I believe the rule of the House is, that no member of the House shall speak more than once upon any question until every member desiring to speak shall have spoken. Now, sir, before I commenced, I was willing to yield to any gentleman who desired to speak; but no gentleman claimed the floor.

The CHAIRMAN. The Chair would inform the gentleman from Tennessee, that the gentleman from Georgia [Mr. SEWARD] has withdrawn his point of order.

Mr. JONES, of Tennessee. Then, sir, I wish to call the attention of the House to the speech of the gentleman from Ohio [Mr. NICHOLS] on Friday last, in which he referred to the increased pay for the Congressional Globe and Appendix, which is subscribed for and taken by the Senate and House of Representatives. He said:

"Mr. JONES, of Tennessee. Do I understand the gentleman to say that that provision, allowing one cent for every five pages beyond fifteen hundred for a short and three thousand for a long session, went back and proposed this addition for Congressional Globes and Appendices delivered and paid, before it was passed into law?"

"Mr. NICHOLS. I do not mean to be understood as saying any such thing."

To that a note is appended at the foot of the column in these words:

"Erroneous. In fact, the effect of the amendment indorsed by the gentleman from Tennessee was retrospective; it carried the increased pay back to the commencement of the Congress. Being retrospective, no difference in time affects the principle."

Now, sir, that was a correction appended after the speech was made in committee, and according to my understanding of this question, the correction itself is erroneous. In the first place, he says: "In fact, the amendment was indorsed by the gentleman from Tennessee himself." I did not indorse it, but I merely, after it had become a law, and when a proposition came from the Senate to appropriate the money to meet the liability created by that law, explained to the House what it was.

Mr. SEWARD. I should like to know what this past legislation has to do with the bill before the House?

Mr. NICHOLS. I trust the gentleman from Tennessee will be allowed to proceed.

The CHAIRMAN. The rule adopted yesterday requires the debate to be confined to the bill. There is, however, an item in the bill making an appropriation for the reporters of the Globe; and the Chair supposes the remarks of the gentleman from Tennessee are pertinent to the bill.

Mr. SEWARD. That has nothing to do with the past legislation of Congress.

Mr. NICHOLS. I trust the gentleman from Tennessee will be allowed to proceed.

The CHAIRMAN. The gentleman from Tennessee will proceed in order.

Mr. JONES, of Tennessee. Did the Chair decide that I was out of order?

The CHAIRMAN. The Chair did not, as he was not giving his attention particularly to the gentleman's remarks at the time the point of order was made.

Mr. JONES, of Tennessee. When the gentleman from Ohio addressed the committee on Friday last, he intimated that the appropriation for the Congressional Globe, to which he referred, was retrospective in its operation. I think it did not extend back of the session of Congress that made it a law.

Mr. SEWARD. I was opposed to the adoption of this order of the House, but I insist that it shall be enforced. I say that these preëxisting laws have nothing to do with this bill. The gentleman is speaking upon a point not in issue.

Mr. JONES, of Tennessee. I say it did not go back beyond the session of Congress at which it was made. And I say further, that there has never been one cent paid under that provision for any copy of that work that had been bound and delivered, or had been printed before that law was passed.

Mr. Chairman, the gentleman referred to a speech of mine in the Congressional Globe of the last session. The question between the gentleman from Georgia, now Secretary of the Treasury, and myself was as to the usual extra compensation, and the prohibition of that compensation by the joint resolutions of July 20, 1854. When that gentleman came to defend the Committee of Ways and Means in making the certificate or indorsement of the Committee of Accounts of this House conclusive upon the controlling officers of the Treasury, he referred to the case of Mr. Forney, who had been Clerk of the House. He referred also to the resolution increasing the regular annual compensation of Mr. Lamborne, and of Mr. Galt. In the note to my speech you will find that I stated that in regard to the cases of Forney, Galt, and Lamborne, to which the gentleman had referred, not one of them came under the resolutions of July 20, 1854, and were therefore not cases in point in the debate on that bill about extra compensation.

Mr. Chairman, as this question of extra compensation is in this bill, I will state what has been the legislation on the subject for the last few years. When the salary of the Clerk of this House was \$3,000, and the salary of his chief clerk was \$2,000, and the salary of the other assistants \$1,500, it was the practice, at the close of every session, to pass what was called an extra compensation resolution, giving twenty per cent. to the officers and other employes of the House, and the laborers and others on the public grounds, where the amount would equal \$200 on their annual salary; but where it would not amount to that, then \$200 was voted to each, without regard to the salary. To correct that practice Congress, in 1854, passed this joint resolution, which was approved by the President on the 20th of July in that year:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers, clerks, messengers, and other employes in the legislative department of the Government, shall be paid an increased compensation of twenty per cent. upon the compensation now received by them respectively; and the messengers of the House of Representatives shall not receive less than is allowed to messengers of the Senate of the same class; such increased compensation to commence from the 1st day of July, 1853; and that a sum sufficient to pay the same to the 30th of June, 1855, is hereby appropriated out of any money in the Treasury not otherwise appropriated: Provided, That no person whose compensation was increased by the act approved April 21, 1854, shall be benefited by this joint resolution: And provided further, That the usual extra compensation shall not hereafter be allowed to any person receiving the benefits of this joint resolution."

This resolution permanently increased the regular annual compensation of the officers and other employes of this House to the extent of twenty per cent.; and the last proviso, it will be noticed, is that the usual extra compensation should not be allowed to any person receiving the benefits of this resolution. And, sir, at that session, those who received the twenty per cent. addition did not receive the usual extra compensation. The pages, and laborers, and others, twenty per cent. on whose salary would not amount to the \$200 which they were in the habit of getting as usual extra compensation, and who did not avail themselves of the benefit of the resolution, had a resolution passed for them, giving them the usual extra compensation. And then, in order to give it to them, a joint resolution was passed on the 5th of August, 1854, "that the sum appropriated by the House of Representatives, on this day, for the payment of its pages and employes, be paid out of any money in the Treasury not otherwise appropriated." This was at the first session of the Thirty-Third Congress. At the second session of that Congress the officers and employes did not receive the usual extra compensation. No resolution was passed for them, but one was passed giving extra compensation to the pages, laborers, and those who did not receive the ben-

efit of the resolution of July 20, 1854. That resolution of July 20th was being executed. It was observed at that and the succeeding session; but in the last Congress it was broken down and overriden by a resolution from the Clerk's office, I suppose, to give the usual extra compensation. This resolution was passed 15th August, 1856, and vouchers were presented under it to the accounting officers of the Treasury. Credit, in their accounts, was refused to those claims; and hence they came to Congress at the last session. A bill was brought here from the Committee of Ways and Means, to take the control over the contingent fund of the two Houses from the accounting officers of the Treasury, and to make what was done here absolute and conclusive upon them. A discussion took place here on the subject. It passed the House, but the Senate refused to agree to it. Then, in order to maintain what the House had done, and, if you please, to give notice to the Clerk and to all the beneficiaries of that joint resolution, Congress, at its last session, passed this law in the deficiency bill, approved March 3, 1857:

"And be it further enacted, That the extra compensation given by each of the two Houses of Congress in the year 1856 to its officers and employes shall be paid by its disbursing officer out of the contingent fund, and his accounts therefor shall be allowed by the accounting officers of the Treasury Department; but nothing herein contained shall be so construed as to repeal the joint resolution of the 20th of July, 1854, to fix the compensation of the employes in the legislative department of the Government and to prohibit the allowance of the usual extra compensation to such as received the benefits thereof, which said resolution is declared hereby to be in full force and effect, so far as herein provided for."

There was the first resolution passed in violation of the joint resolution of 1854, prohibiting the usual extra compensation. They had refused to allow the accounts of the Treasury; and Congress, as was then said, in justification, and to indemnify the officer here who had made disbursements under the law, passed this law to give their vouchers validity at the Treasury Department. But it reenacted, in fact, and declared that it should not affect, the joint resolution of 1854 upon the same subject.

But, sir, just at the very time that this appropriation was made here and action had upon that extra compensation resolution, another resolution, in violation both of the joint resolution and of this law, was passed through the last House. I think it was introduced by Mr. Dunn, on the 2d of March last—I do not recollect the exact time; but it was passed, giving the usual extra compensation, in direct violation of the joint resolution of 1854, and the act of the last session, legalizing the resolution of the previous session of Congress. Well, sir, that resolution was passed in March, 1857, and I believe that up to the 25th of January, 1858, no receipts and no vouchers had been presented at the Treasury by the Clerk in the settlement of his accounts under that resolution. So said the officers of the Department to me. I have here a letter from the Auditor to the Secretary of the Treasury, sent to me by the Secretary of the Treasury in answer to a note which I addressed him.

Then, if there has been no money paid under that joint resolution, when they have had two laws to warn them against the passage of it, and those who are to be its beneficiaries knew that those two laws were in force, I ask now with what show of plausibility or justice can they come here and present again a proposition to overrule those laws of 1854 and 1857, and again to recognize the resolution of the House of 1857?

Now, Mr. Chairman, a good deal is said about the contingencies of this House. I know that it is impossible for your laws, or for anything else, or for anybody to specify what contingencies there may be. There may be necessary expenditures here that it is impossible to foresee, and which properly come under the head of contingencies. But one thing I will say, that when Congress appropriates a certain sum of money to the contingent fund of this House, the House is bound, by all the rules of justice and of honesty, in my opinion, to apply that appropriation to the legitimate contingencies of the House. Then, sir, I would ask you if they would be authorized to use that contingent appropriation for purposes which are not authorized by the Constitution of the country? Is it to be supposed, because the money is given to the House as a contingent fund, that they may dispose of it in any way whatever in accord-

ance with their will and caprice. I hold that what the House did ten years ago, is not a contingency of this House; and, if it exists yet, it is a claim in the hands of those who have it, and is not a contingency of the House of Representatives of the Thirty-Fifth Congress; and we have no right, in my opinion—no legal right—to go back and to pay out of the contingent fund of this House extra or increased pay to officers of former Houses under what may be called contingencies. It is not fairly and legitimately a contingency; and when we use the contingent fund, it must be for the legitimate contingencies of the House. Now, the resolution of 1854 prohibits the usual extra compensation, and the law of 1857 again prohibits it by continuing in force and effect the resolution of 1854. The third section of this bill does not even say that the resolution of 1854 shall be continued in force; and, if that section shall pass, it will be construed hereafter as a repeal of both the joint resolution of 1854, and the law of 1857.

Mr. GROW. Mr. Chairman, I see by this bill that almost eight million dollars are to be appropriated to supply a deficiency in the expenses of the Army. The regular appropriation for the Army last year was almost fifteen millions. Here is an amount as large as half the regular appropriation proposed to be made in a deficiency bill.

I can see that there might be occasions in the administration of the Government, where a deficiency would arise legitimately in any of its departments, but I am unable to see how, under a fair and proper administration of the Government, half of the amount required for the expenses of the Government in its regular, ordinary appropriations, can be asked in addition in the way of a deficiency.

We were told by the gentleman from Virginia, [Mr. LETCHER,] the other day, that part of this amount is for regular current expenses to accrue hereafter. I am opposed to appropriating in a deficiency bill for any expenses to accrue in the future. I only rise now to call the attention of the House to the abuse which has grown up in the expenditures of the Government by our executive officers in exceeding the amount of the appropriation made by Congress.

First Congress is asked to appropriate a small amount for a doubtful object, in order that they may then come in with a deficiency bill, and compel just the amount of expenditure which your officers want to make. In this case we find a deficiency of nearly eight million dollars, on a regular appropriation of \$15,000,000. When the expenses of our Army have run up since 1820 from \$336 56 per man to nearly fourteen hundred dollars per man this year, it becomes the Representatives of the people, in granting money for the expenses of the Army, to scan well for what purpose the money is appropriated. When the expenses of this Government have run up from \$46,000,000 in 1852, to \$70,000,000 in 1857, it becomes the duty of the guardians of the Treasury to inquire why this enormous increase of the expenditures of the Government. Of all modes of making these appropriations, that of a deficiency is the most objectionable, and there should be some overruling necessity to make a deficiency bill necessary at all. Congress first passes upon the necessities of one Department of the Government, and says we will give so much money for it. Then, let our executive officers keep within that amount; and if the public service suffer, it is the fault of Congress, not of the executive officers.

In the Post Office Department, I can see well how deficiencies might occur legitimately, without any blame on the part of executive officers, and with an earnest attempt to keep within the appropriations. Congress makes the appropriation on the uncertainty of how much revenue is to be derived by the Department itself, and, therefore, it is impossible to estimate exactly; for it is a Department receiving money as well as paying it out. Their contracts for service are all fixed in amount, and if the income is not sufficient to meet the specific contracts, then Congress has to make appropriations to supply the deficiencies. But in any other Department of the Government, in which no moneys are received, and where the Department estimates for its expenses, I hold that the Department is bound to keep within the regular appropriations by Congress. Otherwise, we have no control over the expenses of the Government. For after the debts are contracted by the

executive officers, we are appealed to in behalf of the citizen who is to lose his property, that the Government has taken it; and that, unless Congress appropriates in a deficiency bill, the citizen will lose his pay. It may be said Congress need not appropriate the deficiency. That is true; it can be withheld; but who is the sufferer? Not the officer of the Government; not the Government—for they have taken the property or the labor of the private citizen, and refused to pay him. An appeal is then made to us, in the name of humanity and of justice, to compel the payment of money for the support of the Departments of the Government for which, in the first instance, we refuse to appropriate. My only object was to call the attention of the committee to the abuse, not to discuss the bill. We have here a deficiency asked for the support of the Army, half as large as the regular appropriation for the fiscal year. I know of no way of correcting such abuses but by defeating the bill that supplies such deficiency.

Mr. NICHOLS. When this question was under discussion the other day between the gentleman from Tennessee [Mr. Jones] and myself, there was another very distinct branch of the subject discussed. It was in relation to certain claims which were specifically brought to the attention of the House in the report of the Secretary of the Treasury. I made what I claimed to be an argument in favor of the power of the House and of the Committee of Accounts to make the allowances particularly instanced by the gentleman from Tennessee, and by the Secretary of the Treasury. I do not find that my friend from Tennessee makes any question with me now about these particular claims.

I have only one word to say in regard to this appropriation for the Globe. I appended a note to my remarks on Friday, precisely as the gentleman from Tennessee appended a note to some remarks after a discussion between himself and the present Secretary of the Treasury, in the last Congress, and I thought there was nothing unfair in it. Was the appropriation retrospective, or was it prospective? That is the point. My own impression was, at the time of the remarks of the gentleman from Tennessee, that it was prospective. But, sir, the provision for the increased pay was put into an appropriation bill at the close of the session of Congress, and it carried the pay back to the commencement of that session. It was, therefore, retrospective in its influence.

Mr. Chairman, in regard to the other branch of this question, the law began at the period which I stated in my former remarks, in the Twenty-Ninth Congress, I think. It was the absolute custom of each House to vote this increased compensation to its employes, and put the amount in the appropriation bill, as a matter of course. In the appropriation bill of 1845, a proviso was inserted that no such extra should thereafter be paid out of the contingent fund of the House. Well, sir, I hold that the force of that proviso expired with the appropriation made in that bill. I have cited the authority of the Treasury Department, and of distinguished gentlemen who have occupied positions on this floor, in support of my position. After that, this twenty per cent. extra was voted and paid by both branches of Congress. In 1854, we adopted a joint resolution to this effect, that the salaries of certain of the employes should be increased twenty per cent., with the further proviso that the usual extra compensation should cease to those employes who would derive benefit under it. At the subsequent session to the passage of this resolution, provision was made for certain parties outside of that joint resolution. There is no disagreement between the gentleman and myself on that point. At the first session of the next Congress, a general resolution for extra pay was again voted, and appropriations were made for it in the appropriation bill. At the last session of Congress, certain extras were voted in both branches of Congress; and we find this state of facts prevailing, that where certain claims on this side have been suspended, and have been brought to the attention of Congress, no notice of a suspension of the like claims in the Senate has been received.

Mr. JONES, of Tennessee. Does the gentleman intend to be understood that the extra compensations voted by the Senate have been paid, and the accounts settled at the Treasury?

Mr. NICHOLS. No, sir; I have not stated

that, and I do not state it now. I say, however, that they were paid in the Senate, and that no notice of their disallowance has been received there.

Mr. JONES, of Tennessee. Perhaps the disbursing officer in the Senate has not sent his vouchers to the Treasury, and perhaps no gentleman has called for any information on the subject. I inquired whether payment was made of this extra compensation to those who were entitled to receive it under the joint resolution, and I learned that, up to the 25th of February, there have been none of them settled.

Mr. NICHOLS. The gentleman alludes to the fact that the Secretary of the Treasury had received no notice of the payment of any of this general extra compensation on the Senate side, and therefore he draws the inference that none of them have been paid. He says that perhaps none of them have been presented in this House. Now, perhaps, they have all been paid. The fact of non-presentation at the Treasury on one side, it appears, is no evidence of non-payment; then it ought to be none on the other; and one argument is just as good as the other.

Mr. Chairman, I take it there is but one practical point here, and that is this: Has this House the power to pay these extras to its employes out of its contingent fund? What does the Secretary of the Treasury say? Does he find his justification for suspending these particular claims in the joint resolution of 1854? If he does, I concede that I do not understand his argument. No, sir, he puts it upon the direct provisions and limitations contained in the appropriation act of 1845.

Mr. JONES, of Tennessee. If the gentleman from Ohio will allow me. The vouchers which the Secretary of the Treasury sent here, and which are to be found on pages 82 and 83 of his annual report upon the finances, do not purport to be paid under the usual extra compensation resolution, but under separate and distinct resolutions, giving an increased compensation for ten years back, and for the future until otherwise ordered. The Secretary, therefore, puts his suspension of these claims upon the ground that that sort of increase is prohibited by the act of 1845, and not by the joint resolution of 1854.

Mr. NICHOLS. The gentleman now speaks of allowances which have been made by the House and by the Committee of Accounts. Now, sir, take the allowances in the list made by the Committee of Accounts. I showed the other day that claims precisely similar in their character, under precisely the same circumstances, and for precisely the same services, have been allowed by Committees of Accounts since the Twenty-Ninth Congress. Where are they paid? From what fund are they drawn? From the contingent fund of the House. I showed that these claims had been allowed and passed at the Treasury Department for a series of years—allowed from that fund, and from no other fund. They have not been suspended under the act of 1845. Now, where is the difference in principle between allowances to be paid out of the contingent fund for extra services, and other allowances made under resolutions of the House? I cannot distinguish the difference. If these things be in violation of law, if there be no power and no authority to pay them, I say the House ought not to vote them.

But I look upon them rather as determined by the past action of the Treasury Department. In paying the amounts voted by the House by resolutions, when rights have accrued under them, we do no more than simple justice.

But the gentleman says that some of these claims have not been paid. I do not know how that is, but I know that, as a former member of the Committee of Accounts, I have been approached by gentlemen who said that they had advanced money for needy persons, who had made assignments of their claims and gone off home.

Now, where interests of this kind have accrued, I am for paying these bills and making provision for preventing the abuse hereafter. It is wrong, sir, I know, to justify one bad precedent by another, if we have no right to make these appropriations; but were I so disposed, I could show that, in a committee in the Thirty-Third Congress, upon which the gentleman from Tennessee [Mr. Jones] himself served, there was a clerk

employed by no other power than a mere resolution of this House, who at the same time drew his pay at the Treasury Department, as clerk in that Department, while there was at the same time a law in force prohibiting any man from filling two offices and drawing the pay of two offices. Now, upon what principle was this double compensation paid? He was paid as clerk of the Committee of Ways and Means, the compensation which the House adjudged to be reasonable, by a simple resolution of the House, and with no other authority. It can be justified in no other way than upon the principle that the House has the control of its contingent fund. It was paid upon the mere resolution of the House, and by no other authority, and rests upon no other foundation. This is all I propose to say upon the subject.

Mr. DOWDELL. I deem it proper to say, in the outset, that I consider deficiency bills an evil, but a necessary evil. It is impossible to provide against their necessity. It is impossible to make estimates in advance that shall cover every contingency that may arise. The contingency which this deficiency bill covers, for the transportation of troops to Utah, could not have been foreseen; and hence the large amount included in this bill. I am willing to cooperate in any plan for correcting this evil; but I do not believe it can be entirely avoided.

I rise, however, more particularly to speak of the latter section of this bill. It has been the uniform practice of the House, for the last twelve years, to pass resolutions which have received a construction at the Treasury Department, to pay extra compensation to the employes of the House. The difficulty now arises from the fact that the present Secretary of the Treasury has gone back to the commencement, to the law of 1845, and has reversed the decisions of his predecessors. But seeing the injustice which has been done in consequence of these conflicting decisions, he advises payment to be made.

Now, sir, I have looked into these resolutions for extra compensation, resolutions from the first session of the Twenty-Ninth Congress to the present time. The resolutions are similar in their phraseology, and this usual extra compensation was voted up to 1854. In that year a joint resolution was passed confining it to officers who did not receive annual salaries, and twenty per cent. was added to the pay of the salaried officers. Now, I desire to read one clause from the report of the Secretary of the Treasury, as the foundation of the remarks which I propose to make. He says:

"In the settlement of the accounts of the Clerk of the House of Representatives by the accounting officers of the Treasury, a question arose as to the power of the two Houses of Congress over their respective contingent funds. Under resolutions passed by the House of Representatives, the Clerk had paid certain sums to different employes of the House for extra services rendered by them, and the question was presented to me whether he could be allowed credit for such payments, in view of the provisions of the act of March 3, 1845, which was evidently intended to prevent the application of the contingent fund of the two Houses to such purposes. My opinion was, that the act of March 3, 1845, was still in force in this respect, and I accordingly held that the credits could not be allowed. The reasons for that opinion are so fully stated in my letter of June 30, 1857, to the First Auditor of the Treasury—as a copy of which accompanies this report, marked J1—that it is unnecessary again to discuss the question. In conformity to the suggestions of that letter, and for the reasons therein given, I recommend the passage of a law for the relief of the parties who have acted under the different construction placed upon the law by this Department."

In the letter referred to, in this extract from the report, after giving the reasons for his decision, the Secretary further says:

"The greatest reluctance I have felt in coming to this conclusion, arises from the apprehension that injustice may be done to the persons whose claims have thus been recognized, and the officers of the Senate and House, who have acted in good faith in complying with the directions of the respective Houses.

"In paying these accounts, they have only done what they were required to do, and what long established usage justified them in doing. Under such circumstances they should be protected from any loss or injury, and I have no doubt Congress will do it."

If the decision of the present Secretary of the Treasury be not law, I hope that it will be made the law, and that officers shall have a fixed salary, not to be increased or diminished during their term of service.

I am as much opposed to granting extra compensation as any gentleman on this floor. If this was an original proposition to give extra, I should not vote for it. But I do not look upon it in that

light at all. The objections set forth to the evils of the practice do not apply to the case before us. It is whether we will in good faith perform obligations incurred by a previous Congress; whether we will permit our officers and other parties who have acted under resolutions of the House, and the uniform decisions of the Treasury Department for years, to be, by a sudden change of construction, damaged.

Taking this view of the subject—and I believe it to be a correct one—I do not see how we can justly refuse to discharge these obligations, however much we may be opposed to the former practice of the two Houses. Besides, by passing the bill in this shape, we shall be vindicating the decision of the Secretary—acknowledging the necessity of joint action of the two Houses in order to appropriate its own contingent fund to such purposes.

It is a question of the power of the House over its contingent fund. Up to the decision of the Secretary recently made, each House has paid its own officers this usual extra compensation. Constructions are now conflicting, and under that conflict of construction, I hope this House will not suffer these parties to be injured. The present Secretary has differently construed the act from all of his predecessors.

In the act of 1845 there is the following provision:

"Provided, That no part of the sums appropriated for the contingent expenses of either House of Congress shall be applied to any other than the ordinary expenditures of the Senate and House of Representatives; nor as extra allowance to any clerk, messenger, or other attendant of the said two Houses, or either of them; nor as payment or compensation to any clerk, messenger, or other attendant of the said two Houses, or either of them, unless such clerk, messenger, or other attendant be so employed by a resolution or order of one of the said Houses."

The second session of the same Congress passed a similar clause in an appropriation bill.

The Secretary has based his decision upon the ground that this clause was general in its character, and designed to be permanent; that it did not expire with the fiscal year; that, being in force since 1845, the practice of his Department was in violation of it. I do not intend to complain at his decision. I trust that it may stand as the law; but, at the same time, I hope that his recommendations may be heeded by the House, and those who have been induced to rely upon the decision of his predecessors may be saved harmless. Another reason for this may be found in the fact that the same Congress which passed the clause furnishing the basis of the decision of the Secretary, at its next session passed a similar clause, thus giving the highest evidence that it did not consider the law general and permanent; but, in accordance with the construction subsequently given by the officers of the Treasury, to expire with the fiscal year.

There exists now, Mr. Chairman, a conflict of construction upon this law. Under this difference of construction, the employés, legitimately expecting that portion of their wages, have incurred liabilities, contracted debts in good faith, confidently relying upon the Government which had heretofore uniformly paid these extra allowances.

Some third parties, *bona fide* holders, into whose hands some of these claims have passed, are also liable to be injured by the change of construction. It may be argued that the practice has no law for it, but it has been the usage for years. The Comptroller of the Treasury, in a letter addressed to the Secretary, says, that its origin consists in the supposed absolute right of each House to dispose of its contingent fund according to its pleasure.

The former Secretary of the Treasury, under a similar resolution of the first session of the last Congress, when it was represented to him that the Clerk failed to make a requisition for the money to pay some of the employés, sent the amount affixed to each name, entitled under the resolution, with direction that it be paid, and that a requisition be made out for the sum.

When the last accounts were submitted to the Comptroller of the Treasury, the Doorkeeper gave his certificate that the persons named were entitled to the money. Most of those who claimed the money were pages and folders and laborers. Some of them lived in various parts of the country, and could not afford to remain here long after the adjournment. The resolution was

in conformity with the practice of the Government for a dozen years. There was a decision of the Comptroller and Secretary of the Treasury in its favor. They deposited these certificates, and money was advanced upon them. Then they went to their homes. Now there is a different construction; and is it not right that we should make the appropriation to save *bona fide* owners of these claims? Many good men of this city advanced the money that these pages and laborers might not be detained; and the payment of it is now arrested suddenly by a new construction of the law; but, in order to prevent injury, the Secretary of the Treasury recommends that these claims shall be paid.

Here is a letter from the Comptroller of the Treasury, which I ask may be read:

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
April 11, 1857.

SIR: The House of Representatives of Congress, on the 24 of March last, adopted the following resolution:

"Resolved, That there be paid out of the contingent fund of the House of Representatives a like amount of additional compensation to the same officers, clerks, messengers, and other employés of the House, and others, as was directed to be paid at the first session of the present Congress by the resolution of the House of August 15, 1856."

There was a class of persons within the true intent and meaning of this resolution that are not embraced in the prohibitory clause of the joint resolution of the 20th of July, 1854, who ought to be paid, if there is an appropriation that can be legitimately issued for that purpose. Many of the persons composing it are minors, some of them having widowed mothers, who, to some extent, depend upon the service of their sons for support, and none of them, so far as I have any knowledge upon the subject, are in easy circumstances. Many inquiries have been made by, or on the part of those concerned, respecting the payment of the class of employés referred to; and it has been stated that some of the persons have been obliged to assign their claims at a discount to raise money. Seventeen of the contingent appropriations for the House of Representatives are for specific objects, that cannot, as I conceive, be used for any other than the designated purposes, except under the law regulating transfers.

The eighteenth contingent appropriation is as follows: "For miscellaneous items, \$50,000." I submit for your consideration two questions.

First, can any part of that appropriation be used to pay the employés under the resolution of 2d March, copied above, who are not within the prohibitory clause of the joint resolution of July 20, 1856?

Second, if so, can the payment be made before the 1st of July next?

The Clerk has made no requisition for this class of employés, nor did he under the resolution of the House of Representatives of August 15, 1856. Under that resolution he drew for himself and for the officers within his class; and this year he has drawn a requisition for the same class under the second section of the deficiency act, and received the money.

To remove the complaint that existed last year by the folders, pages, and others of that class, the Secretary of the Treasury having, through the correspondence of this office, obtained a list of the names of the persons entitled to pay, and the amount due to each, he drew his warrant upon the Treasury, which being perfected according to law, the money was drawn from the Treasury, a draft was sent to the Clerk, with a list of the names of the persons to be paid, and the amount due to each noted.

If relief can be legally granted in this mode, or in some other that may appear to you better adapted to the occasion, much gratification would be given to those concerned, and much anxious solicitude terminated.

Most sincerely yours,

ELISHA WHITTLESEY.

Hon. HOWELL COBB, Secretary of the Treasury.

The other class of cases, which had been excluded by the joint resolution of July, 1854, and which had, at the previous session of Congress, been provided for by a joint resolution, did not come within the decision of the Department, so as to receive the extra. Therefore, at the last session, a joint resolution was passed by both Houses, and signed by their respective officers, allowing them likewise the usual extra; but, in the expiring moments of the session, it was overlooked, or not signed by the President. It did not become a law; yet, under the resolution of the House, the Clerk has advanced to some of this class. What amount I do not know, but I understand a considerable sum has been actually paid. I am not in favor of making distinctions. If a part of them have been paid, I see no reason why the balance should not likewise be paid. The better course, Mr. Chairman, would be, to pay off these debts, as the Secretary of the Treasury recommends; thus, by a congressional construction, admit the necessity of the joint action of both Houses to dispose of the contingent fund of either, and so get rid of the practice of giving extra compensation altogether.

Let the decision of the Secretary henceforth stand as the law—that neither House shall touch its contingent fund except for ordinary purposes, unless by concurrence of both; and I believe we

shall have no further trouble on the subject. As I remarked in the beginning, I am opposed to granting extra compensation; but I think that good faith requires us to discharge these obligations incurred by the previous Congress; and I shall therefore vote for this bill.

Mr. HOUSTON. I had not expected to engage in this discussion. I have reflected, however, upon the position I will occupy, under my judgment of the case, by the vote I shall be compelled to give upon this bill, in its present shape, and have determined to make a few remarks. As this bill now stands before the committee, I shall be compelled to vote against it, and I desire to give some of the reasons which will induce me to give that vote.

I know, Mr. Chairman, it is exceedingly difficult, under any circumstances, to prepare an appropriation bill, with the multiplicity of items which they must ordinarily embrace, that meets the approbation of all the members of a legislative body. Why, sir, we know that the leaving out of one class of items will probably offend the judgments of some of the members of the body, while, perhaps, if you were to insert them in the bill, you would drive from its support quite as many members.

In this particular crisis in our military operations, I feel very great hesitation, very strong reluctance in voting against a bill which proposes to appropriate money for the support of the Army, and especially when that appropriation comes recommended to us by the various proper officers and Departments of the Government, and especially for deficiencies which have occurred, or which it is known will occur, during the current fiscal year. But, Mr. Chairman, although I feel every desire to vote for appropriations such as are intended fairly for the support of the Army, and to enable it to act efficiently in carrying out the purposes of the Government, yet if there are items in the bill which I regard as I do some of the items in this bill, I shall be compelled to oppose the passage of the bill.

In the first place, there are several items here—and the third section is one of them—that ought not to be in this bill under any circumstances. Admit, if you please, the existence of the resolutions, as gentlemen contend, by which these items are attempted to be sustained; and admit, if you please, that the claims arising under them have passed into the hands of *bona fide* holders, as my colleague [Mr. DOWDELL] has argued, they are, at best, nothing but private claims, and should be treated as other private claims. One of the rules of this House—I do not remember the number of it, but it is one that is practiced on very extensively, and should be universally—provides that no appropriation not authorized by law shall be put in a general appropriation bill; and such is the practice in regard to private claims. The rules of this House forbid the insertion in an appropriation bill, by the Committee of Ways and Means, and also by the Committee of the Whole on the state of the Union, of items such as are embraced in the third section of this bill. This committee cannot insert an item in this bill that is not authorized by an existing law. I do not refer to this as a cause of censure of the Committee of Ways and Means, for I know the difficulty experienced by that committee. I know the great number of propositions that are presented to them, and the pressure there is for all such appropriations of money to be embodied in their bills; and, therefore, nothing that I say is intended as a matter of complaint against them for doing that which I regard, and which I have no doubt you, Mr. Chairman, regard, as violative of the rule of the House to which I have referred.

Now, sir, I ask what existing law there is to justify this appropriation for the reporters? I will take that first. What existing law is there for it? I would be glad if some gentleman would turn to the law authorizing the appropriation to enable John C. Rives to pay to the reporters of the House, for reporting the debates of the present session of Congress, the compensation of \$800 each? There is no rule of the House which justifies it. I am not now speaking of the merits of the proposition. I will do that directly.

There is another objection to this item. It is presented in a deficiency bill. What do you understand by a deficiency? A deficiency is where an appropriation has been made, and where that

appropriation is not sufficient to meet the object. The appropriation being absorbed or exhausted before the fiscal year terminates, then Congress is called upon to appropriate additional money as a deficiency to carry out that for which the previous appropriation was not sufficient. Now, is this a deficiency? Certainly it is not. It is intended to be given to the reporters of the House of Representatives for the work they are now doing; and that, if we were even bound to pay it by law, would properly belong to one of the regular bills, and not this one. It is not entitled to be in this bill; because there is no law to justify it; because it is not a deficiency.

Gentlemen tell us that the House passed resolutions for extra compensation to clerks. That is all true. But the resolutions are not law—however equitable may be their claims under those resolutions, they certainly are not founded upon a law of the land, such as the rules of the House contemplate, to justify the placing such items in the general appropriation bills. They are resolutions adopted by the House for the payment of money out of the contingent fund. The same argument applies to the item in regard to the clerks, as in the case of the reporters. There is no law to justify it, and however long the practice of the House may have been to carry out, in what gentlemen are pleased to call good faith, similar resolutions, yet they do not constitute the law of Congress, and not being a law, they do not justify their being put in the appropriation bills.

Again, Mr. Chairman, take up your Private Calendar, and look at it for a moment. You will find it spotted from the beginning to the end with cases of a like character with these—I mean private claims. Where is the Dickinson claim now; that has been resisted in this House from time to time, and from year to year, and thus far with success? It is not in an appropriation bill, but on the Private Calendar. Mr. Dickinson claims, under a usage of the Government, which he contends is of such long standing that it is equivalent to law, for services rendered by him as acting Secretary of State, in the absence of the Secretary. Why, sir, that claim could have been put into this appropriation bill with the same propriety and with the same fairness as these; and, if these are retained, no good reason exists to exclude that. In times past, when I was connected with the Committee of Ways and Means, efforts were made to have that item put in the appropriation bills; but it has always been excluded, either by the Committee of Ways and Means, or by the Committee of the Whole on the state of the Union. It was excluded on the ground that it was a private claim, as well as upon the ground that there was no law to justify its insertion in an appropriation bill. Why should we make Mr. Dickinson's go upon the Private Calendar, and allow the claims of other gentlemen—admitting that they are equitable—a place in the appropriation bills? There is no sufficient reason, in my judgment, for such difference. They are like private claims, unsupported by law, and should be placed on the Private Calendar.

The gentleman from Ohio [Mr. NICHOLS] has argued to show that the Committee of Accounts had a right to dispose of the contingent fund of the House; and that reminds me of another proposition which I desire to make in reference to this bill. It is to strike out the fourteenth line, which classes a number of items as contingent expenses of the House of Representatives. Under that designation the Committee of Accounts would claim a license to use the money embraced in any one of those items for any other of them, or for any other object that committee might determine to be a contingency of the House. You have, for instance, an item of a few thousand dollars for newspapers, and you have items for laborers, furniture, &c. Every dollar embraced in them under the power claimed by that committee, may be appropriated to any other item which that committee may determine to be a contingency of the House whether specified or not. The gentleman from Ohio argues that the Committee of Accounts have a right to dispose of the contingent fund of the House. I do not propose to argue that with him now; yet I am well satisfied that he errs in saying that the Committee of Accounts can appropriate one dollar of the contingent fund outside of the proper and legal contingencies of the House of Representatives.

But admit that the Committee of Accounts could

do so: what is the condition of most or several of these cases? It is extraordinary that the gentleman from Ohio, or any other gentleman, would argue that these accounts were in a condition to pass with credit in this city, or to be paid at the Treasury. If the Committee of Accounts have a right to control our contingent fund, they must pass upon accounts before the money is paid; that cannot have been the case here. I would like my colleague to tell me when the account of Mr. Barclay was audited by the Committee of Accounts? I would like him to tell me when the account of Mr. Buck was audited; or when the account of Mr. Walker, the reading clerk, was audited by the Committee of Accounts? The resolutions in their behalf were passed in the very last hours of the session, but a short time before the constitutional dissolution of Congress. There was no member of Congress after the 4th of March; no Committee of Accounts, and no mode by which those claims could be audited. But we are told these accounts are indorsed by Mr. Thurston, of Rhode Island—indorsed by him when he was not only not a member of the Committee of Accounts, but not even a member of the Congress. Mr. Thurston's indorsement of the accounts was made after the 4th of March. It could not, as I believe, have been made sooner. It was made after Congress had expired by the constitutional limitation, and he had no more right to indorse them than I had.

Mr. LETCHER. As my friend from Alabama seems to want information on that point, I would tell him that, as I understand, the accounts were prepared before the resolution passed the House, and as soon as it did pass, Mr. Thurston indorsed them, before Congress adjourned, just as a bill is engrossed in advance.

Mr. HOUSTON. That makes the matter worse than it was before, for it shows that there was trickery in the thing; and for that, if nothing else, Congress should reject it. If it was passed in legal form, and if it took the usual course for the indorsement of the Committee of Accounts, I could understand it. But when your officers, in advance, draw up resolutions and put them into the hands of members to have them offered, then prepare their accounts, have them ready and re-accepted, even before the passage of the resolution, it looks to me that there is something involved in such conduct which does not commend itself to the favorable consideration of the House.

Mr. LETCHER. Will the gentleman let me see whether I cannot place him in just as bad a condition? I desire to know whether, before last Congress expired, the gentleman did not execute a receipt, and make a full settlement with the Sergeant-at-Arms, just as I did?

Mr. HOUSTON. That is not the question, and has no bearing upon the one before us. That was my legal compensation; known to me and known to the Sergeant-at-Arms to be due me under a law which has been existing on your statute-book for years. Here there was no law at all. But, sir, I do not recollect whether I did so or not. If it was necessary, I did; but my opinion is that I settled with the Sergeant-at-Arms afterwards. But whether I did or not, does not reach this case, or apply to it at all. That was my compensation, allowed me under the laws of the United States, and the officer knew I was entitled to it.

Mr. ZOLLICOFFER. I understood the gentleman from Alabama to say that the chairman of the Committee of Accounts indorsed these accounts after the Congress had expired, and therefore that it was wrong. He was then informed that the accounts were indorsed during the session of Congress. The gentleman from Alabama complained that that too was wrong, worse than the other. Now, I desire to ask the gentleman from Alabama when it would have been proper for the Committee of Accounts to have passed upon these accounts?

Mr. HOUSTON. I will answer the gentleman with a great deal of pleasure. It would, in my opinion, have been proper for the Committee of Accounts to have passed upon these accounts when they were in session, and the claims presented; and if the committee could not so act at the session when the resolutions were adopted by the House, the matter should have gone over to the next Congress, when the committee could properly examine them.

Mr. ZOLLICOFFER. I understand these accounts were indorsed during the session of Congress; and, in my opinion, that was the legal and proper time.

Mr. HOUSTON. Now, I desire to ask my friend from Tennessee a question. The gentleman understands the circumstances under which these resolutions were passed; that they were passed during the last hours of the session; now I ask if he believes the accounts under them could have been properly made out and audited by the Committee of Accounts before the adjournment of Congress?

Mr. ZOLLICOFFER. I will tell the gentleman what I understand to have been the case. I understand that these officers of the House had their accounts in readiness before the passage of the resolutions, and that after the resolutions were passed, they presented them to the Committee of Accounts, and they were audited before the adjournment.

Mr. HOUSTON. If the gentleman will look at the rules of the House and parliamentary law, he will find that committees of the House are not to straggle about the Capitol indorsing accounts wherever they find them; they are to meet in their regular committee room; meet in regular form; and, a quorum being present, they may proceed to business. They must, however, act by the regularly constituted authority.

Mr. LETCHER. Will my friend from Alabama allow me to ask who indorses these accounts? Are they indorsed by the committee, or by the chairman?

Mr. HOUSTON. I should be very glad to yield to the gentleman from Virginia, but my time has nearly expired. They are, or should be, indorsed by the chairman by direction of the committee, after the claims have been examined.

Mr. NICHOLS. I desire to correct the gentleman from Alabama in point of fact. I recollect very distinctly that about an hour before the last Congress broke up, I received notice from some person—I forget who—that the Committee of Accounts were in session. I repaired to the room in which they had met, and found the other members of the committee present. I had been previously officially engaged in the adjustment of some other business. We closed that session of the committee. These accounts were audited, and I returned into the Hall of the House about half an hour before the adjournment.

Mr. HOUSTON. The statement just made by the gentleman from Ohio discloses this fact, to which I desire to call the attention of the House: that the clerks of the House, instead of attending to the business of the House, were parading the Committee of Accounts, and getting their accounts audited under those resolutions.

Mr. NICHOLS. If the gentleman will allow me, he is mistaken in that statement. I did not receive any notice from one of the clerks of the House; but, I think, through one of the messengers.

Mr. HOUSTON. The gentleman seems to be particularly sensitive upon this point.

Mr. NICHOLS. Not at all.

Mr. HOUSTON. It may have been after all by the Clerk through one of his messengers.

Mr. NICHOLS. Very likely; I do not know that it makes much difference whether it was or not.

Mr. HOUSTON. Well, sir, I desire to refer simply to another thing. My colleague argues that these claims, or many of them, have passed into the hands of *bona fide* holders, by purchase from the claimants. I apprehend my colleague is under a mistake. I do not deny that some of them may be; but from our experience in legislation here, I have no doubt that some of them have fallen into the hands of sharpers who are entitled to very little favorable or equitable consideration at the hands of Congress.

Mr. DOWDELL. I know of my own knowledge of instances where several of the employes desired to return home, and a clever, good natured citizen, with the certificates of the Door-keeper and the decision of the Comptroller that the money should be paid, advanced more than \$2,600 to these employes, and allowed them to return to their homes.

Mr. HOUSTON. Does my colleague know how large a percentage he retained?

Mr. DOWDELL. The interest on the money

at six per cent. would be nearly three times as much as he got in the shape of profit.

Mr. HOUSTON. Who was he?

Mr. DOWDELL. Mr. Smithson.

Mr. HOUSTON. Well, I do not know what profit Mr. Smithson or any of the others made out of these transactions; but I do know that there is no law authorizing the payment of these claims. But let us examine for a moment into the merits of some of these cases. Take, for instance, the case of Mr. Buck. Under this resolution of the House he gets between four and five thousand dollars; and for what, Mr. Chairman? He gets it for doing a part of his duties, and nothing more. He is an officer of this House. He is one of your clerks, and gets, by this bill, between four and five thousand dollars, under the pretense of making out a particular document, which it is the duty of the Clerk to make out and submit to the House, and for which he has already been paid very liberally. He will receive by this bill this amount, for doing no more than the law requires him to do, and which has been required of the Clerk of the House for many years. I do not think my colleague can stand that.

But again: take the case of Mr. Barclay. He will receive, under this bill, between five and six thousand dollars extra compensation; and what is it for? What services has he rendered to entitle him to this extra compensation? I do not pretend to say he is not a good officer. I am not assailing these officers at all. I am only talking about the principle involved. I ask why, and for what, do you vote to give him this large sum of money? Simply because he is a good officer and clever gentleman. Now, so far as the performance of his duties is concerned, he has done no more than the law required him to do, and for which he receives a liberal salary. Then, if you give it to him merely as a matter of gratuity to a clever gentleman, I can tell you that if you will establish the practice of giving \$5,000 to every clever gentleman, you can exhaust the Treasury of the country in my district alone, and not get half through giving to the clever gentlemen I have the honor to represent.

Mr. DOWDELL. The last House of Representatives directed the payment of these accounts. The officers had gone on and paid a portion of the amount. Mr. Barclay received a portion of his account. This bill is intended to protect the officer of the House from loss in acting under the order of the House. It is not whether Mr. Barclay, or any other, is entitled to the money, but whether the House will protect an officer who has acted in good faith under an order of the House, and prevent him from suffering loss.

[Here the hammer fell.]

Mr. HOUSTON. I am sorry that my friend has taken up all of my time. I wanted to reply to what he has just said, and show that it has no application to the question involved in this bill.

Mr. SHERMAN, of Ohio. Mr. Chairman, I am not disposed to cavil at appropriations demanded by the necessities of the country. I think it is the duty of Congress, however, carefully to guard their appropriations from misapplication, and limit them strictly to the necessary expenses of the Government. In my judgment, our Government has departed from its original policy in the appropriation of money more than in anything else. And one objection I have to this side of the House, as a political party, is, that we have been too free in the expenditure of money. We have yielded too much to the demands of the Administration. We were at fault, I think, in the last Congress in not watching more carefully, and restricting the expenditures of this Government. We have been abused for it over and over again. Although we did not appropriate one cent more than had been asked for by the Executive, yet for this liberality we have been abused day after day. This morning's Union, the Administration organ, contains a homily on the subject. After charging us with assenting to all the extravagance of this Administration, it warns us to give a ready assent to this new demand.

Mr. Chairman, during the last session of Congress we appropriated for the Army, for one year, the sum of \$19,000,000, and now we are asked for the additional sum of \$7,925,000; making in all over \$27,000,000 for the support of the Army of the United States for one year. I have been looking into the matter to see what are the items

of this alleged deficiency. Looking at the bill before us, I can find but few detailed items. I find one single appropriation of \$5,000,000 for twenty or thirty different objects. I desired to know how much was needed for each item, and inquired of a member of the Committee of Ways and Means where I could get them, and he referred me to Miscellaneous Document No. 22. From that I am unable to find some of the items. The large sum of near eight million dollars is made up of various items of deficiency, part of which accrued before the 30th of June last, when this fiscal year commenced; \$1,228,679 31 now asked for in this bill, is to supply deficiencies which occurred during the fiscal year ending the 30th of June last. Why was not this deficiency, which must in a great measure have accrued before the last Congress adjourned, brought to its notice, and an appropriation asked?

Mr. PHELPS. The gentleman inquires why this information was not furnished to the last Congress? The gentleman is mistaken in his calculation, or he would not make the inquiry. The last Congress adjourned the 3d of March, 1857. At that time, as I had occasion the other day to remark, the appropriations were made for the ordinary service of the Army, and it was not decided that an expedition should be fitted out for Utah. The gentleman is himself aware of this fact. There was no estimate submitted for sending any portion of the Army to the Territory of Utah. There was a change of Administration in March, and it was left for the present Administration to determine what policy it was necessary to pursue towards the people of Utah. The order was given by this Administration for the march to Utah, and the troops were started before the expiration of the last fiscal year. I hope this is satisfactory.

Mr. SHERMAN, of Ohio. The answer is such as I expected. Congress adjourned on the 4th of March, and the fiscal year expired on the 30th of June last. The gentleman tells us that this was because the new Administration determined upon the Utah expedition.

Mr. PHELPS. I say the greater part.

Mr. SHERMAN, of Ohio. A part, then, accrued before Congress adjourned, and why were we not informed of it? and what right or power had the President to involve the country in this expedition without authority of Congress, and when intelligent men of all parties believe that the expedition could have been avoided by sending commissioners and proper territorial officers. Here is another question which gentlemen will find it difficult to answer. I see, among others, the large item of \$129,860 for incidental expenses. What are those expenditures? I have looked into the document, and I find in the appropriations for the last fiscal year \$350,000 for incidental expenses. The expenditure amounted to \$479,860, making, as it will be seen, a large deficiency. The document to which I have been referred, fails to answer what has been done with this money. How do we know whether this large sum has been properly expended and for what? Nearly a half million for incidental expenses, connected with Quartermaster's department, and yet neither the committee nor the executive documents can give us the items. We are all called on to vote this money in the dark.

Here, sir, are other deficiencies in the last fiscal year, of \$279,000, on account of regular supplies, consisting of fuel, forage, &c.; another, on account of barracks and quarters, \$67,000; and still another, on account of Army transportation, \$751,000. Here is an item of three fourths of a million dollars, in reference to which we have no detailed information. When we ask the Committee of Ways and Means in regard to them, we are referred to a document which gives us no light on the matter. Now, sir, before we appropriate a dollar of money, we should know precisely where the money has gone or is to go. The executive branch of the Government has already nearly swallowed up all others; and not only so, when we attempt to restrain it within constitutional limits, it treats us with indifference. As an example, to which I call the attention of the House, I will refer to a letter from the Secretary of the Treasury—and I have a great respect for him personally—in which he confesses to what he and all of us must confess to be, a violation of the law, and makes no apology for it. By the general ap-

propriation bill, passed March 3, 1855, \$20,000 was appropriated for the legislative expenses of the Territory of Kansas, and for the fiscal year ending June 30, 1856; the Administration took the money and expended it in the fiscal year of 1857. This was a violation of law; and, if the example is to be followed, will change the character of our Government. I will ask the Clerk to read the letter of the Secretary.

The Clerk read as follows:

TREASURY DEPARTMENT, March 5, 1858.

SIR: I transmit herewith a statement from the Register of the Treasury, showing the amount paid out of the Treasury during the fiscal year ending June 30, 1857, for the compensation and mileage of the members of the Legislative Assembly of the Territory of Kansas and for other expenses of said body, per act of March 3, 1855, as requested in a resolution of the House of Representatives adopted March 1, 1858.

I have the honor to be, very respectfully,

HOWELL COBB,

Secretary of the Treasury.

Hon. JAMES L. ORR, Speaker of the House of Representatives, U. S.

TREASURY DEPARTMENT,

REGISTER'S OFFICE, March 3, 1858.

SIR: I have the honor to state, in compliance with the resolution of the House of Representatives of the 1st instant, referred to this office, that during the fiscal year ending June 30, 1857, there was paid out of the appropriation "for the compensation and mileage of members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly of the Territory of Kansas," per act of March 3, 1855, for the fiscal year ending June 30, 1856, viz:

To Daniel Woodson, Secretary.....\$5,880 64
To Frederick P. Stanton, Secretary.....3,885 80

In the settlement of the account of Daniel Woodson he was allowed the sum of \$10,139 for expenses incurred at the session of the Legislative Assembly, commencing January 12, and ending February 20, 1857; all of which was paid out of the said appropriation; part of which was advanced to the said Woodson during the fiscal year ending June 30, 1856. No account of Frederick P. Stanton in relation to these expenditures has been received in this office.

I am, very respectfully, your obedient servant

F. BIGGER, Register.

Hon. HOWELL COBB, Secretary of the Treasury.

Mr. SHERMAN, of Ohio. Now, Mr. Chairman, that communication shows this state of facts: that on the 3d of March, 1855, Congress appropriated \$20,000 for the fiscal year ending 30th June, 1856; and that after this Administration came into power on the 4th of March last, money was paid out of that appropriation into the hands of Secretary Stanton for disbursement in the Territory of Kansas. Not only was that money paid in an entirely different fiscal year from the one for which it was appropriated, but it was done in known violation of, and in opposition to, the action of Congress, because Congress directly, in terms, and after much controversy, refused to make any appropriation for a Legislative Assembly in Kansas; and yet the balance of an old appropriation for a past fiscal year is so applied.

Now, if the executive officers can do these things, and can do them without even deeming them worthy of an apology to Congress, what is the use of Congress? Why not take the unexpended balance of all the various appropriations under laws of Congress and apply it to carry on the Utah expedition? Why come here and ask us for money if we have no power to limit the appropriations? If they can take the money appropriated for one year and apply it for the service of another year, why bring in a deficiency bill at all? Why not lump all that may be needed in one bill, without items and without particularity? I allude to this for the purpose of showing that we ought to require of the executive officers a rigid conformity to law in the expenditure of moneys.

As I said before, I am willing to vote for any appropriation bill that I think is right; but before I vote for this bill, I want some member of the Committee of Ways and Means to inform me what are the items which compose this sum of \$129,000? What does it mean? I asked one member of the committee, and he said he had no information on the subject, except what is to be found in an executive document. Now, in my judgment, the Committee of Ways and Means ought to be able to tell us what the items consist of. We ought to have them in detail. But without giving us the items, they tell us it is for a deficiency. I, sir, cannot vote for any bill making appropriations, unless the committee that reports it can give the specific items that make up the aggregate sum.

Mr. Chairman, there is another thing in regard to this bill. It is idle for any one to look on the

face of the bill for information. I find that in one clause of the bill they have included all sorts of items—for transportation of the Army, including baggage; for sailing vessels on the Gulf of Mexico, and upon the Atlantic and Pacific; for procuring water, and so forth. They have included I do not know how many items, but they have lumped them all together, and appropriated for them \$5,400,000. Now, I want to know the amount of each item. According to the original policy of the Government, the amount of each item was given in such bills as this. But in this case, the committee have lumped together the large aggregate amount of \$5,400,000, without giving us details. It is our duty as legislators to examine these matters carefully; and the committee should either give us the items or refer us to some public document which contains them. I ask the gentleman who has this bill in charge to point us to some document in which we can find the items which go to make up this large aggregate. I have been looking for it and have not found it. I see that there is probably included in this \$5,400,000 about two million dollars for the transportation of troops and supplies. Now, where is the estimate upon which that amount is based? I can find none. How much is paid for transporting a barrel of flour? I have seen it stated in the newspapers that a barrel of flour costs the Government, by the time it reaches Utah, between fifty and sixty dollars.

Mr. LETCHER. In what newspaper did you see that?

Mr. SHERMAN, of Ohio. I cannot say.

Mr. LETCHER. I should like to know.

Mr. SHERMAN, of Ohio. I have heard it said on this floor, and every gentleman here has heard it said. I will ask the gentleman from Virginia [Mr. LETCHER] how much does it cost?

Mr. LETCHER. Twenty dollars and seventy cents a hundred.

Mr. SHERMAN, of Ohio. Then, I am right, and the paper was right; it will cost between forty and sixty dollars, the barrel and flour weighing about two hundred and fifteen pounds. Well, now, before we are called upon to vote upon this bill, we ought to have the contracts under which these Army supplies are to be transported; we ought to have all the information, I do not care if it covers a hundred pages. We ought to have all the items, or, if we cannot have these in print, the members of the Committee of Ways and Means ought to be able to give us the items, dollar for dollar. Without them we ought not to be called upon to vote for the bill. Who is to get the \$2,000,000 for transportation? How were the contracts made? When were they made? By whom were they made? And by what law were such extravagances authorized?

It has been stated here that the ordinary course has not been pursued in making certain contracts in regard to horses. Now, before I vote for this bill, I want to know how the contracts have been made. It is rather suspicious, in my judgment, when you see large amounts for transportation of troops and supplies thus lumped in general terms, and gives some countenance to the general rumors connected with recent Army contracts.

I will ask the gentleman who has charge of the bill another question. If \$2,000,000 is appropriated for transportation, why was it not put in the bill specifically? Why is it all grouped together in the sum of \$5,400,000? Why are not the separate items given? Under this mode of appropriating money, the executive department can take this \$5,400,000, and apply it to more than a hundred different purposes. Under the general terms of an appropriation bill, they can take it and apply it to almost any exigency that an Executive, who has not, in my judgment, the confidence of the nation, may choose to apply it to. I can vote for no appropriation that may be thus abused, when no man can tell how much of it is for transportation, how much for the purpose of clearing roads and removing obstructions from rivers, and how much for the purchase or hire of horses. How can any man vote understandingly for a bill so general in its terms as this is? I am not sufficiently acquainted with the legislative history of the country to say whether or not this kind of appropriation bill is common or ordinary. It seems to me that if it is, the precedents ought not to be followed any further, but that each item of appropriation should stand separated from the

others, so that we may vote to strike out what we disapprove, and to retain what we think is right.

But I have another objection to this bill to which I desire the attention of the gentleman who has it in charge. It does not distinguish at all between what is intended for one fiscal year and what is intended for another fiscal year, but, on the contrary, expenditures for three fiscal years are grouped together in the same item of appropriation. Now, is that usual? If it is, it is very wrong. I think it is not usual. The paper, to which I referred before, shows that \$1,250,000 of the money is for the fiscal year ending on the 30th of last June, that \$3,718,000 is for the current fiscal year, and \$3,700,000 for the next fiscal year. Now, why are these items aggregated together and put into one appropriation? Why is not a specific sum appropriated for a specific deficiency in one year and another for a specific deficiency in another year? Such, I am told, has been the custom. I would ask the gentleman from Virginia whether the \$3,700,000 for the next fiscal year is not in this bill?

Mr. LETCHER. It is.

Mr. STANTON. For the next fiscal year?

Mr. LETCHER. Yes; read the document and you will see.

Mr. SHERMAN, of Ohio. Yes, sir; I see it. My colleague thought they were not thus grouped together.

Now, in my judgment, those appropriations ought to be separated, and each be made to stand or fall upon its own merits. Some of us may be willing to pay debts for which the faith of the Government is pledged, and yet not be willing to authorize what we consider a useless expenditure for the future. When the Committee of Ways and Means—which has the confidence of the House—reports to us a bill of this kind they ought to separate the items and give them to us item by item, letter by letter, and precept by precept, so that we may act upon them understandingly. The gentleman from Virginia [Mr. LETCHER] may think they are all right, and he is generally very exact. I find myself voting with him often on money bills; but we have a right as legislators to know whether or not they are right, to test his judgment and accuracy, and to judge for ourselves.

Now, sir, a few words in reference to the third section of the bill. This third section appropriates money in accordance with resolutions of the last Congress, which, in my opinion, were contrary to law. I believe that the last House of Representatives, in voting extra pay to its various officers, violated an act of Congress. I draw a distinction between resolutions of either House and the law. I believe that these resolutions, passed at the heel of the last session, have not the authority of law, and are wrong in principle; and therefore I will no more vote to sanction what I regard as a breach of law by either House of Congress than I will vote to sanction a breach of law by executive officers. This House has no power to appropriate money, except from its contingent fund. It has no power to say that any man shall have extra pay. There is a law of Congress which expressly forbids it; and therefore I do not consider myself bound to vote to carry out these resolutions. I know that it is said that these men are very worthy officers. I admit it. I do not believe that any Speaker of the House could get along without the services of one of the clerks provided for in this bill. At the same time, I think all these claims should be passed in the ordinary way. Let them not be attached to an appropriation bill. Appropriation bills should contain nothing except for expenditures provided for by law. These claims of Mr. Barclay and the other gentlemen are not provided for by law; they have not been sanctioned by law. It is true, they have been sanctioned by resolutions of the House; but they are not the law of the land; and I will not do, as a member of the House, what I would not sanction to be done by another department of the Government.

This is a small part of the bill; and I think it should be left out, and let the question be taken on the rest. At any rate, until I am better satisfied in reference to the items that make up the large sums appropriated by this bill, I will not vote for it.

Mr. DAVIDSON. I desire to correct a statement, or the terms of a statement, made by the

gentleman from Alabama, [Mr. Housron.] I do not consider that we are called upon merely to pay these gentlemen their extra pay; but we are called upon to carry out in good faith the act of a former Congress; and I consider these resolutions just as binding on us as any one of the laws passed in that Congress. I was in the last Congress, and was one of the few who voted against the resolutions; but as they were adopted, I consider it to be the duty of the Secretary of the Treasury to pay the money, and the duty of the House to carry out in good faith the acts of the last House.

Mr. BURNETT. I would like to ask the gentleman a question.

Mr. DAVIDSON. I cannot yield for the purpose. I do not ask questions of the gentleman, and I shall not answer any.

Mr. Chairman, the speech of the gentleman from Alabama puts me in mind of a story that I heard when I was a boy—a good while ago. [Laughter.] When they first undertook to establish courts of justice somewhere, they took a very clever old Englishman and put him on the bench. A man was brought up, charged with murder; but as they had no grand jury in that court, it was considered questionable by the able gentleman who represented the Government, as to whether they could go on with the trial without an indictment; and he suggested it to the court. The court said an indictment was not necessary; that the man was charged with murder, and must be tried. "Well," said the district attorney to him, after hearing the evidence, "I hardly think the evidence sufficient." "That makes no difference," said the judge; "the man has been charged with murder, and we must hang him." "But," said the district attorney, "the man whom he is charged with having murdered, is in court." "That does not make a bit of difference," said the judge; "somebody is to be hung, and I will hang that man any how." So it is with the gentleman from Alabama. He first objects to the indorsement of these accounts, because they were indorsed after the power of the committee had ceased. But the gentleman from Virginia [Mr. LETCHER] says "No—that is not so; they were signed while the House was in session." "Well," says the gentleman from Alabama, "as they ought not to be paid any how, they ought not to have been signed, and the signing was improper. The committee was not called together, and they must have been signed in the House." The gentleman from Ohio [Mr. Nichols] comes forward and relieves him of that difficulty, saying that the committee was called together. "Well," says the gentleman from Alabama, "they were not called regularly. Somebody is to be hung; somebody must be made a scape-goat of."

Now, I do not think that this is right; and I do not think that the gentleman from Ohio [Mr. SHERMAN] is in a better situation than the gentleman from Alabama. He [Mr. Housron] does not intend to vote for this, no matter whether these accounts were regularly signed or not. So the gentleman from Ohio does not intend to vote for the Army deficiencies, whether the supplies were all furnished or not.

There you have the case exactly as it stands; and it is for the thinking portion of the House to do justice. I, for one, believing that these resolutions passed in good faith—although I opposed them—and that these parties are entitled to the money under them, intend to vote to pay them; and believing that it is necessary to carry on this war, and that expeditions have been made by the Government in good faith to further the interests of the country, I shall vote to pay them.

Mr. GARNETT. I will not ask whether the gentleman from Louisiana who has just taken his seat has succeeded as much to the satisfaction of the House as to his own, in proving the justice and propriety of the comparatively small item of the bill giving extra compensation to the officers of the House; but he certainly has said nothing to commend to our approval the \$10,000,000 of other appropriations now proposed.

Mr. Chairman, nothing strikes me in this debate so much as the proof it affords of the alarming tendency of the executive branch to absorb the entire power of the Government. For as the Federal Government threatens gradually to consolidate within itself the powers which rightfully belong to the States, so does the Executive con-

centrate all the powers of the Federation. And nowhere is that encroachment more apparent than in the almost unlimited control it has obtained over the purse.

It was a cardinal principle taught by the State-rights Republicans of Mr. Jefferson's day, that no money should be drawn from the Treasury except by appropriation by Congress, and no expenditures made except by express legislative sanction. By all the minuteness of specific appropriations Congress was to prescribe not only on what objects money might be expended, but *how much* on each object. Any other construction of the constitutional provision that no money shall be drawn from the Treasury, except when appropriated by law, would abandon all our power of control. But it is vain for us to attempt to limit the expenses of Government, if when, after due consultation with the Executive Departments, we have determined the amount we are willing to sanction, the Executive may exceed the limit as far as it pleases, and call upon us to approve the excess, under the name of a deficiency. The Departments first send in their estimates; your Committee of Ways and Means considers them, sometimes reduces them, and but too often merely registers them; Congress itself then deliberates upon them, and the result finally is that by solemn legislative enactment the voice of the people and of the States determines how much shall be spent, and for what purpose. But then the Executive Departments, which have to execute these laws, in utter disregard of them, and at their own mere discretion, contract obligations vastly beyond their authority, spending moneys they never asked for, which were never granted, or which were even refused, and we are summoned by all the ties of party allegiance, and public faith, and governmental necessity, to pay the bills, and sanction the violations of law.

Now, Mr. Chairman, I am ready to admit that, to a certain extent, deficiencies are unavoidable. I know that, with the greatest prudence and the most cautious desire to conform to the limits of the law, the expenses incurred in any particular branch of the public service may exceed, by a small amount, the sum appropriated, and that, in this way, deficiencies must frequently arise. So far, I would not object. If the Executive Departments show an anxiety to keep the expenditures of the Government within the appropriations by Congress, and their excesses are so small as to be obviously unintentional and accidental, I, for one, have no opposition to make. Such, in theory, are all justifiable deficiency bills; such they may have been in the beginning. But what are they now? I have before me a statement, prepared by an intelligent clerk of this House, showing the amount appropriated in each deficiency bill since 1843.

The first year after the expenses of the Mexican war were fairly cleared from off our annual budget, the deficiency appropriation was only \$345,393 71. This was in 1849. But in 1850 it was \$2,809,681 63, and, in 1851, rather less—\$2,532,035 78. The very next year it more than doubled, and reached \$5,486,992 92. The following year it fell to less than two and a half millions, because, meantime, each party had been obliged to bid for the popular favor in the presidential election, by doing what parties often preach, but seldom practice—exercising a little economy. A short-lived reform though, sir; for the next year this deficiency appropriation was \$3,696,290 06, and in 1855, it was \$5,163,224 13; and in 1856, it reached \$5,545,976 20. And even these sums are small, compared with the bill before us, reported by my friend and colleague, [Mr. LETCHER,] which contains near ten million dollars; and I undertake to say that my colleague has now in his desk amendments which will largely increase it. Then when it goes over to the Senate, where they pass everything, and reject nothing, Heaven only knows what it will be. Now, I say, is it right? Is it consistent with the theory of a constitutional republican Government that we should vote under compulsion, as deficiencies, these enormous sums which we refused as original appropriations? The deficiency bill, which, in its origin, was intended to provide for small and unavoidable excesses of expenditures above appropriations, is utterly perverted from its true purpose, and changed into a confirmation of extravagance and disregard of law. What becomes of the legislative power; where is its control over the Treasury if the limits

it fixes for expenditure are thus habitually neglected and overstepped? When deficiencies are thus constantly recurring, thus constantly growing, thus enormously large, surely it is time for Congress to interfere, and reclaim some share in the finances of the country! If Congress has fixed the expenditures at \$50,000,000, or any other sum, and arranged the taxes, the ways and means, to meet them, is it competent for the Executive Departments, without regard to the law, to spend five, ten, or fifteen million dollars more, and then call upon us to sanction their course, under the name of deficiencies? It would seem that the whole Government is ultimately to be carried on under the title of deficiencies.

I know my friend from Virginia [Mr. LETCHER] will agree with me in the general condemnation of such a practice. But he says that only a part of this bill is for deficiencies, and a part is for future expenditures; and he will also say, that as to the deficiencies themselves, they are for obligations already incurred, and for which public faith is pledged, and that they are necessary to keep the wheels of Government in motion.

Sir, to his first defense, I would reply, so much the worse for his bill. Truth is valuable, even in the mere names of things, and it misleads the public, and weakens the proper responsibility of our financial agents to the people, when we confuse our accounts, and charge our expenses to the wrong year. Nor is this all. You ask us to vote for the deficiencies, and that too with some show of reason, on the ground that they are to meet obligations for which our faith is already pledged; you place them on a footing which would deprive us of the power of revising them. Yet you mix up in the same bill appropriations for the future, over which our power is undisputed, and as to which we should be left perfectly free to act, either to grant or to reject. So serious do I regard this objection, that I think it would be very proper for this committee to recommend to the House to recommit this bill to the Committee of Ways and Means, with instructions to separate the deficiency items from all others, and report them in a separate bill. I hope such a motion will be made by my friend himself.

And, sir, when my friend appeals to me on the general grounds of public faith to vote for the deficiencies themselves, I understand him to admit that the Executive Departments ought to strive earnestly to keep within the limits of the lawful appropriations, and that this growing practice of habitually and enormously exceeding them is very bad; that it is, *malus usus et abolendus est*. At least, his well-known principles must lead him to the same conclusions with my own on this head. I ask him, then, why does he not correct them? When the Committee of Ways and Means ask us to pay these deficiencies and sanction, thereby, the abuses out of which they grow, why do they not propose some remedy, some protection against like abuses in the future? I would appeal to nobody more confidently than my respected colleague [Mr. LETCHER] for such a measure. For we all know his eminent experience and ability, and vigilant care of the interests of the people in an economical administration. If I might suggest to him, and I really do so with diffidence, I would ask him to amend the law of 1820 so as to forbid the Secretaries from making any contracts which would bind us to expenditures beyond the sums actually appropriated. I know that there will be considerable difficulty in applying such a restriction to the quartermaster's or commissary departments; but I would invoke his ample talents to devise safe-guards even there, for there especially is the abuse. I cannot vote for such a bill as this unless it is accompanied by some legislative provisions which promise to guard us against like abuses hereafter; for I know not where it is to end. And it is worthy my friend's anxious inquiry where the money is to be found to support all such expenditures.

I have been at some little pains to ascertain what are the means of the Treasury. I find that, on the 31st of December last, there was a balance in the Treasury of not quite five million dollars. I find that according to the Secretary's estimates, the receipts for the next two quarters can scarcely exceed twenty million dollars, making an aggregate of not quite twenty-five million dollars. Add to this the twenty million dollars of Treasury notes, and you have an ag-

gregate of not quite forty-five million dollars for the service of this fiscal year. Take from that the estimated expenditures for the two remaining quarters, and you have a surplus of not quite eight million dollars. Now put against this surplus my friend's deficiency bill of \$12,000,000; put against it the Oregon and Washington Indian war debt, \$6,000,000, which, I suppose, our committee will recommend us to pay; put against it the possible and probable appropriations of this and the other House for other things passed; what will be the debt of the United States at the end of this Congress? If the Committee of Ways and Means makes no effort to reduce these expenditures, if we are to go on with such enormous deficiencies; in other words, if the Executive Departments are to continue spending what they please, without regard to the limits we affix, then your loan of \$20,000,000 will be altogether insufficient for the wants of Government itself; and before the end of the session you will have another loan bill before you. Perhaps we are obliged to appropriate this money now. Then, I say, at least, give us laws which will protect us against a like extravagance in the future. While you ask us to stand by the abuses of the past, give us a remedy against the extravagance of the future. Is not this reasonable?

Look, sir, at your Army expenses. Look at what I alluded to before, the expenses in the commissary department and the quartermaster's. You will find that the latter has run up from \$2,140,000, in 1850, to \$5,472,000 in this year; and here is my friend's deficiency bill with \$6,700,000 more. This adds up to \$12,000,000 for this quartermaster's department for the present year. Where is the fault? Gentlemen of the committee say it is not with us; we have no control over it. It is not in the President; it is not in the Secretary of War; it is not in the quartermaster general, I suppose. Then, who is it? We are referred to the distant forts, the vast frontier lines, and the enormous cost and distance of transportation; and it is said that our little Army has to do the service of one of the great armies of Russia or Austria.

I have compared the statements of the Adjutant General as to the location of our troops on June 30, 1856, and the same day in 1857, and I find that the total necessary displacements of troops during the last fiscal year were only sixteen hundred and seventy; only sixteen hundred and seventy had to be transported from one department to another, to account for the numbers in each at the end of the year! I ask whether this requires such an extraordinary amount of transportation? It may be that your Army is not large enough. Some gentlemen have said so, though my friend, the distinguished chairman of the Committee on Military Affairs, was not of that opinion when he reported the volunteer bill, and we all feel, with the country at large, how much weight is due to the judgment of such a man. But admit that the Army is too small, and still I would inquire, is its efficiency increased by constantly traveling, by land and sea, thus perpetually wasting time and strength and money, instead of keeping them at their posts? And I cannot avoid wondering at the location of some of these posts, though I am no military man. They are not only on the frontier, but beyond it. For instance, there is Fort Simcoe: one of the officers recently told me that there was not a white settlement within fifty or one hundred miles, and the country itself probably never will be settled! I can see how the expenses are increased by this system, but not how the efficiency of the Army is improved. When I show by the official papers that the necessary displacements in one year were only sixteen hundred and seventy men from one department to another, how is it possible for this House to believe that these enormous expenditures of \$12,000,000 can be just and proper?

I might go much further, Mr. Chairman, and pursue this inquiry with greater detail, and into other branches. But I shall have accomplished my purpose if I have assisted in arousing the attention of this House to the urgent necessity for greater economy and a stricter accountability in those who control our finances. Our Government is fast becoming one of the most expensive and least responsible in the world; and unless Congress means to abandon and surrender all its constitutional functions, it is high time for it to apply some remedy to this system of deficiencies and expend-

tures without authority of law. No time better than the present to check abuses, to remedy admitted evils, and to take a new departure. Let us couple these appropriations with wholesome and remedial legislation, and I call upon my excellent and valued friend, who has charge of this bill, to take the lead. Let him not confine himself to the mere work of sanctioning the past—let him provide for the future; the country will thank him, and we are all ready to give him our confidence and support, and follow him in the path of reform.

Mr. MASON. Mr. Chairman, the gentleman from Virginia has expressed some views on this subject which it was my intention to lay before the committee. I intend to vote against this bill. It is a kind of omnibus bill. It is a log-rolling concern embracing items of every description. Those of us who are disposed to vote for necessary appropriations for the Government, are compelled to vote against them because they are found in such bad company. There are items here which ought not to be here, and there are others which ought to be greatly reduced.

But, Mr. Chairman, I have not time to refer to all the points involved. I desire to confine myself alone to a matter with which perhaps I am better acquainted than with others. I will in particular make a reply to some remarks of the gentleman from Ohio [Mr. NICHOLS.] I do not want to defend myself or others who have heretofore made allowances under these extra-compensation resolutions. It is enough that they are now decided to be illegal. The gentleman seems to be resolved to adhere to precedent, whether the precedent is good or bad. If the gentleman's party had adhered to precedent so closely it would not have stepped from its Philadelphia platform to vote for the admission of a slave State. On that platform the gentleman and other Republicans resolved never to vote for the admission of another slave State. His whole party has gone against that platform, and have voted to admit a slave State into the Union. Not only that; some of his American colleagues have voted—for what?

Mr. SEWARD. I call the gentleman to order.

Mr. MASON. I am only illustrating my point.

The CHAIRMAN. The Chair does not see how the gentleman's remarks are in order.

Mr. MASON. I am showing in this way that the position the gentleman has taken is not a consistent or a good one. He referred to the fact that the Secretary of the Treasury, when a member of the Committee of Accounts, and others, allowed these claims for extra compensation under a resolution of the House. So did I; but I say now that the best way is to put a stop to any further allowances by yielding obedience to the recent decision of the Secretary of the Treasury as to the legality of the practice. The gentleman has changed the whole practice of his party on the slavery question, and why should he not change it here, to stop extravagant expenditure?

Mr. Chairman, some gentlemen have argued—and that was the ground taken by the gentleman from Ohio, [Mr. NICHOLS.]—that this is *res adjudicata*—a law passed beyond redemption—and that these men are legally entitled to this money. The gentleman from Ohio says that we are acting unjustly to these employes in refusing to pay them, although the employes of the Senate have been paid; and I understood him to intimate that it was because the employes of the last House were Americans and Republicans—that the Democratic House is not willing to pay them this extra compensation. Sir, I do not act from party considerations. I oppose all illegal, unjust, and unauthorized appropriations for the benefit of any party—my own as well as any other. But when will the time ever come when we can put a stop to these allowances? When I was here, some six years ago, we passed a law to put a stop to this system; and in the teeth of that law of the Senate and House these accounts have been allowed. And it is because it is illegal that the question comes up here to-day, and you are called upon to sanction this system. But we have got you where we can have a vote by yeas and nays, and where, if gentlemen vote to squander the public money in this way, their constituents will at least know it.

Now, sir, I have no disposition to be thought hard-hearted, any more than any other gentleman. I have no antipathy to any of these em-

ployes, past or present. They have done me many favors, and I have reciprocated them. I have no desire to cut them out of any money to which they are justly entitled. But have they a legal right to the money which the Committee of Ways and Means provide for paying them in this third section of the bill? I say they have none, because you are called upon now to give them a legal right to it. They cannot get this money unless you pass a law for that purpose. The question for you now is, whether you will pass such a law or not; and not whether others have passed it? I have heard no gentleman defend this provision because it is just and proper. If the clerks and employes in the legislative department are to have two or three hundred dollars apiece, and from that up to \$4,000, why has not every clerk in the executive and judicial departments in Washington city a right to the same amount? why is not every individual in the United States entitled to the same amount? You certainly do the executive and judicial employes in this city injustice unless you pay them the same amount. Do the executive employes receive higher salaries than those here? Here is the Blue Book. The messenger at the War Department gets \$900 a year, and the assistant messenger \$600. You pay your messengers here \$1,500 a year, and the assistant messengers \$1,200. Do they perform more service than the executive employes? They are employed here for only eleven months in every two years—about eight months in one year, and three months in the next; and you know how long each day; and yet you pay them nearly twice as much as is paid to the messengers at the executive departments, who have to work all the year round, and six hours a day.

And now what does this bill propose to do? It proposes, after you have given the clerks, messengers, and employes their regular salaries for serving three months during the last session of Congress and twenty per cent. on top of that, to give them from two hundred and forty to three hundred dollars apiece more. I am told that some of these offices are perfect sinecures. I will give you one or two instances. I take the case of Cornelius Adams, librarian of the last House of Representatives. He got last year \$1,800 as his salary. The messenger to the librarian—the messenger who serves you in the room there—got \$1,200. The librarian had about as little to do as any one in the city, and he got \$1,800 for the year; he got twenty per cent. on top of that for doing nothing; and now the Committee of Ways and Means propose to give him \$300 more for doing less than nothing. [Laughter.] There is no law for it. You make it the law by voting for it here, and that is the only way in which he can get the money. The Secretary of the Treasury has very properly endeavored to stop this thing. He tells you it is not legal, and no gentleman here can contend that it is legal. Gentlemen refer to old precedents, and they have attacked the Secretary of the Treasury because ten years ago, when he was a member of the Committee of Accounts of this House, he voted to give a disbursing clerk eight or nine hundred dollars. For what? For disbursing the contingent fund? As I understand the facts, it was for a sum of money that he had lost; that had been taken by somebody or there had been a miscount in some way, and as he was a very honest man the committee made it up to him. I understand that subsequent committees have supposed that to be a customary allowance and have held that it was a precedent. That is the way precedents begin, and they ought to end there. As for this librarian, he has already had \$1,800 for his three months' service, and twenty per cent. on that. I do not care what party he belongs to. I do not know. I am not acquainted with the individual. But he got \$3,600 for two years and then \$300 on top of that for one session; and now, gentlemen, in this Congress seem to be disposed to raise heaven and earth to give him \$300 more. And yet, if you come here with a petition from some poor man in your district to get an honest claim of \$300 allowed, these same gentlemen will oppose it and fight it through every stage of the proceeding.

Well, then, there were fourteen pages regularly employed in the last House who got their two dollars a day—fully as much as a boy of ten or twelve years of age is worth; but, besides that, at the end of the three months' session, they got

\$200 each voted to them as extra compensation. Now, we have got as likely boys at the West as there are anywhere; and why not, if two dollars a day and \$200 extra compensation is to be given to boys, make a fair division and include them? You might as well do it as make these allowances to your pages. I ask, are you doing justice to the people and to your constituents when you squander the public money in this unceremonious way without law?

Nor is that all. Besides these fourteen pages allowed by law, there were eleven other boys brought on the floor during the session; and a resolution was adopted giving them two dollars a day from the commencement of the session, and \$200 extra compensation.

Then here are nine clerks employed in the land-map business; one with a salary of \$2,160, and the rest with salaries of \$1,800. They have actually nothing whatever to do. What are they for? When a section or half a section or a quarter section of the public lands is sold, and the sale is reported to the Land Office here, these clerks draw a red or a blue line through the section on the map, and that is all. The maps are not referred to by twenty out of every million of people in the country. And yet, these clerks, with their already large salaries, have had twenty per cent. added to their salaries; and you are called upon to vote for this or else vote down the necessary appropriations of the Government. I can bring facts and figures to show you that three fourths of the employes about this Capitol can be dispensed with, without detriment to the public service.

Look at this printed Calendar; you pay as much for these blank sheets at the end and these blank sheets in the middle as you do for what is printed inside. You pay the printer sixteen dollars instead of one dollar. So it is with all the blanks; and it is the same with everything else. The paper maker makes the profit on the paper; and the printer on the printing; and thus millions of the public treasure are squandered. There is not, in the whole wide range of executive expenditures, anything approaching the wasteful expenditure of the legislative branch of the Government; and you, the Representatives of the people, whose duty it is to guard the public Treasury, stand here and countenance this wholesale robbery of it.

Nor is that the only evil: by your wasteful extravagance, hundreds and thousands of office-seekers are attracted here from various parts of the country, and not being able to get into office, they become foot-pads and murderers, and so infect the city that you have to embody a police force to protect citizens from murder and robbery.

The third section directs the accounting officer of the Treasury to allow credit to the Clerk of the House for such payments out of its contingent fund as have been, or may be made, under allowances authorized by the House of Representatives during the last Congress. You pay \$1,700 salary to men in your document-room, when you can get thousands of good men to do the same work for \$1 50 a day. After getting their regular salaries, as originally provided, they then get their twenty per cent. increase pay, and then comes in the twenty per cent. which we are now asked to appropriate. Now, my friend from Ohio [Mr. NICHOLS.] has gone into an able argument to show the validity of the resolution voting this extra compensation. He says they have been paid the money voted to them.

Mr. NICHOLS. I desire to ask the gentleman from Kentucky one question. I desire to know whether, if he had been a member of the Committee of Accounts when these resolutions passed, he would have disregarded the order of the House, and declined to audit them?

Mr. MASON. I would have audited them, having voted against the resolutions in the House. But they have not been passed at the Treasury Department, and now the Secretary of the Treasury requests you to pass upon them again, when you have got clear of the wine and oysters of the last night of the session.

There is another point upon which I desire to say a word. It is argued that the late Clerk of the House has paid the sums voted in these resolutions. Now, sir, there is not a dollar paid under this general resolution for extra compensation. Gentlemen may tell me that these certificates are hawked about town, and it may be, for

anything I know, that they have been bought up for ten cents on the dollar. Whoever may have bought them, or whatever the employes themselves may have received, the Clerk has not paid them, and the Clerk will not lose it. I ask, then, why vote for paying this money, if you do not intend to sanction the keeping up of these sinecure offices and the payment of extra compensation to the officers? If gentlemen want to know what money has actually been paid under these resolutions, I will tell them: about eleven hundred dollars.

Mr. LETCHER. The gentleman from Kentucky has made a mistake of about fifteen thousand dollars.

Mr. MASON. If you will leave it out of this bill and go before the Committee of Claims, I will show you that I am not mistaken.

[Here the hammer fell.]

Mr. SEWARD. Ever since I have been in Congress I have been opposed to our whole system of legislation. [Laughter.]

Mr. TAYLOR, of New York. Will the gentleman from Georgia allow me to ask him a question?

Mr. SEWARD. Yes, sir, two of them.

Mr. TAYLOR, of New York. I want to know if the gentleman is also opposed to the institutions of the country?

Mr. SEWARD. Public or private? [Laughter.] Mr. Chairman, the appropriation of money to pay these clerks and employes of the House I consider a question of good faith upon the part of this House. The House cannot consistently decline to make the appropriation without indorsing the odious doctrine of repudiation. Why, sir, millions of the money of this Government have been spent under simple resolutions of the respective Houses of Congress. Prior to the passage of the general appropriation bills, your clerks have bought books and distributed to the members of the House, to the amount of two or three hundred thousand dollars every year, and you might as well say that we should repudiate that as to repudiate this. At the last session of Congress your Clerk bought some books before the appropriation was made for that purpose, and Congress, acting in good faith, ratified the purchase as far as the Clerk had gone.

Now, sir, I hold that while it was not a law—for neither House can of itself pass a law—yet, sir, as it has been the custom of the House to give this extra compensation to its employes, you cannot escape paying this money without a violation of your honor. I do not pretend to say that the amount given to some of these employes is not extravagant. I think it is excessive. But as to one of the clerks alluded to, the one at your desk and one in the Clerk's office, I think they are the worst paid men about the Government. The business of this House could not be well carried on without them; and their compensation, in my opinion, instead of being too much, ought to be made equal to that of the Speaker of the House.

Let us look at the matter for a moment. Here are the employes of this House, men who labor for us, men who hunt up documents and examine Journals, make out written statements, and labor, week in and week out, for the accommodation of the members; and they are selected to be the victims by the very men who receive their kindness. And, I say, the clerks do more than their duty in getting up information here for members, in furnishing extracts, in hunting up authorities; and they are frequently called upon by members even to draft bills for them, to be introduced into the House. And yet these are the men whom gentlemen say shall not be paid.

Now upon the faith that the House would pay them this increased compensation, I have no doubt these men have regulated their expenses in the way of living. Members of this House know very well that Washington is an extravagant place to live in, and that since the passage of the new compensation bill they spend a good deal more money than they did when they received only eight dollars per day. These gentlemen have no doubt regulated their own living in accordance with the promises of the House to pay them, and now it is proposed that we shall not pay them, and that they shall meet their engagements out of the small salaries we pay them. It is not honest to refuse to pay them. That is my

opinion, and on that ground I shall vote to pay this money.

I said that I was opposed to the whole system of legislation of this country, and I propose to give the reason for it. Your rules are radically wrong. They were molded to bring about a concurrence between the heads of Departments and the committees manufactured in this House to carry out political purposes. It may not be known, but it is true, that half of the appropriation bills which are presented in this House are got up in the Departments with marginal notes and the authorities referred to, and are brought here to carry out the edicts of those Departments. When the appropriations are here ready to be acted on, your rules say you shall not put anything on them unless it is to carry out some preëxisting law. This whole system in regard to deficiencies is wrong. This ought to have been a bill providing for the payment of the debts of the Government. It is not a deficiency. I do not care what becomes of the Army bill. I am not concerned, because I do not think it is necessary to get into a difficulty with Brigham Young. I think the whole expense might be stopped. I think that everything connected with our Army is got up on a too magnificent scale. I want a law passed that no man connected with the Army shall come to this city unless by a special order, and a statement of the reason on the part of the Secretary which induces him to bring him here. I want to keep them away from here to prevent them manufacturing these schemes of extravagance. If we want to correct these defects let us blot out the rules, because no man on this floor can be a Representative of his constituency under them. He has to go to the Speaker every morning, like a man in love has to visit his sweetheart, in order to get any favor. Every man has to go to the Speaker for the purpose of getting the floor. You all know that kissing goes by favor here. [Laughter.] Sometimes the Speaker gets in the chair and he has a wry neck, and he directs his head to one side of the House, and you might cry until doomsday and he will not hear you. When a matter is to be carried out and has been agreed upon by certain friends, then the rules are subverted. Why, sir, you will find on your Journal decisions to sustain anything in the world except what is right, and I do not think you will find a decision there for that purpose. There may be an exception, however, and that is when I make a point which is decided in my favor. [Laughter.] I should like to see a committee raised to revise these rules.

Mr. Chairman, there is another thing. I would make it a penal offense for any member of Congress to write a letter to a head of Department for information. The Constitution never contemplated any such system. When the President communicates to either branch of Congress at the opening of the session, his duty is performed; and all your legislation imposing certain duties on the heads of Departments, to make estimates, and send them into these Houses, is a violation of the spirit of the Constitution. I wish there was a wall between them that could not be scaled, and with nothing but a little hole to get through when it was absolutely necessary that any body should go through. It is this system which begets this extravagance. A thing occurs in Congress, and a member writes to a Department. He gets an answer. Then, sir, he gets up in this House and reads it, and it is spread upon your record. The records are crowded all over with them, and we have to pay for them. I hope that will be cut off. I hope my friend from Kentucky [Mr. Mason] will give it his attention. I refer to my friend, who made a speech this morning, which, like the preacher's prayer, had in it everything in the world, and the suburbs thereof. [Laughter.] We ought to have a law passed preventing the printing of these letters, &c., from the Departments, in the Globe. If we did we would save more than sixteen hundred or ten thousand dollars. That is a great deal. I do not want to hear from the Departments. I want the Capitol removed from them, or they from the Capitol. I want to get clear of them.

Mr. MASON. Does the gentleman allude to me as having written letters to the Globe? [Laughter.]

Mr. SEWARD. No, sir; I say that a considerable amount of money could be saved by prohibiting the receipt of letters from the Depart-

ments and their being printed in the Globe. I said the gentleman ought to look to this, if he wants to economize the Government expenditures.

Mr. MASON. Make the motion, and I will vote for it.

Mr. SEWARD. The gentleman strikes at little matters. He does not want to pay the clerks. He will take his \$3,000 a year, and voted for the bill under which he and myself get that much a year; and I do not regret that vote. But this thing of the clerks' compensation, I think, is a small matter to be serious about. Then there are these little boys here. Most of these are orphans. We are apt, too, to complain because we do not get a boy appointed, whom we wish to get a place for. I tried to get a boy appointed, and the Doorkeeper said he could not appoint him. I was satisfied with that. I have put nobody in office here from my State, that I know of. We make war sometimes on the officers of the House, because we cannot get offices for those of our friends who want them. Let us furnish them with authority, and they will furnish those we want with places. But all this does not furnish us with an excuse for not paying our honest debts.

Mr. MASON. Does the gentleman say I have complained?

Mr. SEWARD. The gentleman talked about little boys in the West. He wanted to have them provided for. I do not want anybody from the South to come here and ask for office. It is the most demoralizing place in the world; and the very moment a man gets here he becomes tainted. A man cannot take care even of his own boys. If we keep on doing as we have, we shall soon have a nation of paupers. Our people are being taught that the Treasury is a sort of almshouse, and that they have the right to come here and fasten themselves on it. Instead of teaching them that they are to sustain the Government, the lesson taught is that the Government will sustain them. I do not want the people of the South, and especially of Georgia, to look to Washington to be fed. They can find at home honorable and remunerative employment, and there their morals will not be corrupted.

I have little more to say. I ask this House, in good faith, to pay these its employes the money which is honestly due them. Do not let us commence economy by striking at these men, who are poor, and who live upon their salaries, when millions are demanded from other quarters and voted.

Mr. BURNETT. Mr. Chairman, the gentleman from Virginia, in the opening of his remarks, uttered a sentiment which I heartily indorse; and it is, that there is an evident and growing disposition, on the part of the executive department of the Government, to absorb all of the powers of the legislative branch. This is evidenced in the history of the few preceding Congresses. We find that this system of deficiency bills is rapidly growing; and that, unless it is checked by the legislative department of the Government, there is no telling where it will end.

We have a deficiency bill here of over eleven million dollars, and, as was well remarked by some gentleman who preceded me, before we get through with it no man can tell what will be the amount of it. I appeal to gentlemen here, not as a partisan, but I ask each gentleman who represents a constituency upon this floor, whether we should not pause and consider well the question whether we will not check this thing when we have the power? What do you find in this bill? You find a deficiency for the Army of between three and four million dollars, with an anticipated appropriation of nearly five millions dollars. Now, when the friends of the Administration talk to me about this being a party measure, I ask them if we should not at least make the appropriations in accordance with the rules of the House and the laws upon the statute-book? Shall we put into deficiency bills that which does not properly belong to them? Shall we anticipate appropriations amounting to millions of dollars which are not even claimed to be deficiencies?

Now, sir, I will go as far as any gentleman upon this floor to correct the abuses which exist in Utah. I am in favor of using the strong arm of the Government for the purpose of suppressing the outrages existing in that Territory. I say that it is our duty, as the Representatives of the people, to do it. But I say that, when the Com-

mittee of Ways and Means come in here with a bill making appropriations of nearly eight millions of dollars for the Army, over and above the annual appropriations for the Government, we should know how the money is to be expended, and why this large increase of the annual appropriation. They do not tell us that it is all for deficiencies. Why not put it, then, in separate bills in accordance with the existing law and usage of the body? Why put it all in a deficiency bill and claim it as a deficiency when there is really only a deficiency of between three and four million dollars? I believe that is the amount, although I have not estimated it particularly.

What else do we find, sir, in this bill? Gentlemen get up here and ask us why we strike at small matters, and why we do not strike at millions. Sir, it is the principle, and not the amount that I care for. Our sympathies are appealed to. We are asked to vote this money for the employes about this Capitol because they are gentlemen, and are courteous and polite, and they have treated us courteously and politely—at least that has been my experience. But we are told that we make war upon these little boys, and upon the clerks who get up statistics and facts for the House. Sir, it is part of their duty to do so; and I say now, if these gentlemen are not satisfied with their salaries, let them vacate their offices. I hold to the doctrine that there is as good material in the country, out of which to make public officers, as there is in office; and that there is no man employed under the Government whose place cannot be supplied. You tell me about the efficiency of these clerks. I grant you that they are efficient. I grant you that they have discharged their duties faithfully and efficiently. But is that any reason why you should put your arms into the public Treasury, and by a species of favoritism—for it is put upon no other ground—take from the public Treasury money to put into the pockets of these men? And for what? For services which they rendered to the country? No, sir; but as a bonus, as a mere bonus, and nothing more.

Gentlemen have referred us to precedents. I care nothing for precedents where they are wrong and in violation of law. Let me recall to the recollection of gentlemen who were then here, the manner in which these resolutions were passed at the last Congress. I say here that it was disgraceful, and I do not use too strong a word. How were they passed? I well remember that when on the 3d day of March, 1857, the resolution was offered here to give extra compensation to the employes about the Capitol, various gentlemen rose and asked members to give us the yeas and nays upon the proposition; but we were frowned down and refused the yeas and nays. We were told it was a small matter. When we were called upon to violate the law and appropriate money which we had no authority to do, we were told that it was a small matter.

Mr. SEWARD. Do I understand the gentleman to say that the act of a former Congress put any restraint upon the last Congress, and that we had no right to pass the resolution?

Mr. BURNETT. No, sir; I say that the resolution which was passed has been declared by the Secretary of the Treasury to be in conflict with law, and that this House had no power to pass such a resolution, there being a law upon the statute-book which forbid the appropriation of the contingent fund of the House for such a purpose.

I will read the gentleman what the Secretary of the Treasury says:

"If I could find any evidence that the question had been the subject of serious consideration, and an opinion pronounced formally upon it, and acquiesced in, I should hesitate long before resorting to a new construction of the law. But such is not the case; and I am so fully impressed with the wisdom of the law, and the clearly expressed purpose of Congress to make it permanent, that I must require its enforcement."

Mr. SEWARD. As I understand it, the Secretary of the Treasury based his decision upon the law fixing the salaries of these officers; and the reason why he would not pay this extra compensation was, because it was not incorporated in an appropriation bill, but merely in a resolution of the House itself, which is not a law. I admit that.

Mr. BURNETT. Then we do not disagree at all. You have to give vitality to your resolution, by an act of Congress, before you can draw the

money from the public Treasury. I say that your resolution was wrong in its inception; that it was void *ab initio*; and, therefore, when you undertake to give it vitality by an act of Congress, you violate your duty.

Mr. LETCHER. I want to make a suggestion to the gentleman at that point. It will probably help his argument.

Mr. BURNETT. I know my friend would argue this question with much more ability than I can do; but I prefer to do my own speaking.

Mr. LETCHER. I merely want to state a fact.

The CHAIRMAN. The gentleman from Kentucky declines to yield the floor.

Mr. BURNETT. I wish to say, in regard to these extra-compensation resolutions, that I am not one of those who are responsible for their passage. During the short period of my service here, I have been opposed to these things; but when we have called for the yeas and nays, so that we might put ourselves on record, and let the country know who it is that votes away the money, we could not get a corporal's guard to stand up. Why is it that, out of two hundred and thirty-odd gentlemen, we cannot get enough to order the yeas and nays? Gentlemen come round and tell us that we must not complain about small matters. Sir, if the pay of these clerks is not sufficient, increase it. If the pay of the messengers and pages is not enough, increase it. But I ask gentlemen whether it is right, at the close of a session of Congress, for us to pass resolutions attempting to appropriate money out of the public Treasury to these men as a bonus—for it amounts to nothing else.

Now, we have had precedents referred to. I do not charge this thing upon any particular party here. It has been the course of members of all parties upon this floor. But your precedent is not worth a cent, if it is wrong. The gentleman from Ohio [Mr. NICHOLS] expressed the opinion that this provision, which was incorporated in the act of 1854, was a mere limitation. Did he give any reason for it, further than his mere opinion? Here is the opinion of the Secretary of the Treasury—upon whom the gentleman relied as an authority for the passage of this third section of the bill, and he tells you, and I indorse the opinion fully, that there is no doubt it was intended to be a permanent provision; he so construed it.

Now, let me call attention to another fact. I admit that the employes here are efficient and faithful. I make no war upon them. But we have been told that these men have been paid. Have these messengers and employes been paid? No, sir; not a dollar of this extra compensation have they been paid. But I grant that the gentleman from Alabama [Mr. DOWDELL] gives us a case here which may have some equity in it. He says that the person who bought up these claims paid, including interest on the advance, more than the amount of the extra compensation. But it is a notorious fact that these claims were hawked about here in Washington, and that the sharpers who hang around the Capitol here are the men who are now clamorous for this money.

Under the resolutions voted, you gave to Mr. Barclay, by the last section of the bill, \$5,906 97; you gave to Mr. Buck \$4,320; to another you gave \$1,748; to another, \$2,652; and to others numerous sums of a less amount. You are not told that the law authorizes this; you are asked to put it in the deficiency bill so as to enable these gentlemen to draw the money from the Treasury. Now, I ask every member of the House what justice is there in this? These gentlemen have discharged their duties at salaries fixed by law, and now you are asked to put your hands into the Treasury and make them these extra appropriations; and though they do not amount in all to more than twenty-five thousand dollars, I ask if it is right for us to do it. Have these gentlemen any claims, equitable or legal, on Congress for this money? None whatever. I say that the proposition of the gentleman from Virginia [Mr. GARNETT] is a good one; that this bill be recommitted to the Committee of Ways and Means with instructions. I can never give my assent or my vote to a bill which contains in it provisions of this character.

Mr. TAYLOR, of Louisiana. Mr. Chairman, there are questions presented by this bill of very

great magnitude. There may be objections to various features of the bill. I am, however, not one of those who are disposed to take exception to the appropriation proposed to be made in the third section, which contemplates paying the employes of the House; or to others of a similar character, in other parts of the bill.

But there is an objection existing in my mind with regard to another portion of this bill, which will compel me to vote against it. I would be disposed to vote for an appropriation for the payment of these employes, although I voted against the resolution granting them that extra compensation. I should be inclined to make no difficulty in regard to carrying out an implied obligation growing out of the action of my brethren who were members of the last House. But there is an important principle involved in our action on this bill. I conceive that that principle is one which lies at the very foundation of all good government, and that if we go on and recognize the mode of action proposed to be adopted now, we are laying the foundation of unnumbered evils.

The gentleman from Virginia [Mr. GARNETT] gave utterance to much that I heartily approve. The theory of our Government, as he well said, is isolated by this proceeding. It is intended, under our system, that Congress should carry on the public business; that Congress should make provision for what is to be done, and that it should regulate the expenditures of the Government. It is not designed that the executive branch of the Government of the United States should go further than to execute the laws. The giving it motion, and the shadowing out of the policy of the nation is confided to the Congress of the United States. It is that body that is to determine what is necessary for the public service. It is that body that is to determine what the public interests require should be undertaken. It is the duty of that body to provide the means for carrying on the particular enterprises which it sees fit to determine on carrying on. And, sir, it is a fundamental principle of our Government that no money shall be drawn from the Treasury of the United States, except in pursuance of appropriations made by law. The power of taxation, of raising revenue, is vested in Congress alone. It is the peculiar function of the Congress of the United States to devise the means of raising the funds necessary for carrying on the public service, to fill the public Treasury, and to determine for what purposes, at what times, and in what manner the disbursements of the public treasure shall be made. Congress provides an Army. Congress provides the various means of carrying on the public business. It is the duty of the Executive to give effect to the laws of Congress. It is the duty of the Executive to expend the public funds, under the authority of law, for the purpose of carrying out the designs of Congress, of giving effect to the public policy which Congress has determined shall be carried out.

But, Mr. Chairman, the executive department of the Government has no independent, original power over the public affairs of the nation. When the appropriations made by Congress are exhausted, the Executive cannot go on to make further expenditures out of the public Treasury. Nor is he authorized to change the whole scheme and course of administration at his discretion, so as to augment the public expenditures in such a manner as to expend in one part of the year what was intended to supply the public wants during the whole of the year. Such a course is in violation of the fundamental principle of the public administration of a republican government. Its whole frame-work, all its provisions and checks, were devised and contrived to prevent any necessity for anything of the sort. It is the province of Congress to look at the posture of the public business; to ascertain what the exigencies of the public service will require, and to provide for them. When, in view of what it is presumed will be the state of things during the year, the Congress of the United States has made certain appropriations, and something not contemplated occurs so that the appropriations are sooner exhausted than was expected when they were made, will any one pretend to say that it is compatible with the genius of our institutions, or with the principles on which the Government is founded, for the Executive still to continue to employ the public treasure without the authority of law? No, sir; our Con-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1st Session.

THURSDAY, APRIL 8, 1858.

NEW SERIES...No. 95.

stitution provides the remedy for such a contingency. When any new necessity arises for the expenditure of money not contemplated before, when any exigency arises in the public service such as requires the expenditure of money not appropriated, it is within the power of the Executive of the United States to call Congress together again. I conceive that when occasions arise for the expenditure of money in addition to that which had been laid aside for that part of the public service, it is the duty of the Executive to call Congress together, and not to exercise his discretionary power.

Now, sir, what is the principal feature presented in this deficiency bill? The bill proposes to draw from the public Treasury nearly eight millions dollars for the military service of the United States. And for what? It proposes to appropriate now \$8,000,000 over and above the sums appropriated to that branch of the public service by the last Congress. And why? Because of the extraordinary expenditure caused by the undertaking of various military expeditions which were not looked forward to, or provided for, by Congress. I see that large sums of money are called for for the purchase of supplies for regiments of dragoons; large sums of money are called for to supply deficiencies in respect to the quartermaster's department. Now, sir, I say it was the duty of the President of the United States when the necessity arose, or when in his view the necessity arose, which would make it proper to employ the Army of the United States upon a distant service, which would involve the expenditure of vast sums of money for the purchase of munitions of war and supplies—a necessity which had not been contemplated—it was, I say, according to my opinion, the duty of the President—it was the only course which could have been properly pursued—to have called together the Congress of the United States, and submitted to them the extraordinary circumstances which had arisen.

Mr. FAULKNER. I ask the gentleman if he desires to convey the impression that this is an item contained in this appropriation bill for Army expenses which has not been sanctioned by law? In other words, whether one single item of expense has been incurred by the War Department that has not been in pursuance of law?

Mr. TAYLOR, of Louisiana. I do not mean to say that any expense has been incurred that has not been in pursuance of law. But I do mean to say that immense expenditures have been made which were not contemplated by the Congress of the United States when the appropriations were made at the last session of Congress, and that this change in the nature and rate of the expenditures, by executive authority, has created the deficiency to be supplied.

Now, I understand that a large portion of these deficiencies have arisen in consequence of calls upon the Treasury for the transportation of troops on a service not contemplated when the appropriations for the service of the present year were made. I understand that a large portion of these deficiencies have grown out of the expedition to Utah.

Mr. FAULKNER. Does not the law, in express terms, looking to such a contingency, vest in the head of the War Department power to incur these expenses? and were they not all incurred, therefore, in pursuance of law?

Mr. TAYLOR, of Louisiana. I do say that emergencies may occur when the public officers are justified in incurring extraordinary expenses, and when they may with propriety take the responsibility. Circumstances may arise when it may devolve upon the officers of the Government, in the absence of Congress, to furnish additional men and munitions of war for the military service; but in my opinion, an occasion of that imperious character which requires action before Congress can be called together, can only arise upon the emergency of an actual invasion of the country. I say, sir, that the Executive of the United States should not take into his own hands the powers confided by the Constitution to the legislative

branch of the Government, upon any other emergency, but should call that legislative branch—the two Houses of Congress—together, and submit to them whether or not a contingency had arisen when it was requisite or proper to adopt a different course of policy from that before pursued; and whether, if they concurred with him as to the wisdom of a change of policy, it would not require an augmentation of the military force of the country; and if it was the purpose to engage in distant military operations, whether they would not determine what additional expenditure of the public treasure should be made for their prosecution?

Now, sir, I recognize in the executive agents of the Constitution, I recognize in the President of the United States, the perfect authority to make use of the means placed at his disposal in the event of an invasion of the country, or in the event of there being an imperious necessity requiring the immediate exercise of the military force of the country. But I deny the authority of the Executive to exercise a discretion which involves the adoption of a course of policy which will lead to an expenditure of the public treasure, it may be an incalculable amount, upon his mere notion, when there is no pressure of time, and when every circumstance is such as not only to make it proper, but to make it more than proper, to make it his duty, to submit the question to the coordinate department of Government, to which is committed the power of making war and establishing peace; in which is vested the sole power of raising revenue, and of raising and of supporting armies.

Now, sir, it was not my purpose to have said much upon this subject, but it was my wish to present this particular view. I say it is my deliberate conviction that the exercise, upon the part of the Executive, of any such discretion, at any time, is opposed to the principles of our Government; is opposed to the spirit of our Constitution; is opposed to the genius of republican institutions. I say that, for one, I think the public interest, the interest of the whole people of the United States, requires that the principle should be recognized, that while it is the peculiar province of the Executive to enforce the laws, it is the exclusive province of the Congress of the United States to determine the public policy of the country. And, sir, I will go further, and say that if we desire to prevent the violation of that principle, and to prevent the assumption of power upon the part of the Executive, we must reject this bill. I, for one, am disposed to vote against any appropriation which grows out of the exercise of powers vested in Congress, and which should never be exercised by the Executive except in those great emergencies which brook no delay. That is the principle which I wish to present, and that is the position in which I wish to place myself.

Mr. FAULKNER. Almost the whole of the appropriations embraced in the Army deficiency bill can be embraced under two heads—those which relate to the ordinary expenses of the Army, and those which relate to the Utah expedition. Now, do I understand the gentleman from Louisiana to say that he would be willing to defeat that part of this bill which nerves the arm of the Executive, and thus compel him to abandon the policy which he proposes to pursue in regard to Utah?

Mr. TAYLOR, of Louisiana. I am not prepared to say, in the present posture of affairs, what would be my course in such a contingency as that stated by the gentleman from Virginia.

Mr. FAULKNER. That would be the effect of the defeat of this bill.

Mr. TAYLOR, of Louisiana. I can make no appropriation which relates to Utah, with the facts before me, without the violation of a principle which I regard as fundamental; nor will I, because of the exigency of the public service, fail, by my vote, to show my disapprobation of all violations of that principle of action.

With respect to the provision to be made for the prosecution of the Utah war, I voted for the bill which passed this House. I would vote to make any appropriation which is necessary for

the purpose of carrying on that branch of the public service; but I will not sanction by my vote the appropriation proposed to be made, under circumstances which implies the right of the President of the United States to inaugurate a new policy when there is no public necessity, and when there is nothing to prevent his calling together the bodies in which the constitutional power of this Government over the subject is vested, for the purpose of sitting in judgment upon that necessity, and of providing beforehand the means necessary to carry out the policy they determine on—which they think should be adopted.

Mr. FAULKNER. Will you vote him an army and deny him money to support the army?

Mr. TAYLOR, of Louisiana. I will vote men now, but I will not vote for an appropriation, at this time, to supply deficiencies which were created by what I conceive to be an unwarranted exercise of the executive power.

Mr. LETCHER. If that was unwarranted on the part of the President, why did not the gentleman and others, by the action of this House, repudiate that act?

Mr. TAYLOR, of Louisiana. The prosecution of a war in which we are engaged is one thing; the declaring of that war is another. I can easily understand—and it is for that reason that I plant myself upon this principle—that this great nation can be engaged in a war by the improper assumptions of the Executive power. And, sir, it is upon such occasions as this that Congress must rebuke all such assumptions, if we would avoid greater evils in the future. But while I would condemn these assumptions, while I would condemn the President of the United States who should venture to exercise the power intrusted to him for no such purpose, yet, after we were engaged in the war, I, for one, should be inclined to prosecute it to a successful termination. Now, sir, there has nothing transpired recently in Utah which, in my opinion, made it necessary for the Executive to act in hot haste. The condition of things existing in that Territory which, it is alleged, led to the setting on foot of this expedition, which has caused this deficiency, it is notorious was in existence for the last three years. There was nothing to prevent the President from waiting for the meeting of Congress. If there were anything which required expedition, if there were anything which required speed, it was within his constitutional power to have called Congress together, and, as the President himself remarks in a portion of his message where he gives a courteous notification on a particular subject to the members of Congress, it would not have been attended with any increase of the public expenditures, because, under the happy authority of the new compensation bill, the members who were called to meet in extraordinary session would themselves have to defray the expenses of that assemblage.

Mr. TAPPAN. Mr. Chairman, I endeavored to get the floor on this bill on Friday last to say a few words chiefly on the point which has been so ably presented by the gentleman from Louisiana. The great objection I have to the bill under consideration is, that by voting for it we are called upon to indorse an executive war, a war in which the nation has been plunged without the cooperation of the legal war-making power, and the end of which no man can tell. That is my great objection to this bill. We are called upon to vote for a deficiency bill covering some ten million dollars, eight million of which is for expenditures in relation to the service of the Army. This is not the regular appropriation, but for expenses accruing since the last regular appropriation for the Army was made, and in addition to it. The sum asked for to cover this deficiency, is within two or three million of the whole amount expended in 1812, the first year of the war with Great Britain, for army expenses.

Sir, the actual expenditures for the Army service for the fiscal year ending last June, in a time of profound peace, were as much, within about one million dollars, as in the most expensive year

of our last war with Great Britain. I think that the people of this country have just cause to be alarmed at the rapidity with which the expenses of this Government are increasing. No administration of any party in this country, except this Democratic party, could stand three months under such an increase of expenditures as have been rolled up under the last and the present Administrations.

But I wish to say one word in reference to the character of this deficiency bill. I have not examined the particular provision for the payment of the officers of this House, nor do I care to. I presume that the committee have taken the means to secure all the information that is to be had, and have acted fairly in regard to that matter. I am not so anxious to save at the spigot when the entire contents of the barrel are running out at the bung-hole. What are some of these deficiencies? A few moments ago I looked over the statement sent in here, based on contracts made for the transportation of the army from Kansas to Utah, and I found, as it seems to me, very extraordinary features in those contracts. Russell, Waddell & Co., for transportation of stores from Fort Leavenworth, Kansas, to Utah, are paid \$1 35 to \$4 50 per hundred pounds for each hundred miles; for all over ten million pounds they are paid an increase of twenty-five per cent.; and for all over fifteen million pounds, the pay is advanced thirty-five per cent.; and so the pay goes on increasing as the quantity to be transported increases. Then there is another feature of demurrage. The Government contracts to pay these contractors five dollars for each wagon, for every day their wagons may be delayed on the route.

Mr. PHELPS. Will the gentleman permit me to make an inquiry? Does he think it unreasonable to pay five dollars a day for a team, teamster, wagon, and six yoke of oxen?

Mr. TAPPAN. I only refer to this—

Mr. PHELPS. I ask him what would be the wages of such a wagon and team in his own State?

The CHAIRMAN. The gentleman from Missouri is not in order. The gentleman from New Hampshire declines to yield the floor.

Mr. TAPPAN. I was only about to say that this contract provides for delays, and that five dollars shall be allowed for every day for every single wagon. I do not know whether if the delays were not improper, that that would be too large an amount. But what guarantee has the Government that the trains may not be delayed for the mere purpose of recovering a large amount by way of "demurrage?" I do not think, under such a provision, that these contractors will be particularly anxious to proceed very rapidly with their trains—

Mr. PHELPS. Permit me to explain that. It is for the purpose of compensating the contractors if they are delayed by the officers of the Government.

Mr. TAPPAN. I must decline to yield. I think that this Government will find a very pretty little bill by the time all these stores are transported to Utah, for demurrages under this sort of contract.

But another extraordinary feature of it is, as I have said, that as the quantity to be transported is increased, the pay for transportation is increased in the same proportion. I think this is a very extraordinary feature. The more stores we have to transport, the higher the rate of compensation which is given to the contractors for doing the work. Now, the principle usually acted on in cases of this sort is just the reverse of this. The larger the quantity of freight to be transported, the less it would seem, could it be afforded to do the work for. In any case, the rate of remuneration should not be augmented with the increase of the employment furnished.

But, sir, something has been said here in reference to the cost of transporting a barrel of flour from Fort Leavenworth to Utah. I have gone into a little estimate, for the purpose of seeing how much it will probably cost under this contract. I understand that the distance agreed upon from Fort Leavenworth to Utah is two thousand one hundred miles, which, at \$1 35 per hundred pounds, (the lowest amount paid) for each hundred miles, supposing a barrel of flour to weigh two hundred pounds, would give a cost of \$56 70 for the transportation of a barrel of flour from Fort Leavenworth to Utah. Then, sir, the Uni-

ted States Government are bound to furnish an escort for the trains; and by the time you pay your demurrage, and for the escort, it will cost over \$100 for every barrel of flour that goes to Utah. At this rate our Mormon war will be a rather expensive luxury before it is over.

Mr. CURTIS. Will the gentleman allow me to correct him?

Mr. TAPPAN. I am just through; and the gentleman can then make any explanation. Now, sir, as I said, without knowing precisely when or where this war is to end, or what it was commenced for, or, in fact, what the troops are to do after they get there, we are called upon, by the passage of this bill, to indorse this executive usurpation. If we do it now; we may do it again, and I am opposed to setting any precedent of the kind. And let me say, Mr. Chairman, at the rate the expenditures for this Utah war are going on, in a year from to-day it will have cost more than the war with Great Britain and the Mexican war together, and, as a friend near me remarks, for aught I know, the war of the Revolution thrown in.

Now, sir, I am not for going forward any further in the dark. I am not for indorsing this action of the Executive, when, as has been well said by the gentleman from Louisiana, [Mr. TAYLOR,] if there had been an extraordinary exigency requiring this large expenditure of money, and involving the country in a war which it may take years to get extricated from, the Congress of the United States, which is the war-making power, should have been called together. But there was no such pressing exigency. The President might well have waited until the regular session of Congress before involving the country in a war which may require the expenditure of untold millions. Although I might be disposed to vote for some of the items in this bill, and may do so in some other shape, yet I will not, and I hope our friends upon this side of the House will not, indorse this executive war, by voting for this measure.

Mr. BUFFINTON. I move that the committee do now rise.

Mr. PHELPS. Oh, I hope not. There may be other gentlemen who desire to speak; and this is the last day for debate.

Mr. BUFFINTON. I insist on the motion.

The CHAIRMAN. The Chair would state that the five minutes' debate will afford gentlemen an opportunity to be further heard upon this subject.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOGOC reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and had come to no conclusion thereon.

WASHINGTON POLICE.

Mr. LEITER. I ask the unanimous consent of the House to introduce a substitute for the bill reported yesterday by the gentleman from Virginia, [Mr. GOODE,] from the Committee for the District of Columbia, in regard to a police force for this city. I ask that it be referred to the Committee of the Whole on the state of the Union, and printed, to be considered whenever that bill comes up.

The SPEAKER. The gentleman gives notice that he will offer a substitute, and asks that it be printed, and referred to the Committee of the Whole on the state of the Union.

Mr. LEITER. Yes, sir.

The SPEAKER. If there be no objection, it will be so ordered.

No objection was made; and it was ordered accordingly.

And then, on motion of Mr. HOPKINS, (at twenty-seven minutes to five o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, April 7, 1858.

Prayer by Rev. F. SWENTZEL, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of War, inclosing

a petition of the paymasters' clerks of the Army, praying for an increase of compensation, and recommending it to the favorable consideration of Congress; which, on motion of Mr. JOHNSON, of Arkansas, was referred to the Committee on Military Affairs and Militia.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, information in relation to the North Carolina arsenal; which, on motion of Mr. BIGGS, was referred to the Committee on Military Affairs and Militia.

PETITIONS AND MEMORIALS.

Mr. BIGLER presented a memorial from the mayor and board of common councilmen of Atchison, Kansas Territory, praying that land may not be granted to the St. Joseph and Topeka Railroad Company but that aid be granted for a railroad connection between the valley of Kansas river and the Missouri river, on the northwestern border of Kansas; which was referred to the Committee on Public Lands.

Mr. SEWARD presented a petition of Simeon Draper, and other citizens of the city of New York, praying for the enactment of a general relief law; which was referred to the Committee on the Judiciary.

Mr. DOOLITTLE presented a petition of citizens of Superior, Wisconsin, in favor of a northern Pacific railroad, and praying that Superior may be made one of its termini; which was ordered to lie on the table, the subject having been reported upon by a select committee.

Mr. BROWN presented a petition of the Rev. A. G. Carothers, W. B. Magruder, and others, citizens of Washington, praying that the public reservation opposite the "Assembly's Church" may be inclosed; which was referred to the Committee on Public Buildings and Grounds.

Mr. ALLEN presented the memorial of John Gardner and his associates, praying that the Postmaster General may be authorized to contract with them for carrying the mails in steamships between the United States, the West Indies, Brazil, and the Argentine Republics; which was referred to the Committee on the Post Office and Post Roads.

Mr. CAMERON presented additional papers in support of the claim of William Reynolds; which were referred to the Committee on Naval Affairs.

Mr. MALLORY presented a memorial of citizens of Apalachicola, Florida, remonstrating against the repeal of the law creating the Light-House Board; which was referred to the Committee on Commerce.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SEWARD, it was

Ordered, That the petition of Catharine Jacobs, widow of Francis Jacobs, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. FESSENDEN, it was

Ordered, That the petition of Miles Devine, with the adverse report thereon, be recommitted to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of Joseph G. Heaton, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the memorial of J. K. Kane, and others, in behalf of the widow of Foxhall A. Parker, asked to be discharged from its further consideration, a pension having been granted to her by the Department; which was agreed to.

He also, from the same committee, to whom was referred the petition of James Hudgins, son and administrator of Ruth Murphy, widow of John Hudgins, asked to be discharged from its further consideration, and that it be referred to the Secretary of the Interior; which was agreed to.

He also, from the same committee, to whom was referred the petition of Charles Bruckner, administrator of William White, asked to be discharged from its further consideration, and that it be referred to the Secretary of the Interior; which was agreed to.

Mr. JOHNSON, of Arkansas, from the Committee on Military Affairs and Militia, to whom were referred the petition of William P. Paff, the resolution of the Legislature of Texas relating to

the protection of the frontier of the State, and the resolution of the State military convention held at the city of Columbus, Ohio, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of William W. Hubbell, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 178) to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers, asked to be discharged from its further consideration, the subject having been disposed of by the passage of another bill; which was agreed to.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 227) authorizing the organization of a fire department in the District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred the petition of the lay members of the Roman Catholic churches in the District of Columbia, reported a bill (S. No. 241) relating to the manner of holding and transmitting certain church property therein mentioned; which was read, and passed to a second reading.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a motion to print the report of the Secretary of War communicating the report of Lieutenant Beale of his exploration for a wagon road from Fort Defiance to the western borders of California, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred a motion to print the memorial of the Magnetic Telegraph Company, and of the New England Union Telegraph Company, and also the motion to print the supplemental memorial of the said companies, reported in favor of printing the memorials; which was agreed to.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of Joseph Paul, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the papers in relation to the claim of Nannie Denman, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of the guardians of the minor children of Major J. R. Hagner, late of the United States Army, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Charles West, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John Brest, submitted a report, accompanied by a bill (S. No. 242) for the relief of John Brest, a soldier in the war of 1812. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the petition of John W. Pray, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of the legal representatives of James Furvis, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the papers relating to the claim of Catharine Kellar, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John Mason and others, heirs of Jeremiah Gilman, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Virginia Rose and the co heirs of Captain Alexander Rose, of the revolutionary army, submitted a report, accompanied by a bill (S. No. 243) for the relief of the heirs of Captain Alexander Rose. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom were referred additional papers relating to claims to lands in the Munsee reservation in Kansas, asked to be discharged from their further consideration, and that they be referred to the Secretary of the Interior; which was agreed to.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 165) authorizing the construction of a dry-dock for the naval service, reported it without amendment; and submitted a report on the subject, which was ordered to be printed.

Mr. MALLORY, from the Committee on Claims, to whom was referred the petition of George Jewett, submitted a report, accompanied by a bill (S. No. 245) to authorize the settlement of the accounts of Luther Jewett, late collector of the district of Portland and Falmouth, in the State of Maine. The bill was read, and passed to a second reading; and the report was ordered to be printed.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed an enrolled bill (H. R. No. 313) to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States two additional regiments of volunteers; which thereupon received the signature of the President *pro tempore*.

BILLS INTRODUCED.

Mr. KENNEDY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 26) for the benefit of the nearest male heir of the late Major General Towson, United States Army, deceased; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. BIGLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 244) for the relief of Henry G. Carson; which was read twice by its title, and referred to the Committee on Claims.

Mr. GREEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 246) to provide for the geological and mineralogical survey of the Territory of New Mexico; which was read twice by its title, and referred to the Committee on Public Lands.

OBITUARY ADDRESSES.

Mr. HOUSTON. I move to take up the resolution which I submitted yesterday, as a substitute for the report of the Committee on Printing, in regard to printing the obituary addresses on the death of certain members.

The motion was agreed to; and the Senate proceeded to consider the resolution.

Mr. JOHNSON, of Arkansas. I ask that the resolution be read.

The Clerk read it, as follows:

Resolved, That there be printed, in pamphlet form, for the use of the Senate, ten thousand copies of the addresses made by the members of the Senate and members of the House of Representatives, upon the occasions of the death of the Hon. A. P. Butler, of South Carolina, Hon. James Bell, of New Hampshire, and Hon. Thomas J. Rusk, of Texas, late Senators of the United States; and that the Printer to the Senate be directed to prepare them in a similar manner to the eulogies on the life of Hon. John M. Clayton.

Mr. JOHNSON, of Arkansas. I call the attention of the Senate to this resolution, which is introduced by the Senator from Texas as a substitute for the adverse report on the same subject made by the Committee on Printing. The committee were satisfied that, unless the practice indicated by the resolution were arrested, it would be carried into effect in every instance where a death may hereafter occur in the Senate. The committee do not believe that it is the sense of the Senate that this should be done. It has been done heretofore in only a few instances, on the deaths of very extraordinarily eminent men. The committee do not dispute that those whose names it is now sought to commemorate in this manner were eminent men. The relations borne to them by the members of the committee preclude the possibility of any one coming to the conclusion that it is from any disrespect to them or their memory that an adverse report has been made by the Committee on Printing upon the proposition to print the addresses and eulogiums delivered upon

the occasions of the enunciation of their deaths here.

The estimated cost of this printing, I will now state, and I shall allude to that no further, is upwards of two thousand dollars. The committee do not believe that it is necessary to the fame of these gentlemen that this expense should be incurred for the purpose of publishing a book. The committee know and feel sensibly the very great difficulty, as well as the very great delicacy, that exists in any effort which is made to abridge the honors that shall hereafter be paid, or that shall now be paid, to deceased members of this body; but they believe that a proper respect for the opinions which have been manifested throughout the Senate in regard to the practices connected with public printing, deemed to be vicious in many respects, requires them to report against a project which involves an expense to the public Treasury without any corresponding benefit.

The committee have another reason for insisting upon retrenchment in these matters upon the present occasion. This resolution embraces the names of three of our deceased members. All of us feel the highest respect for the memory of each of those gentlemen, and many the most ardent affection. Such being the case, we can arrest this practice now without any charge of being invidious. If we wait to do it hereafter, until an occasion when but a single member shall have left us, it will be pronounced invidious, the attempt will not succeed, and the practice will become established. That is the belief of the committee. Holding that it is no disrespect to the memory of these gentlemen whatever, and that the public service and its economy ought to be preserved by all respectful and proper action in this body, the Committee on Printing have instructed me to report adversely, and to make this statement of facts in behalf of the action they have taken. I hope the resolution of the Senator from Texas, as a substitute for the report of the Committee on Printing, will not be adopted by the Senate.

Mr. STUART. I should like to have that substitute read.

The Clerk read the resolution submitted by Mr. HOUSTON.

Mr. STUART. Is that a substitute?

The PRESIDENT *pro tempore*. It is an independent resolution. The Senator from Texas said he designed it as a substitute for the report of the committee.

Mr. HOUSTON. Mr. President, no remarks which I may offer to the Senate on this occasion can possibly be construed into any disrespect for the Committee on Printing, or the judgment which they have formed upon this subject. I congratulate the country upon the spirit of economy and retrenchment that is manifested by the report in this case; but it reminds me of a farmer who determined to be very economical. His pigeons were sometimes troublesome, and they were in the habit of going into the gable end of his barn, and there destroying some of his grain. He concluded that he would stop that waste. He closed the gable end, but forgot to shut the door, and all the smaller animals and barn yard-fowl got in. So this is really beginning to retrench upon this little item when we find that there is great waste generally throughout the expenditures of Congress. We are to set an example by retrenching this mere trifle of expense.

I have no disposition to enlarge the sphere of expenditure and extravagance; but I consider this a matter that concerns the feelings and the reputation of the Senate. Three gentlemen of our companions here have lately left this body; they were all respectable; they were not undistinguished, any one of them. It has been the practice heretofore to publish the obituary addresses delivered on the occasion of the death of gentlemen who have died while members of this body. When there has been such a manifest calamity visiting this body as the death of three distinguished members of it in one year, I do not see that we should begin retrenchment here. Retrenchments ought, in my opinion, to be prospective and not retroactive in their effect. If it is thought proper or wise by the Senate to stop this practice, let them make a rule from henceforth forbidding it, and let it be understood; and then no disrespect can be offered to any one, as it can point to no one in particular. In this case, I think it would be a reflection on the memory of these

three gentlemen, for the Senate, at this particular time, to adopt a measure of retrenchment which would be retroactive in its action in relation to them. The expense is a mere trifle, and will not exceed, I am assured, two thousand dollars.

These gentlemen have friends and acquaintances throughout the United States who are anxious to know what their position was here, the particulars of their history, their birth, their origin, their progress in life, and what were the sentiments of their associates in this body in relation to them. I will not pretend to say how many applications have been made to me for these obituaries, for they are numberless. I think the Senate will be but discharging a duty which it owes, and it will be a proper respect for the memory of the deceased, to publish these obituaries. I consider the expense to be comparatively nothing. If the committee recommend the adoption of a measure of reform, hereafter to be brought into practice by the Senate, it is well; but let it not go back to affect the memory of our lately deceased colleagues. I should consider it a direct reflection on their memory and the feelings of their friends if we were now to depart from the custom that has prevailed in this body heretofore.

I am not disposed to take up the time of the Senate. I will simply say in conclusion, that I think it is due to the memory of these gentlemen that these obituaries should be properly prepared for distribution, as thousands and thousands are writing here, requesting that they may be furnished with them.

Mr. FESSENDEN. Mr. President, I feel it incumbent on me to say a word or two in reference to this matter, for the simple reason that, as perhaps you may recollect, sir, I originated the opposition to the publication of obituaries during the last Congress when I was a member of the Committee on Printing. I did so, because I thought it entirely unnecessary, and not of the slightest consequence to the memory of the deceased Senators. I made the objection in a very eminent case, that of the late Mr. Clayton. It has not been a common thing, as supposed by the Senator from Texas, to publish these obituary notices. It has only been done heretofore in a very few cases, and those of very distinguished gentlemen. The obituaries delivered on the deaths of Mr. Webster, Mr. Clay, Mr. Calhoun, and Mr. King, the Vice President, I think, were the only ones that have been published. Many Senators have died during their period of service, and obituary addresses have been delivered here in this Chamber, and no further notice was taken by way of publication. When the case of Mr. Clayton came up, although he was a very distinguished man, I thought it as well to interpose then, and to object to the further publication of books of this description. The committee reported accordingly. We reported against it; but at a later period of the session, the pressure being very strong, the Senate reversed the action of the committee, and agreed to publish those obituaries, but not to have them bound in the original form. The reason assigned was, that Mr. Clayton had occupied such distinguished stations in the Government, that it was not a proper place exactly to interpose an objection to the publication which was so much desired.

Now, sir, here are three Senators who died in the recess of the last Congress in different sections of the country, one from the North, one from the South, and one from the extreme Southwest, all of whom were very respectable gentlemen, and men of eminence; but I think the reputation of men is not aided at all by publishing obituary notices of them. I think the great object which is attained by that, is rather extending the reputation of the living members who have made the speeches, by sending forth their ideas as expressed here, and probably with care, and in a style and form that they consider to be very fine, and distributing them all over the country. It adds nothing to the reputation of the men themselves, and I think it is a waste of money. The sum is not large, to be sure, but still it is a waste of money to publish these obituary notices so extensively in the shape of books, and distribute them at the expense of the public Treasury, when no object in the world is attained except to send these little speeches abroad in the land for people to read and get the names of those who are left, and who make the speeches, for that is just about all it comes to.

The sum, to be sure, is small, but I have had occasion to say in this place before, that if we hesitate about making a saving because it is a small saving, we shall hesitate quite as much and as often upon great ones. I should be very glad to strike at many of the abuses in the way of expenditure. I should like very much to strike at post office contracts, and Army contracts, and other great things which, if we could get hold of them, and there was a disposition to carry out a real reform, would afford us an opportunity to effect much; but the fact that we cannot do that, or will not do that, is no excuse for expending what is called a small sum, only two or three thousand dollars, every time any particular individuals may want to receive at our hands a book of this description.

I took part in one of these cases, and made a speech myself on the occasion. I thought it was due to the memory of a gentleman whom I respected very highly and loved very much; but I have no particular desire that it shall go abroad into all the States of the Union to be read, and I do not think the reputation of my friend will be a particle increased, or his memory benefited by it. Sir, we have a great many debts to pay. There are a good many people to whom this Government owes small sums, and it is obliged to borrow money to pay them. There are a good many people who have little pension bills, and little claim bills here, who are waiting for their money, and need it. If we devote our spare cash to that purpose in the first place, we should be doing quite as well as in publishing these books; and if we refuse to grant this request, in this particular instance; if we stop here, as suggested by the chairman of the Committee on Printing; I see in it no disrespect to the memory of these gentlemen, whom we all respected so much. Therefore, I hope the Senate will follow out the suggestion of the Committee on Printing, and begin just here, and say that we will leave the reputation of those gentlemen who are so unfortunate as to die in their country's service, in this Chamber, to be taken care of by what that reputation may happen to deserve, and by the memory of men in the country, in reference to their public service. At all events, I beg leave to repeat again, that I think we accomplish nothing by publishing these books except extending the knowledge of those who are left in the Senate to speak of those who are gone.

Mr. BROWN. If this is to be a genuine attempt to reform abuses in the matter of public printing, I shall vote with the committee, distasteful as it is to me to vote against such a proposition as this. I think, myself, it looks a good deal like straining at a gnat and swallowing a camel, to commence a reform upon a little proposition of this sort. Still, if we are going to adhere to it, and stop this innoxious abuse of publishing every thing at the public expense, and making pictures of everything, I will stand by the committee, and incur my portion of the odium of refusing to do a graceful and, as I think, a proper thing towards deceased members of this body. Under ordinary circumstances, if the matter of public printing had not run into a most wonderful abuse, I should not hesitate to overrule a decision of the committee; but, perhaps, if we are going to reform, we might as well commence here as anywhere, and commence with deceased members of this body. All of us know that the great expense of publishing these obituaries will be in preparing plates of the deceased members. That costs a great deal more than putting up the type, buying the paper, and everything else. But, sir, we make pictures of everything, and I sent just now to get the last report that has come in. Here is a specimen of it.

Mr. HALE. What is it?

Mr. BROWN. Emory's report upon the boundary between the United States and Mexico. I happened on it this morning, and the first thing that struck me was a painted Indian, mounted on horseback. What that has to do with the boundary, or with surveying the boundary, or giving you any intelligence of it, would puzzle the wisest man in the world to tell; and yet nobody can say what it costs. Here is a magnificent picture of an Indian, and the book is full of them. Then, again, there are fifty or sixty pages at the end—yes, perhaps one hundred—covered with pictures of shells, and bugs, and so on, all the way through. This is the first volume, and I understand, incidentally, that it is to be followed by four or five

more of the same size. Why, sir, the books will cost you as much as one of the regiments that fought the battles of Mexico. It will cost you more than the whole survey—and all for what? For these miserable pictures, which never ought to have gone into the books. They are out of place, out of character, an outrage upon the public Treasury and the public confidence. Why, sir, we have hardly got through paying Schoolcraft for an Indian book. Now you cannot send out a man to survey a railroad across the mountains, or survey the boundary between two countries, that he does not come back here with one of these picture-books, filled full of Indians, snakes, bugs, shells, and all manner of things. This ought to be put a stop to. Do you know how many of that kind of books are being published now? First, you have the great explorer, Captain Wilkes. He is making books. I do not know whether we have got through with the Japan Expedition or not. I do not think we have. That was multiplied to several volumes.

Mr. SEWARD. Will the honorable Senator from Mississippi allow me to interrupt him for a moment?

Mr. BROWN. Certainly.

Mr. SEWARD. It is for the purpose of asking him to be quite accurate in the advertisement he is giving, through his speech, to the people everywhere in the United States, about the number and character of the books we are printing, because the effect of such expositions of the attractions of these volumes upon the public appetite for them is seen in a multiplied increase of demands upon us all to send them. I generally get about fifty or sixty copies of one of these works, and I am very sure that before the echoes produced by their publication and advertisement here have died away, I have to answer some four or five hundred demands for them. Of course I am obliged to say to four fifths of the applicants that my supply being a very small amount for an extraordinarily large constituency, is exhausted. I am losing ground with my correspondents. I am now excusing myself for not circulating the Japan Expedition, my supply of which was exhausted by the circulation of the first volume two years ago. It is the same case with several others of these attractive works. If the honorable Senator, in tenderness of us all, will take care not to excite expectations by his speech, which we cannot fulfill, he will save us from a world of trouble.

Mr. BROWN. It is the first time I have ever known that it has been any disadvantage to the Senator from New York. I think I shall go for these books hereafter. [Laughter.] I shall have to change my policy, because it is going to injure him in public estimation. I am so well satisfied that he ought to be injured, that I am not sure that it would not be a good speculation to publish the books. [Laughter.]

The PRESIDENT *pro tempore*. The hour has arrived for the consideration of the special order.

Mr. HALE, and others. Let us finish this.

Mr. HOUSTON. I move that the special order be postponed, so that we may terminate this matter.

Mr. BROWN. If the Senate will take a vote, as the morning hour has expired, I do not care to detain the Senate.

Mr. CAMERON. I desire to say a word, as a member of the committee.

Mr. DOUGLAS. If debate is to go on, I feel under obligation to call for the special order.

The PRESIDENT *pro tempore*. The special order supersedes the resolution under consideration, unless the Senate otherwise order.

Mr. HALE. I move to postpone the special order, so that we may finish this resolution. If we do not do so, we shall make no progress with this subject.

Mr. SEWARD. What is the special order?

The PRESIDENT *pro tempore*. The Minnesota bill. The motion is to postpone that, and continue the further consideration of this resolution.

The motion was agreed to.

Mr. CAMERON. As a member of the Committee on Printing, I feel desirous that its report should be sustained. No one can entertain a higher respect for the memory of the deceased Senators, no man thought more highly of them, while living, than I did. Every member of the committee entertains the same opinions of them;

but all admit that great abuses have crept into the system of printing. The committee are the proper agents of the Senate, and if they are expected to reform these crying abuses, they must be sustained by the Senate. The Senator from Texas says this is a small matter. It is so. It is with small matters reforms must commence. These small items have increased to an aggregate of millions yearly. Here is a proper place for beginning; and if the Senate will sustain the committee, they believe that by the end of the session they can show such a reformation as will gratify every gentleman here, and greatly relieve the Treasury. The sum already saved is very large, and the committee will see that no more "picture-books" will be printed by their recommendation. The only work begun, and not completed, is the Mexican Boundary Survey. The first volume has cost over one hundred thousand dollars, and it may reach one hundred and fifty thousand more; for no man can tell, before it is ended, what those pictures, of which the Senator from Mississippi so justly complains, will cost. It is this rage for unnecessary embellishment which has so greatly increased the cost of the public printing. As an evidence of this, one item occurs to my mind. A single dish of strawberries in the last Patent Office report, cost, for engraving and printing, over two thousand dollars. This is a question of business, of economy, if you like, and its decision, then, should be without reference to the merits of the distinguished dead. Their fame does not need it.

Mr. PUGH. Has the resolution been before the committee?

Mr. CAMERON. Yes, sir; and they have reported against it.

The PRESIDENT *pro tempore*. It is a resolution presented by the Senator from Texas, as a substitute for the report of the Committee on Printing.

Mr. HALE. There is not, certainly a man in the Senate who would be less suspected of any prejudice against this proposition than myself, for one of these gentlemen was a deceased colleague of mine, with whom I lived upon the most intimate terms of friendship for thirty years; but I have long thought that we were going wrong in this direction, and that obituaries of this kind ought not to be printed. I concur with the suggestions so well made by the chairman of the Committee on Printing. I think if we are ever going to begin a reform, this is the place. We may begin it here without any invidious distinctions. During the last recess, three members of this body, from different sections of the country, were called away; one of them was my own colleague, from the State of New Hampshire. But, sir, the thing has been going on, constantly increasing, and if you do not stop here, it will never stop. It has not always been confined to members of the Senate. I think the Senate went so far in the case of Mr. Webster as to have eulogies delivered here, and printed at the expense of the Senate, on the occasion of his death, though he had long before ceased to be a member of the body.

I have long thought we were running into foolish and extravagant expenses, not only in this respect, but in the matter of funerals. I thought when Mr. Adams died there was a very useless and unnecessary parade at the public expense. When Mr. Calhoun died it was repeated; but I did not want to object then. When the House of Representatives had been guilty of that folly in reference to one northern man, and the Senate in reference to one southern man, I hoped we should be done with the folly of sending committees of Congress all the way from Washington to the places where the dead members were to be buried. But another instance came up of a very eminent and distinguished man, and although I had determined to interpose objections, and notified his colleague that I would do so, yet, on further reflection, I felt unequal to the task. That was the case of Mr. Clay. We sent a committee to Kentucky to attend to his funeral. This thing has been increasing, and will increase; and if you do not stop it now, you will never stop it. Now we can stop with the greatest advantage to ourselves and to the country, and we can stop without offending anybody.

Mr. HOUSTON. I shall feel that the action of the Senate is retroactive and disrespectful to the memory of these gentlemen if it refuses now to

follow the usual course. If it is to be prospective in its action it can very readily intimate that now, and it will be understood, and then if an instance should occur hereafter, this printing will not be expected. If gentlemen intend to retrench at this point, they should go further in order to make the retrenchment perfect. Every column that is published of the proceedings of Congress costs seven dollars and a half. That expense has already been incurred in this case; and what is now proposed is but a trifling addition to that. In order to perfect the system of economy it will be proper not to make the announcement of the death of a member at all. I cannot see why it is that it is necessary to begin here with the proposed retrenchment when it is retroactive in its influence upon the body, and upon the world. The honorable Senator from Maine [Mr. FESSENDEN] who opposes my proposition, had an agency in inaugurating this system, as he says, in reference to Mr. Clayton. I admit his distinction; I admit his worth; I admit the eminent services that he had rendered to the country; but is that to be the rule of action? Are exceptions to be made among those members who have departed, upon a supposed distinction between them in point of eminence? The Senator from Maine intimates that benefits are to flow from such publications to those who delivered the eulogies. If that is supposed to be the case, I shall move that the remarks I made on the death of my late colleague be excepted, for I did not think them either worthy of the occasion, or creditable to myself, being unprepared. I felt a delicacy in moving in this matter, because of my participation. I was importuned again and again to bring forward some measure to secure this publication. I was solicited to do so by my constituents, who desired to see what had been said on the occasion of the enunciation of the death of their distinguished Senator. From Maine, from New York, from every portion of the country, I have received application for these obituaries. I have brought forward the proposition from a sense of duty, not for the purpose of rendering my name conspicuous, or showing what fine things I had said, not in order to gain *éclat* from the world. I had no disposition to seek notoriety without fame, nor did I care much about that. What I said was *impromptu*, and without preparation. I shall move to amend my resolution by excepting from the publication the remarks which I made in announcing the death of my late distinguished colleague, that I may disabuse the Senator's mind of the idea that I had any object of a sinister character.

Mr. FESSENDEN. I beg the Senator to understand me. I meant no sort of imputation upon the motives of the Senator from Texas, or anybody else. What I said was, that the effect of these publications was to give notoriety to those who made the addresses on the occasion, rather than to add to the reputation of those who were spoken of. I did not suggest the motive, nor did I intimate, that there was any motive other than a proper one in the mind of the mover or any one else.

Mr. HOUSTON. I did not misapprehend the Senator at all. His remark was a general one, and had no reference to me; but I should be perfectly willing to be excluded from the possible benefits which it is supposed may result from this publication to those who participated in these obituaries. I am willing to exclude my remarks altogether, as I did not think they were worthy of the occasion, or creditable to myself, being entirely unprepared.

If we are to begin on this occasion, it is a most extraordinary evidence of retrenchment. Let it be hereafter understood, if you please, that no more notices of this kind are to be needed, and let no more announcements be made of the death of Senators to this body, if you intend to effect a real retrenchment.

So far as the gentleman's remarks were in relation to Army and Navy contracts, if he will only bring forward a measure to correct those evils, he will not find a more cordial cooperation from any individual in this body than from myself. I will go with him heart and hand in correcting abuses of magnitude in the first instance; but I will not begin at minor matters, that are mere trifles in themselves, and on occasions that require a different course, in my humble estimation.

If this has been a custom of the Senate, this is not the place to begin the correction. Henceforth you may have it understood, but do not go back to the past. I do trust the Senate will say that these obituaries shall be published. What is \$2,000? We waste it every day here in nothing of any consequence.

Mr. MASON. I wish to say a very few words on this subject. I think there can be no Senator who will go further to restrain the exorbitant expense in public printing than I will, and yet I cannot but be aware that to refuse all expenditure is no sort of economy. Improper, improvident, and wasteful expenditure is that which is to be checked by the exercise of economy. These books, one of which has been produced here by the Senator from Mississippi, involve, in my judgment, a proper expenditure, provided that expenditure is under proper guards. We send abroad exploring parties through the country, and necessarily so, in the discharge of the great duties to the public that devolve upon the Government, exploring for the Pacific railroad, the Mexican boundary, and explorations by officers of the Army for military purposes. They are required, and properly required, to make a journal; and when they make their report to the head of the Department, the work is done; but it would seem to me to follow, as a necessary incident to that work, that it should be published by Congress and diffused; and yet I do not know where the proper restraint is, as I am not at all conversant with the details; whether it is in the Committee on Public Printing, or whether it rests with the Executive Departments, but it should rest somewhere to check this truly unnecessary expenditure in embellishing these books. Take the painted Indians, the scenes, the landscapes that are given in them, or the matters of scientific discovery in philosophy which are exhibited, and they seem to me to be entirely out of place; and I am informed, and I think correctly informed, that they make one half the expenditure of these publications, or perhaps more than that. They are utterly out of place, and derogatory to the character of the Government. To print the report alone, which would diffuse the information contained in them, I should think is not an improvident use of the public money.

Then as to this particular source of expenditures: why, sir, we know very well that it has been the usage of the Senate to pay very great honor to the memory of those who have served their country long and faithfully, and who have been called from this world while serving here. Committees have been sent home with them to very distant parts of the Confederacy. Honors have been rendered to them all the way while their remains were passing through the country, and great honors have been paid to them and to their memories when they arrived at their homes. For what? Not only as a grateful acknowledgment for their public services, but with a view to impress, I think, upon the rising generation, the character, the services, and the merits of those men. It has been customary, also, to pay tributes to their memories upon this floor, and upon the floor of the other House. That is a usage with which I am satisfied no Senator will be disposed in the slightest degree to interfere—a very proper usage. And then I should think it would follow as an incident, that we should, in a plain way, without ostentation or expense, diffuse those tributes after they are thus given. Therefore, with every desire in the world to unite with the honorable Senator who is at the head of the Printing Committee to check improvident expenditure, I cannot agree to this report.

Sir, if there be no means of checking improvident expenditure but by denying all expenditures, we shall have come to a very unfortunate pass in the country. I confess, with the very great respect I bear to the eminent and distinguished gentleman who conducted the Mexican boundary survey, it was with concern and regret that I saw that his book also was the subject of unnecessary and improvident embellishment. I can see no reason for it, no propriety in it. I think it is derogatory to the character of the Government that it should send abroad books that are really interesting for their matter, and for the information they contain, with all these embellishments that are worthy only of the humblest picture shops.

That is an improvident expenditure; but to print the books and to diffuse them, I should not consider extravagant. These are my views; and so feeling, with every regret not to have it in my power to follow the honorable chairman, I shall feel required to vote for printing these eulogies.

Mr. JOHNSON, of Arkansas. The resolution of the Senator from Texas was offered as a substitute for the report of the Committee on Printing, which is now up for consideration. The Clerk does not seem to understand its position. If it were offered now as an independent resolution, it would necessarily be referred to the Committee on Printing, which has already reported on the subject.

The PRESIDENT *pro tempore*. The Chair will remark to the Senator from Arkansas, that the Senator from Texas submitted his resolution, and said he designed to offer it as a substitute for the report of the Committee on Printing. The Chair intended to state to the Senator from Texas, when the discussion was through, that the only mode by which he could accomplish his object, would be to move to proceed to the consideration of the report of the Committee on Printing, and when that was up, offer this as a substitute.

Mr. JOHNSON, of Arkansas. I hope that will be regarded by unanimous consent as having been done, so that we may have a vote on the question.

The PRESIDENT *pro tempore*. The Chair will say to the Senator from Texas, that his only mode of accomplishing what is desired by him, is to move to take up for consideration the report of the Committee on Printing on the same subject.

Mr. HOUSTON. I suppose that may be considered as up by the consent of the Senate; but I make that motion.

Mr. JOHNSON, of Arkansas. I wish now to make no reply to anything that has been said in regard to this matter. The action of the committee is understood by the Senate, and I trust we shall have the vote.

Mr. BIGGS. I understand the motion of the Senator from Texas, is to proceed now to the consideration of the report of the committee; and then, after proceeding to the consideration of the report, he will move his substitute. It is now up, I understand, by the decision of the Senate.

The PRESIDENT *pro tempore* put the question, and there were calls for a division.

Mr. STUART. Is the division called for upon the motion to take up the report?

The PRESIDENT *pro tempore*. That is the question pending.

Mr. KING. No division is required on that.

Mr. STUART. There is no objection to the report coming up.

The PRESIDENT *pro tempore*. Then the report will be considered as before the Senate.

Mr. HOUSTON. I now move this resolution as a substitute for the report.

Mr. DOUGLAS. Do I understand the Senator from Texas to move to exclude his own remarks from the publication?

Several SENATORS. Oh, no.

The PRESIDENT *pro tempore*. There is an adverse report from the Committee on Printing, against the publication of these eulogies. The Senator from Texas now moves this resolution as a substitute for the adverse report.

Mr. DOUGLAS. But I understand him to move to exclude from the book that is to be published, his own speech. I will say that I would as soon think of publishing Hamlet with the part of Hamlet omitted, as to publish the book with the remarks of the Senator from Texas omitted. If that motion should prevail, I should certainly feel bound to vote against the proposition unless each Senator whose speech was to be published declined to have his speech published also. Then I think the proposition would be entirely harmless.

Mr. JOHNSON, of Arkansas. The Senator from Texas has not made that motion.

The PRESIDENT *pro tempore*. The Senator from Texas has moved no amendment of that kind. The question is on the resolution offered by him as a substitute for the report.

Mr. SEWARD. I wish to explain very briefly the reasons for my vote, as I do not wish to be misunderstood. I shall vote for the resolution of the Senator from Texas for the publication of

these obituary notices, but not on the ground that I myself participated in a portion of the proceedings to be thus solemnly published. It is not necessary for any use or purpose of mine that the remarks which I made on those occasions should be now published in this way. Congress provides for the publication in an authentic form of every word which is ever uttered here. That is ordinarily a sufficient publication of anything that I have occasion to submit to the Senate. On other occasions of peculiar interest or importance, all the world knows that it is the custom of Senators to print at their own expense extra copies of their speeches or remarks; and what others have done, I myself have done on other occasions, so far as to give wider circulation to the remarks which I felt it my privilege and duty to make in honor of the distinguished Senators whose deaths have resulted in these proceedings, than the Senate will give to the same remarks if they adopt this resolution.

I therefore stand in this matter free from any cause for questioning the vote I shall give. When I came into the Senate several years ago, I found that it was the custom of the Senate to pay funeral honors to the memories of members who died in the performance of their public duties. That custom was dictated by feelings that are inherent in our common nature. Publications of these honors had been received and accepted by the country with satisfaction. The satisfaction which the people have manifested with those proceedings seems to me to harmonize with nature and with the constitution of a republican people, watchful of the conduct of their public servants, and appreciative and grateful when they discharged their duties with fidelity and advantage to the country. That custom has continued practically unbroken. Many instances have occurred here on which honors have been paid to distinguished men, which, examined from the position in which they stood, seemed to me exaggerated. Still they were paid by common consent; and he would have been justly thought uncharitable who would interpose to detract, in any one case, from the tributes which were thus paid to the memories of statesmen thus honored.

Now, it was only at the last session that senatorial honors were paid to a statesman of whom I had been a friend and follower, John M. Clayton, of Delaware. I felt that those honors were justly due to him, and I was grateful when the Senate accorded them. The publication of the tributes paid to his memory was a part of those honors. Now, there have recently occurred three deaths instead of one—the deaths of three eminent men—I think men who have filled, in a very high degree, the full complement of senatorial character. It is proposed to withhold a part of these honors from them. Two of them were Senators from whom I was politically divided and widely separated. I concur in what the honorable Senator from Texas says in regard to the case of the late Senator from that State, Mr. Rusk. An abridgement of the honors paid to his memory will be felt to be a discrimination insidious and unkind. As it is in the case of that State, so it is with the States of the other deceased Senators. I therefore shall vote for the resolution of the honorable Senator from Texas. I shall very gladly cooperate generally in any measures for a retrenchment of the expenses of the Government. But I do not think that Senators are removed from this field by death so often, and in such numbers, that the retrenchment which may be made by discontinuing these honors, will be important.

Mr. FESSENDEN. I feel unwilling to be placed in any degree in a false position about this matter, although my position about anything is of very little consequence to the country, or to anybody but myself. I do not think this is an occasion, it being a mere matter of business, a matter of printing, and these gentlemen having been deceased for some time, upon which we can get up feeling or sympathy by any particular gravity of voice or peculiarity of manner; nor do I see that there is any necessity for any particular tears. It is a mere common matter of business; we are to decide whether we are called upon by any necessity of the case, from regard or respect to the memory of these gentlemen, for all of whom I had very high respect and regard, to publish this book.

I agree with the Senator from New York, that funeral honors paid to men who die here in the discharge of their duty, are very proper. I should agree, moreover, that the more simple they are, the more honor we render, and the better we do our duty. I think that the whole matter is better illustrated by an example which I saw stated in the newspapers a few days ago, of a former member of Congress who, when he died here, appropriated beforehand and put in the hands of a friend a sum of money to pay the expenses of his funeral, and left it as a particular request that those expenses should not be paid out of the public Treasury. I think that he showed more regard for what is truly and justly befitting such an occasion, than we show by making this extraordinary display.

However, sir, I do not wish to be understood as objecting in any manner to all the proper funeral honors being paid to the memory of any man who dies here in the discharge of his duty. This is not a question that refers to that at all. It is a mere matter of publishing a little book, with a little cover, with a little picture on the outside of it, to be sent abroad for the gratification of the particular persons who receive it, and not to add in any way to the honors that are paid to the memory of our deceased associates. It has not been a general custom, as stated by the honorable Senator from New York. The first time when such a thing was done within my recollection was in the case of Mr. Calhoun; and the same thing was done upon the death of Mr. Webster, Mr. Clay, and Vice President King. Those are the only cases where this has been done, except upon the death of Mr. Clayton. Three Senators from New Hampshire have died within a few years. Mr. Atherton died while he was a member of the Senate; but no such honor was paid to him; no book was published. Mr. Norris died here since I have been a member of the Senate; but no book was published on that occasion; and no book has been published, except in the case of a very few exceedingly distinguished men, one of whom was the Vice President of the United States. It is, in fact, inaugurating a new policy to say and to decree here that whenever a member of this body happens to die, in Washington or out of Washington, while he is a member of the Senate, not only the ordinary notice must be taken of it, but we must publish all that gentlemen here choose to say on the occasion for distribution.

If I thought that by objecting to this proposition I was detracting one jot or one tittle from the proper honors to be paid to my deceased friend, I should not have said a word in opposition to it. I am unwilling that the idea should be considered a just one, and one which is to prevail in the Senate of the United States, that because an expense is a small one, therefore it is of no consequence. As I said before, if we cannot begin to reform with an ordinary matter which is unnecessary, we can never do anything with an extraordinary matter which is unnecessary. It is not the amount that I care about; but I feel disposed to aid the Committee on Printing, as far as I can, in all their honest efforts to prevent this unnecessary expenditure of money. That is all there is of it. I think that nobody's reputation will be advanced, nobody's memory will be honored, nothing will be done except simply affording a little extra sum of money to the printers and bookbinders, and then we shall have the extraordinary privilege of sending what we said on the occasion to different parts of the country for people to read; and the conclusion will be come to by all sensible people that every man who dies here as a Senator, whatever he might be at home, or whatever he might have been while living, is an extraordinary man the very moment he dies, and that they are all pretty much of the same size. The amount of it is, that the whole thing is, in the manner in which it is done, calculated to mislead the public and to produce no good effect; and I am just as willing to interpose here as anywhere else.

The PRESIDENT *pro tempore*. The question is on the resolution of the Senator from Texas, as a substitute for the report.

Mr. FESSENDEN called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 16, nays 26; as follows:

YEAS—Messrs. Allen, Bright, Broderick, Evans, Fitz-

patrick, Green, Hammond, Houston, Jones, Kennedy, Mason, Seward, Simmons, Stuart, Thomson of New Jersey, and Wright—16.

NAYS—Messrs. Biggs, Brown, Cameron, Chandler, Clay, Crittenden, Dixon, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, King, Polk, Pugh, Sebastian, Sidel, Toombs, Trumbull, Wade, and Wilson—26.

So the substitute was rejected.

Mr. JOHNSON, of Arkansas. I move that the adverse report of the committee be now concurred in.

The motion was agreed to.

KANSAS—LECOMPTON CONSTITUTION.

Mr. BRIGHT. Yesterday, I moved to reconsider the vote by which the Senate disagreed to the amendment of the House of Representatives to the bill admitting Kansas as a State. I suppose it was generally understood in the Senate that my object in making that motion was to relieve the Senate, and particularly the Chair, from the embarrassment that would result from deciding several questions of order that were raised. It was not my intention to insist upon the motion; and now, with the leave of the Senate, I will withdraw it. That will leave the question where I understand the Senator from Michigan and the Senator from Illinois desired it to be left.

The PRESIDENT *pro tempore*. The question is, will the Senate grant leave to withdraw the motion to reconsider?

Mr. HALE. Does not that require unanimous consent?

The PRESIDENT *pro tempore*. A majority can grant leave, I think.

Mr. BRIGHT. It requires unanimous consent.

Mr. HALE. If it did not require unanimous consent, you would defeat the right of the minority to insist on the motion.

Mr. BRIGHT. There is no doubt it requires unanimous consent. Any Senator can object.

The PRESIDENT *pro tempore*. Does the Senator from New Hampshire object?

Mr. HALE. No, sir; I only want to know whether I have the right.

The motion to reconsider was withdrawn.

ADMISSION OF MINNESOTA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 86) for the admission of the State of Minnesota into the Union.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. WILSON. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. BELL. I was not aware that this bill was so near being brought to a conclusion this morning. I do not propose to detain the Senate a great while, but simply to recapitulate the views which I have expressed in this body heretofore, particularly in the debate that took place some two years ago, I think, on the passage of the enabling act authorizing the people of the Territory of Minnesota to form a State constitution. There was considerable discussion at that time as to whether one provision contained in that bill, proposing to allow aliens not naturalized to vote for delegates to the convention which was to form the organic law of Minnesota, was in accordance with the Constitution of the United States. I contended then that it was of very little consequence whether a principle of that kind was recognized in an enabling act, or not, but that the question would become much more important if it should be conceded that Minnesota after becoming a State would be authorized to admit aliens not naturalized to vote in Federal elections, and I believe there is no discrimination made in the provisions of this constitution as to the elections at which aliens may be allowed to vote.

I hold now, as I did upon that occasion, that such a practice is in violation of the Constitution of the United States; not only the spirit of it, but, in fact, in some sense, of the very letter. The Constitution, for wise and sufficient reasons, conferred upon Congress the power of providing naturalization laws. The object was, to confer power upon Congress to establish some uniform rule by

which to determine who were citizens of the United States when a question should arise between foreigners and natives. The object was, to prevent the evils and confusion which would be likely to result if every State were permitted to adopt a rule of her own upon that subject; some admitting foreigners to citizenship as soon as they arrived, and became domiciled in the State; others requiring one year's residence, or two years' residence, or three years, or fifteen or twenty years, or any term they might think proper; and some denying them altogether. It was in order to prevent the difficulties and confusion that might arise under such circumstances, that the Constitution of the United States conferred upon Congress the power to prescribe some uniform mode by which foreigners should be admitted to the rights of citizenship. It seems to me that there was great wisdom in that, particularly when you come to consider another clause of the Constitution which provides that the citizens of each State shall have all the privileges and immunities of citizens in the several States. Now, how is it possible that questions which might arise under that provision of the Constitution, in the several States, can be settled or adjudicated upon any clear and satisfactory principle, if you allow each State to fix the rule by which to admit foreigners, or anybody it pleases, to citizenship?

I did not mean to go into this subject in detail, but simply to throw out a few hints to show the embarrassments that might result from admitting this power in the States. Upon the occasion to which I have alluded, it was argued that to deny this right to the States would trench upon State sovereignty in many respects. I replied, no; I said it did not touch the right of a State to fix the qualification of voters for the most numerous branch of its Legislature; it might allow women to vote, it might allow females of eighteen or fifteen years of age, or boys of twelve or fifteen, if it thought proper, to vote. We cannot help that; that is all within the power of the States. The Constitution of the United States does not interpose in regard to that. But if you were present, sir, [Mr. Biggs in the chair,] on that occasion—and I think you were—and took part in the debate, you will remember that one of the honorable Senators from Virginia said that this power of the States was so unlimited that in the South they could admit their slaves to vote, if they thought proper. I do not see any limitation at all upon the power, according to the idea on the other side, but the States may admit convicts, slaves, and foreigners; and, upon the same principle, people might come over from Canada, and vote in our elections, if the Legislatures of the border States thought proper to pass laws of such a character to permit it. As I admitted in my former argument, that would be an extreme case, but the principle extends so far that a residence of half an hour would be sufficient if a State Legislature thought proper to allow it, so that alien enemies might be brought in, and we could not prevent their voting in the Federal elections of the United States, and controlling the policy and perhaps the destiny of the whole country.

The point now is, whether this is a sufficient objection to the constitution of Minnesota; whether I ought to vote against the admission of Minnesota as a State, upon the ground that her constitution asserts the right of the State to admit aliens to vote without having been naturalized according to the laws passed by Congress under the Constitution of the United States? The Constitution of the United States is silent on such a point as that; but, in my opinion, this is a violation, a nullification of that provision of the Constitution of the United States to which I have referred. But, sir, here is the representation of the whole South, with one exception, I believe, more deeply interested in this question perhaps than any others, saying that it is important to sustain the right of the States to regulate this whole subject, insisting that to interfere with it will strike a vital blow at the sovereignty of the States.

That was the argument two years ago, and nearly the whole North united in the opinion that it was no objection. Michigan by her constitution, I believe, now exercises the power, and Congress has never interposed. No adjudication has been had on the question; and, indeed, it is difficult to see how it can arise judicially; but yet, it

may arise in regard to the privileges of those who are admitted to citizenship in one State, citizens in one State being allowed by the Constitution all the privileges and immunities of citizens in the several States. It might be a difficult question to decide on principle. Here, however, there seems to be a general concurrence in the opinion that the States ought to be allowed this power. I think there is a violation of principle in it in this respect; for if you can nullify, as I believe you plainly do by such a doctrine as this, that provision of the Constitution requiring uniformity in the admission of aliens to the rights of citizenship, you encourage, you incite, you afford a precedent for the nullification of other provisions of the Constitution. This, I think, is dangerous and mischievous.

Now, sir, what is a higher test of citizenship than the exercise of the right of suffrage? Is it not the very highest evidence that can be given by any law of a State, or the constitution of a State, that you admit a man to the right of suffrage? If you do that, is he not a citizen within that State? If a State allows an alien, after six months' residence, to exercise the right of suffrage, and thereby be a citizen of the State, is he not entitled, under the Constitution of the United States, to the privileges and immunities of citizens in other States? How would you test that question, if it should arise in any other State? Suppose an alien is admitted to the right of citizenship in Minnesota, or Michigan, and I believe the same power has been claimed in Wisconsin—

Mr. DOOLITTLE. I can inform the honorable Senator that the constitution of Wisconsin contains a provision similar to that contained in the Minnesota constitution in this respect, not precisely the same, but similar, so far as persons who have declared their intention to become citizens are concerned.

Mr. BELL. The right of suffrage is the highest privilege of citizenship. We are accustomed to say that reserved sovereignty resides in the people. But who are the people? Who are these sovereigns? Are they not those who exercise their privilege through the ballot-box, which it has been contended so earnestly and strenuously, at this session, is the only medium through which citizens can express their sovereign power. Suppose an alien, who is permitted to exercise the right of suffrage in Minnesota, or Wisconsin, or Michigan, shall set up a claim to the right of American citizenship in any other State of the Union, under that provision of the Constitution which says that citizens in each State shall be entitled to all the immunities and privileges of citizens in the several States: has such a man the right to exercise all the privileges and immunities of the citizens of any State to which he may choose to migrate?

To be sure, it may be urged that there is no great difference between admitting an alien to enjoy the right of suffrage in six months, upon making a declaration of intention, and requiring him to remain five years, at the end of which time he may become a citizen, according to the laws of the United States. But, sir, I look at it as a matter of principle that aliens cannot be admitted to the rights of citizenship until the lapse of five years, unless our naturalization laws be changed; and I have often said that, in my opinion, a longer period of probation ought to be required.

I did not rise, however, for the purpose of going into the subject at large, but simply to recapitulate the grounds which I assumed in the argument two years ago, and to state that under the circumstances I should vote for the bill because of the general concession of this right both North and South, and because it is not a condition prescribed for the admission of new States by the Constitution of the United States that all the provisions of the constitution of the proposed State shall have the approval of the Senators and Representatives who act upon the question of admission, and because it would be in the power of the State, even if she should be rejected now upon the ground that she has what we consider to be an unconstitutional provision in her organic law according to the principle almost universally entertained here, after she is admitted to reform, alter, modify, or abolish her constitution at discretion, and there is no limitation of time that can prevent her doing so. It would seem, therefore,

to be a very idle ceremony to reject Minnesota with her present constitution on such a ground; above all when it seems to be very generally conceded that a State has the power to regulate this subject as she pleases. I consider the principle not in this constitution alone, but in other States of the Northwest, a mischievous one. I think it leads to the encouragement of a nullification of other provisions of the Constitution of the United States more important, perhaps, than this. I regret it deeply. I deplore it. I think it is an irregularity. It is mischievous in its tendencies and results. Especially do I regret it when I consider that the whole tendency of the times and of the Government seems to me to be to disregard established principles and constitutional guarantees, and to inaugurate an anarchial, unregulated liberty.

Mr. MASON. Mr. President, I shall vote for the admission of the State of Minnesota into the Union; but I shall protest against that vote being construed into any approval, far less into any confirmation on my part so far as the vote goes, of the policy found in the constitution of this State by which foreigners are admitted to vote. I do not entertain a doubt that all that question as to who shall and who shall not administer the government of a State, which is a question of voting, is left entirely to the people of the State, to that people in whom resides the sovereignty or the supreme power. Now, the Constitution of the United States, in declaring who shall administer the Government of the United States through Representatives in the other House, and through the Executive head by means of the electoral colleges, has left it to the States to determine who they shall be within their respective limits, by prescribing that those shall vote for members of Congress, and those shall vote for electors of President and Vice President, who shall be entitled to vote for the most numerous branch of their State Legislature; thus, as I consider, in express terms leaving the power where it rightfully belongs, to the sovereignty of the respective States. I should not hold myself at liberty, therefore, to interfere in any mode whatever to check, or to restrain, or to control the power thus exercised by the States.

Mr. BELL. Will the Senator allow me to interrupt him?

Mr. MASON. Certainly.

Mr. BELL. Then what is the use of any naturalization law passed by Congress? I should like the Senator to answer that question, and also whether, when a State does admit an alien, if she can do so, to all the privileges of a citizen of a State, that alien is not thereby entitled to all the privileges of citizens of other States to which he may go?

Mr. MASON. I will answer the Senator, so far as I am competent to do so. The Constitution of the United States devolves certain rights upon those who are called in the Constitution citizens; and therefore it may have been considered wise in those who framed the Constitution, to determine by general and uniform law who should be citizens of the United States. By a uniform law, foreigners coming within the limits of the United States, remain foreigners, unless they are made citizens by some process of law; and it may have been considered inconvenient, irregular, leading perhaps to injurious results, if, so far as the operation of the Government of the United States was concerned, it was not ascertained by a uniform law in what manner foreigners should be admitted to the rights and privileges of citizens of the United States. For this reason, as I understand, it was provided that the Congress of the United States should provide, by uniform laws of naturalization, for the admission of foreigners, to that extent, to the rights of citizens of the United States. But I do not understand that that has been taken from the individual States any power whatever already resident in those States for their own policy to declare who shall be citizens of the State. For example, the State of Virginia, or the State of Tennessee—the State of Virginia certainly has done it, but I do not know whether the State of Tennessee has—by its law has declared who shall be citizens of the State of Virginia; but it has not, in that, in the slightest degree trenching on the power that is reserved to the Federal Government to declare who shall be citizens of the United States; because, the legislation of Virginia that

would constitute a foreigner a citizen of Virginia, does not thereby make him, within the meaning, as I read it, of the Constitution of the United States, a citizen who is entitled to the immunities and the rights provided for citizens of the United States by the Constitution of the United States.

Now, then, as to the constitution of Minnesota, which allows foreigners, before they become citizens of the United States, to participate in the government of Minnesota, I should not consider myself at liberty even to express an opinion; but possibly, as it has been brought into question here, it might be considered that a vote for the constitution, with that clause in it, carried some affirmation, as well as approval, by means of the Federal law, of that principle contained in the constitution of Minnesota. For myself, I disclaim it, not understanding that we possess any such power.

Nor do I mean to express any other than the most abstract opinion upon the question, as far as Minnesota is concerned; yet I cannot shut my eyes to the consequences that have already ensued in that community, and that I fear exist in other communities like situated, from admitting to all the rights of American citizens, more especially to the right of voting, foreigners who have recently come into the country, and who can now know nothing of the theory or character of our institutions. I think it is a most improvident and unfortunate act on their part. We have seen it illustrated in the case of Minnesota. What organized community of American citizens, native born, and educated in the American mode, adapted in that manner for the free institutions of our country, by understanding and appreciating their character, would have been found in the condition of this grave body that was called together to frame a constitution for Minnesota, separating the instant they met, never coalescing afterwards, constituting two separate bodies, each claiming itself to be charged with the power of framing a government, continuing separate, and dissolving as separate bodies? I say that is a phenomenon in American experience.

I remember to have seen, also, in one of those northwestern States, within the last year or two, what I believe is true, that in their ordinary Legislature, one, if not both of the Houses, remained organized, for I know not how long, under the control of two separate presiding officers, sitting together on the same platform, and putting questions at the same time. That is misrule, disorganization; and, as I should read it, evincive of an utter incapacity for popular government. Can it be otherwise? How can it be possible that foreigners coming from abroad, from the continent of Europe, raised and trained and impressed by forms of government as unlike to ours as one thing can be to another, should find themselves upon their arrival here, enlightened, informed, considerate, thoughtful, and more than all, regardless of the true spirit of American liberty? It is utterly impracticable in itself, and to attempt it, I should think can lead only to misrule and disorganization, as it has done. But still, I would say to my honorable friend from Tennessee, I do not read the Constitution of the United States as he does. That is a matter that belongs to the States, and it is incident to our form of government, the States being sovereign, having the right to direct their own affairs in their own way. I protest that any vote which we may give here for the admission of Minnesota is not expressive of any opinion whatever, either for or against any feature contained in her constitution, except that it is republican in its form.

I have thought it proper, on my part, in order to avoid misapprehension, to say thus much only to exclude the conclusion that by my vote to admit this State, I mean to express any opinion on this part of her constitution, far less any approval.

Mr. STUART. I do not intend to continue this debate, because I am very anxious that Minnesota shall be admitted into the Union; and I should not say a word but for the remarks of the Senator from Virginia, in attributing the divisions in the Minnesota convention, and certain other divisions in the northwestern country, to the influence of the foreign vote. Why, sir, you might as well attribute them to an eclipse of the moon. These are divisions that grow out of party poli-

tics, and nothing else. The foreign vote in Minnesota, that is, that vote which is described as a foreign vote, is, as it is in other States of the Union, composing but a very small proportion of the whole vote. The difficulty in the Minnesota convention was a party difficulty, a question of whether certain delegates were elected or not, and each political organization claiming to have a majority, seized upon the earliest opportunity to organize, with a view to securing that result. The Senator, I apprehend, under his reasoning, would find it difficult to distinguish between the action of that convention, the action of a certain Legislature to which he referred, and the action of the House of Representatives of the United States at the last Congress. The House of Representatives were months before they were able to organize. Would it be said that that was on account of the foreign vote of the country? It might be said with equal propriety and with equal accuracy. Sir, I doubt if there was a man, certainly not any considerable number of men of either party, in the convention of Minnesota, who was a foreigner. The large majority of that body, like the large majority of every similar body in every State, were citizens, and native-born citizens of the United States. It is a mistake, therefore, to suppose that these difficulties, which originate in party politics alone, have their origin at all in the foreign vote of any particular portion of this country.

I agree with everything that the Senator from Virginia said in respect to the authority of the States over this question. It is a question with which Congress, in my humble judgment, has nothing to do; but it is entirely and completely within the power of every State in the Union to say who shall exercise the right of suffrage within that State. I should be very sorry ever to see the day arrive when any other doctrine should prevail. I have certain views of my own in regard to the intelligence of foreigners as compared with the intelligence of many portions of the native-born citizens of the country; but it is not necessary to express them here. I have no disposition, as I have said, to prolong this debate; quite the contrary. I wish this debate brought to a close. I think this State ought to have been admitted long ago. In my opinion we have done her manifest injustice by delaying the question so long as we have done. I rose only to correct the misapprehension of the honorable Senator from Virginia, in supposing that these difficulties grew at all out of the fact that the votes of persons other than citizens of the United States were cast for some of the members of the Minnesota convention.

Mr. BELL. I do not wish to detain the Senate; but, like the Senator from Michigan, I do not desire to be misunderstood. He trusts never to see the day when Congress, or any other power, shall control the right of a State to regulate this question as it thinks proper. That is a general proposition which I had to meet before in the former debate on this subject. I went into examples. The States have a right to admit minors and females if they choose. I never denied it. The single point, whether as the Constitution of the United States has provided that the Congress may enact uniform rules for the naturalization of foreigners, it is in the power of the States to confer citizenship on them. The States may authorize minors of five years of age, if they please, to vote at the elections, and male and female. That is undisputed. The question is in regard simply to the class of residents as to whom the Constitution has made distinct provision, and Congress has prescribed the mode by which they should become citizens of the United States. That is the only exception to the absolute and uncontrolled power of the States to regulate the right of suffrage or say who may be citizens. I said when I was up before that I wished to be understood; that, seeing the views which existed both North and South, I did not propose myself to make it an objection to the admission of Minnesota; still I desire to express my opinion, as I did two years ago, that it was a violation of the Constitution of the United States, and it was a dangerous precedent.

Mr. WILSON. I shall vote most cheerfully, Mr. President, for the admission of Minnesota into the sisterhood of free commonwealths. I am sure no State welcomes her more cordially than

the Commonwealth whose vote I now give. Informalities have occurred; but these informalities have been all rectified by the popular vote freely given—a vote approaching unanimity. Whatever may have been the faults of the representatives of the people in convention, the people gave their sanction to this instrument, and I bow to their will.

I do not however, Mr. President, approve of this portion of the constitution concerning the right of suffrage. Had I been a member of the convention I should have opposed it. Had I been an inhabitant of Minnesota I should have been opposed to it. I should have done all in my power to have required men of foreign birth to have been naturalized before extending to them the right of suffrage. I should have opposed the policy of excluding native Americans who have had the bad taste to be born with African blood in their veins. My voice and my vote would have been given to extend to men born on our own soil, with African blood coursing through their veins, the right of suffrage. Many of them are the descendants of brave and patriotic men who periled their lives and shed their blood to win independence and the liberties we now enjoy—the independence and the liberties which now confer upon us the power to degrade and oppress their race.

The State I represent confers upon men of color the right of suffrage; and she has no reason to regret this act of equal justice. Massachusetts requires a residence of one year in the State; six months in the town where the vote is to be given; the payment of a poll-tax assessed within two years; and she also requires a registry of the person proposing to vote. These requirements secure a ballot-box as pure as the lot of humanity will permit. For nearly a quarter of a century I have annually attended elections. I do not know that, in all that time, I ever saw an illegal vote given, or saw a blow struck, at or about the polls. The votes are taken even in the most exciting contests with quite as much regularity as they are taken in the Halls of Congress.

Naturalized citizens are allowed to vote in Massachusetts. Persons are sometimes naturalized by political parties in order to carry a particular election in some localities. The tendency of this system is to make the persons so naturalized the willing or unwilling tools of parties or individuals. This policy does not tend to the purity of the ballot-box, and much feeling often grows out of it during excited political contests. In order to reform the abuses to which this policy leads, the Legislature has proposed an amendment to the constitution, requiring two years' residence after naturalization. It is believed the adoption of this amendment will tend to secure more personal independence in the voter, for it destroys the immediate motive of the partisan to secure the naturalization of foreigners to carry particular elections—to attain certain results. Parties and party men will hardly engage in the work of hunting up foreign-born inhabitants, and raise money to secure their naturalization, if the votes cannot be given under two years. This is a long while for excited partisans to wait for the results of their labors, especially in these fluctuating times. Everywhere we hear sad stories of the impurities of the ballot-box, which we all regard as the palladium of our liberties. Statesmen, in framing constitutions and laws, should labor to secure equality of rights, and the purity of the elective franchise. But whatever our opinions may be in regard to this portion of the constitution of Minnesota, it is not for Congress, but for the people of that State to decide upon it.

Mr. CLAY. The Senator from Massachusetts, as I understood him, says that if he had been a citizen of Minnesota he would have voted against the provision in her constitution which admits aliens or unnaturalized foreigners to vote, and which excludes negroes born in the country from voting. Inasmuch as he would not have had an opportunity to vote against that provision, because the whole constitution was submitted, and he must take that or no constitution, I will ask him whether he would have voted against the constitution on those grounds?

Mr. WILSON. If I had been a member of the convention I should have voted against it. I cannot say what I should have done if I had been simply a voter in Minnesota; but if I had voted

for the constitution with such a provision in it, I should have done so with the greatest possible reluctance. Circumstances might have been such that I should have voted for it, but my impression is, that if I had been a citizen of Minnesota, I should not have voted for a constitution with such provisions in it. That is my impression now I cannot tell certainly what I should have done if I had resided there, and known all the circumstances of the case.

Mr. CLAY. I do not propose to reply to anything that has been said by the Senator from Massachusetts. I only wish to direct attention to it in order "to point a moral and adorn a tale," which may be written hereafter. I rise now mainly to say that I shall vote against the admission of Minnesota, but not for the reason that she has excluded negroes certainly, nor for the reason that she has admitted unnaturalized foreigners to the right of suffrage, although I disapprove that myself. I concur entirely in what was said by the Senator from Virginia, and his remarks will prevent me from saying some things that I had intended to say. I shall simply remark now, that while I shall vote, perhaps alone with the Senator from Maryland against the admission of Minnesota, I shall do so for different reasons than those stated by him, and for reasons which I assigned in voting against the enabling act at the last session, and which I do not think it necessary to repeat, as I do not suppose they would influence the vote of any other Senator.

Mr. HOUSTON. I have no apology to make for consuming the time of the Senate on this question. I shall vote for the bill admitting Minnesota into the Union; but I shall do so under a solemn protest against some principles contained in her constitution. The provision which authorizes aliens to vote, I think is in opposition to the spirit and letter of the Federal Constitution. Originally the right to naturalize foreigners belonged to the colonies respectively. The power did not belong to the old Confederation; but when the Constitution of the United States was formed, the power to provide for the naturalization of foreigners was given it to Congress, and it was given for the purpose of establishing a uniform rule. The several States at that time delegated to Congress express power to pass uniform laws of naturalization. The States made no reservation of any portion of that power, but gave all to the Congress of the United States. Congress, under this grant of power, has proceeded to pass naturalization laws, and some of the States, in contravention of them, have undertaken to make aliens citizens of the several States, who are not citizens of the United States. Sir, to my mind, it is an absurdity to say that a man can be a citizen of a State, with Federal relations, who is not a citizen of the United States; and that an alien can have a right, by virtue of State authority, to vote for members of Congress and presidential electors, because the State confers upon him the power to vote for the most numerous branch of the State Legislature. I think there is an inconsistency between the power delegated to the Federal Government over this subject, and the power which has been attempted to be exercised by some States. I insist that no man can be a citizen of a State who is not a citizen of the United States. The greater must include the less. The Federal Government being more extensive than a State government, and embracing all the States, must have an overriding power on this subject, under the grant contained in the Constitution. This power is expressly granted to Congress, and hence a State cannot exercise it.

Moreover, to show the inconsistency of it, do you not see at once that if you allow the States to exercise this power, there will be no uniformity. There was not uniformity in this respect before the adoption of the Federal Constitution, and for that reason the power was conceded to Congress to pass naturalization laws which should be uniform in all the States. I admit that a State has the power to restrict and regulate citizenship and to say who shall be citizens, provided the persons whom they admit are citizens of the United States. If the Government of the United States has passed a law for the purpose of naturalization, and has naturalized a foreigner under it, any State can require him to remain in the State for a reasonable length of time before allowing him to exer-

cise the rights of citizenship within that State, but it cannot unmake him as a citizen of the General Government. A man may be a citizen of the General Government though he is not a citizen of any State; but I insist that no man can be a citizen of a State who is not a citizen of the United States. Nor, sir, is the view which I take an infringement of the rights of the States. It merely secures uniformity. This uniformity, I think, is required by the Constitution, which confers upon the citizen of one State the rights and privileges of a citizen in the several States. That harmonizes perfectly with the power of naturalization and makes it uniform.

Again, to allow the States to confer the right of citizenship on an alien, would be unjust to the naturalized citizen. He undergoes a probation of five years before he becomes a citizen of the United States; and, though he be a citizen of the United States, he may not be a citizen of any State; he may be a citizen of the District of Columbia. If a State can allow an alien, after arriving upon our shores, and declaring his intention to become a citizen, to exercise all the rights of a citizen, is it just to the man who has been naturalized under the Federal law? Is it allowable that the States shall have it in their power to confer the privileges of citizenship upon persons who owe no allegiance to the United States? Suppose such a man should go into a foreign country: could he take a passport from the Federal Government? No, sir. Suppose he should be involved in difficulties, so that it would become necessary, if he were a citizen of the United States, to make reclamation for wrongs done to him in person or property: could the United States interpose? could they make any demand on the foreign Government? The Executive has a supervision of our foreign relations; but, if this policy be admitted, a State might involve the Federal Government in difficulties with foreign nations without its consent. I insist that it is not a legitimate act on the part of the States, nor is it within the pale of the Constitution of the United States, for them to undertake to create aliens citizens. It is unjust to the naturalized foreigner; it is unjust to the native-born citizen. What, sir, take an alien, not naturalized, irresponsible to this Government, owing it no allegiance, who cannot commit treason against this Government, who is not a citizen of the United States, and confer upon him the right of suffrage in a State! He may be an incendiary; he may be a deserter; he may commit crimes against this Government; but you cannot punish him for treason. He may coalesce or confederate with an enemy; but he cannot commit treason against this Government, because he is not a citizen of it. Is it proper to invest such a man with the highest prerogatives of a freeman? In monarchies, the head of the Government is the center of power; the sovereignty resides in the person of an individual, and he is supreme. In this country, supreme power resides in the people; it is distributed through them; and every citizen of the United States participates in that sovereignty. I insist that you have no right to invest an alien with any portion of the sovereignty that belongs only to native and to naturalized citizens; and the moment you do it, you go in direct violation of the principles of our institutions, and in the face of the Constitution of the country.

I might present many other views upon this point, but I do not wish to consume the precious time of the Senate. I shall vote for the admission of Minnesota into the Union, but with a solemn protest in behalf of the State I represent, at least, against the principle of authorizing aliens to vote and share the sovereignty of this people. I consider it a usurpation of our rights for any State to attempt to incorporate an alien into the privileged sovereignty of this people.

Mr. JOHNSON, of Tennessee. I do not wish to occupy the time of the Senate, but I desire to say a few words on this subject. The Constitution of the United States provides that Congress shall have power "to establish a uniform rule of naturalization." Of course, when a foreigner comes into the United States, he cannot, until he is naturalized and becomes a citizen of the United States, claim protection of this Government. After being naturalized and becoming a citizen of the United States, it makes no odds where he goes, no matter in what part of the globe he may be, he can

claim the protection of the United States. We have a striking illustration of this in the Koszta case, where Mr. Marcy gave an able opinion that when an individual had only declared his intention to become a citizen, the United States took cognizance of the case and gave him protection. We see, then, the importance of becoming a citizen of the United States, though the individual may not have the privileges conferred upon a voter in any one of the several States. But it seems to me we run the thing into confusion; it may be that I am confused myself. The Constitution further provides:

"The citizens of each State"—

not of the United States—

"shall be entitled to all privileges and immunities of citizens in the several States."

Now what has that to do with conferring upon a foreigner the privilege of going into any one of the sovereign States and voting, unless he possesses the qualifications required by that State? I think one meaning of that clause of the Constitution is this: it was intended to prevent the States from discriminating between each other. For instance, take North Carolina; it was intended that she should not pass a law conferring privileges upon the citizens of New York or Pennsylvania that the citizens of the other States would not be entitled to exercise upon coming into her borders. It is to prevent one State from discriminating between citizens of the different States; in fact, it has no reference to a citizen of the United States. It was to prevent Tennessee, for instance, from passing a law saying that Massachusetts should not bring her articles into Tennessee, and that Pennsylvania might bring hers. This provision of the Constitution covers the case, and provides that the citizens of Pennsylvania and Massachusetts coming into Tennessee shall exercise privileges alike. It does not say that they shall come into Tennessee and exercise all the privileges of citizens of Tennessee in reference to voting, or anything else, but that they shall be treated alike in Tennessee if they go there.

The distinction is clear. There are many reasons why a man may be a citizen of the United States, and strong reasons, too, and yet not be admitted as a qualified voter of a State. This provision of the Constitution is often quoted inaccurately, and still more inaccurately understood. It is said that citizens going out of their own State are entitled to all the privileges and immunities of citizens of the State to which they go. That is not the Constitution, but it is that citizens of the different States shall all exercise the same privileges in a State into which they may go. So we see that does not cover the idea now presented, that if a citizen of the United States emigrates into one of the States, he is entitled to go to the polls and vote, unless he has the qualifications prescribed by that State.

There were scarcely any two States composing the Confederacy at the formation of the Government, in which the qualification of voters was exactly alike. This shows that it was not intended to bring about uniformity. Some States required a man to be a freeholder; others required a certain amount of personal property. The States even differed as to the age at which persons should be qualified to vote. But if the doctrine now advanced be true, when a man is once a citizen of the United States, every State into which he goes is compelled to let him vote, regardless of every other qualification which its laws may prescribe.

Upon this point I will say that I am not in favor of admitting everybody to vote without the requisite qualifications; but I desire it to be distinctly understood, at the same time, that I do not sanction the doctrines which are promulgated by a party that recently sprang up in the country and has as rapidly passed away. I disclaim all power on the part of the Congress of the United States to interfere with the right of a State to fix the qualification of its voters; and although I might object to the qualification fixed in the constitution of Minnesota, that is a matter to be determined, not by Congress, but by the people of Minnesota. Repeating the language of my honorable friend from Texas, but making a somewhat different application of it, I hold the doctrine that power resides with the people, and it is for the people of each State to fix the qualifications of voters in

that State, and not for the Congress of the United States.

A great deal has been said in reference to foreigners. Some of them are unfortunate; some of them drift upon our shores, and they are not exactly the description of population we should like; but it seems to me that we might find a better, a higher, a loftier theme on which to let forth our eloquence than to abuse and appeal to the prejudices of the country about a few foreigners who may come to our land. The whole idea seems to be that if they were kept here twenty-one years in a degraded condition, degraded from the fact of being excluded from the exercise of the privileges of a citizen, you would thereby improve them and qualify them much better to go to the ballot-box. Mr. President, when you examine the true philosophy of that question, the converse of that proposition is precisely true. Your naturalization law, as it now stands, cannot be much bettered. It requires a man to file his declaration of intention three years before he becomes a citizen, and he must remain in the United States five years; he must furnish proof before one of the courts of the country that he is a man of good moral character; that he is attached to your institutions, and to your republican form of government. He must give such evidence of his attachment to the country, and of his moral character, as the court will be satisfied with, and upon being satisfied with it, the court administers to him the proper oaths, and he becomes a citizen of the United States. If a man, coming into this country, cannot show to your courts that he is of good moral character, that he is devoted to the institutions of your country, if he is a bad man, if he is an immoral man, if he is in favor of despotism and opposed to the institutions of this country, is not five years long enough to keep him here? Oh! no, say this new party, let us keep him twenty-one years. I say that as soon as a man can furnish evidence that he is qualified to become a citizen, both as to his character and his devotion to our free institutions, the better for him, and the better for the country to let him be a citizen. Five years is too long to keep a bad man; twenty-one years is a great deal worse. Instead of keeping them here twenty-one years before they should become citizens of the United States, the true doctrine would be to compel them, in five years, to show that they were men of good moral character, devoted to the institutions of the country, and fit to become citizens, and if they are not, they should leave the country. I would make them citizens at the earliest moment. There is really nothing in the question of time when squared by sound philosophy. One man may remain here one hundred years and never be qualified, while another, from a knowledge of your institutions, from an admiration of your government, from his good moral character, may be qualified for citizenship the instant he places his foot upon our shores. I think the five years fixed by the naturalization laws now is a reasonable time, and gives an opportunity for the ascertainment of the fact upon which the issuing of his naturalization papers depends. That fact is that he is of good moral character and devoted to the institutions of the country, and when the court is satisfied of that fact with reference to any man, I say let him become a citizen; and if he cannot show that he is fit to become a citizen at the end of five years, that is long enough to keep him here.

I shall vote for the admission of Minnesota into the Union, because I believe her constitution, taking its leading features, is republican in its character; and considering that all power resides with the people, it is for them in their own States, and not for Congress, to fix the qualification of their voters.

Mr. BROWN. I wish to express my concurrence in the main views of the Senator from Texas. I think his position exactly right. He votes for the admission of Minnesota, with a protest against the improper features of her constitution. I join in that protest; and if I had the slightest dream that my vote was to be construed into an indorsement of the constitution, I would withhold it, or put it upon the other side. But I desire to ask the Senator from Texas whether he approves of that other remarkable feature of this constitution, upon which he did not comment, which grants to Indians who have adopted the habits of civilization the right of suffrage. My friend is the

especial champion of the aboriginal tribes here, and whenever you strike an Indian you seem to make a personal issue with my friend.

Mr. HOUSTON. The gentleman has not been suspected of striking at Indians himself. Though he lived in their neighborhood, I always understood him to be very kind to them. I will assure him that I do most cordially approve of the provision. I think it very important. I will barely remark that those Indian tribes who had opportunities of organizing themselves into communities, are quite as civilized and as well regulated as we are ourselves, and I think it well to encourage them whenever they evince a disposition to become civilized and Christianized.

Mr. BROWN. That is well enough as a sort of general reply; but the language of the Minnesota constitution is that Indians who have adopted the habits and customs of civilization shall be allowed to vote. That kind of phraseology, it seems to me, lets in all the Indians of the country. All you have to do is to catch a wild Indian in all Minnesota, give him a hat, a pair of pantaloons, and a bottle of whisky, and he would then have adopted the habits of civilization, and be a good voter. [Laughter.] Whole tribes will be carried up to vote in this way.

Mr. HAMLIN. That is the way they did vote.

Mr. BROWN. The Senator from Maine says that is the way they did vote. This, however, is the business of Minnesota, not mine. I think it all wrong; and if I had any power to correct it, or any right to interpose, I would do so. This feature of her constitution is infinitely more objectionable to me than that one which tolerates foreigners in exercising the right of suffrage. I agree with the Senator from Texas, and other Senators, that men who have not taken the oath of allegiance to the Government, ought not to participate in its elections, State or national; but I would much rather—and there I differ from the Senator from Texas—give to the least gifted of those who come to our shores, or, in the language of the Senator from Tennessee, who are drifted here, and the least educated of them, the right of voting after they get here, than to confer the same right on these breechless savages, who are made to adopt the habits of civilization, in the language of this constitution, on the day of election, by putting on the garb of white men, to be doffed the hour after the election is over.

But I know of no way by which you can correct this evil; I know of no authority in Congress to strike this clause from the constitution; and if you had the power to do it, I know enough of the relations existing between the Federal and State governments to know that, if Minnesota is in love with it, she can put it back to-morrow, and then, being entirely independent of the action of Congress, it would remain there. I simply content myself, therefore, with protesting against it, and protesting that no one is to assume that I indorse it when I vote to admit this State into the Union.

While I do not concur in the reasoning of the Senator from Texas, I do concur in his main conclusions. I think that a State may authorize a foreigner to vote without his being naturalized; I think a State may authorize a civilized Indian to vote; but certainly it is going a great way to assume that when he has simply adopted the habits of civilization, you are to allow him to vote, without defining what shall be considered an adoption of the habits of civilization. If he is not taxed, you cannot enumerate him; you cannot even count him in making up the sum of population; and yet he can vote. You give him the right of suffrage, and you do not even enumerate him as one of the population of the State. That is carrying the thing a great way. But if he is a foreigner inhabiting the country, you must enumerate him; and if the State chooses, it may confer on him the right of suffrage; but the right conferred in Massachusetts cannot be carried by the same man to Virginia, unless he has taken the oath of allegiance. It is a citizenship of the United States, and not of a particular State, that confers on him the right of suffrage. If he be a citizen of the United States, then he may be a citizen of any one of the States, and must stand upon the same footing in Virginia that a native son of Massachusetts would stand.

I understand that clause of the Constitution

quoted by my friend from Tennessee, to mean that Virginia cannot make a distinction between the adopted and native-born citizens of Massachusetts; that she cannot confer a privilege on the Senator from Massachusetts, and deny the same privilege to a citizen of that State, who has been naturalized under the laws of Congress, though he was born in France, or Spain, or Ireland. If he be a citizen of the State, without regard to birth, he carries with him all the privileges of any other citizen. No distinction is to be made in Virginia between citizens of Massachusetts, of native or of foreign birth. That is what I understand by it. In other words, Virginia cannot say that the native-born citizens of Massachusetts shall vote, and that the adopted citizens, if they are citizens of the United States, made so under the act of Congress, shall not vote; but if they be simply and alone authorized to vote by the laws of Massachusetts, then they do not carry that local right to any one of the other States: that is not being a citizen. The right of voting and the rights of citizenship are two things separate and distinct. The right of suffrage does not necessarily involve the right of citizenship. The right of citizenship does involve the right to vote, because that is a right which belongs to every citizen, and cannot be taken from one class and denied to another class—that is all. You cannot deny the naturalized citizen the right of suffrage, and give it solely to the native citizen—I mean, of course, as a general rule. One single State might do it, but still that naturalized citizen, if he went to any other State, would not carry with him that disability to the State in which he went. It is a disability which simply attaches to him in his locality.

Mr. STUART. If I understand the Senator from Mississippi—and I really wish to understand him on this point—I quite agree with him. My position is, that every State has a right to say who shall exercise the right of suffrage.

Mr. BROWN. Certainly.

Mr. STUART. Now, sir, if a man is a citizen of the United States by naturalization, and has certain rights in Massachusetts, he does not carry with him into Mississippi any of those rights, unless Mississippi chooses to give them to him—I mean the right of suffrage. Mississippi may say that, of the two men going from Massachusetts, one a natural-born citizen, and the other a naturalized citizen, the one who is a citizen by birth may vote in Mississippi; and the other, who is a naturalized citizen, shall not. I think it is competent for Mississippi to say so.

Mr. BROWN. Then we differ. I hold that, if they are citizens, you have no right to apply the rule; otherwise, it will not make them equal. But they must be citizens of the United States. As to what may constitute, in the technicalities of local law, citizenship in a State, that is a different matter. But when a man is a citizen of the United States, native-born or naturalized, I hold, if he and a native-born citizen pass from one State into another, the State into which they go has no right to make distinctions between them on account of their birth. That is my doctrine. If they are citizens of the United States, one native-born and the other adopted according to law, and pass from Massachusetts to Virginia, I maintain that Virginia cannot then make a distinction between them. She must treat them alike.

But I did not rise to discuss the question. I only wanted to sound my friend from Texas, and I am sorry I have been betrayed an inch beyond that—to know what he thought of letting Indians vote.

Mr. HOUSTON. I simply say to my friend from Mississippi that it is fortunate that he and I arrive at the same conclusion, though I may not arrive at it by the same process that he does. Some men jump to conclusions, others have to travel laboriously. I may travel rather slowly to my conclusions, but I think I have arrived at a correct result. The Senator objects to my reasons, but as he approves the conclusion, I shall not quarrel with him at all.

Now, sir, as to the question which he has raised in regard to the Indians. I have no disposition to make it a subject of remark at this time, or to connect it with this bill. The constitutional power of a State to allow Indians to become citizens has, I think, never been denied, and therefore it is not necessary to discuss that point. I think

they can be admitted to all the rights of citizenship without difficulty, but I have no idea that aliens can be. I think the people of Minnesota are competent judges to decide whether the Indians living with them are fit associates for them or not in the exercise of political power. If they are reconciled to it, I certainly am. If the constitution requires them to assume the habits of civilization before they can vote, the people of Minnesota can determine whether or not they are the proper subjects of the benefit which this constitution confers upon them. Having opportunities of daily intercourse with them, doubtless they can determine whether they are such persons as ought to vote, or it will be in the power of the Legislature at any time to specify particularly the qualifications requisite to enable an Indian to vote. I can see no impediment that that feature presents to the admission of the State.

But my friend from Tennessee remarks that there was a fuss made about foreigners, and he spoke of a political party which had risen and passed off very suddenly. If he lives as long as I have done in the world, and witnesses as many political events as I have, he will see that there is no party entirely permanent. Parties are always passing in and passing out. Whether the present condition of matters is to stand, I will not venture the speculation; but I think, when he has lived as long as I have done, he will find many changes taking place. I have no doubt that changes are in progress now, if we could only comprehend them; we may suspect them, though we cannot see them; but time will develop them. Notwithstanding what he has said, I do not believe I have before heard the word foreigner repeated in the Senate for some time; and, though the Senator's remark seemed to apply to me, I certainly made no allusion to foreigners, that I recollect, in anything that I said this morning. I only said that it was unjust to foreigners who have been naturalized to require of them the probation necessary for them to become citizens of the United States, if you allowed the States to admit others to the privileges of citizenship without any probation at all. I said nothing derogatory to them; I spoke of aliens as aliens, and I spoke of naturalized citizens as citizens, and as sharing a portion of the sovereignty of the people of the United States and of this Government; but I do not think, and I cannot believe, for one moment, that it is necessary or proper to admit foreigners, right off hand, to all the privileges of citizens. I cannot see any advantage in it. The Senator from Tennessee thinks that even a shorter period than now required, a very short period, would be long enough for them to be changed from subjects of a foreign Government to citizens of this country. Now, sir, I should like to know to what tribunal he would refer them for the adjudication of their qualifications as citizens; for thousands of them, even in my own State, cannot speak the English language and cannot read anything printed in English. How would he determine as to their qualifications? Would it not require a very tedious and laborious examination to ascertain whether they understood the Constitution of the United States, all the laws of the State of Texas, the rights of person and property, and all other things necessary to be understood, to be good citizens. Persons reared in the United States, who have but ordinary opportunities, generally have a general comprehension of these subjects, though they may not be familiar with all the details. I think five years short enough, and if the period were four times as long, I do not think it would be too much.

It is no degradation or reflection on a man that you do not allow him to vote at the polls. A foreigner, as a general thing, is elevated when he comes here; he is benefited in his circumstances; he is improved in his social condition; he is permitted to labor, and to enjoy the fruits of the labor of his hands, without burdensome or oppressive taxation; his rights are vindicated as well as if he were in the most eminent position in society; and he derives actual benefits from his migration to this country. If he is a decent man he can live very well without voting; and if he is not a decent man, the result of allowing him to vote is that he can get a little drunker than he otherwise would if he comes to the polls, and is pulled by the sleeve, and solicited to vote for this or that ticket. The

privilege of voting is very unfortunate to many foreigners who come here. If they were permitted to toil in their shops or labor upon their farms upon election day they would be much better off than by being dragged to elections, and getting involved into difficulties there, squandering their means and getting intoxicated. The longer you postpone them the greater blessing it is to them, unless where the voting places are very convenient to them. I do not think it is degrading to a man not to allow him to vote. I have seen men of high respectability and position in society who never voted because they did not like the candidates; and it is so at every election within my knowledge. You can always find some individuals who will not exercise the right of suffrage. What is the necessity of forcing it on people who have not required it? There has been no demand here from foreigners for the privilege of voting that I have ever heard of. I never heard that they complained of it as a badge of degradation that they were not permitted to vote. No, sir; the clamor arises from other motives and other feelings, and it is made by other persons—by those loving patriots who wish to vindicate their rights, and whose philanthropy overflows the land. They are the persons who involve foreigners in these matters. I have had many connections with foreigners, and I have found them as gentlemanly as native-born citizens; but I have no opinion of those who are unprepared and unqualified to exercise without restraint the rights of citizenship. I will not concede to such men the day after they arrive upon our soil the highest privilege that is accorded to our best men, to men "who are native, and to the manner born." But, Mr. President, I do not wish to occupy the time of the Senate.

Mr. CRITTENDEN. Mr. President, it has been long since I adopted it as a lesson learned from the party with which I have heretofore acted, that we have only a right to look into this constitution for the purpose of seeing whether it is republican in its form. That question was debated at the time of the admission of Missouri, in the year 1820. Those who were in favor of the admission with the constitution which she presented, all contended that the true doctrine of the Constitution of the United States was that we had no right to interfere with the provisions of a State constitution, except simply to perform what was regarded as the only Federal duty—that of seeing that the form of government was republican. That opinion, I confess, I do not now entertain as strongly as I have done, but I will not quit it upon this occasion. It has been my guide on subjects of this kind for a long time; but, as I have said, I do not entertain it so strongly now as I have done heretofore. Still, I will not make this the occasion of departing from it. I shall reserve to myself, however, the right of doing so hereafter. Guided by this principle, then, I look at the constitution of Minnesota to see whether it is republican in its form, and find that it is. If I could be permitted, or thought it my duty now, an absolute duty, to look into all the provisions of this constitution, I should vote against it, for the reasons assigned by my friend from Maryland, [Mr. KENNEDY.] The idea of a State having a right to make a citizen of the United States, is, to my mind, perfectly untenable. I will not pretend to argue it, simply because it has been argued already to a demonstration by one of the greatest constitutional lawyers, and certainly as great a logician as ever sat in this body, Mr. Calhoun. If Mr. Calhoun's speech does not establish the proposition, I am sure no force will be added to it by my attempting to repeat his arguments. A State has no right to make a citizen of the United States; and it would be strange if she had a right to make an agent whose agency was to affect every State in the Union and the General Government.

Sir, my friend from Mississippi [Mr. BROWN] seems to think that although a State may not have the constitutional capacity to make a citizen, she can yet confer the right of suffrage within her own limits upon one who is not a citizen of the United States. I am sure if he will, with the candor and judgment that generally distinguish him, reconsider that matter, he will himself abandon such an opinion. Suffrage is the great element of citizenship; it is the great right which citizenship confers. If a State has no right to confer citizen-

ship, I say it has no right to give a single particle of political power to any who are not citizens of the United States. They must be citizens before they can vote. The right to vote is inseparable with the right of citizenship. There may be a citizen who has not always the right to vote wherever he may happen to be. The States may very well add, as they do everywhere, provisions auxiliary to the proper exercise of this general right of suffrage to an American citizen. They may regulate it by requisitions for residence, for the payment of taxes, any local provision of that sort; but they have no authority to confer the right of suffrage on any one not a citizen. That is reserved as the great distinguishing right of the American citizen, whether he has become such citizen by birth or naturalization.

Sir, I design these remarks simply to explain the only ground on which I could possibly vote for the admission of this State, that such vote would be consistent with my action all along, and the opinions which I entertain, opinions which I say have been very much shaken on this question; but I will not make this the occasion of departing from my ancient line of conduct on this subject.

Mr. GREEN. I do not deem it necessary to go into a discussion of the constitutional points on which we may all differ. In the practical matter before us, I believe there is a general coincidence—shall we admit Minnesota or not? and coinciding in that, let us leave out these abstract points upon which we have no right to act; and as we have no right to act, I very much doubt our right to promulgate opinions upon them. I therefore hope we shall have the vote.

The question being taken by yeas and nays, on the passage of the bill, resulted—yeas 49, nays 3; as follows:

YEAS—Messrs. Allen, Bell, Biggs, Bigler, Bright, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Evans, Fitch, Fitzpatrick, Foot, Foster, Green, Gwin, Hale, Hamlin, Hammond, Harlan, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Mallory, Mason, Polk, Pugh, Sebastian, Seward, Simmons, Sliedell, Stuart, Sumner, Thomson of New Jersey, Toombs, Trumbull, Wade, Wilson, and Wright—49.

NAYS—Messrs. Clay, Kennedy, and Yulee—3.

So the bill was passed.

EXECUTIVE SESSION.

Mr. HUNTER. I move to postpone all prior orders, and go into executive session.

Mr. GWIN. I hope the Senator will let the next special order be taken up, and then he can make his motion.

Mr. DOUGLAS. I move now, as we are in the humor of admitting States, that we proceed to the consideration of the bill to admit Oregon as a State. My object is to leave it as the unfinished business.

Mr. PUGH. I hope the Senator from Illinois will not press that motion. I consider myself under honorable obligations to vote to take up the Pacific railroad bill next.

Mr. HUNTER. My motion was to proceed to the consideration of executive business.

Mr. GWIN. I hope not. I ask for the yeas and nays on that motion.

The yeas and nays were not ordered.

Mr. MASON. The honorable Senator from Illinois, the chairman of the Committee on Territories, I think not more than two days ago, or perhaps three, offered the bill for the admission of Oregon. I am not aware that the bill has been printed; I certainly have never seen the bill, or the constitution of Oregon; and I would submit to that honorable Senator whether it would not be decorous to give us a little time to see what the people of Oregon propose as to the form of government, and see what their population is, and to learn something about it before it is brought into the Union.

Mr. JOHNSON, of Arkansas. I rise to a question of order. The motion that is before us is to go into executive session, and the Senator debates the Oregon question. I object.

Mr. MASON. I am done.

The motion was agreed to; there being, on a division, yeas twenty-six, noes not counted; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 7, 1858.

The House met at twelve o'clock, m. Prayer by Rev. SAMUEL ROGERS.
The Journal of yesterday was read and approved.

PAYMASTERS' CLERKS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting the petition of the paymasters' clerks of the Army, for increase of pay; which was referred to the Committee on Military Affairs.

ARMY CONTRACTS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, with accompanying papers, in answer to the resolution of the House of the 5th April, 1858; which were read, and are as follows:

WAR DEPARTMENT,
WASHINGTON, April 6, 1858.

SIR: I have received the resolution adopted by the House of Representatives on the 5th instant, calling for "a full and minute statement of all contracts made in connection with the Utah expedition; the names of the persons with whom such contracts were made, and also the prices paid, or to be paid, for horses, mules, corn, and all other articles furnished for said expedition; the places where the horses, mules, &c., are to be delivered, and the prices to be paid for transportation of all such supplies; also, designating what contracts, if any, were made without public notice or advertising; and, if advertised, in what modes and at what places."

In reply, I have the honor to transmit herewith reports from the Quartermaster General and Commissary General of Subsistence, which give the information desired, so far as it is in the possession of this Department.

A quartermaster has been sent to Fort Leavenworth, with directions to purchase the requisite number of mules for the Army, at the lowest market price. What progress he may have made in these purchases, this Department is not, as yet, informed.

Very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

Hon. JAMES L. ORR, Speaker House of Representatives.

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON CITY, April 6, 1858.

SIR: I have the honor to inclose a statement, in tabular form, made under your orders, in answer to a resolution of the House of Representatives, adopted on motion of Mr. LOVEJOY, on the 5th instant, containing the information sought for by it so far as it can be obtained in this office.

The only contracts that have been made for articles and supplies this year for the Utah expedition, or for their transportation, as far as it is known to me, are noticed in this statement, and the only notice or advertisement inviting bids for contracts that has been published, is the one calling for proposals for the transportation of supplies from depots on the Missouri river to Utah, and the posts in New Mexico, Kansas, and Nebraska. That advertisement was published in the following papers: the Kansas Herald, (Leavenworth, Kansas Territory;) Plate Argus, (Weaton, Missouri;) St. Joseph Gazette, (St. Joseph, Missouri;) Liberty Tribune, (Liberty, Missouri;) Western Dispatch, (Independence, Missouri;) American Citizen, (Lexington, Missouri;) Glasgow Times, (Glasgow, Missouri.)

Although only one printed notice calling for bids was given, yet it is proper to state that twenty-seven written propositions to sell horses and mules for the public service have been received at this office.

Very respectfully, your obedient servant,

T. H. JESUP, Quartermaster General.

Hon. J. B. FLOYD, Secretary of War, Washington, D. C.

Schedule of prices per hundred pounds per hundred miles to be paid to Russell, Majors & Waddell, contractors for transportation of military stores and supplies, under an agreement between Major General Thomas S. Jesup, Quartermaster General of the United States Army, on behalf of the United States, and the said firm of Russell, Majors & Waddell, bearing date at Washington city, on the 16th day of January, 1858.

Names of posts, or places from which stores are to be taken up.	Periods of starting from points mentioned in the agreement above referred to, and rates of payment, except on hard bread, bacon, pine lumber, and shingles, provided for in article eight of the agreement.							
	January 1 to February 28.	March 1 to 31.	April 1 to 30.	May 1 to July 31.	August 1 to 31.	September 1 to 30.	October 1 to 31.	November 1 to December 31.
To Fort Kearny and intermediate posts.....	\$3 55	\$2 90	\$2 00	\$1 35	\$1 50	\$2 00	\$2 90	\$1 00
To Fort Laramie and posts beyond Fort Kearny.....	3 55	2 90	2 00	1 35	1 70	2 00	3 00	4 50
To Great Salt Lake City, or depot in Utah, and point beyond Fort Laramie.....	4 00	2 90	1 80	1 80	1 80	2 20	3 00	4 50

The above tabular rates to govern for all transportation not exceeding in the aggregate ten million pounds, and for the first additional five million pounds, or any part thereof, they shall be paid at the rate of twenty-five per centum advance on these tabular rates, and for all over and above said fifteen million pounds which they may be required to transport under this agreement, an advance of thirty-five per centum on these tabular rates shall be paid the contractors.

Statement of all contracts and purchases of supplies made by the subsistence department in connection with the "Utah expedition," the names of the contractors, and of the persons from whom purchases were made, and the prices to be paid under contracts, and the prices paid for supplies purchased, together with the places at which the supplies contracted for and purchased are to be delivered.

CONTRACTS.

On the 23d of February, 1858, a contract was made with Robert S. Armistead and John W. Reid for furnishing beef cattle, (unworked steers,) as follows:

At Fort Leavenworth, Kansas Territory, two hundred and fifty head, by April 1, 1858, at \$6 per one hundred pounds, net weight.

At Fort Kearny, Kansas Territory, five hundred head, by 20th May, 1858, at \$7 per one hundred pounds, net weight.

At Fort Laramie, Nebraska Territory, seven hundred and fifty head, by 15th June, 1858, at \$8 per one hundred pounds, net weight.

At Salt Lake City, Utah Territory, one thousand five hundred head, by 15th August, 1858, at \$10 50 per one hundred pounds, net weight. This contract was entered into without public notice, after which the contractors proceeded to execute it, but finding the prices inadequate, as they alleged, and declaring their inability to comply with its terms, petitioned the department to be released, which was granted, and a commissary immediately ordered to make the purchases in open market.

In March, 1858, a contract was entered into with Russell, Majors & Waddell, for furnishing "beef cattle," (oxen from the trains,) as follows:

At Great Salt Lake City, or vicinity, Utah Territory, three thousand five hundred head, between 1st October, 1858, and 1st January, 1860, at \$7 50 per one hundred pounds, net weight. This contract was made without public notice.

PURCHASES.

Purchases made at St. Louis, Missouri, as follows, in February, 1858:

Of L. E. Forsyth, 5,478 bushels "white navy beans," at \$1 25 per bushel.

Of McEnnis & Co., 1,200 bushels "fine salt," at 40 cents per bushel.

Of E. Schneider & Co., "solar sperm candles," (no quantity named,) at 24 cents per pound.

Of E. Schneider & Co., extra No. 1 soap, (no quantity named,) at 54 cents per pound.

Of J. H. Garnhart, 34,000 gallons of "clarified cider vinegar," at 44 cents per gallon.

Of Belcher's Sugar Refining Company, 525,000 pounds (more or less) refined white sugar, at 94 cents per pound.

Of D. A. January & Co., and William M. Morrison & Co., 175,000 pounds "prime coffee," (part purchased of each firm,) at 104 and 114 cents per pound.

Of W. L. Ewing & Co., 84,000 pounds of rice, at 44 cents per pound.

Of John J. Roe & Co., 1,088,000 pounds of "city-cured clear bacon sides," at 10 cents per pound.

Of J. and E. Walsh, 10,000 bags extra flour, (100 pounds each,) at \$3 25 per bag.

Of George Pegram, from 1,000 to 20,000 sacks of extra St. Louis flour, of 100 pounds each, at \$3 25 per sack.

The above purchases were made from proposals under advertisement.

The following supplies have been ordered to be purchased in New York and forwarded, as follows, January 18, 1858: Forty-one thousand rations, "mixed vegetables," to Fort Leavenworth, for "troops on march to Utah."

Thirty-five thousand rations, "mixed vegetables," and 6,000 rations "desiccated potatoes" to Fort Kearny, for "troops on march to Utah."

Forty-four thousand rations, "mixed vegetables," and 18,000 rations "desiccated potatoes" to Fort Laramie, for "troops on march to Utah."

On the 28th January, 1858:

Six hundred thousand rations, "mixed vegetables," and 255,000 rations "desiccated potatoes" for Utah.

The desiccated vegetables have been, or will be, purchased from Cassin, agent of Chollet & Co., but the prices have not yet been reported to the department. It is supposed, however, that they will not cost more than one cent per ration.

A. E. SHIRAS,

Captain, Acting Commissary General Subsistence.
OFFICE COMMISSARY GENERAL SUBSISTENCE,
WASHINGTON, April 6, 1858.

Statement showing the contracts made in connection with the Utah expedition, their dates, the persons with whom they were made, the articles contracted for, the prices to be paid, and the places of delivery; prepared in answer to a resolution of the House of Representatives, adopted on the 5th of April, 1858.

Date of contract.	With whom made.	Articles contracted for.	Price to be paid.	Place of delivery.
Feb'y 10, 1858	A. M. White & Co.	150 army wagons	\$141 each	Pittsburg.
" 13, "	Beggs & Rowland	50 do.	141 "	Philadelphia.
" 24, "	Neil McAlwayne	50 do.	140 "	Pittsburg.
	Philip Dorn	50 do.	135 "	Cincinnati.
	W. H. Talbott*	100 do.	140 "	Saint Louis.
March 2, "	R. H. Hartley & Co.	100 sets harness complete for 6 mules	49 20 per set	Pittsburg.
" 18, "	J. W. Singleton & Co.	1500 cavalry horses	159 each	Fort Leavenworth.
" 1, "	Pacific Railroad Company.			
Jan'y 16, "	Russell, Majors & Waddell.			

* The terms of the contract awarded to Mr. Talbott were understood and agreed upon, but as he failed to execute it and give bonds for its fulfillment, the same number of wagons was ordered to be made in Philadelphia, by the consent and authority of the Secretary of War, at \$141 each.

† The exclusive transportation by railroad and steamboat of all the troops and military supplies, except such as may be transported by Government steamers from Saint Louis to Fort Leavenworth, or such other point or points on the Missouri river as may be selected for temporary depots, has been given to this company. The company is to be paid for the transportation of officers and troops to Fort Leavenworth at the rate of \$12 for each officer, and of \$6 for each enlisted man, laundress, or officer's servant; and for all supplies, the current rates charged by steamers on the Mississippi river at the time of shipment. The time fixed for the delivery of troops or supplies at Fort Leavenworth or Atchison is five days, and at Table Creek seven days, under a forfeiture of twenty per cent. on the entire amount of freight that may be due on the shipment.

‡ For the transportation of all military supplies required in Utah, or at the posts on the route to Utah, at rates shown by the tabular statement herewith. The greater part of the supplies will be forwarded during the months in which the lowest rates govern.

TIL. S. JESUP, Quartermaster General.

QUARTERMASTER GENERAL'S OFFICE, April 6, 1858.

Mr. FAULKNER. I move that the communication and accompanying documents be laid upon the table, and printed.

Mr. LOVEJOY. Has the contract for beef been read?

The SPEAKER. Everything has been read. Mr. LOVEJOY. I want to make a statement in regard to it. That contract is no contract at all. It has been annulled.

The SPEAKER. It is so stated in the papers.

Mr. LOVEJOY. Then I want to say that another contract has been made with Russell, Major & Co., which has not been communicated to the House. I saw it yesterday.

The SPEAKER. That is stated in the papers.

Mr. FAULKNER's motion was then agreed to.

So the communication and accompanying documents were laid upon the table, and ordered to be printed.

EXPLORATION OF THE AMOOR RIVER.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Department of State, transmitting the explorations of the Amoor River.

On motion of Mr. SCOTT, the communication was laid on the table, and ordered to be printed.

WASHINGTON POLICE.

Mr. GOODE. I rise to ask the unanimous consent of the House to allow Senate bill (No. 232) on the subject of a police force for this city, to be taken up, and referred to the Committee for the District of Columbia, with leave to report at any time, with the understanding that when it is reported back to the House, it shall be referred to the Committee of the Whole on the state of the Union, to come up when the House bill is taken up for consideration.

Mr. STANTON. That is right; but I desire to make a suggestion in connection with it. An amendment has been introduced by my colleague, [Mr. LEITER.]

Mr. SEWARD. I object to the request of the gentleman from Virginia.

Mr. GOODE. Then I ask that the bill be taken from the Speaker's table, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SEWARD. I object.

CLERKS FOR UNITED STATES COURTS.

Mr. PHILLIPS. I ask the unanimous consent of the House to introduce a bill providing for the appointment of clerks for the district and circuit courts of the United States.

Mr. WASHBURNE, of Illinois. I object.

HOUR OF MEETING OF THE HOUSE.

Mr. WARREN. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That when this House adjourns, it adjourn to meet at ten o'clock, a. m., on to-morrow, and that the future meetings of this House, during the present session of Congress, shall be ten o'clock, a. m., unless an earlier hour be determined on by the House.

Mr. MAYNARD. I object.

in the chair,) and resumed the consideration of the

DEFICIENCY BILL,

on which general debate was closed—Mr. LETCHER, who reported the bill, being entitled to the floor to make a closing speech.

Mr. LETCHER. I regret that the hour allowed to me under the rules of the House is not at all sufficient to enable me to reply to various objections made to the provisions of this bill. I shall therefore be compelled, in a great measure, to confine myself to some of the most prominent features of the bill, and to present my views upon them, even if I should be denied the privilege of devoting any time to others, that I regard as less material.

I feel, sir, that myself, and the committee with whom I act, are placed here in a very embarrassing position, by the course adopted in this discussion. We have been fired upon from our own side of the House in some half dozen speeches—some against all the provisions of the bill, others against some particular provisions of the bill, and others against other provisions of the bill; but all seeming to concur in the conclusion that unless the bill, in every provision, can be made exactly acceptable to each of them, he is prepared to vote it down, and to leave the Government without the means of carrying out the policy which it has inaugurated.

My friend from Tennessee, [Mr. JONES,] who opened the discussion, occupies the ground of general opposition to the whole of it. He takes the ground that deficiency bills are improper and that they ought not to be allowed; and he and others, on the same side of the House, follow that up with the declaration that they are used by an Administration for no other purpose than to secure the adoption of its views, although Congress might have been originally opposed to them. He opposes it, also, on another ground: that it contains a provision which anticipates \$3,000,000, in the way of expenditures for the coming twenty months, to be applied to the prosecution of the war in Utah; and he asks whether we have not strained the Constitution in introducing such a provision here? I maintain, sir, that we have not strained the Constitution; that we have, neither in spirit nor in letter, violated any one of its provisions; and that there are overwhelming considerations of propriety which operated on the Administration in making the recommendation, and which ought to operate on this House in adopting it.

For the last two or three years there has been a general complaint in both Houses of Congress, and throughout the country, that the late Administration had not performed its duty in allowing the Territory of Utah to be managed by officials entertaining the abominable sentiments and principles that characterize that people; and we have been told over and over again that it was the duty of the Administration to remove these officials, and to substitute others in their stead, to whom the administration of this territorial government should be committed. When this Administration came into power, these complaints were general everywhere. They came up from the country as they had been previously made in Congress. One of its very first acts, after its inauguration, was to consider this subject, and to commission new officers, who should go to Utah, and who were not liable to the same objections which were charged upon those holding official positions. For the purpose of escorting these officers to the Territory, and with no view of commencing any aggression whatsoever upon that people, but for the purpose of having at hand the means of protecting them in entering upon the discharge of their duties, the President accompanied them by a military escort of something like eighteen hundred men.

This, sir, was not a matter which was anticipated when the last Administration went out of power. It was not provided for in those estimates. There were no recommendations for transportation, for subsistence, for supplies, or for any other expenses which were incident to this movement upon the part of this Administration. These troops were sent to Utah, and they had to be furnished, as a matter of course. Now, sir, the Administration desire, as these troops are there, and as their policy has been indorsed by this House in a resolution which has been adopted by this body,

SURVEY IN NEW MEXICO.

Mr. OTERO. I ask the unanimous consent of the House to introduce a bill to provide for the geological and mineralogical survey of the Territory of New Mexico.

Mr. JONES, of Tennessee. I object.

WAGON ROAD IN NEW MEXICO.

Mr. OTERO, by unanimous consent, introduced a bill making appropriations for the construction of a wagon and emigrant road in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled an act to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States two additional regiments of volunteers; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. HICKY, its Chief Clerk, notifying the House that the Senate had disagreed to the amendment of the House to the bill entitled "An act for the admission of the State of Kansas into the Union."

RESOLUTIONS OF LEGISLATURES.

Mr. CLAWSON, by unanimous consent, presented joint resolutions of the Legislature of New Jersey in reference to the better preservation of life and property on the coast; which were referred to the Committee on Commerce.

Mr. STEVENS, of Washington, also, by unanimous consent, presented joint resolutions of the Legislature of that Territory for the establishment of a port of delivery at Whatcom, relative to enrolling clerks for the Legislative Assembly, relative to the erection of three additional land districts, and relative to the false reports made by General Wool concerning the late Indian war in Washington Territory.

The first three were severally referred to the Committee on Commerce, the Committee on Territories, and the Committee on Public Lands, and the last was laid on the table, and all ordered to be printed.

Mr. ROBBINS, also, by unanimous consent, presented joint resolutions of the Legislature of New Jersey asking for donations of public lands for agricultural colleges; which were referred to the Committee on Agriculture, and ordered to be printed.

Mr. LETCHER. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Bocock

that they shall have the means of supplying these men; and they have recommended that \$3,000,000 shall be appropriated in advance for the purpose of meeting the expenses of those troops.

Now, sir, let us see if there was not wisdom in that recommendation. Under the last Administration, by a contract entered into in February, 1857, the cost of transportation to Utah was \$19 22 1-5 per one hundred pounds per one hundred miles. Under that Administration, two million two hundred and sixty-four thousand one hundred and thirteen pounds of military supplies were transported

at these rates. The people themselves, in that Territory, who have been engaged in merchandizing or otherwise, have been put to a cost of from fourteen to fifteen cents per pound for the transportation of supplies to that Territory, many of which were transported by organizations, gotten up among themselves, and, of course, the supplies could be carried for something less than supplies for the Army can be transported.

Now let us see at what rates supplies can be transported to Utah, to Fort Laramie, and Fort Kearny.

Schedule of prices per hundred pounds per hundred miles to be paid to Russell, Majors & Waddell, contractors for transportation of military stores and supplies, under an agreement between Major General Thomas S. Jesup, Quartermaster General of the United States Army, on behalf of the United States, and the said firm of Russell, Majors & Waddell, bearing date at Washington city, on the 16th day of January, 1858.

Names of posts, or places from which stores are to be taken up.	Periods of starting from points mentioned in the agreement above referred to, and rates of payment, except on hard bread, bacon, pine lumber, and shingles, provided for in article eight of the agreement.							
	January 1 to February 28.	March 1 to 31.	April 1 to 30.	May 1 to July 31.	August 1 to 31.	September 1 to 30.	October 1 to 31.	November 1 to December 31.
To Fort Kearny and intermediate posts.....	\$3 55	\$2 90	\$2 00	\$1 35	\$1 50	\$2 00	\$2 90	\$4 00
To Fort Laramie and posts beyond Fort Kearny.....	3 55	2 90	2 00	1 35	1 70	2 00	3 00	4 50
To Great Salt Lake City, or depot in Utah, and point beyond Fort Laramie.....	4 00	2 90	1 80	1 80	1 80	2 20	3 00	4 50

The above tabular rates to govern for all transportation not exceeding in the aggregate ten million pounds, and for the first additional five million pounds, or any part thereof, they shall be paid at the rate of twenty-five per centum advance on these tabular rates, and for all over and above said fifteen million pounds which they may be required to transport under this agreement, an advance of thirty-five per centum on these tabular rates shall be paid the contractors.

Mr. LOVEJOY. Will the gentleman allow me to make a statement right there?

Mr. LETCHER. I cannot yield, unless the committee will extend my time. If they will give me unlimited time, I will submit to any interruption from any gentleman on the floor.

Mr. LOVEJOY. I hope the gentleman's time will be extended.

Mr. COLFAX. I trust the gentleman's time will be extended. This is an important subject.

Mr. SHERMAN, of Ohio. I shall object, at this stage of the gentleman's remarks, to an unlimited extension of time. When his time is nearly out, if he is not able to complete his remarks, I shall have no objection to his time being extended.

Mr. LETCHER. If I consent to interruptions it must be upon the understanding that the House shall consent to an extension of my time. If my time is extended, I will cheerfully consent to be interrupted to any extent whatever, embarrassing as the situation may be.

Mr. CLARK B. COCHRANE. I move that the time of the gentleman from Virginia be extended for one hour.

The CHAIRMAN. The proposition can be entertained by unanimous consent.

Mr. FARNSWORTH. I object.

Mr. LETCHER. Then I cannot yield. It is perfectly manifest that these supplies have to be transported to Utah, and that they can be transported for greatly less money between the 1st day of April and the 31st day of August than in any other period of the year. During that period these supplies can be transported for \$1 80 per one hundred pounds for one hundred miles, or computing the distance at one thousand two hundred miles, at \$21 60 per one hundred pounds for the entire distance to the Territory.

Now, sir, the Secretary of War, with very great propriety, and, as I think, with that due regard to the public interest which should characterize public officers, and which he has displayed in this matter, proposes to anticipate the regular appropriation, that would not, in all probability, be made before the last of July, about the rising of Congress, so as to purchase those articles, and to have them ready to send off from Fort Leavenworth at some period between the 1st of April and the 31st of August, when they can be transported at the rate of \$1 80 per one hundred pounds per one hundred miles. I think the recommendation is a proper one on the score of economy; and what difference does it make whether we appropriate the money now or on the last day of July next?

There is the whole of it, and there is this whole

objection that has been raised to anticipating appropriations, made by the gentlemen who have discussed this question on the other side. Now, sir, on the score of economy, those gentlemen ought to sustain this proposition; because, if their purpose shall be carried out, if this bill shall be defeated, if these articles shall be purchased from the appropriations made in the regular bill, then the Government is to pay from three to four and a half dollars for transportation; and not only that, but the Government is to run the risk of having the wagons overtaken during the winter, and the loss, probably, of the entire supplies. I put it, then, to the common, practical sense of the House, whether they are economists, or whether I am practicing on an economical rule, in the recommendations that I have presented from the Committee of Ways and Means.

Let us look at it again, Mr. Chairman, in another point of view, and see whether this contract is not an advantageous contract to the Government, and one for which the Secretary of War, instead of reproach, deserves commendation, at the hands of this and the other House. Why, sir, it is an immense business. How many wagons do you suppose will be required to carry on this transportation? how many yoke of oxen? how much other preparation will be required to meet the demands made by the Government under this contract? It will require two thousand four hundred and sixteen wagons to be used for transportation; and that is counting two trips to Fort Laramie and two to Fort Kearny during the year, and one to Utah. It will require two thousand four hundred and sixteen wagons to transport what is already ordered, to say nothing of what may be ordered hereafter. It will require twenty-eight thousand nine hundred and ninety-two oxen for this purpose. Wagons cost about one hundred and seventy dollars each, delivered at Fort Leavenworth. The oxen cost about ninety dollars a yoke. They travel in companies of twenty-five wagons, and there must be twenty-five teamsters—one to each wagon. Besides, there must be a wagon for the contractor to carry supplies for his men, which makes twenty-six in all; and there is a captain and a lieutenant and that train, who have charge of it. Yes, sir; and there must be extra teams if they carry a traveling forge, or anything of that kind, for they must be prepared with that and everything else necessary to enable them to supply adequately this train. When you come to count up all these items, to say nothing of the extra teams besides those I have enumerated, and those referred to by my friend from Missouri, [Mr. PHILLIPS], you have two thousand five hundred and thirteen wagons, thirty thousand one

hundred and fifty-six oxen, two thousand five hundred and thirteen teamsters, one hundred and ninety-four captains and lieutenants, making in all two thousand seven hundred and seven men. And the capital which this contractor is required to raise on his own credit, without a dollar of advance from this Government, is something near two million dollars. And now, sir, when he has performed part of this service; when he is executing this contract, the House here say that they will not furnish the means to pay it; and that after running his credit to the last verge, they will not pay him for what he has done.

The views of the Secretary of War ought to be carried out in the execution of this contract. We know that property is as high now as it was a year or two ago. This party has to buy on credit, and of course he has to pay something additional on that account. He has to go into the market, furnish these wagons, these oxen, and hire these men for this hazardous service; and yet the increase in the cost of transportation is the difference between \$19 22 1-5 and \$21 60 under the existing contract with two million two hundred and sixty-four thousand one hundred and thirteen pounds to be transported under the nineteen-dollar contract, and four hundred and ninety-five thousand pounds already ordered under the twenty-one-dollar contract. Then I ask again, whether the Secretary of War has not shown forecast here which entitles him to credit, instead of censure, on the part of this House?

My friend from Ohio [Mr. SHERMAN] told us that he was opposed to this bill because it was altogether too general in its terms; that there was nothing specific in it; and that he wanted to know what those words, "incidental expenses" mean? He says he does not understand what it means, and the committee does not inform him what it means. I would like to know whether he has read the bill; because, if he has, it is a marvel to me that in looking at the fiftieth line he did not discover what the "incidental expenses" covered. This clause of the bill states:

"For the incidental expenses of the quartermaster's department, consisting of postage on letters and packages received and sent by officers of the Army on public service; expenses of courts-martial and courts of inquiry, including the additional compensation to judge advocates, recorders, members, and witnesses, while on that service, under the act of March 16, 1802; extra pay to soldiers employed under the direction of the quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals; the construction of roads, and other constant labor, for periods of not less than ten days, under the acts of March 2, 1819, and August 4, 1834, including those employed as clerks at division and department headquarters; expenses of express-tes to and from the frontier posts and armies in the field; of escorts to paymasters, other disbursing officers, and trains, when military escorts cannot be furnished; expenses of the internment of non-commissioned and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including hire of interpreters, spies, and guides, for the Army; compensation of clerk to officers of the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July 5, 1838; for the apprehension of deserters, and the expenses incident to their pursuit; the following expenditures required for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and such companies of infantry as may be mounted, namely, the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and shoeing the horses of those corps, \$190,000."

The items are set out clearly and distinctly. The gentleman will see at once that it would be impossible to furnish the specific amounts required to cover each one of them. Then when these incidental expenses are mentioned, they are incidental expenses which can be ascertained from this bill, on reference to it, to pay for items the necessity for which every member can judge of for himself. If the incidental expenses shall not amount to the sum therein specified, then the balance will remain, not to be expended under that clause.

Now, sir, are the provisions of this bill, so far as the Army is concerned, less or more specific than the provisions of former bills in regard to the same subject? If my friend from Ohio [Mr. SHERMAN] knows of a solitary instance in which a bill of appropriations for the Army has been more specific in its terms than the bill reported by us, I should be glad to know when such a bill was brought here, by whom brought here, and when it was considered by this House.

Mr. SHERMAN, of Ohio. I should like to ask the gentleman a question.

Mr. LETCHER. I think the gentleman ob-

jected to giving me an extension of time, and I cannot now yield to him. In this connection, a gentleman on the other side of the House, with an air of very great confidence, rose yesterday in his place—I allude to the gentleman from Pennsylvania, [Mr. Grow]—and told us that the price of a soldier twenty years ago was \$350, and that in the year 1858 it is \$1,400. I will furnish him with a table that will show him exactly the cost per man, and which is a little over one half of the gentleman's estimate of yesterday:

Annual cost per man, military establishment.	
Adjutant General.....	\$ 15 06½
Quartermaster General.....	403 73
Paymaster General.....	252 32
Commissary General.....	55 77
Ordnance department.....	6 75
Medical department.....	5 60
	\$ 5 83½

Mr. GROW. I read from the statement made in the Senate by Mr. DAVIS.

Mr. LETCHER. I cannot yield to the gentleman.

Mr. GROW. I do not want the gentleman to yield to me.

Mr. LETCHER. If the gentleman will look a little further he will find that out of this \$786, \$400 is for transportation. So that if the soldier

cost, twenty years ago, \$350, (deducting this increased transportation, owing to the acquisitions made to the country,) he only costs now \$36 83 more than he did twenty years ago.

Now, sir, how comes this increased transportation? Let us see. Here is the Quartermaster General's account of it, and I think it is a very satisfactory account:

"Previous to the annexation of Texas our extreme western posts were Fort Wilkins, on Lake Superior; Fort Snelling, at the junction of the Mississippi river with St. Peter; Fort Atkinson, twenty-four miles from the Mississippi river; Fort Leavenworth, on the Missouri river; Fort Scott, on the southwestern frontier of the State of Missouri; Fort Gibson, on the waters of the Arkansas; Fort Washita, in the Choctaw country, near to Red river; Fort Towson, six miles from Red river; and Fort Jesup, twenty-four miles from that river. Of these posts, Fort Gibson, Leavenworth, Snelling, and Wilkins, were accessible by steamers; Fort Washita was eighty-six, and Fort Scott ninety miles from steam navigation; but the latter was situated in a well cultivated and rapidly improving country, and most of the heavy supplies for its garrison were obtained in the neighborhood. Fort Washita was then the only outpost depending upon the interior for all its supplies; and it was at a less distance from the post whence it was supplied than from Baltimore to Philadelphia; while several of the land routes over which the supplies for the troops are now transported are longer than from this city to St. Louis or New Orleans. There has been a vast increase in the cost of labor and of all supplies in the last ten years; but leaving that entirely out of view, the vast distances now to be traversed in territories with scarcely any other resources than a scanty supply of wild grass, with the constant operations necessarily

being carried on, is sufficient to account for the increased individual cost of the military force."

Sir, is not this a satisfactory explanation of the increased cost attending the expense of a soldier from \$350 to \$786? In the very case now under consideration, here is a transportation of twelve hundred miles from Fort Leavenworth to Utah, which is the scene of this difficulty between the Territory and this Government, and where these troops are to be employed; Fort Laramie is some six hundred miles off, and Fort Kearny, I believe, between two and three hundred miles. We have acquired Texas, and the defense of that State is to be attended to. We have acquired the country on the Pacific coast, and that is to be attended to. We have acquired Oregon and Washington, where posts have been established, and to which transportation has to be made. Is it at all wonderful, then, that when the extent of our country is more than doubled, when we have that much more to defend than we had before, there should be an enhanced price for transporting troops, with a limited army of fifteen thousand men, to supply these posts as occasion and necessity require? Besides all that, a part of this very deficiency has been left as a legacy to this Administration from the preceding one. I have had a table prepared which I have here, showing how much was left over and when it accumulated.

Expenditures made by the Quartermaster's Department for the fiscal year ending June 30, 1857.

	3d quarter, 1856.	4th quarter, 1856.	1st quarter, 1857.	2d quarter, 1857.	Total for the year 1857.	Expended during year ending June 30, 1857, rec'd since that date.	Expenditures belonging to the year ending June 30, 1856.	Grand totals.	Appropri- ation, 1857.	Deficiency appropri- ation, 1857.	Totals.	Required de- ficiency.
Fuel.....	\$19,200 86	\$34,478 39	\$44,284 48	\$24,442 41	\$122,406 14	-	-	-	-	-	-	-
Forage.....	163,373 76	364,546 48	433,513 87	340,294 41	1,301,728 52	\$10,091 64	\$37,999 61	-	-	-	-	-
Straw.....	666 22	1,392 02	2,032 90	969 20	5,060 34	-	-	-	-	-	-	-
Stationery.....	3,558 19	2,462 68	3,016 57	3,033 88	12,071 32	-	-	-	-	-	-	-
Regular supplies..	\$186,799 03	\$402,879 57	\$482,887 82	\$368,730 90	\$1,441,286 32	\$10,091 64	\$37,999 61	\$1,469,377 57	\$1,010,000	\$200,000	\$1,210,000	\$279,377 57
Incidental expenses, Barracks and quar- ters.....	\$72,307 17	\$111,721 82	\$127,001 15	\$131,787 15	\$442,817 29	\$37,042 91	-	\$479,860 20	\$350,000	-	\$350,000	\$129,860 20
Transportation of the Army and sup- plies.....	124,866 70	122,276 96	127,659 98	143,038 21	517,841 85	50,112 54	-	567,954 39	500,000	-	500,000	67,954 39
	406,915 73	734,072 35	517,316 31	860,322 40	2,517,926 79	303,387 74	*\$130,172 62	2,951,487 15	1,500,000	\$700,000	\$2,200,000	751,487 15
											\$1,228,679 31	

* NOTE.—In this amount is included the sum of \$54,173 38, thus ascertained:

Amount taken from appropriations for quartermaster's department to settle officers' accounts, per act of Congress.....	\$36,122 62
Amounts taken by Third Auditor to settle claims through his office.....	115,705 23
	\$151,827 85
Less the amount derived from sales of public property.....	\$82,268 54
And the amount refunded by the late Captain Polson's estate.....	15,385 93
	97,654 47
	\$54,173 38

QUARTERMASTER GENERAL'S OFFICE, WASHINGTON CITY, January 23, 1858.

J. SIBLEY, Major and Quartermaster.

Here, then, was a deficiency of \$1,228,679 31, that has come down to this Administration, with estimates for which it did not prepare. It could not guard against this deficiency in any way whatsoever. And it has come down with this Utah difficulty accumulated upon it.

Sir, will it be contended here that the Secretary of War is to be arraigned because of this deficiency which has grown up under a previous Administration? Is he to be held accountable for it? I apprehend not. The expenditures already made on account of this Utah expedition, by the Quartermaster's department, are, for regular supplies, \$27,776 40; incidental expenses, \$10,828 96; mounts and remounts, \$68,802 50; mileage, \$2,500; for transportation of troops and for supplies, \$1,411,876 33; barracks and quarters, \$7,302 06; amounting, in the aggregate, to \$1,529,086 25; and these are articles that are yet to be furnished, in order to supply these troops, to give them the means of support during the coming winter, and to protect them, to say nothing of the four additional regiments that the House has ordered. Let me say here that if this Utah expedition was improperly begun, if the President is to be arraigned for it here, I desire to know from gentlemen upon this floor why they did not raise this question on the day Congress met, and put an end to the expedition? If they thought that the expedition was begun wrong, or had been prosecuted unwisely, then was the time to begin, and they could then at once have said to him, "this thing is improper,

and we order it to be stopped; bring home your troops." But this was not done, sir. They first adopt a resolution declaring that there is rebellion in Utah; they then come in here and pass a bill for four additional regiments, to enable the President to prosecute the war thus improperly begun. And now we are told that these moneys are to be withheld, because he did not call Congress together when he undertook the expedition, and get their consent before it was commenced. I say, then, sir, that the House is doing injustice to itself, after its own action in this matter, and still greater injustice to the President, when it proposes now to charge that this thing has been improperly done.

Sir, we have had a good deal said here upon another subject connected with this matter. I was sorry to hear the gentleman from Tennessee [Mr. Jones] lending his name to this idea that is floating about in regard to contracts, and to the advantage that these contracts are to the War Department. He did, sir, very great injustice to himself, as well as very great injustice to the officer who presides over that Department, as the facts which have been brought before the House establish conclusively. But the gentleman from Illinois [Mr. LOVEJOY] was not content to rely upon insinuations. He charged that this Utah war was a war of plunderers and speculators, and said he did not know what it would cost to get these contracts at the War Department. Now, sir, has there been anything in the character or

conduct of the Secretary of War which would justify an imputation of this sort upon him? Has the gentleman any evidence to warrant it? Why, yes, sir; he tells us that a contractor furnished him the information; but when called upon to give us the name of the contractor, he says that he cannot do it; that it might be that the seal of private confidence was upon that communication when made to him. Mr. Chairman, I ask him in all sincerity and kindness, if he could not furnish the name, why was not the seal of private confidence upon the communication, and why could it be given, and not the name? Why could the name not be furnished? Why was the statement made and the name not furnished? But now the report comes in, and the gentleman's allegations are distinctly met. Who is the contractor now? Who is it that has given currency to this libel against the head of the War Department? The gentleman will recognize the principle of law that, if he undertakes to circulate a report unfounded in fact against any one, and, when called upon, refuses to furnish the name of a responsible informant, he is held in law liable for the libel which he circulates. And I think that it would be so held not only in law, but in good morals. I therefore call upon the gentleman, in all kindness, to let us know who this libeler of the Secretary of War is. It is due to his reputation to inform us.

Mr. LOVEJOY. If the gentleman will give me time to refer to this discussion and set the

matter right, I should like to do so, as soon as I get the floor.

Mr. LETCHER. I want the name; it does not take long to refer to that.

Mr. LOVEJOY. I am responsible for all that I stated here.

Mr. LETCHER. Then, Mr. Chairman, since this controversy was begun, and since these imputations have been made on the Secretary of War, General Jesup, whom the gentleman from Illinois has referred to, has reported to this House; and that report, I tell the gentleman very respectfully, does not confirm what he says he is responsible for, or else I have misunderstood his speech. Now, when these contracts come in, what are they? Has the Government been plundered? Has the Secretary of War had anything to do with these contracts, individually? Has he done anything more than give them his approval, under the law of Congress which is laid down to him as a guide for his course? Look at the act of 1820, and see what the duty of the Quartermaster General is, and what the duty of the Secretary of War is, under particular circumstances. Section six provides:

"That no contract shall hereafter be made by the Secretary of State or of the Treasury, or of the Department of War or of the Navy, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; and excepting, also, contracts for the subsistence and clothing of the Army and Navy, and contracts in the quartermaster's department, which may be made by the Secretaries of these Departments."

There is the law. I appeal to this House, after all that has been said, whether the Secretary of War does not stand here, by the papers, vindicated before the House and country in having conformed his action to this law of the land? When these contracts come here, is there any evidence furnished by them that the Government has been plundered, or that anybody has rewarded him, or the quartermaster, or any other person connected with the War Department, for the purpose of procuring them?

So far as one of these contractors is concerned, we find that the contract would have bankrupted the parties who made it. The Secretary of War released them from it, and sent out his quartermaster to make the necessary purchases for the Army. And, sir, every man who knows anything about it knows that, at the prices there proposed to be paid for this article of beef, the contractor could not hope to make a profit, but must have subjected himself to very great loss. I take it that it is the same with regard to the article of horses, fifteen hundred of which are ordered to be purchased by the quartermaster, and delivered at Fort Leavenworth. These horses must be of a particular description—must come up to the required standard; and the dealer must run the risk of transportation by steamboat and otherwise till they are delivered at the point specified in the contract. There they must be inspected; and the dealer runs the risk of the rejection of more or less of them; and he is only to be paid \$159 for those that are rejected.

But the gentleman from Illinois says that this is a monstrous price, and that you can buy such horses at seventy-five or one hundred dollars at the outside. Now let me say to him that I have a friend here in the House who is willing to give to him the benefit of just such a contract; so that, if the gentleman is willing to take the contract, there will be a proposition, before this bill will be disposed of, to contract with the gentleman from Illinois, or with any other responsible person, to furnish such horses as the Government may want at \$100 per head. Now we will see whether the gentleman from Illinois will come up and stand to that contract.

Mr. LOVEJOY. I hope you will give me as good a price as the other contractors—\$159.

Mr. LETCHER. Is the gentleman going to back out? He does not mean to tell us that these horses are not worth \$100, and then back out when he is offered a contract at that price.

Mr. LOVEJOY. I did not say that I would back out. But I say that it is fair I should get the contract at as good a price as the others.

Mr. LETCHER. Yes; but you say that rate is too high; and you would not wish to cheat the Government? [Laughter.]

Now, let us look at another point in this connection! Take the other articles embraced in this contract. Here is cider-vinegar, first quality, at

four and three quarter cents per gallon. Is that a plundering contract? Is refined white sugar at nine and a half cents per pound a plundering contract, delivered at St. Louis? So, I take it, with the article of sperm candles at twenty-four cents per pound. You and I, sir, know that we do not get them furnished for our families at that price, from our own market, in the city of Richmond. And yet this contract, thus made, is said to be an unreasonable and unfair contract, and imputations are cast on the Secretary of War in connection with it. Let me tell the gentleman from Illinois that, no matter who his informant may be, in operations of this sort the fang of slander will hurtless break on the adamant of the Secretary's reputation.

Well, my friend from Ohio [Mr. SHERMAN] complained that we did not furnish information as to what part of these appropriations was an anticipation and what part a deficiency. Now, if the gentleman will take the trouble to make an examination, he will find in Miscellaneous Document No. 22 that the whole is there stated. He will find how much of it is anticipated and how much of it is for a deficiency. If he will go further he will find explanatory remarks. He will find something like the cost of furnishing these supplies to the Army, as estimated in the quartermaster general's department.

But, sir, these gentlemen say that the Secretary of War wants patronage. If so, had he not a fine opportunity to secure that patronage under this provision of the law, by going into these contracts and purchasing these supplies, that transportation might be carried on on Government account? He would have been in the market for forty thousand oxen. He would have been in the market for the hire of three thousand men. He would have been in the market for everything necessary to clothe and sustain the troops. And I submit to this House whether a privilege of this kind would not have been far more effective, and far more useful for the purpose of patronage and for his own advancement, than by the course which he saw fit to adopt? And suppose he had done it. Could he not have done it under the sanction of the law? Would he not have been authorized to do it under this section? I take it that he would.

But sir, my colleague [Mr. GARNETT] in his remarks of yesterday said, that he desired that we should come forward and introduce some measure which should take the power out of the hands of the Secretary of War now vested in him under the sixth section of the law of 1820; that he thought it was too great a power to give to one man, and he desired to see reform. Well, now, sir, let us see how that would work: the Army is in Utah; the appropriations have been exhausted, Congress will not meet for six months; their labors are done; the Army is ready to go home—but in order to get home, the Secretary of War must furnish supplies. How, in a case of that sort, could you secure the return of the Army if this law were repealed? They could not make a contract; they could not take a single step to secure the means necessary to bring the troops home, or to transfer them to any other post where their services might be needed. I take it that the Government would be in a very bad condition, and that it would be not a long time before the Army would go to pieces. No such law as my colleague desires to see pass would serve the necessities of the Government under such circumstances. I say, then, that so far as that law is concerned I regard it as a wise law, and not only shall I not introduce a proposition for its repeal, but I shall vote against any such proposition introduced by others. And how came that law upon our statute-book. I find, by going back to the debates at the time this bill was prepared, that it was prepared originally without the provision being inserted which vests in the Secretary of War the power of making these contracts under the contingencies which have been mentioned. On the suggestion of Mr. Williams, who had been engaged in the military service of the country, this provision was inserted upon the same ground which I have stated to-day. The necessity for it was such that it was introduced without opposition, and I think it is wise in us to allow it to remain there.

But, sir, I am not much surprised that gentlemen on the other side of the House should go against this bill. I know that some of them are not particularly partial to armies, in any way, of

late years. It has not been long since these gentlemen defeated the regular appropriation bill for the Army, under the Pierce administration; but when they found that unless the Army was provided for, it would have to be disbanded, at the extra session they came back and surrendered gracefully.

Mr. SHERMAN, of Ohio. I beg the gentleman's pardon.

Mr. LETCHER. How did the bill pass, then? Mr. SHERMAN, of Ohio. By calling in your absentees.

Mr. LETCHER. I think, if you will examine the record, you will find that some of the gentlemen on the other side of the House changed their votes.

Mr. SHERMAN, of Ohio. Not a man changed.

Mr. LETCHER. Well, sir, as I understand, some gentlemen on the other side of the House deserved credit for having come in to the relief of the Army.

Mr. STANTON. Name one of them.

Mr. LETCHER. I mention Mr. MATTESON, of New York, for one.

Mr. SHERMAN, of Ohio. Any others?

Mr. LETCHER. He is one, and I think I have heard of others. Well, now, sir, other members of the House object to this bill upon the ground that the money may, after all, not be used for the Utah expedition, and they would not vest in the President the power to use it there. They objected to the Army being used for the purpose of keeping the peace in Kansas, and now they object to its being used for suppressing outrages against the laws of the land. Sir, these gentlemen, many of them, have indorsed, by their votes in this House, the policy of the President in respect to Utah, who now say they will not allow the Army to go there. If these gentlemen do not intend to allow the President to carry out the policy he has marked out in reference to that Territory, why have they not before introduced a resolution directing the President to withdraw the army therefrom, and allow Brigham Young to have full possession of the Territory?

Now, sir, so far as I am concerned, I will not only vote for, but I will advocate the sending to Utah, a sufficient force to secure submission upon the part of these people to the legal authority of the country; and I have no sickly sympathy at all about what the army shall do when it gets there, if they do not submit. If they do not submit, I would do with them as Napoleon did with the mobs of Paris, direct the troops to fire ball-cartridges first, and blank cartridges afterwards. I would bring them to terms, and I would make them submit to the laws of the land. I hold that this Government is in honor bound to bring them to terms.

Mr. BURROUGHS. Will the gentleman allow me to ask him a question?

Mr. LETCHER. No, sir; I cannot. If you will give me two or three hours you may ask me as many questions as you please.

I wish, in the few minutes I have left, to allude to another matter, which has been a good deal harped upon in the course of this debate, and that is the third section of the bill. Now, so far as that section, and the purpose for which it is proposed to appropriate the money under it, is concerned, I voted, I believe, against every solitary proposition covered by that section. I have usually voted against every proposition, as gentlemen know; but the House of Representatives chose to vote the money, to be paid out of the contingent fund. Did the House have a right to do it? If they did not have the right to do it, is it not most remarkable that the same thing should have been done for the last twelve years; and that during all that time, up to the incoming of Governor Cobb, it should have been recognized by the officers of the Government as legal? I say, is it not remarkable that objection should be taken now? When this extra compensation has been voted heretofore, where did the money come from to pay it? It must have been appropriated in some way to pay it, and where did it come from? Some appropriation bill placed it under the control of the contingent fund of the House. If there was no power to pay it out of the contingent fund, why was it not stopped? Why was it allowed to go on year after year?

But my friend from Tennessee [Mr. JONES] says that under that law of 1854 they had no au-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, APRIL 9, 1858.

NEW SERIES...No. 96.

thority to pay one cent of it. Let us see what the Comptroller of the Treasury has said in regard to this law of 1854—I refer to Mr. Whittlesey, the gentleman's beau ideal of a Comptroller. He refers to the subject on the sixth page of Miscellaneous Document No. 30, third session of the Thirty-Fourth Congress. He goes on to refer to the adoption of the resolution of the 3d of August, 1854. The other resolution was adopted on the 29th of July, 1854. He says:

"This resolution of the House, (alluding to the resolution for extra compensation, passed on the 3d day of August, 1854,) is a contemporaneous construction of said joint resolution of July 29, 1854."

That was addressed to Mr. Guthrie, then Secretary of the Treasury, in reply to his inquiries on the subject. It was approved by Mr. Guthrie, and the money was paid under that recommendation, and yet we heard nothing in regard to that. How did it come? Could it have come in any other way than by a supply to the contingent fund of the House of the amount of money withdrawn by a subsequent legislative act on this subject? I take it that it could not. Then, we have this construction of the Government for a period of twelve years. I think myself that Governor Cobb's construction is right; but it has not been so considered by his predecessors; and one of my reasons for desiring to get rid of this matter is, that the probabilities are, if this provision shall not be adopted, that, sooner or later, it will end in a repeal of the act of 1845, and throw this matter entirely open. But these gentlemen say that they cannot vote a dollar for this purpose. Here is my friend from Kentucky, [Mr. BURNETT,] who goes into heroics over it—the enormity of such a thing as this. Here are the gentlemen on the other side, who are greatly shocked at it. There is my friend from Ohio, [Mr. SHERMAN,] who is terribly shocked; yet, Mr. Chairman, I believe he wanted extra pay for going to Kansas. There was a resolution of that sort proposed, but which was not received.

Taking these things altogether, are gentlemen to fight against this bill because every solitary provision cannot be made to square with their notions? I am perfectly willing to give them a vote on yeas and nays on that section, and let the House say whether it will strike it out or not. If they strike it out, let them take the balance of the bill, and so with any other provision. I am willing that they shall have a fair chance to express their opinion. If members are to wait here until they get a bill which, in every one of its provisions, harmonizes with their peculiar views, the probability is that you will never pass an appropriation bill for the support of the Government. There is not one of them that does not embrace a multitude of items of different sorts. All have to be considered; and if you are only to put into the bill such as will meet your approbation, or my approbation, the probability is that we will never get a bill that would receive more than thirty votes. I say that there is a wise rule on this subject which ought to be observed. We have just inaugurated a new Administration. I speak now to gentlemen on this side of the House. We all here in the Democratic ranks helped to put that Administration into power. It has just begun to develop its policy; and the question is whether, because you cannot make an appropriation bill harmonize exactly with all of your opinions, you are going to prevent that Administration from carrying out its policy in preserving the peace of the country, and securing obedience to the laws of the land? The wise rule is this: show by your votes that you are opposed to it; but if an appropriation is demanded for the execution of the laws, for the purpose of protecting life and liberty, and the rights of property, why then, if you have shown your hostility, is it not wise and proper to vote for what is absolutely required for the purposes of the Government in the execution of the law? Why, sir, just take a case which may readily occur. Here comes up a claim which you direct to be paid out by the Treasury Department, or under the supervision of

the War Department; you appropriate the money in the bill, for the purpose of enabling the Secretary of the Treasury, or the Secretary of War, to pay the claim. You may not have approved the claim, yet it passed the House. Now will you deny the means by which that claim is to be satisfied? But gentlemen say there is the difference between the two, that this is a resolution of this House, payable out of its contingent fund, and the other is an act of Congress, regularly passed through both Houses and approved by the President. Does that make a difference? Does it make the slightest difference? Have you not pledged yourself, by your action, that you would pay this sum of money to these parties? Whether it is right or wrong is a matter which belongs to the past, and does not apply to the present; and whatever may be the opinion on the construction in regard to that matter, I am for acting on the present rules, and am for meeting what I consider this body honorably bound to meet.

There is another objection to this bill of my friend from Alabama, [Mr. HOUSTON.] He proposes to strike out the head of the appropriation for the payment of the furniture in the Speaker's room, for newspapers, &c. I have no objection to his striking out that head. I have no objection to make it applicable to this purpose, and this purpose alone; but in this connection there is one thing which has somewhat astonished me. Here is an appropriation of \$200,000 for the purpose of paying for surveys of the public lands in California. The appropriation for this service, during the last year was \$50,000, and yet the surveyor general has had labor done to the amount of \$200,000. Why is not that assailed in the same way? Is not this Government, when they have got their surveys honestly made, bound to discharge the debt incurred thereby? We heard nothing about that. Take this matter in any point of view, look at it in any way, and we have done what was our duty—nothing more.

There is another item referred to by my friend from Alabama, which I acknowledge is not a deficiency, and ought not, perhaps, to have been in here, and that is, the appropriation for the reporters. It can be stricken out if the House so wills it.

The CHAIRMAN. The general debate has now closed, and the bill is open to amendments; upon which five minutes will be allowed for a speech in favor, and five minutes for a speech against them.

Mr. WALBRIDGE. I wish to make a correction of a statement made by the gentleman from Virginia, [Mr. LETCHER.]

Mr. SINGLETON. I object.

KANSAS BILL.

Mr. STEPHENS, of Georgia. I will give notice, if there be no objection, that the Kansas bill will be voted on to-morrow at one o'clock.

DEFICIENCY BILL.

The Clerk then proceeded to read the bill by clauses for amendment.

Mr. HOUSTON. I move to strike out lines fourteen and fifteen, as follows:

"For contingent expenses of the House of Representatives, viz:—"

Mr. LETCHER. I have no objection to the striking out of those words.

The amendment was agreed to.

Mr. WALBRIDGE. I move, *pro forma*, to strike out from the eighth to the fifteenth lines, for the purpose of correcting a statement made just now by the gentleman from Virginia, [Mr. LETCHER.]

The CHAIRMAN. The Chair would state, and hopes the statement will be heard by all the members of the committee, in order that nobody may be taken by surprise, that, according to the rules of the committee, when certain lines have been read and passed over, and subsequent amendments have come in, it is too late to go back and amend the former part of the bill. If there be no objection, the amendment of the gentleman from Michigan will be received.

Mr. LETCHER. I object to going back. We

can go back after we have got to the end of the bill. I want to offer an amendment to the fifteenth line.

The CHAIRMAN. The fourteenth and fifteenth lines have been stricken out.

Mr. LETCHER. Then I move to insert between the thirteenth and sixteenth lines the following:

For folding documents, including the pay of folders, wrapping paper, twine, and paste, \$20,000.

I ask for the reading of the letter which I send up, which will explain the amendment.

The letter was read as follows:

OFFICE HOUSE OF REPS. UNITED STATES,
March 16, 1858.

SIR: Upon an examination of the bill reported by your committee to supply deficiencies in the appropriations for the present fiscal year, I observe an omission of an appropriation for folding, folding paper, twine, &c., which was estimated for by this office.

I respectfully ask the insertion of an appropriation of \$20,000 in the deficiency bill for the above object.

In explanation of the increase of this estimate, I would state that there is now on hand about \$10,000 worth of folding paper and twine that has been paid for by the former Clerk, and has been rejected by the present Committee of Accounts, and cannot therefore be used in the folding-room. The expenses for labor done in the folding room are about \$1,200 per month, making for five months \$3,000, and for folding paper and envelopes for the same time, \$14,000.

I am, very respectfully, your obedient servant,
J. C. ALLEN,

Clerk House of Representatives United States.
(Hon. J. GLANCY JONES, Chairman Committee of Ways and Means.)

Mr. HOUSTON. I would inquire of the gentleman from Virginia, [Mr. LETCHER,] or any other gentleman who knows anything on the subject, whether the appropriation for some of the items provided for in this amendment is not required, because the materials contracted for, twine and wrapping paper, were of a quality so inferior that they could not be used?

Mr. LETCHER. Yes, I understand that to be the fact; but the late chairman of the Committee of Accounts [Mr. MASON] can give the gentleman any information he desires about it.

Mr. MASON. I do not understand that the Committee of Accounts directed the Clerk to throw away this old wrapping paper and twine. There was a question whether they were good or not, and we told him if they were not good to get some more. The twine is such twine as every gentleman has seen tied round the documents sent to his room, and can tell whether it is good or not. We told the Clerk if it was not strong enough to get some more.

Mr. LETCHER. I know nothing in relation to this matter, except what is contained in that letter. I understand that the Committee of Accounts refused to use this twine and paper because it was of inferior quality.

Mr. MASON. The gentleman from North Carolina [Mr. RUFFIN] had particular charge of this matter, and I believe he thought it was not as good as it ought to be. I never examined it. The chief clerk came before the committee and said that it was inferior material, and we told him to buy more if it was not good enough.

Mr. WALBRIDGE. I move to amend the amendment by striking out "twenty" and inserting "ten." I wish to call the attention of the gentleman from Virginia [Mr. LETCHER] to the statement which he made a few moments ago in relation to the Army bill, which passed at the second session of the last Congress.

Mr. FAULKNER. I call the gentleman to order. Remarks about the Army bill are not pertinent to the pending amendment.

The CHAIRMAN. The gentleman from Michigan is aware that under the rules he is only entitled to explain his amendment to strike out "twenty" and insert "ten."

Mr. WALBRIDGE. I am aware of the rule, sir, but the gentleman from Virginia will allow me to correct him. He just said, in the course of his remarks, that gentlemen on this side of the House changed front on the Army bill, during the last Congress, and aided in its passage. Now, I have the yeas and nays on the passage of that bill before me; and I find that not one Republican

voted for it; and Mr. MATTESON, to whom the gentleman alluded, is recorded as voting against it.

Mr. RUFFIN. I desire to say, in relation to this twine and paper, that at the commencement of the session, the documents folded in the folding-room were folded in paper which was entirely unfit for the purpose. I know that I received documents in my room that were folded in paper which was perfectly rotten, and unfit for the purpose for which it was intended. And the Committee of Accounts thought that it was very poor economy for the Government, after expending an immense amount in publishing books, some of which are worth several dollars a volume, to try and save two or three cents on the paper to envelop them, and have them folded in paper which would probably be worn off before they had traveled a hundred miles through the mails.

The Clerk was directed to get better paper, and the superintendent of the folding-room was directed not to use any paper that was not fit for the purposes intended. There was also some twine—I do not know what quantity—which was unfit for any purpose whatever. It was perfectly rotten. I tried some of it myself, to tie up bundles and speeches, and found it unfit for the purpose for which it was intended. These are the facts in regard to this matter. The last Clerk, or some one else, had taken certain materials for the folding-room, under contract, and some of them were so unfit that we directed that no such material should be used.

Mr. WALBRIDGE, by unanimous consent, withdrew his amendment.

The question recurred on Mr. LETCHER's amendment, and it was agreed to.

Mr. PHELPS. I submit the following amendment, to come in after line twenty-three:

For horses, carriages, and saddle-horses, \$1,500.

Mr. LEITER. I propose to ask the gentleman from Missouri a question, whether this is a deficiency, and why there should be a deficiency in saddle-horses?

Mr. PHELPS. The letter of the Clerk will explain it.

It was read, as follows:

OFFICE HOUSE OF REPRESENTATIVES,
March 26, 1858.

SIR: In consequence of an under-estimate of my predecessor, Mr. Cullum, the appropriation made at the last session of the last Congress, for horses and carriages for the use of the House of Representatives, is exhausted. It will require the sum of \$1,500 to cover the probable deficiency for the present fiscal year.

Very respectfully,
J. C. ALLEN,
Clerk House of Representatives United States.
Hon. J. GLANCY JONES,
Chairman of the Committee of Ways and Means.

The amendment was agreed to.

Mr. HUGHES. I move to strike out from line twenty-four to line twenty-seven, inclusive, as follows:

To enable John C. Rives to pay to the reporters of the House for reporting the debates of the present session of Congress the usual additional compensation of \$800 each, \$1,000.

I make the motion in good faith, and have no argument to make.

Mr. WARREN. I am a little astonished that such a motion should emanate from the source from which it comes. The scriptural truth, that "the laborer is worthy of his hire," applies to these reporters of this House preëminently. There are no persons in connection with this Congress, members, clerks, or other officers, who perform anything like the labor of these gentlemen. The task of the reporters is peculiarly an unenviable one, as I take it. They have to sit here from the opening till the close of the session, listening to the threats made against the Union; and not only that, they have to write down the infamous and vile slanders aimed at this Union.

Mr. COLFAX. I would like to ask the gentleman from Arkansas a question: whether he alludes to those threats made, that the Union would be dissolved unless a certain bill should be passed by this Congress?

Mr. WARREN. I allude to the threats that have been made from the commencement of this session up to this time. If I had time, I would tell the gentleman that I allude to the peculiar party with which the gentleman acts, and the members of which voted, a few days ago, against a law to protect the lives and property of honest citizens in the capital of this nation. I say that, while members may retire, and are not bound to

listen to the assaults made upon the Union, the reporters are bound to keep their seats, and not only hear it, but write it all. I propose to say here, once for all, that, if gentlemen intend to be Democrats, it is time we were rallying around the Administration, instead of caviling at such just propositions as this. I suppose that, on this deficiency bill, nineteen out of every twenty members are prepared to take a leap in the dark; and many of them strike at the Administration without having investigated the thing for themselves.

[Here the hammer fell.]

Mr. HUGHES. I merely wish to state that my only object in offering this amendment was to give the gentleman from Arkansas an opportunity to make that speech; and now I want to withdraw it.

Mr. BURNETT. I object to its being withdrawn.

Mr. SEWARD. I move to amend the part proposed to be stricken out by striking out the words "To enable John C. Rives." I think that language is founded upon the assumption that Mr. Rives is not able to pay his reporters. I do not want to make Mr. Rives the agent for paying money which the House voluntarily undertakes to pay.

Mr. GROW. I am opposed to the amendment of the gentleman from Georgia. Mr. Rives now publishes the Globe, and we hold him responsible for the faithful performance of the duties of the reporters. In order to do that, he must pay the reporters and have control over them. And it is to carry out the same idea that this extra compensation to the reporters should be paid through him.

Mr. SEWARD. How is Mr. Rives made responsible by the payment of this extra compensation?

Mr. GROW. The House holds him responsible for a faithful report of its proceedings.

Mr. HUGHES. Is it in order for me to explain the object of my amendment?

The CHAIRMAN. It is hardly in order for the gentleman now to explain his amendment.

Mr. GROW. I will explain to the gentleman from Georgia how the matter stands, as I understand it. The House commenced, the Congress before the last, if I am not mistaken, to pay extra compensation to the reporters. In order not to relieve Mr. Rives from the responsibility, they proposed to do it in this way. At the pay which Mr. Rives received at that time, he could not afford to pay them larger wages. The House thought it advisable to pay them additional compensation in this form, and leave Mr. Rives responsible for the faithful performance of their duties.

The amendment to the amendment was not agreed to.

Mr. BURNETT. Will it be in order for me to move to reduce the amount?

The CHAIRMAN. The Chair thinks it would be in order.

Mr. BURNETT. I move to reduce the amount \$100.

Mr. Chairman, I am in favor of the original proposition of the gentleman from Indiana, [Mr. HUGHES,] to strike out this whole item. The reporters of this House are paid under a contract with Mr. Rives. They are under his employ; and I hold if they are not paid enough, if Mr. Rives cannot employ them at the price which we pay for publishing the Globe, then we ought to increase the price we pay him sufficiently to enable him to make a contract with his employes and give them a fair compensation for their services. I hold that it is wrong to vote \$4,000, or any other sum of money, to the reporters of this House, which is nothing more nor less than a mere bonus. We give them that in addition to the amount which they receive from Mr. Rives under their contract with him. I hold that it is wrong upon principle; and, for one, I will not vote this money in this way. Either employ the reporters directly, or else pay Mr. Rives sufficient to enable him to pay them for their services. This amendment is not a deficiency, as was stated by the gentleman from Virginia, who represents the Committee of Ways and Means in respect to this bill. It is not a deficiency at all, and therefore ought not originally to have been in the bill, and it ought not to be here now. It is wrong to appropriate the money, and I shall vote to strike out the whole item. I now ask leave to withdraw my amendment.

Mr. GROW. I object. I concur with the gentleman from Kentucky in what he has said on the principle of voting extra compensation. I have generally voted against such resolutions. But you have given it to all the other employes of the House, and I ask if it is not right to give it to the reporters?

Mr. BURNETT. I propose to remedy the evil by not voting to appropriate a dollar to pay the extra compensation voted to either the reporters or any employes of the House.

Mr. GROW. This extra compensation has for two Congresses been paid to the reporters; and I think that if there are any persons in the service of the House, who are entitled to this compensation, it should be the reporters. They have more labor to perform, and labor more difficult to perform, than any other employes of the House. They have to work late at night, and sometimes all night, and ought to be paid well.

Mr. BURNETT. Will the gentleman from Pennsylvania allow me to ask him one question? Are these reporters employes of the House, or are they employes of Mr. Rives?

Mr. GROW. It is for the very reason that they are employes of Mr. Rives that the appropriation is placed in its present phraseology. I ask the question, when you have paid extra compensation to all the other employes of the House, if it is not right to pay it to these reporters? If they are paid through Mr. Rives, as is provided in this bill, no one supposes that the money will not be faithfully paid to them.

I have only to say, in conclusion, that when a corps of reporters have performed their duties as I conceive this corps have performed them, with the ability, efficiency, and correctness which they have shown, it is not right that all the other employes of the House should be paid extra compensation, and they should be neglected.

Mr. BURNETT then, by unanimous consent, withdrew his amendment.

Mr. HUGHES. I move to strike out "\$800," and insert "\$400."

The CHAIRMAN. Does the gentleman withdraw his former amendment?

Mr. HUGHES. I propose to modify it as I have stated.

Mr. WARREN. I submit that it is not competent for the gentleman to make his modification. The gentleman moved to strike out the entire paragraph; and, having done it, the motion has been fully discussed in committee. I submit that he cannot now modify that motion.

The CHAIRMAN. The gentleman may modify his proposition by general consent.

Mr. WARREN. Well, sir, I object.

Mr. SEWARD. I have an amendment to offer in the twenty-third line, by way of perfecting the paragraph, before the vote is taken on the motion to strike it out. I submit the following amendment. Insert before the clause the following:

Upon the assumption that John C. Rives is insolvent, which is untrue in itself; and it being assumed, which is equally untrue, that the Government is incapable of discharging its own money; now, therefore,

Mr. LEITER. I rise to a point of order. This is a stump speech, and is not in order on this bill. [Laughter.]

The CHAIRMAN. Whatever the Chair might think of the amendment, it is not for him to decide on that point.

Mr. SEWARD. Mr. Chairman, whatever may be our legislation, I hold that it ought to be consistent with truth, and therefore I have moved this amendment, as explanatory of the character of this legislation. In the first place, I understand that Mr. Rives is able to pay all his liabilities; and in the second place, that we have a Treasury of the United States, and an officer to disburse the money which we may appropriate. It is not necessary that we should have a sub-treasurer in Mr. Rives, to disburse \$4,000 which we propose to give to the reporters on our own responsibility. I ask any gentleman who votes against my proposition, what necessity there is in making Mr. Rives an agent to perform an act of charity which this House may undertake to perform? Why is not this House as well able to vote this money to the reporters themselves as through Mr. Rives?

Mr. NICHOLS. I will explain this. The House has contracted with Mr. Rives for publishing the Globe—

Mr. SEWARD. I cannot yield to the gentle-

man. I understand all of this contract business. I want to know whether it is embraced in Mr. Rives's contract that he shall disburse the charities of this body? What has Mr. Rives to do with this appropriation? The assertion, "to enable Mr. Rives" to pay these reporters, is not a truth. He is able to pay that amount, and when we vote in that language we vote in a falsehood. It should be to enable the Treasury of the United States to pay it, under the sanction of law, to these gentlemen.

Mr. PHILLIPS. Mr. Chairman, I rise to oppose the amendment of the gentleman from Georgia. I cannot believe that the gentleman is serious in proposing it. It seems to have been customary to allow the official reporters of this House, at each session, the sum named in this bill. It has been introduced here in accordance with that usage of the House.

Mr. HUGHES. This is an enabling act, and I wish to know whether the gentleman is in favor of it?

Mr. PHILLIPS. I will state, in time, what I am in favor of. As I understand it, the sum has already been appropriated to pay the general sum allowed to the reporters, and as it has been usual to pay them this additional compensation, it comes here properly as a deficiency. The gentleman asks me whether I am in favor of an enabling act? I have suggested already to the gentleman from Virginia that it would be better to substitute for the words "to enable John C. Rives to pay to," the word "for." I am decidedly in favor of voting to provide for this deficiency in what it has been usual to appropriate for these reporters.

Mr. WARREN. I wish the gentleman to inform the committee how long it has been the practice of the House to allow this money to the reporters. Has it not been the practice for eight years?

Mr. PHILLIPS. I cannot speak from experience, but I understand that it has been the practice for that time. I say that this is the proper place for it; because, in making the appropriation for paying the reporters, there was omitted that which has been allowed them, in accordance with the practice of the House, for eight years; therefore, I am in favor of leaving this appropriation in the bill. It is a deficiency, and not an original appropriation. It is a deficiency, because, when the appropriation was made of the sum necessary to pay these reporters, this was omitted. I hope the amendment, and the amendment to the amendment, will be rejected.

The amendment to the amendment was rejected. The question recurred on the motion of Mr. HUGHES.

Mr. HOUSTON. The gentleman from Virginia suggested that this might be struck out, so as to give us the yeas and nays in the House on striking it out.

[Several voices. No! No!]

The CHAIRMAN. Debate is not in order. Mr. HUGHES. I demand tellers on my amendment.

Tellers were ordered; and Messrs. COMINS and FLORENCE were appointed.

The amendment was rejected—ayes twenty-seven; nays not counted.

Mr. GARNETT. I offer the following amendment:

Resolved, That the bill be reported to the House with a recommendation to recommit it to the Committee of Ways and Means, with instructions to report in separate bills the items for deficiencies in the appropriations for each head of expenditure for the service of the present fiscal year, and in another bill all appropriations designed for the service of the next fiscal year, and also with instructions to inquire what further legislation is necessary to restore to Congress an efficient control over the expenses of the Government.

Mr. PHELPS. I rise to a question of order. That resolution is not submitted, as I understand, as an amendment. If it is, it is not germane to the matter under consideration.

Mr. GARNETT. I submit that such a resolution is always in order, because it is competent for the committee at any time to rise and report.

The CHAIRMAN. The Chair would state to the gentleman from Virginia that, under the rules of the House, it is not in order for the committee to rise and report the bill as long as an amendment is pending, or anybody proposes to offer an amendment. The Chair is therefore of opinion that the resolution is not in order until all amendments shall have been disposed of.

Mr. HUGHES. I move now to amend the clause in relation to the Globe reporters, by striking out the words "four thousand dollars."

Mr. PHELPS. I rise to a question of order. The question has been taken on the proposition to strike out the whole clause and it has failed. Prior to the submission of that motion it was in order to have perfected the clause proposed to be stricken out; but the question having been taken on the motion to strike out the entire clause, it is not in order to amend it.

The CHAIRMAN. The Chair overrules the point of order raised by the gentleman from Missouri, on the ground that the rule of the House says distinctly that a motion to strike out, being lost, shall not afterwards preclude other amendments to strike out, and to strike out and insert.

Mr. WARREN. I rise to a question of order. I desire to call the attention of the Chair to the effect of the amendment proposed by the gentleman from Indiana. It is the very same thing in its effect as the former amendment, to strike out the whole clause. The gentleman proposes now to strike out the whole amount proposed to be appropriated.

The CHAIRMAN. The Chair does not so understand it.

Mr. WARREN. I understand he proposes to strike out the \$4,000.

The CHAIRMAN. He proposes to strike out the \$4,000, and leave the \$800 standing.

Mr. WARREN. It is the same thing. The effect is the same. I speak of the effect, and I desire to call the attention of the Chair to the fact, that in the event this amendment prevails, there will be no appropriation left, and I take it you might as well strike out the entire clause.

The CHAIRMAN. The effect would be the same, but it is not for the Chair to judge of the effect of the amendment. The gentleman from Indiana has a right to offer it.

Mr. PHILLIPS. I rise to a question of order. I understand that this amendment proposes to strike out the whole appropriation in the clause.

The CHAIRMAN. It is in order for the committee to report the appropriation bill in blank.

Mr. HUGHES. When I first moved to strike out this entire section, I considered it unnecessary to submit any remarks; but the remarks of the gentleman from Arkansas [Mr. WARREN] induce me to desire to submit one or two observations in reference to the principle involved in this proposed appropriation. My object in submitting the motion was to take such steps as I could towards attacking what I conceive to be the greatest obstruction to the public business and the greatest waste of the public money that exists under this Government. I refer to this whole system of official reporting. I believe, sir, that that system is the greatest obstruction to the public business, and the most unwarrantable expenditure of the public funds that is to be found under our whole system of Government. It gives rise to all these written essays that are not read here for the House but for that other tribunal to which most of the declamation delivered upon this floor is directed—"the country."

Mr. WARREN. I apprehend the gentleman does not allude to me when he speaks of "written essays," for no one ever heard of my reading a speech here.

Mr. HUGHES. I except the gentleman. Mr. WARREN. I am glad he does, for I always speak what I have to say.

Mr. HUGHES. I except the gentleman from these remarks. By the way, the gentleman says that he is surprised at the quarter from which the objection to this clause comes—surprised that it should come from a Democrat. I am surprised at him, that he should stand here and advocate an "enabling act."

Mr. QUITMAN. I call the gentleman from Indiana to order.

The CHAIRMAN. The gentleman must confine his remarks to his amendment.

Mr. HUGHES. Well, sir, as gentlemen seem, to use language which was applied to me the other day, "rather prolific in questions of order," I will abandon the discussion, and take my seat.

Mr. HICKMAN. I rise to oppose the amendment of the gentleman from Indiana. This, sir, is not the time to object to the system, which has been for a long time pursued, of reporting the debates of this House. If the gentleman desires to

make objection to it, it would come more properly at another time and under different circumstances. Now, sir, what is proposed in this clause of the bill has many considerations to recommend it. In the first place, it has usage. I understand from gentlemen who profess to have knowledge upon the subject, that this compensation has been allowed for the last eight years at least. In addition to that, the compensation paid by Mr. Rives to the reporters is known to be inadequate. I am informed that it has averaged from twelve to thirteen hundred dollars a year to each of the reporters. We know the amount of their labors, and the character of those labors. Now, sir, the Government will not save anything by striking this from the bill, for the simple reason that Mr. Rives, in making his contracts with the reporters, looks to this as a part of the compensation which is to be paid to them, and if it were stricken from the bill, the consequence would be that Mr. Rives himself would doubtless insist upon an increase of pay, for the purpose of making an increase of pay to his employes. We may as well, therefore, meet the question now as at any other time, and I regard the appropriation as eminently proper.

Mr. HUGHES's amendment was not agreed to. Mr. LOVEJOY. I move to amend by striking out the following portion of the bill:

For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guard, hospitals, storehouses, and offices; forage in kind for the horses, mules, and oxen of the quartermasters' department at the several posts and stations, and with the armies in the field; for the horses of the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts; of straw for soldiers' bedding, and of stationery, including company and other blank books for the Army, certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders, Army regulations, and reports, \$780,000.

For the purchase of horses for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such infantry as it may be found necessary to mount at the frontier posts, \$250,000.

For the incidental expenses of the quartermaster's department, consisting of postage on letters and packages received and sent by officers of the Army on public service; expenses of courts-martial and courts of inquiry, including the additional compensation to judge advocates, recorders, members, and witnesses, while on that service, under the act of March 16, 1802; extra pay to soldiers employed under the direction of quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals, the construction of roads, and other constant labor, for periods not less than ten days, under the acts of March 2, 1819, and August 4, 1854, including those employed as clerks at division and department headquarters; expenses of expressmen to and from the frontier posts and armies in the field; of escorts to paymasters, other disbursing officers, and trains when military escorts cannot be furnished; expenses of the internment of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including hire of interpreters, spies, and guides for the Army; compensation of clerk to officers of the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July 5, 1838; for the apprehension of deserters, and the expenses incident to their pursuit; the following expenditures required for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and such companies of infantry as may be mounted, viz., the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes and shoeing the horses of those corps, \$190,000.

For constructing barracks and other buildings at posts which it may be necessary to occupy during the year; and for repairing, altering, and enlarging buildings at the established posts, including hire or commutation of quarters for officers on military duty; hire of quarters for troops, of storehouses for the safe keeping of military stores, and of grounds for summer cantonments; for encampments and temporary frontier stations, \$80,000.

For transportation of the Army, including the baggage of the troops when moving either by land or water; of clothing, camp, and garrison equipment from the depot at Philadelphia to the several posts and Army depots; horse equipments and of subsistence from the places of purchase and from the places of delivery under contract, to such places as the circumstances of the service may require it to be sent; of ordnance, ordnance stores, and small arms, from the foundries and armories, to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and forages; for the purchase and hire of horses, mules, and oxen, and the purchase and repair of wagons, carts, drays, ships, and other sea-going vessels and boats for the transportation of supplies and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as from their situation require that it be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops on the frontier, \$2,460,000.

For subsistence in kind, \$1,220,000.
For surveys for military defenses, geographical explorations, and reconnoissances for military purposes, \$5,000.

As the gentleman from Virginia [Mr. LETCHER] made an allusion to the statement which I made on Friday last in reference to this bill, I wish to say that, in a casual conversation which I had on the steps of a hotel with a gentleman who represented himself as a contractor, he told me that he had, or was one of a party or firm who had, a contract such as I stated. My allusion to its being a private conversation, I supposed, was understood. I did not intend to convey any such idea, but it had a particular signification. It was not private, and yet I had no authority to use the name; and, indeed, it made no impression on my mind, except that I would like to know the facts; and I came immediately to the House, and introduced a resolution of inquiry, which was objected to.

Mr. LETCHER. By whom?

Mr. LOVEJOY. By gentlemen all around who vote with the Administration—by Mr. MAYNARD, and others whom I cannot call by name. The matter went on till the debate came up; and I stated distinctly the fact that I introduced the resolution, and that it was objected to; and I had to blunder on in the dark the best way I could.

Mr. MAYNARD. The gentleman will permit me to state that I objected to the form of the resolution, not to the substance.

Mr. LOVEJOY. The why or wherefore is no matter. I state the fact simply to show my connection with this. I did not choose to give the name, because I had no authority to do so; although there was nothing private, either express or implied, in relation to it.

And now, in regard to the correctness of the statement. The statement in regard to the horses has proved to be true—that just such a contract has been made; and, as I understand, in the way stated, by an order going out from the quartermaster's department to make contracts with A, B, and C, and to give them so much per head. There is no evidence here that just such an order has not gone out for the contract for corn at ninety-eight cents, to be given to certain parties. I grant you that no such contract has been returned. I, of course, am bound to believe, and do believe, that no such contract has been sent to the department. But I did not understand the ropes sufficiently well to inquire whether an order of that kind had been issued; so that by-and-by there may be a report of the contract made as stated. I do not know that it is so. I do not know that it is not so. But I know this, that the statement in reference to the horses has proved correct, and that the statement in reference to the mode in which the contracts are made has proved correct; and the gentleman from Kentucky [Mr. UNDERWOOD] who interrupted me, was kind enough to correct himself since. I need not make any remark in regard to that.

Now, in regard to these returns: we ask for the contracts, and they send in a statement here which answers the demand of the resolution about as well as the return of a skeleton would answer the demand for the man. It may be very good as a study of comparative anatomy, but it does not answer the demand, and is not the contract. But there is sent in an old dead contract which is stated to be annulled, and I presume it is.

The contract of the 22d of March, with Armistead and Reid, is annulled. Who cares anything about those annulled contracts? We want the living contracts. The contractors said that the spring was so backward they could not get the cattle there; and so the contract was extended. A very backward spring this, everybody knows! Remarkably so! And they sent in a piteous, plaintive cry to the Secretary of War: "Extend this contract for the delivery of that which we are to deliver at Fort Laramie."

[Here the hammer fell.]

Mr. LETCHER. This five-minute rule is a very short allowance, but I think it is long enough for me to reply to the gentleman from Illinois.

Mr. LOVEJOY. Has the gentleman the right to speak again, under the rule?

Mr. LETCHER. I expect he has.

Mr. LOVEJOY. Because, if he has not, I object. He did not let me answer him.

Mr. LETCHER. I agreed to place myself, if my time was extended, in a position to be inter-

gated by every one of the two hundred and thirty-two members of the House.

Now, all I desire to say is this. As I understood the latter part of the gentleman's remarks, he was complaining, not that a contract for cattle was made, but that the Secretary of War released a man from the contract because he could not get to the place in time to deliver the cattle.

Mr. LOVEJOY. I hope the gentleman does not find fault with what I was saying, when I was cut off right in the middle.

Mr. LETCHER. No; I do not find fault with it. Mr. LOVEJOY. You must take the whole of it.

Mr. LETCHER. But, I say this—and I leave the House to judge whether the fact is not as I state—that under a contract to deliver cattle at six dollars a hundred net, at Fort Leavenworth, \$7 50 at Fort Laramie, six hundred miles further, and \$10 50 at Utah, twelve hundred miles further, any man who knows anything of the price of beef must come to the conclusion that this contract would have been an immense loss to the party that made it. He might, perhaps, have saved himself in the delivery at Fort Leavenworth, where the distance for transportation is short, but he would have incurred immense loss by the delivery at Fort Laramie at \$1 50 more, and at Utah at \$4 50 more.

Now, in regard to this other matter. The Secretary of War reports the fact that the quartermaster and the party with whom he was alleged to have made the contract for the sale of corn at St. Louis, disagreed in regard to the price, and that, in consequence of that disagreement, no contract was made.

As to the other matter on which the gentleman made a point in his remarks—he says that when he proposed to introduce his resolution of inquiry, it was objected to. I was not aware till now by whom objection was made; but I am certain that I did not object to it. But besides, when that resolution was introduced on Monday, no objection was made to it. The answer came in promptly at the meeting of the House on Tuesday. I do not see that there has been any attempt at concealment, or that anything has been attempted to be covered up in connection with this matter; and so far as I can judge from the papers presented, and from anything that I know in private conversation, I take this occasion to say here that the conduct of the War Department has been fair, manly, and above-board. I have seen no disposition to withhold information from the gentleman from Illinois, or any other person applying for it. The gentleman himself must say that there was no attempt to cover anything up, but that he got what he applied for.

Mr. QUITMAN. I offer the following amendment, to come in at the end of the ninetieth line:

SEC. 2. Be it further enacted, That to meet the extraordinary expenses growing out of the expedition to Utah, which have been incurred and may still occur before the termination of the present fiscal year, the sum of \$5,400,000 be appropriated for the following purposes:

My object, Mr. Chairman, in offering this amendment, is to express my views upon the subject covered by it. I have looked upon this bill with some degree of suspicion. I have always felt a disposition to discourage bills to provide for deficiencies; and it is only in consideration of the emergency in which the country now stands that I have come to the conclusion to vote for this item of deficiency in reference to the Army, and I have little doubt, if this bill were resolved into its separate elements, and the different elements brought in as separate bills, very few gentlemen would be found voting against it. The bill, it is true, is not exclusively for supplying deficiencies in the appropriations for the year ending on the 30th of June next. As such it is defective, and its title does not express the objects covered by the bill. But, sir, a great part of the appropriations contained in this bill for the Army expenses are to meet deficiencies for the Utah expedition, which could not have been foreseen when the estimates for the present fiscal year were made out; and they are to meet an emergency which, as the gentleman from the Committee of Ways and Means who has charge of this bill has stated, no man who appreciates properly his duty to his country can possibly avoid.

How could the President and Secretary of War, after having determined upon their course of action, have done otherwise than incur these ex-

penses? From what I have heard, there is not a single contract which looks to me extravagant. There may be; I do not speak definitely, for I am not informed upon the subject, otherwise than from the documents which have been sent to the House. But so far as I have been able to judge from the information before us, (and I have examined it with some care,) I see nothing reprehensible upon the part of the Secretary of War. It was his duty to make contracts for those provisions in advance. Colonel Johnston informs us that he has not provisions to last beyond the 1st of May. It was not to be expected, when the expenses were so heavy, that any contractor, without means provided by the Government, could provide himself with the wagons necessary for transportation in advance.

Then with these extraordinary causes producing the necessity which exists for these appropriations, if the House intends to sustain the policy of the President—and it has already voted to sustain that policy by voting additional regiments of troops for the Utah service—it is bound to vote the appropriations contained in this bill.

[Here the hammer fell.]

Mr. QUITMAN then, by unanimous consent, withdrew his amendment.

Mr. COLFAX. I move, in line one hundred and thirteen, to amend, by reducing the appropriation to \$3,000,000. It strikes me as singular, that when these large appropriations are asked for by the Administration, none of their authorized exponents on this floor have seen fit to inform us whether this is a warlike or peaceful expedition to the Territory of Utah. Is Utah in a state of rebellion? Is it in a state of war? The Government should inform us whether it is or not. Long since, this House sent a resolution upon this subject to the Committee on Territories, headed by the gentleman from Georgia, [Mr. STEPHENS,] the political leader of that side of the House, yet we have received no report from them, and no further information from the Executive.

Now, I desire to ask the gentleman from Virginia, [Mr. LETCHER,] who has charge of this bill, another question. The latest advices from California give information that a son of the late Judge Kane, of Philadelphia, was at San Bernardino, in the southern part of California; that he stated that he was an agent of the Administration, with official dispatches for the Governor of Utah, and offering \$1,500 to any one who would take him to Salt Lake City within a certain number of days.

Whether the statement is true or false, I do not know. I know he is the son of a gentleman who was, in his lifetime, one of the most decided friends of the Administration in the State of Pennsylvania, the late United States Judge Kane. As the gentleman from Virginia stands in this House, upon this bill, in the position of the Chancellor of the Exchequer in the British Parliament, to obtain the money necessary for the use of the Government, and is supposed to know the views of the Administration he represents, I desire to know if he has been apprised of any private dispatches having been sent to the Governor of Utah? I wish to know if the Administration has sent a messenger to enter there by the back door with one kind of a message, while they ask us to vote eight or ten millions to enable the troops to enter at the front door with another ostensible object? If they are making any attempt to come to an arrangement by this back-door process, it is but right Congress should know it. It is true, they have a precedent for such a proceeding in a former Administration, of which the present Executive was a Cabinet minister, which, while they sent an army and fleet to enter Mexico at the front door, sent a pass to Santa Anna, through the fleet which blocked the coast, to let him out at the back door. I desire to ask the gentleman from Virginia if he is aware of any private dispatches by the Administration, by which they are carrying on a negotiation with the Mormons through a private arrangement, while they are asking us to make these extraordinary appropriations?

Mr. LETCHER. I do not know whether any dispatches have been sent to the Governor of Utah. I have not heard of it before now; nor did I know that Mr. Kane, or anybody else, had carried any dispatches there.

I will call the gentleman's attention to a little matter which will preclude the necessity of my

saying anything more. I find that the gentleman voted for this preamble on the 23d day of December, 1857:

"Whereas, it appears from the proclamation of Brigham Young, late Governor of the Territory of Utah, from the President's message, and from later developments, that that Territory is now in open rebellion against the Government of the United States," &c.

The gentleman must have had some reason for the vote he gave at that time; and there was a separate vote on the adoption of that preamble by yeas and nays. The President had so reported the fact here; the House so voted; and it seems to me that, as it was so adopted with the gentleman's concurrence, he ought to be now satisfied that there is rebellion there.

Mr. COLFAX. I withdraw my amendment, and move another, reducing the appropriation to \$2,000,000.

Mr. HUGHES. I rise to a question of privilege. I wish to state that the Chancellor of the Exchequer in this House is the gentleman from Pennsylvania [Mr. J. GLANCY JONES] and not the gentleman from Virginia.

The CHAIRMAN. That is not a question of privilege.

Mr. COLFAX. I desire to say that when the Administration, or the Committee of Ways and Means, selects any gentleman here to represent the Administration on a money bill, as they have the gentleman from Virginia in this case, I regard him *pro tempore* in the same official position towards this House as the Chancellor of the Exchequer in the British Parliament, when asking appropriations for support of his administration.

Let me answer the gentleman from Virginia on another point. I voted for that preamble to the resolution of reference to the Committee on Territories. That was in December; and yet, here in April, although they have a majority of two to one on the committee to which it was referred for action, they have not seen fit to report their views on the question involved, or to tell us whether the Delegate from Utah represents a Territory in open rebellion, and is entitled to a seat on this floor. Why this suppression, this stifling of the matter in the committee-room? The gentleman from Georgia [Mr. STEPHENS] is the political leader of that side of the House, and he, as chairman of that committee, had power to make a report on this question at any day, or any hour of the day, for it is a privileged question.

Mr. LETCHER. I cannot tell what the Committee on Territories are about, or why they have not reported. It is a matter I had nothing to do with. My business was to prepare this bill, or to aid in its preparation, to bring it into the House, and, believing it to be right, to vote for its passage. If the gentleman from Indiana will call on the chairman of the Committee on Territories, or any one of its members, he may obtain the information which he seeks. Not expecting to be called upon as to the action of other committees, I have not posted myself on those matters.

Mr. HUGHES. As a member of the Committee on Territories, I should like to answer the gentleman's inquiries.

The CHAIRMAN. The gentleman has a right to make a speech of five minutes, in answer.

Mr. MORGAN. Was not the amendment opposed by the gentleman from Virginia?

The CHAIRMAN. The gentleman from Indiana yielded the floor to the gentleman from Virginia, to answer a question.

Mr. HUGHES. The inquiry which my colleague has asked with such an air of triumph was predicated on a misstatement of facts in the case. My colleague states that this House has sent to the Committee on Territories an inquiry as to whether the Territory of Utah is in rebellion or not. That is not so. This House has voted that that Territory was in a state of rebellion; and that gentleman from Indiana voted for it, and spoke in favor of it, and regretted the necessity which rested upon him, on that occasion, to differ from his great leaders, the late member from Massachusetts, Mr. Banks, and some others. The inquiry which was referred to that committee was, as to whether the Delegate from Utah, being the representative of a Territory now in a state of rebellion, had a right to hold a seat upon this floor. That was the inquiry; and it was an inquiry concerning a matter of law, and not a matter of fact; and, in the gentleman and his associates and con-

federates had permitted this House to pass to the legitimate subjects of legislation, and had not continually occupied its attention with the everlasting question of Kansas, the Committee on Territories would have answered that inquiry long ago.

Mr. COLFAX. I will ask my colleague a question. I would like to know how many speeches he has made on Kansas, and whether he was not about the first one to open the ball? [Laughter.]

Mr. HUGHES. I was not the first one that took the floor. The first one was the little giant from the State of Ohio, [Mr. COX,] who spoke an hour on the other side. I occupied some fifteen minutes in answer to him. Week after week was taken up by the other side of the House, my colleague among the number. I occupied my hour in the Committee of the Whole the night before the final vote was taken, and after almost every other gentleman had spoken. If that gentleman wants to be instructed on the Kansas question, and will faithfully attend to my speeches, I will promise to make a convert of him. [Laughter.]

Mr. COLFAX. I have great respect for the ability of my colleague, but I will inform him that he might as well save his labor, if he means to make a convert of me.

Mr. HUGHES. Why, sir, it has been done already; for, a short time ago, the gentleman declared upon this floor that he would not vote for the admission of Kansas under the Lecompton constitution, or any slavery constitution, if her whole people desired it; yet a few days ago he recorded his vote in favor of that measure; and I take to myself the credit of having converted him. [Laughter.]

[Here the hammer fell.]

Mr. WASHBURN, of Maine. I move to reduce the appropriation from "\$5,000,000," to "\$3,000,000."

Mr. GREENWOOD. Inasmuch as remarks have been made foreign to the pending amendments, I desire to call the attention of the Chair to the fact that gentlemen are required by the rule to speak to their amendments, and I shall insist upon the enforcement of that rule.

The CHAIRMAN. Gentlemen will be expected to confine their remarks to explanations of or opposition to amendments.

Mr. WASHBURN, of Maine. I understand that this bill, so far as it relates to the appropriations for the Army is predicated upon the hypothesis that Congress would carry out the recommendation of the President of the United States for an increase of the Army, or of the military force of the country, by adding at least five regiments to the military power of the country. I would like to inquire of the gentleman from Virginia if that be so or not?

Mr. LETCHER. No, sir.

Mr. WASHBURN, of Maine. The gentleman says it is not. I had that impression, Mr. Chairman. It seems to me that it is very strange that the Administration should not have asked for supplies, and for the means of supporting the Army which they had declared to us was absolutely necessary to be raised. But it seems that when they were saying to Congress that it was necessary to increase the Army, or the military force of the country, and were also bringing in a deficiency bill which it was supposed would cover all the deficiencies of that branch of the public service until next July, they made no provision whatever for this increased expenditure. That, I suppose, is a specimen of the wisdom and prudence with which affairs are conducted by the present Administration.

But, Mr. Chairman, I am opposed to this bill, and I shall be obliged reluctantly to vote against it; for the reason that it contains these provisions for the Army. We are told that this increase of expenditures has been occasioned in consequence of the difficulties in Utah. Now, sir, I hold that the President had no authority of law, not the slightest, to use the Army for the purposes for which he has used it in Utah. I challenge gentlemen upon the other side to show me the slightest authority of law for the President to make that use of the Army which has occasioned the necessity for this large increase in the expenditures of this branch of the Government? There is no such authority. And, sir, I wish to say to the committee, and to the country, that I will not vote to justify the President in thus usurping powers that did not belong to him. Nor can I see how any

gentlemen can vote for this appropriation for the payment of expenses rendered necessary by the usurpation of the President.

Mr. LETCHER obtained the floor.

Mr. LOVEJOY. Has the gentleman a right to speak again?

Mr. LETCHER. Yes, sir; I have a chance upon every new amendment. I am sorry that the gentleman from Illinois seems to be so much disturbed about me. I think I am one of the best-tempered fellows in the world, and I do not mean to do him any harm. [Laughter.]

The gentleman from Maine [Mr. WASHBURN] says that the President has exercised power and authority not warranted by law, and that no man can vote for this bill without giving a direct sanction to that illegal exercise of power. Now, sir, if the President has exercised unlawful powers, what is the duty of this House? Was it not the province of that gentleman and the duty of that gentleman, and of others who entertain the same opinion, to institute the necessary proceedings here to test that question, and to bring the President up for punishment for violating the laws of the land? Why is it that four months of the session have rolled away, and we hear now, for the first time, of this exercise of illegal powers, when an appropriation bill comes up, not to support the President, but to support the Army, which is in the wilds between here and Utah, to furnish to them bread, and to give them the means of subsistence? Sir, it strikes me, that before the President should be arraigned here, we should have some act going to show that gentlemen's practice corresponds with their preaching. If the President has done an illegal act, punish him for it, or take steps to do it. But, instead of that, what do we find here? We find gentlemen not only not punishing him, but absolutely sustaining him, that they are voting him men—two additional regiments—in order that the power to conduct this campaign against Utah may be increased and rendered more efficient. Why was his course indorsed by both Houses of Congress, as it has been within the last day or two? The matter was as well understood then as it is now. If this usurpation has been committed, it was known then as well as it is known now. It seems to me, then, that the gentleman from Maine is rather too late in the day; and if I thought as he thinks, I should introduce a resolution here proposing to inquire into the matter, and, if the Army has been improperly sent there, demanding that it shall be recalled, and ordered to more suitable positions.

Mr. WASHBURN's amendment was disagreed to.

Mr. GRANGER. Mr. Chairman, I move to strike out from the point which we have now reached in the bill down to the close of the Army appropriations.

Sir, the bill under consideration is a bill to raise a large sum of money to pay off deficiencies in past appropriations. If we are to make up deficiencies where expenditures overrun appropriations we should first be very particularly informed in regard to the specific items of the defalcation, and why it happened. We have had no such information. The absence of this has been very well adverted to by several gentlemen on this floor; and therefore I shall only allude to it, as this is alone a sufficient cause of opposition to the passage of this bill. I say this alone is a conclusive objection to this bill. But, sir, I have other objections to its passage. The reasons so ably and clearly set forth by the honorable gentleman from Louisiana are of a still more important character. Sir, I hold in my hand the National Intelligencer of yesterday, containing a brief synopsis of the remarks of the honorable gentleman of Louisiana, [Mr. TAYLOR,] and I wish to call the attention of the committee to them. I am delighted to see that a gentleman so distinguished for his high legal attainments, a member of the Administration side of this House, a member of the Judiciary Committee, rises above party, and places himself on the true constitutional ground; and I take great pleasure in saying that I agree to every word he said, and feel confident that such sentiments will meet the approval of my constituents.

"Mr. TAYLOR, of Louisiana, objected to the bill as involving a principle which would lay the foundation of unnumbered evils. It was the duty of Congress to fill the public Treasury, and to make appropriations therefrom for objects of public policy. It was the duty of the Executive to expend the appropriations for carrying out these objects. But when

the appropriation was exhausted it was incompatible with the genius of republican institutions for the Executive to go on expending money. If the appropriation failed, or any other important emergency arose, it became the duty of the Executive to call Congress together to meet the emergency. This deficiency bill provided for a totally different course. The President had a right to make use of all military means at his disposal to repel invasion, but he had no right to undertake great military movements where no such emergency existed on his open motion and without consulting the legislative branch of the Government. To prevent Executive assumptions of power he was disposed to vote against this bill. Nothing had transpired in Utah calling for hot and hasty action; nothing to prevent the President from waiting for the meeting of Congress."

I say that this call is made on us with a design to use it for other purposes than for those set forth in the bill. It is not for deficiencies, but to be used by the President to carry on a formidable and very expensive military enterprise on his own assumed and unlawful authority, without the consent of Congress, to whom he should have submitted the question, and by whose decision he should have been governed. The President's conduct is very strange, and in my opinion very reprehensible. Without consulting Congress, he has led the nation into a far-distant and very expensive war—a war, the very commencement of which has beggared the Treasury. He is now prosecuting that war on his own authority, in a remote Territory of this Republic, and advising with us only to call for money. He is making extensive and wasteful contracts to prosecute that war on a large scale, without a dollar on hand to pay with, every cent of which must be on borrowed capital, laying the foundation of a national debt, almost beyond the hope of redemption. Why, what is he about to do? Concentrating an army of six thousand men, infantry, artillery, and horse, with all the countless paraphernalia and circumstance of war, two thousand miles from home, and through an unpeopled desert of fifteen hundred miles, at a cost never before heard of; and all present and future supplies to be dragged the whole distance by land. Flour, as near as can be found, costs some seventy or one hundred dollars a barrel, and everything else in proportion. And now, sir, he comes to us, and demands some ten million dollars, out of a bankrupt Treasury to begin with, and under the following pretence. Here, sir, is the title and the first section of the bill:

"A bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858."

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, out of any money in the Treasury not otherwise appropriated, namely,"

Sir, is not this an attempt to obtain our money under false pretences?

Sir, there never was an Administration so utterly befogged in regard to its financial affairs as ours. Why, sir, scarce ninety days ago, buying up its own paper and paying a premium of some twenty per cent., and for paper not due for twenty years to come; and now so soon making a raise by selling its own notes in market to anybody who will purchase, to keep soul and body together, and now, again asks us to pay up deficiencies, which, if they existed at all, were in existence at the time of paying the twenty per cent. premium on its own debts, due some fifteen or twenty years ahead. Sir, did you ever hear the like? Suppose an individual who had a fine estate should do so, would not his family ask to have a guardian placed over him to save their inheritance?

Why, the President begins on a scale that will soon run up to \$100,000,000, and without any necessity, and without the first attempt to avoid the conflict. Why has he not long ago sent able and discreet commissioners to the seat of disagreement to find out and settle the difficulty before he resorts to a war on usurped authority, and one the most remote and wasteful ever heard of? I am satisfied three men might be selected and sent there that would settle all the trouble in three days, and that General Scott, if he was there, would end the matter without firing a gun. Sir, it is all wrong and unnecessary from the beginning. He ought not to have done it. He had no right to do it. If he was of opinion it was necessary, he should have laid it before Congress and let them decide. It was a grave matter, and for them to decide and not for him. It was for him to execute if Congress so directed. He is the Executive, not the legislature. He has usurped a power not his own;

and he seems to think, as Louis XIV said, "I am the State!" Sir, we must put an end to this Executive encroachment and save the Republic from the danger of what our fathers most dreaded; the consolidation of the central power. Sir, Congress must take care of the Treasury or we will soon have a debt that never will be paid. Are you aware, sir, where we are now rapidly drifting? Are you aware at this time, this very year of our Lord, 1858, from the beginning to the end of that year, our national debt is growing at the rate of \$100,000 a day, Sundays and all?

Let the President have his way, and very soon we will have a debt the interest of which will consume every dollar of our revenue; and then what is to be done to support Government? Keep borrowing? No, sir; if you do you will never pay; and it will only sink you deeper and deeper. Resort to direct taxation? Impossible. For when the people know, as soon they will, that all this load was placed on their back for them to carry by the mal-administration of Government, and could and should have been avoided, they will denounce their Government, and refuse to pay. They must refuse, and they will refuse, for to pay will be impossible. Ohio would have eight millions, and New York ten millions, to pay annually by direct taxation, and it would be out of the question. It never can be done. And what then? "Then comes the end." The experiment is tried, and our boasted Republic—the pride of the earth, and the hope of the great and good of all climes—will come to an end, and find a premature grave. Sir, it is clearly the duty of this Congress to lay aside their party struggles, and come to the rescue. The country and the Constitution demand it. They, the Representatives of the people, the "Commons" of the country, and they alone, have power to hold the Executive in check. They can withhold appropriations; and now is the time to do it. Let us unite on this important duty, and it will do more than anything else to quench the fires of bitter, malignant, and dangerous sectional strife; yes, sir, more than anything else.

The honorable gentleman from Virginia [Mr. LETCHER] suggested, ironically, the remedy of impeachment, and said, "Why do you not impeach the President?" I thought of that myself; and I can assure the honorable gentleman from Virginia that there is more truth than poetry in his suggestion. True, sir, impeachment would be resorted to as the most important and effectual remedy but for the presence of the demon, party, who stands here with his cloven foot and pitchforks to defend and protect the guilty. Sir, there never was a fairer candidate for impeachment, and for more than one specification that we can produce. In the purer days of the Republic, no Congress would have submitted to what we have.

[A portion of the foregoing remarks of Mr. GRANGER were made at a subsequent period in the day, the gentleman's five minutes having expired before he had completed them.]

Mr. LOVEJOY. I wish now to complete my statement in regard to these contracts. I understand that these gentlemen—Messrs. Reed & Armistead, I believe—are men of abundant wealth, and they come in now and plead that they are not able to fulfill the contract which they made with the Government for furnishing beef.

Mr. GREENWOOD. I call the gentleman to order. He is not opposing the amendment.

The CHAIRMAN. The gentleman from Illinois must confine his remarks to opposition to the pending amendment.

Mr. LOVEJOY. Well, the amendment of the gentleman from New York [Mr. GRANGER] has encroached upon my amendment, and therefore I oppose it. He moved to strike out a part of these Army appropriations, and I moved to strike out the whole of them.

Mr. TAYLOR, of New York. Would it be in order to ask the gentleman from Illinois to read the balance of the speech of the gentleman from New York? [Laughter.]

Mr. LOVEJOY. I am much obliged to the gentleman, but I am quite as competent to make my own speeches as the gentleman from New York is to make his; at least I think so.

These beef contractors, who have abundant wealth, as I am informed, and verily believe, sent in a petition to the Secretary of War requesting that the contract which they had entered into

should be canceled, because it was going to ruin them, and for the reason that they could not buy at the low prices at which they were obliged to buy on credit. And the dealers around the country, knowing that they had taken a contract at such ruinous prices, would not trust them, because they expected they would fail. That is the reason assigned. In the first place, the Secretary of War gave an extension of the contract, and then, at the request of the parties, he canceled it; and then what turns up? This same contractor for the transportation enters into a contract to deliver, instead of young steers, as Armistead and Reed were to deliver, the oxen of the train with which the supplies are to be taken to Utah, and they are to deliver them at \$7 50 per hundred net. I want that fact to be known to the House. These contractors get five dollars a day for every two yokes and the teamster while the oxen are detained, while they are getting fat on the grass, and while the teamster is lolling around watching them; and then they get \$7 50 per hundred net for these train oxen when delivered. Now, if that is all right and fair, I am glad of it.

One single word more. The gentleman proposes to give me a contract for horses. I want the gentleman to give me a contract for the war. Just let me have control of the Government for three months at one time of what it costs, and I will get responsible parties to do all the fighting, and to fix it all up; just tell what you want done. If you want to have Brigham Young hanged, very good, we will hang him; if you want so many killed, say the word, we will kill them; if you want a certain law obeyed, enact the law, and we will enter into a contract to bring them to obedience.

Mr. LETCHER. I did not know that the gentleman from Illinois was a fighting man, or probably the Secretary might have spoken to him on the subject.

Mr. LOVEJOY. I presume I am as able to fight as the gentleman. But another point. I understand the gentleman from Virginia to say that this item covers a period of twenty months. How is that, when this is for the year ending June, 1858?

Mr. LETCHER. That is the title; but if the gentleman wants an amendment to suit his notions, he had better wait till we arrive at that point.

Mr. GRANGER asked leave to withdraw his amendment.

Mr. PHILLIPS objected.

The question was taken; and the amendment was rejected.

Mr. COLFAX. I move to amend by reducing this item from \$5,400,000 to \$2,700,000.

I submit this amendment in good faith. I am not, as the gentleman from Virginia attempted to prove a little while ago, opposed to furnishing supplies to the Army; but I am in favor of limiting them to the exact terms of the bill reported by the financial committee of this House. The Committee of Ways and Means in the very beginning of the bill declared that "the following sums be, and the same are hereby, appropriated, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858," and yet they now acknowledge, in the very teeth of that, that instead of this being to supply deficiencies for the fiscal year ending June, 1858, it is to furnish supplies to be used during the whole of the succeeding year.

But, sir, when, in the Government organ published in the city of Washington—the Union—speaking about this subject of Army appropriations, the Republican members of the last House of Representatives, who voted liberally for the appropriations asked for by those at the head of affairs, have been arraigned and held responsible for having voted these appropriations, I, for one, am determined, when appropriations come before me hereafter for my vote, that I shall secure them in the shape which I think just, economical, and proper, or else purge myself from liability to such attacks hereafter by voting against them. Speaking of the appropriation of \$19,000,000 for the expiring fiscal year, the organ says:

"If it were a fact that the Army appropriations were upwards of nineteen millions for the expiring fiscal year, the responsibility would belong as fully to the Black Republican House which voted them as to the Democratic Senate that concurred in and the Democratic Administration that administered them."

And again, for the third time in the article, it says:

"And that they are expenditures which have been authorized by a Black Republican House of Representatives."

Thus, when we vote against the appropriations because we think they are extravagant, and because the rejection of these bills is the only way in which we can infuse economy into the public service, we are denounced for stopping the wheels of Government; and when we vote what our rulers ask us to vote, we are held up before the country as responsible for extravagance.

Sir, I desire to have appropriation bills cut down to the smallest possible figures consistent with the efficiency of the public service. When this bill is trimmed down, so as to make it what it professes to be, a deficiency bill for the year ending June 30, 1858, I will be willing cheerfully to vote for it, and not before.

A single word now, in reply to my colleague, [Mr. HUGHES,] as I could not obtain the floor on the conclusion of his remarks: I have never voted for the admission of Kansas under the Lecompton constitution. I voted for the admission of Kansas without any constitution, as Ohio was admitted, and to refer that instrument to the vote of her people, under the assurance—as the Union itself declares—that they will be certain to vote it down. I first voted to reject, not to ratify it—and the Crittenden amendment, for which I voted, was declared by the Union, previous to its passage, to be "as full of Black Republicanism as an egg is of meat." I only allude to this to clear up the point between my colleague and myself.

Mr. PHILLIPS. If the gentleman from Indiana is willing to vote these supplies, the language of the first section of the bill need not embarrass him at all. I understand his objection to be that the bill declares that "the following sums be, and the same are hereby, appropriated, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858," and that there is something to be bought with the money here appropriated, which is to be used after the present fiscal year expires.

Mr. COLFAX. Yes; it is prospective, instead of being a deficiency bill.

Mr. PHILLIPS. Well, does the gentleman understand that when an appropriation is made for a fiscal year, the supplies and articles must be used in that year? Has such an interpretation ever been given? Such is not my construction; if my understanding is right, it is intended to expend the money in this fiscal year; but some of the supplies may be used subsequently; but it may very well be that a portion of it will not be required to be used till 1859; and I believe that the Secretary of War, or the Quartermaster General, speaks of a portion of it not being used till 1860.

Now, if the gentleman from Indiana is willing to adopt that construction, which I apprehend is the only reasonable one, his objection must fall to the ground. Would any gentleman rise on this floor and assert that the money appropriated for a given year must be used within that year; that that which is bought with the money must be used within that year? And yet that is the narrow construction which the gentleman gives it.

Mr. GROW. Will my colleague allow me to interrupt him?

Mr. PHILLIPS. Yes; although he did not allow me to interrupt him the other day.

Mr. GROW. The construction which my colleague gives is, I think, right; but your executive officers do not give the law that construction, for the Secretary of the Treasury takes the money appropriated for one year and applies it to another year.

Mr. PHILLIPS. My colleague says that my construction is right. He is but returning the compliment, for I indorsed him a few days since. But, if my construction is right, the gentleman from Indiana, who gives it a different construction from that of my colleague, must be wrong. If, therefore, he has no other objection, I hope he will reconsider his course and acquiesce in the construction of my colleague. I hope he will have no further difficulty in the way of voting for this bill.

The question was taken on Mr. COLFAX's amendment; and it was not agreed to.

Mr. LETCHER. I desire to offer an amend-

ment to come in in the one hundred and eighteenth line. I move to insert the following:

For services of a keeper of the armory of the District militia, \$300. And it is hereby provided, That this compensation shall be at the rate of \$1,200 per annum.

I send up a letter from the Secretary of War, which will explain the matter.

Mr. SHERMAN, of Ohio. Is it in order to fix the compensation of an officer in an appropriation bill?

The CHAIRMAN. The Chair thinks the amendment is not in order.

Mr. LETCHER. I will then leave off that portion of it which fixes his compensation, and leave simply the appropriation of \$300 for his services already performed.

Mr. JONES, of Tennessee. Is there any law authorizing the appropriation of this money?

Mr. LETCHER. I imagine that, when the Government build an armory, they intend to make provision for taking care of it. The Government have built an armory for the militia of this District. It was completed some months ago, and there was no man to take care of it. The Secretary of War appointed a man to take care of it until Congress should provide; and this \$300 is to pay for his services.

Mr. JONES, of Tennessee. I submit that the amendment is not in order. If the Secretary of War had authority to make the appointment, he must provide for his payment.

Mr. SMITH, of Virginia. How does the Chair decide the question of order?

The CHAIRMAN. The Chair decides that, inasmuch as there is no law authorizing the appointment of this officer, the amendment is not in order.

Mr. SMITH, of Virginia. What is the officer? I do not understand that this provides for the appointment of any officer.

Mr. LETCHER. It is merely to pay a man for taking care of the armory which you have built.

Mr. SMITH, of Virginia. Then this is to pay for services rendered, and not for the creation of an office.

The CHAIRMAN. If this office is one naturally arising in the War Department, the Secretary of War can apply other moneys to pay for it.

Mr. PHELPS. I desire to submit this question for the decision of the Chair: whether this is not one of the contingencies of the Government? It is not to be supposed the Government would provide for the erection of a public building unless there was to be some one to take care of it, and it is, therefore, incumbent upon Congress to provide compensation for taking care of such building. The 81st rule makes it proper to report in appropriation bills not only such appropriations as are directly provided for by law, but such as are necessary contingencies for carrying on the Government. I read the 81st rule:

"81. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law—September 14, 1837—unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government—March 13, 1838."

I submit, therefore, that it being necessary—the Government having erected a building—to provide for the taking care of it, this is one of the contingencies contemplated in the latter clause of the rule.

Mr. JONES, of Tennessee. This would amount to the creation of a new office.

The CHAIRMAN. The Chair could hardly hold that the management of the armory for the militia for the District was a contingency necessary for carrying on the War Department. The Chair understands the phrase "contingencies," in the rule read by the gentleman, to be intended in its technical sense.

Mr. PHILLIPS. It is a building erected by the Government.

Mr. JONES, of Tennessee. But it is for the service of the District, and not for the Government at all.

Mr. GARNETT. I offer the following, to come in at the end of line one hundred and eighteen:

No contract shall hereafter be made by any department of Government, except under a law authorizing the same, and under an appropriation adequate to its fulfillment, and excepting also contracts for the subsistence and clothing of the Army and Navy, and contracts in time of war by the

quartermaster's department, which may be made by the Secretaries of those Departments.

Mr. WASHBURN, of Illinois. I submit that that amendment changes the existing law, and is, therefore, not in order.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. GARNETT. I would inquire if it has not been the practice for the last ten years to put into appropriation bills amendments containing as much legislation as this?

The CHAIRMAN. The Chair believes it has been the practice, but such provisions have been put in by the Senate or by unanimous consent in the House. The point being made, the Chair feels bound to rule the amendment out of order.

Mr. SHERMAN, of Ohio. I move to strike out the following:

"For surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, being the amount of surveying liabilities incurred by the surveyor general during the fiscal year ending 30th June, 1857, over and above that authorized under the appropriation of \$50,000 for that period, \$220,000."

Mr. Chairman, I have endeavored to find out the purpose of this clause.

Mr. LETCHER. There has been a document printed on the subject for months.

Mr. SHERMAN, of Ohio. Congress appropriated \$50,000 for this purpose, and the officers of the Government in California, without authority of law, have expended \$220,000. Where is the law to sanction such a proceeding? It is sufficient for me, when I am called on to vote, to know that this expenditure has no sanction of law; and I hope it will be stricken out. It is a bad precedent to set to authorize the proceeding of a subordinate officer who has involved the Government to that large amount.

Mr. SCOTT. Mr. Chairman, I will state to the gentleman from Ohio, and the House, the cause of this deficiency. By reference to the report of congressional proceedings, it will be perceived that the Thirty-Second and Thirty-Third Congresses made liberal appropriations for the survey of public lands in California, amounting to two or three hundred thousand dollars. The Thirty-Fourth Congress cut down these appropriations to \$50,000. At that time, the surveyor general of California had made his estimates relative to the surveys of the lands in that State; he had thrown into the field his corps of engineers, and the lands were surveyed. He had no intimation whatever that Congress was going to act in this manner. Previous, I say, to the cutting down of the amount, he had put his men in the field, and they had gone to work. They have performed the work for the Federal Government in good faith, to pay for which this appropriation is asked. They have been kept out of it for one and, I think, two years. They have been kept out of this \$220,000, which has been regularly expended, and they have been compelled to pay for money the ruinous rate of two per cent. a month, for money expended in the service of the Government. This surveyor general had to pay out his own salary, in order to carry on these surveys of the public land. I am willing myself to confine Federal officers to the strict letter of the law; but gentlemen should recollect the benefits which have accrued to the Federal Government in the survey of these lands. Over twenty-three million acres have been surveyed. These have been run into townships and sections, and half and quarter sections. A great many of them have been entered, and, by proclamation, four or five million acres are to be sold in May next, which will bring into the Treasury as many million dollars.

In the limits of that State there are one hundred and twenty million acres of land, all of which, except four or five million, is public land; and it has become necessary, in the adjustment of land claims there, to have the private land claims separated from the public land. Now, sir, we would have had to wait five years to have done that which this surveyor general has accomplished in six months; and this \$220,000 would have been expended, and much more, in those five years. I say that while the gentleman from Ohio argues for holding officers to a strict accountability, and while there may be some truth and justice in that, yet there are exceptions to all rules, and especially so far as the State of California is concerned. If

this were to happen in one of the Atlantic States, where early and reliable information could be had of the action of Congress, instead of in this far-distant State, to which it takes a month to go, the matter might come fairly under his rule. Then, taking into consideration the past legislation of this country; that these surveys have been of great benefit to the country; that this money is justly due; and that these men have had it withheld from them for eighteen months, I think justice demands that we should pass this section of the bill, which appropriates this \$220,000.

Mr. STANTON. I move to amend the amendment by diminishing the appropriation \$200,000.

Mr. Chairman, this amendment presents a good illustration of the manner in which this Government is carried on. The Constitution contemplates that there shall be no expense incurred and no money expended, except by the authority of Congress. The only use that Congress is to this Government is to act as a check to the executive department; to paralyze its arm and withhold the funds necessary in a case of practical usurpation of power on the part of the executive branch. Here is a case where Congress appropriated \$50,000 for the accomplishment of a particular work. Under this authority, the Executive has gone on and expended \$270,000. The question is, then, whether Congress can recognize an authority in the Executive or any of his subordinates to spend five dollars for every dollar which Congress has authorized to be expended.

I wish it to be remembered on this side of the House, that, after this appropriation has been voted, we are to be estopped from arraigning this Administration for extravagance in its expenditures of the public money; we are to be estopped because we voted for the appropriation.

The Union of yesterday had the following paragraph:

"We hear, accordingly, loud complaints against the Army expenditure. It is charged that it has run up in twelve years from \$9,000,000 to \$19,000,000; and at this last amount, though voted by a Black Republican House of Representatives, some of the members who voted for it now affect to stand appalled and aghast. If it were a fact that the Army appropriations were upwards of nineteen millions for the expiring fiscal year, the responsibility would belong as fully to the Black Republican House which voted them, as to the Democratic Senate that concurred in, and the Democratic Administration that administered, them. But the fact is not so."

That paper, it will be seen, holds that because we voted for extravagant appropriations for the Army, we have no right to make any question about the extravagance in the expenditures of the public money by the Executive. It turns out, Mr. Chairman, that the Republicans had not a majority in the last House, and that they are not, therefore, responsible at all for any appropriation made at that time. This, everybody knows. I hold that if there is to be anything in the shape of responsibility at all on the part of the executive department, if this House proposes to put any effective check on the expenditure of the public money, it must hold the Executive responsible for the expenditures which are made. And if we are to be called upon, and it is to be held to be our duty, to vote appropriations for whatever expenditures may be made, whether they be authorized by law or not, and whether they be necessary or not, why, then, there is no check and no accountability.

The argument of the gentleman from California [Mr. Scott] might have been a very proper one a year ago. It might be very proper to say in advance that the money was necessary for this expenditure. But his argument is, that inasmuch as it was necessary to spend this money, therefore, the Executive ought to do it. According to the gentleman's argument, the Executive is made the sole judge of the necessities of the country, and of what money is necessary to be expended for any particular purpose. Now, sir, I submit that it is the province and the duty of the House to determine—

[Here the hammer fell.]

Mr. PHELPS. I think the gentleman from Ohio is laboring under a misapprehension, when he attempts to hold this Administration responsible for the deficiency provided for in the clause now under consideration. If this amendment shall prevail, its effect will be to prevent the gentlemen who have performed these labors—those who were employed by the deputy surveyors, under contracts made with the surveyor general

of California, and who went into the field, and traced the lines which they were instructed to run—from obtaining remuneration for those labors.

If they were the guilty persons; if they were the persons who had violated the law; if they were the persons who had exceeded the instructions given to them by the late Secretary of the Interior, I should be disposed to treat this as a private claim, and let them come to Congress and ask relief. But the surveyor general of that State, Mr. Hays, I believe, made contracts with deputy surveyors for the surveying of township lines, and for the sectioning of many of these townships. The deputy surveyors, believing that the surveyor general had authority to make the contracts which he did make with them, went forward, and in good faith executed their contracts, and performed every stipulation in them, and their work was submitted to the surveyor general and approved by him, and has been submitted to the Commissioner of the General Land Office and approved by him. The plats of those townships are now in the General Land Office. The surveyor general, having exceeded the authority vested in him by law, has been removed from the position which he held, by this Administration.

Mr. WASHBURN, of Illinois. Do I understand the gentleman to say that Mr. Hays, the surveyor general of California, has been removed?

Mr. PHELPS. I say he has been removed by this Administration.

Mr. WASHBURN, of Illinois. Has he been removed from office?

Mr. PHELPS. He has.

Mr. WASHBURN, of Illinois. I understand not, but that he has been transferred from California to Utah.

Mr. MORGAN. I know that is the fact.

Mr. WASHBURN, of Illinois. He has not been removed from office to this day.

Mr. PHELPS. He was removed from the office of surveyor general of California.

Mr. WASHBURN, of Illinois. I ask the gentleman if he is not in office now by the appointment of this Administration?

Mr. PHELPS. No, sir; I am informed that he is not. The Secretary of the Interior informed me, in a conversation which I had with him on the subject, that he is not.

Mr. WASHBURN, of Illinois. Has he not been appointed to the office of surveyor general of Utah by this Administration?

Mr. PHELPS. He has not been so appointed, as I am informed. He is holding no office at this time, as I am informed. I say then, sir, that the question is this: will you, after these men have made contracts with the surveyor general, believing that he had authority to make such contracts, and have performed this labor for the Government, of which the Government is now reaping the benefit, will you deprive the proper authorities of the means of paying for the services thus performed? And that, too, when you find that the conduct of the officer who exceeded his authority has met with the disapprobation of the executive department of the Government, and that he has been removed from office?

[Here the hammer fell.]

Mr. STANTON, by unanimous consent, withdrew his amendment.

The question recurred on the amendment offered by Mr. SHERMAN, of Ohio.

Mr. SCOTT. I move to amend the clause proposed to be stricken out, by increasing the amount of the appropriation \$5,000.

Mr. Chairman, there seems to be a misunderstanding on the part of the gentleman from Illinois, [Mr. WASHBURN,] in relation to the late surveyor general of the State of California, and I wish to make a statement in regard to that matter. Colonel Hays, who was surveyor general of California, acting in good faith, and believing that the Government would make an ample and sufficient appropriation for the surveys of our State, exceeded the appropriation to the amount of \$220,000. As the gentleman from Missouri has stated, he entered into contracts with various parties to make surveys of the public lands in the State, and they put their men into the field. A letter was addressed to him by the Department, ordering him to curtail his expenses. That letter was *in transitu* at the time he made the contracts, and he did not receive it until it was too

late to recall them. The indebtedness had been incurred. He, as the official agent of the Government, had taken upon himself the responsibility of entering into contracts with these parties. The Senators from California and my colleague and myself made strenuous efforts with the Administration, and with the Department of the Interior, to keep Colonel Hays in office—for there never lived a more gallant or a more honest man. We went and begged and intreated that he should be allowed to retain his office. We were told: "No; we cannot retain him because he has disobeyed instructions, and it would be establishing a bad precedent. Although we believe that every word you utter in testimony to his high character as a man is true, the law must be enforced and he must be removed."

But, sir, to prevent any tarnish of the name of a man revered and honored by every American, and who has frequently spilled his blood upon the battle-field in his country's cause, the President voluntarily offered him the position of surveyor general of Utah as a guarantee to the country that the act for which he was removed was nothing but what was considered a breach of duty, casting no reflection upon him as a man. That is exactly the state of affairs, and he never has accepted the position tendered him.

His removal from the office of surveyor general of California has been a source of sorrow and regret to every honest man throughout the length and breadth of that State, for he is universally beloved for his noble qualities.

Mr. WASHBURN, of Illinois. I oppose the amendment to the amendment for the purpose of saying a word or two. I know nothing in particular in regard to Colonel Jack Hays. But I understood the gentleman from Missouri to claim great credit for the Administration for having removed him from the office of surveyor general of California on account of his transactions there in regard to surveying the public lands. In reply to that I stated, what I understood to be the fact, that this same man, for removing whom from office, great credit is claimed for the Administration, has been appointed surveyor general of Utah. That I still understand to be the fact, although I understand further that he has not accepted the appointment. That is all I have to say.

Mr. PHELPS. I stated that he was removed from the office of surveyor general of California.

Mr. SCOTT withdrew his amendment to the amendment.

The question recurred on Mr. SHERMAN's amendment.

Mr. FLORENCE demanded tellers.

Tellers were ordered; and Messrs. GARNETT and LOVEJOY were appointed.

The committee divided; and the tellers reported—ayes 50, noes 72.

So the amendment was rejected.

Mr. LETCHER. I offer the following amendment:

Strike out \$3,311, in the one hundred and fortieth line, and insert as follows:

And the increase of business in the inspection and depredation offices of said Department, \$5,218.

So as to make the section read:

For payment to clerks temporarily employed in the Post Office Department, on account of the extraordinary labors connected with the lettings of new contracts for the term commencing on the 1st July, 1838, and the increase of business, in the inspection and depredation offices of said Department \$3,218.

This additional \$1,907 is for the service of clerks employed in the inspection and depredation offices of the Post Office Department. The number of cases in these offices was, in 1849, one thousand two hundred and twenty-four, and in 1857 two thousand and sixty-two; and the Postmaster General reports that it is absolutely necessary, in order to keep up with the business of that branch of the service, that these clerks should be employed.

Mr. LOVEJOY. I am in favor of the increase in regard to the depredation office.

The amendment was agreed to.

Mr. LETCHER. I offer the following amendment to come after the last:

For lighting the President's House, and Capitol, the public grounds around them and around the executive offices, and Pennsylvania avenue, and Bridge and High streets in Georgetown, \$5,000.

There is a full explanation of the reason for this amendment in a communication from the Commissioner of Public Buildings.

The letter was read, as follows:

OFFICE OF THE COMMISSIONER OF PUBLIC BUILDINGS,
February 25, 1858.

SIR: I have received a letter from Joseph F. Brown, secretary of the Washington Gas Light Company, stating that he had presented Captain Meigs bills for gas consumed in the Capitol extension for the months of December and January last, amounting to \$1,453 75, of which sum Captain Meigs is only willing to pay \$650, leaving a balance of \$793 75, which the company expects me to pay.

The appropriation for the current year was made in the fall of 1855, when there was not any prospect of the extension being ready for occupancy for legislative purposes; and, therefore, the cost of lighting that portion of the building was not included in the estimate, and for the same reason it was not included in the estimate for the next fiscal year. I cannot, of course, pay out of the present appropriation the bill for lighting the extension, as I should not be able to continue the lighting of the Capitol, President's House, Pennsylvania avenue, &c., which alone were contemplated in the appropriation. I have no data upon which to make a reliable estimate of the cost of lighting the two extensions.

I am informed that there are one thousand two hundred and sixty burners, besides fourteen or fifteen thousand jets above the glass ceiling in the new Representative Hall. These jets are merely used to ignite the burners, and are then shut off. The one thousand two hundred and sixty burners will average eight feet of gas per hour each; or a total of ten thousand and eighty cubic feet per hour, at a cost of \$35 10. In addition, all the offices, halls, passages, committee rooms, &c., are profusely supplied with gas burners, and of course will consume an enormous quantity of gas. The gas consumed last month in the old Capitol, President's House, President's square, Lafayette square, and from the Navy-Yard to Georgetown, on Pennsylvania avenue, amounted, all told to \$1,976 12. During the same period, I am informed, the gas consumed in the Capitol extension alone amounted to \$1,000.

If you determine that I should pay for lighting the extension, I respectfully suggest that you ask for an appropriation of \$5,000 additional for the current year, and \$10,000 additional for the year ending June 30, 1859.

Very respectfully, your obedient servant,

JNO. B. BLAKE, Commissioner.

Hon. JACOB THOMPSON, Secretary of the Interior.

The amendment was agreed to.

Mr. LETCHER. I offer the following amendment, to come in after the last:

For the purchase of the Masonic Temple in the city of Boston, for the accommodation of the United States courts, on terms agreed on by the Secretary of the Interior and the proprietors thereof, in addition to the sum of \$100,000 appropriated by the act of 3d March, 1857, for the erection of a building for said purpose, \$30,000.

The house was bought for \$105,000. The \$100,000 was paid, and this balance of \$5,000 is due.

Mr. GARNETT. I rise to a point of order. This bill purports to be a bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and this amendment is to be used in the next fiscal year.

The CHAIRMAN. The Chair asks whether this is a deficiency in the appropriation for this year?

Mr. LETCHER. I understand it to be a deficiency in this way: \$100,000 was appropriated for the purpose of making this purchase, but a discretionary power was left in the Secretary. He could not make the purchase for the \$100,000, but gave \$105,000. The Government is in possession of the property, and this sum is asked to complete the contract.

The CHAIRMAN. The Chair overrules the point of order.

The amendment was agreed to.

Mr. LETCHER. I offer the following amendment, to come in after the last:

For compensation of the surveyor general of Utah Territory, from January 1, 1856, to June 30, 1857, \$1,500.

That occurs in this way: By the first section of the act of February 21, 1856, the surveyor general's salary was increased from \$3,000 to \$4,000; and the \$1,500 is to supply the deficiency in consequence of that legislation.

The amendment was agreed to.

Mr. BRYAN. I offer the following amendment:

Add the following words to the second section:

Also, \$24,000 to pay D. G. Burnett, and other claims of citizens of Texas, for timber and other property taken, and injury done to their lands, for the benefit of military posts in Texas.

Mr. STANTON. Is that amendment in order? The CHAIRMAN. The Chair decides that it is not in order, it being a private claim.

Mr. BRYAN. If the Chair will wait a moment he may not make that decision. This is to supply a deficiency in the appropriation made at last session of Congress for the payment of said claims. The quartermaster general has informed me that \$20,000 is required to supply that deficiency.

Mr. MORGAN. I ask whether an appeal has been taken?

The CHAIRMAN. An appeal has not been taken. The Chair rules the amendment out of order.

Mr. GARNETT. I now offer the resolution which I have already indicated for reporting the bill to the House with the recommendation that it be recommitted to the Committee of Ways and Means, with instructions.

The CHAIRMAN. The proposition of the gentleman from Virginia will be entertained unless further amendments be offered to the bill.

Mr. HOUSTON. I move to strike out the third section in relation to the extra compensation.

Mr. MAYNARD. Has not that section been passed?

The CHAIRMAN. The part proposed to be stricken out by the gentleman from Alabama was the last section of the bill, and was not passed by the committee. The gentleman from Alabama rose as soon as it had been read, but the gentleman from Virginia [Mr. GARNETT] was first recognized. The motion of the gentleman from Alabama is in order.

Mr. HOUSTON. This is the section which provides for the extra compensation. I have no remarks to make in reference to it.

Mr. CRAWFORD demanded tellers upon the motion to strike out.

Tellers were ordered; and Messrs. TAYLOR, of New York, and WALDRON were appointed.

The question was taken; and the tellers reported thirty in the affirmative—a further count was not demanded.

So the motion was not agreed to.

Mr. COBB. I move to amend by adding at the end of the third section the following:

Provided, That no part of this appropriation shall be paid for services claimed prior to the commencement of the Congress which passed the resolution or resolutions under which said claim or claims may be now or hereafter made.

The object of that amendment, Mr. Chairman, will be apparent to any member who has listened to its reading. I now propose to ask the gentleman from Indiana, [Mr. COLFAX], who offered one of these resolutions under which back pay was claimed by the Journal clerk of the House, whether it was his purpose to give him that back pay when he offered the resolution?

I have been a member of Congress for some years. I was a member when the Journal clerk, Mr. Barclay, first came into office. At the last Congress I voted against these resolutions; but while I might have been in favor of paying this individual this compensation for the last Congress, I never expected it would go back to the time when he commenced his services in the House. I ask the gentleman from Indiana, therefore, frankly to state whether it was his intention, when he offered this resolution in the last Congress, that it should include back pay for the last eight or ten years, and my vote upon this section may depend very much upon his answer. I ask the question because I do not believe it was the intention of the gentleman who offered it to include back pay, nor do I believe it was the intention of Mr. Barclay himself.

Mr. COLFAX. The gentleman from Alabama, as well as myself, can understand the resolution when it is read. When it was offered, it was read twice, in the hearing of the House, at the Clerk's desk, before it was acted upon. Similar resolutions, in almost similar language, were passed by almost the unanimous consent of both sides of the House. I can only say that the resolution speaks for itself.

Mr. COBB. That is not answering the question. Did the gentleman, when he offered the resolution, intend it to include back pay for the last eight or ten years? The gentleman can answer the question directly?

Mr. COLFAX. I propose to answer the question exactly as I please. I state that, when I offered that resolution, every man who was a member of the House knew what Mr. Barclay's services had been. They knew how valuable they were to the House.

Mr. COBB. I have only five minutes, and I cannot yield to the gentleman to make a speech. I am well aware of the value of Mr. Barclay's services; but I believe he has never, until recently, been dissatisfied with the compensation he received. The gentleman from Indiana says this res-

olution was read twice by the Clerk. I know very well the manner in which such resolutions were passed. How many members of this House understood that it was to provide for back pay? If I was satisfied that was the intention of the House I would vote for the third section, for I am conscientious as to paying what we have pledged our faith to pay. But I do not believe that five members of the House, nor Mr. Barclay himself expected, when the resolution passed, that it was to go back to the commencement of his services in this House.

Mr. COLFAX. I desire to say that I am willing to call to the witness stand Linn Boyd, of Kentucky, Howell Cobb, of Georgia, Nathaniel P. Banks, of Massachusetts, and James L. Orr, of South Carolina, and to ask them to put their decision on record as to what his services are worth. I would be willing, indeed, to submit this whole question to either of them. There is not a man who has sat in this Hall or in the past Congresses but what knows the preëminent and unsurpassed qualification of Mr. Barclay for the responsible position which he now occupies. He is not only valuable in his own sphere, but in many others in the presence and view of the House. When the gentleman from Alabama is not satisfied with the answer I gave him, I say he has no right to ask me the question at all. I have the right to answer it exactly as I please. I proposed the resolution, after consultation with many older members, and it speaks for itself, plainly and unequivocally by its language. Not ten members voted against it, and I am willing now to ask the Secretary of the Treasury, Mr. Howell Cobb, of Georgia, whether he thinks that that resolution gives one dollar more to this gentleman than what his services are justly worth?

Mr. COBB. I desire to offer an amendment to the amendment.

The CHAIRMAN. According to the general practice of the committee, it is not in order for the gentleman to amend his own amendment.

Mr. COBB. I propose, then, to modify it.

The CHAIRMAN. Nor can the gentleman modify it.

Mr. COBB. I only want to get the floor to make a speech, and put myself right before the House.

Mr. HOUSTON demanded tellers.

Tellers were ordered; and Messrs. DEWEAT and CURTIS were appointed.

The amendment was rejected; the tellers having reported—ayes 50, noes 84.

Mr. COBB. I move to strike out, in the fourth line, the words "or may be;" and I will give my reasons for that motion. If these words are stricken out, there will be left the essential part of the section, and that which has been paid out by the officer of this House to any of its employes will be sufficiently provided for.

Now, Mr. Chairman, I ask the gentleman from Indiana again to answer my question—whether it was ever contemplated to pay all this extra compensation to Mr. Barclay? The gentleman dodges that question, and does not answer it. If he will come up, and state that, when he offered the resolution, such was his intention, and that he is perfectly satisfied the House of Representatives intended to vote that amount of money when it passed his resolution, I may concur with him, because I am against the repudiation of any honest debt. But I am satisfied in my own mind that that was not the intention of the House; and I believe that such was not the intention of the gentleman; and I will continue to believe so, unless he answers my question. I must believe, too, that my worthy friend, Mr. Barclay, never contemplated receiving any such amount of money. I believe that he is an honest man, and would not attempt to practice any trick upon this House.

I am well aware of the valuable service of the Journal clerk, and the valuable services which he has rendered to this House and the country in the capacity which he occupies. I never heard that he was not amply compensated for these services at any time during the nine or ten years previous to the passage of this resolution. I never heard him complain when he received \$1,800 or \$2,160, that it was not an adequate compensation for the services which he rendered. It has not been long since he got twenty per cent. addition to that salary, and with that addition his salary amounts to very near as much as the members themselves

got under the new compensation bill. I want to carry out whatever was the intention of the House in passing the resolution; and to get at that I asked the gentleman from Indiana a question; which he has refused to answer.

I am satisfied that many members will vote against the bill on account of this third section, and, therefore, I offer this amendment to perfect the section and make it as unobjectionable as possible, in order that the bill may pass. Gentlemen may vote to retain this third section with a view of having an excuse to vote against the whole bill, so that the Army appropriations may be lost. I intended to have voted for the bill with the Army appropriations and all the other items, if this third section could have been stricken out; but believing as I do that this third section does not carry out the intention of the resolutions passed last Congress, I shall, if it is retained, vote against the whole bill rather than stultify myself in regard to it.

Mr. CHAIRMAN, you are aware of the difficulty which I have to encounter in the discharge of my duty to my constituents, in opposing this proposition, operating as I am against some of my most intimate friends. I acknowledge the services which have been rendered by the gentleman for whose benefit this provision is intended. But while I do that, was not Mr. Barclay satisfied—

[Here the hammer fell.]

The amendment was disagreed to.

Mr. GARNETT. I now offer the following resolution:

Resolved, That the bill and amendments be reported to the House, with a recommendation to recommit it to the Committee of Ways and Means, with instructions to report in separate bills the items for deficiencies in the appropriation for each head of expenditure for the services of the present fiscal year, and in another bill all appropriations designed for the service of the next fiscal year; and also, with instructions to inquire what further legislation is necessary to restore to Congress an efficient control over the expenses of the Government.

Mr. HOUSTON. I desire to make a suggestion to the gentleman from Virginia; and it is that in the second clause of the resolution which provides for appropriations that are to be anticipated, he use words so as to justify the Department in anticipating that which is for the next fiscal year.

Mr. GARNETT. I accept the modification. Mr. Chairman the resolution which I offer—

Mr. PHELPS. Do I understand this to be an amendment to the bill under consideration?

The CHAIRMAN. It proposes that the bill be reported to the House with a recommendation that it be recommitted with instructions.

Mr. PHELPS. Then no debate is in order if there is no amendment pending to the bill. The resolution closing debate requires the committee to report to the House the bill and the amendments which may be adopted.

Mr. GARNETT. I think I am in order in making a five minutes' speech.

The CHAIRMAN. The Chair is under the impression that the proposition of the gentleman from Virginia is in order.

Mr. PHELPS. But it is not debatable.

The CHAIRMAN. That is another question. The Chair did not understand that any question was raised as to the right of the gentleman from Virginia to debate the resolution.

Mr. PHELPS. I inquire whether it is debatable?

Mr. JONES, of Tennessee. It is clearly in order to move that the committee rise, and report the bill with a recommendation that it pass, or with any other recommendation that is in order.

The CHAIRMAN. The Chair has stated that the resolution is in order.

Mr. JONES, of Tennessee. But I do not think that any proposition of this character is debatable.

The CHAIRMAN. It is the opinion of the Chair that it is not debatable. The motion of the gentleman from Virginia, as the Chair understands it, is that the committee rise, and report the bill and amendments, with a recommendation that it be recommitted, and so forth.

Mr. GARNETT. Yes, sir.

Mr. PHELPS demanded tellers on the motion. Tellers were ordered; and Messrs. STEVENSON and FENTON were appointed.

The committee divided; and the tellers reported—ayes 73, noes 60.

So the motion was agreed to.

The committee then rose; and the Speaker having resumed the chair, Mr. Bocock reported

that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill (No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and had instructed him to report back the bill and amendments to the House, with a recommendation that it be recommitted to the Committee of Ways and Means with instructions.

Mr. LETCHER. I rise to a question of order on the report of the committee. It is that the Committee of the Whole on the state of the Union can only report back the bill with a recommendation that it do pass or that it be rejected, but that it cannot report it back with such instructions as are there set out. In the first place, it requires an impossibility in requiring each item to be set out—an utter impossibility. In the next place, it further requires us to cut the bill up into pieces, to bring in a part now, and a part again; and then it winds up with instructions that the Committee of Ways and Means ascertain what can be done to restrain the Administration within the appropriations made. Now I say that these instructions are not germane to the bill.

The SPEAKER. The report from the Committee of the Whole on the state of the Union is certainly novel in its character. The Chair does not recollect to have seen or heard any such proceeding since he has been in Congress; but the Chair is of opinion that it is competent for the Committee of the Whole on the state of the Union to recommend to the House to pass or not to pass, or to recommit any bill; and that the committee have also the power to recommend to recommit with instructions. The point taken by the gentleman from Virginia may be reasons why the House should not vote for the instructions; but the Chair does not perceive that these reasons are applicable to the question of order.

Mr. LETCHER. Take the latter part of the resolution; what connection has it with the bill?

Mr. GARNETT. I call the gentleman to order, and move the previous question.

Mr. CAMPBELL. I ask the gentleman from Virginia to withdraw the call for the previous question, and I will renew it, if he insist upon it.

Mr. GARNETT. For what does the gentleman want me to withdraw it?

Mr. CAMPBELL. That I may make a suggestion in regard to this bill. This recommitment will amount to a practical defeat of the bill.

Mr. GARNETT. The gentleman is arguing against the resolution of instructions of the Committee of the Whole on the state of the Union.

Mr. CAMPBELL. Yes.

Mr. GARNETT. Therefore I cannot withdraw the call for the previous question. The majority of the House desire a bill that they can vote upon practically, and not be all forced to vote for things they do not like in order to get at things they do like.

Mr. STEVENSON. I move that the House do now adjourn.

The motion was not agreed to; there being, on a division—ayes 58, noes 88.

The previous question was seconded; there being, on a division—ayes 76, noes 57.

Mr. PHILLIPS. I ask whether the resolution is susceptible of a division? and if so, I ask for a division.

The SPEAKER. The call for division will be noted, but the Chair reserves the decision of the question as to whether the resolution is divisible, till the House comes to vote upon it.

Mr. PHILLIPS. I merely wished to demand a division in time.

The SPEAKER. It will be noted.

The main question was ordered.

Mr. MILLSON. I move that the House do now adjourn.

Mr. LAWRENCE demanded tellers.

Tellers were not ordered.

The motion was agreed to; and thereupon (at five minutes to five o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, April 8, 1858.

Prayer by Rev. SMITH PYNE, D. D.

The Journal of yesterday was read.

Mr. BIGLER. I observe, on the reading of the Journal, that my name is not recorded as voting

on the question of the passage of the bill admitting Minnesota as a State, and I desire to have the correction made. I was present, and voted in favor of the admission, and, as I thought, audibly. I voted very earnestly and freely.

The PRESIDENT *pro tempore*. The correction will be made.

The Journal was approved.

PETITIONS AND MEMORIALS.

Mr. WILSON presented a petition of John P. Jewett & Co., and other citizens and business men of Massachusetts, praying for the enactment of a general relief law; which was referred to the Committee on the Judiciary.

Mr. CLARK presented the memorial of David D. Porter, son and executor of the late Commodore David Porter, praying for the payment of his father's claims against the Mexican Government, for services rendered that Government, out of the Mexican indemnity fund, or otherwise; which was referred to the Committee on Claims.

Mr. BRIGHT presented a memorial of the president and directors of the Metropolitan Railroad Company, praying for an act of incorporation and a grant of land to aid in the construction of the road within the District of Columbia; which was referred to the Committee on Public Lands.

Mr. MALLORY presented the memorial of William Nelson, a lieutenant in the United States Navy, praying for an allowance in the adjustment of his accounts for certain moneys lost, and for which he cannot account; which was referred to the Committee on Naval Affairs.

Mr. DOUGLAS presented a memorial of William Tompkins, and other citizens of Woodford county, Illinois, praying that pensions may be granted to the soldiers of the war of 1812; which was referred to the Committee on Pensions.

He also presented the memorial of John H. Litchfield and others, light-house keepers, praying for an increase of compensation; which was referred to the Committee on Commerce.

He also presented a petition of officers of insurance companies, and others, of Chicago, Illinois, praying for the repeal of the act of March 5, 1856, authorizing the Secretary of the Treasury to change the names of vessels in certain cases; which was referred to the Committee on Commerce.

He also presented a petition of officers of insurance companies, and others, of Chicago, Illinois, praying for the enactment of a law requiring sailing vessels on the lakes to carry lights; which was referred to the Committee on Commerce.

He also presented a petition of citizens of New York, praying that the public lands may be granted in farms or lots, free of cost, to actual settlers not possessed of other lands; which was referred to the Committee on Public Lands.

Mr. SEWARD presented additional papers, relating to the petition of the heirs of Samuel White; which, with their papers now on file, were referred to the Committee on Public Lands.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MASON, it was

Ordered, That the memorial of C. S. Todd, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. POLK, it was

Ordered, That the petition of John Crosby, administrator of Andrew D. Crosby, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. DOUGLAS, it was

Ordered, That the petition of Stephen R. Rowan, on the files of the Senate, be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. HAMLIN, from the Committee on Commerce, who were instructed by a resolution of the Senate to inquire into the subject, reported a bill (S. No. 247) to amend an act entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for registering the same," passed February 18, 1793; which was read, and passed to a second reading.

He also, from the same committee, who were instructed by a resolution of the Senate to inquire into the subject, reported a bill (S. No. 248) to amend or define the act of July 29, 1850, entitled "An act providing for recording the conveyances of vessels and for other purposes;" which was read, and passed to a second reading.

Mr. STUART, from the Committee on Public Lands, to whom was referred the memorial of the

Milwaukee and Mississippi Railroad Company, submitted a report, accompanied by a bill (S. No. 249) to release to the Milwaukee and Mississippi Railroad Company the interest of the United States to a certain tract of land. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. EVANS, from the Committee on Patents and the Patent Office, to whom was referred the petition of Isaac W. Brown, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 6) making appropriations for the diplomatic and consular expenses of the Government for the year ending June 30, 1859, reported it with amendments.

Mr. CLARK, from the Committee on Claims, to whom was referred the memorial of George M. Weston, commissioner of the State of Maine, submitted a report, accompanied by a bill (S. No. 250) to provide for quieting certain land titles in the late disputed territory in the State of Maine, and for other purposes. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. CLAY, from the Committee on Commerce, to whom was referred the resolution in relation to the expediency of defining more precisely, by law, whether, by the date of shipment at, or departure from, foreign ports, the value of merchandise imported into the United States shall be fixed for the purpose of estimating the duties thereon, asked to be discharged from the further consideration of the subject, and that it be referred to the Committee on Finance; which was agreed to.

Mr. JOHNSON, of Arkansas, from the Committee on Military Affairs and Militia, to whom was referred the memorial of Charles McCormick, submitted a report, accompanied by a bill (S. No. 252) for the relief of Charles McCormick, assistant surgeon in the United States Army. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. DOUGLAS, from the Committee on Territories, to whom was referred the bill (S. No. 8) to organize the Territory of Arizona, and to create the office of surveyor general therein; to provide for the examination of private land claims; to grant donations to actual settlers; to survey the public and private lands, and for other purposes, reported it with an amendment.

BILL INTRODUCED.

Mr. BRODERICK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 251) in relation to conflicting land claims; which was read twice by its title, and referred to the Committee on Private Land Claims.

ALEXANDER STEVENSON.

Mr. EVANS. A bill for the relief of the heirs of Alexander Stevenson, which has passed the House of Representatives, has been referred to the Committee on Revolutionary Claims. I am instructed by the committee to report back the bill without amendment, and recommend its passage. As this case has been a good while pending before Congress, and various bills have been reported to pay these parties, and the claim is for a very small sum, only about six hundred dollars, I ask the Senate to put the bill upon its passage at once.

The bill (H. R. No. 208) for the relief of the heirs of Alexander Stevenson was read for information. It directs the Treasurer of the United States to pay to the legal representatives of Alexander Stevenson, a soldier of the revolutionary war, in trust for his heirs, \$654, being the amount of money due to him from the time of his enlistment, January 1, 1776, until the time of his discharge, in 1783.

Mr. CLAY. I would rather that bill should lie over until I can look into it.

The PRESIDENT *pro tempore*. It lies over under the rules.

J. N. WARD'S IMPROVED FIRE-ARMS.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to transmit to the Senate a copy of the report lately made by a board of Army officers, appointed to examine and test the

improvement in fire-arms invented and patented by Captain J. N. Ward, of the United States Army, with his opinion as to the expediency and propriety of adopting said improvement, either in the construction of new arms, or altering the old arms of the United States, and of an appropriation by Congress for that purpose.

NATIONAL FOUNDRY.

Mr. MASON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia, in the inquiries heretofore ordered to be made for the establishment of a national foundry, be instructed to include in such inquiry, sites at Harper's Ferry and at Shepherdstown in Virginia.

COURTS IN ARKANSAS.

Mr. JOHNSON, of Arkansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of authorizing by law the holding of a second term, annually, of the United States circuit court in and for the State of Arkansas, and also the appointment of an additional district judge for the second judicial district of Arkansas.

EXPLORING EXPEDITIONS.

Mr. JOHNSON, of Arkansas. I have a resolution to offer to which I desire to call the attention of the Senate. It is in these words:

Resolved, That the Secretary of the Navy be requested to inform the Senate what measures, if any, are being taken, and under what law, for the publication of the results of the United States naval exploring and surveying expedition to the North Pacific ocean and China seas, under the command of Lieutenant John Rodgers, in the years 1853, 1854, 1855, 1856; and also of the results of the United States naval expedition to the La Platte river, in the same years, under the command of Lieutenant Thomas J. Page, or for the engraving of any of the maps, charts, or drawings, which are intended to illustrate the reports of these expeditions to Congress.

And out of what fund or appropriation in each and every case of work done in the premises, have payments for the same been made, or if not paid, then from what fund or appropriation is it designed to make payment; and also to inform the Senate under whose supervision these works are being prepared, and how many parties are now engaged upon the preparation of the materials for them severally.

I understand that there are two very heavy works in process of preparation, being the reports of these two explorations, the end of which I cannot see. How such matters get so far advanced without our being aware of them, I do not know. I know that if any printing or engraving has been done, or is being done, in regard to the reports referred to in the resolution, it is without the authority of Congress; and such things may be carried so far before Congress is aware of them, so much money expended, or contracted to be expended, that Congress may be forced to continue the publication, so that the parties who desire it succeed in attaining their object. Here are two more exploring expeditions. We began, I believe, with Wilkes's expedition. That was followed by Perry's Japan expedition, and by Gilliss's exploring expedition, and the Pacific railroad exploration, of the reports of which we have had many volumes. These works have caused the greatest portion of the immense printing expenditures of which Congress has been complaining so bitterly for a year or two past.

Here are two more such reports now in their inception—indeed I am afraid they have passed that period; they are considerably advanced. I do not know of any authority by which these works can be printed, or any law, or any appropriation, under which it can be done. I think there is a system of construction by which, hitherto, when moneys have been appropriated to carry on expeditions, and a surplus is found to be on hand when they return, that surplus is transferred from its legitimate object and applied to the printing and engraving of books. As these surplus funds or amounts of appropriation are never sufficient to pay the whole expense of the printing and engraving, Congress is then called on to complete it. I think this is the method by which such works as these are brought forward, and we are compelled to go on with them. I was about to say that there was not a single one of the works that I have alluded to, of which the printing or engraving has yet been completed, but I believe it would be wrong to say so; for I am certain there are some of them not yet completed.

I ask for the adoption of this resolution, and I speak of this matter in the hope that it may meet the eye of the officers having the disposition of the moneys hitherto appropriated for these expeditions. I trust the Secretary of the Navy will

cause the fullest information to be furnished to Congress in regard to the subjects embraced in the resolution, even though points that Congress ought to know are not expressed in the resolution; and I hope the information will be given at once. If it be not speedily given, I will say to the Senate that I shall call again on the Secretary for him to furnish it here at once. I am satisfied that it is wrong that they should progress in this way without any authority from Congress in regard to the printing. I believe either of these works must be as expensive, certainly, as Gilliss's report, and may be as expensive as the Japan work, and may go as far, for aught I know, as the Wilkes exploring expedition, the publication of which is not yet complete, and of which there are about thirty volumes.

Mr. POLK. What does this cost?

Mr. JOHNSON, of Arkansas. All of them cost hundreds of thousands of dollars, and I am not certain that they do not go to millions.

Mr. MALLORY. I hope the resolution will be adopted at once, if the information is considered necessary; but I think the Senator from Arkansas will find that no such work as he has referred to has been either published or commenced. I have made some little inquiry about it, being desirous to see something of the La Plata expedition published. It was a very interesting survey. I found, at the last session, a little report of a few skeleton pages—perhaps ten or twenty—which I think was published at the expense of the officer himself, though I am not certain of that. I think that is all that has ever been published of that expedition. With reference to the Behring's straits expedition, under the command of Commander Rodgers, he has, with a corps of men, been getting out the charts as rapidly as possible; and they are some of the most useful charts this Government has ever prepared. They have been prepared under an express appropriation by Congress for charts; but I do not think, as far as I have made inquiry, that any history of the expedition has been contemplated.

Mr. JOHNSON, of Arkansas. I did not say there had been any publication in this case. But since the Senator from Florida seems to know something in regard to the subject, I will ask him if they have not already proceeded to contract for engraving extensively.

Mr. MALLORY. I have never heard of contracts being made for anything at all connected with this matter. I certainly know of no fund for such a purpose. I was never aware that a book was contemplated. I understood precisely the reverse: because there was no fund for it.

Mr. JOHNSON, of Arkansas. I will say that the Committee on Printing have sought, and are now seeking to arrest these extravagant expenditures.

Mr. PEARCE. If the Senator will allow me, I will state that, in regard to the Behring's straits expedition, Congress, by a law passed at the last session, appropriated a sum of money for the purpose of preparing the reports of that expedition for publication; and it was expressly understood at the time—

Mr. JOHNSON, of Arkansas. Congress did what, sir?

Mr. PEARCE. It passed an appropriation for the purpose of preparing for publication the results of that expedition. A careful estimate was made and submitted to the Senate. I do not recollect the exact amount; I think it was \$15,000.

Mr. JOHNSON, of Arkansas. Can the Senator inform me through what committee the proposition passed?

Mr. PEARCE. It was submitted in the Senate; I think it was proposed by the Committee on the Library. I know there was a conference with the Senator from Florida, who is at the head of the Naval Committee, upon the subject, and an appropriation was made, with the express understanding that the Government should not be called upon to publish. It was understood at the time that the publication, or the printing, would be done at the expense of the Smithsonian Institution, which thought the report sufficiently valuable to justify it in undertaking the expense of its publication. The appropriation was solely for the purpose of preparing the report. It contains a good deal of natural history, which is said by scientific gentlemen to be very valuable. It was thought the Government might well appropriate so far as

to allow the scientific matter to be worked up into a proper report. After that, the understanding was distinct, to which I shall certainly adhere, that it was not to be published by the Government. It would seem to be right and proper if we send out expeditions to make collections of natural history and make surveys for the benefit of navigation, that we should print the charts and should prepare for publication the materials collected in the course of the study of the naturalists who went out with the expedition; but then it was distinctly understood, as I said before, that Congress should not be called upon to publish it, and certainly I for one shall never call upon them to publish it after that understanding this had.

Mr. MALLORY. The remarks which have fallen from my friend from Maryland have refreshed my recollection; and I think the appropriation referred to by him was agreed to by the Senate, upon the recommendation of the Library Committee. It was found that a number of scientific men had gone out with this expedition, and brought home very extensive specimens of natural history, which were collected in boxes, barrels, kegs, &c.; and it was designed, as I understood from the Committee on the Library, simply to prepare those specimens of natural history for publication. In connection with that, there may have been some engravings; but of that I have not heard. I presume, if there has been any, it has been under that appropriation—for the preparation simply, but not the general publication. There may have been a publication of the catalogues of the specimens, perhaps, but no more.

Mr. JOHNSON, of Arkansas. It may be that to the members of the Printing Committee erroneous information has come. I do not think so, or I should not have made it the subject of a resolution. I am certainly very well satisfied that we have already got a sufficiently large library, at the expense of Congress, in regard to botany, birds, snails, reptiles, bugs, and every species of strange, and it seems to me, rather unimportant and useless, branches of natural history.

Mr. IVERSON. I desire to put a question to the chairman of the Committee on Printing. I wish to know whether he can inform the Senate whether it is possible now to stop the printing of the second volume of Major Emory's report on the Mexican boundary? I perceive, from a document which has been laid on our tables this morning, that the printing of that volume is to cost \$107,207. It contains zoology, botany, and insects, and nothing else. It is merely of a scientific character, and not of a very interesting character at that. A large amount—six thousand four hundred copies I think—have been ordered by the Senate, and eleven thousand five hundred and thirty by the House of Representatives, costing over one hundred and seven thousand dollars. I think if we can stop the printing of that, we shall save at least that much. The first volume has already been printed and distributed, and that is beyond our reach; but I think, if the Senate will stop the publication of the second volume, if it has not gone too far to stop it, that much public service would be done; and I commend that to the attention of the Committee on Printing.

Mr. JOHNSON, of Arkansas. I am unable to answer the Senator without examination, whether it can be arrested or not. I do not know to what extent the publication may already have gone. I have sent to the Superintendent of Printing for the purpose of ascertaining; and it is a subject that will be considered by the Committee on Printing. But I call the attention of the Senate to the fact that these heavy printing jobs are not started by the Committee on Printing. That committee are getting a little uncomfortable in their feelings in regard to the extravagance of the expenditures that have taken place. They are not conscious in any respect of having been regardless of the public interests heretofore. They have not willingly acted to produce results like these, and yet they have become such as to call for animadversion from every side of this Chamber, and, I believe, from every press in the country. Hereafter I trust that whenever any publication or printing is contemplated, the duty of inquiring as to its propriety will be thrown on that committee, or the committee abolished, or that I for one, at least, may be taken off it.

I ask now for the adoption of the resolution, so that this information may be brought before us.

The information to which the Senator from Georgia refers, in regard to Emory's report, was obtained on a similar resolution, which I presented some time ago, on hearing something more of the character and cost of the survey of the western boundary, by Major Emory, than was very pleasant, or than I liked very well.

Mr. BROWN. If the Senator from Georgia will look a little into Executive Document No. 37, which I think he has in his hand, he will see that of the manuscript of the second volume of Emory's reports, there have been sixty quarto pages prepared. The document tells us:

"No part of these manuscripts has yet been furnished, except the report of Doctor Engleman, which has been printed, comprising about sixty quarto pages."

There are to be over six hundred pages of printed matter in this volume when it is ready; and of the engravings which constitute the expensive part of the report, there are to be two hundred and eighty-two pages of illustrations; and of these, twenty-two pages are yet incomplete, showing that there are two hundred and sixty pages of the expensive portion of the work already done, so that the greater portion of the expense has already been incurred. Now, I should be willing to arrest it; I would not care if there was not a dollar left to be paid to anybody. I would take the book, the pages of printed matter, the engravings, and the whole concern, and carry it into the street, and burn it up. It would be the best rebuke that could be offered to this sort of thing for Congress to pay for what has been done, take the work, and burn it up, so as to indicate to these people, "if you impose upon us, as soon as we ascertain the imposition we will arrest it;" and let the country understand that this business of governmental book-making is to stop.

I received this morning, from Philadelphia, a long article, published in some little, dirty newspaper there, headed "Brown on picture-books," in which I find myself most soundly berated for the part which I have taken in endeavoring to arrest this abuse; and Senators will find that there will be an attempt made by these outside jobbers to drag them into the support of measures like this through the influence of the press. I care, of course, nothing about what this fellow says. I would just as soon hear one thing about me as another. I see perfectly well, from reading his article, that he is somebody who has something to do with getting up these books. He is some fellow who has a job on hand. He winds up his article, after abusing me very soundly, in this way:

"Mr. Brown's education must have been sorely neglected; his sphere is evidently politics, not books; while his absurd speech manifests an amazing anxiety, equal to that of the renowned Dogberry, to be 'written down an ass.'"

I warn my friend from Arkansas that if he talks against reptiles and birds, and things of that kind, being published at the public expense, he will get to be a Dogberry after awhile in the estimation of these jobbers. Why, sir, I find that in the second volume of Emory's report there are twenty-seven steel pages of mammals, twenty-five stone pages of birds, forty-one steel pages of reptiles, and forty-one steel pages of fishes—all that in a report under the head of zoology, on a boundary commission, when the commissioner was simply appointed to trace the boundary line between two countries, and to mark it by little monuments! He comes back to us with that kind of material, and we publish it, as the Senator has said, at a cost of \$223,000. That is the whole cost of publishing the report. All that Congress needs, all that Congress are expected to receive or pay for the publication of, would not cost \$20,000. Nearly two hundred thousand dollars of the cost of this book is in publishing reptiles and birds. Why, sir, if we are going to have a zoological department of the Government, let us establish it under some law, and appoint some fit man to be at the head of it.

Then here are sixty stone pages of botany. There are also ten copper pages of botany, and seventy-seven steel pages of cactaceæ. If you are going to have a botanical school, or a botanical department of the Government, let us establish it under some proper head, some proper direction. It will cost less money to get intelligence that will be more useful to the country than these exploring expeditions. The officers who bring such works here ought to be rebuked by Congress.

Who appointed these men to get up these expensive books—books that I say again no publishing house in this country would put to press; books which you throw out upon the country by the thousand, that no publishing house ever republishes; pictures which no engraver except one paid at the public expense would ever think of wasting his time upon? It is done because you pay for it out of the national Treasury. Nobody ever thinks of reproducing one of these prints, though, as I have said before, you have no copyright. You do not pretend to deny the right of anybody to reprint or reproduce the books, but nobody ever did so; and why? Because they are of no account, and would not sell in the market for the cost of the paper on which they are printed.

Audubon made you a book of birds, an admirable book, such as the country needed, such as the people who appreciate such things were willing to pay for. If you want a book on fish, let somebody who understands the subject prepare the book, and sell it to those who are willing to pay for it. If you want a work on botany, leave it to botanists. If you want a book on astronomy, let some astronomer prepare it; let some learned professor get up the book and have it printed; but let us, in the name of all that is reasonable and just, stop sending out these miserable books to the country, that are a disgrace to the country; because, if you send them out with the imprint of the Government upon them, the learned men will suppose they are proper books, and when they look into them they will feel assured that you are mere pretenders to science. I care not how much these blackguards may abuse me through the public journals for the part I take in this matter. I will continue to denounce this system, because it is an abuse that ought to be denounced, and the miserable jobbers that come here with these things shall not stifle my voice.

Mr. PEARCE. Mr. President, I am really sorry that such unjust observations should be made by any newspaper in the country about the Senator from Mississippi, who little deserves it; and I am sorry, too, that the Senator should allow them to ruffle his temper and to make him unjust towards gentlemen of high reputation, of perfect honor, and thoroughly obedient to the law of the service to which they belong. Sir, Major Emory is a gentleman of great merit in his profession, but he has one merit which ought to commend him even to the Senator from Mississippi. He was appointed boundary commissioner with a very large appropriation, not thought to be too large at the time it was made, though it proved to be so, because he distinguished himself above all other men we have employed in that capacity, by bringing back and restoring to the Treasury \$100,000 of the appropriation, a thing never done before, I believe, and for which I think we have never sufficiently commended him.

Mr. BROWN. How much will be left after we print the books?

Mr. PEARCE. I will come to that point directly. In regard to printing his book, and the collection of the objects of natural history, allow me to say this to the Senator: these collections are not made on the sole authority of the officer who goes out in charge of this expedition. It is not his individual act, unsanctioned by authority. In every case in which these collections have been made, the gentleman will find that the Departments have authorized them?

Mr. BROWN. I should like to know by what authority the Departments authorized them.

Mr. PEARCE. I am not undertaking to defend the Departments, and the gentleman may attack them if he pleases. My purpose is a different one.

Mr. BROWN. Then let my denunciation fall on the Departments if they act beyond the law.

Mr. PEARCE. But the gentleman has, I think, thrown out very unjust reproaches on the officer charged with these expeditions. I mean to defend them, and especially Major Emory. It is not for the officer, charged with a boundary survey, to look into the legislation of the country and see whether the Secretary had or had not authority to attach a scientific corps to the commission.

Mr. BROWN. If the gentleman will allow me I will say this is news to me. If the Department authorized the thing to be done, then I denounce the Department and acquit the officer. I acquit Major Emory, under that statement, of all blame.

Mr. PEARCE. That is exactly what I want to bring this discussion to. I think we are losing sight of the facts in the case. I say it has been customary for the Departments, for twenty years past, when they sent out military expeditions into such portions of our country as were newly acquired and little known to civilization, some of them perfectly *terra incognita*, to direct the collection of everything that might serve to illustrate the condition of that territory, its geology, climate, navigable waters, facilities for roads; its Indian tribes, and whatever displayed its resources and general character. These things are not without their value; and the Senator is entirely mistaken when he declares that these reports are trash; that they have no consideration with the reading public, and that scientific men scout them. Sir, they are prepared by scientific men, eminent in their several lines of study. I know that there are few persons who estimate the value of reports on natural history. I have heard in the Senate a great deal of ridicule thrown on what is called bugology, by gentlemen who, perhaps, do not take the trouble to ascertain that a great many of the material purposes of ordinary life and the arts derive benefit from this very knowledge of bugology. We never sit here a day, or put our hats on our head, that we are not making use of something which the study of insect life has contributed to the industrial arts and brought into common use. The very ink we use is the product of an insect, in part. The hats we put on our heads are partially made up of the product of another insect. We do not seal our letters without using the product of another; and nothing is more useful to those who till the ground than the study of those insects which are hurtful or beneficial to the great staples of agriculture.

There is value in this, and there is value in all of human knowledge, I do not care what it is. Nothing is beneath the study of man which is the work of his Creator. I do not mean to insist that the Senate shall authorize this collection of natural history to be made, or that they shall not find fault with the Secretaries, if they have, without authority of law, authorized them, or that they shall not put a stop to excess in this regard, by any legislation they think proper; but I think it is right and proper that these gentlemen who have gone out in charge of these expeditions should not be held up to the country as having violated their authority, and with bringing home to be described and published what is mere trash. These things are valuable. Many of the reports which have been made under these expeditions are considered as valuable by the students and proficients of natural history.

As for our officers, all they have done has been to bring home these materials, and we have authorized the preparation of them for publication, and their publication in every instance. It has never been done without our knowledge. I believe sometimes, as in the case of the railroad report, the printing has gone far beyond our expectations. I have no doubt it would not have been authorized if Congress had been aware of the extent to which they were going.

These reports of Major Emory were called for by a resolution of this body. They were sent in here in manuscript, with some of the illustrations, I know, but without the descriptions or natural history, for they could not be made in advance of the order of publication, I suppose. But we authorized the publication of a limited number of copies, and in that case the number of copies was much smaller than we had usually ordered—I do not know how much; one or two thousand copies. It is but right that we should assume the blame of these things, if blame there be, ourselves. We called for these reports and ordered their publication; and when we find out they are very expensive, we censure the Secretaries, and officers at the head of the expedition, and the jobbers who are by mistake supposed to have something to do with it. I do not know that any jobber has anything to do with it. Professor Torrey, who is eminent in his department, works up the botany of an expedition; and some gentleman learned in another branch of natural history, prepares the report of that; and whatever may be thought of these memoirs by the general reader, they are valuable to and valued by those whose studies have been in such directions.

As to these works never having been reprinted,

allow me to say to the Senator, he is mistaken. Of scientific works published by the Government, for example, some at least of those printed under Captain Wilkes's expedition have been republished in England and republished in foreign languages. There is a copy of Pickering's *Races of Men* republished by Bohn in England, and reimported into this country—a smaller edition than that which the Government published, and which sells very freely in our stores; a book of interest to any man who studies his fellow-man. It is only within the last month that we have been applied to by the librarian of Cambridge University, England, for a copy of the entire scientific works of the Wilkes expedition.

Let us do justice, sir, though the heavens fall. There is no blame to be attached to these officers, depend upon it. I have no objection, though, to the call for information.

Mr. FESSENDEN. Mr. President, most of these books were ordered to be published by the Senate while I was a member of the Committee on Printing. Although I think evil consequences have followed to a very large extent, and am free to admit those consequences, I am willing to say, at the same time, that I desire to bear my share of the responsibility of ordering the publication. I can only say, in defense, that I have deemed it my duty, since I did ascertain how much difficulty we were getting into, to prevent the repetition of it to as great an extent as I could. But I will say that the committee itself (and I think you, sir, will bear me witness to the truth of what I am about to state) has been led into error entirely in reference to the matter from different sources. In the first place, when these reports are called for and sent to us, we get comparatively but a very small portion of them. We get the report of the leader of the expedition; the other reports are not usually made out. No information is communicated to us of what will be the extent of the publication when the whole is completed. I do not suppose there was any member of the Committee on Printing for the two preceding Congresses—I certainly can say so for myself—that was at all aware, when the publication of these books was recommended by the committee, what the consequences were to be, and what the extent of the publications. We endeavored to get information from the Superintendent; but I suppose the Superintendent himself was not well-informed. You will remember, sir, that we were told that the Pacific railroad report would probably occupy three volumes. I believe seven have already been published, and two or three more are being printed.

Mr. JOHNSON, of Arkansas. I will suggest to the Senators why it is that we cannot get the information. The reason is plain. So soon as the preparation of any work of that sort is commenced, Senators here, at the instance of some one outside, bring in a resolution for printing the usual number and some extra copies, and refer it to the Committee on Printing. Then the committee immediately is urged by the Senators who introduce these resolutions, and by the friends of the parties outside who may desire them to be printed, to report favorably, and then the committee have come forward, from want of experience in these things, at the beginning, and reported before the manuscript was complete. After the order to print is made, the parties proceed to make a tremendous book, which was not in existence when the printing was ordered.

Mr. FESSENDEN. I do not know of a single instance, during the time I was a member of the Printing Committee, when the call for these books was made by any one member of that committee. The first that we knew of it, the subject was referred to us, the book was sent to us to examine and report upon. The members of the committee are not—at least I can answer for myself, I am not a scientific man at all; and we could only take the book as it was, and consider the object for which the expedition was ordered, the information that was sought to be acquired. Considering that the object was important, and that the information which was got under it should be communicated to the country, and put in such a shape that everybody could get at it, we would propose its publication without knowing its extent, without its being communicated to us—

The PRESIDENT *pro tempore*. The hour has arrived for the consideration of the special order.

Mr. JOHNSON, of Arkansas. I hope we shall pass this resolution.

The PRESIDENT *pro tempore*. It will require the consent of the Senate to proceed with it.

Mr. FESSENDEN. I have but a few words to say in explanation, and then I shall yield the floor. ["No objection."]

The PRESIDENT *pro tempore*. The gentleman will proceed if there be no objection. The Chair hears none.

Mr. FESSENDEN. I was remarking that we were compelled to act on the main report made to us, without being made at all aware, from any quarter, what were the consequences that were to follow. For instance, take this very description of the Mexican boundary: We were not aware of the extent to which it was going. I did not myself know, though perhaps it was my duty to know, that scientific men were attached to the expedition; and I do not know to this day, though perhaps I ought to know, by what authority men of science were sent out to accompany the survey. I suppose it was done by the order of the Department which had the matter in charge. If they go out and make their collections, and they are proper persons to make the collections, it is of some consequence that the information thus obtained should be put in such a shape that it can be made available to the country. I have only said this in order to warn the Senate against, for the future, ordering these publications without knowing what they are in the first place.

I do not believe in the authority of the Departments, without power derived from Congress, when a specific duty is undertaken, to attach a large corps of *savants* to the expeditions themselves to make these collections, ascertain these scientific facts, communicate them to the country, and entail this expense on us. But, at any rate, I believe it would be a good rule on the part of the Senate and the Committee on Printing, never to order the publication of any book whatever, until the whole of it is submitted, and we know what it is to cost. The difficulty has arisen from our supposing that we were to have only the legitimate results of the surveys made public, the mere object that the country intended to accomplish by ordering it, without being made aware of all the details connected with it which, in my belief, were not included in the original law; but still I may be mistaken about that; I have not examined that. I think I am correct in the statement that the committee supposed, and were informed, that three volumes would cover the whole reports of the Pacific railroad, in the first place. We had no idea that the Japan expedition would go beyond a single volume at the time we ordered it; and so with other books, the publication of which has been ordered.

I believe there is such a thing as a reasonable economy, and such a thing as a very foolish one. If we have now advanced to the stage that it appears we have in reference to the publication of the second volume of Major Emory's survey, and have incurred so much expense upon it, I do not agree with the honorable Senator from Mississippi that we ought to pay for what has been done, so large an expense having been incurred, and then destroy the material that has been accumulated and paid for. I agree with the Senator from Maryland that this information is valuable—of very considerable value. The men who go out on these expeditions do not go to write scientific books, to make perfect treatises on the subjects which they are called upon to examine, but to communicate the results of their examination in reference to that particular region; and those results, being made known to the country, may be of very great benefit in divers ways, because it is important to the whole people of the United States that they should know, from the best sources to which they can have access, what are the resources and character of those sections of our country. When we have obtained the information, (and that is unquestionably the object of attaching these scientific corps to expeditions of this description,) when we have information of what these resources are, and have incurred so much expense in preparing it for publication, it is hardly worth while to dispense with it or destroy it. I know they cannot be perfect treatises; they are not intended so to be; but I believe there is no doubt that they are accurate and correct delineations so far as they go, and that the results thus ascertained are im-

portant as a matter of general information to the country, and in general relation to science.

Now, sir, I have one other idea to suggest, and then I have no more to say on this subject. This difficulty arises not particularly in regard to these books, but in regard to many others, from the disposition Senators have to oblige gentlemen connected with expeditions of one sort or another, who desire these publications for their own benefit. I have endeavored heretofore to arrest that. A gentleman who has acquired information of a certain sort, and communicated it to the Department, desires it to be published. He cannot publish it himself. He wants to communicate it to his friends; he wants the country to know what he has been doing; and he gets some good friend in the Senate to call for his report. The report is made; its publication is then moved, and extra copies are called for. It used to be an order of course in the Senate, in the first place, to publish the book without examination at all; but, I believe, we have a rule now, which was inserted, I think, at my instigation, requiring everything of this description to go first to the Committee on Printing, to see whether it ought to be printed at all. That will make one great saving. I remember one striking instance of the evil to which I allude; and that was in regard to a book called "Penal Codes in Europe," got up by Mr. Sanford. That was brought in here—a book of no sort of account, in my judgment. I looked it over afterwards. I opposed, and several of us opposed, the printing of the book, especially the printing of extra copies. It was said then that it would only cost two or three thousand dollars; and we had better print it, as the gentleman spent his time, though without authority, in collecting this information. We objected, and got it voted down, the Senate being of opinion that it was of no sort of importance, and ought not to be published. But at the heel of the session, when everything was in confusion, somebody called up the matter, and it passed through without any one knowing anything about it. The first I knew of it I received fifty or sixty copies of the book. If every Senator will only, each one for himself, make up his mind that he will not be instrumental in crowding anything of that sort on the printing bill of Congress, we shall save a very considerable sum of money, and save a good deal of expense that results from the time that is taken in the discussion of these matters.

Mr. HALE. I desire to call the attention of the Senate to two or three facts. I wish to say, in the first place, that the fault does not lie with these scientific men, and it does not lie with the Departments, but it lies here in Congress, in this body; and it arises from our practical neglect and disregard every day of that provision of the Constitution which provides that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law." That is just exactly as utterly and totally disregarded as if it was never written, and never thought of. The administration of the Departments goes on and they spend just what they please, just how much they please, and for just what they please, and come here the next Congress and ask you to make an appropriation for deficiencies. You give it to them, and you are going to give them \$10,000,000 now. I have had occasion to look to see how the publishing of Emory's report started. The Secretary of the Interior says:

"The act of Congress, approved May 31, 1854"—

—he is giving his authority for the printing and engraving of Emory's work—

—appropriated a specific sum for that purpose, to be expended under the direction of the Secretary of the Interior.

"The authority by which the above maps, views, sections, &c., were engraved under the direction of the commissioner, is contained"—

—not in law, but is contained—

—"in a letter from the Secretary of the Interior to Major Emory, dated June 17, 1854."

Major Emory having created the authority, the act of Congress of May 31, 1854, came in. It was a deficiency bill. We had appropriated money enough to carry on everything that we had authorized, but we had not appropriated money enough to carry on what Major Emory had authorized, and so in the deficiency bill that year we found:

"For engraving maps, views, sections, and natural history of the survey of the boundary between the United States

and Mexico, \$10,000, to be appropriated under the direction of the Secretary of the Interior."

There is the whole of it. It has got up now to \$220,000. That is what the book costs; and the appropriation by law for it was in a deficiency bill appropriating \$10,000. Look a little further. Next year they got in \$10,000 more for engraving. They have actually spent over \$40,000 for engraving, and paid it notwithstanding this provision of the Constitution that no money shall go out of the Treasury except by appropriations made by law. They succeeded in two years in getting \$20,000 by law for engraving, and that authorized them, they supposed, to take some \$20,000 more without law; and I will tell you how they did that. The engraving has cost over \$40,000, and the Secretary of the Interior says:

"This amount, with the exception of the approximate estimate of \$3,600 to be paid on completion of outstanding engagements," has been paid out of the unexpended balances of appropriations of August 4, 1854, and March 3, 1855, for running and marking the boundary line between the United States and the Republic of Mexico, and appropriation of August 4, 1854, for compensation of commissioner, &c., by the following authority."

And then he gives the authority; I will state it presently. Here is the way it was done. This is a rich book; and you are going to pay, at this session, about five million dollars more to carry out the contracts for the Utah war, made in the same way—not with my vote, though; not a dollar. The "authority" I shall now state. Major Emory addressed a letter to the head of the Department, which I will read:

WASHINGTON, January 21, 1856.

SIR: * * * * * We are now engaged in the office-work, and it was doubtless the intention of Congress, and there is nothing in the law to the contrary"—

—it was the intention of Congress, because there was nothing in the law to the contrary!—

—that any balances remaining on hand after the conclusion of the field-work should be applicable to the office work. You will see by the above figures that we have saved in the field-work from the sum appropriated by Congress for its completion the large sum of \$98,454 59, so that we have undoubtedly much more than is required to complete the office-work. I have therefore to ask, with a view to the simplification of my accounts and the more rapid execution of the work, authority to use said balance indiscriminately for the various items, including engravings, incident to the office and the final report of the operations connected with the boundary survey.

I have the honor to be, your obedient servant,

W. H. EMORY,
United States Commissioner.

To whom was that application made to use this money in the Treasury "indiscriminately?" To the Secretary of the Interior. What did he say? Did he say, what he ought to have said, that no money could go out of the Treasury except by appropriation made by law? No. I will tell you what he said; his answer is very short:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, January 26, 1856.

SIR: In reply to that part of your letter of the 21st instant respecting the balances of appropriations for field and office work on the boundary survey remaining in your hands, I have to state that I see no objection to the use of the funds in the manner suggested by you.

I am, sir, respectfully, your obedient servant,
R. McCLELLAND, Secretary.

There is the difficulty, and the whole difficulty. I had occasion here, a few years ago, when Mr. Graham, of North Carolina, was Secretary of the Navy, to ascertain that he was paying out salaries of \$3,000 a year to men who were not entitled to more than half of it; and I had a resolution sent to him, inquiring by what authority he did so. He sent back word—I have the document in my drawer now, but I will not stop to take it out—that his authority was a certain appropriation act, and the estimates. He took the astonishing ground, and the Comptroller of the day sustained him in it, that if he estimated for an officer's salary \$3,000, and Congress voted it down, as they did in that case, still, notwithstanding that, he had a right to pay it, and did pay it, in the face and eyes of a vote of Congress, year after year.

Now, sir, it is in consequence of the utter and total disregard of the constitutional provision that money shall not be taken out of the Treasury except by appropriations made by law, which we wink at, which we know, and which transpires under our face every day, that these abuses have grown up, and will grow up. Here is an appropriation of \$10,000 put in a deficiency bill; and upon that a book, costing \$220,000, is printed, and we shall pay for it—not with my vote, though. I will not vote a dollar to pay for these things,

whether to print books or to get up expeditions to Utah. I will not vote a dollar for anything unauthorized by law. I thank the Senator from Arkansas for bringing this matter to the attention of the Senate.

Mr. JOHNSON, of Arkansas. This debate has gone on some length. I hope we shall have a vote on the resolution. It is a mere resolution of inquiry; and that we may not prosecute this discussion any further now, I will state that, so soon as the resolution is adopted, I shall ask the Senate to make a special order of the bill which has been reported by the Committee on Printing (S. No. 218) amendatory of the act to provide for executing the public printing, and establishing the prices thereof, and for other purposes. I believe that, by the provisions of that bill, we shall be enabled to arrest all these troubles and these expenditures in future that are improper in themselves. I hope we may have a vote on this resolution at once.

Mr. IVERSON. Before the question is taken, I desire to make a short reply to the Senator from New Hampshire, who has made pretty strong charges against the Administration, or, rather, against Secretary McClelland. In the language of the Senator from Maryland, a little while ago, let us do justice if the heavens fall. So far from there being any blame properly to be attached to Mr. McClelland for the expenditure to which the Senator referred, there is no blame to be attached at all. The expenditure of \$222,000 for the printing of this work does not embrace any portion of those items to which the Senator referred. There was an appropriation made by Congress to carry on this boundary survey, of which Major Emory was put in charge; and the \$40,700 for engraving, under the acts of 1854 and 1855, come out of the appropriation made by Congress for the survey. Major Emory says himself that in the field-work they saved \$98,454 of the amount appropriated originally by Congress.

Mr. HALE. I read that letter.

Mr. IVERSON. I know; and then he proposes to apply a portion of that money, whatever is necessary, to the construction of the report in the office, and the preparation of such engravings as are incidental to the report. Was not that fair and proper? There were \$98,000 saved after the expenses of the field-work were encountered. Was it not necessary, was it not proper, was it not appropriate that the report should be prepared here in the office? What value was the exploration, what value was the boundary survey, if the information obtained was not to be made up into a report, and submitted to Congress and to the country? According to the Senator's idea, all that was necessary and proper was that Mr. Emory should go and make a survey, mark it on the ground, and then leave it there, and not make any report on it. That would be perfectly valueless.

Mr. JOHNSON, of Arkansas. Allow me to interrupt the Senator. The appropriation was not for printing.

Mr. IVERSON. I know it was not for printing.

Mr. JOHNSON, of Arkansas. This is done in the Departments by a system of transfers, by taking an appropriation designed for one thing and applying it to another, because in some measure it is connected with that other. You appropriated money to prosecute the survey of this boundary; and because it was to be reported, that money was taken afterwards to print it. The printing or engraving for which this money was used ought not to be done except by an order or an act of Congress. I concur in some measure with the Senator from New Hampshire in regard to it, because it is a system of transfers that will eternally involve us in heavy expense.

Mr. IVERSON. The Senator from Arkansas is mistaken. There was no transfer in this case. There were \$98,000 of the original appropriation for this survey remaining in the Treasury after the survey was actually made; and out of that sum of \$98,000, over forty thousand were expended in making out the report and engraving maps incidental to that report. There was no transfer at all, and there was no harm in it.

I rose merely to vindicate the Secretary of the Interior against the charge of the Senator from New Hampshire. There is no foundation for the charge. He did not expend a dollar but what was previously appropriated by Congress for the ex-

penses of this work. After the expenditure of the \$40,000 for these engravings and office-work here in preparing the report, there was nearly \$50,000 left on hand. The Secretary did not take a single dollar out of the Treasury that was not appropriated. There was no deficiency in the case; there was a surplus; and he only authorized the commissioner to apply that surplus to the expense of making out the report here, in the city of Washington, in the office, and preparing the engravings incident to it. The whole expense of which I complain is the printing of these works. Whose fault is that? These \$98,000 do not compose a part of that. The expense of \$220,000 is incurred by a subsequent order of Congress that directs six thousand four hundred copies to be published for the use of the Senate, and eleven thousand five hundred and thirty for the use of the House of Representatives; and I presume the Senator from New Hampshire voted for that order. I have no doubt the Senator from New Hampshire voted for an order of that kind, directing six thousand four hundred copies of this book to be published and printed for the use of the Senate.

Mr. HALE. The Senator is mistaken, that is all I can say—I did not vote for it.

Mr. IVERSON. There were no yeas and nays; but if you will look on the Journal you will not find a protest against it from the Senator.

Mr. HALE. I was not a member of the Senate, I think, at that time.

Mr. IVERSON. Oh, yes. The order must have been recently, I apprehend.

Mr. HALE. It was made in 1854. I was not a member of the Senate then, and therefore the Senator will not find my name there.

Mr. IVERSON. At any rate the fault is here in Congress and not in the Secretary of the Interior.

Mr. HALE. That is what I said.

Mr. IVERSON. Let us take the blame on ourselves, and hereafter let us mend the matter by stopping this useless expenditure.

Mr. JOHNSON, of Arkansas. I hope we shall have the vote. We shall have a chance to debate this whole matter on the printing bill.

The resolution was agreed to.

Mr. JOHNSON, of Arkansas. I give notice to the Senate that on Friday week, I will ask that the Senate do not adjourn over but that they will take up the bill (S. No. 218) amendatory of the act entitled "An act to provide for executing the public printing, and establishing the prices thereof, and for other purposes." That will then bring up the whole subject.

Mr. STUART. The Senator had better not fix it for Friday, because private bills are the special order for that day.

Mr. JOHNSON, of Arkansas. Then I will say this day week.

PACIFIC RAILROAD BILL.

The President *pro tempore*. The special order of the day is the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California, which is now before the Senate as in Committee of the Whole.

Mr. GWIN. Mr. President, I shall not detain the Senate long while I explain the provisions of this bill. The first section confers no power upon the President but to make a contract. The committee were careful, in preparing this measure, to confer no doubtful powers upon the President or any one else. We wished to avoid constitutional objections from all quarters, and simply provide for exercising powers conceded to exist under the Constitution from the foundation of the Government.

The second section provides for fair competition of bidders for the contract, by public advertisement in two papers in each State and Territory and the District of Columbia. It details how the bids shall be prepared; none are to be received that does not obligate the bidder to complete the entire road within twelve years from the date of the contract; and also, what extent and portion of the road, beginning at the eastern and western termini and progressing continuously until finished, shall be completed and put in operation during each and every year; also, the time that the bidder proposes to surrender the road, with

its rolling stock and all appurtenances, to the United States for the purpose of being transferred to the States now in existence, and States which may hereafter be framed out of the Territories through which it may pass; also, at what rate per mile per annum, not to exceed \$500 per mile. It is proposed to carry the United States mail daily both ways, under the direction of the Post Office Department, for the period of twenty years from the completion of the road; and also, at what rate per mile for a like period, under the direction of the proper departments, it is proposed to carry all military and naval supplies, troops, seamen, passengers, and freights of all kinds, for Government purposes, with the limitation that the contract price shall not, in any event, either of peace or war, exceed the sum which in time of peace has been heretofore paid for similar services of equal amount upon any existing route. It also provides that, after the expiration of said contract, all Government transportation shall be performed on said road, for reasonable prices, not exceeding those paid on other first class railroads, to be ascertained by Congress in the event of a disagreement between the Government and owners of the road.

The third section provides that the proposals shall be opened by the President after due notice, in the presence of his Cabinet, and such other persons as may choose to attend; and he is authorized and directed to enter into a contract for the transportation provided for in this act, with the party whose proposal shall be by him deemed most advantageous to the United States.

To guaranty the execution of the contract, the party with whom it is made is required to deposit with the Secretary of the Treasury \$500,000, or the value thereof in bonds, or certificates of stock of the United States, which may be subsequently withdrawn in sums of ten thousand dollars, when the Secretary is satisfied that these sums have been faithfully applied towards the construction of the road. It also provides that all questions of damages and forfeitures by reason of any breach of said contract, shall be determined by the express terms and conditions of the same, and the act itself is to be taken and considered as part of the contract.

The fourth section grants twenty sections of the public land to the mile, to be located on each side of the road, excluding all mineral lands lying within the State of California, and giving in lieu thereof agricultural lands lying nearest to the road.

The fifth section requires the contracting party to proceed without delay to locate the general route of the road, and furnish the President with a map of the same, who shall cause the public lands for forty miles on each side of the road to be surveyed, and the Indian titles thereto, if any, extinguished. It also gives the right of preemption to the lands not granted to the contracting party, but withholds them from settlement until the lands granted are selected.

The sixth section provides for the transfer to the contracting party of three fourths of the lands granted for the first twenty-five miles of the road that may be completed, retaining the other one fourth as security for the completion of the next twenty-five miles, which, when completed, three fourths of the land pertaining to that section shall in like manner be conveyed to the contracting party, together with the remaining one fourth of the previous section, and so on with each succeeding section until the road is finished and put into operation.

The seventh section provides that so soon as one section of twenty-five miles of the road is completed, the President shall cause to be issued to the contracting party \$12,500 per mile of said section in United States bonds bearing five per cent. interest; payable nineteen years from date; and in like manner to cause the same amount of bonds per mile to be issued from each succeeding section of twenty-five miles, when completed, until the whole road is built; provided that the aggregate amount of bonds issued shall not exceed the sum of twenty-five million dollars. It also provides that the amount of bonds thus issued, with the interest on the same, shall be paid to the United States by the transportation and service provided for in this act. The committee were of the opinion that the amount due for such service within nineteen years would be fully adequate to pay the bonds, principal and interest, and hence they inserted that date for their payment; I may also be

permitted to observe; that nineteen years being supposed to be the term of life of one generation it was not inappropriate to apply, in the building of this great work, the old Jeffersonian doctrine that each generation should provide for the payment of its own debts. This section also provides, that if the railroad iron used in the construction of the road shall be imported, the duties on the same will not be required to be paid in advance, but the amount shall be deducted from the first service performed for the Government under the act. It further requires that the contracting party shall use American railroad iron, if it can be obtained of equal quality and at a price not exceeding that imported from foreign countries.

The eighth section provides that, in the event of the contracting party failing to execute his contract, the same shall be forfeited, and the President shall proceed to relet that portion of the road uncompleted; provided he shall not stipulate for higher or other terms than those authorized by this act.

The ninth section provides that one half of the lands granted shall be unconditionally sold within five years, and the other half within ten years from the date of the issuance of the patents, under penalty of forfeiture to the United States of what remains unsold.

The tenth section sets apart two hundred feet in width of the public lands, on each side of the road, for railroad and telegraph purposes, and requires the contracting party to build the road in a workmanlike and substantial manner, and place upon it furniture and rolling-stock equal in all respects to railroads of the first class, when prepared for business; and that none other than rails of the first quality shall be used, and the gauge shall be six feet throughout the entire length of the road. It also provides for the construction of a telegraph line, of the most substantial and approved description, to be operated along the entire line of said road.

The eleventh section gives authority to the contracting party to construct additional tracks within the two hundred feet set apart for railroad and telegraph purposes; and that other roads shall be permitted to connect with it, on fair and equal terms.

The twelfth section provides for the transfer of the road to States and Territories through which it may pass, when it shall have been surrendered to the United States under the provisions of this act.

The thirteenth and last section provides that the contracting party shall keep books open for inspection, shall make annual returns of the receipts and expenditures of the road to the Secretary of the Treasury, who shall lay the same before Congress at the commencement of each session.

With this synopsis of the bill, I shall now proceed briefly to state the advantages that will result from locating the eastern terminus, as provided for in the bill, on the Missouri, between the mouths of the Big Sioux and Kansas rivers. It is central, as regards the population of the Atlantic and western States.

Mr. POLK. I should like to ask the Senator from California, who, as he understands this bill, will select the route of the road between the two termini fixed by the bill—the President, or the contractors?

Mr. GWIN. The contractors, of course, will make the selection of their route. The President may have some power in the selection of the contractors and the bids that may be put in; but it is intended by the bill that the contractors shall have the selection of the route upon which they will build the road.

Mr. POLK. I will ask the Senator whether the language is more definite on that point than it was in the bill for the overland mail route?

Mr. GWIN. I do not recollect the provisions of that law. I think that was entirely left to the contractors.

Mr. POLK. I think it was, too; yet I believe certain routes were marked out in the bids, to which the contractors were confined.

Mr. GWIN. The intention was that the contractors should select the route. Having given a synopsis of the provisions of the bill, I shall proceed to show very briefly the advantages that will result from locating the eastern terminus in the manner proposed in the bill.

Whether the road should approach the Pacific on the forty-first, thirty-fifth, or thirty-second parallel of latitude, it can with great facility be connected by railroad with the principal commer-

cial marts on the Atlantic, north and south, by roads built, building, and projected; as will appear from the following table, taken from Pacific railroad surveys, vol. 1, page 32:

Distances of the eastern termini of the several Pacific railroad routes to the Mississippi river, Boston, New York, Charleston, and New Orleans, by railroads built, building, and projected, as measured on the "railroad maps."

	Miles.
1. St. Paul to Boston.....	1,316
to New York.....	1,190
to Charleston.....	1,193
to New Orleans.....	1,198
Aggregate.....	4,897
2. Council Bluffs to Rock Island, (Mississippi river).....	267
to Boston.....	1,374
to New York.....	1,252
to Charleston.....	1,193
to New Orleans.....	1,075
Aggregate.....	5,163
3. Westport, mouth of Kansas, (near Fort Leavenworth), to St. Louis, (Mississippi river).....	245
to Boston.....	1,415
to New York.....	1,320
to Charleston.....	1,045
to New Orleans.....	875
Aggregate.....	4,800
4. Fort Smith, on the Arkansas, to Memphis, (Mississippi river).....	270
to Boston.....	1,540
to New York.....	1,345
to Charleston.....	960
to New Orleans.....	655
Aggregate.....	4,770
5. Fulton to Gaines, (Mississippi river).....	150
to Boston.....	1,530
to New York.....	1,335
to Charleston.....	950
to New Orleans.....	402
Aggregate.....	4,357

I will also give a brief synopsis, from official documents, of the routes terminating at San Francisco which have been surveyed by the United States engineers. The route on the forty-first parallel ascends the valley of the Platte river and its tributaries, rises to the great plateau upon which Fort Bridger is situated, more than seven thousand feet above the level of the sea, and, by the South Pass or by the Cheyenne Pass, crosses the great interior basin at its widest point. After passing the divide of the Sierra Nevada, by the Mad-

elin or Noble's Pass, it descends to the Sacramento valley.

The most serious difficulty of construction on this route is along the Pitt and Sacramento rivers, where, for the distance of one hundred and twenty-five miles, they run through a mountainous region with precipitous banks, which would make the expense of constructing a railroad very great; but further explorations may discover a more practicable and economical entrance to the Sacramento valley. The length of this route, from the mouth of the Platte river to Benicia, in California, is two thousand and thirty-two miles; the estimated cost of construction is \$116,000,000. From the mouth of the Kansas to Benicia is two thousand one hundred and sixty miles, and the additional cost will be \$3,000,000. If it should pass by Oroville, Marysville, Sacramento, Stockton, and the southern extremity of the bay of San Francisco to the city of San Francisco, both the distance and the expense of construction would be greater. The route on the thirty-eighth parallel, by the Cochitopa Pass, may be considered impracticable, from the enormous cost of construction of the five hundred miles between the tributaries of the Rio Grande and the Great Basin.

The Cimarron route, leaving Westport, crosses the Arkansas river near Fort Atkinson, passes along the Cimarron river, and unites with the route of the thirty-fifth parallel, near the head waters of the Pecos river, or before descending to the Rio Grande. By this route, the distance from the mouth of the Kansas to San Francisco is two thousand one hundred miles, and the estimated cost of construction \$106,000,000. The length may be reduced, as explained in the remarks on the route on the thirty-fifth parallel, ninety miles, and the cost of construction will be four or five million dollars less. The route on the thirty-fifth parallel follows, as near as practicable, the interlocking tributaries of the Mississippi, Rio Grande, and the Colorado of the West. The length of this route from the mouth of the Kansas river to San Francisco is two thousand one hundred and eighty miles, and the estimated cost of construction \$108,000,000. It can probably be shortened ninety miles by a route not yet surveyed by the United States engineers, but believed to be practicable by the exploring officer, and the cost of construction reduced four or five million dollars.

The characteristic features of the route on the thirty-second parallel are the low elevation of the

mountains and their passes, and the great extent of the table lands it traverses. It enters the valley of the Rio Grande by El Paso, crosses to the Gila, descends that stream to the Colorado river, crosses the plain known as the great Colorado Basin, and reaches San Francisco by two very favorable routes—one near the coast, and the other by the Tulare valley. The length of this route from the mouth of Kansas river to San Francisco is two thousand two hundred and twenty miles, and its estimated cost \$95,000,000. The Pacific ocean may be reached at shorter distances by branches from this route to San Diego and San Pedro. The distance on this route being but little greater than that on the thirty-fifth parallel is thus explained. From the mouth of the Kansas it has a direction a little west of south, passing near Fort Arbuckle and the head waters of the Colorado of Texas. From the crossing of the Red river it is coincident with the line generally known as the El Paso route, nowhere following for any considerable distance the meandering course of rivers, but passing over, in direct and straight lines, the extensive plains that form its peculiarity. It is of but little greater length than the route north of it, which has the same termini. That route, (on the thirty-fifth parallel,) in a large part of its course, passes along the banks of rivers and through a mountain region more rugged and elevated than the district a few degrees further south.

The great difficulties to be encountered in the construction of a railroad to the Pacific will be met with between the ninety-ninth meridian—where, it is supposed, the so-called uncultivable region begins—and the Pacific slope of the Sierra Nevada and coast range of mountains. Throughout this great uninhabited district, the differences between the extent of arable land, quantity of water, fuel, and timber, found on the several routes, are not such as to form an important element in the consideration of the greater or less degree of practicability of constructing and working a railroad. The great differences between the practicability and economy of the routes are to be found in the character of the surface of the ground, in the length of the routes across this uninhabited belt which all must cross, and, lastly, of the difficulties of climate. In the following table, besides containing other and valuable information, the extent of this uninhabited district is stated on all the routes which I have presented to the Senate:

Table showing the lengths, sums of ascents and descents, equated lengths, cost, &c., of the several routes explored for a railroad from the Mississippi to the Pacific.

	Distance by air line.		Sums of ascents and descents.	Length of level route of equal working expense.	Comparative cost of different routes.	No. of miles of route through arable land.	No. of miles of route through land generally uncultivable, arable soil being found in small areas.	Number of miles at an elevation above the sea between—										Altitude above the sea of the highest point on the route.	
	Miles.	Miles.						0 and 1,000 feet.	1,000 and 2,000 feet.	2,000 and 3,000 feet.	3,000 and 4,000 feet.	4,000 and 5,000 feet.	5,000 and 6,000 feet.	6,000 and 7,000 feet.	7,000 and 8,000 feet.	8,000 and 9,000 feet.	9,000 and 10,000 feet.		
Route near forty-first and forty-second parallels, from Council Bluffs, via South Pass, to Benicia.....	1,410	2,032	29,120	2,583	\$116,005,000	632	1,400	220	170	210	160	590	285	270	107	20	-	8,373	
*Route near thirty-eighth and thirty-ninth parallels, from Westport, via Coo-che to pa and Tah-ee-chay pah Passes, to San Francisco.....	1,740	2,080	49,985	3,026	Impracticable	620	1,460	340	276	165	348	466	170	60	155	80	20	10,032	Tunnel at elevation of 9,540 feet.
Route near thirty-eighth and thirty-ninth parallels, from Westport, via Cochitopa Pass, to Benicia.....	1,740	2,290	56,514	3,360	Impracticable	670	1,620	275	308	190	143	725	284	110	155	80	20	10,032	Tunnel at elevation of 9,540 feet.
Route near thirty-fifth parallel, from Fort Smith to San Francisco.....	1,550	2,096	48,521	3,015	106,000,000	646	1,450	585	250	261	238	181	295	222	20	-	-	7,550	
Route near thirty-fifth parallel, from Fort Smith to San Pedro.....	1,360	1,820	48,862	2,745	92,000,000	420	1,400	354	292	236	210	185	295	222	26	-	-	7,550	Tunnel at elevation of 4,179 feet.
Route near thirty-second parallel, from Fulton to San Francisco, by coast route.....	1,630	2,024	38,200	2,747	190,000,000	834	1,190	893	347	120	342	271	50	-	-	-	-	5,717	
Route near thirty-second parallel, from Fulton to San Pedro.....	1,400	1,598	30,181	2,169	68,000,000	408	1,190	478	337	120	342	271	50	-	-	-	-	5,717	
Route near thirty-second parallel, from Fulton to San Diego.....	1,360	1,533	33,454	2,167	168,000,000	374	1,159	420	395	195	362	271	50	-	-	-	-	5,717	

* Supposing the route to be a straight line, with uniform descent, from the Un-kuk-oo-ap mountains (near Sevier river) to the entrance of the Tah-ee-chay-pah Pass—the most favorable supposition possible.

† The estimate of Lieutenant Parke for the construction of a railroad by this route, from Fulton to San José, is \$82,812,750. Adding \$2,025,000, the office estimate for the route from San José to San Francisco, Lieutenant Parke's total estimate from Fulton to San Francisco would be \$84,837,750.

‡ The estimate of Lieutenant Parke for this route is \$59,005,503.

The sum of the minor undulations (not included in the sum of ascents and descents here given) will probably be greater for the routes near the forty-seventh and forty-ninth parallels than for the other routes.

With the amount of work estimated for the roads in this report, the equated lengths, corresponding to the sums of ascents and descents, have but little practical value. With a full equipment and heavy freight business, the sum of ascents and descents becomes important.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, APRIL 13, 1858.

NEW SERIES....No. 97.

In the preparation of this table one important fact must have escaped the scrutiny of the scientific gentlemen who prepared it. It is this: that the great Colorado basin, included in this so-called uncultivable region, has been proved by those very surveys, and others made under the direction of the surveyor general of California, to be one of the richest in soil on the continent. It is mainly below the level of the Colorado river, which renders its irrigation easy and practicable; and when thus reduced to cultivation its fertility will not be surpassed by the celebrated valley of the Nile. In support of this fact, I will quote further from the Pacific railroad surveys:

"An analysis of the soil of the alluvial portion of the Colorado desert, which covers an area of four thousand five hundred square miles, and is four times greater in extent than the land under cultivation on the Mississippi river, between the mouth of Red river and the Balize, shows that it has all the elements of great fertility, and, but for the adverse climatic conditions, would rival in its productions the best lands of the delta of the Mississippi. According to the barometrical levelings of Lieutenant Williamson, the alluvial portion of this plain is lower than the surface of the Colorado river; and should this be confirmed by more accurate modes of leveling, as there is every reason to believe it would be, an extensive system of irrigation would entirely change the character of its surface by the introduction of water, the only element required for great productiveness. About one half of the Colorado desert is within our territory."

This will reduce the extent of this so-called uncultivable region from one to two hundred miles on the route on the thirty-fifth and thirty-second parallel, and to this extent tend to remove the impression on the minds of many friends of this great measure, that it will be impossible to build a road over this great uninhabited country, and that it could not sustain sufficient population to keep up the road after it was constructed. It should also be borne in mind, that these estimates in the report of this sterile region extend to the Pacific coast, when it is known that there is no more productive country in the world than the region between the Sierra Nevada and coast range of mountains and the Pacific ocean. In bringing the reports of the engineers to the notice of the Senate, I do not wish to be understood as acquiescing in their views as to this uncultivated region. Their theory, I believe, practice will demonstrate to be delusive. I well remember when some of the richest lands in the world, and proved to be such by being the most productive, were, but a few years ago, by everybody in California, called poor and worthless. I believe that the greater portion of this so-called uncultivable country has fine agricultural capacity, capable of sustaining a dense population, and is not surpassed in mineral wealth by any portion of the continent.

Mr. President, I have refrained from touching upon the vital interests of the country involved in the passage of this bill. I leave that task to other Senators more able to do justice to the subject, and whose duty it may be to give their views at large so as to be placed right before their constituents. I have no speech to make for home consumption. My constituents are awaiting our prompt action upon this bill with an earnestness and intense anxiety that I shall not attempt to describe. Upon its passage depend our happiness, prosperity, and greatness as a people. Without it our future is dark and gloomy. Having on many former occasions given my views at large on the merits of this great question, I have confined myself on this occasion to a statement of the contents of the bill, and a reference to the sources of information upon which the committee based their action in reporting it to the Senate, which leave no doubts on my mind, that if it becomes a law it will insure the building of the road on one of the three routes indicated, the construction of a railroad on either being in my opinion entirely practicable.

Mr. BRODERICK. I desire to inquire of my colleague if he has provided in his bill for making it obligatory on the contractors to provide a substantial system of telegraphs?

Mr. GWIN. Yes, sir.

Mr. BRODERICK. I am glad of it; and there is another point to which I desire to direct atten-

tion. I am satisfied that the emigrant route from Independence to Carson valley, which strikes the border of California, will be selected by the contractors if it is left to them to decide, and I desire the Senate to put this bill in such a shape that the selection of the route shall be left entirely to the contractors.

Mr. GWIN. The bill so provides. The first section will enact that

"The President be, and he is hereby, authorized and directed—

—leaving him no discretion—

—to enter into a contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from a point on the Missouri river, between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the most eligible route, reference being had to feasibility, shortness, and economy."

And another section provides that the contractors shall "locate the general route of said road."

Mr. BRODERICK. Three fourths of the population of California is north of San Francisco; and if the extreme southern route were selected—that is, on the thirty-second parallel of latitude—it would cost more to build a road from where it would strike California to San Francisco, than it would cost the Government to build a road from Salt Lake to the boundary of the State of California. When you look at the map, it appears that the southern route is much the nearest to California; but that is a great mistake, as is shown by experience, for we find emigrants from Arkansas, Louisiana, and Texas, going all the way around to Independence, and then crossing on the old emigrant route. If a clause be inserted making it obligatory on the President or the heads of Departments to leave the route entirely to the contractors, I am for the bill as reported by my colleague. But I hope that my colleague will examine more closely, and satisfy himself on that point, because it is a matter of great interest to the people of California. I agree with him that the people of California are looking to Congress to give them a railroad. We are in the habit of sending about four million dollars monthly to the Atlantic side of this Union. I have ascertained, since I have been in Washington, that on the part of a great many distinguished men here, California is considered a myth; but, sir, it is a very large and growing State; her population to-day amounts, I believe, to six or seven hundred thousand people, and it is constantly increasing. We should increase much faster if we could only have a cheap communication between the western States and California. I shall wait for the purpose of hearing this bill discussed; and if I can aid my colleague in any way in passing it, I shall do so with pleasure.

Mr. GWIN. I desire to offer a verbal amendment to the bill in the second section, in lines fourteen, fifteen, and sixteen, by striking out the words "that portion of" and also "which passes through the Territory of the United States."

Mr. HUNTER. I would suggest to the Senator from California that perhaps he had better postpone his amendments until the Senate is fuller.

Mr. GWIN. This is a mere verbal amendment.

The amendment was agreed to.

Mr. HUNTER. I move to postpone the further consideration of this subject until one o'clock to-morrow, for the purpose of taking up the appropriation bill which I reported this morning, and which will consume but a short time.

Mr. IVERSON. By a special resolution, to-morrow is set aside for private bills.

Mr. HUNTER. Postponing this subject until to-morrow will not interfere with that. It will only keep this bill the special order.

Mr. SEWARD. I desire to ask the Senator from California whether the table he has recited has been printed?

Mr. GWIN. I took it from the Pacific railroad surveys.

Mr. BRODERICK. I should like to have it printed for the use of the Senate.

The motion to postpone was agreed to.

DIPLOMATIC APPROPRIATION BILL.

On motion of Mr. HUNTER, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 6) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1859, which was reported from the Committee on Finance with two amendments.

The first amendment was, in line forty-two of the first section, to strike out the word, "for," and insert, "and miscellaneous expenses of," so as to make the clause read:

For the purchase of blank-books, stationery, arms of the United States, seals, presses, and flags, and for the payment of postages, and miscellaneous expenses of the consuls of the United States, \$40,000.

Mr. HUNTER. This is a mere verbal amendment.

The amendment was agreed to.

The second amendment was to strike out the second section of the bill in the following words:

SEC. 2. And be it further enacted, That no part of the money herein appropriated shall be paid out of the Treasury for any expenses which accrued or shall accrue before the commencement or after the termination of the fiscal year ending the 30th of June, 1859.

The amendment was agreed to.

Mr. HUNTER. The bill is all according to law, merely paying the salaries of ministers and consuls.

Mr. MASON. I would ask my colleague, as I am not very conversant with the forms of the appropriation bills, if there will be any other bill coming from the House of Representatives providing for the expenses of the consular or diplomatic service during this session, except this one?

Mr. HUNTER. The civil and diplomatic appropriation bill is now divided into three bills. There will be a miscellaneous bill, upon which, I suppose, it will be proper to put the amendment which my colleague designs.

The bill was reported to the Senate as amended, and the question was stated to be on concurring in the amendments.

Mr. COLLAMER. I wish the Senator from Virginia to explain the occasion of striking out the second section.

Mr. HUNTER. There is occasion for doing so. That section proposes to restrict the expenditures within the year.

Mr. COLLAMER. The second section confines the expenditures to the year; and why is it stricken out?

Mr. HUNTER. Because it is found, from experience, that it is impossible to confine the appropriation of one year to the expenditures of that year. There is already a general provision, which is a sufficient safeguard, that when an appropriation is more than two years old, it goes to the surplus fund, and can no longer be used. I am assured by the State Department—and I should have known it if I had not been so assured—that the evidences of many of the expenditures, within the year for which it is designed to provide, do not come in during the year, but perhaps early in the next succeeding fiscal year; and the effect of this section would be, that the money could not be applied to them.

Mr. COLLAMER. It could if the expense accrued within the year.

Mr. HUNTER. Not according to the construction which the Department put upon it, and the construction which, I suppose, is designed by the House of Representatives.

Mr. BRODERICK. I ask that the whole bill be read, for the information of the Senate.

The bill was read.

The amendments made as in Committee of the Whole were concurred in.

Mr. SIMMONS. I think the bill had better be laid over until to-morrow, unless there is some particular reason for passing it to-day. I should like to look into it.

Mr. HUNTER. There is no particular object in passing it to-day. It can be laid over, if the Senator wishes to examine it. I only desired to expedite the public business.

The amendments were ordered to be engrossed, and the bill to be read a third time.

Mr. HUNTER. If the Senator from Rhode Island will suggest any particular objection he has to the bill, perhaps I can satisfy him.

Mr. SIMMONS. I do not know that I have objection. I want to read the bill before it is disposed of.

Mr. HUNTER. Certainly.

The PRESIDING OFFICER. (Mr. STUART in the chair.) Objection being made, the bill cannot be read a third time to-day, but must go over until to-morrow.

NAVAL COURTS OF INQUIRY.

Mr. FESSENDEN. I desire to call up a little resolution, to which there is no objection, that ought to be passed. There is a resolution that was passed by the Senate, extending the time for the naval courts until the 16th of April, and it was sent back here from the House of Representatives with an amendment, and that amendment has been amended and another made to it here. It only remains on the table, to pass on the amendment to be sent back, and the 16th of April is very near. I presume there is no objection to it. The chairman of the Committee on Naval Affairs suggested to me to call it up.

The motion was agreed to; and the Senate resumed the consideration of the amendment of the House of Representatives to the joint resolution (S. No. 4) to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'an act to promote the efficiency of the Navy.'"

The House amendment is to add:

"Except as to any case pending, undetermined, before any court of inquiry under the act of the 17th of January, 1857, at the expiration thereof."

The Committee on Naval Affairs of the Senate reported back the amendment of the House of Representatives, with an amendment to strike out "17th" and insert "16th," which was agreed to; and an amendment, offered by Mr. FESSENDEN, was adopted on the 12th of March, adding to the House amendment:

"And excepting, also, the case of any officer who was absent from the country at the time of the passage of said act, and had not returned previous to the 16th of January, 1858, and any such officer shall be entitled to all the privileges conferred by said act: *Provided*, He applies for the benefit thereof at any time within sixty days after his return."

The PRESIDING OFFICER. The question is on agreeing to the House amendment as amended.

Mr. HOUSTON. I would suggest to the honorable gentleman who has charge of this joint resolution, that perhaps it would be well to say that they should have the privilege of availing themselves of the benefits of this resolution, after its passage, and I move, therefore, that the words be changed so as to make it read, "after, the approval of this joint resolution." My amendment is to strike out the words "at the time" and insert "after the passage," so as to read, "excepting also the case of any officer who was absent from the country after the passage," &c.

Mr. FESSENDEN. I suggest that that amendment cannot be made to the amendment. The other was an amendment to an amendment.

The PRESIDING OFFICER. It cannot be done without unanimous consent.

Mr. FESSENDEN. I cannot consent to that, because the chairman of the committee is absent, and it was by an understanding with him that the amendment was made to apply to the case of absence at the time.

The PRESIDING OFFICER. It will require unanimous consent to make the amendment suggested. Is there objection?

Mr. FESSENDEN. I must object.

The PRESIDING OFFICER. Then the amendment cannot be made. The question is on agreeing to the House amendment with the amendments which the Senate have already adopted.

The amendment, as amended, was concurred in.

ARREST OF WILLIAM WALKER.

Mr. SLIDELL. I ask the Senate to take up the next special order.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding; the bill (S. No. 85) supplementary to the act entitled "An act in addition to the

act for the punishment of certain crimes against the United States, and to repeal certain acts therein mentioned," approved April 20, 1818; the resolutions reported by Mr. MASON from the Committee on Foreign Relations in regard to the seizure of William Walker; and Mr. SLIDELL's amendment to these resolutions.

Mr. SLIDELL. As the resolution of the Senator from Wisconsin, as well as the report of the Committee on Foreign Relations, is now under consideration, I will first proceed to explain the reasons why I shall vote for the amendment of my friend from Mississippi, and then present my views generally on the subject of our neutrality laws, and especially on the necessity of such a modification as is proposed by the amendment I have offered to the resolutions of the committee.

I presume that the Senator from Wisconsin, in offering his resolution for the presentation of a medal to Commodore Paulding, did it rather to have an occasion to express his individual approbation of the conduct of that officer, than with any hope of his proposition obtaining the sanction of the Senate. The medal has heretofore been given only as a recompense for gallant service, accompanied by some degree of personal danger. To this rule I think there can be found no exception. The resolution seeks to confer it for gallant and judicious service. The Senator from Wisconsin will scarcely claim that there was any very remarkable display of gallantry in the capture of one hundred and fifty men, armed with rifles only, encamped on a sandy beach, directly under the batteries of a squadron mounting sixty or seventy heavy guns, and served by at least eight hundred men. Was his conduct judicious? This question presents a double aspect: was the capture of Walker authorized, either by his instructions or by the law of nations? or, if by neither, were the circumstances such as to justify the exercise of a remedy above and beyond law, for effecting a high and useful purpose? I admire the man who, in great emergencies, dares to take a responsibility which his position imposes upon him; but he does it at his peril. He must abide the verdict of public sentiment; the popular mind has almost unerring instincts in such questions. If he be right, he will be sustained and applauded; if not, he must bear the consequences of his want of judgment and discretion. The masses will never be severe when the error proceeds from excessive zeal in the performance of a supposed duty.

It is not pretended that the capture of Walker, on the territory of Nicaragua, was justified by the instructions given to Paulding directly. Those to Lieutenant Almy of 12th October, expressly confine him to the prevention of the landing of any military expedition in any part of Mexico or Central America. These instructions were, of course, known to Commodore Paulding; indeed, he expressly admits, in his letter of 15th December, that he had gone beyond his instructions. He says: "I am sensible of the responsibility I have incurred, and confidently look to the Government for my justification." Were the circumstances so grave and urgent as to justify the commodore in assuming the responsibility of exceeding his instructions? Clearly not. Walker had with him one hundred and fifty men, without artillery, and with a very limited stock of provisions; his arrival had produced no other feeling than that of alarm among the people of Nicaragua and Costa Rica. No aid could be expected from them, and all reinforcements and supplies from the United States were effectually cut off. In a few weeks his motley band, composed mainly of desperate adventurers, with a few enthusiastic and misguided striplings, would have deserted him, and, probably, appealed to the American squadron for protection and subsistence. Walker would have returned, for the third time, to the country whose allegiance he had renounced, and whose hospitality he had abused, a broken-down and harmless Quixote. None of the false sympathy which has since been enlisted in his favor would have been excited; he would have wandered about for a while, complaining of the Administration and boasting of what he would have achieved had he been allowed to carry out his schemes without the interference of the Executive, and, perhaps, have settled down at last in the pursuit of an honest livelihood. Paulding has, for the time, succeeded, in the eyes of many of our people, in investing him with the martyr's crown; and

pseudo-martyrs have, in all ages, found devotees to worship at their shrine.

In speaking thus of William Walker, I know that I shall bring upon myself the violent denunciation of certain presses, and perhaps shock the honest prejudices of many who, without examination, or reflection, have approved his course, and admired his character.* The man who can be deterred, by such considerations, from expressing his opinions, has no business here; he is unworthy of the high trust which has been confided to him. Who and what, then, is William Walker? I speak only of his career since he first undertook the mission of regenerating Mexico and Central America. Except in that connection, I know nothing of him. I am willing to concede that he is a man of good education, fair intelligence, gentlemanly habits, and, in private life, a man of irreproachable character. His first military enterprise was against Sonora; he landed there with a handful of brave men, and failing to meet with any sympathetic response from the people, of whom he proclaimed himself the champion and liberator, he escaped, leaving most of his deluded followers to perish miserably. We next find him landing in Central America, where, having espoused the cause of one of the factions that divide and devastate that wretched country, of which revolution and anarchy have long been, and, with the mongrel race that now occupies it, will ever be, the normal condition, he succeeded, with the aid of repeated reinforcements from the United States, in making himself virtually the supreme authority of Nicaragua. Not contenting himself with the substance of power, he must needs have the title also; by the convenient farce of a popular election, played with the soothing accompaniment of the bayonet, he became the President of the free and independent Republic of Nicaragua. He now, for the first time, had an opportunity of displaying his qualities as a statesman. One of his earliest acts was to confiscate the valuable property of an association of American citizens, engaged in the transportation of passengers across the isthmus—a company that had rendered him the most essential service in conveying the troops and supplies that were necessary to the support of his government. This new William the Conqueror next proceeded to dispossess the ancient proprietors of their domains, distributing them among his adherents. Among the recipients of these bounties, we find some whose civil services had secured to them this distinguished mark of presidential favor, and who, in the hope of perfecting their titles, were since actively engaged in getting up his last expedition. His whole career, as President, was marked by rapine and blood. In this, he but too faithfully carried out the programme of a military government, not transitory, but permanent, indicated by his letter to General Goicouria, of 12th August, 1856, quoted by the Senator from Maryland, and in which he deposes him to solicit an English alliance, "to cut the expanding and expensive Democracy of the North."† This, then, is the chosen

* The New Orleans Delta has insinuated that the few words I said on the 28th January, in relation to this subject, were elicited by an attack previously made by him on me, and were uttered in a spirit of recrimination. Now, the only occasion on which I have been honored by the notice of that gentleman, that I am aware of, is said to have been in his speech made at Mobile on 25th January. I have the report of that speech, as published in the Mercury on the following day. In that report my name is not mentioned; but after Walker's arrival at New Orleans, and conference with his advisers there, he published in the Delta his amended version of it, in which my name was used. This was on the 29th January, the day after I had spoken of him in the Senate. From this specimen of the fair-dealing of the Delta, the mouth-piece of Walker and his prime ministers, the public may judge of the credence that should attach to anything that may be said by it of me.

† "GRANADA, August 12, 1856.
"MY DEAR GENERAL: I sent your credentials for Great Britain by General Cazeneuve. They are ample, and will be, I hope, not without result. If you can open negotiations with England, and secure for Nicaragua the port of San Juan del Norte, you will effect a great object. It will be a long step towards our end. Without San Juan del Norte, we lack what will be, in the end, indispensable to us—a naval force in the Caribbean sea. The commercial consequences of this possession are nothing in comparison with the naval and political results.

"With your versatility and (if I may use the term) adaptability, I expect much to be done in England. You can do more than any American could possibly accomplish, because you can make the British Cabinet see that we are not engaged in any scheme for annexation. You can make them see that the only way to cut the expanding and expansive Democracy of the North, is by a powerful and compact southern federation, based on military principles."

instrument for the Americanization of these benighted regions! I will not recapitulate his various atrocities. Suffice it to say, that he, who was at first hailed as a deliverer by a portion of the people of Nicaragua, was soon regarded by its entire population with detestation; whilst having, by his own folly, cut off all available sources of support from the United States, he was but too happy to secure his own safety, and that of the miserable remnant of his followers, under the flag of the country whose citizenship he had repudiated. We have the most conclusive evidence of not only the universal horror in which Walker himself, but also of the appalling dread in which his very name is held by the whole population of Central America. This evidence we find amply revealed in the fact that the internecine war, between Costa Rica and Nicaragua, which had been waged with so much bitterness for the last two years, was immediately brought to a close by his advent on their shores, and all their differences adjusted by a treaty of boundary and alliance; and yet this man claims to be their liberator and regenerator!

As a soldier I believe that those who have served with him, and I have seen and conversed with many of them, claim for him no other qualities than personal bravery. This is the almost universal attribute of our people; its absence is the very rare exception to a general rule; but in the higher acceptance of soldiership, foresight, combination, distribution, and care of his troops, he had with him many superiors. In times of difficulty and danger, all looked to Henningsen for the head to plan, while Walker was only the hand to execute. So soon as his escape was effected, with the duplicity and heartlessness that has characterized all his actions, he assumes the tone of injured innocence, and reviles the man who had rescued him from certain captivity, and probably from an ignominious death. We have no authentic record of the number of American citizens who perished by the sword, disease, and famine, in this second expedition; but I have seen it estimated at between two and three thousand. If one may believe his boasts, thrice that number of Central Americans may be counted as his victims. No sooner has he set foot on his native land than he renews his machinations; but in the hope of lulling the vigilance of the national authorities, on the 29th day of September, 1857, he addresses to the Secretary of State a letter, of which I will read the concluding portion:

"So far as any violation, on my part, of the acts of Congress is concerned, I deny the charge with scorn and indignation. Having been received in the United States, when forced for a time to leave Nicaragua, I have, in all respects, been obedient to its laws. And permit me to assure you that I shall not so far forget my duty as an officer of Nicaragua as to violate the laws of the United States while enjoying the rites of hospitality within its limits."

I do not choose to stamp this declaration with the only epithet it deserves; but it is entirely in keeping with the assertion contained in his letter of 30th November to Commodore Paulding, that he was "engaged in what your Government admits to be a lawful undertaking." Immediately after giving this solemn assurance to the Secretary of State, he proceeded to New Orleans and there commenced his preparations for his third expedition. I can add nothing to the lucid exposition of this part of the case by the Senator from Maryland. The publication in the New Orleans papers the day after his departure of the names and rank of his officers and of the objects of his expedition; the false invoices and manifest of the lading of the Fashion; his detachment of fifty men at the mouth of the Colorado for the capture, by that detachment, of Fort Castillo; the immediate establishment of his camp on his landing at Punta Arenas; the arms, ammunition, and stores found there; the assumption of the pompous title of commander-in-chief of the army of Nicaragua, forgetting, for the moment, the pretension, which he has since renewed, of being the lawful President of that Republic; all show so conclusively the object and character of his expedition, that it were an idle waste of words to dwell upon them.

But we are not left to mere inference or newspaper statements to establish the fact of a military expedition having been set on foot within the territory and jurisdiction of the United States, and of its having been carried on under the flag of the United States. Anderson and his men having abandoned Fort Castillo, surrendered them-

selves to our squadron, and were conveyed to Key West in the flag ship. Eight or ten of the men who were there examined as witnesses, declared that they were enlisted at New Orleans to serve under Walker, that they all understood that there was to be some fighting, that all their expenses were paid from the time of their enlistment until they were put on board of the Fashion, in Mobile bay, that after they had been at sea three or four days, a battalion of four companies, composed of about forty men each, was formed, with captains, lieutenants, and sergeants, and from that time the roll was regularly called, morning and evening, and rifles and bayonets, taken from the hold of the steamer, were distributed. The United States district judge, before whom the men were examined, thought it unnecessary to inquire into the question of jurisdiction as to what had occurred on the high seas, as there was sufficient testimony to show the setting on foot of a military expedition at New Orleans, and directed them to be conveyed thither for trial. I shall, in the course of my argument, show that in the absence of all proof of a violation of the statute at New Orleans or Mobile bay, the organization on the high seas, on board of a vessel carrying the American flag, was within the jurisdiction of the United States.

I concur entirely with that portion of the report of the Committee on Foreign Relations which sustains the views of the President in his message of 7th of January, of his rights and duties under the act of 20th April, 1818, and asserts the legality of the instructions given to Commodore Paulding and Lieutenant Almy; but I go further, and maintain that the power to seize the Fashion and arrest Walker was not confined to the high seas, but might be lawfully exercised in the waters of Nicaragua; and this position is, I think, essential to the full vindication of the course of the Executive. Captain Chatard was deprived of his command for having failed to prevent the landing of Walker, who passed under the stern of the Saratoga, while that ship was at anchor in the harbor of San Juan. Paulding is declared to have committed a grave error in having captured him on the soil of Nicaragua. Something has been said of the inconsistency of censuring Chatard for having done too little, and Paulding for having done too much. I can see no ground for the charge; while I am free to confess that I think the President's language too exculpatory of Paulding, and would have preferred to see him at once directing his recall. Although I have a good opinion of his ability and efficiency as an officer, under ordinary circumstances, he has shown himself unequal to the delicate and responsible duties of his late command. I say his late command; for I understand that he, having been ordered home, has been relieved by Commodore McIntosh.

I will now proceed to show, as I hope, conclusively, that the Fashion might have been lawfully seized by Captain Chatard, and carried, with Walker and his armed followers, to Mobile. She sailed from Mobile with American papers, and under the American flag, on an illicit voyage. The public and private vessels of the United States carry their nationality with them wherever they go; they carry with them also their jurisdiction; and many of the most esteemed writers on national law consider them as an extension of the territory. Azuni says:

"Finding that the commanders of armed vessels exercise the rights of sovereignty, even to the infliction of the penalty of death, in the ports and harbors of another sovereign, many authors, Hubner among them, maintain that these vessels are to be considered as foreign territory."

The penalty of death, under the sentence of courts-martial, held on board of our ships of war in foreign ports, has, I believe, been more than once inflicted in those ports; and I doubt not that the Senator from Texas will recollect that, in the waters of the United States, and, if I mistake not, in the river Mississippi, several men were hanged on board of a Texan ship-of-war. The maritime high court of France, in the case of the Sardinian steam-packet Carlo Alberto, August 6, 1832, held that "the flag of the sovereign is the sign of the nationality of a vessel; and, by the law of nations, it carries with itself its nationality and its sovereignty. Every vessel, therefore, sailing under the lawful authority of a Power is reputed to be a continuation of the territory of that Power." And in a supplementary decision in the same case, September 7, 1832, the court further held

that "a vessel is a portion of the territory of the sovereign whose flag it bears." "The commanders of public armed vessels," says one of the best approved authorities on this head, "have a supervisory right over the merchant vessels riding in those ports where they themselves cast anchor." (*De Rayneval, Droits de la Nature et des Gens.*)

The jurisdiction of a nation over its public vessels, even in foreign ports, is absolute and unequalled; over its private vessels, the extent to which it may be exercised is not so well defined. The true principle seems to be, that in everything not interfering with the public interests or the rights of individual citizens or denizens of the nation in whose ports she may be, the jurisdiction is complete, and generally exclusive. This was held by the French Council of State, in 1806, in two cases. I quote from Wheaton, page 155:

"The first case was that of the American merchant vessel, the Newton, in the port of Antwerp, when the American consul and the local authorities both claimed exclusive jurisdiction over an assault committed by one of the seamen belonging to the crew against another, in the vessel's boat. The second was that of another American vessel, the Sally, in the port of Marseilles, where exclusive jurisdiction was claimed both by the local tribunals and by the American consul, as to a severe wound inflicted by the mate on one of the seamen, in the alleged exercise of discipline over the crew. The Council of State pronounced against the jurisdiction of the local tribunals and authorities in both cases, and assigned the following reasons for its decisions:

"Considering that a neutral vessel cannot be indefinitely regarded as a neutral place, and that the protection granted to such vessels in the French ports cannot oust the territorial jurisdiction, so far as respects the public interests of the State; that, consequently, a neutral vessel admitted into the ports of the State is rightfully subject to the laws of the police of that place where she is received; that her officers and crew are also amenable to the tribunals of the country for offenses and torts committed by them, even on board the vessel, against other persons than those belonging to the same, as well as for civil contracts made with them; but that, in respect to offenses and torts committed on board the vessel, by one of the officers and crew against another, the rights of the neutral Power ought to be respected, as exclusively concerning the internal discipline of the vessel, in which the local authorities ought not to interfere, unless their protection is demanded, or the peace and tranquility of the port is disturbed; the Council of State is of opinion that this distinction, indicated in the report of the Grand Judge, Minister of Justice, and conformable to usage, is the only rule proper to be adopted in respect to this matter; and applying this doctrine to the specific cases in which the consuls of the United States have claimed jurisdiction; considering that one of these cases was that of an assault committed in the boat of the American ship Newton, by one of the crew upon another, and the other case was that of a severe wound inflicted by the mate of the American ship Sally, upon one of the seamen, for having made use of the boat without leave; is of opinion that the jurisdiction claimed by the American consuls ought to be allowed, and the French tribunals prohibited from taking cognizance of these cases."

But we have, by our own statutes, an express recognition of the principle for which I contend. The African slave trade never was considered, and it is not now considered, contrary to the law of nations. It was not only tolerated, but also encouraged, by the whole civilized world, until expressly prohibited by several nations to its own citizens; and when now carried on, under any flag, the ships of war of other nations can only interfere with it by authority of express treaty stipulations. Our first prohibitory act, passed 22d March, 1794, only applied to the traffic to foreign countries. The fourth section of the amendatory act of 4th January, 1804, declares that it shall be lawful for any of the commissioned vessels of the United States to seize and take any vessels engaged in carrying on business or traffic contrary to the true intent and meaning of the act, and to apprehend and convey every person found on board of such vessel, being of the officers and crew thereof, to the civil authority in some one of the districts thereof, to be proceeded against in due course of law. Here there is no limitation of place of seizure. The act of 3d March, 1819, authorizes the President, "whenever he shall deem it expedient, to cause any of the armed vessels of the United States to be employed to cruise on any of the coasts of the United States or territories thereof, or of the coast of Africa, or elsewhere, when he may judge attempts may be made to carry on the slave trade by citizens or residents; and to instruct and direct the commanders of all armed vessels of the United States to seize, take, and bring into any port of the United States, all ships or vessels of the United States, wheresoever found, engaged in the slave trade; and to cause to be apprehended and taken into custody every person found on board, being of the officers or crew thereof, and convey them to the civil authorities of the United States, to be

proceeded against in due course of law in some of the districts thereof."

Under this act, our ships of war have repeatedly seized, in the bays and rivers of Africa, American vessels engaged in the slave trade, and sent them to the United States, where they have been condemned. No one has ever dreamed of invoking the law of nations to protect the vessels or their crews. It will be observed that, under these laws, the nationality of an officer or seaman will not protect him from punishment; it is, for the time, merged in that of the flag under which he sails.

It is clear, that whether Walker had renounced his allegiance to the United States or not, whether he was or was not a citizen of Nicaragua, whether those who accompanied him were or were not American citizens, whether they had or had not, technically, organized as a military force before leaving the waters of the United States, is entirely immaterial; the offense of carrying on a military expedition was a continuous one from the moment the *Fashion* received on board the arms for these peaceful emigrants, in Mobile bay. The facts I have before stated afford sufficient evidence of the purpose for which those men embarked; but we have proof of the military organization—the most positive and direct—in the testimony of some of them, taken at Key West.

Captain Chatard, then, failed in his duty, in not preventing the *Fashion* from landing Walker and his associates; and I should not have been much disposed to blame him, if, in hot pursuit, as soon as he discovered the character and objects of the men who had disembarked from her, he had arrested them; but the landing was effected on the 25th November; whilst the arrest was not made until the 8th December. Ample time had been afforded to the Nicaraguan authorities to invoke the protection of our squadron. Had they done so, Commodore Paulding would have been fully justified in arresting Walker; their silence would seem to authorize the inference that they preferred to deal with him themselves. As it is, it would appear that Paulding's action was taken, rather under the irritation produced by Walker's correspondence, than from any mature and well-considered judgment of his rights and duties on general principles, and the instructions of his Government.

But these questions are all of very subordinate importance when compared with the policy of our neutrality laws which, with the indulgence of the Senate, I will now proceed to examine with as much brevity as its great importance will admit. While I think the policy of these laws, not only sound but indispensable for the preservation of our peaceful relations with foreign Powers, I by no means recognize the position, generally assumed, that they do no more than vindicate well-established principles of international law. They go much further; they deprive our Government of the faculty of doing that which all writers admit to be strictly consistent with neutrality—the granting to belligerents equal facilities, within our territory, for the enlistment of troops and fitting out of armed vessels within our territorial limits. There has been a prevailing error on this subject, in the public mind, from considering the statutory provisions of Great Britain and of the United States, the foreign enlistment bill, and our laws of 1794 and 1818, as merely providing specific penalties for acts which before had been admitted to be violations of the law of nations. So far from this being the case, it has never been considered a violation of neutrality on the part of any nation to permit belligerents to enlist troops within its jurisdiction, unless the permission were granted to one of the belligerents exclusively. Vattel says, book 3, chapter 7, paragraph 110:

"The Switzers grant levies of troops to whom they please; and no Power has hitherto thought fit to quarrel with them on that head. It must, however, be owned, that if those levies were considerable, and constituted the principal strength of my enemy, while, without any substantial reason being alleged, I were absolutely refused all levies whatever, I should have just cause to consider that nation as league with my enemy; and in this case, the care of my own safety would authorize me to treat her as such."

Paragraph 118:
"A neutral nation preserves, towards both belligerent powers, the several relations which nature has instituted between nations."

therefore, as far as the public welfare will permit, equally to allow the subjects of both parties to visit her territories on business, and there to purchase provisions, horses, and, in general, everything they stand in need of, unless she has, by a treaty of neutrality, promised to refuse to both parties such articles as are used in war. Amidst all the wars which disturb Europe, the Switzers preserve their territories in a state of neutrality. Every nation, indiscriminately, is allowed free access for the purchase of provisions, if the country has a surplus, and for that of horses, ammunition, and arms."

Paragraph 126:

"If the neutral State grants or refuses a passage to one of the parties at war, she ought, in like manner, to grant or refuse it to the other, unless a change of circumstances affords her substantial reasons for acting otherwise. Without such reasons, to grant to one party what she refuses to the other, would be a partial distinction, and a departure from the line of strict neutrality."

Grotius not only recognizes the correctness of this doctrine, but shows, by its existence in remote antiquity, that it is founded on simple rules of equity and good sense. He says, in his famous *Treatise on War and Peace*:

"It is the duty of neutrals to do nothing which may strengthen the side which has the worst cause, or which may impede the motions of him that is carrying on a just war, and in a doubtful case to act alike to both sides."

He quotes with approbation the declaration of the Corecyrans to the Athenians that it was the duty of the Athenians, if they would be neutral, either to prevent the Corinthians from raising soldiers in Attica, or to allow them to do so.

Bynkerschoeck argues at great length the question whether it is lawful to enlist men in the country of a friendly sovereign, and decides it affirmatively. He says:

"It is certain that if a prince prohibits his subjects from transferring their allegiance, and entering into the army or navy of another country, such sovereign cannot, with propriety, enlist them into his service; but when no such prohibition exists, (as is the case in most of the countries of Europe,) it is lawful, in my opinion, for the subject to abandon his country, migrate into another, and then serve his new sovereign in a military capacity."

"If, therefore, our subjects, whose assistance we do not want in time of war, and who are not prevented by any law from transferring their allegiance, may lawfully hire out their military services to a friendly prince, why may not, also, that friendly prince enlist soldiers in the territory of a friendly nation? Why should it not be equally lawful to contract for the hiring of soldiers in the territory of a friend as to make any other contract, and carry on any kind of trade?" "I am of opinion, therefore, that the same law which obtains as to the purchase of implements of war, must apply in like manner to the enlistment of soldiers in the territory of a friendly nation, unless it should be expressly stipulated otherwise between the two sovereigns."

He states a case which is peculiarly apposite in this connection:

"A difference took place in the year 1666 between the States General (of Holland) and the Governor General of the Spanish Netherlands. The States complained to him that the Bishop of Munster, with whom they were at war, had enlisted soldiers in the Spanish territories in the Low Countries. The Governor answered that he had not authorized him so to do, but that if he had, there was nothing to prevent him, as Spain was neutral in the war; and that the States General might exercise the same right if they pleased."

Martens says:

"Every State has a right to give liberty to raise troops in its dominions, and may grant to one State what it refuses to another, in war or peace, without infringing its neutrality."

His position has a sort of tacit sanction in many of our treaties. We have frequently stipulated that our citizens should not engage in war on the ocean against the Powers with whom we have made treaties; but I think that I may safely assert that we have never, but once, bound ourselves to prevent enlistment for service on land. The exception to which I refer is to be found in the twenty-first article of the treaty made by Mr. Jay with Great Britain, on the 19th November, 1794; but this article, among others, was expressly limited to twelve years, and has never been renewed or revived.

The first treaty we find on this subject is that with the Netherlands in 1782. It establishes that citizens of neither party shall take commissions or letters of marque for arming any ships, from any prince or State with which the other is at war. The same provision is found in the treaty with Sweden, in 1783, and in that with Prussia, of 1785; and in many others that it would be tedious to enumerate. The last cited treaty has an additional clause, which gives, by implication, the right for which I contend. It is in these words:

"Nor shall either party hire, lend, or give any part of their naval or military force to the enemy of the other, to aid them offensively or defensively against that other."

In the interpretation of public treaties, as well as in private contracts, this rule is recognized—*expressio unius, exclusio alterius*. The national force could not be employed, but individual action is not restrained. We then occupy this unfavorable position: while all nations may, without violation of neutrality, permit enlistments within their territory, for purposes hostile to us, we have deliberately tied our own hands and voluntarily deprived ourselves of one of the most efficient and legitimate means of carrying out our foreign policy.

I might present a thousand examples of the armed intervention of organized bands of citizens of a neutral State, in the wars between belligerent nations, or in the civil wars of Europe and America, and this without being considered as a *casus belli* with the Power whose citizens had thus intervened. Switzerland has at all times exercised this privilege, in permitting entire regiments and brigades to be enlisted within her territory for the service of foreign belligerent States; and the several cantons have frequently had their citizens regularly organized in the ranks of both the contending parties. Elizabeth permitted troops to be raised in England for the assistance of the people of the Netherlands, in their contest with Spain, although she was then at peace with that Power, because they were absolved from their allegiance, and free to choose their own Government. Charles I. authorized six thousand men to be enlisted for Gustavus Adolphus; and Major Dalgetty, immortalized by the author of *Waverley*, was but the type of hundreds of soldiers of fortune, who, in those days, lent their swords to the sovereign whose cause they espoused, either from political or religious sympathies, or because he offered the largest stipend. Far from being a cause of reproach, service in foreign wars was considered a graceful complement of the education of a gentleman; and in time of peace at home young men were encouraged to acquire military knowledge and experience wherever the hardest blows were to be exchanged. During the protracted struggle between Spain and her revolted colonies on this continent, several thousand men were raised in England to aid the revolutionists. An entire legion, commanded by General Devereaux, completely organized, armed and equipped, sailed from England; and, although its destination was proclaimed to all the world, met with no interruption from the Government. General Evans, then a member of Parliament from Westminster, and an officer of the British army, raised from five to six thousand troops in England, organized them under the title of the British Legion, and played a distinguished part in the Carlist war; he retained his commission and his seat in Parliament, and very many of his officers held commissions in the British army, and regularly received their half pay during the whole term of their service in Spain. Sir Robert Wilson was one of them, and at the same time held his seat in Parliament.

During the Greek war of independence, and after the passage of our neutrality laws, levies of troops and contributions of money were openly made both in England and the United States. Two frigates were built in New York for the Greeks; and the fund for equipping them falling short, one of them was purchased by our Government—and this under authority of act of Congress—to enable the other to be dispatched. In 1832, Captain Sartorius, of the British Navy, was made a Portuguese admiral, and openly fitted out a considerable squadron, officered principally by gentlemen holding commissions in the British navy, and manned by British subjects, for the service of Don Pedro, in the war against Don Miguel. He was afterwards replaced by Charles Napier, then a captain in the British navy, and since commanding the Baltic fleet in the war with Russia. Miguel's fleet was captured by him. A large land force, also recruited in England, took part in the war, under Sir Moilly Doyle, M. P. Lord Lansdowne said, in the debate on the foreign enlistment bill, June, 1819:

"All history would bear him witness in asserting that this was the first attempt made to establish the principle, that the subject of one State could not, privately and individually, assist those of another, where their respective potentates were not at war. He would venture to declare, that, for the last four centuries, and down to 1787, when the Netherlands resisted Joseph II., there never was a period in which British subjects were not engaged in giving this succor, as individuals, to other States; and he denied any

man to show him in what instance any Government had interfered to prevent them, in the manner now proposed. The active interference of British subjects in the service of foreign States, was, therefore, not inconsistent with the doctrines of neutrality."

Lord Althorpe said, on the 16th April, 1823:

"It was to be remarked, that until 1819, when this foreign enlistment bill was passed, excepting as far as related to the statutes of George II., it had been considered that England might be strictly neutral without such a law; and those who now supported it must contend, that, from the Norman conquest downwards, she had, in fact, maintained no real neutrality between the contending parties."

But we have seen that England, whenever it suits her policy, not only authorizes but encourages her subjects to take part in foreign wars. She twice or thrice suspended the execution of the foreign enlistment law, and will do so again, whenever a sufficient motive offers. We alone have adopted the suicidal policy of so manacled ourselves that a law-abiding Executive cannot free us from our self-imposed fetters, although the best interests of the country may demand it.

The act, then, of April, 1818, is not an enforcement of the law of nations, but it is a restraint upon what, without it, would have been lawful and, in many instances, meritorious action of our citizens. The only really free representative governments of the world have thought proper to pass laws preventing the levying of armed bodies of men within their territory for the purpose of waging war against States with which they are at peace. Why? Because in these countries, in the absence of such laws, the Executive would be without power to prevent the fitting out of any expedition, however much its objects might conflict with the interests of the nation or the policy of the Government. These expeditions, although in themselves no violation of neutrality, where equal liberty is afforded to both belligerent parties to enlist men and purchase munitions of war, are certain to lead at once to acrimonious discussions and ultimately to terminate in war, where the party suffering by them is in a condition to avenge itself. Neutrality consists in affording no greater advantage to one party than the other. There are many circumstances in which, although on paper either belligerent may have the right to levy troops in a neutral country, in reality but one only can profit by it. The late war between Great Britain and France on one side, and Russia on the other, affords a striking example. The allies had complete command of the ocean, and could have transported any number of men, enlisted in the United States, without let or hinderance, to the Crimea; the Russians could not have conveyed a man or a munition of war to the relief of Sebastopol. Our neutrality would, in that case, had we permitted enlistment, have only been nominal, and Russia would have had just cause to complain of our conduct. To this danger we should have been exposed had not the laws of 1794 and 1818 been on our statute-books. The continental Governments of Europe have no occasion for such legislation; because, with them the executive power can always control the movements of its citizens. In Great Britain, the Queen, in council, can always suspend the operation of the foreign enlistment bill, or prevent the shipment of arms, ammunition, or other military stores and equipments. This power I desire to confer upon the President when Congress is not in session. I do not attempt to conceal that it is a very grave, perhaps, in the hands of an indiscreet or unscrupulous man, a dangerous one; but it is to be exercised under all the high responsibilities that attach to the Chief Magistrate; and it is useless to disguise that, although the war-making power is given by the Constitution to Congress, any President can so conduct our foreign relations that Congress will have but to choose the alternative of sustaining him or disgracing the country in the eyes of the world. Besides, although my resolution is couched in general terms, and indicates no such limitation, I do not desire to confer on the President the power to suspend the laws, except in cases where actual war exists between the Powers, in reference to which the suspension is to operate, or when a civil war (and by this I do not mean a mere commotion or rebellion) shall have broken out in a foreign State, or its colonies. When I made, four years since, a movement for the suspension of our neutrality laws, I believed, as I now believe, that a large majority of the people of Cuba was prepared to make a vigorous effort to throw off the yoke of

their transatlantic oppressors, and, so far as my influence or councils could be useful, I was willing to aid them. I believed then, as I now believe, that a hostile feeling towards us then existed with the Governments of France and Great Britain, and that they desired to Africanize Cuba. I avail myself, gladly, of the occasion to say that such, I am satisfied, is not now the feeling of these Governments. Besides this, the people of Cuba, although still desirous of peaceful annexation, are not willing to run the risk of civil war and servile insurrection, to become members of our Confederacy. Public policy must accommodate itself to circumstances, and any attempt to obtain Cuba, except by negotiation, should, in my opinion, now be abandoned. But should Spain be rash enough to invade Mexico, with the purpose of establishing a despotic government there under the name of Santa Anna as dictator, or under any other name or title; then I think that our citizens should be permitted to take part in the contest. I wish this to be done legally. All the power of the Government cannot restrain them from doing it, and there should be no law on our statute-book that cannot be enforced. There are many confingencies, about which I do not choose to speculate, where the interests of the country would clearly call for the suspension of our neutrality laws; and if this power be not given to the President, under such restrictions as the wisdom of Congress may suggest, I am not prepared to say that I would not prefer to abolish them altogether, excepting so far as they may be necessary to carry out our treaty stipulations, and these, as I have before remarked, only apply to the fitting out of armed vessels. I have little hope of the passage of such a law as I have suggested. I have no pride of opinion on the subject; and if I fail, shall be satisfied with the conviction that I have done my duty in calling the attention of the Senate and the country to the subject; and it may be proper to state, in conclusion, that in presenting and advocating my resolution, I speak only for myself, and act without concert or understanding with any one.

Mr. MASON. I desire that the subject shall retain its place on the Calendar.

Mr. ALLEN. I move that the further consideration of this subject be postponed until to-morrow.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. ALLEN. I move that when the Senate adjourn to-day, they adjourn to meet again on Monday next.

Mr. WADE. I hope we shall not adjourn over. There is a great deal of private business that ought to be attended to, and we have paid very little attention to it during this session. I think we ought to devote to-morrow to it. I think justice to private claimants demands that we should not adjourn over.

Mr. FESSENDEN and Mr. FOSTER called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 24, nays 18; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Bright, Broderick, Cameron, Clay, Crittenden, Fitzpatrick, Green, Hammond, Hunter, Kennedy, King, Mason, Pearce, Polk, Sebastian, Seward, Stuart, Thomson of New Jersey, Toombs, Trumbull, and Wright—24.

NAYS—Messrs. Biggs, Brown, Clark, Collamer, Dixon, Doollittle, Fessenden, Fitch, Foster, Harlan, Houston, Iversen, Johnson of Tennessee, Jones, Pugh, Sidel, Wade, and Wilson—18.

So the motion was agreed to.

DISTRICT BUSINESS.

Mr. BROWN. There is a remnant of the evening left, and I am desirous to dispose of the business of the District of Columbia. There are several bills which ought to be passed; and I ask the Senate now to consider them.

The motion was agreed to.

The first District bill on the Calendar was the bill (S. No. 168) to relieve the corporation of Georgetown from the expense of making and repairing roads west of Rock creek.

Mr. BROWN. There is some controversy about that not yet settled. Let it be passed over.

The bill was passed over.

The next bill on the Calendar was the bill (S. No. 152) to incorporate the Washington National Monument Society.

Mr. BROWN. There are some amendments to that bill pending not yet prepared. Let it be passed over.

The bill was passed over.

MECHANICS' LIENS.

The bill (S. No. 182) for the enforcement of mechanics' liens on buildings, &c., in the District of Columbia, was read a second time, and considered as in Committee of the Whole.

Mr. BIGGS. I desire to inquire of the Senator from Mississippi whether I understood the reading of this bill correctly. I understood that it gives lien upon pastured cattle for six months. An individual who pastures cattle is to have a lien on the cattle for six months after the performance of his service. If I understand it correctly, it seems to me it would interfere very much indeed with the free sale and traffic in those articles. I should like to know whether I understand the bill correctly?

Mr. BROWN. I do not think there is any harm in it. When one man pastures cattle on another's ground, that man who is in possession of the land ought to have a lien on the cattle. That is my notion. This bill was in the code which was voted down by the citizens of this District some month or six weeks ago, but in all the controversy in the District over that code no citizen of the District ever objected to this portion. It was extracted from the code, and presented to the committee, and we were asked to have it enacted into a law. I have let it lie several weeks, and have had it published in the newspapers, so that everybody might see it, and no citizen of Washington has made an objection to it. On the contrary, my understanding, from very full and free communication with the people here is, that they are satisfied with it. If so, that is enough for me.

Mr. GREEN. If that is the provision of the bill it will not do at all. A lien on personal property not in possession, and of which there is no record, ought never to exist. The lien must follow the possession, or follow a record; and to say that because a man keeping a pound has allowed cattle to come into it for a certain length of time, he is to have a lien for six months after the cattle pass off, after the possession is parted with, will not do at all; it is certainly wrong. A common innkeeper ought to have a lien, so that the owner cannot take away his horse until he pays the pasturage. That is right; but if he chooses to part with the possession, and there is no record made of the fact, the innocent purchaser might be ruined so far as the value of that property is concerned. That is wrong.

Mr. BROWN. If the Senator from North Carolina will call my attention to the particular passage to which he objects I will attend to it. It is a very long bill.

Mr. BIGGS. Let the fifteenth section be read. The Clerk read as follows:

"Any person who shall depasture or feed any horses, cattle, hogs, sheep, or any other live stock, or bestow any labor, care, or attention upon the same, at the request of the owner or lawful possessor thereof, shall have a lien upon such property for his just and reasonable charges for the labor, care, and attention he has bestowed, and the food he has furnished; and he may retain the possession of such property until such charges are paid."

Mr. GREEN. That is right. It is not what I thought.

Mr. BIGGS. But there is something about six months. Let that be read.

The Clerk read:

"Sec. 16. And be it further enacted, That if such just and reasonable charges be not paid within six months after the care, attention, and labor shall have been performed or bestowed, or the materials or food shall have been furnished, the person having such lien may proceed to sell, at public auction, the property mentioned in sections fourteen, fifteen, sixteen, and seventeen of this act, or a part thereof, sufficient to pay such just and reasonable charges."

Mr. GREEN. That is right.

Mr. BIGGS. I understand that after the possession is changed, within six months after that, he may sell.

Mr. BROWN and others. Oh, no.

The PRESIDING OFFICER, (Mr. STUART.) The Chair thinks the bill provides for the retention of possession by the person and proceeding to sell after six months. The Senator will pardon the Chair for making a suggestion to him.

Mr. DOOLITTLE. I should like to inquire of the chairman of the Committee on the District

of Columbia whether he knows of any precedent for such a provision as this authorizing liens upon cattle for pasturage?

Mr. BROWN. I am not much of a man for precedent, any way. I think the provision is right in itself, and if it was never done before, it ought to be done now. This is a world of progress. We are getting along very fast.

Mr. DOOLITTLE. I will simply say that the lien law, wherever it exists, is pretty difficult to administer; and unless there be precedent for introducing a provision of this kind, it will lead to a great deal of difficulty when it comes to be administered. Under this provision, if a man buys a cow, he has to look after the lien. I do not like the provision which gives a lien, perhaps, it may be, upon the cow of some poor widow, for pasturage. That is a mere matter of contract.

Mr. BIGGS. I do not understand the bill to bear the construction that is suggested by the Chair, or by the Senator from Mississippi. I read a portion of the fifteenth section: "shall have a lien upon such property for his just and reasonable charges;" and "he may retain the possession of such property until such charges are paid." That is one section. Nobody objects to that at all; but the next section provides "that if such just and reasonable charges be not paid within six months after the care, attention, and labor shall have been performed or bestowed," the party may sell the property. Of course, he has not possession then. He retains the possession after bestowing the care and labor—he has a lien; but if the money is not paid within six months after that care or labor shall have been performed or bestowed, the lien continues, and he may proceed to sell the property at public auction. It seems to me this provides for a lien after the possession has been parted with for six months.

Mr. BROWN. There is nothing new in that provision. Everybody knows that every innkeeper has a right to retain a horse until the charges are paid; but if the horse passes out of his possession he loses his lien. Just so here.

Mr. BIGGS. This provides for it for six months.

Mr. BROWN. If the property is in his possession all the time; but if he loses his possession, of course he loses his lien.

Mr. CRITTENDEN. The difference between this case and that mentioned by the Senator from Mississippi is, that the inn-keeper is bound to keep the horse, he is under a legal obligation to do it, but here you extend a lien to a matter of contract. To extend it in this way, I think, would be improper.

Mr. BROWN. I really do not see anything wrong in it.

Mr. CLARK. The objection I have is, that you oblige a man to keep the property too long by obliging him to keep it six months before he can sell. Sometimes the property would eat itself out in that time. The sale should be after reasonable notice to pay the charges. I move to strike out the section in regard to sale, the sixteenth section.

Mr. BROWN. I hope the Senate will allow the people here to have such laws as they want for themselves. I repeat again, that this bill has undergone the closest and most rigid scrutiny, and no citizen of the District has ever made the slightest objection to it. It was published, I say again, in their printed code of laws, underwent a close scrutiny, has been printed by order of Congress, has been in all the newspapers, and no citizen of the District has ever once whispered to me that there was anything wrong about it. I have kept it back five or six weeks, waiting to see whether anybody would object to it. If it satisfies the people here, I think it ought to satisfy us. It does not concern us in any way, so far as I know, or concern our home constituencies. If it pleases the people here, why not let it pass?

Mr. CLARK. I am entirely willing that the people of the District shall have such laws as they desire, if they are reasonable laws, and such as Congress ought to pass. If I felt assured that the people of the District knew that this bill was before the Senate, and assented to it, I certainly would not object; but the fear I have is that the people may not know what is here. I have no assurance that twenty men, forty men, or fifty men in all this District have examined this provision, and know its operation. We are guardians for the

people of the District in the passage of laws, and I do not feel disposed to cast off that guardianship, and say that the people want this when there is no evidence that they do want it, or have examined it. If the Senator can assure me that the people of the District have had their attention called to it, and do not object to it, I shall be willing that it shall stand.

Mr. BROWN. I have not carried the bill around to everybody, but it has been published, as I have said before; it has been canvassed here in a public election; it has been printed in the newspapers, and everybody certainly has had a chance to see it. Being entitled a bill to secure mechanics' liens upon houses and lots, it was just one of those things most likely of all others to attract the attention of all. It concerned everybody; it concerned mechanics; it concerned common laborers; it concerned men of capital. I do not know that this precise section is acceptable, but I know the people of the District have had ample opportunity of complaining of it if they did not like it. If I had had my attention called to it by anybody in the District who desired it to be changed, I might consent to have it changed; but I did not draw the bill, I am free to say. It was taken bodily from the code, extracted at the instance of certain parties here. It was brought in because I was assured it was acceptable and very desirable.

Mr. CLARK. I should certainly be against this whole proposition if I followed the will of the people of this District as manifested by their vote, because I understand this bill to have been in the code, and the code was voted down. I do not know what evidence I have to guide me that the people of this District prefer this bill, and if it had stood separate, would have voted for it, and yet voted down the rest of the code. If it has been brought before the people of the District in any such way that the Senator can assure me that it was acceptable to them, I will withdraw the motion to amend.

Mr. BROWN. I will ask the whole Senate if anybody has ever heard a complaint against this bill? Has the Senator himself?

Mr. CLARK. No, sir; I will say freely that I did not know the bill was here.

Mr. BROWN. I do not know of any way of informing Senators that bills are here, except by publishing them and putting them on their tables.

Mr. CLARK. It was reported at some time in the regular way. My attention might have been called to something else. I might not have been in my seat. At any rate, I did not understand it; but when the bill is read here *in extenso*, from the beginning to the end, and a discussion is had, it attracts notice. I do not know that I should have noticed this bill, if my attention had not been called to it by the remarks of the gentleman from North Carolina. Now, when my attention is called to it, I am certainly opposed to this provision; but if I could feel assured that when the attention of the people of the District was called to it, they would not be opposed to it, I would suffer it to pass entirely.

On the motion to strike out the section, there were ayes thirteen.

Mr. GREEN. I ask for the yeas and nays. Is it on the section giving the lien, or on the section that speaks of the remedy to enforce the lien?

The PRESIDING OFFICER. The section applying to the remedy.

The yeas and nays were ordered.

Mr. CLARK. Allow me to suggest to the Senator from Mississippi that I do not know but that this section may be amended so as to make it desirable to retain it, and if it can be passed over until we can examine it and see if we cannot make something out of the clause, I will withdraw the motion, or not press it.

Mr. BROWN. I have no objection to passing the bill by for the present, though I know there is an anxiety among mechanics and builders to have the bill passed.

Mr. CLARK. I will say that I think there should be a reasonable time for selling the property, and the person who has bestowed labor ought to have a way of perfecting his lien.

Mr. BROWN. I hope this debate to-day will be an advertisement to all Washington that this bill is here, and if it comes up again I hope some one will be able to state an objection to it in an authentic form, if there is any.

Mr. PUGH. I propose to state an objection now, if the yeas and nays are to be taken. I object to all these sections, after the thirteenth, and I think the first thirteen want specific amendments.

Mr. BROWN. I move to postpone the further consideration of the bill until to-morrow.

Mr. PUGH. Allow me a moment. As the Senator wishes to hear the objections, I prefer to state mine now. ["No."]

Mr. BROWN. I do not care about objections. If the bill suits the people of the District, I am for it; if not, not.

Mr. PUGH. I think the bill ought to be amended. I object to being committed to it.

The motion to postpone was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of the Interior, in answer to a resolution adopted on the 8th ultimo, calling for information as to the cancellation of certain entries in the Plattsburg land district, in Missouri; which, on motion of Mr. GREEN, was referred to the Committee on Public Lands.

TELEGRAPH TO UTAH.

Mr. WILSON. I move to take up the bill (S. No. 211) to facilitate communication with the army in Utah, for the purpose of making it the special order at half past twelve o'clock on Monday.

Mr. CLAY. I wish to inquire whether that bill will on Monday take precedence of other special orders; for instance, the Pacific railroad bill?

The PRESIDING OFFICER. The Chair will state to the Senator that he thinks the decisions which have been made by the permanent Presiding Officer of this body are such that, when one o'clock arrives, the bill would be superseded by an older special order.

The motion to take up the bill was agreed to.

Mr. HUNTER. I must object to making it the special order until we dispose of the appropriation bill which was up to-day.

Mr. WILSON. I do not think this will take up much time any how; and, if any action is had on it at this session, it ought to be had immediately. I shall not press it so as to interfere with any of the Senator's bills. I think we can take it up on Monday morning, and settle it in a few minutes.

Mr. HUNTER. If the gentleman will agree to waive it at one o'clock, I have no objection.

Mr. SEWARD. At one o'clock it will be laid aside for the other special orders.

Mr. HUNTER. With that understanding, I have no objection.

The bill was made the special order for Monday at half past twelve o'clock.

PUBLIC SCHOOLS OF WASHINGTON.

Mr. BROWN. The next bill on the Calendar is one for the benefit of the public schools of the city of Washington. I hope the Senate will pass that without difficulty.

The bill (S. No. 191) for the benefit of the public schools in the city of Washington, was read a second time, and considered as in Committee of the Whole.

Mr. HUNTER. We have not a quorum here. I move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 8, 1858.

The House met at twelve o'clock, m. Prayer by Rev. D. BALL.

The Journal of yesterday was read and approved.

WASHINGTON AUXILIARY GUARD.

Mr. DODD. I ask to have taken up from the Speaker's table Senate bill No. 232, in order that it may be referred to the Committee of the Whole on the state of the Union; and that an amendment, which I desire to offer to it, may be printed and referred with it.

There being no objection, Senate bill No. 232, to establish an auxiliary guard for the protection of persons and property in the city of Washington, and repealing all acts heretofore passed in

relation to that subject, was taken from the Speaker's table, read a first and second time, and referred to the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. I move that it be made a special order, with the bill already there.

It was so ordered.

Mr. DODD. I now ask that my amendment be printed, and referred with the bill.

It was so ordered.

Mr. GOODE. In connection with this subject, I desire to give notice that I will ask to have the bill taken up and considered, immediately after the Kansas bill shall have been disposed of.

NATIONAL FOUNDERY.

Mr. FAULKNER. I ask the unanimous consent of the House to permit me to introduce a bill to establish a national foundery, for the fabrication of cannon for the use of the Army and Navy of the United States, in order to have it referred to the Committee on Military Affairs.

A MEMBER. At what point is it to be established?

Mr. FAULKNER. There is no point indicated.

Mr. CURTIS. I object.

Mr. ROBBINS. I ask unanimous consent to introduce a bill of which previous notice has been given.

Mr. JONES, of Tennessee. I call for the regular order of business.

Mr. FAULKNER. The gentleman from Iowa [Mr. CURTIS] withdraws his objection to the introduction of my bill.

The SPEAKER. The gentleman from Tennessee [Mr. JONES] calls for the regular order of business.

Mr. FAULKNER. I hope the gentleman from Tennessee will withdraw his objection for a moment in order to have this bill introduced and referred to the Committee on Military Affairs, as to-morrow is fixed for the consideration of that subject.

Mr. JONES, of Tennessee. I do not want any more armories.

DEFICIENCY BILL.

The SPEAKER. The business first in order is on agreeing to the recommendations of the Committee of the Whole on the state of the Union to recommit House bill No. 306 to the Committee of Ways and Means, with instructions to report in separate bills the items for deficiencies in the appropriations for each head of expenditure for the service of the present fiscal year, and in another bill all appropriations designed for the service of the next fiscal year, and also with instructions to inquire what further legislation is necessary to restore to Congress an efficient control over the expenses of the Government.

Mr. LETCHER. I ask for the yeas and nays on that.

Mr. WASHBURN, of Illinois. I move to lay the resolution on the table.

Mr. BURNETT. That carries the bill with it.

The SPEAKER. The Chair is of opinion that the motion will carry the bill with it.

Mr. WASHBURN, of Illinois. Very well. I insist on my motion.

Mr. JONES, of Tennessee. I submit that the motion to lay the bill on the table is in order; but not the motion to lay on the table a proposition dependent upon the bill.

The SPEAKER. The Chair is of that opinion. In the early part of the session the Chair entertained a motion, made by the gentleman from Georgia, to lay an amendment upon the table. The Chair subsequently examined the matter, and could find no precedent for it. The Chair is of opinion that he erred in entertaining the motion, and that the motion of the gentleman from Illinois must be modified so as to lay the bill on the table. The Chair will so receive it.

Mr. DEAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 143; as follows:

YEAS—Messrs. Andrews, Bennett, Bingham, Bratton, Burdett, Burroughs, Clawson, Clemons, Comins, Darnall, Dawes, Dean, Fenton, Granger, Grow, Robert B. Hall, Harlan, Haskin, Hoard, Kellogg, Kilgore, Knapp, Leach, Leiter, Lovejoy, Humphrey Marshall, Morgan, Palmer, Pettit, Potter, Robbins, John Sherman, Judson W. Sher-

man, Spinner, Stanton, Tappan, Thompson, Tompkins, Wade, Walbridge, Waldron, Cadwalader C. Washburn, and Ellihu B. Washburne—43.

NAYS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Billingham, Blair, Bliss, Bocoock, Branch, Bryan, Burlingame, Burnett, Burns, Campbell, Case, Chaffee, Chapman, John B. Clark, Clay, Clingman, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Corning, Covode, James Craig, Burton Craig, Crawford, Curry, Curtis, Davidson, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Dowdell, Edie, Edmundson, Eustis, Farnsworth, Faulkner, Florence, Foley, Garnett, Gartrell, Giddings, Gillis, Goode, Goode, Greenwood, Gregg, Lawrence W. Hall, J. Morrison Harris, Hatch, Hawkins, Hickman, Hopkins, Horton, Houston, Howard, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Kelsey, Jacob M. Kunkel, John C. Kunkel, Landy, Lawrence, Leidy, Letcher, McKibbin, McQueen, Samuel S. Marshall, Mason, Matteson, Maynard, Miles, Milson, Montgomery, Morrill, Isaac N. Morris, Mott, Murray, Niblack, Nichols, Olin, Parker, Pendleton, Peyton, Phelps, Phillips, Pike, Pottle, Powell, Purviance, Quitman, Ready, Reagan, Reilly, Ricard, Royce, Ruffin, Sandidge, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stillworth, Stephens, James A. Stewart, William Stewart, Talbot, George Taylor, Tripp, Underwood, Walton, Ward, Warren, Israel Washburn, Watkins, White, Whiteley, Wilson, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—143.

So the House refused to lay the bill on the table.

Pending the vote,

Mr. BOYCE asked leave to vote, he having been out of the Hall when his name was called.

Mr. DEAN objected.

Mr. CLARK, of New York, asked the same privilege.

Mr. DEAN objected.

Mr. CLARK, of Connecticut, asked the same privilege.

Mr. DEAN objected.

Mr. GROESBECK asked the same privilege.

Mr. DEAN objected.

Mr. DAVIS, of Indiana, stated that if he had been in the Hall when his name was called, he would have voted "no."

The question recurred on agreeing to the recommendation of the Committee of the Whole on the state of the Union, that the bill and amendments be reported to the House, with a recommendation to recommit it to the Committee of Ways and Means, with instructions to report in separate bills the items for deficiencies in the appropriation for each head of expenditure for the services of the present fiscal year, and in another bill all appropriations designed for the service of the next fiscal year; and also, with instructions to inquire what further legislation is necessary to restore to Congress an efficient control over the expenses of the Government.

Mr. LETCHER called for the yeas and nays. The yeas and nays were ordered.

Mr. MAYNARD. I would inquire of the Chair what would be the effect of voting down the resolution?

The SPEAKER. The question will then recur on the first amendment recommended by the Committee of the Whole on the state of the Union, and so on with all the amendments.

Mr. HOUSTON. These instructions can be divided, can they not?

The SPEAKER. The Chair thinks not.

Mr. HOUSTON. The division that I propose is to take the two first paragraphs, and vote upon them, and then have a separate vote on the last paragraph. Will the Chair look, and see whether they cannot be so divided?

The SPEAKER. The gentleman from Alabama will perceive that there can be no division of the motion to commit with instructions, because to allow a motion to be divided it is requisite that each branch of the resolution should be able to stand independently of the other.

Mr. HOUSTON. I am aware of that; but I would have the Speaker to look into the resolution again.

The SPEAKER. If the motion to recommit fails, the gentleman will perceive there would be no proposition left.

Mr. HOUSTON. The Chair misapprehends me. I ask whether I cannot be permitted to have a division of the instructions, terminating with the second paragraph?

The SPEAKER. The Chair thinks not, for this very simple reason: If the motion to recommit and the first branch of the instructions should be voted down, what would become of the others?

Mr. HOUSTON. The others would be voted down too, as a matter of course.

The SPEAKER. They might or might not.

It would leave them there with instructions, without any motion to recommit.

Mr. GARNETT. I ask for the reading of the 78th rule, so as to show that the last branch of the instructions is a mere repetition of part of that rule.

The rule was read, as follows:

"It shall be the duty of the Committee of Ways and Means to take into consideration all such reports of the Treasury Department, and all such propositions relative to the revenue, as may be referred to them by the House; to inquire into the state of the public debt or the revenue, and of the expenditures, and to report, from time to time, their opinion thereon; to examine into the state of the several public Departments, and particularly into the laws making appropriation of money, and to report whether the moneys have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the Departments and the accountability of their officers."

The question was taken; and it was decided in the negative—yeas 101, nays 119; as follows:

YEAS—Messrs. Andrews, Bennett, Billingham, Bingham, Blair, Bonham, Bratton, Bryan, Burlingame, Burnett, Burroughs, Case, Horace F. Clark, Clawson, Clay, Clemons, Clingman, Cobb, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Burton Craig, Curry, Curtis, Darnall, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, English, Farnsworth, Foster, Garnett, Giddings, Gilman, Gilmer, Goode, Goodwin, Robert B. Hall, Thomas L. Harris, Haskin, Hickman, Horton, Houston, Hughes, Kilgore, John C. Kunkel, Leach, Leiter, Lovejoy, McQueen, Humphrey Marshall, Mason, Matteson, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Quitman, Ready, Reagan, Ricard, Ritchie, Robbins, Roberts, Seales, John Sherman, Judson W. Sherman, Shorter, William Smith, Stillworth, Stanton, Stevenson, William Stewart, Talbot, Miles Taylor, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Israel Washburn, and Wilson—101.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bliss, Bocoock, Boyce, Branch, Buffington, Burns, Campbell, Caskey, Chaffee, Chapman, John B. Clark, John Cochrane, Cockerill, Corning, Cox, James Craig, Crawford, Davidson, Davis of Maryland, Davis of Mississippi, Dowdell, Edie, Edmundson, Eustis, Faulkner, Fenton, Florence, Foley, Gartrell, Gillis, Goode, Granger, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Harlan, J. Morrison Harris, Hatch, Hawkins, Hoard, Hopkins, Howard, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kelly, Knapp, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, McClay, McKibbin, Samuel S. Marshall, Maynard, Miles, Miller, Milson, Montgomery, Moore, Murray, Niblack, Nichols, Olin, Pendleton, Peyton, Phelps, Phillips, Powell, Reilly, Royce, Ruffin, Russell, Sandidge, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Sickles, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stephens, James A. Stewart, Tappan, George Taylor, Thayer, Ward, Warren, Cadwalader C. Washburn, Ellihu B. Washburne, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—119.

So the recommendation was not concurred in.

Pending the vote,

Mr. GILMAN stated that Mr. ABBOTT was detained from the House by illness.

Mr. PHELPS moved to reconsider the vote by which the recommendation was non-concurred in, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. LETCHER. I stated yesterday in the House that those gentlemen who have opposed this bill on particular grounds should have an opportunity, if general consent was given, to take the yeas and nays on each one of the propositions that was objectionable to them. I hope now that there will be unanimous consent that the bill and the amendments be read, that those gentlemen can call for a vote on each particular item that they object to, and that the yeas and nays be taken on them.

Mr. STANTON. The House has voted down the recommendation to instruct the Committee of Ways and Means to report separate appropriations for the different fiscal years. I now move to lay the bill and amendments on the table, and on that I ask the yeas and nays.

Mr. MONTGOMERY. I desire to move, now that the morning hour has expired, to proceed to the business on the Speaker's table.

The SPEAKER. The morning hour has not commenced.

Mr. MONTGOMERY. Then I had better make no motion till this is disposed of; and then I will make a motion to proceed to the business on the Speaker's table.

The question was put on Mr. STANTON's motion, and it was not agreed to.

Mr. LETCHER. Well, now, will the House give general consent to my proposition, which is

to take up the bill, read it from the beginning to the close, and, as each paragraph is read, if any gentleman wants a separate vote upon it, let him call for it, and let the yeas and nays be ordered on it.

Mr. LOVEJOY. I object, unless it is in order. Mr. SHERMAN, of Ohio. I suppose there is no objection to any amendment that has been proposed and adopted in the Committee of the Whole on the state of the Union. Let a vote be taken, by common consent, on the whole of them.

Mr. LETCHER. Then I have kept my promise, and stand right before the House.

Mr. WRIGHT, of Georgia. How long will this business be likely to last? There are some of us who are anxious to take up the regular order of business, having business engagements which will require our absence during the latter part of the day.

The SPEAKER. The House is executing the regular order of business which takes precedence over all other business.

Mr. WRIGHT, of Georgia. I thought the Kansas bill was to be taken up at one o'clock.

The SPEAKER. It can be taken up by unanimous consent.

Mr. WRIGHT, of Georgia. I do not propose to interfere with that matter at all. I have no charge of any arrangements for this side of the House; but it was understood yesterday that the bill would be taken up to-day at one o'clock.

Mr. PHELPS. I hope the regular order of business will be proceeded with. We shall consume more time in this discussion than it would take to pass the bill.

The SPEAKER. Is there any objection to taking up the Kansas bill?

Mr. BURNETT. I object.

The amendments reported by the Committee of the Whole on the state of the Union were then read; and no one calling for a separate vote, they were adopted in gross.

Mr. FAULKNER. I thought there was to be some opportunity given to have a distinct vote upon the third section of the bill.

The SPEAKER. The gentleman from Ohio objected to it.

Mr. CLEMENS. The gentleman from Virginia [Mr. LETCHER] pledged me yesterday that there should be an opportunity of amending this third section.

Mr. LETCHER. That is the proposition I submitted to the House, but it was objected to.

Mr. CLEMENS. You agreed, yesterday, to give me the opportunity.

Mr. LETCHER. How can I do so? Your own friends moved the previous question. I did not.

Mr. CLEMENS. I hope the gentleman from Ohio will withdraw the objection.

Mr. DEAN. I object.

Mr. CLEMENS. I desire to call the attention of the House to the quarter from which the objection comes.

Mr. CAMPBELL. The gentleman from Virginia yesterday insisted on the demand for the previous question, and I ask now that the regular order may be executed.

The bill was then ordered to be engrossed and read a third time; and being engrossed, was accordingly read a third time.

Mr. PHELPS moved to reconsider the vote by which the bill was ordered to be engrossed and read a third time, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. LETCHER. I ask for the previous question on the passage of the bill.

The previous question was seconded; and the main question ordered to be put.

Mr. CAMPBELL. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 106, nays 124; as follows:

YEAS—Messrs. Adair, Ahl, Anderson, Arnold, Atkins, Avery, Barndollar, Bennett, Bishop, Bocoek, Bonham, Boyce, Bryan, Burns, Campbell, Caskey, Caspman, John B. Clark, John Cochran, Cockrell, Coning, Cox, James Craig, Crawford, Davidson, Davis of Maryland, Davis of Mississippi, Dammick, Dowdell, Edmundson, Eastis, Faulkner, Florence, Foley, Garrett, Gilles, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, H. H. Hawkins, Hickman, Hopkins, Howard, Hughes, Hoyer, Jackson, Jenkins, Jewett, J. Glaney Jones, Owen Jones, Keitt, Keller, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Macfar, McKib-

bin, McQueen, Samuel S. Marshall, Maynard, Miles, Miller, Milson, Montgomery, Moore, Niblack, Pendleton, Phelps, Phillips, Powell, Quitman, Reilly, Ricard, Russell, Sandidge, Savage, Scott, Searing, Seward, Sickles, Singleton, Robert Smith, Samuel A. Smith, Stephens, Stevenson, James A. Stewart, George Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—106.

NAYS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Branch, Brayton, Buffinton, Burlingame, Burnett, Burroughs, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clay, Clemens, Clingman, Cobb, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Burton Craige, Curry, Curtis, Darnell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Elliott, English, Farnsworth, Fenton, Foster, Garnett, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hill, Hoard, Horton, Houston, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Mason, Matteson, Morgan Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Peut, Peyton, Pike, Potter, Pottier, Purviance, Ready, Reagan, Ritchie, Robbins, Roberts, Royce, Ruffin, Scales, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, William Smith, Spinner, Stailworth, Stanton, William Stewart, Talbot, Tappan, Miles Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—124.

So the bill was rejected.

Pending the call of the roll,

Mr. BRANCH stated that he voted "no," for the purpose of moving to reconsider.

NEW JERSEY RESOLUTIONS.

Mr. COBB. I rise to a question of privilege. On yesterday the resolutions from the State of New Jersey proposing a grant of land for the purpose of establishing colleges, &c., were referred to the Committee on Agriculture. That whole question has been before the Committee on Public Lands for some time, and they now have it under consideration. I move to reconsider the vote by which the joint resolutions were referred to the Committee on Agriculture, for the purpose of having them referred to the Committee on Public Lands. I think that is the proper committee to have charge of the subject, and I do not think the rules of the House contemplated that petitions and resolutions referring to the same subject should be divided among the different committees of the House.

Mr. WALBRIDGE. I move to lay the motion to reconsider on the table.

Upon a division on the motion to lay on the table, there were—yeas 101, nays 91.

Mr. COBB called for tellers on the motion.

Tellers were ordered, and Messrs. CRAIG, of North Carolina, and WALDRON, were appointed.

The question was taken, and the tellers reported—yeas 100, nays 101.

So the motion to reconsider was not laid on the table.

The motion to reconsider was then agreed to.

Mr. COBB moved to refer the joint resolutions to the Committee on Public Lands.

The motion was agreed to; and the resolutions were accordingly referred to the Committee on Public Lands.

Mr. COBB moved to reconsider the vote by which the resolutions were referred, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKER, their Chief Clerk, notifying the House that the Senate had passed an act (S. No. 86) for the admission of the State of Minnesota into the Union, in which he was directed to ask the concurrence of the House.

ADMISSION OF KANSAS.

Mr. MONTGOMERY. I ask the unanimous consent of the House that we shall proceed to the consideration of the message from the Senate notifying us that it had disagreed to the amendment of the House to the Senate bill for the admission of Kansas as a State into the Union.

There was no objection; and the message was taken up.

Mr. MONTGOMERY. I move that the House adhere to their amendment; and on that I call for the previous question.

Mr. BOCOCK. If the House agree to this motion, will not that agreement preclude all chance of settlement between the two Houses, unless the Senate gives way?

Mr. ENGLISH. I wish to ask the gentleman from Pennsylvania to withdraw the call for the previous question, to enable me to make a motion?

Mr. MONTGOMERY. It would afford me great pleasure to accommodate my friend from Indiana, but I must decline to withdraw the call for the previous question.

Mr. SEWARD. I move that the House recede. I think the motion takes precedence of that of the gentleman from Pennsylvania.

The SPEAKER. That motion cannot be entertained pending a demand for the previous question. If the gentleman's motion had been made before the call for the previous question, it would have taken precedence.

Mr. SEWARD. Do I understand the Speaker to decide that the call for the previous question cuts off my motion?

The SPEAKER. The Chair so decides.

Mr. BOCOCK. The Chair has not answered my question. Does not a motion to adhere cut off all chance for a settlement of this question, unless the Senate gives way?

The SPEAKER. The Chair will decide that question when it arises.

Mr. CAMPBELL. I would inquire whether the Senate may not recede?

Mr. KEITT. I object to any debate.

Mr. HALL, of Ohio. I wish to ask a question as to the effect of the motion to adhere.

The SPEAKER. Objection is made.

Mr. WASHBURN, of Illinois. I demand tellers on the previous question.

Tellers were ordered; and Messrs. JOHN COCHRANE and BUFFINTON were appointed.

The tellers reported that there were one hundred and eighteen in the affirmative; which was a majority of the House.

So the previous question was ordered.

Mr. CLINGMAN. I demand the yeas and nays on ordering the main question to be put. [Cries of "No!" "No!"]

Mr. STEPHENS, of Georgia. The agreement yesterday was that the vote should be taken at this time, and I hope that agreement will be carried out.

Mr. CLINGMAN. Then I withdraw the demand for the yeas and nays.

Mr. CLEMENS. I renew the demand.

The yeas and nays were not ordered.

Mr. CLEMENS. I hope, as the yeas and nays were not taken on this, that they will not be taken on any question. [Cries of "Order!" "Order!"]

The SPEAKER. Debate is out of order.

The main question was then ordered to be put.

Mr. BOCOCK. I demand the yeas and nays on the motion to adhere.

The yeas and nays were ordered.

Mr. HALL, of Ohio. I wish to ask a question before I cast my vote.

Mr. GROW. I object to anything out of order.

Mr. HALL, of Ohio. I rise to a question of order. I wish to know whether, if this motion be voted down, it will not be in order to move to insist on the amendment of the House; and whether, if it be not voted down, it will be in order to move to insist; and whether, if the motion to adhere be agreed to, there can be a committee of conference appointed on the disagreeing votes of the two Houses?

Mr. SPEAKER. If the motion to adhere be agreed to, it will cut off the motion to insist, of course.

Mr. MONTGOMERY. If the Senate demands a committee of conference, it may be granted.

Mr. SMITH, of Virginia. I rise to ask a question for information. Does the Chair rule that if the motion of the gentleman from Pennsylvania prevails, the Senate cannot ask for a committee of conference?

The SPEAKER. The Chair has not ruled either way upon the subject. He will decide questions as they arise.

Mr. SMITH, of Virginia. I want to say—

Several Members. "Order."

Mr. SMITH, of Virginia. I can wait until gentlemen stop their clamor.

The SPEAKER. Debate is not in order. It is objected to by several gentlemen.

Mr. SMITH, of Virginia. I wish to ask a question for information.

Mr. MONTGOMERY. I object.

The question was taken; and it was decided

in the affirmative—yeas 119, nays 111; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Bingham, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burlingame, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace P. Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Muscarello, Davis of Maryland, Davies, Dean, Dick, Dodd, Duffee, Edie, English, Farnsworth, Fulton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Harrison Harris, Thomas L. Harris, Haskin, Hickman, Board, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Matteson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Walhron, Walton, Caldwell, C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and Wood—119.

NAYS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bockee, Bonham, Boyce, Branch, Bryan, Burnett, Burns, Caskey, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Corning, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dewar, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Garrett, Gillis, Goode, Greenwood, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Quincy Jones, Keitt, Kelly, Jacob M. Kunkel, Lunan, Landy, Leidy, Letcher, Macloy, McQueen, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zolliecoffer—111.

So the House resolved to adhere to its amendment.

Pending the above call, Mr. MARSHALL, of Kentucky, stated that he had paired off with Mr. Bowrie, who was absent, and that otherwise he would have voted in the affirmative.

Mr. MONTGOMERY. I move to reconsider the vote by which the House resolved to adhere to its amendment; and also to lay the motion to reconsider upon the table.

The latter motion was agreed to.

DEFICIENCY BILL—AGAIN.

Mr. BRANCH. Mr. Speaker, I desire to move to reconsider the vote of the House of this morning by which the deficiency bill was rejected.

Mr. MORGAN. I move to lay the motion to reconsider upon the table.

Mr. BRANCH. I believe I have the floor; and I desire to give notice that, if the vote shall be reconsidered, I propose to offer the resolution which I send to the Clerk's desk.

The resolution was read, as follows:

Resolved, That House bill No. 396 be committed to the Committee of Ways and Means, with instructions to report in lieu of it a bill to supply deficiencies in the appropriations for the support of the Army.

2. A bill to supply deficiencies in the appropriations for the payment of officers and others receiving an annual salary in the service of the House of Representatives.

3. A bill to supply deficiencies in the appropriations for miscellaneous items.

4. A bill to supply deficiencies in the appropriations for the contingent fund of the House.

5. A bill to supply deficiencies in the appropriations for the service of the Post Office Department.

6. A bill making appropriations to pay extra compensation to clerks and other employees of the House, under resolutions of the last Congress; or to indemnify the late Clerk, if he has paid said compensation.

Mr. WASHBURN, of Maine. I want to know in what way this resolution comes before the House?

The SPEAKER. As a part of the speech of the gentleman from North Carolina.

Mr. WASHBURN, of Maine. Does not the previous question operate upon the motion to reconsider?

The SPEAKER. The previous question exhausted itself when the result of the vote on the passage of the bill was announced.

Mr. BRANCH. It is obvious, Mr. Speaker, that the appropriation bill which was rejected by the House this morning was rejected in consequence of there being single items in it that caused gentlemen to vote against it who were in favor of the main items of the bill.

The resolution of the gentleman from Virginia. [Mr. GARNETT,] which was also rejected this morning, I have reason to think was not satisfac-

tory to the House because of a supposed difficulty in executing it. The resolution that I propose to offer, if this vote shall be reconsidered, avoids the difficulty that was alleged to exist in the resolution of the gentleman from Virginia, by not going so much into details, but requiring the committee to report in each bill the items belonging to each department of public expenditure. I do not propose—as it was supposed that the resolution of the gentleman from Virginia proposed—to require the committee to report a bill for each particular item of appropriation, but only that they shall include in one bill such items as are congruous to one another.

I am of the impression, sir, that if the Committee of Ways and Means should report to this House, under the instructions that would be given them by this resolution, a bill to supply deficiencies in the appropriations for the support of the Army, this House, in view of the fact that our army is now far beyond the frontiers, in the country of what must be regarded as the public enemy, that that army has spent the winter there, that it is short of supplies and can neither receive supplies, nor advance, nor recede, unless this House shall appropriate means to enable the Department to supply them—I say, in view of these facts I believe that this House would not fail to pass a bill to enable the Government to send forward those supplies.

Mr. GARNETT. Mr. Speaker, I wish to say to the gentleman from North Carolina that the very objects designed by my resolution were identical with those which he states to be the objects of his resolution. I am glad that he has found language which expresses those objects more clearly than mine did, and I hope the gentlemen of the Ways and Means Committee, if they really desire to pass the bill, will accept the resolution of the gentleman from North Carolina.

Mr. LETCHER. One word, Mr. Speaker. Under the resolution which the gentleman from North Carolina proposes to introduce, six bills will have to be reported. How many of them he will consider deficiency bills I do not know. But I should be glad to know from him whether, when one deficiency bill came up for consideration, it would not be strictly in order to hang on any other deficiency to that by a vote of this House? What is to prevent it, sir? Is there any way of objecting to it? Here is a deficiency in the appropriations for the Army. This is a bill to provide not only for that, but for the deficiency in the Post Office Department, and for any other deficiencies that may exist in any department of the public service. Now, sir, when we bring in the first bill which the gentleman provides for—the one for the deficiency for the Army—why could not this deficiency for the Post Office be ingrafted upon it?

Mr. BRANCH. I think I can answer the gentleman from Virginia. I am not an adept in the rules of this House, but I believe there is a rule that requires that no bill pending before the House shall be amended by attaching to it any other bill pending before the House. That is one answer that I make to him. Another is, that if a majority of the House desire to attach it, then it is proven that a majority of this House are determined not to pass a bill to supply these deficiencies, and the test can as well be presented in that way as in any other as to whether the House is willing to pass a deficiency bill.

Mr. LETCHER. Would it not be strictly in order, when such a deficiency bill was brought in here, to move as an amendment to that bill a deficiency for the Post Office, recognized as such?

The SPEAKER. Does the gentleman desire an answer from the Chair?

Mr. LETCHER. Certainly, I do.

The SPEAKER. It is a question which the chairman of the Committee of the Whole on the state of the Union would have to decide when the bill came up. But if the present occupant of the Chair was chairman of the Committee of the Whole, he would rule out of order any amendment not germane to the bill under consideration.

Mr. LETCHER. Would it not be germane to a deficiency bill?

The SPEAKER. Upon a different subject than that of the main body of the bill?

Mr. LETCHER. Yes, sir.

The SPEAKER. The Chair would hold not.

Mr. BRANCH. The gentleman from Virginia will perceive that the Committee of Ways and

Means will be instructed by this resolution, if it shall pass the House, to present bills for all deficiencies that are alleged to exist. If the committee present a bill for supplying deficiencies for the Army, they are at the same time instructed to present a bill for supplying deficiencies for the Post Office Department, and the bill for the latter purpose cannot, as I understand, be attached by way of amendment to the former.

Mr. JONES, of Tennessee. With the permission of the gentleman from North Carolina, I would suggest to him to modify his proposition, so as to recommit the bill, if reconsidered, to the Committee of Ways and Means, with instructions to report a deficiency bill confined strictly to deficiencies for the fiscal year ending 30th June, 1858.

Mr. BRANCH. I have done even better than is proposed by the gentleman from Tennessee. I propose to instruct the committee to report six deficiency bills instead of one. By the terms of the resolution they are required to be deficiency bills, and they can be nothing else than deficiency bills.

Mr. SEWARD. I object to this debate, on the ground that the proposition of the gentleman from North Carolina is not before the House, and, therefore, cannot be debated.

The SPEAKER. The motion to reconsider is debatable. It opens the merits of the question contained within the bill; but the Chair thinks that a discussion of the special merits of the resolution which the gentleman proposes to submit is not in order.

Mr. SHERMAN, of Ohio. I desire to ask the gentleman a question; whether the Committee of Ways and Means cannot report these bills without instructions? Why not let the bill remain as it is, defeated, and let the Committee of Ways and Means report as many bills as they choose? They can gather the idea of the House without instructions.

Mr. BRANCH. For the simple reason that I presume that a majority of the House desire to make these appropriations, or a portion of them. The Committee of Ways and Means may choose not to report any further bills; and I desire that this House shall explicitly instruct the Committee of Ways and Means to report bills.

Mr. CLEMENS. I desire to make a suggestion to the gentleman from North Carolina, with regard to the phraseology of this resolution in the sixth clause. I understand by the phraseology adopted there that the Committee of Ways and Means is instructed—

Mr. SEWARD. Is there anything before the House to amend? I object to debate.

Mr. CLEMENS. I am not debating the question, I am merely making a suggestion.

Mr. SEWARD. I object.

Mr. CLEMENS. Do I understand the gentleman from Georgia to object to my making a suggestion?

Mr. SEWARD. Yes; I object to any amendment to that which does not exist.

Mr. BRANCH. Then I suppose it is in order for me to say that, in view of the fact that since the last meeting of Congress, and since Congress has had an opportunity to provide appropriations, war has sprung up within our own limits, and an army has been sent there by the Executive, in the exercise of a discretion vested in the Executive by law; this House, I presume, is not prepared to say that the army shall remain in the mountains of Utah, either to be cut to pieces by a wild set of fanatics, or starved for want of provisions. And, in particular, Mr. Speaker, I presume that this House will not suffer the army thus to be cut to pieces or starved for want of necessary supplies, in view of the fact that the War Department has made contracts and expended money to furnish these supplies, under the express authority given to that Department by the act of 1820.

Mr. SEWARD. Will the gentleman yield to me?

Mr. CLEMENS. I object. Give the gentleman the benefit of his own philosophy.

Mr. SEWARD. I approve of the gentleman objecting.

Mr. BRANCH. Then I hope I will be allowed to proceed without further interruption. I have but a few words to say. I was going on to remark that there are items contained in this bill

voted on by the House this morning, which, if the committee report in several bills as my resolution proposes, I will vote against. I think that that bill contains items for which Congress ought not to make appropriations, and if they were put in separate bills I would vote against one half of them at least. But there are items which ought not to be rejected. There are items there which every man in the House will feel and acknowledge the obligation of Congress to provide for.

I confess that I would have voted for that bill with great reluctance myself, as it came from the Committee of Ways and Means; but I would have taken it, even with the objectionable items in it, rather than reject the whole bill, and thus leave the army in Utah without the supplies necessary for its defense and subsistence. When these bills are reported from the Committee of Ways and Means, I imagine there are a great many gentlemen on this floor who, like myself, will vote against a portion of them, and in favor of a portion of them. I think that the Committee of Ways and Means, with all deference to that committee, would have done better in reporting in that shape in the outset, so as to give those who desire to vote for a portion an opportunity to do so, without voting for items which a majority do not approve.

Mr. LETCHER. Will the gentleman allow me to make an inquiry at that point. It is, whether he knows, in the history of Congress, that any such bills were ever reported in the manner that he suggests?

Mr. BRANCH. There is one thing which I have learned during my service in this House, and which has impressed me more forcibly than any other thing that I have learned, and that is, that if there is one single thing in the whole Government, in the executive department, in the legislative department, or in the judiciary department, which, above all other things, requires reformation, and which, above all other things, it is the peculiar duty of this House to reform, it is the practice of Congress in relation to the appropriation bills. I have seen enough since I have been here to satisfy me that the control which this House has over the expenditures of the Government, that the checks which the Representatives of the people are supposed to exercise over other departments of the Government, in reality amount to nothing at all.

Mr. KEITT. I wish to inquire whether all the sums in this deficiency bill are not for expenses already incurred, and to discharge debts already incurred?

Mr. BRANCH. I understand not; but that a very large amount of these appropriations are for money that will be needed for debts and expenses to be incurred previous to the 30th of June next.

Mr. CURTIS. I wish to ask the gentleman a question. I wish to know whether he proposes by his resolution to divide that which is for deficiencies for the present fiscal year from that which is proposed to meet future expenses?

Mr. BRANCH. I do not propose by this resolution to get up an appropriation bill on our own hook—so to speak—in the House, but to instruct the Committee of Ways and Means to report bills to supply deficiencies.

Mr. CURTIS. Nothing else?

Mr. BRANCH. That is the terms of the resolution. To supply deficiencies for the fiscal year ending 30th June, 1858; and nothing else but deficiencies.

Mr. CURTIS. I understand that an additional appropriation is immediately necessary.

Mr. BRANCH. Then the gentleman will vote to reconsider in order that my resolution may be passed. I am told that these appropriations are necessary to carry on effectually the duties of the Government, and I desire that Congress shall make these appropriations. And yet, no gentleman on this floor is more convinced than I am that under different circumstances—under circumstances more favorable to calm deliberation—under circumstances when we would be less pressed by great public exigencies, it is the duty of the House to look into these appropriations, to look into the manner in which moneys are expended, and to look into the degree of responsibility which attaches to the Executive in the expenditure of moneys, and in the sending of estimates to this House.

Mr. TAYLOR, of Louisiana. I desire to state,

if the gentleman from North Carolina will allow me, the reasons which induced me to vote for the defeat of this bill. My object was to call public attention to the Executive under existing circumstances, and that its action should be rebuked. But it is my purpose to vote for the motion of the gentleman from North Carolina to reconsider, and to vote for a bill to supply the means for the support of the Army. I desire to extricate the bill from its present position, and to appropriate such an amount as the judgment of Congress may deem necessary.

Mr. BRANCH. I am very glad to hear that the gentleman from Louisiana will vote for my resolution. It is what I should have expected from the good sense of the gentleman, and I think the resolution will commend itself to the good sense of a majority of the House. Gentlemen say they will all vote for it, and I therefore demand the previous question.

Mr. CAMPBELL. I hope the gentleman will withdraw the call for the previous question.

Mr. BRANCH. As the gentleman from Ohio is a member of the Committee of Ways and Means, I will withdraw for him if he will renew the demand, but for no other gentleman.

Mr. CAMPBELL. I am obliged to the gentleman from North Carolina, and I will occupy but little of the time of the House. I think the resolution of the gentleman from North Carolina ought not to pass. I believe that the system adopted by the Committee of Ways and Means in reporting this deficiency bill is correct. It is now proposed by the gentleman from North Carolina [Mr. BRANCH] that the Committee of Ways and Means shall report, at this late period of the session, six new deficiency bills. Judging of what may take place by what has taken place in the past, it is reasonable to presume that it will be midsummer before, in the ordinary slow process of legislative machinery, we can succeed in passing the deficiency bills for the current fiscal year, without reaching the bills for the fiscal year commencing on the 1st of July.

Mr. BRANCH. I desire to say that it is my intention, if the vote rejecting the bill shall be reconsidered, to offer the resolution I have indicated, and to add at the end of it, power for the Committee of Ways and Means to report at any time.

Mr. CAMPBELL. These will be appropriation bills, and, under the rules of the House, they must go to the Committee of the Whole on the state of the Union; and we all know very well that when we go there to take up the bills, every possible subject will be discussed that members may see fit to speak upon, without reference to the merits of the bill before the committee. How has it been in reference to this bill itself? It has been under consideration in the Committee of the Whole on the state of the Union for five or six weeks at least; and yet the merits of the bill were never touched until the last two or three days of the discussion. And we have now this most remarkable spectacle of the Committee of the Whole on the state of the Union, after laboring for weeks to perfect the bill, and after having carried various amendments, at last coming into the House with a recommendation from the Committee of the Whole that it be sent back to the Committee of Ways and Means, with the instructions, in substance, which the gentleman from North Carolina now proposes again to submit. In the House, the instructions and the bill are defeated. The gentleman from North Carolina now intimates that the reason why he would so instruct the Committee of Ways and Means, is, that the House cannot trust that committee without instructions.

Mr. BRANCH. I beg the gentleman's pardon. I used no such language.

Mr. CAMPBELL. I so understood the gentleman.

Mr. BRANCH. No. I said that the Committee of Ways and Means might not choose to report any other bills, while the majority of the House, in my opinion, wishes that they should be reported. I therefore proposed to send the bill back to the Committee of Ways and Means, with instructions to that effect.

Mr. CAMPBELL. I did not hear distinctly what the gentleman said; but so understood him.

The objection that this is not a deficiency bill I think is improperly taken. It is quite true that some of the money provided for in the bill has not been actually expended; but the Committee of

Ways and Means had good reason to believe that it would all be wanted before the expiration of the present fiscal year, because of exigencies which have arisen which could not be foreseen. Therefore it is a deficiency bill, making appropriations to supply deficiencies in the appropriations for the current fiscal year, and, as such, in my opinion, ought to pass.

Mr. Speaker, if the Committee of Ways and Means are to be required to separate appropriation bills and classify them as proposed by the gentleman from North Carolina, there would be in the course of the session perhaps eighty or one hundred appropriation bills to be considered.

During the last Congress, for the purpose of relieving the embarrassments of legislation, the Committee of Ways and Means did separate the old civil and diplomatic bill into three parts; and if the separation is to be carried further, and to be followed out in deficiency bills, it will require the entire time of Congress to act upon the bills reported from that committee alone. Other public and private bills must then be necessarily neglected.

Mr. BRANCH. I rise to a question of order. I understood the Chair to rule that it was not in order to discuss the merits of my resolution, and I therefore refrained from discussing it, and confined my remarks to the motion to reconsider.

The SPEAKER. The Chair thinks the point of order is well taken.

Mr. CAMPBELL. Very well, if the gentleman means, in good faith, to abandon his resolution, and to reconsider the vote by which the bill was rejected, with the purpose of putting it upon its passage; if he and the friends of the bill upon the Administration side will give any assurance that it is their purpose to put the bill upon its passage, and take the responsibility, I, as one of the members on this side of the House, am willing to vote for it, and take my share of the responsibility. I did vote for it this morning; but the gentleman and his party friends must not expect to shirk the responsibility. It is not very agreeable to us, on this side of the House, when we have voted to give an opposing Administration the means necessary for carrying on the Government, to be jeered and taunted with the charge that we are responsible for the public expenditures based upon the recommendation of their Executive Departments.

Mr. Speaker, I voted for this bill, not that I liked every part and parcel of it—

Mr. PHELPS. I understood the gentleman from Ohio to remark that he desired to see gentlemen on this side of the House take the responsibility; that if the members on this side would support this bill, the motion to reconsider would prevail, and the bill would be passed in its present form. I have not had time to examine the record which has been made, but I am informed that only twenty-seven members on the Democratic side voted with those who defeated the bill—only twenty-seven out of the large number of Democrats here. Then it would appear that the fault, if any, rests with the friends of the gentleman on the other side. I hope the motion to reconsider will prevail, and that he will bring his friends on that side up to vote for the passage of the bill.

Mr. CAMPBELL. I take no contract of that sort; I speak for no party here; I speak for myself only.

Mr. PHELPS. I only adverted to the state of facts as I understand them to exist.

Mr. CAMPBELL. I take it that every member of the House will vote as his judgment dictates. I have voted for the bill, as I have already remarked, notwithstanding there were some items in it that I could not approve. I have voted in this House for very many appropriation bills for some nine years, and I do not believe that I have ever recorded my vote in favor of a single bill every item of which I approved. Sir, I do not believe if I were to remain here nine years more, and vote for appropriation bills, that I would be able to approve every item they might contain. In my judgment, when statesmen come to legislate for a great Government, such as ours, embracing so many sections and such diversified interests, they ought not to demand that every bill shall be so perfect that there could not be an *i* dotted or a *t* crossed without increasing their opposition. Each member ought to be willing to

yield in minor matters for the common good. It is on that principle, and in that spirit, that I voted for the bill this morning; and it is in that spirit that I appeal to the gentlemen who are friends of the Administration which demands this appropriation of us, to vote for this bill.

Mr. GARNETT. The gentleman talks about responsibility for the defeat of this bill. Sir, I claim to be one of the friends of the Administration; but I claim, at the same time, the right to vote here as I think proper. I say that the responsibility for the defeat of the bill rests not on the majority of the House who do not like the bill in its present form, but on those who refused to permit it to be placed before us in such form that the majority would like to accept it.

Mr. LETCHER. With the permission of my friend from Ohio, I will say one word right here. The proposition was distinctly made, and the vote distinctly taken, on that matter which my colleague objects to in the third section, on a motion to strike it out. The motion was rejected in committee. Even then I told him, and told others in this House, that so far as that matter was concerned, when the bill came into the House for final action, I would give them the opportunity of having the yeas and nays on that section, and on the others that were objected to. Why was not that done? Why, sir, because he offered his resolution and moved the previous question, thereby depriving me of that privilege without unanimous consent.

Mr. CAMPBELL. I say, right here, that the gentleman from Virginia [Mr. GARNETT] refused to withdraw his call for the previous question, when, as a member of the Committee of Ways and Means, I appealed to him to do so in order that his colleague of that committee [Mr. LETCHER] who had charge of the bill, might put it in such a position, under the rules, that a vote might be taken separately on the objectionable propositions referred to. The responsibility is, therefore, more particularly upon the distinguished friend of the Administration from Virginia, [Mr. GARNETT,] than upon any other member.

Mr. GARNETT. I am ready to accept any responsibility which I have incurred to the Administration or to anybody else; and I will say to my colleague, that he knows very well that it is not to that particular item of the bill to which I, with other gentlemen, object. I ask why he did not report that item in a separate bill? Why, too, he did not put the civil and diplomatic portion of it in another bill, and the military part in another? Why did he not do this as it is done in the annual appropriation bills? Is it fair and right to ask members of the House to vote, in one bill, for things which they dislike, to get those which they like? Is it fair to ask them to accept good and bad alike? I know that his object was to defeat the proposition; I know the object of the gentleman is to defeat the proposition of the gentleman from North Carolina, which proposes to recommit this bill to the Committee of Ways and Means, which is our organ, in order that it may report the bill in such a form as will express the will and suit the approbation of a majority of the House.

Mr. LETCHER. One word.

Mr. BRANCH. I object to this discussion. It is not in order.

The SPEAKER. It is not in order.

Mr. BRANCH. Then I ask that the discussion be kept in order.

Mr. LETCHER. I trust that the gentleman will withdraw his objection.

Mr. BRANCH. I withdraw it.

Mr. LETCHER. What I want to say is this: the regular bill has been divided into three parts, so that objectionable portions might not be forced upon members of the House. When was that done? It was done in the last Congress; and up to that time all these appropriations had been reported in one bill. We divided it with doubts expressed here and in the other end of the Capitol, with respect to the propriety of that action.

Mr. PHELPS. The gentleman from Virginia [Mr. GARNETT] has commented on the action of the Committee of Ways and Means. I desire to invite his attention, and the attention of the House, to the action which was had in the Committee of the Whole on the state of the Union when this bill was under consideration. Every proposition to strike out any portion of it was voted down by a majority of the committee. The

gentleman from Illinois [Mr. LOVEJOY] moved to strike out so much as related to appropriations for the Army, and that was defeated by a large majority. The gentleman from Ohio [Mr. SHERMAN] moved to strike out so much as proposes to defray the expenses of surveying the public lands in California, and that also was voted down by a large majority. Then the third section, on which the gentleman has commented so strongly, was not stricken out, a large majority voting against the motion. If the gentleman from Virginia was opposed to the bill, why did he not propose an amendment or a substitute, instead of dealing in speculations and abstract propositions of instruction to the committee?

Mr. CAMPBELL. Mr. Speaker—

Mr. GARNETT. Will the gentleman allow me?

Mr. CAMPBELL. I must decline to yield the floor any further. I had no intention of getting up a family quarrel among our Democratic friends over this bill. I rose for the purpose of defining my own position in regard to it, and of making a suggestion or two.

Now, sir, it is important that this bill, in some form, should be passed and passed speedily. We have already provided for volunteer regiments for the protection of the frontier. It is time they were on the march. Some means—sinews of war—must be provided very speedily, or the whole arrangement prove a practical failure. Without, therefore, going further into the discussion, I express the opinion that the motion to reconsider ought to prevail and that the bill ought to be put upon its passage. I will favor a proposition of that kind, but will oppose a recommitment to the Committee of Ways and Means with instructions.

Mr. GARNETT. Will the gentleman from Ohio permit me to state a matter of fact?

The SPEAKER. Does the gentleman from Ohio yield for that purpose?

Mr. CAMPBELL. I always yield for such purposes.

Mr. DEAN. Is it in order?

The SPEAKER. Not if objected to.

Mr. DEAN. I object.

Mr. GARNETT. It is a personal explanation that I desire to make as to a question of fact.

The SPEAKER. Then the gentleman has a right to make it, if the gentleman from Ohio yield for that purpose.

Mr. CAMPBELL. Of course I yield to such an application.

Mr. GARNETT. I merely wish to say this, that I moved the previous question on my resolution; but when that resolution was voted down, then was the time that we could have offered amendments to the bill itself. And the gentleman from Missouri, [Mr. PHELPS,] if I mistake not, then called the previous question, and prevented the possibility of our doing so.

Mr. PHELPS. The gentleman from Virginia—

Mr. BRANCH. I object to any discussion between these gentlemen—

Mr. PHELPS. Let me make a statement in relation to the matter of fact. The previous question was called by the gentleman from Virginia, [Mr. GARNETT,] which extended to the engrossment of the bill. Has the gentleman served here two sessions, and yet does not know that the previous question extends to the engrossment of the bill?

Mr. CAMPBELL. I desire to restore peace on the Democratic side of the House, and must decline to yield the floor longer.

The gentleman from Virginia [Mr. GARNETT] boasted that he was the friend of this Administration, and we all know that he is a very active supporter of it. I am opposed to the general policy of the Administration, but am nevertheless in favor now, as I have been hitherto, of giving to an Administration to which I am opposed all reasonable means for carrying on the Government. And whilst I will continue to oppose Mr. Buchanan's party policy, (when I think it wrong,) I will support the Government, and give by my vote, when it is necessary, fair appropriations to carry on every department of it, on the land or on the seas.

Mr. BURNETT. Will the gentleman yield me the floor for a moment?

Mr. CAMPBELL. I wish to bring this mat-

ter to a close, but will yield to the gentleman from Kentucky.

Mr. BURNETT. I am one of those who voted against the bill. I, too, am a friend of this Administration. The gentleman from Virginia [Mr. LETCHER] who reported the bill and has it in charge, seems to find fault with those of his party friends who voted against the bill, and says that it is not his fault that this bill was not amendable, when it came into the House. Grant it, sir; but here is the fault which I find with the Committee of Ways and Means—that they incorporated into this bill things which they confessed here themselves were not deficiencies. What are they? The two most objectionable features of the bill—the third section and the clause making an appropriation to enable Mr. Rives to pay the reporters for the Globe, were put into this bill, although it is conceded that they are not deficiencies. We have no chance to vote against them, and we were forced to vote for what we regarded as a violation of an express law passed by Congress, or else to vote against the whole bill. When you put that alternative to me, I will vote against the bill. I am as much in favor of giving the supplies necessary to carry on the operations in Utah, as any gentleman on this floor, and will vote as cheerfully for a bill for that purpose, as any other gentleman here.

Mr. CAMPBELL. Mr. Speaker—

Mr. LETCHER. A word just here. The gentleman from Kentucky says that he regards that third section as no deficiency, and that the Committee of Ways and Means had no business to put it in the bill. The money was voted, a part of these employes have been paid, and there is no money to pay the others. It does seem to me that that comes pretty near a deficiency at any rate, and near enough to be put in this bill.

Mr. CAMPBELL. Mr. Speaker—

Mr. MASON. The President never signed a bill voting that money so as to make it a law.

Mr. CAMPBELL. Mr. Speaker—

Mr. BRANCH. I yielded the floor to the gentleman from Ohio as a member of the Committee of Ways and Means, and I object now to any further discussion out of order.

Mr. CAMPBELL. I do not desire to go outside of the line of legitimate debate.

The SPEAKER. The Chair will interpose to prevent any further discussion out of order.

Mr. BRANCH. I hope the Chair will do it. I object to this discussion.

Mr. CAMPBELL. I understand the proposition to be to reconsider the vote by which the bill was defeated, and that the resolution of the gentleman from North Carolina [Mr. BRANCH] is not before the House. I am discussing the motion to reconsider. Through courtesy I have yielded to others, who wander from the question. The resolution of the gentleman from North Carolina is not before us.

The SPEAKER. The resolution is not before the House.

Mr. CAMPBELL. And it cannot, I presume, be brought before the House to-day except by unanimous consent.

The SPEAKER. The Chair is not so certain of that. At the present stage of the proceedings the resolution cannot, as a matter of course, be brought before the House except by unanimous consent.

Mr. CAMPBELL. The Chair is quite right, and to restore peace I move the previous question.

Mr. WARREN. The question will be simply on reconsidering the vote by which the bill was defeated?

The SPEAKER. If the previous question be sustained, the effect will be to bring the House to a vote upon the question, "Shall the vote rejecting the bill be reconsidered?" If the House determines to reconsider that vote, the previous question will have exhausted itself. There will then be no question in order except on a motion to commit the bill, or "Shall the bill pass?"

Mr. CURTIS. Under those circumstances, I move that the House do now adjourn. It is evident that we cannot dispose of the bill to-day.

Mr. PHELPS. Let the previous question be seconded first.

The question was taken, and the House refused to adjourn.

The question recurred on seconding the demand for the previous question.

Mr. FARNSWORTH. I move to lay the motion to reconsider upon the table.

The motion was not agreed to.

The previous question was seconded, and the main question ordered.

Mr. BILLINGHURST. I see a great many vacant seats here, and as members would like to have an opportunity of voting on the motion to reconsider, I move that the House do now adjourn.

The motion was agreed to; and thereupon (at three o'clock p. m.) the House adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 9, 1858.

The House met at twelve o'clock, m. Prayer by Rev. G. W. BASSETT.

The Journal of yesterday was read and approved.

NAMES OF VESSELS CHANGED.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, in reply to a resolution of the House of Representatives of March 16, 1858, calling for information as to the number of vessels whose names have been changed under the act of March 5, 1856.

Mr. COMINS. I move that the communication be printed, and referred to the Committee on Commerce.

It was so ordered.

A MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKEY, their Chief Clerk, notifying the House that that body had agreed to the amendment of the House to the resolution of the Senate, (No. 4,) to extend the operation of an act approved July 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy;'" and also, that the President had announced to the Senate that he had approved and signed the following bill and resolution:

An act (S. No. 176) to acquire certain lands needed for the Washington aqueduct in the District of Columbia.

A joint resolution (S. No. 24) authorizing Lieutenant Jeffers to accept a sword of honor from her Majesty the Queen of Spain.

NATIONAL FOUNDRY.

Mr. FAULKNER. I ask the unanimous consent of the House to permit me to introduce, for reference to the Committee on Military Affairs, a bill, of which previous notice has been given, to establish a national foundry for the fabrication of cannon for the use of the Army and Navy of the United States.

Mr. WASHBURNE, of Illinois. Let the bill be read. I want to know at what point the foundry is to be established.

Mr. LEITER. I object without its being read.

ABSENTEE ARMY OFFICERS.

Mr. LOVEJOY. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the Secretary of War be requested to inform this House how many officers of the Army are now absent from their posts of duty, and are at the seat of the Federal Government; and how many, if any, are claiming to hold civil offices, by election or otherwise.

Mr. GARTRELL objected.

THE KANE ARCTIC EXPEDITION.

Mr. HICKMAN. I ask the unanimous consent of the House to introduce a joint resolution authorizing the Secretary of the Navy to pay to the officers and men of the expedition of Dr. Eliza Kent Kane to the Arctic seas, in search of Sir John Franklin, the same rate of pay that was allowed to the officers and seamen of the expedition under Lieutenant De Haven.

Mr. GARNETT objected.

DEFICIENCY BILL.

The SPEAKER stated the business first in order to be the motion to reconsider the vote by which House bill No. 306, to supply deficiencies in the appropriations for the services of the fiscal year ending June 30, 1858, was rejected.

The motion was agreed to.

The question recurred on the passage of the bill.

Mr. BRANCH. Is debate in order?

The SPEAKER. Debate is in order.

Mr. BRANCH. I desire, Mr. Speaker, to make a few remarks before this bill shall be put upon its

passage. I shall detain the House but for a few minutes, if I am allowed to proceed without interruption; and before yielding the floor—as I propose to call the previous question—I shall give an opportunity to gentlemen who may desire to ask me questions. But, in the mean time, I beg gentlemen not to interrupt me; but let me proceed in my own way, and according to my own order. In this way time will be saved, and I will be able to present my views more satisfactorily to the House.

Mr. Speaker, in the remarks that I shall make in relation to this bill, I desire it to be understood that the Administration now in power, and through our friendship to which we have been appealed to to pass this bill, is the Administration of my choice. Not only its head, but the Cabinet by which that head is surrounded, met, at the time of their appointment, my approbation, and I have seen nothing since to diminish the confidence which I have, either in the head or in the members of the Cabinet. But while I say that, I desire it to be understood distinctly that I stand on this floor, not to carry out, without question or consideration, the recommendation of any Department of the Government; nor to receive the edicts that may be sent down to us by others as law which we dare not question or inquire into except on pain of being considered as wanting confidence in the Administration.

I am as much a friend of the Administration as any gentleman on this floor; but here is a measure pending which it is the duty of the representatives of the people to look into and consider carefully before they adopt it. And, sir, in the remarks which I shall make, if I find fault with practices which I imagine prevail in the Government, and which ought not to prevail, I do not wish to be understood as censuring this Administration; for I know that in many instances they are practices which have come down from Administrations which have preceded the one now in power.

Mr. Speaker, much has been said, in the course of the debate upon this bill, against deficiency bills. I believe that no gentleman has, as yet, announced the opinion which I entertain, and now fearlessly express—that so far from deficiency bills, of a proper character, and under proper guards, being open to censure, they are, on the contrary, one of the most powerful means in the hands of Congress to insure economy of expenditure in the Executive Departments. I do not object to deficiency bills when deficiency bills are proper; that is, when, in the judgment of Congress, there has not been an extravagance of expenditure on the part of the Executive Departments, nor a disregard of the requirements of law.

Suppose you allow it to be understood in the Executive Departments that the estimates made at the commencement of a fiscal year—or rather, as is the practice, a year in advance of the time when the money is to be expended—are to be final and conclusive on the Departments: is it not obvious that the Executive Departments, under that pressure, will take care to estimate largely enough to provide against all chance of the expenditures exceeding the amount appropriated? The estimates submitted under such an understanding will be larger even than the Executive Departments themselves might think necessary for the public service. On the other hand, if you allow it to be understood that if they will curtail their estimates, submit them at the lowest possible point, and honestly attempt to carry on the Government under those estimates, then, if they should need more money, Congress will vote it to them, there will be a better opportunity of securing economical estimates from the Treasury Department. Hence I do not object, in the terms used by gentlemen in this debate, against deficiency bills. Whenever a bill is presented that appears proper, and when it appears also that the Executive Departments have made honest efforts to keep within the appropriations made by Congress, and have been unable to do so, I am willing to grant it. I am not willing to see Congress establish a precedent that the Departments must stand by their original estimates; and that under no circumstances shall they have an additional appropriation; because, if you do, the effect will be inevitable that the executive officers will make extravagant estimates, in order that they may not be crippled.

So much for deficiency bills in general. Now, Mr. Speaker, in regard to this deficiency bill which is pending. It consists of several items for the different branches of the public service, differing not only in the magnitude of the amounts, but in the pressure of the necessity which calls for them. Much the largest part of this bill appropriates money to supply deficiencies in the appropriations for the Army. I admit that the expenditures on account of the Army have reached such a point that I have no hesitation in saying, on my responsibility as a Representative of the people, that they are monstrous, and entirely unjustified. I cast no censure on any particular Administration, or any particular bureau of the Government; for I have not the requisite information to state certainly where censure belongs. I do say, however, without hesitation, that, in my judgment, the expenditures for the Army of the United States have almost reached a point at which the country will rise up and demand retrenchment and reform in that particular at least. The Executive Departments are not censurable for all the items in this bill which look so large. Many of them are under the control of Congress. Some arise out of the former action of Congress. Let us look at the expenditures. A large part grows out of the necessity of sending an army to Utah. That necessity was not foreseen when the Executive Departments made their estimates of appropriations for the current year. A former Congress, in view of the circumstances which might render it necessary on the part of that Department to exceed the appropriation, expressly authorized the Secretary of War to make contracts and provide for the wants of the Army in anticipation of appropriations. So far, then, as these appropriations under the head of deficiencies for the Army are concerned, they are for money expended in pursuance of the law of 1820.

Much, sir, has been said by gentlemen on the other side in regard to the sending of an army to Utah; and the Committee on Territories have been interrogated repeatedly to know why they have not reported under a resolution referred to them, to inquire into the state of affairs in Utah. I cannot say whether rebellion exists in Utah or not; but I know that this House, at an early day, passed a resolution expressly declaring that the Territory of Utah was in a state of rebellion against the United States Government. Whatever may have been my opinion at that time, I believe now that that resolution expresses the truth. That resolution, too, was voted for by a number of gentlemen on the other side of the House.

Now, I ask, if they thus declared, not only to the country, but to the President, that Utah is in a state of rebellion, and if they declared the truth, what excuse could the President make for a failure to use the means placed within his power to reduce the rebels of Utah to subjection? But in addition to that, the Constitution and laws of the United States invested the Executive with power to declare where the troops should be stationed.

In the exercise of that discretion he has determined to establish posts in the Territory of Utah. Is it proper for this House, even if it had not declared, at a former day, that Utah was in a state of rebellion, to undertake to control the discretion of the President as regards the position in which the troops shall be placed?

Mr. CLEMENS. Will the gentleman allow me to interrupt him?

Mr. BRANCH. I made an express request at the outset that no gentleman would interrupt me. If the gentleman will wait until I am through, I will give him an opportunity.

Mr. Speaker, do gentlemen intend—do they think it comports with their duties as legislators and statesmen, when they themselves have declared that a Territory of this Union is in a state of rebellion—to turn round and refuse to furnish the President the means of suppressing that rebellion?

But aside from the war in Utah, there are other causes of a very large expenditure for our Army, to which I will briefly call the attention of the House, and those causes are dependent on the action of Congress. In my opinion, this monstrous expenditure of the Army results mainly from a practice that has grown up of late years, and which ought to be corrected by the Executive, and if the Executive fails to correct it, it ought

to be corrected by Congress. That practice is the allowing half a dozen adventurous persons to go far beyond the frontiers of the settlements, and squat themselves down on the public lands, and then demand of the War Department a company of troops for their protection.

In the early history of the country, when the States of Tennessee, Kentucky, and Ohio, were being settled, they were occupied by savages far more ferocious than any now upon our frontiers. When our fathers went to that country, they went there with the hoe and spade in one hand and a rifle in the other, and they protected themselves against their savage foes. It is true the country is more able to afford protection now than it was then; but I ask if it is reasonable, just, and proper, that half a dozen adventurous persons should be allowed to go and settle in the wilderness, where there is no market for the grain they can raise, and then, to make a market, apply to the Government to send them a company of troops—the most substantial advantage of which is, that it furnishes them a purchaser for their produce?

If you will look at these reports from the War Department, you will find that the greater part of the extravagant expenditures of the Army are connected with the quartermaster's department, in consequence of the expense of transportation and supplies for troops far beyond the frontiers of civilization. I submit, therefore, that the first step towards retrenching these enormous expenditures should be the establishment of a cordon of posts, north and south, along the frontiers, from which, as occasion requires, the troops can be sent out into the Indian country to keep them in awe. That will have the effect of saving the enormous expenditure for transportation. It was not until this late practice of sending troops everywhere, when calls were made, far beyond the frontiers, that these enormous expenditures in the quartermaster's department were incurred.

It is said in the newspapers—I do not believe it, however—that these Indian wars are sometimes gotten up by the settlers for the purpose of furnishing a market and giving them an opportunity of making a speculation out of it. I do not attach much credit to such reports; but certain it is that the practice to which I have referred is likely to lead to many irregularities.

There is another cause of these large expenditures to which I now desire to call the attention of the House. We have recently had before us a bill to increase the Army of the United States. Well, sir, in my simplicity, I imagined that it would be a sufficient increase, and the most economical increase, to add to the number of privates in each company. I supposed we had officers enough, and that the proper mode of increasing the Army would be to increase the number of privates. Having always heard that our peace establishment was only a "skeleton" Army, to be filled up in time of war, I thought the time had arrived for filling up the skeleton, without enlarging it. A few of the friends around me, as inexperienced in military affairs as I was, were under the same impression; but we were told that an officer could not command more men than were placed under him under our present system. I had not definite information within my possession in respect to the organization of the armies of other nations in this respect. I have, however, since obtained information, from which I have made out a table, showing the number of privates commanded by a single officer, which I will read to the House.

Service.	Captains.	Lieutenants.	Total officers.	Privates and subalterns.	Men to each officer.
French infantry.....	1	2	3	110	37
French rifles.....	1	2	3	115 to 145	38 to 48
Austrian infantry—					
Grenadiers.....	1	3	4	164	41
Other foot.....	1	3	4	195 to 215	65 to 73
Rifle company.....	-	-	-	174	44
Prussian infantry.....	1	4	5	219	44
Sardinian infantry.....	1	2	3	126	42
Sardinian rifles.....	1	2	3	133	44
Russian infantry.....	-	-	4	236	59
United States infantry in peace.....	1	2	3	42	14
United States infantry in war.....	1	2	3	74	25

This table includes all the European nations,

with one exception, which have ever earned any military reputation. It appears that the average number of men commanded by one officer, in the European service, is forty-seven. In our infantry service, in time of peace, we have one officer for fourteen men, with authority given to the President to increase the number of privates in each regiment serving on the frontiers, so as to make, in our war establishment, one officer for every twenty-five men.

It is obvious that we have got an Army of officers almost exclusively; hence, in some measure, the great expense attending our Army. We have got officers enough; and the true way of increasing the Army would have been by adding to the number of privates in each company.

I remarked that there was an exception, and I referred to the army of Great Britain. I have not been able to obtain information in reference to that, but I imagine our system is copied from England. In England they may have no more men to an officer than we have here. But why? Simply because in England the only way of providing for the younger sons of the nobility and aristocracy, is to give them commissions in the army; and hence there is always a pressure of influence to increase the number of officers. And we, in this republican democracy, from a different motive, are following in the footsteps of aristocratic England, in order to give to public men and to public officers an opportunity of providing for their friends.

Mr. CURTIS. Will the gentleman allow me to correct him?

Mr. BRANCH. Not now, sir; the gentleman can make a note, and I will give him an opportunity hereafter. There is another reason for these large expenditures to which I desire to call attention. No gentleman who has served in Congress, or has been much about Washington city, can have failed to discover that this Government has degenerated into a Government of bureaus and clerks. I have noticed that irresponsible bureau officers are allowed to make estimates to Congress, and Congress is called upon by the Administration to provide for those estimates. On that point I wish to read some very sensible remarks of the present very able Secretary of War, in his last annual report. In speaking of some of the errors in our service, he says:

"One of the greatest errors of detail is the separate, independent character of our staff corps. This removes them from their proper positions as aids or assistants to the commander, and constitutes them his equals. It contracts the sphere of observation and experience, and thus unfits the officer for change or advancement, and begets an accumulation of precedent and prerogative at war with the vital principle of military organization—the inviolable and undivided authority of the head. He is bound, as they are, by the law, and his construction of it should govern them, not theirs him."

Now, sir, that is a very sensible remark; and the only matter of surprise is, that that very Secretary, about the very same time that he wrote that able document, should have allowed the Quartermaster General to send estimates to this Congress for three, four, or five million dollars without his sanction; for such is the fact. Gentlemen, by looking at the miscellaneous documents, will find that there are estimates provided for in this bill for three or four million dollars, for which we have not the recommendation of any other officer than the Quartermaster General of the Army. We have not the means of holding responsible any officer of the Government, for the Quartermaster General is responsible to his military commander, and not to Congress.

Now, Mr. Speaker, as I remarked before, some of the causes of this enormous increase in the expenditures of the War Department are remediable by Congress. Some are abuses that have grown up from year to year, until it is difficult to remove them. I have confidence, however, that the present Administration will remove them, so far as it is practicable to do so. I feel satisfied that they will exert themselves, and that they have already commenced to exert themselves, to bring about reform; and that this is not an Administration that is going to take advantage of all the bad precedents that have been set, and will set no good ones for its successors. I know the material of which it is composed; and, from my knowledge of that material, I feel an entire conviction that many of these abuses will be reformed, so far as is dependent upon the executive department of the Government. But, in addition to that, Con-

gress has got to reform some abuses also; and the first thing that we ought to do, would be, if possible, under the rules of the House, to call back the bill that was passed the other day providing for the raising of additional regiments, and substitute for it a bill that shall add to the number of privates in our Army, without increasing the number of officers.

But, sir, this is not the proper occasion to apply a remedy. You have an army in Utah; sent there, not in violation of law, but sent there in obedience to an obligation on the President to enforce the law of the land. You do not deny that the President had power to send the army there. You only question the wisdom of the discretion that he exercised in sending it. Now, sir, is Congress, because there are abuses which have been existing for several years, to avail itself of this critical moment, when you have three thousand of your brave troops in the mountains of Utah, with an enemy in front, and the howling wilderness behind them, to undertake to apply the extreme remedy which belongs to Congress of refusing supplies? I do not believe that this House will say that this is a suitable time to exercise that high prerogative that belongs to the Representatives of the people, of refusing supplies to carry on the Government. I believe that an overwhelming majority of the House are willing to pass a bill to appropriate the means that are necessary to supply the army in Utah.

But we find ourselves here crippled and hampered, because connected in the bill are a number of small objects altogether incongruous, and that have no necessary connection with each other. One gentleman objects that there is a provision in it for paying to clerks certain extra compensation, and thinks that so great an outrage that he will vote against the whole bill on account of it. I want to call the attention of gentlemen upon the other side of the House to the fact that this third section, which has done so much to destroy the bill, was put in there in consequence of the legislation of the last House, in which the Republicans had a large majority, and of which my friend from Ohio, [Mr. CAMPBELL,] who addressed the House yesterday upon this subject, was the acknowledged leader.

Mr. SEWARD. I only want to say to the gentleman that he is mistaken, and that that is the strongest part of the bill.

Mr. BRANCH. Other gentlemen object because there is in the bill a provision for paying to the reporters some \$800 each.

Mr. CAMPBELL. I desire to say that the Republican party had not a majority in the last Congress, and that I was not the recognized head of that party.

Mr. BRANCH. I will give the gentleman an opportunity after I get through. Others object because there is an item in it to pay for the surveys of public land in California. Gentlemen may be right in their opposition to these various matters. I am not prepared to say that they are not right. I myself am opposed to some of the provisions of the bill. I see no reason why, here in the middle of the session, gentlemen should have forced down their throats what they do not like, in order to get what they do like. I cast no censure on the Committee of Ways and Means. They have done their duty, not only in regard to this bill, but in regard to all the bills of this session, in an able and unexceptionable manner. But that is no reason why we should be compelled, here in the middle of the session, to vote for what we do not like, in order to get what we do like. We will have enough of that to do in the last night of the session, and we had better keep our stomachs in the best possible condition for that time.

My proposition is that, instead of forcing gentlemen to vote for what they do not like, in order to get what they do like, the Committee of Ways and Means should report separate bills for the support of the Army and for these other items. The others may command the approval of a majority of the House; and, if so, they will pass. But let us not cripple our Army, and the operations of our Government, on account of a gratuity to the reporters, however worthy of it they are, and of extra compensation to our clerks. It does not become the dignity of Congress to insist upon subjects so incongruous, in order to make one drive the other through.

Well, Mr. Speaker, I am not prepared to say

what I shall do in case of the failure of my proposition. I feel the pressure upon me to provide for our gallant army in Utah. I feel that my duty, as a member of Congress, is to do what I can to provide for it; because, if the President has sent them there wrongfully, it is not the fault of the army, it is the fault of the President. I would not have your army starved. I would not subject them to defeat and disaster; and subject our flag to be dragged in the mud and trampled upon by the rebellious citizens of the country, simply because the President has done wrong, if he has so done. If the President has done wrong, hold him to his responsibility before the country; or, if there be a strong enough case, in your judgment, hold him to responsibility to this House and the Senate by impeachment. But do not, while you have your remedy against the President, starve your little army, in order to strike an indirect blow against the President, which will not reach him.

Mr. WARREN. I desire to ask the gentleman from North Carolina a question.

Mr. BRANCH. I incline to yield. I believe that under the rules of the House, I have a right to consume an hour; and before I close I intend to give time to gentlemen for questions.

Mr. WARREN. The gentleman has but twenty minutes to speak; and I would like to know what time he is to allow for questions.

Mr. BRANCH. Well; as gentlemen all round me say that they want to ask questions, I will bring my remarks to a conclusion now by offering the following resolution:

Resolved, That House bill No. 306 be committed to the Committee of Ways and Means, with instructions to report in lieu of it a bill to supply deficiencies in the appropriations for the support of the Army.

2. A bill to supply deficiencies in the appropriations for the payment of officers and others receiving an annual salary in the service of the House of Representatives.

3. A bill to supply deficiencies in the appropriations for miscellaneous items.

4. A bill to supply deficiencies in the appropriations for the contingent fund of the House.

5. A bill to supply deficiencies in the appropriations for the service of the Post Office Department.

6. A bill making appropriations to pay extra compensation to clerks and other employees of the House, under resolutions of the last Congress; or to indemnify the late Clerk, if he has paid compensation. And that said committee have leave to report at any time.

Mr. SEWARD. I rise to a point of order. I object to the latter clause of the resolution.

The SPEAKER. The Chair thinks that the point of order is well taken, and that the House cannot, by a majority vote in the form proposed by the gentleman from North Carolina, authorize any committee to report on any subject at any time.

Mr. BRANCH. Then strike out the latter clause.

The resolution was so modified.

Mr. J. GLANCY JONES. I understand, Mr. Speaker, that the gentleman from North Carolina stated that the estimates of the quartermaster's department were communicated immediately to the Committee of Ways and Means without the approval of the Secretary of War. Am I right?

Mr. BRANCH. What I said was, that the estimates came to us without any recommendation from the Secretary of War.

Mr. J. GLANCY JONES. I wish to correct that erroneous impression on gentlemen's minds—one which might very naturally arise. While this matter was pending, I had several interviews myself with the Secretary of War, and we passed over these items, one by one, with the desire to reduce the estimates to the lowest practicable point. After conferring with the Secretary of War, and making some reductions and alterations, he took back the estimates to have a conference with the Quartermaster General. The result of that conference was an agreement between them that he should send them to the Committee of Ways and Means, with the indorsement of the Secretary of War upon them. I asked unanimous consent of the House to report them, in order that they might be printed and referred to the Committee of Ways and Means. Unanimous consent was granted; and they were ordered to be printed and referred. If the gentleman will examine the Journal he will find that that is so.

Mr. BRANCH. I am very glad to hear from the Committee of Ways and Means that such is the fact, and I express the opinion here that any head of Department of this Government ought not to hesitate to dismiss promptly from office any

bureau officer or clerk of the Government who would presume to communicate to Congress otherwise than through the head of the Department.

Mr. J. GLANCY JONES. The House ordered these estimates to be printed, but the Printer omitted to print the indorsement of the Secretary of War upon them.

Mr. JONES, of Tennessee. I should like to see where that indorsement is. In Miscellaneous Document No. 22, containing all these estimates, there is no indorsement or recognition of this document from the Secretary of War.

Mr. LETCHER. If the gentleman will look to the end of the document, he will find that it is addressed to the Secretary of War.

Mr. JONES, of Tennessee. If the gentleman will look on the last page of this document—

Mr. BRANCH. I cannot yield further. I am satisfied with the explanation of the chairman of the Committee of Ways and Means; and I am glad to find that so gross an official outrage has not been perpetrated by any subordinate officer of the Department.

Mr. JONES, of Tennessee. If the gentleman from North Carolina will allow me one word. On the last page of this Miscellaneous Document No. 22 is a letter which purports to have been written by the Quartermaster General, and addressed to the Secretary of War, dated January 6, 1858. The estimates themselves are dated on the 12th of January. There is nothing going to show that the Secretary of War ever sanctioned these estimates; or if there is, I have not been able to perceive it.

Mr. LETCHER. I would like to have an opportunity of replying to some of the remarks which have been submitted by the gentleman from North Carolina, because it strikes me that they ought not to be allowed to go to the country without a reply. I understood the gentleman—for I could not hear him distinctly from my seat—to refer to the extraordinary expenses of the Army. I desire to inquire of him what that expense is?

Mr. BRANCH. I will call the previous question on my resolution, and then pursue the same course I pursued yesterday with the gentleman from Ohio, [Mr. CAMPBELL.] I will yield to the gentleman from Virginia if he will renew the call for the previous question; but I do not feel authorized to open this bill to general debate again.

Mr. SEWARD. I object to these arrangements.

Mr. BRANCH. If objections be made, I will then insist on my demand for the previous question.

Mr. LETCHER. I hope it will be voted down.

Mr. WARREN. I hope the House will vote down the demand for the previous question, provided that the debate can be confined to this side of the House. I understand that the other side of the House are opposed to the bill anyhow, and therefore there is no need for them to discuss it.

Mr. SEWARD. I rise to a question of order upon the resolution of the gentleman from North Carolina, [Mr. BRANCH.] My point of order is this: that the resolution proposes to instruct the Committee of Ways and Means to report six bills in lieu of this bill. Now, the House itself could not amend the bill so as to cut it up into six bills; and I submit that the House cannot instruct the Committee of Ways and Means to do what it cannot itself do.

Mr. BRANCH. I withdraw the demand for the previous question, and modify my resolution so as to simply refer the bill to the Committee of Ways and Means, without instructions. I now renew the demand for the previous question.

Mr. GARNETT. If that is the motion of the gentleman from North Carolina, and the House agree to it, I hope the Committee of Ways and Means will consider the instructions offered in the resolution as originally proposed, and will carry out the sense of the House.

Mr. LETCHER. I hope the House will vote down the demand for the previous question.

Mr. CAMPBELL. I desire to inquire what would be the effect of sustaining the demand for the previous question?

The SPEAKER. It will be to bring the House to a vote, first, upon the motion to recommit, and if that fails, then upon the passage of the bill.

Mr. CAMPBELL. I hope the House will sustain the demand for the previous question, and leave the responsibility of defeating this bill with

the other side of the House, where it properly belongs.

The previous question was seconded, (one hundred and eight members having voted therefor,) and the main question ordered to be put.

Mr. WARREN. Would it be in order to move to lay the motion to recommit on the table?

The SPEAKER. The Chair thinks not.

Mr. STANTON. If this engrossed bill is re-committed to the Committee of Ways and Means, will they have the power to amend it, or change it?

The SPEAKER. That is a point the Chair has been trying to ascertain. The 120th rule of the House provides that after the engrossment and third reading of a bill before its passage, it may be recommitted. Now, if the committee have no power to amend, it would be a useless ceremony to send the bill there, yet this is one of the oldest rules of the House. But as the question does not properly arise now, the Chair will reserve any final decision upon the question.

The yeas and nays were ordered on the motion to recommit. The question was taken; and it was decided in the negative—yeas 75, nays 127; as follows:

YEAS—Messrs. Bingham, Bonham, Branch, Brayton, Bryan, Burnett, Case, Horace F. Clark, Clay, Clemens, Clingman, Cobb, Coffax, Conins, Cragin, Burton Craige, Curry, Darnell, Davis of Maryland, Davis of Indiana, Dean, Dodd, Durfee, English, Foster, Garnett, Gilman, Gilmer, Goodwin, Grow, Robert B. Hall, J. Morrison Harris, Hill, Houston, Hughes, George W. Jones, McQueen, Samuel S. Marshall, Mason, Matteson, Milson, Moore, Morrill, Edward Joy Morris, Isaac N. Morris, Parker, Pettit, Peyton, Pottle, Quitman, Ready, Reagan, Ritchie, Roberts, Royce, Ruffin, Russell, Sandridge, Seales, Aaron Shaw, Henry M. Shaw, John Sherman, Shorter, William Smith, Stallworth, William Stewart, Tabbot, Miles Taylor, Trippe, Underwood, Waldron, Walton, Israel Washburn, Winslow, and Augustus R. Wright—75.

NAYS—Messrs. Abbott, Ahl, Anderson, Andrews, Atkins, Avery, Barksdale, Bliss, Boeck, Boyce, Buflinton, Burlingame, Burns, Burroughs, Campbell, Canine, Chaffee, Chapman, Ezra Clark, John B. Clark, Clawson, Clark B. Cochrane, John Cochrane, Cockerill, Corning, Covode, Cox, James Craig, Crawford, Curtis, Davidson, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dowdell, Edie, Edmundson, Elliott, Eustis, Farnsworth, Faulkner, Fenton, Florence, Foley, Gartrell, Giddings, Gillis, Goode, Goode, Granger, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Harlan, Hatch, Hawkins, Hickman, Hopkins, Horton, Howard, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Kelly, Kilgore, Knapp, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leach, Leidy, Leiter, Letcher, Lovjoy, Maclay, Humphrey Marshall, Maynard, Miles, Montgomery, Morgan, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Pendleton, Phelps, Phillips, Pike, Potter, Powell, Purviance, Ricard, Robbins, Savage, Scott, Searing, Seward, Judson W. Sherman, Singleton, Samuel A. Smith, Spinner, Stanton, Stevenson, James A. Stewart, Tappan, George Taylor, Thompson, Tompkins, Wade, Walbridge, Warren, Cadwalader C. Washburn, Ethiliu B. Washburne, White, Wilson, Woodson, Wortendyke, John V. Wright, and Zollieffer—127.

So the House refused to recommit the bill.

Pending the above call,

Mr. RITCHIE stated that his colleague, Mr. Dick, was sick, and detained at home in consequence, and that he had paired off with Mr. WHITELEY, of Delaware.

Mr. HUYLER stated that he had paired off with his colleague, Mr. ADRAIN.

Mr. REILLY stated that he had paired off with Mr. THAYER.

Mr. JONES, of Tennessee. I demand the yeas and nays on the passage of the bill.

Mr. CRAWFORD. I was in favor of recommitting the bill to the Committee of Ways and Means that the features in it to which I object might be stricken out, but having failed in that, I feel constrained now, under all the circumstances, to vote for the bill.

Mr. REAGAN. Is it in order to explain my vote before the roll is called?

The SPEAKER. Debate is not in order pending the operation of the previous question.

Mr. CLAY. I will explain why I shall vote for the bill.

The SPEAKER. That can be done only by unanimous consent.

Mr. CLAY. There are some of the features of this bill which are exceedingly objectionable to me, and which, I think, ought to be stricken out. However, rather than place myself in a position of retarding the operations of the Government, or embarrassing them in the least, I shall vote for the bill, at the same time protesting against the objectionable features of it, which are there against my vote.

Mr. MORGAN. I object to debate.

Mr. MASON. I should like to state why I shall not change my vote.

Mr. CLEMENS. And so should I.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 97; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bockock, Bonham, Boyce, Branch, Bryan, Burns, Campbell, Caskie, Chapman, Horace P. Clark, John B. Clark, Clay, John Cochran, Cockerill, Corning, Cox, James Craig, Crawford, Davidson, Davis of Maryland, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edie, Edmundson, Elliott, Eustis, Faulkner, Florence, Foley, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Hatch, Hawkins, Hickman, Hopkins, Howard, Hughes, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Leitcher, MacLay, McQueen, Samuel S. Marshall, Maynard, Miles, Millson, Montgomery, Moore, Edward Joy Morris, Isaac N. Morris, Niblack, Nichols, Olin, Pendleton, Peyton, Phelps, Phillips, Powell, Quinan, Ricard, Russell, Sandidge, Savage, Scott, Searing, Seward, Aaron Shaw, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Warren, Watkins, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollieffer—111.

NAYS—Messrs. Abbott, Andrews, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burnett, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clemens, Clingman, Cobb, Clark B. Cochran, Colfax, Comins, Covode, Cragin, Burton Craige, Curry, Curtis, Damrell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dean, Dodd, Durfee, Farnsworth, Fenton, Foster, Garnett, Giddings, Gilman, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Hill, Hoard, Horton, Houston, George W. Jones, Kellogg, Kilgore, Knapp, Leach, Leiter, Lovejoy, Humphrey Marshall, Mason, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Palmer, Parker, Pettit, Pike, Potter, Purviance, Ready, Reagan, Ritchie, Robbins, Royce, Ruffin, Seales, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Spluner, Stanton, Tappan, Miles Taylor, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Wilson—97.

So the bill was passed.

Mr. LETCHER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The SPEAKER. There has been one motion to reconsider, and the gentleman's motion is not in order.

ADJOURNMENT OVER.

The SPEAKER. Reports are now in order from the Committee of Claims, of matters reported from the Court of Claims.

Mr. BISHOP. I move that when the House adjourns, it adjourn to meet on Monday next.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 75; as follows:

YEAS—Messrs. Ahl, Anderson, Andrews, Arnold, Atkins, Barksdale, Billingshurst, Bishop, Blair, Bonham, Boyce, Branch, Bryan, Burnett, Burns, Burroughs, Caskie, Chapman, Ezra Clark, Horace P. Clark, John B. Clark, Clay, Clingman, John Cochran, Comins, Corning, Covode, Cox, Burton Craige, Crawford, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Dean, Edie, Eustis, Faulkner, Florence, Foley, Gartrell, Gillis, Granger, Gregg, Grow, Lawrence W. Hall, Hatch, Hawkins, Hill, Hoard, Horton, Howard, Jenkins, Kellogg, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leach, Leidy, Leiter, MacLay, McQueen, Samuel S. Marshall, Mason, Montgomery, Morrill, Edward Joy Morris, Mott, Niblack, Olin, Phelps, Potter, Pettit, Powell, Purviance, Quinan, Reagan, Ricard, Ritchie, Ruffin, Shorter, Sickles, Samuel A. Smith, William Smith, Spinner, Stallworth, Stephens, Stevenson, William Stewart, Talbot, Tappan, George Taylor, Miles Taylor, Thompson, Tompkins, Underwood, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Wilson, Winslow, Wood, Wortendyke, and Augustus R. Wright—112.

NAYS—Messrs. Abbott, Avery, Bennett, Bingham, Bliss, Bockock, Brayton, Buffinton, Burlingame, Campbell, Case, Chaffee, Clemens, Cobb, Clark B. Cochran, Cockerill, Colfax, James Craig, Curry, Darnell, Davis of Mississippi, Davis of Iowa, Dewart, Edmundson, Elliott, English, Farnsworth, Fenton, Foster, Garnett, Giddings, Gilman, Goode, Goodwin, Greenwood, Robert B. Hall, Harlan, Hopkins, Houston, Jackson, Jewett, George W. Jones, J. Glancy Jones, Kilgore, Knapp, Lovejoy, Matison, Maynard, Millson, Moore, Pendleton, Pettit, Phillips, Ready, Royce, Sandidge, Seales, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Stanton, James A. Stewart, Tripp, Wade, Warren, John V. Wright, and Zollieffer—75.

So the motion was agreed to.

Pending the above call,

Mr. JONES, of Tennessee said: Mr. Speaker, I ask that the latter clause of the 39th rule be read.

The Clerk read as follows:

"No member or other person shall visit or remain by the Clerk's table while the yeas and nays are calling, or ballots are counting."

ORDER OF BUSINESS, ETC.

Mr. CHAFFEE. I move that the rules be suspended, and the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. COBB. If the House determine to go into the Committee of the Whole on the state of the Union will not the District police bill be the first business in order?

The SPEAKER. It will.

Mr. COBB. Then I make that motion.

The SPEAKER. The motion of the gentleman from Massachusetts takes precedence.

On motion of Mr. MAYNARD, the Committee of Claims was discharged from the further consideration of an act (S. No. 107) for the relief of Ephraim Hunt; and the same was referred to the Committee on Military Affairs.

Mr. DAVIDSON. I ask leave to make a report from the Committee of Claims.

The SPEAKER. The motion of the gentleman from Massachusetts takes precedence.

Mr. DAVIS, of Indiana. Is not the regular order of business the call of committees for reports of a private nature?

The SPEAKER. It is.

Mr. DAVIS, of Indiana. Then I hope we will have that call before going into committee.

Mr. GOODE. I deem it my duty to say that, if the motion to go into a Committee of the Whole House be voted down, I shall move to go into the Committee of the Whole on the state of the Union, where the police bill is the first business in order.

The SPEAKER. That motion has been made by the gentleman from Alabama.

Mr. DAVIS, of Indiana. I appeal to the gentleman from Massachusetts to withdraw his motion.

Mr. DAVIDSON. I ask the gentleman from Massachusetts to permit me to make a report from the Committee of Claims.

Mr. CHAFFEE. I must decline to yield.

Mr. GOODE demanded tellers on Mr. CHAFFEE's motion.

Tellers were ordered; and Messrs. KEITT and BUFFINTON were appointed.

The House divided; and the tellers reported—ayes 91, noes 71.

Mr. GOODE demanded the yeas and nays.

Mr. BURROUGHS moved that the House do now adjourn.

The motion was disagreed to.

The yeas and nays were ordered on Mr. CHAFFEE's motion.

Mr. SMITH, of Tennessee. I am satisfied that nothing will be done to-day, and I move that the House do now adjourn.

Mr. MORRIS, of Pennsylvania. I think it proper that the House should now adjourn, to take notice of a fact in the history of the country. A distinguished ex-member of the Senate of the United States, and one who has long enjoyed the confidence of the country, has, within the last few moments, departed this life. I hope the motion to adjourn will prevail.

Several MEMBERS. Who is it?

Mr. MORRIS, of Pennsylvania. The Hon. Thomas H. Benton.

The motion of Mr. SMITH, of Tennessee, was agreed to; and the House thereupon (at twenty-five minutes past two o'clock, p. m.) adjourned until Monday.

After the Speaker had announced the House adjourned—

Mr. JONES, of Tennessee, who had sought the floor before the motion to adjourn was put, said: Colonel Benton handed me a letter this morning, with a request that if he should die any time soon, and any notice should be taken of his death in the House, I would have it read. I now ask that it be read. The Clerk read the letter as follows:

C STREET, WASHINGTON, April 8, 1858.

To you, as old Tennessee friends, I address myself, to say that in the event of my death here, I desire that there shall not be any notice of it in Congress. There is no rule of either House that will authorize the announcement of my death; and if there were such a rule, I should not wish it to be applied in my case, as being contrary to my feelings and convictions, long entertained, as shown in a note to a speech of Mr. Randolph on the occasion of the death of Mr. David Walker, published in the *Abridgement of Debates*, volume six, page 566. The request of Mr. Walker, there recorded, and the remarks of Mr. Randolph, express entirely my sentiments and convictions. Should, therefore,

any of my kind friends, in either House, make it necessary to do so, I intrust to you to make known, by means of this note, my express wish and desire that the event remain unnoticed in Congress.

Your old Tennessee friend,
THOMAS H. BENTON.

To SAMUEL HOUSTON, Esq.,
Senator in Congress from the State of Texas, and
GEORGE W. JONES, Esq.,
Representative in Congress from Tennessee.

IN SENATE.

MONDAY, April 12, 1858.

Prayer by Rev. B. F. BITTINGER.

The Journal of Thursday last was read and approved.

DEFICIENCY BILL.

A message from the House of Representatives, by Mr. J. F. CARTER, its chief clerk, announced that it had passed a bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1858; which, on motion of Mr. HUNTER, was read twice by its title, and referred to the Committee on Finance.

KANSAS—LECOMPTON CONSTITUTION.

The message also announced that the House of Representatives had adhered to its amendment, disagreed to by the Senate, to the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. GREEN. I desire to remark that at one o'clock to-morrow, if not before, I shall call up the bill just received from the House of Representatives; and I give notice that I shall ask for prompt action on the subject.

DEATH OF COLONEL BENTON.

Mr. POLK. I do not think it would be in consonance with the wishes of Colonel Benton, as expressed just before his death, in a letter addressed by him to General Houston of the Senate, and Mr. G. W. Jones of the House of Representatives, that any public demonstration should be made in consequence of his death; but in order to give to each individual member of the Senate, as a citizen, an opportunity of attending his funeral which takes place from his house at two o'clock to-day, I move that the Senate do now adjourn.

Mr. HALE. I would suggest to the honorable Senator that he modify his motion so as to make it that the Senate will adjourn at one o'clock. That will enable us to go through the morning business. Let the motion be modified so that when the hour of one o'clock arrives, the President shall adjourn the Senate.

Mr. POLK. If it meets the view of the Senate I have no objection at all to that proposition. On the suggestion made by the Senator from New Hampshire I withdraw my former motion, and now move that at one o'clock the Senate adjourn. The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. HALE presented an additional paper in support of the claim of A. G. Allen, late Navy agent at Washington city; which was referred to the Committee on Naval Affairs.

Mr. IVERSON presented a letter of Montgomery Blair, late solicitor of the Court of Claims, recommending an amendment of the act establishing the Court of Claims; which was referred to the Committee on Claims.

Mr. HAMMOND presented a memorial of officers of insurance companies and others, citizens of Charleston, South Carolina, remonstrating against the repeal of the law establishing the Light-House Board; which was referred to the Committee on Commerce.

He also presented resolutions of the Chamber of Commerce of Charleston, South Carolina, against the repeal of the law establishing the Light-House Board; which were referred to the Committee on Commerce.

Mr. COLLAMER presented the petition of William Wheelwright, praying that measures may be taken for the establishment of a direct communication with the South American States by mail steamers; which was referred to the Committee on the Post Office and Post Roads.

Mr. HAMLIN presented the memorial of John Ewen, president of the Pennsylvania Coal Company, praying for certain amendments to the act of 1793, for enrolling and licensing ships or vessels to be employed in the coasting trade and fish-

erics, and for registering the same; which was ordered to lie on the table.

MILITARY ASYLUM.

Mr. HALE. I have in my hand a petition to which I wish to get the attention of the Senate. It is from a class of men who do not often trouble the Senate, and a class of men who are entitled to our consideration if any class is. The petition is signed by some twenty or thirty—I have not counted the number—of the inmates of the Military Asylum of this District. They pray that such compensation may be provided for them as the Government may deem just, as an equivalent for their future subsistence, in preference to the alternative of becoming residents of the Military Asylum. If the Senate will indulge me for three minutes, I wish to make a short statement of facts.

Since the attention of the Senate has been called to this subject, I can say with perfect truth that not a day has gone over my head, not even Sunday, that some old cripple on his crutches, or some lame or infirm old soldier, has not been to me, as I had moved in this matter, with complaints of the manner in which they are treated in this institution. They say that their money is not only perverted, but they are literally imprisoned, for they have not the privilege of going off the grounds without a written pass. I move that this petition be referred to the Committee on Military Affairs, with instructions to inquire into the condition and state of affairs there, and report to this House. I think, sir, if there is a single subject on which the Senate are bound to act, it is their duty, by every consideration that can address itself to them, to see that these old veterans who have defended your frontier, and carried the flag of your country in triumph to the capital of a neighboring nation, shall not be wandering about this city making complaints of the manner in which their contributions for their own support are perverted and wasted by this Government. I hope the petition will be referred to the Committee on Military Affairs, with the instructions I have proposed.

Mr. WILSON. I hope, Mr. President, that the Senator from New Hampshire will withdraw his motion, and consent that a motion shall be made to refer this matter to a special committee. I do not think the Committee on Military Affairs can have the time this session to make the investigation that is demanded. I have no doubt that the grossest abuses exist, and I hope that this petition will be referred to a special committee; and that it will take time and make a thorough investigation, and that the facts will come before the Senate and the country in an authentic form. If abuses exist, let those abuses be corrected. If unnecessary complaints are made, let it be understood that there is no foundation for those complaints. I hope the Senator from New Hampshire will withdraw his motion, and move that a special committee be appointed—a committee that can attend to this investigation; for I assure him that the Committee on Military Affairs cannot devote that attention to the subject which it demands.

Mr. MASON. If there are abuses existing at this institution, they should of course be inquired into, exposed, and remedied; but I know very well, as doubtless the honorable Senator who presented the petition does, that there are very few, especially at the advanced age that persons are admitted into this asylum, who, from nature and finding themselves under necessary restraints—restraints necessary for their own well-being and for their comfort—are not prone to complain, and to complain extravagantly, and with a great deal of color. I know nothing of this institution in the world, except that it has been established by the Government for most benevolent and philanthropic purposes. I do happen to know one of its officers, who has the charge, to some extent, of the asylum. Of his actual administration of it I know nothing; but of his character I know that which entitles me to say that it is impossible that actual abuses can exist under the administration of such a man. I do not mean, however, as honorable Senators think it is a subject fit for investigation, to prevent an investigation; but I submit that, as it belongs to the military establishment, the proper tribunal to make the investigation is the Military Committee. They will have time, beyond all question, to make any examination that will be necessary to inquire into the facts. But with every disposition to treat with proper re-

spect the complaints of the tenants at the asylum, I know enough of human nature to know that the chances are very large that their complaints are utterly unfounded; still, they should be inquired into. If the honorable Senator, therefore, will withdraw the motion he has made to refer it to the Military Committee, I shall renew it; and being the preferable motion, of course it will be first put.

Mr. HALE. I know nothing about these matters. I introduced a resolution of inquiry at the last Congress, and it was referred to the Committee on Military Affairs. The Military Committee made a report, which did disclose abuses. Upon that report a vote was had by this body, and concurred in by the House of Representatives, abolishing the asylum at Harrodsburg, Kentucky, and ordering it to be sold. Since that, I have not been to the hospital; I have not seen, or inquired, or busied myself about it; but inasmuch as I introduced the resolution, I do not state extravagantly when I say, that a day does not pass over my head, not even Sunday, when some one or more of these old men do not come up hobbling to my room, (and I room in a third or fourth story, I do not know how high,) making these complaints. I have simply discharged my duty by presenting their petition, and making the appropriate motion. It is with the Senate.

Mr. JOHNSON, of Arkansas. The institution of which the Senator speaks is, I believe, under the charge of the War Department. I am very certain that it is under the charge of officers of the Army. I have seen specific and very grave charges made in regard to the mismanagement of the institution. If those charges are true, they are outrageous. There can be no question of that, if they are true. How much of truth there may be in them, I do not know. I know this: that it is natural to all men in a dependent condition constantly to make complaints. I think it possible that a great deal of the complaint in this instance is unjust; but I also think it possible that there may be a good deal of just complaint. I believe that, when the Government has attempted to establish a charity like this—for it is little else than that—and has gone to the expense that it has, some sincere effort should be made to carry it out in the spirit in which it was framed. If there is any justice whatever in the complaints that have been made, the institution is woefully mismanaged.

I believe that the course suggested by the Senator from Massachusetts is the correct one. I do not believe the Committee on Military Affairs can go into this investigation and give to it that attention which it should have. It may be that it will require but a very short investigation. It may, however, be one of some considerable length. I trust the matter will be referred to a select committee. By mere accident I am at this time thrown at the head of the Military Committee; and I know that there is more labor, more trouble thrown on my own hands, than I feel myself able to stand up to. In my opinion, the nature and character of those charges call at our hands for an investigation of some sort; and that can best be had by means of a special committee. If those in charge of the institution are not fulfilling their duties and acting in a spirit of more justice and liberality than from the specific charges that I have seen would appear, they ought to be taken away and others placed in their positions. Who is at the head of the institution I do not know, and therefore I can speak with no personal feeling whatever. I hope the Senator will make his motion for a special committee, and let it be investigated. I cannot believe a special committee will be obtained in this body to report on this matter, that would willfully do injustice to officers of the Army, or others who may be in charge of the institution.

Mr. IVERSON. I agree with the Senator from New Hampshire and other Senators in the opinion that if one half, or one third, or a much smaller proportion, of the complaints urged against the officers of the institution be true, it is due to the interests and the character of the country that a severe investigation should be had. I do not know whether any of them be true or not; but I will take this occasion to say that one of the officers implicated, Dr. King, called on me a few days ago, and said to me that he invited an investigation; and if the Senate did not institute one of its own accord, he would present a memorial to the Senate, asking that a committee be appointed for the purpose of investigating, fully and critically, his con-

duct, at least. He not only invites, but demands, an investigation; and he is one of the officers whose conduct has been implicated in the management of this institution, by the charges which have been made. I know nothing about these charges; but I think that where there is so much smoke there must be some fire. That is my impression. I fear that this institution has not been managed in the manner that was intended by the charitable disposition of Congress when it was organized; and I doubt very much whether it can or ever will be so managed, under the charge of officers of the Army; and it is generally placed under old officers, who have grown gray in the service, and who, from a long course of command, have become probably too harsh in their management of the common soldier. It is very difficult for them to treat the soldier with that degree of leniency and charity and forbearance which the old worn out veteran probably demands at their hands. The probability is, I think, from all I have heard, that there is too much harsh treatment manifested at the institution from the hands of the officers of it towards the inmates, and that abuse, if it exists, demands correction.

I doubt very much, too, whether the finances of the institution have been managed according to the plan that Congress originally intended. At any rate, there are complaints, there are charges, urged against the management of the funds of the institution, which I think demand investigation.

Another thing: this institution is under the control and management of a board of trustees—some seven or eight or more Army officers. It is an unwieldy concern. The responsibility is so much divided that they pay little or no attention to it. I think it very doubtful whether it be not necessary to change the whole management of the institution, and take it from under a board of officers and put it under the control of the Secretary of War, or some other responsible person, who will attend to it and manage it properly.

I am in favor of the investigation sought by the Senator from New Hampshire, but I object positively and unequivocally to the investigation being imposed upon the Committee on Military Affairs. Look, sir, at the condition of that committee. The chairman, we all know, is in such a situation that he will be utterly unable, probably, to attend to any of the active duties of a Senator, or a member of the committee, during the present session. From the situation in which I understand he is, I think it extremely doubtful whether he will be able to attend to any of the duties of the committee during the rest of the session. Another member of the committee, yourself, sir, is in the chair, and the duties which you are called upon to perform in the chair render it wholly impracticable for you to attend to anything else. You could not go to the Asylum to make an investigation. I think it will be necessary for a committee, if they investigate the subject thoroughly, to visit the Asylum, to look into all its details. To investigate all the facts will require a great deal of personal labor. It will require the examination of many witnesses. It will require an investigation into the finances of the institution, an examination into the effects and bearing of the board of trustees appointed to manage this concern. There are various subjects connected with it which, I think, require investigation, and probably reform. It may be necessary to reform the institution entirely, its management and control. The Committee on Military Affairs, I am satisfied, will not have it in its power to give that attention to this subject which its importance demands. The business of that committee, from the condition of the chairman and other members of the committee, is very much behindhand. It has now a large mass of business before it, which I think it will be utterly unable to transact during the residue of the session. I know that so far as I am concerned, as a member of the committee, it will be impracticable for me to give any attention to this investigation. I am already chairman, as the Senate knows, of the Committee on Claims, the most laborious position, perhaps, that can be assigned to any Senator. We have now, perhaps, more than one hundred cases to investigate in that committee, besides those which have already undergone our scrutiny. It is a laborious service; and adding that to the ordinary duties of a member of the Committee on Military Affairs, it would be utterly

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, APRIL 14, 1858.

NEW SERIES.....No. 98.

impossible that I, for one, should be able to transact any business in relation to this institution. I think the Senator from Arkansas, who is the temporary chairman of the Military Committee, is in the same condition. I do not believe that committee will investigate, I do not believe it can investigate, the facts which are intended to be, and ought to be, investigated in regard to this matter.

It is therefore nugatory—it is idle—it is worse than useless to refer this investigation to the Committee on Military Affairs. A special committee ought to be appointed who, if they have time, may, during the session of Congress, go out to the asylum and institute a strict scrutiny and investigation into this whole business. I doubt very much whether even any special committee will have it in its power during the session of Congress to give that attention to the subject which it demands, and which it ought to receive at our hands. I question very much whether any committee, either special or general, will not find it necessary to ask leave to sit during the recess of Congress for the purpose of making the necessary investigation. But a special committee, when they come to look into it, if they find they have not the time and cannot spare the necessary labor to investigate the whole proceeding during the session, can ask for additional time to sit during the recess, if the facts become so important as that the investigation should be continued beyond the session of Congress.

I trust, then, that the Senate will not refer this question to the Committee on Military Affairs. I will tell them, in advance, that if they do this, the investigation cannot be had. I am satisfied that committee cannot, without abandoning all their other business—and some of it is of a very important character—give that attention to this subject which it ought to receive at the hands of a committee and of this body. I therefore trust that the Senator from New Hampshire will withdraw his motion to refer this subject to the Committee on Military Affairs, and let it go to a special committee.

Mr. HALE. I will make that motion to refer the subject to a select committee, upon the suggestion of the Committee on Military Affairs. But, as the first question in order, then, will be on the motion of the Senator from Virginia to refer it to the Committee on Military Affairs, I put in this motion now to refer the subject to a select committee, so that the Senate can have the alternative before them when they vote.

Mr. JOHNSON, of Arkansas. I propose to amend the proposition of the Senator from New Hampshire, by adding to it, "that the committee have leave to report by bill or otherwise."

Mr. HALE. I accept that.

Mr. WILSON. I hope the motion made by the Senator from New Hampshire, as modified by the amendment proposed by the Senator from Arkansas, will be adopted by the Senate. The acting chairman of the Committee on Military Affairs and the Senator from Georgia have stated to the Senate the condition of that committee. They cannot possibly devote attention to this subject. It has been talked about for some weeks by the members of that committee, and I think I may say here, that it is their unanimous opinion that an investigation ought to be had. These complaints come to us from men who have served their country for years with fidelity; they are entitled to be heard; an investigation ought to take place. It is due to these old soldiers; it is due also to the officers who have the care of the institution. The charges that have been made ought to be investigated; and if true, Congress ought to correct them; if they are untrue, the country ought to know it.

Without detaining the Senate any longer, I will repeat only what other Senators on the committee have said, that if it be referred to the Committee on Military Affairs, we cannot investigate the matter. If it be referred to a special committee, I think one can be raised in this body who can devote a few days to the consideration of this subject. I hope, therefore, that the Senate will sus-

tain the motion made by the Senator from New Hampshire.

The PRESIDENT *pro tempore*. According to the rules, a proposition to refer to a standing committee is first in order. The question will therefore first be on the motion to refer the petition to the Committee on Military Affairs with the proposed instructions.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question now is on referring the petition to a select committee, with the instructions proposed by the Senator from New Hampshire.

Mr. IVERSON. I suggest as an amendment, that the select committee have power to send for persons and papers, and examine witnesses under oath.

Mr. HALE. I presume it will be necessary to fix the number of the select committee. I should think three would be enough. I move that the bill be referred to a select committee of three members, to be appointed by the President *pro tempore*, and that they have power to send for persons and papers.

The motion was agreed to, and it was

Ordered, That the petition of George Masson and others, inmates of the Military Asylum in the District of Columbia, be referred to a select committee to consist of three members to be appointed by the Chair, with instructions to inquire into the manner in which this institution has been conducted, and into the condition and treatment of its inmates; that said committee have power to send for persons and papers, and to report by bill or otherwise.

REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on Patents and the Patent Office, to whom was referred the petition of Bancroft Woodcock, for an extension of his patent, submitted an adverse report; which was agreed to, and ordered to be printed.

He also, from the same committee, to whom was referred the petition of John A. Pitts and Hiram A. Pitts, for an extension of their patents, submitted an adverse report; which was considered, by unanimous consent, and in concurrence therewith it was

Resolved, That the prayer of the petitioners be rejected, and that they have leave to withdraw the transcripts of judicial proceedings accompanying their petition.

The report was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of Samuel James, Ignatius Lucas, Charles Tilley, and Thomas S. Burgey, messengers of the Navy Department, for increased compensation, asked to be discharged from the further consideration of the petition; which was agreed to. He submitted an adverse report, which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of F. M. Gunnell, submitted a report, accompanied by a bill (S. No. 253) for the relief of F. M. Gunnell, a passed assistant surgeon in the Navy. The bill was read and passed to a second reading; and the report was ordered to be printed.

Mr. MALLORY, from the Committee on Claims, to whom was referred the memorial of Ambrose Whitbeck, asked to be discharged from its further consideration; which was agreed to. He submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of the legal representatives of Rinaldo Johnson, asked to be discharged from its further consideration; which was agreed to. He submitted an adverse report; which was ordered to be printed.

STEPHEN MOYLAN.

Mr. BIGLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate be directed to request the Court of Claims to return to the Senate the memorial and papers of the heirs of General Stephen Moylan, deceased.

NAVAL MACHINE-SHOP.

Mr. MALLORY submitted the following res-

olution, and asked for its immediate consideration:

Resolved, That the Secretary of the Navy be authorized and instructed to cause a thorough examination of the iron, coal, and timber of the Deep River county, in the State of North Carolina, and that he report upon the expediency of establishing, at some point in that State, machine and work shops, for the construction of engines, boilers, &c., for naval vessels; and that he report the same to Congress at its next session.

Mr. HALE objecting to the consideration of the resolution, it lies over under the rules.

On motion of Mr. HALE, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, April 12, 1858.

The House met at twelve o'clock, m. Prayer by Rev. THOMAS H. BOGGER, D. D.

The Journal of Friday last was read and approved.

DEATH OF COLONEL BENTON.

Mr. CLARK, of Missouri. It is known to the country, Mr. Speaker, that Colonel Benton died the day before yesterday. His corpse is in this city, and his funeral will take place at two o'clock. In view of the request made by the deceased to Senator Houston, of Texas, and Mr. JONES, of Tennessee, I propose to take no further notice of his death in the House than to move that the House adjourn, so as to give members an opportunity to attend the funeral.

The motion was agreed to; and the House adjourned.

IN SENATE.

TUESDAY, April 13, 1858.

Prayer by Rev. T. H. BOGGER, D. D.

The Journal of yesterday was read and approved.

COMMUNICATION FROM COURT OF CLAIMS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the assistant clerk of the Court of Claims, returning, in compliance with a resolution of the Senate, the memorial and papers of the heirs of General Stephen Moylan; which was read, and the memorial and papers were referred to the Committee on Revolutionary Claims.

MILITARY ASYLUM.

The PRESIDENT *pro tempore* appointed Messrs. HALE, MASON, and BIGLER, the select committee on the memorial, under the order of the Senate of yesterday, relative to the Military Asylum in the District of Columbia.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of Kansas, praying for an appropriation for the erection of a penitentiary at Delaware City, in that Territory; which was referred to the Committee on Territories.

Mr. GWIN presented the petition of John C. Carter, a lieutenant in the Navy, praying to be allowed the balance of an appropriation made by the act for his relief, passed February 13, 1855; which was referred to the Committee on Naval Affairs.

Mr. MASON presented the memorial of Jonathan M. Burnett, auditor of public accounts of the State of Virginia, praying for the payment of a judgment recovered against that State, by the administrator of Isaac Holmes, deceased, for the commutation pay of said Holmes as a paymaster in the Revolution; which was referred to the Committee on Revolutionary Claims.

Mr. ALLEN presented the memorial of E. Carrington Bowers, a lieutenant in the Navy, who was placed on furlough and afterwards transferred to leave of absence, praying to be allowed the difference of pay between those positions; which was referred to the Committee on Naval Affairs.

Mr. STUART presented a memorial of Jason Smith and others, praying to be allowed pensions for military services in the war of 1812; which was referred to the Committee on Pensions.

Mr. THOMSON, of New Jersey, presented the memorial of W. Brenton Boggs, a purser in the

North Pacific exploring expedition, praying to be allowed additional pay; which was referred to the Committee on Naval Affairs.

Mr. KING presented the petition of James T. Wild, and the other heirs of Daniel Wild, praying indemnity for French spoliations prior to the year 1800; which was ordered to lie on the table.

He also presented the petition of Israel Moses, praying the adoption of an improved ambulance, or carriage invented by him for the transportation of the sick and wounded of an army; which was referred to the Committee on Military Affairs.

Mr. FESSENDEN presented a petition of citizens of Maine, for the enactment of a law granting pensions to the surviving officers and soldiers of the Army and Navy of the war of 1812; which was referred to the Committee on Pensions.

Mr. KENNEDY presented a memorial of merchants of Baltimore, Maryland, remonstrating against the repeal of the act establishing the Light-House Board; which was referred to the Committee on Commerce.

Mr. BROWN presented a petition of citizens of Washington City, praying that the Belgian pavement may be adopted in repairing Pennsylvania avenue, and in paving the streets adjacent to the proposed enlargement of the Capitol grounds; which was referred to the Committee on the District of Columbia.

PAPERS WITHDRAWN.

On motion of Mr. WADE, it was

Ordered, That the heirs of Thomas Hazen have leave to withdraw their petition and papers.

REPORTS OF COMMITTEES.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the petition of Elizabeth A. Middleton, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Nancy Hammond, daughter of James Dennison, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Catharine L. McLeod, only surviving child of Ebenezer Markham, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of inhabitants of Yates county, New York, in behalf of Martha Brown, submitted an adverse report.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a motion to print the report of the Secretary of the Navy, communicating an abstract of offers for furnishing articles falling under the cognizance of the Bureau of Yards and Docks, reported in favor of the motion; and it was agreed to.

Mr. POLK, from the Committee on Claims, to whom was referred the petition of William G. Dove, submitted an adverse report; which was ordered to be printed.

Mr. SEWARD, from the Committee on Foreign Relations, to whom was referred the memorial of Townsend Harris, submitted a report, accompanied by a bill (S. No. 254) for the relief of Townsend Harris. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of Adam Hays, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of citizens of Michigan in behalf of the children of Thomas Fitzgerald, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Anthony Caslo, or Castle, submitted a report, accompanied by a bill (S. No. 255) for the relief of Anthony Caslo, a soldier of the war of 1812. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. KING, from the Committee on Military Affairs and Militia, to whom was referred the memorial of the executor of Daniel Randall, submitted a report, accompanied by a bill (S. No. 256) further explanatory of an act approved 18th August, 1856, entitled "An act for the relief of Adam D. Stuart and of Alexander Randall, executor of Daniel Randall." The bill was read, and

passed to a second reading; and the report was ordered to be printed.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the petition of Jacob W. Morse, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Agnes Slacke, and the heirs of De Repentigny, submitted a report, accompanied by a bill (S. No. 259) authorizing the courts to adjudicate the claim of the legal representatives of the Sieur De Bonne and of the Chevalier De Repentigny to certain land at Sault Sainte Marie, in the State of Michigan. The bill was read and passed to a second reading; and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 257) concerning appeals and writs of error; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BAYARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 258) concerning seamen; which was read twice by its title, and referred to the Committee on Commerce.

NAVAL MACHINE SHOP.

On motion by Mr. HALE, the Senate proceeded to consider the following resolution submitted yesterday by Mr. MALLORY; and it was agreed to:

Resolved, That the Secretary of the Navy be authorized and instructed to cause a thorough examination of the iron, coal, and timber of the Deep River country, in the State of North Carolina, and that he report upon the expediency of establishing, at some point in that State, machine and work shops, for the construction of engines, boilers, &c., for naval vessels; and that he report the same to Congress at its next session.

LUTHER JEWETT.

Mr. FESSENDEN. I desire the Senate to take up a bill which has been recently reported. It was passed by the Senate at the last Congress, and has received the unanimous sanction of the Committee on Claims. I think there will be no sort of objection to it. It is the bill (S. No. 245) to authorize the settlement of the accounts of Luther Jewett, late collector of the district of Portland and Falmouth, in the State of Maine. The reason is, that there is a case pending in the courts against him, and this bill was brought in at the suggestion of the Secretary of the Treasury, in order to authorize this allowance to be made.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

It proposes to direct the proper accounting officers of the Treasury Department to credit the account of Luther Jewett, late collector of the district of Portland and Falmouth, with the amount of \$1,000, that sum having been lost in transitu from him to be deposited with the assistant treasurer at Boston.

It appears that the late Luther Jewett, as collector of the customs for the district of Portland and Falmouth, being required by the Treasury Department to deposit the public money in his hands, from time to time, with the assistant treasurer of the United States at Boston, asked authority of the Department to employ Messrs. Langley & Co., expressmen, to carry the money. Langley & Co., whose business was exclusively that of expressmen, and who were employed by the banks and merchants generally to carry specie and money securities between Boston and Portland, were in good standing, and had the entire confidence of the public. It would seem, too, that, with the exception of going personally to Boston with the money, the employment of this express was as safe and prudent a course as Mr. Jewett could have adopted. In his application, Mr. Jewett stated that the charge of Langley & Co. would be "twenty-five cents for each thousand dollars;" and, in reply, the Department, acknowledging the receipt of his letter, gave no distinct permission to employ the express, but said: "I have received your letter of the 3d instant, in reply to mine of the 23d ultimo. I would state, in reply, that the act of March 3, 1849, requires that the collectors shall deposit their collections; the expenses attending such a deposit will be a proper charge upon the Treasury, and will be allowed in the settlement of your account as disbursing agent." Jewett made his deposits, regarding this letter as

his authority, with the sub-Treasury at Boston, through Langley & Co.; and the expenses were charged in his accounts, and allowed by the Department. Langley & Co. suddenly failed in the fall of 1852, and Jewett now found that they had failed to deposit two sums of money severally placed in their hands—one of \$1,000, and one of \$1,500. This failure was total, and brought great distress upon the mercantile community; and the committee are assured, by a reliable statement, that Jewett himself lost a large sum of his own money by it. He produced Langley & Co.'s receipt for the \$1,000, but none for the \$1,500; nor does he make such proof as the Committee on Claims deem satisfactory that he sent this sum by the express. Under the circumstances, the committee report a bill for the relief of the memorialist to the extent of the \$1,000.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FABIUS STANLEY.

Mr. BIGGS. As the Senate appears to be through with the morning business, I ask that they take up for consideration the bill (S. No. 208) for the relief of Fabius Stanley.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

By the bill the proper accounting officers of the Treasury will be directed to pay to Fabius Stanley, as full compensation for his services during the time he was actually on duty and attached to the navy-yard at Mare Island, California, at the rate of \$2,100 per annum, deducting therefrom the pay he received for his services during that period.

Mr. STUART. I should like to hear the report in that case.

The Clerk read the report made by Mr. MALLORY, on the 19th of March last, as follows:

The Committee on Naval Affairs, to whom was referred the petition of Fabius Stanley, a lieutenant in the Navy of the United States, praying to be allowed the difference between the pay of a lieutenant and that of a commander during the time he was actually attached to the navy-yard at Mare Island, California, have had the same under consideration, and report:

The petitioner, a lieutenant in the Navy, was detailed on the 22d of November, 1854, by the Navy Department, for duty at the navy-yard, Mare Island, California; and under this order he performed duty there for about one year, he being the only commissioned officer, besides Commander Farragut, commanding the yard. The petitioner's pay was \$1,500 per annum. This, as he alleges, was insufficient to support him; and he cites the following as the rates of pay at the yard at the time, namely: Carpenters, blacksmiths, and masons, \$8 per day; clerks, \$8 20 per day; laborers, \$5 50 to \$6 50 per day.

Your committee find that, under the act of the 5th of August, 1854, the commander of this yard, entitled by his lineal rank to \$2,100 per annum, received \$3,500 per annum (the pay of the next highest grade) in consequence of the enhanced price of all the expenses of living in California; and upon referring to the Senators from that State for information as to such expenses at the time of Lieutenant Stanley's service, they state it to be about fifty per cent. above those in the eastern States: "servants' hire, board, washing, &c., being from fifty to one hundred per cent. higher."

The Secretary of the Navy, on the 18th of February, 1857, in response to a letter addressed to him by the committee on this case, says: "My opinion is, that the pay of the officers of the navy-yard at San Francisco has not been fairly proportioned to the immense extra expenses to which they have been subjected. I have frequently officially recommended that the pay of the officers at that navy-yard should be greater than that of those at other yards. In the case of Mr. Stanley I am not aware of any other peculiar claim."

The prayer of the petitioner is for commander's pay in lieu of that he received as lieutenant; and deeming his prayer reasonable, your committee report a bill accordingly.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

J. L. ALLEN AND A. R. CARTER.

Mr. BROWN. I ask the indulgence of the Senate to take up a little bill (S. No. 162) for the relief of John L. Allen, and Asa R. Carter. It has passed the Senate two or three times and been lost in the House of Representatives for want of time. I presume it will not lead to debate. If it should, I shall consent that it lie over.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

It provides for the payment to John L. Allen and Asa R. Carter, of the sum of \$6,100, in full for their extra services, clerk hire, &c., in locating as register and receiver of the land office at Augusta, Mississippi, certain Choctaw scrip cer-

tificates, and lands for the Ohio and Mobile railroad, during the years 1850, 1851, 1852, and 1853.

During the three years and a half the petitioners held the offices of register and receiver, their compensation for cash entries of lands and lands entered with military warrants, amounted to \$871 94, exclusive of their respective salaries, \$500 each, and during these three and a half years, there were entered at the office twenty-two thousand one hundred and one and one seventh acres of land, located with Choctaw scrip, besides all the lands located for the Ohio and Mobile railroad, which required much extra labor, clerk hire, &c.; for all of which the petitioners have received no compensation. The Committee on Public Lands are of opinion that it is but fair and just the petitioners should be paid a liberal compensation for the extra labor and clerk hire necessarily performed and employed by them in locating the Choctaw scrip and railroad lands.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CONSULAR DECREES IN CHINA.

Mr. BAYARD. I ask the Senate to take up a resolution reported by the Committee on the Judiciary, upon the message of the President of the United States, transmitting a copy of the decree and regulation made by the United States Commissioner to China, on the 4th of March, 1857. The resolution ought to be passed. It is simply a resolution of this body.

The motion was agreed to; and the Senate proceeded to consider the following resolution, reported by the Judiciary Committee on the 20th of March:

Resolved, That no revision by Congress of the decree and regulation made by Peter Parker, Commissioner of the United States in China, on the 4th of March, A. D. 1857, entitled "Regulation for the consular courts of the United States of America in China," is requisite.

Mr. BAYARD. I will state very briefly the object of the resolution. Under an act of Congress, the Commissioner of the United States in China is authorized to make rules and regulations, and transmit them to the President, to be laid before Congress for revision. The Commissioner in China, on the 4th of March, 1857, owing to the disturbed state of affairs there, made a certain regulation or decree for holding the consular courts in the different ports on board of United States vessels, with the consent of the commander; and in the absence of a United States vessel, on board any ordinary commercial vessel of the United States, with the consent of the captain of the vessel. The object was only to enable them to have jurisdiction when, from the disturbed state of affairs, their functions could not be performed on land. The committee were unanimous in the opinion that the decree was a proper one; and therefore, in their opinion, required no revision. The resolution was adopted.

CONVEYANCES OF VESSELS.

Mr. HAMLIN. I ask the Senate to take up a bill which I reported a few days since from the Committee on Commerce. I think it will give rise to no debate. It is a bill in relation to recording bills of sales of vessels.

The motion was agreed to; and the bill (S. No. 248) to amend or define the act of July 29, 1850, entitled "An act providing for recording the conveyances of vessels, and for other purposes," was read a second time, and considered as in Committee of the Whole.

It provides that when the bill of sale, mortgage, conveyance, or hypothecation, named in the first section of the act of July 29, 1850, shall have been made at the port where the vessel is permanently registered, or enrolled, it shall be taken as a compliance with the law; and it shall not be necessary to record the bill of sale, mortgage, hypothecation, or conveyance, at the port where such vessel may be temporarily registered, or enrolled.

Mr. HAMLIN. The object of the bill is simply to supersede the necessity of recording these papers under a temporary license, or enrollment; and it meets the unanimous approbation of the Committee on Commerce.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOSEPH HARDY AND ALTON LONG.

Mr. POLK. I ask the indulgence of the Sen-

ate to take up the bill (S. No. 198) for the relief of Joseph Hardy and Alton Long.

Mr. WILSON. I shall have to object to that. There is a special assignment for half past twelve o'clock, which I want to take up now, and I call for it.

The PRESIDENT *pro tempore*. I will say to the Senator from Massachusetts that, under the rules, the day having passed over for which the bill to which he alludes was made the special order at half past twelve o'clock, it loses its precedence over the other special orders.

Mr. WILSON. I understood that a special assignment did not lose its place. I hope the Senator from Missouri will not object to taking up the matter now. I think we may dispose of it in a few moments. I allude to the bill to facilitate communication with the army in Utah. If anything is to be done at this session it ought to be done at once.

The PRESIDENT *pro tempore*. I will say to the Senator from Massachusetts that it is in the power of Congress of course to take up the bill out of its order; but there are several special orders which take precedence of it. The day having passed for which that bill was made the special order at half past twelve o'clock, it goes at the foot of the special orders, and does not now obtain precedence.

Mr. WILSON. I think the Chair is mistaken. The rule says:

"Special orders shall not lose their position on account of intervening adjournments; nor shall they lose their relative position on the Calendar, except by vote of the Senate, until finally disposed of."

However, I will not insist on that. I move to take up the bill now.

The PRESIDENT *pro tempore*. The Senator from Missouri had the floor. I supposed the object of the Senator from Massachusetts in rising at first, was simply to put a question to the Senator from Missouri, which has caused the irregularity that has intervened. The Senator from Missouri is entitled to the floor.

Mr. POLK. I do not think the bill to which I called the attention of the Senate will occupy long. I hope it will be taken up. It is a bill (S. No. 198) reported from the Committee on Claims.

The motion was agreed to; and the bill (S. No. 198) for the relief of Joseph Hardy and Alton Long was read a second time, and considered as in Committee of the Whole.

It proposes to instruct the Secretary of the Treasury to ascertain, as in the case of John P. B. and Henry Gratiot, what amount, if any, of rent was exacted by the United States agents of lead mines from Joseph Hardy, for lead mined and smelted upon the lands of the Ottawa, Pottawatomie, Chippewa, Winnebago, or other tribes of Indians, prior to their purchase by the United States, and to pay such amount as may be legally proved to have been actually paid by Joseph Hardy to such agents of the United States, to Joseph Hardy and Alton Long.

Mr. POLK. I will state, for the information of the Senate, the nature of this claim. Prior to the purchase from the Indians, by the United States, of the country in the neighborhood of Galena, these claimants leased of the Indians the right to dig and take the lead on a certain tract of land. The United States sent an agent there, and compelled them, though the United States had not acquired title to the land, to pay, in the shape of a rent to the United States, a per centum of all the lead that they dug. They continued to pay rent after the United States purchased the land of the Indians. There was a claim of the same character, in favor of John P. B. and Henry Gratiot. J. P. B. Gratiot presented his claim to Congress, and Congress appropriated to him so much as the Government had extracted from him by virtue of this lease, which they claimed the right to give to him—the right to mine merely—because they had the power to do it. The land at that time still belonged to the Indians, and the right they had gotten from the Indians was merely a usufructuary right. This bill proposes that there shall be refunded to these claimants the amount of rent that was extracted from them by the United States under similar circumstances, just as the United States have already refunded to J. P. B. Gratiot. I will state that the interest they had was a usufructuary interest merely, and therein was not in conflict with the position the United

States have always holden to the Indian lands, to wit: that they will allow no use by the Indians, except a usufructuary use of the land. This party had only that which was got from the Indians; but before the United States acquired title, they said to him that he should pay a rent to them for the usufructuary interest he had in the land, he having also come under obligations to, and purchased this right from, the Indians. It is merely to refund him the amount the United States took from him.

Mr. STUART. I inquire of the Senator if he knows what the amount is? It is not stated in the bill.

Mr. POLK. The official documents will show that.

Mr. STUART. About what amount is it?

Mr. POLK. I am not able to state. I do not now recollect. I did not draw the report. The Senator from Georgia [Mr. Iverson] drew it.

Mr. IVERSON. It is not very large. There is a letter accompanying the bill showing it.

Mr. STUART. I should like to hear it.

The PRESIDENT *pro tempore*. The Clerk will read it.

The Clerk read the following letter:

GENERAL LAND OFFICE, February 21, 1850.

SIR: Your letter of the 14th instant, addressed to the Secretary of War, desiring certain papers and information, having reference to the mining and smelting operations of Joseph Hardy, late of the Galena lead mines, and now a claimant before Congress, has been referred for the consideration of this office and for reply, the mineral business of the United States being under its management.

After a careful examination of all the documents, books, and papers on file in this office, having any connection or relation to mineral affairs, there is no contract, lease, license, or permit to be found among them in the name of said claimant; but I have the honor to furnish you with an exhibit of the amount of rent lead paid by Joseph Hardy to agents of the United States, prepared from their abstracts and returns made to the ordinance bureau, then having charge of the United States lead mines and all matters pertaining thereto, being full amount exacted as rent from the year 1826 up to the ratification of the treaty of Prairie du Chien, with the Indians, for the purchase of that section of country, the mines being within the boundary of that cession. I have included, also, in the sum total of rents paid the amount taken from entries in the account books of said agents or superintendents which should properly be added—that is, taking it for granted they are equally conclusive testimony with the returns, &c., in favor of Mr. Hardy.

The fact of such an amount of rent lead having been paid, and returns of the same made by the officers of the Government to the proper department, the implication I think is clear that a lease, permit, or other agreement between the United States and Mr. Hardy once existed.

The total amount of rent lead paid by Joseph Hardy, and within the period above stated, is one hundred and seven thousand four hundred and ninety-two pounds.

It will be perceived by the acknowledgment of Mr. Hardy that, in contracting with the Indians for permission to dig for lead ore and smelt the same upon their lands, he acted in violation of law inhibiting all intercourse and trade with them, without permission from the General Government; if not so expressly enacted, certainly contrary to the spirit of the laws upon the subject. Section twelve of the act approved May 19, 1796, it would seem, reaches the case in question, an extract of which is as follows:

"And be it further enacted, That no purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian, or nation or tribe of Indians, within the bounds of the United States, shall be of any validity, in law or equity, unless the same be made by treaty or convention, entered into pursuant to the Constitution," &c., with penalty for treating without authority.

On the other hand, a precedent in favor of Mr. Hardy should, I beg leave to suggest, be considered, being an act approved the 14th of August, 1848, for the relief of John P. B. and the legal representatives of Henry Gratiot, their claim being precisely of a similar character to that presented by Mr. Hardy.

I herewith return, inclosed, the petition which accompanied your letter.

With much respect, your most obedient servant,

J. BUTTERFIELD, Commissioner.

HON. J. R. J. DANIEL, Chairman of Committee of Claims, House of Representatives.

Exhibit of rent lead paid by Joseph Hardy to agents of the United States, prior to the ratification of the treaty of Prairie du Chien, of January 2, 1830.

Amount from entries in account books of agents or superintendents, corroborated by returns and abstracts:
Consolidated return for quarter ending December 31, 1826, is..... 11,221 lbs.
Consolidated returns for March 31, 1827..... 2,788 "
Consolidated returns for month of May..... 6,176 "

From abstracts and returns alone..... 20,185 "
..... 87,307 "

Making a total of..... 107,492 "

GENERAL LAND OFFICE, February 21, 1850.

Mr. STUART. It seems to me that the principle on which this bill is recommended, is hardly a safe one; but I see by the report that another bill of a similar character is said to have already

passed Congress. We have, however, never admitted the doctrine that the Indians have any absolute right to the lands at all. They have no title, nothing that they can lease, nothing that they can dispose of. As the letter of the Commissioner of the General Land Office states, it was a penal offense to make any bargain with them in regard to their lands at the time this lease was made. It seems, too, that this was done at a time when negotiations were pending, or contemplated; negotiations were immediately afterwards completed, by which the Indians were removed from the land. This is a very considerable amount, and it does not seem to me that any principle of equity exists in the case at all. All know that the business of lead mining at that day was a very lucrative one, one out of which a great deal of money was made; and there is nothing in these papers that goes to show that it was not so. This bill now proposes to pay, I think it is, one hundred and seven thousand pounds—

Mr. JONES. Of lead only.

Mr. STUART. But that is the statement of the amount to be paid.

Mr. JONES. That much lead ore.

Mr. STUART. It seems to me, that whatever be the amount, the principle is one which it will not do for the Congress of the United States to sanction. As I said, we do not admit that the Indians have any absolute right to the country they occupy at all; we have always denied it; but in the spirit of guardian and ward, we have dealt liberally and generously with them when they are removed from any particular portion of our country, and it is opened to occupation by the whites. It seems to me, this principle should not be violated, and that the policy of the intercourse laws with the Indians should not be violated either.

I call the attention of the Senate to the facts; and I shall ask the privilege of recording my own vote against the bill. I hope, therefore, that the yeas and nays will be taken upon its passage.

Mr. JONES. I happen to have been a resident of the country occupied by Mr. Hardy and these Indians, at the time that he paid this rent. These people were required to pay rent to the United States Government for working the lead mines, while at the same time they were paying the Indians for the same thing; and I believe that if any people in the world have a just claim on the Government of the United States for the refunding of money improperly exacted from them, the smelters who occupied this country at that time are entitled to be paid the rent exacted of them by the Government, as the Gratiots have already been. I know, sir, that but for the friendly feelings the Indians had for the Gratiots, and the other smelters in that region, who exercised great influence over them, war, in all probability, would have existed in the country before it did. The purchase of the country south of these lead mines from the Sacs and Foxes in Illinois, brought on what was called the Black Hawk war. If the Indians had not been kept quiet and friendly by the smelters, who occupied these lead mines, and who paid rent to the Indians themselves, in the shape of balls, powder, stroud, pork, flour, &c., we should have been involved in war much sooner than we were. They made these payments to the Indians in good faith, and paid them a full compensation, as much for the right to trade with them, and to work their lead mines, in proportion, as those traders do who buy their furs from them, and who are not, and never have been, required by the Government of the United States to pay any rents or any duties to the Government for the privilege of trading with the Indians anywhere.

I resided in this country in the year 1827. I was acquainted, I believe, with Mr. Hardy, and I was intimately acquainted with the Gratiots. I know they paid full compensation for the privilege of working these mines, and I believe this money ought to be refunded to them. It ought long since to have been refunded to them. It ought now to be refunded with interest, in my opinion.

The Senator from Michigan says that at the time these gentlemen were occupying this country, negotiations were going on for a treaty. I was there, and know that was not exactly the case. The treaty was not made at Prairie du Chien until 1830. Some of these gentlemen went there as early as 1822; the Gratiots went there as early, I believe, as 1822.

The Senator from Michigan says the amount

is a large one. It is a large one in pounds of lead, I admit. But, sir, the burden was exceedingly onerous on these smelters, because they paid a heavy rent to the Indians in the first place, and then were required to pay ten per cent. to the United States, by their agent, Martin Thomas, who had no authority even from the Government to exact rent from the miners at that time. They paid this high rent at a time when lead was exceedingly low. It sold as low as \$1 25 per hundred pounds at Galena, at the very time they were required to pay this heavy rent. I know that some of the most wealthy men in the country were broken down because of these exactions by the Government of the United States. They were absolutely bankrupted, and made to suffer very much in consequence of it. Among them was the late distinguished Senator from Wisconsin, Governor Dodge. He was one of the men who settled in this country, and who worked these lead mines by permission from the Indians. The Indians became very much attached to him because he was kind to them, but at the same time they feared him. They permitted him to work the mines. He, too, paid them large sums of money in the way of pork, flour, provisions, powder, clothing, blankets, &c. These men were actually of great service to the Indians; and although perhaps the Indians had no right to make treaties with them, (and I admit that they had not under our system,) they did agree to allow these men to work the lead mines, and the arrangement was made with them in good faith, and for the sake of keeping the peace. I believe the white people could have taken possession of the country *vi et armis*, and could have worked the mines in defiance of the Indians; but they chose not to do so, and preferred to deal peaceably with them, and to be generous to them. I hope the bill of the Senator from Missouri will be passed. It ought long since to have been passed; and I hope Mr. Hardy will be paid interest. I do not know whether he asks for interest or not; but if he does not, he ought to ask for it.

Mr. STUART. I have no disposition to prolong this debate; but the Senator from Iowa must be mistaken in one respect, or else the papers which have been read are erroneous. This application is for payments made about a year immediately preceding the making of the treaty of Prairie du Chien. Therefore, I say that negotiations must either have been actually pending or they must have been in immediate contemplation. But, sir, the Senator does not answer the points I made. The law prohibited any bargaining of this kind with the Indians; and for what purpose? For the very purpose of preventing what the Senator says there was danger of—war. We all know, who know anything about Indians, that one of the most fruitful sources of difficulties with them grows out of the instigations of white men, who get into their midst and induce them to come into conflict with the white people, for the purpose of making money to these very same men when a peace is negotiated. Hence, the policy of the law is to keep these men out with their traffic, with their powder, their blankets, and their whisky, and with everything else that can contaminate the Indians or alienate their feelings from the Government of the United States. That law was violated; violated by these men.

Then again, sir, I stated the principle we have always held, which is violated here. But besides, there is not a single statement in this case, that I have heard of, which goes to show that these claimants have any equity at all. They base their claim upon the ground that they made a bargain with the Indians, and paid them; and that they were thereafter compelled to pay the United States; and hence they say that, having made the bargain with the Indians, and paid them, what they paid the United States must be refunded. There is the principle of this case, and I submit that it is a principle which the Senate cannot sanction. I am not prepared to say that a very strong case in equity of this character might not be presented; but there is none shown here. It is an old case, of long standing, and it is based upon another. The direction in the bill is to settle this claim as another claimant was settled with, and all we have here to show on the subject is a certain number of pounds of lead which they paid as rent to the United States. There is nothing in the case which goes to show that there was extortion, nothing

which goes to show that there was great loss on this account. It was a business that they could have abandoned at any minute, and abandoned in compliance with the law. If they persisted in it, it is fair to presume that it was lucrative.

There is then, I repeat, sir, nothing in equity to support this bill; and it is in the very face of the law of the United States and the principles upon which we treat with the Indians. These are considerations that, with me, weigh much beyond any amount of money that may be involved in the case; because, if these precedents be set they will subsequently be resorted to as we see this single case already passed is resorted to, in order to base this upon. We do not know what were the facts in regard to the condition of this lead country at that time. We do not know how many men were dealing in the same way, nor when you will get through paying this sort of claims. It was therefore that I said to the President that I desired the yeas and nays upon this question, for I wished to record my vote against the bill, involving, as I believe it does, a very dangerous principle.

Mr. IVERSON. I see it lacks only two or three minutes of the time at which the Senator from Missouri [Mr. GREEN] yesterday gave notice of his intention to call up the Kansas bill. I therefore propose to move that this bill be postponed until to-morrow. I desire to make some remarks, as I submitted the report in favor of it. I think I can successfully answer the objections the Senator from Michigan has presented, but I have no time to do it now. I am not disposed to go into the argument and to be cut short. I therefore move to postpone the bill until to-morrow.

The motion was agreed to.

PACIFIC RAILROAD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportations of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California.

Mr. GWIN. I wish to offer another amendment to the bill, in the second section, line nine, to strike out the word "ten" and insert "twelve," so that it will read, "shall not exceed twelve years." I am instructed by the select committee to offer this amendment. The bidder is to complete the road within twelve years instead of ten years of the execution of the contract. That is the effect of the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. WADE. I desire to ask for the yeas and nays on the passage of the bill.

Mr. FOSTER. I wish to move an amendment.

Mr. PUGH. I ask the Senator from California what has become of all the amendments that were offered?

Mr. HAMLIN. They have been adopted.

Mr. PUGH. But there were several substitutes printed. I believe the Senator from Mississippi [Mr. DAVIS] had one. I have not seen it offered.

The PRESIDING OFFICER, (Mr. Foor in the chair.) The Chair is not aware that any substitute has been offered. The Chair remembers that the Senator from Mississippi presented a bill in the form of a substitute to be offered by him. The individual now occupying the chair also presented another substitute to be offered in a certain contingency, which, however, is not now likely to arise, in the opinion of the Chair, and it will not probably be offered. The Senator from Connecticut [Mr. FOSTER] has the floor.

Mr. GREEN. Will the Senator from Connecticut give me the floor to move to postpone this subject until to-morrow, and take up the Kansas bill?

Mr. GWIN. I hope it will not be passed over until to-morrow. I think the Kansas question can soon be disposed of.

Mr. GREEN. Then let us pass over this bill informally.

Mr. IVERSON. I hope the Pacific railroad bill will be postponed until to-morrow. I ask it as a favor to me; I have some very important amendments which I wish to offer; I have them not altogether prepared yet; I have them partially made

up, but I have left them at my quarters; I did not bring them, not anticipating that the bill would be pressed to-day. I move to postpone the bill until to-morrow.

Mr. CAMERON. I desire to say, too, that I have had the honor to submit an amendment to this bill as a substitute, which I am not yet prepared to present, but I shall be in a short time.

Mr. GWIN. I wish to make a suggestion. The Senator from Connecticut has an amendment, to which there will be no objection. I hope we shall make some little progress to-day, and act on his amendment.

The PRESIDING OFFICER. The question is on the motion to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

KANSAS—LECOMPTON CONSTITUTION.

Mr. GREEN. I now move that the Senate proceed to the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union, which has been returned from the House of Representatives, with a message announcing their adherence to their amendment.

The motion was agreed to.

Mr. GREEN. I move that the Senate insist upon its disagreement to the amendment of the House of Representatives, and ask for a committee of conference.

Mr. KING. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. SIMMONS. Is the motion subject to division? I understood the motion to be to insist, and ask for a conference. Cannot it be divided? Is not the first question on insisting?

Mr. GREEN. I had thought, from the parliamentary law, that two distinct motions would have been proper; but I have advised with older and more experienced members, and they inform me that the customary method is to insist and ask for a conference at once by one motion. I have no objection either way.

Mr. SIMMONS. I ask for a division of the question.

The PRESIDENT *pro tempore*. The Chair will remark to the Senator from Rhode Island that the motion made by the Senator from Missouri is strictly in order. To insist simply, without asking for a conference, would accomplish nothing. Hence a motion to insist and ask for a committee of conference is the proper motion.

Mr. PUGH. I think there is some doubt about that. I have no doubt that it is perfectly in order for us to ask for a conference with the House of Representatives at any stage of a bill. We can do it after the first reading; we can confer with the House of Representatives at any time; but I understand the House has adhered, and I do not think it is proper to insist after an adherence. I know it was done once in the case of the Army appropriation bill; but that bill finally failed, at all events, and I do not think there can be any other precedent found. I should like some of the gentlemen with whom the Senator from Missouri says he has consulted, to inform me how it is that we can insist, after the other House has adhered? An adherence, as I understand it, is a distinct notification to us that the other House will not admit any amendment of their propositions; for I do not see how they can amend it after they have adhered to it, any more than they can amend a bill that has long since passed and gone out of their possession. I submit to the Senator from Missouri that his proper course would be, as I understand, simply to ask for a committee of conference, leaving out the insisting. I am not strenuous about it, but I should like to understand how it is that we can insist, after an adherence by the other House.

Mr. GREEN. There is no difficulty upon the right of the Senate to insist; and, moreover, it is the duty of the Senate to insist before they ask for a conference; and insisting, they then desire to confer with the House of Representatives to see what can be done by a mutual interchange of opinion. It is competent for the Senate then to adhere to their former position; and both Houses adhering, any further proposition of conference would be cut off. Even after the House has, by resolution, determined to adhere, it is proper for that House to yield to our proposition to confer. The contrary was once held, as I find on reference to the Manual; but the subsequent practice

has been, not only here but also in the Parliament of England, to admit a conference after a resolution to adhere. It is not necessary to read the cases.

Mr. PUGH. The Senator does not seem to notice my distinction. If an adherence cuts off the bill, then it is cut off at the other end, as I think, as effectually cut off as if it were cut off at both ends. I do not see how the House of Representatives can admit any amendment after an adherence; but I may be wrong about that. I admit that it is competent to have a conference after an adherence on the one side; but what is the purpose of that conference? And herein comes the distinction, where I think the Senator will find that his motion will get him into trouble. When we insist and ask for a conference, we take the bill and give it to the other House, and then the first vote comes in the other House, because the Senate takes action positively; the Senate insists and asks for a conference, and our conferees give the bill to the other conferees, to be taken, first, to the House; but if we leave the bill here, and simply ask for a conference, our conferees come back and report to us, and we take the first vote. We can have a conference before receding, or before adhering. Either of those things we can now do. We can either recede or adhere, or we can have a conference before we take a vote on either proposition; but if we insist and ask for a conference, we have to leave the bill with the conferees of the other House; and what vote can they take with it? They have already voted to adhere. As I said, there is but one precedent that I know of, and that is the case of the second Army appropriation bill of the last Congress; it was the second taken up at the extra session; it was the old bill of the former session. On that bill there had been, I think, three committees of conference at the regular session, and it came to the extra session. The House of Representatives adhered, and sent notice to us, and I believe we insisted; I did not pay attention to the words of the motion; at all events, we asked for a conference, and then we adhered ourselves. The bill never became a law—the House did not recede. I say it is in order to have a conference after an adherence on the other side; but I do not think it is in order to insist, and therefore I submit that the Senator's motion ought to be simply to ask for a conference.

Mr. HUNTER. Since I have been here, sir, the invariable course has been to insist and to ask for a committee of conference. Nor have I ever known a case when the motion was divided. Indeed, I have inclined to suppose that it was indivisible. On that point, however, I will not express any positive opinion. I know it is unusual; I have known of no such instance in either House. The Senator from Ohio asks what is the use of insisting and asking for a conference, if the other House has adhered. He seems to think that by adhering, the other House has put an end to the bill. Not so, sir. If we insist and ask for a conference, the result may be that the other House may recede, and that was the precise result, as well as I recollect, in the case of the Army bill. After several conferences, the House of Representatives did recede from its adherence. It is true that the adherence of the House may put an end to an amendment, or to any change of their amendment, though I hardly think it does that. I believe the two committees may meet together and propose an amendment. Certain it is that the House can recede from its amendment, and if it does so, the original bill passes. Therefore, sir, there is an object in insisting and asking for a committee of conference, nor am I aware that that motion has ever been divided.

The PRESIDENT *pro tempore*. The seventeenth joint rule determines that. It requires the adherence of both Houses to destroy a bill. The simple adherence of one does not defeat a bill.

Mr. HUNTER. Certainly; so I understand.
Mr. GREEN. I find in the Manual what I will read to the Senator from Ohio:

"And on another occasion the Lords made it an objection that the Commons had asked a free conference after they had made resolutions of adhering. It was then affirmed, however, on the part of the Commons, that nothing was more parliamentary than to proceed with free conferences after adhering, (3 Hats., 269.) and we do, in fact, see instances of conference, or of free conference, asked after the resolution of disagreeing."

It refers to a number of cases "of insisting," "of adhering," and even "of a second or final adherence."

A conference can even then be had.

Mr. SIMMONS. I suggested a division of this question, and it struck me as very proper, because I did not know how to vote upon the motion as it was made. It was a motion to insist, and ask for a conference. I may be against insisting, but in favor of asking for a conference, and *vice versa*. I cannot vote upon the motion so as to suit myself.

Mr. GREEN. To accommodate the Senator, I will make two motions; first, to insist, and then to ask a conference.

The PRESIDENT *pro tempore*. The yeas and nays having been ordered, the motion can only be varied by unanimous consent.

Mr. SIMMONS. I have no objection to taking them together.

Mr. PUGH. The motion now is to insist, I understand.

The PRESIDENT *pro tempore*. To insist, and ask for a conference, was the motion of the Senator from Missouri.

Mr. DOUGLAS. He modifies it, so as to make it only to insist.

Mr. JOHNSON, of Arkansas. I object to the modification.

Mr. GREEN. It is objected to, and I have not the privilege; very well.

Mr. PUGH. Do I understand the Chair to decide that it is in order to move to insist? I have not succeeded in making the Senator from Missouri understand me. I understand it is in order to ask for a conference. I have not denied that at all; but I say it is not in order, as I understand it, to insist, and the paragraph which the Senator from Missouri read, seems to me to verify what I said before. I will read from the Manual:

"A conference may be asked, before the House asking it has come to a resolution of disagreement, insisting, or adhering."

A conference may be asked before any vote.

"In which case the papers are not left with the other conferees, but are brought back to be the foundation of the vote to be given."

Therefore we may have a conference with the other House, if they grant it, and we bring the papers back here; and then we can vote either to recede or adhere. All that the Senator has read is, that there may be a conference after the other House has adhered, and before we adhere; but how, in the name of common sense, I ask, after the House has adhered, do we go on to insist? I am opposed to this motion to insist, but I am willing to vote for a conference; and if the motion is pressed, I shall feel bound, with my views of what the rules of order are, to vote against the first branch of the proposition; but I am perfectly willing to have the latter one carried.

Mr. MASON. If I understand the Senator from Ohio correctly, the point of his objection is, that if we insist, and at the same time ask for a conference, the effect of it will be to leave the bill in the possession of the other House.

Mr. PUGH. Yes, sir.

Mr. MASON. I do not see that there is any such objection to that as would affect at all the steps which we may think it proper to take. Suppose the bill is left in the possession of the other House, as doubtless it will be if the motion prevails; then it will be competent to the other House to proceed with it at that stage, or to drop it altogether; and if they choose to do it, the responsibility is upon them. We could not interpose in any way, I should think; or if we could, I doubt if we ought to interpose in any way; it would be obtrusive, by any indirect mode to endeavor to shield that House from the responsibility that belongs to it.

I confess, sir, that I heard with very great regret the message which is now before us from the other House, communicating to us its first action upon the disagreement between the two Houses. Its determination to adhere to its bill in the form of an amendment was a very significant determination, if not a very ominous one; and although I shall vote very cheerfully (and I am gratified that my honorable friend from Missouri has made this motion) to insist, in lieu of a motion to adhere on the part of the Senate, yet I do it only from an earnest desire, if it can be done, to promote the great public interest of the country by passing the bill which I consider carries out the

sense of the people of Kansas for the admission of that State into the Union without any intervention on behalf of Congress. Even if my fears were stronger than my hopes, I should still deem it a duty to the country to leave nothing undone to preserve harmony between the two Houses by the most courteous form of usage on our part, and that would be a motion to insist, and not to adhere. If the motion to insist prevails, accompanied by a proposition for a conference, the result will be, I take for granted, as said by the Senator from Ohio, to send the bill back to the House of Representatives, and to leave it in their possession for their action upon it.

Now, they can do one of two things. They have adhered, which I understand in parliamentary language means, as the sense of the House adhering, that they mean to stand upon what they have done. But there is no parliamentary reason why they should not revoke that decision, and recede from what they have done. If the bill be sent back to the House of Representatives upon our motion to insist, although it will be in their possession, they can vote to refuse the conference, if, in their judgment, they think it expedient and wise to do so. If they do refuse a conference, they stand upon their adherence; and it will be then for the Senate to determine whether it too will adhere, and thus put an end to the bill, or whether it will insist, and again ask for a conference.

But I think, sir, considering the great interest, and the consequences which are dependent upon the result of this measure, that the Senate should leave nothing undone to preserve courtesy between the two Houses; and, if possible, to dispose in some manner of this great measure, for great it certainly is in its future consequences; or, if it cannot be done, that the Senate should preserve itself in a condition to leave the responsibility of its loss where that responsibility belongs. For one, therefore, I will go with Senators cheerfully to the extremest verge of parliamentary courtesy, to keep this matter alive as long as there is a hope of admitting the State of Kansas in the form provided by the Senate.

Mr. GREEN. I do not see that there is anything serious in the difficulty presented by the Senator from Ohio. The course which I have proposed is but a regular step in the natural progression of events, and I find that it harmonizes precisely with the Manual, which gives this account of the proceedings between the two Houses of Parliament:

"When either House, e. g., the House of Commons, send a bill to the other, the other may pass it with amendments. The regular progression in this case is, that the Commons disagree to the amendment; the Lords insist on it; the Commons insist on their disagreement; the Lords adhere to their amendment; the Commons adhere to their disagreement. The term of insisting may be repeated as often as they choose to keep the question open. But the first adherence by either renders it necessary for the other to recede or adhere also;"—

that was the old law—

"when the matter is usually suffered to fall. (10 Gray, 148.) Latterly, however, there are instances of their having gone to a second adherence. There must be an absolute conclusion of the subject somewhere, or otherwise transactions between the Houses would become endless. (3 Hats., 268, 270.) The term of insisting, we are told by Sir John Trevor, was then (1679) newly introduced into parliamentary usage, by the Lords. (7 Grey, 94.) It was certainly a happy innovation, as it multiplies the opportunities of trying modifications which may bring the Houses to a concurrence. Either House, however, is free to pass over the terms of insisting, and to adhere in the first instance; (10 Grey, 146;) but it is not respectful to the other. In the ordinary parliamentary course, there are two free concessions, at least, before an adherence. (10 Grey, 147.)"

It requires a mutual adherence between the two Houses before the bill is lost. Insisting is a respectful course to the other House. It is simply notifying them that we see no reason yet to change, and are desirous of having a conference to interchange opinions on the subject.

Mr. STUART. I have no disposition to go on with this discussion; but there are certain principles governing our practice which I think ought to be set right. There is but one question which is divisible in itself, and which our rule prevents the division of on the suggestion of a single member. By our rules a motion to strike out and insert is indivisible; but any other question which in itself is divisible, that is to say, which being divided, one proposition may stand and the other fall, is divisible by parliamentary law, and must be divided upon the demand of any Senator who requires it. Now, in this case, the Senate

may insist and refuse a conference. They may refuse to insist and provide for a conference. Hence it is a divisible motion. The Senator from Virginia says he has not seen an instance—

Mr. HUNTER. Will the Senator show how we may refuse to insist and then ask for a conference? If you refuse to insist, there is no conference.

Mr. GREEN. It is equivalent to receding.

Mr. STUART. No, sir; refusing to insist is not equivalent to receding. A motion would still be necessary to recede before the amendment adopted by the House of Representatives would be agreed to by the Senate. Suppose the motion be to adhere; the Senate may refuse it. The Senator from Virginia will see that any other motion is still open in respect to the bill. There may undoubtedly be a conference on the bill as it stands. One may be asked for by the Senate. But I was speaking to the point, and I think it will be found on examination of parliamentary law, that there is no exception to the divisibility of a question which in itself may be divided, except the one I have referred to in our rules. I do not make these remarks because I ask for any division; but the Senator from Rhode Island does.

Mr. SIMMONS. I withdrew that request some time ago.

Mr. STUART. Again, the Senator from Virginia says, we may repeat these propositions for a conference as often as we choose to the other House. I think he is mistaken. It is not strictly respectful, according to parliamentary law, for one House to ask a conference after the other has adhered, because adherence is notice, in parliamentary form, to the other House, that the House adhering does not intend to yield at all; that it insists on its own proposition or nothing; and, as the authorities say, there must at some time be an end to the proceeding. If you adopt the suggestion of the Senator from Virginia, there never can be an end, unless the House insisting chooses to make it; but you may repeat a proposition for a conference to the House adhering, as often as you choose, however offensive it may be to them, they steadily rejecting it. If this doctrine be right, there would never be an end of a measure.

I have examined the authorities. The text of the Manual which has been read is not borne out by the authorities to which it refers. Those references to Hatsell do not exist in Hatsell at all. The true position of matters of this kind was stated in a report made by Mr. Van Buren some years ago. Although it is significant, when one House adheres, that they do not intend to vary their action, yet you may ask them to confer and they may refuse it; but if they do refuse it that is an end of the question. It was an end in that case. The House of Representatives asked for a conference. Mr. Van Buren, as chairman of the committee, reported against it, and the Senate, having adhered, they refused the conference, and that was the end of the measure. You see, Mr. President, that that must be an end, or else, as I said, one House could keep a question open through the entire session.

I have made these suggestions merely that our own notions in regard to the action between the two Houses should be corrected; not because I have any desire to delay the matter. I am ready to vote on the question.

Mr. BAYARD. There are many remarks of the honorable Senator from Michigan to which I can offer no objection; but I should like him to state his authority for the position that it is disrespectful to the House of Representatives for the Senate to ask a conference after the House have voted to adhere.

Mr. STUART. The Senator misunderstood me. I did not say that.

Mr. BAYARD. Those were the words.

Mr. STUART. No, sir; I said it was not entirely respectful, though it had been done, and it might be done.

Mr. BAYARD. "Not entirely respectful" seems to me to mean "somewhat disrespectful." I can attach no other meaning to the language. I can find in no parliamentary authority any doctrine of that kind; but it is laid down that where either body in the first instance adheres, instead of insisting, and asking for a conference, or simply insisting, and leaving the other to ask for a conference, is considered disrespectful. The disrespect in this case, then, comes from the House

of Representatives, who, on the first difference between them and the Senate, the Senate disagreeing to their amendment, without a single precedent, I think, to sustain them, adhere in the first instance. That does not prevent our action, however. It does not prevent us from insisting on our amendment, and asking for a conference. It only puts them, in my judgment, still further in the wrong. It only shows a more determined intention on their part not to take the possible chance of a conclusion of this matter by an agreement between the two Houses.

I am in favor of insisting, and asking for a committee of conference; and I see no impropriety in it. There can be no doubt that if each House adheres, if we adhere and the House of Representatives adhere, the bill is gone, under all parliamentary law. But the House of Representatives having adhered, if we insist, and ask for a committee of conference, it will be for them to say whether they will grant it or not. If they refuse it, what the ulterior effect will be, whether that finally determines the question as regards the Senate, or whether we have a right to ask for a second conference after the first refusal, or whether, having the right, we should go that far, are distinct questions, not necessary to be mooted now. In the present case, although I think the action of the House of Representatives precipitate in adhering, and not respectful according to parliamentary usage; yet, as the question is one of moment, I am disposed, on the part of the Senate, to insist, and ask for a committee of conference, to see, if possible, whether this question can be determined through a medium of that kind.

Mr. BROWN. The question now is on the motion of the Senator from Missouri, as I understand it. I suppose, Mr. President, there can be no difficulty, so far as the parliamentary law is concerned, on that point. That the Senate has the right, if it chooses, to insist, and ask for a committee of conference, I take it for granted is admitted on all hands; there can be no question of that.

Mr. PUGH. That is the very point I make. I say we cannot insist after an adherence on the other side.

Mr. BROWN. Then, sir, all the writers on parliamentary law, I think, are mistaken. I have no sort of question about the point myself. On the subject of its being not respectful, raised by the Senator from Michigan, I am quite free to say that I do not think it is quite respectful to ourselves. If the House of Representatives thinks proper, on the very first instant, to adhere to its amendment, and thereby indicate to us that it does not even want to confer on the subject, we might, if we thought proper, get into a huff and say, "if you thus oppose yourselves against us, we will stand out also." But upon a great question of public interest and public concern, we are scarcely permitted to consult our personal feelings. If each individual member could act upon the impulses of his own mind, the Senate might very likely resent this captiousness, to call it by no harsher term; but we are here to act not for ourselves, nor upon our personal impulses, but for the great and substantial interests of the country; and though I do not think it quite respectful to ourselves to insist, after the prompt adherence of the other House, I will do it. I might not insist a second time; I certainly would not insist after all hope of success had failed; but I am not willing to consult my personal feelings, my pride of sentiment, when the great public interest is at stake. The House of Representatives may, possibly it will—I have some hope that it will upon further reflection—grant the conference, and when the bill goes back, the whole question is opened by the report of its committee. No receding from its adherence is at all necessary. That will be overrode by its own action in agreeing to the conference; but if it refuse the conference, then the Senate may ask for a conference again, and may urge the question. I should be against doing it myself; still it might be done. Instances have occurred, I think, where it has been done; but there is no question before the Senate except the motion made by the Senator from Missouri, and as there seems to be no doubt that he has the right to submit the motion, I suppose now we can have the vote.

Mr. DOUGLAS. Mr. President, I desire to see if there is anything here for us to debate. I understand my friend from Ohio raises the ques-

tion whether we can insist after the House of Representatives has adhered. The Chair decides that we can. The Senator does not appeal, and of course there is no question before us now except on the motion of the Senator from Missouri. I hope we shall vote.

The PRESIDENT *pro tempore*. The Chair was aware that there was no question before the Senate, except the one on which the yeas and nays were called. With the usual freedom and toleration of debate among Senators, he has permitted this discussion for the purpose of allowing Senators to throw light on the question before the Senate. The question now pending is the motion of the Senator from Missouri, on which the yeas and nays have been ordered; which is, that the Senate insist on its disagreement to the amendment of the House of Representatives, and ask for a conference.

The question being taken by yeas and nays, resulted—yeas 30, nays 24; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—30.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—24.

So the motion to insist and ask for a committee of conference was agreed to.

The PRESIDENT *pro tempore*. How shall the committee of conference be appointed?

Mr. GWIN, and others. By the Chair.

The motion was agreed to; and the President *pro tempore* appointed Messrs. GREEN, HUNTER, and SEWARD as the committee on the part of the Senate.

TELEGRAPH TO UTAH.

Mr. WILSON. I now move to take up the bill (S. No. 211) to facilitate communication with the Army in Utah.

The motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill.

It proposes to direct the Secretary of War to contract for the extension and use of the American electro-magnetic telegraph from the frontiers of Missouri or Iowa to such western military posts as he may deem necessary for the public service; for which purpose it appropriates such sum of money as may be found necessary, not exceeding five hundred thousand dollars.

Mr. WILSON. I wish to propose a substitute for the bill—to strike out all after the enacting clause, and insert:

That the Secretary of War be, and he is hereby, authorized to contract for the extension and use of an electric telegraph from the frontiers of Missouri or Iowa to such military posts as he may deem necessary for the public service; the said contract to provide for the management and working of said telegraph by private enterprise, after the necessity for such means of communication with the Army in Utah shall have ceased; and that said telegraph shall not cost, in the aggregate, more than the sum of five hundred thousand dollars to Salt Lake City, in the Territory of Utah, and not exceeding a proportionate part of said sum for such portions of such telegraph as shall be constructed; and that there be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated, such sum of money as may be found necessary, not exceeding five hundred thousand dollars, to carry into execution the purposes of this act.

Mr. BIGGS. I should like to inquire of the Senator from Massachusetts whether this substitute, which he has offered as an amendment, has undergone the revision of the Committee on Military Affairs, as I understand the original bill to have been reported from that committee?

Mr. WILSON. The substitute I propose myself; it has not undergone the examination of the committee. I will explain it, however. It is more carefully guarded than the original bill, limiting the cost to Salt Lake City to \$500,000; and if the line should not go so far as that, providing that its cost shall only be in that proportion. It is really a check, suggested by Senators who thought the original bill was too indefinite.

Mr. BIGGS. I should like to inquire of the Senator if he has any reliable data on which to form an estimate of the actual cost of the telegraph as proposed by the bill?

Mr. WILSON. I will state very briefly to the Senate the information I have in regard to the matter. Some weeks ago, the Senator from Illinois [Mr. DOUGLAS] presented the petition of Mr.

O'Reilly and his associates, proposing to build a telegraph from the Missouri river to the army in Utah. They estimate that it can be built, from the Missouri river to where the army is, between one thousand and eleven hundred miles, for from three hundred and fifty thousand to five hundred thousand dollars. They say they can lay down this telegraph under ground in one hundred days, so that within that time we can be connected with the army. The substitute proposes to build a telegraph from the Missouri river to Salt Lake, a distance of about twelve hundred miles, and appropriates a sum not to exceed \$500,000, or in that proportion for any portion of the route. This limits it, so that the \$500,000 shall cover the entire expenditure to Salt Lake; and it cannot cost more than in that proportion as far as it may be constructed. It is, in effect, a limitation upon the original bill, and as such, I take it, will meet with the approbation of the Senator from North Carolina and every other Senator.

The parties, in their original petition, say they can complete this telegraph to Salt Lake in one hundred days; that they can put it underground where they think it will be safe. The substitute, however, provides that the Secretary of War can make a contract with any parties. It does not limit him to a contract with the original petitioners, but leaves him at liberty to make a contract with any persons in the country. The Secretary of War was written to in regard to this matter. In his annual report in the early part of the session, he advocated the establishment of a line of telegraph to the Pacific ocean, and said:

"A line of stockade posts upon two of these routes would not require a very large force to maintain them, and if placed at proper distances apart, would furnish certain means of a safe and rapid transportation of the mails, and perfect protection to a telegraph line from one ocean to the other, which latter object would, in itself, be worth far more to the country than the cost of the posts, and the expense of maintaining them."

The committee to whom this petition was referred, called on the Secretary of War for his opinions in regard to the prayer of the petition, and in answer to the committee, the Secretary of War says:

"The advantage which the Government would derive from a line of telegraphic communication, in successful operation from Fort Laramie, and beyond that point, cannot well be overestimated. Such a line can be laid down at a comparatively small cost, with great expedition, and in such a manner as to secure it, in a great measure, against the danger of any interruption from the Indians along the route; and, if once constructed and established, it could, at a moderate cost, be kept up."

"Desirable as this enterprise would be at all times, as a means of transmitting intelligence, it rises, under the present state of things, to an importance that can scarcely be overestimated. I cannot express too strongly my high estimation of its great value to the public service, and recommend it earnestly to the favorable consideration of your honorable committee."

In accordance with the recommendation of the Secretary of War, the committee ordered the bill to be reported to the Senate; and it is now before us. I have moved the substitute for the bill which puts limitations upon it, and I think makes a marked improvement in it, which I hope will meet the approbation of all Senators.

Mr. HAMLIN. The Senator from Massachusetts, I think, has omitted to state one other difference between the original bill and his substitute, which in my judgment renders the substitute very much more desirable. The bill as it was originally reported, provided that the Secretary of War should contract for the use of the American electrico-magnetic telegraph. That telegraph is used by one particular company; and the Secretary of War would, by the terms of the original bill, have been confined expressly in his contract to that company. The substitute provides that he may contract for any electric telegraph, leaving the matter open to competition by all, and lessening the cost of the work, which must necessarily be the case, where competition arises between the various companies. That difference, I think, renders the substitute much more desirable than the original bill.

Mr. BIGGS. If I understand the Senator from Massachusetts correctly in the explanation he has given of his substitute, it is, in substance, an appropriation of \$500,000 to construct a telegraph from the Missouri river to Salt Lake City. That is contemplated as the amount that the work will, in all probability, cost. That sum is to be expended on the work; and the work is to be done in one hundred days. It is believed by these tel-

egraph men, that in one hundred days they can expend \$500,000 in laying down a telegraphic line from the Missouri river, a distance of twelve hundred miles. If it is to communicate with the army in Utah, it certainly should be done expeditiously; and we are told it can be done in one hundred days. Then these parties are to put down a telegraphic line for twelve hundred miles, and we are to pay them out of the public Treasury \$500,000, which, if I understand the matter correctly, is at any rate as much as the whole cost of putting down the line; and then, after it is constructed, if we do not need it any longer for the purposes of the army in Utah, these parties are to have the use of it on such terms as may be agreed upon between the War Department and the telegraph operators. The substance of it then is, that we are called upon to expend out of the public Treasury \$500,000 to construct a telegraph line that may be needed two months, or one month, or twenty days, and as soon as it is in operation, and the Government does not need it, we are to give it away. We are to expend \$500,000 on this work, and when it is completed, we are to give it away. That is the proposition before the Senate.

Mr. IVERSON. It is due to the Committee on Military Affairs to state the facts connected with the report of this bill to the Senate. When the memorial of these parties was referred to the committee, we addressed the Secretary of War on the subject, and asked his opinion as to the propriety and policy of this measure. When his answer was received, the question was taken up in committee, with six members present, the chairman being sick and unable to attend. The committee were equally divided upon this bill. Three of them were opposed to it. I was one of that number; and the Senator from Arkansas [Mr. JOHNSON] and the Senator from Alabama [Mr. FITZPATRICK] agreed with me. The other three members of the committee were in favor of the bill. As a matter of courtesy, although those of us who opposed it might have defeated the bill in committee, we consented that it might be reported to the Senate, in order that the sense of the Senate might be had upon the question. Although we were decidedly opposed to the bill, and our negative votes would have prevented its being reported to the Senate, we did not consider it fair, on a question of so much importance as this, to prevent the bill being brought into the Senate; but we were willing that this body should have an opportunity of deciding it upon its merits. We therefore yielded our objection, and consented that the bill might be reported.

But, sir, the objection which I entertained in the committee to the passage of this bill, has not been diminished by time and reflection. The bill is one of importance, involving the expenditure of a large amount of money; and I fear that the temper of the Senate is not such as to listen to any debate on a question of this kind now; and I doubt very much whether it will be distinctly understood. I shall proceed, however, briefly to state the reasons why I cannot support the bill.

The proposition is that the Secretary of War shall be authorized to enter into a contract for a sum not exceeding half a million of dollars, to put down a line of telegraph from some point on the confines of Missouri or Iowa to Salt Lake City. The object to be accomplished is to facilitate communication with the army in Utah, during its operations in that Territory. As the Senator from North Carolina has very properly remarked, it may be that in less than twenty days from the time this telegraph is completed, the Government may have no earthly use for it. Indeed, I do not anticipate that the Government will have any use for it at any time. These parties say they can put down the wire in one hundred days; but what guarantee have we that it will be performed in that time? Certainly, if they can put down this wire, which, of itself, is a very unimportant thing, so far as the cost is concerned, with such force as they can work with in a hundred days, half a million of dollars is ten times the value of the undertaking. Not more than six or eight or a dozen persons can work at it; and if they put the wire underground they will go along with half a dozen or a dozen men with shovels, digging up the ground, and dropping into it the wire, by a carriage and reel. It may be a rapid work, and doubtless it is a rapid process. It may be that

they can put down twelve hundred miles of wire in one hundred days; but I say that if they can do it with the amount of labor required, and the expense incident to it, \$100,000 would be a vast sum for any such enterprise; and yet it is proposed by this bill to give this company \$500,000.

But, sir, they do not pretend to say that they can do it in less than a hundred days, and it may take a longer time. The result may be, if you enter into this contract, binding the Government to expend \$500,000 for the construction of this work, that long before the telegraph can be put into a condition to be used by the Government, so as to be beneficial to it, the exigency for its use will have passed by; and I think, from the indications I have seen, that the Government will have no use whatever for this work after it is completed, if it takes a hundred days to complete it. In consequence of the additional force which Congress has given to the President to be used in Utah, I can anticipate no other result but that if difficulties occur in Utah, they will be ended in less than one hundred days from this time. If the Government sends into Utah a sufficient force to overawe the Mormon people, as I believe it will do—as it now has it in its power to do—and as I have no doubt the Government is preparing to do—then the war with Utah will end long before the expiration of one hundred days from this time. We now understand that General Johnston, who is in command of the Utah army, expects to be at Salt Lake in the month of June. He will be able to march from his present encampment early in May, as soon as supplies reach him, and they are already *en route* to him. As soon as these supplies reach him he anticipates making an entrance into the valley of Salt Lake, and he does not seem to apprehend any difficulty in suppressing the Mormon insurrection. He appears to be confident that, even with his present force, he will be able to quell it. But when the reinforcements join him which the Government has already sent, or will send in a few days—and one or two regiments are to leave Leavenworth on the 20th of this month, now within a few days—when these reinforcements reach General Johnston, in the early part of next month—giving to him an available force of four or five thousand men—there will be no earthly difficulty in suppressing the Mormon insurrection, if an insurrection actually exists.

Sir, the Mormon war will be ended before this telegraph can ever reach the Rocky Mountains, I care not how much expedition may be exerted in the construction of the work. If the Government use that energy and spirit which I think characterize the War Department, and which I believe will be infused into the Army and into all the operations of Government in relation to this war, I have confidence that the Mormon war will be terminated long before this telegraph line reaches Salt Lake; and after the war is ended, of what value will it be to the Government? None, sir. And, I ask, what value will it be to the Government even if the war continues? You may make telegraphic communication, but can you send supplies or troops by telegraph? Can you send wagons by telegraph? No, sir; all the supplies will have to be taken by land, by the slow but regular and certain process of wheels, carriages, and men on foot and on horseback. You may notify the army in Utah that reinforcements are coming, that supplies are coming, and that may possibly be cheering to the army there to learn; but will it bring the supplies any sooner than they would otherwise go there, whether you have a telegraph or not? Certainly not. Of what use will be this telegraph to the Government? It will not expedite a single military company; it will not expedite a single wagon with supplies; it will not produce the least effect, so far as I can understand or perceive, on the progress of the war, or its termination; and if the war be terminated, if the strong force which will be sent into Utah shall be sufficient to quell the insurrection, or if Brigham Young shall change his tactics and fly to the mountains and carry on a guerrilla war, of what use will this telegraph line be to the United States? Not a particle.

My objection to the bill in the first place is, that the amount demanded is far beyond the necessary amount to defray the expenses of the work. It is a stupendous amount to take—half a million dollars—out of a now diminished and depleted

Treasury for the purpose of making this experiment, for it is nothing more than an experiment, at last; for whether it will end in good, and in service to the country, is a question about which any man may have his doubts. The provision is that after the Government has done with the use of the telegraph, the very moment the Utah war is completed, then it is to be turned over to these individual speculators, and contractors, to be kept at their expense; and the result is that the Government is to expend half a million of dollars to use a telegraphic line two, three, or four months at the furthest, and then it is to be put into the hands and control of these private individuals, who construct it for their own benefit. It is nothing more nor less, in my opinion, than a scheme got up by these men to get the Government to bear the expense of putting down this telegraph line for their individual benefit. That is my idea, and that, I think, will be the result.

If they put it upon posts, it would cost less. This great expense is incident to putting the telegraph underground. Passing through a hostile country of savages, exposed, as it will be, to so many depredations and casualties, the Government must put it under ground to make it a safe conveyance of telegraphic information. It will not do to expose it to the depredations of persons who may cut it at any place within the one thousand two hundred miles. Why, sir, the Government expends two, three, or four hundred thousand dollars in erecting a telegraph upon posts; and the next day after the operators put up their wire it may be cut down by any loafer or straggler who may go along, and is disposed to be mischievous. Doubtless, if Brigham Young intends to fight the United States, and put himself in opposition to the power of this Government, he will have plenty of men along the line of the telegraph to cut the wires whenever he chooses to stop the communication of information. In my opinion, it is worse than an idle attempt on the part of the Government to get telegraphic communication to Salt Lake City, or to the army of the United States operating in Utah. The result is nothing more nor less than what I have stated. Even if they put it under ground, I want to know what is to prevent persons from cutting it if they choose. You cannot conceal it. No matter where you put it under ground, you must leave traces of its position. If you do, it is still liable to be molested by persons who are maliciously disposed, and who, from policy or any other consideration, may be disposed to stop the communication.

I do not believe it will answer the purposes which the Secretary of War and the friends of the bill seem to anticipate from it. I believe it will be an expenditure of the public money for individual use, and nothing else. I cannot conceive that the great benefits which are anticipated are to spring from it. I do not believe the Government will want this line. My impression is, my hope and belief is, that, before this wire can be put down, the Mormon war will be ended, and the exigency which is said to call for it will have terminated; and I am not willing to risk the expenditure of half a million of dollars, in the present condition of the Treasury, for the purpose of making an experiment of this sort, which may or may not prove valuable to the Government. I do not believe it will prove at all valuable. I do not think the Government will require it; and, not requiring it, it is a violation of good faith to the people that we should take this money out of the Treasury to build a telegraphic line for the benefit of private companies who may want to use their time and labor in this way. Sir, I am opposed to the bill in every shape in which it can be presented.

Mr. WILSON. The statement made by the Senator from Georgia of the action of the Military Committee is correct. I made the statement of the action of the committee when I reported the bill, and precisely as he has now given it. The committee were divided in regard to the matter. The Senator says that before this work can be accomplished we shall have no use for the telegraphic line. This may or may not be so. If we are to have war, and a great many men in this country anticipate difficulties with the Mormons, running through several months, this line, if established, and kept in working order, will put us in direct early communication with that part of our country, and, in my judgment, will be of inestimable value. If such a line now existed; if we

had been connected with the army during the last four or five months, I believe it would have been of great service to the country, and I think we might have saved something by it.

This proposition, Senators say, is to give five hundred thousand dollars for the completion of this line. Now, sir, it simply authorizes the Secretary of War to make a contract that shall not exceed that sum. He may contract with these parties to build a line, and the United States own the line, or he may contract with these parties to build the line on their own account, paying them for the use of it. The Secretary of War, as strongly as human language can express an opinion, urges the establishment of this line. It will, if completed, go more than half the way from the Missouri river to California. It connects us with Salt Lake, with the central regions of the continent, and the expenditure cannot exceed half a million, and probably will not go beyond three or four hundred thousand dollars.

Objection has been made that it is building a line towards California by the central route. I do not know that there is any objection to that. In my judgment, Mr. President, if the Congress of the United States seven or eight years ago had constructed wagon roads and built a telegraphic line to California, by the central or some other route, something would have been accomplished for the country; but instead of this, we have spent seven or eight years talking about constructing a railroad to the Pacific. You may pass the bill we have before us to-day, but you will not build any railroad to the Pacific at present. I believe a Pacific railroad is a sort of necessity to the country to connect the two parts of it together. But, sir, if a man has studied the railroad system of this country and knows anything about it, I think he will come to the conclusion that you cannot build a railroad to the Pacific for less than about two hundred million dollars, and that it will take you from ten to twenty years to do it, and that when you have built such a road you could not get one hundred capitalists in the United States who would agree to run it for \$3,000,000 annually and all the receipts.

Sir, I hope we shall construct this telegraph line and connect ourselves with the army. I hope the day will not be distant when a line will be completed from there by one route to San Francisco and by another to Oregon, and it can be done with little expense, and so connect us by telegraph with our possessions on the Pacific coast. I think this is a fit time to do it, and the few hundred thousand dollars that will be expended in putting us in immediate communication with the central regions of this continent, with Salt Lake, in the present condition of the army and the condition of affairs in this country, would be a wise expenditure; and believing so, I reported the bill, and shall vote for it.

Mr. HUNTER. Mr. President, this is a bill proposing to appropriate a large sum of money, a very large sum, when we consider the present condition of the Treasury—half a million dollars. Now, sir, I believe that the appropriations which it will be necessary to make, both for the uses of the War and the Post Office Departments will be found to be very large—larger, perhaps, than the Senate will be willing to make; and when I remember this, I am unwilling to vote for anything which proposes to take, in addition to that, on a mere experiment, so large a sum of money as this. It seems to me that it cannot be justified either by a reference to the wants of the War or the Post Office Department. We certainly should not be justified in going to this expense for the purpose of affording mail facilities to that country. We are already losing largely by the means we are taking to supply them with mails. I believe that the total mail receipts there are under one thousand five hundred dollars, and we are paying seventy or eighty thousand dollars a year to furnish them with mails. I am not willing, in addition to that, to expend half a million dollars to give them a telegraph, looking to it as a permanent matter, as a permanent source of appropriation. Nor, sir, do I believe it will be necessary for this war which gentlemen talk of; nor am I willing to add to the large appropriations which necessarily must be made to supply the troops there. I quite agree with the Senator from Georgia, that they ought to be able, with the means which are already supplied, to put down any in-

surrection, if there should be one, in Utah. I think we shall find enough to do to furnish what it is absolutely necessary to give them, without adding this large amount to the appropriations.

It has been objected that the bill is not sufficiently guarded, and I think it is not. I think even if the scheme were justifiable for military or for postal purposes, that it would be proper to guard it more than is here done. As the Senator from North Carolina says, are we to pay the expense, and more than the expense, of making it, and then leave to these parties hereafter the profits, if there be any profit in the enterprise? Is the Government to make a telegraph for a use of twenty or one hundred days? Certainly not. There can be no justification for this. I hope we shall not try these expensive experiments until we have some more money in the Treasury than we now have.

Mr. FESSENDEN. I shall vote against this proposition in any shape in which it may present itself, and on what I suppose to be a very simple principle. Some time ago, I do not know how long, but I think three or four years ago, we granted leave to a certain company to construct a telegraph line to the Pacific; gave them the right of way, and allowed some years in which to do the work. It was urged very strongly on the Senate at that time that that was a matter of very great importance and necessity, and that if we gave the permission asked for, the work would be done at once, because the line would pay exceedingly well, on account of the necessity of making constant communications between the Atlantic and Pacific coasts. That measure was pushed through the Senate as one of great consequence, and I voted for it myself finally, as it was urged so strongly; but I believe from that day to this we have not heard the first word about the telegraph from here to the Pacific. If a telegraphic communication to and from Utah is really worth anything, and is of any consequence to anybody, it would seem to be a little strange that no company has started in it. It is said we are to have a war out there, and that this measure is of pressing importance, and will be of value in order to enable us to carry on that war. We have not heard of the first steps to accomplish such a purpose from any private company. There is no capitalist, there is no company of capitalists, which thinks it of the slightest value in the world, or makes any movement in regard to it.

Then it resolves itself into this question: is it the mere beginning of the enterprise to make a telegraphic line to the Pacific ocean? and, if so, is it worth while for the Government of the United States to construct half of it? Is this a mere part of that scheme? Is that worthless? Are we to be called upon now to build half the line, let the company have it, and then build the other half when they see fit? That seems to be the amount of the bill.

As has been remarked, there is nothing whatever in the bill making any provision of any kind or description for any ownership of the Government in it, after expending this half a million of money, or less, as the case may be; but I believe all experience shows that we never spend less than we appropriate for these purposes. If that is to be the case, if we are to appropriate money for this purpose, and the Government is to be called upon to construct one half the line for the benefit of the company, it should have some sort of assurance that the work is to be done at some period or other, and that there is to be a permanent benefit derived from it to the Government. If it is not that, it is a mere proposition for our Government, because we have a disturbance in Utah at the present time, to expend half a million of dollars in constructing a telegraphic line for this mere temporary condition of things which may exist for a few months, as has been suggested, and may not exist even for that period of time. Why, sir, up to the present moment, Congress has not authorized, in any manner or form, by any act it has passed, these hostilities, if they may be called such, that are being had, or are now in progress against Utah. We have made no appropriations for the purpose; we have not yet passed an act recognizing that hostilities exist there, or showing that we are disposed to carry on that war, if war it may be called. As a matter of fact, it is well known that a very large portion of Congress—we do not know how much—

think that the whole proceeding is entirely unnecessary, and that the troops ought to be withdrawn. How do we know that that is not the result to which we shall come?

Then, sir, as is suggested by the Senator from Georgia, and others, what possible benefit, other than the communication of interesting intelligence, once in a while, of the operations of our army, can be derived from it? To be sure, we may get a rapid account of the position of the army, and communicate rapidly with it. But everybody who has considered these matters at all ought to know that the operations of an army, at that distance, are not to be carried on in that way, by the mere transmission of events that happen from day to day. Anybody but our present Secretary of War, I apprehend, would make some sort of provision beforehand, as to troops and supplies, so as to render the army able to sustain itself at a distance of twelve hundred miles, without depending on telegraphic communications.

Now, sir, my friend from Massachusetts, and the Secretary of War, have given us their opinions that this will be of inestimable value. That is all we get from them. Where are the details? How is it to operate? Does my friend, who is on the Committee on Military Affairs, do anything more than say that he thinks it will be valuable? The Secretary of War thinks so too. I have a high opinion of the military sagacity of my friend, but I have none at all of that of the Secretary of War. If, however, they are to give their opinions, and these opinions are to be the law on which we are to appropriate half a million of money to construct a line of telegraph, not for our own use longer, possibly, than a month, into that country, let us have some specific military details. What military object is to be accomplished by it? How is it to work? How is money to be saved by it? My friend says he has no doubt money will be saved to the Government by it. How? In what particular? Where? Let us have some of the military experience of these gentlemen, to tell us in what particular manner we are to save so much money by making this appropriation. Sir, I do not think the Secretary of War knows anything about it at all. He has probably been in communication with the gentlemen who want to build this road—I mean this telegraphic line, but I confound it all the time with the Pacific railroad. It may be a part of the same thing.

Mr. GWIN. No, sir; it is very different.

Mr. FESSENDEN. At any rate, I think they are very much of the same character, in some particulars, at least at the present time. As I said, we are not given any description, or any items of account, showing of what use this telegraph line is to be, or how it is to save money to the Government, or in what respect it is to be useful to the Government. No doubt the gentlemen who want to build it have stated to the Secretary of War, and others, what they can do. But do we know anything about the actual cost of this work? Has it been under investigation by a committee, so that they can tell us what it will cost per mile, with the facilities we have for constructing this electro-magnetic telegraph line? We have heard nothing of this description; and it is perfectly idle to tell me that we may appropriate a sum not exceeding half a million of dollars, and that the person at the head of the Department, whoever he may be, who is to make the contract, will see that it is well expended. Every day's experience in the history of our Government proves, that when Congress appropriates for a particular object a sum of money not to exceed a certain amount, the whole of it goes.

Mr. FOSTER. And there is a deficiency besides.

Mr. FESSENDEN. And there is a deficiency besides, ordinarily. How do we know anything about what sort of a contract will be made? I think the whole measure is a crude, undigested, and I was about to add, certainly to me, indigestible scheme. I cannot understand it. There are no details, there are no facts, there is nothing but crude opinions upon which to found it; and in the present state of the Treasury, as my honorable friend from Virginia says, I am quite unwilling to put the power of making this contract into the hands of the Government, without knowing something more about it.

Mr. WILSON. I want to say a word to the

Senator from Maine in regard to this matter of details. No human being can tell what the real advantage to the country will be from the construction of this line of telegraph. It depends very much upon the condition of affairs in that part of the country, and how long it is to continue. If this line had been constructed six months ago, and we had been in daily communication with our army there, does not the Senator believe it would have been of great service to this country? Colonel Johnston was four months without communication with the Government—without hearing from this Government.

Mr. FOSTER. If he did not hear from them for four months longer he would be better off.

Mr. WILSON. The Senator from Connecticut thinks that if he did not hear from the Government for four months longer he would be better off; but how do we know that? Does not every man believe that if, during the last six months we had had daily communication with our army, it would have been of great service to the country? I have no doubt of that; I do not think the Senator from Maine has.

Mr. FESSENDEN. How would it have been of service?

Mr. WILSON. How? You would have been in communication with your army; you could have learned its precise daily condition; its actual wants; and the Department here could have governed itself by an exact knowledge of the condition of the army. Would not that have been of advantage to the country?

Mr. FESSENDEN. Will the Senator be a little more definite? I ask, what has been lost by not having that precise information?

Mr. WILSON. I cannot tell what has been lost. The Senator does not know what has been lost; I do not know. Perhaps three million dollars have been lost. No man in the country can possibly tell how much we have lost. No man can estimate fully what we should have gained if we had had this communication. Secretary Marcy said that if we had had a telegraphic line to the South, in connection with Mexico, during the Mexican war, one telegraphic dispatch would have saved this country \$500,000. We know that when the armies of France, of England, and of Russia were assembled at Sebastopol, their Governments built lines of telegraph to connect them with the army, and one of them laid down four thousand miles of telegraph in Russia, to connect the Government and the army, and no doubt millions of dollars were saved by the connection. The Governments engaged in that great contest deemed connection with their armies so important that in time of war, notwithstanding all their great expenditures to carry on the war, they constructed thousands of miles of telegraph, to put their Governments and the world in communication with their armies. Who doubts that they gained by it, and gained immensely? They were able, by means of the telegraph, to put themselves in communication with their army, and to have all the advantages of a continual daily knowledge of the wants and conditions of the army. So it would be here. It is hard to tell how much we have gained by the telegraphs of the country, and how much we should have lost if they had not existed; but we all know that in every department they have been of infinite service to the country. I believe a telegraphic communication with the army in Utah will be of great service. If it had existed there a few months ago, I think it would have been worth all that it will cost; and if the troubles exist there five, six, or twelve months longer, the country will save money by the erection of a telegraphic communication with the army. We can only estimate these advantages by our knowledge of what has been done in other cases. We might save a great deal by this communication, or we might perhaps not make any great gains by it. That we cannot tell with certainty. We have only to judge of probabilities. The Senator from Maine thinks it will be of no service; I think it will be of great service. We differ. I vote for the bill; he votes against it.

Now, sir, in regard to the cost: the matter is put in the hands of the Secretary of War. The Senator from Maine has not great confidence in the Secretary of War. I do not know that any of us have much reason to have great confidence in him. He has unquestionably brought into that Department less of experience than some other men in

the country could have done, less experience than his predecessor, certainly; but this bill puts it in his hands. It empowers him to make just such contract as he deems for the interest of the country. The limitation is, that it shall not exceed half a million dollars. He can make such a contract as he shall find most advantageous to the Government, after consulting the men in the country who desire to lay down these works. I take it there are several companies perfectly willing to do it. I have had several letters on the subject since this bill was reported, from men who are ready to come here and to go into a contest to secure the laying down of this line. I take it the Secretary of War, if he looks to the interests of the country, if this bill should pass will make as good a contract as he can make, as cheap a one as he can. He certainly ought to do so in the present condition of the Treasury. It places the matter in his hands with this limitation, that the erection of a line from the borders of Iowa or Missouri to Salt Lake, a distance of about twelve hundred miles, shall not exceed half a million dollars, or if he builds it any portion of that distance, say to Fort Laramie, six hundred and forty miles, it shall only be in that proportion.

I shall vote for this bill. I know that it is one of those propositions that no man can tell their certain advantages to the country. We do not any of us know how long the Mormon difficulties will continue. Should they continue for six or twelve months, I take it there is not a man in the Senate or the country who doubts that a telegraphic communication would be of great service to the army and to the country; for it would present to us the daily condition and wants of the army, which it now takes days and weeks to give us.

Mr. JOHNSON, of Arkansas. I should not rise now to say a word in regard to this bill if I were not a member of the Committee on Military Affairs, from which it has been reported. I was very much opposed to the measure in committee. It excited but very little discussion there, and it is brought before the Senate without any very strong impressions on its behalf in the committee. I believe the agreement of the committee was, that the bill should be reported for the action of the Senate. The committee were equally divided in opinion upon it, but assented that it might be brought before the Senate, so that this body should determine the question. That is the only authority with which it comes before the Senate. It proposes to appropriate \$500,000 for the making of a contract that I think, according to the language of the bill, has no limit. I have never known such power proposed to be given to any one man as the language of the bill we are now asked to pass will give. I will read one or two clauses, and then leave to the reflections of the Senate to say what it does mean, and how far it will go. The substitute presented by the Senator from Massachusetts is more carefully guarded and better prepared than the original bill, but I believe what may be said of the one may be verily said of the other. The substitute provides:

"That the Secretary of War be, and he is hereby, authorized to contract for the extension and use of an electric telegraph, from the frontiers of Missouri or Iowa, to such military posts as he may deem necessary for the public service."

I suppose we should conclude, and the Secretary, in carrying out a provision of this kind, would also conclude, that there should be but one telegraph line established; yet I do not see that that is plainly declared here, but there is no limit to which, under the terms of this clause, he may not go. He may stop at the first military post to which the line goes, at the distance of ten miles, or he may go on one hundred miles and stop there; or he may go to the Salt Lake and stop there. He is to commence the line anywhere upon the borders of Missouri or Iowa, at his discretion, according to the representations that may be made to him, I presume by interested parties, and probably by the same parties who now ask that this appropriation shall be made, and this business consigned to their care.

The line is to extend from the frontiers of Missouri or Iowa "to such military posts as he may deem necessary for the public service." There are a great many military posts in every direction. It does not say that, when he has commenced to run the line westward, he shall con-

tinue to run westward, but he may diverge in any direction. It goes on to say:

"The said contract to provide for the management and working of the said telegraph by private enterprise after the necessity for the means of communication with the army in Utah shall have ceased."

When he makes a contract for the construction of the telegraph, he is to provide in the terms of that contract, at a time when he will have had no practical experience on the subject, when this experiment will not have been tested, when the only information he can receive will be from those interested in the matter in some way, for allowing them to do what they please with the line after the necessity for its use for the connection with the army in Utah shall have ceased. This is a provision to be made at once by the Secretary, who, I presume, is not better able to judge on this subject than most men who reside in the eastern States, and who know little or nothing of the wilds of the West. I suppose, under the authority contained in this clause, he may give away the line to have it worked by private enterprise, or he may do what has been done by Congress in regard to the Memphis navy-yard—after spending a large sum of money on a public work, give it away; and the men who receive pay for constructing it may take it afterwards, and charge what they please; or he may do what is worse, make arrangements by which the Government shall continue to be the owner of it, and pay these parties for any length of time, or annually, a fixed sum for its use; and there is no limit upon the amount.

This is the unlimited character of the powers which this bill proposes to give; and on reading it, I do not see how there is any escape from the conclusion that these powers were unquestionably confided to the Secretary of War. The object is to facilitate the operations of the army in Utah. We are anxious to help the Administration to get communications to and from Utah, on account of the war, but we are scarcely willing to give them a single regiment of troops to carry on the war. This strikes me as a strange course of proceeding. The bill goes further, and provides that the "telegraph shall not cost more than \$500,000 to Salt Lake City, in the Territory of Utah." It does not say that the Secretary shall run it so far; it does not say, that when he has got there he shall stop; but there is full power for him to go as far west, or in any other direction, as he may choose to go. He may carry it to the military posts which we have on the borders of the Pacific, and there is nothing to arrest him. The only limitation is, that it shall not cost more than \$500,000 to get to Utah. This power is not given to the present Secretary of War merely, but to any one who may occupy that Department. What is to prevent him from giving a million of dollars more, to construct a telegraphic line to San Francisco? I should not be surprised if the delegation from California were in favor of this bill.

Mr. GWIN. They are; or, at least, I am, as one of them.

Mr. JOHNSON, of Arkansas. They ought to be in favor of it; and if I were a representative of the State of California, as the honorable Senator is, I should be in favor of it; because this bill, it seems to me, grants the power to extend it to the Pacific. I have no idea that the present Secretary of War would, under this bill, give to this line that extension, but the power is contained in the loose terms of the proposition which we are now called on to pass. There are a great many objections to it, but as I really do not believe that the Senate has any serious notion of passing this bill, I will not consume time further in debating it.

Mr. BRODERICK. It is very evident, Mr. President, from the debate on this bill, that it will not receive many votes in the Senate; but that consideration shall not determine my course in regard to it. The Senator from Massachusetts has presented this case, I think, very well to the Senate; and I was somewhat surprised to hear the Senator from Georgia attack the proposition in the manner he did. Now, sir, the Senator from Arkansas has told the Senate that the Secretary of War can extend this line to the Pacific. That is what I want him to do. I vote for this bill, because it is to construct a telegraph half the way to California.

But, sir, I am surprised to hear Senators object to the amount of money proposed to be appro-

priated for the construction of this line of telegraph, when there are men about the hotels of Washington city boasting that they have made contracts with the Government, out of which they will realize a million and a half of dollars. And for what? To fight the Mormons.

Mr. President, I am satisfied that a large majority of the Senate consider this appropriation a wild and extravagant one, and that no good will ever result to the country from it. Why, sir, this Government last year made a large appropriation to construct a telegraphic line between the United States and Europe, and a vessel of war left here but a very few months since for the purpose of laying down the telegraphic wire between Newfoundland and the coast of Ireland. Now, sir, California is a very important part of this Union. It may not be considered very important now, but I think it will be in a very few years, because the people of California are not disposed to remain quiet from year to year, begging at Congress to give them a telegraphic or railway communication with their brethren of the Atlantic slope. I shall vote for this bill as a step in that direction. I think it appropriates a very small amount of money for such a great purpose. It is but \$500,000, and the Secretary of War will have power to make a contract for \$100,000 or \$150,000, if he can find any one who will undertake to lay a telegraphic wire between our western frontier and Utah for that sum. I hope we shall have the year and years on this bill.

Mr. DOOLITTLE. Mr. President, this proposition to establish a telegraphic communication with Utah I believe is not questioned upon the ground of its constitutionality. It may be defended either as a war measure or as a postal measure. It is objected that the war with Utah is not to last for any length of time, and if the telegraph should be established it would be of no use to the Government. For myself, sir, for one, I do not as yet admit that a war actually exists between the Government of the United States and the Mormons; I hope that no such war will really be begun in earnest; but if such a war is begun, from all the knowledge I have of the character of that people, it will be no war of months—it will be a war of years before it is ended. I have hoped, therefore, that the time would not come when there would be an actual collision of arms between the troops of the United States and that most extraordinary people denominated the Mormons. From their position, their numbers, their character, their warlike disposition, their fanaticism, their declared war against our institutions, and against all the people of the earth whom they denominate Gentiles, if the war is to begin it will be no child's play. They are surrounded by fortifications such as no human ingenuity ever yet has devised, surrounded by those mountains which are almost impassable; and the war, if it is to go on, will be a war which will cost us much more than the war with Billy Bowlegs and his companions in the swamps of Florida.

But, sir, if such a thing is to exist, if this Government is to act upon the ground that war is to be carried on with Utah, in my opinion, in carrying on the war with Utah, nothing can be more economical, or save more money or more lives to the Government of the United States, than the establishment of the speediest and most instantaneous communication between the seat of Government and the seat of war. It may be that the bill which has been introduced here is defective in many respects. It may be that it is not definite enough; that it is not so specific in relation to the cost of this telegraph line as it ought to be. It may be that sufficient estimates have not been made to show how cheaply this line may be constructed, to satisfy the Senate to vote for the appropriation at the present time. But, sir, if this could be laid over, or sent to a committee, if it could be examined and investigated, and careful estimates made, in my opinion it would be found, that if we are to have a war with the Mormons, this telegraph line will be one of the cheapest and most economical of all the instruments that can be used in carrying on the war.

Gentlemen inquire of what use is a telegraph line in the management of armies, and in carrying on a warfare? Sir, is it not a fact, that the war before Sebastopol, which, perhaps, goes beyond anything in this age, was actually carried on and the movements of the troops directed by magnetic

telegraphs extending from the seat of operations to the seat of Government, in France and in Russia? How many lives and how much money may have been saved by means of these instantaneous communications, it is not possible to tell.

But, sir, let me suppose a case. Here is your army in Utah, weeks, almost months from communication with the seat of Government. An operation is going on which requires additional troops. How can the Government know it? An operation may be carried on by which, perhaps, the war may come to an end. How can the Government know that? They may, in the mean time, start on another army, and they may contract for all the supplies to be transported over these barren plains to Utah, costing hundreds of thousand, ay, millions upon millions of dollars, and the contracts be entered into for transportation, when, if they had this instantaneous communication from the seat of war it would be wholly unnecessary.

I look upon this measure not only as one which may be very beneficial if this war is actually to be prosecuted, but as a postal measure, or as a means of communication from one side of the continent to the other. I believe that it would pay the actual expenses. I know that the fears which have been expressed and entertained by many that our country was at some time to be divided and dissolved, have been based on the idea of our very great territorial expansion; that we were in danger of falling to pieces in consequence of the very size of our empire and our territory. But, sir, my hope has been based, and my faith is fixed upon this, that the construction of railroads, the use of steam communication in every form, and above all that wonder of modern wonders, the lightning-speaking telegraph, which makes instant communication between the most distant parts of our Confederacy, is binding us together, and making neighbors of Boston and New Orleans, New York and San Francisco; and although our empire is expanded from ocean to ocean, and may still expand until it covers the whole North American continent, yet if we make use of the means which are placed in our hands of railroads and steam communications and telegraphs, we may be actually nearer together than were our fathers in the days of the Revolution. For one, I do not believe that it is wisdom on our part to deny to the Government the use of these modern and wonderful discoveries which produce that result.

Mr. President, if this bill could be laid over for a more careful investigation, for more careful estimates to be made of the actual expense which is necessary to be incurred to establish this telegraphic line to Utah, thus far on the way towards California, I still believe, notwithstanding the adverse opinions I have heard expressed here, that a majority of the Senate might be disposed to pass a bill appropriating the sum actually necessary for that purpose. If this sum, as stated by the honorable Senator from Georgia, is ten times as much as it ought to be, or as is necessary to construct the line, let the sum be reduced. But, if we are to have a war with Utah and the people of Utah, let us have the means of instantaneous communication, as far as is practicable, with the army there in its operations; and, in my opinion, though the telegraphic line should cost us a large sum of money—perhaps a quarter of a million—in the end, when we come to carry on this war, and prosecute it to a termination, it will be an economy in the saving of money, of time, and of men.

Mr. HALE. I did not suppose that I should ever get out of patience with the Senate, but I confess this Utah war comes very nearly doing it. I thought it had answered its purpose when we had got the additional volunteers; I thought the Utah war had answered what was expected of it, and we should not hear of it again; but it has got here now to help this telegraph along. I have denied always, and I deny now, that there is any Utah war, or any prospect of it. There has not been a drop of blood shed. Brigham Young has been making proclamations and marrying wives—that is the whole of it. There is no more resistance now than there was years ago; no more war with Utah than there is with New Hampshire, and no danger of it. If there is any danger of it, I think I know a schoolmistress to whom I used to go to school when I was a boy, who had better be sent there, and she could quell the insurrection by peaceable agencies, and do everything required better than your Army.

I beg gentlemen to confine themselves to facts, and not go into the region of fancy, talking about this Utah war. It has no existence, never had, never will have. You cannot talk a war up here. The Administration, when the Army bill was up, kept insisting that they did not want a reinforcement for Utah, and we kept insisting that they did. Everybody that spoke was speaking about an emergency that he was going to give troops for, and the Administration was saying there was no emergency, and they did not want them, but we insisted that there was an emergency, and that they should have them. Well, sir, they got them. The emergency answered the purpose; and now Brigham Young is coming in to be another scarecrow to build this telegraph, and Heaven only knows what next. I think there is a bill—I do not know that there is a bill, but there is a proposition to vote twelve additional sloop-of-war, and I will bet you that Brigham Young will be tacked on to that. [Laughter.] We shall be told of the extraordinary emergencies of this Utah war and this rebellion of Brigham Young, by which there is a necessity for additional sloops, with which to storm Salt Lake, or something of that sort. [Laughter.]

Mr. MALLORY. Will my friend from New Hampshire allow me to interrupt him for a moment?

Mr. HALE. Certainly.

Mr. MALLORY. He brought in a resolution himself a few days ago providing for putting full steam power into the ship Franklin. That is his own proposition to increase the Navy. Perhaps the Utah war may be tacked on to that. [Laughter.]

Mr. HALE. I am obliged to the chairman of the Committee on Naval Affairs; but he is not exactly accurate. I simply introduced a resolution of inquiry asking for information. I have not introduced a resolution proposing to do what the Senator from Florida suggests, but I hope to have his aid in favor of doing it; and I will tell you why: the ship Franklin, to which he has made allusion, is pronounced by officers of all grades from every section who have seen her, to be the finest model of a ship of war in the world. The men who have built, and who have been instrumental in building this fine model, think that, as the Government has been to such enormous expense in building the finest ship in the world, she had better be floated than be rotting under cover in the dock. So much for the ship Franklin; and I hope to have the aid of the Senator when that comes up. But, sir, that is wide of my present purpose.

I differ with great reluctance from gentlemen for whom I have so much respect as I have for my friends from Massachusetts and Wisconsin. I defer to their superior judgment; I defer to the military reputation of the distinguished general from Massachusetts; but, sir, I pretend to know as much about Mormonism as he does, [laughter,] and I do not believe there is any sort of necessity for lugging Brigham Young in here. If it is to be continued, I shall ask for an amendment to the rules of the Senate, providing that the name of Brigham Young shall not be brought into every measure, but that it shall be limited to a certain number of days, or a certain number of measures. [Laughter.]

To be serious, sir, there is no earthly use, there can be none, for this as a war measure. We have got no war, as I have said, and we shall have none; and besides, if we had, I concur in the interrogatory proposed by the Senator from Maine, what good is it going to do?

Mr. IVERSON. Will the Senator from New Hampshire allow me to interrupt him for a single moment?

Mr. HALE. Certainly.

Mr. IVERSON. The Senator has just asserted that we have no war with Utah or with the Mormons. The bill which passed both Houses of Congress—I do not know whether the Senator voted for it or not—authorizing the President to receive into the service three regiments of volunteers, does in express terms recognize that there is war in Utah.

Mr. HALE. Yes, sir; and I was finding fault with that very bill for containing that very—no matter what. That is what I said, that we insisted in urging upon the Administration that there was an emergency, and that they wanted troops

for the emergency, when there was no such thing in existence. It is not the first time that an act of Congress has undertaken to create a fact. I remember that there was an act of Congress which declared that war existed by the act of Mexico; but did anybody on earth believe it? No, sir. But the next session after the act was passed, Mr. Polk, President of the United States, tried to make himself believe it; and he reiterated it more than twelve times in his message, that war existed by the act of Mexico. It did not. I knew it; the country knew it; everybody knew it; nobody knew it better than Mr. Polk. The war did not exist by the act of Mexico, but, as Mr. Calhoun said on the floor of the Senate, it required an extraordinary degree of blundering on the part of the Administration to get into that war. Well, sir, extraordinary as was the degree of blundering that was necessary to get into the war with Mexico, it will require a vastly greater degree of blundering to get into a war with Utah. It will take more than one act of Congress to do it; and if Mr. Buchanan puts it into his message next December twenty-four times instead of twelve, it will not be true nevertheless.

I am opposed to this bill entirely, as a war measure. Then what good is it to do as a postal measure? Who is to regulate the other end of the wire after the war is over? We are treating these people, if there is a war, as enemies and outlaws, and yet we are establishing a telegraphic communication to their capital. I am opposed to it on every possible consideration upon which it can be urged, and on any possible argument that can be brought to favor it. As a war measure, as a postal measure, as a measure of economy, as a measure of peace, or as a measure of war, I am utterly opposed to it.

Mr. DOUGLAS. I will not detain the Senate, sir; but I desire to say that I am decidedly in favor of this measure, whether we are to have a war or not; but the argument, in my opinion, is conclusive in favor of it, in the event that there are to be hostilities in Utah. The Senator from New Hampshire asks who is to have the other end of the wire? I take it for granted we should have both ends of the line. The telegraph will be laid down as far as our troops are operating, and will enable us to communicate in all days and at all hours of the day, between the capital and the army. I believe it would pay for itself, if there are to be hostilities there, during one year. It would pay for itself many times over, simply as a war measure; and when peace comes it certainly will be very useful. This telegraph line will extend half way to the Pacific, and I take it for granted the other half will be supplied very soon, and give us immediate means of communication for commercial and all other purposes, with the Pacific.

I look upon it as a great and wise measure of statesmanship, whether we regard it in reference to peace or to war. I believe there will be more practical results, with a less expenditure of money, than from any other equal appropriation this Congress can make. I will not now attempt to go into debate to answer the arguments urged against the bill. I was called away from the Senate, and have not been able to hear the arguments, except the concluding remarks of the Senator from New Hampshire. I wish I knew what they were. I cannot imagine the ground of objection to the passage of the bill. I had hoped it would be passed unanimously, and even without debate, as being one of those measures which commended themselves to the judgment of all men in the Senate. I will not argue it, nor occupy time. I only wish to say thus much, in order to express my hearty approval of this bill.

Mr. PUGH. Mr. President, I concur in many of the criticisms made on this bill by the Senator from Arkansas; I think the bill needs a great deal of amendment and perfection; but I disagree to what has been said by a great majority of the Senators who have spoken on the idea that it is either an idle or a preposterous scheme. I think there are great merits in the proposition.

Now, sir, I am of opinion that you will either have a war very soon with the Mormons, or you will have the matter to end in a farce. If it is to end in a farce, what are you to do with the two regiments of volunteers and the dozen regiments of regulars you are sending there? If you had a telegraph from here to Colonel Johnston, you

would know whether to send the troops or not, and if you were to have no controversy you would not send them. You would know what description of troops he needed; you would know what supplies he required; and that is wherein, if you are to have any hostilities, this instrument would be so valuable. Therefore, I have been amazed to hear a number of gentlemen ask the question what benefit it would be to us to have a telegraph from here to Colonel Johnston's camp. Why, sir, we should know what Colonel Johnston wants, and we should be able to avoid sending what he does not want, at a vast expense; and it is too commonly the fault of commissaries and quartermasters to take a vast amount of public property that is of no use, far off, to be destroyed, because they set out upon the idea that everything, perhaps, may be required, and everything must be taken.

It is the vagueness of the bill that has given me all the trouble. I say with the Senator from Arkansas, I do not know where the Secretary of War is going to take this wire. He may take it to every Indian post all over the country. If so, I am against it; but I am in favor of this telegraph being built to Fort Laramie, and as quickly as possible.

Mr. POLK. The Senator from Ohio will allow me to ask him if the bill does not limit the amount that shall be expended?

Mr. PUGH. I do not know. That point I am willing to have investigated and examined.

Mr. POLK. It does, I believe.

Several Senators. It is limited to \$500,000.

Mr. JOHNSON, of Arkansas. The limitation is only that it shall not exceed \$500,000 to Salt Lake City. It does not say that it shall stop there. He may go westward, and lay a submarine telegraph to China, under the powers granted by this measure.

Mr. PUGH. It came with very good grace, I admit, from my friend from Arkansas to oppose this bill; but, when I heard the Senator from Maine, I was lost in astonishment. Did we not have the submarine telegraph bill here the last session? That was a proposition to lay down three thousand miles of telegraph from here to Europe; and what for? We had no soldiers at the other end of it. On what pretext was that scheme of plunder put through Congress? That once in five years we might want to send a dispatch to some foreign minister! Like the boy who put salt on his plate, so that he might be ready if anybody asked him to eat an egg, [laughter,] we laid down a telegraphic wire lest we might have occasion to send a dispatch; and we were to pay so much a year for twenty-five years irrevocably. The Senator from Maine could see no constitutional difficulty, no objection to that.

Mr. FESSENDEN. I do not see any constitutional difficulty in this.

Mr. PUGH. Well, he could see no financial difficulty. It was voted. It came from the Committee on the Post Office and Post Roads, as if we were going to have post offices and post roads under water from here to Europe. It passed, and we have sent out our ships. We have been at it a year or two, until they broke the wire.

Now, sir, as to a telegraphic communication to the Pacific, if it can be made, and made in the cheapest manner possible, I am in favor of it. I do not want to pay for all of it, but I am willing to pay for a reasonable share. I am willing to pay for whatever will be valuable to us for communicating intelligence in time of war. Therefore, my object in rising is to say there is ten hundred times more merit in this proposition than there was in the submarine telegraph bill which was carried triumphantly through both Houses; but I am in favor of its being committed or laid over to amend it, so that while we shall not assume the whole responsibility of this work, we may offer some fair advantages to persons who will consent to make it all the way to California, or part of the way, and that we shall give them, so far as it traverses the territories of the United States, the right of way and a reasonable sum for the use of it, so long as we may require it. I hope the bill will lie over, for I am very much afraid that if it comes to a vote now it will be defeated and we shall get no benefit from it; and as the Committee on Military Affairs is equally divided, I submit to the Senator from Massachusetts that he let the bill lie over.

Mr. WILSON. I propose, Mr. President, to

let the bill go over for several days for these reasons: In the first place, I want the bill made as perfect as man can make it. I am willing that any limitations shall be placed upon it that the ingenuity of man can put upon it to protect the Government. In the next place, as we have been called upon for estimates, I think that within a few days we can ascertain all the facts bearing upon the case. I would like to have the question go over, and I make the motion that it be postponed for a week from this day, at one o'clock.

Mr. BRODERICK. I hope the Senate will not postpone this bill. It has been upon the table now for a week or ten days, and the Senator from Massachusetts has been trying to get the floor every day for the purpose of taking it up. If this bill can be perfected, let it be perfected now. It gives the power, I understand, to the Secretary of War to construct a telegraphic communication between the Missouri river and Salt Lake. If any Senator has any objection to giving the power to the Secretary of War, let it be given to the President of the United States, or to any other member of the Cabinet. The appropriation is limited to \$500,000; it cannot exceed that sum one dollar; I see no necessity, therefore, for referring this bill to any committee. If the Senate is disposed to vote it down, let the vote be taken at once; if Senators are disposed to pass the bill, they can signify it by their votes.

Mr. MALLORY. Before the vote is taken, I desire to ask the Senator who reported this bill if he can inform me what time it will take to execute the contract for this telegraph, at least to the post now occupied by Colonel Johnston?

Mr. WILSON. The parties who petition for this line say they can build it from Fort Leavenworth, or any point on the Missouri river, to connect with Colonel Johnston's camp, which is one thousand and fifty miles, in one hundred days. I think a bargain can be made with them, and they can redeem the pledge, that they will make this connection in one hundred days. I wish to say, while I am up, that, as there is objection to the form of the bill, I think the Senator from California had better agree to let the matter go over, say until Thursday, at one o'clock. Give us time to put the bill in shape, and to ascertain some facts more than we have got now in regard to it, and I do not despair of carrying it.

Mr. IVERSON. I am opposed to this bill, in any shape in which it can be presented. I do not believe it can be presented with any guards in which it would meet my approbation, and I think that is the temper and opinion of the Senate. In order to obviate any further consumption of time, I think it proper the Senate should have a test vote on the question, and, if I am in order, I move that the further consideration of this bill be postponed until the first Monday of next December. If that motion prevail, the Senate is opposed to the bill; and if not, it can be postponed for a few days.

Mr. BRODERICK and Mr. WILSON called for the yeas and nays, and they were ordered.

Mr. CAMERON. I hope, Mr. President, we shall not agree to this motion. If the proposition is to be voted down, let us do it directly. I do not approve of this left-handed way of disposing of questions. Those in favor of the measure had better meet it fairly and squarely.

Mr. IVERSON. I put it as a test question.

Mr. CAMERON. I think that is not the better way of getting at it. Let us have the question before us at once. To my mind it seems that this proposition is a good one for the country.

The gentlemen on the opposite side tell us there is a war in Utah. If so, in my opinion, it is a blundering war; and I think it was a mistake to make that war, and I believe it will result in disgrace to the country; but if the war is to be carried on, let us give to the Government every facility for carrying it on properly and efficiently. Nothing can add more to the efficiency of the progress of this war than a telegraphic line, which will give us daily communication with the army, and by means of which we can know every day what supplies and reinforcements are necessary for the purpose of maintaining and preserving that army. Only the other day the deficiency bill was passed in the other House appropriating in one item \$5,400,000 for supplies already contracted for this war. That is a very formidable sum, Mr. President, which is calculated to give the impression

that there either is, or is soon to be, a war. If there is to be a war, it seems to me the Government should have this telegraphic line.

In addition to that, as has been very wisely said, when we get the telegraphic communication to Utah, more than half the distance between the Atlantic and the Pacific will be overcome. Everybody who is desirous of keeping California and the Pacific slope as a portion of the Union, ought to be anxious to make some communication with that distant country—that valuable portion of our Union—which will add to the desire of the people there to remain a part of us.

It seems to me there is every reason why we ought to vote for this bill; and if it is to be disposed of at once, I am desirous, at all events, of seeing those who are willing to vote for it directly, and those who are disposed to vote against it directly.

The question being taken by yeas and nays, resulted—yeas 28, nays 17; as follows:

YEAS—Messrs. Allen, Biggs, Bright, Clay, Collamer, Crittenden, Dixon, Durkee, Evans, Fessenden, Fitzpatrick, Foot, Foster, Green, Hale, Hammon, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Sebastian, Slidell, Toombs, and Wright—38.

NAYS—Messrs. Broderick, Brown, Cameron, Chandler, Clark, Doolittle, Douglas, Harlan, Jones, King, Polk, Pugh, Seward, Simmons, Stuart, Wade, and Wilson—17.

So the motion to postpone was agreed to.

EXECUTIVE SESSION.

On the motion of Mr. SLIDELL, the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 13, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. G. BUTLER.

The Journal of yesterday was read and approved.

QUALIFICATION OF A MEMBER.

Hon. SAMUEL CARUTHERS, a member from the seventh congressional district of the State of Missouri, appeared and qualified, by taking the oath to support the Constitution.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary, notifying the House that he had, on the 7th instant, approved and signed a bill (H. R. No. 313) to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States two additional regiments of volunteers; and also a message in writing.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, informing the House that the Senate have passed the following bills; in which he was directed to ask the concurrence of the House:

An act (S. No. 162) for the relief of John L. Allen and Asa R. Carter;

An act (S. No. 208) for the relief of Fabius Stanley;

An act (S. No. 248) to authorize the settlement of the accounts of Luther Jewett, late collector of the district of Portland and Falmouth, in the State of Maine; and

An act (S. No. 248) to amend or define the act of July 29, 1850, entitled "An act providing for recording the conveyances of vessels, and for other purposes."

Also, that the Senate insist upon their disagreement to the amendment of the House of Representatives to the bill (S. No. 161) for the admission of the State of Kansas into the Union, and ask a conference on the disagreeing votes of the two Houses on the same; and that Mr. GREEN, Mr. HUNTER, and Mr. SEWARD be the committee on the part of the Senate.

Mr. MONTGOMERY. I desire to give notice that, at one o'clock to-morrow, I shall ask the House to take up and dispose of the bill for the admission of Kansas.

WASHINGTON AUXILIARY GUARD.

Mr. GOODE. I move that the rules be suspended, and that the House resolve itself into the

Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union; Mr. JONES, of Tennessee, in the chair.

The CHAIRMAN. The House having made House bill No. 478, to establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject, and having subsequently also made Senate bill No. 232, for the same purpose, a special order from day to day till disposed of, after a certain other bill was disposed of, these two bills are now before the committee.

Mr. GOODE. The Senate bill having passed the ordeal of that body, and the matter having been maturely considered by the Senate—the provisions of the House bill disapproved by them having been stricken out, and others, which have met their favorable consideration, having been inserted—it appears to me that it would be a saving of time to take up the Senate bill. I therefore propose that course.

Mr. LEITER. I object, and propose to take up the House bill.

The CHAIRMAN. It is a question to be decided by the committee.

Tellers were called for and ordered; and Messrs. J. GLANCY JONES and NICHOLS were appointed. The committee divided; and the tellers reported—ayes 74, noes 56.

So the motion was agreed to; and the Senate bill was taken up and read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be established an auxiliary guard, or watch, for the protection of persons and property, and for the enforcement of the police regulations of the city of Washington, to consist of a chief at an annual salary of \$2,000, one captain at an annual salary of \$1,200, four lieutenants at an annual salary of \$800 each, and one hundred men at an annual salary of \$600 each, to be paid monthly. To serve during the night, and in the day time when specially ordered to do so. The chief of the auxiliary guard shall be appointed by the President, by and with the advice and consent of the Senate; and the captains, lieutenants, and men shall be appointed by the chief, with the approval of the Secretary of the Interior, and may be dismissed by the chief at his pleasure, or upon the order of the said Secretary.

Sec. 2. And be it further enacted, That the guard hereby established shall be divided by the chief into squads of convenient size; and the said chief is also authorized and empowered to establish guard-houses at such points in the city of Washington as he may designate, subject, however, to the approval of the Secretary of the Interior.

Sec. 3. And be it further enacted, That the Mayor of Washington, the district attorney for the District of Columbia, the marshal of the said District, and the chief of the auxiliary guard, are hereby authorized and required to make and establish rules and regulations for the government of said guard, subject to the approval of the Secretary of the Interior.

Sec. 4. And be it further enacted, That the sum of \$10,000 be, and the same is hereby, appropriated annually as a contingent fund, to be expended under the direction of the Secretary of the Interior, to carry out the purposes of this act in the suppression of crime and detection of criminals in the city of Washington.

Sec. 5. And be it further enacted, That each member of the guard shall be required to wear a uniform dress at all hours when on duty, and on his hat, or cap, or breast, such number as may be assigned him. The captains and lieutenants, at all times, day and night, shall wear an official badge; and said uniforms, badges, and numbers, hereby required to be worn, shall be prescribed by the chief, and shall be made public in the newspapers of Washington for one month after first prescribed, and shall not thereafter be changed.

Sec. 6. And be it further enacted, That all acts and parts of acts heretofore passed, authorizing or relating to the employment of an auxiliary watch, or guard, be, and the same are hereby, repealed. This section to take effect so soon as the chief shall report to the Secretary of the Interior that he has thirty men enrolled and ready for duty.

Sec. 7. And be it further enacted, That the sum of money necessary to carry this act into effect, not to exceed \$75,000, be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated.

The amendment, in the nature of a substitute, offered by Mr. DOB, was then read, as follows: A bill to establish an efficient police for the city of Washington.

That the boards of the city council of the city of Washington shall forthwith appoint commissioners of election, according to the charter of said city, who shall, on four days' notice after the passage of this act, hold an election for the choice of four commissioners of police, in manner following: At such election each voter of the city of Washington shall vote for two persons for commissioners of police, and no ballot shall be counted that contains more than two names; and the four persons having the highest number of votes shall be declared elected, and two of them shall hold their offices for two years, and two of them for one year from the day of said election; and the person having the greatest and the person having the lowest number of votes

shall be the two to go out of office at the end of one year; and if any two have the same and the highest or the lowest number of votes, such two shall draw lots between themselves to determine which shall go out of office; and there shall be an election on the same day every succeeding year, held as above directed, for two commissioners of police, at which each voter shall vote for one person only, and no ballot shall be counted that contains more than one name; and the two persons having the highest number of votes shall be declared elected, and shall hold their office for two years from the day of their election; and the said four commissioners of police shall constitute a board, to any act or resolution whereof the assent of three of said board, entered on its minutes in writing, shall be necessary; and said board is hereby invested with power to appoint and remove, at their pleasure, the police force hereinafter provided for, and also to appoint and remove, at their pleasure, such police force as now exists under the authority of the boards of the city council, or may be hereafter established; and the said board shall make rules and regulations for the government of all the said police authorized by this act or by the said boards of the said city councils.

Sec. 2. And be it further enacted, That there be established a police force for the protection of public and private property, and for the enforcement of the police regulations of the city of Washington, to consist of a chief, at an annual salary of \$2,000; one captain, at an annual salary of \$1,200; four lieutenants, at an annual salary of \$800 each; and one hundred men, at an annual salary of \$600 each; to be paid monthly.

Sec. 3. And be it further enacted, That the guard hereby established shall be divided by the chief into squads of convenient size; and the chief is authorized and empowered to establish guard-houses at such points in the city of Washington as he may designate, subject, however, to the approval of the commissioners aforesaid.

Sec. 4. And be it further enacted, That there shall be paid to each commissioner chosen and serving under this act, an annual salary of \$1,000.

Sec. 5. And be it further enacted, That the sum of \$5,000 be, and the same is hereby, appropriated annually as a contingent fund, to be expended under the direction of the commissioners of police, to carry out the purposes of this act in the suppression of crime and detection of criminals in the city of Washington.

Sec. 6. And be it further enacted, That each member of the guard shall be required to wear a uniform dress at all hours when on duty, and on his hat, or cap, or breast, such number as may be assigned him. The captains and lieutenants, at all times, day and night, shall wear an official badge; and said uniforms, badges, and numbers, hereby required to be worn, shall also be prescribed by the chief, and shall be made public in the newspapers in Washington for one month after first prescribed, and shall not thereafter be changed.

Sec. 7. And be it further enacted, That the sum of \$75,000, or so much thereof as may be necessary to carry this act into effect, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

Sec. 8. And be it further enacted, That each member of the police force, before entering upon the discharge of his duty, shall take and subscribe an oath or affirmation to support the Constitution of the United States, and faithfully and impartially discharge his duties as such.

Sec. 9. And be it further enacted, That all acts and parts of acts heretofore passed, authorizing or relating to the employment of an auxiliary watch, or guard, be, and the same are hereby, repealed.

Mr. LEITER. I ask permission, now, to offer a substitute for the bill.

Mr. GOODE. After I make the motion which I propose to do, I will yield. I propose to amend the amendment offered by the gentleman from New York, by striking out all after the enacting clause, and inserting as follows:

That there be established an auxiliary guard or watch for the protection of public and private property, and for the enforcement of the police regulations of the city of Washington, to consist of a chief at an annual salary of \$2,500, one captain at an annual salary of \$1,400, four lieutenants at an annual salary of \$1,000 each, and one hundred men at an annual salary of \$800 each, to be paid monthly, to serve during the night, and in the daytime when specially ordered so to do. The chief of the auxiliary guard shall be appointed by the President, by and with the advice and consent of the Senate; and the captain and lieutenants shall be appointed by the Secretary of the Interior, and may be dismissed by the chief at his pleasure, or upon the order of the said Secretary. The men shall be appointed by the chief of the guard.

Sec. 2. And be it further enacted, That the guard hereby established shall be divided by the chief into squads of convenient size, and the said chief is also authorized and empowered to establish guard-houses at such points in the city of Washington as he may designate, subject, however, to the approval of the Secretary of the Interior.

Sec. 3. And be it further enacted, That the Mayor of Washington, the district attorney for the District of Columbia, the marshal of said District, and the chief of the auxiliary guard, are hereby authorized and required to make and establish rules and regulations for the government of said guard, and to prescribe such arms for the use of the guard as they may deem necessary, subject to the approval of the Secretary of the Interior.

Sec. 4. And be it further enacted, That the sum of \$5,000 be, and the same is hereby, appropriated annually as a contingent fund, to be expended under the direction of the Secretary of the Interior, to carry out the purposes of this act in the suppression of crime and detection of criminals in the city of Washington.

Sec. 5. And be it further enacted, That each member of the guard shall be required to wear a uniform dress at all hours when on duty, and on his hat, or cap, or breast, such number as may be assigned him. The captains and lieutenants, at all times, day and night, shall wear an official badge; and said uniforms, badges, and numbers, hereby re-

quired to be worn, shall also be prescribed by the chief, and shall be made public in the newspapers in Washington for one month after first prescribed, and shall not thereafter be changed. The chief of the guard shall be invested with the penal jurisdiction of a justice of the peace, and required to hold a court daily for the investigation of causes and the trial of misdemeanors and petty offenses, to be decided according to the laws of the District of Columbia. But in no case shall he inflict punishment greater than a fine of \$20, or confinement in a jail, work-house, or house of correction, for a term not exceeding twenty days.

Sec. 6. And be it further enacted, That all acts and parts of acts heretofore passed, authorizing or relating to the employment of an auxiliary watch, or guard, be, and the same are hereby, repealed. This section to take effect so soon as the chief shall report to the Secretary of the Interior that he has thirty men enrolled and ready for duty.

Sec. 7. And be it further enacted, That the sum of money necessary to carry this act into effect, not to exceed \$75,000, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

Mr. Chairman, all of that bill is identical with the Senate bill, with a few exceptions. It appropriates \$5,000 where the Senate bill appropriates \$10,000, as secret service money. It also contains an additional clause investing the chief of the guard with the penal jurisdiction of a justice of the peace. The Senate bill proposes to give to the chief a salary of \$2,000. I propose to give him a salary of \$2,500. The Senate bill proposes to give to the captain a salary of \$1,200. I propose to give to the captain a salary of \$1,400. The Senate bill proposes to give to the lieutenants a salary of \$800 each. I propose to give to the lieutenants a salary of \$1,000 each. These modifications will increase the cost of the bill some fifteen hundred dollars, which is, I think, an inconsiderable amount, when we consider the effect which may be produced on the character of the officers to be employed. I am asked why a salary of \$2,500 will command the services of a better officer than a salary of \$2,000? Well, I might reply that I may refer that question safely to the understanding of every gentleman here present, and to his own feelings on the subject. But, sir, I was about to remark that the expenses of the bill will be diminished in the aggregate, because I have proposed to reduce the appropriation for secret service money from \$10,000 to \$5,000, while the increase of salaries will only amount to \$1,500, so that there will be a saving of \$3,500 by my bill.

There is another difference between my amendment and the Senate bill. In the clause appointing the captain and lieutenants under this bill, I provide that the captain and lieutenants shall be appointed by the Secretary of the Interior. The Senate bill provides that they shall be appointed by the chief of the guard, with the consent of the Secretary of the Interior, or to be approved by the Secretary of the Interior.

I do not know that it is a very important modification; but it appears to me to be consistent, and more consistent, with the principles of our Constitution, which provides that it may be lawful for Congress to provide for the appointment of inferior officers by the President alone, or by the courts, or by the heads of Departments. As the Constitution constitutes the heads of Departments as an appointing power, I prefer to follow its mandate.

There is no other modification material in the bill except those to which I have adverted. It appropriates but \$5,000 secret service money; whereas the Senate bill appropriates \$10,000. And then the amendment which I have proposed contains a new provision, which I have sent to the Chair in manuscript. That provision proposes to establish a police court. It appears to me that one of the great wants of this city is a court of police.

Under the present provisions of law, warrants for the most petty offenses can only be tried by indictment of the grand jury. A man cannot be tried for the petty larceny of a ninepence without involving a cost to the Government of not less than forty, and perhaps one hundred dollars. And it appears to me to be eminently proper that summary justice should be visited upon those who are brought before the chief of police by the officers of the guard. It is far more effective to have offenses charged to be tried speedily, instead of waiting and allowing the negligence of witnesses to postpone the day of retribution for months. I deem it important that that provision should be adopted; and that a court should be instituted to try summarily petty offenses which do not rise to the dignity of crime.

Mr. Chairman, these are the modifications which I propose to the Senate bill. I will briefly state

what are the provisions of that bill. Although it has been printed, and in the hands of the various members of the House for some days, it is very possible that many have not seen it until to-day.

The Senate bill provides, in its first section, for the organization of a police force, to consist of a chief, a captain, four lieutenants, and one hundred men. The salary of the chief is fixed at \$2,000; the salary of the captain at \$1,200; that of the lieutenants at \$800 each; and that of the men at \$600 each.

The bill provides that the chief of police shall be appointed by the President of the United States, by and with the advice and consent of the Senate of the United States. That appears to me to be entirely consonant with the principles of the Constitution. The Chief Magistrate of the Government is, by the policy of the founders of our system of government, the great appointing power; and we are only authorized to depart from it in the appointment of Federal officers by vesting such appointment in the courts or in the heads of Departments. And it is on the departure from this great fundamental principle of the Constitution that I place my principal opposition to the amendment of the gentleman from New York, [Mr. DOBB,] my colleague on the Committee for the District of Columbia. I deem that to take from the President the appointment of these officers, and to place it where the proposition of the gentleman from New York places it, is an infraction of the principles of the Federal Constitution; for, under that Constitution, if the appointment be taken from the President, it can only be vested in the courts or in the heads of the Departments, unless it is held that these are municipal officers of the District of Columbia; in which case the appointment cannot be vested in such a tribunal, as is indicated by the gentleman from New York.

But, sir, while I base my principal opposition to the proposition of my friend from New York, on the fact that it violates a principle of the Federal Constitution, yet, as an effective provision, it appears to me eminently calculated to destroy the whole efficiency of the police force. He proposes to appoint four commissioners, two of which he intends shall be elected by the Democratic party, and two by the American party. Thus, if he succeeds in adopting the scheme which he has devised, we shall have a police force composed of antagonistic elements, arrayed against each other in equal force. How is it possible that controversies arising in such a board shall be settled?—two Democrats and two Americans to settle questions upon which they are diametrically opposed to each other!

I cannot conceive of an argument between them upon any question in which party feeling is involved. The gentleman and myself might find it impossible to compromise upon such questions, and so with them. In the case of a police force, we want unity of will, concert, and energy of action. But according to the scheme of the gentleman from New York, all unity of will is prevented, and all concert of action is destroyed. It is a violation, then, in my opinion, of the principles of the Constitution, is a complete destruction of all efficiency in respect to the force itself. For those reasons I hope it will be defeated.

In all its other provisions except that providing for a board of commissioners, it is identical with the Senate bill, and with the bill I have presented. The other provisions are merely of detail. The second section provides for the establishment of a guard-house, and divides the guard into squads of a convenient size for patrolling the city. The third section provides for the formation of a board to establish rules and regulations for the government of the police. I believe that a similar provision is in all the three propositions which are before the House. This section provides that the Mayor of the city of Washington, the district attorney of the District of Columbia, the marshal of the District, and the chief of the auxiliary guard, shall be invested with power to make such regulations as may be deemed necessary to the government of that corps. All the propositions have the same provision, and therefore it is not necessary longer to dwell upon it.

The fourth section of the Senate bill appropriates \$10,000 for the purpose of bringing to justice offenders against the law, those whose malfeasance compels Congress to bring this corps of po-

lice into existence. The amendment of the gentleman from New York, as well as my amendment, contemplates an appropriation of only \$5,000, which I hope will be enough.

Mr. FAULKNER. I wish to make an inquiry of the gentleman from Virginia. My colleague has spoken of a secret-service fund. I see nothing of this kind in the bill, and I would like an explanation of the matter.

Mr. GOODE. The money proposed to be appropriated is to enable the officers of the police to detect criminals, to bring witnesses from abroad, and to institute such proceedings as may be necessary to bring offenders to justice. That is all.

Mr. FAULKNER. Then I understand it to be only an ordinary contingent fund.

Mr. GOODE. Certainly it is; and if I used any term in reference to it, to which odium attaches, it is my fault.

The fifth section provides for a uniform dress for the members of the police—a matter which I suppose is unnecessary to comment upon.

The sixth section repeals all acts which have heretofore been passed relating to the employment of an auxiliary guard, and prescribes the time when this act shall go into effect.

The seventh section appropriates \$75,000, with which to pay the police and to defray contingent expenses. The sum of \$66,400 will be required for the payment of salaries under the Senate bill; under the amendment I have offered, \$68,000 will be required for the same purpose. The amendment of the gentleman from New York will require \$4,000 more than the Senate bill, making \$70,400. While the bill of the Senate appropriates \$10,000 for contingent expenses, the two amendments before the House propose to appropriate only \$5,000 for the same purpose.

It is not my object to inflame the House by any statement in connection with the necessity for this bill. The circumstances of the times have impressed the minds of members with the necessity of an effective police. To have an effective police the action of Congress is indispensable; and, in my opinion, the action of Congress could not be beneficially exerted in any other way than by the passage of the amendment I have presented. I therefore hope it will be adopted by the House, and that the substitute of the gentleman from New York will be voted down.

Mr. COMINS. It is well the subject now before us is being considered in Committee of the Whole, where not only the merits of the Senate bill, but the causes which have made it seemingly incumbent upon Congress to act in the matter, may be discussed. Although I do not desire to pursue this investigation minutely myself, I trust there are those who will faithfully expose the state of things which exists, and which will continue to exist until a dynasty which at present rules this country is overthrown. It is in vain to remodel municipal laws, or to make new ones, so long as the basis upon which they rest is rotten. The state of things which exists in this city to-day is the legitimate fruit of the tree. It is the fruit of an institution popularized on the political stump, and elaborated on the judicial bench.

It is alleged that infamous crimes are daily and nightly committed against persons and property in this District! Is this anything new? Listen to the voices of the murdered Keating, and Hume, and a score of others. Were not the murderers and assassins arrested? Has justice in this District been at fault through the remissness of the police or the tribunal? Have we not seen the principles of justice and of law trampled in the dust and set at naught by the criminal court, (Judge Crawford,) and the result applauded by eminent Senators and distinguished Representatives? Mr. Chairman, there is little use in attempting a reformation at one end of the government of this District, without a corresponding change at the other.

I am opposed to this bill. I am opposed to it because it is wrong in principle, anti-Democratic, in conflict with the principles of republican liberty, and a subversion of the principle of popular sovereignty. It is anti-republican, because it places the people of this District under laws and regulations for the government of the city, in which they have no voice.

The third section of the bill is as follows:

"SEC. 3. And be it further enacted, That the Mayor of Washington, the district attorney for the District of Colum-

bia, the marshal of the said District, and the chief of the auxiliary guard, are hereby authorized and required to make and establish rules and regulations for the government of said guard, subject to the approval of the Secretary of the Interior."

This one section of the bill confers as much power upon four commissioners as is conferred by any city charter in the United States upon a city government, so far as government of police and police laws are concerned. And who are these commissioners to be; who is the district attorney who is to make laws for the government of every man, woman and child in this city? Who is the marshal of the District, and who is to be the chief of this precious auxiliary guard? Sir, they are to be the partisan appointees of a partisan President. What security have we that they will not be the men, or of the men, who have stricken down in cold blood our brothers in a distant Territory? I rejoice that that Territory is about to be relieved of their presence, but I do not wish them installed by the same Executive hand to govern and riot here in our midst.

This bill is a subversion of the principles of popular sovereignty, because it denies the right of the people to govern themselves. Mr. Chairman, I am not willing to place so low an estimation upon the moral condition of the seventy thousand inhabitants of this city as to believe them incapable of self-government. Shall we proclaim it to the world that the moral authority of the human mind is no longer an element in the government in the capital of free America? No vote of mine shall inaugurate a despotism like that contemplated in this bill.

I have had sufficient experience in municipal government to know that there is nothing the people so much hate as a foreign police. Put a guard of one, two, or three hundred men, appointed by the President, to patrol any city in New England, and the boys would drive them from the streets in an hour.

I acknowledge there is a bad state of affairs in this city—a state of affairs which exists partly from the failure of Congress to do its duty; and partly, but mainly, from the failure of the people of the City and county of Washington to do their duty. Congress has failed to do its duty in not reforming the suffrage laws of this District. The people of the District failed to do their duty when they rejected the bill passed by the Thirty-Fourth Congress, approved August 11, 1856, extending and guarantying the privileges of free schools to the entire people of this District. Have we not told you time and time again, that without a system of free schools you could expect nothing but vice and crime? As a member of the General Government, and a denizen of Washington, I am opposed to this bill. I am opposed to it from principle; and I am opposed to it because I believe we shall have no better government under it than we shall without it. From what source is this new government to emanate? Sir, it is to emanate from a corrupt and repudiated Administration—an Administration that has reached that point of corruption in which purity appears ridiculous and modesty is treated with contempt; and can you expect the stream to rise higher than the fountain? Have we not spent the entire session of this Congress to rescue one people from its tyranny? and will gentlemen vote to place another people within its grasp? Sir, no vote of mine shall give additional power to the present Executive. Enlarge the liberties of the whole people of this District, instead of circumscribing them; appropriate and expend one hundred thousand dollars a year for free schools, instead of employing foreign stipendiaries to patrol the streets; make it a felony for the President, or any Government officer, to interfere in the municipal elections of this city, instead of giving them supreme power; and there will be a reform in the government that will relieve Congress from all expense or responsibility in protecting the peace and quiet of the community.

I shall vote against the bill, unless materially amended.

Mr. CLEMENS. Mr. Chairman, I must express my surprise that the gentleman from Massachusetts, who is usually so moderate and magnanimous in the views which he presents to this House, should have been, on this occasion, so far carried beyond that line of moderation which has characterized his legislative conduct, that when a bill is proposed for the purpose of giving to the people of the District, citizens as well as strangers,

security in their persons and property, he rises in his place and objects to the bill, because, forsooth, it is interfering with the municipal privileges of the citizens of this District. Has the gentleman forgotten that his party, in the great State of New York, but a short year ago, departed from the principle which he has been contending for here to-day, by taking away the municipal privileges of the city of New York, and vesting the appointment of the police of that city in the legislative and executive departments of the State, at Albany?

Mr. MORGAN. What did your political friends say about it?

Mr. CLEMENS. Why, sir, my political friends were in favor of allowing the municipal privileges of the city of New York to rest where they had been for a long series of years.

Mr. COMINS. I wish to say to the gentleman from Virginia that I have always regarded the policy in New York to which he refers as anti-Democratic, and I am not yet convinced of the expediency of the measure.

Mr. CLEMENS. Very well, then, the gentleman differs from his party. The Republican party of the State of New York took away utterly and entirely the municipal privileges of New York, and vested them in the hands of the Legislature at Albany. The appointment of the commissioners, at least, was by the law given to the Legislature.

Mr. BURROUGHS. The gentleman is mistaken. They are appointed by the Governor.

Mr. CLEMENS. How were they appointed before?

Mr. BURROUGHS. The police were appointed by the Mayor of the city.

Mr. CLEMENS. The law passed by the Republican party expressly interfered with the municipal privileges of the people of the city of New York. They are Democratic, and the powers at Albany are Republican. Where, then, is your consistency in objecting to vesting this power in the President and contending for the very same principle here which you have sanctioned by your Legislature in New York?

Sir, there can be no rational objection, in my opinion, to the passage of the bill as proposed by the chairman of the Committee for the District of Columbia; and I am sorry to see gentlemen on that side of the Chamber carried away so far by their prejudices against the Executive, I will not say by an unkind feeling, but by at least a mistrustful feeling towards the Administration, as to vote against a measure of public safety merely because it vests in the Executive a power so important to the people of this District. The present Executive of the Union will not be here forever. We shall have other Executives to which this power will be confided.

Mr. CURTIS. There will be a change in 1860.

Mr. CLEMENS. The gentleman says there will be a change in 1860. Very well; suppose there be. I should like to know if he would not be very glad to give that power to his Executive?

Mr. CURTIS. Never; never.

Mr. CLEMENS. I know that gentlemen out of power are very distrustful of what is called executive patronage; but I have never yet seen any gentleman in power who was not willing to stand up to his party and his President.

Mr. CAMPBELL. I desire to say to the gentleman here, that if he will look over the years and days of last Congress, he will find on record several instances where gentlemen separated themselves from their party. If the gentleman expects this side of the House to give to the present Executive the power of appointing the police, without regard to the general good or the various elements of party politics found in this city, he is mistaken.

Mr. SEWARD. I rise to a question of order. I object to the farming out of the floor.

The CHAIRMAN. The Chair does not understand that the gentleman from Virginia is farming out the floor. He yielded for explanation.

Mr. KILGORE. I would refer the gentleman to the case of a Virginia accidental President—John Tyler—who was abandoned by his party; and I think that the party with whom I have the honor to act will, under similar circumstances, be found doing the same. And the gentleman will permit me to ask him if he has not a partisan President; and if so, why it is that he voted against the deficiency bill?

Mr. CLEMENS. I am very glad that the gentleman has asked that question. I voted against the deficiency bill, and I would do it again—

Mr. BURNETT. I rise to a point of order. I believe the deficiency bill is disposed of, and is not now before the committee, and so the gentleman has no right to discuss it.

The CHAIRMAN. The Chair overrules the question of order. The practice of the Committee of the Whole on the state of the Union has been—though contrary to the opinions of the present incumbent of the chair—to indulge members in talking about anything. [Laughter.]

Mr. CLEMENS. I voted against the deficiency bill, and I would vote against it again, and as many times as it is proposed in the House. I will vote against it just as often as it proposes to give officers sitting at the Clerk's desk \$68,000 of gratuity for services for which they have been paid by law, dating back, not to the commencement of last Congress, but going back eleven years—giving your chief clerk a salary amounting to a larger sum than is given to the Clerk of the House. I voted against that because it was a masked battery—because it professed to do on its face what it had not the boldness to avow. It did not specify any amount to be drawn from the Treasury, but it vested in the Clerk of the House an arbitrary discretion to give to certain officers allowances under resolutions of Congress, which, under the phraseology of the third section, date back twelve years. Do you know—you, gentlemen, who are called upon to stand up to your party and your President—you over whom the Washington Union cracks its Russian knout—do you know how many thousands of dollars you voted in that section of the deficiency bill?

Mr. HUGHES. I ask the gentleman why he did not make this speech before the vote was taken on the bill, so that we could have voted against it?

Mr. CLEMENS. I will tell the reason. I sought the floor on three different occasions, as my friend from North Carolina [Mr. BRANCH] knows, and as my colleague from Virginia [Mr. LETCHER] knows; and applied to both of them, over and over again, to give me an opportunity to state my objections to the bill; and I was kept down by an objection of my friend from Ohio, [Mr. SHERMAN]; and, when I appealed to him personally to withdraw his objection, he refused to do so. My colleague was willing to accord to me the privilege.

Mr. FLORENCE. I rise to correct an item of history. I recollect, one afternoon, in the Committee of the Whole on the state of the Union, when there was nobody to take the floor, the committee, consisting of about three, rose, and went into the House. If the gentleman had been there at that time, he would have had an opportunity of enlightening as many as were present. I had a notion myself to address the committee.

Mr. MARSHALL, of Kentucky. I rise to a question of order. The decision of the Chair, it seems to me, has permitted a latitude to this debate which was never yet taken. I believe it has been the practice to allow gentlemen to debate on all measures alive and pending, but not to allow debate on what is dead and past.

Mr. CLEMENS. If the gentleman will suspend a moment, he will save his point of order.

The CHAIRMAN. The Chair will state to the gentleman from Kentucky that he is not aware of any restriction being put on debate in the Committee of the Whole on the state of the Union.

Mr. MARSHALL, of Kentucky. Then a member might discuss the Panama mission.

The CHAIRMAN. Yes, sir; some things dead as long have been discussed here.

Mr. CLEMENS. I did not hear the remarks of the gentleman from Pennsylvania, [Mr. FLORENCE]; but I have no doubt they were as humorous as usual.

Mr. FLORENCE. I said that if the gentleman had been here one of those afternoons when Kansas affairs were under discussion, he would have had an opportunity to have got the floor and spoken on the deficiency bill. But he was not present, I suppose, and there was nobody to speak, and the committee, as many as were present at the time, rose. I was about volunteering to the Chair, to keep the committee together, that if he would give me an opportunity, I would put to the end of the message of the President the words, "I concur;" and let that be my speech. If the

gentleman had been here, he would have had an opportunity to speak, and I have no doubt that it would have been very gratifying to those present to have heard something else than Kansas.

Mr. CLEMENS. I come back to this bill, and to the consideration of the no-party question presented here by the gentleman from Massachusetts, [Mr. COMINS.] The gentleman from Ohio states that he can give a variety of instances in which men have broken loose from the fetters of party, and stood up in the independence of honorable manhood. Sir, if a gentleman has ever done that here, he is a white crow. I know no word exactly to designate the gentleman [Mr. CAMPBELL] in the political department. Whether or not he is amphibious, I do not exactly know; whether he is an American, Republican, or Democrat, I do not know. He sails so completely in the eye of the wind that you cannot tell whether he is a seventy-four gun ship, or one of those Baltimore clippers, with black sides, and which carries an exclusively African cargo. [Laughter.]

Mr. CAMPBELL. Of all the slavery of which I ever heard or read, I condemn and despise the slavery of the mind most. I would rather be the slave of the gentleman from Virginia, across the Ohio river from my native State, under his lash, hewing wood and drawing water for him, than to be the slave intellectually to his or any other party or power on earth.

Mr. CLEMENS. The gentleman has made a declaration that sounds magnanimous. [Laughter.] It is, rhetorically, very fine.

"When the devil was sick, the devil a monk would be, When the devil got well, the devil a monk was he."

Sir, the gentleman from Ohio, in proclaiming his independence of party, is clanking the shackles that bind him, for when was he anything else than a party man?

Mr. CAMPBELL. Always.

Mr. CLEMENS. Always! Why, sir, all the reputation he has in this House, and whatever reputation he may have in the country, and he has reputation in both, is derived from his allegiance to party.

Mr. SEWARD. I rise to a point of order. I understood the Chair to decide that it was in order to discuss any subject, dead or living; but I do not understand that it is in order to turn round and discuss the merits of an individual to his face.

The CHAIRMAN. The Chair does not see that there is any point of order in what the gentleman has stated.

Mr. CLEMENS. I have only to say that so far as this no-party bill is concerned; it is of a piece with the declaration of the gentleman from Ohio that he was governed by no party allegiance. It is utterly impracticable. It could not be carried out. If we ever had in this country a no-party man, and the gentleman from Ohio is that man, I should advise him to present himself to Barnum at once.

Mr. CAMPBELL. I commenced my political career under the flag of the gallant Harry Clay. I followed that flag, with all its national inscriptions, until they were rubbed out, and the gallant hero died.

Mr. CLEMENS. The gentleman says he followed the flag of Henry Clay as long as he could follow it, and when he could not follow anything else, he followed his shadow. He worshipped the man as long as he lived, and when he died he worshipped his grave.

Mr. CAMPBELL. No, sir. I followed the great principles of Henry Clay, enunciated by him in 1832, as the "American system." I have followed them from that day to the present, and during the consideration of the bill now before the committee I intend to adhere to them.

Mr. CLEMENS. The gentleman from Ohio followed the principles of Henry Clay. But what did he do when those principles ceased to be operative? Did he follow a substance or shadow? The gentleman is like a great many men out of power and seeking to regain it.

Mr. CAMPBELL. I am as much in power as the gentleman from Virginia. [Great laughter.]

Mr. CLEMENS. I do not know whether the gentleman is as much in power as I am or not. My seat is not contested.

Mr. CAMPBELL. And mine, I believe, is in no more danger than that of the gentleman from Virginia, if justice be done.

Mr. CLEMENS. Now, Mr. Chairman, I ask

the gentleman from Ohio—no-party man as he says he is—belonging neither to the Democratic party, the Republican, or the American party, if he ever voted with the Democratic party?

Mr. CAMPBELL. The gentleman himself has abandoned the Democratic party. He did within the last four days, and he knows it; when I voted for the deficiency bill and he voted against it.

Mr. CLEMENS. Very well; admitting that to be true—

Mr. CAMPBELL. Then you are out of the Democratic party.

Mr. CLEMENS. I desire to show the gentleman from Ohio how this new bill of the gentleman from New York having two commissioners of police belonging to one party and two belonging to the other—a board which is neither fish, fowl, nor good red herring; I say I desire to show how harmoniously such a board would act. They could agree upon no one proposition, and could cooperate in nothing.

Mr. CAMPBELL. I have never read the new police bill to which the gentleman refers, and perhaps do not understand its details. But I have this to say, that if he cannot trust his own Executive and his own party upon a deficiency bill which proposes to sustain the army which they have sent to the frontier to suppress rebellion, I cannot trust it with the appointment of a police for the protection of this city and District. I have taken some notice for many years past of the police regulations of this city, and I have concluded to resist an increase of Executive patronage. I should much prefer that my constituents, when they come here to the national metropolis, should come prepared to protect themselves. I will not, therefore, as their Representative, vote to give the Executive the appointment of this police force, demanded by the Senate's bill.

Mr. CLEMENS. Yet this very gentleman from Ohio, voted in favor of the deficiency bill, which gave the Executive Departments absolute control over eight or nine million dollars, and takes peculiar credit to himself for having aided in its passage.

Mr. CAMPBELL. No, sir; I beg your pardon. I claim no credit for the vote. I gave the vote to carry on the Government and to subdue alleged rebellion.

Mr. CLEMENS. The gentleman from Ohio takes particular credit to himself forsooth. He accuses me of want of party fidelity, because I voted against the bill. Yet he voted for the bill, and is a no-party man.

Mr. CAMPBELL. It was declared by the Executive that a far off Territory was in a state of rebellion. Estimates were sent to the Committee of Ways and Means who reported a bill—and my friend from Virginia, upon my right, [Mr. LETCHER,] who had charge of the matter, sustained it ably—to supply deficiencies created by supplies to put down that rebellion. Considering the condition of the country, and taking a comprehensive view of the whole matter, without regard to parties or to sections, I did sustain the gentleman's colleague, who took charge of that bill and urged its passage. The honorable chairman of the Committee of Ways and Means [Mr. J. GLANCY JONES] was not present during the discussion on the deficiency bill, I believe, or if he was present, he was silent. He spoke not. I admit that I sustained the Administration members of the Committee of Ways and Means, the gentleman from the Rockingham district, [Mr. LETCHER,] and the gentleman from Missouri, [Mr. PHELPS,] my colleagues upon the committee, under these circumstances. I separated myself from my party friends and from you, sir. I—

Mr. CLEMENS. You have no party. You just now said so. [Laughter.]

Mr. CAMPBELL. Sir; you have abandoned your Administration. You have denounced and repudiated it by your vote, and are read out of its organization by its organ, and it is for you to settle your account with your own party in power; not for me to respond to your demand.

Mr. CLEMENS. Between the Washington Union and the gentleman from Ohio, the subject of this deficiency bill will be pretty well blown. I have nothing further to say upon the subject of the deficiency bill for the present.

Mr. BURNETT. I wish to suggest to the gentleman from Virginia that the deficiency bill is

rather a delicate subject to certain gentlemen over here. Suppose you confine your remarks to the police bill. [Laughter.]

The CHAIRMAN. The Chair is reminded that the bill now under consideration, was made by the House a special order; and under a special order the state of the Union generally is not under consideration, and therefore debate must be confined to the subject-matter of the bill.

Mr. CAMPBELL. I wish to propound a question to the gentleman from Kentucky, [Mr. BURNETT.] I wish to learn at what time, and where, is the caucus of the new Democratic party to be held—including the principal portion of the old firm of HOUSTON, JONES, and LETCHER? [Great laughter.]

Mr. BURNETT. The gentleman from Ohio belongs to a party, I believe, which claims the right to bind its members to the most solemn secrecy, and I hope he will pardon me if, on this subject, I adopt his rule.

Mr. CAMPBELL. The gentleman may, if he chooses, adopt the Know-Nothing rule.

Mr. CLEMENS. To come back to the consideration of the bill now before the committee. Some few months ago, Congress appointed commissioners to draft a new code of laws for the District of Columbia. That code was drawn up by the commissioners, and submitted to a vote of the people of the District. It was an efficient code, and was intended to guard life and property, and to give to the people of this District greater security than they ever had before. What was the result of that submission? That code was voted down. If there is any fault in reference to that measure, it was with the people to whom it was submitted, and who refused to adopt it by a popular vote. In regard to the bill presented to the House by my colleague from Virginia, I can see no rational objection, either to its details or to its principles; and I trust that those gentlemen upon this side of the Chamber who have heretofore professed so much interest in the people of this District, will carry this bill at once, and settle this question.

Mr. BLISS. Is it now in order to offer an amendment to the amendment of the gentleman from Virginia?

The CHAIRMAN. The proposition of the gentleman from Virginia is itself an amendment to an amendment.

Mr. BLISS. I supposed it would not be in order. But I will take this opportunity to indicate the amendments which I intend to offer when such action shall be had upon the pending amendment as to make them in order. I state them now, because I shall not, probably, then have an opportunity to explain their object.

I propose to insert in line five, before the word "police," the words "such of the," and after the word "Washington," in the same line, the words "as are or shall be enacted for such protection," so that that clause shall read as follows:

That there be established an auxiliary guard, or watch, for the protection of persons and property, and for the enforcement of such of the police regulations of the city of Washington as are or shall be enacted for such protection, to consist, &c.

I ask the attention of the committee to these amendments, because I offer them in good faith, as a friend of the general objects of the bill, and of the bill itself, provided it can be so modified as to meet my views.

I propose, also, to add to the end of the bill another section, as follows:

This act shall not go into effect until the city of Washington shall provide, at its own expense, a police force equal to that provided for by this bill.

I desire to say a few words as expressive of my views in relation to the obligation resting upon Congress to legislate and to pay money for the support of the city government of Washington. I do not agree in relation to this bill, or in relation to various other measures which have been before this House relating to the District of Columbia, with a large portion, if not a majority, of those upon this side of the House, and with whom I am proud to act. In that respect, and in all other respects not involving the principles of the party to which I belong, I claim the same independence of action as was claimed by my colleague, [Mr. CAMPBELL,] who occupied a portion of the time of the gentleman from Virginia, [Mr. CLEMENS.]

It seems to me that the city of Washington

holds a peculiar relation to the people of the United States, and that we are under obligation to do that for this city which we are not under obligation to do for any other city within the bounds of the United States, either in the States themselves or in the Territories. It was selected for the seat of Government, away from the populous portions of the country—retired, as it were, outside of the hum and bustle of business, so that all the people of all the States might come together, and act and consult for the common good of the whole. It is a sort of common neutral ground, in the good order of which the whole country is interested.

Resulting from that fact, we have here a city in which a large portion, perhaps a majority, of the people are but temporary residents. They come here because this is the seat of Government, and their business is in some way connected with it. They are here on business either for the Government, either in the employ of the Government, or on private business connected with the Government. They claim residence, some in Louisiana, some in Maine, some in Ohio, and some in the most distant portions of the Territories of the Union. They come here, then, having very little interest in the city of Washington as a locality; very little interest in the police regulations of the city, except so far as they are entitled to personal protection. Hence the population of this city is so far different from the population of any other city in the Union, that it would be unjust and improper to impose upon the property-holders the whole expense of furnishing a police, in addition to the various other expenses ordinarily appertaining to a city government.

Now, as I have said, a large proportion, and I believe a majority, of the people of this city are citizens of the various States of this Union, and they are entitled to protection while they are here engaged in their own or in the public business.

But there is another reason why we ought to do something for the protection of the people of this city. Not only are men congregated here engaged in lawful and proper business, but it is a fact—a fact, I believe, not denied by any one conversant with the state of things in this city—that the Government, I will not reflect upon parties, or upon this President or any other President, but still it is a fact that, in some way or other, the influence of this Government has congregated around this city more scoundrels and rascals that need watching by the police, than can be found in any other equal population in the United States. For that reason, also, Congress is bound to provide some measure for the protection of the honest, and for ferreting out and arresting the dishonest. But it will be seen from the amendment which I propose to offer, that I do not desire to relieve the inhabitants of the District from all the responsibility for their own government or their own protection, or from all the burdens that are incidental thereto. It has ever been my political creed to let each community, so far as it is possible, consistently with protecting the great natural rights of man, govern itself, and leave to this District and to the Territories the management of their local and private concerns. I would not, therefore, have this police called upon to interfere in any manner whatever with what are merely and purely matters of local police regulation of the city. It is true, that so far as the general protection of person and property is concerned, it is both local and general; and hence I would furnish a police to act with and cooperate with the city police for the protection of person and property. But there are many things in which none but the citizens are interested. For instance, they have market regulations; they have regulations in relation to licenses and auctioneers; they have regulations in relation to their own municipal elections; and there are various other matters that are purely and exclusively local, which the Federal Government should leave, so far as it is possible, to the management of the people of this District. I may say, also, that there is another matter that is purely local, and in reference to which gentlemen upon this side of the House feel somewhat sensitive. I believe there are police regulations in this city in reference to the assemblage of blacks and mulattoes, especially those held in slavery; and I would not have the Federal Government have anything to do in enforcing those police regulations, or any others of a like character.

It may be said that one of the objects of this

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, APRIL 15, 1858.

NEW SERIES, No. 99.

bill is to protect the polls, to protect the people in the peaceable exercise of the elective franchise, and hence that the police that we furnish must interfere, more or less, in elections. My reply to that, is simply this, that unless there shall be such a combination either of citizens of the District or of those who come from abroad, for unlawful purposes, as amounts to a riot which shall endanger both person and property in the city, then there will be no necessity for the interference of any but the local police. The local police can ordinarily keep the peace at every election, but if there should be such a combination as I have alluded to, endangering the peace of the city, my amendment will not prevent a call upon the chief of the police that we furnish for the aid of his corps as well as of the police furnished by the city.

Mr. GOODE. The gentleman is, perhaps, not aware of the fact that the corporate authorities now sustain a police at a cost of \$20,000 a year, and we do not propose to dispense with that police. I will say to the gentleman, further, that in order to defray the expenses of the government of this city, the citizens of Washington now pay a tax of seventy-five cents upon the hundred dollars' worth of property, which is the *maximum* they are allowed to be taxed under the city charter.

Mr. BLISS. I am aware that there is a police already provided for in this city. I should not have been aware of it, however, if I had not been told so by those who say they know.

Mr. GOODE. I admit its inefficiency.

Mr. BLISS. If I were to judge from the necessity that calls for our action, I should not infer that there had been a police in the city. But my object is to so amend the bill as not to relieve the city from the continued obligation, not only to furnish the police that they already furnish, but to increase the force, and, if possible, increase its efficiency. The principle of the amendment is that the General Government and the city should go hand in hand and should be even in this respect. If there is any other proportion that would be more proper than that, I am willing to accept it. It is impossible to tell what should be the precise proportion. I voted against many of the measures of the last Congress for furnishing aid to the city, from the fact that no provision whatever was made for the city doing anything for itself. As for instance, I voted against the bill for building the aqueduct, not that I was not in favor of the General Government doing its share; but I was not in favor of relieving, and never voted to relieve, the people of the city altogether from the burdens of self-government.

But, sir, the gentleman says that the people here pay seventy-five cents on the \$100 as taxes. I pay about one dollar and a quarter on the little I hold, each year; and some years I have paid as much as \$250 on the \$100, for special purposes. The people of this city may be taxed, but they are taxed much less than the people of the States; and they should not be relieved entirely from their taxes. The moment you relieve a man from the burden of supporting himself, you make a pauper of him, if he was not one before. The best thing you can do for any man is to compel him to stand on his own legs, and walk himself. But still, as I before remarked, the peculiar circumstances of this city require that Congress shall do something to aid the people in protecting themselves and us.

I did not propose, Mr. Chairman, to say anything that might seem to be of a general political character. Lest, however, I might be supposed to disagree with some of the remarks of the gentleman from Massachusetts [Mr. COMINS] as to some of the causes that have brought this necessity upon us, I must say that it is my settled conviction that, till there is a reform in the administration of justice in this city, there will be no security for life or property, whatever number of police we or the city may furnish.

Since I have been a temporary resident of this city, I have with pain observed the fact that crime stalks abroad with impunity. I have with pain seen men arraigned before the courts of this city, and suffered to go forth unpunished—not because

there was any doubt of their commission of the crime, but because the crime was mixed up with the politics of the day; and until that state of things is reformed, (and I call on gentlemen on the other side of the House to use their influence towards that end,) we cannot expect to have order restored to this city. If that state of things be reformed, this city, instead of being a den of murderers and thieves and blacklegs, may become, for order and decorum, a pattern to the people of the States.

I designed merely to indicate the principle by which we should be governed in making appropriations for this city, and give notice of the amendments which I intend to offer, so soon as they shall be in order, which I think will make this bill conform to that principle. The proposition of the gentleman from Virginia [Mr. GOODE] has other defects, which, I hope, in the progress of its consideration, will be so far remedied that I can vote for the bill.

Mr. SEWARD. Inasmuch as I am opposed to this whole bill, I propose briefly to give reasons for that opposition. In the first place, Mr. Chairman, I think that the gentleman from Virginia, who reported this bill, commits a great error when he assumes that the officers to be created by this bill are Federal officers. The objection I have to this bill is, first, because Congress does not, in my opinion, possess any power under the Constitution to pass it. The President of the United States is the Commander-in-Chief of the Army and Navy and militia. The force proposed to be raised here does not fall under that clause of the Constitution. In the next place, the right of appointment sought to be conferred upon the President of the United States, does not embrace the class of officers contemplated by the Constitution of the United States; because they are not United States officers, either by the Constitution, or by any law of the land.

In the next place, the legislation is radically wrong in policy. The least legislation that Congress attempts for the government of this District, the better for this people. I want to separate, as far as I can, the Federal power from the power that abides in the people here in the exercise of their corporate authority. You have got a legislative body in this District, elected by the people under their corporate authority; and they are competent to put in operation a system of police for their own safety and for their own protection—ininitely more competent than the two hundred and thirty-four members of Congress here, who are not familiar with the internal interests of the city. You have got seven wards in the city under your present local laws; you have got seven police stations, and the same number of police magistrates. Independently of local legislation, you have got, under act of Congress, an auxiliary guard, already established—consisting of a captain and fifteen men—at an expense of \$17,000 a year. Now, unless there be some inherent moral defect in the sixty thousand people of this city, unless they have become demoralized, they can, by their own legislation, and by their own system of police, govern this city. But, if all the people in Washington city—as supposed by some gentlemen—have become so thoroughly demoralized that they cannot preserve order, cannot suppress riots, cannot punish disorder, then the additional members of the auxiliary guard proposed in this bill will not restore them to their lost condition.

And now I will examine the expenses under this bill. I assert, that they will not be less than \$150,000 per annum. The bill provides for employing a chief at \$2,500 a year, a captain at \$1,400 a year, four lieutenants at \$1,000 a year each, and one hundred men at an annual salary of \$600, to be paid monthly. It gives to the chief the right to establish guard-houses anywhere in the city, at his discretion, without limitation as to number or cost. The guard-houses will cost at least \$10,000 each. The seven will cost \$70,000. The Senate bill proposes to set apart a contingent fund of \$10,000. Add up all these items, and you will find that the cost under this bill will be

\$147,900. But I think the guard-houses will cost much more than \$10,000 each; considering the usual outlay for public buildings here; and at the next session of Congress we will be called upon to incorporate in the deficiency bill \$100,000 or \$200,000 for this police. Independent of that, whenever, in the judgment of the President of the United States it may be necessary, he may, under the provisions of this bill, call out two hundred men at two dollars a day, which is, in the aggregate, \$400 per day.

Now, sir, this is not a political question. I am sorry that politics should have been brought into the controversy. I care nothing about the turmoils or troubles of the Democratic party, or of the American party. Congress has got nothing to do with them. But violations of the ballot-box on either side are disgraceful. I say that in legislating to correct the evils which exist in this city, we should not make it a political question or a political test.

What remedy do I propose? If I were going to legislate to protect the public property in this District—which I think is all we ought to do—I would establish an auxiliary guard similar in character to that established by law in 1842, consisting of a captain and fifteen men. I would pass a law making an injury to the public property here a penal offense. I would then make it the duty of this auxiliary guard to arrest persons found committing depredations on the public property, and to turn them over to the proper authorities to be tried and punished. You would then have a guard for the protection of the public property, composed of what the gentleman from Virginia [Mr. GOODE] calls Federal officers, entirely separate from the officers of the city proper, and you will have no collision. With such an arrangement, there is no conflict of jurisdiction, no disputes about power; and the expense of the General Government might always be calculated on with certainty. The people of the city will look to the expense incurred for their own police, because that expense is to be raised by taxation, and they will look to it that their money is not squandered. I will admit that their taxes are high now. I understand that they are about three fourths of one per cent. on the real and personal property. I think, however, they only tax improvements, and pay no regard to the value of the ground.

I do not know that I am right, but that is my opinion. At any rate, from the estimates which I have seen, they do not tax the value of city property so high as gentlemen tax the public property in the city. We contribute more than our proportion to the expenses of the city government and to protect property.

I have gone into a calculation of the expenses of the General Government in regard to this city, and it strikes me that we pay out more money for the expenses of this city, and for expenses incident to the District, than is paid by any city in the Union for the administration of its government, outside the city of New York. And when gentlemen come in here and ask us to raise \$150,000 a year, not out of the people of the city, but out of the people of the United States, through the revenues of the Government, they should at least come here prepared to show what are the expenses of the Government already in this city—in the improvement of the streets, in the employment of a guard, and in everything which is paid by the Government for the benefit of the city—that we may judge whether the money has been spent with proper prudence or not. If the discretion is here, let us judge of the amount of money which it is proper that we should appropriate, and not take the amount from those who come here clamoring for an appropriation.

But, sir, the gentleman from Virginia [Mr. GOODE] says these are to be Federal officers. They do not belong to the Army, to the Navy, nor to the militia. There is no provision in the Constitution recognizing such officers. Where, then, do we get the power to appoint them? There has been no law passed which gives the Executive the

power to create these Federal officers, whether they are executive, civil, or judicial officers; and they do not fall within either class. I think the utmost power we have got towards the legislation which is proposed, is to authorize the appointment of a guard or police sufficient to protect the public property growing out of the necessities of the Government.

Again, they have provided in this bill that this chief of police, with the Mayor, the district attorney, and the marshal of this District, shall establish rules and regulations for this guard. That contemplates, in my opinion, to some extent, legislative powers, because these rules and regulations certainly look to the efficiency of these men. They extend to them power to arrest a citizen on the streets, and, therefore, they must define the limits of power now attempted to be confided to this auxiliary guard; they must say in what cases they must arrest, and in what cases they must put a man in the watch-house, or the lock-up, as it is called. I say that some limitations should be put upon these one hundred men who are thus to be clothed with the powers and duties of police. No such power ought to be vested in the hands of the Mayor, in the hands of the Executive, or in the hands of any officer, where the law does not define the rule of action and make them responsible for their abuse of power.

Now, I ask the gentleman from Virginia to show me where any one of these one hundred men, or the chief, or captain, is made responsible for his conduct in office, for false imprisonment, or for false and malicious arrests. There is no restraint upon them; and I say, that in the absence of any law defining or limiting their powers, they would become a dangerous force in the midst of this people, and especially where they may engage in political excitements, and arrest any man at will, no matter how respectable he may be, if he differs from them politically.

So that I say, if we are to legislate upon this subject, let us legislate understandingly. I say, let the Mayor, the Common Council, and the corporate authorities, take the responsibility of regulating their own government, and enforcing their own police regulations, and you will then have no conflict between the Government of the United States and the local authorities.

Mr. MARSHALL, of Kentucky. I do not know that I can say all that I wish to on this question on account of the condition of my lungs; but I must say a few words. It was stated by the gentleman, the chairman of the committee who brought forward this bill, [Mr. GOODE,] that the men of this auxiliary guard would be Federal officers; and he made a constitutional point upon the proposed amendment of the gentleman from New York, that the power of appointment must be conferred upon the President of the United States or upon the Secretary of the Interior. He regards the force he is supplying as a Federal force, and the officers as Federal officers; and he proposes to give you a corps of one hundred Federal officers—for what? To carry out the police regulations of a municipal corporation. The charter of the city of Washington confers the right of appointment upon the Mayor; the right to establish, and the regulation of, the watch and of the police, upon the Board of Aldermen and Councilmen of this city. That charter confers municipal vested rights, and you cannot repeal them except through the judicial tribunals. Can the Congress of the United States repeal that act of incorporation except for an abuse of the charter privilege, or by the consent of the corporation?

The power of appointment is vested in the Mayor. The powers granted to the corporation involve all the power connected with police regulations, with the night and day watch, with the municipal administration, so far as the vigilance and detective police is concerned. But if you have the power of repeal, this is an attempt upon the part of this committee to usurp the powers of the corporation, and to vest them in the head of the General Government. I am opposed to it upon that ground. I say nothing at all about the partisan character of the bill, or of the partisan abuses which may flow from it. I plant my opposition to the bill, not only upon its general policy, but upon the positive illegality of the usurpation.

Mr. WRIGHT, of Georgia. I wish to ask the gentleman a question, to see if I understood his position: Do I understand the gentleman from

Kentucky to assume the position that the act of incorporation of a city for municipal purposes cannot be modified, altered, or repealed, by the Government which incorporated it?

Mr. MARSHALL, of Kentucky. By consent of the incorporators.

Mr. WRIGHT, of Georgia. And not without? Mr. MARSHALL. Not without, unless the power is reserved in the act of incorporation.

It is of no use to discuss the legal proposition as to the power to amend a charter. I present to you this fact: that here is a charter; that that charter is to-day the law of this city; and that the powers which this bill proposes to confer upon the President are by that charter conferred upon the Mayor and Board of Aldermen and Councilmen. This is not a bill to amend the charter; it is not a bill to repeal the charter. It is a bill to establish a corps of one hundred Federal officers. It is a proposition, without repealing that charter—a charter where this law prevails; where you leave these powers distinct; where you leave them express—to usurp the powers of this corporation by substituting a pretorian guard in their place—a uniformed corps of pensioners upon the Treasury—to do what? To carry out the police regulations of a municipal corporation.

Now, I ask gentlemen upon all sides of the House, without at all going into partisan views, whether that is not a small business for the President of the United States and the Secretary of the Interior? I hold that we had better leave the administration of municipal affairs in this city to the municipal council or head. If you want to give them an auxiliary guard, if you want to increase that force to one hundred men, expand the laws. You have now a law upon your statute-book for the establishment of an auxiliary guard. It did not occur to the legislators who passed that law that the appointing power in the city of Washington should reside anywhere else than in the Mayor, for the appointing power is given directly to him by the charter. Why do you want now, at this season of the year, to take away from the Mayor of the city of Washington the power which the charter confers upon him? Why do you want to vest in the President and the Secretary of the Interior the powers which are vested in the Mayor by the charter? Why, then, do you not attempt to repeal the charter? Why do you not attempt to modify the charter by taking away the power of appointment which the charter confers upon the Mayor? Why do you attempt to intervene by transferring the power to the President, and yet leave the law untouched? If it is the sense of Congress that the Mayor of Washington, who is the head of the municipality, ought not to have the power of appointing the police force, let us repeal the law. If you believe we have the power to repeal a municipal charter, let us repeal so much of it as relates to the power of appointment, and give it to the President. Let us not leave upon the statute-book a power conferred upon the Mayor by law, as the head of the civic administration, and at the same time give the power to appoint one hundred men to the President.

The charter of the city of Washington provides that all these men shall be removable at the pleasure of the Mayor. Are you going to leave it upon the statute-books that when the President of the United States appoints an officer here the Mayor of the city may remove him the next morning?

Mr. WRIGHT, of Georgia. I desire to ask the gentleman, with his permission, another question. Suppose the Legislature passes two acts, one of which is inconsistent with the other: which act, the first or the last, is the law of the land?

Mr. MARSHALL, of Kentucky. I will reply to that question in true Yankee fashion, by asking the gentleman from Georgia if he proposes, by this act, to repeal the appointing power of the Mayor?

Mr. BURNETT. So far as this guard is concerned.

Mr. GOODE. The Mayor has nothing to do with this.

Mr. MARSHALL, of Kentucky. On turning to the charter, I find, among the powers of the Mayor, the following:

"He shall nominate and, with the consent of the Board of Aldermen, appoint all officers under the corporation, and may remove any said officer from office, at his will and pleasure.

And then, sir, the powers of the corporation are

defined, to establish a watch or patrol, to establish such regulations as are necessary for the public health of the city, to provide for licensing, and so on, giving them all the possible powers which can belong to the police department of a city.

Now, you propose to do—what? To give to the Federal Executive the power of appointing one hundred men. To do what? Read your bill, and you will see that it is not only to protect person and property, but to enforce the laws that may be established by the corporate authorities of the city of Washington:

"There shall be established an auxiliary guard for the protection of public and private property, and for the enforcement of the police regulations of the city of Washington."

Whose regulations? The regulations of the President, or of the Mayor and Board of Aldermen? You are creating this corps, to be appointed by the President, to carry out the regulations which these men may make under these chartered powers; and yet you tell me that they cannot exercise upon the appointees the removing power with which they are invested. It will not do.

Mr. SINGLETON. I would like the gentleman to look a little further into the bill, and see if he does not find that the head of the police, with the consent of the Secretary of the Interior, has power to remove these officers, thereby showing conclusively that the Mayor has no control over the matter?

Mr. MARSHALL, of Kentucky. It does not show that conclusively, to my mind, because many times have I seen a stream flow from two sources, as well as one. I admit that the bill gives the power of removal to the chief of police, with the consent of the Secretary of the Interior; but I submit it to the gentleman, as a lawyer, that that does not exclude the conclusion that the Mayor may remove too.

Mr. SINGLETON. I think it does.

Mr. MARSHALL, of Kentucky. I would plant myself upon that legal proposition if my head was at stake. There can be no difficulty about it. I take the position that, although you confer upon the head of the police the power to remove, if the charter confers upon the Mayor the power to remove the officers who are carrying out the police regulations of the city, those two powers of removal are not so distinct as to be incompatible with one another, and that the Mayor can remove under the charter, as well as your chief of police can under the law. Why not conform to the law? Why should we run into difficulty in order that the President may appoint these one hundred men? Why should we usurp the civic administration of this city, tax the Treasury of the people of this country, and, at the same time, deprive the people of this city of the power of self-government?

It will not be news to any of the members of this House, that I am not willing to see the President of the United States made the head of the civic administration of the police department of Washington. I think there is great soundness in the suggestion of the gentleman from Georgia, [Mr. SEWARD,] If we want a guard to protect the public property, let us take the matter from the civic administration of the city altogether, and establish a guard to protect the public property; but when we want a guard to protect person, and enforce the police regulations of the city of Washington, let us leave to the corporate authorities the creation of the force and the disposal of that force. Why drop the Mayor? Why not leave him this power that he has had? What is the matter with the Mayor? He is a gentleman of your own party. No man knows better than I do the extreme exertions that were made to place him in power. Why will you now, upon the very eve of his reelection, attempt, through this high House, to pronounce condemnation upon him? What has he done that you should attempt to strip the mayorality of this chartered power? What has he done? I do not choose to go into that branch of the question. I do not think it is likely to throw any light upon the subject, or upon the path which we ought to pursue. Certainly, I do not intend to do or say anything that would provoke the bitterness of partisanship here. But if this man who is now the head of the civic administration has so used the powers with which he has been invested, as to have brought down upon

him the censure and want of confidence of his constituents, and of the gentlemen who constitute the Congress of the United States, let us remember that June is almost here; that the people will then have an opportunity to make another Mayor; and that, may be, they will select another and a better man for the office.

Now, sir, I would be the last man to suspect that the object of this bill is to take away from the people of this District the right and the power to have their own police appointed by their own officials. I cannot suspect that there lies concealed, under this proposition, any intent of that sort, or that the gentlemen of the Committee for the District of Columbia desire to take this power away from the Mayor, lest he may be a man opposed to Democratic sentiments, or that they want "to make assurance doubly sure," by taking it away before the election, and transferring it to the President of the United States! Surely there is no such thing as that in this bill?

Mr. BURNETT. Would you vote for the bill if the power of appointment was conferred on the Mayor?

Mr. MARSHALL, of Kentucky. I should then have no objection to voting for it, except my objection proceeded from one point—that is, as to the magnitude of the force. I prefer, I confess, that the power should proceed from a board of commissioners, if that can be done consistently with the rights vested in the Mayor. In fact, on reflection, my own opinion is that the Mayor of the city of Washington is the proper person to have this power of appointment and removal. If it should be the view of that side of the House to increase this force to one hundred men, leaving the power of appointment where it is now, to wit, in the Mayor, I shall make no objection. I do not know but I shall support it, although I think it likely that one hundred men for an auxiliary guard is more than a fair proportion to be supported by the Government. I think the Mayor and Aldermen ought to furnish an equal proportion.

Mr. HILL. I ask the gentleman for information whether there is any impediment now in the way of the Mayor and Aldermen of this city increasing the police force to a proper extent if they wish to do so?

Mr. MARSHALL, of Kentucky. None that I know of.

Mr. GOODE. They have not the money, or the power of taxation to raise the money, to support an increased force.

Mr. BILLINGHURST. Let me ask the gentleman from Kentucky if there is any power in this bill to reduce the force at any time hereafter, if it be ascertained that one hundred men are more than are required for the good order of the city?

Mr. MARSHALL, of Kentucky. I suppose Congress has a right to modify or repeal the law at any time.

Mr. BILLINGHURST. But is there any power in the board of commissioners or the Secretary of the Interior to reduce this force of one hundred men to a lower point?

Mr. MARSHALL, of Kentucky. So I understand.

Mr. BILLINGHURST. There is no discretionary power.

Mr. MARSHALL, of Kentucky. Then the only remedy is in my proposition, that the Mayor shall have a right to remove them.

Mr. SMITH, of Virginia. Mr. Chairman, these very inquiries show the impropriety of the course that has been pursued, and that we ought to have amended and perfected the bill before general discussion was had upon it. I have here an amendment which I desired to offer; and there are several other gentlemen also having amendments which, if offered, might have removed some of the objections that have been made to the bill.

Mr. MARSHALL, of Kentucky. I have said all that I suppose is necessary to say in regard to this bill. I think we ought to be guided by this rule, that we ought not certainly to furnish more men in the way of an auxiliary guard than the police force furnished by the city authorities. I think our auxiliary guard ought to be placed on exactly the footing of the police force itself, and under the control of the municipal authorities. I think that there is a propriety in the suggestion that the Mayor and civic administration here should have the free exercise of the power given

to them by the charter. I think we ought to be ware and not establish a uniformed pretorian guard to be at the beck of the Secretary of the Interior or of the President, under the pretense of carrying out and enforcing the police regulations of a local municipal corporation.

Mr. BURNETT. I did not intend, Mr. Chairman, to say anything at all in regard to the provisions of this bill. I had hoped that the bill was of such a character as would appeal to gentlemen on all sides of the House for their support. As a member of the Committee for the District of Columbia, I certainly had no intention, when I agreed to report this bill to the House, of giving to it a party character. I have no intention now to do so. It is conceded on all sides of the House that legislation, in order to protect life and property in this District, is absolutely necessary; and the only difference of opinion that seems to exist, is as to the mode or manner of that legislation. And I must express my profound regret that the gentleman from Massachusetts [Mr. COMINS] felt himself called upon to endeavor to give to this bill a partisan character. Now, sir, I say to that gentleman, as I do to the gentleman from Ohio, [Mr. BLISS,] that if there be abuses in the administration of justice here, under the courts that we have organized for the government of this District; and if he or they will introduce a bill having for its object the correction of these abuses, I will go as far as the furthest in wiping out everything like abuses. I am for having laws, and having those laws enforced, so long as they are on the statute-book. Grave charges have been made against our district court, and against the officer that presides over it. I do not know him. I know nothing about his ability as a lawyer, or about his integrity as a judge. If he has failed in the performance of his duties, there is a mode marked out for getting rid of him. But when we introduce a bill here for the purpose of regulating the police force of this District—a bill which, in my judgment, is absolutely demanded—I do hope that gentlemen will not, in their assaults on that measure, endeavor to array party against party, and to appeal to the prejudices on this side or on the other.

My colleague [Mr. MARSHALL] has discovered a new principle in law, if I understand him correctly, and that is, that the Legislature which creates a charter has no power to alter or amend that charter without the consent of the corporators. I find that under the Constitution the Congress of the United States is made the sole legislative power or this District. Congress has the power to pass all laws for its government. The Constitution confers this power upon it, and you will find that that power carries with it not only the power to repeal the charter and the power to abolish the municipal government, but also the sole and exclusive right to legislate for the people here directly. If we saw proper to exercise that power, we might to-day wipe out the city charter. Under the Constitution of the United States, this Congress has the power to legislate exclusively for the people of this District, and to pass all needful rules and regulations for their government. I do not say that I am in favor of any such measure. I would be opposed to it; but yet I say the power exists; and under that power we have the right to amend, alter, or change the charter of the city government at will.

What else? My colleague takes the position, furthermore, of a lawyer, (and I admit that he is a very able lawyer,) that under the provisions of the city charter, which confers on the Mayor the power of appointment, if you pass a subsequent law which says that the appointing power shall be lodged elsewhere, the Mayor still can exercise the power of removal at his will. That is his proposition, as I understand it. It is to confer upon a different set of men the power to make the appointment of these officers; and when that power has been exercised under the law, that there is no power that can change or alter the appointment.

Mr. MARSHALL, of Kentucky. I think my colleague does not comprehend my argument.

Mr. BURNETT. I certainly do not desire to do my colleague injustice.

Mr. MARSHALL, of Kentucky. Of course not; but I think my colleague did not comprehend my proposition. My proposition is this: while your charter remains the law of the land,

conferring the power of appointment and removal on the Mayor, yet, although you may confer the power to appoint a particular police force on the President, that does not, *ex vi termini*, take away from the Mayor the power of removal.

Mr. BURNETT. I understood my colleague perfectly, but I think he does not take into consideration that this is for the appointment of a force outside the city charter, independent of it, and in no way governed or controlled by the city charter.

Mr. MARSHALL, of Kentucky. Will my colleague suffer me to interpolate a word right there? My argument embraced that proposition distinctly. It was this: that if you undertook to organize this police outside the city charter, and leave untouched the law vesting in the Mayor the power of regulating the police force of the city, the power of appointment and removal will of necessity remain with him.

Mr. BURNETT. I desire to call the attention of my colleague to the seventh section of this bill, which repeals all laws inconsistent with this act.

Mr. SEWARD. Will the gentleman allow me to call his attention to the third section of the bill?

Mr. BURNETT. No, sir; I cannot yield further. Now, I understand my colleague not to be opposed to the passage of a law increasing the police force in this city, provided he can be satisfied as to the appointing power. I understand him to be in favor of the appointment of commissioners for that purpose.

Mr. MARSHALL, of Kentucky. I think the Mayor is best.

Mr. BURNETT. Very well. My colleague spoke of the appointment of a board of commissioners. The gentleman from New York, [Mr. DODD,] my colleague on the Committee for the District of Columbia, recommends, I believe, the conferring of this power upon a board of commissioners. The gentleman from Ohio [Mr. LERRER] proposed to confer the power upon a board of three persons, mentioned by name. Now, here is the objection to these propositions: you divide the responsibility; you lodge the responsibility in the hands of three or four persons; and when you do that you weaken the efficiency of the appointees.

But, sir, what is the reason given for this proposed amendment? It is said that the object is to prevent the power from being lodged where it will be used for partisan purposes. If the objection was well taken, I would go with the gentleman who made the proposition, because I do not want to give it any such character, or confer any such powers. But let us examine the proposition for a moment. The gentleman from New York proposes to make this board of commissioners elective by the people. What is the history of the elections in Washington city? The present Mayor, elected by the people, is said to be a Democrat. He has, in his appointment, fifty-two men under the city charter, in addition to the fifteen men who have been alluded to as the auxiliary guard, paid for out of the public Treasury. With this force of sixty-seven men, under the authority of the officers of the city government, how are the police regulations of the city executed? How are they managed? You find here murder as a matter of every day occurrence, with arson, burglary, and every crime known in the catalogue; and yet the Mayor, with this force of police under him, has been totally inefficient in suppressing these outrages. You have seen these crimes committed day after day, and what effort has the Mayor, with his police force, made to prevent them? If he has endeavored to execute the laws of this city, he must certainly have a most inefficient body of men placed under him.

Now, sir, if you confer the appointing power upon the Mayor, you can only judge of the future by the past; and when you look back into the past to see how the laws have been executed, you find that, with the appointing power vested in the Mayor, and with a considerable force under him, the laws have not been executed.

Mr. MARSHALL, of Kentucky. Did you ever hear any complaints until the present Mayor was in office?

Mr. BURNETT. I will just say to my colleague that I may not remember of other instances, but I take the times as we find them. I speak of the present; and I propose to find a remedy for the evils as they now exist. I am told by gentlemen around me that these things have occurred before.

Mr. MARSHALL, of Kentucky. I have been here for the last eight or ten years, and I never heard of them before.

Mr. BURNETT. I do not intend to find fault with the present Mayor. But I say that there will never be an effective city government here until the property-holders take the matter into their own hands. They must elect men who will see that the laws are faithfully executed; and they must take such men without reference to whether they are politically Americans or Democrats. I know nothing personally in reference to the present Mayor. I know the facts which are stated daily in the city papers, that crimes are daily committed and the offenders are not brought to justice. I am for organizing a police force that we can ourselves control, and who will protect the public buildings and property; who will protect the members of Congress; who will protect our constituents who are here on business; and who will protect the foreign corps who are here with their *attachés* and families.

But, sir, reference has been made to the present police of the city. I have been a member of this House since 1855, and I never have seen a policeman until they have been required to wear a uniform; and I must say, from the specimens I have seen, they are a miserable set of policemen. I see them wearing uniform. They are made conservators of the peace; and I met two of them upon the streets, a day or two since, and both of them were drunk. That is the character of a portion of the police of this city. How does this bill propose to remedy the evil? When gentlemen talk about the Federal Government supporting this expense, they ought to remember that we already pay for twenty-six men, whose appointment is in the hands of the Mayor. I am for increasing that force to one hundred men, and taking the power of appointment from the Mayor, and conferring it upon some man who is responsible, and who will see that good and efficient men are appointed. What better mode can be devised than that provided in this bill? You see that this power has not been so exercised by the Mayor as to secure peace, and the observance and execution of the law. If you lodge the power in a commission of three or half a dozen men, the very reasons which now render it necessary to take the power from the Mayor will apply to them; for they will be voted for on account of their political sentiments, and those commissioners will be either Democrats or Americans, according to which party has the ascendancy here. Then the objection that your police force would be partisan will apply as well under a board of commissioners elected by the people, as it does under appointments made by the Mayor.

Now, I know nothing of the gentlemen who are named in the bill of the gentleman from Ohio, [Mr. LEITER.]

Mr. LEITER. I have amended my proposition. I have stricken out the name of Walter Lenox, and inserted the name of James G. Berrett.

Mr. BURNETT. Let us look at this proposition. This board of commissioners are appointed by name. If you happen to get into that board of commissioners, partisans, will not the same power be there which you are afraid to confer upon the President? They can wield that power as strongly for partisan purposes as the President can in the appointment of the chief—and that is only one out of the hundred men who are to be appointed. Suppose you get in a board of commissioners whose characters partake of the same elements as compose those of the violators of law now in our midst: it would be a very dangerous power to be conferred upon them, and one which might be exercised for great mischief instead of good.

Why am I in favor of the provision of the bill which confers this power upon the President? The first question we determine is, Congress has the power. Where do we get it? From the Constitution of the United States. The next question is, why confer upon the President the appoint-

ment of the chief? I will not pretend to go into a constitutional argument of the question, because I do not profess to be a constitutional lawyer, but I do profess to understand plain common sense, when it is presented. You find in the Constitution these words:

"Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of Departments."

Now, I hold that we have the right to confer this appointing power upon the President. I will not take the reverse position that we have the power to confer it upon other than those named in the clause of the constitution which I have read. While I would give it as an off-hand opinion that we could not, I will not take that position, because I have not fully investigated the question. But I say that it is wiser to lodge the power there for the reason that we have a guarantee that the President will give us at least a man of character, and a man who has integrity to exercise the power conferred upon him for the good of the community.

Under the provisions of the bill the chief of police will have the power to appoint, and the power to remove, with the consent of the Secretary of the Interior. It seems to me that this is the very best provision, so far as the appointment of these officers is concerned, that we could possibly have.

Now, sir, as to the question whether we should tax the Federal Treasury for this purpose, I agree with the gentleman from Ohio, [Mr. BLISS,] that this city is different from any other. Congress has exclusive power of legislation over it. It has no representative upon this floor. We legislate for them. Here is located public property, and the public records, costing millions upon millions. It is certainly our duty to establish a police force for the purpose of protecting that property; and not only that, but to protect the representatives of the people, who come here to legislate for the people at large. It is also our duty to protect those who may come here upon public business from every section of the Union, and to protect the representatives of foreign Governments.

Now, I put it to gentlemen to say whether we ought not to pay the expense out of the Federal Treasury. We have been for years paying twenty-six men, and we only propose now to increase that force. We simply increase, instead of lessen the amount. I ask whether each gentleman upon this floor will not agree that some legislation for the protection of life and property is necessary? If there is any member here who does not believe that we ought to adopt some measure, in addition to those already existing, for the purpose of securing life and property, he has paid no attention to what has been going on here. We find scenes of disorder and violence occurring every night. I do not think I am a greater coward than my fellow-men. I do not think I have less bravery than the majority of men; and yet, I say here that I have regarded the outrages in this city of such a character, and of such frequent occurrence, that I have thought that every man, when he leaves his room, ought to go armed; for he does not know at what moment an attack may be made upon him. Respectable men have been assaulted, and members of this House have been threatened. I say we ought to take this matter into our own hands, and pass some bill which will effectually protect life and property.

Mr. SINGLETON. I desire to say a few words upon this subject.

Mr. BURNETT. Allow me one moment further. Remarks have been made here upon the subject of the city government paying its own expenses. The people of this city, as I understand it, are now taxed to the extent that the power of taxation is conferred by the charter upon the city government, and they have no right to go any further.

Mr. SINGLETON. It seems, Mr. Chairman, that from some cause which up to this moment has not been explained, the laws which have been passed by Congress for the protection of life and property in this city, have not been enforced. Who is to blame, or where the difficulties have sprung up which prevent the execution of these laws, I do not know. But it is a well-settled fact, that no man can now walk the streets of Washington after dark in security. We are sent here to perform high and responsible duties, and are expected to encounter the dangers that result from

our positions, but certainly it was never contemplated by those who sent us to Washington that we were liable to be assaulted on the streets at night by assassins. And I say to you very candidly, that although, like the gentleman from Kentucky, [Mr. BURNETT,] I feel that I am not a coward, yet I will not walk the streets of this city, after dark, without a revolver in my pocket, and being prepared for self-defense.

Now, as I have already said, I know not who is at fault, but that matters not. It is perfectly certain that some remedy ought to be found for the evils which exist. We are not expected to run these risks. Our friends are here on business; the diplomatic corps are here, and it is not expected that they shall run the gauntlet. These assassins do not seem to be very particular whom they assault. Now, how is this state of things to be remedied? We see that it is not done by the city police. We see that this thing goes on day after day. A murder or some other outrage has been committed almost every twenty-four hours for the last three or four weeks. And are we to sit by and see these things going on without applying some remedy for the evil? We legislate, as the gentleman from Kentucky has remarked, for this District, and if the legislation which has been had heretofore is not sufficient for the protection of life and property, it is our especial duty to look into the matter and afford other means of protection. Now, if I understand this measure, it is not intended to break down the city police or to interfere with the civic authorities except so far as it becomes necessary to an efficient organization of a guard for this city. It is not proposed to repeal the charter. This law is merely ancillary to the law already in force, and only repeals it in so far as it may be inconsistent with this bill. Now, sir, the gentleman from Kentucky, [Mr. MARSHALL,] who is an able lawyer, as all concede, declares that unless you repeal, in so many words, the city charter, so far as the appointment and removal of the police is concerned, the officers who may be appointed now by the chief of police, with the consent of the Secretary of the Interior, will be liable to be removed by the Mayor of the city; and he read this clause for the purpose of showing that such was the case. Defining the authority of the Mayor, the law provides:

"He shall nominate and, with the consent of the Board of Aldermen, appoint all officers under the corporation, except commissioners of election, and may remove any such officer from office at his will and pleasure."

"May remove any such officer." What does that mean? Why, just such officers as he may himself appoint, he may remove, and no others.

But, if any further proof were needed to show that the gentleman from Kentucky is at fault for once, it would be found in this, that in the act itself, now under consideration, the power to appoint and remove is vested in the chief of the police, with the consent of the Secretary of the Interior; and I would ask the gentleman, as a lawyer, what becomes of the old law maxim, *expressio unius est exclusio alterius*? The fact that the power to remove is given to the chief of police, with the consent of the Secretary of the Interior, is conclusive that it is not conferred upon the Mayor of the city. But the bill goes further, and repeals all acts or parts of acts inconsistent with its provisions. Could anything, then, be clearer than the fact that the Mayor will have no power to interfere with these officers?

But some gentlemen say that this force of one hundred men may not always be needed; and yet, you will be bound to retain it. Why does not the bill itself, as I have already said, give to the chief of police power, with the consent of the Secretary of the Interior, to remove these men whenever he thinks proper to do so, with or without cause? Whenever, therefore, it becomes necessary, or is safe to diminish this force, they will do so. We must have some confidence in the men who are to control these appointments and removals. We must repose some confidence in their judgment and fidelity; and suppose that, whenever it is safe to do so; whenever these outlaws shall have been rooted out of Washington, they will reduce this force, or dispense with it altogether. I think that this is a very small objection to the bill.

But there is another remark which I desire to make. I think that the fault of the exciting state of affairs in this city must lie with the people of the city to some extent, and with the city author-

ities. I find, from an examination of the records, that you have in Washington one hundred and thirty groceries, large and small, licensed to retail spirituous liquors in quantities less than a pint, and these are kept open from daybreak until midnight. There are about five thousand seven hundred voters in the city of Washington, and this gives us a grocery for every sixty men! But that is not all. I find that, in addition to these, there are one hundred and seventy-one grocery stores licensed to sell liquor in quantities not less than a pint, and many of these, I have no doubt, violate the law and sell as little as three cents' worth. The one hundred and seventy-one added to the one hundred and thirty make three hundred and one establishments in the city of Washington that are authorized by law, licensed by the city authorities, to sell liquor; or one for every twenty-four men in the city. I would like to know if such a state of things exists anywhere else?

Pass along Pennsylvania avenue, the great thoroughfare of the city, and in almost every other house a faro bank is to be found, familiarly called the "tiger," where you can step in and get rid of your money just as soon as you choose. [Laughter.] And this thing goes on in open daylight. It can not be unknown to the city authorities, and while the evil lies with the people of the city, or rather with the city authorities, who license the groceries and permit the gambling establishments to carry on their operations, although we may increase the police force to five hundred men, there is no possible chance of putting down this thing unless the good men of the city interest themselves in the matter. I do hope, therefore, that the property-holders and men of standing and character will unite and aid us, as members of Congress, in our efforts to root out this set of plunderers and assassins who have crept into this metropolis, and are making it a hiss and a by-word for the whole country. When this change is made in their police regulations, when these dens of iniquity are closed, we may expect a better state of morals in the community, and that life and property will have some protection; but not before.

Mr. QUITMAN. Mr. Chairman, there is no person that can be more deeply impressed with the propriety of taking some active measures to put an end to the state of things of which gentlemen have spoken, than I am myself. As to those establishments of which my colleague has spoken, I have no familiarity with them, and therefore cannot speak about them; but I take it for granted that my young friends here are better informed on that subject than I am. But the question here is not, whether we shall suppress these establishments, and use our efforts to suppress crime; but the question is, whether the measure before Congress is calculated even to aid in the suppression of crime, and in the restoration of peace and good order to the city.

I have been of the opinion that for the purpose of carrying out the object desired, and of preventing and putting a stop to the gross demoralization which exists, and of preventing the perpetration of offenses that are now being committed in the broad light of day as well as in the darkness of the night, brute force is not the one thing necessary. We want the work of the head. We want the work of the heart. We want intelligence, energy, and activity on the part of the officers. I go upon the principle that fifty policemen, directed by an intelligent and active head, capable of planning means to detect crime and to punish it, and capable of ameliorating any errors that exist in the court of law for the punishment of crime, would do vastly more good than a thousand other policemen.

I very much doubt whether an addition to the police force of this city, to so large an extent as is proposed, would be productive of any good. There is never any resistance to the present force on the part of these malefactors. What is required is a head, an intelligence, an activity, and a spirit to execute the laws. It requires also good morals on the part of the people of the city, and all this cannot be had by a simple addition of brute force to the police.

I have several objections, Mr. Chairman, to this measure, whatever phase it may assume, and gentlemen will do me the credit to believe that I discard all party considerations from it. I have

not looked at it, nor did I think it capable of being looked at in a party light. I look at it as simply a measure for suppressing crime, but I think that an ounce of prevention is worth a pound of cure.

Let us exert ourselves in ameliorating the law; let us address ourselves to the intelligence of the people of Washington, instead of supposing that a mere police force is going to restore a moral and correct tone to the people. All that we hear may be true; I have seen no evidence of it, and I confess I sometimes walk the streets rather with a curiosity to see whether anybody will attack me, but I have thus far escaped the hands of the assassin. Still there may be, I admit, a very demoralized state of public feeling in this city; but that, in my humble opinion, cannot be corrected by an increase of the police force. Where are your magistrates? In such a condition of things, they ought to be here, there, and everywhere, watching actively to suppress crime, and arrest the offenders. My opinion is that the present police force is sufficient for every purpose for which it is proposed to increase it.

Believing, then, Mr. Chairman, that this measure is entirely unnecessary and will not answer the purpose, I shall vote against it in every phase and shape it may assume. I believe it is unnecessary, I believe it can have no salutary effect. On the contrary, if this chief of police, with so much power to appoint all the officers and men should be idle or careless, the force under him would be worse than useless. He may be honest, he may be patriotic, he may be influenced by no party bias, and yet he may be entirely unfitted for such a position. There is not one man in a thousand capable of performing the duty of a chief of police. It requires peculiar character. In the whole empire of Napoleon there was not one man who could fill the place of Fouché. If I could believe that this bill would effect the object that these gentlemen intend, I might be induced to waive my other objections. But I have another great objection, and that is, against giving this national Government the control of this pretorian guard without some strong reason. It is not only a force of a hundred men, but the bill contains a provision authorizing the President to add to it two hundred more.

Mr. GOODE. If the gentleman will read the bill, he will find that it gives the President no such power.

Mr. QUITMAN. I have read the bill; and, in my opinion, it establishes a permanent system upon our Government which it will be very difficult to get rid of.

Mr. BLISS. I understand the gentleman to say that this is starting out with a new policy, or inaugurating a new system. Am I misinformed, or have we not for many years supported a police force in this city?

Mr. QUITMAN. I will explain the matter to which the gentleman refers. The system is not entirely new. I am told that an auxiliary police force is now supported by the Government.

My own opinion is, that we should establish a small detective police force here, and make it a part of the machinery of the Government. Gentlemen are mistaken that the force they propose to establish will make a permanently better state of things, unless they suppose that the morals of the great political collection of men here will be reformed by time; and I am afraid it will require something more than the mere lapse of time to correct some of the evils which grow out of this great collection of politicians.

But, Mr. Chairman, I will proceed very briefly—for I do not intend to make an argument—to present my own judgment of the merits of the bill now before us. Independent of its mixing up the powers of the General Government with that of the municipal authorities; independent of its nationality; independent of its centralization—independent of all that, I have other objections. It is true that the sole and exclusive legislation over the District rests in Congress; but there is no more reason why Congress should pay for the police of the city of Washington, than for the city of Georgetown, or any other point within the limits of the District. As well might they place a special police wherever there is property located. Because the legislative power over the District rests in Congress, it is no more right to establish a special police here, at the cost of the

Government, than for any other city in the United States, certain portions of which may be under the control of the Government. It is not in accordance with the principles of our Government.

But, Mr. Chairman, the strongest argument I have heard in support of this bill is, that it is our duty to protect members of Congress and the representatives of foreign Governments here, from the dangers which surround them. As to the protection of members of Congress, the better mode would be to order a battalion here from the Army, and give to each member of Congress a special guard to accompany him and protect him. It is the duty of the Government to protect members of Congress; but why not protect them through the military force? They would not be protected by a mere increase of the police force of the city, unless each member should have one stationed for his especial protection. We already have at hand a military force, which may be called out by order of the President to support the police force, if that should be insufficient. The reasons, therefore, which are assigned in favor of this bill are, in my opinion, not sufficient to remove the serious objections against the establishment of this description of military force at the seat of Government.

Mr. SINGLETON. Will my colleague suggest a better remedy than the one contemplated by this bill? It is much easier to find fault with a bill introduced by others, than to frame one to meet existing evils, which is liable to no such objections.

Mr. QUITMAN. I am not on the Committee for the District of Columbia, and the details of this matter are not peculiarly under my charge. I would select half a dozen honest, intelligent, active men, and make them a detective police. I would make it their especial duty to see that all cases of crime were reported, and that the laws for the punishment of crime were carried out.

Mr. SINGLETON. Whom would my colleague fix on to appoint these detective officers?

Mr. QUITMAN. The President.

Mr. SINGLETON. The gentleman will see at once that he yields to the principle, which a while ago he combated—that is, increasing Federal patronage, by giving the President power to appoint.

Mr. QUITMAN. I do not know that any plan would be entirely unobjectionable to me; and I am only speaking of one less objectionable than the one before us, and one more likely to secure the end aimed at in creating this additional force.

Mr. Chairman, my principal objection is this: this demoralization cannot be suppressed by force, although it may be by legislation; and there may be a good result reached, if the committee, with the talent it has displayed, will turn its attention to the moral and intellectual interests of this community.

Mr. STANTON. The gentleman from Mississippi, who has just taken his seat, is unquestionably right in stating the difficulties under which we are laboring and the demoralization which pervades society here. I propose for a moment to inquire into the origin of that demoralization. I do not mean, in the remarks which I shall submit to the committee, to be governed by any party prejudice. I have no doubt whatever that the difficulties which pervade and demoralize society here, originated in that piratical political maxim, that to the victors belong the spoils. It is a maxim which has perhaps been practiced by all parties, and for which no party is specially responsible at this day. But, sir, that this is the origin of these difficulties, no man who will look to the progress and tendency of things can doubt for a single moment. Here is the great center of political power and patronage. Here is the fountain head from which they are distributed. Here is the place where all the seekers for office at the hands of power congregate for the purpose of receiving rewards for partisan services. Whenever you once establish the maxim that to the victors belong the spoils, and that the offices and emoluments of the Government, immense as they are, shall be dispensed to partisans as rewards for partisan services, you have established a principle which results in the demoralization of society, and the corruption and eventual overthrow of the Government; for when it is once settled that partisan services are to be rewarded, it follows necessarily and legitimately that the more valuable and the

more efficient the services, the greater shall be the reward.

It is not merely that a man shall be rewarded by patronage because he is a fine stump speaker, and canvasses his district ably, but that a man shall be rewarded who exerts an influence; no matter what the means may be, no matter how censurable the act may be in morals, if it insures success, that alone is a sufficient claim for a reward. Hence, Mr. Chairman, you see that all through the politics of the country, men who control elections, men who interfere with the controlling power of the country, are the men who are singled out for the purpose of receiving rewards of patronage, which are dispensed by the party in power. The consequence is, that in cities, men who can bring to the polls most votes, fraudulent or not, that your ballot-box stuffers, your shoulder-hitters, those who are engaged in keeping orderly citizens from the polls, must be rewarded, if those services bring success to the party for whose benefit they are rendered. This is the inevitable and legitimate result; and I have no doubt in my own mind this day, that this country owes, to a great extent, its present political position to the great political frauds practiced in New York, in 1844, by which a candidate for the presidential office was defrauded of the office to which he was entitled by the lawful votes of the people. I believe that that presidential election was controlled by a band or club known as the "Empire Club," whose captain is now marshal of the southern district of New York.

Such is the tendency of these things, and to this condition have you now come. Who committed these depredations in this city? What is it that brings men here, and what is the character of the men who come here? Why, sir, men are brought here for the purpose of receiving their rewards for services of this kind: for stuffing ballot-boxes; for driving legal voters away from the polls; for marching up illegal ones; for services of that kind are supposed to be rewarded if those who render them will come here and make the demand. Then what must be the character of those men who congregate here for the purpose of receiving rewards for such services? They are men in whose hands I should not think myself safe in a dark night. They come here in shoals, by the hundreds and thousands, but they cannot all be provided for. Their name is legion. And extended and unbounded as this patronage is, the claimants are more numerous than this patronage can satisfy. They come here, they are disappointed, their funds are exhausted, and they resort to other modes of getting a support.

Mr. CLEMENS. I would inquire of the gentleman whether the very fact of the inefficiency of the police of this city is not an inducement to the abandoned characters of other cities to make this a refuge and a home?

Mr. STANTON. I think it very probable. It is so, for aught I know, but that matter is not exactly in the line of remarks I was submitting.

Mr. CAMPBELL. I desire to know of my colleague whether he is prepared to support a measure that will cut off from the foreign emigrants brought here under the circumstances which he has very eloquently depicted, the right to vote?

Mr. STANTON. I do not precisely understand the pertinency of the question to the subject in hand. I certainly do not propose to deprive any man who has the right of suffrage from the exercise of that right; but I do propose that no man, whether foreigner or native, shall vote more than once, or shall vote anywhere except where he is entitled to vote.

Mr. CAMPBELL. Another question.

Mr. STANTON. No, sir; it is not in the line of my argument. I am discussing now the cause and the origin of this state of society here, and the danger to life and limb which the bill seeks to guard against.

I have said, sir, and I believe I have said truly, that it has its origin in this false doctrine, this distribution of the patronage of the Government upon a vicious and piratical principle. Now, that same party prejudice and party bias, that same principle will prevail in this District in the government and control of the police force, and in the appointment of police officers, if you confer this power, as it does in all other appointments. Suppose that you confer upon the President of the United States power to appoint a chief of police:

do you not believe, sir, that he would appoint a partisan—one who has strong claims upon him for partisan services? Why, sir, it would be a miracle in these days if he did not. And who will that chief of police appoint as his lieutenants and his force of one hundred men? Will he not select them from those gentlemen who are congregated here from all parts of this Confederacy in search of office? Will not he select them for these places, and give them these appointments as policemen and members of the auxiliary guard of this city? Why, it was stated in the newspapers not a week ago, that a man who was arrested, and is now in prison for murder, had, the day before his arrest, and after the commission of the crime with which he stands charged, been appointed one of the assistant or auxiliary guards. I am told—it is a matter of common rumor, I do not pretend to know how true it is—that the disorders arise to a great extent from rival fire companies, and among the rest is a company known by the name of the States' Hose. I am told—I do not know how true it is—that the captain of this company, which, it is charged, is engaged in committing these depredations, holds an office under the President of twelve or fourteen hundred dollars a year.

Several MEMBERS. "Name him."

Mr. STANTON. No, sir; I do not know how true it is. I may be misinforming, and, therefore, I will use no names.

Mr. JOHN COCHRANE. I am deeply interested in the information which the gentleman from Ohio has given the House. Will he—if he may be mistaken—give us his authority for it?

Mr. STANTON. I have it from half a dozen persons.

Mr. JOHN COCHRANE. The gentleman can mention the first, and most reliable of those persons.

Mr. STANTON. It is a common rumor—known to everybody in the city.

Mr. JOHN COCHRANE. Ah, I believe it, then, if it is common rumor.

Mr. STANTON. Mr. Chairman, I am asked to vote to make the President of the United States chief of police, and to give him control of the police force of this city, to which I am to look for the protection of my person. Thank the Lord I have no property here. Now, I want to call your attention to a few facts that I vouch for, and do not base upon common rumor. I know that the President of the United States has appointed to office men who were under indictment at the time of their appointment for the murder of my political friends in Kansas. Sir, there are half a dozen men charged with murder, many of them indicted, subject to prosecution, to conviction, and to be hung, who have been appointed by the President registers and receivers of land offices, Indian agents, and postmasters. The records of the country show this. There is Mr. Frederick Emory, who has been appointed register at LeCompton in Kansas, and who was, at the time of his appointment, under indictment in the Territory for murder, and the fact was known to the President and to the Cabinet. Now, I do not want such a chief of police as that to appoint a police force to protect my person.

Mr. Chairman, I believe that you may organize a police force that cannot be made the blind instrument of party despotism; but I know, I feel perfectly assured from the history of the past, that if you pass the bill for the organization of a police force, the very men who are engaged in the commission of crime will be enlisted in that force, and you will have an organized ruffianism instead of a disorganized one. I believe so, sir, for various reasons—amongst others, the one that I shall now mention. There was an election held in this city last June, at which some eighteen men were shot down, it is generally believed unnecessarily; whether criminally or not, is a matter about which we might dispute, but it is generally conceded that there was no necessity for it at the time and under the circumstances. And yet the officer of the marines has been promoted for that unnecessary service. I say, therefore, that I am opposed to the organization of such a police force as this. I am equally opposed to a police that will be under the sole power and control of the Mayor, because he must appoint either one party or the other. If the American party succeed here and elect their Mayor I think the probability is that foreign-born citizens might have a hard time at the next election, and

I think it very likely that if a Democrat should be elected, these "plug uglies" would have a hard time at the next election.

Now, Mr. Chairman, if you will establish a police board that is balanced as to parties, so that no man on the board can claim an appointment as a matter of right for political services, but must rest upon the character of his candidate for appointment, I believe that you may rescue the police force from the domination of party power. The proposition of the gentleman from New York, [Mr. Dobb], which I support, provides for the election of four police commissioners, of whom no person shall vote for more than two, and the four having the highest number of votes are to be declared elected. The consequence would be, that each party must of necessity elect two of the commissioners, unless one party had more than twice as many votes as the other, and divided their votes exactly equally—a contingency which I apprehend no one supposes likely to happen. I take it for granted that each party would elect two members of the board, and each would operate as a negative on the other side to prevent the appointment of improper persons on the police force. If a rowdy, or a burglar, or a man of intemperate habits, or one who, for any other reason, was improper to be appointed, should be presented by his party friends, his political opponents on the board would inquire into his character and reject him. Take the patronage and power of the municipal government out of the hands of politicians; constitute a board like that, having no object in view but the peace, welfare, and prosperity of the city; and I believe that something may be accomplished.

I agree with the gentleman from Mississippi [Mr. QUITMAN] that it is all idle to strengthen your guards. There must be other legislation beyond a bill of this sort, for the purpose of perfecting and calling out a police force essential to the good government of this city. It may be, and probably is true, that the police force at present is large enough, but for some reason or other it is utterly inefficient. It must change hands. It must be placed where it is, not to be used at your elections for the purpose of securing the triumph of one party and the defeat of another, but it must be placed in hands where it will be used for the impartial protection of the political rights and political privileges, as well as for the personal security of every citizen, no matter to what party he may belong.

Now, Mr. Chairman, I have nothing to say myself as to the pay of this police. That is a secondary consideration. There is, however, this remark to be made, and I am not certain that any of the bills sufficiently avoid the evil, and that is, that this bill of the majority of the committee creates an auxiliary guard, not under the control of, or organized with, or as a part of, the regular force of the city; and you will consequently have the auxiliary guard and the police force working against one another, and counteracting each other's movements and operations.

The police force of this city ought to be a unit. You ought to have this auxiliary guard that is paid out of the national Treasury incorporated with and made part of the city police, subject to the same government and to the same control. I am informed by citizens of Washington that if one of the police of the city now is about to make an arrest, and finds himself likely to be overpowered, and if a member of the auxiliary guard be within ten feet of him, he will not raise a hand. And so it is, *vice versa*, if a member of the auxiliary is overpowered, the police will not assist him. They are rival institutions—that is the term. You ought to make your police force homogeneous; you ought to have all incorporated into one body, to work together; and, in my judgment, the proper mode would be to provide that the city treasury should defray twenty-five or fifty per cent. of the expenses, so that the city might by that means have an interest in the disbursement of the fund, and might see that it is spent with a proper regard to economy.

Mr. GOODE. That is so now; and we have no efficient police.

Mr. STANTON. It is undoubtedly true that we have no efficient police; but I think that is because it is under the influence of a partisan Mayor who uses it for party purposes, and for no other purpose.

Mr. GOODE. Therefore I wish to take it from him.

Mr. STANTON. Certainly, sir; but to give it to the President is as bad as to leave it with the Mayor.

Mr. GOODE. The President cannot get votes in the District of Columbia.

Mr. STANTON. I understand the influence and political control of the District of Columbia as well as the gentleman from Virginia does. He knows very well that the General Government spends a good deal of money and works pretty hard and requires its employees to make contributions for the use of the Democratic party of the District. It is the central point from which the politics of the country are disseminated. I think, myself, that this bill ought to be so modified as to make the police board elective in the manner proposed by the gentleman from New York, [Mr. DODD.] Place the whole police force under the control of that board. Let a portion of the expenses be defrayed by the city treasury and a portion by the national Treasury, and let us, as far as we can, get rid of the idea that no man is entitled to any post of honor or profit or emolument under the Government, except as a reward for political service. If a man were recognized as having some claim on account of his intrinsic merits, his integrity, his capacity for the station, without having to square his opinions precisely with those of the gentleman who occupies the house at the other end of the avenue, we would get on a thousand times better. That is the great difficulty.

Mr. SMITH, of Virginia. It is known to us all, Mr. Chairman, and therefore, perhaps, it is unnecessary to be referred to, that this District of Columbia was created by the Federal convention in order to give exclusive jurisdiction to the Government to be located here. With that exclusive jurisdiction was, of course, imposed the imperative duty of preserving the public peace within these limits. With a view to facilitate that object, and for no other purpose, as a town grew up here a city government was created, and certain classes of power were delegated to it affecting the local interests of the people located here. I hold that it is perfectly clear that there is an absolute and unqualified power in this Government to modify the authority thus conferred, at any time, and under any circumstances. Independently of this, we propose here, by the bill in question, to provide for the execution of the power conferred on us by the Constitution. And why? Because the government created heretofore is not sufficient to accomplish the purposes required from it, to wit: to preserve the peace and order of the District of Columbia. I shall not, however, dwell upon these views, but will proceed now to other views in connection with them.

The gentleman from Ohio [Mr. BLISS] made a very slight objection, and I have an amendment here, prepared for the purpose of obviating that, for that objection struck me in common with him. There will be no difficulty, I presume, in introducing an amendment that will reconcile us both, perhaps, to some bill.

Mr. Chairman, the gentleman who last spoke [Mr. STANTON] has traced the disorders of this city to what is certainly a most remarkable source. He says that they are entirely attributable to the great doctrine for which both parties, it seems, are responsible—that to the victors belong the spoils.

Sir, the object of creating this District government was to give a jurisdiction to the Federal Government from which party was to be excluded. It was expected that here, at least, there would be a power exclusive in its character, and which would effectually preserve the Administration and the Federal authorities from the influence and dangers of party strife. I say here to the gentleman that it is a most refined and metaphysical reference to the disorder of this city; and that I presume it is utterly impossible for him to show a single case of an individual being a party to any proceedings of violence in this city who has an application for appointment in the hands of the Federal authorities. I say here, and at this time, that of all the disorders that have disturbed the repose of this city, and rendered unsafe its streets and avenues, there is not a single instance where such disorder has come from any person in pursuit of a Federal appointment. I have not heard

of a single case, and I do not believe that applicants for office are the persons who come here to disturb the public peace. Sir, every gentleman who is an applicant for office is presumed to have a representative here, and he can tell if there are any such cases. I defy proof, and until there is proof exhibited, it is to be presumed there is no such case.

Mr. KILGORE. I should like to ask the gentleman from Virginia if the person who made an assault upon the Secretary of the Interior the other day was not an applicant for office?

Mr. SMITH, of Virginia. He is not one of the persons connected with those scenes to which we are now having particular reference. That is one of those cases which might have sprung up in any condition of society. He was not a midnight murderer. He was not a midnight plunderer. He was a man who had been in office, who had been turned out of office, and who complained that injustice had been done him. And I am told that he was a man of unsound mind.

Mr. BURROUGHS. I wish to know if there was not a clerk in the post office in this city who rifled letters to the amount of several thousand dollars, and who never was brought to justice? and I desire to know if the Government is not aware that of the valuable documents sent out by members through the mails, not one fourth of them ever reach their destination?

Mr. SMITH, of Virginia. I am unable to answer questions of this sort. If the gentleman knows of such a case, why does not he institute a prosecution against the offender? If he knows of such a case, why does he not promulgate it, and not do as gentlemen are in the habit of doing, come here with insinuations and questions? I hold that it is highly improper for gentlemen to use their official place here to make charges upon persons in high official position, which they do not substantiate by a single fact.

Mr. BURROUGHS. I will give the gentleman authority in this case. I will refer him to the postmaster of this city.

Mr. SMITH, of Virginia. For what?

Mr. BURROUGHS. The charges I have just made.

Mr. SMITH, of Virginia. I do not know what the charge is.

Mr. BURROUGHS. That a clerk in the post office in this city robbed letters to the amount of several thousand dollars, and was never brought to justice.

Mr. SMITH, of Virginia. I have heard of a case, and suppose it is the one to which the gentleman refers. He was held to bail to answer the charge at a proper day. If the gentleman lives in a country where better can be done than that, I desire specially to commend the favorable condition of his section of the country to the notice of the country at large.

But, Mr. Chairman, let me come to the point. Should this auxiliary guard be authorized? And if so, who is to appoint them? Not the Mayor; for he is a party man. Shall it be the President of the United States? No, not he. High as his position is, he, too, is a party man. Who, then, shall it be? They propose to organize a no-party board, if such an anomaly can be found in these days of political agitation. And to arrive at such a result they propose to have elected a board, composed of two Democrats and two Know Nothings. I am told that the Black Republicans are not to have even a representation.

Mr. CURTIS. We do not ask for any.

Mr. SMITH, of Virginia. Perhaps the gentleman knows his men; of that I do not know; but how long is this board to continue in office? Perhaps its members may alter their political opinions, and the equilibrium of this high court may be disturbed. How is the evil to be corrected? You can only remove the members of this board by law. Will gentlemen, then, come here with the grave charge that such a member of the board of commissioners is no longer a Democrat or an American, and he must therefore be removed?

But how, then, will they act when they are organized, and the question of appointments comes up? One may say the appointee shall be a Democrat, and another that he shall be an American. They are equally divided, and they can make no appointments whatever.

But the gentleman from Ohio who last spoke [Mr. STANTON] does not want the appointing

power to be vested in the President, the highest functionary of the Government—one who has passed before the whole nation, who has received a heavy majority of the electoral vote, and who is no longer a candidate for reelection; who is closing his career, and who could have no possible personal motive for any other than upright and proper conduct. But the gentleman is not willing to take such a man; and he gives us reasons. He says he has appointed to office murderers and robbers of his fellow-citizens in the far-away Territory of Kansas. And he gives the case of Mr. Emory, who, under indictment, as I suppose, for murder in Kansas, was appointed to a land office there by the President of the United States. Is that a crime? Is indictment by the Black Republicans any evidence of the guilt of the party indicted? [Laughter.] Would such an indictment in that wild section of the Union create even a suspicion against the party indicted?

Mr. MAYNARD. I was about to make a question of order upon the gentleman from Ohio, but I prefer to make it upon my friend from Virginia, as I know he will not misinterpret the reason of my doing so. It is this; that reference to Kansas and Kansas affairs in this debate is not in order, not being germane to the subject under consideration.

The CHAIRMAN. The Chair thinks the question of order is well taken; that the special order being under consideration, debate should be confined to the subject.

Mr. SMITH, of Virginia. Allow me to submit this remark: I do not desire, of course, to raise any question with the Chair; but here in this bill is raised the question who shall be the appointing power of this auxiliary guard? The gentleman from Ohio argues against vesting it in the President for the reason he has stated. I am arguing in favor of it for the reasons I was proceeding to state; and it does seem to me that such remarks should not be ruled out of order, because it would be depriving me of some arguments bearing directly and necessarily upon the question.

The gentleman from Ohio, [Mr. STANTON], if I remember rightly, voted for the admission of Kansas into the Federal Union under the Topeka constitution. That, I suppose, he will admit; and he rejoices in the fullness of his delight in having done so. I shall not advert to the fact that the Topeka constitution is among the things that were; and that another inauguration has taken place of a new and highly delightful character, and which will bring more joy to him than upon the former occasion; and he will have a chance, perhaps, to vote for a constitution in which free negro suffrage is recognized as a proper voting power. Let that pass, however.

The gentleman voted for the admission of Kansas under the Topeka constitution. In doing that he knew perfectly well that a certain Mr. Robinson would be the Governor of that State. Does the gentleman know who he was voting for to make Governor? I know. He was a gentleman who was in California; a gentleman who resisted the civil authorities there; a gentleman who raised the squatters against the recognized authorities of the city of Sacramento, and with murderous hands slew the sheriff in the lawful exercise of his authority. Does the gentleman know that ultimately this same new Governor of Kansas, or who he was desirous of making such, was indicted, and imprisoned in the prison brig in the Sacramento river; that he was elected by the squatters to a seat in the Legislature; that he was released on giving bonds that he would return to answer the indictment; but that, after serving through the Legislature, he forgot his bonds, and fled to the Atlantic States, and was next heard of in Kansas doing works of mischief? That is the sort of a man he wants to make Governor of Kansas, when he will not trust the President with the appointment of an auxiliary guard for the city of Washington.

Mr. STANTON. I would state that I voted for the admission of Kansas upon the pure principle of squatter sovereignty—the principle that the people shall elect their own officers. I did not know Governor Robinson at all. He suited them, and they suited me.

Mr. SMITH, of Virginia. You knew what sort of a man suited them, and you voted for him. But that is not all. In giving that vote, the gen-

tleman knew it would be the introduction into the Senate of the United States of a man who was a leader in all the mischief, disorder, burnings, and murders in Kansas for the last two years, and who was driven from the Senate of the United States by a distinguished and eminent Senator, [Mr. DOUGLAS,] who denounced him as guilty of the crimes of forgery and perjury.

Mr. STANTON. I presume the gentleman means Sheriff Jones. [Laughter.]

Mr. SMITH, of Virginia. I was speaking of one who would be a Senator of the United States. He knew I was speaking of James H. Lane.

Mr. BURROUGHS. I call the gentleman to order.

Mr. SMITH, of Virginia. I will stop here to please the gentleman from New York.

The question recurs, who shall be the appointing power? I beg leave to read to the gentleman from Ohio, who is generally a very dispassionate man, and who is in the habit of dealing in facts, an extract from the opinion of the Supreme Court in a celebrated case arising out of the Dorr rebellion. But before reading it, I will remark that the gentleman from Ohio, in speaking of parties, said he would not give the appointing power to one party or the other, because either party would act upon the principle that to the victors belong the spoils. But the country is divided into political parties, and the appointing power must be lodged somewhere.

But upon this question I will not enlarge. I read from the seventh volume of Howard's Reports some remarks of Judge Nelson, in the Dorr case, made when the Federal court was in the full enjoyment of the highest confidence of the entire country. He said:

"It is said that this power in the President is dangerous to liberty, and may be abused."

That was the great power recognizing the sovereign authority of a State. It was not a little, petty matter like this, but the power of deciding which of the parties of a State was the true popular sovereignty of the State. He says:

"It is said that this power in the President is dangerous to liberty, and may be abused. All power may be abused if placed in unworthy hands. But it would be difficult, we think, to point out any other frauds in which this power would be more safe, and at the same time equally effectual. When citizens of the same State are in arms against each other, and the constituted authorities unable to execute the laws, the interposition of the United States must be prompt, or it is of little value. The ordinary course of proceedings in courts of justice would be utterly unfit for the crisis. And the elevated office of the President, chosen as he is by the people of the United States, and the high responsibility he could not fail to feel when acting in a case of so much moment, appear to furnish as strong safeguards against a willful abuse of power as human prudence and foresight could well provide. At all events, it is conferred upon him by the Constitution and laws of the United States, and must therefore be respected and enforced in its judicial tribunals."

Such, sir, was the language of the Supreme Court, in reference to a great matter; and shall that argument not be regarded as having effect and value, in reference to a little matter of this description? It does seem to me most remarkable that here, in a District within our exclusive jurisdiction; here in a District where the population is fleeing and unsettled, and where, consequently, the people cannot contribute to the full extent requisite for an efficient police, we, the Representatives of the people, interested for our own personal safety, and for the safety of those whom our presence brings here on business, are unwilling to create a proper and sufficient police for the purpose of keeping down the rowdies and others who come from adjoining cities for the advantage of the harvest which they expect to reap here from the concentration of Federal authority on this point. I ask, gentlemen, if it be possible that we can pause or hesitate to do what may secure that safety to which we are entitled, because a partisan has to make the appointments? In whom can the power rest with so much safety as in the hands of one who has been elevated to the highest position in the world by the voices of his countrymen, and who has now nothing to seek but their affection and regard?

Mr. MAYNARD obtained the floor, but yielded it to

Mr. WRIGHT, of Georgia, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. JONES, of Tennessee, reported that the Committee of the Whole on the

state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the special order, being Senate bill "to establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject;" and had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit to the House of Representatives a memorial addressed to myself by a committee appointed by the citizens of that portion of the Territory of Utah which is situated west of Goose Creek range of mountains, commonly known as Carson Valley, in favor of the establishment of a territorial government over them, and containing the request that I should communicate it to Congress. I have received but one copy of this memorial, which I transmit to the House upon the suggestion of James M. Crane, Esq., Delegate elect from the people composing the new Territory, for the reason, as he alleges, that the subject is now under consideration before the Committee on Territories of that body. JAMES BUCHANAN.

WASHINGTON, April 13th, 1858.

The message was referred to the Committee on Territories, and ordered to be printed.

LIGHT-HOUSES IN THE NORTHWEST.

The SPEAKER also laid before the House a report from the Treasury Department in answer to the resolution of the House in regard to light-house expenses on the northwestern lakes, in the tenth and eleventh districts.

On motion of Mr. COMINS, the communication was referred to the Committee on Commerce, and ordered to be printed.

PENITENTIARY IN KANSAS.

The SPEAKER also laid before the House the memorial of the Legislature of Kansas, asking an appropriation for a penitentiary in that Territory; which was referred to the Committee on Territories.

ATLANTIC STEAM FERRY COMPANY.

Mr. GARNETT asked the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of authorizing the Atlantic Steam Ferry Company, incorporated by the General Assembly of Virginia, on the 15th March, 1856, to build, or purchase, in any foreign country, such vessels as said company may require, said vessels to be entitled to all the privileges of navigation and otherwise, to which vessels built in the United States are, or shall be entitled.

Mr. CAMPBELL objected.

And then, on motion of Mr. JOHN COCHRANE, (at thirteen minutes after four o'clock, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, April 14, 1858.

Prayer by Rev. J. G. BUTLER.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HALE presented the petition of Eliphalet Lyman, praying to be allowed bounty land for his services as surgeon to a company of drafted militia in the war of 1812; which was referred to the Committee on Pensions.

Mr. CLAY presented a memorial of citizens of Boston, remonstrating against the repeal of the act establishing the Light-House Board; which was referred to the Committee on Commerce.

Mr. SEWARD presented the petition of J. Hosford Smith, praying for an additional allowance during the time he was United States consul at Beirut in Syria; which was referred to the Committee on Commerce.

Mr. TOOMBS presented two petitions of citizens of the city of New York, praying for the enactment of a general relief law; which was referred to the Committee on the Judiciary.

Mr. DIXON presented the petition of Edson Fessenden, praying for the renewal of his patent for a power-weaving loom; which was referred to the Committee on Patents and the Patent Office.

Mr. KING presented the petition of James Smith, praying to be allowed a pension for an injury received while a soldier in the Army; which was referred to the Committee on Pensions.

Mr. BROWN presented a petition of owners of property in squares Nos. 687 and 688, situated north and south of the East Park of the Capitol,

praying Congress to come to some decision in regard to the enlargement of the Capitol grounds, during the present session; which was referred to the Committee on Public Buildings and Grounds.

RESOLUTIONS FROM CALIFORNIA.

Mr. BRODERICK presented resolutions of the Legislature of California in favor of an act of Congress granting to that State five per cent. of the proceeds of the sales of the public lands in California for school purposes; which were referred to the Committee on Public Lands.

He also presented a communication from Andrew J. Moulder, superintendent of public instruction in California, relative to the sale of public lands; which was referred to the Committee on Public Lands.

He also presented a resolution of the Legislature of California, relative to land titles in that State; which was referred to the Committee on Private Land Claims.

Mr. GWIN presented a resolution of the Legislature of California, in favor of a weekly mail route in certain counties in that State, and the location of certain post offices therein; which was referred to the Committee on the Post Office and Post Roads.

He also presented a resolution of the Legislature of California, in favor of a weekly mail from Weaverville, via the mouth of Cañon Creek, to Cañon City, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. GWIN. I am requested to present joint resolutions of the Legislature of California, relative to the admission of Kansas into the Union as a State under the Lecompton constitution. I ask that they be read; and as the subject has been disposed of by the Senate, I move that they be printed, and laid on the table.

The Clerk read the resolutions, as follows:

Concurrent resolution relative to the admission of Kansas.

Whereas, The people of the Territory of Kansas did, on the 7th day of November, 1857, by a convention assembled for that purpose, form for themselves a constitution and State government, which constitution and State government so formed is republican; and whereas, the said constitution has been submitted to the Congress of the United States with the view of the admission of Kansas into the Union as an independent State: Therefore,

Resolved by the Assembly, (the Senate concurring,) That our Senators be instructed, and our Representatives requested, to vote for the immediate admission of the Territory of Kansas into the Union, on an equal footing with the original States in all respects whatever.

Resolved, That the Governor be, and he is hereby, requested to transmit copies of these resolutions to our Senators and Representatives in Congress.

N. E. WHITESIDES,
Speaker of the Assembly.
JOSEPH WALKUP,
President of the Senate.

OFFICE OF SECRETARY OF STATE,

SACRAMENTO, CALIFORNIA, March 19, 1858.

I, Ferris Forman, Secretary of State of the State of California, do hereby certify that the annexed is a true and correct copy of a concurrent resolution, relative to the admission of Kansas, now on file in this office.

Witness my hand, and the great seal of State, at the office in Sacramento, California, the 19th day of [1858] March, A. D. 1858.

FERRIS FORMAN,
Secretary of State.

Mr. BRODERICK. The resolutions introduced by my colleague, from the Legislature of California, will have no influence upon my action here, now or in the future. I am satisfied that these resolutions do not express the opinions of the people of California upon the question to which they refer. I am satisfied, sir, that four fifths of the people of California repudiate the Lecompton fraud. I shall respect the wishes of the people, and pay no respect to the resolutions passed by a Legislature not representing the opinions of the people of California. I merely say this now for the purpose of placing myself right on the record.

Mr. GWIN. I do not intend to discuss this question, as it has passed from the consideration of the Senate. I take issue with the Senator in his statement as to the public sentiment in California on this subject, and accept the tribunal he invokes—the people. Before that great tribunal I am willing to be present myself, and abide its decision, having no doubt or fear of the result.

The PRESIDENT *pro tempore*. The question is on the printing of the resolutions.

Mr. BRODERICK. I have no objection to the printing.

The resolutions were ordered to be printed.

MEMORIAL FROM UTAH.

The PRESIDENT *pro tempore*. The Chair has received a memorial from a number of persons representing themselves to be a committee on behalf of the citizens of Great Salt Lake City, accompanied by a preamble and resolutions adopted by a meeting of the citizens of that city.

Mr. BIGLER. The paper which the President has just presented from Utah, I learn is a memorial, accompanied by a preamble and resolutions, which embody a very significant expression of the views and purposes of that peculiar set of people. I think, sir, it would be highly proper to have the preamble and resolutions read. They are especially interesting at this time, as the Senate, probably, in a few hours will be considering the deficiency bill, on which we shall have to debate the policy of this expedition.

The Clerk read the preamble and resolutions accompanying the memorial of the inhabitants of Great Salt Lake City to the President and Congress of the United States, as follows:

Whereas, in the year 1833, the military of the county of Jackson, State of Missouri, under the command of the Lieutenant Governor thereof, did expel our people from their homes, many of whom were murdered by them, their property destroyed, and their families driven and scattered; others were whipped, tarred and feathered, and a few others barbarously treated by and under the immediate direction of the military and civil authorities; and whereas, in the year 1838, the Executive of Missouri did order out an overwhelming military force, march them into our settlements and butcher many, without regard to either age, sex, or condition; robbed us of our property, imprisoned many of our brethren without process, ravished our wives and daughters, and drove us off, under a brutal order of extermination, from land we had purchased from the General Government; and whereas, the Executive of the sovereign State of Illinois, in violation of all law, did march a military force into our neighborhood, and under the most solemn pledge of protection and legal justice, compel our leading men to deliver themselves into his hands, he himself acknowledging that they were not guilty of any crime, leaving them in the power of assassins, who did treacherously and inhumanly butcher them; and whereas, the State of Illinois, in 1845, did require our people, under pain of extermination by an infuriated mob, to leave the State, pledging themselves to protect us in doing so, yet suffered our people to be murdered and our houses burned with impunity; and whereas, we did petition the Chief Executive of our nation, and the Governor of each State and Territory in the Union, for an asylum from our persecutors, where we could enjoy our religion unmolested, which only met with insult and cold neglect; and whereas, when we were fleeing into the wilderness, a call was made by the General Government on us for five hundred of our most efficient men, who were readily furnished, and who went in the service of our country, which was then engaged in a war with the Republic of Mexico; and whereas, as soon as our most efficient men had left in the service of our country, the State of Illinois marched a formidable army to Nauvoo, where many of the infirm and aged fathers, mothers, brothers, and sisters of those very men engaged in the war with Mexico, were killed and wounded, forcing the families that were left destitute to the desolate prairies, a prey to hunger, cold, and disease; and whereas, on our journey here we were compelled to make a temporary location for winter quarters on the west bank of the Missouri river, near Council Bluffs, to which the Government of the United States sent their officers, and notified us to vacate our houses notwithstanding many of those who occupied them were the families of those very men engaged in the service of the United States in the war with Mexico, and who themselves were discharged two thousand miles from their families, in an enemy's country, without the means of returning home; and whereas, we have wandered under the protection of the Almighty, and the wise counsel of our worthy Governor, Brigham Young, fourteen hundred miles into the desert, making our own roads, and leaving our persecutors to the enjoyment of our hard-earned labors; and whereas, not a solitary individual who has participated in any of the murders, robberies, rapes, and other enormities inflicted upon us within the United States, has ever been brought to justice; and whereas, our repeated petitions for redress to those in authority have been answered by adding insult to injury; and whereas, the people of this Territory have been peaceful and law abiding, living in the strict observance of the laws of the United States applicable in our Territory; and whereas, the Government of the United States, as is reported, has sent a formidable army into our Territory:

Resolved, That we regard the movements of the present Administration, in sending their armed legions into our midst, as a renewal of the persecution, butcheries, and horrid scenes of destruction with which their eyes were gloated while we were in their midst.

Resolved, That we highly approve of the constitutional, patriotic, and humane course pursued by his Excellency Governor Brigham Young, in taking efficient measures to intercept the progress of these unwelcome, unasked, and corrupting intruders.

Resolved, That we fully approve of the resolutions passed in the Legislative Assembly, indorsing and approving the acts of the Governor in relation to the invading army, and we heartily concur in the spirit and sentiments expressed in the memorial adopted by the Legislative Assembly, January 6, 1858.

Resolved, That no officer appointed by the Administration shall exercise any dominion over us while their armies are menacing our territory.

Resolved, That we would be recreant to every principle of honor, patriotism, virtue, integrity, self respect, and common decency, should we tamely submit, like the menial serfs of Russia, to be ruled by the bayonet.

Resolved, That we tender to his Excellency Governor Young our utmost exertions, our lives, and our fortunes, for the defense of our rights; that we regard no sacrifice too great, and are ready, if necessary, to sacrifice our homes, but we will not see them inherited by our enemies.

Resolved, That we request the Government of the United States to withdraw their armed menials and cease to prostitute the executive power of a great nation to subvert the ends of cruelty, religious oppression, and injustice.

Resolved, That as, in all our persecutions and sufferings, heretofore, we have been deceived by promises of protection and pretenses of enforcing the law, we will not suffer ourselves to be again deceived by such shallow pretenses, and that if the authorities of the United States wish to convince us of their lawful, humane, and just intentions to us as a people, they must pay us our damages, redress our wrongs, punish our murderers, plunderers, and ravishers, or we shall continue to believe that they have not reformed.

Resolved, That we appeal to the native justice of the people of the United States, our brothers, our kindred, whose fathers fought side by side with ours the battles of our country's independence, and whose blood mingled together, a sacrifice to purchase civil and religious liberty; we have been reared at the same firesides, educated at the same schools, colleges, and universities, and we are entitled to all the privileges of religious liberty, purchased by the common suffering of our fathers; to you we appeal to stretch forth the hand and save these principles from the vile attempt of unprincipled demagogues to crush and submerge them in the blood of your fellow countrymen.

Resolved, That we deprecate and deeply deplore the causeless, but overwhelming prejudice which denied even the presentation of our constitution and application for admission into the Union as a State; and also, the subsequent attempts of the Government to crush the people of this Territory by depriving them of every vestige of constitutional right and liberty.

Resolved, That our religion inculcates morality, a strict observance of social ties, a lasting interest in the welfare of all good men, and respect to the rights of others in the same degree as we would have our own respected.

Resolved, That by the help of Almighty God, we will maintain our constitutional rights and liberties, our religion, our wives and children, and our hard earned firesides and homes, and we invite the down trodden and oppressed of all nations, kindreds, tongues, and people, of whatever faith they may be, together, to these valleys, where they can worship God according to the dictates of their own consciences.

W. W. Jones, E. Smith,
Robert L. Campbell, Lewis Robinson,
Robert T. Burton, John Van Cott,
William Eddington, Edwin D. Woolley,
Levi Jackson,

Committee on behalf of the citizens of Great Salt Lake City,
Salt Lake county, Utah Territory.

GREAT SALT LAKE CITY, January 16, 1858.

Mr. POLK. I feel it due, sir, to the State which I in part represent, not to allow the paper which has just been read to pass unchallenged in regard to the statements it makes as to the conduct of the Missourians towards that people while they were in that State. I shall briefly say, only, that those charges I consider slanderous and false. They were allowed to remain in Missouri just so long as they could be tolerated in a civilized community governed by law and regulated by proper moral sentiment. So long as life and property could be held safe to such an extent that anything like a sure tenure of either could be relied on by the population, that people were allowed to remain there. They were ultimately driven off, and driven off because the execution of the law required that they should leave the communities in which they were placed. When they were finally expelled from the State, I undertake to say, for I have had a representation of the facts from a gentleman who is now a distinguished member of the other House of Congress, who commanded the forces of Missouri at the time, that there was no cruelty practiced upon that people. They were compelled to surrender; and when they did surrender, the offenders against whom legal process had been issued, and was in the hands of public officers, but which could not be served before because the parties were shielded from arrest by the illegal combinations of that people, were delivered into the hands of justice, to be disposed of by the civil tribunals. They had a fair trial, and no rights of theirs, either of person or of property, I believe, were wantonly or unjustly invaded or trampled upon by Missouri as a State, or by Missourians as individuals. They left Missouri and went to Illinois. Illinois received them at first with open arms; but after being there a while, they became intolerable, so that they could be borne there no longer; and ultimately, I believe, they were compelled to leave that State. The security of the citizens of that State required that they should depart. They have departed; and now that they are in rebellion, as I consider it, at Great Salt Lake, they are adding insult to the treachery and treason which they are at this very moment exhibiting by their conduct against the United States; insult to Missouri and to Illinois,

and to the whole United States, of which those two States are constituent members.

Mr. DOUGLAS. I was not in the Chamber when that paper was laid before the Senate. I heard only the conclusion of it. I do not feel myself under the same obligation that the Senator from Missouri did, to enter any protests against their statements. I have no apprehension that any statements of Brigham Young, or of that community at Salt Lake, will disparage the character of the State of Illinois, or of the State of Missouri, or of any other State in the Union. History will do justice to our two States—Missouri and Illinois. It has done it, in fact, already. The public sentiment of those States, of the Union, and of the world, has vindicated them. If any further vindication was necessary, it would be found in the action of these people at Salt Lake, in the tone of the concluding part of that memorial, or protest, or whatever it may be called. It is in terms and in spirit a declaration of war, appealing to all mankind against the American Government and the American people; showing themselves to be alien enemies, not entitled to the protection of the United States. The very character of that paper carries with it a sufficient shield to protect the Illinoisians and the Missourians, or the citizens of any other State they may slander, from the denunciations and charges they make. Sir, I have no defense to make of my State. She needs none. Missouri can rest upon her history; Illinois upon hers; and let the future dispose of these people at Salt Lake.

The PRESIDENT *pro tempore*. What disposition will the Senate make of the communication which has been laid before it?

Mr. GWIN. I move that it be laid on the table.

Mr. CRITTENDEN. I hope it will be referred. I hope the gentleman will withdraw his motion.

Mr. GWIN. I withdraw my motion, if the gentleman wishes it; and move to refer this communication to the Committee on Territories.

Mr. DOUGLAS. I have a word to say on that. I think it is showing too much respect to a paper of that description to refer it, for the purpose of having a report; and I think the original motion of the Senator from California was the proper one, to lay it on the table. The subject-matter, in proper, respectful terms, is before the committee now; and I think it is showing too much respect to a paper of that description to refer it to the committee. It is a war measure, if anything, and should go to the Committee on Military Affairs; but I would not propose its reference anywhere.

Mr. GWIN. I renew my motion to lay the paper on the table.

Mr. SEWARD. I wish the honorable Senator from Illinois would reconsider that subject for a moment. These people, I think, are entitled to very little respect, and to no sympathy. But let us reflect. We are informed by the President of the United States that all civil authority, all the functions of the Federal Government, in Utah, are suspended, overthrown by the action of this people. We know that there is an armed force on its way to compel them to submit and to acknowledge the authority of the United States. The paper which they have sent here, of which I have heard but a small portion, I suppose was intended to have the character of a petition, or, at least, of a protest; and it must be expected that a people with whom such relations are existing, or such want of relations as is existing between them and the United States, would not be very careful or very guarded in their language, and that they would not express themselves with the respect and consideration for the feelings of the Government of the United States, or those connected with it, that might be expected if they stood in different relations.

We are striking these people, as I understand it; and I think it is but just and generous and wise to hear them. To lay their petition upon the table would be construed by them into contempt. It does not become us to practice contempt of the weak, especially if they are subjects of our own jurisdiction. But it seems to me, that, waiving all objections to the character and temper of the paper, it would be wise to give it a reference; and, of all the references, that which is most appropriate is to the Committee on Territories. I see an allusion in it—a complaint—that their application to be

admitted into the Union has not been considered. That is a complaint against the Government of the United States which it is proper for that committee to examine. I therefore think it would be much wiser and better to refer this petition to the Committee on Territories.

Mr. BIGLER. When I called for the reading of this paper, I intimated that after its reading it should be committed, and I intended to make that motion; but having heard the extraordinary sentiments which it contains, and the offensive language in which those sentiments are expressed, broad accusations against two sovereign States, and the individual citizens of those States, accusing them of crimes the most offensive and horrible, attributing to the United States Government and the people of the United States, injustice of purpose and oppression, I felt like concurring in the proposition of the Senator from California, and I shall most certainly go for that motion, if it is to signify the sense of the Senate, as intimated by the Senator from Illinois. If that is to be the interpretation of the vote which we are about to give, then I shall vote for the motion of the Senator from California; and in so doing I give a vote of contempt for sentiments that are offensive to the people and to the Government of the United States, and for the menace which this paper makes. I think we ought to adopt the motion of the Senator from California, and lay this paper on the table as not such a one as ought to be referred to a committee and considered seriously.

Mr. DOUGLAS. One word more, and in reply to the Senator from New York—

Mr. JOHNSON, of Arkansas. I rise to a question of order. I believe the motion is to lay on the table, and that is not debatable. I will not make the question of order on the Senator from Illinois now, but I give notice to the next gentleman who commences to speak on this subject after him, that I will interpose so as to stop this discussion.

Mr. DOUGLAS. I was not going to argue the question, but simply to state a fact. I understand that the President has deemed it wise and prudent, under the circumstances, to send a commission to Salt Lake to confer and report upon the state of things there. If that be the case, I should not deem it proper for the committee to report here until we hear from that commission; and I think, therefore, it would not be wise to refer this matter to a committee, (because a reference implies a report,) until we hear from that commission; and then we shall know what views the Administration have upon the subject; and those views will be founded upon official information. The appointment of a commission implies that they are not satisfied with the rumors and character of the information we now have upon the subject. That implication is conclusive; otherwise, they would not have sent for further information. They have sent men of distinction and national reputation to inquire, perhaps to negotiate, at least to report on the facts. I should think, therefore, it would be proper to lay this paper on the table, and not refer it.

The PRESIDENT *pro tempore*. The Chair will remark to the Senator from Illinois that this is a privileged motion, and debate is out of order.

Mr. DOUGLAS. I am very glad it is, as I have said all that I intended to say.

Mr. SEWARD called for the yeas and nays; and they were ordered.

Mr. CRITTENDEN. I understand the Chair to say that this is not subject to debate; but I wish to make a single observation. I have not heard this paper read, but I think it would be best to pursue the usual course. It is for our interest, not theirs, that I would prefer to have the matter referred.

The Clerk proceeded to call the roll.

Mr. HOUSTON. I did not hear the memorial, and must excuse myself from voting.

The result was announced—yeas 32, nays 17; as follows:

YEAS—Messrs. Allen, Bayard, Biggs, Bigler, Bright, Brown, Clay, Collamer, Doolittle, Douglas, Fitch, Fitzpatrick, Foot, Green, Gwin, Hammond, Hunter, Iverson, Johnson, of Arkansas, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Stuart, Thomson of New Jersey, Toombs, Trumbull, and Wright—32.

NAYS—Messrs. Bell, Broderick, Chandler, Clark, Crittenden, Dixon, Fessenden, Foster, Hale, Hamlin, Harlan, King, Seward, Summons, Wade, Wilson, and Yulee—17.

So the paper was ordered to lie on the table.

CHANGE OF REFERENCE.

Mr. YULEE. On the 25th of January last, the Secretary of War sent to the Senate a communication, transmitting estimates for the pay of volunteers serving in Florida, during the present fiscal year. The communication should have been sent to the Committee on Finance, but it was referred to the Committee on Military Affairs. I move that the Military Committee be discharged from the further consideration of the subject, and that it be referred to the Committee on Finance.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. FITCH, from the Committee on Indian Affairs, to whom were referred the papers relating to the claim of Daniel S. Ryan and Benjamin C. Wyley, administrators of R. D. Rowland and of James M. Crook, submitted a report, accompanied by a bill (S. No. 262) for the relief of the heirs or legal representatives of Richard D. Rowland, deceased. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. KING, from the Committee on Military Affairs, to whom was referred the petition of Alexander Miller, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. JOHNSON, of Arkansas, from the Committee on Military Affairs and Militia, to whom was referred the resolution of the Senate directing an inquiry into the expediency of abolishing the military asylum near Washington city, and of providing some other means of support for the inmates, asked to be discharged from its further consideration, and that it be referred to the select committee on the military asylum; which was agreed to.

Mr. CLAY, from the Committee on Commerce, to whom were referred the resolutions of the Legislature of New Jersey relative to the erection of a custom-house and post office at Trenton, and a resolution of the Legislature of Iowa respecting a marine hospital, custom-house, and post office at Muscatine, in Iowa, asked to be discharged from their further consideration; which was agreed to.

Mr. BELL, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 208) for the benefit of the captors of the British brig Caledonia, in the war of 1812, reported it without amendment.

Mr. BENJAMIN, from the Committee on the Judiciary, to whom was referred the memorial of William Cruickshank and others, submitted a report, accompanied by a bill (S. No. 260) for the relief of William Cruickshank, J. S. Black, Calhoun Benham, and Frederick A. Sawyer, of San Francisco. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. KENNEDY, from the Committee on the District of Columbia, to whom was referred the petition of Michael Nash, reported a bill (S. No. 261) for the relief of Michael Nash, of the District of Columbia; which was read, and passed to a second reading.

ADJOURNMENT OF CONGRESS.

Mr. TOOMBS. I move to take up the resolution passed by the House of Representatives fixing the day for the adjournment of Congress.

The motion was agreed to; and the Senate proceeded to consider the following resolution of the House of Representatives:

Resolved, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives declare their respective Houses adjourned sine die on the first Monday of June next, at twelve o'clock, m.

Mr. TOOMBS. I move its adoption.

Mr. HUNTER. I would suggest to the Senator from Georgia that this resolution had better lie over a while, until we see what progress we make in the public business, and see whether we shall be able to get through with the appropriation bills by that time. I think that probably by next week we shall be able to form some judgment as to whether we can adjourn at so early a day. I, for one, should be unwilling to act now. I am as anxious to get away as the Senator from Georgia can be; but I think we are not able to decide it at the present.

Mr. TOOMBS. I do not think the reasons of my friend from Virginia are sufficient. The

resolution gives Congress more than six weeks longer. The appropriation bills are all here. We can do the business as easily within six weeks as six months. We rarely address ourselves to the task of selecting the business that ought to pass until we fix the day of adjournment. I think the resolution allows ample time. I see no difficulty in the state of the public business; I do not think the gentleman can point out any. I believe, too, that the public are right in their expectations that this Congress was, at least, to relieve the public after passing the new compensation law, by adjourning at an early day, and getting through with a large portion of the business of the country at a seasonable time. We have nothing to do but to pass the appropriation bills, and settle a few other questions of internal policy. The Pacific railroad bill is before us, and we were near taking a vote on it yesterday; we can take it in a few days. I know of no public business which this branch of Congress cannot dispose of in six weeks, as well as in six months.

Mr. HUNTER. There are very few of the appropriation bills yet acted on in the Senate, and there are several of the most important to be acted on in the other House. I think we shall be better able to judge of this matter after the Kansas question shall be disposed of, and I suppose it will be settled within the week.

Mr. DOUGLAS. What else have you to do?

Mr. HUNTER. We have only acted here on two or three of the most unimportant of the general appropriation bills that they have sent us. The Indian bill we have received, and one branch of the old civil and diplomatic bill. That now is sent in three separate bills. We have had only the first, which I shall ask the Senate to take up to-day. We have not had the general bills appropriating for the Army or Navy. All these bills are behind us yet.

Mr. IVERSON. I cannot, myself, consent to vote for this resolution to adjourn on the 7th of June, and I will proceed very briefly to give the reasons why I am opposed to it. I do not believe that the two Houses can perform the ordinary amount of public business within the time prescribed; and if we adjourn on the 7th of June, we shall adjourn with a very large amount of necessary and important public business undone.

Now, sir, the ordinary time of adjournment heretofore, at the long session, has been in August or September. I believe at no session within the last six or eight years has Congress adjourned before August. Two years ago, we adjourned on the 14th of August, and the sessions have run into September. If we adjourn in the beginning of June, two months before the ordinary period of adjournment, and leave much public business untransacted, as must necessarily be left, we shall get the imputation, and deservedly, in my opinion, from all parts of the United States, of adjourning at an early day because we have salaries for our services, and not daily pay. I am not willing to subject myself, or the Senate, or the House of Representatives, to any such imputation. The imputation will be that members of Congress, receiving salaries, and desiring to abandon public business, adjourned at an early day; and I think there will be some cause for this imputation. At any rate, I am willing to sit here longer, even at an expense of time and money, rather than be subjected to any such imputation. I think it is the duty of Congress to sit until the public business is disposed of.

Now, sir, look at the appropriation bills. As the Senator from Virginia has said, there is not a solitary important appropriation bill that has yet received the action of the House of Representatives. The Army bill, the Navy bill, the civil and diplomatic bills, and the omnibus bill, have none of them as yet received the action of the House of Representatives. They have to go through that body, and come here, and we know that the *cacoethis loquendi* exists in this body to such an extent, without any rules to cut it off, that from that cause alone you will not get through business as early as my colleague anticipates. It is all a mistake. If you sat here eight or ten hours a day, and sat every day in the week, probably you might transact most of the business; but is it expected that Senators will do that? Are you going to work yourselves like pack-horses in order to get through by the 1st of June? No, sir; it is better to do business decently, leisurely, and

in order, and take a little more time. I will move an amendment to the resolution, if it is to be pressed now, to strike out "June," and insert "July."

Mr. HALE. Mr. President—

The PRESIDENT *pro tempore*. The hour has arrived for the consideration of the special order.

Mr. HALE. I move to postpone the special order.

Mr. BRODERICK. I hope the special order will not be postponed.

Mr. HALE. I understand that this is a privileged question.

Mr. BRODERICK. My colleague is not in his seat. He will be here in a few moments.

Mr. HUNTER. I suggest to those who called up the resolution, to postpone its consideration to Monday next; because some will vote against it if you act now, who might vote with you on Monday next.

Mr. TOOMBS. I cannot see any reason for a postponement. Gentlemen must vote as they think proper. In my opinion, it is very proper to pass the resolution; I think the public interest demands it. I am perfectly willing to take the vote myself; of course, Senators will vote as they please.

The PRESIDENT *pro tempore*. The motion to adjourn is always a privileged question; but the Chair has doubts whether a motion to fix the day of adjournment is a privileged question.

Mr. HALE. Then I move to postpone all previous orders, for the purpose of disposing of this resolution.

Mr. DOUGLAS. I suppose this takes precedence over any special order, being a question of privilege.

The PRESIDENT *pro tempore*. The Chair thinks a motion to fix the day of adjournment is not a privileged question.

Mr. HALE. I move to postpone all prior orders, for the purpose of continuing this matter.

Mr. GWIN. I move to postpone the further consideration of this question until half past twelve o'clock to-morrow.

Mr. HALE. I want to inquire how the Senator from California had the floor? I was recognized; the Chair interrupted me, but I had not yielded.

The PRESIDENT *pro tempore*. The Senator from New Hampshire is entitled to the floor.

Mr. HALE. My motion is to postpone all previous orders, for the purpose of disposing of this resolution.

Mr. GWIN. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and, being taken, resulted—yeas 34, nays 15; as follows:

YEAS—Messrs. Biggs, Cameron, Chandler, Clark, Clay, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Polk, Pugh, Sebastian, Simmons, Sidel, Stuart, Thomson of New Jersey, Toombs, Trumbull, and Wade—34.

NAYS—Messrs. Allen, Bell, Benjamin, Bigler, Bright, Broderick, Brown, Gwin, Hunter, Iverson, Mallory, Seward, Wilson, Wright, and Yulee—15.

So the motion to postpone the prior orders was agreed to.

The PRESIDENT *pro tempore*. The resolution is now before the Senate.

Mr. BRODERICK. I ask for the yeas and nays on the adoption of the resolution.

Mr. IVERSON. I move to strike out "June," and insert "July."

Mr. HUNTER. I hope the Senator from Georgia will not propose to change the day; we do not know that we shall need be here until July. I hope we may get away in June, but I fear we shall not be able to do so. I shall not vote to tie the hands of the Senate, and therefore I shall vote against the resolution.

The yeas and nays were ordered.

Mr. JOHNSON, of Arkansas. The question now is on the passage of the resolution?

The PRESIDENT *pro tempore*. Yes, sir.

Mr. JOHNSON, of Arkansas. If it does not pass it is disposed of finally.

Mr. DOUGLAS. That is the end of it.

Mr. JOHNSON, of Arkansas. Then we are in this condition: we must either take the day fixed by the House of Representatives, or have no resolution pending to act upon at all. ["Yes."] I am for adjourning some time.

The question being taken by yeas and nays, resulted—yeas 39, nays 12; as follows:

YEAS—Messrs. Benjamin, Biggs, Bigler, Broderick, Cameron, Chandler, Clark, Clay, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Evans, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Polk, Pugh, Sebastian, Seward, Simmons, Sidel, Stuart, Thomson of New Jersey, Toombs, Trumbull, and Wade—39.

NAYS—Messrs. Allen, Bell, Bright, Brown, Gwin, Hunter, Iverson, Kennedy, Mallory, Wilson, Wright, and Yulee—12.

So the resolution was concurred in.

DIPLOMATIC APPROPRIATION BILL.

Mr. HUNTER. I move to postpone all prior orders for the purpose of taking up the consular and diplomatic appropriation bill. We had the bill under consideration last week, and we ought to conclude it. I think it will not take all day. I move to postpone all prior orders for that purpose.

Mr. GWIN. That bill was passed to a third reading, and it can be taken up in the morning hour to-morrow morning. The Pacific railroad bill has been postponed from day to day. The Senator knows perfectly well that his appropriation bill is not pressing, and he can pass it in the morning hour any day.

Mr. HUNTER. The Senator from Rhode Island [Mr. SIMMONS] had it laid over, and his purpose is to offer an amendment.

Mr. GWIN. He is not in his seat.

Mr. HUNTER. He is here in the Senate.

Mr. GWIN. I hope the Senator from Virginia will let us go on with the special order.

Mr. HUNTER. The Senate has just agreed to adjourn in June, and we certainly cannot do it unless we go on with the appropriation bills. I must move to take it up. I shall hurry it through as fast as I can.

Mr. SEWARD. I hope the Senator from Virginia has no idea of interfering with the Pacific railroad bill. That ought to be disposed of. I call for the yeas and nays on his motion.

Mr. HUNTER. I submit the motion to postpone all prior orders, and take up the consular and diplomatic appropriation bill.

Mr. SEWARD. I ask for the yeas and nays on that.

Mr. BRODERICK. I hope the consideration of the Pacific railroad bill will not be postponed. It has been before the Senate some half a dozen times within the last two weeks. It appears that it is to be disposed of in this way in a minute; it takes no time at all to dispose of it. If it is the intention of the Senate to vote it down, they had better signify their wish by meeting it at once and disposing of the question. I consider it a very important measure—the most important ever introduced into this Chamber. If the Senate see fit to cast it off from day to day to take up a bill for paying our consuls abroad, they can do it if there is a majority on the floor for it; but I hope, if this bill is to be considered at all, it will be considered to-day, for it is one of vital importance to the people of California. But, sir, there appears to be a disposition to treat this bill with no seriousness at all. I hope my colleague will insist on the consideration of his bill to-day.

Mr. GWIN. I ask for the yeas and nays on this motion.

The yeas and nays were ordered.

Mr. JOHNSON, of Tennessee. I wish to make a remark as to the ground of the vote I am going to give. So far as the appropriation bills are concerned, they always get through Congress. I never knew one to fail. They will get through some how or other. The chairman of the Committee on Finance I know, has great solicitude for the appropriation bills, and has the public interests much at heart. I will go with him as far as anybody in expediting and pushing his bills forward; but my little experience in deliberative bodies satisfies me that the fastest and best way to get along with the public business is to take it in the order in which it comes. Here is the Pacific railroad bill; let us take it up and dispose of it. Here are other special orders; let us take them up and dispose of them. I have been anxiously waiting from day to day hoping that things would progress in their proper order so that we might reach what I conceive to be the most important measure of this or any other session of Congress, that is the homestead bill. I am in hopes we shall go on regularly and take up the business as it stands

on the Calendar, and then we shall advance much more rapidly, and I think much more satisfactorily to the country.

Mr. COLLAMER. What is the form of the motion before the Senate?

The PRESIDENT *pro tempore*. To postpone all previous orders, and take up the consular and diplomatic appropriation bill.

The question being taken by yeas and nays, resulted—yeas 23, nays 29; as follows:

YEAS—Messrs. Allen, Benjamin, Biggs, Clay, Collamer, Dixon, Evans, Fessenden, Fitzpatrick, Green, Hale, Hamlin, Hammond, Houston, Hunter, Johnson of Arkansas, Kennedy, King, Sebastian, Sidel, Toombs, Wade, and Yulee—23.

NAYS—Messrs. Bell, Bigler, Bright, Broderick, Brown, Cameron, Clark, Crittenden, Doolittle, Douglas, Fitch, Foot, Foster, Gwin, Harlan, Iverson, Johnson of Tennessee, Jones, Mallory, Polk, Pugh, Seward, Simmons, Stuart, Trumbull, Wilson, and Wright—29.

So the motion was not agreed to.

PACIFIC RAILROAD.

The PRESIDENT *pro tempore*. The special order is now before the Senate, being the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service by railroad from the Missouri river to San Francisco, in the State of California.

Mr. FOSTER. I move to amend the bill in the tenth section, sixteenth line, by inserting after the word "yard" these words: "or such other track as the President shall decide to be equivalent thereto in strength and security," so that the clause will read:

With rails of the best quality weighing not less than seventy-five pounds to the yard, or such other track as the President shall decide to be equivalent thereto in strength and security.

Mr. GREEN. I rise for the purpose of making an inquiry of the Presiding Officer. This amendment is proposed to the tenth section. I desire to propose an amendment to the first section, and I wish to know whether I shall be precluded if this action be taken first?

The PRESIDING OFFICER. (Mr. Foot in the chair.) The Senator from Missouri will not be precluded from offering his amendment, though it is more regular to proceed section by section from the beginning.

Mr. FOSTER. I have received a memorial from a constituent of mine since the bill was reported, and therefore there was no appropriate committee to which to refer it; and as it is very short, I ask that it may be read at the Clerk's table. It will explain my reasons for moving this amendment.

The Clerk read it as follows:

To the Senate and House of Representatives in Congress assembled:

The memorial of Timothy Dwight, of the city of New Haven, and State of Connecticut, respectfully sheweth:

That in the bill reported to the Senate by the special committee on the Pacific railroad, it is provided, in section ten, that said railroad shall be built with rails weighing not less than seventy-five pounds to the yard.

That your memorialist has invented, and obtained letters patent for, an improvement in rails for railways, which, beside many other important advantages, is superior in strength of track, and freedom from liability to accidents, to the best railroads now in use in the United States, and is fully equal, at a greatly diminished expense, to the track specified in the bill above mentioned.

That the plan has been submitted to many distinguished engineers and others connected with the construction and management of railways, and has been fully approved by them; of which fact he is prepared to exhibit the evidence to your honorable body.

That in his plan the use of a rail weighing seventy-five pounds to the yard is unnecessary; and that, if the provision requiring its use is retained in the bill referred to, it will prevent the use of a practically better track thus invented and patented by your memorialist, and thus cause an unnecessary expenditure of several millions of dollars in the construction of a Pacific railroad, besides causing great and irreparable injury to your memorialist.

Your memorialist does not ask your honorable body to sanction the use of the track invented by him, or to decide upon its merits; but he believes it to be obviously expedient, as well as an act of simple justice to himself, that it should be examined by a competent board, and that until thus examined its adoption should not be prohibited by law.

He therefore prays that the bill may be amended by inserting after the words "seventy-five pounds to the yard," "or such other track as the President shall decide to be equivalent thereto in strength and security," or in such other manner as may accomplish the object of this memorial, and afford adequate relief.

TIMOTHY DWIGHT.

Mr. FOSTER. Mr. President—

Mr. GWIN. The Senator will permit me to suggest to him that I think he had better with-

draw his amendment at present, and let us commence at the beginning, because it may not meet with the favorable consideration of the Senate when first presented. After we have examined that paper, perhaps there will be no objection to it. Let us go through the bill section by section, and when we get to this section, it is more than probable that the communication which has been read, which will be published in the *Globe*, will remove all objection to this amendment. At present there are Senators on this side who are not prepared to vote for it.

Mr. FOSTER. I withdraw my amendment, upon the suggestion of the Senator from California.

The PRESIDING OFFICER. The Chair will suggest, as he has already done, that it is more regular to proceed section by section, beginning with the first section, and if no amendment be offered to it, then to take up the second section, and so on. The Chair will entertain propositions to amend the first or second section, in preference to one for an amendment of other sections.

Mr. GREEN. I wish to move an amendment to the first section.

Mr. COLLAMER. I prefer that the course suggested by the Chair should be taken. Let the bill be read section by section, and then let any gentleman offer any amendment.

The Clerk read the first section of the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and directed to enter into a contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from a point on the Missouri river between the mouths of the Big Sioux and Kansas rivers, to San Francisco, in the State of California, on the most eligible route, reference being had to feasibility, shortness, and economy.

Mr. GREEN. I move to amend the first section by striking out, commencing in the seventh line, and ending in the eighth, the following words: "a point on the Missouri river between the mouths of the Big Sioux and Kansas rivers," and inserting "the mouth of the Kansas river." The object of making the motion is to fix the point definitely by act of Congress rather than to leave it uncertain, depending either upon the contractors or upon the executive department. I prefer that the responsibility should be taken by Congress itself. I believe it to be the duty of Congress to take that responsibility, not to transfer it to the executive department, nor even to leave it to the option of the contracting parties. I name the mouth of the Kansas river because it is central to the whole Union; it gives no advantage to the South or to the North, and while it is, as I am free to admit, a benefit to the State of Missouri, yet it results from the peculiar location of Missouri. I am also free to admit that I feel the more anxiety upon that subject because Missouri is my own State. These partialities and prejudices in favor of our own are natural; but while they influence me to that extent, I think disinterested men, looking at this subject with reference to its bearing on the whole Union, will see that if we are to have but one road, this is the only fair point at which it should start on the Missouri river. If you go higher north it is prejudicial to the South; if you go further south it is prejudicial to the North. To fix it at this point is fair, is equal, is just; and when the return trade from the rich shores of the Pacific reaches the mouth of Kansas river, it will radiate to all parts of the Union. Wherever the inducements are best and greatest, there the trade will center. I need not amplify and enlarge upon this proposition. It is plain and simple. The geography of the country is understood by all Senators. Its adaptation to the wants of all sections must strike every one at the first glance; hence I leave it for the consideration of the Senate.

Mr. DOUGLAS. I regret that I am constrained to dissent from the proposition of my friend from Missouri. The mouth of the Platte river was originally designated by the committee as the starting point of this road; but inasmuch as there was a diversity of opinion as to whether it should be the mouth of the Platte, or a little above, or a little below; and inasmuch as there were many railroads already in progress across Iowa and across Missouri, which, by a little convergence, would reach the main line, it was thought best, and it was done on my own motion, to strike out

"the mouth of the Platte," and insert, "a point between the mouths of the Big Sioux and Kansas rivers." I do not think it would be right now to limit it to the mouth of the Kansas. If we were to limit it to any one point, I should say the mouth of the Platte, which is about half way between these two rivers. But I am willing to leave it as the bill leaves it—the starting point on the Missouri river to be between the mouths of the Big Sioux and the Kansas, and to be selected by the contractors. I am not willing to say that the line shall start from the particular point indicated by the Senator from Missouri. I think we had better leave it as it stands in the bill. I believe it is safer. All these considerations were taken into view by the committee when we agreed upon the language in the bill as it now stands.

Mr. JONES. I merely wish to say a few words in accordance with what the Senator from Illinois has said in support of his views. I think, sir, it would be a great injustice to the State which I have the honor in part to represent here, and a still greater one to the State of Minnesota and the new Territory which is soon to be formed, I hope, west of Minnesota, to confine the starting point of the road to the mouth of the Kansas river. As the Senator from Illinois has said, if any point were designated in the bill, perhaps it ought to be the mouth of the Platte, though my opinions are decidedly that the mouth of the Big Sioux is the proper point, if any is to be designated, which is the northern boundary of the State of Iowa. The mouth of the Big Sioux is on the same parallel of latitude with the South Pass. We in the North believe that the road which shall go to the Pacific ocean should run through the South Pass. It is on about the same parallel with Chicago, Cleveland, Buffalo, Albany, and Boston. The great commerce of the North is upon that line, and always will be, in my opinion; and for that reason I think the road ought not to commence south of the line of the State of Iowa. It ought not to be confined to the State of Missouri. The mouth of the Kansas is within the State of Missouri; the mouth of the Big Sioux is in the Territory of Nebraska. I sincerely hope that the Senate will not adopt the motion of my friend from Missouri. If it does, in my opinion it will be fatal to the bill; at all events it will be injurious to it in a great degree. I do not believe in legislating for localities. I believe in allowing the engineers of the United States and the contractors to have the say as to where this road shall commence and where it shall run.

Mr. BROWN. I believe I shall vote for this amendment, because I am willing to do a clever thing for my friend from Missouri; and I might as well say now what I intend to say on this whole proposition. Under no possible conceivable circumstances am I going to vote for the bill; and yet, sir, I am in favor of a Pacific railroad bill. That is, I am in favor of building a Pacific railroad; and whenever any company shall present itself in any organized position affording sufficient guarantees to justify it, then I am willing to bring the Government up to the aid of that company. If A, B, and C, with their associates, were to come here to-morrow showing that they had organized for the purpose of building a railroad to the Pacific; if, then, D, E, and F, came and showed that they were organized for the same purpose; and still a third company, all showing that they were organized for that purpose, and holding out a reasonable prospect of success—a prospect which satisfied me that they could succeed, with the aid of the Government, then I should be willing to extend that aid. But I am not willing to vote for a bill which is to call these companies into existence, who are to come here on the mere advertisement of the President and put in their proposition, leaving it to his judgment, and not to yours, sir, or to mine, to determine whether they have the capacity to build the road; leaving the President of the United States to enter into contracts, which must finally result in the expenditure of hundreds of millions of the public money, and by possibility, at the end of the expenditure, have no road.

I congratulate our friends on the other side. Some of them, but a few days ago, and their friends in the other House, within the last twenty-four hours, as we see from the official reports, have expressed great distrust of the ability and capacity of the President to appoint a chief of the

auxiliary guard in Washington. It is dangerous to trust this immense power in his hands! He is to bring around him a pretorian guard which threatens the very safety of the people and the liberties of the Republic! Now, we have a proposition here to allow the same President to enter into contracts involving the expenditure of tens and hundreds of millions of public money. My friend from Connecticut thinks the powers are not quite large enough, and he brings in a proposition to make them larger. I congratulate our friends; I congratulate the President. It seems that gentlemen of the Opposition believe that a little matter of appointing a chief of the auxiliary guard is below the dignity of the President, below his great mind; but, when it comes to intrusting to him extraordinary discretion, great powers, then they admit the maximum of his intellect, and they are willing to intrust the power.

Mr. FOSTER. If the Senator from Mississippi will give me a moment, I will say that he cannot certainly mean me by his remark. He alludes to me as one having changed my purpose or views in regard to the question. I voted for the bill introduced by him in regard to an auxiliary guard.

Mr. BROWN. I did not mean that. The Senator thought that the powers in this bill conferred on the President not large enough, and he wanted to enlarge them.

Mr. FOSTER. But at the same time, the Senator alluded to a wonderful change having come over the minds of Senators in regard to the bill for the auxiliary guard for which I voted.

Mr. BROWN. I did not mean that, of course, for the Senator from Connecticut voted for it. Now, I must say, that I am not willing, high as my admiration for the President is, and as much discretion as I should be willing to intrust to him, to give him all that is conceded by this bill. I would not give it to anybody. I can see very clearly that the passage of this bill must drag after it, at a future time, the expenditure of vast treasures. You make this a Government work. You get yourselves so mingled up with it that you cannot separate yourselves from it. And what is to be the consequence? Thus tied on to this work, it will, in the end, absorb the whole politics of the United States; it will be more fruitful of party dissensions and party discords than the Bank of the United States ever was. Presidential elections will turn on it; your State elections, your county elections, all your elections, will have reference to this great railroad scheme, if you get yourselves mixed up with it, in the manner prescribed by this bill.

I say again, sir, that I am in favor of the construction of a railroad—one, two, or three—to the Pacific, and of giving aid, by grants of land, and liberal contracts for transporting the mails; but I want to enter into these contracts with actual existing companies, who have shown an ability to construct their roads. It is thus that you have made grants of land to all roads for which grants have been made heretofore. You had an actual company in existence; you simply gave your assistance; you had no stock in the road; you issued no Government bonds, and had no connection with it, except to give the aid which you give clear to an organized company—one already in existence. There is no such company here. You propose to call a company into existence, through the agency of an advertisement by the President. He is to enter into contracts with them, and to issue Government bonds. The result, in my opinion, will be such as I have indicated. I have no speech to make on this question; I simply desired to indicate the position which I occupy in reference to it, and with that I am content. I shall record my vote against it.

Mr. DOUGLAS. The pioneer bill of all the great land grants was the Illinois central railroad bill. I refused to bring in the bill for that grant until the existing company surrendered its charter, and went out of existence. We then made the grant to the State of Illinois, and she granted the land to a company subsequently created and organized, of which subsequent company no man of the original company was a member. It has been the great policy in all these instances to keep clear of all companies, and to make the grants to the State as a sovereignty, with entire power in her to do as she pleased when a grant was made for a State work.

In regard to this bill, there are no extraordinary powers given by it to the President. The right to locate the road between the points indicated in the bill is given to the contractors, and not to the President. The President only has the discretion to open the bids, and determine which of them is most favorable to the Government for transportation—a mere matter of calculation, a power now existing in the Executive Departments of the Government. In every instance the Postmaster General decides which bid is most favorable for the transportation of the mails on all the lines. The Secretary of War decides which bid is the most favorable for the transportation of Army supplies and munitions of war; the Secretary of the Navy, which bid is the most favorable for the furnishing of naval supplies. This bill only gives to the President the same discretion, when the bids are sent in in writing, to open and ascertain which is the lowest bid and which is most favorable to the Government for that transportation. Surely we ought to be willing to intrust that limited power to the President of the United States. The Government cannot exist without that discretion being placed somewhere, either in the President or in the heads of Departments. We thought it was better and wiser to have a united, single responsibility, by putting it in the President alone, than to have it divided among the different members of the Cabinet, inasmuch as this transportation relates part of it to the Post Office Department, part of it to the War Department, part of it to the Navy Department, and some of it perhaps to other Departments. We make a single head, a single responsibility, in deciding on these bids, by referring it to the President of the United States. I will not detain the Senate; I thought this much due to the Senator from Mississippi, who has made the objection.

Mr. BROWN. I do not design to continue this debate, but I call attention to the language of the third section:

"Sec. 3. And be it further enacted, That said proposals shall be opened by the President, after due notice, in the presence of his Cabinet and such persons as may choose to attend; and he is hereby authorized and directed to enter into a contract for the transportation provided for in this act with the parties whose proposal shall be by him deemed most advantageous to the United States for the full and complete performance of said contract, in compliance with the provisions of this act."

"Shall be deemed most advantageous." Does not that leave the whole matter to his discretion? Does it not leave it perfectly unlimited? Why propose bids? It does not require him to take the lowest bid, or the bid of the lowest responsible party, but he is to take that which is deemed by him to be most advantageous. I think myself it leaves the whole subject to his discretion.

Mr. IVERSON. Mr. President, I gave notice yesterday of my intention to offer some amendments to this bill, and I rise now for the purpose of suggesting them. Before I present the amendments, however, I propose to submit some remarks upon the general merits of the bill, as well as upon the amendments which I shall submit.

All agree as to the policy and importance, if not the necessity, for a railroad communication between the Atlantic States and the Pacific coast. The very large and increasing travel of our own citizens between the two sections, the rapidly growing population, wealth, and importance of our Pacific possessions, soon to form several powerful and flourishing States of this Union; the immense amount of mineral wealth which those and the intermediate regions contain, and which is to be extracted from the bowels of the earth for the benefit of the whole people of the United States; the increasing demands of commerce and social intercourse between the two sections; the necessity of protecting this vast region from the invasion of hostile nations, with which we may hereafter be at war, requiring the rapid and speedy transportation of troops, supplies, and munitions of war, from point to point—all conspire to urge the speedy construction of that channel of communication which shall be the cheapest, quickest, most certain, and secure, between the Atlantic and Pacific possessions of the United States. It is true that we have now the transit routes by the way of Panama and Nicaragua, and may in the process of time have others through the Central American or Mexican States, but these are outside of the United States and nearly entirely by sea. Whilst in peace our people who travel by them are sub-

ject to the capricious and arbitrary exactions of the foreign nations through which they pass; in time of war, all the troops, supplies, and munitions of war which we might find it necessary to send to the Pacific coast for the defense of those States, would necessarily encounter great danger from the enemy's ships, and fleets, rendering the transportation extremely hazardous and costly, if not entirely impracticable. These routes may be temporarily used as a matter of present necessity, but they cannot be relied upon for permanent purposes.

The vast interests which may be at stake in the event of war, and which may depend upon a speedy and safe communication within the limits of our own country, make it imperative that such a communication should be established at the earliest practicable period. It is also true that we have several wagon roads, between the confines of the Atlantic States and the Pacific, over which people may travel, emigrants may find their way, mails may be carried, and even troops and munitions of war may be transported; but the delay and enormous expense of these routes render them highly inconvenient in time of peace, and utterly useless in time of war. The only speedy, cheap, and certain communication for travel, mails, commerce, troops, and military stores, is by a railroad—a railroad which would convey any amount of passengers and freight; which would carry all the mail matter of the United States; which would transport any number of troops or seamen from its terminus on the Mississippi or Missouri river to San Francisco in five days, and for at least one third the cost of the present routes. The importance and necessity of the work must be apparent to, and conceded by, all honest and intelligent men. How and when is such a great work to be accomplished?

The average distance from the Missouri or Mississippi river (the probable eastern beginning of such a railroad) to the Pacific ocean, is about two thousand miles. I need not stop to enumerate the obstacles to be overcome, and the difficulties to be encountered, in the construction of the road. It could not cost less than fifty millions upon any route that has heretofore been surveyed, or that is ever likely to be discovered. Upon some of them it would cost double that sum. Such an undertaking is scarcely within the power of individual enterprise and means. If there was an abundance of capital, and no want of public spirit, still no company of individual stockholders could probably be found who would be willing to undertake such a gigantic work, to expend such a vast sum, and run such dangerous risks in its construction, for the uncertain profits which would arise from it, at least for many years of its early existence. It may well be considered certain, therefore, that without the aid of Government no Pacific railroad can or will be built for a half century to come.

When the vast country between the present inhabited portions of the United States on the east and west, stretching from Nebraska, Kansas, Arkansas, and Texas, across the great plains and the Rocky Mountains to Oregon and California, shall be settled up by whites, and shall furnish travel and mineral or agricultural products for railroad transportation, then, and not till then, will individual wealth and enterprise be bold enough to run the iron horse between the Atlantic and Pacific oceans over any route within the United States. The important, pressing, and controlling exigencies of the Federal Government and the people of this country cannot wait upon so slow a process. Time is important. The demands of the public service are pressing. The great interests of commerce, of civilization, and of progress, are calling loudly and sharply for action.

How is this great, essential, necessary avenue of trade and travel to be opened, and in the shortest possible time? It can only be done by the aid of the Government. It may be done, in my opinion, by the legitimate and reasonable aid of the Government. In the bill now under consideration, there are two modes by which governmental aid is to be given to individual enterprise in the construction of this desired work—one, a donation of public lands; the other, a mail contract for a term of years, with certain amounts of payments in advance, to be refunded back to the Government in railroad service.

It is proposed to make a donation, to any private

company which may engage to build the road and carry the United States mails, troops, &c., of the alternate sections of the public lands for twenty miles on each side of the road. This would give the company ten sections on each side, or twelve thousand eight hundred acres for each mile of road constructed. I do not object to the quantity of land proposed to be granted. Running, as the road will, for four fifths of the way, or more, through an uninhabited, and much of it a sterile region, the lands would be worth nothing to the Government without the road, and very little, either to the Government or the company, with the road, at least for many years to come; and if the road adds value to the lands granted, the remaining lands reserved by the Government will also be enhanced in value, so that nothing will be lost to the public Treasury by the operation.

I know, sir, that many persons deny the power of Congress to make these grants to railroads. Whilst I have great respect for their opinions, I cannot concur in them. I have not, and never had, any doubt of the constitutional power of Congress to make these grants. The power is given in the Constitution in express terms:

"Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

It may sell, or lease, or give; if it sells or leases, it may fix the price and prescribe the terms; it may sell for cash, or on credit; it may sell at public auction, or private sale; it may, in short, make any disposition of it which, in its judgment, may be for the interests of the United States. The only limit to its discretion is the obligation of good faith as a trustee to the *cestui que trust* of the property, to make the best bargain it can for the benefit of the owners, within the bounds of honesty and fair dealing. The public lands, either in the States or Territories, are held by Congress in trust for the several States, or the people of the United States. The power to dispose of them has been conferred upon Congress; it is the duty of Congress so to dispose of them as in its judgment will most conduce to or promote the interests of the Government and people.

The whole matter is within the judgment of Congress. If it judges unwisely, if it acts corruptly, if it fools away the property, the remedy is in the hands of the people themselves. They can dismiss the agents and appoint or elect new ones; they can pass sentence upon their unfaithful servants at the ballot-box, and intrust their interests to safer and wiser and better men. But whatever may be the temporary evils in the management and disposition of the public domain, consequent upon or arising from the weakness or corruption of those who are intrusted with its management, the power to manage, control, and dispose of it, within a sound discretion, is distinctly conferred in the Constitution upon Congress. When, therefore, it is proposed to make a grant of land to a railroad company in advance of its construction, the only question to be considered and determined by Congress, the trustee, is as to the policy and expediency of the grant. Is it the best disposition, all things considered, that could be made of the lands in question? It is certainly the fact that, in almost every case where lands are thus given, either the road, without the grant, would not be built at all, or would linger for many years in its construction. In the mean time, the lands are unsalable and unsold. Without facilities for travel and transportation to market, emigration is slow, population is sparse and poor, and the country remains unsettled and uncultivated. Make the grant of land, and thereby secure the early construction of the road, and the country opened up by it rises at once into importance and notice. Emigration becomes active, population flows into it, the lands rise in value, and the Government sells its reserved sections for as much or more than it could have got for the whole, without the road, and sells them sooner. Does any injury result to the *cestui que trust* by the operation? Is one dollar taken from the public Treasury? Does not the Government obtain a full and fair price for the whole of the property? Such is the direct result. And look at its collateral effects. The road is built, an avenue of trade, commerce, convenience, and travel is opened; population flows into the adjoining country; property rises; agriculture, commerce, and the arts, increase the wealth, promote the prosperity, and add to the power of the

State. The benefits of the operation are ramified and incalculable.

While, therefore, the power clearly exists, the expediency and propriety of making these grants cannot, in my opinion, be for a moment doubted. I believe that is expedient, proper, wise, and necessary that the power should be exercised in the present case, and I am willing to vote a donation of lands to the extent indicated in the bill, provided the other provisions of the bill shall be so molded as to suit my views of what is necessary and proper to be done.

The other mode of giving governmental aid to the great object proposed by the bill before us, is to make a contract with the company that undertakes to build the road, to carry the United States mails, troops, seamen, munitions of war, &c., for a period of years, and at a certain rate per mile per annum; and to advance to the contractor equal portions of the aggregate sum, as each section of twenty-five miles of the road is completed; the sum thus advanced, with interest, to be repaid to the Government in service performed under the contract. It is scarcely necessary or proper to assert or argue that the power to do this is within the constitutional competency of Congress. The power to establish post offices and post roads is especially granted to Congress in the Constitution. The power to cause the mails to be carried on these roads, and to and from these offices, is not only a proper but necessary incident to the specific grant. Congress, in its discretion, instead of employing its own carriages or wagons and horses, hiring its own drivers and agents, has considered it more economical, and in all respects wiser, to contract with individuals for carrying the mails, under such rules and regulations as are established by law. Government can establish a Pacific railroad as a post road; it may establish post offices on the route to be supplied with mails. It has already post offices on the Atlantic and on the Pacific side of the Union to be supplied with mail service. Congress may, therefore, make or authorize to be made a contract for the transportation of the mails upon the road or roads to be constructed across the continent; may stipulate the price and other terms; may make a contract for one or more years; and may pay at stated periods, after the performance of the service, or in advance of it if it shall consider that to be the best for the Government and the people. It is for Congress to decide upon, and to instruct the execution by law, the terms and conditions upon which this public service is to be performed, and which, in its judgment, will best promote the public interests. The power is unlimited, except by the obligation of good faith, in providing for the protection and promotion of the public interests, by as speedy, cheap, and safe transportation of the mails, and other Government property, as possible.

With the power clearly existing in Congress, who can doubt the propriety, expediency, and wisdom, of making a contract for carrying the mails, &c., and advancing reasonable amounts to the company from time to time, which, with other Government aid and their own private resources, would enable them to prosecute and complete a work of such vast and paramount importance?

Entertaining no doubt, myself, I cannot hesitate to authorize such a contract, with necessary and proper conditions and restrictions, as will, in my judgment, go further to promote the great object in view than any other step which Congress could constitutionally adopt.

It may be asked, if Congress can aid in the construction of a road by a donation of public lands, and by advancing money upon a mail contract, why may not Congress build the road, on the Government behalf, by an appropriation of money direct from the national Treasury? I answer that the power to dispose of the public lands is specifically granted in the Constitution; the power to provide for mail service and other public transportation is necessary and proper to carry specific grants into effect. But there is no power granted in the Constitution to Congress to build railroads, construct canals, improve rivers, or appropriate money for these objects. Congress cannot appropriate money for the construction of any work of internal improvement which is not absolutely necessary for the Government use, or to execute some other specific constitutional grant of power. I do not consider that there is such an absolute

necessity for a railroad or roads across the continent, either for the transportation of the mail, or the Government troops, military stores, and munitions of war, as would justify Congress, under the Constitution, in expending many millions of the public money, and undertaking the construction of such a road by its own agents and its own means. The mails may be carried, as they are now carried, either by the isthmus routes or overland in wagons and carriages. Troops, seamen, stores, and munitions may be transported by the same routes. It is true, that the process is so slow, hazardous, and expensive as almost to make the construction of a railroad a necessity; but still not of such pressing and obligatory character as to draw therefrom the right, under the Constitution, to build it at Government cost; and, even if the Government had the power, under the Constitution, to construct the road at its own expense and under its own supervision, it would, in my opinion, be highly injudicious and inexpedient to do so. The reasons against such an undertaking by the Government are too numerous and too obvious to require mention here. The most ardent friends and wildest enthusiasts in favor of a Pacific railroad do not propose or press its construction by the Government. Such a scheme does not deserve to be considered; it is utterly out of the question. Any road or roads which may be demanded by the great interests of the country, must be constructed by private enterprise and managed by individual capacity.

The Government should only lend its aid in such form and manner as the Constitution justifies and the national convenience and ability may permit. Possessing, as I think it does, the rightful power and the pecuniary ability to give its aid in the manner and form, and to the extent proposed by this bill, I am willing to adopt the general principle of governmental aid in securing the accomplishment of the great national object of a railroad communication between the Atlantic and Pacific oceans, within the territory of the United States.

But, sir, although I am in favor of the general principles of the bill under consideration, I am opposed to the bill itself as it now stands, and cannot give it the sanction of my vote, without material alterations. The bill, as it now stands, provides only for one road, and circumstances which must necessarily arise will control its location. The bill itself prescribes that its eastern terminus shall not be south of the mouth of the Kansas river, whilst its western termination is to be San Francisco. Where else can the road be located, with these termini, than along one of the northern routes which have been surveyed? Nor does it require any great degree of sagacity to understand that its location along one of these northern routes will be controlled by the great and all-powerful interests of the wide-spread network of northern railroads which cover the surface of the earth between New York and the proposed eastern terminus of this Pacific road. A combination of the various and vast interests connected with the roads starting from New York, as a base, and running through the States of New York, Pennsylvania, Ohio, Indiana, Illinois, Iowa, or Wisconsin, will beat and bear down all opposing rivalry, and force the location of the Pacific road on such route as their interests shall dictate. That route must be one at least as far north as the thirty-eighth degree of north latitude, and very probably will be still higher up. The railroad, therefore, provided for by this bill will be a northern road, having its location on a northern route—making connections with a northern system of roads, pouring all its Pacific travel and trade into the northern States, and emptying all its rich fruits into the lap of northern cupidity and capital. The southern States of this Union will have little interest in such a road. Like a large and flourishing tree, covered with ripe and rich fruit, it will be surrounded by a dense throng of eager northern gatherers, who will clutch all its choice productions, leaving only a few decayed and worthless morsels to their southern friends, who stand afar off, on the very outside of the circle of greedy expectants.

Sir, the public lands which will be given to this road were purchased by the money and blood of the South as well as of the North. They belong as much to the South as to the North. The large sums of money to be appropriated in aid of this

road are to be taken from a common Treasury, to which the South contributes her full share. The South is entitled to a full participation in all the benefits which are to be derived by the aid of the Government from the proposed pathway across the continent to the Pacific ocean. The amendments which I propose to offer to this bill look to this object, and are intended, and I think calculated, to secure it. Whilst they concede the aid of the Government to the fullest extent, in the shape of public lands, to a northern route, they also contribute the same amount of moneyed assistance, in the form of a contract for carrying the mails and other property of the United States, to a southern route.

There is another serious objection, to my mind, to this one-road project of the Senator from California. The circumstances and causes to which I have alluded, and which will inevitably control the northern location of the road, will throw the lands to be granted, and the money to be advanced, into the hands of a northern company of jobbing speculators. What guarantee is there that the road will ever be carried to the Pacific? They commence the road at some point on the Missouri river; they locate it through Kansas, Nebraska, or other habitable territory of the United States, and construct it as far out west as the country is worth anything and will afford remunerating travel and trade; they get the lands donated by Congress—twenty sections for every mile of road finished; they receive the advance of \$12,500 per mile for mail service; and they complete two or three hundred miles of road, get from two to three million acres of valuable land, receive in hand a like sum of money, and then cease its further construction! Sir, I entertain very grave doubts whether, with all the proposed aid in lands and money, any company will ever be found to carry out the great leading object of the bill—a railroad connection with the Pacific coast—over any of the northern routes. The distance from the Missouri river to San Francisco cannot be less than two thousand miles: the road cannot be constructed over any of the routes heretofore surveyed, or that can be selected, at a cost of less than fifty thousand dollars a mile, or one hundred million dollars. The average cost of railroads in the northern States of the Union is not less than forty thousand dollars a mile. How much, then, will the road cost, traversing desert plains and crossing lofty mountains, covered with snow for a great part of the year, and through regions inhabited only by savages and wild beasts?

If it should cost only a hundred millions, would it ever pay? would the stock ever draw a dividend? What shrewd, intelligent Yankee will ever invest his money, his labor, or his time, in such an undertaking? I do not say, sir, that a northern road is impracticable. Money can overcome all obstacles. A road may be built even on the most northern route, but at such an enormous expense as would render the stock utterly worthless. I do not believe that such a road as the bill contemplates, and must inevitably produce, will ever reach the Pacific ocean.

But, sir, whether this be so or not, whether a road will ever be built on a northern route with the proposed aid of the Government, I think justice demands that equal provision should be made for a connection over a southern route. I feel very confident that, with the Government aid proposed by this bill, a road located either upon the thirty-second or thirty-fifth parallel would be certainly and speedily constructed. I am not prepared to institute an extended comparison of these two routes. I believe a first-class railroad might be built on either of them, with the assistance from the Government which is suggested in my amendments. The route on the thirty-second parallel would have the advantage of being much shorter in distance; for I consider the completion of the road now under progress through Texas, from the neighborhood of Shreveport, in Louisiana, to El Paso, on the Rio Grande, a distance of seven hundred miles, as a fixed fact. The munificent grant made by the State of Texas to that road, of twenty sections of land and \$6,000 in money to each mile, will insure its rapid construction and early completion. From the Rio Grande to the Pacific, a distance of seven hundred and fifty miles, is the only portion which would have to be provided for and constructed by the Pacific Railroad Company, which would contract with the

President for its construction, and the transportation of the mails and other Government property. No road on any other route can be accomplished short of two thousand miles. On the thirty-fifth parallel, the road must begin at Memphis, or some other point equally distant. It would have to be constructed through the entire State of Arkansas, thence up the Canadian river and on to the Rio Grande at Albuquerque, and thence across to the Pacific. Nevertheless, I am much inclined to believe that, with even this disparity of distance, over which the road would have to be built, the upper route on the thirty-fifth parallel is the cheapest, safest, and best route. The whole route from the Mississippi to the Colorado traverses a comparatively level country and elevated and healthy region, abounding with wood and water, and containing a large quantity of valuable lands both for agricultural and mining purposes. But whichever of these routes is best, or whichever may be selected, it is certain that either is practicable, and at a cost far below that of any northern route.

I feel assured that the donation of public lands, and the mail contract proposed by my amendment, will secure the construction and completion of a road over one or the other of these routes, and within the time limited by the bill.

Now, sir, I am unwilling to vote the large amount of aid in land and money contemplated by this bill on any single road, unless the locality be fixed beforehand, and a practicable, certain, and just one selected. I am willing to provide for the construction of two roads—a northern and southern road. I am willing to make the same grant of lands to each. I am willing to authorize the President to enter into a contract with both for the transportation of the mails, troops, munitions of war, and other public services—one to take the mails and other transportation of its section; the other to carry them within its own limits. Let the North take her lands, her contract, and her route, and build her road, if she can. The South will be content to take the same advantages, and, I trust, would make a manly effort to accomplish this, the greatest enterprise of the age. If she fail, the fault and the loss will be hers.

I proceed now, Mr. President, to read the amendments which I intend to offer to this bill; and I suggest to the Senator from Missouri [Mr. GREEN] whether it would not be better for him to withdraw his amendment at present until the sense of the Senate is taken on the propositions which I shall submit. The proposition which I shall submit, as I have already stated, looks to the formation of two roads, one north of latitude 36°, and the other south of that parallel. My proposition is that the contractors, or the company, or whoever may undertake to construct these roads, shall select both the eastern and western termini, and shall select the route over which the roads shall be constructed. Doubtless the contractors, whoever they are, will be controlled by their own interest, and will seek the best practicable route. So far as carrying the mails and other public transportation is concerned, I propose that each of these roads shall have its share of the public business. I propose that all the mail and other public transportation lying most contiguous to the northern route shall be by contract sent over that route, and all lying most contiguous to the southern route shall be, by the contract to be entered into, transported over that route, on such terms as the President in the contract shall designate under the restrictions and limitations contained in the bill.

I move to strike out the first section of this bill, and insert this as the first section:

Be it enacted, &c., That the President of the United States shall, as soon after the passage of this act as may be convenient, cause advertisements to be inserted in two newspapers in each State and Territory, and in the District of Columbia, for a period of not less than three nor more than six months, inviting sealed proposals for the construction of a northern Pacific railroad, to be located within the United States, and north of the thirty-sixth degree of north latitude, the termini and route thereof to be selected and determined upon by the contractors: *Provided,* The eastern terminus shall not be east of the Missouri river; which said proposals shall stipulate for the construction of said railroad and for the performance of the public service herein required, as follows.

Then I take article one of the bill as it is, as to the time in which it is proposed to construct and finish the entire road, and leave the second condition the same; and then, instead of the third

article as contained in the bill, I propose to insert as follows:

At what rate per mile per annum, not exceeding \$250, it is proposed to transport over said road the United States mails for all that portion of the United States more contiguous and convenient to said road than to the southern Pacific railroad provided for by this act; the same to be carried both ways under the direction of the Post Office Department for the period of twenty years.

And then I adopt the terms and language of the bill as already reported. I propose to add another section to come in at the end of the bill, after the northern road is provided for, and all the other provisions of the bill are adopted by the Senate as reported by the committee.

And be it further enacted, That in the advertisements provided for by the first section of this act, the President shall also invite proposals for the construction of a southern Pacific railroad to be located within the United States, and south of the thirty-sixth parallel of north latitude, the termini and route thereof to be selected and determined upon by the contractors: *Provided,* The eastern terminus shall not be east of the Mississippi river, and that the President shall enter into a like contract for the construction of said road under the same provisions, conditions, limitations and restrictions, and with the same advantages as hereinbefore recited and made applicable to the said northern Pacific railroad, for the transportation of the United States mails, troops, seamen, stores, munitions of war, and all other public service for all that portion of the United States more contiguous and convenient to said southern road than to the northern Pacific railroad provided for by this act.

It will be perceived, Mr. President, that I propose to provide for two routes, and to make a donation of public land to the extent of twenty sections per mile—ten sections on each side of the road; and also to make a contract with each company for the transportation of the mails and other public property of the United States, under the same restrictions and limitations as to prices that are already prescribed in the bill under consideration. But, instead of advancing \$25,000,000 to the road that is provided for by this bill, I propose to make a contract, and agree to make an advance of \$12,500,000 to each road, so that the aggregate sum will be the same, \$25,000,000, as proposed by the bill; that is to say, I give to the northern road the donation of public lands, the whole which is provided for in this bill; I give to the northern road a contract for carrying the mails, munitions of war, troops, &c., of the United States to the extent of \$12,500,000; and propose to advance to it, in United States bonds, as each section of twenty-five miles is completed, \$6,250 a mile, instead of \$12,500, as provided by the bill. The contract is to specify that, when the road is completed for twenty-five miles or more, or finally, the company shall be entitled to the transportation of the mails at a rate not exceeding two hundred and fifty dollars a mile.

It will be perceived that the bill itself, which provides for only one road, agrees to give to the company the contract for the mails at a price not exceeding five hundred dollars per mile per annum. I propose to divide this mail contract and to give not more than two hundred and fifty dollars a mile. I think that is ample. I believe that is the maximum sum that is given on any railroad in the United States for mail service even of a more important character than is intended to be supplied by these roads. I think the Government does not pay more than two hundred and fifty dollars a mile upon any railroad in the United States for mail service. If it does, it is under extraordinary circumstances, and it is not of a general character. Then I propose to let these roads take the business which appertains to the particular section in which each is constructed. My opinion is that with this aid from the Government and with a contract of this sort, whatever may be the fate of the northern road, which I consider exceedingly doubtful, notwithstanding all the power of the Government and all the aid which may be brought to bear, I believe at least, that the southern road can be and will be constructed; and I believe that the southern routes, either the thirty-second or thirty-fifth parallel, are the only routes across the continent that ever will be used for a Pacific railroad. Still, however, I am not unwilling to give to the North the opportunity of constructing their road and the same advantages and the same privileges and the same gifts which I propose to the southern route.

On the thirty-second degree of north latitude, let us see the feasibility and probability of the construction of the road. There is already a railroad now in process of construction, and more than half completed, from Vicksburg, in Missis-

sippi, to Shreveport, and thence to the Texas line of Louisiana. The means are already provided for the completion of that road. That is a link from the Mississippi river. That road then connects with the great Texas road, a branch of the Pacific railroad, which is now in process of construction, and to which the State of Texas, as I have said, has granted a donation of twenty sections of land and \$6,000 per mile in money. This, I think, will secure the construction of that road. I understand from good authority that the company have already constructed a sufficient amount of road to secure this valuable grant.

The construction of that link of seven hundred miles by private enterprise, I consider settled beyond all dispute. The only part, then, which will have to be constructed by the new company—a Pacific Railroad Company—will be from the Rio Grande, at El Paso, (where the Texas road intersects that river,) to some point on the Pacific ocean—San Diego, San Pedro, or San Francisco; as the interests of the company may hereafter dictate. If that route be adopted, the amount which will be called for from the public Treasury, under the operations of my amendment, will be far less than upon any other route. If the route on the thirty-fifth parallel be adopted, the road must be commenced at the Mississippi river, for, although there are roads chartered in the State of Arkansas, and one from Memphis, by way of Little Rock, to Fort Smith, which will be the route this road must necessarily take, if that parallel be adopted; and although work is now actually in progress on them, and a road is being built from opposite Memphis, on the Mississippi river, to Little Rock, contemplating to go higher up, to the extreme confines of the western part of Arkansas, at Fort Smith, yet still I do not believe that company, with the aid in public lands which has been given to it, will be able, for many years to come, to construct that road through the State of Arkansas.

If my amendment passes, the probability is, that the companies which are interested in the work through the State of Arkansas will join any Pacific Railroad Company which may be formed for the construction of this great work, and the interests of the two companies will be combined. That road, under the provisions of this amendment, will be commenced at Memphis, will run through the State of Arkansas, thence up the Arkansas river until it meets the Canadian, and thence on to the Pacific. This is the most eligible route, in my opinion, and probably it is the cheapest route which can be found between the Atlantic and Pacific oceans. I am satisfied that if either of the two southern routes be selected, a road over them must necessarily, and will at no distant day be constructed.

I believe, sir, that it is just, and due to the southern people, that we should have the aid of the Government, if Government aid is to be given at all for the construction of our own road. It is certain that if this bill passes in the form reported by the Senator from California, the South will never have any interest in the road which is to be constructed under it; and it is unfair, it is unjust, it is ungenerous that the public Treasury and the public lands, which belong as much to the southern as the northern people, should all be taken to promote the interests of the North. Sir, already complaints are uttered, and justly uttered, against the vast disparity of public expenditures in the two sections. From the formation of the Government to the present time, where one dollar of the public money has been appropriated to be expended in the southern States, at least five dollars have been expended in the northern and western States of this Union. The Senator from Alabama [Mr. CLAY] says ten; I said five, to be within the bounds of reason. It is very probable that at least ten to one have been expended in the northern States; and now it is proposed to build this great thoroughfare across the continent, which is to pour such an immense amount of riches into the lap of the country which it taps, at the partial expense, at least, of the General Government and of the public Treasury. Sir, I object to the proposition; I think it is unjust and unfair to the southern portion of this Union that the benefits of this Government shall be conferred exclusively upon the other section. I am willing to adopt the principle of the bill, and to give public lands, and a contract for mail transportation and other public service to two roads, and let each section then

take its route and build its road if it can. With these views, which I have expressed as rapidly as possible, I shall offer the amendment when I get the opportunity to do so.

Mr. SEWARD. Mr. President, the time has gone by long since when it was either necessary or profitable to discuss the necessity and importance, or the feasibility of a railroad to connect the Atlantic States with the Pacific. I think that, with the exception of a very small portion of Congress, there is a general agreement here, as well as in the country, that a railroad is necessary, and ought to be built; and I think it has been scientifically demonstrated to the satisfaction of a very large majority of Congress that not only one such road is feasible, but that at least three, four, or five routes offer the necessary facilities for the security of this great object.

When we have overcome the objections of the impossibility of the improvement, and its want of importance, we have only reached what, perhaps, is the most difficult stage of the question. While practically everybody admits that a railroad ought to be built somewhere, in some way, and begin at some point, and end at some other point—we find that it is of all things the most difficult in the world to procure the consent of a majority of Congress to an agreement upon the time when it shall begin, the manner in which it shall be prosecuted, and the route upon which it shall be made. Just as soon as we approach these questions we find ourselves embarrassed with difficulties. Now, Mr. President, I have long since given over all idea of being able to procure a general consent of Congress upon the definite route upon which the road shall be built, on all the details of a plan on which it shall be built, or on the manner in which it shall be paid for. If there is not some surrender of individual opinions; if there is not some trust and confidence reposed in somebody to determine some of these things for us, we shall never succeed in consummating the enterprise. The Representatives of the more northern portions of the Union will justly, or at least excusably, require that the road shall be made through their region, and the more central routes will each reasonably claim that the road shall not pass them by on the north or on the south; and we have already seen that the Representatives of the southern States will demand the same thing. So that, while we all agree upon making a road in the abstract, we cannot agree at all upon where it shall be made. I have looked at this matter in a practical light; I found myself in this position, perhaps, one somewhat peculiar. While I have my preferences for some quite northerly route, and should strenuously insist upon that, if I was called upon to decide in favor of one and against all others, I, at the same time, have such views in regard to the immediate urgency and importance of this great measure, and of its diffusive benefits, that I think I am prepared to support a Pacific railroad bill which shall be acceptable to a majority of Congress, though it shall overrule all my own opinions and preferences.

I am one of the select committee who have introduced this bill. We took this practical view. We tried to ascertain what bill could we submit to Congress that would obtain the votes of thirty-two members of the Senate and one hundred and eighteen members of the House of Representatives. In other words, what project is there, if any, upon which one hundred and fifty-one votes can be concentrated in the two Houses of Congress—for these constitute majorities in both Houses. It would seem no easy undertaking to devise a plan which would secure one hundred and fifty-one votes on a question so distracting. We found it so, for our committee consisted of nine; and if it had been an equal number we certainly should have found it impossible, for a long time, to devise any plan, or to find any route upon which we could get a majority of the committee to concur. We succeeded in devising a system, and a route which would secure five votes in our committee out of the nine; and we submit that as the best that could be done. We have made sacrifices of opinion; sacrifices that seemed to us almost of principle; sacrifices of devotion to the local interests, for the purpose of being able to offer a bill to the House with reasonable expectation that a majority, or each House of Congress, could be induced to accept it.

This plan, simply stated, is this—I leave out

of view the details as to the expense and cost: The President of the United States is directed to invite propositions for carrying the mails and the military and naval stores of the Government between the Atlantic and Pacific coasts by railroad; which, of course, draws after it the consequence that those whose propositions shall be accepted shall prepare the railroad upon which the transportation shall be conducted. After a full opportunity has been given for competition, the President of the United States, under circumstances designing to guaranty publicity and secure fairness and impartiality, is directed to settle the route upon which the road shall be made between two important cardinal points, that is the place in the Atlantic States from which the road shall depart, and the place on the Pacific at which it shall end. It seemed necessary to the committee that these two points must be determined, or at least we must practically determine them.

All the circumstances of the present condition of the country, all the history of the commerce of the Pacific, all the speculations in regard to the future commerce between this continent and the East, seemed to us to indicate San Francisco, in the State of California, as the important commercial entrepot for the present century, and for centuries to come, on the Pacific coast.

Having ascertained that point, it was then thought proper to examine, in the next place, whether we could agree upon a point on this side. If there were no railroads through the Atlantic States connecting the Atlantic coast with the Mississippi and Missouri rivers, it would have been equally easy to determine the location of the eastern terminus of the Pacific railway. Nature, and the conditions of commerce as it is established for this century, and many centuries to come, have determined that the great entrepot of commerce in North America on the Atlantic coast, must be the city of New York. Make a railroad, then, from San Francisco eastward on any route that you may, the trade and the passengers which are to be transported over it, must be delivered sooner or later, first or last, at the port of New York. But there are already railroads from this eastern point, New York, penetrating to the Mississippi and the Missouri rivers, and there are railroads also from many of the southern points, and from other and more northern points, radiating so as to intersect the most direct line of communication between the cities of New York and San Francisco. We have thought, then, that as these roads were already constructed, what would be wise for us to do would be to leave open, within certain limitations, the point on the western frontier of the Atlantic States from which the road should be built towards San Francisco.

The manufactures of the United States, the trade of the United States, the population of the United States, are largely in the northern portion of the Union, and we have selected the region between the Big Sioux and Kansas rivers—a line extending through four degrees of latitude, (about two hundred and forty or two hundred and fifty miles,) as furnishing some point of concentration for all the Atlantic States to connect with the Pacific railroad; and we have left the precise point on that line to be determined hereafter.

It would have been more according to my opinions, and yours, sir, [Mr. Foor in the chair,] if we could have fixed the eastern terminus with precision; but if we undertook to do it, we were met by difficulties about the greater dangers of obstructions to the road, about the greater expense, about the greater or less value of the land through which the road was to pass, to say nothing of local jealousies; and thus we found it impossible to obtain the consent of representatives, as well from the more northern as from the more southern States.

We thought, under the circumstances, that we must fix certain principles, upon which the choice of the route should be made; and supposing that we should be able to secure from the President of the United States, under all the responsibilities under which he would act in a decision on this subject, impartiality and fairness, we came to this conclusion: we recommended to the Senate that it should be left to the President to select from the propositions that one which would provide for building a railroad from a point between the mouths of the Big Sioux and Kansas rivers to San Francisco, in the State of California, on the

most eligible route, reference being had to feasibility, shortness, and economy."

Feasibility, shortness and economy! These are the three important elements in the question, the three elements which, under any and all circumstances, the Government ought to consider, and must consider. The route ought to be selected with due regard to the feasibility and shortness, because it must be not only feasible, but as short as may be consistent with all economy. We thought that patriotic men, willing to surrender something, men impressed with a due sense of the importance of this object, could surrender local apprehensions and distrust upon the principles we have adopted here, provided they could have confidence it would be carried out impartially.

The last objection which I gave up to this bill, as it now stands, was the apprehension that a northern, or at least a central, route which I desired to have selected, which I think most important to the interests of the country, may possibly be that one which will not be most eligible, having regard to feasibility, shortness, and economy.

It relieves me in some degree to be assured, as I am by the honorable Senator from Georgia, who is also a member of the committee, that these general words will determine the route exactly, not only between the points which I desire, but upon the very parallel of latitude across which I would carry it. I wish, however, that I could have some more confidence in the liberal prophecy which he makes in my behalf in that respect. Sir, although we start from some point between the Big Sioux and the Kansas rivers, in the State of Missouri, and although we land at San Francisco, it is not altogether impossible after all, from the examination I have made of these surveys, that we may be carried down on this route to the latitude of the Texas route, and so stop at Guyamas before we reach San Francisco. Indeed, I have thought it possible that the road to be made under this bill, ought be made either north or south of that great central route which nature indicates and the interests of the country require, as I regard them.

But it was only this bill that we could combine a majority upon. I trust that under it a road can and will be made quite directly across the continent, from its eastern terminus to San Francisco.

I am satisfied, Mr. President, that if we can get one hundred and fifty men in this Congress to agree to any bill, it will be this one; and that if we cannot secure the assent of a majority of this House and a majority of the other House to this bill, we shall not to any; and I am confirmed in that belief by this debate, so far as it has gone. The honorable Senator from Mississippi tells us truly that he is in favor of a Pacific railroad, sincerely and earnestly in favor of it, but that he cannot vote for this bill. One of his objections, as I understand him, is, that the measure is as yet premature. He argues that it is premature, because we are left to invite individuals to form themselves into a company, and we propose to enter into a contract with them under the expectation that they are to build a Pacific railroad. He argues that, if it were not premature, citizens would organize themselves, and apply to us, moved by a consciousness that the road would be productive. He apprehends that the contractors, under this bill, will commence the undertaking, receive lands and moneys, and then abandon it, and leave the road to fall into desolation. But that Senator has given us no other system upon which he will agree with us, even if we can agree with him. We are, therefore, to understand that we cannot have his support in any case. He objects to the road that it is too expensive to be made in the manner and on the principles adopted in this bill. He objects to the road, also, on the ground that it will be a political engine, more fatal to the welfare and liberties of this country than the United States Bank was.

The honorable Senator from Georgia, who cannot give his support to this bill, differs from the Senator from Mississippi. He does offer us a system. Unfortunately, that system will fail to obtain the support of the honorable Senator from Mississippi; for, while one road is too expensive for the honorable Senator from Mississippi, the honorable Senator from Georgia proposes two, and of relatively not very different expense. While the honorable Senator from Mississippi finds one road gives the President too much power, too much patronage, too much influence, and so be-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, APRIL 16, 1858.

NEW SERIES...No. 100.

comes a political engine worse than a United States bank, he is met by the honorable Senator from Georgia with a proposition to give the President double the political patronage and double the power for evil. Sir, Government must have capacity to do good equal to its responsibilities. The power to do good is always liable to be perverted to the doing of evil.

I think, then, sir, that the friends of this bill will have to do the committee the simple justice which I ask from them; and that is, to accept this bill, and stand by it, at least until it shall appear, in the course of this debate, that some other bill, fixing some other termini, assigning some other route, providing for the construction of the work upon some other principle, shall be offered, which will secure more votes than can be secured by this one. There may be, doubtless, some provisions in this bill which I would change. As I have said before, I am disposed to accommodate throughout on this subject; but I cannot change anything until I ascertain that I change to that which will be more practicable, and will offer a better chance of securing the success of the measure.

Mr. President, I beg leave, then, to say to the friends of this bill, that if the construction of a Pacific railroad is to be ordered by Congress at this session, we have got to agree upon some plan, and we all have got to sacrifice some prejudices and opinions, and some distrust. I must say, moreover, that if we do not begin to make a Pacific railroad soon, it will be too late to begin. It will be too late to begin it, because the difficulties will be increased every year. It will be every year more difficult to obtain a concert which it already surpasses our power to secure; too late, because it is just as impossible that the new States on the Pacific shall remain subject to this Federal Government, and in connection with it peacefully and harmoniously, without intercommunication across this continent, as it would be to maintain one federal system over this continent and a portion of Europe or a portion of Asia. It would be easier to maintain political institutions across the Atlantic than it is to maintain political institutions across this continent: for I think we are three weeks with our mails in reaching the Pacific coast, while it is only a ferry across the Atlantic, requiring a passage of but ten or twelve days.

If the people of California had remained in the condition in which we found them under the government of Mexico, there would have been no trouble about this matter. They were unambitious; they were poor; they were necessitous; they were dependent on remote power. But this Pacific possession of ours looms up with a rapidity and assumes a majesty that surpasses anything in our own history, or anything in the history of the world. They will be our equals, or they will not be of us. They cannot be equals while we have the capital, and have the law-making power here, with only an imperfect connection with them, and they are compelled to receive our laws, and to submit to our direction as their rulers. They must be equals, and they must participate justly and equally in all the advantages resulting from this federal system of government, or they will assume the independence which they are perfectly able to maintain in defiance of us and of the world.

I think, sir, that in regard to the intervening regions, every day this road is delayed is a day of delay, of cost, and of danger to the United States—to their peace, harmony, and welfare. If there had been a Pacific railroad in existence for the last six years across the continent, I have no belief that there would have been any question to-day dividing the Senate and House of Representatives in regard to the constitution of civil government in Kansas; I believe there would be no superstitious and seditious community in the recesses of the Rocky Mountains, casting off the authority of the Federal Government, and defying the power of the Republic. I believe it is by means of the railroad and the telegraph that we are to realize what the world has never before seen realized—a republican government extending

itself across a continent, and maintaining its sway peacefully and justly. I have no belief that this Government can maintain itself, or ought to maintain itself, in any other way than peacefully. The moment that we come to the habit of depending on a standing Army for enforcing laws or compelling submission to authority, that moment we cease, if not to be a nation, at least to be a Republic.

It seems to me that the importance of this subject cannot be exaggerated. It is the realization of what all Europe has been striving for for the last four hundred years. It makes practical the expectations and anticipations of mankind that were the growth of the discovery of the mariner's compass, of the invention of the art of printing, of the exploration of the continent of Africa, and the discovery of a passage to the East Indies around the Cape of Good Hope, and of the discovery of the western passage that Columbus supposed he was making from Europe to the shores of Cathay. It realizes all these great thoughts and things. It changes the commerce of the world. It transfers it, in my judgment, across the American continent, from across its old and ancient channels by the Red sea and the Arabian gulf, and around the Cape of Good Hope. It is the great agency by which this Government is to become the highest and most important and beneficent among the Powers of the earth in promoting and advancing civilization and the progress of the human race.

Sir, I would enlarge on this subject; but, as I said in the beginning, it is not such general remarks that are necessary or pertinent to this occasion. All that any one can do, I think, to advance the completion of this object now, is to propitiate by candor and conciliation and mutual sacrifices, for the purpose of securing an agreement as to the route on which, and the circumstances and manner in which, the work shall be begun.

Mr. GREEN. Mr. President, I deferred any proposition to amend the first section, giving a full opportunity, as was supposed, for all general remarks on the general subject of a Pacific railway, for I thought those general remarks would more appropriately be directed to the general subject. When I proposed this amendment, I presumed that it would be discussed, and that the debate would be directed to the propriety of striking out and inserting, or the impropriety of the proposition I have submitted. On the broad question of the importance of this railway, connecting the shores of the Atlantic and Pacific, it is not competent for me to enter upon it at this time, when I have a specific proposition submitted to the consideration of the Senate. I had almost waited too long. The bill has been taken out of the Committee of the Whole, and is now before the Senate proper; but when a proposition was made to amend the tenth section, I desired to go back and amend the first, and take up the bill in regular order. I had hoped therefore, this amendment would be considered and not the general subject.

This bill as it is now proposed, gives a discretion to the President and to the contracting parties negotiating with the President. The eastern terminus of this road is to be between the mouth of the Kansas river and the mouth of the Big Sioux, a distance of two hundred and eighty miles. Now, sir, the Senator from Iowa says, make a specific location, and the bill is defeated. He says, locate the eastern terminus at the mouth of the Kansas river, and this bill is defeated. If so, then the bill ought to be defeated.

Mr. JONES. I beg the Senator's pardon. I did not say that the bill would be defeated. I said it would, in my opinion, endanger the passage of the bill. It would be manifest injustice to my constituents, and I should not be very much disposed to favor it then.

Mr. GREEN. I understand. We must leave a margin to play upon, and to hold out inducements never to be realized, in order to get gentlemen to vote for this bill. I prefer rather to come

to specific points, and to know precisely what I am voting for. If the eastern terminus is to be the mouth of the Big Sioux, say so, and I will be prepared to govern my vote. If it is to be the mouth of the Kansas, say so. More than that, if there is to be discretion vested in the Executive at all, with regard to the location of the eastern terminus of this road, why do you bring up two points, and say it must be between those two points? Why not say from the Gulf of Mexico up to the forty-ninth parallel of latitude? Why not leave him this wide discretion? The very argument by which you are justified in circumscribing him to two hundred and eighty miles, will justify you in bringing him to the specific point; for if it is to be left to his unlimited discretion, open wide the portals; leave him unrestrained; permit him to go down to the Gulf of Mexico, or as high as our boundary with the British possessions. If we have a right to limit and circumscribe him at all, if it be good policy to do so at all, it is still better policy to leave nobody to be cheated, to leave nobody to be deceived, to leave nobody to be misled; for if the bill could not pass with the location at the mouth of the Kansas, and it should go anywhere else, and ultimately be located at the mouth of the Kansas, it would be a fraud on Congress. If the bill could not pass if the eastern terminus should be the mouth of the Big Sioux, and yet should pass with this discretion left in the hands of the Executive, and the location should be made at the mouth of the Big Sioux, it would be a fraud on the other branches of the Government.

There is but one fair, systematic, consistent mode in which we can proceed; and that is, to settle the subject for ourselves. When the Senator from New York says that this is the only mode of passing the bill, it is admitting that somebody is to be cheated under the bill. I want nobody cheated; I want the Congress to take the power with which they are invested by the Constitution, and exercise it; and, if they have a right to say, "we will make a road at all," say where that road is to be located.

I take it to be a fixed fact, susceptible of the clearest demonstration, that the through business from the Pacific to the Atlantic, over the barren plains west of the Missouri, will never justify but one road, if one. There is not a single railroad five hundred miles long, in the United States, upon which the through business will pay its regular running expenses. It is the way business, together with the through business, that supports and sustains the only roads that are supported and sustained. If this be so in the United States, where we have roads already made, and if we must run across the plains for more than five hundred or seven hundred miles, where there can be no way business, if you make two or three roads, and split up the through business, they must all break down, and fall to nought. Only one can be made; it is questionable whether one can be; but the political public wants of the Government are strong enough to induce me to go for one: I will go for no more than one. Only one is fit to be made. The transit can be made in the same time on one that it could on three. When it reaches the settlements upon the East, it will connect with a radiation of railroads, which will throw the benefits of that one road to all sections of the Union; and you do not need more than one. Accumulating the whole of the through business on one road may, perhaps, keep it up, together with the whole profits of carrying the mails, and doing whatever other transportation may be required by the public wants of the Government.

Then taking it as a conceded point that you can only have one road—and I think that is susceptible of mathematical demonstration—where ought that one to be? Ought it to be down in the barren sands of the South, from El Paso to Guayamas? Ought it to be up in the frozen regions of the North, to be obstructed by snows for more than six months in the year? If feasible south and north, would it be just to the rest of the Union to contribute to the construction of such a road out

of the general fund belonging to the whole Union, the immediate benefits of which should be poured into the lap of one section only? I say not, sir; and when I propose the mouth of the Kansas I do it on the idea that it does accommodate the South as well as the North, and accommodate the North as well as the South. It is true it does inure a little more to the particular benefit of Missouri than any other State; but in any country there must be a center; and it so happens that Missouri is the great center on the western border of the United States, at least so far as the Atlantic States are concerned. And because it does inure a little more to her benefit, shall we therefore do injustice to Missouri in order to do still greater injustice to other portions of the Union? I trust not. To avoid Missouri, to shun her, and to prevent the accruing benefits resulting, and which must necessarily result, we are to do injustice either to the North or the South. Such an argument as that I hope will not prevail; and I hope this will not be charged as a proposition resulting alone from a selfishness on the part of the Missouri representatives. It is not. It is true that has had its due weight and consideration; but I ask any Senators to look at this subject and say, if we can have but one road, where ought its eastern terminus to be? So as to deal justly with both sections of the Union, where ought it to be? As near the center of the west line of Missouri as you can make it, according to my understanding of the geography of the country; and when it reaches there, the present facilities of communication will take that trade to St. Louis, to Chicago, to Charleston, to Baltimore, to Philadelphia, to New York—everywhere according as the inducements may be held out for it.

It will not do for the Senator from New York to speak of the city of New York as being entitled to any more than her just proportion. When the road strikes the center on the western borders of the Atlantic States, she has her equal opportunities to participate in the rich trade which is to flow from the Pacific ocean; and if she cannot sustain herself with equal opportunities, I hope to see Norfolk, Baltimore, Charleston, or Philadelphia, supersede her; but if she can sustain herself and get her due proportion, she is entitled to it.

Mr. SEWARD. The honorable Senator misapprehended me, or I must have misapprehended myself. I stated that I was satisfied that whether the road terminated north or south of New York in its connections with the Atlantic, it would result in the same thing. New York, as the center, would be the end of the railroad; so that I can vote for a railroad which shall start from Boston or Portland, and I should be entirely satisfied with it as a railroad to the Pacific ocean. I can vote for a railroad which shall start from Galveston or any other place in Texas and go through to San Francisco; and I believe New York will be, in the end, the eastern terminus of those roads. I stand here, therefore, perfectly satisfied.

Mr. GREEN. I am afraid that New York is not only to be the end of many things, but the end of the Union. [Laughter.] Sir, I know her power; I know her influence; and why the Senator should use his influence to throw the line up to a northern route, if it is to inure to the benefit of New York equally, whether it proceeds north or south, as he says, is inexplicable. He says he can vote for it, let it be located where it may; yet he also expressed his preference for a northern route. Why that preference, if it is all the same? In the name of common sense, if it is to center in New York, the State you represent and the city you represent, why have that preference at all? I have my preference because I believe we can sustain but one road, and I believe that one road ought to be central, and that the point I have indicated is central, and when it reaches there it will go through Illinois, Indiana, Kentucky, Arkansas, all the southern, middle, and northern States, and the trade coming over it will find its proper markets according as inducements may be held out in respective places.

As to which is the best route after you leave the eastern terminus, I do not deem it important to dwell at all. I have no doubt, from the little attention I have paid to the subject, that the route on the thirty-fifth parallel is the best; and if it be the best and the cheapest road to be made, why not allow the road to be commenced even still further south than the point I have indicated? If

you will leave the Executive and contracting parties a discretion on the subject, take away the barrier you have inserted in the bill, and give him the privilege to go down as far as Fort Smith, as low south as even the Gulf of Mexico. If discretion is to be left to him, let it be such that he can locate it wherever he shall find the cheapest and best route; but by this bill you compel him to go up and locate it between the mouth of the Kansas and the Big Sioux. Take away your barrier altogether, or else fence it up so close that he cannot commence except at one single point. This is the whole purpose of my proposition. I have submitted it in good faith. It may not meet the approbation of a majority of the Senate. I believe it will accommodate the people of this Union; and if any one road is to be built, that ought to be the eastern terminus.

The amendment was rejected.

Mr. POLK. I wish to offer an amendment to the first section. I move to strike out the words, "between the mouths of the Big Sioux and Kansas rivers," and to insert, "on the western boundary line of the State of Missouri, or of the State of Arkansas, between the mouth of the Big Sioux river and Fort Smith on the Arkansas river;" so that the section will read:

"From a point on the Missouri river, or on the western boundary line of the State of Missouri, or of the State of Arkansas, between the mouth of the Big Sioux river and Fort Smith on the Arkansas river, to San Francisco in the State of California."

Mr. IVERSON called for the yeas and nays, and they were ordered.

Mr. POLK. I shall not detain the Senate long, but I have made some calculations, the result of which I should like to present to the Senate.

Mr. MASON. It is too late for that now, I should say. If the Senator will yield me the floor, I will move an adjournment.

Several SENATORS. Let us have an executive session.

Mr. IVERSON. Will the Senator allow me to send my amendments to the Chair, and ask to have them printed?

The proposed amendments were received informally, and ordered to be printed.

Mr. GWIN. I move that the further consideration of this subject be postponed until to-morrow at one o'clock, in order that we may have an executive session.

The motion was agreed to.

EXECUTIVE SESSION.

On motion of Mr. JOHNSON, of Arkansas, the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 14, 1858.

The House met at twelve o'clock, m. Prayer by Rev. T. M. CARSON.

The Journal of yesterday was read and approved.

WASHINGTON AUXILIARY GUARD.

Mr. GOODE. When the Committee of the Whole on the state of the Union rose yesterday, I presume it was with the expectation that they would be organized again to-day, and proceed with the consideration of the police bill. If, therefore, it meets the approbation of the House, I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. JONES, of Tennessee, in the chair,) and resumed the consideration of Senate bill No. 232, to establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject.

The CHAIRMAN stated that the pending question was on the proposition of the gentleman from Virginia [Mr. GOODE] in lieu of the one offered by the gentleman from New York, [Mr. DODD], and that upon this question the gentleman from Tennessee [Mr. MAYNARD] was entitled to the floor.

Mr. FOSTER. Will the gentleman yield to me for a moment?

Mr. MAYNARD. Does the gentleman desire to offer an amendment?

Mr. FOSTER. I do.

Mr. MAYNARD. I will yield till I hear the amendment read.

Mr. FOSTER. I propose to add two additional sections to the original bill.

Mr. JOHN COCHRANE. Is an amendment in order at this time?

The CHAIRMAN. Amendments will be in order to the original bill when the committee comes to read it by sections, so as to perfect it before a vote is taken on the substitute.

Mr. FOSTER. I will offer the amendment, then, when the proper time arrives.

Mr. BURNETT. Will the gentleman from Tennessee yield me the floor for a moment?

Mr. MAYNARD. I will.

Mr. BURNETT. It was stated yesterday by the gentleman from Ohio, [Mr. STANTON,] that the captain of the States' Hose held an office under the Federal Government. If I did not misunderstand him, that was his statement. It is not correct. The captain of the States' Hose neither holds an office under the Federal Government nor under the city government. The only appointment he ever held was under the Republican Doorkeeper of the last House, Mr. Darling; he was appointed by him to an office about this Capitol, and held it during the last Congress.

Mr. STANTON. I am very glad to be so informed, and I am happy to make the correction. My information was different.

Mr. MAYNARD. These remarks, Mr. Chairman, and others, which seem to have rather a party character, I shall not reply to or notice. I have, in this discussion, no party or partisan interest to subserve. I feel myself responsible to a very small degree, indeed, for the measure which is now brought to the consideration of the committee. It will be recollected that, some few days ago, the House, at my instance, adopted a resolution requiring the Committee for the District of Columbia to give their attention to this subject, with liberty to report at any time. This enabled them to bring in a bill which they had theretofore, as I am informed, nearly or quite matured.

When I introduced the subject into the House, I supposed, from what had occurred, that it was one which it was our duty, at least, to consider, if not to act upon. It was stated in many quarters, if not in all quarters, that the police of this city was either lamentably deficient, or woefully inefficient. Complaints were made, I believe, in every one of the papers of the city, morning by morning; and we were told of crimes that had been perpetrated during the night. The houses of citizens and strangers had been invaded, and their property purloined. Men had been assailed and robbed on our most public avenue, passing along about their ordinary and usual business.

Mr. HUGHES. I rise to a question of order. Over here we cannot hear the gentleman from Tennessee at all, and some of us desire to hear him.

The CHAIRMAN. It is impossible for the Chair to preserve order or to keep gentlemen from conversing and making a noise in the Hall; but unless order is preserved it is impossible for gentlemen to hear what is being said.

Mr. MAYNARD. I was proceeding to remark, Mr. Chairman, that we had the most abundant evidence, as I supposed, that this city, in common with many of the other cities of this country and across the water, was infected with what seemed to be a prevailing epidemic of crime, and that it was necessary to take some action not only for the general preservation of the peace, but also for the protection of persons and of property.

I shall not trouble myself to inquire into the causes of this state of things. I have, in common, I suppose, with every other gentleman, my own ideas as to the causes which, in whole or in part, have contributed to it; but I have no ambition to make myself a prophet of the past or to indulge in retrospective vaticinations on this subject. If other gentlemen choose to do so they have a perfect right; and whether their prophecies will be regarded or not will depend on the faith they may put in them. But, sir, in the course of this discussion remarks have been made by more gentlemen than one on this side of the House, and especially by the honorable gentleman from Massachusetts, [Mr. COMINS,] which I do not feel at liberty wholly to pass over.

We are told that this condition of things, this want of police efficiency, this prevalence of crime in this city, is traceable to the courts of justice; and the blame is charged on the men who exercise the judicial functions in this District. Now, Mr. Chairman, it is one of the indications of the times in which we live, that there is a portion of the community disposed to make war upon the administration of justice as it is administered in our courts. Judges are held up to the condemnation and to the execration of the community. Charges are made against them in the pulpit, by the press, on the hustings, and now, lastly, in the legislative halls. If the pulpit in its ignorance, or the press in its presumption or its assumption, chooses to make war on the judges of our land, the responsibility be upon them.

But, sir, we occupy no such favored position. We are most of us lawyers; belonging to a profession whose duty it is to protect and sustain the administration of justice in its purity. Most often we are called upon to protect it against fraud, against the approaches of perjury and subornation of perjury, against private individual wickedness; but it is equally our duty to protect the courts of the country against popular clamor, against the cry of unthinking, unreasoning, un-knowing prejudice and fanaticism. Sir, it seems to me that gentlemen indulge in observations on the judiciary of the country, which, to say the least of it, are not creditable to themselves. If I, with my professional obligations resting on me, believed only one half of what I have heard others in this and the other wing of the Capitol declare they believed, I would use my utmost endeavors to move articles of impeachment against officers so assailed; and I would never rest till I had obtained a decision at the other end of the Capitol. Gentlemen owe it to themselves, they owe it to those judges who are impugned, they owe it to their constituents and the country, if they believe even one tenth part of what they charge so fluently and flippantly on judges—they owe it as a matter of high duty to bring to trial the men thus charged.

We are gravely told that because, a year or two ago, a then member of Congress, in one of the dining saloons of this city, got into a personal difficulty with a parcel of Irish waiters, in which one of them was killed, and the slayer brought to trial and acquitted, this is one of the great causes which have produced the murder and robbery that are stalking abroad in this Federal city. And then, again, a gentleman in this city assails another with a cane, and is arraigned for a breach of the peace, and fined \$300; and that, we are gravely told, is another of the causes of this lamentable state of public morals and of the popular insubordination in this city. But, perhaps it will be said that one of these gentlemen was a member of this House and another a member of the Senate. Sir, if there is any breach of senatorial dignity, any breach of the privileges of this House, the Senate and this House will punish the offense. It is the duty of the judicial officers of the land to punish the breaches of the peace, and not to punish the breaches of the dignity or the privileges of either House of Congress. I would not have alluded to this subject but that this disposition to attack the judiciary of the country, to assail the men who are called upon to administer our laws, is alarming. Break down, in popular estimation, the judiciary; break down the confidence which the people have in the courts of justice, in the tribunals where they resort for the protection of their persons and their property, to assert their rights and redress their wrongs, and you destroy the efficacy of your laws, you are ready to inaugurate a revolution, and to bring the people to conclude that this republican Constitution is a failure, and that they must have another form of Government.

Impressed with these views, impressed with the necessity that some action should be taken to increase the efficiency of, and give additional vigor to, the present police force of this city, I am happy to take the bill which has been presented to us for our consideration, and to accord my assent to a large portion of its provisions. And I assure you, sir, and the members of this House, that in the criticism which I propose to make upon it I shall not be actuated by a factious opposition, or by any disposition to criticize and oppose it merely because I have the opportunity to do so. Still less shall I examine it in a partisan or political

point of view; for, Mr. Chairman, the public man who believes that he has driven a nail into the wheel of his political fortunes so that it shall never again revolve, has studied the past history of our country to very little purpose. The party and the men who are in power to-day have no assurance that in twelve months they will be in power, or that their friends will be in power. It was remarked yesterday by the gentleman from Ohio, [Mr. CAMPBELL,] no man in this country can say that he is in power; that he is beyond the reach of contingencies, beyond the reach of the changes and fluctuations in popular sentiment.

Mr. Chairman, in looking into the bill that has been presented to us by way of amendment to the bill of the Senate, one objection that strikes me at the threshold is, that the number proposed to be added to the present police force of the city is entirely too large. The present auxiliary police force numbers fifteen men. This act proposes to raise the force to one hundred, thus increasing it by the number of eighty-five. It seems to me that that is an unnecessary increase, especially when the bill is so framed as that we are obliged to have the hundred men under any and all circumstances. There is no discretion vested in any person or in any power to reduce it. The language of the act is declaratory, explicit. It is,

"That there be established an auxiliary guard or watch for the protection of persons and property, and for the enforcement of the police regulations of the city of Washington, to consist of a chief at an annual salary of \$2,000; one captain at an annual salary of \$1,200, four lieutenants at an annual salary of \$800 each, and one hundred men at an annual salary of \$600 each, to be paid monthly."

This difficulty, I suggest to the chairman of the Committee for the District of Columbia, could be very easily obviated in a manner which would work no disadvantage to anybody. That is, by providing that one hundred should be the maximum number; and by leaving it to the discretion of the appointing power, under the exigencies of the times to make it that number or any number less that may be found sufficient. On this point I suspect we shall have very little difference of opinion.

But there is another question connected with this bill which goes deeper, and I suppose there will be an honest and very wide difference of opinion between the various members of the House. I refer to the mode by which this force shall be appointed.

Mr. GOODE. The gentleman from Tennessee, and other gentlemen who spoke yesterday have spoken of the present number of the auxiliary guard. The present force is thirty, at an annual cost of \$20,000. By looking at the official register the gentleman will find the correctness of my statement.

Mr. MAYNARD. I have not referred to the official register for information. I referred to the act of Congress passed 23d of August, 1842; and that provides fifteen men. I am not aware of any subsequent legislation, nor do I know by what authority the additional fifteen are appointed. I presume the chairman of the Committee for the District of Columbia can inform us where that appointing power was obtained.

Mr. GOODE. By subsequent legislation, of course.

Mr. MAYNARD. I thank the gentleman for correcting my statement.

Mr. GOODE. The auxiliary guard are appointed by the Mayor, and are paid by the Federal Government.

Mr. MAYNARD. Then this bill proposes to add seventy to the present police force, which, it seems to me, is an increase hardly required. Certain it is, that I would not like to make that increase absolute and imperative.

But I was proceeding to speak of the mode by which this force is to be appointed. The appointment is to be made by the President of the United States. To that I have very serious and very grave objections. In the first place, it is a matter which, I think, we ought not to trouble the President with. I do not believe in bringing down that office to the dignity of a town constable and head of police. It may be said that all he has to do is to appoint the chief of police, and that there his duties end. I ask gentlemen to look at this bill and see if that is so. If it is so, then there is another most serious objection to it, greater even than that; because, if the President's duties are at an end with the appointment of the chief of

police, then I ask, to whom is this chief of police responsible; and how long is he to hold his office? Suppose he is guilty of any amount of corruption and misrule and malfeasance in office, who has the power to remove him? who has the power to call him to account?

Mr. GOODE. The President.

Mr. MAYNARD. The President, says the chairman of the committee. Very well. Then it becomes a part of the President's duty to take an oversight of the police of this city, and to see that his appointee discharges his duty faithfully and properly, and that is bringing the President of the United States down to an office which I am unwilling to see him perform.

Mr. GOODE. He is bound to see every law faithfully executed.

Mr. MAYNARD. Well, that is all true as a general principle of constitutional law, and there are a great many other general principles in which we should agree—these horn-book elementary principles; the difficulty arises when we come to apply them.

But there is another objection to vesting the President with this appointing power. The President has patronage enough to dispense already, and I am opposed to increasing it unnecessarily. Still further, the President's duties are now quite too onerous; he has more work to do than any one man now living can possibly perform. Sir, if he had the administrative ability of a Julius Cæsar, or of a Napoleon—two men in the history of the world who, perhaps, performed the greatest amount of executive labor—it would be wholly impossible for him properly to discharge the duties devolved upon him as the head of this great and growing Government. He cannot do it.

But is that the only objection? Not at all. This force is called the auxiliary guard, very much; I suppose, upon the *lucus a non lucendo* principle. An auxiliary guard! Auxiliary to whom? Auxiliary in what way? The act of 1842, to which I have adverted, provides for the appointment of an auxiliary guard; and that is what it professes to be—a guard appointed by the Mayor, and paid by the Federal Government, in addition to the police of the city of Washington, to strengthen the hands of the municipal corporation. But this bill does no such thing. This bill inaugurates a system of absolute, uncontrolled, and irresponsible power, the like of which is not to be found anywhere in the civilized governments of the world. What do you propose to do by this bill? You propose that the President shall appoint, in the first place, a chief of police. Who is he to be? What are to be his qualifications? And where is he to come from? Silent is this bill on these subjects—entirely so. He may be from the State of California, or from Maine, or from South Carolina; he may be from England, or France, or Russia, or from regions further east. There is no restraint in this matter. You may bring a man here wholly alien in his feelings to this people, and put him in authority—an authority almost absolute and complete—over them. Then this man, so appointed, can appoint his one captain, his four lieutenants, and his one hundred men—men whom he may also bring with him from the same quarter whence he himself happened to come. And thus, from the very outset of the game, you place the fifty or sixty thousand permanent residents of this city under the control of a force that may have no sympathy with them, no interest in their well being, and no regard whatever excepting for the hand that feeds it, and no desire but to gratify the power upon which its bread and meat depend.

Then suppose this auxiliary guard mismanage in their office; suppose they exercise this mighty power like a tyrant; I ask what remedy have these people? Can they go to the ballot-box? No, no, they are without remedy. They are obliged to submit; ay, they have not even the miserable remedy which the down-trodden subjects of the Czar have by long-established prescription possessed—the infamous remedy of assassination.

Why, sir, your police force may establish in this city the curfew, requiring that nightly, when the eight o'clock bell shall strike, every fire shall be covered up, and every light be extinguished throughout the city. You may have every man, woman, and child, who walks these streets, liable to be arraigned and questioned, and made to disclose their whereabouts, their what-abouts, their

whence and their whither, at the word and beck of this irresponsible body of men.

It is no answer to this objection to say that we do not suppose the present Chief Magistrate will execute this power in this way. It is no answer to ask me if I am unwilling to intrust the police of this city in the hands of the present Chief Magistrate. It is no answer for gentlemen to say that they would trust Mr. Fillmore if he were President, as soon as Mr. Buchanan. I might trust Mr. Buchanan, or Mr. Fillmore, or Mr. Pierce, but I would not trust the President of the United States as this bill proposes. Sir, I would not trust myself. There is no man, possessing any degree of self-knowledge, who does not know and feel in the very inmost recesses of his soul, that he, himself, is unfit to be the custodian of unlimited, irresponsible, uncontrolled power. But that is what this bill, as I read it, proposes to give to the President of the United States in making these appointments.

An allusion was made, yesterday, by the gentleman from Virginia, [Mr. CLEMENS,] to the police system of the city of New York. As a personal retort it may have been very happily put—and upon that I have nothing to say—but it is no answer to the objection I am making; for, if I have understood what the general sentiment is with respect to the present police system of the city of New York, that sentiment is unfavorable to it, and the public voice is against it. But even that does not come within bow-shot of what is proposed here. The police system of New York places the police under the control of the general State government, of which the people of the city are a constituent part. This bill proposes to place the people of the city of Washington under the President of the United States, in constituting whom they have no part. The gentleman from Virginia will see that the distinction is a very wide and important one.

Mr. CLEMENS. The very principles upon which the gentleman from Tennessee proceeds to argue, show that the bill proposed by the committee is preferable to the one proposed by the gentleman from New York, and of which, I presume, the gentleman from Tennessee is the advocate.

Mr. MAYNARD. I hope the gentleman from Virginia will not presume too much.

Mr. CLEMENS. The President is *in loco parentis* to the people of this city, and the Congress of the United States is the local legislature, and the people of the District of Columbia have no right of sovereignty at all. They are here in the relation merely of children to the legislative department of the Government. The legislative power is given to Congress. But in the case of the New York police bill, they not only took away the power of appointment from the city, but gave it to the Governor of the State, who sent commissioners of police there from the interior of the State, in whose hands was placed the entire control of the police department of the city of New York. And that is the reason I alluded to the position taken by the gentleman from Massachusetts, [Mr. COMINS.]

Mr. RUSSELL. And made the city of New York pay the expense.

Mr. CLEMENS. That is so. Here the people have no power of taxation for police purposes. The money must come from the national Treasury, and that presents a strong reason why the President, who is the representative of the people of the United States, to whom the money belongs, should have the power of appointment.

Mr. MAYNARD, [pleasantly.] I desire to have at least half of the time, as I am upon the floor, and am responsible for the speech.

We are told that the people here stand in the relation of children to the President, as the head of the Federal Government. That has not been the policy of this Government hitherto. Among the earliest legislation of Congress, under the provisions of the Constitution, conferring exclusive jurisdiction over such district as might become the seat of the General Government, was a statute giving to the people of this city the power to regulate and control their own municipal affairs. They have had, from the earliest period, a municipal government for the protection and management of their local interests. They have had the power to govern themselves to a certain extent, and they have exercised that power; and I am op-

posed, at this late day, to depriving them of it. I am opposed to this auxiliary guard, of which they might well say, *non tali auxilio*.

A word in regard to the taxation of the people of this city, suggested by what fell from the gentleman from Virginia. I understand the fact to be that the city authorities have gone to the full extent of the taxing power conferred by the charter—the power to tax to the extent of three fourths of one per cent. upon the valuation of property. But the gentleman from Georgia [Mr. SEWARD] intimates that they do not assess their property at its full value. I am told that they do; that property here is rated at its full cash value, and in some instances above it. I was told of one instance, as an illustration of it, that a piece of property, which sold for \$1,200, was rated in the tax list at \$1,800, fifty per cent. above its cash value in market.

Mr. SEWARD. Does the gentleman know what the aggregate value of the property in this city is?

Mr. MAYNARD. I do not. I have not had occasion to examine the matter.

Mr. SEWARD. I wanted to know, so that I could ascertain what a tax of three fourths of one per cent. would amount to.

Mr. MAYNARD. Anybody with half an eye would see that for the various corporation purposes of this city, no ordinary amount of taxation would be sufficient. It is extended over a very large area of ground, a large portion of which is unimproved and unproductive. It is traversed by streets and avenues wider, more numerous, and more extensive than in any other city of the Union. It is a city of which the expenses, according to its population, besides those additional expenses put upon it by the fact of the location of the General Government here, would in my opinion, be double those of any other city in the country of the same population. This arises mainly from the manner in which the city is laid out. Besides this tax of seventy-five cents upon each hundred dollars of assessed property, there are other impositions laid upon the tax payers. For example, the lighting of the streets; for with the exception of Pennsylvania avenue and the public grounds, all the streets are lighted at the expense of the contiguous owners. Some gentleman near me says "No! they are not lighted at all." I admit I may be wrong, for there are some portions of the city in which I have never happened to be when artificial lights are necessary. The gentleman may be correct in his knowledge of the geography of the city.

Mr. CLEMENS. Do I understand the gentleman to say that the citizens of Washington pay the whole expense for lighting it?

Mr. MAYNARD. No, sir.

Mr. CLEMENS. The Government pays for Pennsylvania avenue, and I never knew that there was but one street in Washington, and only one side of that street.

Mr. MAYNARD. I cannot help that. It is not my fault if the gentleman does not know it.

But, Mr. Chairman, I was alluding to this fact to show that it was vain to ask that the people of this city should bear the whole expense of its civic administration. True, we heard a remark made here the other day, by the gentleman from Indiana, [Mr. KILGORE,] to the effect that if you would remove the seat of Government to his State, they would take care of it without any expense to the country. I imagine, however, if we were in Indiana, we would find the people there a good deal like the people elsewhere; for we find human nature very much the same everywhere.

Now, sir, this is not altogether a matter of dollars and cents with me. This is our Federal metropolis; this is the great capital of our great country; it is a city in which we all take an interest, in which we all take pride. I imagine there is scarcely a man, who, in his boyhood days, read the sarcastic notes appended to certain sarcastic poems, by a certain flippant Irish poetaster, that did not feel his blood flow with lively indignation that a man would defame and vilify the infant metropolis of his beloved country. I would make this city worthy of the great nation of which it is the seat of Government. I would make it such a place, that when we bring our children here to show them these gorgeous temples, these towering monuments, these magnificent piles of architecture, and when they ask what mean these

stones, we could with pride point to them as the glorious memorial of what our fathers did, that we might here teach them new lessons of patriotism, and inspire them with a deeper and more ardent love of country.

But my friend from Virginia [Mr. CLEMENS] says he supposes I am in favor of this italicized amendment—the amendment of the gentleman from New York, [Mr. DOBB.] I confess I am not. I read it with some care, and have tried very hard to see whether I could not favor it. It strikes me as a clumsy and awkward contrivance, which will be very difficult to carry into efficient operation, and which, if carried into operation, will be of very little use.

Now, sir, I do not know why we should depart from the policy which has governed Congress ever since the passage of the act of 1842. I do not see why we should take from the people of the District this power of self-government. My friend from Kentucky [Mr. MARSHALL] introduced yesterday an argument, if I understood him, to this effect: that the charter of the city of Washington being a vested right, it cannot be changed or modified except with the assent of the corporators. I understood him to state that as a legal proposition.

Mr. MARSHALL, of Kentucky. The proposition I mean to assert is this: that whenever a municipal corporation is created, and vested rights arise under it, they cannot be infringed by the legislative power. It is not within the competency of the legislative power to amend the charter, except as to the political law, and this, too, under limitations.

Mr. MAYNARD. The case is stated in an elementary work of high authority, in a few succinct paragraphs, which I will read:

"It is a happy feature in the Constitution of our own Government, that the power of the Legislatures of the different States resembles in this particular the prerogative of the King of Great Britain, who may create but cannot dissolve a corporation; or, without its consent, alter or amend its charter. In the tenth section of the first article of the Constitution of the United States, it is declared that, 'No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, pass any bills of attainder, *ex post facto* law, or law impairing the obligations of contracts, or grant any title of nobility.' Under this clause, it has been settled that the charter of a private corporation, whether civil or eleemosynary, is an executed contract between the Government and the corporators; and that the Legislature cannot repeal, impair, or alter it against the consent, or without the default of the corporation judicially ascertained and declared. A distinction was, however, taken between private corporations and public, such as counties, cities, towns, and parishes, which, existing for public purposes only, the Legislature have, under proper limitations, a right to change, modify, enlarge, or restrain; securing, however, the property to the use of those for whom it was purchased."—*Angel and Ames on Corporations*.

That I understand to be the state of the law, for it is certainly sustained by an array of very high authorities.

Mr. MARSHALL, of Kentucky. I will ask the gentleman if he draws a distinction between that and my proposition of law?

Mr. MAYNARD. I believe that, as the gentleman has restated his proposition of law, it is susceptible of the same construction; but certainly there is a manifest distinction between what is stated by this commentator and what I understood the gentleman to insist upon yesterday. I conceive, then, that Congress has power legally to change the charter of the corporation of the city of Washington. Admitting that to be so, have they done it? Do they propose by this bill to do it? No, sir, not at all. The charter of the corporation is to be left standing exactly where it was. But we are told that there is a repealing section in this bill. Let me read it:

"SEC. 6. And be it further enacted, That all acts and parts of acts heretofore passed, authorizing or relating to the employment of an auxiliary watch, or guard, be, and the same are hereby, repealed. This section to take effect so soon as the chief shall report to the Secretary of the Interior that he has thirty men enrolled and ready for duty."

That repeals the act of 1842, and the subsequent acts referred to by the chairman of the Committee for the District of Columbia; but it does not touch the charter of the corporation of Washington. That stands exactly where it did. It stands with power in the civil authorities to appoint a police force, if they choose to do it. And then what state of things will you have? You will have two police forces, a city police and a national police. You will have them here at war with each

other, like two rival fire companies; like the two police forces in the city of New York; like the new court system and the old court system in the State of Kentucky, a condition of active antagonism; or else you will have here a divided responsibility, which, in point of fact, is no responsibility at all. In either event, you will have a police force that will be utterly valueless.

Now, to bring what I have to say into a short compass, and to conclude, I will state what my proposition is. I am in favor of vesting the power of appointment in the Mayor of this city, elected as he is by the tax-payers permanently resident here. They have as high an interest as anybody in the preservation of the peace of the city. If they have an inefficient officer, they have the remedy in their own hands, at the ballot-box; which I have no doubt they will properly apply.

Mr. BLISS. I desire to make an inquiry, simply for information. The gentleman says that the Mayor is elected by the tax-payers. Does he mean to say that he is not elected by the electors at large, and that any property tax is required?

Mr. MAYNARD. If the gentleman will look to the charter of the city of Washington, which I have here in my hand, he will get the information which he desires. Now, Mr. Chairman, I think the Mayor of the city would be the safest depository of this important and enormous power of appointment. But we are told that the present Mayor is a Democrat. So much the worse for him; but is he not interested, are not Democrats interested, in the preservation of the peace? Have they no lives? Have they no property to take care of? But it is said Democrats will be appointed to act as police. Suppose they are: hold them responsible; and if the Democrats do not administer your city government well, go to the ballot-box, that great palladium of all our rights, and the only one known to us under the Constitution, and apply the remedy. It has been stated upon this floor, and I have not heard it controverted, that there had been no complaints of the city police prior to the time of the present city administration, and that this is a mere temporary outbreak of villainy. Let the people have, at least, an opportunity to govern themselves, before you make them not only a subject but an abject race. Do not impose upon them a power, a control, that will take from them every vestige of self-respect which distinguishes the freeman from the bondman. But, if gentlemen are unwilling to trust this vast power and patronage alone in the hands of the Mayor elected by the tax-payers of the city, then I suggest that we unite with him one of the Federal functionaries of this District; unite with him the district attorney or the marshal for the District of Columbia, and let the Mayor and one of these officers constitute a board to appoint the chief of police, and let the chief of police hold his office at their discretion.

Now, I know that it is morally impossible for the gentleman from Virginia, [Mr. GOODE,] who reported this bill, to intend anything covert, anything secret, anything concealed; and if he would speak in his place now, I know that he would say that nothing was further from his mind than to introduce a covert proposition here under which he could secure a little more present patronage to the party of which he is a most honorable and worthy member. I know that he intended no such thing. I suggest to him, then, that there are grave objections in my mind, and the minds of others, to the mode of appointment pointed out in the bill. I suggest to him the method that I have now proposed—either to confer it upon the Mayor of the city, as the act of 1842 does, or, if that is deemed insecure, and Federal interests would not be sufficiently protected, then associate with the Mayor the district attorney or the marshal of the district. I do not regard this chief of police in the light of a Federal officer. The whole thing is a mere municipal regulation. It is true that the amendment proposed by the chairman of the Committee for the District of Columbia, giving him limited criminal jurisdiction, might seem to invest him with the dignity of a judicial officer; but I submit that it does not do it under well-settled principles. It is after all but a mere police regulation, and as such ought to be left under the control of the people who are most to be affected by it, and who are most directly interested in seeing it properly and judiciously carried out. That is all I have to say.

Mr. HUGHES obtained the floor.

Mr. MONTGOMERY. Will the gentleman yield me the floor?

Mr. HUGHES. I will.

Mr. MONTGOMERY. I move that the committee rise, in order that we may take up the Kansas bill.

Mr. STEPHENS, of Georgia. The notice given by the gentleman from Pennsylvania yesterday, was given without conference with my side of the House. I am perfectly willing, however, that the committee may rise and take the vote now.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. JONES, of Tennessee, reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the special order, being Senate bill "To establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject;" and had come to no resolution thereon.

ADMISSION OF KANSAS.

Mr. MONTGOMERY. I desire to ask the unanimous consent of the House to take up the Kansas bill.

No objection was made, and the bill was accordingly taken up.

The following message from the Senate, accompanying the bill, was then read:

IN SENATE OF THE UNITED STATES,
April 13, 1858.

Resolved, That the Senate insist upon its disagreement to the amendment of the House of Representatives to the bill (S. No. 161) for the admission of the State of Kansas into the Union, and ask a conference on the disagreeing vote of the two Houses on the same.

Ordered, That Mr. GREEN, Mr. HUNTER, and Mr. SEWARD, be the committee on the part of the Senate.

Mr. MONTGOMERY. I move that the House insist on their adherence, and on that question I call the previous question.

Mr. ENGLISH. I rise for the purpose of propounding to the Chair what I conceive to be a pertinent question. I desire to know whether, if a committee of conference should be ordered by the House, parliamentary law and practice would not require that the majority of that committee should be composed of gentlemen representing the views of the majority of the House; or, in other words, of gentlemen in favor of the House bill? I so understand the parliamentary law, and have never known it departed from. I submit the question to the Chair.

Mr. STANTON. If the interrogatory is not in order, I object to it, as it would lead to interrogatories upon the other side.

Mr. ENGLISH. I believe my question is in order.

Mr. GROW. There is no question of a committee of conference before the House.

Mr. MONTGOMERY. I object to any interrogatory not in order.

The SPEAKER. Objection is made to the interrogatory.

Mr. ENGLISH. Well, then, I wish to say that I have confidence in the Presiding Officer of this House; and believing the parliamentary law to be as I have indicated, and that the Speaker is of that opinion, it is my intention, if the motion for the previous question should be voted down, to move to accede to the Senate's request for a committee of conference.

[Loud cries of "Order!"]

Mr. JOHN COCHRANE demanded tellers on seconding the demand for the previous question.

Tellers were ordered; and Messrs. JOHN COCHRANE and WALDRON were appointed.

The House divided; and the tellers reported—ayes 108, noes 107.

The Speaker voted in the negative.

So the previous question was not seconded.

Mr. ENGLISH. Mr. Speaker, I do not wish my action upon this occasion to be misunderstood. I therefore desire to say that I am very decidedly opposed to the Senate bill in its present shape, and do not think I could vote for it in any event. But, sir, notwithstanding I entertain this opinion, I am not prepared to say to a coördinate branch of the national Legislature that I am unwilling to hear them—that I am unwilling to confer with them upon a subject of great public interest. I think it is due to them, as a matter of courtesy

and invariable parliamentary usage, that we should accede to their proposal, and that we should grant a committee of conference. Good may come of it; and, at all events, I cannot see that harm is likely to result. I therefore move that the House agree to the conference proposed by the Senate on the subject-matter of the disagreeing votes of the two Houses, and that three managers be appointed to manage said conference on the part of the House of Representatives; and I now call the previous question.

Mr. WASHBURN, of Maine. I rise to a question of order. It is this: that it is not in order for the gentleman from Indiana to make that motion; that the House has adhered to its amendment upon this bill; and that, until the House reconsiders the motion by which it has thus adhered, it is not in order to make a motion of this kind. I think the Chair will not find a single precedent in which it has been held that a motion of this kind can be entertained upon the facts existing in this case.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Maine, and will cite the gentleman to a precedent directly in point, of very high authority.

The Clerk read the precedent, as follows:

"Journal of the Senate, January 20, 1834."

"A message from the House of Representatives, by Mr. Franklin, who informed the Senate that the House had agreed to the first, and had disagreed to the second amendment to the bill making appropriations, in part, for the support of Government for the year 1834.

"On motion of Mr. Webster, the Senate proceeded to consider the foregoing message from the House, announcing the disagreement of the House to the second amendment to said bill; and, on motion of Mr. Webster, the Senate adhered to the second amendment—yeas 34, nays 13; and the Secretary notified the House of the vote to adhere.

"Whereupon, January 24, the House asked a conference. The Senate referred the request for a conference to the Committee on Finance; and Mr. Webster made the following report:

"The House request a conference after the Senate has adhered to its amendments, to which the House has previously disagreed. It cannot be denied that the Senate has a right to refuse such conference; a case exactly similar having been disposed of by the Senate in 1827, as will be seen by the extracts from its Journal which are appended to this report. (*vide Senate Document, No. 57.*) But the committee think it equally clear that such is not the usual and ordinary mode of proceeding in such cases. It is usually esteemed more respectful and more conducive to that good understanding and harmonious intercourse between the Houses which the public interest so strongly requires, to accede to requests for conferences even after an adhering vote. Such conferences have long been regarded as the established and approved mode of seeking to bring about a final concurrence of judgment in cases where the Houses have differed; and the committee think it unwise either to depart from the practice altogether, or to abridge it, or decline to conform to it, in cases such as those in which it has usually prevailed. It should only be, therefore, as the committee think, in instances of a very peculiar character, that a free conference invited by the House should be declined by the Senate. The committee recommend the adoption of the following resolution:

"*Resolved*, That the Senate agree to the conference proposed by the House of Representatives, on the subject-matter of the disagreeing votes of the two Houses on the said amendments; and that three managers be chosen to manage said conference on the part of the Senate."

Mr. WASHBURN, of Maine. Mr. Speaker—

Mr. CLINGMAN. I give notice that I object to debate. The previous question has been demanded, and no debate is in order.

The SPEAKER. The Chair will state to the gentleman from Maine that in a collection of precedents of order; he will find perhaps fifteen or twenty precedents exactly similar; and that at the last session of Congress the precedents that have been uniformly pursued were followed in the case of the Army bill.

Mr. WASHBURN, of Maine. I think there is no precedent like this; and if there be no objection on the other side, I wish to state the reasons.

Mr. CLINGMAN. I shall object to debate on this question after the demand for the previous question.

Mr. CAMPBELL. Will the gentleman from Indiana withdraw for a moment his demand for the previous question?

Mr. SMITH, of Virginia. I desire to know whether the rules are to be enforced or not?

The SPEAKER. Objection is made.

Mr. GARNETT. I request my friend from Indiana to withdraw his demand for the previous question, to allow me to make an explanation of the vote which I intend to give.

Mr. CAMPBELL. I object, unless the privilege be general.

Mr. ENGLISH. I have been very urgently appealed to by the gentleman from Virginia [Mr. GARNETT] to withdraw the call for the previous question for a moment, to enable him to explain his position. I design doing so, but I intend to hold on to the floor.

Mr. BUFFINTON and others objected.

Mr. ENGLISH. I withdraw the call for the previous question for the purpose of saying that I have made this proposition to accede to the request for a committee of conference, with the distinct understanding that the usage of this body and the usage of all parliamentary bodies, require that when a committee of this sort is allowed—

[Calls to order.]

Mr. MONTGOMERY. I trust that if the gentleman make a speech, he will allow us to reply to it. If we are to have this question open at all let us have it investigated fully. We are ready for it.

Mr. ENGLISH. I am not going to make a speech. I am only stating this in my own justification: that I have made this motion because I understand it to be the invariable rule that where committees of conference are appointed, the committee shall be so constituted as that the majority of the committee shall represent the views of a majority of the House; and that in this case a majority of this committee of conference would be taken from the anti-Lecompton side of the House. That this will be the action of the Speaker in the present case I feel well assured. Now, if the gentleman from Virginia [Mr. GARNETT] will renew the call for the previous question, I will yield the floor.

Mr. HOUSTON. I object to that.

The SPEAKER. The gentleman can occupy the floor himself, but he cannot allow another gentleman to occupy it if objection be made. Objection is made.

Mr. ENGLISH. I think I can get at the matter which the gentleman from Virginia desires to bring before the House by propounding a question to him.

Several MEMBERS. I object.

Mr. GARNETT. I withdraw my request at the instance of gentlemen around me. I believe my vote will be understood.

Mr. ENGLISH. I desire to ask the gentleman from Virginia a question.

Mr. STANTON. I object.

Mr. ENGLISH. I have the floor, and I have a right to ask a question.

Mr. STANTON. I submit that the gentleman has no right to interrogate a member.

The SPEAKER. If objections be made, the Chair is of opinion that the gentleman cannot interrogate other members, unless it be with regard to a personal explanation; and nothing has transpired to authorize that.

Mr. ENGLISH. I understand well that the gentleman from Virginia [Mr. GARNETT] is against the House amendment, but I am a little curious to know whether the gentleman would vote for the Senate bill if it were modified in any respect whatever.

Mr. WARREN and others objected.

Mr. GARNETT. I will vote against the Senate bill if any further concession be made.

Mr. MARSHALL, of Kentucky. I rise to a question of order. The motion of the gentleman from Indiana [Mr. ENGLISH] does not take precedence of the motion of the gentleman from Pennsylvania, [Mr. MONTGOMERY], which is an affirmative proposition that we adhere to our amendment.

The SPEAKER. The Chair overrules the question of order. The gentleman from Indiana has a right to present a counter proposition after the House refused to second the previous question. It comes up in the nature of an amendment.

Mr. MARSHALL, of Kentucky. Will the effect of sustaining the previous question be to bring us to a vote, first on the proposition to grant a conference, and next on the proposition to adhere?

The SPEAKER. It will be the effect of it.

The previous question was seconded, and the main question ordered.

Mr. CAMPBELL called for the yeas and nays on Mr. ENGLISH's motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 108, nays 108; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barks-

dale, Bishop, Bocock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, James Craig, Burton, Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Garnett, Garrett, Goode, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, MacLay, McQueen, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Rufin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Trippe, Ward, Warren, Watkins, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zolliecoffer—108.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Matteson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricaud, Ritchie, Robbins, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—108.

The Speaker voted in the affirmative.

So the motion was agreed to.

Pending the vote,

Mr. BISHOP stated that Mr. ARNOLD had paired off with Mr. WASHBURN, of Wisconsin.

Mr. FENTON stated that Mr. CLARK B. COCHRANE had paired off with Mr. SICKLES.

Mr. CORNING stated that he had paired off with Mr. OLIN, who had been called home.

Mr. DICK. On Thursday last I paired off with Mr. WHITELEY, of Delaware, till twelve o'clock yesterday. As I have been told that his understanding was, that the pair was for an indefinite period, I would call upon my colleague, Mr. RITCHIE, to state his understanding of the matter.

Mr. RITCHIE. I understood that the pair was from Thursday last till Tuesday. Whether there was any subsequent conference I do not know. That was the pair made in my presence.

Mr. NICHOLS. I desire to say that, at the request of Mr. WHITELEY, I effected a pair with Mr. DICK, and that it expired yesterday at twelve o'clock.

Mr. MONTGOMERY stated that Mr. ADRAIN had paired off with Mr. HUYLER.

Mr. FLORENCE stated that Mr. DIMMICK had paired off with Mr. MCKIBBIN.

Mr. J. GLANCY JONES stated that Mr. GILIS had paired off with Mr. ROBBINS.

Mr. PURVIANCE stated that Mr. KUNKEL, of Pennsylvania, had paired off with Mr. TAYLOR, of Louisiana.

Mr. PHILLIPS stated that Mr. REILLY had paired off with Mr. THAYER.

Mr. TAYLOR, of Louisiana, stated that he had paired off with Mr. KUNKEL, of Pennsylvania, otherwise he would have voted ay.

On the vote being announced, there was some applause in the Hall and in the galleries.

The SPEAKER. The Doorkeeper will take his assistants to the gallery, and remove every person who has so far forgotten himself, and the place where he is, as to make this disturbance.

Mr. HARRIS, of Illinois. One word on this question of clearing the galleries. I hope that, at least, an example will be set on this floor, before the galleries are taken into consideration. I think we ought to rebuke ourselves before we rebuke others.

The SPEAKER. The Chair was not aware that any demonstration had been made on the floor of the House. The Chair thinks such demonstrations are exceedingly improper, come from what quarter they may. The Chair has no right to order the House to be cleared for disorder; but he has a right to order the galleries to be cleared. If the gentleman will bring to the attention of the House a violation of order by any gentleman, the Chair has no doubt that the House will take such action as may be necessary in the premises.

Mr. ENGLISH. I move to reconsider the vote

just taken, and also move to lay the motion to reconsider on the table.

Mr. HARRIS, of Illinois. I call for the yeas and nays on the latter motion.

The yeas and nays were ordered.

The SPEAKER, (to the officers who were engaged in clearing the galleries.) The Chair did not order the galleries to be cleared entirely; but to clear them of such persons as were guilty of disorder.

Mr. CURTIS. I propose that the execution of the order be arrested. The demonstration was a slight one.

The SPEAKER. Hoping that the disorder will not be repeated in the galleries, and certain that if any demonstration occurred on the floor of the House it will not be repeated, the Chair revokes the order to the Doorkeeper to clear the galleries, expecting that visitors, who come here and enjoy the privilege of listening to the debates of the House, will not violate its decorum and order.

Mr. GROW. I hope the Speaker does not consider it a privilege that men shall come here and listen to the debates. They should observe order. But I object to the form in which the Chair puts it—that it is a privilege for American citizens to sit in the gallery. If they observe the rules it is their right.

The SPEAKER. It is unquestionably a privilege.

Mr. GROW. It is also their right.

Mr. JOHN COCHRANE. I ask if their privileges are not their rights?

The question was taken; and it was decided in the affirmative—yeas 108, nays 108; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bocock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, James Craig, Burton, Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Garnett, Garrett, Goode, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, MacLay, McQueen, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Rufin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Trippe, Ward, Warren, Watkins, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zolliecoffer—108.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Groesbeck, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Matteson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricaud, Ritchie, Robbins, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—108.

The Speaker voted in the affirmative.

So the motion to reconsider was laid on the table.

The question recurred on agreeing to Mr. MONTGOMERY's proposition as amended; and it was agreed to.

Mr. ENGLISH. I move to reconsider the vote just taken; and also move to lay the motion to reconsider on the table.

Mr. STANTON. There is some misunderstanding here. I do not understand what the proposition is.

The SPEAKER. The gentleman from Indiana moves to reconsider the vote by which the proposition was agreed to.

Mr. STANTON. So I understand. But what was the proposition agreed to.

The SPEAKER. The proposition originally made by the gentleman Pennsylvania, as amended by the proposition of the gentleman from Indiana.

Mr. STANTON. I did not understand that that was an amendment.

The SPEAKER. The Chair received it as an amendment. The Chair is not certain but that it might have been entertained as an independent proposition.

Mr. STANTON. I supposed it was an independent proposition.

Mr. MORRIS, of Illinois. I would inquire whether the gentleman from Indiana moved his proposition as an amendment?

The SPEAKER. The Chair so stated at the time, in reply to the gentleman from Kentucky, [Mr. MARSHALL.]

Mr. MARSHALL, of Kentucky. I would like to know how the words in the original proposition remain to be voted on?

The SPEAKER. It has been all disposed of except the motion of the gentleman from Indiana, to reconsider and lay on the table.

The question was taken; and the motion to reconsider was laid on the table.

Mr. LETCHER. In order to allow our friend from Kentucky to ascertain how it is, I move that the House do now adjourn.

Mr. GOODE. I ask my colleague to withdraw that motion for one moment.

Mr. LETCHER. I withdraw it.

CORRECTION.

Mr. STANTON. Will the gentleman permit me to make a single correction? In the report of my remarks made yesterday I am reported as saying that a person was appointed on the auxiliary guard, after an attempt by him to commit murder, and before his arrest. I did not intend to say that he had been appointed after the commission of the crime. It was a misapprehension entirely.

WASHINGTON AUXILIARY GUARD.

Mr. GOODE. I move the following resolution:

Resolved, That the debate in the Committee of the Whole on the state of the Union on the bill of the Senate, No. 232, establishing an auxiliary guard, shall cease at the next rising of the committee—the chairman of the Committee for the District of Columbia having the privilege to close the debate at the next sitting of the committee; and the committee shall then proceed to vote on such amendments as may be pending or offered to the same, and shall report it to the House with such amendments as may have been agreed to by the committee.

Mr. WASHBURN, of Illinois. As I understand the resolution, it provides that the gentleman from Virginia shall have the privilege of closing the debate. He has that right already, under the rule.

Mr. GOODE. If that be the understanding, I am willing to modify the resolution.

The SPEAKER. The Chair is informed that it is a Senate bill, not reported by the gentleman from Virginia, and therefore he would not have that right under the rule.

Mr. STANTON. Is the debate to be closed after we shall again go into committee?

Mr. GOODE. Yes.

Mr. STANTON. If the House adjourn now, I have no objection; but if the debate is to close to-day, I think that that is not allowing time enough.

Mr. BLISS. I desire to hear that part of the resolution read again which pertains to amendments. I do not understand whether amendments are cut off by it or not.

The SPEAKER. No amendments can be cut off by a resolution of this sort in the House. This is the usual language in which resolutions to close debate are clothed.

Mr. MORSE, of Maine. I move to lay the resolution on the table.

Mr. GOODE. I accept the modification of the resolution to close debate when the committee rises to-morrow.

The SPEAKER. The gentleman cannot modify his resolution pending a motion to lay on the table.

Mr. MORSE, of Maine. What do I understand to be the modification?

Mr. GOODE. To terminate debate at the rising of the committee to-morrow.

Mr. MORSE, of Maine. Then I withdraw my motion to lay on the table.

The question was taken; and the resolution was adopted.

Mr. RUSSELL. I ask leave to introduce, for reference, a bill to divide the State of New York into three judicial districts.

Mr. MORGAN. I object.

Mr. GOODE. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. JONES, of Tennessee, in the chair,) and resumed the consideration of the bill to establish an

AUXILIARY GUARD

for the city of Washington; on which the gentleman from Indiana [Mr. HUGHES] was entitled to the floor.

Mr. HUGHES (in the noise and confusion of the House) was understood to say: I wish to speak to the question before the committee as a practical question now before us for legislative action. There are four propositions before us.

Mr. BOWIE. I move that the committee rise. There is too much confusion to proceed.

The motion was not agreed to.

Mr. HUGHES, (resuming.) I was saying there were four propositions before the committee: one is the bill of the Senate; the second is an amendment proposed to that bill by the gentleman from New York, [Mr. DODD]; the third is the bill introduced by the gentleman from Virginia, [Mr. GOODE], the chairman of the Committee for the District of Columbia; and the fourth a proposition from the gentleman from Ohio, [Mr. LETCHER].

The general features of all these different propositions are nearly alike, differing in one particular only, and that is, in reference to the manner in which the proposed police force shall be appointed. The Senate bill proposes that the chief of police shall be appointed by the President, by and with the advice and consent of the Senate. I lay some emphasis upon the last part of that proposition, because it appears to have been wholly overlooked in this debate, up to the present time, that the Senate were to have any voice in that matter. The captain, the lieutenants, and the men, according to the Senate bill, are to be appointed by the chief, with the approval of the Secretary of the Interior; and they may be removed by the chief at his pleasure, or upon the order of said Secretary.

Now, sir, the amendment proposed by the gentleman from New York, [Mr. DODD], and which appears to find favor at least with some of the leaders upon the other side of the House, proposes to vest the power of appointing this police in a board composed of four commissioners, to be elected in such a manner as to secure to the two political parties a balance of power in the board; and to keep up that arrangement from time to time at each ensuing election. The bill reported by the gentleman from Virginia, [Mr. GOODE], the chairman of the Committee for the District of Columbia, is almost the same as the Senate bill. The most important difference is this: the bill of the gentleman from Virginia confers upon the chief of police the power of holding a court, which is not in the Senate bill. The amendment of the gentleman from Ohio [Mr. LETCHER] proposes to vest the appointment of this police force in three commissioners named in the amendment, who are to be appointed from time to time by joint resolution of Congress.

Mr. Chairman, the great expenditure of the public money in the city of Washington, in the erection of public buildings, in the embellishment of the city, and for other purposes, has created in the city, I believe, a disposition to fasten upon the national Treasury all the burdens incident to the management of its municipal affairs. This is to be guarded against; and I confess that when it was first proposed to go further than we have heretofore gone, and to establish, at the expense of the national Treasury, a sort of municipal government for this city, in addition to that already established, the proposition struck me unfavorably. But, sir, upon further examination, I am disposed to think that it is the duty of Congress to pass a law of the character of one of the bills now under consideration. I desire that some one of these bills shall pass; and it is for the purpose of urging upon the committee such considerations as have presented themselves to my mind, why such a law should pass, that I now speak.

I find, upon examination, that the policy here proposed in reference to the establishment of an auxiliary police force for this city, is not a new policy. That policy has already been adopted. Congress has heretofore provided for such an establishment, and is now maintaining one at the public expense. The Senate bill comes to us

commended by the vote of the Senate, only nine members of that body having recorded their votes against it. And, as it seems to me it has been attempted in the progress of this discussion, to give a party character to this measure, it may not be improper for me to say that this was not a party measure in the Senate, there being only nine votes against it. There was no party vote. I may say, also, that the Senate bill—because it is almost identical with the proposition of the gentleman from Virginia, [Mr. GOODE], the chairman of the Committee for the District of Columbia—comes to us with the sanction of the unanimous adoption of it by the House Committee for the District of Columbia.

Mr. MORRIS, of Pennsylvania. Will the gentleman allow me, as one of the members of that committee, to explain my position?

Mr. HUGHES. Certainly.

Mr. MORRIS, of Pennsylvania. I was not present in the committee when it committed itself to that bill, and I am opposed to the bill in the shape in which it was reported by the committee. I have an amendment to offer to it.

Mr. GOODE. I will say to the gentleman from Indiana, that the bill was concurred in by all the members of that committee who were present. The gentleman from Pennsylvania was not present.

Mr. HUGHES. It appears, then, that the House bill comes here sanctioned by every member of the committee who was present, the gentleman from Pennsylvania not being there. Upon that committee I observe the name of the gentleman from New York, who offers an amendment to the Senate bill; and it strikes me as worthy of remark that an amendment of that character should be offered, radically differing in the mode of appointing this police, by a gentleman who had already given his full sanction to the measure which the chairman of the committee reported. The bill comes from that committee without any Executive recommendation. It is not sent here by the President, nor recommended by him. I say, then, that the Senate bill, or the bill of the Committee for the District of Columbia, comes to us as no party measure; but comes to us commended by the overwhelming consent of all parties in the Senate, and by the representatives of all parties of the committee of the House.

Sir, let me inquire—because it becomes necessary to advert to the partisan views which have been brought to bear in the discussion of this subject—how was this bill received in this House? Why, sir, I believe when the chairman of the committee first brought it to the attention of the House, my colleague from Indiana [Mr. COLFAX] who sits on the other side of the House, suggested that there might be a difficulty upon the subject unless some guarantee could be given by the chairman of the committee that this would not be made “a partisan police;” and immediately after, the senior member from the State of Ohio [Mr. GIDDINGS] declared that he could not give his consent to any measure of this kind, because this body of police would be used to catch negroes who were out late at night, or would in other ways interfere with the colored population of this District. Well, this was the first indication in the House of opposition to this measure. Gentlemen had doubts at first, but the gentleman from Ohio stepped out boldly and led off in a party opposition to the measure; and it is useless to deny the fact that when he leads, and where he leads, others follow. Directly, in the progress of this debate, after hearing that from the gentleman from Ohio, we hear a sort of philosophical disquisition upon the causes of the demoralization in the state of society existing at the capital from his colleague, [Mr. STANTON.] He traces all the evils to the practical application of the maxim “to the victors belong the spoils.” He bases his opposition to the Senate bill, and to the bill of the committee, exclusively upon the ground that they vest the appointing power in the President of the United States, by and with the advice and consent of the Senate. And, finally, he gave us his idea of a measure for the establishment of a police here independent of party feeling, and that is the substitute proposed by the gentleman from New York, [Mr. DODD.]

Sir, it is very much to be regretted, because it may affect the vote on this question, that any discussion of a party character should have sprung

up upon this bill. I merely allude to these things to show that, if the discussion of this measure takes that direction, the responsibility does not rest with those who are advocating it. This is the capital of the nation, over which, by express provision of the Constitution, Congress has exclusive jurisdiction—exclusive power; and where the power is, there is the responsibility also. The responsibility follows the power, and is as inseparable from it as the shadow from the substance. Congress, then, is responsible for wholesome legislation for the District of Columbia.

What is the object of government? It is to protect the people in their personal liberty, their personal security, and their rights of private property. Until this is done, Congress has failed to do its duty. This city being under the immediate supervision of Congress, the national capital, visited by representatives from every foreign Power with which we have diplomatic relations, ought to be the model of a well-governed city. There ought to be perfect security for life and property here. It ought to be so orderly; that not only could strong men, capable of self-defense, pass through the streets in the day time and in the night time without fear of molestation, but that women and children could go about without apprehension.

What is the actual condition of this city? Why, it is an admitted fact that murder stalks abroad, and goes unwhipt of justice. Assassination after assassination is committed—robbery after robbery. There is no security for life or property. And these admitted evils appeal to the national Legislature for a proper remedy. It seems to me that, except as to such differences of opinion as will spring up about the details of a measure, there ought to be no controversy at all about the propriety and expediency of passing the proposed law. Yet it is obvious that it meets with serious opposition. I propose now to notice some of the objections which are made to it.

The gentleman from Kentucky, [Mr. MARSHALL,] who, it is said, is an able lawyer, made an able speech against it. He is an able lawyer. He talks like a lawyer. He talked like a lawyer upon this bill. He talked like a criminal lawyer—like one who is in the habit of defending criminals. I have seen a great many able criminal lawyers, and I tell you now that the legislation of this country will attest the fact that they are very poor legislators for the prevention of crime; they are the most unreliable men on the face of earth to pass laws for the prevention of crime. The gentleman asked, "Why interfere with the Mayor?" Did the gentleman know, when he made that objection, that the very measure now before us, which the Senate has passed, was suggested and mapped out in a letter from the Mayor of the city, which was published in the proceedings of the Senate on this bill, and in suggestions from the chief of the small police force now employed? "Why," he asked, "interfere with the Mayor? June is coming, when a new election will take place, and perhaps the people may elect a better man." June is coming! Sir, there are those now mouldering in the earth, and perhaps there will be more, if Congress fails to afford protection to this District, to whom June never will come. Will the people of this city, in the June election, elect a Mayor who will call back the dead; who will restore to life the murdered citizens of the Republic, who failed to receive that protection to which they were entitled? Will they elect a Mayor who will overtake the malefactors, and bring them to justice? The gentleman from Ohio [Mr. LEITER] said, the other day, that there were only two murders a day on an average, or perhaps one and a half a day, and he thought we could stand that for a few days, till the House could proceed to the consideration of this bill as a special order. Can we stand it until June? Can the people stand it until June? Will this House do its duty, if it permits the existing state of things to continue until June?

Now, sir, in regard to the guarantee that this will not be a party police, I have to say upon that subject, if any guarantee is needed, if any one has a right to demand such a guarantee—a right which I do not admit—that if gentlemen will refer to the published debates of the Senate upon this bill, they will find that the chairman of the Committee on the District of Columbia in that body made the statement, that if the bill passed it was his under-

standing and that of his colleagues, that they would wait upon the President and inform him that any nomination of a partisan character for chief of police that might be sent to the Senate, would not be confirmed by that body if they could prevent it. That is going a great way. That is giving a guarantee beyond what any man has a right to demand. The distinguished leader of the Republican party, the Senator from New York, [Mr. SEWARD,] the Senator from Massachusetts, [Mr. WILSON,] and other Senators who voted for the bill, saw nothing in it going to establish a pretorian guard or to subvert the Constitution. But here, in this House, we are met with the cry of party. Nothing can be done for fear that party favorites will be rewarded. There is a great difference between a pretorian guard—a standing army with power to put up the Republic at auction, like the pretorian guard of Rome—and a civic police consisting of one hundred men. Some gentlemen say that the number is too large; but this is the number fixed upon as necessary by the Mayor, in the letter to which I have referred.

ADJOURNMENT OF CONGRESS.

At this point the committee rose informally; and the Speaker having resumed the chair, a message was received from the Senate by Mr. HICKEY, its chief clerk, informing the House that the Senate had agreed to the resolution of the House, that the President of the Senate and Speaker of the House of Representatives declare their respective Houses adjourned *sine die* on the first Monday in June next, at one o'clock, p. m.

[Cries of "Good!" "Good!"]

The committee then resumed its session.

WASHINGTON POLICE BILL—AGAIN.

Mr. HUGHES. The announcement just made admonishes me to be brief, and I will endeavor to be so.

Now, sir, I wish to say a word or two upon the main point in this discussion—the power of appointment—to show the reasons why, in my opinion, the appointing power had better be vested where this bill vests it, in the President and Senate, than in commissioners in the manner proposed by the gentleman from New York, [Mr. DOBB,] or in the manner proposed by the gentleman from Ohio, [Mr. LEITER.] The President is the representative of this whole nation, the head of the Federal Government, chosen by the people; and the presumption is that he would be the proper person to appoint these officers, because they ought to be appointed by some power capable of unity of will and speedy action. The Senate has a proper check upon him. Do gentlemen mean seriously to tell the House, when the President and the Senate have the appointment of all the judicial officers under the Federal Government, of all the ministers to foreign nations, and of all the important Federal officers of the country, that it would be dangerous to trust them with the appointment of a chief of police for the city of Washington? Is that the idea—that it would corrupt them to trust them with this power? If that be true, the Government has certainly fallen very low indeed; and it is a reflection not only upon Presidents and Senates, present and to come, but upon the people of the whole United States, who have recently expressed their choice of a President, the remonstrances and arguments of most of the gentlemen who oppose this bill for this reason, to the contrary, notwithstanding.

Now, sir, I think I could demonstrate that the amendment of the gentleman from New York [Mr. DOBB] is incapable of being put in practice, and that its provisions would defeat its object, because it recognizes two parties only, and two sets of candidates to be voted for, when the people of this District may divide into any number of parties. But admitting that it will accomplish the object which its friends propose: I say that it establishes and recognizes upon its face a vicious principle of legislation, and one which no Congress ought to recognize or embody in the forms of law. It recognizes that this country is to be controlled by parties. It proposes solemnly to pass a law which shall recognize the existence of two parties, and give them power each to select two of a board of commissioners, three of whom are required to perform any act. What would be the consequence? Why, sir, the board would generally be tied when they came to a vote. If it be

true, as the amendment assumes, that the people and public functionaries will recognize a duty higher than the duty they owe to protect life and property, and preserve the peace, how will this board act? Let us suppose a case. An election is approaching, in which these two parties recognized in the amendment are contending. It is important that the police should be so regulated as to act fairly and impartially towards all parties. These police commissioners, representing the two parties, come together. At the very moment, perhaps, when they ought to act in union and harmony, they differ, and, as a consequence, no action is taken by the board; the public peace is unprotected for, and the lives of citizens are unprotected. What is the object of that amendment? Why, it is palpable upon its face that, so far from preventing the appointment of a partisan police, its object is to make one. The gentlemen are opposed to allowing the President to appoint the police, because he will make it a partisan police; but if you will give them the power to put men of their own party on the board, it will be all right.

Now, sir, I am opposed to a purely partisan police. I do not propose to recognize any party in any law which I shall vote for, or to divide between parties the public patronage. I would rather depend upon the President and the Senate of the United States to appoint these functionaries, than upon any such board as that proposed, even if it could work harmoniously and expeditiously. And whenever the time comes when the President and Senate—I care not to what party they belong—become so corrupt that they cannot provide by appointment for the police of this city, it will be useless to look further for honest men and honest functionaries within the limits of this Republic.

A great deal has been said about corruption during the present session. It seems as though no bill can be introduced but discussion takes that direction. In regard to that, I concur in what has been said by the gentleman from Tennessee, [Mr. MAYNARD.] If all this corruption exists in the departments of the Government, certainly some specific case can be pointed out. Here is the grand inquest for the presentation of the charge; and a member of this House, knowing of the truth of such a charge, who does not bring it before this House, and propose articles of impeachment, is himself delinquent, and the corruption is with him. Sir, self-respect, respect for our own Government and our own people ought to forbid this continual stream of offensive charges based upon common rumor, and sometimes not even upon that, but upon the evil imaginations of bad men.

I say that it occurs to me that the amendment of the gentleman from New York [Mr. DOBB] will totally fail to provide an efficient police for this city. As to the amendment of the gentleman from Ohio, [Mr. LEITER,] I think that it is a much fairer proposition; and if we must compromise amongst these different propositions in order to pass some law to afford protection to the people of this city, as we have compromised about many other things, I should infinitely prefer that proposition to the other. The difficulty about it is this: the commissioners are named in the bill; and unless members have a personal knowledge of these men they must take them on the faith of what others represent. If Congress is to appoint men by name, they should be elected and the field should be open to all. Another objection is this: they are to be appointed every two years by joint resolution. Now, sir, it may be a long time before the Senate and the House could concur in a joint resolution on the same three men; and that defect in the law may defeat its operation altogether.

What is the history of this matter? This city once had an efficient and a valuable police, the chief of which was appointed by the President. This was many years ago. While that system lasted there were security and order in the city. When it was broken down, and the appointing power was taken from the President and given to the Mayor of the city, where it is at present vested, then the disorders began, and they have never ceased since.

It is said that the right of self-government is denied to the people of this District by the Senate bill. I deny it. Congress is the constitutional

law-making power for this people; and so long as they are governed under the Constitution of the United States, of which country they are citizens, they are governed in the proper way. But suppose that it did take away the right of self-government: does the amendment proposed by the gentleman from New York give them that right? Very far from it; for if the people should, with perfect unanimity, desire the election of four individuals at the first election, they cannot get them. No man has the right to vote for more than two, and consequently the citizens are disfranchised as to one half the board at each election. The commission must be a party one. It is true that the parties will be equally balanced.

I propose to look at the theory of the gentleman from Ohio, [Mr. STANTON.] He must be a lawyer, and a criminal lawyer. I believe that it is a common expression, when great crimes have been committed, for counsel and others to get up what they call "a theory of the offense." The gentleman has his theory, and it is this: that the demoralization and corruption of society in Washington has taken place in consequence of the maxim that "to the victors belong the spoils." He is opposed to any patronage being dispensed on party grounds. I do not wish to say anything in answer to the gentleman's theory, but I will propose a theory myself, that will not go back as far as the year 1844, to hunt up disturbances at the polls, that will, I think, come nearer to the truth than the gentleman's theory. I have heard of another maxim, very rare, very frequently pronounced—a sort of political shibboleth, that was in everybody's mouth a few years ago, but seems to have passed away. I allude to that great doctrine which was going to overturn all parties, and be the foundation of a new order of things, that "Americans should rule America." I think that most of the disorders at elections, and political demoralization in the capital, are to be traced to that maxim, and the doings proceeding from those banded together to carry it out. It may be that the gentleman, in the course of his political experience, has regarded that maxim with great favor.

The gentleman from Kentucky [Mr. MARSHALL] has great fear, great apprehension, of pretorian guards. He does not like that the people of the country should be interfered with in their innocent diversions. He supposes that these one hundred policemen will overrun the country and will eventually put up the Government for sale, like the pretorian guards of ancient Rome. We are all very apt to bring with us from home our standards of right and wrong, politically and otherwise. I suppose that the gentleman is entirely satisfied with the standard of order that exists in his own city of Louisville, and I have no disposition to quarrel with him on that subject; he has a right to his opinion; but the peculiar condition of his city is a matter of public history. If it be true, then, that this is his standard of a well-governed city, and that he squares his ideas of municipal government according to the order that prevails there, his opposition to this bill is an argument in its favor rather than against it.

Mr. Chairman, I hold it to be the duty of this Congress to pass some law. I am not particular about its form. Rather than vote against any law, I would vote to give the commissioners to the party which holds the other side of this House, for I am not so uncharitable as to believe that it has not an abundance of good men to appoint for the discharge of responsible duties. All public functionaries are more or less elected on party grounds. Does that disqualify them? I regard it as an objection that judicial officers are so elected; and for standing out against the doctrine of the election of the judiciary on party grounds, I brought upon my political record the dreadful blemish that is occasionally cast up to me by those who in the same breath complain of attempts to read them out of the Democratic party. But so it is that judicial and all other officers are elected. Their election is, to a greater or less extent, influenced by their politics.

But that is not the only consideration, I hope and trust, which weighs in their selection, or would govern the appointment of policemen for this city. I say that the life of any citizen of these United States is, with me, above all party, and above all price. Ay, sir, the life of any foreigner who may perchance have forsaken his distant

home to come to this boasted land of liberty, in pursuance of the invitations in our constitutions and laws, and who places himself under the protection of those constitutions and laws—the life of that man, and his protection while here, are, with me, above all party and above all price. Whether he be Protestant or Catholic, Irishman or German, native-born or foreigner, the fact that he stands upon the national soil of these United States and in the District where the seat of Government is located, should be a shield as potent for his protection, as were the words, "I am a Roman citizen," to the countrymen of Cicero. It should throw around him a wall of security. It is the duty of this body to lay aside party and all other considerations that stand in the way of producing just that kind of security under the law within this city and this District; and I believe that the bill of the Senate is eminently calculated to produce that result. I believe that the bill reported by the chairman of the Committee for the District of Columbia will answer that purpose; and so I believe with reference to the substitute offered by the gentleman from Ohio.

I think, sir, that it is a small compliment to give to the President of the United States the appointment of a chief of police in his own city. It is to be regarded, I presume, as a small addition to his patronage. But I will not vote against any reasonable proposition which has for its object to afford peace and protection to the people here, because it takes away patronage from the President. If it be the pleasure of the House to prefer the proposition of the gentleman from Ohio [Mr. LEITER] I will go for that. But I will never vote for the proposition of the gentleman from New York, [Mr. DODD] or any other that has stamped upon its face the word party, or recognizes the existence of party.

Mr. Chairman, I, of course, except from anything I have said in regard to political partisan speeches, the gentleman from Tennessee [Mr. MAYNARD] who last addressed the committee, and the gentleman from Mississippi, [Mr. QUITMAN.] I see nothing of that character in what they said. I do protest, however, against such language as was used by the gentleman from Massachusetts, [Mr. COMINS.] He talked about this "corrupt, repudiated Administration." A corrupt Administration! Who says that it is corrupt? Let us come to the point. Who says that this is a corrupt Administration? Do gentlemen propose to answer in the affirmative? Very well. Where is the corruption? Do you know of it? Can you point it out? If so, the people have sent you here as a grand jury, under the Constitution of the United States, and it is your duty to present that corruption. Do your duty, if others do not.

Mr. STANTON. One thing at a time.

Mr. HUGHES. And one election at a time; and when you are beaten, try again. Begin in time, and manufacture capital enough for the next canvass. When a Republican House of Representatives was in session here, a national convention of that party met and gravely arraigned a Democratic Administration on charges of murder, arson, and divers other offenses. Many gentlemen who occupied seats upon this floor at that time, were members of that convention, and presented that indictment to the people of the United States in their party platform, and had the Democratic Administration tried on it. The verdict was "not guilty," as they well knew it would be. Not one of those sworn Representatives dared stand up in his place upon this floor and make the charge of complicity with murder or arson against any public functionary who could be reached by process of impeachment from this House. I say, in regard to all these things, "evil be to him that evil thinks." It is not the first man that cries out corruption who is the purest.

I desire to be understood distinctly as assailing the motives and integrity of no man on this floor or elsewhere. I have no design of that kind, and merely repel what I deem an unfounded and unnecessary charge—a charge calculated to have a prejudicial effect upon measures before us for legislative action.

I shall give my support, sir, first, to the Senate bill; second, to the bill of the House, as reported from the Committee for the District of Columbia; and, if neither of these be adopted, then to the amendment offered by the gentleman from Ohio, [Mr. LEITER.] Under no circumstances shall I

vote for, and I hope the House will never pass, such a proposition as the amendment of the gentleman from New York, [Mr. DODD.]

Mr. THOMPSON obtained the floor.

Mr. BURNETT. If the gentleman yields I will move that the committee do now rise.

Mr. REAGAN. If the gentleman from New York does not desire to speak this evening, I hope he will allow me the floor for a few minutes.

Mr. THOMPSON. If I can have the floor in the morning I have no objection.

The CHAIRMAN. By unanimous consent the gentleman can retain his right to the floor, and let the gentleman from Texas proceed this evening.

There was no objection.

Mr. REAGAN. It is my purpose, Mr. Chairman, to vote against the bill now under consideration in all its forms; and as the principles of the bill in some form have received the sanction of nearly all the other branches of the National Legislature, and as the discussion in this committee, and especially on the Republican side of the House, has had a tendency towards making it a party question here, I desire to make a few remarks.

A few days ago, Mr. Chairman, I, with a number of other gentlemen, was read out of the Democratic party.

Mr. FLORENCE. Well, you got back safe this morning.

Mr. REAGAN. I was going to say that I apprehend it will require the Washington Union to read me out of the Democratic party once, at least, in three days, to keep me out of it. I am going to vote on this measure as I did on the deficiency bill, upon my judgment and my convictions. I tried to get an opportunity to state the reasons why I would vote against the deficiency bill, but under the rules of the House I could not do so. I shall, however, if I get an opportunity, hereafter state those reasons, in order that that paper which professes to be the organ of the Democratic party, may not, on false statements, manufactured by itself, send the intelligence to my people, that I am out of the Democratic party. I understand that as this bill is a special order, in committee, I cannot do so now. I must seek an opportunity hereafter.

As I am read out of the party because I would not give my sanction to the voting of a gratuity of \$72,000 to certain officers of this House, for services for which they were paid, and as my view of this question is, that it is but another of the list of plunder measures, I suppose I will be in danger, if I refuse again to vote away money uselessly to pension the lobby members and loafers in the House and in the city of Washington, of being again read out of the Democratic party.

Besides my unwillingness to be read out of the Democratic party, I have some objections in principle, which, to my mind, are insuperable obstacles in the way of voting for this bill. We, sir, recognize in the American theory of Government that the people are capable of self-government. This bill, in principle, denies the fact that the people of the city of Washington are capable of self-government. The people of this city have their charter; it is an incorporated city; it has its judges; it has its magistrates; it has its constables; it has its city police; it has its body of laws. Why then, sir, is not life and property secure here? The reason has perhaps been given by some members on this floor, as existing in the worthlessness, corruption, and inefficiency of the magistracy of the city of Washington. I need not be told they are Democratic justices of the peace, or that they are Republican justices of the peace, or that it is Democratic law, or Republican law, under which the city is governed; I know of no such distinctions in law.

If another reason is desired why life and property are insecure in this city, let any gentleman start from this Capitol, and walk the length of Pennsylvania avenue, and ask the peaceable and law-abiding citizens of this city why life and property are insecure, and they will tell you that, if a citizen is knocked down, or if he is stabbed, or if he is shot, by one of these States-hose gentlemen, or one of the Plug Uglies, who ruled Baltimore till they got tired, and then came to Washington to rule it, the offender may perhaps be taken up, and perhaps not. He may be taken before one of these magistrates, and there, as is asserted, he gives straw-bail, as it is called, and

goes at large. The individual is wronged and injured; the community is wronged and injured. The officer has violated his duty and the law by not enforcing the law. And now, since the courts of the corporation have become so inefficient and corrupt as no longer to afford security to life and property, the people come here to the Congress of this nation, and ask us to appropriate \$100,000 to create an auxiliary police force to give security to the city. That will have for effect to pension over one hundred more hungry office-seekers, and make that many more leeches to suck the life-blood of the Government. And, sir, when this is done, will the administration of the law be more pure? Will life be more secure? Will property be better protected? These questions may be well asked. I apprehend that the effect of it will only be adding to that corruption which is now witnessed. The accumulation of offices, and the extravagant expenditure of the public money, are the bane of the city of Washington.

Sir, while I do not desire to reflect on any one, it cannot well escape the attention of members that there are a great many men from different States of the Union residing in the city of Washington, who have not the honesty and industry to labor for a living, who have not the skill to obtain a living in some honorable profession; but who come here to ask for public employment. I do not mean by that to say that all who come here for offices are of that description of men. Many of them are not obnoxious to this charge. But the remark that many persons were obnoxious to it, I hold will be regarded as true by most persons who have witnessed how things are conducted here. And these men—more than one hundred of them—are now to be pensioned upon the public Treasury, if this bill is to become a law, and that, too, in violation of the great fundamental principle in our theory of government—that the people are capable of self-government. Here, sir, as I said before, you have your city magistracy, its officers, and corporation, the President of the United States, the heads of Departments, with an army of officers around them; you have your navy-yard, its officers and men, the arsenal, the Smithsonian Institution, the observatory, the laborers upon the public grounds; in fact, you have a city of offices and officeholders, under the protection of the Government—under the protection of the city; and yet you come here with a bill to pension more than a hundred leeches, who desire to be fed by the public.

Now, sir, the day this Congress passes an act to protect the lives and property of the people of this city, you declare, in substance, that the people of Washington are no longer capable of self-government. Is not that true?

Mr. HUGHES. I desire to ask the gentleman whether, under the provisions of the Constitution of the United States, which confers upon Congress exclusive legislative power over this District, the people are not governing themselves according to the Constitution when Congress passes the law? Is there any other way for them to govern themselves?

Mr. REAGAN. I do not deny the constitutional authority of Congress to pass this bill. It is with me but a question of expediency. Congress has, by the Constitution, the exclusive right to legislate for this city. It has done what seems to me right under our system of government, in giving this city a charter to enable it to govern itself. And I here remark, that whenever the Government, independently of the means furnished by the city for its own protection, attempts by the expenditure of public money to protect the lives and property of the people of the city of Washington, it commits an anomalous act, for which there is no parallel found in any State of the Union. It has not been long since we heard of murders, arsons, and outrages in the cities of Baltimore, Louisville, and New Orleans, and a little further back, in Cincinnati, and many other places. Did the Legislatures of those respective States think of providing, at the expense of the State, a police to keep in due order the citizens of either of those cities? Never; and simply for the reason that the Legislature had done all that duty required them to do; had done all that was consistent with the principle of self-government when they granted charters to those cities, and authorized them to govern themselves.

It seems to me it is all that it is the duty of Con-

gress to do in this case to give to the city such liberal legislation as will enable the people to govern themselves. If they have become so sunk in corruption, so lost to all pride of character as American citizens, as not to be capable of self-government, let them move out into the country, where the people are capable of self-government. They are not bound to stay here. The prime object of this bill—and I mean no imputation upon any member of the committee or of the House—is not to secure protection here. The prime object is to secure the expenditure of public money. I believe, though we now call it an auxiliary police force for the city of Washington, a year or two hence it will be a police bureau, and the next a police department; and that, instead of appropriating \$100,000, as now proposed, Congress will, to benefit its partisans, appropriate hundreds of thousands of dollars a few years hence.

Mr. HUGHES. I desire very much to remove the gentleman's objection, and I will state that this measure has not been petitioned for by the people of Washington; that the bill of the Senate originated in a resolution of the Senate, and the bill of the House in a resolution of the House. If there is any desire to plunder, that desire must originate in one or the other branch of Congress, and not with the people of Washington.

Mr. REAGAN. I am not aware that any formal petition has been made by the citizens of Washington to either the Senate or the House of Representatives, but I venture this statement: if you go among loafers of Washington city, or among those who want public employment, every one of them in the city who thinks he can get to be a policeman, is an earnest advocate of this bill; that all the lobby members of this House who expect to be chief of police or lieutenants, are anxious for the passage of this bill. I conceive that the people of this city, good people, too, honest people who have property here, desire protection, and if Congress will protect them in this way they will not object. They will, of course, get all the money they can. They would rather Congress should defray the expenses of their police out of the money of the people of the United States, than to pay for their own self-government. And that is one of the great objections to this bill. Why tax the people of the State of Texas and of Maine to pay the expenses of the police regulations of the city of Washington? Where is the justice of this? Why do this at the expense of the great principle of self-government, by virtually declaring that this people are no longer capable of self-government? They are perhaps willing to submit to the degradation in order to get the money, but they cannot sell themselves to me in that way.

Mr. GOODE. The gentleman was understood to say that the chief and primary object of this bill was the expenditure of money.

Mr. REAGAN. I think it probable that I made use of some such expression; but I did not mean—

Mr. GOODE. I wish the gentleman to designate the particular gentleman to whom he intends to apply the remark.

Mr. REAGAN. If the gentleman will wait, I will make such an explanation as will be satisfactory. I may not have qualified my remark as I ought. I did not intend to impute to the honorable chairman of the Committee for the District of Columbia, nor to any member of the committee, nor to any member of the House who may vote for this bill, any such motive of action. I meant to say that the great outdoor pressure originates in that motive. I believe it. I may be mistaken; but I am quite sure I am not wholly mistaken.

I believe I have stated all the grounds of objection to this bill that I intended to state; and I hope I shall not be read out of the Democratic party for voting against this reckless expenditure of money—for I presume the bill will pass here as it did in the Senate—as I was read out for voting against the deficiency bill.

Mr. JOHN COCHRANE. Mr. Chairman, I had not intended to address the committee on this bill—

Mr. PEYTON. Will the gentleman yield for a motion that the committee rise?

Mr. JOHN COCHRANE. I am willing to go on now. I believe that the committee is willing to hear me, and the quicker we dispatch this discussion, I think, the better. It is strictly a busi-

ness discussion. I had not intended to submit any remarks to the committee upon this bill, but the debate has taken such a wide range, that I think it essential, in reference to the objects we have in view, that the attention of members should be recalled to the proposition which we have under consideration.

The simple question is this: whether a police shall be instituted for the city of Washington? In order to arrive at a correct conclusion upon this inquiry, the first question which presents itself, and which must be primarily decided by us is, whether there is any necessity for a police. Now, the office of a police is concededly that of the conservation of life and of property, and thus we at once approach this inquiry, whether property here is unsafe, or life is imperiled. The property around us is in danger at all times from plunderers and marauders. There is not, and never can be anywhere in society, safety for real property, or for chattels, so long as there are riches to be acquired, and poverty to be suffered. It is, therefore, sir, a subject not admitting of argument, that property is in need of conservation. Until you shall have removed Washington to the wilderness, or until you shall have established this Government elsewhere than here, and beyond the pale of civilized society, the property, whether of the United States or the property of individuals, whether personal or real, must, and should be, conserved. That is the answer to the first inquiry. It is not for me, nor for any other man, at this hour, or at this period of the session, to stand hesitating upon a question whether life is imperiled. Sir, can it be denied that on yonder avenue men, in the broad light of day, have been struck down by murderous arms? Can it be denied that force and violence have been applied here within these walls, and elsewhere without, to the peaceful citizen, clothed in the full panoply of law, and acting whether as lawmaker or law administrator? Can there be a question that morals are at present at serious discount? Can it be denied that as often as night descends, riot and contention arise? Who is there that taking his solitary walk by day through these streets does not depend upon his way-side companion, or his secret weapon, for protection? Who is there that can deny that wherever he takes his way under darkness, it is with trepidation lest before his return the murderer and assassin's arm shall be raised against him?

But, sir, it is not for us to stand discussing now whether a police is necessary for the city of Washington. Why, the very fact that a police has before this been formed, and that a police has had an anterior existence, is evidence to us all that a police is required; and that there have been these dangers, these violations of rights, this peril of limb and of life—all, all, is evidence that that police is defective and inefficient; and it devolves upon somebody somewhere to supply its weakness and to relieve its defects. And who is to grant this supply, or to administer to this relief, if it be not those who are the law-makers, not only of the people of the Union, but the especial law-makers for the people of this District? Why, sir, is it not folly to say, that because gentlemen called here from abroad produce these disturbances, therefore the law-makers should not act? Is it not folly to proclaim that because, forsooth, patronage may be created by the institution of a police force, therefore life and property should continue to be unsafe? There is no answer in that statement to the necessity to which I have alluded; it furnishes no argument why those who wield the assassin's dagger should not be restrained.

Sir, I listened with a great deal of interest to the gentleman from Mississippi, [Mr. QUITMAN,] when he appealed rather to moral forces for protection than to physical efforts. Sir, it is violence that we encounter; and violence accompanied by, and arising from, depravity of heart, can only be restrained by violence. They are kindred motive powers. He who would deal with a madman must restrain him by confinement; he who would restrain the arm of the assassin must restrain it by physical force. What lesson that you could teach would restrain the dagger dripping with blood, or would compel the murderer from his mad career? What answer could you give to those who are suffering beyond these walls in ever-recurring peril, if you should vainly endeavor to annul the highwayman's "stand and deliver" by

moral rather than by physical force? It seems to me that my friend must be mistaken; and that the question which is now presented can be decided only as it has always been decided, whether in barbarous or civilized countries, by the resistance of force by force; by the restraint of the powerful over those who are less powerful but more depraved; by a resort to that self-protecting element of society, against the seeds of dissolution and decay with which it is deeply implanted.

Mr. QUITMAN. I think the honorable gentleman alludes to a part of my remarks.

Mr. JOHN COCHRANE. I do.

Mr. QUITMAN. I think he has misunderstood me. I did not intend, in speaking of moral influences, to say that I would dissuade the malefactor from the commission of crime. I intended simply to say that this mere additional military force or forces of any kind would not necessarily correct the evil; that it must be corrected by other means than a mere addition of brute force. Is there any reason to hope that a mere addition of physical force to the police would make that police more effective? There has not, I believe, occurred a single instance of violence in which a resort to physical force has been necessary to prevent it. The assassin strikes down in the dark, and from a covert. Half a dozen, or three men present would protect a man against them. It is not the want of physical protection, for the presence of one man would afford protection. It is to get men, as officers, who have intelligence, activity, and courage to investigate offenses, and bring criminals to justice. In London and Paris, and in the gentleman's own city, a crime can hardly be committed without the police being able to trace it up, and bring the offender to justice. There is no combination of men necessary to arrest an offender. My whole argument, I submit, was intended to show that we ought to direct our minds and intellects to the correction of the evil, not merely by an addition to the police force.

Mr. JOHN COCHRANE. I agree in the main with my friend from Mississippi, in the position he has taken, and I assent to the proposition which he has made, that it would be better to prevent crime than, when committed, to cast about for the method of suppressing it. That certainly is a proposition which admits of no doubt, and I am not here for the purpose of arguing against it. If the mind and the morals of a community were in a normal state, there would be no necessity for physical restraint, there would be no necessity for correction; for the mind and the morals of the community would in such case have proceeded in that direction, where relief from the necessity of a supervising police would necessarily ensue. But where the public mind is not in that healthy condition, where morals are defective and depraved, and wherever a community exists under the sanctions and influences which usually prevail in the organization of modern society, we know full well that crime is engendered. Where evils of this sort have an existence, it is plain that a force must be created competent to separate the criminal from the offense. It is simply, as I said before, the opposition of one force to another force. I would prefer, everybody would prefer, that preventives should be employed that would relieve us of the necessity of the correction of crime. This I believe to be a fair statement of the difference between the gentleman and myself.

Sir, there are two considerations which present themselves in respect to this bill. I should say here that, as the bill and amendments stand, I cannot vote for them. They have serious and important defects. I do not think that they are incurable, but, on the contrary, believe that they may be remedied by two or three amendments. And it is because I think that their defects can be remedied, and a bill be formed which will receive the vote of the House, that I have risen to my feet on this occasion, for the purpose of presenting a few practical remarks.

In the first place, I think, in order to make a police force efficient, the appointing power should be deprived of all patronage. Not, sir, that I am so foolish as to suppose that patronage is not a necessary incident to appointment; but the power of appointment, instead of being concentrated, should be as divergent as possible, divided among many; and the many should result in turn from as many separate and diverging sources again.

Not that I would have them referable to the action of the elective franchise, for in that case you would create a force constituted by those very persons whom they are raised to restrain. For instance: an election is to occur here to-morrow for a board of police commissioners. Who are they that are to be marshaled to the polls? You all answer that they are respectable citizens, and they will be divided by party demarkation into Democrats and Republicans—perhaps equally divided. Who, then, are they who will hold the balance of power? Why, sir, the very individuals whom it is intended this police force shall restrain. Perhaps associations similar to the *Plug Uglys*, *Rip Raps*, or *Dead Rabbits*, will be there to control the polls either by securely possessing themselves of them, or by excluding those from them who would have a more legitimate presence there. Can gentlemen claim that those returned by the ballots of such men are those who ought to be put in power as a police? By no means.

But I am answered on the other side, if you do not elect your police commissioners, but refer them to the appointing power of the President, that these who are appointed will necessarily be party men; and if party men, by an equal necessity your police will be political partisans. Has it never occurred to gentlemen that if they are party men who are appointed by individuals to office, how much more must they be party men who are the elected candidates of a party? In the one case the party connection is remote; in the other it is direct. Who has ever heard of a candidate of the Republican or Democratic party, when elected for a specific purpose, abandoning that purpose and betraying his party? And if a candidate for the office of police commissioner be elected either as a Republican or as a Democrat, is it for one instant to be supposed that he will not act in favor of the party which elects him, strictly as a party man? and that he will not compose a police force of entirely political partisans? Sir, it is thus that you will encounter the very objection it is sought to avoid. You will thus have your police force a force of political partisans, and consequently useless to the community because destitute of its confidence.

As I said a few moments ago, I think it would be injudicious to leave the appointment to one man, although I am very free to say, and I think the judgment of gentlemen will concur with mine in this respect, that in large cities the power of the people becomes less potent for self protection, and the power of the one man more essentially required. This, I say, not that we should degenerate into despotism or tyranny, not that we should invoke the powers of a dictator for the conservation of the State or the body-politic, but it is clear that in all places where crime congregates, where property is accumulated, which provokes with temptation the bad impulses and the evil passions of our nature, those passions and impulses, with all their deleterious train, should be restrained by actual force; and that force which is fraught with the greatest power and concentrated with the most vigor, is the force most effectually restraining the infamous and the abandoned. But one gentleman has proclaimed that popular sovereignty is thus violated. I point him to his theory, and ask whether the truth which is applicable to Kansas has any appreciable presence here? The one is for the conservation of the realty, and of the personality not only, but of the lives of our fellow-citizens. The other is the great engine by which the polity of a people is established in their government by themselves.

Now, sir, in regard to this bill I have but a few words more to say, and for the simple reason that there is not much argument to be made upon it. It is a question of sheer, simple, practical import—such a question as every man, woman, and child, who has felt the impression of violence, can judge of unassisted. In the first place, this bill proposes (and I identify the original bill of the Senate with the amendment introduced by the gentleman from Virginia) that the chief shall be appointed by the President of the United States. I see no possible objection to this provision. The President of the United States, the Chief Magistrate of the nation! If there be any sanction in place—if there be any pride of position—any respectability attached to official station, they all attach there. Gentlemen say that the appointments may be of a partisan character. And so will every

appointment be partisan that can be made, now or hereafter; and so have been all appointments, from the time of Adam to the present—whether you refer the partisanship to politics, to personal favoritism, or to any other source. You cannot strip the human mind of its bias. If it is to decide, it must decide upon reason; and all our reason, Mr. Chairman, is more or less influenced by our affections, our prejudices, or our passions. Were it otherwise, we should all agree. It is because we are human and infirm, and subject to the sway of conflicting emotions, that we differ where reason otherwise would make us of one accord. And so I cannot conceive that there is any good reason why the appointment of the chief of police should not be submitted to the hands of the chief officer of the Republic.

But, the chief having been selected, I demur entirely to the appointment by that chief of the officers and men who are to constitute that police force. Why, if you appoint a chief, whose duty it shall be to organize or make effective the men, and if you give to him the power of appointment or dismissal at his own will, without let or hindrance, except the sanction of the Secretary of the Interior, your police, before organization, will be degenerate. None will apply for enrollment but those who, in vulgar but expressive phrase, have axes to grind; and none will be appointed save those who will fully constitute a body-guard for the chief, and not a police for the city. The principle is altogether wrong. It has been found to work badly in practice. It has never been so in the city of New York, where thousands of policemen throng the streets and thread the ways, and guard the lives and property of her citizens. There the chief of police is but the chief servant of the public; he is the visible head, the organizer, the manipulator; but the superior power is vested in a board of police commissioners. And so should it be here. A board of police commissioners should be constituted of individuals different from any of those contemplated in the first section of the bill.

Mr. GOODE. I desire to call the attention of the gentleman from New York to the fact that he identifies, in this matter of appointment, the two bills—that passed by the Senate, and that which I had the honor to present as a substitute. The Senate bill gives the appointment of the captains and lieutenants to the chief, with the concurrence of the Senate. The bill which I have submitted deprives the chief of all power over the appointment of the captains and lieutenants, but gives him the appointment of the men. The Secretary of the Interior alone is authorized under the statute to appoint the captains and lieutenants, and the chief alone has the appointment of the men.

Mr. JOHN COCHRANE. I understand the position of the gentleman from Virginia, and also the various provisions of the different bills before us; but in order to be sure, and in order that my remarks may not be subject to any mistake, I will read that part of the bill which I deem objectionable:

"The chief of the auxiliary guard shall be appointed by the President, by and with the advice and consent of the Senate; and the captains, lieutenants, and men shall be appointed by the chief, with the approval of the Secretary of the Interior, and may be dismissed by the chief at his pleasure, or upon the order of the said Secretary."

Mr. GOODE. That is the bill of the Senate.

Mr. JOHN COCHRANE. I have already enlarged on the reasons why this power of appointment should be taken from an individual, and especially from the chief; and the same reasons are applicable to the appointment and dismissal of the men. In reference more particularly to the last consideration, I will state, briefly, my points of objection. The person selected should be, with proper behavior on his part, secure of his position for life. If he is not, the sanctions with which he is clothed are improper and unworthy; and the moment they assume that character the confidence of the public will be justly withheld from him. He no longer then is a worthy member of the body, which, to be efficient, must possess the confidence of the public. Nor should he be dismissed at the chief's pleasure. By such a law you would make the chief an autocrat of the police; and by virtue of that one provision the city of Washington would, at any and every moment, be at the mercy of a chief of police, and not under the protection of the police itself; and, my word for it, that in six months from the day when such a

law would take effect, the police would be as much worse than those whom it is intended to restrain, as they are worse than the respectable gentlemen who are seated here in their chairs.

Another objection to the act occurs in the same section of the bill. It is this: that this police force shall serve during the night, and in the day time when specially ordered to do so. The thought that a chief appointed by the President of the United States, and having, at his call and command men to go and come, and clothed with all the power of an autocrat, is to have it also within his power to say when and where these policemen shall serve, is an unreasonable thought, and should be rejected.

Mr. HUGHES. Upon that point, I would suggest to the gentleman that this chief of police will be employed as a Federal officer; and, according to usage and established custom, the President, by implication, will have the power of removing him.

Mr. JOHN COCHRANE. The bill proceeds:—"to serve during the night, and in the daytime when specially ordered to do so."

Now, sir, in my opinion this is entirely too great a latitude to confer upon any individual, and especially upon a chief who is to receive his appointment in the manner designated. These policemen should be obliged to attend at all times. They are created for that purpose, and they should serve, not only during the night and in the day, but during every day, and every night, during all hours. Why, sir, if their service during the day or night is to depend upon the special direction of the chief, I do not know but that peaceful citizens who go to bed at night, before morning may, in the words of honest Dogberry, "be condemned to everlasting redemption."

There is another section to which I will refer briefly, and having spoken to that I shall have concluded all the remarks I deem it important to make upon this question. The gentleman from Virginia [Mr. GOODE] introduced a last section in which he proposes to clothe the chief with judicial powers. Now, sir, when this chief is selected, he should be selected with reference to his energy of character, his administrative powers, his ability to control men, and his general activity. Those are qualities rarely consulted in the selection of an officer to preside on the bench. You look here for reflection, knowledge, judgment, and a familiarity with criminal law. None of these are essential to a chief of police. And none of the qualities necessary for a chief of police are essential to the successful discharge of the judicial functions. I should say, therefore, that it would be exceedingly unwise to constitute such a court in such a manner. It may be necessary that such a court should be established; but to make a chief of police its judge would be, in my judgment, simply preposterous.

Therefore is it, and for these reasons, that I have determined unfavorably, so far as my vote is concerned, to the bill as it is presented; but my vote shall be given for the great principle of the bill, if the bill shall be made to conform to my views of propriety.

I will, in order to make it thus conform, offer, at the proper time, certain amendments. These amendments I propose to read as a part of my speech; and that gentlemen may be timely advised of their import, I propose to strike from the first section the words "when specially ordered to do so," and also the words "and the captains, lieutenants, and men, shall be appointed by the chief, with the approval of the Secretary of the Interior, and may be dismissed by the chief at his pleasure, or upon the order of the said Secretary," and to insert in lieu thereof the following:

And the captains, lieutenants, and men shall be appointed by a board of commissioners, hereby created and established for the purposes herein named, to consist of the Mayor of the city of Washington, the district attorney of the District of Columbia, and the marshal of the said District, and may be dismissed by said commissioners, but only for cause shown, on due notice, to the delinquent; and after trial before them, such proceedings and dismissal to be subject nevertheless to the review and approval of the Secretary of the Interior.

When you shall have adopted an amendment of that description, and have made the third section conform to this language—

That the board of commissioners hereinbefore named are hereby authorized and required to make and establish rules and regulations for the government of said guard, subject to the approval of the Secretary of the Interior—

and when you shall have divorced the chief of police from the judicial tribunal contemplated by the bill, I think you will have placed the bill in a shape that will meet the approbation of a majority of the House.

Mr. GILMAN. I have but a few words to say in regard to the subject before the House.

Mr. KELLY. Will the gentleman give way to a motion that the committee rise?

Mr. GILMAN. I will detain the committee but a few moments. Mr. Chairman, I have listened with very great interest to this discussion, and notwithstanding the sagacious remarks that have been made in the committee in relation to this bill; notwithstanding we have had arguments upon the one side and upon the other, still it does seem to me that whatever bill this committee may suggest to the House, and whatever bill the House itself may sanction, in conjunction with the Senate, there is one point which we cannot overlook, and that is, that the condition of society in Washington is but a reflection of the Administration itself. That, sir, is my position, and it is fundamental. Now, the gentleman from New York has spoken here with the sincerity of an honest man. I agree with him heartily and sincerely in the general tone of his remarks. I believe we do demand here in Washington an efficient government; a government that will protect not only property but human life. No man more deeply or more sincerely regrets than I do the condition of things that prevails in this city at the present time.

But, sir, I have several questions to put to the gentleman from New York. I want to know how the Administration can sustain fraud in Kansas and a well-regulated government in Washington? And I have another question to put to the gentleman. How can the President, who has exhausted all his energy, and all the energy of his friends, who has employed all his associates and cohorts to impose upon this House and the country a gigantic fraud unparalleled in the history of civilized or uncivilized nations, be a suitable person to promote the administration of justice in the capital of the United States? Now, sir, I do not speak in a partisan sense. I stand not here in relation to this bill either as a Democrat, a Republican, or as an American.

But, sir, as sure as there is a sun in heaven, as sure as there is a proposition self-evident in mathematics or in morals, you cannot have a peaceable condition of things here in the city of Washington, if he who stands at the head of public affairs will sanction and approve a measure which every gentleman upon the floor of this House knows to be a fraud. There, sir, is my opinion of the President of the United States; and I regret, as the Representative of an honorable and intelligent constituency, that I am compelled to make this announcement. I repeat that you cannot have here, in this city, whatever bill you may pass, a good municipal government, unless you have a pure administration of public affairs.

Now, sir, I ask any gentleman upon this floor to look at the appointments which have been made in the Territory of Kansas. The men who are most deeply engaged in the violent and outrageous proceedings there, have been appointed to the highest positions in the Territory, by the President of the United States. And, sir, I desire to know, as a Representative upon this floor, what assurance and what guarantee have we that we shall not have men of similar character elevated to positions of trust and responsibility in the city of Washington? I declare to you, in all honesty and sincerity, that I have no confidence in the President of the United States. That is my opinion, frankly and plainly avowed.

Now, sir, I desire to know how it is that a party calling itself Democratic, can sanction a measure like that which has come from the Senate? But we are at once met with the suggestion, Mr. Chairman, that the existing condition of things overrides all general principles, that the sixty thousand people here in the city of Washington are not competent to administer their own affairs, but need the strong arm of the President of the United States to protect them. Is that Democracy? If the sixty thousand people, with all the advantages and privileges that the Government affords, and with all the associations that surround the Government, are not able to protect themselves, where will you find a people that are able to protect themselves?

But this bill proposes to place \$10,000 in the hands of the President of the United States. The gentleman from New York [Mr. JOHN COCHRANE] will tell you that that is the secret service fund, and that in the administration of the affairs of a city such a fund is essential. Well, if it is essential, in the name of all that is just and honorable and fair, do not put the money in the hands of the highest Executive of the nation. I would rather that my own life, and the life of my associates, should continue to be exposed to danger, than that the President of the United States should hold that money in his hands. If dirty work must be done, let it be done by other hands.

But, sir, I am not going to overlook a general principle, I care not how great the emergency may be. If the population of this city, with all its intelligence, its wealth, and its resources, cannot administer its own affairs, there is something wrong, and let us wait until we have another administration of public affairs; let us place at the head of the Government, not a man who does not embody a spurious Democracy, but a man who embodies the high and noble principles of Washington and Jefferson, and then let us see if we cannot have a different condition of affairs here.

But there is another consideration in relation to this subject, and that is the unlimited exercise of executive power. Look at the condition of things in the country at the present moment. Your Treasury is exhausted; and it has been exhausted by no act of Congress, but by the dictum of the President of the United States. Under a construction of the act of 1820, the President has exhausted, and is exhausting, the Treasury of the United States, without coming to the Commons, to the Representatives of the people, for authority. I listened with pleasure to the remarks made upon that subject by the gentleman from Louisiana, [Mr. TAYLOR,] and other gentlemen upon that side of the House. And, however small a thing it may be to curtail the executive power in the District of Columbia, I would rather suffer personally than tolerate its exercise.

I believe that the amendment which has been offered to the bill by the gentleman from New York, [Mr. DONN,] embodies all that is necessary for the protection of life and property. I say to gentlemen on both sides of the House, let us test the ability of the people to administer their own affairs with a reasonable and fair measure; and, if they prove themselves entirely incompetent to protect life and property, then, perhaps, we may resort to despotism; but let us try everything before we resort to what I deem tantamount to the exercise of despotic power.

The President of the United States may have suggested this very scheme. For aught I know, the gentleman from New York [Mr. JOHN COCHRANE] indicates the opinions of the Executive.

Mr. JOHN COCHRANE. I hope the gentleman will allow me to disclaim all such authority.

Mr. GILMAN. I accept the gentleman's disclaimer, but precedents are dangerous things sometimes; and, sir, it is astonishing with what facility, with what address, with what adroitness, the President can change his tactics from Kansas to the District of Columbia; and, sir, this Democracy, so pure, so unadulterated, and which pretends to represent the will of the people, I am sorry to say, is a Democracy which partakes more of despotism and tyranny than of republicanism and liberty. I am not surprised, sir, after the four years' administration of President Pierce, which was a blot upon the annals of the country, and after the experience we have realized of the present Administration—I am not surprised that a bill containing such provisions should be presented to an American Congress. The same mind that conceived and recommended to us a Leecompton swindle, can with facility sanction this bill, which violates the principles upon which the Government is founded.

By natural reasoning—by a logical inference—we have this bill. Now, what does the gentleman from New York, [Mr. JOHN COCHRANE,] and the other gentlemen who defend this bill say? They say, "are you going to leave property and life exposed in this city?" No, sir, I say; let us, as honorable men, without regard to partisan feelings or partisan emotions, present to the House a bill which will enable the citizens to dispose and direct their own affairs. Let us also recommend to the House a liberal appropriation to sustain the

municipal government. If experience demonstrates that the people are really incompetent to govern themselves by their own officers, then we will resort to more extreme measures.

The gentleman from New York pays a tribute to the President of the United States, and is willing, from personal considerations, to give him this power. Ah! I wish I could agree with the gentleman from New York; but I must say, in all sincerity, that I cannot repose that confidence in the President.

Mr. Chairman, I do not propose to take up this bill in detail. I have simply indicated my views at large in reference to it; but I do sincerely hope that this House—both parties and all parties uniting and cooperating—will not leave this city without establishing a municipal organization that will protect human life and property.

I will say, in conclusion, there is enough to engage the attention, and absorb the time of the President of the United States in the administration of the affairs of twenty-five million people; enough to perplex and annoy him without imposing upon him the task of preserving order in this city. He is the President of the Republic, and not the policeman of Washington.

Mr. THOMPSON obtained the floor, but yielded it to

Mr. BILLINGHURST, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. JONES, of Tennessee, reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the special order, being Senate bill "To establish an auxiliary guard for the protection of public and private property in the city of Washington," and repealing all acts heretofore passed in relation to that subject; and had come to no resolution thereon.

An then, on motion of Mr. BOWIE, (at twenty-five minutes past four o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, April 15, 1858.

Prayer by Rev. J. L. Elliott.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, information in relation to the sale of the military reservation at Fort Crawford; which, on the motion of Mr. HARLAN, was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. BROWN presented the petition of Stephen Krebs, Mary McGehey, and Lucy Lowery, children of Stephen Krebs, a citizen of the Choctaw nation of Indians, praying to be allowed other land in lieu of that to which they were entitled under the treaty with the Choctaw Indians of September 15, 1830; which was referred to the Committee on Indian Affairs.

Mr. GREEN presented a petition of citizens of Scotland county, Missouri, praying for the establishment of a mail route from Memphis, in that county, to Savannah, in Davis county, Iowa; which was referred to the Committee on the Post Office and Post Roads.

Mr. WILSON presented resolutions of the Legislature of Massachusetts, in favor of a scientific survey of the harbor of Boston; which were referred to the Committee on Commerce.

He also presented resolutions of the Legislature of Massachusetts, opposed to the admission of Kansas as a State into the Union, under the Le-compton constitution; which were ordered to lie on the table and be printed.

He also presented resolutions of the Legislature of Massachusetts in relation to the decision of the Supreme Court of the United States in the case of Dred Scott vs. J. F. A. Sandford; which were ordered to lie on the table and be printed.

Mr. GWIN presented the petition of J. W. Sullivan, praying to be remunerated for losses sustained by the repeated failure of the mail between New Orleans and San Francisco; which

was referred to the Committee on the Post Office and Post Roads.

Mr. BRODERICK presented the petition of T. B. Miller, praying to be allowed a pension on account of an injury received while a teamster in the Army of the United States; which was referred to the Committee on Pensions.

Mr. HOUSTON presented the petition of Jaime J. Wingerd, praying to be paid for the services of her late husband, Jacob B. Wingerd, as a temporary clerk in the office of the First Comptroller; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BRODERICK, it was

Ordered, That the petition of Henry L. Goodwin, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

On motion of Mr. HAMLIN, it was

Ordered, That the petition of Noah Miller, on the files of the Senate, be referred to the Committee on Commerce.

NEXT MEETING OF CONGRESS.

Mr. FOOT submitted the following resolution for consideration; which lies over under the rule:

Resolved by the Senate and House of Representatives, That when the two Houses of Congress adjourn on the first Monday of June next, it shall be to meet again on the first Monday in November following.

SUPPLIES OF THE UTAH ARMY.

Mr. FESSENDEN. I offer the following resolution of inquiry, and ask for its immediate consideration:

Resolved, That the Secretary of War be directed to communicate to the Senate a copy of a contract made with Russell, Majors, and Waddell, for furnishing beef cattle, (oxen for the trains,) entered into in March, 1853. Also, to state what contracts, if any, have been made by the Department of War, or under its authority, during the present session of Congress, in connection with the Utah expedition, without public notice.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. STUART. I would suggest to the Senator from Maine to amend his resolution so as to include orders that have been given for the purchase of materials, horses, or cattle, without purchase at public sale.

Mr. FESSENDEN. There is a document communicated which states all the purchases made up to the period when the contract alluded to in the resolution was made.

Mr. STUART. But I allude to orders issued since.

Mr. FESSENDEN. If the Senator will put his amendment in writing, I have no objection to it.

Mr. STUART. It is to add to the resolution:

And also what orders or instructions have been given to the Quartermaster General, or through him, for the purchase of horses, cattle, grain, or other supplies, up to this date, specifying particularly the terms of such orders or instructions.

The amendment was agreed to; and the resolution, as amended, was adopted.

BILL INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 263) granting the right of way over the depot grounds, on the military reserve at Fort Gratiot, in the State of Michigan, for railroad purposes; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

REPORTS FROM COMMITTEES.

Mr. STUART, from the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 213) for the relief of Francis Wlodecki, reported it without amendment.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the petition of Alexander Copeland, submitted a report accompanied by a bill (S. No. 264) confirming to Alexander Copeland title to four hundred and eighty acres of land in Sonoma county, California. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and Militia, reported a bill (S. No. 264) to prevent desertion, and to facilitate the enlistment of soldiers in the Army of the United States; which was read twice by its title.

Mr. BENJAMIN. The Committee on Commerce, to whom was referred the petition of the merchants of New Orleans, praying that a steam

revenue cutter may be built to be stationed in the Gulf of Mexico, has directed me to report adversely to the prayer of the petition. In making this report, I wish to say that I acceded to it reluctantly on the grounds stated in the letter of the Secretary of the Treasury. The financial difficulties in which the Treasury is now involved, afford, in my judgment, a sufficient reason for deferring a recommendation for this change in relation to revenue cutters until we have more means for carrying out the system. The committee ask to be discharged, therefore, from the further consideration of the petition.

The motion was agreed to.

JAMES LAWRENCE.

Mr. STUART. The Committee on Public Lands, to whom was referred the bill from the House of Representatives, (H. R. No. 210) for the relief of the legal representatives or assignees of James Lawrence, have directed me to report it back, and recommend its passage. I call the attention of the Senator from Louisiana to this bill. It is the case of which he spoke to me yesterday.

Mr. BENJAMIN. I hope the Senate will consent to pass that bill now. The object is merely to give the party who memorializes Congress the right to locate certain land. He has already made a location which has been set aside by the Land Office, and the law authorizing the location has expired. This is to give him the right to make a further location, in place of the one set aside.

The Senate proceeded, as in Committee of the Whole, to consider the bill. It authorizes the assignees or legal representatives of James Lawrence, (to whom was issued donation certificate number three hundred and sixty, under the eighth section of the act of 24th of May, 1828, entitled "An act to aid the State of Ohio in extending the Miami canal from Dayton to Lake Erie, and to grant a quantity of land to that State to aid in the construction of the canals authorized by law, and for making donations of land to certain persons in Arkansas Territory,") to relocate the certificate upon any of the public lands in the State of Arkansas, subject to entry at a minimum of not more than \$1.25 per acre.

The bill was reported to the Senate without amendment, ordered to a third reading; read the third time, and passed.

DIPLOMATIC APPROPRIATION BILL.

Mr. HUNTER. I move to postpone all prior orders, for the purpose of taking up the diplomatic and consular appropriation bill, which has been ordered to its third reading. I do not think it can take long.

The motion was agreed to; and the bill (H. R. No. 6) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1859, was read a third time and passed.

WASHINGTON MONUMENT.

Mr. BROWN. I desire to call up the bill, (S. No. 152,) being a bill to incorporate the Washington National Monument Society. I will state, in a word, that it came up in its order the other day, but there were some amendments which had not been quite prepared in committee. They are now ready, and I suppose it will take only three or four minutes to dispose of the bill. It is very desirable that it should pass now, so that it may get through Congress at this session, to the end that the corporations may go on during the summer and prosecute the work. If it is delayed they cannot do it.

The motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill.

For the purpose of completing the erection, now in progress, of "a great national monument to the memory of Washington, at the seat of the Federal Government," Winfield Scott, Walter Jones, John J. Abert, James Kearney, Thomas Carberry, Peter Force, William A. Bradley, Philip R. Fendall, Walter Lenox, Matthew F. Maury, and Thomas Blagden, (being the survivors of the persons mentioned in a certain grant, bearing date on the 12th of April, 1848, by James K. Polk, then President of the United States, in virtue of a joint resolution of Congress, approved on the 31st of January, in the same year, of an authority to erect a monument to the memory of George Washington, on reservation numbered three, in the city of Washington,) and also Archibald Henderson,

Jonathan B. H. Smith, William W. Seaton, Eli-sha Whittlesey, Benjamin Ogle Tayloe, and John Carroll Brent, and their successors, to be elected in the manner directed in the bill, are to be a corporation and body-politic, by the name and style of "The Washington National Monument Society." The easement, and all the rights and privileges conveyed in the grant, are to be vested in, and confirmed to, this corporation; and any and all property, and right of property, of any and every kind and description, whether in possession, or in action, or in expectancy, or in possibility, which may at any time before the passing of this act have been acquired by the voluntary association heretofore known by the name of the Washington National Monument Society, or which may hereafter be acquired by this corporation, are to be vested in, and confirmed to, the corporation. It is to be competent for the persons named and described in the bill as constituting the corporation, and their successors, to remove, by a vote of four fifths of them, any of their number; but for any other purpose a quorum of five shall be sufficient for the transaction of business. When any vacancy shall happen in the corporation, from death or resignation, or otherwise, the remaining members are to elect a successor to fill the same, within ten days after the happening of such vacancy; and on failure to fill it within thirty days, the attorney of the United States for the District of Columbia is to proceed against the corporation by a writ of *scire facias*, for a forfeiture of the charter.

Mr. BROWN. I am instructed by the committee to move to amend the bill, in section three, by striking out "for any other purpose a quorum of five shall be sufficient for the transaction of business," and inserting:

For any other act within the legitimate objects of this corporation a quorum of five shall be sufficient for the transaction of business: *Provided*, That notice of all meetings which may not be provided for in the by-laws and ordinances of the corporation, shall be given to all members thereof residing within the District of Columbia.

The amendment was agreed to.

Mr. BROWN. I now propose this amendment: in section four, at the end of line ten, after the clause directing the district attorney to proceed against the corporation for a forfeiture of the charter, in a certain contingency, to insert:

Before the circuit court of the District of Columbia, and the adjudication of that court thereon shall be conclusive; and, should this charter be so adjudged forfeited, the monument, and other improvements and property held under the same, shall be placed by the President of the United States under the care and custody of the Commissioner of Public Buildings, or such other officer of the United States as he shall designate for the time being.

The amendment was agreed to.

Mr. BROWN. I move, in section five, line fifteen, to strike out the words, "or a majority of them;" so as to read, "elect, so soon after the passage of this act as may be convenient, such officers as they may deem proper."

The amendment was agreed to.

Mr. BROWN. I move another amendment; in section five, line seventeen, after the word "regulations," to insert "consonant to the objects of this charter;" so that it will read, "and to make and ordain such constitution, by-laws, ordinances, and regulations consonant to the objects of this charter as they may deem expedient and proper."

The amendment was agreed to.

Mr. BROWN. I have one other amendment; in section five, line twenty-one, to strike out all after the word "President," and insert, "and that the Governors for the time being of the several States of the United States shall be respectively *ex-officio* vice presidents of the said society, corporation, and body-politic; and that all meetings thereof shall be held, and all records and papers thereof kept at the said city of Washington;" so that it will read:

Provided, always, That the President of the United States for the time being, shall be *ex-officio* president, and that the Governors for the time being of the several States of the United States, shall be respectively *ex-officio* vice presidents of the said society, corporation, and body-politic; and that all meetings thereof, shall be held, and all records and papers thereof kept at the said city of Washington.

The amendment was agreed to.

The PRESIDENT *pro tempore*. There is an amendment in section two, line seven, to strike out the words "or in possibility." This is an amendment reported by the committee.

Mr. BROWN. I have no objection to it. I do not think the words mean anything in the connection in which they are, and it is well enough to strike them out.

The PRESIDENT *pro tempore*. Those words are in brackets in the printed bill, and were considered, as reported by the committee, to be stricken out.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time and passed.

COMMITTEE ON PRIVATE LAND CLAIMS.

Mr. BENJAMIN. I ask the unanimous consent of the Senate for the addition of one member to the Committee on Private Land Claims for the remainder of the session, and to dispense with the rules for that purpose. The Senator from Vermont, [Mr. COLLAMER,] who objected to it the other day, has been kind enough to withdraw his objection.

There being no objection, the motion was agreed to; and the President *pro tempore* was authorized to make the appointment.

ISSUING OF LAND PATENTS.

Mr. STUART. I would be glad if the Senate would indulge me by passing a bill which was passed at the last session, simply to authorize the issuing of patents to States to whom land grants have been made for railroad purposes. The law is a title undoubtedly, but it is found necessary to have a patent that can be recorded, in order to satisfy purchasers that there is an actual title to the land. The bill does not contain more than eight or nine lines.

The Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 204) to provide for issuing patents in certain cases where grants of the public lands have been made by Congress.

It provides that, in all cases where any grant of public lands has been made by Congress to any State, for the purpose of aiding the construction of any railroad, canal, or other similar improvement, the State, or its grantees, shall be entitled to receive a patent for all lands so granted, upon producing satisfactory proof to the Secretary of the Interior that the conditions of the grant have been complied with.

The bill was reported by the Committee on Public Lands, with an amendment in line six, to strike out the words "or its grantees," after the word "State."

Mr. TRUMBULL. I should like to inquire why this bill is not made prospective as well as retrospective. Why not say "in all cases where any grant of public lands has been or may hereafter be made?"

Mr. STUART. I have no objection to that. I would state to the Senator that this was a bill referred to the committee, and, being the same one that was passed at the last session, the committee reported it back with this single amendment. The Senator can offer the amendment he suggests. I see no objection to it.

The amendment of the committee was agreed to.

Mr. TRUMBULL. I move to amend the bill by inserting, after the word "been," in the third line, the words "or shall hereafter be."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. KING. The title ought to be amended. I see it alludes only to the past.

Mr. STUART. The words "to the States" should also be inserted.

The title was amended so as to read, "A bill to provide for issuing patents in certain cases where grants of public lands have been or shall be made to the States by Congress."

TELEGRAPH TO UTAH.

Mr. CRITTENDEN. On the question taken yesterday or the day before, to postpone to the 1st of December next, the bill to facilitate communication with the army in Utah, I voted in the affirmative. I did not understand the question at the time. I supposed it was merely to lay the

bill on the table. I move that the vote then taken be reconsidered; and in making this motion I do not desire to be understood as committing myself in favor of the bill.

The PRESIDENT *pro tempore*. Does the Senator ask for the consideration of the motion at this time?

Mr. CRITTENDEN. Yes, sir, intending then to lay the subject on the table for the present.

Mr. SLIDELL. I hope the bill will not be reconsidered now. The Senate is very thin. Many of the gentlemen who voted against the bill are absent. I hope the Senator from Kentucky will agree to postpone his motion.

Mr. CRITTENDEN. I will not insist on it if the gentleman persists in his opposition, but I have no intention of calling it up for action now. It is hoped that the bill may be amended and put in an unobjectionable form.

Mr. SLIDELL. I understood the Senator from Kentucky to say that he wished immediate action on the question of reconsideration.

Mr. CRITTENDEN. I wish merely that it may be reconsidered and the subject laid on the table.

Mr. SLIDELL. I prefer that notice should be given.

The PRESIDENT *pro tempore*. The Senator from Kentucky can enter his motion, and its consideration can be determined hereafter.

Mr. CRITTENDEN. Very well.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

PUBLIC PRINTING.

Mr. JOHNSON, of Arkansas. I gave notice that I should to-day call up the bill regulating the public printing. The Committee on Printing are not prepared to do so to-day, and I give notice now, that on Thursday next it will be called up for consideration.

PROTECTORATE OVER MEXICO.

Mr. HOUSTON. I beg to remark that on next Monday I shall request the Senate, in the morning hour, to take up my resolution on the subject of the protectorate of Mexico, to enable me to render some reasons for it. I hope I shall be indulged by the Senate.

PACIFIC RAILROAD BILL.

Mr. STUART. If the morning business is through, as it is within seven minutes of the time for the consideration of the special order, I move that we now proceed to its consideration.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California, the pending question being on the amendment offered by Mr. POLK to strike out, in section one, lines seven and eight, the words "between the mouths of the Big Sioux and Kansas rivers," and insert:—"or in the western boundary line of the State of Missouri, or of the State of Arkansas, between the Big Sioux river and Fort Smith, on the Arkansas river."

Mr. POLK. Mr. President, in my opinion, we ought not to undertake to build more than one road to the Pacific ocean. In the first place, I do not think we are equal to the task of building more than one road. No one appreciates more highly than I do, the vast resources, the great national power, the energy, and the enterprise and indomitable perseverance of our people. In all these respects, no nation, that "has ever flourished in the tide of time," has excelled us. I believe that on the face of the earth there is not, and there never has been, a people superior to us in all these respects.

But, sir, the enterprise of building a railroad from the valley of the Mississippi to the Pacific is one of stupendous proportions. Its proportions are stupendous in reference to its length; in reference to the difficulties of the route that must be surpassed and overcome; and from the further fact, that it traverses for almost its entire distance a vast region of country uninhabited. Two thousand miles of distance will scarcely cover the length that must be traversed by such a road. Hills must be cut down; valleys must be elevated; mountains must be ascended; and broad rivers and streams must be bridged. It will be the first time

in the history of the world, as I believe, in which such an enterprise has been attempted; that is, an enterprise to run such a line of communication through a region of country so vast as this, and yet almost entirely without population. It will require millions of treasure to build it. It will require the labors of thousands of men, I fear, for many years. It is an enterprise whose gigantic dimensions will task this young Hercules among the nations of the earth to the full extent of his abilities. The Hercules, however, I hope and believe, is equal to the task; but I believe that he is nothing more than equal to it.

In the next place, sir, if we could build more than one road, I think we ought not to do it, as a Government, for I think it is perfectly certain, that even if one road should be built, it would scarcely be a paying investment; that is, for the money that would be expended, the Government would scarcely realize, in the way of interest, a suitable return; for, sir, we know that the best railroads of the country, passing over the most densely populated districts, connecting the largest cities, the most populous cities, the cities most important in commerce and manufactures, do not pay adequately for their cost. The great national importance of the proposed road as a medium of communication between the Atlantic States and the Pacific ocean, I consider to be vast enough, however, in every respect in which it can be viewed, to justify us in sinking, if you please, the amount of money that will be necessary to construct one track; but I think it will hardly justify the building of more than one—especially when we consider the fact that all the great national ends of intercommunication between the two seaboard, intercommunication that shall span the continent, are reached by one road.

Then, sir, I maintain next, that if we build only one road, that road ought to be a central one—central in respect to the States, central in respect to the population of the country, and central in respect to the trade and travel and commerce to be accommodated. It seems to me that the mere statement of that proposition, to any unbiased mind, is enough to amount to a demonstration in its favor. If central, it will, and no other one can, produce the greatest amount of good to the greatest number of the people of the country.

I think that a road from the Pacific which shall meet the valley of the Mississippi between the two points limited in the bill, namely, the mouth of the Big Sioux river on the north, and the mouth of the Kansas river on the south, cannot be central in the respects of which I have just now spoken. The parallel of latitude passing through the mouth of the Big Sioux, will leave entirely south of the line the States of Missouri, Arkansas, Louisiana, Texas, Illinois, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida—twenty-two in all—having an aggregate area, in square miles, of 1,040,926, and a population, according to the census of 1850, of 16,752,662; while there will be, entirely north of the line, only the States of Minnesota, Vermont, Maine, and New Hampshire—four in number—having an area in square miles of 217,283, and a population in 1850, of 1,401,729. This line will intersect the States of Iowa, Wisconsin, Michigan, New York, and Massachusetts, having an area in square miles of 215,881, and a population of 4,987,167. If that parallel of latitude is traced eastwardly until it strikes the Atlantic, it will pass through a part of Canada, and a road on that line will be as near to Montreal and Quebec, as it will be to even Boston or New York. It would be, therefore, as central to Montreal and Quebec, and all the Canadas, as it would be to the cities I have named, and much more central than it would be to Philadelphia and Baltimore, and the other more southern cities on the Atlantic sea-board.

If we take a parallel of latitude passing through the mouth of the Kansas river, it would intersect the States of Missouri, Illinois, Indiana, Ohio, Virginia, Maryland, Delaware, and New Jersey, having an area of 279,474 square miles; and a population, according to the census of 1850, of 7,088,041. It would leave entirely north of it, the States of Massachusetts, Iowa, Minnesota, Wisconsin, Michigan, Maine, Pennsylvania, New York, Connecticut, New Hampshire, Rhode Isl-

and, and Vermont, with an area of 485,144 square miles, and a population, in 1850, of 9,219,019. It would leave entirely south of it, the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Kentucky, Mississippi, Arkansas, Louisiana, and Texas, with an area of 709,472 square miles—about equal to the area of the States entirely north, as well as of the States intersected by it; and thus throwing most of the territory of the States south of that line, that is to say, such a line would be north of centrality, in the sense in which I have defined the word, which undoubtedly is its true sense as applicable to this subject.

Now, sir, San Francisco, if I rightly understand its geographical locality, is in latitude about $37^{\circ} 45'$ North. The mouth of the Kansas river is between 39° and 40° of north latitude, and the mouth of the Big Sioux about $42^{\circ} 40'$; so that in order to reach San Francisco from the mouth of the Kansas you would have to go South, if you were able to go in a right line between the Mississippi valley and the Pacific ocean, about two degrees of latitude, and from the mouth of the Big Sioux, if you were able to go in a right line, about five degrees of latitude. But, sir, we know the fact to be that there is no railroad line which can traverse the country between San Francisco and the other two points that are named, the mouths of Big Sioux and the Kansas rivers, and yet go in a right line; because the Sierra Nevada range of mountains have no passes directly east of San Francisco. They must be passed either far north of San Francisco, or a good many miles south of it. Therefore, as the most practicable pass, in my opinion, is south of San Francisco, in order to get from the mouth of the Kansas river even, (to say nothing of the Big Sioux,) you have not only to make a southing of two degrees in the first instance, and five degrees in the last, in order to come down to the latitude of San Francisco, but you would have to make a southing that would bring you down to about the thirty-fifth parallel, so that you would have a southing of seven degrees in the one case, and of twelve degrees in the other. The distance on the route surveyed on or near the thirty-fifth parallel by Lieutenant Whipple—the Whipple route I will call it—from Fort Smith to the crossing on the Colorado, is one thousand three hundred and ninety-five miles, and from the same point to the east bank of the Rio Grande is one thousand one hundred and thirty-five miles, making a distance of only two hundred and sixty miles between the Rio Grande and the Rio Colorado. If, therefore, you start at the mouth of the Kansas, you have, in order to get on the thirty-fifth parallel, to make a southing of three hundred and fifty miles, being ninety miles more than the entire distance between the Rio Grande and the Colorado, and from the mouth of the Big Sioux a southing of seven and a half degrees, equal to five hundred and twenty miles—just twice as great exactly as the difference between these two rivers on the Whipple route.

Then it is perfectly self-evident, it seems to me, that in order to run a route that shall be central to the States, central to the population, and central to the business, the trade, and commerce of the country, you must start at a point even south of the mouth of the Kansas river. It appears to be generally conceded that for the western terminus of the road, San Francisco is the proper point. Taking San Francisco as the point of termination on the Pacific coast, then, I think, as did the Senator from New York [Mr. SEWARD] yesterday, that if we were at liberty to make such a selection as we would make if there were no extraneous or foreign controlling influences, we should take a point on the Mississippi, or in the valley of the Mississippi, that should be about on the same latitude as San Francisco; and this would require us to go still further south than the mouth of the Kansas. But, sir, as I have already hinted, I now affirm, that, in my judgment, the best route, (and that seems to be the opinion of most other Senators who have expressed themselves on this subject,) the most practicable and most easy route, the best in point of climate and agricultural resources, is the route over or near the thirty-fifth parallel. If that is the best route, we ought to take it; and if we ought to take it, it seems to me an act of folly, almost, to commence at a point three hundred and fifty miles at the shortest, if you take the mouth of the Kansas, and five hun-

dred and twenty if you take the mouth of the Big Sioux, north of what is to be the line you must travel when you traverse the vast distance and almost entire distance between the two termini of the road.

I am convinced, Mr. President, that the route on the thirty-fifth parallel is the best route—first, because it is the most direct. The route on or near the thirty-fifth parallel never ascends north as far as the thirty-sixth parallel until you have crossed the Sierra Nevada range of mountains; and it never bends south as far as the thirty-fourth parallel. More than that, sir, it traverses the valley of the Canadian up to almost its source, a distance of about seven hundred and forty-five miles from Fort Smith. It then passes over the dividing ridge between the Canadian and the Pecos, at Anton-Chico, at a distance of about one hundred miles, and strikes the valley of the Rio Grande. It then goes on in almost a direct line to the Colorado, a distance of only two hundred and sixty miles, as I have already stated. It crosses the dividing ridges between the Canadian and the Pecos, and the latter river and the Canadian, and passes between the Rio Grande and the Rio Colorado over a country that is abundantly supplied with grasses, and with wood, and with water. The line is almost a straight parallel between Fort Smith and the crossing of the Colorado river.

In another respect this line has great advantages. In traversing the entire distance from Fort Smith up the Canadian it goes on the valley of a river. It therefore is very nearly a level. The worst of the route in respect to grades is betwixt the Pecos and the Rio Grande, and then betwixt the Rio Grande and Colorado; but in all that distance there is no grade as heavy as now exists on the Baltimore and Ohio railroad, and there is no tunneling to be done on any part of the line. On the entire line there is not a grade of more than one hundred feet, except for six miles. The average grade of the entire line is only thirty-three and one third feet to the mile, and for about one thousand miles of the course the grade is not more than twenty feet to the mile.

Mr. MASON. What line is that you are now speaking of?

Mr. POLK. This is the route that was surveyed by Lieutenant Whipple.

Judging from the letters which I have seen, published by Lieutenant Beale, who traversed the distance betwixt the Colorado and the Rio Grande on pretty nearly the thirty-fifth parallel, but not entirely on the same route surveyed by Lieutenant Whipple, I should suppose the grades are much lighter. We all recollect what was said in his first letter—that he passed over that road without being compelled to double the teams in his wagons more than once or twice; and he further stated, if I recollect rightly, that in making the ascent to and the descent down from the highest point in the route, it was approached with a degree of gentleness of slope that almost deprived it of the characteristics of a hill.

Besides, I think this route has great advantages in another important respect—in point of the salubrity of its climate. We have the testimony of Lieutenant Whipple on this subject. We know the further fact, that he passed over this route so as to be on the eastern portion during the hottest portion of the summer, and to be on the more westerly portion of it during the winter season; and he says, at the highest point of elevation, according to his measurement, which was seven thousand nine hundred and forty-six feet, about the 18th of November, the maximum at which his thermometer stood was fifty-two degrees, the minimum was twenty-nine and eight tenths degrees, and the mean was forty-six degrees. Between the 27th and 31st of December, he was at the next highest point of elevation, seven thousand four hundred and fifty feet, and then his highest temperature was seventy-one degrees, his lowest twenty-three and five tenths, and his mean forty-seven degrees. Now, if you take St. Louis, at an altitude of four hundred and fifty feet, between the 21st and 23d of December you have a maximum of fifty-seven degrees, a minimum of ten, and a mean of forty-six. If we take the same city on the 18th of November, the date I first mentioned, we have a maximum of seventy-two degrees, a minimum of twenty-seven degrees, and a mean of forty-six and ninety-five one hundredths. I am one of those who think there can be no more favorable

latitude for the running of railroads, in respect to temperature, than the latitude of St. Louis.

But, sir, Lieutenant Beale, as I have said, has lately passed over this route, first in the summer time, in going to the Pacific, and next in the winter time, in returning; and he says, in his report to the War Department:

"As I informed you in my last dispatch, the object of this journey was to satisfy myself fully as to the practicability or impracticability of traveling the contemplated road in midwinter. With this view, I left the Tejon Pass, in the Sierra Nevada, on the 2d of January, and, traveling leisurely, arrived at Albuquerque on the 24th of February, having passed the heart of the winter on the more elevated portion of the road.

"From the Colorado river to Sabedras spring, we found no snow whatever. From the latter point to Sitgreaves mountain, we found it occasionally in patches where it was sheltered by banks and cedar trees from the sun. From Sitgreaves mountain to a small hill lying to the eastward of it, we found snow for the first time so deep as to cover the ground. This continued for a distance of three miles, and was a foot in depth, and sometimes more, on the level. It was the only occasion on which we found the surface of the earth covered.

"Crossing this, which is the highest point over which the road passes, to the Roux spring, we gradually descended to the Little Colorado, finding snow only in small patches, and that rapidly melting away. On the Little Colorado there was none. On February 12, snow fell, but melted almost as soon as it reached the earth; and, although it snowed all night, there was not a trace of it to be seen on the succeeding day. Timber was everywhere so abundant that our camp blazed every night with cheerful fires; and, although I brought tents for the use of the men, they were never used on a single occasion, the men preferring, as well as myself, to lie in the open air.

"The thermometer, of which observations were taken at sundown, at four o'clock in the morning, and at noon, will give you a better idea of the climate than any description; the coldest night we experienced being on the 5th of February, when the thermometer stood at 18° at four o'clock in the morning. Grass we found as abundant as on our previous journey, and neither men nor animals suffered in the least from cold during the journey homeward."

Next, as to wood, water, and grass: the longest distance without grass is not ten miles; the longest distance without wood is not nineteen miles; the longest distance without water is not fifteen miles.

Mr. MASON. What road is that, I would ask the honorable Senator?

Mr. POLK. The route near the thirty-fifth parallel still.

Mr. MASON. On what authority does the honorable Senator make these statements?

Mr. POLK. Lieutenant Whipple.

Mr. MASON. In the railroad report?

Mr. POLK. Yes, sir. Now submit that that is a showing which is more satisfactory, probably, than almost any one had anticipated who had heard the region betwixt the Rio Grande and the Colorado always spoken of as a desert country. We know that that route passes, as I have already said, for upwards of seven hundred miles up the valley of the Canadian; and Lieutenant Whipple tells us, in the report of his survey, that the valley of the Canadian is a more desirable valley than that of the Kansas river. It then goes over to the Pecos. It next, in an almost direct line, and that not a long one, strikes the Rio Grande at or about Albuquerque; and in the neighborhood of that point are the heaviest settlements in New Mexico. It then, going west, penetrates the center of the continent not only by the valleys of the rivers I have named, but it also strikes the Zuni valley, passes through the valley of the Colorado, Chiquito or Flax river, as Lieutenant Whipple calls it, of the San Francisco, and of the Colorado of the West and its tributaries; and thus it passes for a great portion of the way through the valleys of rivers and streams abounding with vegetation of all kinds, grasses, timber, and fuel; and when it is on the elevated region it passes over a country that is supplied with wood and with grass in abundance. It therefore has the most extensive (and more extensive probably than has been generally imagined) region of cultivable land between the two points to be reached, and sufficient to guaranty the confident expectation that if this line of communication shall be opened up, it will not only be an easy but a necessary consequence that there will be a line of settlements extending from the valley of the Mississippi to the Pacific ocean.

Mr. MASON. Will the Senator allow me to make an inquiry of him for a moment?

Mr. POLK. Certainly.

Mr. MASON. I have here a table which I took from the speech recently delivered by the honorable Senator from California, [Mr. Gwin,] and which purports to exhibit the several routes ex-

plored for a railroad from the Mississippi to the Pacific—I presume taken from those railroad reports which have been printed. The routes are eight in number; and, in the appropriate column, there is shown the number of miles of route through land generally uncultivable, arable soil being found in small areas; and the shortest distance of the land thus waste and uncultivable that is given in the tables is eleven hundred and fifty-nine miles, and the longest distance is sixteen hundred and twenty miles. I have not examined—I have not had the means of examining—the six volumes of railroad reports; but I presume, coming from the Senator from California, that this table has been correctly taken; and of the eight routes here given, the shortest, as I have said, shows eleven hundred and fifty-nine miles of waste and desert land. I present this in contrast with the exposition now made by the Senator from Missouri, and which he says is taken from one of the reports of Lieutenant Whipple.

Mr. POLK. I will first allow the Senator from California to repeat what he did state when he made that quotation the other day.

Mr. GWIN. That table was taken from the seventh volume of the Surveys—the last one, which has not yet been printed and bound. It is the official report of engineers, condensed in that table. I stated at the time that I thought their calculations, in this respect, were entirely delusive. I am perfectly confident of that fact. This region that they have set down as not being fit for cultivation, I stated in the few remarks that I made, I believed to contain as fine land as there was on the continent, and I have not a solitary doubt that the engineers were entirely mistaken in their opinion on this point. It is an uninhabited country, and they have asserted a theory in regard to it that I do not think is to be relied upon. I think every fact the Senator from Missouri has stated will be found in the detailed reports and other information.

Mr. POLK. I had prepared, by a good deal of labor, a table—which I did not bring up here, and I am now sorry I did not—showing exactly the amount and length of the cultivable and uncultivable land, according to the opinion of these engineers. But the view I was presenting to the Senate was this: that there was a large proportion of cultivable land on the Whipple route so distributed that the spaces between the regions in which grass, timber, water, and fuel, including both wood and coal, were to be found, were so short that you could go from one to the other over the uncultivable regions without encountering long stretches of country, where you could not get the supplies necessary for a railroad. I believe, as was stated by the Senator from California, that the engineers underrate the fertility of this region. Why, sir, they put down the valley of the Rio Grande as being a barren country, although the analysis of the soil shows that the elements of fertility are there in a degree—I am now speaking from recollection—about equal to the valley of the Mississippi. The only reason that certain districts are put down as barren is, that at certain seasons of the year there is not a sufficient supply of water to maintain abundant vegetation upon them. But, to use the language of Mr. Secretary Davis, in one of his reports, just introduce water into them and the vegetation springs up with a richness and luxuriousness almost unequalled on the face of the globe; and that in regions of country where you can irrigate without much trouble.

The Senator from California stated—I have not myself gone into that calculation, but I have seen, in the reading I have made since the Senate adjourned yesterday, a statement that corroborated what he said—that the water in the Rio Colorado is higher than the surface of most of the valley through which it runs. I have seen, since the Senate adjourned, in one of those railroad reports, that, several miles back of the river, the surface of the ground was lower than the water in the river, at its medium stage. Irrigation, therefore, in such a case, is as easy as could be desired. On that point I have this to say: suppose there are stretches of country where you must traverse long distances without a very abundant supply of those things that make railroading easy and cheap—first, I believe that, on this route, these stretches are shorter than on any other; and next, this matter is important enough, in my opinion, to justify an effort to overcome slight—yes, sir, great

—obstacles, in securing the connection of the Republic on its eastern side with its new portion on the western side of the Rocky Mountain range.

I have already referred to wood for fuel. There is also timber for its construction on many portions of the road. There is timber in the valleys, both of the Arkansas and the Canadian; there is timber on the Rio Grande; there is timber on the Mogollon mountains; there is timber on several of the mountain ranges between the Rio Grande and the Colorado. Timber will have to be carried, it is conceded, in many places, for some distance. Timber has to be carried in many places, where you make a railroad over a dead level, as in the State of Illinois. When you get into a prairie country, or upon the plains that lie at the base of the Rocky Mountains, especially on their east side, you must expect to transport timber for the construction of the road.

Lieutenant Whipple, observes in his report, that the route on the thirty-fifth parallel runs in a region of country where the supply of moisture, that is, the precipitation, as they call it, is greater than it is either directly north or directly south of the line, owing to the peculiar conformation of the country.

We have, then, in these important elements, a country able to supply timber and fuel; and in the Delaware mountains it is ascertained that there is coal; and it is supposed, though it is not stated with entire certainty, because the explorations have not been sufficiently carried out, that there is also coal in many other portions of the belt of country between the Rio Grande and the Rio Colorado. In these important particulars, therefore, the country is adapted to sustain a population; and the fact is, that in making your progress to the Pacific you pass through a population the densest, as I have already said, that there is in New Mexico. In the neighborhood of Albuquerque is a civilized and valuable population; and as you pass on, you traverse regions inhabited by the Pueblo Indians, as at Zuni. You have a population at these points, not because it has been carried there by the enterprise of Americans, but a population, the civilized portion of which has been planted there by Mexico and old Spain, and the semi-civilized portion of it by the missionary labors of the benevolent and Christian missionaries of those countries.

When we have these facts, it seems to me that we have as strong a guarantee as any reasonable, or even doubting man ought to ask, to be assured that, if this line of communication is opened up, you can calculate upon a sufficient strength and frequency of settlement along it, to supply it with all the necessities in order to enable it to work successfully and cheaply. That, I say, is itself no small consideration in favor of the route.

Now, sir, if the route on the thirty-fifth parallel is the proper one, the best one, the question is whether, in making a terminus for the eastern end of the route, we ought not to so provide in the bill that you may have a terminus which shall be as near as possible to this direct route, facile, and at the same time central, to the country; central to the country with reference to its territory; central with reference to its population, its business, and its trade and travel.

I know, Mr. President, that the enterprise of building this railroad is a gigantic and difficult one. I believe that it will tax the energies and the patience and the persevering efforts of this country to a very high degree; perhaps to the very last extreme. I believe that it rises in grandeur far above the pyramids, and transcends in magnitude the Chinese wall. I know it requires the most courageous faith, and even the most ardent hope, to contemplate it as feasible; but, sir, I am one of those who believe that the fullness of time for the completion of the work, or at least for the commencement of it, is upon us. The Democratic party, in its last national convention at Cincinnati, declared in favor of it. The expectation of the people in every part of the Union, North and South, East and West, and especially West—not the expectation merely but the longing and the anxious demands, and I think the just demands, that ought not to be unheeded another moment, of the people of the west side of the Rocky Mountains, require the commencement of this work. I think that the President, sagacious and experienced and patriotic as he is, when he spoke first favorably of this enterprise in his

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, APRIL 16, 1858.

NEW SERIES.....No. 101.

inaugural address, and then recommended it in his last annual message, no more than expressed the desires of the Democratic party and the general expectations of the entire country. I believe that if Congress do not make some provision for commencing this grand enterprise, necessary not merely to the development of the resources of the country and the safety of its people, but necessary almost, as I believe, to the integrity of the Union—if Congress do not take some immediate and earnest and determined steps towards accomplishing it, they will not meet the general expectations of the constituency that sent them here from every part of the country. I will not detain the Senate, sir, by further remarks on this subject. I am anxious rather to vote than to speak upon it.

Mr. MASON. Mr. President, the amendment of the Senator from Missouri, if I understand it right, is to authorize the President in making his contracts, to allow the contractors to begin at a point below the mouth of the Kansas river.

Mr. POLK. As far south as Fort Smith.

Mr. MASON. If this road ever is to be built under the patronage of the General Government, I suspect that it must be done in one of two modes: either by direct appropriations from the Treasury, or upon the credit of the public lands through which the road is to pass. The bill introduced by the honorable Senator from California, and I think followed in the main by those who have offered amendments, provides for both—direct appropriations from the Treasury, and contributions from the public domain. A contribution from the Treasury of \$25,000,000 will be but a beginning, and a very small beginning as far as money goes, but the contribution out of the public domain may or may not be really a productive fund, depending upon the value of the lands that may be granted.

Mr. IVERSON. Will the Senator from Virginia allow me to interrupt him?

Mr. MASON. Certainly.

Mr. IVERSON. The Senator seems to speak of the \$25,000,000 as a contribution. Do I understand by that that he means it is a gift to the road which is to draw after it other concessions of a similar character? If so, that is not the bill.

Mr. MASON. I understand the bill perfectly, if the Senator will allow me.

Mr. IVERSON. Then the Senator ought to represent it properly.

Mr. MASON. I represent it correctly, as I appreciate it. It is a direct appropriation of \$25,000,000 from the Treasury, upon a stipulation that, under certain circumstances, it shall be paid back. The bill speaks for itself, and each gentleman will determine for himself what probability there is, if this sum of \$25,000,000 is paid out, that any portion of it will ever come back. I do not believe a penny will.

I was saying, however, that if the road ever is built from contributions made by the Government, I apprehend that the real substantial contribution at last will be in the public domain; and if it is to be undertaken, I should think, with the honorable Senator from Missouri, as well from the chances to get the road built as from justice to all sections of the country, the largest latitude should be given as to the eastern terminus of the road; because it may be found—I do not believe it will be found, but it may be—that lands lying in one section of the immense territory reaching to the Pacific may be more valuable and more productive than others. If a contractor is allowed to choose the route, other things being equal, he certainly would choose that route where he would find the most valuable lands, whether south or north. I should think, therefore, that full latitude should be given upon the scheme of this bill to locate the road wherever this portion of the public contributions shall be found most available, which will depend upon the character of the country through which it is to pass. So much for that.

This bill has been before us frequently before—not this particular bill, but this measure—and in various shapes. According to my recollection,

when it was first introduced by an honorable Senator from Texas, [Mr. Rusk,] who, all here regret, is no longer with us, it was, as the amendment of the Senator from Georgia [Mr. IVERSON] proposes, upon a direct authority to the President to make a contract for the construction of the road. As it is now presented by the honorable Senator from California, the product, as I understand, of a select committee, it is not an authority to the President to construct the road, but it is an authority to the President to make a contract for carrying the mails and the troops, munitions of war and Government supplies, from the eastern States to California, upon a railroad that has no existence, on the expectation that this contract will be of a character to invite the construction of the road. Who is to construct it? The bill does not say whether it is to be constructed by a private operator, or by an associated company, or by a corporation; but it is intended to invite, upon the bonus held out by the bill, an operator or operators from some quarter to construct the road upon payments to be made in advance by the Government, to be retributed at a future day by the use of the road in the manner provided by the bill.

Now, let us look at it. In the first place, it is the commencement of a new policy on the part of this Government. I recollect very well that, at the inauguration of the great system of railroads that has now been carried into successful execution in that part of the country where railroads are wanted, this was a favorite policy more than once presented to Congress, and the argument was this: "As the Government certainly must use the road when it is made, for the purpose of transporting the mail, and must pay for the use of the road in thus transporting the mail, it is not asking a great deal that the Government should enable us the better to construct the road, or the sooner to construct the road, by advancing the capital which will represent the interest they will pay for the transportation of the mails when the work is done." That argument was advanced more than once and in the most plausible manner. It was never, according to my recollection, yielded; but the roads were made without it—roads extending now for thousands of miles, from the extreme of the eastern States to the extreme of the western States—constructed by capital invited from every quarter where the great source of capital is to be found. Why? Because it was believed the investment would be a profitable one to those who entered into it. The Government did nothing except, I think, in some instances, to give a credit for the duties on the railroad iron that was imported for the purpose of constructing the roads.

But now it is asked that the Government shall take the initiative, and by a system of bounties prescribed in advance, shall invite the labor and the capital of the country to construct this road to the Pacific; and what is to be given? In the first place, in money \$25,000,000, to be advanced as fast as sections of twenty-five miles of the road are completed, to an amount equal to \$12,500 per mile; and the party making the contract, in addition, is to have conveyed to him alternate sections of the public land through which the road shall pass, for its whole length, forty miles wide; that is, twenty miles on each side of the road. Estimating the road at two thousand miles long, which, I believe, is about the average estimate, this would give some twenty-five million six hundred thousand acres of land. This is the bonus that is held out to induce capitalists or contractors to advance their labor or capital in the construction of this road.

I think I understood the honorable Senator from California, who has given to this subject probably more attention than any other gentleman among us, to say in the remarks he submitted the other day, that the average cost of the road—having reference to the various routes contemplated—would be about one hundred million dollars. Well, that is an estimate; but if we can take it as correct and rely upon it, let us see whether any sub-

stantial contractor, either in the form of a private or a corporate company, could be found who would in good faith embark seventy-five million or fifty million dollars with the Government's twenty-five million dollars and twenty-five million acres of land, and take a common risk. There are Senators around me who are much better informed of the experience of the railroads of the country, as far as they have gone, than I profess to be, but still I have some information about it; and I think I hazard little in saying, that of the thousands of miles of roads now constructed in every part of this country, connecting the most important points of the Union, north and south, east and west, and passing through the densest population, and those parts of the United States where the great commercial business of the country is transacted, there are very few making returns for the capital invested in them. I think it has been found as the experience of the country, that the transportation of freight upon railroads is more a source of loss than a source of profit. It has also been found, that whatever may be the travel passing over roads between distant points, a road falls speedily into a state of decrepitude, unless it has resources from what is called the way travel or the travel of the country through which the road passes. In other words, no railroad, no matter through what part of the Union it passes, is found in a prosperous condition unless it passes through a densely-populated country, and is sustained by the way travel.

Then I would ask what inducements, what other than illusory inducements, would be held out to any contractor, *bona fide*, to embark his time, his labor, his capital in copartnership with the Government in the construction of this road, if such is the real experience of the railroads of the country, as far as they have been constructed? I should think very little. Then what would be the result? Why, sir, I must be again allowed to say that, coming from the part of the country from which I come, and accustomed to witness the occupations of the people amongst whom I reside, I have as little knowledge, perhaps less than most Senators around me, of the character and purposes and objects of those who form the great mass of contractors upon public works, the manner in which those works are made, the mode in which persons are invited to bring out capital in aid of their operations, and the results when the capital is brought out and expended; but I think I may say that certainly in every contract with which the Government has anything to do, and to a very great extent in contracts that are under the immediate and exacting supervision of private owners, the result most generally is, that while the contractors are enriched, the capitalists, or those who advance the money, are impoverished. Now, what must be the result, if the Government enters upon this scheme? That it is a *desideratum*, none can doubt; that it would be a matter that would be fraught with great and beneficial results to the country, none can doubt, if we had a railroad in practical operation connecting the Atlantic with the Pacific States.

The honorable Senator from Missouri has said that the West are not only eager and earnest for it, but are almost demanding it. Doubtless they are; and so is California; and that very earnestness and demand will have the effect, if ever we commence the work, almost to compel the Government to go on with it and to finish it. If it be commenced under the auspices of this bill upon a stipulation to advance only \$12,500 per mile, and to give to the contractors alternate sections of land twenty miles wide on each side of the road; hereafter, when it shall be ascertained, as in due time it will necessarily be ascertained, that these advances are utterly inadequate to the construction of the road, and when the credit which may be built up on these public lands shall be exhausted, and the credit of the contractors, whatever it may be, in like manner be exhausted, then this demand will come from the West, and from California, and from other sources, and say: "Well, the Government has not only embarked itself in this enter-

prise, but it has induced others to embark in it; it has induced them to embark in it on expectations which have not been realized; the contractors are ruined; there is a mass of debt unpaid; the work remains unfinished." Every effort will be made, and successful efforts will be made, after the Government begins it, to make the Government end it; and at last, I may say, without claiming to be any prophet, or capable of any other reasoning than reasoning to the future from the past, the result will inevitably be, cost what it may, that if the road is ever made, it will be made by the public Treasury of the country, and carry with it all that immense system of contracts, and of patronage, and of frauds, which must be ever attendant upon a work of this character in the hands of the Government.

At what time is it now projected? At a time when the business of the country is prostrate, when the resources of the Treasury are dried up, and we are borrowing money—\$5,000,000 at a time—to carry on the most economical expenditures of the Government. We have already authorized a loan of \$20,000,000. Five million dollars of it, according to my recollection, have been taken up, and \$5,000,000 more are now advertised for. If we look at the receipts from the customs we find that they are in truth almost dried up by the paralysis of business in the country. At this time, with a Treasury in this condition, the bill proposes that it shall incur a debt at once of \$25,000,000 for the purpose of commencing this Pacific railroad.

I will not say, Mr. President—because if I did I should possibly be laughed at—that I can find no warrant for this project in the Constitution anywhere. The Government is authorized to establish post offices and post roads, and to carry the mails; but it has no further authority on that subject. It is true, as was said by one of the Senators advocating this measure, that if the Government thought it wise and expedient, it might become its own carrier of the mail, but it has never done it; and I suppose it cannot be said it ever was in the contemplation of those who framed the Constitution, or those who have, up to this time, administered it, that the Government had power, under that clause of the Constitution, to build a railroad for the purpose of having the mail carried.

My sincere and thoroughly founded belief is, that if the Government can be induced to touch this scheme with its little finger, it will find itself committed, in all after time, to have the work done, cost what it may—far more if it can be induced to embark in it upon the stipulations contained in any of these bills—to advance money, from time to time, for the construction of the road, and to give the public lands as a source of credit to enable the additional supplies to be obtained. I think, sir, if the bill should be passed into a law, it will be fortunate for the whole community that the great mass of public lands through which the road is to pass are really worthless, and that no credit can be built up upon them; for if a credit could be built up on them proportionate to the demands of the road, we should have acted over again, and in the most exaggerated form, that which we have just passed through, and which is called, I think, in commercial phrase, the great revulsion of the times.

I do not know in what light other Senators have looked at this matter; but I have been most forcibly impressed with the conviction that the revulsion through which we have just passed, and passed to a great extent by actual bankruptcy in wiping off the debt without payment, has resulted from the improvident cessions made of the public lands in the immense northwest country, for the building of speculative railroads. I remember very well to have seen, as doubtless most other gentlemen have, in the condition of things developed during the last twelve months, chiefly in New York, where this credit was acquired, that the great mass of the debt of the country existing at that time and wiped out by actual bankruptcy, arose in the attempt to construct railroads in States not ready for them. The process was a very simple one. The great class of speculators who are to be found everywhere where speculation is to be carried out, made large acquisitions of the public lands—acquisitions that they were enabled to make, getting the lands almost for a song, through that system of bounties instituted in Congress

recently, by giving gratuities to all the soldiers who have served even fourteen days, in any of the wars, bringing down the public lands to the lowest possible value. These were sold in the market, and the bounty lands given to the soldiers were quoted every day at eighty or ninety cents per acre, instead of the minimum price of \$1 25. They were purchased up by speculators located in the Northwest, and then the next step was to project a railroad, which should give their lands value, on the theory that the lands would give value to the railroad. All that was done, or rather the foundation for it laid, through the improvident cessions of the property of the country, in the shape of bounty lands to railroads.

I do not remember the figures; but I do remember this: that in the great debt of the country which has now been wiped out by a shameless bankruptcy, to a vast extent, a great portion of it was found to be connected with northwestern railroads, and the credits built up by them upon the cessions of the public lands. The process, I believe, was somewhat like this: A company was chartered to make the railroad. The State turned over to it the lands ceded by Congress. They went to work; issued the bonds of the company to get the money, and based these bonds upon the credit of the lands; and when the bubble burst, it was found that additional credits had been built up by borrowing money upon the bonds, and it all went "like the baseless fabric of a vision," as soon as the necessities of the times compelled them to look into the actual condition of their affairs.

I say, then, I should consider it fortunate for the whole country, in case a bill of this kind should pass, if it were found that the lands through which the road is to run are worthless, and that no such system of fraudulent credit can be built up on them; and I suspect that such will be found to be the case.

Then let us see how it is. In the table to which I adverted a few minutes ago, which the honorable Senator from California, with that industry and diligence which we all know belong to him, had compiled from these great volumes of railroad surveys, I have found that the average length of the various routes which have been surveyed (or rather explored, for they have not been surveyed) is about two thousand miles. In that distance of two thousand miles, according to the computation of the explorers, there is an average of some one thousand three hundred or one thousand four hundred miles of country, through which the road is to pass, where the lands are reported to be generally uncultivable, arable soil being found in small areas. It is possible that in the remaining six hundred miles, lands may be found which would enable the contractors to build up a credit to some extent in aid of this Government contribution of money; but it would be to a very small extent. Then one of two things must happen, supposing the road to be carried on: either that the road would break down and be stopped for want of means, or, what is far more probable—indeed, I should say, what would be the necessary alternative—that the Government would be called upon, and would find itself in a condition obligatory to shoulder the whole burden, and to make the road at the public expense directly, if it could be made at all.

The honorable Senator from California has estimated the cost at \$100,000,000. I do not claim any right to estimate at all further than from general report and general intelligence. If the road is to be two thousand miles long, the road and the equipment to work it I think might be put with safety nearer two hundred million dollars. Well, after it is done, how is it to be worked? If it is done, either as the property of the contractors, or as the property of the imaginative States to whom it is to be hereafter surrendered, or as the property of the General Government as the residuary legatee of a bankrupt concern, how is it to be worked? If I am correct in my estimate of the experience of the railroads at present in operation, it cannot be worked from any avails to be derived from the road. The road will not contribute money enough to work it. It cannot do it; it will have no way travel; it will have comparatively no travel upon it except those who are passing between the Pacific and the Atlantic termini, and such freight as would be brought over it, amounting to what I do not know. But I know, in looking to the expe-

rience of the roads which have been made, that a road through a country of that character, and of that extent, could not be expected to be able to pay its own expenses. Hence, if it is to be worked at all, it is to be worked at the expense of the Government.

Well, Mr. President, what sort of a Government should we have then? It is very difficult to say what sort of a Government we have now. It is very easy for gentlemen to see the successive departures from the line and theory and the policy of the Government as we received it, but it is very difficult to say what form of government has resulted when all these departures have exercised their necessary influence upon the administration of affairs. But, if we had a railroad two thousand miles long, passing through a country the greater part of the way always to be desolate of population, to be worked at the public expense, I should appeal to honorable Senators who have looked closely and jealously and justly at any extension of the existing patronage of the Government, to see what a fruitful crop would come in from a railroad administered by this Government—a crop more fruitful in patronage and corruption than all the custom-houses and post offices of this broad land. I am free to admit that I can see nothing but that necessary result if the road ever could be made by the Government, and to be administered of necessity by the Government as a bankrupt road—a road dependent upon public expenditure to carry it on.

I said that, according to the table presented by the honorable Senator from California, there were fourteen hundred miles of uncultivated land on the line of this road. The honorable Senator from Missouri says that one of the explorers, Lieutenant Whipple, has traced a southern route, where you would pass very few miles, at any point, without finding wood and water and grass. That is a very different account of the country from what has been given to us, not only by the explorers, but by the philosophers who know the physical causes that are operating upon that country; and who have a theory—and a theory that is carried into fact, by its existing condition—that the greater portion of it can never be otherwise than a desert, simply because the rain never falls upon it, or falls in such small quantities as to preclude the possibility of having a stable population. The nomadic tribes that wander through it, and who have wandered through it for centuries long before our ancestors came here, were necessarily nomadic in their habits, from the impossibility of having a fixed residence. They were like the tribes in the deserts of Arabia. They would go from oasis to oasis. A shower falls in particular regions of the country, and brings up the grass, and the buffaloes go there, and the Indians go after them; and when it is exhausted they go off to another spot, where another shower has fallen and brought up more grass, and to which the buffaloes come. The great mass of the country must remain, from physical causes always to operate, a desert waste, unfit for the habitation of man. Such is its present condition; such, as long as physical causes remain, as they always have, stable in their character, must ever be its condition. And you are to carry this railroad through fourteen hundred miles of such a country, in order that we may at once effect a connection between the Atlantic and the Pacific States.

Mr. President, I can hardly look at the consequence that would follow upon the enactment of this bill into a law. The improvident waste of money would be as nothing, however many hundred millions it might cost; but it is the unsettling, the loosening, the destroying of the fabric of the Government itself that we are to look to. If the Government should embark itself in this system of patronage and expenditure in the loose manner in which all such expenditures must be conducted, it would debauch the morals of this people beyond recovery. It would be the fruitful parent of a hundred more of these schemes which would be devised only for the purpose of plunder, and would lead to nothing but plunder. We have gone far enough already, I should think, in the use that has been made of the public property by the cessions to railroads, under the delusive idea that we were improving the value of the public domain in giving them to these corporations. Now, we are to go this further step under the illusion of making a contract with a company that does not

exist in order to invite such a company into existence, to invite the construction of this road, and to accompany this great cession of the public domain with direct contributions from the Treasury to the amount of \$25,000,000. I confess that I am unable to foresee what its results would be in breaking down the Confederate Government, or in converting it into one of entire consolidation.

I shall deem it my duty, sir, to oppose this bill and every kindred one which contemplates either money or lands from the public Treasury to build a railroad. I have opposed them all heretofore by my vote, and occasionally in debate, even when presented in a far less dangerous form; but if we are to go into this system of legislation, placing the money and the property of the Government in the hands of contractors without security, and without the possibility of getting security, bringing a whole swarm of speculators, and all the speculative minds and speculative interests of the country to the door of the Treasury, we shall certainly never satiate them, and the consequence must be that the Government will become a Government administered, if not by, exclusively for the benefit of, speculators and monopolists; to advance which I shall contribute nothing by any vote of mine.

Mr. GWIN. Before the Senator from Virginia sits down, I should like him to indicate what plan would meet with his support, that would bring about a connection by land between the Pacific coast and the rest of the States of this Union. I desire to know whether he contemplates, or is willing to support, any plan which would give us that kind of connection, which would enable us to pass from one section to the other in time of war.

Mr. MASON. I will answer the Senator with great pleasure. I will say to him that I do not think there is any feasible plan that could be devised in any mode, looking to the condition of the country, unless we could find some body, corporate or real, with capital and resources enough to build the road and to pay all its expenses afterwards; and, therefore, I do not think there is any feasible plan by which it can be done. But I will say further, that I am aware of no plan by which it ought to be done, with any other aid from the Federal Government except that which is extended to all railroads that can be advantageously used by the Government, after they have been made from other resources; and the Government should not be a party to them.

Mr. GWIN. Then I understand the Senator to say, that he advises no plan, proposes no plan, for this connection, and hence there must be an inevitable separation of this Union in the event of war with a powerful nation, by the connection being cut off between the various sections of the Republic, for the want of just such a communication as it is now proposed to make by this bill, as a great military necessity. I shall understand him, then, as taking the position that the Pacific coast is to be separated from the rest of the Union, if, unfortunately, we should have a war with any nation more powerful at sea than we are, so as to cut off our oceanic communication; and that he will not attempt, in time of peace, to make any provision by which the Republic can be kept with its present boundaries in the event of the casualty of war.

Mr. MASON. The honorable Senator seems to import that I have a better opinion of the region of country from which he comes than he has himself. I have no idea that there is any nation on earth powerful enough to take possession of our Pacific coast, and keep it against this Government, unless—what I am sure he would not wish to be done—the Pacific country assented. It is very possible, that in a war with any great maritime Power, they might pounce down upon and take possession of some of the Pacific cities; I do not know that they could even do that. I do not know but that those cities might be able to protect themselves, with such means as the Government may have there; but I am very far from admitting that even if they were temporarily taken, it would necessarily dismember this Confederacy. If I remember rightly, in 1814 the British army were in possession, for a very long time, of portions of some of the New England States—I think of the State of Maine; yet it was never supposed that the Government had been dismembered, because we could not dislodge the enemy.

Mr. GWIN. The Senator, therefore, as we are the weakest, and most remote section of the country, invites that our country shall be taken possession of by foreign nations. He would leave us unprotected, while his own section is entirely protected by the power of the Government having been heretofore exerted to develop its resources, and to so connect it with the rest of the Confederacy that an immense force could be concentrated for its defense, which makes it impossible for an enemy now, no matter what was done in 1814, to hold any portion of this Confederacy, with the solitary exception of the Pacific coast. All we ask is to give us military connection with this section of the Confederacy; and if the Senator can devise a better plan than this bill I am for it. This is no favorite of mine. I am for having a plan by which we can be connected with this section of the Confederacy, so that we can be as a nation ought to be—able to assist each section of it, no matter what portion of it may be invaded by a foreign foe, if we ever have a war.

Mr. MASON. I do not choose that the Senator from California shall change the issue, so far as I am concerned. I would not permit a foreign enemy to take possession of our country. What I said was, that, at most, I presumed they could only get possession for the time being, when California even becomes stronger than she is now, of some points on the coast. But if the Senator means to present this alternative that we must either part with California as a State in this Confederacy, or change and destroy the fabric of this Government, in order to build a railroad to connect them, with every regret in the world in parting with the country of the honorable Senator, I should be constrained to say it must go. I would say to the Senator, however, on this subject of military supplies, it is hardly probable that we are likely to have such a war, certainly for half a century, if not longer, and it is possible that in that time it may be found practicable to throw all military supplies, to any amount, both of men and of munitions, across this very desert country, by the means of very large camel trains, and we may give them a camel train as a substitute for his railroad.

Mr. HALE. I will remind the Senator from Virginia that, in his reminiscences of the last war, he need not have gone all the way down East to find a country that the British got possession of, because I believe we are standing in a place now that they held a little while. [Laughter.]

Mr. MASON. That is true.

Mr. DOUGLAS. We want a railroad to bring the people from California to defend it the next time.

Mr. HALE. But, sir, I rose rather for information, and, as I do not like the mode of putting interrogatories directly to a gentleman, I will throw them out in general, and let anybody who feels inclined to answer do so. I am in favor of a Pacific railroad, but I am not going to say when or how. I am in favor of it, probably, on some 4th of July; but, when we undertake to build it, we must have reference to all the surroundings; and not the least important, it strikes me, is the state of the Treasury.

I understand that there will be a bill here before long to borrow \$30,000,000, before we get through the session. I am told that the Secretary of the Treasury thinks that, with extraordinary economy, if we shall be careful, as he will be, he may get along with borrowing \$20,000,000; and the question I want to ask will grow out of the statement of facts I am now going to make.

I see it stated in various papers; in such a manner that I am inclined to give some credit to it, that it is the intention of the Administration, as soon as they get the Kansas bill off their hands, to give their attention to another subject, which will involve a very large expenditure of the public treasure—and that is the purchase of Cuba. We all know that when Mr. Buchanan was Secretary of State under Mr. Polk, he instructed Mr. Saunders, who was then our Minister to Spain, to offer \$200,000,000 for Cuba, and he could not get it. Spain would not sell for that price. In addition to what I have seen in the papers, which seemed to me to be authentic, I have read an extract from a speech—which I did not hear delivered—by a gentleman of whom I may say, that when I hear him speak, I think I hear Mr. Buchanan. I refer to the honorable Senator from

Louisiana, [Mr. SLIDELL.] He says that he was in favor, some time ago, of assisting what are commonly called the filibusters in taking Cuba. but he has abandoned that, and thinks everybody ought to give that up, and to entertain another view. I will read his very words. He said, this day a week ago:

"When I made, four years since, a movement for the suspension of our neutrality laws, I believed, as I now believe, that a large majority of the people of Cuba was prepared to make a vigorous effort to throw off the yoke of their transatlantic oppressors."

That evidently does not refer to a slave insurrection. That was not the kind of yoke to be thrown off:

"And, so far as my influence of councils could be useful, I was willing to aid them. I believed then, as I now believe, that a hostile feeling towards us then existed with the Governments of France and Great Britain, and that they desired to Africanize Cuba. I avail myself, gladly, of the occasion to say that such, I am satisfied, is not now the feeling of these Governments."

That is, they are not opposed to our taking Cuba now.

"Besides this, the people of Cuba, although still desirous of peaceful annexation, are not willing to run the risk of civil war and servile insurrection to become members of our Confederacy. Public policy must accommodate itself to circumstances; and any attempt to obtain Cuba, except by negotiation, should, in my opinion, now be abandoned."

I do not mean to ask the question; but if the Senator from Virginia will answer, I should like to have him answer whether or not it is the intention of the Administration to open that negotiation again, and to offer anything like the amount heretofore offered for Cuba? Because, if so, however much we should like a Pacific railroad bill, we shall not have \$100,000,000 to spare in the present state of our Treasury, after we have paid \$200,000,000 for Cuba; and it would enlighten, I have no doubt, the judgment of some men on this measure. I will not say how much influence it would have on my own vote, but it would enlighten the judgment of some before they vote for what would involve the Government in the expense of \$100,000,000, to know whether it is to be taken out of a Treasury that has been depleted \$200,000,000 by the purchase of Cuba, or not; because I think, notwithstanding all that the Senator from Missouri has said of the greatness and the power and the enterprise of this country, it would hardly be competent to both these undertakings.

Mr. POLK. The Senator will allow me to say, not at one time. Let us have the railroad first; and then, if we can take the other afterwards, very well.

Mr. HALE. That is the very thing I wanted to hear the Senator from Virginia upon: which goes first of these two, the Pacific railroad or Cuba? If Cuba is really the object of the Administration, (and to be serious about it, I think the Administration owe it to the people to let it be known whether this is their intention,) this is their object, and this is a part of the settled policy of the Government; because it is evident that it must very sensibly influence the action of those who look to the condition of the Treasury to govern them in the vote they are to give on the proposition now before the Senate.

Mr. DOOLITTLE. Mr. President, before the question is taken on the amendment proposed by the honorable Senator from Missouri, I desire to offer an amendment to his amendment. His amendment, if I understand it, is, that the point of starting shall be between the mouth of the Big Sioux river and Fort Smith, on the western boundary of Arkansas. The amendment which I propose is, that the northern point shall be on the western boundary of Minnesota, at Breckinridge, at the confluence of the Bois des Sioux with the Red River of the North. It is a point for a railroad to which a grant of land has already been given to Minnesota. It is upon the line of the proposed road as surveyed by Governor Stevens; and it is, in my judgment, upon that route which is capable of settlement upon the entire line up the Missouri river and down the Columbia river, and capable of being inhabited, and thickly inhabited, across the entire continent. On that route there is no desert plain of five hundred miles, or of one thousand five hundred miles; but at the very summit of the dividing ridge there is scarce five miles from a good pasture on the one side to good pasture on the other. I simply offer this amendment so that the question may be taken

between these two points—Breckinridge, at the confluence of the Bois des Sioux and the Red River of the North, and Fort Smith on the south.

Mr. JOHNSON, of Arkansas. I am very certain the Senate is not now prepared for a vote on this subject. I may also say that I am not myself prepared to vote on the amendment of the Senator from Missouri. It reaches, in its effects, my own State very materially. I have been disinclined to make any expression of opinion in regard to this subject. I have been so disinclined in consequence of the fact that I have really had no time to look into the question hitherto since the bill was first reported at this session. I sincerely desire to look into it somewhat. If I am forced to vote now on the amendment submitted by the Senator from Missouri, with the other amendment which has been proposed to it, which makes it still more offensive, I believe, as far as I am individually concerned, I shall certainly vote against it. Although I can imagine very readily that gentlemen from the State of Missouri may suppose that I might vote for it, I certainly shall not do so at present advised. I may be wrong in the impressions that are on my mind now. I desire to examine the question; and I have had no opportunity to do so heretofore. If there is no disposition to discuss it longer, (and I have not been disposed to cut off discussion myself, in any way, by making any motion,) I hope the Senate will adopt the motion which I beg leave now to submit, that the further consideration of the bill be postponed until to-morrow.

Mr. IVERSON. Before that question is taken, I desire to offer some amendments.

Mr. JOHNSON, of Arkansas. There is an amendment and an amendment to an amendment now pending.

The PRESIDING OFFICER, (Mr. Foor in the chair.) Further amendments are not now in order.

Mr. YULEE. Will a postponement interfere with the special order for to-morrow, the Private Calendar, which, I think, ought to be then taken up?

The PRESIDING OFFICER. Such a motion interferes with no pending question for to-morrow.

Mr. FOSTER. Before the vote is taken I wish to give notice of an amendment in addition to the one I moved yesterday, and that is to amend the seventh section of the bill at the twenty-eighth line by striking out the residue of the section after the word "provided" and inserting:

That all the iron necessary to construct said railroad, and which may compose the track of the same, shall be of American manufacture.

The motion to postpone was agreed to.

ADJOURNMENT TO MONDAY.

Mr. JOHNSON, of Arkansas. There is a strong disposition with a number of Senators, as we have fixed upon the day for the final adjournment of Congress, (and I believe it very appropriate,) that we shall dispose of some business on the Private Calendar. To-morrow, it is true, is the regular day for private bills; but that we may have some time to consider the question that has just been postponed, and devote some attention and study to it, I should like very much to have an adjournment over until Monday next. With that view I wish to say that I will proceed directly to move that we take up the Private Calendar. In the mean time, I move that when the Senate adjourns to-day, it be to meet on Monday next.

Mr. IVERSON. I trust that motion will not prevail. The Private Calendar has not been touched this session. It contains many cases; and some of them, within my knowledge, of a very hard character, which really deserve the attention of Congress. We have resolved to adjourn finally on the 7th of June. Unless we sit every day in the week, and sit a good many hours of each day, I am satisfied that the public business will not be done. We ought, as we have agreed to adjourn on the 7th of June, at least to show a willingness to work during the time we have left. If we adjourn over from Thursday to Monday of every week, and then adjourn finally on the 7th of June, two months earlier than is usual, what will the country say of us? I trust the motion will not prevail. I ask for the yeas and nays on the motion.

The yeas and nays were ordered

Mr. JOHNSON, of Arkansas. The Senator thinks that, if we adjourn from Thursday until Monday every week, to the end of the session, we shall lose a great deal of time. This is not a proposition of that kind. I do not expect, from now to the end of the session, to support another such motion; but we have before us a bill which all the members of the Senate, as far as I understand—and I know very well it is so in regard to myself—have had no time to consider. It is a subject of vast importance, and should be thoroughly investigated.

Mr. IVERSON. The Private Calendar comes up to-morrow.

Mr. JOHNSON, of Arkansas. I am aware of that; and I state to the Senator that, if the motion be adopted to adjourn from Thursday until Monday, which will give us the opportunity I and others desire to examine the railroad bill, I shall move to-day to proceed to the consideration of the Private Calendar. I hope the Senate will then take up the Private Calendar, and consider it. I do not look on the Private Calendar, at the present time, as so exceedingly urgent that we should refuse to allow ourselves time to consider so great and important a public measure as the California railroad bill.

Mr. HAMLIN. Mr. President, we have been in session, I think, very nearly four months and a half. No single day has been devoted to the Private Calendar in all that time. There has been ordinarily, early in the session, a resolution adopted, I do not know but that it is a rule now, allowing private bills to be considered on Friday of each week. Days are as important to the other House as weeks are to us. The rules which govern that body, and the number which constitute the body, do not allow it to dispose of business as readily as we ourselves. If, on to-morrow, we can meet and devote the day to the consideration of private claims, we shall forward them to that body one week earlier than we shall if we postpone our action until Friday of next week. I too, with the Senator from Georgia, can say that I know there are many cases of private claims of very great merit—claims which involve an obligation upon us, in my opinion, to consider and to pass them or to reject them, as our judgment shall lead us when we have investigated them. I sincerely hope we shall not adjourn over to-morrow. But seven weeks more of the session remain, and I had hoped, when we fixed the day of final adjournment, we should do two things here: stop making long speeches, and go to work. I will make no long speech; I want to work.

The question being taken by yeas and nays, resulted—yeas 13, nays 35; as follows:

YEAS—Messrs. Bright, Clay, Crittenden, Evans, Fitzpatrick, Hannond, Johnson of Arkansas, Mallory, Mason, Sebastian, Sidel, Toombs, and Vance—13.

NAYS—Messrs. Allen, Bell, Benjamin, Bigler, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Green, Gwin, Hale, Hamlin, Harlan, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Polk, Pugh, Seward, Simmons, Stuart, Thomson of New Jersey, Wade, and Wright—35.

So the motion was rejected.

KANSAS—LECOMPTON CONSTITUTION.

A message was received from the House of Representatives, by Mr. J. F. CARTER, Chief Clerk, announcing that the House had agreed to the conference asked by the Senate on the disagreeing vote of the two Houses upon the amendment of the House of Representatives to the bill (S. No. 161) for the admission of the State of Kansas into the Union, and had appointed Messrs. W. H. ENGLISH, of Indiana, A. H. STEPHENS, of Georgia, and W. A. HOWARD, of Michigan, as managers at the conference on its part.

COMMANDER THOMAS J. PAGE.

Mr. MASON. There are two little bills on the Calendar for the relief of Commander Page, of the Navy. He is about to leave the country, and I ask the Senate to take them up. They are very small in amount. They have been reported by the Committee on Naval Affairs, and they both passed the Senate at the last session. It is his earnest desire that they shall be adjusted.

Mr. JOHNSON, of Arkansas. To-morrow is private bill day, and we shall have all these matters up then. I move that the Senate do now adjourn.

Mr. MASON. I hope the Senator will with-

draw the motion until we pass these bills. They will not occupy five minutes.

The Senate refused to adjourn.

The motion of Mr. MASON was agreed to, and the bill (S. No. 160) for the relief of Thomas J. Page was read a second time, and considered as in Committee of the Whole.

Its object is to direct the proper accounting officers of the Treasury to audit and adjust the account of Commander T. J. Page, of the Navy, for his expenses in preparing his accounts as acting purser of the United States brig Dolphin; but the amount to be paid is not to exceed seventy-five dollars.

Mr. JOHNSON, of Arkansas. I call for the reading of the report.

Mr. MASON. The report is long, or longer perhaps than the subject would authorize in this: Mr. Page, as the commander of the steamer Water Witch, in South America, was made to act as purser, and he asked to be allowed a sum of money to compensate him for that service. The great body of the report disallows it, and he is not allowed that. He asked further that he should be allowed for his expenses in having his accounts prepared for settlement as purser, and that was allowed, so the great mass of the report disallows what he asks. The concluding paragraph is that which allows what the bill gives him, and if the Senator desires it, I will read that.

Mr. JOHNSON, of Arkansas. I would ask the Senator at what time Commander Page is to leave the country? Why is it necessary that we should take up this bill at this time, out of its order?

Mr. MASON. He has been ordered, as probably the Senator knows, to the same station in South America where he was before, and is to leave in the course of a very short time.

Mr. JOHNSON, of Arkansas. When is he to leave?

Mr. MASON. I do not know. Probably in one, two, or three weeks.

Mr. JOHNSON, of Arkansas. Then we have plenty of time to hear the report read. If he were compelled to leave to-morrow I should be willing to take the bill on the Senator's word, without hearing the report.

Mr. MASON. I have no objection to its being read, but it disallows the claim to a great extent.

Mr. JOHNSON, of Arkansas. I call for the reading of the report.

The Secretary read the following report made by Mr. MALLORY on the 18th of February:

The Committee on Naval Affairs, to whom was referred the memorial of Lieutenant Thomas J. Page, of the United States Navy, asking to be allowed the pay of a purser for the time during which he commanded the United States brig Dolphin, and performed purser's duties on board said vessel, has had the same under consideration, and thereupon submit the following report:

The memorialist alleges that "in October, 1849, while on the East India station, he was appointed to the command of the brig Dolphin, and with the command was united the appointment also of purser." He then proceeds to state that he performed the duties of purser on board said vessel, and adjusted his accounts with the Government as an acting purser; and he submits an account of the time so employed, and for which he claims compensation at the rate of \$1,500 per annum, making the sum \$3,057 92. He does not claim to have been a purser, or to have received any appointment as purser or as an acting purser, but that he was appointed to command the brig, and that "with the command was united the appointment also of purser."

Your committee have given to the memorialist's claim very careful examination, with the view of affording him the relief he seeks, if it can be granted consistently with the existing laws and usages of the Navy on the subject; and your committee is aware that many other officers of this branch of the public service have occupied similar positions, and performed similar services, and that their claims also are involved in its action.

The records of the Navy Department show that for a very long period it has been the practice of the Secretary of the Navy to direct the commanders of brigs, and other smaller vessels, to perform purser's duties, in addition to those of commander. The duties of supervising the financial concerns of the vessels generally have long been, and still are, considered incident to the command of such vessels, when the exigencies of the public service do not admit of their having a regular purser. Before the year 1835, officers commanding and thus performing purser's duties were permitted to purchase their own "slops," &c., and to charge a profit upon the articles furnished to their crews; but the act of March 3, 1835, (see Statutes at Large, vol. 4, page 737,) precluded officers of the Navy from receiving any incidental allowances, except for traveling expenses, and for the performance of the duties of a superior grade. In lieu of incidental allowances their pay proper was greatly augmented. As an example, the aggregate pay and subsistence of a lieutenant on sea-service was raised from \$965 to \$1,573, and that of a lieutenant commanding (the case of the memorialist) from \$1,176 to \$1,873; and it was considered that

this increase of pay would compensate for such "extra" services as had previously been separately charged for.

Your committee is not aware that any lieutenant commanding has ever received any extra allowance for attending to the duties of purser on board of his vessel; and when the memorialist took command of the Dolphin, both the law and the practice of the Department under it were in operation.

But in addition to the act just cited, the Army appropriation act of August 23, 1842, directing that—

"No officer of any branch of the public service shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or any other service or duty whatsoever, unless the same shall be authorized by law, and the appropriation therefor explicitly set forth that it is for such additional pay, extra allowance, or compensation."

The twelfth section of the act of the 26th August, 1842, is in these words:

"No allowance or compensation shall be made to any clerk or other officer by reason of the discharge of duties which belong to any other clerk or officer in the same or any other department, and no allowance shall be made for any extra services whatever, which any clerk or other officer may be required to perform."

The third section of the act of 3d March, 1839, is in these words:

"No officer in any branch of the public service, or any other person whose salaries or whose pay or emoluments is or are fixed by law and regulations, shall receive any extra allowance or compensation, in any form whatever, for the disbursement of public money, or the performance of any service, unless the said extra allowance or compensation be authorized by law."—*Statutes at Large*, vol. 5, page 349.

The act of 30th September, 1840, (United States Statutes at Large, volume —, pages 542-43,) declares that "hereafter the proper accounting officers of the Treasury, or other pay officers of the United States, shall in no case allow any pay to one individual the salaries of two different offices on account of having performed the duties thereof at the same time. But this prohibition shall not extend to the superintendents of the executive buildings."

The design of the legitimate construction of these acts cannot admit of a doubt.

But the memorialist claims that he held two distinct offices, and exercised the duties of both, and is entitled to receive the pay of both; and he submits an extract from a decision of Chief Justice Taney, delivered in the case of "The United States vs. Joseph White," in the circuit court, Maryland district, 1851, and also extracts from an opinion of Attorney General Crittenden, June 7, 1851, in support of his claim.

It is evident to your committee that the memorialist did not hold two distinct offices. The duties of a purser on board of small vessels like the Dolphin were incident to those of commander, and compensation, in lieu of a distinct and separate allowance for them, had previously been made by law. That such incidental services afford no foundation for a claim for extra compensation was evidently the opinion of the chief justice in the case cited. He says:

"A Navy agent, therefore, (and the principle is equally applicable to any other officer), is not entitled to compensation beyond his salary as fixed by law for any extra services, although such services may be out of the district for which he is appointed, and may more properly appertain to the duties of another Navy agent, or even to an officer of the Government filling an office of a different character. His salary is the only compensation for services required of him and performed by him if he holds no other office or appointment."

The memorialist was not a purser; he pretends no appointment as purser; the duties of purser were incident to the command of the Dolphin; and they were discharged by "an officer of the Government filling an office of a different character."

The memorialist is not entitled, in the judgment of your committee, to the relief he claims. He alleges that, in the preparation of his accounts, in the various forms required by the practice of the accounting officers of the Treasury, he expended about seventy-five dollars. A reasonable allowance should be made for this expenditure. A naval officer cannot be presumed to be conversant with the accurate details so necessary in the preparation and adjustment of long standing accounts beyond the sphere of his ordinary and legitimate duties; and your committee report a bill for the relief of the memorialist to this extent.

Mr. JOHNSON, of Arkansas. I have no doubt in the world, from the reading of the report, that the bill ought to be passed. I think the evidence to establish the claim is amply sufficient.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read a third time, and passed.

On motion of Mr. MASON, the bill (S. No. 159) for the relief of Commander Thomas J. Page, of the United States Navy, was read a second time, and considered as in Committee of the Whole.

It will be a direction to the accounting officers of the Treasury to allow to Commander Page, in the adjustment of his accounts as purser of the United States steamer Water Witch, credit for certain suspended items of accounts, not to exceed the sum of \$354 46.

In addition to the duties of commander of the ship, he was ordered to perform those of purser, though he expressly requested to be relieved from them, because of his want of familiarity with them and with accounts generally. He was not even allowed a clerk by the Department. The extent of country to be explored, both by land and water, necessarily involved, at various times, not only a

separation of portions of the officers and "ship's company" from the vessel, but also made it necessary that the petitioner himself should be absent for periods of from one to six months. If he had remained on board, to attend in person to the duties of purser, he could not have properly discharged, under his instructions, the more important duties of the expedition, and, in obeying his instructions, he was necessarily compelled to intrust to others not only the command of the vessel, but the discharge of the purser's duties also. From the diversified character of the duties thus devolved upon him, it necessarily followed that the accounts rendered were very numerous. Notwithstanding this, there is not the expenditure of the smallest amount of money which has not been fully accounted for, nor a bill contracted which has not been recognized as made under the authority of his instructions.

The losses incurred, and for which he is held responsible, arise from payments made to sailors who deserted from the vessel in debt to the Government; from errors made by the purser's steward (on whom he was compelled greatly to rely) in the calculation of the sailors' terms of service; from errors in a bill of exchange; from errors made by the steward in the calculations, &c. During the three years and five months the petitioner disbursed \$112,000 in money, and about \$10,000 in provisions and clothing. The whole has been faithfully accounted for. The money for which he is held responsible was not spent contrary to law, but through ignorance, in part, of regulations with which he could not have been supposed to be familiar, inasmuch as they did not relate to his duties proper, and he knew nothing of their existence, and, in part, through errors of the steward, in whom, as above stated, he was necessarily obliged to confide much in the calculation of accounts. The statements of the petitioner are fully sustained by his oath, and also by the certificate of Lieutenant William N. Jeffers, one of the officers on the expedition. The items disallowed amount to \$354 46; and, under the circumstances of the case, the Naval Committee, satisfied that Commander Page acted faithfully and with his best abilities for the public interest, think he should have those credits allowed in the adjustment of his accounts.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ENROLLMENT OF VESSELS.

Mr. CLAY. The Committee on Commerce, to whom was referred a bill (S. No. 127) to repeal the fifth section of an act entitled "An act to authorize the register or enrollment and license to be issued in the name of the president or secretary of any incorporated company owning a steamboat or vessel," approved March 3, 1825, have directed me to report the bill back without amendment, and recommend its passage.

Mr. SEWARD. I should like to have that bill passed.

Mr. CLAY. I have no objection. It is a bill in which the Senator is interested.

Mr. SEWARD. The registry act obliges small canal boats that come down the Pennsylvania coal canal and the Erie canal of New York to be registered, and it requires an oath to be taken, and that oath is prescribed in such language that the canal companies cannot register their vessels without swearing not only that they belong to them, and that no officer or director is a foreigner, but that no stockholder in the company is a foreigner. The bill is simply to remove that latter difficulty.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. IVERSON. I move that the Senate proceed to the consideration of the Private Calendar, and take up the bills to which there shall be no objection. If any objection be urged to any bill which shall be reached on the Calendar, let that bill go over until to-morrow. In this way we may get rid of a good many bills on the Private Calendar to which there is no objection.

Mr. HAMLIN. I interpose no objection to that; but before that motion is put, I hope the Senator will allow me to call up a little bill in re-

lation to regulating boats at custom-houses, which is connected somewhat with the bill that has just been passed.

Mr. IVERSON. Is it likely to give rise to discussion?

Mr. HAMLIN. It will not occupy three minutes, I am sure.

Mr. IVERSON. I yield.

Mr. HAMLIN. I move to take up the bill (S. No. 247) to amend an act entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," passed February 18, 1793.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole.

It proposes to amend section thirty-seven of the act of February 18, 1793, so as to read:

"That nothing in this act shall be construed to extend to any boat or lighter not being masted, or if masted and not decked, employed on any of the rivers or canals or in the harbor of any town or city."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRIVATE CALENDAR.

Mr. IVERSON. I move that the Senate proceed to the consideration of such bills on the Private Calendar as shall not give rise to debate.

The motion was agreed to.

JOSEPH CHASE AND OTHERS.

The first bill on the Calendar was the bill (S. No. 78) to authorize the Secretary of the Interior to issue land warrants to Joseph Chase, James Young, and Alexander Keef.

It proposes to direct the Secretary of the Interior to issue to Joseph Chase, James Young, and Alexander Keef, of the State of Rhode Island, respectively, a land warrant for one hundred and sixty acres of land, in consideration of their detention as prisoners in the Dartmoor prison during a portion of the years 1814 and 1815.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

JANE SMITH.

The next bill on the Calendar was the bill (S. No. 87) from the Court of Claims, for the relief of Jane Smith, of the county of Clermont, State of Ohio.

Mr. PUGH. Let it lie over.

LUCINDA ROBINSON.

The next bill on the Calendar was the bill (S. No. 88) from the Court of Claims, for the relief of Lucinda Robinson, of the county of Orleans, State of Vermont.

Mr. PUGH. That involves the same question as the preceding bill. Let it lie over.

GEORGE ASHLEY.

The next bill on the Calendar was the bill (S. No. 89) from the Court of Claims, for the relief of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased.

Mr. IVERSON. That bill was objected to when it was up before. It had better go over.

JOHN ERICSSON.

The next was the bill (S. No. 90) from the Court of Claims, for the relief of John Ericsson.

Mr. SLIDELL. Let that go over.

CREEK DEPREDACTIONS.

The next was the bill (S. No. 26) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama on account of losses sustained by depredations of the Creek Indians.

Mr. HALE. Let that go over.

NAHUM WARD.

The next bill on the Calendar was the bill (S. No. 93) from the Court of Claims, for the relief of Nahum Ward, which was reported adversely from the Committee on Claims.

Mr. IVERSON. Let that bill go over.

ELIZABETH MONTGOMERY.

The next bill on the Calendar was the bill (S. No. 30) for the relief of Elizabeth Montgomery, heir of Hugh Montgomery.

Mr. CLAY. I must object to considering that bill.

Mr. BAYARD. That bill was before the Senate on a former occasion. It was under consideration; the report was read. I hope it will not be passed over now.

Mr. CLAY. It will come up to-morrow.

Mr. BAYARD. Why not let it come up now?

Mr. CLAY. Because I wish to read the report.

The PRESIDING OFFICER. A single objection carries it over under the order of the Senate.

AGATHA O'BRIEN.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 101) for the relief of Mrs. Agatha O'Brien, widow of Brevet Major J. P. J. O'Brien, late of the United States Army.

It provides for the payment to Mrs. Agatha O'Brien, of such sums of money as may be found due to her late husband, as captain of artillery, from the 31st of December, 1849, when he was last paid, to the 31st of March, 1850, the day of his death, and for balancing his accounts on the books of the Treasury.

The memorialist states "that her late husband was assistant quartermaster United States Army from 1847 to the time of his death, and, as such, disbursed large sums of public money at various places, particularly at Camargo, Mexico, and Indianola, Texas. While actually in the performance of his duties, he was seized with cholera and died after a few hours' illness, at Indianola, on March 31, 1850, necessarily leaving his accounts in a very unsettled condition. Upon a settlement of his accounts at the Treasury, a balance of about seven hundred dollars stands charged against him, while his pay and emoluments, for the quarter ending on the day he died, are to his credit, \$335 50. The memorialist prays for the passage of an act for her relief, directing the balance to the debit of her late husband be canceled, and that the quarter's pay due him on March 31, 1850, be paid to him."

The Military Committee, in investigating this case, find the facts to be substantially as stated in the memorial, except that Major O'Brien is also largely indebted to the United States, since 1847, on property account. But in view of the circumstances of his sudden death; that he was ever zealous and scrupulous in the discharge of his duty; that he was a brave and gallant officer; that he leaves a widow and children in a destitute condition, they report a bill for the relief of the memorialist.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THOMAS PHENIX, JR.

The bill (S. No. 102) for the relief of Thomas Phenix, jr., was read the second time, and considered as in Committee of the Whole.

Its purpose is to authorize the Secretary of War to pay to Thomas Phenix, jr., during the time he was acting as paymaster's clerk, in the employment of D. Randall, deputy paymaster general, the sum of three dollars a day, deducting therefrom the sum of \$500 per annum already received by him.

The petitioner, during the war with Mexico, was employed by D. Randall, deputy paymaster general, as his clerk, and received his regular pay of \$500 per annum for a little more than two years. The disbursements of the deputy paymaster general at New Orleans were very heavy, and would have justified the employment of extra clerks. The expense of additional clerks, however, was saved to the Government by the extraordinary efforts of the petitioner, under the assurances of the deputy paymaster that he should be allowed an increased compensation for these services, which increased compensation has been allowed to many other paymasters' clerks under the same circumstances. The justice and equity of this claim are acknowledged by the paymaster general and by the Secretary of War. The latter officer admits that if Colonel Randall had paid the increased compensation now claimed, it would have been allowed by the Department, as being in strict accordance with law.

The bill was reported to the Senate, ordered to be engrossed for a third reading, was read the third time, and passed.

SIMON DE VISSER AND JOSÉ VILLARUBIA.

The next bill on the Calendar was the bill (S.

103) for the relief of Simon de Visser and José Villarubia, of New Orleans.

Mr. SLIDELL. I have written to New Orleans for some information on the subject of this bill; and if it be of the character I expect, it is probable I shall interpose no objection. I should like it to go over to-day, with the consent of the Senator who reported it. I ask that it be passed over until to-morrow.

Mr. TOOMBS. Of course; with the understanding that it be taken up to-morrow, it may go over.

Mr. SLIDELL. I am not satisfied at present that it ought to pass, but I think that in a few days I shall be able to say to the Senator from Georgia, that I have no objection. Let it go over until to-morrow.

The bill was passed over.

O. H. BERRYMAN AND OTHERS.

The next bill on the Calendar was the bill (S. 108) from the Court of Claims, for the relief of O. H. Berryman and others.

Mr. IVERSON. That is objected to.

MOSES NOBLE.

The next bill on the Calendar was the bill (S. 109) from the Court of Claims for the relief of Moses Noble.

Mr. CLAY. I object to that.

JOHN M'VEY.

The next bill on the Calendar was the bill (S. No. 53) for the relief of John McVey, which had been reported upon adversely by the Committee on Pensions.

The PRESIDING OFFICER. The ordinary question in these cases is on the indefinite postponement of the bill. The Chair will put that question if no objection be made.

Mr. JOHNSON, of Arkansas. If there is a report in regard to it let it be read. I have no objection to its being rejected, if there is no good ground on which to support the bill; but I should like to hear the report, stating the reasons of the committee for their action.

Mr. TOOMBS. Let it lie over.

The bill was passed over.

LIEUTENANT NATHANIEL WEEKS.

The next bill on the Calendar was the bill (S. No. 113) for the relief of the heirs of Lieutenant Nathaniel Weeks, deceased.

Mr. TOOMBS. I object to that bill.

The bill was passed over.

AMISTAD CASE.

The next bill on the Calendar was the bill (S. No. 114) to indemnify the master and owners of the Spanish schooner Amistad and her cargo.

Mr. FOOT objected to the bill; and it was passed over.

J. HOSFORD SMITH.

The next was the bill (S. No. 115) for the relief of J. Hosford Smith.

Mr. CLAY. I wish to call the attention of the Senator from New York [Mr. SEWARD] to this bill. I think a bill for the same purpose was referred only yesterday to the Committee on Commerce.

Mr. SEWARD. Yes, sir; let this bill be passed over. Yesterday a similar proposition was referred to the Committee on Commerce; and I suppose is under their consideration now.

The bill was laid aside.

JEREMIAH PENDERGAST.

The Senate, as in Committee of the Whole, next proceeded to consider the bill (S. No. 116) for the relief of Jeremiah Pendergast, of the District of Columbia. It proposes to place his name on the pension roll at six dollars a month from September 4, 1856, to continue during his life, in lieu of his present pension.

Mr. TOOMBS. Read the report in that case.

Mr. JOHNSON, of Arkansas. Let it lie over, then.

The bill was passed over.

JOHN SCOTT AND HIS SURETIES.

The Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 118) for the relief of John Scott, Hill W. House, and Samuel O. House.

Its design is to release John Scott, principal, and Hill W. House and Samuel O. House, sureties, from a judgment recovered against them by

the United States, on the 4th of April, 1855, in the district court for the northern district of Florida, upon a contract awarded to John Scott, for carrying the mail upon route No. 3503, from New Orleans to Key West, from January 15, 1853, to June 30, 1855.

Mr. HALE. I should like to hear the reason for that bill. Let the report be read.

Mr. JOHNSON, of Arkansas. Let it lie over if the reading of the report is called for.

Mr. YULEE. The report is very brief, and I presume the Senator from Arkansas will have no objection to its reading.

Mr. JOHNSON, of Arkansas. Very well.

The Secretary read the following report, made by Mr. YULEE on the 2d of February:

The Committee on the Post Office and Post Roads, to whom was referred the memorial of John Scott, beg leave to report:

That the memorialist seeks relief from a judgment obtained against him and his sureties for failing to carry into operation a contract for the conveyance of the mail on route No. 3503, from New Orleans to Key West.

It appears that, in 1852, an advertisement was issued inviting proposals for conveying the mail by sea between New Orleans and Key West, and that the contract was awarded to the said Scott for the sum of \$20,000.

The route was a new one, and never having been in operation, it was difficult to estimate the worth of the service, and the sum proposed by Scott proved, by the subsequent experience of the Department, to be vastly less than was necessary for the support of the route.

This fact, however, is not adverted to as a basis for the relief of the petitioner, but as explanatory, in part, of the difficulty he experienced in organizing the means to carry his contract into effect as promptly as might otherwise have been practicable. Immediately upon being informed that the contract was awarded to him, the petitioner proceeded diligently to prepare for its execution; and, in his efforts to obtain steamships suitable for the purpose, he visited New Orleans, and all the principal northern cities as far as Portland. Finding it impossible to obtain suitable steamers at any reasonable price, and the limited interval for commencing service not affording time to build them, he applied for, and obtained, an extension of time until the 1st of March. He alleges, further, that, having been unfortunately taken sick at Washington, he was unable to continue his efforts, and did not succeed in effecting an arrangement for a suitable steamer until the middle of March, when he arranged with Captain Montgomery, who had a new steamer nearly completed at Baltimore, and informed the Department of the arrangement, and that the service would be commenced in five weeks.

Before the expiration of that time, the Department gave the contract to Samuel S. Green, for \$25,000 per annum, and instituted a suit against the petitioner for damages, which suit resulted in the judgment from which he seeks relief.

The contract was made December 9, 1852, and required the commencement of service on the 15th of January following, an interval of only five weeks. The petitioner appears to have employed that very brief time diligently in the endeavor to obtain a suitable steamer, and having failed, obtained an extension of six weeks more; but, in the meanwhile, being prostrated by sickness, he was disabled from pursuing his object, and did not effect an arrangement until a few days after the expiration of the time.

Upon an investigation of the history of the service since that time, it appears that no real damage was caused to the Government, for the price at which the contract was awarded would have been totally insufficient to sustain the service.

It seems that the contract was transferred, first, to James C. Green, for \$25,000 per annum, who, after performing the service very irregularly for a few months, failed, and it was relet to W. C. Templeton, for \$42,000, who also performed the service very irregularly; that it was afterwards let to E. G. Rogers & Co., for \$41,000, who also failed, and the contract was successively refused by two parties at \$48,000; that it was then let to J. M. Howell & Co., for \$70,000, who likewise failed to put the service in operation; afterwards to John B. Camden, at the same rate, who failed; and, finally, to the present contractors for \$70,000, and no damages have been sought against either of these other parties. Taking into view that the route is a new one, and that it was, therefore, difficult to estimate the proper value of the service; that the petitioner proceeded in perfect good faith, and with great activity and devotion, and at a good deal of personal expense, to give effect to his engagement; and that his failure to commence the service within the brief time allotted, was owing to a providential visitation, which prostrated him with sickness in the midst of his efforts; and that he had, in fact, notified the Department of his having made suitable arrangements before the contract was transferred to Green; and considering, further, that the experience of the service has demonstrated that it was not possible to be performed for any sum approaching that at which the contract was awarded; and that no damages have been sought against any of the subsequent failing contractors, the committee have deemed it a suitable case for the application of a just public clemency, and accordingly recommend a remission of the penalty recovered against the petitioner.

A bill to that effect is herewith reported, and its passage recommended by the committee.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DAVID MYERLE.

The next bill on the Calendar was the bill (S. No. 120) for the relief of David Myerle.

Mr. SLIDELL. Let that go over

JAMES BELL.

The next was the bill (S. No. 125) for the relief of the legal representatives of James Bell, deceased; which the Secretary proceeded to read.

Mr. CLAY. I object to the interest allowed in that case.

The bill was passed over.

JOSÉ DE LA MAYA ARREDONDO.

The next bill on the Calendar was the bill (S. No. 126) for the relief of the heirs and legal representatives of José de la Maya Arredondo.

It will be a direction to the Commissioner of the General Land Office, to cause to be surveyed twenty thousand acres of land in Florida, according to the calls, boundaries, and description contained in the grant by the Governor of East Florida, to José de la Maya Arredondo, bearing date March 20, 1817, and referred to in the record and proceedings of the Supreme Court of the United States, in the United States against Benjamin Chaires and others, decided at the January term, 1836, and according to the survey of the same grant made by Joshua A. Coffee, in 1824; and, upon the return of the survey to the General Land Office, a patent is to issue to the heirs or legal representatives of Arredondo, for any portion of the land which may, at the time of survey, be found to be vacant; and for the remainder of the grant, they are to have the right to enter, in any land office of the United States, a like quantity of any land subject to private entry, in parcels conformable to sectional divisions and subdivisions.

Mr. STUART. Unless the friends of that bill are disposed to amend it so as to limit the location of the excess to the State of Florida, I shall object to it. If they will locate the excess in Florida, where the original grant was, I have no objection.

Mr. BENJAMIN. That clearly cannot be admitted. This is to correct a location, and the grantees, from equitable considerations, are unwilling to disturb persons who have received titles from the Government, and have improved the land, on condition that they may take land elsewhere at \$1 25 per acre.

Mr. STUART. I say "elsewhere in Florida."

Mr. BENJAMIN. No; clearly not elsewhere in Florida.

Mr. STUART. Then I object to the bill.

The bill was laid over.

GEORGE PHELPS.

The bill (S. No. 128) for the relief of George Phelps was read a second time, and considered as in Committee of the Whole.

It provides for the payment to George Phelps of \$1,155, in full for extra services performed by him while acting as messenger in the quartermaster general's office, in December, 1839, to May, 1846.

Mr. HALE. Let the report in that case be read.

The Secretary read the report made by Mr. IVERSON, from the Committee on Claims, on the 8th of February, from which it appeared that the claim was for night and Sunday work.

Mr. FITZPATRICK. Let it lie over.

The bill was laid aside.

JEHU UNDERWOOD.

The bill (S. No. 129) to provide for the final settlement of the land claim of the heirs of Jehu Underwood, in Florida, was read a second time, and considered as in Committee of the Whole. It provides that the claim and title of Jehu Underwood to land in the State of Florida, derived from the Spanish Government, shall be received and adjudicated by the judge of the district court of the northern district of Florida, upon the petition of the claimants, according to the forms, rules, and regulations prescribed to the judge and to the claimants by former acts of Congress in similar claims made and provided, and in the same manner, in every respect it would have been received and adjudicated if the claim had been heretofore presented in the superior court of the Territory of Florida, within the time prescribed by the several acts of Congress for presenting such claims therein for confirmation; and if it be found valid, the district court is to enforce its location upon the same rules and regulations as have been exercised towards other mill grants in Florida.

The bill was reported to the Senate, ordered to

be engrossed for a third reading, read the third time and passed.

Mr. CLAY. I move that the Senate do now adjourn.

The motion was agreed to; there being on a division—ayes 14, noes 11; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 15, 1858.

The House met at twelve o'clock, m. Prayer by Rev. C. C. MEADOR.

The Journal of yesterday was read and approved.

PERSONAL EXPLANATION.

Mr. WHITELEY. I desire to state that, having paired off on Thursday last with the Hon. Mr. DICK, of Pennsylvania, until Tuesday, that gentleman had a perfect right to vote yesterday; and further, that it was impossible for me to be in attendance yesterday. I would also state that had I been here I would have voted in favor of the proposition of the gentleman from Indiana [Mr. ENGLISH] for a committee of conference in regard to the bill for the admission of Kansas.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKEY, its Chief Clerk, notifying the House that that body had passed an act (H. R. No. 210) for the relief of the legal representatives or assignees of James Lawrence, without amendment; and also, that it had passed an act (H. R. No. 6) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1859, with amendments, in which he was directed to ask the concurrence of the House; and also, that it had passed a bill (S. No. 204) to provide for issuing patents in certain cases where grants of the public lands have been or may be made to States by Congress, in which he was directed to ask the concurrence of the House.

SCIENTIFIC SURVEY OF BOSTON HARBOR.

Mr. COMINS, by unanimous consent, presented joint resolutions of the Legislature of Massachusetts, in reference to the scientific survey of Boston harbor; which were referred to the Committee on Commerce, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. CLINGMAN. I now ask for the regular order of business. I hope that, as both Houses have resolved to adjourn at an early day, the committees will be called for reports.

The SPEAKER. The regular order of business is the call of committees for reports. Reports are in order from the Committee of Claims.

WILLIAM TURVIN'S HEIRS.

Mr. MAYNARD, from the Committee of Claims, reported back, with an amendment, a bill for the relief of the heirs of William Turvin, deceased; which was referred to a Committee of the Whole House, and, with the amendment and report, ordered to be printed.

DINAH MINIS.

Mr. MAYNARD also, from the same committee, reported a bill for the relief of Dinah Minis; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

FERDINAND O. MILLER.

Mr. DAVIDSON, from the same committee, reported a bill for the relief of Dr. Ferdinand O. Miller; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ADVERSE REPORTS.

On motion of Mr. GOODWIN, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of Catherine Kincaid, and that the same be referred to the Committee on Pensions.

Mr. WASHBURN, of Illinois, from the same committee, reported back House bill No. 239, for the establishment of an inspector's district at the city of Memphis, in the State of Tennessee, with a recommendation that it do not pass; which was laid on the table and ordered to be printed.

On motion of Mr. WASHBURN, of Illinois, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the following bills, resolution and petition, and that the same be laid upon the table, and the reports ordered to be printed, viz:

A bill for a local board of inspectors at New Albany, Indiana;

A bill providing for an inspector's district at Napoleon, in Arkansas;

A bill for the improvement of the navigation of the falls of the Ohio river; referred to the Committee on Roads and Canals;

A resolution of the House, with regard to the bridge at Rock Island, over the Mississippi river, with report; and

The petition of Messrs. Crawford & Price, and twenty other ship-owners and persons interested in shipping in Cleveland, Ohio, with an adverse report.

Mr. WASHBURN, of Illinois. My colleague, the chairman of the Committee on Commerce, [Mr. JOHN COCHRANE,] who is not now in his seat, has a river and harbor bill ready to report. I hope permission will be granted to him when he comes in to make the report. I will say now, that when that report is made I shall propose a substitute, and move that they be printed.

The SPEAKER. The Chair can entertain no such proposition. If the gentleman from New York comes in and makes a request, it will be propounded to the House.

OFFICERS, ETC., OF REVENUE CUTTERS.

Mr. MILLSON, from the Committee on Commerce, reported the following bill; which was read a first and second time:

A bill regulating the compensation of the officers and marines of the revenue cutters.

Mr. MILLSON. As I intend to ask the House to consider this bill and pass it at once, I ask that the bill may be read.

The bill, which was read, provides, that from the passage of the act the annual compensation of the officers and marines of the revenue cutters of the United States shall be as follows: captains \$1,500, first lieutenants \$1,200, second lieutenants \$1,100, third lieutenants \$1,000, engineers \$1,100, assistant engineers \$1,000; also that the wages of the petty officers, the gunners, and marines, may be regulated and fixed by the President of the United States, so as not to exceed forty dollars per month, exclusive of rations.

Mr. MILLSON. This bill, which has met, I believe, the unanimous approbation of the Committee on Commerce, proposes to accomplish an object which has been sought for some years past, and has been recommended by different Secretaries of the Treasury. The object has been sought to be accomplished before, in connection with a general modification of all the revenue laws of the United States; but the difficulty of inducing Congress deliberately to consider so voluminous a bill as was rendered necessary for the objects contemplated, has up to the present time defeated the consideration of the subject which is now embraced exclusively in the present bill. The committee has, therefore, as an act of justice to a small but very meritorious band of public officers, determined to present this proposition as a separate one, and invite the favorable consideration of the House to it.

I have but a few words to say upon this subject, for it requires but a few words. I believe that the officers of the revenue marine are, perhaps, with the exception of the President of the United States, the only description of public officers whose compensation has not been increased since the period when that pay was last regulated. It is now upwards of twenty years since their present compensation was fixed by law. In that time all the officers of the several departments of the Government—the officers of the Army and Navy, judges and foreign ministers, the clerks in Washington, and those engaged in the employment of the United States—everywhere, have had their compensation increased; but these men have been entirely omitted. A captain of a revenue cutter, performing very responsible duties, and perhaps for twenty or thirty years in the service of the United States, has been and is receiving but the scanty pittance of \$1,200 a year. Services involving risks, hardships, and sometimes unusual expense, are compensated by the Government of the United States at the poor sum of \$1,200 a year. These men are almost always at sea, exposed to storms and tempests; having to support their families on shore; having to pay their mess-bills in the cutters, and hospital taxes at the same time. The captains

of revenue cutters ought to receive a higher rate of compensation than the lowest order of clerks in the Departments of Washington, whose pay now equals theirs, and who labor in comfortable rooms, exempt from danger, and give but a few hours of the day to the service of the Government. The committee have therefore recommended that the pay of these gentlemen shall be raised in a proportion about equal to that in which other classes of public officers have had their compensations increased. The increase proposed is about twenty per cent.; and the whole additional expense to the Government will amount but to a few thousand dollars—perhaps about twenty thousand dollars a year.

The late Secretary of the Treasury recommended this increase of their compensation, and the present Secretary has also submitted a bill for the consideration of Congress, in which he suggests the same rate of pay as that adopted by the committee which reports the bill.

I trust, therefore, as this is a question not involving intricate and complicated details—one which the House can comprehend at a glance, and therefore unnecessary to be referred to the Committee of the Whole on the state of the Union, and as the only question involved is that of increasing the compensation of these public servants, as the compensation of all others has been increased, that the House will consider it at once, and pass the bill.

Mr. WASHBURN, of Illinois. I demand the previous question upon the engrossment and third reading of the bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the bill, having been engrossed, was read a third time.

Mr. MILLSON moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. CLEMENS demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was passed.

Mr. MILLSON moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BARK ATTICA.

Mr. COMINS, from the Committee on Commerce, reported back, with a recommendation that it do pass, Senate bill (No. 167) for the relief of the owners of the bark Attica, of Portland, Maine.

Mr. COMINS. It appears by the accompanying papers which I submit to the House, that on the arrival of the bark Attica (a vessel owned in Portland, Maine) at the port of Hamburg, in the latter part of June, 1855, her whole crew became insubordinate, disobedient of orders, and utterly refused to remain in the ship to perform the voyage home. For reasons which I will not detail to the House at this time, and by the advice of the American consul, the master of the Attica was compelled to consent to their discharge. At that time there were no American seamen in Hamburg to be procured. The master of the bark was left to no other resource than to ship a crew of foreigners to take the place of those discharged. On the arrival of the vessel at New York, tonnage duties to the amount of \$174 62 were exacted under the act of March 1, 1817. Said duties were paid under protest. The owners of the Attica ask for return of these duties, which, though legally, were unjustly exacted.

In confirmation of the statements which I have made, I submit a letter from the Secretary of the Treasury, which I desire the Clerk to read to the House, after which, I shall move that the bill which I have reported be put upon its passage, and on that motion I shall call for the previous question.

The letter of the Secretary of the Treasury was read, as follows:

TREASURY DEPARTMENT, January 29, 1858.

SIR: I have the honor to acknowledge the receipt of your letter of the 28th instant, inclosing a petition of John W. Chase, on behalf of himself and others, praying a return of the tonnage duty exacted by the collector of the customs at New York from the bark Attica, for a violation of the provisions of the act of March 1, 1817, and in reply to inform you, that the records of this Department show that Captain Chase complained of the exaction of the duty in

question, and that, on the 27th of September, 1855, the collector of the customs at New York was instructed, that, as the failure to have on board the proportion of American seamen required by the act of 1817, did not arise from any of the causes specified in the seventh section of said act, the tonnage duty was properly exacted, and that he would so inform Mr. Chase.

Under the circumstances set forth in the petition and accompanying papers, if shown to be correct, the Department can perceive no reason why the relief asked for should not be granted by Congress, who alone have jurisdiction of the matter now. The petition and accompanying papers are herewith returned.

Very respectfully, your obedient servant,

HOWELL COBB,

Secretary of the Treasury.

Hon. C. C. CLAY, Jr., Chairman of Committee on Commerce, United States Senate.

Mr. GREENWOOD. I would ask the gentleman from Massachusetts if there is a report accompanying that bill?

Mr. COMINS. There are papers accompanying the bill which are substantiated by the Secretary of the Treasury, but no report. It is not usual to make reports in such cases. The facts are as I have stated them.

Mr. CLINGMAN. I hope the bill will be read. I presume it is satisfactory.

The bill was read. It directs the Secretary of the Treasury to pay to the owners of the bark Attica, of Portland, Maine, out of any money in the Treasury not otherwise appropriated, the sum of \$174 62, being the amount imposed on said vessel as tonnage duties by the collector of New York, in 1855.

The bill was ordered to a third reading, and was accordingly read the third time, and passed

RIVER AND HARBOR BILL.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported a bill making appropriations for certain rivers and harbors; which was read a first and second time.

Mr. JOHN COCHRANE. I move the reference of that bill to the Committee of the Whole on the state of the Union, and that it be printed and made the special order for the day, for the first Monday in May next. I may state, in this connection, that the committee has instructed me to report the bill on the system of strict economy required by the present condition of the finances of the Union. Another member of the committee has prepared a bill, and I hope it may also be received and printed.

Mr. CLEMENS. I trust the House will have an opportunity of examining the details of the bill before we are called upon to make it a special order. I object to making it a special order.

The SPEAKER. The bill cannot be made a special order, except by unanimous consent.

Mr. WASHBURN, of Illinois. I hope, then, that the gentleman from New York will move to suspend the rules on Monday, so as to make it a special order.

The bill was then referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. WASHBURN, of Illinois, presented a substitute for the bill; which was also referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

CONSULATE AT ROSARIO.

Mr. JOHN COCHRANE also, from the Committee on Commerce, reported a bill for the establishment of a United States consulate at Rosario on the river Panama, in the province of Santa Fé, in the Argentine Confederation, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

UNITED STATES BARGE OFFICE, NEW YORK.

Mr. JOHN COCHRANE also, from the same committee, reported back, with a recommendation that it do pass, a bill making appropriations for strengthening and securing the foundations of the United States barge office in the city of New York; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

PASSENGER BILL.

Mr. JOHN COCHRANE also, from the same committee, reported a bill to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855; which was read a first and second time,

referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

A. AND E. S. COLBY.

Mr. JOHN COCHRANE also, from the same committee, reported a bill for the relief of Alonzo and Elbridge S. Colby; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

On motion of Mr. JOHN COCHRANE, it was Ordered, That the Committee on Commerce be discharged from the consideration of the following bills, memorials, &c., and that the same be laid upon the table:

A bill (H. R. No. 279) to continue the improvement of the channel of the Hudson river above and below Albany, and below Troy, in the State of New York.

A memorial of shipmasters sailing from the port of New York, that Congress order a certain number of Lane's attachment to sextants and quadrants for determining an artificial horizon, for experiment.

A bill for the improvement of the Harlem river and Spuytenuyf creek, in the county of New York.

A bill to continue the improvement of the navigation of James river, Virginia.

A bill to remove obstructions to navigation at Hell Gate, in the East river, opposite the city of New York.

A bill to improve the harbor of Pulneyville, New York.

A bill to construct a building for a custom-house, court-house, and post office at Albany, New York.

The petition of J. Eaton Stetson and others, for the repair of the east pier of the harbor of Charlotte, at the mouth of the Genesee river, New York.

The petition of the citizens of Jefferson county, New York, praying an appropriation for a breakwater at Cape Vincent, in said State.

So much of the President's annual message and accompanying documents as relates to the commerce of the United States, and the fitness of the river La Plata and its tributaries for navigation by steam.

A bill to continue the improvement of the harbor of Oswego, New York.

A bill for the improvement of Sodus Bay harbor, Wayne county, New York.

A bill for continuing the improvement of the harbor of Dunkirk, New York, on Lake Erie.

A bill for the improvement of Sodus Bay harbor, Cayuga county, New York.

A bill for the improvement of the harbor of Charlotte, at the mouth of the Genesee river, New York.

The petition of fifty-two inhabitants of the town of Mannsville, New York, for a breakwater at Cape Vincent, New York.

The petition of sixty-two inhabitants of Jefferson county, New York, for the same.

A bill (H. R. No. 125) for continuing the improvement of the Rock Island rapids, in the Mississippi river.

A bill (H. R. No. 124) for continuing the improvement of the harbor of Waukegan, Illinois.

A bill (H. R. No. 130) for continuing the improvement of the harbor at Chicago, Illinois, on Lake Michigan.

A bill (H. R. No. 149) making an appropriation for the improvement of the harbor of Ontonagon, in the State of Michigan.

A bill (H. R. No. 148) making an appropriation for the improvement of the harbor of Marquette, in the State of Michigan.

A bill (H. R. No. 159) making an appropriation for the improvement of the harbor at Ozaukee, Wisconsin.

A bill (H. R. No. 160) for continuing the improvement of the harbor at Sheboygan, Wisconsin.

A bill (H. R. No. 161) making an appropriation for the improvement of the harbor at Manitowoc, Wisconsin.

A bill (H. R. No. 54) for continuing the improvement of the harbors at Racine, Kenosha, and Milwaukee, on Lake Michigan, Wisconsin.

Petition of citizens for a breakwater at the port of Cape Vincent, New York.

Petition of citizens of Ohio for an improvement of the harbors of Mackinaw City, Michigan, &c.

A bill (H. R. No. 52) making an appropriation for the improvement of the St. Mary's fall's ship canal, in the State of Michigan.

A bill (H. R. No. 145) making an appropriation for the construction of a harbor at the mouth of Kalamazoo river, in the State of Michigan.

Memorial of citizens of Michigan for the construction of a pier and light-house at the mouth of Thunder Bay river Michigan.

Petition for an appropriation for the improvement of the harbor of Mackinaw City.

A bill (H. R. No. 147) making an appropriation for the improvement of Saginaw river, Michigan.

Petition for an improvement of the harbor of Mackinaw City, Michigan.

A bill (H. R. No. 150) making an appropriation for the improvement of the harbor at the mouth of the Manistee river, Michigan.

A bill (H. R. No. 111) to continue the improvement of the harbor of Vermilion, Ohio.

A bill (H. R. No. 53) making an appropriation for the construction of a harbor at the mouth of Grand river, in the State of Michigan.

A bill (H. R. No. 146) making an appropriation for the construction of a harbor at the mouth of South Beach river, Michigan.

Petition for a harbor of refuge at New Buffalo, Michigan.

A bill (H. R. No. 144) making an appropriation for the construction of a harbor at New Buffalo, Michigan.

Petition for the improvement of Cleveland harbor, Ohio.

A bill (H. R. No. 137) making appropriation for the improvement of the harbor at Monroe, Michigan.

A bill (H. R. No. 143) making appropriation for completing the harbor at St. Joseph's, Michigan.

A bill (H. R. No. 122) making appropriation for continuing the improvement of a harbor of refuge and commerce at

Michigan City, on Lake Michigan, and the construction of a breakwater thereat.

A bill (H. R. No. 69) making an appropriation for the improvement of the channel of the St. Clair flats.

A bill (H. R. No. 112) to continue the improvement of the harbor of Huron, Ohio.

A bill (H. R. No. 109) to continue the improvement of the harbor at the mouth of the Cuyahoga river, Ohio.

A bill (H. R. No. 110) to continue the improvement of the harbor of Sandusky city, Ohio.

A bill (H. R. No. 108) to continue the improvement of the harbor at the mouth of Grand river, Ohio.

A bill (H. R. No. 35) to continue the improvement of the navigation of the Maumee bay, on Lake Erie.

A bill (H. R. No. 33) for completing the repairs upon the harbor of Black river, on Lake Erie, Ohio.

A bill (H. R. No. 434) for completing the breakwater, &c., at Plattsburg, New York.

Estimates for War Department of cost of completing the same.

Joint resolutions of the Legislature of Washington Territory, for a marine hospital in the Territory, and making Vancouver a port of delivery.

Resolution concerning the custom-house, &c., at Rochester, New York.

A bill (H. R. No. 281) for the construction of a marine hospital at Albany, New York.

A bill (H. R. No. 283) for the construction of a marine hospital at Buffalo, New York.

A bill (H. R. No. 378) for the construction of a marine hospital at Memphis, Tennessee.

Resolution as to erecting custom-house at the city of Vicksburg, Mississippi.

Petition of citizens of Alabama, that Massey's alarm gauge for ships be adopted in the navy of the United States.

Memorial in favor of a ship canal around the Falls of Niagara.

Mr. HATCH. I wish to ask a question of the chairman of the Committee on Commerce, in relation to an appropriation for Buffalo harbor. I see among the bills which have been read at the Clerk's desk, there is an adverse report in reference to the bill for the improvement of that harbor. I want to know whether that committee has recommended an appropriation for the repair of Buffalo harbor, and to what extent?

Mr. JOHN COCHRANE. The bills, the titles of which have just been read, were not reported upon adversely, but were reported back, with the request that the committee be discharged from the further consideration thereof. The bill for appropriations for rivers and harbors, which the committee have reported, and which has been ordered to be referred to the Committee of the Whole on the state of the Union, contains nearly all the appropriations asked for in the bills just read, though not to the full amount asked.

In answer to the question of the gentleman from New York, I can say that the amount suggested and recommended officially for that purpose, has been inserted in the general bill for river and harbor improvements. The amount, I believe, is some \$37,000.

CODIFICATION OF THE REVENUE LAWS.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported a bill for the codification of the existing revenue laws of the United States and for other purposes; which was read a first and second time.

Mr. JOHN COCHRANE. I may be indulged in a few words in regard to the bill just reported, and in relation principally to the reference which ought to be made of it and the action to be taken upon it. It is within the recollection of us all that this subject has been before Congress prior to this time, and since the year 1854; that different gentlemen have been engaged upon it at various times, and with various success; that upon a request of the last Congress by a resolution thereof, that a report was made upon the subject by the Secretary of the Treasury to the present Congress, which report was read to the House, ordered to be printed, and referred to the Committee on Commerce. That report has been before us, as well as substantially every other communication germane to the subject presented to the consideration of the committee. We found that the report of the Secretary of the Treasury was defective in some respects, and those respects having intimate relation to the classification of collection districts throughout the United States and the ports of entry and delivery thereof, as well as to the compensation of officers of the revenue; so radically defective did we find this chapter, that we referred them back to the Secretary, and the force of the Department, under the direction of the committee, are engaged in remodeling that portion of the bill. Of so great importance and consequence is it to the country, that we have decided not to include that portion of the general bill within the bill now reported to the House

Mr. DAVIS, of Indiana. What is the question before the House?

The SPEAKER. It is, "Shall the bill be read a third time?"

Mr. JONES, of Tennessee. Has the bill been read through?

The SPEAKER. It has not. It can be done after the gentleman shall have concluded his remarks, and before the question is put.

Mr. JOHN COCHRANE. I will not uselessly occupy the time of the House; and shall not probably consume more than five minutes more.

I was saying that the character of this bill now presented by the committee to the House, is entirely referential to the codification of the revenue laws of the United States, as they at present exist. This codification is based upon the laws of 1793 and 1799. There never has been a question made, either in this House or by our judicial tribunals, that these laws required codification.

It therefore consists simply of a collation of those laws which are applicable to the collection of the revenues of the Union, and of a supply of other laws which are requisite to replace those which, while a part of the system of 1799, have become inapplicable to the extended ramifications of our increased commerce.

I now ask that the bill may be read a third time, and that its consideration be made the special order for the second Wednesday of May next.

Mr. DAVIDSON. I object.

Mr. SEWARD. I move to refer the bill to the Committee of the Whole on the state of the Union.

The SPEAKER. The bill cannot have its third reading at the present time unless the House determine to proceed to the passage of the bill.

Mr. JOHN COCHRANE. I withdraw my motion then, and move that the consideration of the bill be postponed until the second Wednesday of May next.

Mr. DAVIDSON. I object.

Mr. J. GLANCY JONES. I hope no special order will be made.

Mr. SEWARD. As this bill embraces very important matter, I think it ought to go to the Committee of the Whole on the state of the Union, where it can be fully discussed and amended, and therefore I adhere to my motion.

Mr. J. GLANCY JONES. I merely wish to say that the Senate having passed the resolution, in concurrence with the House, to adjourn *sine die* on the first Monday of June, it becomes necessary that the appropriation bills should be speedily acted upon, and I hope no special orders will be made to interfere with that important part of the public business.

Mr. WASHBURN, of Illinois. I trust that the motion of the gentleman from Georgia will not prevail, for the reason that this is a matter of legislation which is imperatively demanded by the country. This codification of the revenue laws is, as my colleague on the committee [Mr. COCHRANE] remarked, one which has been before Congress and before the Secretary of the Treasury for six or eight years; and now that the bill has been perfected, I trust that the House will act upon it at this session of Congress. If it is referred to the Committee of the Whole on the state of the Union, we all know it will not be reached, and will not be acted upon. I hope, therefore, the motion of my colleague on the committee—that the consideration of the bill be postponed to the second Wednesday of May next—will be agreed to, and that the bill will then be taken up, and passed.

Mr. LETCHER. Such a postponement will give that bill precedence on that day, will it not?

The SPEAKER. During the morning hour.

Mr. LETCHER. Then I hope the House will not adopt that course. If we are going to adjourn in six weeks we ought to have the appropriation bills considered.

Mr. SEWARD. I would inquire of the gentleman from Illinois whether this bill is not similar in its provisions to the bill reported last Congress by the gentleman from Maine, (Mr. Fuller)?

Mr. WASHBURN, of Illinois. It is, in the main; but in some respects it differs. I think there will be no objection to this bill upon either side of the House.

Mr. JOHN COCHRANE. In reply, further, to the question put by the gentleman from Georgia, I may state there are many material variations from the bill introduced last Congress by Mr. Fuller, of Maine; that the bill has been subjected

to the closest scrutiny of gentlemen in the Treasury Department; and has the approbation, I believe, of the Secretary of the Treasury himself.

And I further remark, for the information of the House, that this is not at all a bill which affects in the least the collection districts of the Union, the ports of entry and delivery, or the compensation of revenue officers. It is simply a codification of existing laws, and nothing more or less.

Mr. SEWARD. I do not desire to be captious upon the subject; and in order to afford an opportunity to the gentleman to take a vote upon it, I will withdraw my motion to refer, and in addition to the pending motion, I move that the bill be printed. I want to look at it.

The House divided, and there were—ayes 83, noes 55.

So the motion to postpone and print was agreed to.

Mr. JOHN COCHRANE moved to reconsider the vote by which the motion was agreed to, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

STEAMER FEARLESS.

Mr. JOHN COCHRANE, from the same committee, reported back, with a recommendation that it do pass, Senate bill (No. 51) to authorize a register to be issued to the steamer Fearless.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

ADVERSE REPORTS.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, made adverse reports on the following petitions; which were laid upon the table, and ordered to be printed:

The petition of merchants and business men of Chicago, asking for the improvement of the harbor of that city; and

The petition of sundry ship carpenters of St. Louis, asking that the inspectors of hulls, provided for in the steamboat passenger bills, shall be required to be practical shipwrights.

LANDS TO AGRICULTURAL COLLEGES, ETC.

Mr. COBB, from the Committee on Public Lands, reported back, with a recommendation that it do not pass, House bill No. 2, donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts.

Mr. COBB. I move that the bill and report be printed. The gentleman from Michigan [Mr. WALBRIDGE] has a counter report which he wishes to make; and I will yield the floor to him for that purpose.

Mr. WALBRIDGE. I desire to make a report from the minority of the Committee on Public Lands. In view of the importance of this question to the country, it being, I think, one of the most important that has come before this House, I move that its consideration be postponed until Wednesday of next week, and that the bill and the reports of the majority and minority of the committee be printed, so that every gentleman may act advisedly upon the subject.

The SPEAKER. Does the gentleman from Alabama surrender the floor?

Mr. COBB. The gentleman from Vermont [Mr. MORRILL] introduced the bill.

The SPEAKER. The Chair inquired of the gentleman from Alabama whether he surrendered the floor, with a view of knowing whether to entertain the motion of the gentleman from Michigan.

Mr. COBB. I surrendered it for the purpose of allowing that motion to be entertained.

Mr. MORRILL. I appeal to the gentleman from Alabama to yield me the floor.

The SPEAKER. Does the gentleman from Alabama yield the floor to the gentleman from Vermont?

Mr. CLINGMAN. I rise to a question of order. I object to the gentleman from Alabama holding the floor and enabling the gentleman from Michigan to make a motion to postpone, unless the question is open for a motion to commit to the Committee of the Whole on the state of the Union, or any other motion. I desire that the House shall have an opportunity of determining what they will do with the bill.

The SPEAKER. The Chair is of opinion that the objection would have been properly taken if it had been taken in time.

Mr. CLINGMAN. I took it as soon as I understood what the proposition was. There was so much confusion in the Hall that I did not at first understand it.

The SPEAKER. The Chair thinks the objection comes too late.

Mr. CLINGMAN. Well, whenever the question is put, it will, of course, oust the gentleman from Alabama from the floor, and I shall then, if I can get the floor, make the motion to commit.

Mr. MARSHALL, of Kentucky. I rise to a question of order. Either the gentleman from Alabama has yielded the floor altogether, or the motion of the gentleman from Michigan is not in order. It is impossible that the gentleman can keep the floor and yield it to another gentleman to make a debatable motion, and then intervene and cut off discussion on a debatable proposition.

The SPEAKER. The Chair makes the same ruling in response to the gentleman from Kentucky which he made to the gentleman from North Carolina. It could not have been done if any objection had been made. But no objection was made at the time. The motion of the gentleman from Michigan was received by the unanimous consent of the House, given impliedly, at least, if not expressly.

Mr. MARSHALL, of Kentucky. I suggest to the Speaker that it was impossible to know what the gentleman's proposition was until he uttered it.

The SPEAKER. The gentleman from Michigan?

Mr. MARSHALL, of Kentucky. Yes, sir.

The SPEAKER. The Chair stated it distinctly.

Mr. MARSHALL, of Kentucky. That his intention was to move to postpone?

The SPEAKER. No; that the gentleman had moved to postpone.

Mr. MARSHALL, of Kentucky. As soon as he made the motion, we raised the question of order.

The SPEAKER. Some time has intervened since the motion was made.

Mr. CLINGMAN. We will get a chance after a while to move that the bill be laid upon the table.

Mr. MORRILL. I hope the gentleman from Michigan will withdraw his motion, in order that I may submit some remarks on the bill.

Mr. CLINGMAN. I understand that the gentleman from Alabama has the floor.

The SPEAKER. The gentleman from Alabama has the floor.

Mr. CLINGMAN. Then I object to his yielding it to everybody.

Mr. J. GLANCY JONES. It is difficult on this side to hear what is going on between the gentlemen on the other side, and I would inquire what is the question pending?

The SPEAKER. The pending question is on the motion of the gentleman from Michigan to print the bill and report of the majority of the committee, and the views of the minority, and to postpone the further consideration of the subject until Wednesday of next week.

Mr. WALBRIDGE. It is understood that I include both the report of the majority and the report of the minority.

The SPEAKER. So the Chair has stated.

Mr. MORRILL. Does the gentleman from Alabama yield to me?

Mr. COBB. I have no objection myself to yield to the gentleman.

Mr. J. GLANCY JONES. I object, unless the gentleman from Alabama yields the floor unconditionally.

Mr. COBB. I do not object, but I should like to retain the floor for the purpose of reporting other business.

Mr. MORRILL. I claim the floor. I propose to offer an amendment which strikes out all in relation to the Territories.

The SPEAKER. A motion to amend is not in order.

Mr. MORRILL. Very well, sir, I will submit some remarks on the subject.

Mr. CLINGMAN. Has the gentleman from Alabama yielded the floor?

The SPEAKER. The Chair understood the gentleman from Alabama to claim the floor no longer.

Mr. COBB. I did not intend to yield the floor unconditionally, but now I do not object to the gentleman from Vermont going on with his remarks.

Mr. MORRILL. Then I have the floor?

The SPEAKER. The Chair recognizes the gentleman from Vermont.

MINNESOTA BILL.

Mr. STEPHENS, of Georgia. Has the morning hour expired?

The SPEAKER. It has.

Mr. STEPHENS, of Georgia. Then I move that the House proceed to the consideration of the business upon the Speaker's table.

Mr. MORRILL. Will I have the floor in the morning?

The SPEAKER. The gentleman will have the floor when the question again comes up.

Mr. GOODE. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STEPHENS, of Georgia. I will state to the House that I wish to proceed to the consideration of the business upon the Speaker's table in order to take up the Minnesota bill. I demand tellers on the motion to go into committee.

Mr. STANTON. What disposition does the gentleman propose to make of that bill?

Mr. STEPHENS, of Georgia. I propose to take it up and to put it on its passage.

Mr. GROW. I rise to a question of order. The gentleman from Vermont having the floor, it cannot be taken from him by a motion to go into the Committee of the Whole on the state of the Union.

The SPEAKER. According to the practice of the House, the gentleman from Georgia, or any other member, pending the motion to go to the business upon the Speaker's table, can move to go into the Committee of the Whole on the state of the Union.

Mr. GROW. Can the floor be taken from the gentleman from Vermont, in order to proceed to the consideration of the business upon the Speaker's table, and then, instead of going to that business, can go into the Committee of the Whole on the state of the Union?

The SPEAKER. The gentleman from Pennsylvania will remember that such has been the uniform practice for six years.

Mr. GROW. I do not remember, and that is why I put the question to the Chair.

The SPEAKER. The Chair does not remember that the practice has varied in a single instance.

Mr. GROW. The point I make is this: if the motion to go to the business upon the Speaker's table be voted down, will not the gentleman from Vermont be entitled to the floor? I say that it is not in order to put the question on the motion to go into committee, until the question has been taken on the motion to go to the business upon the Speaker's table.

The SPEAKER. The rules of the House allow the motion to go into committee to be made at any time. They give that motion precedence over all others. When a motion is pending to go to the business upon the Speaker's table, it is in order, before that motion is disposed of, to move to suspend the rules and go into committee.

Mr. WASHBURN, of Maine. In what condition is the bill from which we are about to pass? Will it go to the Speaker's table?

The SPEAKER. It will.

Mr. WASHBURN, of Maine. I hope there will be no objection to the submission of a motion to recommit to keep it before the House.

The SPEAKER. If there be no objection, it will be considered that the motion to recommit is pending.

There was no objection.

Mr. STEPHENS, of Georgia. If the motion to go into committee be voted down, and the motion I have made prevail, I propose to take up the bill for the admission of Minnesota as a State into the Union. I demand the yeas and nays on the motion to go into the Committee of the Whole on the state of the Union.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. What is the gentleman's purpose when the bill is taken up?

Mr. STEPHENS, of Georgia. It is my wish that it should be put on its passage. If the House takes it up, however, it is for the House to do what it pleases. I want it passed. I see no rea-

son why the admission of Minnesota should be any longer delayed.

Mr. GOODE. The House has already adopted a resolution to close the debate on the auxiliary guard bill to-day, and I hope that, instead of going to the business upon the Speaker's table, we will go into committee, and afford an opportunity to the gentlemen who have intimated a desire to be heard on the question. I feel it to be my duty to insist on my motion, although it is unpleasant to me to differ from my friend from Georgia at any time.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 117, nays 69; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Bocock, Brayton, Buffinton, Burlingame, Case, Caskey, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Cockrell, Colfax, Comins, Covode, Cox, Curry, Curtis, Danrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Dowdell, Durfee, Elliott, English, Farnsworth, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goode, Goodwin, Granger, Groesbeck, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leiter, Letcher, Lovejoy, McQueen, Humphrey Marshall, Maynard, Miles, Milson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pendleton, Pettit, Poyton, Pike, Potter, Poule, Powell, Purviance, Ritchie, Robbins, Roberts, Royce, Sandridge, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Spinner, Stallworth, Stanton, William Stewart, Tappan, Thompson, Tompkins, Trippe, Underwood, Wade, Walbridge, Waldron, Walton, Warren, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollicoffer—117.

NAYS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Boyce, Branch, Burnett, Burns, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Corning, James Craig, Burton Craig, Crawford, Davidson, Edmundson, Florence, Gartrell, Gillis, Greenwood, Gregg, Lawrence W. Hall, Hatch, Hawkins, Houston, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Landy, Macley, McKibbin, Mason, Miller, Niblack, Phelps, Quitman, Ready, Reagan, Rufin, Russell, Savage, Seales, Seward, Henry M. Shaw, Singleton, Samuel A. Smith, William Smith, Stephens, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Whiteley, Woodson, Wortendyke, and John V. Wright—69.

So the motion was agreed to.

Pending the call,

Mr. POTTLE stated that Mr. BURROUGHS was detained at his room by illness.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. JONES, of Tennessee, in the chair), and resumed the consideration of Senate bill No. 232, to establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject, on which the gentleman from New York [Mr. THOMPSON] was entitled to the floor.

AUXILIARY GUARD.

Mr. THOMPSON. In offering a few suggestions upon the bill now before the committee, I wish to state, in the first place, that I have no objection whatever to giving my support to a proper bill organizing a police force in the city of Washington, to be paid in part by the General Government. The District of Columbia is under the peculiar jurisdiction of Congress; it is the child of Congress. Here are our public buildings; this is the place of meeting of the National Legislature; here is the house of our President; here our public grounds; and we are bound by every consideration to make this a model city, and to establish in it a model government. Persons and property ought to be more secure here than in any city in the United States. Now, sir, I would not be nice upon this question; I would not split hairs in regard to the particular amount of money I would afford to the municipal corporation established for the purpose of aiding them in organizing and maintaining an efficient police.

The propositions in this bill involve two questions. The first is a question of power, and the second is a question of policy. Something has been said by gentlemen in regard to the question of power. It seems to me that very few observations will be sufficient upon that subject. Gentlemen will find, by looking at the eighth article of the Constitution of the United States; that there is a provision in that article granting to Congress the exclusive legislation in all cases whatever over such district, not exceeding ten miles square, as may, by cession of particular States and the ac-

ceptance of Congress, become the seat of Government of the United States. It was anticipated at the time this Constitution was formed that there would be a cession of ten miles square made for the purposes of the Government of the United States. Although the Constitution was made in 1787, and the cession was not made from Maryland and Virginia until 1791, yet there was an anticipation in the Constitution that this cession would be made, and provision was made that Congress should exercise an exclusive jurisdiction over the territory thus to be ceded. The consequence is that the District of Columbia became a Territory, or a *quasi* Territory. It is not an ordinary Territory, because our Territories are entitled to Delegates upon this floor; it is not a State, because the States are represented here; but it is a *quasi* Territory, under the control of Congress.

It was suggested by the honorable chairman of the committee who reported this bill, that the mode of appointing the officers provided for in this bill, is limited by the provision of the Constitution (section two, article two) which requires that the President of the United States shall appoint all officers under the Federal Government. The answer I have to make to that is, in the first place, that these are not Federal officers contemplated in the Constitution of the United States. It does not relate to any officers of the local magistracy. It cannot relate to any such officers, because they are provided for under the ample powers of the provision of the Constitution to which I have already adverted, and because, if that is the construction which should be put upon this clause of the Constitution, then by what right do the people of this city to-day elect their Mayor? The Mayor is just as much an officer of the Federal Government as any officer whose appointment is contemplated in this bill. But from the granting of the first charter of the city of Washington, in 1802, down to this time, the people have exercised the power of voting for the officers of this corporation under the authority of that act of Congress. I need say nothing more upon the question of power. The power is full, ample, unlimited, and sufficient.

Mr. GOODE. I did not hear the gentleman's first reference.

Mr. THOMPSON. There are two clauses of the Constitution which authorize Congress to exercise unlimited power over the District of Columbia in reference to appointments and everything else—the one already mentioned, and that which gives to Congress power to make all needful rules and regulations for Territories. Now, as I have stated, in 1802 Congress gave to the inhabitants of the city of Washington a municipal charter. They reserved the right of eminent domain, and delegated all the functions of local sovereignty to the people of the District. They did it upon the principle that it was not consonant with the genius of American institutions to hold the twenty, thirty, forty, or fifty thousand people who might settle here in a state of perpetual pupillage, in a state of organic pauperism as to political rights and privileges, thus encouraging a total disregard of all personal responsibility, and a habit of looking to the Government for everything. If a contrary policy had been pursued, it would have created a different people from that which exists in any other part of the United States. At first, the President appointed the Mayor; but after a while the people had authority to elect their own Mayor and their own aldermen and inferior officers. And in the tenth section of the act giving a charter to the city of Washington, the power of taxation was limited to seventy-five cents upon the hundred dollars.

Now, sir, we had no complaints for a period of more than fifty years that the system of police organized by the Mayor and Common Council did not work to the protection of the lives and property of the citizens of this District. There was no difficulties suggested on the subject. But after a while, it was supposed, as the city enlarged, that Congress ought to do something; that, having a large interest here, having immense buildings to protect, and extensive grounds that were adorned and beautified, to take care of, Congress ought to do something by way of assisting the city authorities in the maintenance of an adequate police force. The consequence was, that the law which it is now proposed to repeal in part, was enacted, giving an

auxiliary guard of some thirty men, paid by Congress, for the purpose of assisting the police of the city.

Now, sir, this was inaugurating a policy, as the gentleman from Mississippi [Mr. QUITMAN] says, which was entirely new. It was inaugurating a policy which no State had inaugurated. Neither Massachusetts, nor New York, nor South Carolina, nor any other State in this Confederacy had ever seen fit to organize or maintain a police force in the city where the capital of the State was situated. How has the thing operated? Why, gentlemen have said upon this floor, and I presume it is true, as it has not been controverted, that the system has operated inharmoniously; that these forces have become antagonistic forces; that the force of the city operates in one way, and the force of the Federal Government operates in another way, and that they come in conflict. Gentlemen have said here, without contradiction, that when the officers of one department were in the very act of arresting a criminal, the officers of the other department would stand by and refuse to render assistance. I do not know how this is, but it has been alleged on this floor to be a fact and has not been contradicted. The reason of it is this: you can never have an efficient police force, unless that force emanates from a single power, whatever that power may be; unless it has relation to a single head; unless it has concentration; unless it is organized upon the principle of the spider and his web, so that one head controls, and one will govern, and men are responsible to a power one and indivisible. The directing power must be a unit, simple, single, and undivided. Well, sir, if the two forces now in existence do not operate harmoniously, why would you increase one of these forces? Would they operate any more harmoniously than they now do? In order to have that harmonious operation, you must alter the thing radically in principle, for if you make a vicious system good men cannot make it operate well. The fault, after all, must be in the system more than in the men; and this is my opinion of the matter.

Sir, it is said we must increase this force because life is unsafe, because property is unsafe. Is life more unsafe in this District than in other cities? I know not; but the Mayor of this city states in answer to a certain inquiry propounded to him by a committee of the Senate, that there is a spirit of lawlessness pervading the whole land; that deeds of violence and bloodshed are perpetrated even in villages and hamlets; and that all the cities of the country are suffering to a greater extent than ever before from the prevalence of this spirit in their midst. So that the Mayor of this city repudiates the idea that there is a greater amount of crime existing in this city than in other cities of like extent.

Now the question arises, how are you to produce a better state of things? One gentleman says, by a preventive police. Another gentleman says, by moral force. Now, I beg leave to say to gentlemen who think that the whole security of the body-politic rests in a preventive police, that there is no such thing as a physical preventive police. Your preventive police is in your pulpit, and in your school-houses, and in the prompt administration of law. That is the only preventive police. Why, if you intend to have a preventive police of an amount sufficient to protect all the members of Congress and all the strangers and all the citizens of this place, from injury, you would want a policeman to every single individual; and even then you cannot prevent the deliberate act of the assassin, who chooses to seek out his victim and murder him either in daylight or in the dead of night. Why, on this principle the force proposed by this bill is not half enough. If we are to have a preventive police I would assign the chief, as having the largest salary, to the President to take care of him. I would assign the captain, with his \$1,200 a year, to the Secretary of the Interior, because the recent aggression on him shows that perhaps he is in some danger. And then here are four lieutenants—I would assign them to the guardianship of the Senate, as they are high in office and in character. Perhaps they would be sufficient for the protection of the Senate. And then here are the hundred policemen. If this is to be a preventive police we would want two hundred and thirty-four—one for each member of Congress. Each member of

Congress, on the principle of this being a protective police, ought to have one to go with him by day and to take care of him by night.

Now I have one suggestion to make in regard to all this. You cannot protect life, and you cannot protect property, through the instrumentality of a mere preventive police. Why, sir, it has been ascertained, I believe, by gentlemen who have studied the annals of criminal jurisprudence pretty accurately, that crime seems to be periodical. It has its peculiar phases. In some countries and ages it takes a peculiar form, such as assassination at one time, poisoning at another, drowning at a third, and so on. Crime has its cycles, and it may have its locations also. I do not say, I would not be uncharitable enough to say, that crime increases at the seat of Government just in proportion as our friends of the Democratic party happen to be in power.

Now, sir, it is suggested that there are three difficulties in the way of the present police acting efficiently for the protection of persons and property. The one difficulty suggested is this: that the members of this police force are incompetent and vicious; the second is, that the criminal court is inefficient; and the third is, that the Mayor is unfit for his position. All these suggestions have been made on this floor. Now, sir, I need not refer to the fact, in proof of this, mentioned yesterday by the gentleman from Kentucky, [Mr. BURNETT], that he met two of these police officers on the sidewalk in a state of intoxication. In regard to the Mayor, I need not advert to the proof furnished by the grand jury, that peaceful citizens in this city, in June last, were shot down by a body of marines, led on under the direction of this Mayor, who was then being voted for as a candidate for the mayoralty. The grand jury found that fact. Now, if that be so—and I simply take up these accusations as I find them—whose fault is it? Whose fault is it that the police force of this city is inefficient, and fails to protect persons and property? I answer, it is the fault of the people of this city, who have the power in their own hands, through their Mayor, of correcting the evil—who have the police force under their direction and supervision.

But suppose you divide this responsibility; suppose you permit part of the force to remain as the force of the city, and another part under the control of Congress: you only increase the evil; and if the citizens of this District should blot out their entire force, and we should organize one hundred or one hundred and fifty men for the protection of persons and property in this city, the citizens—paying nothing, and being under no responsibility—would be under no obligation to see that the Mayor of this city was a man fit for the position to which he aspired.

Mr. SMITH, of Virginia. Does the gentleman mean to argue that by increasing the police force you increase the evil?

Mr. THOMPSON. I mean to argue this: that inasmuch as you relieve the people of this District from all responsibility, and take away from them the privilege of controlling mediately their police force, through the Mayor whom they are to elect, and who is to nominate the police force, you lessen their interest in the government of this city.

Mr. HUGHES. I understand the gentleman from New York to take the position, in effect, that the Democratic Administration is responsible, to a great extent, for this disorder.

Mr. THOMPSON. I have not said it.

Mr. HUGHES. I wish to say that it is very unfair to hold the President and the Administration responsible for disorders here, and at the same time deny to them the power to control a police to put them down.

Mr. THOMPSON. I do not know that the President has anything to do with it. I have more respect for the President of the United States than to degrade him to the level of a police captain, and to have his proclamation run, "I, James Buchanan, President of the United States, and captain of the police of Washington." I do not want to append a tail of that kind to his title.

Now, sir, I say that the people of this District ought to control the police force of this District. That is the principle on which I stand. If they are not able to control that police force or to pay it, I would afford them the means by a donation from Congress for that purpose. But I would

have no divided responsibility; I would not have two organizations; I would have unity, consolidation; and harmonious, not antagonistic, action on the part of the police officers. But the inhabitants who live here, who have their property here, who have their wives, their children, and all their interests here—I would not relieve them from the responsibility of seeing that their city is well governed, and turn it over to a police force under the authority of, and paid by, the General Government.

Now, three various modes have been suggested of appointing this police force, provided the force is to be increased. My colleague from New York [Mr. JOHN COCHRANE] does not like the idea of submitting the election of these police officers direct to the people, because he is afraid that rogues would choose rogues to take care of the interests of the city. Well, if the idea that the people are capable of governing themselves is a myth and a fallacy, let us discard it at once. In our towns, the people elect the constables and police officers of the town, as well as justices; and even in the State of New York, we have intrusted the people with the election of judges; and the system has worked well so far. For my part, I would not hesitate, if a system of that kind were proposed, to give to the people the election of their police officers, just as they elect their Mayor and Common Council. Although a man may be vicious himself, he has an interest in the body-politic. He admires virtue and courage and uprightness in the public officer, and he wants the protection of law. The probability is—and such fact has been demonstrated throughout the country—that the people will elect just as good men as would be chosen by other means. Still, I would not be particular on that point. The second, by the President, to which I object. The third, by the nomination of the Mayor and approval of the Aldermen, which I deem the correct mode.

It is said that there are three sources of the increased criminality and vice in the city of Washington. Some gentlemen say that these rowdies who are about the parks, and in other parts of the city, rendering life insecure, have been brought here as applicants for office. Well, I think that thing may be reformed very easily. If gentlemen who are candidates for office, members of Congress or anything else, will not promise twenty men the same office, provided they work for their election, I think there would be very little difficulty on that subject. If twenty men are promised the same office, the nineteen men who do not get it will become exasperated, and will endeavor to get their pay in retribution and vengeance. A preventive police cannot remedy this difficulty—that corrective lies with us. I suppose our side of the House will have but very little difficulty upon that subject, and the majority can reform, in that regard, whenever they please. It is hardly necessary that Congress, or the city of Washington, should be put to the extra expense for the purpose of correcting an evil of that description.

In the second place, reference has been had to the liquor establishments in this place. The gentleman from Mississippi [Mr. SINGLETON] went into an enumeration of the number of liquor establishments there were in this city, and I think he stated that there was one to every fifty inhabitants. Where does the reformation of that evil lie? It lies with the people of this city. Are they to keep open these rum-shops for the purpose of corrupting the people, and then call upon us to organize and pay an additional constabulary for the purpose of preventing the disastrous effects of them? Nothing can be more unjust and unwise. The people can shut those places of pollution and crime, and thus, in a great measure, cut off the evils of rowdism resulting from drunkenness.

In the third place, it is said that the courts are inefficient; that the criminal judge of this city is inefficient and negligent in the discharge of his official duties. I am not acquainted with that judge, and I know nothing about him personally. That is an evil which can be corrected in the proper way. But though you should have one policeman to every member of Congress, and to every citizen of Washington, they could not correct that evil. It does not lie in the power of the police force to correct the evil of an inefficient and lax administration of justice.

I did not intend to say much upon this subject.

I wish now merely to suggest the mode in which I think all the difficulties of the bill of my friend from Virginia, [Mr. GOODE,] the chairman of the Committee for the District of Columbia, can be obviated. I would establish a system something like this: I would have the whole police force of the city of Washington subject to the nomination of the Mayor, with the approval of the board of Aldermen or Common Council; I would have the force a city force, responsible to the Mayor, and removable by him, with the consent of the body with which he acts; I would have a single head; and if the city is able to raise only about twenty-five thousand dollars for the purpose of paying the expenses of that force, I, for one, would agree to vote an additional amount of \$50,000 from the public Treasury—double the amount the city should raise—to enable them to maintain an efficient police force for the protection of life and property in this city.

Mr. GOODE. That is substantially the plan now in force in this city.

Mr. THOMPSON. But the difficulty is, as they themselves claim, that those men who are in office are inefficient and vicious, and that the Mayor is not a proper person. I say that the correction of that evil lies not in the police force, but in the people themselves; and if they will not correct it themselves, no increase of the police will be of any substantial benefit.

Mr. SMITH, of Virginia. But we cannot rely upon the people.

Mr. THOMPSON. The gentleman says we cannot rely upon the people. Has it come to that, that the people of the city of Washington are not capable of self-government, and are to be held in a state of perpetual pupillage to the General Government; that they are to have no self-reliance, no self-respect; that they are to exercise no political privilege like the rest of us? I am unwilling to degrade them to a level so low.

Mr. SMITH, of Virginia. It has been repeatedly remarked that a large portion of the population of the city of Washington is of a floating character, and that is an additional reason why they cannot contribute more largely to the expense of maintaining a police.

Mr. THOMPSON. I obviate that difficulty by appropriating \$50,000, double what the city contributes, for the purpose of enabling them to maintain a police force. But you never can have a divided police which will amount to anything. It will be "city mouse" or "country mouse." Why, this police under the General Government will feel that their dignity is much greater than that of the city police, and the system must work inharmoniously and in antagonism. I intend at the proper time to offer an amendment to this bill by striking out all after the enacting clause, and embodying what I have shadowed forth in stating my views upon this subject.

Mr. SCALES. I did not intend, Mr. Chairman, to have anything to say upon the question now before the committee. It is true, I am a member of the Committee for the District of Columbia, and concurred in reporting this bill. But, sir, this debate has taken such a range—so many things have been introduced into it—that I feel called upon, as a member of that committee, to give some of the reasons why we chose to recommend this bill to the House. I say I am surprised at the course which this debate has taken. I am more surprised that it has assumed a partisan character. I had hoped that a bill of this sort, in which we all feel an interest, or all ought to feel an interest, would at least be free from anything like party prejudice and party bias. But it seems that no bill can be introduced here, I care not how sacred the object, I care not how pure its aims and the motives in which it originated, I care not how commendable the origin, but the charge is made that it is brought into being for party purposes. Is this a reason why the Administration should be assaulted upon this question? Is this a proper bill to call forth the denunciation of gentlemen on this floor against the Democratic party, or against any party which might be in power? Yet, sir, that is done. The gentleman from Massachusetts, [Mr. COMINS,] the other day, introduced this kind of discussion, by using language in regard to the Administration which—without attempting to lecture him, or endeavoring to instruct him in good manners—it struck me was not proper and courteous. The Administration, he

said, had reached such a point of corruption that even an attempt at modesty and purity manifested in it would excite ridicule and contempt.

Now, sir, I am not here to vindicate the character of this Administration. It does not need any vindication at my hands. The shafts of the gentleman from Massachusetts will fall harmless at its feet. I will not undertake to decide how pure or how modest the sentiment uttered by the gentleman was; but, sir, I do undertake to say that if its expression is as deficient in modesty and purity as it is in fact, then, sir, it has little in it to redeem it from the contempt which, he says, awaits the Administration.

Now, sir, what are some of the objections urged against this bill? It was said by the gentleman who was last upon the floor, by the gentleman from Texas, [Mr. REAGAN,] the other day, and by the gentleman from Mississippi, [Mr. QUITMAN,] that it is anti-Democratic; that it is trampling upon the rights of the people; that it is subverting popular sovereignty. Trampling upon the rights of the people! In what, sir? What does the bill propose? To impair and infringe any right? Not at all, sir; but to aid the people in preventing bloodshed, violence, and assassination in this city. The inestimable and invaluable right of which we deprive them, is that we will not permit them to cut each other's throats!

But, sir, is it a subversion of popular sovereignty? If it is, then I ask gentlemen who oppose it upon that ground to pass over the bill, and go back to the Constitution which gives Congress exclusive jurisdiction over the District. Yes, sir, the Constitution of the country, for wise and good purposes, gives jurisdiction over this District to Congress. If the Constitution is anti-republican and anti-democratic, then this bill is anti-republican and anti-democratic. If the Constitution is not, then the bill is not either. But, sir, it does not subvert popular sovereignty. Do we propose, I ask again, to take away any right from the people of this District? Not at all. They have had in their hands the government and the regulation of the police of this city; how have they done it? Need I tell gentlemen the state of things which now exists in this city? Is there a man who has been here a day and a night who is ignorant of it? Crime stalks abroad; there is no law, or if there is a law, no power to execute the law. Our own sense of personal insecurity and danger proves that there is a necessity for some action on the part of Congress. The people will not do it; they have the power, and yet nothing has been done. Is this state of things to continue and to be permitted by Congress? Are we to fold our arms and say that, because we will not subvert popular sovereignty, the people may go on and cut each other's throats—not, as the gentleman from Tennessee said the other day, "subject to the Constitution," because the Constitution gives us the power to prevent it, if we dare to exercise that power.

The gentleman from Mississippi [Mr. QUITMAN] says that we have as much right to interfere in any other city where the General Government has a navy-yard or any other property. Can that be so, sir? The Constitution gives us jurisdiction over this city, but over no other city; and here we have exclusive jurisdiction. Sir, it is not only our right, but it is our bounden duty. We have all of us constituents who are interested in this city and in its government. It is theirs. They have a right to come here, and whilst here to be secure in their persons and property. We have the same right. The foreign ministers have a right to be protected. Strangers from foreign lands have a right to be protected. Shall it be said here, in the capital of a great nation like America, here, under the very eye of Congress, and when we have the power in our hands to prevent it, that we are to sit by and allow this state of things to remain as a burning shame and lasting disgrace upon our escutcheon? Where is there a city in any foreign land that is in the condition in which the city of Washington now is?

This bill provides that the appointing power shall be in the President of the United States. Gentlemen say that it will be used for partisan purposes, and that the President is a party man and will appoint some party favorite, without reference to his qualifications, to be chief of police. Mr. Chairman, the same argument was used when the command of the Army and the appointment of

foreign ministers were given to the President of the United States under the Constitution. Yet, sir, they were given to him. And when the Constitution gives him such power as that, we hesitate to give him—what? The appointment of a chief of police for sixty thousand inhabitants!

Is it not right that he should have it? He alone is responsible. The responsibility is undivided, and if he is influenced by personal or party considerations, I ask you to point out any other mode of appointment that will be freer from those objections. If you will give it to a board subject to election the responsibility will be divided; they will have the same attachments; they will be influenced by the same personal considerations and the same political biases and prejudices. If you adopt the proposition of the gentleman from New York [Mr. DODD] and constitute the board of two Americans and two Democrats, or two Black Republicans and two Democrats, you will have as bad a system as you have now, if not worse; because, occupying different political positions, having different friends to reward and different views to carry out, the members of that board will be always antagonistic, and will never be able to do anything to promote the public good.

Mr. THOMPSON. That principle has been tried for some ten years in the State of New York in the election of our county assistant justices, and it has worked harmoniously. The difficulties the gentleman supposes have not happened there. So also in reference to the inspectors of elections. I do not approve of that plan in this matter, but I must say that the difficulties have not occurred to which the gentleman refers.

Mr. SCALES. If the gentleman does not approve of it, it was useless for him to interrupt me to suggest a plan which he did not approve. These are difficulties which must suggest themselves to everybody, and if they have not occurred in a particular case, then that is the exception and not the general rule.

But the gentleman from New York says that you cannot accomplish anything by a preventive police. Why not? Is it not notorious that there are bands of armed men, murderers, robbers and assassins, who are congregated here from every portion of the Union? We can see them at almost every corner of the streets committing outrages upon inoffensive and peaceable citizens. Now let it be known that there is a police force scattered through the city with an efficient head, and those bands will be broken up and driven from the midst of this community.

The only prevention, he says, is in the school-house, the pulpit, and the administration of the laws. I acknowledge, sir, that any permanent prevention of crime, any permanent promotion of good order, must have its foundation on the principles which the pulpit is intended to promulgate, and in the education of the people. I admit all that; but have we time now to consider it, when the assassin's knife is already raised to give the fatal stab, when murderers are at large, and the blood of innocent victims cries out for justice, and when we are admonished from every side to discharge the duty which is imposed upon us? Is this the time to talk about schools and pulpits? No man honors them more than I do, no man attributes more to them than I do as promoters of good order, but this is not the time for such considerations. We must legislate for the present; we must do something now.

Suppose, Mr. Chairman, for the purpose of the argument, that the President is not the proper appointing power; suppose that he is disposed to use his power to promote party interests; suppose that, forgetful of his reputation, of his responsibility and of his high station, he should seek party ends alone; is there no guard provided in the bill? The Senate has the power to confirm or reject appointments. If the President be corrupt, is it probable that the Senate will be corrupt too? Here, mark you, we place the power of appointing the chief of police where the appointing power is placed by the Constitution, and the appointment is made by and with the advice and consent of the Senate. Is it probable that the Senate would confirm any man who should be appointed by the President without regard to his qualifications for the place?

If, however, the chief of police be appointed as indicated by the gentleman from New York, then the conflict of which I have just spoken will arise.

We must have a man placed at the head of the police who is peculiarly qualified and who gives evidence of his efficiency; and for this reason I am for leaving the power of appointment where it is. It impairs no right and deprives nobody of any privilege. It is doing what Congress has a right to do. It is doing what should be done in this city to prevent further violence and bloodshed. I understand, too, that the auxiliary guard which has been already provided by the Government for this city, is now, as the gentleman from New York would have it, under the control of the Mayor, and what is the state of things which is presented to us? Is not the police utterly worthless, totally inefficient?

I will say, in conclusion, that I am not so wedded to this bill that I think it is incapable of improvement. Gentlemen admit the necessity for some measure of the kind—that some such bill should pass; and I am willing to cooperate with them in passing such fair measure as may be agreed upon which will secure the object we all seem to desire.

There is one thing I had almost forgotten, and which I will notice before I sit down, and that is the argument of the gentleman from Texas, [Mr. REAGAN.] I will confess that I was surprised when I heard it. I was surprised to hear him characterize this bill as a money-spending scheme, and allege that it was gotten up by lobby members. I know that my friend from Texas, whom I do not see now in his seat, did not reflect when he made that statement; for I know that he is not in the habit of saying here what is not intended for the House, but for home consumption, for the ears of the people. He says that it is a reckless expenditure. Even so, which I deny, is it not better to be lavish in the expenditure of the public money than reckless of the lives of our citizens? If we have the power, it is our duty to restrain crime and stay the hand of violence and bloodshed in this Federal metropolis.

I say again that I am sorry that party has been introduced into this question. It ought to have nothing to do with it. I look at it through no party spectacles; I view it in no party light; I look only at the interests of the city, the interest of Congress, and the interest of all concerned; I look to our public property, to our public buildings, to our public grounds, to the members of Congress, to the strangers who come here, to our constituents who resort here, to foreign ministers whom we are bound to protect, to foreigners from every land; I look to the keeping up the reputation that this is a land of law and order, as well as an asylum for the oppressed.

Mr. KELLY. The proposition now before the committee is this, that the police laws of this city are of such a character that the citizens of this city have to ask Congress to alter them in such a way as to protect them from the murderer and the assassin. The bill, as reported by the gentleman from Virginia, proposes to give to the President of the United States the power to appoint the chief of police; and that that chief of police, with the consent of the Secretary of the Interior, shall have the power to appoint his subordinate officers. What is the amendment proposed by the gentleman from Ohio, [Mr. LEITER? It is, that three commissioners of police shall be appointed, and that they shall have the power of appointing the subordinate officers and men. He proposes that those three commissioners shall receive each a salary of \$2,000. That is, in my opinion, an expenditure wholly uncalled for. My experience in the city of New York has taught me that where you put the power into the hands of commissioners to appoint policemen, they set about to see how they can bring about their own reelection. Therefore that provision is, in my opinion, seriously objectionable. It is the great fault here that people have to contend with; and I understand that they are willing now to throw up their charter, given them by the Congress of the United States, for the reason, as they say, that they are not able to protect themselves against the criminals who infest the city.

The amendment, as proposed by the gentleman from New York, [Mr. DODD,] providing for the selection of commissioners by the people, is, also, in my opinion, objectionable for the same reason. It will work in both ways. Men elected as Americans, will, of course, appoint Americans to office; and *vice versa*, Democrats will do the same

thing. The only way to give this city an efficient police is by passing the bill reported by the gentleman from Virginia. He places the power in the hands of the President of the United States to appoint the chief of police, and gives that chief of police power to appoint his subordinates, subject to the control of the Secretary of the Interior. The increased expenditure is not, in my opinion, material. Congress already pays \$19,000 for an auxiliary guard; and the bill of the gentleman from Virginia proposes to increase that to \$100,000, and for that you will have such a force as that no future complaints will be made.

Mr. Chairman, in the various arguments that have been made on this bill, all kinds of logic have been brought to bear in favor of gentlemen's different prejudices. The gentleman from Tennessee, [Mr. MAYNARD,] in discussing this bill yesterday, referred to a transaction which took place during a former Congress. He spoke of men who earn their living by the sweat of their brow, as "a parcel of Irish waiters." Now, sir, I do not think that that expression was called for. These men, whether Irish, or German, or belonging to any other country, have the same rights under the Constitution as American-born citizens. It is not to be said that, because these men were waiters, they had not their independent rights and privileges, as much as the Representatives of the people on this floor.

Some other gentleman, in referring to the trial which took place on that occasion, spoke of the character of the judiciary of this city; and the gentleman from Tennessee took them to task for insinuating that the judiciary of this city was not the *beau ideal* of a judiciary. But I am not going to prolong my remarks on that subject; but I tell the gentleman from Tennessee, and other members of this House, that the humble Irishman has his rights under the Constitution—naturalized as he is by your laws—equally with the native-born; and until he commits some act in derogation of the true principles of manhood, it does not become any gentleman to stigmatize him or speak of him in such a contemptuous style.

Mr. MAYNARD. I ask the gentleman whether he calls in question any fact which I stated; and if he does, what fact, and in what way does he question it?

Mr. KELLY. No, sir; I question no fact. I was merely commenting upon the gentleman's expression as to "a parcel of Irish waiters." That is all.

Now, Mr. Chairman, the gentleman from Ohio; [Mr. STANTON,] in speaking on the subject of this bill, attributed the defeat of that great and honored statesman, who has long since gone to his grave, (Mr. Clay,) to the manner in which the Empire Club of the city of New York was organized, and to the manner in which that election was conducted in that city. Let me tell the gentleman that I was conversant with all those facts, and knew every transaction which took place in New York in 1844. There was another club there upon that occasion, and it was a very objectionable one, because all the pugilists, all the fighters, and all the rowdies you could find, were brought together, by pay, by solicitations of whatever nature, and were formed into a club in opposition to the Empire Club at that time. Now, I ask the gentleman if he knows the man who had the honor of being the president of that club?

Mr. STANTON. I know nothing in regard to that club, but I will inquire of the gentleman from New York whether the captain of that opposition club was rewarded with an office?

Mr. KELLY. I will say to the gentleman that he was frequently rewarded with an office, but I am sorry to say that he got into a personal difficulty in New York, and was killed.

Mr. STANTON. Who was he?

Mr. KELLY. Bill Poole.

Mr. STANTON. What Administration gave him office?

Mr. KELLY. He held the office of collector of taxes, in the city of New York, for years. He held the office of city inspector during Fillmore's administration. He also held the office of lamp-lighter in the ninth ward.

Mr. STANTON. I am obliged to the gentleman for bringing such strong evidence of the demoralizing tendency of politics when they are mixed up with clubs and frauds.

Mr. KELLY. Let me say to the gentleman

that when both of those clubs were organized at that particular time, though there were violent men in both, neither one of those clubs used violent means against citizens coming to the polls; and I defy the gentleman from New York or any other gentleman to show a case where a citizen in the city of New York was attacked by them when going to the polls to exercise the right of suffrage guaranteed to him by his country. That cannot be said here, for I am reminded of the transactions which took place in this city last June.

The gentleman from Mississippi [Mr. QUITMAN] said, in his speech, that there was no violence in this city; that he had traveled around on frequent occasions, in order to see if some one of these rowdies would not attack him. Now, I know that gentleman has displayed courage upon the battle-field, and rendered essential service to his country. No man doubts his integrity, his honesty, and his bravery; but had he been here last June, he would have met in the streets of this city that which no man desires to meet. I saw a body of young men from eighteen to twenty years of age, driving men of thirty and forty years of age before them like sheep from the field, and firing their pistols among them indiscriminately; yet there did not appear to be, so far as I could see, courage enough in the citizens of this city to resent the outrage which was perpetrated upon them at that time.

Crime, Mr. Chairman, in all cities, whether it be here, or in New York, or elsewhere, unless checked by the physical power of man, will continually manifest itself. Some gentlemen here have argued that you cannot check it by physical force; that moral force must be resorted to. That is all humbug, for such a check amounts to nothing at all. Violence of all description will be committed unless you have proper officers to prevent it. Then, in this case, you ought to organize a police force to meet this exigency, and to arrest the individuals who are in the habit of committing crimes in your city.

Now, this bill organizes an efficient police, under the jurisdiction of officers of this Government, who have the full control of it—a force which will be the means of protecting individuals who come here to transact business, as well as yourselves—for many of you admit that it is dangerous for you to leave your rooms at night, that you are afraid of encountering these marauders who infest the city. The force proposed by the gentleman from New York is objectionable for the reasons I have given. It appears to me that our Republican friends upon the other side of the House are very partial to commissioners, if we may judge them by the acts they have committed in the State of New York. We had an efficient police in the city of New York, under the supervision of the chief magistrate of that city. The Republicans in the Legislature were told that it was not efficient; and for the purpose of bettering it, and in order—to use the language of gentlemen upon the other side, and the language of the gentleman from Ohio, [Mr. STANTON]—to give patronage to their party, they made a police for us. And what has been the consequence? Since those commissioners have held office in the city of New York, I have not learned that a single individual of opposite politics has been appointed upon the police. The main objection upon the other side of the House, in my opinion, arises from the fact that they suppose the chief of police who may be appointed by the President of the United States will be partial in his appointments, and will appoint only partisans, or those who favor his political principles, as it is supposed the President will appoint a man who is of his politics. That argument, in my opinion, cannot hold good. I do not think it will be carried out; and I know if I had anything to do with it I would not be partial at all. I would select men for their characters alone. If I saw they were efficient, physically able to do the duties of policemen, and of good moral characters, I would appoint them upon such grounds alone, without regard to politics. But gentlemen say they are afraid to trust the President. Well, we are afraid to trust them in the city of New York.

Mr. LEITER. I understood the gentleman from New York [Mr. KELLY] to say that the Republicans in his State passed a law forcing that regulation upon the city. I want to know

whether his own party has not refused to repeal the law—they having the power to do it.

Mr. KELLY. No, sir, they have not the power to do it. Your party still have the power in the Legislature. We have endeavored to repeal the law but you have prevented it by your majority in the Legislature.

Mr. EUSTIS. I have no desire to embarrass the gentleman from New York, but I would like to ask him how he reconciles himself to the idea of taking away from the Mayor of Washington the power of appointing the police, and at the same time complains that that power was taken away from the Mayor of the city of New York? I should like to understand the rule of logic upon which he bases his opinion.

Mr. KELLY. In the case of the city of New York it was entirely a different matter. There were no petitions sent to the Legislature asking them to pass such a law as they passed. They passed it in defiance of many petitions, and of the action of the Common Council of the city, who memorialized them against it. And when a committee of the Common Council went to Albany, to protest against it, they were told by Mr. Littlejohn, the chairman of the Committee on Cities and Villages, "why, there is no use of your coming here to memorialize the Legislature; you have a large party and large patronage; our party is weak in the city of New York, though strong in the interior; we desire to build up a party there, and the only way in which we can do it—for our principles are weak with the people—is to pass a police law, and get the control of the appointment of the police under it."

But, as I understand it, the Mayor of this city has stated explicitly that he, and others who reside here, are willing to give up the charter. He acknowledges that they have not power enough to protect the interests of the citizens, and is willing to throw up the charter. He is willing that the President shall appoint the chief of police. Upon the other hand, the Mayor and Common Council of New York protested against the law passed by the Legislature; and forty-two thousand voters of New York protested against it, to but sixteen thousand Republican votes cast; yet, in the face of all that, the Legislature passed a law as detrimental and injurious to the interests of the city of New York as that law is. I would ask my colleagues, then, who make use of this argument about patronage, to look to our own State first.

Mr. EUSTIS. The House will judge for itself whether the question which I put to the gentleman from New York has been answered. The reason that induced me to ask that question was, that I did not desire to take up the time of the House in any lengthy remarks upon this subject, but simply wished to explain my position in regard to it. While I am willing to vote for any increase of the police force which may be necessary for the safety of the citizens and the protection of the public property, I am not willing to destroy the principle which I regard as one of the great principles of this Government, of the right of the people of the city to manage their own affairs in their own way. I do not understand—and the gentleman from New York has not explained it satisfactorily to me, nor do I think he has to the House—why it is that we here, assembled in this Congress, are attempting to deprive the people of the city of Washington of this right. It is a matter of no consequence to me whether the Mayor of the city is willing that it shall be done or not. I do not think that the private wishes and desires of the Mayor of the city can weigh for one moment in the consideration of this question. Whether he is willing to give up this authority or not, I do not know, and I must say that I care not. The people of this city either have the power to govern themselves, or they have not. If they have, they ought to do it. If they have elected persons to office who do not carry out their mandates, let them select others who will do so. I say that it is a gross insult to the intelligence of the people of Washington to say that they cannot elect a Mayor in whose hands you can place the appointment of a few police officers.

As for the President of the United States, I think that it is an insult to him and to his office to make him a mere chief of police. The President has more to do now than he can attend to satisfactorily to himself—I will not add or to the

country, because his term of office has not yet expired. At all events, I am satisfied that he himself does not desire this.

Mr. KELLY. The case of this city and that of New York are not parallel cases at all. This city is under the jurisdiction of the Federal Government; the President and Congress of the United States are here; the ministers from foreign Governments are here; and the courts here are under the jurisdiction of the Federal Government. The only difference between the appointment of the police by the President, and their appointment by the Mayor, is this: the one is responsible to the Federal Government, and if he does not carry out the law, can easily be reached; while, upon the other hand, if the Mayor does not make these appointments satisfactorily, the people cannot reach him in the same manner.

I believe, sir, that the bill reported by the Committee for the District of Columbia is the best bill which has been presented to the House; and I hope it will pass. That is all I have to say.

Mr. GRANGER. Mr. Chairman, this is a bill to give the city of Washington, in the first place, \$75,000, which will ere long swell into a half million.

Sir, I am against this bill.

I cannot vote for it, and I will briefly tell you why.

I have heard on this floor several valid objections urged against the passage of this bill, and particularly from the honorable member from Mississippi, [Mr. QUITMAN,] which, in my opinion, are conclusive.

I have another reason which is alone sufficient to carry me against it.

It is, that it is wrong to take from the Treasury the money that belongs to the whole country and give it to the city of Washington to pay for the expense of their police, a police that they are as much under obligation to furnish, as is any other town or city in the Union, if not more so.

A rich and flourishing city of some sixty thousand inhabitants, if they cannot or will not provide a suitable police to protect the persons and property of themselves and all others who come and spend their money here, then, sir, it is high time we adjourn to some other place that will.

What right or claim have they, the people of Washington, to this money?

Is it because the Government of the country is administered here, and by so doing a stream of wealth is continually pouring into the city, the like of which is not done in any other city in the Union? or is it because we have heretofore and are now spending untold millions to improve the city, to grade and pave and light its streets, and even to furnish its inhabitants with water at a cost of millions? yes, sir, literally at a cost of millions.

All this has been done and is doing.

And now it is modestly proposed that we shell out \$75,000 to start with, under the head of police arrangements.

It is said we, the members, are in danger, and need protection against outside violence, and that we are to have a patrol guard of one hundred picked men, controlled by a chief of lofty plume, in whose veins runs not a drop of plebeian blood, or it would have been "let out" long ago.

I guess if we behave, and keep the peace ourselves, nobody will hurt us. And besides, if we are really afraid, we had better hold back a company of the Utah regulars.

That would be a gain all round.

And as they are not wanted where they are going, it would be a saving anyhow.

First, it would save the poor fellows from marching their toe-nails off, on a wild-goose chase two thousand miles, to Utah.

Then, their pay would be only eight dollars a month and the captain forty, instead of fifty dollars a month and the captain \$200, which the bill proposes to pay.

And here, too, they could subsist on the twenty cent ration, and there on flour at seventy-five to one hundred dollars the barrel.

Sir, if the habit of giving away the money of our constituents to the city of Washington is so firmly settled as to become a second nature, and the disease of so long standing and chronic that it cannot be cured, then I suppose we must fork over.

Sir, it will not be done with my consent.

My constituents shall never have occasion to

ask me on my return home, *how came you to do it?* Sir, I cannot and will not vote for this bill.

And I protest that this House has no right to give away the money of my constituents without their consent.

Sir, I admonish you again that your Treasury is empty; that you have no money to give away or trifle with, and that you need all your money to pay your debts.

Mr. MORSE, of Maine. Mr. Chairman, I desire to make a few practical suggestions on the bill before the committee, and will begin where the gentleman from New York, [Mr. KELLY,] who just taken his seat, began. He told us that the police laws of this city were of such a character that the people asked Congress to protect them. Now, sir, is that a fact? If this be so, I ask the gentleman why the city Council do not make better police laws? They make the police laws, and it is their duty to make them as perfect as possible. This bill you propose to pass is not a police law. It is simply a law providing for a police force to execute such laws as the city government may make. That is all. The making of the police laws for this city belongs to the city government, and not to Congress. In the view taken by the gentleman from New York, it is simply a question of money after all. It is money to support a police they want, and not police laws. They can provide the men, if men are wanted, and they have the means to pay them. All we have to do is to pass a law to establish a police force, and to raise the money to pay a hundred men to execute the laws already made, if pay we must. That is all it amounts to.

Now, it seems to me that the remedy is in the hands of the citizens themselves. By the passage of this bill you do not make any better laws. Not at all. But gentlemen may say there will be more promptness in the execution of the laws. This I very much doubt, and will attempt to show why.

I have serious objections to this Senate bill, and those objections are the very reasons which gentlemen offer in its favor. This is a Federal measure. You make a national police—a thing heretofore unheard of in this country. You make the great political head of the nation the head of the police of a small city. That is what you propose to do by this bill. The chief of police is to be appointed by the President of the United States, subject to removal by him at any time, and, of course, he will be under his control. He appoints the Secretary of the Interior, and you make the Secretary of the Interior appoint the captain, the lieutenants, and the one hundred men, all subject to his control. He can discharge them at any moment. You will have, then, a police in this city entirely separated from the people. You do not stop with placing the entire police force under the control of the Executive; but the very regulations which are to control the police are to be made by Federal officers. You do not allow the city government to have the least interest in the matter. The regulations which are to govern the police are to be made by appointees of the President. Now, I say, that that is an entirely new feature in this Government. You have got nothing like it in the present auxiliary guard, because the city has some control over that; but you propose to make this force entirely distinct from the city.

Why, sir, I thought it was a recognized and settled principle in this country that we had a national Government, State governments, and municipal governments, each having their recognized and distinct spheres of action, and which ought to be kept distinct from each other as far as possible. But here you are making the political head of the nation the head of the police. You are destroying that harmony, that congruity that has heretofore existed in all these separate governments of the country. You are destroying the great principle of American government by placing this national police, this pretorian guard, under the control of the executive will, over the people of a city. Sir, was it ever intended by the framers of the Constitution, in giving Congress the control of the legislation of this District, that Congress was to control all the municipal regulations and officers of cities, to appoint and control all the officers of the cities in the District, and to make this great national Government the executors of municipal law? No, sir, I do not believe any such thing; I do not believe that it

was the intention of the framers of the Constitution to make the President of the United States a police officer, or to place the municipal government of this District under the control of the executive department.

The intention was that Congress should make general laws for the District, but not municipal laws and regulations, and require Federal officers to execute them. The formation and execution of municipal laws in this country have, by what has grown into the common law of the land, been everywhere left to the people of the municipalities. Cities and towns in this Republic are peculiarly the children of the people, the schools of democracy, and the real democratic institutions of the country. Here is where the people first learn self-government; they vote away their own money; they decide how and where they shall make their roads; how ornament them; and how much money they shall spend on them. They take care of their poor; and wherever they are wise enough to have public schools, they vote the money for their support. And above all, they regulate their own safety and good order, their morality and their security. The security of life and property is in the hands of the people, and if they do not feel the responsibility resting upon them for their own security and good order, who will? The speedy establishment of order and security, Mr. Chairman, is, it appears to me, the duty of the people of this city; and I, for one, have no idea of giving my vote to relieve them of that imperative duty, and thereby decide that they are totally incapable of governing themselves.

I do not believe, Mr. Chairman, in all the highly colored accounts of dangers to life in this city that have been given here. No doubt there is insecurity, much disorder, and many desperate acts committed; I cannot believe that there is quite so much danger as gentlemen appear desirous of having us believe. I have wandered about the city unarmed in nearly all directions, for exercise and health, and have never been molested; nor have I known a feeling of fear in my rambles; and I intend to go where and when I please, until I see more cause of danger than I am now aware of.

Now, Mr. Chairman, you are attempting to establish two police forces; and this fact, of itself, is, in my judgment, an insuperable objection to this bill. You are establishing a force outside of the city, and not in harmony with its people. You have another police force inside and under the control of the city. Now, if the people of this city are so poor that they cannot take care of themselves, let us appropriate money for a police, but let the police be under their own control. You are creating two opposing, antagonistic forces to keep up a rivalry with each other. How is it now? You have been told here that when one of either force is making an arrest, an officer of the other force may be standing within ten feet of him, and will not aid in the slightest degree. They belong to different departments. One is a degree above the other. One belongs to the great national political power of the country, the other to a mere municipal corporation, elected by and responsible, as it should be, to the people. Let them be a unit if you would have efficiency. Place the duty of supporting and governing this police force upon the people, as you should do, instead of keeping them in leading strings and in a state of pupillage. As long as you continue this policy, they will lean upon the Government for everything, and shirk all the duties they can.

As to the money, I am rather indifferent, although I do not feel disposed to vote away money from other sections of the country to sustain a police among a people who are as well able to maintain that police as my own constituents are. But gentlemen tell us this is a floating population. Let us look at that. Here are men coming to this city to take the best offices of the country, and holding them generally for four years, and a large number for an indefinite term of years. They have to pay taxes for the support of their police at home; why should they be relieved from doing the same here? If you have carried the taxing point up to the full limit allowed by the charter, amend the charter. Give them the same unrestrained power to tax themselves that other people in other sections of the country have.

While living is not much higher here, labor is higher than in other sections of the country. All these men have fair salaries; and certainly, if they

would each drop a cigar or a glass of liquor a day they could sustain a police. I am not willing in effect to raise their salaries by making other and distant people pay their taxes for them. It is not for the want of means that they do not support an efficient and faithful police. But, Mr. Chairman, if you show me that we have not done enough for the city, I am willing to do more. I am willing to vote to sustain a police for them, if you will show me that they are really unable to sustain one themselves; for a police they must have. But it does appear to me that if we have got to make appropriations for this city, they should be made for other objects than for the support of a police. You may pave their streets for them if you will, supply them with pure water at an expense of millions, and ornament the city with beautiful architecture, statuary, and paintings; but do not let us undertake the execution of police laws, and deprive the citizens of Washington of their municipal rights. Let them exercise the rights of American citizens, and try to govern themselves.

Now, I am willing here to say that I have not that entire confidence in the political head of this country which would lead me to place this power unhesitatingly in his hands. We see that all over this country, in every section of it, this spoils doctrine prevails. Why, talking about the city of New York, do we not recollect, but a short time ago, when the citizens of that city, without distinction of party, united to reform the city government, and nominated a Democratic Mayor against the caucus nominee, that because a distinguished Federal officer in that city took part on the side of the people in favor of reform, and against the caucus nominee, he gave offense at the White House, and was removed from his office? Now, a President who will thus interfere with the municipal affairs of the city of New York, will not be very likely to conduct the municipal affairs of this city without partiality.

So it is everywhere, Mr. Chairman. This spoils doctrine has gone into the navy-yards, and the best workmen—American-born citizens—are made victims of that universal law of proscription. Wherever the Executive arm can reach, there you find that principle of proscription prevailing to a most relentless and tyrannical extent. Secretary Stanton, the acting Governor of Kansas, was made its victim and removed for a strictly legal act—calling the Territorial Legislature together as a peace measure. He was performing his duty under the law, and I contend the President had no right to interfere with or control him. Now, while this is to be the case, I prefer to trust the people at any time, rather than to put this police force and the government of this people in the hands of the President. I have no desire to aid in bringing here a foreign pretorian guard or *gens d'armes* to harass and lord it over this people. I prefer to trust the people themselves, rather than such rulers.

I want to notice one thing more—the remark which was made the other day by the gentleman from Virginia, [Mr. SMITH,] in speaking of a man who was indicted for a crime, and was appointed to office. In reply to the gentleman from Ohio, he asked if it “Was a crime to be indicted by a Black Republican?” That was all the reply the gentleman had to make to a charge of such a grave character. He distrusts the honesty of a large majority of the people of this country; and comes gravely before this House, and says that whatever charges may be made by these people are entirely unworthy of the people's confidence. I will not quarrel with him about the justice or good taste of such remarks. If he is satisfied with the exhibition he made of himself, I certainly am. Then he proceeded to talk about Governor Robinson, and made certain statements which I shall here take the liberty to notice, for it was not, as I understand it, a fair representation of the case as it occurred in California, although the gentleman no doubt thought so.

The facts are simply these. A multitude of people went upon lands near the city of Sacramento under the same right that all people have who squat, as it is termed, on our public lands. A war was got up to drive them off. A large number of them were gamblers and speculators, and had not the slightest claim to the land occupied by the settlers. They wished, without claim, to take it for their own use. Governor Robinson had no

interest in any of this land. He was called upon to aid in securing the rights of the settlers; and believing their cause just, he responded to the call. He took sides, as he always has, with the people against their oppressors; and with his aid the rights of the people were recovered. It is true he was indicted, but he was elected to the Legislature, served out his term, and was never tried. The truth is, his cause was just, and he was sustained by the people. The gentleman said that the next thing you hear of him he is in Kansas making mischief there. Who was making mischief when his house was burned down, his library and furniture destroyed by invaders, robbers, and incendiaries; when there was no one to protect his property but his wife; and when it was done without any provocation on his part. Who were the mischief-makers when this same man was confined for months, guarded by armed ruffians, on false, or rather no charges at all, and could not persuade or drive his enemies to bring him to trial? He was kept imprisoned that his head and hands might not work for the freedom of Kansas. Were the gentleman to be told of all the doings of that man in Kansas he would find that his page of personal history is as pure and unsullied as that of the gentleman from Virginia himself, or any other assailant.

I agree with the gentleman from Ohio, [Mr. STANTON,] that much of the cause of the low state of morals here and elsewhere, is owing to this extreme partisan action; and in thinking of it I have sometimes thought it would be far better for the country to pass some law, if we could make its operation equal, that men should hold their offices during good behavior, instead of at the will and pleasure of a partisan chief, that the country might be relieved from this terrible and increasing evil. It had better be so, though it might have the appearance, perhaps, of being somewhat anti-Democratic, than to be running down and down as we have been, and now are, into the very dregs of political corruption.

But there are other causes of this state of things. Besides the free use of ardent spirits in this city and elsewhere, I have thought there is another cause quite as powerful, and which has as much influence over the peculiar character of the crimes to which it gave rise—that is the universal practice of wearing arms, a practice growing out of the dueling code. It may be traced to that at first. Men wear arms, they say, for their own safety. It tends to lessen the value of life in public estimation. It has now got into the hands of these rowdies, so that it is now getting to be quite ungentle for a gentleman to murder a man. I have some hope, however, that this fearful state of things will produce a reaction at last.

What must be the remedy for all this? I am not capable of giving advice upon that point, but I can only say if every man who feels his own personal responsibility in connection with this matter will set the right example in himself, and abstain from wearing fire-arms, and from all kinds of violence and vice, it would react upon the community; for it is the every-day acts of you and me and of every gentleman upon this floor, and elsewhere, however inconsiderable they may appear, and however small and minute they may be, that enter into the great whole, and make up the account of every day's transactions. They go into the history of the country and reflect back upon the people. The people take their examples from the highest sources; and when we reform ourselves in these particulars, and, with all who hold influential positions in society and pretend to desire reform, will hold up a continued and unexceptional example to the country, I warrant you that reform will extend to every department of Government and of society.

Mr. LEITER. When the gentleman from Virginia introduced his bill, I thought I discovered in this House some disposition to have some action in regard to the matters of this District; but after listening to the discussion that has been going on from day to day, I confess I doubt very much whether this House will be able to arrive at any satisfactory conclusion upon the subject. The views of gentlemen appear to be as diversified as their views upon every other subject. One has a distrust of one kind, and another has a distrust of a different kind; one finds one fault, and another finds another fault. All propositions have

met with opposition here. Under these circumstances, we can hardly expect that anything will be done for the good order of the people of this city. I then introduced my substitute for the bill introduced by the gentleman from Virginia, [Mr. GOODE,] the chairman of the Committee for the District of Columbia. I did so because it appeared to me then that objection would be taken to that bill on the ground that it would inaugurate an immense political machinery by which the rights of the people of this city would be subverted. I must confess, sir, that I have my doubts of any good results following the adoption of that bill. It is a fact, standing upon every page of the history of your District, and almost upon every page of the history of your country, that politics and political organizations control, not only in this District, but in the country, all the municipal elections over the whole extent of our country.

In view of this historical fact, what can we expect from a law which places the appointing power in the hands of the Chief Executive—the very man who stands at the head of one of the political organizations of the country? The system which he will be called upon to put in force will be a political machine that will be used for the purpose of advancing the interests of the party in power. My purpose in offering my substitute, was to obviate that objection, which, in my judgment, is a paramount one. This city is the great resort of politicians. It is the place where every scheme of the schemers and politicians is concocted and sent out to the country. For one, I could find no fault with the President if he should take ground with his political party. As party men, we have party feelings, and always feel disposed to reward our political friends for services rendered, or supposed to be rendered in political campaigns. The President, having had a large number of people of this kind doing valuable service for him, if not for the country, has all those men hanging about him for the purpose of getting places, and some of them seeking places under this very law. Why, sir, to-day the streets of Washington are filled with gentlemen marching about asking members of Congress and others to sign papers recommending them for chief of police, or captain of police, or for a lieutenantancy. When all this political influence is brought to bear upon the Executive, I tell you he would be more than human if he could withstand it.

In the substitute which I offered for the purpose of obviating this difficulty, I named three commissioners. I proposed to name the commissioners in order to keep the matter out of the hands of the Executive, and to prevent, if possible, any party machinery from becoming attached to the system. But I find among all the plans and schemes that have been brought forward, that there will probably be no chance for my bill at all, and I do not know that there is anything particular in it to commend it to the favorable consideration of the House.

The proposition of the gentleman from New York, [Mr. DOB,] to elect a board of commissioners, is, in my judgment, as objectionable as the plan of the committee. How will you prevent these men from conducting the elections here in just such a manner as they have been conducted by them heretofore? Will not party machinery be brought to play? Why, surely; and the moment party machinery is applied to the system, that very moment it becomes corrupt.

I take it that it is conceded on all sides that we have constitutional power to legislate for this District. I believe no gentleman has doubted that proposition, or if he has, he has not expressed it. If, then, we have the power, I say it is our duty to act, and to act promptly and efficiently, and, as far as we can, provide for the punishment of these men who are violating every law upon the statute-book, and committing murder in the broad day-light in the presence of members of this House, as has been said.

But, sir, we have a duty to discharge, beyond merely providing a police or auxiliary guard for this city. We are advised by the gentleman from Mississippi [Mr. SINGLETON] that there are three hundred grogeries in this city—mere nurseries for crime and licentiousness. So long as those nurseries are permitted to be kept up, you may expect to have crime piled upon crime. No good government can exist in such a place. We are further informed by the gentleman from Mississippi

of the important fact that the city government receives a reward—a price—for licensing the keepers of these dens of iniquity. Sir, we can have no good government here, and no good laws, while these places are permitted to be kept open; and I call the attention of the Committee for the District of Columbia to the developments which have been made in this discussion. If it is right to sell intoxicating liquor, let it be sold as calico is sold, without a license. If it is wrong to keep open these grogeries, close them up; but do not grant them licenses, so that, by authority of law, they can go on and build up a system of crime, organized as it is in this city, so that men may violate the laws of the country with impunity.

Much has been said here in regard to the Mayor of this city. I have no controversy with the Mayor. By what has been said upon this floor, and by what we see every day upon the avenue, gentlemen can judge of the efficiency or inefficiency of that gentleman and his administration.

But, sir, it is apparent to every one that one great cause of all this trouble grows out of the fact that you have, in this city, a club or political association, called "Regulators" or "States' Hose," or some such name. There is also an association—I do not know whether it is political or not—called "Swypers;" and nine tenths of the troubles that we have had here have grown out of the difficulties between these two organizations, which in any well-regulated city would long since have been disbanded. I say that if the city government had discharged its duty, as it should have done; if it had been faithful to its trust, it would have long since disbanded these ruffian organizations, and driven them from the city. But instead of this, I am told that American citizens have been removed from the navy-yard here, for the purpose of making room for these very border-ruffians; that men who were born in the District of Columbia, and have reared up families in it, have been discharged, and their places supplied by outcasts, the scoundrels of New York, Philadelphia, and Baltimore, who have been brought here to regulate the city. From such regulation God save my community!

It is currently reported and generally believed that there are men employed in some of the Executive Departments, as clerks, who belong to these regulators of the city's morality; men who receive \$1,600 per annum and upwards; and these are the men who are to give tone to public sentiment, and who are to be the supervisors, by peculiar fitness, of the public morals. These are the very men; they who leave their offices at an early hour, and spend the rest of the day and night in grog-shops with the rabble who are committing these depredations we hear of upon the innocent and unoffending. Several weeks ago I saw, on Pennsylvania avenue, a man in the possession of a police officer, and a ruffian start up and plunge his bowie-knife into him; this, too, sir, at two o'clock in the afternoon. These things are of daily occurrence, and no punishment has been inflicted. I believe on yesterday there was a conviction. It will be extraordinary news for the country, that in Washington a man has actually been convicted of a crime which he committed. It promises something; we are led to believe that some good may come out of this political Sodom.

Mr. Chairman, it is our duty, as Representatives of the people of the United States, to act promptly and efficiently in regard to this matter—to do our whole duty, for upon our action depends the honor and integrity of the American people. If we sit idly by when crimes of the darkest dye are committed, what record will it leave against us? I am therefore in favor of speedy action, but not political, partisan action. Give me a plan for securing peace to this community, some plan that will drive from its midst the ruffians that infest it, and I will vote for it. In view of what has taken place here and elsewhere in political organizations, I can never consent to the proposition of the gentleman from Virginia, [Mr. GOODE,] I want full action, searching and effective action; but so long as we strike at the consequences, and do nothing more, these troubles will never end. I want to do more. Let this committee for the District of Columbia give the House an efficient bill—one that will close up every grogery, stop the entire system of granting licenses; that will extinguish these corner grogeries, very appropriately

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, APRIL 17, 1858.

NEW SERIES...No. 102.

called Democratic nurseries by the celebrated Mike Walsh—and I will go with you.

Mr. HUGHES. It strikes me that my friend has changed front on this question; and I should like to know whether, since the introduction of the question, there has been a conference on the subject among his political friends?

Mr. LEITER. Not a word.

Mr. HUGHES. I will ask him further, whether he was not brought up within the Democratic party?

Mr. LEITER. Yes, sir, I was brought up in the Democratic party, when there was such a thing. [Laughter.]

Mr. REAGAN. I want to enter my protest against my friend from Indiana joining with the Republicans to make this a party measure. I have been read out of the party once, and do not care to run the risk again.

Mr. LEITER. The gentlemen seem to have got into a side issue, and I will leave that for them to settle.

I want to answer the interrogatory of the gentleman from Indiana, [Mr. HUGHES.] I have been a Democrat ever since I have been a voter. I have voted that ticket all my life. I vote that ticket now as Democracy was understood when it was in its prime. I served in the ranks for years, and I have held political position by Democratic votes. I have been president of a Democratic State convention, of Ohio, and I have been elected to the lower branch of the State Legislature by Democratic votes.

Mr. HILL. I would ask the gentleman whether he does not construe Democracy as General Jackson construed the Constitution—as he understands it? [Laughter.]

Mr. LEITER. Certainly; and considering that I was brought up in the party, my understanding of it must be pretty accurate.

Mr. HUGHES. Have the Democratic nurseries to which the gentleman refers been established since he left the party, or were they nurseries of the party when he was in full fellowship?

Mr. LEITER. I never heard of them as such until within a year. When I was a Democrat, Democracy grew naturally, and there was no necessity for such hot-house appliances as gro-shops. Now, sir, by this new process an old-line Whig or Know Nothing can be changed in a miraculously short time, to an ultra Democrat much better and more reliable than those that have always been Democrats. It makes an excellent quality of Democrats—a kind of hot-bed Democrats. [Laughter.] They did not use to grow that way in my time. [Laughter.] [To Mr. HUGHES. Anything further, sir?]

Mr. HUGHES. Well, inasmuch as the gentleman invites me to put him another question, I want to ask him this serious one.

[Cries of "Oh, no; don't get serious."]

Mr. HUGHES. I want to know if the gentleman stands before the House here in opposition to his own amendment?

Mr. LEITER. No, sir. I said I did not; but I said that in view of the enormity of the crimes which we have heard of on this floor, I mistrust even my own amendment, if it should be adopted, as being of any value to the people. I shall vote for it; but I think there will be something necessary after this bill is passed.

A MEMBER. No mental reservation now.

Mr. LEITER. No, sir; I have no mental reservation on anything. We are a bold people in Ohio. We are used to say what we think. At least that is the way we used to do before we got to growing parties in hot-bed nurseries.

Now, I will show clearly to my friend from Indiana that the proposition introduced by the Committee for the District of Columbia will not answer the purpose; and I propose to read from a speech made by a gentleman who is high authority in this House, and who has voted with the gentleman from Indiana on every question of a political character since the meeting of this Congress, and who, I have no doubt, will vote with him to the close. According to that speech, there

were in this city, so early as 1844, political organizations which sent out circulars to different parts of the country, in order that they might get up a very nice, strong, and wholesome spawn of Democrats. And, further, that even the President of the United States sanctioned all these things, and removed men from office for not obeying the mandates of these committees. I refer to the speech of the gentleman from North Carolina, [Mr. CLINGMAN,] delivered in 1844, to show the effect of these Democratic nurseries. The speech will be found in the Appendix to the Congressional Globe of 1844-45, page 117.

Mr. HUGHES. Will the gentleman permit me to read an extract as to the raising of money by his party in the canvass of 1856, to buy rifles?

Mr. LEITER. Oh, I will answer that if the gentleman will let me alone. I would have got to it in the natural way. I am posted up upon your proceedings in 1856. These things, I say, have been done in this city, and always will be done.

Mr. HUGHES. Here is an article headed "Peace-makers for Kansas," which I wish to read.

Mr. LEITER. What are you reading from? Mr. HUGHES. It is copied from the daily Cincinnati Gazette, a Republican paper, of February 18, 1856, and is as follows:

"PEACE-MAKERS FOR KANSAS.—General Pomeroy addressed the citizens of Worcester, Massachusetts, on the 10th instant, in behalf of the freedom of Kansas, and in the course of his remarks observed, that on the Saturday previous he had been able to send to General Robinson \$1,500, and on the previous Saturday \$2,950, all of which had been generously contributed at a few meetings which he had been invited to address. At the close of the address the president called upon Eli Thayer, Esq., which is reported by the *Spy* as follows: 'He said he was a peace man, and his offer to furnish a thousand superior rifles was based upon an earnest and sincere desire to prevent the shedding of blood. A large number of men were engaged in their manufacture in the city, and a portion of them would be completed in the coming week, but as it was desirable that some additional arms should be sent to the Territory at once, he proposed to pay for ten Sharps' rifles at twenty-five dollars each, on condition that during the coming week other citizens of Worcester would subscribe enough to make up the number to one hundred rifles. Several gentlemen subscribed for a rifle, and sent their names to the Chair, and before the audience left the hall twenty-three rifles, equivalent to the sum of five hundred and seventy-five dollars, were subscribed for. Mr. Thayer's generous proposal was received with great applause, and a committee of three was appointed to solicit subscriptions for the requisite number. Of course, they will find no difficulty in securing the material aid necessary.'"

Now, I have one question to put to the gentleman from Ohio. He has told the committee that he was the Speaker of a Democratic House of Representatives in Ohio. I want the gentleman not only to tell the truth, and nothing but the truth, but I want him to tell the whole truth. I want the gentleman to tell the committee what happened to his hat while he was in the chair. [Roars of laughter.]

Mr. LEITER. Nothing more than has happened to the hat of the gentleman. [Renewed laughter.] Is he answered?

Mr. HUGHES. No, sir.

Mr. LEITER. I do not carry bricks in my hat. [Laughter.] I do not see what all this article read by the gentleman has to do with this question. If it has any application to it, it only goes to prove just what I said, that this matter ought not to go into the hands of politicians; but why he read it at this time, I cannot conceive; for, if it proves anything, it proves this, that the people of the Territory of Kansas had not arms for self-defense, and that they were attacked and assailed by these border ruffians, and needed these rifles for self-defense.

Now, I can show something with regard to this Empire Club of New York. I refer again to the speech of the gentleman from North Carolina. If he takes it back, I will not read it, nor will I hold him responsible for it, unless he is willing to stand by it. It is this:

"The great State of New York claims the first notice. During the past year, there were naturalized there not less than seven thousand foreigners. This was effected entirely by the Democratic party, the Whigs having no office provided for that purpose, because, as I learn, there is not one

of these foreigners out of fifty who will vote the Whig ticket. Of this large number, a great proportion, not having been five years in the country, could not be legally naturalized, and their votes, therefore, when given, were illegal.

"Men who had not been one month in the country, from the penitentiaries of Europe, unacquainted even with the language in which they were sworn, voted for what they knew not.

"But the principal frauds were practiced by what is called double voting. The city of New York was the great theater where this was consummated. As the Empire Club bore such a prominent part in these transactions, I must devote a remark or two to it. It was organized in July last, and it consisted of gamblers, pickpockets, droppers, burners, thimble riggers, and the like, and its association seems to have been then mainly for the purpose of carrying on successful these and similar trades. Most of its members had been repeatedly indicted for crimes. Its general character, however, may be sufficiently inferred from that of some of its officers. Its president was Isaiah Rynders, often arrested for thimble-rigging and similar offenses. He and Joseph Jewell, being indicted for murder, fled from New York to New Orleans. By the by, I may here mention that this Jewell, who has indictments for murder in two different cases hanging up against him, was the standard bearer of the club, and figured as the standard bearer of the Texas banner in the processions. These worthies had not been long in New Orleans before they found it convenient to leave, being charged with stealing Treasury notes. They came to this city, and were arrested and sent back in irons by order of Captain Tyler. I mention this circumstance to show the imitations of the times; for since the election, this man Rynders, having become a great man among the Democracy, has not only dined with Benjamin F. Butler, when the electoral vote was given to Mr. Polk at Albany; not only has he received a complimentary ball from the chairman of the Democratic general committee of the city of New York, but, having come on with his friend Jewell to this place for an office, as I am told, if the papers are to be relied on, he has been cordially received at the White House. Whether President Tyler or president Rynders then remembered the ironing, is not, however, chronicled. But I am digressing. John J. Austin, vice president of the club, has likewise pending against him an indictment for murder, and was likewise implicated in the charge of stealing Treasury notes. Woolridge, his secretary, but recently came out of the penitentiary. William Ford, one of its directors, in the short interval of time which elapsed between the publication of a notice of one of its processions and the arrival of the day of parade, was indicted by the grand jury in seven cases, rape and burglary being among the offenses. Being put in the Tombs, he unfortunately lost the opportunity of figuring on that occasion. Soon after tried and convicted of the first-named crime, he was sent to the penitentiary, but, his services being valuable to the party, he was immediately pardoned and turned out by his Democratic Excellency, Governor Bouck. I may remark, too, that this official dignitary, a short time before the election, restored to their political rights all the criminals in the State, and pardoned a great number who were in the penitentiary."

Isaiah Rynders, referred to in this speech, is the same man that was appointed by the President as marshal of the southern district of New York, and now holds that responsible position.

Now, sir, when official functionaries do such acts as these, I ask how can we trust any mere politician in the discharge of so important a duty as the appointment of the chief of police of this city—a chief who is to have all the police regulations under his jurisdiction? It is already reported that the man who committed the first offense in the riots in June last is to be the chief of police. Why is he to be the chief of police? Because he is one of the thimble-riggers of the party, and has rendered good service to his party. Then we are to trust these men. That would only be to add one hundred thieves to those already existing here.

Mr. FLORENCE. What is the man's name?

Mr. LEITER. I do not know.

Mr. FLORENCE. The gentleman must be in confidential relations with the President, and the President must have informed him of the fact.

Mr. LEITER. I am not a favorite of the President, as is the gentleman from Pennsylvania, and I am glad of it.

Mr. FLORENCE. Perhaps, as my friend from Alabama says, the gentleman may have confidential relations with that class of fellows.

Mr. LEITER. Not at all. However, that is a pretty smart retort of the gentleman.

Mr. FLORENCE. I thought it, and therefore I said it.

Mr. LEITER. The gentleman from Pennsylvania seldom says anything but what is smart—in his opinion.

In view of all the circumstances of this case, I think it eminently proper that we, as judicious and discreet men, desiring to do right, and to protect the people of this District from these crimes

and offenses which have been heaped up mountain-high before us, should do something, do it quickly, and do it well, in order to restore good order and good government to the people of this city.

It is claimed by some that the people of the District of Columbia have the right of popular sovereignty, that great panacea for all the evils of the people, which was preached upon every stump in 1856, before the election of the President, and repudiated now by every Democrat in this House except twenty-two. That popular sovereignty, which was preached all over the length and breadth of the land, from Maine to California, and from the Pacific to the Lakes, before Buchanan was elected, and repudiated here, is now to be claimed for this District. The right of sovereignty of this District is in the United States, and can only be exercised by the representatives of the people, and not by the people of the District. Why try to make anything more out of this popular sovereignty idea? It is dead and gone. You have gained the only victory you will ever gain on any such ground as that. It was a bad investment.

Now, sir, inasmuch as my proposition is not up, and wishing to be distinctly understood, I say I shall vote against the proposition of the gentleman from Virginia as it now stands; but, if he will put it into such a shape that I can vote for it, I will go as far as I can, consistently with my convictions of right, in order to give peace and quiet to the people of this District.

I am glad that this discussion has taken place, that the people may know what kind of society, and what kind of municipal regulations we have in this city; for, if the Representatives should go home, and tell what crimes are committed here, their constituents would think they had become insane in the capital of the nation. Yet, when all testify to it upon the floor of this House, no man can doubt the truth of what has been said; and I fear half the truth has not been told, and never will be. Hoping something will be done that will result beneficially to the people of the District, I leave this matter with the committee for its action, without anything further from me.

Mr. KELSEY. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. JONES, of Tennessee, reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the special order, being Senate bill "To establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject;" and had come to no resolution thereon.

And then, on motion of Mr. KELSEY, (at twenty minutes after four o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, April 16, 1858.

Prayer by Rev. T. M. CARSON.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, a copy of the proceedings of a board of officers appointed to examine and test the improvement of the fire-arms invented and patented by Captain J. N. Ward, of the Army; which was, on motion of Mr. CLAY, referred to the Committee on Military Affairs and Militia.

He also laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, information in relation to the publication of the results of the naval exploring and surveying expedition to the North Pacific ocean and China seas, and also of the results of the expedition to the La Plata river; which was, on motion of Mr. STUART, referred to the Committee on Printing.

PRIVATE BILL DAY.

The PRESIDENT *pro tempore*. This day having been appropriated by special resolution to the

consideration of private bills, the Senate will now proceed to the consideration of those bills, unless they be postponed by a vote of the Senate.

Mr. HUNTER. I wish to make a report. I hope I shall be allowed to do so.

Mr. HARLAN. I desire to present several memorials and joint resolutions from the Legislature of the State of Iowa.

The PRESIDENT *pro tempore*. It is not in order to present memorials or reports, unless on leave granted by the Senate, this whole day having been set apart for private bills by a special resolution.

Mr. IVERSON. I move to suspend the special order until one o'clock, so that the morning business may go on.

Mr. STUART. I submit that it would be better simply to postpone the private bills by general consent, until the Senate gets through with the morning business.

Mr. IVERSON. I have no objection to that.

The PRESIDENT *pro tempore*. The Chair will understand that to be the sense of the Senate unless objected to, and will therefore receive petitions, reports, and resolutions.

PETITIONS AND MEMORIALS.

Mr. HARLAN presented a memorial and resolution of the Legislature of Iowa, in relation to the grant of land for the improvement of the Des Moines river; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of Iowa, in favor of a repeal of the duty on sugar; which was referred to the Committee on Finance, and ordered to be printed.

He also presented a memorial and resolution of the Legislature of Iowa in relation to the five per cent. school fund; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of Iowa in favor of an appropriation of money for a double track railroad around the lower rapids of the Mississippi, on the Iowa or west side of the river; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented a resolution of the Legislature of Iowa in favor of certain additional mail facilities; which was referred to the Committee on the Post Office and Post Roads.

He also presented a resolution of the Legislature of Iowa in relation to the pension of Catharine Dickerson; which was referred to the Committee on Pensions, and ordered to be printed.

Mr. CRITTENDEN presented the memorial of George Stealey, of Frankfort, Kentucky, praying for compensation for services and expenses while on a mission to the Indian tribes in the northern part of California, under authority of the Indian commissioners, in 1850 and 1851; which was referred to the Committee on Indian Affairs.

Mr. JONES presented a memorial of the Legislature of Iowa, in favor of a grant of lands to that State for the erection of buildings for an agricultural college; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. IVERSON presented the petition of Verlinna S. Hutchinson, widow of C. C. Hutchinson, a private in Captain Nelson's company of Georgia mounted volunteers in the Mexican war, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. HUNTER presented the memorial of the President and Directors of the Dismal Swamp Canal Company, praying that the United States, by an appropriation or advance of the dividends resulting from their stock in that company, or otherwise, will aid in the construction of the new cut from the south end of the canal to the Pasquotank river; which was referred to the Committee on Commerce.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. J. F. CARTER, their Chief Clerk, was received, announcing that the House had passed the following bills of the Senate:

A bill (No. 51) to authorize a register to be issued to the steamer Fearless.

A bill (No. 167) for the relief of the owners of the bark Attica, of Portland, Maine.

Also, that the House had passed a bill (H. R. No. 482) regulating the compensation of the offi-

cers and marines of the revenue cutters, in which the concurrence of the Senate was requested.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JONES, it was

Ordered, That the petition of James Roddy, on the files of the Senate, be referred to the Committee on Pensions.

CRIMINAL COURT IN WASHINGTON.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of reorganizing the criminal court for the District of Columbia, and of establishing a municipal or city court in the city of Washington.

LANDS IN IOWA.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be directed to communicate to the Senate the number of acres of vacant lands in the even-numbered sections which remain to the United States in township eighty-nine, range forty-seven, in the State of Iowa, and also the reasons why the vacant even-numbered sections in said township are not included in the proclamation for public sales to commence at Sioux City, Iowa, on the 1st day of July, 1858.

BILL INTRODUCED.

Mr. BRODERICK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 269) for the better security of landowners in the city and county of San Francisco, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of George W. Flood, reported a bill (S. No. 266) for his relief; which was read, and passed to a second reading.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of G. A. Breast, submitted a report, accompanied by a bill (S. No. 267) for the relief of G. Alonzo Breast. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 174) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, reported it with amendments.

Mr. CLARK, from the Committee on Claims, to whom was referred the memorial of Aaron Haight Palmer, submitted a report, accompanied by a bill (S. No. 268) for the relief of Aaron H. Palmer. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was recommended the bill (S. No. 181) for the relief of Anson Dart, reported it with amendments.

DEFICIENCY BILL.

Mr. HUNTER. The Committee on Finance have directed me to report back the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, with some amendments. I give notice that, to-morrow, I shall ask the Senate to consider the bill. I shall not ask to have it taken up to-day, because a response has not been received to the call made by the Senator from Maine [Mr. FESSENDEN] for information.

Mr. TRUMBULL. Before the report made by the Senator from Virginia passes from the Senate, I should like to inquire what the amendments reported are? If they are important ones, I trust they will be printed. I know that, at former sessions of Congress, the appropriation bills have come in, and numerous amendments have been reported without there being any opportunity to see them or know what they were. I trust the amendments, if they are of any importance whatever, will be printed, that we may see them before they come up for consideration.

Mr. HUNTER. There are only two small amendments, and the bill will be printed as amended, under the rule, without any order; but I am willing that an order shall be made for the printing, if necessary.

Mr. TRUMBULL. If it is to be printed, it is all I ask.

The *PRESIDENT pro tempore*. The bill, with the proposed amendments, will be printed under the rules, as a matter of course.

FUGITIVES FROM JUSTICE.

Mr. CLARK. I ask the indulgence of the Senate for a moment to take up the bill (S. No. 197) providing for the arrest and return of fugitives from justice to the District of Columbia. There is a necessity for its present consideration. It is perhaps known to most Senators that within two or three days past an outrage was committed in this vicinity. Some five persons engaged in that outrage have been arrested and brought to the District. Some three others are in Baltimore, and there is no way of bringing them here to be tried with the others. I am told that there is no provision now for returning fugitives from justice to this District. I wish the bill to be acted on at once, so that it may go to the House of Representatives.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the bill. Under the provisions of the bill, if any person charged with treason, felony, or other crime, in the District of Columbia, has fled or escaped, or shall flee or escape from the District, the judge of the criminal court may appoint an agent or agents to demand of the executive authority of any State or Territory such fugitive, who shall be delivered up, in the manner prescribed by the laws of the United States for the delivery of fugitives from justice, to be removed to the District of Columbia. The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MILITARY ASYLUM.

Mr. HALE. I ask the consent of the Senate to offer the following resolution; to which I hope there will be no objection:

Resolved, That the select committee on the Military Asylum be authorized to employ a clerk for the remainder of the session, if necessary.

Mr. BIGGS. I should like the Senator to state if it is absolutely necessary to have a clerk for this special committee?

Mr. HALE. It is. That is the unanimous opinion of the committee. We have had one meeting.

Mr. BIGGS. It occurs to me that it is incurring an unusual expense. I prefer that it should lie over.

The *PRESIDING OFFICER*, (Mr. BRIGHT.) The Chair understood there was no objection to the consideration of the resolution.

Mr. HALE. If the Senator will hear me a single moment, I will state that the committee have had one meeting, laid out their programme, and are unanimously of opinion that a clerk is required; and, if we have one, we hope to get through this session.

Mr. BIGGS. I will not object to the consideration of the resolution; but I shall vote against it.

The resolution was adopted; there being, on a division—ayes twenty-one, noes not counted.

ENROLLED BILL SIGNED.

A message was received from the House of Representatives, by Mr. CARTER, their Chief Clerk, announcing that the Speaker had signed enrolled bill (H. R. No. 210) for the relief of the legal representatives or assignees of James Lawrence; which thereupon received the signature of the President *pro tempore*.

PRIVATE CALENDAR.

Mr. IVERSON. I move that the Senate take up the Calendar where we left off yesterday afternoon, and proceed with cases that shall not be objected to, or lead to debate, so that the docket can be gone through with in that way. Doubtless there are many bills that can be passed without debate and without objection, and it is important that they should go to the House of Representatives as soon as possible. After we go through the Calendar in that way, we can go back and consider the other bills.

Mr. STUART. It requires unanimous consent.

Mr. IVERSON. I trust there will be no objection.

The motion was agreed to by unanimous consent.

JENNETT H. M'CALL.

The first private bill on the Calendar was the bill (S. No. 130) for the relief of Jennett H. McCall, only child of Captain James McCall, of the revolutionary war.

Mr. CLAY. I object to the consideration of that bill at this time.

The *PRESIDENT pro tempore*. The bill will be passed over.

SAMUEL V. NILES.

The bill (S. No. 131) for the relief of Samuel V. Niles was read a second time, and considered as in Committee of the Whole.

It provides for the payment to Samuel V. Niles of \$360 for services as a temporary clerk in the General Land Office in the years 1849 and 1850.

Mr. CLAY. I will merely ask the Senator who reported the bill whether it has been before the Court of Claims? Do I understand that it comes from that Court?

Mr. SIMMONS. No, sir, I think not. This man was employed, and there was some misunderstanding about the amount of his per diem; but the person who employed him, the former Commissioner, stated this was according to the contract, and was necessary to make up the proper price.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EDWARD D. REYNOLDS.

The bill (S. No. 132) for the relief of Edward D. Reynolds, was read a second time, and considered as in Committee of the Whole.

It provides for the allowance to Edward D. Reynolds of two and a half per cent. upon the amount of military contributions received by him while acting as purser to the United States ships Warren and Southampton, on the coast of Mexico, during the Mexican war; but the allowance is not to exceed \$614 63, which is to be in full compensation for all extra services, expenses, and losses, during the period he acted as purser of those ships, according to the spirit of the act of March 3, 1849, "to provide for the settlement of accounts of public officers and others, who may have received moneys arising from military contributions or otherwise in Mexico."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF PROCEEDING.

Mr. BAYARD. Yesterday, when the Private Calendar was up, there were several bills antecedent to this upon the Calendar which were passed over under the assurance that they should come up to-day. There is one that I have an interest in seeing passed, believing it to be a meritorious case. I do not see why we should not go back to the commencement of the Calendar. Several bills were passed over yesterday under that assurance, and I do not think they should be postponed.

The *PRESIDENT pro tempore*. By the assent of the Senate, an order was made directing the Calendar to be taken up where it was left off yesterday.

Mr. BAYARD. The bill (S. No. 30) for the relief of Elizabeth Montgomery has been up twice before; it was read through, considered as in Committee of the Whole, the report was read, and the bill was postponed at the time only in consequence of the morning hour having elapsed.

Mr. CLAY. I will state to the Senator that it is understood we shall go on with the Calendar, passing only such bills as are not objected to, and then return and begin again. We shall soon get back again.

J. E. MARTIN.

The bill (S. No. 134) for the relief of the legal representatives of J. E. Martin was read a second time, and considered as in Committee of the Whole.

It will be a direction to the Secretary of the Treasury to pay to the legal representatives of J. E. Martin, late acting consul of the United States at Lisbon, for diplomatic services rendered by him as chargé d'affaires at that place, from the recall of Mr. Clay, on the 19th of July, 1850, to the arrival of Mr. Haddock, his successor, on the 15th of June, 1851, a period of ten months and twenty-seven days, \$2,042 12, being one half of

the salary of a chargé d'affaires, and in full for all such service for the period named.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

W. Y. HANSELL AND OTHERS.

The next bill on the Calendar was the bill (S. No. 135) for the relief of W. Y. Hansell, W. H. Underwood, and the representatives of Samuel Rockwell, which proposes to pay them \$30,000 for professional services as attorneys and counselors to the Cherokee nation of Indians.

Mr. BENJAMIN. Let that bill go over for the present.

GEORGE W. LIPPITT.

The bill (S. No. 140) for the relief of George W. Lippitt, was read the second time, and considered as in Committee of the Whole.

It proposes to allow to G. W. Lippitt, United States consul at Vienna, the sum of \$1,075 10, for compensation for taking charge of the archives of the United States legation at Vienna, and performing diplomatic services from October 13 to December 10, 1852, and from May 21 to September 13, 1853, embracing, in the aggregate, a period of five months and twenty-one days, being one half of the salary of a chargé d'affaires for that period.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HANNAH STROOP.

The bill (S. No. 142) for the relief of Hannah Stroop, widow of John Stroop, deceased, was read the second time, and considered as in Committee of the Whole.

It proposes to allow her a pension of four dollars per month, as widow of John Stroop, a soldier of the revolutionary war, from April 11, 1853, to continue during her natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHARLES G. RIDGELY.

The next bill on the Calendar was the bill (S. No. 144) for the relief of Captain Charles G. Ridgely, of the United States Navy.

Mr. BENJAMIN. Let that bill lie over.

JAMES SUDDARDS.

The next was the bill (S. No. 148) for the relief of James Suddards.

It provides for the payment to James Suddards, passed assistant surgeon in the Navy, of the sum of \$413 14, being the difference of compensation to an assistant surgeon and a passed assistant surgeon, from May 17, 1854, to March 9, 1856.

Mr. TOOMBS. I object to that bill.

GEORGE H. HOWELL.

The next was the bill (S. No. 149) for the relief of George H. Howell.

Mr. BENJAMIN. That involves the same principle.

Mr. TOOMBS. I object to it.

LIEUTENANT JOSHUA D. TODD.

The next was the bill (S. No. 153) for the relief of Lieutenant Joshua D. Todd, United States Navy.

Mr. BENJAMIN. That is the same principle. Mr. TOOMBS. I object to that. I object to all this back pay.

WILLIAM F. CARRINGTON.

The next was the bill (S. No. 154) for the relief of William F. Carrington, passed assistant surgeon in the United States Navy.

Mr. TOOMBS. I object to that bill. I object to all back compensation.

ROBERT CARTER.

The next bill (S. No. 155) was the bill for the relief of Robert Carter, passed assistant surgeon in the United States Navy.

Mr. TOOMBS. I object to that. It is of the same class.

JOSHUA SHAW.

The next was the bill (S. No. 156) for the relief of Joshua Shaw, of Bordentown, New Jersey, which proposes to pay him \$7,000 for the use of his invention of percussion caps and locks for

small arms, and of percussion locks and wafer primers for cannon.

Mr. TOOMBS. I object to that bill. I think there has been a large compensation made in that case.

ANTHONY S. ROBINSON.

The next was the bill (S. No. 158) for the relief of Anthony S. Robinson, heir and legal representative of John Hamilton Robinson, deceased.

It proposes to pay for services rendered by John Hamilton Robinson to the Republic of Mexico, the sum of \$16,956, which is to be taken out of the residue of the three and one quarter millions of dollars mentioned in the fifteenth article of the treaty between the United States of America and the Republic of Mexico, concluded at Gaudalope Hidalgo the 2d day of February, 1848.

Mr. TOOMBS. I object to that bill.

MRS. ELIZA A. MERCHANT.

The bill (S. No. 163) for the relief of Mrs. Eliza A. Merchant, widow of the late First Lieutenant and Brevet Captain Charles G. Merchant, of the United States Army, was read a second time, and considered as in Committee of the Whole.

It will be a direction to the Secretary of the Interior to place the name of Eliza A. Merchant on the pension list at the rate of fifteen dollars per month, to commence September 4, 1856, and continue during her life.

Mr. TOOMBS. Read the report in that case.

The Clerk read the following report, made by Mr. FOSTER, on the 23d of February last:

The Committee on Pensions, to whom was referred the petition of Mrs. Eliza A. Merchant, widow of Brevet Captain Charles G. Merchant, praying Congress to grant her a pension, beg leave to report:

That petitioner, on behalf of herself and child, claims a pension for the reason that her husband, the late First Lieutenant and Brevet Captain Charles G. Merchant, died in the military service of the United States, at Pascagoula, Mississippi, on the 4th of September, 1855. Petitioner alleges that her husband, Lieutenant Merchant, graduated at the United States Military Academy at West Point on the 30th day of June, 1843, and was promoted to brevet second lieutenant in the eighth regiment United States infantry, July 1, 1843; that he served during the war with the Mexican Republic, and was breveted first lieutenant September 8, 1847, for gallant and meritorious conduct at the battle of Molino del Rey, and brevet captain September 13, 1847, for gallant and meritorious conduct at the battle of Chapultepec; and, on his return from Mexico, he was ordered to Texas, and, in an affair with Indians, May 20, 1850, was severely wounded, from which he never fully recovered; in April, 1855, he was ordered to East Pascagoula, Mississippi. The testimony of J. J. B. Wright, surgeon United States Army, and John F. Randolph, who was acting assistant surgeon United States Army, both strongly corroborate the statement of petitioner that the wound alluded to was the cause of his death. The Commissioner of Pensions, in a letter to this committee, dated January 2, 1857, says: "If the committee are of opinion, from the medical testimony, that his death was hastened by the wound, the claim of the widow to a pension would seem to be as meritorious as some others which have been allowed by special act." It is also disclosed by the Commissioner of Pensions that Charles G. Merchant was a first lieutenant at the time of his death. The committee, after a careful examination of the testimony, are of opinion that the death of Lieutenant Charles G. Merchant was hastened by a wound received in a battle with Indians, May 20, 1850, and the application of Mrs. Eliza A. Merchant, his widow, is worthy the favorable consideration of Congress, and report the accompanying bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN W. M'CRABB.

The bill (S. No. 164) to provide for the settlement of the accounts of the late Captain John W. McCrabb was read a second time, and considered as in Committee of the Whole.

Its object is to direct the accounting officers of the Treasury, in the settlement of the accounts of the late Captain John W. McCrabb, assistant quartermaster of the United States Army, to allow and credit his charges for the disbursement of special appropriations during the years 1836, 1837, and 1838, and the first quarter of 1839, to the amount of \$5,293 96; and to pay the balance which (after the allowance) shall be found due, if any, to Mrs. Jane M. McCrabb, his widow.

In his account, rendered to the Department shortly before his death, which occurred in November, 1839, Captain McCrabb charged for the disbursement of \$215,259 67, at two and a half per cent., amounting to \$5,381 10, accompanied with the following statement: "Though I have charged a percentage on my disbursements out of

the appropriations for suppressing and preventing Indian hostilities, from a deep conviction that it is a just and equitable claim, and should be allowed, as a just recompense for the extraordinary and unusual risks and responsibilities I had to encounter in making the said disbursements, I have retained no portion thereof." The charge was disallowed by the accounting officers of the Treasury; and the object of the petition of Mrs. McCrabb is, that Congress may allow the claim, and authorize a credit to be given to her late husband, or to her, as administratrix, on the books of the Treasury Department.

It appears from a letter from the quartermaster general's department, to Hon. Richard Brodhead, chairman of the Senate Committee on Claims during the last Congress, dated January 16, 1855, that the whole amount of moneys disbursed by Captain McCrabb, in Alabama and Florida, during the years 1836, 1837, 1838, and 1839, out of the appropriation for preventing and suppressing Indian hostilities in Florida, was \$234,299 85; of which was disbursed, during the third and fourth quarters of 1839, \$22,541 40. The act approved March 3, 1839, prohibited the receipt by any officers having a salary of any extra allowance or compensation for disbursing public money, or the performance of any other service, unless the extra allowance or compensation was authorized by law. This act prohibits the allowance of any extra charge to Captain McCrabb upon the sum of \$22,541 40 disbursed after its enactment. The remainder of his disbursements was made in 1836, 1837, 1838, and the first quarter of 1839, and amounted to \$211,758 45. Upon this sum, in the opinion of the committee, Captain McCrabb is justly and equitably entitled to a commission of two and a half per cent. It is clear that the disbursing of the special appropriation was no part of his official duty as assistant quartermaster, and was imposed upon him, as appears by the letter of General Jesup, of December 15, 1853, by the sudden and pressing emergency of the public service, growing out of the Creek and Seminole wars, and the contracted force in the quartermaster's department. The disbursements were made under circumstances which subjected Captain McCrabb to great anxiety and risk of loss, and he could hardly have disbursed so large a sum, under the difficult circumstances by which he was surrounded, without considerable loss. Under this state of facts, the committee think he is justly entitled to extra compensation. If he had not disbursed these sums, the Government would have been compelled to employ a special agent for that purpose, at an expense not less than the amount claimed by Captain McCrabb.

The question of the equitable liability of the Government, under such circumstances, to pay extra compensation, has been repeatedly adjudicated by the Supreme Court of the United States, and in every case that court has allowed such extra compensation to be plead by way of a set-off against the Government, in a suit against the officer. (See *McDaniel's case*, 7 Peters, 1; *Ripley's case*, 7 Peters, 18; and *Fillebrown's*, 7 Peters, 28.)

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELEAZER WILLIAMS.

The bill (S. No. 166) for the relief of Eleazer Williams, was read a second time, and considered as in Committee of the Whole.

It proposes to allow to Eleazer Williams \$4,000, in full for his claim arising under the ninth article of the treaty with the Six Nations of New York Indians, January 15, 1838.

In this case the memorialist claims pay for services rendered by him to the United States, in procuring lands from the Menomonee and Winnebago Indians, in the then Territory of Wisconsin, for the use of the New York and St. Regis tribes. These services were rendered at various times from 1819 to 1832, and resulted in the treaties of 1827, 1831, and 1832, between the United States and the tribes. The history of embassies sent by the New York Indians to the Green Bay country, in Wisconsin, and of the negotiations at Butte des Mort, in 1827, and of those leading to the treaties with the Menomonees and Winnebagoes in 1831-32, extending from 1829 to the ratification of the treaty of October, 1832, with the

Menomonees, contains evidence of the connection of Mr. Williams with the interests and transactions of the New York tribes. He was reputed to be a half-breed of the St. Regis tribe, and was sent by them, and recognized as their agent, and as such signed various articles, treaties, and memorials. In a letter to the Hon. John H. Eaton, then Secretary of War, dated December 5, 1830, General Cass, in recommending Mr. Williams as a sub-agent at Fox river, says: "He rendered essential service to the United States during the late war, in which he was actively engaged and badly wounded, the effect of which will probably continue during life. I understand that he enjoyed the confidence of one of our highest and most distinguished officers, and bravely led a heavy column in the battle of Plattsburg. He is a gentleman of education and talents, and from his position and associations can render important services to the Government and the Indians."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

OTWAY H. BERRYMAN.

The bill (S. No. 171) for the relief of Otway H. Berryman was read a second time, and considered as in Committee of the Whole.

Its object is to allow to O. H. Berryman the sum of \$2,160 03, being the amount of losses sustained by him while commanding and acting as purser of the United States schooner On-ka-hy-o, with a proviso that this sum shall not exceed the amount which a purser would have received for performing the same duties.

Mr. STUART. I should like to hear the report in this case, to see on what grounds this claim is based.

The Clerk read the following report made by Mr. MALLORY, on the 1st of March last:

The Committee on Naval Affairs, to whom was referred the memorial of Otway H. Berryman, praying to be allowed the amount of money paid by him in the adjustment of his accounts as purser, have had the same under consideration, and report:

That the grounds relied upon by Lieutenant Berryman are substantially those which induced Congress to grant relief to Lieutenant Charles G. Hunter, at the present session, and your committee cannot distinguish between them.

Lieutenant Berryman assumed the command of the United States schooner On-ka-hy-o in October, 1846, under an order from the Navy Department, dated the 20th October, 1846, and he immediately entered upon special duty, and performed active and arduous service in the Gulf of Mexico, to Brazil and Chagres, during twenty-two months, which was terminated by the total shipwreck of the vessel on a sunken reef, in July, 1848.

With his command he was ordered to perform the duties of purser to the vessel, and these duties he performed throughout the whole period of his command.

No adjustment of his accounts took place until his return to the United States, when it was found that he had actually expended as purser more money, by \$2,325, than he could produce the requisite vouchers for. This sum he paid to the Government, and his accounts were balanced accordingly.

The memorialist alleges that he has diligently and faithfully kept and disbursed the means intrusted to him as purser, to pay the lawful liabilities of the Government, and that the omission to take and return the proper vouchers for all his expenditures was alone the result of his ignorance of and his want of practice in the duties of purser.

The memorialist has a family to support, dependent upon him. He had a small landed estate, which he sold to pay his deficiency, and himself and family have thereby become subjected to great pecuniary embarrassment.

Your committee, from an examination of the memorial and its accompanying papers, and from inquiries also at the Navy Department, are satisfied that the memorialist, whose character and standing as an officer and a man are irreproachable, did faithfully disburse the means intrusted to him in the payment of the proper liabilities of the Government; and that his ignorance of his accounts, and of the importance of carefully preserving vouchers for every expenditure, was due to his general want of familiarity with the duties of his incidental post of purser. He received no compensation for the performance of these duties, nor could he receive any legally. His deficiency is the result of no misapplication of the means of the Government, of no want of due care and diligence in guarding and preserving them. The Government has had the benefit of the expenditure.

The amount of disbursements by memorialist as purser, during the period referred to, for which he obtained credit at the Department, were \$21,951 50.

Your committee deem it a proper case for relief, and report a bill accordingly.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COURSE OF PROCEEDING.

Mr. STUART. I am not satisfied with the manner in which we are proceeding, and I hope the Senate will agree to reconsider the order that was made, and let us go back to the commencement of the Calendar, and proceed with the cases

understandingly. We spend nearly half the time in reading at length bills that are objected to; and if we require the reading of the reports, and then object to the bills, we shall get through very few cases. I hope we shall go back. The last case in which I had the report read was not a very satisfactory one, but yet I allowed it to pass. I move to reconsider the order that was made this morning.

Mr. BENJAMIN. I hope we shall not do that. I assure the Senator from Michigan that I have had the reports before me, and I have watched the bills as they have come up, and suggested objection to every one which I thought improper. He can do the same.

Mr. STUART. I am not so fortunate. I am not able to read. The condition of my eyes is such that I cannot read these reports. I am not satisfied with the bill which passed previously to the last one; I doubt very much whether it is a proper case; but if we go back, we shall save time. We read a bill; then we read a report; and the chances are, even that after that, the whole case is objected to, and that time is utterly lost.

The PRESIDING OFFICER. (Mr. BRIGHT in the chair.) The question is on the motion of the Senator from Michigan, to reconsider the vote directing the order of proceeding with the Private Calendar.

The motion was not agreed to.

WILLIAM D. MOSELEY.

The next bill on the Calendar was the bill (S. No. 172) for the relief of William D. Moseley.

Mr. STUART. I object to it.

Mr. YULEE. I am satisfied, if the bill and report are read, there will be no objection.

The PRESIDING OFFICER. It is not debatable. The Senator from Michigan objects.

Mr. YULEE. I presume the Senator does not intend to object generally and indiscriminately, because it is in defiance of the order—

Mr. STUART. I thought I knew what it was.

Mr. BENJAMIN. I object to the bill passing in this way now. I think it requires examination.

WILLIAM MARVIN.

The bill (S. No. 177) to confirm to William Marvin title to lands in East Florida, was read a second time, and considered as in Committee of the Whole.

Under its provisions, the grant to Bernardo Segui of seven thousand acres of land, lying on the east side of the St. John's river, in East Florida, between the place called Dunn's Lake and that known as Horse Landing, including the place called Buffalo Bluff, made by Estrada, the then Governor of the province of East Florida, on the 20th of December, 1815, will be confirmed to the grantee and those claiming under him; and the Commissioner of the General Land Office will be directed to cause the lands described in the grant to be surveyed to the claimant, without prejudice to any third person.

Mr. KING. If there is a report in that case, I should like to hear it.

Mr. BENJAMIN. I may perhaps save a little time by stating, in a word, the facts of this case. This is the case of a claim for land in Florida. It was presented before the commissioners, and recommended for confirmation, but that report was not confirmed at the time. Congress afterwards passed two successive laws requiring holders of claims to present them for confirmation within a limited time, or they should be forever barred. It appears by the papers that this land belonged to minor heirs of the grantee, those minors living in New York; and their tutors paid no attention to the matter. They then brought a suit in Florida for the confirmation of the lands, and recovered in the district court in Florida, but on appeal to the Supreme Court of the United States, it was decided that the district court had no jurisdiction, because they had applied too late; the time was lost by their being minors, living in New York, and their guardian neglecting to present their case. The proposition now is to confirm their title, notwithstanding that neglect.

Mr. KING. I proposed to have the report read, to see who was in possession of the land. If these people have possession, and nobody disputes it, would not their title be good without an act of Congress?

Mr. BENJAMIN. It will be treated as public land if it is not confirmed.

Mr. KING. I do not insist on the reading of the report.

Mr. STUART. I should like to ask the Senator from Louisiana a question—whether this confirmation interferes at all in its extent with other claims, so that there will be a resulting claim against the United States to make up the deficiency?

Mr. BENJAMIN. That is expressly precluded in the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

OLIVIER LANDRY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 80) for the relief of the heirs and legal representatives of Olivier Landry, of the State of Louisiana.

It proposes to confirm the heirs and legal representatives and assigns of Olivier Landry in their title to a certain tract of land situated in township ten south, range five east, in the southwestern district of Louisiana, containing two hundred and thirty acres and eighty-four hundredths of an acre; but this confirmation is only to be construed as a relinquishment of any title that the United States may have to the lands, and is not to affect any title of any third person.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DR. KANE'S EXPEDITION.

The next business on the Calendar was the joint resolution (S. No. 20) authorizing the Secretary of the Navy to pay to the officers and seamen of the expedition in search of Dr. Kane the same rate of pay that was allowed to the officers and seamen of the expedition under Lieutenant De Haven.

Mr. CLAY. I object to that. Let it lie over.

CHARNER T. SCAIFE.

The bill (S. No. 183) from the Court of Claims, for the relief of Charner T. Scaife, administrator of Gilbert Stalker, was read a second time, and considered as in Committee of the Whole.

It proposes to allow \$5,645 16 in full for the use and service of the steamboat James Adams, belonging to Gilbert Stalker, from the 1st of August, 1841, to the 9th of July, 1842.

In December, 1840, Captain Ogden, quartermaster United States Army, chartered the steamboat James Adams, at \$2,500 dollars per month. On the 26th April the boat was discharged. She was subsequently chartered, at different times, at \$2,000 per month, and at \$1,800 per month, all for service on the Florida coast during the Seminole war. The amount chargeable on the charter parties was duly paid. The present claim is for an additional allowance of \$500 per month, from the 1st August, 1841, to 9th July, 1842, founded on a parol contract between the owner of the boat and General Worth, the commanding officer in Florida, on the part of the Government. General Worth states that he has a distinct recollection of the circumstances, and of his assurance to Mr. Stalker "that, if he continued the vessel in the public service, to which the vessel was, at that time, indispensable, he should be paid an amount equal to his original contract." This promise, Captain Ogden, assistant quartermaster, says, "was predicated upon the unusually severe and destructive service required of the boat." Captain Ogden adds: "The rapid deterioration of the steamer, from the unusual service required of it, the promise of General Worth of an increased payment on that account, and the fact that Mr. Stalker would certainly have withdrawn his boat from the service if he had not expected the increase," &c., renders the payment a matter of common justice. The Court of Claims decide that, "as the service, to procure which the promise was made, was not required by the charter party, it cannot be said that the promise was without consideration. Neither can it be said that the promise was made without authority, it having been made by the commanding officer, in the presence of the quartermaster. It would, no doubt, have been more regular if the General had caused a new charter party to be executed; but still, as the unusual service was performed in consequence of the promise, it seems to be proper that the Government should pay for it."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN ROBB.

The next bill on the Calendar was the bill (S. No. 184) from the Court of Claims, for the relief of John Robb, which was read a second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to John Robb the sum of \$2,876 73 as a compensation in full for his service as acting Secretary of War in the years 1832 and 1833. The Committee on Claims reported the bill with an amendment to strike out all after the enacting clause and insert:

That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and required to account with, and allow to John Robb, late chief clerk in the War Department, for the time he discharged the duties of acting Secretary of War, by appointment from the President of the United States, the same compensation as was then allowed by law to the head of the War Department, deducting therefrom the compensation received by the said John Robb as chief clerk of said Department during the same time, the same to be paid out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to; the bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

SAN FRANCISCO HOSPITAL.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 2) authorizing the Secretary of the Treasury to audit and settle the accounts of the contractors for the erection of the United States marine hospital at San Francisco, California.

It proposes to direct the Secretary of the Treasury to settle the accounts upon principles of equity and justice.

The Committee on Claims reported an amendment to strike out the words "upon principles of equity and justice, the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California, and to pay to said contractor, out of any money in the Treasury not otherwise appropriated, whatever amount may be found to be justly due to him under the said contract," and insert:

And adjust the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California, and to pay to said contractor, out of any money in the Treasury not otherwise appropriated, the amount that may be found to be justly due to him under the contracts made between said contractor and the proper officers of the Government in reference to said building.

Mr. BENJAMIN. I do not desire to interpose any objection to the settlement of this contractor's accounts, but I do not understand the object of the resolution. It authorizes the Secretary of the Treasury to pay the contractor what is due him under his contract. Why is that necessary?

Mr. IVERSON. I will state it in a moment. There is no appropriation now, and that is the reason the Secretary cannot pay the money.

Mr. BENJAMIN. This resolution does not make any appropriation.

Mr. IVERSON. Yes it does.

Mr. BROWN. It appropriates the whole Treasury. Let it lie over.

The resolution was passed over.

BENJAMIN E. EDWARDS.

The next bill on the Calendar was the bill (S. No. 186) to confirm the title of Benjamin E. Edwards to a certain tract of land in the Territory of New Mexico.

Mr. STUART. I object to that.

A. W. MACPHERSON.

The next was the bill (S. No. 187) for the relief of A. W. Macpherson, which proposes to direct the Secretary of the Interior to audit and settle his accounts for furnishing the district and circuit court rooms, for the use of the courts of the United States, in the city of San Francisco, allowing him such prices for the articles furnished as, under all circumstances, shall appear reasonable and just.

Mr. BENJAMIN. Let that be passed over.

EDWARD N. KENT.

The bill (S. No. 188) for the relief of Edward N. Kent, was read a second time, and considered as in Committee of the Whole.

Its object is to direct the payment to Edward N. Kent, of New York, \$20,000, in full compensation for the perpetual use, in all the present and future minting establishments of the United States, of the apparatus for separating gold and other precious metals from foreign substances, of which he is the inventor and patentee; but he is first to secure to the United States the perpetual use of the apparatus to the satisfaction of the Secretary of the Treasury.

Mr. SLIDELL. Let that go over.

Mr. FESSENDEN. Will the Senator allow the report to be read? It is a short one. I think it will satisfy everybody.

Mr. SLIDELL. I will hear the report.

The Clerk read the following report made by Mr. FESSENDEN on the 9th of March:

The Committee on Finance, to whom was referred the petition of Edward N. Kent, with the accompanying papers, report:

That the petitioner is the inventor of an "apparatus for separating gold and other precious metals," which has been secured to him by letters patent, dated December 4, 1835, and February 28, 1836, respectively.

Mr. Butterworth, Superintendent of the Assay Office at New York, in a letter to the chairman of your committee, dated January 20, 1857, says:

"In the operations of melting and refining, a considerable portion of the precious metals will be temporarily absorbed by the crucibles and fluxes, and mixed with the ashes of the furnaces and the sweepings of the floors. A large amount of material thus accumulates, from which, by some method, the precious metal must be recovered. The amount thus recovered at this office is about two hundred thousand dollars per year. A portion still remains, however, mixed with the materials which have been subjected to the processes employed. This residuum is technically termed 'sweep,' and it has been the practice of the Government to sell this sweep to the smelters of this country and of Europe."

It has been proved to your committee that the method employed in minting operations, previously to the invention and employment of Mr. Kent's operations, for the purpose of recovering the precious metals thus accumulated, was exceedingly imperfect and defective. It was very prejudicial to the health of persons exposed to the operation, by reason of the large quantities of fine dust liberated in sifting; so much so, in one instance, as to cause death. It was expensive, requiring a large amount of labor, crucibles, and fluxes; and it occasioned a very considerable percentage of yearly loss on the "sweep" sold, namely, about ten to twelve cents per pound.

Mr. Kent's apparatus was introduced, at his request, into the assay office at New York, in July 1855, with a view of testing its merits. It was designed by the inventor to lessen, or avoid, all the difficulties above stated, particularly, by recovering a much larger portion of the precious metals from their admixture with the substances, so to impoverish the sweep as to diminish the percentage of loss on its sale.

The apparatus proved so successful, in all particulars, as to induce the Director of the Mint at Philadelphia to direct an examination and report upon its merits. The report was of so favorable a character as to lead to its subsequent introduction, with the approval of the Secretary of the Treasury, into the principal minting establishments of the United States, in all of which it has since continued in constant use.

The testimony furnished by Mr. Kent, which accompanies his petition and this report, comes principally from the officers of the Mint at Philadelphia, and the assay office at New York, and establishes, to the entire satisfaction of your committee, the great importance of the apparatus in minting operations. It accomplishes all the purposes for which it was designed.

Mr. Butterworth, in the communication before cited, says:

"Mr. Kent's invention effects a saving of two thirds the labor required by the old process; it supersedes almost entirely the expensive operations of fluxing, owing to the thoroughness with which it separates the precious metals from the sweeps; and, by impoverishing the sweeps to one tenth their former value, it effects a very material diminution of the loss on their sale in the market. I am satisfied that the saving to the Government, effected by Mr. Kent's invention, at this office alone, is about six thousand dollars per year."

The evidence is equally conclusive, that, by avoiding the dry sifting, this apparatus relieves the workmen from all the deleterious effects upon health produced by the old process.

By calculations made at the Mint and assay office, there can be no reasonable doubt that the saving to the Government effected by Mr. Kent's apparatus, at those two establishments, will amount, in the fourteen years of his patent, to a sum exceeding one hundred and twenty thousand dollars. Estimating an equal saving at the other establishments, which the witnesses assume to be a fair basis of calculation, the whole benefit derived by the Government from this important invention, during the continuance of the patent, will exceed two hundred and forty thousand dollars.

It is quite obvious that the use of Mr. Kent's apparatus is of too much importance and value to be dispensed with in the minting operations of the Government. It is equally obvious that it can only be used legally with his consent. Were it otherwise, there is no reason why the United States should not afford him a just and reasonable compensation for great benefits received through his labor and ingenuity. One of the witnesses, (Mr. Terry), who has been connected with the assay office from its commencement, says in a letter to Mr. Kent: "Your apparatus is constructed on the soundest principles of mechanical and chemical science; and is, I think, hardly susceptible of much improvement."

All the principal officers connected with both the establishments before named concur in the opinion that Mr.

Kent is honestly entitled to remuneration, and that the continued use of his apparatus in all the minting operations of the United States cannot be dispensed with.

The case is not without precedent. The sum of \$2,500 was heretofore appropriated by Congress for the purchase of the perpetual right to use, in the Mint and branch mints of the United States, an apparatus invented by Rufus Tyler for counting coins.—*United States Statutes*, vol. v., p. 688.

The petitioner thinks that he is entitled to receive from the Government the amount of \$20,000 for the perpetual right to use his apparatus in all the minting establishments of the United States. Taking into consideration the great benefits conferred, the fact that this sum is only one twelfth of the amount which will be actually saved to the Government through his instrumentality, and the very limited compensation which he will be likely to receive from other quarters, your committee think his demand not unreasonable, and accordingly report a bill for his relief.

Mr. SLIDELL. I am satisfied.

Mr. FESSENDEN. A little verbal amendment is suggested by the Senator from North Carolina, [Mr. Briggs,] which ought, perhaps, to be made. He suggests that there may possibly be a claim for the past use of the apparatus. The amendment is to make it read, "for the use heretofore and the perpetual use hereafter."

The amendment was agreed to. The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

RUFUS DWINEL.

The next bill on the Calendar was the bill (S. No. 189) for the relief of Rufus Dwinel, directing the payment of \$11,748 03, interest on a claim formerly allowed to him.

Mr. BENJAMIN. Let that lie over.

Mr. SIMMONS. Let the report be read, and perhaps the Senator will be satisfied.

Mr. BENJAMIN. I have read the report. It can be discussed afterwards.

The bill was passed over.

Mr. BENJAMIN subsequently said: A few moments ago I objected to the consideration of the bill (S. No. 189) for the relief of Rufus Dwinel. I have since run over the report, and I withdraw my objection.

Mr. STUART. I am opposed to going back.

PIERRE GRIGNON.

The bill (S. No. 190) for the confirmation of a certain land claim in favor of Pierre Grignon, or his legal representatives, was read a second time, and considered as in Committee of the Whole.

It proposes to confirm in favor of Pierre Grignon, or his legal representatives, the claim to a certain tract of land situated on the west side of Fox river, Green Bay, Wisconsin, immediately below the first creek that empties into the river, and having a front of about fifteen acres, with such depth as shall suffice to make the whole tract equal to six hundred and forty superficial acres; but the act is only to be construed to vest in Grignon, or his representatives, the rights, title, and interest in the land now held or possessed by the United States, and not in any way to impair any bona fide rights, interest, or claims, acquired by any other person under adverse grants, concessions, or purchases, made prior to the passage of the act.

Mr. KING. I should like to hear the report in that case.

Mr. BENJAMIN. I will state in a word what the case is. This is a claim for land which was reported for confirmation under the law providing for the confirmation of private titles in Michigan Territory. This particular tract was excluded from confirmation because it was within the limits of a military reservation. The Secretary of War now reports that it is no longer required for military purposes. It was only excluded on that ground, and of course it is proper the claimant should now be confirmed in his title. That is the whole case.

The PRESIDING OFFICER. Does the Senator from New York insist on the reading of the report?

Mr. KING. No, sir.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

STURGES, BENNETT AND CO.

The next bill on the Calendar was the bill (S. No. 121) from the Court of Claims for the relief of Sturges, Bennett & Co., merchants of the city of New York, which was reported on adversely by the Committee on Claims.

Mr. BENJAMIN. There is an adverse report on that bill. Let it be passed over. It can be taken up afterwards.

CONFIRMATION OF LAND CLAIMS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 41) for the relief of Manuel Liza, Joachim Liza, and others, and to provide for the location of certain confirmed private land claims, which was reported by the Committee on Private Land Claims, with an amendment to strike out all of the original bill, and insert, as a substitute, the following:

That the decisions in favor of certain land claimants herein made by the recorder of land titles in the States of Missouri and the two commissioners associated with him, by virtue of an act entitled "An act for the final adjustment of private land claims in Missouri," approved July 9, 1832, and act supplemental thereto, approved March 2, 1833, as entered in the transcript of decisions transmitted by the said recorder and commissioners to the Commissioners of the General Land Office; which said claims are named and numbered as follows: Manuel de Liza, No. 33; John Coontz and Hempstead, No. 44; Matthew Saucier, No. 57; Charles Tayon, No. 67; the sons of Joseph M. Pepin, No. 74; Louis Lorimer, No. 87; Bartholemew Cousin, No. 89; Manuel Gonzales Moro, No. 95; Seneca Rawlins, No. 104; William L. Long, No. 106; Joachim Liza, No. 133; Francis Lacombe, No. 34; Israel Dodge, No. 338; Joseph Silvain, No. 293; John P. Cabanis, No. 298; William Hartley, No. 301; Andrew Chevalier, No. 292; William Morrison, No. 307; Solomon Bellew, No. 308; Paschal Detchemendez, No. 309; Baptist Amure, No. 310; Alexander Maurice, No. 323; John Baptiste Vallee, No. 334; said decisions above named being in the first class of claims acted upon by said board; also the claim of Regis Loisel, No. 6, in the second class acted on by said board, be, and the same are hereby, confirmed to the respective claimants or their legal representatives.

SEC. 2. *And be it further enacted*, That the decisions in favor of land claimants made by P. Grimes, Joshua Lewis, and Thomas B. Robertson, commissioners appointed to adjust private land claims in the eastern district of the Territory of Orleans, communicated to the House of Representatives by the Secretary of the Treasury, on the 9th day of January, 1812, and which is found in the American State Papers, Public Lands, (Duff Green's edition,) volume two, from page 324 to 367, inclusive, be, and the same are hereby, confirmed, saving and reserving, however, to all adverse claimants the right to assert the validity of their claims in a court or courts of justice: *Provided, however*, That any claim so recommended for confirmation, but which may have been rejected, in whole or in part, by any subsequent board of commissioners, be, and the same is hereby, specially excepted from confirmation.

SEC. 3. *And be it further enacted*, That the locations authorized by the preceding section shall be entered with the register of the proper land office, who shall, on application for that purpose, make out for such claimant, or his legal representatives, (as the case may be,) a certificate of location, which shall be transmitted to the Commissioner of the General Land Office; and if it shall appear to the satisfaction of the said Commissioner that said certificate has been fairly obtained, according to the true intent and meaning of this act, then, and in that case, patents shall be issued for the land so located, as in other cases; and for each and every certificate, as aforesaid, issued by the register of any land office, he shall receive the sum of one dollar; that in all cases where any private land claim has been confirmed by Congress, and the same, in whole or in part, has not been located or satisfied, either for want of a specific location prior to such confirmation, or for any reason whatsoever, other than a discovery of fraud in such claim subsequent to such confirmation, it shall be the duty of the surveyor general of the district in which such claim was situated, upon satisfactory proof that such claim has been so confirmed, and that the same, in whole or in part, remains unsatisfied, to issue to the claimant, or his legal representatives, a certificate of location for a quantity of land equal to that so confirmed and unsatisfied; which certificate may be located upon any of the public lands of the United States, subject to sale at private entry, at a price not exceeding \$1 25 per acre: *Provided*, That such location shall conform to legal divisions and sub-divisions.

SEC. 4. *And be it further enacted*, That the register of the proper land office, upon the location of such certificate shall issue to the person entitled thereto a certificate of entry, upon which, if it shall appear to the satisfaction of the Commissioner of the General Land Office that such certificate has been fairly obtained, according to the true intent and meaning of this act, a patent shall issue, as in other cases.

Mr. POLK. I wish to add an amendment which I suppose will be acceptable to the Senator from Louisiana, the chairman of the Committee on Private Land Claims. I wish to call his attention to it. In the substitute as reported, in line thirteen of section three, I propose to insert after the word "cases" the words "of confirmation by this act or," so that the clause will read, "That in all cases of confirmation by this act, or where any private land claims," &c.

Mr. BENJAMIN. I have no objection to that.

The amendment to the amendment was agreed to, and the amendment as amended was adopted.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

A. S. H. WHITE.

The bill (S. No. 195) for the relief of Ashton S. H. White, was read the second time and considered as in Committee of the Whole. Its purpose is to allow to A. S. H. White \$561 02, in full for his services as assistant secretary to sign land patents under an appointment from President Pierce, of date of December 12, 1856, from that date to February 27, 1857.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LANDS IN WISCONSIN.

The next bill on the Calendar was the bill (S. No. 196) authorizing the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States to enter a certain tract of land in the State of Wisconsin.

Mr. BIGGS. I object to that bill.

Mr. BENJAMIN. I will ask the Senator from North Carolina to let the report be read. It is only five or six lines.

Mr. BIGGS. I have no objection to the reading of the report; but I am opposed to the principle of the bill.

The PRESIDING OFFICER, (Mr. BRIGHT.) As the Senator objects to the bill, it will be passed over.

JOSEPH HARDY AND ALTON LONG.

The next bill on the Calendar was the bill (S. No. 198) for the relief of Joseph Hardy and Alton Long.

Mr. STUART. That is a case to which I interposed objection the other day. I ask that it be laid over.

The bill was laid over.

LIVINGSTON, KINKEAD, AND COMPANY.

The bill (S. No. 199) for the relief of Livingston, Kinkead, & Company, was read a second time, and considered as in Committee of the Whole.

Its purpose is to authorize the payment to Livingston, Kinkead, & Company, merchants, of Salt Lake City, Utah Territory, of the sum of \$10,070, as indemnity for the amount of money of which they were robbed by a party of Sioux Indians, near Fort Laramie, in the Indian territory, in November, 1854.

Mr. BENJAMIN. There is no report accompanying that bill. It provides for the payment of ten or eleven thousand dollars. Unless there is a statement that we can understand, I object to it.

Mr. SEBASTIAN. The Senator from Louisiana is mistaken. There is a report in that case. I made it myself.

Mr. BENJAMIN. It is not printed.

Mr. STUART. The Calendar states that the report is not printed.

The PRESIDING OFFICER. There is a report, but it is not printed.

Mr. SEBASTIAN. I know there is a report.

Mr. BENJAMIN. Let the report be read.

The Clerk read the report made during the last Congress by Mr. SEBASTIAN, from the Committee on Indian Affairs, by which it appeared that the robbery was committed while Mr. Kinkead was passenger in a mail-coach, from Salt Lake City to Independence, Missouri. He was the only passenger who escaped massacre by the Indians. The band that committed the outrage were nominally at peace with the United States, but a state of hostilities was soon after recognized, and General Harney dispatched to the plains for their chastisement. According to the spirit of the intercourse laws, the United States would be bound to pay the loss, indemnifying themselves by reserving the amount from the annuities payable to the Indians; but as the depredation was committed by a straggling band, and the annuities to the Sioux are altogether payable in goods, and of small amount, it is proposed that the Government of the United States shall pay at once the indemnity which the intercourse laws guarantee in such cases.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GEORGE FISHER'S REPRESENTATIVES.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 21) devolving upon the Secretary of War the execu-

tion of the act of Congress entitled "An act supplemental to an act therein mentioned," approved December 22, 1854.

Mr. FITZPATRICK. That is a public act. Let it lie over.

Mr. BROWN. That is a private joint resolution.

Mr. FITZPATRICK. Let it be read.

The Clerk read the joint resolution, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the duties imposed, or required to be performed, by the act of Congress entitled "An act supplemental to an act therein mentioned," approved December 22, 1854, including the act to which it is supplemental, be, and the same are hereby, transferred to the Secretary of War, who shall proceed de novo to execute the same in their plain and obvious meaning: Provided, nevertheless, That from any amount which may be found just and equitably due to the legal representatives of George Fisher, deceased, there shall be deducted all sums which may have been heretofore allowed and paid by the United States.

Mr. BIGGS. I wish to hear the report in that case.

Mr. FITZPATRICK. I object to the consideration of the joint resolution; not that I know anything about its merits, but I see that the report is very long, and its reading will consume much time.

Mr. TOOMBS. I will state the case. It was before the Committee on Indian Affairs last year, when I was a member of that committee. It is a plain case. The object is to enforce a law already passed.

Mr. FITZPATRICK. I do not know anything of the merits of the case; but I understood that we were to go through with those bills that should lead to no discussion.

Mr. TOOMBS. This admits of none. There is no plainer case on record.

Mr. FITZPATRICK. I withdraw the objection.

Mr. TOOMBS. I will state the case. A bill was passed, several years ago, for the relief of the heirs of George Fisher. A portion of the items in the account were thrown out for the want of proof. The parties subsequently got the proof, came before Congress, and obtained an act directing an allowance for that which they had failed to prove before. When the proof was presented at the Treasury, the Secretary of the Treasury, under the new bill, proposed to deduct some interest which had been allowed upon the first account, by way of a set-off to what was allowed under the new bill. I recollect it was brought before the Indian Committee, and we were unanimously of opinion that he had no such right—not only that the claim was just, but that the deduction was improper, the law being imperative. Mr. Guthrie refused to go into the account only on that basis, and the present Secretary of the Treasury, although holding entirely different opinions, as I understand, yet, inasmuch as it had been decided, would not open the case without an act of Congress. The joint resolution only proposes, in this case, to allow the law to be executed according to its plain meaning and intent. The Committee on Indian Affairs unanimously reported that no other legislation was necessary at all; that the law was full and perfect; and this only proposes that the Secretary of War shall go on and execute the law.

Mr. BIGGS. My attention has been called to this claim, and it involves some fifteen or twenty thousand dollars.

Mr. DOOLITTLE. If the honorable Senator from North Carolina will give way for a moment I will add an additional fact to what was stated by the Senator from Georgia. The present Secretary of the Treasury declines to look into the case because Mr. Guthrie had declined to do it; and the present resolution provides for transferring the execution of the law from the Treasury Department to the Secretary of War, as the matter comes properly before the Secretary of War, the claim being for losses sustained by depredations committed by the Indians during a state of hostilities. Secretary Guthrie declined to look into the account, or to suffer the Second Auditor to do so, on the ground, as he alleged, that the testimony had been once looked into, and that Congress, when they passed the second law, were mistaken in the fact; but Secretary Guthrie was himself mistaken, as appears by the affidavit of Mr. Bibb, by the certificate of the Governor of Alabama, which shows that the testimony was

authenticated nearly two years after the decision was made. It is a very clear case; and the resolution simply provides that the execution of the law shall be transferred from one Department to the other. It does not make any appropriation whatever.

Mr. BIGGS. It is with reluctance that I interpose any objection to this case. I have examined it, and am certainly not satisfied in regard to it. It involves an appropriation of \$15,000.

Mr. TOOMBS. The Senator is mistaken. It does not appropriate one dollar. It provides for executing the existing law by the Department; that is all. It neither appropriates nor attempts to appropriate.

Mr. BIGGS. The claim is of twenty or thirty thousand dollars; and this is a resolution to transfer the execution of the law, which it is alleged ought to have required a former Secretary of the Treasury to pay the money. It is with reluctance that I interpose an objection; but I have examined the case, and on examination I am not satisfied that the joint resolution ought to pass. I object to it.

The PRESIDENT *pro tempore*. The joint resolution will lie over.

CHARLES PORTERFIELD.

The bill (S. No. 203) for the relief of the legal representatives of Charles Porterfield, deceased, was read a second time, and considered as in Committee of the Whole.

Its purpose is to require the Secretary of the Interior to issue to William Kinney and Thomas J. Michie, executors of the last will and testament of Robert Porterfield, deceased, a number of warrants, equal to six thousand one hundred and thirty-three acres of land, according to the usual subdivisions of the public surveys, in quantity not less than forty acres; to be by them located on any of the public lands which have been or may be surveyed, and which have not been otherwise appropriated at the time of such location, within any of the States or Territories of the United States, where the minimum price shall not exceed \$1 25 per acre, and appropriated according to the directions contained in the last will and testament of Robert Porterfield, in the same manner and for the purposes directed in regard to the lands which were lost by his legal representatives in the action with Clack and others, as decided by the Supreme Court of the United States.

Mr. STUART. I want to have that bill amended, so that it shall apply to lands that are subject to private entry. As it is now, it would apply to any lands, whether they had ever been offered at public sale or not.

Mr. EVANS. It was not intended to make it applicable to any except to lands made liable to private entry.

Mr. STUART. I supposed not. My amendment is, in line ten, after the words "public lands," to insert "subject to private entry."

Mr. BENJAMIN. The same thing is repeated twice over in the sentence. The sentence now reads: "to be by them located on any of the public lands, which have been or may be surveyed, and which have not been otherwise appropriated at the time of the location, within any of the States or Territories of the United States, where the minimum price for the same shall not exceed the sum of \$1 25 per acre."

Mr. STUART. The Senator will see that my amendment is still necessary. The minimum price of all public land except reserved lands is \$1 25 an acre; but until it has been once offered for sale, it is not subject to entry at all; but by the original language of this bill it would be before it was offered for sale.

The amendment was agreed to.

Mr. CLAY. I ask for the reading of the report in that case.

The Clerk read the report made by Mr. WILSON, from the Committee on Revolutionary Claims, on the 17th of March.

Mr. STUART. I think that case was once before the Committee on Public Lands; at all events it was brought to my attention heretofore, and it did not meet my approbation. I therefore must object to the bill to-day. Perhaps at a future day I may think differently; but at present I am not willing to allow the bill to pass.

The bill was passed over.

SUSANNAH HAYNE PINCKNEY.

The next bill on the Calendar was the bill (S.

No. 205) for the relief of Susannah Hayne Pinckney, sole heir of Captain Richard Shubrick.

It proposes to allow the seven years' half pay of a captain of infantry, as promised by the resolve of August 24, 1786, which amounts to \$1,680.

Mr. SLIDELL. I should like to hear the report in that case.

Mr. STUART. I object to the bill.

Mr. CLAY. There are about six cases of that character reported; and I am satisfied that those who have not given this subject any attention are unconscious of the mischief that may result from the passage of any one of these bills, and whenever we go back and take them up, I wish to enlighten those who have not read something on the subject. I am opposed to the consideration of the bill.

The bill was passed over.

JOHN HASTINGS.

The next bill on the Calendar was the bill (S. No. 207) for the relief of John Hastings, collector of the port of Pittsburg.

Mr. CAMERON. I object to that bill. When it comes up I shall have something to say upon it.

The bill was passed over.

JOSEPH C. G. KENNEDY.

The next bill on the Calendar was the bill (S. No. 209) for the relief of Joseph C. G. Kennedy, which proposes to allow him \$2,000 for damages to buildings rented from him by the United States for the use of the census office.

Mr. SLIDELL. Let that be passed over.

The next was the bill (S. No. 212) for the relief of Joseph C. G. Kennedy.

It proposes to direct the proper accounting officers of the Treasury Department, in the settlement of Mr. Kennedy's accounts, as late secretary of the census board, and superintending clerk of the census, to allow him at the rate of \$3,000 per annum, in full compensation for all services rendered by him in either or both capacities.

Mr. CLAY. Let that bill be passed over.

Mr. SIMMONS. That is a very clear case. I hope the Senator will hear the report. This gentleman served in these two capacities.

Mr. CLAY. I have no objection to hearing the report, but we paid one man, I know, for this work; and I should require a very strong showing before consenting to pay another one.

Mr. SIMMONS. This is the only one ever paid; and he has not been fully paid yet.

Mr. FITZPATRICK. I object to the bill.

The bill was passed over.

REIMBURSEMENT OF THE STATE OF MAINE.

The bill (S. No. 216) authorizing the payment to the State of Maine of certain expenses agreed to be refunded to her by the fifth article of the treaty between the United States of America and her Britannic Majesty, dated the 9th day of August, in the year of our Lord 1842, was read the second time.

Mr. CLAY. Is that a private bill?

Mr. FESSENDEN. It has been so considered.

Mr. CLAY. I did not know that the State of Maine was a private corporation. I always supposed it was one of the sovereign States of this Union.

The PRESIDING OFFICER. (Mr. BRIGHT.) It has been ruled usually that a bill for the relief of a State is in the nature of a private bill.

Mr. STUART. I shall want to discuss that question.

The PRESIDING OFFICER. The bill (S. No. 216) is before the Senate as in Committee of the Whole.

Mr. STUART. That is a debatable question.

The PRESIDING OFFICER. The Chair decides that it is a private bill.

Mr. STUART. I do not deny that; but I object to the bill. I examined the question and discussed it, at the last session. I am opposed to the bill.

Mr. FESSENDEN. The Senator is mistaken. This is a report from the Committee on Foreign Relations, on a claim arising under the treaty. It is not the same question to which he alludes.

Mr. STUART. Then I do not object to it.

The Senate, as in Committee of the Whole, proceeded to consider the bill, which directs the accounting officers to ascertain, as among the expenditures of the State of Maine in defending the

territory heretofore in dispute with Great Britain, the amounts paid in borrowing money for those expenditures beyond the rate of six per cent. per annum, whether in the form of discounts or otherwise, in all cases in which the principal of such expenditures and interest upon them at the rate of six per cent. have heretofore been refunded to that State by the United States. In making this ascertainment, the accounting officers are to compute the principal and interest of the difference between the cash received by Maine in negotiating stocks and notes, and the nominal amount of such stocks and notes, and the interest accrued thereon, and in cases where Maine was obliged, in negotiating for moneys, to increase the rate of interest on previous loans, the amount of such increase is to be computed and allowed, but not so as to reckon interest upon interest.

Mr. CLAY. I shall object to the interest allowed, without knowing anything of the merits of the bill.

Mr. POLK. I think the Senator is mistaken in the view he takes of it. The bill does not propose to allow interest as interest at all. It proposes to allow to the State of Maine so much as she suffered in the way of discount in the sale of her bonds for the purpose of raising money to prosecute the Aroostook war.

The PRESIDING OFFICER. The Senator is aware that the question is not debatable. Does the Senator from Alabama object to the bill?

Mr. CLAY. I prefer that it should go over.

The bill was passed over.

ROBERT DICKSON.

The next bill on the Calendar was the bill (S. No. 23) for the relief of Robert Dickson, of the Kentucky volunteers, which was reported upon adversely from the Committee on Pensions.

The bill was passed over.

RICHARD W. MEADE.

The bill (S. No. 221) for the relief of Richard W. Meade, was read the second time, and considered as in Committee of the Whole.

Its object is to allow R. W. Meade, late a lieutenant in the United States Navy, \$566 20, being the amount of expenses incurred by him and his clerk for subsistence, while under orders of the Navy Department, and detained on shore at San Francisco, from July 15 to September 30, 1849, less the amount already received by them for commutation of their rations during the same period.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

FRANCES ANN M'CAULEY.

The next bill on the Calendar was the bill (S. No. 223) for the relief of Frances Ann McCauley.

It provides for the payment to her, as widow of Daniel S. McCauley, deceased, late consul general of the United States at Alexandria, in Egypt, the sum of \$4,200, for compensation for judicial services performed by her husband, from the 14th of August, 1848, to the 26th of October, 1852, under the act of Congress entitled "An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to ministers and consuls of the United States in those countries," approved August 11, 1848, at the rate of \$1,000 per annum.

Mr. WRIGHT. I ask for the reading of the report in that case.

The Clerk read the report made by Mr. Foot, from the Committee on Foreign Relations, on the 31st of March.

Mr. GREEN. I object to that bill.

MRS. HARRIET O. READ.

The bill (S. No. 226) for the relief of Mrs. Harriet O. Read, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army, was read a second time, and considered as in Committee of the Whole.

It provides for the payment of \$1,250, being the amount claimed to be due the estate of Brevet Colonel Fanning, as commissions of two and a half per cent. upon the sum of \$50,000 disbursed by him in 1827 and 1828, at the United States arsenal, in Augusta, Georgia.

The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARTIN LAYMAN.

The next bill on the Calendar was the bill (S. No. 235) for the relief of Martin Layman.

It proposes to authorize him to enter the southwest quarter of section thirty-six, township twenty-nine north, range twenty-four west, in the Minneapolis land district, Minnesota Territory, upon payment of the usual minimum of \$1 25 per acre; and to authorize the superintendent of public schools in the Territory of Minnesota to select an equal amount of other lands in the Territory for the use of public schools in lieu of the lands granted to Layman.

Mr. CHANDLER. I object to that bill.

Mr. STUART afterwards said: My colleague is satisfied that the bill for the relief of Martin Layman is right.

Mr. CHANDLER. I withdraw my objection to that bill.

Mr. FESSENDEN and Mr. GREEN. I object to going back.

N. C. WEEMS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 212) for the relief of N. C. Weems, of Louisiana.

It proposes to confirm N. C. Weems's entry of the section sixty-eight, of township two north, of range one east, in the southwestern land district of Louisiana, patented September 1, 1849.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM E. KENDALL'S SURETIES.

The next bill on the Calendar was the bill (S. No. 237) for the relief of Arnold Harris and Samuel F. Butterworth.

It proposes to release them, as sureties of William E. Kendall, late deputy postmaster at New Orleans, Louisiana, from all claim which the United States may have against them, or either of them, as such sureties.

Mr. CLAY. I object to that bill.

NOAH SMITH.

The bill (S. No. 240) for the relief of Noah Smith, late a private in the Army of the United States, was read a second time, and considered as in Committee of the Whole.

Its purpose is to direct the Secretary of the Interior to place the name of Noah Smith, of Guilford, in the county of Belknap, New Hampshire, on the invalid pension list, at the rate of eight dollars per month, commencing on the 1st of March, 1858, and to continue during his natural life, on account of wounds and disabilities received by him while performing duty as a soldier in the Army of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN BREST.

The bill (S. No. 242) for the relief of John Brest, a soldier in the war of 1812, was read a second time, and considered as in Committee of the Whole.

Its design is to direct the Secretary of the Interior to increase the pension of John Brest, of Bourbon county, State of Kentucky, from six to eight dollars per month, from the 1st of March, 1858.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CAPTAIN ALEXANDER ROSE.

The next bill on the Calendar was the bill (S. No. 213) for the relief of the heirs of Captain Alexander Rose.

Mr. CLAY. I object to the consideration of that bill.

MILWAUKIE AND MISSISSIPPI RAILROAD.

The bill (S. No. 249) to release to the Milwaukee and Mississippi Railroad Company the interest of the United States to a parcel of land, was read a second time and considered as in Committee of the Whole.

It provides that whatever of right, title, or interest, the United States has or may have in and

to that certain tract or parcel of land situate in the Mississippi river, at the village of Prairie du Chien, in Wisconsin, opposite the depot grounds of the Milwaukee and Mississippi Railroad Company, (being a small island in low water, containing about thirty-five acres, separated from the main land upon the east bank of the river by a small channel or slough, and which, being overflowed at high water, has never been surveyed by the United States, to an extent equal in width to their present front on the river,) be released and quit-claimed to the Milwaukee and Mississippi Railroad Company, to be held and enjoyed by the company for depot and other railroad purposes.

Mr. BIGGS. I ask for the reading of the report in that case.

The Clerk read the following report, made by Mr. STUART from the Committee on Public Lands on the 8th of April:

The Committee on Public Lands, to whom was referred the memorial of the Milwaukee and Mississippi Railroad Company, respectfully report:

That they are unanimously of the opinion that the prayer of the memorialists should be granted, and they report a bill for that purpose. The facts are substantially and truly stated in the memorial of the company, a copy of which is annexed to this report.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The Milwaukee and Mississippi Railroad Company, in the State of Wisconsin, respectfully represents that the western terminus of their road is on the east bank of the Mississippi river, at Prairie du Chien, in the said State of Wisconsin, at which point the company have purchased from the original proprietors, and are now the owners, in fee simple, of a tract of land used for depot purposes, embracing the whole river front of private land claims Nos. 36 and 37, of Lucius Lyon's survey of private land claims at Prairie du Chien, now of record in the office of the Commissioner of the General Land Office; that lying in front of said depot grounds, and between them and the main channel of the river, is a small island, which is separated from the main land by a narrow channel or slough, and which island and slough it is necessary to cross in order to reach the main channel in lower stages of water; and, in order to perfect a convenient landing, it is necessary to bridge the slough and fill the island, as well as to make other improvements, which the company are deterred from doing, for the reason that certain parties claim that the island is the property of the General Government, and intend to make application for the same under the preemption laws; that the island is almost wholly opposite to the grounds of said company, is low, wet, and marshy, and valueless for agricultural purposes, and in high water is overflowed from eight to ten feet; that it is about fifty chains long by seven chains wide at low water, and contains about thirty-five acres of land, and is not surveyed or shown upon the maps of surveys made by said Lucius Lyon, and has heretofore been considered of no value.

And your memorialists further represent, that they have constructed a railroad from Milwaukee, on Lake Michigan, to the Mississippi river, without the benefit of a land grant or other aid from the Government.

Your memorialists, therefore, respectfully ask that an act be passed confirming the title to said island to the Milwaukee and Mississippi Railroad Company.

Read and adopted, at Milwaukee, this 3d day of March, A. D. 1858.

JOHN CATTIN,

President of the Milwaukee and Mississippi Railroad Co.

Attest: WILLIAM TAINTON, Secretary.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ALEXANDER STEVENSON.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 208) for the relief of the heirs of Alexander Stevenson.

Its purpose is to require the Treasurer of the United States to pay to the legal representatives of Alexander Stevenson, a soldier of the revolutionary war, in trust for the heirs of Stevenson, the sum of \$654, the amount of money due to him from the time of his enlistment, January 1, 1776, until the time of his discharge, in 1783.

The bill was reported to the Senate without amendment, and ordered to a third reading.

Mr. CLAY. I object to the passage of the bill until I hear the report.

The Clerk read the report of the Committee on Revolutionary Claims, from which it appeared that Alexander Stevenson enlisted as a soldier of the Revolution in the month of February, in the year 1776, was in the battle of the Three Rivers, in Lower Canada, where he was taken prisoner and detained as such till the year 1783, when he was discharged in an enfeebled state of health. It appears from the records of the War Department that he enlisted for one year, and not for and during the war; but having served till the end of the war, his case comes within the spirit and meaning of the law providing relief for those who enlisted "for and during the war." He received but

one month's pay from the Government, owing to the fact that he was a prisoner from 1776 till 1783.

In view of all the facts and circumstances attending this claim, the committee believe the sum reported is the smallest amount the Government should think of paying. The claim, it seems, was presented in 1837, and had the favorable action of two committees; passed the House of Representatives at the last session, with a clause allowing interest upon the arrears of pay, and was objected to in the Senate on the ground that the Government ought not to pay interest, on the presumption that she is always ready to pay all her just debts upon demand. The committee have refused to allow interest, even from the time demand was made, although there are precedents to be found justifying such allowance.

Mr. CLAY. I will ask the Senator who reported the bill whether this is to allow the commutation of seven years' half pay?

Mr. EVANS. No; it is his pay as a common soldier. He was enlisted, and marched to Canada, and in the battle of the Three Rivers he was taken prisoner.

Mr. CLAY. I withdraw my objection. It does not come within the class of cases I supposed.

The bill was read the third time, and passed.

LAND TITLES IN MAINE.

The next bill on the Calendar was the bill (S. No. 250) to provide for the quieting of certain land titles in the late disputed territory in the State of Maine, and for other purposes.

Mr. BENJAMIN. Let that bill go over. It will take too long to consider it now.

CHARLES M'CORMICK.

The next bill on the Calendar was the bill (S. No. 252) for the relief of Charles McCormick, assistant surgeon in the United States Navy.

Mr. CLAY. I object to that bill.

F. M. GUNNELL.

The bill (S. No. 253) for the relief of F. M. Gunnell, passed assistant surgeon in the Navy, was read the second time, as in Committee of the Whole.

It provides for the allowance to F. M. Gunnell, of \$156, for certain extraordinary expenses incurred by him in the discharge of his duty at San Francisco, California.

The petitioner, an assistant surgeon in the Navy, attached to the United States ship Independence, of the Pacific squadron, was ordered by Captain Josiah Tatnall, on the 17th day of September, 1855, to proceed to San Francisco, and report himself for duty at the United States naval rendezvous in that city, and to return to the ship when the rendezvous should be closed. Under this order the petitioner performed the duty assigned him twelve weeks in the city of San Francisco. His board, during that time, on shore, amounted, according to the voucher filed by him, twelve weeks, at eighteen dollars, to \$216. In view of the fact that in fixing the salary of his grade, reference was had to its ordinary expenses, the committee deem it but equitable, and in conformity with the usage of Congress, to reimburse the memorialist for any extraordinary expense incident to public duty assigned him properly incurred. Had the memorialist remained on board of the ship, in the discharge of his duties as an assistant surgeon, his mess bill would not probably have exceeded twenty dollars per month; deducting this amount from his expenses on shore, leaves the sum of \$156.

The bill was reported to the Senate, ordered to be engrossed, read the third time, and passed.

TOWNSEND HARRIS.

The next bill on the Calendar was the bill (S. No. 244) for the relief of Townsend Harris, which proposes to allow him \$10,000 for his services and expenses in negotiating a treaty of commerce between the kingdom of Siam and the United States.

Mr. WRIGHT. Is there a report in that case?

Mr. SLIDELL. I was about to say, that while I think Mr. Harris is entitled to some compensation for his services, this allowance is, in my opinion, extravagant. It is not one to which I assented in the committee. At first a smaller sum was agreed to by the Committee on Foreign Relations, but there was a reconsideration, and the bill was agreed to be reported as it was reconsidered. I prefer that it should go over, for the amount is too large.

Mr. MASON. I understood there was to be no debate on any bill to-day, or I should avail myself of the occasion to reply to what fell from the honorable Senator from Louisiana. ["No objection."] I mean only to state, that the reasons actuating the committee were satisfactory to my mind.

The bill was passed over.

ANTHONY CASLO.

The next bill on the Calendar was the bill (S. No. 255) for the relief of Anthony Caslo, a soldier of the war of 1812.

Mr. CLAY. I object to that bill.

ALEXANDER RANDALL.

The bill (S. No. 256) further explanatory of an act approved August 18, 1856, entitled "An act for the relief of Adam D. Steuart and of Alexander Randall, executor of Daniel Randall, was read a second time, and considered as in Committee of the Whole.

It proposes so to construe the act of August 18, 1856, as to direct the Secretary of the Treasury to pay to Alexander Randall, executor of Daniel Randall, a commission, at the rate stated in the act, upon the sum of \$218,429 63, in addition to the commission heretofore allowed him under the act, being the residue of the amount received and collected by Daniel Randall in Mexico, as deputy Paymaster General of the United States Army during the war with that Republic.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE SIEUR DE BONNE AND OTHERS.

The next bill on the Calendar was the bill (S. No. 259) authorizing the courts to adjudicate the claim of the legal representatives of the Sieur De Bonne, and of the Chevalier De Repentigny, to certain land at the Sault Ste. Marie, in the State of Michigan.

Mr. STUART. I think that bill, perhaps, had better go over to-day. It ought to be looked into. I do not know but that it may be right.

The bill was passed over.

CAPTORS OF BRIG CALEDONIA.

The next bill on the Calendar was the bill (H. R. No. 218) for the benefit of the captors of the British brig Caledonia, in the war of 1812.

Mr. SLIDELL. Let that bill go over.

WILLIAM CRUICKSHANK AND OTHERS.

The next bill on the Calendar was the bill (S. No. 260) for the relief of William Cruickshank, J. S. Polack, Calhoun Benham, and Frederick A. Sawyer, of San Francisco.

Mr. GREEN. I object to that bill, and I think I can give a satisfactory reason why it ought not to pass.

MICHAEL NASH.

The bill (S. No. 261) for the relief of Michael Nash, of the District of Columbia, was read a second time, and considered as in Committee of the Whole.

It makes an appropriation of \$776 50 to Michael Nash, as additional compensation for services rendered as assistant superintendent of the penitentiary of the District of Columbia from August 17, 1841, to March 7, 1849, inclusive.

Mr. KING. I ask for the reading of the report on that case.

The Clerk read the report made by Mr. KENNEDY from the Committee on the District of Columbia, by which it appeared that Nash was appointed in June, 1840, as guard at the penitentiary at a compensation of \$550 per annum, but soon after his appointment, at the suggestion of the inspectors he was assigned to duty as superintendent of the convict shoemakers, being himself a practical shoemaker, in which position the inspectors think his services were worth \$100 a year more than he received, and his successor has had an addition of that amount to his salary. The object of the bill is to add \$100 per annum to his pay during his term of service.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RICHARD D. ROWLAND.

The bill (S. No. 262) for the relief of the heirs or legal representatives of Richard D. Rowland,

deceased, was read a second time, and considered as in Committee of the Whole.

It provides for the payment to the heirs, executors, administrators, or legal representatives of Richard D. Rowland, deceased, late of Alabama, of \$3,200; and to the heirs, executors, administrators, or legal representatives of whomsoever possesses whatever title the United States gave to the southeast quarter of section two, township fourteen, range eight east, of the lands selected in Alabama, and sold under the treaty of March 24, 1832, with the Creek Indians, for the benefit of the orphans of the tribe, of \$2,260, with interest at the rate of five and a half per cent. per annum, upon both sums, from November 1, 1836.

Mr. WRIGHT. I ask that the report in that case be read.

The Clerk read the report made by Mr. FITCH, from the Committee on Indian Affairs, by which it appeared that the United States sold the land to the parties, but it was afterwards recovered from them by one of the Indians.

Mr. FITCH. In the haste of drafting the bill there was a small error. In line ten, after the word "gave," I move to insert the names of the original purchasers, "Puritan Smith and Heffner."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading; read the third time, and passed.

Mr. FITCH. I move to amend the title by adding the words "and others" to it.

The motion was agreed to.

FRANCIS WLODECKI.

The bill (H. R. No. 213) for the relief of Francis Wlodecki was considered as in Committee of the Whole.

It proposes to authorize him to locate one hundred and twenty acres of land on any public lands subject to private entry, at \$1 25 an acre, in full discharge of his claim under the act of June 30, 1854, "granting land to certain exiles from Poland."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ALEXANDER COPELAND.

The bill (S. No. 264) confirming to Alexander Copeland four hundred and eighty acres of land in Sonoma county, California, was read a second time, and considered as in Committee of the Whole.

Mr. POLK. I ask for the reading of the report.

Mr. BENJAMIN. I will state in a word what the case is. There was a certain rancho in California, of which a small portion was sold to this individual. When application was made to the United States commissioners for the confirmation of the titles, the holder of the main body of the rancho presented his title, and it was confirmed. This memorialist having a small portion of the rancho, supposed that it would all be confirmed in one body, and was so advised; but when the confirmation came, his little farm was excluded. It was then too late for him, under the law, to present his claim. He merely lost his confirmation by bad advice. He lives on the land and cultivates it, and the title under which he holds has already been confirmed to the remainder of the land.

Mr. POLK. I do not ask for the reading of the report.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

T. HART HYATT.

Mr. SLIDELL. I ask leave to make a report from the Committee on Foreign Relations, on a small private claim. It is my fault that the report was not made yesterday and the bill now on the Calendar. I desire the bill to be considered at once.

The bill (S. No. 270) for the relief of T. Hart Hyatt was read a first time, and ordered to a second reading. It proposes to allow Mr. Hyatt, consul at Amoy, China, \$1,500 for judicial services, under the act of August 11, 1848, from July 1, 1855, to January 1, 1857.

Mr. GREEN. I object to the bill. I want it to take the same course with the others of the same kind.

Mr. SLIDELL. There is really no objection to this. It is making an appropriation for an indebtedness that actually exists, for which there is no previous appropriation. The claim is recognized. Will the Senator hear the report?

Mr. GREEN. I will hear the report.

The Clerk read the report.

Mr. GREEN. I withdraw my objection to the bill.

The bill was read a second time, and considered as in Committee of the Whole.

Mr. KING. I desire to inquire of the Senator from Louisiana, whether this is an exception to the ordinary rule? Have other consuls had this pay?

Mr. SLIDELL. There are certain consuls who by law were entitled to an annual salary for the judicial services. I think there is no analogy between this case and the bill which was objected to to-day, for the payment of the consul at Alexandria. He was not allowed any salary by law for these services. The difficulty in this case, however, is not that there is any doubt that this man is entitled to the compensation, but no appropriation has been made for it. It might, perhaps, more properly have come in under the deficiency bill. It results from the construction given to the law by the Attorney General, and by the Department of State. They say that the law of 1855, fixing the salaries of consuls, did not at all touch that provision which had previously given them an annual allowance for their judicial services.

Mr. KING. That is a question upon the construction of the law. The inquiry I made was, what has been the practice of the Government in reference to other consuls? Have they been paid their salaries for judicial services in all cases but this?

Mr. SLIDELL. They have been uniformly paid.

Mr. KING. Then I have no objection to the bill.

Mr. SLIDELL. Perhaps I may be mistaken when I say they have been uniformly paid. There may be another case of a similar character. If it has not been paid it is not because the Department did not consider the amount due, but because no funds had been appropriated for the payment, owing to a misconstruction of the law.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BOUNTY LAND WARRANTS.

The bill (S. No. 193) authorizing the issuing of certain land warrants to the legal representatives of deceased persons entitled thereto, was read a second time, and considered as in Committee of the Whole.

Mr. SLIDELL. That is not a private bill.

Mr. EVANS. I think the Senator is mistaken. It only provides for a small number of persons in a particular case, and is not as much a bill of a public character as some which have been passed to-day.

Mr. SLIDELL. I will not insist on the objection.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BROWN subsequently said: I move to reconsider the vote by which the bill (S. No. 193) authorizing the issuing of certain bounty land warrants to the legal representatives of deceased persons entitled thereto, was passed. My object is to move an additional section, which I supposed was included in the original bill, but it is not; and I think it is of more importance than the bill itself. I will read the section, if desired, that I want to insert, and make a brief explanation.

The motion to reconsider the vote passing the bill was agreed to.

Mr. BROWN. If it be necessary, I now move to reconsider the vote by which the bill was ordered to be engrossed for a third reading.

The PRESIDING OFFICER, (Mr. BRIGHT.) By unanimous consent an amendment can be made.

Mr. BROWN. The section I propose to add is this:

And be it further enacted, That in all cases where persons holding bounty land warrants, under this or any previous act of Congress, have died, or shall hereafter die, without heirs entitled to inherit under any existing law, the warrant may be sold and assigned by the executor or administrator

as real estate, and located under such regulations as the Commissioner of the General Land Office may prescribe.

I will make a word of explanation. There are some cases of this sort—where persons have died leaving no heirs, and leaving no estate except simply the land warrant. I know there was one case, at least, in my own State. The friends of the party buried him properly, believing that the warrant would be made available. They took an order for its sale, and sold it; but the Department here refused to recognize the sale, and the warrant is worthless. There are a number of these cases—perhaps not amounting to a great deal in all, but of importance to the parties interested in them. The Government has issued the warrant, but it is of no value to any one; and where a person dies indebted, certainly the bounty which the Government has given ought to go to pay his honest creditors—at least his funeral debt.

Mr. FESSENDEN. I should like to hear the original bill read.

The Clerk read it, as follows:

Be it enacted, That where any person who has made or shall make application for, and be entitled to receive, a certificate or warrant from the Department of the Interior for lands under the provisions of the act entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved 3d of March, 1855, shall die before the issuing and receipt of such certificate or warrant, the legal representatives of such deceased person, so entitled to such certificate or warrant, shall be authorized and entitled to receive the same from said Interior Department.

Mr. FESSENDEN. I wish to suggest a verbal alteration to the original bill. It is probably designed to cover all cases where parties have died, as well as where they shall die hereafter. I think that alteration should be made by inserting the words "shall have died."

Mr. STUART. The Senator is right. The only question in my mind is, whether it is not better simply to use the word "die."

The alteration was made by unanimous consent.

Mr. BROWN. Now I offer my proposed amendment.

Mr. POLK. It appears that the section provides for cases where the warrant has actually issued.

Mr. BROWN. Of course.

Mr. POLK. I suppose every State of the Union has laws by which, on the death of the party, there can be a disposition of that kind of property.

Mr. BROWN. My friend is altogether mistaken. No State regulation can authorize you to locate one of these warrants. They must be located under the authority of Congress. In my State, the exact law to which the Senator alludes does exist. We have a law to sell them, but they are utterly worthless after they are sold, because this Government will not allow them to be located.

Mr. GREEN. I will suggest to the Senator from Mississippi a slight amendment. He says they shall be sold "as real estate."

Mr. BROWN. Well, I will strike out the words "as real estate."

Mr. GREEN. It makes a complicated manner of selling in several States, and the conveyance has to be by deed.

Mr. PUGH. I would suggest to the Senator from Missouri that that is a proper matter of legislation for the States. It is so provided now in some States, and can be in all.

Mr. BROWN. If my friend from Ohio will suggest to me any mode by which a State can compel the location of a land warrant, I will give way to hear him.

Mr. PUGH. She cannot compel it.

Mr. BROWN. I say again we have a law in our State authorizing the sale of these warrants, but the purchaser gets nothing. He gets simply a piece of paper, which is utterly worthless to him, because the Government does not authorize it to be located, except in a particular way.

Mr. PUGH. I do not care much about it; but I rather think it is an unnecessary provision.

The PRESIDING OFFICER. It requires unanimous consent to receive the amendment at this stage.

There being no objection, the amendment was received.

Mr. FESSENDEN. I would suggest to the Senator who reported the bill, that its language may need a little further alteration; but I do not want to be too particular. It says, "that where any person who has made, or shall make, appli

cation for, and shall be entitled to receive." That last "shall" refers to the future.

Mr. STUART. That merely refers to the completeness of the proof. He has made application, and his application must be such as shall entitle him to a warrant. The Senator will see that it relates to the character of proof.

Mr. FESSENDEN. That is the common sense of it, but I did not know that they would make a sensible construction.

The bill was passed.

ORDER OF BUSINESS.

Mr. STUART. I hope the Senate will now return to the commencement of the Calendar, and take up a case in which the Senator from Ohio [Mr. PUGH] has an interest, and which, I think, is the first one. But at all events, let us return to the first case.

The PRESIDING OFFICER. The Senate will now proceed to the consideration of bills upon the Calendar in their order.

Mr. BAYARD. I hope the Senate will now allow the bill (S. No. 30) for the relief of Elizabeth Montgomery to be passed.

Mr. STUART. It will be reached regularly in a few minutes.

THOMAS J. PAGE.

Mr. HOUSTON. I wish a motion entered to reconsider a bill, which was passed yesterday, in favor of Thomas J. Page, commander in the United States Navy.

The PRESIDING OFFICER. There were two bills passed for his relief.

Mr. HOUSTON. I allude to the bill appropriating over \$300.

The PRESIDING OFFICER. The motion will be entered.

ADJOURNMENT TO MONDAY.

Mr. HALE. I move that when the Senate adjourn to-day, it be to meet on Monday next.

Mr. HUNTER. I hope not. We have agreed (I think the Senator from New Hampshire moved it, or, at any rate, he was an advocate for the proposition) to adjourn finally on the 7th of June. How can we do it if we do not sit every day in the week? I hope the Senate will sit to-morrow, and let us act on the deficiency bill.

Mr. FESSENDEN. I am in favor of the Senate sitting to-morrow; there is business for it to do; but I should be opposed to its acting on the deficiency bill to-morrow.

Mr. BROWN. I should be very glad to have to-morrow for the District of Columbia business.

Mr. FESSENDEN. I have no objection to taking up any kind of business except the deficiency bill.

Mr. BROWN. I will furnish business if the Senate will meet.

Mr. HUNTER. I shall feel it my duty to endeavor to get up the deficiency bill, and the Senate can do as it pleases.

Mr. BROWN. There is no lack of business, and I hope we shall not adjourn over.

Mr. BRODERICK. I hope, if the Senate have a session to-morrow, the Pacific railroad bill will not be postponed for the deficiency bill. I do not see my colleague in his seat now, but I hope, if we have a session to-morrow, we shall consider the railroad bill.

*Mr. HUNTER. That proposition can be decided to-morrow, not now. I do not propose to make any order now. I am merely opposing the motion to adjourn over.

Mr. FESSENDEN and Mr. HUNTER called for the yeas and nays on the motion, and they were ordered; and, being taken, resulted—yeas 19, nays 25; as follows:

YEAS—Messrs. Bayard, Bell, Broderick, Chandler, Clay, Crittenden, Durkee, Evans, Green, Hale, Hammond, Harlan, Houston, Kennedy, King, Sebastian, Stuart, Trumbull, and Wade—19.

NAYS—Messrs. Allen, Benjamin, Biggs, Bigler, Bright, Brown, Clark, Doolittle, Fessenden, Fitch, Fitzpatrick, Foot, Hunter, Iverson, Johnson of Tennessee, Jones, Mason, Polk, Pugh, Sumners, Sidel, Thomson of New Jersey, Toombs, Wilson, and Wright—25.

So the Senate refused to adjourn to Monday.

INDIANA MEETING OF FRIENDS.

Mr. STUART. The first bill now in order is the one to which I referred; and, inasmuch as it has been two or three times up before the Senate, I hope it will be disposed of now. It is the bill S. No. 46.

The PRESIDING OFFICER. The first bill on the Calendar is the bill (S. No. 46) to grant the right of preemption in certain lands to the Indiana Yearly Meeting of the Society of Friends.

Mr. MASON. I have understood the policy of the Government to be to grant preemptions in favor of actual settlers who cultivate the land, and to that extent improve the country; but this is a proposition to extend it to a religious society. I am sure it will involve debate, and I move therefore that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 16, 1858.

The House met at twelve o'clock, m. Prayer by Rev. W. H. CHAPMAN.

The Journal of yesterday was read and approved.

COMMITTEE OF CONFERENCE ON KANSAS.

The SPEAKER appointed the following gentlemen as managers on the part of the House of the conference on the disagreeing votes of the two Houses on the bill for the admission of the State of Kansas into the Union: Messrs. ENGLISH, STEPHENS of Georgia, and HOWARD.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 210) for the relief of the legal representatives or assignees of James Lawrence; when the Speaker signed the same.

The SPEAKER stated that reports were in order from the Committee of Claims, in reference to business from the Court of Claims.

LANDS TO AGRICULTURAL COLLEGES, ETC.

Mr. WALBRIDGE. It will be recollected by the House that a bill was reported yesterday, from the Committee on Public Lands, donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, accompanied by a majority and a minority report. A motion is pending to print these reports, and to postpone the consideration of the subject. I ask the unanimous consent of the House that, pending the motion to postpone, the reports may be printed.

There being no objection, it was so ordered.

CORRECTION.

Mr. JOHN COCHRANE. I rise to a privileged question. I see that, in reference to the river and harbor bill, and the consulate at Rosario bill, reported by me yesterday, it does not appear that the reports accompanying those bills were ordered to be printed. I ask the unanimous consent of the House that those reports be printed.

The SPEAKER. The Chair would state that the order to print appears upon the Journal.

DES MOINES RIVER.

Mr. CURTIS. I ask the unanimous consent of the House to allow me to present joint resolutions of the Legislature of Iowa in relation to a grant of land by Congress for the improvement of the navigation of the Des Moines river, in order that they may be referred to the committee which now has that subject under consideration.

Mr. CLARK, of Missouri. I object.

ORDER OF BUSINESS.

Mr. DAVIDSON. It must be manifest to every member of the House, that if we are to adjourn in June, this day and to-morrow should be devoted, as contemplated by the rules, to private business. I move, therefore, that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. FLORENCE. I would suggest that it would be better to devote a short time to the reception of reports from committees on private business.

Mr. DAVIDSON. If you call the committees for reports, you will never get into Committee of the Whole.

The SPEAKER. Will the gentleman from Louisiana waive his motion until some Senate bills on the Speaker's table can be read and referred?

Mr. DAVIDSON. Certainly, sir.

SENATE BILLS REFERRED.

The following bills, from the Senate, were then taken from the Speaker's table, severally read a first and second time, and referred as indicated below:

An act (No. 225) for the relief of Andrew Gaskell. Referred to the Committee on the Judiciary.

An act (No. 242) to authorize the settlement of the accounts of Luther Jewett, late collector of the district of Portland and Falmouth, in the State of Maine. Referred to the Committee of Claims.

An act (No. 208) for the relief of Fabius Stanley. Referred to the Committee on Naval Affairs.

An act (No. 162) for the relief of John L. Allen and Asa R. Carter. Referred to the Committee on Public Lands.

The question recurred upon Mr. DAVIDSON's motion.

Mr. FLORENCE. I suggest that an unanimous consent be given to consider this as "objection day." We can then run through the Calendar; but it is obvious that if we begin to debate the bills we shall make no progress at all.

Mr. DAVIDSON. I have no objection to that.

Mr. JONES, of Tennessee. I object.

CONSULAR AND DIPLOMATIC BILL.

Mr. J. GLANCY JONES. The consular and diplomatic appropriation bill has been returned from the Senate with amendments, and is now upon the Speaker's table. I ask that it be taken up, and referred to the Committee of Ways and Means.

Mr. SEWARD. I give notice that I object to anything being done by unanimous consent, unless we can be allowed to report bills from committees.

The SPEAKER. This is one of the regular appropriation bills returned from the Senate with amendments.

Mr. SEWARD. I do not care if the Government falls. I object.

Mr. FLORENCE. I think we might spend an hour profitably in receiving reports from committees, and I hope we shall do so.

The SPEAKER. That will be the regular order of business, if the motion of the gentleman from Louisiana shall be voted down.

Mr. FLORENCE. Well, I hope it will be voted down.

The question was taken on Mr. DAVIDSON's motion; and it was agreed to—ayes one hundred and two, noes not counted.

The House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. NICHOLS in the chair.)

COURT OF CLAIMS—ADVERSE REPORTS.

The Chairman stated the first business in order to be an adverse report (C. C. No. 116) upon the petition of Augustine Demers and others, administrators of Francis Chaudonet.

Mr. JONES, of Tennessee. I suppose that the case now up, being an adverse report from the Court of Claims, should be laid aside, to be reported to the House with a recommendation that the report of the committee be concurred in, unless some gentleman wishes to have the report read.

Mr. SEWARD. I want to have the report read.

The report was read.

Mr. SEWARD. I think we ought not to be in too great a hurry to commit ourselves to the decision of the Court of Claims, growing out of the statute of limitations.

The report was laid aside, to be reported to the House with a recommendation that the report of the Court of Claims be concurred in.

The next case on the Calendar was an adverse report (C. C. No. 123) upon the petition of Joshua R. Jewett, heir of Joseph Jewett.

Mr. SEWARD. I ask for the reading of the report.

Mr. HOUSTON. These adverse reports from the Court of Claims should be, it seems to me, passed over without the reports being read, unless their reading be specially called for by some member of the committee.

Mr. SEWARD. I have called for the reading.

Mr. HOUSTON. I did not hear the gentleman call for it.

The reading of the report was proceeded with. Mr. SEWARD. Perhaps I am doing wrong by asking for the reading of these reports; but I have been wanting to report a bill for two months,

and have been cut off by the House going into a Committee of the Whole House. However, as it may be wrong to carry out the act of aggression, I withdraw my call for the reading of the reports.

The report was laid aside, to be reported to the House with a recommendation that the report of the Court of Claims be concurred in.

The next case on the Calendar was an adverse report (C. C. No. 127) upon the petition of Robert Harrison.

Mr. HAWKINS. I ask that this report be referred to the Committee of Claims. The case is one of a series of cases in which my constituents feel a very deep interest. It is a test case, on which all these others depend. The report in this case comprises something like two hundred and thirty-eight pages; and the opinion of the court itself numbers, I think, something like sixty pages. The decision of the court was not unanimous; one judge was perhaps in favor of the claim; another was in favor of the principle of the claim, while he admitted that his hands were tied by the act of Congress. I would also say to the committee that this subject is now undergoing investigation before a committee of the Senate, and I am anxious to await the action of that committee before this House acts upon it. Therefore, owing to the great interests involved in this bill, owing to the fact that the report cannot be read and discussion had upon it, without great loss of time, I move that the matter be laid aside, to be reported to the House with a recommendation that the report of the Court of Claims be referred to the Committee of Claims.

The motion was agreed to.

The next case on the Calendar was an adverse report (C. C. No. 130) upon the petition of Abraham King, administrator of John Mandeville.

Mr. POTTER. This claim has been several times reported on favorably by the House, and in the Court of Claims it was rejected simply because of the statute of limitations, its merits being undoubted. The court was bound by the statute of limitations. In accordance with the principle established by the action of the House on a precisely similar claim, some time since, I move that it be laid aside, with the recommendation that it be referred to the Committee on Revolutionary Claims.

The motion was agreed to.

The following adverse reports were laid aside, to be reported to the House with a recommendation that the several reports from the Court of Claims be respectively concurred in:

An adverse report (C. C. No. 135) upon the petition of Robert C. Thompson, administrator of William Thompson;

An adverse report (C. C. No. 139) upon the petition of Ellen Martin, heir-at-law of Francis Martin; and

An adverse report (C. C. No. 140) upon the petition of Francis Nadeau, heir of Basil Nadeau.

The next case on the Calendar was an adverse report (C. C. No. 161) upon the petition of Abraham R. Wocley.

Mr. MARSHALL, of Kentucky. I move that this case be referred to the Committee on Military Affairs.

The motion was agreed to.

The next case on the Calendar was an adverse report (C. C. No. 11) upon the petition of Cyrus H. McCormick.

Mr. READY. The gentleman from Kentucky [Mr. UNDERWOOD] and the gentleman from Virginia [Mr. SMITH] have given this case their special attention; and as neither of these gentlemen is now in his seat, I propose that the case be passed over for the present.

Mr. WORTENDYKE. I hope that course will be pursued.

Mr. WASHBURN, of Illinois. I hope that the case will be disposed of now.

Mr. CHAFFEE. If it is passed over it will be impossible to go back and take it up to-day.

The CHAIRMAN. It would be, except by unanimous consent.

Mr. JONES, of Tennessee. We had better pass upon it at once, and get the case out of the way.

Mr. WORTENDYKE. The member who has charge of this case is not in his seat. I wish him to have an opportunity to present the case to the committee, and therefore I trust there will be no objection to passing it over informally.

Mr. WASHBURN, of Illinois. I will make a definite motion in reference to this case. I move that the report of the Court of Claims be concurred in.

Mr. HOUSTON. I do not see why the request of my friend here [Mr. WORTENDYKE] cannot be granted, and the case passed over informally. The gentleman who has the case in charge is not in the House, and it would be only courtesy to grant the request.

Mr. WASHBURN, of Illinois. If there is any feeling in the matter, I will withdraw my motion.

The case was passed over informally.

The next case on the Calendar was taken up and reported, being an adverse report (C. C. No. 21) upon the petition of Cassius M. Clay.

On motion of Mr. CLAY, the case was passed over informally for the present.

The next case on the Calendar was taken up and reported, being an adverse report (C. C. No. 30) upon the petition of William Neill and others.

Mr. COX. I would like to have that case laid aside informally, and I will state the reasons for it. The gentleman interested in this case are from my district; they were here the other day, and the first intimation they had that this adverse report was before the House I gave them. I furnished them with the report and the papers, and they are now examining them at Columbus. I expected to have heard from them before this. I ask to lay the case aside until I hear from them in relation to this matter.

The case was passed over informally.

The next case on the Calendar was taken up and reported, being an adverse report (C. C. No. 31) upon the petition of Thomas Phoenix, Jr.

Mr. PENDLETON. I move that the report in this case be referred to the Committee on Military Affairs. The Military Committee has under consideration the claim of this gentleman, and likewise the report made by the Court of Claims; and although they are of opinion that the report of the court was right, the claim not being one which is recognized under the law, yet they have prepared and now have a bill upon the Private Calendar for the relief of the claimant.

The case was passed over informally.

The next case on the Calendar was taken up and reported, being an adverse report (C. C. No. 81) upon the petition of David Myerle.

Mr. FLORENCE. The report in this case is a long one, and I do not think it advisable to have it read. The Senate have this case under consideration now. This is not an adverse report, considered in its true light. I will read a paragraph from it.

Mr. CHAFFEE. Make your motion.

Mr. FLORENCE. Well, I move that the report be referred to the Committee on Naval Affairs.

The motion was agreed to.

The next case on the Calendar was taken up and reported, being a bill (H. R. No. 64) for the relief of Richard H. Weightman.

The bill, which was read, provides that there be appropriated, out of any money in the Treasury not otherwise appropriated, \$4,500, as mileage and per diem compensation to Richard H. Weightman, as agent, claiming to be a Senator in Congress from New Mexico for the second and part of the first sessions of the Thirty-First Congress.

The report, which was read, states that at the close of the Mexican war, the military government which had been established by the President of the United States in New Mexico, was temporarily continued, in the absence of other forms of government, with the presumed consent of the inhabitants of that Territory. The people of the Territory, however, soon memorialized Congress for the usual form of territorial government, and sent an agent, Hugh N. Smith, to Washington for that purpose, with the style of territorial Delegate. Congress did not at that time grant the territorial government asked for. Abandoning hope of obtaining such government, and viewing the *de facto* government as anti-republican and obnoxious, the people of New Mexico, following the example of Tennessee, Vermont, and other States, formed, in 1850, a State constitution, in the absence of all sanction of the General Government, and presented it to Congress, asking for admission into the Union. Mr. W. S. Messervy, who had been chosen a Repre-

sentative, and Mr. Richard H. Weightman, who had been chosen a Senator in Congress, came to Washington as the agents of New Mexico, the latter as early as August or September, 1850, bringing with him a copy of the new constitution, and placing it in the hands of the President of the United States, who transmitted it to Congress on the 9th September, 1850. Mr. Messervy arrived at Washington at a later date, and attended the second session of the Thirty-First Congress; they both remaining until the 4th of March, 1851.

Congress refused to admit New Mexico as a State, but at the same time organized the present territorial government for that Territory.

For his services Mr. Weightman has never received any compensation, while Mr. Messervy, who cooperated with him, has been paid, in mileage and per diem, for services during part of the time Mr. Weightman was here—that is, during the second session of the Thirty-First Congress—\$2,460. Mr. Smith, too, who preceded him as territorial Delegate, has been paid \$2,000 mileage, and per diem amounting to five dollars per day, from the time of his arrival at Washington till his claim to a seat was rejected by a vote of the House of Representatives. This apparent discrimination against Mr. Weightman seems to have resulted merely from a series of casualties. On four separate occasions an appropriation to compensate him has passed through the Senate. On one of these occasions the appropriation was lost in committee of conference; on another, with the loss of the deficiency bill of 1854, to which it had been attached; and on two others by a vote of the House during the hurried hours immediately preceding the close of the session, unfortunately without an opportunity having been afforded of drawing the attention of the House to the facts of the case. At the last Congress the Committee on Territories for the House reported a bill for the payment of this claim, which was read a first and second time, but was not reached on a third reading, and went off with the mass of unfinished business on the Calendar of the House. The sum appropriated was \$2,460 for the second session. His claim is almost precisely identical with that of Mr. Messervy, he having served longer and rendered more service; and it is strengthened and supported by all the precedents in similar cases known to the committee which have ever arisen in the decisions of Congress.

Should it be questioned whether a Senator elect can properly be paid per diem and mileage prior to the admission into the Union of the State represented, it may be answered that the practice in such cases has uniformly allowed the compensation; and, as examples, the committee refer to the payment of per diem and mileage to Messrs. Benton and Borton, as Senators elect from Missouri, commencing November 14, 1820, though Missouri was not admitted into the Union until August 10, 1821; to the payment of per diem and mileage of Messrs. Lyon and Norvell, as Senators elect from Michigan, commencing December 7, 1835, though Michigan was not admitted into the Union until January 26, 1837; and to the payment of per diem and mileage to the Senators from California, from the time they arrived in Washington, as agents to secure the admission of California into the Union, to the date of such admission as a State. It is true, that until the admission into the Union as States, of Missouri, Michigan, and California, the gentlemen claiming to be Senators were, in fact, merely agents of those communities, seeking their admission as States; but in this respect Mr. Weightman's position was precisely the same, and justice would seem to require that he should be paid, under the same rule, as agent. Territorial Delegates from Utah and New Mexico (Messrs. Smith and Babbett) were compensated for their services as agents before territorial governments were granted to those Territories. The appropriations to compensate Mr. Messervy, a Representative under the proposed State constitution of New Mexico, and Messrs. Norvell and Lyon, Senators, and Crony, Representative, from Michigan, were passed upon prior to, and without reference to the fact of, the admission of the State governments for which they acted as agents.

The committee are therefore unable to perceive why the claim of Richard H. Weightman should be constituted the only exception to the general rule. The hardship and injustice of such a de-

cision has thus far been the result merely of accident and oversight. They find that he presented his credentials to the Senate on the 12th day of September, 1850, and they believe that from that day to the 4th March, 1851, he is entitled to per diem and mileage.

Mr. JONES, of Tennessee. I have, I believe, upon several occasions, when the Private Calendar was under consideration on objection day, objected to this bill being reported by the unanimous consent of the committee to the House. I did so, for I believed, upon the examination of the case, that there were no merits in it. And, though I have no regard for precedents further than I am satisfied that the precedent itself is right, yet I think there is no precedent even which covers the case now under consideration. It is claimed that Mr. Weightman came here claiming to have been elected a Senator to the Congress of the United States from the proposed State of New Mexico in 1850. Now, sir, in the reports referred to in this case, there is not one of a person coming here claiming to be a Senator when a State applied for admission, and was paid his per diem and mileage when the State was not admitted. There are cases where, after the admission of the State, and the Senators were qualified, they were paid from the time they presented themselves to the Senate. I am not aware of any precedent where any gentleman ever came here claiming to be a Senator from a State, and was paid as a Senator when that State never was admitted into the Union.

Again, the report states that Mr. Messervy was paid as the agent or delegate from that Territory. I concede that; but Mr. Messervy came here perhaps as their agent or as their delegate to this House, and not to the Senate. Is there any case upon record in the history of the Government where any gentleman has ever appeared as a delegate from a Territory to the Senate of the United States, and where he has been paid for attendance on the Senate of the United States, claiming to be the agent or delegate from a Territory?

Again, there is no case upon the records of the country, so far as I am aware, where more than one agent or delegate has been paid for any one Territory at the same time. I do not know who made what purports to be the constitution of New Mexico. I do not know when they had a State government organized, or when they had a Legislature which was competent to elect a Senator, and send him here.

Again, I believe it is stated in the report that Mr. Messervy was paid \$2,460 for one session, and \$2,000 for the other session. Perhaps it is stated in this report that Mr. Weightman presented his credentials to the Senate on the 12th of September. That was but a few days before the session expired. Is it intended, then, by this bill to pay him mileage for that session, and mileage also for the second session—for it proposes to appropriate \$4,500 to pay Mr. Weightman this claim.

I think myself there are no merits in the case. I think from the report itself, a case is not made out which entitles him to the benefit of the act proposed to be passed for his benefit. These are the reasons which operated on my mind when I withheld my assent—an assent which would at least be a tacit indorsement of the correctness of the claim—to report it on objection day by the unanimous consent of the committee to the House for passage. It is now before the committee, when every gentleman has a right to express his opinion, and it must be determined by the vote of the committee, and with them I leave the case.

Mr. ZOLLICOFFER. I would be glad to have the attention of the committee for a few minutes to this case. I have examined it in committee, and my impression is that my colleague is mistaken in all the points he has made in his argument. I have examined the records of similar instances, and I am satisfied that there never has occurred an instance in the history of the Government, similar to this, in which the applicant has not been paid, with the solitary exception of that of Mr. Weightman. My colleague [Mr. Jones] says that there are no precedents. The report briefly and concisely states the facts in regard to precedents, and I will briefly advert to some of them.

However, before I do that, let me call the attention of the House to the particular state of facts existing. When the Mexican war terminated, there was a military government in New Mexico,

which had been established as a matter of necessity, by the President, during the pendency of the war. This was a sort of government which ought not to have continued longer than possibly could be avoided. It was a tyrannical, inconvenient, and oppressive military government. The people of New Mexico, as soon as the war terminated, desired to have a territorial government extended over them. They asked for a territorial government in the usual form, and elected a Delegate to this House—a Mr. Smith. They petitioned Congress to give them the usual territorial government. Congress refused or failed to do it.

There are other facts in that connection to which I desire to call attention. The then Administration of the Federal Government indicated a purpose to resist the policy of establishing territorial governments in New Mexico and Utah. The people of New Mexico saw this. They were very anxious to get rid of their military government, and when they were thus satisfied that they could not obtain a territorial government, they proceeded to form a State government. They elected a State Legislature, and a member to this House, and Senators to the other branch of Congress. My colleague says that he has no evidence of this. I have the evidence of it. It is before the committee, and if my colleague has it not it is his fault, and not the fault of the records of the country. These men came here as agents for the purpose of securing the admission of the new State into the Union. Soon afterwards, Congress determined to establish a territorial government. The compromise measures of 1850 were passed, and these provided territorial governments for Utah and New Mexico. Mr. Messervy, who came here as an agent to ask the admission of New Mexico into the Union as a State, got his bill through, and was paid. Major Weightman's bill passed the Senate, but was never reached in the House. It fell with the unfinished business of the session. It has been passed four times by the Senate; but by some casualty it has failed to pass the House.

My colleague says that there is no precedent where a man has been elected as a Senator and paid as an agent prior to the admission of a State into the Union. Here is a case in point, the case of Michigan. The report states it thus:

"The appropriation to compensate Mr. Messervy, a Representative under the proposed State constitution of New Mexico, and Messrs. Norvell and Lyon, Senators, and Cromy, Representative, from Michigan, were passed upon prior to, and without reference to the fact of, the admission of the State governments for which they acted as agents."

The Michigan Senators and Representatives were paid from December, 1835, although Michigan was not admitted as a State into the Union until January, 1837. This is a case in which gentlemen elected as Senators came here as agents to secure the admission of a State into the Union, and were actually paid per diem and mileage for service commencing two years before the admission of the State into the Union. The bill making the payment was acted on before the act was passed admitting the State into the Union. This is a case in point. It is true that Michigan was subsequently admitted into the Union; but at the time the per diem and mileage were paid it was not admitted as a State. The case of those Senators stood before the country just as this case stands now.

Mr. JONES, of Tennessee. I said that I was not aware of any case where any agent asking the admission of a State into the Union, and claiming attendance as a Senator, ever was paid for that attendance when the State had not been admitted.

Mr. ZOLLICOFFER. What does that matter, when I show a case where mileage and per diem were paid when the State was not admitted? The State of Michigan stood, at the time payment was demanded and made, just as New Mexico stands. The Senators were paid for services some two years previous to the admission of the State into the Union; and Major Weightman claims for like services here.

My colleague says that he never knew of two agents being paid for asking the admission of the same State. Look at the Michigan case, where two agents were paid for doing that very thing. There is another precedent in the Missouri case. There Messrs. Benton and Borton were paid as agents for services during nearly two years prior to the admission of the State into the Union. I believe in that case the claim was not acted on until after Missouri was admitted; but Congress

went back and paid them from the first day they came here as agents, commencing in 1819, when Missouri was not admitted, until 1821. Messervy and Weightman both claimed to be agents of New Mexico. What is the difference? They were sent here for the same special purpose—to ask the admission of the State into the Union. The people wanted to get rid of their military government. When they saw that the Administration of the Federal Government was in favor of receiving them as a State, instead of granting them a territorial government, they sent these agents here. Messervy has been paid; Weightman has not.

Mr. LETCHER. What I want to know is this: who elected this gentleman a Senator?

Mr. ZOLLICOFFER. He was elected by the Legislature of the State government of New Mexico. His colleague, whose name was Cunningham, was an officer of the Army, and being an officer of the Army, he did not quit his post and come here, and hence has never made any application for pay.

The impression has gone out, and I have been asked the question this morning, if Major Weightman was not at the time of his election an officer of the Army? He was not. His colleague, Mr. Cunningham, was an officer of the Army, and for that reason, I presume, he has never applied for compensation.

Mr. TAYLOR, of Louisiana. Was not Major Weightman an officer of the United States in New Mexico prior to his election?

Mr. ZOLLICOFFER. He had been; but at the time of his election he was a private citizen.

Mr. TAYLOR, of Louisiana. But he had been an officer of the United States previous to that?

Mr. ZOLLICOFFER. He had been. My colleague [Mr. Jones] adverted to the fact that Mr. Messervy was paid \$2,400; and that Major Weightman's claim is larger than that. The difference is this: that Major Weightman was here during portions of two sessions of Congress, whereas Mr. Messervy was here only one. Their compensation is placed upon an equal footing. Mileage is given to each of them; and each of them is allowed five dollars a day. It seems to me that they ought to have been paid eight dollars a day, but inasmuch as it is found that in all other cases—in the case of the gentlemen from Missouri and Michigan, and in the case of Mr. Messervy—only five dollars a day had been allowed, it was thought better to conform to the established usage, and make it five dollars a day instead of eight. But Major Weightman's compensation is precisely the same, in proportion to the time he was engaged, (including mileage for two sessions,) that has been paid to his colleague, Mr. Messervy.

Now, Mr. Chairman, I call attention to the fact, that the impression that there are no precedents is a mistake. There never has been an instance similar to this in which the Government has not paid mileage and per diem. This is the only solitary exception. I have some doubts as to whether the payments ought to have been made in any of these cases; and if we were about to commence *de novo*, if I did not find just such cases, I doubt whether I would vote for the bill. But when I find that every gentleman who has presented himself before the Government under similar circumstances has been paid, I feel that, as a matter of justice and equity, it is due to Major Weightman that he should be paid also.

If, sir, there are any other objections which gentlemen entertain to the bill, and will suggest them, I will endeavor to ascertain whether they are not equally erroneous.

Mr. CLARK B. COCHRANE. How many people were there in the Territory at the time?

Mr. ZOLLICOFFER. I do not remember now the amount of population. I am told that it was sixty-one thousand at the time. The point that I would call attention to is this: that the people there first wanted a territorial government. The indications here were that they would not get it. The President, in his message, it will be well remembered, whether rightly or not, took an adverse view of the subject. He thought that these new acquisitions from Mexico ought to be kept out until admitted as States. This impression reaching the people of New Mexico, they resorted to what they considered the only alternative left them, and organized a State government, and endeavored to get into the Union as a State. But, in the mean time, Congress had determined to pass

the compromise measures of 1850, and to bring New Mexico in under a territorial government.

Now, inasmuch as the precedents of the Government have been as I have described them, and as this document discloses; inasmuch as Major Weightman's colleague has been paid—and he was here longer in service and used more active labor in endeavoring to accomplish the end for which the two were sent here—it does seem to me to be wrong that he should be made the only exception to the rule.

Mr. TAYLOR, of Louisiana. I have listened to what has been said by the gentleman from Tennessee, [Mr. ZOLLICOFFER,] and I must confess that if I could be induced to vote for a claim upon the mere ground that claims of a similar nature had been passed, I should be inclined to go with the gentleman in voting for this bill. But, to my mind, the whole practice which has heretofore been had was, as the gentleman himself suggests, an improper one. It seems to me, sir, that whatever might have been its propriety with respect to those Territories in which there was a population seeking admission of its own motion, there would be great objections to a case in which it is impossible to say what were the wishes of the people—as the mass of them did not speak the English language—and who originated and carried on the movement which gave rise to the apparent action of the people on which the claim is founded. And this would be more especially the case when the person whose claim is in question was an officer of the United States, or went to the Territory in that capacity, and in consequence of the position in which he was placed by the Government, may be presumed to have had peculiar influence in getting up such a movement. Now, to my mind, this practice of paying persons coming here, who are placed in such a position by their connection with the public service that they can produce results, like those presented in New Mexico in this instance, and contribute to the apparent formation of governments when, perhaps, were it not for the position which they occupy, there might have been no such movement, is dangerous in itself, and, I think, improper to be continued.

Mr. ZOLLICOFFER. The gentleman will allow me to say that, although Major Weightman had been, some time prior to his election, a paymaster of the United States in New Mexico, he was, at the time of his election, a private citizen. But it does seem to me that, when you come to look at the particular state of facts existing there at the time—the facts which I recapitulated a moment ago—there was a propriety in the people of New Mexico thus selecting a man whom they thought might have influence with the Government. He had been an officer of the Government; he was then a private citizen. But it was not unnatural that they should suppose, when they were anxious to get rid of the military government, that, if they should select him to come on and endeavor to secure some form of civil government for them, he would be more successful than if they were to send a man unknown to the authorities of the United States.

Mr. TAYLOR, of Louisiana. Mr. Chairman, it is true that there is a propriety on the part of an organized community, standing in the position in which the people of New Mexico stood with respect to the Government of the United States, sending to the Congress of the United States an agent. It seems that they did send an agent. Now, if there had been any authority of Congress, if there had been any territorial government created, that gentleman would have had a certain legal character; he would have been vested with a certain legal position. And when no territorial government had been created, I would be disposed to look with favor on one who came here as the Representative of a people so situated for the purpose of playing the part of their agent, in the absence of any law.

Mr. ZOLLICOFFER. I understand the gentleman to say that there had been no territorial government created there?

Mr. TAYLOR, of Louisiana. Not at that time.

Mr. ZOLLICOFFER. The people of New Mexico had endeavored to form a territorial government.

Mr. TAYLOR, of Louisiana. But not by authority of Congress.

Mr. ZOLLICOFFER. No, sir.

Mr. TAYLOR, of Louisiana. Of course. I understand it. The people of New Mexico came under the authority of the United States under the treaty of Guadalupe Hidalgo. They occupied a particular position. It was the practice of the Government of the United States to extend over a people so situated a territorial government. Such a territorial government had not yet been created there by the legislative power. It was, I think, perfectly competent for that people, under these circumstances, to select an individual who should come near the Government of the United States as their agent. I think it right and proper to so regard him. I think it right and proper for the Government of the United States, at any future time, when they establish a territorial government or when they admit it as a State, to recognize that peculiar capacity of the individual, and to pay him the same amount that it is usual to pay to persons occupying such a position under the authority of law; for the Delegate of a territorial government, created by act of Congress, is nothing more nor less than an agent of the people constituting that community.

Now, in this particular instance, there was a person who stood in that relation to the people of New Mexico, and in that relation to the Government of the United States; who was so recognized, and whose services in that capacity were paid in the usual manner. This bill, however, proposes to go further, and to pay a person claiming to occupy the position of a Senator—a Senator from a State which has not yet been admitted; which not only has not yet been admitted, but with respect to which there has been no act of the kind which is now called an enabling act.

Mr. ZOLLICOFFER. The gentleman will recollect that the usage heretofore, in the case of Missouri, in the case of Michigan, and in one or two other instances, has been to appoint three agents. A member of the House and two Senators have been elected in each of those three instances; and all three, coming here and claiming pay as agents, have been paid by the Government.

Mr. TAYLOR, of Louisiana. And in those instances the communities sending them, at the time the step was taken, had the population necessary to authorize them to be admitted into the United States, and to authorize them to elect a Representative on this floor; and in those instances, I imagine, the persons who presented themselves were members of the communities for which they acted. But, in this instance, the population of New Mexico was almost entirely made up of those who did not speak our language. This person and the other who was associated with him in the election to the Senate, in view of that people being admitted as a State into the Union, were American citizens, who were not identified with that population and who had no connection with it. Mr. Weightman had only become part and parcel of that community because he was sent there by the United States in an official capacity in the public service. He saw fit, afterwards, to abandon the service. I know nothing about the gentleman, but it is very possible that his withdrawal from the service of the United States may have had some connection with the subsequent proceedings in regard to the character of that government.

Mr. ZOLLICOFFER. Let me state here that that cannot be so, for the reason that the office of paymaster, which was vacated by Major Weightman, was filled by Mr. Cunningham, who was also elected as his colleague to ask admission into the Union.

Mr. TAYLOR, of Louisiana. I did not state this as a thing that I know. I do not know the gentleman, nor am I acquainted with any of the circumstances. But the fact that he was an officer of the United States, and the other fact that his colleague was also an officer of the United States, ought, of themselves, to show the extreme danger of countenancing anything of this character. Now, I have heard it stated, and I presume it is true, that there have been other instances in which officers connected with the Army of the United States at one time, who were placed in a particular position with regard to a people, have appeared here for the purpose of producing some action on the part of Congress with regard to the creation of territorial governments.

There is an instance of that kind now pending, as I understand. I have seen something in the

papers; and I have seen it, perhaps, in the proceedings of Congress, with regard to the creation of a territorial government out of a portion of this very Territory of New Mexico, which is advocated and urged by a gentleman occupying the same position in regard to it as Major Weightman occupied with regard to New Mexico.

Now, I think that the doubt expressed by my friend from Tennessee in regard to the original propriety of these allowances, is more than a doubt in my mind. I am inclined to think that it was wrong; and, as I have a conviction of that fact, I am not disposed, at this time, to support this bill. I am not disposed to abandon what I conceive to be a proper principle, merely because that principle has been violated before. I do not want to go any further with that practice, and it is my purpose to vote against the bill.

Mr. ZOLLICOFFER. In connection with the doubt which I frankly expressed, it may be proper for me to say that if there ever was a people who were entitled to have an agent to represent them here to ask for admission under the peculiar circumstances which I have stated, it was that people. A Territory, situated as that was, needed here an agent to explain the circumstances, and to show the reasons why their petitions should be granted. The people sent agents, in conformity to the established usage in such cases; and one of them has been paid. It does seem to me that the claim of the other ought not to be rejected.

With these remarks I submit the question to the committee.

Mr. BILLINGHURST. I move that the bill be laid aside to be reported to the House with a recommendation that it do not pass.

The motion was agreed to.

Mr. CLAY. I now ask the unanimous consent of the committee to take up the adverse report (C. C. No. 21) upon the petition of Cassius M. Clay, which was passed over informally on my request, in order that I might prepare a bill for the relief of the claimant. I ask, also, permission to introduce the bill.

No objection being made, the case was taken up; and

Mr. CLAY introduced a bill for the relief of Cassius M. Clay.

The bill, which was read, appropriates the sum of \$783 35, being a full restitution of the amount of a judgment rendered against said Clay by the circuit court of Jefferson county, Kentucky, for a trespass committed by him in the execution of an order of his military superior, while in the service of the United States, and which said Clay had paid. It also appropriates the sum of \$760 to said Cassius M. Clay, for property lost by him in the Mexican war, in consequence of having been compelled, by order, to abandon it with a view to the public service.

Mr. WASHBURN, of Illinois. I rise to a question of order. An original bill cannot be introduced in Committee of the Whole.

The CHAIRMAN. The Chair rules that the Committee of the Whole may originate a bill as well as any other committee. The report of the Court of Claims is before the committee, and the gentleman from Kentucky offers a bill as a substitute for the report.

Mr. WASHBURN, of Illinois. Does the Chair hold that we can go back upon the Calendar without unanimous consent?

The CHAIRMAN. The gentleman asked, and obtained, unanimous consent.

Mr. CLAY. I have only a few words to say to the committee, in explanation of this bill. The claims which it embraces, and which it gives Mr. Clay indemnification for, have been repeatedly before this House. The first section of the bill provides for the payment of an amount of money which had been paid by Cassius Clay, under a judgment rendered against him, for a trespass committed by him, by order of his superior officer, while he was in the service of the United States.

The second section provides payment for losses sustained by him in Mexico, while under order to make a forced march, by which he was compelled to abandon his property.

The first item of the claim has been reported upon favorably several times by the committee of this House; and the second item has also been reported upon favorably. I think that both items are perfectly just; and I hope that the bill will be

laid aside to be reported to the House with the recommendation that it do pass.

Mr. JEWETT. What was the trespass?
Mr. CLAY. Whilst Captain Clay's regiment was in Louisville—the regiment commanded by Colonel Marshall, now a member of this House—a lieutenant was ordered to proceed to a certain house of ill-fame in Louisville, Kentucky, to arrest some deserters. The squad of men under the command of this lieutenant was fired upon from the house and one or two men and one or two horses were killed. Captain Clay was awakened in his tent in the middle of the night and ordered by Colonel Field, then in command, to enter the house and bring in the deserters. In obedience to that order he took his command, surrounded the house, broke open the door and brought back the deserters. For thus obeying the order of his commanding officer, he was sued in the court at Louisville by the person to whom the house belonged, and judgment was recovered against him for trespass, which he paid. It is to pay him that amount which he paid in obedience to the writ of the court at Louisville, and in the prosecution of his duty in carrying out the commands of his superior officers, that the first section of the bill is intended. The amount is some seven hundred and odd dollars.

The claim which he originally made for property which he had lost was for \$1,373. The committee of this House, however, refused to grant him that amount, but allowed him in their report the smaller amount of \$760, which is the amount contained in the second section of this bill. The articles of property which he lost are enumerated in the report, and were considered by the committee only such as were proper for an officer of the Army to have.

Those items are winter and summer clothes, sash and epaulets, bedding, camp and clothes chests, kitchen and table furniture, one horse, founedered by soldiers riding, and dead, one horse taken by the Mexicans, one mule, two dueling pistols and a revolver, worth, altogether, \$760. The property was lost many years ago. All the items have been satisfactorily proved and are all allowed by the Committee of Claims of this House.

Mr. TAYLOR, of Louisiana. I desire to move to strike out the second section of the bill. I agree entirely with the gentleman as to the propriety of passing the first section.

The CHAIRMAN. Does the gentleman from Kentucky yield the floor?

Mr. TAYLOR, of Louisiana. I thought the gentleman had concluded his remarks.

Mr. CLAY. I yield to the gentleman from Louisiana.

Mr. TAYLOR, of Louisiana. I agree entirely with my friend from Kentucky, that the amount provided for by the first section of the bill should be paid; every principle requires that it should be paid. But I am equally convinced that it would be improper to pay the amount provided for by the second section. It would be establishing a principle that I think would be extremely dangerous, and one that ought never be recognized under any system of government. When a person engages in the military service, it is not to be presumed that he is to be compensated by the public for the loss of his private property incident upon the ordinary contingencies of a military campaign. It is one of the risks which he takes when he engages in the military service.

Mr. MASON. I think the gentleman does not understand the facts of this case. Captain Clay was compelled to abandon this property by the order of his superior officer.

Mr. TAYLOR, of Louisiana. In the military service, in almost all instances, the private baggage of the officer has to be abandoned to the care of others. In making rapid military movements it cannot be avoided. No human art or contrivance can prevent the risk of these losses. It is incompatible with the discharge of military duties that a man should be at all times in charge of his own property. It must be intrusted to other public agents; and that is one of the ordinary risks which, in my view, is taken by persons who engage in the military service. I do not, however, wish to discuss the question. I thought, when I took the floor, that the gentleman from Kentucky had concluded his remarks.

Mr. CLAY. In reply to my friend from Lou-

isiana, I will merely observe that perhaps he is right in the general principle; but I think that there should be exceptions. I think it would be unjust and improper that a gentleman should be allowed for all the baggage and all the articles which he might lose in time of war. But there are certain articles necessary—absolutely necessary—to the soldier and to the man, which, under ordinary circumstances, he might take with him; and which, under all circumstances, perhaps, he ought to have with him; but which, certain exigencies, like those in the case of Captain Clay, prevent him from carrying with him. The Committee of Claims threw out all those articles which one would ordinarily have, but which might not ordinarily accompany his person, and allowed Captain Clay for the articles only which he was obliged to abandon on account of the forced march that he was ordered to make. I think that in his case an exception ought to be made to the general rule.

But, sir, I do not wish to discuss the question, or to detain the committee. I would merely state, in addition to what I have already said, that the Court of Claims, in reference to the first item, at least, have recognized its justice; but have stated that they had no legal power to accede to the claim, and recommend it as one eminently addressed to the equity of Congress.

Mr. SMITH, of Virginia. Was Captain Clay an officer of a mounted regiment?

Mr. CLAY. Yes, sir.

Mr. MARSHALL, of Kentucky. Before my colleague takes his seat, I would call the attention of the gentleman from Louisiana [Mr. TAYLOR] to the fact that \$340 of the \$760 provided for in the second section, which he proposes to strike out, is for Mr. Clay's horses, which he left behind him when he was ordered away from camp.

Mr. CLAY. There is one other circumstance which I will mention. Before the end of this forced march, which Captain Clay was ordered to make, he was taken prisoner, so that he never returned to the camp to look after his baggage and effects; he remained a prisoner for many months.

Mr. TAYLOR, of Louisiana. I move to strike out the second section of the bill.

Mr. SMITH, of Virginia. I have got the account before me, and it does not appear what portion of the account has been allowed, or is proposed to be allowed. Here is "one gold watch, cost \$350."

Mr. CLAY. That is stricken out.

Mr. SMITH, of Virginia. Here is "two suits of clothes, (new,) sixty-five dollars each, \$130."

Mr. CLAY. That is stricken out.

Mr. SMITH, of Virginia. "Twelve new shirts, five dollars each, sixty dollars."

Mr. CLAY. That is stricken out.

Mr. SMITH, of Virginia. "One hunting rifle, thirty-five dollars."

Mr. CLAY. That is stricken out.

Mr. SMITH, of Virginia. "One horse, founedered by soldiers riding, and dead, \$150." This is an irregular trespass on the party, not by authority of anybody, and, most certainly, not a liability for which the United States could be held responsible. Was this just a horse that was useless in camp, and that the boys took in hand for a frolic?

Mr. CLAY. How could the owner of this horse take care of him while he was a prisoner?

Mr. SMITH, of Virginia. I do not know anything of that.

Mr. CLAY. This horse was left under the charge of the officers of the United States while his owner was a prisoner, and the horse was lost while in their charge.

Mr. SMITH, of Virginia. I would ask the gentleman how many horses this captain was entitled to? I see he lost one, taken by the Mexicans. I see, also, that he had a mule. He also lost two dueling pistols and one revolver, worth \$120.

Mr. CLAY. It is stated all round that this officer was entitled to have these horses—one for himself, one for his servant, and a baggage mule, all of which he lost.

The reading of the report was called for.

The report was read, as follows:

Cassius M. Clay vs. the United States.

Opinion of the court, delivered by Blackford, J.:
The petition in this case contains two distinct demands. The first demand is as follows:

During the late war between the United States and Mexico, your petitioner was a captain in the service of the United States. He was attached to the Kentucky regiment of cavalry under Colonel Marshall, and, preparatory to departing for Mexico, was stationed at or near Louisville, Kentucky. On the third of July, 1846, the day before said regiment embarked for Memphis, a guard, under the command of Lieutenant Sartin, was ordered to Louisville to apprehend and bring in deserters, a considerable number of whom were said to be in a house of ill-fame, belonging to or kept by one Eliza Bowles. Lieutenant Sartin proceeded to the execution of the order. He was dressed in his uniform and accompanied by the guard which he commanded. On arriving at the house indicated, he was not only denied admission, but fired upon from the house. Two of his men were wounded and a horse killed. He returned to camp, reported the circumstances, and, in addition to what has been above stated, added that some were supposed to be killed in the encounter.

About one or two o'clock in the morning, your petitioner was awakened in his tent by Colonel Field, then in command, who ordered him to take a reinforcement, to enter the house and bring in the deserters.

Your petitioner, being a subordinate officer, felt himself imperatively bound to obey the orders of his superior in authority. Anticipating, from what had previously occurred, that resistance would be made, the house was quietly surrounded, and orders given that all the doors should be simultaneously broken open. This was what he deemed a prudent order, calculated as well to effect the object which was to be accomplished, as by the promptness of the movement to prevent the effusion of blood. His orders were obeyed, but it appeared that the deserters of whom he was in quest, had escaped through a back way. No man was found on the premises but one by the name of Steed. The soldiers, who were exasperated at the conduct of the inmates of the house on the previous evening, were with great personal difficulty on his part, prevented from taking summary vengeance upon Steed and Mrs. Bowles. He succeeded in protecting them from personal injury, and not only did his conduct receive the commendation and approval of the commanding officer under whose orders he had acted, but Mr. Steed expressed his personal thanks and gratitude for this protection which he had been able to afford him.

Your petitioner further shows that after his return from Mexico a suit was instituted against him for this alleged trespass by Mrs. Bowles, *alias* Lang, and a verdict rendered against him, upon which judgment was pronounced, which, in October, 1848, amounted, principal, interest, and costs, to the sum of five hundred and thirty-three dollars and twenty cents, which he has paid.

The prayer of this first part of the petition is, that the claimant may be reimbursed the amount recovered against him as aforesaid. There is no legal ground for that claim. The Government does not undertake to indemnify the officers of the Army as to damages which may be recovered against them in cases like the present.

Supposing the order, which is not very distinctly stated, to be that the claimant should break open the house of Mrs. Bowles for the purpose mentioned, it was no justification for the trespass, because the order was unlawful. An officer is justifiable in acting under the order of his superior officer, if that order is legal, (2 Stat. at Large, 361;) but not if the order be illegal. (Mitchell vs. Harmony, 13 Howard, 137.)

There is nothing in the petition to show that Colonel Field had any authority to order the house to be broken open. If it was necessary so to enter the house to search for deserters, the proper authority to do so should have been obtained from a civil magistrate. It appears from a document, made part of the petition, that in the suit in which the judgment was recovered, the claimant's plea of justification, under said order, was held to be insufficient, on the ground that the order was unlawful; and that decision is no doubt correct. We are therefore of opinion that the Government is not legally bound to indemnify the claimant against the judgment. There are cases in which Congress has relieved military officers, acting under unlawful orders, from judgments rendered against them. Mitchell's case, (10 Stat. at Large, 727,) cited by the claimant's counsel, is such a one. But the power to relieve in such cases belongs, we believe, exclusively to Congress.

The other part of the petition is as follows:

In November or December, 1846, the claimant was ordered by Colonel Marshall to disperse, by a forced march, a band of robbers who were threatening the train from Camargo to Monterey. Upon reaching the point where it was supposed that his services would be required, he was ordered to Monterey; from Monterey to Saitillo, by General Marshall; from Saitillo to Palomas, by General Butler; from Palomas to Encarnacion, by Major Gaines. At this last place he was taken prisoner. Under these circumstances, all the baggage and property which he had with him in Mexico were lost, including many valuable papers. The actual cost of the articles thus lost amounted to upwards of thirteen hundred and seventy dollars. The items are set out in a memorial to Congress, which is made part of this petition.

This last mentioned claim, which is for the value of goods taken by the enemy in time of war, cannot be sustained. Vattel, in speaking of damages to real estate caused by the enemy, says: "All the subjects are exposed to such damages; and woe to him on whom they fall! The members of a society may well encounter such risk of property, since they encounter a similar risk of life itself. Were the State strictly to indemnify all those whose property is injured in this manner, the public finances would soon be exhausted, and every individual in the State would be obliged to contribute his share in due proportion, a thing utterly impracticable." (Vattel's Law of Nations, chapter 15, section 232.) We think the reason of that rule is as applicable to the seizure of personal property as it is to damages to real estate. The present claim is not founded on any general law, and this court therefore furnishes no remedy for the loss.

There will not, therefore, be any order for testimony in this case.

Mr. BONHAM. Before the motion be put, I beg leave to say a word. It is proper, beyond

doubt, that the first section of the bill should be adopted; but I submit that the second section should not be. If private property of officers is to be thus paid for by the Government, you will have applications at the next Congress for at least one million dollars. The distinguished gentleman from Mississippi, [Mr. QUITMAN,] who commanded a division on the southern line of Mexico, lost a large supply of commissary stores. There was scarcely an officer in the service who has not lost private property. They have lost their supplies, their camp equipage, their mess-chests; and it has not unfrequently happened that the commanding officer of a train has been under the necessity of throwing them away. I hope the motion of the gentleman from Louisiana [Mr. TAYLOR] will be agreed to.

Mr. STANTON. I think it is perfectly clear that this bill should pass, and, as far as the second section is concerned, I think that allowance should be made for the loss of the horses. I think allowance cannot be made for the rest on any sound principle. There is a special law making the United States responsible for horses lost in service; but it has been settled over and over again that for private baggage, &c., lost in the service, the Government does not pay compensation. Now, if the gentleman from Kentucky [Mr. CLAY] will fix the value of the horses, and will modify the amount contained in the second section, by leaving in it simply the value of the horses, I think there will be no objection.

Mr. TAYLOR, of Louisiana. I suggest to the gentleman from Ohio that the second section may be stricken out, and the matter referred to a committee.

Mr. STANTON. But it does seem hardly worth while to be making two bites of a cherry. It is hardly worth while to have the matter sent before a committee, if the gentleman will consent to modify it as I suggest. I think there will be then no objection.

Mr. TAYLOR, of Louisiana. But how are we to settle the value of the horses?

Mr. CLAY. The value of the horses is ascertained.

Mr. MASON. I think the object of the gentleman from Ohio has already been attained, for the committee has docked the claim down from \$1,300 to \$700.

Mr. SMITH, of Virginia. I ask the gentleman from Kentucky [Mr. MARSHALL] how many horses a captain is entitled to?

Mr. MARSHALL, of Kentucky. He is entitled to three, I think.

Mr. LETCHER. Is there not a law providing for the payment of horses lost in service?

Mr. SMITH, of Virginia. Certainly.

Mr. LETCHER. And why cannot the gentlemen be paid under that law, instead of coming here.

Mr. QUITMAN. I have not given much attention to this matter, but I would say to the gentleman from Virginia that the Government pays only for horses killed in battle, to the extent of \$200, and the Government also compensates officers for their horses, when they are delivered into the hands of the quartermaster, and when they are separated from their horses. But the general law of this country does not permit allowances for horses, except those that are killed in battle.

Mr. MARSHALL, of Kentucky. I think it will be perceived, on looking over this gentleman's schedule, that the committee has stricken off all of those items that relate to property that a man might well carry about his person, and has allowed only for those articles that belong to him in the camp, and which he was compelled to abandon when he moved forward. The whole affair is a mighty small one to have a discussion about; but since we have the discussion, we may as well come to some point about it. Here is a gold watch, \$350—that is struck off; two suits of clothes, \$130—that is struck off; twelve new shirts, \$60—that is struck off; one hunting rifle, \$60—that is struck off; because these were things attached to his person.

Now, we are asked why he does not go to the Third Auditor's office to get pay for his lost horses? For the simple reason, in the first place—and I know it experimentally—that it is extremely difficult to get a claim through that office. Probably no man knows that fact better than I do, for I presented to that office the claims of the soldiers

of that regiment, until I became so disgusted with the practice of the office, that I abandoned the attempt in despair, and refused to present any more claims.

But this claim does not fall within the law. It is not a claim for horses lost in battle; not for horses lost in the service; not for horses lost for want of proper provisions, not for horses lost from being fed exclusively upon corn. This is a claim peculiarly within the jurisdiction of Congress.

Mr. SEWARD. I rise to a point of order. The gentleman from Kentucky is addressing himself to this side of the House, and not to the Chair.

Mr. MARSHALL, of Kentucky. I am addressing the Chair, but I am irresistibly attracted to address the particular part of the House to which there is need that I should address myself. [Laughter.] This is a small affair, and does not give Mr. Clay half of what he ought to be allowed. His case is simply this: He was ordered to go out of camp, expecting to be gone only from morning to night. He was ordered to go out and dislodge a set of highwaymen who threatened one of our trains. He took a party of men, and rode some twenty or thirty miles. When he arrived at the designated point, instead of being allowed to return, his superior officer ordered him to go to Monterey upon service just as pressing as the former service. I believe it was to guard that very train, which was threatened, on to Monterey. When he got there another superior officer ordered him to go to Saltillo. On arriving at that point he was ordered to advance some twenty or thirty miles, when he was taken prisoner, and taken to the City of Mexico. All his property was left in the camp, and was lost. I do not know what became of the horses. They were probably pressed into the service, and rode to death. He suffered in an enemy's country, and when he comes to Congress for relief, we find a grave discussion arises; and in that discussion we spend more money than the whole claim amounts to. He has been here an applicant since 1848—the simple matter of ten years.

Mr. TAYLOR, of Louisiana. I desire to ask the gentleman whether, at the time of the capture of Captain Clay, he was not in command of that regiment?

Mr. MARSHALL, of Kentucky. I was the colonel of the regiment, and I had, I suppose, the command of it wherever it might be. I had, technically, the command of Captain Clay when he was in the penitentiary in Mexico.

Mr. TAYLOR, of Louisiana. I only wished to know, as I supposed it possible there might be a good claim against my friend from Kentucky, as commander, for the loss of the property, and none against the United States. [Laughter.]

Mr. MARSHALL, of Kentucky. I was not bound to take care of Mr. Clay's horses. [Laughter.] I do not think I ever saw his horses. This is a small matter, and I think we had better pass it at once.

Mr. MILLSON. I know but little about the facts of this case; but if I understand it—and if I do not I beg gentlemen to correct me—the case involves a principle to which I never can give my sanction. And first, I ask my friend from Kentucky, who has just taken his seat, if he was the military superior who gave the order, the execution of which subjected Mr. Clay to the judgment for damages, for which he now claims indemnity.

Mr. MARSHALL, of Kentucky. No, sir; I was not in my camp when the order was given; but I witnessed the trial in the civil court, and I remember well that the judge decided that if Mr. Clay committed a trespass upon this lady, or upon her property, by order of the United States, he could not plead the order in bar in the court. The judgment in the case of Lieutenant Mitchell—in which case the Government of the United States paid a hundred-odd thousand dollars to save him from the judgment—was rendered in New York. The suit was brought in consequence of his having executed the order of Colonel Doniphan; and that case is *quarrior pedibus* with this.

Mr. MILLSON. The great mistake in the matter is that into which the gentleman has just fallen—in supposing that Mr. Clay has been made to pay the amount of this judgment because of the execution of the order of the United States. Sir, it was because he had disobeyed the order of the people of the United States. He had done an

act which the court pronounced illegal. The people of the United States, when asked for indemnity, declared that that act should not have been performed.

Mr. MARSHALL, of Kentucky. Will the gentleman—being more practiced in military affairs than myself—permit me to ask him whether he would admit the principle that when a colonel in the field gives an order to a lieutenant colonel to do a thing, to storm a house or to take a position, the lieutenant colonel may turn round to him and say, “in my opinion it is not a legal order, and I will not execute it?”

Mr. MILLSON. I am surprised that the gentleman from Kentucky should ask me such a question. The oath of every military officer is, that he will obey the legal orders of his superior officers. The oath which he takes to obey the legal orders requires him to disobey the illegal orders. And why, sir? Because he has sworn to support the Constitution of the United States. In swearing fidelity in the discharge of his duties, he impliedly swears that he will execute the orders of his superiors which are legal.

Mr. CLAY. I should like to ask the gentleman from Virginia whether he considers it proper for every soldier in the Army to constitute himself a judge of constitutional law, and to inquire into the legality of every order of his commanding officer? Would not that be subversive of military discipline?

Mr. MILLSON. No, sir. It is the bounden duty of each officer or soldier to know the law; and if he mistakes the law he does so at his peril. And the principle that a subordinate officer or soldier is bound to obey the peremptory order of his superior officer, because he has no right to inquire into the legality of that order, is one which is repudiated even in England; for there, although by their constitution the King can do no wrong, yet the order of the King furnishes no justification for the act of the minister. The humblest subject of Great Britain is liable to the punishment adjudged to any infraction of the law, even when he violates that law at the command of his sovereign. British history will show many cases where British ministers have been brought to the block because they preferred to obey the command of their sovereign rather than the command of the law.

It is unquestionably true that a man is sometimes placed in a very difficult and embarrassing position, when, for instance, he is required by the order of a military superior to perform an act which he supposes to be in violation of the law. (He may not be very well skilled in the law, and it may be a question of doubt whether the act is an infraction of the law or not. Perhaps the most prudent course for the subordinate to pursue, would be to obey the command given him by his military superior, where he is not well assured that he is required to violate the law; but if he is required to violate the law, if the act does involve a violation of the law, he cannot plead the order of his superior, nor ought he to be allowed to plead the order of his superior, for that would be in substance to say that a dispensing power is given to a military officer which is not given to any other officer of our Government, and that the laws of the land may be set at naught whenever a military officer may think proper to disregard them or to command their violation. I say that that is a principle which prevails nowhere; and although in general it is perhaps prudent and politic on the part of the inferior to obey the command of his superior, which he does not know will violate the law, yet I put the inquiry to my friend from Kentucky, whether, if a subordinate officer or a private soldier be commanded by his military superior to do an act which he deems in violation of the law, he ought to do it; and if he does do it, whether he ought to be exempt from punishment?

Mr. CLAY. It seems to me that this case is not so plain a case as the one the gentleman has mentioned. The fellow-soldiers of Captain Clay were fired upon, and some of them were killed. Those who were in the house were the first trespassers. Captain Clay was ordered to go there, and to bring away deserters who were in the house. Every endeavor was made to save the sacrifice of life. The house was surrounded, the doors were burst open, the house was entered from which the shots came that killed his fellow-soldiers, and the deserters were arrested and

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

MONDAY, APRIL 19, 1858.

NEW SERIES....No. 103.

brought away. For this he was brought before the court, and mulcted in damages. The gentleman comes here now, and talks of constitutional principles. This is not a question of compensation for ten years' extra back pay which gentlemen were willing to vote the other day, and for which, I believe, a bill was passed; but it is doing an act of simple justice. The court may have been wrong, and I think it was, when it compelled Captain Clay to pay this sum of money for having acted in the discharge of his duty. On the question of trespass, the first trespass was from the house. Their fellow-soldiers had been shot down from it, and they had a right to go into it to arrest the murderers and deserters who were there.

Mr. MILLSON. I understand that my friend from Kentucky is brought to concur with me in the doctrine I have announced, and that this is an attempt to dispute the application of that doctrine to the present case. Notwithstanding the astonishment that was expressed when I first announced the principle I was undertaking to maintain, I find that the gentleman from Kentucky himself is not willing to contest that principle, but simply declares that, in this particular case, it was not an act of clear and flagrant violation of the law.

Mr. CURTIS. Let me suggest a point pertinent to the question. The objection is not that Captain Clay acted without orders, but that he acted contrary to law. The gentleman misunderstands the oath taken by an officer. The gentleman says that the officer swears to obey and support the Constitution of the United States. It is a curious fact that he swears to no such thing. This is the oath as it is prescribed in the Army regulations:

"I, A B, do solemnly swear or affirm, (as the case may be,) that I will bear true allegiance to the United States of America, and that I will serve them honestly and faithfully against all their enemies or opposers whatsoever; and observe and obey the orders of the President of the United States, and the orders of the officers appointed over me, according to the rules and articles for the government of the Armies of the United States."

Mr. MILLSON. I think if the gentleman will look a little further, that he will find that the officer is commanded to obey all legal orders.

Mr. CURTIS. The oath of an officer of the Army is different from that taken by any other officer of the Government.

Mr. MILLSON. I understand that the interruption is to show me that the officers are not required to support the Constitution; and next, that there is an obligation on the part of officers and soldiers to obey the orders of their superiors whether they be legal or not. The Constitution requires every executive officer to take an oath to support the Constitution. If the gentleman will turn to the Constitution—which is as obligatory, I presume, as any act of Congress can be, which is as much the law of the land as any act we can pass—he will find that:

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States, and of the several States, shall be bound by oath or affirmation, to support this Constitution."

All executive and judicial officers, both of the United States and of the several States! And I tell the gentleman that, not only officers of the Army, but officers of the militia of all the States are required to swear to support the Constitution. So much for the obligation upon officers of the Army.

Mr. STANTON. I desire the gentleman from Virginia to answer me a question. Suppose a soldier refuses to obey an unlawful order: he is arrested, tried by court-martial, and ordered to be shot for mutiny, and the sentence is executed. Are the court and the officers who execute the sentence guilty of murder?

Mr. MILLSON. Sir, if he is decided by a court having jurisdiction over his case to have refused to obey a legal order, the gentleman's question has no force. If he is condemned to be shot, it can only be upon the ground that he has disobeyed a legal order. And if the court undertake to sentence a man to punishment for disobeying an ille-

gal order, all I have to say is that every member of the court justly subjects himself to punishment by the people of the United States or their agents and executive officers.

Mr. STANTON. The gentleman does not meet my question. Suppose the soldiers who execute the sentence of the court-martial should be indicted for murder would not the judgment of the court-martial be a good plea in bar?

Mr. MILLSON. The gentleman knows very well that if the court has jurisdiction over the case, the officers who execute the judgment are protected. Because it is not a question whether the court errs or not. It is a question of power—a question of jurisdiction, and the ministerial agents of the court are protected by the jurisdiction which the court has over the question. A court having no authority may pronounce a right judgment, and yet he who undertook to execute the judgment would be subject to punishment. But the court, having jurisdiction of the case, though they pronounce a false judgment, yet their agent is authorized to carry out the execution thereof.

But, sir, I was about to answer the remaining point of the gentleman from Iowa, [Mr. CURTIS.] I infer, from his reading an extract from the law, that the gentleman is maintaining the obligation of an inferior to obey even the illegal order of a superior. Sir, I have never heard such doctrines maintained in the American Congress before, and deeming them dangerous and mischievous, I trust I may never hear them again. What! The representatives of the people, the law-making authority, maintain the obligation of any one of the citizens of the United States to regard a military officer as superior to the law, and that where the law says one thing, and a colonel or general shall say another, it is the command of the officer that is to be obeyed, and not the command of the people! What is law but the expression of the will of the people?

Mr. MARSHALL, of Kentucky. Let me suggest a case. When Commodore Paulding ordered his seamen to go ashore in Nicaragua and take William Walker and his men, does the gentleman consider that those seamen would have been authorized to tell the Commodore that he commanded them to invade the sovereignty of another Republic, and that they would not go?

Mr. MILLSON. Mr. Chairman, the gentleman will perceive that he is only addressing to me difficult questions of constitutional law, when the question of principle is one altogether clear. It may be that there might be considerable doubt whether an act would be a violation of law or not. It might admit of considerable inquiry whether the particular thing commanded to be done was a violation of law or not. But upon the general principle, where there is a law prohibiting the act, that act cannot be legalized by the command of any subordinate or executive officer of the United States, unless gentlemen are prepared to maintain the doctrine that there is some man in the country superior to the law.

Mr. CURTIS. I hope the gentleman will allow me to say that I do not, as he seems to suppose, take ground so broad as to say that a man would be justified in executing an order obviously and unquestionably unlawful.

Mr. MILLSON. Very well. Now, I understand that all these gentlemen have abandoned the ground which they seemed to occupy. They admit now that no man would be justified in obeying an order plainly and palpably illegal. The gentleman from Iowa now admits that, and begs that he shall not be considered as contending for the principle that every man is bound to obey an order which is palpably opposed to law.

Mr. MARSHALL, of Kentucky. Will the gentleman suffer me to interrupt him for a moment? None of us have taken the ground that Captain Clay could have pleaded Colonel Field's order in bar to the action of trespass. The fact that he was fined in the court of justice for the trespass, is evidence that in the civil tribunal the military order afforded him no justification. But

he comes back to the Government and says to them: "I executed the order of my superior military officer, and for so doing was arrested and fined by the civil tribunal; I now throw myself upon your discretion whether I shall be paid or not."

Mr. MILLSON. I understand that; and it amounts just to this: The man comes here and says to the people of the United States, "I have disobeyed your orders because I preferred to obey the orders of one who is not allowed to do what he required me to do; you have punished me for this disobedience of your laws, and I ask that you who have imposed the punishment upon me, will now indemnify me against it." It is actually an appeal to the people to indemnify a violator of the law for the very violation of law which caused the people to punish him.

Mr. CLEMENS. Will my colleague permit me to ask him a question?

Mr. MILLSON. These constant interruptions have obliged me to occupy much more of the time of the committee than I intended when I rose, but I cannot refuse my colleague.

Mr. CLEMENS. Mr. Chairman, I feel some curiosity to ascertain how my colleague can square the argument which he now makes, with the action of Congress in regard to the remission of the fine imposed upon General Jackson for proclaiming martial law in New Orleans. The fine was refunded in that case—interest as well as principal.

Mr. MILLSON. Does the gentleman ask me a question?

Mr. CLEMENS. I ask my colleague how he squares the argument which he now makes, with the action of Congress in the precedent to which I have referred, and with the vote which he gave on that question?

Mr. MILLSON. I gave no vote, that I know of, upon that question.

Mr. CLEMENS. Did you not vote in favor of refunding the amount of the fine to General Jackson?

Mr. MILLSON. I do not know that I did; and I was about to say to my colleague that if he thinks he can embarrass me in the argument of a question of legal principle, by asking me how I will reconcile the views I take in this case with the views somebody else has taken in other cases, all I can say is that I have come here for no such purpose.

Mr. CLEMENS. I disclaim any intention to embarrass my colleague. I asked the question for my own information, because my colleague takes very high ground when he denies the authority of Congress, by the passage of any law whatever, to countenance the action of an officer of the Army who has the presumption to come before the law-making authority and ask to be indemnified for a violation of law.

And yet, in the case of General Jackson, when a fine was imposed upon him by Judge Hall for declaring martial law in New Orleans, Congress refunded that fine, and did so on principles of constitutional law.

Mr. MILLSON. I tell my colleague that I am not going to discuss the propriety or impropriety of such a law. I have nothing to say about that question now, and my colleague must excuse me from undertaking to reconcile the view which I take of this case with the view which other gentlemen may have taken of other cases in times past.

Mr. BARKSDALE. I would like to ask the gentleman from Virginia how the discipline of the Army could be maintained if inferior officers were allowed to judge of the legality or illegality of orders?

Mr. MILLSON. My friend from Mississippi asks me how the discipline of the Army could be maintained, if subordinate officers and soldiers were allowed to judge of the legality or illegality of orders? I will ask him, on the other hand, how can the laws of the United States—how can the laws which the people make—be maintained, if they can be trampled upon with impunity by any of the subordinate agents of the Government?

Mr. BARKSDALE. I can answer the gentleman. If a superior officer gives an illegal order, charges can be preferred against him, and a court-martial can be ordered to try him.

Mr. MILLSON. Indeed! indeed! Then you would punish the man who thinks an illegality, and you would let escape the man who does the illegality. The man who merely says that a particular thing may be done innocently is to be punished, while the man who commits the violation of law escapes all punishment—and on the ground that he is under the order of his superior!

Sir, I have argued the legal bearings of this bill to very little effect, if I have not succeeded in showing the committee that the common superior of all these officers is the law.

Mr. TAYLOR, of Louisiana. Allow me to make a suggestion to the gentleman from Virginia. I understood him to state that, where a court has jurisdiction, if it makes an order, and there is an error of judgment, the person executing it would not be responsible. Now, I would suggest to the gentleman from Virginia whether the case before us is not embraced in this principle; whether, in point of fact, the "court," in this instance, had not jurisdiction, so as to justify the execution of the order made by the officer to whom it was directed? In the military service of the United States, power is given to the officer to retake the deserter. It was the first duty of the colonel commanding this regiment to retake the deserters. He had jurisdiction over the case, and the order was given by him to effect a legal object. Now, without entering into any of the minutiae, I think that this consideration is sufficient at least to enable us to dispose of this particular case.

Mr. MILLSON. The committee must have perceived that I am made to deliver a speech in spite of myself. I expected to detain the committee only five minutes, and yet I have been led into such a range of discussion by the numerous interruptions of gentlemen, that I have been under the necessity of discussing this question tediously, I fear, and at much greater length than the committee have patience to endure. I intended to say but very little, and that was simply to declare that I could not vote for this bill, at least for the first section of it. I know but little of the other section; I do not know whether I have any objection to that or not; but I do object to the first section of the bill, because it involves principles mischievous and new in the legislation of this country. It seems to sanction a departure from the law by an inferior officer, on no higher warrant than the order of his military superior?

And how is he his superior? He is only his superior because the law has made him so; and the same law which makes the colonel the superior of the captain, restrains the captain from doing anything which the law itself prohibits. Gentlemen ask how this can be reconciled with the maintenance of discipline in the Army? Why, sir, I have already stated that there are very many questions that give serious embarrassment to the person having to solve them. Will the gentleman from Mississippi maintain here that, if a slave should commit an offense against the laws of Mississippi, he would not be punished because he did so by the order of his master?

Mr. BARKSDALE. No, sir.

Mr. MILLSON. He does not maintain that doctrine; nor did I suppose he would. Certainly the order of a master affords no justification to the slave for the violation of the laws of the land or the commission of any crime; and yet does not my friend see that the poor slave is placed in a very pitiable condition of embarrassment? He may say, "if I perform the act I subject myself to the halter, and if I do not perform the act I subject myself to the punishment my master may inflict upon me. Now what am I to do?" Sir, in that condition is many a common sailor and soldier placed, and many an officer. If he knows and feels that the act he is about to commit is a violation of law, he is safe in refusing to obey the order. If he has doubts, why, perhaps, the safer plan is to obey the command of his superior; but he does so, taking the risk. He cannot plead his ignorance of the law, because the maxim has been established that ignorance of law excuses no one.

Mr. SEWARD. I am going to vote for the first section of this bill, and I propose to give my reasons for doing so. I believe, Mr. Chairman, that it is not denied here but the superior officer had am-

ple jurisdiction to control the subordinate, and that the order to arrest the deserters was legal. The only question of illegality in the case arises from the fact that a private citizen felt that he was aggrieved by having his house broken into. That was illegal. There is no doubt about the superior having authority to give the order. The only question involved in the case is, did Mr. Clay act in good faith in carrying out the order of his superior? If he did, and if, in doing so, the rights of some private citizen were interfered with, by which Mr. Clay made himself liable to the civil authorities of the country, and for which he had to respond in damages, then, as a question of good faith, on the broad principles of equity, I say that the Government ought to indemnify him, and cannot fail to do so without dishonor.

Mr. CLAY. I do hope that we will dispose of this small matter at once. This poor fellow [laughter] for whom I have brought in this bill, has lost a great deal; but I venture to say that if he had known that so much valuable time of the committee would be consumed by it, perhaps he would never have allowed it to be brought in. I trust we will take the question.

Mr. ELLIOTT. Mr. Clay belongs to the district I have the honor to represent; and although there is a wide difference between us in political sentiments, I have no doubt of the justice of the claim. I hope the committee will waste no more time in its discussion, but will act immediately. I have had the circumstances which surround that claim presented to me before, in my own district, by the gentleman, and I believe he would make no statement but what is true. I shall vote for the claim, and I hope it will pass.

Mr. BILLINGHURST. I move that the bill be laid aside, to be reported to the House with a recommendation that it do pass.

The CHAIRMAN. The first question is upon the motion to strike out the first section of the bill.

The question was put, and the motion was disagreed to.

The question recurring upon the motion of Mr. TAYLOR, of Louisiana, to strike out the second section—

Tellers were called for, and ordered; and Messrs. DAVIS of Indiana, and BILLINGHURST were appointed.

The House was divided; and the tellers reported—ayes 47, noes 81.

So the committee refused to strike out the second section.

Mr. MILLSON. I do not desire to discuss this matter further; but as the gentleman from Iowa quoted a law, a short time since, from recollection, and I told him I did not think the law would sustain him, I wish to read the law. It is this:

"Any officer or soldier who shall strike his superior officer, or draw or hit up any weapon, or offer any violence against him, being in the execution of his office, on any pretense whatsoever, or shall disobey any lawful command of his superior officer, shall suffer death, or such other punishment as shall, according to the nature of his offense, be inflicted upon him by the sentence of a court-martial."

Mr. JONES, of Tennessee. The chairman has decided that this committee has the power to originate a bill. I think that it is a dangerous precedent to set now upon the adverse report of the Court of Claims; and I would move, if it is in order, that this adverse report, together with the bill introduced by the gentleman from Kentucky, be reported to the House with a recommendation that it be referred to the Committee of Claims, the Committee on Military Affairs, or some other committee; I am not particular which.

It is, sir, the first time within my recollection and experience here when the Committee of the Whole House on the Private Calendar has ever attempted to originate a bill.

Mr. SMITH, of Virginia. As this case will doubtless be drawn into a precedent, and there will be a number of applications made to the next Congress for payment for horses lost under similar circumstances, would it be in order to move to amend the bill so as to make it general—to substitute for this private claim a proposition providing for all similar cases?

The CHAIRMAN. The Chair holds that an amendment would not be in order to a private bill of this character to provide for any general class of cases. This is a private bill, standing upon its own merits, and such an amendment as the

gentleman from Virginia has indicated is not in order.

Mr. MOORE. I wish to ask the Chair if the amendment which I send up would be in order?

The amendment was read, as follows:

And that John C. Anderson, of Green county, Alabama, be allowed the sum of \$1,000, the value of a negro servant, the property of said Anderson, lost during the service of the latter as lieutenant in the Mexican war.

The CHAIRMAN. The Chair decides that it is not in order.

Mr. ELLIOTT. Does the gentleman from Tennessee [Mr. JONES] expect that, after the two or three hours' discussion we have had upon this subject, the House will be enlightened by referring the bill to a committee?

The CHAIRMAN. The Chair cannot answer the question.

The motion of Mr. JONES, of Tennessee, was disagreed to.

The bill was then laid aside to be reported to the House, with a recommendation that it do pass—ayes 87, noes 38.

CHARLES J. INGERSOLL.

The next bill upon the Calendar was House bill No. 197, for the relief of Charles J. Ingersoll.

Mr. FLORENCE. My colleague, [Mr. PHILLIPS], who reported this bill from the Committee of Elections, is unavoidably absent; and I hope, by consent, it will be passed over until his return.

Mr. LETCHER. I hope we shall dispose of it. It has been killed half a dozen times already, and I hope we shall kill it again.

Mr. FLORENCE. It is but justice to give my colleague an opportunity of explaining why he introduced it again.

Mr. WASHBURN, of Maine. I hope the committee will concur in the suggestion of the gentleman from Pennsylvania. The gentleman who reported the bill is unavoidably absent; and I will say further, that the gentleman from Georgia, [Mr. STEPHENS], who reported it from the committee in the last Congress, and takes quite an interest in it, is confined to his house by sickness. I hope that by general consent the bill will be passed over, and permitted to retain its place on the Calendar.

Mr. FLORENCE. Is a motion to postpone the consideration of the bill in order?

The CHAIRMAN. It is not in order. Objection is made to a postponement, and the committee must proceed to the consideration of the bill.

Mr. FLORENCE. I move that the committee rise.

The motion was disagreed to.

Mr. CRAWFORD. Do I understand that the gentleman from Virginia objects to the bill being passed over?

Mr. LETCHER. I do, sir.

Mr. CRAWFORD. I would ask the gentleman to withdraw his objection, for the reason that my colleague [Mr. STEPHENS] is confined to his room by indisposition, and that he feels much interest in the passage of this bill. He might desire to submit some views in favor of its passage, and I hope, therefore, that the gentleman will withdraw his objection.

Mr. FLORENCE. I trust sincerely the gentleman from Virginia will not resist the second appeal made to him. Two gentlemen are absent who are both interested in the bill, and anxious for its passage.

Mr. CRAWFORD. I will say to the gentleman from Virginia that I feel no particular interest in the bill myself, but I know that my colleague does.

Mr. LETCHER. I, too, feel some interest in the bill. Here we have been harassed, and worried, and bedeviled by this thing, year after year, ever since I first came here. It is here now for the seventh time, and I think it high time that we should make some final disposition of it. I believe the principle is all wrong, and so believing, I shall oppose it now; and I want it disposed of in one way or the other.

Mr. SEWARD. I have no interest in this bill, but I was upon the Committee of Elections in the Thirty-Third Congress, and, if I remember correctly, it is a very meritorious claim. I think we might find fifty precedents for it upon the statute-book.

I will state the case as I remember it, and if I am incorrect I hope some gentleman will correct me. Many years ago, there was a contest for a

seat for Philadelphia, between a gentleman of the name of Naylor and Mr. Ingersoll, the claimant. Ingersoll came here with the certificate of the Governor of the State of Pennsylvania, by which he was *prima facie* entitled to a seat upon this floor. By the statute of Pennsylvania the certificate of the judges is equally good, and I believe Naylor had the certificate of some of the judges of election. He came here in advance, and was allowed to take his seat.

Mr. LEITCHER. If the gentleman from Georgia will stop, I will compromise with him, and let the bill go over. [Laughter.]

The bill was then passed over informally.

The next bill on the Calendar was House bill No. 203, for the relief of George W. Biscoe.

The bill directs the accounting officers of the Treasury to audit the claim of George W. Biscoe, for indemnification under the first article of the treaty of Ghent for the loss of the schooner *Speedwell*, captured by the British forces within the waters of the United States, provided the said amount does not exceed \$2,000.

Mr. WASHBURNE, of Illinois. I move that the bill be laid aside to be reported to the House, with the recommendation that it do pass.

The motion was agreed to.

The next bill on the Calendar was a bill (C. C. No. 80) for the relief of Captain James Mc. McIntosh, of the United States Navy.

The bill directs the Secretary of the Treasury to pay to Captain McIntosh, of the United States Navy, \$204 95, the difference between the sum paid him as commander on other duty and that due him as an officer attached to a vessel for sea-service.

Mr. MAYNARD. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

Mr. JOHN COCHRANE. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. NICHOLS reported that the Committee of the Whole House had had under consideration the Private Calendar, and had directed him to report back, with a recommendation that they be concurred in, several adverse reports from the Court of Claims; and also to report back House bills No. 21, No. 197, No. 203, and No. 80, with a recommendation that they do pass; and also House bill, No. 164, with a recommendation that it do not pass.

PERSONAL EXPLANATION.

Mr. CLINGMAN. I am not in the habit, Mr. Speaker, of seeking the indulgence of the House; but as the gentleman from Ohio [Mr. LEITER] made a speech yesterday alluding to a speech of mine on another occasion, I hope the House will give me three minutes to answer him.

[Cries of "Agreed!" "Five minutes!"]

Mr. CLINGMAN. The gentleman has alluded to an old speech of mine, delivered in 1844, in my first congressional term here. I had no knowledge then of Captain Rynders and those other gentlemen referred to, except what I got from the New York Tribune, the New York Courier, and other papers that are now supporting the party of the gentleman from Ohio; and I took it for granted that their statements were true, and therefore made those allegations. But an acquaintance of several years with that gentleman has satisfied me that Captain Rynders is a highly honorable man. [Loud laughter.] If gentlemen laugh, and thus occupy part of my time, I shall ask another minute. [Laughter.] I will say this, Mr. Speaker: that he and I have spoken from the same stand, and I have every reason to be proud of him as a political associate. [Laughter.]

A MEMBER. What stand?

Mr. CLINGMAN. At Tammany Hall, and other places. Well, I found out that this gentleman had been badly slandered by the newspapers; and one reason why I left the party that I was acting with in 1844 was, that there were some very bad newspaper organs leading it astray by their falsehoods and misrepresentations. The Democratic party undoubtedly had bad elements in it, which would have spread like a cancer in a sickly and feeble constitution, and destroyed it; but having a vigorous constitution, instead of succumbing under them, it sloughed them off, and

about the time that the gentleman from Ohio and some other Free-Soilers and Abolitionists left it, I went into it. [Laughter.]

Mr. CAMPBELL. Allow me to ask the gentleman whether, in 1848, he was not at Philadelphia?

Mr. CLINGMAN. Yes, sir, and in 1848, in the contest between General Taylor and General Cass, I found that the old Whig party in the North had become abolitionized, and I took ground against them that very winter, about the time of the developments by Gott's resolution to abolish slavery and the slave trade in this District, for which they all voted. I left the Whig party and joined the Democrats. The latter threw out their abolition elements, and they have gone over to the other side, and I now stand in a purified party, [laughter,] and I rejoice in its soundness and devotion to true principles. There are some very good men yet out of the party, but I hope they will come into it. I have tried it for several years, and I find it just the best party we have had since the foundation of the Government, [laughter,] or at any rate, in our times.

Mr. LEITER. I just desire to say that I very cheerfully accept the explanation made by the gentleman from North Carolina. [Laughter.]

Mr. GIDDINGS. One word on this subject. This is a contest between my old friends. I recollect very well when the gentleman from North Carolina was working side by side with us. [Laughter.]

Mr. CLINGMAN. And I quitted the party because I was not willing to work in the harness with the gentleman from Ohio.

Mr. GIDDINGS. He left us for the very best of reasons. He left us for our good. [Laughter.]

Mr. CLINGMAN. Ever since I left your party, you have been beaten. [Laughter.]

Mr. GIDDINGS. And we took in our friend from Ohio over there, [Mr. LEITER,] and several others of like character. We were glad to supply the place of my friend from North Carolina, and we were glad he left us.

Mr. CLINGMAN. The gentleman from Ohio, near me, says I ought to have another minute, but I suppose it is not necessary. But I will say his party have been beaten ever since I left it. It is good for them, no doubt, to be soundly beaten, as I have helped to do, and I hope it will be reformed by the corrections and castigations given them, and that they will reform and purify them in time. Their vote for the Crittenden amendment is the first fruit of their conviction and repentance, and the best evidence of their reformation. [Renewed laughter.]

Mr. JOHN COCHRANE. I move that the House do now adjourn.

The motion was not agreed to.

ADJOURNMENT OVER.

Mr. SMITH, of Virginia. I move that when the House adjourn, it adjourn to meet on Monday next.

The motion was not agreed to.

REPORTS FROM THE COURT OF CLAIMS.

The following adverse reports of the Court of Claims, reported from the Committee of the Whole, were then taken up and disposed of, as indicated below:

An adverse report (C. C. No. 116) upon the petition of Augustine Demers and others, administrators of Francis Chaudonot.

The Committee of the Whole recommended a concurrence in the report of the Court of Claims. The report was concurred in.

An adverse report (C. C. No. 123) upon the petition of Joshua R. Jewett, heir of Joseph Jewett.

The Committee of the Whole recommended a concurrence in the report of the Court of Claims.

Mr. BISHOP. I was not present when this case was taken up in committee; but it is similar to many other cases which have been referred to the Committee of Claims, and I move that this be also referred to that committee.

The motion was not agreed to.

The report was then concurred in.

An adverse report (C. C. No. 127) upon the petition of Robert Harrison.

The Committee of the Whole recommended that the report be referred to the Committee of Claims.

The report was so referred.

An adverse report (C. C. No. 130) upon the petition of Abraham King, administrator of John Mandeville.

The Committee of the Whole recommended that the report be referred to the Committee on Revolutionary Claims.

The recommendation was agreed to.

An adverse report (C. C. No. 135) upon the petition of Robert C. Thompson, administrator of William Thompson.

The Committee of the Whole recommended a concurrence in the report of the Court of Claims.

The report was concurred in.

An adverse report (C. C. No. 139) upon the petition of Ellen Martin, heir-at-law of Francis Martin.

The Committee of the Whole recommended that the report of the Court of Claims be concurred in.

The report was concurred in.

An adverse report (C. C. No. 140) upon the petition of Francis Nadeau, heir of Basil Nadeau.

The Committee of the Whole recommended a concurrence in the report of the Court of Claims.

The report was concurred in.

An adverse report (C. C. No. 141) upon the petition of Abraham R. Woolley.

The Committee of the Whole recommended that the report be referred to the Committee on Military Affairs.

The report was so referred.

An adverse report (C. C. No. 31) upon the petition of Thomas Phoenix, jr.

The Committee of the Whole recommended that the report be referred to the Committee on Military Affairs.

The report was so referred.

An adverse report (C. C. No. 81) upon the petition of David Myerle.

The Committee recommended that the report be referred to the Committee on Naval Affairs.

The report was so referred.

An adverse report (C. C. No. 21) upon the petition of Cassius M. Clay.

The SPEAKER. The Committee of the Whole have reported a bill for the relief of Cassius M. Clay, as a substitute for the report of the Court of Claims, with a recommendation that it do pass. The bill was read a first and second time.

Mr. CLAY. I move the previous question upon the engrossment and third reading of the bill.

Mr. HOUSTON. I would like to have the gentleman from Kentucky give us an opportunity to have a vote upon striking out the second section.

Mr. CLAY. I cannot withdraw my demand for that purpose.

Mr. SMITH, of Virginia. There was a motion made in committee to strike out both sections. Cannot a vote be taken on the same question in the House?

The SPEAKER. The motions were voted down in committee, and they reported the bill with a recommendation that it do pass. Nothing can be voted on in the House but the recommendation of the committee.

Mr. BONHAM. I would inquire if it is in order to read two sections of the act of 1849 in relation to compensation for lost horses?

The SPEAKER. It would not be in order, if objected to; as the previous question has been demanded.

The previous question was seconded; and the main question ordered.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. CLAY demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question was ordered.

Mr. TAYLOR, of Louisiana, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN, of Ohio, moved that the House adjourn.

The motion was disagreed to.

The main question was then taken, and it was decided in the affirmative—yeas 97, nays 63; as follows:

YEAS—Messrs. Andrews, Billingshurst, Bingham, Blair, Bliss, Bowie, Bratton, Buffinton, Burlingame, Burns, Burr, roughs, Campbell, Case, Chaffee, John B. Clark, Clay, Clark B. Cochrane, John Cochrane, Coffin, Conner, Conning, Covode, Criggin, Curtis, Davis of Maryland, Davis of

Massachusetts, Davis of Iowa, Dean, Dodd, Durfee, Farnsworth, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Harlan, J. Morrison Harris, Has-kin, Hatch, Hoard, Horton, Howard, Kelsey, Kilgore, Knapp, Landy, Lawrence, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Mason, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Palmer, Parker, Pendleton, Pettit, Pike, Potter, Purviance, Ricaud, Robbins, Roberts, Royce, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Stanton, Stevenson, Tappan, George Taylor, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, and Augustus R. Wright—97.

WAYS—Messrs. Ahl, Atkins, Avery, Barksdale, Bishop, Bonham, Bryan, Burnett, Caskie, Clemens, Clingman, Cobb, Cox, Crawford, Curry, Davidson, Davis of Indiana, Dowdell, Edmundson, Florence, Gartrell, Greenwood, Gregg, Groesbeck, Hawkins, Hill, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Jacob M. Kunkel, Lamar, McQueen, Miles, Milson, Moore, Niblack, Peyton, Phelps, Powell, Quitman, Ready, Reagan, Ritchie, Ruffin, Russell, Sandidge, Scales, Henry M. Shaw, William Smith, Spinner, James A. Stewart, Miles Taylor, Trippe, Watkins, White, Whiteley, Winslow, and Wortendyke—63.

So the bill was passed.

Pending the call of the roll,

Mr. BARKSDALE stated that his colleague, Mr. DAVIS, was absent in consequence of sickness in his family, and had paired off with Mr. MATTESON.

Mr. SHAW, of Illinois, stated that Mr. FOLEY was confined to his room by sickness.

Mr. WALBRIDGE made a similar statement in regard to Mr. LEACH.

Mr. KEITT stated that Mr. GARNETT had been obliged to leave the city on business, and had paired off with Mr. HICKMAN; and that he (Mr. KEITT) had paired off with Mr. WILSON.

Mr. BARKSDALE stated that Mr. SINGLETON was necessarily absent, and had paired off upon the police bill with Mr. POTTLE; and on the Kansas question with Mr. LEACH.

Mr. HOARD stated that Mr. THAYER was absent on account of sickness in his family.

Mr. CLARK, of New York, having voted "ay," withdrew his vote, and stated that he had paired off until Wednesday next with Mr. BRANCH upon the Kansas and Minnesota questions, and, for fear of misapprehension, preferred not to vote at all.

Mr. QUITMAN stated that he voted against the bill on account of the second section.

Mr. HILL stated that he voted against the bill because he believed the allowance made in the second section was too large; he would have voted for a portion of it.

The result of the vote having been announced, as above recorded,

Mr. CLAY moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

RICHARD WEIGHTMAN.

A bill (H. R. No. 64) for the relief of Richard Weightman was reported from the Committee of the Whole House, with a recommendation that it do not pass; and the question being "Shall the bill be engrossed, and read a third time?"

Mr. JONES, of Tennessee, moved to lay the bill upon the table.

The motion was agreed to.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the bill was laid upon the table; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

GEORGE W. BISCOE.

A bill (H. R. No. 203) for the relief of George W. Biscoe, was reported from the Committee of the Whole House, with a recommendation that it do pass.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

CAPTAIN JAMES MC. MINTOSH.

A bill (H. R. No. 80) for the relief of Captain James Mc. McIntosh, of the United States Navy, was reported from the Committee of the Whole House, with a recommendation that it do pass.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MAYNARD moved to reconsider the vote

by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CONSULAR AND DIPLOMATIC BILL.

Mr. SEWARD. I made objection this morning to the request of the gentleman from Pennsylvania [Mr. J. GLANCY JONES] that the consular and diplomatic appropriation bill, with the amendments of the Senate thereto, should be taken from the Speaker's table, and referred to the Committee of Ways and Means. I now wish to withdraw that objection; for, as we are going to adjourn soon, it is important to the country that the appropriation bills should be disposed of.

No further objection being made, the bill, with the amendments of the Senate thereto, was taken up, and referred to the Committee of Ways and Means.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the War Department, transmitting the report of Colonel Johnson, surveyor of the southern boundary line of Kansas, with map; and also a communication in answer to the resolution of the House of 16th March, 1856, transmitting the reports of Captains Sitgreaves and Woodruff.

The communications were laid upon the table, and ordered to be printed.

JUDICIAL DISTRICTS OF NEW YORK.

Mr. RUSSELL. I ask the unanimous consent of the House to introduce a bill, of which previous notice has been given, to divide the State of New York into three judicial districts.

Mr. STANTON. I object. We had better do things in the regular order.

Mr. DAVIDSON. I move that the House do now adjourn.

ADJOURNMENT OVER.

Mr. HILL. I move that when the House adjourns, it adjourn to meet on Monday next.

The motion was disagreed to—ayes thirty-eight, noes not counted.

LYDIA FLETCHER.

Mr. ATKINS. I ask my friend from Louisiana to withdraw the motion to adjourn for a moment.

Mr. DAVIDSON. I withdraw it.

Mr. ATKINS. I ask the unanimous consent of the House to introduce a bill for the relief of Lydia Fletcher, for reference only.

Mr. STANTON. I object. We all have private bills which we want to introduce.

Mr. ATKINS. It is very singular that objection should be made. This is the second time I have been on the floor since I have been a member of the House. I shall object, hereafter, to everything.

On motion of Mr. FENTON, the House (at five minutes after four o'clock, p. m.) adjourned.

IN SENATE.

SATURDAY, April 17, 1858.

Prayer by Rev. W. H. CHAPMAN.

The Journal of yesterday was read and approved.

HOUSE BILL REFERRED.

The bill (H. R. No. 482) regulating the compensation of officers and marines of the revenue cutters, was read twice by its title, and referred to the Committee on Commerce.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented the memorial of Thomas G. Clinton, for an amendment of the patent laws; which was referred to the Committee on Patents and the Patent Office.

Mr. GREEN presented additional papers relating to the claims of J. C. Irwin & Co., and of J. and R. H. Porter; which were referred to the Committee on Military Affairs and Militia.

Mr. TRUMBULL presented a paper relative to the claim of Benjamin Page and Henry E. Page, heirs of Benjamin Page, deceased, to indemnity for French spoiliations prior to the year 1800; which was ordered to lie on the table.

Mr. CHANDLER presented the petition of citizens of Detroit, Michigan, for the adoption of the northern route in the construction of the

Pacific railroad; which was ordered to lie on the table.

Mr. KING presented a petition of citizens of New York, praying that pensions may be granted to those who served in the war of 1812, and to the widows of those deceased; which was referred to the Committee on Pensions.

He also presented the memorial of James M. Rich, and others, heirs of Robert and John Montgomery, praying for indemnity for French spoiliations committed prior to 1800; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. BIGLER, from the Committee on Commerce, to whom was referred the petition of Charles Knap, reported a bill (S. No. 272) for his relief; which was read, and passed to a second reading.

MEETING OF CONGRESS.

Mr. FOOT. The other morning I introduced a joint resolution changing the time of the meeting of the next session of Congress. I desire either to withdraw that resolution or that it may be laid on the table, and to introduce a bill to make the same provision, as I find that that course is in accordance with precedent. I therefore move that the resolution lie on the table.

The motion was agreed to.

Mr. FOOT. I now ask leave to introduce a bill on the same subject, and that it lie over for future consideration.

Leave was granted to introduce the bill (S. No. 271) fixing the time for the next meeting of Congress; and it was read twice by its title.

Mr. FOOT. Let the bill be read at length, that the Senate may understand it.

The Clerk read it, as follows:

Be it enacted, &c., That, after the adjournment of the present session, the next meeting of Congress shall be on the first Monday of November next.

THE DEFICIENCY BILL.

Mr. STUART. If there are no further petitions and reports, I move that the Senate proceed to the consideration of the unfinished business of yesterday.

Mr. HUNTER. Does the gentleman mean only for the morning hour, or for the day?

Mr. STUART. Only to dispose of the unfinished business—a little bill which can be passed in fifteen minutes.

Mr. HUNTER. I will say to the Senator that I will not object, if he will agree to lay it aside at one o'clock, if it be not disposed of then.

Mr. GWIN. I have no objection to the motion of the Senator from Michigan, with the understanding that at one o'clock the special order shall not be interfered with. I shall ask the Senate to proceed to the consideration of the special order at that hour.

Mr. STUART. The business of the Senate, I will say to the Senator from California, will take precedence at one o'clock; but it is a small bill, and I suppose it can be got out of the way in a very short time.

Mr. HUNTER. Is it in order for me now to move to postpone all prior orders in order to take up the deficiency bill?

The PRESIDENT *pro tempore*. That would be in order.

Mr. HUNTER. Then I submit that motion.

Mr. GWIN. Would that supersede the special order at one o'clock?

Mr. HUNTER. I understand that it would.

Mr. GWIN. Then I must oppose that motion. The Pacific railroad bill has been postponed again and again, and I feel it to be my duty to insist on its being considered. If the deficiency bill could be disposed of to-day, I should have no objection to taking it up and passing it; but I believe there will be a debate of days upon it; and I feel myself bound to oppose taking up any measure that will set aside the special order which has been so long before the Senate. I do not wish to interfere with the appropriation bill if it will not take long.

Mr. HUNTER. If the deficiency bill is to be debated for days, there is the more reason for proceeding at once with its consideration. I cannot tell how long it will be debated. I think the Senate ought to take it up, and determine whether they will furnish these supplies or not. It is time it should be known one way or the other. I move to take it up.

The PRESIDENT *pro tempore*. I will remark to the Senator from Virginia that it would not be strictly in order now to move to postpone the special order, which does not come up until one o'clock. When the hour arrives, and the special order is before the Senate, the Senator can move to postpone it.

Mr. HUNTER. Then I move that the Senate proceed to the consideration of the deficiency bill, and at one o'clock I shall move to postpone the special orders.

Mr. STUART. The motion I submitted is one that has precedence over that of the Senator from Virginia.

Mr. HUNTER. But if I move to postpone all prior orders, mine will have precedence; and I make that motion.

Mr. STUART. I think not.

Mr. FESSENDEN. I am averse to taking up the deficiency bill at present, for the reason that the information that was called for a day or two ago from the Secretary of War has not yet been sent to the Senate. I am unwilling to proceed, and I think the Senate ought not to proceed with its consideration until we are furnished with the information which has been called for by the Senate, and which I consider to be material.

Mr. HUNTER. I will state to the Senator that I believe the information will be here, probably, in an hour. I do not think that it is material. It is a mere call for copies of contracts, an abstract of which we have already in a published document transmitted in answer to a call from the House of Representatives. I think the Senate will have the information here long before the bill is decided upon, and we had better proceed with it at once.

Mr. FESSENDEN. The Senator may be correct, but we cannot tell with certainty whether the information will be here in the course of an hour or of a day; and when it is here it will require some time for its examination. The Senator should reflect that there is more than one member of the Senate who would like to look into it. If he does not deem it material, I do. I think that the facts which may be developed in answer to the call which we have made, may be very material to the consideration of the bill—at any rate the Senate ought to have an opportunity to judge. And as this bill has been brought into Congress at so recent a date; and as the necessity for that portion of it which is disputed, was known just as well on the 1st day of January as it is known to-day, or ought to have been known and understood, there certainly can be no very great occasion for hurrying it now, when the bill was only reported yesterday, and when we are yet calling for information connected with it.

Why, sir, it is perfectly manifest that so far as the necessity for these supplies is concerned, on the principle upon which they are demanded, the Administration knew just as well on the 1st day of January what they should want, as they do to-day; and yet this bill did not come from the Committee of Ways and Means of the House of Representatives until within a very short time past; and when the recommendation went for it to that committee we do not know. It is a little too late when the matter has been so long delayed, and all the information on which it is founded has existed for so long a time, now to say, that to-day (especially when we are calling for information which is of so much consequence) it shall be pressed through. I do not believe it will be debated very much in this body.

Mr. HUNTER. I think the Senator is mistaken in supposing that the necessity for it is not more pressing now than it was on the 1st of January. The necessity for it is increasing every day with the lapse of time.

Mr. FESSENDEN. I did not say that. I said the facts on which the necessity for it is predicated, were just as well known to the Government then as they are to-day.

Mr. HUNTER. I think the Senator is mistaken in that. Some of the facts on which the necessity for the bill is predicated were as well known then as now, but others were not. Be that as it may, however, I think it is perfectly manifest, and I submit it to the Senate without debate, that we ought to decide whether there shall be further supplies furnished or not. If we do not mean to furnish them, there will be no use for sending out the troops we have recently author-

ized to be raised. If we intend to do so, we ought to do it as soon as possible.

Mr. JOHNSON, of Arkansas. I ask whether even if we had the information alluded to by the Senator from Maine, there is any hope that we can dispose of the whole bill to-day? Does the Senator from Virginia believe that it can be disposed of in one day? I have no idea that it can.

Mr. HUNTER. I have no idea that it can. I can dispose of it so far as I am concerned, in one day. I have made up my mind. I do not know how long it will take.

Mr. JOHNSON, of Arkansas. Does the information called for relate to the entire bill, or to a very few appropriations in the bill?

Mr. FESSENDEN. It relates to the most important part of the bill; and that is the appropriations for the Army.

Mr. HUNTER. The information called for is copies of contracts made by the Secretary of War in regard to transportation and subsistence. I think it will be down to-day. It certainly will be down before long. It is true it is not here now.

Mr. JOHNSON, of Arkansas. Then the information relates to one point. I imagine that every gentleman here believes we shall not get through with this bill in one day. There is a great deal of the bill not to be affected by this information. Why not go on and dispose of those portions of the bill in regard to which there is no necessity of waiting for information? Those parts of the bill, I presume, will take more than this day to dispose of. I do not see why we should not proceed at once to the consideration of those parts, and when we come to those sections of the bill in regard to which information is called for on the Senator's objection and declaration that he wants further information, they can be passed over, to be taken up the next time the bill is considered. Even if the information does not come until Monday, if on that day the Senator had not time to examine it, I should, for one, vote, and I suppose the other Senators would agree at once, that that particular section should be laid over until he had an opportunity to examine it.

Mr. HUNTER. I would not press the Senate for a vote to-day in regard to those items on which information is sought. If we dispose of all the other items before the information comes, I shall be willing to lay the bill over till Monday. There are other matters besides that. There are amendments that will lead to discussion, probably. While I am up, I will say that I am informed by the Secretary of War, that the information will probably be here this morning.

Mr. TRUMBULL. This bill has just been laid upon our tables since the motion was made by the Senator from Virginia. I have not yet had time to examine it. I do not know exactly how many millions of money are appropriated by it, but I believe some ten million or more. It seems to me very unreasonable that we should be forced to act on such a bill before the members of the Senate can have an opportunity even to read it over and see what it is. It is known that very serious objections exist to this appropriation bill. It is charged, and, as I believe, truly, though I have not had an opportunity to examine particularly with regard to it, that a large amount of these appropriations arises out of contracts made without authority of law, and to support an Army which has been used without authority of law. It is charged, and proven by the statutes, that the Executive has been employing the Army of the United States for the last year, at great expense, in Kansas Territory, illegitimately, calling it a posse, and summoning thousands of men, at great expense—which we are now called upon to pay—from a remote portion of the Union into the Territory of Kansas. Besides, we have had an army wintering in the Rocky Mountains, which, I believe, is called a posse too, without any object, as I can conceive, in having that army there, for it would have been better to have started it this spring, from Fort Leavenworth.

I do not propose now to argue this question at all, but I say it is very extraordinary that an effort should be made to hurry through the Senate a bill which we have not had time to read, appropriating many millions of money—almost as many millions as it took twenty-five years ago to carry on the whole Government—and called a deficiency bill, before we have had an opportunity to read it; a bill which was only reported yester-

day, and has been laid on our tables within the last ten minutes. I should like to have an opportunity to examine this bill. I am not upon the Committee on Finance; I have never read the bill over; and I should like to have an opportunity to look into it. I think it is an unreasonable haste to call it up on Saturday, with a view to action upon it. I hope the Senator from Virginia will let it go over until next week, so that we may have an opportunity to look into it, and to ascertain whether these appropriations are based upon authority of law, or whether it is a usurpation on the part of the Executive of this country which has created this great deficiency. If it is, I think the Senate may pause, and well pause, before it appropriates such a vast amount of money.

Mr. HUNTER. Mr. President, I am sure I do not desire to make any unreasonable request of the Senate; nor do I think I am asking anything unreasonable when I move to take up this bill for consideration to-day. It will be remembered that the Senate has determined to adjourn, finally, on the 7th of June. Now, if we are to adjourn at that time, it will be impossible for us to transact the necessary appropriation business unless we proceed more hastily than we have done heretofore, and use more dispatch.

In regard to this bill; it is the same that has been debated for so long a time in the House of Representatives, and copies of which have been sent here from the House of Representatives, and lying on our table for weeks. The only alteration recommended by the Finance Committee is, that we propose to strike out two items which were in the bill as it passed the House of Representatives. In regard to the questions of law which are suggested, they have been before the country for months. It surely cannot be necessary to postpone the consideration of the deficiency bill in order to give gentlemen further time to make up their minds upon such a subject. I apprehend, when they come to examine it, it will not require the Senate long to determine whether the President has the power to post the troops at his own discretion, for that is all that has been done so far.

Mr. PUGH. I wish to correct the Senator from Illinois. This bill was ordered to be printed and laid on our tables, on the 12th day of April, and here is a copy of it—the House bill, as it passed the House of Representatives, with the Clerk's certificate. It was "read twice, and referred to the Committee on Finance, and ordered to be printed." I knew I had read a copy of it on the table of the Senate before. It was printed on the 12th of April, and the only difference between this printed copy, and the copy that has just been laid upon our tables, consists in the brackets put around paragraphs which the Committee on Finance propose to strike out. There is no other difference.

Mr. TRUMBULL. If the Senator from Ohio has ascertained what the difference is, he has ascertained it since this debate commenced. The bill was not laid on our tables until after the motion of the Senator from Virginia was made, at least not on my table; and how the Senator from Ohio knows what the difference is between the bills, unless he has derived it from the statement made by the Senator from Virginia, I do not know. I have not had time to compare the bills. It is true, a House bill was printed and sent here, and referred to the Committee on Finance, and they have made some amendments to it. Now we have learned, by a statement made within a few minutes, something of what the character of those amendments is; but we have not had time to read and compare the bills since it was laid on the table as amended by the committee. The fact that a different bill from the one before us, passed the House of Representatives, does not contradict the statement which I made, that the bill upon which we are called to act has come here within the last fifteen minutes.

Mr. PUGH. Now, sir, if I took the Senator from Illinois on his own statement, he would be no better off. Suppose I had ascertained the fact to be that the bill just laid on our tables does not differ from the bill formerly laid on our tables, all his argument that we have had a copy only within the last five minutes, is gone; for we had before a copy which does not differ from this one. But the fact is that I listened better than the Senator; my recollection is that the chairman of the Com-

mittee on Finance said, when he reported the bill, that the only difference was that he proposed to strike out certain items. I think he made that statement.

Nor, sir, do I see any necessity for delaying this bill on account of the alleged information we are to receive from the War Department. There is no appropriation in this bill for any contract; it is simply an appropriation for the service of the quartermaster's and the commissary's departments. We shall have to pass some bill; we shall have to make some appropriation; and if Senators find that there are illegal contracts, made by usurpation of authority, and all that, let us annul them by joint resolution; but the bill must pass in some shape at last; and if it is to be passed at all, it must be passed very soon.

I do not stand here to bandy responsibilities with the Administration. Let us admit, for the sake of the argument, all the Senator from Maine has said, to wit: that the Administration knew in the month of January, as well as they know now, the necessity of this bill; let us admit, for the sake of the argument, that the Administration have not done their duty: we ought to do our duty. Now, the Administration send us the bill; it is urged upon our attention as a matter of the utmost importance; and especially as we have ourselves authorized an increase of the forces for the short period of eighteen months, if there is to be any benefit at all from that increase of the troops, the Government must be furnished with the means, for if the regiments are not going to march now, we had better repeal the law we have lately passed.

I see nothing in any allegation of illegal contracts, or of fraudulent contracts, or of executive mismanagement, or of usurpation, that ought to prevent the Senate from taking up this bill for consideration. What the particular items may be, what may be my individual opinion on them, I shall not now express; I do not know that I am prepared to express any opinion, but it seems to me that if we are to pass the bill at all, we ought to take it up immediately, and proceed to its consideration. I shall, therefore, vote for the motion of the Senator from Virginia.

Mr. FESSENDEN. I am a little surprised at the information which the Senator from Ohio communicates to the Senate, that this bill has nothing to do with any contracts which have been made, or are proposed to be made, by the executive department, because in the information that has been furnished to us by the Administration we are told that it has relation not only to contracts that have been made, but to contracts that are proposed to be made by the quartermaster's department. This being the case, I am, as a member of the Committee on Finance, rather "struck up" with this new information derived from the Senator from Ohio on that point. It is at war with the information we have received from high quarters.

Now, sir, all I have to say in regard to the information which I desire, is that on the Senator's own showing, it is important; because having relation, as it has, to the appropriations contained in the bill, I want to know what the contracts are, how they have been entered into, what they are for, and the power of the Government in relation to them, and what the Government proposes to do. It is hardly an answer to me to say that this information, so distinctly relating, as it does, to the subject-matter, has nothing to do with the question whether we will supply the very money asked for by these contracts. I think it has a material relation to that very question. But, sir, I am not disposed to argue the merits of the bill now, or to denounce the Administration for what it has done, and what it proposes to do, in advance. The motion now before us is a simple question of taking up the bill, and upon that I do not deem it proper to go into a matter of that description.

I wish to remark, however, in illustration of what I said before, that there are some things which look a little strange to me. All the information upon which is predicated the necessity of moving on Saturday instead of moving on Monday in relation to this bill, upon the ground that there is an immediate and pressing urgency, was, as I shall be able to show, and am able to show now, if I choose to go into it, just as much in the possession of the Administration months ago as it is to-day, and was in their possession weeks and

months before they moved at all for obtaining supplies by this bill. The answer which has been made is by no means a satisfactory one. If the Government which presses upon us this great urgency (for I take it to be a pressure by the Executive Government) has been resting quiet under a knowledge of the facts, it is a proof, to my mind, that the urgency in fact does not exist to the extent now pretended. If they knew all the facts so long a time ago, and yet did not move, they are driven to this difficulty: either the urgency does not exist, or they are stupidly ignorant and neglectful of their own duty. Gentlemen may take which horn of the dilemma they choose. If the Administration possessed the information and did not move, it proves either that there was no necessity for moving, or that they knew nothing about their own duties; or, if they did know, it proves that they were most neglectful of them and have most grossly neglected them up to the present time.

Now, sir, what do I ask? The Senator from Ohio says he is ready to proceed; he understands it all, because this bill was laid upon his table, I do not know how long ago—some two or three weeks since. Why, sir, everybody here knows that we do not look at and study bills which are laid on our tables, printed by order of the House of Representatives, until they come before us, and have been under the consideration of our committees. Look at the heading of the bill in this case: "In the House of Representatives." When was it brought here?

Mr. PUGH. It says, "In the Senate of the United States."

Mr. FESSENDEN. When?

Mr. PUGH. On the 12th of April.

Mr. FESSENDEN. That cannot be.

Mr. JOHNSON, of Arkansas. The bill was printed under an order of the Senate of the 12th of April, and, if I understand aright, the Senator from Maine, in his committee, has had before him a printed bill, printed by the Senate.

Mr. FESSENDEN. That might have been so; but it is a House bill. The bill has never been in the Senate at all until it came from our committee.

Mr. JOHNSON, of Arkansas. Then it is alleged that there are but two changes from the House bill. Besides, it is agreed—at least, I believe the Senator from Virginia has assented to it—that any section upon which the Senator from Maine wants information, shall be passed over. Moreover, the bill was printed in the other House long since, and the whole of it, with the discussion on it, has been printed in the congressional debates of the House. It has been printed four times. That is the fact.

Mr. FESSENDEN. My honorable friend is talking upon a point to which I have not yet alluded; and it is unnecessary to that of which I am speaking, to say that certain other things may be done. I was alluding to the fact that the bill, as a Senate bill, has not been before us at all until it came here this morning.

Mr. PUGH. The Senator is mistaken. Here is a copy—he can read it—printed by order of the Senate, after it passed the House, with the Clerk's certificate at the bottom. If he will read the copy, he will see he is in error.

Mr. FESSENDEN. The Senator from Ohio seems determined not to understand me. I say it is not our habit to read over House bills—at any rate it is not mine—or to consider them, until they have been referred to a committee of the Senate, and considered by that committee. This bill never came into this body until the first of this week. It came here from the House, I think, on Monday last. It was referred to our committee, and we took it up on Tuesday. What is so easy to be comprehended and apprehended by the Senator from Ohio that he is ready to go on with it now, understanding all about it, took the committee three days of close, careful examination of documents, and figures, and subject-matters in order to enable them to understand it, so as to report upon it to the Senate. The Committee on Finance is so composed, it is made up of such dull men, that it takes them three days to do what the Senator from Ohio can do off-hand without any trouble at all. The bill has been under the careful consideration of that committee, with its distinguished, able, and experienced chairman at the head.

The bill, as I have said, came into the Senate for actual examination, from the committee, only yesterday. A call has been made for information which the chairman will bear me witness I wanted to call for in the committee, and he suggested to me that the bill might be reported, and I might get my information before the bill was debated, by a call from the Senate itself. This was his own suggestion, to which I assented. The bill came in, therefore, on my assent, under these circumstances, it being understood that I might get the information here, if I desired it, before proceeding with this bill. Now, under these circumstances, it is laid before this body, who have had no opportunity to examine it such as they desire, with the business before the Senate; and yet we are called upon to take it up on one day instead of another, the day after it is reported to the Senate, when the information called for has not been obtained.

Mr. HUNTER. Will the Senator allow me to explain? I certainly did not understand that the committee had agreed that the bill should be postponed until the Senator obtained his information. If I had, I should have made no such motion as I have made to-day; but the Senator proposed that the committee should inquire, and I suggested that he had better make his inquiry through the Senate. He made it on one day, and the bill was not reported until the day after. This is now the second day since the call was made. I gave notice yesterday that I should call up the bill to-day. I certainly would not, on any such understanding, have made a proposition to take it up.

Mr. FESSENDEN. I did not intimate at all—and I hope the chairman will not so suppose—that he violates any agreement or understanding. I referred simply to what he said, and what was my understanding. I stated in the committee, if he will allow me to refer to the conversation there, and if it is not proper I will not refer to it at all—I make no charge upon him, but it is simply in reference to myself—that I desired to obtain this information before the bill was reported, for the reason, as I stated, that I thought I should wish to propose certain amendments to the bill which I could not propose until I obtained the information. It was then suggested that the bill might be reported, that I might call for my information in the Senate, have it here, and then prepare my amendments, and do what I desired. Well, what is the result? The bill came in. Simultaneously upon its report I put in my call for information. That call has not been answered. I have not been able to come to any conclusion in my own mind as to whether I shall propose the amendments or what they shall be.

Now, I will say to my honorable friend from Arkansas, that with regard to the amendments proposed by the Committee on Finance, I regard them as very unimportant parts of the bill. The great question to be considered is upon the Army appropriations, the principles upon which the Army appropriations are founded, and the amount that is demanded by the Administration. There is a contest upon them. The others are very small matters; you may dispose of them in a very short time, and you will not affect the main question. The information I desire, and the consideration which I shall attempt to give to this bill after I get the information, goes to the root of the matter in dispute. Although I am disposed to treat the Government fairly, I hope, and to treat this question fairly—not to indulge in denunciations unless those denunciations are deserved, and I shall think them of some importance—yet I do not wish to be called upon when I have objected to this course, and when I have demanded this information in order to enlighten me upon the question, to be forced into a consideration of this bill. Nor do I wish other gentlemen who have not had the tenth part of the opportunity I have had to look into the bill to be forced into its consideration without having the reasonable time that we ought to have. I do not know that I shall oppose the bill at all; I cannot say that I shall; but I wish to have time to look and see what the real facts are in relation to it.

Mr. BENJAMIN. Mr. President, this bill is evidently a very urgent one. Its immediate passage is required by the necessities of the Government. The Senator from Virginia is pressing its consideration to-day. We all appreciate his motives in so doing; but I would suggest to him,

under the circumstances, whether, if by common consent we were to make it the special order for half past twelve o'clock on Monday, we should not get along as fast as by pressing it to-day. That will give gentlemen an opportunity of looking at the bill between to-day and Monday, and then we can go on with it on Monday morning.

Mr. HUNTER. If we can have an understanding that we shall take it up, by general consent, at half past twelve o'clock on Monday, I shall not object to that.

Mr. FESSENDEN. I will not object to that if we can have the information to-day, so that we shall have time to look into it.

Mr. HALE. I shall propose, when the bill comes up, an amendment, which, though brief, is a very important one, and goes to the root of the whole thing; and, by common consent, I should like to have it introduced and printed, so that it may be before the Senate.

Mr. HUNTER. With the understanding suggested by the Senator from Louisiana, I shall not object to the postponement.

Mr. KING. This information will be here to-day?

Mr. HUNTER. Yes, sir; the understanding is that it shall.

The Clerk read Mr. HALE's proposed amendment, as follows:

And be it further enacted, That no contract shall hereafter be made by any officer or agent of the Government, except under a law authorizing the same, or under an appropriation adequate to its fulfillment.

Mr. HUNTER. Will the Senator allow me to move to take up the bill for the purpose of moving that it be made the special order for half past twelve o'clock on Monday?

Mr. HALE. Certainly.

Mr. HUNTER. I ask general consent to submit that motion.

There being no objection, the bill was taken up.

Mr. HUNTER. I move that it be made the special order for half past twelve o'clock on Monday.

Mr. PUGH. Before that question is taken, I think it is necessary for me to make some answer to the assault of the Senator from Maine, which was wholly unnecessary, and, I suppose, meant for his own personal justification. I pretended to no information, except from reading the bill. I say the bill does not purport to carry out any contract; and therefore anything that relates to a contract made or to be made is not germane to the question of taking up the bill. As to the rest of it, my statement was, that this bill had been printed by order of the Senate; for I asked the Senator from Virginia to have it printed when it was read the second time, in order that I might read it. I do not pretend to learn faster than the Committee on Finance, but I do not think it would take even the Senator from Maine three days to tell us what he knows about it; and if he was three days in finding it out, I thought he might proceed to tell us; and if we came to any point of difficulty, then the bill might go over. I have no doubt, from what I have heard from the Senator from Illinois and others, that it will be debated two or three days; and I can see no object in the language of the Senator from Maine, except to cover his own retreat by a false attack.

Mr. HALE. Mr. President—

Mr. HUNTER. Will the Senator allow the vote to be taken on my motion to postpone, and then have his amendment printed?

Mr. HALE. I shall not occupy time, but I desire simply to state a fact, so that the Senate may see what I intend by the amendment. By the sixth section of the act of May 1, 1820, all contracts on behalf of the Government are forbidden, unless under a law or an appropriation adequate to its fulfillment, except for the quartermaster's department, and I propose to repeal that exception. That is the gist of my amendment.

The motion to make the bill the special order for half past twelve o'clock on Monday was agreed to.

Mr. HALE. I now move that my amendment be printed.

The motion was agreed to.

A MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. J. F. CARTER, its Chief Clerk, announcing that the House had passed the

following bills, in which the concurrence of the Senate was requested:

A bill (H. R. No. 203), for the relief of George W. Biscoe;

A bill (H. R. No. 80) for the relief of Captain James Mc. McIntosh of the United States Navy;

A bill (H. R. No. 488) for the relief of Cassius M. Clay; and

A bill (H. R. No. 489) for the relief of congressional township numbered twenty-seven north, of range numbered six east, in Wabash county, in the State of Indiana.

Also that the House had passed a bill (S. No. 202) for the relief of Major Jeremiah Y. Dashiell, paymaster in the United States Army.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore*:

An act to authorize a register to be issued to the steamer Fearless; and

An act for the relief of the owners of the bark Attica, of Portland, Maine.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were read twice by their titles, and referred as indicated:

A bill (No. 488) for the relief of Cassius M. Clay—to the Committee on Claims.

A bill (No. 80) for the relief of Captain James Mc. McIntosh, of the United States Navy—to the Committee on Naval Affairs.

A bill (No. 203) for the relief of George W. Biscoe—to the Committee on Claims.

A bill (No. 489) for the relief of congressional township numbered twenty-seven north, of range numbered six east, in Wabash county, in the State of Indiana—to the Committee on Public Lands.

COMMANDER THOMAS J. PAGE.

Mr. HOUSTON. I requested a motion to be entered yesterday to reconsider the bill that was passed in favor of Thomas Jefferson Page, of the United States Navy. My reason was the want of correspondence between the statement of that officer and what I believed to be the facts of the case. Whether that officer is to blame, or whether he has misapprehended the facts in his statement, or whether the Department was culpable and delinquent in its duty, I do not know. I see in the statement of the officer, that he says:

"He was not even allowed a clerk by the Department. The extent of country to be explored, both by land and water, necessarily involved, at various times, not only a separation of portions of the officers and 'ship's company' from the vessel, but also made it necessary that the petitioner himself should be absent for periods of from one to six months. It will be perceived that, had he remained on board to attend in person to the duties of purser, he could not have properly discharged, under his instructions, the more important duties of the expedition, and that, in obeying his instructions, he was necessarily compelled to intrust to others not only the command of the vessel, but the discharge of the purser's duties also."

Now, Mr. President, if the Department sent him out unprepared, the Secretary of the Navy was to blame for that. If, however, he had all the necessary appliances and conveniences that are usual on such occasions, he has failed in the discharge of his duty. It is to be presumed that an officer who is placed in command of a vessel at sea, is not only familiar with his own duty, but with all the duties subordinate to his own, so that he may be enabled to execute the purposes of the Government understandingly. If he is not acquainted with all the duties subordinate to his own, he is incapable of the duties of a commanding officer; and for this reason I insist that either the officer himself is to blame in his statement, or that the Department failed in discharging its duty.

He says he had no clerk. Now, sir, I have informed myself on that subject; and I have a statement from the Department that he had a clerk—for whom \$500 was paid—and it was upon his voucher that this clerk was paid. Therefore, his assertion that he had no clerk, and the letter of the Department showing that a clerk has been paid, seem to be in conflict.

It is not unusual, but customary, under the circumstances under which he sailed in the service upon which he was detailed, that the commanding officer of the vessel shall act as purser; because the duties are not sufficient to require a purser to be

sent from vessels of superior character and size. He says furthermore:

"The losses incurred, and for which he is held responsible, arise from payment made to sailors who deserted from the vessel in debt to the Government."

Sir, he had no right to let the sailors contract a debt of one cent. He was bound to see that they did not overgo their pay, and that they only received pay for services rendered, and after the services had been rendered. Instead of that, we find that they were paid in advance by the purser's steward. He had his clerk to supervise the action of the purser's steward, and he must have been in communication with his clerk; so that this remissness in attending to the duties of purser either grew out of his own neglect or the villainy of men on whom he relied; and he must have selected the individuals for the discharge of these subordinate duties and therefore he is responsible for their acts under him.

Mr. GWIN. I do not like to interrupt the Senator, but the hour for the consideration of the special order has arrived.

Mr. HOUSTON. This is a privileged motion.

The PRESIDING OFFICER. A motion to reconsider is a privileged question.

Mr. HOUSTON. I shall make a speech against the Senator's railroad project when it comes up; but it is not in order now.

Mr. GWIN. We expect him to do that.

Mr. HOUSTON. I will do it. The statement of Mr. Page further says:

"The money for which he is held responsible was not spent contrary to law, but through ignorance, in part, of regulations with which he could not have been supposed to be familiar, inasmuch as they did not relate to his duties proper, and he knew nothing of their existence, and, in part, through errors of the steward, in whom, as above stated, he was necessarily obliged to confide much in the calculation of accounts," &c.

Where was his clerk? He was there, for he was paid; the Department certifies that he was paid. This is one of the officers who were retained by the retiring board as competent morally, physically, professionally, and in every other way. If he was, I insist that he was accountable for the performance of the duties of every officer under his command; and it is no plea that there was remissness, or neglect, or malfeasance, in a subordinate, or that he was not familiar with their duties, for it is presumed, and it is a matter of fact, that every accomplished officer is familiar with all the duties subordinate to his station. No officer would possess power and accomplishments with the rank of captain in the Army if he was not also acquainted familiarly, so far as the required intelligence would go, with all the duties connected with a general's station. He is not professionally qualified for the discharge of the duties of an officer of his rank unless he is familiar with all that are subordinate to his station. He must have gone from midshipman to passed midshipman, to lieutenant, and to commander; and he must know what the duties of a purser are; he must know the duties of a clerk; he must be able to determine the difference between a purser's steward and the clerk of a vessel. It is presumed that the Department had prepared him, as is customary on such occasions, and afforded him all the facilities that were required for the execution of the orders and commands with which he was intrusted. For the reasons I have stated, I move that the vote passing the bill for his relief be reconsidered.

Mr. MASON. There were two small bills which passed at my instance a day or two since, one of which authorizes the payment of the sum of \$75 to Commander Page, for the actual expenses incurred by him, he not being an accountant, in stating the accounts of the purser's department before the Department on a cruise of three years and five months, chiefly in the La Plata river. The other is to authorize the accounting officers to allow him a credit or credits amounting altogether to \$334 46, for charges in the purser's account of the ship, which, according to the rules of the Department, seem not to have been legitimate charges on the part of the purser. It is stated in the report which was made by the Senator from Florida, [Mr. MALLORY,] the chairman of the Committee on Naval Affairs, as the report of the committee, that in their judgment, these allowances ought to be made, for the reasons stated by them.

Now, the reasons stated in the report are not that Commander Page was ignorant of the duties

of a purser, but that, when this gentleman was commanding that ship, from the necessary duties of his position—for he was on an exploring expedition—it was utterly impossible for him to give a personal superintendence to that subject. I do not know whether he is familiar with the duties of a purser or not. I should think he would be a very extraordinary man if he were; because the duties of a purser are pretty much, in the detail, those of the keeper of a shop, who is required by the United States to issue from his storehouse minute articles of clothing, the minutest articles of dress, at stated prices, to the crew, and charge them accordingly; as well as to pay them their wages, fix what they are to have, how it is to be charged, and what the prices are. These are matters of minute arrangement from the naval regulations, as I understand. I doubt not that, if this gentleman could have remained on board his vessel, and given his personal superintendence to the duties of purser, substituting himself in place of a purser, these inaccuracies and errors would not have occurred; but I equally well know that, if he had done so, he would have disappointed the great object of his cruise, and he would have shown himself unworthy of the far higher trust which was reposed in him, and which he has so well discharged, in conducting the expedition to the La Plata.

The honorable Senator from Texas objects that Captain Page was allowed a clerk. Although it is stated in the report of the committee that he was not, the Senator presents a statement made by A. O. Dayton, who, I believe, is the Fourth Auditor of the Treasury, that Commander Page "had a clerk, who was paid at the rate of \$500 per annum." There would, therefore, seem to be a discrepancy between the statement in the report and the statement of Mr. Dayton. I have not seen Mr. Page since this bill was passed, or since this objection was made; but I know, in the first place, as I dare say many Senators know, that Mr. Page is not only an officer of high position, but that he is a gentleman of undoubted honor and truth. Whatever he states I know is the truth; and I take it there is really no conflict of veracity between him and the accounting officer. I should construe the statement in the report to mean this, that he was not allowed a clerk by the Department to act in the place of a purser. I believe it is usual to allow the captains of ships to have a captain's clerk. I presume he means he was not allowed a clerk to act in the place of purser; because we find, in another part of the report, it is said that these errors were committed by the purser's steward, on whom it would appear that the active duties of a purser were necessarily devolved.

I know, from conversation with naval officers very often, that when they are put in command of small vessels, they are not allowed a purser by the usage of the service. They are themselves not pursers; the duties of a purser are minute, involving a great deal of detail, a great deal of careful supervision in the management of the stores; and I know that these gentlemen frequently sustain loss, either from inaccuracies or infidelity on the part of the subordinates of the ship, on whom they are obliged to devolve these duties. I have thought it was a hardship in the service that duties should devolve on them, involving responsibilities which are not properly a part of the naval duties of their station. But be that as it may, in this instance, this officer was in command of the steamer Water Witch, for the exploration and survey of the river La Plata and its tributaries. I have looked into his report, which has been made and printed by the Senate—not now, but some time since—and I have found, as he states, that the duties of survey and exploration frequently took him from his vessel, and sent him on long journeys inland on the tributaries, and he was absent for five or six months at a time in the discharge of the duties confided to him on that exploration. During that time, he left not only the command of the ship, but all the duties of purser, of necessity, in charge of a subordinate, the purser's steward, and some of these inaccuracies, it seems, resulted from mere computation of figures.

I will not detain the Senate, but say only that these inaccuracies are certified in the report from the Naval Committee to have been inaccuracies and errors only, involving no default whatever; for it is stated that all the money that is charged

here was actually paid, and the vouchers only disallowed because they were not according to the regulations of the service, inaccuracies resulting, as the report also states, not from infidelity, but from ignorance and incapacity of the purser's steward, on whom these duties devolved, the responsibility, however, being on the commanding officer. The whole is little over four hundred dollars. One bill is for \$75, and the other for \$354. I hope they will not be reconsidered.

Mr. HOUSTON. My friend from Virginia, I think, misapprehends the true state of the case. The petitioner says that a large portion, perhaps all, the money was paid to men in advance; that is, they were furnished and credited with their articles in advance. This was contrary to the regulations, and after having obtained this credit they deserted, leaving the Government deficient. That was no discharge of the duties. Any clerk, or any steward, would know very well that he was bound by the regulations not to advance anything to sailors, but that he was to pay them up to the time they served. Their payments are regular; their issues are regular; the receipts taken from them should be regular; and it is nothing to discharge the duty of purser. It is a very small thing to take memoranda from the men of what is paid; and no difficulty can arise if the least care is exercised. As this officer was furnished with the ordinary means given to officers placed in similar circumstances, if you set this precedent it will require the eternal action of this body to make up the deficiencies that officers will render to the Government for want of the proper vouchers, and the time of Congress will be used as accounting officers to the Government in making up for deficiencies, and misapplication of the means of the Government, by granting relief to individuals. I am for holding to a strict accountability men who are intrusted with public funds; and if they are not careful in obtaining the requisite vouchers, let them be responsible to the Government, and be docked in their pay or perquisites. It used to be so, and it ought to be so again.

The motion to reconsider the vote on the passage of the bill was rejected.

INDIANA MEETING OF FRIENDS.

Mr. STUART. I suppose the unfinished business of yesterday is first in order now.

The PRESIDENT *pro tempore*. The bill (S. No. 46) to grant the right of preemption in certain lands to the Indiana yearly meeting of the Society of Friends being the unfinished business, is before the Senate. That takes precedence of the special order.

Mr. CLAY. I do not see the Senator from Arkansas [Mr. Johnson] in his seat. He desired to say something on this bill; and as he is a member of the committee who reported it, and is opposed to it, I think the question ought not to be taken in his absence. He requested me—

Mr. STUART. The Senator is here, I think; he has been here all the morning. I presume he is about the building, and will be in before the bill is disposed of. I certainly would not take any advantage of his absence; but we adjourned on this bill yesterday.

Mr. GWIN. I move to postpone this bill, in order to proceed to the consideration of the special order. I have no objection to the bill.

Mr. STUART. I think it had better be disposed of.

Mr. GWIN. But a Senator who wishes to discuss it is not here. I am in favor of the bill, and will agree to take it up in the morning hour at any time.

PACIFIC RAILROAD.

The motion of Mr. Gwin was agreed to; and the Senate resumed the consideration of the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California; the pending question being on the amendment of Mr. DOOLITTLE to strike out of the amendment of Mr. POLK the words "or in the western boundary line of the State of Missouri, or of the State of Arkansas, between the mouth of the Big Sioux river and," and insert "between Breckinridge, at the confluence of the Bois des Sioux with the Red river of the North, on the western boundary of Minnesota."

Mr. POLK. With the consent of the Senate, I should like to correct an error which I find I fell into, on the day before yesterday, in the course of the remarks I had the honor to submit to the Senate on the Pacific railroad bill. I stated that the distance on the route surveyed on or near the thirty-fifth parallel by Lieutenant Whipple—the Whipple route I will call it—from Fort Smith to the crossing on the Colorado, is one thousand three hundred and ninety-five miles, and from the same point to the east bank of the Rio Grande is one thousand one hundred and thirty-five miles, making a distance of only two hundred and sixty miles between the Rio Grande and the Rio Colorado.

I ought to have said that "the distance from the same point on the east bank of the Rio Grande is eight hundred and fifty miles, leaving a distance of only five hundred and forty-five miles between the Rio Grande and Rio Colorado."

I said, also, that starting from the mouth of the Kansas it would be necessary, in order to get on the thirty-fifth parallel, to make a southing of three hundred and fifty miles, being ninety miles more than the entire distance between the Rio Grande and the Colorado. Instead of "ninety miles more," I ought to have said "one hundred and ninety-five miles less." I further said that, in order to get from the mouth of the Big Sioux to the same parallel, it would be necessary to make a southing of five hundred and twenty miles, being exactly twice as great as the distance between these two rivers on the Whipple route. Instead of "exactly twice as great as the difference," I ought to have said "twenty-five miles less than the distance."

Mr. IVERSON. I wish to ask the indulgence of the Senate to call the attention of the Senator from Virginia [Mr. Mason] to a statement which he made in his speech in relation to an amendment I had the honor to propose to the Pacific railroad bill, and to ask him to correct it. He certainly has done me very great injustice. I will call the attention of the Senator to that portion of his speech. He said:

"The bill has been before us frequently before—not this particular bill, but this measure—and in various shapes. According to my recollection, when it was first introduced by an honorable Senator from Texas, [Mr. Rusk], who, all here regret, is no longer with us, it was, as the amendment of the Senator from Georgia [Mr. Iverson] proposes, upon a direct authority to the President to make a contract for the construction of the road."

Now, sir, my proposition is no such thing. The Senator certainly misunderstood it, or did not hear it. My proposition is not to authorize the President to make a contract for the construction of a road. It does not differ in that respect from the bill of the Senator from California. It authorizes the President to make a contract for the transportation of the mails and public property over the road, and to advance so much upon that contract; nothing more. My whole speech was against the power of the Government to construct the road itself, and against the policy and expediency of it. The Senator did not understand my proposition.

Mr. MASON. I doubt not the Senator has accurately stated his own position. The misapprehensions under which I was at the time I made those remarks to the Senate, were derived either from a careless reading of the amendment the Senator had offered, or a misconstruction of what he said. My impression was that he proposed to give power to the President to construct the road. I very willingly, and with much pleasure, make the correction.

Mr. BRODERICK. I rise for the purpose of correcting a remark that fell from me on Thursday week last, when the railroad question was before the Senate. I said:

"I am satisfied that the emigrant route from Independence to Carson valley, which strikes the border of California, will be selected by the contractors, if it is left to them to decide."

I intended to have said, "from Independence to Noble's Pass or Carson valley." I make the correction now for the purpose of having it set right.

Mr. BENJAMIN. Mr. President, I do not desire to say anything in relation to the pending amendment specially, but I wish to call the attention of the Senate to the condition of this bill. Here is a bill that has been reported to us by a special committee, and I really do not know, so

far, how many amendments we have had to the first section. I think that anybody who has listened to the debates in the Senate must have become satisfied that it is impossible to procure a majority of this body to agree upon any one scheme at the present time. The bill now before you, sir, proposes, as the labor of this special committee, to limit the point at which the terminus of this road is to be established, on the eastern side, to the Missouri river, between the mouths of the Big Sioux and the Kansas rivers. The committee have, therefore, so far as lies in their power, selected a route for this road. I do not say they have done so in entire disregard of the surveys which have been made, or in entire disregard of the cost and length of such a road; but it is obvious that it cannot be expected that gentlemen here from the South can join in the passage of a bill which deprives them of the benefit of this great enterprise. If this bill is to be passed on the ground that the General Government has the right to give assistance to any communication of this kind with a view to facilitate military operations, let the bill be put upon the basis of a military road, and then the object being solely to provide a speedy and safe communication between the Atlantic and Pacific, let that communication be put upon such line as the contractors will agree to build it on for the least money, and in the shortest time; but let us not, under the pretext of exercising the war power of the Government, provide a commercial road.

Again, sir, let us not, under the pretext of providing for the transportation of the mail or military stores, build a railroad in States of the Union. If the road is to be built by the Government, let the bill state what it is; let it not evade or shirk the question; let it profess to be a bill for building a railroad to the Pacific ocean at the cost of the General Government, and let the people understand for what their money is voted.

I throw out these general considerations, not having any desire to enter into a special discussion of the bill, because it must be obvious to all that we cannot agree upon any bill for this purpose now, that we are wasting our time, that we have had the matter under consideration for weeks, and have not made one step of progress in it, and we shall make none. In the present condition of the public Treasury, with a loan already authorized, at the present session, of \$20,000,000, with another loan of thirty or forty million dollars staring us in the face; with deficiency bills of six or eight millions coming in upon us almost every day, I was going to say, but I do not wish to exaggerate; with a war that is called the Utah war upon our hands; with fresh regiments of volunteers raised; with other expenses which we can all anticipate within the course of the present year; with a diminished importation, with no resources for the Treasury but those duties which are falling off in amount every day, does anybody believe that the Congress of the United States is going, at the present session, to inaugurate an enterprise that at its very outset is to involve an expenditure of \$25,000,000? That is what the bill proposes. We all know that it will be fourfold that amount. Gentlemen do not anticipate the passage of this bill. I cannot do so much injustice to their statesmanship, their sagacity, as to believe that they for a moment expect any such bill as this to pass. We are wasting our time, sir; we have but six weeks of the session left; and in order to bring this matter to the test, I now make a motion, which I hope will be considered a test motion, that the further consideration of this bill be postponed until December next; and on that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GWIN. Mr. President, I am not disposed to answer the Senator from Louisiana. He states with great positiveness that there is not a member of this body who thinks we are going to pass this bill. Why, sir, he is very much mistaken in regard to a great many members. He also brings up the bankrupt condition of the Treasury, and says we are going to pass a bill to take \$25,000,000 out of the national Treasury. I leave it to the Senate to say whether he makes a correct statement of the bill. It is well known that if the bill passes in its present form, it will be at least one, and probably two years, before a dollar of the bonds provided for will be issued. Then it is not drawing money out of the Treasury, but

it is simply creating an evidence of debt to be repaid by service, and as fast as the bonds are issued the transportation provided for in the bill will repay the Government the interest which they will have to pay on these bonds. They do not contract one dollar of debt.

But, Mr. President, this is a broad proposition of the Senator. I shall take this vote as a test vote. If the motion prevails, I shall understand that this Congress does not intend to pass any kind of a bill to connect the Atlantic with the Pacific by a railroad for military or other purposes. I shall take this as an indication that, notwithstanding the evidences of public sentiment we have had from all sections of the country, notwithstanding the evidence we had of public sentiment in the great contest of 1856, when all parties were in favor of this measure, they have forgotten their pledges and their duties to their constituents, and intend to defeat this or any other bill of a similar kind.

Mr. STUART. I wish to suggest to the Senator from California, for I really do not rise to debate this question now, whether inasmuch as this motion is offered by the Senator from Louisiana as a test motion, he would not consider it better to postpone the bill until Monday when the Senate will be full.

Mr. GWIN. I think it can be voted down easily now. I hope so. I believe that the Senate is as full as usual.

Mr. STUART. Very well.

Mr. JOHNSON, of Arkansas. I suppose it will be in order after this vote is taken, if it is determined not to postpone the bill, to offer amendments in regard to the termini and route of the proposed road. ["Oh, yes."] But the proposition now before us is to postpone the bill. I am sure, sir, that during the whole consideration of this subject the South has observed a course of as much forbearance as the representatives of any people could possibly have observed where they have interests so deeply involved and where evidently there are so many features of the subject-matter itself decidedly in their favor and on which they must feel so warmly. But is it not apparent that in the consideration of the project now before us, there has been no other object than to give a sectional direction; I believe so; it seems so to me; and with all the advantages of climate, of graduation, of favorable route from this side to the Pacific, superior to any other in cheapness and shortness, the interests of the South are evidently to be disregarded. Such being the case, I shall vote to postpone this bill. That is one consideration influencing me to favor the postponement.

Another consideration is my belief that within the few weeks of the session now remaining, no determination of this matter can be had. My own State is deeply interested in it. I have sat patiently here and waited to see whether the advantages of two of the southern routes would be considered, or any weight given to them whatever. I have seen no evidence of anything of the kind. Missouri seems to be the only party that approaches to a southern State at all, that is making any contest. I do not see that Texas has said anything as yet, or taken any ground, or that Louisiana has much interest herself in the matter; I know that my own State has not; and it seems to me that, in despite of snows and of mountains of almost insurmountable obstacles, the intention and will seem to be to drive a road across a northern route at any expense to the national Treasury to which we contribute equally, and yet we are to be excluded from any fair opportunity to participate in it. We cease almost to be considered as a part of this Union. We cease almost to be considered as parties having rights. Nature itself declares in our favor, but her voice is disregarded. The explorations that have been made and published show the advantages of the southern routes in such a light that I think they are the only routes on which capitalists can be induced to embark their means in the construction of a road; but still they cannot be considered.

This Government was made for the common protection of all parts of this Union. Now, however, a road cannot be started unless it is to benefit one section to the injury of another. It takes that coloring. I have not pressed the rights or claims of my own State to any consideration in this matter; and up to this hour, I have not said a

solitary word in regard to the subject; but I know that there are two routes, one on the thirty-fifth parallel, and the El Paso route, that materially affect the interests of my own people; and these two routes, I am well aware, are by far the cheapest that can be taken by the Government of the United States: If we confine ourselves to the construction of a road beyond the limits of State jurisdiction, there are not five hundred miles to be constructed on the El Paso route, and there are no very serious natural obstacles in the way. There does not seem to be an inclination in the northern side of the House to consider it at all. Then, if you are not willing to go to that point, there is the route on the thirty-fifth parallel. That, too, is scarcely considered. I never hear a gentleman from the northern section of the Union make any allusion to it at all. On the contrary, they talk to us of the route through what is called the South Pass; and I believe it is the best of all the northern routes, from what examination I have been able to make; but it will carry us to the Columbia river and the Territory of Oregon, and will not reach California except by a deflection of many hundred miles.

The differences are so wide and so great, and the spirit of sectionalism is so strong, that I can have no hope that, in the short period now remaining of this session of Congress, it will be possible for us to determine the subject; and therefore, I shall certainly, under the circumstances, feel bound to cast my vote for postponing indefinitely the consideration of this bill.

Mr. HOUSTON. It was my intention, Mr. President, at some period of this debate, to introduce amendments, and to offer some remarks upon them; but, believing as I do, from the character of the business before the Senate, and the limited duration of the session, that, in all probability, the bill will be postponed, I think fit here to give notice of a proposition which I intended to introduce in the nature of an amendment. It is in relation to the eastern terminus of the road, connecting the Mississippi with San Diego and San Francisco. It is "that the eastern terminus shall be opposite Memphis, in Arkansas, or the mouth of the Red river, in Louisiana. This terminus would give to the whole community benefits which can flow from no other location. It communicates directly with the Mississippi at a point where it is navigable at all times. The points indicated by the amendment of the Senator from Missouri, as well as the other amendments, are subject to obstruction in navigation. At the points designated by me, navigation can at no time be interfered with. The distances are less; the results are greater than can be derived from any of the other routes.

Gentleman say it is the duty of patriotism to open this communication by the most direct and immediate means, and they appeal to us for the purpose of aiding in the construction of this road. If that is really the object, we ought to disregard localities, we ought to disregard sections, we ought to lay our hands to the work in good earnest, and for the purpose of accomplishing a national object—an object that will redound beneficially not only to California, but to the States of the Atlantic. This can only be done by taking that route which is the most facile, and at the same time most convenient, where the appliances necessary to the accomplishment of the object can be most immediately commanded. That is the route by El Paso, the terminus of which I have indicated. Neither of the points I have suggested as the eastern terminus directly affects the State in which I am. Neither of them is within the limits of the State of which I am a citizen.

But, sir, when you strike the Mississippi at the points I have suggested, the whole Atlantic ocean is open to you. You communicate with the southern roads to Charleston, and other ports, so that the whole South is accommodated. You also have direct communication with Cairo, at the junction of the Ohio and the Mississippi. In the winter season, when the navigation beyond the mouth of the Ohio, up the Mississippi and Ohio is obstructed, railroad facilities begin at that point, so that the North is not excluded. If, however, you begin at any point on the Mississippi river above St. Louis, or above the junction of the Mississippi and the Ohio, you completely lock up this commerce to the South; they have no intercourse with that section of the coun-

try by any direct means, whereas that section would have all the advantages that could result to an ice-locked country, as it is at seasons.

I insist strenuously on the superior advantages of the southern route. It passes through fertile regions, where the soil is rich, the facilities for the work great, timber sufficient, until you reach the El Paso; and on this route emigration will keep pace with, and even anticipate the progress of the road, so soon as the line is marked out. Then you will have way travel; you will have all the conveniences necessary for the construction of the road. The supplies necessary for the subsistence of the hands engaged in it will all be supplied on this route. Not only that; but it is well ascertained that after leaving El Paso, by a short divergence through Arizona to San Diego, you can very soon have all necessary supplies, for emigration will soon produce them. Agriculture is prosperous in some sections through which that route would pass.

But, if you make the road through a sterile, wilderness region far north, you will never return to the Treasury the \$25,000,000 proposed to be expended; and I should like to know from the Senator from California if it would not be taking \$25,000,000 from the Treasury, without the prospect of being reimbursed for ages? He says it is to be returned by the conveyance of the mails. How long will it take to construct a railway for the conveyance of the mails to California—a length of some nineteen hundred miles, I believe, on the northern routes? When you complete one hundred miles, are you to take the mail there, and leave it to be carried as best it may the residue of the distance, through the mountains, impassable for conveyance, and where it will take months to accomplish it? What would be the use of sending a mail there, when, by the isthmus transit-route, it would reach California much more readily? You are to use the cars to transport the mail to an impassable wilderness, and there you are to leave it, and you are to pay \$250 a mile for that. You are to take it from the settlements of Missouri into the wilderness, and there it must stop, until you have accomplished the largest portion of the road, where the mail cannot be transported in the same time it now is from San Antonio, in Texas, to San Diego, in California, in coaches. Twenty-one days now is all the time that is required for the accomplishment of that trip. There is demonstration conclusive that nature has established conveniences on that route; so that, with comparatively little aid from this Government, if you really desire on this great occasion to accomplish all that is necessary and desirable in connecting the Atlantic with the Pacific possessions of the United States, it can be accomplished.

Mr. President, I contend that the construction of a railway to the Pacific is a great national measure, and I will advocate it strenuously. Whenever you divest it of all appearance of sectionalism, and of selfishness, and make it purely a national measure, I will go heart and hand for it. I will submit to heavier taxation for it than for any imaginable purpose that I can conceive of. But I am not going to foster it, as a measure either for sectional or speculative purposes. I must have it as a great national measure. I believe we have the constitutional power to do it. I will only ask my honorable friend from Virginia, [Mr. Mason,] who doubts the constitutional power to construct a road of this character, by what constitutional authority have we gained possession of California? Is the acquisition of territory incidental to a government? If it is, it is incidental to a government that it shall have power to preserve and defend that territory. When he answers my question I shall be prepared to answer his. It is a measure that we must look in the face. It is one of vital importance, and we must all lay our hands to it as a great and mighty work of national interest and concernment, divested of everything sectional or local in its character. If its accomplishment is to be secured, it must be done with united hands and united hearts, with reference alone to the public good and its accomplishment on the most reasonable terms that the national resources will justify.

Mr. BRODERICK. It may be that I may not have another opportunity to say anything on the bill, if I do not take the present occasion. I am not surprised at the motion made by the Senator from Louisiana, because it has been evident to me

ever since this bill came up for consideration in the Senate, that a large majority of the Senators representing the southern States were entirely opposed to the bill introduced by my colleague. But I would inform the Senator from Louisiana, and the other southern Senators upon this floor, that the vote of California was given to Mr. Buchanan on this question. If it had not been for a letter sent by him to the chairman of the Democratic central committee of California, about three weeks previous to the election, I believe that Mr. Fillmore would have carried the State, instead of Mr. Buchanan. Now, sir, the people of California have been humbugged; for in the President's first message we found out that he favored the extreme southern route; and you might as well undertake to build a railroad to the moon, for the fact is that it will cost more to construct a road from where that route strikes California to San Francisco, than it would cost twice over to connect Texas with California. Therefore the road of which the Senator from Texas speaks would be of no earthly use to California.

Mr. HOUSTON. Texas is constructing eight hundred miles of the road; and from San Diego to Fulton, on the Red river, is only one thousand six hundred and eighteen miles.

Mr. BRODERICK. Yes, sir; but it is over a barren territory where no one lives.

Mr. HOUSTON. It is the most fertile country on the face of the earth.

Mr. BRODERICK. Well, sir, if it is fertile, no one has been able to discover it; for I believe there are very few people residing in that part of the territory. I hope that the vote will be taken to-day. If there is a majority of the Senate in favor of the bill introduced by my colleague, let it be ascertained. I do not wish to occupy the time of the Senate further on this subject.

Mr. HOUSTON. I do not want to occupy the time of the Senate either. It is rather accidental that I made any remarks, supposing that another occasion would be offered when my remarks would be more germane, and I should have been better prepared for a clear exposition of the subject. But, sir, the gentleman calls a region of country which I say is one of the most fertile and desirable, a desert waste. For eight hundred miles in Texas, this route from Fulton, on the Red river, to the Rio Grande, runs through a beautiful country.

Mr. BRODERICK. The Senator will allow me to explain. I did not speak of Texas; I know nothing about the soil of Texas; I spoke of the territory between Texas and California.

Mr. HOUSTON. I have never been in that country, and if it is as barren as reported, I cannot say that I would fancy to be there; but very often these matters are exaggerated. It happens, however, that other people get there. It was once a beautifully cultivated and inhabited country; so desirable was it, and so poorly was protection furnished to the inhabitants by the Mexican Government, that the possessors of it, a harmless, agricultural, and pastoral people, were expelled by the hostile bands of Indians after the Mexican revolution began in 1812. Large ranches, the ruins of splendid churches, are all there to bear testimony to the very desirable character of that country. Inhabitants are now falling into portions of it, converting it again into a useful and cultivated region. So soon as it is opened to the inhabitants of the United States, so enterprising in their character, we may expect to see it resume its former activity, its former wealth and abundance.

It has been demonstrated that it is necessary to have way travel to support a railroad; and I say this is the only section of the Union through which you can construct a Pacific railroad where you ever will have way passengers to sustain the line. It is folly to talk of having way travel on a route through mountainous regions where the Indian walks with trepidation for fear of starving for want of game. This is a beautiful region, and by making a short circuit you will always be within cultivable land; and though you may, by going in a direct line, have a sandy desert to pass for some distance, people traverse that desert; and the appliances that would be made of genius, of art, and of enterprise, would soon overcome an obstacle of that kind, and make a communication direct with California.

Sir, is it an impassable region? Could the mail be transported in twenty-one days from San An-

tonio to San Diego, in California, if it were? There is a practicable refutation to the slanders upon the southern route. It is the only one that nature has stamped with feasibility, or that we can ascertain to be practicable. There is an affirmation that none can deny. It takes twenty-one days from San Antonio, in Texas, which is ninety miles from our sea-board on the Gulf of Mexico. From San Antonio it traverses that region with animals and transports the mail and passengers in twenty-one days, obtaining all the necessary conveniences for effecting an enterprise of the kind. Where have you such a demonstration in favor of any other route? There is none other feasible, there is none other practicable, and you may talk about it as much as you please, whenever California is connected with the Atlantic States, the El Paso route is the one by which it will be done.

Mr. BRODERICK. I am very glad, sir, that the distinguished Senator from Texas has made his last speech, because I am now satisfied that he will vote for the bill of my colleague. There is nothing in the bill to prevent the route of which he speaks from being selected, if it is the best, if it is the shortest, and if on it a road can be built for less money than on any other route. If that be so, and the contractors are willing to construct it on the thirty-second parallel of latitude, that route will be chosen. But, sir, no man on this floor who knows anything about the State of California will say that such a road would be of any benefit to her. It touches the extreme southern end of the State, and three fourths of the population of California reside north of San Francisco. I believe the distance would be eight or nine hundred miles from where it would strike California to San Francisco. My objection to that route is that my State would derive no benefit from it.

Mr. HOUSTON. I did not know that San Francisco was California before. I admit that it is a great city, a great place, and that there are clever people there; but I did not know it was the State. I thought the policy was to form a connection between the Atlantic and the Pacific by which California would be benefited. San Diego is very near California. I thought it was a part of California.

Mr. BRODERICK. There are not one hundred and fifty inhabitants in the town.

Mr. HOUSTON. No matter. It opens communication. If the gold of California, and the enterprise of its citizens, with their numerous population, will not justify their making railroads, it is not our fault, if we give them an opportunity by making a trunk line, to run branches all over the State. There is no impediment interposed to their enterprise by this course; and it is a course that ought to be taken without reference to towns, cities, or anything else. All we have to watch is the hills, streams, and deserts. We have to avoid them, but not the towns.

Mr. IVERSON. I have been, and I am yet, willing to provide for the construction of a road from the Atlantic States to the Pacific ocean, and to bring to that great enterprise the aid of the Government, as far as is proper, and within the limits of the Constitution and its pecuniary ability. I believe it is proper and constitutional, as I stated in my argument the other day, to grant alternate sections of public lands; I have no difficulty about that constitutional question; I believe that it is the proper policy of the Government to grant alternate sections of public lands to aid in the construction of railroads, no matter where they are located, because my opinion is that the interest of the public Treasury is advanced by it. We get more money, or at least we get as much money, and get it sooner, by that policy, than we should get if the railroads are not constructed by our aid.

I have no difficulty in regard to the constitutional power to make a contract for a grant of money to parties for carrying the mails over a road which they may construct. I think we may constitutionally make such a contract. Such contracts are made every day with the Government. It is a matter of necessity, as well as of policy and propriety.

Then, as to the expediency of doing this, what is the proposition in this bill? It is to enter into a contract with the company who shall agree to construct this road to carry the mails for a term of years—I think for twenty years after the completion of the road, allowing ten years for its con-

struction, which would then be a period of thirty years, to which the contract should extend—for so much per mile per annum, not to exceed in the aggregate the sum of \$25,000,000. Let us see what will be the operation of that provision. At present the Government is paying for the transportation of the United States mails, from the Atlantic to the Pacific, \$1,300,000 a year. That is the present expense, I understand. It gives \$700,000 to the companies who carry the mail by way of Panama, and \$600,000 to the overland mail company for carrying it twice a month.

Mr. GWIN. Besides, there are \$150,000 paid for carrying it from San Antonio to San Diego, and \$300,000 by way of Salt Lake.

Mr. IVERSON. I was not aware of these additional amounts. They would swell the sum to more than a million and a half of dollars per annum. This bill proposes to advance proportionate sums to the extent of \$25,000,000, for a service of thirty years. Under the present system before that term of thirty years expires, the Government will have expended for the transportation of the mails alone, more than \$50,000,000. To say nothing of items suggested by the Senator from California, the \$1,300,000 now paid would amount in thirty years to \$39,000,000, and for thirty years we propose to make this contract under the bill. Which is the most economical to the Government; which is the worst, which is the best? I leave Senators and the country to decide that question.

I have therefore been, and still am, in favor of providing for this work, by the advancement of governmental aid. I did, in the commencement of this investigation by the select committee, propose a compromise route, which I thought ought to have been acceptable, as well to northern as to southern members of Congress. I proposed to commence the road at any point between the mouth of the Big Sioux, on the Missouri river, and the mouth of the Kansas river, thence to run down in a southwestern direction, to cross the Rio Grande at any point which might be most acceptable below Santa Fe—Santa Fe is twenty or thirty miles, I think, above Albuquerque—and thence on the most feasible route to San Francisco, or any other point on the Pacific which the contractors might deem it proper to select. This was my proposition. If it had been accepted, and the road constructed, it would have given an easy, a natural, and feasible connection with all the northern railroads. The mouth of the Big Sioux is on the same parallel with Chicago. There would have been an easy connection with the roads that terminate at Chicago; an easy connection with the roads in Minnesota and Iowa, and in all the other northwestern States. By the direction of the road, it would also be brought within the competency of St. Louis and that interest, to connect with it without a very great expense. Coming down and crossing the Rio Grande at Albuquerque, or some other point in that neighborhood, it would have given a natural and easy connection with the system of roads running through the State of Arkansas, taking Memphis as the base. Even the Texas route, which the Senator from Texas thinks is the best one to the Pacific, could connect with the one which I proposed, by a slight divergence, instead of crossing at El Paso, going by way of Fort Belknap, and connecting at Albuquerque. That route would give connection with all the railroad systems in the United States; it would be equally just to the North, equally just to the center, and equally just to the extreme South. That proposition was voted down—voted down by that same numerical northern strength which, I presume, in this body as well as the other, is determined, if it has a road at all, to have one North, and not to give the South any of its benefits. My opinion is, that the numerical strength of the northern States is determined that if the Government aid is brought to the construction of the road at all, it shall inure to their benefit, and to the advantage of no other portion of the Union. Believing that this is the policy of the northern members who have numerical power on this floor, as well as in the other House, and that we shall have no concession from them, I, for one, shall vote for the proposition of the Senator from Louisiana, although I should be opposed to it if we could have justice at the hands of our northern brethren. I shall vote, therefore, for the indefinite postponement of this bill.

Mr. GWIN. Before the Senator from Georgia

sits down; I should like to ask him a question. I ask him to state to the Senate how many votes from the southern States, in this body, he could have obtained for the plan he proposed.

Mr. IVERSON. Enough to carry the plan, if the northern votes would stick to it.

Mr. GWIN. The Senator would take it to a point which could get but a small minority of votes, and thus destroy the measure.

Mr. GREEN. I do not like to hear the question raised about the power of the North to carry the measure independent of the South, for this one plain, palpable reason: if this road be made, it will be made by the whole Union; and I do not like the whole Union to make a road for one section, nor do I believe that the public judgment of the North will sustain it. There are honesty and propriety there, and they will say that justice ought to prevail, even if the heavens fall. As we can have but a single trunk line of road, as that trunk line must be made by the nation, it ought to be so located as to inure to the common benefit of the whole; not the North, not the South, not the center exclusively. But if, in locating it so as to accommodate all sections, it should be that Missouri and Ohio and Indiana and Illinois participate more largely and more freely in its benefits than other sections of the Union, owing to the peculiarity of their location, there is no reason why the North or the South ought to complain.

The line of this road is a small matter; the termini is an important matter. On the west you say San Francisco. Why not leave it open, as the Senator from Texas has well said, to select San Diego, or some other port on the Pacific? In California you yourself are enough to designate a certain point. When you come east, and approach the Atlantic States, you leave a wide margin to play upon, for the purpose of deceiving somebody that votes for the bill. I will not vote for a Pacific railroad that does not do justice to the whole Union; I will not vote for one that inures, from its location, entirely to the benefit of the North; I will not vote for one that inures, from its location, entirely to the benefit of the South; nor would I vote for it if the benefit would result entirely to the center; but I go for the center for the very plain reason that, while it benefits the center, it gives equal advantages to the North and to the South.

I object to this bill because, while it undertakes to locate the western terminus, it leaves the eastern indefinite. I object to it because the reason assigned for leaving the eastern terminus floating, uncertain, indefinite, is, that it cannot pass if it should be fixed at a certain point. If it cannot pass if fixed at a certain point, it ought not to pass. If we pass it because it is left floating, when we could not pass it if it were fixed definitely and certainly, we commit a fraud upon each other, and upon the country; and I am not willing to commit a fraud upon any one. Locate this road at the mouth of the Big Sioux, if you please, and how many votes will you get to pass it? The Senator from California seems to think that he ought to accommodate the northern votes more than the southern, because he will get more strength from the North than the South! You may, in votes on on the bill, in the Senate.

Mr. GWIN. I said no such thing.

Mr. GREEN. I understood that to be the drift of the Senator's argument.

Mr. GWIN. I stated that when you located the line on a route having only a small minority of the Senate in its favor, you were fixing it so that the bill must be defeated.

Mr. GREEN. I understand the Senator. He asked how many votes it would get if it was put there. I understand what that means; he cannot deceive me by his argument. I know all that is covered up in the meaning of that question. When he puts the question to a southern man, "how many votes could I get, if it were located?" it means, "I do locate it where I can get so many votes by locating it in the manner I indicate." It is a question of votes, not a question of justice and propriety. I do not like that; and while I would take the Senator from California by the hand, and cordially cooperate with him in the consummation of this great work, I cannot meet him in the mode he has now indicated for acting. I want the eastern Territories located as well as the western; for, as the Senator from Texas has remarked, San Francisco is not the State of Cali-

fornia, nor is it the center of the Union. It is a great place, a prominent point, and one at which commerce concentrates. I am proud of it, and proud of her representatives.

Mr. BRODERICK. The population of the State is north of San Francisco.

Mr. GREEN. The population of the State may be. I say nothing against San Francisco; but if it be proper to designate San Francisco as the western terminus, take the most suitable point east, and designate it as the eastern terminus; or, if you say that it is wrong to designate any terminus, leave it an open question for the contractors and the executive department; leave it open on the west, and perhaps they may select San Diego, or some other port on the Pacific. But there is regard enough paid to San Francisco to say that she shall be a terminus; while on the east we say: "we will not designate the point, because we shall lose votes by so doing." Mr. President, I cannot subscribe to a doctrine like that. I intend to advocate this measure as a practicable measure, as one fraught with benefit to the State of Missouri, as one fraught with general benefit to the whole Union; but I will not undertake to decide either the South or the North. I shall go for what I believe to be right for all.

Mr. WILSON. The State I represent, Mr. President, is in favor of a Pacific railway. The sentiment of Massachusetts approaches unanimity on that subject. I have been, and now am, in favor of building a railway to the Pacific ocean. I have nothing, and I think the people I represent have nothing, of that sectional feeling that has been alluded to, in regard to its location, by the Senator from Georgia [Mr. IVERSON] and the Senator from Missouri, [Mr. GREEN.] The people I represent, sir, are a manufacturing and commercial people. They believe that a railway to the Pacific ocean is a national necessity. They are in favor of building a railroad as soon as it can be practically accomplished; and they are in favor of building it over the best route, whether it lies towards the north or the south; and whichever way it will go, they know it will contribute to the power and prosperity of our section of the Union—the great manufacturing and commercial section, where capital and business centers from all parts of our country. I assure Senators that the people of Massachusetts have none of the little, narrow, sectional feelings, which would exclude the South, or any portion of our common country, from the full benefits of the railway to our Pacific possessions. We welcome the completion of lines of railways in the West and in the South; and we have contributed more than our share of the capital employed in building those lines of railways, which bring together all sections of our country, facilitate and enlarge commerce, and develop the resources of the country.

But, sir, with these sentiments, I think it best to postpone this bill until December next; and I will state, very briefly, the reasons why I shall vote for the motion made by the Senator from Louisiana, [Mr. BENJAMIN.] In the first place, we have nothing very definite before us, nothing on which we can act understandingly in regard to the location of this road. There is a diversity of opinion in the Senate and in the country upon the subject; and before we can settle on the best route to the Pacific, there must be more knowledge, more examination, and more unanimity of sentiment and of interest. This is a stupendous undertaking. I believe that every dollar invested in a Pacific railroad, over any line, is to be sunk; and that not less than two hundred million dollars will have to be sunk to complete such a road. I believe further, that when such a road is completed, it will not pay running expenses for years. But the completion of a road across the continent will bind this country together, will be of incalculable benefit to commerce and manufactures, and to the development of the agricultural interests and power of the country. We can afford to sink \$200,000,000 to complete a road which will thus develop the resources and power of the whole nation, bind the country together with iron bands, and increase the sentiment of nationality.

If any man familiar with the railroad lines of this country, will examine the subject, he will find that the stock of these great railway lines, built through settled regions, connecting large commercial points, and having large way travel, are not worth, in the aggregate, fifty cents upon the dol-

lar. Take the great line from Portland, by way of Montreal, to Toronto; both the lines from Boston across Vermont, the Central and the Rutland lines; the Ogdensburg line; the lines from Boston to Buffalo, and westward; the Erie line; the line across Pennsylvania, from Philadelphia to Pittsburgh; the line from Baltimore to Wheeling; take the great lines of the West, the Michigan Central and Southern, the Illinois Central, and other lines, running through settled portions of the country, connecting the great commercial cities of the country; and they are not worth, in the aggregate, more than forty cents upon the dollar. Tens of millions of dollars have been sunk in these great lines of communication between important sections of the country—between great commercial cities, and over sections of the country well settled, giving vast amounts of way travel and freight. Sir, experience shows us that way passengers and freight are the main supports of lines of railroads. Over hundreds of miles of the Pacific railroad there can never be either way passengers or freight.

Railroads, Mr. President, are necessities, but millions of the money invested in them has been and will be sunk. We have invested more than nine hundred million dollars in railroads in this country, but it is not worth to-day more than three or four hundred million dollars; and yet the building of those lines of roads has increased the wealth and productive power of this country hundreds of millions of dollars. I believe the Pacific railroad will increase the productive power and wealth of the country millions and tens of millions, although I believe every dollar invested in making such a road will be lost to the stockholders, whether built by the Federal Government or by private enterprise. I do not believe in any of the visions that have been held up to the country, that ships are to come from Asia from China and the Indies and the isles of the Oriental seas, and land their precious cargoes at San Francisco, to be sent by railroad across the continent. The whole idea is ridiculous and absurd. Sir, the cost per ton would be from fifty to sixty dollars from San Francisco to Boston or New York; and do Senators think our fast sailing ships of this day, coming from Canton or Calcutta, could be drawn to San Francisco, and pay fifty dollars per ton freight, when it would not cost them ten dollars per ton more to go direct to the cities of the Atlantic?

Now, Mr. President, while I am in favor of this road, and in favor of its being built at the earliest moment, there is another objection to action at this time. Your Treasury is in no condition to undertake this, or any great undertaking. Your national Treasury is bankrupt. We borrowed \$20,000,000 in December last. I should not be surprised if we were called upon by the Secretary of the Treasury to borrow more before the 7th day of June next. When your Secretary of the Treasury sent in his annual report, it excited a smile on the face of every intelligent business man in America who read it. Sir, you will find that on the 1st of July, instead of having \$33,000,000 of revenue for the three last quarters of the fiscal year, you will get but little more than \$21,000,000. I tell you, sir, you are hastening on, increasing the expenditures; they are greater than at any period in our history. Your revenue is altogether inadequate to your expenditures. Instead of embarking at this moment in an undertaking of this magnitude, it belongs to this Government to husband its resources, to increase its sources of revenue, to curtail its expenditures. Every intelligent man in the country understands this, and sees the necessity of such action.

Now, sir, the Federal Government is in no condition to embark in this great undertaking. The people are not in a condition to embark in it any more than our Government. If you look over the country you will find we are just emerging from—coming out of—one of the most sweeping commercial convulsions that ever came upon any people. We are hardly out of it yet. Our manufactures, our commerce, all departments of trade, are now depressed. There is no active surplus, capital in the country to invest in this undertaking; there are no capitalists in the country, North or South, to take hold of it. We have \$900,000,000 invested in railroads, many of them unproductive, and they press with great force upon the business interests of the whole country. We have other great speculations and great undertakings that we entered into in the hour of our prosperity.

Instead of the Government and people embarking in new schemes now, the policy of the Government and people should be to husband our resources, concentrate our means, and put ourselves in a strong position. By so doing, in one or two years we shall be in a condition to enter on new undertakings and new expenditures. This is another reason why I think it best to put this bill over until December next. I think the intelligent, practical business men of the country, and the prudent public men of the country, will appreciate the force of this reason.

I do not believe there are any capitalists in this country to-day, from any section of the Union, North or South, with money to invest in this project. And if there be not, what will be the result of the passage of this bill at the present session? Men of capital—men who want to complete this great national undertaking—will not touch it, and the organization of this company will pass into the hands of a class of bankrupt hacks, commercial and political—men who have no money to invest in it—men who have no character to bring into the concern. Whenever we pass the Pacific railway bill, (and I hope we shall pass such a bill as soon as the country is in a condition to enter upon and to complete the work) we ought to have money in the national Treasury; we ought to be out of debt; we ought to be in the receipt of more than we expend, and invest that excess in this undertaking. The people ought to be out of debt. They ought to be in a sound condition, with a surplus to invest in the completion of this undertaking. Neither the Government nor the people are in that condition to-day. When that time comes you will find responsible men, men who enter on this undertaking comprehending its magnitude and its importance, practical business men, who go into this work to complete the road.

But, sir, pass this bill now, when your Government is in no condition to touch it, when the people have no capital to invest in it, and the organization of the company will, of course, pass into irresponsible hands, and the result will be that it will be in the hands of a class of men who will damn the whole concern. No responsible man will invest a dollar in it, or have anything to do with it. I say, sir, pass this bill in the present condition of the country, and the present condition of the capital of the country, and the people of the country and responsible men will not touch it, but irresponsible men will take it—men who have nothing to lose and everything to gain—and the result will be that the whole concern will be odious and unpopular, and nothing will be achieved towards completing this great national work.

Now, sir, looking to the condition of the Government, looking to the condition of the people of the country, looking to the difference existing everywhere in and out of Congress in regard to the location of the road, I think the motion made by the Senator from Louisiana that we lay it over until December next, a good one. When the national Treasury and the country shall be in a good condition, then we can take the question up and legislate intelligently on this subject. But I shall regard the passage of this bill at this time, instead of being something towards the building of this road, as putting a stumbling block and a hindrance to its completion, and that it will pass into the hands of an irresponsible, bankrupt class of men, who have neither money nor character, and who will ruin the whole enterprise. For these reasons, although I intend to give my support to the completion of a Pacific railroad, I shall vote to postpone this bill until December next.

MR. DOUGLAS. Mr. President, I have witnessed with deep regret the indications that this measure is to be defeated at the present session of Congress. I had hoped that this Congress would signalize itself by inaugurating the great measure of connecting the Mississippi valley with the Pacific ocean by a railroad. I had supposed that the people of the United States had decided that question at the last presidential election in a manner so emphatic as to leave no doubt that their will was to be carried into effect. I believe that all the presidential candidates at the last election were committed to the measure. All the presidential platforms sanctioned it as a part of their creed. I believe it is about the only measure on which there was entire unanimity; and it is a very curious fact that the measure which commanded universal approbation—the measure upon which all

parties united; a measure against which no man could be found, previous to the election, to raise his voice—should be the one that can receive no support, nor the cooperation of any one party, while disputed measures can occupy the whole time of Congress, and can be carried through successfully. I make no complaint of any political party, nor of any gentleman who opposes this bill; but it did strike me that it was a fact to be noticed, that a measure of this description, so long before the country, so well understood by the people, and receiving such universal sanction from them, should not be carried into effect. If the bill which has been devised by the committee is not the best that can be framed, let it be amended and modified until its objectionable features shall be removed. Let us not make a test question of this particular form of bill or that particular form; of this particular route or that particular route; of the benefits to this section or that section. If there is anything wrong in the details, in the form, in the construction of the bill, let the objectionable features be removed, and carry out the great object of a railroad communication between the Mississippi valley and the Pacific ocean.

Various objections have been raised to this bill, some referring to the route, involving sectional considerations; others to the form of the bill; others to the present time as inauspicious for the construction of such a railroad under any circumstances. Sir, I have examined this bill very carefully. I was a member of the committee that framed it, and I gave my cordial assent to the report. I am free to say that I think it is the best bill that has ever been reported to the Senate of the United States for the construction of a Pacific railroad. I say this with great disinterestedness, for I have heretofore reported several myself, and I believe I have invariably been a member of the committees that have reported such bills. I am glad to find that we have progressed to such an extent as to be able to improve on the former bills that have, from time to time, been brought before the Senate of the United States. This may not be perfect. It is difficult to make human legislation entirely perfect; at any rate, to so construct it as to bring about an entire unanimity of opinion upon a question that involves, to some extent, selfish, sectional, and partisan considerations. But, sir, I think this bill is fair. First, it is fair in the location of the route, as between the different sections. The termini are fixed. Then the route between the termini is to be left to the contractors and owners of the road, who are to put their capital into it, and, for weal or for woe, are to be responsible for its management.

What is the objection to these termini? San Francisco, upon the Pacific, is not only central, but it is the great commercial mart, the great concentrating point, the great entrepot for the commerce of the Pacific, not only in the present, but in the future. And that point was selected as the western terminus for the reason that there seemed to be a unanimous sentiment, that whatever might be the starting point on the east, the system would not be complete until it should reach the city of San Francisco on the west. I suggested myself, in the committee, the selection of that very point; not that I had any objection to other points; not that I was any more friendly to San Francisco and her inhabitants than to any other port on the Pacific; but because I believed that to be the commanding port, the large city where trade concentrates, and its position indicated it as the proper terminus on the Pacific ocean.

Then, in regard to the eastern terminus, a point on the Missouri river is selected, for various reasons. One is, that it is central as between the North and South—as nearly central as could be selected. It was necessary to commence on the Missouri river, if you were going to take a central route, in order that the starting point might connect with navigation, so that you might reach it by boats, in carrying your iron, your supplies, and your materials, for the commencement and the construction of the road. It was essential that you should commence at a point of navigation so that you could connect with the sea-board. If you start it at a point back in the interior five hundred or a thousand miles, as it is proposed, at El Paso, from the navigable waters of the Mississippi, it would cost you more money to carry the iron, provisions, supplies, and men to that starting point, than it would to make a road from the Mis-

Mississippi to the starting point, in order to begin your road. In that case it would be a matter of economy to make a road to your starting point in order to begin. Hence, in my opinion, it would be an act of folly to think of starting a railroad to the Pacific at a point eight hundred or a thousand miles in the interior, away from any connection with navigable water, or with other railroads already in existence.

For these reasons we agreed in the bill to commence on the Missouri river. When you indicate that river, a little diversity of opinion arises as to what point on the river shall be selected. There are various respectable, thriving towns on either bank of the river, each of which thinks it is the exact position where the road ought to commence. I suppose that Kansas City, Wyandott, Weston, Leavenworth, Atchison, Platte's Mouth City, Omaha, De Soto, Sioux City, and various other towns whose names have not become familiar to us, and have found no resting place on the map, each thinks that it has the exact place where the road should begin. Well, sir, I do not desire to have any preference between these towns; either of them would suit me very well; and we leave it to the contractors to say which shall be the one. We leave the exact eastern terminus open, for the reason that the public interests will be substantially as well served by the selection of the one as the other. It is not so at the western terminus. San Francisco does not occupy that relation to the towns on the Pacific coast that these little towns on the Missouri river do to the country east of the Missouri. The public have no material interest in the question whether it shall start at the mouth of the Kansas, at Weston, at Leavenworth, at St. Joseph, at Platte's Mouth, or at Sioux City. Either connects with the great lines; either would be substantially central as between north and south. So far as I am concerned, I should not care a sixpence which of those towns was selected as the starting point, because they start there upon a plain that stretches for eight hundred miles, and can connect with the whole railroad system of the country. You can go directly west. You can bend to the north and connect with the northern roads, or bend to the south and connect with the southern roads.

The Senator from Georgia [Mr. Iverson] would be satisfied, as I understand, with the termini, if we had selected one intermediate point, so as to indicate the route that should be taken between the termini. I understand that he would be satisfied if we should indicate that it should go south of Santa Fe, so as to include as the probable route the Albuquerque route, or the one on the thirty-fifth parallel, or the one south of it. Sir, I am free to say that, individually, I should have no objection to the route indicated by the Senator from Georgia. I have great faith that the Albuquerque route is an exceedingly favorable one; favorable in its grades, in the shortness of its distances, in its climate, the absence of deep snow, and in the topography of the country. While it avoids very steep grades, it furnishes perhaps as much of grass, of timber, of water, of materials necessary for the construction and repair of the road, if not more than any other route. As a northern man, living upon the great line of the lakes, you cannot indicate a route that I think would subserve our interests, and the great interests of this country, better than that; yet, if I expressed the opinion that the line ought to go on that route between the termini, some other man would say it ought to go on Governor Stevens's extreme northern route; some one else would say it ought to go on the South Pass route; and we should divide the friends of the measure as to the point at which the road should pass the mountains—whether at the extreme north, at the center, the Albuquerque route, or the further southern one down in Arizona—and we should be unable to decide between ourselves which was best.

I have sometimes thought that the extreme northern route, known as the Stevens' route, was the best, as furnishing better grass, more timber, more water, more of those elements necessary in constructing, repairing, operating, and maintaining a road, than any other. I think now that the preference, merely upon routes, is between the northern or Stevens' route on the one side, and the Albuquerque route on the other. Still, as I never expect to put a dollar of money into the road, as I never expect to have any agency or connection

with or interest in it, I am willing to leave the selection of the route between the termini to those who are to put their fortunes, and connect their character, with the road, and to be responsible, in the most tender of all points, if they make a mistake in the selection. But for these considerations, I should have cheerfully yielded to the suggestion of the Senator from Georgia, to fix the crossing point on the Rio Grande river.

But, sir, I am unwilling to lose this great measure merely because of a difference of opinion as to what shall be the pass selected in the Rocky Mountains through which the road shall run. I believe it is a great national measure. I believe it is the greatest practical measure now pending before the country. I believe that we have arrived at that period in our history when our great substantial interests require it. The interests of commerce, the great interests of travel and communication—those still greater interests that bind the Union together, and are to make and preserve the continent as one and indivisible—all demand that this road shall be commenced, prosecuted, and completed, at the earliest practicable moment.

I am unwilling to postpone the bill until next December. I have seen these postponements from session to session, for the last eight or ten years, with the confident assurance every year that at the next session we should have abundance of time to take up the bill and act upon it. Sir, will you be better prepared at the next session than now? We have now the whole summer before us, drawing our pay, and proposing to perform no service. Next December you will have but ninety days, with all the unfinished business left over, your appropriation bills on hand, and not only the regular bills, but the new deficiency bill; and you will postpone this measure again, for the want of time to consider it then. I think, sir, we had better grapple with the difficulties that surround this question now, when it is fairly before us, when we have time to consider it, and when I think we can act upon it as dispassionately, as calmly, as wisely, as we shall ever be able to do.

I have been sorry to see the question of sectional advantages brought into this discussion. If you are to have but one road, fairness and justice would plainly indicate that that one should be located as near the center as practicable. The Missouri river is as near the center and the line of this road is as near as it can be made; and if there is but one to be made, the route now indicated, in my opinion, is fair, is just, and ought to be taken. I have heretofore been of the opinion that we ought to have three roads: one in the center, one in the extreme south, and one in the extreme north. If I thought we could carry the three, and could execute them in any reasonable time, I would now adhere to that policy and prefer it; but I have seen enough here during this session of Congress to satisfy me that but one can pass, and to ask for three at this time is to lose the whole. Believing that that is the temper, that that is the feeling, and I will say, the judgment, of the members of both Houses of Congress, I prefer to take one road rather than to lose all in the vain attempt to get three. If there were to be three, of course the one indicated in this bill would be the central; one would be north of it, and another south of it. But if there is to be but one, the central one should be taken; for the north, by bending a little down south, can join it; and the south, by leaning a little to the north, can unite with it too; and our southern friends ought to be able to bend and lean a little, as well as to require us to bend and lean all the time, in order to join them. The central position is the just one, if there is to be but one road. The concession should be as much on the one side as on the other. I am ready to meet gentlemen half way on every question that does not violate principle, and they ought not to ask us to meet them more than half way where there is no principle involved, and nothing but expediency.

Then, sir, why not unite upon this bill? We are told it is going to involve the Government of the United States in countless millions of expenditure. How is that? Certainly not under this bill, not by authority of this bill, not without violating this bill. The bill under consideration provides that when a section of the road shall be made, the Government may advance a portion of the lands, and \$12,500 per mile in bonds on the section thus made, in order to aid in the construction of the next, holding a lien upon the road for the re-

funding of the money thus advanced. Under this bill it is not possible that the contractors can ever obtain more than \$12,500 per mile on each mile of the road that is completed. It is, therefore, very easy to compute the cost to the Government. Take the length of the road in miles, and multiply it by \$12,500, and you have the cost. If you make the computation, you will find it will come to a fraction over twenty million dollars. The limitation in the bill is, that in no event shall it exceed \$25,000,000. Therefore, by the terms of the bill, the undertaking of the Government is confined to \$25,000,000; and, by the calculation, it will be less than that sum. Is that a sum that would bankrupt the Treasury of the United States?

I predict to you now, sir, that the Mormon campaign has cost, and has led to engagements and undertakings that, when redeemed, will cost more than twenty-five million dollars, if not double that sum. During the last six months, on account of the Mormon rebellion, expenses have been paid, and undertakings have been assumed, which will cost this Government more than the total expenditure which can possibly be made in conformity with the provisions of this bill. If you had had this railroad made you would have saved the whole cost which the Government is to advance in this little Mormon war alone. If you have a general Indian war in the mountains, it will cost you twice the amount called for by this bill. If you should have a war with a European Power, the construction of this road would save twenty-fold its cost in the transportation of troops and munitions of war to the Pacific ocean, in carrying on your operations.

In an economical point of view, I look upon it as a wise measure. It is one of economy as a war measure alone, or as a peace measure for the purpose of preventing a war. Whether viewed as a war measure, to enable you to check rebellion in a Territory, or hostilities with the Indians, or to carry on vigorously a war with a European Power, or viewed as a peace measure, it is a wise policy, dictated by every consideration of public convenience and public good.

Again, sir, in carrying the mails, it is an economical measure. As the Senator from Georgia has demonstrated, the cost of carrying the mails alone to the Pacific ocean for thirty years, under the present contracts, is double the amount of the whole expenditure under this bill for the same time in the construction and working of the road. In the transportation of mails, then, it would save twice its cost. The transportation of Army and Navy supplies would swell the amount three or four-fold. How many years will it be before the Government will receive back, in transportation, the whole cost of this advance of aid in the construction of the road?

But, sir, some gentlemen think it is an unsound policy leading to the doctrine of internal improvements by the Federal Government within the different States of the Union. We are told we must confine the road to the limits of the Territories, and not extend it into the States, because it is supposed that entering a State with this contract violates some great principle of State rights. Mr. President, the committee considered that proposition, and they avoided that objection, in the estimation of the most strict, rigid, tight-laced State-rights men that we have in the body. We struck out the provision in the bill first drawn, that the President should contract for the construction of a railroad from the Missouri river to the Pacific ocean; and followed an example that we found on the statute-book, for carrying the mails from Alexandria to Richmond, Virginia—an act passed about the time when the resolutions of 1798 were passed, and the report of 1799 was adopted—an act that we thought came exactly within the spirit of those resolutions. That act, according to my recollection, was, that the Department be authorized to contract for the transportation of the United States mail by four horse post-coaches, with closed backs, so as to protect it from the weather and rain, from Alexandria to Richmond, in the State of Virginia. It occurred to this committee that if it had been the custom, from the beginning of this Government to this day, to make contracts for the transportation of the mails in four horse post-coaches, built in a particular manner, and the contractor left to furnish his own coaches and his own horses, and his own means of transportation, we

might make a similar contract for the transportation of the mails by railroad from one point to another, leaving the contractor to make his own railroad, and furnish his own cars, and comply with the terms of the contract.

There is nothing in this bill that violates any one principle which has prevailed in every mail contract that has been made, from the days of Dr. Franklin down to the elevation of James Buchanan to the Presidency. Every contract for carrying the mail by horse, from such a point to such a point, in saddle-bags, involves the same principle. Every contract for carrying it from such a point to such a point in two horse hacks, with a covering to protect it from the storm, covers the same principle. Every contract to carry it from such a point to such a point in four horse coaches of a particular description, involves the same principle. You contracted to carry the mails from New York to Liverpool in ships of two thousand tons each, to be constructed according to a model prescribed by the Navy Department, leaving the contractor to furnish his own ships, and receive so much pay. That involves the same principle.

You have, therefore, carried out the principle of this bill in every contract you have ever had for mails, whether it be upon the land or upon the water. In every mail contract you have had, you have carried out the identical principle involved in this bill—simply the right to contract for the transportation of the United States mails, troops, munitions of war, Army and Navy supplies, at fair prices, in the manner you prescribed, leaving the contracting party to furnish the mode of transportation. That is all there is in it. I do not see how it can violate any party creed, how it can violate any principle of State rights, how it can interfere with any man's conscientious scruples. Then, sir, where is the objection?

If you look on this as a measure of economy and a commercial measure, the argument is all in favor of the bill. It is true, the Senator from Massachusetts has suggested that it is idle to suppose that the trade of China is to center in San Francisco, and then pay sixty dollars a ton for transportation across the continent by a railroad to Boston. It was very natural that he should indicate Boston, as my friend from Georgia might, perhaps, have thought of Savannah, or my friend from South Carolina might have indicated Charleston, or the Senator from Louisiana might have indicated New Orleans. But I, living at the head of the great lakes, would have made the computation from Chicago, and my friend from Missouri would have thought it would have been very well, perhaps, to take it from the State of Missouri. When you are making this computation, I respectfully submit you must make the calculation from the sea-board to the center of the continent, and not charge transportation all the way from the Atlantic to the Pacific; for suppose you do not construct this road, and these goods come by ship from Boston, it will cost something to take them by railroad from there to Chicago, and a little more to take them by railroad to the Missouri river, half-way back to San Francisco again. If you select the center of the continent, the great heart and center of the Republic—the Mississippi valley—as the point at which you are to concentrate your trade, and from which it is to diverge, you will find that the transportation to it by railroad would not be much greater from San Francisco than from Boston. It would be nearly the same from the Pacific that it is from the Atlantic; and the calculation must be made in that point of view. There is the center of consumption, and the center of those great products that are sent abroad in all quarters to pay for articles imported. The center of production, the center of consumption, the future center of the population of the continent, is the point to which, and from which, your calculation should be made.

Then, sir, if it costs sixty dollars per ton for transportation from San Francisco to Boston by railroad, half-way you may say it will cost thirty dollars a ton. The result, then, of coming from San Francisco to the center by railroad, would be to save transportation by ship from San Francisco to Boston, in addition to the railroad transportation into the interior.

But, sir, I dissent from a portion of the gentleman's argument, so far as it relates to transportation even from San Francisco to Boston. I admit that heavy articles of cheap value and great

bulk, would go by ship; that being the cheapest mode of communication; but light articles, costly articles, expensive articles, those demanded immediately, and subject to decay from long voyages and delays, would come directly across by railroad, and what you would save in time would be more than the extra expense of the transportation. You must add to that the risk of the tropics, which destroys many articles, and that process which is necessary to be gone through with to prepare articles for the sea-voyage, is to be taken into the account. I have had occasion to witness that defect in one article of beverage very familiar to you all. Let any man take one cup of tea that came from China to Russia overland, without passing twice under the equator, and he will never be reconciled to a cup of tea that has passed under the equator. The genuine article, that has not been manipulated and prepared to pass under the equator, is worth ten to one that which we receive here. Preparation is necessary to enable it to pass under the tropics, and the long, damp voyage makes as much difference in the article of tea as the difference between a green apple and a dried apple, green corn and dried corn, sent abroad. So you will find it to be with fruits; so it will be with all the expensive and precious articles, and especially those liable to decay and to injury, either by exposure to a tropical climate, or to the moisture of a long sea-voyage.

Then, sir, in a commercial point of view, this road will be of vast importance. There is another consideration that I will allude to for a moment. It will extend our trade more than any other measure that you can devise, certainly more than any one that you now have in contemplation. The people are all anxious for the annexation of Cuba so soon as it can be obtained on fair and honorable terms—and why? In order to get the small, pitiful trade of that island. We all talk about the great importance of Central America, in order to extend our commerce; it is valuable to the extent it goes. But Cuba, Central America, and all the islands surrounding them, put together, are not a thousandth part of the value of the great East India trade that would be drawn first to our western coast, and then across to the valley of the Mississippi, if this railroad be constructed. Sir, if we intend to extend our commerce; if we intend to make the great ports of the world tributary to our wealth, we must prosecute our trade eastward or westward, as you please; we must penetrate the Pacific, its islands, and its continent, where the great mass of the human family reside, where the articles that have built up the powerful nations of the world have always come from. That is the direction in which we should look for the expansion of our commerce and of our trade. That is the direction our public policy should take—a direction that is facilitated by the great work now proposed to be made.

I care not whether you look at it in a commercial point of view, as a matter of administrative economy at home, as a question of military defense, or in reference to the building up of the national wealth, and power, and glory; it is the great measure of the age—a measure, that in my opinion has been postponed too long—and I frankly confess to you, that I regard the postponement to next December to mean, till after the next presidential election. No man hopes or expects, when you have not time to pass it in the early spring, at the long session, that you are going to consider it at the short session. When you come here at the next session, the objection will be that you must not bring forward a measure of this magnitude, because it will affect the political relations of parties, and it will be postponed then, as it was two years ago, to give the glory to the incoming Administration, each party probably thinking that it would have the honor of carrying out the measure. Hence, sir, I regard the proposition of postponement till December, to mean till after the election of 1860.

I desire to see all the pledges made in the last contest redeemed during this term, and let the next President, and the parties under him, redeem the pledges and obligations assumed during the next campaign. The people of all parties at the last presidential election decreed that this road was to be made. The question is now before us. We have time to consider it. We have all the means necessary, as much now as we can have

at any other time. The Senator from Massachusetts intimates that the Treasury being bankrupt now, we cannot afford the money. That Senator also remarked that we were just emerging from a severe commercial crisis—a great commercial revulsion—which had carried bankruptcy in its train. If we have just emerged from it, if we have passed it, this is the very time of all others when a great enterprise should be begun. It might have been argued when we saw that crisis coming, before it reached us, that we should furl our sails, and trim our ship for the approaching storm; but when it has exhausted its rage, when all the mischief has been done that could be inflicted, when the bright sun of day is breaking forth, when the sea is becoming calm, and there is but little visible of the past tempest, when the nausea of sea-sickness is succeeded by joyous exhilaration, inspired by the hope of a fair voyage, let men feel elated and be ready to commence a great work like this, so as to complete it before another commercial crisis or revulsion shall come upon us.

Sir, if you pass this bill no money can be expended under it until one section of the road has been made. The surveys must be completed, the route must be located, the land set aside and surveyed, and a section of the road made before a dollar can be drawn from the Treasury. If you pass the bill now, it cannot make any drain on the Treasury for at least two years to come; and who doubts that all the effects of the late crisis will have passed away before the expiration of those two years?

Mr. President, this is the auspicious time, either with a view to the interests of the country, or to that stagnation which exists between political parties which is calculated to make it a measure of the country rather than a partisan measure, or to the commercial and monetary affairs of the nation, or with reference to the future. Look upon it in any point of view, now is the time; and I am glad that the Senator from Louisiana has indicated, as I am told he has, that the motion for postponement is a test question; for I confess I shall regard it as a test vote on a Pacific railroad during this term, whatever it may be in the future. I hope that we shall pass the bill now.

Mr. BELL. I have said so much, Mr. President, on this subject at former sessions, that I do not propose to detain the Senate at present.

Mr. SEWARD. I hope the honorable Senator will give way, and I will make a motion to adjourn.

Mr. BELL. I do not wish it on my account.

Mr. SEWARD. With the leave of the honorable Senator from Tennessee, I move that the Senate adjourn.

Mr. HALE called for the yeas and nays on the motion; and they were ordered; and being taken, resulted—yeas 19, nays 29; as follows:

YEAS—Messrs. Allen, Bell, Biggs, Chandler, Clark, Clay, Dixon, Evans, Fitzpatrick, Foot, Hamlin, Harlan, Johnson of Arkansas, Kennedy, King, Seward, Simmons, Trumbull, and Wade—19.

NAYS—Messrs. Bayard, Benjamin, Bigler, Bright, Broderrick, Brown, Collamer, Doolittle, Douglas, Fessenden, Fitch, Green, Gwin, Hale, Henderson, Houston, Hunter, Iverson, Johnson of Tennessee, Mason, Pearce, Polk, Pugh, Sebastian, Sillidell, Stuart, Thomson of New Jersey, Wilson, and Wright—29.

So the Senate refused to adjourn.

Mr. BELL. I was remarking, sir, that I had expressed my sentiments so often heretofore on this subject that I should not detain the Senate by going into any expression of them now. I desire merely to say that I have not changed the opinions I have so often expressed as to the importance of this measure, whether regarded in an economical view, or as a means of advancing the great interests of the country, and its foreign and domestic trade and commerce. Looking at it in an economical point of view, if the Government of this Union means to perform its obligations in the protection of our advancing settlements in the gorges of the Rocky Mountains, and in the intermediate space between the Rocky Mountains and the Sierra Nevada, and on the Pacific coast, in the event of a war with any great maritime Power, and if it means to perform its duties in affording mail communications between the Atlantic and our settlements on the Pacific, I think that even if it should cost a hundred millions, or a hundred and fifty, or two hundred millions, it would still promote the economical administration of this Government. If we mean to hold pos-

session of the States and Territories on the Pacific, it can scarcely be done for four or five times the cost which this Government would have to expend in the construction of this road. I mean, that the annual interest which would have to be paid on any debt this Government might incur for such purposes, would be several times greater than the interest on the advances proposed to be made by the Government to aid in the construction of this road.

Fearing, lest if the bill should now be postponed, and placed beyond the power of the Senate during the rest of the session, it might be supposed, from my silence, that I had changed my former opinions, I rose simply for the purpose of stating that I adhere to them. I think the bill is a great measure of public policy in connection with the discharge of the duties of this Government in the protection of an interior frontier, which is both a western and an eastern frontier, and in connection with other great questions concerning the progress of this country, its advance in wealth, power, and trade. I desired to add a further remark or two in reference to this particular bill. I do not concur in the idea that its provisions are particularly fair in reference to the different sections of the Union. I am aware the representatives of any particular locality can hardly have the eastern terminus of such a road as this at a point which would be most promotive of their immediate interests; but, in my advocacy of this road, I go upon the great catholic idea, as I hope that its benefits will redound to every section of the Union, wherever its eastern terminus may be, or wherever the western terminus may be, provided it be on the Pacific ocean, still, I think it is the duty of members here, so far as it can be effected by appeals to the judgment, the reason, the equity, and the justice of the representatives of other sections, to have it located in such manner as to diffuse its benefits as widely as possible, and equalize them as far as possible. I think that fixing the eastern terminus at a point between Sioux City and the mouth of the Kansas, in the mode provided in this bill, does not do justice to the southwestern range of States and Territories. I am not sure that it is altogether just to the middle section; but it is more just to them than to the South and Southwest. It is a very large departure from a medium line. If the terminus should be upon a line with St. Louis or Cairo, it would offer greater equality, both to the North and the South than probably any other point which might be indicated, and I do not see any insuperable objection to the location of the eastern terminus upon that line of latitude, whatever route may finally be adopted in passing the Sierra Nevada. I trust that, in the further discussion of this bill, it can be shown, to the satisfaction of many gentlemen not satisfied with the location proposed in the bill, that an intermediate line may be selected.

If I had time, I should like to bring to the notice of the Senate a few views as to the practicability of the scheme; for that seems to be the great difficulty, the insurmountable barrier in the minds of many gentlemen. I understand that a road is being constructed through Texas, for which that State has granted a large amount of public lands; and a connection from the terminus of that road to the Pacific would perhaps be attended with the least expense to the Government, and its construction would answer all great national purposes; for, I repeat, wherever you locate the terminus, the western frontier and all the Atlantic States will receive some portion of the benefit. Of course, that section which has the terminus located within its own limits would have greater facilities, but the advantages would redound from the extreme north to the extreme south, and you could not prevent it.

But again, sir, the shortest route undoubtedly lies on the parallel of 35° north latitude. Any gentleman who will look into the information that has been spread before the country by the various explorations of our skillful officers, under the direction and authority of Congress, and will concentrate and digest the various reports, will find that that offers the shortest route, at all events, and, in my judgment, on the whole, the most practicable. On that route there is not more than seventeen hundred miles from our western border to where you strike the Pacific coast, at the lower part of California, at San Pedro or Los Angeles, from whence to San Francisco a

practical route exists, as we all know, on which a road could be constructed by the authority of the State of California, with our aid in land. I desire to offer an amendment to this bill, with reference to this route, to test the sense of the Senate upon it. I trust that I shall have an opportunity to do so.

Why should we postpone the bill until next December, and thus remove this question from us? It is said we have not time to consider it now. As the honorable Senator from Illinois has well asked, when shall we have more time to discuss and consider this question than we have now? We have bound ourselves by a voluntary vote of restriction; but that can be rescinded, if it is our pleasure to extend the time of the session, with a view to discuss, consider, and dispose of a great measure of this kind. I do not mean to enlarge on its importance, but I think it is of public importance and public utility that such a question as this should be discussed here. We want to lay additional information before the country. To be sure, a great deal has been gleaned by these various explorations, and their reports have been printed; but this is the center, from which practical, effective information reaches the country. It is through the debates of Congress. If we could only discuss this question some seven or eight days, or even three or four days, more than it has already been discussed, it would be of some importance. It is of importance to keep the question alive before the people of the country, according to my view.

We have as much time now as we are ever likely to have. I do not know what may be the motives of gentlemen in favoring a postponement. The honorable Senator from Illinois suggests that it is to lie over until another presidential contest. I hope that is not meditated. I know it is said that the Treasury is now in such a state that a measure of this kind should not be contemplated; but the fact is, that the bill does not propose to appropriate a cent of money from the Treasury. We can incur an expense of twenty or thirty, or it may be of forty million dollars, by an Executive internal war, undertaken without the authority or consent of Congress; but we are reminded of the exhausted condition of the Treasury when it is only proposed that, after the lapse of two or three years, bonds shall be issued according to the progress of the construction of the road, which bonds are to be refunded in service for the Government. I think there is really nothing of substance in the objection as to the present condition of the Treasury, unless we are to suppose that the trade and commerce and business enterprises of the country are never to revive from the severity of the late revulsion.

Other subjects have engrossed the attention of both Houses of Congress to such an extent that this has been excluded from our minds, and has not occupied that space to which its magnitude entitles it; but have we no hope that within a very short period we shall be relieved from the pressure of other questions that are more pressing, if not more important than the present? I trust there is such a hope. I trust that within a very short time we shall have a termination of that difficulty which has stood in the way of all practical legislation.

I say then, Mr. President, there is nothing in the argument drawn from the depressed condition of the Treasury, nor is there anything in the argument that we shall have more leisure at the next session. If we shall not be pressed then (as I hope we shall not be) by the same question which has so exclusively engaged our attention at the present session, there are always enough matters to occupy a short session. Perhaps the condition of the Treasury may require almost our exclusive attention at the next session. I do not hear gentlemen intimate that they desire to occupy the remainder of this session with the discussion of some great financial measure, to relieve permanently the wants of the Treasury; but all the information I have from gentlemen who ought to know better than I do the views of the Government and the majority here, satisfies me that they do not propose to give any serious attention to that subject at this session. That must be postponed to the next session.

But, Mr. President, I shall not detain the Senate longer. I have said more than I intended to say when I rose. My object merely was to have

it understood that I have not changed my position in relation to this measure. I think there is nothing in the arguments which have been urged in favor of its postponement, and I shall vote against that motion.

Mr. KING. If this bill were presented for its final passage, in the form in which the committee have reported it, I think I should vote against it; but I am not prepared, by a vote to postpone the bill, to indicate an opinion decidedly against the construction of such a road. We must have a road connecting the Pacific and the Atlantic States, and in some way it must be constructed. I regard the propriety of the Federal Government interfering with it as a matter allowing of some doubt, and yet still I know of no other mode in which such a road can be constructed but by the rendition of some aid to it by the Federal Government.

There is one feature in this bill to which I object, and that is the large appropriation of public lands for the proposed road. I am opposed to the great monopoly of landed interest which the immense grants to railroads have produced in this country. I have voted against them heretofore, and I am favorable to the bill which has been introduced by the Senator from Tennessee, [Mr. JOHNSON,] and by other Senators, to give homesteads to actual settlers. I think that is about the best disposition we can make of the public lands. I should have preferred, if we could have done so, to have retained the public lands for sale under the established land system of the country; but I am satisfied that cannot be done much longer; and without designing to indicate any opinion—indeed, with the intention of reserving an opinion as to the propriety of voting for any Pacific railroad bill which may be presented at this session—I shall vote against the indefinite postponement, because I am not willing to give it the go-by in that way.

Mr. BENJAMIN. I have been requested by the Senator from Iowa [Mr. JONES] to state that he has paired off with the Senator from Georgia, [Mr. TOOMBS.]

The question being taken by yeas and nays, resulted—yeas 25, nays 22; as follows:

YEAS—Messrs. Bayard, Benjamin, Biggs, Brown, Clark, Clay, Collamer, Dixon, Evans, Fessenden, Fitzpatrick, Hale, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mason, Pearce, Sebastian, Sidel, Thomson of New Jersey, Wade, and Wilson—25.

NAYS—Messrs. Allen, Bell, Bigler, Bright, Broderick, Chandler, Doolittle, Douglas, Fitch, Foot, Green, Gwin, Henderson, Kennedy, King, Polk, Pugh, Seward, Simmons, Stuart, Trumbull, and Wright—22.

So the further consideration of the bill was postponed until the first Monday of December next.

On motion of Mr. JOHNSON, of Arkansas,
The Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, April 17, 1858.

The House met at twelve o'clock, m. Prayer by Rev. GEORGE W. COOMBS.

The Journal of yesterday was read and approved.

The SPEAKER stated that reports were in order on private business from the Committee of Elections.

Mr. HOUSTON. I ask unanimous consent to offer a resolution calling for information necessary to a proper understanding of a bill of a private nature.

Mr. CLINGMAN. I call for the regular order of business.

Mr. JOHN COCHRANE. I move that the House resolve itself into a Committee of the Whole on the Private Calendar.

Mr. CLINGMAN. Oh, let us allow the committees to report private bills.

Mr. REAGAN. I have a bill of which previous notice has been given, which I desire to introduce for reference only.

Mr. DAVIS, of Indiana. I object to anything out of order.

Mr. JOHN COCHRANE. Upon applications made to me I withdraw the motion to go into committee.

Mr. DAVIDSON. I renew it.

Mr. WALBRIDGE. All the committees have private bills to report, and I hope an hour will be devoted to that purpose.

Mr. DAVIDSON withdrew his motion.

JAMES B. STEADMAN.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to report back a memorial referred by mistake to the Committee of Ways and Means.

Mr. CLINGMAN. I am sorry to interrupt the gentleman, but I have called for the regular order of business, and I want to treat all gentlemen alike.

Mr. J. GLANCY JONES. It is a matter which requires prompt action, and which was referred to the Committee of Ways and Means by mistake.

Mr. CLINGMAN. I withdraw my objection. On motion of Mr. J. GLANCY JONES, it was Ordered, That the Committee of Ways and Means be discharged from the further consideration of the memorial of James B. Steadman, and that the same be referred to the Committee on Printing.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, bills of the following titles:

An act (S. No. 167) for the relief of the owners of the bark Attica, of Portland, Maine; and
An act (S. No. 51) to authorize a register to be issued to the steamer Fearless.

When the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKY, their Chief Clerk, notifying the House that the Senate had passed bills of the following titles:

An act (S. No. 197) providing for the arrest and return of fugitives from justice to the District of Columbia;

An act (S. No. 78) to authorize the Secretary of the Interior to issue land warrants to Joseph Chase, James Young, and Alexander Keef;

An act (S. No. 101) for the relief of Mrs. Agatha O'Brien, widow of Brevet Major J. P. J. O'Brien, late of the United States Navy;

An act (S. No. 102) for the relief of Thomas Phoenix, Jr.;

An act (S. No. 118) for the relief of John Scott, Hill W. House, and Samuel A. House;

An act (S. No. 127) to repeal the fifth section of an act entitled "An act to authorize the register, or enrollment and license, to be issued in the name of the president or secretary of any incorporated company owning a steamboat or vessel," approved March 3, 1825;

An act (S. No. 129) to provide for the final settlement of the land claim of the heirs of Jehu Underwood in Florida;

An act (S. No. 152) to incorporate the Washington National Monument Society;

An act (S. No. 160) for the relief of Thomas J. Page;

An act (S. No. 247) to amend an act entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," passed February 18, 1793;

In which he was requested to ask the concurrence of the House.

COMMITTEES DISCHARGED.

On motion of Mr. DOWDELL, it was

Ordered, That the Committee of Ways and Means be discharged from the further consideration of the memorial of M. B. Jones, late collector of customs at Wilmington, North Carolina, and of the petition of David G. Burnett, and that the same be referred, the first to the Committee of Claims, and the second to the Committee on Military Affairs.

On motion of Mr. COMINS, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of Ludlow Franklin and others, of Gloucester, Massachusetts, and that the same be laid upon the table.

TOWNSHIP LANDS IN INDIANA.

Mr. DAVIS, of Indiana, from the Committee on Public Lands, reported a bill for the relief of congressional township No. 27 north, of range six east, in Wabash county, in the State of Indiana; which was read a first and second time.

The bill authorizes the auditor of the county of Wabash to enter, in his own official name, five hundred and fifty-seven and ninety-one hundredths acres in legal sub-divisions of any lands of the United States, subject to private entry at the minimum price of \$1 25 per acre for the benefit of said township, in lieu of a deficit in the quantity of school lands belonging to said township.

Mr. DAVIS, of Indiana. I desire to have this bill put upon its passage, and I ask for the reading of the report of the committee, and move the previous question.

The report was read.

Mr. DAVIS, of Indiana. I desire to say a few words in relation to this bill. I will take up only a few minutes of the time of the House, as there cannot be any objection to the bill. It appears, by the petition and by the evidence before the committee, that section sixteen, of township No. 27, north of range six east, in Wabash county, Indiana, was deficient in quantity to the extent of five hundred and fifty-seven and ninety-one hundredths acres, on account of Indian locations or reservations. By an act of Congress, of 1826, each congressional township is authorized to make up any deficiency covered by Indian reservations or locations, or otherwise. They are confined; however, to the land districts to make their selections to supply deficiencies. In this case, on two several occasions, these selections were made by the proper authorities of the county of Wabash. They were sent to the Secretary of the Interior, and were set aside by him, because these selections were covered by locations of the Wabash and Erie Canal, or by private claims. Now, there are but one hundred and five acres of public land within that district, and they are totally worthless, consisting of islands of four and five acres each.

Now, sir, this bill authorizes this congressional township, to the extent of five hundred and fifty-seven acres, to be located upon any lands of the United States, subject to private entry at the minimum price of \$1 25 per acre, for the purpose of supplying this deficiency. It is asked upon the ground that there are no lands within that land district worth anything.

Mr. BURNETT. Will it be in order to move that the bill be referred to the Committee of the Whole on the state of the Union?

The SPEAKER. Not pending the previous question.

Mr. BURNETT. It should be done. Neither the bill nor report has been printed, and we are required to vote upon it without knowing anything about it.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the bill was ordered to be engrossed and read a third time; and being engrossed, was accordingly read the third time.

Mr. DAVIS, of Indiana, demanded the previous question upon the passage of the bill.

Mr. JONES, of Tennessee. I wish to make one inquiry of the gentleman from Indiana. Does this bill authorize that township to be located on land in some other part of the country, outside of that district?

Mr. WASHBURN, of Illinois. Is this debate in order?

The SPEAKER. It is not.

Mr. BURNETT. That is the provision of the bill.

Mr. JONES, of Tennessee. Then I object to it. There is no precedent for it; and I call the yeas and nays on the passage of the bill.

Mr. DAVIS, of Indiana. The gentleman says there is no precedent. I say there is a precedent. The yeas and nays were not ordered.

Mr. JONES, of Tennessee. I move that the bill be laid upon the table.

The motion was not agreed to.

The previous question was then seconded, and the main question ordered to be put; and, under the operation thereof, the bill was passed.

Mr. DAVIS, of Indiana, moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DISCHARGE OF COMMITTEE.

On motion of Mr. WALBRIDGE, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of the following petitions, and that the same be referred to the Committee of Claims:

The petition of Charles James Lawrence, asking compensation for clerk hire and office rent;

The petition of E. Yulee, asking compensation for extra clerk hire in the land office at Olympia; and

The petition of John Biddle and Jonathan Kearsley, praying certain allowances to reimburse them for moneys paid for services of clerks in the land office at Detroit, in the years 1834, 1835, and 1836.

PAY TO CERTAIN CLERKS IN OREGON.

Mr. WALBRIDGE, from the Committee on Public Lands, reported back a bill (H. R. No. 169) making an appropriation for the payment of clerks employed in the offices of the registers of the land offices in Oregon City and Winchester, in the Territory of Oregon; and moved that the same be referred to the Committee of the Whole House, and, with the report, ordered to be printed.

Mr. JONES, of Tennessee. I judge, from hearing the title of that bill, that it is a general and not a private bill.

Mr. WALBRIDGE. The bill provides for the payment of clerks already employed, and who have already rendered services. It is a private claim.

Mr. JONES, of Tennessee. I think it is a general bill. There is no law for their employment; and if they were employed, they were employed on the responsibility of the registers.

The SPEAKER. The Chair does not know anything about it.

Mr. JONES, of Tennessee. If there is a law for it, there would be an estimate made by the Department to pay them.

Mr. HOUSTON. I do not understand how the Committee on Public Lands obtained possession of that matter. I should like to know if that subject-matter was referred to them.

The SPEAKER. The bill itself was referred to them.

Mr. JONES, of Tennessee. I move to refer the bill to the Committee of the Whole on the state of the Union. I suppose there is no law authorizing the employment of those clerks, or their payment. The officers of the land office have taken the responsibility, and now they come here and ask for the payment of liabilities which they pretend they have incurred.

Mr. WALBRIDGE. I wish to say that the business at the land office in Oregon absolutely required an additional clerical force. A law was passed in regard to the disposition of lands in that Territory, and that law made it indispensably necessary, for the discharge of the duties of the land office there, that clerks should be hired, and they were hired. The persons who were employed have not received any pay, and they now come to Congress and ask that pay shall be given them. It is the opinion of the local land office, of the Commissioner of the General Land Office, and of the Secretary of the Interior, that they should be paid.

Mr. WASHBURN, of Illinois. I demand the previous question.

The call for the previous question was seconded, and the main question was ordered to be put.

Mr. MONTGOMERY. I hope this bill will be informally passed over until the Delegate from Oregon [Mr. LANE] comes in; for, as I understand, he takes a great interest in this question, and has a word to say on it.

The question was taken on the motion that the bill be referred to the Committee of the Whole on the state of the Union, and it was disagreed to.

The bill was then referred to a Committee of the Whole House, and the bill and report were ordered to be printed.

ISAAC BOWDY AND SAMUEL FLEMING.

Mr. WALBRIDGE, from the Committee on Public Lands, reported back a bill for the relief of Isaac Bowdy and Samuel Fleming, and moved that it be referred to a Committee of the Whole House, and the bill and report ordered to be printed.

Mr. LOVEJOY. I hope that the bill will be put on its passage.

Mr. WALBRIDGE. I have no objection, as I believe that the case is clearly right.

Mr. CLINGMAN. I hope not, but that the House will go on with the call on committees for reports. If we go on as we have, we will consume the morning hour with these little bills.

The bill was read through. It authorizes the parties named to enter quarter sections of land in the Springfield, Illinois, land district.

Mr. LOVEJOY. I hope that my friend from Michigan will withdraw his motion that the bill be referred to a Committee of the Whole House, and let the bill be put on its passage.

Mr. WALBRIDGE. The bill was introduced by the gentleman from Illinois, [Mr. LOVEJOY.] It affects the interest of two of his constituents,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, APRIL 20, 1858.

NEW SERIES...No. 104.

and I think it is right and ought to pass. My preference is that the bill should be referred to a Committee of the Whole House, but the gentleman from Illinois may make what motion he pleases. I will withdraw my motion to refer to a Committee of the Whole House.

Mr. SMITH, of Virginia. I renew it, and call for the previous question.

Mr. LOVEJOY. I hope that the motion to refer will be voted down. These men are anxious to secure a title to their land, as they are liable to be deprived of it at any moment.

Mr. MARSHALL, of Kentucky. If the call for the previous question be sustained, and the motion to refer be voted down, will it not be in order to put the bill on its passage?

The SPEAKER. It will. The previous question will not be exhausted until the bill is read a third time.

The call for the previous question was seconded, and the main question ordered to be put.

The House was divided; and there were—ayes 81, noes 51.

Mr. LOVEJOY demanded tellers.

Tellers were ordered; and Messrs. BUFFINTON, and CRAIG of North Carolina, were appointed.

The House divided; and the tellers reported—ayes 68, noes 64.

So the bill was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

S. N. HOLLODAY AND OTHERS.

On motion of Mr. COBB, it was

Ordered, That the Committee on Public Lands be discharged from the further consideration of House bill (No. 413) for the relief of S. N. Holloday and others, and that the same be referred to the Committee on Private Land Claims.

MILITARY BOUNTY LAND WARRANTS.

Mr. COBB. I hold in my hand numerous petitions, which have been referred to the Committee on Public Lands, asking for the passage of certain bills of relief. The committee have prepared a general bill on the subject, and I ask if it would be in order for me to report it to-day, as originating from those petitions?

The SPEAKER. Not on this call, as it is a general bill.

The bill which Mr. COBB desired to report, is as follows:

A bill for an act supplemental to the laws respecting military bounty land warrants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when proof has been, or shall hereafter be, filed in the Pension Office, during the lifetime of a claimant, establishing to the satisfaction of that office, his or her right to a warrant for military services, and such warrant has not been, or may not hereafter be, issued until after the death of the claimant, the title to such warrant shall vest in the widow, if there be one, and if there be no widow, then in the heirs of the warrantee; and all such warrants, and all other warrants issued pursuant to existing laws, shall be treated as personal chattels, and may be conveyed by assignment of such widow or heirs, or by the legal representatives of the deceased warrantee, for the use of such heirs only.

SEC. 2. And be it further enacted, That the provisions of the first section of the act approved March 22, 1852, to make land warrants assignable, and for other purposes, shall be so extended as to embrace land warrants issued under the act of the 3d March, 1855.

ADVERSE REPORT.

Mr. HORTON, from the Committee on the Post Office and Post Roads, made an adverse report on the claim of R. F. M. Mann, of Georgia; which was laid upon the table, and ordered to be printed.

REPRESENTATIVES OF ROBERT MORRIS.

Mr. HORTON also, from the same committee, reported a bill for the relief of the legal representatives of Robert Morris, late postmaster of the city of New York; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HENRY ORNDORFF.

Mr. HORTON also, from the same committee, reported a joint resolution for the relief of Henry

Orndorff, of Ohio; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JOHN DEARMIT.

Mr. DAVIS, of Iowa, from the same committee, reported a bill for the relief of John Dearmit; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ELECTION OF POSTMASTERS.

Mr. DAVIS, of Iowa, also, from the same committee, reported back, with a recommendation that it do not pass, House bill (No. 373) to provide for the election of postmasters by the people; which was laid upon the table.

STICKLEY AND ROGERS.

Mr. ATKINS, from the same committee, reported a bill for the relief of Stickley & Rogers; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM DOTY AND OTHERS.

Mr. ATKINS also, from the same committee, reported a bill for the relief of William Doty and others; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ADVERSE REPORT.

Mr. ATKINS also, from the same committee, made an adverse report on the petition of James M. Harris, of Florida; which was laid upon the table, and ordered to be printed.

KIMBALL AND MOORE, ETC.

Mr. WOOD, from the Committee on the Post Office and Post Roads, reported a joint resolution authorizing the Postmaster General to revise and adjust the accounts of Kimball & Moore, and Moore & Walker; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

J. W. HILTON.

Mr. WOOD also, from the same committee, reported a bill for the relief of J. W. Hilton; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

Mr. ATKINS, on behalf of Mr. DAVIS, of Mississippi, presented the views of the minority of the Committee on the Post Office and Post Roads, in the same case; which were also ordered to be printed.

ADVERSE REPORTS.

Mr. BILLINGHURST, from the Committee on the Judiciary, presented adverse reports on the joint resolutions of the Legislature of Michigan, asking for an additional judicial district in that State, on the resolution of the House of Representatives of January 18, touching the imprisonment of witnesses; and on the memorial of Samuel M. Puckett; which were severally laid on the table, and ordered to be printed.

Mr. CRAIGE, of North Carolina, from the same committee, reported back, with a resolution that it do not pass, House bill (No. 289,) increasing the salaries of the judges of the Supreme Court of the United States; which was laid on the table, and, with the report, ordered to be printed.

Mr. TAYLOR, of Louisiana, from the same committee, presented an adverse report in the case of William A. Forward; which was laid on the table, and ordered to be printed.

REPRESENTATIVES OF HENRY KING.

Mr. CLAWSON, from the Committee on Revolutionary Claims, reported a bill for the relief of the representatives of Henry King, deceased; which was read a first and second time, referred

to a Committee of the Whole House, and, with the report, ordered to be printed.

CHURCH AT PRINCETON, NEW JERSEY.

Mr. CLAWSON also, from the same committee, reported a bill for the relief of the Presbyterian Church at Princeton, New Jersey; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ADVERSE REPORT.

Mr. LOVEJOY, from the same committee, presented an adverse report on the petition of the heirs of Andrew Russell; which was laid on the table, and ordered to be printed.

HEIRS OF JOHN RIPLEY.

Mr. TAYLOR, of New York, from the same committee, reported a bill for the relief of the heirs of Major John Ripley; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

HEIRS OF BENJAMIN WILSON.

Mr. COX, from the same committee, reported a bill for the relief of the heirs of Benjamin Wilson; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

WILLIAM R. ASHTON.

Mr. COX, from the same committee, reported a bill for the relief of the heirs of William R. Ashton, administrator of Dr. Benjamin Chapin, deceased, late a surgeon in the navy of the Revolution; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ADVERSE REPORTS.

Mr. CURRY, from the same committee, presented adverse reports in the case of the heirs of Dr. William Rickman, of the heirs of Obadiah Hardestee, of William B. Goodwin, and of John McDowell; which were severally laid on the table, and ordered to be printed.

REPRESENTATIVES OF DAVID NOBLE.

Mr. DAWES, from the same committee, reported a bill for the relief of the legal representatives of Captain David Noble; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

REFUNDING MONEYS TO GEORGIA.

Mr. CRAGIN, from the same committee, reported a bill to refund to the State of Georgia certain moneys; which was read a first and second time.

Mr. JONES, of Tennessee. Is that a private bill?

The SPEAKER. From the title of the bill, the Chair is of opinion that it is not.

Mr. JACKSON. I can state the facts in relation to that bill in a few words.

The SPEAKER. A question of order is raised on it.

Mr. JACKSON. I wish to speak to the question of order. The object of this bill is to refund to the State of Georgia a sum of money paid by the act of the Legislature of Georgia, on a revolutionary claim. It is a private bill for the benefit of the State of Georgia, if there can be a private bill for the benefit of a State.

Mr. JONES, of Tennessee. I thought that most of those cases, if not all of them, were settled and funded long and long ago.

Mr. JACKSON. I can state to the gentleman from Tennessee that this was not.

Mr. SEWARD. I think this is a different kind of claim altogether.

The SPEAKER. The precedents are various as to bills of this character, but the Chair is inclined to the opinion that this is not a private bill.

Mr. SEWARD. I do not know certainly what the bill is, and I ask that it may be read.

The SPEAKER. The Chair is of opinion that

the bill is not of such a private nature as entitles it to be reported this morning.

Mr. SEWARD. Upon the principle, I suppose, that a State cannot hold a private claim.

SAMUEL W. TURNER AND OTHERS.

Mr. HORTON, from the Committee on the Post Office and Post Roads, reported a bill for the relief of Samuel W. Turner and Alvin A. Turner; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOB STAFFORD.

Mr. SANDIDGE, from the Committee on Private Land Claims, reported a bill for the relief of Job Stafford, of the State of New York; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ELIZABETH M'BRIER.

Mr. AVERY, from the same committee, reported a bill for the relief of Elizabeth McBrier, only surviving child and heir of Colonel Archibald Loughrey, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

Mr. DAVIDSON. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. FLORENCE. I earnestly hope the gentleman will withdraw that motion for a moment.

Mr. DAVIDSON. I cannot do it.

Mr. FLORENCE. Only half of the committees have reported. The desks of members are full of reports. I hope the motion will be voted down, and I call for tellers.

Tellers were ordered; and Messrs. SCALES and BLISS were appointed.

The House was divided; and the committee reported—ayes 69, noes 70.

So the motion was disagreed to.

JOHN B. HAND.

Mr. GREENWOOD, from the Committee on Indian Affairs, reported back an act (S. No. 136) for the relief of the heirs of John B. Hand, with the recommendation that it do pass; which was referred to a Committee of the Whole House, and the bill and report ordered to be printed.

TREATIES WITH THE CHEROKEES.

Mr. GREENWOOD, from the same committee, reported back a bill (H. R. No. 270) to execute the treaties of 1817 and 1819 with the Cherokees, by making provision for the reservations under the same, with the recommendation that it do pass; which was referred to the Committee of the Whole on the state of the Union, and the bill and report ordered to be printed.

THOMAS J. ASHBURY.

Mr. SCOTT, from the Committee on Indian Affairs, made an adverse report on the memorial of Thomas J. Ashbury; which was laid upon the table, and the report ordered to be printed.

JESSE MORRISON.

Mr. REAGAN, from the Committee on Indian Affairs, made an adverse report on the petition of Jesse Morrison; which was laid upon the table, and the report ordered to be printed.

M. M. MARMADUKE AND OTHERS.

Mr. WOODSON, from the Committee on Indian Affairs, reported a bill for the relief of M. M. Marmaduke and others; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompany report, ordered to be printed.

MAJOR JEREMIAH Y. DASHIELL.

Mr. QUITMAN, from the Committee on Military Affairs, reported back an act (S. No. 202) for the relief of Major Jeremiah Y. Dashiell, paymaster in the United States Army, and asked that it be put on its passage.

The bill was read. It authorizes the proper accounting officers of the Treasury Department, in settling the accounts of Major Jeremiah Y. Dashiell, paymaster in the United States Army, to credit him in the sum of \$23,115, that being the amount of public money accidentally lost by him on the 1st of May, 1857, in attempting to

cross the bar of Indian river, Florida, for the purpose of paying the troops at Fort Capron, in that State.

Mr. SHERMAN, of Ohio. I hope that that bill will not be put on its passage at this time. Let the committees be called on for reports, and this bill take its chance with all others.

Mr. QUITMAN. I feel it to be my duty, for public as well as private reasons, to press this bill. It is universally testified that this officer of the Army, when he had public money in custody, did his whole duty; yet he stands now in a state of quasi-suspension, in consequence of a deficit in his accounts. How this deficit occurred, the report will explain; and it will explain, too, that he is not in the least blamable. The paymaster, as well as the War Department, desires that he should be placed in active duty; and there is no reason why the bill should not be passed. I am sure that when the report is read, there can be no debate or objection to the bill. It has received the sanction of the Military Committee of this House and the Military Committee of the Senate. In the opinion of all, the reputation of this officer is enhanced by the strenuous exertions he made to save this public money. I ask the gentleman from Ohio to listen to the report.

The report was read. It states that the troops stationed on and near Indian river in Florida were in arrears of pay from two to six months in April, 1857; that Major Dashiell, in due performance of his duty as paymaster of the district, drew from the assistant treasurer at Charleston, South Carolina, \$23,115, which was placed in a leather bag, ordinarily used by him for this purpose, and put in charge of an escort; that there were two routes by which to reach his place of destination, (Fort Capron, Florida,) one by sea, and the other (the river route) partly by land and partly by water; and that the latter route, owing to the shallowness of the water, as well as to certain outrages and massacres which had been lately perpetrated by the Indians in that vicinity, was considered not only unsafe, but impracticable. Major Dashiell, therefore took the only alternative, and proceeded by sea, in the schooner William and John, to the mouth of Indian river; arrived there, and acting under the advice of the captain of the vessel, who had six years' experience of the bar at the mouth of the river, he, with his son, proceeded to land. The bag containing the funds, which was duly identified by size, weight, and appearance, was lowered into the boat, being taken for that purpose from the iron safe in which it had been deposited. The bar, as appears from the officers of several vessels who were present, was in a favorable state for landing; and that it was so considered by Major Dashiell, appears from the fact that himself and son unhesitatingly accompanied the treasure in its transit to the shore.

It further appears that, while crossing the bar, the yawl boat which contained the party was suddenly capsized by a cross-breaker, and the bag containing the funds sunk. Major Dashiell, his son, and the crew, after clinging to the bottom of the boat for more than an hour, in imminent peril, were rescued by the boat of one of the vessels near by. Immediately after his rescue he applied for a guard to watch the spot, which was furnished by the commanding officer of the post, and took prompt and active measures to recover the money. A large reward was offered, and the most strenuous and constant endeavors made by the major and others to recover the treasure; but, owing to the high winds and heavy seas which then prevailed for several days, these attempts met with no success; and he was finally compelled, with reluctance, to abandon the search. The guard, however, remained, and the attempts to recover the funds were continued by the commanding officer of the post, but without a favorable result.

Mr. QUITMAN. I have but a few words to say upon this bill. The memorial came in at an early period of the session, and was promptly reported upon favorably by the Committee on Military Affairs. Subsequently, the bill now under consideration came in from the Senate.

The testimony establishes, beyond all dispute, the high character of this officer, and his importance and usefulness in his department, and also that this money was lost by an inevitable accident. The sole question for the House to determine is, whether a public officer, having in custody the funds of the United States, and losing them by

an inevitable accident, shall be held responsible for the amount. I hope the bill will be passed, because the officer cannot return to his duty until it is passed.

Mr. SHERMAN, of Ohio. I must insist on my motion that the bill be referred to a Committee of the Whole House. I have no particular objection to the bill, but if we permit bills to be put upon their passage as soon as reported, we shall involve ourselves in difficulty.

Mr. QUITMAN. I hope not. What will be the consequence? The consequence will be that a valuable officer will be kept from the line of his duty at a period when we require the services of all public officers. I hope the bill will be passed.

Mr. MARSHALL, of Kentucky. I suggest to the gentleman to call the previous question. That will bring us to a direct vote.

Mr. QUITMAN. I call the previous question. The previous question was seconded, and the main question ordered.

The motion of Mr. SHERMAN, of Ohio, was disagreed to—ayes 44, noes 81.

The bill was then ordered to a third reading; and was read the third time, and passed.

Mr. QUITMAN moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

BREVET MAJOR DONALDSON.

Mr. QUITMAN, from the Committee on Military Affairs, reported back, with a recommendation that it do pass, Senate bill (No. 145) for the relief of Brevet Major James L. Donaldson, quartermaster United States Army; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ADMINISTRATOR OF HORATIO BOULTBEE.

Mr. MARSHALL, of Kentucky, from the same committee, reported a bill for the relief of the administrator of Horatio Boulton; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ADVERSE REPORT.

Mr. BUFFINTON, from the same committee, made an adverse report on the petition of Angeline C. Bowman; which was laid upon the table, and ordered to be printed.

MAJOR BENJAMIN ALFORD.

Mr. STANTON, from the Committee on Military Affairs, reported back, with a recommendation that it do not pass, Senate bill (No. 94) for the relief of Major Benjamin Alford, paymaster in the United States Army; it was laid on the table, and, with the report, ordered to be printed.

ADVERSE REPORT.

Mr. CURTIS, from the same committee, presented an adverse report in the case of Benjamin D. Hyane; which was laid on the table, and ordered to be printed.

WILLIAM B. DODD.

Mr. PENDLETON, from the same committee, reported a bill for the relief of William B. Dodd; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ELEAZER WILLIAMS.

Mr. PENDLETON also, from the same Committee, reported a bill for the relief of Eleazer Williams; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ADVERSE REPORTS.

Mr. PENDLETON also, from the same committee, presented an adverse report on the memorial of F. W. Lander; which was laid on the table, and ordered to be printed.

Mr. QUITMAN, from the same committee, also presented adverse reports on the memorial of Lieutenant J. C. McTuran, and of citizens of Iowa, offering a regiment of volunteers for Utah; which were severally laid on the table, and ordered to be printed.

REPRESENTATIVES OF WILLIAM B. DRAPER.

Mr. MORSE, of Maine, from the Committee

on Naval Affairs, reported a bill for the relief of the legal representatives of William B. Draper; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

DR. GEORGE H. HOWELL.

Mr. FLORENCE, from the same committee, reported a bill for the relief of Dr. George H. Howell; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ENGINEERS OF THE UNITED STATES NAVY.

Mr. FLORENCE, from the same committee, also reported a bill for the relief of engineers in the United States Navy.

Mr. LETCHER. Is that a private bill?

Mr. FLORENCE. Yes. It is to relieve certain engineers. It is a private bill, general in its details.

The SPEAKER. The phraseology of the bill is that *all* engineers of the Navy of the United States, &c. The Chair thinks it is not a private bill.

Mr. FLORENCE. The Committee on Naval Affairs directed me to report it as a private bill. It is a law by which certain engineers are to receive certain allowances.

The SPEAKER. The Chair is sorry to differ with the Committee on Naval Affairs. [Laughter.]

Mr. HOUSTON. It is a private bill with public tendencies.

Mr. FLORENCE. If the Chair will do me the favor to read the second line of this bill he will see that it is a private bill. It is to allow certain engineers of the Navy for certain services.

The SPEAKER. The Chair is of opinion that it would be a very general law if it were passed.

Mr. FLORENCE. It would be if it were passed. But it is a private bill, notwithstanding. It is for the relief of certain engineers of the United States Navy.

The SPEAKER. The Chair thinks it cannot be received as a private bill.

Mr. FLORENCE. Well, I defer to the opinion of the Chair.

DRAPER AND HOLDEN.

Mr. SHERMAN, of Ohio, from the Committee on Naval Affairs, reported a bill for the relief of Nehemiah S. Draper and William Holden, heirs-at-law of Mary Draper, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ADMISSION OF MINNESOTA.

Mr. SHERMAN, of Ohio. I desire to give notice that when the Minnesota bill comes up I shall offer a substitute; and I now ask the unanimous consent of the House to have it printed for the convenience of members.

There being no objection, it was so ordered.

HUBBELL'S EXPLOSIVE SHELL.

Mr. FLORENCE. I am directed by the Committee on Naval Affairs to ask that the papers and report in the case of Hubbell's explosive shell may be printed for the use of the committee. The papers are very voluminous, and it is almost impossible for the committee to consider them unless they are printed.

Mr. SEWARD. I think the gentleman from Pennsylvania is laboring under a slight misapprehension.

Mr. FLORENCE. Let the gentleman not attempt to correct me till he has heard what I have to say. I am such an exceedingly good natured sort of person that the floor has been twice taken from me to-day. The Committee on Naval Affairs directed me to ask that the House shall order the printing of these papers, and that they be referred to the Committee on Naval Affairs.

Mr. SEWARD. I think that the gentleman from Pennsylvania is laboring under a very slight misapprehension about this matter. My understanding was that it was agreed that the question as to the printing of these documents should be postponed till the next meeting. It is a voluminous document, and I see no necessity, in the present aspect of the case, for having it printed.

The SPEAKER. The Chair desires to inquire of the gentleman from Pennsylvania what his specific motion is?

Mr. FLORENCE. The Committee on Naval Affairs directed me to report these papers to the House, and asked to have them printed and referred to the Committee on Naval Affairs.

Mr. SEWARD. I ask the gentleman from Ohio [Mr. SHERMAN] if that was his understanding of it? I certainly did not so understand it.

Mr. SHERMAN, of Ohio. These papers were presented, and referred to the Committee on Naval Affairs. They were taken up by the committee, but were found to be so voluminous that it was difficult to examine them, and it was suggested that the gentleman from Pennsylvania should rise in his place and ask permission to have them printed. I did not suppose that any report was to be made. I hope the request to print will be granted.

Mr. FLORENCE. Does the gentleman from Georgia want to raise a question of veracity between the gentleman from Ohio and myself? because, if he does, I will summon before this high tribunal the clerk of the Committee on Naval Affairs, and perhaps I can bring up the record, too.

Mr. HOUSTON. I want to understand the point. My understanding of the statement of the gentleman upon my left is, that the Committee on Naval Affairs desires that those papers shall be printed because they are so voluminous that the committee cannot examine the merits of the papers in their present shape. Is that so?

Mr. FLORENCE. It is.

Mr. HOUSTON. Then I have no objection.

Mr. SEWARD. I understand that the gentleman from Pennsylvania had the right conceded to him by the committee to make application here upon his own responsibility.

Mr. FLORENCE. I cannot hear the gentleman from Georgia.

Mr. SEWARD. I did not intend to raise a question of veracity between the gentlemen.

The papers were then ordered to be printed, and to be referred back to the Committee on Naval Affairs.

ADVERSE REPORTS.

Mr. JEWETT, from the Committee on Invalid Pensions, made adverse reports on the following petitions; which were severally laid on the table, and their reports ordered to be printed:

The petition of Nicholas Fooks;
The petition of Lucinda E. Cuerton;
The petition of George W. Whitten;
The petition of John Panghorn; and
The petition of Robert W. Caulk.

COMMITTEE DISCHARGED.

On motion of Mr. JEWETT, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the respective petitions of Mary Ann Walker, Nathaniel Fadden, certain citizens of Pennsylvania for a homestead bill, Eliphalet Allen, and Joseph Bindeau, and that the same be referred to the Committee on Public Lands; also, that said committee be discharged from the further consideration of the respective petitions of Tillah Fox, Theophilus Taylor, and Thomas Brooks, and that they be referred to the Committee on Revolutionary Pensions.

ELIJAH CLOSE AND OTHERS.

Mr. JEWETT, from the Committee on Invalid Pensions, reported the following bills; which were respectively read a first and second time, referred to the Committee of the Whole House, and, with the accompanying reports, ordered to be printed:

A bill for the relief of Elijah Close, of Tennessee;

A bill granting an invalid pension to William Howell, of Tennessee;

A bill granting an invalid pension to Conrad Schroeder;

A bill granting on invalid pension to Alexander S. Bean, of Tennessee; and

A bill for the relief of Michael A. Davenport, of Illinois.

COMMITTEE DISCHARGED.

On motion of Mr. JEWETT, it was ordered that the Committee on Invalid Pensions be discharged from the further consideration of the petition of Sally Libby, and that the same be referred to the Committee of Claims.

WILLIAM ALLEN.

Mr. JEWETT, from the same committee, reported back a bill (S. No. 117) for the relief of William Allen, of Portland, in the State of Maine; which was referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JANE RANDOLPH.

Mr. JEWETT, from the same committee, made an adverse report on the petition of Jane Randolph; which was laid on the table, and the report ordered to be printed.

PENSIONS TO WIDOWS AND ORPHANS.

Mr. JEWETT, by unanimous consent, from the same committee, introduced the following bill; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed:

A bill extending the benefits of the pension laws to certain widows and orphans.

MARY C. HAMILTON.

Mr. ROBBINS, from the same committee, reported a bill to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler Hamilton, late of the United States Army; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

COLLECTION DISTRICT IN NEW JERSEY.

Mr. ROBBINS, by unanimous consent, introduced a bill to establish a collection district and port of entry at Tom's river, Ocean county, New Jersey; which was read a first and second time, and referred to the Committee on Commerce.

WILLIAM BULLOCK AND OTHERS.

Mr. ANDERSON, from the Committee on Invalid Pensions, reported the following bills; which were severally read a first and second time, referred to a Committee of the Whole House, and, with the accompanying reports, ordered to be printed:

A bill for the relief of William Bullock;
A bill increasing a pension of Anthony Walter Bayard, of Bellefonte, in the State of Pennsylvania;

A bill for the relief of Wright Fore; and
A bill for the relief of Wyatt Griffith.

ADVERSE REPORTS.

Mr. ANDERSON, from the same committee, made adverse reports on the following petitions; which were severally laid on the table, and the report ordered to be printed:

On the petition of Francis Carver;
On the petition of George D. Dillon;
On the petition of George Wever;
On the petition of Robert Jones;
On the petition of Avery Stoddard;
On the petition of Nathaniel Dickenson, jr.;
On the petition of William Long;
On the petition of Bartholomew Clovis Renoix; and
On the petition of John Bonner.

COMMITTEE DISCHARGED.

On motion of Mr. ANDERSON, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petition of Ruth B. Gardner, and that the same be referred to the Committee on Claims.

ROBINSON GAMMON AND OTHERS.

Mr. CHAFFEE, from the Committee on Invalid Pensions, reported the following bills; which were read a first and second time, referred to a Committee of the Whole House, and, with the accompanying reports, ordered to be printed:

A bill for the relief of Robinson Gammon;
A bill for the relief of Frederick Smith;
A bill for the relief of Phineas G. Pearson;
A bill for the relief of Judith Nott; and
A bill for the relief of John C. Rathbun.

ADVERSE REPORTS.

Mr. CHAFFEE, from the same committee, made adverse reports on the several petitions of Voucher Bonzinska and Ephraim Sharp; which were laid on the table, and the reports ordered to be printed.

INVALID PENSIONS.

Mr. CASE, from the Committee on Invalid Pensions, reported bills of the following titles; which were severally read a first and second time, referred to a Committee of the Whole House, and, with the accompanying reports, ordered to be printed:

A bill for the relief of John Perry;
A bill for the relief of Ebenezer Hitchcock;

A bill for the relief of Shove Chase; and
A bill for the relief of Allan Smith.

ADVERSE REPORTS.

Mr. CASE, from the same committee, reported adversely on the following cases; which were laid upon the table, and the reports ordered to be printed:

The petition of C. Melville Reeves;
The petition of Alexander Jones; and
The petition of William Johnson.

Mr. CASE, from the same committee, reported adversely on the following petitions; which were laid upon the table, and the report ordered to be printed:

The petition of Daniel Morse;
The petition of Mary M. Carr;
The petition of James P. Bullock;
The petition of Daniel S. Chapman;
The petition of Richard W. Stockton;
The petition of William Israel;
The petition of Pliny Story;
The petition of Oliver Main; and
The petition of Terrence Kirby.

DOLLY BROWN.

On motion of Mr. CASE, it was

Ordered, That the Committee on Invalid Pensions be discharged from the further consideration of the petition of Dolly Brown, and that the same be referred to the Committee on Revolutionary Pensions.

DAVID WATSON.

Mr. FLORENCE, from the Committee on Invalid Pensions, reported a bill for the relief of David Watson; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

PRIVATE CALENDAR.

Mr. CHAFFEE. I move that the House resolve itself into a Committee of the Whole House to consider the bills on the Private Calendar.

Mr. MAYNARD. I hope the Senate bills upon the Speaker's table will be taken up and referred to the appropriate committees.

The SPEAKER. All except those which came here to-day were referred on yesterday; and those which came here to-day have not yet been journalized.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. SHERMAN, of Ohio, in the chair.)

BARCLAY, LIVINGSTON, AND OTHERS.

The CHAIRMAN. The first bill before the committee for consideration is a bill (H. R. No. 204) to refund to Barclay, Livingston, and others, duties on certain goods destroyed by fire in the city of New York, on the 19th day of July, 1845.

The bill provides that the collector of the customs of the port of New York, the naval officer of the said port, and the district attorney for the southern district of New York, be constituted a commission, without compensation, to ascertain the amount of duties paid upon all goods, wares, and merchandise, destroyed by fire in the city of New York, in unbroken and original packages, as imported, on the 19th of July, 1845, and the name or names and place or places of residence of the several parties entitled, as owners, or their legal representatives, to receive or have refunded to them the amount of the duties so paid upon the several parcels and packages of goods so destroyed, pursuant to the provisions of this act.

The bill then goes on to detail the manner and form in which these claims shall be adjudicated and paid.

Pending the reading of the bill,

Mr. CRAIGE, of North Carolina, said: Mr. Chairman, it is evident that this is a bill of a public rather than of a private character, and I move that it be reported to the House with the recommendation that it be referred to the Committee of the Whole on the state of the Union.

Mr. JOHN COCHRANE. It is as clearly a private bill as any that is upon the Private Calendar. It is for the relief of certain individuals, of a specific and identical character. It does not include third persons.

The CHAIRMAN. The Chair will hear the bill through, and then decide on the question.

The bill was read through

Mr. CRAIGE, of North Carolina. Mr. Chairman, this bill is not in favor of all creation, but it is in favor of all the importing merchants in all our cities, and is clearly as public a bill as any in the Committee of the Whole on the state of the Union. I understand private bills to be those which are in favor of persons who are named. It is true that this bill sets out by naming some persons, (one or two,) but it then goes on to provide relief for an indefinite number of persons not named in the bill. It is clearly a public bill; and I therefore move that it be reported to the House, with the recommendation that it be referred to the Committee of the Whole on the state of the Union.

Mr. Chairman, it is not the first time that this bill has been here. It has been here ever since I have been in Congress, and I never before knew it to be considered in a Committee of the Whole House; it has always been considered as a public bill.

Mr. JOHN COCHRANE. Mr. Chairman, it is very true that this bill has been before the House before this occasion, and it is quite as true that as often as it has been before this House so often has it been passed by this House; and, if my information is correct, as often as it has been presented to the House it has been considered in Committee of the Whole House on the Private Calendar. So much, therefore, for authority and precedent. In respect to the objection upon principle which the gentleman makes, it is simply specious and plausible, with no foundation in reality. That gentlemen may belong to a general class of business men is no obstacle to their being considered private individuals. Will the gentleman pretend to argue here that because he is one of a public body therefore he is in no sense a private individual, and that he has no private relations? And if he cannot and does not, can he argue that because these gentlemen—importing merchants of New York—are individuals of a class, and as individuals of a class come here for relief, they must, therefore, be public characters; as public as the class to which they belong?

Mr. CRAIGE, of North Carolina. According to the gentleman's argument, then, the bill granting pensions to certain officers and soldiers in the war of the Revolution, and the bounty land bill, would have been private bills. They provide for a class of persons just as this bill does. These men belong to the class of importing merchants. The distinction I make is, that a private bill must contain the names of the persons who are to be benefited by it. This bill does no such thing. It refers to a class, merely.

Mr. JOHN COCHRANE. This bill names, distinctly and specifically, the persons to be relieved. Certain memorialists present their petition. A bill is introduced for their relief, and for the relief of no person else.

Mr. WASHBURN, of Maine. Allow me to cite a precedent. In the case of Staples, and others, three individuals who had suffered from the destruction of their property by fire, were permitted to join in one bill. That was in 1852, and there are various bills of the same kind.

Mr. JOHN COCHRANE. So I have understood the precedents to have been all through the proceedings of Congress, from 1790 down to the present time. Such bills have always been considered in this manner, and as applications for relief by private individuals. And, sir, if we are to draw a line of distinction here upon a hypothesis of this kind, you must obliterate the whole line of distinction, and consider that every gentleman who comes with his associates before this House and claims relief, because he belongs to a guild, a profession, or trade, must therefore, forsooth, be considered as covered with the publicity of that guild, profession, or trade, and consequently not empowered to ask for relief from a Committee of the Whole House. Sir, there is no reason in such an argument as this. On the contrary, if pursued to its end, it must resolve itself and us in an absurdity.

I have but one more word to say in reference to the remarks of my friend who has made this motion, and it is simply that the papers indicate who the relief is for, and why it is asked. These papers indicate specifically the names of the individuals; and because some fifty, sixty, or seventy individuals—and they private individuals—come here for private relief, it is none the less a private

matter because they are multiplied by numerals, and none the less private because the names of one, or two, or three, or more, are here to designate them. Sir, there is nothing in the argument of the gentleman from North Carolina. The precedents are with us, and I hope the question will be taken.

Mr. CRAIGE, of North Carolina. The gentleman from New York, and the gentleman from Maine certainly did not understand my position. The precedents they cite have no bearing on the point. They cite specific cases where two or three persons are mentioned in one bill. The objection to this bill is, that it does not name the persons at all. The gentleman from New York says that they are named in the memorial. That may be true, but they are not named in the bill; only two persons are named in the bill.

Mr. JOHN COCHRANE. The gentleman is mistaken, if he inclines to the belief that in my argument I yielded the point that the individuals are not named in the bill. I meant to be understood that they are specifically named in the bill, "Barclay, Livingston, and others."

Mr. CRAIGE, of North Carolina. "Others" is a very indefinite expression. It is like the word "sundries" in a merchant's bill, and may mean anything or nothing. That is the objection which the gentleman does not seem to have understood, or at any rate, he has not met it fairly and squarely. It is very true that private bills may have been passed in which two, three, or fifty persons have been named, but they must be named in the bill. But this bill merely says "Barclay, Livingston, and others," thus applying to an indefinite number of persons, and making it a public bill.

Mr. CLARK B. COCHRANE. This bill is made very definite by the language employed. It reads:

"To ascertain the amount of duties paid upon all goods, wares, and merchandise destroyed by fire in the city of New York, in unbroken and original packages, as imported, on the 19th day of July, 1845."

Now, every man who had goods destroyed by fire in that port in unbroken packages on that day is included in this bill, and no other persons. Two of those persons were Messrs. Barclay and Livingston, and the others referred to are those similarly situated, owning unbroken packages as private property on that day, and which packages were consumed by fire on that day. The language of the bill makes it apply to a class of persons, definite in their character, who owned goods in unbroken packages on a given day in the city of New York.

Mr. STANTON. The gentleman from North Carolina [Mr. CRAIGE] is undoubtedly right in regard to the character of this bill.

Mr. JOHN COCHRANE. Will all this discussion be taken out of my time?

The CHAIRMAN. The Chair supposed that the gentleman from New York had yielded the floor.

Mr. JOHN COCHRANE. No, I have not yielded it. I shall insist on opening the discussion on the merits of the bill.

The CHAIRMAN. Then the gentleman will proceed. The Chair supposed he had yielded the floor.

Mr. CRAIGE, of North Carolina. It has been occupied by two or three persons since the gentleman spoke.

Mr. STANTON. Do I understand that the gentleman from New York claims the floor?

Mr. JOHN COCHRANE. I do.

Mr. STANTON. I would be glad to know upon what theory?

Mr. JOHN COCHRANE. Upon the theory of a position upon it. [Laughter.]

Mr. STANTON. The gentleman from North Carolina [Mr. CRAIGE] took the floor, submitted a motion, and made a speech upon it. The gentleman from New York replied; and then his colleague [Mr. CLARK B. COCHRANE] spoke. I had no idea I was occupying the floor by the courtesy of the gentleman from New York.

The CHAIRMAN. The Chair understood the gentleman from New York to have yielded the floor, and assigned it to the gentleman from Ohio in the preliminary discussion.

Mr. JONES, of Tennessee. My recollection is, that the gentleman from New York [Mr. JOHN COCHRANE] made a speech, and concluded by saying that he had nothing more to say at this time.

Mr. WASHBURN, of Maine. I rise to a question of order. I submit that the motion of the gentleman from North Carolina [Mr. CRAIGE] is not in order at this time. He has no right to move that the committee rise and report the bill—no matter for what purpose—until it has been read through by sections for amendment.

The CHAIRMAN. The Chair overrules the question of order. The motion of the gentleman from North Carolina is, that the bill be reported to the House with a recommendation that it be referred to the Committee of the Whole on the state of the Union, and is in order.

Mr. JONES, of Tennessee. I would inquire if there is a report in this case?

The CHAIRMAN. There is a report.

Mr. JONES, of Tennessee. Let the report be read.

Mr. WASHBURN, of Maine. I wish to state the reasons of my appeal.

Mr. CRAIGE, of North Carolina. I object to debate, unless it be in order.

Mr. WASHBURN, of Maine. The gentleman from North Carolina [Mr. CRAIGE] raised the point of order that the bill was not properly before the committee, and the Chair overruled the point of order. If the gentleman from North Carolina had supposed that that decision was erroneous, he could have taken an appeal, and tried to have the decision reversed. Then the question would have been whether the bill should not go, under the rule, to the Committee of the Whole on the state of the Union. It seems to me that, by the motion to refer it to the Committee of the Whole on the state of the Union, the gentleman could have attained his object. But it strikes me as very clear that it is not competent for him to move that the committee rise, and report the bill back to the House, while the bill is before the committee, to be read, section by section, and while it is open to amendment and debate. Otherwise, it strikes me that a new way has just been discovered by which, under the form of moving that the committee rise, with a recommendation of a certain kind, we would be deprived of all right to discuss or to amend the bill. Thus, when it is wanted to cut off debate on any question before a Committee of the Whole House, all you have to do is to make a motion that the committee rise, with a recommendation that it be referred to some other committee, and then, once in the House, the previous question can be called, and the bill put upon its passage.

Mr. JONES, of Tennessee. It is very clear to me that the gentleman from Maine is wrong in his question of order, and wrong in his appeal; and that the Chair is right in its decision. The gentleman from North Carolina, or any other gentleman, had a right to move that the committee rise and report this bill. That motion does not preclude debate or amendment, and therefore it is perfectly in order, and the committee can go on and have the bill read through and perfected; and when that is done, then the motion of the gentleman from North Carolina, being in abeyance, may be put, as I understand the practice of the House, and in that view of it, I think the appeal from the decision of the Chair should not be overruled.

Mr. WASHBURN, of Maine. Very well; I withdraw my appeal, if that be the understanding of the Chair.

The CHAIRMAN. The question is now on the motion of the gentleman from North Carolina, that the bill be reported to the House, with a recommendation that it be referred to the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I understand that that motion is based upon the idea that this is a public bill; and that is a question for the Chair to settle.

The CHAIRMAN. The Chair has no right to decide that question. The bill has been referred to the committee, and it is for the committee to say what shall be done with it. It is not for the Chair to say whether it is of a private or a public nature.

Mr. HOUSTON. The question should be then submitted to the committee whether this is a public or a private bill; and if it be properly on the Private Calendar then it comes up for debate and amendment. On the question now pending before the committee and the Chair the merits of the bill cannot be very well—probably not at all—debated. The merits of the bill cannot be debated on a propo-

sition to report it back to the House, because it is improperly here. If the committee determine that it is properly here, then it is open for debate and amendment; but not until that question is determined.

The CHAIRMAN. The Chair will be allowed to state that the bill is now debatable, and open for amendment.

Mr. HOUSTON. How can that be, if the question is pending to report it back because of its being improperly on this Calendar? That is the question now, and it is not in order to debate the bill. If the committee determine that it is a public bill it must be referred to another committee, and placed upon another Calendar. And that being so, it seems to me that the merits of the bill are not now open for debate. I present that question of order, that we ought to first vote on the motion of the gentleman from North Carolina to determine whether we will retain the bill in this committee and on this Calendar.

The CHAIRMAN. The Chair overrules the question of order. The question is, "Shall the bill be reported to the House, with the recommendation that it be referred to another committee?" and on that question the gentleman from New York [Mr. JOHN COCHRANE] has the floor.

Mr. SEWARD. I would like to understand the question. It seems to me that the bill is here by the action of the House. Two or three times this morning, while the House was in session, the Speaker refused to allow bills to be introduced because they were public bills. The Speaker decided the question, and gave them the proper directions. And so this question has been before the House, and has been referred, as a private bill, to the Committee of the Whole House on the Private Calendar. Now we are called upon to go back to the House, and ask the House to review its decision, and to give this bill a different direction. I have no interest in this bill; but we must have more uniformity in legislation. If, therefore, the gentleman from North Carolina thought his objection was valid, he should have made it when the bill was referred to the Committee of the Whole House. That was the time for him to move to refer it to the Committee of the Whole on the state of the Union on the ground of its being a public bill. It was not done; and the action of the House was had; and the bill referred to a Committee of the Whole House. And now we are called upon to revise the action of the House. Why, sir, the House itself, when in session, went so far as to determine that it could not overrule questions of order settled in committee.

Mr. JOHN COCHRANE. I have before referred to the fact that the substance of the application contained in this memorial has been responded to by various bills which have frequently been before this House at former sessions. The fire through which this loss was experienced occurred in 1845. In 1848, during the Thirtieth Congress, a bill similar to the one under discussion now, was presented to, and passed by, the House, but at too late a day to be reached by the Senate. In 1850, at the Thirty-First Congress, a bill of a similar character was reported by the Committee on Commerce, but it was not reached by the House. In 1852, and in 1854, there was similar action, with the same result. In 1856, a bill similar to the one which is now before us, was passed by the Senate and sent down to the House. The House passed it with an amendment and sent it back to the Senate, where, in consequence of a pressure of business, it was not acted on.

Now, sir, in reference to the facts upon which this bill moves, I will simply, and briefly as possible, present them to the committee. On the 19th of July, 1845, as I stated, an extensive fire occurred in the city of New York. Property, both real and personal, to the amount of some five or six million dollars was consumed. Among other property that then perished, there was merchandise. On that merchandise there had been paid to the Government, in duties, \$600,000. That part of the merchandise represented by \$200,000 of duties, was in broken packages. No claim has been made on the Government by the merchants who represented that portion of the property. It is only in reference to the duties paid on those packages which were destroyed upon that occasion in an unbroken condition that a claim is now made, and in reference to which the bill before the committee is framed. The amount of those duties

is \$400,000; and of the merchandise represented by that sum, nearly the whole had been entered by the owners or importers with the right, under the then existing law, at any time within three years thereafter, upon application made to the collector at the custom-house, to be repaid the duties paid thereon, upon an exportation of the same. But the fire occurred; and by reason of that accident it was that the right was interrupted and arrested. And now, because that right was thus interrupted, have not these gentlemen—who, if no such accident had intervened, would have possessed a continuing three years' claim upon the Government for the return of those duties, upon intimation that they wished to export their goods—the right to demand of the Government that the money it received from them without consideration shall be restored? in other words, that they shall be compensated to the extent of the benefit conferred by them upon the Government of the United States?

Some one hundred and nine thousand dollars of these duties represent liquors that had been previously imported into the United States. Those liquors, as the law then existed, were obliged to be placed in cellars under the surveyor of the port, and could not be legally conveyed to the private warehouses of the merchants. The warehouse act of 1846 provided public warehouses from the date of its passage for every species of merchandise, in addition to liquors. The general relief law of 1854 was, therefore, directed to the then existing revenue system, which compelled all merchandise, without exception, to be placed in public or bonded warehouses, until delivered for consumption or exportation; and was not intended to reach cases that had occurred previous to the warehouse act; but because liquors were obliged, before the passage of this act, to be deposited in public cellars, its letter and spirit included these; and thus was it that a law, not intended to retroact beyond 1846, reached over to 1845, and restored by its remedial relief \$109,000 of duties paid upon liquors destroyed by the fire of 1845; the same fire in which other merchandise was destroyed, the duties paid on which were \$300,000.

The act of 1854 recognized the principle that the merchant whose property has been imported, and on which the appropriate duties have been paid, is entitled to a return of those duties, if the importation has not gone into the consumption of the country. That act, proceeding upon this principle, overtook a portion of this \$400,000 of duties, and returned \$109,000 thereof to the merchant importers; and they now claim that the balance of nearly three hundred thousand dollars should follow the same direction.

Sir, to proceed no further with the argument, but to rely upon precedent and upon the laws of the country, these gentlemen, the beneficiaries under the bill, might rest content with the simple declaration that gentlemen cannot, without multiplying their acts upon a record not yet obliterated, say that that which is claimed as compensation shall not be granted as a right.

Some of the goods on which these duties were paid had been imported not one month previous to the 19th of July, the time when the fire occurred. Some of them had been imported not one week before. Some of them, even on the very day previous to the fire, had been unladen from the ships at the wharf, and deposited where, by the then law they should be deposited, in the warehouses of the merchants. In this connection, I beg to all the attention of the committee to an extract from a letter from one of the claimants here, and an expectant beneficiary under this bill. It is from Hutchinson and Tiffany, one of the importing firms of the city of New York. They say:

"We had imported one hundred and sixteen bales of goods, and paid \$8,000 duties thereon. Nine days afterwards the fire consumed them, still being in the unbroken packages. We, knowing them to be very salable goods, and believing we should soon be refunded the duties, immediately ordered a similar invoice in amount and quality; and just eighty three days after the fire, those goods arrived in New York, were entered at the custom-house, and \$8,000 in duties paid thereon."

I might instance other cases, but it is unnecessary to do so. I offer this as an illustration of the relative positions of the importers—owners of this merchandise—and the Government, which was profiting by the duties they had paid. The merchandise had not gone into consumption, yet

the Government had received the duties thereon upon the principle alone which sustains these taxes upon merchandise, namely, that they have entered into the consumption of the country.

Now, sir, in respect to the claimants who apply, I will not detain the committee long upon this point. It is simple, and may be unfolded in a very few words. In the first place, we have the memorial of the merchants in 1850, the memorial of the merchants in 1853, and the memorial of the merchants in 1857. Again, we have, in 1848, the memorial of the Chamber of Commerce of the city of New York; and in 1856, we have the resolutions of the same body. All these papers, which lie before me, are referred to as evidence that the gentlemen who suffered by reason of this fire, forthwith, through public bodies and by their own immediate agencies and instrumentalities, applied for the relief which they supposed the law would afford them. I will detain the committee but a very few moments in directing their attention to the substance of these memorials.

Mr. CLARK B. COCHRANE. I would like to inquire of my colleague whether, under the act of March, 1854, these parties could not obtain relief?

Mr. JOHN COCHRANE. As I said before, not in respect to duties paid on merchandise that is not comprehended within the designation of "liquors." The duties of that part of the merchandise which was liquor, have been refunded under the act of 1854; but in respect to the balance, namely, \$300,000, speaking in round numbers, there has been no relief under that act. But all the merchandise—whether liquors, dry goods, or whatever else it may have been—upon which duties had been paid, was in the same category of right under which its owners came here for relief.

As I was saying when I was interrupted, I will direct the attention of the committee, in brief, to the language of those public bodies which have applied by memorial for the relief demanded. Said the Chamber of Commerce in New York in 1856:

Whereas, it appears by recent proceedings and debates in the House of Representatives of the United States, upon a bill to remit duties paid on goods destroyed by fire in the original and unbroken packages as imported, that erroneous statements have been made prejudicial to the bill, and therefore endangering its passage; and whereas, the principal benefits to accrue from said bill will inure to the business community of this city, the large majority of the claimants being sufferers by the fire which occurred in this city in July, 1845, which involved a loss, including buildings and property of every description, of about five million dollars; and whereas, from the best information laid before us and obtainable, it appears that the aggregate of the claims for the return of the duties on goods so destroyed in their original and unbroken packages never exceeded the sum of about four hundred thousand dollars; and whereas, the claims still remain in the hands of the merchants, the sufferers, and original claimants, or the insurance companies, to the extent of the insurance paid: Therefore,

Be it resolved by the Chamber of Commerce of the city of New York, That the delegation in Congress from the State of New York, and especially those representing this city, be, and they are hereby, respectfully requested to use every effort to secure the passage of a bill for the refunding the duties paid on goods destroyed, as before recited, and to repel, as incorrect, any statement conflicting with the facts as set forth in the preamble to this resolution.

Resolved, That a copy of the foregoing be transmitted to each of the Representatives in Congress from this city, and to each of the Senators from the State of New York.

Adopted at a special meeting held July 14, 1856.

By order of the Chamber. P. PERIT, President.

EDWARD C. BOGERT, Secretary.

Mr. KELLY. What evidence has my colleague that the Chamber of Commerce is in possession of the facts there stated?

Mr. JOHN COCHRANE. All the evidence I have is this paper, signed by the president and secretary of the Chamber, and attested by its seal, reciting these facts; and I believe that that which they say they know to be true is true.

Mr. KELLY. Does my colleague know whether they ever took any evidence in this case or not?

Mr. JOHN COCHRANE. I have no knowledge of the action of the Chamber of Commerce upon this or any other subject; but I receive their certificate, regarding its asseverations as true.

Mr. KELLY. Does the gentleman regard anything emanating from the Chamber of Commerce, whether substantiated by evidence or not, as proof which is to guide him in his action in this House?

Mr. JOHN COCHRANE. In reply to my colleague I respectfully say, that I most assuredly and unequivocally would, provided that I was satisfied that the Chamber of Commerce, or those who compose it, had had an opportunity of learn-

ing and examining a subject which so nearly concerns them, and with which they are so intimately connected as that relating to the amount of dutiable merchandise imported into the city of New York.

Mr. KELLY. What evidence has my colleague that these claims are now in the hands of those who were originally entitled to them?

Mr. JOHN COCHRANE. I was coming to that point; but because my colleague has asked me the question, I will reverse the order of my remarks in that respect, and answer his inquiry here. The evidence which I have is furnished by a paper signed by importers of New York, and which I will now read. It is as follows:

The undersigned, importing merchants of the city of New York, interested in a return of the duties paid by us on goods destroyed by fire in this city on the 19th July, 1845, observe with regret the erroneous statements of the amount of our claims, and the other causes which have interposed to delay the return of said duties, and beg leave to state:

That we have not parted with our claims, nor are we aware that any of the original claimants have sold or assigned any of said claims.

The amount of the original claims was, as near as we can ascertain, about \$400,000. This sum has been materially reduced by a partial return on liquors, under a subsequent construction of the Department, and will be still further reduced by the exclusion of insured goods and insurance companies, as provided for in the bill now before the House of Representatives.

The aggregate of the claims for the port of New York, should that bill become a law, will not exceed, in our opinion, \$300,000.

We respectfully urge upon the delegation in the House of Representatives from this city, and upon Congress, the propriety of our claims, and earnestly ask the passage of a law for our relief.

Barclay & Livingston; Herckenroth & Van Damme, per attorney, Gust. H. Schneider; Dutty & Cousinery, by Eugene Dutty; Noel & De Courcy, by De Courcy & Noel, attorneys; Hutchinson & Tiffany; Geo. W. Shields & Co., for Butterfield & Fiske; Fred. Butterfield; P. P. H. Hennequin & Co., attorney, Hourdey; A. Worthington; Ernest Fiedler, by T. W. Seanz, attorney; Faber & Bierwirth, by Leopold Bierwirth; Newbold & Craft; E. D. Morgan & Co.; Babcock & Co.; Schrageleins; A. Oelrichs & Kruger, by Edwin A. Oelrichs; H. L. Routh & Sons; Otto Wm. Pollitz, by Wm. H. Westervelt, attorney; John B. Lasala & Co.; Wilson W. Simon, Meyer Stucken; Crocker & Warren.

New York, May 7, 1856.

Mr. HOARD. I desire to ask my colleague, whether these goods were in the possession of the Government, or were in the merchants' stores at the time they were destroyed?

Mr. JOHN COCHRANE. In answer to the inquiry of my colleague, I reply, they were not in the possession of the Government. They were not in Government warehouses; for at that time the warehousing system did not exist. The warehousing act went into operation in 1846; and this fire occurred in July, 1845. But although they were in the local possession of the merchants—within their private warehouses—yet constructively, they were in the possession of the Government. They were in unbroken packages, and the Government had still a right and contingent claim upon them. These proceeded from a possible duty to be performed in *future* by its officers, in constructive joint possession with the importer; for, as I stated before, under the law, the merchant having the unbroken package in his warehouse, had the right, at any time within three years after importation, to claim from the Government a return of duty, or debenture, on exporting what he had previously imported.

Thus much for the inquiry of my colleague, [Mr. HOARD.] Now in reply to the inquiry of my friend and colleague, [Mr. KELLY.] Suppose, sir, that these claims do not continue in the hands of the original claimants; suppose that these importers had been ruined by that fire; suppose that this Government, thrusting its arm into their pockets, and retaining what did not belong to it, and to which it had no more claim than the highwayman has to the property which he seizes under his "stand and deliver;" these men, thus suffering, had been reduced to poverty, and parted with their claims: is that any reason why this Government should not make the wrong right? Is it any reason why gentlemen should stand here and say, "we have had your property, and having enjoyed its use now for thirteen years, principal and interest—having rolled up from \$600,000 to \$1,100,000—we refuse your prayer for relief?" Or, sir, are gentlemen to be justified in the position, because poverty may have overtaken these men, or because they may have believed the Government unjust, and that it would not refund these duties paid, and therefore parted with their

claims, that the wrong shall not be remedied, and that the right shall continue to be oppressed? I claim no favor for this bill, but I demand that you do justice. I ask no man to vote for the bill who would not be ashamed if he voted against it.

I have not yet arrived at the end of the discussion of this question, but I trust that even the doubters will be satisfied, at last, that the facts contended for are amply sustained by the evidence and supported by law. Sir, I have stated before, that the principle on which we come before Congress and ask it to do justice in the premises is, that the goods on which these duties were paid had not entered into the consumption of the country. I also referred to the legal principle that assessments and taxes, as duties, have always been imposed upon merchandise in reference to the fact that it has entered into the consumption of a nation, thus conducing to its general welfare. That this is so, I cite to you the remarks of Judge Woodbury, which constitute the opinion of the Supreme Court of the United States, in the case of *Brune vs. Marriot*, collector of Baltimore, (9 Howard's Reports, page 619.) Mr. Justice Woodbury, in that case, says:

"We have no right to assess here what does not exist here. The collection of revenue on an article not existing would be an anomaly; a mere fiction of law is not to be countenanced nor required to enforce just rights."

"Where a portion of shipment does not arrive, it cannot be taxed on any ground of law, or truth and propriety. Such is the case of a portion being lost at sea, thrown overboard, or when consumed by fire or natural decay—natural or artificial causes; in either case it cannot be assessed."

Here you have the law of the supreme judicial tribunal of the United States. If gentlemen wish to sit here, intending to review that decision; if they wish to sit here for the purpose of questioning the judicial authority of our highest legal tribunal, they may do so; but they will do it without argument, and only when deserted by reason.

The court in that case proceeds further to say: "To add to such unfortunate losses the burden of a duty would be an uncalled for aggravation; would be adding cruelty to misfortune, and not justified by any sound reason. Duties should not be exacted on what is lost, much less on what never entered into the use of the community."—*Ibid*, page 634.

I direct the attention of gentlemen to this point; and if there be no other reason—and there are fifty others—this should dispose of the question.

Mr. CLEMENS. I desire to ask the gentleman a question.

Mr. JOHN COCHRANE. Certainly.

Mr. CLEMENS. I have looked into that case in Howard, and it seems to me that the point the gentleman now assumes is untenable under the principle of that case. The position taken by the court was, that it was not competent to tax an article which did not exist. If I understand this case, these goods were delivered over to the merchants—they were in their hands; and they cannot come before this body, and take advantage of their own negligence. It was their duty to insure. [A Voice. "They did insure."] Very well; the insurance companies cannot come before Congress under the guise of these original parties, and claim from Congress what they were not entitled to.

Mr. JOHN COCHRANE. There was a further duty which the gentleman might have enumerated in his catalogue of duties, which duty would perhaps have been as obligatory as those which he has mentioned, namely: that it should have been the duty of the fire not to have burned; that the owner should have so stored his property that it could not possibly have suffered. Now, if the gentleman can show that there was a neglect upon the part of the importers, I will yield the whole argument. But when the property is stored where the Government directs it to be stored, and is carefully kept there until destroyed by act of God, will the gentleman from Virginia rise in his place, and say that it was the duty of the merchant to forbid the advance of the fire? The gentleman mistakes altogether, although he has looked into the case I cited, the whole scope and bearing of the opinion; for the court puts its decision not upon the ground that duties cannot be levied upon what does not exist, but upon the ground that duties cannot be exacted upon a portion being lost at sea, thrown overboard, or when consumed by fire or natural decay. Does the gentleman feel the force of that fire—a consuming fire that destroys the position of the gentleman from Virginia, as the fire of 1845 destroyed the goods for

the duties on which we come here and ask to be repaid? What has the gentleman to say?

Mr. CLEMENS. I put it to the gentleman whether there is not a period of time at which this transcendental duty, upon which he now argues, must commence?

Mr. JOHN COCHRANE. Yes, sir; at the time of payment.

Mr. CLEMENS. In this case the duties were paid, the goods delivered over to the parties; and there is no provision of law which makes the Government liable. The parties now come here and make a claim for an inevitable accident. The gentleman asks me whether the Government could not have ordered the fire not to burn? It seems to me that is a refinement of logic in which I cannot be expected to follow the gentleman at all. There is a point of time at which this liability, if at all, must commence. How long was it after these duties were paid that this fire occurred? In some cases I understand it was six or seven weeks, and in some cases not a week. At what time will you commence the liability of this Government? If under an act of this kind you hold the Government responsible, without reference to the time, you see the danger which will arise in reference to all acts in the future. In that view I put the question to the gentleman.

Mr. JOHN COCHRANE. The gentleman announces that he is unable to follow me. From the high point of my position I look down upon his argument and answer it thus: that, from the moment I receive my neighbor's property without compensation, nearly all the honest men in creation think there is a liability upon me, who has taken his money, to restore it. I, therefore, from my elevation of argument, looking down upon the gentleman's clouded position, answer him, that, from the moment the Government takes the duty upon merchandise which never enters into the consumption of the United States, Government becomes liable, in law and equity, to repay that which it had wrongfully exacted.

I hasten to the remainder of what I have to say; and as I proceed with the argument upon the question, gentlemen will perceive that the demand I make cannot be evaded. The Government must say, either that it will retain the money it received as duties, or that it will return it, having had the benefit of nearly five hundred thousand dollars of interest in the mean time—a period of about thirteen years.

Mr. FENTON. I wish to make an inquiry in the way of reply to what has been said by the gentleman from Virginia, [Mr. CLEMENS.] I will ask my colleague whether it is not true that, from 1842 to 1845, the Government required from the importer payment of duties, and the possession of his goods imported, inasmuch as no public stores or warehouses were provided by the Government, except some cellars in which imported liquors were deposited? and whether the importers were not allowed thirty-six months for reexportation and the refunding of duties on goods then imported, and upon which duties had been paid?

Mr. JOHN COCHRANE. I answer in the affirmative; and I think I have already so stated in my preceding remarks. I will now read further from the authority to which I have referred:

"But as Congress wishes to foster an honest and honorable commerce by its laws, no less than obtain revenue, it is neither the true policy nor right of departments or of courts, nor is it presumed to be their desire, to embarrass mercantile business, when not attended by equivocation or fraud, or to throw doubts and difficulties over the liberal course proper to be pursued towards the community in any branch of trade."—*Ibid.*, page 635.

"Thinking, as the court does, that this is the more liberal and reasonable course, it has our full approbation; and it is now ordered and adjudged by this court, that the judgment of the circuit court be affirmed with costs and damages at six per centum."

This opinion was given on an appeal by the Treasury Department from the decision of the lower court, that duties could only be assessed on what actually arrived in the country and entered into consumption. The justice and equity of this decision induced a general law to meet future cases—that of 23d March, 1854.

I will refer now to the legislative precedents in point; and, as I am restricted in time, I will accompany them with but a very brief commentary. I will refer to them *seriatim*.

Congress, as I have said, has repeatedly refunded duties on the principle of this case. The instances are as follows:

1. January 14, 1790. Congress remitted duties on a quantity of hemp, duck, molasses, &c., destroyed by fire while on the voyage to the port of delivery, after the duties had been paid. (See 6 United States Statutes, page 2.)

2. August 4, 1790. An act remitting duties on salt destroyed by flood while stored at Annapolis. (See 6 United States Statutes, page 3.)

3. May 9, 1794. An act refunding duties paid on coffee imported into Norfolk and Portsmouth, Virginia, and subsequently destroyed by fire. (See 6 United States Statutes, page 15.)

This last is a case within the knowledge, perhaps, of gentlemen from Virginia, and I suppose, also, of my friend who interrogated me.

4. March 3, 1801. An act directing the collector of Providence, Rhode Island, to remit the duties on certain teas destroyed by fire. (See 6 United States Statutes, page 44.)

Numerous other acts of Congress might be cited, remitting and refunding duties where the goods were destroyed in whole or in part by fire, viz: act of March 7, 1794; June 1, 1796; March 3, 1797; and so onward, in numerous cases, in the years 1798, 1801, &c., &c., down to the great fire in New York, in 1835.

The act of July 7, 1839, granting relief on account of the great fire of 1835, was almost identical with the bill now reported by the committee.

This bill, if differing at all, is more stringent in its provisions; and under it there is no possibility of a claim being allowed for which there is not good proof.

Congress passed similar acts in 1849, 1850, 1852, and 1853.

Thus Congress, by repeated acts, has established the principle of remitting or refunding duties on goods destroyed by fire, commencing with the act of 1790, and coming down to the act of 1853.

We come now to the act of the 28th of March, 1854, but I have enlarged on that already so fully that I will not detain the committee at this time by further reference to it.

Mr. Chairman, not only has the principle been recognized by this Government in the adjudication of our courts and elsewhere, but it is a principle which has been recognized wherever commerce is known and is applied, wherever civilization and courts of law have an existence. In proof of this, I refer to the following certificates:

Russia.

Boston, December 10, 1849.

The subscribers, merchants of the city of Boston and its vicinity, have been in the habit of making shipments of various kinds of goods and merchandise to St. Petersburg, Russia; that some of us have had goods, sugars, &c., destroyed and damaged by water, fire or otherwise, and in such cases, the whole duties have been remitted on the articles wholly destroyed, a small duty charged on the merchandise damaged, and a lessened duty charged on such as were saved from damage; and also certify that it is the custom of the Russian Government, as far as we know or are concerned, to remit all duties (on goods destroyed) to the importer, assignee, or to the party that would be injured by the exaction of duty; nor do we know of any nation in Europe that charges duty on goods or merchandise, unless the merchandise is consumed by the people.

William Savage, James Harris, Samuel Quincy, Richard Soule, Benjamin Rich.

LIVERPOOL, November 20, 1848.

We, the undersigned, merchants and brokers of the town of Liverpool, do hereby certify, that it is usual for the British Government to remit the duties on goods of any description, destroyed by fire, or other casualties, on being petitioned to that effect by the proprietors, upon the principle that the goods so destroyed cannot be delivered for consumption.

Molyneux, Taylor & Co.; Baring, Brothers & Co.; I. & H. Littledale & Co.; McCalmont, Sons & Co.; Glen, Anderson & Co.; Melly, Romilly & Co.; Chapman, Bowman & Co.; Gladston & Co.; Nicol, Duckworth & Co.; Rathbone, Brothers & Co.; Fielden, Brothers & Co.; Richardson, Brothers & Co.; Phelps, Brothers & Co.; Brown, Shipley & Co.

LONDON, November 29, 1848.

We, the undersigned, merchants of the city of London, hereby certify, that in all cases where goods or merchandise are destroyed by fire or other accidents, it is the practice of the British Government to release the owners of such goods from all bonds or payments of duties, upon the principle that goods so destroyed are not taken into consumption.

Baring Brothers; N. M. Rothschild & Son; Melhuish, Gray & Co.; Saudeman, Forster & Co.; Bell & Grant; Fred. Huth & Co.; Maclean, Maris & Co.; Rawson, Norton & Co.; John Pickersgill & Son; Quarles, Harris & Sons; David Taylor & Sons.

UNITED STATES LEGATION,

LONDON, November 30, 1848.

In the above list of names, there are some whose signa-

tures I recognize, and who belong to some of the wealthiest and most respectable firms in London.

GEO. BANCROFT.

Extract of a letter dated London, February 11, 1848, received from Messrs. Quarles, Harris & Sons.

"We are happy to see that so very just and proper a measure as the repayment of the duties on wines and other merchandise destroyed by fire is before Congress, and we sincerely hope it may be carried, as the reciprocity of national conventions is a very important point, and bears upon all such matters very strongly.

"We deem it right to point out to you, that you may notice it in the proper quarters, that had the property belonging to American citizens been destroyed here by fire, by falling in of vaults or arches, or by any other accident, the duties would not have been levied, or, if paid, refunded."

France.

NEW YORK, October 19, 1850.

The subscribers having been engaged in the importation of goods from France, and the exportation of cotton and other products of the United States to France, do hereby certify, that the French Government does not levy duties on foreign merchandise, unless consumed by its citizens; that if such foreign merchandise as imported is consumed by fire or destroyed, the said duties, if paid, are returned by the Government to the importer, or to any party or parties that would be damaged if the Government retained such duties. C. C. Bechet; V. Barsalou; A. Seignette & Co.; Ch. Sagory; Pillot & Le Barbier; Le Moine & Bell; J. Lahens & Co.; L. Lorient; Cazet & Astoin.

BOSTON, December 12, 1849.

The undersigned, a merchant of the city of Boston, during his course of business, has been in the habit of making shipments to Russia, and that in the year 1834, he had a shipment of sugars destroyed and damaged by an inundation; that the Russian Government remitted the duties on the articles wholly damaged, and a lesser duty on such as were only partly damaged.

ROB. G. SHAW.

BOSTON, December 17, 1849.

The undersigned, of Dorchester, in the State of Massachusetts, and formerly interested in the shipping interest between this country and Russia, has been in the habit of making shipments of various kinds of merchandise to St. Petersburg—and that I am knowing to the Russian Government making allowance and returning the duties on goods and merchandise destroyed and damaged by water, fire, or otherwise, at some periods; and I believe it is the custom of most of the European nations, that charge duties on goods and merchandise, to remit the duties on such as are destroyed that is not consumed by the people.

JOHN D'WOLF.

Thus, sir, the usage and law, not only of this but of other countries, acknowledge this principle and enforce it.

I have now presented all the facts and considerations applicable to this bill, and it would be useless for me to enlarge upon them further than I have done. I will make reference now to the character of the bill. It provides for the establishment of a board of commissioners, to consist of the collector of customs at the port of New York, the naval officer of that port, and the district attorney for the southern district of New York. These are to examine and to report upon claims presented; and if a claim be not presented within six months after the passage of the act, it will not be entitled to be received or examined. Section three provides:

"That as soon as the said commissioners shall have finally closed the taking of the testimony in relation to any one or more claims, they shall cause to be made a full and perfect statement of the goods, wares, and merchandise, proved in said claim, or claims, to their satisfaction, to have been destroyed at the conflagration aforesaid, in the unbroken and original packages in which the same were imported, designating in such statement the number of packages, the dutiable value of each, the rate and amount of duty on each, and the name of the person or persons entitled to receive or have refunded to him or them the duties paid upon each package, or required to be paid on each package, and the fact whether such duty has been paid or remains unpaid or secured, and shall report whether any and what part of the merchandise so destroyed was insured, and if insured, whether any such insurance has been paid, or is secured to be paid; and if so paid or secured, they shall deduct from the certificate to be granted under the provisions of this act a sum which will bear the same proportion to the whole duties paid as the amount of said insurance bears to the whole value of said merchandise; and the commissioners shall cause three fair copies of such statement to be made and certified by themselves to be the true and correct results of their investigations: one of which copies they shall file with the collector of the customs for the port of New York; another with the naval officer of the said port; and the third, together with the testimony taken before the said commissioners, they shall transmit to the Secretary of the Treasury, to be by him kept on file in his Department: *Provided*, That no commissioner herein named shall participate in said statement who did not sit upon the examination of the claim and hear all the proof.

It is then provided "that these proceedings shall be communicated to the Secretary of the Treasury for his approval or disapproval." In case he disapproves, and the district attorney shall certify that, because of new facts discovered,

a reëxamination will subserve the ends of justice, then a reëxamination may be ordered, and the papers shall, it is provided, be again sent to the Secretary of the Treasury for his approval or disapproval.

Again, sir, in section six, it is provided:

"That, upon the presentation to the collector of the port of New York by, or on behalf of, any legal holder thereof of any certificate so issued by the said commissioners, the said collector shall receive such certificate in lieu of money for the payment of duties, at all times indorsing upon the certificate the amount of duties thus paid by its presentation; and as fast as said certificates shall be thus fully canceled, the said collector shall retain and transmit them to the Secretary of the Treasury, to be by him placed on the files of his Department, with the statement upon which they were issued and the testimony upon which the duties are refunded; and the amount of said certificates so transmitted shall be credited to said collector in his accounts with the Treasury Department."

So, sir, you will see that this is not a bill for refunding in specie duties that have been received; but for granting certificates of the amounts of duties to be refunded, which certificates may be used in the discharge of debts for duties incurred thereafter by those holding the certificates to the Government.

At the proper time, I shall offer the following amendment as section seven:

And he it further enacted, That any and all false swearing under this act, when falling under the definition of perjury as adjudicated by the Federal courts, be, and the same is hereby, made felony, punishable according to the laws providing for that offense."

Mr. CLEMENS. Mr. Chairman, I desire for a very few moments to notice some of the points which have been made by the gentleman who has just closed his remarks. On reference to the authorities referred to in the report of the committee, as well as to the special acts cited here, I find that the argument of the gentleman is not sustainable. The case referred to in volume nine of Howard's Supreme Court Reports, page 619, is not the case as put by the gentleman from New York. It is a case arising out of a leakage of sugar and molasses, and the reduction of duties was made because the leakage took place before the goods arrived; and in addition to that fact, the duties were paid under protest. What does the court decide? They say:

"By the eleventh section of the act of Congress passed on the 30th of July, 1846, (Statutes at Large, pamphlet, page 46,) the duties upon imported sugar are fixed at thirty per cent. *ad valorem*.

"The true construction of the law is, that the duty should be charged only upon that quantity of sugar and molasses which arrives in our ports, and not upon the quantity which appears by the invoice to have been shipped, an allowance being proper for leakage.

"The proviso in the eighth section, namely, 'that under no circumstances shall the duty be assessed upon an amount less than the invoice value,' is not in hostility with the above construction, because the proviso refers only to the price, and not to the quantity. A protest made after the payment of the duties charged, and after the case had been closed up, will not enable a party to recover back the money from the collector; but if the protest be made in a single case, with a design to include subsequent cases, and the money remains in the hands of the collector, without being paid into the Treasury, and it was so understood by all parties, such a protest will entitle the importer to recover the money from the collector."

Now, sir, the case, as stated in the report of the committee, is not properly put. The court decided no such thing as the gentleman has stated. What Chief Justice Woodbury did decide was this: that where in any case the rates of duties were fixed by law, and something occurred to those goods, by inevitable accident, before they arrived in port, then there ought to be a corresponding reduction in the rates of duties. But in this case the goods had arrived at the port of New York.

Mr. JOHN COCHRANE. The gentleman from Virginia will allow me to interrupt him at this point, and I do it not for the purpose of embarrassing him, but of setting him right, and the committee right, in respect to the position which I have taken. He does not deny, nor can he, that the paragraphs which I have read are to be found in the opinion of the court. The point to which the gentleman alludes is a technical one, and it is simply this: that if accidents have occurred before the duties are paid, and the duties be not paid under protest, the want of a protest is a technical defense to the claim in a court of law. But this is a case in which the goods were received, the duties paid, and the accident occurred after the payment of the duties, but before the goods had gone into general consumption. The point upon which this case rests is, that because the goods

had not gone into consumption, therefore, the duties ought to be restored.

Mr. CLEMENS. I have not the slightest disposition to overstate the case, or to take any advantage of the gentleman in the argument which he has made. I have conceived it to be my duty to correct some misapprehensions of law and fact into which, I presume, the gentleman has accidentally fallen. That is the whole issue between us. Now, what does Chief Justice Woodbury say in the opinion which the gentleman has partially quoted? He says:

"Such is the case of a portion being lost by perils of the sea, or by being thrown overboard to save the ship, or by fire, or piracy, or larceny."

There he refers to an act on shipboard, while the goods are *in transitu* from the port whence they are exported to the port where they are imported.

"—or by barratry, or a sale and delivery on the voyage, or by natural decay. If there be a material loss, it can make no difference to the sufferer or the Government whether it happened by natural or artificial causes. In either case, the article to that extent is not here to be assessed, nor to be of any value to the owner."

Again, he says:

"But much more should duties not be exacted on what was lost or destroyed on its way hither, and which never came even into the possession or control of the custom-house officers, and much loss into the use of the community."

Now, sir, I have been able to find but three acts of Congress in which the precedent contended for by the gentleman is laid down; and what are they? The first act I find is in the sixth volume United States Statutes at Large, page 2. To what extent does it go? It is an act for the relief of Thomas Jenkins & Co., and provides that

"Duties amounting to \$167 50 be remitted on certain parcels of hemp, &c., the property of Thomas Jenkins & Co., merchants of the city of Hudson, in the State of New York, which were lost by fire on the brig Minerva, in her passage from New York to the city of Hudson, her port of delivery."

Does that sustain the position of the gentleman from New York? Does that go to the extent of making the Federal Government an insurer of all goods imported into the country?

Now, what is the next act referred to in the report of the committee? It is to be found in the second volume of the Statutes at Large, page 201. It is an act for the relief of sufferers by fire in the town of Portsmouth. It provides that

"Persons who, being indebted to the United States for duties on merchandise, have given bonds therefor, with one or more sureties, payable to the collector for the district of Portsmouth, and who have suffered the loss of property by the late conflagration at that place, shall be, and they hereby are, allowed to take out or have canceled, all bonds heretofore given for duties as aforesaid, upon giving to the said collector new bonds, with one or more sureties, to the satisfaction of the said collector, for the sum of their former bonds respectively, payable in ten months from and after the day of payment specified in the bonds to be taken up or canceled as aforesaid."

They were merely authorized to give new bonds. It was a mere extension of time. There was no remission of duties. Now, I put it to the gentleman from New York, in all candor and sincerity, how can he look down from his sublimated and transcendental height upon such principles and facts as these?

Mr. STANTON. Mr. Chairman, I think that there is a misapprehension in regard to this bill on the part of gentlemen on all sides of this House. Before I turned my attention to it, I had the impression that there was some provision in the warehousing act of 1854 which excluded the claimants under this bill from going back beyond a certain period, sometime in 1846. Now that is all a mistake.

Here is a general law in which the Government has provided for all cases, prospective and retrospective, that came within the principles recognized by that Congress. If these parties cannot avail themselves of the benefits of that law, it is not because of the lapse of time; it is not because there is any peculiar hardship in their cases; but because they do not come within the principles of the act, and because the facts of the loss are not such as to entitle them to its benefits. That is the whole difficulty about the case.

Now, Mr. Chairman, it is said that this case has been often presented, often acted upon, reports made by committees of the House, and bills passed by both Houses of Congress. It will be recollected, sir, that the losses provided for in this bill happened in 1845. Down to 1854 there were applications in these and other cases of a similar character; and in 1854 a general law was passed

which, as was supposed, covered all that these parties claimed, and satisfied all demands of this description.

Mr. JOHN COCHRANE. I will ask the gentleman whether the provisions of the law of 1854 do not make the law applicable to goods, wares, and merchandise destroyed while in bonded warehouses? Then, sir, I will inform the gentleman that prior to the year 1846, when the warehouse law was passed, merchandise of all kinds except liquors were deposited, not in bonded warehouses, but in the warehouses of the merchants. Liquors, however, were, previously to that time, deposited in bonded cellars. Therefore, under that law, \$109,000 of duty levied on liquors was restored out of this \$400,000 paid for duties on merchandise generally, and the balance still remains unpaid.

Mr. STANTON. I certainly so understood it. The difference in the principle recognized by the act of 1854 is this: that where the recognized possession and control of the goods has passed from the officers of the Government to the importer, he is responsible for them. It is his negligence if they are destroyed, and therefore the loss must be his. But so long as they are retained by the Government for any purpose, if they are in Government warehouses, and under the control of Government officers, and are destroyed, then the provision is that the Government refunds the duties. That is the plain principle. It is a common-sense principle—a principle that was recognized in this case, and which I believe all parties were willing to stand by, except those who have lost goods under different circumstances.

Mr. CLARK B. COCHRANE. I ask the gentleman from Ohio whether, if this fire occurred in 1846 or 1847, he does not suppose that these same goods would have been in bonded warehouses?

Mr. STANTON. It is impossible for me to say. I suppose that part of them would have been in bonded warehouses, and part of them in wholesale stores. It would depend entirely on the option of the owner. Whenever the owner wants them out of the warehouse, and in his own possession, of course he will take them there. Now, Mr. Chairman, it is said that duties have been received on goods that have not entered into the consumption of the country, and that, therefore, these duties should be refunded—that the Government should not profit by them. Will the gentleman please indicate to me at what precise point the consumption of an article commences?

Mr. JOHN COCHRANE. Does the gentleman wish me to reply?

Mr. STANTON. I do not wish a reply on that point. Every gentleman knows the fact as well as he does. The cloth out of which my coat is made has entered into the consumption of the country, for it is pretty well worn. But does it follow that the moment an original package is broken open, the goods in that package enter into the consumption of the country? I take it not. The question here is whether there is a stronger equitable claim in favor of the wholesale merchant who pays duty on his goods, than there is in favor of the retail merchant who buys the goods, and in whose possession the goods are destroyed? Now, the retail merchants in my town and in my district buy goods from the wholesale merchants, and pay these duties, with the profit, take them home for consumption, and before they enter into consumption, and while they are in their stores and on their shelves, a fire may come and destroy them. Who refunds duties to them? Who asks to have such duties as these refunded? Nobody.

Mr. CLARK B. COCHRANE. The distribution is more extensive.

Mr. STANTON. I know that, but there was no more consumption. I will tell you the difference. The difference, Mr. Chairman, is this: that where capital is aggregated in large masses, and in the hands of a few men, and where the loss is a large sum, these gentlemen can afford to prosecute their claims, to present themselves before the Government, and to expend money in the prosecution of their claims, and have their duties refunded; but where these goods are distributed over the country, and where one man in Maine loses \$1,000 in duties, and another man in Texas loses \$1,000 in duties, on goods destroyed by fire, it is not worth following up the claim to Congress, and therefore they have to bear the loss. And it is the difference that always exists between

capital collected in large masses in the hands of a few, where a loss of this kind must always be large, and capital distributed in the hands of many, and where losses are proportionably small.

Mr. HOWARD. I suppose the principle on which the refunding of these duties is confined to unbroken packages, is this: that if you go beyond that, you are liable to have the Government cheated. If we confine the refunding of duties to the original packages, then there can be no cheating about it. But if you undertake to follow the goods after they have been distributed through the country, then the way is open for every species of fraud. There must be a limit somewhere. I take it that it rests on principles analogous to those on which is based the statute of limitations. If a man has paid a debt, he is supposed to keep his receipt for six years, and after that he is not required to produce it, and may take advantage of the statute of limitations. There is a broad distinction between original unbroken packages and goods scattered promiscuously through the country. We know that under the State laws of Maryland, the State takes cognizance of imported merchandise after the packages are broken, for the purpose of taxation. Previously to that they are supposed to be under the control of the General Government, and cannot be taxed by the State for any purpose. They are in the hands of the Government; and so long as they are in the hands of the Government, they are not subject to the police regulations or taxes. And so long I hold the Government is bound to refund the money if they have wrongfully taken it.

Mr. STANTON. I am not familiar with the precise point of time—not representing a sea-board district in which duties are levied upon imported goods—at which the State laws take the control of imported goods. But, Mr. Chairman, I have supposed (possibly I may be mistaken) that the very moment goods are landed in the warehouse of the private merchant, and the duties paid, and the lien of the Government gone, that very moment they are subject to State control and State taxation.

Mr. HOWARD. As to the time when the State laws take jurisdiction, I would refer to the decision made by Chief Justice Marshall in the case of *Brown vs. The State of Maryland*, which, I believe, is still the settled law and the general understanding.

Mr. MARSHALL, of Kentucky. I must inquire of the gentleman whether, in that case, the decision of the court was not that the State could not exercise the taxing power while the import duty remains unpaid? Does it not say that the power claimed for the State cannot intercept the duty demanded by the General Government? If so, I submit whether the payment of the import duty does not fill all the conditions which give power to the United States to restrain the action of the State authority? Is not this the point of the case cited?

Mr. HOWARD. That is not my recollection. Mr. MARSHALL, of Kentucky. That is my recollection.

Mr. STANTON. It strikes me as the natural and common-sense rule that the very moment the laws of the General Government lost control by the payment of the duties, when the Government had no further interest in interfering with the control of the State authorities over the imported goods, as a matter of course the State authorities, *eo instanti*, attaches, and the State has the right to tax the property. And it does not seem to me that any State would tolerate for a moment the practice of allowing goods to come within its jurisdiction, or of any considerable amount of capital to be invested in imported goods, and, after the duties were paid, allowing them to remain in warehouses in original packages for any considerable period of time. I am aware that the principle laid down by the gentleman from Michigan [Mr. HOWARD] is the principle contended for by the advocates of this bill; but it is not the principle recognized by congressional legislation, and it is not the principle which has ever been recognized by the authorities of this Government. The principle is that when the custody and control of the goods passes from the officers of the Federal Government the liability of the Government to refund ceases, and it rests upon the plain and straightforward principle that the party who has possession of the goods, and through whose neg-

lect destruction may happen by fire, shall suffer the loss.

Mr. JOHN COCHRANE. If that is the principle on which the Government proceeds, how happened it that in 1838 a law was passed by Congress refunding duties upon goods destroyed by fire in the city of New York, in 1835, under precisely similar circumstances as those of the fire of 1845?

Mr. STANTON. Of course I have not turned my attention to the various acts of Congress, and I think, in all human probability, Congress may, in various instances, out of pure charity, have made specific legislation for particular individuals, under peculiar circumstances, which they considered as of extreme hardship. But here stands a general law which authorizes the officers of the Government to make restitution under the circumstances which I have stated, and that I take to be the principle upon which it rests. If goods are destroyed while in the custody of the officers of the Government, the owners may well claim that, *non constat*, it was on account of the want of diligence on the part of the officers of the Government that the loss happened; and therefore the owners have the right to ask that anything they have paid to the Government shall be refunded.

There is another thing. This risk of loss from destruction by fire is one of the ordinary risks of all commercial transactions. Every merchant understands it, and every merchant provides against it by insuring his merchandise. There is no more uniform rule than that. Then I take it for granted the very moment these imported goods come into the custody and possession of the importing merchant, he provides against loss from destruction by fire by an insurance. That is common prudence, and it would be negligence not to do so.

I now desire to call the attention of the committee to the very peculiar provisions of this bill. The gentleman from North Carolina [Mr. CRAIG] was clearly right in contending that this was not a private bill, any more than a bill would be for refunding duties upon railroad iron. I want to know why the bill provides for refunding duties only for a single fire which happened on the 19th day of July, 1845? If the principle upon which these duties are to be refunded be right, then it is our business not to confine the refunding to duties paid on goods destroyed by fire upon that particular day, but to go the whole length, and provide for refunding duties in all cases where goods have been so destroyed under these peculiar circumstances.

Why, then, I pray you, is this bill framed to provide for losses in this particular fire, which it is said amount to some three hundred thousand dollars? I can tell you. If you insert a general provision of this kind, under which the Treasury could be drained to the amount of fifteen or twenty million dollars, gentlemen would look at it to see what it would be likely to cost the Government. Here, it is said, the loss is to be only about three hundred thousand dollars; and it is supposed that Congress may be induced to pass a bill, the aggregate contribution under which will not exceed that sum. Well, permit me to say that I have no very confident assurance, and am by no means well convinced, that the proofs of the losses upon that particular day, and in that particular fire, will not exceed \$300,000. I think you will be exceedingly fortunate if you get off with double that sum.

I know that if that be so, the appropriation is only \$300,000, and you cannot pay it all. But when you have passed this bill, appointed your own commissioners, taken the proof, and made the report, and it is shown that you have paid only fifty per cent. upon a debt which you acknowledge you are honestly liable for, with what face can you refuse to appropriate the rest? I know well how these things are done. Here is the entering wedge. If Congress once recognizes the principle that we are liable to refund the duties upon goods destroyed which have passed from the custody and control of the officers of the Government, upon the payment of duties, into the hands of the owner, then you have opened a most capital mine for digging into the national Treasury, and the digging will be exceedingly rich, I have no doubt.

It is said by the gentleman from Michigan, [Mr. HOWARD], a gentleman in whose judgment and integrity I have the utmost confidence, that

the principle upon which he is disposed to act is, that the original packages had not been broken, and therefore he thinks the duties ought to be refunded. Now, sir, if the gentleman from Kentucky [Mr. MARSHALL] is right in regard to the law to which he referred, then the gentleman from Michigan is wrong as to his principle. If the goods have passed from the jurisdiction and control of the authorities of the United States; and become subject to State legislation, State assessment, and State taxation, then the Government ought not to be bound to refund; and if the State control originates on the payment of the duties, then, of course, there can be no refunding in the case.

I understand the gentleman to say, that if the wholesale merchant has had the boxes in which the goods were imported—the original packages—deposited in his cellar, but has not taken off the lids when the fire occurs, then the duties are to be refunded. But if, on the other hand, he has removed the lids from the boxes, and placed the goods on his shelves, then there is to be no refunding. Now, you have to draw the line somewhere, but I see no reason for drawing it at that precise point. If you do not stop at the precise point where the possession changes, there is no other point; there is no reason why every retail merchant in the country should not have the duties refunded on goods destroyed by fire.

Now, I have said all that I designed to say in relation to this bill. It is an important one, not only on account of the amount which is sought to be appropriated by it, but it is important as a departure from the principle upon which the Government placed itself by the general law of 1854; which makes a different point—the payment of the duties, and the change of the possession of the goods—the point at which the liability to refund ceases. This bill changes that principle entirely, and I submit that, if the House should pass it, they would be establishing a precedent of great magnitude, and one, it seems to me, that would be very injurious to the Treasury of the United States.

Mr. HASKIN obtained the floor; but yielded it to

Mr. GREENWOOD, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the Chair, Mr. SHERMAN, of Ohio, reported that the Committee of the Whole House had had under consideration House bill No. 204, and had come to no conclusion thereon.

HARBOR AT SABINE.

Mr. REAGAN, by unanimous consent, and in pursuance of previous notice, introduced a bill to provide for the improvement of the bar and harbor at Sabine, in the State of Texas; which was read a first and second time, and referred to the Committee on Commerce.

And then, on motion of Mr. BLISS, (at five minutes to four o'clock, p. m.) the House adjourned till Monday.

IN SENATE.

Monday, April 19, 1858.

Prayer by Rev. G. W. COOMBS.

The Journal of yesterday was read and approved.

COMMITTEE ON PRIVATE LAND CLAIMS.

The PRESIDENT *pro tempore* appointed Mr. POLK an additional member of the Committee on Private Land Claims, in accordance with the order of the Senate of Thursday last.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, information in relation to the contract with Russell, Majors & Waddell, for beef cattle, in March, 1858, and contracts made without public notice for the purchase of horses, cattle, grain, or other supplies up to this date, in connection with the Utah expedition.

Mr. BIGLER. I move that that communication lie on the table.

Mr. TRUMBULL. I trust that the communication from the Secretary of War will be printed, so that we may be able to see what is in it.

The PRESIDENT *pro tempore*. Does the Senator make that motion?

Mr. TRUMBULL. Yes, sir. I move that it be printed.

Mr. BIGLER. The deficiency bill, as I understand, has been made the special order for to-day at half past twelve o'clock; and if the motion to print were adopted, it would seem to deprive us of the opportunity of using that important paper in the consideration of the bill to-day. I think it is such a document as can be understood by a reading at the Clerk's desk. I suggest that the motion to print may involve the whole question of proceeding with the deficiency bill to-day. With that view, I do not feel like voting in favor of printing the document.

Mr. HUNTER. If we now order this document to be printed, we shall not have it here while we are discussing the deficiency bill. I want to get that bill up to-day. It is the special order. The manuscript papers communicated can be examined by any gentleman.

Mr. SLIDELL. Why not let the order be made for the printing?

Mr. HUNTER. It would go out of the possession of the Senate, and thus delay the consideration of the bill.

Mr. GREEN. Let us keep the paper in the possession of the Senate, but order it to be printed, so that it can be sent to the printers when we adjourn.

Mr. TRUMBULL. I do not understand that making an order for printing a paper takes it from the control of the Senate. I suppose that a copy will be furnished to the printers. I am not advised upon that subject, but I suppose they do not set up the type from the original papers. We may, therefore, have the use of the document to-day, and by to-morrow morning we may have it printed, if we order the printing now. This is a very important matter.

Mr. HUNTER. The printers do set up from the original papers. We have not force enough here to copy the papers before sending them to be printed. If it were not for that, I should much rather have the order made. They cannot be printed, however, unless we send the papers away from the Senate. That is the only objection I have to it; we shall lose possession of the papers, and we want them here.

Mr. TRUMBULL. I was not aware that the practice was as stated by the Senator from Virginia. It seems to me very extraordinary that the original papers should be sent to the printing office from the Senate.

Mr. HUNTER. Such is the practice, as I understand it. There is not force enough in the Secretary's office to copy the papers sent here, in order to be printed.

Mr. TRUMBULL. I supposed there were clerks in the offices who made these copies for the printer. It ought to be so. Surely, it is a very unsafe way of transacting the business of the Senate, to allow its original papers to be sent off to the printing office. If such is the practice, and the original paper is to go to the printer, I trust that it will still be ordered to be printed. This bill involves an appropriation of many millions of money, and we want to see the foundation for it. At this time, all of us upon all sides of the Senate, are desirous, I trust, of economizing in the expenditures of the Government. This is no party question; at least it ought to be no party question; and I trust it is not to run into one. The party in power professes to be in favor of an economical administration of the Federal Government. If these large appropriations are all right, let us have the means of examining and ascertaining that they are right. I cannot make so much difference whether this bill passes to-day or to-morrow, as to require that Senators should be compelled to vote upon it without understanding it distinctly. I want to see this document, and examine it. If the bill is to be taken up in half an hour, and we are to rely upon going to the Clerk's table and examining it, we know how imperfect the examination of every one must be; and but one Senator at a time could make the examination. I hope the order to print will be made.

Mr. FESSENDEN. I would suggest that, if the chairman of the Committee on Finance wishes to take up the bill to-day, we can do that, and dispose of the propositions from our committee in regard to striking out certain clauses, upon

which there will be some debate, and let the other matters go over until to-morrow. We can have these papers printed by to-morrow morning without difficulty. I suppose we can make some advance in the bill in that way to-day.

Mr. HAMLIN. Will my colleague allow me to make a suggestion?

Mr. FESSENDEN. Certainly.

Mr. HAMLIN. I think the order to print might be made, and still the papers be retained in the Senate until we adjourn. They can then be printed, and laid on our tables to-morrow morning.

Mr. HUNTER. I agree to that.

The motion to print was agreed to.

PETITIONS AND MEMORIALS.

Mr. HAMLIN presented the memorial of George M. Weston, commissioner of the State of Maine, submitting an account of that State against the United States, under the fourth and fifth articles of the treaty of Washington, and praying for an appropriation to satisfy the same; which was referred to the Committee on Foreign Relations.

He also presented the memorial of Thomas Crown, praying to be allowed damages occasioned by the abrogation of contract made by him with Captain Blaney, for furnishing bricks for the fortifications of Oak Island; which was referred to the Committee on Claims.

Mr. STUART presented the memorial of Daniel B. Hibbard, praying for payment for his services in carrying the mail, under a special contract with the deputy postmaster at St. John's, Michigan; which was referred to the Committee on the Post Office and Post Roads.

Mr. SLIDELL presented a memorial of merchants of New Orleans, praying that the "Collins line of steamers" be sustained; which was referred to the Committee on the Post Office and Post Roads.

He also presented a report of a committee of the Chamber of Commerce of New Orleans, in favor of the establishment of a line of mail steamers between New Orleans and Bordeaux, as proposed by the memorial of W. C. Barney and others; which was referred to the Committee on the Post Office and Post Roads.

Mr. BIGLER presented two memorials of citizens of Philadelphia, praying that an appropriation may be made for carrying the mails between Philadelphia and Southampton in the Collins line of steamers; which was referred to the Committee on the Post Office and Post Roads.

Mr. WILSON presented the memorial of the agent of the State of Massachusetts, praying that an appropriation may be made for paying the claims of that State against the United States, arising under the treaty of Washington; which was referred to the Committee on Foreign Relations.

Mr. BROWN presented the memorial of Jonas P. Levy, relative to his claims against Mexico, and praying for the interposition of Congress for their settlement; which was referred to the Committee on Foreign Relations.

Mr. FESSENDEN presented a petition of William Woodbury and other business men of Portland, Maine, praying for the enactment of a general relief law; which was referred to the Committee on the Judiciary.

Mr. WRIGHT presented a memorial of citizens of Newark, New Jersey, praying that a system of instruction may be introduced on board our ships of war as a means of improving the personnel of the Navy; which was referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred a report from the Court of Claims on the case of the claimants of the brig General Armstrong, submitted a report accompanied by a bill (S. No. 273) for the relief of the owners, officers, and crew, of the brig General Armstrong. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. SIMMONS, from the Committee on Patents and the Patent Office, to whom was referred the petition of Randall Pegg, submitted a report accompanied by a bill (S. No. 274) for his relief. The bill was read, and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Jeremiah Pendergast, submitted a report accompanied by a bill (S. No. 275) for his relief. The bill was read, and passed to a second reading, and the report was ordered to be printed.

BILL INTRODUCED.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 276) for the relief of Mrs. Ambrosie Brou, of the parish of St. Charles, State of Louisiana; which was read twice by its title, and referred to the Committee on Private Land Claims.

BILLS BECOME LAWS.

A message from the President of the United States by Mr. HENRY, his Secretary, announcing that the President had signed and approved the following acts:

An act to authorize a register to be issued to the steamer Fearless.

An act for the relief of the owners of the bark Attica, of Portland, Maine.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives, by Mr. BARCLAY, one of their clerks, announcing that the Speaker had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore*:

A bill (S. No. 202) for the relief of Major Jeremiah Y. Dashiell, paymaster in the United States Army;

A bill (H. R. No. 208) for the relief of the heirs of Alexander Stevenson;

A bill (H. R. No. 212) for the relief of N. C. Weems, of Louisiana; and

A bill (H. R. No. 213) for the relief of Francis Wlodecki.

MEXICAN PROTECTORATE.

Mr. HOUSTON. I gave notice on Thursday last that I should move this morning to take up the resolutions some time since introduced by me in relation to the condition of affairs in Mexico; but, in consequence of the press of business, I shall not move to call it up this morning, but I intend to do so to-morrow morning.

THE SHIP SUSQUEHANNA.

Mr. MASON. I offer the following resolution, which I hope the Senate will now consider:

Resolved, That the Secretary of the Navy be directed to communicate to the Senate copies of any correspondence or other papers containing information of the condition of the United States ship Susquehanna, on her late arrival at the island of Jamaica, and of the reception and assistance extended to her officers and crew, disabled by sickness, by the naval and civil authorities of Great Britain at that island.

Mr. FESSENDEN. Is it a resolution of inquiry?

Mr. MASON. It is merely a resolution directing the Secretary of the Navy to send in certain correspondence. I will say, in a word, that we have, through the newspapers, an account of the arrival of the ship Susquehanna at Kingston, in the island of Jamaica, with a large party of her crew and officers in a very disabled condition by the yellow fever. It comes through the newspapers only, but it is accompanied by a statement that very great and diligent attention was shown to them on their arrival by the naval authorities, and the admiral in command of the British squadron on that station. The circumstances attending it, I am sure, will address themselves as of very great interest to the sympathies of the American people. I desire to obtain the correspondence, that it may be laid officially before the country, and that the Senate, as one branch of Congress, may take into consideration whether this is an occasion for a national recognition of such signal services.

The resolution was considered, by unanimous consent, and agreed to.

INDIANA SENATORIAL ELECTION.

Mr. HUNTER. As it is within five minutes of the time set for the special order, I move that the deficiency bill be now taken up.

Mr. TRUMBULL. Before that is taken up, I wish to make a motion which I suppose will give rise to no debate, and it is a privileged matter. It will be remembered by the Senate that some time ago a resolution was adopted authorizing the taking of testimony in the case of the contested election of Senators from the State of Indiana. At the request of persons in Indiana, I

applied, a few days since to the Secretary of the Senate for a copy of the resolution, supposing that, as a matter of course, it would be furnished, so that in case any of the parties mentioned in the resolution should desire to take testimony in Indiana, they might have a certified copy of the resolution before them, which they seemed to suppose would be proper. Perhaps the testimony could be taken without any such certified copy, but it would certainly be proper that a certified copy of the resolution should be before the officer by whom the testimony is taken, in case any should be taken. The Secretary of the Senate seemed to have some hesitation about furnishing a certified copy of the resolution, and rather preferred that I should move the Senate that he be directed to furnish it. I now make that motion, that the Secretary of the Senate be directed to furnish a certified copy of the resolution which passed the Senate, authorizing the taking of testimony in the case alluded to, to any of the parties mentioned in the resolution, on their application.

The PRESIDENT *pro tempore*. The Chair will inform the Senator from Illinois that there is a motion now pending before the Senate, which is to proceed to the consideration of the deficiency bill, and that his motion, at this time, is not in order, except by unanimous consent.

Mr. HUNTER. If the vote on the resolution can be taken without debate, I shall not object, but if it will lead to debate, I must object.

Mr. TRUMBULL. I imagine there will be no debate upon it. I suppose there will be no resistance to my proposition.

Mr. BRIGHT. I apprehend there will be no objection whatever to granting the order moved by the Senator from Illinois. I will, however, avail myself of this occasion, as I have of every occasion when this case has been referred to, to state that I am very anxious to have it disposed of. So far as the taking of testimony is concerned, I have never myself attached a great deal of importance to it. My colleague and myself have differed somewhat on that head. I am content to rely upon the Journal of the House, which contains substantially a correct history of the case, with the exception of one single point, as to which testimony has already been taken in the form of *ex parte* affidavits. I am ready myself to have the case submitted to the committee, and so far as it is proper for me to express a preference as to the time, I would be glad if the committee would take it up to-day, to-morrow, next day, or, in other words, at the earliest period of time consistent with their other engagements. Entertaining not a particle of doubt about the validity of the election under which I hold my seat, I hear with impatience, I confess, an allusion from any quarter which questions that right; and nothing but an unwillingness to obtrude myself upon a body that I have the profound respect for that I have for this has prevented me from making a personal appeal to Senators to take up and dispose of my case at least. I do not know for what purpose this order is asked. If my colleague wishes to take other testimony than that which he now has, or if those for whom the Senator from Illinois speaks for desire to do so, I hope it will be done without delay. Action is what I desire.

Mr. HUNTER. If no further remarks are to be made, I shall not object to the consideration of the resolution of the Senator from Illinois; but if there are to be further remarks, I hope the Senate will lay it over until to-morrow morning, so that we may take up the deficiency bill, and make some progress in its consideration.

Mr. TRUMBULL. I do not propose to make any argument, but to present a single suggestion in reply to the Senator from Indiana. I think he is entirely right in wishing an early decision of this case, and it is due to him that it should be early decided. I have thought so from the beginning. I do not make the application for this direction to the Secretary at the instance of the Senator from Indiana, but at the instance of parties who wrote to me from Indiana upon the subject; that in case they desired to take testimony it was thought to be desirable to have certified copies of the resolution.

Mr. FITCH. I hope this case will be disposed of at the earliest opportunity. My colleague has stated to the Senate what he has latterly uniformly stated in substance to me, namely: that no other evidence to fully establish our rights to our seats,

in the estimation of any unprejudiced man, was necessary, than our credentials and the record; and, consequently, that he did not attach much importance to oral testimony. I will ask the indulgence of the Senate for the purpose of stating briefly the reasons which induced me to desire such testimony, and, at the time, and until lately, to deem it material.

The PRESIDENT *pro tempore*. The Chair will inform the Senator that the hour has arrived for the consideration of the special order, and that this matter cannot be proceeded with unless by the unanimous consent of the Senate.

Mr. FITCH. It will take but few minutes to go on with it and fix an early day for its decision. I agree with the Senator from Illinois and my colleague, that it should be early decided; and certainly the quicker it is decided, the more agreeable to me.

I left Indianapolis in February, 1857, to take my seat here, the Legislature of Indiana being then in session. On my arrival, I found a protest purporting to be from certain members of the General Assembly, accompanied by what was represented to be extracts from the Journals of the Senate and House. Knowing the proceedings of these bodies up to the time of my departure, from personal observation, I saw that what were represented to be extracts from the Senate's Journal were not true records of the proceedings of that body in the matter relative to which they were offered in evidence, and I knew of no other or better way to establish the truth than by oral testimony; and hence asked, last session, in the following language, that the Senate should authorize it to be taken:

"The undersigned, in conclusion, submits what, indeed, must be obvious to the committee, that as the witnesses and proofs to the matter above stated are only to be had in the State of Indiana, and can only properly be obtained by careful examination, and under the superintendence of himself, that it cannot be in his power to procure it at this or the approaching extra session of the United States Senate, even were he to abandon his duty as a Senator, which he has no right to do, and proceed at once to the place where the testimony is to be had. He further submits, therefore, that the committee will so dispose of the matter now as will enable him and the contestants, at a future period, to present the entire case fairly and fully before them."

I did not contemplate leaving the Senate during the session to take the testimony, but intended it should be taken during the recess. A resolution authorizing the testimony was introduced by the Committee on the Judiciary, and failed. I need not more than refer to the circumstances under which it failed. It failed in consequence of opposition on the other side of the Chamber. Had it then passed, the testimony would have been taken, and the matter long since been decided. Soon after the Senate adjourned, and I gave the matter no further attention.

Early in this session the same, or a similar, resolution was introduced from the same committee, and adopted. I have been anxious for weeks, as is well known to my colleague, and others, to leave here for the purpose of giving the notice, and taking testimony, contemplated by the resolution, but have not felt at liberty, in the present and past condition of the public business, to do so; and have been particularly unwilling to leave, and been asked not to leave, during the pendency of the all-absorbing Kansas question, which has created so much feeling here and throughout the country. There may, or may not, be time to take the testimony, and have it here by the day fixed by the resolution. Whether there be or not, I am not disposed to ask another hour's delay; for, since the adoption of that resolution, printed copies of the Senate and House Journals have, for the first time, fallen under my observation, and been examined by me; and I find much that I wished to prove matter of record in the House Journal. I am willing, therefore, and wish the case submitted, and early decided, upon the record, and such evidence as has been, or can be, obtained in this city. Let that, though *ex parte*, like the statements of the protestants, go to the committee and the Senate. It will be taken into consideration by them, and, like the protestants' statements, that weight given to it which they may deem it entitled. I trust, therefore, that the matter will be called up at once, at the suggestion of the Senator from Illinois, not for the purpose of delay, but for reference to the committee, and a report and decision at the earliest day on which the Senate can agree.

Mr. HUNTER. If the vote can be taken without any remarks, I will suspend my motion; but if not, and if there is anything more to be said; I must call for the special order.

Mr. TRUMBULL. I have no remarks to make. I am willing that the vote should be taken on the resolution. I suppose there will be no objection to it.

The PRESIDENT *pro tempore*. It will require unanimous consent to consider and pass the resolution to-day.

There being no objection, the Senate proceeded to consider the resolution, and it was adopted; as follows:

Ordered, That the Secretary of the Senate furnish, on application by any individual desiring to possess the same, an authenticated copy of the resolution agreed to on the 16th of February, authorizing testimony to be taken in reference to the election of the Hon. Jesse D. BRIGHT, and Hon. GRHAM N. FITCH, as Senators from the State of Indiana.

DEFICIENCY BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, which had been reported from the Committee on Finance with two amendments.

The first amendment was to strike out the following clause:

To enable John C. Rives to pay to the reporters of the House, for reporting the debates of the present session of Congress, the usual additional compensation of \$800 each, \$4,600.

Mr. HUNTER. Mr. President, that is a gratuity which is usually made by the House of Representatives, and sometimes by the Senate, to their reporters. It is a sum over and above what is agreed by contract to be paid to John C. Rives for reporting. It was put in by the House of Representatives; and being a mere gratuity, it was deemed inappropriate to the deficiency bill. For one, I do not know how far it is right to make these gratuities. You contract for a certain sum; and if that is not enough, you ought to give more by contract, and not do it by these provisions for extra pay. At any rate, this deficiency bill is not the place for it. It is generally made at the end of a session by resolution, and it ought to be provided for out of the contingent fund, or in the general appropriation bill. It would seem to be just, therefore, either to strike this out, or else have another appropriation of equal amount for our own reporters, who ought to be put on the same footing. But, sir, this is no place for the item, and I hope the Senate will strike it out.

The amendment was agreed to.

The second amendment was to strike out the third section of the bill in the following words:

SEC. 3. And be it further enacted, That the accounting officers of the Treasury be authorized and directed to allow credit to the Clerk of the House of Representatives for such payments out of its contingent fund as have been, or may be, made, under allowances authorized by the House of Representatives during the last Congress: *Provided*, That said allowances shall have been duly approved by the Committee on Accounts: And be it further provided, That the said allowances be paid out of any moneys in the Treasury not otherwise appropriated.

Mr. HUNTER. This item in the deficiency bill is founded upon a resolution passed by the House of Representatives, making certain provisions for extra pay, some of which provisions went back several years, I believe, in the case of one or two of their officers. When this item in his accounts was presented by the Clerk of the House to the Comptroller of the Treasury, he refused to pay it, because it was in opposition to the act of the 3d of March, 1845, which provides that—

"No part of the appropriations which may be made for the contingent expenses of either House of Congress, shall be applied to any other than the ordinary expenses of the Senate and House of Representatives respectively, nor as extra allowance to any clerk, messenger, or attendant, of the said two Houses, or either of them, nor as payment or compensation to any clerk, messenger, or other attendant, who is so employed by a resolution of one of said Houses, nor in the purchase of books to be distributed to members."

Under the provisions of this law, the Comptroller and Secretary of the Treasury refused to allow this item in the Clerk's account, and refused to pay this sum, it being in opposition to a law which was passed by the whole Government, and the authority being only the resolution of one House. But inasmuch as it had been the practice before and since the passage of the law of 1845, to pass such resolutions in the House of

Representatives, and such items in the accounts had been heretofore allowed, the Secretary recommended that Congress should provide for this case by a direct appropriation; and the House of Representatives did provide for it by this section. It was thought by the Finance Committee, however, that it was not right that we should, in opposition to a law, which was not only in existence, but believed to be a salutary one, sanction this by either House of Congress. So far as regards the disposition of the contingent fund in all matters in which the House has a right to control it, the Senate has never interfered with the other House, nor would it in regard to its disposition of that fund; but when a law has been made to limit and regulate the power and the discretion of the two Houses in the application of that fund, it would seem to be proper that we should adhere to it until the law is repealed. For that reason, the committee have recommended to the Senate to strike out the third section of this bill.

Mr. BIGGS. Mr. President, I was one of those who, in committee, voted to strike out this third section; but since I gave that vote in committee, I have some doubt as to the propriety of striking it out, and my doubt arises from the nature of the intercourse that ought to exist between the two Houses. As has been said by the Senator from Virginia, up to the present case, since the passage of the act of 1845, these allowances have been made by the House of Representatives, and have been passed without question by the accounting officers of the Treasury. It seems to me, therefore, that in consequence of this practice of the Government in relation to these allowances, the House of Representatives, and the officers of that House, had a right to expect that they would be passed as they had heretofore been passed. These allowances were made under that expectation; and a portion of them, I understand, have been paid by the late Clerk of the House of Representatives under the expectation that they would be passed without question by the accounting officers. I am clearly of the opinion that it is in violation of the act of the 3d of March, 1845; but in consequence of this uniform practice since the act of 1845, up to the present case, it seems to me it would be rather improper now to strike out these allowances from the appropriation bill, thus subjecting, it may be, the late Clerk of the House of Representatives to loss, and certainly disappointing the well-grounded expectations of those who had these allowances made to them. It is proper, I believe, before the question is put on striking out, to perfect the section; and, having my doubts as to the propriety of striking it out entirely, and being unwilling that this practice should pass without disapprobation, so far as further appropriations are concerned, so as to give distinct notice to the House of Representatives that it will not be further tolerated, I desire to move an amendment before the question is taken on striking out the section, by adding as a further proviso the following:

And he it further provided, That nothing herein contained shall be construed to approve or justify any further appropriation in violation of the second section of the act of Congress, approved on the 3d of March, 1845, entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1846, and for other purposes."

Mr. HUNTER. I certainly shall not object to the amendment. It will probably be an improvement if the Senate determine to retain the third section. I apprehend, however, it will have very little influence. If the original law of 1845 has been set aside by the action of one House of Congress, and if we sanction that course, it is questionable whether they will regard our reiteration of the opinion that the law ought to be carried out hereafter. I feel, as the Senator from North Carolina has said, that, in regard to appropriations from the contingent fund, so far as either House has discretion, the other ought not to interfere with the exercise of that discretion, nor have I ever voted to do so in my life. But when a law has been passed in order to remedy abuses of this discretion, and to limit the discretion, it seems to me, unless we think that law is improper and ought to be repealed, we should enforce and adhere to it. If the law is wrong, it ought to be repealed; if the law is right, we ought to carry it out.

Mr. BELL. Are we not a little too late in acting upon the suggestions of the honorable Senator

from Virginia? It seems, from the report of the Secretary of the Treasury, that we have suffered the construction under which the other House acted, to prevail for a great many years. Allowances of this description have been made by a separate resolution of the House of Representatives, I infer from the language of the Secretary of the Treasury, for some five or six years past, during two or three Congresses. We have thereby, by our oversight, to say nothing of the negligence of the other House, if they had that act of 1845 in view—we have by our own conduct here, in making appropriations for the contingent fund, sufficient to pay all these allowances from year to year, encouraged them to believe, even if they had any knowledge of that act, that the Senate would not insist upon such a construction of it as to prevent them, at their discretion, from making what allowances they pleased to their own employes.

Is there not something to be considered in reference to the point suggested by the honorable Senator from North Carolina? The honorable Senator from Virginia has had sufficient experience in Congress to know how difficult, how irritating, and how dangerous a collision between the two Houses is likely to become on a question of this sort. I think he will remember that we had some experience of this in relation to certain payments we desired to make, and did make, out of our contingent fund, for books published under the separate order of the Senate of the United States. I do not remember the particular case; but I remember very well that a late Senator from North Carolina, who sat on this side of the House, (Mr. Badger,) was the active mover and advocate of that separate appropriation by the Senate; and an advocate of the principle that the House of Representatives had no right to interpose any authority to prevent such an appropriation of the contingent fund voted to this House as we thought proper to make.

I rather think—nay, I am certain, that that debate and contest arose since the passage of the act of 1845. The honorable Senator from Virginia, I think, was on the same side then as he is now in relation to the question; but I am not certain of that. However, whether he advocated the right of the Senate to dispose of its contingent fund as it thought proper or not, I do not remember that that law was interposed as an objection to what the Senate wanted to do on that occasion. I think the difficulty at that time, though threatening to cause considerable trouble between the two Houses, was settled by a committee of conference. All of us who have had any experience in parliamentary usages, or in the legislation of Congress, know the sensitiveness and difficulty that are certain to arise when one House undertakes to interpose its construction of a law, or in any other way to interfere with the appropriations for the contingent fund of the other, which are supposed to be made for the purpose of being applied under the discretion of a separate House.

The act of 1845—I do not remember that my attention was ever called to it before—is very well founded on sound principles. It was wise and judicious when applied to the officers of the Government generally; but when applied, as it evidently was intended to be, so as to put it in the power of one branch of Congress to check a supposed or alleged extravagance in the practice of the other, it was an act the propriety and wisdom of which might have been well questioned; for, sir, when the country ceases to have such confidence in Congress that they are not willing that either branch shall have the power of applying its contingent fund to whatever objects it thinks proper, within the Constitution, for the payment of its own employes, or for furnishing the accommodations it may think requisite for the transaction of its business, the country is lost.

Now, sir, if it be the fact, as stated by the Secretary of the Treasury, whose report is before me—and I believe that it will not be denied—that for many years since 1845 a different construction from that for which he contends has been placed upon the law, does it not, at all events, afford reason for passing this appropriation, particularly with the amendment offered by the honorable Senator from North Carolina? The act of 1845 implies a distrust as to the trustworthiness of either branch of Congress—a want of confidence in their fidelity to their duties—to such an extent that it will not suffer them to make any appropriation

of money out of their contingent fund for any accommodation they may desire; not only in the Hall of Representatives, but the same principle applies to every other accommodation and facility they may think they may need in the transaction of the public business. This being the case, I doubt very much whether it is not due to both Houses of Congress that that act should be repealed.

These allowances having been made, and a demand of payment insisted upon, and some payments, as appears from the papers which are before me, reported by the Secretary of the Treasury, having already been made to the amount of many thousands of dollars—twelve or fifteen thousand perhaps, I do not know how many—in the confidence that the same rule of construction would continue in regard to the whole of these allowances that had been applied heretofore by the Senate for so long a time, does not present an appeal to the discretion of the Senate to make this appropriation? At the same time, the Senate may, if they think proper, by the amendment of the Senator from North Carolina, intimate to the House of Representatives that no more such allowances will be sanctioned by the Senate by making appropriations to pay them. I think that would save the Senate; and being understood, would discourage the violation of the existing law on the subject, and at the same time do justice to the House of Representatives.

I think these are good reasons. I think, considering the relations of the two Houses to each other, and the necessity of maintaining harmony between them, they are solid reasons. And whatever we may think of the propriety of the course of the House of Representatives in making these allowances; however uncalled for we may think they were; whatever degree of extravagance we may think attaches to them; however unnecessary we may regard them; yet, considering that they were made by the House of Representatives, one of the branches of the Congress of the United States, with whom we cannot move at all in legislation but by acting in concert and coöperating in harmony, I believe we may well vote this appropriation without going into the question whether the allowances were properly made by that House, or in conformity with existing law. I am perfectly willing, however, to adopt the amendment of the Senator from North Carolina. It seems obligations and responsibilities have already been incurred, and certainly they should be discharged. When my attention was first called to this subject, I asked if it was connected in any way with what I had heard about the books voted to the members of the other House, supposing it might be connected with them in some form or other. I received for answer, that there was no connection between them whatever; and I saw, on reading the report of the Secretary of the Treasury, that it is not supposed by him that there is any connection. Now, the language of the Secretary of the Treasury is worth reading:

"The greatest reluctance I have felt in coming to this conclusion [that is, that he could not pay the money] arises from the apprehension that injustice may be done to the persons whose claims have thus been recognized, and the officers of the Senate and House, who have acted in good faith in complying with the directions of their respective Houses."

"I have no doubt that these officers have so acted; and, in refusing to settle their accounts, no imputation is intended to be thrown upon their official conduct."

"In paying these accounts, they have only done what they were required to do, and what long-established usage justified them in doing."

The usage, I understand, has prevailed since 1845.

"Under such circumstances, they should be protected from any loss or injury, and I have no doubt Congress will do it. The accounts must be suspended, however, until the meeting of Congress, when I will recommend the passage of a law authorizing the Department to pass them."

"In this way these officers can be amply protected, a wise and good law vindicated, and a bad practice corrected."

I do not see that the Secretary of the Treasury himself has had any hesitation as to the propriety or the expediency of voting this appropriation, or otherwise I should not have said one word on the subject.

Mr. BENJAMIN. Mr. President, I concur very fully in what has been said by the honorable Senator from Tennessee, and the honorable Senator from North Carolina, in relation to the exceeding delicacy of interference on the part of one House with the disposal by the other of its con-

tingent fund; and if I understood that the House of Representatives had made a point of this matter, and after mature consideration had determined to adhere to its power, whether I believed that power to be well founded or not, I should not be disposed to raise an issue with the House on a matter so delicate as this; I would not conceive that the public interests justified it; but I remember reading with some attention the debates in the other House on this deficiency bill, and there are some circumstances in relation to this appropriation which ought to be called to the notice of the Senate. In the first place, one of the gentlemen in the House of Representatives, who sustained the propriety of this appropriation, was called upon by one of its opponents expressly to declare whether, when the resolution was offered in the last Congress for the allowance of these extra payments to the clerks of the last House of Representatives, the intention of the mover was to allow extra pay for antecedent Congresses. That question was put repeatedly, and evaded. The very gentleman who supported the resolution allowing this extra sum to the officers of the House of Representatives refused to say, when called upon, that that was their intention in offering the resolution; but the resolution was so worded as to give color to the construction that the House of Representatives of the last Congress was not simply making an extra allowance to its own officers, but actually was raising the salary of its officers, and paying them an addition to their salary for a long series of antecedent years.

Now, sir, I have no doubt of the power of the House of Representatives over its contingent fund, when not exercised in contravention of existing law. It is admitted on all sides here that there is an act of Congress positively prohibiting either House from making use of its contingent fund for increasing the compensation of its officers beyond that fixed by the House when the officers are employed. It is said that that law has been violated, and that the sanction of the Departments has been given to that violation. It may be so; abuses do spring up in these matters in all governments; but I think gentlemen will find by a reference to this subject that this is the first time when the power has been claimed by either House to allow extra compensation to its officers, not only for services done to that House, but for services done to former Houses. I know of no instance like this.

I also observed, in the proceedings of the House of Representatives, that there was a strenuous opposition on the part of a large number of the members of that House to the allowance of this item, and that efforts were made to get a vote on it; but, by reason of the rules of the House, and the particular position into which this bill had got, it was found impossible, without unanimous consent, to permit a vote of the House to be taken on this item. That member of the Committee of Ways and Means of the other House who had charge of the bill, had promised those who opposed this item of the bill that they should have a special vote on it, to take the sense of the House upon it, and he endeavored to redeem his promise; but, when the bill was reported from the Committee of the Whole and got into the House again, the previous question was ordered, and it required unanimous consent. That unanimous consent was refused, and the consequence was that there was no vote in the House by yeas and nays on the proposition to pay this sum. At least, I think that was the case. My memory is so, and I read the proceedings with some attention.

Now, as they have had no opportunity to vote on this allowance in the other House, as members have not been called upon to say yea or nay to this distinct proposition, I consider that it is not one of those cases in which we are interfering with the proper authority of the House over its contingent fund. If we say we do not approve of this item, and send it back for their reconsideration, we do not thereby say that, if the House determines that it will exercise this control over its fund, and make this disposition of sixty or seventy thousand dollars as a gratuity to gentlemen for services rendered in former years, we will resist it to the bitter end; but it is our duty to express our disapprobation of it, if we feel this disapprobation. We are as much the constitutional guardians of the Treasury as the House is, and it is as much our duty not to vote for an im-

proper appropriation as it is the duty of the House. I believe this appropriation to be an improper one, and I must vote to strike it out. If the House shall persist, upon deliberation, and will determine that it will make this appropriation out of its contingent fund, the question will then recur whether the issue between the two branches is of sufficient importance to lead us to the loss of this bill. For one, I am prepared to say in advance that I will vote for the bill with this appropriation rather than lose it; but I desire to vote an expression of my disapprobation of the appropriation.

Mr. FESSENDEN. I voted in committee with the other members of the Committee on Finance for the amendment that is proposed; and I did it upon the simple principle which has been stated by the chairman, that on examination, we came to the conclusion that the original order or resolution, as it was passed by the House of Representatives, was against law; that it was against a positive prohibition of law to appropriate even the contingent fund of either House in the manner proposed. That being the case, as a member of the Committee on Finance, I felt bound to recommend the striking out of this provision; but I do not feel bound, as a member of the Senate, to insist strenuously that the Senate shall carry into effect this recommendation which the committee saw fit to make. I do not propose now to argue the question at all, but simply to state a few considerations on the one side and the other in reference to this amendment, for the reflection of the Senate.

I do not agree with the honorable Senator from Tennessee that any and every disposition which either House may see fit to make of its contingent fund should be passed by without question by the other; because, in the first place, I think there should be some true understanding of what amount of money is to be appropriated for the use of the House. It will not do, I apprehend, to appropriate just such a sum of money for contingent expenses, to be under the control of either House, as each House may desire, and then to say, with reference to the amount thus appropriated, that the other branch shall not interfere with it under any given circumstances.

Mr. BELL. I did not say so.

Mr. FESSENDEN. I so understood the Senator; but if he did not say so, very well.

Mr. BELL. I trust I shall be allowed to explain. Of course, if it was an extraordinary or unreasonable amount, that would bear on its face an evidence that the sum ought not to be voted; and so if it was for objects and under circumstances altogether out of the course of such appropriations for the accommodation of the House or its employes. I did not mean to say so unreasonable a thing as the honorable Senator seems to impute to me, that under no circumstances would I look into these appropriations, or inquire into or dissent from them.

Mr. FESSENDEN. I did not impute anything at all to the Senator, but I say his principle, as laid down, certainly would carry us that length; and surely it will not do to say, that, when there is a positive prohibition of law, that the contingent fund of either House shall not be appropriated for certain specified purposes, one House is at liberty to disregard that provision of law, and the other is to submit to it on the principle that it is not courteous to interfere on account of the deference and respect one House should have for the other. I should not accede to that principle, at any rate; and if the Senator did not mean to go that length, of course my remarks will not apply to anything he has said.

But, sir, there is a great deal to be said on the other side in reference to this matter. The law now relied upon was passed in 1845, and the accounting officers of the Treasury and the heads of the Treasury Department, from that time down to the present, have considered that that law expired with the year. Being put upon an appropriation bill, it has been considered that it had no effect beyond that appropriation bill itself, and the time for which that appropriation bill existed was for the year. That was the construction put upon it by Mr. Whittlesey. He gave a long written opinion upon the subject to the Secretary of the Treasury recently, and stated that that had been the uniform construction. Mr. Guthrie sanctioned that construction; it was so understood; and from

1845 down to the present year, it has been understood by the accounting officers of the Treasury, by Congress, by both branches of Congress, that it had no sort of existence but had gone out of date, had expired, was not an existing, acting law which should guide or bind anybody.

That being the fact, that being the construction placed on it by both branches of Congress in their action for year after year previous to last year, and by the accounting officers of the Treasury and by the head of the Treasury Department, there is certainly a great deal of excuse for saying that the House of Representatives might suppose the law did not exist. But Mr. Cobb, the present Secretary of the Treasury, when he came to revise the action of the House, on examining this law of 1845, arrived at a different conclusion. I have examined the peculiar phraseology of the provision of the act of 1845, with a view to see whether his construction is correct, or whether the other is correct; and I confess, on examination, from the language of that statute, I believe his construction is the correct one, and it is an existing law. Still, there is the fact that such was not the construction of Mr. Whittlesey for years; such was not the construction of the Secretaries of the Treasury; such was not the construction of either House of Congress, until the period when this matter came under examination by the present Secretary of the Treasury.

Acting upon that assumption, which everybody had supposed to be the correct one, at the last session of the last Congress the resolutions in question were passed by the House of Representatives, supposing they had a right to pass them, and in fact they were passed almost without notice. Under these resolutions the Clerk of the House of Representatives acted. Under these resolutions certain officers of the House have acted with reference to the disposition of an amount of money they supposed to be coming to them. That action has been had, money has been paid, claims on the Treasury have been disposed of by men supposing them to exist under these resolutions, and under the previously existing action of the Treasury Department and of Congress itself.

Well, now, sir, that being the case, it comes to be a mere question of discussion whether this Congress will sanction that action, or whether it will take advantage of the new discovery by the present Secretary of the Treasury with regard to the existing law, and refuse to do, what under any other circumstances it would do. That is the way I understand the question as presented; and the Secretary of the Treasury himself, in the clause of his report that has been read by the Senator from Tennessee, recommends that this amount should be paid. It is for the Senate to say whether it will pay it or not. As a member of the Committee on Finance I could not but yield my assent to striking it out, because the committee ought not to recommend (and I suppose their action is a recommendation) that a provision of law actually existing should be disregarded. Still I think it is perfectly competent for the Senate if it sees fit, to overrule that action on the general principles applicable to the case, arising from the peculiar state of existing facts.

Now, one word as to what has been said by the honorable Senator from Louisiana. I happened to hear the debate in the House of Representatives to which he refers, and I have read it since in the papers. I did not draw from it the inference he did—that there was an evasion of the question. When I heard it in the House, the gentleman from Indiana, [Mr. COLFAX], to whom the question was put, stated repeatedly: "I will explain, if the member will allow me to explain;" but the gentleman on the floor said: "I want a categorical answer, yes or no; I have no time to hear explanations," and the answer was: "Let me explain in my own way, and you shall have a full explanation." That was not allowed. I do not understand that to be an evasion. That was all I saw about it; but whether there was an impropriety in the matter or not, I am not able to say, and I have nothing to say on that subject. I think it is a question that addresses itself to the discretion of the Senate, and to the opinion which the Senate may have as to the comity due in such cases from one branch of Congress to the other.

Mr. WILSON. I shall vote, Mr. President, to retain this section in the bill. I think it is just that it should be retained. I understand that the

Secretary of the Treasury, who has arrested this payment, is in favor of its being retained. The House of Representatives directed the Clerk to do certain duties, under which resolution fifteen or eighteen thousand dollars have been paid out. He has been arrested by this new construction of an old law. That being the case, I think we should retain this section, and then arrest the system of extra pay in both Houses of Congress. The House of Representatives has been accustomed for years to pay extra compensation. The Senate has done the same thing. Even at the last session of Congress, I think, the Senator from Virginia will find that we paid clerks for sixty days after the adjournment. I think that every year I have been here we have given extra compensation. In my judgment, it should be stopped; but I do not see why we should begin with a past House of Representatives. Let this be carried out. Eighteen thousand dollars have been expended, I understand, under that resolution of the House of Representatives, by the Clerk. I understand that the Secretary of the Treasury thinks that in justice the action under the resolution of the House of Representatives ought to be completed. Then we should stop here with a fair understanding as to the matter. For that reason, I shall vote to retain this section as it came from the House of Representatives.

Mr. STUART. I certainly cannot find myself able to vote for the amendment of the Senator from North Carolina, aside from anything contained in the section itself. In the first place, if we pass this section, we do approve of the payment, so far as our action is concerned; and, so far as any disapproval is concerned, it is found in the language of Senators on this floor. I am opposed to any amendment which proposes to contradict the effect of the section passed. It is equivalent to saying, we vote \$20,000, but we do not mean to vote it. Next, so far as it may be notice hereafter to the House of Representatives, I cannot agree to it in that respect; for I do not think it is proper for one House to say to the other, "we will do this act this time, but we will not do it again." In fact, sir, I confess there is very great force in what has been said by the Senator from Maine on the whole question. As an original proposition, I doubt very much the propriety of a law which undertakes to limit the expenditure of the contingent fund of either House, for the reason that the expenditure of that fund depends upon emergencies. An emergency arises, the effect of which ought to be determined by the House whose fund it is, and that House ought to be held responsible for it. There is a sufficient check growing out of the fact alluded to both by the Senator from Maine and the Senator from Tennessee. If there is an unusual, an extraordinary, an unjustifiable appropriation of the contingent fund upon any occasion, reject that; reject it at the time; but to lay down a general rule, and say that under no circumstances shall either House pay out of its contingent fund any extraordinary expenses is, in my humble opinion, what ought never to be said.

But it seems that the construction of the law of 1845, down to the inauguration of the present Secretary of the Treasury, has been uniform, that it terminated with the year, and such allowances have been heretofore made. In this instance, it is asserted that they have been paid; and the present Secretary of the Treasury, notwithstanding he refuses to pass the account, recommends that Congress enact a law authorizing him to pass it. That is his judgment. We have, then, the judgment of the Secretary of the Treasury, and the judgment of the House of Representatives upon the question.

Now, is there anything in this subject so important in itself, so aggravating in its character, as to induce the Senate to interpose, and to say, we will refuse our assent? I confess to you it does not so strike me. But, sir, my purpose in rising chiefly was to say, in respect to this amendment, that, while I know the good faith in which the Senator from North Carolina offered it—and I appreciate fully his motives—yet its character is such that I cannot agree to it. I cannot agree, as I said, to an amendment which in its terms purports to give a different construction to an act from what the act itself bears. Nor can I agree to it so far as it may be contemplated as a notice to the other House in future. It is a very delicate question to make an intimation by one House

to the other as to what they may expect in the future.

Mr. BIGGS. I certainly do not agree with the Senator from Michigan in regard to the propriety of the act of 1845. The most of his argument is against the law. I am convinced of the propriety of the law; I think it is a proper law. Its object was to prevent the allowance of extra compensation to officers who had regular salaries fixed by law, and to prevent one House from increasing those salaries without the concurrence of the other. I entirely concur in the propriety of that law, and the construction which has been given to it by the Treasury Department that it is in full force; but a different construction had been given to it heretofore, and therefore I proposed the amendment now before the Senate.

The Senator from Michigan objects to that amendment for two reasons. He says that in the very law we pass—this being a part of the law, if we insert it—we disavow by the appropriation what is contemplated by the amendment. Not at all. This is only an amendment intending to affect future appropriations in violation of the law of 1845. It is intended, in effect, to reenact that law; and to give notice not only to the House of Representatives, but to the whole world, in the form of a law, that hereafter no other appropriations in violation of that section of the act of 1845, shall be permitted. So far as notice to the House of Representatives is concerned, certainly it does not partake of the character that has been given to it by the Senator from Michigan; because, when the House of Representatives concurs in this amendment that is proposed, it is not only a notice given to the House of Representatives by us, but a notice that the House of Representatives themselves give, and a notice that the law gives to the world, and to all the officers that are to be controlled by the action of Congress. It is a concurrence, therefore, by the two Houses, to an act of Congress in which they substantially reenact and give notice to the accounting officers—to the whole world; to the House of Representatives, to this House, and to all other persons that are to be controlled by the law—that hereafter no further appropriation shall be made in violation of that law.

That is the sum and substance of the amendment; it means nothing more than that; and it is proper, it seems to me, in this case, on account of the course that has heretofore been pursued under the law. It is not proper, perhaps, to express an opinion as to the propriety of the course pursued by the House of Representatives in making this allowance. This is not exactly the proper occasion to express my opinion on that subject. If it were, I might differ very much, indeed, as to the propriety of the allowances that have been made, but that is not the question involved here. These allowances have been made, and they have heretofore been passed by the accounting officers of the Treasury until this case arose. They have been passed, in my opinion, in violation of law; but up to the present case they have been passed. Then, under the circumstances of the case, taking all things into consideration, it appears to me that it is better to agree to this appropriation with a distinct notice, not given by the Senate to the House of Representatives, but by the concurrence of both Houses to this provision, that in future no further appropriations of this character will be permitted.

Mr. CRITTENDEN. It seems to me, sir, that the section proposed to be stricken out is almost the only provision which this bill contains that makes appropriations; for a real deficiency, and that all the other provisions of the bill may rather be called by the general term of appropriations than deficiencies. This money has been paid out by the Clerk of the other House, under the authority of resolutions of that House, and under the authority of the Secretary of the Treasury, who had always theretofore construed such resolutions as sufficient to authorize the payment. The present Secretary of the Treasury, now in office little more than one year, is the first authority by whom that construction has been changed. He refused to allow a credit, and perhaps very properly, being of opinion that the law did not warrant it; but he, impressed with the justice of allowing it to the Clerk, who has made the payments, recommends that the appropriations be now sanctioned, and the payments authorized. Nothing

seems to me to be more appropriate to this bill, and nothing seems to me to be more proper than the amendment offered by the gentleman from North Carolina, to guard against the recurrence of these inadvertencies on the part of the House of Representatives in future, and to give notice that such allowances are not considered lawful, nor such resolutions a proper authority on which to draw money from the Treasury of the United States. My own impression is that they are not; but when this has gone so far under the sanction of former precedents, and under the sanction of the House of Representatives, that the officer acting under their authority has actually disbursed the money, the question is whether the loss shall fall on the nation or fall on the innocent officer, performing his duty, as he supposed, faithfully. I cannot hesitate to say, let it fall on the Government.

But it does seem to me a little strange, Mr. President, that an appropriation, accompanied with such circumstances, should alone have attracted the attention of the honorable Committee on Finance. We know some of them to be marked by principles of economy; but all this monstrous bill, appropriating for alleged deficiencies about ten millions of dollars, is passed over, and the economy of the committee is only exhibited when they come to this miserable little item of payments, made to a small amount, to officers to the other House of Congress. Sir, I think when that committee could have reconciled themselves to the vast appropriations of the public money, amounting to nearly ten million dollars, for alleged deficits in the appropriations of the last year, this little article might have been suffered to escape, unless it was thought necessary, in the face of such unusual and unparalleled appropriations, to make some show of economy, and to select some little item for the purpose of indulging this temper of economy upon. I impute it altogether to the necessities of the case, that the gentlemen should have resorted to this little topic for the purpose of displaying their economy upon it. Let it go with the ten millions.

I know it is said that this vast and unusual deficiency has been the result of extraordinary circumstances. Well, sir, I know of but one extraordinary circumstance, and that is, that under the authority of the President an army has been marched into Utah, and at vast expense has been provisioned and is to be provisioned in the midst of the Rocky Mountains. Provisions are to be carried to them a distance of one thousand or twelve hundred miles. This is very costly. Why has it been so? Why, if this army was destined against the Mormons, was it not marched in time to accomplish its object, and avoid, to some extent, this vast expense? Why, if circumstances did not permit it to march in time, was it not deferred until it could accomplish something in the course of the next summer? Where was the necessity for this movement on the part of the Government? I agree that it is the duty of this Government to reduce to proper subjection to its laws all that live within its jurisdiction; but this is a momentous movement. What right had the executive Government, I ask, knowing that Congress had made no provision, by appropriations, to meet such an event, to incur the expense? If it contemplated, during the last session of Congress, such a movement, it ought to have been made known to Congress, and the sanction of Congress obtained by a grant of the necessary supplies. If it was not anticipated or then resolved upon, ought not the Executive, when an additional expense of \$10,000,000 was to be incurred and thrown upon this Government by a military movement, to wait until Congress could have been consulted as the means of obtaining supplies and appropriations? I think so. The President, by creating a necessity for us to expend the money, has, in effect, made an appropriation of it himself. It amounts to that. He creates the necessity which renders it inevitable that we must make the appropriation. We cannot abandon our army where he has placed it; we must make provision for it; and by this very movement he has thrown upon us the necessity of this greatly increased expense. It seems to me that this is not a policy exactly conformable to the spirit of our Government. He might as well have thrown upon us in any other mode, the necessity of expense. He might as well have purchased foreign territory and left us

to pay for it, without consulting us as to the purchase. That was not the course of Mr. Jefferson. Congress was first asked, "will you make the appropriation?" and it seems to me, with respect to this military movement, above all others, Congress ought to have been consulted.

Sir, these bills of deficiency are generally bills of necessity. We are obliged to pass them because the money is expended, or contracted to be expended, and the credit of the Government pledged; and now, in this case, the existence of our little army in the Rocky Mountains perhaps depends upon our passing the bill. We are hardly left free in making these appropriations of the public money. We are constrained to do it by the conduct of the Executive in the management and command of the Army. I shall yield to it; but I have thought it necessary and proper to express my opinion as to the impolicy of the course that has cast upon us this necessity. I acknowledge the necessity that now exists, and shall rather consider what is necessary to the preservation of our army in this emergency, than what is the policy which I ought to sanction in regard to this mode of action on the part of the Executive. I shall vote for the amendment now offered by the Senator from North Carolina, and I shall vote for retaining the third section after it is adopted.

Mr. TOOMBS. Mr. President, I do not see any difficulty in the question suggested by two or three of the gentlemen who have addressed the Senate with reference to the relative rights and duties of the two Houses. Nobody disputes the right of the House of Representatives to use their contingent fund for all their expenses during the session. It is appropriated for that purpose. But I understand this proposition to go further. The House of Representatives thought proper to make appropriations for past services rendered to other Congresses—alleged debts which had been created for some six or seven years. They cannot do it; it is illegal; and if they want to pass a law authorizing it because they approve it, there is no indelicacy in my voting against it because I do not approve it. They have no right to use the contingent fund for such purposes. It is not given to them to pay the debts of past Congresses, which they assume to exist, and then to pay. In this section, they propose to appropriate money to pay some officers, not for discharging their duties to the last Congress, but for the discharge of duties before that Congress had any existence. It presents itself to us simply in this way: is it fit to be passed? and is it fit to be passed in this way? I say, in the first place, it ought not to be passed at all; and in the second place, it ought not to be passed in this way; and therefore I shall not vote for it.

So far as the remarks of my honorable friend from Kentucky go, as to the course of the Government, I am not informed; but I have understood, from a slight intimation I have from the papers, that this money is not expended, and that this army will not be sent, unless we make the appropriations. It is not to support the army of Colonel Johnston in Utah. As far as I am informed, or as far as appears from the report of the Secretary of War, ample provision was made at the last session of Congress to send two regiments to Utah; but, on account of the hostile state of things arising since the last session of Congress, it is proposed to send three or four thousand men, who are on the frontiers, ready to march to Utah, to the assistance of those regiments sent there on the peace establishment, without reference to hostilities. If I am correctly informed from the Executive Departments, the appropriations now asked are intended to send an additional military force, in consequence of the recent hostility of the Mormons. So the question presents itself to us whether we are willing to send any such additional force out there; and the first point to be determined is, whether it is necessary or proper. If it is not, I think it ought to be voted against; and I must be better satisfied than I am now on that point, or I will not vote for it. If the Executive believes this course is necessary, and this amount of assistance should be sent—three or four thousand other troops, with their supplies—and Congress concurs in that belief, I suppose they will go; but if not, they will not go.

I understand that to be the state of the case; but it is a very bad reason against striking out an item that is absolutely wrong and improper, to al-

lege that there may be another such. Sir, abuses cling to each other; they are all natural allies; they are all kin to one another. Get them in a bunch, and it is impossible to break them. Get forty bad things in a bill, and nobody can beat it. It brings aid of all sorts to it. My rule has been different from that of my honorable friend from Kentucky. I vote against all bad things as I come to them, whether they be small or large. Therefore I shall vote in support of the action of the Finance Committee in this case, and when I am called upon to support one branch of this Government in taking money out of the Treasury, without the Constitution, I will not do it; nor do I know that I will vote for anything else connected with it. My present impression is that I will not.

Mr. HALE. I am somewhat embarrassed about this vote; but some doctrines have been thrown out as the construction which the executive officers put on appropriation bills, which strike me as perfectly monstrous, and in contradiction to what their established practice has been on other matters. Several years ago—I do not remember exactly how long; and I am going to state from memory altogether—seeing how many appropriation bills were hurried through here at the close of the session, by which captain such-a-one, and lieutenant such-a-one, and major such-a-one, was getting his salary increased without anybody knowing anything about it, I introduced an amendment that the officers should be confined to their salaries prescribed by law, and that salaries should not be continued to be paid constantly from appropriations made in the annual appropriation bills. It passed this House, and passed the other, and became a law. Well, sir, it came very near producing a dead lock in the Government, and Mr. Whittlesey, I think, sent a communication to Congress, saying that there were so many officers receiving a salary by virtue of these side-way appropriations that it would be impossible to administer the Government without allowing it; and Congress actually repealed the law before they adjourned, and left things as they were. You may get an amendment into an appropriation bill increasing the salary of an officer, and it remains there eternally—you never can get it out; but if you put in something to diminish or restrict him, that expires with the act, and is no part of the law. It seems to me that is the way we have been going on.

Why, sir, a great many of the most important provisions of law are put on to appropriation bills as a matter of necessity, because appropriation bills will go through. There is a specific gravity that carries them right through; and anything that you can hitch on to them by way of amendment is sure to go through. Other bills you cannot get along, and the result has been that very important amendments making great reforms, some of the greatest reforms we have ever had, have been hitched on to appropriation bills. Why, sir, a law that was very much found fault with at the time it was passed, but which has proved to be one of the most salutary, wise, and humane enactments this Government ever made—that which abolished the system of flogging sailors in the Navy, was passed in an appropriation bill; and some of these martinets of the lash undertook to raise this very question upon that reform, and the question was actually argued, I think within two years, before the supreme court of Massachusetts. It was raised in an action against an officer for a violation of that law, and it was seriously contended that the amendment being to an appropriation bill, expired with the appropriations contained in the bill. My only wonder is that the court did not decide that it was so; but they did not so decide. They decided that it was a law. That was the first time I ever knew that such a construction as that was seriously maintained by anybody, that a provision of law being attached to an appropriation bill expired with the year for which the appropriations were made. If you go back, you will find that some of the most important provisions of law ever made in our Government, and some of the greatest reforms, have been, from the necessity of the case, hitched on to appropriation bills.

In regard to the particular provision before the Senate, some gentlemen are opposed to it because it carries out a resolution of the House of Representatives which goes back, and pays for services rendered to other Congresses. But, sir, I tell you,

we are guilty of the same offense. This Senate, time and again, since the passage of the law of 1845, have voted money to pay their employes in direct contravention of it; just exactly as much so as this is. It is true, we did not go back, and pay back years; but we have made these extra compensations again and again; and I think, though I am for enforcing the law, that it will become us to set up our holy indignation against this violation of the law when we have been habitually violating it ourselves. More than that, sir, we shall violate it. We shall violate it again, and if we do not pass a law, and the Administration take it into their head, they will do it, and if they cannot find it in anything else, they will have a transfer of appropriation: we may pass a law to print books, and the money will be transferred to pay clerks or something of that sort, just exactly as it is known that as long as it is popular to pay these officers, they will be paid whether there is any law for it or not.

But I am embarrassed by this proposition. I understand that the last Clerk of the House, a gentleman for whom I have the highest regard—whatever may be said of him otherwise, I believe him to be as honorable and high-minded a man as ever held the office—in pursuance of the directions of the House, has actually paid out this money in good faith, honestly. Now, if we want to censure the House, I do not think we ought to do it over General Cullom's back; we had better do it directly. Last and least of all, ought the Senate to stand up and vindicate the law by stepping in between General Cullom and the accounting officers, when we ourselves have repeatedly, over and over again, violated the law, and in the direct face of this law paid our employes extra compensation since it was passed. I am opposed to the whole of it, and I have always been opposed to it. I am opposed to all illegal and extravagant appropriations; and in my opposition I have almost been like the old prophet—like one crying in the wilderness against them. Nobody has come to my rescue; nobody has stood up with me; and I feel very much embarrassed now, to be called upon for the first time to vindicate my sincerity, by punishing an innocent and honest officer for faithfully carrying out the orders of the House. In my view, that is just exactly the way in which the question presents itself to the Senate, and I do not think the fact which is insisted upon by the honorable Senator from Louisiana makes the least odds in the world; because if it was against the law to pay the employes of the last Congress, and was against the law to pay those of the preceding Congress, one was just as much a violation of the law as the other, and if we pay for the one we may as well pay for the other.

Under these circumstances, I shall vote for the original section; and I must say that I have some doubts about voting for the amendment of the Senator from North Carolina, for the reason that it does not seem to me to be honest. I do not mean that the Senator is not honest; but it seems to me it is like a reformed drunkard. He makes up his mind that he never ought to do the thing, and then says: "I will take this glass; but I will never drink again." [Laughter.] Such promises of amendment as that never amount to anything. If you mean to stop, stop now when the temptation is at your lips. It seems to me that the construction of the honorable Senator's amendment is that we are going to violate the law this time; but we are sorry for it, and will never do it again. I think if we have that penitence in our hearts, we had better keep it there—not make any profession of it until we are ready to put it in practice. I am rather opposed to the amendment; and as to the provision as it stands in the bill, under the circumstances, I do not say that it ought to be passed; but somehow or other I have a sort of notion that if the thing can be done, it ought to be winked at and permitted to slide, if that is the expression; and that we should not interpose in this way to punish the Clerk of the last House of Representatives.

Mr. HUNTER. Mr. President, I presented the objection to this third section of the House bill as briefly and as simply as I could. The objection rested on the fact that it was in opposition to law, as we believed, as the Comptroller of the Treasury has determined, as the Secretary of the Treasury has declared; and I submitted it to

the Senate whether, under such circumstances, they would vote to keep in a section that was contrary to law, or whether they would strike it out.

The Senator from Kentucky has expressed his surprise that the Committee on Finance should have moved to strike out a provision which has been shown to be contrary to law. I believe nobody has maintained that it was legal; I think nobody can maintain it successfully. He has expressed his surprise that we should move to strike out that which was manifestly wrong, because, he says, there are other bad things in the bill; there are immense appropriations which are not reduced. That is to say, the committee ought to have acted on the principle of making bad worse: if there are things in the bill that are bad, they ought not to strike out others which are as objectionable, because they have not reformed the whole subject-matter of the bill; and yet, sir, when he proceeded a little way in his remarks, he himself, I think, gave the reasons why the committee should not propose to strike out the military items. He says the troops are there; we are obliged to pay them; we are obliged to send subsistence to them; we are obliged to furnish them with the means of keeping in the field, and of living and moving. If that be the case, then it was impossible that the Committee on Finance could have diminished these items; but if the Senator from Kentucky will show me how these items can be diminished safely, with a due reference to what is proper, and due to the Army, I will not only vote with him, but I will thank him for giving me the information.

But, sir, he says that we have been forced into this expenditure by the Administration. He says that the Administration, as I understand him, has acted contrary to law. Contrary to law—how? Has not the President the right and the power to post the troops? Has he not the right to move them from Leavenworth to Utah? If he found that the Governor, who was appointed by the constitutional authorities of this Government, in Utah was probably not to be allowed to exercise the functions of his office in peace, was it not his duty to send such force there as would enable him to execute the laws? Was he doing anything in derogation of law, in doing this?

Nor did he depart from the law, if he made contracts ahead of the appropriations for subsistence and transportation, for it is a matter of law that in the quartermaster's and subsistence departments such contracts may be made ahead of the appropriations. It was necessary to lodge this authority and this discretion in these departments, because emergencies might suddenly arise, rebellion, insurrection, invasion, and the President might be called upon to suppress them. He might be forced to move the troops, in order to do so; and I believe he has been forced, in the last fiscal year, to make some movements of troops in reference to Indian affairs—in reference to Indian disturbances—which cost money. If he were forced to make these movements of troops, in order to put down insurrection and rebellion, it would be essential, if the money was not appropriated, that he should have a right to contract for what should be necessary to move and to subsist them. To that extent the power has been lodged by law in the President to make contracts ahead of appropriations; but no further. Wherever it was practicable to postpone the supply until the law could be made, the authority has not been given. It has not been given for pay, and items of that sort. But this general discretion is lodged in him only in regard to matters of transportation and subsistence.

Then, sir, I say it will be difficult for the Senator from Kentucky or for any other Senator here to show that the President of the United States has transgressed any law, or exercised any authority which is not vested in him by the Constitution in simply posting the troops differently from what they were before, and ordering them to different parts of the country within his jurisdiction.

With regard to the policy of this Utah movement, I have nothing now to say. I do not propose to enter into it now. I only make these remarks by the way; for I intend, so far as I can, to confine my own remarks to the amendments as they arise. If other amendments should be offered—as doubtless they will be—which will raise these other questions on the portion of the bill which proposes to furnish military supplies, I may

have something to say; but, until then, nothing on that subject.

In regard to this amendment, I have only to say that I have not the slightest feeling on the subject. I care nothing as to what the Senate may determine in reference to it. I believe that if the section was contrary to law, it was the duty of the Finance Committee to move to strike it out. If the Senate think, under the circumstances, that the allowance ought to be made, they will make it. I am not of that opinion, however, and I shall vote to strike out the section.

Mr. CRITTENDEN. It is, I believe, a principle which has been invariably adopted, not only by Congress, but in all its adjudications by the Supreme Court of the United States, that where an officer in the *bona fide* performance of his duty has, by mistake or inadvertence, violated a law of the land, he ought to be indemnified for it. It is on that principle that many indemnities have been granted to officers; and now the gentleman from New Hampshire will see that the principle on which this Clerk is entitled to be indemnified is the very same on which, not only Colonel Mitchell was indemnified in the case of Harmony against him, but on which, from the earliest period of the Government, honest officers, acting *bona fide* from a sense of duty, but inadvertently in violation of a law which they did not understand, have been protected. You say that this Clerk has acted contrary to law, but he did so *bona fide*. He had the resolutions of the House of Representatives, the orders of the House, for his authority. In his action he was sustained by all the precedents, by all the Secretaries of the Treasury who had acted on the very case theretofore. This was the authority on which he acted. Did he act *bona fide*? Certainly; here is every circumstance that can induce that belief. Ought he not to be indemnified? It is a principle distinct from that on which the gentleman from New Hampshire says he has so perseveringly and so long, and with so little success, been endeavoring to confine officers to the salary the law allows them; but he has not yet acted on the principle that an officer of this Government, acting *bona fide* and with an intention to do his duty, who has mistaken the law, should not be compensated. He has never opposed the principle of indemnity in such cases, nor will any one here oppose that principle.

As to the other matter, sir, I have not said that the President of the United States had acted contrary to law; but, if I understand the theory of our Government, it is this: it is the duty of Congress to appropriate the public money; it looks before, and it makes in advance all the appropriations and provisions necessary for the coming year that its wisdom can anticipate. The Government sends its estimates of what it wants for the next year. Congress considers them, and Congress appropriates the sum of money which it will grant as an appropriation for the service of that year. Then, in the spirit of this system of government, ought not the President to accommodate the public service to the amount of appropriation? Is he to go on and expend that, and knowingly to create necessities for greater appropriations of the public money, and that, too, when no extraordinary occurrence has taken place?

I ask my honorable friend from Virginia, what occurrence has taken place in the last year? Was not this Mormon question exactly in the condition in which it now is? Did we not understand as well one year ago how far the Mormons were in resistance to the authority of this Government, as we do now? Congress, with all that knowledge before it, made provision for the support of our armies, and appropriated all the money it supposed was necessary. Ought not the President to consider himself under some obligation to bring that service within the revenue that had been given for the purpose of sustaining it? I think so. Can the gentleman from Virginia think otherwise?

I say, too, there has been great improvidence in placing the army in a condition where these expenses were absolutely and indispensably necessary; but whatever our opinion of the policy of placing them there, or of the propriety of knowingly and willfully involving us in the necessity of much greater appropriations than have been made, I think I may venture to say that this movement was not in harmony with the spirit of this Government, or with the legislation of Congress. It was a very important movement, involving a

question of civil war. Certainly if anything deserved the consideration of Congress, it was a movement of this sort. Then all would have gone on well. We should have known what our expenses were. Now, we have \$10,000,000 of additional expenditure, the necessity of which is all brought about by the act of the executive Government itself.

As to the Post Office Department, here is more than a million and a half for that in this bill. How is it accounted for? Where are the extraordinary circumstances that have reduced the Post Office revenue, or shown such fundamental error in the estimates made by that Department of its own expenses? It is calculated very much to undermine that confidence which we consider ourselves entitled to repose in official estimates, that one Department of the Government cannot come within a million and a half of the extra allowance necessary for Congress to grant it out of the public Treasury, and when the military Department cannot come within six or seven millions of the amount.

My friend from Georgia supposes that this deficiency, as it is called, is in consequence of the necessity of sending reinforcements to Utah. Well, sir, there are but two months of the year left in which these \$2,000,000 are to be disposed of. What are the additional reinforcements? Three regiments of volunteers. They would not amount to anything like this sum. It is evident that the great mass of it is necessary to supply at that distant post the army now there with provisions, and the necessity of it is superinduced by the executive Government in placing the troops in that position.

I have said that it seems to me this is objectionable in point of policy and propriety, and that this great additional burden is thrown upon the nation in the time of its necessities by the will of the Executive, and Congress is only left to act under the necessity of the case and in conformity to it. This does not seem to me to be right, and I do not think that a tax of \$10,000,000 ought to be imposed upon the people of this country without a word being said questioning the propriety and the policy which has led to the necessity of it. Sir, I cannot point out any error in the calculation. How could I? What have the Senate seen, of all the particulars of this bill amounting to this great sum? We rely upon the gentleman from Virginia, and I do so with perfect confidence. I know his intelligence, I am confident of his integrity, and confident moreover of his economy. I assume that all this may be necessary; and I complain of the necessity being imposed upon us. As far as I can see, there was no sufficient cause for imposing that necessity on Congress. That is my complaint. I am under a necessity—under a necessity of voting blindly and promptly too. When the fate of our countrymen, the fate of our army is concerned, I will not hesitate to make calculations; but I have a right to hold, and the people of the country have a right to hold responsible the Government that has cast upon us the necessity of voting, and upon them the burden of paying this money. That is my complaint; and I say again that it seems to me, that while the gentlemen of the Finance Committee were taking this mighty dose, it was hardly worth while for them to exercise a spirit of economy on this little infinitesimal appropriation, comparatively, to pay what I conceive to be an honest debt, to indemnify an honest public officer, who in good faith, under an authority which he deemed sufficient, has paid out some twelve thousand dollars. That is the view which I have taken of the subject.

Mr. BIGGS. To attain my object, it has been suggested that I modify my amendment so as to make it a little more effectual; and to conform to the views of gentlemen, I propose to modify it so as to read:

And provided further, That it shall never hereafter be lawful for either House of Congress to apply any part of the appropriation for the contingent expenses of such House, to any other than the ordinary expenditures of such House, nor to apply any part of said appropriation as extra pay or extra allowance to any clerk, messenger, or attendant of the said two Houses, or either of them.

The amendment was agreed to.

The PRESIDING OFFICER, (Mr. MASON.) The question now recurs on striking out the third section of the bill, as amended.

Mr. BENJAMIN called for the yeas and nays,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1st Session.

WEDNESDAY, APRIL 21, 1858.

NEW SERIES.....No. 105.

and they were ordered; and being taken, resulted—yeas 17, nays 30; as follows:

YEAS—Messrs. Benjamin, Brown, Clay, Douglas, Fitzpatrick, Hamlin, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Mason, Pearce, Slidell, Toombs, Wade, and Wright—17.

NAYS—Messrs. Allen, Bell, Biggs, Bieler, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doohittle, Durkee, Evans, Fessenden, Fitch, Foot, Gwinn, Hale, Hammond, Harlan, Kennedy, King, Polk, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, and Wilson—30.

So the motion to strike out did not prevail.

Mr. CAMERON. I desire to offer an amendment in section three, line eight; after the word "accounts" to insert:

And that there be paid to the employés of the Senate, who did not receive it at the last session, the same amounts respectively that were allowed to the employés of the House by the resolution of the House of Representatives, of March 2, 1857.

Mr. HUNTER. I suppose the employés of the Senate are as much entitled to this extra pay as the employés of the House of Representatives; but I cannot, for one, vote for it in either case; and there is an additional reason why I feel bound to vote against it as an amendment to this bill. I am very anxious to keep off all amendments that add to its amount. It is important, if this bill be passed, that it should be passed speedily, and I think it would be far better to retain all other propositions for additional appropriations until the general bills come up, and let us take the sense of the Senate upon this bill which mainly refers to the military appropriation, and add nothing to what is contained in the bill by way of appropriation for other objects.

Mr. CAMERON. It seems to me that this is a proper place to put the amendment. As I understand it, some of the persons employed about the Senate were paid the extra compensation last year, and others were not. I am not particularly strenuous about this item; but there are some cases of the kind, and while we are paying off old scores, I think we ought to do justice.

Mr. DOUGLAS. I think if we provide for the officers of the House, common justice would require that we should provide in the same bill and the same section, for the officers of the Senate. I voted to strike out the House appropriation, and I was willing to leave them and the officers of the Senate to share a common fate, when the two propositions were brought forward together; but if we are to provide for the House officers, and then have the Senate officers rejected in the House, I think there is an injustice as well as an impolicy in it, and it ought not to be done. For one, I am opposed to all this extra compensation. I think we should hold the two Houses to the law on the subject. If the pay we give to our officers is not enough, let us adjust their salaries fairly and properly, and increase them, if necessary; but this extra compensation is unfair, is unequal, and is unjust. But to provide for the officers of one House, and leave out the other, I think is a discrimination that is unjust and impolitic, and I really think that if the Senate are going to keep in that proposition of the House, we ought to do the same for the Senate officers. The reason given by the Senator from Virginia I do not recognize as being satisfactory; for having made an amendment to the bill already, it must go back to the House of Representatives. Why not do justice to our own officers by putting them on an equality, and then either have the whole rejected or the whole passed, and then the action will be impartial, and not subject to complaint. I trust the Senator from Virginia will offer to put the Senate officers now on an equality with those of the House, and if one is paid now, let them all be paid. If we deny it to one, deny it to both; otherwise we shall find the officers of the House provided for, and those of the Senate rejected.

Mr. BIGGS. I do not agree at all with the Senator from Illinois, that because there has been one wrong done by the House of Representatives, the Senate should do another wrong and violate the law.

Mr. DOUGLAS. That is not my proposition.

If the Senator listened to me, he heard me say that I am opposed to the whole concern.

Mr. BIGGS. So am I.

Mr. DOUGLAS. But why not strike out the whole proposition, instead of saying, "take it this time, but we will stop you hereafter?"

Mr. BIGGS. Some good reason may be given for that by those who voted for the appropriation in the House—what it is I do not know. I did not think that point arose in this case, and therefore did not consider that question, it having been acted on by the House of Representatives under a former law and the former practice of the Department; but the question is presented distinctly by the Senator from Illinois as to what we shall do in regard to our officers—whether we shall go on and do this additional wrong in violation of law. That is the question now presented; a totally different question from the one we have presented to us by the action of the House of Representatives. I entirely concur in the opposition to all this system of extra compensation. I think it ought not to be tolerated. But the case presented to us in the third section, was as to striking out an appropriation made from their contingent fund, which had never been questioned until this occasion. They had acted, their officers had acted, and the accounting officers had acted on the construction given to the law heretofore.

Now, sir, that is altogether a different question from originating an extra allowance to our officers here, because other officers have received this compensation under a resolution of the House of Representatives. They seem to me to be two different questions altogether. The point now presented by the Senator from Illinois is, is it right? That is the question we are to ask ourselves—is it right to make this appropriation for our officers? Whether the House of Representatives have done right or wrong, is not the question now; but this amendment involves the propriety of making the appropriation at this time. Because the House of Representatives have done wrong in making an appropriation, it is no reason at all for our doing wrong. If they are wrong, the Senate ought not to be guilty of that wrong.

I am, therefore, opposed to this amendment. Because the House of Representatives has made an appropriation which, under the circumstances, we are almost forced to recognize, and we do so, with a proviso that we will never recognize it again, that, it seems to me, is no argument at all why we should continue that wrong, and perpetrate this impropriety, by saying by our vote that we will give this extra compensation, which is wrong in itself.

Mr. DOUGLAS. I am not satisfied with the explanation of the Senator from North Carolina. He unquestionably saved this House appropriation by his amendment, providing that it should not be done over again. But, for that, undoubtedly the appropriation would have been struck out. That is an amendment merely to cover the point and save the House officers this time. What is that amendment worth? By law now, such allowances are illegal. We have said over and over again that they shall not be made another time. Then they go on and pay the money, and pay it on condition that the wrong shall not be perpetrated over again. Then they perpetrate it over again, and pay the money a second time on condition that it shall not be done again. After that game has been played for several years, the Senator from North Carolina comes and says, "you shall have it this time, but you shall not have it again;" knowing that it will be done next year by just such an amendment as his. It is just such amendments as his that pass it. It never could be passed but for that. If the officers of the House get this money they get it by the action of the member from North Carolina. He has devised the scheme by which they do get it. They get it in that way, and in no other way; and if we are going to stop it, we had better strike out the section.

I regard the Senator from North Carolina as responsible for passing this section of the bill and

continuing the abuse. I wish to put the officers of the Senate on an equality with those of the House, and see if the House will agree to that equality. I hope that putting the Senate officers on an equality with those of the House will kill both propositions, and I wish to bring it to that test. I have got tired of this thing of saying it shall not be done over again. It is like a boy putting a chip on his head and saying, "knock it off, if you dare." His adversary does so; then he picks it up again and says to him, "now knock it off again; I will whip you if you do." It is knocked off a second time; again he picks it up, and says, "I will whip you if you knock it off again;" and so he goes on all day. We understand this game; it has been played over and over again. If we are going to stop it, strike out the section. If we do not strike it out, and do not now put the Senate officers on an equality, who does not know that, at the end of the session, we shall be told we must put in this appropriation for the Senate officers because those of the House have got it. We shall have to pay it in order to put our men on an equality with them. The whole argument, at the end of the session, on the general appropriation bill, will be, that we have paid it to the House officers, and that it is invidious for the Senate to allow its officers to be treated worse than those of the House. I trust, therefore, we shall put them on an equality, and then reject the whole concern, or pass the whole concern. I hope it will be rejected. I repeat, if the salaries of our officers are not enough, let us raise them. The extra pay for officers of the two Houses has grown to be a great abuse. New officers are appointed a few days before the end of the session, to get the extra pay of several hundred dollars. It is a system of corruption that ought to be stopped. It is favoritism and corruption, and I hope we shall lop it right off. I wish to put them on an equality in order to reject the whole; and I am not satisfied with the proposition that hereafter it shall be illegal. It is illegal all the time, and has been for years, and the system will go on, unless you stop it at once.

Mr. FESSENDEN. We have another new idea now presented, that corruption can be cured by being a little more corrupt! That seems to be the proposition of the Senator from Illinois. It is either that, or else he wishes to defeat this altogether.

Mr. DOUGLAS. I avowed that I wanted it defeated altogether.

Mr. FESSENDEN. Then those who do not wish it defeated, if the amendment is calculated to effect that object, will of course vote against the amendment which the Senator from Illinois advocates. But that was only one of the grounds on which he put it. Another ground was that inasmuch as we have passed this provision for the officers of the House of Representatives, in order to do justice we must also put the officials of the Senate on the same footing precisely. I do not see the necessity for that. I do not see the force of the argument. Nobody pretended that this was due to the officers of the House as a matter of justice. It was passed on account of the particular position in which those were placed who had paid out the money, and in order to preserve a comity which, under the circumstances, it was supposed was due to the House of Representatives from the Senate. It was owing to the very peculiar position in which we found ourselves. This course had been taken under a misapprehension of law, and certain acts had taken place under resolutions which had passed, and we were compelled either to let the Clerk of the House suffer an amount that he ought not to suffer under the circumstances, or to make his action good—not that it was particularly due to these officials, not that justice to them required that it should be done in the first instance.

I am at a loss to understand how in the world we injure the clerks, messengers, and the other officers connected with the Senate, by not giving them what they have no right to expect, simply because the same has been given to others who had no right to expect it, under the peculiar circum-

stances of the case. I do not admit the force of any such argument as that. It is no injury to the officials of the Senate that the officials of the House, last session of Congress, received a certain amount of money. Because they received that certain amount of money, or are to receive it, under a misapprehension of the law, that is no reason why we, who now apprehend what the law is, should proceed to vote an equal amount of money to those who are connected with the Senate. Sir, I should deem myself inexcusable in voting for this proposition. I should not have deemed myself without excuse in voting for the proposition as it existed in the House of Representatives at the time when the existence of the law was not known, or the particular provisions of it were misapprehended, and it was supposed it was right enough in the eye of the law to make such allowances; but here we have been all admitting that the law stares us in the face, that we cannot pay out of the contingent fund a certain amount of money, and yet it is proposed now.

Mr. DOUGLAS. Let me ask the Senator if the same law does not apply to the House as to the Senate?

Mr. FESSENDEN. Unquestionably.

Mr. DOUGLAS. Then how could they pay this compensation, and we not be able to pay?

Mr. FESSENDEN. I did not say they could not, but I said they acted under a misapprehension.

Mr. HUNTER. If the Senator will allow me, I will say that they could not well have acted under a misapprehension, because I was just now informed by a member of the House from Kentucky, who has been upon the Committee of Accounts, and understands these matters, that it was first attempted to pass this extra pay in the shape of a joint resolution. It probably did pass both Houses, and the President did not sign it; and when they found they could not get it through on a joint resolution, the House of Representatives passed their resolution separately.

Mr. FESSENDEN. That is new to me; I do not know how the fact is. I understand there was a bill passed, which was handed to the President at the last moment of the session, and not returned. Whether it was intentionally left unsigned by him, or whether he had not time to examine it, or what the cause was, I do not know. I have proceeded on the facts as I have understood them, and as they have been understood by everybody, that the existence of this particular provision of the law of 1845, as an operative provision of law, was not known. The Secretary of the Treasury admits it. He says himself that the construction had always been otherwise in reference to that matter, up to the time when he gave his construction.

Mr. HUNTER. The Secretary said that previous appropriations had been made, and construed differently; but the House must have known this difficulty, or else why pass a joint resolution? No doubt it was paid before, because it escaped the accounting officers.

Mr. FESSENDEN. Perhaps it was because they did not want to pay it out of the contingent fund, and sent it up for our own officials, supposing that we might unite, that they passed a joint resolution. There might have been various reasons; but whatever the reason was, I take the fact as it is. I take the words of the Secretary of the Treasury. It is clearly inferable that nobody understood that this provision of the law of 1845 was operative at that time. Under that supposition, and under the peculiar pressure of the case, the Senate has seen fit to say that it would not punish the Clerk of the House of Representatives, who acted under an order of that House, in paying money to a large amount. I think that is just: it is a matter in which we have yielded; but because we have done so to save the action of an officer honestly acting, to say that we must now violate that very provision ourselves in reference to our own officials, and for the purpose simply of putting money into their pockets which does not belong to them, and which they ought not to have, simply for the reason that other people have had money which they ought not to have had, is a new rule of morality, especially in legislation.

Mr. HUNTER. If the Senator will allow me, I did not know of it to-day, but it seems here is an express law of 1854, providing against the payment of extra compensation.

Mr. COLLAMER. Let it be read.

Mr. HUNTER. The Clerk will read it, if he pleases.

The Clerk read, as follows:

Joint Resolution to fix the compensation of the employés in the legislative department of the Government, and to prohibit the allowance of the usual extra compensation to such as receive the benefits hereof.

Resolved, &c., That the officers, clerks, messengers, and other employés in the legislative department of the Government, shall be paid an increased compensation of twenty percent. upon the compensation now received by them respectively; and the messengers of the House of Representatives shall not receive less than is allowed to messengers of the Senate of the same class; such increased compensation to commence from the first day of July, 1853; and that a sum sufficient to pay the same to the thirtieth of June, 1855, is hereby appropriated out of any money in the Treasury, not otherwise appropriated: *Provided*, That no person whose compensation was increased by the act approved April 22d, 1854, shall be benefited by this joint resolution: *And provided further*, That the usual extra compensation shall not be allowed to any person receiving the benefits of this joint resolution.

Approved, July 20, 1854.

Mr. FESSENDEN. That joint resolution makes a distinction between two classes of officers. I suppose it applies to some to whom the extra compensation voted by the last House will be paid, and not to others. It was optional with the officers to take the compensation under that joint resolution or not; and I understand some did not. I was not adverting to that. I was speaking of the ground on which the committee put it, and on which the Secretary of the Treasury put it; and the Senator from Virginia will observe, that I am not now arguing the correctness of the decision of the Senate on the other point in retaining the third section. If he desires that that should be brought up again, that is one thing; but I am endeavoring now to sustain his position in putting on the officers of the Senate; and I see no occasion, therefore, for him to attempt to embarrass me by reference to action on the former vote. I am now endeavoring to sustain his views on this subject. The point he now brings forward might have had some operation on the former vote; but what I was saying, and what I still insist upon, is, that whatever we may have done, or however we may have acted, or whatever grounds there may have been for our action in reference to the payment of the amount provided for in the third section to the officers of the House under the reasoning we adopted, if we did wrong in that particular, there is no reason why we should do another wrong; and if the object of the Senator from Illinois is to destroy that by adding this to it, those who are in favor of that will hardly wish to sustain him in this amendment.

Mr. DOUGLAS. The Senator from Maine has made a very ingenious argument to save this House proposition. He knows if he can save it for the House officers now, it will be saved for the Senate officers at the end of the session. Every one knows that the Senate will not consent to put its officers in a position below those of the House—will not consent to the principle of inequality—will not consent to allow the House to violate the law of the land in paying compensation to their officers, while we are confined strictly to the law. Hence the payment of this involves the payment of the Senate officers necessarily.

The question is whether we shall stand by the law cutting off extra compensation, or whether we shall keep up the abuse. We have been saying for years, "We will pay you this time, and we will not pay you again;" and there is a salvo for each man's conscience in violating the law this time, by the proviso that we will not do it again, and yet we expect to do it by the very same means that we do it now. I desire to put the Senate officers on an equality with the House officers, and either then say that both shall pass, or both shall be rejected. There is no hope of stopping this abuse until we do reject it, and refuse to pay. There is nothing in the idea that members of the House of Representatives did not know the law when they passed this resolution. They knew it well, and devised every means on earth to evade the law. As the Senator from Virginia has explained, it is an attempt to evade the law. If the House are going to take the responsibility of paying this money on their own individual order, let them pay it themselves out of their own contingent fund, instead of coming to us and asking us to be responsible for this abuse. I wish to stop it, and there is no other way to stop it except by

striking it out. Let the Senate officers be put on an equality with those of the House, and then strike out the section as amended, or if it passes, pass it for both, for we know if you pass it for one, it is an entering wedge for the other. I think we had better meet it squarely in the face.

In regard to the officer of the House who paid this money, I have as much respect and kind feeling for him as for any other man. I would not injure him, but I think we should make a rule by which we shall be governed. This extra pay is a great abuse. It is a matter of abuse in this way: towards the end of the session new officers are brought in just long enough to get the extra pay, rendering very little service at an enormous expense. I think it should be cut off. The only hope is to put the Senate and House officers together, and then strike out the whole, and let the House of Representatives know that they cannot evade the law of the land by this extravagance of expenditure.

Mr. HUNTER. I perhaps appreciate the importance of putting an end to this system of extra pay a little more than others, because I have had somewhat more experience in regard to it. I know that it is esteemed a hardship by the clerks in the Executive Departments that this extra pay should be allowed here and nothing given to them. I know that messengers in those Departments complain not only that we give so much more compensation to our officers here than to them, but extra pay besides, and they advert to the fact that the officers have a vacation, have holiday part of the year, whilst they have to work the whole year. I know this is esteemed by them a grievance, and applications have been made to me, time and again, to know if I did not think justice required us to put them on the same footing in regard to extra allowance. Unless something is done to stop it, I have no doubt (for it is in the nature of abuses to increase) that in the end we shall have applications from them too, and I do not know how long it may be before they will be granted, because it does seem to be hard that, after you have made liberal allowance for one year's services of your public officers, you shall grant extra compensation to one class and refuse it to another.

Mr. BIGGS. Mr. President, I am unwilling to be placed in a false position, as probably I should be if the remarks of the Senator from Illinois were to go unanswered by me. He holds me responsible, he says, for the passage of this section of the bill, because of the amendment proposed by me which saved the section. Then the Senator ought to have opposed that amendment when it was pending. If that amendment has passed the section, and he had such serious objection to the section itself, and he saw that was to be the effect of the amendment, it was his duty to oppose the amendment, and to expose it; but not a single word did we hear from the Senator from Illinois, or from anybody else, in opposition to that amendment. I believe, at any rate, there was no vote against it; certainly I heard none when the question was put. If it was of that importance which is now attached to it by the Senator from Illinois, it was his duty to have resisted it as a matter of vast importance. But instead of resisting it, what do we find? That after it is put on without opposition from him, then, to make the wrong more glaring, he advocates putting on an appropriation for the officers of the Senate, his avowed purpose being, as he says, to kill the whole of an appropriation against law.

I do not think he characterizes correctly the intercourse between the two Houses, as I understand it, when he compares them to boys daring each other to fight—one putting a chip on his head, and daring the other to knock it off. I do not understand that to be exactly the position that the two Houses bear to each other. It strikes me as strange, being but recently here compared with the Senator from Illinois, that he should assimilate the position of the two Houses to that of two boys daring each other to fight. As has been well said by the Senator from Maine, and as I supposed, until the resolution of 1854 was introduced and read a little while ago, it was the uniform practice of the House of Representatives, from the passage of the act of 1845, to make these allowances; and they had, without question, been passed by the accounting officers up to this case. It was that consideration that moved me to offer

the amendment in regard to this particular transaction.

Now, sir, I think I can compare with the Senator from Illinois or any others, in a desire, and I hope an honest desire, to curtail the expenses of this Government; but when I saw that the House of Representatives had acted upon a state of facts that existed at the time, and has ever existed since 1845, that the officers had acted upon the practice of the Government up to this time, and that the House of Representatives had passed a bill making an allowance for this extra compensation, because it became necessary for the first time, the question having been raised about its legality, I thought it was but a proper deference to the House of Representatives, having passed the law, to concur with them in regard to this matter, under the peculiar circumstances of this case, and attach an additional proviso to the section, that hereafter no further appropriations for this object should be permitted. Such was my impression, not having heard of any other action of Congress on this subject at all. I have just been notified by the Senator from Virginia, and he says it has, for the first time, been brought to his attention recently, that since 1845, in regard to some of the appropriations included in this third section, there has been an express prohibition against it. I know nothing at all about that. The Senator from Illinois did not notify the Senate of it, although he was here at the time. The Senator from Virginia, the chairman of the Committee on Finance, did not seem to know anything about this joint resolution until his attention has just been called to it. I certainly knew nothing about it; and acting upon the information I had, which was the act of 1845, and the practice under it, I moved the amendment that I did. It was that, and that alone, and the consideration I have already alluded to, that influenced my action.

I will compare with the Senator from Illinois, and I will go as far as he who goes furthest, to cut off this system of extra compensations as a great abuse. I think they ought to be put a stop to at once; and I would not have tolerated this except for the peculiar circumstances of the case. Now, however, I am notified that the third section of this bill includes some officers whose compensation was increased by the joint resolution of 1854, upon the express condition that they should receive no extra compensation. That was in 1854, since the act of 1845, and my attention is now for the first time called to it. If I could distinguish, as I should like to distinguish, between the cases coming under this third section, I would exclude those officers who received additional compensation by the act of 1854; but how to arrive at it I am not prepared to say at present.

Mr. CAMERON. If the Senator will allow me a moment, I will relieve him by withdrawing the amendment after saying a word.

Mr. BIGGS. I have no objection at all to doing that; but I wish to set myself right in regard to this question, because, from the additional information that has recently been furnished here, there ought to be a distinction made in the third section between those who had their compensation increased by the joint resolution of 1854, and those others whose compensation was not increased by that joint resolution.

It was upon the supposition, and upon the information I had that it had been the uniform practice of Congress, from 1845 up to this case, to make such allowances without any question, that I introduced the amendment. I am not willing to assume the responsibility which the Senator from Illinois desires to place upon me, of winking at, or encouraging in the least degree, this abuse. I learn now that, by the joint resolution of 1854, extra compensation was intended to be cut off in regard to some of these officials. Their compensation was increased in 1854 twenty per cent. on that condition. Some of those officers come under the third section. I did not know of that before. But I should like to be informed who those persons are, so that they may certainly be stricken out of this section. It was, I again repeat, on the supposition that no other act had been passed on the subject but that of 1845, and that the Government had acted on the principle of making these allowances without question, until this case arose, that I moved the amendment. I am clearly of opinion that those included in the third section, who had their compensation increased by the joint

resolution of 1854, on condition that they should not have extra allowances, should be excluded from the appropriation made to them in the third section. How to get at it I do not know, except by moving a reconsideration of the amendment that I proposed; and as I apprehend that there will not be during the day probably a vote taken on this bill, I may inquire and ascertain which of these officers had their compensation increased by the joint resolutions of 1854.

Mr. DOUGLAS. I take pleasure in saying that the explanation of the Senator from North Carolina is in perfect accordance with that estimate which I had formed of his character. I know of no gentleman in this body who is more economical and more vigilant in watching the expenditures of the Government than he is; hence, I was amazed that he should have been the person to have offered the amendment which he submitted, which above all others would tend to continue this abuse instead of stopping it. The explanation he has given that he had not seen the act of 1854, is perfectly satisfactory to me. I am convinced that he has acted in entire good faith, and that he means to stop this abuse. I am glad that such is the case; and I believe the movement he has indicated, that of reconsideration, is the true mode by which he can reach his object and mine; and, if he will help me to strike out this provision of the House bill, I will go with him against putting on the Senate amendment, and stop this abuse at once.

Mr. CAMERON. In offering my amendment, I alluded to the fact that, at the close of the last session, a resolution was offered in the Senate, directing that its officers should be paid a certain allowance. As I understand, that resolution was before the Committee on Contingent Expenses; who, on consultation, thought they had not power under the law to make the allowance, and consequently the Senate officers got nothing. Some of the people employed there, I understand, are paid some extra allowance under a resolution of the Senate for a certain time. At all events, there is a disposition on all sides to prevent, in the future, any of this extra compensation; I agree with that in principle; but I am desirous that the officers of this House should be on the same footing with those of the other House, before we commence a system of retrenchment and reform in this particular.

The resolution offered at the close of the last session included a number of laborers in the public grounds, as well as clerks and messengers here, and a portion of them were paid, and the laborers were not. My resolution was intended principally to reach that class of people who do a great deal of work and get very little pay. But in order to relieve the Senate, and especially the chairman of the Committee on Finance, I withdraw my amendment, saying also that at the close of the session I shall introduce a resolution to pay our officers in the same manner.

Mr. HALE. I have an amendment which I wish to propose as an additional section:

Sec. 4. *And be it further enacted*, That no contract shall hereafter be made by any officer or agent of the Government, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; and the sixth section of the act entitled "An act in addition to the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," approved May 1, 1820, be, and the same is hereby, repealed.

Mr. FESSENDEN. I would suggest now, if the Senator from New Hampshire will excuse me, to the chairman of the Committee on Finance, whether, as we are getting to the disputed matter about the Army, it is not as well to let this bill go over until to-morrow, and have the papers presented this morning printed in the meantime.

Mr. HUNTER. The Senator from Georgia [Mr. IVENSON] wants an executive session. Will the Senator from Maine object to disposing of this amendment if it will not take long?

Mr. FESSENDEN. It will involve a debate on the whole question in reality.

Mr. HALE. I wish to state to the Senator from Virginia that I have a few words to say on the amendment. It may take me half an hour or an hour. I am ready to go on now. I would just as leave talk now as at any time.

Mr. HUNTER. If the Senator from New Hampshire is ready to go on, probably he had better do so, and then we can lay the bill over until to-morrow.

Mr. FESSENDEN. My object was to let

the debate subside in season to have the papers printed.

Mr. HALE. I have no choice about that.

Mr. FESSENDEN. Probably this amendment will involve the general debate on the whole matter.

Mr. HUNTER. Then why not let the Senator from New Hampshire open it?

Mr. FESSENDEN. For the reason that there is just so much time lost in printing. We had better order the papers to be printed, and dismiss the subject for to-day.

Mr. HUNTER. The Senator from New Hampshire probably will not use these papers, and we can send them to be printed at once.

Mr. FESSENDEN. I am not particular about half an hour.

Mr. HALE. Before I sit down I shall ask the Senate to give me the yeas and nays on this proposition; and I may remark that, in my judgment, the want of the provision contained in this amendment lies at the foundation of our whole difficulty. It results from the allowance of the authority which we give to the quartermaster general to make contracts without law and without an appropriation.

It is a singular fact, sir, that from the adoption of the Federal Constitution down to the year 1844, being a period of fifty-five years, this Government was administered without any deficiency bill. In 1844, for the first time, there was a deficiency bill presented in the House of Representatives, and passed, and it had a very significant preamble, which I shall read. It was entitled, "An act making appropriations for certain objects of expenditure, therein named, in the year ending June 30, 1844." It was approved June 15, 1844, and is the first bill ever passed by this Government to supply deficiencies created in the administration of the Government under the regular supplies. The first clause of that bill is in these words:

"That the following sums of money be, and the same are hereby, appropriated, to be paid out of any money in the Treasury, for the respective objects of expenditure herein specified, being principally for arrearages or deficiencies arising in consequence of expenses improperly incurred beyond the amounts appropriated for the year ending the 30th of June, 1844, or for objects not authorized by law."

That law was passed, as it appears by the record, under the operation of the previous question, in the House of Representatives; there was no debate upon it there; but when a motion was made by the chairman of the Committee on Finance to take it up in the Senate, Mr. Haywood, then a member of the Senate from North Carolina, since deceased—

"Wishing to record his vote against this extraordinary and unconstitutional bill, called for the yeas and nays; which were ordered."

"Mr. Allen called the attention of the Senate to the fact that it was after much discussion, and upon due deliberation, the House had decided upon inserting these words; and that in these expenditures the Constitution had been violated." The House, in the preamble of this bill, merely states the fact that expenditures have been improperly made, without authority of law, which nobody denied. In looking through the bill, he found it consisted of five or six items, amounting to \$553,000—upwards of half a million of money applied contrary to law, and in palpable violation of the express clause of the Constitution which says no money shall be drawn out of the Treasury without authority of law. He should vote against the bill in any shape or form."—*Congressional Globe*, first session Twenty-Eighth Congress, pp. 682-3.

Well, sir, it seems to me, there was very great force in the suggestion that was then presented to the Senate by the Senator from Ohio, at the time the proposition was first introduced to sanction this practice of the Government spending money without law, and without appropriations, and relying on the Congress of the United States to meet it. The provision of the Constitution is familiar to everybody, that "no money shall be drawn from the Treasury but in consequence of appropriations made by law." But, do you not see, sir, and does not every Senator who hears me, see, that that provision of the Constitution is utterly nullified if you give permission to any officer of the Government to go on and pledge the public faith in advance for expenditures, and in that way create a debt which, the Congress, in order to redeem the public faith, are obliged to make appropriations to pay?

The Constitution will not give you permission to allow the quartermaster general, or the Secretary of War, or the President of the United States to put his hand into the Treasury and take

out a single dollar, except by virtue of appropriations made by law. But by the operation of the section, which by this amendment I propose to repeal, you do authorize the quartermaster general to do in substance what the Constitution says you shall not do specifically; that is to say, you shall not authorize the President, or the Secretary of any Department, or any officer of the Government to take out of the Treasury a single dollar, without appropriations being made by law, while at the same time you do what is exactly equivalent—authorize him to pledge the credit of the country to any amount that he may please; and the extent to which the Constitution may be violated, the public treasure spent, and the public credit pledged in this way has no limitation at all, but rests entirely within the discretion, and the arbitrary discretion, of a subordinate officer of the War Department, to wit: the quartermaster general. On the 1st of May, 1820, Congress passed this law, which I propose to repeal:

"Sec. 6. And be it further enacted, That no contract shall hereafter be made by the Secretary of State, or of the Treasury, or of the Department of War, or of the Navy, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; and excepting also, contracts for the subsistence and clothing of the Army or Navy, and contracts by the quartermaster's department, which may be made by the Secretaries of those Departments."

Now, sir, this does not apply, as you will see, to the Secretary of the Interior, which is an office that has been created since the 1st of May, 1820; nor does it apply to the Postmaster General. Notwithstanding that act was passed as early as May 1, 1820, Congress went on and the Government went on just exactly as they had before, up to 1844; and the estimates had so tallied with the appropriations that the expenditures never outran them until 1844, when Congress was called upon to pass a deficiency bill. It was then received as an extraordinary, and by several Senators who spoke upon it, as an unconstitutional act; and it is obnoxious, in my judgment, to that censure, because it broadly nullifies the provision of the Constitution to which I have referred.

This is a discretion which has been arbitrarily exercised. I have asked one of the clerks of the Senate to prepare for me a list of the appropriations to supply deficiencies in the quartermaster's department since the peace with Mexico, so that I might see how it runs along. The first year after the peace with Mexico, that is in 1848, they wanted \$5,000,000 to supply deficiencies; and I can well understand that it might have been necessary. We were then just at the close of a foreign war; the treaty had been made, and the troops were to be brought home; and there might have been a necessity for such an appropriation. In 1849 we had no deficiency bill; in 1850 we got along without a deficiency bill; but in 1851 we had a deficiency bill of \$1,059,117; in 1852, a deficiency bill of \$930,000; in 1853, we had no deficiency bill; in 1854, none; ditto in 1855. We got along, then, three years without a deficiency bill in this department; but in 1856, four years after the last deficiency bill for this department, there was an appropriation of \$1,642,137 for its deficiencies; in 1857, \$900,000; this year about \$7,000,000. So you see it has been arbitrary; some years without any, then again \$1,000,000; and then \$1,500,000; and this year \$7,000,000.

There can be in time of peace no sort of necessity for this discretion, not the slightest. I can readily conceive that such a provision as this may be convenient in time of war; and I do not know that I shall aid my proposition in the minds of the majority of the Senate when I tell them that if they pass this provision there will be no more wars created by the Executive; because, if the Executive is confined, as he ought to be confined, and as the Constitution intended that he should be confined, to appropriations made by law, and the power to make contracts without law and without appropriations is taken away from him, he cannot, by any possibility, incur these extraordinary expenditures.

It may be said that it is necessary in time of war, if it is not necessary in time of peace. I confess that it would be vastly, infinitely better if war comes upon us suddenly, if war is made upon us by any foreign Power, that the Administration should call Congress together, and should get from Congress authority to make such contracts as the emergency of the country might re-

quire, rather than this discretion should be left in the head of a Department or in any subordinate. If you do that, concede that there may be a necessity, and there may be a propriety in such an emergency as that of having extraordinary contracts made, is it not better—I appeal to every man who wants to guard the Treasury, as the Constitution intended it should be guarded by the sanction of appropriations made by Congress—is it not better that the Administration should call Congress together, and tell them of the emergency that exists, and ask for appropriations by law, rather than that this loose and indefinite discretion should be left in a subordinate of a Department to plunge us into a war, and into expenditures such as we have before us this year in the appropriation bill that is now pending before the Senate?

Just exactly as long as this power subsists, just so long it will be exercised; and just so long as it is exercised, just so long it will be increased, and the evil will go on, and contracts will be made, and the authority of Congress virtually nullified, as it is in this instance. This money will be paid, no matter what we think of the propriety of it, no matter what we think of the necessity of it, and no matter how unwise we may think the action of the Executive has been in incurring it. The public faith is pledged for it. The contracts have been made in virtue of this provision. It is \$7,000,000, but if it were \$17,000,000, it would be paid, because the public faith is pledged for it, and is pledged for it in pursuance of the very loose legislation that is left under the section I propose to repeal. I have not had time to look at the experience of other Governments, but I apprehend these deficiency bills will be found to be anomalies in any Government regulated by law. I do not know how the fact is, and I speak without the book on the subject; but I venture the remark, that you will not find bills of this character introduced and passed in the British Parliament. You will find that the British House of Commons watch the Treasury there with a scrutiny and a fidelity which ought to put Congress to the blush, and ought to bring the blush of shame upon us. Why, sir, every estimate in the appropriations is made with the utmost particularity, and column by column with the estimates which the Government asks this year, are placed the pounds, shillings, and pence that were spent for the same object last year, and that to a minutiae that would be deemed altogether impracticable here.

But, sir, the manner in which the public treasure of this country is spent under the sanction of Congress now, is just exactly that discretion which the Executive chooses, and nothing more. In the first place, our appropriations are made with a looseness that I do not know how to characterize—with a looseness that seems to be an invitation to profligacy. There are nothing like specific appropriations. Look them up and you will find fifty or a hundred different articles as diverse from one another as tropical heat from polar snows, brought together in one general conglomerated section, and for that, one, two, three, four, or five million dollars are appropriated, and it is left to the Executive to apportion it as he may. That is not all. In addition to that, they have a doctrine of transfers by which, when appropriations thus loosely made are not wanted under that general head, they may be transferred to another, and the law still observed in its terms.

I brought to the observation of the Senate, the other day, in the preparation of certain surveys, an instance of that. An appropriation was made for running the boundary line between this Republic and Mexico, and it turned out that \$100,000 had been appropriated more than was wanted. That is not strange. We generally appropriate a good deal more than that over and above what is necessary; but it was strange that there happened to be an officer who did not spend it all—and he actually brought home \$100,000 out of the amount he was authorized to spend. I think that ought to be set down to the credit of that man. If he is in the Army, I would brevet him. I think he deserves a brevet much more than the man did for whom, I think, we were tricked out of a brevet the other day, when we breveted him because he was to command the army in Utah; and as soon as he got the brevet the Administration sent out somebody else. I think the man that brought home the \$100,000 deserved a brevet. The money was appropriated to run a line; and

then he said it might very well be used in drawing engravings and delineations in natural history and natural science, &c. Very probably it might; but, instead of coming to Congress—who were the only power that had a right under the Constitution to say how the \$100,000 should be spent—he went to the Secretary of the Interior, and said, "I have saved \$100,000 in running the line, and I think it would be very well to spend it in pictures to ornament a book;" and the Secretary says, "very well; you shall have it." The Secretary of the Interior, without saying a word to Congress, by a mere dash of his pen, appropriated \$100,000, which we had appropriated to run a line, to make a picture-book.

Mr. JOHNSON, of Arkansas. What Secretary?

Mr. HALE. The Secretary of the Interior, under the last Administration.

Mr. JOHNSON, of Arkansas. Mr. McClelland?

Mr. HALE. Yes, sir; but I do not want to say anything invidious against Mr. McClelland. I believe it is the fashion, it is the common order, it is the construction which is put upon this provision of the Constitution, that no money shall be drawn from the Treasury except in consequence of appropriations made by law; to transfer appropriations from one head to another, make them so loose in the first place, that they mean nothing, and then, by transfers, make them to mean, if possible, less than nothing; and then, in addition to all these loose appropriations, and these transfers from one head to another, here comes in this sweeping clause by which the Secretaries of the War and of the Navy Departments, without any limitation, without any direction, without any law, without any appropriation, may go on and pledge the credit of this Government to an indefinite extent. They have done it this year to the amount of \$7,000,000. We should have to pay it were it \$17,000,000; we should have to pay equally any amount they had contracted for; and we should be bound until we come back and place ourselves where the Constitution places us, as the guardians of the public Treasury, and execute, as I think we are bound in honor and in honesty to execute, that provision of the Constitution which says, no money shall be drawn from the Treasury, except in consequence of appropriations made by law.

That discretion rests in us, and I contend that we cannot consistently with our obligations to the Constitution, transfer this power of watching, this trust of guarding, this duty of taking care of the public Treasury. We cannot throw it from our hands upon any other officer where the Constitution has not placed it; but by the sixth section of this act of 1820, we do broadly say to the Secretaries of the War and Navy Departments, "you can more safely and more properly judge what sums can be drawn from the Treasury than we can; and although the Constitution forbids us in express terms from letting any of you or all of you combined, with the President at your head, put your hands in the Treasury and take out a dollar, yet we can get around that provision, and we will allow you to go on and pledge our credit, *ad infinitum*, for untold millions upon millions, and pledge the public faith, and then we shall keep the word of the Constitution, because the money will not actually go, until we make an appropriation by law." But it is only the word of the Constitution; the spirit of it is broken; the spirit of it is utterly broken, and in my humble judgment—I say it with great deference—we are false to our trust; false to that obligation which the Constitution has imposed upon us to guard the Treasury, when we by law permit any officers of the Government to pledge the public credit and the public faith to any amount, and then after it is done, there is nothing left but a mere matter of form that we pass the bill, because the public faith is pledged, and that binds us. It binds us just as firmly and just as strenuously as any provision of the law, or any provision of the Constitution; because I take it there is nothing that we would not sooner see violated than the public faith, the public credit, and the public honor, and when we let a public officer use and pledge that faith, that credit, that honor, we do in substance permit him to put his hand into the Treasury in violation of the Constitution.

Sir, if you want to bring the Government back

to what it ought to be, a Government of law—if you want to preserve the expenditures where the Constitution intended they should be preserved, to appropriations—you must repeal that section of the act of 1820. Until you repeal that, these abuses will exist; they will increase; and these deficiency bills will come upon us year after year, and increasing, until they will reach to such an excess that the very necessities of the Treasury will compel us either to repeal the law, or to repudiate the public faith. It is because I would avoid such a result as that, that I hope this section will be stricken out.

Mr. STUART. I move that the Senate adjourn.

Mr. HUNTER. The Senator from Georgia, I understand, desires an executive session.

Mr. STUART. I withdraw the motion. The further consideration of the bill was postponed until to-morrow.

EXECUTIVE SESSION.

On motion of Mr. IVERSON, the Senate proceeded to the consideration of executive business; and, after some time engaged therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, April 19, 1858.

The House met at twelve o'clock, m. Prayer by Rev. G. D. CUMMINS, D. D.

The Journal of Saturday last was read and approved.

STENOGRAPHER TO A COMMITTEE.

The SPEAKER stated that the business first in order was the motion of the gentleman from Pennsylvania [Mr. FLORENCE] to suspend the rules, to enable him to report the following resolution from the select committee:

Resolved, That the committee appointed to investigate the facts and circumstances connected with the sale and purchase of property at Wilkins's Point, New York, by the Government, for fortification purposes, in the year 1837, be authorized to employ a stenographer, at the usual compensation.

Mr. LETCHER. I should like to inquire how the committee have been getting along so far without a stenographer? They have been in session for some time.

The SPEAKER. Debate is not in order, except by unanimous consent.

Mr. JONES, of Tennessee. Would it be in order to substitute the word "pay" for "employ?" I suppose they have employed a stenographer long ago.

Mr. LETCHER. That is what I want to know.

The SPEAKER. The resolution is not before the House yet. The motion is to suspend the rules, to enable the gentleman to offer the resolution. Does the gentleman propose to submit the resolution as a report from the committee?

Mr. FLORENCE. I was directed by the committee to submit it. I will say, if the House will permit me, to the gentleman from Virginia and the gentleman from Tennessee, who have interrogated the Chair, that it is impossible for the committee to discharge its duties unless this resolution shall be passed. I will say further, to be candid, frank, and honest—

The SPEAKER. The gentleman from Pennsylvania asks leave to make an explanation of the resolution. Is there any objection?

Mr. LETCHER. I hope that the House will hear the gentleman.

There was no objection.

Mr. MORGAN. Have the committee a clerk now?

Mr. FLORENCE. They have the services of a phonographic reporter; and I think that the gentleman from New York, and all others, will agree with me that they have no right to his services or that of anybody else, without compensation. I do not suppose that any gentleman will stand up here and say that we ought to have the services of a person without paying for them.

The gentleman from Tennessee [Mr. JONES] asks me whether we have not a reporter. We have a gentleman who is performing the duties of a reporter. The labors of the committee have been more extensive than we had any reason to suppose they would be. The testimony is voluminous in its character, and cannot be reduced to

writing without the assistance of a reporter. I am directed by the committee to offer that resolution. I ask that it may be adopted, in order that the committee may be enabled to discharge the duties imposed upon it.

Mr. LETCHER. I understand that the gentleman from Pennsylvania and his committee have undertaken to employ a reporter on their own hook, and now come here and ask us to foot the bill.

Mr. FLORENCE. Oh no! that is a mistake. The gentleman from Virginia is generally right, but he is wrong this time. They did no such thing.

Mr. STANTON. The committee which the gentleman from Pennsylvania represents on this occasion, happened to occupy the same room with the tariff investigating committee, and it availed itself of the services of the stenographer, or phonographer, (or whatever he is called,) of the latter committee, in anticipation that the House would compensate those services. I know that no committee which takes voluminous testimony can transact its business without such a reporter; and I take it that the gentleman from Kentucky, [Mr. BURNETT,] chairman of the Fort Snelling committee, and those who are and have been on committees compelled to take oral testimony, will acknowledge that a reporter is an absolute necessity for those committees.

Mr. FLORENCE. This is not a clerk to be paid a per diem, but a phonographic reporter, to be paid a reasonable price per folio. We desire that the testimony which we have heard may be written out *verbatim*; and it is for that reason that we ask the compensation of a reporter. I imagine the amount paid for those services will be very inconsiderable, compared with their value. We do not want a clerk, and this resolution does not ask for a clerk, but for a stenographer, to take down testimony as it is uttered; and I trust sincerely that the House will adopt the resolution without objection.

Mr. JONES, of Tennessee. I believe that this resolution authorizes the committee to employ a reporter at the usual compensation. Now, for my own information, and the information of the House, I would like to know what that usual compensation is. All similar resolutions this session have provided for the payment of the usual compensation. What is it?

Mr. FLORENCE. I cannot answer that question. There is a fixed rate of compensation. It is very small, I know, compared with the value of the services rendered.

Mr. STANTON. It is governed by the pay to the Globe reporters.

Mr. SEWARD. I oppose this resolution, first, for the reason that I think there is no necessity for a clerk, and next, because it is a waste of time to pass it, as the House, the other day, insisted that resolutions of this sort had no obligatory force upon the House itself. A large number of members decided against allowing this kind of compensation. They decided, in effect, that such resolutions were not honorably binding upon the House. I want to test the sincerity of gentlemen, and see whether they will vote for this resolution under the circumstances.

The House was divided; and there were—ayes 98, noes 27.

Mr. SEWARD demand tellers.

Tellers were not ordered.

So the rules were suspended.

Mr. FLORENCE demanded the previous question on the adoption of the resolution.

The previous question was seconded, the main question ordered to be put, and, under the operation thereof, the resolution was adopted.

Mr. FLORENCE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, informing the House that the Senate had passed the following bills:

An act (S. No. 41) to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes;

An act (S. No. 80) for the relief of the heirs

and legal representatives of Oliver Landry, of the State of Louisiana;

An act (S. No. 131) for the relief of Samuel V. Niles;

An act (S. No. 132) for the relief of Edward D. Reynolds;

An act (S. No. 134) for the relief of the legal representatives of J. E. Martin;

An act (S. No. 140) for the relief of George W. Lippett;

An act (S. No. 142) for the relief of Hannah Stroop, widow of John Stroop, deceased;

An act (S. No. 159) for the relief of Commander Thomas J. Page, United States Navy;

An act (S. No. 163) for the relief of Mrs. Eliza A. Merchant, widow of the late Lieutenant and Brevet Captain Charles G. Merchant, of the United States Army;

An act (S. No. 164) to provide for the settlement of the accounts of the late Captain John W. McCrabb;

An act (S. No. 166) for the relief of Eleazer Williams;

An act (S. No. 171) for the relief of Otway H. Berryman;

An act (S. No. 177) to confirm to William Marvin title to lands in East Florida;

An act (S. No. 183) for the relief of Charnier T. Scaif, administrator of Gilbert Stalker;

An act (S. No. 184) for the relief of John Robb;

An act (S. No. 188) for the relief of Edward N. Kent;

An act (S. No. 190) for the confirmation of a certain land claim in favor of Pierre Grignon, or his legal representatives;

An act (S. No. 193) authorizing the issuing of certain bounty land warrants to the legal representatives of deceased persons entitled thereto;

An act (S. No. 195) for the relief of Ashton S. H. White;

An act (S. No. 199) for the relief of Livingston, Kinkade, and Company;

An act (S. No. 221) for the relief of Richard W. Meade;

An act (S. No. 226) for the relief of Mrs. Harriet O. Read, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army;

An act (S. No. 240) for the relief of Noah Smith, late a private in the Army of the United States;

An act (S. No. 242) for the relief of John Brest, a soldier in the war of 1812;

An act (S. No. 249) to release to the Milwaukee and Mississippi Railroad Company the interest of the United States to a certain parcel of land;

An act (S. No. 253) for the relief of F. M. Gunnell, passed assistant surgeon in the Navy;

An act (S. No. 256) further explanatory of an act approved August 18, 1856, entitled "An act for the relief of Adam D. Stewart and of Alexander Randall, executor of Daniel Randall;

An act (S. No. 261) for the relief of Michael Nash, of the District of Columbia;

An act (S. No. 262) for the relief of the heirs or legal representatives of Richard D. Rowland, deceased, and others;

An act (S. No. 264) confirming to Alexander Copeland title to four hundred and eighty acres of land in Sonoma county, California; and

An act (S. No. 270) for the relief of T. Hart Hyatt;

In which he was directed to ask the concurrence of the House.

Also, that the Senate have passed, without amendment, bills of the House of the following titles:

A bill (No. 208) for the relief of the heirs of Alexander Stevenson;

A bill (No. 212) for the relief of N. C. Weems, of Louisiana; and

A bill (No. 113) for the relief of Francis Wlodecki.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled:

An act (H. R. No. 212) for the relief of N. C. Weems, of Louisiana;

An act (H. R. No. 213) for the relief of Francis Wlodecki;

An act (H. R. No. 208) for the relief of the heirs of Alexander Stevenson; and

An act for the relief of Major Jeremiah Y. Dashiell, paymaster in the United States Army; when the Speaker signed the same.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States by Mr. J. B. HENRY, his Private Secretary, notifying the House that he had approved and signed an act for the relief of the legal representatives of James Lawrence.

WASHINGTON AUXILIARY GUARD.

Mr. GOODE. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, to take up the police bill.

Mr. STANTON. I hope the gentleman will withdraw that motion until I can submit a resolution.

Mr. GOODE. I will hear the resolution.

The Clerk read the resolution, as follows:

Resolved, That the States and Territories be called for bills, of which notice has been given, for the purpose of reference, and resolutions which shall not be objected to.

Mr. CLINGMAN. I object. We have had resolutions of that kind, and resolutions under it, of any account or consequence, have been objected to, and kept out. If the gentleman will leave out the words "resolutions objected to," and let all resolutions come in alike, I will vote for his resolution.

Mr. GOODE. I do not yield for the resolution.

The House was divided; and there were—ayes 83, noes 71.

Mr. STANTON. I call for tellers.

Tellers were not ordered.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. JONES, of Tennessee, in the chair,) and resumed the consideration of the bill for the establishment of an

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for the District of Columbia, on which general debate was closed at the rising of the committee, at its last sitting, and on which the gentleman from Virginia [Mr. GOODE] was entitled to the floor for one hour under the rules: the pending question being to amend by way of substitute offered by the gentleman from Virginia [Mr. GOODE] to the substitute offered by the gentleman from New York [Mr. DODD] for the Senate bill.

Mr. GOODE. The few suggestions which I propose to offer, will be presented in as brief a form as possible. I have no essay to publish, and if I had the force of character and the power of language to engage the attention of the committee, I should not indulge in political declamation. I shall direct myself to a just consideration of the merits of the propositions before the committee. The discussion upon this subject, which was opened some days since, has taken a wide range, and gentlemen have felt themselves called upon to launch out in a wild discussion of partisan politics. I shall not follow their example. I desire to call back the attention of the committee to the question which is pending before it. That question is, as was announced by the Chairman, on the adoption of the substitute which I proposed in lieu of the proposition submitted by the gentleman from New York, [Mr. DODD.] The committee may, perhaps, be familiar with the difference between them. The general provisions of the two bills are nearly identical. They provide for the same force, for the same number of officers, and for nearly the same expenditure of money. I may, however, be permitted to state that the substitute which I introduced contemplates a less expenditure of money than the proposition of the gentleman from New York, and, *pro tanto*, is less objectionable.

There is, however, in one or two respects, a wide difference between the proposition of the gentleman from New York, and that which I have had the honor to submit. My substitute provides for that which I hold to be a great improvement in the administration of justice in this city. It provides for establishing a court by which offenders arrested may be summarily disposed of, instead of subjecting the country to the expense of a criminal prosecution in all cases of arrest, and instead of allowing the criminals the opportunity of securing their acquittal by the absence of witnesses after a few months' delay. This feature of the bill is of the utmost importance. More than one hundred thousand dollars are appropriated annually from the Federal Treasury for the prosecution of these petty offenses in the District of Columbia, a great portion of which will be saved by the adoption of the proposition I have submitted. In this respect I claim the credit for my bill over that of the gentleman from New York.

But the chief distinction between the two propositions is in the mode of appointment of the officers. The gentleman from New York proposes to constitute a board of commissioners to organize this police force. That board of commissioners is to be elected by the voters of the city of Washington. They are not only to be elected, but they are to be elected from the contending political parties in equal numbers. The board is to consist of two Democrats and two Americans. As I said before, when I addressed the House, the antagonistic elements of such a force would be such as to make a decision upon any question which may arise in the board utterly impracticable. It is impossible that they can enter into any regulations, or agree upon any appointments, any more than could the gentleman from New York and myself compromise on any such mode.

Mr. BURROUGHS. I desire to ask the gentleman if he does not know that the best governed cities and villages in America, to-day, are those governed by men chosen without reference to party?

Mr. GOODE. I do not. It appears to me utterly impracticable for that board to agree upon anything. They have to determine upon the appointment of the officers. In cases which would require prompt action, they would be without the hope of agreement among themselves. I confess it appears to me the most unreasonable proposition that could be submitted. There is no precedent like it in the history of the country. It resembles nothing so nearly as the triple-headed Cerberus, placed by mythologists to guard the gates of hell. The proposition of the gentleman from New York cannot, I think, receive the approbation of the members of this committee. If it does, it will entail a greater evil upon this city than that which it now labors under. My proposition varies from his, in varying the mode of appointment. Mine provides that the chief of police shall be appointed by the President of the United States, by and with the advice and consent of the Senate, as the Constitution of the United States provides. Gentlemen say that these officers are not Federal officers. Why not? They are created by act of Congress, are paid out of the Federal Treasury, and have their duties prescribed by act of Congress. How, then, can any officers be more of Federal officers than they are? And if they be Federal officers, the Constitution gives the appointment to the President of the United States, by and with the advice and consent of the Senate. It is true that Congress has the power by law of vesting the appointment of inferior officers in the President alone, without placing him under the necessity of going for confirmation to the Senate; and also of vesting the appointment of inferior officers in the courts of law, or in the heads of Departments. With these exceptions, however, we have no right to vest the power of appointment elsewhere.

The Constitution, I say, places the power of appointment regularly in the President. Will any man deny that this appointment of chief of police of this city is incidental to the executive power? Our ancestors, in framing the Federal Constitution, adopted the British Government as its model, and, according to the British Constitution, the power of appointment is in the Executive. It is a kingly prerogative, a prerogative of the Crown, and it is a reflection on the person of the monarch to attempt to infringe upon that power. Gentlemen may say that this is a royal attribute; if it be, it is one in accordance with the principles of our own Constitution. Gentlemen may say it is wrong to accumulate power in the hands of the Executive. It may be wrong for aught I know; but whenever an office is created by act of Congress, the Constitution vests the power of appointment, when not otherwise vested, in the President of the United States. He has the power to appoint all the superior officers of the Government, the officers of the Army and Navy, of the judiciary of the United States, and would it not be absurd to refuse to intrust him with the power of appointing the chief of police of the city of Washington?

Mr. MAYNARD. I want to know whether, under the act of 1850, the commissioners were

appointed by the President, or by the courts of the District, in which they were to act?

Mr. GOODE. Did not the gentleman hear me say that Congress had the power to provide by law for the appointment of inferior officers by the courts or heads of Departments? That was the position I announced. I do not recollect particularly the provisions of the bill to which the gentleman refers.

Mr. BLISS. I would like to be enlightened on one point, for it is an important one. I understand the gentleman to claim that the officers of this District are Federal officers under the Constitution?

Mr. GOODE. The officers of the corporation are municipal officers; but it is competent for Congress to create other officers in this District that are not municipal officers, and that are, of necessity, Federal officers.

Mr. BLISS. I ask whether, under the Constitution, any difference was made between any of the local officers of the District, such as Mayor and policemen, or any other officer?

Mr. GOODE. The office of Mayor is an office elective by the people, under the charter. That of chief of police is regulated by this bill. If it were a municipal office, it should be one elective by the people; if it be not, then the appointment vests in the Executive of the nation. We may, by law, provide for the appointment by the Secretary of the Interior, or any other head of the Department or the courts; but, if there be no such special provision, then the appointment attaches, *ex vi termini*, to the President of the United States.

Gentlemen may insist that it is wrong to invest the President with the appointing power of this chief of police, while he has the appointing power of all the principal officers of the Government. It seems to me to be a strong illustration of the proverb, "strain at a gnat, and swallow a camel." I call upon gentlemen to stand by the provisions of the Constitution; I call upon them to remember by whom it was framed. I call upon James Madison to answer these objections. I call upon Alexander Hamilton, upon Robert Morris, upon Gouverneur Morris, upon James Wilson, upon Charles Pinckney, upon Pierce Butler, to answer them. I call upon Benjamin Franklin and upon George Washington to answer them. All these great men declared that it was right and proper and just and safe to vest the appointing power in the President of the United States.

Sir, what are the objections urged against thus vesting the power of appointment in the Chief Magistrate of the nation? Those objections are, for the most part, founded on personal opposition to the Executive. I am proud to say that the gentleman from Tennessee [Mr. MAYNARD] was an honorable exception to the rule. I was surprised to hear such objection to a man like James Buchanan, who has spent his life in the virtuous exercise of his social faculties and of his duty to the country, and whom the people have elevated to his present high position. I was pained to see him made a mark for attack and vituperation and denunciation, if not slander, by honorable gentlemen on this floor.

Let me say, sir, that any gentleman who brings himself into comparison with James Buchanan as a man of virtue, honor, intelligence, and distinction, will be apt to suffer severely by that comparison. The objection to placing this power in the hands of Mr. Buchanan is, that he is unworthy the confidence of the country, and that he is the head of a rotten and repudiated Administration, to use the elegant language of the gentleman from Massachusetts, [Mr. COMBS.] Gentlemen must recollect that before Mr. Buchanan was chosen the standard-bearer of the Democratic party, he was free from all these unjust imputations; but since we made him our leader and standard-bearer, and placed him in the eminent position which he now occupies, he has become the great mark for the shafts of his enemies, and I ask his friends now to shield him from these attacks. I do not ask the House to pass an improper law; but, in deciding this question of the appointing power between the gentleman from New York [Mr. DODD] and myself, I ask the Democracy of the House to protect the President from the obloquy which is attempted to be cast upon him. Gentlemen can vote for my proposition in preference to that of the gentleman from New York without being committed to my proposition. It is a mere expression

of preference between the two propositions. The question will subsequently come up between my proposition and the Senate bill, and then upon the passage of which ever of those bills shall be preferred.

It was argued by the distinguished gentleman from Kentucky, [Mr. MARSHALL,] that the charter of the city of Washington had vested the power of appointment in the Mayor of the city, and that we could not now exercise it without a usurpation of power. I confess I was surprised to hear such an argument from that honorable source. It is true we have organized a municipal corporation here in the city of Washington, with power to accomplish municipal objects by the appointment of their officers. But can it ever have been conceived that by such an act we had deprived ourselves of the power of self-protection and self-preservation by the creation of officers for ourselves! Sir, the authority of the municipal government is concurrent, and concurrent alone, and cannot be regarded as by any means exclusive. Is there any part of this broad Confederacy in which we have not concurrent jurisdiction with the local authorities? Go to the States, sovereign States, invested with supreme authority; they exercise supreme jurisdiction upon the subjects confided to them; yet we exercise concurrent constitutional jurisdiction on all subjects confided to the Federal Government within the limits of the States. They are sovereign and supreme; yet we share the authority with them. I have seen the illustrious John Marshall in the same room, and in the same seat, administering Federal law on one day, when on the preceding day the same seat in the same room was occupied by the Chancellor of Virginia. We have concurrent jurisdiction within the limits of the States which are sovereign and supreme; yet by the creation of a petty corporation within the limits of the District of Columbia, it is insisted that we have deprived ourselves of all power of self-protection. We have no right to divest ourselves of the power to protect the Government of the United States and all those who legitimately claim its protection. We are bound to protect members of Congress, to protect the property of the Government, to protect all who are connected with the Federal Government, to protect citizens who resort here, and to protect the ministers of foreign courts. These are obligations of such a nature that Congress cannot divest themselves of them if we would; and if they had invested the municipal authorities with the power instead of themselves, the act would have been simply nugatory.

Sir, it has been objected that this Government should not support the police of the city to the relief of the citizens of Washington. This argument must be respected, because it is urged by respectable gentlemen. In itself, it seems to me to be utterly without foundation. Why is a police essential here? Is it not an undeniable fact that the lawlessness which prevails here is occasioned by the presence of the Federal Government? Do we not congregate and assemble within the ten miles square of this District the ruffians who set society at defiance? Is it not true—I put it to the calm understanding of the members of the House—that if you should remove the seat of Government to a point distant from Washington, this city would subside into the quiet and peacefulness of a country village? If, then, it be true that we occasion the necessity for a police, it is our duty, under the Constitution of the country, to provide it. The Government of the United States was brought here designedly and deliberately, and invested with power to protect itself. It was the purpose to exclude all other jurisdiction. That was the purpose for which the seat of Government was located where it is.

Every gentleman present must be familiar with the history of Washington and its establishment as the seat of the General Government. It will be remembered that at the close of the revolutionary war, when our arms were triumphant, when victory had perched upon our banner, when the power of Great Britain had been overcome, and she was compelled to abandon her possessions, when the American army achieved a glorious triumph, it was left in a condition of destitution. The soldiers were compelled to retire to their homes, not only without a cent of pay, but with their garments all tattered and torn. They had been disbanded without any settlement of their

accounts. They grumbled, and exhibited every evidence of dissatisfaction; and great address was required on the part of the Commander-in-Chief to prevent a mutiny in the army. General Washington exerted his patriotism, and restored peace, by his efforts, to the great body of the army. At Lancaster, Pennsylvania, however, the portion of the army there could not be appeased. The soldiers there were in a state of utter destitution, and they took up the line of march for Philadelphia, where Congress was in session. Congress appealed to the municipal authorities for protection, and the municipal authorities referred it to the State authorities. Why was this? Because there was no adequate power in Congress to protect itself.

It will be seen that violence would be done before any protection could be afforded. General Washington was full of indignation. He dispatched fifteen hundred men to quiet the rebellion. The mutinous soldiers surrounded the House in which Congress was sitting, clamoring for pay for their services, and Congress was compelled to disperse. Before dispersing, they made an agreement to assemble at Princeton. Then it was determined that the seat of Government should be established where the Federal Government would have the power to protect itself. Shall we forget the teachings of experience, or shall we, in furtherance of what was then done by Congress, agree to this measure of necessity for the protection of members of Congress in the discharge of their duties? Early in the proceedings of the constitutional convention, a resolution was adopted, which may be found in Elliot's Debates. It provided for the insertion into the Constitution of a clause to provide for the exclusive jurisdiction of the Federal Government over its own seat of Government; and when the Constitution was reported, the clause for exclusive jurisdiction, as it now appears in that instrument, was found inserted. It was put there in obedience to the public sentiment at the time. It was put there because it was seen that it was indispensably necessary that power should be placed in the hands of the General Government to protect itself. Virginia had jurisdiction of the other side of the Potomac river, and Maryland of this, and they ceded that jurisdiction to the United States. The General Government required the surrender of eminent domain, and Virginia and Maryland both retired. This afforded power to the General Government to protect itself; and I cannot believe that it is the judgment of the American people to yield up this necessary power, but that it is, on the contrary, an imperious duty to retain it.

The gentleman from New York [Mr. DODD] provides in his proposition for the creation of a commission, to be elected by the people here; and in the proposition of the gentleman from Ohio [Mr. LEITER] the creation of a like commission is provided. In the latter bill, two persons are named who are candidates for Mayor, and this has, of course, an appearance of a party character, which gentlemen seem so much to wish to guard against. I have already, however, given my reasons why neither of these propositions should be adopted. Other gentlemen, however, wish to invest this power of appointment in the Mayor of the city of Washington. Look at it. The Congress of the United States and the President of the United States dependent for protection on the Mayor of this city! The efficiency of such an arrangement we have already seen, and the argument of experience is against it. It has been shown in the bitter lessons of the past that he is not a person to be invested with this authority. But while some gentlemen have leveled their darts at the present incumbent, I say the organization is itself vicious; that it invests the recipient of office with power to appoint men to office who have the power to reward him by votes. Appointment by the Mayor is the most objectionable mode. The men called upon to perform the service have the power to elect the Mayor, and the Mayor, in return, has the power of paying them for their votes.

Mr. Chairman, I am nearly brought to the close of the few remarks I intended to submit. When I originally undertook to explain the provisions of this bill, this House will bear me witness that I came forward coolly and deliberately to explain these provisions. No particle of passion, no indication of excitement, was manifested upon my

part. I was content to relate simply the provisions of the bill, and to call upon the House from a sense of duty to carry these provisions into effect. I desired to appeal to no party spirit at all, and I appealed to no excited feeling upon the part of any member of this House. The honorable gentleman from Massachusetts [Mr. COMINS] rose in his place, and immediately launched out into a boisterous discussion of party politics. He felt it to be his duty, after discussing the question of police, to arraign and denounce the President of the United States, to arraign and denounce the Cabinet of the President, to denounce them as rotten and untrustworthy, to denounce and threaten the Supreme Court of the United States; to make palpable allusion to the venerable Chief Justice of this country; to denounce—

Mr. COMINS. I beg to correct the gentleman from Virginia. In speaking against this bill, I made no allusion to the Supreme Court of the United States, or to the venerable Chief Justice of that court. I said justice was at fault in this city through the inefficiency of the criminal court of this District, more than from the remissness of the police in the discharge of their duties. I in no way assailed Judge Crawford, but alluded to the inefficiency of his court. Neither did I allude to the Cabinet of the President; but I did allude to his administration.

Mr. GOODE. I beg pardon of the gentleman; I thought he or some of his compere made allusion to the decision in the Dred Scott case. I then absolve the gentleman. I absolve him *quo ad hoc*; but by his own confession he alluded to the court of this District. He assailed the criminal court of the District of Columbia, and indelicately alluded, by name, to the honorable gentleman who presides in that court; he introduced him to the observation of the country by name. That is to be found in his printed speech. Not only in the heat of debate, but deliberately in publishing his remarks, he introduced the name of Judge Crawford to the animadversion of the American people. I have no personal acquaintance with Judge Crawford. He has not approached me, or placed me in possession of any facts, in order to make his defense here to-day. But other gentlemen, disconnected with him in party politics, men of undoubted standing, men at the head of the bar, have felt it their duty to wait upon me to show me that I was authorized to introduce that gentleman here as an amiable man, an accomplished gentleman, and a pure, just, and upright judge. That is the testimony of men opposed to him in politics, of men whose good opinion is worth cultivating by all gentlemen. And when the grave closes over him, his memory will be revered in this community.

Gentlemen refer to the case of a member of Congress who was tried here for murder a few years since, and who was acquitted. It was far from my purpose to bring that matter into this discussion. No man could have regretted the occurrence more than the unfortunate gentleman himself—no one more than his intimate friends. But, sir, he committed himself to the laws of his country, and that country declared him entitled to an acquittal, and he was accordingly discharged. I understand that the ruling of the judge, on that occasion, was that in a case of mutual combat, where the jury believe that the circumstances were such as to justify the prisoner in a well-grounded apprehension that his own life was imperiled, or that he was in danger of great bodily harm, homicide is justifiable. I hold that to be the law in most of the States of this Confederacy. I believe that that has been decided years ago as the law.

Other gentlemen have followed the gentleman from Massachusetts in the bitter war of politics. I do not propose to follow them. They may be satisfied with the exhibition they have made of themselves. I leave them to enjoy that satisfaction. I call upon gentlemen to rise superior to the little views and dissensions of party and to discharge their duty to the country and the Constitution.

For myself, I will say, that I have, perhaps, as little personal interest in the passage of this bill as any member of the House. I am rarely abroad under circumstances of exposure, and besides, I feel always safe in the security of my own heart.

Mr. COMINS. Is amendment now in order?

The CHAIRMAN. The pending question is on the amendment of the gentleman from Vir-

ginia [Mr. Goode] to the amendment offered by the gentleman from New York, [Mr. Donn], in lieu of the original bill. The bill will now be read by sections, and will be open for amendment.

Mr. MARSHALL, of Kentucky. I propose to insert after the words "one hundred men," in the ninth line, the words "all of whom shall be citizens of the United States."

Mr. GOODE. I have no objection to that.

Mr. MILLSON. I propose to offer an amendment here, and perhaps the gentleman from Kentucky had better wait and submit his proposition as an amendment to mine. I wish to submit an amendment to strike out the whole of that section; but if the amendment of the gentleman from Kentucky be adopted now, it would not be in order to move to strike out anything which the House inserts. The gentleman can afterwards attain his object as well.

Mr. MARSHALL, of Kentucky. If the gentleman from Virginia is going to move to strike out the whole section, my amendment will come first.

Mr. MILLSON. If the gentleman will allow my amendment to be read, he will see that his object can be attained after my proposition shall have been voted on.

Mr. MARSHALL, of Kentucky. But the gentleman is perfectly conversant with the parliamentary rule, that if you propose to strike out, it is in order first to amend the part to be stricken out, and that then the proposition to strike out can be voted on.

Mr. MILLSON. It will save two votes.

The CHAIRMAN. If the amendment fails, it will still be in order to amend the original text.

Mr. MILLSON's amendment was then read, as follows:

Strike out the following:

"And for the enforcement of the police regulations of the city of Washington, to consist of a chief, at an annual salary of \$2,000, one captain, at an annual salary of \$1,200, four lieutenants, at an annual salary of \$800 each, and one hundred men, at an annual salary of \$600 each, to be paid monthly."

And insert in lieu thereof the following:

"And to aid in the enforcement of the police regulations of the city of Washington, to consist of a chief, at an annual salary of \$2,000, one captain, at an annual salary of \$1,200, two, three, or four lieutenants, as may from time to time be determined by the Secretary of the Interior, at an annual salary of \$800 each, thirty men, at an annual salary of \$600 each, to be paid monthly; and at the discretion of the Secretary of the Interior, such additional number, from time to time, not exceeding seventy, at a like compensation, as shall make the whole number equal to the number employed for like purposes by the city of Washington."

Mr. MILLSON. Mr. Chairman, whether there be any obligation upon Congress to establish a police force for the city of Washington, I need not determine; but there is at least a propriety in our contributing some assistance to preserve the public peace and property here, for reasons which have been explained by gentlemen who have preceded me in the debate. The presence of Congress here, the large number of public officers, foreign ministers, their families and servants—all these seem to make it proper that some aid should be contributed to the authorities of the city in maintaining order here. But, sir, I am not willing that the people of the United States shall assume upon themselves the whole burden of establishing a police force for the city of Washington. We now employ thirty men as an auxiliary guard. I propose, by this amendment, to retain that guard; retaining, however, the authority of Congress over them, and putting them under the control of officers of our own appointment. And then, I propose to allow a sufficient number, in addition to the thirty, to be called into the public service, as may equal the whole number contributed by the city of Washington.

Sir, if we establish a guard here of one hundred men, the corporation of Washington will disband their guard altogether, because they have no need of more than one hundred men, and very rarely have need of as many as a hundred. We would then be at the charge of supporting the whole police establishment of the city of Washington. Sir, there are times when the city is quiet and orderly. During the recess of Congress, there is rarely occasion for an extraordinary police force here. It is only during the session of Congress that this disorder exists.

Now, sir, this provides for a sort of sliding scale. The Secretary of the Interior, when forty men are called into the service of the city of

Washington, will employ forty men for the United States. If one hundred men are wanted altogether, the city of Washington will appoint fifty, and the Government of the United States the other fifty. In this way, we shall have a force proportioned to the exigency; and I, for one, am not willing to establish a permanent guard of one hundred men, to be supported by the people of the United States exclusively, when there may be no occasion for their services. It will be observed—and this I prepared before the suggestion of the gentleman from Kentucky a day or two ago, though I felt the force of the suggestion—that this guard is intended not for the enforcement of the police regulations of the city of Washington, but simply to aid in their enforcement. They are not to be under the control of the municipal authorities at all. This is a Federal force. You employ already a body of watchmen, thirty or forty in number. They have charge of the public buildings. They are not under the control of the authorities of Washington, nor ought they to be. And I wish, therefore, that the force which we contribute to the public services shall be under the control of Federal officers, giving such assistance to the police of Washington as may be deemed necessary.

Mr. GOODE. I am opposed to the amendment. In my opinion, it would be fatal to the bill. My colleague proceeds upon the assumption that the Government of the United States shall furnish no stronger police force than shall be furnished by the municipal authorities at Washington. Sir, suppose the municipal authorities of Washington appoint no police force at all: the exigency exists for the presence of a force; the municipal authorities may get into controversy and fail to appoint a force; the proposition of my colleague, in that case, will prohibit the Government of the United States from protecting itself at all.

Mr. MILLSON. You will have thirty men. Mr. GOODE. That number would be quite inadequate. But again, my colleague proposes to give to the Secretary of the Interior the absolute right to dismiss these officers, not because of any alleged impropriety of conduct, but because he may determine when the public service requires the force. Who would consent to take the position under such circumstances? It appears to me that the amendment is altogether defective, and I hope it will be rejected.

Mr. MARSHALL, of Kentucky. I offer the following amendment, to come in at the end of the amendment of the gentleman from Virginia:

"Said officers and men shall all be citizens of the United States when employed in this service."

The amendment to the amendment was agreed to.

Mr. SMITH, of Virginia. I propose to offer an amendment to the amendment which, I understand, my colleague is willing to accept. It is to come in after word "Washington."

Mr. GOODE. I could not accept it now, as the amendment of my colleague [Mr. MILLSON] is pending. I would be willing to accept it as an amendment to my bill.

The CHAIRMAN. There is now an amendment pending to the first section of the bill, which must first be disposed of.

Mr. BLISS. Mr. Chairman, it is in order, I believe, to amend the amendment of the gentleman from Virginia. I indicated the other day in some remarks which I made on this bill, two points upon which, in my opinion, the bill needed amendment, and upon which amendments had not been proposed by any member of the committee. One of these points, I am happy to say, has been met by the amendment just offered by the gentleman from Virginia, and for that amendment I shall most cheerfully vote. The other point will be met by the proposition I now offer. I move to strike from the amendment of the gentleman from Virginia, the words, "the police regulations of the city of Washington," and to insert in lieu thereof the words, "such of the laws of the District of Columbia and police regulations of the city of Washington as are or shall be in force for such protection." I stated the other day that my object in offering this amendment would be to relieve the Federal Government from any concern or responsibility for the local police regulations of the city of Washington; that at least that portion of the police appointed and supported by the Federal Treasury may not be implicated in the local affairs of the District of Columbia further than is abso-

lutely necessary. Now I take it that if the amendment of the gentleman from Virginia prevails, we are to have simply an auxiliary force, and that we are not to relieve the people of this District from all responsibility for their own government, or from all the expense of enforcing their own laws. We are to furnish them such aid and assistance as may be required on the principle indicated by me the other day, and indicated again to-day by the gentleman from Virginia.

It seems, then, if that is the case; that, in general language, (for it is impossible to be particular in the case,) we should indicate the general purpose and object for which that police is to be afforded. As for instance: we do not wish to furnish, by the Federal Government, men to go to the city markets to enforce the necessary details of its arrangements, to prescribe the position of the wagon of B, or the wagon of C, to interfere in the petty quarrels and difficulties between the occupant of one stall and that of another; to see that A's butter stall does not encroach upon B's cabbage department—indeed that they shall be engaged in any of the local or merely municipal matters of the District. Neither do we, at least on this side of the House, want to pay, out of the Federal Treasury, for a police that shall be engaged in hunting fugitive slaves in the District of Columbia. I am desirous that we shall agree in relation to this matter; I am desirous that we shall furnish all proper and reasonable aid that we can be called upon to furnish to keep the peace of the city, to protect the property of the city, and to protect the lives of those who come here to do business; but I am not willing that we shall be involved in all their local regulations, or in those dishonorable and disgraceful regulations to which I have alluded; and I never will vote for any police bill that is not guarded on this point. This use of the police was objected to the other day by my colleague on the right, [Mr. GIDDINGS,] and allusion was made on the other side to that objection. It was justly said that a portion of the opposition to this bill arises from that cause. Some do oppose it mainly from the fact that the police heretofore have shown more zeal in protecting the slave property of the District—if property it can be called, than they did—

[Here the hammer fell.]

The question was taken, and Mr. Bliss's amendment was rejected.

Mr. GIDDINGS. I move to add the following proviso to the bill:

"Provided, That said auxiliary guard shall not be employed in the arrest of any person except those charged with crime or other offenses against the law."

Mr. Chairman, I do this merely for the purpose of stating a fact. I have this morning received the report of an attorney employed by myself to investigate a case where a freeman is now in prison, and sentenced to be sold unless his friends come forward and pay the expenses of his imprisonment. My attorney, employed for that purpose, has found witnesses who will testify under oath that the man who is imprisoned has been a freeman from his childhood up. I state this fact that northern men may know that in this bill we are paying northern money to involve northern honor, and to imprison and sell freemen into slavery.

Mr. MILLSON. I can only express my regret that the gentleman from Ohio should take the opportunity, in the consideration of a bill deemed necessary for the protection of public property and of the persons of citizens residing in the city of Washington, to introduce topics involving those peculiar matters which seem to be his delight to dwell upon. Does the gentleman desire to defeat the passage of the amendment altogether? He must be aware that he could not adopt a more successful mode of assailing the amendment I have submitted than that?

Mr. GIDDINGS. Will you, my dear friend, imprison and sell men into slavery?

Mr. MILLSON. The question has no application to anything in this discussion before the House; but the gentleman ought not to put such a question; for he ought to have known that there is no gentleman here who could be induced to consent to sell a free person into slavery.

Mr. GIDDINGS. Then why not accept the amendment?

Mr. MILLSON. The object of the amendment seems to be to prevent the police force from being

engaged in the arrest of fugitive slaves. What have we to do with that? Is it the duty of Congress to undertake to prescribe in advance the occasion upon which these men will be called upon to act? We provide for a police force. It is the duty of the magistrates and the judges to control the manner in which that force is to be employed. I trust the committee will reject the amendment.

The question recurring on the amendment offered by Mr. GIDDINGS,

Mr. LOVEJOY called for tellers.

Tellers were ordered; and Messrs. JEWETT and LOVEJOY were appointed.

The committee divided; and the tellers reported—ayes 64, noes 89.

So the amendment was not agreed to.

The question recurred on Mr. MILLSON's amendment.

Mr. MILLSON demanded tellers.

Tellers were ordered; and Messrs. MILLSON and BILLINGHURST were appointed.

The committee divided; and the tellers reported—ayes 81, noes 44.

So the amendment was agreed to.

Mr. JOHN COCHRANE. I desire to offer an amendment in line eleven.

Mr. SMITH, of Virginia. I desire to offer an amendment, to come in in the second line, after the word "Washington," so as to extend the operations of the bill to the District of Columbia.

Mr. JOHN COCHRANE. I perceive that the amendment of the gentleman from Virginia, as proposed by him, would come in before my amendment in the order of the text, and if I do not lose the advantage of the proposition already made by me in the shape of an amendment, I will yield to him.

The CHAIRMAN. If the gentleman withdraws his amendment, he can offer it subsequently.

Mr. JOHN COCHRANE. Then I withdraw it.

Mr. SMITH, of Virginia. I move to amend the amendment last adopted, by inserting after the word "Washington," in the second line, the words, "and any law for the preservation of the peace and good order of the said city, and in the District of Columbia."

The CHAIRMAN. The Chair thinks it is hardly in order now to amend that amendment, as it has been adopted, and is now part of the text of the bill.

Mr. SMITH, of Virginia. I propose to amend the text as amended.

The CHAIRMAN. It would have been in order before the vote was taken on the adoption of the amendment; but now that it has been adopted, it is not in order to insert anything more.

Mr. SMITH, of Virginia. I was told otherwise a while ago.

The CHAIRMAN. The Chair is not aware that he told the gentleman otherwise. The section is open to amendment; but no part of it is which the committee have incorporated into the section.

Mr. SMITH, of Virginia. Well, do I understand that I cannot get a proposition in to extend this auxiliary guard to the District of Columbia?

The CHAIRMAN. The Chair supposes that the gentleman could get it in in another part of the bill, but he could not get it in in this amendment which has been adopted.

Mr. JOHN COCHRANE. I now move to strike out in the eleventh line, after the word "time," the words "when specially ordered to do so," so that the text will read, "to serve during the night and in the day-time."

The reason of this, Mr. Chairman, is obvious. If we are to institute a police, their obligation should be as broad as their duty, and the obligation should not be limited, by the act which appoints them, to serve during the night, and in the day-time when specially ordered to do so. I would provide that they should do their duty at all times, night and day, whether specially ordered to do so or not.

The question was taken, and the amendment was adopted.

Mr. JOHN COCHRANE. I move to strike from the first section the words, "and the captains, lieutenants, and men, shall be appointed by the chief, with the approval of the Secretary of the Interior, and may be dismissed by the chief at his pleasure, or upon the order of the said Secretary," and in lieu thereof to insert as follows:

And the captains, lieutenants, and men, shall be appointed by a board of commissioners, hereby created and

established, for the purposes herein named, to consist of the Mayor of Washington, the district attorney of the District of Columbia, and the marshal of the said District, and may be dismissed by said commissioners, but only for cause shown on due notice to the delinquent, and after trial before them; such proceedings and dismissal to be subject, nevertheless, to the review and approval of the Secretary of the Interior.

Mr. Chairman, this amendment proposes a radical change in the features and the principle of the bill. As it stands, the appointment of the chief is vested in the hands of the President of the United States, by and with the advice and consent of the Senate, and the appointment of the captain, lieutenants, and men, is remotely vested in the same authority, although specifically confided to the chief—the chief, in fact, owing his appointment to the President of the United States. In my judgment, the men who are to be appointed by the chief, and dismissed by him at his pleasure, will become the subservient tools of that chief; and the chief himself must necessarily become an arbitrary autocrat; and in such case the conservation of the lives and property of the citizens of Washington, and of ourselves, must necessarily be made dependent upon the will and pleasure, the neglect or care, of the chief, who has his appointment at the hands of the President. I deem this a radical defect, and I have endeavored to cure that defect by the amendment, which provides that, the chief being appointed by the President, the captains, lieutenants, and men shall be appointed by a board of commissioners, and that that board of commissioners shall be constituted of officers in the District of Columbia, who most probably would be most familiar with the wants of the District, and the proper character of the men to be selected to supply those wants; and, in another respect, it would be exceedingly unjust and improper that these men should be dismissed at the pleasure and arbitrary will of the chief, who might be a political partisan. It is too dangerous and too extensive a power to vest in the hands of any man. These men thus selected should hold their places for life, or during good behavior, and should be displaced only after trial had, upon notice given, and judgment pronounced, and that judgment of the board of commissioners should be subject to the approval of the Secretary of the Interior. I think, sir, in all earnestness and sincerity, that if this feature is given to this bill it will be relieved, in a great measure, of the objections urged to it.

Mr. BURNETT. I am in favor of the passage of a police bill, but I desire that it shall first be perfected. It strikes me, however, that if the amendment proposed by the gentleman from New York be adopted, it will render the provisions of the bill totally inefficient. He proposes to allow the President to appoint the chief, by and with the advice and consent of the Senate. He is willing to lodge that power in the Executive, and he then proposes that the men shall be appointed by a board of commissioners to be composed of the Mayor, the district attorney, and the marshal of this District. What is the object of a chief? That there shall be a head to direct and control this police force and their operation in securing peace and good order to this city. By this amendment that power is taken from him, and the one hundred men are appointed by an independent and distinct board of commissioners. What will be the result? You place this chief at the head of this police force; you compel him to see that they enforce the laws and preserve good order; and yet you deprive him of the only guarantee he has for the execution of his wishes in that respect—you lodge the power of appointment, not in him, but in another, a separate and distinct board of commissioners, and thus, in my judgment, destroy the efficiency of the guard altogether. We had better, a great deal, adopt the amendment of the gentleman from Ohio, [Mr. LEITER.] I would prefer that, for the reason that that proposes to confer upon these commissioners the entire power of appointing, not only the men, but the chief and the other officers. Where the board appointed the chief and the men too, the force would be more efficient than if the chief were appointed by one, and the men by another.

The gentleman from New York [Mr. JOHN COCHRANE] says that it is too much power to place in the hands of one man. Why, sir, there is not a head of Department under this Government that does not exercise more power than would this chief of police; yet in those cases it is not re-

garded as dangerous, nor was it so regarded by the founders of the Government. I hold that, when you confer upon the President of the United States the power to appoint a chief, he would appoint a man of integrity and character, and who had a fitness for the place; and I will say for myself that I have confidence enough in the President of any party to believe that, were this power conferred, he would select a man who would not exhibit the qualities which the gentleman from New York fears so much.

Mr. JOHN COCHRANE. I wish to ask the gentleman whether he is not aware that the police of New York have been appointed in a similar method, by a board of commissioners, composed of the Mayor, the recorder, and the city judge?

Mr. BURNETT. I do not know how the matter works in New York; but I know this, that the city of New York has been in a state of war about its police for the last three years.

Mr. JOHN COCHRANE. But not upon that question.

Mr. BURNETT. But it is charged that the police of New York is inefficient, and does not execute the laws; and it will be an additional objection with me if the police of New York is appointed in that manner. I appeal to gentlemen upon all sides. We cannot each one of us get this bill in a shape to meet all our particular views. It is impossible. I was opposed to the amendment of the gentleman from Virginia, [Mr. MILLSON.] But every man of the committee, or at least a majority of the committee, admit the necessity of a police here. The obligations upon Congress to establish an efficient police are, in my judgment, of the very highest character. We ought to pass some law, and I appeal to gentlemen here not to put into the bill amendments which will render the police totally inefficient. The amendment of the gentleman from New York proposes to leave the appointment of the chief in the hands of the President, and then proposes to constitute a board of commissioners to appoint the men under him, thus leaving the chief entirely without control over his men. It at once destroys the unity of a police force, and, in my judgment, its efficiency.

Mr. MILLSON. I move to amend the amendment of the gentleman from New York by striking out the words "Mayor of Washington." The committee has just determined that we ought to establish an auxiliary guard only to aid in the enforcement of the regulations of Washington for the protection of life and property. What have we to do with the Mayor of Washington? What right have we to call upon the Mayor of Washington to aid in the execution of any of our laws? We are now proceeding independently of the corporation of Washington. We are establishing a guard for Federal purposes, and the city of Washington is left to establish a police for their own government. Sir, I am surprised at the sensitiveness manifested by gentlemen in reference to what they suppose to be the enormous powers to be granted to the President of the United States. It may be that I see very incorrectly the dignity of the occasion; but I confess I see nothing in this bill but a simple proposition to organize a body of watchmen. My friend from New York, who proposes this amendment, is doubtless not actuated by those fears and apprehensions which seem to animate some gentlemen upon the other side of the House. Some of them objected to the power being given to the President of the United States, because it was too vast a power to be intrusted to the Executive of the United States. Other gentlemen objected because it was too small a power to trouble the Executive with. They do not want to degrade the President to the level of a police officer. I see no such enormous power given to this superintendent of police; and yet gentlemen seem to apprehend that the existence at Washington of this central luminary will lead to the most fearful consequences; that this huge central mass will attract to it the lesser orbs, the States which are to revolve about it, and lead to a general consolidation of our Union. Why, sir, it may be that the liberties of the people of the United States may be trampled under foot by the investment in the President of such a tremendous power. It may be that our Union will be broken into fragments, or, what perhaps is still worse, converted into a consolidated Government. It may be that it may be far preferable that the superintendent of police should be elected as the

President is, by electors chosen by the people of the United States once in four years. But as that would involve an inconvenient change of the Constitution of the United States, we cannot adopt that mode at the present time.

I am, therefore, content that the appointment of the superintendent of police shall remain where it is proposed to be vested—in the President; and that the superintendent shall have the selection of his captains and watchmen.

Mr. JOHN COCHRANE. The reason for including the Mayor of Washington in this board of police commissioners was simply in respect to the peculiar character of the police to be created. We have already an existing police. This force, if created, will be claimed to be an auxiliary body to that police. The police already existing is somewhat under the control, questionless, of the Mayor and authorities of the city of Washington; and if you create an auxiliary body without referring that body at all to the control or to the judgment of the head of the present existing police, you will compose a body outside of their authority, and, in some degree, perhaps, in conflict with them. It is in order to compose a homogeneous body that it is proposed that one of the officers who has control of the present body of police shall have something to say in the control of the auxiliary guard proposed to be created. And, for another reason, it was proposed that the Mayor of Washington should be one of those commissioners; and that is, that he is the one among them who is more immediately responsible to the popular vote. The President of the United States unquestionably is answerable to those who exercise the elective franchise in the Union; the marshal is answerable to the President; and the Mayor is answerable for the method in which he shall discharge his duties to his constituents about him. Thus are there three elements selected for this board of commissioners.

Mr. PHILLIPS. I desire to ask the gentleman if he thinks it is competent for Congress to impose upon municipal officers the duty of performing municipal duties not connected with charter duties in conjunction with Federal officers?

Mr. JOHN COCHRANE. I think so clearly. I think that it is perfectly competent, and within the power of Congress, to impose any duty upon citizens, whether officers or not, for the conservation of the property and peace of this District. These are the reasons why I propose to include the Mayor of the city of Washington on this board; and I think that if the Mayor should be stricken from the board, it will remain incongruous and inefficient.

The previous question being on Mr. MILLSON's amendment to the amendment,

Mr. GREENWOOD called for tellers.

Tellers were ordered; and Messrs. JOHN COCHRANE and TRIPPE were appointed.

The committee divided, and the tellers reported—ayes eighteen, noes not counted.

So the amendment to the amendment was rejected.

The question recurred on Mr. JOHN COCHRANE's amendment.

Mr. MILLSON called for tellers.

Tellers were ordered; and Messrs. MILLSON and ADRAIN were appointed.

The committee divided, and the tellers reported—ayes 78, noes 63.

So the amendment was adopted.

Mr. MILES. I offer the following amendment, to be added to the first section of the bill:

And the Secretary of the Interior is authorized to purchase twenty-five horses for the use of the chief, captain, lieutenants, and such of the privates as the chief may detail for mounted service.

Mr. STANTON. I want to move to amend by adding "ten mules." [Laughter.]

The CHAIRMAN. The gentleman from South Carolina has the floor.

Mr. MILES. Gentlemen may treat the amendment with ridicule; but I speak from experience, and I offer the amendment in perfect good faith. I have seen something of the working of police systems, and have studied them with some care. It was my duty so to do, for I had the honor to be Mayor of the city of Charleston for the last two years. I introduced a system of police there, the result of much study and reflection, and of the comparison of various police systems, both in this country and Europe. I found that in the best

organized systems, a mounted force was an essential constituent of it. My own experience in Charleston, where we have fifty mounted men, convinced me that a mounted force is almost indispensable. It is utterly impossible, in a city covering the extent of ground of this city, for one hundred men to guard it effectually. It is impossible for the officers—the chief, captain, and lieutenants—to go the rounds in such a manner as to be satisfied that the patrolmen are doing their duty, unless they be mounted. The best authorities on this subject in Europe, where the police system has been reduced to a more thorough and scientific form than elsewhere, show that one mounted man can patrol as much space as five footmen can. On the question of economy, on which so much has been said, I think that the having twenty-five mounted policemen will be an actual saving of money. With these remarks, I submit my amendment.

Mr. GREENWOOD. I was originally in favor of a bill establishing an efficient police in this city; but I am rather of opinion now, that after all the doctoring it has been and is being subjected to, it cannot receive my support. I have no doubt that the gentleman from South Carolina is correct when he states that a mounted police is more efficient and can do more service than a foot police. His amendment, if adopted, would have another advantage; and that is, it would have the effect of keeping the policemen out of the corner groceries. But, if we can pass a bill of this kind at all—of which I have much doubt—we can only pass a bill to increase the number of police on foot. I am satisfied that if we adopt the amendment of the gentleman from South Carolina, however deficient a foot-police system may be, the bill cannot possibly be passed. In addition to the expenses incurred by the creation of the police itself, this amendment would entail the necessity of erecting public stables for the horses, procuring grooms, procuring forage, and incurring other expenses in addition to the purchase of the horses. I had hoped, when the proposition was made to create this additional police force, that it would have met no serious opposition. The proposition of the gentleman from New York, [Mr. JOHN COCHRANE,] just adopted, is certainly very objectionable to me. It was my impression that the Mayor should have nothing to do with this police; that it should be independent of the Mayor in every sense of the word.

If the amendment of the gentleman from South Carolina should be adopted, the expense, as provided for by the bill, and which is so much complained of, will be greatly increased. I very much regret, if it is the intention of the House to adopt a police system at all, to see so much disposition manifested to propose amendments to the bill. There are various modes of killing off a bill, but there is no mode more effectual than by proposing and adopting amendments which must make it odious to members. I freely confess that I am in favor of the adoption of some system by which the peace of the city will be more efficiently preserved; but if we adopt the proposition of the gentleman from South Carolina, I am satisfied that it will defeat the bill; and I hope, therefore, that it will be voted down.

Mr. MILES. Is it now in order for me to move to amend my amendment?

The CHAIRMAN. The gentleman can modify his amendment.

Mr. MILES. I propose to offer an amendment to my amendment by way of modification.

The CHAIRMAN. The gentleman would not be entitled to make a speech upon it.

Mr. MILES. Should I not have a right to explain it?

The CHAIRMAN. The gentleman has had five minutes to explain his amendment.

Mr. FOSTER. I desire to ask the gentleman from New York, [Mr. JOHN COCHRANE,] what has been the experience in the city of New York in reference to this question of a mounted police?

Mr. JOHN COCHRANE. I am not aware that we have yet resorted to a mounted police there, although it is generally understood to be greatly needed.

Mr. SEWARD. I move to amend the amendment of the gentleman from South Carolina, by striking out "five," so as to make the number of mounted men twenty, instead of twenty-five.

Mr. Chairman, I believe that it is the honest

intention of every member upon this floor to try and get up an efficient police, if one is to be established at all. I am glad that the gentleman from South Carolina has brought forward his proposition. It is a common-sense proposition. No gentleman can deny that it is utterly impossible for a man upon foot to travel over Washington city, and see that the subordinates are discharging their duties properly. If you can get a mounted force of honest, active, and energetic men, my word for it, from the experience of the city of Savannah, in my own State, you will have an efficient police, and be able to restore order in the city of Washington. Gentlemen may attempt to ridicule the proposition; but the city of Washington covers a large area of territory. We all know the labor we have to undergo in going from one office to another to attend to our ordinary business. Now, I submit that no force on foot can keep this city in a proper state of order and subordination, especially with the amount of vicious population turned in here from all parts of the United States every time Congress meets. [Laughter.] Of course I do not allude to the members of Congress. I allude to gentlemen—some very clever, and some very vicious—who come here to get office; and then I have no doubt that a great number of men congregate here to steal while we are in session. It is that class of men that we have to hunt up; it is the crimes committed by that class of men that have got to be suppressed. I think the resident population here is as good as that of any other city of the same size. It is the floating population that you have to deal with; and you cannot suppress crime, in my opinion, unless you get up an efficient mounted police. I hope the amendment of the gentleman from South Carolina will be adopted.

Mr. MILES. I desire to defend my amendment. I have already stated to the committee the views which influenced me in offering it. In my personal experience as Mayor of a city with a population about the same as that of Washington, (the population of Charleston is now about sixty thousand,) I discovered that the use of these mounted men was most important; and notwithstanding the great opposition to it at first, I believe that now the citizens of Charleston would abolish any feature of their police system sooner than they would this mounted force. It has been tested thoroughly; it has been tried and not found wanting.

Gentlemen here lay great stress, as I said before, upon the question of dollars and cents as connected with the police. Sir, I confess that does not weigh with me at all. What! Shall we, the Representatives of a great country, in the capital of a great nation, where we are building sumptuous palaces, and expending millions upon millions in costly edifices and public works, hesitate to spend a few dollars in maintaining peace, order, and security, for life and property? I am amazed at this class of objections. I, for one—I say it unhesitatingly, and I would put it on the yeas and nays, if you, sir, demanded them—I would spread it on the wings of the wind all over the country, that I, for one, am willing to vote half a million of dollars per annum, if necessary, to make Washington a decorous, respectable, safe, and secure city.

But, sir, with reference to this special point, I have alluded to some of the advantages of mounted men. The officers must be mounted in order to patrol the whole city and see that the men are doing their duty; and some of the men must use horses in order to cover the extensive territory on the outskirts of the city, where very often fugitives from justice are lurking. But let me impress upon the committee the importance of mounted police where the force is small. The committee have already, by adopting the amendment of the gentleman from Virginia, [Mr. MILLSON,] cut down the force to one altogether inadequate. In Charleston, with a population the same as that of Washington, and infinitely more quiet and orderly, I am proud and happy to say, where murders and assassinations are utterly unknown, and where no man in the dead of night has been struck down by the ruffian arm of violence—with our quiet and orderly population, we have one hundred footmen and fifty mounted men, in addition to eighteen sergeants, six lieutenants, two captains, and a chief. I think it absolutely important that with this diminished force we should mount

the men to make them effective. Suppose disorder occurs at any single point: your mounted man can spread the alarm at once, in five minutes, collect together the foot men stationed at different points, and hurry them to the scene of action. Suppose a fire breaks out: how can the alarm be spread by any means so rapidly as by a mounted horseman, dashing off at once and communicating it? I believe that if the committee adopt the amendment, in a few months' time this mounted force will be regarded as the most valuable portion of the whole system.

Mr. SEWARD, by unanimous consent, withdrew his amendment to the amendment.

The question was taken on the amendment of Mr. MILES, and it was agreed to.

Mr. BISHOP. Is it in order to move to strike out the enacting clause of the bill?

The CHAIRMAN. The Chair thinks not.

Mr. BISHOP. Well, I make that motion.

Mr. GROW. That motion is not in order, for there is a rule which provides that no bill shall be reported to the House while an amendment is pending.

The CHAIRMAN. The present incumbent of the Chair is of the opinion, that under that rule, and the resolution closing debate on this bill, the motion to strike out the enacting clause is not in order at this time. The 119th rule is as follows:

"A motion to strike out the enacting words of a bill shall have precedence of a motion to amend; and, if carried, shall be considered equivalent to its rejection."

The 136th rule is as follows:

"No standing rule or order of the House shall be rescinded or changed without one day's notice being given of the motion therefor; nor shall any rule be suspended, except by a vote of at least two thirds of the members present; nor shall the order of business, as established by the rules, be postponed or changed, except by a vote of at least two thirds of the members present. The House may, at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union; and also for providing for the discharge of the Committee of the Whole House, and the Committee of the Whole House on the state of the Union from the further consideration of any bill referred to it, after acting without debate on all amendments pending, and that may be offered."

In the opinion of the Chair the motion to strike out the enacting clause may be made; or rather, it may be recommended to the House that the enacting clause be stricken out; but that question does not come up in committee until the pending amendments, and those which may be offered, are disposed of.

Mr. PHILLIPS. Do not the words of the rule imply that this motion may be entertained at any time when a motion to amend would be entertained?

The CHAIRMAN. The Chair thinks not, under the 136th rule, and the resolution closing debate.

Mr. PHILLIPS. Then I would ask whether, when an order was made in the House to close debate, it was not a mere majority order, which did not suspend any other rule of the House than those described in the rule just read?

The CHAIRMAN. It was an order passed by a majority; but the 136th rule provides that the committee, when debate is closed, shall vote on such amendments as may be pending, or may be offered. Then, the motion to strike out the enacting clause not being an amendment, the amendments must first be disposed of. The Chair is aware that the committee, on former occasions, have determined otherwise, but he never did think that those decisions were right. If the committee are dissatisfied with his present ruling they can take an appeal, and he will cheerfully submit the question for the decision of the committee itself.

Mr. BISHOP. I appeal from the decision of the Chair.

Mr. GROW. I ask that the 127th rule be read.

The rule was read, as follows:

"127. Upon bills committed to a Committee of the Whole House, the bill shall be first read throughout by the Clerk, and then again read and debated by clauses, leaving the preamble to be last considered; the body of the bill shall not be debated, or interlined; but all amendments, noting the page and line, shall be duly entered by the Clerk on a separate paper, as the same shall be agreed to by the committee, and so reported to the House. After report, the bill shall again be subject to be debated and amended by clauses, before a question to engross it be taken."

Mr. BOCK. Would not the Chair feel itself at liberty to conform to the established usage?

The CHAIRMAN. While here, the Chair will only conform to what he thinks is right.

Mr. BOCK. The Treasury note bill was got out of committee by a motion to strike out the enacting clause, and there the decision was in favor of the motion.

The CHAIRMAN. The gentleman from Connecticut moved to strike out the enacting clause. The Chair decided that that motion was not in order while an amendment was pending or proposed to be offered. From that decision the gentleman takes an appeal. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. BISHOP. I withdraw my appeal.

Mr. SMITH, of Virginia. I move to strike out the first section, and to insert in lieu thereof the following:

That it shall be the duty of the marshal of the District of Columbia to see to the preservation of the peace and the execution of the criminal laws thereof; and to enable him to perform said duty, he shall be, and is hereby, authorized to appoint three captains at \$1,200 each, and sixty men at \$500 each, payable monthly out of any money in the Treasury not otherwise appropriated, who shall obey all the lawful commands and regulations of said marshal: *Provided*, That the laws now in force authorizing the appointment of a police force who are appointed by the Mayor of the city of Washington, and are paid by the United States, shall be, and the same are hereby, repealed.

Mr. Chairman, the committee will remember that there is a police force now employed by the Government here of some thirty men. These men are appointed by the Mayor of this city, and paid for out of the Federal Treasury, which is an anomaly. Now, as we have a marshal for this District, who in the system here is the peace officer, and universally recognized as such, I propose that the appointment of these men shall be conferred upon him; and that there shall be a force of sixty men appointed by the marshal of the District, who shall be paid the sum specified, and who shall obey the orders of the marshal—it being his duty to enforce the criminal laws, and preserve the peace of this District. I think if gentlemen will give their attention to this substitute, they will find that it covers the whole matter; that it will answer every purpose contemplated by this legislation, at any rate as an experiment, and that it will fully secure the peace and good order of this city. So believing, I have presented it. It is simple in its form, distinct in its features. It places the force under an officer known to the law, whose special duty it is to preserve the peace and execute the criminal laws of the city. The committee also will see that it is free from many of the objections taken to the schemes heretofore presented; and therefore it ought, in my judgment, to prevail.

Mr. MAYNARD. I rise to a question of order. It is, that the amendment, as I understand it, proposes to strike out what has already been adopted by the committee in the first section of the bill, and for that reason it is out of order.

The CHAIRMAN. It would not be in order to strike out any one of these amendments, as a separate proposition; but it certainly is in order to move to strike out any one of them including some other part of the section, or to move to strike out the whole of the first section, and to insert an entire new section.

Mr. GREENWOOD. I move to amend the amendment of the gentleman from Virginia by striking out "five," and inserting "eight," so that the annual compensation paid to the sixty men provided for by this amendment shall be \$800 instead of \$500.

The proposition of the gentleman from Virginia is certainly designed to have the effect, if adopted, of defeating the pending proposition of his colleague. I regret, as I before remarked, that there is a disposition manifested by the committee to propose amendments which would not, if adopted, increase the number of the friends of the bill. If, however, the amendment of the gentleman from Virginia is to be adopted, the object of my amendment is to give something like an adequate salary for the discharge of the duties imposed upon these men. You cannot possibly get a dozen men to accept of the position at a salary of \$500. You could hardly find a respectable loafer in the city of Washington—and I regret to say there are many of them—who would be willing to accept a position under the marshal at that salary. If we want an efficient police, the salary should be sufficient to induce respectable men to accept the position as a member of that police. I am sure the gentleman from Virginia, upon reflection, will not

hesitate to agree with me that \$500 will not be a compensation sufficient to induce any respectable man to accept of the position. It may be true that there are a large number of persons here who are unemployed. They are transient persons; and I am sure if they are persons of family, and intend to reside in the city, they cannot do so and live upon \$500 a year. A large part of the laboring population of the city, I understand, are tenants; and that sum would scarcely pay their house rent.

If the amendment of the gentleman from Virginia is to be adopted, I want it amended. I confess I am opposed to my own amendment, as well as to the proposition of the gentleman from Virginia; and I hope they will both be rejected by the committee.

Mr. SMITH, of Virginia. I do not understand the force of the closing remark of the gentleman, for it indicates his hostility to any bill on the subject.

Mr. GREENWOOD. I am in favor of the bill reported by the gentleman's colleague originally, with an amendment which I designed to offer.

Mr. SMITH, of Virginia. One word as to our ability to procure competent men. The gentleman says there are idle men here. Now, there are plenty of them also in Arkansas, and perhaps mischievously employed.

Mr. GREENWOOD. I will say that they are to be found occasionally everywhere. Some are to be found in my own State, but not so many in proportion to population as are to be found here.

Mr. SMITH, of Virginia. There are a great many border jails, which indicate that there are many persons there who have nothing to do. But be that as it may, there are many men engaged as watchmen around our public buildings who get only \$450 dollars a year, and there is no difficulty in the world in getting hale, hearty young men, who will be willing to perform this duty, and do it effectually, for \$500 salary. I do not consider an increase of price as a guarantee of efficient service. The moment a man gets more money than is necessary, he is apt to get into mischief. I think, therefore, the gentleman's amendment ought not to be adopted, for it is one mode of breaking down this bill by making it too expensive.

Mr. GREENWOOD, by unanimous consent, withdrew his amendment.

Mr. BURNETT. I move to amend the amendment of the gentleman from Virginia by increasing the compensation to \$600.

The gentleman says you employ young men in the city of Washington at a salary of \$450 a year. Granted. But you cannot get any man who will discharge the duties of his position faithfully, and to the exclusion of everything else, for \$450. Men who hold these positions at \$450 do not discharge their duties. They combine that with other business, and receive \$450 in addition to what they can make by devoting really their whole time to other business. The only mode in which you can get good men, who will discharge their duties, is by paying them a salary which will command a high grade of service. The Committee for the District of Columbia, when they accepted the Senate bill, and put the sum at \$600, were satisfied that they could not get sober and discreet men who would give their attention to the duties of policemen at less pay than that. It must strike the mind of every gentleman of this committee that \$600 is certainly the lowest price at which you can obtain the services of competent men, in a city like this, where the expense of living is so great. I doubt very much whether you will be able to get such men at \$600. As was well said by the gentleman from Arkansas, if you reduce the pay, the character of the men employed will be such that they will not discharge the duties imposed upon them. You will find that your policemen will hang around the grog-shops of Washington; and that they will be taken from the purloins of society. The charge now made against the present police, that they are men who do not discharge their duties, will be made against your auxiliary guard under this bill, if the amendment of the gentleman from Virginia be adopted.

I hope the committee will not reduce the amount below \$600. Let it stand at that; for I am satisfied that the services of competent men cannot be obtained at a less sum.

Mr. WASHBURN, of Illinois. I am op-

posed to the amendment of the gentleman from Kentucky, [Mr. BURNETT,] and I hope the committee will proceed to vote on the proposition of the gentleman from Virginia, [Mr. SMITH.]

The question was taken on Mr. BURNETT's amendment to the amendment; and it was adopted.

The question recurred on Mr. SMITH's amendment as amended.

Mr. STANTON. Does not that strike out what was inserted on motion of the gentleman's colleague, [Mr. MILLSON?]

The CHAIRMAN. Yes, sir.

Mr. STANTON. Is that in order?

The CHAIRMAN. The Chair thinks so. It would not be in order to strike out what has been inserted, taken separately and by itself; but, when the motion includes other portions of the section, the Chair thinks it is in order.

Mr. JOHN COCHRANE. I would inquire whether the amendment, if adopted, will have the effect of striking out the whole section as amended?

The CHAIRMAN. It will.

The question was taken; and the amendment as amended was not agreed to.

Mr. REILLY. I offer the following amendment, to come in at the end of the first section:

Provided, however, That at least the one half of the whole number of the men to be employed under the provisions of this act shall be taken from the States and Territories of the United States.

Mr. NICHOLS. Mr. Chairman, I am opposed to the amendment for two reasons. In the first place, I believe that the people of Washington ought to be left perfectly free to regulate their municipal affairs in their own way, subject only to the Constitution of the United States. In the next place, I have found by experience that whenever a man is brought here from the States, and placed in a subordinate position, he deteriorates. I do not know why it is; whether by force of your political system, or by virtue of any law of nature, but I know that such is the fact. When I first came here as a member of the universal Democratic party, a young gentleman came to Washington from my district, and I got him a clerkship. In a little while I found that, although he had been respectable at home, he became lazy and improvident; and, as the crowning climax to the whole thing, he began, in a short time, to find fault with me, because I did not dress well enough for his ideas.

I do not want any men to come here from the States to get these subordinate positions. If any young man in the States can earn \$1 50 a day, he had better stay at home and take chance of political elevation there. If you bring him here, you demoralize him; you take away his rights as a citizen, and subject him to that vicious, lazy, idle, improvident political system, which is the disgrace of the age we live in. I am, therefore, opposed to the amendment.

The question was taken; and the amendment was rejected.

Mr. DAVIS, of Iowa. I offer the following amendment:

Strike out all after the enacting clause in the first section, and insert in its stead the following:

That the sum of ——— dollars, or so much thereof as may be necessary, according to the provisions of this act, is hereby appropriated out of any money in the Treasury not otherwise appropriated, to aid in sustaining an efficient police for maintaining order in the city of Washington, to be paid to the municipal authority of said city, as the same may be required for said purpose, and to be expended by said authority in preserving good order in said city: *Provided,* That said city shall contribute to the expense of said police ——— per cent. of the expense thereof, to be advanced and paid by said city, at the same time with the money hereby appropriated.

My amendment, Mr. Chairman, is based upon the supposition that the city of Washington is capable of self-government, and that we may properly leave the government in the hands of the people, and on the further idea that the national Government should contribute its proportion to the police force, because, as I understand, the public buildings located in this city are not subject to taxation by the city. I have left blank the proportion which the United States should pay; the blank to be filled up by such sum as shall be determined upon. I am utterly opposed to a divided government of any description for any purpose. I think that the municipal government of the city of Washington is perfectly competent to prescribe rules and regulations for the government and maintenance of order of the city. If there be a defect

in the power of the municipal authorities, the proper mode of remedying it would be by amending the charter of the city and giving them the necessary power. If they already possess the power, it is proper that they should exercise it and have the government of the city. I will not longer detain the committee.

Mr. SHERMAN, of Ohio. I am opposed to the amendment of the gentleman from Iowa, but I will not detain the committee by giving the reasons. I think if we intend to dispose of this bill, we ought to come to a vote. I hope, therefore, that the original bill will be read through, and the gentleman from New York [Mr. DODD] and the gentleman from Ohio [Mr. LEITER] will be allowed to offer their substitutes. It is manifest that if we read each bill by sections, we shall not reach a vote to-day, nor for a week to come.

The amendment of Mr. DAVIS, of Iowa, was rejected.

The Clerk then read the second section of the bill, as follows:

Sec. 2. *And be it further enacted,* That the guard hereby established shall be divided by the chief into squads of convenient size, and the said chief is also authorized and empowered to establish guard-houses at such points in the city of Washington as he may designate, subject, however, to the approval of the Secretary of the Interior.

Mr. MARSHALL, of Kentucky. We have provided for a cavalry force, and must have stables for the horses. I move to insert after "guard-houses," the words "and stables." [Laughter.]

The amendment was agreed to.

The fourth section was read, as follows:

Sec. 4. *And be it further enacted,* That the sum of \$10,000 be, and the same is hereby, appropriated annually as a contingent fund, to be expended under the direction of the Secretary of the Interior, to carry out the purposes of this act in the suppression of crime and detection of criminals in the city of Washington.

Mr. BURROUGHS. I move to strike out the section appropriating \$10,000. I do not believe in appropriating "secret service money;" there can be no necessity for its use, and I am apt to believe that it is often misapplied. A distinct appropriation, item by item, for every service of this description, should be made. There can be no occasion for appropriating money without specifying the objects to which it is to be applied.

But I have submitted this motion more for the purpose of suggestions upon other points, and hope I shall be indulged in making a few remarks in relation to the main question. If it is the design of the House to establish a police force here, independent, in some degree, of the Mayor and corporation, I hope we shall adopt means to give character and stability to that force. If we are to have a national guard, I would be in favor of bringing to this city a number of men from the different States of this Union, equal to half the number of Representatives in Congress. In this way only can an efficient police be obtained. Let those men be selected by the Representatives of the several districts, elect their own officers, and be subject, to such extent as Congress should provide, to the city authorities. You would thus get a class of men very different from those you now have in the police, who, it is said, are to be seen lying about in the gutters day and night, the constant inmates of rum-holes. Select them as your cadets are nominated, and you will obtain men of character, have the best police force ever organized, and give to it professional character and prominence. This notion may, at first, strike gentlemen as novel and perhaps impracticable; but I believe that gentlemen would select from their districts responsible, respectable, sober, honest, and competent men, whose choice of this as a profession would secure elevated characters.

One remark further. Gentlemen say that they want a police force because it is unsafe to go into the streets in the night time. I confess I have no such apprehension. I have been out often at night; have seen no violence; have felt no fears; not even in those streets not lighted. I shall vote against the Senate bill, not because I am not in favor of providing a sufficient police for the city, but because it is to organize a party police. I understood the gentleman from Virginia, [Mr. GOODE,] who reported the bill, to say that, unless this police force could be appointed in the way he desired, he would see the whole bill defeated. He tells us that the city is threatened with robbers and murderers and cut-throats, but, unless we will allow the President to have the control of the appoint-

ment of the police, he will let these men go on, and rob and murder with impunity! Now, my notions of propriety lead me to believe that, if we are to have a police in this city, they ought to be appointed without reference to partisan feeling or character.

Mr. GOODE. The position I took, Mr. Chairman, was, that the Constitution required the appointment of chief of police to be made by the President, because it is an executive office. I am not here as the advocate of James Buchanan, but as the advocate of the Constitution, and the constitutional mode of appointment; and, sooner than violate the Constitution, I will lose the bill.

Mr. BURROUGHS. I understand the gentleman, then, to take the ground that the appointment cannot be constitutionally made in any other way. I do not so regard it.

[Here the hammer fell.]

Mr. WARREN. I do not see the remotest probability of getting through this bill, and I therefore renew the motion to strike out the enacting clause; and if the Chair decide the motion to be out of order, I shall respectfully appeal from his decision.

Mr. BURROUGHS. I will withdraw my amendment, if I have the floor to submit another motion.

The CHAIRMAN. The gentleman cannot withdraw it without the unanimous consent of the committee.

The amendment was withdrawn.

Mr. GROW. I make the same point of order on the motion of the gentleman from Arkansas that I made on the motion of the gentleman from Connecticut, [Mr. BISHOP,] that it is not in order to move to strike out the enacting clause until the bill has been read through for amendment.

Mr. GOODE. I ask the gentleman from Arkansas to withdraw his motion to strike out the enacting clause.

Mr. WARREN. If I saw any hope to get through with this bill in any other way I would not have made the motion; and now, to see what the gentleman has to propose, I will withdraw it.

Mr. GOODE. I know the difficulties surrounding this measure as it now stands; but I feel impelled to make another effort to accomplish the object the Committee for the District of Columbia had in view in reporting on the question. The bill as it is now, will, in my humble judgment, be entirely inefficient for the purpose designed.

The CHAIRMAN. There is no question pending, and debate is not in order.

Mr. GOODE. I propose to submit a proposition which I have deliberately matured, and which, I think, will be satisfactory to the committee. If we allow the bill to remain as it is now, I think we had as well leave this and go to other business. I ask the consent of the gentleman that my amendment and the amendment of the gentleman from New York [Mr. DODD] be withdrawn.

Mr. DODD. I would like to have a vote on my amendment.

Mr. MARSHALL, of Kentucky. A motion is pending, and I insist that it be put.

The CHAIRMAN. A motion was made to strike out the fourth section, but was subsequently withdrawn.

Mr. BURNETT. We have already consumed more time about this bill than we ought to; and, as we have fixed an early day for the adjournment, I hope that we will have a test question at once. I therefore move to strike out the enacting clause.

Mr. GROW. I raise a point of order on that motion.

The CHAIRMAN. The Chair thinks that it is not in order, and that the point is well taken. If debate had not been closed by the House, and the bill brought here under the operation of the 135th rule which requires amendments to be voted on, then the motion would take precedence of a motion to amend; but the bill being now under the operation of that rule, which requires that when debate is closed, the amendments pending, and offered, shall be first voted on before the bill is reported to the House, the Chair thinks the motion is not now in order.

Mr. BURNETT. I take an appeal from that decision.

The CHAIRMAN. The question is, shall the decision of the Chair stand as the judgment of the committee?

Mr. HOUSTON. I would like to know whether

the doctrine has not been settled in cases precisely analogous to this; whether this motion to strike out the enacting clause has not been made and sustained by the committee?

The CHAIRMAN. The Chair would state, that the House has heretofore sustained the decision that the motion was in order, even when a bill was under the operation of the 136th rule; but unfortunately, perhaps, for the gentleman who is now in the chair, he is not a lawyer, and does not consider himself bound by precedents which do not stand upon a right basis. [Laughter.] If the committee thinks that the Chair is wrong, it is for the committee to decide, and in that decision he will acquiesce.

Mr. WASHBURN, of Illinois, demanded tellers.

Mr. BLISS. What will be the effect of the pending motion?

The CHAIRMAN. It will cut off all the amendments, and send the bill to the House as clean as it came.

Tellers were ordered; and Messrs. JOHN COCHRANE and ADRAIN were appointed.

The committee divided, and the tellers reported—ayes 79, noes 58.

So the decision of the Chair was sustained.

Mr. BARKSDALE. I move that the committee rise.

The motion was not agreed to.

The Clerk concluded the reading of the bill.

Mr. DODD. I now offer my substitute, if it is in order.

The CHAIRMAN. The Chair understands that the gentleman has offered it before, and that it is now pending. The gentleman from Virginia [Mr. GOODE] proposed an amendment in lieu of it.

Mr. PHILLIPS. I propose to offer the following as an additional section to the original bill, before we proceed to the consideration of the substitutes:

SEC. 8. *And be it further enacted*, That this act shall continue and be in force for and during the term of two years, and from thence to the end of the next session of Congress, and no longer.

My object is to limit the existence of this guard, unless the necessities of the case should require it to be continued. My experience is that it will be much easier to prolong its existence by renewed legislation, than to abridge its existence when it is made permanent in its character. With that view I offer the amendment. It will enable another Congress to act upon the subject.

Mr. FOSTER. The only opposition I have to this amendment is this: I suppose if there is any one fact fixed and settled in the future beyond all possible controversy, it is that the grand Republican army will control this country in 1860. [Laughter.] Whether the gentleman intends to deprive us of officers, I do not know.

The amendment of Mr. PHILLIPS was not agreed to.

Mr. MORRIS, of Pennsylvania. I offer the following additional section:

SEC. 8. *And be it further enacted*, That the corporation of the city of Washington be authorized to pass laws for the exclusive regulation of the fire department, and that all acts passed heretofore inconsistent with the same, be, and the same are hereby, repealed: *Provided, however*, That the corporation shall take immediate measures for the abolishment of the volunteer fire department, and the creation of a paid fire department in lieu of the same, and for the establishment of a fire alarm and police telegraph.

Mr. BURNETT. I rise to a question of order. The amendment is not germane to the pending bill.

The CHAIRMAN. The Chair holds the point of order well taken, and rules out the amendment. No further amendment being offered to the bill, the question recurred on the amendment by way of substitute offered by the gentleman from Virginia, [Mr. GOODE], to the substitute of the gentleman from New York, [Mr. DODD] for the bill.

Mr. GOODE. I would inquire whether it is competent for me to modify my amendment before the question is taken?

The CHAIRMAN. The gentleman has a right to withdraw or modify it in any form he thinks proper.

Mr. GOODE. I propose to withdraw it, and offer as a substitute for the substitute of the gentleman from New York, what I send to the Clerk's desk. It is nearly identical with the proposition I originally offered. It differs from it in dimi-

ishing the force twenty-five men and one lieutenant, so as to reduce the number of men to seventy-five, and the lieutenants to three. It moreover provides for the establishment of one guard-house only.

Mr. JOHN COCHRANE. I rise to a question of order. I desire to know whether the entire withdrawal of an amendment, and the substitution of another, is a modification of the original amendment?

The CHAIRMAN. The Chair supposes that it is, as it is different. But if it be not, the first being withdrawn, the gentleman has a right to offer another.

The amendment, by way of substitute, was as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be established an auxiliary guard, or watch, for the protection of persons and property, and for the enforcement of the police regulations of the city of Washington, to consist of a chief at an annual salary of \$2,500, one captain at an annual salary of \$1,400, three lieutenants at an annual salary of \$1,000 each, and seventy-five men at an annual salary of \$600 each, to be paid monthly; to serve during the night, and in the day time. The chief of the auxiliary guard shall be appointed by the President, by and with the advice and consent of the Senate; the captain and lieutenants shall be appointed by the Secretary of the Interior, and may be dismissed by the chief at his pleasure, or upon the order of the said Secretary. The men shall be appointed by the chief of the guard, and dismissed at his will and pleasure.

SEC. 2. *And be it further enacted*, That the guard hereby established shall be divided by the chief into squads of convenient size; and the said chief is also authorized and empowered to establish a guard-house at such point in the city of Washington as he may designate, subject, however, to the approval of the Secretary of the Interior.

SEC. 3. *And be it further enacted*, That the district attorney for the District of Columbia, the marshal of the said District, and the chief of the auxiliary guard, are hereby authorized and required to make and establish rules and regulations for the government of said guard, subject to the approval of the Secretary of the Interior.

SEC. 4. *And be it further enacted*, That the sum of \$5,000 be, and the same is hereby, appropriated annually as a contingent fund, to be expended under the direction of the Secretary of the Interior, to carry out the purposes of this act in the suppression of crime and detection of criminals in the city of Washington.

SEC. 5. *And be it further enacted*, That each member of the guard shall be required to wear a uniform dress at all hours when on duty, and on his hat, or cap, or breast, such number as may be assigned him. The captain and lieutenants, at all times, day and night, shall wear an official badge; and said uniforms, badges, and numbers, hereby required to be worn, shall be prescribed by the chief, and shall be made public in the newspapers of Washington for one month after first prescribed, and shall not thereafter be changed.

SEC. 6. *And be it further enacted*, That the chief of the guard shall be invested with the criminal jurisdiction of a justice of the peace, and required to hold a court daily for the trial of misdemeanors and petty offenses, to be decided according to the laws of the District of Columbia, and summarily disposed of; but in no case shall he inflict punishment greater than a fine of twenty dollars or confinement in a jail, workhouse, or house of correction, for a term exceeding twenty days.

SEC. 7. *And be it further enacted*, That all acts and parts of acts heretofore passed, authorizing or relating to the employment of an auxiliary watch, or guard, be, and the same are hereby, repealed. This section to take effect so soon as the chief shall report to the Secretary of the Interior that he has thirty men enrolled and ready for duty.

SEC. 8. *And be it further enacted*, That the sum of money necessary to carry this act into effect, not to exceed \$70,000, be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. SEWARD. Is an amendment to that amendment in order?

The CHAIRMAN. It is not, as it would be an amendment in the third degree.

The question being upon the adoption of the amendment of Mr. GOODE, by way of a substitute for the substitute of Mr. DODD,

Mr. BURNETT called for tellers.

Tellers were ordered; and Messrs. JEWETT and BUFFINGTON were appointed.

The committee divided; and the tellers reported—ayes 69, noes 85.

So the substitute proposed by Mr. GOODE was rejected.

Mr. LEITER then offered the following as a substitute for Mr. DODD's substitute:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be established an auxiliary guard, or watch, for the protection of persons and property, and for the enforcement of the police regulations of the city of Washington, to consist of a chief at an annual salary of \$2,000, one captain at an annual salary of \$1,200, four lieutenants at an annual salary of \$800 each, and one hundred men at an annual salary of \$600 each, to be paid monthly.

SEC. 2. *And be it further enacted*, That John C. Fitzpatrick, John A. Linton, and Richard Wallach, of said city, be, and they are hereby, appointed commissioners of police for said city for the term of two years, at an annual salary of \$2,000 each, whose duty it shall be to appoint the chief of

police, captain, and lieutenants of the guard, who shall hold their offices, respectively, at the pleasure of the commissioners aforesaid; and that said commissioners shall have power to fill any vacancy that may occur in their body during the recess of Congress; that the chief of police shall appoint the men, with the approval of the commissioners of police, and they may be dismissed by him at his pleasure, or upon the order of said commissioners.

SEC. 3. *And be it further enacted*, That the guard hereby established shall be divided by the chief into squads of convenient size, and the chief is authorized and empowered to establish guard-houses at such points in the city of Washington as he may designate, subject, however, to the approval of the commissioners aforesaid.

SEC. 4. *And be it further enacted*, That the commissioners of police be, and they are hereby, authorized and required to make and establish rules and regulations for the government of said guard.

SEC. 5. *And be it further enacted*, That the sum of \$5,000 be, and the same is hereby, appropriated annually as a contingent fund, to be expended under the direction of the commissioners of police, to carry out the purposes of this act in the suppression of crime and detection of criminals in the city of Washington.

SEC. 6. *And be it further enacted*, That each member of the guard shall be required to wear a uniform dress at all hours when on duty, and on his hat, or cap, or breast, such number as may be assigned him. The captains and lieutenants, at all times, day and night, shall wear an official badge; and said uniforms, badges, and numbers, hereby required to be worn, shall also be prescribed by the chief, and shall be made public in the newspapers in Washington for one month after first prescribed, and shall not thereafter be changed.

SEC. 7. *And be it further enacted*, That commissioners of police shall be appointed hereafter biennially by a joint resolution of the two Houses of Congress, and all vacancies that shall occur during the sessions of Congress shall be filled in the same manner.

SEC. 8. *And be it further enacted*, That the sum of \$75,000, or so much thereof as may be necessary to carry this act into effect, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

SEC. 9. *And be it further enacted*, That each member of the auxiliary guard, before entering upon the discharge of his duty, shall take and subscribe an oath or affirmation to support the Constitution of the United States, and faithfully and impartially discharge his duties as such guard.

SEC. 10. *And be it further enacted*, That all acts and parts of acts heretofore passed, authorizing or relating to the employment of an auxiliary watch, or guard, be, and the same are hereby, repealed. This act to take effect twenty days after the passage thereof.

Mr. TRIPPE. Is it in order to offer an additional section to the substitute of the gentleman from New York?

The CHAIRMAN. The Chair thinks not at this time. There is an amendment pending which must first be disposed of.

Mr. LEITER. I wish to say that my substitute is exactly in the form in which it has been printed, except that I have substituted the name of John C. Fitzpatrick for that of Walter Lenox.

Mr. CLINGMAN. I am opposed to the amendment of the gentleman from Ohio. I think we have got this bill pretty much in the condition that the dog's leg was in, according to the old story, after the Devil had taken out the bone and put in a stick. [Laughter.] I think we had better leave it as it is, and vote down the amendment. Let us then vote on the substitute of the gentleman from New York, and report the bill to the House, where we can determine by yeas and nays what sort of bill we will have. It is getting late in the day, and I hope we shall have a vote.

Mr. SMITH, of Virginia. I move that the committee rise. It is not worth while to stay here any longer.

The motion was not agreed to.

Mr. HUGHES. Is it in order to move to amend the proposition of the gentleman from Ohio by striking out the names of the commissioners?

The CHAIRMAN. It is not in order.

The question was taken on Mr. LEITER's substitute, and it was rejected.

The question recurred on the substitute proposed by Mr. DODD, which is as follows:

A bill to establish an efficient police for the city of Washington.

That the boards of the City Council of the city of Washington shall forthwith appoint commissioners of election, according to the charter of said city, who shall, on four days' notice after the passage of this act, hold an election for the choice of four commissioners of police, in manner following: At such election each voter of the city of Washington shall vote for two persons for commissioners of police, and no ballot shall be counted that contains more than two names; and the four persons having the highest number of votes shall be declared elected, and two of them shall hold their offices for two years, and two of them for one year from the day of said election; and the person having the greatest and the person having the lowest number of votes shall be the two to go out of office at the end of one year; and if any two have the same and the highest or the lowest number of votes, such two shall draw lots between themselves to determine which shall go out of office; and there shall be an election on the same day every succeeding year, held as above directed, for two commissioners of police, at which each voter shall vote for one person only,

and no ballot shall be counted that contains more than one name; and the two persons having the highest number of votes shall be declared elected, and shall hold their office for two years from the day of their election; and the said four commissioners of police shall constitute a board, to any act or resolution whereof the assent of three of said board, entered on its minutes in writing, shall be necessary; and said board is hereby invested with power to appoint and remove, at their pleasure, the police force hereinafter provided for, and also to appoint and remove, at their pleasure, such police force as now exists under the authority of the boards of the City Council, or may be hereafter established; and the said board shall make rules and regulations for the government of all the said police authorized by this act or by the said boards of the said City Councils.

Sec. 2. *And be it further enacted*, That there be established a police force for the protection of public and private property, and for the enforcement of the police regulations of the city of Washington, to consist of a chief at an annual salary of \$2,000, one captain at an annual salary of \$1,300, four lieutenants at an annual salary of \$800 each, and one hundred men at an annual salary of \$600 each, to be paid monthly.

Sec. 3. *And be it further enacted*, That the guard hereby established shall be divided by the chief into squads of convenient size; and the chiefs authorized and empowered to establish guard-houses at such points in the city of Washington as he may designate, subject, however, to the approval of the commissioners aforesaid.

Sec. 4. *And be it further enacted*, That there shall be paid to each commissioner chosen and serving under this act an annual salary of \$1,000.

Sec. 5. *And be it further enacted*, That the sum of \$5,000 be, and the same is hereby, appropriated annually as a contingent fund, to be expended under the direction of the commissioners of police, to carry out the purposes of this act in the suppression of crime and detection of criminals in the city of Washington.

Sec. 6. *And be it further enacted*, That each member of the guard shall be required to wear a uniform dress at all hours when on duty, and on his hat, or cap, or breast, such number as may be assigned him. The captains and lieutenants, at all times, day and night, shall wear an official badge; and said uniforms, badges, and numbers, hereby required to be worn, shall also be prescribed by the chief, and shall be made public in the newspapers in Washington for one month after first prescribed, and shall not thereafter be changed.

Sec. 7. *And be it further enacted*, That the sum of \$75,000, or so much thereof as may be necessary to carry this act into effect, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

Sec. 8. *And be it further enacted*, That each member of the police force, before entering upon the discharge of his duty, shall take and subscribe an oath or affirmation to support the Constitution of the United States, and faithfully and impartially discharge his duties as such.

Sec. 9. *And be it further enacted*, That all acts and parts of acts heretofore passed, authorizing or relating to the employment of an auxiliary watch or guard, be, and the same are hereby, repealed.

Mr. MILLSON. If the amendment of the gentleman from New York shall be voted down, will not the question then be before the House on the Senate bill, and cannot a separate vote be had upon all the amendments agreed to by the committee?

The CHAIRMAN. If the proposition of the gentleman from New York shall be adopted in lieu of the bill, the effect will be to cut off all the amendments which the committee have adopted to the Senate bill, and the Senate bill will be reported to the House with but one amendment—the substitute of the gentleman from New York. If the substitute of the gentleman from New York shall be voted down, then the bill will be reported to the House with the amendments adopted by the committee, and in the House there can be a separate vote upon each of those amendments, as the Chair understands the rules and practice of the House.

Mr. WASHBURN, of Illinois, demanded tellers on Mr. DODD's proposition.

Tellers were ordered; and Messrs. BARKSDALE and CHAFFEE were appointed.

The committee divided; and the tellers reported—ayes 76, noes 59.

So the substitute was adopted.

Mr. GREENWOOD moved the committee rise and report the bill.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. JONES, of Tennessee, reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly an act (S. No. 232) to establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject; and had directed him to report the same back to the House with an amendment, and with the recommendation that it do pass.

Mr. BURNETT. I call for the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. WASHBURN, of Illinois. I move that the bill be laid upon the table.

Mr. BURNETT. I move that the House do now adjourn.

Mr. KEITT. I demand tellers.

Tellers were ordered; and Messrs. PEYTON and BUFFINGTON were appointed.

The House divided; and the tellers reported—ayes 76, noes 79.

Mr. BURNETT. I demand the yeas and nays.

Mr. WINSLOW. I move that there be a call of the House; and on that motion I call for the yeas and nays.

The SPEAKER. Pending the previous question, the motion that there be a call of the House is not in order.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 76; as follows:

YEAS—Messrs. Adrain, Ahl, Atkins, Avery, Barksdale, Bishop, Bockock, Bonham, Bowie, Boyce, Burnett, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Comins, Corning, Curry, Dean, Dodd, Dowdell, Edmundson, Elliott, Florence, Foley, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Haskin, Hatch, Hawkins, Hoard, Houston, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Leidy, Leiter, Letcher, McClay, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Milson, Montgomery, Morgan, Niblack, Pendleton, Peyton, Phelps, Quitman, Reilly, Ruffin, Sandage, Scales, Searing, Seward, Henry M. Shaw, Shorter, Singleton, Stallworth, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Underwood, Warren, Watkins, White, Whiteley, Winslow, Wortendyke, and Zollieffer—85.

NAYS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Colfax, Covode, Cox, Cragin, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Durfee, Farnsworth, Fenton, Foster, Giddings, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Hill, Howard, Kilgore, Knapp, Lovejoy, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Rieaud, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, Tappan, Thayer, Thompson, Tompkins, Tripp, Walbridge, Waldron, Walton, Ellihu B. Washburne, Israel Washburn, and Wilson—76.

So the motion was agreed to Pending the call of the roll,

Mr. GOODE stated that Mr. EDIE had paired off with Mr. PHILLIPS.

Mr. CLAY stated that Mr. FAULKNER had paired off with Mr. CURTIS.

Mr. LETCHER stated that Mr. HOPKINS had been confined to his room for several days by sickness.

Mr. HARLAN stated that Mr. KELSEY was confined to his room by sickness.

Mr. NICHOLS stated that Mr. KUNKLE, of Maryland, had paired off with Mr. HORTON.

Mr. JACKSON stated that Mr. LAMAR was confined to his room by sickness.

Mr. SHAW stated that Mr. MARSHALL, of Illinois, had paired off with Mr. POWELL; also, that Mr. SMITH, of Illinois, had paired off with Mr. LAMAR.

Mr. PALMER stated that Mr. MORSE, of New York, had paired off with Mr. WARD.

Mr. HOWARD stated that Mr. STEWART, of Pennsylvania, had paired off with Mr. GILLIS.

The House accordingly (at four o'clock and forty minutes) adjourned.

IN SENATE.

TUESDAY, April 20, 1858.

Prayer by Rev. GEORGE D. CUMMINS, D. D. The Journal of yesterday was read and approved.

CONSTITUTION OF DESERT.

The PRESIDENT *pro tempore* presented a letter of the Delegate of the Territory of Utah, in Congress, accompanied by a memorial of delegates to the convention which assembled at Great Salt Lake City, and adopted a constitution with a view to the admission of Utah into the Union as a State, together with a copy of that constitution.

Mr. JONES. I move to refer that communication to the Committee on Territories.

Mr. SEWARD. Let us hear the paper read.

The Clerk read the following letter:

WASHINGTON CITY, April 19, 1858.

SIR: May I respectfully request you to present to the Senate the constitution and memorial herewith inclosed.

I am, with high respect, your obedient servant,

JOHN M. BERNHISEL,

Hon. BENJAMIN FITZPATRICK,
President *pro tempore* of the Senate.

Mr. SEWARD. I hope the communication will be laid on the table, so that we may have an opportunity to see it, and that it will not be referred at the present moment.

Mr. HALE. Let it be printed.

Mr. SEWARD. I move that it be laid on the table and printed.

The PRESIDENT *pro tempore*. Does the Senator include in his motion the printing of the constitution and memorial?

Mr. SEWARD. Yes, sir.

Mr. SLIDELL. I suppose the motion to print will go to the Committee on Printing.

Mr. HALE. Being a communication from a Territory, it stands on the same footing as a communication from the Legislature of a State, does it not?

The PRESIDENT *pro tempore*. That is the impression of the Chair. Any communication from a Territorial Legislature or State Legislature, the Senate can order to be printed at once.

The motion to print was agreed to.

PETITIONS AND MEMORIALS.

Mr. KING presented the petition of S. Gilbert and others, praying that a grant of land may be made to aid in the construction of a ship canal around the Falls of Niagara; which was referred to the Committee on Public Lands.

Mr. BENJAMIN. I hold in my hand a memorial from the grand jury for Washington county, in the District of Columbia, and another signed by numerous members of the bar of the District, stating that they had heard with surprise and deep regret that a petition was in circulation and being signed, asking of Congress such action as may lead to the removal of the present upright and able judge who presides in the criminal court of this District. I move that these memorials be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. BIGLER presented a petition of citizens of Philadelphia, praying that an appropriation may be made for carrying the mails between Philadelphia and Southampton, in England, in the Collins line of steamers; which was referred to the Committee on the Post Office and Post Roads.

Mr. JONES presented a number of petitions and papers in relation to the establishment of certain mail routes in the State of Iowa; which were referred to the Committee on the Post Office and Post Roads.

Mr. CHANDLER presented a paper in favor of the establishment of a mail route from Ontonagon to Copper Harbor, in the State of Michigan; which was referred to the Committee on the Post Office and Post Roads.

REPORTS OF COMMITTEES.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 43) to settle doubts in relation to the title of certain common-field lots in the State of Missouri, heretofore granted to the inhabitants of the city of St. Louis, for the support of schools, reported it without amendment, and that it ought not to pass. He also submitted an adverse report on the bill; which was ordered to be printed.

POST ROUTES IN IOWA.

Mr. JONES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing the following post routes: From Ashton, Iowa, to Decatur, in Nebraska Territory; from Bellefontaine, via Attica and Gosport, to Chanton; from Bloomfield, Iowa, to Lancaster, Missouri; from Bradford to Rockford; from Cedar Falls, via Willoughby, Butler Center, Bear Grove, Mayville, Hampton, Saratoga, Belmont, and Irvington, to Algona; from Decorah, via Bluffton, Plymouth Rock, Twin Springs, Arnoldsville, Lime Springs, Forest City, and Le Roy, to Austin, in Minnesota Territory; from Dyersville, via Rockville and Hopkinton, to Anamosa; from Independence, via Chatham, Fairbank and Polk's Settlement, to Fredericksburg; from Johnsonport, via Rossville, Cleveland, Lybrand, Postville, Clearmont, to West Union; from Lansing to Twin Spring, (in Winneshiek county) to McGregory via Windsor, Elkader, Volga City, and Taylorsville, to Independence; from Magnolia, via Preparation, Boivdore, and Smithland, to Sioux City; from Monticello, via New Buffalo and McQueen's Mills, to Paris; from Mount Vernon, via New London and Paddington, to Clark's Ford; from Rockford to Rock Grove City, from Rockford, via west side of Shell Rock river, via Nora Springs, to Shell Rock Falls; from Webster, via Peck's, Cooper's, and Indianapolis, to Hopewell; from West Union, via Wapsi, Buck Run, and Martinsburg, to Waverly; from Belmont, via Liberty and Dacotah City, to Packard's Settlement, (on the Little Sioux); from Cascade, via Centre of Jones county, Isabel,

Overacker's Ferry, Walnut, Gower's Ferry, to Iowa City; from Cascade, via Suplis Ford, to Wyoming; from Centerville, via Moravia, to Albion; from Clear Lake City, via Elk Grove and Forest City, to Blue Earth, Minnesota Territory; from Corydon, via Warsaw, Medicineville, and Terre Haute, Missouri, to Scottsville; from Corydon, Iowa, to St. John, Missouri; from Crescent City, Iowa, to Florence, Nebraska Territory; from Delhi to Nottingham, (on Dubuque and Pacific railroad); from Dennison, via Belvidere and Ashton, to Dexter, in Nebraska Territory; from Des Moines, via Mitchell's, Green Castle, Eldenville, and Starry Grove, to Marietta; from Fort Dodge to Sioux Falls, in Minnesota Territory; from Fort Dodge, up west fork of Des Moines river, to Spirit Lake; from Greenfield, via Holaday's and Pierson's Mill to Adell; from Hardin, Iowa, via Waukau, New Galena, Dorchester, Portland Prairie, Minnesota Territory, and Caledonia, to Brownsville; from Iowa Falls, via Alden, Ottisville, Fryburg, Belmond, Burr-Oak Grove, and Forest City, to Blue Earth City, Minnesota Territory; from Iowa Falls, via Belmond, to Clear Lake City; from Leon, via Stanley's Store and Spring Valley, to Nine Eagles; from Lewis, via Wheeler's Grove, Farm Creek, and Silver Creek, to Glenwood; from Correctionville; from Marietta, via Nevada, Boonsboro, and New Jefferson, to Carrollton; from Mitchell, via Plymouth, to Mason City; from Mount Vernon, via Linden and Paddington, to Wapsa; from New Jefferson, via Lake City, and Raccoon Fork, to Sac City; from Onawa, via Smithland and Cherokee, to Spirit Lake; from Osage, via Shell Rock Falls, to Mason City; from Osasian, via Calmar, Buchanan, New Oregon, Vernon Springs, Morgan, and Grainger, to Forrester; from Ottumwa, via Chillicothe, and Cuba, to Albion; from Sac City, via Lane's Grove, Spirit Lake, and Springfield, Minnesota, to Waukato; from Sioux City, via Westfield and Nicolet, to Sioux Falls; from Tipton, via Madison and Centre of Jones county, to Cascade; from Walnut Fork, via Madison and the Centre of Jones county, to Cascade; from Webster City, via Dacotah City, Paoli, and Irish Colony, to Spirit Lake; from Webster City, via Copper's Grove, to Waukato, Minnesota Territory; from West Liberty, via Pike, to Port Allen; from Wilton Junction, via Tipton, to London Station, on the Chicago, Iowa, and Nebraska railroad.

PAUPER AND CRIMINAL IMMIGRANTS.

Mr. KENNEDY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting a bill to regulate and restrain the immigration or importation into the United States of foreign paupers and criminals.

POST ROUTE IN MICHIGAN.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Ontonagon to Copper Harbor in the State of Michigan.

PACIFIC RAILROAD.

Mr. CLARK. Mr. President, on Saturday last I voted in the majority to postpone to the first Monday of December next, the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California. I desire to move a reconsideration of that vote, and as this is the last day on which the motion can be made, I present it now as a privileged question. I shall not ask for action upon it at this time. I only wish the motion to be recorded for future action.

The motion was recorded accordingly.

SAN FRANCISCO MARINE HOSPITAL.

Mr. GWIN. I ask the indulgence of the Senate to take up the joint resolution (S. No. 2) to authorize the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California. I hope there will be no objection to the motion. The resolution merely authorizes the Secretary of the Treasury to take up and adjust these accounts. This contractor, on account of the embarrassments connected with this undertaking, and some others, has become insane, and is now in a lunatic asylum, and his family are in great distress. I hope the joint resolution will be acted on now. It has passed the Senate on one or two previous occasions, and it has been reported upon by the Committee on Claims favorably.

Mr. IVERSON. The wife of this contractor, Mr. Charles Homer, called on me this morning and presented an exceedingly affecting appeal. I understand from her that her husband, who was the contractor for the erection of this asylum, and to whom a considerable sum of money is undoubtedly due on account of it, was also the contractor with the Government for the erection of the cus-

tom-house at Richmond, Virginia. At the instance of Mr. Guthrie, under whom this contract was made, he agreed and undertook to furnish Virginia stone for the construction of the building, instead of importing stone from Maine, and other northeastern States. As a matter of pride to gratify the Virginia people, he undertook to furnish stone from the quarries of Virginia. Owing to the great difficulties he had to obtain it, he has been called upon to expend very much larger sums of money in the execution of the contract than otherwise would have been expended. About three or four weeks ago, he then laboring under great distress of mind, the Secretary of the Treasury insisted, as he could not go on, that the contract should be abrogated, and turned over to the Government for further execution. Under these circumstances, having paid out every cent he was able to rake or scrape to his employes, and they not being willing to go on with the work, it affected him so that he was attacked with a very severe brain fever, and in recovering from that he became deranged, and two weeks ago was carried to the lunatic asylum at Staunton, Virginia, and is now in that place. His physicians, as I understand from his wife, express the belief that if he were relieved from his pecuniary embarrassments (and the amount which this bill would bring to him might possibly enable him to go on with the work at Richmond, or satisfy the Secretary of the Treasury that he would be able to do so) it would cheer him in such a manner as perhaps to restore him to health. Under these circumstances I cannot but assist the motion made by the Senator from California, to take up this joint resolution, and pass it.

I may as well explain the facts of the case now, as afterwards, when the resolution shall be taken up. Mr. Homer made a contract with a former Secretary of the Treasury for the erection of a marine hospital at San Francisco, California. After the contract was entered into, a first, and then a second supplemental contract was entered into, by which the building was materially changed and enlarged. There was a certain amount of money appropriated by Congress for the construction of the building. By the alteration of the contracts, the enlargement of the building, and the increased expenditure consequent upon it, Mr. Homer had to advance large sums of money, not only in the purchase of materials, but in the employment of carpenters and other mechanics. The vouchers were presented to the Secretary of the Treasury, and they may be adjudicated and examined at any time; but the appropriation is exhausted. The Secretary of the Treasury cannot adjust the accounts of Mr. Homer under this contract, because the amount appropriated by Congress has been exhausted, and it requires an additional appropriation to enable him to pay the balance due to Mr. Homer.

At the last Congress a similar joint resolution was referred to the Committee on Claims, and reported by Mr. Brodhead precisely in the terms of this resolution. A report was made by Mr. Brodhead at that time, which the Committee on Claims, at the present session, have adopted, in these words:

The Committee on Claims, to whom was referred the joint resolution to authorize the Secretary of the Treasury to audit and settle the accounts of the contractor for erecting the United States marine hospital at San Francisco, California, report:

That they have examined the joint resolution and the following letter from the Department, giving the views of the Secretary of the Treasury in its favor.

The committee report the resolution without amendment, and recommend its passage.

Here follows a letter from Mr. Clark, chief clerk of the construction office, as follows:

TREASURY DEPARTMENT, February 18, 1857.

SIR: I am requested by Major Bowman (who left hurriedly for Charleston this morning) to say to you that it would be almost, if not entirely, impossible for the committee to investigate fully during the remainder of the session of Congress, the voluminous details of the claim of C. Homer for extra work on the marine hospital at San Francisco; and that the Secretary approves of the resolution of the Senate, to refer the matter to him, to be finally settled on just and equitable principles.

I have the honor to be, very respectfully, your obedient servant,

S. M. CLARK,

Chief Clerk of Construction.

Hon. R. BRODHEAD,
Chairman Committee on Claims, Senate Chamber.

At this session, this claim was presented to the committee. Understanding, from a reliable source, that the vouchers were of a very voluminous char-

acter, and the account rather intricate, we found it to be impracticable to go through them, and ascertain the amount justly due. Under the circumstances, we reported the joint resolution, which was passed at the last session, with an amendment. Instead of authorizing the Secretary of the Treasury to pay whatever may be found to be justly due under the contract, we say this:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle and adjust the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California, and to pay to said contractor, out of any money in the Treasury not otherwise appropriated, the amount that may be found to be justly due to him under the contracts made between said contractor and the proper officers of the Government in reference to said building.

There is no difficulty about it. The contract controls the prices, controls the expenditures, and of course the contractor is entitled to everything due under the contract. All that is proposed by the resolution is, to authorize the accounting officers of the Treasury to take up his vouchers and pass upon them, and then the resolution appropriates a sufficient sum of money to pay whatever may be found due under the contract made between him and the proper officers of the Government in reference to the building, the contract being the governing law of the adjudication and settlement.

This resolution was called up last Friday, in the course of our progress with the Calendar, and was objected to by the Senator from Louisiana, [Mr. BENJAMIN,] on the ground that it did not make an appropriation; but I think the Senator was mistaken; he could not have understood the resolution, because the resolution expressly provides for the payment, in these words:

"And to pay to said contractor, out of any money in the Treasury not otherwise appropriated, the amount that may be found to be justly due to him under the contracts made between said contractor and the proper officers of the Government in reference to said building."

That appropriates whatever may be found to be due. The accounting officers take up the vouchers, examine them, pass upon them, and they ascertain the amount and pay it. I trust, sir, the resolution will, under the circumstances, be taken up by the Senate without any further delay.

The motion of Mr. Gwin was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

It proposes to direct the Secretary of the Treasury to settle, upon principles of equity and justice, the accounts of the contractor for the erection of the marine hospital at San Francisco, and to pay to him whatever amount may be found to be justly due under his contract.

The joint resolution was reported from the Committee on Claims, with an amendment to strike out of the original resolution the following words:

"Upon principles of equity and justice, the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California, and to pay to said contractor, out of any money in the Treasury not otherwise appropriated, whatever amount may be found to be justly due to him under the said contract."

And to insert:

"And adjust the accounts of the contractors for the erection of the United States marine hospital at San Francisco, California, and to pay to said contractor, out of any money in the Treasury not otherwise appropriated, the amount that may be found to be justly due to him under the contracts made between said contractor and the proper officers of the Government in reference to said building."

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

MEXICAN PROTECTORATE.

Mr. HOUSTON. I move to take up the resolution I had the honor to submit some weeks since on the subject of a protectorate over Mexico and Central America; and I believe it is in order to offer some remarks on that motion.

Mr. HUNTER. I must say, in regard to that motion, that I shall have no objection to it, provided it will not supersede the consideration of the special order. When is the hour for its consideration?

The PRESIDENT *pro tempore*. At one o'clock. Mr. HUNTER. Then I will say that of course I do not object to taking up the resolution, if at

one o'clock we shall proceed with the special order.

Mr. GWIN. I thought the deficiency bill was the special order for twelve and a half o'clock.

The PRESIDENT *pro tempore*. The special order was fixed for half past twelve o'clock yesterday; but it is for one o'clock to-day.

Mr. HOUSTON. I hope I may be allowed to conclude my remarks; they are limited.

Mr. HUNTER. The Senator from Texas tells me that he will not occupy more than an hour; and as I am anxious to go on with the deficiency bill, perhaps it would be better that he should commence now. It will only postpone the consideration of that bill for half an hour. I hope the Senate will consent to let him take up his resolution.

Mr. HOUSTON. I move to take up the resolution, for the purpose of offering a substitute, and proposing that it be referred to a special committee, to consist of seven. I do not suppose that will lead to any argument whatever. I wish to offer some views explanatory of the object of the resolution.

The motion was agreed to; and the Senate proceeded to consider the resolution submitted by Mr. HOUSTON, in regard to establishing a protectorate over Mexico, and other Central American States.

Mr. HOUSTON. Mr. President, it will be recollected that a few weeks ago I offered a resolution to instruct the Committee on Foreign Relations to inquire into the expediency of establishing a protectorate over Mexico and the Central American States by this Government. That resolution, without being amply discussed, was laid upon the table. I have risen for the purpose of proposing a substitute for it, by which the inquiry shall be confined to Mexico, and submitted to a select committee.

It is, perhaps, nothing more than respectful to Great Britain, inasmuch as we have been negotiating with her for several years in relation to Honduras and the Mosquito shore, that the differences between the two countries should be amicably adjusted, if possible, before we proceed to intervene for the regulation of the affairs of the five puny States beyond Mexico. Moreover, the condition of most of those States, bad as it is, is incalculably better than that of our poor, distracted, adjoining neighbor. Their public demoralization, too, affects us less injuriously.

The State, sir, which I have enjoyed the honor of representing in this Chamber, in part, with my lost but unforgotten colleague, since the emblem of her national independence took its place among the galaxy of stars which is unfurled over our heads, has a paramount interest in the establishment of orderly government in Mexico. It is as essential to her public morality and general prosperity as is that of any one State in the Union to another. The line of partition between the United States and Mexico stretches nearly two thousand miles—one thousand of which is Texan. Along a considerable portion of that line, on our side, savages abound—over whose propensities for the commission of crime on the inhabitants on the other side, we can exercise, although obligated by solemn treaty stipulations to do so, no effectual restraint. On account of the depredations incessantly perpetrated by the Cananches and other tribes upon the Mexicans, the border population is steadily receding into the interior; and instead of progressive civilization, the chances multiply, from day to day, that the country will be turned over to barbarism—to the savages now within our own limits. Mexico cannot prevent it, because she is never free from civil war or other intestine commotions; and we cannot, at any cost short of hermetically sealing our frontier. Thus good neighborhood on either part, as matters at present stand, is next to an impossibility. The one cannot repel, and the other cannot pursue. The wild Indian in his forest wanderings has no respect for, if he even had a knowledge of, the lines which separate civilized nations. He roams wherever his untutored mind points the way, making in his strides the powerless—whether the white or the red man—his victim. Different—vastly different—is the condition of the neighborhood on our northern frontier. The inhabitants of the British Provinces are so assimilated in character and identified in interests with the inhabitants of the northern States, that they are much

the same as if they constituted one people. Practically, there is nothing but a political line of division between them. The Marcy-Elgin treaty cemented their intercourse, and commercially annexed the Canadas, and other adjacent possessions of Queen Victoria, to those States. We gave to the colonies everything that they asked—everything that they could have desired.

The Senator from New York told us, the other day, in substance, that the North was mighty, and that it would speedily become still mightier. In the majesty of its power it may, at no distant day, bring those colonies into the Union, and particularly if they should become dissatisfied with the rule of the mother country. Nor can it be pleaded that they are not prepared for admission. Every day that passes—such is the frequency of their communication with the citizens of Michigan, New York, and New England—they receive practical lessons in the science of self-government, adopting, of course, the tenets of anti-slavery. Their number does not greatly exceed a third of that of Mexico, and yet they probably contribute ten times as much to the prosperity of the North as Mexico does to the prosperity of the South. I do not mention this in the language of sectional complaint, but in justification of the measure I propose.

The notion, sir, that Mexico will ever help herself out of the extremities to which she has been so deplorably reduced, is too absurd to be entertained by a rational mind. The more she struggles, ostensibly for the bettering of her condition, the more anarchical she becomes. To bring such a population as hers into the Union, would be to assume the gravest of responsibilities. To suffer her to be parceled out by filibusters—each chief perhaps a despot—would be to fraternize with every desperate adventurer in our own land, and to invite to our continent all the wild, vicious spirits of the other hemisphere. Nor could we consent, without palpable dishonor, to see her placed in the leading strings of any European Power, even were there a disposition manifested to so place her. We have, then, no alternative, if we put the slightest value upon our interests, and are not disposed to disregard our duty, but to arrange plans immediately for ruling her wisely, and, as far as possible, gently.

In the consummation of great measures, we are apt to be—perhaps a little too apt—a closely calculating people. In the matter of the proposed protectorate of Mexico, one of the first questions which is likely to suggest itself to our countrymen is that relating to the expenditure it will involve. Happily, this can be readily and satisfactorily answered.

The protectorate must be self-protecting—the expense incident to it defrayed by the protected. The general Government of Mexico could probably be administered, taking a term of ten years, for \$6,000,000; while her customs receipts, under a well-regulated and honestly-administered revenue tariff, would double that amount. Our Gulf and Pacific squadrons would be ample for the protection of her commerce in those quarters, and without subjecting us to additional outlays. Five thousand reliable regular troops, properly garrisoned and distributed, would insure the establishment and preservation of internal order; and the adoption of a good police system would eventuate in bringing to justice and effectually subduing the rapacious and blood-thirsty bandits who infest her highways. Hence it is clear that we have it in our power to improve the condition of Mexico immeasurably; to breathe the breath of new life into her nostrils; and without incurring the risk of a dollar. What a salutary change would this be, not only for both countries, but for the world at large!

Faithless to her engagements, Mexico has been for a long time but little better than a national outlaw. She is powerful for the commission of wrongs, but powerless for their redress. Our Department of State is the repository for the grievances of our citizens by her high-handed deeds—but nothing more than a repository, since the securing of indemnities for outrages has become a somewhat obsolete idea. Those grievances are doubtless magnified in a pecuniary point of view, as grievances ever are where a Government is responsible; but still, there should be an authority in Mexico, with which they may be adjusted and provided for, as ascertained to be valid. The

claimants might select one commissioner for their examination, Mexico another; and, in case of disagreement, the two an umpire. So with the inhabitants of other countries, who have experienced wrongs at her hands which have not been redressed. With respect to her funded debt, it amounts to about fifty-five million dollars, and is chiefly owned in England and on the continent. It was consolidated in 1846, by a convention between the Government of Mexico and a committee of the bond-holders, by which it was to bear five per cent. coupon interest. The war in which Mexico became involved with the United States, so enfeebled her that she was unable to provide the interest or a single dividend of it, until some time along in 1850, when she sent a commissioner to London to represent the state of her finances and to make a new proposal to her creditors. This proposal was to the end that she would pay out of the California indemnity money the interest in arrears, and pledge one fourth of the custom-house receipts on imports as well as exports for the payment of the future interest of the debt—provided the bond-holders would agree to diminish the rate of interest from five to three per cent. To this, after some hesitation, they consented. Since then, such is the faithlessness with which she has acted, and such the subterfuges that she has had to resort to, in order to sustain her sickly existence, that she has appropriated to herself nearly all the customs dues received—having remitted only a sufficient amount to pay four of the semi-annual three per cent. interest dividends which have since matured. With this arrangement, to which Mexico is bound, we could not interfere, as her protector, unless with the assent of the bond-holders. It might, however, probably be modified to their own and her advantage. The assumption of it by this Government, as a consequence of the protectorate, is too idle a supposition to be entertained. Great Britain could not expect more from us in the premises, than to see that the portion of the revenue from the customs stipulated for, was regularly placed at the disposal of those bond-holders when collected. This would in all likelihood defray the interest as it accrued, besides creating a sinking fund for the absorption, in a few years, of the principal, and thus extricate the hand of our unfortunate neighbor from the lion's mouth. England, as I shall presently show, would be well enough pleased to have it so extricated.

Mr. President, I have looked, but looked in vain, in both wings of this Capitol, for a fellow-member who was a fellow-member with me when the celebrated Monroe doctrine was announced. Of the two hundred and sixty-one Senators and Representatives who constituted the Congress which commenced its session on the first Monday of December, 1823, I stand here alone, and I will not disguise it, as one who regards himself as among the last of his race, as one who feels that he is approaching his journey's end on life's pilgrimage, and who has now no other ambition to gratify than to render "the State some service." All those worthy spirits, alas! have, one by one, quitted earth with the exception of President Buchanan, ex-President Van Buren, ex-Senator Branch, ex-Senator Rives, Governor Letcher, and Governor Wickliffe of Kentucky, Governor Johnson of Virginia, General Mercer, General Campbell of South Carolina, Mr. Saunders of North Carolina, Mr. Stuart of Pennsylvania, Mr. Blair of Tennessee, and possibly two or three others. To say nothing of the distinguished merits of the survivors, in that great Congress might have been seen in the full meridian of strong intellect, the Jacksons and Clays, the Websters and Randolphs, the Macons and Forsyths, the Bentons and Livingstons, the Barbours and Johnsons, the McLanes and McDuffies, the Kings and Smiths, the Taylors and Hamiltons, the Floyds and Holmeses, the Rugglesses and Bartlets. It was to such men, chosen alike for their wisdom and integrity, representing twenty-four sovereign States and thirteen millions of inhabitants, that Mr. Monroe (counseled by a Cabinet composed of John Quincy Adams, William H. Crawford, John C. Calhoun, Samuel L. Southard, William Wirt, and John McLean) addressed himself in such confident and resolute language with reference to the ulterior purposes of this country. I shall never cease to remember the exultant delight with which his noble sentiments were hailed.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, APRIL 21, 1858.

NEW SERIES...No. 106.

They met not only with a cordial but an enthusiastic reception both in and out of Congress. They were approved with as much unanimity as if the entire population of the Union had been previously prepared to reëcho their utterance. At that glorious epoch, there was a broad, towering spirit of nationality extant. The States stood in the endearing relation to each other of ONE FOR ALL, AND ALL FOR ONE. The Constitution was their political text-book, the glory of the Republic their resolute aim. Practically, there was but one party, and that party animated by but one object—our upward and onward career. As if in atonement for the wrong inflicted upon the country by the angry Missouri controversy, which was then fresh in every mind, there seemed to be no circumscription to that genuine patriotism which everywhere within our embraces displayed itself. May we not trust, Mr. President, that a similar result will ensue from the still more angry Kansas controversy, and that the benign influences of such results will be as durable as creation? This will assuredly be the case if the only question asked within this Capitol when an embryo State asks for admission into the Union is: *Does her constitution conform to the national requirement—"a republican form of government"?* We have cheapened ourselves immensely in the world's esteem, and I fear polluted our system of government, in our extravagant disbursements, which have been overlooked, in the profitless strife which had its emanation in the hostility to the institution of negro slavery. Let each new State hereafter come slave or come free, as she chooses, and we shall henceforth have peace, the peace of union as contemplated by the authors and founders of our Republic. We have grander ends to attain than the frittering away of a healthful existence upon such loathsome, ignoble subjects. Our aspirations should be to spread our heaven-inspired principles by our lofty public bearing on to the most remote and benighted regions; proudly, in the rectitude of our intentions, taking our place at the very head of the nations of the earth. It is for us, if we are equal to our mission, to realize for America the poet's vision of the future of England:

"Wherever the bright sun of heaven shall shine,
Her honor and the greatness of her name
Shall be and make new nations; she shall flourish,
And like a mountain cedar, reach her branches
To all the plains about her."

But, sir, to return to the Monroe doctrine: in their notice of the message at the time it was promulgated, the then as now calm, observing editors of the National Intelligencer, remarked:

"It does honor to its author, and the most material parts are conceived in the true spirit of the days in which he first engaged in the scenes of public life."

Sir, that doctrine is, perhaps, quite familiar to every member of this Senate; but such has been my unrelaxing pride in it for nearly thirty-five years, increased, if possible, by the fact that I am the only person entitled to a seat in this building to whom it was addressed, that I cannot refrain from its perusal, nor from narrating its history, and explaining its purpose.

Our relations at that time were not in a satisfactory condition with the Emperor of all the Russias—the differences having grown out of a claim of that autocrat to a portion of this continent—and in this connection Mr. Monroe made the emphatic declaration:

"In the discussions to which this interest has given rise, and in the arrangements in which they may terminate, the occasion has been judged proper for asserting as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European Power."

Subsequently, he reviewed the political condition of the two hemispheres, and referring to the desire of the Holy Alliance to reëstablish Spain in her late American possessions, he fearlessly stated that,

"We owe it, therefore, to candor, and to the amicable relations existing between the United States and those Powers, to declare that we should consider any attempt on

their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European Power we have not interfered, and shall not interfere. But with the Governments who have declared their independence, and maintained it, and whose independence we have on great consideration, and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny by any European Power in any other light than as the manifestation of an unfriendly disposition towards the United States."

"It is impossible that the allied Powers should extend their political system to any portion of either continent [American] without endangering our peace and happiness; nor can any one believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition, in any form, with indifference."

Shortly after the settlement of Europe by the Congress of Vienna, the more despotic continental Governments suddenly became seriously troubled on account of the liberal sentiments which strikingly manifested themselves in Spain and elsewhere. The Holy Alliance, in its conferences at Troppau and Laybach, declared eternal hostility to all popular institutions, announcing its purpose to "repress republican opinions wherever they might be found, and to extinguish the feelings that prompted them." To use its avowed language:

"To preserve what is legally established was, as it ought to be, the invariable principle of their policy. Useful or necessary changes in legislation, and in the administration of States, ought only to emanate from the free will and the intelligent and well-weighed conviction of those whom God has rendered responsible for power."

The Czar of Russia had promised Ferdinand, of Spain, that if he would overthrow the constitution of that kingdom, he would assist him, not only in fortifying his throne, but also in reëstablishing his authority over the revolting Spanish American provinces. To this proposition England dissented in terms so decided as to cause its relinquishment—an occurrence not displeasing to Austria, as she was averse to the marching of a large Russian army across her bosom in the direction of the Pyrenees. But France, acting in the interest of the Holy Alliance, and probably with a view to selfish ulterior objects, determined to intervene in the affairs of Spain, and—under the alleged excuse to England that she wished to prevent the yellow fever, which was prevailing in Portugal, from entering her limits—she established an army on the confines of the Spanish realm, which she designated a "cordon sanitaire." The disappearance of the disease, however, from the peninsula, did not lead to its withdrawal; and subsequently she bestowed upon it the title of the "army of observation." But it was not long—in the summer of 1823—until she marched it over her boundary and undertook to control Spain. When, in 1808, Napoleon attempted to place the crown of that realm durably upon the head of his brother Joseph, he unquestionably contemplated the acquisition by his house of all the distant possessions. This idea might not have been the actuating one in the armed occupation of Spain by France; but it is certain that she regarded those possessions as a prize worth securing, if they could be obtained at a reasonable, or, indeed, an extravagant cost. She saw distinctly that they were as good as lost to the mother country, which was in a deplorable moral, financial, commercial, and physical condition. Mr. Canning, as Premier, made unceasing efforts to influence France to recall her army from Spain, but they were disregarded. This enlightened British statesman boldly arrayed his government against the principles of the Holy Alliance, and lost no suitable occasion to publicly proclaim the sentiments by which the British were animated—sentiments which were warmly responded to at home, and by the larger portion of the continental public. They were simply these, and, from their very nature, in violent antagonism with those entertained by the stipendiaries of the crowned head contrivers of the Congress of Verona: **THE PEOPLE THE ORIGIN OF ALL POWER, THE OBJECT OF ALL GOVERNMENTS, THE GOOD OF THE GOVERNED.**

Nor were suitable opportunities left unavailed

of by the Premier, for strengthening and cementing the ties of friendship between his own and this country. In a speech which he delivered to his townsmen of Liverpool, on the 25th of August, 1823, at a banquet which they gave to Christopher Hughes, our excellent Minister to the Netherlands, he said, among other things:

"On such an occasion he might be permitted to express the gratification he felt, in common with the great mass of the intelligent and liberal men of both countries, to see the animosities necessarily attendant on a state of hostility so rapidly wearing away, and giving place to feelings so consonant to the true interests of the two nations, united by a common language, a common spirit of commercial enterprise, and a common regard for well-regulated liberty. It appeared to him that of two such nations the relative position was not wholly unlike that which occasionally occurred in families: where a child having, perhaps, displeased a parent—a daughter, for instance—in contracting a connection offensive to that parent's feelings, some estrangement would for awhile necessarily ensue; but, after a lapse of time, the irritation is forgotten, the force of blood again prevails, and the daughter and the mother stand together against the world."

About the time this speech was delivered Mr. Canning is reported to have had an interview with our Minister near the Court of St. James, in which he explained the policy of his Government with respect to Spain and the South American States, desiring the cooperation of the United States, if necessary in its enforcement. Our Minister, it appears, had no instructions upon the subject, but transmitted the proposal to Washington for consideration. On the 31st of March previous, the Prime Minister wrote to the British Minister at Madrid to intimate to the French Minister near that Court, in terms sufficiently distinct to admit of no misconception, that, while Great Britain utterly disclaimed any intention of appropriating to herself any of the former colonies or dependencies of Spain, she would not tacitly consent to their acquisition, or that of either of them, by France. This led to a conference between himself and the Prince de Polignac, the French Minister, on the 9th of October, 1823, in which the latter proposed:

"That in the interests of humanity, and especially in that of the Spanish Colonies, it would be worthy of the European Governments to concert together the means of calming, in those distant and scarcely-civilized regions, passions blinded by party spirit, and to endeavor to bring back to a principle of union in government, whether monarchical or aristocratical, people among whom absurd and dangerous theories were now keeping up agitation and disunion."

But the conference terminated without a result—Mr. Canning, no doubt, deeming it better to await intelligence from this capital relative to his proposal to our Minister. The world-renowned message contained Mr. Monroe's answer: It was as unexpected as a destructive earthquake, and dispelled every hope which had been indulged in Paris, and in autocratic circles elsewhere, of the reëstablishment of Spain in her lost possessions. It was thus that the triumph of England over the Holy Alliance was effected, as was explained when Parliament met in the following February, by the Marquis of Lansdowne in the House of Lords, and Mr. Brougham in the House of Commons.

In the discussion upon the speech from the throne, at the opening of the session, the Marquis observed, in the House of Lords, in commenting upon that part of it relating to the non-recognition of the Spanish-American States in terms of disapproval:

"But if we had been tardy, it was a satisfaction to find that America had on this occasion taken that decisive step which so well became its character and its interest. As that important decision was of the utmost consequence to every portion of the world where freedom was valued, he could not grudge to the United States the glory of having thus early thrown her shield over those struggles for freedom, which were so important, not merely to America herself, but to the whole world."

In the House of Commons, during the same day and in the same discussion, Mr. (now Lord) Brougham remarked:

"The Holy Alliance! [A cry of "Hear!"] What, was this designation of these sovereigns doubted? Why, it was not his, but that which they had given themselves. There was but one view that could be taken of that league of conspira-

tors and of the motives of their alliance." * * *
 "The question, however, with regard to South America, he believed, was now disposed of, or nearly so; for an event had recently happened, than which no event had ever dispersed greater joy, exultation, and gratitude over all the freemen in Europe: an event in which he, as an Englishman, connected by ties of blood and language with America, took peculiar satisfaction. An event, he repeated, had happened which was decisive on that subject; and that event was the message of the President of the United States to Congress. The line of policy which that message disclosed became a great and independent nation; and he hoped his Majesty's ministers would be prevented by no mean pride or paltry jealousy from following so noble and illustrious an example. He trusted that, as the United States had had the glory of seating, we should have the good taste to follow, the example of holding fast by free institutions, and of assisting our brother freemen, in whatever part of the globe they should be found, in placing bounds to that iniquitous alliance which, if it ever succeeded in bringing down the Old World to its own degraded level, would not hesitate to attempt to master the New World too."

Mr. Canning, the Premier, in reply, stated that:

"In some of the principles laid down in the message of the President of the United States he entirely agreed; and he might be permitted to say that, long before the message went forth, it was distinctly admitted in the State Papers of Great Britain that the question between the mother country and the colonies was not a fit subject for foreign interference; but he did not agree in the principle that the parent State had not a right, if she could, to recover her own colonial dominions." [Mr. Brougham motioned that such a principle was not laid down.] "Mr. Canning, continuing: In the paper to which the honorable and learned gentleman referred, there was a passage which many individuals construed in that way, and he certainly understood the honorable and learned gentleman so to have construed it. He was clearly of opinion with the President of the United States, that no foreign State had a right to interfere, pending the dispute between the colonies and the mother country; but he was as strongly of opinion that the mother country had a right to attempt to recover her colonies if she thought proper."

Mr. Canning's construction of the message was clearly correct, as will have been seen from the extracts which I have read from that document. Spain, ruled by France, as the swordsmen of the Holy Alliance, was included in the declaration that—

"With the Governments who have declared their independence and maintain it, and whose independence we have, on great consideration, and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny by any European Power, in any other light than as the manifestation of an unfriendly disposition towards the United States."

It has often been asserted, sir, that Mr. Canning originated the Monroe doctrine. It has been seen to what extent he is entitled to that credit. The announcement of that doctrine, as valuable a purpose as it served his Government, perhaps took no one more by surprise than himself. Little could it have been imagined that a young republic, with nothing like half of its present population, could summon resolution to proclaim at the top of its voice, to all the potentates of the other hemisphere, in substance: "You may manage your affairs as you choose there, but you shall not carry your system, or systems, of government to the world of the West. With stout hearts and strong minds, and, above all, relying upon God's favor, we will prevent the establishment of any new European alliances in this hemisphere, or perish in the effort."

At the time of preparing his message, it may have been seen by Mr. Monroe that circumstances might arise rendering it necessary that the exercise of a controlling influence over one or another of those young republics would become a necessity on the part of this country. Mr. Clay, in his zeal for their recognition, has asserted in his place in the other House, that "it would be impugning the wisdom of Almighty God to suppose that he had created beings incapable of self-government;" but Mr. Monroe was not, perhaps, quite so sanguine. He, however, was determined, as far as his official influence could be advantageously employed, in the instance of those republics, that the experiment should have a fair trial. But, if it should result in failure, no foreign Power should attempt their resubjugation. It would become a duty, under our mantle, to nourish, cherish, and protect such as could not take care of themselves. The unlocking of the rich, varied, natural stores of Mexico, would redound not only to an enlarged welfare of that country, but to the good of every country interested in commerce and in enlightened civilization. She is, literally, the thriftless "talent tied up in a napkin." She can never be otherwise until we exercise a controlling influence over her. We must make her respect-

able and respected. She has been going down so long that she is incapable of rising. With life and property secure, it is estimated that she could produce \$100,000,000 of silver annually. Instead of fifteen or twenty miles of railroads, she might, in a score of years, have as many hundred. With such an attractive climate and fruitful soil and variegated scenery, she would become the center of fashionable travel, and the abode of enterprising industry; and the occurrence would not only command the approval, but also the admiration of Great Britain and other European States. The London Times, which molds rather than follows public opinion, says:

"There is not a statesman who would wish to see Great Britain hamper herself with an inch of Mexican ground. Let the United States, when they are finally prepared for it, enjoy all the advantages and responsibility of ownership, and our merchants at Liverpool and elsewhere will be quite content with the trade that may spring out of it. The capacity of the Mexican population, for appreciating a constitutional rule, is not so remarkable that we should volunteer to administer it."

The Monroe doctrine has been repeatedly ridiculed of recent years, and by grave Senators, as the merest of abstractions—as unmeaning as valueless. But let me tell you, sir, that, but for that doctrine, Texas, probably, had never entered your Confederacy. Canning might have yielded to Polignac for the consolidation of a monarchical or aristocratical form of government for the *ci-devant* colonies of Spain, by which, of course, she would have been included as one of those colonies, had it not been for the seasonable declaration of that doctrine, and the thrill of joyous delight with which it was hailed by the votaries of liberty everywhere. On this account alone I may be pardoned for fancying that it is deserving of a worthier designation, even by the most violent tongue, than an abstraction. When Cortez returned to Madrid from his conquering expedition to America, he went to Court. The haughty Charles V., observing his stately mein, as he approached him, emphatically demanded: "Who are you, sir?" "The man," replied he, "who has given you more provinces than your ancestors left you cities!"

With equal truth may it be said of Texas, that she has been instrumental in giving the Union more dollars than its founders left it cents. She has been instrumental in developing its resources more in twelve years than had been previously developed in sixty. I do not mention this in a spirit of vain glory. Who could be vain-glorious of such a State?—a State that is advancing with giant's strides in all that constitutes a State, to the head of the column of the southern division of the Union? The time may come—yes, will come, sir—when, if she shall be as properly cared for by this Government, in her intercourse with Mexico, as New York has been cared for in her intercourse with the British Provinces, she may be to that division what the Empire State is to the northern division. But, whatever her future power, I trust that the language of her sons will ever be, in contradistinction to the supercilious expressions which fell from the lips of a distinguished Senator a few days ago, as far as concerns the exercise of might for the purpose of sectional oppression:

"O! 'tis excellent
 To have a giant's strength; but it is tyrannous
 To use it like a giant."

Whenever one section of this country presumes upon its strength for the oppression of the other, then will our Constitution be a mockery, and it would matter not how soon it was severed into a thousand atoms and scattered to the four winds. If the principles are disregarded upon which the annexation of Texas was consummated, there will be for her neither honor nor interest in the Union; if the mighty, in the face of written law, can place with impunity an iron yoke upon the neck of the weak, Texas will be at no loss how to act, or where to go, before the blow aimed at her vitals is inflicted. In a spirit of good faith she entered the Federal fold. By that spirit she will continue to be influenced until it is attempted to make her the victim of Federal wrong. As she will violate no Federal rights, so will she submit to no violation of her rights by Federal authority. The covenant which she entered into with the Government must be observed, or it will be annulled. Louisiana was a purchase, California, New Mexico, and Utah a conquest; but Texas was a voluntary annexation. If the condition of

her admission is not complied with on the one part, it is not binding on the other. If I know Texas, she will not submit to the threatened degradation foreshadowed in the recent speech of the Senator from New York. She would prefer restoration to that independence which she once enjoyed, to the ignominy ensuing from sectional dictation. Sorrowing for the mistake which she had committed in sacrificing her independence at the altar of her patriotism, she would unfurl again the banner of the "lone star" to the breeze, and reënter upon a national career, where, if no glory awaited her, she would at least be free from a subjection by might to wrong and shame.

But I will dismiss such thoughts from my mind, and indulge in their stead the pleasing belief that the Federal Constitution, the Constitution of our fathers, the Constitution of compromise between conflicting interests, will ever be found potent enough to overpower the most formidable sectional opposition which may be advanced against its provisions. Beyond it, there would be but little left worth living for.

In conclusion, I trust, sir, that you will pass the resolution which I now send to the Secretary. Of the form of the protectorate, I have said comparatively nothing. It will be for the committee, if ordered, to decide upon that, with such lights as may be placed before it. I have no preferences on the subject. It may assimilate to that of Great Britain over the Ionian Isles, or be entirely original in its character. No advantages in trade-intercourse ought to be claimed by us which should not become common to other countries, and no more authority exercised than would be indispensable to secure obedience to salutary law.

I send to the Chair a preamble and resolution as a substitute for that which I before offered. I ask that it be read.

The Clerk read as follows:

Whereas, the events connected with the numerous efforts of the people of Mexico to establish upon a reliable basis an orderly system of self-government have invariably resulted in complete failure; and whereas, the condition of Mexico is such as to excite alarming apprehensions that she may precipitate herself into a wild condition of anarchy, and the more so as she has demonstrated, from time to time, her utter inability to suppress intestine commotions, and to conquer the hordes of bandits by which she is infested; and whereas, the United States of America, on account of the continental policy which they cherish and desire to enforce, can never permit Mexico to be resubjugated by Spain, or placed under the dominion of any foreign Power; and whereas, one of the most important duties devolving upon civilized Governments is to exact from adjoining nations the observances of good neighborhood, thus shielding themselves against impending, or even remote injury to their border security: Therefore,

Resolved, That a select committee of seven be raised, to inquire into, and report to the Senate, whether or not it is expedient for the Government of the United States of America to declare and maintain a protectorate over the so-called Republic of Mexico, in such form, and to such an extent, as shall be necessary to secure to this Union good neighborhood, and to the people of said country the benefits of orderly and well-regulated republican government.

Mr. HUNTER. I call now for the special order.

Mr. HOUSTON. I move the adoption of the resolution.

Mr. HUNTER. I gave way for the Senator to make a speech.

Mr. HOUSTON. It will not take a moment, I hope.

Mr. SEWARD. The Senator from Virginia will allow me to suggest that the resolution must, of course, lie over for one day—

The PRESIDING OFFICER, (Mr. MASON in the chair.) The Chair will suggest that it is offered as a substitute by way of amendment to a resolution heretofore offered.

Mr. SEWARD. I move, then, that it lie on the table, and be printed.

The motion was agreed to.

DEFICIENCY BILL.

On motion of Mr. HUNTER, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858; the pending question being on the following amendment offered by Mr. HALE:

Sec. 4. And be it further enacted, That no contract shall hereafter be made by any officer or agent of the Government, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; and the sixth section of the act entitled "An act in addition to the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," approved May 1, 1820, be, and the same is hereby, repealed.

Mr. HUNTER. Mr. President, I listened very attentively to the remarks of the Senator from New Hampshire [Mr. HALE] yesterday, and I feel with him that there is a mischief, in regard to these deficiency bills to be remedied. I think, perhaps, he took an extreme view of the question when he supposed that they were unconstitutional in their character; nor do I apprehend he would find on further examination that the first instance in which bills of that nature were ever passed was in 1844. Perhaps that was the first occasion on which a bill of that name was ever passed; but bills of that nature have often been passed from the year 1820 up to this time. I think, too, he will find, when he comes to examine this whole question, that the measure which he proposes is not only too radical, but that it will fail to accomplish his object, and that it would make inefficient the machinery of this Government in that very point in which it requires most efficiency—I mean in its military arm.

I feel with him, sir, that these deficiency bills, if possible, ought to be prevented; and I am willing to concur in any practicable, sound measure which may have that end for its object, and which may be likely to attain it; but, I think, it will be found that the remedy, if there be one, will lie elsewhere. These deficiency bills arose from a change in the fiscal year. In 1842 the fiscal year was made to commence on the 1st of July instead of the 1st of January. Before that time, when the fiscal year commenced on the 1st of January, it had been the habit of Congress to pass two sets of appropriation bills, just as we do now, but the names were different. The first which was passed early in the session, to meet the temporary want of the Government, was called the partial appropriation bill; and the other, which was passed later in the session, and provided for the additional wants of the fiscal year, was called the bill for additional appropriations. It is only necessary to turn to the synoptical index of the statutes, to see that, from the year 1820, it was the constant practice to pass these two appropriation bills: the first a partial bill, which answered to our deficiency bill, according to the present practice; the other, what was called the bill for additional appropriations, which provided for the general wants of the Government.

The difference between the practice of the two, however, was probably essential. When the fiscal year commenced on the 1st of January, the appropriations preceded the expenditures, or rather, the contracts to expend money. Since the fiscal year has been changed, the expenditure of the money, or the contract to expend it, generally preceded the appropriation, and it is for this reason, as things are now arranged, the Secretaries have to estimate for eighteen months ahead—Congress always appropriates a year in advance. It cannot be foreseen accurately what are the wants of the Government. The only way in which you could prevent these deficiency bills, would be to appropriate extravagantly under each specific head of appropriation, so as to be sure that the Government would have enough, and something to spare to provide for contingencies, the effect of all of which would be that we should swell the appropriation bills very largely; we should increase the temptation to large expenditures, and probably it would lead to large and lavish expenditures. It would have, too, this further effect, that the change which was made in ancient times from general to specific appropriations, would work to extravagance rather than economy. For the first three years after this Government went into operation, the appropriation bills were in the general; it was only in the fourth year that Congress commenced with specific appropriations.

To say, then, that there shall be no deficiency bill; that we must either provide more than a year beforehand for all the wants of the Government, or else that no expenditures shall be made, must subject the Government, in its practical operations, to great inconvenience, sometimes, perhaps, bringing it to a stand-still or else it must force upon Congress the necessity of appropriating not only enough, but something to spare, upon each specific head or appropriation.

Now, sir, if there be a remedy, it seems to me that it will be found in restoring the fiscal year to the period at which it formerly commenced. If that be done, the appropriations can be made ahead of the expenditures. We meet a little be-

fore the fiscal year closes, and if there was an urgent demand for temporary supplies, we could pass a partial bill, as was passed before this change, in order to meet those temporary wants, and take time to consider the other appropriations. During the long session, the last appropriation would be made only a few months before we meet again; and thus Congress could always provide for the probable wants of the Government; and it would be great mismanagement, great neglect, and probably culpable misconduct, if the contracts for expenditure then preceded the appropriations. I do not know, sir, that it would make us more economical, though I rather think it would; but it would, at least, introduce this salutary change—that the appropriation would precede the expenditure. So strongly am I impressed with this, that unless reasons should be urged against it which I do not now see, I shall test the sense of the Senate upon the subject by presenting a bill for the purpose of restoring the old fiscal year.

Mr. COLLAMER. Will the gentleman permit me to ask him a question at this stage of his remarks, to which I am listening with much attention?

Mr. HUNTER. Certainly.

Mr. COLLAMER. If the whole appropriations be in advance of the expenditures, what difference does it make whether the appropriations be made at one portion of the fiscal year or another? Why is it a matter of any consequence?

Mr. HUNTER. Because Congress will be in session at a period near the end of the fiscal year if it ends at the one time rather than the other. Under the present system, we have to make appropriations more than a year ahead; but if we restore the old fiscal year, as we meet a month before it closes, we have time to provide for any temporary emergency, and during the long session we sit until the year is half over, and we have only to provide for six months ahead of us. But as it now stands, the Secretaries have to estimate for eighteen months ahead, and Congress have to provide for more than twelve months ahead of them. The consequence is, that unexpected and unforeseen emergencies arise, and the Departments are either obliged to permit the public service to suffer, or else they have to contract ahead of the appropriations. But they would have no such excuse when Congress was in session, perhaps, only six months before the close of the fiscal year, and when it always would meet again a month ahead of it. Certain it is that, in former times, what might seem to be deficiencies, through the whole experience of the Government until this change was made, will be found to have been very small. In general, the partial appropriation bill consisted chiefly of provisions for the expenditures of the two Houses of Congress, and occasionally a small deficiency would come in. Sometimes you would find an appropriation for the relief of sick and disabled seamen, sometimes an appropriation for a contingency in this department or that; but in general there was very little appropriation in these partial appropriation bills for any other purpose than for the expenses of the two Houses of Congress. It was so because Congress was in session so near the end of the fiscal year that it could provide with sufficient certainty. We certainly can see six months or twelve months ahead of us more easily than we can see for a year or eighteen months ahead of us.

Mr. FESSENDEN. Will the Senator be kind enough to state what were the particular inducements for changing the fiscal year at the time the change was made?

Mr. HUNTER. I do not recollect. I think myself the chief inducement was this: there was a pressure on Congress to pass the partial appropriation bill; it was necessary to pass it a little sooner than Congress generally gets to work; there was some slight inconvenience in that regard, and it pressed upon members of Congress, for generally the partial appropriation bill was made chiefly to provide for the wants of the two Houses of Congress. But there may have been other reasons which do not now occur to me. I intend to examine into that matter, for I am convinced (I have a right to think so because I find this difference in the experience under the old fiscal year and under the present) there is reason for the difference, and unless I can find some more reason against the change than I see now, I shall

test the sense of the Senate upon that subject. I believe that probably we may prevent the deficiency bills, if not entirely, certainly to a large extent. I would say we might prevent them entirely if we had no more territory to provide for than we had at that time. The cause which may occasion a necessity for such bills is that we have distant territories—territories on the Pacific—and it takes months to hear from them. Sudden emergencies arise there, and it is very difficult to prevent the occurrence of some deficiencies there. For instance, we shall have an application during this session for deficiencies that occurred in Washington and Oregon Territories under such circumstances as these: the Indians are brought on reservations to be supported by what is made there, with the exception of the hunting season when they are turned loose to hunt. This, of course, diminishes the expense of supporting them; but when a war occurred, the officers were afraid to turn them loose and were obliged to support them the whole time. This was unexpected and unforeseen. They could not do it without exceeding the appropriation, and if they did not do it they would have had to turn the Indians loose and run the risk of their joining the bands which were already making war upon the settlers.

There is, too, another cause of deficiencies which might still entail them upon us to some extent, but not so largely, I think not near so largely, if we were to change the fiscal year, as it does now. Of necessity there must be a right in the War Department to contract for the means of subsistence and transportation ahead of appropriations. How can it be otherwise? Suppose insurrection or invasion were to occur in the recess of Congress—an event for which they had not provided in their appropriations—what is the President to do? To wait until he can call Congress together for an appropriation? No. It is indispensable to lodge power in him to contract for the means of transportation and subsistence; and that is all that is lodged in him. Whatever could be retained under the action of Congress, under our existing laws is retained. All appropriations for pay and clothing, &c., are retained; but it was necessary to leave this discretion in him, and you could not make the machinery of this Government practicable and operative in time of war without it; and we can readily see that there are emergencies which might occur, not only in war but in peace, with so much territory as we now have, with troops posted so far apart as they now are, requiring a change of those posts and an increased amount of transportation, which was not foreseen when the regular appropriations were made.

Why, sir, I have been told by the Secretary of War, during this very fiscal year, that owing to some Indian outbreaks, and the modes in which the troops were posted, he had suddenly and unexpectedly to move some troops from Old Point, on the Chesapeake, to our western frontier. How can you provide for such emergencies as these in the regular appropriation bills? In no other way, as I said before, except by appropriating, not only what we think is enough, but more besides, to meet the case of these emergencies. Far better than to pursue a practice which would lead to such extravagance as that, it would be to lodge the limited power in his hands that was vested there by the act of 1820. It was vested there after experience. It was suggested by the experience of the last war with Great Britain. I believe that if you were to repeal it, the effect would be that you would either entail upon the military arm of this service such inefficiency, and expose the country to such disasters on certain occasions as to bring down public indignation, or else you would have to make these contracts without law. Far better, then, is it to limit the War Department as the law now does limit the other Departments—limit them wherever it can be done, and give the Secretary of War this authority in relation to transportation and subsistence.

The Senator from New Hampshire, however, says this is unconstitutional. I think not. It is unconstitutional to draw money out of the Treasury without an appropriation; nor is it ever done; but it is not unconstitutional to make contracts ahead of the appropriations. There certainly is a distinction in regard to that matter; but even in relation to these deficiency bills, it will be found that they are not always for money that has been

spent, or contracted to be expended, ahead of the appropriations. Sometimes they are for that; but very often they are an application for an additional appropriation, not to supply moneys that have been expended, but moneys which the Secretary desires to expend in some department of the public service, in addition to what has been already provided. Many of them, instead of being appropriations for deficiencies, are additional appropriations. I believe the Departments have, in many instances, done wrong in their estimates by not so denominating them, instead of calling them deficiencies.

But, Mr. President, if we are to maintain the present fiscal year, if we are to continue the practice of estimating eighteen months ahead and appropriating more than a year ahead, sometimes sixteen months ahead, when we have to estimate and to appropriate by guess and conjecture, then it is almost indispensable, for economy's sake, that we should use to a limited extent this device of a deficiency bill. I will give an instance—an instance that has occurred since I have been connected with the Committee on Finance. Some years since the Committee of Ways and Means of the House of Representatives found the estimates from the Navy and War Departments, as they believed, too large. They addressed letters to the heads of those Departments asking them to diminish their estimates. The reply was that they had been made upon consideration, and they could not diminish them. The committee then addressed letters to the Departments saying they had determined to diminish the amount appropriated, and requesting a designation of the items on which they would have the appropriations cut down. One Secretary did designate, but the other Secretary would not, because he thought every cent he asked was necessary. The Committee of Ways and Means took the responsibility of cutting them down arbitrarily, because they knew that if it turned out that more was actually wanted for the public service, they could, in the shape of a deficiency bill, at the next session provide for it. Suppose it had been that there could be no such bill; suppose it had been considered unconstitutional, and penalties were attached to public officers who should undertake, for any cause, to contract ahead of appropriations: no committee could have ventured on any such experiment, no committee could have taken such a responsibility, because it was saying that they knew, twelve or sixteen months ahead, what would be the wants of the War or Navy Departments better than the heads of these Departments themselves. If the committees cannot do that, it is impossible that Congress can retrench the expenditures. If the committees cannot occasionally apply the knife and retrench arbitrarily, we here can make no sensible retrenchment. Now and then we may lay hand on an item which we can prove to be unnecessary, and strike it out, but in the general, they are so connected, so interwoven, so interdependent upon each other, that you cannot intelligently strike one out.

The only way I know would be (and I very much incline to think we shall have to resort to some such remedy in order to stop expenditures) to send a resolution to the heads of Departments, saying: "We have so much money to spend; we are willing to appropriate so many millions to you; now send in the estimates, and show us how you will have that amount divided; we are willing to leave it to you." In that way we should accomplish, in some measure, the superior economy of general appropriations; for there is no doubt, if our agents were perfect, were impeccable, we should conduct the Government more economically with general than with specific appropriations. In that way we might combine that matter of economy, in some degree, with the responsibility of specific appropriations. If you were to go to the heads of Departments and say: "We will give you half the money that is appropriated to carry on and conduct your Department; employ your clerks for what you choose; give them what you choose; employ what force you think necessary;" I believe there is not a Department here that could not be as well, and probably better administered, for half the money now expended on them.

But, sir, putting that aside, I return to the point that, if we declare that we will pass no deficiency bill, that we will not pass it because it tends to

encourage extravagance, or because we think it unconstitutional, (an opinion in which I do not concur,) then the only resort that is left to us is to turn in and swell the amounts appropriated under each specific head. I need not say to what that would lead.

Mr. COLLAMER. I wish, in that connection, to ask the gentlemen another question, and that is, if we preserve the power of transferring appropriations, what is the advantage of specific appropriations?

Mr. HUNTER. The power of general transfer is not given. The power of transfer is given only in certain cases under the law. There is the difference; so that it still keeps the appropriations specific. Not only that, but it is a power which the Secretaries exercise sparingly. For some reason or other, they do not transfer even where under the law they might do so, but rather apply for an increase of some specific appropriation which has fallen short, although there is a balance on another. Consequently, if the gentleman will study the history of the appropriation bills—a very dry and uninteresting subject, I acknowledge—he will find that, wherever we have these periodical fits of economy, (and I wish they would become chronic,) amendments are stuck about in the appropriation bills providing that the Secretaries may transfer from one head of expenditure to another: and why? Because Congress cannot then begin to look into the matter closely, and they find that, although there is not enough here, there is an unexpended balance under another head; and they say, why do not the Secretaries use that? and, by way of admonishing them to use that, they put in a clause allowing them to transfer from one head to another.

Mr. COLLAMER. And that defeats the specific character of the appropriations altogether.

Mr. HUNTER. It does when the power is given in general terms, as it is sometimes given; but, after a while, you find that the pendulum swings the other way; for I suppose there have been at least twenty provisions in regard to this matter, sometimes enlarging, sometimes diminishing. Sometimes it takes the turn which it seems about to take now, and you limit the power of transfer. The whole effect of that is, that when you limit the power of transfer, and force appropriations to be more and more specific, you appropriate more money. Perhaps you get more responsibility, but you certainly appropriate more money; so that you have to choose between the two. There is Scylla on the one side, and Charybdis on the other. You have to choose between the two; to act in reference to the combined considerations of responsibility in the head of the Department on the one hand, and economy on the other.

But, sir, be that as it may, whether I am right or wrong in these views which I have suggested, I think I cannot be wrong in saying that it is absolutely necessary to leave in the hands of the War Department the power in relation to contracts for subsistence and transportation which the law has placed there, and that if we were to take it away we should run the risk of embarrassing it more seriously in times of emergency, or else we should force it to act against law and without law, and thus set the worst of examples before the country. I hope that the Senate will not, without consideration, make this radical change in the machinery of our Government. It is a dangerous thing to depart from the long-settled maxims of experience. The law of 1820 was introduced from a sense of necessity; it was founded upon the experience of the Government in time of war, and I have never before known an effort to repeal this particular provision. I have no doubt that if the Senate were to do it, the repeal would either be a dead letter, or we should expose ourselves to the most serious embarrassments.

Mr. PEARCE. Mr. President, I concur entirely with the Senator from Virginia, in his wish that the amendment of the Senator from New Hampshire should not be adopted by the Senate. We had this whole subject discussed very fully in the Senate about six years ago, and some reforms, as they were thought, were then introduced. We passed an amendment to the Army appropriation bill, which prevented the transfer of funds, as a general thing, from one branch of the service to another. That was the subject of debate, as also this clause, in the act of 1820, by

which the right was reserved to the War Department of making contracts without authority of law, or without appropriations first made by Congress for certain branches of the public service. Well, sir, as the Senator from Virginia just now observed, this provision of the act of 1820 was founded upon the knowledge which experience had given to us. It was passed during Mr. Monroe's administration; and the Senate will recollect that he was acting as Secretary of War during a considerable portion of the latter part of the war of 1812, and I presume that those who are conversant with the affairs of that period must be aware that Mr. Monroe had to make contracts for the support of the Army without authority of law, and to throw himself upon the country for his justification under the public necessity which urged him so to do.

In 1820, when Mr. Monroe was President, he himself, as I have understood, suggested the amendment in the act of 1820 by which this authority was reserved to the War Department, for very obvious reasons. It is impossible to tell in advance what the exigencies of the service may require in regard to the support of the Army. You cannot tell whether a foreign foe, or a domestic one, in the shape of wild Indians, may not seize upon your convoys of provisions. In that case, if your War Department is not authorized to make purchases of provisions without a previous appropriation or law authorizing them, your Army will starve. Their clothing may be required to be renewed at a time when there is no appropriation for it. So of the covering of the Army—by which I mean the tents. Besides, it is impossible to tell how the troops may be directed to move, and what cost of transportation may necessarily follow. It is because of the impossibility of understanding beforehand what these exigencies may require in this respect, that the authority is given to the War Department to make these contracts after the manner specified in the act of 1820.

Now, sir, I do not propose to argue this subject at length, because it seems to me the considerations are very palpable, and must strike any one who will examine the question; but I will suggest to the Senator from New Hampshire, that if his object is a substantial, temperate reform, he may accomplish it by an amendment of the law, by adding a requirement, by which it shall become the duty of the President, whenever any such contract shall be made under the authority of the sixth section of the act of May 1, 1820, to report specifically all the facts attending the making of such contracts, and the reason and necessity for them to Congress. That certainly will make the responsibility more direct.

Mr. FESSENDEN. There is a provision of that sort somewhere now. I have seen it.

Mr. PEARCE. There is a general provision in regard to all contracts made; but what I suggest—and I am not aware that there is any such provision in the law now—is that there shall be a report of the contracts made under authority of this section of the act of 1820, that would bring the subject immediately, with all the reasons and circumstances, to the notice and knowledge of Congress. Congress might then see whether this authority had been abused or not. I admit, sir, that it is an authority liable to abuse; but what is there that is human, and which is confided as everything must be confided, to the discretion of some one, which is not liable to abuse? You cannot avoid that liability unless you cut up, root and branch, the entire service. I do not think it is advisable to repeal this section.

Mr. SIMMONS. I wish to inquire of the Senator from Virginia, who has suggested a change in the commencement of the fiscal year, at what time the appropriations for the present fiscal year were made? Were they not made at the last session?

Mr. HUNTER. Yes, sir.

Mr. SIMMONS. When would they have been made, if the fiscal year had commenced on the 1st of January, instead of the 1st of July? Would it not have been at that session?

Mr. HUNTER. Under the present fiscal system, they must always be made more than a year ahead. When the fiscal year commenced on the 1st of January, they were never made as much as a year ahead.

Mr. SIMMONS. Suppose the present fiscal year, which commenced on the 1st of July, 1857,

had commenced on the 1st of January, 1857: when would the appropriations for it have been made?

Mr. HUNTER. Last year was the short session. They probably would have been made in the last of February, or beginning of March.

Mr. SIMMONS. Then that would have been two months after the fiscal year began. If the fiscal year commenced on the 1st of January, and you made your appropriations for it at the end of February, 1857, would not that have been two months after the year began?

Mr. HUNTER. I stated that there was a partial appropriation bill which might be passed in December to meet the wants of the Government for those two months, until the general bill could be passed.

Mr. SIMMONS. That is the very fact which I wanted to call to the attention of the Senate. The Senator from Virginia said these deficiency bills had been frequent in time past; but the fact was that those deficiency bills, as he calls them, were for the two first months of the fiscal year that had not been provided for. They were new appropriations, not deficiency bills; and it was the difficulty of providing the appropriations in season, the commencement of the session being on the 1st of December, and the fiscal year commencing in January, that led to changing the commencement of the fiscal year to the 1st of July, leaving the entire session of Congress in which to make the appropriations. Therefore, the reason which the Senator assigns for the present immense deficiency bills fails; they could not have originated from any such cause as he supposes in times past. They result from a change in the character of the administration of the Government—not the change of the fiscal year. Now I should like to ask the Senator how it is that the appropriations are made eighteen months ahead, as he says. At the last session, Congress made the appropriations for the present fiscal year.

Mr. HUNTER. I did not say the appropriations were made eighteen months ahead, but the estimates are. They come in on the 1st of December, six months ahead of the commencement of the fiscal year.

Mr. SIMMONS. I want to call the attention of the Senator to his proposition for changing the fiscal year. He says he will do that as a means of relieving us from these deficiency bills. Now, Mr. President, there is a year's service estimated for prior to the commencement of this session of Congress that we are now in; to bring it home to ourselves—and we can understand it better in that way—that is, a year's service commencing on the 1st of July next, and ending July 1, 1859. There is in every appropriation bill an amount sufficient for every Department for a year; when five months of the year have gone by, Congress comes here again; and if we cannot come as near as five is to twelve in providing for a year, I think we must be very thick-headed. Here is a deficiency bill of \$7,000,000 for the Army; and that Department must have exhausted all the appropriations for the year ending July 1, 1858. We are asked for \$7,000,000 of deficiencies; and I do not know but that we were asked for it the first day we got here. I do not know when this commenced. I do not know but that this deficiency was ascertained and reported to Congress at the commencement of the session, when only five months of the fiscal year had expired.

Mr. HUNTER. The Senator is mistaken. These deficiencies were not reported in the annual estimates. They were reported by special estimate afterwards; nor are they all deficiencies. They are some of them additional appropriations, and if passed, some of them would be deducted from the annual appropriations for the next fiscal year.

Mr. SIMMONS. I understand; and if they are appropriations going into the next fiscal year, they are improperly called deficiencies—most assuredly they are. They are either appropriations for this year, to make up deficiencies in the appropriations which were made at the last session, or they are improperly in this bill. If they are appropriations for the next year, let them go into the next year's bill; they do not belong here. That is my notion about it, and I suppose the Senator from Virginia will agree with me.

Mr. HUNTER. If the Senator from Rhode Island knew the reason, I think he would not

express that opinion. We are asked to make these additional appropriations a year ahead, because we can transport the provisions to Utah more cheaply when there is grass on the plains, and the teams can be subsisted on it as they go, than if we wait until that has disappeared. It is because it is more economical to make them ahead, that they are now asked. In regard to the name, I acknowledge it is not a deficiency, if that is what the gentleman sticks upon.

Mr. SIMMONS. No, sir; I never stickle about names. What I mean to say is, that if we should make an appropriation for the year ending on the 1st of July, 1859, at an earlier period than usual, on account of the grass, let us make it at an earlier period on account of the grass, and not call it a deficiency. I do not see that there was any necessity for making contracts a year ahead, or before this bill had passed. I cannot conceive of that necessity. But what I spoke of was in reference to calling the attention of the Senator from Virginia to a mistake that I thought he had made as to the convenience of having the fiscal year end on the 30th of June instead of the 31st of December. It was a uniform difficulty to prepare the estimates of appropriations in the course of the month of December, for the entire year then to come; and for the partial appropriations, as he calls them, there was a proper appropriation bill, and afterwards an additional appropriation bill. For that reason the system was changed, and, I think, judiciously changed. Everybody must see that we are now, at this day in April, yet without the appropriation bills passed; and, if the fiscal year commenced on the 1st of January, three or four months would have elapsed before we got any appropriations; so that there is no reason for a change. Such a change would not remove the difficulty; and I think the Senator will admit that we should be hurried to make the appropriations in the four weeks of December, instead of having five months, as we now have, in which to make them.

With respect to the provision of the law of 1820, I can see no difficulty that would result from the amendment proposed by the Senator from New Hampshire, except in a time of war, and if the bill is about to be adopted, it ought to have that provision in it. No forecast can provide against contingencies that may happen during a foreign war. Nor can I understand myself what is supposed to have been the difficulty that suggested this exception in the law. The Senator from Virginia says that the experience of the war of 1812 had suggested this modification. I do not know that there ever was such a law before 1820. Perhaps there was; but if this is the first law that limited the discretion of the Departments in this respect, it is very singular that there should be an exception that was suggested when there was no law that limited the discretion. It does not purport to be the amendment of a law; and we went through the war of 1812, it seems, without such a limitation on the discretion of the President or the Departments; and when Congress made this law, it was probably suggested to omit the matter of supplies and transportation for convenience, because then the fiscal year commenced on the 1st of January, and Congress only met four weeks before, and it was a nice point to calculate when eleven months of one year remained before Congress would be together. But is there any such trouble in calculating expenditures when we are to meet within five months after the fiscal year begins? There is no such trouble; and I say there is no man worthy of a seat in any Department of this Government who cannot estimate its expenditures so as not to be deficient before Congress comes together, when less than half the year has expired; and I think the Senator from Virginia will agree with me that there is no danger of any inconvenience from it, except in time of war; and in time of war we might very easily confer this discretion.

I am willing to give enough to fight the enemies of the country to the best advantage, and not think much about the cost. That is my opinion about fighting; but in time of peace, piling up these little petty expenditures for the purpose of making contracts, and making contracts for the purpose of getting votes to carry expenditures, is what I do not like. I want some restraint on them. I do not like the notion of men making contracts on account of the grass being more

favorable in winter than it will be after the next July. If there are any real deficiencies, I am always ready to vote them; I am not going to cavil about a few dollars. I think we ought to make fair, liberal, and just appropriations; make them in season, and support the Government, and sustain it in every department, and not be higgling about small sums. But then I want to hold the heads of Departments to a just responsibility as to their estimates, and as to the execution of the appropriations we make. I do not understand, and cannot understand, by what authority an Executive Department of this Government says, when five months of the year have gone by, "we will transfer seventeen millions of the appropriations of last year over to the expenditures of the next year." Why, sir, we might as well not have any Congress if we allow that to be done. I see in the Treasury report, made on the 8th of December last, that there were somewhere between sixteen and seventeen millions of appropriations for this present year that we are going through, that had been decided to be postponed until the next fiscal year. Where is the authority to do it? I should like to know. When we undertake to appropriate money for a year, to be expended in that year, we do it with some intelligence, I take it. We think it ought to be appropriated and it ought to be expended; and the Executive is the man to carry out the will of Congress in that matter, and he has no more right to carry up seventeen millions of appropriations to another year than he has to put his hand into the Treasury and take seventeen millions out of it. I do not mean to hold him to any nicety about these matters; but when I see millions appropriated by Congress last year, to be expended in that year, carried over in a lump to be expended in the next year, I want to know what authority there is for it, and I should like the Senator from Virginia to enlighten me, because this is a new thing in my experience; I never knew it to be done before.

Mr. HUNTER. If the Senator had looked to the law providing for the surplus fund, he would have found that it is especially provided that an appropriation may be used for two years, and after that time it goes to the surplus fund, and cannot be used. There is express law for it; and where there are outstanding balances for one year applicable to another year under that law, the Secretary refers to that fact as a reason why he diminishes his estimate for that service. There is a law for it, and always has been.

Mr. SIMMONS. The statement in the Treasury report was, that there were \$17,000,000 of the appropriation for the year ending the 1st of July, 1858, that would be carried over to the year ending the 1st of July, 1859. There may be some floating balances, for all I know; but I noticed that there was one item alone of two or three million dollars, appropriated to public buildings, that was to be carried over. I have no objection to its being carried over, if there is no money; but the reason ought to be assigned why it is not spent in the year in which it is appropriated to be expended. That is what I want. If the President had said, "here are two, three, or four million dollars appropriated for public buildings; we are short of money, and I concluded not to expend it," that would be a good reason. But this mere carrying it over without assigning any reason, is what I complain of. It is of the same character with the making of contracts committing the faith of the Government to expenditures without authority.

I have no disposition to complain of these things; but if we undertake to define the duties of the Executive Departments of this Government; if we take the obligation upon ourselves to make the appropriations intelligently, we ought to confine the officers—no matter how high they are in authority—to carrying out the true intent and meaning of the law. As I said before, I can see no practical difficulty in any Secretary of War, or Secretary of the Navy, making proper estimates when we meet here, before one half the fiscal year has expired. If these contracts were made since Congress came together, without notice to Congress that the appropriation was exhausted, they were improperly made—there is no doubt about that. We were here, and it was the duty of the President or his Secretary to tell us that he needed a further appropriation for transportation, clothing, &c.; that it had been exhausted on account

of the troubles in Utah; and to ask for an appropriation. Was not that within his competency? Was there any inconvenience in it?

I have no motive to make any charge against the Secretaries at the head of our Departments. I do not know who these contractors are; I pay very little attention to these matters. My attention would not have been called to them but for the remarks made by the Senator from Virginia, who went back to the change of the fiscal year to cover up what I suppose to be a very improper contract made when Congress was together without consulting Congress. I should like to know what the appropriations for the War Department were last year, for this item of transportation and subsistence—perhaps many millions. If, on the 8th of December that fund was exhausted, was it not the duty of the President and Secretaries, in making their reports, and submitting their estimates to us, to state that these items of appropriation were exhausted during the first five months of the year, and to ask an early appropriation to supply the deficiencies for this year, and not have made contracts until they got an appropriation? If we had refused to make the appropriation, the responsibility would have rested on us. I have no idea that the Congress of the United States would refuse in such a case. At any rate my deliberate judgment is, that the power to refuse is with us, and with no other body. I am not going to part with it on any pretense about altering the fiscal year, or the end of it, or the beginning of it. I mean to hold this power as long as I sit here; I mean to deal liberally with all the Departments of this Government, but I mean to hold them to the responsibility that the Constitution has imposed upon them; that is, that they shall have the appropriations before they make the expenditures, and that they shall not commit the faith of this Government without first obtaining the consent of Congress to such an act.

Mr. HALE. Mr. President, I think it will be obvious to every member of the Senate who will give any attention to this matter, that the sixth section of the act of 1820 wants some amendment, because while the prohibition against entering into contracts applies to some of the Secretaries, and the exception applies to some of the Secretaries, there are two heads of Departments who are not mentioned either in the license or the exception, and they are the Postmaster General and the Secretary of the Interior, for the words of the law are:

"That no contract shall hereafter be made by the Secretary of State, or of the Treasury, or of the Department of War, or of the Navy, except under a law authorizing the same," &c.

So the restriction is not made to apply in express terms to the Postmaster General, or to the Secretary of the Interior; but when it comes to the exceptions, they relate to certain Departments of the Army and Navy. The Postmaster General and Secretary of the Interior are left out altogether.

Now, sir, the honorable Senator from Virginia—I listened to him with a great deal of care—admitted that there was an evil. He suggested no remedy. I am perfectly satisfied that if you do not adopt this remedy, there will be none. Adopt it this year, and the evils which he imagines, will not exist in point of fact. We got along in the years 1853, 1854, and 1855 without any of these extraordinary contracts being made by the War Department. There was no deficiency asked for either of those years. The Secretary of State and the Secretary of the Treasury have no such authority at any time, in peace or war, and my amendment, if it passes, will simply leave the other Secretaries under the same restrictions that they now are.

The honorable Senator from Virginia has a good deal to say in commendation of this provision because it is an old one, passed in 1820. Well, sir, I recollect that, a few years ago, a proposition was made to repeal a famous act, passed in 1820, for which he had not such great regard, and he was one of the swiftest to repeal it; and the fact that it was passed about that time, did not commend itself to his particular favor. Nor should it be said that the experience we have had under it demonstrates its wisdom. Sir, the experience we have had under it demonstrates its folly, and demonstrates its mischievous tendency, which is to create these very deficiency bills.

I made one statement yesterday as to which

the Senator says I am mistaken in point of fact. Well, sir, if there is one single department of this Government in which I have unlimited confidence, it is the office of the Secretary of the Senate, and the clerks under him. I never found any want of accuracy or fidelity there, nor any want of disposition to accommodate those who had occasion to go to their office. Knowing their proverbial accuracy, I went to that office, and ascertained, from an examination made at the office by the clerks, that 1844 was the first year we ever had one of these bills passed. Then I turned to the debates which had taken place when it was introduced, and I saw that it was denounced on this floor as extraordinary, and unconstitutional.

Nor, sir, have I said that literally a deficiency bill is unconstitutional; but I have said, and I say now, that it is a violation of the spirit of the Constitution. I said it was an observance of its letter. The letter says that no money shall be drawn from the Treasury, except in consequence of an appropriation made by law. We keep the letter of it, but we as palpably violate the spirit of it when we confer upon a subordinate officer the authority to pledge the faith of the Government for a debt, as we should if we authorized that officer to put his hand into the Treasury and take the money out, because it is substantially taking the money out. The public faith is pledged; the public faith must be redeemed; and the money is appropriated whenever the public faith is pledged, and after that the passage of an appropriation act is nothing but a mere form. It is just exactly like a treaty made by the President and the Senate. They pledge the public faith to the payment of certain sums, and the Congress of the United States have always felt themselves bound by honor, by their position, to meet appropriations made by that Department of the Government, and they always will. So, sir, it is virtually, not literally, a violation of the Constitution.

The honorable Senator from Maryland suggests something like a remedy, but he will pardon me if I say to him that it is no remedy at all. It is simply calling upon the President, if these extraordinary emergencies arise, when Congress meets to submit the reasons which have induced him to do it; and I am told by the honorable Senator from Maine that there is substantially a law like that now. Mr. President, we have tried this; we know what the result is. We know that now we are called upon for appropriations for deficiencies amounting to nearly ten million dollars, seven or eight millions of which are for the War Department, a sum nearly equal to the whole expenses of the Government thirty years ago, in 1828. We are called upon, in addition to the \$65,000,000 appropriated last year, independent of any new appropriations under the operation of this bill, to appropriate this sum now as a deficiency. When we see the evil, when we see to what it has led, why not apply this remedy? We have seen that the Government have got along within a very late period, in 1853, 1854, and 1855, without any such license; and if they got along in 1853, 1854, and 1855, why may they not get along just as well in 1858, 1859, and 1860?

Besides, sir, these appropriations, if you will insist on giving this power, might be limited to certain contingencies which should be first ascertained to exist; but as it is now, it is an unlimited license, and a license deposited in the hands substantially of one of the subordinate officers of the Department of War, to wit, the Quartermaster General. So far as that man is concerned, all the machinery of the Constitution is virtually a nullity under the operation of the sixth section of the act of 1820, and there is no limit upon the power which he may thus exercise, and no limit upon the extent to which he may thus, in substance, expend the public treasure.

I should be glad if somebody that is in the majority—somebody that is responsible for the doings of this Administration—would suggest some remedy by which this leak is to be stopped, this evil is to be remedied, and this wrong is to be redressed. But, sir, as those gentlemen do not bring forward anything, as the Committee on Finance do not propose anything, although I am in the minority, and a small minority, in this body, I cannot divest myself of the responsibility which belongs to me as a Senator in suggesting what I believe to be necessary for the redress of those wrongs which I see perpetrated.

But, sir, it is said that Providence never sends any affliction that does not bring a blessing with it; and I rejoice and thank God that there will grow out of what gentlemen are pleased to denominate the great commercial crisis through which the country has just passed, a stern law before which even your Administration must bend, powerful as it is—and that is the law of necessity. You have not got the money to spend, and you cannot get it. We have already given the Administration power to issue twenty millions, and they will be here in a few days, asking for authority to borrow twenty or thirty millions more; and if this loose mode of appropriation continues, we must go on spending and borrowing just as long as anybody will lend to us.

I can hardly refrain from a smile when I hear a man talk about the specific appropriations which we make. I wish that somebody would look at some dictionary, and see what "specific" means, and then read some of the sections in this bill. I will read one clause, to show how specific it is:

"For incidental expenses of the quartermaster's department, consisting of postage on letters and packages received and sent by officers of the Army on public service; expenses of courts-martial and courts of inquiry, including the additional compensation to judge advocates, recorders, members, and witnesses, while on that service, under the act of March 16, 1802; extra pay to soldiers employed under the direction of the quartermaster's department, in the erection of barracks, quarters, storerooms, and hospitals; the construction of roads, and other constant labor, for periods of not less than ten days, under the acts of March 2, 1819, and August 4, 1854, including those employed as clerks at division and department headquarters; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters, other disbursing officers, and trains, when military escorts cannot be furnished; expenses of the internment of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including hire of interpreters, spies, and guides, for the Army; compensation of clerk to officers of the quartermaster's department; compensation of forage and wagon masters, authorized by the act of July 5, 1838; for the apprehension of deserters, and the expenses incident to their pursuit; the following expenditures required for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and such companies of infantry as may be mounted, viz, the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and shoeing the horses of those corps, \$190,000.

All these things are put together under one head, and the sweeping sum of \$190,000 appropriated for them; and that is called a specific appropriation. I should like to know, in the name of Heaven, if that is a specific appropriation, what a general one would be; for this puts together every imaginable item that can possibly be thought of, some of them as dissimilar as any two items can be, under one head, and appropriates \$190,000, and that is called a specific appropriation. I am perfectly satisfied that if we do not apply some such remedy as this, we shall apply none. If we apply this, and it fails, or any mischief comes from it, Congress will be together in a short time, and it can be repealed. But the great difficulty in the way of my amendment is a very singular one. We have been a nation about seventy years, since the adoption of the Federal Constitution, and we have been engaged in a foreign war twice; and because it may be necessary to give this extraordinary discretion to the Secretary of War in time of war, we are going to make it a general provision, governing all time, both in war and in peace. As was well said on another occasion, what was intended as an extreme medicine to a sick patient we propose to administer as his daily food, and let the Government have the exercise of a discretion every day in time of peace, which it is admitted there is no possible excuse for except in time of war.

I will not trouble the Senate any longer, but merely close what I have to say by asking, that when the question be taken on my amendment, it be taken by yeas and nays.

The yeas and nays were ordered.

Mr. FESSENDEN. I suggested to the honorable Senator from Maryland, that there was already a provision of law somewhere which I had seen, as I thought broad enough to cover the suggestion made by him. I will call his attention to it. It is a provision in the act of April 21, 1803:

"SEC. 5. And be it further enacted, That from and after the passing of this act, it shall be the duty of the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Postmaster General, annually to lay before Congress a statement of all the contracts which have been made in their respective Departments during the year preceding such report, exhibiting in such statement the names

of the contractor, the article or thing contracted for, the place where the article was to be delivered, or the thing performed, the sum to be paid for its performance on delivery, the date and duration of the contract."

Mr. PEARCE. I was very well aware that there was such a law as that, requiring all contracts to be reported to Congress; and mixed up with the general mass of all contracts, our attention is not likely to be drawn to these special contracts, made under authority of the act of May, 1820. I thought, therefore, we should have the matter brought more immediately to our observation, and have a more direct responsibility enforced, if there were special provisions requiring a special report of contracts made in virtue of that authority, to be submitted to us at the next session of Congress.

Mr. FESSENDEN. I do not know whether the provisions of this fifth section of the act of 1808 have been followed or not. I am not aware of any such document annually communicated to Congress.

Mr. HUNTER. It is communicated annually I think. For the last two or three years it has not been printed, but it is annually communicated.

Mr. FESSENDEN. I know there has been a very great call during the present session of Congress for contracts made by the War Department, and it has been somewhat difficult to obtain them; but if this provision of law had been complied with, those contracts certainly would have been laid before us—all that were made in the recess of Congress at the commencement of the Congress; and we should have had them before us.

Mr. PEARCE. You could not discriminate, if they were.

Mr. FESSENDEN. We might very easily discriminate, by looking over the report. If you appended a provision of this description to every appropriation bill, it might make the duty more specific, and call it to the attention of the officers. I am very much inclined to think that the duty under this law has been wholly neglected.

Mr. President, so much has been said in relation to contracts made by the War Department, that I have had occasion to inquire a little where the authority originated, and how it has been exercised; and I have come to the conclusion, from my examination, coupled with what gentlemen have said as to the practice, that it must have been before the act of 1820 a common practice under the laws organizing the Departments for the heads of the different Departments to make contracts in advance of appropriations whenever necessity required it. The law, in the different acts organizing the Departments, specifically gives to the heads of those Departments the power to make contracts. It does not say expressly whether they shall make the contracts when they have the money to found them upon, or in pursuance of specific objects prescribed; but says simply, in general terms, that they may make contracts with reference to the affairs of their Departments. I presume, therefore, as that power had existed ever since the formation of the Departments, that up to the year 1820 there had been a somewhat indiscriminate exercise of the power, and that the effect of the law of 1820, and the intention of that law, were to limit that power; and it had an effect to limit that power in all except these specified instances, because the provision there is precisely the same in its terms with the language of the amendment of the Senator from New Hampshire, which, I suppose, he took from the provision of the law of 1820; and then follows the exception which he now attempts to strike off. For reasons which were satisfactory to the Congress at that time, I suppose, Congress came to the conclusion to take away the power from the heads of Departments to make contracts except in the specified exceptional instances named in the law of 1820, referring to the quartermaster's department and certain other matters connected with the War and Navy Departments.

A few days ago the Senate, on my suggestion, called upon the Secretary of War for an enumeration of the contracts made by him during this session without previous notice being given. In reply to that, we find a report in which he tells us that since Congress has been in session there have been some six or eight very important contracts for transportation, and for the purchase of horses and stores, and for one thing and another for the Army, made without previous notice, without

calling for bids or anything of that description. It may not be known generally—I have not seen it adverted to anywhere, but the truth of the matter is—that that power to make contracts without previous notice in that way, has been exercised entirely against law, and exercised under the alleged authority of this provision of the act of 1820, which does not give it. The act reorganizing several of the Departments in 1809—the year succeeding the passage of the act from which I before read—contains this provision:

"Sec. 5. That all purchases and contracts for supplies or services which are or may according to law be made, by or under the direction of either the Secretary of the Treasury, the Secretary of War, or the Secretary of the Navy, shall be made either by open purchase or by previously advertising for proposals respecting the same."

Then it goes on:

"And an annual statement of all such contracts and purchase, and also of the expenditure of the moneys appropriated for the contingent expenses of the military establishment, for the contingent expenses of the Navy of the United States, and for the discharge of miscellaneous claims not otherwise provided for and paid out of the Treasury, shall be laid before Congress at the beginning of each year by the Secretary of the proper Department."

There is a specific provision that in all cases, except where the Department goes into the market and buys with money, all contracts made by the Departments must be on previous notice given. Well, sir, the provision of the law of 1820 does not change that at all, as will be observed on reading it. It reads as follows:

"Sec. 6. That no contract shall hereafter be made by the Secretary of State or of the Treasury, or of the Department of War or of the Navy, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; and excepting, also, contracts for the subsistence and clothing of the Navy or Army, and contracts by the quartermaster's department, which may be made by the Secretaries of those Departments."

You will observe, sir, that although the last clause of that section allows the Secretaries of War and of the Navy, in certain excepted cases, to make contracts without an appropriation, yet the law of 1809 still remains in existence, and that law provides that if they make them, they must make them after previous notice. Well, now, sir, the Secretary of War, in half a dozen instances since this Congress has been in session, as proved by the papers on your table, has assumed to make contracts for provisions of clothing, for transportation, for horses, and for different things, which are enumerated in his communication, without any previous notice whatever. He has taken the exercise of that authority upon himself. When this exception was made, in the act of 1820, and Congress undertook to say that no contract should be made except in pursuance of appropriation, unless in certain specified cases, the idea was that those specified cases should be protected by the positive law of 1809, which provided that notice should be given and fair bids received. But the Secretary of War, in repeated instances, even since this session of Congress commenced, has, according to his own showing, made contracts to enormous amounts, without any sort of previous notice to anybody, and without affording any chance for competition. I presume there can be no dispute about that.

That is the state of the case with regard to the contracts. I have stated this because it seems to be connected with the proposition made by the Senator from New Hampshire to take away entirely this power of making contracts. Whether it is expedient to remove it entirely or not, I am not exactly convinced. I think there is very much in the suggestions that have been made by the chairman of the Finance Committee on this subject, that with our very extended territory and in the situation in which we now find ourselves frequently during the recess of Congress, probably there may be cases where it is impossible to wait for an appropriation when new emergencies arise.

Senators, however, have suggested that that should be confined to a case of war. Well, now, the trouble is, as suggested by the chairman of the Finance Committee, that we are always liable to sudden wars—not with foreign Powers, but we are eternally liable to difficulties with Indians, difficulties upon the frontiers. All appears to be very fair and smooth to-day, and to-morrow, by somebody's fault, whether the fault of the Indians or the fault of the whites, we are plunged into difficulties with the Indians, and compelled to remove troops and to purchase supplies, to acquire what we had not before. The question then arises

as has been stated, whether Congress shall be called together to meet that emergency, taking all the time that it does to call Congress together and legislate, or whether the power to purchase the necessary articles for the time, those that are absolutely essential at the moment, shall be lodged where it is now, in the quartermaster's department, but at the same time requiring, in order to protect it and see that everything is fairly done, that it shall be done in such a way as not to give power to the Department to exercise favoritism, or to put money into the hands of people more than ought to be placed there for the purpose which is sought to be accomplished.

However that may be, there is certainly one thing which might be done. It is very certain, as suggested by the Senator from Rhode Island, that when Congress is in session there is not the slightest excuse for the Secretary making these heavy contracts without consulting Congress. Instead of undertaking to make contracts in advance of appropriations, and contracts to the amount of millions when he can come to those who are, by the Constitution, entitled to exercise the power of appropriating money for specific purposes, for the support of the Army, it is his duty to come there, and the duty of the President to come there, and not assume (under an exception in the law which is intended to meet an emergency when Congress is not in session) to make these enormous contracts, and thus to carry out objects that he may choose to think ought to be accomplished, without consulting Congress, who are not only the power to appropriate money but the war-making power in addition. Yet, sir, in this particular instance this is what the Administration has done, there is no question about it. Not only has it assumed to make contracts contrary to the express provisions of the law upon that subject, and contracts to enormous amounts; but it has assumed to make those contracts at the very time Congress was in session here at the Capitol, when all the Administration had to do was to go to that branch of the Government invested by the Constitution with the power to appropriate money, and with the power to declare war.

No one can hesitate to say that here is an enormous abuse and an enormous assumption. It is on the part of the executive Government taking into its own hands two of the most important, most necessary, most essential safeguards thrown around our system of government. One is, that the money of the Government shall not be used except by the consent of Congress; and this safeguard is got rid of by the Executive making the appropriations, not directly, but indirectly, as the Senator from New Hampshire states. Next, they appropriate money thus obtained, to be expended by contracts for the materials which they wish to procure by money, in order to carry out a purpose which Congress, being in session, might not approve, and upon which they should be called upon to decide and judge.

It was with reference to that particular view of the subject that I called for this information; and the response to the call will show any Senator, on the very face of the paper that is printed and laid on our tables this morning, an admission by the Secretary of War that that has been done in numerous instances, and to large amounts. We did not call for a still more important contract, which I should like to see; but I believe it is mentioned in a document in the possession of the chairman of the Finance Committee; and that is the contract for transportation, which I think is the largest and most important of all. I believe that contract was also entered into without notice, with Majors & Russell. It is referred to in the document giving a list of contracts, which I believe came from the other House. That contract covers the enormous transportation of materials to Utah—I think for twenty months ahead, giving the prices. I do not know whether those prices are too high or too low, or anything about it; but the aggregate amount is enormous; and you find this proved by the amount called for in this bill to be appropriated, between five and six million dollars, for the transportation of the Army and of supplies alone; and yet that contract, unless I am very much mistaken—and if I am mistaken the document will show it—has been entered into since this Congress has been in session, for the transportation of troops and supplies to Utah, without any pre-

vious notice whatever, and without calling on Congress in any way to notice the fact.

Now, sir, I impute no wrong intention to the Secretary of War or to these people—that is to say, nothing in the detail. They are wrong in the very start, in my judgment, in reference to this expedition to Utah; but in the detail, I presume, because I take the most charitable construction, that they really did not know what the law was. The truth is, that our officials have been in the habit so long of going on just as they pleased in reference to money matters that they do not now much trouble themselves to inquire what the law is. I say, sir, that my attention has been called to this matter in reference to some amendment necessary to be made, and I have drafted one. I am not certain that it is perfect by any means; but I will send it to the Clerk's desk in order that it may be read, that the Senate may see how far I propose to go.

The Clerk read the proposed amendment, as follows:

And be it further enacted, That no part of the amount appropriated by this act for the service of any one fiscal year shall be used for, or applied to, the service of any other year, nor be transferred to, or used for, any other branch of expenditure than that for which it is specifically appropriated; and no contract for Army supplies, or service of any description, shall be hereafter made during the session of Congress, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; nor shall any such be made hereafter, at any time, without previous public advertisement for proposals respecting the same.

Mr. FESSENDEN. That is substantially re-enacting one or two provisions already in the law, but which have been inserted in appropriation bills heretofore, and might possibly be considered as not operative at the present time. The provision restricting the Secretaries from making any contract whatever during the session of Congress, in advance of supplies, is new. I drew it yesterday; and I am very glad that my friend from Rhode Island seems to entertain the same opinion I do upon that subject. It was as far (with the reflection I had been able to give to the subject of restricting this power to make contracts, considering the great extent of our country, and the duties the Army has to perform, and the contingencies that may arise) as I had deemed it safe to go. Perhaps I am in error; certainly I have no particular attachment to the provision that would induce me to stand to that, in the place of a better one.

The first provision of the amendment I have suggested, preventing the application of money which is voted for one year to the service of another, I believe to be exceedingly necessary. Now it is sometimes the case that the Government undertakes, when it finds a balance in its hands, to misappropriate it—to appropriate it contrary to the directions of Congress. We have had a striking instance of this shown in a document which I have before me, and in a communication made to the other House which I saw in the newspapers. The last Congress expressly refused to appropriate money for the service of a particular year in the Territory of Kansas, to pay the Territorial Legislature. We find, however, by the returns of the expenditures, that \$10,000 or \$15,000 has been paid for that purpose. The question arose, where was the money obtained? and in response to a call upon him, the Secretary of the Treasury states, without a word of apology or explanation, that the money had been taken from a previous appropriation, an appropriation for a preceding year, which was on hand, and thus persons were paid whom Congress had expressly refused to pay. I give that as an illustration. Congress might have been wrong and unreasonable in that particular instance; but if the Secretary of the Treasury can use his own discretion in one case, he may use it in another. If he may undertake to say that Congress is wrong in a particular instance, and that he will appropriate money for paying what they say ought not to be paid and what they refuse to pay, from funds in his hands, it is a power that becomes exceedingly dangerous in its use and exercise. He may do it at any time, and any unused balances that he may find on hand he may appropriate at his discretion. There is a similar provision which was drafted by the chairman of the Committee on Finance in one of the appropriation bills, and I believe it was really in existence at the time this appropriation was made.

Now, Mr. President, there are several objections to this bill, and I may as well, perhaps, state at

this time what I propose in regard to it. The great objection to the bill is really that it seeks to accomplish, by indirection, a purpose which has never been authorized by Congress, and which was undertaken by the Administration, in my judgment, without any proper authority. I have made an effort to analyze the bill, and it is almost impossible to make any analysis of it, and to find what properly belongs to one year and what properly belongs to another; what should properly be appropriated and what should not be appropriated; but yet I have succeeded partially, so far at any rate as to be able to draft an amendment which will express the idea I entertain about it. I send that amendment to the desk, and ask that it be read.

The Clerk read the proposed amendment, which is to strike out all the appropriations contained in the bill between line thirty on page 2 and line one hundred and eighteen on page 6, being the appropriations for the Army, and to insert:

To supply a deficiency of appropriations for the regular supplies of the quartermaster's department, in the year ending June 30, 1857, \$279,377 57.

To supply a deficiency of appropriations for the incidental expenses of the quartermaster's department, in the year ending June 30, 1857, \$129,660 20.

To supply a deficiency of appropriations for the transportation of troops and supplies in the year ending June 30, 1857, \$751,487 15.

To supply a deficiency of appropriations for barracks and quarters in the year ending June 30, 1857, \$67,954 30.

To supply a deficiency of appropriations for the regular supplies of the quartermaster's department in the year ending June 30, 1858, \$300,000.

To supply a deficiency of appropriations for incidental expenses of the quartermaster's department in the year ending June 30, 1858, \$60,000.

To supply a deficiency of appropriations for the transportation of troops and supplies in the year ending June 30, 1858, \$500,000.

To supply a deficiency of appropriations for constructing barracks and other expenses incident to the same, and to quarters for the troops, and to storehouses for the safe-keeping of military stores during the year ending June 30, 1858, \$50,000.

To supply a deficiency of appropriations for the purchase of horses necessary to be purchased in the year ending June 30, 1858, for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such infantry as it may be found necessary to mount at the frontier posts, \$100,000.

To supply a deficiency of appropriations for subsistence in kind necessary to be procured in the year ending June 30, 1858, — dollars.

Mr. FESSENDEN. Mr. President—

Mr. HUNTER. Allow me to suggest that it has been stated to me the Senator from Maine is willing that the vote shall be taken on the amendment offered by the Senator from New Hampshire, and then it will be in order for him to offer his amendments.

Mr. FESSENDEN. That suggestion was made to me and I said it was of no sort of consequence to me whether I went on now or allowed the vote to be taken on the amendment of my friend from New Hampshire.

Mr. STUART. I made the suggestion. It seems to me that it would be better to take the sense of the Senate at this time on the amendment proposed by the Senator from New Hampshire, and therefore, I suggested to the Senator from Maine that if it made no difference to the course of his remarks, (and I understood from him that it did not,) it would be better to allow that to be acted upon. I hope the Senate will vote on that question now.

The PRESIDING OFFICER, (Mr. MASON in the chair.) The pending question is the amendment of the Senator from New Hampshire, [Mr. HALE.]

Mr. GREEN. I hope the amendment offered by the Senator from New Hampshire will be voted down. I do not think we ought to introduce anything that would have a tendency to embarrass the public administration of the Army and Navy, and I really think it would have that tendency. Now, I have seen nothing in the conduct of the Secretaries at the head of these Departments to justify any suspicion of their honesty or their integrity; and I believe there must be, there ought to be, a discretionary power left somewhere to supply the wants of the Army and the Navy. As was well explained by the Senator from Maryland, this provision of law was made in 1820, under the advice of President Monroe, who, having been Secretary of War and Secretary of State, and having had much to do with the administration of public affairs, saw the necessity of something like it. Even if Congress were in session, we could not always get the bills through to meet the wants

of the Army and Navy, and it might drive the Secretaries either to disband the Army or lay the Navy up in ordinary. I believe this power to be a necessary means of keeping up the efficiency of the public service, and therefore I shall vote against this amendment.

Mr. HALE. In accordance with the suggestion of some friends around me, I will modify my amendment, though I shall not like it so well myself after it is modified. I propose, after the word "fulfillment," to insert:

Except in time of war with a foreign nation.

So as to make it read:

SEC. 4. *And be it further enacted,* That no contract shall hereafter be made by any officer or agent of the Government, except under a law authorizing the same, or under an appropriation adequate to its fulfillment, except in time of war with a foreign nation; and the sixth section of the act entitled "An act in addition to the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," approved May 1, 1820, be, and the same is hereby, repealed.

I say "war with a foreign nation" so as to exclude these so-called Indian wars.

Mr. POLK. Does the Senator provide for cases of insurrection and rebellion?

Mr. HALE. I do not believe we shall ever have any.

Mr. POLK. I only want to know whether the Senator has provided for them.

Mr. HALE. I have made no provision for them.

The question being taken by yeas and nays, resulted—yeas 21, nays 30; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doollittle, Foot, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Pugh, Seward, Simons, Trumbull, Wade, and Wilson—21.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Biggs, Bigger, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Arkansas, Jones, Kennedy, Mason, Pearce, Polk, Sebastian, Slidell, Stuart, Thomson of New Jersey, Toombs, Wright, and Yulee—30.

So the amendment was rejected.

Mr. FESSENDEN. I now propose this amendment as an additional section, and ask for the yeas and nays upon it:

SEC. 4. *And be it further enacted,* That no part of the amount appropriated by this act for the service of any one fiscal year, shall be used for or applied to the service of any other year, nor be transferred to or used for any other branch of expenditure than that for which it is specifically appropriated; and no contract for Army supplies or service of any description shall be hereafter made during the session of Congress, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; nor shall any such contract be made hereafter, at any time, without previous public advertisement for proposals respecting the same.

The yeas and nays were ordered.

Mr. HOUSTON. I propose to amend the amendment, by adding to it:

To be given at least sixty days before making the contract, in three newspapers printed in the city of Washington.

Mr. HUNTER. If I understand this amendment of the Senator from Maine, it proposes that no part of the money appropriated in this bill shall be used in any other fiscal year than this.

Mr. FESSENDEN. It says that no part of the money appropriated in this bill for any one fiscal year, shall be used in another fiscal year.

Mr. HUNTER. That is imposing a limitation upon the use of appropriations, which is certainly contrary to the usage and the experience of this Government from, I believe, 1795 up to this time. It is a matter of law that appropriations, when once made, shall be subject to the uses of the Government for two years. They endure for that period of time, according to the law and usage of the Government. After that they go to the surplus fund, and can no longer be used by a Department.

Now, sir, there is a manifest reason for this. You make an appropriation for one fiscal year, and it may be that the expenditures within that fiscal year are not known and not audited until the next year, and especially is this the case in a country so large as ours. According to this amendment, however, although the expenditures were made in the fiscal year for which the appropriations were made, yet, inasmuch as they were not known and not audited, the accounts not coming in until afterwards, the money thus appropriated could not be applied to these expenditures. That is not all. There would be a great inconvenience to the Departments if they could not use an appropriation during the period of two years. The surplus for one

year may be transferred over to the other, and a report is made to Congress, showing the amount of these surplus appropriations. They know where they are; they know the amount of them; they know to what purposes they are applicable; and the estimates of the Secretary of the Treasury are founded upon the existence of these surpluses. Where he has a balance of appropriation remaining over from the preceding year, he applies it to the next, and so on, until it becomes more than two years old, and he only asks for enough, in addition, to enable him to carry out the service of the country.

Mr. FESSENDEN. Will the Senator allow me to show him how he has mistaken the provision?

Mr. HUNTER. Certainly.

Mr. FESSENDEN. My amendment is "that no part of the amount appropriated by this act, for the service of any one fiscal year shall be used for, or applied to, the service of any other year;" not that it shall not be paid in the next year, for bills accruing or audited. The authority to pay lasts so long as the debt lasts. The money may be applied for the service of that year so long as it lasts. It does not come in conflict with the law of which the Senator speaks, at all. It only provides that money shall not, without a new appropriation, without the consent of Congress, be taken from the service of the year for which it was appropriated and applied to the service of another year.

Mr. HUNTER. That is a provision to repeal the act in relation to the surplus fund, passed in 1795, which has expressly provided that appropriations, when once made, shall be subject to the uses of the Department for two years.

Mr. FESSENDEN. Very well; but it is for the purposes for which they were appropriated.

Mr. HUNTER. This act has been justified by experience, and this, as far as I know, is the first attempt to amend it. What possible objection can there be to allowing an appropriation, when once made, to be used for two years? After that it goes to the surplus fund, and cannot be used at all. By doing this you enable the Secretaries to get along with a less amount of annual appropriation; because, if unexpected accounts should be brought in, matters which had not been audited before in the preceding year, they could be paid out of any balance that remained of an existing appropriation; and here is a fund upon which they might rely. If, on the contrary, you make the appropriation last but one year, you require them to come in every year with estimates for new appropriations, and require reappropriations of these balances; you expose them to these inconveniences in relation to amounts which may not come in from the expenditures of the year before.

Mr. STUART. If the Senator will pardon me, I wish to interrupt him for the purpose of drawing his attention to what I understand to be the effect of the amendment, if I do understand it; and I should like to hear the Senator's objections to it, if there are any. I understand that the design of this amendment is to prevent transfers by using money appropriated for one purpose for another distinct purpose. In order to effect that object, the Senator from Maine has introduced this language in regard to appropriations for the service of a particular year. It is all to carry out the object of preventing the use of money appropriated for one purpose for another and a distinct purpose—not to limit it at all, for, as the Senator from Maine has remarked, the appropriation would continue as long as the debt continued, no matter how many years. Until the account came in and was audited, the appropriation made to pay it would stand and would not be limited even to the two years; but the object is to prevent the use of money appropriated for one purpose for any other purpose whatever.

Mr. HUNTER. No, sir; the Senator from Maine desires, by his amendment, to accomplish two objects: one is to confine the use of appropriations to one year, and to repeal this provision in regard to the surplus fund which allows them to be used for two years, and the other is to limit the right of transfers. He has two objects in view, if I understand his amendment, if I do not, he will say so.

Mr. STUART. I hope he will.

Mr. FESSENDEN. The amendment speaks

for itself. The Senator from Virginia was commenting on the first provision, and I will explain it. The provision of law in regard to the surplus is a very plain one. You will find it in the tenth section of an act passed in 1852: "when any moneys shall have remained unexpended upon any appropriations by law," other than certain exceptions therein named, "for more than two years after the expiration of the fiscal year in which the act shall have been passed, all and any such appropriations shall be deemed to have ceased and been determined; and the moneys so unexpended shall be immediately thereafter carried, under the direction of the Secretary of the Treasury, to the account of the surplus fund." That is to say, when money is appropriated to any particular object, except in certain specified cases, and remains unexpended for more than two years after the expiration of the fiscal year, it shall not be appropriated to that object then, but shall go to the surplus fund. That is the provision specifically. The amendment which I have attempted to introduce here does not conflict with that at all, nor attempt to change it. It says simply, "that no part of the amount appropriated by this act for the service of one fiscal year," not shall be used for that year, but "shall be used for, or applied to, the service of any other year." That is a very different thing, as the Senate will perceive. I do not attempt in this amendment to interfere with the provisions in regard to the surplus fund—they stand—but I do attempt to provide that where you appropriate money for a particular object, in a particular year, it shall not be used for the service of any other year. That is all.

Mr. HUNTER. The provision in relation to the surplus fund, which was passed in 1795—the policy has been established ever since then—allows the Departments to use an appropriation for two years, and after that it goes to the surplus fund. No matter when the expenditures were made upon which the accounts are rendered afterwards, it requires a reappropriation after two years. But there were certain permanent appropriations, and there were certain constructions of laws in regard to permanent appropriations, under which it was supposed the Departments had got around the act in relation to the surplus fund, and really used the appropriations for a longer period than two years. I recollect the provision alluded to by the Senator from Maine, for it was introduced on my motion to meet that very evil; but I never dreamed of limiting the power to use appropriations to only one year, or altering the established policy of the Government which allowed them to use appropriations for two years, and then absolutely required the balance to go to the surplus fund. I have always believed that that was a wise policy, and if I recollect aright, the Constitution of the United States specially limits appropriations, so far as the War Department is concerned, to the service of two years. They may be used for two years and no longer.

Now let us take the amendment which the Senator from Maine proposes. An appropriation is made for the next fiscal year, that is, after the 1st of July. Accounts come in for expenditures in May and June. No part of that appropriation can be applied to them. Would not this expose the Department to great inconvenience? It has been the habit heretofore to pay such accounts and such expenditures out of the existing appropriation which can be used until it is more than two years old.

But, sir, it is enough to say that it is changing the established policy of this Government—one which experience seems to have sanctioned for so long a period as that to which I have referred; and I can see no good reason for it. I see no increase of responsibility to be gained by it. I believe the sole effect of it would be to create a necessity for deficiency bills, and to force the Departments to come here and ask for additional appropriations, when they might avoid that necessity by recurring to existing balances of old appropriations which are subject to their use. That would be the whole effect of it. It would multiply the inducements to deficiency bills, and create additional embarrassment and confusion in managing the affairs of the Departments.

Nor is this the time, it seems to me, upon an appropriation bill, to alter the whole machinery of the Government and its established usage, upon

so little notice as this. Would it not be better for the Senator from Maine to originate some system, if he does not like the old one, present it in a separate shape, and give us time to consider it? For one, sir, I believe that, so far as the provision in regard to the duration for two years of the appropriations is concerned, it will be found that there is no good reason for changing it. You will not increase the responsibility of the Departments by doing so; you will not promote economy; and you will certainly expose them to additional inconveniences.

But the Senator proposes to limit the power of transfer still further than it is now limited by the existing law. It is already limited very much in the War Department by the act of August 31, 1852. Let me read the provision of that act:

"That all acts or parts of acts authorizing the President of the United States, or the Secretary of the proper Department under his direction, to transfer any portion of the moneys appropriated for a particular branch of expenditure in that Department to be applied to another branch of expenditure in the same Department, be, and are hereby, so far as relates to the Department of War, repealed; and no portion of the moneys appropriated by this act shall be applied to the payment of any expenses incurred prior to the 1st day of July, 1852."

The experiment was tried one year, as I remember, and did not work very well.

"But nothing herein contained shall be so construed as to prevent the President from authorizing appropriations for the subsistence of the Army, for forage, for the medical and hospital department, and for the quartermaster's department, to be applied to any other of the above-mentioned branches of expenditure in the same department; and appropriations made for a specific object for one fiscal year, shall not be transferred to any other object after the expiration of that year."

So that by existing laws the power of transfer is limited to these objects: appropriations for subsistence, for forage, for the medical and hospital department, and for the quartermaster's department, may be transferred, and none others. Now is it not proper that the right of transfer should exist in relation to these? What would be the effect of repealing this right of transfer? The only effect would be, as I said before, that we should have to make larger appropriations under each particular head, so as to be sure that they had enough, and something to spare. You would only increase the sum total of the appropriations. It promotes economy to allow them to transfer within this limited range.

The amendment of the Senator from Maine contains another limitation as I understand, and that is, to provide that in all cases where contracts are made there shall be proposals published beforehand; and for the purpose of showing the propriety of making this provision, the Senator from Maine refers to the report of the contracts made by the Secretary of War. In regard to the law, I believe it has been the practice of the Department and the construction of the act of 1820, which allows them to make contracts ahead of the appropriation, that it allows them to do it without notice. I believe that certainly has been the practice. It was the construction because the same necessity which required them to have this power to contract ahead of the appropriations, would often require them to contract at once, without notice. Here is one of the very first contracts contained in this document, a contract in regard to the transportation of the troops from St. Louis to Leavenworth. They could not wait to give sixty days' notice for that. What is to be done in such a case as that? Advertise for sixty days before you should move the troops? You are obliged to leave some discretion in the head of the Department in relation to this matter of transportation and subsistence. As to the other contract reported to have been made without notice and without any bid, I think it will be found to be a very good contract when it is examined. I understand there was actually an advertisement, and the lowest bid was fourteen cents. The Secretary refused to accept that, and made this very contract on much better and cheaper terms.

Mr. FESSENDEN. He says there was no notice given.

Mr. HUNTER. He says so because this contract was not given in pursuance of any bid put in under that notice; but I understand the fact to be that there was a notice, but the bids put in under the notice were so high that they were refused and a contract was made with these persons on much more advantageous terms afterwards. I should be willing to accede to any amendment, if

the Senator can designate one, which will require contracts to be made upon advertisement if he can except such cases as these I have mentioned; but it is obvious that it would not do to require the War Department to advertise a contract for transportation when there is a sudden emergency.

If the Senator can discriminate, I would agree to any amendment which would require advertisement in most of the cases. I think they ought to be made. I think that is a safe restriction; but I do not see just now, if we are to tie him up, how we could meet such emergencies as those I have just spoken of. In our western rivers the waters are up to-day and down to-morrow. There might be a fall of waters; a thousand things might occur which might render it exceedingly inconvenient for him to wait until he had given sixty days' notice before making a contract for transportation.

There is another provision in the amendment, that when Congress is in session these contracts must be made upon notice. That the law does not require it, I suppose is evident. That the law of 1890 allows the Secretary to make these contracts whether Congress is in session or not, in advance of the appropriation, I suppose nobody can dispute. Whether it ought to be changed or not, is another question. But I will put this case to the Senator from Maine: in the event that we do change it, what is to become of the contracts made at a distance—made on the Pacific coast, for example, while Congress is in session—made under general authority, of which we could have no notice until after they were made? Are all contracts for transportation or subsistence to be kept back until Congress acts? Is the Secretary to come here for every contract that he makes ahead of the appropriations while Congress is in session, to ask the authority for doing it?

Mr. FESSENDEN. In answer to the Senator, if he requires an answer here, I will say that that is a perfectly clear case, and very easily answered. The Secretary of War makes these contracts. The power is given to him, not to his subordinates. He is in Washington. He is the man to make the contracts. If he wants to make a contract, and Congress is in session, he can have the authority from Congress.

Mr. HUNTER. Does the Senator from Maine suppose that the Secretary of War makes contracts for the transportation of troops from San Francisco to Oregon?

Mr. FESSENDEN. Certainly.

Mr. HUNTER. Surely they are made through his agent. Does he suppose that the Secretary of War made the contract for the transportation of the troops from St. Louis to Leavenworth?

Mr. FESSENDEN. If he does not make them, if they are made by his agents, my answer would be that he has no authority to give his agents power to make contracts, except in pursuance of appropriations in such cases; and he ought not to have it. The Senator concedes that, for everything except a sudden emergency, the power of making contracts without the authority of law should not exist. Therefore, he cannot give instructions in advance to his agents at that distance, because the emergencies are not upon them. The only authority he could give would be for the ordinary service, and for the ordinary service the appropriations are already made; and within those appropriations he can make contracts, because they come within the authority of law. But the case that I want to provide for is an exception. It is the case of sudden emergencies arising, which require contracts outside of and beyond the appropriations, to be made at once; and, with regard to those, nobody can exercise that power but the Secretary of War himself, and nobody would suppose that it should be committed to an agent, under any circumstances.

Mr. HUNTER. I put the case of this very contract for the transportation of the troops from St. Louis to Leavenworth. Was the Secretary of War to keep the troops in St. Louis until he could send for the agents of the Pacific Railroad Company, as they are called, to come on here and make a contract, or was he to authorize his agents to do it?

Mr. FESSENDEN. He must have authorized the contracts.

Mr. HUNTER. How else could he have authorized the contracts except by authorizing an agent to make them? How could he administer his Department without giving a general author-

ity to his agents at a distance? Can he supervise things on the Pacific coast?

Mr. FESSENDEN. The answer is, that that is a very poor illustration; for I deny that there was any necessity at all; I deny the emergency.

Mr. HUNTER. Suppose an Indian war was to break out, and the general commanding makes an order to transfer the troops: would not there be an emergency?

Mr. FESSENDEN. You may suppose a thousand things.

Mr. HUNTER. Take this very case, where it is necessary to carry supplies to the troops in Utah, when the Government is moving large bodies of men and large trains. Is it to be supposed that the Secretary of War can himself personally inspect every contract, or that he can give specific directions for them ahead? All he can do is to intrust his agents with the general authority to perform a certain service. He may give some instructions as to the best means of performing it, but he is bound to repose discretion in them. He cannot make the contracts personally himself.

I see no way of avoiding that evil. If the Senator can suggest any discrimination between certain sorts of contracts that are to be advertised, and others where it would be impossible to do so, I would go with him; but, until I see it, I am not willing to vote for anything couched in terms so general as this amendment.

In short, sir, I think as to the propositions of this amendment: first, to diminish the time during which an appropriation can be used from two years to one; second, to limit the power of transfer further than it is already limited by the law which I have read; and third, to provide that the Secretary of War, in fact, shall enter into no contracts for transportation or subsistence while Congress is in session, unless they are all transmitted here; it seems to me that the first would be unwise, and the last impracticable. If it could be made practicable, I should be very willing to vote for the last. If the Senator can show me how it can be made practicable, I shall not object to it; but, as it now stands, I shall vote against the amendment.

Mr. FESSENDEN. The Senator from Virginia has seemed to find very great difficulty in understanding what I mean. Although I may try to accomplish something that he thinks is difficult, if not impossible to be accomplished, yet I really hope that he will contrive to understand what I design to do, what I wish to accomplish. Now, sir, let me take the whole of this amendment and explain it as I understand it, and see if there is any such very severe difficulty about it as the Senator supposes. Let us see if his objections apply. The first clause I have already read twice, and I repeat that it does not by any sort of possibility interfere with the payment in one year of accruing bills that were incurred in the preceding year. The Senator seems to suppose that by this provision money must be absolutely paid over for the service of a year during the year when the service was rendered.

Mr. HUNTER. Let me ask the Senator a question. He makes an appropriation for the fiscal year commencing on the 1st of July, and the expenditure is made in June, in this fiscal year. According to his provision, the Departments cannot make provision for that expenditure made in June out of the appropriations for the next fiscal year to commence in July.

Mr. FESSENDEN. I do not understand the Senator.

Mr. HUNTER. He confines the appropriations to the service of the year for which the money is appropriated.

Mr. FESSENDEN. Yes.

Mr. HUNTER. I put the case of an expenditure made in this year, say in June; and the appropriation is for the fiscal year commencing the 1st of next July. You cannot pay this expenditure in June out of the appropriation for this fiscal year, because it does not come in in time, and you cannot pay it out of the next, because it is not for the service of that year for which the appropriation is made.

Mr. FESSENDEN. The Senator is mistaken. You can pay it in the next year. If the service was rendered in this, and not paid, it can be paid in the next. What is the trouble?

Mr. HUNTER. You can pay it in the next,

if there is a balance of appropriation; but suppose there is no balance.

Mr. FESSENDEN. The amendment I have offered presupposes a balance of appropriation in such cases, of course. If there is not money on hand, it cannot be paid.

Mr. HUNTER. There may be money on hand, and that money may not be appropriated. Certainly there are many cases where there is no balance of appropriation.

Mr. FESSENDEN. I do not understand the Senator, and I really do not see what his difficulty is. I can see no difficulty whatever. If an indebtedness accrues for a service rendered during this year, and money has been appropriated to pay it, why cannot that money be paid after the year has expired? This provision does not prevent it in any possible way.

Mr. HUNTER. It prevents it if there is no balance of appropriation for this fiscal year. For instance, if, in the quartermaster's department, there was no balance, it cannot be paid out of the appropriations for the quartermaster's department for the next fiscal year.

Mr. FESSENDEN. That is very true, and that is precisely what I wish to prevent. My object is to keep every appropriation confined to the matter for which it was appropriated. For instance, we appropriate a certain sum of money, a million if you please, to accomplish a specified object this year, no matter what that object is. Expenses accrue. These bills may not come in and be audited until sometime next year. When they are audited, the balance on hand in the Treasury can be applied to paying those bills; but, if that appropriation is exhausted, what I mean to say is, that you shall not take the appropriations of the succeeding year made for another purpose, to pay that balance which is due for the service of the last year. That is giving a discretion to the officers of the Treasury, which, I think, has been abused. There is no difficulty about this provision of my amendment. It does not interfere, as the Senator supposes, in the slightest degree with any provision of law in regard to the surplus fund. It says simply, "confine your payments to the fund which we have appropriated to make the payments with, and do not take the money which we have appropriated to other objects to pay them." The succeeding clause which I have inserted, that so far as this act is concerned—for it is confined to this act—you shall not transfer a matter which is appropriated to one head of expenditure to another, is of precisely the same character. It is to carry out the same object.

Mr. HUNTER. Now, will the Senator allow me here to ask him a question? He says it does not interfere with the provision as to the surplus fund. Why, sir, according to the surplus fund law, an appropriation made for the next fiscal year, if there be a balance, may be applied to services performed in the succeeding fiscal year; but, according to his amendment, it cannot be applied to it; it must be confined to the service of the fiscal year for which the appropriation is made. It is true, it can be paid for services for a preceding year.

Mr. FESSENDEN. The Senator and I do not understand it in the same way; and I think I am right. He does not convince me, at any rate. Here is a certain object for which you appropriate money—half a million, if you please—and the law provides that, if you do not expend that money for that object within two years after the expiration of the fiscal year in which it is appropriated, you shall not expend it at all, but it shall go to the surplus fund. It does not provide that you may expend that half million dollars for any other object within those two years. The Senator's argument supposes that, so long as the two years exist, and until that time has expired, you may take that half million dollars, and, if you do not spend it on a matter for which it is appropriated, you may spend it for anything. That is what I want to prevent. I say this amendment does not interfere with the surplus fund law, because that law only says you shall not expend it for the purpose for which it was appropriated two years ago, after the year for which it was appropriated has expired. Therefore my amendment, in this respect, goes no further than to say that, when you have appropriated money for specific purposes for one particular year, you shall not take that money and apply it for the purposes of

another year, or for an object for which it was not appropriated. You may keep it on for two years, and expend it for that purpose, until the money is all gone and the purpose accomplished.

Mr. HUNTER. As the law now stands, you cannot transfer an appropriation in the War Department for more than one year, or to an object different from that for which it was made. But the point to which I call the attention of the Senator from Maine is this: that, under the existing law, an appropriation—say for the quartermaster's department—is applicable to claims upon that department until it is more than two years old. There is a great convenience in that, and I do not see any harm that can arise from it. The Senator, on the other hand, proposes to say it shall be applied to nothing but to the service and the particular object to which it was appropriated.

Mr. FESSENDEN. That is a matter of detail, and that I grant; that is to say, so long as the right of transfer exists, you may go on for two years expending the money in that department. That is precisely what ought not to be done, in my judgment, and precisely what I want to prevent. The Senator says here is an inconvenience; that you have more money appropriated for one particular branch of expenditure than you have for another, and you may transfer, therefore, the balances one way or another to suit yourself; and not only that, but from one year to another.

Mr. HUNTER. The Senator does not wish to be in error?

Mr. FESSENDEN. I do not believe I am.

Mr. HUNTER. Here is the law:

"Appropriations made for a specific object in one fiscal year shall not be transferred to another object after the expiration of that year."

The power to transfer does not exist after the year is over now, under the existing law.

Mr. FESSENDEN. I read that when I drew this amendment; and I wanted to make the provision specific here, and not only make it specific, but go a little further, and say that it shall not be changed from one head to another within the year. What is the fact in reference to this matter? In the first place, we make departments, offices, and bureaus for every kind of subdivision almost that can be made of the duties of a Department, and we require estimates from them. Why should not they be exact enough in making their estimates to enable us to accomplish the purpose? I do not wish to change the responsibility from one to another, and I do not want to give the Department power to get appropriations under one head which may be more than are necessary, and thus get the power of expending the money under another head to which we should not be willing they should apply the money. That is the trouble, and that is the difficulty I want to meet.

All that the Senator from Virginia objects to that, and the only ground of his objection to the remaining clause of this amendment is, that some inconveniences may arise. It is possible that in some cases they may; but the question is, is not the object an important one? I have specified one particular instance in which money has been appropriated, as the Senator will now admit, contrary to law—I allude to the cases of the money that was taken from the appropriation of one year for the Legislature of Kansas, and appropriated to another object, and that was to pay another Legislature in another year, directly in the teeth of the provision of the law which he has now read. That was done by the present Secretary of the Treasury. We have this present Secretary of the Treasury disregarding the law in reference to the transfer of appropriations, and the Secretary of War disregarding the law in regard to making contracts without notice.

Mr. HUNTER. That is not a transfer of appropriation. It was an appropriation for the expenses of the Legislature. It is not a transfer. That was a continuing and existing subject of appropriation.

Mr. FESSENDEN. That is true; but it is not the same appropriation. An appropriation is made to pay the Legislature of one year, and no appropriation is made to pay the Legislature of another year? Are not these different things? Does the Senator say that that is precisely the same purpose, the same object? It is of the same nature, the same character; but it is not the same thing.

Mr. HUNTER. We make appropriations for the expenses of the two Houses of Congress, and if there is a balance over, we expend it in the next fiscal year. Surely we do. It has been considered a subsisting, continuing appropriation.

Mr. FESSENDEN. That cannot be.

Mr. HUNTER. It is.

Mr. FESSENDEN. It is a very different object, and so understood. The Senator perfectly well knows that Congress refused an appropriation for one of those years. Did Congress understand it to be the same thing? Certainly not; and it is not the same thing. The two are of the same nature, the same character; but different in point of fact, and therefore I say there was an utter disregard and violation of the law in reference to this particular matter.

However, that does not belong to this bill. I was explaining the amendment I have proposed. I grant that there may be some trifling inconvenience; but the question is, in putting money into the hands of officers of the Departments to expend, are we to consider only the inconveniences they may be subjected to, if those inconveniences are trifling in their nature, and not likely to arise? Is it to be supposed that our Departments and bureaus cannot come within gun-shot of a correct estimate of the money they want for a particular purpose, and that therefore we must leave this power in their hands? It should rather be supposed they would make their estimates correctly.

There is another point that I deem to be of very great importance; and I am perfectly willing, when I come to speak on this bill at large, to explain at length the reason why. In regard to this matter of contracts, the Senator says it is impossible to give notice. Sir, does not the law require notice? Does the Senator contend that the provision of the law of 1820 repeals the provision of the law of 1809?

Mr. HUNTER. I say that seems to have been the construction of one of our Departments ever since that period.

Mr. FESSENDEN. That I know nothing about. If they have been going along in the very face of the law, when the language is explicit and clear that they shall not enter into a contract unless on previous notice, at all, under any circumstances, is it a sufficient answer to me, when I call attention to that, to say, that is the construction of the Department, and they have always violated the law? Is that the ground on which the Departments are to be excused for setting at utter disregard those provisions of law which are thrown as safeguards around the Treasury? Why, sir, this is a very singular doctrine; and I am surprised to hear it from the honorable Senator, conservative as he is, and careful as he is to guard the Treasury. Here is a provision existing in the very law organizing these Departments, which says most distinctly that in no case shall a contract be entered into except on previous notice. I show you that these officers have been making these contracts over and over again, to immense amounts, without previous notice; and when I call attention to that subject, and wish to throw an additional safeguard around them as far as I can consistently with the public service, the Senator says they have always disregarded the law, and it would be very inconvenient if you subjected them to that restriction! Sir, if it is not a necessary restriction, repeal the law; but it exists, it has not been repealed, and these repeated violations of it only show the necessity of enforcing it.

Well, sir, how far do I go? Not to say that they shall in no case make any contract, but simply to say that while Congress is in session they shall make none of these contracts, unless they have the money on hand, or unless there is a specific appropriation which will justify it. I say they shall not undertake to run the country into debt while Congress, which alone ought to have the power to create a debt, is in session.

Mr. BENJAMIN. I will ask the Senator a question, if he will permit me, on this point, and take it in reference to these very contracts. Leave out our Utah war, and suppose it an Indian war; news reaches the Department here that there is an outbreak committed on the frontier; there are troops in St. Louis; the Department telegraphs to the officer at St. Louis instantly to convey the troops at St. Louis by railroad, as far as the railroad runs, and then to march them to the point of difficulty: will you have him to wait, apply to

Congress for authority to make a contract, or else advertise a contract which nobody can fill but the railroad company? There is a case of an emergency for an immediate movement of the troops. Surely, under these circumstances, we could not blame a public officer for making a contract of that kind; and if he believed the emergency for the transportation of the troops was just such as I have explained, what could he do? Come here and ask us to give him authority to contract with the Pacific Railroad Company of Missouri to take his troops? Nobody else could contract for that service. Put in an advertisement? There was nobody to bid. It is a case of what the civilians called *vis major*. He could not help himself—he would be obliged to do it.

Mr. FESSENDEN. The case is very plausibly put by the honorable Senator from Louisiana, and I do not say that I would not justify the officer for yielding to so pressing a necessity at the time, and even going beyond, and not stopping to require an authority which he could not get in season. I am not speaking of this particular contract. It might have been that the necessity existed here; but we do not accomplish anything by putting extreme cases. The question is a question important on principle. It is this: whether, while Congress, which is the great power vested by the Constitution with the authority to raise money, is in session, the head of a Department shall have the power (because it is a matter of power) at his discretion to enter into contracts for an expenditure of money that has not been appropriated? That is the question. What is the answer? The answer is, why there may be an extreme urgent case where he would fail to accomplish what needs to be accomplished if he did not do it without waiting for Congress. Is there any doubt that in such a case he would be justified in moving, even without authority?

But this case is put as an excuse for giving him unlimited authority, and not controlling him at all. That is what I am contending against. There might be such a case as the honorable Senator from Louisiana puts; and what should the Secretary of War do if he could not have time to come to Congress, if the thing must be done just as quick as the telegraph would enable him to accomplish it? Do it. I would do it myself under such circumstances, and then I would state to Congress what I had done, and call on them to justify me. If they did not, I would resign my office. But it is a very different question when you come to ask, shall we put this power into the hands of every head of a Department of this Government to make contracts at his discretion when Congress is in session to appropriate money, to run the country into debt simply because a case may arise when he should act without authority? Certainly not.

Mr. BENJAMIN. The gentleman will permit me to say a word. I will go with him to the fullest extent. I merely suggested, with reference to these particular appropriations, that I understand all that is claimed is, that this discretion shall remain vested in the Secretary of War alone, and that only as regards transportation and supplies.

Mr. FESSENDEN. Not at all.

Mr. BENJAMIN. Not that all Secretaries should have the power at all times to make contracts.

Mr. FESSENDEN. The provision I am speaking of applies to this particular bill. It is simply this: that while Congress is in session, the head of a Department shall not have power to make contracts; and that when Congress is not in session he shall make them on notice. That is my proposition. The Senator talks about notice by sixty days' advertisement in the Washington papers. That is the suggestion of the Senator from Texas, and I am opposed to it, because you must leave the time of notice and the place where to give notice in the hands of the Secretary of War at his discretion. I am not saying that it is absolutely necessary to be concluded that every officer of the Government will cheat if he can. I go on a different principle, and I would leave that point to his discretion; but I want to carry out what the laws have provided for heretofore, and lay down a general principle. There may be a case where it would be necessary to violate it; and what Government would ever hesitate to sustain an officer who honestly did it under such circumstances? But that is a different question from

saying that while Congress is in session, the Secretary of War—the question arises here in regard to the Secretary of War, and I will confine it to him—shall have power to make contracts to an unlimited amount, because an emergency might arise at some time when he could not give notice. The question is between principle and possibility. The possibility or emergency, when it arises, must be acted upon; but the mere chance of a possibility is no safe ground on which to vest immense power like this in the hands of any Secretary.

Why, sir, under it you see, at this very time, since Congress has been in session, while we have been here, with no emergency, (because events have proved that there was none,) with no hurry, but in anticipation of the action of Congress in granting five regiments, which hardly anybody here was in favor of granting, contracts have been made to the amount of millions, without consulting Congress at all. That is what I object to, and wish to remedy. As to the amendment proposed by the honorable Senator from Texas to the amendment, I hope it will not be agreed to, and I do not think it ought to be so limited.

Mr. STUART. I am desirous that the amendments which have been offered to-day should appear in print to-morrow, so that we may examine them.

The PRESIDING OFFICER. (Mr. MASON.) The Chair will state that the amendment to the amendment offered by the Senator from Texas cannot be received unless by unanimous consent of the Senate, because the yeas and nays had been ordered on the pending amendment before that was offered.

Mr. HOUSTON. I thought I had submitted my amendment in time.

Mr. FESSENDEN. I object to it if it is out of order.

Mr. HOUSTON. I addressed the Senate before the yeas and nays were ordered to be taken.

Mr. STUART. That question will come up to-morrow, and as we want to see the amendments printed, I move the Senate adjourn.

I am informed that there is a necessity for an executive session, and therefore I withdraw that motion.

EXECUTIVE SESSION.

On motion of Mr. STUART, the Senate proceeded to the consideration of executive business; and after some time engaged therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 20, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. R. Eckard.

The Journal of yesterday was read and approved.

Mr. CLINGMAN. As the pending question on the auxiliary guard bill is a very important one, on which we ought to have a full vote, I suggest that the morning hour be devoted to the call of committees for reports. The pending question in the House will then come up, and we shall get a full vote upon it.

DETENTION OF VESSELS IN CHILI.

Mr. BUFFINTON. I ask unanimous consent to offer the following resolution:

Resolved, That the Secretary of State be requested to communicate to this House such correspondence as may have taken place between the authorities of this Government and that of the Government of Chili in regard to the detention by the latter of the American vessels Good Return and Franklin, at the port of Talcahuana, in the year 1852.

Mr. CLINGMAN. I have no objection to that, if it is understood that we afterwards proceed to the business of the morning hour.

No objection being made, the resolution was read, considered, and agreed to.

Mr. CLINGMAN. I now ask unanimous consent that the House proceed to the consideration of the business of the morning hour.

DES MOINES RAPIDS.

Mr. WASHBURN, of Illinois. I desire to say to my friend from North Carolina, that when the Committee on Commerce was called a few days since, I had a report which I wished to make, but I did not do it. I now ask unanimous consent to make the report.

No objection being made, Mr. WASHBURN, of Illinois, from the Committee on Commerce, made an adverse report in respect to the improvement of the Des Moines Rapids; which was laid on the table, and the report ordered to be printed.

WAGON ROAD IN NEW MEXICO.

Mr. OTERO, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War is hereby requested to communicate to this House a copy of the report of the exploration of the wagon road from Fort Defiance to the Colorado River, in the Territory of New Mexico, made by E. F. Beale, Esq., and a copy of a map accompanying the same.

AGRICULTURAL COLLEGES.

Mr. CLINGMAN. I now hope my motion will prevail, as I see the gentleman who is entitled to the floor [Mr. MORRILL] is in his seat.

Mr. HOUSTON. Was not the House, when last in consideration of the business of the morning hour, engaged in the call of committees for reports?

The SPEAKER. It was; but there is a pending report.

Mr. HOUSTON. Does the gentleman propose to resume the call, commencing where the call was last suspended?

Mr. CLINGMAN. Certainly. The motion was agreed to.

The SPEAKER. The pending bill is a bill donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts. The gentleman from Michigan [Mr. WALBRIDGE] moved to postpone its consideration until Wednesday, the 21st instant; and that the bill, and the report of the majority and views of the minority of the committee, be printed. The gentleman from Maine [Mr. WASHBURN] moved to reconsider the bill. The gentleman from Vermont [Mr. MORRILL] is entitled to the floor.

Mr. MORRILL. There has been no measure for years which has received so much attention in the various parts of the country as the one now under consideration, so far as the fact can be proved by petitions which have been received here from the various States, North and South, from State societies, from county societies, and from individuals. They have come in so as to cover almost every day from the commencement of the session.

Before I proceed further, I desire to ask the gentleman from Michigan to withdraw his motion to postpone, in order that I may introduce an amendment, which I propose to offer, merely changing the bill so far as to strike out all in relation to the Territories.

Mr. WALBRIDGE. I will withdraw it for that purpose.

The SPEAKER. There is a pending motion to recommit, which must also be withdrawn, before an amendment will be in order.

Mr. MORRILL. I ask the gentleman from Maine to withdraw the motion to recommit.

Mr. WASHBURN, of Maine. I withdraw the motion.

Mr. MORRILL. I now offer the amendment which I send to the Chair, to come in after the enacting clause, in the nature of a substitute for the whole bill. Mr. Speaker, I know very well that when there is a lack of arguments to be brought against the merits of a measure, the Constitution is fled to as an inexhaustible arsenal of supply. From thence all sorts of missiles may be hurled, and though they "bear wide" of the mark, they do not "kick the owner over." I have also noticed that lions accustomed to roar around the Constitution are quite disposed to slumber whenever it is desirable for certain gentlemen, who carry extra baggage, to leap over the impediment. But, while I do not propose to consider the constitutional argument at any great length, I shall not wholly blink it out of sight; and all the favor asked is, that the Constitution may not be strained and perverted to defeat a measure no less of public good than of public justice—just politically, just to all the States, and just, above all, to the manhood of our country.

We exert our power and expend millions to protect and promote commerce through light-houses, coast surveys, improvement of harbors, and through our Navy and Naval Academy. Our military "crown-jewels" are manufactured at

West Point on Government account. We make immense grants of lands to railroads to open new fields of internal trade. We secure to literary labor the protection of copy-right. We encourage the growth and discipline of hardy seamen by eking out their scanty rewards through governmental bounties. We secure to ingenious mechanics high profits by our system of patent-rights. We make munificent grants to secure general education in all the new States. But all direct encouragement to agriculture has been rigidly withheld.

When Commerce comes to our doors, gay in its attire and lavish in its promises, we "hand and deliver" at once our gold. When Manufactures appears, with a needy and downcast look, we tender, at worst, a "compromise." And then the fiery little god of war bristles up and makes havoc of all we have left. So that, when Agriculture appears,

"A creature not too wise or good
For human nature's daily food!"—

though taxed to support all her sisters and idle brothers, and to espouse their quarrels—we coldly plead there is nothing left for her, and even spurn the admission of her affinity to the family by omitting all mention of her on the records of our statutes. Ceres does not appear among the gods of Olympus—only appears in a picture on one of our Treasury notes!

It is our province, as a nation and as individuals, to do well whatever we undertake. The genius and skill of our artists and artisans have been universally commended. Our naval architecture is a subject of national pride. Our engineers are doomed to no merely local fame. Our agricultural implements are beyond the reach of competition. Yet, while we may be in advance of the civilized world in many of the useful arts, it is a humiliating fact that we are far in the rear of the best husbandry in Europe; and, notwithstanding here and there an elevated spot, our tendency is still downward. Does not our general system of agriculture foreshadow ultimate decay? If so, is it beyond our constitutional power and duty to provide an incidental remedy?

The prosperity and happiness of a large and populous nation depend:

1. Upon the division of the land into small parcels.
2. Upon the education of the proprietors of the soil.

Our agriculturists, as a whole, instead of seeking a higher cultivation, are extending their boundaries; and their education, on the contrary, is limited to the metes and bounds of their forefathers.

If it be true that the common mode of cultivating the soil in all parts of our country is so defective as to make the soil poorer year by year, it is a most deplorable fact, and a fact of national concern. If we are steadily impairing the natural productiveness of the soil, it is a national waste, compensated only by private robbery. What are the facts?

In New England, the pasture-fed stock is not on the increase, and sheep-husbandry is gradually growing of less importance, excepting perhaps in Vermont and New Hampshire. The wheat crop, once abundant, is now inconsiderable. The following table will exhibit something of the depreciation of the crops in ten years:

	Wheat—bushels.		Potatoes—bushels.	
	1810.	1850.	1810.	1850.
Connecticut	87,009	41,000	3,414,338	2,689,693
Massachusetts ..	157,933	31,211	5,845,652	3,585,384
Rhode Island ...	3,098	49	911,973	651,929
New Hampshire ..	423,121	185,658	6,205,695	4,591,919
Maine	842,160	296,239	10,502,280	8,436,040
Vermont	495,800	535,955	8,669,751	4,951,014
	2,044,111	1,090,132	35,180,500	19,418,191

In many of the southern States the decreasing production is equally marked

	Wheat, bushels, in 1810.		In 1850.
Tennessee	4,569,693		1,619,388
Kentucky	4,843,152		2,142,622
Georgia	1,891,830		1,088,534
Alabama	858,052		294,044
	12,012,726		5,144,596

These facts, after all proper allowances for errors and a short crop, establish, conclusively, that in all parts of our country important elements in the soil have been exhausted; and its fertility, in spite of all improvements, is steadily sinking. The

number of acres of land in use in the State of New York, in 1825, was 7,160,967; in 1855, the number had increased to 26,758,182 acres; but the number of sheep had decreased so that there were nearly three hundred thousand less than there were thirty years ago; and within a period of five years the decrease has been nearly fifty per cent., while the decrease in the number of horses, cows, and swine, is above fifteen per cent. In 1845 the product of wheat was 13,391,770 bushels. It has steadily declined since, until the product of the past year did not exceed 6,000,000 bushels. The average yield of corn per acre in 1844 was 24.75 bushels; but in 1854 it was only 21.02 bushels.

The planting lands of southern States have also greatly deteriorated, and some new fertilizer, beyond rotation of crops, is anxiously sought. The average crop of wheat in Virginia, Tennessee, and North Carolina for 1850, was only seven bushels per acre. In Alabama and Georgia but five bushels per acre. And even the largest of any State in the Union, that of Massachusetts, was but sixteen bushels per acre; and this, with the leanest soil, proves her agricultural science far in advance of her sister States. While the crop of cotton in the new lands of Texas and Arkansas was seven hundred to seven hundred and fifty pounds per acre, it was but three hundred and twenty pounds per acre in the older cultivated fields of South Carolina.

In a southern journal I find the following statement:

"An Alabama planter says that cotton has destroyed more than earthquakes or volcanic eruptions. Witness the red hills of Georgia and South Carolina, which have produced cotton till the last dying gasp of the soil forbade any further attempt at cultivation; and the land, turned out to nature, reminds the traveler, as he views the dilapidated condition of the country, of the ruins of ancient Greece."

In Virginia, the crop of tobacco in 1850, was less than that of 1840, by over eighteen million pounds. No crop has proved more destructive to the fertility of the soil than the tobacco crop, and this staple commodity, unless a cheap and effective remedy can be found, must be either banished or it will banish the cultivators. In this State, where tobacco, corn, and wheat have been continued for a century, many districts are no longer cultivated. Liebig says, "that from every acre of this land, there were removed in the space of one hundred years, twelve hundred pounds of alkalies, in leaves, grain and straw." In a letter of General Washington, dated August 6, 1786, to a friend (Arthur Young) in England, he writes:

"The system of agriculture, if the epithet system can be applied to it, which is in use in this part of the United States, is as unproductive to the practitioners as it is ruinous to the landholders. Yet it is pertinaciously adhered to."

Writing to the same person at a subsequent date, (December 5, 1791,) he says:

"The English farmer must entertain a contemptible opinion of our husbandry, or a horrid idea of our land, when he is to be informed that not more than eight or ten bushels of wheat is the yield of an acre."

Since these words were written, little has been done to elevate the character of Virginia farming, and Mount Vernon itself, losing the eye of its master, has lapsed into the general degeneracy. While the yield of wheat has increased in England to thirty bushels per acre, it has sunk to seven in Virginia. The opinion of the "English farmer" may be imagined.

In an address of the late Hon. A. Stevenson, in 1850, to the Agricultural Society of Albemarle, in Virginia, he said:

"It can hardly be necessary to attempt to impress upon the depressed and wretched condition of the farming interests throughout the State at large, with the exception of some few portions of it, which constitute honorable and praiseworthy exceptions."

Even in Ohio the wheat crop is already less remunerative than formerly, and fields long cultivated are given up to pasturage. In Indiana, Kentucky and Illinois, where so large an amount of grain is sold and carried off, instead of being fed out to stock, they are selling their lands by the bushel in the shape of wheat and corn, and that for a price utterly ruinous. Commerce, founded upon such agricultural economy as this, must come to an end, although the folly will continue to be avenged on posterity even to the third and fourth generation.

In the agricultural survey of Mississippi, recently published, Mr. Harper, speaking of the system pursued in that State, says:

"This agriculture has hitherto been a very exhausting

one. Mississippi is a new State; it dates its existence only from the year 1818; and notwithstanding all its fertility, a large part of the land is already exhausted; the State is full of old deserted fields."

A recent address issued by the agricultural convention in South Carolina, declares:

"Our stocks of hogs, horses, mules, and cattle are diminishing in size and decreasing in number, and our purses are being strained for their last cent to supply their places from the northwestern States."

In the late message of the Governor of Georgia, he eloquently discants upon the "educational wants" of his State, and, among many other facts, he notices "the exhaustion of the soil under a system of agriculture that glories in excluding the application of scientific principles."

My time will not permit a greater accumulation of evidence on this point, although I have a cloud of witnesses in reserve, nor is pointing out the nakedness of the land an agreeable duty. The leading fact, however, of a wide-spread deterioration of the soil, stands out too boldly to be denied. The great, irreversible law of American agriculture appears in the constant and increasing diminution of agricultural products, without any advance in prices. It follows, just in proportion, that capital is disappearing, and that labor receives a diminishing reward. Our country is growing debilitated, and we propagate the consumptive disease with all the energy of private enterprise and public patronage.

There is little doubt but that three fourths of the arable land of our whole country is more or less subjected to this process of exhaustion. It has been estimated by Dr. Lee, of Georgia, that the annual income of the soil of not less than one hundred millions of acres of land in the United States is diminishing at the rate of ten cents an acre. This would amount to \$10,000,000, and involve the loss of a capital of \$166,666,666 annually. A sum greater than all our national and State taxation!

Men waste hundreds of acres of land on the theory that it is inexhaustible, whose entire wealth might not purchase the raw materials—the magnesia, lime, soda, potash, phosphorus, sulphur, carbon, nitrogen, &c.—necessary to make a single acre possessing primitive fertility. Thus the accumulated store of ages passes away in a single generation.

And this waste of soil is not the only thing wasted. For want of the knowledge and skill which the institutions aimed at can alone impart, Colonel Wilder, a gentleman of well-earned fame, estimates the annual loss of the single State of Massachusetts, in the one product of her cereal grains, at \$2,000,000. Another gentleman, in the same State, of great experience in the line of stock, dairy, &c., reports the loss from the same ignorance and unskillfulness in these interests, at \$15,000,000 for that State alone. The loss of New York, upon her four hundred and forty-seven thousand and fourteen horses, (and Ohio, by the census of 1850, had more,) through the universal incompetency in the veterinary art, has been reckoned at not less than two million dollars. The horse, that "wonder of nature," so universally adored by man, for the slightest ailment, is handed over to the butchers of quackery, whose practice is more fatal than that ascribed even to Dr. Hornbook:

"Folk maan do something for their bread,
An' eae maan Death."

We are indebted to Europe for our civilized inhabitants, and for nearly all of our domestic animals, whatever the testimony of the rocks may be as to the preëxistence of the latter. The soil we have acquired by the displacement of the red man. The only thing we constantly dwell upon with complacency is, that we surpass the stock from which we sprang, and that we present our land better than we found it. But this is not beautiful unless true!

We bring forth new States by the litter, and when we want more, like our Norman ancestors, we commit "grand larceny," and annex them. This progress seems wonderful, but with it appears the bitter fact that these new States in half a century—a brief time in the history of States—become depleted and stationary. This early maturity is followed by sudden barrenness.

Concerted effort is necessary to educate and elevate whole nations. That effort is being made abroad with governmental aid in the lead. Here, in the "model Republic," where a free repub-

lican government is installed to guard the general welfare, no such effort is being made. Government has not yet followed the lead of the people, even afar off. We do not ask for constant and persistent outlay and guidance; but a recognition for once, and in the most convenient mode, of the propriety of encouraging useful knowledge among farmers and mechanics, in order to enlarge our productive power, give intelligence to those who will esteem it a higher boon than land or titles, and relieve ourselves from the thralldom of a debt due to holders abroad, for the little agricultural science we now have, and which is quite unsafe to use, by reason of the great differences of soil and climate.

Many foreign States support a population vastly larger per square mile than we maintain, and hold their annual increase; but, by the system of husbandry generally pursued here, the land is held until it is robbed of its virtue, skimmed of its cream, and then the owner, selling his wasted field to some skinflint neighbor, flies to fresh fields with the foul purpose to repeat the same spoliation; and this annual exodus which prevails over all the older States, and even begins upon the first settlements of the new States before their remote borders have lost sight of the savage, painfully indicates that we have reached the maximum of population our land will support in the present state of our agricultural economy. Our skill must be further developed, or here is our limit. A fever-and-ague progress, warmed by speculative excitements, and chilled by panics, may be kept up while our unpeopled public domain is supposed to be inexhaustible, and while those who buy, buy to sell, and never otherwise intend "to hold or drive." But there is a barrier already visible, more impassable than the Rocky Mountains, the great sand plains stretching North and South, commencing near the ninety-eighth degree of west longitude, or about the center of Kansas, and running to the Rocky Mountains, so barren of soil, water, timber, and all vegetation, as to preclude the possibility of settlement by civilized inhabitants. Here the wave must be stayed; but shall we not prove unworthy of our patrimony if we run over the whole before we learn how to manage a part?

We are dilated with the notion that, as a nation, we may now claim rank with the oldest, the best, and the strongest. Our population is rapidly increasing, and brings annually increased demands for bread and clothing. If we can barely meet this demand while we have fresh soils to appropriate, we shall early reach the point of our decline and fall. The nation which tills the soil so as to leave it worse than they found it, is doomed to decay and degradation. Other nations lead us, not in the invention and handling of improved implements, but in nearly all the practical sciences which can be brought to aid the management and results of agricultural labor. We owe it to ourselves not to become a weak competitor in the most important field where we are to meet the world as rivals. It touches us in tenderest points, our national honor as well as our private pockets. While we ought to possess the granary of the world, it has been but a brief time since bread-stuffs rose almost to starvation point, and indicated the possibility that we might not forever escape the only test, that of famine, to which our institutions have not been subjected. Able to be independent, in a broader sense than any other people, having an area ninety-five times as large as England and seventeen times as large as Belgium, yet over one hundred million of our imports of the last fiscal year were products mainly of the soil.

It was not until Rome, deluded with military conquests and luxurious living, had become largely indebted to her conquered provinces for her agricultural products, that the "populous north" poured forth that rude horde which obtained the mastery and accomplished the downfall of the Roman Empire.

Agriculture undoubtedly demands our first care; because its products, in the aggregate, are not only of greater value than those of any other branch of industry, but greater than all others together; and because it is not merely conducive to the health of society, the health of trade and of commerce, but essential to their very existence. But, while it is the most useful and earliest of arts, so sluggish have been its advances that we are yet

experimenting upon problems which were moot-points with farmers two thousand years ago. Surely an interest so superior, and of such vital consequence, ought not to be left to lingering routine, but the aid of science should be invoked to accelerate its pace, until it can keep step with that of other industrial pursuits of mankind.

The agriculturists have been, within a few years, aroused to their own wants. Periodicals, from a higher point of dignity and influence, have fired their zeal. The eager crowds which throng to the annual fairs of our agricultural societies, from the *National* down to "all the stars of lesser magnitude," proclaim the universal hunger there is for a profounder information touching that which comes home to their business and bosoms. They know there are mysteries dearly concerning them, and they demand of learning and of science a solution. "Deformed, unfinished," experiments—

—"scarce half made up,
And that so lamely"—

will not do. Farmers will not be cheated longer by unsustained speculations. The test of the field must follow and verify that of the laboratory. The half-bushel and the balance must prove the arithmetic. The result must support the theory. They want substance and not a shadow—bread and not a stone. They know well there is a vast force of agricultural labor hitherto misapplied, muscles that sow where they do not reap, and they demand light—demand to have their arms unpinioned! What has been an art merely to supply physical wants must become a science—though it wears

"hadden gray and a' that"—

doing the same service, but more abundantly, and also doing something to satisfy and elevate the *manhood* of the mass of the people. Let us have such colleges as may rightfully claim the authority of teachers to announce facts and fixed laws, and to scatter broadcast that knowledge which will prove useful in building up a great nation—great in its resources of wealth and power, but greatest of all in the aggregate of its intelligence and virtue.

The mineral wealth of our country, already disclosed, assumes almost unbounded proportions; but destitute of experience as we are, and largely dependent upon the skill of those but half-taught from other lands, our mines are much less remunerative than they would be under the control of Americans, with some fundamental instruction in their vocation.

There is no class of our community of whom we may be so justly proud as our mechanics. Their genius is patent to all the world. For labor-saving contrivances, their tact seems universal; and when any one of them is detailed to do the breathing of any engine, he speedily furnishes lungs for the engine to do that sort of work for itself. But they snatch their education, such as it is, from the crevices between labor and sleep. They grope in twilight. Our country relies upon them as its right arm to do the handiwork of the nation. Let us, then, furnish the means for that arm to acquire culture, skill, and efficiency.

We have schools to teach the art of manslaughter and to make masters of "deep-throated engines" of war; and shall we not have schools to teach men the way to feed, clothe, and enlighten the great brotherhood of man? It is just on the part of statesmen and legislators, just on the part of other learned professions, that they should aid to elevate the class upon whom they lean for support, and upon whom they depend for their audience. There is no clashing of interests. It is not designed to make every man his own doctor, or every man his own lawyer; but to make every man understand his own business. A lawyer is not the worse for having an intelligent client, nor a clergyman the worse for having a prosperous parishioner. Our present literary colleges need have no more jealousy of agricultural colleges than a porcelain manufactory would have of an iron foundry. They move in separate spheres, without competition, and using no raw material that will diminish the supply of one or the other.

The farmer and the mechanic require special schools and appropriate literature quite as much as any one of the so-called learned professions. The practical sciences are nowhere else called into such repeated and constant requisition. Would it be sound policy for one who expected to expound Blackstone to limit his reading to a muck

manual or to agricultural chemistry? If it would not, how are we to expect one to solve all the scientific relations of earth, water, air, and vegetable and animal life, who has only explored reading, writing, and arithmetic?

All other professions and pursuits reckon among their brightest jewels men who were recruited from the robust ranks of agriculture. It is the untainted blood from this source that supplies the waste in the pulpit, the bar, the forum, and the camp. No other pursuit in life obtains this universal tribute, that, whatever may be the present idol of devotion, all classes and ranks of men hope to reach that estate first bestowed upon Adam, and become proprietors of the soil as their ultimate earthly paradise. Washington, Calhoun, Clay, and Webster, are more secure of love and homage as farmers than even as men of highest public renown; and Mount Vernon, Fort Hill, Ashland, and Marshfield, the Meccas of America, prove the ideal truth of the words of Pliny, that "the earth took delight in being tilled by the hands of men crowned with laurels and decorated with triumphant honors."

Many of the purest embellishments of literature have been drawn from the field of the husbandman. Gems, not only of poetry and song, but of painting and sculpture, of philosophy and eloquence, thus have their origin. Let agriculture, then, make its reprisals, and build up a literature at once intelligible and satisfactory for its millions of thinkers.

We need a careful, exact, and systematized registration of experiments—such as can be made at thoroughly scientific institutions, and such as will not be made elsewhere. These tests and these tables, so furnished, will give us, when reported and collated, as is provided for in this bill, a rational induction of principles upon which we may expect to establish a proper science; and the more widely gathered are the facts, the sounder the science. The discoveries of Columbus-struck amateurs will not be trumpeted forth until they have received the sanction of a body less sanguine than the vendors of a patent. Spurious dogmas will be touched lightly with the spear of Ithuriel, and no longer squat around the ears of weary plowmen.

We need to test the natural capability of soils and the power of different fertilizers; the relative value of different grasses for flesh, fat, and milk-giving purposes; the comparative value of grain, roots, and hay, for wintering stock; the value of a bushel of corn, oats, peas, carrots, potatoes, or turnips, in pounds of beef, pork, or mutton; deep plowing as well as drainage; the vitality and deterioration of seeds; breeds of animals; remedies for the potato disease and for all tribes of insects destructive to cotton, wheat, and fruit crops. These, and many more, are questions of scientific interest even beyond their economical importance in the researches of the agriculturist.

The philosophy of manures, or of giving plants their appropriate food, is in its infancy. In England they have, through the process of feeding wheat, raised the average yield to double its former amount. Liebig, employed in 1840 by the Royal Agricultural Society, was almost the first, after Sir Humphrey Davy, to practically apply agricultural chemistry so as to arrest the attention of farmers. It was at his suggestion, only seventeen years ago, that guano was brought into notice. In 1851, notwithstanding its extravagant price, England imported two hundred and forty-three thousand and fourteen tons of this concentrated fertilizer, proving that the fabled eggs of the golden goose have been eclipsed in value by the "evacuations of sea-gulls."

It is plainly an indication that education is taking a step in advance when public sentiment begins to demand that the faculties of young men shall be trained with some reference to the vocation to which they are to be devoted through life. It is clear that intellectual discipline can be obtained under more than one mode, and, if the primary education sought for this purpose can be afterwards applied to practical use in the destined occupation, it is a point clearly gained. Law, theology, and medicine, have been specialties from the time whereof the memory of man runneth not to the contrary. Special schools for art, trade, and commerce, though of later growth, have been long established in many places throughout Europe, and in our own American cities. In some places

these institutions, intended to be practical rather than speculative, go by the not inapt name of *Real Schools*. Agricultural colleges and schools in many portions of Europe are a marked feature of the age. In our own country the general want of such places of instruction has been so manifest that States, societies, and individuals, have attempted to supply it, though necessarily in stunted measure. The "plentiful lack" of funds has retarded their maturity and usefulness; but there are some examples, like that of Michigan, liberally supported by the State, in the full tide of successful experiment. Adequate means to start on a scale commensurate with the great objects in view seems an indispensable prerequisite. States have been unable to impose at once the increased taxation that would be required, and the liberality of private individuals has been unequal to the task. But if this bill shall pass, the institutions of the character required by the people, and by our native land, would spring into life, and not languish from poverty, doubt, or neglect. They would prove (if they should not literally, like the schools of ancient Sparta, hold the children of the State) the perennial nurseries of patriotism, thrift and liberal information—places "where men do not decay." They would turn out men for solid use, and not drones. It may be assumed that tuition would be free, and that the exercise of holding the plow and swinging the scythe—every whit as noble, artistic, and graceful, as the postures of the gymnastic or military drill—would go far towards defraying all other expenses of the students. Muscles hardened by such training would not become soft in summer or torpid in winter; and the graduates would know how to sustain American institutions with American vigor.

It is desirable that the agricultural hive, in all its industrial ramifications, should furnish such generous rewards, such noble incentives, as to reclaim the truants who have fled to and clog and embarrass other pursuits and professions with untrained adventurers. The New York Mercantile Agency states the number of stores in the United States at 204,061, which would be about one store to every one hundred and twenty-three inhabitants. This shows

"Trade wields the sword; and Agriculture leaves
Her half-turned furrows; other harvests fire
An avenger of renown."

I suppose that it might be a fair estimate to say that eighty out of every hundred of these traders become insolvent every ten years. But had they invested their capital and labor in agriculture, it may be safely assumed that not twenty out of every hundred would have failed to secure a competency.

Adam Smith, after having noticed "the precarious and uncertain possession" of capital engaged in commerce and manufactures, says:

"That which arises from the more solid improvements of agriculture is much more durable, and cannot be destroyed but by those more violent convulsions occasioned by the depredations of hostile and barbarous nations continued for a century or two together."

Mr. Speaker, when a money pressure overtakes the country, like that through which we are just passing, in searching for its cause no one thinks of charging it upon agriculturists. They are not only industrious, but frugal. Thrift is their cardinal virtue. They do not produce, vend, nor consume luxuries. They hasten slowly, and go untouched of all epidemical speculations. But when the crisis comes—when commerce, manufactures, banks, and even Government itself, quail beneath the storm—all eyes turn to the hardy tillers of the soil for relief. They stand, as they always stand, with enough for themselves and something to spare. They furnish raw material, freight, means of liquidation or of supply; and yet, when they would be even more useful, shall we pronounce them unworthy, and deny them opportunity?

It is one of the political axioms of the writer already quoted, everywhere accredited, that national wealth is greatly increased or diminished by the more or less skill, dexterity, and judgment, with which labor is generally applied. As legislators, we can have no subject before us of higher intrinsic importance.

Manufacturers, when their books disclose a losing business, change to a different class of goods; merchants, in like circumstances, to a different trade and other markets; but all history shows the tenacity with which habits acquired in the cul-

tivation of land cling to a people from generation to generation. In all ages farmers have been stable, conservative, and reverent to antiquity. The same plow as described three thousand years ago at

"Athens, the eye of Greece, mother of arts
And eloquence,"

is still in use among the modern Greeks. The *habitant* of Canada as much believes to-day in the propriety of placing the yoke on to the horns of the ox, in order to secure the entire strength of the animal, as he did in the days when he owed allegiance to the Grand Monarch. The old Roman plow, sometimes drawn, in the days of Nero, "by a wretched ass on the one side, and an old woman on the other," still retains its place in Italy, and in parts of Spain and the south of France. If we turn to the descendants of the Puritans, we shall find some of these yet kill their pork and plant their corn in "the old of the moon." In all ages, and in all countries, the habits, as well as the virtues of agriculturists, remain fixed.

Agricultural men dwell apart. Their business keeps them at home, and they cannot combine to secure general improvements, or to make their complaints heard. They suffer in silence—the rolling years only noted by "seed time and harvest."

All over the highest civilized parts of Europe we find the different Governments alive to the wants of agriculture. They have established ministers of instruction, model farms, experimental farms, botanical gardens, colleges, and a large number of secondary schools, with no other purpose—and they need no higher or nobler—than the improvement of the industrial resources—the farms and the farmers—of the respective countries. All these are chiefly supported by large annual expenditures of the different Governments, except so far as any may be self-supporting institutions. The effect is in the largest degree favorable to the people and to increased production. But the teachings of European professors are of little consequence to Americans, even if they could be comprehended and instantaneously adopted, as they are rarely suited to our circumstances. Can we not have something that we may claim as our own? Young Americans should have some chance to study agriculture as a profession, and be attracted to it as to a learned, liberal, and intellectual pursuit. Is it true, as our detractors assert, that science can flourish only under the patronage of royalty?

This system of education is known to be more complete in Prussia than in any other nation of Europe. It may be said that all the children attend school until they are thirteen years old; and agricultural colleges, and schools for the mechanic arts and higher trades, are liberally sustained, and with a much larger staff of professors than is common in the United States. This nation is making rapid progress in wealth and intelligence.

In Saxony they have a number of experiment stations, or experimental farms, with laboratories attached, and five or more schools exclusively for agriculture. There is no country in the world where agriculture and all branches of industry are pursued with more enterprise and success than in the little monarchy of Saxony; and there, of 315,185 children between the ages of six and fourteen years, 311,454 were, in 1851, in actual attendance at school.

Belgium has its agricultural schools also, and great opportunities for general education are given, especially in the larger towns. Here farming is conducted most on a scientific basis; and Belgium, supporting a population of three hundred and thirty-six to the square mile, in a climate inferior to that of Kentucky or Virginia, averaging only twenty-six and twenty-three to the square mile, is the first in rank as an agricultural State in Europe. Its once noted battle-fields are now equally noted as model farms. This preëminence is chiefly the result of scientific attention to manures.

France, from the time of Napoleon, has done much for agriculture. Beet-sugar, the mulberry, the grape, as well as Merino sheep and the Thibet goat, have received imperial attention. No expense in France is shirked in the cause of agricultural science. Her botanical gardens, chemical laboratories, physiological museums, and schools for instructions in the veterinary art, surpass all others in existence, and with her five agricultural

colleges, and almost one hundred inferior agricultural schools are performing herculean labors for the elevation of the farming population of the empire. The Revolution and the successive wars loaded France with an immense debt; but this was rapidly extinguished from the never-failing resources of her soil. The abrogation of the game laws and many other feudal enactments has aided her progress, but the breaking up and division of every estate at the death of the owner, doubtless retards much of permanent improvement. But for this abuse of a true principle, and the illiterate condition of her people, France would have been the pioneer of rural economy.

As it is, we look more to England and Scotland, and to Ireland to some extent, for principles and facts for our instruction. Here we find agriculture developed in all its noblest attitudes. Science, wealth, taste, mind, and rank, combine to increase its profit, beauty, and honor. The large fortunes of individuals enable Science to delve constantly in its behalf; but the Government, far from thinking that enough, annually contributes liberally to the same object, especially in Ireland. Colleges and schools of agriculture are numerous in Great Britain, but their usefulness is greatly restricted on account of the limited attendance arising from the jealousies of caste. Agricultural improvement is imposed on such a people from necessity. The heavy taxation, the enormous consumption of luxuries, and density of population, could not be otherwise supported. Science, like the rod of Aaron, has touched the soil, and behold! the crops are doubled. Nothing but this in Ireland could have checked the dispersion of a nation—a nation, too, that in ten years preceding 1846, exported more grain than all of the United States. Notwithstanding the magnificent proportions of her commerce, freckling all seas with its flag, and notwithstanding her all-embracing manufactures, with their countless fires blazing day and night, England, were her agriculture to retrograde, or the land fail "to yield her increase," would be numbered with things that were, and the earth no more rock at the sound of Trafalgar or Waterloo.

The Government of Russia, the growing giant of Europe, has recently taken a conspicuous lead in the education of its people, and the cause of agriculture there holds a deserved prominence. Of colleges, schools, and special schools devoted to agriculture, Russia maintains a greater number than any other nation, France only excepted. No nation has arisen in the political firmament with a steadier splendor than the great northern bear, which, instead of pawing, like Milton's lion, "his hinder-parts to get free" from the mud of the Nile, is struggling to get free from the Polar ice of ignorance. The back-bone of Russia, in her recent contest, lay in her agricultural forces, and against these but half-tutored resources of men and wealth, half the strength of Europe could only wage a drawn battle. Here we find a despotism, from motives merely of governmental policy, elevating labor, placing it within the power of her agriculturists and artisans to become educated and skillful, while our people with the Government in their own hands, parley on the brink, and do nothing for their own benefit.

Spain is weak in all her industry, because, while an uneducated Spanish gentleman, it is said, cannot be found, so neither can a peasant be found who can read or write.

Italy, anciently far in advance of all her cotemporaries, in theory and practice, is now behind all other States in her farming and industrial pursuits, and here we find but one person in fifty provided with any instruction whatever.

I might contrast Bohemia with Saxony, and even Ireland with England, or the different cantons of Switzerland with each other, to show the difference between ignorant and educated culture of the soil, but I have not space.

Thus, we behold the suffrages of all the wiser civilized nations in favor of the measure contemplated by the bill under consideration; examples as much to be imitated as those of an opposite character are to be shunned. If other nations advance, though we but pause, we are distanced. The voice of our country, if it could find utterance, is believed to be overwhelmingly in favor of the establishment of these institutions on our own soil. They are as much needed and will be as gratefully accepted in one direction of our coun-

try as another. More than four fifths of our population are engaged in agricultural and mechanical employments. This vast number out of thirty millions of people now, to be increased to fifty millions in less than twenty years, will forever furnish an inexhaustible supply of pupils who will not forsake their calling. Is it not of grave importance to give this vast force an intelligent direction?

In 1850 there were, between the ages of five and fifteen, 5,106,257 inhabitants of our country. There were engaged in the professions of law, medicine, and theology, 94,575 citizens, and in all the colleges of the United States there were 27,159 pupils only. If these pupils required two hundred and thirty-nine colleges for their instruction, how many ought we to have for the sons of the millions engaged in agriculture? Why, sir, the number which it may be hoped will be provided for under the auspices of this bill will hardly do more for some years than to supply teachers that will be required in secondary schools.

At the close of the Revolution there was much difficulty about these lands. The States within whose boundaries the ungranted crown lands were situated felt disposed to claim them, unjustly as the other States thought, as State property. But finally all yielded to the Union, using in their conveyance words of like import—that the lands should be considered a common fund for the use and benefit of all. Since then the revolutionary debt has been extinguished; gratitude for military services has been acknowledged to the extent of forty-four million one hundred and nine thousand eight hundred and seventy-nine acres; new States have been properly treated with statesman-like liberality; now by this bill the old States, by whose blood and treasure the public domain was so largely acquired, will be allowed some direct share, but not greater than that of others, in the distribution. What clause in the constitution interposes any barrier to this?

It cannot be pretended that this is one of a class of cases; for here is one where four fifths of all the people are directly, and all the rest indirectly, interested. No other can come up representing more than a fractional part of the remaining fifth. Our Government is also directly interested, as the holder and dealer in large tracts of land. If it be for the interest of small holders of land, it must be for the interest of a large holder. There is not even an exclusion of those who do not cultivate their land. If the measure shall in any degree increase the future profits of cultivators, the value of all land, wherever it may be, whether held in small or large quantities, will be augmented. The cotton-gin has hardly done more to raise the price of estates in the South, than would now the discovery of a remedy for the boll-worm, and other destructive insects, which gore and gorge the cotton-plant; nor have the reaping machines been of more advantage to western wheat fields, than would be a cure for the wheat midge. These invaders may not be overcome; may not be within the reach of human ingenuity; one sixth part of the cotton and wheat crop may still be lost; but some resulting improvements may safely be predicated upon the labors of thirty-two or more institutions actively engaged in scientific agriculture. There can be no doubt that the benefits to be derived, will prove an ample consideration for the lands disposed of. One of the most adequate considerations ever received for any estate by parent, is called, in legal parlance, "love and affection;" and that also will not be wanting here.

These considerations are tendered by those elder States, to whose toils and expenditures the marketable value of our public domain is so largely indebted. Blot out the canals and railroads of Pennsylvania, New York, and Ohio, costing over two hundred million dollars, and the buffalo and the fur-trader on the western prairies might strive for the mastery, but civilization would postpone her triumphs over the savage to a remoter age. Our "western empire" might be taxed the whole cost of the New York and Erie canal, and then be the gainer; and yet the bill I am advocating will not appropriate, among all the States, one fifth part of its original cost, and not one half of the amount of the yet unpaid canal debt of New York.

The third section of article four of the Constitution declares:

"The Congress shall have power to dispose of and make

all needful rules and regulations respecting the territory or other property belonging to the United States."

Here is the whole of it; and there is no restriction save that in the deeds of cession. Our public lands are no longer pledged for a national debt; and, if held for the common benefit of all, how can it be wrong to give all their rightful and exact proportion to the limited extent now proposed? Who will be wronged? What better thing shall we do with them? Whatever discordant opinions there may have recently existed touching the true interpretation of this clause, as to persons, no one will pretend that it does not give complete control over the land (the property) belonging to the United States; and the measure I am considering is a literal compliance with the powers conferred in that it proceeds "to dispose of and make all needful rules and regulations" respecting so much as is embraced in the bill.

Grants of lands during and since 1850 have been made to ten States and one Territory, to aid in the construction of more than fifty railroads, of an extent of about nine thousand miles, amounting to 25,403,993 acres. These grants were made on the argument of "prudent proprietorship," and alternate sections were given away to double the price of the remainder. Whether the policy will result in any loss to the Government or not, these States were treated with a liberality they will never forget. As a prudent proprietor, may we not do that which will not only tend to raise the value of all land, whether owned by individuals or by Government, but make agricultural labor more profitable and more desirable as a pursuit in life?

Up to the 30th of June, 1857, we had ungrudgingly donated to different States and Territories sixty-seven million seven hundred and thirty-six thousand five hundred and seventy-two acres of land for schools and universities. No one shall be twitted for such acts by me; but, if the purpose be a noble one as applied to a Territory sparsely populated, it is certainly not less so to States thickly peopled. If such donations are constitutional to inchoate States, can they be unconstitutional when proposed to the Old Dominion, the Empire, Keystone, and Little Rhody? Is there a more urgent demand for such aid in behalf of the people of a Territory free of debt, whose frame of government is supported by the nation, than in behalf of States bearing all the debt and burdens of the national Government, and bending under \$245,211,250 of present State indebtedness? Surely the endowment of agricultural colleges ought not to depend upon the resources of States already so oppressively laden, nor upon the come-by-chance charities of individuals, but upon the liberal administration of the Government which has been expressly constituted the trustee of an ample store for the common benefit of all the States.

The executive and legislative precedents which can be arrayed to sustain the principles embodied in this measure are of great weight and authority. Commencing with those coeval with the Constitution, and continuing to a recent date, we have the opinions and acts of men that few at the present day would not think it robbery to claim for any favorite an equality.

Washington brought the subject of agriculture before Congress in his first message. He thought it a subject within the constitutional jurisdiction, and his experience increased that conviction; for in his last message, December 7, 1796, he recurs to it with elaborate argument. He says:

"It will not be doubted that, with reference either to individual or national welfare, agriculture is of primary importance. In proportion as nations advance in population and other circumstances of maturity, this task becomes more apparent, and renders the cultivation of the soil more and more an object of public patronage. Institutions for promoting it grow up, supported by the public purse; and to what object can it be dedicated with greater propriety?"

Thus we have the very germ of the whole project. "The cultivation of the soil," institutions "supported by the public purse," he exclaims, "to what object can it be dedicated with greater propriety?" It cannot be doubted that donations of land for agricultural colleges would have received the approval of Washington. He proceeds:

"I have heretofore proposed to the consideration of Congress the expediency of establishing a national university, and also a military academy. The desirableness of both these institutions has so constantly increased with every new view I have taken of the subject, that I cannot omit

the opportunity of, once for all, recalling your attention to them.

"The assembly to which I address myself is too enlightened not to be fully sensible how much a flourishing state of the arts and sciences contributes to national prosperity and reputation. True it is, that our country, much to its honor, contains many seminaries of learning, highly respectable and useful; but the funds upon which they rest are too narrow to command the ablest professors in the different departments of liberal knowledge for the institution contemplated, though they would be excellent auxiliaries."

This will be enough to satisfy all as to the opinions of Washington. Let us now see what were the opinions of Jefferson. In his sixth message he thus speaks:

"Education is here placed among the articles of public care; not that it would be proposed to take its ordinary branches out of the hands of private enterprise, which manages so much better all the concerns to which it is equal; but a public institution can alone supply those sciences which, though rarely called for, are yet necessary to complete the circle, all the parts of which contribute to the improvement of the country, and some of them to its preservation."

The message goes on to show that if public moneys were to be used for roads and canals, an amendment of the Constitution would be necessary, but that land might be used for that purpose without an amendment. He then proceeds to urge his favorite university thus:

"The present consideration of a national establishment for education, particularly, is rendered proper by this circumstance also, that if Congress, approving the proposition, shall yet think it more eligible to found it on a donation of lands, they have it now in their power to endow it with those which will be amongst the earliest to produce the necessary income. This foundation would have the advantage of being independent in war, which may suspend other improvements, by requiring for its own purposes the resources destined for them."

I submit that here the whole question of constitutional power is covered, as well as a powerful argument suggested, by Jefferson.

For want of time, all reference to Madison, Monroe, and Adams, must be omitted. Jackson was the steadfast friend of agriculture, and the first, in 1837, to call into the Patent Office a practical farmer (Mr. Ellsworth) to collect statistics. As Senator, General Jackson voted a township of land to La Fayette. He approved, June 30, 1834, of giving thirty-six sections of land to the Polish exiles expelled from Europe by Austria. He approved, April 2, 1830, of a bill giving land to a State for the construction of the Miami canal. January 13, 1831, he approved of a bill granting a single section for schools, in Lawrence, Mississippi. March 2, 1833, an act was passed changing the Illinois canal grant to a railroad grant, with obligations attached. This was approved by General Jackson. That part of the Cumberland road in Ohio was surrendered in 1831, and that in Virginia in 1833, to the respective States, with a compact that they should keep the same in repair and collect the tolls—approved by General Jackson, and the act decided since to be constitutional by the Supreme Court of the United States. General Jackson rejected the land bill of 1833, mainly for the reason that it first gave to the States wherever the lands might lie, twelve and a half per cent. before there was to be any division among the other States. This he denounced as injustice and inequality. It is enough to say that no such objections can be raised against the division proposed now. There can be no question that General Jackson and the men who cooperated with him would have approved of grants of land to all the States for the benefit of agricultural colleges.

The bill donating lands to the State of Connecticut, for a seminary of learning for the deaf and dumb, passed the Senate in 1819, without even a call of the yeas and nays. The bill approved January 29, 1827, donating lands to Kentucky for a seminary of learning for the deaf and dumb, passed the Senate by a vote of 27 to 6; and we find such men as King of Alabama, Johnson of Kentucky, Benton of Missouri, Eaton and White of Tennessee, and Woodbury of New Hampshire, voting for the measure. In the House, the bill passed by 120 to 43; and among the yeas will be found the names of James Buchanan, James K. Polk, Cambreleng, Livingston, McDuffie, and Wickliffe. Surely these are no mean authorities on constitutional questions, to be added to the names of Crawford, Monroe, Calhoun, Webster, Clay, and Clay-ton. In 1838, a township of land in Florida was granted to Dr. Henry Perrine, to "promote the cultivation of tropical plants." In 1841, there was donated to each of the new States five hundred thousand acres of land. The present law, now on

our Statutes at Large, is, that when duties are brought down below twenty per cent., the proceeds of the public lands are to be distributed to the States. Congress donated to the State of Tennessee, August 6, 1846, of unproductive lands lying in that State, one million three hundred thousand acres, on the condition that the State should endow and establish a college, at an expense of not less than forty thousand dollars. Over fifty million acres of swamp lands have been given to different States. President Taylor, in his message of 1849, says:

"No direct aid has been given by the General Government to the improvement of agriculture, except by the expenditure of small sums for the collection and publication of agricultural statistics, and for some chemical analyses, which have been, thus far, paid for out of the patent fund. This aid, in my opinion, is wholly inadequate."

President Fillmore, in his message of 1850, says:

"Agriculture may justly be regarded as the great interest of our people. Four fifths of our active population are employed in the cultivation of the soil; and the expansion of our settlements over new territory is daily adding to the number engaged in that vocation. Justice and sound policy, therefore, alike require that the Government should use all the means authorized by the Constitution to promote the interests and welfare of that important class of our fellow-citizens. And yet it is a singular fact that, whilst the manufacturing and commercial interests have engaged the attention of Congress during a large portion of every session, and our statutes abound in provisions for their protection and encouragement, little has yet been done directly for the advancement of agriculture. It is time that this reproach to our legislation should be removed; and I sincerely hope that the present Congress will not close their labors without adopting efficient means to supply the omissions of those who have preceded them."

The constitutionality of a measure does not depend upon the amount, but upon the principle involved. The citations made show that there is a great preponderance, almost uninterrupted from the foundation of the Government, of executive, legislative, and judicial authority, to prove that the power of Congress to dispose of the public lands at its discretion is plain, absolute, and unlimited. The derivative title to a moiety of the lands imposes a condition upon the disposal of that portion so derived—a condition itself persuasively urging our present object—which is "for the use and common benefit of all the States."

While agriculture has been a neglected field of legislation, it does not now call for the exercise of novel constitutional power. Congress has long asserted the right to dispose of the public lands to establish school funds and universities, and no one now questions the soundness of such a policy. This measure is but an extension of the same principle over a wider field—wider in its applications, but not wider in its amount, for the number of acres now proposed for all the States is scarcely larger than have been donated to individual States. It is general and not local in its reach. If we have the power to make special grants, in particular and individual cases, we certainly have the power, and it would be far more just and expedient to exercise it, in its general application. Pass this measure and we shall have done—

- Something to enable the farmer to raise two blades of grass instead of one;
- Something for every owner of land;
- Something for all who desire to own land;
- Something for cheap scientific education;
- Something for every man who loves intelligence and not ignorance;
- Something to induce the father's sons and daughters to settle and cluster around the old homesteads;
- Something to remove the last vestige of pauperism from our land;
- Something for peace, good order, and the better support of Christian churches and common schools;
- Something to enable sterile railroads to pay dividends;
- Something to enable the people to bear the enormous expenditures of the national Government;
- Something to check the passion of individuals, and of the nation, for indefinite territorial expansion and ultimate decrepitude;
- Something to prevent the dispersion of our population, and to concentrate it around the best lands of our country—places hallowed by church spires, and mellowed by all the influences of time—where the consumer will be placed at the door of the producer; and thereby

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, APRIL 22, 1858.

NEW SERIES....No. 107.

Something to obtain higher prices for all sorts of agricultural productions; and

Something to increase the loveliness of the American landscape. Scientific culture is the sure precursor of order and beauty. Our esthetic Diedrich Knickerbockers, who have no land, will have a fairer opportunity to become great admirers of land that belongs to others.

Many of our wisest statesmen have denounced our general land system as a prolific source of corruption; but what corruption can flow from endowing agricultural colleges? Here is neither profligacy nor waste, but a measure of justice and beneficence. Without meaning to express my opinion for or against the homestead policy, I ask, in all candor, what man is there in the whole length and breadth of our country, who would not prefer, if he could have his choice, such an education as might be obtained at one of these colleges to a warrant for one hundred and sixty acres of land?

The persuasive arguments of precedents; the example of our worthiest rivals in Europe; the rejuvenation of worn-out lands, which bring forth taxes only; the petitions of farmers everywhere, yearning for "a more excellent way;" philanthropy, supported by our own highest interests—all these considerations impel us for once to do something for agriculture worthy of its national importance.

By the recent statement of the Land Office, we have 1,088,792,498 acres of land to dispose of; and when this bill shall have passed, there will then remain about one thousand and eighty-three millions of acres. We shall still be the largest landholder in the world, while confessedly we are not the best farmers. Let it never be said we are "the greatest and the meanest of mankind."

I now submit my substitute, and move that the bill be recommitted to the Committee on Public Lands; and upon that motion I demand the previous question.

Mr. CLINGMAN. I hope the gentleman will allow me to submit a motion to refer the bill to the Committee of the Whole on the state of the Union, so that the sense of the House may be tested? I will then vote for the previous question.

Mr. MORRILL. No, sir; I must decline to do it.

Mr. CLINGMAN. Then if the previous question be sustained I shall move to lay the whole subject upon the table.

Mr. COBB. The gentleman from Vermont is certainly pursuing a different course from what he proposed, in moving to recommit the bill to the Committee on Public Lands. I move to lay the bill upon the table.

Mr. UNDERWOOD. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. JONES, of Tennessee. I ask that the bill be read.

The bill was read *in extenso*.

The substitute proposed by Mr. MORRILL is as follows:

A bill donating public lands to the several States which may provide colleges for the benefit of agriculture and the mechanic arts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be granted to the several States, for the purpose hereinafter mentioned, five millions, nine hundred and twenty thousand acres of land, to be apportioned to each State a quantity equal to twenty thousand acres for each Senator and Representative in Congress, to which the States are now respectively entitled.

Sec. 2. And be it further enacted, That the land aforesaid, after being surveyed, shall be apportioned to the several States, in sections or subdivisions of sections, not less than one quarter of a section; and whenever there are public lands in a State, worth \$1 25 per acre, (the value of said lands to be determined by the Governor of said State,) the quantity to which said State shall be entitled, shall be selected from such lands, and the Secretary of the Interior is hereby directed to issue to those States in which there are no public lands of the value of \$1 25 per acre, land scrip to the amount of their distributive shares in acres under the provisions of this act, said scrip to be sold by said States, and the proceeds thereof applied to the uses and the purposes prescribed in this act, and for no other use or purpose whatsoever: Provided, That in no case shall any State to

which land scrip may thus be issued, be allowed to locate the same within the limits of any other State, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States, subject to private entry.

Sec. 3. And be it further enacted, That all the expenses of management and superintendence of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied without any diminution whatever to the purposes hereinafter mentioned.

Sec. 4. And be it further enacted, That all moneys derived from the sale of the lands aforesaid by the States to which the lands are apportioned, and from the sales of land scrip heretofore provided for, shall be invested in stocks of the United States, or of the States, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks; and that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section fifth of this act,) and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific or classical studies, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the Legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

Sec. 5. And be it further enacted, That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as to the provisions hereinafter contained, the previous assent of the several States shall be signified by legislative acts:

First. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied, without diminution, to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding ten per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective Legislatures of said States.

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair, of any building or buildings.

Third. Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as described in the fourth section of this act, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid.

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters as may be supposed useful—one copy of which shall be transmitted by mail free, by each, to all the other colleges which may be endowed under the provisions of this act, and to the Smithsonian Institution, and the agricultural department of the Patent Office, at Washington.

Fifth. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the State so selecting at double the quantity.

Mr. TRIPPE. If the motion to lay on the table be voted down, will the next question be upon the motion to recommit?

The SPEAKER. If the motion to lay on the table fails, the question will recur on seconding the call for the previous question.

The question was taken on Mr. COBB's motion; and it was decided in the negative—yeas 83, nays 114; as follows:

YEAS—Messrs. Atkins, Avery, Barksdale, Billingham, Bocoek, Bonham, Boyce, Burnett, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, Cockerill, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Dowdell, Edmundson, Elliott, Florence, Garrett, Goode, Greenwood, Groesbeck, Grow, Lawrence W. Hall, Thomas L. Harris, Hawkins, Houston, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Lawrence, Leiter, Letcher, Maclay, McQueen, Mason, Miles, Miller, Milson, Montgomery, Isaac N. Morris, Mott, Niblack, Nichols, Pendleton, Peyton, Phelps, Phillips, Potter, Quitman, Reagan, Ruffin, Sandidge, Scales, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Stallworth, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Warren, Watkins, Winslow, and John V. Wright—83.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Bennett, Bingham, Bishop, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, John Cochrane, Colfax, Comins, Corning, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie,

Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Gregg, Robert B. Hall, Harlan, J. Morrison Harris, Haskin, Hatch, Hill, Hoard, Howard, Huyler, Kellogg, Kelly, Kilgore, Knapp, Landy, Leach, Leidy, Lovejoy, McKibbin, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pettit, Pike, Potte, Purviance, Ready, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Seward, John Sherman, Judson W. Sherman, Spinner, Stanton, Tappan, Thayer, Thompson, Tompkins, Trippe, Underwood, Wade, Walbridge, Waldron, Walton, Ellihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Wood, Woodson, Wortendyke, Augustus R. Wright, and Zollcoffer—114.

So the House refused to lay the bill upon the table.

Pending the call of the roll, Mr. JACKSON stated that Mr. LAMAR was still confined to his room by indisposition, and had paired off with Mr. SMITH, of Illinois, upon all questions relating to Kansas and Minnesota.

Mr. LETCHER stated that Mr. POWELL had been called home, and had paired off with Mr. MARSHALL, of Illinois; and that Mr. HOPKINS was still confined to his room by indisposition.

WASHINGTON AUXILIARY GUARD.

Mr. BURNETT. Has the morning hour expired?

The SPEAKER. It has.
Mr. BURNETT. I call for the regular order of business.

The SPEAKER stated the pending question to be upon the motion of the gentleman from Illinois, [Mr. WASHBURN], to lay upon the table an act (S. No. 232) to establish an auxiliary guard for the protection of public and private property in the city of Washington, and repealing all acts heretofore passed in relation to that subject.

Mr. WASHBURN, of Illinois. What is the condition of the bill now before the House? I know the previous question has been ordered, but how are the amendments to be voted on? Are we first to vote upon the substitute of the gentleman from New York, [Mr. DODD]; and if that should be voted down, then upon the amendments adopted in the Committee of the Whole on the state of the Union?

The SPEAKER. The adoption of the substitute by the committee let fall all the amendments to the original bill. If the motion to lay upon the table be voted down, the question will be first upon agreeing to the substitute of the gentleman from New York. If that shall be voted down, the question will be upon ordering the Senate bill, without amendment, to a third reading.

Mr. WASHBURN, of Illinois. At the suggestion of friends, I withdraw for the present the motion to lay the bill upon the table, so that a vote may be taken upon the substitute of the gentleman from New York.

Mr. LEITER. I renew the motion to lay upon the table.

Mr. BURNETT. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 93, nays 97; as follows:

YEAS—Messrs. Abbott, Andrews, Avery, Bennett, Billingham, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Chaffee, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, Colfax, Comins, Covode, Cox, Cragin, James Craig, Crawford, Damrell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dick, Durfee, Edie, Farnsworth, Fenton, Foley, Giddings, Gilman, Gooch, Granger, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Hill, Hoard, Howard, Jewett, Kellogg, Knapp, Leach, Leidy, Leiter, Lovejoy, Humphrey Marshall, Montgomery, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Nichols, Olin, Palmer, Pettit, Potter, Potte, Quitman, Ready, Reagan, Ricard, Robbins, Roberts, Royce, Russell, Aaron Shaw, Judson W. Sherman, Shorter, Spinner, Tappan, Thayer, Thompson, Tompkins, Trippe, Underwood, Wade, Waldron, Walton, Ellihu B. Washburne, Wood, and Zollcoffer—93.

NAYS—Messrs. Ahl, Anderson, Atkins, Barksdale, Bingham, Bishop, Bocoek, Bonham, Bowie, Boyce, Burnett, Case, John B. Clark, Clay, Clemens, Clingman, John Cochrane, Cockerill, Corning, Burton Craig, Curry, Davidson, Dean, Dewart, Dodd, Dowdell, Edmundson, Elliott, Eustis, Florence, Foster, Garrett, Goode, Goodwin, Greenwood, Gregg, Grow, Hatch, Hawkins, Houston, Hughes, Huyler, Jackson, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Kilgore, Landy, Lawrence, Letcher,

Maclay, McQueen, Maynard, Miles, Miller, Millson, Moore, Edward Joy Morris, Mott, Parker, Pendleton, Peyton, Phillips, Pike, Purviance, Reilly, Ritchie, Ruffin, Sandidge, Seales, Searing, Seward, Henry M. Shaw, John Sherman, Singleton, Samuel A. Smith, William Smith, Stallworth, Stanton, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Walbridge, Israel Washburn, White, Whiteley, Wilson, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—97.

So the House refused to lay the bill upon the table.

Pending the call of the roll,

Mr. CURTIS stated that he was opposed to the bill in all its forms, and had paired off with Mr. FAULKNER.

Mr. COBB stated that he voted "ay," because, as the previous question had been ordered, there would be no opportunity to amend the bill, but they must take it just as it stood.

The question recurred upon agreeing to the following substitute [Mr. Dobb's] for the Senate bill, reported yesterday from the Committee of the Whole on the state of the Union:

A bill to establish an efficient police for the city of Washington.

That the boards of the City Council of the city of Washington shall forthwith appoint commissioners of election, according to the charter of said city, who shall, on four days' notice after the passage of this act, hold an election for the choice of four commissioners of police, in manner following: At such election each voter of the city of Washington shall vote for two persons for commissioners of police, and no ballot shall be counted that contains more than two names; and the four persons having the highest number of votes shall be declared elected, and two of them shall hold their offices for two years, and two of them for one year from the day of said election; and the person having the greatest and the person having the lowest number of votes shall be the two to go out of office at the end of one year; and if any two have the same and the highest or the lowest number of votes, such two shall draw lots between themselves to determine which shall go out of office; and there shall be an election on the same day every succeeding year, held as above directed, for two commissioners of police, at which each voter shall vote for one person only, and no ballot shall be counted that contains more than one name; and the two persons having the highest number of votes shall be declared elected, and shall hold their office for two years from the day of their election; and the said four commissioners of police shall constitute a board, to any act or resolution whereof the assent of three of said board, entered on its minutes in writing, shall be necessary; and said board is hereby invested with power to appoint and remove, at their pleasure, the police force hereinafter provided for, and also to appoint and remove, at their pleasure, such police force as now exists under the authority of the boards of the City Council, or may be hereafter established; and the said board shall make rules and regulations for the government of all the said police authorized by this act or by the said boards of the said City Councils.

Sec. 2. *And be it further enacted*, That there be established a police force for the protection of public and private property, and for the enforcement of the police regulations of the city of Washington, to consist of a chief at an annual salary of \$2,000, one captain at an annual salary of \$1,200, four lieutenants at an annual salary of \$800 each, and one hundred men at an annual salary of \$600 each, to be paid monthly.

Sec. 3. *And be it further enacted*, That the guard hereby established shall be divided by the chief into squads of convenient size; and the chief is authorized and empowered to establish guard-houses at such points in the city of Washington as he may designate, subject, however, to the approval of the commissioners aforesaid.

Sec. 4. *And be it further enacted*, That there shall be paid to each commissioner chosen and serving under this act an annual salary of \$1,000.

Sec. 5. *And be it further enacted*, That the sum of \$5,000 be, and the same is hereby, appropriated annually as a contingent fund, to be expended under the direction of the commissioners of police, to carry out the purposes of this act in the suppression of crime and detection of criminals in the city of Washington.

Sec. 6. *And be it further enacted*, That each member of the guard shall be required to wear a uniform dress at all hours when on duty, and on his hat, or cap, or breast, such number as may be assigned him. The captains and lieutenants, at all times, day and night, shall wear an official badge; and said uniforms, badges, and numbers, hereby required to be worn, shall also be prescribed by the chief, and shall be made public in the newspapers in Washington for one month after first prescribed, and shall not thereafter be changed.

Sec. 7. *And be it further enacted*, That the sum of \$75,000, or so much thereof as may be necessary to carry this act into effect, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Sec. 8. *And be it further enacted*, That each member of the police force, before entering upon the discharge of his duty, shall take and subscribe an oath or affirmation to support the Constitution of the United States, and faithfully and impartially discharge his duties as such.

Sec. 9. *And be it further enacted*, That all acts and parts of acts heretofore passed, authorizing or relating to the employment of an auxiliary watch, or guard, be, and the same are hereby, repealed.

Mr. BURNETT. I desire to make an inquiry of the Chair. I understand that, if the substitute of the gentleman from New York should be voted down, the House would then be brought to a vote upon the Senate bill, just as it came from the Senate.

The SPEAKER. Without any amendment.

Mr. WASHBURN, of Maine. What will be the precise question if the substitute shall be voted down?

The SPEAKER. The only remaining proposition for the House to vote upon will be the Senate bill as it came from the Senate, without amendment. The question will be upon the third reading of the bill.

Mr. MAYNARD. What has become of the House bill?

The SPEAKER. The Chair believes the House bill is in Committee of the Whole. It was not reported to the House.

Mr. HUGHES. I demand the yeas and nays upon the substitute.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 90, nays 101; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Colfax, Comins, Covode, Cragin, Damrell, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Eustis, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Hill, Hoard, Howard, Kellogg, Kilgore, Knapp, Leach, Lovejoy, Humphrey Marshall, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Israel Washburn, Wilson, and Zollicoffer—90.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bocoek, Bonham, Bowie, Boyce, Burnett, Burns, Campbell, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockrell, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Dewart, Dowell, Edmundson, Elliott, Florence, Foley, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Haskin, Hatch, Hawkins, Houston, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Landy, Lawrence, Leidy, Leiter, Leitcher, Maclay, McKibbin, McQueen, Mason, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Quitman, Reagan, Reilly, Ruffin, Russell, Sandidge, Seales, Scott, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, William Smith, Stallworth, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, Elihu B. Washburne, Watkins, White, Whiteley, Winslow, Wood, and John V. Wright—101.

So the substitute was rejected.

Pending the call of the roll,

Mr. READY stated that he had paired off upon this vote with his colleague, Mr. SMITH.

Mr. HARLAN stated that Mr. KELSEY was confined to his room by illness.

The question then recurred on ordering the bill to a third reading.

Mr. WASHBURN, of Illinois. I move that the bill be laid upon the table, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 79; as follows:

YEAS—Messrs. Abbott, Andrews, Avery, Bennett, Billingshurst, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, Colfax, Comins, Covode, Cox, Cragin, James Craig, Crawford, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dick, Durfee, Edie, Eustis, Farnsworth, Fenton, Foley, Foster, Gilman, Gooch, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Hoard, Howard, Kellogg, Kilgore, Knapp, Leach, Leiter, Lovejoy, Humphrey Marshall, Mason, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pettit, Phelps, Pike, Potter, Pottle, Purviance, Quitman, Ready, Reagan, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, Wilson, Wood, Woodson, and Zollicoffer—111.

NAYS—Messrs. Adrain, Ahl, Atkins, Barksdale, Bishop, Bocoek, Bonham, Bowie, Boyce, Burnett, Chapman, John B. Clark, Clay, Clemens, Clingman, John Cochrane, Cockrell, Corning, Burton Craig, Curry, Davidson, Dewart, Dowell, Edmundson, Elliott, Florence, Gartrell, Goode, Greenwood, Gregg, Hatch, Hawkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Landy, Lawrence, Leidy, Leitcher, Maclay, McKibbin, McQueen, Miles, Millson, Moore, Pendleton, Peyton, Phillips, Reilly, Ruffin, Sandidge, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Singleton, William Smith, Stallworth, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, White, Whiteley, Winslow, Wortendyke, and John V. Wright—79.

So the bill was laid upon the table.

Mr. WASHBURN, of Illinois. I move to

reconsider the vote just taken, and also move that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. CLINGMAN. I demand the regular order of business.

PURCHASE OF LAND FOR FORTIFICATIONS.

Mr. CHAFFEE. I ask leave to introduce the following resolution:

Resolved, That the special committee appointed by this House to investigate the facts and circumstances connected with the purchase of Willett's Point, in the State of New York, by the Government of the United States, be directed to extend their investigations to the facts and circumstances connected with the purchase of Clark's Point, in New Bedford, in the State of Massachusetts, by the same.

Mr. BURNETT. I object.

Mr. LOVEJOY. I ask the unanimous consent of the House for leave to introduce a bill for reference.

Mr. CLINGMAN. I object, and call for the regular order of business.

The SPEAKER. The business next in order is House bill No. 2, donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, on which the previous question has been called.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. WALBRIDGE. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. SEWARD in the chair.

The CHAIRMAN stated the first business in order to be a bill (H. R. No. 62) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1859.

Mr. J. GLANCY JONES moved that the first reading of the bill be dispensed with.

The motion was agreed to; and the Clerk proceeded to read the bill by sections for amendment.

Mr. SHAW, of North Carolina. I confess, Mr. Chairman, that, after the long discussion which we have heard here on this floor in regard to the question of the admission of Kansas under the Lecompton constitution, I feel no small degree of embarrassment in approaching that subject. Indeed, after having refrained from entering the chase while the game was fairly afoot, I should not, at this late hour, have sought the indulgence of the committee, were it not for the strange and extraordinary speech of my colleague from the fifth district, [Mr. GILMER,] which it is now my purpose to review in the brief hour which is allotted to me on this occasion. In doing this, I desire to premise that I have no complaint to make on account of my colleague's votes against the admission of Kansas, although I believe they are in direct opposition to the rights and interests of his constituents and mine, and tending to the perpetration of an act by this Congress which is characterized by the leading Know Nothing organ in North Carolina as an "unparalleled outrage." That, however, is a matter between him and the people who sent him here to uphold their rights and defend their honor; and they, I doubt not, will in good time pass upon his conduct. But, sir, it is my right to examine with all freedom, as I trust I shall with equal fairness, the sentiments he has expressed, and the positions he has assumed, and to repel in a proper spirit the attack he has thought proper to make upon the Executive and the Democratic party.

I regretted, Mr. Chairman, to hear the rebuke administered by my colleague to those southern gentlemen who have spoken, perhaps with intemperate heat, of the many aggressions of the North upon the rights of the South. It is true that in the outset of his remarks he disapproved the violent assaults of northern members also; but, throughout his whole speech, there seemed to be a disposition to ignore the wrongs we have suffered. Not one word to indicate that we are the party assailed, and that the Black Republicans have no just ground upon which they can base the malignant attacks they are constantly making upon us. Sir, I do not myself approve the tone and temper which some gentlemen on this side have indulged in. I do not admire that sort of

warfare; and, with due deference to them, I do not think southern gentlemen ought to participate in it; but when we remember that for many years the South has been assailed in her dearest interests; her constitutional rights disregarded; laws passed in accordance with a plain and unequivocal provision of the Constitution, designed to protect her in her slave property, nullified and trampled under foot in several of the northern States; efforts made by a powerful party, sectional in its character, and led on by talented, sagacious, and unscrupulous men, to deprive the South of her just participation in the administration of the Federal Government, and openly declaring it to be their settled determination to prevent the admission of any more slave States; when we have been compelled to sit here, day after day, week after week, and month after month, and hear the slaveholding States held up to the scorn and detestation of the world, our people stigmatized as infidels, vilified and abused in the coarsest billingsgate to be found in the Black Republican vocabulary, by the fanatics who crowded around my colleague, and cordially congratulated him, at the conclusion of his speech; is it strange, is it to be wondered at, that southern members of this House, thus goaded, should be found sometimes yielding to the honest impulses of their nature, and denouncing, in severe but just terms, those common disturbers of the public peace, and traitors to the Constitution and the Union? Mr. Chairman, unlike my colleague, I can forgive something to the spirit of patriotism; and while I may not approve the intemperate speeches sometimes made on this side, I cannot but contrast their course with that of my colleague; while I admire the zeal and devotion to the rights of their own section which prompt them, especially as I feel and know that it is only by an uncompromising adherence to their rights that the Union can be maintained.

Mr. CAMPBELL. Will the gentleman from North Carolina allow me to put an interrogatory to him?

Mr. HOUSTON. I object to any questions.

Mr. CAMPBELL. It is a very brief one. I desire to inquire whether the gentleman knows that his colleague [Mr. GILMER] is absent, having paired off with Mr. CARUTHERS, who is in bad health; and that he is not present to respond to his remarks?

Mr. SHAW, of North Carolina. I am aware of that fact; and some of my friends know that I sought earnestly to obtain the floor while my colleague was still here. And I desire to say to the gentleman from Ohio, that no word which I utter here, will I refuse to proclaim in the face of my colleague here, or elsewhere.

Mr. CAMPBELL. I do not question that, at all.

Mr. SHAW, of North Carolina. What I say here will be published, and will reach the eye of my colleague. I will therefore be doing him no sort of injustice. I would have preferred that my colleague were present. But—he having discharged his Parthian arrows—because he is now absent, I cannot consent to lose the first opportunity which presents itself, and no doubt the only one I shall have, to make my reply. The poison which he has emitted is, even now, being circulated in North Carolina; and I am unwilling it should be administered without the antidote I intend to prescribe.

Mr. Chairman, if I have correctly comprehended the speech of my colleague, he bases his opposition to the admission of Kansas under the Lecompton constitution, in other words, to her admission as a slave State, upon three points of objection: first, that the Green amendment affirms the right of a majority of the people to change the constitution at any time they please; and that, by the establishment of that principle, slavery may be excluded whenever a majority of the people choose; second, that the population of Kansas is not sufficient to entitle her to admission; and, third, that the constitution framed at Lecompton is not the will of the people of that Territory. I propose to examine these several points.

Now, sir, with all due respect for my colleague, I say the Green amendment affirms no such thing. Here is the amendment, word for word, and letter for letter:

"And that nothing in this act shall be construed to abridge or infringe any right of the people asserted in the constitution of Kansas at all times to alter, reform, and abolish their

form of government, in such manner as they may think proper, Congress hereby disclaiming any authority to intervene or declare the construction of the constitution of any State, except to see that it be republican in form, and not in conflict with the Constitution of the United States."

What is a fair construction of that amendment? Simply that we do not intend by the act of admission to deny, as we do not affirm, any right of the people of Kansas, as asserted in their constitution, to alter or abolish their form of government; at the same time it unequivocally declares that Congress has no right to intervene otherwise than to see that the constitution presented is republican in form, and not in conflict with the Constitution of the United States. This question requires no argument—it admits of none—the language is so plain that to state it is to explain it. Now I am free to confess that I preferred the bill without that amendment; not for the reasons assigned by my colleague, but because the premises amount, in my judgment, to a truism which no man who understands the true theory of our system of government would ever think of controverting. I therefore voted to strike it out. Mr. Chairman, the Congress of the United States might solemnly resolve, every legislative day in the year, from now "till the crack o' doom," that the people of North Carolina had, or had not, the right to alter, amend, or abolish their present form of government to suit themselves; but, sir, would their rights be thereby affected one way or another? Not at all; not at all—every State having the unquestionable right to alter or amend her constitution in her own way.

But suppose my colleague's construction of the Green amendment is correct; admit, for the sake of the argument, that it does affirm the right of the people of Kansas to alter their constitution at any time they please, regardless of the restrictions in the instrument itself: does my colleague repudiate the principle? If he does, I call upon him to say how, as a member of the Senate of North Carolina, solemnly sworn to support the constitution of that State, he voted for the proposition of Governor Graham to call a convention to amend the constitution, in a manner totally different from that prescribed in that instrument? Then let my colleague yield his objection to the Green amendment, or acknowledge that he is but availing himself of that "policy," which, to use his own language, "is practiced in our little electioneering scuffles in our country, and which ought not to obtain in the Congress of our nation."

Having listened to the gentleman's denunciation and ridicule of the Green amendment in his speech of the 30th March, who, Mr. Chairman, could have supposed that in two days thereafter he would have been found voting for it! And yet he did! On the 30th of March it was wrong in principle, and rendered the Senate bill worthless to the South; on the 1st of April, only two days, I repeat, after he denounced and ridiculed it, when the gentleman from Mississippi moved to strike it out, he voted with the whole body of the Opposition against the motion! Voted against striking out an amendment which, in his opinion, so completely emasculated the bill that it was deprived of every power of generating a single principle of the least value to the South?

But the gentleman may say that he voted against the Green amendment in order to save, if possible, the House bill. I do not by any means admit that he can thereby find a sufficient justification of his vote; but I am willing, for the sake of the argument only, to give him the benefit of that position; and now let us see whether he is justifiable in taking the Crittenden amendment in preference to the Senate bill. The gentleman, in the outset of his remarks, charged the Democratic party with practicing the unwise policy of encouraging foreign immigration into the new States and Territories, by granting to aliens not naturalized the right of suffrage, and by making them eligible to offices of emolument and honor; and he held up this policy as one that ought to receive the unqualified condemnation of the people, especially of the South, as it was injurious to her best interests. Now let us compare the two bills in reference to these questions which my colleague thinks so vitally important. The Senate bill, which he condemns and voted against, proposes to admit Kansas under the Lecompton constitution, which, in the first section of the eighth article, defines the right of suffrage as follows:

"Sec. 1. Every male citizen of the United States, above

the age of twenty-one years, having resided in this State one year, and in the county, city, or town in which he may offer to vote, three months next preceding any election, shall have the qualifications of an elector, and be entitled to vote at all elections."

Here, then, is a principle which he deems of vital importance to the South fully secured in this constitution. The Crittenden bill, which he voted for, proposes to refer the whole subject back to the people of Kansas. My colleague says the majority in that Territory is opposed to the Lecompton constitution; of course, then, the Black Republicans would frame and establish a new constitution, in case he should succeed in crushing out Lecompton; and what kind of provisions, think you, that constitution would contain in reference to this question, which, he tells us, deserves the serious consideration of the South? Why, sir, the latest intelligence from that Territory, fruitful of constitutions as Niobe of tears, represents that the Black Republicans, anticipating the action of my colleague in the rejection of the slaveholding and anti-alien-suffrage constitution of Lecompton, have already made another, which, as we are informed, not only confers this inestimable privilege upon foreigners, but upon negroes also! Now, what becomes of my colleague's Know-Nothing principle in reference to this subject? It has clearly been sacrificed to something; I leave him to say what.

The Lecompton constitution contains the following provisions in regard to eligibility to office, (article four:—)

"Sec. 3. The Governor shall be at least thirty years of age, shall have been a citizen of the United States for twenty years, shall have resided in this State at least five years next preceding the day of his election," &c.

"Sec. 17. A Lieutenant Governor shall be elected at the same time and for the same term as the Governor, and his qualifications, and the manner of his election, shall be the same in all respects."

Here, then, is another principle which he commends to southern politicians. Now, I leave it to my colleague to say whether, judging from what we have already heard of the constitution lately framed at Leavenworth, he has any good reason to expect that any other which may be adopted, should he succeed in defeating the Lecompton constitution, will be likely to come up to his standard of excellence in this regard? In reference to this question, however, I am inclined to think, notwithstanding what my colleague has said upon this subject, he does not, after all, look upon it as anything more than that sort of "policy practiced in our little electioneering scuffles in our country;" for I well remember that when he was a member of the North Carolina State Senate, he recommended a regular, full-blooded Milesian, one Pat McGowan, for a Federal office under General Pierce, thereby proving very clearly that, in reference to this principle which he so seriously commended to southern politicians—and the same may be said of his opposition to the Green amendment also—he is, if he will permit me, by way of illustration, to use one of the elegant anecdotes with which he embellished his speech, "a sorter so, and a sorter not so, and rather more a sorter so than a sorter not so." He commends the principle of excluding foreigners from office, and gives the influence of his name toward procuring office for one of that class. He denounces the Green amendment in his speech, and then votes for it!

But, Mr. Chairman, there is another of my colleague's long cherished principles which I think he sacrificed to his hostility to Lecompton. For many years he and his party in North Carolina, have contended that the public lands were wastefully squandered upon the new States, to the great prejudice of North Carolina and the other old States. This matter has been presented to the people of our "beloved South" (to borrow the gentleman's term of endearment,) and enforced with an array of statistical tables that would appal old Mr. Daboll himself. With the most eloquent and disinterested appeals the people of North Carolina have been urged to send to Congress gentlemen of my colleague's political faith, who would be sure to guard the public domain, and see that they got "their full share." Now, sir, how has my colleague proposed to secure for North Carolina her just and rightful interest in the immense public domain in Kansas, amounting, as I think, to about eighty millions of acres?

"Sec. 2. And be it further enacted, That the State of Kansas is admitted into the Union upon the express condition that said State shall never interfere with the primary

disposal of the public lands, or with any regulations which Congress may find necessary for securing the title in said lands to the bona fide purchaser and grantee thereof, or impose or levy any tax, assessment, or imposition of any description whatever, upon them or other property of the United States within the limits of said State."

Here is the just and rightful claim of the Government of the United States to all the unsold lands in Kansas, fairly "nominated in the bond," and thereby secured for the benefit of North Carolina and all the other States alike. My colleague voted against this just and necessary measure of security; and while he told us that the President is unworthy of our confidence, he nevertheless proposed not only to depart from the constitutional mode of admitting Kansas by act of Congress, but to confer upon the President the power to bring her into the Confederacy by his own mere *ipse dixit*, so soon as she should offer to him a constitution, regardless of its provisions. Now, sir, suppose that the people of Kansas (the bill for which my colleague voted having become a law, and the President invested with that stupendous power) should reject the Lecompton constitution, and my colleague takes the ground that they would, for he voted against the Senate bill because he says it is not the will of her people, and then proceed to frame another constitution, in which they solemnly declare that the entire public domain within her borders belongs of right to the sovereign State of Kansas, and can be used for her benefit alone—that constitution being presented to the President he will be compelled, in obedience to the Crittenden bill, to induct her into the Confederacy: would my colleague, as a lawyer, undertake to prosecute the claim of North Carolina to her just and equal share of those public lands? Sir, how would he bring his action, and in what court, pray?

Another objection to the admission of Kansas (under the Lecompton constitution, mark you) is the insufficiency of her population. To this objection I shall devote but few words. Admitting very fully the general principle that a State ought to have the number of population fixed by the law for the time being as the representative ratio, I am not prepared to deny that, under peculiar circumstances, acting under a sound discretion, Congress may depart from the rule. In the present case, however, it appears to be admitted on all sides, so far as I know, that Kansas has the requisite population. General Pierce seems to have been of that opinion as far back as the last Congress. Mr. Buchanan is evidently of the same mind. It is not controverted either in the report of Judge DOUGLAS, or that of Messrs. COLLAMER and WADE, made during the present session; and I know of no one, except my colleague, who has raised the question. So far as he is concerned, I shall dispose of it in a very few words. My colleague offered a bill himself for the admission of Kansas; and I have only to say, that if the population of that Territory be sufficient to justify her admission under his bill, it strikes my poor judgment that it is equally sufficient to justify her admission under the Senate bill.

The other point made by the gentleman from North Carolina is, that the Lecompton constitution is not the will of the people of Kansas. In order that I may be properly understood in what I shall say upon this point, it is necessary that I should refer, as briefly as may be, to the legislation of Congress in reference to slavery, and to the events which have transpired in Kansas. On the application of Missouri to become one of the States of the Union, she was refused admission on account of the slavery feature of her constitution. In vain did southern members, and the conservative portion of northern men, urge that Congress had no right to reject a State for any other reason save that her constitution was anti-republican. A bitter contest arose, which excited serious apprehensions on account of the safety of the Union. At length the proposition contained in the eighth section of the act of March 6, 1820, by which slavery was to be excluded from all the territory of the United States north of the line of 36° 30', was offered, and, in an evil hour, accepted by the South. This was to be a compact, a bond of peace! and yet, in the very next year after its adoption, it was set at defiance by the North. Again and again, subsequently, when the South applied for the admission of new slave States, this sacred compact, as it has been called, and for which my colleague has so much veneration, was utterly repudiated by

that section which had forced it upon the South as a measure of peace and harmony. At length, after the conclusion of the war with Mexico, by which we acquired extensive territory, some of which was south of the Missouri restriction line, in utter violation of that compromise, and in total disregard of every principle of justice, an effort was made to exclude us from a just and equal participation in the fruits of that glorious war by the application of the Wilmot proviso, thereby intending to exclude us from all that vast territory, acquired, as it had been, by a common expenditure of blood and treasure, of which—and I do the North no injustice when I say it—the South contributed her full share.

At this crisis the South agreed to run the Missouri line through to the Pacific, and thus forever settle the dispute: this offer was persistently rejected by the very men who have since proclaimed that compromise a sacred compact, binding as the Constitution itself! Denied even this small concession to our just demands, nothing was left the South but to fall back upon her constitutional rights, and to insist upon equal privileges in all the Territories. After a struggle which shook this Republic to its deep foundations, the question was disposed of, so far as Utah and New Mexico were concerned, by the legislation of 1850. I shall not stop here to inquire into the wisdom of the compromise measures of that year. I may say, however, *en passant*, that according to my honest opinion, the South fared in this as she had done in every other compromise to which she has given her assent. Peace, or rather a truce, was obtained for a brief period, until at length Congress undertook to organize the Territories of Kansas and Nebraska, in 1854. In the mean time both the political parties then struggling for power, adopted in their platforms the principle of non-intervention asserted in the legislation of 1850. In order fairly to carry out that principle in organizing the Territories of Kansas and Nebraska, it became necessary to repeal the Missouri restriction, which excluded slave property from those Territories. The time had now come when the soundness of the two parties, and their fidelity to the principles asserted in 1850, and affirmed in both party platforms in 1852, were to be tested. The result proved that the northern wing of the Whig party, which in the days of its great leaders, Clay and Webster, had always given evidence of the possession of some conservative principle, was utterly unsound, and it soon fell into that grave to which it was so justly consigned. The Democratic party, aided by most of the southern Whigs, repealed the Missouri restriction, and firmly established the principle of non-intervention.

The Territory of Kansas was thus opened up for settlement by southern as well as northern men, and the Black Republican party, which had crawled forth from the ruins of the Whig party, like a huge serpent from among the fallen columns of some magnificent temple, soon found that if left to herself, and emigration permitted to flow through its natural channels, Kansas would become a slaveholding State. An emigrant aid society, with a capital of \$5,000,000, was chartered by the Legislature of Massachusetts, whose object was the settlement of Kansas with a free-soil population, to wrest that fine Territory from the South, and thereby prevent another slave State from being admitted into the Union. Maddened by the pious eloquence of such fanatics as Parker and Bercher, and inflamed by the vehement declamation of the Black Republican leaders, thousands of Kansas-shriekers, armed with rifles and revolvers, rushed into the Territory.

The laws passed by the Territorial Legislature were repudiated; the regularly constituted authorities set at defiance; and a spurious government set up by these traitors, who placed themselves in a state of open rebellion. Sir, is this picture overdrawn? Will my colleague deny that the Free-Soil party in Kansas, whose violated rights he so feelingly deplores, was in a state of rebellion against the government established by Congress? We have the official evidence of Governor Walker to sustain the declaration.

In his proclamation to the people of Kansas, after making most earnest appeals, he says:

"A rebellion so iniquitous, and necessarily involving such awful consequences, has never before disgraced any age or country.

"Permit me to call your attention, as still claiming to be citizens of the United States, to the results of your revolu-

tionary proceedings. You are inaugurating rebellion and revolution; you are disregarding the laws of Congress and of the territorial government, and defying their authority; you are conspiring to overthrow the Government of the United States in this Territory. Your purpose, if carried into effect in the mode designated by you, by putting your laws forcibly into execution, would involve you in the guilt and crime of treason."

He further says:

"Under these circumstances, you have proceeded to establish a government for the city of Lawrence in direct defiance of the territorial government, and denying its existence and authority. You have imposed upon all those officers the duty of taking an oath to support this so-called State constitution; thus distinctly superseding, so far as in your power, the territorial government created by the Congress of the United States."

Governor Walker, in his letter to the Secretary of State of July 20, 1857, says:

"There is imminent danger, unless the territorial government is sustained by a large body of the troops of the United States, that, for all practical purposes, it will be overthrown, or reduced to a condition of absolute imbecility. I am constrained, therefore, to inform you that, with a view to sustain the authority of the United States in this Territory, it is undeniably necessary that we should have immediately stationed at Fort Leavenworth at least two thousand regular troops, and that General Harney should be retained in command."

If this evidence is not complete, I will add that which my colleague cannot gainsay. In his issue of the 10th February, 1858, the editor of the *Raleigh Register* says:

"The unreasonable, unjust, and treasonable course of the Free Soilers and Topoka men of Kansas is properly set forth by the President, who, when he denounces them as rebels, uses the word best calculated properly to characterize their conduct. These men have committed the very offense in Kansas which the Mormons perpetrated in Utah. They have defied the authority of the laws and the Government, and attempted to set up an *imperium in imperio* in Kansas. To say, therefore, that the howlings of these traitors and rebels should cause the rejection of the Lecompton constitution is to countenance lawlessness and reward treason."

Discord then reigned in that unhappy Territory, and it became evident that the only mode by which quiet could be gained, and peace restored to Kansas and the country, was by procuring her admission as a State into the Confederacy. An act was therefore passed by the Territorial Legislature to provide for taking the sense of the people as to the expediency of calling a convention to frame a constitution. At a regular and fair election thus legally authorized, the people voted with great unanimity in favor of a convention. The next Legislature passed an act to provide for the election of delegates to a convention to be composed of sixty members, who were to be apportioned among the several counties of the Territory in proportion to their population, which was to be ascertained by taking a census. This act was vetoed by Governor Geary because it contained no provision for submitting the constitution to the people for ratification or rejection. The Legislature then passed it over the Governor's veto by a two-thirds vote, and it thus became a law.

The convention thus elected assembled at Lecompton, and framed the constitution under which Kansas now asks for admission into the Union. My colleague says it does not embody the will of the people, and he therefore is against it. His language is:

"I must say that when I hear it asserted here, and everywhere, and the proofs strongly tending to show that the government of Kansas was, in the first instance, ruthlessly snatched from the people, unconstitutional test oaths applied, by which the minority, who by fraud obtained the control of the government, and by which the majority were kept from participating in the government; when I am told, and the proof tends that way, that not more than one half of the counties of the Territory were permitted to be represented in the convention, I doubt the propriety of supporting the constitution framed thus."

Government of Kansas ruthlessly snatched from the people! test oaths! majority kept from a participation in the government! not more than half the counties permitted to be represented in the convention! These are the charges which have been made and so often repeated through all the different moods and tenses by the whole Black Republican school, and now gravely affirmed by my colleague. Sir, if the name of the senior member from Ohio had been affixed to the above extract instead of my colleague, would any one have doubted its authenticity? Says Mr. GIDDINGS: "Usurpations and brute force were resorted to for the purpose of extending and supporting slavery." Says Mr. WILSON: "In this contest, slavery has startled the nation by a series of acts of violence and frauds," &c. So said Mr. SEWARD, Mr. HARLAN, and other Black Republicans who have

spoken upon the question. These are the authorities, I suppose, upon which my colleague relies to sustain his charges against the pro-slavery party in Kansas! Why, sir, this cry was commenced in 1854, immediately after the passage of the Kansas and Nebraska bill, and it has been kept up ever since. Sorry am I that southern men are now found to join in it. That the pro-slavery men have committed no wrongs, I am far from saying. Assailed, as they have been, by lawless bands of Abolitionists, who boasted of their intention, first to abolitionize Kansas and then overrun Missouri, they would have been more or less than men had they borne themselves faultless in such a contest. But, sir, can the charges against the pro-slavery party, made by my colleague, be sustained by any other authority than that to which I have alluded?

I have already proved by Governor Walker, as well as by the Raleigh Register, that these organizers were in a state of rebellion and resistance to the laws. That they refused to register their names and establish for themselves such form of government as they desired, the evidence is equally abundant. In the affidavit of George Wilson, contained in Senate report by Mr. GREEN, he says:

"At the time when the census was taken under the law providing for the Lecompton convention, I was the acting judge of probate for Anderson county, Kansas, and am aware of the fact that the two wings of the free-State party of that county, composed of more moderate Free-Soilers and the adherents of Lane, threatened the life of any who should attempt to take the legal census; and I can say, under oath, that the life of any one making the attempt to execute the law in that particular was in danger, and the foregoing threats were the cause which prevented the taking of the census in Anderson county within the prescribed time."

"In regard to Passmore Williams, judge of probate for Allen county, members of the so-called free-State party stated to me in person that if he attempted to execute the law, and did not leave, they would kill him; and I know the fact that he did not execute the law, and left the county because he believed his life in danger. Mr. Williams is from Illinois, and is a free-State man, but belongs to the Democratic party."

"In regard to Esquire Vocun, judge of probate for Franklin county, he left the county and the Territory on account of losing his negro property, and having his life menaced. The office being vacant, the Legislature which passed the census law appointed a new judge of probate and other officers, who refused to serve, alleging as a reason, that they were afraid so doing would cost them their lives. Consequently, no census was taken, and no legal election held."

If my time would admit, I might adduce further proof of the same import.

But my colleague says test oaths were imposed. One of them was an oath binding officers to support the Constitution of the United States, the organic act, and the fugitive slave law; this, at least, was not, to my mind, so very monstrous—but they were all repealed before the constitutional convention was called, so that no complaint could exist on that score. But these poor innocents, these meek and orderly Black Republicans, were disfranchised in half the counties in the Territory! Sir, has my colleague been so intent in his labor of love in hunting up charges against the pro-slavery party in Kansas, that he has not had time to look at the official evidence? I have already shown that the Free-Soilers refused to register their names, and actually drove off the officers and would not permit them to discharge their duties. It is well known that several of the counties alluded to had no population; in others there were not more than ten or fifteen voters each; in all of them together the Free-Soilers could only drum up about fourteen hundred at the election on the 14th of January, although they had everything their own way—the pro-slavery men denying the validity of the election and taking no part in it. These people were not disfranchised and denied a participation in the territorial government and formation of the constitution. Although urged by every consideration that could animate patriots and influence good citizens, they factiously refused to have part or lot in the matter.

Now, I have shown by evidence which my colleague cannot impugn, that these people are deprived of no rights; that they themselves refused to participate in the elections, and have no right to come here now and claim to take advantage of their own wrong. If they were in the majority, they should have resorted to the peaceful and republican method of the ballot-box to redress themselves. If, as is most likely, they were in the minority, they had none to be redressed.

Mr. Chairman, the constitution of Kansas was

framed in a regular manner, and in strict accordance with all the requirements and forms of law; but my colleague would have it referred to the people for ratification or rejection. Is it necessary to submit a constitution in order to ascertain the will of the people, and make it binding? Then the constitution of North Carolina has no validity, for it was not submitted! Then the constitutions of all the rest of the original thirteen States, except one, are of no binding force; for I believe Massachusetts is the only one which submitted her constitution!

This doctrine would, moreover, remand to a territorial form of government thirteen out of the eighteen new States that have been admitted; for five only of them all have submitted their constitutions. Every one knows that the constitution of the United States was never so submitted; and so far as North Carolina is concerned, and I think the same was the case in all the rest, even the delegates to the convention which framed that instrument were not elected by the people, but by the Legislatures.

But, sir, I want to know of my colleague how long he has advocated the doctrine that it was the duty of the Lecompton convention to submit the result of their labors to the people? In the late canvass between my competitor and myself, in the first district, he took open ground against submission, and denounced the Administration for favoring it through Governor Walker. He declared that it would be a flagrant wrong to the South. I said then, as I repeat now, that the submission or refusal to submit the constitution of Kansas was a question with which neither the President, nor Governor Walker, nor my opponent, nor myself, nor any one else outside of Kansas, had anything to do; that it belonged solely to the convention, which had a complete right to submit it or not, as, in its wisdom, it might see fit. That convention did not choose to submit it to the people, and who has a right to complain? Surely the people of North Carolina have not, nor do they.

In order, however, to remove every ground of complaint, the slavery article, which was the only disturbing question, was referred to them for ratification or rejection. A fair election was held, and a majority of five thousand six hundred and fifty-seven votes was polled in favor of slavery; but my capacious colleague contends that there were fraudulent votes given. Well, I do not doubt that there were; but has he, or any of his coadjutors, undertaken to prove that there were five thousand six hundred and fifty-seven fraudulent votes? By no means; no one has ever made any such pretension. Until that shall be done, this constitution must stand as the will of the people of Kansas, unless amended or abolished according to the forms of law. It stands vindicated by a principle of constitutional law so firmly fixed in the hearts of the American people, that no battery of logic and no fund of anecdote that my colleague can bring against it can move it from its base.

But my indefatigable colleague says that a majority of ten thousand votes were cast against the Lecompton constitution at the election on the 4th of January, and that General Cass, as Secretary of State, acknowledged the validity of that election. Why, sir, we all know that the convention which framed the constitution provided for an election to be held on the 21st of December, to take the sense of the people upon the constitution, or rather the slavery clause. I have already stated the result of that election; it is idle—without meaning any disrespect to my colleague—it is absurd, to say that the Territorial Legislature had power to order another election. The Democratic party in Kansas so considered the matter, and took no part in it. No vote cast at that election can affect the validity of the Lecompton constitution. But my colleague says that General Cass, as Secretary of State, acknowledged the validity of that election. Sir, I am amazed that my colleague should be so reckless in his zeal to defeat the Lecompton constitution as to make assertions that are so easily disproved by the record. In his letter of the 11th of December, 1857, to Secretary Denver, General Cass says:

"It is proper to add, that no action of the Territorial Legislature about to meet, can interfere with the elections of the 21st of December and the 26th of January, in the mode and manner prescribed by the constitutional convention."

Why, then, should not Kansas be admitted under it, this whole subject localized, and she left to

manage her own affairs in her own way? Twice have Jim Lane and his myrmidons had an opportunity of voting upon this question. Will my colleague still insist upon giving them a third chance? He speaks of bringing two Jim Lanes here as Senators; if the Black Republicans have the Legislature, two Senators of that stripe will be sent any way, it may be. My colleague is not satisfied with that; his action, if successful, would abolish a constitution which has made Kansas at this moment, to use the language of the President, "as much a slave State as Georgia or South Carolina," and with equal certainty he would make it a free State, provided he is right in saying the Abolitionists are in the majority. Says Mr. BURLINGAME, in his late speech in the House:

"I will vote for it [Citizens bill] because I think that it will make Kansas a free State. The Administration says it is a slave Territory to-day—the Lecompton constitution makes it a slave State. I feel that the Lecompton constitution, without this substitute, would pass in its naked form, and that Kansas would be a slave State under it."

Sir, does not my colleague see and know that the object of the Black Republicans is to give the Abolitionists in Kansas another chance, and to keep alive this question, which is the very ailment upon which the monster Black Republicanism feeds, to aid them in bringing into this Hall a Black Republican majority in the next Congress, and so strengthen themselves for the mighty struggle they are to make in 1860? And this "unparalleled outrage," as the Raleigh Register styles it, is to be perpetrated by the agency, in part, of southern Representatives. The member from Massachusetts [Mr. BURLINGAME] tells us the alliance has been formed, and he, a prophet of evil, vauntingly predicts the result! What is it? I will let him speak for himself. Listen:

"I also felt proud to hear the speech of the distinguished Senator from Tennessee, [Mr. BELL]. I was glad to hear their conferees on this floor, Messrs. UNDERWOOD of Kentucky, GILMER of North Carolina, RICHARD and HARRIS of Maryland, and DAVIS, with his surpassing eloquence, worthy of the best days of Pinckney and Wirt; and I also express my gratitude to Mr. MARSHALL, of Kentucky, who has labored so long to secure this union of patriots men. I owe it to these men, and to myself, to say that I do not agree with them on the subject of slavery, and I know that they do not agree with me. Neither do I agree with the Douglas men; I take what I think is a higher position. I hold to the power of Congress over the Territories; they do not. But while I oppose the Lecompton Constitution for one reason, and while the Douglas Democrats oppose it for another, the South Americans may oppose it for still another. God knows we have all cause of war against it, and against the Administration. And we have come together here as a unit, not by any preconcert, not by any trade among leaders, but by the spontaneous convictions of our own honest minds. I trust that this may be an omen of what may happen in the future."

Here we have the triple alliance of Black Republicans, Douglas Democrats, and southern Know Nothings! Now for the results of that unnatural combination! Addressing himself to the thirty patriotic and fearless Democrats who have dared to do their duty here by standing up for the constitutional rights of the South, he says:

"They will ask you why the Army of the United States have shot down American citizens in the streets of Washington, and why it was held in *terrorem* over the people of Kansas so long. And they will ask you, dough-faces of the North, why you sat still in your seats, and allowed men to call your constituents, because they toiled, mud-sills and slaves? You will have to answer all these things. You cannot do it, and we shall beat you like a threshing floor. We shall hereafter have a majority in this House. We shall strengthen ourselves in the Senate, and we are to-day filling all the land with the portents of your general doom in 1860."

Sir, the thing is plain to the dullest eye! It stands out gross and palpable, and no man can fail to see it who is not blinded by his prejudices against the Democratic party, that party upon which the hopes and the destinies of this mighty Republic hang! Witness the efforts they are making to defeat the Lecompton constitution; look at the solid front they present here whenever a vote is taken on the question; read their speeches and listen to the shouts of exultation that have already been sent forth from their party press in anticipation of the defeat of this great measure! I quote from the Albany Evening Journal:

"The vote in the House of Representatives virtually repudiating the scheme of villainy inaugurated by the border ruffians of Missouri, with the connivance of President Pierce, and culminating in the Lecompton fraud under Buchanan, gives hope and courage to those who began to despair of the Republic. Conscience seems about to resume its reign in a region from whence it never should have been banished. For ten long years, nearly, the moral sentiment of the nation has been deteriorating. The sense of justice, the love of liberty, and allegiance to God, have all been wan-

ing. Neighboring nations have been robbed, men have been reduced to slaves within the shadow of Faneuil Hall, and the higher law has been denounced and derided. Infidels to humanity, scoffers at the law of God, and recreants to freedom, have revelled in power and plunder. But a day of reckoning is at hand. The nation's heart throbs with new feelings. Hope is giving place to despair, and freedom is asserting its claims to reverence. Everywhere at the North, and even in the South, we see that the spirit of liberty (Abolitionism) is working among the people, and the recent vote in Congress is but an index of that feeling. This awakening of the conscience of the people should inspire us with new zeal, and lead to redoubled efforts in the cause of freedom (Black Republicanism.) The overthrow of the slave power is approaching."

Mr. CHAIRMAN, I have not said all that I desired to in reply to my colleague. My time will not admit. I am admonished that it has already nearly expired; but I cannot resume my seat without giving expression here in my place to the indignation I felt on seeing the senior member from Ohio offering his congratulations to my colleague at the close of his speech. Once before, during my legislative experience here, it has been my lot to witness a similar exhibition. Once before have I seen the enemies of the South congratulate a southern man on account of a speech he had made upon a question in which the rights of the South were involved.

Mr. GIDDINGS. Will the gentleman allow me to interrupt him? Did I understand the gentleman to say that I went to Mr. GILMER and congratulated him? May I correct him in that statement?

Mr. SHAW, of North Carolina. I am aware that the gentleman from Ohio congratulated him upon his speech. I saw the gentleman approach my colleague as he approached another gentleman upon a former occasion, who had made a speech in reference to southern rights. I saw the gentleman approach him with both hands extended, and imagined that he was pronouncing a benediction upon my colleague, which would be a withering curse upon him to his grave.

Mr. GIDDINGS. Does the gentleman intend to represent me as congratulating Mr. GILMER? Does he understand that I went towards Mr. GILMER to congratulate him?

Mr. SHAW, of North Carolina. I say that the gentleman did go towards him, shake him by the hand, and, I suppose, congratulate him.

Mr. GIDDINGS. Let me say that the gentleman is entirely mistaken.

Mr. SHAW, of North Carolina. Why, sir, I saw it with my own eyes, and there were gentlemen upon this side whose attention was called to it.

Mr. GIDDINGS. I will correct the gentleman. Let me explain it.

Mr. SHAW, of North Carolina. I beg the gentleman not to interrupt me.

Mr. GIDDINGS. I wish to correct the gentleman. [Loud cries of "Order!"]

Mr. SHAW, of North Carolina. I ask the gentleman from Ohio, then, if he did not approach my colleague, at the conclusion of his speech, shake him by the hands, and offer his congratulations?

Mr. GIDDINGS. I did not. Mr. GILMER was in his place, and I was in the aisle. I inquired of him if he intended to compare my name with that of James Buchanan. I neither gave him my hand nor took his.

Mr. SHAW, of North Carolina. I know not, nor do I pretend to say, what occurred between the gentlemen. I say, again, that I not only saw the gentleman approach my colleague and extend towards him both hands—

Mr. GIDDINGS. I did not. The gentleman is mistaken. I did not. [Loud cries of "Order!"]

Mr. SHAW, of North Carolina. I not only saw him, but some fifteen or twenty others saw him approach my colleague; and I must be permitted to say that, when I witnessed that spectacle, I felt, as I feel now, that whenever the time should come—

Mr. GIDDINGS. I say the gentleman is entirely mistaken. [Renewed and deafening shouts of "Order!"] from the Democratic side of the House.]

Mr. CLINGMAN. I call the gentleman to order.

Mr. KEITT. I insist that order shall be preserved in the committee. The gentleman from North Carolina is entitled to the floor, and declines to yield it.

The CHAIRMAN. The gentleman from South Carolina is out of order.

Mr. KEITT. The gentleman from Ohio— [Loud and continued shouts of "Order!"] from the Republican side of the House.]

Mr. KEITT. Let the blackguards over there act thus outside of the House.

The CHAIRMAN. The gentleman from North Carolina is entitled to the floor, and will proceed.

Mr. SHAW, of North Carolina. As I said before, I do not undertake to say what passed between the gentleman from Ohio and my colleague. I know not what the gentleman from Ohio said, but I know he said something very grateful to my colleague's feelings, for there was a smile of complacency on his face.

Mr. GIDDINGS. I say I did not take Mr. GILMER's hand. [Cries of "Order!"]

Mr. SHAW, of North Carolina. Many gentlemen here know that the scene occurred as I have described it; and, sir, as I was about to say when I was interrupted, when I witnessed it, I felt, as I feel now, that if ever the time should come when I should be so far capable of misrepresenting the honorable and confiding constituency which had sent me here to protect their rights and defend their honor, as to make a speech that would bring down upon my head the approbation and congratulations of the gentleman from Ohio and his allies upon that side, I should instinctively raise my hands to Heaven and, in the language of the Indian prince exclaim, "What have I done that the enemies of my country should praise me?" [Here the hammer fell.]

Mr. STANTON. I move that the committee do now rise.

Mr. PHELPS. It appears that nobody desires to discuss the bill, and I hope, therefore, that we shall report it to the House.

Mr. STANTON. I understand that there are some amendments to be proposed.

Mr. PHELPS. It will take but a short time to dispose of them. I hope the gentleman will withdraw his motion.

Mr. STANTON. Well, I withdraw it.

The Clerk then proceeded to read the bill by clauses for amendment.

Mr. J. GLANCY JONES. I move to strike out the ninth, tenth, and eleventh lines, and to insert in lieu thereof "\$112,806," so as to make the clause read:

For pay of officers, instructors, cadets, and musicians, \$112,806.

Mr. Chairman, after this bill was acted on by the Committee of Ways and Means, a question arose in relation to the twenty per cent. allowance to the professors of the Academy at West Point. After an examination of the authorities, and the decision of the Secretary of War, the committee decided in favor of the allowance of twenty per cent. to the professors at West Point. It was decided by the Department that they were held to be commissioned officers. It merely allows the twenty per cent. (which was granted to all others) to the professors at the West Point Academy.

Mr. GIDDINGS. Mr. Chairman, we are in the Committee of the Whole on the state of the Union, and I will say a few words in reply to what has been said by the gentleman from North Carolina, [Mr. SHAW.] I understood him to assert that, when one of his colleagues [Mr. GILMER] had concluded his speech, I went to him, extending my hands and taking his, and congratulated him on his speech. I endeavored to put the gentleman right at the time he was making this statement, but there was so much noise and confusion I am not sure whether gentlemen heard or understood me. However that may be, I desire the country, this House, and the gentleman, to know, that there was not one word of truth in what he uttered on that point. I went no nearer to the gentleman's colleague [Mr. GILMER] than the aisle up which I was passing; and, instead of congratulating him on his speech, I inquired whether he had used my name with the name of Mr. Buchanan. I remarked, further, that if he did, I should hold him responsible for it. I did not congratulate him on his speech; nor did I hear the remark of the gentleman, except as it was told me by other gentlemen. This is all there was of it. I did not congratulate him; I did not extend my hand to him; and I did not leave the aisle in passing up.

Mr. CAMPBELL. In corroboration of what my colleague has just stated, I desire to say at this point that I was near the honorable gentleman from North Carolina [Mr. GILMER] when he made

his speech. My colleague, who has just taken his seat, passed up the aisle and protested against the use which had been made of his name in connection with that of James Buchanan, and then he passed on.

Mr. CURTIS. I wish to say a word on the amendment.

Mr. CLINGMAN. My colleague [Mr. SHAW] is out of the Hall, and I state this lest it be imagined that what has been said passed unnoticed by him.

Mr. J. GLANCY JONES. Let us have a vote on the amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. CURTIS] has the floor.

Mr. MORRIS, of Pennsylvania. I hope the gentleman from North Carolina will insert this rectification in his speech.

Mr. CLINGMAN. I hope I will be allowed to say a word.

Mr. COX. I object.

Mr. CLINGMAN. Why not let the facts come out?

Mr. CURTIS. I yield to the gentleman.

Mr. CLINGMAN. I dislike to interfere between my colleagues; but as the one who has spoken to-day [Mr. SHAW] is out of the Hall, I think injustice would be done him if I did not say a word here. I was sitting nearly where I am now when my colleague [Mr. GILMER] made his speech. As he sat down, I saw a crowd gather round him. A gentleman near me said: "Look at the Black Republicans, how they congratulate GILMER." I looked at that moment, and saw the gentleman from Ohio [Mr. GIDDINGS] near enough to put his hands upon my colleague and lean forward. I saw this, and I think I have eyes as good as most people; I did not hear what was said; I do not know that they grasped hands. They were near enough to do it. The gentleman from Alabama [Mr. HOUSSON] exclaimed loudly: "Kiss him! Kiss him!" calling the gentleman from Ohio by name. I looked at it, and many others did; I do not know what was said between them. This statement is due to my colleague. All of us supposed that it was a congratulation. The gentleman from Ohio knows exactly what did occur.

Mr. CAMPBELL. I was near enough to hear the words. My colleague protested against the use of his name in connection with that of James Buchanan.

Mr. McQUEEN. Did the gentleman congratulate him?

Mr. CAMPBELL. I did; for I thought then, and think now, that he made a damaging speech for Lee-Compton.

Mr. McQUEEN. How many copies of that speech did the gentleman subscribe for?

Mr. CAMPBELL. Three or four hundred; and they are so good, I wish I had more of them.

Mr. JOHN COCHRANE moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SEWARD reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the Military Academy appropriation bill, and had come to no resolution thereon.

STADE DUES.

Mr. KELLY. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the President be respectfully solicited to communicate to the House of Representatives, if not, in his opinion, incompatible with the public interest, any and all information in possession of the State Department on the subject of the "dues" or "tolls" levied and collected by the royal Hanoverian Government at Stade, upon the cargoes of all vessels sailing up the Lower Elbe to the commercial cities of Hamburg and Altona, as to their origin and foundation; the amount thereof, and the mode of collection; whether said information be derived from correspondence or otherwise, either with the Hanoverian Government direct, or indirectly through the American consul at Hamburg, in his correspondence with the authorities; to state whether it be true that the Hanoverian Government levies tribute upon the cargoes of vessels sailing upon the Lower Elbe (one of the highways of nations) without rendering any equivalent or return therefor; also, whether, in his opinion, these "dues" or "tolls" are not similar in nature, and equally as unjust in principle, as the old Tripolitan tribute was, and more so than were the Danish Sound dues; and if so, whether, in the opinion of his Excellency, notice ought not to be at once given by our Government to that of Hanover, that on and after the expiration of six months, our treaty with that Kingdom would terminate, and that

after that time our Government would not recognize the right of Hanover to collect the "Stade tolls" upon our commerce ascending the Lower Elbe to Hamburg and Altona.

Mr. STANTON. I object, unless the resolution I send to the Chair be adopted. That will give us all a chance.

Mr. KELLY. Let the gentleman's resolution be read.

Mr. WASHBURN, of Illinois. I object to that resolution unless the last half be stricken out.

The resolution of Mr. STANTON was then read, as follows:

Resolved, That the States and Territories be called for bills, of which notice has been given, for the purpose of reference, and resolutions which shall not be objected to, and continue the call without interruption, until all the States and Territories be called.

Mr. JONES, of Tennessee. I object.

And then, on motion of Mr. J. GLANCY JONES, (at four o'clock,) the House adjourned.

IN SENATE.

WEDNESDAY, April 21, 1858.

Prayer by Rev. J. R. ECKARD.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

A message was received from the President of the United States, transmitting a report of the Secretary of State, in answer to the resolution of the Senate, of the 5th instant, calling for copies of the instructions given to Mr. Reed, Commissioner to China; which, on motion of Mr. BRIGIT, was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. CAMERON presented two petitions from citizens of Philadelphia, praying that an appropriation may be made for carrying the mails between that city and Southampton, in England, in the Collins line of steamers; which were referred to the Committee on the Post Office and Post Roads.

Mr. KENNEDY presented the memorial of Ambrose W. Thompson and his associates, praying Congress to establish a line of mail steamships between certain ports in the United States and Liverpool, in England; which was referred to the Committee on the Post Office and Post Roads.

He also presented a memorial of citizens of Cumberland and Allegany county, Maryland, praying that Cumberland may be selected as a suitable place for a national foundry; which was referred to the Committee on Military Affairs and Militia.

Mr. HAMLIN presented a petition of citizens of Maine, praying that a law may be passed, granting pensions to the officers and soldiers of the Army, and to the officers and seamen of the Navy during the war of 1812; which was referred to the Committee on Pensions.

He also presented papers in relation to the claim of Abner Merrill, for an increase of pension; which were referred to the Committee on Pensions.

Mr. GREEN presented the petition of Robert F. Gibbs, a soldier in the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. PUGH presented papers in support of the claim of Adam Sener, a soldier in the war of 1812, for a pension; which were referred to the Committee on Pensions.

Mr. WILSON presented the petition of the legal representatives of William Bond, and the legal representatives of William Douglass, officers in the revolutionary army, praying to be allowed interest on their half pay, paid under the act of June 30, 1834; which was referred to the Committee on Revolutionary Claims.

Mr. FOSTER presented the memorial of citizens of New London, Connecticut, remonstrating against the repeal of the law establishing the Light-House Board; which was referred to the Committee on Commerce.

Mr. DURKEE presented a resolution of the Legislature of Wisconsin, against the admission of Kansas into the Union as a State under the Le-compton constitution; which was ordered to lie on the table, and be printed.

Mr. GWIN presented the memorial of John H. Merrill, praying for payment for services rendered, and expenses incurred, as sheriff to a court established by the alcalde in San Francisco, in 1849; also for expenses incurred in the relief and

support of sick and disabled seamen; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CRITTENDEN, it was

Ordered, That the petition of R. L. Beall, and other officers of the Army, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

REPORTS OF COMMITTEES.

Mr. GREEN, from the Committee on the Judiciary, to whom was referred the bill (S. No. 20) to amend an act entitled "An act to provide for holding the courts of the United States in the case of sickness, or other disability, of the judges of the district courts," approved July 29, 1856, reported it without amendment, and that it ought not to pass.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the petition of Albert G. Allen, submitted a report, accompanied by a bill (S. No. 277) for his relief. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the resolution relating to restrictions on the immigration or importation of foreign paupers and criminals into the United States, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

He also, from the same committee, to whom the subject was referred, reported a bill (S. No. 278) concerning the courts of the United States in the district of Arkansas; which was read, and passed to a second reading.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the papers relating to the claim of the heirs of Thomas Maddin, asked to be discharged from the further consideration of the papers, and that leave be granted to withdraw the same; which was agreed to.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 27) authorizing the suspension of the sales of public lands in the Territory of Kansas; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 279) for the final adjustment of private land claims in the States of Florida, Louisiana, Arkansas, and Missouri, and for other purposes; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. PUGH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 280) to repeal the twenty-fifth section of the act to establish the judicial courts of the United States, approved September 24, 1789; which was read twice, and referred to the Committee on the Judiciary.

PRINTING OF A BILL.

Mr. TOOMBS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary have leave to print, for the use of the committee, a bill before them for the establishment of uniform laws "on the subject of bankruptcies throughout the United States."

ABNER MERRILL.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Pensions be instructed to inquire into the expediency of increasing the pension of Abner Merrill, of Maine, in consequence of increased disability.

BUTTERFIELD'S PRIMING APPARATUS.

Mr. CAMERON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to transmit to the Senate a copy of the report of Major William H. Bell, made April 1, 1858, giving the result of the trial, at the Washington arsenal, of Butterfield's priming apparatus, in comparison with Maynard's primer.

SAN FRANCISCO POST OFFICE.

Mr. BRODERICK. I submit a resolution of inquiry, and ask for its consideration now:

Resolved, That the Postmaster General be requested to

furnish the Senate with a quarterly statement showing the aggregate amount collected at the post office at San Francisco, over and above the lawful postage; for box-rents from July 1, 1854, to December 31, 1857, and that he be requested to inform the Senate what law, or what regulation of the Department, authorizes the collection of the same; and also whether the postmaster has any legal authority to discriminate against one class of citizens, and in favor of another class, by withholding letters—as letters are withheld at the San Francisco post office—from those who will not submit to the exaction for box-rents, until at least an hour after letters are delivered to those who do thus submit to the exaction.

Mr. YULEE. I hope that will lie over.

The PRESIDENT *pro tempore*. It lies over under the rule.

DUNCAN ROBERTSON.

Mr. MALLORY. The Committee on Naval Affairs, to whom was referred the bill from the House of Representatives for the relief of Duncan Robertson, have directed me to report it back, and recommend its passage. I ask the unanimous consent of the Senate to consider it now. I will briefly state the object of it. The Senate will recollect that the Norwegian bark Ellen saved a number of the passengers of the Central America. She was subsequently put in good repair in one of our yards at a cost of \$750, which has been paid by the Swedish consul—the consul of the country to which the vessel belonged. The House promptly passed the bill, on the recommendation of the Secretary of State, to refund to him that amount of \$750, and I think it eminently proper that the bill should pass the Senate now. I ask the unanimous consent of the Senate, therefore, to pass the bill at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 359) for the relief of Duncan Robertson.

It proposes to direct the Secretary of the Treasury to pay to Duncan Robertson \$749 92, in full for moneys paid by him to the navy-yard at Gosport, it being the amount expended for repairs of the Norwegian bark Ellen, for damages encountered by the bark in aiding and rescuing the passengers of the steamer Central America.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JENNETT H. MCCALL.

On motion of Mr. BROWN, the bill (S. No. 130) for the relief of Jennett H. McCall, only child of Captain James McCall, of the revolutionary war, was read a second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to Jennett H. McCall, only child of Captain James McCall, of General Pickens's brigade, in the South Carolina regiment, during the war of the Revolution, the seven years' half pay of a captain, as allowed by the resolution of Congress, passed August 24, 1780, amounting to \$2,100.

Mr. KING. Let the report in that case be read. The Clerk read the following report, made by Mr. EVANS, on the 9th of February:

The Committee on Revolutionary Claims, to whom was referred the petition of Jennett H. McCall, only child of Colonel James McCall, of the revolutionary war, having had the same under consideration, submit the following report:

The petitioner is an aged woman, eighty-six years old, and from her infancy has labored under a deformity in her feet. She is the only child and heir of James McCall, known in the history of the revolutionary war, in South Carolina and Georgia, as Colonel James McCall. It appears from the history of Georgia, and from other reliable sources, that he served with distinction and singular bravery in both of these States during a large portion of the war, and was in nearly all the battles which were fought during the invasion and possession by the British army of those States. During the greater part of the time he was only a militia officer, under the command of General Pickens, but it is believed, although no very conclusive evidence of the fact can now be obtained, that when the new organization of the army took place, in the fall of 1780, he was appointed to a command in one of the three regiments ordered to be raised in South Carolina as her part of the continental army, as it is said in the history of the times that he commanded the new levies of that State at the battle of the Cowpens, where Morgan obtained a signal victory over Tarleton.

In his accounts, copies of which have been furnished from the compiler's office of South Carolina, he is styled sometimes captain, and sometimes colonel. The latter title was probably a militia title, as the service was performed under General Pickens, a militia general. His rank in the new continental regiment of the State of South Carolina was probably that of a captain. Your committee do not, under the evidence of the facts of the case, feel authorized to give him any higher rank. It appears, satisfactorily, that in the discharge of his military duty he was attacked with the small-pox, of which he died in the year 1781. Your com-

mittee are therefore of opinion that the petitioner is entitled to the seven years' half pay of her father, she being at the time of his death only eleven years of age, and report a bill for that purpose.

Mr. FESSENDEN. I should like to have the bill read again. It strikes me that it is a very singular case.

The Clerk again read the bill.

Mr. FESSENDEN. Mr. President, it seems to me that this is a very singular bill, and founded on a very curious state of facts. It does not appear that this man was anything more than a militia officer at all. The report itself admits that he was nothing more than a militia officer, for it says there is no conclusive evidence that he was anything else. I believe the resolution of 1780 only gave half pay to those who enlisted and served during the war.

Mr. EVANS. Those who served to the end of the war.

Mr. TOOMBS. And died in the service. If they died during their service they were entitled to it; but it appears that this man does not belong to the class, and that is a sufficient argument.

Mr. FESSENDEN. This is the first attempt of the kind I have ever heard of to introduce into that class persons who manifestly had no connection with it.

Mr. EVANS. There was no intention, and the report shows it, to introduce a new class. The only question was, whether this man belonged to the class provided for by the resolution. It is only stated in the report that he belonged to General Pickens's brigade. That is the fault of the one who drew the bill. He had belonged to General Pickens's brigade as a militia man, and General Pickens's brigade was nothing more than militia; but in 1780, on the reorganization of the army, three new regiments were ordered to be raised in the State of South Carolina; and the only question is, whether this man did not belong to that portion of the army. It is stated in the history of the times, that at the battle of the Cowpens he commanded new recruits. Well, the new recruits were those that were ordered to be raised by the resolution of 1780. If so, he belonged to the regular army; and if he belonged to the regular army, this bill is all right. It is stated very candidly in the report, that the proof was not entirely satisfactory; but the best conclusion I could come to from all the facts was, that he did belong to one of those three regiments.

Mr. BIGGS. I should like to inquire of my friend from South Carolina if this bill does not come within the principle of the bill discussed at large at the last session of Congress, to which the Senator from Alabama [Mr. CLAY] was opposed, and against which he made a speech?

Mr. EVANS. Not at all. That was a bill to pay, over and above the commutation which they had received, the half pay for life. That was the principle of that bill. It does not affect this at all. Bills like this have been passed from year to year ever since I have been here. The only question is, whether the man belonged to the class which was provided for by the resolution of 1780. My best judgment was that he did belong to the class, and therefore the bill was reported.

Mr. BIGGS. I understood, and if I am mistaken I desire to be corrected, that on Friday last, when this bill came up for consideration, it was objected to by the Senator from Alabama, not now in his seat, [Mr. CLAY.] I am aware, as the Senate is, that the Senator from Alabama is very well posted in regard to these questions of pensions; I believe he is a member of the Committee on Pensions, and his exposition of the case in regard to the revolutionary pensions, was certainly listened to by me with a great deal of interest, and I derive a great deal of information from it. His investigation has been a very thorough one of this whole subject; and I should be unwilling to consent that this bill should be put upon its passage in his absence, without the benefit of the light which he could throw upon it, as he objected to it the other day. I move, therefore, to postpone the further consideration of the bill until to-morrow.

Mr. BROWN. I am not going to oppose the motion to postpone; but I am merely about to say this: the postponement of a bill because Senators are not in their places, does not seem to me to treat claimants outside with justice. The Senate is the place where Senators ought to be. I did not notice, at the time I made the motion, that the

Senator from Alabama was absent; nor was I aware that he said anything more the other day, than simply that he objected to the bill, probably because, as I supposed, he did not precisely understand it, or wished to look into it. If the point is made, I shall not urge the consideration of the bill now; but in consenting that it shall go over, I do not wish to be understood as giving a consent to the principle that bills must be postponed because Senators are not in their places. They ought to be in their places. I am perfectly willing that the bill shall be passed over until to-morrow.

The motion to postpone was agreed to.

RELATIONS WITH PARAGUAY.

Mr. MASON. A short time since, the honorable Senator from Illinois, whom I do not now see in his seat, [Mr. DOUGLAS.] made a report from the Committee on Foreign Relations concerning the difficulties between the United States and the Republic of Paraguay in South America. The report was upon a reference made to that committee of a part of the President's message, which I will ask to have read. The committee have reported a resolution upon which I ask for the action of the Senate. The circumstances are of general and public interest, because, as shown by the message of the President, a very gratuitous and gross insult was offered to one of our ships by the Republic of Paraguay whilst in a river which formed the boundary between that and the adjacent Republic, which remains unatoned for. In addition, the President of that Republic has committed very great spoliation upon the property of American citizens from the State of Rhode Island, who had gone there under the instigation and under the auspices which he held out. I ask that the resolution may be taken up for consideration, and that that part of the President's message may be read.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That for the purpose of adjusting the differences between the United States and the Republic of Paraguay, in connection with the attack on the United States steamer Water Witch, and with other matters referred to in the annual message of the President, he be, and is hereby, authorized to adopt such measures and use such force as in his judgment may be necessary and advisable, in the event of a refusal of just satisfaction by the Government of Paraguay.

Mr. MASON. I ask that the resolution may be modified so as to make it a joint resolution.

The PRESIDENT *pro tempore*. It will be so modified, unless objected to. The Chair hears no objection.

Mr. MASON. I now ask the Clerk to read that part of the President's message to which I referred.

The Clerk read, as follows:

"I regret to inform you that the President of Paraguay has refused to ratify the treaty between the United States and that State, as amended by the Senate, the signature of which was mentioned in the message of my predecessor to Congress at the opening of its session in December, 1853. The reasons assigned for this refusal will appear in the correspondence herewith submitted.

"It being desirable to ascertain the fitness of the river La Plata and its tributaries for navigation by steam, the United States steamer Water Witch was sent thither for that purpose in 1853. This enterprise was successfully carried on until February, 1855, when, whilst in the peaceful prosecution of her voyage up the Parana river, the steamer was fired upon by a Paraguayan fort. The fire was returned; but as the Water Witch was of small force, and not designed for offensive operations, she retired from the conflict. The pretext upon which the attack was made was a decree of the President of Paraguay, of October, 1854, prohibiting foreign vessels of war from navigating the rivers of that State. As Paraguay, however, was the owner of but one bank of the river of that name, the other belonging to Corrientes, a State of the Argentine Confederation, the right of its Government to expect that such a decree would be obeyed, cannot be acknowledged. But the Water Witch was not, properly speaking, a vessel of war. She was a small steamer, engaged in a scientific enterprise intended for the advantage of commercial States generally. Under these circumstances I am constrained to consider the attack upon her as unjustifiable, and as calling for satisfaction from the Paraguayan Government.

"Citizens of the United States, also, who were established in business in Paraguay, have had their property seized and taken from them, and have otherwise been treated by the authorities in an insulting and arbitrary manner, which requires redress.

"A demand for these purposes will be made in a firm but conciliatory spirit. This will the more probably be granted, if the Executive shall have authority to use other means in the event of a refusal. This is accordingly recommended."

Mr. MASON. From the report of the Committee on Foreign Relations, I will ask leave to read a very few extracts, which will show what led that committee to offer the resolution which

has been read to the Senate. In speaking of the attack upon the steamer Water Witch, the report says:

"The only reasons ever given for the attack are that he [the President of Paraguay] had, some years after the Water Witch had been in those waters, published a decree forbidding foreign vessels of war to enter his rivers. English and French vessels of war now visit them. The place where the Water Witch was surveying was not under the jurisdiction of Paraguay. She was in waters over which the Argentine Confederation had, at least, concurrent jurisdiction, and in these she was engaged by authority of the published decrees of the Government of that Confederation, as well as by the direction of our own Government. She was, moreover, engaged simply in scientific investigations. With the President we concur that this pretext cannot be admitted as any excuse for this attack, and that it was an outrage which calls for satisfaction from the Paraguayan Government."

In the attack that was made upon the Water Witch, by a fort upon the Paraguayan side of the river, Parana, the man at the helm was killed, and three others were wounded, and several shots were fired into the hull of this small steamer. It was stated by Captain Page, in his official report, that at the time it was done a large portion of his crew were absent with him upon an exploring excursion on shore. The steamer was in command of the first lieutenant, Lieutenant Jeffers, who returned the fire, but with no other artillery than small boat-howitzers, which could have no effect; and finding the fire continued upon him, he was obliged to withdraw and retreat down the river. The impossibility even of defending the steamer was caused by the absence of a large portion of her crew with the commanding officer, under the circumstances I have mentioned. It is stated in the report, in addition:

"As early as 1845, the Government issued decrees inviting foreigners to bring to his country the implements, means, and processes of stimulating the industry of the country, and promising them the same privilege extended to inventors.

"Under these special encouragements, and relying upon the protection of that Government while engaged in lawful enterprise, a number of American merchants sent three steamers, with a large variety of the implements of American industry, to that country, and employed there more than twenty Americans in putting them in operation. They purchased lands and erected buildings, with the consent of Government, established cigar factories, and the first saw-mill erected east of the Andes and south of the equator; built wharves, and commenced the steam navigation of those waters. They employed large numbers of the people of the country, teaching them the processes of manufactures. But this success, being for their benefit and the benefit of his people, but very indirectly enhanced the wealth of Lopez," who was the President of the Republic. "It was not in accordance with the spirit of his monopolies, though he traded with the company to some extent. He first endeavored to induce the trained employees of the company to leave their service and enter into his own. Failing in this, he published the most arbitrary decrees; among others, forbidding foreigners to meet, except for purposes of society or innocent diversion; thus, of course, putting a stop to business. Also, forbidding foreigners to make contracts with peons or servants, except upon terms notified to, and accepted by, the Government—that is, himself.

"He also induced the people of the city, who, until the company excited his jealousy and displeasure, had treated the Americans with that grateful kindness which was natural towards honest and well-paying employees and benefactors, to change that conduct.

"The Americans were exposed to the greatest contumely, insult, and assaults in the streets and in their houses, which were the more incessant when under the universal protection of the police.

"When their enterprise was thus broken up, and themselves compelled to leave the country, Lopez refused them passports and permits for their embarkation, unless they would give up the title of their property; and not without the interposition of Commander Page would he withdraw his claim and allow them the possibility of escape to their own country."

It appears from the documents accompanying this report that merchants, I think chiefly from the State of Rhode Island, under the inducements held out by the Government of Paraguay, had sent these steamers with a very large supply of machinery of various kinds—which they were enabled safely to carry to that country—which they put up and put into successful operation, and by the permission of the Government, they had employed a number of peons, as they are called—the natives of the country, the Indians—in their employment. They were in very successful operation when they were thus suddenly, violently, and without cause, broken up and driven off by Lopez, who was the President of the Republic. For this, I think very properly, the President of the United States, in his message, states that he will take measures to demand redress; and I am informed, unofficially, that a vessel of proper size—a small one, however—has already been sent to that country, and that it is the intention to send out Captain Page, who will sail probably as early as the 1st of May, in a small steamer, to coop-

erate with that expedition. It is for the purpose of authorizing the President to use such force as he may deem necessary to procure proper reparation from this distant Power that the resolution has been offered by the Committee on Foreign Relations.

It would appear from the report of Captain Page, which is embodied in the report of the committee, that he had gone into those waters not only under the decree, but by the express invitation, of the Argentine Confederation, and was in the river Parana, over which, at least, that Confederation held concurrent jurisdiction with the offending Power, the Republic of Paraguay. He was absent for some three years and four or five months, and during that time succeeded in penetrating a number of those rivers, with the assent of the adjacent country, and obtained a great deal of valuable information for the mercantile interests of our country and for mercantile intercourse; and at one time I think he went, with a small steamer which drew nine feet of water, as far as seventeen hundred miles from the ocean by the river, when he was compelled to return because of this violent and unprovoked attack upon him by the Republic of Paraguay. I hope it will be the pleasure of the Senate to pass the resolution.

Mr. ALLEN. Mr. President, I am well acquainted with those merchants of Rhode Island, who were concerned in investing a very large amount of property in the expedition to Paraguay. They are of the highest character, and men of great responsibility. Their investment, I presume, amounted to several hundred thousand dollars, which has nearly all been lost. I hope some measures will be taken to obtain redress.

Mr. DOUGLAS. I will simply add to what the chairman of the committee has stated, that I investigated this subject thoroughly as a member of the Committee on Foreign Relations; examined all the papers accompanying the report; and I concur fully in what the chairman of the committee has said.

Mr. COLLAMER. I have heard this report. Now, Mr. President, in relation to all countries, unless they are uncivilized and barbarous, having no regular forms of government, and not reciprocating the interchange of proper representatives and ministers, the course of proceeding has been uniform, in cases of any violence, for the Executive to send to them the proper messengers, the proper officers, organs, and representatives of the Government, to demand redress. Negotiations are opened, and, if possible, redress is effected, or satisfaction in some way furnished or given. The Executive, in performing this duty, undoubtedly may use the naval force which we have, and which the President is now using, by sending steam-vessels, or other proper ships or frigates, to represent the country there. But as to using the force, the usual course I say has been this: after the executive Government have exercised all their powers, after they have exhausted all peaceful measures of obtaining redress, then they lay the matter before Congress, stating what they have done, submitting the correspondence which they have held, and the communications which have been had, and leave it to Congress to say whether they will order reprisals, or whether they will declare war, or what other measures they will authorize.

That has been the uniform course of our Government. I understand this resolution to go much further than this, and to propose the use of force. The President says he will use his means; he will send the proper officers and messengers to obtain redress, and he will endeavor to obtain it peacefully and quietly. Very well. We further understand that he proposes to send some show of naval force there with his messengers. Well, sir, that may be a wholesome dieting of the people. That is all very well, if he will not use force and violence, so that he may show at least an appearance of being in earnest.

But, sir, the proposition now is to clothe the President with power to use absolute force, if I understand it aright. It is in effect to authorize him to make a war, to use force and violence in relation to that people, if he cannot obtain redress by peaceable means. I have nothing to say by way of objection to what is necessary, for times and occasions may arise when it may be necessary to use force; but that is war *de facto*; and while the Constitution has reserved to Congress alone the

power to declare war, I am unwilling, and it is an unprecedented thing, I think, to clothe the President with power to exercise war, actual force and violence, against any civilized people.

These are the difficulties which I have, and which, for the present, will prevent my voting for the resolution until it be in some way explained, or until some parallelism between this and some precedent heretofore exercised by our Government, shall be furnished.

Mr. MALLORY. The Committee on Foreign Relations doubtless have given this subject the consideration which it demands. It is a very grave question. It is a grave question in this light: the commerce of the Province of Paraguay is one of the most important on the whole La Plata. It has not yet been engrossed by any foreign country. Non-intercourse has been the policy of the Administration there. We are just about seeking to establish ourselves as favorites in this commerce. Some of our vessels have found their way up the river already. It appears to me to be a very novel method of establishing friendly relations with Paraguay, to clothe the President with power to send an armed vessel to seek redress for past grievances. I would not venture this opinion in the face of a committee who have examined the subject, had I not the best authority for saying that the Government of Paraguay are ready at any moment to make any proper redress for any grievances we have suffered at their hands. If I am correctly informed, the son of the late President, General Lopez, who may now be at the head of affairs there, is the influential person in the Administration of the country. He has said, and said frequently and openly, that had he been present—he was commanding the military force of Paraguay when the outrage was committed—he would have prevented it; and that whenever the time came to make redress, he would see that it was made, acknowledging the wrong.

Up to this hour, we have taken no legitimate and proper steps to right this wrong. We formed a treaty. It is a matter of public notoriety, published in the English papers, that the treaty was rejected by Paraguay, or rather not acted upon, because it had lain for two years at the mouth of the river, at the city of Buenos Ayres. We sent a minister; we charged him with the affairs of Paraguay. He did not go within one thousand eight hundred miles of his proper destination; he remained at Buenos Ayres the whole time, and never went to Paraguay. When we sent a *chargé*, subsequently, he found the treaty still remaining in the office of the minister, and Paraguay had never heard of it. This messenger carried it to Concepcion. When General Lopez saw it, as the English papers state, he found fault with the American Government, because the Senate had made thirty-three amendments to a treaty which he had negotiated, and which would have expired by its own limitations in a very short time. He immediately offered to make a new treaty, acknowledging the wrong inflicted on our vessel; and he desired to right it, and said he wished to have the most friendly relations with the American Government; but our agent had no authority to make a new treaty, and reported that fact to this Government.

Now, sir, I am exceedingly anxious to see measures taken to right the wrong complained of by these Rhode Island merchants; but I venture to say that, whenever this matter shall be investigated, we shall find that they have not been without wrong on their side also, and that some of the complaints of General Lopez, the President of Paraguay, are founded in justice, and that we ourselves will have to acknowledge it. There are concessions to be made on both sides. I submit here whether or not it would not be best to strike out as much of the resolution as authorizes the President to use such force as exigencies may demand there. There would be no force required. Send an agent to Paraguay who understands the theory of the Government, who speaks the language of the country, and you will deal with an Administration not only anxious to right those wrongs, but anxious to be placed on the most friendly footing with the American Government. We shall find that we are dealing with friends, not enemies. She is a young Republic, and is now on the verge of a war with Buenos Ayres, which, under the name of the Argentine Confederation, has been overshadowing all the other Republics

there. It would be exceedingly ungracious to send a message of this kind to her when she is on the eve of a war with a large Power.

Mr. HUNTER. The hour has now arrived for the consideration of the special order. I call for it.

FRENCH SPOILIATIONS.

Mr. CRITTENDEN. I wish to inquire whether the report of the select committee, accompanying the bill for the ascertainment and settlement of claims for French spoiliations, has been printed? I have not seen it. It was made long ago. If it has been printed, I desire merely to give notice that I shall, on Wednesday next, desire to call up that bill for consideration. If there has not been an order for printing, I hope one will be made.

Mr. HUNTER. Certainly it ought to be made.

Mr. CRITTENDEN. I supposed one had been made on my motion. I certainly so understood.

The PRESIDENT *pro tempore*. The Chair is informed that both the report and bill have been printed.

Mr. CRITTENDEN. Then I will say, that on Wednesday next, if it be the pleasure of the Senate, I shall call up that bill for consideration.

DEFICIENCY BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, the pending question being on Mr. FESSENDEN's amendment to add the following additional section:

SEC. — And be it further enacted, That no part of the amount appropriated by this act for the service of any one fiscal year shall be used for, or applied to, the service of any other year, nor be transferred to or used for any other branch of expenditure than that for which it is specifically appropriated. And no contract for Army supplies, or service of any description, shall be hereafter made during the session of Congress, except under a law authorizing the same, or under an appropriation adequate to its fulfillment; nor shall any such contract be made hereafter, at any time, without previous public advertisement for proposals respecting the same.

Mr. HUNTER. I should like to ascertain from the Senator from Maine if he desires to accomplish what I think that amendment will provide in this respect. The moneys which are appropriated in this bill are appropriated for this fiscal year. Does he mean that they shall be applied only to services to be performed within the fiscal year? Now, it is known that a large portion of this appropriation is especially designed, although it is in what is called a deficiency bill, for the service of the next fiscal year—so far as subsistence is concerned, for twenty months ahead. Therefore, if his amendment be passed, none of this money could be used for the very purposes which were contemplated when the bill was brought in. It could only be used for service performed within this fiscal year. If anything should be required after the 1st of July next, no part of this appropriation could be used. Is that his intention?

Mr. FESSENDEN. The bill, Mr. President, may need amendment in that particular. There is another amendment, which I have laid upon the table, and which I propose to offer in case this be adopted, which would be an answer to the question put by the Senator from Virginia. The difficulty with this bill is, that it confounds appropriations for different terms. In my judgment it is very inaccurate, and should have been amended. The account of what is necessary to be appropriated, going to make up this aggregate, may be found in one of the miscellaneous documents which the Finance Committee had before them. That document sets out that there is a deficiency under several heads of expenditure, as the chairman undoubtedly recollects, for the year 1857. It also states that there will be certain deficiencies for the year 1858, this present year; that is to say, that there is a want of a sufficient appropriation to meet the calls of this year. It then goes on to state that another very large amount, making more than half the sum appropriated in the bill, is required for the purposes of the next fiscal year, and of the fiscal year succeeding the next, up to a certain point; that is to say, for the year closing July 1, 1859, and a part of the year closing in July, 1860, and all these appropriations are prospective, and have reference to prospective operations in Utah.

Now, sir, the amendment which I have laid upon the table proposes to appropriate all that is desired for the deficiencies of the year 1857; also all that is desired (so far as I am able to come to any conclusion from looking over the document referred to) to make up the supposed deficiencies for the year ending June 30, 1858. I propose to go no further, but to strike out of the bill all that is proposed to be appropriated for any period after the existing year, because that is not properly a deficiency, supposing that if anything more is necessary to be done, as we have arrived nearly to the end of the session, there will be ample time to make all the appropriations that may be necessary for the year 1858-9; that is to say, so far as we can constitutionally and properly go into the year 1859.

The difficulty is, that after stating all these things as needful, in order to carry on the operations, the Department has jumbled them all together under the appropriate heads; that is to say, instead of giving us distinctly the appropriation wanted for the year 1858, for instance, it states the amount necessary, then the amount necessary for another year, and the amount of deficiency in 1857, and puts them altogether in one item of the bill; thus compelling us, under the head of deficiencies at this period of the session, and without having the regular estimates for the next year before us, and under our consideration, to make all these appropriations, as well what are not deficiencies as what are deficiencies; and to give our sanction to the proposed action of the Government, as well as to give our sanction to what is necessary to pay the debts already incurred, which I deem to be entirely improper.

Then I answer the question put by the chairman thus: I do design to accomplish just that purpose, because I have laid my other amendment on the table with that view, to appropriate specifically all that is demanded for the deficiencies of the year 1857, all that seems to be demanded for the necessities of 1858, stopping there, and leaving the other matter to be disposed of in the regular course of appropriations for the coming year, which will be in ample time for that purpose.

Mr. HUNTER. I think the Senator will find, when he comes to examine the document to which he has alluded, that it is impossible for him to discriminate between the deficiencies which properly belong to the year 1858, and the money which will be necessary to carry out contracts that are made in this year. Some of these appropriations were asked on the ground, not that they were deficiencies, but because if we should make them ahead, it was said the supplies could be transported much more economically to the Government, than if the period of making the appropriation was delayed so as to throw the transportation in the season of the year when the grass had failed on the plains.

I recollect, sir—I have it by me—seeing a table which was presented by my colleague in the House of Representatives, who had charge of this bill, showing the difference in the cost of transportation if we availed ourselves of this particular season, which closes, I think, on the 31st of August, and if we waited until it was over. I think the cost is nearly double. The Department, then, in order to avail itself of this peculiar season, and in order to transmit the supplies in time, (because it is not proper, if there should be difficulty, if there should be collision and war, that the Army should be exposed to the risk of wanting supplies of any sort, either of arms or of ammunition or of food,) proposed that we should appropriate enough now to accomplish the object of carrying the troops who have been ordered to Utah and the supplies necessary for them. The contracts embrace both, because it would be impossible for the Senator to discriminate, or, I believe, for the War Department itself.

Now, sir, if the Senate should think that it is not proper to furnish supplies for any except those troops who are already there, or if they should think it is not proper to expend this money for any other services than those that are rendered in the year 1858, that object can only be accomplished by providing by law, that no part of the money appropriated shall be expended for anything else, except for services rendered in the year 1858. The Senator may draw up a legal provision, requiring the mode in which this money shall be expended to be reported, and to forbid

any part of it to be expended except for services rendered in this fiscal year, if that is his purpose, and the Senate concur with him in that purpose. I think it is a fair question for the consideration of the Senate. I believe the effect of doing this would only be to expose the Government to additional expense, and perhaps to expose our Army to the danger of inconvenience from a want of supplies at the proper season.

Mr. FESSENDEN. Not at all. I think the Senator is mistaken, because the other contracts which are supposed to have been, and which undoubtedly have been made, and which were of a very singular character, some of them, run through the next fiscal year; and it is not to be supposed that any very material part of the money appropriated by this bill will be called for during the present fiscal year—that is to say, but very small parts of the contracts can be performed during the present year for transportation. The furnishing of the wagons, horses, and those things, for which provision is made, may undoubtedly be concluded during the present fiscal year; but the contracts run through the whole of the next year, and, indeed, the succeeding year. That being the case, the refusal to allow the use of the money appropriated to this year for the service of the next year, will not at all interfere with the performance of those contracts, because we can very easily make an appropriation in the general appropriation bill for the Army, at the end of this session, covering all these contracts. If the Senate are disposed to assume them, to sustain them, and to sustain this policy of the Administration, there is no difficulty about it. Their not appropriating the money at this moment will not affect the matter at all. We can appropriate the money in the general bill. My object is to appropriate now all the money that can possibly be called for during the residue of this fiscal year, and I think my amendment meets it; and then if we are disposed to sustain this course of the Administration and carry out these contracts, there is abundance of time during this session of Congress to make all the appropriation necessary to go on with them. As things are now, the Senator will see, by the very document to which I have referred, that the money will not be called for several months.

Mr. HUNTER. The Senator has failed to show that under his amendment the inconvenience would be provided for which I have stated. These contracts run through that period. It is true we are to pay so much a pound for what is transported; but if you limit the appropriation so that we are not able to pay for the transportation of what will be necessary for these five thousand troops, of course the Department will not send them by the contractor; they will cease to dispatch these supplies; they will wait until the general appropriation is made; and if they do wait until it is made, they will lose the favorable season for transportation.

If the Senate were to adopt such an amendment as this, it would not be proper for the Secretary of War to send forward supplies in advance of the money appropriated; and if he waits until it is appropriated in the regular bill, he will lose this season. If the Senator means to appropriate it at last, what good purpose will be answered by dividing it into two installments, appropriating a part now, and a residue of the amount in the general bill? It is a mere difference as to the time of appropriation. If you appropriate the whole amount now, this season, which is a short one, can be used for the purpose to which I have referred. If you wait to appropriate the other portion until the regular bill is passed, then, when this money is exhausted, they will stop sending forward supplies under these contracts, because *non constat* that Congress will appropriate money for it. The Department will not take the risk, especially after such a vote as this. These supplies are necessary in order to provide for the wants of the troops who are converging from all quarters of the Union towards the valley of Utah. There are something like five thousand troops in motion. These supplies are wanted to provide for them on the way, and to provide for them after they get there. We have no means of discriminating and saying how much money will be wanted to supply the transportation which is necessary up to the 1st of July, 1858, and how much will be wanted afterwards. The Department can ascertain that the general service will probably require

this amount, and therefore they estimate for this amount in gross; but they specially state that part of it is not a deficiency, but is an additional supply, and they give the reason why it should be granted.

I think if we intend to furnish supplies to that amount of troops, we ought to do it now. There is a decided economy in doing it now. If we do not, if we mean to limit the expedition, or if we mean to stop the expedition, we ought to do so in plain and specific terms; we ought to do so in terms which cannot be misunderstood, instead of curtailing the supplies on principles which may mean one thing or may mean another. If it be the purpose of the Senator from Maine, and if the Senate concur with him in that purpose, to stop any addition to the troops who are now in Utah, let him say so in his amendment, and let him provide that no part of this money shall be appropriated to any addition to be made there. If, on the other hand, he does not intend to interpose so as to prevent troops from going forward, as they have been ordered by the commanding general and by the Secretary of War, with the approbation of the President; if he does not mean to prevent their being concentrated in this valley, then he ought to be willing to adopt the readiest, the speediest, and the most economical means of furnishing them with the proper transportation and supplies.

Mr. FESSENDEN. The two amendments which I have proposed cannot, of course, be very well considered together, but they are parts of the same whole, and, perhaps, necessarily in some degree dependent on each other. One of my objects is undoubtedly to say, most distinctly, that Congress does not at present authorize the proposed movement on Utah of this large additional body of troops. If Congress should refuse to grant the supplies asked for—that is to say, should confine itself to those which are necessary to the ordinary expenses of the Army, as at present located, taking into consideration the two thousand five hundred troops that are in Utah now, and should go no further—that is one thing; and I have drawn the amendment so as to present as distinctly as I can to the Senate, the question whether they will leave the matter as it is now in reference to the movement on Utah, or whether they will distinctly recognize and authorize the movement of this large additional body of troops, about three thousand or thirty-five hundred, I believe—I do not know how many—a very much larger force than is there now.

The proposition contained in the bill is to make appropriations to a sufficient amount to pay all the expenses of transportation and supplies for the whole body; and not only that, but to go twenty months ahead, considering the distance of the country. I did not propose to say anything upon that point precisely in this connection; but in my judgment we have not now information enough upon which to justify that action. None certainly has been communicated to us by the Department. What I propose to do, therefore, is to go just so far as this: to appropriate all that seems to be needed for the army located as it is at present, and for transportation purposes, so far as the army at present in Utah is concerned, and to confine the use of this money to the year and to the objects for which it is appropriated. Then, sir, if, when we are considering the general appropriation bill for the service of next year, it seems good to Congress to make these additional appropriations, and to authorize this large proposed increase of force in Utah, that is another thing.

Now, as to the question of economy, it does not come up at all, and the Administration has relieved us of the necessity of considering that question. It has made its contracts; it has taken it for granted that all this would be done. It is not for the Administration to say now, after these contracts are made, that it will not send forward the supplies, and will not take any steps. They have not reserved that power.

Mr. HUNTER. If the Senator will reflect, he will remember that they certainly have. The contract is to send forward the supplies which the Administration may send, at so much a pound; and if you diminish the appropriation they may not send them.

Mr. FESSENDEN. The contract for beeves specifies a particular quantity.

Mr. HUNTER. They are to be delivered as

required, to the number of two hundred and fifty head; but if they are not required, they will not be delivered.

Mr. FESSENDEN. I think not; but I have not read with entire particularity.

Mr. BENJAMIN. That is it; two hundred and fifty at a time.

Mr. FESSENDEN. As they may be required?

Mr. BENJAMIN. As required.

Mr. FESSENDEN. It may be so. Still, however, we are not, in my judgment, to be embarrassed or to be precluded from acting on the subject, by reason of this consideration. The difficulty is, that the War Department proper has not presented the matter to us at all. Here is an estimate that comes from the quartermaster's department, as I understand, to the chairman of the Committee of Ways and Means of the House. We have no recommendation from the War Department proper, and we have no recommendation from the President. They do not seem to be desirous of taking the responsibility of these recommendations one way or the other; but they have gone forward and made these arrangements, and made these estimates, thus, in fact, throwing, or trying to throw, the whole responsibility of originating the matter upon Congress; while, at the same time, they make these statements and place us in the attitude of accepting or rejecting the appropriations, being responsible for the amount we grant.

I am disposed, at present, as we have only a few weeks later to remain here during which we can act on the whole matter, to make now the appropriations necessary for this year, and make the others in the general bill. It is very strange that at this particular season of the year we should be pushed so hard on the ground of economy! Why has it not been done long before? Why was it kept back?

Mr. HUNTER. These estimates have been some months before us. Congress would not act upon them.

Mr. FESSENDEN. Why has not the Administration majority of the House of Representatives seen the necessity of acting and voting these supplies? They have kept them off for a long time.

Mr. IVERSON. It has not got a majority.

Mr. FESSENDEN. That is an admission that I hardly expected from the majority here.

Mr. IVERSON. The reason is, that there are so many deserters from its ranks.

Mr. FESSENDEN. The Committee of Ways and Means certainly had the power to make the report at an early day, because they made it without dissent at last. Why should they have kept that report off until so late a period of time, and when it comes into this House we should be urged to act immediately, because contracts have been made, and the movement must be made at once? I see no reason for it.

Mr. HALE. This amendment of the Senator from Maine consists of three distinct propositions; and if he will not consider it an interference with him, I should like to have a division of them.

Mr. FESSENDEN. I have no objection to that.

Mr. HALE. Then if the Chair thinks the amendment can be divided under the rules, I should like to have it divided. It contains, first, a proposition that the appropriations shall be devoted to the service of the specific year for which they are voted. Its second proposition is, that no contracts shall hereafter be made without advertisement. That is the law now, but it is disregarded; so that I suppose it is necessary to reenact it. The third proposition is, that no contracts shall be made under the authority given in the exception contained in the sixth section of the act of May 1, 1820, while Congress is actually in session. The amendment which I offered, and which was voted down yesterday, was, that it should not be done at all; but this amendment of the Senator from Maine restricts and limits the Department so that it cannot be done while Congress is actually in session. As these three propositions are all in one section, it strikes me that it may be divided. The sense of each of them is different. One man may be for one and not for another; and I wish to have them divided. The Senator from Georgia says they have had a good many deserters from the Administration ranks. I see that there is an appropriation in this bill to pay for catching deserters. I want to know if it is going to be appropriated for any of them. [Laughter.]

The PRESIDING OFFICER, (Mr. MASON.) The Chair considers that the proposition is susceptible of division.

Mr. HALE. Then I desire a distinct vote to be taken on each of the three propositions contained in the amendment.

Mr. SIMMONS. I should like to inquire of the Senator from Virginia what amount was appropriated last year in the general appropriation bill for transportation and supplies for the Army? I mean for the year 1857-58—I call it the present year.

Mr. HUNTER. I cannot tell without referring to the document. I think the amount was about two million dollars for transportation.

Mr. SIMMONS. Supplies and transportation are both included in this deficiency bill. I ask for this information because I think it has been usual, heretofore, when a proposition of this sort was made, to present some basis, some reason for it.

Mr. HUNTER. I cannot lay my hand on the document just now. As soon as I find it I will inform the Senator.

Mr. SIMMONS. I will wait till the Senator finds it.

Mr. STUART. I think, sir, that there is a portion of the amendment offered by the Senator from Maine which may be adopted with propriety, and the adoption of which will secure great economy. I believe it is conceded, generally, that the expenditures in the quartermaster's bureau are, in amount, very great; and I think the belief is general that the economy of that department might be very much improved. This amendment certainly will have some effect in that direction. I have listened with very great attention to the remarks of the chairman of the Finance Committee to see if there were any valid or substantial objections to it, and I confess I have not been convinced of any. I see no reason why appropriations for a deficiency for the service of a particular year may not be, with propriety, confined to paying for the service of that year. It does not follow, as was suggested by the chairman of the committee at the outset of this discussion, that the payment must be made within the year; it may be made at any time within the two years, the general limitation of the appropriation before it goes to the surplus fund.

The proposition of this amendment is to confine it to paying for the service of the year; it is simply to prevent paying for the service of 1858 by appropriations made to pay for that of 1857. It must, I think, be conceded that there is very great difficulty in limiting the action of the War Department to an extent that may be general with other Departments of this Government. Emergencies do arise, they arise constantly in the service of the country; and neither Congress, nor the President, nor the Secretary of War, can tell when one is about to arise, or when it will arise. My belief, therefore, is, that that species of legislation which makes the most constant, direct, and specific accountability to Congress and to the country, is the legislation which will secure the greatest economy; and I think this part of the amendment of the Senator from Maine does, in a measure, secure that result. By it, Congress says to the Department, "you report a deficiency for 1858; we will give you the money for what you report, but we will not allow you to use any surplus you may have for that year for a deficiency in the service of 1857, or 1859, or any other year."

I conceive, sir, that there is in the authority which has been exercised to use appropriations made for one purpose to the payment of expenditures for other purposes, a very dangerous latitude of discretion. I can conceive very readily that any executive officer of this Government would say, when there was a proposition made to him to expend for a particular purpose, for which purpose he had no money, "I decline to do it; there is not a pressing necessity; I can avoid it, and therefore I will avoid it;" and I can also conceive that, if he had the power to transfer funds from another appropriation to meet that necessity or that emergency, he would do it, and would do it when it might be avoided.

Now, sir, it is impossible for any individual to point out the instances in which this would be done; but it lies in the nature of the service and in the nature of man. In the one instance, he is to report to Congress that he has done a specific

act, and requires the money to pay for it, and then he is held to a direct accountability, because the attention of Congress is directed to the very act, and Congress will pass judgment whether it was justifiable or unjustifiable. But if you allow him, as I said, to do this act, and transfer from another appropriation the money with which to pay for it, he will exercise less caution, less prudence, and less economy; therefore, as to that branch of the amendment, I must say that I am decidedly for it.

As to the other branch of the amendment, while I am up, I will call the attention of the honorable Senator from Maine to it; for I think it may be improved, and improved within the necessities and the probable emergencies that may arise. The grounds of it were suggested yesterday by the honorable Senator from Maryland, [Mr. PEARCE;] and I asked him to offer, in the shape of an amendment, what his views were. He did so; and necessarily having to be absent from the Senate, he left it with me; and I propose to add to the first provision of the amendment of the Senator from Maine the following, as meeting the views which I have just submitted to the Senate. It is in the shape of an additional section, but its language can be changed if deemed necessary:

And be it further enacted, That whenever, hereafter, contracts shall be made by the Secretary of War by virtue of the sixth section of the act of 1820, chapter 52, he shall, if Congress be in session at the time, promptly report to both Houses thereof, the reasons for making such contract, stating fully all the facts and circumstances which, in his judgment, rendered such contract necessary. If Congress be not in session at the time of making such contract, he shall, at the commencement of the next session, make such report to both Houses. And no such contracts shall be made, hereafter, except in cases of pressing exigency.

This, as I said, meets my views as to the extent we can safely go. I concede the argument that is submitted by the chairman of the Committee on Finance and by other Senators, that if a war breaks out, if there is an insurrection, or any other emergency that makes a prompt movement of troops necessary, it is out of the question to stop and give notice to make the contract; and the alternative submitted by the honorable Senator from Maine, I will say to him, seems to me, to be worse than to leave it as it is; that is to say, to admit here that in such a contingency the Secretary may set the law at defiance, and Congress will justify him. Sir, I dislike that; I concede that there might be great emergencies in the service of the country when a public officer might feel the necessity of doing that, and when Congress would justify him in doing it, and when the country too would justify him; but we ought not by legislation to create inducements for such a necessity.

It seems to me, therefore, (and with this repetition, for which I hope the Senate will pardon me, I shall have submitted all that I desire to say on this subject,) that when we provide for a prompt and immediate report to Congress of the act done, the necessity and the reasons for doing it, and the amount of money required to pay for it, we shall have secured all that can be safely secured, agreeably to the nature of the business of the War Department. In the other Departments of the Government time is not so essential. They have time to give their notices and to have all their contracts made according to them, without any great difficulty in the service of the country; but necessarily, in the movement of troops and the making of contracts for their support and furnishing them with supplies by the War Department, it seems to me that it is impossible to do that.

Now, sir, with the exceptions to which I have referred in one of the Senator's amendments, I say to him that I am decidedly in favor of every other suggestion he has made; and I must say to my honorable friend, the chairman of the Committee on Finance, that I do not see the necessity of appropriating in this deficiency bill for the service of 1859 or 1860. I understand from the honorable Senator from Maine that there are appropriations asked for here for expenses in both 1859 and 1860. I think the Senate may well pause and say, in regard to these items, that we will wait until the general Army appropriation bill comes up. We shall lose nothing by a delay for that time. If it be ten days, or fifteen, or thirty days, whatever the time is, there may be such developments in the history of the Utah insurrection, and in the affairs of the country generally, as to satisfy

us that no such appropriation is necessary; at all events, if the necessity which is now supposed to exist shall continue, we may better make appropriations in the general appropriation bill for 1859 and 1860 than to make them in this deficiency bill, and hence I agree with the honorable Senator from Maine in the amendment that he has proposed to meet that difficulty. I like it, again, because it is in pursuance of the views which I have just submitted to the Senate, to specify as nearly and as exactly as you can the subjects for which you propose to make the appropriations. There is an objection to asking for a gross amount of money, and leaving it to the discretion of some subordinate officer of this Department to say how he will use it. The idea, the paramount idea that I have sought to submit to the Senate in these few remarks is, that to compel the Departments and all their subordinates to specify as accurately and distinctly as the subject-matter will permit, the particular purpose for which they ask money, is the great means of securing economy in expenditure. I hope, therefore, that the basis of these amendments will be agreed to, and if there be anything wrong in their phraseology let that be corrected.

Mr. HUNTER. I think that the Senator from Michigan is mistaken as to the actual state of the law.

Mr. SIMMONS. I do not like to interfere, but I sat down while the Senator from Virginia was looking at the paper.

Mr. STUART. I beg pardon of the Senator from Rhode Island; I thought he had yielded the floor entirely.

Mr. SIMMONS. I am very much delighted with what the Senator from Michigan has said, so very much better than I could have said it.

Mr. HUNTER. For the transportation of troops and supplies, the appropriation for the present year is \$1,800,000.

Mr. SIMMONS. For both these objects?

Mr. HUNTER. Yes, sir; "transportation of troops and supplies, \$1,800,000."

Mr. SIMMONS. Now, what is it proposed to appropriate as a deficiency in this bill for these two objects?

Mr. HUNTER. The appropriation is not for a deficiency, but sixteen or twenty months ahead.

Mr. FESSENDEN. The appropriation for transportation and supplies in this bill is between five and six million dollars.

Mr. SIMMONS. Now, Mr. President, I submitted a few remarks yesterday upon this subject, and I wish to call the attention of the chairman of the committee to the view I endeavored then to present, and to another objection that struck me from the remarks he made yesterday in reference to confining the appropriations to the year for which they are made. As I said before, I do not think it ought to be understood, when we are trying to fix responsibility and to guard the appropriations for the war purposes of this Government, that we are opposing any Administration, or opposing this bill. I repeat, that I am willing to vote for any proper, reasonable amount for the support of the Army, under the direction of this War Department, as readily as if it were under the direction of any other Administration. But I should like to ask the Senator from Virginia when, without the proposition made by the Senator from Maine to limit this appropriation to the year for which it is made, it will go to the surplus fund, if it is not expended this year, under the law of the country?

Mr. HUNTER. The appropriations last for two fiscal years. After that they go to the surplus fund.

Mr. SIMMONS. We make an appropriation here for the deficiencies of the fiscal year ending June 30th, 1858. The Senator says that when it is ascertained that it is not all expended in that year, it may be expended for 1859; but we shall, in the general appropriation bill, make an appropriation for 1859; and how will you discriminate between the money that you now appropriate, and that which you will appropriate, it may be a fortnight hence? The Constitution requires that all appropriations made for the support of the Army shall be limited to two years, and what was the object of that? It was that no Congress should pass appropriations for the support of an Army that could be continued by any process for an indefinite period.

Mr. HUNTER. I have just explained that it could not be. Not a cent of this appropriation can be used after the expiration of the next fiscal year.

Mr. SIMMONS. Then an appropriation lasts for only one year after it is made.

Mr. HUNTER. It is for two fiscal years. At the expiration of two fiscal years, it goes to the surplus fund.

Mr. SIMMONS. Then I should like to know of the Senator from Virginia, if we are not making an appropriation to-day for the next fiscal year?

Mr. HUNTER. Yes, sir.

Mr. SIMMONS. Will it go to the surplus fund at the end of that year, or will it go on for another year?

Mr. HUNTER. It will go to the surplus fund at the end of that year, because technically, it is an appropriation for this year, though it is designed to be used in the next year. It is for the service of the next year.

Mr. SIMMONS. The standing law that was read here yesterday was, that two years after the expiration of the fiscal year, for which the appropriation was made, if not expended, it should go to the surplus fund.

Mr. HUNTER. Once, I think.

Mr. SIMMONS. It was two as read yesterday. Perhaps it was a mistake, but as it was read, it said two years. I think the Senator from Virginia read it himself, but he might have made a mistake. Certainly if we appropriate now for the fiscal year ending June 30th, 1859, it will continue liable to be drawn for the very object for which we have appropriated it until the end of the year 1860, according to his account, and here is an appropriation of five or six millions, which is three times as much as the ordinary appropriation for the service, made in a lump.

Now, I say that, viewing this question as I have been in the habit of viewing such questions, this is an unreasonable proposition to be made to the Senate. We ought either to confine the appropriation and let its contingent expenditure be limited to this exigency, or else we ought to have some definite information about it. If we confine it, as the Senator from Maine proposes, to whatever may be required for this fiscal year, and if not expended for that to go into the Treasury again, no harm can arise; but if you apply three times as much as the ordinary expenditures for this service, they can use the balance of this year for the next, and they can use what you appropriate next year for the succeeding one, and so keep a balance of two years all the time ahead to come and go upon, whenever a contingency arises that the Executive wants to use this money. That, I am perfectly clear, is a power that the Constitution never contemplated we should give.

Mr. FESSENDEN. Two years from and after the expiration of the fiscal year for which money is appropriated, it goes to the surplus fund. That is the law. I have it before me.

Mr. SIMMONS. So I heard it read yesterday. If that is the case, I should like to call the attention of the chairman of the Committee on Finance to the point whether it is not in direct contravention of the Constitution to make such an appropriation as he is now asking us to make to-day, of \$6,000,000, more or less, for this and the next succeeding fiscal year, and which by a fair construction may be carried to the end of the year 1861, before it goes to the surplus fund. The fiscal year for which part of this appropriation is to be made, and which he contends is necessary to be made on account of the grass, ends in 1859, and the law says that it takes two years after that before it goes to the Treasury. I say that is an infraction of the Constitution; and any man, I think, who is disposed to consider it candidly and fairly, must see it.

Now, what does the Senator from Maine propose? He proposes that an appropriation shall be made, but that it shall be made for the expenditures of the present fiscal year; not that it shall be spent this year, but that any claim arising in this year shall be paid out of this money, and then it shall go to the surplus fund, or to the common Treasury; and, in my deliberate judgment, no man can regard such a measure as at all hostile to the purposes of this bill, and I do not think any proposition that has been made here reflects at all on the conduct of the War Department any more than the proposition of the Senator from North

Carolina the other day, that no more extra pay should be voted to clerks and employes was a reflection on the House of Representatives. I did not consider it a reflection on them, but I thought it was bringing them back to where the law brought them, and where they ought to be all the time. It was saying, "we will pay this, as you have voted it, but hereafter you shall go according to law." That is all I understand this amendment to be. I ask the Senator from Virginia if I am not right; if this money is not absolutely within the control of this Department for the next three years unless you limit it? and I should like to hear him on that point.

Mr. HUNTER. I apprehend that no military appropriations can be used for a period longer than two years, because the Constitution prohibits it. I have not been able to turn to the statute in regard to the surplus fund; but if it does provide that an appropriation shall endure for two years after the end of the fiscal year for which it is made, (and in that I think the Senator is mistaken, for in my opinion, it is only one year,) of course it is limited in regard to military appropriations, because the Constitution forbids a longer period in respect to them.

But, Mr. President, what is it that the gentlemen are arguing so strenuously to change? There is a provision that an appropriation, when made for any particular branch of the service—say for transportation and supplies—may be subject to the use of the Department for two years, and no longer. We have practiced under this ever since 1795. I have never heard any inconvenience alleged under it. It is said that there is a want of responsibility. How? It is said that it is not specific. Why not specific? The Secretary of the Treasury estimates for each specific item what he wants.

Mr. FESSENDEN. Will the Senator allow me to call his attention to this law?

Mr. HUNTER. Certainly.

Mr. FESSENDEN. It is the tenth section of the statute passed in 1852, the civil and diplomatic bill of that year:

"That when any money shall have remained unexpended upon any appropriations by law other than for the payment of interest on the funded debt * * * * * for more than two years, after the expiration of the fiscal year in which the act shall have been passed, all and any such appropriations shall be deemed to have ceased and been determined; and the moneys so unexpended shall be immediately thereafter carried, under the direction of the Secretary of the Treasury, to the account on the books of the Treasury denominated the surplus fund."

Mr. HUNTER. Be it so, sir. It seems then that it has been the unbroken usage of the Government ever since 1795, to allow an appropriation to be used for two years after the expiration of the fiscal year for which it is passed, subject to the uses of the Department; and the objection urged to that now, for the first time, is that it destroys responsibility on the part of the heads of Departments. Now I say, how? The head of a Department reports specifically what he wants on each item. He says, "to meet this I have a certain unexpended balance of appropriation in regard to that item, that has a year to run; I want in addition to that perhaps nothing." Perhaps, however, he may want something more in order to meet the unexpected service of the year. Congress then appropriates specifically—it makes a specific appropriation in addition to this unexpended balance; or if it is enough, it makes no appropriation. It acts on a full view of the subject. It knows what is already subject to the uses of the Department under that head. It only adds to them what may be necessary to meet the wants of that fiscal year.

But the Senator from Michigan says that this is no specific appropriation, because the Secretary of War may transfer afterwards. Sir, he cannot transfer under the law if the appropriation be more than a year old; and if it be less than one year old, he is limited in his power of transfer to the subsistence, the medical, and the quartermaster's departments. He cannot transfer appropriations for other specific items. It is only upon these heads that transfers can be made; and when it is done, he has to return to Congress an account of his expenditures, so that Congress can see, according to the old system under which we have acted so long, what is asked under each head, what is appropriated under each head, and what is expended under each head. What more, sir, can be done to insure responsibility? We find that the provision which allows the appropriations to be used

for that length of time has been eminently convenient, and particularly so in a Government like ours, extending over so large a territory, when the accounts from some portions of it come in so tardily. No reason has been offered for curtailing it.

The whole amount of the amendment of the Senator from Maine, when you come to carry it out for a series of years, will be, that the appropriations can only be used for one year. They can only be used for one year unless there may be some services in that year which are not paid in the fiscal year, and balances may afterwards be used if there should be any to be applied to that service—that is all. It amounts to a change of the act in regard to the surplus fund. It amounts to a change in the practice of the Government, which is almost as old as the Government itself, and it exposes the Department not only to the inconvenience, probably, of opening more different accounts, as it certainly would, but it exposes Congress to the necessity of appropriating more frequently, in order to attain the same object. If gentlemen could show that any mischief had arisen under the old practice, they might have some reason for asking the change; but they have shown none, and I think they can show none. Now, sir, in regard to this particular change, the Senator does not effect his object of preventing the Executive from sending forward supplies for more troops than are already in Utah, by his amendment. He may say, "I will not appropriate more money than I suppose (for it is a guess of his, at least) will be necessary for that object;" but it does not take away the authority which the President has, under the law, and which the Secretaries have, under the law, to make these contracts, and to change the position of the troops. He leaves all that authority; he leaves them the power of running us in debt for these objects, and simply says he will not pay them now. What is the effect of it? They have to go upon credit in order to attain their object. They have to expose the Government thus to a greater cost by being forced to go upon credit, than having the money to use for that purpose. Is any object attained by that? On the contrary, if the Senator desires to prevent this money from being used for these purposes, the only way he can attain his object will be to say so in the terms of the law, and say that it shall only be used for such purposes. He cannot attain his object by limiting the supply of money, because the authority for contracting the debt still exists.

Sir, in regard to his proposition as to advertisements, I think that has been so fully answered by the Senator from Michigan, and others, that it is hardly worth while for me to go further into the matter.

It will be for the Senate to determine whether there is economy in making this appropriation ahead now or not. It is proposed, for instance, to make an appropriation for subsistence of actually upwards of a million dollars. The commissary of subsistence tells us that if that be made, it will involve a reduction in the appropriation of next year; you will not want so much in the appropriations for the next fiscal year; but the reason given is, that if it be made at once, the supplies can be transported more cheaply. If the Senate think that is not a sufficient reason, they can strike that out. If they are willing to say that this is a mistake and mismanagement, and that they can manage it better, they certainly have the right to do so, and they can strike it out; but I think there is a good reason for it; and I do not regard as of much consequence the objection that, although it is an additional appropriation, it is made in a bill which is technically a deficiency bill. If it be a mere question of name, I do not think that is sufficient to put the Department to the additional inconvenience to which it would be exposed if we should delay the appropriation until the general bill is passed. How do we know when it will be passed? We have known them to be delayed until August; and we are told that, after August, the favorable season for transportation is gone. We know that over the road to Utah, and in that climate, the season for transportation is limited. We cannot send supplies in the winter; and it is therefore proper, if we are to concentrate so many troops in that valley, that we should send forward the supplies as speedily as we can. If, however, the Senate should disap-

prove of that policy, and should determine to prevent that concentration, they can do so by law, but in no other way that I know of.

Mr. STUART. Only a word, sir, upon the argument of the necessity growing out of the season of transportation. I objected to appropriations being made in this bill for 1859 and 1860, and especially for 1860. How does the honorable chairman answer me? He says there is a season for transportation at which season the transportation can be made much cheaper. That is undoubtedly true; but when is it? It commences about the 1st of May. Here is 1858. On the 1st of May 1858, you may make your transportation; and the deficiencies which are reported here, and for which Congress appropriates, are for the service of the year ending June 30, 1858. Now, sir, go forward, and there comes the spring of 1859, one year from next May. Then commences the next season for transportation. It varies a few days, perhaps, either side of the 1st of May, but that is the usual time. Congress will be in session again next December and can make an appropriation in time to commence transportation in May, 1859. Then comes the third year, in May, 1860; and Congress will again be in session in December, before that time; and yet in this bill are appropriations running to the 30th of June, 1860. There is no earthly necessity for it.

It is not, therefore, as the honorable chairman suggests, merely a question of the name of the bill in which you place it, but it is very nearly an infringement of the Constitution of the United States; for the very clause which gives to Congress the power to raise and support armies says that appropriations for that purpose shall not be made for more than two years. If you count the actual years, beginning to-day, and suppose this bill passes to-day, you would infringe the Constitution; but perhaps that would not be a fair construction. It would commence at the end of this fiscal year, and then it would be just two years; but there is no necessity for it in order to avail yourself of the season for transportation. There is objection to appropriating large sums of money in advance; for, as has been argued here, if we appropriate money now for 1860, that does not go into the surplus fund until 1862, and thus you would run four years ahead; and that would be a palpable violation of the Constitution of the United States. In any event, I confess I do not see the necessity.

If the vote is about to be taken on the amendment, I suggest to the Senator from Maine that I shall move to strike out all of his first amendment, after the word "appropriated," in line six, and insert the provision which I have read.

Mr. FESSENDEN. I ask the Senator if he objects at all to the provision that they shall not make the contracts during this session of Congress?

Mr. STUART. I stated that I preferred for that purpose the amendment which had been drawn up by the Senator from Maryland.

Mr. FESSENDEN. I do not know that I shall object to the amendment of the Senator from Maryland as applicable to contracts made in the recess of Congress; but I cannot accede to the propriety of allowing the Departments to make contracts in this way during the session. Now I wish to say one word more in regard to these contracts. Senators perhaps do not consider that there is a large amount of money, as a general rule, on hand. We appropriated in the first place (and that is not touched by my amendment) all that was supposed to be necessary for the service of the Army for this year. Upon that, contracts may be made. There is no prohibition for making contracts so far as the money goes. It is only when the cases arise which they call contingencies—when that money is expended—that I object to making contracts. So long as it lasts, on the basis of that, contracts may be made in California and elsewhere. That is not prohibited. All I wish to prohibit is this: that while Congress is in session they shall not make contracts without funds or specifications, and when it is not in session that they shall not make them unless under particular provisions made for guarding the Treasury.

Mr. STUART. I will suggest to the Senator, so that he may answer it if he thinks proper, that such an emergency as has been alluded to here,

the necessity for the prompt movement of troops, would be just as great during the session of Congress as in the vacation; and the Senator knows that the tardiness with which Congress necessarily moves in the passage of appropriation bills might prevent the prompt execution of a necessary order. I think the exigency would be as great practically during the session of Congress as during the vacation; and I repeat I do not believe you can reach this more perfectly than by providing for a direct, prompt, and specific accountability.

Mr. FESSENDEN. One word in reply. Emergency is a very general term. There may be a great one or a small one. If there is any severe emergency, one that involves the well-being of the country, it is certainly an imputation on us to suppose that we will not furnish money just as quick as it is asked for, and pass everything that is needful. Suppose there was a rebellion, or an invasion, or anything of that sort, which called for prompt, decisive, and decided action by the Government. The Senator supposes that, while the President and Executive Departments might be supposed to move quickly, here we stand, perfectly deaf and blind. If it is an emergency that calls for anything of that sort, it is to be presumed we shall all feel alike on that subject, and can move quick enough.

Mr. HALE. I want to state a fact, in answer to the last suggestion of the Senator from Michigan. I think, in 1846, while Congress was in session here, one of these emergencies arose "by the act of Mexico." We got into a war "by the act of Mexico," and the President communicated that fact to Congress. I believe that Congress, in less time than it would take to read the documents through, passed the appropriations that the Executive called for. I was not a member of Congress at that time; but I know complaint was made then, that they were in such hot haste that they would not even let the documents be read through, and the President got everything he wanted, vastly more than he ought to have had, and got it very quick—immediately, instantly.

The great mischief of our times is legislation for emergencies. You will always have them as long as you provide for them. The true way is to legislate for peace, and consider war as improbable, at least so far as conferring extensive discretion on the Executive is concerned. The Administration will never be in want of an emergency as long as Brigham Young lives, that is certain; they can have it at any time. We should not consider, and should not look at the question in that point of view. The experience and history of the country shows that, even when an emergency comes by the extraordinary blundering of the Administration, as Mr. Calhoun said the Mexican war came, Congress are prompt, too prompt, to provide for it. It is a false, an unsafe, and unsound doctrine to be conferring extraordinary discretion, to be exercised in fact without any discretion, as we see it has been, because it is possible we may stumble into war. In regard to the suggestion the honorable Senator from Michigan has made, the amendment has been divided, so that we can have a vote on his proposition, and then on the other. Let us have a vote on the first branch first.

The PRESIDING OFFICER, (Mr. Mason.) The first question before the Senate is on the amendment offered by the Senator from Texas to the amendment of the Senator from Maine.

Mr. HOUSTON. I withdraw that amendment. The PRESIDING OFFICER. The question then recurs on the amendment of the Senator from Maine; and at the request of the Senator from New Hampshire it will be divided. The vote will first be taken upon the first branch of that amendment, in these words:

"And be it further enacted, That no part of the amount appropriated by this act for the service of any one fiscal year, shall be used for or applied to the service of any other year, nor be transferred or used for any other branch of expenditure than that for which it is specifically appropriated."

The question being taken by yeas and nays, resulted—yeas 24, nays 21; as follows:

YEAS—Messrs. Broderick, Brown, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Seward, Simmons, Stuart, Trumbull, and Wade—24.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bright, Clay, Evans, Fitch, Fitzpatrick, Gwin, Hammond, Hunter, Johnson of Arkansas, Jones, Mallory, Mason, Schuchman, Slidell, Toombs, Wright, and Yates—21.

So it was agreed to; and the question recurred on the second branch of Mr. FESSENDEN's amendment.

Mr. STUART. I move, instead of the second branch of that amendment, what I send to the Clerk's desk. This is drawn in the form of a section; but the words "and be it further enacted," can be omitted.

Mr. HALE. I raise a question of order. I am not versed in the rules; but I hardly think it is in order to amend a proposition while we are taking a vote on it. The vote has been ordered to be taken on this amendment, and the yeas and nays have been called on one branch of it. I asked for a division of the question, and the yeas and nays have been taken upon one branch of the amendment. The amendment was only divided; and I ask whether an amendment can be offered to it in this stage of the case, while we are voting upon it?

Mr. STUART. The effect of the division is to divide the amendment into separate propositions. This portion of it now stands as an independent proposition, subject to be amended in any form that it could have been if it had never been connected with the proposition upon which we have just voted.

The PRESIDING OFFICER. The Chair understands that an amendment to the amendment is still in order.

Mr. STUART. Certainly.

The PRESIDING OFFICER. This branch of the amendment of the Senator from Maine is now an independent proposition and can be amended. The Chair was of the impression, and stated yesterday, that after the yeas and nays had been ordered upon a proposition, it was not in order then to amend it, but he will not act upon that impression as the temporary occupant of the chair; and unless the question is made by some Senator he will receive this amendment as in order.

Mr. STUART. My amendment is, as a substitute for that branch of the amendment of the Senator from Maine on which we are now about to vote, to insert:

And that whenever, hereafter, contracts shall be made by the Secretary of War, by virtue of the sixth section of the act of 1820, chapter 52, he shall, if Congress be in session at the time, promptly report to both Houses thereof the reasons for making such contract, stating fully all the facts and circumstances which, in his judgment, rendered such contract necessary. If Congress be not in session at the time of making such contract, he shall, at the commencement of the next session, make such report to both Houses. And no such contract shall be made hereafter except in case of pressing exigency.

Mr. HALE. The amendment to the amendment is not amendable; but I wish to suggest to the Senator who moves it, that the exception in the sixth section of the act of May 1, 1820, relates to both the Secretary of War and the Secretary of the Navy; but his amendment simply applies to the Secretary of War. I suppose he means to include both.

Mr. STUART. Perhaps it would suit the sense of the Senate better to withdraw my amendment for the present, and let the vote be taken on that of the Senator from Maine; and if it be voted down, then to offer mine as an independent proposition.

Mr. HALE. I think that would be better.

The PRESIDING OFFICER. The question is on the second branch of the amendment of the Senator from Maine, in these words:

"And no contract for Army supplies or service of any description shall be hereafter made during the session of Congress except under a law authorizing the same, or under an appropriation adequate to its fulfillment."

The question being taken by yeas and nays, resulted—yeas 22, nays 24; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Seward, Simmons, Trumbull, Wade, and Wilson—22.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Gwin, Hammond, Henderson, Hunter, Jones, Mallory, Mason, Sebastian, Sidel, Stuart, Thompson of New Jersey, Toombs, Wright, and Yulee—24.

So it was rejected.

The PRESIDING OFFICER. The question now recurs on the third and last branch of the amendment of the Senator from Maine, in these words:

"Nor shall any such contract be made hereafter, at any time, without previous public advertisement for proposals respecting the same."

Mr. HALE. I wish to ask a single question of the chairman of the Finance Committee. Does he not think that is the law now?

Mr. HUNTER. There is a doubt about it. It has been construed very differently by the Departments.

Mr. HALE. I knew it had been so construed; we have no evidence of that on the table before us; but I wanted to ask the chairman of the committee what his opinion was as to the law now.

Mr. HUNTER. I think it is doubtful whether the same necessity which required these contracts to be made ahead of appropriations would not require them to be made sometimes without notice. I do not see how you can distinguish between the public services which are bought in open market, as they are called, and those obtained under a contract. For instance, what is this contract in relation to transportation from St. Louis to Leavenworth? Is it a purchase in open market, or was it a contract they must advertise for? They have considered it either to be a purchase in open market, or else that this particular species of contract did not require advertisement.

Mr. HALE. I made myself exceedingly unfortunate in asking the question, or else the Senator has in answering it. That contract is one, but there are three others—the contract for beef, for wagons, &c.; and the question was not whether it was expedient or proper, but whether the law of 1809, which requires that these contracts shall be advertised, is not now the law of the land.

Mr. HUNTER. That law is a law of the land except so far as it was modified by the law of 1820. I say there is a doubt in regard to that.

Mr. HALE. Then we had better make it certain—that is all.

Mr. FESSENDEN. As it at present stands, with the other portion struck out, if this amendment should be passed in its exact words, it would not read right. Of course it can be put into the proper words afterward.

Mr. STUART. Just strike out the words "nor shall any such," and insert "and no."

Mr. FESSENDEN. Perhaps it will need some modification. It can be put right after the vote has been taken, if adopted.

Mr. BENJAMIN. I will suggest, in relation to this amendment, that there is a class of contracts in regard to transportation, and in nineteen cases out of twenty it would defeat the whole object to require an advertisement for sixty days.

Mr. FESSENDEN. The provision for sixty days' notice is not here at all. It does not say how long notice shall be given. That is left to the discretion of the Department.

Mr. BENJAMIN. But it requires previous advertisement. There is nobody to do the work but the railroads. The railroads have a monopoly of the transportation where there are railroad routes.

Mr. HALE. I move to amend by adding "except for transportation."

Mr. FESSENDEN. That is a very material thing of the whole matter. That costs more than anything else.

Mr. HALE. Well, let us cut off something, if we can.

Mr. CAMERON. The exception should be limited to transportation by railroad.

Mr. HALE. My amendment is to add "except for transportation by railroads."

The amendment to the amendment was agreed to; and the question recurred on the third branch of Mr. FESSENDEN's amendment as amended.

Mr. STUART. I suggest to the honorable Senator that it would be better to put the amendment in shape. It seems to me that the original amendment has been divided beyond what it should have been; but as it stands now, if adopted, it will not make any sense at all.

Mr. HALE. We can put in the prepositions afterwards.

Mr. STUART. But it says, "nor shall any such contract;" and, as the section now stands, there is no preceding language that alludes to any contract.

Mr. FESSENDEN. That is what I stated. There must be a modification.

Mr. STUART. It should be so modified as to apply to contracts for Army supplies or services of any description: "Nor shall contracts for Army supplies, or of service of any description, except for transportation," &c.

Mr. FESSENDEN. Put it in this shape: "and no contract."

Mr. TRUMBULL. The amendment will be harmonious by striking out the words, "nor shall any such contract be made hereafter at any time," and inserting, "and no contract for Army supplies or service of any description shall be made."

Mr. FESSENDEN. I am endeavoring to do so now.

Mr. TRUMBULL. It will then read, "that no contract for Army supplies," &c., with the exception which was put in on the motion of the Senator from New Hampshire. Insert the first line and a half of the amendment which has been voted down, and strike out the first line of the amendment now pending, and that will make it all harmonious.

The PRESIDING OFFICER. The amendment has been modified by the mover, and will be read as modified.

The Clerk read it, as follows:

And no contract for Army supplies or service of any description, except for transportation on railroads, shall be made hereafter, at any time, without previous public advertisement for proposals respecting the same.

The question being taken by yeas and nays, resulted—yeas 24, nays 25; as follows:

YEAS—Messrs. Benjamin, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—24.

NAYS—Messrs. Allen, Bayard, Biggs, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Henderson, Hunter, Iverson, Johnson of Arkansas, Jones, Mallory, Mason, Sebastian, Sidel, Thomson of New Jersey, Toombs, Wright, and Yulee—25.

So the amendment was not agreed to.

Mr. STUART. That disposes of the whole amendment of the Senator from Maine.

The PRESIDING OFFICER. The Chair presumes that the question recurs on the amendment as amended.

Mr. STUART. It was simply divided, which made it distinct propositions. One was adopted, and the other two voted down.

The PRESIDING OFFICER. The Chair will acquiesce in that suggestion, but he thought otherwise.

Mr. STUART. I now offer the proposition which I submitted a little while ago, and I offer it as a distinct section. I stated that it was prepared by the honorable Senator from Maryland with a good deal of care yesterday, and I think it is in a form that cannot, in any event, embarrass the operations of the Army, but will secure more prompt and accurate accountability. It is:

And be it further enacted, That whenever, hereafter, contracts shall be made by the Secretaries of War or Navy, by virtue of the sixth section of the act of May, 1820, chapter 52, he shall, if Congress be in session at the time, promptly report to both Houses thereof the reasons for making such contract, stating fully all the facts and circumstances which, in his judgment, rendered such contract necessary. If Congress be not in session at the time of making such contract, he shall, at the commencement of the next session, make such report to both Houses. And no such contract shall be made hereafter except in cases of pressing exigency.

Mr. HALE. I wish to suggest to the honorable Senator whether it would not be necessary to modify the terms of that amendment a little more. He says that no contract shall be made by the Secretary of War or Navy; but these contracts, in point of fact, are not made by those Departments, but are made, as for instance here, by the Quartermaster General.

Mr. STUART. The language includes that clearly.

Mr. HALE. If it does, I am content.

The amendment was agreed to.

Mr. FESSENDEN. There is another amendment, that I laid on the table yesterday, which I now offer; but I wish first to modify it.

Mr. HUNTER. How much of the bill is it proposed to strike out?

Mr. FESSENDEN. It is, after the word "Army," in line thirty, to strike out all down to line one hundred and eighteen, on the sixth page. That is the way my amendment is printed. I propose to modify it by saying "down to line one hundred and sixteen." I see that, by including down to line one hundred and eighteen, I should strike out the provision for subsistence. Although I have some propositions to make in regard to that, I wish to make them separately. I wish to strike out down to line one hundred and sixteen. I also modify my amendment by increasing the

appropriation for deficiencies for transportation, in the year ending June 30, 1858, from \$500,000 to \$1,000,000. My amendment, as modified, is to strike out all the military appropriations in the original bill between line thirty, on page 2, and line one hundred and sixteen, on page 6, and insert:

To supply a deficiency of appropriations for the regular supplies of the quartermaster's department in the year ending June 30, 1857, \$279,377 57.

To supply a deficiency of appropriations for the incidental expenses of the quartermaster's department, in the year ending June 30, 1857, \$129,860 20.

To supply a deficiency of appropriations for the transportation of troops and supplies in the year ending June 30, 1857, \$751,487 15.

To supply a deficiency of appropriations for barracks and quarters in the year ending June 30, 1857, \$67,954 39.

To supply a deficiency of appropriations for the regular supplies of the quartermaster's department in the year ending June 30, 1858, \$300,000.

To supply a deficiency of appropriations for incidental expenses of the quartermaster's department in the year ending June 30, 1858, \$60,000.

To supply a deficiency of appropriations for transportation of troops and supplies in the year ending June 30, 1858, \$1,000,000.

To supply a deficiency of appropriations for constructing barracks, and other expenses incident to the same and to quarters for the troops, and to store-houses for the safe-keeping of military stores, during the year ending June 30, 1858, \$30,000.

To supply a deficiency of appropriations for the purchase of horses necessary to be purchased in the year ending June 30, 1858, for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such infantry as it may be found necessary to mount at the frontier posts, \$100,000.

Mr. HUNTER. I understand that the Senator from Maine proposes to appropriate \$3,718,000 for deficiencies. Is that the amount?

Mr. FESSENDEN. Not so much as that. It is about a million short of that. I will explain precisely the ground on which I put it.

Mr. HUNTER. I wish the Senator would do so.

Mr. FESSENDEN. As I remarked a few moments ago, the original bill that has come into the Senate is so drawn that while in fact it is intended to provide for deficiencies in the year 1857, and for supposed deficiencies in the year 1858, it also provides for proposed expenditures in the succeeding years 1859 and 1860, and it is so framed that it is impossible to make a distinction between the two. It is so drawn that we cannot vote separately on these separate objects, for or against them. It is also founded on another object, and that is developed in the document which I have here, No. 22 of the House Miscellaneous Documents, in which the Quartermaster General states—the Secretary does not state anything at all about it—that he desires to provide for certain enumerated deficiencies in the year 1857, and for certain probable deficiencies in 1858, including in those deficiencies all that will be necessary in the present year for the Army as it stands now with the present number of our troops in Utah. That is one object; and another object is (and that makes very much the largest part of the appropriations) to provide for transporting to Utah another very large body of troops to operate there, and to provide for the supplies necessary for them during about twenty months from this period.

I desire, for the reasons I have before stated, to divide these appropriations. In the first place, I will say to the chairman that I have no very particular squeamishness about deficiency bills, or about putting into a deficiency bill what may be necessary to put in at the time, provided it is absolutely essential and does not involve any violation of principle. But what I wish to do is to bring this question distinctly before the Senate, to see whether the Senate will, at this period of the session, not only justify the preparations that have been made to send an army to Utah consisting of between five and six thousand men, but will also provide for supporting that army in Utah for a year after the expiration of this fiscal year, or more, in the present state of our information. With a design to settle that question, and also to bring before the Senate directly whether it will, in advance of any necessity at the present time, make that provision, I have proposed these amendments.

Now I will state to the Senator and to the Senate what I propose. The provision made in the amendment I have suggested with regard to the deficiencies of the year 1857, is precisely what is stated in the document to which I have referred, as needed by the Quartermaster General. With

reference to these deficiencies of 1857, there can be no dispute at all. The next provisions that I have made in the amendment are for the supposed deficiencies in the year ending June 30, 1858; and with reference to the sums the Quartermaster General supposes to be necessary for them, I have no means of judging any further than that he has given the estimates, and on those estimates I rely. I change them only in one particular. He estimates for transportation in the year 1858, the sum of \$2,000,000. That I have struck down to \$1,000,000. I have not interfered with the supposed deficiencies of 1858 in any other particular, but left them just as stated by the Quartermaster General.

The reason why I have reduced that item of transportation one half is this: he proposes as a deficiency in 1858 the transportation that is necessary to be incurred before the end of this fiscal year, not only for the troops that are in Utah now, but for the troops that he proposes to send there. It is impossible, of course, to come to an accurate conclusion about it; but if we refuse to appropriate the present time for this proposed large increase of force, one half the amount that is stated as necessary for the year 1858 will unquestionably be enough to cover all that is needed for the transportation of the Army. That will certainly be enough if we do not undertake to transport the large increase of the Army and the large increase of supplies and stores necessary to maintain them. That is the only difference. I have not struck out any of the other amounts estimated by the Quartermaster General. That is the only item in which I have made a reduction on the principle that we may very well postpone all the supplies for the year 1859, and for the year 1860, until we come to act upon the general appropriation bill of this session, because there is a provision here made for as much as can possibly be started, in my judgment, in the year 1858. Reasoning upon ordinary principles, even from the facts that are given to us, it would not be necessary to go any further than I propose. By this, we should put in the hands of the Department all the money that is necessary to provide for the Army as it stands, with the number of troops at present located in Utah. That is the simple principle on which I have prepared the amendment so as to test these questions.

While I propose that, I do not undertake to say that it will not be necessary to provide in the general appropriation bill within a few weeks for this increased force; nor do I undertake to say that it will be necessary. What I say is, simply, that at present we have no information before us, in my judgment, which would justify an appropriation of so very large a sum of money in advance, in this deficiency bill. The Senator from Virginia, I suppose, will see precisely what effect this would have. Suppose the amendment which has been adopted had not passed, and should not finally prevail: if you undertook to vote this very large sum of money, extended, as it would be extended by the existing law, over several years, the result would be that if, as we believe, and as we have reason to think, the difficulties in Utah should be terminated without any trouble, soon after this Congress adjourns, in the course of the summer, it would leave an enormous appropriation in the hands of the Administration for Army purposes—it would pass out of our control, at any rate, for the present—for them to use just as they pleased.

Let me be understood. Pass this bill as it was reported in the first place, without the amendment which the Senate has not yet finally adopted, but has adopted in Committee of the Whole, with regard to the transfer of appropriation, and you appropriate on account of the supposed Utah war, some eight million dollars to the use of the Army; and what would be the result? We must make, at the end of the session, the usual and the ordinary appropriations for the Army. These are deficiencies, or extra appropriations, on account of the supposed Utah service. Then, when we have made the ordinary appropriations for the use of the Army, and Congress has adjourned, if, as is most probable, and ought to be the case, the Utah difficulties are settled without any further trouble, (and commissioners have gone out there in order to do it,) the result is, that here is an enormous appropriation left in the hands of the Administration, for which it can have no use connected with the regular service of the Army, and

which would enable it to do as it pleased. Although, perhaps we might not anticipate any very great danger or difficulty, yet it is contrary to all reasonable principles of appropriation, especially for Army purposes, to do such a thing.

The Senator will see that if the amendment which has been adopted in committee should be sustained by the Senate, it renders it absolutely necessary that there should be a more specific appropriation in the bill. As it stands now, all these appropriations are in a lump, under the different heads of expenditure. For instance, for transportation, in one head, the appropriation is over five million dollars. It does not distinguish between one year and another. Therefore, if we make the appropriation in general terms, it stands as an appropriation for the present year; and standing as an appropriation for the present year, with the amendment that has been adopted, there could not be a dollar of it used after this year. Hence, if that amendment is to be sustained, it becomes absolutely necessary that the appropriation for different years should be specifically made in specific sums for the service of those years; and it was in reference to that necessity, if my first amendment was adopted, that I prepared this one, covering specifically the ascertained deficiencies for the year 1857, and the probable deficiencies for 1858.

These are the simple principles on which the amendment was prepared. Now, I have to say in regard to the other branch of the case, that, in my judgment, at the present time Congress would not be justified in making the enormous appropriation proposed for the increase of the Army in Utah. It is said that we have difficulties in Utah. Well, sir, it is one of those emergencies that an Administration may at any time create. We have heard a great deal here of emergencies; and it was in reference to these emergencies which an Administration may make at any time with its control of the Army, that I proposed the other amendments, one of which has been adopted, and the other rejected by the Senate. How has this emergency been brought about? Let us look back at its history.

The difficulties with Utah, as has been said over and over again, existed under the preceding Administration, for two or three years. They were just as bad at any time for a year before the close of the former Administration, as they have been at any time since, until the army now under the command of Colonel Johnston reached its present quarters. What did the Administration do? No claim, no demand whatever, was made upon the last Congress for any increased appropriation on account of the difficulties with Utah. That Congress and that Administration did not apprehend that there would be a necessity for any increased military expenditures for that particular reason; and yet, when the present Administration came into power with that state of things under which the former Administration had rested, and under which the country had rested, it proceeded to organize an expedition to Utah, which would necessarily involve the expenditure of an enormous amount of money.

That is the first step it took. Well, sir, how did it undertake to do that? There is a little peculiarity about it. We hear it now urged on all sides that, in order to deal with this subject with any degree of economy, Congress must move now; it must not hesitate a month; it must not hesitate two weeks; the time must be well spent, in order to avoid the necessity for a great expenditure of money. Why, sir, when that argument is advanced here, let us advert to the fact that the expedition which started last year for Utah, did not leave Leavenworth until some time in August—I do not know the exact period, but it was at a period of the year when it was impossible for it to reach its destination, and when anybody could have foreseen what must be the inevitable result, that there would be an immense increase of the expenses of transportation, for the reason that the grass would be gone, and for other reasons operating on such expeditions. It ought also to have been foreseen that the troops must go into winter quarters under the most unfavorable circumstances; and that that movement would involve the necessity of forwarding large amounts of supplies at a vastly increased cost, when nothing in the world could be accomplished during that year; and when, for any purpose of the expedition it-

self, it might have remained just as well at home until Congress met, and the subject had been submitted to Congress; and then, if started at all, it might have gone at the earliest period of this season, when the proper provision could have been made for it by an appropriation of money. Yet, sir, this Administration undertakes, in the face of these facts, to make the emergency; to send this large force out in connection with its civil officers; starting at a period of the year when it was impossible for them to reach their destination, when nothing could be done; and when, with the most ordinary foresight in the world, anybody might have seen that it would occasion a vastly increased expenditure to no purpose whatever.

Well now, sir, that being done, what is the next step? We are not told by the Administration that there is any war with Utah. The President notifies us of difficulties, but he advises nothing. We all recollect the debate at the first part of this session, when five regiments were called for to increase the Army. We called in this body, over and over again, upon the friends of any measure for the increase of the Army, to say whether it was on account of the Mormon difficulties, and we did not get the answer that it was, and we have not had it up to this day. We have had no recommendation from the President to increase the forces on account of the difficulties in Utah. We have had no estimates from the Department direct with reference to the difficulties in Utah. We have had no recommendation; we have had no information; and, so far as I am acquainted with the subject, I have seen nothing upon the tables of the Senate, from any quarter whatever, to show us that there was any occasion to dispatch a large increased force on account of these difficulties. On the contrary, what has been the course? Peace commissioners have been sent out lately to see whether they cannot negotiate on the subject.

Under these circumstances, having provided all that is necessary to pay the deficiencies of 1857, all that is necessary to furnish transportation and supplies for 1858—and they may start them as soon as they please under the provisions which we shall have made by this amendment—it is not too much to say that we can wait for a few weeks, until near the adjournment of Congress, before we put into the hands of the Administration four or five million dollars additional, which they may not have occasion to use at all; and which, when we have put it into their hands, they may use at their own pleasure, unless the amendment I previously proposed, and which has been adopted, should eventually be made part of the bill. That, to be sure, would prevent it, and that is the only thing which would prevent it.

Now, Mr. President, one word more, for I do not wish to occupy the time of the Senate upon this matter. I wish, if possible, to discourage and discountenance in every possible way that we can do it, with any degree of safety to the interests of the country, this habit of the Executive of this Government taking the responsibility of making war. I believe the honorable Senator from Louisiana, [Mr. SLIDELL,] the other day, in a speech he made here, stated that it was in the power of the Executive to make a war with a foreign nation at any time, in spite of Congress. Perhaps it is; but if it is so, if it is in his power, it is time that the Congress of the United States shall say that he will not be sustained in availing himself of power of that description by any vote of theirs, by being supplied with the means of carrying on expeditions of that description, illegally and unconstitutionally undertaken, unless when it comes to a case of necessity, when by the unwise and rash and wicked actions of the executive Government, our troops have been placed in a position where it is necessary to take care of them—our fellow-citizens in a position where they call for our aid to extricate them from the difficulties in which they are placed. Unless we come to cases of necessity of that description let us discountenance it by every possible method we can use to accomplish that purpose.

Mr. SLIDELL. The Senator from Maine will pardon me. I think he has stated my proposition too broadly. If I recollect correctly, I said that the President of the United States could so conduct our foreign relations as to compel us either to go to war or disgrace the nation—one or the other—leaving no alternative but that.

Mr. FESSENDEN. I did not pretend to cite

the language of the Senator. I attempted to get his idea as near as I recollected it; and I think what he has now said amounts to about the same thing, if he will excuse me for saying so. It is perhaps in the power of the Administration so to conduct our foreign relations. We know that the Administration may, in fact, involve the country in actual hostilities by reason of the power it has over the Army and Navy. If there be such a power, I protest against its exercise, in violation of the spirit of the Constitution; for the Constitution leaves the war-making power with Congress alone, and appropriations for carrying on war with Congress alone. If that power does exist in the Administration—and I am not prepared to dispute the fact that it may—the greater is the necessity imposed upon us, according to my judgment, in all such cases, to hesitate before we countenance it, unless, as I stated before, where the honor of the country and the safety of our fellow-citizens absolutely require that we should take the matter as it stands, and yield to the necessity which has been imposed upon us. It is with that view that I suggest these amendments, which go simply to confine the appropriations to actual existing deficiencies, and leave the matter of the large proposed increase to this expedition to be decided upon by us at a future time whenever the necessity arises, and which will be soon enough for all the purposes required.

Mr. HUNTER. Mr. President, I have had an addition made of the items of the Senator's amendment, and I find that he has reduced the estimates for deficiencies more than a million. The sum total of his proposition is \$2,218,679. The estimate for deficiencies was \$3,718,679.

Mr. FESSENDEN. They are not all deficiencies.

Mr. HUNTER. The Senator from Maine has undertaken to do what I think it is impossible for him to accomplish with the information before us. He has undertaken to discriminate between these expenditures which are fairly to be charged to the deficiencies which would have occurred if there had been no Utah expedition, from those which have been incurred on account of that expedition, or rather from those which will be incurred hereafter, if we sanction the further movement of the troops.

Now, sir, if we look at the estimate of General Jesup, we find that his estimate for the deficiencies for the fiscal year 1856-7, is \$1,228,679 31. We find that is the deficiency for the last fiscal year for the Army, as it was on the 24th of December, 1857. The deficiencies for the present year, in addition to the last year, would be in the whole, \$3,718,679 31. Of this there is an estimate of \$2,000,000 for transportation. The Senator from Maine says he has cut that down arbitrarily, on the supposition that \$1,000,000 would be sufficient for the deficiencies, if you were to deduct that portion expended for Utah; but General Jesup informs us on page 4 of the document, that out of the \$1,800,000 appropriated in last year's bill for the Army, as it was without the expedition to Utah, they have already expended \$1,768,000 for the service in Utah, thus leaving but a few thousand dollars in this branch of the service for the regular Army. It was estimated it would take for the regular Army, without this expedition, \$1,800,000; and most of it, all with the exception of a few thousand dollars, has already been expended in the Utah expedition. The Senator says that \$1,000,000 ought to be enough. He has thus reduced the estimate of the quartermaster's department in regard to what will be wanted for the transportation of the Army as it stood before this expedition, some eight hundred thousand dollars. But, Mr. President, how is the gentleman to discriminate?

Mr. FESSENDEN. The Senator will observe he is mistaken about that. He does not read that rightly. It leaves this \$1,000,000 for outside supplies. The Quartermaster General says:

"The appropriation for the present fiscal year is \$1,800,000, of which amount \$1,768,486 68 is required to cover the expenses already incurred in the transportation of military supplies and the baggage of the troops now in Utah Territory, and which must be incurred." &c.

So he calculates that \$1,700,000 will cover all that is necessary, and he only wants \$1,000,000 for the rest of the Army.

Mr. HUNTER. Let us see. He says:

"The appropriation for the present fiscal year is \$1,800,000, of which amount \$1,768,486 68 is required to cover the

expenses already incurred in the transportation of military supplies and the baggage of the troops now in Utah Territory, and which must be incurred to place them in the condition in which they would have been, provided no disasters had befallen them, or who befall them, this winter, including the sum of \$205,842 03 which will be due the contractors." &c.

That is to say, \$1,768,000 out of this \$1,800,000 is necessary for the troops which are already posted at Fort Bridger, and on the way—a necessity which must be met, an object for which they must apply the necessary money. He says, then, that nearly the whole of the appropriation made for the transportation of the regular Army is necessary for that purpose; but it appears from his estimate of the year before, that \$1,800,000 was necessary for the Army, without regard to the Utah movement. The Senator has reduced that arbitrarily, as I said before, \$800,000.

But, Mr. President, it is to be remembered that this estimate was made in January. Since that time, as I said before, they have been moving troops from all quarters of the Union towards this point; they have been moving them at great expense. Debts have been incurred even in this fiscal year to accomplish that object. What becomes of them? The Senator makes no provision for them. On the contrary, he does not even make the provision which the Quartermaster General says would be necessary on the supposition that there had been no movement.

Now, sir, this is the difficulty in which we are placed: if we were to endeavor to accomplish the object which the Senator from Maine desires, we have not the means of ascertaining how much has been expended on the Utah expedition up to this time. We have a partial estimate in regard to that up to the 14th of January, I think, the date on which this report was sent. We have an estimate of what is supposed to be necessary in order to furnish the entire movement, in order to furnish all the troops who are ordered there with supplies and transportation. Is the Senator prepared to say that he will not appropriate for so much debt as has already been contracted in order to move these troops? They were moved in pursuance of law. The President had the right to move them.

Mr. FESSENDEN. I am willing to pay all that.

Mr. HUNTER. But the Senator has not provided for it. On the contrary, it is manifest that his proposition, if adopted, will leave a large debt existing on that score, because we know numerous troops have been moving at vast expense since this estimate was made for that very purpose.

Mr. FESSENDEN. I will say to the Senator if he will allow me, [Mr. HUNTER. Certainly,] that that was a calculation of mine, and I am perfectly willing to allow for everything that applies properly to make good the deficiencies for the service for this year; and if it is necessary to put in \$2,000,000, put it in. I supposed it would not be necessary. All I wanted to cut down was the large additional appropriations for the succeeding year. I am not strenuous about the additional million for this year.

Mr. HUNTER. Is it not manifest that it will take not only that additional million, but more, in order to meet the expenditures that have been incurred?

Mr. FESSENDEN. The Secretary says not.

Mr. HUNTER. Do we not know that five thousand troops—I believe more—have been moving? Do we not know that General Scott thought it necessary to collect many troops, in the event that there might be war when the Governor got to Utah. And is it not certain that the expense of moving and supplying those troops is far beyond that estimate for deficiencies, which the Quartermaster General has made on the supposition that there had been no expedition to Utah? These are debts, and debts which must be provided for; and, as I said before, if the object of the Senator be to confine the appropriation to what has been already expended on that purpose, and to say that no more shall be applied to any other purpose than to support the troops in the valley of Salt Lake, if they are there, and I suppose they are—if he means to do that, he can only accomplish his object by providing by law, in terms, that no part of the money hereby appropriated shall be expended for any other service.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, APRIL 23, 1858.

NEW SERIES...No. 108.

But, sir, I ask, is the Senate willing to take the responsibility thus of striking in the dark? Is it willing to say that no more troops shall be sent forward for the purpose of reinforcing those who have gone ahead? Is it willing to say there is no danger of an attack on the part of the Mormons on these men, who will soon be in their midst? Is it prepared to say that this military necessity, which, in the opinion of the Commanding General and of the proper authorities, exists, does not in fact exist? Sir, I think we should pause long upon the information which we have, before we take the responsibility of acting upon any such principle. It has been said that we ought not to sanction it, because the President has plunged us into war without the authority and sanction of Congress. How has he plunged us in war? Where is the war? Has he declared any war against the Mormons? Has he proposed any war? He has done more than this: he has proposed that the legitimate authorities, the Governor and judges, and those constituting the government in Utah, shall be accompanied by such a force as to prevent any military opposition on the part of the Mormons. He has evinced a disposition, in the first place, to maintain the authority and the laws of the United States at all hazards. Does not the country sustain him in it? He has supposed that in order to do this, it was necessary to concentrate so many troops in that valley as to prevent any hostile demonstration on the part of these deluded people. Are we quite sure that there was not wisdom in this? It is true, if there was no danger, here was an unnecessary expense. But suppose there is danger, (and it seems to have been thought by persons who are competent to judge of such affairs that there was danger,) would it not have been money well spent to have sent troops enough to overawe them, and to prevent any hostile demonstration?

Now, sir, in regard to the danger of outbreak in that Territory—I do not pretend to speak, I am not called upon here to speak, in regard to it. I know that these troops have been concentrated under authority of law; that they have been concentrated there by him who had the power to do it; and the whole question with me is, whether I shall furnish them with supplies or not? I know that for that purpose debts have been contracted which we are bound to pay, for they were contracted under authority. Shall we provide the means of paying them or not? It is said to be uncertain how much of this debt has been contracted. I know it is uncertain; but the best information on which we can act is that which is here furnished—the estimate from the proper Department. I know not how else we are to determine. And suppose that it should turn out, after we had made this appropriation, that the Mormons were to give evidence that they were disposed to be pacific, and make no outbreak, does it follow that the Senator from Maine would be right in supposing that there would be a large surplus unnecessarily appropriated? Even if there were, is there any very great danger that it would be expended? But would there be such surplus unnecessarily appropriated? Why, sir, we could diminish the appropriations in the general bill on account of this which we have already appropriated.

Mr. FESSENDEN. Suppose the event does not occur until the regular bill is passed?

Mr. HUNTER. We do not know when the regular bill will pass; we are obliged to speculate on events as they will probably occur; we know that if these supplies are necessary—and the probability is that they will be, for the troops have gone there—it will be better to authorize them to be put there now than to wait until the proper season for transportation is over. We know that; and if it be better, I cannot see any mischief that is to arise out of making the appropriation a month or two ahead, if it enables us to avail ourselves of this favorable season, because it is plain we may diminish by that amount the appropriations in the regular bill. We are told by the estimate from the Commissary of Subsistence that he will rec-

ommend that the appropriation in the regular bill be diminished by a large portion of this amount—more than one half of it, I believe.

This whole question is, then, whether we will appropriate now, or a little while hence. If we appropriate now, we enable the Government to conduct the service more economically. That is the amount of it. In regard to the debts, if they are incurred, we cannot help it; we are obliged to pay them, and the Government will pay them, and nothing is saved by postponing them, and refusing to make the necessary appropriations now. If, however, the Senator believes that no more troops are necessary than those now stationed in this Salt Lake Valley, his proper course would be, as I said before, to move an amendment which would forbid the sending forward any more to reinforce them. He could accomplish his object in that way; but I do not see that he can accomplish the object of preventing the liability in the mode he proposes. He will only postpone the time of payment, by which nothing, that I can see, is to be gained, either for the purposes of economy or good government.

Now, sir, if he is willing to say, and the Senate should say, that they believe this expedition to be unnecessary, that they are willing to trust the troops who are there, and trust the Government to the protection of those troops, believing there will be no necessity to add any more, let them do it, let them take that responsibility. Then they will be justified in cutting down the appropriations; but, as long as you leave the Executive authority to put them there, and when you know that he intends to put them there, when he has declared that intention, I do not see what is to be gained by cutting down the appropriations, as I said before, except to postpone the time of payment, and force them to buy on credit, instead of paying cash, and thus to increase the cost of everything that is consumed.

Mr. SIMMONS. I should like to ask the Senator from Virginia, is he willing to acquiesce in the decision of the Senate in the amendment they have already agreed to, to limit these appropriations to the present fiscal year?

Mr. HUNTER. I am not, for one. I think it a very bad amendment.

Mr. SIMMONS. Then there is the same necessity for limiting the appropriations as if no such amendment had been agreed to. If I could be satisfied that the Senate would confine these appropriations as the amendment already adopted in Committee of the Whole does, I should be willing to give a little more indulgence. I have no sort of objection to giving a margin, if it is not to be spread over three or four years. I was in hopes that the Senator from Virginia would agree to this for the sake of getting over this difficulty.

Mr. TRUMBULL. There is one portion of the argument of the Senator from Virginia, or a suggestion of his, which I desire to answer. We are called upon to pass an appropriation bill called a deficiency bill, involving, I believe, about ten millions of money. Eight million dollars of this amount, or, to speak more exactly, \$7,900,000, are for the support of the Army—a very large sum, a sum which should attract the attention of Congress, and will, I doubt not, attract the attention of the country.

This large deficiency has its origin in what I conceive to be an assumption of authority unwarranted by law or the Constitution on the part of the President. I do not agree with the Senator from Virginia, that these troops have been lawfully concentrated in the Rocky Mountains; and if an appropriation bill of this character can pass Congress, and the President of the United States has the authority which is contended for, then the Executive is a despot, and may control the liberties of the country in spite of Congress or anybody else, unless the people in their might shall rise and overturn the Government. The Constitution of the United States is not worth the paper upon which it is written if these assumptions of authority are to be sustained, and if the Executive rightly construes it. I should like the Senator

from Virginia to show the law by virtue of which the President has assembled this army in the Rocky Mountains. No such law has been shown. We had this subject up in the discussion of the Kansas question, and the President was charged with usurpation of power in the assembling and use made of the army in Kansas, and the charge was never answered. But to-day the Senator from Virginia tells us that this is rightly done. Where is the law for it?

The President of the United States is made the Commander-in-Chief of the Army and Navy. I admit that; but he cannot use the Army and Navy at his discretion. He is as much limited to, and bound by, the action of Congress in the use of the Army and Navy, as he is in the use of any other power he may exercise under the direction of Congress. It is his duty, I know, to see that the laws are faithfully executed; but he cannot do that in any other mode than that which Congress prescribes. We have a law punishing offenders who violate the laws of the United States—punishing them criminally, in many instances. It is the duty of the President to see that the law is faithfully executed. Would the Senator from Virginia contend that the President could arrest a man for murder in the Indian country, and hang him? He has just as much authority to do it, as he has to use the Army outside of the limit prescribed by law.

As long ago as 1793, when the Congress of the United States authorized certain cities upon the sea-board to be fortified, such as Charleston, Boston, and New York, the act authorized the President of the United States to garrison the forts that were constructed, with troops. Under the general power of the President as Commander-in-Chief of the Army and Navy of the United States, it was then considered that he had not authority to place a garrison in a port without authority of Congress; and, if you will look into the laws, you will find that the use of the army by the President as Commander-in-Chief is limited by acts of Congress. Congress authorizes a fort to be built, and directs it to be garrisoned by troops. The President of the United States is the officer that exercises this authority granted him by the act of Congress. As Commander-in-Chief, he commands the troops. Congress raises a regiment to defend the frontiers of Texas against the Indians, and Congress has no authority to put the command of that regiment under any other officer than the President of the United States; but the President has no power to take that regiment, raised for the purpose of defending the frontiers of Texas, and use it as a *posse comitatus* to protect a Governor sent to Utah.

By looking into the statutes, it will be found that in certain cases the President is authorized to employ the Army to garrison forts; he may employ the Army for the purpose of enforcing acts in the protection of Indians upon their reservations; he is authorized in certain cases to use the Army for the purpose of expelling intruders from the public lands; he is authorized to use the Army in making roads, under certain circumstances; but where is the authority for his using the Army as an escort to the Governor of a Territory? Sir, there is no such authority. In his message to Congress, the President of the United States says that he sent this Army as a *posse comitatus* to accompany Governor Cumming. Sir, there is no authority for the President to use the Army as a *posse comitatus*, and it is a perversion of terms, and it is an absurdity to call the military power of this country a *posse comitatus*. What is such a *posse*? It is the power of the county, the civil power of the county summoned to the assistance of an executive officer to enable him to execute process, summoned to the assistance of a marshal, or a sheriff; but has your Governor any authority to execute a writ? Has the Governor of Utah, or any other Governor of a Territory, a right to summon a *posse comitatus* for any purpose whatever? I deny it. No such authority is given. The President has just as much right to assemble the whole Army of the United States in the city of Washington as a *posse comitatus* to protect him-

self or to overawe Congress, as he has to assemble it as a *posse comitatus* to accompany Governor Cumming to Utah.

The foundation of this bill lies in an assumption of power on the part of the Executive; and we are fast departing from the Constitution, and from the landmarks laid down by the fathers when we sanction this usurpation of authority. This bill appropriates many millions of money for the support of the Army—an appropriation founded in many instances not only upon the assumption of power by the Executive, but also upon the assumption of power by subordinate officers. Contracts have been made, as was shown by the Senator from Maine yesterday, without authority of law; and yet we are to appropriate money to pay them. We are to do this under the pretense, or under the reality rather, that the appropriation now made may be necessary in consequence of the condition in which the country has been brought by this unauthorized assumption of power on the part of the Executive. Sir, we are pointed to the Army, and asked if we will refuse supplies. An appeal is made to us on the part of the Administration to vote these supplies; and I will read from the organ of the Administration a few sentences to show the character of this appeal. In the Union of yesterday morning there is an article headed "Utah Expedition," which reads:

"If boys are men in miniature, then are wars anything else than unpopular; for boys read of nothing but battles, and admire no heroes but warriors. It is the misfortune of the human race to delight in the stirring events of war rather than in the tame monotony of peace. It was the theory of Hobbes that war is the natural state of mankind, and that it requires all the restraints of law, government, and society to bring about even intermittent and spasmodic periods of peace. The fame of an able statesman is only cherished by the educated and intelligent few; but the renown of a great captain is the joy of the popular heart. The populace!"

Yes, sir, "the populace"—that is the term applied to the great mass of the people of this country by the organ of the Administration—

"the populace delight in the anxious suspense of impending battle, and in the thrilling details of hard-fought engagements."

"We cannot conceive of a more barren field for the demagogue than an anti-war campaign. To cry out to the populace, after a long peace, against a new war, is the most stupid demagoguery imaginable."

In another portion of the article it is said.

"Parimony, however, is not a passion with our people, even in regard to their State expenditures, much less is it so with regard to Federal expenditures. War, on the contrary, is a passion of our populace, and on no occasions have our Corbierine demagogues sustained more humiliating overthrows than when they have blundered into an encounter with the war feeling of the country."

That, sir, is the character of the article put forth to hurry this bill through the Senate, and to induce Congress to pass an appropriation for almost eight million dollars of money as a deficiency to supply an army under circumstances not justified by the Constitution or the laws of the land; and those who oppose it are called demagogues, and the young men of the country are pointed to the renown which is to follow the successful leaders in war; and in this article the heroes are contrasted with the civilians. I know, sir, that the people of this country are ready for a necessary war—ready to defend themselves in any emergency when in the right; but I do not believe the people of this country are for war for the sake of war; nor, as this article intimates, do I believe the people of this country suppose war to be the natural state of mankind; and, while renown may follow the successful leaders in war, we should not forget that there follow in the train of war many calamities. While glory may encircle the brow of the successful captain, the tears of widows and of orphans follow in the train of war also; and we should remember that there are thousands made to suffer by its disasters while few reap its glories and benefits, so far as personal aggrandizement is concerned. The fact that war manufactures heroes, is the bait thrown out here to induce support to this bill.

I was reminded, when I read this article, of a citizen who was appealed to when the Mexican war broke out a few years ago, to know if he was in favor of the Mexican war. He replied, yes—yes, he was in favor of the Mexican war; and he was not only in favor of the Mexican war, but he was in favor of pestilence and famine too; he had opposed one war, the war of 1812, and he should never oppose another. He went for all

three; and I would about as soon think of going for war, pestilence, and famine, as advocating such doctrines as are put forth here to carry this bill through Congress.

It is suggested to me by a friend that possibly the Chief Magistrate of the nation may have a little of the feeling of the citizen to whom I alluded before, who had opposed one war. He is said once to have opposed a war. I hope it is not having that effect upon him so that he is going to be for war the rest of his life, and for pestilence and famine too. I do not know but that this will lead to famine. It will certainly lead to an impoverishment of the Government, if not of the people, if the Government is to be administered and carried on as it has been for the last few years, and particularly since the present Executive came into power.

I assume, then, that to pass a bill like this is a surrender by Congress to the Executive of the nation of the control, not only of the Army without authority, but of the Treasury also. I do not say that I would not relieve the troops which have been sent forward. I believe that they should not have been sent forward; that there was no occasion for sending this army; no authority for sending it out with a civil Governor, dispatched to Utah. We had no facts before us; the country had no facts before it, to justify the sending of an army to Utah. It is true there were some vague facts brought back by Government officials who had fled from the Territory, and many of whom, perhaps, were of no better character than the Mormons themselves, of resistance to law in that Territory; but these reports, I doubt not, were greatly exaggerated; and to show the character of the reports which have been got up against the Mormons, I will read a little from a book which I have in my hand.

In Illinois we had these Mormons, and we expelled them from that State. I am not their apologist; I believe them a licentious, a vile, and a bad set of people, speaking generally of them, although, I doubt not, there are many good, honest people among them, deluded, misled, but nevertheless conscientious in their action; but they are a peculiar people; they set themselves up to be better than the rest of the world; they call themselves Saints; and the very fact that they are thus exclusive, and hold the balance of the world as Gentiles and heathens, claiming to be the Latter-Day Saints of Jesus Christ, produces collision between them and the rest of the world. If they were angels from Heaven, and came down among us and set up their peculiar tenets, differing from everybody around them, I doubt if they could live in peace in any quarter of the globe where they had any intercourse with other people.

While these people were in the State of Illinois, and after the difficulties began there, the Governor of the State, Mr. Ford, who is the author of the book I hold in my hand, went over in the vicinity of their settlements. They were settled, as everybody knows, on the Mississippi river, at the city of Nauvoo. Here is what he says as to the state of things when he went over there:

"A system of excitement and agitation was artfully planned and executed with tact. It consisted in spreading reports and rumors of the most fearful character. As examples: On the morning before my arrival at Carthage"—

Carthage, I will remark, is the county seat of the county in which Nauvoo is situated—

"I was awakened at an early hour by a frightful report, which was asserted with confidence and apparent consternation, that the Mormons had already commenced the work of burning, destruction, and murder; and that every man capable of bearing arms was instantly wanted at Carthage, for the protection of the country. We lost no time in starting; but when we arrived at Carthage, we could hear no more concerning this story. Again: During the few days that the militia were encamped at Carthage, frequent applications were made to me to send a force here, and a force there, and a force all about the country, to prevent murders, robberies, and larcenies, which, it was said, were threatened by the Mormons. No such forces were sent; nor were any such offenses committed at that time, except the stealing of some provisions, and there was never the least proof that this was done by a Mormon. Again: On my late visit to Hancock county, I was informed by some of their violent enemies, that the larcenies of the Mormons had become unusually numerous and insufferable. They indeed admitted that but little had been done in this way in their immediate vicinity. But they insisted that sixteen horses had been stolen by the Mormons in one night near Lima, in the county of Adams. At the close of the expedition, I called at this same town of Lima, and upon inquiry was told that no horses had been stolen in that neighborhood, but that sixteen horses had been stolen in one night in Hancock county. This last informant being told of the

Hancock story, again changed the venue to another distant settlement in the northern edge of Adams."

A short time afterwards, and during the pendency of these difficulties, and after Smith was arrested, the Governor states that another series of rumors were set on foot. He says that he was on his return to Carthage, a short time before sundown, and—

"When we had proceeded two miles we met two individuals, one of them a Mormon, who informed us that the Smiths had been assassinated in jail, about five or six o'clock of that day. The intelligence seemed to strike every one with a kind of dumbness. As to myself, it was perfectly astounding; and I anticipated the very worst consequences from it."

He then says that a committee appeared at Quincy, which is in the county of Adams, adjoining:

"The next morning, by daylight, the ringing of the bells in the city of Quincy announced a public meeting. The people assembled in great numbers at an early hour. The Warsaw committee stated to the meeting that a party of Mormons had attempted to rescue the Smiths out of jail; that a party of Missourians, and others, had killed the prisoners to prevent their escape; that the Governor and his party were at Nauvoo at the time when intelligence of the fact was brought there; that they had been attacked by the Nauvoo legion, and had retreated to a house where they were then closely besieged; that the Governor had sent out word that he could maintain his position for two days, and would be certain to be massacred if assistance did not arrive by the end of that time. It is unnecessary to say that this entire story was a fabrication. It was of a piece with the other reports put into circulation by the anti-Mormon party to influence the public mind, and call the people to their assistance."

I read this for the purpose of showing that all the rumors which we hear about lawlessness and about the depredations of the Mormons upon the settlers and others, should and ought to be received with a great many degrees of allowance. In the State of Illinois, upon the Mississippi river, where hundreds of steamboats were passing almost daily, the country densely populated all about them, these rumors were got up and believed to such an extent, that troops were raised for the purpose of combating armies which had never assembled at all. It is true, the Mormons conducted themselves in such a way, and such a state of feeling existed in the State of Illinois, that subsequently it became necessary that they should remove from the State according to an agreement which was made with them by the Governor; but there was no battle fought between the opposing parties. Some few lives were lost under misapprehension; perhaps some few persons may have been assassinated; but there was no battle between the citizens of Illinois and the Mormons, and they left the State.

Now, if it were desirable, as it probably is, to expel the Mormons from Salt Lake valley, I have no doubt it could be accomplished without having a single soldier there. I think we have dealt improperly with the Mormons. We did so in the State of Illinois. Our difficulties arose out of our legislation, in my judgment. When that people first settled in Illinois they were welcomed. The different political parties in the State courted their friendship. Their votes controlled a congressional district, and the Legislature of Illinois passed laws organizing them into a separate community. What was called the Nauvoo charter was passed, and under that they had a separate and distinct organization. All this had a tendency to separate them from the people settled around them. When they left our State and went off to Salt Lake valley, the Government of the United States pursued the same course. You created for them a territorial government, and the doctrine prevailed to a large extent over the country, that sovereignty existed in the territorial governments, and that Congress had no authority over the Territories. The doctrine was proclaimed throughout the country that by the passage of the Kansas-Nebraska bill in 1854, after the Utah government had been established, some great principle of territorial sovereignty had been recognized, and henceforth and forever the people of each Territory were to be left perfectly free to regulate their own affairs as they pleased. The Mormons embraced this doctrine. Brigham Young was made Governor; they had everything their own way; and I remember to have seen that they passed resolutions indorsing the Cincinnati platform as the true doctrine, and finding fault with the Republican platform, which denounced slavery and polygamy as relics of barbarism. They favored those institutions.

Now, sir, having created a territorial govern-

ment over them, having authorized the Mormons as a distinct and separate people, to set up a government for themselves, without having repealed the law—without having made any effort to expel them from the jurisdiction of the United States, if it were necessary that they should be expelled—without having any reliable information in regard to their condition, the President sends an army to accompany a newly-appointed Governor to that Territory, and, as I insist, without the least authority. Authority is given in the law for the President of the United States to use the Army in cases of rebellion and insurrection; and if the Mormons are said to be in rebellion, the President can use the Army against them provided he uses it according to the mode prescribed by the act of Congress, and not otherwise. What is that power?

"In case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, when the Legislature cannot be convened, to call forth such number of the militia of any other State, or States, as may be applied for, as he may judge sufficient to suppress such insurrection."

We all know that neither the Governor of Utah Territory, nor the Territorial Legislature, has called upon the President to put down insurrection. In the first place, it is extremely doubtful whether this act of Congress to which I have just referred, has any relation to a Territory, or authorizes the President to use the troops in a Territory at all, to put down an insurrection. Admit that it does, and admit that the act of 1807, amendatory to this act of 1795, from which I have read, authorizes the President to use the Army in all cases where he was before authorized to use the militia by the act of 1795; still he could only use the Army in a Territory in case the Legislature called upon him, or if the Legislature could not be convened, in case the Governor called upon him. That has not been done; so that you cannot derive any authority from these laws for the President to send the Army to Utah.

It is a part of the Constitution of the United States that no money shall be drawn from the Treasury except in pursuance of appropriations made by law. That clause was inserted in the Constitution of the United States for some purpose, and that purpose is thwarted entirely if we are to sanction the action of the Executive in cases like this now under consideration. He makes use of the Army; he incurs a debt without authority of law; for this is a deficiency bill, and it is admitted that there is no appropriation to meet it. We are not permitted to inquire into it. We are not shown the details of this deficiency; but it is enough that the President of the United States has thought proper to make contracts on behalf of the Government of the United States, and has promised to pay money, and Congress must come in and foot the bill. The Constitution intended that Congress should hold control over the Treasury and over the money of the people. Does not this course practically subvert the intention of the Constitution in this respect?

Sir, if an appropriation is to be made to meet these expenditures, I should like to know how a case could arise where Congress would refuse to appropriate money to pay a debt incurred by the Executive? Here is a clear case; and if the money is to be voted in this instance, I do not know how a case could ever arise where Congress would be justified in refusing to vote money. I know that the present Executive is sustained by a great and powerful party who have confidence in him, and are willing to vote almost anything he asks; but that great and powerful party should remember that the present Executive will not always remain in power. Power may pass from their hands. Some other person may be elected President hereafter in whom they will have less confidence than they have in the present Executive; and if they sanction this assumption of power on the part of the present Chief Magistrate and foot the bills, how can they refuse to do it in cases hereafter, when debts shall be incurred by a President who is not the President of their choice?

We must stop somewhere; and I would appeal to those gentlemen who now come up and support this enormous appropriation—I would appeal to them, if not by virtue of their constitutional obligations, by virtue of another obligation, which I believe they all recognize to be binding; for, although the Declaration of Independence is now

regarded by some persons as containing a set of tingling generalities, obsolete and having no meaning, and although the Constitution is little heeded, yet I believe that the persons sustaining the appropriations of this character do indorse the Cincinnati platform. That was made less than two years ago; and I believe that is not obsolete. I know in former times, when I acted with, and was a member of, the Democratic party, we considered that a platform was good until another one was constructed; at any rate, that it would last four years, and when the national convention met and nominated a candidate for President, we would stand by its platform until another convention met and made another. But since a new test has been introduced into the Democratic party, and Democracy consists in advocating a particular line of policy in regard to slavery, it is possible that a new doctrine prevails on that subject also. I should hope, however, that the Cincinnati platform is still in force in regard to the expenditure of the public money; and if it is, I wish to call the attention of those who acknowledge its binding obligation (if I cannot get their attention by appealing to the Constitution and the law) to that higher authority—the Cincinnati platform. That declares—under the head of the fifth resolution of the second subdivision it will be found—"that it is the duty of every branch of the Government to enforce and practice the most rigid economy in conducting our public affairs." Now, that is binding. No supporter of the Administration, I presume, will shrink from the obligation of that requirement; and I ask him, as he holds up this fundamental principle, to lay his hand on his heart if he can, and vote for a deficiency of \$10,000,000 in a single bill. Is that what is meant by saying "every branch of the Government should enforce and practice the most rigid economy in conducting our public affairs?"

There is another resolution adopted at Cincinnati to which I wish to call the attention of the Senator from Virginia. He says the President of the United States had authority to assemble this army in the Rocky Mountains, and to send it as a *posse comitatus* with the Governor sent out to Utah. I wish to know where the authority is, where the law or constitutional authority is, and I call his attention to another article in this creed laid down at Cincinnati, which is higher than and above constitutions. The first resolution under the general head declares:

"That the Federal Government is one of limited powers derived solely from the Constitution, and the grants of power therein ought to be strictly construed by all the Departments and agents of the Government, and that it is inexpedient and dangerous to exercise doubtful constitutional powers."

The party is in favor of strict construction. Here are contracts made without authority of law; this is not denied, cannot be successfully controverted. Will you sanction them? Here is a use of the Army which none of you can justify to be right. Now, which will you do—will you disown your allegiance to the fundamental principles laid down at Cincinnati two years ago, or will you stand by them and refuse to sanction these enormous appropriations? Are you for practicing that economy which you profess? Are you for holding officers to that rigid accountability which you say they should be held to? If you are, how can you pass this bill?

Now, sir, I am willing to go this far, and it is as far as I would go: I am willing to relieve our troops. If they have been placed in a position without authority, by the President of the United States, where they need supplies, let us relieve them; the common demands of humanity would require that; but I am opposed to appropriating one dollar for the purpose of carrying on a war against the Mormons, created by the Executive without the authority of Congress. Sir, no new condition of things has arisen in Utah since the last adjournment of Congress. There was no necessity for sending off this army without consulting Congress; and if there was a necessity for sending it immediately, Congress should have been convened. Where are we tending if not to a concentration of all powers, and unlimited power, in the hand of the Executive? Why, sir, if the old Federalists, the supporters of the John Adams of 1800, who were in favor of a strong executive Government, could rise up now, they would stand aghast and astonished at the assumptions of power on the part of what is now called a Democratic

Executive. The old Federalists never thought of assuming such powers as are now claimed and exercised by the Executive elected by the so-called Democratic party.

I am for bringing this Government back to its ancient moorings; and I agree with these resolutions laid down at Cincinnati; I am in favor of a rigid accountability of our officers; I am opposed to the exercise of doubtful constitutional powers; I am in favor of the most rigid economy. Let us carry out these principles; let us vote in this instance whatever money may be necessary to preserve the army, to rescue it from the perilous position in which it has been placed by having to pass the inclement season of the year in the midst of the snows of the mountains; but let us stop there, and never, until we have ascertained that it is necessary to use this army, until that department of the Government in which is vested the war-making power, shall declare that war exists, let our troops be led forth to slaughter any citizen in any part of the Republic.

Mr. GREEN. It is getting a little too late—Several Senators. Let us vote.

Mr. GREEN. I should like to undertake to demonstrate that the Senator from Illinois is mistaken, and that there is no contract made in violation of law or in the absence of law; but I prefer postponing it until to-morrow, and I therefore move that the Senate adjourn.

Mr. HALE called for the yeas and nays, and they were ordered; and, being taken, resulted—yeas 22, nays 24; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Green, Hammond, Harlan, Kennedy, King, Mason, Seward, Simmons, Trumbull, Wade, and Wilson—22.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Brown, Clay, Douglas, Evans, Fitch, Fitzpatrick, Hale, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—24.

So the Senate refused to adjourn.

Mr. HUNTER. I hope we shall have a vote now on the amendment of the Senator from Maine.

Mr. FESSENDEN. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered; and, being taken, resulted—yeas 22, nays 26; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Harlan, Johnson of Tennessee, King, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—22.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—26.

So the amendment was rejected.

Mr. HUNTER. I hope the bill will now be reported to the Senate.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER, (Mr. MASON.) The question is on concurring in the amendments made as in Committee of the Whole.

Mr. HUNTER. I wish to reserve the amendment of the Senator from Maine. I want to have a separate vote on that.

Mr. GREEN. I wish to call for the yeas and nays on the first amendment, striking out the reporters of the House.

Mr. STUART. It is very obvious that we cannot dispose of this bill to-night; and I understand there is a desire for an executive session. If that is to be so, we had better go into an executive session now. I move that we proceed to the consideration of executive business.

Mr. HUNTER. If there is no objection to disposing of it, the Senator from Michigan had better let us do so. If any one objects, very well.

Mr. STUART. I withdraw the motion.

Mr. KING. I ask that each amendment be read. There are not many.

The first amendment, made in Committee of the Whole, was to strike out from line twenty-six to twenty-nine, inclusive, the following clause:

"To enable John C. Rives to pay to the reporters of the House for reporting the debates of the present session of Congress the usual additional compensation of \$800 each—\$4,000."

Mr. GREEN. I want the yeas and nays on that.

Mr. BROWN. Before the yeas and nays are taken on that, I ask to amend the amendment by adding:

Also to enable John C. Rives to pay to the reporters of

the Senate for reporting the debates of the third session of the Thirty-Fourth Congress the usual additional compensation of \$500 each, \$3,200.

Also to enable John C. Rives to pay to the reporters of the Senate for reporting the debates of the present session of Congress the usual additional compensation of \$500 each, \$3,200.

Mr. President, a single word; I will not detain the Senate. The first proposition is to pay to the Senate reporters the same compensation which the House at the last session paid their reporters. They have paid them, and the appropriation, as I understand it, is covered up under the third section. They have got the money. The Clerk is to be refunded the money, or whoever paid it, under the third section. The second proposition is to pay them during this session the same compensation which the reporters of the House get. Now, I am perfectly willing to see the whole of it stricken out; but if the House reporters are to be paid for the last session and for this one, then it does seem to me palpable that our reporters, who—I say it, with, I think, the full indorsement of the Senate—are equal to any in the world, ought not to be left at a disadvantage. I think there are no such reporters anywhere. I believe that the regular compensation paid them is inadequate; I have thought so for a long time; but take the naked proposition, and I am not for meeting it in this indirect way. I am for increasing the salary by a regular law; but so far as this single proposition stands, if the House reporters are to be paid according to the House proposition this increased compensation, then I want to see our reporters put upon the same footing.

Mr. BENJAMIN. If the Senator will permit me a moment, I wish to say that we have stricken out that section in committee. If the Senate refuse to concur in the amendment of the Committee of the Whole, which will retain this clause, then the Senator's amendment will be in order, and I will vote for it.

Mr. BROWN. The Senator will allow me. We have stricken it out in committee. Now if you take a vote and strike it out in the Senate, I shall be too late with my amendment.

Mr. BENJAMIN. All will be out then.

Mr. BROWN. If Senators will listen to me, I will tell them what I mean by this proposition. I apprehend this matter is to go to a committee of conference. If you take this vote now in the Senate and strike out this amendment—if the Senate, in other words, agrees with the Committee of the Whole—then it is out clearly, and then I will have no chance to amend it.

A SENATOR. We do not want to do it, then.

Mr. BROWN. Listen to me till I tell you. When it goes to a committee of conference, the House will insist upon putting this clause back. I want to file a caveat with the Senate committee, that if the House reporters will come in, the Senate reporters are to come too. If they go out, let all go together. I want it put in for that reason; and when you have got this in, I am quite content to see it all go out together. But I am not willing to allow the House committee, when it goes to a conference, to have this clause reinserted, and leave our reporters out. That is my object in putting it in here.

Mr. TOOMBS. I understand this business, and everybody else does perfectly well. I ask for the yeas and nays on it. If you put in this, and add so much weight with the Senate, the result will be that both of them will go through; because, if you multiply and enlarge an abuse, if you enlarge any amount of public plunder, you always increase its chances. If you want to kill them, keep them separate, and then you have some chance; but every single addition to them strengthens them. I ask for the yeas and nays.

Mr. KENNEDY. If that is the effect, of course I shall go with the honorable Senator; but I really want to pay our reporters the same as the other House.

Mr. TOOMBS. Before that is taken, I rise to a question of order upon the motion of the Senator from Mississippi. He cannot amend a section that is stricken out. We are in the Senate. It is already stricken out. It is not part of the bill. He has to get it into the bill before he can amend it.

Mr. BROWN. It is only stricken out in committee. We are now in the Senate, and I have a right to perfect the section before you take the vote in the Senate on striking it out finally.

Mr. TOOMBS. The point of order which I make is, that the section is not there. When he gets it back he can amend it. If the Senate refuse to concur with the committee, and it gets in, he can amend it; but the idea of amending a portion of the bill that is not in it at all is clearly against order.

The PRESIDING OFFICER. The Chair agrees with the Senator from Georgia. The Senate struck out that section in committee; and it will remain out of the bill unless by a vote the Senate disagree with the committee.

Mr. BROWN. It is not out of the bill at all until the Senate agrees to put it out. The committee cannot put it out. They simply recommend the Senate to put it out.

The PRESIDING OFFICER. It is certainly out of the bill as reported to the Senate by the Committee of the Whole.

Mr. HUNTER. Does the Chair decide that it is not in order?

The PRESIDING OFFICER. The Chair is under the impression that it is not in order.

Mr. HUNTER. I agree with the Chair entirely.

Mr. BROWN. I will appeal momentarily. A committee of the Senate brings in a bill with amendments praying to strike out certain propositions. Are they stricken out? Certainly not. It is a recommendation to the Senate to strike them out; but, until the Senate has acted, the sections proposed to be stricken out are not out; and what is your Committee of the Whole but a committee of the Senate? It makes recommendations. Its recommendations may be adopted or may not. If the Senate strikes out the section, then how can I amend it? How can I amend that which is out of the bill entirely? Have I not a right to move to perfect a section before you move to strike it out? I do not think there is the least doubt about it in the world. I withdraw the appeal. I simply made it for the purpose of stating the question.

The PRESIDING OFFICER. The Chair then decides that the amendment is not in order.

Mr. GREEN. I ask for the yeas and nays on striking out.

Mr. BROWN. If we do not strike out the section, can I move the amendment?

The PRESIDING OFFICER. Certainly.

Mr. BROWN. Then I am content.

The yeas and nays were ordered.

Mr. HALE. I simply want to say—I am not going to make a speech—I shall vote against this extra; but I concur in what is said by the Senator from Mississippi. I think we have got the best reporters in the world, and they get the poorest pay. Their pay is too low; but still I am against all these extras, and I shall vote against it here.

The question being taken by yeas and nays on concurring in the amendment to strike out the clause, resulted—yeas 33, nays 13; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Cameron, Clark, Clay, Doolittle, Douglas, Durkee, Evans, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Hale, Hammond, Harlan, Hunter, Johnson of Tennessee, King, Mason, Polk, Pugh, Seward, Slidell, Thomson of New Jersey, Toombs, Trumbull, and Wade—33.

NAYS—Messrs. Broderick, Chandler, Dixon, Green, Houston, Johnson of Arkansas, Jones, Kennedy, Mallory, Sebastian, Simmons, Stuart, and Wilson—13.

So the amendment was concurred in.

The next amendment made in the Committee of the Whole was to add to the third section:

And provided further, That it shall never hereafter be lawful for either House of Congress to apply any part of the appropriation for the contingent expenses of such House to any other than the ordinary expenditures of such House, nor to apply any part of said appropriation as extra pay or extra allowance to any clerk, messenger, or attendant of the said two Houses, or either of them.

Mr. BIGGS. The Senate will recollect the motive that influenced me the other day to move that amendment, and disinclined me to strike out the whole section. After that amendment was made, and another amendment was proposed by the Senator from Pennsylvania, [Mr. CAMERON,] the joint resolution of 1854 was brought to my attention for the first time, and I then expressed a desire to do what I thought was right in reference to the legislation that has been heretofore had on this subject. On examination I find that a joint resolution was passed in 1854, in regard to the employes of the legislative department, increasing their pay twenty per cent. upon the express condition that they should have no extra compen-

sation. I acted upon the principle that it had been the uniform usage of the Government, up to the present case, to make these allowances, and they had been passed by the accounting officers of the Treasury, until they were stopped in this particular case. I find, however, upon examination, that in regard to some of the officers to whom allowances are made by the third section of this bill, the act of 1854 applies, and in my opinion, they ought not to be included. I will state to the Senate the reason for it, by a simple reference to the act itself, and to the legislation that was had in 1854. This joint resolution was passed on the 20th of July, 1854, and the last proviso in it is:

"That the usual extra compensation shall not hereafter be allowed to any person receiving the benefit of this joint resolution."

The benefit of this joint resolution was an addition of twenty per cent. "upon the compensation now received by them respectively." There has not been, therefore, that uniform usage alluded to before, because I find on reference to an appropriation bill approved March 3, 1857, an express reenactment of this joint resolution. It had been the uniform usage of the Government to allow them up to 1854; but in 1854, in consequence of the joint resolution, they were stopped. An allowance was made by the House of Representatives, and by the Senate, to their employes for 1856. It was not allowed by the accounting officers, and it became necessary that a provision should be inserted in the appropriation bill, providing for these extra compensations; and in that very act it was provided:

"That the extra compensation given by each of the two Houses of Congress, in the year 1856, to its officers and employes shall be paid by its disbursing officer out of the contingent fund, and its accounts therefor shall be allowed by the accounting officers of the Treasury Department. But nothing herein contained shall be so construed as to repeal the joint resolution of July 20, 1854, 'to fix the compensation of the employes in the legislative department of the Government, and to prohibit the allowance of the usual extra compensation to such as receive the benefits hereof,' which said resolution is hereby declared to be in full force and effect, except so far as herein provided for."

This was approved March 3, 1857. I understand that, by the third section of the bill, there is a portion of these allowances that go to officers who had their compensation increased in 1854 by an addition of twenty per cent., upon the express condition that they should not have the extra compensation. I therefore move to amend this section, so as to exclude those officers from this section. I move to insert after the word "Congress," in the sixth line, the words:

These allowances to be made not in contravention of the joint resolution "to fix the compensation of the employes in the legislative department of the Government, and to prohibit the allowance of the usual extra compensation to such as receive the benefits thereof," approved July 20, 1854.

The effect of this amendment will be to cut off all those officers who received additional compensation under the act of 1854, upon condition that they were not afterwards to receive extra compensation.

Mr. HUNTER. I have no objection to the amendment to the amendment, but I wish to suggest, for the sake of dispatch, whether we can amend this amendment. Is not the question on the report of the committee one of concurrence? and the question of concurrence is not amendable. You can only say yea or nay upon it.

Mr. BIGGS. We certainly have a right to amend the section.

The PRESIDING OFFICER. This is an amendment to the bill.

Mr. BIGGS. This is an independent amendment to the bill.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina.

Mr. STUART. It seems to me there is this very great difficulty about that. If we have any evidence on this subject at all that is reliable, it is that the Clerk of the House has paid out over eighteen thousand dollars of this money, and he has paid some of it to these very men, and it is irrecoverable. Now if we do anything about it at all, we ought to reject it entirely or indorse it as it is. I hope the amendment as it is proposed, which will still leave the officer of the House liable, will not prevail.

Mr. GREEN. Let me correct the Senator. I am informed that a member of the House of Representatives on the Committee of Accounts proposes, if anybody will give him \$2,000, to pay

everything the Clerk has ever paid in this matter, and he has also said, that not as much as \$1,100 has ever been paid, and that this form of saying "refunding" is only put in to get authority to pay. That is my information.

Mr. PUGH. I do not see that the amendment of the Senator from North Carolina can be received at this stage. The amendment reported from the Committee of the Whole is a proviso at the end of the section. The Senator's present amendment is in the body of the section.

The PRESIDING OFFICER. The vote ought certainly to be taken first upon the amendment of the Committee of the Whole, and afterwards on any amendment that may be offered to the bill.

Mr. PUGH. I was about to say that I shall vote for the amendment of the Committee of the Whole, and shall also vote for the amendment of the Senator from North Carolina, to perfect the clause as far as possible; but I shall afterwards move to strike out the entire section. I am satisfied we shall never stop this abuse until we lay the ax to the root of the tree. It now appears that, by solemn joint resolution, by provisions in the appropriation bill, in every manner in which Congress could speak, they have determined that a stop should be put to these extra allowances, and yet a resolution is offered in one House and the other at the end of the session, and is passed, and we go to the next year, and some gentleman rises, like the Senator from Michigan, to tell us that one of our executive officers has paid the money, and therefore we must indorse it. If the Clerk of the House of Representatives has paid this money in obedience to an order of the House, and in violation of an act of Congress, let us have a bill for his relief; let it go to the Committee on Claims; let his accounts be investigated; and whatever he has paid in good faith, I am willing to refund. But, sir, I am satisfied that Congress may offer twenty per cent., fifty per cent., one hundred per cent., and we shall never stop these extra allowances until we strike out the whole thing, and let the Clerk and every other accounting officer know that Congress will not indorse it in any shape and in any form. Therefore, while I say I shall vote for these amendments lest my motion shall not carry, I shall feel it my duty, at the end, to move to strike out the entire section.

Mr. BRODERICK. I move that the Senate adjourn. ["Oh, no!"]

Mr. FESSENDEN. We have settled all the difficult matters of the bill. I should like to look into this a little further. I am not certain about it.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 21, 1858.

The House met at twelve o'clock, m. Prayer by Rev. W. B. EDWARDS, D. D.

The Journal of yesterday was read and approved.

PUBLIC PRINTING.

Mr. TAYLOR, of New York. I ask the unanimous consent of the House to make a report, accompanied by a bill, from the select committee on printing, for the purpose of reference.

Mr. MORGAN. I suppose there will be no objection to it, if the minority report is also allowed to be presented.

Mr. TAYLOR, of New York. I also desire to ask that the views of the minority, to be presented by the gentleman from Ohio, [Mr. NICHOLS,] be also received and printed.

No objection being made,

Mr. TAYLOR, of New York, from the select committee on printing, reported a bill to provide for the public printing, binding, engraving, lithographing, and electrotyping; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

Mr. TAYLOR, of New York. I move that the views of the minority of the committee, to be presented by the gentleman from Ohio, [Mr. NICHOLS,] be also ordered to be printed.

The motion was agreed to.

NEBRASKA CONTESTED ELECTION.

Mr. BOYCE. I rise to a privileged question. I move to take up the report of the committee in the Nebraska contested-election case. I ask the Clerk to read that report.

Mr. WRIGHT, of Georgia. Is this a special order?

The SPEAKER. It is not.

Mr. WRIGHT, of Georgia. Then how does the gentleman call it up?

The SPEAKER. It is a privileged question.

Mr. WALBRIDGE. Is it a privileged question during the morning hour?

The SPEAKER. It is, at any time.

The Clerk then read the report of the committee, which is as follows:

The Committee of Elections, to whom was referred the memorial of Bird B. Chapman, contesting the right of the Hon. Fenner Ferguson to a seat in the House of Representatives of the Thirty-Fifth Congress, as a Delegate from the Territory of Nebraska, submit as a special report:

That the election out of which this contest arises was held in August last, and the result of the said election was not officially announced until the 3d day of September following; that the contestant gave notice to the sitting member, on the 16th day of September, of his intention to contest his right to a seat, and the response of the sitting member to said notice, dated October 2, 1857, was served on the 10th day of that month on the contestant.

No notice of intention to take testimony was given by the contestant until the 13th and 14th days of November, when more than one half of the time allowed by law to take the same had expired, nor until after the sitting member had left the Territory for this city to enter upon the discharge of his duties. The sitting member has made oath that he knew nothing of the testimony taken in this case until he saw it printed in Miscellaneous Document No. 5, of this House, and that he has had no opportunity to rebut and disprove the same.

Your committee are of opinion that the sitting member erred in not leaving an acknowledged attorney in the Territory to look after the contest, of which he had been notified; and were the contestant and the sitting member alone those who have an interest in its decision, your committee might hesitate before coming to the conclusion to which they have arrived. The question to solve is, not simply what these parties have done or omitted to do, but what was the expressed wish of the people of Nebraska, as between these candidates, at their late election? And what is a reasonable time and indulgence, under the circumstances, to obtain proof of that wish?

As the contestant permitted more than one half of the time allowed by law to elapse before commencing his proof, he can have but little cause for complaint should the period for taking proofs be extended. And as the election has been so recently held, and the contestee averring that he never had any notice of taking testimony, your committee are of opinion that justice to the contestee as well as to the people of Nebraska requires that time be given to take further evidence. They therefore recommend the adoption of the following resolution:

Resolved, That the parties, the contestant and contestee, in this case, be allowed the further time of sixty days from the passage of this resolution to take and return supplemental testimony.

Mr. DAVIDSON. I ask that the answer of the contestant may be read.

The SPEAKER. The gentleman from South Carolina is entitled to the floor. Does the gentleman from South Carolina yield?

Mr. BOYCE. I do, for that purpose.

The answer of the contestant, Bird B. Chapman, was then read, and is as follows:

To the honorable Committee of Elections of the House of Representatives:

To the statement and affidavit made by Hon. Fenner Ferguson, and to be found on pages 1 and 2 of House Miscellaneous Document No. 19, the undersigned feels it his right and duty to make the following answer, and to protest against any further time being allowed to take testimony in the case:

Page 1 of House Miscellaneous Document No. 5 shows that, on the 16th day of September, 1857, eleven days after the result of the election was determined, notice in writing was personally given to said Fenner Ferguson of the intention of the undersigned to contest his seat; that page 3 of said document No. 5 shows that, under date of October 2, said Ferguson answered to said contestant's notice, and which answer was served on this contestant by leaving the same twelve days afterwards at his usual place of abode, and while he was absent from the Territory. By referring to said answer of sitting Delegate, it will be found strangely or designedly to be a notice with date, but naming no locality as to where written or where the writer might be found or addressed, or any agent or attorney representing him; and so far as this contestant was informed he might have supposed him in his house or in some place about the Territory, or having hastily fled from the Territory to avoid any further notice being served upon him. Therefore, in giving him further notices to take testimony, this contestant had no other course to pursue than that pointed out by the law prescribing the mode of obtaining evidence in cases of contested elections, to wit: to cause copies of said notices to be left at his usual place of abode, which was done, as appears by the affidavits of James W. Daskam and Loren P. Waldo, jr., to be found on pages 8 and 9 of said document No. 5, and which more fully appears by the depositions of Loren P. Waldo, jr., and George L. Sites, now in possession of your committee.

To the fifth allegation of said Ferguson, found on pages 1 and 2 of House Miscellaneous Document No. 19, that his friends appeared and volunteered to cross-examine witnesses produced by Mr. Chapman and were refused, &c., I have to say that I did object to said cross-examination, because the person asking said privilege declared at the time he was not the agent or attorney of said Ferguson, (see depositions of Nicholas and Daskam, pages 26 and 29, Docu-

ment No. 5,) and because I knew him to be one of the persons who had perpetrated one of the frauds I had charged in the election; and, further, because at the same time he asked the privilege of cross-examination he accompanied it with a threat that, unless he was thus permitted, certain Mormon witnesses I had subpoenaed would not testify, and which threat was carried out, (see pages 26 and 29 of said Document, No. 5;) and, further, because that I had been informed by one Silas A. Strickland that he was the attorney of said Ferguson, and should so act in this case; and it will appear by House Miscellaneous Document No. 17, pages 3 and 4, that on the 3d December, 1857, seven days after the close of taking of testimony in my behalf, said Silas A. Strickland, as attorney of said Fenner Ferguson, and in my absence from the Territory, caused notice to be left at my usual place of abode, in Omaha City, as attorney of said Ferguson, to proceed, on the 14th of the same month, to take the testimony of eighteen persons in the defense of said Ferguson's right to his seat, and on the day named did proceed to take testimony, as will appear by said Document No. 17.

Contestant, therefore, in view of the above facts, and of the trouble and expense he has been to, and that, too, in strict accordance with the law, claims the privilege of an early hearing, and that without the delay of sixty days, and more especially as he is not aware of any formal application for delay, accompanied with any reasons therefor, having been made by either party in the case. He further asks that this statement, with the depositions of Loren P. Waldo, jr., and George L. Sites, now in the hands of the committee, be printed.

Respectfully submitted,
February, 1858.

B. B. CHAPMAN.

Mr. BOYCE. Mr. Speaker, the question for the House to determine at this time, is as to the extension of time to take testimony.

The facts bearing upon this point, as I conceive them, are few and uncontroverted. They are substantially as follows: The election out of which this contestation arises took place in August, 1857; the result of the election was officially announced September 3, 1857; the contestant, Hon. Bird B. Chapman, gave notice of contest on the 16th of September, and the response of the sitting Delegate to said notice was served on the contestant October 2, 1857; notice of intention to take testimony was given by the contestant on the 13th and 14th of November, 1857, by leaving a notice at the alleged "usual abode" of the sitting Delegate, after the said sitting Delegate had left the Territory for Washington, to enter on the discharge of his duties. The sitting Delegate states, under oath, that he had no knowledge of the notice alleged to have been given as above mentioned, nor any knowledge of the testimony taken by the contestant, until after the meeting of Congress. There is no allegation of actual notice to the contestant of the intention of the contestee to take testimony. The question, then, is as to the effect to be given to the notice left at the supposed "usual abode." To a just understanding of this point, attention is called to the notice left at the supposed "usual abode," and the affidavit of the sitting Delegate.

The notice is as follows:

I hereby certify that I have, this 13th day of November, 1857, at the hour of eleven o'clock, a. m., delivered to Andrew Sagendorf, at the usual place of abode of Hon. Fenner Ferguson, in Bellevue, Nebraska Territory, a copy of the foregoing notice, directed to "Hon. Fenner Ferguson, his agent, or his attorney, Bellevue, Nebraska Territory," and indorsed on the outside of the envelope in these words, namely: "The enclosed is a notice to Hon. Fenner Ferguson of the intention of Bird B. Chapman to take testimony in the case of contest of Bird B. Chapman vs. Fenner Ferguson."

Sworn to before

JAMES W. DASKAM.
ELEAZER WAKELEY,
Associate Justice of Supreme Court.

The affidavit of the sitting Delegate is as follows:

District of Columbia, City of Washington, ss:

Fenner Ferguson being duly sworn, deposes and says, that he is the sitting Delegate from the Territory of Nebraska in the House of Representatives of the United States, and that his seat is contested by Hon. Bird B. Chapman; that by House Miscellaneous Document No. 5, he learns that said Chapman has taken certain depositions and affidavits in said matter of contest; that this deponent never had any knowledge or notice of the taking of any depositions until after the first day of December last, when he learned by letter that Mr. Chapman had been taking depositions in Nebraska for the purpose of being used in said contest.

This deponent further says, that he left Nebraska on the 18th day of September last, and has not returned since; that previous to leaving, he rented his dwelling-house to Silas A. Strickland, for the term of one year, from the 20th day of September last; that he is informed by Mr. Strickland, and believes that said Strickland entered into the possession of said dwelling house in September last, and continues to occupy and possess the same.

And this deponent further says, that he does not know by what right Andrew Sagendorf was at said dwelling-house on the 13th day of November last, or at any other time; that when this deponent left Nebraska said Sagendorf was residing on his farm or claim, some nine or ten miles from deponent's dwelling-house; that this deponent never, in any matter, authorized said Sagendorf to act for him as agent, at-

torney, or in any other capacity; that he has no privacy or agreement with him whatever; that said Sagendorf never informed this deponent that a notice for taking depositions or testimony in said contest had been delivered to him; and that the first knowledge or intimation which this deponent had that any such notice had been delivered to said Sagendorf was obtained from an examination of said printed document, No. 5; and deponent further says that he has always understood, and he believes, that said Andrew Sagendorf was a supporter of Hon. Bird B. Chapman for Congress at the late election; and that he, said Sagendorf, is politically hostile to this deponent. FENNER FERGUSON.

Subscribed and sworn to before me this 6th day of January, A. D. 1858. C. W. C. DUNNINGTON,
Justice of the Peace.

Now the question is, what is best to be done to further the justice of the case, under this state of facts? To permit no further testimony to be taken, and determine the case on the evidence taken *ex parte*, on the aforesaid notice, would be to oust the sitting Delegate without hearing any evidence whatever from him. On the other hand, to exclude entirely the testimony taken, and thus decide the case, would be to cut off the contestant summarily, and place the sitting Delegate permanently in his seat. By either mode great injustice might be done. The committee concluded, therefore, that the nearest approximation to justice was, to receive the evidence already taken, and extend the time for the further taking of testimony. Then all the evidence will come out, and the committee and the House be in a condition to say who, of the parties claiming the seat, is rightfully entitled to it. My own impression, concurring with that of the committee, is, that this course, the extension of the time of taking of testimony, is the best thing we can do, under all the circumstances of the case. The House have the power, in the exercise of their discretion, a just discretion, to extend the time of taking testimony. I think this case is one which recommends itself to the exercise of this power of extension, and I hope, therefore, the resolution recommended by the committee will be adopted by the House, and the parties interested have the opportunity of fully developing their evidence.

The question being upon the adoption of the following resolution:

Resolved, That the parties contestant and contested in this case be allowed the further time of sixty days from the passage of this resolution to take and return supplementary testimony.

Mr. PHILLIPS offered the following amendment:

Strike out the words "the further time of sixty days from the passage of this resolution," and insert in lieu thereof, the words "until the first day of October next."

PRINTING OF A BILL.

Mr. GROW. I desire to appeal to my colleague to allow me to ask the unanimous consent of the House to have printed a bill which the select committee on printing purpose at some future time to report. It is a bill to provide for the election, by the House, of a Superintendent of Folding, and we desire to have it printed in order that members may have an opportunity to examine it before the matter is brought up for consideration.

No objection being made, the bill was ordered to be printed.

Mr. SMITH, of Tennessee. I wish to say that I am not now prepared to present the minority report on this matter. I did not agree to the bill; and when the matter comes up, I shall state my objections to it.

NEBRASKA CONTESTED ELECTION—AGAIN.

Mr. PHILLIPS. The report of the Committee of Elections was made on the 2d of February, when they recommended that sixty days from that time be allowed to take testimony. If sixty days' time were now allowed, it would not expire until after the close of the session, and this would deprive that Territory of a representative on this floor in the mean time. I have, consequently, thought it best to offer an amendment extending the time on both sides until the 1st day of October next. The testimony, in either case, cannot be returned until the next session of Congress; and my amendment, if adopted, will give ample time to both parties. It will allow the sitting member to represent the Territory until the end of the session, and, at the same time, allow the matter to be brought up for consideration at as early a day as it would be under the resolution reported by the committee. I call the previous question.

Mr. TRIPPE. I trust the previous question will not be ordered upon this matter.

Mr. PHILLIPS. I withdraw the call to allow the gentleman to make a statement.

Mr. TRIPPE. I am not a member of the Committee of Elections, but I intend to give my vote upon his question upon the principles which governed my vote in a case of a similar kind upon a previous occasion in this House.

I will admit, that within the last few minutes I have come in possession of the facts of this case. Half an hour ago I did not know such a report was made by the committee. My judgment, therefore, may be premature; but so far as I can see, from the papers in the case, I say, with all due respect to the committee, I do not find any good reason assigned to justify their action. Not one. And the committee themselves take a position in their report directly in the teeth of their recommendation, and which overrides it.

Mr. PHILLIPS. I wish to suggest to the gentleman, that it appeared in evidence before the committee, and I believe it is so stated in the report, that citizens were refused the privilege of cross-examining the witnesses of the contestant.

Mr. TRIPPE. It matters not, one way or the other. It cannot affect the merits of this case. The House will recollect that, some few weeks since, they refused an extension of time to the gentleman from the State of Ohio, [Mr. CAMPBELL], whose seat is contested. I voted against that extension. I believed then that I voted right. I believe now that I voted right, and that this House did right in refusing the extension of time in that case; and if we are to preserve consistency, not only in regard to that vote, but in regard to justice itself, this continuance cannot be granted.

The gentleman from Pennsylvania [Mr. PHILLIPS] states that citizens were refused the privilege of cross-examining the witnesses for the contestant. Grant it. The committee took the proper position in their report when they say that the sitting member, before he left the Territory, ought to have appointed an accredited agent to represent him. Surely, this House does not mean to take the position that, when a gentleman is elected either as a member or Delegate of this House, he can immediately rent his house and become a resident *nowhere*, have no notorious place of abode, travel the world over, if you please, so that he cannot be found, and a notice of contest cannot be served on him personally, and thereby a contestant is to lose his legal rights. Why, sir, my friend from South Carolina [Mr. Boyce] is elected fifteen or sixteen months before he is called upon to discharge his duties here. He might rent his house, travel all over Europe in that time, and if I were a contestant in his district, I could not find him to serve notice on him; and then he might come in here at the next Congress and say, forsooth, that he was not served personally with notice, nor with notice left at his residence, and ask the House to extend the time, not only for sixty days, but to extend it to a period that would run into the next session of Congress, as is proposed in this case; and in the mean time, both would draw their pay, mileage, and per diem, as we know that is the practice. From what does the difficulty result in this case? From the sitting member's own negligence. He ought to have left an accredited agent in the Territory, to represent him in the taking of testimony, as the committee say. If citizens were refused the privilege of cross-examining witnesses, who is to blame?

The committee take the position in their report that it is not only the rights of the sitting Delegate and the contestant that are involved, but the rights of the people of the Territory. And right here I will remark that I do not know who is entitled to the seat, and I do not care who gets it. Grant that the rights of the people of the Territory are involved. That is so in all contested-election cases. Why, did not you vote to extend the time for the gentleman from Ohio on that principle? There are more people in the third district of Ohio than in the whole of Nebraska Territory. Messrs. Campbell and Vallandigham received more votes than the whole vote of Nebraska Territory; and the question could have been raised in that case that not only were the rights of Messrs. Campbell and Vallandigham involved in the issue, but the rights of over twenty thousand voters of the third district of Ohio. Why did not that consideration control the House then, and induce them to grant the extension of time asked for? Sir, I hope the House will act consistently in relation to all these

cases. I intend, upon every contested-election case, whether in determining upon preliminary questions or on the merits of the cases, to decide them as a juror; and not upon one day to give a verdict upon one side, and upon another day, upon precisely the same showing, to give a verdict upon the other side.

Furthermore, Mr. Speaker, this report was made on the 2d of February, but the motion for a continuance has not been brought up for a hearing until after the middle of April, and it is now proposed that the postponement shall extend beyond the present session of Congress. The result will be that we shall have both these gentlemen here during the present session; and coming back next session, and both drawing full pay and mileage. Now, sir, there is not a single feature in the case that would justify a continuance. The sitting Delegate avers, in his affidavit, that he did not, until after the 1st of December, have knowledge that testimony was being taken by the contestant. In the first place, I answer, in the words of the committee, that he ought to have had knowledge of it before, for he ought to have left an accredited agent in the Territory. The committee tell us so, and I thank them for the word. If he intended to come on here before the time when the notice to take testimony was served, he ought to have left an agent behind him; for, mark you, notice that his seat would be contested had already been served. It is his own fault that he was not represented and did not receive the notice. I trust, sir, the House will show some consistency with the vote it gave a few weeks ago, and that what is sauce for the goose will be made sauce for the gander.

Mr. BOYCE. I call the previous question.

Mr. BILLINGHURST. I would like the gentleman from South Carolina to withdraw the previous question for a moment, that I may suggest a further amendment to the resolution, which is, that the testimony shall not be taken during the session of Congress, but may be taken during the vacation. If that amendment be not made, possibly injustice may be done to the sitting Delegate by the contestant taking testimony while he is compelled to be here attending to his duties.

Mr. PHILLIPS. I accept the modification.

Mr. BILLINGHURST. Insert the words: "Such testimony not to be taken during the present session of Congress."

The resolution was so modified.

Mr. COX. Will the gentleman from South Carolina withdraw his call for the previous question?

Mr. BOYCE. I withdraw it.

Mr. COX. I will simply say here that I wish to make my vote consistent with the vote I gave on a former occasion against the extension of time. If the time is to be extended at the pleasure of parties here, this matter of contesting seats of members will become a mere farce, and a very expensive farce, not only to members, but to the Government. It is well understood that both the sitting Delegate and the contestant will draw their pay meanwhile, that both will draw their mileage, and that both will be at expense meanwhile. Now, so far as the papers before the House throw any light upon this matter, it appears to me that the House is as ready to act in this case now as it will be in October or sixty days hence. So far as it appears from these papers, (and I have only cursorily glanced over them,) this notice of contest was served on the 16th day of September, eleven days after the result of the election in Nebraska was announced. Shortly after that time the present sitting Delegate, on the 2d of October, made his response to that notice. Then followed the notice on the part of Mr. Chapman to the sitting Delegate to take depositions. That notice was served exactly in conformity to law. In every respect the gentleman who contests this seat has pursued the law in such case made and provided. He served the notice, according to the statement which I hold in my hand, at the usual place of abode of the sitting member, in the Territory of Nebraska. I cannot see how he could have done otherwise, and I say this with all deference to the committee. I do not see how he could have pursued the law in any other mode. Could he have followed the sitting Delegate to Washington city?

Mr. WASHBURN, of Maine. If the gentleman will allow me, I will answer his question. I understood from the parties that, after the election, they did meet in this city, and it seems to

me that notice might have been given at that time, or the contestant might have ascertained the place at which a notice could have been answered.

Mr. COX. In response to that, I will read the statement of the contestant. He says:

"By referring to said answer of sitting Delegate, it will be found strangely or designedly to be a notice with date, but naming no locality as to where written or where the writer might be found or addressed, or any agent or attorney representing him; and, so far as this contestant was informed, he might have supposed him in his house, or in some place about the Territory, or having hastily fled from the Territory to avoid any further notice being served upon him. Therefore, in giving him further notices to take testimony, this contestant had no other course to pursue than that pointed out by the law prescribing the mode of obtaining evidence in cases of contested elections, to wit: to cause copies of said notices to be left at his usual place of abode, which was done, as appears by the affidavits of James W. Daskam and Loren P. Waldo, jr., to be found on pages 8 and 9 of said Document No. 5, and which more fully appears by the depositions of Loren P. Waldo, jr., and George L. Sites, now in possession of your committee."

If that be true—and I suppose that those depositions carry out that statement—then the contestant has pursued the law in every regard; and why, then, should this matter be further postponed? If we wish to have these matters speedily settled; if we wish to have these contested-election cases closed up while the subject-matter is fresh, and there is no chance to raise testimony to suit every occasion; if we wish to settle them while the facts are in the memory of those who can speak to the subject, then I think that we ought not to postpone them. We ought to act upon them promptly, not only in reference to the expense to the people, but the expense to the contestant, the sitting Delegate, and all around.

Mr. Speaker, I think that this matter ought to be disposed of now. We are just as ready to dispose of it at this moment as we will be in October, and just as ready to do justice to both parties.

Mr. STEVENSON. The vote on this report in the Committee of Elections was not a unanimous vote. I believe that the proposition to extend further time was carried only by a majority of one in that committee. I do not remember whether the committee was full or not, but I am satisfied that the record of that committee will show—

Mr. PHILLIPS. Let me interrupt the gentleman. I have the minutes of that committee before me.

The SPEAKER. The Chair has great doubt whether it is in order to refer upon the floor to what has transpired in committee. There have been rulings that it is not in order.

Mr. PHILLIPS. The vote stood seven to two.

Mr. STEVENSON. I may be in error, and I stand corrected. I only rise to explain my own record, and my own vote in that committee. I entirely concur with the gentleman from Georgia, [Mr. TRIPPE,] that the notice in this case was sufficiently full and legal in all its aspects. I regard that the contestant did all he could do, by leaving a copy of that notice at the residence of the sitting Delegate. He did more than that: for, after notifying the sitting Delegate that it was his intention to contest the seat, he then served a notice on a gentleman who had been his reputed active agent in the Territory. He then proceeded, after having given both of these notices, to take testimony himself, believing that he had done all that he was required to do. Believing that it would be a frittering away of every attempt to contest an election, as has been well described by the gentleman from Georgia, [Mr. TRIPPE,] I voted for deciding the case upon its merits, on the testimony before the committee.

One word more, and I am done. I do not think that this case resembles in all respects the case alluded to by the gentleman from Georgia, upon which a vote was taken in this House some weeks ago. In the Ohio case, more than a year had elapsed, and a long space had been allowed to the gentlemen in that case to take testimony. My vote, then, was mainly based upon the fact that, if the gentleman from Ohio [Mr. CAMPBELL] had gone on and taken proof after the sixty days had expired, and had brought that proof here, and a technical objection were interposed, then I should have voted to give him an extension of time; but that was not done. In the present case, this testimony was taken in the month of November, a short time before the meeting of Congress; and in that respect the cases are dissimilar.

Mr. WASHBURN, of Maine. The commit-

tee recommend, and I concur in the report, that further time should be given to these parties. I do so because I am not satisfied, upon the evidence as it stands, which of the parties is elected, which has the most good votes and is entitled to a seat here. Judge Ferguson appeared before the committee and made an affidavit to the fact that, having been in the Territory a long time, and being desirous of making a visit, before the commencement of Congress, to the State of New York, where he formerly lived, he left the Territory on a journey east, renting his residence. After he left Nebraska he came to Washington. He had received notice of the contest before he left. While at Washington he met the contestant, and he told the contestant that he had left Nebraska and was not going to return for some time. Nevertheless, Mr. Chapman, the contestant, returned to Nebraska and gave his notice. Instead of leaving it in the hands of the gentleman who had rented, and then occupied the house of the sitting member, he left it in the hands of another person who happened to be boarding in the house, but who, at the time the sitting member moved out of it, resided, as I am informed, at a distance of ten miles therefrom, and who was in no sense his agent or attorney. I did not believe that the committee, under the testimony taken in the absence of Judge Ferguson, could be satisfied with anything but an extension of time for taking further testimony; and therefore it was that, believing that the only way in which we could get at the actual facts in the case, and to know which of these gentlemen was truly and really elected, was to order the testimony to be taken at a time when both parties could be present and know what was testified to, this resolution was ordered to be reported. I hope that the resolution will be adopted; and I call for the previous question.

Mr. COX. I would like to ask the gentleman from Maine a question in regard to this thing. One of the notices in this case was served upon a gentleman named Strickland, who occupied the house that had been occupied by the sitting member. I ask the gentleman if it does not appear afterwards in another paper, Miscellaneous Documents No. 19, that on the 2d of December, 1857, the same Mr. Strickland, as the attorney for the sitting member, served a notice on Mr. Chapman, the contestant, and whether he was not regarded as his attorney at the time?

Mr. WASHBURN, of Maine. I understand that Mr. Strickland was not the agent or attorney of Judge Ferguson in this matter; and also, that the principal notice was left with a man named Sagendorf. Another notice was left with Mr. Strickland; and he, acting as the friend of the sitting member, volunteered to serve as his attorney. An objection was made, that he had no right to appear as an attorney, although he was a citizen of the district, and was interested in the representation of the Territory. He was objected to by the friends of Mr. Chapman, and was not permitted to ask the witnesses any question whatever. And now, under those circumstances, we are asked to pass on the case. I call for the previous question.

Mr. CHAPMAN, (the contestant.) Am I entitled to say anything on this question?

Mr. WASHBURN, of Maine. It has never been the habit of this House to grant to contestants the right to discuss interlocutory questions. I object.

The SPEAKER. The Chair is of opinion that the contestant cannot be heard on this question, except by the consent of the House; and that in every single instance where the privilege has been accorded to a contestant it has been conferred by an express resolution, or authority given by the majority of the House.

Mr. PURVIANCE. I move that the contestant have the right to be heard on this question.

Mr. CLEMENS. I presume that if the House grant the privilege to one of the parties it should be also granted to the other.

The SPEAKER. The sitting member has the right to be heard.

Mr. WASHBURN, of Maine. Is the motion in order, pending the call for the previous question?

The SPEAKER. The Chair is of opinion that the motion cannot be entertained pending the demand for the previous question.

Mr. POTTLE. I suppose that if the previous

question be voted down the motion will then be in order.

The SPEAKER. The Chair thinks so. Mr. CLINGMAN called for tellers on the call for the previous question.

Tellers were ordered; and Messrs. GARTRELL, and WASHBURN of Maine, were appointed.

Mr. SHERMAN, of Ohio. Does the contestant desire to be heard on this preliminary question?

The SPEAKER. The contestant rose and indicated his desire to be heard. A gentleman sitting near him, [Mr. Cox,] subsequently rose and stated that the contestant waived the application.

Mr. SHERMAN, of Ohio. If the gentleman wants to be heard, let him have the privilege.

The SPEAKER. Does the Chair understand that the contestant desires to be heard?

Mr. COX. The contestant informed me, after the call for the previous question, that he would not press his application on the House.

The House divided, and the tellers reported—ayes ninety-six, noes not counted.

So the previous question was seconded, and the main question ordered, which was on agreeing to the amendment of Mr. PHILLIPS, as modified.

Mr. COX. I withdraw the call for the yeas and nays upon the amendment.

Mr. COLFAX. I would inquire whether those who desire to have this case disposed of at once, will not have to vote negatively upon both propositions, as there is no question pending for a final disposition of the case?

The SPEAKER. Those who are in favor of deciding the case now will have to vote, "no."

Mr. COLFAX. I move, then, to lay the resolution and pending amendment on the table, so that the contest can be decided without further delay.

Mr. WASHBURN, of Maine. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WRIGHT, of Georgia. I desire to inquire for information what will be the effect of adopting the motion to lay the resolution and amendment upon the table? Will it lay the whole subject upon the table?

The SPEAKER. It would only lay upon the table the question as to the extension of time?

Mr. WASHBURN, of Maine. I would inquire if the resolution is laid upon the table, whether the House will not be obliged to determine this question upon the *ex parte* testimony taken in the absence of the sitting member?

The SPEAKER. The Chair has no information as to what facts are in possession of the Committee of Elections.

Mr. FLORENCE. I understood the gentleman from South Carolina [Mr. Boyce] to say that the committee desire further testimony.

Mr. DAVIDSON. I object to debate.

The question was taken; and it was decided in the negative—yeas 87, nays 106; as follows:

YEAS—Messrs. Atkins, Avery, Barksdale, Bishop, Bryan, Buffinton, Burlingame, Burns, Burroughs, Case, Chaffee, Ezra Clark, Clingman, Cobb, Clark B. Cochran, Colfax, Cox, Crawford, Curry, Curtis, Danell, Davidson, Davis of Maryland, Dawes, Dean, Dick, Dowdell, Durfee, Edie, Fenton, Gartrell, Lawrence W. Hall, Robert B. Hall, Hatch, Hawkins, Hill, Hoard, Houston, Howard, Hughes, Jackson, George W. Jones, Keiser, Kilgore, Lawrence, Leiter, Letcher, Humphrey Marshall, Maynard, Montgomery, Moore, Morrill, Edward Joy Morris, Nichols, Palmer, Pettit, Pike, Pottle, Purviance, Quinton, Ready, Reagan, Ricard, Ritchie, Ruffin, Savage, Seales, Seward, Henry M. Shaw, John Sherman, Stevenson, George Taylor, Miles Taylor, Thompson, Tompkins, Trappe, Walton, Warren, Watkins, Wood, Wortendyke, and John V. Wright—87.

NAYS—Messrs. Abbott, Adrain, Abt, Anderson, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Bockock, Bowie, Boyce, Brayton, Burnett, Caskey, Chapman, John B. Clark, Clawson, Clay, Clemens, Cockrell, Comins, Corning, Covode, Craig, James Craig, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dewart, Dodd, Edmundson, Elliott, Farnsworth, Faulkner, Florence, Foley, Foster, Giddings, Gilman, Gooch, Goode, Goodwin, Granger, Greenwood, Gregg, Grow, Harlan, Thomas L. Harris, Haskin, Huyler, Jenkins, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kelly, Knapp, Landy, Leidy, Lovejoy, Maclay, McKibbin, McQueen, Miles, Miller, Milson, Morgan, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Olin, Parker, Peyton, Phelps, Phillips, Potter, Reilly, Robbins, Roberts, Royce, Russell, Sandidge, Scott, Searing, Aaron Shaw, Singleton, William Smith, Spinner, James A. Stewart, Tabbot, Thayer, Underwood, Wade, Walbridge, Waldron, Ward, Elfish B. Washburne, Israel Washburn, White, Whiteley, Wilson, Woodson, and Augustus T. Wright—106.

So the House refused to lay the resolution and amendment upon the table.

Pending the call, Mr. BOCKOCK stated that Mr. GARNETT being called home upon very important business, had paired off upon all contested-election cases, and upon the Kansas question, with Mr. HICKMAN; and upon the question of the admission of Minnesota, with Mr. DAVIDSON.

Mr. NICHOLS stated that Mr. HERRON had been called home on important business, and that he (Mr. NICHOLS) had paired him off with Mr. KUNKEL, of Maryland, until a week from next Thursday.

The question was then taken upon the amendment of Mr. PHILLIPS; and it was agreed to.

The question recurring upon the adoption of the resolution as amended,

Mr. HUGHES demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 98, nays 85; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Bennett, Billinghurst, Bingham, Blair, Bliss, Bockock, Bonham, Bowie, Boyce, Brayton, Caskey, Chapman, John B. Clark, Clawson, Clemens, Cockerill, Collins, Corning, Covode, Cragin, James Craig, Davis of Massachusetts, Davis of Iowa, Dewart, Dick, Durfee, Edmundson, Elliott, English, Faulkner, Florence, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Grainger, Greenwood, Gregg, Grow, Harlan, Thomas L. Harris, Hatch, Howard, Jenkins, J. Glancy Jones, Owen Jones, Keitt, Kelly, Knapp, Landy, Leach, Leidy, Lovejoy, McClay, McQueen, Miles, Miller, Millson, Morgan, Isaac N. Morris, Murray, Niblack, Olin, Palmer, Parker, Pendleton, Peyton, Phelps, Phillips, Potter, Reilly, Robbins, Roberts, Royce, Searing, Aaron Shaw, Spinner, Talbot, Tappan, George Taylor, Thayer, Underwood, Wade, Walbridge, Ward, Ellihu B. Washburne, Israel Washburn, White, Whiteley, Woodson, and Augustus R. Wright—98.

NAYS—Messrs. Atkins, Avery, Branch, Buffinton, Burlingame, Burnett, Burroughs, Case, Ezra Clark, Clingman, Cobb, Clark B. Cochrane, Colfax, Cox, Crawford, Curry, Curtis, Darnell, Davidson, Davis of Maryland, Dawes, Dean, Dowdell, Fenton, Gartrell, Goode, Groesbeck, Lawrence, W. Hall, Robert B. Hall, Hawkins, Hill, George H. Houston, Hughes, Huyler, Jackson, Jewett, John W. Jones, Kellogg, Kelsey, Kilgore, Lawrence, Leiter, Letcher, Maynard, Montgomery, Moore, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Nichols, Pettit, Pike, Pottle, Purviance, Quitman, Ready, Reagan, Ricard, Ritchie, Ruffin, Russell, Scales, Seward, Henry M. Shaw, John Sherman, Samuel A. Smith, William Smith, Stallworth, Stanton, Stephens, Stevenson, Miles Taylor, Thompson, Tompkins, Tripp, Waldron, Walton, Warren, Wilson, Winslow, Wood, Wortendyke, John V. Wright, and Zoellcoffer—85.

So the resolution, as amended, was agreed to. Mr. BOYCE moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CLOSE OF DEBATE.

Mr. J. GLANCY JONES. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. MORRILL. I call for the regular order of business.

Mr. J. GLANCY JONES. Before my motion is put, I offer the usual resolution to close the debate in the Committee of the Whole on the state of the Union on the Military Academy appropriation bill, in thirty minutes after the committee shall resume its consideration.

Mr. MORRILL. I object. Has the gentleman a right to offer that resolution?

The SPEAKER. The Chair thinks he has. Mr. STANTON. Has the morning hour expired?

The SPEAKER. It has not commenced. Mr. STANTON. So I supposed. There has been no morning hour, and no morning business.

Mr. WALBRIDGE. If the motion of the gentleman from Pennsylvania is voted down, will not the bill of the gentleman from Vermont [Mr. MORRILL] be the first business in order?

The SPEAKER. It will be the first business in order if the motion to go into the Committee of the Whole on the state of the Union fails.

Mr. J. GLANCY JONES. I could not hear the point made by the gentleman from Vermont.

The SPEAKER. The gentleman from Vermont desired that the House should proceed to the consideration of the business of the morning hour.

Mr. J. GLANCY JONES. My motion is in order.

The SPEAKER. The gentleman's motion is in order.

The resolution to close debate was adopted.

The question recurred on the motion to go into the Committee of the Whole on the state of the Union.

RESOLUTIONS OF VIRGINIA.

Mr. LETCHER. Will the gentleman from Pennsylvania allow me to present joint resolutions of the General Assembly of Virginia, for reference?

Mr. J. GLANCY JONES. I yield for that purpose.

Mr. LETCHER then, by unanimous consent, presented the joint resolutions of the General Assembly of Virginia, for a final settlement of half pay to officers of the revolutionary war; which were referred to the Committee on Revolutionary Claims.

REFERENCE TO COURT OF CLAIMS.

On motion of Mr. GIDDINGS,

Ordered, That the petition and papers of Doctor Frederick Seigle be withdrawn from the files of the House and referred to the Court of Claims.

RESOLUTIONS OF MASSACHUSETTS.

Mr. DAWES, by unanimous consent, presented joint resolutions of the Legislature of Massachusetts in relation to the Dred Scott decision; which were laid upon the table, and ordered to be printed.

Mr. KNAPP, by unanimous consent, presented joint resolutions of the Legislature of Massachusetts in relation to Kansas; which were laid upon the table, and ordered to be printed.

SETTLERS IN ILLINOIS.

Mr. LOVEJOY, by unanimous consent, and in pursuance of previous notice, introduced a bill for the relief of settlers on certain lands in the State of Illinois; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. MARSHALL, of Kentucky. I send up a resolution asking for information, to which I suppose there will be no objection.

Mr. J. GLANCY JONES. I cannot yield further. I must insist on my motion.

MILITARY ACADEMY BILL.

The question was taken; and Mr. J. GLANCY JONES's motion was agreed to—ayes one hundred, noes not counted.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEWARD in the chair,) and resumed the consideration of House bill (No. 62) making appropriations for the support of the Military Academy for the year ending 30th June, 1859.

The CHAIRMAN stated that the pending question was on the amendment offered yesterday by the chairman of the Committee of Ways and Means, to strike out the ninth, tenth, and eleventh lines, as follows:

—"ninety-four thousand eight hundred and eighty-six dollars.

"For pay of eight professors at the Military Academy, \$16,000."

And to insert in lieu thereof:

—"one hundred and twelve thousand eight hundred and six dollars.

So as to make the clause read:

"For pay of officers, instructors, cadets, and musicians, \$112,000."

Mr. JONES, of Tennessee. Mr. Chairman, this amendment, as I understand it, is made necessary in consequence of the construction given to the act of the last Congress increasing the pay of the commissioned officers of the Army. This is the language of that act:

"That from and after the commencement of the present fiscal year the pay of every commissioned officer of the Army, including military storekeepers, shall be increased twenty dollars per month, and that the commutation price of officers' subsistence shall be thirty cents per ration."

Now, sir, there are eight professors at the Military Academy, whose annual salary is fixed by law at \$2,000; and by a construction at the Department upon the act which I have just read, it is held and considered that these professors are commissioned officers in the Army of the United States, and are entitled to this increased compensation of twenty dollars per month. The part of the bill which it is proposed to strike out appropriates \$16,000 for the salaries of these eight professors. The additional sum in the amendment is required under the construction given to that act at the Department.

I merely wish to say that I do not approve of this construction of the law; I do not believe myself that the professors of that academy are commissioned officers of the Army. They have no position in the line; they are attached to no corps or regiment. I think that the bill, as reported by the Committee of Ways and Means is right, and that the construction given to the law of last session is wrong.

Mr. J. GLANCY JONES. If the gentleman will permit me, I will state the facts as I understand them. On the 3d of March, 1857, Congress passed a law providing for an increase of twenty dollars a month to the pay of the commissioned officers of the United States Army. The question, shortly after, came up in the Comptroller's office whether the professors at West Point were technically commissioned officers. There was a doubt on the subject. The matter was investigated, and it was then ascertained that they were held to be commissioned officers under the opinions of Mr. Wirt, a former Attorney General, Mr. Berrien, another Attorney General, and the Secretary of War. The money was paid to them under that state of the case during the last fiscal year. The question again came up before the Committee of Ways and Means at this session, and before these facts were known to that committee, and this bill was reported with the item for this extra pay for these professors left out. Immediately afterwards, by letter, I called on the Department for the information which it had on the subject, and I received in reply what I send to the Clerk's desk to be read:

The Clerk read as follows:

WAR DEPARTMENT.

WASHINGTON, December 21, 1857.

SIR: I have the honor to transmit herewith a report of the chief engineer, in answer to your letter of the 15th instant, inquiring whether any of the professors employed at the Military Academy are commissioned officers of the Army; and, if so, that the character of their duties be designated.

Very respectfully, your obedient servant,

JOHN B. FLOYD, Secretary of War.

Hon. J. GLANCY JONES, Chairman Committee of Ways and Means, House of Representatives.

ENGINEER DEPARTMENT.

WASHINGTON, December 19, 1857.

SIR: I have the honor to acknowledge the reference to this office of the letter of Hon. J. GLANCY JONES, chairman of the Committee of Ways and Means, dated the 15th instant, asking whether any of the professors employed at the Military Academy are commissioned officers of the Army; and if so, that they be designated, with the character of their duties.

Understanding the object of the question to be to ascertain whether any of the professors of the academy hold commissions in the line of the Army in addition to their commissions as professors, I reply in the negative. Such of them as held line commissions when appointed professors having vacated them.

All the professors are, however, commissioned officers of the Army in virtue of their present commissions, having been recognized as such by the decisions of several Secretaries of War, an Attorney General, and a Comptroller of the Treasury, and are entitled, under these decisions, to the allowances granted by law to other commissioned officers of the Army. The letter of Mr. JONES is returned herewith.

Very respectfully, your obedient servant,

H. G. WRIGHT,

Captain of Engineers, in charge.

Hon. JOHN B. FLOYD, Secretary of War.

WAR DEPARTMENT.

WASHINGTON, December 30, 1857.

SIR: In answer to your letter of the 22d instant, inquiring in behalf of the Committee of Ways and Means whether any payments have been made since the commencement of the fiscal year 1857, to any of the professors at the Military Academy, under the provisions of the act entitled "An act to increase the pay of officers of the Army," approved February 21, 1857; and, if so, by what authority such payments were made?

I have the honor to transmit herewith a report of the Paymaster General, which contains the information desired by you.

Very respectfully, your obedient servant,

JOHN B. FLOYD, Secretary of War.

Hon. J. GLANCY JONES, Chairman Committee of Ways and Means, House of Representatives.

PAYMASTER GENERAL'S OFFICE.

December 30, 1857.

SIR: I have the honor to return the letter of the Hon. J. GLANCY JONES, of the 22d instant, and to report thereon.

The professors in the Military Academy receive the increase of pay granted by the act of February 21, 1857, to "commissioned officers of the Army," by authority of the "Regulations of the Army," published by the late Administration, and now in force, (see Army pay-table, general regulations, page 293,) and of your decision of the 13th of May, affirming this regulation as according to law.

The old regulations decided in like manner the like question, arising under the act of July 5, 1838, to wit: that the professors receive the ration for five years' service, granted by that act to "commissioned officers of the line or staff." This construction of the act of 1838 was in accordance with

the opinion of the Second Comptroller of the Treasury, Judge Parris, and is recognized by the appropriation act for the Military Academy, September 16, 1850.

The Comptroller did at first doubt if the words "commissioned officers of the line or staff," in the act of 1838, included the professors. Mr. Attorney General Wirt had given the opinion that they are not commissioned officers in the sense of the sixty-fourth article of war to sit on courts-martial; because such courts have general jurisdiction in the Army, and the law of 1812 provides that the "academic staff, as such, shall not have command in the Army separate from the academy." But this does not deny, and has never been understood by the War Department to deny, that they are commissioned officers, in the sense of other statutes, or other clauses of the same statute; for another Attorney General (Berrian) decides that the officers of the general staff, not having rank, are not competent to sit on courts-martial; and Mr. Wirt had declared the "Military Academy to be part of the land forces of the United States," and subject to the rules and articles of war, and to trial by courts-martial; and these professors are held amenable, under those articles of war, as commissioned officers in all breaches of discipline, or other offenses therein provided.

Finally, if they are commissioned officers in trials for offenses, under the penal statute, if they are commissioned officers of the line or staff, as recognized by law under the act of 1838, for stronger reasons they were held to be "commissioned officers of the Army" in the sense of the late act, which expressly included storekeepers in that description, and extended its benefits to the chaplains employed by the councils of administration of the posts.

I have the honor to be, very respectfully, your obedient servant,
BENJAMIN F. LARNED,
Paymaster General.

Hon. J. B. FLOYD, Secretary of War.

Mr. J. GLANCY JONES. The committee learning these facts—that these professors are held by decisions of Attorneys General as commissioned officers, and that the Army regulations rate them at this increased pay—have instructed me to report the amendment which is now pending.

Mr. HOUSTON. I would like to ask the gentleman whether these professors at West Point have any connection with the Army other than by their professorship at that school?

Mr. JONES, of Tennessee. I will resume the floor. There is no difference between the chairman of the Committee of Ways and Means and myself as to the facts of the case; but the difference between us is in regard to the proper construction of the act of 21st of February, 1857, which increased the pay of the commissioned officers of the Army. Here is the Biennial Register—the official Register—which gives the names of the professors at West Point, and of what they are professors. There are professors of civil and military engineering, of natural and experimental philosophy, of mathematics, of drawing, of the French language, of ethics and English studies, (also chaplain,) of chemistry, mineralogy and geology, and of the Spanish language—in all eight. Their pay is fixed at \$2,000 per annum, each with quarters at the academy, and, I believe, with some longevity rations. They are subject to removal by the President, and he does remove them, I understand, at pleasure, and appoints their successors as he does other civil officers.

Mr. J. GLANCY JONES. The President's power extends to the Army and Navy in the same degree. The President has power to remove any officer of the Army or Navy at pleasure.

Mr. JONES, of Tennessee. The President may have that power. I am not disposed to controvert that; but it is not the practice to remove such officers except in extreme cases, and then the President merely drops them—I believe that is the term used—and in the line of promotion fills up the vacancy. But as I said before, these professors get \$2,000 salary and quarters, and longevity rations. By the construction of the act of the last Congress it is now proposed to increase their pay twenty dollars per month. I do not think that those who brought forward, advocated, and succeeded in passing, the act to increase the pay of commissioned officers, supposed that they were including the professors at that academy. As to all the other officers and the assistant officers at that academy, they have their place in the line, or in some corps, or in some branch of the staff.

Mr. QUITMAN. The gentleman from Tennessee remarked that those who voted for increasing the pay of the commissioned officers of the Army did not, in all probability, suppose they were including the professors at the West Point Military Academy. I will say to him that I happened to be the person who drafted that bill; and that the professors at that institution were intended by me to be included; and I would not have used the term "commissioned officers of the Army" had not such been the intention. In every

point of view they are commissioned officers of the Army; they are a part of the engineer corps of the Army, and are subject to the same laws which govern officers of the Army.

Mr. JONES, of Tennessee. I would ask the gentleman from Mississippi if the professors have any rank, if they are in the line of promotion, if they are removable by court-martial, and whether they may not be removed by the President whenever he sees fit?

Mr. QUITMAN. They may be removed, and so may officers of the Army. They are subject to court-martial; I think they have assimilated rank in some cases, but they are not in the line of promotion, because there are no grades in their branch of the service. They are commissioned by the same instrument, in the same form, that any other officer of the Army is commissioned. The language of the commission is precisely the same, and the same reason applies for increasing their pay as applies to other officers of the Army. Their standing in every respect is like that of officers of the Army, except in respect to promotion; and I see no reason why they should be separated from them.

Mr. JONES, of Tennessee. I have examined the biennial Army Register, and I find no assimilated rank, or any other rank, attaching to the professors at that place. I find nothing in the law which gives them any rank or command of which the gentleman from Mississippi has spoken. They are put down merely as professors, but without any rank or grade.

Mr. J. GLANCY JONES. The Register is no criterion to judge by, and especially when we have the law before us. The question we are now considering is not the question whether in all particulars the professors at the Military Academy at West Point are commissioned officers. The question is as to the intent of Congress in providing for the additional compensation of twenty dollars per month to the commissioned officers of the Army. Whom did Congress intend to include in that bill? There is but one opinion so far as I have been able to ascertain, and that is, that it includes these officers. I have not heard a dissenting opinion. It has been so decided by two Attorneys General; it has been decided at the War Department, by the Comptroller of the Treasury, where the question was regularly raised and examined. The question raised by my friend from Tennessee as to whether they are, in every particular, commissioned officers of the Army, is not the point at issue. The question is, whether Congress did not intend by that act to embrace them as quasi commissioned officers.

Mr. JONES, of Tennessee. There are various officers at that academy. Each one of them, except those professors, is a commissioned officer of the Army; he has his rank in some regiment, or in some corps, and many of them who have their position in the Army and in the corps, are assistant professors at the academy. They get the pay and emoluments of their rank; they are subject to the law of February 21, 1857, and are entitled to the increased pay provided by that act. But the professors themselves, created by law, and appointed in pursuance of it, with a fixed salary of \$2,000, are not, as I contend, in that class of commissioned officers of the Army, and do not come within the provisions of the act of the last session, increasing the pay of the commissioned officers of the Army.

Mr. CURTIS. I had a few words to say yesterday upon this subject. The Military Academy at West Point is a part of the corps of the Army of the United States. It is a part of the engineer corps, and every man and every officer attached to it is, therefore, incorporated with that corps of the Army. The professors at that place are officers of the corps of engineers. They receive their appointments from the President of the United States. It is for life or during good behavior. Many of them, and most of them, are commissioned officers of the United States Army, who, before they went into the offices of professors, were lieutenants of the engineer corps. The whole academy, and everything connected with it, and all its officers, are subject to the rules of the Army and the articles of war; they are liable to be tried by court-martial and dismissed; they can report a cadet or any other officer, bring specifications against him, and have him tried and dismissed. They have all the rights and duties that officers

of the Army have. The only difference is, that they have no prospect of promotion. That is their misfortune. It is a sacrifice which they make for the good of their country.

But they are in the same situation as a major-general of the Army of the United States. He cannot be promoted, and that is his misfortune. Why? Because there is no higher office that he could acquire. And so with the professor at the academy at West Point. He takes the position of professor because he thinks that is as high as any office he can attain. Some of these professors have been serving for twenty, twenty-five, and thirty years, and still retain the rank they held at the commencement of their service. They have not participated in the brilliant service of their country, but they have been satisfied to remain there teaching students the rules and regulations of the Army of the United States, and all the various duties of a soldier. If there be any officers in the service of the United States, who serve their country to advantage, and who really do fulfill duties that are important to the Army of this country, they are the professors at the Military Academy.

It seems to me, therefore, right that they have been recognized by the Department as commissioned officers. They are so, to all intents and purposes, except the want, perhaps, of a spread eagle on a piece of paper or parchment, showing that they hold the rank of colonel, or some other military rank. The Military Academy was established on the principle that it was a part of the Army; its officers are incorporated in the Army, and though they have no promotion, it is merely because no such arrangement could possibly be made in consideration of their professorships. They are entitled to it, if promotion were possible. For one, sir, I think it only right that they should receive this increase of twenty dollars per month—that they should receive the same advantages which their peers in other sections of the Army receive. There can be no doubt of the propriety of their receiving the same compensation, or the same increase of compensation, that other officers receive. I hope, therefore, that the amendment will be adopted. It will then justify the Department in the position they have taken in recognizing these men as officers of the engineer corps. This is not a mere technical question. It goes to the merits of their position. I ask that their position shall be recognized as officers of the Army, and that their pay shall be increased when the pay of other officers is increased.

Mr. PHELPS. Mr. Chairman, differing in the construction which has been given to the law by the gentleman from Mississippi, [Mr. QUITMAN,] and also by the gentleman from Iowa, [Mr. CURTIS,] I take this occasion to express my views upon it. I am of the opinion that the emolument proposed to be given to the professors of the Military Academy at West Point, if the amendment shall prevail, will not be too great. It is not upon that ground that I oppose the amendment reported from the Committee of Ways and Means, but it is upon the construction of the law. This Military Academy was established by the organization of a corps of engineers to be stationed at West Point, and with ten cadets under them. That was by the act of 1802. In the subsequent act of 1812 there was provision made for an increased number of cadets; and provision was made by that law that the professors at the Military Academy at West Point should be taken from the officers of the engineer corps of the Army; and that act also provided that those professors should receive the pay and emoluments of certain officers in the Army—it gave them assimilated rank. Subsequent legislation of Congress has provided that the officers and professors of the Military Academy may be taken from persons in civil life; and if my information is correct, none of the professors at the Military Academy at West Point now hold commissions in the Army, and several of them have been appointed from civil life. At the last Congress, you added to the number of professorships at West Point, a professorship of the Spanish language. The gentleman who was in the discharge of the duties of master of the sword at West Point has received the appointment of professor of Spanish. The professor of French has never been in the Army, nor has the professor of drawing.

Mr. QUITMAN. Allow me to make one re-

mark. I did not intend to say that they were commissioned officers of the Army; but when they received their appointments, they received commissions in the same form that every officer of the Army receives his.

Mr. PHELPS. I am coming to that point soon. My point is this, that, from the time this Military Academy was established by the legislation of Congress up to 1850, these professors at the Military Academy at West Point held assimilated rank and received the pay and emoluments of certain grades of officers of the United States Army. But in 1850 Congress changed the mode of paying these men, and provided that their compensation should be an annual salary of \$2,000. I refer to the act of 1850 making appropriations for the support of the Military Academy. The provision is in these words:

"Provided, That hereafter in lieu of pay proper, ordinary rations, forage, and servants, heretofore received under the provisions of the act of April 12, 1812, the professors of engineering, philosophy, mathematics, ethics, and chemistry, shall be entitled to receive \$2,000 each, and the professors of drawing and Spanish \$1,500 each per annum."

The compensation of these professors at the Military Academy was fixed at an annual salary instead of pay proper and rations. The construction given to that act was that it did not deprive these professors of their service rations, and from that time to the present they have been in the receipt of commutation pay for their service rations. The act of the last session of Congress, by which the pay of the officers of the Army of the United States was increased twenty dollars per month, was as follows:

"That, from and after the commencement of the present fiscal year, the pay of each commissioned officer of the Army, including military storekeepers, shall be increased twenty dollars per month, and that the commutation price of officers' subsistence shall be thirty cents per ration."

It was the opinion of the Attorney General that the professors at the West Point Military Academy could not be detailed for service on court-martial, not one of them holding a commission in the Army as being of the engineer or any other corps. My construction, then, of the act of the last session is, that that law did not increase the pay of the professors of the West Point Military Academy—that that act only increased the pay of commissioned officers of the Army, and the pay of military storekeepers, who are particularly mentioned. The words used are "commissioned officers of the Army." Now, these professors hold no grade or rank in the Army.

The CHAIRMAN. General debate is now closed, under the order of the House.

Mr. PHELPS. What I wished to say further is this: I should be in favor, if it were proper, of increasing the pay of these professors to \$2,240 per annum; but I cannot vote to increase their pay in the way proposed by the amendment.

The question recurred on Mr. J. GLANCY JONES's amendment.

Mr. J. GLANCY JONES. I call for tellers. Tellers were ordered; and Messrs. JOHN COCHRANE and READY were appointed.

The question was taken, and the amendment was disagreed to; the tellers having reported—ayes 50, noes 69.

Mr. HUGHES. I move the following amendment:

From lines sixteen and seventeen strike out the words "repairs and improvements;" from line seventeen the word "forage;" from line eighteen the word "transportation;" from lines eighteen and nineteen the words "miscellaneous and incidental expenses, and departments of instruction;" and from lines nineteen and twenty the words "thirty-five thousand;"

so that the paragraph will read, if amended:

For current and ordinary expenses, as follows: fuel and apparatus, postage, stationery, printing, and clerks, six hundred and ten dollars.

Mr. Chairman, most of the items in this paragraph are already provided for. At all events, the language of this paragraph is too general for specific appropriations. What is covered by "departments of instruction," if not what has already been provided for in the bill? What is meant by the word "forage?" There is a previous appropriation "for forage for officers' horses, \$864."

Mr. J. GLANCY JONES. These items of appropriation are usual in this appropriation bill, and if the gentleman will look to the printed estimates, he will see exactly what are provided for down to the minutest detail.

Mr. HUGHES. The question is this: how

often are the same items to be lumped in the same bill?

Mr. J. GLANCY JONES. But once.

Mr. HUGHES. There are appropriations in this bill under the head of "department of instruction," to pay these professors—the instructors. These items seem to be additional to those. I desire to support this bill, and therefore I ask for information. The gentleman says he can give it. Well, I will receive it in the proper spirit. I merely want these items explained.

Mr. J. GLANCY JONES. If the gentleman will refer to page 107 of the Estimates, he will find specifically set out all the information he asks for.

Mr. HUGHES. I ask the gentleman from Pennsylvania what is covered in this section by the words "incidental expenses?"

Mr. J. GLANCY JONES. I suppose that they mean a large variety of things which it is impossible to rehearse.

Mr. HUGHES. Or—to use a common expression—"too tedious to mention."

Mr. J. GLANCY JONES. Yes, sir. These incidental expenses amount to a very small sum. The amendment was again read.

Mr. J. GLANCY JONES. I do not propose to occupy my five minutes in reply, because the gentleman from Indiana has allowed me to take a portion of his time in answer to his inquiries. As I stated before, the estimates of the Departments are printed for the use of the members of the House, and a copy is laid on the desk of each member at the opening of each session. All the details are given in these estimates, and gentlemen can, at any time, refer to them for information. If a gentleman rises and moves to strike out items, it is incumbent on him to show why. I hope this amendment will not prevail. I confess I do not understand it precisely; but I object to the language of it, even if there were nothing but language in it.

Mr. HUGHES. Appropriations are made for the forage of officers' horses, and of cavalry and artillery horses, and I now want to know what horses are intended to be provided for in the section from which I propose to have words stricken out?

Mr. J. GLANCY JONES. If I understand the gentleman, he means to ask me whether we have made a double appropriation for this?

Mr. HUGHES. Exactly.

Mr. J. GLANCY JONES. Well, I assure him we have not.

Mr. LEITER. I rise to a question of order. I object to gentlemen addressing each other around the corner. I feel some interest in this matter, and I should like to have them address the Chair. I want to know what question all this controversy is about.

The CHAIRMAN. The Chair is happy to inform the gentleman from Ohio that the controversy is at an end. [Laughter.]

The question was taken on Mr. HUGHES's amendment; and it was not agreed to.

The Clerk then proceeded with, and concluded, the reading of the bill.

No further amendments being offered—

Mr. J. GLANCY JONES moved that the bill be laid aside to be reported to the House with a recommendation that it do pass.

The motion was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. J. GLANCY JONES. I move that the committee now take up for consideration the bill (H. R. No. 21) making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th of June, 1859.

The motion was agreed to.

The CHAIRMAN stated that if there were no objection, the first reading of the bill would be dispensed with.

No objection being made, the first reading was dispensed with.

The reading of the bill by clauses, for amendment, was then commenced.

The following clause being reached—

"For reporting the debates of the second session of the Thirty-Fifth Congress, \$3,000"

Mr. SHERMAN, of Ohio, said: I desire to inquire of the gentleman from Pennsylvania, the chairman of the Committee of Ways and Means, [Mr. J. GLANCY JONES,] whether this \$8,000 in-

cludes the usual additional compensation of \$800 each to the reporters of the House?

Mr. J. GLANCY JONES. It does not.

Mr. SHERMAN, of Ohio. Then I move to amend the bill, by inserting after that clause the following:

For the usual additional compensation to the reporters for the Congressional Globe, for reporting the proceedings of the House of Representatives for the present session of Congress, being \$800 to each reporter, \$4,000.

Mr. J. GLANCY JONES. I rise to a point of order. There is no law providing for the amendment which the gentleman proposes to make.

Mr. SHERMAN, of Ohio. It provides for paying the usual additional compensation to the reporters.

Mr. J. GLANCY JONES. I will state that that is provided for in another bill.

Mr. SHERMAN, of Ohio. But I understand that it has been struck out of the deficiency bill in the Senate, because it was not properly in order in that bill.

Mr. J. GLANCY JONES. I have no knowledge—

The CHAIRMAN. Does the gentleman make the point of order that the amendment is not in order?

Mr. J. GLANCY JONES. I do.

The CHAIRMAN. The Chair overrules the point of order, and decides that the amendment is in order. The Chair puts his decision on the ground that this has been provided for by law heretofore.

Mr. J. GLANCY JONES. I ask the Clerk to read the 81st rule.

The 81st rule was read, as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

The CHAIRMAN. Does the gentleman take an appeal from the decision of the Chair?

Mr. J. GLANCY JONES. I do.

Mr. WASHBURNE, of Illinois. I desire to know of the gentleman from Pennsylvania if an item of the same description was not reported by the Committee of Ways and Means in the deficiency bill? If it is not in order here, on the grounds on which the gentleman places his objection, it was not in order there.

Mr. J. GLANCY JONES. The item to which the gentleman refers was reported in the deficiency bill. The reporters are provided for in that bill. I make the point of order that it is not in order here. I do not propose to argue with the gentleman the point of order as regards the deficiency bill. If the gentleman wants my opinion, I will say that I think it was not in order there. There is no law providing for it. The Chair having overruled my point of order, I take an appeal.

The CHAIRMAN. The gentleman from Pennsylvania makes the point of order that the amendment is not germane to this bill, and that it is in conflict with the 81st rule of the House. The Chair decides that it is in order, because this payment has been provided for by preëxisting laws, during two Congresses, to the knowledge of the Chair.

Mr. J. GLANCY JONES demanded tellers on the appeal.

Tellers were ordered; and Messrs. J. GLANCY JONES and ADRAIN were appointed.

The committee divided; and the tellers reported—ayes 74, noes 44.

So the decision of the Chair was sustained.

The amendment of Mr. SHERMAN, of Ohio, was then agreed to.

The following clause having been read:

"For the compensation of the draughtsman and clerks employed upon the land maps, clerks to committees, and temporary clerks in the office of the Clerk of the House of Representatives, \$23,000"

Mr. STANTON said, I do not believe there is any necessity for continuing these clerks. I move to strike out the words "draughtsman and clerks employed upon the land maps." I suppose that is the only mode in which the House can be called upon to express any opinion as to the propriety of continuing the employment of these clerks. If this appropriation shall be struck out, it will, of course, dispense with these clerks after the 1st of July next. I am not particularly informed about

the matter; but I have heard great complaints about the employment of these clerks. It is said that they are not really required; but that the places are needed in order to stow away gentlemen who would like to have comfortable salaries, and for whom it is desirable to provide. I offer the amendment with a view of testing the sense of the committee.

Mr. RUFFIN. In relation to this matter, I would state that some time since a resolution was passed by the House directing the Committee on Public Lands to inquire into the propriety of repealing the resolution of the 4th of May, 1848, by which this force was established. The Committee on Public Lands, some time since, had the matter under consideration. There was a majority report agreed upon to be submitted by the chairman, and a minority report to be submitted by myself, and we have been endeavoring to get those reports before the House.

I, sir, came to the conclusion, from the replies of the Commissioner of the General Land Office and the Secretary of the Interior, and from the examination of Mr. Amasa R. Parker, the draughtsman of the corps, that these land maps ought to be discontinued. They are kept up now at an annual expense of over sixteen thousand dollars. The draughtsman is paid, if I recollect rightly, \$2,160, and there are eight clerks at an annual salary of \$1,800 each. It seems to me that this work, as it is now carried on, is of no benefit whatever either to the Committee on Public Lands or to the House. The work is always behindhand. The draughtsman on his examination stated that the work is behind now several months. A large portion of the public lands are in the Territories, and the public lands taken up in those Territories have never been mapped out by those clerks. The majority of the Committee on the Public Lands agreed to a report, that after the 1st of July next, this force should be reduced to one draughtsman and three clerks. The chairman will correct me if I am wrong.

Mr. COBB. Two draughtsmen and three clerks.

Mr. RUFFIN. If the force be reduced and the work be extended to the Territories, as the committee will recommend, then the work will never be kept up to date; and, sir, unless it is kept up to date, it will be of no benefit whatever. I have been a member of the Committee on Public Lands during the whole session, and, so far as I have seen, these maps have not been referred to in the investigations which have been made. They have been of no advantage to us that I have seen. I think, with the gentleman from Ohio, that it is high time this matter was looked into, and that this expenditure, useless expenditure, of the public money was stopped.

Mr. Chairman, these map clerks were originally provided for in the year 1848. I am informed by gentlemen who were here at the time, that a majority of this House belonged to the Whig party, and that the Executive Administration was Democratic, and that therefore the House gave the appointment to the Clerk instead of to the Commissioner of the Public Lands, in order that their Whig friends might have the places. The chairman of the Committee on Public Lands has some letters from the Department on the subject of these clerks and their usefulness, which I hope he will have read for the information of gentlemen of the committee. By those letters it will be seen that these clerks are not only of no benefit to the Government, but are an absolute disadvantage to the public interests. It is complained that these clerks are put in the Land Office, and are not under the control of the head of that bureau; and it has also been complained that they have furnished information to land speculators and land grabbers. From all the information we have received, it would seem that these clerks themselves are the only ones who receive any benefit from their appointment. I have been able to see no reason why this force should be longer continued. I appeal to the gentlemen who talk about reform, and who always say that it is not made in the right place, to look into this matter and take action on it.

Mr. J. GLANCY JONES. It is the duty of the Committee of Ways and Means to draw their appropriation bills in accordance with law. In the year 1848 a resolution passed this House providing for the employment of these clerks. That

resolution stands upon the statute-book to this day, and appropriations have been made every year in accordance with it. The estimate for the appropriation in this bill was made by the Clerk of this House under that resolution of 1848.

Now, Mr. Chairman, the committee did not undertake to pass upon the merits of that resolution, and to decide whether or not it ought to be repealed. They only provided for an appropriation in this bill to satisfy existing law, as it was their duty to do.

Mr. RUFFIN. It was not my intention to cast any reflection upon the Committee of Ways and Means. I am aware of the fact that the resolution of 1848, for the employment of these clerks, still stands upon the Journals of this House, and that it was the duty of the Committee of Ways and Means to provide for an appropriation under it. My object now is to demonstrate to the House that these clerks are unnecessary. There may possibly have been some use for this clerical force when the resolution was adopted; but so far as my experience has gone at the present session, they are not of the slightest benefit.

In the Committee on Public Lands I stood alone in my view of doing away with this force altogether. The committee were of the opinion that the force should be reduced to two draughtsmen and three clerks, and that the work should be extended to the Territories. I was for discontinuing the whole thing. My opinion is, nevertheless, that if the work be extended to the Territories, this reduced force cannot possibly keep up the work to date. I know that the draughtsman, who is chief of the force, gave his testimony before the committee that these clerks labored faithfully and did their duty, and I am not disposed to find fault on that score. But the fact stands, notwithstanding that testimony, that the work is behindhand, and that this force of nine persons have failed to keep the work up so as to make it of benefit to the present Congress.

Mr. CLEMENS obtained the floor, but yielded to

Mr. J. GLANCY JONES. I would ask the gentleman from North Carolina whether the Committee on Public Lands did not report to the Committee of Ways and Means that they desired this work gone on with, and the employment of these clerks continued? Such, at least, was the information brought to the Committee of Ways and Means.

Mr. RUFFIN. The Committee on Public Lands agreed to reduce the force to two draughtsmen and three clerks, and that the work hereafter should include the public lands in the Territories.

Mr. CLEMENS. Mr. Chairman, I am in favor of the amendment proposed by the gentleman from Ohio; and I will state, in addition to what has been stated by the gentlemen from North Carolina, a fact which has been overlooked; that, by the act of 1836, it is made a penal offense for any clerk of the General Land Office to make use of any of the knowledge he has acquired in regard to the public lands, for private speculation. Under the mode by which these clerks are appointed, they are changed with every change of the Clerk of this House, and these gentlemen, when they are superseded every two years, go out into the world and use the information they have acquired of the public lands, for the purposes of private speculation. I have had access to a paper in the possession of the gentleman from Alabama [Mr. COBB] signed by the Secretary of the Interior; and urged by that consideration, he recommends either that that force shall be organized under him directly, by his appointment, or that the whole force shall be abandoned. Actuated by that consideration, and by that consideration alone, and desiring to hold these clerks in possession of the keys of knowledge of the whole public land system of our Government to a strict accountability, and desiring, so far as I am concerned, not to throw before the populace and before the speculative men of the West the knowledge acquired in this way, I hope to see this whole system changed, and for that reason, I am in favor of striking out this specific appropriation as proposed by the gentleman from Ohio.

I think it not necessary for me now to say anything further; but I call upon the gentleman from Alabama, [Mr. COBB], who has that paper of the Secretary in his charge, to present it to the House,

that we may see what the Secretary has to say in reference to this matter.

Mr. COBB. When I get the floor I will explain all this matter.

Mr. MONTGOMERY. I desire to say, as a member of the Committee on Public Lands, that I have some information upon this subject. I think there is an entire misapprehension between the Secretary of the Interior and the Clerk of the House upon that subject. The act of Congress which creates this corps, expressly provides that they shall be under the superintendence and control of the Secretary of the Interior, but because the Secretary of the Interior happens not to have the appointing power, this difficulty has arisen. He desires to have the patronage, and the Clerk desires to have it. Congress bestowed it upon the Clerk, and because, forsooth, it is bestowed upon the Clerk, the Secretary of the Interior makes the objection that these clerks are not subject to his control. The act of Congress makes them subject to his control. They are subject to the same rules as other clerks in that Department. The report of the Secretary of the Interior is founded upon a mistake, clear, plain, and palpable. We discussed and examined that matter in the committee, and we were satisfied that he did not understand it.

Mr. CLEMENS. I ask the gentleman from Pennsylvania, in what way they can be brought under the operation of the act of 1836, when, by the very terms of their appointment, they are not Clerks of the Land Office? They are mere supernumeraries appointed by the Clerk of this House. It is not an Executive appointment, nor a Department appointment.

Mr. MONTGOMERY. The gentleman asks how it comes that they are responsible to the Secretary of the Interior? I say it is because the act of Congress makes them so.

Mr. LETCHER. Will the gentleman allow me to interrupt him?

Mr. MONTGOMERY. Certainly.

Mr. LETCHER. There was no Secretary of the Interior at the time this resolution passed, to whom the clerks could be responsible in any way. Here is the resolution under which they were appointed. It is indefinite in its terms. It was passed on the 4th day of May, 1848, on motion of Mr. COLLAMER, of Vermont:

"Resolved, That there be prepared, by the procurement of the Clerk, for the use of the House, and the Committee thereof on Public Lands, a map of the public lands in each State, showing the state of the survey, and also what has been sold; that the same be prepared under the supervision of the Commissioner of the General Land Office, and that such may be revised and extended after each session of Congress."

By referring to Miscellaneous Documents for the second session of the Thirty-Third Congress, it will be found that at that time there was a draughtsman at a salary of \$1,500, and six clerks at a salary of \$1,200 each, in charge of this work. Now we have one draughtsman at a salary of \$2,160, and eight clerks at a salary of \$1,800 each. The resolution provides no pay. It has gone on increasing in that way without any authority of law at all.

Mr. MONTGOMERY. The resolution is just exactly as I stated, except that the office of Secretary of the Interior was created afterwards; but it produces precisely the same result. It is in these words:

"That there be prepared by the procurement of the Clerk, for the use of the House and the Committee thereof on Public Lands, a map of the public lands in each State, showing the state of the survey, and also what has been sold; that the same be prepared under the supervision of the Commissioner of the General Land Office," &c.

Now, after the date of that resolution, an act of Congress was passed creating the office of Secretary of the Interior, and giving him the control possessed previously by the Commissioner of the General Land Office, and placing him at the head of that particular Department. The work was to be done by the clerks operating under the supervision and control of the Commissioner of the General Land Office. The Secretary of the Interior was afterwards given control over him; and I now ask why it is that the Secretary of the Interior, as gentlemen say, has not complete control over the clerks, and over the Commissioner himself? The Commissioner is but his creature, and under his control, and the clerks are under the control of both; and yet we are told gravely by

the Secretary of the Interior, in his report, that they may communicate their information improperly. I deny it. They dare not do it for a single moment; and, further than that, they have never done it. There is no instance where any communication has gone abroad in that way.

Mr. J. GLANCY JONES. I ask my colleague if the Secretary of the Interior has not recommended a repeal of that resolution? My colleague knows that the Secretary of the Interior would never recommend a disregard of law, by merely refusing to pay a debt of the Government. And I wish to state further that the proposition now is merely to refuse to pay such debt. If it is stricken out of the appropriation bill, the effect will be that the Clerk will still have to appoint these men, and the work will be done; and next year you will owe these gentlemen that amount of money, and must pay them or repudiate the debt. The remedy is to repeal the resolution.

Mr. MONTGOMERY. I desire to say, if I can get along without these interruptions, that I will examine that matter. In the first place the Secretary of the Interior sent this communication to the Committee on Public Lands. I say he made a palpable mistake in his communication. But, sir, this is not the proper time to investigate this question, and I would suggest to the gentleman from Ohio that he should withdraw his amendment, for the reason that there is a report to be made by the Committee on Public Lands, which embraces this whole question. In that report there is a recommendation made that the force be reduced to a certain number. When that report comes in, then this question will arise, and, of course, although we may pass the general appropriation, if the clerks are not employed they will not be paid. When that question arises we will have all the information before us, and can discuss it freely and fully. But at the present time the information is not before the House. We have not the light necessary to an understanding of the subject. When that report comes in there will be no difficulty in understanding it.

Mr. STANTON. In response to the gentleman from Pennsylvania, I will say that I will withdraw my amendment if he or some other gentleman will offer an amendment changing the amount to be appropriated, so as to provide only for the reduced force, as recommended by the Committee on Public Lands.

Mr. MONTGOMERY. If the gentleman will modify his amendment in that way, it will be all right.

Mr. STANTON. I am willing to trust the matter to the committee which has charge of the subject.

Mr. MONTGOMERY. I desire to say, in order to prepare the mind of the House for the investigation of this subject hereafter, that I deem this work indispensably necessary. You might as well send a boy to school, and tell him to study geography without giving him the use of a map, as to appoint a Committee on Public Lands, and require that committee to provide for appropriating lands to build railroads, and so forth, and report information to you in reference thereto, without giving them these maps. There was an old system in vogue many years ago, in which the earth was described and geography taught merely by written or verbal description, the eye grasping no picture of the countries; and the man who studied geography in that way was never perfect; but when you go into the room of the Committee on Public Lands and cast your eye upon these maps, at one single glance you see every acre of land that has been donated by Congress for the construction of railroads or for any other purpose of a public character. Every acre that has been thus appropriated is marked there.

Mr. RUFFIN. Will the gentleman allow me to ask him a question?

Mr. MONTGOMERY. Certainly.

Mr. RUFFIN. I wish to know of him if there is, at this time, a single one of these maps in the room of the Committee on Public Lands? if they were not left in the old committee-room amongst the rest of the useless lumber?

I wish to ask the gentleman, further, if the draughtsman whom we had before us did not state that the work was not up to date? The gentleman says that you may see upon these maps all the land that has been donated by Congress. Now, there was a donation to Minnesota, and I

understand that there is no map showing those lands.

Mr. CLEMENS. Will the gentleman from Pennsylvania allow me to ask him a question?

Mr. MONTGOMERY. Sixty, if you wish.

Mr. CLEMENS. I wish to "account for the milk in the cocoa nut." Has not the gentleman got an appointee—some gentleman from his district—in this particular department?

Mr. MONTGOMERY. Not a man. I never got an appointment from the Clerk. I was so unfortunate as to receive none. No, sir; there is no appointee of mine there.

Mr. WALBRIDGE. The gentleman from North Carolina [Mr. RUFFIN] says that there is no map of Minnesota Territory. I wish to say to him that the Territories are excluded by the resolution of the House in reference to furnishing maps.

Mr. RUFFIN. Certainly they are. That is what I stated.

Mr. MONTGOMERY. The resolution embraced the States only, and maps have been prepared exhibiting clearly and satisfactorily all the public lands which have been donated to the States. Of course, they are never up to date, because it is a month or two before we receive communications from the Land Office as to the lands selected. But as soon as it is possible the information is placed upon the map for the benefit of every person who chooses to inspect it.

The gentleman from North Carolina says that these maps have not been brought from the old committee-room. We moved about two weeks ago; and because these maps have not yet been transferred from the old to the new committee-room, that is to be made a grave argument upon this floor against the continuance of this system! They are there in the old committee-room, and are valuable property. They give intelligence that can be procured from no other source. They are indispensably necessary to the acquisition of that information which is requisite to the proper understanding of any question that comes before us in relation to the public lands. You can see upon these maps every acre that has been sold, every acre that has been donated, every acre of swamp lands, every acre that has been granted to the States, just as clearly as you can see the rivers and cities upon a map of the world. Is it of no importance that this information should be placed within the reach of the committee at a single glance of the eye? Or are we to have to go to the General Land Office for information whenever we are called upon to appropriate public lands? I say that the maps are of the highest importance and indispensably necessary; and if any gentleman doubts it, let him examine them for himself.

Talk about economy, indeed! Sir, I have no respect for that kind of economy that is always attacking the salary of the poor laboring man that desires to clutch the pittance from the man who earns his daily bread in one of your Clerk's offices. You are expending millions in prodigal extravagance of every kind, and yet, no man steps forward to stop the great leak, but when the salary of the poor man, who toils for his bread and has a family dependent on his industry, is in question, why, then we hear about economy.

Mr. STANTON. I will withdraw my amendment, and move to strike out \$25,000, and to insert \$17,800 in lieu of it. I understand that that is the amount which will be required to meet this expenditure under the action of the majority of the Committee on Public Lands. The salaries of the clerks with whose services the committee propose to dispense, amount to \$7,200.

Mr. J. GLANCY JONES. I wish to ask the gentleman how many of the clerks he proposes to dispense with?

Mr. STANTON. I am informed that the committee propose to dispense with the services of clerks whose salaries amount to \$7,200.

Mr. J. GLANCY JONES. How many of the nine clerks does that dispense with?

Mr. STANTON. I do not know. I only know that their salaries amount to \$7,200.

Mr. COBB. Mr. Chairman, I have been endeavoring for some time to obtain the floor, in order that I might present this case precisely as it stands. The resolution of 1848, under which these clerks were appointed, has already been read. The resolution of the House of January 18, 1858, referring this question of the continua-

tion of these clerks to the Committee on Public Lands, is as follows:

"Resolved, That the Committee on Public Lands inquire into the expediency of repealing or modifying the resolution of the 4th of May, 1848, directing the Clerk to procure maps of the public lands in each State, and directing that said maps be revised and extended after each session of Congress."

We have had the subject under consideration, and have been ready to report upon it for several weeks, and I might almost say months, as we have also been ready to report upon much other business that has been referred to the committee.

The members of the Committee on Public Lands have now a large number of bills which they are also ready to report to this House, bills which look to practical and beneficial legislation. I have a resolution to report, by instruction of that committee, in reference to these very map clerks, but as yet I have had no opportunity to do so.

Mr. Chairman, the question as to what action the House should take in reference to these map clerks lies in a nutshell. The information which I have from the Departments I will present, and ask that it may be read as a part of my speech. When the Clerk has read the letters which I will send to him I will make some commentaries upon them, and show what action is proposed by the Committee on Public Lands.

The Clerk read the letters, as follows:

CLERK'S OFFICE, HOUSE OF REPRESENTATIVES.

SIR: Your note, asking my views of the repeal or modification of the resolution of May 4, 1848, directing the Clerk to procure maps of public lands, &c., is received.

In reply, I have the honor to state, that the necessity of a continuance of that work will be better understood by the Public Lands Committee than the head of this office.

I will only say that, if the work is to be continued, a less force than is now provided for by law cannot keep it up, unless the quantity of lands coming into market, and being sold and otherwise disposed of, should be greatly decreased, which is not very probable for some time to come.

If the work is continued, it ought to be kept as near up to date as possible, which, if done, will require the present clerical force.

I have the honor to be, very respectfully, &c.,

J. C. ALLEN, Clerk.

Hon. W. R. W. COBB, Chairman.

GENERAL LAND OFFICE, February 8, 1858.

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant, inquiring, on behalf of the Committee on Public Lands, whether in my opinion,

1st. "The construction of the maps of the States now being constructed under the resolution of the House of Representatives, of the 4th of May, 1848, is necessary;" and whether it would be better to have them constructed under the direction of this office, or the Clerk of the House?

2d. How many clerks are required to perform that labor, and whether similar maps of the Territories should not also be prepared?

3d. "How much of the time of the nine clerks on the work during the last Congress was bestowed on the execution of the same?"

In answer to the first inquiry, I have to state that in the opinion of this office, the construction of these maps is not necessary; certainly not to this office, in the preparation of answers to calls from the House or committees, our statistics and data being prepared wholly irrespective of those maps, and without reference to or reliance thereon; but if a different view than this be taken, the work, in the opinion of this office, should be done under the entire control, and by appointees of the Secretary of the Interior.

To the second inquiry, it is the opinion of this office, that if the work is continued, the number of employees should be limited, so as not to exceed three* in number, and that it should embrace the Territories.

To the third inquiry, I inclose herewith a copy of Mr. A. R. Parker's letter of this date, representing that the time, equal to the labor of six clerks, was occupied on this work within the given period mentioned.

I beg leave to add that the present arrangement is one of great inconvenience to us, as we have no control over the clerks employed in this business, and who have free access to books and papers not allowed to any other persons, and consequently without any responsibility in the matter to the Department in charge of the land archives and the administration of the public lands for which it is responsible.

With great respect, your obedient servant,

THOS. A. HENDRICKS,

Commissioner.

Hon. W. R. W. COBB, Chairman of the Committee on Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR.

WASHINGTON, February 11, 1858.

SIR: The Commissioner of the General Land Office has prepared his reply, dated the 8th instant, to your letter of the 4th instant, addressed to him, in which you propounded certain inquiries concerning the employment, under provisions of the act of Congress of May 4, 1848, by the Clerk of the United States House of Representatives, of persons who perform their duties in the General Land Office, and who have free access to the records and files of that office.

* Mr. Parker, in charge of this matter, as I am orally informed, is of opinion, that in ordinary times four clerks would be sufficient, but that in view of the railroad grants, he could employ a dozen if he had the room, for a short time.

His reply has been submitted to me for transmission to you, which is accordingly done; and I take occasion to state that the sentiments of his letter are fully approved and concurred in by me.

By the act of Congress of July 4, 1836, the clerks and officers of the General Land Office are "prohibited from directly or indirectly purchasing, or in any way becoming interested in the purchase of the public lands;" and to insure integrity and attention to business, regulations have also been adopted, from time to time, forbidding officers and clerks of the Department from availing themselves of special information obtained in the line of official duty, for purposes of private speculation.

The persons employed by the Clerk of the House of Representatives in the General Land Office are not subject to the same laws and regulations and liable to the same penalties; nor are they accountable for the manner in which they use the records and files of the Land Office, to the officer charged by law with their custody.

In this there is manifest inequality, impropriety, and injustice. The arrangement is one tending to confusion and delay in the discharge of the regular business of the Land Office; and exposes the Department to the risk of any odium that might ensue from an abuse of position, in a case in which it has not the proper corrective power.

When we consider that the arrangement alluded to involves a manifest departure from the general plan of organization of the legislative and executive branches of our Government under the Constitution, it is evident that the business provided for by the act of 4th May, 1848, should be intrusted by law to the executive authority, or at once abandoned.

Very respectfully, your obedient servant,

JNO. THOMPSON, Secretary.

Hon. W. R. W. COBB, Chairman of the Committee on Public Lands of the United States House of Representatives.

Pending the reading of the papers, Mr. MONTGOMERY said: Mr. Chairman, are all these papers pertinent to an appropriation to carry out an existing law?

The CHAIRMAN. If objection be made the Chair will rule that it is not in order to have them read by the Clerk.

Mr. COBB. Then I will read them myself; but I think the Clerk had better read them, as he can do it more satisfactorily.

Mr. MONTGOMERY. It will be time enough to have these papers read when the committee makes its report.

Mr. LEITER. I trust that the gentleman will go up to the Clerk's desk, and read the papers himself. Let us have light on the subject.

Mr. COBB. There is no further objection to the reading of the papers, I presume.

The Clerk then read the letters through.

Mr. COBB. After receiving those letters, and going into a full investigation of the subject, the Committee on Public Lands instructed me to report this resolution:

Resolved, That there shall be maps of the Territories as well as of the States constructed under the resolution of the House of the 4th of May, 1848, and that there shall not be more than two draughtsmen and three clerks employed upon said maps after the 30th of June next.

That resolution does not entirely conform to the view which I entertain, but I am compelled to submit.

Mr. Chairman, my worthy colleague on the Committee on Public Lands, has gone all over this subject. He commenced as far back as 1848, and came down to the present session of Congress. It will not be improper for me, then, to refer to the subject briefly. The resolution authorizing the employment of this clerical force was passed, as has been already stated, in the year 1848. It was reported from the Committee on Public Lands by Mr. COLLAMER, who was its chairman at that day. The Executive Administration was Democratic, but this House was in the power of the old Whig party, the real, out-and-out, simon-pure Whig party. The appointment of these clerks was given to the Clerk of the House of Representatives, in order that the patronage created under the resolution should be enjoyed by the Whig friends of the majority of the House. After a while, the Democratic party came into power in this House, and proposed no change in the law, but allowed Democrats to supersede the Whigs who had been previously appointed. At the last Congress, the majority of this House was Republican; and however much I might have desired a change in the law, and to have placed the appointment and control of these clerks in the Secretary of the Interior, while this patronage was about the only patronage that party had, I stood no chance of accomplishing that object. We have now in the Committee on Public Lands six anti-Administration men and three Administration men, and they have recommended the adoption of the resolution I have read. It is for the House to adopt that report.

Mr. STANTON. What do you mean by anti-Administration men?

Mr. COBB. I refer to some who have gone off on the Kansas question.

In my view of the question, I am sustained by the Secretary of the Interior and the Commissioner of the General Land Office. There ought to be some efficient control of these clerks. There is no penalty attached now to their use of the information they may gain of the public lands. There ought to be such a penalty, we all admit, and I hope that matter will be provided for when the question comes up in the House.

Mr. MONTGOMERY. Will the gentleman permit me to ask him a question?

Mr. COBB. I wish it understood that when I have the floor I want to go on in my own way. It has been my misfortune to be constantly interrupted whenever I get up to address the House. I do not care to be interrupted now.

When the resolution of 1848 was passed, the maps of all the land States were perfectly blank. The then Whig Administration appointed three clerks and one draughtsman for the purpose of marking off the lands taken in the several States; and that force proved to be quite large enough for the purpose. Since then, the maps of three or four States have been almost entirely covered up. The map of Ohio has but few blank spots upon it. In Indiana, there are but few tracts of public lands vacant; and it seems to me that if four clerks were enough for the performance of these duties when they were first appointed, five ought certainly to be enough now, although we have agreed to a resolution to extend this work to the Territories.

Now, in regard to the utility of the work, I must differ, to some extent, with my friend from North Carolina—my colleague on the Committee on Public Lands—[Mr. RUFFIN.] I always believed that this work was necessary for the guidance of the Committee on Public Lands, and of the House. When propositions for giving lands to railroads are under consideration, the information supplied by this work is absolutely necessary, to enable us to arrive at something like correct conclusions. We have no such bills before us this session for any of the States that have heretofore received grants for railroad purposes, and therefore we have had no use for these maps. I am satisfied that these maps ought to be kept up, although I believe that no more grants of lands for railroad purposes will be made to such State.

Mr. MONTGOMERY. I desire to say to the gentleman from Alabama that his count of the Committee on Public Lands is not correct; because, if voting against the Administration, or against some measure recommended by the Administration, places us on the list of anti-Administration men, the chairman of the Committee on Public Lands himself [Mr. Cobb] is on that list, as he voted against the deficiency bill. [Laughter.]

Mr. COBB. I used that language more playfully than seriously. If I should soon again have occasion to make another speech, and to analyze the elements of the Committee on Public Lands, I would probably make a different report. But now I will answer the gentleman from North Carolina, [Mr. RUFFIN.]

Mr. RUFFIN. I want the gentleman to explain this state of facts: It is stated that these maps are behindhand in the different States—that in some of the States they are behindhand so far as four or five months. Is that so? If it be, of course they can be of no benefit to us at this session. The gentleman also speaks of there being no proposition now before the Committee on Public Lands for grants for railroad purposes in any of the States. I would ask the gentleman if there is not an important measure now before that committee relative to a grant of lands, or a sale of lands, for railroad purposes in Iowa, on an entirely new principle?

Mr. COBB. We have such a proposition before us. But, so far as that is concerned, we need not have these maps marked out up to date, for the reason that the proposition inaugurates quite a new principle in the mode of donating public lands. It proposes that the corporators in this railroad shall pay the Government price of \$1 25 an acre for the land they get, within a certain length of time. The more they get, the better for the Government.

Mr. LETCHER. I call the gentleman from

Alabama to order. He has no right to disclose the secrets of the committee.

Mr. COBB. I know, sir, that it is rather out of order. [Laughter.] Now, sir, I believe that if the proposition of the gentleman from Ohio [Mr. STANTON] be adopted, to reduce the appropriation to \$17,800, it will meet the views of the majority of the Committee on Public Lands, who are most decidedly of opinion that two draughtsmen and three clerks are all that are required to keep these maps.

Mr. BILLINGHURST. At that point I desire to ask the gentleman from Alabama a question.

Mr. COBB. Oh, yes; I can answer it, I am sure; but do not put too hard a one. [Laughter.]

Mr. BILLINGHURST. It is pertinent to the line of argument which the gentleman is now pursuing. I understood the gentleman from Alabama to say that the Committee on Public Lands have agreed to report in favor of reducing this force to two draughtsmen and three clerks. If that be so, how can this appropriation of \$17,800 be necessary?

Mr. COBB. Oh, this same clause provides also for temporary clerks, clerks to committees, &c.

Mr. BILLINGHURST. Then the whole of it is not intended to go to these draughtsmen and map clerks?

Mr. COBB. Oh, no. The proposition of the gentleman from Ohio covers the whole ground, and I do not deem it necessary to trouble the House with any further remarks on that subject.

A MEMBER. Give us a speech on Kansas.

Mr. COBB. I do not believe I shall give you a Kansas speech, although I have been exceedingly anxious during the session to make one. I fear that, in all probability, I might get into too deep water, as I do not understand the exact turn that politics may take here. [Laughter.] I will wait till the bill comes in for the last time.

Now, in reference to my making a speech, I desire to say that I am determined, in all my speeches upon this floor, to confine myself to matters of practical legislation. When I say this, I appeal to the committee to sustain me in the declaration, that whenever I have occupied the floor, I have not spoken except to the question before the House. The committee, too, will bear in mind that every word I have uttered during the present Congress has not occupied more than seventeen minutes. I have made a very accurate calculation. [Laughter.]

A MEMBER. Except your speech to-day.

Mr. COBB. Oh! of course, excepting to-day. Now, by a rule of the House of Representatives, passed upon the motion of the gentleman from North Carolina, [Mr. CLINGMAN], at an early day of the session, the Committee on Public Lands cannot make their reports, after that committee have been once passed, until all the other committees are called again. Now look at the bundles of papers I have here [here Mr. Cobb held up to the view of the committee two large bundles of papers] containing favorable as well as unfavorable reports. You will see that it must require an immense amount of labor to arrive at anything like a correct conclusion, and to ascertain the facts in relation to the subject-matters contained in all these papers. And I now, Mr. Chairman, admonish the House through you, to proceed to the regular order of business every day, advancing as rapidly as possible, in order that the Committee on Public Lands may be called again, so that we may present some subjects which call for legislation. If we cannot be heard, we will be unable to report several bills in these bundles, which have been recommended as necessary and important to be passed, in order to facilitate action in reference to our land system in the West.

I was going to state that, so far as practical legislation is concerned, the distinguished Committee on Public Lands, composed of the materials to which I have referred, in all probability have done more hard work, have investigated more complicated questions, and are now ready to make more reports than any other committee of the House. [Laughter.]

Mr. LETCHER. Mr. Chairman—

Mr. COBB. I was coming to the case of my friend from Virginia. Unlike the Committee of Ways and Means—that distinguished committee which is held up as the most important committee of this House—I take pleasure in saying that

the Committee on Public Lands is the most important committee in the House. Why? The vast questions which relate to our public domain must necessarily come under our supervision. We are bound to examine the laws, and see what defects there may be, and to ascertain the causes of the difficulties which so often embarrass the settlers upon our public lands. Our committee have labored faithfully, and we are now prepared to present a large mass of matter for practical legislation.

Mr. GREENWOOD. I rise to a question of order. The distinguished chairman of the Committee on Public Lands is blowing his own horn, and he has no right to do so. [Great laughter.]

Mr. COBB. How does the Chair decide the point of order? [Renewed laughter.]

The CHAIRMAN. That the gentleman from Alabama has the floor, and has the right to proceed.

Mr. COBB. I thank the Chair for that much liberality.

Now, I will say to the gentleman from Virginia, [Mr. LETCHER,] and to my friend from Tennessee over there, [Mr. JONES,] who, I see, is looking rather cross at me just now, [laughter,] that, so far as the action of the Committee on Public Lands, up to this day, is concerned, they need not fear any action which will be taken by that committee; for I expect that, when they come to examine the matters reported by that committee, they will vote for nine out of ten of them. Therefore, they need not have any fear of our committee ruining the Government. We are going to make it a model committee.

But to return to the Committee of Ways and Means. It is held that the Committee of Ways and Means is, perhaps, the most important committee of the House. It is an important committee, but what are the duties of that committee? They have all the estimates sent to them, and they have to examine them. Their labors are arduous I know. But so far as the duty of investigating questions is concerned, they have scarcely nothing to do, unless in the case of some improper appropriations now and then. There was a bill from that committee before us a few days ago, and I chose to vote against it on account of an appropriation which it contained. And I take the liberty now to state that it was not on the ground that it was an appropriation bill to carry on the Utah war. I would vote for that to-day, if it were cut loose from everything else. Some of my political friends voted against it too, and the Union read us out of the party. But I would have voted for that particular appropriation if left by itself.

Well, unlike the Committee of Ways and Means, as I was saying, we have to take into consideration everything connected with the land laws. We have to inquire into the practical workings of the mode of disposing of our public lands. Sir, you must be aware of the importance of that committee, and the labor necessarily imposed upon it. These are duties which no clerk can discharge. Each case must be investigated by the members of the committee, and I can assure you that we have had a heavy amount of labor to perform. I do not want to attach any particular honor to being chairman of the Committee on Public Lands. [Laughter.] It would be unparliamentary to do so. I am now ascribing to my worthy colleagues on the committee the honor to which I believe they are entitled. They have done their work manfully. They have endeavored to act properly upon such cases as have been referred to them. They have given them a fair consideration, and have been waiting for weeks for an opportunity to report. But, if the regular order of business is not insisted upon, we shall not be able to report upon another case this session.

It rust, sir, that the regular order of business will be insisted on every day during the morning hour, and that the call of committees will be continued until we come down again to the Committee on Public Lands, when we may have an opportunity to disgorge some of these papers with which our desks are now filled.

I have here, sir, ready to report, a bill in which every member of the House is interested, or at least in which some of the constituents of every member of the House are interested. I made an application to the Speaker the other day, when the committees were being called for reports of a private character, to know whether a general bill,

founded upon private applications, could be received under that call. I knew it was not in order, but inasmuch as I design to ask the House to put the bill upon its passage when I report it, I determined to bring it to the notice of the House; and there was no other way in which I could do it. The bill was printed in the Globe, in the proceedings of the House of Friday last, for the benefit of members. I shall ask the House to put that bill upon its passage. I have only asked two similar favors this session, and each time the gentleman from Ohio [Mr. GIDDINGS] has objected. I now appeal to the gentleman, in advance, not to object in this case.

Mr. GIDDINGS. I desire to ask the gentleman one question. Can the gentleman inform us when the committee of conference on the Kansas bill is going to report? [Laughter.]

Mr. COBB. Yes, sir, I think I can, if the gentleman will answer me one question, first. It is a Yankee mode of answering, but I am not a Yankee; I was born in Tennessee and raised in Alabama; and I want it to be understood that I am representing the people that raised me. [Laughter.] If the gentleman will answer me one question, I think I can tell him when the committee of conference will report.

Mr. GIDDINGS. I will if I can.

Mr. COBB. When will the difficulties between the Democrats and the few anti-Lecomptonites be settled so as to harmonize the party?

Mr. GIDDINGS. As soon as we Republicans get the Government. [Laughter.]

Mr. COBB. Whenever we have settled our difficulties you may look for a report; and my opinion is that you need not look for one until that is the case.

[Here the hammer fell.]

Mr. LOVEJOY moved that the committee rise. The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SEWARD reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly House bill (No. 62) making appropriations for the support of the Military Academy for the year ending 30th June, 1859, and had directed him to report the same to the House without amendment, and with the recommendation that it do pass; also, that the committee had had under consideration House bill (No. 200) making appropriations for sundry civil expenses of Government for the year ending 30th June, 1859, and had come to no conclusion thereon.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, informing the House that the President of the United States had, on the 19th inst., approved and signed bills of the following titles:

An act to authorize a register to be issued to the steamer Fearless; and

An act for the relief of the owners of the bark Attica, of Portland, Maine.

Also, that the Senate had passed a joint resolution authorizing the Secretary of State to audit and settle the accounts of the contractor for the erection of the United States Marine Hospital at San Francisco, California; in which he was directed to ask the concurrence of the House.

MILITARY ACADEMY BILL.

The House proceeded to consider the bill making appropriations for the support of the Military Academy.

Mr. J. GLANCY JONES demanded the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed, and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CLOSE OF DEBATE.

Mr. J. GLANCY JONES. I offer the usual resolution to close the debate in Committee of the Whole on the state of the Union upon House bill No. 200—the civil appropriation bill—in one hour after its consideration shall be resumed.

Mr. WASHBURN, of Maine. I move to strike out one hour, and insert three hours.

On motion of Mr. CLAY, (the House then) at half past four o'clock, p. m.) adjourned.

IN SENATE.

THURSDAY, April 22, 1858.

The Journal of yesterday was read and approved

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with the resolution of the Senate, information relative to the condition of the United States ship *Susquehanna* on her arrival at the Island of Jamaica, and the reception and assistance extended to her officers and crew by the British authorities in that island; which was, on motion of Mr. MASON, referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a report of the Secretary of State, communicating, in obedience to law, a statement of the commercial relations of the United States with foreign nations for the year ending the 30th of September, 1857.

Mr. PUGH. I move that the communication be referred to the Committee on Printing. I am strongly of the impression that we are going to have another book out of it.

Mr. IVERSON. It should be referred to the Committee on Commerce.

Mr. PUGH. I have no objection to that; but if there is a motion to print, I want that to go to the Printing Committee.

The document was referred to the Committee on Commerce; and a motion to print it to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented the memorial of Ann Gratiot, widow of Brevet Brigadier General Charles Gratiot, late of the United States Army, praying to be allowed his pay and emolument as colonel and chief of engineers of the Army, from the date of his dismissal to the time of his death; which was referred to the Committee on Military Affairs and Militia.

He also presented the petition of George A. Wheelock, for himself and the other heirs of Joseph Villere, deceased, praying the reference of their claim to the Court of Claims, and that the same may not be barred by limitations; which was referred to the Committee on Private Land Claims.

Mr. SEWARD. I present the answer and remonstrance of the American Telegraph Company to the memorial of the Magnetic Telegraph Company and the New England Union Telegraph Company, and the supplement thereto. This memorial and remonstrance complains that the papers against which they remonstrate do injustice to the company, insist that the measure which they seek is unjust, that it would bring the Government of the United States into conflict with State authorities in the regulation of private enterprise for the transaction of telegraph business; and that Congress have no power to pass such an act as is prayed for by the applicants. I move that this paper be referred to the Committee on the Judiciary. I ask that the memorial may be printed as the former memorial was printed.

It was referred to the Committee on the Judiciary; and the motion to print was referred to the Committee on Printing.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. PUGH, it was

Ordered, That the petition of J. B. Williams, in behalf of the heirs of Joseph Biggs, on the files of the Senate, be referred to the Committee on Claims.

REPORTS OF COMMITTEES

Mr. PUGH, from the Committee on Private Land Claims, to whom was referred the petitions of Hugh Ferguson and James Robb, asked to be discharged from their further consideration; which was agreed to.

BILLS INTRODUCED.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 29) to refer the claim of Joseph Villiere, deceased, to the Court of Claims; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 281) to secure a prompt construction of a line of telegraph from San Francisco to Fort Smith, and from thence to St. Louis and to Memphis; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

DUTIES ON THE ELBA.

Mr. SEWARD submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to communicate to the Senate such information as the Departments of the Government may afford concerning the nature, character, and extent of the State duties exacted from foreign vessels and merchandise, navigating the Elba, by the kingdom of Hanover, the grounds of such exactions, and the practicability and expediency of obtaining for American shipping and merchandise an exemption therefrom.

NORTH PACIFIC OCEAN.

Mr. SEWARD. I submit the following resolution, and ask for its consideration now:

Resolved, That the Secretary of the Navy be directed to furnish the Senate with an estimate of the cost of bringing up and preparing for publication the surveys of the late expedition to the North Pacific ocean, and Behning's Straits, for the fiscal year ending June 30, 1859.

Mr. PUGH. I object.

The PRESIDENT *pro tempore*. The resolution will lie over.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that it had passed a bill making appropriations for the support of the Military Academy for the year ending June 30, 1859; and a bill donating public lands to the several States which may provide colleges for the benefit of agriculture and the mechanic arts.

RELATIONS WITH PARAGUAY.

Mr. MASON. If there are no further reports from committees, I ask the Senate to take up for consideration the resolution that was unfinished yesterday, relating to the relations between this Government and that of Paraguay.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 28) for the adjustment of differences with the Republic of Paraguay.

Mr. COLLAMER. I move that the resolution be amended by striking out the words "and use such force." I do not know that I can secure any attention of the Senate to this resolution.

The PRESIDENT *pro tempore*. There must be less conversation in the Chamber.

Mr. COLLAMER. I made the suggestion not on account of the importance of any attention being paid to me, but I would desire that some should be paid to the resolution. Mr. President, the using of force, unless it be mere matter of defense, is war. The use of force to procure redress is war. Disguise it as we may, it is open, flagrant, war; and if the President be authorized by Congress, not merely as a matter of defense when our vessels are attacked, but offensively to use the military force, to draw up a frigate before a city and bombard it for the purpose of procuring redress of grievances, that is war; and I apprehend the honorable Senator from Virginia looks upon it in that light, because he moved to amend it so as to make it a joint resolution, that is, to make it a resolution by both Houses, and acceded to by the President, declaring war.

Now, sir, I do not know, it is not necessary that I should now say, whether there be sufficient reasons shown to us to convince us that we have cause of war, and should declare war against Paraguay or not. The point I am after is this: I insist upon it that Congress, by the Constitution, alone has the power to declare war. I insist, as a matter of constitutional law, that Congress has no power to authorize the President to commence a war at his discretion. They have no such power, and it is an assumption and abuse of the authority which is given by the Constitution. I know that Congress may declare war against Paraguay, but I deny that they can say that the President shall have the right to commence war against Paraguay when he thinks proper. Is not that the proposition?

Here is Paraguay, one of the members of the

Argentine Confederation. The precise terms of that confederation I do not know; but I know that the different members of the confederation are frequently at almost open war with each other. We have a treaty with Paraguay, and therefore Paraguay is a nation which we acknowledge as a civilized people. We reciprocate with them, if you please, diplomatic representation. We have formed a treaty with them. It is true, that treaty was not ratified on their part, for a very good reason, because it was kept in the hands of our own commissioners at Buenos Ayres until the time for its operation had expired; and it was never presented to them. I merely mention the fact of our having made such a treaty to show that we recognize them as a civilized people and nation. There have been, as we say, outrages committed by them in firing upon one of our vessels in the river Parana, and also by some depredation upon the property of some of our citizens, who went there with their property at the invitation of that Government. These wrongs require redress. Shall we have it? To me, sir, it is a matter of astonishment that our Government seems to have utterly neglected the calling upon that nation for redress of grievances now for (I do not know exactly how long) three or four years already. The President informs us that he proposes to call upon them for satisfaction. It is right, and it should have been done long ago; but that is not the proposition now made to us. That he should attempt, and undoubtedly will attempt. But what is proposed here? That the President shall be clothed with authority to settle our difficulties with Paraguay, and that he shall use such force as he thinks proper. That amounts to this: you may go to Paraguay, make a demand for satisfaction of these grievances, and if they do not offer the satisfaction which the President thinks proper, he shall bombard their cities and towns, and he may use the Navy and the Army, land upon their shores, and use, under this resolution, the force of the Government to any extent he thinks proper, and upon whatever contingency he thinks proper.

Is not that obviously authorizing the President to commence a war in his discretion? I insist upon it that that is not a proper exercise of the authority of Congress in relation to the subject of war, and that there never was anything of the kind done in this Government before. I do not say that a precedent for it cannot be produced, but I say it will be very extraordinary, if one can be found; and I say that such action as this ought not to be taken by the Senate without a precedent. Take the most enormous outrages you can imagine in our history. When Great Britain fired into our frigate Chesapeake, did Congress authorize the President to exercise force against them? Never at all in any period of our history, in any outrage which has ever been committed upon our people, or the property or dignity of the nation, was a step of this kind taken. I know that the President has directed the naval officers, in relation to barbarous people, to go to the Feejee Islands and burn down their villages, when he thought proper to obtain redress of grievances for outrages of theirs committed on our people, on their lives, their property, and their ships. I know that has been done with barbarous and uncivilized people. I know that they bombarded Greytown as being a nest of pirates, or something of that kind, not recognized as having a national existence. But, sir, in relation to a civilized people, a people with whom we have reciprocated diplomatic relations, with whom we have now a consul residing, that you should authorize the President of the United States to use the Army and Navy of the United States to commence a forcible war upon them, in his discretion, when he shall think proper, is entirely unprecedented in our history.

I do not mean hereby to disclaim that redress should be obtained. The President should make proper application for redress. We are not, however, so infallible on this subject, but that it is possible, after all, they may make good excuse for what they have done. Our information is altogether *ex parte*; we have heard but one side. But, sir, suppose we cannot, and suppose they do not. The President holds his intercommunication through his proper organs with them; hears their story, receives their offers. If they are insufficient and unsatisfactory, he rejects them. He exhausts all the means which he has, by peaceable efforts I mean, to obtain redress. Then he should

report to Congress that he has exercised all the power that he has to obtain satisfaction, and has not obtained it, and show us what he has done; what their excuses were; what their offers were, that we may judge whether the time has come to use force, and proceed to open war; but that should be in the discretion of Congress after negotiations shall have been exhausted. Hence that portion of the resolution in relation to using force, I desire to have stricken out.

Mr. MASON. The honorable Senator from Florida, [Mr. MALLORY,] who spoke to this question yesterday, suggested that it would be expedient and right, in his judgment, to send a minister, or a diplomatic functionary of some character, to the Government of Paraguay, with a view to institute negotiations for the purpose of redressing the very wanton insult that has been inflicted upon our Government and our people, not only by firing into a public ship without warrant or authority, but in killing one of the men there engaged in public duty. The honorable Senator from Florida thought that all this could be effected simply by sending a minister there, competent to speak the language of that people, and instructed to use terms of kindness and conciliation. His idea was based, as I understood that honorable Senator to say, on some sources of private information which he had, and which were unknown to the Senate. The President of the United States, who is charged by the Constitution with the executive functions of the country, has recommended otherwise, upon official information that he has laid before the Senate. That official information is, that whilst we had one of our public ships there upon a peaceful mission, and in waters not under the jurisdiction of this South American Republic, after the kindest intercourse had previously subsisted between the commander of that ship and the President of the Paraguayan Republic, without notice and without warrant, it was fired into. What the President of the United States proposes, is not that we should send an armament there for the purpose of making war upon this predatory Republic, but that we should demand from them proper and adequate redress; and if it was not extended, then that he should have authority to use whatever force might be necessary to compel them to extend it. That is the recommendation of the President. The language of the annual message is this, after stating this aggression:

"Citizens of the United States, also, who were established in business in Paraguay, have had their property seized and taken from them, and have otherwise been treated by the authorities in an insulting and arbitrary manner, which requires redress."

"A demand for these purposes will be made in a firm but conciliatory spirit. This will the more probably be granted, if the Executive shall have authority to use other means in the event of a refusal. This is accordingly recommended."

Now, the honorable Senator from Vermont [Mr. COLLAMER] objects to that part of the resolution which contemplates, in the contingency mentioned, the use of force, and moves to strike it out, because he says that is war. I might deny the proposition of the honorable Senator. It would be hostility, if you please; but it would be hostility returned after hostility commenced on the part of the other Government, and done, of course, under the sanction of Congress. Take the account that was given by the officer in command of that vessel, Lieutenant Jeffers, of the attack that was made upon the steamer *Water Witch*, under his command. In his official report to Commander Page, (the commander of the ship, who was absent from it at the time,) dated on board the *Water Witch*, at Corrientes, the 2d of February, 1855, he says:

"On arriving within three hundred yards, [going up the river,] I was hailed by a person who, I am informed, was the Paraguayan admiral; but I did not understand the import of the hail. Two blank cartridges were then fired from the fort in quick succession, and followed by a shot. I had given particular orders that no shot should be fired, except in return, and then only by my directions; and, on receiving this first fire, I directed a general fire in return."

"The first shot of the enemy carried away the wheel, cut the ropes, and mortally wounded Samuel Chaney, the helmsman. A bar was soon shipped, and the vessel steered by it, but with some difficulty, on account of the rapidity of the current. In a couple of minutes after the action had commenced, the pilot deserted his station, and hid himself behind the engine-house. Dragged up thence by Mr. Potts, on looking around him he exclaimed, 'We shall certainly ground, as there is not sufficient water in the channel.' By this time we had run past all the guns of the battery except one; and on learning the state of things, I left the bow gun, which I had been directing, which was no longer serviceable, and took the deck. The pilot, whom I had again to force up to his station, in a high state of excitement, repeat-

edly exclaimed, 'We shall be aground in a moment,' insisting that we could not pass up. The vessel being then in ten feet water—drawing nine—I was reluctantly compelled to back down past the battery, exposed to a severe fire, which, from the position of the vessel being nearly bows on, I could not return. On getting out of range I anchored, repaired damages, and filled more ammunition, having observed the Paraguayan war steamer Taquari firing up."

Now, sir, if there be war, that war has been begun; it is not to be commenced by the passage of this resolution. There was hostility and bloodshed emanating from this Power with whom we were at peace, and within whose jurisdiction our ship was not at the time when the fire was returned. I certainly should be, as much as the honorable Senator from Vermont or anybody else, against investing the President with power at his discretion to involve this Government in war with any Power, strong or weak; but I know that honorable Senator would be the very last man amongst us who would give any countenance whatever to an aggression of this kind—not only insulting, but accompanied by the shedding of blood and the loss of life by one of our countrymen, under the protection of the flag of his country, and in a foreign water, without provocation, without cause. It is proper, certainly, that, if the President is to act as contemplated by the resolution, if redress should be refused, that he should be authorized to accompany the demand by whatever force he may think necessary to compel justice to be extended.

The honorable Senator said yesterday that the usual course in matters of this kind was for the Executive to make a proper demand for reparation; to enforce it by all possible means in his power; and, after he had exhausted such peaceable measures, if ineffectual, to lay the matter before Congress for its consideration. All the facts of this case have been laid before Congress. We have no minister in that country; we have no diplomatic functionary whatever, and no representative of this Government there.

Mr. COLLAMER. We have at the Argentine Republic.

Mr. MASON. This is not one of the Argentine Confederation. The Argentine Republic is on the opposite side of the Parana river. This is the Republic of Paraguay.

Mr. COLLAMER. Paraguay is one of the members of the Argentine Confederation.

Mr. MASON. Not as I understand it.

Mr. COLLAMER. It is so.

Mr. MASON. It may be so. I have not looked into the varying condition of those countries; but it is stated here as one of the facts of the case, that when Commander Page was on the spot the Province Corrientes, which was one of the Argentine Confederation, was on the opposite side of the river; and that it was under the invitation, public and private, of the Argentine Confederation, that he went up the river Parana.

Mr. COLLAMER. Paraguay is one of the members of the Confederation.

Mr. MASON. I question that still. The language used by Commander Page in his official report to the Department, disclaims that idea, and I suspect he is right. He says this:

"Here is one channel of a river, the common boundary between the Argentine Confederation and Paraguay, claimed by the Government of Paraguay as her exclusive right, because it is more on the Paraguay side of the river; while, with magnanimous generosity, the channel on the Corrientes side, if there be one, is by the same Government declared 'free to all the world.'"

He then goes on to say that this river is the common boundary between these two separate Governments, and that unless by compact it is restricted, they have, by public law, a joint navigation of the river. I think the honorable Senator is mistaken and misinformed, therefore, when he assumes that the Republic of Paraguay is one of the Argentine Confederation.

Mr. COLLAMER. We actually made a treaty with these very Paraguay people.

Mr. MASON. That is very true.

Mr. COLLAMER. Then we have acknowledged that they are a civilized people.

Mr. MASON. That is altogether a different issue. The very fact that we made a separate treaty with them shows that they were not under the Confederation, who alone would be authorized to make treaties.

Mr. COLLAMER. But we are not at liberty to treat them as a barbarous people.

Mr. MASON. That is a different question.

Mr. FESSENDEN. Will the Senator from Virginia be good enough to state what other cause of complaint there is against this Republic besides firing upon the Water Witch?

Mr. MASON. There is no other cause of complaint against this Republic except those which I have stated. The cause of complaint is that this steamer, the Water Witch, had been sent into the waters of the La Plata—

Mr. FESSENDEN. I understand that, but what other than that?

Mr. MASON. None other except her spoliation of the property of American citizens who were there within the Republic of Paraguay—a very large mercantile interest that had been sent out there, I think chiefly from Rhode Island, under invitations from that Government which are set forth in the correspondence, carrying out a large amount of property, several hundred thousand dollars, chiefly in machinery and implements of husbandry, and manufactures of various kinds, which had been set up there and put in successful operation; when, without cause and without notice, they were suddenly broken up and ignominiously expelled from the country, and their property sacrificed. But that is not the cause of complaint for which the President has asked that he should have this power of redress. The chief cause is that one of our public ships, a part of the public force of the United States, not within the jurisdiction of that Power, was thus wantonly and without provocation fired into, and one of her men killed and the ship disabled.

Now, sir, there is no danger of war. The Republic of Paraguay, according to my recollection, is some one thousand five hundred miles from the coast, accessible only after a very long and difficult navigation of their rivers, a very inland country and a very exclusive one, but offering, by her products of dye-wood and other woods of various kinds, and the product of tobacco, very large inducements for commercial intercourse, provided it shall be allowed.

Mr. SEWARD. Will the honorable Senator allow me to interrupt him for a moment?

Mr. MASON. Certainly.

Mr. SEWARD. What was the time this aggression took place? What year?

Mr. MASON. 1856.

Mr. SEWARD. I have referred to a gazetteer on this subject which is authentic, published in the year 1855, and I find that Paraguay is nominally, or was, at that time, nominally an independent Republic in 1855, under the Government of Dr. Lopez, who so early as that is described in this way.

Mr. MASON. I am wrong. The attack was made on the Water Witch in February, 1855.

Mr. SEWARD. Here is what I was about to read from Lippincott's Gazetteer:

"Paraguay declared itself independent of Spain in 1810. From about 1812 to 1840 its affairs were entirely controlled by Dr. Francia, who, being first elected consul, became dictator in 1814, and continued to administer the Government with great ability till his death, at the advanced age of eighty-four years. By a judicious exercise of arbitrary power, he preserved the country from those dissensions and civil wars from which the other South American States have suffered so deeply. His policy of rigorously excluding from his dominions all foreigners, without exception, contributed not only to preserve the tranquillity of the country, but also to consolidate the different elements of the population into one mass, and to form them into a nation. Immediately after his death, the government of a junta of five was established; subsequently, the number was reduced to two; Carlos Antonio Lopez (the present President) acting as civil magistrate, and Mariona Roque Alonzo as the military commandant. In 1846, Lopez was elected President for life. The Republic is divided into *partidos* or departments, each of which is commanded by a *comisionado* or commissioner, chosen by the President, to whom alone he is responsible. It not infrequently happens that the commissioner becomes a petty tyrant, and exacts, in the name of the President, not only the services of the poor, but even the property of the wealthy. The army of the Republic was lately raised to forty thousand men."

"The population of Paraguay is variously estimated by different authorities at three hundred thousand, eight hundred thousand, and one million two hundred thousand; it probably does not fall short of one million."

It is not a member of the Argentine Republic. Mr. MASON. The decree of the Republic of Paraguay, under which American citizens were invited there, is set forth in the report, and the extracts set forth in the report are in these terms:

"These decrees set forth that 'the supreme national Government, desiring to develop and stimulate the industry of the great body of the people of the Republic, and considering that one of the means most adequate to this result is to

define and secure the conditions and rights of all who shall unite for such useful ends, decree,' among other things, 'article third, that whoever shall introduce into the Republic any foreign discovery, shall enjoy the same advantages as if he was the inventor;' among which advantages, in article fifth, is 'the exclusive enjoyment of the patent for from five to ten years;' and that law was applied by the Secretary of State of that country to an enterprise such as was undertaken by this company, as appears in a letter from that gentleman, then engaged in a special mission to the court of Brazil, addressed to the then late special agent from the Government of the United States to Paraguay, dated Rio Janeiro, December 15, 1848, from which the following extract is submitted: 'In the said decree, President Lopez has resolved all questions which could arise in regard to privileges and premiums. If you introduce into the country machines or new means of industry which the country does not now possess, this decree gives you the monopoly for ten years at least, and you do not require a special concession.'"

It is alleged that in pursuance of these inducements there was a company of merchants, in Rhode Island chiefly, who sent out there some three hundred thousand dollars in various articles of American manufacture, all of which were confiscated by Lopez, the President of the Republic.

The honorable Senator from Vermont says we have acknowledged them as an independent Power by making a treaty with them. Grant it. We make treaties with Indians—

Mr. COLLAMER. Not unless they are within our borders.

Mr. MASON. We have no intercourse with the Indians not within our own jurisdiction, except when we find them in Mexico, and South America, and then we do not make treaties with the Indians, but the Governments, which are composed chiefly of Indians. The fact is, in relation to the Republic of Paraguay, if any gentleman's attention has been called to it, it has been, almost from our first knowledge of it, a despotism under the guise of a Republic, at first in the hands of a certain Dr. Francia, who ruled it with despotic power. Their only law was his will, and a most savage and bloody will it was. He seems to have been succeeded by Lopez, who as President of the Republic has supreme power, and who, whether falsely or not, certainly did, in a false manner, induce American citizens to go there, and has subsequently sequestered and confiscated their property, and driven them off. But, in addition to that, as I have said, he has committed this unprompted and wanton insult upon the American flag in firing upon and killing an American citizen.

I had not anticipated that any objection could be made to the very careful and discreet wording of this resolution. It contemplates that the President should seek redress in a peaceful manner, and if that is not effectual, to resort to arms. We have unsettled questions with more than one of these South American Governments. We have one with Peru; we have one with Venezuela, and it has become rather proverbial; our papers are full of it; our commercial correspondence is full of it—it has become proverbial along the whole coast—

Mr. HUNTER. Mr. President—

Mr. MASON. I shall be done in one moment. I wish to say to my colleague that I am aware that one o'clock has come, and that there is a deficiency bill. It has become proverbial in the newspapers all along that whole coast, that while other nations immediately redress wrongs that are committed against their Governments; and therefore are allowed to participate in their commerce, from the character of our Government it is always tardy, and in consequence, by the semi-barbarians proportionally received and respected. I shall say no more.

Mr. HUNTER. I call for the special order.

Mr. MASON. If we can take the vote, I suppose it will be allowed.

Mr. MALLORY. I desire to say a word in response to the Senator from Virginia.

Mr. MASON. Then let it go over.

DEFICIENCY BILL.

Mr. HUNTER. I now call for the special order—being the deficiency bill.

Mr. BRODERICK. Will the Senator from Virginia give way for one moment? There is a resolution of inquiry which I introduced yesterday, which I should like to have considered. It will not take any time, I think.

Mr. HUNTER. I am told that it will take an hour or two. I cannot give way to anything that will be debated. I will get the bill out of the way, I think, before long, if I shall be allowed to do so.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, APRIL 23, 1858.

NEW SERIES...No. 109.

Mr. BRODERICK. If the resolution will take an hour or two—

Mr. YULEE. I do not know that it will take an hour or two: The Senator understands the passage of the resolution will be contested.

Mr. HUNTER. I cannot give way.

The Senate resumed the consideration of the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858.

Mr. HUNTER. When we adjourned yesterday, the pending question was, I think, on the amendment of the Senator from Ohio, [Mr. PUGH.]

Mr. PUGH. The first question is on the amendment of the Committee of the Whole.

The PRESIDING OFFICER, (Mr. MASON.) The Clerk will read the amendment.

The Clerk read it, as follows:

Add at the end of the third section:

And provided further, That it shall never hereafter be lawful for either House of Congress to apply any part of the appropriation for the contingent expenses of such House to any other than the ordinary expenditures of such House; nor to apply any part of said appropriation as extra pay or extra allowance to any clerk, messenger, or attendant of the said two Houses, or either of them.

Mr. WILSON. I should like to hear the third section now read as it is proposed to amend it.

The Clerk read it.

The PRESIDING OFFICER, (Mr. MASON.) The question is on the amendment adopted in Committee of the Whole; which has been read.

The amendment was concurred in.

The PRESIDING OFFICER. The question now is on the next amendment.

Mr. BENJAMIN. I do not understand that section three, as amended, has yet been adopted by the Senate.

Mr. PUGH. I move to strike out that entire section. It has been perfected; and I now move to strike out the third section of the bill.

The PRESIDING OFFICER. The Chair will state to the Senator that an amendment was offered yesterday by the Senator from North Carolina [Mr. BIGGS] to amend the third section, on which the question should be taken before a motion to strike out. That amendment will be read.

The Clerk read the amendment, which is in section three, line six, after the word "Congress," to insert:

Not in contravention of the joint resolution to fix the compensation of the employés in the legislative department of the Government, and to prohibit the allowance of the usual extra compensation to such as receive the benefits thereof, approved July 20, 1854.

Mr. WILSON. I am informed that if the amendment proposed by the Senator from North Carolina be adopted, it will cover nearly every case contemplated in the section of the House bill, or all with the exception of a few laborers. It covers the clerks and messengers; and if it be adopted, I think we had better strike out the whole section, for it will not then reach what the House intended. I am told that the clerks of the House committees receive but four dollars per day, being about \$540 a year, while our committee clerks receive six dollars per day—quite a difference. I think we had better not adopt this amendment. I believe the section should stand with the amendment that has been already adopted, providing that in future no such appropriations shall be made. That will cover all future cases, and we had better let this section stand as fixed by the House of Representatives, so that they can close their own matters in this respect as they intend to do. Let it be understood that in the future we are to pass no such appropriations. I hope the amendment will not be adopted.

Mr. BAYARD. I think either this amendment ought to be adopted, or else the amendment of the committee, striking out the whole section, should be agreed to. The allowances made by the House of Representatives were in contravention of the law of 1845. The answer given is, that that law, by a common misconception of the executive and legislative departments, was considered as lasting only for one year. Under these circumstances, it would seem reasonable to sup-

pose that the allowances might have been unwittingly made by the House of Representatives. But neither this body nor the House of Representatives certainly has any right to appropriate moneys out of the Treasury, or authorize the expenditure of moneys, directly in the face of the statute law of the land. If allowances have been made in contravention of the joint resolution of 1854, they are a plain violation of law, which must have been known to the House of Representatives as well as to us, against which there could be no answer that it was not now in existence. The House of Representatives were bound to know it as much as the humblest individual in the land, and we are bound to know it. If either House of Congress can take the responsibility of making allowances by its own action, that by the law of the land are prohibited, it would be idle to put in again, as we have done before, a proviso against them. We passed the joint resolution of 1854, prohibiting allowances of this kind, and we have done so at other times. You may repeat these provisos again and again, but if you do not interpose when this irregular and lawless action takes place, it will be idle to insert such provisions in the law hereafter.

There would be a sufficient answer, but for the joint resolution of 1854, founded on the common misconception as to the duration of the law of 1855; but, if these allowances are in contravention of the joint resolution of 1854, no answer can be given; because it then stands plainly that the House of Representatives, I trust inadvertently, have violated the law of the land in authorizing allowances which, by that law, (to the making of which they were actors,) they were bound not to allow. I submit, if this amendment is not adopted, that then, no matter what may be its effect, we ought to strike out the whole section; because it is only by practically stopping the infraction of the law, that you can ever expect it to be enforced—not by mere reiteration of it, session after session, disregarded at the will of an existing majority of either branch.

It may be said, and has been said, that the Clerk of the House of Representatives is obliged to comply with the orders of the House, and that he has paid out money under these allowances, and that therefore you are placing him in a false position. That can be remedied. If the fact be so, all that is necessary will be, either on a private bill or in a clause attached to the appropriation bill, to authorize the payment of the money *bona fide* paid by him under the allowances of the House of Representatives. There will be no difficulty in protecting an innocent man, who has acted under authority, even though the act was illegal; but to leave this section in the bill is to sanction all these allowances made directly in violation of law. I should be as much indisposed as any one to interfere with the appropriation, by the House of Representatives, of its contingent fund, or its payments to its officers; but that body, in common with the Senate, have thought there were abuses which required to be checked by the passage of the joint resolution of 1854; it is their act as well as ours; and if they and we are not bound to respect the law of the land, how are we to expect a citizen in his individual capacity to obey a law which is put at defiance by one of the organized bodies which constitute the Government?

Mr. BIGGS. I really do not know, sir, but that the effect of this amendment will be as stated by the Senator from Massachusetts; but whether it has that effect or not, it is right in itself, and ought to be adopted, in my humble opinion. I am not going to detain the Senate, except merely to read the legislation on this subject. Here is an act passed in 1854, by which the compensation of these officers that I propose to strike out of this bill was increased twenty per cent. upon the compensation then received by them respectively, with a proviso "that the usual extra compensation shall not hereafter be allowed to any person receiving the benefits of this joint resolution." Now they come forward in violation of this law, and ask additional compensation, as provided for

in this bill. Both Houses, at the first session of the last Congress, passed resolutions allowing this extra compensation, but it could not in consequence of this joint resolution be allowed by the accounting officers, and therefore it became necessary to put it in the appropriation bill. When we put that in the appropriation bill for the first session of the last Congress, we expressly reaffirmed the joint resolution of 1854, directly re-enacted that joint resolution in the law that I read yesterday, and which the Senator from Louisiana has now before him. What more could be done by Congress, and what more flagrant violation of that joint resolution, passed in 1854, and reaffirmed in 1857, than now to pass extra compensation by this bill, when the very officers who received it are expressly prohibited, by the law under which their present salaries were raised, from receiving any extra compensation thereafter?

I am very frank to say, having seen this joint resolution, of which I was not aware at the time the first amendment was moved by me, that all officers receiving the benefit of this joint resolution ought to be excluded from the benefits of this third section. It is nothing but right; it is nothing but proper; and, if we hope ever to get clear of this abuse, admitted on all hands to be an abuse, I see no other way to do it. There has been an effort already to get clear of it, and that is insufficient; but, if we vote this appropriation now, in the face of the joint resolution of 1854, and the action of the last Congress on the 3d of March, 1857, we in substance say that this abuse is to be continued indefinitely. I am opposed to it, and shall certainly vote to strike out the whole section, if this amendment does not prevail.

Mr. FESSENDEN. I do not propose to argue this question at all; but I have been requested to make a statement or two to the Senate, in order that the matter may be distinctly understood, it being supposed that there was a misapprehension on the minds of many Senators—there certainly was on mine—in regard to the true state of the facts. The Clerk of the House of Representatives made certain payments, for which receipts have been given; and those payments and those receipts, so far as they were exhibited to the Treasury Department, have been placed in a document, and are before us, or alluded to by the Secretary of the Treasury in his report. The Secretary of the Treasury, in his letter, which I believe is in No. 11 of the documents accompanying the annual report, states that, so far as the payments which have been made by the Clerk are concerned—and that is the principal matter in controversy, amounting to several thousand dollars—they are not affected by the joint resolution of 1854 which has been alluded to. That is his construction. He says:

"The joint resolution of July 20, 1854, provided that the usual extra compensation should not thereafter be allowed to the officers who received the benefits of that law in the increase of their salaries. The term 'extra compensation,' as here used, referred to the extra pay which, for a number of years, had been voted to the clerks and employés of the Senate and House by resolutions of those bodies. It is not pretended that the payments now made by the Clerk are of that character; and I do not think, therefore, that this joint resolution applies to these cases."

That is the decision of the Secretary of the Treasury upon the main provision in regard to the payments that have been made. I was right, then, in my supposition, the other day, that according to the understanding of the Secretary of the Treasury, this case was only affected by the construction which the Secretary of the Treasury placed upon that provision of the law of 1845 which has been considered obsolete.

I am further informed, and I have no doubt it is so, that the effect of the amendment of the Senator from North Carolina, reduced to practice, would simply be to give the extra pay provided for in the resolution of last year, by the House of Representatives, to the pages, and the Capitol police, and the clerks in the employ of the Committee on Printing, and stop there. It would cut off all the clerks of committees and clerks and messengers of the House, except with relation to those payments which have been made and which

do not refer to the extra compensation, but are payments running back for some period.

Another consideration I have been requested to state, and there is some force in it. It has been said here that the House of Representatives went on in violation of the understanding of the two branches of Congress—that they chose to act independently of the Senate in relation to this matter. That is clearly a misapprehension. One of the very last things which was done by the Senate at the last session, was to pass a joint resolution allowing this extra pay to our own clerks and employes. That resolution was offered by the Senator from Michigan, [Mr. STUART,] and was sent to the House of Representatives, and the House agreed to it, and it was sent to the President, and the President omitted to sign it for want of time or some other reason.

Mr. TOOMBS. He refused to sign it, very properly.

Mr. FESSENDEN. I do not understand that he did.

Mr. TOOMBS. I know that he refused to sign it; and he did right, too.

Mr. FESSENDEN. Whether he did right or wrong, I do not comment on; I am stating the fact. The House of Representatives then, in contravention of what the President had done, voted to pay these employes out of their contingent fund, but not in contravention of what the Senate had done. They were carrying out what the Senate had indicated to be its own wish, that all these officers should receive the compensation. It was in defiance of the President, but not in defiance of what the Senate had agreed to. The President having refused to sign the joint resolution which had been agreed to by the Senate and House of Representatives, the House then determined to use their contingent fund for this purpose, and the Senate did not. That is the state of the case as I understand it, and being so, there is no violation of any understanding between the House and Senate. It is a mere question of whether the President should control.

Mr. TOOMBS. If it was not in violation of the understanding, I ask whether it was not in violation of the law—the joint resolution of 1854? I understand—and I wish the Senator would answer me—both Houses said they would not make this allowance without authority of law, or a joint resolution signed by the President. We passed one, it seems, and the House put an amendment to it, and the President refused to sign it; therefore it was not a law, but this was done in violation of law, and the House said they would do it out of the contingent fund.

Mr. FESSENDEN. Of course, the whole debate has gone on the assumption that it was a violation of law. That is the very reason of the difficulty in which we find ourselves placed. The law existed. The House and Senate passed a joint resolution, and if the President had signed it, the law would have been repealed; but he did not sign it, and therefore it stood; but it was not known to the House, or understood by the House, that the reason the President would not sign it was, that it would be in violation of law, for he would not give so foolish a reason as that, because the moment he signed it that became the law, and the old law ceased to exist. But he chose to say that either House should not pay the extra compensation to its employes—a very great impertinence on his part, in my opinion. They have a right to make extra compensation; that is to say, it is one of those cases where, I think, the President ought to leave it to the discretion of the Senate and House to do as they please, unless they propose to do something very unreasonable. It was in violation of law undoubtedly for the House of Representatives to do afterwards what they did. The ground on which it has been placed was, that the House did that on the presumption on which they had before acted, and the Senate had acted, in paying the usual compensation at every session of Congress.

Now, sir, one word more, for I do not propose to express an opinion or a wish, for I have none; or to argue the matter, but merely to state a fact. Some statement was made by the Senator from Missouri [Mr. GREEN] yesterday, intimating that the Clerk of the House had not paid this money, and somebody had said he would pay the whole for a certain small sum of money. I have been requested by Mr. Cullom to say that all these

statements are utterly without foundation; that he actually paid without recourse to anybody, without bargain or understanding of any description or kind, all the money for which he has exhibited vouchers, and more, amounting to some fifteen or seventeen thousand dollars. He has paid it out; it has gone beyond his legal control. Some of it may be paid back again if this section does not pass; but a large part of it cannot be, for some of the parties are unable to pay, and some say they will not pay anyhow. He states that on his own responsibility, and requests me to say that any statements made contravening that, to any extent, are founded entirely in error, and contrary to the facts.

Mr. BENJAMIN. I said a few words when this question was up before us in Committee of the Whole; and I am induced now to add something to what I then said, on account of what I consider the very extraordinary position assumed by the Senator from Maine. The position assumed by the Senator from Maine is, that in his judgment it was a piece of impertinence in the President of the United States to decline signing a joint resolution—a joint resolution which I suppose he must have refused to sign because he deemed the policy of the resolution one adverse to the true interests of the Government, and the honest employment of the public funds in the compensation of the officers of the Government. There could have been no mistake, there could have been no misapprehension, as to the deliberate violation of the law; because, when the Senate desired to make this extra allowance, in obedience to law, it put it in the shape of a joint resolution, in which way alone could this allowance be made after the law had been passed as it then stood on the statute-book. The House passed the joint resolution with us. Why did it pass, afterwards, the resolution to pay out of the contingent fund? The Constitution says—

Mr. STUART. I wish to ask the Senator, "Does he know that they did pass it afterwards?"

Mr. BENJAMIN. I take that for granted. How could they pass it before?

Mr. STUART. I think it will be found that they did pass it before.

Mr. FESSENDEN. I am instructed to say it was passed afterwards. Whether it is so or not, I do not know; but that is the intimation I have received.

Mr. BENJAMIN. After the President of the United States refused to sign this joint resolution, there was but one mode of giving it effect, and that was to repass it by the concurrent votes of two thirds of each House; but the House of Representatives thought proper to declare, in effect, that it would not act in obedience to the law.

I pass that consideration aside, however, for the purpose of attacking the main point on which this appropriation is now defended. The appropriation is defended on this ground—and there was something plausible in it, when first put, which recommended itself to my ideas of the equity of the case; but all that has been dispelled by the debate: it was said this House officer, in obedience to the orders of the House of Representatives, has made disbursements; and it is unjust and improper that he should lose the sum so disbursed, in consequence of his obedience to the orders of the House, of which he was an officer. Now, sir, in reference to the resolutions of the last two Congresses, we find this to be the case: the public officer whose conduct is now questioned, and for whose relief this appropriation is now sought, is Mr. Cullom. He was the Clerk of the House of Representatives of the last Congress, both sessions. In 1856, the House of Representatives passed a resolution similar to that which it passed in 1857. Mr. Cullom made his disbursements; and what occurred? He was not allowed a reimbursement of the expenses so made, in consequence of objections at the Treasury Department; and the result was that, in the appropriation act of the 3d of March last, he was notified not to make any more such disbursements. He paid out in 1856 under the House resolution. In 1857 this law was passed:

"The extra compensation given by each of the two Houses of Congress in the year 1856, to its officers and employes, shall be paid by its disbursing officer out of the contingent fund."

That was a law passed by both Houses.

"And the accounts therefor shall be allowed by the accounting officer of the Treasury. But nothing herein con-

tained shall be so construed as to repeal the joint resolution of the 20th of July, 1854, to fix the compensation of the employes in the legislative department of the Government, and to prohibit the allowance of the usual extra compensation to such officers as received the benefits thereof; which said resolution is hereby declared to be in full force and effect, except so far as herein provided for."

The Clerk having met with this difficulty in the year 1856, the difficulty is obviated by legislation in March, 1857; and he is notified in the legislation which relieves him, that it is the last time it shall be done. He is notified that this is the last time he will be relieved. The House again passed the same resolution, and he comes here again and tells us that he has paid out money, and asks us to relieve him again.

That is the state of the case now before the Senate, and he comes here upon statements and suggestions that he paid out the money in good faith; and the appropriation asked for, as I understand, amounts to nearly seventy thousand dollars, upon the suggestion that he has paid fifteen, or sixteen, or seventeen thousand dollars.

Now, I am not disposed to be particularly captious about the reimbursement of this or any sum that he may actually have paid; but I desire an investigation into that fact. It has been suggested, on all sides, that the payments were not actually made, and we are not in the habit of making appropriations in answer to suggestions of that kind, upon the simple statement of the officer requesting a Senator to say that it is not true, and that he has paid. This, in point of fact, is neither more nor less than a section for the relief of Mr. Cullom. It is a private bill. Let it be stricken from this deficiency bill. Let Mr. Cullom present his petition to Congress, set forth the facts, state his payments, establish them, and I will vote for his relief. But let us not again sanction this breach of the law, this violation of the positive statutory provision, and again repeat, as the Senator from Illinois said the other day, like the boy at school, "Knock the chip off my head;""now you have done it, do it again, and do it again." We have passed this resolution eight, nine, or ten successive times. Here is an admitted abuse in the Government, admitted by the House, admitted by the Senate, shown to be so by the President's refusing to sign the joint resolution. Let us stop here. Let us not give the money, and the abuse will not take place again.

Mr. TOOMBS. I deem it proper to add a few remarks to what has been said, more in reference to my own course. It seems perfectly clear that this appropriation of money was made by the House of Representatives against the law. It ought not to have been paid, and it ought not to be reimbursed. It is time that we should have the laws of this country enforced. It is time that the public purse should be put under the control of Congress; but it seems that as far as this body and the other House are concerned, they are as imbecile as children or idiots. Their very employes make them violate the law whenever they please, and they have done it for ten years together. I recollect, in 1854, when the joint resolution was introduced changing the compensation of the employes and adding twenty per cent. to their salaries. We added twenty per cent. to the salaries of a body of employes who are paid higher than any in this Union, as far as I am informed, for the amount of labor they do. It was done with the express declaration that the twenty per cent. was in lieu of all extra compensation. It was so expressed on the face of the law. It was declared that that was to be the end of such things: they were not to be done after that. If you look to the debates you will find that I said I did not believe a word of it. Therefore I have not been deceived. Though they said so in their places, and said so in their law, I knew from the past history of the Senate and House of Representatives that it would not be carried out. It has been growing worse and worse every day: profligacy is becoming more and more universal in every department of the Government. There is a wild and reckless waste originating here, and imitated in every department of the Government. I had no hopes that it would stop. What is the result? In defiance of this law, the House of Representatives passed a resolution allowing this extra compensation, and I think the Senator from Maine is mistaken as to the time when it was passed. It was passed before the joint resolution to which he alluded. It was found out, however, that that would meet

with difficulty; and then a joint resolution was offered, and at first it was rejected in this body, but finally it was passed, the Senate putting in their employes. The President declined to sign it. He was guilty of that "impertinence," it being his duty under the Constitution to sign what he approved, and to refuse his signature to what he disapproved. The compensation of these officers being already greater than any other in the whole Government, it having been raised two years before with the explicit understanding put on the statute-book that the twenty per cent. increase should be in lieu of all extra allowances, the President was guilty of the "impertinence" of telling a profligate Senate and a profligate House of Representatives that they should not do it. I honor him for it; and the people in any district of the United States would honor him for it.

Sir, there is irresponsibility here. These are small things; but there is no responsibility in the Senate for small or large appropriations on account of the character of the question which has distracted Congress the last two years,—I may say the last ten; there is none anywhere. All this waste of public money; all this disregard of public principle is swallowed up in the sectional strifes that have agitated this country, and therefore there is no real responsibility in the ordinary legislation of the Republic. This is a fact well known to every Senator here and to the nation. There is no responsibility for these votes and hence the country is so universally badly governed.

I see a notice, too, probably from your official organ, one who attempts to lecture you whenever it suits him, and who, I believe, gets whatever compensation he chooses to ask, the Public Printer of this body, upon a remark which I made yesterday with reference to your reporters. Sir, by your contract, it is the business of your Public Printer to furnish these debates and print them. He is paid for it, paid extravagantly for it in my judgment, and I have taken some pains to look into it—paid largely for it. It is his business to pay the reporters. You might as well undertake to pay the printers in his office. You might as well go and pay his paper-man, his press-man, or the interest upon his types, as to come here and pay his reporters. You first agreed to take twelve of these worthless books, these Congressional Globes; then I believe you carried it up to more than ninety copies, because he told you that he could not get along without it. Now he says there is a loss, and he leaves it to his own posterity, hoping that they may be able to wrench out of you whatever they want and as often as they want it, as he has done. That is about the pretext he gives. I say it is his business to pay these reporters, and while I believe the reporters have done their own duty it is not for me to pay them. Indeed, as far as I am concerned I would not have one in this House. No Senator ought to be speaking here for the country. The galleries are open to everybody. Your proceedings are open as they ought to be, as judicial proceedings are, though they were not for many years after this Government commenced. If a Senator wants to address the country let him do it directly, by an address to his constituents. That has been my own habit since I have been connected with public affairs. I have a rule which I made and have never departed from, to speak to the question before the body and to nothing else—to my fellow-Senators or fellow-members whom I may address. If I desire to address my constituents or the country, there are other vehicles more appropriate than the Senate. So far as these reports are concerned they are nuisances, for one very good reason: as a general rule, a speech that is fit to be spoken is not fit to be printed, and a speech fit to be printed is not fit to be spoken. It is merely for printing essays. One half of this very reporting for which you pay \$7 50 a column to the editor of the Globe consists of written essays read here. The Senator from New York will come in with his already in type; other gentlemen all around me, on both sides of the House, from all sections of the Union, who think proper to write essays, come here and read them to the Senate and inflict on the country many of the speeches which we have. I am not objecting to their character, but I would rather read them in my own room. Of course nobody pays any attention to them here. It is not done anywhere else. These written speeches are not attended to. They are read and handed to the reporter, and he gets so

much a column for printing them. It has been so with half the speeches delivered in this body the last two years, and it is a growing habit I believe. Two thirds of the speeches are written, and many of them are printed before they are ever delivered, or in type ready to be thrown out on the country the moment the speaker takes his seat. Therefore, sir, as to this stamped they speak of the reporters, I would, out of my poor means, be perfectly willing to make a very reasonable allowance to get rid of the whole of them.

Mr. PUGH. I would ask the Senator from North Carolina to withdraw his amendment, for the purpose of letting me move an amendment to the entire section which, I think, will effect a reform. I move to strike out the entire section, and insert:

That the accounting officers of the Treasury be authorized and directed to allow credit to the Clerk of the House of Representatives for such payments out of its contingent fund as have been made under allowances authorized by the House of Representatives during the last Congress, and to charge the amount of every such payment to any clerk, or other employe, who has received an allowance in addition to his salary prescribed by law, and deduct the amount of such payment from whatever may be due to such clerk, or other employe, from the Government of the United States whether as compensation or otherwise.

I am willing to indemnify the Clerk; but if we can reach this abuse, I think we ought to stop it. It is money that has gone out of the Treasury contrary to law.

Mr. FESSENDEN. I wish to make one explanation. The Senator from Georgia stated that he knew the President refused to sign that joint resolution.

Mr. TOOMBS. I heard him say so.

Mr. FESSENDEN. I am informed by two gentlemen who were present, our own clerks, at the time that he first objected that the time was too late, and, on looking at his watch, he found there were a few minutes left. He then took the resolution, looked it over, and found an interlineation put into it which, apparently, did not make sense. He hesitated, and said, "I cannot sign it at this hour."

Mr. TOOMBS. I urged him not to sign it, and he said he would not. That I know.

Mr. FESSENDEN. I have stated the reason given to the two gentlemen to whom I have alluded. That was after the Senator from Georgia saw him, probably.

The PRESIDING OFFICER. The Chair will state to the Senator from Ohio that his amendment is not in order at present.

Mr. PUGH. I will state in explanation, that the original section as it stands proposes to indemnify the Clerk not merely for what he has paid, but for payments hereafter to be made. I wish to stop that. I want to indemnify him for no payment he has not yet made; but whatever he has paid in good faith, in obedience to the order of the House, I am willing to reimburse; but if the persons who receive it are in the employment of the House or Senate or the Government, they have received money illegally, and I think it ought to be taken out of their salaries. That is the object of my amendment.

Mr. KING. I think this bill a very good occasion to make an example like that which the Senator from Georgia urges us to make in this section. Here is a bill appropriating over nine million dollars, much of it contracted by the executive department of the Government, without authority of law, and in advance of appropriations. Such a practice as this ought not to be allowed, and while I think Senators who make so much claim to economy in assailing this small appropriation of some eighteen or twenty thousand dollars are right in resisting it, they are wrong in going for these wholesale appropriations of money asked for from the Treasury for expenditures, without authority of law. I shall vote against the entire bill, and I will vote against any part of it.

I am glad to hear what is said on this matter; but I think there is great inconsistency in those who set up a claim to economy for resisting the small appropriation, while they go for the large ones. They are right in the small ones. We should never make an appropriation which is wrong, no matter how large or how small it is. The great difficulty in accomplishing economical reforms is that there are always, in reference to every appropriation, those who petition that the particular appropriation may be allowed, and the

difficulty is in finding the place to begin the reform.

I differ entirely with the Senator from Georgia about the reports of our proceedings. I think the reporting system which has been adopted by Congress the best in the world. In a Government like ours it is one which is demanded for the use of the country. Very few people can come here and listen to the debates. Very few people here, unless there were accurate reports made by competent reporters, would know what is done in Congress. It is by printing the debates that the great body of the people of this country learn the transactions of their representatives here, and know what is going on in Congress. These reports should be accurate. For this purpose we should have the best reporters that can be had. I have been gratified to see, at this session of Congress, a notice given by the printer who has charge of these reports, that the proceedings of the two Houses would be published as they transpired; that what was said should be published in the Globe.

Mr. HALE. He has not done it.

Mr. KING. If he has not done it, he has committed an error. He was given these notices on two occasions during this session. I received them, and I think he was right. The public should know what actually occurs. But this is a matter foreign to the question of economy, foreign to the propriety of resisting the passage of this bill. I am glad to find a disposition to condemn these extravagant expenditures. I am opposed to them, and will vote against the entire bill. I think the reason which is urged against the appropriation of this amount for the payment of the clerks of the House exists against the whole bill about the ratio of the amount of \$9,000,000, or pretty much the whole bill, to the \$20,000 in the section under consideration.

Mr. PUGH. It seems to me that the Senator from New York misapprehends the merits of the question; but I would not delay the Senate a single day's session to debate the amount of these allowances. Here is an abuse, a violation of law, persisted in from session to session, and from year to year, so that we do not stand before the country in the proper attitude to redress any violation of law committed by the Executive Departments. With what face could we say to the Secretary of War, or any other executive officer, you have made contracts in violation of law, or you have paid out money in violation of law, when we repeatedly, year after year, session after session, prohibit these allowances in joint resolutions, in bills, in laws, and then turn around, on the last night of the session, and engage in this thing which we have solemnly said we would not engage in? We have not even the self-respect to keep our own words as written in the statute-book.

These gentlemen have had their pay raised. If it is not enough I am willing to raise it again; but I want it done by law. I wish to put an end to all these systems by which Congress is surrounded at the close of the session, and these resolutions put through to pay out public money under the pretense of increasing the contingent fund of the two Houses. It is not the amount of the money that impresses my mind; it is the persistence in an abuse until, as I said yesterday, we let them know that the sting of disability is in the very fruit of temptation—that they cannot get this money; that, if any accounting officer pays it, he will not be allowed to get it back. When the accounting officers of the two Houses understand that, there will be an end of these resolutions.

Now, I am willing to take the case of this Clerk of the House of Representatives into very tender consideration. I shall not hold him to a strict rule, because it was only by a struggle of two years that we were able to put a stop to the book business, and we had to indemnify him for that. I am willing to indemnify him for what he has paid; and so far as my vote goes, I wish it distinctly understood that I will vote to indemnify no officer of either House of Congress, after this time, who pays any money under such resolutions as these in violation of the act of Congress.

Mr. JONES. I believe I will offer an amendment to the amendment if it is in order.

The PRESIDING OFFICER. (Mr. Mason.) It is not in order. This is an amendment to an amendment.

Mr. JONES. Well, I will wait until this is disposed of.

Mr. CAMERON. Before the vote is taken, I desire to know whether the adoption of this section will prevent us hereafter from making any allowance to the employes of this House, and from paying the reporters? I desire, if the section passes, to put the employes of this House on the same footing as those of the other House. While I believe this system of extra compensation has probably gone too far, I am desirous, if it does end, that the persons employed in each House shall be exactly on the same footing. The section has been amended so often that I really have not been able to understand its true import. I doubt whether many gentlemen here do understand it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina, [Mr. BIGGS.]

The question being taken, on a division, there were—ayes 17, noes 11; no quorum voting.

Mr. BENJAMIN and Mr. BIGGS called for the yeas and nays; and they were ordered.

Mr. BROWN. As the yeas and nays are ordered, I wish to say in a single word, that while I am perfectly willing to vote to strike out this section, I cannot vote for this amendment, because the amendment nullifies the section. First, you tell the Clerk to pay the money, then you tell him he must not pay in contravention of a particular resolution. If he cannot do it in contravention of that resolution, he cannot do it at all.

Mr. BIGGS. I think the Senator from Mississippi is mistaken in regard to the effect of this amendment. It cuts off from this allowance all those who received additional compensation under the act of 1854. There are two sets of employes provided for by this allowance. This amendment cuts off all those who had their compensation increased in 1854, on the condition that they should not have any extra compensation.

Mr. BELL. I will not repeat the sentiments I expressed the other day in relation to the general question raised under the section proposed to be stricken out by the Committee on Finance; but, as I understand the amendment offered by the honorable Senator from North Carolina, it does not recognize the right of the late Clerk of the House of Representatives to be refunded what he has actually paid. Now, I think that is unjust, considering all the circumstances attending the history of this transaction. I spoke to the honorable Senator, and suggested that I thought that was wrong. He says that if the Clerk can show that he is entitled to it, it is a subject of private claim by a private bill. I think that is harsh, and under the circumstances of the case, unjust; and, therefore, I shall be compelled to vote against this amendment.

I wish to do nothing more than what is right. If our own hands were clean in reference to the practice of voting appropriations and extra allowances contrary to a plain statute adopted by a joint resolution of the two Houses, it would be a different question with us; but as the case now stands, I think we hardly have any right to interfere. We have the power, if we think proper, but I do not believe it is very becoming to adopt a rigid rule as to what we will appropriate or withhold, upon the reasons which have been urged here by honorable Senators. When the question comes up in some other form, and a proposition is made in relation to the reporters, I may have something to say on that subject. I wish now merely to state the grounds on which I cannot vote for this amendment, although I see it has considerable favor in the Senate.

The late Clerk of the House of Representatives, in conformity with the practice of both branches of Congress, has paid this money. He saw that the Senate had yielded to it as well as the House of Representatives; and if the House can be justly denounced as a profligate body, the Senate may also be denounced as a profligate body. Indeed, the honorable Senator from Georgia has said they both are, in reference to such questions. Now, when the Clerk of the House, seeing the practice of the Senate, as well as of the House, in disregarding plain statutes, which both Houses had concurred in, adopting over and over again, continuing to make these extra allowances, has gone on and paid fifteen or sixteen thousand dollars under the order of the House of which he is an officer, he ought to be refunded in fairness.

I find, also, that the Secretary of the Treasury takes no exception to the equity and justice of paying what has been expended by the Clerk of the House. His only exception is, that he could not advise the accounting officers of the Treasury to pay it without the authority of Congress, and he earnestly recommends to Congress to pass an act for that purpose. If it be the fact that he has not paid any money, we ought to make no appropriation for him, but pursue a course legitimately in conformity with the act of 1854. Honorable Senators here say he has not paid it. The Secretary of the Treasury does not make any question on that point. The officers of the Treasury raise no objection on that point; they simply stand upon the law prohibiting such appropriations out of the contingent fund of either House of Congress.

I do not want to detain the Senate any longer; I merely rose for the purpose of stating the grounds on which I cannot vote for this amendment.

The question being taken by yeas and nays, resulted—yeas 26, nays 22; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bright, Clay, Dixon, Douglas, Evans, Fitzpatrick, Foster, Green, Hammond, Harlan, Hunter, Johnson of Tennessee, Jones, King, Mason, Pugh, Sebastian, Slidell, Toombs, Trumbull, Wright, and Yulee—26.

NAYS—Messrs. Bell, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Crittenden, Doolittle, Durkee, Fessenden, Fitch, Foot, Gwin, Houston, Kennedy, Polk, Seward, Simmons, Stuart, Wade, and Wilson—22.

So the amendment was agreed to.

Mr. JONES. Will it be in order for me now to move my amendment? I have been requested to do it, and I do it in compliance with a promise. It is in section three, line eight, after the word "accounts," to insert:

"And that there be paid, by the Secretary of the Senate, to the employes of the Senate who did not receive the same at the last session, the amounts respectively that were allowed to the employes of the House by the resolution of the House of Representatives of March 2, 1857."

Mr. HUNTER. That is not in order. It comes from no committee, as I understand. It is an additional appropriation.

Mr. JONES. I ask the Chair whether it is in order, or not? If it is not, I do not wish to offer it.

The PRESIDING OFFICER. The Chair is not aware of any rule that restricts it.

Mr. HUNTER. No amendment for an additional appropriation is in order unless recommended by some committee or estimated for by some Department. This is an additional appropriation.

The PRESIDING OFFICER. The Chair thought that rule was confined to private claims.

Mr. HUNTER. This is an appropriation bill.

The PRESIDING OFFICER. The 30th rule, in the opinion of the Chair, would exclude it. The Chair decides the amendment is not in order under the 30th rule.

Mr. DOOLITTLE. I should like to move an amendment to strike out the words "or may be," in the fourth line of the third section. The clause would then read:

That the accounting officers of the Treasury be authorized and directed to allow credit to the Clerk of the House of Representatives for such payments out of its contingent fund as have been made under allowances authorized by the House of Representatives during the last Congress.

The ground upon which I would place my vote is simply this: that when the Clerk of the House of Representatives has actually paid out the money under the direction of the House, we ought to refund to him the money which he has actually paid. I think that is but just. I inquire of the Chair whether it would be proper, in connection with that amendment moving to strike out these words, also to strike out the words which have been inserted on the motion of the Senator from North Carolina?

The PRESIDING OFFICER. The Chair thinks that would not be in order.

Mr. DOOLITTLE. My suggestion is, that inasmuch as the change which I propose in the first part of the section changes the meaning of the whole section, and also of necessity changes the meaning of the amendment which has been adopted, I submit whether it would not be in order for me to embrace both within my amendment and take the sense of the Senate upon that simple question as it stands? I desire to see whether we shall authorize the Secretary of the Treasury to refund the money which has been actually paid under the express direction of the House of Representatives by the Clerk. I desire

to have the sense of the Senate tested on that precise question.

The PRESIDING OFFICER. The Senator can submit his amendment.

Mr. FESSENDEN. I would suggest to the Senator from Wisconsin that as the section stands now amended, that would not cover any one payment that has been made by the Clerk at all. It does not repay him at all, so that the only object and effect would be to prevent his making any payments hereafter. Everything he has paid has been struck out.

Mr. DOOLITTLE. Then I move to strike out the third section as amended, and to substitute the old third section as it reads with the words "or may be" stricken out. The words to be inserted are:

That the accounting officers of the Treasury be authorized and directed to allow credit to the Clerk of the House of Representatives for such payments out of its contingent fund as have been made under allowances authorized by the House of Representatives during the last Congress: *Provided*, That said allowances shall have been duly approved by the Committee on Accounts: *And be it further provided*, That the said allowances be paid out of any money in the Treasury not otherwise appropriated.

Mr. WILSON. I shall vote against this amendment, and against the whole section, if it is to be amended in this way. I think the whole proceedings of the Senate in regard to this matter unfair and unjust. I feel disposed to vote to strike out unconditionally the whole section, and let it go back to the House to be dealt with in that form. If it was right for the Clerk to pay out the money to any of these employes, it is right that all of them should be treated fairly and equally. Now, this amendment proposes to refund to the Clerk the moneys he has paid under the resolution of the House of Representatives; that is, the persons whom the Clerk has paid have their extra pay; the others are to go without it.

I think this is unfair and unjust. I think the Clerk ought to be refunded the money he has paid out. In my opinion, the resolution of the House paying the employes ought to be carried out; and I understand the Secretary of the Treasury thinks so, and wishes it done. I am opposed to this extra-pay policy; but it has been pursued for years in both Houses of Congress. Why is it that the employes of the last House are particularly aimed at and struck at in this matter? I look upon it merely in that light. I am ready to carry out this vote in regard to the last Congress, and have it understood now and forever, so far as we here are concerned, that we vote no more extra pay. Let us settle it for the last Congress. The order of the House directing their Clerk to pay this money has been partially carried out; and I think it should be fully carried out, or not carried out at all. I hope this amendment will not prevail. I hope this section, as amended, will be stricken out; for, as amended on the motion of the Senator from North Carolina, it covers hardly a case intended by the House of Representatives.

Mr. CLARK. Mr. President, I hope this amendment, offered by the gentleman from Wisconsin, will prevail. I shall cheerfully give it my vote. I condemn, as emphatically as any Senator can, this policy of extra pay. I think it is wrong; and for that reason I will not vote to extend this wrong at the present time. But here the Senate and the House, by a joint resolution, voted the extra pay to their employes; the President refused to sign that joint resolution. It came back, and the House then, by a resolution, ordered its Clerk to pay this money to the employes of the House. Now let gentlemen see where they put the Clerk of the House. Here was the House ordering him to pay; here were the employes of the House requesting their payment. He has got to take the responsibility of refusing to pay against the resolution of the House, or else, if this amendment be not adopted, he has got to lose the money that he has paid out.

Mr. BENJAMIN. Will the Senator permit me a moment?

Mr. CLARK. Certainly.

Mr. BENJAMIN. What prevented the Clerk from applying for the money to the Secretary of the Treasury before he paid it? Why did he advance it out of his own pocket?

Mr. CLARK. I cannot say why he did it; I do not know why he did it; I do not understand in regard to that; but the money, as I understand, has been paid by the Clerk for some reason or

other, and I would have him repaid. I understood the Senator from Louisiana, a little while ago, to say, that if the Clerk made a fair showing that he had paid the money, he would give his vote for reimbursement. I understand him to assent to that now. Then if this amendment is adopted, and the Clerk does show that he has paid the money out, he can only get by this amendment what he has paid out, and that would be accomplishing by this bill exactly what the Senator would be willing to do by another bill or resolution. Then I might ask the honorable Senator why he would not vote for it now?

Mr. BENJAMIN. If the Senator will permit me, I will tell him at once? When the application is made for the reimbursement of this Clerk, I want something more than vouchers. I want this question of his payment of the money submitted to a committee of Congress, and I want to examine the parties to whom he says he has paid it, and take evidence and cross-examine them. I understand this whole thing is a covered-up snare and delusion.

Mr. CLARK. It may be a covered-up snare and delusion, for aught that I know; but this amendment provides only that the Clerk shall be refunded the money which he has paid, not the money which he has covered up. I do not see why you cannot as well show under this amendment what is paid, as you can show it anywhere else; and I want to get so much. I do not propose to have this Clerk turned over, if I can prevent it by my vote, to another bill. Let him be paid by this bill, and let him be paid what he has paid out under the order of the House. I shall give my vote for this amendment; and then, as indicated by the Senator from Massachusetts, if the amendment does not prevail, I will vote to strike out the whole section and let it go back to the House again, and let them come in with a clean bill, and let the whole thing be considered. I would be glad to secure so much here. The Clerk has paid out money under the order of the House. I think no one here will say that he ought to lose what he has paid out. He should be repaid. Then you gain so much by adopting this amendment: you provide that he shall be repaid what he has paid. I therefore shall go for this amendment of the Senator from Wisconsin; but if it is not adopted, I shall go for striking out the whole section, so that in some other way the Clerk may be repaid.

Mr. BENJAMIN. I will merely suggest to the Senator from New Hampshire that the way in which this matter is settled at the Treasury is perfectly understood here in Washington. If this is left to the Secretary of the Treasury, this Clerk carries him receipts; they are vouchers which are admitted; he gets the money under these receipts; he then takes it and pays it to the parties who have given these receipts; if he does not get it, he returns the receipts. I want this matter investigated by a committee to see if the money has been paid.

Mr. CLARK. As I understand, this amendment proposes only to pay what he has paid; not where he has carried a receipt and has not paid money, but what has been paid.

Mr. BENJAMIN. The Secretary of the Treasury cannot investigate that question. When vouchers are brought to him—the receipts for payment—he takes them as proof of payment; and he is thus defrauded in a matter which he has no power to investigate. The receipts are vouchers; but a committee of the Senate can bring the parties before it, put them on oath, and ascertain whether the money was really paid, or whether these are vouchers furnished for the purpose of getting the money.

Mr. CLARK. I understand the position of the Senator from Louisiana; but I do not understand that this amendment provides how the Clerk shall show that he has paid it. It does not provide that he shall simply exhibit his receipts and be paid. He is only to be repaid the money that he has paid out. The officers of the Treasury may take such method as they choose for ascertaining that fact. I want to gain one step in regard to it here; I do not see why, if we should refuse to pay it here, we are to pay it afterwards; I do not understand any Senator to be against refunding to the Clerk what he has already paid. As I said before, he paid it under the order of the House. He stood in a peculiar position—the House command-

ing him to pay, and it would be hardly courteous in him to the House to get up and say: "I will not pay that money; you are acting in defiance of law." The House would have said: "It is not for you to judge, sir; pay the money under the resolution of the House." It was a delicate position in which to place the Clerk.

I admit, freely, that I have been embarrassed in regard to this vote. It is a delicate question; it is difficult to decide what to do. It is difficult to know how you are going to stop this improper sort of allowance, if you may call it so. The injustice would be very great in refusing to repay to the Clerk money paid out in good faith. We are to take it that he did pay it in good faith, until the contrary is shown. You are not to presume fraud on his part. I do not know how things are done in Washington; but before I will refuse to pay that money to the Clerk, as the case stands now, you must show that he acted fraudulently; you are not to presume it; and when you can show me that he has done it, then that will be a reason why he should not be repaid at all, why he should not have an additional bill. As the case stands now, however, it seems to me he should be repaid, and there is no reason why he should not be. I hope the amendment will be adopted.

Mr. BIGGS. This may be a test question, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOOLITTLE. At the suggestion of the honorable Senator from Ohio, [Mr. PUGH,] I am willing to add to the section the clause which was added by the committee in reference to future allowances.

The PRESIDING OFFICER. It can only be done by unanimous consent, the yeas and nays having been ordered on the proposition.

Mr. PUGH. I presume there will be no objection to the Senator perfecting his amendment.

The PRESIDING OFFICER. If there be no objection, it will be modified as proposed. The Chair hears no objection.

The question being taken by yeas and nays, resulted—yeas 24, nays 22; as follows:

YEAS—Messrs. Bright, Broderick, Brown, Cameron, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Evans, Fessenden, Fitch, Foster, Gwin, Houston, Kennedy, Polk, Pugh, Seward, Simmons, Stuart, Trumbull, and Wade—24.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Clay, Fitzpatrick, Green, Hale, Harlan, Hunter, Iverson, Johnson of Tennessee, Jones, King, Mason, Sebastian, Sidel, Toombs, Wilson, Wright, and Yulee—22.

So the amendment of Mr. DOOLITTLE was agreed to.

Mr. JONES. I have now modified the amendment which I offered, so as to make it conform to your decision, sir, and make it in order. I believe it was in order before. I did not hear the decision of the Chair, however. The amendment is, in section three, line eight, after the word "accounts," to insert:

And that there shall be paid out of the contingent fund of the Senate, by the Secretary of the Senate, to the employees of the Senate who did not receive the same at the last session, the amounts respectively that were allowed to the employees of the House by the resolution of the House of Representatives of March 2, 1857.

I merely wish to remark that I voted for the amendment of the Senator from North Carolina, but I am desirous of placing our employees on an equal footing with those of the House of Representatives. If they are paid, I want ours to be.

Mr. HUNTER. I ask to have that amendment read again. I think it is not in order unless it comes from a committee.

Mr. JONES. It is perfectly in order.

Mr. FESSENDEN. I should like to amend the amendment before the Senator from Virginia raises his question. I shall vote against it in any shape in which it may be put, but it ought to be made general, and include the employees in charge of the library, because they are here, and they ought to come in with the others. They are not legislative clerks, but still they are usually embraced in these resolutions; and, if the others are paid, I do not see any reason why they should not be.

Mr. JONES. I accept the modification.

Mr. BENJAMIN. Before the Senator from Virginia raises his point of order, I would suggest to my friend from Iowa to make his amendment perfect by including the employees of the executive department, and of the judicial department

of the Government throughout the United States, so as to make it regular everywhere.

Mr. JONES. I cannot stand that, sir; it is a little too strong.

Mr. HUNTER. This is an addition to the appropriations made in the bill. I raise a question of order whether, without a report from a committee, such an amendment can be offered?

The PRESIDING OFFICER. The Chair understands from the Senator from Iowa that he considers this to be within the rule because, as he reasons, it is money to be paid out of the contingent fund which is already appropriated.

Mr. JONES. That is exactly the idea.

The PRESIDING OFFICER. The Chair will therefore submit the question of the admission of this amendment to the Senate, without deciding it.

Mr. HUNTER. I understand that the Chair submits it to the Senate to say whether the amendment is in order.

The PRESIDING OFFICER. The Chair will submit it to the Senate.

Mr. HUNTER. I would say to the Senate that they ought to be cautious in ruling such a thing as this to be in order, because it undoubtedly is an addition to the appropriation, and we are permitting the House to pass upon the mode in which we shall appropriate our own contingent fund. We may do that in a separate resolution; we may do that without an appropriation bill; but we cannot add that to an appropriation bill without violating the rule referred to. That is a matter which belongs to the Senate, and we are not to invoke the House to say whether we shall appropriate our contingent fund.

Mr. STUART. That may be a reason against adopting the amendment, but the rule certainly prohibits only such amendments as involve no appropriations. It will be seen at a glance what is the reason for asking that there be an estimate from the head of a Department or a recommendation from a standing committee of the Senate, in order to make an amendment in order. That shows that it is one involving a new appropriation. No amendment that does not involve a new appropriation is out of order under that rule; and it is the every-day practice here to allow an amendment coming from a committee to be amended on the motion of a single member, though the amendment to the amendment may in itself increase or diminish the amount of money appropriated. Inasmuch as this amendment provides for its payment out of the contingent fund of the Senate, it is clear that it does not involve any additional appropriation. The rule only cuts off additional appropriations. As I said, the argument of the Senator from Virginia may be a good one to induce the Senate to vote against the amendment; but as a question of order it certainly has no application.

Mr. COLLAMER. After the place where the present amendment is proposed to be inserted, the section provides that the amount shall be paid out of any money in the Treasury not otherwise appropriated. It has a general provision of that kind. The money would have to be paid, even if it should come out of our contingent fund; and therefore it is really an additional appropriation.

The PRESIDING OFFICER put the question whether the amendment of Mr. JONES should be received as in order, and it was decided in the negative.

So the amendment was not received.

Mr. WILSON. Would it be in order now to insert the words "and may be" after the words "have been," and before the word "paid?" The motion I make is, to insert the words "or may be" after the word "been" in the fourth line of the third section.

Mr. HUNTER. As I understand it, those words have already been stricken out by an amendment of the Senator from Wisconsin. If so, we cannot have another vote on it without reconsideration. We cannot move to insert that which has been stricken out by a vote of the Senate.

The PRESIDING OFFICER. The Chair understands that the whole section is stricken out. This is now proposed as an amendment to the amendment modified as presented.

Mr. HUNTER. Is it an amendment to an amendment?

The PRESIDING OFFICER. The whole section was stricken out, and a new one introduced

in place of it. It is proposed now to modify that new section.

Mr. HUNTER. But you cannot modify that new section because it has been adopted. The amendment to the section has been adopted. The Senate has passed upon it. It has determined to adopt that. You cannot amend what the Senate has determined to adopt.

The PRESIDING OFFICER. The Chair misunderstood it. He does not consider the amendment in order, because the section in its present form has just been adopted by the Senate.

Mr. WILSON. Does the Chair rule my motion out of order?

The PRESIDING OFFICER. It is, as the amendment has just been voted in.

Mr. WILSON. Would it be in order to reconsider those words?

The PRESIDING OFFICER. It would be in order to reconsider the late vote of the Senate by which that whole section was adopted in its present form.

Mr. WILSON. I move to strike out the whole section, and I want to state very briefly why I do it. I think the adoption of that section, as now amended, unfair and unjust. It proposes to pay the Clerk of the House the money he paid out under the direction of the House to some persons employed by the House, and all other persons who have not been paid are to receive nothing. Now, sir, I believe it impartial and unjust; and we had better strike the whole of it out and let it go. I have no doubt that, in some form, the money will be restored to him this session; but I think we had better strike out this section, and, as the bill goes back to the House, we are more likely to secure justice and equity to the employes of that House. I therefore shall vote to strike it out.

Mr. BENJAMIN. I cannot suffer to pass unchallenged this new code of political ethics. The proposition of the Senator from Massachusetts is this: if certain parties have, in violation of law, got money out of the Treasury, it is quite unfair and unjust that we shall not let other parties get some too. The proposition as first made was, that we should restore to the Clerk of the House that which he had paid out in obedience to the order of the House, although admitted to be in violation of law; but it was upon the ground that he had been placed in a delicate position, and had been compelled to yield obedience to the order of his own House. But the Senator from Massachusetts says that is not fair; that some of these men have got money in violation of law, and that there is no justice unless we pass a resolution allowing other men to get money in violation of law; that the plunder ought to be general; that as we have allowed it to be partial, there is nothing but justice in allowing it to be made general. I hope if it is to be made general, that members of both Houses, and everybody else, will be allowed a share. Let us have this justice in plundering the public Treasury universally, and let us allow this sum to every man in the United States. Then there will be justice, then there will be equality; but this political morality which requires you to allow one man to steal because another has stolen, is something novel in Congress.

Mr. HUNTER. I do not understand that there is any amendment pending.

The PRESIDING OFFICER. The Chair does not consider that the motion to strike out is in order, because the matter proposed to be stricken out has just been inserted by a vote of the Senate. It would be in order to move to reconsider.

Mr. WILSON. Before I make that motion, I wish to say a word or two in reply to the Senator from Louisiana. I desire to say, in the first place, that I receive his lecture in all kindness. Let me tell him, what he knows to be true, that the employes in both Houses of Congress, for years, have had voted to them extra pay; and that Senator, within a year or two, has helped to do it. Now he calls it plunder. Was it plunder when the Senator from Louisiana voted for extra pay to the Chaplain of the Senate at the last Congress? When that holy man of God put his hands into the Treasury, and took that extra pay, did he plunder? The Senator from Louisiana, and other Senators here, voted for it. Sir, it is a fact known to the members of the Senate, that we have voted to the persons employed in the Senate and House extra pay for years. I do not justify the system.

All that I have to say about it is, that Congress has done it; all parties have been engaged in it. The last House of Representatives acted in this way. Their Clerk paid a portion of the persons employed the extra pay; others have not been paid.

Now, sir, what I want is fair play. Let this Congress pay what the last Congress ordered to be paid—pay all persons covered by the House resolution, and then let us start fair, with the understanding that we shall stop the whole system, and make no more of these allowances. Let the resolution, as passed, be carried out. It would have been carried out if it had not been for a new construction put upon an old law. I understand that the Secretary of the Treasury thinks it right that it should be carried out. Why, sir, one of the members of the Committee of Ways and Means of the other House from Virginia, a man who cares as much for the Treasury of the United States as any other man in Congress; a man who, in money matters, I believe, is one of the purest and most upright men in Congress—I mean Mr. LETCHER, of Virginia—advocated this as right and just, maintaining that it ought to be carried out, and that we ought to stop here.

But what do you propose? You propose to pay back to the Clerk what he has paid out. The persons to whom he has paid it get their extra pay—the other equally faithful persons employed by the House of Representatives receive nothing. Now, I would pay them all according to the resolution, and then I would stop and pass no more extra pay resolutions. But it is proposed to stop with the employes of the last House of Representatives, and that is the whole of it. I should like to have this struck out.

Mr. BENJAMIN. I ask the Senator if we have not stopped on the employes of the Senate?

Mr. WILSON. We did not stop on the man who did the paying for us at the last Congress. We paid him then. I cannot say about all the other employes. I am against this whole bill. We are sucklers here on a little matter connected with a few employes of the House, while we vote readily for contracts made contrary to law by men who put their hands up to their elbows in the Treasury.

Sir, I believe I have as much interest and as much care in regard to the Treasury as other men; but I do not wish to be lectured here in regard to it. I have made this discovery, Mr. President, in my experience in Congress and in the country, that the members of a certain party—I mean the supporters of this Administration—canginto the Treasury, put their hands in, and their arms in, and cover themselves from head to heel with gold; while, if a bit of gold happens to touch the garments of persons of another party, they are ruined and damned. I believe candidly that the warfare on this proposition springs chiefly and mainly from the fact that the employes of the last House did not belong to the political party that now controls this country, or has the administration of the Government. I want to carry out the resolution of the House and stop here; and I never want to hear anything more about extra pay.

There is another point. I am told that the clerks of the committees of the House receive four dollars a day while our committee clerks receive six dollars. I do not know that their other employes are in the same ratio. If they be there may be some special reasons why the employes of the House of Representatives should receive extra pay. Of that I am not informed. We have struck out of this bill, however, their reporters; they have found it out and they have put their reporters in another bill, and they will come here again.

Mr. HUNTER. I merely wish to remark, in reply to the charge which has been made so often here, that this bill contains appropriations for contracts made contrary to law, that I am not aware of any such contracts for which this bill is providing. It is made to provide for contracts made without appropriations, but made under a law sanctioning them, specially the law of 1820.

Mr. BENJAMIN. I will say one word more in relation to what the gentleman from Virginia has just suggested.

Mr. COLLAMER. I wish to know what the question is.

The PRESIDING OFFICER. The Chair has more than once reminded the Senate that there is

no question now pending until another amendment is read.

Mr. BENJAMIN. I will let the vote be taken on this.

Mr. HARLAN. I move to amend the bill, by striking out—

The PRESIDING OFFICER. The Chair will state to the Senator that there are amendments pending, reported from the Senate as in Committee of the Whole, not yet disposed of.

Mr. FOSTER. Before we pass to other amendments, I propose making a motion to reconsider a vote that has passed within a few moments, on which I voted with the majority. Prior to making the motion, I wish to say, in a very few words, that in regard to the position of this bill and some of the votes which have been taken, I have been perplexed and embarrassed how to vote. It was in many of the votes I have given, a troublesome question with me how to vote, for it was manifest we were in a difficulty to some extent, let us decide these questions as we might. I voted in view of the best lights that are before me, and I am not entirely sure that I have not voted right; but I have such doubts about it, that I move to reconsider the vote on the amendment of the Senator from North Carolina, on which I voted with him, and voted with the majority.

Mr. DURKEE and others. That is stricken out.

Mr. FOSTER. I understand not.

Mr. COLLAMER. I understand that that whole third section, after it had received that amendment of the gentleman from North Carolina, and a variety of others, was altogether stricken out, and a substitute put in its place, on the motion of the Senator from Wisconsin.

Mr. FOSTER. I voted for that, and was going to say that I meant, also, to move a reconsideration of that vote.

Mr. COLLAMER. That must be reconsidered first.

Mr. FOSTER. If there is any difference in point of priority, if one must be reconsidered before the other, I move to reconsider the vote on the amendment proposed by the Senator from Wisconsin. My object was to get directly at my purpose by moving to reconsider the vote on the amendment of the Senator from North Carolina; but, as suggested, I think it is more proper, in point of form, to reconsider the other first, and it may be necessary. I move, therefore, that we reconsider the vote on the amendment of the honorable Senator from Wisconsin, stating my purpose to be, if that shall prevail and the vote shall be reconsidered and the amendment rejected, then to move to reconsider the vote on the amendment of the Senator from North Carolina.

Mr. HALE. I wish to call the attention of the Chair to a decision which he has just made, which I think is a mistake. I do not want to take an appeal; but I think the Chair is evidently mistaken. The amendment proposed by the Senator from Wisconsin was an amendment after the enacting clause of the section, and it was adopted. Then the Senator from Massachusetts moved to strike out the whole section, enacting clause and all. That is clearly in order, and the Chair is mistaken in its decision.

The PRESIDING OFFICER. The Chair would say in reply to the Senator from New Hampshire that the motion of the Senator from Wisconsin was to strike out one clause, and to insert another in its place; and it would not be competent now to move to amend the inserted matter.

Mr. PUGH. I understood that the motion of the Senator from Wisconsin was to strike out all after the enacting clause, but that it did not prevent my motion, of which I had given notice, to strike out the entire section. If it has any such effect I shall move to reconsider that vote; for I reserve yet the right to move to strike out the entire section.

The PRESIDING OFFICER. It is now moved by the Senator from Connecticut to reconsider the last vote of the Senate, by which the amendment offered by the Senator from Wisconsin was adopted.

Mr. TRUMBULL. I wish the remark made by the Senator from Virginia not to go unchallenged. I do not propose to go over the ground again; it has been so fully argued by the Senator from Maine, [Mr. FESSENDEN], and I said something upon it yesterday. The Senator has re-

marked that he is not aware that this bill makes appropriations to pay money on contracts which were made without authority of law. I think it has been clearly shown that the contracts for which this bill provides were made contrary to law—not only that there was no appropriation to meet the contracts, but that the contracts were made without advertisements, in direct violation of law, as was shown by the Senator from Maine, by reference to the law, and as I tried to show yesterday. The foundation of the whole bill, so far as it relates to the appropriations for the Utah expedition, is an unwarranted assumption on the part of the President.

Mr. BENJAMIN. I was about, a few moments ago, to say a few words on this very subject of contracts having been made in violation of law, because not advertised, and to call the attention of the Senator from Illinois and the Senator from Maine to their mistake on that subject. There is a statute which both have overlooked, which expressly authorizes contracts without advertisements. I will read it. The act of the 14th of April, 1818, provides—

“That supplies for the Army, unless in particular and urgent cases the Secretary of War should otherwise direct, shall be purchased by contract to be made by the commissary general on public notice.”

By the act of the 23d of August, 1842, the office of the commissary general of purchase was abolished, and the powers and duties of that officer were devolved on the quartermaster's department. There is a special statute authorizing the Secretary of War, in cases of urgent necessity, to direct this purchase of supplies for the Army without advertisement; and that is what is asserted to have been done in contravention of law.

Mr. SIMMONS. I feel very unwilling to vote against this motion, as it is made by my friend from Connecticut; but it seems to me that we are getting more and more into trouble by reconsidering these votes. I have voted against altering this section as it came from the House, I believe in every instance, except the first amendment proposed by the Senator from North Carolina. The whole difficulty is, that we are undertaking to interfere with the usual practice of the two Houses, to pay their clerks and other employes as they see fit. It ought never to be interfered with, in my deliberate judgment, unless there is some very extraordinary conduct on the part of one House. These joint resolutions and regulations about paying our pages and messengers and clerks, I have never known adhered to any longer than the close of the next session after they were made. We generally make these extra allowances, and then pass a law that we will never pay them again, and when we come to the end of the session we forget it. A sort of appeal is made to our generosity which I do not think deserves a great deal of harsh censure any way.

Mr. FOSTER. The Senator will allow me to say, that by reconsidering the amendment of the Senator from Wisconsin, and the Senator from North Carolina, we shall probably come to a result, at least so far as my vote is concerned, where we shall be in condition to follow out the doctrine suggested by the honorable Senator from Rhode Island.

Mr. SIMMONS. I should like to get at it, but we have been at it two days, and we are getting further and further off.

Mr. FOSTER, and others. This will do it.

Mr. SIMMONS. If it will come to that result, I hope we shall get rid of this difficulty.

Mr. FOSTER. That was my object in making the motion.

The motion to reconsider was agreed to; and the question recurred on the amendment of Mr. DOOLITTLE.

Mr. PUGH. Now is the amendment to strike out the entire section?

The PRESIDING OFFICER. To strike out all after the enacting clause, and insert another provision.

Mr. PUGH. After that motion, I understand it will still be in order to move to strike out the whole section, including the enacting clause.

The PRESIDING OFFICER. The question now is upon striking out all after the enacting clause, and inserting the new matter proposed by the Senator from Wisconsin.

Mr. STUART. The question now before the Senate is the same one which we voted upon be-

fore, and I understood the Chair recently to state that that was a motion to strike out the section and insert a new one.

The PRESIDING OFFICER. It is to strike out all after the enacting clause of the section.

Mr. STUART. Then I misapprehended the Chair.

The amendment was rejected.

Mr. FOSTER. I now move that the Senate reconsider the vote agreeing to the amendment proposed this morning by the honorable Senator from North Carolina. That amendment was, in the third section, after the word “Congress,” in line six, to insert, “not in contravention of the joint resolution ‘to fix the compensation of the employes in the legislative department of the Government, and to prohibit the allowance of the usual extra compensation to such as receive the benefits thereof,’” approved July 20, 1854.

Mr. BIGGS. I suppose it is as well to make a test question on the reconsideration as anything else. I therefore call for the yeas and nays on the motion to reconsider. It is the same question we have discussed here, and I do not propose to trouble the Senate again in regard to it.

The yeas and nays were ordered.

Mr. WILSON. Before the question is taken I wish to call the attention of the Senator from North Carolina, and also especially of the Senator from Louisiana, to the fact that on the 5th of March, 1857, the Senate rearranged its committees on a report of the Senator from Louisiana, and without referring at all to this law of 1854, provided “the clerks employed by all the other committees shall receive a compensation of six dollars per diem during the time of their actual employment, and at the close of the second session of each Congress shall be entitled to an extra compensation equal to the amount of their per diem for sixty days.” Thus we have provided here in the Senate that our clerks shall have \$360 extra compensation. The House of Representatives propose to give \$240 to their clerks. That is the difference, and the Senator from Louisiana himself made the report providing for \$360 extra to our clerks.

Mr. BENJAMIN. The Senator will permit me a moment. He certainly does not understand the position of the Senate on this subject. By law each House has a right to employ such clerks and assistants as it pleases, and in employing them to fix the compensation; and the compensation so fixed at the date of employment is entirely within the discretion of the House. It is not touched at all by this resolution. The resolution attacks the abuse of paying men extra compensation, after their employment has been contracted upon a particular basis of compensation, by way of gratuity. Now you employ your Secretary. You pay him any salary that you please. You may to-day say that for the future he shall have ten thousand dollars a year instead of one thousand. You have a perfect right to do it. There is no law that prohibits it. If you say, however, that his compensation shall be five thousand dollars a year, and at the end of the term allow him one dollar more for what he has already done, you are allowing extra compensation.

Now, in arranging the committees, a scale of future payment for their clerks was established. They were to have six dollars per day for their service; but as in the short session they were employed only ninety days they were to have six dollars per day extra for sixty days beyond the session. That was one mode of providing for the way in which their service should be calculated in futuro. It was no grant, no gift, no gratuity for past service, but the basis upon which future services were to be compensated. That is the distinction. That is perfectly in accordance with law.

Mr. WILSON. A single word. I understand the explanation made by the Senator, but it amounts to this: our clerks are allowed six dollars per day, and then, by our own rules, six dollars for sixty days extra, which is \$360. I think that right; I agree with the Senator. But the House of Representatives give their clerks of committees four dollars per day, and they have got no extra. They propose it in this bill, and you are going to strike out \$240 granted to the clerks of the House, who have only four dollars a day, and you give \$360 to your own clerks, who have six dollars per day.

Mr. BENJAMIN. Nobody denies the right of the House to employ their clerks at four dollars or ten dollars a day, or to give them fifty dollars a day after the end of the session, if they will put it in the rule at the beginning of the session, when they employ them. The objection is, that after employing men, and fixing the amount at which they should be employed, they make presents.

Mr. WILSON. Then we had better let them do this, and give them an opportunity to make their own laws about it in future. They voted it as a just compensation. I think we had better do it, and have this matter quietly settled.

Mr. FOSTER. When this amendment of the honorable Senator from North Carolina was before the Senate, I voted for it. I voted for it mainly because it would prevent the payment of a certain sum of money out of the Treasury which it was agreed was about to be paid under circumstances not strictly warranted by law. It seemed to me, in the condition of the country and of the Treasury, I was called upon to prevent any payment, even a small one, that I lawfully could.

A great deal is said here about economy; but though I take up less time perhaps than some gentlemen in speaking of it, I am disposed to vote, where economy is concerned, I trust, on the side of a judicious economy. Under the circumstances, if this vote is reconsidered, I shall change my vote on this amendment, and shall vote against it. I believe, under all the circumstances, it is judicious and best that the amendment shall not prevail; that the House of Representatives should be allowed, at least so far as we are concerned, to close this matter, and to end it, it being a matter of a former Congress; and then let us exert ourselves with all the energy that may be to use economy in our administration; and where our authority is concerned, let it be on the side of strict economy, and the maintenance of the law.

I regret, somewhat, to make this explanation, and to change my vote; but the question was so complex, so difficult, so full of difficulty now and promising so much more difficulty in the future, that it seems to me we consult a wise economy in passing this by. As regards the amount, it certainly is not a large one compared with the amounts which are going from the Treasury constantly, swelling up our expenditure annually to a sum that is absolutely startling. Why, sir, our expenses this year will unquestionably exceed seventy million dollars—an amount of more than three hundred thousand dollars for every congressional district in the United States. In the small State from which I come, having four congressional districts, if this amount were to be raised by a direct tax, the State of Connecticut would be compelled to pay for the support of the national Government twelve hundred thousand dollars a year. Possibly, sir, we are as able to pay that sum as any other of the States; possibly not. I am free to confess it would be with great difficulty that that sum of twelve hundred thousand dollars could be collected in the State of Connecticut, by a direct tax, for the support of this Government; but I feel pride in saying that I believe my State would pay, as cheerfully as any State in the Union, her just share of the expenses of the Government. I should feel somewhat startled, however, and my constituents would be startled, if they were called upon to pay, by direct taxation, twelve hundred thousand dollars a year for the support of this Government. You are taking such a course as compels our States to this; and under these circumstances, if we can stop these extravagant expenditures, and can bring the amount necessary for the support of this Government within any reasonable limits, it seems to me we need not argue to show the necessity of it.

Mr. BIGGS. I desire to make one appeal to the Senator from Connecticut, who is desirous of reforming these abuses. If this vote is reconsidered, it allows all the officers in the House of Representatives compensation for the last session of Congress. We have not made such allowances in the Senate at all. Will there not be an appeal made to us, and have not appeals already been made, that if we make these allowances, in contravention of the act of 1854, to the House employes, we ought certainly to make them to our own employes? I desire here to state that that will be the consequence, it seems to me, of reconsidering this vote. We shall be called upon by

the employes of the Senate to make the same compensation to them; whereas, if we adopt this amendment, we cut off that. Both Houses will stand fair then. The employes of both have been allowed their compensation for the first session of the last Congress. The employes of the House of Representatives have not been allowed extra pay for the last session except in this bill; we have made no such allowances to our employes; and thus both stand fair. Now, whatever may be the result of the present vote in regard to this matter, I here distinctly avow that under no circumstances will I vote to make these extra allowances to the employes of the Senate, whether this pass or not; but the appeal will be made, and a very strong appeal will be made to us: "As you have made an allowance for the employes of the House, you ought certainly to put the employes of the Senate on the same footing;" and that will be a consequence of reconsidering this amendment.

Mr. SIMMONS. I wish to ask the Senator from North Carolina if he does not think that the services of the clerk of a committee in the House is intrinsically worth as much as those of a clerk to a committee of the Senate? It is stated that the clerks in that body receive four dollars a day, and the clerks here six dollars. I was told, when I heard of this sum being allowed to clerks, that in former years we allowed clerks of committees in the Senate four dollars, and as it was usual to allow twenty per cent. extra, they concluded to put it in the price itself, and add twenty per cent. to the five dollars, making six dollars. I never did vote against these additions. I do not profess to have this notion of economy. But in addition to the six dollars, after one allowance has been made, the Senator from Louisiana has found out a way to give them pay for sixty days more, not as extra allowance, but to put it in before they are contracted with.

Mr. BENJAMIN. That was not passed.

Mr. SIMMONS. I do not know whether it was passed or not.

Mr. BENJAMIN. I proposed it. I think it was right; but it was not passed.

Mr. SIMMONS. I say that if those who profess so much economy did not use extravagance, it was because they could not carry their propositions.

Mr. BENJAMIN. Every gentleman speaking on this subject displaces the argument. I did not say a word about economy. I spoke about the law.

Mr. SIMMONS. Well, I did not know but that the law was made for the purpose of economy; but if it had nothing to do with economy—

Mr. BENJAMIN. No, sir; it was to prevent plunder, to prevent abuse.

Mr. SIMMONS. What I objected to in the outset was, that we should interfere with the prices allowed by the House of Representatives to their employes. I will not consent that they shall interfere with ours. I never did agree to any proposition to allow the House of Representatives to control the contingent fund of the Senate, and I am equally unwilling to interpose any obstacle to their disposing of their contingent fund as they see proper; but above all things, when we are paying fifty per cent. more than they do for the same service, I think it ill becomes us to be criticising them and criticising their conduct about this extra allowance. That is what I think. But whether they pay too much or too little, it is their business. I know the purpose of the Senator from North Carolina is right. I voted with him for the first amendment. I was very glad that it was offered, because I thought it might possibly put a stop to this practice. But this is preventing them from using their own discretion towards their own employes, and I think it improper for the Senate to interfere with it. If we want to pass any more joint resolutions that we shall be economical in the future, I will go with the Senator from North Carolina; but if the employes of the Senate are not paid anything extra for the last session, they will have received, according to all that I can learn, more than the employes of the House of Representatives will have received if this additional pay be given, and therefore there will be no injustice done to those who served the committees of this body, if this be the fact.

Mr. EVANS. It is so in relation to clerks of

the committees, but all other officers of the two Houses get the same pay.

Mr. SIMMONS. Then as to the other officers, I am willing to come in at the close of this session to make up a little for them. I shall not agree with the Senator from North Carolina about that; but I think we had better let the House of Representatives settle this matter, and we shall get over this difficulty in that way sooner than in any other way. Part of the money is paid out. We are getting into difficulties.

Mr. BIGGS. I suggest to the Senator from Rhode Island that the end I desire to attain by the amendment which he voted for in committee, and which has been adopted, I thought was a very proper matter for the consideration of the Senate on the information I then had before me; but it was only a repetition of what was done in 1854 and 1857. So I see that the same thing having been done in 1854 and 1857, and disregarded, there is no other way in the world of putting a stop to it but by confining the appropriations to those persons who did not get the benefit of the act of 1854. My first amendment proposes that hereafter this allowance should not be made. I thought there had been no legislation since 1845, at the time I moved that amendment; but, in 1854, there was a joint resolution, and in 1857 it was reenacted. My purpose in this amendment is therefore to cut off all the officers whose compensation was increased in 1854.

Mr. SIMMONS. Well, if we go on and pass resolutions cutting off these extra allowances every session, and we find next session that there is no attention paid to them, I ask the Senator if he expects to accomplish anything by going back and making a discrimination among clerks of committees and employes of the House? A part of them got their pay, and a part of them did not. That is my difficulty in voting on this proposition. It is said that there will be that difficulty; and inasmuch as they will not generally be paid as much as the employes of this body, I think we might well enough let bygones be bygones, and I will go with the Senator, and see if we cannot stop extra allowances hereafter.

Mr. EVANS. For the last four years I have had the supervision of the contingent expenses of the Senate, and I remember very well the history of the whole transactions connected with the joint resolution of 1854, for it occurred the first session I was here, and I believe originated with yourself, sir, (Mr. Mason in the chair.) In the first place, a resolution was introduced fixing the pay of our officers and employes. The pay of clerks of committees before that time had been four dollars a day, but upon the motion of a gentleman from Indiana, (Mr. Pettit,) it was fixed at five dollars.

Then came the joint resolution of 1854, adding twenty per cent. to all the salaries as fixed by a prior resolution, and forbidding the allowance of the extra compensation which had before been voted. Certain persons—who they were I do not know—who were in the employment of the House, declined to take the additional compensation under the joint resolution, and preferred the extra compensation, which was, I think, about two hundred dollars a year. That was more than the twenty per cent. would be, and they declined to take the twenty per cent., and had address enough to get a resolution passed to compensate them by giving them the extra pay. At the next session they took the twenty per cent., however; but they were not satisfied with that. They went on, then, to get the additional twenty per cent., which has been paid them once or twice. In 1856, this special allowance was made, and I examined into it. The amount is between seventy and eighty thousand dollars, which is paid to the employes of the two Houses—the Senate about twenty-five thousand dollars, and the House somewhere about fifty thousand dollars. There is no difference between the pay of the officers of the two Houses, except the clerks of committees. We have a general provision that all committees may employ clerks. In the House of Representatives they have to obtain permission; and it is usually inserted in their resolutions that the committee have permission to employ a clerk at four dollars a day. When one of these resolutions passes, there are perhaps twenty applicants willing to take the place at four dollars a day. If you were to reduce the price here to four dollars a day,

you would get just as good men to perform the duty.

Mr. IVERSON. The motion now is to reconsider the vote by which the amendment of the Senator from North Carolina was adopted. If the motion to reconsider prevails, the question will then recur, whether the Senate will adopt the amendment? If the amendment be adopted, the third section of the bill, as it came from the House of Representatives, will have to undergo amendments, which will have to be concurred in by the House of Representatives in order to pass the bill. I shall vote for the reconsideration, although I am in favor of the principle of the amendment; and if it shall be reconsidered, then, when the question comes before the Senate as to whether we shall readopt the amendment, I shall vote against it; not because I am opposed to the principle of it, but because I believe it injudicious to adopt it now.

In the first place, I think it would be better if the Senate rejects any portion of the bill of the House which makes an appropriation to cover the payments made by the Clerk or by the House in satisfaction of the claims of its employes; it is better the question should go to the House in a naked form, simply as to whether the Senate concurs in the appropriation made by the House for its employes or not. My impression is that the House will not recede from that appropriation; and, if we disagree with the House at all, we had better disagree on the naked proposition as to whether the House has the right, and has acted wisely in making the appropriation for extra compensation to its employes or not. Then the question will come up whether the House has the right or power, and whether it has acted wisely and properly in making this appropriation; and then, in the language of Shakspeare:

"Lay on, Macduff;
And damn'd be him that first cries, hold, enough!"

I shall vote to reconsider, and then vote against the amendment of the Senator from North Carolina, because I do not want to embarrass the issue between the two Houses, by any of this collateral matter. I want the question decided whether the House of Representatives have the right, or whether any one branch of Congress has the right to appropriate its contingent fund in its own way, at its own unlimited discretion. Although I admit that the House of Representatives has the power to appropriate its contingent fund, I think that power has a limit. That limit is one of wisdom and propriety. The contingent fund of the House of Representatives belongs to the public Treasury. It is money taken out of the Treasury of the United States; it is a part of the national fund; and the House of Representatives have no more right to waste that part of the national fund, than they have to waste any other portion of the national Treasury.

I admit that the House of Representatives (and so of the Senate) possesses the right under the Constitution and practice of the Government to appropriate and disburse its contingent fund as it pleases, within the bounds of discretion and propriety, and not beyond that. If the House takes any portion of the contingent fund, which is part of the public Treasury, and throws it into the Potomac river, I want to know if the other branch has not a right to say something on that subject? If they make foolish, extravagant, or corrupt applications of money, then I think the other House has a right, and it is its bounden duty, to put its hand on them, and arrest these extravagant expenditures. I would not pretend to control, or attempt to control, the action of the other House upon any question of expediency or propriety. If they had acted within the bounds of reason, and appropriated any portion of the contingent fund, I would say, let them take it, although my judgment might be opposed to it; but if they make an extravagant appropriation, if they make an illegal appropriation, if they make a foolish appropriation, if they make one which is clearly improper, and a monstrous one, then I think it is the duty, as well as the right and power of the other House to put its hand on it, and say you shall not control the public funds in this way. That is my opinion in relation to the power of the two Houses.

I believe, sir, that the House of Representatives ought not to have made this appropriation; and when the question comes up nakedly before the Senate as to whether I will concur in the ap-

plication made of this fund by the House, I shall vote against it; because I believe it is in violation of every principle of reason, of justice, and propriety, that the House should control the fund in this way. Believing so, I shall not hesitate to vote to strike out the proposition which is contained in the bill from the House of Representatives; but while I do this, I want to present the question to the House in a naked form, unincumbered by any embarrassing propositions, such as the amendment of the Senator from North Carolina would present; and let the House of Representatives then decide whether or not they will recede from the appropriation which they have made; and if they insist upon their appropriation, then let the Senate decide whether they will recede or not. Let the issue be a naked issue between the two Houses upon the power and the right of each House to control its contingent fund, and then let the question be decided. I trust, therefore, that the motion to reconsider will prevail, and that the Senate will not adopt the amendment moved by the Senator from North Carolina, but that we shall finally strike out the section sent here by the House of Representatives, and let it go back for adjudication in that House.

There is another suggestion which has presented itself to my mind. It is better to send the bill back to the House of Representatives, incumbered by as few amendments as possible, because we remember how close a vote it was in the House of Representatives to pass this bill at all; and if we incumber it with amendments, we run the risk of losing it. At any rate, I think the public service demands that this bill should not only be passed, but passed as soon as possible. I am not willing, therefore, to risk the fate of the bill by attaching any unnecessary amendments to it in this body.

Mr. WILSON. There seems to be an opinion here in the Senate that the allowance of extra compensation has grown up in modern times. Sir, it commenced sixty-four years ago, in 1794; and has been acted on by nearly every Congress from 1794 until this time. Each House during all that time has had control of its own contingent funds, and these matters have not been repudiated; and if Senators will examine the record, they will find it to be so.

Now, sir, our clerks of committees are included in the act of 1854; they are mentioned in that act; but by resolution last spring, the Senate gave them \$360 extra compensation; in the face of that act we did that. We stand in that matter precisely as the House of Representatives does in this, with this difference: we made our provision in defiance and in the face of the law; they made no standing rule, but made it an extra matter after the services had been performed. I think the best way is to agree to the reconsideration proposed by the Senator from Connecticut, and let us leave this section as we found it this morning; and for one, although I agree with the Senator from North Carolina that this policy is all wrong, and will go with him in the future against it, I think we had better settle up the past, and start fair.

The question being taken by yeas and nays, resulted—yeas 30, nays 20; as follows:

YEAS—Messrs. Allen, Bell, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Gwin, Hale, Houston, Iverson, Kennedy, Polk, Pugh, Seward, Simmons, Stuart, Thomson of New Jersey, Trumbull, Wade and Wilson—30.

NAYS—Messrs. Benjamin, Biggs, Bigler, Clay, Douglas, Evans, Fitzpatrick, Green, Hammond, Harlan, Hunter, Johnson of Tennessee, King, Mason, Pugh, Sebastian, Sidel, Toombs, Wright, and Yulee—20.

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now recurs on the adoption of the amendment of the Senator from North Carolina, [Mr. Briggs.]

Mr. IVERSON. Before that question is put I desire to ask a question of the Chair as to another amendment of the Senator from North Carolina, with respect to future allowances. Has that been adopted by the Senate since we came out of Committee?

The PRESIDING OFFICER. It has been adopted in the Senate.

Mr. IVERSON. Is this the proper time to reconsider that?

The PRESIDING OFFICER. The question now is on agreeing to the amendment which has been reconsidered.

The amendment was rejected.

Mr. BIGGS. Will it now be in order to move to strike out the whole section as amended? The only amendment now that has been made in the Senate has been the amendment made in Committee of the Whole, which is the amendment proposed by me prohibiting any further appropriations for purposes of this kind. We are now in the Senate; that amendment has been adopted in the Senate; and now I ask whether or not it is in order to move to strike out the whole section? I suppose it is.

The PRESIDING OFFICER. The Chair considers it to be in order.

Mr. BIGGS. My object not being attained at all—

Mr. IVERSON. Will the Senator from North Carolina allow me to make a motion to reconsider the amendment of his? That will bring the section back to what it was as it came from the House, and then the motion to strike out can be made.

Mr. BIGGS. It seems to me the object will be entirely attained by a motion to strike out now. My object being to cut off the appropriations inconsistent with the act of 1854; and that not now being accomplished, I am for striking out the whole section unconditionally. I therefore move to strike out the whole section as amended. I ask for the yeas and nays upon the motion.

Mr. IVERSON. I rise to a point of order. I desire to inquire whether, if the motion now made to strike out that whole section, which embraces the amendment of the Senator from North Carolina, does not prevail, that vote is not the adoption of the whole section, so that I cannot move to reconsider the amendment of the Senator from North Carolina? If the motion to strike out does not prevail, is it not tantamount to an adoption of the whole as it is?

The PRESIDING OFFICER. The Chair will say to the Senator from Georgia, that the section just read was reinserted by a vote of the Senate upon a reconsideration, and then a second reconsideration of so much of it as consisted of an amendment offered by the Senator from North Carolina, which was not carried. It is now proposed to strike out the remainder of the section.

Mr. IVERSON. It is proposed to strike out the whole section.

The PRESIDING OFFICER. All that remains, which is the whole.

Mr. IVERSON. What I want to get at is a reconsideration of the amendment of the Senator from North Carolina. I want to get rid of that amendment before the question is taken on striking out or disagreeing with the House on the original section, and I think I am entitled to that precedence.

The PRESIDING OFFICER. The Chair understands the Senator. Two amendments were made, on motion of the Senator from North Carolina, one of which has been lost, and it is desired to move a reconsideration of the other.

Mr. IVERSON. I move now to reconsider the other amendment of the Senator from North Carolina. The amendment to be reconsidered is:

And provided further, That it shall never hereafter be lawful for either House of Congress to apply any part of the appropriation for the contingent expenses of such House to any other than the ordinary expenditures of such House, nor to apply any part of said appropriation as extra pay or extra allowance to any clerk, messenger, or attendant of the said two Houses, or either of them.

The PRESIDING OFFICER. It is proposed by the Senator from Georgia, that the vote of the Senate by which this amendment was adopted shall be reconsidered.

Mr. DOOLITTLE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 8, nays 39; as follows:

YEAS—Messrs. Allen, Cameron, Gwin, Hale, Iverson, Johnson of Tennessee, Sebastian, and Stuart—8.

NAYS—Messrs. Benjamin, Biggs, Bigler, Bright, Broderick, Brown, Chandler, Clark, Clay, Collamer, Dixon, Doolittle, Durkee, Evans, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Harlan, Houston, Hunter, Kennedy, King, Mason, Polk, Pugh, Seward, Simmons, Sidel, Thomson of New Jersey, Toombs, Trumbull, Wade, Wilson, Wright, and Yulee—39.

So the Senate refused to reconsider the amendment.

The PRESIDING OFFICER. The question now is on the motion of the Senator from North Carolina to strike out the whole third section, as amended.

Mr. BIGGS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KING. I was requested to state that the Senator from Maine [Mr. Hamlin] has paired off with the Senator from Iowa, [Mr. Jones.]

The question being taken by yeas and nays, resulted—yeas 25, nays 22; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Douglas, Evans, Fitzpatrick, Gwin, Hale, Hunter, Iverson, Johnson of Tennessee, King, Mason, Pugh, Sebastian, Seward, Sidel, Thomson of New Jersey, Toombs, Wade, Wright, and Yulee—25.

NAYS—Messrs. Broderick, Brown, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Green, Harlan, Houston, Kennedy, Polk, Simmons, Stuart, Trumbull, and Wilson—22.

So the motion to strike out was agreed to.

The next amendment of the Committee of the Whole was to insert, as section four:

And be it further enacted, That no part of the amount appropriated by this act for the service of any one fiscal year shall be used for or applied to the service of any other year, nor be transferred to or used for any other branch of expenditure than that for which it is specifically appropriated.

Mr. HUNTER. I ask for the yeas and nays upon that.

The yeas and nays were ordered; and, being taken, resulted—yeas 23, nays 27; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Harlan, Johnson of Tennessee, King, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—23.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Crittenden, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Kennedy, Mason, Polk, Sebastian, Sidel, Thomson of New Jersey, Toombs, Wright, and Yulee—27.

So the amendment made in Committee of the Whole was non-concurred in.

Mr. SEWARD. I move that the Senate adjourn.

Mr. HUNTER. I ask the Senator if he will not withdraw the motion? I think we can get through with the bill to-day, and get it out of the way.

The motion was not agreed to.

The PRESIDING OFFICER. There is another amendment from the Committee of the Whole, to add, as a new section:

And be it further enacted, That whenever hereafter contracts shall be made by the Secretary of War or the Secretary of the Navy, by virtue of the sixth section of the act approved May 1, 1820, entitled "An act in addition to the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, he shall, if Congress be in session at the time, promptly report to both Houses thereof the reasons for making such contract, stating fully all the facts and circumstances which, in his judgment, rendered such a contract necessary. If Congress be not in session at the time of making such contract, he shall, at the commencement of their next session, make such reports to both Houses. And no such contracts shall be made hereafter, except in cases of pressing exigency.

Mr. HALE. I wish to call the attention of the Senate, particularly the Senator from Michigan, to this section—

Mr. BENJAMIN. There is no objection to this.

Mr. HALE. I know there is no objection to this; but according to the construction placed on words like these by the Senator from Louisiana, in the law which he read; and which was passed in 1818, the amendment will not reach the difficulty that it is aimed at.

Mr. FESSENDEN. It is not intended to meet what we want to guard against.

Mr. HALE. Then I have not anything to say.

The amendment was concurred in.

Mr. FESSENDEN. Are all the amendments adopted by the Senate as in Committee of the Whole disposed of now?

The PRESIDING OFFICER. Yes, sir.

Mr. FESSENDEN. I move, then, the amendment which I moved in committee, and which was rejected with a slight modification as to a portion of the appropriation. I have added the amount of \$1,000,000 for transportation, according to the estimates which were made of what was necessary to be expended to meet the expenditures of the year 1857-58, that is, previous to the 1st of July, 1858. As this amendment now stands, it proposes to appropriate in distinct sums, all that was demanded to meet the deficiencies of 1857, and all that was demanded to meet the deficiencies of 1858, leaving out the proposed additional appropriations for 1859 and 1860; and on the question of the adoption of the amendment I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment will be read.

Mr. HUNTER. We know what it is. Unless the Senator desires to have it read, I think we had better take the vote on it. The matter was discussed yesterday.

Mr. FESSENDEN. I suppose it is hardly necessary to read it. There is only one alteration, adding \$1,000,000.

The yeas and nays were ordered.

Mr. BELL. I shall detain the Senate but a few minutes. I have not spoken on this bill, nor do I mean to throw myself on the indulgence of the Senate now; but, as I shall vote for the amendment of the Senator from Maine, I wish to state, as distinctly as I can, the principles upon which I do it. I have not been able to give that attention to the details and to all the points which ought, perhaps, to be well and carefully considered, in order to answer, in a satisfactory manner, the arguments which have been adduced in opposition to this proposition. I mean merely to attempt to lay down the general principles on which I propose to govern my course on this subject.

Mr. President, we have no means of expressing our opinion in relation to the propriety or the expediency, or even the lawfulness of the action of the Executive in regard to the Mormon war, but by indicating it upon some vote which we shall give when the question of appropriation is presented to us. It is not for me, nor is it for this body, to decide whether the Executive has violated any great and vital principle in bringing upon the country this vast expenditure at his own discretion. Nor would it be appropriate and becoming for us to announce any opinion upon that subject. If he has clearly, and if it should appear that he has willfully, transcended the powers of his august position under the Constitution of the United States, it is for another body to inquire into that question. But there are certain striking and prominent facts that cannot be blinked in connection with this subject. I wish that circumstances were such that I could feel myself at liberty to go more at length into the discussion than I am competent to do now, or than it would be proper, under all the circumstances of the moment, after we have had so much debate on the subject on both sides of this question. I say it would not be appropriate and becoming for this body to pronounce any sentiment as to the President's course; but whoever will look at it, and examine it carefully, will find, I feel warranted in saying, that the President, at least, has exercised a very questionable authority. He authorized an expedition to Utah at a season of the year when he was advised, from some sources that we may justly pronounce to be competent, that it was very uncertain whether the expedition could reach Utah at all, and when it was very probable that they would be arrested by the rigor of the severe winters which are almost certain to prevail in the Rocky Mountains until the spring, and that they could not reach the point of destination before they would be so arrested.

I wish gentlemen would carry on their conversation in a lower tone of voice.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The Chair begs to remind Senators that there is too much conversation in the Chamber.

Mr. BELL. I am informed, though I have not inquired into the details, and have to take the statements of gentlemen whose positions authorize them to speak with more confidence and authority than I can, that if there should be no additional troops ordered to sustain the party under General Johnston, or General Persifer F. Smith, or whoever is in chief command, they have been arrested in their progress to Utah by the rigors of winter, and incurred an expenditure of about five million dollars; and that when we shall now, as I am ready to do, vote to pay whatever has been really expended, it will not be less than five million dollars. Upon what authority, then, of law or of constitutional power, has the President brought upon us the necessity, upon common principles of humanity to our countrymen for the purpose of rescuing that gallant portion of our Army who have wintered in the fastnesses of the Rocky Mountains; upon what authority of law or the Constitution has the President brought upon us the necessity of appropriating these millions? Sir, I am not prepared to say upon the ex-

amination I have made, that there is no plausible pretext or ground of authority in previous laws, or under the powers granted to the President of the United States by the Constitution, for supposing that he was authorized to order the expedition into Utah. What I have said of it already goes to the expediency of the expedition which was ordered. I believe it did not set out until near the last of September or the first of October, when the most judicious and experienced and skillful persons connected with the passages over those mountains could with no certainty calculate that they would reach the point of destination before the rigors of winter would set in, so that they could not move at all.

I should thank those gentlemen who are near me on my left and just across the aisle, if they would forbear for a few moments.

The PRESIDING OFFICER. Order!

Mr. BELL. I can scarcely hear myself when there is so much conversation indulged near me.

The PRESIDING OFFICER. The Chair has already reminded Senators that there is too much conversation.

Mr. BELL. What is the authority of law under which the President has thought proper to institute this war upon the Mormons? Sir, from the very foundation of the Government, any gentleman will find, who chooses to examine the subject, that that is a point upon which Congress have exercised the greatest scruple and jealousy in giving power to the President, at his discretion, to wage war with any people or any portion of any people, either in the States or Territories. In the act of 1792, though repealed by the act of 1795, they were not willing to intrust him with that power for more than two years. This extent of power and discretion granted to the Executive, was on account of the growing difficulties in some particular sections of the Union as early as 1792; and the power to call forth the militia and to use the military force of the United States was only to last thirty days after the commencement of the next ensuing session of Congress.

The act of 1795 is almost equally cautious in the grant of power to the Executive; and at every step in the history of the grant of power by Congress under the Constitution to the Executive on this question, you will find the greatest caution exercised by our predecessors in these seats. The first act passed in 1795 was dictated by the condition of things in the western counties of Pennsylvania. It granted power to the President to call forth not exceeding two thousand five hundred militia, to be stationed in the western counties of Pennsylvania. But even with that power, although extended in a subsequent section to the voluntary enlistment of men, their service was to terminate at the end of thirty days after the next meeting of Congress. The whole power given to the President to call forth the militia and to use the military force of the Union was to terminate then.

Another condition annexed to that power was that either thirty or sixty (I forget which) days' notice was to be given to the insurgent forces to disperse or to lay down their arms, before the President was authorized to employ military force in the suppression of such an insurrection or rebellion. Even in regard to the power of the President to execute the treaties of the United States, which by the Constitution are made the supreme law of the land, he could not remove intruders from Indian territories or the public lands without authority of law, and a limited authority carefully guarded and limited.

This power is claimed, in the present case, under the general authority implied in the duty of the President to execute the laws of the land. That, however, is not different from the duty which has existed during the whole period of the existence of this Government, in relation to carrying out treaties, and executing the laws of the land in our Territories acquired by foreign treaty, or by treaty with Indian tribes. The President has not been permitted to employ a single company of militia or regular soldiers, but in virtue of some specific, express act of Congress. You cannot, by force, remove an intruder from the public lands on the Indian territory, although it is made, by treaty, the express duty of the Government to prevent such intrusion. It has been considered, by our predecessors, that the President has no authority to employ a military force to execute the treaties, unless by express act of

Congress—neither militia nor regular troops. Now, sir, I observe that the act of 1807 makes two alterations in the act of 1795. It extends the power of the President to the Territories, and in all cases where he would be authorized to use the militia, under the act of 1795, it allows him to use the Army.

The PRESIDING OFFICER. (Mr. Foot.) The Chair regrets very much to be obliged to repeat the suggestion to Senators that there is so much conversation, and loud conversation, that it is impossible for the Senator from Tennessee to proceed.

Mr. BELL. I know these gentlemen do not mean anything.

Mr. POLK. If the Senator from Tennessee will allow me, as I do not suppose he can get through with his remarks this evening, I propose that the Senate adjourn.

Mr. BELL. I do not propose to occupy the attention of the Senate long. I only want to give an explanation of my vote.

Mr. POLK. Then I withdraw the motion.

Mr. BELL. I am perfectly willing to adjourn if the Senate desires it; but I want to lay down some distinct ground—

Mr. SEWARD. I hope the Senator will give way for a motion to adjourn.

Mr. BELL. If the Senate want to adjourn, I have no objection.

Mr. SEWARD. I move that the Senate do now adjourn.

Mr. HUNTER. I suggest that to-morrow is private bill day, and one objection will prevent us going on with this bill; but for that, I would consent to adjourn.

Mr. SEWARD and Mr. HALE. Nobody will object.

Mr. IVERSON. For one, I shall object to interfering with private bills.

Mr. HALE. The motion is not debatable.

The PRESIDING OFFICER. The question is on the motion to adjourn. It is not debatable.

Mr. HOUSTON. Will the gentleman permit me to make a remark?

Mr. SEWARD. I withdraw the motion for the present, with the leave of the honorable Senator from Tennessee.

Mr. HOUSTON. I am not going to make a speech, but I wish to make a remark.

Mr. SEWARD. Very well.

Mr. HOUSTON. I have sat here, Mr. President, for nearly twelve years, and I must confess that I have never met in this Chamber a single day that I have not been intensely mortified that I was a member of this body in some respects. I well remember there was a time when this body was the most decorous, dignified, and respectable body that my eyes ever looked upon. The material here is good enough, but there is a total disregard of everything like order and respect to fellow-members when they are addressing the body. It is not alone that disorder exists in the galleries, but it exists on the floor of the Senate. The rules of the body are such as to enable the officers of it to enforce authority, and to maintain order and profound silence.

Mr. MASON. I must call the Senator to order.

Mr. HOUSTON. I had permission.

Mr. MASON. There is no question before the Senate except the bill.

Mr. HOUSTON. There is the most important question, Mr. President, that has ever been presented to the body.

Mr. MASON. I call the Senator to order; and I submit that question.

The PRESIDING OFFICER. Will the Senator state his point of order again?

Mr. MASON. The question before the Senate is on the deficiency bill, and the remarks of the Senator are not relevant to it.

The PRESIDING OFFICER. The question before the Senate is on the amendment of the Senator from Maine to the deficiency bill.

Mr. MASON. I object to the remarks of the Senator from Texas, because they are not pertinent to that question.

Mr. HOUSTON. They are most pertinent.

Mr. MASON. I submit the question to the Chair.

Mr. SEWARD. The Chair will indulge me. The honorable Senator from Tennessee has the floor upon the bill. He gave way to make a

motion to adjourn. With his leave, I withdrew the motion to enable the honorable Senator from Texas to address the Senate; and now, the motion of adjournment being withdrawn, and the bill coming up, the honorable Senator from Tennessee is the person who has the disposition of the floor.

Mr. BELL. I hope my honorable friend from Texas—

Mr. HOUSTON. I renew the motion to adjourn; but I will claim the opportunity, on tomorrow morning, of finishing my remarks on this subject.

Mr. BELL. I do not wish an adjournment on my account.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 22, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. L. ELLIOTT.

The Journal of yesterday was read and approved.

OCEAN MAIL SERVICE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General, asking legislation to provide for the transportation of the mails to Bremen and Havre, and also between New York and Liverpool; which was referred to the Committee of Ways and Means, and ordered to be printed.

BOOKS IN THE CAPITOL.

Mr. MARSHALL, of Kentucky. I ask the consent of the House to permit me to offer a resolution in relation to the books now under the rotunda of the Capitol.

The resolution was read, as follows:

Whereas, a vast number of valuable books, the property of this House, are lying, without order or arrangement, in the apartments on the ground floor below the rotunda of the Capitol: Therefore

Be it resolved, That ————— be appointed to investigate the condition of these books, to classify them, and to make a report to the proper officers of the House; and that, in this duty, he be allowed the services of an assistant, both to serve at a rate of compensation to be hereafter determined.

Mr. MARSHALL, of Kentucky. I will read to the House a short statement which has been placed in my hands, and which throws all the light on the subject that I have. It is as follows:

"A vast number of books, congressional and other, are lying in a room below the rotunda, on the ground floor. Among them are the works of John Adams, packed in numerous boxes. These books are the only ones which lie in any regular order; the rest are piled in immense heaps, without order or arrangement, plentifully intermingled with coal and ashes, and many of them rotten with mold. Among them are hundreds of sets of the United States Statutes at Large, and other of the most valuable congressional publications. It would be almost impossible to give, from a casual examination, any near estimate of the number of these books; though it is evident that their value must be immense."

That is the extent of my information.

Mr. MASON. I would suggest that this matter be referred to the Committee of Accounts.

Mr. CLINGMAN. I understand that the resolution was only read for information; and if it is going to give rise to debate, I shall object to its introduction.

Mr. MASON. I only wish to state—

Mr. CLINGMAN. I object.

The SPEAKER. Will the gentleman from North Carolina indulge the Chair in making a suggestion in reference to these books?

Mr. CLINGMAN. Certainly.

The SPEAKER. The Chair, hearing a few days since that there was a large number of books under the Capitol, instructed the Doorkeeper to have them removed. The Doorkeeper at first reported that there were two, three, or four wagon loads; but after the work was commenced, he reported to the Chair yesterday that there were perhaps fifty wagon loads. The Chair went down yesterday evening, and made an examination of the books. A great many of them have been destroyed by mold and rot; but such of them as are of any value at all, the Doorkeeper is now having brought from the old portion of the building, and two or three rooms in this portion of the Capitol have been assigned for the purpose of storing them, and having an inventory made of them. The Chair supposes that the resolution of the gentleman from Kentucky would be a very

proper one; for the labor of cleaning the books and indexing them will be very heavy.

Mr. MASON. I was going to remark that these books do not belong to this House. Some of them belong to the Senate and some to former members of Congress. They have been there for years.

Mr. MARSHALL, of Kentucky. I understand that they have been lighting fires with them.

Mr. CLINGMAN. I ask the gentleman what name he proposes to put into the resolution? I suppose, if he will put in the Doorkeeper, he can employ an assistant to do the work.

Mr. MARSHALL, of Kentucky. I proposed to put in the name of Mr. Bary, the clerk of our committee.

Mr. COBB. If the resolution is to create new offices, I must object to it.

Mr. CLINGMAN. I call for the regular order of business.

WISCONSIN RESOLUTION.

Mr. BILLINGHURST, by unanimous consent, presented a joint resolution of the Legislature of the State of Wisconsin, relative to the Leecompton constitution; which was laid on the table, and ordered to be printed.

CLOSE OF DEBATE.

The SPEAKER stated the business first in order to be the resolution offered yesterday by the gentleman from Pennsylvania, [Mr. J. GLANCY JONES,] terminating debate upon the legislative, &c., appropriation bill; to which an amendment, offered by the gentleman from Maine, [Mr. WASHBURN,] was pending.

Mr. WASHBURN, of Maine. I modify my amendment so as to close debate upon the bill in two hours after the consideration of the same shall have been resumed in committee. I understand the amendment, as modified, will be acceptable to the gentleman from Pennsylvania, [Mr. J. GLANCY JONES.]

Mr. J. GLANCY JONES. I accept the amendment.

The resolution, as modified, was adopted.

Mr. J. GLANCY JONES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

AGRICULTURAL COLLEGE BILL.

Mr. WASHBURN, of Maine. I ask the gentleman from Pennsylvania to withdraw his motion for a very short time until the bill offered by the gentleman from Vermont, [Mr. MORRILL,] donating lands for agricultural purposes, which comes up in the morning hour, shall have been disposed of.

PENSION BILL.

Mr. SAVAGE. I desire to call the attention of the House to the fact that the bill reported by the Committee on Invalid Pensions, giving pensions to the soldiers of the war of 1812, was made the special order for to-day in the Committee of the Whole on the state of the Union. I have been trying to get the floor for the purpose of moving to go into committee to take up that bill.

The SPEAKER. Debate is not in order.

Mr. J. GLANCY JONES. I merely wish to state—

The SPEAKER. Debate is not in order.

Mr. J. GLANCY JONES. I merely desire to say, if there be no objection, without occupying five minutes or three minutes, that I understand it to be the will of this House and of the Senate to adjourn finally on the first Monday in June. The adjournment on that day cannot take place unless we pay more attention to the appropriation bills. I hope, therefore, that the bill which has been made the special order for to-day will be postponed until after the appropriation bills shall have been passed. Unless the House devotes more of its time to the appropriation bills, the time fixed for the final adjournment of Congress will have to be extended. I hope, therefore, the gentleman from Tennessee will consent to have the bill which has been made the special order postponed for the present.

Mr. SAVAGE. I do not think this appeal comes to me with good grace, after the many accommodations I have extended to allow the other business of the House to be transacted. This bill has been postponed from time to time, until we have reached this late period of the session; and if the House now postpones it further, I shall consider it as a defeat of the bill. I desire that the House shall understand that the effect of a further postponement will be to destroy the bill.

Mr. CLINGMAN. Is this debate in order?

The SPEAKER. It is not.

Mr. CLINGMAN. Then I object, and call for the regular order.

Mr. WASHBURN, of Maine. I desire to ask if this special order for to-day is not in the Committee of the Whole on the state of the Union?

The SPEAKER. It is.

Mr. WASHBURN, of Maine. Then I hope we shall not go into committee until after we have disposed of the bill in the House which comes up in the morning hour, upon which the previous question has been called. It will not take more than half an hour, and then we can go into committee.

Mr. J. GLANCY JONES. I desire to know if the special order applies in the morning hour?

The SPEAKER. It does not apply in the House at all. It is a special order in committee. Mr. WASHBURN, of Maine. I call for the regular order.

The motion to go into the Committee of the Whole on the state of the Union was not agreed to.

AGRICULTURAL COLLEGES BILL.

The bill (H. R. No. 2) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, upon which the previous question had been called, was taken up for the action of the House, the question pending being on seconding the demand for the previous question.

Mr. JONES, of Tennessee. Is it in order to move to lay the bill on the table?

The SPEAKER. The Chair thinks not. The condition of the bill has not been changed since the House has voted upon that motion.

Mr. HUGHES. Is there not a motion to reconsider pending?

The SPEAKER. Such a motion is pending. Mr. MILLSON demanded tellers on seconding the call for the previous question.

Tellers were ordered; and Messrs. BUFFINTON and MILLSON were appointed.

The House divided; and the tellers reported—ayes 91, noes 61.

So the previous question was seconded, and the main question ordered.

Mr. COBB. I want the House to understand this: that the previous question cuts off all motions to amend or refer.

Mr. CLINGMAN. I object to debate.

The SPEAKER. Debate is not in order.

Mr. PHILLIPS. I move that the bill be laid on the table; and on that motion demand the yeas and nays.

The yeas and nays were ordered.

Mr. HUGHES. I ask that the bill and amendment be read, so that members may know exactly what they are called to vote on.

The SPEAKER. The bill and substitute will be read.

The amendment differs from the bill in not extending the proposed benefits to the Territories, and in the addition of the fifth and last clause of the fifth section.

The amendment, which is in the nature of a substitute, is as follows:

A bill donating public lands to the several States which may provide colleges for the benefit of agriculture and the mechanic arts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be granted to the several States, for the purpose hereinafter mentioned, five millions nine hundred and twenty thousand acres of land, to be apportioned to each State a quantity equal to twenty thousand acres for each Senator and Representative in Congress, to which the States are now respectively entitled.

SEC. 2. *And be it further enacted*, That the land aforesaid, after being surveyed, shall be apportioned to the several States, in sections or subdivisions of sections, not less than one quarter of a section; and whenever there are public lands in a State worth \$1 25 per acre, (the value of said lands to be determined by the Governor of said State), the quantity to which said State shall be entitled shall be selected from such lands; and the Secretary of the Interior is hereby directed to issue to those States in which there are

no public lands of the value of \$1 25 per acre, land scrip to the amount of their distributive shares in acres under the provisions of this act, said scrip to be sold by said States, and the proceeds thereof to be applied to the uses and purposes prescribed in this act, and for no other use or purpose whatsoever: *Provided*, That in no case shall any State to which land scrip may thus be issued, be allowed to locate the same within the limits of any other State, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States, subject to private entry.

Sec. 3. *And be it further enacted*, That all the expenses of management and superintendence of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied without any diminution whatever to the purposes hereinafter mentioned.

Sec. 4. *And be it further enacted*, That all moneys derived from the sale of the lands aforesaid by the States to which the lands are apportioned, and from the sales of land scrip hereinbefore provided for, shall be invested in stocks of the United States, or of the States, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks; and that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, (except so far as may be provided in section fifth of this act,) and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific or classical studies, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the Legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

Sec. 5. *And be it further enacted*, That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as to the provisions hereinbefore contained, the previous assent of the several States shall be signified by legislative acts:

First. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied, without diminution, to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding ten per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective Legislatures of said States.

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair, of any building or buildings.

Third. Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as described in the fourth section of this act, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid.

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters as may be supposed useful—one copy of which shall be transmitted by mail, free, by each, to all the other colleges which may be endowed under the provisions of this act, and to the Smithsonian Institution, and the agricultural department of the Patent Office at Washington.

Fifth. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the State so selecting at double the quantity.

Previous to the reading of the amendment, Mr. WRIGHT, of Georgia, said: Mr. Speaker, is it in order to move that the bill and amendment, and the reading of the latter, be postponed until Wednesday next?

The SPEAKER. It is not. It can only be done by unanimous consent.

Mr. MORRILL. I object. The bill and amendment have been printed.

Mr. REAGAN. Mr. Speaker, I have listened to the reading of the amendment, and I presume there must be some mistake about it. It proposes, as I understand, that double the quantity of land shall be given where the land is selected from the alternate sections of railroad grants. This surely is not what is meant.

Mr. LETCHER. Is debate in order?

The SPEAKER. It is not.

Mr. COBB. What is the first motion to be voted on?

The SPEAKER. The motion to lay upon the table, on which the yeas and nays have been ordered.

Mr. COBB. I reported this bill from the Committee on Public Lands, and have, I believe, the right to be heard on it for an hour.

The SPEAKER. Not now, in the opinion of the Chair; but before the question is taken on the substitute.

Mr. COBB. I can wait until then.

The question was taken, and it was decided in the negative—yeas 84, nays 109; as follows:

YEAS—Messrs. Atkins, Barksdale, Billingham, Bonham, Boyce, Branch, Bryan, Burnett, Caskie, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, Cockerill, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Dewart, Dowdell, Edmondson, Florence, Gartrell, Goode, Greenwood, Grow, Lawrence W. Hall, Hill, Houston, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Lawrence, Leiter, Letcher, Maclay, McQueen, Mason, Miles, Miller, Milson, Montgomery, Moore, Isaac N. Morris, Mott, Niblack, Nichols, Pendleton, Peyton, Phelps, Phillips, Potter, Quitman, Reagan, Sandidge, Savage, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, William Smith, Spinner, Stallworth, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Ward, Warren, Watkins, and John V. Wright—84.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Bennett, Bingham, Bishop, Blair, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochran, John Cochrane, Colfax, Comins, Corning, Covode, Cragin, Curtis, Darnell, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Foley, Foster, Gillis, Gilman, Gooch, Goodwin, Granger, Robert B. Hall, Harlan, J. Morrison Harris, Hatch, Hawkins, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Landy, Leach, Leidy, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pettit, Pike, Pottle, Purviance, Ready, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Seward, John Sherman, Judson W. Sherman, Sickles, Stanton, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, White, Whitely, Wilson, Wood, Woodson, Augustus R. Wright, and Zollicoffer—109.

So the House refused to lay the bill and amendment upon the table.

Pending the vote,

Mr. WADE stated that Mr. STEWART, of Pennsylvania, had paired off with his colleague, Mr. DIMMICK.

Mr. RUFFIN stated that he was not within the bar when his name was called, and that if he had been, he would have voted in the affirmative.

MESSRS. KRITT, SCALES, and AVERY made each a similar statement.

The SPEAKER. The question recurs on the motion to recommit.

Mr. MORRILL. I desire, with the consent of the House, to withdraw that motion.

Mr. COBB. The gentleman has made an hour's speech, and I presume if he wants my time he can have it.

Mr. BILLINGHURST. I do not understand that this bill was reported from the Committee on Public Lands by the gentleman from Alabama, but by the gentleman from Michigan; and I would therefore inquire whether the gentleman from Alabama can occupy the House for an hour on a bill which he did not report?

The SPEAKER. The bill was reported by the gentleman from Alabama. The gentleman from Michigan only made some motions in reference to it.

Mr. COBB. I hope the gentleman is satisfied on the point of order.

Mr. BILLINGHURST. I made the point in good faith. I was under the impression that the gentleman from Michigan [Mr. WALBRIDGE] reported the bill.

Mr. COBB. The gentleman ought to have known that I am very careful never to get up in the House out of order.

Mr. Speaker, this measure has taken a strange course since it came into this House by report from the Committee on Public Lands. I was under the impression that other gentlemen besides the gentleman from Vermont [Mr. MORRILL] would have an opportunity to address the House upon the question; but motion after motion has been made, until the question has been unexpectedly forced upon us for a direct vote. Of course, under the circumstances, I am compelled to occupy some time in opposition to the bill. My only object will be to state facts, for the information of members; and I will do so as briefly as I can. I do not think I will occupy half of the hour allotted to me under the rules.

In the first place, this bill was reported by the Committee on Public Lands adversely. If I could state how that vote stood in the committee it would astonish the country, taken in connection with the action of this House; so entirely different from the action taken by the Committee on Public Lands. It cannot be denied that the opinion prevailed during the last Administration, while I had the honor of being a member of the Committee on Public Lands, that that committee did more busi-

ness, and committed more high-handed plunder (I use that word) during the last session of Congress than any committee of the House ever before did. Though the opinion prevailed in the minds of many persons that the committee was guilty of those offenses, I deny it. We certainly did make liberal grants of land during the last Congress; and I voted, with two exceptions, for all of them. I am satisfied with the action of the committee at that time.

Mr. WALBRIDGE. I would ask the gentleman whether there was one single measure which passed this House during the last session, emanating from the Committee on Public Lands, and which received their sanction, that he, as a member of that committee, did not vote for in the committee?

Mr. COBB. I say emphatically that there was a measure I did not vote for.

Mr. WALBRIDGE. Name it.

Mr. COBB. I name the grant made to Minnesota, and I challenge contradiction.

Mr. WALBRIDGE. My recollection is that the gentleman voted for it.

Mr. COBB. Does the gentleman say I did? That is the way to put the question. I say emphatically I did not.

The SPEAKER. The action of the Committee on Public Lands of the last Congress is not a matter of comment pending the present bill.

Mr. COBB. I have gone as far on that subject as I desire to go. I am happy the Chair did not rule me out of order before. I proceeded as I did, in order to contrast the action of the present Committee on Public Lands with that of last Congress, and in order to show how this House regards the action of that committee. If I dared to speak of the action of that committee on this subject, I would say that but two members of that committee voted for the measure. But that would be unparliamentary, and I will not say it. The Committee on Public Lands have, this session, determined to husband the public lands, and to economize their grants, in order to husband the means which the Government is to receive from the sale of those lands. Would it not be astonishing, when the Committee on Public Lands report back this bill to the House with a recommendation that it do not pass, that the House should take it under their own peculiar power and determine to override the will of the committee which has intended to husband the public lands? I am satisfied of one thing: that my friend, who catechised me so much last Congress for voting for these railroad grants, and not only so, but that my constituents who held me to a strict accountability for voting for them, will be surprised to see me standing up here defending the action of the committee, and trying to husband the public lands at this session of Congress.

Every member of the House undoubtedly understands what the bill proposes to do; and therefore I shall consider it very briefly. I wish to show, from the report I made, that it is not, nor has it been, the policy of this Government, with one or two exceptions, to grant lands for such public purposes. The bill proposes an inauguration of a new system, the result of which no man can foresee. Certain it is that the result will not be a good one.

As to the propriety of making a grant of lands for such purposes, I refer to my report, and I propose to read it as a part of my speech. This is the report:

The Committee on Public Lands, to whom was referred a bill (No. 2) making a grant of land to the several States and Territories of the Union, for the benefit of agriculture and the mechanic arts, beg leave to make the following report:

That they unite with the friends of the bill in an appreciation of the merits of the object to which the proposed grant is intended to be applied; and if those merits could alone determine the conclusions of the committee, they would most cordially recommend the passage of the bill. In the judgment of your committee, however, there are other considerations which demand attention before they can come to that conclusion. The General Government is one of limited powers. At its formation, the respective States, as separate but independent communities, were amply empowered to regulate and provide for all matters within their limits; but a sense of weakness, as against foreign Powers, impelled them to a Confederation and the formation of a Government competent to the general protection. To this end, and for this purpose, special powers were conferred upon it. But while the States conceded the authority which was deemed necessary to the ends for which it was formed, they each retained within themselves all the powers necessary to the independent management and control of matters not involving the interests of the cit-

izens of the other States. Competent as they were to all domestic matters, they only sought to establish a Government which should provide for the interests of the Confederation in its aggregate capacity; and, jealous of their separate independence, the States reserved to themselves, respectively, all power not necessary to the General Government for the end for which it was formed.

This limitation of power in the hands of the Federal Government, except so far as specifically granted, denies to it all authority to act in relation to the domestic affairs of the several States, and has established the only solid foundation for the perpetuation of the Federal Union. Under this principle its limits may forever be extended, and its safety preserved. Various, and even conflicting, habits, customs, and local interests, in the different States, will be protected by their Legislatures, and are in no danger of being overridden by the Federal Government; and, if each keeps within its appropriate sphere, the prosperity of the States will be secured, and the interests of the Union will be enlarged. Such is the symmetry of our Government, its very existence depends upon its severe adherence to the limitation of its duties. Within that, it has no power but to bless; beyond it, it has no power but to ruin. This limitation is the anchor of our safety; when it fails, it will involve the ruin of the Republic. If the General Government possessed the power to make grants for local purposes, without a consideration, within the States, its action, in that respect, would have no limitation but such as policy or necessity might impose. Every meritorious object would have a right to demand it; and to such a refusal could only be justified by inability. Every local object for which local provision is now made, would press for support upon the General Government, and would create demands beyond its power to meet, and, of necessity, it would be driven into the policy which would increase its means. As its expenditures are increased the revenue must be enlarged, and the General Government, by the adoption of the policy, would levy taxes upon the people of the Union for the support of the local interests of the States. If their expenditures should be unequally apportioned, the injustice of taxing a part for the benefit of others would soon cause the system to be overthrown. If they were equally distributed, it would be but a usurpation of the functions of the States, unsustained even by the plea of economy. The patronage would be fatal to the independence of the States; with patronage comes the power to control, as consequence follows upon cause.

If the policy is embarked in, what shall be its limits? Shall the merit of the object and the ability of the Government be the boundaries of its action? To feed the hungry and clothe the naked, if within its competency, would, in a moral point of view, be quite as meritorious as any other act which the Government could perform; but, if the Constitution had granted power for such a purpose, would it be politic for Congress to make provision for the suffering poor throughout the Union? If either lands or money could be granted for the purpose designated in this bill, could they not, and ought they not, to be granted to the building of churches, erecting school-houses, and the keeping up the common schools in States and Territories? If to one meritorious object, why not to another? Or shall the action of Congress in this regard be extended to every useful public and private purpose within the States? If not, where shall the line be drawn? If the principle be admitted, what shall limit its application? Your committee have failed to perceive how they could be justified in recommending a grant from the General Government in support of agricultural schools, and in refusing one for any other object equally meritorious. The means of the General Government are taken from the people; if you take from it the public lands, you give it money in the stead; if you destroy its revenue from that source, you must increase it in some other. No more expensive mode could be devised to support local institutions than to make the Federal Government the agent to raise and distribute the means. With the States lies the power necessary to their management and control. With the States lies the power to secure an economical administration of the funds, and to determine the amount which prudence will allow to be expended in their support; and if these institutions are supported by means raised by the authority of the States, no injustice can be inflicted upon the people of the other States. State provision, as between the States, would be just from necessity, and from interest it would be economical. The appropriation asked for is in lands, but your committee can discover, in this regard, no difference between an appropriation in lands or one in money; the effect is precisely the same in both cases. If the revenue from the public lands is destroyed, the deficiency must be met by taxes on the people.

The public domain belongs to all the people of the United States; their interest in it is common, and the Government is but the trustee for the common benefit, limited in its actions over it to those powers conferred by the Constitution. It is a part of the public funds, and can be devoted to no purpose forbidden to the money of the Federal Government. If Congress impairs its value it must receive a compensation, or it will be faithless to its trust. The public good forbids the Government from extorting from the purchaser's necessities an exorbitant price for the public lands; but while the public welfare limits it to a reasonable action in this respect, the public rights demand that some compensation should be exacted, and such a reasonable revenue be secured from the public domain as, without being oppressive upon the purchasers, should be equitable towards those who do not obtain the enjoyment of the soil. Such are the principles, the recognition of which justice imperatively demands. As a landholder, the Government may legitimately bear a share of the burdens imposed, to create an improvement which will enhance the value of its domain, and may contribute to that end; yet its aid must be limited within the extent which does not require taxation to effect it. It may, as a matter of power or right, contribute portions of the public lands to improve the value of the remainder; but even in this, sound policy and its duties towards the general welfare will limit it to a healthy and reasonable extent. Reasonable donations towards improvements which cause an increased value in the adjacent lands are consonant with a wise and just administration of the public domain. Such donations increase, and not impair, the value of the trust; but a gift which reduces the value of the public lands is in

violation of the beneficiaries' rights. The donations of section sixteen for the support of the township schools was an inducement to purchasers, and enhanced the value of the adjacent lands, the sale of which indemnified the Government for the donation which it made. So, too, the donation of the salines. The facilities for obtaining salt were among the first objects of the early settlers upon the public lands, and the donation of the salt springs, and adjacent lands, to cause their being worked, was a powerful inducement to the pioneers of the West. The grants to the new States, upon their admission into the Union, were upon conditions which more than indemnified the Government.

The swamp-land grant was justified, because it was to remove a nuisance which injured the public and the Government as the proprietor of the adjacent lands; while the grants for internal improvements brought a direct pecuniary profit to the Treasury. Your committee are aware that a few instances can be found where the action of Congress has not been limited to the principles which we avow, but, in our judgment, these instances warn us against them as precedent of wrong. In extreme cases the laws are silent, but the cases form no rule. In ordinary cases, when the precedent is wrong, it should be condemned. It is always an ungrateful task to refuse; but when duty demands it, our committee feels that it dare not disobey. Our sympathies impel us to extend a generous support towards some of the objects for which donations of the public lands are asked. If our feelings could control, we should most cordially do all that their friends could desire; but we live under a Government of laws, and the merit of the object cannot justify the appropriation of means not our own. Want seldom inquires into the right of plenty to give—its own necessities are its highest law. The ability of the General Government naturally causes applications to it for assistance; and without inquiring into its right to comply with their demands, the needy press upon the Government for support. To support local institutions does not come within the scope for which the General Government was formed; and, if it possessed the power, your committee can imagine no policy more unwise. The public domain is a source of revenue. In time of war it is one of the most effective means upon which the country can rely; it will secure enlistments when money fails; and, in our opinion, we should indeed be careful before we destroy this important aid. The public lands are watched with a longing eye.

Your committee have now before them, exclusive of the cases where there is a promise of compensation, applications for grants of land, money, and other objects, the most of which, if not all, we feel bound to reject. Our land system has been well and happily devised—under it, injustice has been done to but few, but most have prospered. It has furnished a moderate revenue without preventing the settlement and improvement of the domain. New States have sprung up on it, whose prosperity is the admiration of the world. Industry has the price of the public lands within its reach; and the policy which made it has caused the wilderness, not only to bud and blossom, but to bring forth fruit. The new States have been encouraged; the old States have had their interests secured; the spirit of our Government has been obeyed, and its duties kept within the limits of the law. Shall all this be disregarded, and the system overthrown? For what? If the prayers of the petitioners were granted, the prodigious quantities of land which would be thrown upon the market by competing vendors would deprive it of marketable value. The very gratification of their wishes would destroy the objects they have in view. To make the grants would be to render them of but little avail. Your committee conclude that Congress, without a promise of pecuniary compensation, has no power to grant portions of the public domain; and if it had, no policy could be more unwise than to grant it for the support of local institutions within the States. They therefore ask leave to report adversely to the indicated bill.

All of which is respectfully submitted.

W. R. W. COBB,
Chairman of Committee on Public Lands.

It remains to me only to allude to the effect of this bill. How much land do you suppose the State of New York would get under this bill? Twenty thousand acres to each Representative would give to the State of New York, which has an area of 29,440,000 acres of land, 700,000 acres. I mean to say, that if the bill passes—but I have no fears that it will pass, for there are several other ordeals which it will have to pass through before it becomes a law—it will give the State of New York 700,000 acres of land. Iowa, with an area of 32,548,960 acres of land, gets, under this bill, 80,000 acres, while she is susceptible of having her whole territory filled up, and of sustaining a population as large as that of New York. Then you see how unequally this bill operates. Iowa gets 80,000 acres, and New York gets 700,000. Do gentlemen expect that they will be able to get a supplemental bill passed after a while, so as to place their States on an equal footing with other States, such as New York? I doubt it very much. California has an area of 287,162,240 acres of land; and under this bill she only gets 80,000 acres. Will California sell her birthright for a mess of pottage, as Alabama has often done in the votes of her Representatives for railroad grants? Arkansas, with an area of 33,406,220 acres, gets, under this bill, 80,000 acres, while her population will probably be trebled or quadrupled in twenty years.

From the best sources of information now at hand, the present population of Michigan is 800,000; Wisconsin, 750,000; Iowa, 600,000, and

California, 600,000. Here these four States, with an aggregate population of 2,750,000, would at this time, by an equal distribution upon the present ratio of representation, be entitled to 640,000 acres; yet under this bill they get but half that amount. And yet these facts do not truly present the unfairness of the distribution by this bill, for while the new States, by the rapid increase of their population, are entitled to more, the old States are entitled to less representation in Congress. Therefore, in this ninth year of the present decade, congressional representation is no fair basis upon which to make a distribution of public lands for agricultural colleges, or any other purpose.

And that brings me to another point. The gentleman proposes by his amendment to exclude the Territories from the benefit of this bill. Utah, with an area of 140,925,440 acres, would have got, under the original bill, 20,000 acres; but according to the amendment, will get nothing. So with Minnesota, with an area of 90,776,960 acres, and which might be entitled as a State, within a few days after the passage of this bill, if it do pass, to 80,000 acres. So with Washington Territory, with its area of 80,000,000 acres; and with Oregon, with its 125,000,000, I will not say anything about Kansas, lest I might disturb the harmony of the House. I have got here a tabular statement showing the area in square miles and in acres of the several States and Territories, and the land to which each would be entitled under this bill as amended. It is as follows:

LAND TO BE APPROPRIATED BY THIS BILL.

States and Territories.	Senators.	Representatives.	Area in square miles.	Area in acres.	Donated under this bill.
Maine.....	2	6	35,000	22,400,000	160,000
New Hampshire.....	2	3	8,030	5,139,200	100,000
Vermont.....	2	3	8,000	5,130,000	100,000
Massachusetts.....	2	11	7,250	4,640,000	260,000
Rhode Island.....	2	2	1,200	7,680,000	80,000
Connecticut.....	2	4	4,750	3,040,000	120,000
New York.....	2	33	46,000	29,440,000	700,000
New Jersey.....	2	5	8,657	4,384,640	140,000
Pennsylvania.....	2	25	47,000	30,080,000	540,000
Delaware.....	2	1	2,220	1,356,800	60,000
Maryland.....	2	6	11,600	7,040,000	160,000
Virginia.....	2	13	61,352	3,926,528	300,000
North Carolina.....	2	8	45,500	29,120,000	200,000
South Carolina.....	2	6	28,000	17,920,000	160,000
Georgia.....	2	8	58,000	37,120,000	200,000
Alabama.....	2	7	50,320	32,402,080	180,000
Mississippi.....	2	5	47,147	31,282,000	140,000
Louisiana.....	2	4	40,431	29,715,840	120,000
Ohio.....	2	21	39,964	25,576,960	460,000
Kentucky.....	2	10	37,680	24,115,200	240,000
Tennessee.....	2	10	44,000	28,160,000	240,000
Indiana.....	2	11	33,609	21,637,760	260,000
Illinois.....	2	9	55,405	35,459,200	220,000
Missouri.....	2	7	67,380	43,123,200	180,000
Arkansas.....	2	2	52,198	33,406,320	80,000
Michigan.....	2	4	56,243	35,955,520	120,000
Florida.....	2	1	59,268	37,131,520	60,000
Texas.....	2	325	325,520	208,332,800	80,000
Iowa.....	2	2	56,914	32,548,960	80,000
Wisconsin.....	2	3	53,924	34,511,360	100,000
California.....	2	2	448,691	287,162,240	80,000
Minnesota.....	-	-	141,839	90,776,960	-
Utah.....	-	-	140,925,440	140,925,440	-
Washington.....	-	-	126,547	80,990,080	-
Oregon.....	-	-	125,000	125,000,000	-
Kansas.....	-	-	126,283	80,821,120	-
Nebraska.....	-	-	32,438	219,160,320	-

Mr. BURROUGHS. Will the gentleman allow me to interrupt him?

Mr. COBB. The gentleman will excuse me. He knows that I am only a humble farmer; and I do not wish to be thrown out of my line of argument. The Committee on Public Lands have determined, this session, to husband the public lands as much as possible; but, notwithstanding that, this bill proposes to give away some six million acres to the States, while the Territories are altogether overlooked. You find the Territories often neglected in this way; but, whenever they come in as States, and have their Senators in the other branch of the national Congress and their Representatives here, then their rights are respected and their political favor courted. I am ashamed to say that I have myself often neglected the Territories because they have no votes. But it was wrong; and I censure my own action on former occasions, and admit that it was wrong.

Now, one word more, and I will close. When

members of the House and the people of the country come to read the report on this bill, and see the position I assume in it, and remember my votes in relation to grants of lands for railroad purposes, they may be curious to know how I can reconcile my vote against this bill, meritorious as it is, with the votes which I have given in favor of those railroad grants. It is a very easy matter for me to reconcile those votes to my own satisfaction; but, whether I shall be able to satisfy everybody else, it is not for me to determine. I hold that the grants to States and Territories for railroad purposes increase the value of the public lands; and they not only increase their value by promoting settlement, but they bring into market thousands and millions of acres of the public lands that perhaps would not otherwise come into market for sixty years. The Government, therefore, receives an equivalent for the lands granted; but in this case the Government is to receive no consideration whatever—not one dollar. And not only that, but the States which receive the lands are to be taxed to the amount necessary to build these institutions; for they are not to be allowed to apply any of the proceeds of the sales of the lands, either the principal or the interest, to the erection of the buildings, and so forth, for these colleges. I can well understand why the friends of the bill from the State of New York are in favor of it; they have their agricultural college already established, and under this bill will get seven hundred thousand acres of land to aid them. In Michigan I understand that the same is the case. The State has already been at the expense of establishing the institution.

But, Mr. Speaker, I have a still more difficult job before me, and that is to reconcile the vote which I shall give in relation to this bill with the vote which I gave upon another bill. And I cannot perform it without simply coming down and acknowledging frankly that I was wrong in the votes which I gave, when the impulses of this heart, whether good or bad, prompted me to act in behalf of a proposition to grant lands for the establishment of insane asylums in the States—a proposition gotten up by Miss Dix. I do not know from what portion of the country she comes; but she is a meritorious, generous, and noble-minded woman. She went down into my State, and her charms had such an extraordinary effect upon the people of that portion of the country that the Legislature of my State adopted a joint memorial to the Congress of the United States, without a dissenting voice, requesting their Representatives and instructing their Senators to vote for that bill. Then it was, sir, that I gave way to my better feelings, and voted for that bill. I had not examined the constitutional question as thoroughly as I admit I ought to have done; and when the President's veto message came in, and I did examine it, I became perfectly satisfied that I had voted wrong. I have the consolation of knowing, however, that my motives were good. I have the consolation of knowing that my erroneous action arose from the impulses of a kind and generous heart, and from a desire to aid the unfortunate class for whom that bill proposed to provide. I acknowledge, to-day, that I did wrong, so far as the constitutional question is concerned; but my own heart told me that the measure was right in itself, and the gratification and approval of my own heart amply compensate me.

But, sir, I am going to leave this question. I suppose that, if this bill passes, the people of every State will have a right to ask Congress to provide for their common schools and other local institutions. The poor will have a right to come and ask Congress to grant lands to aid in the erection of buildings to shelter them from the inclemency of the weather.

Mr. SAVAGE. Mr. Speaker—

Mr. COBB. If the gentleman will be patient, I shall soon be through; but he cannot take me off the floor by any motion he can make. I feel that I have violated the promise which I made to the House when I took the floor, that I would be brief. I owe an apology to you, sir, and to the House, for the time I have consumed upon this subject. I did not intend, when I rose, to consume more than a few minutes; but I have felt it my duty to say what I have said. I hope I may be permitted, although it is not in order, to apologize for what I may call the promiscuous speech which I made yesterday. [Laughter.] I have not

read it yet, and it is very probable that, when I come to look it over carefully, I may strike it all out; and I hope the House will grant me that privilege.

Mr. SAVAGE. I have refrained from making the motion to go to the business on the Speaker's table, in order to accommodate gentlemen who are interested in this bill, and I will still refrain from submitting that motion, if the vote can be taken upon the bill at once and without consuming further time than is necessary for the vote to be taken: otherwise, I shall feel it to be my duty to move to proceed to the business on the Speaker's table, in order that I may move to go into the Committee of the Whole on the state of the Union, and take up the special order.

Mr. J. GLANCY JONES. Has the morning hour expired?

The SPEAKER. It has.

Mr. CLINGMAN. I hope we shall dispose of this bill. I make the point of order that a motion to go to the business on the Speaker's table is not in order, as the previous question has been seconded and the main question ordered.

The SPEAKER. There is no motion pending to go to the business on the Speaker's table. The first question is upon the motion to recommit.

Mr. MORRILL. In order to save time, I will, with the consent of the House, withdraw the motion to recommit.

Mr. SMITH, of Virginia. That is objected to. Mr. MORRILL. Then I ask those who are in favor of the bill to vote down the motion.

Mr. SMITH, of Virginia. Order, sir.

The SPEAKER. Debate is not in order.

Mr. McQUEEN. This amendment has never been before the Committee on Public Lands; they know nothing about it.

The SPEAKER. It is not necessary that it should have been before the committee. The gentleman from Vermont offers his proposition as an amendment to the bill reported from the Committee on Public Lands.

Mr. McQUEEN. I understand that; but it was never before the committee. It was never heard of there.

Mr. CLINGMAN. Debate is not in order.

Mr. SAVAGE. I find that this bill is going to occupy too much time, and I shall have to make the motion to go to the business on the Speaker's table.

The SPEAKER. The Chair thinks the motion is not in order.

Mr. SAVAGE. I then move to go into the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Maine. I ask if that motion is in order during the pendency of the previous question?

The SPEAKER. The Chair thinks the motion is in order.

Mr. WASHBURN, of Maine. I understand the rule to be, that, after the main question has been ordered, no motion is in order except to lay on the table, to adjourn, and to fix the day to which the House shall adjourn. I think motions for a call of the House, and all other motions, have been decided to be out of order.

The SPEAKER. The rule upon the subject provides that a motion to go into the Committee of the Whole on the state of the Union shall be in order at any time.

Mr. WASHBURN, of Maine. I think the practice of the House has been as I have stated.

The SPEAKER. The Chair is informed that the practice has been as the gentleman has stated.

Several MEMBERS, (to Mr. SAVAGE.) Withdraw your motion.

Mr. SAVAGE. I should be very glad to accommodate gentlemen, if I could; but they will have the morning hour in which to dispose of this bill. I think it important that the debate upon the pension bill should be commenced in committee to-day.

Mr. WASHBURN, of Maine. We are not in the way of the gentleman's bill. Let us vote upon this bill, and then go into committee.

Mr. SAVAGE. Can we get to a vote upon this bill without further debate?

The SPEAKER. No further debate is in order.

Mr. SAVAGE. I withdraw the motion, then. The question being first upon the motion to recommit to the Committee on Public Lands,

Mr. LETCHER demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 93, nays 105; as follows:

YEAS—Messrs. Atkins, Avery, Billingshurst, Becock, Bonham, Branch, Bryan, Burnett, Burns, Caskie, Chapman, John B. Clark, Clay, Clements, Clingman, Cobb, John Cochrane, Cokerill, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Iowa, Dewart, Dowdell, Elliott, English, Eustis, Faulkner, Florence, Gartrell, Goode, Greenwood, Groesbeck, Grow, Lawrence W. Hall, Thomas L. Harris, Hill, Houston, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Leidy, Leiter, Letcher, Maclay, McQueen, Mason, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Mott, Niblack, Nichols, Pendleton, Peyton, Phelps, Phillips, Quitman, Reagan, Ruffin, Sandidge, Savage, Scales, Scott, Searing, Henry M. Shaw, Singleton, Samuel A. Smith, William Smith, Spinner, Stallworth, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Tripp, Ward, Watkins, Winslow, Woodson, and John V. Wright—93.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Bennett, Bingham, Blair, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Conning, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gillis, Gilman, Gooch, Goodwin, Granger, Gregg, Robert B. Hall, Harlan, J. Morrison Harris, Haskin, Hatch, Howard, Huyler, Kellogg, Kelsey, Kilgore, Knapp, Leach, Lovejoy, McKibbin, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Seward, John Sherman, Sickles, Stanton, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Wood, Wortendyke, Augustus R. Wright, and Zollcoffer—105.

So the bill was not recommitted.

The question then recurred on Mr. MORRILL's amendment.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. MORRILL demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. CLINGMAN called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 105, nays 100; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Andrews, Bennett, Bingham, Bishop, Blair, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Conning, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Robert B. Hall, Harlan, J. Morrison Harris, Haskin, Hatch, Howard, Huyler, Kellogg, Kelsey, Kilgore, Knapp, Leach, Lovejoy, McKibbin, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Parker, Pettit, Pike, Pottle, Purviance, Ready, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Seward, John Sherman, Judson W. Sherman, Sickles, Stanton, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Wood, Wortendyke, Augustus R. Wright, and Zollcoffer—105.

NAYS—Messrs. Anderson, Atkins, Avery, Barksdale, Billingshurst, Becock, Bonham, Branch, Bryan, Burnett, Caskie, Chapman, John B. Clark, Clay, Clingman, Cobb, John Cochrane, Cokerill, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Thomas L. Harris, Hill, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lawrence, Leidy, Leiter, Letcher, Maclay, McQueen, Mason, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Mott, Niblack, Nichols, Pendleton, Peyton, Phelps, Phillips, Quitman, Reagan, Ruffin, Sandidge, Savage, Scales, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, William Smith, Spinner, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Tripp, Ward, Warren, Watkins, Winslow, Woodson, and John V. Wright—100.

So the bill was passed.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

Mr. FLORENCE called for the yeas and nays on the latter motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 102, nays 91; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Andrews, Bennett, Bingham, Bishop, Blair, Bliss, Bowie, Brayton, Buffinton, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Conning, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foley, Foster, Gilman, Gooch, Goodwin,

Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Hatch, Hoard, Howard, Huyler, Kellogg, Kelsey, Kilgore, Knapp, Leach, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Seward, John Sherman, Judson W. Sherman, Stanton, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Warren, Elisha B. Washburne, Israel Washburn, White, Whitely, Wilson, Wood, Wortendyke, Augustus R. Wright, and Zollieffer—102.

NAVY.—Messrs. Atkins, Avery, Barksdale, Billingshurst, Bocoock, Bonham, Branch, Bryan, Burnett, Burns, Caskie, Chapman, John B. Clark, Clay, Clemens, Cobb, John Cochran, Cockrell, Cox, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Dewart, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Hill, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Clancy Jones, Owen Jones, Keitt, Kelly, Lawrence, Leidy, Leiter, Letcher, Macley, McQueen, Morris, Miles, Miller, Milson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Quesada, Rangan, Ruffin, Sandidge, Savage, Seales, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, William Smith, Spinner, Stallworth, Stevenson, James A. Stewart, Tally, George Taylor, Ward, Watkins, Winslow, Woodson, and John V. Wright—91.

So the motion to reconsider was laid on the table.

Mr. MORRILL moved to amend the title of the bill by striking out the words "and Territories," so as to make it read, "A bill granting lands to the several States," &c.

The amendment was agreed to.

The title, as amended, was then agreed to.

Mr. MORRILL moved to reconsider the vote by which the title was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADMISSION OF KANSAS.

Mr. ENGLISH. I desire to give notice to the House in reference to a privileged question. I give notice that I expect, to-morrow at one o'clock, to make a report from the committee of free conference upon the subject of the disagreeing votes of the two Houses in relation to the bill for the admission of Kansas into the Union.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, informing the House that he had approved and signed bills, originating in the House, of the following titles:

An act (No. 212) for the relief of N. C. Weems, of Louisiana;

An act (No. 208) for the relief of the heirs of Alexander Stevenson; and

An act (No. 213) for the relief of Francis Wlodecki.

Also, that he had approved and signed an act (S. No. 202) for the relief of Jeremiah Y. Dashiell, paymaster in the United States Army.

PENSION BILL.

On motion of Mr. SAVAGE, the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BURNETT in the chair,) and proceeded to the consideration, as a special order, of the bill of the House (No. 259) granting pensions to officers and soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period.

Mr. SAVAGE. Mr. Chairman, we are called on to-day, by order of the House, to consider a question of the greatest importance to the Union; and I do not know that I ever felt less equal to any task than the one before me on this present occasion. Yet, I am assisted in my task by the character of the subject I am here to advocate. It speaks to the hearts and patriotism of the people in a manner that can gain nothing by eloquence or logic. Nevertheless, sir, so far as I have been able to see, the question does not seem to be understood correctly. The objections which have been raised to it, both in this House and out of it, when examined, will be found to have nothing in them.

All great causes, in my opinion, are best advocated by simple and clear statements; and it will be my endeavor to state briefly the ground upon which I support this bill. It is true that history might be appealed to, and the experience of the past called to adorn it. Yet, it is not my intention, on the present occasion, to go into those things. My wish is to consider this as an American question, as a question of the present hour, and as a question applicable alone to this nation. As a question of policy, it has not had a parallel

in the past, and it appeals to our common intelligence quite as forcibly as to the proofs of history.

I state it, Mr. Chairman, as a self-evident proposition in the present condition of the world, that every nation must rely for its safety upon some system of military defense. The idea of a nation maintaining its independence without a military policy is an absurdity too gross to be refuted. The question I present to-day to the American people is this: what kind of a military system shall we adopt? Who shall be the guardians of American liberty? Who shall be our defenders against the foreign foe and domestic usurper? Shall we adopt the policy of other nations, and tread the pathway of those whose history has already been written in ruin and blood? Ought we not, on the contrary, endeavor to establish a system different from that of those nations, and which, in all future time, will accord with our American institutions? I take it as a proposition of common sense, that if we pursue the course of European nations, we will quickly tread the pathway of their destiny and follow in the common ruin to which they have gone.

Most persons do not look beyond the old soldier and his misfortunes, his necessities and his rights. That is a potent argument, and I always look upon him with the deepest sympathy. Yet there are other considerations, and important in their character, which are connected with the future of our country, and which are more potent to urge me to action. But I am happy while I find our citizens ready to sympathize with the sufferings of the old soldiers, and I am happy to know that that is a common feeling among all classes, to honor these monuments of our second war of independence. Yet, sir, it is my object now to examine this subject in its bearings upon our future safety. True, the old soldier, with his rights and necessities, is one branch of the argument in support of this bill; but the other branch is more important, looking as it does to the establishment of a military system for this Government in all time hereafter. It is a system different from all those which have preceded it, and which, in the future, will furnish defenders to the country. It is a great American system to provide for repelling the foreign foe and quelling domestic insurrection. This is the question presented, which cannot be evaded or gainsayed. Will you adopt it as proposed by this bill, or will you adopt a system founded upon those of European nations? Will you resort to those systems which have crushed the people of Europe with enormous military establishments? Will you do that, or will you adopt a system which will furnish soldiers ready at the tap of the drum to rush to the standard of the Union and bear it on to victory and glory? One of these alternatives must be taken.

I say to those who vote against this bill, that when they vote against a pension list they vote for a standing army upon the continent of America as certainly as if it were written in the statute book—"Be it enacted that an army of one hundred thousand men shall be irrevocably fixed upon the American Republic." Gentlemen may not wish that thing, but as certain as the night follows the day it will happen, if we refuse to adopt some plan of rewarding the citizen soldier. If it had not been for the spirit of our people what would have been our history? If you crush that spirit, if you discourage it, if you frown upon it, if you turn a cold ear to it, if you neglect it, it will no longer exist; and when your drums sound, when the war gust comes, those gallant men who, in times past, have been your glory and safety, who have come from every class of life—from the farm, the workshop, the counter, and the lawyer's office, will not again, as they have done, throng to the rush of battle and the din of arms in defense of this land. You may wake the nations of the world by the sound of your drums, and these men will not answer your summons. Then this system of standing armies, the curse of other nations, and the cause of the downfall of those which have heretofore existed, will fasten itself upon the nation like a consuming canker, and fatal to your liberties.

Now, sir, need I appeal to the history of the past? I state it as another self-evident proposition, proved by all history and all common experience, that a nation of soldiers must always be a nation of freemen; and that none but a nation

of warriors can be a nation of freemen. Having military power and virtue, they will never impose a tyrant upon themselves, and an ambitious conqueror, with his chosen few, cannot erect a throne of power upon the bosom of the many.

So, then, I advocate this measure as the great conservator of peace. When I wish to form a soldier, it is not for purposes of war and foreign conquest; but that it may be known to the usurper, to a foreign foe, and to all mankind, that American citizens are their own soldiers and do their own fighting, and that the hope of crushing us by armed usurpation may exist nowhere upon the face of the globe.

I propose to allude to a few national examples, in proof of what I have said; and I look to republics for arguments, rather than to monarchies. I want to take your minds back to the old Roman Republic. In the days of her glory, power, and prowess, every man was a soldier. The people controlled the destiny of the nation even under her kings, whose first acts of tyranny banished them and their posterity forever, and made the Government in form what it had really been in fact. In this condition she achieved her greatest foreign conquests, and maintained peace and civil liberty at home, to a far greater extent than in after years, when the people of Italy had forgot the use of arms. It is written that these once masters of the world now employed themselves in the most profligate luxury, rivaling each other in extravagant entertainments, while the defense of the nation was committed to some ambitious general, who trained his mercenary band to love his order better than the State. Such a thing as Roman liberty was not known after the establishment of these mercenary bands, who were as ready to march against Rome herself as against a foreign foe.

Look, again, to Athens and Lacedemon. At the time of their greatness every man was a soldier; and the historian says that even the lowest of them was a commander.

Mr. SMITH, of Virginia. Were they pensioned?

Mr. SAVAGE. I will answer the gentleman that question in proper time. It was when every man was a soldier, capable of doing military duty, and having the will to do military duty, that they achieved their glory, and enjoyed the benefits of science, liberty, poetry, greatness, and power, and won a fame which is perhaps now the brightest that graces the annals of time.

The gentleman asks were they pensioned. I do not contend that they were, yet there were certain public inducements held out to those men which were necessary to sustain their courage and make them patriotic. And I remember an instance in the history of that ancient people eminently illustrative of what is necessary to sustain military virtue. Mankind, without some security, some hope, or some expectation, are not going to perform those great military deeds. It is the love of glory, or the hope of reward, that make men brave, and incites to generous deeds. Napoleon nearly conquered Europe, and it was one portion of his system to satisfy his soldiers at all times, that if they lost a leg or an arm, or were crippled on the battle-field, that the Emperor had a generous hospital where he could have refuge in his misfortunes, and during his old age quiet and comfort down to the last hours of his life. The gentleman asks were the Athenians and Lacedemonians pensioned. He has not studied this question, or he could not have asked that question. I cite one eminent example, where the Lacedemonians were unsuccessful in every battle. They had fought battle after battle; and, notwithstanding their former fame and all the laurels they had won, they were unsuccessful. They sent to the Athenians to send them their best general; but they sent a man more distinguished for poetry than for military renown, yet he had the good fortune to hit upon an expedient which restored the Lacedemon success. The Lacedemonians feared to be dishonored upon the field of battle. It was their common belief that the man who was not buried could not go over the river Styx. The Athenian general hit upon the expedient of paying proper attention to the dead upon the field of battle. He established a law that all dead soldiers should be buried decently. That one thing revived their courage, and victory again perched upon their banner.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, APRIL 24, 1858.

NEW SERIES.....No. 110.

cost. I would be glad to see the opponents of this bill exhibit a calculation, based upon facts and accurate statements, instead of denouncing it in round numbers and by unsupported declarations. Let them show how otherwise they avoid an increase of our present Army to an enormous establishment, which now numbers fifteen thousand, and costs us at the rate of \$19,000,000 per annum. Shall it in a few years number forty or fifty thousand, with a corresponding increase of expense? This Army of ours is and has been growing a little too fast to suit my notions of a free Government.

I have a calculation by Mr. Calhoun, when Secretary of War, of all that was paid to these soldiers of 1812 for the whole time of service—it amounts to \$12,618,967 38. Yet gentlemen talk as if this bill was going to pay them \$12,000,000 per annum, now when more than nine tenths of them are in the grave. By reference to a report heretofore made to Congress from the War Department, which may be seen in the second volume of American State Papers, I find that the whole cost of the Army during the eight years of Jefferson's administration, was \$6,385,559 84, which is something less than the deficiency called by the Quartermaster General and voted by the present Congress. I am for stopping this increase of military expenses, and for a return to what seems to have been the policy of the country in years gone by. I am willing to keep up West Point, or even to increase the facilities for the education of our young men, so as to send military science throughout the land, and have men in civil life, living among the people, capable of rallying them in times of danger to the preservation of their liberty and independence.

The regular Army should always be a very small part of our national safety—this will be otherwise unless we encourage military service from among the people. Refuse to pass this bill, and you will teach a lesson which will have its effect upon this country a thousand years. You will waive off from your standard the brave men who otherwise would offer their lives to give the nation safety and glory.

The old soldiers of the late wars of this country are found in every hamlet, in every neighborhood; and round them cluster the glories which we so much love to cherish. Their appeals will be heard; and their claims upon us cannot be cast aside or forgotten, let your action be what it may. Refuse this bill, and the mothers and grandmothers now living will not be unmindful of the lesson. They will teach it to their sons. Then the emulation to volunteer for the country's defense, and to defend her well in the time of battle, will have gone, and the result from this must be the growth upon our body-politic of the huge incubus of a standing army. A mother will tell her son when she is about to be called hence: "My son, obey me in this: whatever betides, do not join the army. All round me are those who stood up in 1812 and battled for the country's cause. They are stricken with poverty and bodily weakness; they have appealed to their country for help, and their country has denied them help. They went to the wars—some perished on the battle-field; many by sickness; others returned wounded, crippled, diseased, and unable to secure a livelihood, as they had been before; while those who remained at home have gone on prospering and growing rich." This will sink deep into the young heart. They will see that a country does not deserve their ardent affection, that cares nought for those who have suffered in her cause. Soon, when the sound of war comes, we will have no more the scenes of volunteers struggling to be enlisted, but we will have, in their stead, the train-bands of Europe; then the commander-in-chief, with despotic will, will rule his hosts; and it may be, at the end of a long struggle, that he will enthrone himself in power over an enfeebled nation, to reign as the inheritor of all the glories of the American name.

Will you refuse this pittance to your soldiers? Will you deny it to them when such extravagant expenditures are required for the present army?

The bills of mortality show that one fourth of these seventeen thousand men will die year after year. So, then, while the expense under this bill will decrease, the opposite system of regular establishments increases in expense and power to perpetuate itself most rapidly. It is well suggested by the gentleman from Georgia, [Mr. GARTRELL,] for which I thank him most kindly, that the probable expense proposed by this measure will not exceed the printing bills of Congress for a single session; and I say there is not a matter of expenditure usual in the Government but what the economy of this bill may be compared with most triumphantly.

[Here the hammer fell.]

Mr. FENTON obtained the floor.

Mr. CLEMENS. I ask the gentleman from New York to yield to me a moment, that I may ask the gentleman from Tennessee what he means by this language, contained in the first section of the bill?

"Or shall have been engaged in active battle with the enemy in the war declared by the United States," &c.

Mr. SAVAGE. I will explain, with the permission of the gentleman from New York, as it is a very proper question. I made time a material matter. I would say, however, that the word "active" should have been printed "actual." I considered that, if a man had been in the service three months, he was entitled to a pension; but I did not consider it the duty of the country to pension a man who had not served that period of time. But then I knew that there was such a thing as a man getting into a battle, and such a thing as keeping out of it; and I was willing to give to a man who had not served three months, but who nevertheless had the good fortune or diligence to be engaged in a battle, a pension in the same manner as if he had served three months.

Mr. FENTON. At the time this bill was reported to the House by the gentleman from Tennessee, I offered an amendment in the nature of a substitute, which was printed, and gave notice that I should present it whenever the bill should come up for consideration. I now send it to the Clerk's desk, and ask that it may be read.

The amendment was read, and is as follows:

Strike out all after the enacting clause, and insert the following:

That the pensions which have been granted, or which may hereafter be granted, to officers, non-commissioned officers, musicians, privates, artificers, rangers, sea-fencibles, volunteers, express-riders, seamen, marines, pilots, engineers, firemen and coal-heavers, and other persons in the land or naval service of the United States, disabled by wounds or other injuries received while in the line of their duty, shall be considered to commence from the time of their being so disabled; and the amount of pension to which said officers, non-commissioned officers, musicians, privates, artificers, rangers, sea-fencibles, volunteers, express-riders, seamen or marines, pilots, engineers, firemen and coal-heavers, and other persons, may be entitled, shall be regulated according to existing laws in relation to the pay of invalid pensioners: *Provided*, That the amount of pension which any persons above named have received shall first be deducted from the pension to which he is entitled under this act.

Sec. 2. *And be it further enacted*, That in case of the death of any officer, non-commissioned officer, musician, private, artificer, volunteer, express-riding, sea-fencible, pilot, seaman, marine, engineer, fireman or coal-heaver, or other person mentioned in the first section of this act, before or after the passage thereof, the amount which may be due to such person under the provisions of this act shall be paid to his widow; and, in case of her death, to her surviving child or children; and, if none, then to the next of kin of the persons provided for by the first section of this act.

Mr. FENTON. Mr. Chairman, I do not rise to oppose the bill of the gentleman from Tennessee further than opposition may be implied in the substitute I have offered. I propose, in this substitute, that we shall carry out the contract made with those men who entered the military service of the country in 1812. I propose to ingraft no new principle upon the legislation of our country. I simply ask that my proposition may come before the committee to be acted upon concurrently with the proposition of the gentleman from Tennessee, or that it shall have priority. I ask that we shall do justice to those men according to the understanding under which they entered the service in 1812. I find the same language that pervaded the

act of January 14, 1812, held up to them at the time of enlistment, running through all the legislation of the country, from its earliest history down to 1820.

In looking over those acts, I find that the people of this country ever regarded it as a duty to sustain those who became disabled in military service. In 1775, the Continental Congress promised pensions, *during the continuance of disability*, to the officers and soldiers of the Army, disabled in service. In 1785, the same body strongly urged upon the State governments to make provision for such invalids as were residents of their respective States; and it was among the first acts of the First Congress under the Constitution, to provide for the payment of pensions granted by the States. Subsequently, the whole matter of invalid pensions was assumed by the Federal Government, and ample provision made, not only for those that were disabled in the war of the Revolution, but also for those disabled in subsequent wars and in the peace establishment.

The fifth section of the act of August 11, 1780, authorizes the payment of *arrears of pension due to invalids*.

The third section of the act of August 11, 1790, provides for the payment of invalid pensioners, *to commence from the time when they became entitled thereto*.

The fourth section provides for the payment of *any arrears of pension due to any deceased invalid pensioner, to his widow, or orphan children*.

The third section of the act of March 23, 1792, provides that officers, non-commissioned officers, soldiers, or seamen, disabled in the actual service of the United States during the late war, by wounds or other known cause, who did not desert from said service, shall be entitled to be placed on the pension list of the United States *during life, or the continuance of such disability; and shall also be allowed such further sum for the arrears of pension from the time of such disability, not exceeding the rate of the annual allowance in consequence of his disability, as the circuit court in the district in which they may respectively reside may think just; provided that the rules and regulations of the act in making proof be complied with, &c.*

Such were some of the laws of the old Congress; and a careful examination of them will show that they adopted the principle of paying invalids *from the date of their wounds*.

The fourteenth section of the act of March 16, 1802, provides,

"That if any officer, non-commissioned officer, musician, or private, in the corps composing the peace establishment, shall be disabled by wounds, or otherwise, while in the line of his duty in public service, he shall be placed on the list of invalids of the United States, at such rate of pay, and under such regulations as may be directed by the President of the United States for the time being," &c.

Various pension laws fix the rate of pensions to officers at half their monthly pay for a total disability, and in proportion for inferior disabilities; and to non-commissioned officers and privates, at full pay, for a total disability, and in proportion for a lesser disability. Their compensation, however, has not always been uniform. A private now receives eight dollars per month for a total disability, and a non-commissioned officer receives no more.

The fourteenth section of the act of January 11, 1812, to raise an additional military force, provides:

"SECTION 1. That if any officer, non-commissioned officer, musician, or private, shall be disabled by wounds, or otherwise, while in the line of his duty in public service, he shall be placed on the list of invalids of the United States, at such rate of pension, and under such regulations, as are or may be directed by law."

I am not aware that any executive regulation as to the commencement of invalid pensions has ever been made.

The foregoing acts are more particularly applicable to invalids of the Army.

The act of April 22, 1800, relates to invalids of the Navy, and provides:

"That every officer, seaman, or marine, disabled in the line of his duty, shall be entitled to receive for life, or during his disability, a pension from the United States, according

to the nature and degree of his disability, not exceeding one half of his monthly pay."

And a similar provision is contained in the act of March 2, 1790, section eight. These laws were in force during the war of 1812, and have never been repealed. It was in view of these provisions that many brave men presented their breasts to the enemy and received the blow which was aimed at their country.

How did our soldiers understand these laws when they entered the service of the United States? Why, as every man of common sense would understand them—that if he should become disabled while in the line of his duty in the public service, he should receive a pension according to the degree of his disability, for life or during disability; and it was the uniform practice of the Pension Office, previous to 1820, to commence invalid pensions from the date of the disability.

On the 15th of May of that year, Congress passed an act entitled "An act to continue in force an act to provide for persons who were disabled by known wounds received during the revolutionary war, and for other purposes," the third section of which provides:

"That the right any person now has, or hereafter may acquire, to receive a pension in virtue of any law of the United States, shall be considered to commence from the time of completing the testimony in the case, pursuant to the act hereby revived and continued in force."

In my judgment this act relates, and was at the time intended to relate, exclusively to the invalids of the Revolution. No other application can be made without an impeachment of the good sense, the honor and justice of that Congress, towards those who had entered the military service of your country to defend its flag and maintain its rights in the war of 1812, at whatever hazard to health and life, and sacrifice of the endearments of family and home.

In this view I am sustained by eminent authority, and will be allowed to adduce that of Hon. Benjamin F. Butler, when Attorney General of the United States. In giving his opinion in the case of General Ripley, (see page 387 of Mayo's edition of Pension Laws,) he says:

"All persons entering the Army under that act were therefore bound to know that if disabled they could not receive pensions as invalids, so long as they retained their places in the Army, and received the pay and emoluments thereof." But I am distinctly informed by the Commissioner of Pensions, that this was the only limitation imposed by the usage of the office, prior to the act of 15th May, 1820, on the payment of pensions for disabilities under the act of 1812; and that where the party left the Army at the time he was disabled, the pension was considered as accruing from the date of the disability, no matter when the testimony was completed or produced. "This being the case, all persons who entered the Army under that law had good reason to expect, that if they should become disabled they would be allowed pensions according to the nature of their disabilities, to commence from the time when they should cease to receive the pay and emoluments of the service. The contract between them and the Government was not precisely to that effect, because it was subject to the contingency, that the President might prescribe other regulations which might limit still further the commencement of the pension; but as this power has not been exercised, the case may be considered as standing precisely on the same ground as though it had not existed."

But Colonel Edwards, who had control of the Pension Office in 1820, and for more than a quarter of a century afterwards, decided otherwise; and the regulations established by him have mainly governed since. Indeed, they seem to have grown into a right, by prescription, to commence invalid pensions from the completion of the evidence; and however unjust the rule, it has been adhered to since the time he was in office, and no subsequent officer has taken the responsibility, however repugnant to his sense of justice and right and law, to wholly disregard it, and carry out the laws of Congress according to their plain intent and meaning.

The effect of this construction was to repeal the laws of Congress, and repudiate contracts which were made by the Government with the soldiers when they entered the service. Hence my object in introducing this bill, or substitute for the bill of the honorable gentleman from Tennessee [Mr. SAVAGE] is to procure, by act of Congress, a construction to the existing laws, in harmony with their spirit and meaning, and so that they may

receive their pensions from the date of their disabilities. I propose no change of the principle long since established by the Government, and carried out in good faith in a period of our history when we were less competent to pay these honorable and just demands than we are now. Shall it be said that the Representatives of a people, now great in power and resources, in whose ears the echo of the valor of those brave men still rings, are reckless to the obligations of contract and promise made to them when they entered the service? I will not believe it; nor will I believe that, for an age beyond, when our people shall only know of their sacrifices and achievements by tradition and history, any will be found unwilling or tardy in discharging the last, lingering obligations to those gallant veterans.

It has been the practice since 1820 to pay those who were engaged in the naval service of the United States from the date of their disabilities. The principle and intention of the law towards Army invalids has been asserted by numerous acts of your Congress within the last thirty years. Every man present knows how these invalid pensioners come down to the Hall of Congress year after year, and ask you to pass special acts for their relief, placing them on the roll of invalid pensioners from the date of their disabilities, instead of from the date of the completion of their proof. Why is it, then, that you will hesitate in allowing these men pensions in accordance with what was the understanding at the time they entered the service? Was it not a contract that the Government entered into with these men? Their claim has become a vested right, and they have a right to demand it of you. You are sufficiently liberal in making appropriations to carry on the affairs of the country. You are munificent in many other respects. But when these soldiers come to the doors of Congress and ask for a few hundred dollars, you refuse them their prayer. How unjust! Why not place the soldiers of the war of 1812 on an equal footing with each other? Why give an advantage to those who made applications for pensions previous to 1820, which you will not give to those who, whether from ignorance of their rights, from pride of circumstances, or from inability to complete their proofs, did not apply till after that date?

I have a case in illustration of the injustice of such a practice. A few years ago—and since 1850—I am informed that a soldier who was in the battle of Plattsburg, where two thousand of our militia men drove back fourteen thousand British troops, made application at your Pension Office. He had been wounded by a musket ball in his leg, was thrown into the hospital, and had suffered amputation. His officers were killed in battle, and his company scattered throughout the country, so that he was unable, until lately, to make the necessary proof, in order to comply with the construction of the law, as given at the War Department. He was told there that his case was a good one, and that he would be placed on the pension rolls from the date of the completion of his proofs. He asked: "Am I not to be placed back on an equal footing with my comrades in the service? I have been unable to maintain myself. I have been obliged to throw myself on the sympathy and aid of kind friends. Instead of my being a support to my family, they have supported me; and now you propose to turn me away with the humble pittance of ninety-six dollars a year, after the date of the completion of my proof. I will go to Congress, and ask that justice which you deny at your Pension department."

But, Mr. Chairman, the amount involved is not large. To carry out the provisions of this bill will require but a comparatively small amount to be taken from your Treasury. On looking over the report of the Commissioner of Pensions, I see that for the year ending June 30, 1857, the number of Army invalids on the rolls was four thousand eight hundred and ninety-eight. It is supposed that about one third of that number have been receiving pensions from the date of their disabilities, leaving three thousand two hundred and sixty-five to be provided for under this bill; and it is estimated that it will require, on an average, \$500 to pay each man, making an aggregate sum of \$1,632,500.

Of the 54,838 soldiers of the Revolution who were pensioned under the acts of 1816, 1823, and

1832, only 346 remain, according to the report of the Commissioner of Pensions for the year ending June 30, 1857. The amount paid annually to this class of men, during the last sixty years, will more than pay the sums due the invalids of 1812. Pensions were allowed those brave men of the Revolution not only on account of their services and sacrifices, but because the country will "eternally keep the tablet of gratitude bright" towards those who achieved our independence as a nation. Pensions to invalids of the war of 1812 and subsequent wars proceed upon a different principle. They grew out of a promise made by Congress before and at the time they entered the service, and may well be said to have formed a contract between the Government and the soldiers—when both were free to make it—founded upon considerations of patriotism, protection, and defense; and most nobly did the soldier perform the duty assigned him. They protected the legacy left by the heroes of '76, and preserved our patrimony of freedom from stain and dishonor.

National justice, good policy, the dictates of a common humanity, and the feeling of just gratitude demand this act at our hands.

I shall propose, before I take my seat, to add three sections to my bill, or substitute, with a view of carrying out in part, and as far as practicable at the present time, in my judgment, the object sought to be accomplished by the gentleman from Tennessee.

But I have placed the invalid soldiers first, because I think the Government should be just before they are generous. These wounded men come here and ask us to fulfill our contract, fairly made with them when they entered the Army, and I would not have the Government higgie with a wounded or disabled soldier as to the time when his pension shall commence. Whenever he proves that his disability commenced, his pension ought to commence from that period, without regard to the time when his proof was perfected or completed. There is only one class of soldiers' claims pending before Congress which may be said to have equal merit with the invalids of the war of 1812. I allude to the claims of the officers and soldiers of the Revolution, recommended to us by the Legislatures of New York, Maryland, and Virginia, and petitions from every part of the country, and for the relief of whom I had the honor, early during this session, to refer a bill to the Committee on Revolutionary Claims, and I am gratified to know that the same received the unanimous indorsement of the committee, and has been reported to the House without alteration or amendment. To those men, and the heroes of our second independence, we are indebted for the seats we now occupy, for this splendid Hall, for the immunities and blessings we enjoy, and for our greatness and glory as a people.

I find, in looking over the report of the Commissioner of the Land Office for the present year, that the territory won by the arms of those patriots, amounts to one thousand four hundred and fifty-eight million acres, besides the inestimable boon of liberty and independence which we now enjoy. To meet the promises of Congress to these men, this entire territory, by the act of 1790, was pledged to the payment of the revolutionary debt; and I trust that this Congress will see to it that the injustice which has been done to these men shall no longer be a reproach and a stain upon the national honor. We have already received from the sales of these lands more than one hundred million dollars, and the yearly income from that source will average about six millions. The soldiers of the Revolution have the first mortgage upon the public domain, and the soldiers of the war of 1812 have the next claim, to the income, at least, for they nobly maintained our country's rights, sustained the honor of our flag, and gained what may well be termed our second independence.

I know very well that in the present depleted state of the national Treasury it is impossible to do justice to all those who have entered the service of our country. I would be glad, under certain rules and regulations, to go with the gentleman from Tennessee [Mr. SAVAGE] in establishing the principle, however novel it may be, since the days of the Revolution, of giving pensions for services as well as for disabilities. With this end in view, I propose to amend my substitute by incorporating into it the principle of the bill of 1832,

* "Previous to 1820, it was the practice of the Pension Office to commence invalid pensions from the date of the wounds, and in many cases it has been done since. The last Congress allowed the pension of General McNeil from the date of his wounds, in addition to his pay as an officer, and the amount was made payable to his widow."

which is simply full pension for twenty-four months' service, half pension for twelve months, and a quarter pension for six months.

I know that many performed meritorious services who were on military duty for a less length of time, equally so to the extent of time they were in the service—some for three months; some less—those who were of the drafted and volunteer force for thirty and sixty days in the States.

In Connecticut this class prevented the recapture of the Macedonian and our other ships of war by the British fleet, which held them blockaded up the river Thames. But while we cannot do full and complete justice to all of that class of men, let us go as far as we can, trusting to another occasion, a more auspicious day in the financial condition of our Treasury, to triumphantly vindicate our appreciation of the services of all, and a nation's gratitude to all her brave sons.

Mr. Chairman, I now modify my substitute by adding the sections which I send to the Clerk's desk:

Sec. 3. *And be it further enacted*, That each of the surviving officers, musicians, soldiers, and Indian spies, who shall have served in the regular Army, State troops, volunteers, or militia, at one or more times, a period of two years during the war with Great Britain declared by the United States on the 18th day of June, 1812, or in any of the Indian wars subsequent to the war of the Revolution, and previous to said 18th day of June, 1812, shall be entitled to an annuity or pension equal to his full pay in the line, according to his rank, but not exceeding in any case the pay of a captain of infantry; such pay to commence on the 4th day of March, 1858, and continue during his natural life; and that any officer, non-commissioned officer, musician, or private, as aforesaid, who shall have served as aforesaid a term or terms in the whole less than the period of two years, but not less than six months, shall be entitled to an annuity or pension, each according to the term of his service, bearing such proportion to the annuity granted for the same rank for the service of two years as his term of service did to the term aforesaid, to commence on the 4th day March, 1858, and continue during his natural life.

Sec. 4. *And be it further enacted*, That if any person who would be entitled to a pension under the third section of this act, if living, have died, or may hereafter die, leaving a widow, such widow shall be entitled to receive, during her widowhood, the same annuity or pension that her husband would have been entitled to if living, to commence on said 4th day of March, 1858, unless her husband shall have survived that date, and received a pension under this act, in which case, her pension shall commence from the day of his death.

Sec. 5. *And be it further enacted*, That the annuity or pension hereby allowed shall not be in any way transferable, or liable to attachment, levy, or seizure, by any legal process whatever, but shall inure wholly to the personal benefit of the officer, non-commissioned officer, musician, or soldier entitled to the same, or to his widow.

Mr. CURRY obtained the floor.

Mr. DAWES. If the gentleman from Alabama will permit me, I will move that the Committee rise.

Mr. COBB. Will the gentleman withhold that motion for a moment?

Mr. DAWES. Certainly, with the leave of the gentleman who is entitled to the floor.

Mr. CURRY. I have no objection.

Mr. COBB. I merely desire to give notice to the committee that I shall propose to amend the bill by inserting, after the word "twelve," in the ninth line, the words "and the Florida and Creek Indian wars of 1836, 1837, and 1838," so as to include those who served in those wars, or their widows.

Mr. FLORENCE. I give notice that I shall offer the following as an amendment to the bill:

That all persons who are or who may be on the invalid pension rolls of the Army, Navy, and marine corps of the United States, shall be entitled to receive pensions at the rate of not less than eight dollars per month for disability of the highest degree, and for disability of less degree proportionately less; such pensions, in each case, to commence from the occurrence of the disability on account of which they have been or may be granted: *Provided*, That nothing in this act shall be construed to lessen the pensions of those who, by special or other legislation, are or may be entitled to pensions of a higher grade, or to impair any right thus acquired; and that such higher pensions for disability shall be graded in conformity with the assimilation mentioned in the next section of this act.

Sec. — *And be it further enacted*, That if any person has died, or shall die, by reason of injury received, or of disease contracted, while in the line of his duty as a commissioned or non-commissioned officer of the Army, Navy, or marine corps of the United States, or as an enlisted man or "boy" of either of said branches of public service, and shall have left, or shall leave, a widow, or, if no widow, a child or children under sixteen years of age, such widow, during her widowhood, or, if there be no widow, such child or children shall be entitled to receive a monthly pension, to be computed in amount according to the pension laws in relation to the Navy now in force: that is to say, the widow, child, or children, as aforesaid, of a general officer, colonel, or lieutenant-colonel of the Army or marine corps, shall be entitled to the pension now allowed by law to the widow, child, or children of a captain of the Navy; and, in like

manner, the several other ranks of the Army and marine corps, in respect to pensions, shall be assimilated to those of the Navy, as follows: a major to a commander; a captain to a lieutenant; a lieutenant to a master; a surgeon, an assistant surgeon; and a chaplain to similar grades in the Navy; a sergeant major, an orderly or first sergeant, an ordnance or quartermaster's sergeant, a principal musician, and a hospital steward to a boatswain; all other sergeants and enlisted master-workmen to a boatswain's mate; and the widow, child, or children as aforesaid of any other non-commissioned officer, enlisted man or "boy" of the Army, Navy, or marine corps as aforesaid shall be entitled to a pension of eight dollars per month; the said pensions, in each case, to commence as do similar pensions in the Navy.

Sec. — *And be it further enacted*, That in the event of the death or marriage of such widow, the pension aforesaid shall therefrom be paid to such child or children; but in all cases said pension shall cease when such child or children attained, or shall attain, the age of sixteen years, or died, or shall die, before that age.

Sec. — *And be it further enacted*, That in all cases of application for a pension, which have been or may be made under this or any previous act now in force, in relation to the Army, Navy, or marine corps, it shall be presumed that every such person was either disabled, or (as the case may be) that his death was caused, as aforesaid, while he was in the line of his duty, unless it be proven that such disability or death resulted from vicious conduct, immoral habits, or otherwise, as prohibited by the laws governing, respectively, the Army, Navy, and marine corps.

Sec. — *And be it further enacted*, That the pensions hereby provided for shall be paid out of any money in the Treasury not otherwise appropriated; and that all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

I further give notice that I shall introduce an amendment to provide for certain persons who were engaged in service in 1818, and in the war with Mexico.

Mr. MONTGOMERY. I give notice that I shall offer the following amendments:

After the words "Great Britain," in line eight, section 2, insert the following words:

And also all others who served as soldiers either in the regular Army, volunteers, or militia, in any Indian wars between any of the Indian tribes and the United States from 1783 to 1795, and subsequently until 1812.

Insert, after the word "twelve," in line nine, section one, the following words:

And also any soldier who served in said war in the regular Army of the United States, militia, or volunteers, who can show that, by reason of exposure or other hardships endured, he is now an invalid, and unable to maintain himself by his labor.

It may appear strange to the House that there has never been any provision made for Anthony Wayne's army.

Mr. LETCHER. I would inquire of the gentleman why he does not include the Florida war, the Whisky insurrection, and the Mexican war?

Mr. FLORENCE. And the Buckshot war?

Mr. MAYNARD. I desire to give notice that I shall, at the proper time, offer an amendment to the bill extending the benefit of its provisions to those who served in the Army of the United States prior to 1818, so as to embrace those men who served with General Jackson in his Florida campaign.

Mr. UNDERWOOD, Mr. Chairman, with the leave of the gentleman from Alabama, I desire to give notice that, at the proper time, I shall move an amendment to the bill to include those gallant soldiers of our own State, Kentucky, who went out under the command of General Hopkins, who were engaged in a toilsome march, and who were more exposed to danger and starvation than almost any other men who were engaged in the war of 1812. I desire to have them also included.

Mr. FLORENCE. I desire to submit a proposition to print the several amendments of which notice has been given, so that the members of the House may be able to give them due consideration before they are called upon to vote.

The CHAIRMAN. The proposition of the gentleman from Pennsylvania cannot be received in committee.

Mr. DAWES renewed his motion, and it was agreed to.

So the committee rose, and the Speaker having resumed the chair, the chairman (Mr. BURNETT) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration as a special order, the bill of the House No. 259, and had come to no conclusion thereon.

Mr. FLORENCE. I ask the unanimous consent of the House to have printed the various amendments, of which notice was given in the Committee of the Whole on the state of the Union.

Mr. LOVEJOY. I object; and move that the House adjourn.

Mr. LETCHER. I would like, at the same

time with the proposition of the gentleman from Pennsylvania, to have it referred to a committee to ascertain how many wars we have ever had, and what would be the cost of pensioning the whole set. [Laughter.]

Mr. MAYNARD. I think the Committee on the Library would be the proper committee to obtain that information.

Mr. LOVEJOY. I insist on my motion. The motion was agreed to; and thereupon (at a quarter past four o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, April 23, 1858.

Prayer by Rev. J. L. ELLIOTT.

The Journal of yesterday was read and approved.

THE AFRICAN SLAVE TRADE.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting reports of the Secretary of State and the Secretary of the Navy, with accompanying papers, in answer to a resolution of the Senate of the 19th of January last, which was submitted by Mr. SEWARD, calling upon the President to communicate to the Senate any information in his possession, derived from the United States squadron on the coast of Africa, or from the British or French Governments; or any other official sources, concerning the condition of the African slave trade, and concerning the movements of the French Government to establish a colonization in the possessions of that Government from the coast of Africa.

The message was read, and, on motion of Mr. STUART, was referred to the Committee on Foreign Relations.

Mr. SEWARD subsequently said: The answer of the Secretary of State to the call of the Senate, made some time ago, for correspondence with foreign Powers concerning the slave trade, was ordered to be referred this morning, in my absence, to the Committee on Foreign Relations. I move that the communication be printed.

The motion was agreed to.

Mr. JOHNSON, of Arkansas. I should be glad to ask a question of the Senator from New York, who has obtained this order for printing. It is granted without any reference whatever. I am not aware that the document is before the Senate, but I understand there is not a little of it. Will the Senator explain it? Otherwise, I must move to reconsider.

Mr. HUNTER. I hope the Senator will let it lie over until to-morrow.

Mr. SEWARD. I do not know what the difficulty is. The paper came in yesterday, and was referred this morning to the Committee on Foreign Relations. It has gone to the Committee on Foreign Relations, and I ask that it may be printed. It is voluminous and very important.

Mr. HUNTER. Is it a short paper?

Mr. SEWARD. No, sir. It is a communication of the correspondence of foreign Powers concerning the slave trade.

Mr. MASON. It is a very interesting correspondence, to the country, on the subject of the relative action of the British and American Governments in regard to the suppression of the African slave trade.

Mr. HUNTER. I hope it will go over until to-morrow.

The PRESIDING OFFICER, (Mr. BIGGS.) The Chair will remark to the Senator from New York that the motion was entertained under unanimous consent, because, under the rule, it must go to the Committee on Printing.

Mr. SEWARD. I have no objection that it shall go to the Committee on Printing, if they desire to examine it.

Mr. JOHNSON, of Arkansas. If the Committee on Foreign Relations say it ought to be printed, I shall make no objection.

Mr. SEWARD. I happened to be out on a committee of conference at the time, and the honorable chairman was out; but the committee desire that it shall be printed.

Mr. JOHNSON, of Arkansas. Then I shall interpose no objection.

ORDER OF BUSINESS.

Mr. CRITTENDEN. I wish to present a petition

The PRESIDENT *pro tempore*. The Chair will inform the Senator that this day being set apart for the consideration of private bills, it is not in order to consider any other business, unless otherwise directed by the Senate.

Mr. CRITTENDEN. I only want to present a petition.

Mr. IVERSON. I have no objection to waiving the taking up of the Private Calendar until we get through with the ordinary morning business.

The PRESIDENT *pro tempore*. The Chair will regard that as the sense of the Senate, unless objected to.

PETITIONS AND MEMORIALS.

Mr. CRITTENDEN presented the petition of Charles Grampp, praying that his pension may be made to commence from the date of his disability, which was referred to the Committee on Pensions.

Mr. BIGLER presented a memorial of Samuel V. Merrick, William C. Ludwig, Charles Macalister, and S. Morris Waln, trustees, appointed at a meeting of citizens of Philadelphia, praying that the bill to establish certain ocean post routes between the United States and Europe, and to regulate the transportation of the mails thereon, and to reduce the expenses thereof, now before Congress, may become a law; which was referred to the Committee on the Post Office and Post Roads.

Mr. MASON presented a memorial of citizens of Jefferson county, Virginia, praying the location of a national foundry at Shepherdstown, in that county; which was referred to the Committee on Military Affairs and Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. POLK, it was

Ordered, That the petition of James T. V. Thompson, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. CHANDLER, it was

Ordered, That the memorial of Captain John B. Montgomery, on the files of the Senate, be referred to the Committee on Claims.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (No. 2) donating public lands to the several States which may provide colleges for the benefit of agriculture and the mechanic arts—to the Committee on Public Lands.

A bill (No. 62) making appropriations for the support of the Military Academy, for the year ending the 30th of June, 1859—to the Committee on Finance.

NOTICE OF A BILL.

Mr. SEBASTIAN gave notice of his intention to ask leave to introduce a bill to extend the pre-emption laws of the United States to the reserved sections of land within the grants to railroads in Arkansas, and for other purposes.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Bernard M. Byrne, submitted a report, accompanied by a bill (S. No. 282) for the relief of Bernard M. Byrne. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the memorial of James Maccaboy, submitted a report, accompanied by a bill (S. No. 283), for the relief of James Maccaboy. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of C. Edward Habicht, administrator of J. W. P. Lewis, submitted a report accompanied by a bill (S. No. 284) for the relief of C. Edward Habicht, administrator of J. W. P. Lewis. The bill was read, and passed to a second reading; and the report was ordered to be printed.

WAGON ROADS.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of constructing a wagon road from Fort Smith, in Arkansas, to Albuquerque, in New Mexico; and from Fulton, in Arkansas, to El Paso, in New Mexico; and report by bill or otherwise.

INDIANA MEETING OF FRIENDS.

Mr. IVERSON. If there be no further morning business, I move that we take up the special order, being the Private Calendar.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 46) to grant the right of pre-emption in certain lands to the Indiana Yearly Meeting of the Society of Friends.

Mr. MASON. This is a proposition, as I understand, to grant a portion of the public lands to a religious society for the purposes of that society, which are, as far as I can understand the bill from the reading of it, prescribed in the act, undertaking, on the part of Congress, to regulate matters with which, in my humble judgment, we have nothing to do. I did not distinctly hear the bill, for I was interrupted at the moment, but I understand that it was to give them a pre-emption right. That policy has been instituted by the Government, and is a very wise policy for the purpose of securing the actual settlement of the lands by the citizens of the United States, not for the purpose of making donations to charitable institutions. I move that the bill be indefinitely postponed.

Mr. PUGH. The Senator from Virginia today, as on a former occasion, has stated what he understood to be the bill, and without giving any opportunity for correction, has concluded his speech by some motion, intending to put an end to the whole affair. Now, the Senator has altogether misapprehended the bill. He entirely misunderstands the case which is before the Senate. I do not think it is possible for any Senator to examine the question without being in favor of the passage of the bill.

Nearly half a century ago, Mr. President, when the Shawnee tribe of Indians were wild, living in the northwestern portion of the State of Ohio, this Society of Friends, through three of its organizations nominally—I believe, the Indiana Meeting, the Ohio Meeting, and the Baltimore Meeting—undertook the pioneer mission to the Indians in that portion of the country. They established their school—for it was only a school for Indian children—at Wapakousta, in the State of Ohio. The whole care of the mission belongs to the Indiana Meeting, which is the party named in the bill. The Government of the United States bought the lands of the Shawnees, extinguished the Indian title in Ohio, and removed them to Kansas Territory, and they gave them the lands on which they were finally settled. They were not lands of the United States any longer. The fact is, I believe, they had a patent from the United States, issued by President Tyler.

In 1854, about the time the Territory of Kansas was organized, a treaty was concluded with the Shawnees, in which they reserved to themselves two hundred thousand acres of land, stipulating that certain proportions of that reserved tract should inure to the benefit of the missions established among them. Here is the section. I should have contented myself with stating the substance of it, but for the fact that there seems to have been such a disposition to put the bill off without learning anything about it. Here is the second article of the treaty, or rather an extract from it:

"Of the lands lying east of the parallel line aforesaid, there shall first be set apart to the Missionary Society of the Methodist Episcopal Church South, to include the improvements of the Indian Manual Labor School, three sections of land; to the Friends' Shawnee Labor School, including the improvements there, three hundred and twenty acres of land; and to the American Baptist Missionary Union, to include the improvements where the superintendent of their school now resides, one hundred and sixty acres of land; also, five acres of land to the Shawnee Methodist Church, including the meeting-house and grave-yard; and two acres of land to the Shawnee Baptist Church, including the meeting-house and grave-yard."

This was a stipulation inserted by the Indians themselves, in order to secure the continuance of the mission schools organized by these religious societies. It is in no sense a donation for any religious society as such. It is simply to protect the schools established for the civilization of the Indians; and I do not know that it is any demerit in the school that its teachers belong to either one or another religious denomination. Although these were established as missionary schools by religious societies, they are schools; and as I say, I do not think the schools are any the worse because they are under the control of religious societies.

The Indians stipulated that these two hundred thousand acres of land should be reserved to them; that they would take out of them these grants here named, and any other grants that might be necessary to give a certain quantity for all the Shawnee people, so much to the heads of families and those who are not, and that the residue of the tract should be reserved five years, and during those five years, any of the Shawnee people scattered and settled outside of the reservation, who might come in, should be entitled to have head rights or family rights, and the balance of the tract, after that, should be sold by the Government, and the money paid over to the Shawnees.

Now, sir, it is discovered that the Shawnee Labor School, established by the Society of Friends, is not so favorably situated in the location of the lands set apart to it by the treaty as the Methodist society, which has three entire sections, there being but one half section set apart for the Society of Friends, and the Indians themselves in council have designated a tract of land to be added to that for the purpose of furnishing woodland to enable the school itself to be kept up. The Indians in council appropriated it out of their own land. An application was made to the Commissioner of Indian Affairs to confirm the location. It was their land, it was their school; they were satisfied with it. The Commissioner of Indian Affairs said he must refer it to the Commissioner of the General Land Office, and he commended it to his attention. This very bill was drawn by the Commissioner of Indian Affairs last in office. The Commissioner of the General Land Office reported that he could not confirm this location under the acts of Congress then in force, as it did not come technically within the pre-emption laws, and he advised the parties to apply to Congress. An extract of his letter is contained in the report of the committee, commending it to Congress.

Now, instead of looking into the case, Senators have risen three or four times—and not one Senator, but three or four of them—to set up a real ghost, a stalking horse in the Senate, that we are going to grant out the public land in immense quantities to religious societies, and that it is setting a new precedent. Why, sir, the first precedent I know almost in the history of this Government of a grant of public land, is a grant to the United Brethren, commonly called the Moravians, to induce them to civilize the Indians. It was a grant to a religious missionary society for the express purpose of establishing schools among the Indians. I believe it is one of the first grants in the history of the Government; but that is not this case. I only state that to show Senators that it sets no precedent at all. This land belongs to the Shawnees; they reserved it in their treaty with us. They owned the whole tract, and had a patent for the whole tract, and they agreed to surrender it up to us at a certain valuation, all excepting these two hundred thousand acres of land. They propose out of that land, which is theirs, and the proceeds of which are to go to them, if there is any surplus, to enlarge the temporary grant to this school, so as to enable it to be made more efficacious. As I said, they are willing to do it; the Indian Office is willing to do it; the Land Office is willing to do it; and the Committee on Public Lands has twice reported in favor of it. The bill passed the Senate at the last Congress, and failed in the House for lack of time; and now when it comes up at this session, as often as the bill comes up, some Senator rises and says if he understands it, it means thus and so, and thereupon he wants it laid on the table without waiting for any explanation. It seems to me that the proposition is trifled with, and I say so with all respect. It is a fair proposition. It proposes nothing dishonest.

At my suggestion, in committee, there was a section added to the bill to guard against any possibility of abuse, providing that they should never sell the land without the consent of Congress, so as to prevent the least speculation. I have no doubt that if it is found necessary, for increasing the usefulness of the school, that the land shall be sold, Congress will grant the right to sell it; but, for the express purpose of preventing any speculation, I inserted that clause.

Now, sir, what does the bill propose? I come lastly to that. It proposes that they shall have the title to this tract of land, which is given to

them in the treaty, in the first place—for it is given to them—and, in the next place, that they shall have the privilege of paying the Government \$1 25 per acre for the rest of the land that the Indians are willing to give them. It is absolutely not our land; it is land that we have guaranteed to this tribe of Indians; but I have required, and the parties are willing to pay this Government, \$1 25 per acre for land that the Government does not own, and cannot even get.

Mr. BROWN. In that connection, will the Senator explain to me why it is that the three hundred and twenty acres additional to the tract reserved in the treaty, and which it is proposed to let these parties enter under the provisions of this bill, are not located in connection with the land they already have—why it is a floating privilege to carry it anywhere over the country?

Mr. PUGH. I will tell the Senator why it is necessary. It is stated in the report, and was made to appear to the committee and to the executive officer. This reservation in the treaty only includes the buildings and farm-lands; it includes no timber land; and, at the present time, the mission has no access to any woodlands; and, if they go upon any timber reservations, the Government of the United States would be after them with its officials for trespassing upon the public lands. The three hundred and twenty acres to be added by this bill is a tract of timber land—nothing else in the world.

Mr. BROWN. But I cannot understand of what advantage these three hundred and twenty acres of land can be to the mission unless located in connection with it; and I find, on reading the bill, that they are to locate anywhere on Indian soil; it may be two hundred miles off.

Mr. PUGH. You are mistaken, sir. A description is given in the bill.

Mr. BROWN. The reading of the bill is this:

"In addition to the three hundred and twenty acres set apart to the Friends' Shawnee Labor School or Mission by the said treaty; such location to be made upon any of the said lands which will belong to the United States after the Indians shall have made their selections, as provided by the said treaty."

It does not require that it shall be located in connection with the other.

Mr. PUGH. The report specifies the lands the Indians have already designated. They have already designated the tract themselves. It is stated in the report.

Mr. BROWN. Precisely; but that does not meet the point. What I apprehend is, that this is an attempt on the part of this mission to get some valuable town-site or some property of great value, because if they wanted three hundred and twenty acres of land for the benefit of this mission, they would take land in connection with what they have, and take the nearest three hundred and twenty acres that happen to be vacant, but when they go all over the face of the country to be allowed to locate three hundred and twenty acres anywhere, it looks to me very much as if it is an attempt to get a town-site or something else that has a particular value attached to it.

Mr. PUGH. The Senator may have the bill amended in that regard—there is no difficulty on that score. As I said, the bill was drawn by the late Commissioner of Indian Affairs, but that point never attracted my attention, because I knew that the tracts of lands are particularly designated, and it is stated in the report what they are. They are selected. Here is the tract:

"The Yearly Meeting of Indiana therefore asks permission to locate and purchase as a preemption right, at \$1 25 an acre, two tracts in the neighborhood of the mission-farm, namely: one hundred and twenty acres west of the farm, and two hundred acres on the south side of the Kansas river."

I knew that it was specified. If it is not done in the bill, it is because I trusted the Commissioner to draw it up; and I shall not object to the Senator's amending the bill in that particular. I shall not detain the Senate any longer.

Mr. HUNTER. I think it was understood, when we adjourned yesterday, that we should take up the deficiency bill to-day. I hope it will be taken up.

Mr. PUGH. Let us have a vote on this bill one way or the other.

Mr. HUNTER. If there could be a vote without debate, I should not object; but I know there will be opposition, I know there will be speeches made. I must take the sense of the Senate on

taking up the deficiency bill. I move to take it up.

Mr. BROWN. Can that motion be made without altering the rule? The Senate is sitting under a resolution appointing this day for the consideration of private bills. I do not understand that we can, without a day's notice, change the rule.

Mr. HUNTER. It is not a rule. It is a mere order of business, the same as we make in regard to other special orders. I hope the Senator from Mississippi will not interpose in the way of the deficiency bill. Let us get through with it. I think that was the understanding when we adjourned yesterday.

Mr. BROWN. I did not so understand.

Mr. HUNTER. I think it was the understanding.

The PRESIDING OFFICER, (Mr. BIGGS in the chair.) In the opinion of the Chair, a majority can set aside this bill for the purpose of taking up the deficiency bill.

Mr. HUNTER. Then I make that motion, to postpone all prior orders and take up the deficiency bill.

Mr. SIMMONS. I wish the Senator would give way and let this bill pass. The hour of one o'clock has not yet arrived.

Mr. HUNTER. I would give way if I did not know that this bill would be debated. We cannot pass the bill under an hour's debate.

Mr. SIMMONS. We cannot debate it ten minutes longer if we try.

Mr. HUNTER. I make the motion that the deficiency bill be now taken up.

Mr. IVERSON. Does the Chair decide that it is competent for a majority to set aside the resolution passed some time ago setting apart Friday for the consideration of private bills?

The PRESIDING OFFICER. That is the opinion of the Chair. A majority of the Senate have a right to dispense with that order of business, and take up any other.

Mr. IVERSON. The impression my mind derived from older Senators was that it could not be done without unanimous consent. I know that the Chair this morning, when it was not occupied by the present incumbent, when it was moved to introduce petitions, stated that it could only be done by unanimous consent. I yielded; and therefore petitions were introduced. The President *pro tempore* of the Senate, as I understood him, decided that it required unanimous consent to waive the order of the day. I think the present occupant is wrong in his decision. I will appeal to older Senators, however.

Mr. STUART. The Senator will allow me to say that it has been the uniform decision of the Senate, I think, that an order made in this way becomes a rule of the Senate. The question has been raised here several times, since I have been in the body, and it has been uniformly decided that it required one day's notice to change it. I do not make this suggestion because I object to taking up the deficiency bill; but I am anxious that there shall not be an erroneous decision on this question; because, if so, our private bill arrangements will be ended for the session; for somebody will be continually moving to postpone them, and, by talking about it and voting about it, we shall lose private bill day.

Mr. JOHNSON, of Arkansas. I have been here for some years, and I am very certain that, if the proposition that is now presented to the consideration of the Senate by the Senator from Michigan can prevail justly, or should heretofore have prevailed justly, there would not have been a single Friday that would not have been devoted to private bills; and yet, I know that we have constantly passed private bills over on Fridays. Now there is one little bill here which is producing this kind of excitement and this kind of exaction of the public business which is to set aside business of far more importance.

Mr. STUART. I hope the Senator will allow me to say a word.

Mr. JOHNSON, of Arkansas. Certainly.

Mr. STUART. It is a very short time since this order was made. I say that when such an order has been made by the Senate, the decision has been, that after it is made it cannot be set aside without the unanimous consent of the Senate; and I call the attention of the Senator to a case that occurred when the Kansas-Nebraska bill was under consideration. It became necessary to

give one day's notice of an intention to move to set aside just such an order as this, and it was done.

Mr. JOHNSON, of Arkansas. I hope very much that the decision of the Chair will be sustained if the gentleman takes an appeal.

Mr. HUNTER. There is no appeal.

Mr. JOHNSON, of Arkansas. If there is no appeal, it is unnecessary to discuss it. I will say, however, that at this time of the session, when we are trying to bring our work up to the 7th of June, and when we are compelled to do it, or else rescind the resolution adopted by the two Houses, (an operation which is not very easy, by the way,) I hope we shall not give a different construction from that stated by the Chair, and thus delay the public business for the consideration of such as that which is before us. As to the bill before us, I certainly shall oppose it, and I know there are others who will do so; and I think I can show grounds on which you cannot get a majority of the Senate to pass that bill to-day.

Mr. IVERSON. I must take an appeal from the decision of the Chair, unless the Senate come to some arrangement about the Private Calendar. It has been usual through all the Congresses heretofore to take up the Private Calendar regularly on Fridays, about the 1st of April, at the long session. I think the order setting apart Friday for private bills, at the first session of the last Congress, was adopted on the 24th of March, and from that time to the end of the session, every Friday was appropriated to private bills. I obtained an order from the Senate during the month of March, or about the 1st of this month—I do not remember particularly the time—setting apart Fridays hereafter for the consideration of private bills. Instead of complying with that order, the Senate has devoted but a single day this whole session to the consideration of the Private Calendar.

Mr. JOHNSON, of Arkansas. If that is the case, it is the Senator's fault. He has not insisted that the rule is what he now contends for.

Mr. IVERSON. I beg pardon; it is no fault of mine. The Senate set aside the Private Calendar by proceeding to other business of a pressing character. I did not interpose objection, though I was anxious to have the private bills considered. I yielded and yielded, until my patience was exhausted, and I will not yield again without some arrangement.

Mr. JOHNSON, of Arkansas. The Senator had no right to yield before.

Mr. IVERSON. I am willing to yield to the deficiency bill to-day, provided the Senate will make the Private Calendar the order for to-morrow. If they do that, I will yield; otherwise, I will not; and I will take an appeal from the decision of the Chair. If the Senate will, by general consent, agree—

Mr. MASON. I shall give no consent.

Mr. TOOMBS. Nor I, either.

Mr. MASON. I deem it a matter of the last importance that the business of the Senate should be under the control of the Senate, and more especially as we have now fixed the day for adjournment, and are all anxious to adjourn. To ascertain whether that order is subject to the control of the majority of the Senate, let it be read, that we may see what it is. If it is the rule of the Senate, it requires one day's notice. If it is a mere order, it can be disposed of by a majority.

The Clerk read the order, as follows:

"Resolved, That for the residue of the present session, after this present week, Friday of each week shall be set apart for the consideration of private bills, in the order in which they stand upon the Calendar."

Mr. JOHNSON, of Arkansas, and others. That is not a rule.

Mr. BROWN. I should like to know, then, what it takes to constitute a rule?

Mr. MASON. A rule is one of the regulations prescribed by the Senate, in the nature of a fundamental law, only to be changed in a certain way.

Mr. JOHNSON, of Arkansas. A rule, too, is permanent, and lasts from year to year; but this is only for the remainder of the session. It is a mere order.

Mr. HAMLIN. I do not desire to interpose any objection to the consideration of the deficiency bill; but I desire to state that this resolution, I think, is in the precise words of one which has been adopted for years, and time after time,

as the records of your own Senate will show, it has been regarded as a rule of the Senate for the session; and on various occasions within my recollection, though I cannot specify the times, when an important question has been before the Senate, a day's notice has been given preceding the Friday which they wanted to occupy, that they would move to rescind this rule for the day. I recollect distinctly that the Senator who preceded you, sir, from your own State, (Mr. Badger,) on one occasion, made that motion; and on the next day, Friday, we did rescind the rule for the day; but it was regarded as a rule of the Senate; a notice was given one day in advance, and it has been done frequently. This decision, therefore, is reversing the whole practice of the Senate ever since that rule was adopted.

Mr. BENJAMIN. It is obvious that we can reach our purpose without any reference to this rule. No one can ever control this Senate when a majority wishes to take up one class of business in preference to another. The majority must control its own business; and if a mere point as to the rule on the subject is suggested, what is to prevent us laying private bills on the table, one after another, as they are called, until we get through with them? We cannot make a rule by which the majority of the Senate will be prevented from doing the public business when it thinks the public exigency requires the dispensation of the rule. Nor can any previous arrangement do it. You can take these private bills and lay them upon the table, one after another; and when we have got through with them, then any public business is in order. It can be reached in that way; and I trust we shall not continue this profitless discussion; but, if there is, as I believe there is, a large majority of the Senate disposed to go on with the public business, let us go on with the deficiency bill.

Mr. STUART. I am unwilling that this question should be presented to the Senate, or pass away, under any misapprehension. I do not know but that there may be somebody here who objects to taking up the deficiency bill, but it is not I. I am entirely willing that the deficiency bill shall be taken up and acted upon to-day; but it is to avoid the very difficulty that is suggested by the Senator from Louisiana, that I do not like this question to pass off under the present decision. It may occur at the very next Friday that the whole day may be spent in a motion to postpone the private bills, and you may consume the entire Friday and do nothing. That we have seen here often, and it can be done any time. If the course suggested by the Senator of laying the private bills on the table were pursued, you might not get through with them all in two weeks, if the minority of the Senate saw fit to fight it.

Mr. BENJAMIN. A motion to lay on the table is not debatable.

Mr. STUART. But you can vote on a hundred propositions before you can get to it, by the yeas and nays; but that is not the point. It is in order that the business of the Senate may be under the control of the Senate, that I suggest that the uniform practice of the Senate should be followed; that by common consent we lay aside private bills to-day, and take up the deficiency bill; but not that we submit to a decision which would enable any Senator on any Friday to move to postpone the private bills to take up any question he wishes, and to debate it all day; that is the difficulty.

Now, sir, I referred to a case—the very case alluded to by the Senator from Maine—in 1854. Then, the Senator from North Carolina (Mr. Badger) wishing to get action upon the Kansas-Nebraska bill, gave one day's notice that he would move to set aside just such an order as this for Friday; and on Friday it was set aside without debate, the majority of the Senate being for it; but it has been always held that it required the unanimous consent of the Senate, under an order of this kind, to postpone private business.

It is said it is not a rule. You need not call a thing by the name of a rule in order that it should be a rule. It sets aside particular days for particular business. It is an order; it is a rule of your body that every Friday shall be appropriated in a particular manner; and it is as much a rule as it is that a bill shall not be read three times on the same day. A single objection carries it over; you cannot read the bill—a majority can-

not have it read; it cannot be done at all. Why? Simply because the Senate has ordered otherwise. These rules are but orders of the Senate governing their action. Now, I am willing, and I hope the Senate will agree to lay aside all these questions for to-day, and take up the deficiency bill; but I hope they will not submit to a decision which will put it in the power of any member of the body to defeat a private bill any day when he chooses.

The PRESIDING OFFICER. The Chair will remark, though only temporarily occupying the chair, that he has some hesitation in deciding this question after the remarks made by Senators of more experience in the rules of this body. He does not profess to be experienced as to the uniform practice of the Senate on this question. The Chair entertained the opinion, and now entertains the opinion, that this resolution is, in substance, to be construed as though you had made private bills the special order for to-day. Suppose, instead of making the Private Calendar a special order, you had a resolution making half a dozen private bills on the table the special order for a particular day: it would be the order of business prescribed by the Senate. We make a special order to-day to be taken up to-morrow. It is in order for the Senate to take up the bill to-morrow; we have assigned that day to discuss that bill; but according to the uniform practice of the Senate, whenever that time comes, it is in order to move to postpone that, and take up something else.

Mr. STUART. It is so because the rule says so. The very rule which makes special orders says, "unless otherwise ordered by a majority of the Senate." If it did not say so, that could not be done. That is the very language of the rule.

The PRESIDING OFFICER. The question is on the appeal—"Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. IVERSON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 26, nays 23; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Clay, Crittenden, Evans, Fitch, Green, Gwin, Hale, Hammond, Harlan, Houston, Hunter, Johnson of Arkansas, Jones, Kennedy, Mallory, Mason, Polk, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—26.

NAYS—Messrs. Bell, Bright, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hamlin, Iverson, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—23.

So the decision of the Chair stands as the judgment of the Senate.

Mr. HALE. Having voted with the majority, I move a reconsideration of the vote just taken; and I will state the reason for it. I was not in the Senate Chamber when the question arose, and I find that I stand on the record in opposition to a great majority of those—I do not know but that I am in opposition to the whole of those—with whom I uniformly vote on this floor, and I simply desire to make this justification. I understand the uniform practice of the Senate ever since I have had the honor of a seat on this floor, without exception in my recollection, to be in accordance with the decision of the Chair. Having made that explanation, I withdraw the motion to reconsider.

DEFICIENCY BILL.

The PRESIDING OFFICER, (Mr. Briggs.) The question is on the motion of the Senator from Virginia to postpone all prior orders for the purpose of taking up the deficiency bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, the pending question being on the amendment offered by Mr. FESSENDEN to strike out all after line thirty, page 2, of the printed bill, down to line one hundred and sixteen, page 6, and insert:

To supply a deficiency of appropriations for the regular supplies of the quartermaster's department in the year ending June 30, 1857, \$279,377 57.

To supply a deficiency of appropriations for the incidental expenses of the quartermaster's department in the year ending June 30, 1857, \$129,860 20.

To supply a deficiency of appropriations for the transportation of troops and supplies in the year ending June 30, 1857, \$751,487 15.

To supply a deficiency of appropriations for barracks and quarters in the year ending June 30, 1857, \$67,954 39.

To supply a deficiency of appropriations for the regular supplies of the quartermaster's department in the year ending June 30, 1858, \$300,000.

To supply a deficiency of appropriations of incidental expenses of the quartermaster's department in the year ending June 30, 1858, \$60,000.

To supply a deficiency of appropriations for transportation of troops and supplies in the year ending June 30, 1858, \$2,000,000.

To supply a deficiency of appropriations for constructing barracks, and other expenses incident to the same and to quarters for the troops, and to store-houses for the safe-keeping of military stores, during the year ending June 30, 1858, \$30,000.

To supply a deficiency of appropriations for the purchase of horses necessary to be purchased in the year ending June 30, 1858, for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such infantry as it may be found necessary to mount at the frontier posts, \$100,000.

Mr. BELL. I should be very sorry indeed, Mr. President, if, by commencing my remarks at a late hour of the session yesterday, I prevented a vote on the passage of this bill then. My intention was to occupy the Senate but a few minutes, and to leave them, if they were prepared to vote without further debate. I wished to express, as briefly as I could, the grounds on which I proposed to sustain the amendment of the honorable Senator from Maine; and I will now be as brief as possible. If I supposed the Senate was now ready to take the vote on the bill without further delay, I do not know but that I would rather dispense with any further remarks on the subject, considering that I have already expressed some of the heads of my objection to the bill as it now stands. I pledged myself that I had no desire to continue this debate; and if the Senate will indulge me for a few minutes, I will not trespass upon them longer, and the day may be appropriated, according to the rule, to the consideration of private business.

Mr. President, it is not so much the money that is appropriated by this bill that causes me to interpose any remarks of mine in relation to it. After that point has been disposed of, there is a far greater principle, a far greater interest, than the seven, or eight, or ten million dollars proposed to be voted by it. The difference between the bill as it stands, and what it will be if the amendment of the honorable Senator from Maine shall be adopted, reducing the appropriations beyond this fiscal year about one half, is small indeed in amount compared to the principle which I think is connected with it. I stated yesterday that Congress had no mode of expressing its dissent, or of entering a protest against the exercise of the discretion which the Executive had assumed in instituting this expedition to Utah, and that I thought we ought to adopt some mode of expressing the sentiment of this House, the Senate of the United States, in opposition to such discretion hereafter by the Presidents of the United States. I said, in the first place, that I thought it was pretty clear that it was not proper for this body to express any sentiment that it had been done in violation of law. I would not affirm that now, even if it were not improper to do so; but I will state that, if there be any color of law for the exercise of such a discretion under the Constitution, it is one of the grossest abuses of such a discretion. Although it may be sanctioned by law, to some extent; although there may be some plausible ground for it, it is one of the grossest abuses that has ever taken place in the practice of the Government.

I occupied a few minutes yesterday evening in showing the extreme jealousy with which the power of using the Army and Navy of the United States had been conceded by Congress to the President, from the very foundation of the Government. It was guarded with such caution, that when he was authorized to call out the militia, or to exercise the power of executing the laws by the military, I think, by fair inference from the provisions of nearly all the laws on that subject, Congress never meant to extend it beyond the next meeting of Congress, and thirty days afterwards. In regard to using force to remove settlers from Indian lands, or even to carry into effect treaties, which are the supreme law of the land, the President never seems to have felt himself authorized to employ the military force for that purpose, without an express act of Congress. This shows how dangerous it has been considered to concede such a discretion heretofore in the practice of the Government.

But, Mr. President, it may be asked, what is

the great danger that I consider involved in the exercise of such a discretion as this? Why, sir, it is the tendency to subvert the Constitution in one of its most important provisions. May I not appeal to honorable Senators from the South, who are so tenacious about the proper construction of the Constitution, who refuse to appropriate money for rivers and harbors, or internal improvements of any description, and who talk of the abuses of the Government in expending the millions appropriated for such unconstitutional objects? I have always said that the danger of abuses and excessive expenditures in this Government has arisen, and will always arise, in the exercise of powers clearly conceded—such as the war power. It is almost unlimited; and it appears, by the practice we are getting into, that it is impossible to fix any limit to this discretion that is exercised, in cases not like this, (for this is rather an extraordinary occasion,) but I think we ought to express our opinions decidedly against it. The great leak in the Treasury, I repeat again, is caused by the exercise of unlimited powers by the Executive Government not sufficiently controlled by Congress; and in many cases it seems impossible to control them.

What are to be the consequences of allowing this to pass without—I will not say censure—but without disapproval, or without any expression of opinion in regard to it? A President, we know, at one day in our history, and at no very late day, involved the country in a foreign war without consulting Congress, placed the country in such a position that her dignity and honor seemed to demand of Congress that they should recognize a declaration of war, made by the order of the President himself, in fact, though not in name. He did not make war expressly, but he did it by the movement of troops, just as in this case, in one respect, though that was on a larger scale. So Mr. Buchanan, or any other President who chooses to exercise power, can, at any time, involve us in a foreign war by the use of the Army and Navy, under circumstances not contemplated by the Constitution. The Mexican war was a successful one; it terminated gloriously for our arms; and it did not seem to be meet and fit that Congress should make it a point to condemn or censure in terms, either by resolution or in any other mode, the act of that President in bringing on the Mexican war. I will not call that an abuse of the discretion, but I call this an abuse of the discretion which seems to be conceded to the President over the Army and Navy of the United States. The law did not authorize him to do it—neither the act of 1795, nor of 1807, nor any other law, because the object sought to be attained, as I understand, is to execute the laws of the United States in Utah Territory. The act of 1807 authorized the President to use the regular Army in suppressing an obstruction to the execution of the laws of the United States in any Territory in cases similar to those where the act of 1795 authorized him to employ the militia. But the provision is express, that all the prerequisites prescribed by the law of 1795 must first be complied with.

One of the requisites of the act of 1795 was, that the President should be called on by the Legislature, or, if the Legislature could not be convened, by the Governor. No such preliminary steps, no such prerequisites were complied with in this case; and therefore it appears to have occurred to the President himself that he could not, according to law, order this expedition; and he puts it on the footing of a *posse comitatus*, substituted in the place of the regular *posse* of the county, or community, or Territory, in which the laws are obstructed. He assumes that the powers given to the marshal are not sufficient to prevent obstructions to the execution of the law. I understand that is the extent of the authority claimed, so far as I am able to infer from anything stated by the President himself. Everybody will see at once, that when the Governor was going through a wild country, through hostile tribes of Indians, or if he was going into a Territory where there was danger that he would meet with obstruction, a military escort would not be considered a violation of the discretion of the President in exercising the duty of seeing that the laws are faithfully executed. It would be proper in such a case to furnish an escort to his own officer to enable him to arrive safely at his destination, and be in-

stalled in power on the removal of one Governor who might have it in his power to incite opposition to the induction of the new officer into his seat. If information existed to show that such resistance was probable, the sending of a military escort would not be considered any abuse of discretion; on the contrary, it would be proper.

But for any other purpose he has no power to move what we may call a great army in this country. The force originally contemplated for the Utah expedition was three thousand; it was then reduced to twenty-five hundred, and that was supposed to be sufficient. Finally the movement was made with fifteen hundred rank and file of the Army besides attendants—I suppose a thousand others engaged in the transportation of baggage and subsistence. That cannot fairly be considered as furnishing a mere military escort, or a *posse*. If it is not making war, it is moving the Army in large numbers, and at the expense of a war establishment. Such a movement looks like an exercise of the war-making power, and not a mere execution of the laws in compliance with the constitutional duty of the President. That is the light in which it presents itself to my view. Not only that, but he contemplates stationing an army of five thousand six hundred men, besides the attendants that would naturally belong to an army of that size, and maintaining it for a year in Utah, and for three or four years longer for anything that you or I know. Why, sir, if these people choose to take refuge in the gorges of the mountains, and to evade coming in competition with the regular forces of the United States, when is this contest to end? It appears already that what has been expended, together with what is contemplated for the supplies of next year, amounts to six or seven million dollars. How of much that is an excess over the regular expenditures of the Army I do not know. I have not looked into that subject; but we see in this bill the extraordinary amount of the expenditure, the largest portion of which is extra. Look into the estimates and see the extravagant cost of transportation and of supplies furnished for the support of the army now in Utah. We do not know that the estimates are not small for them. It is in fact, if not making war, a violation of his duty by the exercise of his discretion, placing the country in a condition where war expenditures are necessarily thrown upon it; and I think some expression of opinion on this practice is due from Congress to prevent the exercise of such a discretion as this, supposing that he had a right under the law to exercise any discretion in relation to it.

What is the abuse, after all, it may be asked? Need I repeat again that, about the first month of the summer of the last year, this expedition was organized; but it did not actually set out from our frontier posts until nearly the last of September? There was not a man of any experience or sagacity, acquainted with the character of that region, and the difficulties, the dangers, the contingencies attending the march of such a force, who could have supposed that the army then starting would reach Utah during the year, unless it was an unusual season, and there was an absence of the ordinary rigors of winter? Besides, although the expedition may have been thought of by the President before the pressure in the monetary condition of the country was commenced, it was persisted in, notwithstanding he must have foreseen that the Treasury would soon be exhausted if it was persevered in, and the troops were not on their march until the very season of frost commenced—as soon as they reached the mountains, at all events.

Under all these difficulties the expedition was persevered in, and pressed forward. It may be asked, what is he to do? Is he not bound to see that the laws are faithfully executed? Yes, sir, he is; and there is an ordinary mode pointed out: the laws are to be executed by civil process, if it is in the power of the courts, through the marshal of the Territory, to serve it. If not, call out a *posse*. If the difficulty is too great for that, and the laws cannot still be executed, then, in a certain form, the Legislature of the Territory, or Governor of the Territory, may call on the President to furnish militia, or the regular Army, by the act of 1807, in order to execute the laws, where the obstruction is found to be too great for the civil power. None of these circumstances existed in this case. What laws of the United States

have been violated, so far as we know, in Utah, up to this day? Where has the Government suffered? In what respect? What concern have we to have regular judges there, sitting and holding courts to do justice, to preserve order, to punish crimes, and preserve the peace of the country by the regular administration of justice? We have instituted courts among a people who settle everything by a religious fanatical organization, who apply to no courts. They do not desire them. Who are there that have lost any rights, that have not been duly protected, in consequence of the absence of those judges?

We have had no land system in operation there. We provided for a surveyor general; we proposed to survey the land, and establish a land office in that Territory; but it has never been done. How much do we suffer by that? What is the injury to the United States? I have heard it said that it is not becoming the dignity of a great Government like this to let these people disregard the provisions for their protection, or an administration of justice, which they care nothing about—I mean as to trial of causes between individuals. Our dignity or honor is not concerned in this respect at all. The people in Utah are an anomalous people in this country. Their condition is new. What is the true policy of this Government? To let them alone. By sending this army forward, you probably have perpetuated their absurd religious and social organization for ten, perhaps twenty years, longer than it would otherwise endure. They have lived by persecution from the first. There is not an intelligent man among them who will not say that the persecutions with which they have met in their former career have been a great source of their rapid multiplication. I am acquainted with a very modest and intelligent young man among them—I have not seen him for some time—as honest as any man, but on the verge of derangement, though still intelligent. There is a thin, paper-like wall between sanity and insanity in him, so that while you converse with him you cannot but have a certain sort of respect for his intellect and the flashings of his genius, which he exhibits even in animated conversation, much more in his public addresses. He admitted to me that they were indebted for their large increase to the persecutions they had endured, making martyrs of men, cementing and confirming their devotion to their absurd faith, he not admitting it to be absurd. You have, by this false movement, probably perpetuated the social system of that people within our boundaries for ten years at least. If you had let them alone, they would have dissolved in a few years by their own dissensions. The young man of whom I have spoken did not like the system of polygamy; it was hardly mooted when I conversed with him. He would not tolerate such a thing for a moment, and there are a large portion of them who do not adhere to the idea that it is a proper system.

Then, sir, you may ask, why ought the President to have appealed to Congress? That is the next point which I will make. It may be asked, what would we have to advise? It was his duty to appeal to Congress; to lay before Congress the difficulties that existed in Utah, and to ask their opinion and their action. He ought to have consulted the national Legislature as to what it was prudent to do. Those irregularities existed for two years before, though not perhaps to so great an extent; but to some extent. There was the same failure in the administration of law there, and there were no causes arising for adjudication by our judges. We could better have paid their salaries than pay for this expensive expedition. We should have advised him probably to let them alone. We might have advised that it would be inexpedient, under the circumstances, to persecute these people, or to do anything that they might consider to be persecution, and to establish non-intercourse with them, if you please; and to inhibit (if we thought proper to consider them in a state of rebellion against the United States authorities) the immigration of additional Mormons to strengthen them while in that Territory. We might have thought proper to institute negotiations to buy them off and send them out of our territory, by furnishing them the means to buy a new country, where they would be within no other jurisdiction than their own; for instance, on some island in the Pacific. We might come to an understanding by which our own emigrant

trains, passing to California or to Oregon, should go peaceably. We might have provided a military escort, to some extent, to protect the emigrant trains. Any of these plans would have been better than to have incurred the enormous expenditure which we are likely to incur by having a war with these Mormons, who will undoubtedly consider it as religious persecution, and which will tend to establish them permanently somewhere, and link them together by new sympathies, by the recollection of common persecutions, for years and years beyond the time they would endure, if we had let them alone.

This would have been according to the practice of our Presidents heretofore. When it was proposed to nullify the laws of the United States in the State of South Carolina, did General Jackson dare to institute any military expedition on his own discretion and authority? South Carolina not only threatened resistance, but was actually organizing her forces, disciplining them regularly, providing arms and munitions of war, expressing the strongest determination that a people could express, to carry out their principles. And what did General Jackson do? He laid the case before Congress, asked their advice and opinion, and they passed a law which, although it was called the bloody bill at the time, was very mild in its provisions. The first great object was to secure the regular collection of the revenue, and then if there were obstructions to the execution of the laws of the United States in the State of South Carolina, it was provided that if any case of that sort should arise, and it should be notified to the President by an associate judge of the Supreme Court, or a judge of the district court, the President might use the same means that he was authorized to employ under the act of 1795, after complying with the prerequisites of that act. Then, again, that act was not permitted to be in existence more than a year. Congress, under all the excitement, and the determined spirit of the majority to have the laws executed, were not willing to trust even General Jackson with the exercise of unlimited discretion under the acts of 1795 and 1807, as revived, with some modification, in the act of 1833, for more than one year. They required the matter to come back for the revision of Congress, for the repeal or modification of the law at the end of a year.

Now, I should like to know whether this discretion that is exercised by the President would be a safe one in contingencies that it is not improbable may arise in the history of this country? Suppose California should decide to separate herself from the Union; suppose she should resist the laws of the United States, or offer such obstructions that they could not be carried into execution, either in regard to the minerals, or the public lands, or any other matter; or suppose she should decide, in convention or by her Legislature, that she would resist the authorities of the United States: would you be willing to leave it to the President at his discretion to order the Army and Navy, without consulting Congress, and to make contracts, under the discretionary powers of law which exist, for immense quantities of supplies of subsistence and arms? Take a case of less importance: suppose the Territory of Oregon should go off because we should not admit her into the Union as soon as she thought she was entitled to admission; or suppose the Territory of Washington should set up the standard of independence: would it be safe or proper to allow the President of the United States to institute military expeditions, without consulting Congress, and to make contracts, under the discretionary power which it seems to be necessary, to some extent, to vest in the War Department and quartermaster general's department, as they have exercised it in this case? Yet the principle asserted in this case would give that authority; and this precedent, if we allow it to pass without rebuke, would authorize him, in his own discretion, if an occurrence like that I have indicated should take place in the vacation between the two sessions of Congress, to institute a military expedition, to take the question into his own hands, and to place it in such an aspect that Congress could but second the policy, whatever it might be, that he chose to institute in regard to it. So, if the standard of opposition were erected in one of the States on the Atlantic coast, ought any President to dare, without calling Congress together, to make war

upon that State, either to summon the militia of the neighboring States or use the regular Army, according to his ideas of what is expedient to be done for the honor and dignity of this great Government?

I think there are many gentlemen here who would revolt at the idea of allowing such a discretion to be vested in the President; and yet what is the difference between the exercise of his discretion in that case and the present? To a great extent, in principle, they are the same. It is a most dangerous power, not only in reference to the peace of the country, and the interests of the country generally, but more especially and particularly in reference to our frontier. Take the case of Utah, which lies at a distance of twelve hundred miles from your outposts. I believe a barrel of flour cannot be got there, including all the cost of transportation, for less than forty or fifty dollars. Will you allow the President to have the discretion of stationing an army of three or five thousand men in such a position? There might be points on the Rocky Mountains and on the Pacific coast where it would cost even more; where there would be greater extravagance in the prices of supplies of all kinds to maintain an army. These are abuses which we may expect to arise hereafter, if, without passing any opinion on this case, we vote what is demanded. If we enter no protest against such a discretion, we may expect all these consequences to arise hereafter.

Sir, I shall not go into any further details to show the necessity of the Senate expressing some opinion on this subject. I understand that the amendment offered by the honorable Senator from Maine provides fully for all the deficiencies of the present year; and it only curtails the appropriations for supplying five thousand six hundred men in Utah for a year to come. I think we may well wait a month, until the end of the session, and see whether that will be necessary.

What restraints have we in making these contracts? The honorable Senator from Virginia says the contracts must be made, or the supplies cannot be furnished this year. That may be true to a certain extent; but they need not be made in the month of May or the month of June, for the late expedition was not started until nearly the last of September. If we appropriate now, in advance, the full amount of the moneys that it is considered may possibly be necessary to support the additional troops to be sent to Utah, what restraint is there upon the War Department or the quartermaster's department from making extravagant contracts, when you leave them the power to use their discretion anyhow, as seems to be conceded by most gentlemen, and contended for by the honorable Senator from Virginia? If you vote the seven or eight millions asked for now, that will cover between three and four million dollars for this year's deficiencies, and over three million dollars for the next year's service, upon an estimate made out by General Jesup, of the ultimatum of what will be demanded, supposing the troops sent out there will not amount to more than fifty-six hundred. Ought we not to keep something in reserve? Ought there not to be some check? The general depression of business has thrown a great many men here, seeking jobs and contracts under the Government, who would not appear here under ordinary circumstances. The vultures are all around us. They come to live, and get into some enterprise, some business, by which large profits can be made out of the Government. Here we have a *quasi* war, which affords them the opportunity; and we are about to vote all that is asked by the proper Department for the expenditures of the next year. Well, sir, will they not make the contracts for the full amounts? I shall detain the Senate no longer.

Mr. DOOLITTLE. Mr. President, the amendments offered by the honorable Senator from Maine meet my concurrence, and I shall give them my support, and unless those amendments are adopted, or substantially adopted, I shall feel constrained to vote against this bill. I shall not detain the Senate by giving my reasons for doing so, at length; but I desire in a single word, to say, I once supposed that the power both of the sword and the purse in this Government was in Congress; that although the President was Commander-in-Chief, and controlled and used the sword, when it was drawn by Congress, I still had always supposed that Congress alone gave the word

when to draw it; that the war-making power was in Congress, and Congress alone, and that, in this respect, we had made a great advance upon the monarchical Governments of the Old World. But, sir, it was said the other day by the honorable Senator from Louisiana, [Mr. SLIDELL,] upon the floor of the Senate, and I am compelled, with reluctance, to admit that, perhaps, what he said was true:

"It is useless to disguise that although the war-making power is given by the Constitution to Congress, any President can so conduct our foreign relations that Congress will have but to choose the alternative of sustaining him or disgracing the country in the eyes of the world."

No one better understands, or more truly represents the views of the present Administration here than that Senator.

So that, in truth, so far as war with foreign nations is concerned, if this declaration of his be true—and I do not know but that it has come to be true—the war-making power is really, substantially, in the hands of the Executive. As against foreign Governments the sword, therefore, is his.

How is it in relation to any domestic wars? Under a specious pretense, a new contrivance of modern growth, the Army of the United States, for all domestic purposes, has become a mere *posse comitatus*—yes, sir, a *posse comitatus*; and as such the President of the United States claims the absolute, unlimited power to send the whole Army of the United States from one end of our domain to the other. It is as a *posse comitatus* that he has sent them to Utah, and so he states in his message.

"I appointed a new Governor and other Federal officers for Utah, and sent them with a military force for their protection and to aid as a *posse comitatus* in case of need in the execution of the laws."

Under this specious pretense that the Army of the United States is a *posse comitatus*, complete control is in his hands, or assumed to be in his hands, over the Army of the United States; and the power of the sword, therefore, in reference to all our domestic affairs is in the hands of the President, and not in the hands of Congress.

Now, sir, where is the power over the purse? I understand it is claimed that while in every other Department of the Government no contracts can be entered into for the expenditure of money, unless the money has been specifically appropriated by Congress for a specific object, that in the quartermaster-general's department—that is to say, in relation to all those matters which are necessary to sustain the Army, to contract for the purchase of arms and supplies, and for the transportation of troops, it is all within the power of the President without any special act of Congress; and that contracts may be entered into, binding upon the Government, binding upon its good faith, without any act of Congress, to an unlimited amount. It is assumed, too—and that is the very power which has been exercised since this Congress convened—that during the session of Congress, contracts may be entered into involving millions upon millions of dollars; contracts which are to run for a period of more than two years, in violation of the spirit, if not of the express words, of the Constitution; and that, too, while Congress is in actual session, and without the advice of Congress. If it be not an illegal assumption of power, is it not a dangerous abuse of power?

Sir, put these three things together: the one, as stated by the honorable Senator from Louisiana, that in our foreign relations the President has the power to involve us in war whether Congress is willing or not; the other, that our whole Army may be ordered from one end of the Union to the other, as a mere *posse comitatus*, in all domestic operations; and add this third and more dangerous of all others, the unlimited power of entering into contracts for the support of the Army and Navy, and where are we? Why, sir, the sword and the purse both are substantially in the hands of the President.

For one, I desire to protest against sanctioning the assumption and exercise of this power by the Executive, by voting for these enormous appropriations which are to run on through a period of years. Sir, where are we tending? I repeat the question of the honorable Senator who sits by me, [Mr. TRUMBULL,] whether do we tend? Where are we now? Are we at Washington or are we at St. Petersburg? Are we on the banks of the Potomac or on the banks of the Seine? Is this

all that remains to Congress, simply to register the decrees which are necessary to carry on the foreign and domestic wars, and to carry out the contracts the Executive has made to furnish supplies and transportation to the Army and Navy? If it were not too serious a subject, would it not excite a smile to think that the whole Army of the United States has become a mere *posse comitatus* to be sent all over the United States? Why, sir, what an abuse of terms! A *posse comitatus*—the power of a county well understood and defined by all who are accustomed to legal proceedings—the civil power of the country which may be summoned by a sheriff in the execution of a process, but not a man of whom can be taken beyond the line of his bailiwick.

One word in relation to this controversy with the Mormons. In my humble opinion, the best mode of disposing of that controversy is to conquer them by civilization; is to conquer them by opening organized immigration into the Territories which surround them, and when you can place around them a population whose institutions and whose notions of social life and Christianity are such that they can sustain a republican form of government there, in opposition to the Mormons. You now send out your judges and Governors to administer laws among them. But, sir, how can you sustain a system of jurisprudence there when all the people are Mormons? How can you administer the laws when all your jurors are Mormons? There is the difficulty.

I shall not detain the Senate. I could have hoped that the Government of the United States, instead of incurring this vast amount of expenditure, might have induced them to leave the territories of the United States. I would rather have purchased for them an island in the Pacific ocean, in the neighborhood of those countries where their peculiar institutions meet with more favor, where polygamy is a common institution, and induced them to go there, and at the same time have opened the Territory of Utah to emigration, by defending the emigrant route to the Territory, building good wagon roads, inducing people to go there, and donating lands liberally to those who would settle there. But, Mr. President, I have already occupied more time than I intended. I shall vote heartily for the amendments proposed by the honorable Senator from Maine; and, I repeat, unless those amendments are substantially adopted, I shall feel constrained to vote against this bill.

Mr. STUART. I wish to submit a few words on this amendment, because the vote that I shall give upon the bill will be governed entirely by the result of the vote on this proposition, or some similar one. As I understand it, the bill, as it stands, contains an appropriation for the subsistence of the Army, which runs to the close of the fiscal year 1860; that is, two years from the 1st of July next.

Mr. HUNTER. Twenty months from the 1st day of July next.

Mr. STUART. From the 30th of June, 1858, to the 30th of June, 1860, is certainly two years.

Mr. FESSENDEN. The Senator will allow me a moment. The bill, as it stands, does not appropriate for any particular time at all. These estimates make no part of the bill.

Mr. STUART. I understand that distinction; but I say there is embraced in this bill now, an appropriation which has been estimated for by the War Department, which estimate is for the subsistence of the Army to the 30th day of June, 1860, that is, two years from the 30th day of June next.

Mr. HUNTER. Here it is: "this estimate is necessary to purchase, in advance, for twenty months' subsistence for the troops composing the army for Utah." The items are given: "one year's supply, three hundred and sixty-five days; eight months' supply," &c.

Mr. STUART. I have looked at this question. This estimate is certainly not very clear; but when you turn to the note, the note to the whole is this.

"This estimate is necessary to purchase, in advance, for twenty months' subsistence for the troops composing the army for Utah, that quantity being required to go forward with the troops. It is not an additional estimate, as stores are to supply that portion of the Army during the fiscal year ending June 30, 1859, and for part of the fiscal year ending June 30, 1860."

Mr. HUNTER. Part of it—eight months of it.

Mr. STUART. Yes, sir, a part of it; but the appropriation runs through that year. There can be no two opinions about that. If you make an appropriation for the expenses of the first part of the year, is the Senator prepared to say that you cannot use that during the whole fiscal year?

Mr. HUNTER. Oh, no. This appropriation does not differ from any other. The Senator is speaking of the estimates. If it were not for the estimate, he could not say this differed from anything else. The estimate is not for two years, but for twenty months. This can be used like all other appropriations. There is no difference between them.

Mr. STUART. There can be no difference of opinion as to the facts in this case. What the War Department talks about here, is a twenty months' purchase; it asks for money to enable the Department to purchase twenty months in advance. That is quite another thing. But I say that here is money appropriated in this bill, and if it be appropriated, it is in the power of the Department, under this law, to use it from this time to the 30th of June, 1860. There can be no dispute about that. It is true the officer says it is to enable him to purchase twenty months in advance, but he tells you that the estimates are for the years 1859 and 1860.

Mr. HUNTER. Cannot they use all the appropriations in this bill for two years from the fiscal year? Does this differ from any of the others?

Mr. STUART. I will tell the Senator the difference. The difference rests in this: that while we have a general law which does not carry these appropriations to the surplus fund until the end of two years, we have a constitutional provision against appropriating money directly for the Army for more than two years. We cannot make an appropriation to-day, under the Constitution, to support the Army, to be applied longer than two years from the day the law passes. We are expressly prohibited by the Constitution of the United States. It is no answer to that to say that after the end of this fiscal year it will be two years before that appropriation goes to the surplus fund, if not expended. That does not answer the constitutional objection. The constitutional objection that I make to this bill is, that in this bill to be voted upon to-day, there is an appropriation directly, which extends beyond two years from the date of passing the bill, and so far as the Senate are concerned, the bill is passed when they vote on it; and I say that is not in the power of the Senate, under the Constitution.

Now, what is the argument for this? I do not think the reason any better than the principle. If anybody will take the estimate and the note that is appended to it, and undertake to give it a sensible explanation, he will undertake a gigantic task; but the argument is this, that the transportation to Utah can be made more advantageously between the 1st of May and the 1st of August than it can afterwards, and hence the Department asks us to appropriate money for more than two years in advance. As I said the other day, the 1st of May has not arrived yet, and this bill, in all human probability, will pass before the 1st of May, and therefore the transportation of this year can be taken advantage of. Now, before the next 1st of May we shall pass the general Army appropriation bill. We shall pass it at this session to commence on the 1st day of July, 1858, and to end the 1st day of July, 1859. That gives you all the advantage of the season commencing in May, 1859. If you want to make transportation for the army in Utah in May, 1859, you pass the bill for that purpose before this Congress adjourns. Then go to the 1st of May, 1860; the next session of Congress meets and adjourns two months before that.

I call the attention of Senators to this proposition; and as I said, the reason of the Department is no better than the principle. There is no reason in it. It is a mere specious pretense, that they want to avail themselves of the cheapest season for transportation. I say again, that you may wait until the next session of Congress and then make your appropriation for transportation in 1860, and if made at any time during the session, it will be two months in advance of the commencement of the transporting season. Then is there any necessity for this? Certainly none at all. We are told by the chairman of the com-

mittee that if we appropriate this \$1,220,000 now, we shall not have to appropriate it in the general appropriation bill that may be in here next week; but my answer is, that in that general appropriation you have the clear constitutional authority, because the effect of that bill does not commence until the 1st of July next, and your appropriations, even if you make them for two years, are then within your constitutional authority, but in this bill they are not.

Now, Mr. President, why shall not this amendment, offered by the honorable Senator from Maine, prevail? It is not pretended that this money is wanted now; it is not pretended that the Department needs anything more than to avail itself of the necessary subsistence for this army for the next ensuing year, and all that is left in the bill, if the provisions of the amendment of the Senator from Maine prevail. He has amended it as originally offered by adding \$1,000,000, so that every necessary dollar remains provided for in this bill, if the amendment prevails. If it does not prevail, then there stands in this bill an appropriation of money to support the Army for more than two years from the passage of the bill, and in my opinion that is plainly unconstitutional. Therefore, I say, that unless the amendment prevails, I cannot vote for the bill.

Mr. HUNTER. The Senator from Michigan manifestly misunderstands the appropriation. It is an appropriation like every other appropriation for the present fiscal year. It stands on the same footing with every other. The scheme is not to make an appropriation for two years ahead; for this more than for any other object, but it is to enable them to buy provisions for twenty months ahead. They might buy them all and send them forward this summer. The Senator does not mean to say that the troops shall not eat army bread if it is made out of flour more than two years old. The meaning of it is that they are to buy supplies, and they will probably all be bought within the next fiscal year, and sent forward in advance. As I understand it, this amendment of the Senator from Maine does not touch this particular matter; it is the quartermaster's department to which his amendment applies.

Mr. STUART. It is possible that I do not understand it; but from anything that has been said by the honorable Senator from Virginia, it seems to me that my argument stands. What evidence have we of the necessity of any appropriation at all? It is the estimate of the Department. Well, if the Department sends any estimate here, and says there is \$1,220,000 of this money wanted, not for this year's expenditures, but for the subsistence of the Army in 1859 and 1860, I ask, where is your authority under the Constitution, to make an appropriation to-day to support an army during the fiscal year of 1860?

Mr. BENJAMIN. I would ask the Senator from Michigan where he gets the constitutional power to found cannon, and buy balls, and provide supplies of powder, in time of peace, to be laid up for times of necessity hereafter? We make an appropriation from year to year for those objects. The proposition of the Senator from Virginia now is, that this is an appropriation to purchase certain supplies. The supplies may not be used for five years; they may be used in one year or two years; but the purchase is now to be made, the appropriation is now to be made use of, and if it is considered desirable to have in store a reservation of bread and biscuit, as much as cannon balls or anything else, nothing prevents us buying them this year under the Constitution, I respectfully suggest to the Senator.

Mr. STUART. That depends entirely upon the exigency of the case. It may be a necessity, and it may be an evasion. In the case the Senator puts, there is no appropriation of money not to be used this year; but I submit that it would be worse than an evasion for the Senate to say that there shall now be purchased and sent to Utah the subsistence necessary for the army in Utah for the next two years. You have no evidence that the difficulties will last six months; and shall you now purchase and throw into Utah, at an enormous expense of transportation, two years' subsistence for the army there? Not at all. I should be opposed to that on any ground of economy that could be named. What, sir; assume that there are to be ten or twenty thousand soldiers maintained in Utah during the next two

years, and to send forward this spring the whole subsistence for them during that time! No man in his senses would do that. I agree that you may appropriate any amount of money that is actually to be used this year, according to your discretion; and if the Senator from Louisiana is ready to say that, in his judgment, the army will remain in Utah two years, and that he means to justify the War Department in sending forward this spring the necessary subsistence for those two years, then he ought to vote for this appropriation; but I do not agree to that. I believe, if that is the suggestion made, it is a mere evasion; but I say again, that if the Department means, what is now said for it, that it is intended to send two years' supplies this spring to Utah, then I am against it upon principles of economy, and I will not vote the money. So that, take either horn of the dilemma, I am against it. If it is now proposed to appropriate money to be used at the discretion of the Department during the coming two years and three months, then I say you have not the constitutional authority. If it is proposed now to buy and send to Utah two years and three months' provisions, then I am against it on the score of economy. In neither event am I willing to vote the money.

Mr. BENJAMIN. I think there is some error in the argument of the Senator from Michigan in relation to this constitutional provision. The constitutional provision is this:

"The Congress shall have power to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years."

No appropriation of money for the purpose of raising and supporting armies shall be for a longer period than two years. Now, sir, I do not understand that that constitutional prohibition has ever been so applied as to prevent Congress from laying in stores or supplies; nor do I understand that there is any impropriety in forwarding your supplies to any point five years in advance, if you please, where you may suppose that the future exigencies of the Government may require those supplies to be placed. Are we not sending all the time armaments and munitions of war to California? Do we not put them in our fortifications? Do we not buy cannon? Do we not buy supplies for the Army every day? Do we not buy them in large masses? Is there any constitutional prohibition against that? It is not now proposed to raise and support armies by an appropriation of money for more than two years in advance.

Mr. FESSENDEN. Allow me to ask the Senator a question. Does he contend that cannon and ball are supplies for the support of an army?

Mr. BENJAMIN. No, sir; not supplies for the support of an army. The Constitution does not speak of buying arms.

Mr. FESSENDEN. Read it.

Mr. BENJAMIN. I will read it:

"The Congress shall have power to raise and support armies."

Mr. FESSENDEN. Does that cover the purchase of cannon and munitions of war?

Mr. BENJAMIN. I cannot understand how the Army is to be supported unless it is provided with arms and munitions of war. I do so understand it, unquestionably. I understand the prohibition of appropriating money for more than two years in advance, for the purpose of raising and supporting armies, to be a prohibition against the Congress of the United States exercising its power—its war-power of raising and supporting armies, by providing in advance for more than two years for maintaining and keeping up an army; but that the Congress of the United States is prohibited from purchasing military stores of any class whatever ten years in advance I never understood. I never supposed this prohibition of the Constitution applied to that. I have never before heard it suggested. On the contrary, this Government from the foundation has ever gone on the principle of accumulating all the necessary supplies, which in time of war are frequently dear, and are gathered with great cost—to make accumulations of all such supplies in time of peace to be ready for any sudden emergency.

I do not desire to detain the Senate by any continuation of this debate, but I must say that there have been some sentiments thrown out here that seem to me entirely unjust towards the Administration of the Government. I stand here as no

peculiar supporter of the Administration; but, when I hear gentlemen complaining of an abuse of power—of the President's usurping the war-making power, and usurping the purse of the country, when Congress alone has control over the Army and the purse—I think they are entirely mistating the case. A few words as to the facts which have led to this expedition.

There is a community in the recesses of the Rocky Mountains, which has been organized by the Government of the United States into a Territory. By degrees, the peculiar religious tenets of this people have been developed until it is found that, so far from being capable of maintaining a republican form of government, their religious belief makes it necessary for them to yield implicit obedience to their priesthood—a form of religious belief evidently incompatible with the existence of republican institutions. This has been developed to its full extent only since the Territory was organized. I speak not of their peculiar institutions in relation to polygamy. However much we may reprehend them, in my judgment, it is a matter with which Congress has no concern; but we have concern with their opinions and principles, so far as they render impracticable a republican form of government. To that extent we are authorized to inquire into their institutions.

The Government of the United States has had its civil officers there for some years past; and within the last eighteen months, such facts have become developed as made it apparent that the civil officers of the Government were not safe in their persons or property, nor in the exercise of their duties and functions as vested in them by the law of the land. We know that civil and judicial officers of the Government have fled from that Territory, and have brought to the President of the United States complaints that they were unable to perform their duties under the law, because held in terror of loss of life by threats emanating from the fanatical portion of the Mormon people—possibly from their very priests who govern them. The Territory was without public officers. It was the duty of the President to provide them. We confirmed them. Now, the President sends out his officers under circumstances in which it has become apparent that they require some protection. What was his duty? Was it his duty to ask these officers to go there to be again driven away; to again come back to him with tales of violence, and threats of terror exercised over them? What would gentlemen all around me have said, if he had taken that course? They would have said that the President had been derelict in his duty. They would have said that the Constitution made him executor of the laws of his country. They would have said that the Constitution vested in him full power to use the Army and Navy of the United States as Commander-in-Chief; and that it was his duty, in the Territories governed under the laws of the United States, to give protection to the civil powers against lawless invasion. What, then, did the President do? Had he not a right to order troops to march from one part of the United States to the other? Was that a usurpation of the war power—the order to our troops to march upon our own Territory?

Mr. TRUMBULL. If the gentleman will allow me, I will state that the President states that they are ordered there as a *posse comitatus*.

Mr. BENJAMIN. Exactly. I am coming to that. The gentleman need not fear my shirking any part of the argument. I am not afraid of any part of it. The civil officers are ordered to Utah, and the President of the United States upon our territory orders our armies to march. Does he give instructions of hostility? Does he direct a blow to be stricken, or a shot to be fired? No, sir. He has been guilty of no usurpation. He has done naught but his duty. He has sent his civil officers there to perform their civil duties.

What next? Proof is brought to him that the wagons containing the supplies for the army have been waylaid, the teamsters attacked and driven off, and the public provisions of the country plundered by marauding bands of Mormons; or in other words, proof is brought to him of an actual commencement of hostility by persons owing allegiance to the Government. What was the President to do then? What was it his duty to do then? Was it his duty to leave our troops thus lawfully ordered into this distant Territory without supplies? Was not that the very case

provided for in your law? Let me read another law that has not yet been referred to:

"The President of the United States be, and he is hereby empowered, as he may deem it expedient, either to appoint for the time being a special commissary or commissaries for the purpose of supplying by purchase or contract and of issuing, or to authorize any officer or officers in the quartermaster general's department to supply and issue as aforesaid the whole or any part of the subsistence of the Army in all cases, where either from the want of contractors or from any deficiency on their part, or from any other contingency, such measures as may be deemed proper and necessary in order to ensure the subsistence of the Army, or any part thereof."

Mr. POLK. What is the date of that, sir?

Mr. BENJAMIN. That law was passed in 1813. The subsequent laws I read yesterday. They organized a commissary general of purchases; they authorized the Secretary of War in all cases of exigency to direct purchases to be made without contract and without notice, and then all the powers that were by this act vested in the commissary general of purchases are, by a subsequent law, vested in the quartermaster's department.

With our troops there in a distant Territory, with attacks made on them, the President of the United States has deemed it his duty to contract for supplies and to forward them, as he was not only authorized to do, but as he was bound to do, in the execution of his duty to the country. Last spring nobody heard a word against the propriety of sending out a military escort to protect the civil officers of the Government when they were threatened. Nobody then pretended that it was a usurpation of governmental powers; and in all the public papers of the country, even those which represent the views of gentlemen on this side of the Chamber who sit around me, I have never yet seen the power questioned on the part of the Executive to send protection to our civil officers into our own Territories, when they are attacked, when war is commenced by blind fanatics and insurgents, who themselves make incursions upon the supply trains of the Government. Was the President then to stop? Was he to let the supplies of the Government be plundered? Was he to call back the troops, or was he to back them himself? That was the question, and the only question, which he and his Cabinet had to decide. The troops were there; they were attacked by insurgents. A moment's hesitation, any indication of doubt or of withdrawal on the part of the President or his Cabinet, would have encouraged these men in their insurrection, would have encouraged them in the belief that they could back down the Government, as gentlemen propose that they shall now succeed in doing.

The President considered it to be his duty, and in that I fully approve his course, to send reinforcements to the army, to contract for supplies, to forward them in time, to assure the troops not only of the moral but of the material aid and support which in that distant country they had a right to expect from those charged with the administration of public affairs; and gentlemen represent this as usurpation of the war power—a usurpation of the purse. It is neither one nor the other. It is the discharge of a high executive duty, in seeing that the laws be faithfully executed, and in protecting the proper officers of the Government with its military force, in protecting its civil officers against invasion, onslaught, and perhaps murder, by these people in Utah, who seem to regard themselves as sole sovereigns of the whole interior of this continent, to defy and deride the power of this Government.

Under these circumstances, I cannot hesitate to back the Government. It is a public duty, which I should think myself derelict to every principle of duty in not carrying out to its fullest extent. I think that this is not a time to examine very closely into estimates of this character. The Government requires aid. We are informed that our army there requires supplies, and that those supplies must be forwarded now. Let us undertake reform when we come to the general appropriation bills, not at this moment, when these appropriations are so urgently required by the public service.

I am sorry to have detained the Senate; I did not mean to say a word; but I have been urged to what I have said by the remarks of gentlemen around me.

Mr. TRUMBULL. I take it, sir, that we live under a constitutional Government; that the pow-

ers of the Executive are limited and defined; that he possesses all the powers conferred upon him by the Constitution of the country, and the laws of the land in subordination to that Constitution. It is very easy for gentlemen to rise here and say that it is the duty of the President to see that the laws are faithfully executed, and that he has the right to use the Army as he pleases; but he has no such right, unless it is conferred upon him by the law. The Senator from Louisiana tells us that he has the right to send the Army as an escort to civil officers. If he has that right, the law gives it. He refers to no such statute.

Mr. BENJAMIN. Why, Mr. President, I will ask of the Senator from Illinois who is to post the Army—who is to order it from point to point? Does Congress do it?

Mr. TRUMBULL. Congress makes provision how the Army shall be used, and the President of the United States is the Commander-in-Chief to carry out the directions of Congress. He cannot use the Army in his discretion because he is the Commander-in-Chief of the Army. Did I not refer to the statute yesterday, and show that as long ago as 1793 the Congress of the United States, by a specific act, gave the President power even to garrison a fort? When they authorized the building of a fort at Charleston and at New York, they thought it necessary to confer, by specific grant, power upon the President to put a garrison there.

Mr. BENJAMIN. Will the Senator permit me to ask him one question? and if he answers that in the negative, I shall give up all argument with him. I ask him again if he contends that the President of the United States has not power to post the Army in the absence of any special direction by Congress, or if Congress is to order the march of the Army from post to post?

Mr. TRUMBULL. I do not contend, sir, that the President may not change the Army by virtue of his power as Commander-in-Chief, so that he does it within the law. If the law raises a regiment of mounted men to protect the frontiers of Texas, the President may move those troops as he pleases upon the frontiers of Texas, so as to protect them; but I deny that the President can take that regiment raised by the authority of Congress to protect the frontiers of Texas and station them in a fort at New York.

Mr. BENJAMIN. The Senator will permit me to say that is not the point. He has jumped from the Army to one regiment that Congress has raised specially for Texas. I ask him, in regard to the general Army of the country, if the President has not the right to post any portion of it that he thinks proper in Salt Lake City, if he chooses?

Mr. TRUMBULL. I think not. I think he has not the right to post the Army in Salt Lake City. It would be a great abuse of power to do that without the direction of Congress, because Congress has directed how the Army shall be used. It has authorized the President, under certain circumstances, to use a certain portion of the Army to protect the Indians in their reservations, to protect the frontier against Indian incursions; and I say that the President must use it in that way; and if he were to withdraw the whole Army from that service, and station it at Salt Lake City, or any other point, it would be a violation of his duty, and it would be without authority of law.

But the Senator from Louisiana begs the question. What is it? The question is, whether the President of the United States has authority to use the Army as a *posse comitatus* to accompany a civil officer to one of the Territories? That is a specific matter; but no such power is given in any act of Congress. He may use the Army within the limits of the law. If a fort is constructed on the northwestern frontier, or in Texas, or in Salt Lake City, and the President is directed to garrison the forts, or if he is directed to use the Army in protecting the western settlers against the border Indians, he may use it in that way; but what I mean to say is, that his authority in the use of the Army is as much limited as it is in other respects.

Mr. BENJAMIN. I will ask the Senator one other question, then: I will suppose that the President is informed that a descent is about to be made—an attack on San Francisco by some foreign nation. Has the President power to order the troops to concentrate at San Francisco? and if so, where does he get his power?

Mr. TRUMBULL. I have already stated that the President can use the Army within the limits of the law, and the Senator puts a case directly provided for—the case of invasion. The act of 1795, in the very case, the gentleman puts, authorizes the President of the United States, on the application of the Legislature of California, or, if the Legislature cannot be convened, on the application of the Governor of California, to order the Army there to protect San Francisco; and the very fact that Congress has provided by an act, that the President may use the Army in this way, shows that without this special act he had no such authority. But for this act of Congress I would answer gentlemen, no; the President has no authority to order the Army to San Francisco to protect it against invasion, except under this act of Congress.

Mr. BENJAMIN. I understand the gentleman, then, to say this distinctly—I only want his proposition to be fairly before the Senate and the country—that, if the President of the United States has intelligence of an intended attack upon us anywhere, he cannot order the troops there to be ready to repel the attack, if the Legislature or Governor who happens to have authority over the point that he knows to be threatened does not send and ask him to do it; and if we had news to-morrow that there was a squadron on the way to attack California, the President must remain with his arms folded, according to the gentleman's interpretation of his constitutional power; and could not send a soldier there until the Legislature or Governor of that State sends and asks him to do it. If that is the gentleman's interpretation of the law and the Constitution, of course he has a perfect right to entertain it. I merely say I cannot agree with him.

Mr. TRUMBULL. I mean to say he cannot enter the State of California and make use of the Army there, unless in obedience to the law, and in the mode that the law has pointed out. If it were not so, there would be no use for the law. If the President can protect a State against invasion without complying with this act of Congress, will the Senator state for what purpose this act was passed? Why was this act of Congress enacted, declaring that in case a State was invaded, the President might, on application of the executive authority or the Legislature, use the Army to protect it against invasion, if he had that power without the law? I take it, that the President of the United States has no authority to march the Army into any State or Territory in this Union, and commence a war. That he has some power over the Army of the United States, as Commander-in-Chief, and has power which Congress cannot take from him, as Commander-in-Chief, to control and direct the Army within the law, I do not deny. But here is a use of the Army that is not provided for by any act of Congress; and inasmuch as the powers of the President are limited, as he can exercise no authority except by virtue of the Constitution and laws of the country, I ask for the authority of the President to send an army as an escort to a civil officer—I use the gentleman's language. If he has that authority, he has it by virtue of the Constitution or law. If he can show neither Constitution nor law, he has not got it. It will not do to say that he has it under his general power to see that the laws are faithfully executed. I imagine that the Senator from Louisiana will hardly contend that that confers a specific power. He will hardly insist that under the general grant of authority to see that the laws are faithfully executed, the President has any specific powers granted him which he can exercise except in the mode pointed out by law. It is very much like the clause of the Constitution of the United States which states that it was framed to promote the general welfare. Does any one contend that that confers any specific power upon the Government created by the Constitution? That is not the object of it; and here it is the duty of the President to see that the laws are faithfully executed in the mode and manner that Congress prescribes.

The Senator from Wisconsin has referred me to the act of 1795, specifically conferring upon the President the power in the very case which the Senator from Louisiana puts. I will read it for the Senator's information, if he will listen to me, to show him that it is by virtue of a specific act

of Congress that the President can act in the very case he puts:

"That, whenever the United States shall be invaded or be in imminent danger of invasion, from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger"—

Mr. BENJAMIN. Militia?

Mr. TRUMBULL. Yes, militia; and I will satisfy the gentleman about that in a moment—

"call forth such number of the militia of the State or States most convenient to the place of danger or scene of action as he may judge necessary to repel such invasion, and to issue his orders for that purpose to such officer or officers of the militia as he shall think proper."

Here is the identical power given to the President to call forth the militia, by this act of 1795, and by the act passed in 1807, which is familiar to the Senator, as it has been quoted here in this very debate half a dozen times, authority is conferred upon the President of the United States to use the Army and Navy in all cases where he had been previously authorized to make use of the militia; so that he may, in such a case as the Senator puts, summon the Army to San Francisco. It seems that he may do it before a call is made on him by the Legislature, which I supposed before to be necessary; but he does it in pursuance of this act of Congress. Congress believed it necessary to confer this power, or else they never would have conferred it. There is a total absence of any power to summon the Army under the absurd idea that it is a *posse comitatus*, as an escort to civil officers.

What a perversion of terms, what a misnomer, to compare this to the power which a civil officer may call to his assistance in a county to enable him to execute a writ! He may call the body of the county around him to assist him in the execution of the process of a court. He may summon the neighborhood, the vicinity. To say that that power confers upon the President of the United States authority to summon an army more than three thousand miles distant, from Florida to Utah, as a *posse comitatus*, for any purpose under heaven, is absurd. The Governor has no business with a *posse comitatus*. For no purpose that can be imagined has he authority to use one; and yet that is called a *posse comitatus*. It is under that pretense that the army was sent along with Governor Cumming; and under a mere pretense it was kept in Kansas for a year or more at very great expense; and if you will look into the items of this appropriation bill, I have no doubt you will find that a large portion of this deficiency has its origin in the unauthorized use of the army in Kansas during the last year.

As I am on my feet, I wish to say one word in reply to what was said by the Senator from Virginia. He said this bill made no appropriation that he was aware of for paying a deficiency occasioned by contracts made without authority of law; and the Senator from Louisiana came to his relief, and referred to a law of 1818, which he thinks authorized the Secretary of War, under certain circumstances, to make contracts without advertisement. I will not now comment upon that statute. It is somewhat equivocal in its character; and it is doubtful, to say the least, whether the construction put upon it by the Senator from Louisiana be correct; but, if it be, here is another section in this bill, under the miscellaneous head:

"For surveying the public lands and private land claims in California, including office expenses incident to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, being the amount of surveying liabilities incurred by the surveyor general during the fiscal year ending 30th June, 1857, over and above that authorized under the appropriation of \$50,000 for that period, \$220,000."

Is there any law for that?

Mr. HUNTER. Will the Senator allow me to explain?

Mr. TRUMBULL. Certainly.

Mr. HUNTER. When I spoke, that item escaped me. That contract was not authorized by the Department; it was made by the officer in California, and much of it originated in a mistake. The work was piece-work. It turned out to be more than was required; and he supposed there was a larger sum at the disposal of the Department than there was for that purpose, and he over-estimated. It is true there was no authority for that; but then the authority was exceeded through mistake by the officer; and, notwithstanding that, as I understand it, the President

refused to reappoint him, because he had thus exceeded his authority. There was an excess of authority, I admit; but it originated in a mistake.

Mr. TRUMBULL. Then it is admitted, I understand, that here is one provision in this bill appropriating \$220,000 to pay a debt incurred without authority of law. About that there is no dispute; but it is said the officer who incurred this debt has not been reappointed. True, sir, not in California; but I understand he has been appointed surveyor general of Utah.

Mr. HUNTER. The Senator will allow me to say it is no debt unless we choose to assume it. If we pass this bill, we assume it. It is addressed to our discretion whether we will pay it or not.

Mr. TRUMBULL. The chairman of the Finance Committee recommends us to assume it.

Mr. HUNTER. I do.

Mr. TRUMBULL. He acknowledges it as a debt; and so far from the officer who contracted this debt meeting with the disapprobation of the Government, it seems he has been merely transferred from one office to another, from one appointment to another. It is suggested near me, that having created all the debt which he conveniently could create in California, he has been transferred to a new scene of action, in order, I suppose, to transcend his authority a second time.

Mr. GWIN. The gentleman did not accept the office, and has no office at all now.

Mr. FESSENDEN. It was tendered to him.

Mr. TRUMBULL. If he has not accepted it, it does not change the responsibility of the Administration. They appointed him, and if he has not accepted it they are entitled to no credit, for they have shown that they were willing, after an officer had run the Government in debt, as is now admitted, without authority of law, for more than two hundred thousand dollars in the matter of surveys, (for this is a vast sum when you consider the subject-matter to which it relates,) to offer him another appointment. It seems, however, that he felt ashamed, if I am to draw the inference from what the Senator from California says, after having done this, to accept a second office, and has not taken it.

Mr. HARLAN. The Senator from Illinois has referred to the section of the bill which I intended to move to strike out yesterday, but I was notified by the Chair that my motion would not then be in order. The Senator from Virginia has not given a correct explanation. In the report of the Secretary of the Interior, communicating the report of the Commissioner of the General Land Office, is the explanation of the surveyor general of California, quoted in his own words. He says:

"The amount of the work embraced in the contracts existing previously to my last report, as well as the few that have been let since, was not, as a general thing, limited, as a more prudent course may probably have indicated."

So that there was no mistake committed, it would seem from the explanation given by the surveyor general himself. But he goes on to say:

"Indeed, in a measure, a more liberal course of contracting than would, under other and more favorable circumstances, have been adopted by not designating the number of miles to be surveyed under each contract."

So it would seem that these contracts have been made without indicating the amount of work to be done. The surveyor general then goes on to say:

"For the fiscal year ending the 30th of June, 1857, I asked for an appropriation for surveying public lands and private land claims, over and above the balances as aforesaid, then on hand, of \$150,000."

The amount appropriated was \$50,000, leaving balance of estimates, over and above the amount appropriated, of \$100,000; but the amount expended over the appropriation is \$220,000, thus exceeding his own estimates \$120,000, and exceeding the appropriation made by Congress \$220,000, making the expenditures of that year \$270,000, instead of \$50,000, as provided by Congress for this item. But, Mr. President, this is only the deficiency for the fiscal year ending June 30, 1857. The surveyor general goes on to state:

"For the fiscal year ending June 30, 1858"

which is the fiscal year now about to expire—

"the amount asked for was \$350,000. The amount appropriated was \$100,000."

Thus leaving a balance of estimates amounting to \$250,000 over and above the sum appropriated by Congress for the year ending 30th of June, 1858. Now, the deficiencies for this year (1853)

have not been provided for in the appropriation bill before us; but the excess of money expended by the surveyor general, of \$220,000 over and above the appropriations made by Congress, is for the single year ending June 30, 1857, an amount exceeding his own estimates nearly one hundred per cent.; and if the amount expended for the year 1858 should exceed his own estimates in the same ratio, you will be called on, perhaps before the adjournment of the present Congress, to appropriate an additional \$500,000 to cover the deficiencies for the year 1858. That this will probably be the case, would seem almost inevitable, from the fact that these contracts are not limited in amount. The surveyor general says that the number of miles contracted for has not been specified, so that these contracts are still running. Men have been employed to survey the public lands, at, I believe, twenty-five dollars a mile *ad libitum*, without any restraint whatever. The surveyor general goes on to state that there are \$350,000 estimated for these two years, over and above the amount appropriated, or, to use his own words,

"Between the amount estimated as necessary to carry on the surveying operations in California and the amount which Congress deemed it proper to appropriate."

He then says:

"The liberal appropriations that had been made in previous years by Congress for the same service induced the belief that the same policy was to be continued."

So it would seem, from the language of the surveyor general himself, that there was no mistake as stated by the chairman of the Committee on Finance, but the officer was induced to believe that Congress would appropriate money to cover this enormous expenditure over and above the amount appropriated, because Congress had previously been liberal in appropriating money to cover deficiencies of this kind. He says:

"Consequently more work has been accomplished than under existing circumstances should have been."

"The only evils resulting therefrom, are, in the first place, a departure, on my part unintentionally, from the policy of the Government."

Thus, clearly admitting that there was no mistake, that he departed from the policy of the Government, and made this enormous expenditure of money on the belief that Congress would pursue the liberal policy which it had previously pursued. I might say, generally, here, that I had supposed, until very recently, that the officers of this Government were to be controlled by the amount of money appropriated by Congress in contracts made by them; and I was confirmed in this opinion, even in relation to Army contracts, from the message sent here by the President of the United States at an extra session of Congress. It may be remembered, by members of the Senate, that Congress was convened by the President in extra session but a very short time since. In the message of the President of the United States to Congress, thus convened, he stated, as a reason for reconvening Congress, that it had failed to pass one of the usual appropriation bills for the support of the Army, and thus induced Congress and the country to believe that the operations of the Army would, for the current year, necessarily be suspended for the want of an appropriation. But the Senator from Louisiana, to-day, seems to take a different view. He seems to think that there is no necessity for an appropriation of money by Congress as a guide to officers of the Army in making their contracts for supplies; even yielding the question of the power of the President, as Commander-in-Chief, to march an army to Utah, or to any other point within the limits of the United States, or without its limits.

I suppose the real and vital question to be determined now by Congress is, whether the President of the United States has a right to use money for this purpose, which Congress has refused to appropriate, or whether he has a right to go beyond the amount which was given by the Congress of the United States to be used in this way, at least, without the excuse of a contingency not previously contemplated, an exigency arising during the recess of Congress, or not contemplated when in session. If there was some great public necessity for making a contract of this kind, I suppose Congress would justify the usurpation of power just as an inferior officer in the Army might be justified in disobeying the orders of a superior. He would have the right to disobey the order of his superior at his peril, risking on his part the approval of his superior thereafter, or an acquit-

tal by a court-martial. I suppose that an officer making contracts for the Government, might, under a pressing necessity, risk the approval of Congress in making a contract beyond the amount of money appropriated; but it seems to me to be dangerous policy to provide for these wholesale contracts, made without authority of law, and in the absence of a pressing public necessity.

It has not been pretended during this debate that any such pressing public necessity has arisen. There has no new state of facts arisen since the adjournment of Congress; and, in fact, it has been stated that contracts covering a large part of the gross sum appropriated by this bill, have been made since Congress convened at the commencement of this session, and whilst the President has had the opportunity to consult the wishes of the representatives of the people and of the States. Yet, without a word or intimation; without appropriations; without authority of the national Legislature, he has proceeded to make enormous contracts, requiring an expenditure of seven or eight millions of money.

It is a question, as I before remarked, whether this policy on the part of the Government shall be sanctioned in the absence of a public pressing necessity by which it may be justified. I know not whether these contracts have been wisely or unwisely made. It is impossible for me, with the limited knowledge I possess on this subject, to sift this appropriation bill so as to ascertain what work has been contracted for, and what supplies have been purchased that the absolute wants of the Army required. It is general and indefinite. But this item is specific and in glaring violation of law; and it has been passed over in silence by the Committee on Finance.

Mr. PUGH. What item is that?

Mr. HARLAN. For surveys of public lands in California. I am willing, as an individual, to vote all the money that the absolute wants of the Government may require, and whenever a pressing necessity arises requiring expenditures of money for the preservation of the peace of the country, for the purpose of repelling an invasion, for the purpose of securing the execution of the law, I am willing to justify the President and his subordinates in exceeding an appropriation, should this occur during a recess of Congress. But I am unwilling to justify, by a vote of mine, this unnecessary use of power on the part of the Executive of this Government, when he has ample and full opportunity to consult the wishes of Congress. If we are to do this, if we are to justify this unauthorized expenditure of money, and the policy of the President of the United States in sending an army to Utah as a *posse*, and the policy of the judicial officers of the Government on their way to Utah, the President of the United States may annihilate the government of Virginia, or the government of the State of Iowa, in a single month. As I understand from the newspapers of the country, the judges, now accompanying the army in the gorges of the Rocky Mountains, have already authorized the indictment of Brigham Young for treason. There, within the limits of that encampment, a grand jury has been impaneled, a court has been called, and bills of indictment have been authorized charging Young and others with high treason against the United States. If this policy is to be tolerated, the Governor of Virginia may be indicted to-morrow. Would there be any difficulty in finding a sufficient number of mere camp followers within the limits of an army encamped in a desert plain, or within the gorges of a barren mountain, who would obey the behests of a military commander? If this can be done in relation to Utah, and receive the solemn approval of the Senate of the United States, the same may be done with the Governor of Iowa to-morrow, or the Governor of Illinois, or the Governor of any State of this Union, at the mere caprice of the President.

As I before remarked, I am not willing to vote for a single dollar in this bill, which has not been authorized by law, which may not seem to me to have been justified by a pressing public necessity. When the general appropriation bills come up, I shall judge of the future necessities of the Government, and control my vote accordingly.

Mr. HALE. I am not going to occupy any time, sir, but simply to state my position here. As I apprehend this amendment will not be adopted, and my vote for it—as I shall vote for

it—in that contingency, might by some people be construed into a vote for the supplies contemplated by the amendment, I wish to say that I shall vote for it, and if it is adopted, I shall vote against the bill. As there is no probability that it will be adopted, my vote, without this explanation, might stand as an expression of willingness on our part to vote the supplies contemplated by the amendment. I prefer the amendment to the original bill, but I shall vote against it, whether it is amended or not.

I was not in when my friend from Iowa commenced his remarks; but before the vote is taken on this bill, I shall endeavor to bring the sense of the Senate to their judgment of the necessity of other officers observing the law, even if we let the Secretary of War and the Secretary of the Navy off, because it appears by this deficiency bill that there was appropriated, for the surveys of land in California, \$50,000; and we are called upon to appropriate \$220,000 besides, being, as the bill says, "the amount of surveying liabilities incurred by the surveyor general during the fiscal year ending 30th of June, 1857, over and above that authorized under the appropriation of \$50,000, up to that period."

It seems to be conceded, that by the operation of the act of the 1st of May, 1820, and by the exigencies of the service in the War and Navy Departments, those Secretaries have a right to contract without law and without appropriation. I shall take the sense of the Senate about the application of that doctrine to the surveyor general of a land district, to see whether, under an appropriation of \$50,000, he has a right to incur "liabilities" (for that is the very term used in the bill) to the amount of \$220,000 beyond the \$50,000 appropriated; but as that is not before the Senate now, I shall not occupy time on it.

Mr. BENJAMIN. I wish to say something in relation to this matter of the California surveyor. The gentlemen who sit behind me are mistaken entirely in relation to the facts. I will state them as I understand them in a very few words. Congress had been for several years previously making large appropriations for surveys in California. The surveyor general sent his estimate for this service, to which gentlemen have alluded. Congress determined to reduce the quantity of survey made each year in California, and appropriated only \$50,000 for that year; but California is far off; the appropriations are not made till June; the surveyor general imprudently (as he himself admits) employed his sub-surveyors to go on with the surveying in the State without telling them to stop their surveys at a certain number of miles. They surveyed greatly more than the appropriation would permit; greatly more than he supposed they would. He admits his error. He says it was done unintentionally. The Administration, knowing the fact, discharged him from his office; but, satisfied that it was unintentional, after giving that mark of disapprobation, tendered him another office with a view of showing a disapprobation of his conduct in undertaking to make these contracts without previous appropriations, but at the same time declining to fix upon him the stigma of any reprobation for what was simply imprudent.

Now, sir, what does the bill propose to do? The Administration do not propose to pay any money out of the Treasury to anybody; do not propose particularly to pay this gentleman any money. The Administration propose nothing but this: the deputy surveyors have done their work; their bills amount to this much; they do not bind the Government; nobody pretends that they do; the officer had no authority to make the contracts; and the question is now, as the work has been done for the Government, will Congress pay or not? It is left to our discretion. We are not bound to pay. There is equity and justice in the claim of these subalterns in my judgment, and I will vote for it. Senators around are not bound to vote for it. There is no pledge of Government faith for it. If they do not consider the appeal to equity sufficient for it, they will not vote for it. The Administration do not pretend that it binds the Government. It is no act of theirs; but a subordinate officer at a distance has exceeded his authority. They tell us so; but at the same time they say "this work has been done for the Government, and we think these sub-surveyors ought to be paid for it; the Government got the benefit

of it, and we will pay if you please." Surely gentlemen cannot attack the Administration on such grounds as that; or if that be the best ground they can find it is a fortunate Administration.

Mr. HARLAN. I would reply to the Senator from Louisiana, that I merely desire him to regulate his conduct in relation to this appropriation as he proposes to do, and did do, I think, in relation to the appropriation asked by the Clerk of the House of Representatives. He told us then that he was willing to examine the claim of the Clerk as a private claim, and put the witnesses on oath before a committee of the Senate; and, if he ascertained that he had paid out money, and became satisfied that he was entitled to relief as a private claimant, then he would vote for all the money necessary to discharge that liability, as I understood him.

Mr. BENJAMIN. Exactly.

Mr. HARLAN. I desire that this surveyor general and his deputies, having been employed without authority of law, shall be placed in precisely the same category; that they shall come before Congress as parties without legal claim for money, and present their equity; and, after we shall have become satisfied ourselves that the work was done, and that they have an equity to the money, let us do to them as we do to other private claimants, but not justify this violation of law by including this amount of money in the general appropriation bill to cover deficiencies which are presupposed to have been authorized by law. This is all I ask of the Senator from Louisiana, and all I ask of the Senate; and I may as well state now, as at any future time, that, if I shall hereafter become satisfied that this work has been done, and well done, and at fair prices, I, in common, I doubt not, with a majority of the members of the Senate, if not all of them, will vote the money necessary to pay it; but I am not willing to justify this general policy of the Government in making contracts without the authority of the Congress of the United States.

Mr. GWIN. The charge that has been made against the surveyor general of California, of having violated the law in making these contracts, I think is not justified by the facts. As the Senator from Louisiana has stated, the policy of the Government was to make large appropriations—\$300,000 a year—for surveying the public lands in California. There were one hundred and twenty millions acres of land in that State, and all of it was public land, with the exception of five or six million acres which were covered by private claims. As there were hundreds of thousands of persons in the State who had no land, it was desirable to bring the land into the market as early as possible in order to locate emigrants who had no homes to live upon, and who, owing to the unsettled state of private land claims, could not get land to which there was a perfect title. Hence the surveys were pressed forward with great rapidity. The Senator from Iowa states that these contracts were made at an extravagant price—twenty-five dollars a mile. He is entirely mistaken. The law limits the price to fifteen or sixteen dollars a mile. He did not go beyond the law.

The policy of the Government in surveying large quantities of land having been established, and the deputy surveyors having contracts looking to this amount that was annually appropriated, \$300,000, the surveyor general confined them, as he supposed, within his estimate, but they were not made by the mile, because they had to be made from township to township. It was in an unexplored country. Their contracts were made to certain natural boundaries. The surveyor general had the making of a contract to such a river, and it was estimated to be such a distance, and subsequently, when the surveys were made, it was ascertained to be a greater distance. Hence the contracts could not be limited, owing to the want of knowledge of the geography of the country. It was in that great unexplored region called the Colorado basin, that an immense number of these surveys were made, and it was utterly impossible for the surveyor general, in making contracts, to ascertain the exact distance.

It was never intended, directly or indirectly, by the surveyor general or deputy surveyors, to exceed the appropriations made by law; and when the estimates for \$150,000 were made, it was supposed, from the want of geographical knowledge which was absolutely necessary and indispens-

able to a correct estimate, that the amount which would be expended that year, with what was on hand, would not exceed \$150,000. When the appropriation was brought down to \$50,000 by Congress, the bill was passed in August, and the surveyors were then in the field, hundreds of miles from the surveyor general's office, with no mail communication, in a wild country, without communication for weeks and months, and the work was nearly all done before the surveyor general could apprise them of the fact that the appropriation had been diminished; and when he made the estimate, he was entirely ignorant of the number of miles the distances would be. He had to make his contracts to run from township lines to township lines, and including whole regions of country, in order that they might be sectionized. It was not until the deputy surveyors came in that it was ascertained the amount of their contracts exceeded what was estimated at first, and what was intended. He never intended to exceed the appropriations a dollar.

The Senator from Iowa asks for the deficiency of this year. There is not a deficiency of a dollar, not a cent, and nobody pretends that there is, for the present year. He intimates that there were deficiencies of former years, and because Congress had made liberal appropriations to meet those deficiencies, this surveyor general went on in violation of law, and contracted for an amount larger than was appropriated. There never has been a deficiency of a dollar besides that now before us. A large amount of this deficiency was created in another way. There was a certain percentage retained off the contracts of the surveyors—I believe twelve and a half or fifteen per cent. In order to press the survey of private land claims in California, a large number of which were dismissed in 1856, this percentage that was retained from the old contractors was used, supposing that the appropriations of Congress would be sufficient to cover the reserved amount due to contractors for surveying the public lands. It was used in surveying private lands. It amounted to nearly forty thousand dollars. That was money due to the contractors, used when it was not supposed, by the deputy surveyors or the surveyor general, that there was any deficiency; and the reduction of the appropriation was not known for months after it was made, and nearly six months of the fiscal year had expired before they ever heard at all of what the amount of the appropriation was.

Now, Mr. President, in regard to the work done, there has been, since the service commenced—and it is only a few years—upwards of twenty-three million acres of public lands surveyed, sectionized, now ready to be brought into market; and there is now advertised, and will be during this year, for sale in that State, thirteen million acres of land; and when these sales take place, millions of dollars will be paid into the Treasury on account of these very surveys. There is no pretense on the part of anybody, that these deputy surveyors have not faithfully performed their duties. It is well known that the surveyors do not stop on the 1st of July; but theirs are continuous contracts from year to year. Whether the surveyor general had authority to make such contracts, in anticipation, or in expectation of appropriations to be made by Congress, is a question to be decided by the Senate. There was no intention to do wrong. The letter read by the Senator from Iowa shows that it was entirely unintentional on his part; and the reason given is, that he could not ascertain the distances between the various points it was desirable to survey in order to bring lands into market.

There is no pretext that the surveyor general intended to violate the law. It is very natural that such a mistake should arise in an unexplored country, where the officer had to suppose the distance between certain points. These surveys were, to some extent, in a part of the State where very few had traveled. The public policy was to bring large bodies of land into market in California, where there was such an immense quantity of public land, and so little in the hands of private individuals. All these things being considered, it was thought in California that not the slightest blame attached to anybody in connection with this matter. The reduction of the appropriation was unlooked for and unexpected. California is very distant from here, and it was some time before the reduction in the appropria-

tion was known. The surveyor general is one of the most correct and honorable men ever known in the country—a man whose name is historical; and he deserves no censure on account of his having, from the great distance he was from the seat of Government, necessarily been ignorant for a long time of what the legislation of Congress was. It was upwards of three months after the fiscal year commenced before he knew what the action of Congress was. There was no man in that State who supposed he violated the law, or attached blame to him.

Besides, the work has been done. The Commissioner of the General Land Office so reports, and he recommends payment of this amount because it has been well done. The public lands have been surveyed. There was no intention to create a deficiency. There is no deficiency for the present fiscal year; for the very moment it was ascertained that there was likely to be a shortness of appropriation, instructions were given, and they have rigidly confined all contracts to the appropriations. The Senator says the contracts are running. The instructions were to confine all contracts to the amount appropriated; and it has been done.

Mr. HARLAN. The Senator from California also evades the very point at issue: that is, whether an officer of this Government has the right to go on without authority of Congress and make contracts. He states that these contracts were made before the people in California had heard what amount of money had been appropriated; that is to say, in advance of the knowledge of the appropriation of a single dollar, they made these contracts. That makes the case just \$50,000 worse than it was before. I had supposed they had known of the appropriation of \$50,000, and had exceeded that appropriation \$220,000; but it appears from the explanation of the Senator from California, that, without any knowledge on that subject whatever, they made contracts amounting to \$270,000, which makes the case more glaring than I had supposed it to be.

Mr. GWIN. The contracts reach from year to year. The same deputy surveyors have had contracts running four or five years; they never ceased working. There was always an estimate of how much they would expend within each fiscal year; and the deficiency that originated in the fiscal year ending 30th of June, 1857, originated from a mistake in that unsettled country in making the estimates of what the distance would be from point to point. It turned out to be more than was supposed; but the contracts ran on from year to year. In every instance, except this year, the expenditure was limited to the exact amount appropriated by Congress. It is an expensive process to fit out a surveying expedition. It costs many thousands of dollars. They could not limit their contracts to the exact amount appropriated. It was also estimated how much would be needed within each fiscal year; and they progressed with their work after the 1st of July as they had before, never doubting—nor did the surveyor general doubt—that the appropriation of Congress would cover all the work that was required to be done.

Mr. HARLAN. This only makes the case more glaringly wrong; but I had stated this feature of the case in quoting the language of the surveyor general. He says that his contracts are generally without limit. The Senator from California now says they were not limited in time; and the surveyor general says they were not limited in amount; and we are now informed they run from year to year, and Congress is called upon to make this appropriation, and thus sanction that policy, and pay the bill. I am inclined to think the Senator from California cannot inform the Senate what these contracts are now. In the report of the surveyor general for the present year, which is before me, it is stated that they were made without limit; and we are now informed that they run from year to year, being without limit either as to amount or as to time.

This is a very plain case to a man who is somewhat conversant with the practical operation of our surveys. When deputies contract with the Government to survey lands, they agree to survey a certain number of townships, or sections, or to run certain base or correction lines. The error originated, doubtless, as the Senator says, in a desire on the part of the officers to hasten

the surveys; but what I object to is, that it has been done without authority of law. And what I demand of the Senate is, to know whether this violation of law, so fiercely condemned yesterday, when the item in this same appropriation bill awarding money to the Clerk of the House of Representatives was under discussion, shall be approved. It was said, I think by the Senator from Louisiana, why did not the Clerk wait until he knew the money could be drawn from the Treasury, before he paid out money to his subordinates; why did he not draw on the Treasury of the United States for the amount, and after he had received the money disburse it, and not presume that Congress would, in violation of law, award the money to him which he had illegally expended? I repeat the same argument to-day: why did not the surveyor general of California wait until the money had been appropriated, and until he knew it was at his disposal?

This is the course pursued by the surveyors general in the districts with which I am acquainted. You appropriate \$100,000 with which to prosecute surveys of lands in Iowa, or Minnesota, or Wisconsin, and the surveyor general of that district will limit his contracts specifically within the amount of appropriation, and if a deputy applies for a contract under him after the amount of money has been reached which has been appropriated by Congress, he is denied, and properly denied, work. So it ought to have been, and ought to be now, in California, and so, as I humbly conceive, it ought to be in supplying provisions for the Army of the United States. When the officer of the Government on whom this duty devolves has contracted for supplies to the amount of the appropriations, he has fulfilled his whole duty. When informed of this fact, if, in his opinion, the safety or efficiency of the Army requires an additional expenditure of money, it is his duty to inform Congress of the public necessity requiring additional appropriations of money; and if refused by Congress, to restrict the operations of the Army within the necessary limits. Should the public interests suffer, the responsibility would then be with the representatives of the people and of the States. The President would be discharged from blame.

I had supposed that this was the theory of our Government, that Congress held the purse strings, and that although the Executive did hold the sword, Congress could control the Executive, and thus control the Army and Navy by the amount of money appropriated for their support. But it would seem from the doctrine advanced here to-day, and by the oldest and ablest Senators too, I am sorry to say, that the Executive may go on *ad libitum*, that his own view of public policy or the public interests are to control Congress in determining the amount of money to be expended, and not the views of Congress to control by law the policy of the President.

I have only referred to this California case as perhaps a striking illustration of the character of the contracts, for the payment of which this immense amount of money is demanded. If the President may go on without authority of Congress, through his subordinates, and contract a debt of nearly ten million dollars, I inquire if he may not of one hundred million dollars? If it is mere matter for his discretion and not the discretion of Congress, I should like to know the limit beyond which the Executive shall not pass. I am told by the honorable Senator from Louisiana that we are under no obligation in law to pay this money. Well, if not, I am not willing to pay it until I know personally that the work has been done, by an investigation to be had here before a committee of this body, as he proposed in another case, as before stated.

And I will go still further with the Senator, and withhold other appropriations in this bill. Let a committee be appointed, with power to send for persons and papers; let a thorough examination of the public necessity for these enormous expenditures be had before a committee of this Senate; and if justified by such necessity, assume the debt thus created. But I fear, sir, that a critical examination of the whole subject will show some of these Army contracts to be as reckless and unjustifiable as the California land-surveying contracts; that they are practically without limit as to amount and as to time. I notice one in the paper sent here by the Secretary of War—a contract for beef cattle—for three thousand five hun-

dred beeves, to be delivered in Salt Lake, and ten thousand more if the wants of the army shall require it; three thousand five hundred to be delivered now, and ten thousand more if the wants of the army shall require it, at the same rates. I would inquire of the Senate, whether Congress has authorized this unlimited contract for beef? When did Congress authorize this immense expenditure of money? Calculating, however, as did the surveyor general of California, that the same liberal policy hitherto pursued would again be followed out, the contracts have been made, and you are called on now to foot the bill for three thousand five hundred beeves, and will in time, doubtless, for the remaining ten thousand; and that, too, without authority of Congress, and, so far as I am informed, without a public necessity justifying this assumption of power on the part of the President. None can be pleaded, as Congress has been in session during the period in which this immense expenditure has been made.

Mr. GWIN. The Senator says there is nothing in the papers to indicate that the making of contracts to an amount exceeding the appropriations is not now going on. I have already told the Senate that now there is no deficiency, that there is no contract which is permitted to exceed the appropriations for the present fiscal year, and that the surveyor general has been peremptorily instructed, and was, when he was appointed, to limit all his contracts and all his expenditures to the appropriation for the year, and to create no deficiencies whatever. He has solicited his expenditures, and no man can truthfully say otherwise. As to these running contracts, they were necessary, on account of the nature of the country to be surveyed. The distances were not known. They had to be estimated. The contracts could not be given out there, as in Iowa, for so many townships and so many sections; but they were between such and such points, as between the San Bernardino mountain and the Colorado river, estimated to be a certain distance; but when it was surveyed there were more townships and more sections than were originally supposed. It was never intended to exceed the appropriation made by law.

KANSAS—LECOMPTON CONSTITUTION.

Mr. GREEN. I rise to a privileged question. It is for the purpose of making a report from the committee of conference on the disagreeing votes of the two Houses on the Kansas bill.

Mr. STUART. I wish to inquire of the Senator as to a fact. If I understand the case correctly, I shall object to the report. I ask the Senator if the bill on which he proposes to make his report is in the Senate, or in the House of Representatives. If the bill is in the House, I make the point that the Senator cannot report without the bill. The parliamentary law is, that the House agreeing to the conference has possession of the bill and the accompanying papers. That House, in this case, is the House of Representatives.

The PRESIDING OFFICER. (Mr. MASON in the chair.) The Chair is under the impression that although a privileged question, still, as there is a bill before the Senate, this report cannot be received until that bill be disposed of in some way by a vote of the Senate.

Mr. GREEN. I apprehend there is no objection to what I propose to do. The object is simply to present the report, and make it the special order for a certain time.

The PRESIDING OFFICER. The Chair of course will receive it by general consent.

Mr. STUART. I object.

Mr. HUNTER. I apprehend that it is the privilege of a conference committee to report at any time.

Mr. GREEN. And to ask for the consideration of the report at any time.

The PRESIDING OFFICER. The Chair does not understand that while a question is pending before the Senate, and under actual debate, that subject can be interrupted, except by a vote of the Senate. The 11th rule of the Senate prescribes that—

“When a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or amend.”

The only motion there that is extrinsic of the subject under debate is a motion to adjourn.

Mr. GREEN. Rather than raise any question of order, I move to lay the subject now before us

on the table for the purpose of allowing me to make my report.

The motion was agreed to.

Mr. GREEN. Mr. President—

Mr. STUART. Now, sir, I make the point, that inasmuch as the bill on which the Senator proposes to make his report is with the House of Representatives, and has not been returned here, there is no subject before the Senate on which he can make the report.

Mr. HUNTER. In regard to that we have a practice of our own. It will be found that our practice as to committees of conference does not square exactly with that laid down in the Manual; and, in point of fact, I believe we are entitled to the papers, if we choose to demand them. The Senate asked the conference; and, according to my recollection, the House asking the conference, is entitled to the papers.

Mr. GREEN. I propose to make a report. The Senator from Michigan raises a point of order, on the ground that I have not got the bill. He does not know whether I have got it or not. He asked me the question, and did not wait for me to answer. Now, I intend to answer, and my answer is this: the report will show whether I have got the bill or not. I rise to a privileged question, which, under parliamentary law, entitles me to the floor and to be heard; and when my report is made, if it be not in proper form, the Senate can take the proper course upon it; and when my report is presented it will show whether I have the bill or not.

But I go further than that. If, when the report is read, it should be found that I have not the House bill, or the Senate bill, I will give a reason for it, which, under parliamentary law, is satisfactory and legal. The bill cannot be in the possession of both Houses at the same time. Yet when a joint committee of conference come to an agreement, each branch of the committee has a right to report *instantly* before either House acts upon it. You cannot divide the bill; you cannot tear it into pieces, and take a part to the House of Representatives, and part to the Senate. It cannot be ubiquitous. It must be in the one or the other; and yet both have the parliamentary right to act; and on what do they act, when we come to the reason of the thing? They do not act upon the bill; they act upon the report. They do not act upon the House amendment; they act upon the report. Each House knows its own proceedings. The Senate knows what bill it proposed to pass. The House of Representatives knows what it proposed to pass. The report of the joint committee of conference is the subject-matter for the action of the two Houses, but not the bill. You cannot go back, and strike at the bill. You cannot even go back and propose to amend the bill. The bill is not under consideration; and hence I claim the right to report to the Senate the result of the deliberations of the joint committee of conference. When the report is made, if it be deficient in not having the bill, the Senator's point of order will be time enough; but he cannot know in advance what I have in my hand; nor do I deem it my duty to inform him. He ought to raise points of order upon what he knows; not upon what he does not know.

Mr. STUART. Mr. President, so far as the Senator advises me, I am much obliged to him. Now I do know that he has not got the bill.

Mr. GREEN. You do not.

Mr. STUART. The Senator may talk about what he knows. I do know—

Mr. GREEN. Why did you ask me the question, then?

Mr. STUART. I do know that the bill is before the House of Representatives at this time. Now, the Senator asks me, and it is a very proper question, why I inquired of him whether he had the bill. I did it because it was parliamentary and respectful to him as a Senator. That is the reason; and if he would treat me and the Senate upon the same principle, he would save a great many of the hard words he uses.

Now, let us look at what is the practical effect. One House or the other must have the control of a bill, so that when it is finally acted upon they may transmit it to the Executive for his approval or disapproval; and hence there is no action in either House upon a bill unless the bill is before it. Take this case: the Manual says that the House agreeing to the conference has possession

of the bill. What follows? The committee of the House having possession of the bill makes its report of what the committee of conference has agreed upon. The vote of the House is taken. If that House agrees to its report, it orders its Clerk to send a message to the Senate, informing the Senate that the House has agreed to the report of the committee of conference, and they transmit that information with the bill to the Senate. Then the Senate committee reports and calls for the action of the Senate upon the bill. If the Senate also agrees to the report of the conference, what is the effect? The Senator thinks the Senate does not vote upon the bill. Technically speaking, that is true; but they vote upon a report which passes the bill; and being then in the possession of the Senate, the Senate instructs its officers to transmit that bill to the Executive, it having passed both Houses, according to parliamentary law, although the bill itself, by itself, never passed either House. That is true; but we all understand the parliamentary law, and here, then, is the practical effect: when you have the bill you vote upon the report; you receive the report and act upon it, or postpone it to any day you please for action; but until you have the bill here, you have nothing to act upon. Now, sir, suppose—

The PRESIDING OFFICER. The Chair will suggest to the honorable Senator that the Chair can know nothing of what is contained in the report, nor can the Chair be informed from anything that takes place in the debate. The Chair takes it for granted that the chairman of the committee proposes to make a report; and if the Senate is prepared to receive the report, it must be made. If there be any objections to it afterwards, they can be presented after the Senate receives the report; but, in the judgment of the Chair, it is a question for the Senate, not a point of order.

Mr. STUART. I was coming to that point. The Senator from Missouri says that he refuses to tell the President and the Senate whether he has got the bill or not, but insists on reporting as a privileged question. Now, sir, unless he has got the bill there is no privileged question; and I object therefore to his right to report. He has no right to report.

Mr. PUGH. Allow me to ask the Senator a question. Does he say that our committee cannot report because they have not the bill in their possession?

Mr. STUART. I do.

Mr. PUGH. There are twenty precedents, I think, since I have been a member of the Senate. I recollect one case in the last session of the last Congress, where the Senate conferees came back, and made a written report themselves to the Senate, and signed it; I was one of them, and they had not the bill in their possession at all.

Mr. STUART. I suppose I can refer the Senator to a thousand, or two thousand, or ten thousand cases, where a bill has been read three times and passed on the same day. Why was it done? Because there was no objection to it—that is the reason. In this case I see fit to make the objection, and require that the parliamentary law shall be complied with; and without the bill, I object to the report, and there is no right to make it.

I was stating that the Senator cannot, by refusing to say whether he has got the bill or not, make his report as a privileged question, and thus put it beyond the power of the Senate to object to it. My objection is to the reception of the report, to the motion that he makes as a privileged motion because he has not the bill, and without it he has not got a privileged motion. The bill is in the House of Representatives, and may never come away from there. Then what is the action of the Senate for? Suppose we should spend the remainder of the session here in discussing the question of whether we will agree to the report or not; we have not got the bill and cannot get it; and if the other House never comes to a determinate conclusion upon it, we never can get it; what earthly consequence is it what is the opinion of the Senate on this subject?

The Chair will see, then, that the point I make is one to which there is no answer. I agree with the Senator from Ohio (and it is stated by the Senator from Virginia also) that this is often done at the last days of a session; we receive reports in both Houses; we read bills three times on one day; we do anything by common consent that will facilitate business; we do it without objec-

tion; but if the parliamentary law means anything when it says that the House agreeing to the conference retains the papers, it means that the first action is by the House which retains the papers. Until they have acted decidedly upon it, and inform us of the result, and send the papers to us, we cannot act.

Mr. SEWARD. The honorable Senator will allow me to suggest to him that there seems to be an obscurity in the case which he presents to the Senate. He asks the chairman of the committee on conference whether he has the bill; and seems to assume that the propriety of receiving the report depends upon the fact whether the chairman of the committee of conference has it or not. Now, it seems to me that one House or the other is in possession of this bill, by parliamentary law and in point of fact. It cannot be between the two Houses, in the rotunda; it cannot be with the chairman of the committee of each House. One House has got it, and the other has not got it; and it cannot have got out of the possession of the right House into any person's hand, or the hand of any chairman, so as to withdraw it from the possession of that House. I do not know which of these two Houses this bill belongs to at this stage of the business. I do not know, as a practical question, who has it—whether the Senate has it, and whether it is in the hands of the Senate's portion of the committee of conference, or whether the House of Representatives has it, and it is in the possession, constructively, of the House, but in fact, for the use of the conference, in the hands of the chairman. But it is in one place or the other, to be acted upon, legislatively, by the proper House.

Now, the honorable Senator ought to know, for he is very well skilled in these points of order, whether the Senate has got the bill or whether it has not. If the chairman has it, he has it not at all for this purpose, unless he has it as a trustee or agent of the Senate, and to return it again to the Senate. So in regard to the other House. It is very clear that we must have the bill before receiving the report, because the Senate is presumed not to know what the report is. If the report of the committee should be that the Senate should recede from its position, then the bill will be passed, as I understand, as it came from the House; and it will be the identical bill which the House passed, and it is a vote on the bill.

Mr. STUART. If the Senator from New York will allow me a moment, I think I will satisfy him and the Senate that what I said is true. I said I did know that the Senator making this motion had not the bill. I alluded to what I know as a parliamentary fact, that the whole Senate knows; and let me tell you why. The parliamentary law says that the House agreeing to the conference has the possession of the papers when the conference breaks up. That I know as matter of law; that you know, Mr. President, as presiding officer of this body. That is the law which governs conferences; and the presumption is that this conference committee has acted agreeably to the law. Now, until the Clerk of the House of Representatives announces to you in the ordinary parliamentary mode that he returns that bill to the Senate, you know as the presiding officer of this body, I know as a Senator of the body, and all the Senate know, that it is not here, and that the Senator from Missouri has not got it.

Mr. BIGGS. Will the Senator from Michigan permit me to ask him a question?

Mr. STUART. Certainly.

Mr. BIGGS. Suppose, as in this case, an amendment, sent to us from the House of Representatives to a bill originating in this body, is disagreed to by the Senate. Suppose a committee of conference is raised by the two Houses, and the committee agree to recommend that the Senate recede from its amendment. Then the only thing to be acted upon is, whether the Senate will agree to recede. Then, I ask, whether, or not, the Senate committee, under those circumstances, could report, and have that action of the Senate by which the bill would be passed, without having any notice from the House of Representatives? It may be, in this case, for aught I know, that that may be the report. In a case of that kind, there would be no action to be had upon the bill, except the action of the Senate receding from their amendment, and then the bill would be passed.

Now, sir, in that case, according to the idea of the Senator from Michigan, it would be necessary, when the joint committee reports in the House of Representatives, for that body to do something, though they were not asked by the joint committee of conference to do anything, and though that committee only asked the Senate to recede from their amendment. There must be action, therefore, according to the Senator from Michigan, by the House of Representatives—upon what? Upon nothing recommended by the committee of conference, because they have not to recede; but the action must be by the Senate. According to his notion, in that case, until there was a report to the House, and the House agreed to the report, which report was that the Senate should recede, and it came back here, the Senate never could act upon this report of the committee of conference. It seems to me that that position is not maintainable.

Mr. STUART. I think I can answer my friend from North Carolina in a moment.

Mr. BRODERICK. Will the Senator from Michigan yield to permit me to say a word?

Mr. STUART. Certainly, with pleasure.

Mr. BRODERICK. The Senator from Michigan is now mistaken. I understand that the bill is on the desk of the Senator from Missouri. I am informed that it has been surreptitiously taken from the House of Representatives and placed upon the desk of the Senator from Missouri within the last four minutes.

Mr. GREEN. Mr. President—

The PRESIDING OFFICER. Does the Senator yield the floor to the Senator from Missouri?

Mr. BRODERICK. I yield.

Mr. GREEN. I wish to ask the Senator from California whether he intimates, directly or indirectly, that I had any agency in surreptitiously getting it upon my table.

Mr. BRODERICK. I will explain to the Senator. I have been informed by a very distinguished member of the other House that this bill was surreptitiously taken from that House and placed upon the desk of the Senator from Missouri. I do not know whether the Senator from Missouri had any knowledge of the fact before it was placed on his desk. That is my explanation. My informant is a gentleman well known to this body.

Mr. STUART. I would rather not get up any collateral question at all, because, as I said, I intend to stand upon what we all know. The Senator from Missouri refused to make a statement, and I was arguing upon what we know as Senators, upon the principle that every man knows the law. In reply to the honorable Senator from North Carolina, I would say that in the case he puts, as in all other cases, the report of the committee of conference is voted upon, and the question of receding is not voted upon at all, even in the Senate. It is a question in each and every case upon agreeing to the report of the committee of conference. If the committee come to the conclusion suggested by him, that the Senate should recede from their disagreement, the question is not on receding, but on agreeing to the report of the committee of conference, and in that case the committee reports with the bill to the House of Representatives, because the committee of that House, as I said before, has the papers. The committee report that they have agreed that the Senate shall recede from its disagreement. The question put is, will the House agree to this report? If the House vote that they will, then the Clerk comes here with the bill, and announces at the door of the Senate that the House has agreed to the report of the committee of conference, and that accordingly he returns the bill here. The question then is not, will the Senate recede from their amendment, but, will the Senate agree to the report of the committee of conference, and the report is unamendable. If we were brought to the question whether we should recede, we could agree to the amendment of the House with an amendment, and so prolong the controversy. The vote, however, is upon the report of the committee, and that alone.

Now, sir, I do not care where this bill is in point of fact. If it has been surreptitiously taken from the House of Representatives, and brought here to answer a supposed exigency, that does not alter my point. I am talking about where this bill is in point of parliamentary law. I say that, by parliamentary law, this bill is in the

House of Representatives until the Clerk of that House announces to us in session that he has returned it here with the action of the House upon the report of the committee of conference; and, until that comes, there can be no report to the Senate.

The PRESIDING OFFICER. (Mr. MASON.) As the Chair understands the case, the point made by the Senator from Michigan cannot be received as a question of order, but is a matter for the determination of the Senate, if any question be made. The bill was in the possession of the Senate when the Senate received a message informing them that the House of Representatives had agreed to the conference. The bill, therefore, was last in the possession of the Senate, the Senate having asked the conference, and the House of Representatives agreeing to it. When the committee of conference met, the presumption is that the bill and any other papers connected with it, were taken to the conference by the committee of the Senate; because the bill was certainly last in the possession of the Senate. Now, although it may be a rule of parliamentary law that, after the conference ends the papers are to be left in the hands of the committee of the House asking the conference, the Chair cannot know whether that has been complied with. The Chair, therefore, would respectfully suggest to the Senator making the objection, that the more proper form would be that the committee should make their report; and, if he finds in the report any objectionable matter, let it be brought before the Senate whether it shall be received. That is the impression of the Chair, submitted with great deference.

Mr. HUNTER. In regard to the papers, I find that the law of the Manual is as stated by the Senator from Michigan, that the papers are with the House agreeing to the conference. The papers must be presumed to be where by law they ought to be. No matter where they are in point of fact, the papers must be presumed to be where by law they ought to be; and if they were lying on my table, when by law they ought to be in the House of Representatives, of course we should treat them as if they were where the law presumed them to be. But the ground upon which we ask the Senate to consider the report is upon the practice of the Senate itself. I say, and the Senator from Michigan acknowledges, that the occasions have been frequent where either body has acted upon the report of a conference committee without having the papers with it. It is upon that question of our own practice that we stand. As to the question of where the papers are, I believe, myself, they ought to be considered as being on the table of the House of Representatives.

Mr. GREEN. I differ from my friend from Virginia. I do not understand the parliamentary law as he does, and I think that an examination of it will show that both the Senator from Virginia and the Senator from Michigan are mistaken.

The law says that the House asking the conference must have possession of the papers. That is an invariable rule of law. In this case the Senate asked the conference and had possession of the papers; and, in asking the conference, you need not transmit the papers to the other House with the request to meet you in conference. There is, therefore, no presumption that the House acceding to the request for a conference has ever had possession of the papers from the time the request was made. I have seen no parliamentary law justifying any such assertion. But, even if it were so, does that affect the real point now under consideration? Is there any information legally here (for, if we are on legal points, we must adhere to them strictly) that the papers have ever been sent to the other House? The House has never informed us that it has possession of those papers; no communication has been made to the Senate to that effect; but when the Senator from Michigan asks me the question whether I have possession of them, he implies either that he does not know it, or, if he does know, he is asking a question upon a point on which he wants no information.

I propose to make a report on a privileged question. When the Senate shall have received that report, it is for the Senate to act or not act, according to the circumstances which then surround the question. If the Senate cannot act in the absence of the bill, and if the Secretary has not

possession of the bill, and if also I should fail to report the bill, that will stay action, but it cannot stay my report. My report is the result of the conference of the committee. It is no part of the bill. The action of the Senate, after the report is made, may depend or may not depend upon the possession of the bill; but the right to make the report is not contingent on that fact. Nor will I answer the question. I stand upon my rights. I deny the right of the Senator from Michigan to ask me whether or not I have possession of the Senate bill, or of the House amendment, or of any of the papers pertaining to this case. I have a right to make that report. I am prepared to make that report. It is a privileged question. When that report is made, it is for the Senate to say whether they are authorized to act upon the subject-matter or not.

It may be that the Senate may then say, "we do not choose to act on it." It may be that the Senate may decide, "we ought to have the bill before us, and the Secretary has it not." That is a subsequent matter; but it is not a matter to be inquired into before the exercise of any prerogative can take place. Mine is a privileged motion. How could it be a privileged question to make a report from a conference committee, if you never could make it until the other House inform you that they have acted on it? The absurdity of it is proved by the single fact: if the Senate can never report on this subject until the House shall have first acted and shall inform us of the result of that action, and send the bill to us, then my privilege to make a report from the committee of conference is not a privileged question. It would be a question dependent upon the other House; and yet there is not a single parliamentarian from the year one down to the present time, even including the very astute and distinguished Senator from Michigan, who does not admit that the right to make the report is a privileged question.

If the Senate be not otherwise engaged on any other subject, it is my right to make the report; it is the Senate's right to decide what action they will take upon that report; and if there be material facts not in the possession of the Senate, they will not act. If there be important papers, essential to a proper consideration of the subject, they will prejudice no man's right by acting in their absence. But the privilege of the committee of conference to make a report, as a privileged question, is not dependent upon the action of the House of Representatives. Are we to be crushed to the earth because the House of Representatives may not choose to act? Is a parliamentary right conceded to all legislative bodies to make, as a privileged question, a report from a committee on conference, to be destroyed and taken away, because the coordinate branch does not choose to act upon the subject?

Such is not the parliamentary law. The parliamentary law gives equal rights; equal privileges. When these committees met they were just equal, and when they agreed they were just equal; and what does equality mean? That only one can report? No, sir, that both may report; both Houses may act, and if they concur in their action it is an agreement between the two Houses of Congress, and it becomes binding, subject only to the approval of the Executive. If neither one can report without the other one has acted, they are not equal, and their equality would all be destroyed. No matter what decisions may have been made on this point, the common practice of this Government is of more force, because there is more common sense attached to it; it is for the interest of the country; it can prejudice no man's rights. I hold, therefore, that the Senate ought to sustain the right of the committee of conference to make their report, and then to act on it, or not to act on it, according as they think the subject is in the possession of the Senate or not.

The PRESIDING OFFICER. The Chair would say to the Senator from Missouri that the occupant of the Chair will receive the report. If any objection is made to it on the part of any Senator, it will be submitted to a vote of the Senate what shall be done.

Mr. HUNTER. I will state that the Senator from Michigan probably made his point one stage in advance of the place where he intended to make it. There surely can be no obstacle to our receiving the report. What he means is, that we cannot act upon the subject-matter of the bill until

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

MONDAY, APRIL 26, 1858.

NEW SERIES....No. 111.

the papers are here. That is another matter. Suppose we had met in the chamber of conference, and the conferees of the other House had torn the papers in pieces, could we not come and report that fact to the Senate? Should we be estopped from reporting because we had not the papers? We may report, and the other question is the question to be considered hereafter, when we propose to act on it. When that question comes up, I maintain that we should be governed by our own practice, if it differs from that of the Manual.

Mr. STUART. I may say in the outset that it is a bad way to decide any question by putting extreme cases, but I think I can answer the suggestion of the Senator from Virginia, even in the case he puts. If there should be such an outrage that one branch of the committee destroyed the bill, they would not report under the parliamentary law as a committee of conference, but a Senator would rise and ask to report as a question of privilege—not a privileged question—that is, he would come here and have all other business suspended to take into consideration the outrage committed by a member of either body, and what action should be had upon that outrage, but having no effect whatever upon the bill, because if the bill is absolutely destroyed, and put out of sight, so far as legislation is concerned you must commence *de novo*, and pass another bill. There is no doubt about that.

Now, to show how correct the honorable Senator from Virginia was when he stated, and stated, I may say, too, in the most perspicuous language, that the bill is, for purposes of parliamentary consideration, where the law says it should be, no matter where it is in fact, let me read from the Manual:

"A conference may be asked before the House asking it has come to a resolution of disagreement, insisting or adhering, [3 Hats., 269, 341,] in which case, the papers are not left with the other conferees, but are brought back, to be the foundation of the vote to be given."

The Senate will see the reason of the rule in this case. Before we had voted whether we disagreed with the House amendment or not, we could have asked a conference, and in that event, the Senate committee would have retained the bill and brought it back here, to take the question whether we would agree or disagree, because we should have then to take the vote. Then it goes on to say:

"And in all cases of conference asked after a vote of disagreement!"

What I have been reading before was as to a conference asked before a vote of disagreement:

"In all cases of conference asked after a vote of disagreement, the conferees of the House asking it are to leave the papers with the conferees of the other; and in one case, where they refused to receive them, they were left on the table in the conference chamber."—10 Grey, 146.

So peremptory is the rule that the papers belong there, that, if that committee will not take them, they may be left on the table. That is this case.

Mr. BIGGS. I rise to a question of order. I wish to understand distinctly whether or not, from the ruling of the Chair, the Senator from Michigan interposes objection to making this report. It was stated by the Chair a little while ago, and I heard no response of objection, that if objection was not made, the report would be received.

The PRESIDING OFFICER. The Chair stated that he would receive the report; but it is competent to any Senator to move, for reasons he may assign, that the report shall not be received, and then it will depend on the vote of the Senate.

Mr. BIGGS. I did not understand the Senator from Michigan to make that motion.

Mr. STUART. Mr. President—

Mr. IVERSON. I rise to a question of order. I understood the Senator from Michigan to make a point of order against the reception of this report, and the Chair overruled that point of order. Now the Senator is discussing the decision of the Chair. I say it is out of order to do that unless he takes an appeal.

The PRESIDING OFFICER. The Chair will

state that it is not strictly in order to pursue the line of remark pursued by the Senator from Michigan, the Chair having decided that, as far as the Chair was concerned, the report should be received. It is competent for the Senator, in the judgment of the Chair, to move that the report be not received and assign his reasons for it, and let it go to a vote of the Senate.

Mr. STUART. I was not disposed to make any cavil upon small questions here at all. I agree that according to strictness I am not in order, nor was the honorable Senator from Virginia, but yet we heard him with great pleasure, and I supposed I was stating the law in a manner that might not be disagreeable to the Senate. I do not desire to appeal from the decision of the Chair. I was making some preliminary remarks to show why, in answer to the Senator from Virginia, I was not premature in my objection. I have no doubt that the report being received, I can make the objection then, that it is not in order to act upon it until we have information from the House of Representatives. The suggestion can be made at either stage, and I was simply reading the law to show that in the first place it was mandatory that the bill should be there, and that the Senator was entirely correct when he said that the bill was, in parliamentary contemplation, where the law said it should be, no matter where it might be in point of fact.

Mr. BIGGS. The Senator from Michigan will not understand me as interposing the point of order for the purpose of cutting off his remarks.

Mr. STUART. Not at all.

Mr. BIGGS. I just wanted to know how the matter stood, and whether there was objection to receiving the report.

Mr. STUART. I was going to state that I thought in this case, and in any such case, it would be better not to receive the report; but I am far from wishing to controvert the opinion of a majority of the Senate. If a majority of the Senate wish to receive this report, and have it printed, and let the question of acting upon it be the one upon which the determination of this point shall be made, I acquiesce with a great deal of pleasure. But, sir, this subject is one of an unusual character; it is treated as of an unusual character; and therefore I desire to say that so far as I am concerned, I wish that the parliamentary law shall be strictly observed; and for the purpose of testing the sense of the Senate, I move that the report be not received, for the reason that by the law the bill is not before us.

The PRESIDING OFFICER. The Chair will state the question. The Senator from Missouri has the floor to make a report from a committee of conference. The Senator from Michigan moves that that report be not received.

Mr. BIGGS. I want to show, in a single word, what it seems to me is the absurdity of the position (with all due deference to the Senator from Michigan) that he now takes. Suppose this committee of conference had not agreed, and they came forward here to report to the Senate that there was a disagreement between the committee. I will assume that that is the report which is about to be made by the committee of conference. The Senator from Michigan says that the committee on the part of the Senate cannot report that fact to the Senate because the House of Representatives have not taken a vote, and sent the bill here.

Mr. STUART. If the Senator will allow me, I will relieve myself of what he supposes to be an absurdity in an instant. This law does not apply unless the committees agree, and the Senate's committee brings back the bill here and makes any other motion that any Senator agrees to make. It is in the case where they have agreed upon a report that the bill is to be with the House agreeing to the conference.

Mr. BIGGS. The question we are discussing here is upon strict parliamentary law; and still, without knowing what the report is—for aught we know it may be that there is disagreement between the two committees—the Senator interposes

an objection here to any report at all being made from the committee of conference. I say the statement of the case shows most incontestably the absurdity of the position. But in regard to the main point, though the parliamentary law is that the papers in this case are in the possession of the conferees of the House of Representatives, still, where is the law which precludes the Senate from receiving and acting upon the report? Where is there any prohibition in parliamentary law?

Mr. STUART. Allow me to ask the Senator a question. Take the case he puts of a bill in the House. That bill, in any event, goes to the House, and remains with the committee of the House. Suppose you receive the report here; what can you do? To show you that the absurdity is not with me, but with him, let me admit all that he claims, and take his own case. If there is any object in a report, it is a sensible object. If the committee of the Senate report that they cannot agree, what can they do without the bill?

Mr. BIGGS. I will state to the Senator what they can do.

Mr. STUART. I should like to hear it.

Mr. BIGGS. I should like to know whether or not they could not propose another committee of conference to the House?

Mr. STUART. Not without the bill.

Mr. BIGGS. Most unquestionably they could. Here is a committee of conference proposed—proposed by the Senate—

Mr. CRITTENDEN. I rise to a question of order; and I call the honorable Senator from North Carolina to order, for being out of order, contrary to his own prescription of the rule in regard to the gentleman from Michigan.

Mr. BIGGS. I submit whether I am in order.

The PRESIDING OFFICER. Will the Senator state the point of order?

Mr. CRITTENDEN. I say the Senator is discussing a question which has been decided by the Chair.

The PRESIDING OFFICER. The Chair does not so understand. The Chair decided only, that the Senator from Missouri could make his report. The Senator from Michigan objected to its reception, and debate therefore is in order to show why it should not be received. The Chair understood the line of remark to be addressed to that point.

Mr. BIGGS. I certainly did not intend to violate any rule of order. I did not seek to make any remarks on this question until the motion was distinctly made by the Senator from Michigan that this report be not received, and I was then attempting to show what I considered the absurdity of a motion of that kind by the illustration which I gave. I now understand that I am strictly in order.

Then, sir, I again ask, on the main question that has been raised by the Senator from Michigan, although the papers may be left with the conferees of the House, though on some occasions it seems, by parliamentary law, they may be left on the conference table, where is the parliamentary law (and I ask the Senator to put his finger upon it in the Manual) that precludes either House from receiving the report of the conference committee, and acting upon that report without the bill? Where is that parliamentary law? I do not understand it so. I do not see it so in the Manual.

Then the case I put a little while ago is apposite and conclusive, it seems to me, on the question. Suppose, now, that we make an amendment to a House bill; the House of Representatives disagrees to it; a committee of conference is raised, and that committee of conference recommends that the Senate recede from their amendment. Now I should like to know why the Senate cannot receive the report of the committee of conference, concur in the report, recede from the amendment, and thus pass the bill. Is it requisite under circumstances of that kind, is it necessary at all, that the House of Representatives should act upon it before the Senate recedes? The act of receding passes the bill, because the very moment the Senate recedes from the amendment the Senate has

acceded to the bill, and the bill is passed. When they concur in the report of the committee in that case, there is an end of the bill, and it becomes a law. But according to the Senator from Michigan, in a case of that kind the Senate committee could not make any report at all, the Senate could not act upon it at all, although the action of the Senate alone would be required to pass the bill.

It seems to me, therefore, with all due respect to the opinion and experience of the Senator from Michigan in regard to parliamentary law, and with all respect to him, this preliminary question is certainly an absurd one; and upon the main point it seems to me clear that the parliamentary law does not preclude that part of the committee which the Senate have appointed from reporting at any time, and does not preclude the Senate from taking action on their report.

Mr. FOSTER. I move that the Senate adjourn.

Mr. GREEN called for the yeas and nays; and they were ordered.

Mr. STUART. Before the vote is taken on the adjournment, I ask the unanimous consent of the Senate to amend my motion so as to say that the report shall not be received at this time. I wish to have my motion in proper form.

The PRESIDING OFFICER. It will be so modified.

The question being taken by yeas and nays on the motion to adjourn, resulted—yeas 23, nays 30; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Post, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—23.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Sidel, Thomson of New Jersey, Toombs, Trumbull, Wright, and Yates—30.

So the Senate refused to adjourn.

Mr. POLK. We have the motion of the Senator from Michigan distinctly before us now, and I think we all understand it, and probably all are ready to vote on it. I hope, therefore, the Senate will take a vote on that question immediately.

Mr. HALE. I wish to suggest a question of order. I understand that the Senator from Missouri offered to make a report, and the Chair decided that he would receive the report. The Senator from Michigan moves that the report be not received. My point of order is that it is an attempt by a vote of the Senate to contravene a direct ruling of the Chair without taking an appeal from it.

The PRESIDING OFFICER. The Chair does not so understand it.

Mr. HALE. Very well.

The PRESIDING OFFICER. The Senator from Missouri took the floor, and offered a report which the Chair was prepared to receive, as far as the action of the Chair was concerned; but the Chair could not receive the report against the will of the Senate. The question now is on the motion of the Senator from Michigan, that the report be not received.

The motion was not agreed to.

The PRESIDING OFFICER. The Chair will now receive the report.

Mr. GREEN. Before I make the report, it may be proper to state that the bill and amendment have been in the possession of both branches of the committee of conference—that on the part of the House, and that on the part of the Senate. They were left in the office of the Secretary of the Senate. I drew them out and carried them before the committee of conference, and we all had the use of them, and access to them. I sent a request to have the bill sent to me here, in case I should make any statement in regard to its number, title, or any reference to it, to have the facts before me. It was brought in, but not surreptitiously; and when the Senator from California insinuated so, he may have had that information—I know not what his information was—but it is not the truth. Now I propose to make my report.

Mr. BRODERICK. Will the Senator allow me a moment?

Mr. GREEN. Certainly.

Mr. BRODERICK. It is proper, in relation to the issue between the Senator from Missouri and myself, to state that the honorable Mr. HARRIS, of Illinois, informed me that the bill had been

surreptitiously taken from the desk of the Clerk of the House. I made the statement here, and I am ready to hold myself responsible for the declaration made to me by the honorable gentleman from Illinois.

Mr. GREEN. No doubt the Senator is willing to be held responsible, but that responsibility would exist without being made.

Mr. BRODERICK. I have, sir—

The PRESIDING OFFICER. The Senator will refrain from any personal remarks. The Senator from Missouri is entitled to the floor.

Mr. GREEN. I propose to make my report. I only made this reference because I thought it was due to the Senator from California and due to the parties concerned.

The committee of conference appointed to consider the disagreeing votes of the two Houses on the amendment to the Senate bill, numbered 161, entitled "A bill for the admission of the State of Kansas," report that they have had the subject under consideration, and have given it that careful, patient, and mature deliberation, which they conceive its importance demands; and have agreed upon an amendment, in the nature of a substitute for the House amendment of the Senate bill.

Mr. CRITTENDEN. I hope the gentleman will send the report to the Clerk's desk to be read. I believe that is the orderly way. We cannot hear him.

Mr. GREEN. After I have made my report, the Senator can call for its reading by the Clerk; but I claim the right to make my report. The committee earnestly recommend the adoption of this amendment to the two Houses of Congress. The bill which the Senate committee of conference report has been agreed to by the two committees in joint conference. I shall not read the proposed bill, but send it to the Clerk to be read, prefacing it with the remark that it may not come up to the full expectation of anybody. Respect for each other and conciliation should be the rule in cases of disagreement between equals. The Senate and House of Representatives are equals. Both represent the States; one represents the people of the States, and the other the States in their organized capacity. It is proper that a just regard for the rights and duties of each should be accorded. Therefore the Senate would not assume the right to dictate to the House of Representatives, nor acknowledge the right of that House to dictate to the Senate. The committee met in a spirit of conciliation. They tried various propositions: whether the best has been done that could be done remains for the country to judge. We believe it to be the best under the circumstances. We believe that it sacrifices no principle, that it harmonizes well with what the country expects and demands, and, without crossing the path or thwarting the purpose of either side, it opens a door for the admission of peace to spread over the entire Union, giving joy to those who have heretofore been afflicted with troubles in anticipation of misfortune. I ask the Clerk to read the amended bill reported by the committee of conference, and when it is read I shall move that it be printed.

The Clerk read the report; which is published in the proceedings of the House.

Mr. SEWARD. I wish to ask the honorable Senator from Missouri whether he expects to have this subject considered to-night?

Mr. GREEN. By no means. I wish to propose the printing of the bill, so that all can see it.

Mr. SEWARD. With that explanation, I will barely state—what perhaps it is incumbent on me to say in the briefest form, and in the most general way—the considerations which determined the minority of the committee of conference to dissent from the report which has been made.

The minority of the committee, (Mr. HOWARD, of the House of Representatives, and myself,) as it is well known, have, throughout the debates, been of opinion that Kansas ought not, under any circumstances, to be subjected to the necessity of voting again upon the Lecompton constitution, they being satisfied that the people of Kansas had already considered and rejected that constitution solemnly and decisively. The minority dissented from this report, therefore, because it proposes to submit to them that constitution to be voted upon again, which they have already rejected, instead of providing for their admission into the Union under some other constitution to be adopted by themselves.

Again, they dissented for this further reason, that if the question was to be submitted to them whether they would accept or reject the Lecompton constitution, it ought to be submitted in a fair, just, and equal manner; whereas the bill which is reported by the committee of conference proposes to submit to them only one side. It holds out to them an inducement, "if you will accept the Lecompton constitution, come immediately into the Union, and you shall have the benefits of the lands which are described in the proposition now proposed to be made by Congress. If you will not come in under that constitution you shall not come in at all, until you shall have arrived at a stage at which you will have a population sufficient, according to the ratio of representation in the House of Representatives, to demand one Representative. Then, and not before, you may form a constitution and come to Congress and apply to be admitted." But this bill offers no consideration of public lands, if they shall come in with a different constitution at that time, or at any other time.

There was one further objection. While the bill, in effect, gives to the people the alternative of coming in under the Lecompton constitution, it seemed to the minority of the committee to be evasive in the form of the submission of that question. It does not submit to the people of Kansas the direct question whether they will accept the Lecompton constitution, or the question in another form, which might possibly be distinguished as direct, namely: whether they would come into the Union under the Lecompton constitution; but it submits a proposition in which the Lecompton constitution is not at all mentioned, and which relates merely to the disposition of the public lands, the benefits which the new State will derive from the public lands to be reserved for them, and then declares that, upon the acceptance of this proposition, the State shall be in the Union, and, by necessary effect, that it shall be so in the Union under the Lecompton constitution. But if they shall vote not to accept the proposition of Congress about the public lands, then it shall be deemed and taken, not only that they reject that proposition, but it shall be further deemed and taken, that they are unwilling to come in under the Lecompton constitution. That is, you submit to the people one question, and their answer to that question shall be deemed and taken to answer another one, not submitted to them at all.

This is submitting but one side. In other words, it seemed to me—and I suppose to my associate from the House of Representatives—that it was like the submission in the case of the French Emperor; when the third Napoleon submitted to the people of France whether they would elect him to be Emperor, they were allowed to vote for him or against him, but they were not allowed to vote for anybody else. The people of Kansas may accept or reject the Lecompton constitution; but if they reject this one, they shall have no other. We could not believe that the disposition of the subject, thus recommended by the committee of conference, would be acceptable to the people of Kansas; we do not believe it will tend to produce that happy result which the honorable chairman has anticipated.

Mr. GREEN. I move that the report be printed; and I will take this occasion to remark that the report is but some half dozen lines in itself; but the bill is a part of the report.

Mr. HUNTER. The motion to print the report will include the substitute.

Mr. GREEN. Of course. I intended merely to remark that the Senator from New York misapprehends the purport and the object of the committee. While his argument would have a tendency to raise a double prejudice, on the one side North, and on the other side South; and while a good deal of dexterity seems to have been displayed—no doubt honestly entertained by him—yet I think neither South nor North will be misled by his argument; they will look at the bill; they will see in it a fairness which commends itself to the entire Union. I desire also to move to make this report the special order for some time that will meet the approbation of the Senate. ["To-morrow."] I will say to-morrow at one o'clock.

Mr. STUART. I cannot consent to that. The Senate decided that they would receive this report, and I do not object to its being printed.

The motion to print was agreed to.

The PRESIDING OFFICER. The question now recurs on the motion to make this report the special order for to-morrow at one o'clock.

Mr. STUART. My understanding was, that it was only proposed to make the report, and to order it to be printed. The Senator from Missouri distinctly announced that as his object. He said he did not expect to act upon it. ["To-day."] It is action upon it to assign a day for its consideration; and, if that day is in advance of the reception of the message announcing the action of the House, it is in opposition to my objection. I am not willing that it should be acted upon until the bill is acted upon in the House, and sent here.

Mr. SLIDELL. Let us have the vote.

Mr. STUART. I am not ready to vote. I am making an objection to the consideration of this measure until it is before us, and it cannot be before us until it is sent here from the House of Representatives. As I have already said, I have no desire to be captious. I was willing, the sense of the Senate being so, that the report of the committee should be printed; that the Senator from Missouri should make his statement; that the Senator from New York should make his; but I am not willing that the action of the Senate shall be had upon this question when the question itself is not before us, and may never receive the final action of the House of Representatives, so that the bill may never come here. It is conceded by the Senator from Virginia [Mr. HUNTER] that the bill is in the House of Representatives; it may never come here; and if it does not come here, why are we voting upon a substitute for it? With these views of the question, and every purpose having been attained, I move that the Senate adjourn; and on that question I ask for the yeas and nays.

The yeas and nays were ordered; and the Clerk proceeded to call the roll.

Mr. BELL, when his name was called, rose and said: Mr. President, I find that the Senator from Maryland—

The PRESIDING OFFICER. The Chair will say to the Senator that the call of the roll cannot be arrested, a Senator having answered.

Mr. BELL. I understand that perfectly well; but I believe it has been usual to yield to members when they desire to make a statement assigning a reason for not voting and not arguing the question.

The PRESIDING OFFICER. The rule is express that the Senator must answer to his name, and he is not at liberty to assign any reason.

Mr. BELL. I will appeal to the Senate from the decision of the Chair. I wanted to state that I had made an arrangement with the Senator from Maryland, [Mr. PEARCE], who was imperatively called away, to pair off with him upon this bill.

The PRESIDING OFFICER. If there be no objection, the Chair will hear the Senator.

Mr. BELL. I appeal to the Senate to allow me to state my position. ["Go on!"] I have no choice here at all. I want merely to state that, perhaps, I ought not to vote on this question of adjournment; and therefore I will not. I had some hesitation about it. Upon any question in relation to the main proposition, of course I would not vote.

The yeas and nays being taken, resulted—yeas 23, nays 29; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Kennedy, King, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—23.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—29.

So the Senate refused to adjourn.

Mr. CRITTENDEN. What is the question now?

The PRESIDING OFFICER. On making this report a special order for to-morrow, at one o'clock.

Mr. CRITTENDEN. I hope that will not be insisted on. The order for printing has been made, I understand.

The PRESIDING OFFICER. The order for printing has been made.

Mr. CRITTENDEN. Well, gentlemen must perceive that fixing to-morrow at one o'clock is rendering the printing a mere nugatory order. The report is of some length, and if the matter is to be deliberated upon, or accurately understood,

it is impossible that we shall be prepared, if there were no other objection, by to-morrow at one o'clock. I ask it not for the purpose of delay; nobody will suppose that I make any such obstructive opposition to any measure merely for delay; but it seems to me that time is necessary for the consideration of the subject, and I do hope that gentlemen will not insist upon fixing it at so early an hour as one o'clock to-morrow. I understand furthermore that the bill is not here. Fixing this subject for consideration to-morrow is acting upon the bill. I am no great adept, I am not very skillful on questions of order. I defer to the Chair to decide, in the first place, whether it is in order for us to make such a motion, the bill being in the other House, and our action being necessarily subsequent to, and dependent upon, the action of that House.

Mr. GREEN. I desire to propose to the Senator that we say Monday. ["Very well."]

Mr. DOUGLAS. Provided the bill is here.

Mr. CRITTENDEN. That would be time enough so far as regards that. This other question, however, must remain, whether we can act on it. I do not care whether the question of order is decided now, but that question must come up. I do not want delay, and the time proposed would be satisfactory enough.

The PRESIDING OFFICER. The Senator from Missouri modifies his motion.

Mr. GREEN. If it is more acceptable to the Senator, I modify it thus.

Mr. CRITTENDEN. Certainly it is.

The PRESIDING OFFICER. Shall the report be made the order of the day for Monday at one o'clock?

The motion was agreed to.

Mr. SEWARD. I move that the Senate adjourn.

Mr. HUNTER. I suggest that, before we adjourn, we take up the deficiency bill, so as to make it the special order for to-morrow, though I believe it will be. ["Oh, yes."]

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 23, 1858.

The House met at twelve o'clock, m. Prayer by Rev. L. D. FINCKEL.

The Journal of yesterday was read and approved.

CORRECTION.

Mr. COBB. I desire to make two or three corrections in the report of my remarks as published in the Globe of yesterday. I am made to say "we have no such bills before us this session for any of the States, and therefore we have no use for these maps." I meant to say that we have no bills before us asking grants of lands for any States which have heretofore received grants.

I am made to say, in relation to these maps, that—

"This resolution does not entirely conform to the view I entertain; but as it is, I am satisfied with it."

I did not say that I was satisfied; but that I must submit.

In another portion of my remarks I am made to say as follows:

"I do not believe I shall give you a Kansas speech, although I have been exceedingly anxious during the session to make one. I fear that, in all probability, I might get into too deep water, as I do not understand the exact turn that politics may take at home."

I did not say "at home;" I said "here." I never consult the condition of politics at home to govern my action here. I do what I believe to be right, without reference to the sentiment at home. I meant to say that I should wait until I saw the drift politics should take in this House. I hope that to-day we shall see a demonstration here, such as will give satisfaction to many of us, if not to the entire country.

Mr. SAVAGE. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to report two appropriation bills, in order that they may be printed for the use of the House and of the committee.

Mr. TAYLOR, of New York. I object.

Mr. J. GLANCY JONES. I ask the House to take notice that it is the gentleman from New

York who objects to the progress of the public appropriation bills.

Mr. CHAFFEE. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

CLOSE OF DEBATE ON THE FIRE BILL.

Mr. JOHN COCHRANE. Before the vote is taken upon that motion, I offer the following resolution:

Resolved, That all debate on House bill No. 204, in Committee of the Whole House on the Private Calendar shall terminate in two hours after the consideration of the same shall be resumed in committee.

Mr. FLORENCE. There is no cause for adopting the resolution. This is objection day, and no debate is in order in committee.

Mr. SAVAGE. I make the point of order that yesterday, to-day, and to-morrow, having been devoted by resolution of the House to the consideration of the pension bill in committee as a special order, the motion to go into the Committee of the Whole on the state of the Union must take precedence of the motion to go into a Committee of the Whole House on the Private Calendar. I submit that all rules having been suspended for the purpose of making the bill to which I have alluded a special order, my motion must take precedence of all others.

The SPEAKER. If the special order to which the gentleman refers had been made in the House as well as in the committee, the point of order would have been well taken by the gentleman from Tennessee. The fact of its having been made a special order in the Committee of the Whole on the state of the Union, however, does not affect the operation of the rules in the House. Inasmuch, therefore, as the bill was not made the special order in the House, the Chair thinks the motion of the gentleman from Massachusetts to go into Committee of the Whole House takes precedence.

Mr. MASON. Upon what principle does the Chair decide that the motion of the gentleman from Massachusetts takes precedence of the motion of the gentleman from Tennessee?

The SPEAKER. Because to-day is Friday, and a motion to go into Committee of the Whole House on this day, under the rules of the House, must take precedence of a motion to go into the Committee of the Whole on the state of the Union. The resolution of the gentleman from New York [Mr. JOHN COCHRANE] to close debate, however, must take precedence of both.

Mr. CLEMENS. I should like to know what bill it is upon which the gentleman proposes to close debate?

The SPEAKER. The New York fire bill.

Mr. HOUSTON. Is this not objection day, upon which no debate can be allowed in committee?

The SPEAKER. This is objection day.

Mr. JOHN COCHRANE. I move the previous question upon the resolution.

The previous question was seconded, and the main question ordered to be put.

Mr. JONES, of Tennessee. I wish to inquire of the Chair whether, if the resolution of the gentleman from New York be adopted, when we go into committee to-day, if objection be made to taking up the fire bill, the two hours will not be consumed, and all debate upon that bill therefore be cut off?

The SPEAKER. Debate is not in order, the previous question having been seconded.

Mr. LOVEJOY. Will the effect of the passage of that resolution be as it has been suggested by the gentleman from Tennessee?

The SPEAKER. The Chair is of the opinion that if the resolution be adopted no further debate is in order in committee to-day, inasmuch as this is objection day.

Mr. JOHN COCHRANE. If there be doubt about the resolution, I withdraw it.

There was no objection, and the resolution was withdrawn.

The question recurred on Mr. CHAFFEE's motion to go into a Committee of the Whole House.

Mr. SAVAGE called for tellers.

Tellers were ordered; and Messrs. RUSSELL and WALDRON were appointed.

The House divided; and the tellers reported—ayes one hundred and one, noes not counted.

Mr. SAVAGE. It is evident that this motion to go into a Committee of the Whole House is

pressed by those who wish to defeat the old soldiers' pension bill, which is the special order for this day in the Committee of the Whole on the state of the Union; and I want a record of those who vote to go into a Committee of the Whole House, and therefore demand the yeas and nays.

On a count, only twenty-eight voted for the yeas and nays.

Mr. SAVAGE. I demand tellers on the yeas and nays.

Tellers were ordered; and Messrs. WARREN and BUFFINGTON were appointed.

The yeas and nays were ordered, the tellers having reported—yeas thirty-five; more than one fifth of those present.

The question was taken; and it was decided in the affirmative—yeas 128, nays 64; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Andrews, Barksdale, Bennett, Billingshurst, Bingham, Bishop, Bliss, Bock, Brayton, Bryan, Buffinton, Burlingame, Case, Chaffee, Clemens, Clingan, Cobb, John Cochrane, Comins, Corning, Covode, Cox, Cragin, Burton, Craige, Crawford, Damrell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dick, Dodd, Dowdell, Durfee, Edie, Edmundson, Farnsworth, Faulkner, Florence, Foster, Gilman, Goeh, Goode, Goodwin, Granger, Greenwood, Gregg, Grossbeck, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Hatch, Houston, Huyler, Jewett, George W. Jones, J. Ganey Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Landy, Lench, Leiter, Letcher, Lovejoy, McQueen, Miles, Milson, Morgan, Morrill, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Peyton, Phelps, Phillips, Pike, Quitman, Reagan, Ricard, Ritchie, Royce, Ruffin, Russell, Seales, Scott, Searing, Seward, Henry M. Shaw, John Sherman, Judson W. Sherman, Sickles, William Smith, Spinner, Stanton, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Tompkins, Tripp, Wade, Walbridge, Walton, Elihu B. Washburne, Israel Washburn, White, Whiteley, Winslow, Wood, and Wortendyke—128.

NAYS—Messrs. Anderson, Atkins, Avery, Blair, Bonham, Bowie, Branch, Burnett, Burns, Burroughs, Chapman, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clay, Clark B. Cochrane, Cockerill, Colfax, James Craig, Curtis, Dean, Elliott, Fenton, Foley, Garrett, Lawrence W. Hall, J. Morrison Harris, Haskin, Hawkins, Hill, Hughes, Jackson, Keitt, Kelly, Lawrence, Leidy, Maclay, McKibbin, Humphrey Marshall, Mason, Maynard, Miller, Edward Joy Morris, Niblack, Pottle, Purviance, Ready, Reilly, Robbins, Savage, Samuel A. Smith, Stevenson, James A. Stewart, Talbot, Underwood, Waldron, Warren, Watkins, Wilson, Woodson, Augustus R. Wright, John V. Wright, and Zollcoffer—64.

So the motion was agreed to. The House accordingly resolved itself into a Committee of the Whole House on

THE PRIVATE CALENDAR.

The CHAIRMAN (Mr. Grow in the chair) stated, that this being objection day, the Calendar would be called, commencing with the first case upon it; and that bills to which objection should be made would be passed over.

CYRUS H. McCORMICK.

An adverse report (C. C. No. 11) upon the petition of Cyrus H. McCormick.

Mr. LETCHER objected.

WILLIAM NEILL.

An adverse report (C. C. No. 30) upon the petition of William Neill and others.

Mr. FLORENCE objected.

CHARLES J. INGERSOLL.

A bill (H. R. No. 197) for the relief of Charles J. Ingersoll.

Mr. LETCHER objected.

BARCLAY AND LIVINGSTON.

A bill (H. R. No. 204) to refund to Barclay and Livingston and others duties on certain goods destroyed by fire in the city of New York on the 19th day of July, 1845.

Mr. LAWRENCE objected.

HENRY LEEF AND JOHN M'KEE.

A bill (H. R. No. 206) to indemnify Henry Leef and John McKee for illegal seizure of a certain bark.

Mr. MILLSON objected.

WILLIAM SMITH.

A bill (H. R. No. 209) for the relief of the representatives of William Smith, deceased, late of Louisiana.

Mr. LETCHER. I objected to this bill when the Calendar was under consideration before, on the ground that I did not think the patent was going to the right person. I see, by an examination of the papers since, that all the parties inter-

ested agree that it should go as provided by this bill, and I shall make no further objection.

The bill provides that the claim of William Smith to six hundred and forty acres of land, now occupied by William B. Allen, in the parish of Livingston, in the State of Louisiana, and being the same he resided on at the time of his death, and settled originally by Stephen Terry, and represented on the map of surveys as section thirty-nine, in township number six south, of range number three east; and section number sixty, in township number six south, of range number two east, shall be confirmed to William Smith, and to his heirs and representatives; and that a patent shall be issued therefor as in other cases; provided that this act shall only operate as a relinquishment forever, on the part of the United States, to the land, and shall not interfere with adverse valid rights of others, if such exist.

From the report it appears that by the act of 3d March, 1819, "for adjusting the claims to land and establishing land offices in the districts east of the Island of New Orleans," every person, or his or her legal representative, embraced in the list of actual settlers, where the land claimed or settled on had been actually inhabited or cultivated on or before the 15th day of April, 1813, should be entitled to a donation grant of six hundred and forty acres of land. Allen claims six hundred and forty acres under the provisions of this act; and to sustain his claim submits the following leading facts, sworn to by several credible witnesses: one gentleman states that his acquaintance with the land claimed commenced in 1808; another, in 1813; and that they were told that it was settled by Stephen Terry, in 1803, and believed, from the appearance of everything about it, that the improvements might have commenced at that time; that William Smith, in 1808 and 1813, and for some time after the latter period, occupied and cultivated it; and that it was the same place now claimed and occupied by William B. Allen, and known on the surveys as section twenty-nine of township six south, of range three east, and section sixty of township six south, of range two east, and is represented on the maps of the land office as "claimed by Stephen Terry," but "no confirmation found."

Hon. Thomas Green Davidson states that he has actual knowledge of the place since 1826, and legal knowledge as to his other statements. He says that he was on the place first in 1826; had lived near it since that time, and is satisfied, from all appearances, that it had been cultivated for twenty years or more when he first knew it; and that it was known as the Smith or Terry place, and has been inhabited and cultivated up to this time; and that to his knowledge, taxes were assessed and paid on it for the heirs of Smith until about 1842, when John Holloway purchased it at a public sale; since which time, taxes have been paid on it by Holloway and those holding under him; that it was notorious that the commissioners appointed under act of Congress, to report upon private land claims in Louisiana, had received notice and proof of Smith, under Terry, and all the country considered the claim had been confirmed, and that one of the witnesses, who died last year, declared to him that he was present when Smith gave his notice and made his proof.

Mr. Davidson further states, that he was for five years register of the Greensburg land district, appointed in 1829, and that the notice and proofs of settlement for the neighborhood, where is located the land in question, were all burned by the fire which destroyed much of the land office and its records; and that the parties whose land claim papers were thus destroyed were required in 1819 to file anew for confirmation; but that Smith died in 1819, and that his children (being minors) were carried to Georgia by their friends, and no one attended to their interest in the matter. That his legal knowledge extends to the settlement of the place by Stephen Terry in 1803, who was the cousin of William Smith, and were both from the State of Georgia; and that Terry sold the place to Smith and moved to Mississippi in 1805. That William Smith lived on the place until 1819; when he and his wife both died; no debts were left, and the place was cultivated and the taxes paid on it by a Mr. Fleming until 1839, when Fleming died; and that in 1842 the place was sold for the taxes due on it, as the property of William Smith, deceased, and was bought by John Holloway; and

that the taxes have been paid on it ever since by Holloway and those holding under him; and that under the laws of Louisiana such possession, as between individuals, would perfect the title in the present occupant, William R. Allen.

On motion of Mr. SANDIDGE, the bill was laid aside to be reported to the House, with the recommendation that it do pass.

PIERRE BROUSSARD.

A bill (H. R. No. 211) for the relief of the heirs and legal representatives of Pierre Broussard, deceased.

The bill provides that the heirs and legal representatives of Pierre Broussard, deceased, late of Louisiana, shall be confirmed in their title to a certain tract of land situated on the Bayou Teche, in the parish of St. Martin, in Louisiana, and known on the recognized public surveys as section thirty-six, in township eight south, of range five east, containing about one hundred and seventy acres; provided that this confirmation shall only operate as a relinquishment of title on the part of the United States, and shall not affect any adverse rights, if any such there be.

From the report it appears that the Chevalier Declouet had a large tract of land, situated on the Bayou Teche, in Louisiana, in his possession as owner, some time before the cession of the territory to the United States; that portions of this large tract of land were sold to different individuals by the Chevalier before the change of government, and among others to Pierre Broussard, in 1796; that at the time of the change of government a portion of the lands embraced in the original tract of Declouet still remained in the possession of members of his family, and that the whole tract was possessed and inhabited by Pierre Broussard and his family, or by the Declouet family, and formed an unbroken front on the Bayou Teche; that the owners of the different portions presented their titles to the boards of commissioners established for the settlement of land titles in Louisiana, and that they were confirmed in their claims respectively, but that the surveying department of the Government has surveyed the different titles confirmed in such a manner as to represent a portion of the land purchased by Pierre Broussard from the Chevalier Declouet on the 10th of May, 1796, as public land. The act of sale from Declouet to Pierre Broussard, is filed with the papers; and it is shown, by the affidavits of witnesses, that the land on the Teche designated as section thirty-six, in township eight south, range five east, and containing about one hundred and seventy acres, and now represented as public land, was established and cultivated by Pierre Broussard under his purchase, at least fifty-eight years ago, and that it has been continually occupied and cultivated by him or his descendants, or those holding under him, to the present time.

On motion of Mr. SANDIDGE, the bill was laid aside to be reported to the House, with the recommendation that it do pass.

HEIRS OF WILLIAM CONWAY.

The next bill on the Calendar was a bill (H. R. No. 100) to revive an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased."

The bill and preamble were read, as follows:

Whereas the heirs of William Conway, deceased, or their legal representatives, have never been able to avail themselves of the provisions in their favor contained in an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased," partly because of some error or mistake as to the location of the portion of the lands applied for under the act, and partly because of the existence of a legal controversy between the parties in interest under the provisions of said act: Therefore—

Be it enacted, &c., That the said act, entitled "An act for the relief of the heirs, or legal representatives, of William Conway, deceased," approved July 3, 1836, be, and the same is hereby, revived and continued in force for one year from the passage of this act, and no longer.

The report, which was read, states that on the 2d July, 1836, Congress passed an act authorizing the representatives of said Conway to locate, within twelve months from the passage of the act, on any unappropriated public land in the State of Louisiana subject to public entry, one thousand and seventy acres in a body, in contiguous tracts, according to the legal subdivisions of the public surveys; and also two thousand seven hundred and eighty-nine acres, under the same limitations, in consideration of the release, within twelve

months, by the said heirs or legal representatives, in favor of the United States, of the land originally included in three grants from the Government of Spain, and confirmed by the commissioner for investigating land titles in the district west of Pearl river, by reports numbered 48, 49, and 50. And that, in accordance with said act of Congress, (as appears from a communication made by the Commissioner of the General Land Office,) a certificate was issued by the register and receiver of the land office at Monroe, Louisiana, on the 26th of June, 1837, to Augustus S. Phelps, the representative of the heirs aforesaid, for one thousand and sixty-six acres and seven hundredths of an acre, in full satisfaction of the one thousand and seventy acres granted by the act of July, 1836, which was located upon certain described lands; and that the said lands thus described have since been sold by the Government to other parties, and been patented to them; and that there was nothing in his office showing that any attempt had been made to locate the remaining portion of two thousand seven hundred and eighty-nine acres. In the absence of the papers submitted by the Hon. MILES TAYLOR, when the bill was first introduced, in August last, giving the reasons why no lands had been obtained, and no attempt made to locate the largest portion of the grant, and which cannot now be found by the clerks of the House, the committee have taken the statement of Mr. TAYLOR himself, who, from having been at one time counsel for some of the parties in interest under the said act, says that it was in consequence of a legal contest then going on, and which continued for several years, between those parties. As the parties, by the Government sale to others, lost the location made within the period fixed by law, and could not locate any portion of remainder, for the reason stated, the committee see no reason why the said act of 1836 should not be revived for another year's time. And, although it is now impossible to find in said State, in compact bodies, such a quantity of land, of much value, the committee have not thought proper to recommend any change in the original law; and report back the bill, without amendment, for the favorable consideration of the House.

No objection being made, the bill was laid aside, to be reported to the House, with a recommendation that it do pass.

REGIS LOISEL.

The next case on the Calendar was taken up, being a bill (H. R. No. 214) for the relief of Regis Loisel, or his legal representatives.

The bill, which was read, provides that Regis Loisel, or his legal representatives, be confirmed in their title to a certain tract of land ceded by Don Carlos Dehault Delassus, Spanish Governor of Upper Louisiana, on the 25th of March, 1800, to Regis Loisel, situate in what was then known as Upper Louisiana, on the Missouri river, including Cedar Island, as it was surveyed on the 20th of November, 1805, by Antonio Soulard, surveyor general for the Territory of Louisiana, according to the plat now on file in the archives of the Missouri district. But it is provided that if said tract of land, or any part thereof, has been located by any other person, under any law of the United States, or has been surveyed and sold by the United States, this act shall confer no title to such lands in opposition to the rights acquired by such location or purchase; but Loisel, or his legal representatives, shall be permitted to make a relocation on an equal amount of the public lands as may be taken by such location or purchase, that may be subject to entry at private sale, at a price not to exceed \$1 25 per acre; and the surveyor general for the district of Missouri shall issue a certificate to authorize the same.

The second section provides that the location authorized by this act shall be entered with the register of the proper land office, who shall, on application for that purpose, make out a certificate of such location as in other cases; and if it shall appear to the Commissioner of the General Land Office that the certificate has been obtained according to the provisions of the act, then patents shall issue as in other cases. And it is further provided, that if it shall be found that the tract of land has not been located by any other person, or has not been sold by the United States, in that case a patent shall be issued for the same as in other cases.

The report, which was read, states, that, on the

25th of March, A. D. 1800, the Lieutenant Governor of Upper Louisiana granted to Regis Loisel a certain tract of land on the Missouri river, about twelve hundred miles from its mouth, including Cedar Island; that the same was surveyed by Don Antonio Soulard, surveyor general for Upper Louisiana, and a plat made thereof; that all the papers and documents relative to the same were recorded in the recorder's office established for the recording of land titles in Upper Louisiana, according to the act of Congress in such cases made and provided; that, in August, 1806, and in September, 1810, application was made to the board of commissioners to have said claim confirmed; that the same was rejected, and claimants required to furnish further proof. That, in July 1833, and November, 1834, the same was again presented for confirmation, and additional proof given; but the same was not confirmed, because said board held that they did not have jurisdiction of the case; that over three hundred claims that were reported favorably on by the committee that acted under the acts of 1832-33, and confirmed by the act of 1836, were rejected by the former board of commissioners; that said grant is absolute and unconditional; and that it appears from the same, and the petition to the Lieutenant Governor, that the said Loisel had established a fort on said tract of land in the Indian country, at his own expense, and that he had rendered important services to his Government in discovering and exploring the Indian country and establishing amicable relations between them and his Government; that in so doing he had suffered heavy losses.

The committee state that, from the petition to the Lieutenant Governor, the grant by him, and survey by the surveyor of Upper Louisiana, and the evidence taken before the board of commissioners, and now of record, they are satisfied that said petitioner's grant and survey were made in good faith, and are genuine. The committee are of opinion that from the stipulations of the treaty by which we acquired Louisiana, and the decisions of the Supreme Court of the United States in regard to these inchoate Spanish titles, rights were vested in Regis Loisel; that justice and good faith on the part of this Government require that his rights should be protected, and that the claim should be confirmed to Loisel, or his legal representatives. The third article of the treaty of the 30th April, 1803, by which France ceded to the United States the Louisiana Territory, provides that "the inhabitants of the ceded Territory shall be incorporated in the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and in the mean time shall be maintained and protected in the free enjoyment of their liberty, property, and religion which they possess." (See United States Statutes at Large, volume 8, page 202.)

In the case of Chouteau's heirs vs. the United States, (volume 9, Peters's Reports, page 137,) Judge Marshall says: "The lieutenant governor was also a sub-delegate, and as such was authorized to make inchoate grants. They are property, capable of being alienated, of being subject to debts, and are as such to be held as sacred and inviolate as other property." If Judge Marshall is right that these inchoate grants are property then they are protected by treaty; and when the inhabitants of the ceded territory were incorporated into the United States, we were bound by the treaty to complete their titles. "Our national honor demands it. It cannot be that the United States will violate the treaty, and confiscate the lands of the inhabitants in the ceded territory. In the case of Delassus vs. the United States, (Peters, volume 9, page 117,) Judge Marshall says: "The stipulations of the treaty ceding Louisiana to the United States, affording that protection or security to claims under the French or Spanish Governments to which the acts of Congress refer, are in the first, second, and third articles. They extend to all property until Louisiana became a member of the Union, into which the inhabitants were incorporated as soon as possible, and admitted to all the rights, advantages, and immunities of citizens of the United States. The perfect inviolability and security of property is among these rights. The right of property is protected and secured by the treaty; and no principle is better settled in this country than that an inchoate title

to land is property. This right would have been reserved independent of the treaty. The sovereign who acquires an inhabited country acquires full dominion over it; but this dominion is never supposed to divest the vested rights of individuals in property. The language of the treaty ceding Louisiana excludes any idea of interfering with private property. The concession to the petitioner was legally made by the proper authorities. A grant or concession made by the officer who is by law authorized to make it carries with it *prima facie* evidence that it is within his power. He who alleges that an officer, intrusted with an important duty, has violated his instructions, must show it."

The committee report a bill confirming the grant or concession.

No objection being made, the bill was laid aside, to be reported to the House, with a recommendation that it do pass.

Mr. ENGLISH. On yesterday I gave notice to the House that I intended, at one o'clock to-day, to make a report from the committee of conference in relation to the disagreeing votes between the two Houses upon the bill for the admission of Kansas. To enable me to make a report, I move that the committee now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. GROW reported that the Committee of the Whole on the Private Calendar had had several bills under consideration, and had directed him to report to the House, bills of the House Nos. 209, 211, 100, and 214, with a recommendation that they do pass.

ADMISSION OF KANSAS.

Mr. ENGLISH. I am instructed by the committee of conference, appointed by the two Houses upon the disagreeing votes of the two Houses on the bill entitled "A bill for the admission of Kansas," to make the report which I now send to the Clerk's desk.

The report was read, and is as follows:

The committee of conference appointed to consider the disagreeing votes of the two Houses on the amendment to the Senate bill No. 161, entitled "A bill for the admission of the State of Kansas," report that they have had the subject under consideration, and have given it that careful, patient, and mature deliberation which they conceive its importance demands, and have agreed upon an amendment in the nature of a substitute for the House amendment to the Senate bill.

They earnestly recommend the adoption of this amendment by the two Houses of Congress.

JAMES S. GREEN,

R. M. T. HUNTER,

Managers on the part of the Senate.

WILLIAM H. ENGLISH,

ALEXANDER H. STEPHENS,

Managers on the part of the House.

The undersigned, one of the managers on the part of the Senate, does not agree in the foregoing report.

WILLIAM H. SEWARD.

The undersigned, one of the managers on the part of the House, does not agree in the foregoing report.

WILLIAM A. HOWARD.

Whereas, the people of the Territory of Kansas did, by a convention of delegates assembled at Leecompton, on the 7th day of November, 1857, for that purpose, form for themselves a constitution and State government, which constitution is republican; and whereas, at the same time and place, said convention did adopt an ordinance, which said ordinance asserts that Kansas, when admitted as a State, will have an undoubted right to tax the lands within her limits belonging to the United States, and proposes to relinquish said asserted right if certain conditions set forth in said ordinance be accepted and agreed to by the Congress of the United States; and whereas, the said constitution and ordinance have been presented to Congress by order of said convention, and admission of said Territory into the Union thereon, as a State, requested; and whereas, said ordinance is not acceptable to Congress, and it is desirable to ascertain whether the people of Kansas concur in the changes in said ordinance hereinafter stated, and desire admission into the Union as a State as herein proposed: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States in all respects whatever, but upon this fundamental condition precedent, namely: that the question of admission with the following proposition in lieu of the ordinance framed at Leecompton be submitted to a vote of the people of Kansas, and assented to by them or a majority of the voters voting at an election to be held for that purpose, namely: That the following propositions be, and the same are hereby, offered to the people of Kansas for acceptance or rejection, which, if accepted, shall be obligatory on the United States, and upon the said State of Kansas, to wit: First, that sections numbered sixteen and thirty-six in every township of public lands in said State, or, where either of said sections or any part thereof has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of schools. Second, that seventy-two sections of land shall be set apart and reserved

for the support of a State university, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose.

Third, that ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the Legislature thereof.

Fourth, that all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining or as contiguous as may be to each, shall be granted to said State for its use, the same to be selected by the Governor thereof, within one year after the admission of said State, and when so selected to be used or disposed of on such terms, conditions, and regulations as the Legislature may direct.

Provided, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall, by this article, be granted to said State.

Fifth, that five per centum of the net proceeds of the sales of all public lands lying within said State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the Legislature shall direct.

Provided, The foregoing propositions herein offered are on the condition that said State of Kansas shall never interfere with the primary disposal of the lands of the United States, or with any regulations which Congress may find necessary for securing the title in said soil to bona fide purchasers thereof, and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

Sixth, and that said State shall never tax the lands or property of the United States in that State. At the said election the voting shall be by ballot, and by indorsing on his ballot, as each voter may please, "proposition accepted," or "proposition rejected."

Should a majority of the votes cast be for "proposition accepted," the President of the United States, as soon as the fact is duly made known to him, shall announce the same by proclamation, and thereafter and without any further proceedings on the part of Congress, the admission of the State of Kansas into the Union upon an equal footing with the original States in all respects whatever, shall be complete and absolute, and said State shall be entitled to one member in the House of Representatives in the Congress of the United States, until the next census be taken by the Federal Government. But should a majority of the votes cast be for "proposition rejected," it shall be deemed and held that the people of Kansas do not desire admission into the Union with said constitution under the conditions set forth in said proposition, and in that event the people of said Territory are hereby authorized and empowered to form for themselves a constitution and State government by the name of the State of Kansas, according to the Federal Constitution, and may elect delegates for that purpose, whenever, and not before, it is ascertained, by a census, duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States, and whenever thereafter such delegates shall assemble in convention, they shall first determine by a vote whether it is the wish of the people of the proposed State to be admitted into the Union at that time, and if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government in conformity with the Federal Constitution, subject to such limitations and restrictions as to the mode and manner of its approval or ratification by the people of the proposed State as they may have prescribed by law, and shall be entitled to admission into the Union as a State under such constitution thus fairly and legally made with or without slavery, as said constitution may prescribe.

Sec. 2. And be it further enacted, That, for the purpose of insuring, as far as possible, that the election authorized by this act may be fair and free, the Governor, United States district attorney, and Secretary of the Territory of Kansas, and the presiding officers of the two branches of its Legislature, namely, the President of the Council and the Speaker of the House of Representatives, are hereby constituted a board of commissioners to carry into effect the provisions of this act, and to use all the means necessary and proper to that end. Any three of them shall constitute a board, and the board shall have power and authority to designate and establish precincts for voting, or to adopt those already established; to cause the polls to be opened at such places as it may deem proper in the respective counties and election precincts of said Territory; to appoint, as judges of election, at each of the several places of voting, three discreet and respectable persons, any two of whom shall be competent to act; to require the sheriffs of the several counties, by themselves or deputies, to attend the judges at each of the places of voting, for the purpose of preserving peace and good order; or the said board may, instead of said sheriffs and their deputies, appoint, at their discretion, and in such instances as they may choose, other fit persons for the same purpose. The election hereby authorized shall continue one day only, and shall not be continued later than sundown on that day. The said board shall appoint the day for holding said election, and the said Governor shall announce the same by proclamation; and the day shall be as early a one as is consistent with due notice thereof to the people of said Territory, subject to the provisions of this act. The said board shall have full power to prescribe the time, manner, and places of said election, and to direct the time and manner of the returns thereof, which returns shall be made to the said board, whose duty it shall be to announce the result by proclamation; and the said Governor shall certify the same to the President of the United States without delay.

Sec. 3. And be it further enacted, That in the election hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, who possess the qualifications which were required by the laws of said Territory for a legal voter at the last general election for members of the Territorial Legislature, and none others, shall be allowed to vote; and this shall be the only qualification required to

entitle the citizens to the right of suffrage in said election; and if any person not so qualified shall vote or offer to vote, or if any person shall vote more than once, at said election, or shall make or cause to be made any false, fictitious, or fraudulent returns, or shall alter or change any returns of said election, such person shall, upon conviction thereof before any competent court of jurisdiction, be kept at hard labor for not less than six months and not more than three years.

Sec. 4. And be it further enacted, That the members of the aforesaid board of commissioners, and all persons appointed by them to carry into effect the provisions of this act, shall, before entering upon their duties, take an oath to perform faithfully the duties of their respective offices, and on failure thereof they shall be liable and subject to the same charges and penalties as are provided in like cases under the territorial laws.

Sec. 5. And be it further enacted, That the officers mentioned in the preceding section shall receive for their services the same compensation as is given for like services under the territorial laws.

Mr. ENGLISH. Mr. Speaker, in view of the state of the public business at this advanced period of the session, and of the fact that this subject has already been more thoroughly discussed than, perhaps, any other ever before Congress, I do not propose making any extended remarks; but I am authorized by a majority of the committee of conference on the part of the House to submit some of the views which they entertain in relation to the pending question, and which, in part, have influenced their action. They assumed the duties intrusted to them by the House, deeply impressed with the heavy responsibilities resting upon them.

A great question—perhaps the greatest of the age—one which has agitated and engrossed the public mind for the past four years—has at last come to a crisis; and its probable solution is brought directly to the decision of the representatives of the States and the people.

Whilst adhering to what they believe to be correct principles, the committee endeavored to discard that spirit which would endanger the passage of a great measure, and probably hazard the peace of the country, for the sake of an unimportant point or unmeaning word.

The amendment proposed as a substitute is the very best that the committee were able to agree upon in view of the embarrassing circumstances surrounding the question.

It is true that it proposes the admission of the State on a condition; but in this respect it does not differ from either the Senate bill or House amendment. Both of these measures propose admission on conditions varying in their character and object. Nor does it differ from several precedents in other cases, such as those of Michigan and Iowa. The reason of the propriety, if not necessity, of a condition in the case of Kansas grows out of the peculiar nature of the application. This is fully exemplified in the Senate bill; for the admission in it is on an "express condition," which, however, makes no provision for the acceptance by the people of Kansas of the terms therein prescribed. What might be the effect of this omission is not altogether clear. The ordinance adopted by the convention at Leecompton, and submitted with the constitution, asserts that "the State of Kansas will possess the undoubted right to tax such lands for the support of her State government, or for other proper and legitimate purposes connected with her existence as a State." And this asserted right she proposes, on admission, to surrender, in consideration that the Congress of the United States will make her the following grants, namely:

"Sec. 1. That sections numbered eight, sixteen, twenty-four, and thirty-six, in every township in the State, or in case either of said numbered sections are or shall be otherwise disposed of, that other lands, equal thereto in value, and as contiguous as may be, shall be granted to the State to be applied exclusively to the support of common schools."

"Sec. 2. That all salt springs, and gold, silver, copper, lead, or other valuable mines, together with the lands necessary for their full occupation and use, shall be granted to said State for the use and benefit of said State; and the same shall be used or disposed of under such terms and conditions and regulations as the Legislature of said State shall direct."

"Sec. 3. That five per centum of the proceeds of the sales of all public lands sold or held in trust or otherwise lying within the said State, whether sold before or after the admission of the State into the Union, after deducting all expenses incidental to the same, shall be paid to said State of Kansas for the purposes following, to wit: two-fifths to be disbursed under the direction of the Legislature of the State for the purpose of aiding the construction of railroads within said State, and the residue for the support of common schools."

"Sec. 4. That seventy-two sections, or two entire townships, shall be designated by the President of the United States, which shall be reserved for the use of a seminary of

learning, and appropriated by the Legislature of said State solely to the use of said seminary."

"Sec. 5. That each alternate section of land now owned, or which may hereafter be acquired by the United States for twelve miles on each side of a line of railroad to be established or located from some point on the northern bound, any of the State, leading southerly through said State in the direction of the Gulf of Mexico, and on each side of a line of railroad to be located and established from some point on the Missouri river, westwardly through said State in the direction of the Pacific ocean, shall be reserved and conveyed to said State of Kansas for the purpose of aiding in the construction of said railroad; and it shall be the duty of the Congress of the United States, in conjunction with the proper authorities of this State, to adopt immediate measures for carrying the several provisions herein contained into full effect."

The proposition made to Congress by this ordinance is of the most extraordinary character, and wholly inadmissible. A carefully-prepared estimate made at the General Land Office, at the request of the committee, shows that Kansas would receive an aggregate in lands, under her ordinance, of twenty-three million five hundred and ninety-two thousand one hundred and sixty acres, worth, at the minimum Government price, \$29,490,200; and this is exclusive of other benefits claimed, and of what she might receive for lands containing mines of the useful and precious metals, except coal lands. The amendment agreed to by the committee proposes to give her the usual grants which have been made to most of the new States, and which embrace precisely the same quantity proposed to be given by the Crittenden amendment. Under this amendment, Kansas would receive some twenty million acres of land less than she would receive under her ordinance; making a difference in favor of the United States—estimating the land at the minimum price—of \$25,000,000.

The amendment agreed upon may not be perfect; but, if this fail, it is fair to presume that all available parliamentary expedients for reconciliation will be exhausted, and that the question will be left open to still further excite sectional prejudices, and endanger the peace and prosperity of the country.

If the substitute is passed, the Kansas question departs at once from the Halls of Congress, perhaps never to return; but even if it should return, it will be at some future period, and deprived of all power of doing evil. The ship of State will have passed the breakers, and glided into a smooth and open sea, where there is reason to hope there will be no sectional storm for many years to come. The committee cannot see that the bill would be otherwise than beneficial to the people of Kansas, whilst they feel entirely certain that it would promote the best interests of the country at large. It is one of those cases, as they conceive, where much is to be gained and nothing lost, so far as desirable results are concerned.

Should the substitute be defeated, and the question left open, the committee very much fear the consequences would be unfortunate for the country, and that angry and threatening clouds would soon obscure her destiny.

The probabilities are that the agitation would continue in its most malignant form to excite the people, to separate the North from the South, and no man can foresee what would be the final result. The tendency would be to scatter terror and alarm throughout the country, paralyze its business, injuriously affect the value of private property, convulse the Union, and endanger its very existence. It will indeed be a fearful responsibility to hazard for a slight cause all the blessings which flow from the union of these States.

There are great occasions in the progress of nations which, if wisely embraced, may exert a salutary influence upon their destiny for ages to come; but if neglected there can be no recovery from the evil consequences which may follow.

Such an occasion is now presented to the House, in the judgment of the committee; and having discharged their duty to the best of their ability under their convictions, they leave all others to act likewise for themselves.

Mr. CAMPBELL. Mr. Speaker—
Mr. ENGLISH. I have the floor, and I do not yield it to the gentleman from Ohio. I yield it to my colleague on the committee of conference, [Mr. HOWARD.]

Mr. CAMPBELL. He is entitled to it without any yielding on the part of the gentleman.

Mr. HOWARD. I desire to occupy some five minutes' time expressing—

Mr. MARSHALL, of Kentucky. I rise to a question of order.

Mr. ENGLISH. I did not yield the floor for the purpose of allowing my colleague on the committee an opportunity of submitting any remarks, but for the purpose of submitting a proposition, which I understood he wished to submit.

Mr. WASHBURN, of Maine. Does the gentleman from Indiana refuse to allow his colleague to be heard?

The SPEAKER. The gentleman from Maine is not in order.

Mr. MARSHALL, of Kentucky. I rise to a question of order. I want to know if the gentleman from Indiana has the right to retain the floor, yield it to another member for five minutes to make a speech inside his speech, and then cut off all further debate by demanding the previous question?

Mr. ENGLISH. I will relieve the gentleman on his point of order, by saying that I propose nothing of the kind.

The SPEAKER. The gentleman from Michigan cannot occupy the floor during the time of the gentleman from Indiana, if it is objected to.

Mr. MARSHALL, of Kentucky. Well, sir, I object.

Mr. ENGLISH. I understood that the gentleman from Michigan wished to submit the motion that the bill be printed, and that its consideration be postponed until some future day.

Mr. HOWARD. That is my purpose at the present time, but I wish that at some time, as a matter of courtesy on the part of the House, I may have five minutes to discuss the merits of the report.

Several MEMBERS, (on the Democratic side of the House.) Have it now.

Mr. ENGLISH. I make the motion that the bill be printed, and that its further consideration be postponed until one o'clock to-morrow. I understand that it will be printed perhaps soon enough for members to get it before the House adjourns to-day. I call for the previous question upon the motion.

Mr. WASHBURN, of Maine. I rise to a question of order. Will not the effect of the previous question, if seconded, be to cut off the motion to postpone, and bring the House to a direct vote upon the reception of the report of the committee of conference?

The SPEAKER. The Chair was about to suggest that the motion to postpone would be cut off by the previous question. The motion to postpone, however, is debatable only to a very limited extent—merely to the extent of assigning reasons why the matter should or should not be postponed until to-morrow at one o'clock. The merits of the question are not open to debate.

Mr. ENGLISH. I will withdraw the demand for the previous question.

Mr. HOWARD. I have felt constrained to withhold my assent from this report, and I will now state briefly the reasons why. It is true, as has been said by my colleague, that this question has been very fully and very ably discussed, and I do not want to protract that discussion.

Mr. STEPHENS, of Georgia. I rise to a question of order. I do not understand that the merits of the report are open to discussion upon the motion to postpone.

Mr. HOWARD. I thought the motion to postpone had been withdrawn.

Mr. ENGLISH. No, sir; I withdrew the call for the previous question, not the motion to postpone.

Mr. STEPHENS, of Georgia. I trust, Mr. Speaker, that the House, having heard the report read, will not vote upon the postponement till to-morrow at one o'clock, without further debate. [Cries of "Order!" "Order!" from the Republican side of the House.]

Mr. CAMPBELL. I hope, as a speech has been made in favor of the report, the gentleman from Michigan will be heard on the other side.

The SPEAKER. Objection being made to the merits of the report being discussed, the gentleman from Michigan must confine himself strictly to the motion to postpone.

Mr. WASHBURN, of Maine. Does not the motion to print open the merits of the report to discussion? I understand that that motion is always debatable.

The SPEAKER. It would be debatable if the motion to postpone were not pending.

Mr. WASHBURN, of Maine. Then I understand that it is in order for the gentleman from Michigan to speak at this time upon the motion to print? Both the questions are before the House.

The SPEAKER. The Chair thinks not.

Mr. KILGORE. I hope my colleague will withdraw the motion to postpone, and allow the gentleman from Michigan to be heard.

Mr. CAMPBELL. I desire to know if it is the purpose of the majority of the committee to cut off all debate upon this new programme of the Administration?

The SPEAKER. The gentleman from Michigan is entitled to the floor.

Mr. HOWARD. I understand that the motion to postpone and print is still pending, and I would ask if it be in order to move an amendment to that motion?

The SPEAKER. The gentleman can move to amend by postponing to a different day.

Mr. HOWARD. Then I move to amend by postponing until Monday at one o'clock.

Mr. MONTGOMERY. I desire to ask the gentleman to extend the time until Monday three weeks. Then we can have the voice of the country on this question.

["That is right!" "That is right!" from the Republican side of the House.]

Mr. MONTGOMERY. Then the people can be heard to speak from all quarters. It is of the highest importance that the people should be heard.

Mr. HILL. By the permission of the gentleman from Michigan—

Mr. EDIE. I object.

Mr. HILL. You do not know what you are objecting to. I will move an amendment to the motion to postpone, and I wish to state my reasons for it—reasons which are purely personal to myself. I have been detained here for some days, on account of this measure, very much to the injury of my private interests. The time has come when I can stay no longer; and if the health of my family will permit, I must leave here for my home. I am compelled to do it. I must return as soon as I can. I do not know that I can pair off, or who to propose to pair off with. I have not studied this measure, having only heard it read from the Clerk's desk; and I want time to reflect on it. Perhaps by taking it with me, and staying in the State of Georgia during the coming week, I may return here better prepared than I am now to decide upon it. I may bring some light from that quarter on it. [Laughter.] I ask for this time; and in order that the measure may not come up in the mean time, as I desire to vote upon it, I move that the bill be postponed until Thursday of the week after next. I make the motion without consultation with any one, and purely for the reasons given.

Mr. WASHBURN, of Maine, (to Mr. HOWARD.) Accept that.

Mr. HOWARD. I accept that as a modification of my amendment, and I will accept of none other.

Mr. STEPHENS, of Georgia. I wish to say on this motion, one or two words only—

The SPEAKER. The gentleman from Michigan is entitled to the floor.

Mr. STEPHENS, of Georgia. I thought that the gentleman had concluded.

Mr. HOWARD. I am not through. I yielded the floor for the purpose of having a question asked, as I supposed; and when I found that debate was following, I objected. I will yield no further, nor to any other modification, because I do not wish to be interrupted. I am in favor of the motion, as I have submitted it, to postpone until Thursday week at one o'clock; and for the reason that this is a new bill. Not a member, I believe, on this side of the House, has had an opportunity to read it. They have only heard it read from the Clerk's desk a few moments ago. It is a new bill, and unlike either the Senate, or the House, or any other bill ever proposed in either House of Congress since the organization of the Government. Whether it is to be accepted or rejected—

Mr. STEPHENS, of Georgia. I object to the discussion of the merits of the bill.

The SPEAKER. The attention of the Chair was inadvertently withdrawn for the moment. The Chair will try to keep the gentleman within

order according to the Chair's understanding of the rules.

Mr. HOWARD. Mr. Speaker, whether this bill shall be finally accepted or rejected, it is at least worthy of the most serious consideration of every member of the House. I do not think that there is any necessity for throwing it open to debate, but I think that there should be ample time for each member to read it after it has been printed, and to examine it. When that has been done, then let us come to a vote and end it. I think that the time proposed gives ample time for an examination of the bill, and I accept the proposition. I conceive that it will be found, from an examination of the bill, that it involves something altogether unusual in the legislation of this country. It proposes one set of conditions if a Territory apply for admission with one constitution, and another set of conditions if it apply with any other constitution it is possible to frame hereafter.

The SPEAKER. The Chair is of the opinion that the gentleman from Michigan is wandering a little from the legitimate line of debate.

Mr. HOWARD. I will wander back again.

The SPEAKER. The Chair does not suppose that it is the wish of the gentleman from Michigan to speak out of order.

Mr. HOWARD. I wish to keep in order; but I wish to urge the reasons why this bill should be postponed and printed. Sir, I think that every member should have an opportunity to make up his mind, whether or not, if the population of Kansas be sufficient for her admission under the Lecompton constitution, the same population is not sufficient for her admission under any other constitution. Why should we not make up our minds whether one set of conditions are to be imposed if she apply to come in as a slave State, and another set of conditions if she apply as a free State?

Mr. HUGHES. I call the gentleman to order. [Laughter.]

The SPEAKER. The shortest way to determine this question of order will be, the Chair thinks, to submit it to the gentleman from Michigan himself, whether or not he considers that he is discussing the merits of the proposition?

Mr. HOWARD. I must discuss the importance of printing the bill. I wish to keep in order.

The SPEAKER. The question is to postpone.

Mr. CLINGMAN. The motion to postpone is the only one that can be voted on, and that is the only one now debatable. The motion to print does not come up until after the motion is disposed of.

Mr. GIDDINGS. I would ask the Chair whether the motion to lay upon the table and print, and to postpone and print, have not been debatable before a division was called for?

The SPEAKER. The proposition usually has been to lay upon the table and print. A division of the motion to print and postpone could be called for; or, if the motion be as it now is, to postpone and print, a division can also be called for. In that case, the first question for the House to decide would be the motion to postpone. That is the question now pending: "Will the House agree to the postponement which has been moved?" and the gentleman must confine his remarks to the merits of that proposition.

Mr. GROW. I desire to inquire if the motion to print would come up as a separate question after the question to postpone is disposed of?

The SPEAKER. The Chair thinks it would.

Mr. HOWARD. Mr. Speaker, I have but little parliamentary experience. I have never yet knowingly violated a parliamentary rule, and I will not now; but I am constrained to urge, with as much force as I may, the reasons why the consideration of this matter should be postponed, and the report printed. We have labored faithfully in the committee to hit upon a proposition upon which we could all agree. For the last two or three days efforts have been made which lead me to suppose that a portion of the members of this House have seen and examined this bill, while another portion of the House have had no such opportunity.

Mr. HUGHES. I insist upon my question of order.

[Cries of "Order!" "Order!"]

Mr. HUGHES. I call the gentleman from Michigan to order.

[Cries of "Order!"]

The SPEAKER. The House will preserve order. The Chair will try to give each member on the floor his rights. The gentleman from Indiana has a right to rise in his place and call any gentleman to order, and he has a right to have his call to order respectfully and properly considered by the Chair. The Chair is of opinion that the gentleman from Michigan was in order in the remarks he was then making, and therefore overrules the point of order raised by the gentleman from Indiana.

Mr. CAMPBELL. Then I hope the gentleman from Indiana will not be interrupting the gentleman from Michigan with these questions of order.

Mr. HOWARD. If I am correct in that impression—and I think I am—the Administration side of the House has been in labor on this subject. I think they have had an opportunity of examining this proposition; while we have had no such chance. Perhaps I am the only man upon this side of the House who has seen it. May I not, then, appeal to gentlemen upon both sides of this House, standing here as we do willing to take this vote without any motion for delay, without any filibustering or any debate—may I not, I say, appeal to their sense of fairness to print this proposition and lay it on our tables, that we may examine it at our leisure, and meet our responsibilities to our constituents like men?

As I have already said, I have no partiality for Thursday as the day on which the vote shall be taken. Possibly, it could be done on Monday. But I will leave the motion standing (as I accepted the amendment) without alteration.

I ask, Mr. Speaker, whether, at any time, it will be my right to discuss the merits of this proposition before the vote is taken? Will I have that opportunity as a matter of right, or is it to be a matter of courtesy? I am not permitted now to go into the merits of the question; but I ask whether, under the parliamentary rule, it is my right to speak on the merits of the bill at any time?

The SPEAKER. It is the gentleman's right to speak at any time if he gets the floor, and the pending proposition is a debatable one.

Mr. HOWARD. That would be my right as a member of the House.

The SPEAKER. The gentleman has no right as a member of the committee, which any other member does not possess, except as a matter of courtesy. Usually the floor is assigned, under the practice of the House, as the Chair understands it, in controverted matters, first to the members of the committee who have had charge of the subject, and then to other members upon the floor of the House. That is the usual courtesy observed by the Chair, but it is not a matter of right.

Mr. HOWARD. I wish so to arrange this matter that the understanding of my colleagues may be completely carried out. When I arose for the purpose of moving this postponement, I undertook to say that, at some time, I desired to speak to the merits of the matter five or ten minutes. My remark was misapprehended. Objection was made; and finally my colleague on the committee made the original motion to postpone until to-morrow. If I could have this right or courtesy extended to me, I would avail myself of it hereafter. I do not propose to proceed now, as, perhaps, it would be disagreeable to the House. If I may have that right or courtesy extended to me at some other time to speak to the merits of the bill, I will not trespass upon the time of the House, whenever I do it, to exceed ten minutes.

[Cries of "Go on now!"]

Mr. HOWARD. Shall I speak now by the unanimous consent of the House, or shall I speak at some other time?

Mr. FLORENCE. I trust the gentleman will be allowed to go on now.

Mr. STEPHENS, of Georgia. I waive all objection to the gentleman's speech.

Mr. ENGLISH. I have not the slightest objection.

The SPEAKER. The gentleman from Michigan asks the unanimous consent of the House to be allowed ten minutes to discuss the merits of the pending proposition.

Mr. WRIGHT, of Georgia. I hope the time will not be limited, and that the gentleman will have an hour if he desires it.

Mr. CLEMENS. Nobody objects.

The SPEAKER. It is suggested by the gentleman from Georgia, that the limit of ten minutes be withdrawn, and that the gentleman be allowed to proceed.

Mr. STEPHENS, of Georgia. I wish to say a word upon that matter. I have no objection at all to the proposition, if an opportunity to reply to whatever remarks the gentleman may make be given; but I think that the bill had better be printed, so that all of us may see it before any comment is made upon it. I think that is the fairest way; and the gentleman (so far as I am concerned) shall have an opportunity to speak at the right time.

Mr. HOWARD. Well, then, I consent to that, and I hope the vote will be taken.

Mr. STEPHENS, of Georgia. Then I wish to say a word upon the question of postponement. I think this House will bear me witness that from the beginning of the session I have acted upon this question fairly.

Several MEMBERS, (on the Republican side of the House.) Yes! yes!

Mr. HOWARD. Allow me to say to my colleague that I did not yield the floor, but I will, in order that he may proceed in order.

The SPEAKER. The Chair was under the impression that the gentleman from Michigan had yielded the floor.

Mr. HOWARD. I am perfectly willing to ask this courtesy at some other time, and to let the vote be taken now.

Mr. STEPHENS, of Georgia. I wish to speak upon the pending question to postpone, and not upon the merits of the principal question. I was remarking that the House will bear me witness that I have acted upon this Kansas question with entire fairness. I have asked no vote without due notice, and I wish to pursue that course to the end. My judgment was, that a postponement until to-morrow would afford ample time for every gentleman upon the floor to form his opinion on the merits of this bill.

In reply to what my colleague upon the committee said—that this question has just been sprung upon the House, and that no one had had an opportunity to see the bill—why, sir, another bill, the proposition proposed by the gentleman from Pennsylvania, [Mr. MONTGOMERY], the one which this House passed, was sprung upon the House instantaneously, and no one upon this side of the House had seen or read it. And yet we did not complain.

Mr. HOWARD. I wish to state, that not one thing has occurred between me and either of my colleagues on the committee that I have the least reason in the world to complain of. The understanding with them was perfect, that I should have an opportunity to move to postpone.

Mr. STEPHENS, of Georgia. Certainly: and my colleague recollects very well that I stated that the report had better be printed before making any comments. Now, then, I think this day week is too long a time to postpone it to. I think to-morrow is long enough; but I am willing that this proposition may be read and studied by every gentleman that has to vote upon it, and that it be postponed until Monday, at one o'clock.

Mr. ENGLISH. I withdraw my motion, and accept that of the gentleman from Georgia, [Mr. STEPHENS].

Mr. HILL. I move to amend that proposition so as to postpone until the second Monday in May.

Mr. STEPHENS, of Georgia. I trust that motion will be voted down.

Mr. HILL. I make the motion to accommodate others as well as myself, who will be necessarily absent.

Mr. CAMPBELL. This question has been discussed for months upon the message of the President of the United States. Various propositions have been made; and now, at this culminating period of the contest, a new programme has been presented from the other side of the House, which we have not had an opportunity of reading or examining. I think that the motion of the gentleman from Georgia, [Mr. HILL], to postpone till the second Monday in May, is a very judicious one; and, without going into an argument about the matter, I demand the previous question.

The SPEAKER. The effect of sustaining the previous question would be to cut off the motion to postpone.

Mr. CAMPBELL. Then I withdraw the previous question, and hope the vote will be taken.

The SPEAKER stated that the first question was on the amendment of the gentleman from Georgia [Mr. HILL] to postpone the further consideration of the subject until the second Monday in May.

Mr. DEAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 108, and nays 105; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Bonham, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Collins, Covode, Cox, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Quitman, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Spinner, Stallworth, Stanton, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—108.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bockock, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockrell, Corning, James Craig, Burton Craig, Crawford, Curry, Davidson, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Landy, Leidy, Letcher, MacLay, McQueen, Mason, Maynard, Miles, Miller, Milson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Ready, Reagan, Reilly, Ruffin, Russell, Sandigo, Savage, Scates, Scott, Searing, Seward, Henry M. Shaw, Sickles, Singleton, Samuel A. Smith, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcofer—105.

So the amendment was agreed to.

Pending the call of the roll,

Mr. BOCKOCK stated that Mr. GARNETT had paired off with Mr. HICKMAN upon all questions relating to Kansas.

Mr. GILLIS stated that he had paired off with his colleague, Mr. STEWART, or he should have voted in the negative.

Mr. KUNKEL, of Maryland, stated that he had paired off with Mr. HORTON until the 30th instant. He should otherwise have voted in the negative.

Mr. HOWARD stated that he had been requested to say that Mr. STEWART, of Pennsylvania, had paired off with Mr. GILLIS.

Mr. PURVIANCE stated that Mr. KUNKEL, of Pennsylvania, had paired off with Mr. TAYLOR, of Louisiana.

Mr. TAYLOR, of Louisiana, stated that if he had not paired off he should have voted in the negative.

Mr. LETCHER stated that Mr. POWELL had been called home on business, and had paired off with Mr. MARSHALL, of Illinois.

Mr. BARKSDALE stated that Mr. LAMAR was still confined to his room by indisposition, and had paired off with Mr. SMITH, of Illinois.

Mr. CLARK, of New York, stated that he had voted in the negative because he was as ready to vote upon this proposition now as he should be at the time to which it was proposed to postpone the subject; but that he would change his vote and vote "ay," to meet the wishes of those in whose views in relation to this question he sympathized.

Mr. LAWRENCE changed his vote for the same reason.

The result of the vote having been announced, as above recorded, the question recurred on agreeing to the proposition to postpone as amended.

Mr. HARRIS, of Illinois moved to reconsider the vote by which Mr. HILL's amendment was agreed to; and also moved to lay the motion to reconsider upon the table.

Mr. BURNETT demanded the yeas and nays on the latter motion.

The yeas and nays were ordered.

Mr. STEPHENS, of Georgia, (at fifteen minutes after two o'clock, p. m.,) moved that the House adjourn.

Mr. JOHN COCHRANE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 100, nays 112; as follows:

YEAS.—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bocock, Bowie, Boyce, Branch, Burnett, Burris, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, James Craig, Burton Craig, Crawford, Curry, Davidson, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Garrett, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Landy, Leidy, Letcher, Maclay, McQueen, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Henry M. Shaw, Sickles, Singleton, Samuel A. Smith, William Smith, Stephens, Stensong, James A. Stewart, Talbot, George Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer, 100.

NAYS.—Messrs. Abbott, Adrain, Andrews, Bennett, Bingham, Bingham, Blair, Bliss, Bonham, Brayton, Bryan, Bullington, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochran, Colfax, Connors, Covode, Cox, Cragin, Curtis, Dammrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Good, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Lench, Leiter, Lovejoy, Humphrey Marshall, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Potte, Purviance, Quitman, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Spinner, Stallworth, Stanton, Tappan, Thayer, Thompson, Tompkins, Tripp, Unton, Wade, Waide, Waldron, Walton, William B. Washburne, Israel Washburn, Wilson, and Wood—112.

So the House refused to adjourn.

Mr. HUGHES. Is it in order to call the previous question on the pending proposition?

The SPEAKER. It will be in order when the proposition of the gentleman from Illinois [Mr. HARRIS] is disposed of. The pending question is on the motion of the gentleman from Illinois to lay the motion to reconsider upon the table.

Mr. CRAWFORD. The House has already postponed the consideration of the main question to a certain day.

The SPEAKER. The question will recur upon agreeing to the proposition as amended.

Mr. HUGHES. I move the previous question.

The SPEAKER. The Chair cannot entertain the motion until the proposition of the gentleman from Illinois is disposed of.

Mr. HARRIS, of Illinois. I would like to inquire of the Chair whether the Chair decides that the motion to postpone until the second Monday in May having been adopted by the House, the question must still be subject to another vote?

The SPEAKER. The proposition of the gentleman from Georgia [Mr. HILL] was moved and received by the Chair as an amendment to the original motion to postpone.

Mr. HARRIS, of Illinois. I supposed that they were distinct propositions.

The SPEAKER. The Chair announced that it was an amendment, and the Chair so received it. The question will recur upon the proposition as amended; but the pending motion of the gentleman from Illinois must first be disposed of.

Mr. TRIPPE. I ask the gentleman from Illinois to withdraw the motion to lay the motion to reconsider upon the table. I will renew it.

Mr. HARRIS, of Illinois. I will do so.

Mr. TRIPPE. Mr. Speaker, I wish to assign, in a few words, the reasons that induced me to give the vote that I did, and which will cause me to adhere to that vote, unless more light shall be shed upon the subject. I should have preferred some earlier day than the second Monday in May, which is the 10th, although I do think that tomorrow at one o'clock would have been too early an hour to decide this great question, with the new phase it is now made to present. I should have preferred, for instance, next Monday. But, sir, a friend from my own State, whose vote I desire shall be given upon this question, announced that he would necessarily have to be absent. He first moved to postpone the subject until Thursday week; and I should have preferred that day to the one voted on; but I understand that other gentlemen from my own section, personal but not political friends, who desire to vote upon this question, will be absent on that day; and hence, I feel it to be my duty to vote for the postponement until the second Monday in May, and I shall be

compelled to adhere to that vote, unless further facts are developed to justify the selection of another day. These are the particular reasons which influenced me in fixing on this day. I can see no controlling reason for not postponing the consideration of this report until that day. I cannot see why any damage should result from the postponement, unless members are afraid of themselves. If gentlemen are satisfied with their own judgments, and will follow the dictates of their own consciences, then no damage can ensue either to them, the measure, or to the country.

I have no idea that there will be any prolonged debate upon the question in this House. If there will be a majority in favor of the new bill it will be in their power to call the previous question upon it whenever it comes up. There may be two or three days' debate, but it need not stand one moment longer in the way of the other business of the House by fixing the 10th of May, than if you were to select any other day. One, two, or three days' discussion from the 10th of May will not arrest business more than the same number of days at any other time. It will be precisely the same thing. I do not intend that my vote upon this postponement shall be taken as an indication of what my vote will be upon the bill itself. There are some features of the bill which did not strike my mind very favorably as I heard it read, and yet due consideration might either remove them, or so weaken them as not to be fatal.

The SPEAKER. The gentleman cannot go into the merits of the bill.

Mr. TRIPPE. I am not going to touch the merits. I say that there are some features, which, upon the reading did not strike me as altogether free from objection. I would like to have had an opportunity to examine the bill. I have sought pretty earnestly for the last twenty-four hours to ascertain what the provisions of the bill would be, but I was not able, nor do I now by any means fully understand some of them. But upon its face, as now imperfectly informed, it strikes my mind that there is something in it that read like taking the back track, upon the great question of going back to Kansas and taking a new vote. It certainly does, if I am not greatly mistaken, in its practical operation, make the whole question of admission depend upon another decision by the people of Kansas.

I repeat that I am opposed to a prolonged discussion upon this report, nor do I suppose any one desires it. The House will not permit it, and the country will not permit it. If it is postponed until the 10th of May, the Senate will have acted upon it by that time. If it is adopted then by the House, it will be of as much value as if adopted now, and no harm can possibly ensue. There is a new phase presented in this bill of the whole question.

The SPEAKER. The gentleman from Georgia is discussing the merits of the bill.

Mr. TRIPPE. I am not going to discuss the merits of the bill, for I do not know enough about it to discuss it. I desire to make this further remark: it was remarked by some gentleman, I do not know now who, that he gave his vote on this question from sympathy with those who agreed with him. Well, sir, I gave my vote out of sympathy with nobody, with no party, but upon my own individual responsibility, and for the reasons stated. I know the custom which has grown up here, of judging of the opinions of men upon the merits of a proposition by every vote they may give upon every collateral question. I beg here to enter my protest against being judged, as to what my position is or may be upon the merits of this or any question, by my vote upon any and every collateral question that may arise—such as this of fixing a time to decide it. And more especially do I thus protest when a measure of this magnitude is thus suddenly presented.

Mr. CLARK, of New York. The honorable gentleman from Georgia misunderstands me if he referred to me. I stated that I voted upon the question of postponement to meet the views of those with whom I sympathized upon the main question, and I changed my vote lest I might be understood by somebody as having changed in my position upon this question.

Mr. TRIPPE. I did not intend to make a point upon the gentleman from New York, because I recognize the right of every man to assign his rea-

sons for the votes he may give; but I was entering my objection against the vote of a gentleman upon every collateral question being made a standard whereby he is to be located as to his final action upon the measure. I have seen, from time to time, a sort of compulsory process of this kind thrown around members upon motions to adjourn, to postpone, &c. They have been threatened with being tabooed, with being called to account hereafter, and with the thunders of party. I simply desired, Mr. Speaker, in this connection, to enter my protest against such surveillance and such exactions; and now, in pursuance of my promise, I move to lay the motion to reconsider on the table.

Mr. SEWARD. I move that when the House adjourns, it adjourn to meet on Monday next.

The motion was not agreed to.

The question recurred upon the motion to lay the motion to reconsider upon the table.

Mr. BURNETT. I appeal to the gentleman from Georgia to withdraw that motion. I will renew it.

Mr. TRIPPE. The gentleman from Kentucky understands my position towards the gentleman from Illinois, [Mr. HARRIS.] If he consents, I have no objection to withdrawing it.

Mr. BURNETT. I then appeal to the gentleman from Illinois.

Mr. HARRIS, of Illinois. If the gentleman from Kentucky promises to renew it, I have no objection.

Mr. BURNETT. I will renew it. I was struck, Mr. Speaker, with the remarks which were made by the gentleman from Georgia, [Mr. TRIPPE,] and I want to see whether I understand his position. He says he would prefer, individually, that the vote should be taken on Monday next.

Mr. TRIPPE. I said I should prefer an earlier day than that proposed by my colleague, [Mr. HILL,] but that I was willing to postpone it until that day, for the reasons assigned.

Mr. BURNETT. The gentleman says that he does not vote upon the merits of the question on the motion to postpone, and refers to the fact that the opinions of his constituents are held in *terrorem* over him—that gentlemen are to be tabooed, and all that sort of thing. If anything of that kind has been done, I know not from what source it has emanated. I take it for granted that every gentleman here votes upon his own individual judgment, and upon his convictions of public duty, without reference to what the opinions of others may be upon any subject.

Mr. TRIPPE. The gentleman will allow me to correct him, for certainly he is laboring under a mistake. The remark to which the gentleman alludes was in connection with entering my protest against a practice which I said prevailed. I may have used the word "threatened"—I will withdraw it. I said that men who were the friends of a measure were classed with its enemies if they were not found voting in a particular manner upon collateral questions of adjournment, postponement, &c. I did not refer to the fact that any gentleman was acting under a pressure of that kind, but to the fact that that construction would be given to his action.

Mr. BURNETT. I understood the gentleman from Georgia to say that he voted for postponing until the second Monday in May, because there were certain gentlemen who could not be here to vote if the question was taken at an earlier day. Yet, sir, he denounced those who desired to vote upon this measure on the day which the gentleman said he would himself prefer, that is Monday next.

Mr. TRIPPE. The gentleman certainly misunderstands me. I certainly did not denounce or condemn any gentleman.

Mr. CURTIS. I submit that this discussion is irrelevant to the motion before the House.

The SPEAKER. The Chair thinks that it is. Mr. CURTIS. Then I object to its going any further.

Mr. BURNETT. The remarks of the gentleman from Georgia were held to be in order when he gave his reasons for the postponement, and I think now that I am not out of order in commenting on them.

The SPEAKER. Whenever the question has been raised the Chair has decided that remarks outside the merits of the motion to postpone were not in order.

Mr. BURNETT. I will endeavor to keep within the rules of the House.

The reason stated by the gentleman from Georgia for his vote to postpone, was in order that there might be discussion of the bill. But the gentleman well understands that under parliamentary law and the rules of this House, if this be postponed, and if the House go into the Committee of the Whole on the state of the Union on a special order, there will be no chance to discuss this question. And when this question comes up on the day fixed for final action, I ask him whether he is still willing to leave this question open for discussion? Will he agree to that when we know that it has been discussed here, to the exclusion almost of every other question, for more than four months? One hundred and twenty speeches have been made on the subject already. It has occupied the attention of this House and the country to the exclusion of every other question.

Mr. CURTIS. I demand that my question of order shall be decided, and the decision enforced. This discussion ought not to go on.

The SPEAKER. The Chair thinks that it is in order for the gentleman from Kentucky to assign reasons, which he is now doing, why the motion to postpone, which has been carried, should be reconsidered.

Mr. TRIPPE. The gentleman from Kentucky has stated that I said that I desired to have a discussion of this question. I said that I thought two or three days might be devoted to a consideration of this new bill, and devoted, probably, with profit to the House and the country. The gentleman remarked, too, that this matter had been under discussion for a long time. I will ask him whether, until the last two or three days, he, or any member, ever heard of the proposition to submit this land question to the people of Kansas?

Mr. BURNETT. The whole subject of Kansas, in every phase in which it could be presented to the consideration of the House, has been discussed ever since the commencement of this Congress. Now, gentlemen may vote from such motive—the want of time for examination and discussion of the question—while the great body of those who are voting for this postponement, vote with the express purpose of defeating any settlement of this question, and leaving it open.

The SPEAKER. The Chair must call the gentleman to order, as he is now wandering from the merits of the question of postponement.

Mr. BURNETT. I voted to postpone this question until Monday. We are here, the Representatives of intelligent constituencies; and I appeal to gentlemen from the North, as well as from the South, whether they are not prepared to make up an intelligent judgment on this question by Monday next at one o'clock? Do gentlemen desire to feel the public pulse at home? Is it that they want this postponement until they hear how their constituents are? If so, then we had better postpone it until we can all again go before the people, and return here with new certificates at their hands. But, if we intend to get rid of this question; if we intend to restore peace and quiet not only to Kansas, but to the entire Union, then, sir—

Mr. GILMAN. Is the gentleman discussing the question before the House?

Mr. BURNETT. I am.

The SPEAKER. The Chair is observing the gentleman very closely, and will call him to order when he leaves the proper line of debate. Occasionally it is difficult for the Chair to determine whether the gentleman is exactly in or out of order. The Chair will consider the point of order raised by the gentleman from Maine as a standing one.

Mr. BURNETT. This bill, I understand, is in the process of being printed. The gentleman from Indiana announced that it would be printed and laid upon the desks of members before the adjournment. We will have it before us to-night for examination; and I appeal to gentlemen whether, upon this simple proposition of a submission of an ordinance, we will not be ready to make up our minds by Monday? Three days are given us from now to examine and consider the proposition. There is not a member who would not be as much prepared on Monday, if he will read and investigate the question, as he would be in twelve months from this time. This is all I have to say. It is a fair proposition for all men who desire to act fairly on the question, and see this Kansas

question disposed of. In compliance with my promise to the gentleman from Illinois, I renew the motion to lay upon the table.

Mr. HILL. I wish to say a word in justification of myself. Had it not been for the particular reasons I have stated, and which are personal to myself, I would not have suggested the postponement that I did.

Mr. GARTRELL. I dislike very much to interrupt my colleague, or to deprive either of my colleagues of explaining thus early to their constituents their votes on this bill; but I will ask the Chair what is the motion pending, and to state whether that motion is debatable?

The SPEAKER. The pending motion is, that the motion to reconsider be laid upon the table, and that motion is not debatable.

Mr. GARTRELL. If it is in order for my colleagues to assign reasons for having voted as they have done, then I will ask the privilege to assign my reasons why neither of my colleagues [Messrs. TRIPPE and HILL] are justifiable in their votes.

The SPEAKER. Objection is made; and debate is not in order.

Mr. HILL. I beg the indulgence of the House to say one word.

The SPEAKER. Objection is made; and debate is not in order, unless by unanimous consent.

Mr. PHILLIPS (at three o'clock, p. m.) moved that the House adjourn.

Mr. MORGAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 103, nays 108; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bockock, Bowie, Boyce, Branch, Burnett, Burns, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, James Craig, Burton Craige, Crawford, Curry, Davidson, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Gartrell, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Leidy, Letcher, Maclay, McQueen, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Quinman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Sickles, Singleton, Samuel A. Smith, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, Tripp, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—103.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Bonham, Brayton, Bryan, Bullington, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cox, Cragin, Curtis, Dammell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goode, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Rutledge, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Ellihu B. Washburne, Israel Washburn, and Wilson—108.

So the House refused to adjourn.

Pending the above call,

Mr. MORSE, of Maine, stated that his colleague, Mr. Wood, had paired off with Mr. TAYLOR, of New York.

The SPEAKER. The yeas and nays are demanded upon the motion to lay the motion to reconsider on the table.

Mr. STEPHENS, of Georgia. I move that when the House adjourns it adjourn to meet on Monday next.

Mr. JOHN COCHRANE. I demand the yeas and nays.

The yeas and nays were not ordered, and the motion was not agreed to.

Mr. STEPHENS, of Georgia. I now appeal to the House before this vote is taken—

Mr. MORGAN. I object to any debate.

The SPEAKER. Debate is not in order.

Mr. STEPHENS, of Georgia. (at three o'clock and twenty minutes.) I now move that the House adjourn.

Mr. BILLINGHURST. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 103, nays 98; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery,

Barksdale, Bishop, Bockock, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caskie, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, James Craig, Burton Craige, Crawford, Curry, Davidson, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Florence, Foley, Gartrell, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hill, Hopkins, Houston, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Leidy, Letcher, Maclay, McQueen, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Quinman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, Talbot, Tripp, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, John V. Wright, and Zollcoffer—103.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Bullington, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cox, Cragin, Curtis, Dammell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goode, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Rutledge, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, Tappan, Thayer, Thompson, Underwood, Wade, Walbridge, Waldron, Walton, Ellihu B. Washburne, Israel Washburn, and Wilson—98.

Pending the call of the roll,

Mr. HUGHES stated that he had paired off with Mr. BURNETT; that otherwise he should have voted in the affirmative.

Mr. FLORENCE stated that Mr. LANDY had been called home in consequence of sickness in his family, and had paired off with Mr. RICARD.

Mr. ADRAIN stated that, as the usual time for adjourning had nearly arrived, he would vote in the affirmative.

Mr. STEWART, of Maryland, stated that he had paired off with Mr. THOMPSON.

Mr. JOHN COCHRANE stated that Mr. TAYLOR, of New York, had paired off with Mr. WOOD.

Mr. CLARK, of New York, said: There is no use of remaining here longer this evening, and I vote "ay."

The House accordingly (at three o'clock and forty-five minutes) adjourned.

IN SENATE.

SATURDAY, April 24, 1858.

Prayer by Rev. S. D. FINCKEL.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. GWIN presented fifty-four petitions signed by five thousand four hundred and fifty-three citizens of California, and a petition of citizens of Oregon, praying for the enactment of a law to provide for the better security of the lives of passengers on board of steamers navigating the ocean, and propelled in whole, or in part, by steam; which were referred to the Committee on the Post Office and Post Roads.

Mr. BIGLER presented four petitions of citizens of Philadelphia, praying that an appropriation may be made for carrying the mails between that city and Southampton, in England, in the Collins line of steamers; which were referred to the Committee on the Post Office and Post Roads.

Mr. MASON presented the petition of R. T. Walton, and others, heirs-at-law of Jehu Walton, praying that the assignment of a land warrant issued in the name of said Jehu Walton may be legalized; which was referred to the Committee on Public Lands.

Mr. YULEE presented a presentment of the grand jury of the United States for the northern district of Florida, relative to increasing the pay of the judge, jurors, witnesses, and officers of that court, the irregularities of the mails in Florida, and the propriety of a change in the mails between that State and Savannah, Georgia; the granting of lots in St. Augustine for school purposes, and the session to the State of the United States barracks in St. Augustine for a seminary of learning; which was referred to the Committee on the Post Office and Post Roads.

He also presented a memorial of members of the bar of the northern district of Florida, praying that the salary of the judge of that district may be increased; which was referred to the Committee on the Judiciary.

Mr. HOUSTON presented the memorial of Edward D. Tippet, praying the aid of Congress to test his cold water steam engine; which was referred to the Committee on Naval Affairs.

Mr. THOMSON, of New Jersey, presented a petition of citizens of Philadelphia, praying for an appropriation for carrying the mails between that city and Southampton, in England; which was referred to the Committee on the Post Office and Post Roads.

Mr. CLAY presented the memorial of Thomas Watts, an invalid pensioner, praying to be allowed back pension; which was referred to the Committee on Pensions.

Mr. SEWARD. I present the petition of James C. Jewett, ship-master and merchant of the city of New York, in which he states that a claim of Mr. A. G. Benson has been heretofore submitted to the Senate for damages, which were sustained by Mr. Benson, in consequence of the action of the State Department in regard to the trade in guano with Peru, and that the Committee on Claims of the Senate have reported in favor of Mr. Benson's claim. Mr. Jewett states that he is the owner of half that claim, and files his petition, praying that the amount due him, \$56,000, according to his statement, may be paid to him. I move to refer it to the Committee on Claims. The motion was agreed to.

PAY OF NAVAL OFFICERS.

Mr. CRITTENDEN. I wish to present to the Senate the petition of Mr. William R. Babcock, as guardian for Samuel Pearce, a passed midshipman in the Navy. Mr. Pearce has been for many years insane. He was an officer of the Navy, and by the late naval board he was placed on the retired list, and his pay reduced to that of furlough. The naval court of inquiry restored his pay to leave pay, which is \$600. The President approved it, the Senate has confirmed it; but in the mean time, between the action of the naval board and the action of the court of inquiry; his pay, according to the sentence of the naval board, was only \$300 a year, a sum which the petition shows to be inadequate to his support. For two or three years he was receiving only the reduced pay of \$300. This petition is to obtain from Congress an indemnity for that loss. I move that it be referred to the Committee on Claims.

Mr. BENJAMIN. I ask the Senator from Kentucky whether or not that class of cases was not provided for in a general bill? I think we did provide for it in a bill.

Mr. CRITTENDEN. I do not recollect.

Mr. BENJAMIN. Was there not a clause of that kind in the bill?

Mr. IVERSON. No, sir. The clause in the regular bill merely referred to officers restored to the active list, and not to those raised to a higher grade. While I am up, before this subject passes away from the consideration of the Senate, I desire to say that it has been my intention for some time to offer a resolution instructing the Committee on Naval Affairs to inquire into the expediency, and, if they find it expedient, to report a bill, or a clause to be inserted in the naval appropriation bill, making precisely this provision for all these officers. I trust, however, that the Naval Committee will take it up without a formal resolution, and act upon it.

Mr. MALLORY. Before this subject passes away from the consideration of the Senate, in response to my friend from Georgia I would say that there are several memorials of this character now before the Naval Committee, and they have the subject under consideration at this time.

Mr. IVERSON. This had better go to the Naval Committee, I will suggest to my friend from Kentucky.

Mr. CRITTENDEN. Let it take that direction.

The petition was referred to the Committee on Naval Affairs.

NAVAL COURTS OF INQUIRY.

Mr. MALLORY. I submit a joint resolution, and in view of its character and the short period of the session remaining, I ask the unanimous consent of the Senate to take it up, consider, and pass it now. If it gives rise to debate, I shall consent that it lie over until Monday morning, but I presume it will pass in a few moments.

There being no objection, the joint resolution (S. No. 30) to extend for a further term the provisions of the joint resolution, approved March 10, 1858, in relation to certain dropped and retired officers of the Navy, was read a first time, and ordered to a second reading.

Mr. MALLORY. I will say to the Senate that I hold in my hand a communication from the Secretary of the Navy, informing the Naval Committee of the Senate that the President of the United States, whose duty it is, under the joint resolution of March 10 last, to take up and examine certain cases which were before the naval courts of inquiry, and which were rejected by these courts, and submit the same to the Senate with his advice thereon, will not have time to give them the examination due to them, between this time and the adjournment of the present session of Congress. The joint resolution heretofore passed, contemplates that he shall examine and submit them, and that the nominations shall be passed upon, and to allow time for this purpose, a postponement is necessary. The committee have recommended that postponement to the 1st of January next. I ask for the passage of the joint resolution now.

There being no objection, the joint resolution was read the second time, and considered as in Committee of the Whole. It was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

CHANGE OF REFERENCE.

Mr. SEWARD. Two days ago I introduced a bill, (S. No. 281,) on leave, establishing a line of telegraphic communication between the Atlantic and Pacific coast. Under a misapprehension, I caused it to be referred to the Committee on Military Affairs. With the consent of that committee, and also of the chairman of the Committee on the Post Office and Post Roads, I ask the Senate to reconsider that reference, and commit the bill to the Committee on the Post Office and Post Roads.

Mr. HALE. I wish to suggest to the Senator that a memorial in regard to telegraphing was referred some days ago to the Committee on the Judiciary. I suggested that it belonged to the Committee on the Post Office and Post Roads, but the Senator from Pennsylvania, [Mr. BIGLER,] who presented it, insisted upon referring it to the Committee on the Judiciary, and it went there.

Mr. SEWARD. I do not know how that may be, but this bill is now in the hands of the Military Committee. The Senator is quite mistaken about the subject-matter. That was a controversy in regard to competition between telegraph lines. This is a bill to establish a line of telegraph.

Mr. BIGLER. I was about to remark that the Senator from New Hampshire is entirely mistaken. The Senator from New York offers a bill which regulates telegraphic operations.

Mr. SEWARD. To establish a telegraphic line.

Mr. BIGLER. It is to establish a telegraphic line. The memorial which I presented was of an entirely different character. It was asking a law to protect certain telegraph companies against what they thought might become an oppressive monopoly.

Mr. SEWARD. The paper which the Senator from New Hampshire has in his mind is a paper which I had caused to be referred to the Committee on the Judiciary.

Mr. BIGLER. One is a question of telegraph, the other is a question of law entirely.

The PRESIDENT *pro tempore*. It is moved that the Committee on Military Affairs be discharged from the further consideration of this bill, and that it be referred to the Committee on the Post Office and Post Roads.

The motion was agreed to.

BILLS INTRODUCED.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 285) to provide for the better security of the lives of passengers on board of steamers navigating the ocean, propelled wholly or in part by steam; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. STUART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 286) to enlarge the Detroit and Saginaw land districts in Michigan; which was read twice by

its title, and referred to the Committee on Public Lands.

Mr. MALLORY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 289) explanatory of an act granting public lands to aid in the construction of a railroad in the States of Florida and Alabama, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. COLLAMER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 290) for the relief of the legal representatives of George Mayo, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to bring in a joint resolution (S. No. 31) authorizing the Secretary of War to expend the appropriation made July 8, 1856, upon such channel of the St. Mary's river as he may select; which was read, and passed to a second reading.

Mr. CHANDLER. I should like to have the joint resolution considered now.

Mr. SLIDELL. I object.

REPORTS OF COMMITTEES.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the petition of Sherlock & Shirley, submitted a report, accompanied by a bill (S. No. 287) for the relief of Sherlock & Shirley. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SIMMONS, from the Committee on Claims, to whom was recommended the petition of Miles Devine, submitted a report, accompanied by a bill (S. No. 288) for the relief of Miles Devine. The bill was read, and passed to a second reading; and the report was ordered to be printed.

FINDLEY PATTERSON.

Mr. BIGLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate be directed to request the Court of Claims to return to the Senate the petition and papers in the case of the application of Findley Patterson, for damages as a contractor for the erection of public buildings in the Territory of Kansas.

OUTRAGE ON MR. DICKSON, AT JAFFA.

Mr. MASON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to transmit to the Senate, if not incompatible with the public interest, copies of any correspondence in the Department of State concerning the outrages lately committed against the family of Mr. Dickson, an American citizen residing at Jaffa, in Palestine.

ST. CLAIR FLATS.

Mr. CHANDLER submitted the following resolution, and asked for its immediate consideration:

Resolved, That the Committee on Commerce be instructed to report the bill heretofore referred to them making an appropriation for the completion of the channel over the St. Clair Flats, in the State of Michigan, and that the appropriation be reduced to \$55,000.

Mr. BIGGS objecting, the resolution lies over under the rules.

DEFICIENCY BILL.

Mr. HOUSTON. I move to take up the resolution which I submitted some days since, in relation to a protectorate over Mexico.

Mr. HUNTER. I desire to make a motion to postpone all the prior orders, and take up the deficiency bill. It is very desirable that we should finish it to-day.

Mr. HOUSTON. I believe that is not according to the practice of the Senate. While morning business remains, it has precedence; and I move to take up, as morning business, the resolution to which I referred, on the subject of a protectorate over Mexico. I desire to have it disposed of. I wish it adopted, and a committee appointed—if there is to be one—on the subject. That will require no debate. It is a mere matter of reference. I move that the resolution be taken up.

Mr. HUNTER. If it gives rise to no debate, and is merely to be referred, I have no objection.

Mr. HOUSTON. That is all I want.

Mr. WILSON. It will give rise to debate.

Mr. HUNTER. I am told that it will give rise

to debate. Then I submit my motion to take up the deficiency bill.

MR. HOUSTON. I move to take up my resolution at all events, whether it leads to debate or not.

THE PRESIDENT pro tempore. The Chair understood the Senator from Virginia to have been entitled to the floor, but to have yielded it to see whether debate would be had on the motion of the Senator from Texas.

MR. HOUSTON. But my motion being in relation to morning business, his motion could not be made except by courtesy.

MR. HUNTER. No doubt I have the right to make the motion. The Senate can agree to it or not.

THE PRESIDENT pro tempore. The question is on the motion of the Senator from Virginia to proceed to the consideration of the deficiency bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 306) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1855, the pending question being on the amendment of **MR. FESSENDEN** to strike out the following words:

"For the regular supplies of the quartermaster's department, consisting of fuel for the officers, enlisted men, guard, hospitals, storehouses and offices; forage in kind for the horses, mules, and oxen of the quartermaster's department at the several posts and stations, and with the armies in the field; for the horses of the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts; for straw for soldiers' bedding, and of stationery, including company and other blank books for the Army, certificates for discharged soldiers, blank forms for the pay and quartermaster's departments; and for the printing of division and department orders, Army regulations, and reports," \$778,000.

"For the purchase of horses for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such infantry as it may be found necessary to mount at the frontier posts," \$252,000.

"For the incidental expenses of the quartermaster's department, consisting of postage on letters and packages received and sent by officers of the Army on public service; expenses of courts-martial and courts of inquiry, including the additional compensation and costs of advocates, recorders, members, and witnesses, while on that service, under the act of March 18, 1852; extra pay to soldiers employed under the direction of the quartermaster's department, in the erection of barracks, quarters, storehouses, and hospitals; the construction of roads, and other constant labor, for periods of not less than ten days, under the acts of March 3, 1819, and August 4, 1851, including those employed as clerks at division and department headquarters; expenses of express and of mail from the frontier posts and armies in the field; of escorts to paymasters, other disbursing officers, and trains, when military escorts cannot be furnished; expenses of the internment of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermaster's department, including hire of interpreters, spies, and guides, for the Army; compensation of clerk to officers of the quartermaster's department, compensation of forage and wagon masters, authorized by the act of July 5, 1838; for the apprehension of deserters, and the expenses incident to their pursuit; the following expenditures required for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, and such companies of infantry as may be mounted, namely: the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and shoeing the horses of those corps," \$190,000.

"For constructing barracks and other buildings at posts which it may be necessary to occupy during the year; and for repairing, altering, and enlarging buildings at the established posts, including hire of commutation of quarters for officers on military duty; hire of quarters for troops, of storehouses for the safe-keeping of military stores, and of grounds for summer cantonments; for encampments, and temporary frontier stations," \$50,000.

"For transportation of the Army, including the baggage of the troops when moving either by land or water; of clothing, camp and garrison equipment from the depot at Philadelphia to the several posts and Army depots; horse equipments, and of subsistence from the places of purchase and from the places of delivery under contract to such places as the circumstances of the service may require it to be sent; of ordnance, ordnance stores, and small arms, from the foundries and armories, to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; for the purchase and hire of horses, mules, and oxen, and the purchase and repair of wagons, carts, drays, ships and other sea-going vessels and boats for the transportation of supplies, and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; and for procuring water at such posts as from their situation require that it be brought from a distance; and for clearing roads, and removing obstructions from roads, harbors, and rivers, to the extent which may be required for the actual operations of the troops on the frontiers," \$5,400,000."

And in lieu thereof to insert:

To supply a deficiency of appropriations for the regular

supplies of the quartermaster's department in the year ending June 30, 1857, \$279,377 57.

To supply a deficiency of appropriations for the incidental expenses of the quartermaster's department in the year ending June 30, 1857, \$129,880 20.

To supply a deficiency of appropriations for the transportation of troops and supplies in the year ending June 30, 1857, \$751,487 15.

To supply a deficiency of appropriations for barracks and quarters in the year ending June 30, 1857, \$87,954 39.

To supply a deficiency of appropriations for the regular supplies of the quartermaster's department in the year ending June 30, 1858, \$300,000.

To supply a deficiency of appropriations for incidental expenses of the quartermaster's department in the year ending June 30, 1858, \$50,000.

To supply a deficiency of appropriations for transportation of troops and supplies in the year ending June 30, 1858, \$2,000,000.

To supply a deficiency of appropriations for constructing barracks, and other expenses incident to the same, and to quarters for the troops, and to storehouses for the safe-keeping of military stores, during the year ending June 30, 1858, \$30,000.

To supply a deficiency of appropriations for the purchase of horses necessary to be purchased in the year ending June 30, 1858, for the two regiments of dragoons, the two regiments of cavalry, the regiment of mounted riflemen, the companies of light artillery, and such infantry as it may be found necessary to mount at the frontier posts, \$100,000.

MR. CHANDLER. I hope this amendment will be adopted, because I believe it proposes to furnish all the Administration needs to carry on the Utah war. The fact is, sir, that I begin to have some hopes of this Administration, for it is evident that they have changed their advisers. On the 27th of January last, when the Army bill was under consideration, I had the honor to submit a proposition, which I perceive has been substantially adopted by President Buchanan and his Cabinet. He has not given me credit for it; he did not consult me privately; but he is evidently acting on my suggestion. I wish to read what I said on the 27th of January last:

"Now, sir, I suggest another remedy. I do not propose to send regiments and bayonets into Utah at this stage of the proceedings; but I propose that we employ a missionary, a sound missionary, a man known to be in the confidence of this Administration. Let him have letters patent from this Administration, showing that he does possess their confidence and represent their views. Send this man alone, without arms and without bayonets, to Brigham Young and to the people of Utah Territory; and after having exhibited his testimonials, let him say to Brigham Young, 'Sir, you are under a misapprehension on this whole question.' He may reply, 'Here is the bill which declares that the people of the Territories shall be left perfectly free,' not only to regulate, but 'to form their domestic institutions in their own way,' and there is no misapprehension about it.' 'Ah! the missionary can reply, 'that was a mere tub thrown to the whale; that was to catch northern votes; that was to save the honorable Senator from Illinois, and the honorable Senator from Michigan, and other honorable Senators, from annihilation at home. It does not apply to the people of the Territories. You must obey the laws; and if you do not obey them we will send an army, and we will exterminate your whole race.' If you can convince him that this man is the faithful exponent of the views of this Administration, and that that army will be forthcoming unless he submit to the laws, you will have no war, for he dare not resist this Government."

Now, sir, Mr. Buchanan has not given me credit for that suggestion, which I made three months ago, though he has substantially followed it. It is true, he has changed the name. I recommended a missionary, and he calls his agent a commissioner. I recommended one; he takes two; but that is immaterial; two certainly will do as well as one, and I accept his amendment. One might be lonesome. As I said, I really begin to have hopes of this Administration, inasmuch as they have changed their advisers; and I trust this amendment will prevail, because these commissioners, I verily believe, will close this whole contest. I think the honorable Senator from Maine has actually proposed a larger appropriation in this amendment than the Administration may require under their present advisement. I have no doubt the President has carried out my suggestion to the letter. I have no doubt these men have gone there with letters patent, and that they will convince Brigham Young that they do represent this Administration; that they are in the confidence of the President; and that Brigham Young will say at once, "I have been under a misapprehension; I have no idea of coming in contact with the Government of the United States." Even this appropriation is twice as large as you will require; but I hope the amendment will prevail.

The question being taken by yeas and nays, resulted—yeas 22, nays 30; as follows:

YEAS—Messrs. Bell, Brodriek, Chandler, Clark, Collamer, Dixon, Doohitie, Durkee, Fessenden, Post, Foster, Hale, Raudin, Harlan, Johnson of Tennessee, King, Sewall, Simmons, Stuart, Trumbull, Wade, and Wilson—22.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler,

Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Stidell, Thomson of New Jersey, Toombs, Wright, and Yulee—30.

So the amendment was rejected.

MR. HARLAN. I propose to amend the bill by striking out that part commencing with line one hundred and twenty-seven of the first section, and ending with line one hundred and thirty-five. The words to be stricken out are:

"For surveying the public lands and private land claims in California, including office expenses incidental to the survey of claims, and to be disbursed at the rates prescribed by law for the different kinds of work, being the amount of surveying liabilities incurred by the surveyor general during the fiscal year ending June 30, 1857, over and above that authorized under the appropriation of \$50,000 for that period," \$220,000."

MR. TRUMBULL. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

MR. HALE. I should like a little further explanation of this item by the Senator from California, [Mr. GWIN.] I understood him to say yesterday that the knowledge of the appropriation for this service did not reach California until after the contracts were made. I should like to know how long it takes the news to go from here to California, and at what time the appropriation bill was actually passed that year?

MR. GWIN. As I stated yesterday to the Senate, these were continuous contracts. I have a list of them before me. It has been the policy of the Government for many years in surveying public lands to give out certain quantities, and to limit contractors to so much work as would be covered by the appropriation for the current year; but it has never been the practice, until it was established by this Administration, to have the settlements made up to the 30th of June in each year. For instance, when the appropriations for the last fiscal year were exhausted, it has been the practice of the Government, ever since the public land system was established, to keep the accounts continuous; but last year the present Secretary of the Treasury brought the subject before the President, and he decided that the contracts should be settled up to the 30th of June of each year. Heretofore, these contracts running on, if a deputy surveyor could not get through with his contract in a single year, he was paid continuously out of the appropriations as they were made. These contracts were entered into in 1854, 1855, and 1856, and they were always limited to the estimates, and to the amount of work which could be done in the current year. The appropriation bill, in this case, passed, I think, on the 15th or 16th of August, 1856. That was for the fiscal year ending June 30, 1857. A steamer for California could not have left here before the 20th of that month, and that would make the date of its arrival in San Francisco about the 15th of September, more than three months after the fiscal year had commenced.

The deputy surveyors were then in remote sections of the State, in uninhabited sections, where there was no mail communication. They had to fit out their surveying expeditions at great cost, to protect themselves against the Indians, who frequently committed depredations, killed their men, and robbed their camps. Months must have intervened before they could be aware of the fact that the estimates of the surveyor general had not been passed by Congress, and before he could be aware of the fact that the distances between certain points which they were to survey exceeded the amount of his estimates. This resulted from the fact that there was no reliable information on which to give a statement of the exact extent of the country from one point to another, before the surveys were actually made.

The whole of this deficiency originated without the slightest idea on the part of the contractors or the surveyor general that there would be any deficiency at all, or that there would be any diminution of the appropriation estimated for by him. As I stated before, the cost of the work exceeded the \$150,000 estimated for, entirely on account of the distances between the natural objects within which the contracts were given out.

MR. HALE. When were the contracts made?

MR. GWIN. They were made in 1854, 1855, and 1856—so much to be executed in each year, according to the amount of the appropriation estimated for.

MR. HALE. Then, if I understand this case,

and I do not know that I do, this appropriation bill providing for surveys in California was passed on the 15th of August, 1856, and the news of it must have got to California as early as the 15th of September, 1856. It would seem to me, then, that it was the obvious duty of the surveyor general, who found out, as early as September, 1856, that Congress had appropriated but \$50,000, to do what he could to suspend his work, so as to bring his expenditures within the appropriation made by Congress. It appears, however, that, having the knowledge, certainly as early as the 15th of September, 1856, that Congress had refused to appropriate more than \$50,000, instead of making an effort to bring his work within that sum, he goes right on, just exactly as if there had been no limitation, and, instead of spending \$50,000, spends \$270,000.

Now, I do not know but that he is an honest man; I presume he is. I do not know anything about him. I look at the case outside of anything connected with the character of the man; but, as a great principle of public policy, is it right for Congress to pass over such an act as this, on the part of any officer who, as early as September, is distinctly notified that the Government will not spend more than \$50,000 from then until the next July, and still goes on and spends \$270,000?

Mr. GWIN. I stated that the surveyor general had no means of communicating with the deputies; and he had no means of knowing what progress they had made with their work. The season there is peculiar; there are eight months without rain. In some seasons the surveyors can make great progress, and in others but small progress. In the first place, the surveyor general could not communicate with the deputies without sending a messenger hundreds and hundreds of miles at his own expense. He had no idea that they could exceed his estimate, and could not tell until he received the returns. It being a favorable season for surveying, they did more than he or they expected. The contractors themselves had not the most remote idea that they were exceeding the appropriation, because it was a subject that never occurred to them. They made the contracts with the surveyor general; the appropriations before that had always been \$300,000 a year; he only asked a diminution that year because the previous season had been very unfavorable in those regions; the Indians had been very troublesome; and he had not exhausted the former appropriation; and he expected that \$150,000, with the addition of the balance held over from the former year, would cover the service of 1856-57.

I will say to the Senate that every one of these accounts has been adjudicated by the Commissioner of the General Land Office. The work of every one of these deputy surveyors has been examined, and the surveys have been approved, and the lands are now being offered at public sale. The very work that these officers performed will bring millions of dollars into the Treasury. There are now two and a half million acres advertised, and there are to be millions more in a few days advertised for sale, and ten millions more at the beginning of the next year, making twenty-three million acres altogether, and the whole expense of the surveys has not exceeded a million dollars.

Mr. HALE. I shall not occupy time, but simply say that I think it would be a dangerous principle to sanction this in an appropriation bill for deficiencies. I think there is a great deal of wisdom and a great deal of correct philosophy in the suggestion made by the honorable Senator from Louisiana, [Mr. BENJAMIN,] that if any of these officers have gone on and in good faith expended money without appropriation, we ought not to wink at it; we ought not to appropriate the money as a matter of course; but in such a case let them come as all other claimants do: with their petition in the nature of a private claim, and let it be investigated. If they have honestly spent the money, we ought to pay them; but do not in the general appropriation bill sanction such a loose practice.

Mr. HOUSTON. In relation to this survey I know very little—nothing except from the remarks I have heard in the Senate; but as to the character of the individual who was surveyor general of California, I can speak with a full knowledge. From fifteen years' intimate acquaintance with him, and with his transactions in public as well as private life, I know there is on the face of

the globe no man more honest, more patriotic, and more faithful than he is, and I am satisfied that, though not the most accurate and minute man of business, if he transcended the powers delegated to him, he did so from a full conviction that he was promoting the interest of the public. Sure am I that he had no ulterior views of self-aggrandizement or of pecuniary gain beyond the legitimate salary of his office and the perquisites fairly his. Though it may be somewhat irregular, if it is a claim by an individual for justice, the Government has the same ability to pay it now that it will have at any future time. I cannot perceive the propriety of postponing it and putting in a private bill. If it would be just to pay it as an individual claim, it is equally just to embrace it in this deficiency bill, though I am not much in favor of deficiency bills; but it is as proper to pay it now as at any other time; the consequence of not paying it will be ruin to him. Where a man has been just, honest, and faithful, and where the benefits of his labors and misapprehensions have accrued advantageously to the Government, I do not see any just excuse that we have for postponing it. To receive the work and labor of individuals, faithfully performed, and not require them for it, would be to stamp infamy upon this Government if it is able to pay its debts; and if it is not, let it declare itself bankrupt. If it has the means of paying just demands against it, let it meet them properly, and defray the expenses incident to its existence and preservation.

Mr. TRUMBULL. I do not mean to be understood as refusing ever to pay the debt incurred by the surveyor general of California, but I think we should act consistently in regard to this bill. It is known that the third section of the bill, which makes provision for refunding to the Clerk of the House of Representatives money which he paid out by order of the House, has been stricken out by the Senate, upon the ground that the House of Representatives had no right, under the law, to direct the payment of that money. That, it seems, has been a disputed point, the law having been construed differently by the Departments. It further appears, that the resolution of the House, under which the Clerk made the payments, is a usual resolution, and that payments have heretofore been made under such resolutions without objection. The Senate, however, has decided to strike that section from the bill.

Now, let us not make fish of one and flesh of another. Here is a proposition for paying, not a small sum, as is provided for in the third section, but paying \$220,000 in addition to the \$50,000 heretofore appropriated for this object. We are asked to pay a debt of \$220,000 incurred without any authority of law. But it is said by the Senator from California that the surveyor general of that State was not apprised that Congress would not make a larger appropriation. Does that alter the case? Are the officers of this Government to go on and make contracts upon the presumption that Congress will make appropriations to meet them? By what authority did the surveyor general of California make a contract involving this Government in one dollar's expense? What authority had he to make a contract to involve it in one dollar's expense, unless the law authorized him, or the law appropriated money to it, or he was directed to make the contract? It seems to me that, if we mean to deal fairly with the officers of the Government, we cannot, after striking out the third section, refuse to strike out this clause.

Mr. HOUSTON. I would remark, sir, to the gentleman from Illinois, that upon the very same principle that I voted to retain in the deficiency bill the section proposing to reimburse the Clerk of the House of Representatives, I vote to pay the surveyor general of California. I was opposed to striking out the third section of the bill; I thought it ought to be retained. I thought that if the Clerk had faithfully paid out the money, he ought to be reimbursed, particularly as he had done it under an order of the House of Representatives, because he was their officer, subject to their direction; and if he faithfully executed their orders, the nation, in good faith, was bound to defray the expense, or to repay him the money he had disbursed, and credit him with it at the Treasury. That is the reason I voted against striking out the third section. Now, as the benefits of the mistake of this surveyor general of California have resulted to the advantage of the Government, and it has received

the labor performed in consequence of the misapprehension he entertained, I think we are equally bound, in good faith, to pay him.

Mr. PUGH. It appears to me that the distinction between the section that was stricken out, and the section now before the Senate, is so plain that no ordinary amount of ingenuity can confuse them. In the former case, where one of the disbursing officers of Congress had paid out money in violation of law, and we refused to sanction it, it was urged that we ought at all events to reimburse him, because he had been misled by the action of the House, to which the answer was very properly made by my friend from Louisiana that that being an appeal for him personally, the Government having received no consideration for this payment, and not standing in the attitude of confirming the appropriation, but simply of relieving an individual, it was proper for us to entertain it as a private bill.

But, sir, what is this case? The law requires the surveyor general to see that the public lands are surveyed. He has to employ competent persons for that purpose; and whenever he finds surveyors who are competent, he makes a contract with them for a large district of country, approved by the Commissioner of the General Land Office. He has no discretion as to prices; they are fixed by law. It is not a question of favoritism. It is a simple question of quantity. Here is a large tract of country that is to be surveyed at some time. The sole question for the Government, with a view to its revenue, is whether you will survey the whole of it this year, or will take two, three, four, or five years to do it in. That is regulated by the amount of the appropriation. The work is at some time to be done; it is indispensable that it should be done; for until it is done, the public lands cannot be offered for sale.

Now it seems that Congress, having persevered for a number of years in appropriating large amounts for the surveying of districts of country in California, suddenly changed its policy. We know that it has been a source of complaint, and, in my humble judgment, of well-founded complaint, on the part of the people of California, that, owing to the number of private land claims; and to the character of the mineral lands, we have not progressed as we ought to have progressed in securing the settlement of that State. We suddenly stop in an appropriation bill passed in the middle of August, 1856. The fiscal year is entered upon; the surveyors are in the field; they are in a remote part of the State, a part not at all explored. And now what is the fact as it appears by the report of the surveyor general, and of the Commissioner of the General Land Office? That there were errors of distance and of quantities, whereby the amount of work that these men perform exceeded the appropriation for that year. They did it a year too soon, or two years too soon—that is all. The work must at some time be done, and at some time be paid for, and be paid for at the same prices; and to be done either by the same individuals or by others equally competent. We have received the fruits of their labors. They have surveyed this amount of public lands; their surveys are accurate; they have been approved at the General Land Office; the land has been offered for sale; we have received the work and labor of these men at prices which we ourselves fixed; and now we are told that we should not pay for it, either because they did more than we required of them, or because the surveyor general was misled as to the quantities or the numbers of sections. It seems to me to be a proposition that two honest men ought not to dispute about. We have the fruits of their labor, and we are simply asked to pay for it this year, instead of paying for it next year. It seems to me there can be no ground of complaint.

Mr. GWIN. I would say to the Senator from Illinois that it seems a great hardship that the deputy surveyors of California should suffer by his vote on this particular amendment, simply because the Senate struck out the third section of this bill. I voted against striking out that section; but I do not think my constituents should suffer because a majority of the Senate do not do what the Senator thinks is right in that case. We voted together on that section.

Mr. HARLAN. The Senator from California is in error when he states that it has been the uniform custom of the officers of the Government

to give surveying contracts without limit as to amount or time. This is not the uniform custom. It may have been the common practice in California; in fact, I think we have the evidence before us that it was the practice there; but we have no evidence whatever that a similar policy has been adopted and pursued in any other surveyor general's district. And, sir, I know, personally, that this course has not been pursued in the region of country that I have the honor, in part, to represent. I know, at least, that my colleague's successors in office gave no such contracts, nor do I believe that he ever did when he filled that office himself. The contracts are made definite where ever it is possible that they can be thus made. The amount of work to be performed is made specific wherever this is possible. The surveyors general of the district in which I reside have, I know, always attempted to limit themselves, in giving out contracts, to the amount of money appropriated by Congress; and, as to time, have deferred giving out contracts until after the appropriations have been made, in order that they might know what amount of work to contract for.

It seems to me that this is too plain a proposition to require any explanation. That this would be the proper course to be pursued none can doubt; and that it has been the usual course I have not a shadow of doubt. I do not assail the honesty of the surveyor general of California. As to his integrity of character, I have nothing to say. The only point to which I have called the attention of the Senate is, that he has authorized work to be done which Congress never authorized to be done. The only excuse given for this policy on his part by the Senator from California is, that he made contracts that were unlimited as to amount or time. This is doubtless at the foundation of the error; but it makes the error none the less, because that error was committed in writing. It was stated, I believe just now, by the Senator from Ohio, that this had been approved by the Commissioner of the General Land Office.

Mr. PUGH. I said the surveys had been.

Mr. HARLAN. As to that, the Senator is in error.

Mr. PUGH. The Senator from California stated it, and I presume he knows.

Mr. HARLAN. The Commissioner of the General Land Office, in the report before me, states simply that these surveys have been certified to be correct by the surveyor general of California.

Mr. GWIN. They have been passed by the Commissioner of the General Land Office, and only await this appropriation.

Mr. JONES. I desire to ask my colleague a question. What will become of the four deputies who have done this work if you refuse here to make the appropriation? Are they to come to Congress and petition from year to year to get the money which is due them for their hard labor? I think this appropriation ought to be made, even though the debt has not been incurred in strict accordance with the law and the custom of the Government. I know, however, that surveyors general heretofore have frequently gone beyond the amount apportioned to them for surveys; and deputy surveyors, from time to time, came to me when I was surveyor general, and since that time have come to Congress, to be paid, if they have not been paid, merely because the surveyor general chose to exceed the amount apportioned to him for surveying. The deputies cannot know whether he has exceeded it or not. Would my colleague have innocent parties suffer—the deputy surveyors of California? If the surveyor general is not competent or honest, remove him from office; but do not punish the innocent deputies. I think the section ought to be retained.

Mr. HARLAN. I ask my colleague if he intends to say that the deputies who have done such work hitherto have come to Congress for their pay?

Mr. JONES. They have had to do so, certainly.

Mr. HARLAN. Then it will be no greater hardship for the deputies in California to come to Congress in person to receive their pay than for the deputies in Iowa to come to Congress for their pay. This is what we propose to allow them to do—to come to Congress, and let the Congress of the United States say whether they shall be paid or not, after having examined the equity of their claims.

I would say further, that I propose to place them just where the majority of the Senate propose to place the Clerk of the House of Representatives. It is stated here that money was paid by him without authority of law; and we are told by the Senator from Louisiana [Mr. BENJAMIN] that he may have an equitable private claim on Congress for indemnity, if he has paid out money under a mistake, and in view of his duty, under a resolution of the House of Representatives, illegally passed. The Senator says he ought to come to Congress as a private claimant; that his claim should be referred to a committee, and that the committee should be authorized to send for persons and papers, and put witnesses on oath, and subject them to cross-examination. If that is to be done in relation to an officer of the House of Representatives, paying, by an order of the House, money out of the contingent fund of that House, it certainly cannot be regarded as a hardship to require the surveyor general of California to present his case in a similar way, when he himself confesses that the work has been contracted for without authority of law.

Mr. BENJAMIN. The Senator from Iowa will allow me to make one suggestion to him. This money is not to be paid to the surveyor general at all. It is not proposed to pay it to him, but to the sub-contractors, whose work has been examined by the General Land Office, and approved.

Mr. HARLAN. I have just remarked that this work has not been examined by the General Land Office. The Commissioner of the General Land Office says it has been certified to by this same surveyor general, who, without authority of law, authorized the work to be done; and now I propose to show the Senator from California that these men have been paid for that work.

Mr. GWIN. If you do, I will give it up.

Mr. HARLAN. Well, sir, I read from the message and documents of 1856-57, part I., page 383, the annual report of the surgeon general of California.

Mr. GWIN. What is the date?

Mr. HARLAN. The report is dated September 30, 1856.

Mr. BENJAMIN. A year too soon.

Mr. HARLAN. No, sir. I will take the fact stated in this report, in connection with the report for the year ending June 30, 1857. The surveyor general states, in his report dated September 30, 1856, that but little work has been done, for a reason which he assigns, as follows:

"A few fractional townships have been surveyed where the immediate wants of the settlers enabled them to pay the deputy a sufficient amount beyond the price allowed by the Government, to save him from losses."

It seems that these deputies have not only contracted to do work for the Government at the prices fixed in the law, as I am told by the Senator from California, but that they have been authorized by the surveyor general there, or have without such authority, also charged the settlers on the public lands an additional amount of money which, in their judgment, would justify them for doing the work.

Mr. GWIN. Will the Senator permit me to correct him? This has reference to private land claims—Mexican claims that were adjudicated by the board of land commissioners, where the amount allowed by the United States for the surveys, which was fifteen dollars a mile, would not compensate any deputy surveyor for the work. It has no reference to settlers on the public lands. It has been proposed to change the law so as to give a sufficient amount to enable the surveyor general to make contracts exceeding the present price fixed by law, in order to put a stop to that practice which is dangerous, in my judgment, and never ought to be permitted. The private land claimants, under grants made by Mexico, ought not to be permitted to give the deputy surveyors a compensation over and above what the law authorizes the surveyor general to give them, to induce them to survey their land. The price fixed by Congress is at such a low rate that it is impossible to get the claims surveyed, and it is now proposed to have additional legislation on that subject, so as to prevent that very practice.

Mr. HARLAN. The Senator from California is again in error. I will read more from this report, in order that he may understand it fully:

"The surveying operations of the State have therefore

been confined for the most part to sections where these claims do not interfere, and to valleys in the mountain districts, now so eagerly sought after by the settlers, in the northern portion of the State, adjacent to mining districts and towns; and in the southeastern portion, to the valleys and slopes desirable for stock ranches and agricultural purposes generally."

"Connected with the Humboldt meridian, but little has been done. The rugged nature of the country, and the density of the timber in the most desirable districts, renders it impossible to procure the surveys at the present prices allowed by law. A line has been extended direct and by offsets, along and near the coast north of Humboldt bay, to a point near the State line."

"A few fractional townships have been surveyed where the immediate wants of the settlers enabled them to pay the deputy a sufficient amount beyond the price allowed by the Government, to save him from losses."

But, sir, it makes no difference whether these were private claims or public lands. The surveyors are paid under the laws passed by Congress by the General Government, so that it does not matter whether these were private lands surveyed by the public surveyors at the expense of the General Government, or whether they were public lands not covered with private claims. Here it is clearly stated by the surveyor general in his report that the deputy surveyors have, by the authority, as I think it may clearly be inferred, of the surveyor general, charged the settlers an additional amount to that authorized under the laws of Congress. Wherever they were willing to pay this additional amount, the lands have been surveyed. Where they were not able, or were not willing, they have not been surveyed; and hence he accounts for the limited quantity of public lands surveyed in his district. Now, in order that we may know something of the amount thus charged additional to the sum allowed under the laws of Congress, I propose to read from the report of the surveyor general contained in the message and documents of 1857-58.

Mr. HUNTER. I will say to the Senator from Iowa, that I have laid my hand on a paper which I had mislaid yesterday, from Mr. Hays, the surveyor general, explaining the whole matter. It states the facts, and perhaps he would like to have it read before he goes on.

Mr. HARLAN. I am willing to have it read.

The Clerk read, as follows:

UNITED STATES SURVEYOR GENERAL'S OFFICE,
SAN FRANCISCO, CALIFORNIA, March 19, 1857.

SIR: In obedience to the requirements of your letter of the 2d of January last, I forward you, accompanying this, in a tabular form, marked A, a statement of all the contracts entered into with deputy surveyors by me, with the date of the contracts, names of the deputies, the date of the expiration of the contracts, the extent of the contracts, and the probable liabilities incurred upon entering into the same, and out of what particular appropriation it was intended to liquidate the same. By your letter of the 3d of November, 1855, to which reference is made in your letter of January 2, 1857, it was stated that on the 30th of September, 1855, there was applicable to the surveys in this State, the sum of \$375,922 08, and that for the present fiscal year there was an estimate of \$50,000, which was subsequently appropriated, making the amount applicable, to July 1, 1857, \$425,922 08. With this large amount applicable to the surveys, I did not think that any possible difficulty could arise from making the contracts which have been entered into since the receipt of the letter above referred to, as those contracts anticipated the expenditure of only about \$280,000. From the knowledge possessed of the nature of the country, but a very imperfect estimate could be made of the extent of the work which could be made within the limit assigned to any contract. The extent of the arable land being found by actual examination much greater than anticipated, the surveys of which would have eventually to be made, in almost every case the returns of work greatly exceeded the amount originally estimated, in consequence of which, and much to my surprise, work to the amount of full \$194,000 has been presented since January 18, 1857, embraced by contracts which were originally made to expire during the years 1854 and 1855, but on which extensions of time had been granted to the deputies. This excess of liabilities over the appropriations is one that it was impossible to foresee at the time of making the contracts, and I can only assure the Department that it is as much regretted by me as it was unexpected. The last contract, it will be seen, was made on the 1st day of January, 1857; no more, of course, will be entered into until advised by the Department. Such deputies in the field as could be recalled without utter ruin to them, have been notified of the wish of the Department and have accordingly returned. The surveying of confirmed land claims is continued, with the explicit understanding that the claimants pay the expenses, and only to be reimbursed from appropriations hereafter to be made for that purpose.

Very respectfully, your obedient servant.

JOHN C. HAYS.

United States Surveyor General of California.

HON. THOMAS A. HENDRICKS,
Commissioner of the General Land Office, Washington.

Mr. HARLAN. I do not see that there is any information in this paper pertinent to the point on which I was addressing the Senate, not contained in the official report of the surveyor gen-

eral, to which I have previously alluded. As I was about to state, the additional amount of money which the deputy surveyors probably charged, over and above that allowed by law, increased their pay for each mile surveyed to I think about twenty-five dollars. I stated yesterday that I thought the amount of money paid for the surveys in California had reached the sum of twenty-five dollars a mile. The Senator from California corrected me, by stating that he thought fifteen dollars was the whole amount allowed under the law; and thus far I stand corrected, as I have no doubt he knows what the provisions of the law are on that subject. But the additional sum has been charged as well to settlers on the public lands as to private claimants, as will appear from the papers transmitted to the Commissioner of the General Land Office by the surveyor general. He proposes to increase the pay for the deputies in the field and for office work, and says:

"As the best and clearest method of presenting my views as to the legislation which is required to meet the necessities of the subject, I have taken the liberty of placing them before the Department in the form of the accompanying bill," marked "B."

From that proposed bill I read:

"That for making the surveys of the confirmed private land claims in California, the surveyor general be, and he is hereby, authorized to pay such sum as he may deem reasonable, according to the circumstances connected with each case, not exceeding at the rate of twenty-five dollars for each mile of the boundary lines of any claim, and also for such lines as may necessarily be run and marked or measured, in order to connect the lines of such claim with those of the adjacent public surveys."

In the next section he proposes to allow a deputy the liberty to take testimony in relation to the boundary lines:

"And as compensation for so doing, the surveyor general shall allow him such a sum as may be deemed reasonable, not exceeding ten dollars per day, for the time necessarily so employed, and not more than fifty dollars in any one case."

This is the proposition made by the surveyor general, as being necessary in order to secure for the deputies the amount of compensation necessary to justify them in performing this work. He goes on to explain:

"The present price allowed for surveying the claims alluded to, is such that it is almost impossible to procure competent deputies to execute the work. Hence the present state of uncertainty as to the lines which are to separate the private claims from the public domain will have to continue, unless the additional sums requisite to compensate the deputies for their time and labor, shall be paid them by the confirmers."

He then discards the propriety of calling on the claimants to pay the surveyors who establish the boundaries to their claims, and adds:

"In many cases the proposed maximum would not be more than a just allowance for the execution of the field work."

The proposed maximum is twenty-five dollars per mile, with the additional sum of ten dollars a day for taking testimony. He says that this maximum amount in many cases would not be more than sufficient to pay for the field work, requiring additional pay for the office work, that is, making out in regular form the plats and field-notes, delineating streams, mountains, lakes, timber, and prairie.

Then in the other report which I have just read, we learn that the same system of deputies charging settlers additional compensation has been authorized or approved by the surveyor general. If they were confined to the maximum which he suggests as a proper compensation to be paid, twenty-five dollars a mile, with the additional sum of ten dollars a day for taking testimony, it would seem, if the law only allows them fifteen dollars a mile now, that they have already received ten dollars a mile for this work in addition.

Now, I undertake to say that ten dollars a mile with the additional sum of ten dollars a day for taking testimony is sufficient to pay for this work. I know there originally was, and still is, a disparity between the price of work in California and in my own State; but a large amount of the field work done in Iowa, as well as the necessary office work to make the surveys complete, has, I think, been done for \$3 75 per mile for sectionizing, and six dollars a mile for surveying township and meridian lines. In this case, it appears from the papers, that these men have been paid by the people of California for the work they have done, at the rate, probably, of ten dollars a mile in addition to their regular pay; that is, if they did not in these private charges go beyond the maximum

amount proposed by the surveyor general to be allowed hereafter by law.

Then, sir, the appeal of my colleague to the sympathy of Senators to pay the poor deputies is misplaced; and I may as well remark here, that he and I differ in our practical knowledge in this respect. He has been surveyor general; I have acted as deputy. He understands, perhaps, the office work in the surveyor general's office; I know how to run, measure, and mark the lines, and make returns; and, having performed work of this kind, I know what the character of my contracts received from his office were; I know what the limits were on those contracts as to time and amount; and, having seen the contracts of other deputies in the field, I know what the policy has been in relation to the work in that part of the country. I know not what my colleague may have done as surveyor general. I know what his immediate successor has done as surveyor general. I know that he did, in all the cases of which I have had personal knowledge, limit the work specifically as to amount and time, whenever the nature of the work would justify this limitation; and I know also that he limited, or professed at least to limit, the number of contracts, as well as the quantity of contracts given out, to the amount of money appropriated by Congress.

Then, by agreeing to the proposition which I make to strike out this clause, we do not impose any hardship on these deputies, because, according to the showing of their own superior, they have already probably been paid, and amply paid, by the private claimants and the settlers on the public lands that have hitherto been surveyed. I regard this as a swindling operation from the beginning to the end; and the Senate is now called on by a solemn vote to justify it, and pay this enormous amount of money for work which Congress never authorized, and that, too, in the face of the conclusive argument of the Senator from Louisiana. According to his argument, if they are entitled to further pay for this work, their right is merely the right of a private claimant, who has performed work without authority of law, and comes to Congress on the equity of the case. Let these men come in that way, and Congress doubtless will allow the claim, after they shall have been satisfied that these parties have not hitherto been paid, and that the work has been properly done, and done at proper prices.

Now, sir, in connection with this matter I desire to state another section of the history of the surveys in Iowa. It is a very easy matter for a deputy in the field, if winked at by his superior, the surveyor general, to make false returns. A large contract was given out in Iowa at one time to a deputy surveyor, who went to the field, as it is said, took a general survey of the country, it being principally a prairie country, a sufficient personal view to be able to delineate with tolerable accuracy the position of streams and groves, and timber and prairie lands, and then he made out regular plats of his work, without ever running with his compass or measuring a single line. According to the formulas provided by the surveyor general, he made his return to the surveyor general's office; and there the fraud in that case was detected in this way: the apparent extreme accuracy of the work aroused the suspicions of the chief clerk. He thought it would be impossible for the surveyor in the field to make his closings with such accuracy in the performance of his work. His work, as delineated by the pen, was too well done; and a deputy sent to the field discovered that a great fraud had been attempted to be practiced on the Government of the United States.

I have been told here, I know not with how much truth, that this surveyor general, as has been often the case with such officers, is not a practical surveyor; that he is a mere civil officer, perhaps honest, but without that professional knowledge which would enable him to decipher the probable honesty of the work which was reported to have been done by these deputies. Now, with a personal knowledge of what has been attempted to be done hitherto, and probably with success, where the superior is not himself a practical surveyor, I think it probable that a large amount of this work, which has been returned to the surveyor general, and by him to the Commissioner of the General Land Office, has never

been performed. It may be said that the surveyor general had authority to send out special deputies to examine the work, but that is mere moonshine. Any man who has executed a surveying contract for the General Government, as difficult work as this purports to have been, knows that no deputy ever did examine that work. He may have gone to each district, and seen that some of the work was done, but he never could have examined so as to know that it was all done, and properly done. He may have seen that some of the lines were run; that some of the corners were established; that some of the monuments were put up, and properly put up; but he never could know, by a personal examination short of that which would almost enable him to perform the work in person, that it had been done.

Why, sir, these surveys are made, in the first place in large sections; that is to say, in scopes of country six miles square. The monuments are a mile apart; and even in a prairie country, in order to find these monuments, a man must have his compass, he must have his chain, and his flag-man, and his chain-man, and he must run the lines in order to find the corners. A man cannot know that this work has been done short of the performance of an immense amount of labor that never can be performed for three per cent. on the amount of the contract. Hence, although there have been special deputies appointed, and properly appointed, I doubt not, we cannot know, from the state of the papers now before Congress, that this work has ever been done; and if it has been done, the probabilities are, from the showings here made by their superiors in office, that they have been paid by the people of California as much as the work is worth; and no injury can result to these men by requiring them to submit their claims to that kind of critical examination proposed by the Senator from Louisiana, in relation to other claimants, who were originally intended by the House of Representatives to be included within this bill.

An attempt has been made to show a marked distinction between this case and that to which I have just alluded, where the Senate, I believe, has refused to allow the claim; but there is none in principle. The claim which the Senate refused to allow was for money paid out, as is stated, without authority of law; and the officer paying out that money comes to Congress and asks them, in a general deficiency bill, to refund the money so paid by him, under a resolution of the House of Representatives. In this case the money has not been paid out, but a surveyor general has agreed to pay it. He has made a contract to pay the money; and without having advanced it himself, proposes that Congress shall make the appropriation necessary to cover it, although Congress originally intended to limit the quantity of this work to be performed to that which could be secured by the payment of \$50,000.

Mr. GWIN. I should like the Senator from Iowa to give the authority on which he states that Colonel Hays is a mere civilian, and not a practical surveyor.

Mr. HARLAN. I have heard it stated here. Mr. GWIN. Then the gentleman has heard what is a positive falsehood.

Mr. HARLAN. I stand corrected.

Mr. GWIN. He is a practical surveyor, and was for years engaged in surveying in Texas before he went to California. When a man is absent, and his character is to be assailed, as the late surveyor general of California has been assailed by the Senator—

Mr. HARLAN. I disclaim having assailed the character of Colonel Hays. I said distinctly, in the remarks I have just made, that I knew nothing of his character as a man of integrity, and hence had nothing to say as to it, one way or the other. This is a case where an officer of the Government has agreed to pay out money without law, and comes to Congress and proposes that Congress shall appropriate the necessary sum to meet these contracts.

Mr. GWIN. Colonel Hays is not before Congress; he has not come before Congress in respect to this matter at all. This appropriation in the bill is based on an estimate presented by the Interior Department. The Senator has repeated, again and again, that these claims have not been examined at the office of the Commissioner of the General Land Office. Whether that is stated in

the Land Office report or not, we know it is the fact, or they would not have sent the estimate here. If they had not been examined in that office, would they have sent here an estimate asking an appropriation to pay them?

Mr. President, there never was a more unfair statement made to this body than has been made by the Senator from Iowa in regard to this case. He says the citizens of California have paid the deputy surveyors for this work, and he quotes and garbles the public documents to give plausibility to that statement. It is stated by the surveyor general in his report, that in regard to a few fractional townships in Humboldt county, a very heavily timbered country, it being impossible to survey it at the rate of fifteen dollars per mile, allowed by law, without losing a large amount of money, the settlers themselves proposed to give an additional sum to the deputy surveyor if he would survey those townships; and why was that done? There is a law in California, and it pertains to no other State, that the right of preemption attaches to unsurveyed lands. That law was passed in 1853. Every settler on public agricultural lands in California has the right of preemption, and it is a matter of great importance to the settlers in neighborhoods where the lands are valuable, and the timber abundant and likely to be destroyed, that they should have the surveys made as soon as possible. In certain sections in the mountain districts, and in the district of Humboldt, to which the Senator refers, where a few fractional townships were surveyed—a very small portion of the surveys of California, probably amounting to a few thousand dollars—the settlers asked the deputy surveyor to survey the lands, and offered to pay him an additional sum, knowing that he could not do the work for his contract price of fifteen dollars a mile without sustaining a heavy loss. This was for their private convenience, that they might know where their quarter-section lines ran. He had not been instructed by the surveyor general in any way whatever on that point. That was done in 1856, and it does not pertain to this matter.

Mr. HARLAN. I ask the Senator if these contracts were not made before 1856?

Mr. GWIN. The quotation the Senator makes is as to surveys that had been paid for by former appropriations, and are not in this deficiency at all.

Mr. HARLAN. I inquire of the Senator if the work here indicated was not done under this contract?

Mr. GWIN. It was paid for though under the appropriations of the previous year. The Senator does not show that it is in part of this deficiency, or that these contracts have not been paid for by former appropriations. He makes a case and says that the people of California have paid for this work. He attempts to sustain his statement by giving an instance of a few fractional townships out of the many millions upon millions of acres of lands that have been surveyed by deputy surveyors, where, as a matter of private convenience, the settlers had paid an additional amount.

I must state in justification of myself, that I have never examined these documents. I did not think the claim would be resisted, and therefore I was not aware of this statement in the surveyor general's report until the Senator read it; but I know the Humboldt country. It is a small section of country, very heavily timbered, where the timber is of great value, and the parties wished to know exactly where their claims were; and it seems from the statement made by the Senator, they gave this additional compensation for that purpose.

But he goes on to say that this is a vast swindling scheme. Sir, that statement is a vile slander—a vile slander upon meritorious men, who have performed service for the Government. Sir, every particle of their work has been examined. Fifteen per cent. on the price of their contracts was retained until the work was examined. The Senator brings up the case of a great fraud attempted to be perpetrated upon the Government in the State of Iowa. Why, sir, it was because such frauds were perpetrated that laws have been passed to protect the Government against them, and the Department retains a portion of the contract price of each one of these contracts. A portion of this deficiency, amounting to nearly forty thousand dollars, consists of the percentage re-

tained until the examining officers, who have gone over all of this work, ascertained to their entire satisfaction that it was properly done. These examining officers are meritorious men, who will compare in character with the Senator himself in every respect. He says the surveys were probably not made. Why, sir, these lands have been surveyed and sectionized, and are now being offered at public sale, and will bring millions of dollars into the Treasury of the United States.

In regard to the private land claims it is well known that some of these claims are for three, four, or five hundred acres, and some for ten to fifty thousand acres; some of them meander along streams, and surveying them is very expensive work. You must have chain-carriers, you must have markers and men to carry the flag, and it is as expensive to fit out a company to survey one of these private land claims as it is to survey a township of land where you run straight lines, and it is utterly impossible that deputy surveyors can survey those private land claims at the price Congress has fixed. Therefore, the claimants, who have been suffering for want of titles to land, and who can get no patents until they are surveyed, and who have been losing thousands and thousands of dollars, the country being left unsettled for want of these surveys and their patents, have agreed to pay out of their own pockets to have their own land surveyed rather than to delay it until a law could be passed, such as has been recommended by the surveyor general, and the Commissioner of the General Land Office.

The Senator made a long speech upon a bill that is proposed by the surveyor general, in which it is provided that the deputy surveyors in California shall have twenty-five dollars a mile for surveying private land claims. That measure is not before the Senate. It is to come up in the future. It is the opinion of the Commissioner of the General Land Office, of the surveyor general of California, and of the Secretary of the Interior, that in order to expedite the survey of private land claims in California, a discretion should be given to the surveyor general to increase the present compensation, and that question will be presented for the consideration of Congress. The Senator from Louisiana knows that on taking my seat here at the last Congress, I offered a bill for this very purpose. A number of these claims have been finally decided by being dismissed from the Supreme Court of the United States, and it is a matter of the greatest possible importance to the people of California to have them speedily surveyed, to separate the private claims from public lands in order that we may know exactly what is public and what is private property, but it is impossible to secure this at the present rates, and it is proposed to legislate on that subject. I brought forward a bill at the last session, but it was not considered. Now the Department comes forward and recommends the passage of such a bill.

Sir, the merits of this whole case, it seems to me, lie in a nutshell. The surveys have been made at legal prices, established by law. There is no fraud that can be truthfully charged upon any of these officers. I know that every one of these deputies has suffered losses, and some of them probably have lost the whole amount of their profits, and even contracts, as their outlays were very great, on account of this delay. As to the surveyor general, Colonel Hays, there is no more honest man, and no one living can impeach him without attaching dishonor to the man who calumniates him. He states, in the letter which has been read at the desk, that he sent an express to the deputies as soon as he had a knowledge of the diminution of the appropriation to notify those who could suspend their work without being ruined to do so. Thus it appears that every precaution was taken, so far as he and his deputies were concerned, to prevent this deficiency.

Mr. HUNTER. I rise to ask that we may be allowed to take the question. We have debated this matter a long time. It is time we were closing up the bill if we mean to adjourn in June. Unless we pass the appropriation bills, we cannot do so.

Mr. IVERSON. I shall not detain the Senate five minutes. I merely desire to vindicate myself from the charge of inconsistency which has been iterated and reiterated against those who voted for striking out the third section, and who are going to vote for this appropriation. I do not see

any such great inconsistency as gentlemen on the other side seem to think exists. The third section of the bill, which was stricken out by the majority of the Senate with my vote, provides

"That the accounting officers of the Treasury be authorized and directed to allow credit to the Clerk of the House of Representatives for such payments out of its contingent fund as have been or may be made under allowances authorized by the House of Representatives during the last Congress."

If the Clerk of the House of Representatives, acting under a resolution of the House disposing of its contingent fund, had actually made payments in good faith under the injunction of that resolution, and if this section was confined to the reimbursement of money he had actually paid, he would have presented a strong claim, and I do not know but that I should have voted to indemnify the Clerk for any payment he had actually made under the resolution of the House of Representatives. I should have demanded proof of the amount of payment, and of the fact of payment; but this third section went much further than that. It goes not only to indemnify the Clerk for payments actually made, but it authorizes and justifies payments to be made hereafter; payments which, in my opinion, and in the opinion of the majority of this body, were illegal and highly improper and injudicious, and which we ought to arrest if we have it in our power to arrest them.

That is the reason which controlled my vote in striking out the third section; but the appropriation in this bill, which is now proposed to be stricken out by the Senator from Iowa, in relation to the survey of public lands in California, proposes simply to pay the amount of liabilities incurred by the surveyor general during the fiscal year ending June 30, 1857, over and above that authorized by the regular appropriation of \$50,000. It proposes to appropriate \$320,000, to pay the liabilities which the surveyor general has incurred in the survey of the public lands. It does not propose to pay him anything he has actually paid out; it is not pretended that he has paid out a dollar to the deputy surveyors; but he has made contracts with them in advance of appropriations made by Congress. That is the simple case.

The question is not whether we will indemnify the surveyor general, as in the case of the Clerk of the House of Representatives, but whether we will actually appropriate money to pay for the work which these men have done, and to pay it to the persons who have done the work; because, as to the liability of the surveyor general, that is merely nominal. He cannot pay \$320,000. Nobody can suppose for a moment that he has the ability to pay \$220,000, to the deputy surveyors and their employes. His liability, therefore, though it legally exists, is merely nominal; and if Congress do not appropriate the money the surveyor general does not lose, but the deputy surveyors and the workmen under them. I think it is right that we should pay them, although the work has been done in advance of appropriation, and that may have been wrong. I do not pretend to justify the surveyor general for having made these contracts in advance of the appropriation; but he justifies or excuses himself, and the fact is, that the work has been done; the Government has got the benefit of the work; and if it had not been done last year it would be at some future time, and would cost the Government quite as much hereafter as heretofore; so that it is the difference betwixt tweedle-dum and tweedle-dee, which, for my life, I cannot see. You might as well pay now as hereafter. The work has been done; the Government has got the benefit of it; and it is a simple question whether we will pay the individuals who have actually done the work under the authority of the surveyor general, or refuse to pay them. I think there is no inconsistency in our action.

Mr. BENJAMIN. I desire simply to return my thanks to the Senator from Iowa for his compliment to the demonstration which I made, as he says, perfectly conclusive that the third section ought to have been stricken out of the bill; and at the same time to say that I would accept his compliment as more sincere if he had voted in accordance with that demonstration; but, as he voted against it—

Mr. HARLAN. I beg to correct the Senator. The Journal will show that I voted to strike out the section.

Mr. BENJAMIN. The Journal shows that the gentleman voted for retaining the section.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, APRIL 27, 1858.

NEW SERIES....No. 112.

The Secretary proceeded to call the yeas and nays on the amendment of Mr. HARLAN.

Mr. HAMLIN. I desire to say that the Senator from Virginia [Mr. MASON] was necessarily called away from the Senate to-day, and I have agreed with him not to vote. But for that I should have voted for this amendment, and vote against the bill on its final passage.

Mr. YULEE (who at first voted in the negative) said: I desire to withdraw my vote. I voted hastily, not recollecting that I had agreed to pair off with a gentleman who is absent—the Senator from Vermont, [Mr. Foor.]

Leave was granted to withdraw the honorable Senator's vote; and the result was then announced—yeas 13, nays 34; as follows:

YEAS—Messrs. Cameron, Chandler, Clark, Dixon, Doolittle, Durkee, Foster, Hale, Harlan, King, Seward, Trumbull, and Wade—13.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Biggs, Bigler, Bright, Broderick, Brown, Clay, Crittenden, Douglas, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Kennedy, Mallory, Polk, Pugh, Sebastian, Slidell, Stuart, Thomson of New Jersey, Toombs, and Wright—34.

So the motion to strike out did not prevail.

Mr. CLARK. I have an amendment to offer as a new section:

And be it further enacted, That if any part of the moneys hereby appropriated shall remain unexpended at the end of the fiscal year terminating June 30, 1859, all such sums as shall so remain unexpended shall be carried to the surplus fund account, and shall not be paid from the Treasury without further specific appropriation.

I offer this amendment to make it uniform with the law upon the rest of the appropriations, and also to avoid an ambiguity that there may be under the Constitution. This bill being for the support of the Army, the question may arise when its provisions are to take effect? and the answer is, immediately; and the balance of these appropriations unexpended would be carried to the surplus fund, by the law, on June 30, 1860. This amendment provides that they shall go to the surplus fund on June 30, 1859, with the rest of the appropriations that were made for the fiscal year 1857-58. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and, being taken, resulted—yeas 18, nays 29; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Harlan, Johnson of Tennessee, King, Seward, Simmons, Stuart, Trumbull, and Wade—18.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Jones, Kennedy, Mallory, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—29.

So the amendment was rejected.

Mr. WADE. I suppose this bill is to pass; and although I do not wish to enter into any special debate on the subject, it seems to me that I ought not to suffer it to pass without entering my protest against it, and the principles upon which it proceeds. Our relation with the Mormons in Utah is of a peculiar character. It is an anomalous condition of affairs. It is such a state of things as has never arisen in the administration of the Government before, and probably never will again. I regret exceedingly that, after we got into this difficulty with them, the President, before acting in such a manner as to commit the Government to any particular course of proceeding, did not consult Congress on the subject, because if he had consulted us before he proceeded to put the troops in a position of jeopardy, or did anything which might seem to foreclose our free choice as to the course we should adopt, I do not believe such a bill as this would ever have passed this body. There seemed to be no immediate necessity of proceeding on this subject. This little handful of people, the Mormons, some years ago went into this remote wilderness, more than a thousand miles from any settlements of our community. They were there by themselves, and, according to our latest ideas, they were regulating their own institutions in their own way, and however they might regulate them was of very little

interest to the rest of the people of the United States, at present at least. The President might well have waited before he proceeded to commit the Government to any course of action, until he consulted Congress on the subject, because there was no immediate necessity for proceeding. No one's interests were to be prejudiced or jeopardized by anything this band of fanatics might undertake to do. The last Administration, I believe, met with the same difficulty, and yet no particular course of proceeding against them was marked out, so as to involve this Government in expense and conflict.

If I admit that the question of the proper policy to be pursued in regard to this people is one of great interest, and, I may say, of great embarrassment, so much the greater the reason why the Executive should first have submitted it to Congress for their advice before he proceeded to commit the Government by his action. I think it would have been much more in harmony with the Constitution of the United States for him to have consulted Congress, than at once, because he was Commander-in-Chief of the Army, to make such a disposition of the Army as should almost of necessity involve us in a war without consulting Congress. I am not about to argue the point whether the course he has taken is constitutional. The arguments of other gentlemen have left very little doubt on my mind that it was unconstitutional; but, at all events, it was inexpedient.

This was a case which did not involve the honor of the people of the United States. The fact that a little band of men, far off in a remote wilderness, failed to receive the officers we sent there to govern them, did not imperatively demand our interposition. It might have been very impudent on their part, and it did furnish this Government with the right, undoubtedly, to take the proper steps to proceed against them; but, sir, a statesman should look to things as they are. Was it best that we should involve ourselves in a war with that little band, in which neither honor, reputation, nor profit could be gained? Your armies marching on such a service could not be imbued with those high principles of chivalry and honor that always characterize an army who are about to meet their equals upon the field, and that tend to elevate and inspire them with noble sentiments of patriotism and courage; but they must feel that they are on a miserable errand; that they are to destroy their fellow-citizens, who are weak, and unable to resist them; and that no honor can be won in such a contest.

Now, sir, what is the end proposed? Has any Senator contemplated the result of what we have entered upon? Can we fully see what the result of all this is to be? One thing is certain—that you are to expend now more than seven million dollars of money in this enterprise. That is appropriated to start with in what is called a deficiency bill; and it may well be asked, if you commence it with a deficiency bill of \$7,000,000, where will you end?

I know very well that the enormous power of this great Republic can crush this people; but I know as well that it will cost a great deal of money, a great deal of hardship, a great deal of hazard to your army; and yet I know that no honor can be won in such an effort. You may govern them; but I fear that you have embarked in an enterprise that will embarrass you much more than did the inconsiderate war that you waged with the Florida Indians. You might have bought them off with a fifth part of the money that you expended to force them into submission; and yet, in dealing with such a people, in my judgment, that would have been the most politic course, and equally honorable to the nation.

I know that you must proceed differently with nations, according to their ability to resist. It would not do for us to brook in an equal insult that we might overlook, on grounds of policy, in a power so weak that we know they cannot resist us. We can afford to act upon very different principles in treating with a tribe of fanatics like these Mormons, from those we should pursue to-

wards Great Britain or France. It would be cowardice in us to submit to an insult from them on grounds of policy; but we might well do it with an Indian tribe or a Mormon community.

I have reflected as to what will be the end of all this. Will your \$7,000,000 end this war? What we have undertaken is not in harmony with the great fundamental principles of our Government. We have undertaken to govern a portion of the people of these United States by force of arms. I do not know but that they have compelled us to do it; but it is exceedingly to be regretted if it is so. I do not know what will be the end of such a violation of the principle of self-government upon which our institutions are founded. When you have overcome the Mormons, when they have been compelled to surrender to your superior power, what is to be done then? Is there any Senator here that has consulted the history of the world, who does not know that fanaticism was never overcome by force? Is there any gentleman here who can point to any instance in the history of the world where religious fanaticism has been put down by force? No matter how absurd it may be, you cannot put it down by force; and probably the more absurd it is, the greater is the tenacity with which its votaries cling to it. The history of the world has taught a lesson which we should regard. What are we to do with them when we have conquered them? When, at the expense of untold millions, they have surrendered to our army, what then? Is the army to be continued there through all time, to govern that people by force? Who does not know that the very moment the troops are withdrawn, the people there will set up again upon their own hook, and govern themselves according to their own fanatical ideas?

Sir, I fear that this subject has not been well considered. If, after incurring even this great expense, you could overturn any force they can oppose to you, and if, when you had done that, all would be peace, and you could govern that country in accordance with American principles, I would not be so apprehensive of the result; but I fear that you are about to wage a war on this people to which there will be no end; that you will have to govern them by force, and you must hereafter forever keep up an army there to govern them as a province of this Union. How inconsistent with our principles! How apt it will be to taint the whole mass! I do not believe there is any necessity for it.

I wish to Heaven that since the new principle of squatter sovereignty was said to be inaugurated, we had lived up to it. If there ever was a case for its application, it was here. These people went out from among us in order to get as far from us and our influence as they could. Twice they had a settlement in the States, and twice they were driven out, by right or by wrong, I do not know which. I only know that they have no tongue here to tell their tale. I know that we hear awful accounts of them; but these accounts come from men differing from them in religion, differing from them in all their ideas of government, prejudiced against them, no doubt, and justly too, I think; perhaps I am also prejudiced against them; but it is unsafe to proceed upon our prejudices to the last extremity, without further inquiry. Every man should be apprehensive of his own weakness, and not give way to prejudice without going into the sober counsels of experience, and consulting the other side to see, if they have resisted our force, why they did it. I do not know that we have even inquired why it was that the Mormons resisted the right of our Governors to take their seats there. I do not know that any answer could be obtained if an inquiry was made; but I know there is danger always in proceeding upon violent prejudices, and without inquiry.

I wish the President had come to the conclusion that it was best to allow these people—a small body of fanatics, anomalous in all their views of government and morals, and in everything else incompatible and irreconcilable with our habits—to manage their own affairs. I wish he had in-

voked the great principle of popular sovereignty, and said, "it shall be applied to these people, and they shall govern themselves. They have gone into a wilderness more than a thousand miles removed from any of our settlements, where there is no communication with them, and where it is a matter of indifference to us on what principle they regulate their domestic institutions." I believe it would have been better for us all if the President had said they should regulate their own domestic institutions in their own way; for, after all, their morals, perverted as I know them to be, their religious ideas are their own, and are not to be inquired into by me or anybody else here. It is not proposed that we shall correct their morals in any of the respects of which we complain. If polygamy prevails among them, do you propose to rectify that? No, sir. Are there any heresies in their religion? Certainly you cannot correct them. Then, though we argue about polygamy and the practices of these people, it is not with a view to correct them at all, for that is not and could not be a part of the proposition. It is used in the argument, and it can be used nowhere else.

Since I find fault with and arraign the President of the United States for involving us in this crusade against this knot of fanatics in a remote wilderness, I perhaps ought to suggest what I would have done, because I have admitted that the case is one of some difficulty. I would endeavor to make peace with them on the best terms I could, knowing that a victory over them would be won at great hazard and expense, and would be perfectly barren when it was won. I would consult them as to their alleged grievances; I would ascertain what they were; and thus I would be able to tell Congress of what they complained. I would go a step further, though perhaps nobody here would join me in it—I would repeal their territorial government. Nay, sir, if I had been consulted as a member of Congress, I would never have agreed that they should have a territorial government with the ideas prevailing there. Knowing that they were the advocates of a theocracy; knowing that they held no principle of government common to us, and therefore that it was impossible to govern them upon our principles, I would not have erected a territorial government there; but having committed that error, I would retrace our steps.

I may say here in passing, that when you erected the Territory, you knew the habits of these people; you knew their ways of thinking; you knew their peculiarities, just as well as you do now. I would not have given them the benefit of a territorial organization; but Congress having done it, rather than quarrel with them when they are so far removed from us that by no act of theirs can they put in jeopardy a single right of American citizens, I would repeal the act establishing the territorial government; I would withhold all appropriations for their support; I would leave them under the influence of the principles of popular sovereignty to regulate their domestic institutions in their own way, because in doing so it would be impossible that they could injure anybody else. I think this would have been the wiser course. By doing this, I believe they would have gone the way of all men who are acting on erroneous principles founded on falsehood and error. I believe their own extravagances, the anomalous nature of their creed, their practices, incompatible with the permanency of any people would have caused them to fall to pieces if you had not by your policy concentrated them together. They would soon have divided themselves and arrayed themselves under different leaders; schisms would have arisen, and their absurd ideas would have scattered them to the four winds of heaven, if by your opposition you had not undertaken to concentrate them and bind them together. I have no doubt that the movement of the army which you are making against them at such expense, will not only make their councils harmonious, but will doubly increase the fanaticism that now reigns there, and render it permanent, and they will have sympathizers also, because we know that the blood of the martyr is the seed of the church. It has been so in all ages, and will be so here; and in this respect, it makes no difference whether the religion that is persecuted is founded in truth or falsehood.

We are now commencing this enterprise at a cost of \$3,000,000 to start with. We know not

where it will end; but let me predict that if you get out of it with \$80,000,000 you will do well. You might make a railroad to California for the money it will take you to conquer this little band; and when you have conquered them, it will be as expensive to keep them in subjection as it is now.

What is it for? It is that this great nation may say that Brigham Young and his associates have succumbed to the overwhelming power of this Union! Well, sir, it will not teach us anything new. We know that he must succumb if we bring our physical force to bear on him; but it is a barren victory. No honor is won, the rights of no man are redressed, because Mormonism has not yet trenched upon the rights of anybody outside of their own circle; and it is not likely to do so for generations to come. I regret and deplore, then, that we have entered upon this enterprise; I think it was exceedingly absurd that we should have done it; I think the Executive is to blame for the course he has taken. Whether he had constitutional law to support him or not, he should have consulted Congress. I think that if he had done so before Senators would suppose themselves committed to this sort of policy, the vote would be very different from what it will be now.

But is it so, sir, that the President of the United States can commit Congress to any course of proceeding, or involve us in any war that he sees fit? I know that it has been avowed on this floor that he can do it. If he does it, he does it in violation of the spirit and letter of the Constitution, and the act ought to work an impeachment of any Magistrate, because the war-making power, by the Constitution, is vested in Congress, and he that avails himself of the position which he occupies, as Commander-in-Chief of your armies, to commit the nation to a war deliberately, has violated the Constitution as flagrantly as he could do it in any other way. We must teach Presidents this. I do not speak now as a partisan. If the President were an angel, it would not do to invest him with this enormous power of war and peace. It will not do to say, upon this floor, that the President may rightfully involve us in a war, and when he has done it there is nothing left for us but to back him up with all the money and all the men that he may require to carry out his nefarious enterprises.

Sir, I deny it. I know that, by an injudicious movement—one bordering on folly, I was about to say idiocy—he did, late in the season, order a division of your Army into the mountains to be wintered there, and in such force that he knew they were too weak for any offensive operations, and too numerous to carry the olive branch of peace. Why, in the name of Heaven, any man should suppose that, in September last, it was wisdom to order a division of your Army into the mountains and over the deserts to be wintered, I know not. If the winter had not been exceedingly favorable, undoubtedly they would have perished there, and any man might have foreseen it. Why was it done? Was it done to commit us to this state of things, "now you shall vote all we ask, because if you fail to do so, you jeopardize the army?" Are you going to leave them to starve in this wilderness? No, sir; I will not do that; those men are not to blame for the position they occupy. They are there; and I go with Senators to appropriate money enough to assist them—but call them off. Yes, sir, I will not begrudge the money to call them home and put everything in *statu quo*, just as it was before your President marched the troops, no matter at what expense, so that Congress may then fairly be consulted. Is it for the interest, is it for the honor of this Republic, that we should wage deliberate war on this lot of fanatics in a wilderness?

That question then devoid of prejudice, devoid of commitments from the Executive, might be propounded to Congress, and I should not doubt that Congress would come to the conclusion that it was asking too much for the fame of conquering this band of Mormons to incur all the expense and hazard not only of their conquest but of holding them in subjection for all future time; because when we conquer them the Army must be posted there, and the same force would be requisite to continue your government over them that was required to subdue them.

For the reasons which I have stated, I have come to the conclusion that all this expense ought

to have been avoided, that the real principles of our Constitution ought to have been vindicated in this difficulty, which was well known beforehand. There was no necessity for immediate action. The President ought to have consulted Congress first, before this expense was incurred. Such undoubtedly will be the judgment of everybody who examines the question impartially. I know there may be exigencies where your Executive may be called upon to act in a sudden emergency, and I am not the man to complain of him nor to scrutinize with an eagle eye what he does, if he acts in good faith to defend any portion of this Union against a foe that is dangerous to it. I will not be particular about what the Constitution and the law requires, when such a state of facts exists; but that is not the case here. The Mormons could threaten nothing. It was perfectly safe to leave them alone for years, while you deliberated what you would do. This expedition was started a short time before the assembling of Congress—the great council of the nation—the representatives of the people and of the States. They ought to have been consulted on this great policy. Is not an Executive censurable in the last degree, who, withholding everything from them, commits them to such an uncertain enterprise as this, incurring an enormous expense of money and the raising of new troops, quartering them upon your Treasury, bankrupt as it is?

Sir, I deplore the apparent necessity which your Executive has brought upon the nation. I will not go the length you propose to go, for I am well aware that the amendments restrictive of these enormous sums should have been maintained; that these contracts which have been illegally entered into, as has been shown, should never have been entered into; that the Constitution has been stretched here even to breaking for the purpose of extending patronage to certain favorites in Army contracts; nay, sir, I suspect and fear that the patronage connected with this miserable war has been the principal inducement why it has been so rashly undertaken.

Mr. GREEN. I should like to have the vote if it be agreeable to Senators. I do not see that we are shedding any new light on the subject. I therefore propose that we now take the vote by general consent.

Mr. HARLAN. I do not intend to engage in a general discussion on the propriety of the passage of this bill, as I discover considerable solicitude on the part of its friends to take the vote immediately. The earnestness I have manifested to have this bill pruned, is justified by a consideration of the amount of money that will have to be paid by the people whom I in part represent on this floor. I suppose, for reasons that I shall not now take time to detail, that the State of Iowa is, in point of wealth and ability to pay the indirect taxes levied by this Government, a full average State of this Union, and consequently that one thirty-first part of this large sum of money must be paid out of their pockets. The gross sum of the appropriations in this bill as footed up by me, is \$9,704,000, which, divided by thirty-one, the number of States, would give \$316,258 to be paid by the people of my State for purposes which have never hitherto been authorized by Congress. That people have believed heretofore that the proper province of the President of the United States was to apply the money appropriated by Congress in executing the law, as Commander-in-Chief of the Army and Navy of the nation. Here, however, is nearly ten million dollars virtually appropriated by the President of the United States—appropriated by the executive department of this Government, to which the people of that State, by their representatives, have never given their sanction.

I make this statement at this time, as the general reason which will control my vote now, and which will control my vote hereafter, when appropriation bills are pending. Not a single dollar shall be appropriated or paid, with my consent, which I do not believe would be approved by a majority of the people I represent. Were they consulted to-day whether a tax of \$316,000 should be levied on them to carry on a war against the Mormons, unauthorized by Congress, in my opinion, nine tenths of them would record their votes against the proposition.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was

read the third time; and the question was stated to be, "Shall the bill pass?"

Mr. HALE. Before that question is taken, I desire to say a few words. I shall vote against the passage of this bill, and I shall vote against any supplies to the Army with which are mixed up any appropriations for this Utah war. As I shall do this, I want now, so that I may not be misunderstood, to state very briefly my reasons. I believe that this bill involves, if not an actual, a virtual, violation of the Constitution. I believe that this war is a weak and wicked one, and that a greater piece of folly, politically speaking, could not have been committed than sending an army out into the wilderness to winter. I do not believe they will ever have occasion to strike a blow, or that a blow will be struck; and if the President would ask for an appropriation to bring them back, I would vote for it. I am glad to have this opportunity to vote against this bill, because it is said to be popular—and it has been alluded to in this debate many times—to vote for supplies when there is war; and the ghost of the Federal party, for their opposition to the last war with England, has been used as a bugbear to frighten men with ever since; and a good many men have not got over it yet. I was not old enough to vote on that war; but the next war that came was the Mexican war. I believed that to be—what I believe to be true of this—a weak and a wicked war, commenced in falsehood and prosecuted in injustice.

I was always willing to vote the President just enough money to bring that army home by the shortest route and in the cheapest mode, and I am willing to do the same here whenever he wants it. I voted against that war and against all supplies to carry it on, and I voted alone against thanking the generals who won the victories. I should be glad to do it over again, if I had the chance. I shall vote against this war for the reason that I believe now, as I believed then, that it is all wrong. With wicked rulers one of the most prominent devices has ever been, when they want to divert public attention from their mischievous domestic policy, to plunge their country into war; for that reason, I shall vote against the supplies for which an appropriation is to be made by this bill. I shall vote against every supply with which is mixed up a dollar of this Brigham Young black mail. Having said that, I am willing to take the vote.

Mr. CHANDLER called for the yeas and nays on the passage of the bill, and they were ordered.

Mr. WILSON. I shall vote, Mr. President, against this bill, but not precisely for all the reasons that have been urged against it in the course of this debate. I believe the Government made a great mistake in sending the army to Utah last autumn. If sent at all, they should have been sent early in the year. I believe the Government has made a mistake in regard to the Mormons from the beginning of this trouble. It ought to have sent commissioners there, and righted their wrongs, if they had any, and at the same time let them know that they must obey the laws of the country. I think the Government should have done this at first. They have chosen to act otherwise. I regard these appropriations as extravagant; they are very large, and I cannot give my vote for them. But I have no justification to make for the Mormons. I think their conduct has been rebellious against this Government; and if we had proceeded, as I think we should have done, to send out commissioners, and had dealt with them as we should have done, and then they had continued to act as they have acted and are now acting, I would vote any amount of money out of the Treasury of the United States to maintain the laws of the country, and to bring these people to obedience to the laws which they are violating.

Mr. SLIDELL. My colleague, Mr. BENJAMIN, has requested me to state that he has paired off with the Senator from New York, Mr. SEWARD.

Mr. HUNTER. My colleague, Mr. MASON, has paired off with the Senator from Maine, Mr. HAMLIN.

The vote was taken; and resulted—yeas 29, nays 19; as follows:

YEAS—Messrs. Allen, Bayard, Biggs, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Greer, Gwin, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Polk,

Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—29.

NAYS—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Harlan, King, Simmons, Stuart, Trumbull, Wade, and Wilson—19.

So the bill was passed.

EXECUTIVE SESSION.

Mr. BAYARD. I move that the Senate proceed to the consideration of executive business.

Mr. CHANDLER. I move that the Senate adjourn.

Mr. BIGLER. I hope that motion will not prevail: there is a very important judgship to be filled.

The motion to adjourn was not agreed to.

The Senate proceeded to the consideration of executive business; and, after some time consumed therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, April 24, 1858.

The House met at twelve o'clock, m. Prayer by Rev. JABEZ FOX.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Attorney General, asking an appropriation for services of special counsel, and the reasonable expenses of the late and present district attorneys, and other expenses in defending the title of the United States to public property in the State of California; which was referred to the Committee of Ways and Means, and ordered to be printed.

CONTRACTS FOR THE ARMY OF UTAH.

Mr. CURTIS asked the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee on Military Affairs be directed to examine the contracts made to supply the army of Utah, and ascertain the nature and bearing thereof; and that said committee also ascertain whether any modifications of the law are necessary to prevent fraud, and secure the utmost economy in the purchase and transportation of Army supplies. That the Secretary of War, and the heads of various departments of war, be, and they are hereby, severally directed to furnish copies of all orders to purchase, and contracts made by them relating to the furnishing supplies to said army of Utah, accompanied with a full statement of the time and place of advertising and negotiating such contracts.

Mr. WARREN objected.

OLD SOLDIERS' PENSION BILL.

Mr. SAVAGE. I move the usual resolution terminating debate upon the bill giving pensions to the soldiers of the war of 1812, in three hours after the Committee of the Whole on the state of the Union shall resume its consideration. The special order on this bill terminates to-day, and unless this resolution is adopted, we shall not be able to finish the bill to-day, and it will pass from under the consideration of the committee, never to be brought up again without a suspension of the rules, and another particular day being fixed for its consideration. I am exceedingly anxious to have the matter determined to-day, and I make the motion only from the absolute necessity of the case.

Mr. WASHBURNE, of Illinois, called for tellers on the adoption of the resolution.

Tellers were ordered; and Messrs. CLEMENS and WALDRON were appointed.

The House was divided; and the tellers reported—ayes 93, noes 96.

Mr. SAVAGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 107, nays 93; as follows:

YEAS—Messrs. Adrain, Anderson, Atkins, Avery, Bennett, Billingshurst, Bingham, Bishop, Blair, Bliss, Bowie, Bratton, Buffinton, Burlingame, Burns, Burroughs, Case, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Cockrell, Cox, Collins, Corning, Covode, Cox, Cragin, James Craig, Curtis, Daniel, Davidson, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Edie, Elliott, Eustis, Farnsworth, Fenton, Foley, Foster, Garrett, Giddings, Gilman, Gooch, Goodwin, Grow, Lawrence, W. Hall, Robert B. Hall, J. Morrison Harris, Knapp, Hoard, Huyler, Jewett, Kellogg, Kelly, Kelsey, Knapp, Maylay, Humphrey Marshall, Mason, Maynard, Miller, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Niblack, Olin, Parker, Pettit, Peyton, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, Russell, Savage, Aaron Shaw, Samuel A. Smith, Spinner,

Talbot, Thayer, Trippe, Underwood, Walton, Israel Washburn, Watkins, White, Wilson, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zolligoffer—107.

NAYS—Messrs. Abbott, Ahl, Andrews, Barkdale, Bock, Bonham, Boyce, Branch, Bryan, Campbell, Caruthers, Caskey, Chapman, Horace F. Clark, Clemens, Clifton, Cobb, Burton Craige, Crawford, Curry, Davis of Indiana, Dewart, Dick, Edmundson, Faulkner, Florence, Goode, Granger, Greenwood, Gregg, Groesbeck, Harlan, Thomas L. Harris, Haskin, Hatch, Hill, Houston, Howard, Hughes, Jackson, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kilgore, Lawrence, Leach, Leidy, Leiter, Letcher, Lovejoy, McQueen, Miles, Millson, Montgomery, Moore, Mott, Murray, Nichols, Pendleton, Phelps, Phillips, Pike, Potter, Quilman, Ready, Reagan, Reilly, Ruffin, Sandridge, Seales, Scott, Searing, Seward, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Singleton, William Smith, Stallworth, Stanton, Stephens, Tappan, Miles Taylor, Tompkins, Wade, Walbridge, Waldron, Warren, Elihu B. Washburne, Whiteley, and Winslow—93.

So the resolution was agreed to.

Pending the call,

Mr. GARTRELL stated that Mr. STEWART, of Maryland, had paired off with Mr. THOMPSON.

Mr. STEVENSON stated that had he been in the Hall when his name was called he should have voted in the affirmative.

Mr. SAVAGE. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. CHAFFEE. I move that the rules be suspended, and the House resolve itself into a Committee of the Whole on the Private Calendar.

ADMISSION OF KANSAS.

Mr. STEPHENS, of Georgia. I call for the regular order of business.

The SPEAKER. The first business in order is the consideration of the motion of the gentleman from Illinois, [Mr. HARRIS,] to lay upon the table the motion to reconsider the vote by which the amendment of the gentleman from Georgia [Mr. HILL] to the motion to postpone the consideration of the report of the committee of conference on the Kansas bill was agreed to.

Mr. STEPHENS, of Georgia. I ask the gentleman from Illinois to withdraw the motion to lay upon the table for a moment. I will renew it if he requests me to do so.

Mr. HARRIS, of Illinois. The motion was made by the gentleman from Kentucky, [Mr. BURNETT,] who renewed it at my request, after I had withdrawn it. I have no objection to its being withdrawn from the gentleman from Georgia, as I have extended the same courtesy to other gentlemen.

Mr. BURNETT. Then I withdraw the motion to lay the motion to reconsider upon the table.

Mr. STEPHENS, of Georgia. As I stated yesterday, all that I want is that the House shall thoroughly understand this bill, and fix an hour when they will come to a vote upon it. The time, sir, is not so important to me as that every gentleman shall have an opportunity to understand the bill. I thought that a postponement till Monday would give ample time. I think that two weeks from Monday, at this advanced stage of the session, is entirely too far off. As I stated yesterday, the House will do me the justice to say that I have acted fairly on this question from the beginning. Considerations personal to myself, as well as health, require my absence at an early day, and that I should return home.

I therefore ask it as a personal favor of the House that they will reconsider the vote taken yesterday, and fix on next Wednesday, at one o'clock, as the time when the vote may be taken on the report of the committee of conference.

Mr. CAMPBELL. Mr. Speaker—

Mr. STEPHENS, of Georgia. I will hear the gentleman, but I do not yield the floor.

Mr. CAMPBELL. Mr. Speaker, the report of the committee of conference, which is an entirely new proposition, in regard to Kansas, has this moment been laid upon our tables. There are many reasons why I desire to absent myself from the House for some ten days. I desire to leave on Monday. There are other gentlemen called away, who desire to leave this evening. I think we cannot have a deliberate consideration and discussion of this bill prior to Wednesday next. And, as it is impossible for me to go to my home and return by Wednesday next, I suggest to the gentleman from Georgia that the proposition submitted by his colleague, and adopted by the minority of the committee of conference on the part of the House, is the preferable motion. This

is an important subject, and the gentleman from Georgia certainly does not desire to precipitate the action of the House upon it without full and mature deliberation and discussion.

Mr. STEPHENS, of Georgia. I do not wish to prolong the discussion. I just want the House to know my views upon the subject. The first question will be upon the motion to lay upon the table the motion of the gentleman from Illinois [Mr. HARRIS] to reconsider. If we vote that down, then we can reconsider the vote by which the amendment of my colleague [Mr. HILL] was agreed to, and when that is done, we can amend the original proposition by fixing Wednesday next as the day for the consideration of this question. I would prefer that it should be done by common consent of the House.

Mr. WASHBURN, of Maine. I desire to ask the gentleman whether he proposes merely to postpone the consideration of the question till Wednesday, so that it shall then come up under the rules?

Mr. STEPHENS, of Georgia. Yes, sir, under the rules; and if a majority of the House are not then ready to vote without discussion, why the bill will be subject to the rules.

Mr. GOODE. I wish to know if I understand the gentleman correctly. Do I understand him to say that he will withdraw the motion to postpone till Monday, when it comes up, and move to postpone till Wednesday?

Mr. STEPHENS, of Georgia. Yes, sir; but I should like the matter to be postponed till Wednesday by common consent, without taking the intermediate votes.

Mr. WASHBURN, of Maine. The reply made by the gentleman from Georgia to me has been somewhat misunderstood upon this side of the House. What I desired to know from him was, whether it was his design to have the question postponed until Wednesday, then to come up under the rules of the House, and then, if a majority desired to debate the question, they would be at liberty to do so.

Mr. STEPHENS, of Georgia. I answered the gentleman distinctly that that was my purpose.

Mr. WASHBURN, of Maine. I so understood the gentleman from Georgia, and, of course, I should prefer that it should be postponed with that condition; but I still think it better that the subject should be postponed to the day proposed by the gentleman's colleague, [Mr. HILL.] Monday two weeks.

Mr. HILL. I desire, with the leave of my colleague, to say one word. I wish to state, this morning, most distinctly, that in making the first motion which I made yesterday, it was made without any consultation with any human being. It was a suggestion personal to myself, emanating alone from my own mind. That proposition was suggested by me to the gentleman from Michigan, [Mr. HOWARD], and accepted by him. But the motion which I subsequently made, to postpone the consideration of the bill until the second Monday in May, was made at the request of certain personal, but not political, friends. I made it to accommodate them. I would have done it to accommodate any gentleman who might have made the appeal to me.

So far as I am concerned, it is not my desire to debate this bill at any great length, or to have it debated. It occurs to me that if we agree to postpone the bill until the second Monday in May, and then allow two or three days for debate, fixing upon the Wednesday or Thursday following as the day upon which the vote on the bill shall be taken, no great public interest can suffer. I make the suggestion in good faith. I desire to be here, and to vote upon this measure. I particularly desire that it shall not be voted upon in my absence. I intend, in giving my vote, to do what I think is best for the country, and do not expect, when I do it, to make an apology to any person in this House, or to any person anywhere on the face of the earth. If it satisfies me, I shall be content.

Mr. CLAY. Will the gentleman from Georgia yield me the floor for a moment, in a matter personal to myself?

Mr. STEPHENS, of Georgia. I just wanted to explain my views, and not to go into any general debate. I will, however, yield to the gentleman from Kentucky.

Mr. CLAY. I merely wish to state that I, my-

self, like many other gentlemen in this House, wish very much to go home. I want to get back to my country. I want to see the grass growing in this beautiful season. I want to see how my stock are doing. I want to see my calves and my colts. But, sir, this is the first time in the history of legislation that I have known the affairs of a great country like this to be postponed to meet the private inclinations or wishes of gentlemen. I am inclined to believe that there is not a gentleman on this floor whose mind is not this day, and this moment, made up as to how he will finally vote upon this question; and I do think and believe that, for the peace and quiet of the country, and that we may all get home in good time, the sooner the vote is taken on the question, the better. Therefore, I am decidedly in favor of the proposition made by the gentleman from Georgia, [Mr. STEPHENS,] who has been so kind as to give me the floor. I have done.

Mr. MONTGOMERY. I desire to say that for two consecutive weeks I have been waiting patiently to start for my home. I have been here from the commencement of the session, while other gentlemen have been absent. I have been upon this floor every day in which the House has been in session from the first meeting of Congress until the present time. My private affairs demand my presence at home. I appeal to the House not to force on the vote upon this question at a time when I cannot be present. I cannot have time to go home and get back by Wednesday next. I cannot conceive any reason why it should not be postponed. I ask, what injury can possibly arise from postponing this vote till the second Monday in May next? If the object is to cut off my vote, I suppose it will be accomplished if the House choose to force the vote at the particular time mentioned by the gentleman from Georgia, [Mr. STEPHENS.] I cannot remain until that time, much as I desire to vote upon this question.

Mr. STEPHENS, of Georgia. I would suggest to the gentleman that he can easily get a pair. Now, sir, I hope the House will, by general consent, fix Wednesday next as the day to which this question shall be postponed. If not, then, in pursuance of my promise, I will renew the motion to lay on the table the motion to reconsider. Let us vote that down; and then we can reconsider and fix a day.

Mr. GROW. We give no unanimous consent to that proposition.

Mr. STEPHENS, of Georgia. Then I renew the motion to lay the motion to reconsider on the table, hoping that the House will vote it down, reconsider the vote taken yesterday, and postpone the report until Wednesday next.

Mr. WASHBURN, of Illinois, demanded the yeas and nays upon the motion to lay on the table.

The yeas and nays were ordered.

Mr. HARRIS, of Illinois. Is a motion to lay the whole subject on the table in order now?

The SPEAKER. The Chair thinks it is.

Mr. STEPHENS, of Georgia. Will that motion carry the bill and report with it?

The SPEAKER. It will.

Mr. HARRIS, of Illinois. I make that motion.

Mr. STEPHENS, of Georgia, and others, called for the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The motion to lay the whole subject on the table cannot be entertained pending the motion to lay on the table the motion to reconsider. As soon as that shall be disposed of, it will then be in order.

Mr. HARRIS, of Illinois. I will then withdraw the motion to reconsider, and make the motion to lay the whole subject on the table.

Mr. STEPHENS, of Georgia. I object to the withdrawal of the motion to reconsider.

Mr. HARRIS, of Illinois. It is entirely within my own control.

Mr. STEPHENS, of Georgia. As I understand the rules, it cannot be withdrawn except during the day on which the vote is taken.

The SPEAKER. The Chair thinks it is competent for the gentleman to withdraw the motion to reconsider, either on the day when the vote is taken or the day following.

Mr. CRAIG, of North Carolina. Can the gentleman cut off the motion to reconsider by such a motion as this?

The SPEAKER. The gentleman has withdrawn the motion to reconsider.

Mr. HUGHES. I now call the previous question upon the report of the committee.

The SPEAKER. The motion of the gentleman from Illinois [Mr. HARRIS] will take precedence.

Mr. HUGHES. I desire to inquire whether, if the motion of the gentleman from Illinois fails, the call for the previous question which I interposed will not then come before the House?

The SPEAKER. A demand for the previous question will be in order.

Mr. HUGHES. Is it not in order to demand it now, and will it not then come up in order?

The SPEAKER. The Chair thinks not.

Mr. ENGLISH. I wish to inquire whether, if the motion prevails, it will not carry with it the amendment of the gentleman from Pennsylvania, [Mr. MONTGOMERY?]

The SPEAKER. It carries everything, and settles the question, so far as this bill is concerned.

Mr. BONHAM. Does it carry both the House bill and the Senate bill?

Mr. SICKLES. The whole, everything, Kansas and all.

Mr. HILL. The gentleman from Illinois withdraws his motion to lay on the table the motion to reconsider the vote by which the proposition which I had the honor of presenting was adopted: I wish to inquire whether, if I renew the motion to reconsider and lay on the table, it will take precedence of the motion of the gentleman from Illinois?

The SPEAKER. The motion of the gentleman from Illinois would take precedence.

Mr. MARSHALL, of Kentucky. I rise to a privileged motion. I move to reconsider the vote by which the motion to postpone the subject until the second Monday in May was agreed to, and move to lay the motion to reconsider on the table. I understand it is in order to have that motion entered.

The SPEAKER. The gentleman has the right to have the motion entered; but it cannot be considered until the motion of the gentleman from Illinois, to lay the whole subject on the table, has been disposed of.

Mr. HARRIS, of Illinois. There are several gentlemen who say they want further time to consider this subject. I therefore withdraw the motion to lay on the table.

Mr. MARSHALL, of Kentucky. I then call up my motion to lay the motion to reconsider on the table.

Mr. BURNETT demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 105, nays 101; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Bonham, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochran, Colfax, Comins, Covode, Cox, Cragin, Curtis, Darnell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Goodrich, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Moit, Murray, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Quitman, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Spinner, Stallworth, Stanton, Tappan, Thayer, Tompkins, Trible, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, and Wilson—105.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Branch, Burnett, Burns, Caruthers, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, James Craig, Burton Craige, Crawford, Curry, Davidson, Dewart, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Leidy, Letcher, Macclay, McQueen, Mason, Maynard, Miles, Miller, Milson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Ready, Reagan, Reilly, Rufin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Henry M. Shaw, Sickles, Singleton, Samuel A. Smith, William Smith, Stephens, Stevenson, Talbot, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—101.

So the motion to reconsider was laid upon the table.

Pending the above call,

Mr. NICHOLS stated that he had paired off with Mr. DOWDELL, who had suffered last night

with a severe chill. Although Mr. DOWDELL might have come up to the House, it was thought best that he should not endanger his health by doing so. He also stated that his colleague, Mr. HORTON, had paired off with Mr. KUNKEL, of Maryland.

Mr. PHILLIPS stated that his colleague, Mr. LANDY, had been called home by illness in his family, and had paired off with Mr. RICAUD.

Mr. SMITH, of Illinois, stated that he had paired off with Mr. LAMAR.

Mr. KUNKEL, of Maryland, stated that his colleague, Mr. STEWART, had paired off with Mr. THOMPSON.

Mr. JOHN COCHRANE stated that his colleague, Mr. TAYLOR, had paired off with Mr. WOOD.

Mr. TAYLOR, of Louisiana, stated that he had paired off with Mr. KUNKEL, of Pennsylvania.

Mr. HUGHES. I call for the previous question on agreeing to the report of the committee of conference.

Mr. GROW. That motion is not in order.

The SPEAKER. Why not?

Mr. GROW. The whole question has just been postponed by a vote of the House.

The SPEAKER. The gentleman labors under a misapprehension; the question of postponement is still pending. The motion to reconsider and lay upon the table was made on the amendment to the original motion to postpone, and the question now recurs on agreeing to the motion as amended.

Mr. WASHBURN, of Maine. In that event, then, and as this is an important vote, I move first that there be a call of the House; and on that question I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 46, nays 155; as follows:

YEAS—Messrs. Abbott, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Bunting, Burlingame, Burroughs, Chaffee, Horace F. Clark, Clawson, Colfax, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dick, Duce, Edie, Foster, Giddings, Gilman, Goodwin, Granger, Grow, Thomas L. Harris, Haskin, Hoard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Montgomery, Edward Joy Morris, Isaac N. Morse, Freeman H. Morse, Potter, Aaron Shaw, Walbridge, Waldron, Walton, and Elihu B. Washburn—46.

NAYS—Messrs. Adrain, Ahl, Anderson, Andrews, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Branch, Burnett, Burns, Caruthers, Caskey, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, Clark B. Cochrane, John Cochrane, Cocke, Comins, Corning, Covode, Cox, Cragin, James Craig, Burton Craig, Crawford, Curry, Dammell, Davidson, Davis of Maryland, Davis of Massachusetts, Dean, Dewart, Dodd, Edmundson, Elliott, English, Eastis, Farnsworth, Faulkner, Fenton, Florence, Foley, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hill, Hopkins, Houston, Howard, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lawrence, Leidy, Letcher, Lovejoy, McClay, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Miller, Millson, Moore, Morgan, Morrill, Oliver A. Morse, Murray, Niblack, Olin, Palmer, Parker, Pendleton, Pettit, Peyton, Phelps, Phillips, Pike, Pottle, Purviance, Quitman, Ready, Reagan, Reilly, Ritchie, Robbins, Roberts, Royce, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Spinner, Stallworth, Stanton, Stephens, Talbot, Tappan, Thayer, Tompkins, Tripp, Underwood, Wade, Ward, Warren, Israel Washburn, Watkins, White, Whiteley, Wilson, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—155.

So the motion for a call of the House was disagreed to.

The question recurred on seconding the call for the previous question.

Mr. MARSHALL, of Kentucky, demanded tellers.

Tellers were ordered; and Messrs. MARSHALL, of Kentucky, and CLINGMAN were appointed.

Mr. CAMPBELL. What will be the effect of seconding the call for the previous question?

The SPEAKER. The Chair is of the opinion that it will cut off the pending motion to postpone, and bring the House directly to a vote on the main proposition.

Mr. CRAIGE, of North Carolina. I move that the House do now adjourn.

The question was taken; and the motion was not agreed to.

The House divided; and the tellers reported—yeas 89, nays 103.

So the previous question was not seconded.

Mr. DEWART moved (at ten minutes to two o'clock, p. m.) that the House adjourn.

The House divided; and there were—yeas 92, nays 101.

Mr. DEWART demanded the yeas and nays. On ordering the yeas and nays there were thirty-one in the affirmative.

The SPEAKER. In the opinion of the Chair, that is not a sufficient number to order the yeas and nays.

Mr. STEPHENS, of Georgia, demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. CLEMENS and COLFAX were appointed.

Mr. HILL. I move the adoption of the motion to postpone as amended.

The SPEAKER. The motion pending, and on which the question must be put first, is the motion to adjourn.

The House was divided; and the tellers reported yeas fifty-six; (more than one fifth of those present.)

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 99; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Branch, Burnett, Burns, Caruthers, Caskey, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, Cocke, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, David-son, Dewart, Edmundson, Elliott, English, Eastis, Faulkner, Florence, Foley, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lamar, Leidy, Letcher, McClay, McQueen, Mason, Maynard, Miles, Miller, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Quitman, Ready, Reagan, Reilly, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, Talbot, Underwood, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—106.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Bonham, Brayton, Bunting, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Dammell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hill, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Humphrey Marshall, Millson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, Tappan, Thayer, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, and Wilson—99.

So the motion was agreed to.

The House accordingly (at ten minutes past two o'clock) adjourned till Monday, at twelve o'clock, m.

IN SENATE.

Monday, April 26, 1858.

Prayer by Rev. Jabez Fox.

The Journal of Saturday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HAMLIN presented additional papers, explanatory of the accounts of the State of Maine against the United States, under the treaty of Washington; which were referred to the Committee on Foreign Relations.

Mr. BIGGS presented the memorial of John H. Wheeler, late United States Minister to Nicaragua, praying remuneration for services, losses, and expenses, incident to that mission; which was referred to the Committee on Foreign Relations.

Mr. SEWARD presented resolutions of the Legislature of New York, requesting the Senators and Representatives of that State in Congress to use all honorable means to obtain the promotion of Lieutenant Maury to such rank in the Navy as his eminent services and merits entitle him to; which were ordered to lie on the table, and be printed.

Mr. WILSON presented a petition of ship-owners and merchants of Boston, protesting against the enactment of a law requiring them to purchase "Rodgers's Signals;" which was ordered to lie on the table.

Mr. PUGH presented a petition of Thomas Jones and others, of Clermont county, Ohio, praying to be allowed bounty land for services in the war of 1812; which was referred to the Committee on Public Lands.

Mr. IVERSON presented the memorial of A. Davis Harrell, a lieutenant in the Navy, who

had been placed upon the retired list and afterwards restored to the active-service list, praying indemnity for expenses incurred in defending himself before the board upon whose judgment he was restored to his position in the Navy; which was referred to the Committee on Naval Affairs.

Mr. BRIGHT presented the memorial of Madison Suntser, praying compensation for provisions, blankets, &c., furnished the Dacotah Indians at Traverse des Sioux, in Minnesota Territory; which was referred to the Committee on Indian Affairs.

He also presented a petition of citizens of the District of Columbia, praying that an appropriation may be made for improving Boundary street, in the city of Washington; which was referred to the Committee on the District of Columbia.

Mr. BROWN presented a petition of citizens of Washington county, in the District of Columbia, praying an amendment to the act of July 1, 1812, conferring certain powers on the Levy Court of that county; which was referred to the Committee on the District of Columbia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MALLORY, it was

Ordered, That the petition of Henry Etting, on the files of the Senate, be referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. KING, from the Committee on Pensions, to whom was referred the memorial of Webster S. Steele, submitted a report accompanied by a bill (S. No. 291) for the relief of Webster S. Steele. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of James A. Glanding, submitted a report accompanied by a bill (S. No. 292) for the relief of James A. Glanding. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 65) for the relief of Thomas Smithers, reported it without amendment.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of Franklin Peale, submitted a report accompanied by a bill (S. No. 293) for the relief of Franklin Peale. The bill was read, and passed to a second reading; and the report was ordered to be printed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House of Representatives had passed the following bills; in which the concurrence of the Senate was requested:

A bill (H. R. No. 100) to revive an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased."

A bill (H. R. No. 209) for the relief of the representatives of William Smith, deceased, late of Louisiana.

A bill (H. R. No. 211) for the relief of the heirs and legal representatives of Pierre Broussard, deceased.

A bill (H. R. No. 214) for the relief of Regis Loisel, or his legal representatives.

ST. MARY'S RIVER.

Mr. CHANDLER. I desire to call up a joint resolution which I offered on Saturday. It is a matter of some importance, but it will not occupy more than a few minutes. The engineer of the work on the St. Mary's river has discovered a cheaper and easier channel; and he desires that the change may be left to the direction of the Secretary of War. If the Clerk will read the resolution, I think it will pass without opposition. It is an important matter, and it is desirable that it should be acted upon at once. I ask for the reading of the resolution. I think there will be no objection to it.

There being no objection, the joint resolution (S. No. 31) authorizing the Secretary of War to expend the appropriation made July 8, 1856, upon such channel of the St. Mary's river as he may select, was read a second time.

Mr. BIGLER. I suggest to the Senator from Michigan whether it would not be proper to refer that proposition to the Committee on Commerce.

Mr. STUART. That is not necessary. It is simply to authorize the Secretary of War to use

the appropriations already made, in another direction.

Mr. BIGLER. I understand that. It proposes to give the Secretary discretion as to changing the use of the money.

Mr. CHANDLER. The engineer has discovered a cheaper, and, as he thinks, a better line for the channel, and he merely desires to leave it in the hands of the Secretary of War, at his discretion, upon the evidence submitted by the corps of engineers, to change the line.

Mr. POLK. I should like to know from the Senator from Michigan if any of the money referred to in this resolution has been expended.

Mr. CHANDLER. Yes, sir, a few thousand dollars, but a very small portion of the appropriation.

Mr. POLK. How much?

Mr. CHANDLER. I cannot name the precise sum; but a small portion of the amount has been expended on another channel. Last fall a new channel was discovered, the adoption of which, it is thought, will save some seventy or eighty thousand dollars. I have the report of the engineer in my hand which may be read.

Mr. POLK. I should like to hear it read.

Mr. BIGGS. I suggest to the Senator from Michigan, that in any point of view in which this matter ought to be presented to us it seems to me it ought to go to a committee. I move to refer it to the Committee on Commerce.

Mr. CHANDLER. Very well; let it go to that committee.

It was so referred.

RELATIONS WITH PARAGUAY.

Mr. MASON. I ask the Senate to take up the resolution of the Committee on Foreign Relations in relation to our difficulties with Paraguay.

Mr. FESSENDEN. I ask the Senator to withdraw that motion, in order to allow me to call up a bill to which I am sure there will be no objection.

Mr. MASON. I am sorry that I cannot oblige the Senator, but I cannot withdraw the motion. If this resolution is to be passed at all, it is necessary to be passed at once.

Mr. FESSENDEN. I think it can hardly pass without debate.

Mr. MASON. Then the sooner we take it up, the more its consideration will be advanced.

The motion of Mr. MASON was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 23) for the adjustment of difficulties with the Republic of Paraguay, the pending question being, on the motion of Mr. COLLAMER, to strike out the words, "and use such force."

Mr. MALLORY. The President of the United States, sir, in submitting to the consideration of Congress the relations of this country with foreign nations, has summed up those having reference to Paraguay in two short paragraphs; and the Committee on Foreign Relations, in response to so much of his message as relates to that subject, have reported this joint resolution. In opposing the form of this resolution, I wish to say that I have the same object to attain as that which the Committee on Foreign Relations aim at, namely, not only the atonement for some wrongs which we have suffered at the hands of Paraguay, but the negotiation of a treaty of commerce with them, in order that we may avail ourselves of the opening commerce of Paraguay, which is now pretty much engrossed by England, France, and Brazil; but the form of the resolution, in my judgment, will defeat the object we have in view. This debate will reach Paraguay, and the ears of General Lopez and his special council, just as rapidly as if he had an agent here to report to them.

The history of this transaction briefly is this: we negotiated a treaty with Paraguay, or General Lopez and his council of State, in 1853, on the 4th of March; and on the 12th of March that treaty was ratified. By the terms of the treaty fifteen months were allowed for the exchange of ratifications. General Lopez could not conceive, when the voyage from Paraguay to the United States was but three months, why fifteen months would not be a period amply sufficient for the exchange of ratifications. The treaty came on and was returned to him nineteen months afterwards, the Senate having made thirty-three amendments to

the treaty, and extended the ratification to twenty-four months, if my recollection serves me. The treaty therefore was returned to him with these amendments, and with this particular amendment in relation to the time of ratification extended. General Lopez would probably, as Chief of Paraguay, have accepted the treaty, but in the mean time difficulties had occurred. Foreigners had been invited to settle in Paraguay, to develop its resources, and among others who went there were a few merchants from Rhode Island, called the Rhode Island Navigation Company. A few Americans were settled there. Difficulties grew up particularly between them and the Government, and as General Lopez contends they were totally in the wrong. He contends to this day that to enable them to leave the country, he advanced from the public chest \$10,000, and that that company is indebted to him for that much money. When they sought to leave the country, General Lopez demanded, before he would grant them passports, that their debts should be paid. But the United States steamer *Water Witch* being there, Captain Page, its commander, offered those men facilities for leaving the country. A hostile feeling grew up immediately towards Captain Page on the part of General Lopez.

Here I may say that General Lopez is one of the leading men in South America. I presume that no man who knows his career will hesitate to say that he is the leading spirit of the whole of South America. He is a man of much political sagacity, and of a great deal of learning. He was educated in a Jesuit college. He is a man who is endeavoring, under its peculiar form of government, to develop the resources of Paraguay as rapidly as possible. He felt, of course, no cordial feeling towards the commander of the United States vessel there. When we sent the treaty out to have it ratified, it was sent by this very Captain Page, towards whom these feelings were entertained by the Government of Paraguay. He sent a note to the President of Paraguay that he had the treaty, and was ready to exchange the ratifications. The President returned that treaty, through his Secretary, with a brief and pithy note, refusing to receive it, as Captain Page had not accompanied it with a translation in the Spanish language, but had sent it in English.

This, I concede, was a mere pretext, nothing more; but I apprehend if we had sent an indifferent party, any other than Captain Page, toward whom these feelings were entertained, but who had yet done nothing more than his duty, that the treaty would have been accepted and ratified notwithstanding the extension of the period for ratification, and notwithstanding the amendments made to it; for the amendments are, in most respects, merely formal, changing the verbiage. In August, 1854, the difficulty with Hopkins commenced. In October following, Captain Page received this treaty, while these angry feelings were still in existence. That treaty remained in the box in which it was placed, in the office of our Minister at Buenos Ayres, for two years subsequent to the negotiation of the treaty. We then sent a special messenger there, Colonel Fitzpatrick, whose correspondence is before us, to exchange ratifications. This special messenger landed at Buenos Ayres, and went immediately to Assumption, where our Minister resident to the Argentine Confederation had never been before, the Congress of the Argentine Confederation being at Parana. Our special messenger went to Assumption. He was received with all kindness by General Lopez. He was not authorized to enter into any negotiations with reference to the previous attack upon the *Water Witch*, or with reference to the expulsion, from the country, of this commercial agency, of whom Mr. Hopkins, our former consul, was the agent; but he was sent there, and his mission was confined solely to the ratification of this treaty. General Lopez asked him at once if he came there to negotiate a treaty, because, if he did, he was anxious to do so; he was anxious to be on good terms with the United States, and desired to cultivate friendly relations, and to negotiate a commercial treaty with them. Finding, however, that Colonel Fitzpatrick was not authorized to prepare a treaty, he requested Colonel Fitzpatrick to make these feelings known; and his son, who was commander-in-chief of the whole forces of the Republic of Paraguay, told our agent, very frankly, that there was a very

general regret in relation to the firing into the *Water Witch*; and that, had he been present at Assumption at the time, this act would never have occurred, and that the moment a treaty was negotiated, a proper atonement would be made.

Now, sir, thus stand our relations toward Paraguay. The President tells us we have suffered wrong, and that this company have been expelled, and lost a good deal of money. There are two sides to that question. They undoubtedly committed an outrage in firing into the *Water Witch*, which must be atoned for; but it is the first time in the history of the country, that I know of, although the Committee on Foreign Relations say that in reporting this resolution they have simply followed well-known precedents that negotiations with an independent nation commenced by an offer of force. General Lopez has never refused to make atonement for those outrages. He has never refused to negotiate a treaty; and whenever he has spoken on the subject, he has avowed his readiness to do so. But this very treaty would have expired by limitation in a few years. He preferred to negotiate a new one, covering all open transactions between the two countries. He did not wish to negotiate a treaty, and leave out two reclamations—one for the outrage on the *Water Witch*, and the other in reference to this commercial company, unprovided for.

Now, sir, I object to the use of the word "force" in this resolution, because it has a tendency to defeat directly the object we have in view. We have never yet called upon the Government of Paraguay to make atonement or negotiate a treaty; and, in using this language towards her, we must reflect how far we have gone towards other nations. Why did not the Committee on Foreign Relations, when our vessels were fired into by Spanish men-of-war, when the Spanish frigate *Ferolana* fired into one of our mail steamships, recommend that we should open negotiations with Spain on a similar basis? Why did not the President then take this ground, not only in regard to that, but a thousand other outrages that Spain has perpetrated towards us by the use of force?

I should vote to-morrow, I am free to say, to place the whole Army and Navy of the United States at the hands of the President of the United States to correct these wrongs, for I can see a thousand committed by Spain against this Government for which there has been no redress. Every time I hear the name of Crittenden, I feel induced to a vote of that kind. But this is an isolated case. Paraguay is a small nation, some eighteen hundred miles up the La Plata river, and that is one reason, taken in connection with our great desire to open amicable relations with her, why we should not make her an exception to the general rule we have pursued towards other countries.

I would trust the President of the United States with this resolution. My opposition arises, not from any doubt that he would use this force when it was uncalled for, though I have no entire confidence in the infallibility of man. I would trust the President of the United States as soon as I would any man on earth; but I fear the effect this resolution itself may have on the Government of Paraguay, when we send a commissioner there to demand a redress of these wrongs, and send him with a force to enforce his demands, when as yet we do not know what the defense of Paraguay is upon this subject.

I do not wish to detain the Senate. I have stated the prominent objections I have; and I will only say in addition, that the agent we sent to Paraguay, and the only one we have sent there since this treaty was negotiated, has returned to us, reporting the commerce of Paraguay as exceedingly important to this country; reporting the spirit of General Lopez as exceedingly favorable to this country, and reporting his confident belief that if we take only these ordinary steps towards Paraguay that we have towards other nations, and propose to make a treaty of commerce, we shall undoubtedly succeed. This idea is confirmed.

Mr. MASON. Will the Senator be good enough to state who has made such reports, and from whom these reports come?

Mr. MALLORY. I said distinctly it was from the only agent we have sent to Paraguay. I did not use the word "report" in its formal parliamentary sense here, as a written report. I say he has told me so repeatedly and repeatedly. He

is a competent gentleman; he has traveled in that country a great deal.

Mr. MASON. Mr. Fitzpatrick?

Mr. MALLORY. Yes, sir. He speaks the Spanish language as fluently as a Castilian. He has been all over South America, and is perfectly competent to judge; and he is the only man I know of who has been there recently that is competent to judge. He was treated with great consideration and kindness by the Government of Paraguay. This opinion receives additional confirmation from the fact that Paraguay has now opened all her rivers to the commerce of the whole world—even this very river where the *Water Witch* was fired into between Corrientes and Paraguay. She has opened her commerce to the whole world, and England, France, and Brazil are trading there, reserving to herself the right to exclude or admit vessels of war. But this objection is more technical than otherwise, because vessels of war drawing more than five or six feet of water cannot enter those waters at all.

I think there is no necessity for this resolution in its present form; and I venture to predict that if it passes in this form it will defeat the object in view; but if you pass a resolution in the ordinary form, giving the President the right to send a messenger to demand reparation for these wrongs, and to negotiate a commercial treaty, you will succeed.

Mr. SIMMONS. I was unfortunately out of the Chamber when the Senator from Florida began this debate. As I understand him, he thinks that the clause as to force is a new provision in a resolution of this sort, unusual in the history of the relations between this Government and foreign nations. There is a similar provision, I think, in the law passed in 1811, when the President had this discretionary power given to him in reference to Florida, but there may be some distinction between that and this.

Mr. MALLORY. The Senator from Rhode Island will permit me one moment. I trust if he refers to that resolution he will take the condition of East Florida at that time into consideration. It was in the hands of a set of patriots, and was about to be taken possession of by the enemy.

Mr. SIMMONS. But it was before we had an open enemy. It was in 1811, when we were at peace with all the world, that the President was authorized to use the Army and Navy of the United States, and take possession of that country if he thought the occasion justified it. It was a matter of discretion merely. I say we have hitherto given to the President the discretion which is contemplated to be given here.

I now come to speak of the facts in this matter. It is said this is the first opportunity we have had to negotiate on the question of these outrages. By the correspondence in the report before us, it will be seen that when this treaty was presented for ratification, (by referring to the correspondence between our agents and the Minister of Paraguay,) instead of the Paraguayan Government showing any disposition to make redress for these wrongs and outrages, they suspended this treaty on the ground that the United States had not made reparation for their taking the *Water Witch*.

Mr. MALLORY. I will say to my friend from Rhode Island, that the treaty had not the slightest reference to any outrages or wrongs whatever. They were not under consideration.

Mr. SIMMONS. I know that; but I call the attention of the Senate to the fact that when the treaty was presented, the Minister of Foreign Affairs of Paraguay said what I will read. After speaking of the credentials of our agents, he said:

"It is requisite, therefore, that you should be pleased to declare the object of said special commission in order that we may understand the halt in the pending questions in regard to the complaints of this Government against that of the United States for the serious offenses offered to it by the scandalous hostilities of the commanding officers of the *Water Witch*, a United States vessel of war."

He calls this firing into the *Water Witch* a scandalous hostility on the part of the Government of the United States. This is very singular language, coming from a nation who fired into the *Water Witch* and killed one of the crew. After doing this, they call on us to make reparation for that injury! This matter of redress for the insult to our flag, runs through the whole of this correspondence; and the amendments made to the treaty which were also said to be objections to its ratification, were mere verbal amendments in ref-

erence to the title, whether this should be called the United States of North America, and the North American Republic, instead of being called the United States. These were the amendments that caused the necessity of sending it back to be ratified on the part of that Government, and they took that mode of pushing the matter off.

There were quite a number of these alterations; and inasmuch as our agent was not charged with making redress, and perhaps brought these matters under their consideration, they finally dismissed him until he could come clothed with authority to make redress for the injuries the Government of Paraguay had received by their attacking the *Water Witch*, and confiscating the property of our citizens! With such a half barbarous people, I think the best way is not to send a great many men back and forth, allowing three or four years to elapse between, but to send a proper commissioner, clothed with power to treat these people properly, and let them understand that this sort of bombast cannot be used with impunity; that these attacks on our flag cannot be made without some danger of being rebuked. I have no doubt you might keep up negotiations for years, and you would get just the same kind of redress. I think we ought to pursue a more vigorous policy in our dealings with these people, and with other nations also; I have suffered great mortification in hearing our citizens complain of the difference between the treatment they received and that received by subjects of other maritime Powers, in all the countries of South America, and pretty much all over the world. We permit these outrages, and let them go until everybody has forgotten them before there is any redress. They take advantage of our lenity to inflict a great many outrages on our citizens, and it is a reflection on us that they are not promptly redressed.

I can see no motive the President can have in exercising this discretion injuriously to the trade and commerce of the United States. It is his particular duty to see to these negotiations, and if he cannot be clothed with some authority to accompany his messenger of peace with a force that will make his authority respected, he will return rebuffed in the same way you were before. No man can read this correspondence without regretting that there had not been some armed force there to bring to their senses people who talk of a halt in our foreign relations on account of the insults they offered when they fired into the *Water Witch*, killed the man at the helm, and cut her adrift. I hope the resolution will pass.

Mr. MALLORY. I think my friend from Rhode Island will find that he totally misapprehends this case; and when he talks about a precedent being furnished for the introduction of the word "force" here growing out of our relations with Florida in 1811, he is certainly mistaken. He will recollect that there was a patriot war in Florida; that the English were there agitating for the possession of the country, and there was a party in favor of transferring it to them. They had possession of it from 1762 up to 1787, and there was a large party favorable to the acquisition of that country by the English Government. The course then taken by Congress was to authorize the President to take possession of the country if there was a party there ready to transfer it to us. That is no precedent for this case.

When the Senator says that President Lopez refused to ratify this treaty on the ground that there was a halt in their relations with us on account of our outrages, he is mistaken. General Lopez referred solely and exclusively to what he considered the outrage on the part of Captain Page, by facilitating the egress from the country of parties who had not paid their liabilities. That was the outrage he complained of. He did not allude to the firing into the *Water Witch*. If the Senator will look at the dates he will see that the difficulty grew up in August, 1854, the treaty was received in October of the same year, and the firing into the *Water Witch* was in February, 1855.

Mr. SIMMONS. I was reading from a letter of the Paraguayan Minister dated in November, 1856. It might have preceded this, but the date does not.

Mr. MALLORY. The *Water Witch* had not been fired into at all when the treaty was presented for ratification. The President of the Republic had reference solely and exclusively to the

transactions between Captain Page and the ten Americans. When I say ten I put it at the outside. I think there were only six or eight. The names of the witnesses which are appended were only four, and I presume they got all they could. Probably the Americans did not exceed ten. General Lopez had reference exclusively to that difficulty and no other. He contended then, as he does now, that there were open and unsettled difficulties between these persons and himself, which ought to be rectified before the treaty should be ratified, and he claimed that those difficulties should be covered by any subsequent treaty.

Now, I will ask the Senator from Rhode Island whether he does not know that we never have claimed any reclamation of General Lopez? We have never given him an opportunity to say whether he will atone for this wrong or not. I will go as far as the furthest to demand atonement for that wrong, and to enforce the demand properly. I will certainly give an opportunity to Paraguay to do it without an act of force on them—without going to them and demanding reparation sword in hand, particularly when they have informally told our agent that they were ready to negotiate, and offered on the spot to negotiate a treaty which should be entirely satisfactory, if he would only bring it to this Government. He was not empowered to do it, and did not do it. If you will strike out the word "force," you will accomplish this: you will send an agent there who will speak the language of the country, which you have not done before; he will negotiate a treaty covering these transactions, and accomplish all you expected to gain by the treaty of 1854.

Mr. SIMMONS. The Senator must certainly be mistaken. I read from a letter addressed to Mr. Fitzpatrick in November, 1856, about this very treaty. Here is the instruction of Mr. Marcy to him, dated August, 1856. That was subsequent to these outrages; subsequent to the confiscation of this property; subsequent to the firing into the *Water Witch* by this fort; and the Paraguayan Minister then said:

"I have the honor to address myself to the special commissioner of his Excellency the President of the United States of America, to say to him that I have observed in his credential letter of the 30th of July, of this year, his special authorization for the sole purpose of exchanging the ratifications of the treaty of the 4th of March, 1853, and that the honorable Secretary of State of the United States, in a note which he has addressed to me, dated the 5th of August last, makes known that you have been appointed special commissioner to confer with me on all the matters connected with the interests and relations of our respective Governments."

"It is requisite, therefore, that you should be pleased to declare the objects of said special commission, in order that we may understand the halt in the pending questions in regard to the complaints of this Government against that of the United States for the serious offenses offered to it by the scandalous hostilities of the commanding officers of the *Water Witch*, a United States vessel of war."

"I avail myself of this opportunity to salute the special commissioner with my most distinguished consideration and esteem. NICOLAS VAZQUEZ."

That is subsequent to all this.

Mr. COLLAMER. I would suggest to the Senator from Rhode Island, whether that allusion was not to the fact of the *Water Witch* interfering to get people away from that country contrary to the order of the President—not to the firing.

Mr. SIMMONS. But he does not say what it is. He speaks of the scandalous conduct of the *Water Witch*.

Mr. COLLAMER. That was the matter they complained of. Then it ought not to be represented that they were complaining that they fired into the *Water Witch*.

Mr. SIMMONS. No. I say that it was the *Water Witch* matter they were talking about.

Mr. COLLAMER. The complaint about the *Water Witch* carrying away those people is a distinct thing from the firing.

Mr. SIMMONS. There is nothing in these letters showing to you that they were carrying away these people.

Mr. MALLORY. If the Senator will look into the dates, he will see that the difficulty with the commercial agency occurred in August, 1854. The treaty was received at Paraguay in October of the same year, and offered by Captain Page to be ratified. The President of Paraguay refused it. That was after the transaction between the merchants and the Government, and the subsequent refusal of Colonel Fitzpatrick merely followed up the first.

Mr. SIMMONS. I see that, in this correspondence, he dismissed our Minister—I do not know but that it may be very friendly, though I do not think so—because he does not make reparation for their firing. I consider that is about the whole matter, so far as the facts are laid out there. The vessel left one channel and went into the main channel; which, I say, according to law, is open to any vessel. They fired into her. I do not hear the facts disputed. I do not doubt the vessel took the men away. I suppose the Government there wanted to get something out of them besides their property, before they would let them run.

Mr. PUGH. I hope the yeas and nays will be taken on the amendment; because I think, if these words are stricken out, the resolution had better lie on the table, for there is nothing in it but that. Nobody doubts that the President has power to send an agent to ask reclamation. I consider this clause the pith of the whole resolution. I do not wish to prolong negotiations with these people. I do not know the people of Paraguay; but I know something about the Spanish American race, and they will talk until the afternoon of the day of judgment with you, and you will never have a settlement until you use force, or threaten it. I ask for the yeas and nays on the amendment, for I think it is a defeat of the resolution.

Mr. MASON. The difference between the Senator from Florida, in the view he takes of this resolution, and that of the Committee on Foreign Relations, I think results from this: the honorable Senator from Florida bases his recommendation to the Senate of the course which the President shall be advised to pursue, upon information that the honorable Senator says he has received in conversation with some person or persons who has or have been in that part of South America, and from whom he derives the representations upon which he proposes to act. He has so declared in debate, that he has held conversation with some person or persons who has or have been in that quarter of South America, and he has been informed by them of the kind and conciliatory disposition which exists on the part of President Lopez.

The PRESIDING OFFICER. (Mr. BIGGS in the chair.) The Chair is under the necessity of reminding the Senator that the hour of one o'clock has arrived.

Mr. MASON. I shall not speak more than a few minutes, and then I hope we may have a vote.

The PRESIDING OFFICER. If there be no objection the Senator will proceed. The Chair hears none.

Mr. MASON. The report of the Committee on Foreign Relations shows that what it recommends to the Senate is in compliance with the recommendation of the President, based on the official documents which the President has communicated to the Senate. I presume I need hardly say, in the face of the country, that if any action is to be taken by the Senate on the subject, it must be based upon information which comes to them officially, rather than upon information that comes from unofficial and irresponsible sources. Now, what is the recommendation? Not that the President shall be authorized to use force in order to procure a proper atonement and redress for the insult to our flag, for the shedding of American blood that has been practiced by this President Lopez; but he himself says that it is his purpose, if authorized by Congress, to make proper application in a conciliatory though in a firm manner, to the President of this Republic, for proper redress and atonement for the injury and insult he has inflicted on our flag; and he recommends, because of the peculiar character of that people, that he should be authorized, should he find it necessary, to enforce that demand, if it be refused, by the use of force. The Senator from Florida seems to contemplate that we are to fire a gun first and ask for atonement afterwards. That is not in the contemplation of the resolution before the Senate, nor is it the recommendation of the President. The Senator from Florida says that he has been informed that President Lopez is ready to make a treaty, and after the treaty is made he will be prepared to make atonement.

Mr. MALLORY. The Senator is mistaken. I said no such thing.

Mr. MASON. I certainly misapprehended the Senator then, for that is what I understood him to say. We have no minister at this Republic at all.

We have a minister at the Argentine Confederation—a distinct Government.

Mr. FESSENDEN. Is there any appropriation for one there?

Mr. MASON. None. The treaty which was framed, and which the President of the Republic of Paraguay has rejected, was a treaty that was framed during the last Administration, by our Minister at Rio Janeiro, (Mr. Pendleton,) who was sent on a special mission to Paraguay, and to one or two other Republics, in company with Mr. Schenck. We have no Minister there, and we have no access, of course, to that Republic unless it is authorized by Congress, or unless the President deems it proper in his general discharge of his executive duty, to commission some one of our Ministers elsewhere to go there for the purpose. But the President knows, not from unofficial sources, but from the official papers sent home by a responsible officer of the Government, Captain Page, who commanded the Water Witch, that from the temper evinced by President Lopez towards American interests there, and towards the American officers, it would be humiliating again to approach that Government unless it was aware that our President had power to enforce the demand if it should be refused. A steamer prepared for the purpose, as I am informed, has already been sent out there, not as an armed vessel at all, but as a vessel which Captain Page is to command, again to explore the waters of the La Plata; and the President proposes to avail himself of that mission to make demand of this redress from the Government of Paraguay. How? Not by sending an armed force to those waters, I take it for granted. He will either send a special commissioner, or deputy one who may be in that region, to effect the object; but he will send a commissioner there in some form, I take it for granted, with specific directions to make a specific demand for ample redress and atonement for this injury; and if it is granted, very well; if it is not, then I presume orders will be given to our fleet upon that station to furnish an adequate force to compel it. That will be the course, and it is the only course; and it seems to me that it is consistent with the relations now subsisting between this Government and that distant and small Republic.

I understand the Senator from Florida to make some reflections upon the manner in which the duty was discharged, confided to Captain Page at first and afterwards to a special commissioner in the exchange of the former treaty. Now I have no unofficial sources of information whatever; I have no information except what I derive from the information we get from the official papers; and the information we get there is simply this: Mr. Pendleton negotiated that treaty; it was submitted to the Senate, and ratified by the Senate with certain amendments. It was then sent out by our Secretary of State to Captain Page, an officer commanding the Water Witch, on a pacific expedition, into which he had been invited by the authorities of Brazil, who had concurrent jurisdiction over the river in which he was. The treaty was sent to him with instructions from the Secretary of State to proceed to Asuncion, the capital city of Paraguay, and there propose an exchange of ratifications. Captain Page received the treaty in 1854; and he reported from Corrientes, a neighboring province to Paraguay, one of the Argentine Confederation, to Mr. Marcy, Secretary of State, under date of October 17, 1854, that he had received the treaty; and then he says:

"Yesterday I dispatched an officer of this vessel bearer of the communication from myself to the Secretary of State of the Republic of Paraguay, informing him that I had received from the President of the United States a commission and power to act in the exchange of ratification, and desiring to be informed if I should proceed to Asuncion, the capital of Paraguay, for that purpose."

Then he goes on to say that he had sent his officer there instead of going himself, because Paraguay had recently issued a decree prohibiting foreign men-of-war entering or ascending the river Paraguay. The reason for that Mr. Page gives in this language:

"This decree has been issued in consequence of the part taken by the Water Witch, under my command, in protecting and relieving American citizens, whose residence in that country had become subjected to restrictions almost amounting to persecution."

In November, 1854, he informs the Secretary of State of the failure of this mission of his officer in this language:

"I now have the honor to inform the Department that

yesterday Lieutenant Murdaugh, the officer dispatched to Asuncion with my letter to the Secretary of State, informing him that I had been commissioned by the President of the United States to exchange the ratification of the treaty, and desiring to know if I should proceed to Asuncion for that purpose, returned, bringing me the inclosed letter from the Secretary of State, together with my letter returned to me.

"Lieutenant Murdaugh stated to the Secretary of State, on presenting my letter, that it related to the treaty. It was known to the Government of Paraguay that the ratification had reached Buenos Ayres some days previously to the arrival of Mr. Murdaugh. The letters alluded to in the note of Mr. Secretary José Falcon, of the 29th and 30th of September, were addressed to me, returning my letters of the 28th and 29th, copies of which I have transmitted to the Navy Department. In his letter of the 29th of September, Mr. José Falcon, Secretary of State, says my letter of the 28th is returned without an answer, because it is written in the English language; and his of the 30th of the same month, in reply to mine of the 29th, and returning the same, is simply a repetition of the same excuse for not noticing it.

"I could see no obligation on my part to correspond with the Government of Paraguay in any other than my own language, knowing full well that it possessed the means of having my letters translated into its own language. I had reasons, apart from the consideration that President Lopez, in his presumptuous exercise of authority, might conceive himself empowered to force me to correspond in his own language, for writing in English. The only person associated with me who is at all capable of translating English into Spanish is my clerk, and his imperfect knowledge of the language, (as a translator,) coupled with the fact that his translation would not be a fair and true expression of the tenor and import of my letters, determined me not to put myself in a position, in my official correspondence, to be misrepresented."

These were his reasons for writing in English. When this answer was sent back, and his letter returned in that contemptuous manner, Mr. Page then very properly wrote again to Mr. Falcon, Secretary of State to the Government of Paraguay, telling him:

UNITED STATES STEAMER WATER WITCH,
CORRIENTES, October 16, 1854.

SIR: The undersigned, lieutenant commanding the United States steamer Water Witch, Thomas J. Page, has the honor to inform his Excellency José Falcon, Secretary of State and Minister of Foreign Relations, that he has this day received from the President of the United States a commission to act on the part of his Government in the exchange of ratification of the treaty concluded between the United States and the Republic of Paraguay on the 4th day of March, 1853.

With this commission, the undersigned has received the treaty, which he is instructed to exchange.

The undersigned desires to be informed if he shall proceed, according to the instructions from his Government, to the capital of Paraguay, for the purpose of effecting the exchange of ratification above alluded to.

The undersigned will dispatch this communication by Lieutenant William H. Murdaugh, of the United States steamer Water Witch, who will, in person, hand it to his excellency, and will receive his reply.

The undersigned avails himself of this occasion to renew to his excellency the assurance of his distinguished consideration.

TH. J. PAGE,
His Excellency JOSE FALCON, Secretary of State, and Minister of Foreign Relations, Asuncion, Paraguay.

Here is the reply:

ASUNCION, October 21, 1854.
In accordance with the conditions (set forth) in my letters of the 29th and 30th of the past, I return to you your letter dated October 16, in Corrientes, written in English, without accompanying it (or me) a translation signed, wondering that you should continue in your idea of mortifying me.

Your attentive servant, "De U. S. atento servidor,"
JOSE FALCON.

Mr. THOMAS J. PAGE,
Commander of the steamer Water Witch.
[Does not say where.]

The honorable Senator from Florida said, a few days ago, as I understood him—I may have misunderstood him—that the Government of Paraguay had been treated with some neglect, if not contumely, by those who had been sent out to exchange ratifications, because the treaty had been allowed to remain at the mouth of the river some twelve or eighteen months. Here is the evidence that, as soon as the treaty was received by the officer to whom it was sent, he put himself immediately in communication with that Republic, and was rebuffed in a contemptuous manner, as expressed in the letter of the Secretary of Paraguay. What was done afterwards? A special messenger (a Mr. Fitzpatrick) was commissioned to proceed to Paraguay for the purpose of exchanging those ratifications, and the Government there refused to exchange ratifications, on the ground that the Senate had made various amendments to the treaty which the Republic of Paraguay considered was not exactly respectful towards it.

Mr. FESSENDEN. Will the Senator allow me to ask him a question? It is whether the treaty was ever presented to that Government within the period fixed in the treaty for the exchange of ratifications?

Mr. MASON. The period fixed in the treaty for the exchange of ratifications, at first, was, I think, fifteen months; but it was found from the time that it took the treaty to get here, and the delay that occurred before the Senate, that it would be impracticable to exchange ratifications within the time originally prescribed, and then the time was extended, I think, to a period of twenty-four months.

Mr. FESSENDEN. Extended by whom?

Mr. MASON. Extended by the Senate.

Mr. FESSENDEN. By our Senate?

Mr. SEWARD. Will the honorable Senator excuse me for a moment? The amendments to the treaty were generally insignificant; but one was to extend the time within which the United States were to ratify it. All the rest were the striking out of the word "North" before the word "America," and the striking out of the words "North American" so as to make the title of this country "the United States" instead of the erroneous one which the treaty contained.

Mr. MASON. It was presented to the Government of Paraguay within the extension of time which was made by one of the Senate amendments.

Mr. MALLORY. It was nineteen months from the making of the treaty.

Mr. MASON. I advert to this treaty not because their failure to ratify it is any reasonable ground of complaint on our part—it will not be found to be made any part of the complaint in the President's message—because it has been adverted to by the honorable Senator from Florida as furnishing some ground of reasonable complaint on the part of the Republic of Paraguay against this Government. We have no cause of complaint that she did not ratify the treaty. The cause of complaint is, that she has shed the blood of an American citizen, which is unatoned for at this day. The honorable Senator from Florida says we have made no demand for atonement. We have not; we have no minister there. It has not been in the power of the President to do it. The request now is that Congress will place it in his power to do it, and it is objected to because the President has been informed from official sources—and I confess I should agree perfectly with the President, from the tenor of the information laid before him and by him before the Senate—that to send a minister there to ask for redress, unless the President of that Republic knows that that minister will have it in his power to enforce it if it is refused, will be very idle and very fruitless, and, in my humble judgment, a very unworthy movement on the part of this Government toward that Republic. We have no minister there, and it is necessary, therefore, that a commissioner in some form should be dispatched for the purpose.

Again, sir, the honorable Senator from Florida says that this Rhode Island company was prohibited from leaving the Republic of Paraguay, and their passports were revoked because they made an effort to go away without paying their debts, and that the Water Witch, under Captain Page's command, properly interposed and brought them away, having first obtained from the President of Paraguay permission to go. I will say to that honorable Senator that a very different version is given in the official report (whatever he may have found in unofficial reports) made by Captain Page of the conduct of that Government towards these citizens of ours. The version there given is that they had, under invitation of that Government, embarked a very large property, sent out a number of men, made large establishments within the domains of Paraguay in the prosecution of their business, and that President Lopez, for purposes of his own, (for he seems, according to their account, to have been himself largely engaged in the business of the country,) finding that his personal profits were likely to be invaded, took measures at once to oppress them and sequester their property, and compel them to go away. That is the version given in the official report.

Be that as it may, the question submitted to the Senate, and I am sorry to have detained them so long on it, is a very simple one. The President informs us that this insult and injury have been committed not only upon the American flag, but have been accompanied by the loss of the life of an American citizen in the service of the Govern-

ment under that flag; that, in addition to that, American citizens who had been invited to that country, and who had embarked large property there, had their property confiscated, were subjected to very heavy losses, and ignominiously driven from the country, and he asks that authority be given to him to demand redress, and to enforce it if it is refused.

I can conceive of no reason why this recommendation of the President should meet with anything but favor at the hands of the American Congress. The Senator from Florida inquires why, when our flag was fired into by the Spanish ships at Havana, the Committee on Foreign Relations did not propose the same measure? I should have supposed that that honorable Senator could have answered the question very satisfactorily himself. That country is close by. As soon as information was received that our flag had been fired into, the President of the United States, having a minister at the court, according to proper usage, took immediate measures through that minister to demand redress, and redress was obtained; and if Paraguay was within our reach, small and feeble as it is, I should be of the opinion, for one, if we had a minister there, that that minister should be instructed to require redress without accompanying it by force; but we have none; the country is distant; and the facts before us satisfy my mind that there is a necessity for this measure. I am strengthened in this opinion by reflecting on the condition of that country, and the character of General Lopez, who, the Senator says, he is informed is the leading spirit in South America. He may be, but his conduct has shown him to be the leading brigand of that whole region; and I apprehend, from the unfortunate condition of their population, the character of their population, their ignorance, the character of the mixed races there, that the leading spirit among them always will be the leading brigand. That is certainly the character of Lopez.

The honorable Senator says that Lopez has a son who is a different sort of man; and that son said that if he had been at Asuncion when the insult was committed on the Water Witch, he could have prevented it, or could have obtained redress for it, I do not know which. That may be true. All I have to say is that we have no information about the son, or the disposition of the son. In the official correspondence we can treat only with the father; and there is enough in that correspondence to show that, although he may be a leading spirit, it is the spirit of a leading ruffian, and requires to be checked, if he should refuse our demand. I have no idea that he will refuse, if he is made aware that the Government of the United States has a competent force ready to ascend into his waters, and enforce redress. Then he will not refuse; for all leading spirits of that sort cower and quail in a cowardly manner immediately, as soon as force is presented to enforce a demand. I will not detain the Senate longer.

Mr. MALLORY. The chairman of the Committee on Foreign Relations has said a great deal, and raised issues which are entirely irrelevant to this subject, to which I will not attempt to reply. I gave the source of the information I obtained. It is as reliable as that upon which the Senator relies. It was from the only agent that we ever have sent to Paraguay—the only one we have ever sent there to negotiate any treaty. In regard to the very treaty which has been brought to the attention of the Senate, the time for its ratification was extended from fifteen months fixed in the treaty, to twenty-four. We presented the treaty in about nineteen months, but we presented it through Captain Page, who was at that time engaged in an angry controversy with the President of the Republic of Paraguay; and it was a personal objection to Captain Page, undoubtedly, that induced the rejection of the treaty. When we presented it by our special agent, sent to present it, about three years after it was framed, it was long after the time had expired, even as extended by ourselves, and under no consideration was President Lopez called upon to ratify it. Notwithstanding all that the chairman of the Committee on Foreign Relations has said, he has not told us whether we have ever informed General Lopez that we have a cause of quarrel with him. We never yet have done so. We have never signified to him that we are dissatisfied; that we stand in need of reparation; and until we do so, with great deference to

the judgment of the Committee on Foreign Relations, I say that we ought not to talk about force when the information we have, reliable or not, coming from our special agent, is, that they are ready to make a treaty. The Committee on Foreign Relations rely a great deal on the testimony spread out in the report. Their judgment is reliable, just as it is supported by the facts. If we can give a better reason against the report they make, the Senate, I presume, will take it. In this very correspondence, the Minister of the Republic of Paraguay says distinctly to Colonel Fitzpatrick:

"I am likewise directed by his Excellency the President of the Republic to make known to you that his Excellency is in the best disposition to renew the negotiations of a treaty of friendship, commerce, and navigation, as soon as his Excellency the President of the United States may desire to send a plenipotentiary to this city for the purpose, with suitable instructions."

He offered to negotiate then. Our agent said that he was not empowered to do so. He then says to him officially, I will negotiate one at any time that you may send a person here empowered to do so.

"With such an opportunity, the pending questions, to which I have referred in my previous note to you of the 8th instant, can be settled, it not being easy to continue longer without a solution which shall strengthen the good understanding of the two Governments."

There he makes a most distinct and unequivocal offer to negotiate a treaty. It comes from him. We have never offered to make one. We sent this treaty to be ratified by Colonel Fitzpatrick three years after it was negotiated, long after the time extended for the ratification by ourselves. My friend from Virginia says we have no minister at that country. It is well known our minister is at the mouth of the river, at Buenos Ayres, and his mission is to Parana. Steamers start weekly to Asuncion from Buenos Ayres, and the English and French ministers go to Asuncion. They negotiated their treaty when we negotiated ours, and theirs has been ratified. They are trading under it. That is another objection. We can empower our minister at any time to go to Asuncion in any vessel and make a treaty. It is only ninety days from Baltimore to Buenos Ayres, and only eighteen hundred miles up the river from there to Asuncion.

I concede, sir, that for the blood of American citizens shed full atonement must be demanded, and must be had, and that no indulgence should be allowed. But when the chairman of the Committee on Foreign Relations undertakes to brand President Lopez as a brigand, it only shows that he knows very little of the character of President Lopez. It shows that he knows very little indeed of the amelioration of the condition of Paraguay which President Lopez has superinduced. It betokens very little knowledge indeed of the resources which the President of Paraguay has himself developed in that country. So far from being a brigand, he is a statesman, and one of the leading men in South America.

I oppose this proposition only because I have at heart precisely the same end that the chairman of the committee has, and because I feel confident that if you go there with force before you have made any demand for redress, thus excepting Paraguay from that usual routine according to which you treat other nations, you will not attain the object. You may obtain reparation; you may obtain the money which this company claims, and you may obtain redress for the shedding of American blood; but will you negotiate a treaty of commerce? Is that the way to beget friendly relations with an American Power, when we have at that very place the agents of France and England opposing us, and endeavoring to engross the whole trade for their countries? We have to compete with them. They will throw every obstacle in our way, and, as a matter of course, if we empower our agents to use force without making any demand for redress, we shall get reparation for these injuries, but we shall make no treaty of commerce.

Mr. SEWARD. Mr. President, I was one of the Committee on Foreign Relations by whom this resolution was reported. I did not apprehend (at the time the report was made) it to be a subject of any doubt; and I wish to state very briefly the view which I took of the case. Under a decree of the Government of Paraguay, citizens of the United States emigrated to that country, and established themselves in manufactures, agriculture, and trade.

Mr. GREEN. Mr. President—
The PRESIDING OFFICER. (Mr. BIGGS.)
Does the Senator from New York yield the floor?

Mr. SEWARD. With the greatest pleasure
always to the honorable Senator from Missouri,
provided he does not come in the questionable
shape of Kansas.

Mr. GREEN. I desire to ask the Senator if
he is willing to yield the floor in order to permit
me to move to take up Kansas. It is the special
order, and if it is not an interference with his
present plan of speaking, I should like to have it
taken up.

Mr. SEWARD. When the honorable Senator
makes a request of me, it is on the subject of Kan-
sas, and as he is chairman of the conference com-
mittee, to which I belong, I suppose I must receive
it as a command.

Mr. GREEN. Not at all.

Mr. SEWARD. I come down.

KANSAS—LECOMPTON CONSTITUTION.

Mr. GREEN. I move to take up for consider-
ation the report of the committee of conference.

The PRESIDING OFFICER. The Chair will
remark to the Senator from Missouri that there
are other special orders having precedence of that.
The proper motion will be to move to postpone
all prior orders.

Mr. GREEN. That will be my motion; but I
think this has precedence, according to parlia-
mentary law.

The PRESIDING OFFICER. There are other
special orders having precedence, but it is compe-
tent for the Senator from Missouri to move to
postpone all prior special orders.

Mr. FITZPATRICK. I think the Chair is
slightly mistaken in regard to the rule. This
report being set apart specially for to-day, has to
be called at one o'clock to-day, and takes prece-
dence over all other special orders; but if it loses
its place to-day, it goes among the other special
orders. I think, however, it comes up first to-
day.

The PRESIDING OFFICER. The Chair
stands corrected. It is moved to proceed to the
consideration of the special order made on Friday.

Mr. STUART. Before voting on that ques-
tion, I should like to have the subject of that
order read. Let us see what it is.

The PRESIDING OFFICER. The Secretary
will read the order making it a special order.

Mr. STUART. Not the order making it, but
the subject which it is proposed to take up.

The Secretary read: "The report of the com-
mittee of conference on the disagreeing votes of
the two Houses on the bill (S. No. 161) for the
admission of the State of Kansas into the Union."

Mr. STUART. I want the report read that it
is proposed to take up, so that I may see what
the Senator from Missouri proposes to take up.

The PRESIDING OFFICER. The Chair will
remark that, according to the order heretofore
made by the Senate, when the hour of one o'clock
arrived, this report would properly have been be-
fore the Senate as the special order, as the Chair
understands. But when the hour of one o'clock
arrived, the Senate was engaged in the considera-
tion of the resolution reported by the Committee
on Foreign Relations; and, by unanimous con-
sent, the Senate continued the consideration of
that resolution. That resolution, by unanimous
consent, is now before the Senate; and it is neces-
sary to dispose of that before calling up any special
order.

Mr. STUART. So far as that question is con-
cerned, I do not deem it important; but the Chair
was right in his first statement to the Senate. If
he will look to the rule, he will see that the spe-
cial order first made is the special order first to be
taken up; and the Senator from Alabama was in
error in supposing that this matter took prece-
dence for to-day. It does not take precedence at
all. The bill in regard to the fishing bounties is
the first special order according to the rule, as the
Chair will see by reading it. But that does not
affect this question. The Senator from Missouri
proposes to postpone in order to take up. Now
I want to hear read what he proposes to take up,
so that I may see what it is.

Mr. FITZPATRICK. In answer to the re-
marks of the Senator from Michigan, I will say,
that I am well aware of the rule to which he refers;
and if all the special orders, made previous to the

one made on Friday, be called up, the oldest spe-
cial order will be the one properly in order now;
but when the Senate determined on Friday spe-
cially to set apart this day for the consideration
of this report, I hold that, according to the prac-
tice of the Senate, it must now be taken up if it
be called for by any Senator. If, however, to-day
passes without calling it up, it then takes its place
among the special orders, and at the foot of them.
Such I understand to be the rule and practice of
the Senate.

Mr. STUART. That is a mistake. The rule
settles that question.

The PRESIDING OFFICER. The question
is obviated entirely by the motion of the Senator
from Missouri. The Secretary will read what is
desired by the Senator from Michigan.

The Secretary read as follows:

"Mr. GREEN, from the committee of conference, on the
disagreeing votes of the two Houses on the bill (S. No. 161)
for the admission of the State of Kansas into the Union,
made the following report:

"The committee of conference, appointed to consider the
disagreeing votes of the two Houses on the amendment to
the Senate bill No. 161, entitled 'a bill for the admission of
the State of Kansas into the Union,' report:

"That they have had the subject under consideration, and
have given it that careful, patient, and mature deliberation
which they conceive its importance demands, and have
agreed upon an amendment, in the nature of a substitute,
for the House amendment to the Senate bill."

Mr. STUART. The statement in the report is
that the committee have agreed upon an amend-
ment in the nature of a substitute for the amend-
ment of the House of Representatives. Now, I
ask that the amendment of the House of Repre-
sentatives be read, to see how it varies from the
one the committee offer as a substitute for it.

Mr. HUNTER. I apprehend the Senator has
no right to call for the reading of anything except
the report. That is the question on which we
have to act. That he may call for the reading of,
but nothing else.

The PRESIDING OFFICER. The question
now before the Senate is on postponing all prior
orders, for the purpose of taking up the report of
the committee of conference.

Mr. STUART. If the Chair understands, as
I do, that the motion to take up the report will be
a proper motion after the prior orders have been
postponed, then I will wait until this question is
taken; but on the question of taking up the report
I want to have the papers read.

The PRESIDING OFFICER. The question
before the Senate is on the motion of the Senator
from Missouri, that the Senate postpone all prior
orders to take up the report of the committee of
conference for consideration.

Mr. STUART. For the purpose of taking it up.

Mr. DOUGLAS. The point is, whether this
is one motion to postpone and take up, or whether
the question is, first on postponing, and secondly
on taking up. I suppose it is now first on post-
poning.

The PRESIDING OFFICER. The first ques-
tion will be on postponing; but usually, when
such a motion as this is made, it is considered,
when the postponement is agreed to, that it is the
sense of the Senate to take up the matter pro-
posed to be taken up. If insisted on, however,
the first question is on postponing all prior orders.
The object of that motion, suggested by the Sen-
ator from Missouri, is for the purpose of taking
up the report of the committee of conference.

Mr. HALE. It is suggested that the first prior
order is a bill which relates to the repeal of the
fishing-bounty duties. Then I suppose all who
are for keeping that bill as it is, will vote to post-
pone.

Mr. FITZPATRICK. I did not pay particu-
lar attention to the disposition of the subject now
under consideration on Friday last; but if I am
not mistaken, the Senate made this report the
special order for to-day at one o'clock. That
being the fact, to-day being specially assigned for
the report, I take the ground that it comes up at
one o'clock in its order, and overrides all other
special orders that may have been assigned on
previous days. After to-day, if it be not now con-
sidered, I admit it resumes its position with spe-
cial orders formerly made, and goes to the foot of
them. I hold that no motion is necessary to pro-
ceed to the consideration of the report as a special
order; but after having postponed all previous
orders, it comes up of course under the action of
the Senate.

Mr. GREEN. I only made the motion to ob-
viate all difficulty; I thought we should save time
by it, rather than discuss points of order; I am
satisfied that, under parliamentary law, at one
o'clock this report came up on the demand of any
one Senator, properly before the attention of the
Senate, not upon the ground assumed by the Sen-
ator from Michigan that one prior order super-
seded another, but on the ground that this was a
privileged question pending before the Senate on
Friday; and though we chose to postpone it, it is
still a privileged question, and takes precedence
of all prior orders, or of subsequent orders not
having a privileged character. It takes its right
from its character, and not from the mere fact that
it is made a special order; it was postponed to
accommodate Senators. Its character is still
retained as a privileged question, overriding and
superseding all prior orders, because it is priv-
ileged.

Mr. STUART. I had supposed, sir, that the
motion as submitted would dispose of these ques-
tions, for I confess I have very great repugnance
to arguing them over and over again; but the Sen-
ator from Missouri will look in vain to find any
law declaring this to be a privileged question. All
there is about it is, the law of the Manual is, that
a committee of conference may report at any time.
This committee has reported. What becomes of
it then? It is no more privileged than any other
question.

A word now as to the argument of the hono-
rable Senator from Alabama. It will be seen at
once, on the least reflection, that the Senate, in
having assigned the consideration of this subject
for to-day at one o'clock, has done no more, if
you give it the largest latitude, than to make it
the special order for to-day at one o'clock; and
then the question is, when was it so made the
special order? On Friday. By recurring to the
rule, you will see that special orders made prior
to that time take precedence of it. I do not wish
to discuss this point. It is not involved neces-
sarily at all. The Senator from Missouri has sub-
mitted a motion to postpone the prior orders, as
he may do, and take up this subject. It is compe-
tent for the Senate to do it, for the rule ex-
pressly declares that all special orders are subject
to a vote of the Senate. There is therefore no
necessity for presenting this matter in this way;
but if it is to be presented, we are obliged to meet
it as such. If it is insisted now that this motion
shall not be made, but that the Chair shall declare
that this subject is, by its own force, before the
Senate, then we have to meet that question.

Mr. DOUGLAS. The Chair does not decide
that.

Mr. STUART. That is the ground taken by
the Senator from Alabama. If the motion of the
Senator from Missouri be taken, and the Senate
decides to postpone all prior orders, the question
will recur whether the Senate will take up this
subject, or some other subject. Those are legiti-
mate motions, and motions that I do not dispute
at all.

Mr. HUNTER. I suggest that we should get
on faster by taking the vote on the motion which
is made by the Senator from Missouri.

The PRESIDING OFFICER. The Chair
entertained that motion. The question now is
whether the Senate will postpone all prior orders
for the purpose of taking up this report of the
committee of conference.

The motion was agreed to.

The PRESIDING OFFICER. The question
now is whether the Senate will proceed to the con-
sideration of the report of the committee of con-
ference?

Mr. STUART. Now, sir, I repeat the request
that I made before. The report of the committee
of conference, as they themselves state it, is that
they have agreed upon an amendment in the
nature of a substitute for the amendment of the
House of Representatives. The House amend-
ment was a substitute for the Senate bill. Now
I want it read, to see what it is.

Mr. HUNTER. I maintain that the Senator
from Michigan has no right to make any such re-
quest; for, by the practice of the two Houses, the
question is upon the report and not upon the bill;
and for the purpose of showing distinctly that he
has no right to make it, I beg leave to refer to a
decision of this very point made in the last House
of Representatives by Mr. Speaker Banks. On

Tuesday, March 3, 1857, pending the question of agreeing to the report of the committee on conference on the tariff bill, the main question being ordered,

"Mr. KNOWLTON called for the reading of the Senate amendments referred to in said report.

"The SPEAKER decided that the report was the only paper the reading of which could be insisted upon at this time.

"From this decision of the Chair, Mr. GEORGE W. JONES appealed, pending which,

"On motion of Mr. LEWIS D. CAMPBELL,

"Ordered, That the bill be laid on the table."

This express point, therefore, was decided at the last session by Mr. Speaker Banks, and he was sustained, on an appeal by the House of Representatives.

Mr. STUART. I think as much of precedents as their weight entitles them to—no more. We all know that in legislative bodies the majority is very apt to decide as they want the thing done, without any reference to the existing rules or parliamentary law. Now, whether or not you may have anything but the report itself read, depends upon the character of the report. If the character of the report be such as necessarily to mingle other subjects with it in order to settle what is its effect, then you have a right to have every such paper read. No man can tell what is the effect of this report, as a substitute for another bill, unless he has that other bill read. If this was a complete report, reciting the Senate bill, reciting the House amendment, as a substitute for the Senate bill, and then reciting the proposition of the committee itself, the proposition of the Senator from Virginia would be true, because there would be no other paper connected with it necessary to explain its meaning. But, I ask the Senator from Virginia, suppose, as is generally the case on an appropriation bill, a conference committee comes in here and reports that the Senate shall recede from amendment number two; does the Senator say that it would not be competent to ask that amendment number two in the bill should be read? How are you to know anything about it? how are you to know what you are voting upon? whether you will agree to recede or not, until you hear it read? In the very nature of the case, it is impossible. I admit that a report may be so complete in itself, having no connection with another subject, as to spread before the Senate all that is desired in order to enable us to give an intelligent vote, or it may so connect itself with other papers as to make those other papers a part of it, and so that an intelligent vote cannot be given without seeing them.

Now, is the Senate prepared, in this case, to say that a Senator is obliged to vote on this report without seeing how it varies the House amendment or the Senate bill? The vote is upon this report as a whole; it is not amendable; but must we, therefore, take it as it is; and are we obliged to vote without seeing how it varies the amendment of the House or the Senate bill? That cannot be true. I have looked at the case referred to by the Senator from Virginia. My memory is not very clear as to what was the condition of the tariff bill at that time. If it was a distinct and complete thing in itself, the decision was right. If it was not, I do not hesitate to say it was wrong; but I submit here, sir, that I have a right to have such papers as are necessary to a full understanding of what this report is, read before I am called upon to vote on the question at all.

Mr. GREEN. I do not think there can be any real practical difficulty on the question now raised. The right of a Senator to call for the reading of a paper depends upon the fact of its existence in the possession of the Secretary, and I should like to know where is the right of any Senator to call for the reading of anything not in the possession of the Senate.

Mr. STUART. The Senator will allow me to interrupt him. I concede that if the paper is not in the possession of the Senate, of course I cannot have it read.

Mr. GREEN. Very well; that is the end of it, so far as that motion is concerned. But I want to get to the practical bearing of the subject.

The PRESIDING OFFICER. Will the Senator from Missouri indulge the Chair for a moment? The Senator from Michigan asked that a certain paper be read. Does he insist upon that?

Mr. STUART. Yes, sir.

The PRESIDING OFFICER. The Chair will not decide that point as a question of order, but

will refer to the rule, and submit it to the Senate.

By the 14th rule it is provided that—

"When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the Senate and without debate."

That is the rule.

Mr. STUART. That point has been presented to the Senate a great many times; and it has been decided that the rule read by the Chair has no reference to a case of this character. That rule has reference simply to an independent paper not connected with the subject before the Senate. For instance, if I propose to read a paper that is not immediately connected with the subject under consideration, and the reading of it is objected to by a Senator, that rule applies, and it is for the Senate to decide whether the character of the paper is such as in its judgment, will justify its being read. But, sir, the parliamentary law that any member of a legislative body has a right to have any paper read before he votes upon it, is another and entirely distinct right to which that rule does not apply at all.

The PRESIDING OFFICER. The Chair differs from the Senator from Michigan, and rules that the 14th rule applies to the present application made by him. That rule provides that—

"When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the Senate, and without debate."

Mr. STUART. I then shall be obliged to appeal from the decision of the Chair.

Mr. PUGH. Will the Senator from Michigan permit me? The Vice President has decided that this rule does not apply to a paper of this kind.

Mr. STUART. I know he has at this session.

Mr. PUGH. I know he has decided it at this very session.

Mr. STUART. I am aware that the Vice President has decided it at this very session, and has talked with me side-bar in respect to the effect of the rule. I do not think it is necessarily involved in this question; but I am utterly opposed, in reference to this or any other subject, to having a construction given to our rules which must prove fatal hereafter. I therefore, with great respect, appeal from the decision of the Chair; and I ask for the yeas and nays on the appeal.

Mr. TOOMBS. I move to lay the appeal on the table.

The PRESIDING OFFICER. The Chair will state the question. The motion pending before the Senate is a motion to proceed to the consideration of the report of the committee of conference. Pending that motion, the Senator from Michigan asks that a certain paper be read, and the Chair decides that the 14th rule applies to an application of the kind made by the Senator from Michigan. From the decision the Senator from Michigan appeals, and the Senator from Georgia moves to lay that appeal upon the table. The question is upon laying the appeal upon the table.

Mr. STUART. On that question I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 25; as follows:

YEAS.—Messrs. Allen, Bayard, Benjamin, Bigler, Bright, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Henderson, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Sisdell, Thomson of New Jersey, Toombs, and Wright—25.

NAYS.—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Colamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamilton, Harlan, King, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—25.

So the motion to lay the appeal on the table was not agreed to.

Mr. STUART. The question now is on the appeal?

The PRESIDING OFFICER. Yes, sir.

Mr. STUART. I have only a word to say in addition to what I said before. I remarked that the decision of this question, in my judgment, was not at all important for the object I had in view. The Senator from Missouri has stated distinctly the point to which I desired to attract attention. I acknowledge that I have no right to have a paper read which is not before the Senate. If the paper is not before the Senate, as is conceded by the Senator from Missouri, that answers my purpose.

But a word now in regard to this rule. It provides that if a Senator asks for the reading of a paper, and it is objected to, the question shall be submitted to the Senate to decide whether it shall

be read or not. It will be seen, therefore, by the language of the rule, that it is not a question of order. If so, it would be decided by the Chair. But the object was to cover this case: a member proposes to read a paper that is offensive to some portion of the Senate. It may be offensive in its character; as has frequently happened here even within the short time I have been in the body. Some man sends in a letter, and wants to have it read; but a Senator, knowing that it is an improper paper, objects to it; and the question then is put to the Senate, "Shall it be read?" That does not involve a question of order, but is an independent proposition, the object being to preserve the proper decorum of the Senate. That is the interpretation of the rule, and so, as I said, the present Vice President has decided at this term. It is for that purpose alone, and not as affecting this question at all, that I suggested, with certainly great respect to the Chair, and equal respect to the Senate, that I think we ought not to make such a decision at this time as would stand subsequently in our path when it would be important. I should be glad to have this whole subject dropped as it is; and I have no objection myself to withdraw the appeal, provided it may generally be understood that the point made by the Chair upon it is withdrawn, so that the decision shall not be made.

Mr. TOOMBS. It cannot be generally understood. I entirely differ with the Senator, and insist on the point.

Mr. BIGLER. I am not certain that I understand the position of the question. If I understand it correctly, it is a motion to proceed to the consideration of the report of the committee of conference. The Senate have not taken up the report. Pending that question, the Senator from Michigan calls for the reading of certain papers. Now, if the Senate had proceeded to the consideration of the report, and the pending question was a vote on the adoption of the report, the Senator would have a clear right to call for the reading of the papers which would have a bearing upon the question of adopting the report, or affecting the report in any way; but I suggest whether his point of order be well taken now. What is the question? It is a question not of adopting a measure, but whether the Senate will proceed to its consideration. Is it to be a settled rule that when a motion is made to proceed to the consideration of a bill, a Senator, as his individual privilege, has a right to call for the reading of papers that bear not upon the question of whether the Senate ought to proceed with that particular subject, but upon the question of the bill itself? That subject is not before the Senate at all. It will be time enough when the Senate have proceeded to the consideration of the report of the committee of conference for the Senator from Michigan to call for the reading of the original bill on his right, because he has a right to have the matter read on which he is about to vote. That is the point wherein I think the Senator has made his question hastily; and I think the Senate is about to establish a precedent or rule which would become exceedingly embarrassing.

Mr. TOOMBS. This rule is very explicit, and it is a very useful one. It is based upon the idea that the Senate shall have the control of its own business. The point now presented here is, that upon a motion to take up a measure, a Senator can call for the reading of that or any other measure connected with it. Why, sir, that would defeat all the objects of this rule. One Senator here moves to take up the report of a committee. Another Senator rises and moves to have the bill read. In that way, the object of preventing the Senate from following its own business is attained; and we ought to know, from the experience of this body, that we are no more exempt than the other House from mere dilatory motions, and motions having no other intent than to delay and postpone the public business.

In the other House, where a similar rule prevails, a member cannot have a bill read. That question often comes up there; but heretofore, under the practice of the Senate, these points have never been used until recently to annoy and delay the Senate. Hence, the question has not arisen here; but in the other House it has frequently happened that when a bill is pending before the House, a member asks to have it read; and it is done only by permission of the House. This has been done again and again. Persons might, if they chose,

delay business indefinitely if the right now claimed were conceded. One Senator gets up and moves to read a bill, which, like the civil and diplomatic bill, sometimes consists of a hundred pages. The Senator from Vermont may move to have it read for his information on a motion to take it up; the Senator from Delaware may ask to have it read again for his information; and so we might sit here for weeks if thirty gentlemen, less than a majority, desired to obstruct public business by asking for the reading of the same bill. This rule only puts it in the power of the Senate to determine its own business, and there is no wiser rule than that the Senate shall determine at once, without debate, whether a paper shall be read. You would facilitate the obstruction of the public business if you give any other construction to the rule. Public business might be defeated at any time by ten gentlemen of this body sitting in their seats, and calling for the reading and rereading of bills and amendments, if this course were allowed.

I know there is nothing in the rule that excepts the bill on your table. In its terms it embraces all; in its objects it embraces all. The true construction of this rule, like the construction of any other law, is to be obtained by considering the old law—the mischief, and the remedy. The great mischief was that much time was taken up in this and other deliberative bodies in the discussion of the order of business. I have seen the whole day spent here on such questions, and probably the object is to spend this day in the same way. It is likely that that may be the object in some quarters. In order to avoid the evil of spending the whole day to determine what you shall take up, or whether you shall read a paper, and to get at what you want to take up, the rule provides that you shall not read the paper without the consent of a majority of the House. It is a wise rule, and a good rule.

Mr. HALE. Ever since I have been in the body, I have been in a minority on this floor. Having been taught that rules are for the benefit of the minority, I have some care about their construction. Now, if the Presiding Officer made his decision upon the ground taken by the honorable Senator from Pennsylvania, I am inclined to the opinion that the Senator from Pennsylvania is right; and as it is not often that he and I concur entirely, I am happy, when we do, to say so. If the Chair decided that the Senator from Michigan should not have that paper read because it was not pertinent to the consideration of the question whether the Senate would take up the bill or not, I should vote to sustain him, and say the decision of the Chair was right. If, however, after the bill was taken up, and we were called upon to vote upon the proposition, the Senator should suggest that he wanted the amendment read, and the Chair should rule as he has now ruled, I should say that he was wrong. Therefore, so far as my vote is concerned, I should be gratified if the Chair would state the grounds on which the decision was made.

Now, in regard to the practice of the other House, I think the honorable Senator from Georgia is mistaken in one fact; for, as a matter of practice, in the last Congress a very important bill was defeated simply by the pertinacity with which members who were opposed to it insisted upon its being read; and it was a bill longer than the New Testament, and it would have taken a longer time to read it through. I refer to the bill for the reorganization of the commercial law, codifying the revenue laws. It was a bill prepared with great labor, and reported by the Committee on Commerce; and, every time it came up, somebody insisted on having it read.

Mr. TOOMBS. They had to read it once.

Mr. HALE. Well, it will be time enough to consider the objections to having this paper read more than once after it has been read once.

Mr. TOOMBS. The Senator is mistaken. By the rules of the other House, they are bound to read a bill; but, in the case alluded to, the attempt was to dispense with the rules, and not read it at all. The question we are to act upon is the report. That is to be read, and has been read twice, I believe.

Mr. HALE. That is exactly where I stand on this question; and my vote will be governed by that consideration. I think the view taken by the honorable Senator from Pennsylvania is a highly

sensible one—a practical one; and I shall certainly vote to sustain the Chair if he bases his decision on the ground suggested by the Senator from Pennsylvania; but if, after the report is taken up, the same point be made, I shall vote against such a decision.

The PRESIDING OFFICER. The Chair will state to the Senate the position of the question. He will decide no question in advance. It will be time enough to decide every point when it arises. The motion before the Senate is, whether the Senate will proceed to the consideration of the report of the committee of conference. Pending that question, the Senator from Michigan asked for the reading of a paper; and the Chair rules that that is to be determined by a vote of the Senate, without debate, under the 14th rule. Upon that, the Senator from Michigan appealed from the decision of the Chair; and the question before the Senate is, "Shall the opinion of the Chair stand as the judgment of the Senate?" On this question, the yeas and nays are asked for by the Senator from Michigan, as the Chair understands.

Mr. STUART. Yes, sir.

The yeas and nays were ordered.

Mr. BELL. I hope the Senator from Michigan will withdraw the appeal. The decision of the Chair under this rule I think I could not sustain if the question were made at the proper time; but here it is made in reference to taking up certain business. The reading of a paper which is not the paper immediately upon which the Senate is called to vote, is asked for when the only question before us is as to the priority of business, as I understand.

Mr. STUART. No sir. The Senator is mistaken. The question now is on proceeding to the consideration of the report of the committee.

Mr. BELL. I beg pardon. I thought it was a question of the order of business in another respect.

Mr. STUART. The question is on proceeding to the consideration of the report of the committee of conference. Now if the Senate will indulge me for a moment, I think I can satisfy my honorable friend from Pennsylvania that the very ground he has taken is precisely the ground that sustains my proposition. What is the report of the committee of conference? Is any Senator prepared to say that is the paper which they have signed? What is that? I will read it:

"The committee of conference appointed to consider the disagreeing votes of the two Houses on the amendment to the Senate bill No. 161, entitled 'A bill for the admission of the State of Kansas,' report that they have had the subject under consideration, and have given it that careful, patient, and mature deliberation which they conceive its importance demands, and have agreed upon an amendment in the nature of a substitute for the House amendment to the Senate bill.

"They cordially recommend the adoption of this amendment by the two Houses of Congress."

And that they sign. That is the report. That is all the report they have signed. Now, where is the subject that they offer us as a substitute? I have read the report. Senators are insisting that we are to vote on the report that they have signed. That report covers nothing. It does not cover the substitute. It is not embraced in it.

Mr. BIGLER. Will the Senator allow me a moment?

Mr. STUART. Certainly.

Mr. BIGLER. This discussion is entirely out of order. The Senator is discussing the report. The Senate has not proceeded to take it up at all. It is not before the Senate. Now the point which I made was, that the Senator could not call for the reading of the report, or any paper having reference to the report or subject-matter to be acted upon, because the Senate had not decided to proceed to its consideration. If we settle as a rule that, when a motion be made to proceed to the consideration of a bill or report or resolution, any member has the privilege under the rules of the body of calling for the reading of the subject to be considered, I suggest whether we shall not be complicated in business here, and destroy the whole system of our proceedings? He cannot insist; he can avail himself of no right at this point. When the Senate shall have decided to proceed to the consideration of the report, the Senator may make the point which he makes under the parliamentary law; but I must insist that he has no right to discuss the report, or to call for the reading of papers bearing on the re-

port, until the Senate has decided to proceed to its consideration.

Mr. STUART. The Chair has certainly decided that I have the right to have the report read on the question of taking it up; and if the Senator from Pennsylvania could maintain his doctrine, he would put us in a bad position indeed; we should be obliged to vote to take up a subject without knowing what the subject was. That would never do. I am not discussing the report; but I am discussing what constitutes the report. I say that this paper which is signed by the conferees does not constitute the report, and does not purport to constitute it, but it refers to something else that they have done which is their report. They say they have carefully considered the question which was referred to them. What was it? It was the Senate bill to admit Kansas into the Union, with the House amendment. That was the subject referred to them, and the two Houses disagreed upon that subject. I beg the attention of the Chair and the Senate now as I proceed. That subject was referred to the committee, and upon that subject they report. Well, what do they report? They say that they report an amendment in the nature of a substitute for the House substitute. This report is not complete except by embodying in it in point of fact the original Senate bill, with the House amendment to it, and the substitute that the committee propose for both. That is the report. The moment you undertake to confine it to the paper that is signed by the conferees, it is nothing; but they refer to other papers; they refer to all these papers, and these papers are embodied in and constitute a part of the report.

That is the position in which the question stands before the Senate. By what right, I ask, does any Senator insist to-day, when the committee have signed this short statement and appended to it their substitute, that that is all there is of the report? Why, sir, they are obliged to report upon the subject submitted to them, and, as I said, in order to have drawn out this report in complete form, it should have stated that there was submitted to the committee the following Senate bill; and, after writing that out, the following substitute of the House of Representatives for the bill; that the committee have carefully considered these differences between the two Houses, and have agreed upon the following as a substitute for both. That would have been a complete report, drawn out in full form. The committee have not done that, and I am not intimating that they ought to have gone to all that labor; but I say that the Senate bill, the House amendment, and their own substitute are as much part of their report, as if they had drawn them all out in complete form, and that is the question presented here. If it is undertaken to insist that the report is what they have signed, then everybody will see that it is nothing, it is entirely unintelligible; you can make nothing out of it.

I said the Senator would see that I was right in claiming to have this whole report read. For what purpose? For the purpose of seeing whether the Senate is in a condition to take it up. I stated some time ago that the concession made by the honorable Senator from Missouri answers my purpose. He concedes that these papers are not here. That is all I want. I want simply to take the ground that the Senate cannot proceed to the consideration of the subject committed to the committee of conference until that subject is before us. Now, I say that the House amendment is a part of the report of the committee of conference, and I call for the reading of it. It is no answer to me to say that anything beyond what this committee has signed is out of the report. You must either take the ground that everything beyond what the committee has signed is not part of the report, or else you must take the ground that whatever is necessary to render their report intelligible and complete is a part of it, just as in the case I put before, of an appropriation bill. The committee report that the Senate recedes from its amendment number twenty-two. That makes the amendment a part of their report, and you turn to the bill to see what amendment number twenty-two is. It is just as much a part of the report as if it were drawn out in it. So here when this committee, in their report which they have signed, refer to a substitute of their own, and say that that is a substitute for the House amendment, the House amendment is a part of the report. They must

show you in their report what it is that they propose a substitute for.

There is nothing clearer than that; and hence I say to my friend from Pennsylvania that this paper is part of the report, and the Senator is contending against the correct decision of the present occupant of the chair when he says that I have not a right to have any part of the report read. The Chair has decided that, and decided it correctly. The other point made by the Chair is, that the paper which I asked to have read is not part of the report; but the Chair will see, and the Senate will see, upon reflection, that it is part of the report; that the House amendment and the Senate bill are both a part of the report of this committee, and you cannot act intelligently on one without seeing the other, because they are interwoven—the one is made a part of the other, and the report covers the whole. We sent to this committee of conference the Senate bill and the House substitute, and they must come back here; the committee bring them back as a part of their report. They say they have introduced a substitute of their own which they recommend; for what? They recommend it as a substitute for the entire bill. The report, then, must show what it is that they propose to strike out, and what it is that they propose to substitute. That is their report. They propose to strike out the House amendment to the Senate bill, and insert their substitute. That is their report; and it as completely includes these papers as if they had drawn them out in the manner I have indicated.

Mr. HUNTER. I referred the Senate this morning to a decision of the House of Representatives, in which it was expressly decided that the whole question presented by the report of a conference committee was that report itself. I have shown you that it was decided in that case that a member had no right to call for the reading of the provisions of the bill to which it referred, because the question was not upon the bill, but upon the report of the conference committee. Now, sir, the Senator from Michigan says that the report of this conference committee is incomplete, and expresses nothing without the bill. He says that, to have made it perfect, it ought to have embodied the bill of the Senate and the substitute of the House; that is to say, when we report on the large appropriation bills, to make a conference report perfect, we must cover the appropriation bills in the report; yet no man knows better than the Senator from Michigan that such a thing has not been done; that the uniform practice of the Senate is completely the other way. So far from its being the fact that this report is incomplete without the bills, it shows on its face that it is complete without them. What does it say? It says that it presents a substitute for the substitute which the House offered for the Senate bill; that is to say, it expresses clearly that it presents this bill as a substitute for all; and the sole and exclusive question to be voted on, is contained in this bill, which is part of the report. Does the Senator from Michigan say that it is not part of the report because the names are not signed at the bottom? Is it not reported along with this, and expressly referred to, and necessary in order to make it intelligible? and when you have that, you have the whole report, the whole subject-matter which the conference committee proposes to bring before the Senate. If the ruling in the House of Representatives, to which I have referred, and which is consonant with the practice of both Houses, be correct, then it does follow that the paper, to wit, the bill which is not here, and for whose reading the Senator from Michigan called, is a paper out of the case, just as much as if he proposed to read a letter from one of the Departments, or any one else. The whole question is presented by the report of the committee of conference, and upon the report alone. Does it involve a question upon the original bill to which it refers? I say that, according to the practice of both Houses—and I believe that that probably would be the ruling of the old parliamentary law, which was made before bills were printed—the question is upon the mere report. Nor is there equity in such a demand, for we all know that these bills are printed; we are all aware that they are well known to every member.

Mr. COLLAMER. Will the gentleman indulge me one moment? The bill of the Senate, as passed by the Senate, has never been printed.

Mr. GREEN. Not by the Senate, but it has been by the House.

Mr. HUNTER. It was printed by the House, and, I believe, it is the uniform practice to interchange documents. It was printed in the House, and it was put on our table. I say that, if such an appeal is made to equity on that account, it seems to me it would be groundless. It is a matter I acknowledge, for the discretion of the Senate, whether they will consider the report of the conference committee now, or postpone it. That is a matter of discretion on considerations of equity and propriety; but as a matter of right, I maintain, and I think I am fortified by the unbroken usage of both Houses, that we have the right to consider this report at once, and that the question is separate and distinct from the bill itself.

Mr. STUART. The Senator does not state my position as I make it. Of course, I do not say that he does not intend to do so; but I say he does not do it. In the case I put of an amendment to a bill, I did not say that the whole bill should be put in; and in that case it would be unnecessary; because the two Houses did not disagree to the whole, but they disagreed upon a particular amendment, and the report of the committee is not complete unless they spread out the amendment that they propose the Senate shall recede from.

Mr. HUNTER. I will ask the Senator if he has ever known it to be done in his life? Has he ever seen it done in any conference report?

Mr. STUART. I will tell you what I have seen done. I have seen such reports presented to the Senate, and whenever the question was asked what is amendment number twenty-one, it was read, and read as a part of the report without objection. If it were not so, what would be the result? A committee of conference make a report in which they recommend that the Senate recede from amendment number twenty-one. No Senator off the committee knows what amendment number twenty-one is, nor what it is about; and you have to be voting without any knowledge at all, unless you can call for its reading. I do not say that in that case you must embody the whole bill in the report; but I say in this case you must do it because the amendment of the committee covers the whole bill. That is the reason; and to make a parallel case, suppose a committee of conference report to strike out amendment number twenty-one and substitute an entire amendment in its place: the report is incomplete unless you write out the amendment you propose to strike out and the amendment you propose to substitute, because without that there is no intelligent presentation of the case to the Senate. That is the reason; and in this case the Senator shows the fault in his argument. He says it is customary for each House to print bills, and for each House to reciprocate in that matter; but, sir, the parliamentary law proceeds on the ground that this is the first knowledge the bodies have of the question; that it is presented now as a new thing, and that each member, therefore, has the right to have the subject read once. It is not as the Senator from Georgia intimated that one Senator can demand it, and then another demand it, and so exhaust the session in reading. The parliamentary law says distinctly that that cannot be done, but that one reading is a matter of right. I think the honorable Senator from Georgia will see, if he inspects the rules of the House of Representatives, that this right to have a bill read through does not depend upon their rules as contradistinguished from the parliamentary law.

Our rules do the same thing; but it is only reenacting what the common law is. Our rules say that it shall be read once—so do the House rules; but that is no more than the law says without the rules. It is a right that every member has before he can be compelled to vote on a question, that it shall be once read; but having been once read, any number of gentlemen who happen to be in the legislative body cannot then successively demand that it shall be read again. Now, sir, my point is that this report, except in the branch of it that is now here, has not been read, and I have a right to insist on its being read.

Mr. PUGH. I voted against laying the appeal on the table, because I thought the Chair had misinterpreted the rule of the Senate, and the practice as settled certainly under the Vice President, who ordinarily occupies the chair. I understand

the practice to have been settled by him, and I believe it is the true construction of the 14th rule, that the phrase "paper" contained in that rule means an irrelevant paper, or a paper not before the Senate officially. I know, for instance, that in executive session, upon the question of the confirmation of a nomination, where one Senator at this very session called for the reading of certain papers, which had been sent in from one of the Executive Departments, and it was objected to, the Vice President decided that any Senator was entitled, as a matter of right, to have those papers read, because they concerned the nomination. Therefore I think that when the question before the Senate is upon agreeing to the report of the committee of conference, any Senator has a right to hear not merely the new proposition read, but the proposition for which it is to be substituted. As to the question whether the Senator from Michigan could demand it on a motion to take up the report, that was not the point decided by the Chair at all; that is not a point upon which I gave any vote. I do not think he has a right to call for the reading of the papers on a motion to take up; but the appeal from the decision of the Chair was on the ground that the Chair said that under this rule relative to papers a Senator could not have the bill read with the amendment.

The PRESIDING OFFICER. The Senator from Ohio will indulge the Chair. The Chair expressly disclaimed deciding any question except the one presented. This appeal was taken upon the question as presented before the Senate in this form: a motion was made to proceed to the consideration of the report, and then the Senator from Michigan asked for the reading of this paper. The Chair decided that he having asked for the reading of a paper under these circumstances, the 14th rule applied to the case. That is as far as the Chair has decided.

Mr. PUGH. The Chair read the 14th rule of the Senate:

"When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the Senate, and without debate."

I understood the Chair to say that that applied to a demand for the reading of the bill; that that was a "paper" referred to in the rule; and I thought the Chair erred in interpreting the rule. I do not think, on a motion to take up a question, a Senator is entitled to have the papers read, because we take it up for the purpose of having it read and considered. If that be the question before the Senate, or if that be the ground on which the Presiding Officer puts his decision, I shall vote to sustain his decision; but I shall never vote that a bill or amendment before the Senate is a paper the reading of which can be objected to, and thrown out in this way by a majority of the Senate.

Mr. GREEN. I hope we shall have a vote. We all understand the question.

The PRESIDING OFFICER. The question is, "Shall the opinion of the Chair stand as the judgment of the Senate?"

The question being taken by yeas and nays, resulted—yeas 30, nays 14; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Bigler, Bright, Clay, Evans, Fitzpatrick, Green, Hammond, Harlan, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Sebastian, Simmons, Sidel, Thomson of New Jersey, Toombs, Trumbull, Wright, and Yulee—30.

NAYS—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doollittle, Durkee, Fessenden, Foster, Hamlin, King, Seward, and Stuart—14.

So the decision of the Chair was sustained.

The PRESIDING OFFICER. (Mr. BIGGS.) The Senator from Michigan having asked for the reading of a paper, the question, under the 14th rule, is, will the Senate order the reading of the paper? That is a question to be determined by the Senate under the 14th rule.

Mr. STUART. I suppose the vote of the Senate just taken is indicative that they do not intend to allow that paper to be read. I am willing to take that for granted; and the Senator from Missouri having conceded all that I wished to have conceded, that the paper is not before the Senate, I am enabled to present the question as I desired to present it, and as I should have been glad to get at it an hour ago. If we concede everything contended for on Friday, as to the right of the committee to report, I insist now that, as the subject-matter upon which they make the report is not before the Senate, we cannot now proceed

to the consideration of it. Therefore, I am opposed to the motion which is made to proceed to the consideration of the report. We must have the subject brought back here from the House of Representatives, before it can be acted upon by the Senate; and I wish to suggest at this time a reply to an argument that was made by the present occupant of the chair [Mr. BIGGS] on Friday. He put the case of a conference committee reporting that they could not agree. Now, I propose to show that that makes no difference in the ground for which I contend. In that case, the committee of the House of Representatives take the bill to the House, if under the parliamentary law they be entitled to the papers, and they there make their report that the committee have been unable to agree. It is then competent for the House having the bill before them to recede from their amendment. That would be the first question in order. It is competent to insist upon their amendment, and ask for another conference. It is competent to refuse that, and vote to adhere to their amendment. Either of these votes being carried, they send a notice to the Senate of what they have done, and send the bill along with it; and when it is sent here, we have the papers on the subject before us. And then what could we do? We could recede from our disagreement; we could agree to their amendment with an amendment; we could insist upon our disagreement, and join in a request for another conference; or we could adhere to our own amendment, and thus put an end to the subject. Having the bill before us, we could act.

Thus it will be seen that there is no necessity which can arise in any case that is supposed to proceed to consider a report, or even to receive it, until the bill is returned, for if we do receive it we cannot act. The argument made by the honorable Senator from North Carolina is conclusive. Suppose we received a report that the committee had been unable to agree, could any proposition be made here to recede from our disagreement until the bill was here? Could any proposition be made to agree to the House amendment with an amendment? or could any proposition be made to adhere to our amendment before the bill was here? You can take no steps necessary to further action on the subject until the bill is returned. Now, sir, to-day it would be entirely competent for the Senate, if this bill were returned here, to vote down this report of the committee and adhere to our disagreement to the House amendment, or to take any other course a majority of the Senate might choose; but, in the present condition of things, if the amendment reported by the committee of conference were voted down to-day by the Senate, you could take no further action at all, because you have not got the bill before you. The House of Representatives, however, can take action. They can vote down this report of the committee of conference and proceed at once to further proceedings upon the bill, according to the pleasure of a majority of the House, whatsoever that pleasure may be.

But, sir, it will be seen that I was not premature in raising my objection on Friday; and, if I was, I am not premature to-day. Suppose the Senate should vote to agree to this report of the committee of conference to-day, and the House of Representatives should vote to reject the report, and reject the bill, where would your action be? Nowhere; it would amount to nothing. The object of parliamentary law is not thus to waste time by going on with a series of proceedings which may end in nothing. Until the House having possession of the bill has acted upon it, you know not whether you can take any further action here that shall be available. It is competent for the House of Representatives to reject the bill entirely, and end the proceedings upon it. Then why should we be considering it here when our proceedings can, in that contingency, be of no avail? It shows, Mr. President, that the ground I assumed is right and unanswerable, that neither House can act upon the bill until it has the bill before it. When the House of Representatives shall agree to this report, and send us notice that it has agreed, and ask our agreement, then nothing but our vote agreeing to the report will be necessary to complete action upon the bill.

Mr. PUGH. Does the Senator mean to say that we cannot take up the report? It may be an argument why we should not vote upon it; but

does my friend mean to say that we cannot take it up to see what it is merely because the bill is not before us?

Mr. STUART. Yes.

Mr. PUGH. We might take it up, and finding it defective, send it back to the conference as no report; or we might object to it and put it aside. I cannot see, however, that at this stage of the question the objection is proper, and I say it with all respect.

Mr. STUART. I understand my honorable friend, and I only regret that he does not see this question as I do. You are proceeding to act on a subject that is not before you. That is my point. I do not speak of the paper not being here, but I speak according to the parliamentary law as stated the other day by the Senator from Virginia. The bill is where the law says it ought to be, and that is in the House of Representatives—the bill, the amendment of the House, the substitute of the committee, according to parliamentary law, are all before the House of Representatives. It is a mistake that some Senators have fallen into to suppose that the proposition of the committee is not a part of the papers left with the committee of the House of Representatives. It is just as much a part of the papers left with the House as the original bill. The language of the parliamentary law is—what? That you leave the papers with the committee of that House agreeing to the conference. What papers? All the papers relating to the subject. No exception is made. The parliamentary law does not say that you shall leave the papers that were referred to you, and bring back what you propose to substitute for these papers, but all papers that belong to the subject are left with that committee whose House has agreed to the conference. Why? For the very reasons that I have just been enumerating, because that House must act, and being able to act, must have all the papers before it. If this conference committee proposes a substitute for the whole proceedings, must not that substitute be there? It cannot be in two places. The confusion that Senators seem to have been led into, arises from the fact that they suppose the bill which is to become the law can be in two places at the same time. Can that be pretended? Can you take any bill and pass it in the House, and at the same moment pass an exact copy of it here, and call it a law? Not at all. The identical paper that you act upon in the Senate, must be acted upon in the House of Representatives—not an exact copy of it; that will never do. This report, I say to my honorable friend from Ohio, according to the parliamentary law, is in the House of Representatives; it is there, because, I repeat, as the Senator from Virginia has said, the papers are where the law says they ought to be, and the law says the papers are to be left with the committee of that House which agreed to the conference—all the papers, and this one as well as any other one. You might as well bring back the original bill—

Mr. BAYARD. Will the Senator allow me to read the parliamentary law on this point?

Mr. STUART. Certainly.

Mr. BAYARD. The parliamentary law is:

"In all cases of conference asked after a vote of disagreement, the conferees of the House asking it are to leave the papers with the conferees of the other."

Mr. STUART. Precisely; but the Senator has entirely misapprehended. We have had a vote of disagreement in this case. What was the vote of disagreement that made a committee of conference necessary? We disagreed to the amendment of the House of Representatives. If we had not voted upon the amendment of the House of Representatives, but had simply asked for a conference, then the papers would have come to us; but we voted to disagree. My honorable friend from Ohio made that point in the Senate here, and foretold what would happen. If we had, without voting to disagree, asked the House to appoint a committee of conference, the papers would have come to us, and we should first have acted; but we voted to disagree to the amendment of the House of Representatives, and then the parliamentary law says that the papers shall be left with the House agreeing to the conference, which, in this case, was the House of Representatives. They are there now, and there is no report here to act upon, and cannot be until it is sent from the House of Representatives.

Mr. GREEN. Mr. President—
The PRESIDING OFFICER. The Senator from Missouri will allow the Chair to state what he understands is the condition of the question now. The Senator from Michigan withdraws his call for the reading of the paper?

Mr. STUART. Yes, sir.

The PRESIDING OFFICER. Then, the question before the Senate is on proceeding to the consideration of the report of the committee of conference.

Mr. GREEN. I am not certain that that question opens up the latitude of debate which has been indulged in by the Senator from Michigan; but as it perhaps may, I shall briefly notice the points of which his objection consists. In the first place, he is in very gross error in supposing that either the Senate bill or the House amendment ever can, under the present state of the question, come before either House for subsequent action. When a bill has passed the Senate by three separate readings, it is carried to the House of Representatives, and it must be passed in that House by three separate readings, either with or without amendment. When there is a disagreeing vote between the two Houses, the two Houses meet together; they are then, in contemplation of law, one body, conferring together as equals, and as such equals they agree upon some mode of amendment that harmonizes their opinions on the disagreeing vote. For convenience sake, parliamentary law has said they shall select committees to do the work, and report it back to each House, and these reports are to be made at the same instant of time; and when the report comes into either House, the vote is simply upon concurring in the report, or disagreeing to it. We do not read it three separate times. That is not the parliamentary law. It does not assimilate in character to a bill. It is simply an amendment, the bill having already passed both Houses; but as it passed in a different shape in one House from what it did in the other, they are to harmonize upon an agreement, arranged by a joint committee of conference; but that amendment is read only one single time, and the question then is upon agreeing to the report of the committee. It, therefore, cannot be assimilated to a bill. It is no bill; it is a mode of adjusting a difference that exists in the opinion of the two branches of Congress. Instead of meeting in one body and there voting and conferring together, interchanging opinions, they meet by committee, conferring together, interchanging opinions. The result of that interchange comes back as a report, and the only question that can be put to the House on the report is, "Will the House agree and concur, or will they disagree and non-concur?"

So far as a paper in the possession of either House is concerned, it is important to keep this distinction in view: that a paper upon which the Senate or the House of Representatives must act, must be read upon the demand of any one member for information to know what the subject-matter proposed to be acted upon is; but any collateral paper, however important to shed light upon it, can only be read, if objected to, by a vote of the Senate or House. Now, the only thing to be acted upon in the Senate, is the report of the committee; and the Senator from Michigan sees the difficulty of his objection here, and the impossibility of sustaining it, except by making this far-fetched and illogical argument. He says this report necessarily includes the House amendment and the original Senate bill. It is no such thing. That was the subject-matter referred to them, and the report is the result of the conference. The Senate bill and the House amendment cannot be said to be the result of a conference and the opinion of a committee. On the contrary, the committee repudiated them both. The report of the committee upon which the Senate votes, is the opinion of the committee or the agreement of the committee. The other two bills are repudiated and rejected. This, therefore, comes in as the result of the deliberations of the joint committee of conference, and the report is nothing more than a statement to the two Houses of what the result of that conference was. What is that result? Why, on the disagreeing votes of the two Houses, we propose this to the Senate. And in practice, is there any difficulty on the subject? I am satisfied, from all the experience I have had in both branches of Congress, that the uniform, invariable

ble practice, with a single exception, as the Senator from Michigan knows, has been for each House to act at the same instant, if it saw proper, and neither House is compelled to wait until the other has acted, and sent it the papers to be read. He cannot, in the range of his long experience, or in the memory of the oldest inhabitant, find one instance in which it was the case, and the reason is palpable. We cannot act on the Senate bill or the House bill while this report is before us. This report is not amendable, even. It is a finality agreed upon by the two Houses, so far as they were represented on the conference, and no Senator is permitted to move to amend the report; you must either concur in it, or reject it. What subsequent proceedings may take place on the bill, if the conference report be rejected, is a matter entirely separate and distinct from the question before the Senate; for the question now is, will we consider the report?—not the bill; that has been considered in both Houses; it has been considered as long as it can be, until this report is disposed of. There is no other possibility of reaching either the Senate bill or the House amendment, except by rejecting the report of the committee of conference. You can never bring them to the attention of the Senate, or of the House of Representatives, until you reject the report of the committee of conference. The original bill and the House amendment are not before us, and cannot be before us until this report is disposed of.

The question may be asked, would it not be as a matter of information important for a legislator to compare together and read the bills, so as to know the effect of the proposed changes? I answer that might be important; Senators might desire to look at them; and if the Senator from Michigan will say that the object is not delay, not postponement, but that he really does not know what the amendment is which we propose to substitute, that he is entirely ignorant of what the Senate bill was, and the House amendment was, and that he does not want to be taken by surprise, but really wants to institute a comparison, I shall stop to consider his objection; but every Senator, every member of the other House, and every intelligent citizen of the United States, knows at this instant of time the purport of each, and knows with critical exactness the effect of either the bill or the amendment, and can make the comparison. It is accessible; it has been printed; it is in the document room. The Senate bill was printed as passed by order of the other House. The House amendment was printed by order of the Senate. Both have been printed, and in the newspapers; and as a mere matter of information, therefore, they are accessible. As a matter of legal right, they are not pending before the Senate, and cannot be. No question can come up in regard to the admission of Kansas except on the agreement or disagreement to the report of the committee of conference until that report is disposed of; and, therefore, I hold that there is no necessity, there is no propriety, there is no reason, in asking a postponement of this question because the House amendment or the Senate bill is not here. It is no legal right to have them here; it is no legal right to demand the reading of them; they are collateral papers; they are not the papers upon which we vote. That paper upon which we do vote must be read once, and any one Senator may demand its reading. All other papers not constituting the subject-matter upon which the vote is to be cast, can only be read, if objected to, by the order of the Senate, and it appeals to the sound discretion of the Senate. I know full well that the Senate is as well prepared to institute that comparison now as at any other time. If Senators desire to debate it, to defend themselves before the country, to present their positions in a proper light before their constituents, that is all proper, just, and right. So far as I am concerned, I believe the subject has been discussed as much as I wish. I, however, would not intimate a desire to prevent any other Senator from discussing the subject itself as much as he pleases; and I know that all sources of information with regard to the bill, and that which is proposed to be stricken out, are as accessible to him now as if both the bill and amendment were lying on the Secretary's desk. Such being the case—a truth that no Senator will deny—why is it that we stop and quibble upon little points like this? When the country is appealing to us in thunder tones to give it peace, are

we to stop upon a little technicality contrary to parliamentary law, and to interrupt all useful legislation? I trust the question will be carried.

Mr. SIMMONS. I do not profess to any experience in matters of order; but I want to get at this point, and I cannot conceive that we should necessarily disagree about it. The Senator from Michigan, I thought, made his point of order too early, and I voted against him. I am not quite certain that it is not competent to take up this report; but I should like to ask the Senator from Missouri, who states that this question can be acted upon by either House, how, if that be so, it can be possible that there can be any meaning to the rule which the Senator from Michigan has read as a rule of parliamentary law, which says that when a committee of conference is asked by one body, the papers are to be left in the hands of the committee of the House which accepts the proffer of a conference? I take it that means all the papers—all that admit of legislative action. Now, suppose the committee had reported to strike out the ninth and tenth lines in such a section which was a matter of controversy between the two Houses; suppose they had (as I heard at one time that it was proposed) reported to strike out that portion of the amendment of the Senator from Kentucky which authorized the President, by proclamation, to admit Kansas, and insert a provision requiring the new constitution to come back to Congress: I should like to know how the Senate could have acted on such a report without the bill before them? Would not the report have made such an alteration in the bill that it would be necessary to have the bill before us to enable us to understand it? Would not the whole proposition have remained with the bill itself in the hands of the House that accepted the conference? Would not that have been the case with any other such proposition affecting the disagreeing votes upon which the conference was asked?

Now I say, that in point of fact, when a proposition for a law of this kind has been acted upon by the two Houses, and they disagree, parliamentary law must place it in one House or the other for new action; and wherever that places it, that is the proper House for the action to commence; and then, when it goes through the two Houses regularly, the action will be complete. I can see no difference whether you strike out the whole of an amendment or part of an amendment in point of principle. This it seems, as far as I have heard the report read, strikes out the House amendment and the Senate bill too; so that, in point of fact, there is but little left of the original scheme. What I understand to be the meaning of the law which says the papers shall be left with the House accepting the proffer of a conference, is, that all the papers for the legislative action of the two Houses shall go to that House which accepts the proposition; and I can see no propriety, at least no useful purpose in taking up this report, provided the parliamentary law requires us to have the papers before us when we act. I recollect distinctly that the Senator from Ohio [Mr. PUGH] made this very objection, when the two motions were coupled to disagree to the vote of the House of Representatives and to ask for a conference; but I supposed there was a reason for it, and I must confess that I felt I had spoken a little too quick then in asking that the motion be divided. I did not want it divided, on reflection, for fear we should have the papers. I thought there was a little stronger feeling here to get the matter through, by hook or crook, than there would be in the other House, and I wanted them to have the first blow at it.

Mr. CRITTENDEN. Mr. President, I have been making several unavailing efforts to obtain the floor for the purpose of moving that this subject be postponed for a short time. Is such a motion in order now?

The PRESIDING OFFICER. The question before the Senate is on proceeding to the consideration of the report. If the Senate proceed to its consideration, it will then be in order to move to postpone it to a future day.

Mr. CRITTENDEN. But I wish to postpone the whole subject for a day or two. Is not that in order?

The PRESIDING OFFICER. The Chair thinks it is necessary to take up the subject for consideration before a motion to postpone it can be in order.

Mr. HALE. Will the Chair indulge me with a single suggestion?

The PRESIDING OFFICER. Certainly.

Mr. HALE. It strikes me, with great deference, that it is in order to move to postpone the consideration of the question to a given day, by the rule. If the Senator puts his motion in that form, it would certainly be in order.

The PRESIDING OFFICER. The rule says: "That when a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or to amend, which several motions shall have precedence in the order they stand arranged."

The rule says "when a question is under debate." This question is not under debate. The report itself is not under debate, and, therefore, it seems to me to be necessary, first to take up the subject before a motion to postpone it can be received.

Mr. HALE. The Chair will indulge me for a moment, as I started this point. The question whether we shall proceed to the consideration of this report, is under debate; and under the rule which the Chair has just read, it is certainly competent for the Senator from Kentucky to move to postpone the consideration of that question either indefinitely or to a day certain; that is to postpone the consideration of the subject under debate, which subject under debate is whether we shall proceed to the consideration of this report. I think, on reflection, the Chair will see that that motion is in order.

The PRESIDING OFFICER. The Chair will very readily yield to the suggestions of more experienced Senators; but he has universally seen the course suggested by him adopted, namely, to proceed to the consideration of a question, and then to entertain a motion to postpone it.

Mr. GREEN. I will remark that it is impossible to set the subject for any day without taking it up; and I would suggest also the propriety of permitting it to be taken up, and then let us hear whatever suggestions there may be on the subject of postponing it after it is up. I prefer to have it taken up for consideration now.

Mr. CRITTENDEN. I wished to save as much time as I could in the discussion of mere questions of order. May I not attain the object by asking the Senator from Missouri to withdraw his motion? What is it?

The PRESIDING OFFICER. To proceed to the consideration of the report of the committee of conference, all prior orders having, by a vote of the Senate, been postponed. The motion made by the Senator from Missouri was to postpone the prior orders for the purpose of proceeding to the consideration of this report. A division of that motion was called for, and the question was first put upon postponing the prior orders. The Senate having ordered a postponement of all the prior orders, the question now comes up on the remainder of the motion to proceed to the consideration of the conference report.

Mr. CRITTENDEN. But it is objected that we cannot proceed because the bill is not here. That is the argument, and that argument, it seems to me, may as well be postponed for the present.

Mr. COLLAMER. I understand the rule allowing a motion to postpone to be received relates to every question on which the Senate may be called to vote. There is a question before the Senate. The question is whether we will take up or proceed to the consideration of this report. Now, I understand the honorable Senator from Kentucky to move to postpone that question.

Mr. SEWARD. That subject.

Mr. COLLAMER. The rule says "question." The question now before us is, will we proceed to the consideration of the report? That is a question, I take it. If it is not a question we are debating nothing. I understand that question is before the Senate; and, clearly, if there is any question before the Senate, a motion to postpone it is in order.

Mr. GREEN. I would suggest to the Senator from Vermont that this report was, on Friday last, by a vote of the Senate, made the special order for to-day at one o'clock. To-day, to avoid all question about our right to take it up, we moved to postpone all the prior orders. That was ordered by the Senate. It is therefore now up, ["Oh, no!"] but I do not choose even to raise that question; for I prefer avoiding all these little technicalities when the substance can be reached

by consulting the feelings of gentlemen around the Senate.

Mr. COLLAMER. I do not know that I understand the gentleman aright. The truth is, Mr. President, that the question of whether we will proceed to the consideration of this report at this time, is a question in itself which will occasion a great deal of debate; and it has already been started on the ground that we cannot properly take up and consider a subject that we cannot properly vote upon; and we cannot properly vote upon the disposition of a bill, which bill we have not here. It is not true that a committee of conference can make two bills out of their report, and send one to the Senate for action, and another to the House of Representatives for action. They can agree upon a report, as they have in this instance, and that report is part of the papers, and goes to the House having the bill. They may make duplicate copies of their report, but that amounts to nothing; for it is, after all, one report, and one bill, and it has not duplicated itself into two bills for action in the two Houses at the same time. Now, without elaborating that point, I say it is a debatable subject whether we can properly proceed to the consideration of this report now; and inasmuch as the question before us is, will we proceed now? and a motion is made to postpone that question, the point is, is that motion in order? I wish to know if this is decided by the Chair not to be in order? for, if so, I shall appeal from the decision. If it is in order, let us try it.

The PRESIDING OFFICER. The Chair will entertain the motion of the Senator from Kentucky, if he understands it.

Mr. COLLAMER. That is enough.

Mr. CRITTENDEN. I am not prepared to proceed now to the consideration of this subject. I declare in all sincerity to the Senate that my object is not delay. It is a subject of great consequence, and complicated by the proceedings of the two branches of Congress. I have, to be sure, a general recollection of the amendment which I offered; but I have not had an opportunity of comparing it with the substitute proposed for it. I am not ready to pronounce my judgment upon this subject; and, for the purpose of further deliberation, I ask the postponement of this question for a day or two, and I throw myself on the justice and courtesy of the Senate to allow me that. It is no great space of time that I require. I am not prepared to proceed with the consideration of this subject now; and I move that it be postponed until Wednesday next.

Mr. GREEN called for the yeas and nays; and they were ordered.

Mr. BAYARD. I wish to know exactly the motion that we are to vote upon. Is the question considered as up now? or, a motion having been made to proceed to the consideration of the report of the committee, is that followed by a motion to postpone the consideration of that? What is the exact state of the question before the Senate?

The PRESIDING OFFICER. The Chair will state to the Senator from Delaware that the Senator from Missouri moved to postpone all prior orders with a view of taking up this conference report. A division of that motion was called for, and the Senate voted to postpone the prior orders. The question before the Senate prior to the motion now made by the Senator from Kentucky, was, whether the Senate would proceed to the consideration of the conference report? Pending that question, the Senator from Kentucky moves to postpone the consideration of the whole subject until Wednesday next at one o'clock.

Mr. BAYARD. Then, as I understand it, the motion to postpone is out of order, for this reason: the pending motion of the Senator from Missouri is to proceed to the consideration of the report, and that report is not before us, and it cannot be postponed until after it shall have been taken up.

Mr. COLLAMER. That point has been decided by the Chair, and no appeal has been taken.

Mr. BAYARD. If the Chair has decided that the motion is in order, I shall say nothing further; but it strikes me that it is an indirect mode of settling the question. If you refuse to consider, you postpone.

The question being taken on the motion to postpone, by yeas and nays, resulted—yeas 25, nays 29; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler,

Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—25.

NAYS—Messrs. Allen, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Evans, Elitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mallory, Mason, Polk, Sebastian, Sidel, Thomson of New Jersey, Toombs, Wright, and Yulee—29.

So the motion was not agreed to.

The PRESIDING OFFICER. The question is, will the Senate proceed to the consideration of this report?

Mr. DOUGLAS called for the yeas and nays; and they were ordered.

Mr. DOUGLAS. I do not wish to consume time in discussing this question; but it seems to me very extraordinary that we are asked to consider and vote upon a question when, according to the clear parliamentary law, as I think, the question is not before us. The Senator from Kentucky has just stated that he has not had an opportunity of comparing this substitute, reported by this committee of conference, with the House bill for which it is proposed to be substituted, and with the Senate bill as we passed it. He desires time to make that comparison; he is entitled to have those bills before him, in order that the comparison may be made. We are asked to adopt a substitute for a bill that is not before us, and we are not permitted to read the bill for which we are to pass a substitute; we are not permitted to compare their terms.

Now, sir, I respectfully submit that, when I am called upon to vote for an amendment to a bill, it is a matter of right that I shall have the amendment read and the bill read which it is proposed to amend. If the amendment applies to a single section, I have a right to have the section read. If it is proposed to strike out one section and insert another, I have a right to insist upon the reading of the section proposed to be stricken out and the one proposed to be inserted. If we are not entitled to that, how can we vote intelligently on the subject? I understand it to be a matter of right, under the rules, to have them read. How can we do it if they are not before us?

The proposition to proceed to the consideration of the subject now involves that very question. We shall be compelled to vote without the papers before us, and when the papers are in the other House. We are therefore to vote upon an amendment to a bill that is not in the Senate at all, but is in the House of Representatives, not only by law but in fact.

I have always supposed that our rules were made, and parliamentary law was made, to govern the body. I have never supposed that I had any more right to violate parliamentary law, and thus limit the rights of the minority of the body, than I had to decide wrongfully as a judge on the bench, for partisan or any other sinister purpose. I have never yet, on questions involving parliamentary law, or the rights of members under it, varied my vote so as to conform to my political preference, this way or that way. I hold that parliamentary law must be observed, because it is made for the protection of the members; it is the law of the body, and therefore is binding on the judgment and the conscience of each member of the body. I take it for granted that if any member votes to force us to the consideration of a bill that is not here, he construes the parliamentary law that way; but I humbly submit that the law does not so read. The law is that a bill not here in fact, is not here. We all recollect the discussion that took place last Friday, when, in point of fact, this bill was here for a few minutes, but in contemplation of law it belonged to the other House, and accordingly was taken back there.

Now, sir, has not each member of this body an undeniable right to have the bill that we are amending before us? Whenever I move that the Senate proceed to the consideration of the bill, and the Secretary says the bill is not here, we have to suspend until we can send for it and get it. I may say "it is only a substitute that I propose;" but the decision at once is that you cannot proceed to consider the substitute until the original bill is before the body. You have the right to have the one read, and then the other; consider each, and say whether you will substitute the one for the other. Then what is the object of denying us this right, or, if you choose so to call it, this privilege? I think it is a right. Why

deny it to us? The House of Representatives, I understand, has fixed upon Wednesday for voting on the report.

Mr. TOOMBS. Out of order.

Mr. DOUGLAS. I do not understand that it is out of order to speak of a fact having transpired in the other House; but it is not in order to comment on their proceedings, or to censure their action. I have a right to speak of the fact that a bill has been defeated, or has been passed, or has been set down for action on a particular day in the other House. This measure has been set down for action there on Wednesday. One day's delay reaches that time. It only involves the delay of a day. For what purpose is it that we are to be rushed into a vote on this question without one day to consider it? I do not think it is just; I do not think it is fair. I certainly did not expect to find the Senate denying the request of the honorable Senator from Kentucky—that venerable Senator who was here before some of the members of this body were born; who served with distinction in the Senate before some of those who now deny him the right and privilege of comparing this substitute with his own bill were born. He rises here, and says that he has not had the opportunity of making that comparison; that he does not ask a postponement in any factious spirit. The Senate have in that Senator's character the assurance that he is incapable of asking it for factious purposes, for any sinister purposes, for any other object than that which he announces; and that is, that he has not had an opportunity of making that comparison which is essential to enable him to vote intelligently on the subject.

Then, Mr. President, I submit to the Senate that this attempt should not be persisted in, when it is seen that here is a large body of Senators, if not an absolute majority, who conscientiously believe that it is wrong to press this matter; and certainly the majority who are pressing it are not unaware that they are not unanimous on the point that they have the right to do it. They have members on this floor who they cannot get to vote, because they are conscientious in the belief that it is a matter of right to have the bill here before we can act upon it. There is no party drill that can bring them all up to it. It is a matter of conscientious belief with many that this course of proceeding violates parliamentary law. It is so with me. I do not believe you have any rightful authority to force the Senate to a vote on this question until the papers are here. Then, when it involves that great principle, why not yield to it? We only ask that it be thrown back one day. Why not yield it when you see that there is no factious spirit? There will doubtless be a debate on this question; a debate undoubtedly that will last a day, so that you cannot hope to have a vote here before the vote is taken in the House of Representatives. Why not let us have the papers here and proceed regularly? I am not able to discover the reason, and as a precedent in legislation I think this is dangerous.

The papers must be in one body or the other. We must both agree to the passage of the same law. The act passed in one body must be transmitted to the other for its concurrence. It is not competent for the Senator from Ohio to take one copy of a bill and introduce it here, and for one of his colleagues in the other House to introduce an exact copy there, let each be passed, and then say that it is a law. In that case although each House has concurred in precisely the same bill, word for word, you must exchange it and have a vote on the same identical paper. When it passes this House you must send the paper upon which you act to the other House for concurrence; and if that House precedes you in its action, it must send here for concurrence the paper upon which it acts. The vote must be taken in each House on the same paper. I submit that it is not competent for the House of Representatives to make concurrence there on their report, and for us to make it here leaving the papers there. The vote should be taken there; and then when they have voted, they should send here the report upon which they have voted, accompanied by the bill of the Senate and the House substitute, for us to vote upon those papers; otherwise, you are going to pass as a law that in which both Houses have not concurred; you propose that this House shall vote on one piece of paper, and the other House on another piece of paper. I submit that that can-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, APRIL 27, 1858.

NEW SERIES....No. 113.

not be done. You must vote in one House and send the paper to the other, to concur in that paper.

There is a great principle of legislation involved here. It is higher than the consideration of the delay of a single day. I believe it to be a fundamental principle. I think a departure from it is dangerous in legislation. This being the character of the question, and the courtesy of the Senate being appealed to to lay it over for only one day, I cannot yet believe that the Senate will deny a request so reasonable as that. It might be different if the other House had postponed the question for two or three weeks, although I think the right and the law would be the same then; but the question of courtesy would be very different. Under these circumstances, I think we ought to have the time that is asked. I am satisfied that then there will be no unnecessary delay. I am satisfied that there will be no factious opposition to a vote. I am satisfied the debate will not be an unreasonable one in length. I believe we shall save time in the business of the Senate by doing this.

These are my views, Mr. President; and I had hoped that we could go on quietly and courteously, and in conformity with that usage, those rules, and that parliamentary law which have governed us heretofore on such questions.

Mr. TOOMBS. The motion before the Senate is to proceed to the consideration of the report of the committee of conference upon the Kansas bill. The question of order was raised last Friday. It was the desire of the Senate then, I believe, very generally to take up the question; but at the instance of my honorable friend from Kentucky it was postponed until to-day. On this morning, shortly after the hour of one o'clock arrived, we took it up, and had a most elaborate argument on the question of order from the very learned gentleman on the rules from the State of Michigan, who enlightens us frequently—nearly every day—on the subject of rules. We listened to him, as we always do, with a great deal of pleasure. He failed to satisfy us. One of the principal objections to the argument of the honorable Senator from Illinois now is that his argument comes after the verdict has been rendered. The Chair made his decision; it was discussed; it was sustained by the Senate; and after the decision the Senator from Illinois makes his speech. I believe that most of us who felt any interest in the question of order ventured to give our suggestions at the proper time. I even threw in a few of my own poor suggestions on the question of rules, of which I am happy to say I know very little. My honorable friend from Virginia gave his long experience. I was satisfied myself that, according to the rules of both Houses, and according to my own personal observations of Congress, now running back for thirteen or fourteen years, reports of committees of conference are the sole subjects for action when such reports are made; and, according to my recollection, we have again and again, a hundred times in each House, as often as they have come in, established that precedent. I believe it to be in conformity with parliamentary law, and therefore I shall not discuss it, especially as the honorable Senator from Illinois did not give us the benefit of his reasoning on the subject until we had decided it. I do not choose to allow him to keep his knowledge and judgment until we give a wrong verdict. I will not open the case on a question of mere order.

I was surprised to hear the reasons given by the Senator from Illinois—greatly surprised and astonished. I did not know that these Senators had been acting in the dark all this time, and he among them, upon the Kansas question. I supposed it had had their best consideration. The Senate discussed it for months upon months. It passed a bill and sent it to the House of Representatives. That House substituted another bill for it. It came again to this body, and the Senate refused to accept the amendment of the other House. It went back to the House. It was a grave question, considered so by the whole na-

tion, and the House of Representatives deliberately adhered to their position. The Senate insisted and asked for a conference. Then there was the Senate's bill discussed here for months, supposed by the people to have been considered before the Senate with all the lights we could bring to bear upon it; there was the *project* of the House which had received the judgment of the Senate, and it ought to have been an enlightened judgment; it ought to have been on a full knowledge of its provisions; it ought to have been for want of confidence in its wisdom and its propriety; it ought to have been in the full blaze of light which the subject was entitled to, and which every Senator was bound to give it. We sent these propositions to a committee of conference, and they come back and move an amendment. That amendment was brought in last Friday, and was laid over until to-day, in order that Senators might enlighten themselves on it. We did not suppose they wanted to know what the original Senate bill was. They voted on that after having discussed it for months. We did not suppose they wanted to know what the House amendment was. We supposed they understood it when they voted it down. They were presumed to understand it. It would have been a just cause of offense if I had told the Senator from Illinois: "You voted in the dark, and did not know what you were voting for when you voted to sustain the House amendment; there are provisions there you have not studied; there are things there which are wrong." I would not have been so impolite as to tell any honorable Senator on this floor: "You are voting for what you do not understand, and you affirm whereof you are ignorant."

Therefore, presuming that you knew the Senate's bill, that you knew the House amendment, and have had an opportunity to know this report, I insist that we are not compelling gentlemen to vote in the dark. I insist that, having voted on the Senate bill and the House amendment, I am bound in courtesy to the Senate to presume that they did understand them. Now this report has been brought in, and postponed for a day, that it might be read; and I presume there has been time enough to read it and comprehend it.

Mr. GREEN. It was printed on Friday night.

Mr. TOOMBS. I am informed by one of the committee that it was printed on Friday night. All of us have had the same opportunities to understand it, and I have no doubt these gentlemen are equally as ready to vote as I am. I was ready to vote on Saturday; I am to-day. The objection that they are entitled to have the bill, I will not say is a pretext, but it is an insufficient reason; because I am bound to believe that the honorable Senator from Illinois knows every word of it. His position in reference to this question, his great abilities, his long familiarity with everything connected with Kansas from the day of her birth to this hour, are such that I am constrained to believe he knows every word and every line and every provision of the bill. Then I am quite sure, as to himself, he will vote with a full knowledge of all the facts. He has had time enough since Friday night to understand the bill. It is not being pressed in the dark.

Besides, have we not spent time enough in the discussion of Kansas? Have we not spent time upon it at the expense of all other public business month after month? Are we incapable of deciding subjects here? Why, sir, the gravest questions of peace and war and finance and everything concerning a great Government, are decided in almost all countries in one sitting. Here, after years of labor, seas of words, boundless, illimitable seas of words, and speeches to enlighten others, we come now to what I trust is a consummation of this difficulty, and we are asked for time because gentlemen do not understand it. I do not think they will ever understand it any better. As all events, I am willing to venture my vote on my present judgment.

Mr. PUGH. Mr. President, I certainly mean to be actuated by no factious motive myself. I expect to vote for this proposition whenever it is

properly before the Senate; not that I think it is the wisest settlement; not that I mean to give it my entire and unqualified approval; but I shall vote for it as the best settlement of which the case admits. But, sir, in my judgment, the bill is not before the Senate; and this does not result from the want of advisement, for I took the liberty—perhaps it was considered impertinent and annoying at the time—to warn the Senate how this matter would end, and to warn them in time; and what was the answer? Several Senators rose, the Senator from Virginia [Mr. Mason] among the rest, and said he was willing the bill should go to the House of Representatives, and let that House take the responsibility of passing it or defeating it. It was avowed on the floor of the Senate, at that very time, that this case should take just such a position; that the bill might go to the House of Representatives, and let that House take the responsibility of passing it or defeating it. I put in my *caveat* to the best of my ability. I put it in after having examined the question and all the precedents I could find in our own history and in the British Parliament. I implored the Senate to ask only for a committee of conference, without insisting, the effect of which would have been to retain the bill here, and give us a chance to vote for it; or, if we could find no proposition for a committee of conference, to give us a chance to amend the House amendment without a conference; but it was said, "it shall go to the House." Well, sir, it has gone to the House; it has gone in pursuance of a deliberate decision of the Senate; and now what is proposed? What is the vote to be taken in the Senate? I hear my friend from Missouri say that the Senate bill and the House amendment are not under consideration, and that the committee of conference have brought in a new bill. Very well, sir; let it be read three times, and be sent to the other House.

Mr. GREEN. The Senator is mistaken when he says that I remarked that the committee had brought in a new bill. I said we brought in an amendment to heal the difference or the disagreement, and that it would never be read three times, for it did not come in in the nature of a bill. I have said that explicitly and expressly. How the Senator could misunderstand me is most extraordinary.

Mr. PUGH. I think my honored friend from Missouri will find that the category is as inexorable as death. If it is an amendment, where is the original? How can you vote on the amendment without the original? The thing is impossible. If it is a new bill, let it be read three times and sent to the other House. There is no getting away from the alternative; it is perfectly fatal. The Senate has passed a bill and sent it to the House of Representatives. The House passed that bill with an amendment—that is the form of the expression, and its legal effect. It came back here, and we disagreed to the House amendment; but it was the same bill all the time. What followed? We sent that bill back to the House with a message announcing that we disagreed to their amendment. The House adhered to their amendment to the Senate bill. It was still the same bill all the time. That bill came back here, and we insisted on our disagreement and asked for a conference.

Mr. TOOMBS. My honorable friend will allow me to interrupt him. I stated that I would not argue the question, because there was no point of order before us. The motion is to take up the report, and on that motion the Senator is out of order in arguing a question of order which has been decided.

Mr. PUGH. With due submission to my friend from Georgia, I think I am entitled to give my reasons why I shall vote one way or another on a question, whether those reasons are points of order or points of argument. I have certainly a right to say that, according to my judgment, in parliamentary law, such a question ought not to be now put to the Senate. The Senate may not agree with me, or may agree. It is within the rules of order, in my judgment, for me to assign

my reason; and there is nothing disrespectful to any Senator in what I have said.

I say, then, the Senate insisted on its disagreement, the effect of which was to send the bill to the House of Representatives. If we had simply asked for a conference, without insisting, the bill would have remained here. I cited the parliamentary law on that occasion to show that. Now, the committee of conference have made a report; and where is the bill? I am not so certain that it ought to be in the other House; I am not certain that, in point of law, it belongs to the House; but, in point of fact, it is in the House, and we cannot get it without sending for it. If we are entitled to it by the law, which I am rather inclined to think, under the circumstances, we ought to send a message asking for the bill; but we must have the bill before we can proceed another step. In my judgment, we might as well offer a Senate resolution to pass a bill that is now on the files of the House of Representatives. We might just as well offer a resolution in the Senate that such a bill, with such a number, and such a title, now on the files of the House of Representatives, shall become a law. Why, sir, we cannot even reconsider a bill after it has gone out of our possession. We must get it into our possession before a motion to reconsider can be made.

It seems to me that this is a question of very great importance. It is a question that concerns the order of legislation. It is a question of our duty as law-makers. How can we expect men to obey our edicts as laws when we ourselves set our feet on parliamentary law? We lose the confidence and respect of our countrymen when, in our anxiety to carry a given proposition, we trample under foot what is settled parliamentary law for more than two hundred years.

I implore the Senate to pause before it precipitates itself into action like this. We have not the Kansas bill here. If we are entitled to it in point of law—as I rather think we are—let us send a message, and ask the House of Representatives for it on the ground that they have it improperly, and that we ought to have it, and let us proceed in order. Why leave this question open? It has agitated the whole Republic; it has raised more ill blood than any question, probably, since the foundation of the Government. You propose a great measure of peace and conciliation. I take it as a measure of peace and conciliation, and I am anxious for its passage. I will do everything I can for its passage; but I do not want that which is offered as a measure of peace to become a new apple of discord in the country, upon the allegation that it never passed the two Houses of Congress according to the forms of law. Let us be careful, when we are making peace, or professing to make peace, that we do not make war.

Now, I think we should be careful how we proceed on a question involving so many mighty issues as this does. Why insist on passing the bill in this shape, leaving ground for a controversy to arise hereafter whether the bill for the admission of Kansas was ever rightly passed; whether the Senators and Representatives elected from Kansas would be entitled to take their seats in Congress? Why leave all these questions open? What difference do five or six days make? Yea, what difference do five or six months make? But I am satisfied it will all be settled in twenty days. I believe this proposition can pass both Houses of Congress—that is my judgment; I hope it will pass; but I want it to pass in such a form that when the President of the United States approves it, there will be no question behind as to whether it received the vote of the two Houses. Therefore, I implore the friends of the proposition—and I am one of them—to let this matter lie over, as the Senator from Kentucky proposed, until Wednesday or Thursday. By that time it may be that we shall hear from the other House, and have no further controversy.

Mr. GREEN. I do not believe any disposition has been manifested, on this side, to treat the opponents of this report harshly; and I really think a little hard of the Senator from Illinois, and the Senator from Ohio, charging us—

Mr. PUGH. I made no such complaint. The Senator misunderstood me.

Mr. GREEN. Charging us with trampling under foot parliamentary law. We do not so understand it; and there is no judge here to pronounce *ex cathedra* what the parliamentary law is.

Each member construes it for himself, responsible to the country and responsible to his God. For one Senator to charge others with trampling under foot parliamentary law, when each Senator judges of that law and its purport and meaning as a rule of action for a deliberative body, does not seem to sit very well on my stomach. My opinion about this law is clear; I am liable to err; and I accord to others the same right to construe the law that I claim for myself. I will not say that they are willfully violating the law, parliamentary or otherwise. I have said before, and I repeat now, that the bill has passed both Houses in all the forms of parliamentary law; but as it passed there was a disagreement between the two Houses, and to settle that disagreement the two Houses met together, and, in contemplation of law, they are now in one body, in the rotunda if you please. The conference committee represented them. Do you agree that the act of the conference committee is the only question? It is not the bill; it is not the amendment; and the bill and the amendment never can come before the Senate and House of Representatives, until the House and Senate pronounce judgment upon the act of the conference committee, for they are still legally in that large conference consulting together whether they can agree or not. It is still a matter of interchange of opinion—do we agree upon this point or not? If we agree, it requires no vote upon the bill; it requires no vote upon the amendment.

This is my view of it. This is in accordance with the uniform practice of Congress from time immemorial. Why gentlemen should spring a question now that we cannot act upon the report until a bill is brought before the Senate or House of Representatives, is to me very strange. If we had to act upon the bill, it would be true; if we had to vote upon it, we should be required to have it in our possession; and as we have to act upon the report, we must have that report in our possession. If it be necessary, to explain the report, for wise legislation so as to come to a correct conclusion, to have the bill, that is a matter which addresses itself to the judgment of the Senate, whether they will send for the original bill, or whether they will take printed copies known to be correct; and as we know it can prejudice nobody, as we know there are correct printed copies, we know it is a pretext—not because the bill itself, in its original shape, is not lying on the Secretary's desk—

Mr. FOSTER. Will the honorable Senator allow me to ask him a question?

Mr. GREEN. Yes, sir.

Mr. FOSTER. I would ask whether, in the event of the Senate's agreeing to the report of the conference committee, it would be requisite, after a vote thus agreeing, that we should send the report to the other House?

Mr. GREEN. I will answer. We simply inform the House of our action. We do not send anything for them to act upon. We simply inform them that the Senate concur in the report of the committee of conference.

Mr. FOSTER. Pardon me one question further. Suppose the House act upon the report of their conference committee: will they send us the original papers and their vote upon the report, asking our concurrence?

Mr. GREEN. I answer, that they will be sent to the Secretary, because the bill originated in the Senate, and the papers have ultimately to be lodged there. They will not be sent here for our action upon them; but we shall be informed that the House concurs or non-concurs in the report of the conference committee; and then we act, not upon the information coming to us from the House, but upon the report coming before us from the conference committee. That is the distinction between the two cases.

Mr. COLLAMER. Will the gentleman indulge me for a moment?

Mr. GREEN. Certainly.

Mr. COLLAMER. Suppose the House were to agree to this report of the committee to-day: they would then pass the bill in this form. Having agreed to the report, they send it here. Would the question then put to the Senate be, "will you concur in the report of the committee?" or, "will you concur with the House of Representatives in the amendment they have made?"

Mr. GREEN. I answered that question when

I answered the Senator from Connecticut. The question is, "do you concur in the report of the conference committee?" and that is the only question. It is never, whether you concur with the House, they having concurred in the report of their committee. It is, "do you concur in the report of the conference committee?" And hence, as I said in the beginning, the only question that can ever come before the Senate or House of Representatives on this subject, until this report is disposed of, is concurring or non-concurring in the report. It is not on the bill; it cannot be on the bill. Such being the case, I see no propriety whatever for deferring it. So far as the Senator from Kentucky, and others, desire time to look into it, it is a question that addresses itself to our sense of propriety, whether we shall grant the time. I am free to say that I think—

Mr. DOOLITTLE. Will the honorable Senator from Missouri allow me to ask him a question?

Mr. GREEN. Let me finish my sentence; but I will hear the Senator.

Mr. DOOLITTLE. My question is, does the conference committee make one report or two reports?

Mr. GREEN. I answer that the conference committee is just as though the two Houses were in one body conferring together, to see if they could agree; and the two branches of the committee of conference, one representing the House of Representatives and the other the Senate, are just the same as the two Houses of Congress, and it requires the concurrence of each House to the action of that committee. Therefore, from the necessity of the case, as the two Houses are not, in fact, in one body, but in separate bodies, there have to be duplicate copies of the report; we have to sign these duplicate copies according to parliamentary law, both the one that comes to the Senate and that which goes to the House of Representatives; and unless they were identically the same, there would be no agreement, and hence the conference would fail. Being identically the same, they are but duplicate copies of the same instrument; but the report coming to you from your own committee, is the subject-matter on which you act; and the report going to the House of Representatives from their committee, is the subject-matter upon which they act; and the moment the two act and concur in what the conference committee have done, then the matter stands adjusted.

Mr. FOSTER. Which of the two bills is to be taken to the President for his approval?

Mr. GREEN. I am a little surprised at the Senator. I suppose he did that to try to throw the argument into ridicule, but he cannot embarrass me in the least.

Mr. FOSTER. I do not intend to embarrass the Senator at all. I put the question in order to get an answer.

Mr. GREEN. There is but one single agreement. The conference committee fix up the disagreement between the two Houses, and put their report here in lieu of the disagreement. The bill was passed before in all the forms of law, but the House of Representatives passed it in one shape and the Senate passed it in another. The two Houses, by joint action, concur by adjusting that point of difference; and the moment that point of adjustment is settled the bill stands passed, and it is enrolled in the form on which the conference committee have agreed, and it then goes to the President to receive his signature. There can be no question raised afterwards as to the binding efficacy of this law, as to whether the Senators from the State of Kansas shall be admitted. The Senator from Ohio anticipates a difficulty that cannot arise. It is a uniform practice, done every day. It is done in conformity to parliamentary law. It is done in conformity to the necessity of the case; it is done in conformity to the rule of common sense and right reason; and I should be astonished to see a new precedent established which must be so difficult of administration in the future as even to block the wheels of Government and stay all useful legislation.

Mr. SEWARD. Mr. President, it was my misfortune to be obliged to differ from the honorable Senator from Missouri, and the committee of conference, in its consultations and in its results. I sincerely hoped, however, that the misfortune might end there. Now I find that the

further he attempts to lead me, the greater our divergence is. The question before the Senate is whether we shall take up the report at this time. This motion involves three questions; first, one of courtesy to the honorable Senator from Kentucky, who makes the motion to postpone; second, one of expediency, in regard to the due dispatch of the public business; and third, the question of parliamentary law, whether we can rightly take up the report.

I should be glad to concur with the chairman of the committee of conference, if I could have found him right in any two of these positions; but I am sorry to say that I find him wrong on all three. Why, Mr. President, consider who it is that asks the postponement of this matter as a point of courtesy. It is the honorable Senator from Kentucky, the author of the House amendment to the Senate's bill. It has been rejected by the Senate, although adopted by the House. It is he who, in a parliamentary view, is the author, the person to whom belongs the responsibility of a great measure, which he has introduced with a view to the settlement of a great controversy. Now, consider, if the Senate will, for a moment, the ground upon which he places his request. He distinctly states that it is not for delay. He distinctly states that it is with no factious purpose, but that it is simply and honestly, or, to use his own language—which is always so much more just and accurate than that of almost any other person in the world—it is because he is sincere in declaring that he is not able, not prepared, to discuss this subject to-day, while he trusts, health being spared, he will be the day after to-morrow.

Now, while every member of the Senate knows that it is a responsibility resting upon the Senator to discuss it, and to lead in the discussion, the Senate of the United States hesitates about according that act of courtesy to that Senator. Sir, it is more than twenty years since I first looked from the galleries down into this Chamber, never having indulged an ambition that I should occupy a seat on this floor, and I found that noble man and enlightened statesman a representative from a State then powerful here; I saw him giving direction to the action of the Senate of the United States, and of the country. He has continued either here or in some other department of the Government, to pursue a course of active and patriotic service, ever since, until he stands here the survivor of all his early compeers. I venture to say, you may look through the records of the Senate from the day when his career of service began until now, and you will not find a single instance in which, to friend or adversary, he denied such an act of courtesy as is asked by him now at the hands of those who were children or striplings when he was at the zenith of his political fame.

Now, in regard to expediency—the expediency of the transaction of the public business. Why, sir, we on this side of the Chamber, unable to demand a registry of the yeas and nays, are regarded as acting factiously in all that we do. On the contrary, we are a political force, a power in the Senate. We can be heard; we must be heard. We act under the same responsibilities with the majority; we have the same accountability to our country; and the difference is probably very little between the service rendered the country by a faithful and patriotic minority in the Senate of the United States, and the service of the most enlightened majority; the one may hold back the Government from wrongful or injudicious action too tenaciously, and the other may crowd injurious measures too fast, where both parties are equally honest.

Now, sir, it is my belief that this question will be settled just as soon—and I hope it may be settled all the more wisely—for allowing to the honorable Senator from Kentucky the privilege which he asks, of preparing himself for leading in this debate. Nor is it a trivial measure that he proposes to discuss; for this report presents a new measure altogether. It is not the one which was recommended by the President of the United States; it is not the one which was matured by the Senate of the United States, after such long debate; it is not the one which was proposed by the House of Representatives; but, in material and important features, it differs from them all. I say that it is unreasonable to require the honorable Senator from Kentucky to proceed in this

debate without the preparation which he thinks necessary.

Sir, we are told that the question was up on Friday, and that it was up on Saturday, and that a Sunday has intervened, and that to-day is Monday, and another day will intervene before Wednesday. Who is there among us who can look into the condition, the circumstances, and the occupations of any other Senator, the state of his health, of his affairs, and say that he is not sincere when he avers that the time which has been allowed, and which has been enough for us, has proved insufficient for him? None of us.

Now, in regard to the question of right and parliamentary law, I think that the written law on this subject is perfectly plain. According to that law, this bill is in the House of Representatives; and this proposition, being nothing more than an amendment to a bill, which bill is not here, but is in the House of Representatives, presents just exactly the same question which would occur if an individual Senator were to rise in his place, and propose the same amendment, in the same words, to a bill now pending in the House of Representatives. The fact that this amendment has come from the committee of conference does not alter the nature or effect of the transaction in the least; for, as was so well said by the honorable Senator from Ohio, [Mr. PUGH,] it is either a new bill, and therefore must be read three times before it can pass, which is a *reductio ad absurdum*, or else it is an amendment; and if it is an amendment, and not an original or new bill, then it is an amendment to something, and it cannot be an amendment to anything that is here, and can only be an amendment to a bill which is somewhere, which bill is not here, but is in the House of Representatives. It is a practical as well as legal impossibility for the Senate to amend a bill which they have not the custody of, and which is not before them; for the effect of passing the amendment, or concurring in the report, is to stamp that amendment upon the identical parchment upon which the bill is written, and obliterate from the bill the matter for which the amendment is substituted.

Against this view of the subject, which is sustained by logic as well as by the written parliamentary law, what is offered? Why, that we are accustomed to depart from this practice. I believe that is so; but we have departed from it heretofore simply for the reason that the objection was never made, the question was never raised, and therefore all these cases of departure, though they were as frequent as the snow-flakes in winter, are of no value as precedents; and the question being now raised, and raised upon a very important bill, in one of the most important transactions which has ever come before Congress, it is an imperative duty to settle the practice according to parliamentary law, so that the precedents which have taken place heretofore shall not mislead us or our successors hereafter.

Mr. BELL. I should not say a word on this subject, but I think the motion to take up this report while the papers continue in the other House, is so irregular, so regardless of all safe forms of proceeding established by parliamentary law, that every Senator ought really to consider seriously whether, when that point and its consequences are fairly weighed, he ought to support this motion as a question of order; whether it is parliamentary; whether it is proper according to the rules and laws of proceeding in this body, that this question should be taken up now or at any time until the papers are returned to the Senate. I know that some honorable Senators have said it is done regularly and constantly; they say numerous instances may be found; but I venture to assert that there is not an instance on record where any such report as this has ever been acted upon by the Senate or House of Representatives, in the absence of the bill, or what are called, in parliamentary language, the papers. I am utterly astonished at the course taken by the honorable Senator from Virginia, [Mr. HORTER,] because he knows the value of adhering to parliamentary forms. These forms are matters of substance; they are of the greatest importance to the country in securing regularity, certainty, deliberation, in the enactment of laws and in preventing impositions. That no man in this body knows better than the honorable Senator from Virginia. I challenge him to produce a single instance where,

upon a question of any importance, such a proceeding as this ever took place in this body where it was objected to. He can refer to the Journals to show that, in numerous instances at the close of the session, when, unless the Senate and House of Representatives proceeded somewhat in an irregular manner, there would be no appropriation bills passed, or some material one of them omitted, conference reports may have thus been acted upon without the original bill being in possession of the body; but no other instances can be shown; and in those cases it was allowed simply because objection was not made.

The honorable Senator from Ohio [Mr. PUGH] has put this case in a perfectly clear form. The honorable Senator from Missouri, [Mr. GREEN,] however, tells us that there is no parliamentary law, or that, if there is, each gentleman must decide it for himself. He asks why, in reason, it should not be so, and he says the substance of the thing is all we need look to. I understood him to say that no gentleman could get up and declare that the law is this way, or that way; for each gentleman must decide for himself.

Mr. GREEN. That is exactly it; and we claim the same right to say what the law is as anybody else.

Mr. BELL. Now, I will ask the honorable Senator to tell me what parliamentary law he referred to when he spoke of the manner of making these reports by the managers of each House making a report to their own House. I say it is, at last, a joint report signed by all.

Mr. GREEN. I will answer.

Mr. BELL. I want to know the parliamentary law to which the Senator referred.

Mr. GREEN. I will answer. At the time I spoke, I had special reference to the parliamentary law that has grown up in the United States, in the Congress of the United States, and in the State Legislatures. I know that all parliamentary law originated in usage. Common sense, right, reason, is the foundation of the whole of it, and in the United States this has been the practice.

Mr. BELL. Is it so written anywhere?

Mr. GREEN. Yes; in many places. I have not the book and page; but I will promise to produce it, if that will satisfy the Senator.

Mr. BELL. If there is a parliamentary law of that kind, I ask the Senator to produce it if he pleases. I deny that there is any such parliamentary law binding on the Senate.

Mr. GREEN. I will produce it if the Senator will produce any law which prohibits either House from acting after a report from a joint committee of conference is made, until the other House has acted. No Senator can produce it, because there is no such law.

Mr. BELL. I know there is no such express law, though it is plainly deducible from what is written; and there are a hundred other cases on which you act every day without any express law. What law is there that regulates the congruity or incongruity of amendments? What law have you for the regulation of debate generally? The few rules that are put down, and numbered in the list of what are called the rules of the Senate, are but a small portion of the law by which we are governed. There are other, and very important and essential parliamentary rules, by which we are governed every day, unless we transgress them—rules founded in common sense and long-established usage, the wisdom of many of which has been proved, as the Senator from Ohio has said, for two hundred years.

When I challenge the honorable Senator from Virginia to show any case like the present, I am in earnest about it. The honorable Senator from Missouri said that this is not a new bill. I say it is a new bill. I have never seen such a report as this from a committee of conference. I beg pardon of the honorable Senator from Missouri when I say that I do not consider that this report is made in a parliamentary form; and when I speak of a parliamentary form, I mean a lawful form; for the laws of Parliament are a part of the laws of the land, and of great importance to be observed. In a question of very great and pressing exigency, I should not be a stickler for forms in a particular case; but in every departure from them, I would protest against that departure being taken for a precedent, because I consider them of the greatest importance to be generally observed.

I have said that I never before saw such a report as the present, and I do not think there is any such on record in either House of Congress, whatever may be found in the rules for the regulation of State Legislatures. What is it?

"The committee of conference appointed to consider the disagreeing votes of the two Houses on the amendment to the Senate bill No. 161, entitled 'A bill for the admission of the State of Kansas,' report that they have had the subject under consideration." * * * "and have agreed upon an amendment in the nature of a substitute for the House amendment to the Senate bill."

Now, there is no such thing known in our parliamentary law governing the proceedings of the two Houses of Congress as a substitute. The meaning of that is a new bill; it is not an amendment. According to parliamentary law, a committee of conference cannot strictly report an entirely new bill, though they can propose amendments which alter the nature of the original bill in its substance and meaning to such a degree that the mover of it would not know it as his bill, and would not vote for it. All that is in the power of the committee of conference to do, if they agree among themselves; and, in fact, it is in the power of the Senate or the House of Representatives to do the same thing by agreeing to amendments moved by the enemies of the bill. That is not what I complain of; but I find fault with this report in a parliamentary sense. Committees of conference cannot report any amendment or agreement that is not parliamentary in its nature. Let me give a single illustration. The committee of conference that we have had on this subject could not report an alteration of any part of the original bill to which both Houses had agreed. If both Houses had agreed to a part of the bill, it would be a violation of the law for the committee of conference to propose to change that part of it. The Manual says:

"At free conferences, the managers discuss *viva voce* and freely, and interchange propositions for such modifications as may be made in a parliamentary way."

That is, subject to parliamentary rules—that which I have just mentioned, for one, and others. Again:

"Amendments may be made so as to totally alter the nature of the proposition; and it is a way of getting rid of a proposition by making it have a sense different from what it was intended by the movers, so that they vote against it themselves. (2 Hats. 79-8, 82, 84.) A new bill may be ingrafted by way of amendment on the words 'be it enacted,' &c. (1 Grey 190, 192.)"

The committee of conference, by their report, have not even left the words "be it enacted," of the original bill. They report what is literally a substitute, and they themselves speak of it as "in the nature of a substitute." They do not even leave the few words "be it enacted" upon which to ingraft a new bill; and yet they do actually report a new bill. I say this is unparliamentary. The Senator from Ohio was perfectly right when he said that this proposition was a new bill, and it will no more have passed constitutionally when the Senate agrees to the report, than will any other paper lying on your table, totally unacted upon by Congress. There is not a shred of the original bill left. The substitute relates to the same subject-matter, and that is the only connection between them. You cannot alter or amend this report; you must take it just as it is. That is another parliamentary rule.

These objections may be considered technical; but they are taken according to the parliamentary law, and under the parliamentary law, and I think they are good objections. The committee do not leave the title or the enacting clause of the original bill; and the proposition which they report is just as much a new bill as if we had never acted on the subject. There are provisions in this substitute which require some consideration. There are some new features in it. It relates to the same old subject to be sure; and as the Senator from Georgia has said, we have heard a great deal about it, and we are likely to hear more about it; but the whole question is now presented in a new aspect—one that requires some consideration. The honorable Senator from Kentucky has informed us that he really wishes to compare it with the amendment which he proposed in the Senate, and which, with some slight alteration, was agreed to by the House of Representatives. Many of us desire to look into it, and see how far it affects the ground on which some of us supported the original bill, and on which some of us voted against the original bill.

I do not ask any great length of time for myself. As for my single self, perhaps I should be willing to go into the discussion now, but I think some consideration of a few days might be important. The great objection to this proposition now is, that it is totally unparliamentary and out of order to proceed to the consideration of this report now, and I think it is a matter of substance, a matter of principle—public principle—to take a stand against its consideration.

I profess, I trust sincerely, not to have any factious views. I have no reason for wishing that the question should be staved off for two or three days, if the measure is to pass. It is possible that I may support it myself, though I do not think it very probable; but I am only putting the case, and I stand here upon what I consider a matter of substance and principle in opposing the taking up and consideration of this subject now.

If we were to agree to this report to-night, what should we do? Should we order it to be engrossed, and direct the Secretary to inform the House of Representatives that we had agreed to it? Which House is to order the engrossment of this new bill? The honorable Senator from Ohio is perfectly right in saying that if the two Houses agree to this report in this form, it will be a bill that will not have passed according to the constitutional requirement—that will not have passed three readings in the Senate. Taking it for granted, however, that that question is out of the way, I ask which House orders the engrossment of the new bill? Do we order the engrossment of this amendment in the nature of a substitute, as the committee call it, and send it to the other House, or do we merely inform that House that we agree to the report? We originated this bill. The House that acts finally upon it may order it to be engrossed. Then we need not do it. I suggest these questions to show the difficulty in which we are involving ourselves. These are questions which you have no fixed forms of practice to regulate. I am sure there is no precedent for such a proceeding as this, and the main objection to it is, that if it be pursued, the bill will not have passed according to the constitutional forms of the Senate and House of Representatives.

The practice to which the Senator from Virginia has alluded, has been at the close of the session, in acting upon reports of committees of conference on the appropriation bills, when a few minutes' delay might be fatal to some important measure. Here I would recall the minds of honorable Senators who have had seats here for any length of time, to the fact that we sometimes make great mistakes in acting on these reports. In regard to the general appropriation bills, there is hardly ever a case in which the Senate act understandingly upon the reports of the committees of conference. Sometimes there are upwards of one hundred amendments, and the reports merely recite their numbers, and no persons but the members of the committee know anything about them. They propose that we recede from some fifty amendments, and insist upon fifty other amendments, and agree to other amendments with amendments. We do not know what they all are, and we run great hazard, and sometimes actually get into difficulty by agreeing to such reports. Generally they have been allowed to pass without any serious opposition, because we had not time to consider them. I have had considerable experience in both Houses, and I can safely say that I have never known any instance where I supposed action would not be deferred or postponed until the bill was here, unless in such cases as I have mentioned in regard to the appropriation bills at the close of the session, when we are in danger of losing very important measures, and no person thinks of objecting; but even then if the point was made, it seems to me, it would always have been the duty of the Chair to rule that we could not proceed to act unless the papers were before us. The papers must be before us because there is nothing to which to attach the amendment of the conference committee unless we have the original bill.

Mr. BRIGHT. I desire to make one remark simply on the point of order. If it is proposed to postpone the consideration of this subject with the view of giving my friend, the honorable Senator from Kentucky, an opportunity of speaking, of course I shall not object. That Senator knows that I would yield this courtesy to him as will-

ingly and as readily as to any other gentleman of the body; but I cannot consent to a postponement at this time, on the ground that it would be unparliamentary to proceed with the question in the shape in which it is now presented to us. I dissent entirely from the positions taken by the honorable Senator from Ohio. When Senators inquire for the law that authorizes us to proceed to vote upon this report in its present shape, I ask for the law that prevents a majority (those in favor of the report of the committee) from doing so.

The honorable Senator from Virginia was correct when he said that this body is governed more by usage than by parliamentary law, and that what is proposed to be done in this instance has been an every-day practice of this body for the last twelve years. For instance, legislation has been exhausted upon a measure that is before the Senate and House of Representatives without a concurrence of sentiment or opinion. What is the next step? A committee of conference, empowered by the parliamentary law that governs our action, to consult and agree upon such change or modification as, in their opinion, will be most likely to secure the concurrent agreement of the respective Houses they represent; and when (as in the case before us) they have agreed, they report to the respective bodies to which they belong. And, sir, it is entirely immaterial whether they report one or more amendments to the original bill referred to them, or whether they report that they have agreed upon a substitute for the original bill. Their report is an entirety; it cannot be amended, or agreed to with an amendment. The single question, and the only question that can be submitted to the Senate, is: "Will the Senate agree to the report of the committee of conference?" If a majority vote to agree to that which the committee have thus reported, it is the law, so far as the Senate is concerned; and if a majority of the House give a like vote, it is followed by a like result, and no further action is required by either body to make it a law; but if either the Senate or House disagree to the report of the committee, the measure falls (as parliamentarians term it) between the two Houses, unless it should be the pleasure of each House to agree to a second committee of conference.

Now, sir, a few words as to the objection urged here with such pertinacity that we must suspend all action until the original bill is before us. Allow me to say there is nothing in this point; it is the first time I have ever known it made in a like case, and such cases as this are of common occurrence. I can find you precedent after precedent sustaining the principle contended for by the honorable Senator from Missouri, having charge of this bill. Only last Congress the Army appropriation bill was lost on a disagreeing vote of the two Houses, and in consequence an extra session was called. The conferees of the two Houses failing to agree, reported that disagreement to their respective Houses simultaneously; no point of order was raised that the Senate was not in possession of the bill, or that the House was not in possession of the bill; no denial of the parliamentary right of the Senate to vote on the usual motions, or of the House to do the same thing; and so in case after case that I have witnessed here. I repeat sir, there is nothing in this point of order. It is wholly immaterial where the original bill is. It ought in my opinion to be on our files. It originated in the Senate, and properly belongs to the Senate files, and for aught I know or have heard, it is accidental that the Senate's committee did not return it. But, Mr. President, the original bill, for all legislative and practical purposes, is here. It is on or under the desk of every Senator. I have it here; it was placed on my files the day after it was ordered to be printed weeks ago. We are as fully informed on this subject as though every Senator had the original bill in his drawer. Turn this subject over as you may, apply all the parliamentary objections you can, it is narrowed down at last to the simple question, "Will the Senate agree to the report of the committee?" and that question can as well be taken without the bill as with it, as well to-day as to-morrow, and if my vote can aid to produce that result, it will be thus given.

Mr. BAYARD. I do not purpose to detain the Senate long, as I am not very well skilled in parliamentary law. I think forms ought always to be adhered to for the purposes for which they

exist—in a legislative body for the purpose of the orderly conduct of business; but when they are pressed beyond that extent, you make the form pervert the object of the form. The honorable Senator from New York has placed the point which we have to decide on three grounds. One I shall not notice—the question of expediency; because that is a matter for the will of a majority of the Senate, and each Senator will decide it for himself. The questions of courtesy and parliamentary law I propose briefly to notice; and first as to the parliamentary law.

Parliamentary law must necessarily consist, either of the written and express rules of the particular body, or of usage—usage adopted by that body in the same sense in which you speak of the common law in this country. It takes its origin in England; but it has its modifications in each State. So, too, of the parliamentary law. There are a vast number of instances of parliamentary decisions in England which never have been and never would be adopted here. Then, if you take the first basis of parliamentary law, to wit, the written rules of the body, is there any written rule of the Senate which prohibits the majority of the body from acting on the report of a committee of conference without having before them the bill to which it relates? None, I believe; and I presume it will not be so contended. There is no written rule, no express rule, which inhibits the Senate from acting on the report of the committee of conference without the bill to which that report relates, or out of which it arises, being before them.

If there be no such express rule, the next point is, what is the usage? The question of usage must necessarily refer to your own body; and I would ask whether, in the history of this Government, it has not been an every-day practice to act upon the reports of committees of conference without reference to whether the bill was in the one House or the other, either technically or in fact? It has been so for a very plain reason. The subject is before you, on which you are to vote as an entirety, in the report of the committee; you cannot amend it: The only question you can take is, whether you will assent to, or dissent from, that report. If you dissent from the report, without having the original papers, you may proceed no further; but, until the report is adopted or rejected, you have nothing before you but that report for action. You may refer to collateral matters; you may compare it with the original bill; but is there any usage of the Senate which requires that, for the purpose of acting on the report of the committee, (on which you are confined, by your vote, simply to assent or dissent,) you should have the original bill before you? Is there any usage which requires it so imperatively that, if a solitary member of the Senate pleases to demand it, he may obstruct the will of the majority, and refuse to allow them to assent or dissent, until that paper comes here? According to my recollection, the usage has been exactly the contrary. We have acted upon reports the moment committees of conference have reported; and it has always been considered a privileged question that the committee of conference can report at any time, interrupting other business; and we can proceed at once to the consideration of that report, and say whether we assent or dissent. What the effect of that is, is another matter. Whether it passes the bill, or does not pass the bill, is another question.

In the next place, without regard to the practice, is it more rational, is it a wiser usage, is it more calculated to promote the orderly conduct of business to allow a single member of the Senate to require that an original bill shall be read before you can proceed to act upon the report of a committee of conference, which you have been in the habit of acting upon, no matter whether the original bill was in one House or the other? or is it better that the question of the propriety of having the original bill before you when you decide upon the report of the committee, should be left to the judgment of the majority of the Senate? Which would be the wiser rule? Is there danger of abuse? If it was not a mere technical matter; if it was necessary for the purpose of understanding and comparing the original bill with a proposed amendment, or with a report of a committee of conference, is there any danger that a majority of the Senate would refuse to send for

that bill if it was not here, or allow it to be read? Ought not the power to be with the majority of the Senate, or is it wiser to allow a single member to say, "technically this bill is in the other House, in fact it is in the other House; it is true we have only to vote on the report of the committee of conference; we have had the subject before the Senate for months, and discussed it; we have had the amendments printed, and we know exactly what they are; the report embodies what by way of amendment is a substitute for either; we have all the information in fact before us; but I choose, on a technical ground, to obstruct the business of the country to require that we shall have technically before us the bill, before you shall act on this report, though the vote must be taken solely on the report of the committee of conference?" Such a rule as that is not founded on reason; it is not calculated to promote the objects of all parliamentary law, and all parliamentary rules—the orderly conduct of public business.

It is not safe, it is not necessary to intrust such a power to any single member of the Senate, because if it is requisite, for the proper understanding of the report, that the original bill or any amendment shall be before you, the presumption must necessarily be that the majority will be willing to have before them all matter which is necessary to enable them to decide upon the subject on which they are called to vote. Whenever that point comes, it will be time enough to decide it. The question now is as to proceeding to the consideration of the report. I can find no written rule of the Senate which prohibits a majority from considering the report of a conference committee, whether the original bill to which it relates is in one House or the other; I can find no parliamentary usage of that kind; but, on the contrary, the usage is directly the other way; and when I come to reason upon the propriety of the matter, it seems to me far safer to leave the majority of the body to determine whether, under the particular circumstances when the report has been read, they think for their information it is necessary that the original bill shall be before them; or whether they are prepared to vote on that report, which is unamendable, and on which the sole question for action is, will you or will you not agree to it?

As to the question of courtesy, there is no man in this body who would yield greater deference to the honorable Senator from Kentucky than I would, but there is a limit to all questions of courtesy. You cannot on the ground of courtesy agree that a dangerously distracting subject, which has occupied the time of the Senate far more than any question during the session, which has obstructed public business, shall be further delayed, (especially when you have already fixed a definite period for the duration of the session,) in order to accommodate any individual Senator, however distinguished he may be, for mere purposes of discussion, when you know the fact which cannot be denied, that the original bill was under discussion for a period of two months, and, therefore, every Senator must be presumed to know what it contained: that the amendment made in the House of Representatives came to us, and was acted upon by us, and, in the language of the Senator from New York, the honorable Senator from Kentucky was the author of that amendment, and, if so, of course he understands all its provisions, and its scope and object. Then the only remaining thing to be considered, if you choose to look into this matter, is the substitute by way of amendment reported by the conference committee, and that is before you in their report. There is, therefore, no element of knowledge that will not be fully before every Senator in the discussion of this question if you take up the report now. I would yield, as a matter of courtesy, to the honorable Senator from Kentucky, but that I think it is time this question should be disposed of, not only because it is a harassing and agitating one, but because the public time and public business require it. The termination of the session has been fixed, and this question has already absorbed a very undue portion of our time. I have one further reason. Although the desire of the honorable Senator from Kentucky may be very frankly and fully stated, though he only wishes to look into this matter for further information, there cannot be a doubt that on the part of those who are opposed to a settlement of this question, prolongation of time for the purpose of agitation is de-

sired; and to that, apart from any consideration of courtesy, I am utterly opposed.

Mr. CAMERON. I am exceedingly anxious to have this question disposed of. I was desirous of having it disposed of on Friday; for I was anxious to go home and attend to some matters of great importance to myself. When it could not be disposed of on Friday, I was desirous to have it postponed from that day until to-morrow. The postponement from Friday until to-morrow would have been a matter of more consequence to me than my pay during the session. I have remained here with the hope that it would be disposed of, but I now see that there is no probability of having it disposed of for some time longer. It is nearly five o'clock; I do not wish to be here all night; I have some unpleasant recollections connected with night sessions. I have never seen them do any good; and in the hope that to-morrow we shall come here and dispose of this subject in a proper manner, I move that the Senate do now adjourn.

Mr. SLIDELL called for the yeas and nays, and they were ordered; and, being taken, resulted—yeas 22, nays 29; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Crittenden, Dixon, Doolittle, Douglas, Durkee, Foster, Hamlin, Harlan, Kennedy, King, Pugh, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—22.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bright, Brown, Clay, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—29.

So the Senate refused to adjourn.

Mr. CRITTENDEN. I wish to make a few remarks on this question of order; and it is almost the first point of order on which I have ever spoken, for I am not well versed in the parliamentary code. It seems to me there are some principles and reasons of great importance which apply to the question now under discussion, and I therefore desire to express my opinions upon it. The question is whether we can proceed to act upon the report of the committee of conference, the bill being properly and actually in the possession of the other House? I think we cannot; and it is very important to us that the rules regulating our proceedings, particularly those which regulate the communication between the two Houses, should be faithfully observed. It must be obvious to all that it is necessary to the certainty of our proceedings, for the relations that ought to exist between the two Houses, that we must have some rules on this subject; that without them the two Houses would be running into constant conflict the one with the other, and our whole proceedings would degenerate into disorder and confusion. Some law is necessary; and if no other reason could be given for it than that it was necessary to preserve the regularity of our proceedings, that would be reason enough for the rule.

Now, what is the rule in relation to this matter? That is the question at issue. By all analogy it would seem to be that we cannot act on the subject while the bill which contains it is legitimately and properly in the possession of the other House. It is there because they have a right to primary action on the subject; and if they have a right, in a parliamentary sense, to primary action on the subject, we can have no right to displace their prior action by ours. Is not that very plain and reasonable? In the state of this business, one House must act before the other; one House has a right to act before the other. The House in possession of the subject, as we express it, must be the House which has the right; and a feather may turn the scales where they are equally poised. The possession of the paper gives the right to the House having that possession; the subject is in their hands, and in a parliamentary sense those papers which contain the subject are to pass from that to the coordinate House.

Then, in this case, where ought the action to begin? Shall we reverse it, and begin where the papers are not? or shall we, yielding the precedence to them, wait for their action? That is the question; and it is a question of some substance. Suppose that we undertake to act now on the subject, before the other House, who are in possession of the bill, in possession of everything that we are, and also in possession of the bill which we are not in possession of; and suppose, upon

receiving a communication from you that you had acted on the subject and sent them the result of your labors, they were to reject it, and send it back: if the parliamentary law is that they have the right of precedent action, they would, as a consequence, have a right to refuse to receive your communication, and to send it back, with the inquiry whether you intended, by thus usurping the subject, to influence the other House, by substituting your decision for theirs, or making it before theirs? Would there not be danger of producing collision or strife between the two Houses? Would not the possibility or apprehension of such cases have been sufficient to require that a rule should be made by which such questions should be governed, and all such possible collisions obviated? It seems to me to be so.

What is the question now presented? Let us stick to the letter, as gentlemen seem disposed to do in their arguments. They say the Senate is to act upon nothing but the report. Well, sir, what is that report? Is it anything more than a proposition agreed upon by two committees to amend the bill? I do not know whether that is the proper term; my friend from Tennessee thinks it is not. I understand from him that a substitute is a distinct thing from an amendment; and yet, in one sense, it is an amendment. You undertake, then, to amend a bill, or to adopt a substitute for a bill, (for that will be the result of your vote confirming this report,) which bill is in the other House. Could you, by any possibility, without violating the plainest rules, undertake, when a bill was in possession of the other House, through a committee of this body to offer an amendment to it? Or must you have the bill in your possession before you can proceed to any process of alteration or amendment? I say, then, this is a case that departs from all analogy; for you can by no process amend, change, or alter a bill which has passed out of your hands into the hands of the other branch. Can you do so through the intervention of a committee of conference? Where is the necessity for it? If there was any overruling necessity for it, that necessity might be argument enough against the application of an analogous rule here; but where is the necessity for it? If the other House never choose to act, your labor here is altogether superfluous. If they do choose to act or are prepared to act, that action will be made known to you in due time for your action, and we shall go on orderly and in a parliamentary train: otherwise, all is inverted. Some gentlemen scoff at the idea of rules as technicalities; but these technicalities, if gentlemen are so pleased to call them, are absolutely necessary to the transaction of business in either House, and absolutely necessary to the communications to be made between the two Houses.

Gentlemen talk about usage. Have any of them been able, though they talk about usage, to point us to a solitary instance where this has been done, unless it passed in a hurry and *sub silentio*? Where is the case? But one solitary case has been presented, though they have been spoken of as common cases, particularly by my honorable friend from Delaware. I say it is extraordinary. I say that no such case that I know of, or ever heard of, has existed. Where has there been a bill which, passing through the hands of a committee of conference who have agreed upon a report, has gone into the possession of one House, and the other House has attempted to act first upon the report? Where is the case? If it is a familiar usage, the cases will be recollected. The only case which has been cited, I will show you in half a dozen words, has no application to this question. The Senator from Virginia cited a case in the House of Representatives, where, upon the report of a conference committee proposing an alteration, an amendment in one section of a bill, and a member calling to have the bill read, the Speaker decided that he had no such right, and refused permission to have the bill read. Now observe the reason. It was not said "the bill is not here;" there was no question made whether in the absence of the bill the House could act; the bill was there for all I know and for all the case as read states; but the House did not think it necessary that the whole bill should be read. The report of the committee of conference stated distinctly the question—strike out A and insert B in such a section of the bill. Where was the necessity of having the other sections of the bill

read, when this proposition referred merely to the amount of an appropriation made in a particular section? We may suppose there that the report of the committee of conference stated distinctly what was to be stricken out and what was to be inserted in a particular section of a bill having many sections. There the whole question is presented: shall the appropriation stand (to illustrate it) at \$100,000, or shall it be \$200,000? The committee have said it shall be \$200,000.

Now, sir, what analogy is there between that case and this? In the first place, that case does not present the present question at all. That case does not state that that bill was in the possession of the Senate. That case does not deny that it was in the possession of the House, and there upon the table; and the report was of an amendment in a particular not affected by the general context of the bill, for aught we know, and which I suppose to be the case; and the Speaker very properly decided that the other portions of the bill were not pertinent to, or affected by, the particular amendment, and therefore there was no occasion to read the whole bill. That is not the case here.

It is impossible, sir, but that you and every Senator can see the entire difference between the two cases. A member had the right to have the report read, and the amendment—the words to be stricken out, and the words to be inserted, which constituted the amendment. That was admitted. Now what is asked here? To read the part proposed to be stricken out. There it was granted that it might be read. A Senator has now asked for the reading of the part proposed to be stricken out here, that he may understand it. It is not here, and cannot be read. Now, is that case any argument whatever against the rule which is here insisted upon? Upon your judgment, Mr. President, as the custodian of our rights here, so far as they depend on the rules of the Senate, we rely in the first instance, and have to rely for the proper order of the Senate being preserved. To me it seems a clear case. To me it seems clear that to deny this request is the exercise of an unlimited majority power—to carry into effect their wishes without regard to what the parliamentary law has prescribed.

I say then, sir, there is no case which, when considered for a moment, has the least application, or relevancy, or analogy, to the present question. If you are now to decide it for the first time, if it be a new question, really it is only such in its specific form. The reasons which govern all analogous cases, all amendments, all changes and alterations of bills, require that you should have the possession of the bill upon which you propose to act; and it is not material whether the amendment to it be proposed by one of our own committees or by a committee of conference. That does not make the slightest degree of difference. Let gentlemen satisfy the Senate if they can that there is a difference in that respect. If a committee of the Senate were to propose an amendment to a bill which had passed to the other House, would you receive it? would you act upon it? Certainly not. A committee of conference is but a committee; and though they act jointly with another, yet when you act on the amendment which they propose to you as the result of their conference, you can only act upon it when you have the bill to which it is an amendment.

Gentlemen say that we are well acquainted with this subject, because we have had it under consideration for a long time. Why, Mr. President, the judge, before he goes into court, may be perfectly satisfied how a case ought to be decided; he may have heard in common parlance all about the case; but can he judicially decide it until he judicially hears the legal evidence upon which it is to depend? Now, sir, I doubt exceedingly whether there is a gentleman here who can tell me the number of sections that are contained in the bill proposed to be stricken out by this substitute. It is said we are all perfectly acquainted with it. When we pass laws we are supposed to be exceedingly accurate. Like the judge who must have the record before him when he decides the case, and who can go by nothing else, we must have the bill before us when we act upon it. That is the parliamentary source of knowledge, and none other; and he would be an exceedingly incautious legislator who would vote otherwise than upon that source of knowledge.

Mr. President, I am supposed above all others, having proposed an amendment to the Lecompton bill in this House, to know all about it. If I were to be sworn at this moment, I could not undertake to tell you all the substance there is in that amendment. I could tell you the substance of that which I prepared myself, but it underwent many alterations and amendments in the House of Representatives. There were some additions to it. I do not know whether they were material or not; I think I did not so consider them at the time. The substitute adopted by the House of Representatives in place of the Senate's bill, did not come back to us in the words, and limited to the purposes of my amendment. Details were added; there were alterations of several sections. I do not wish to profess ignorance on this question; I understand the general purpose; but I am now talking about a parliamentary law which intends that everything shall be certain, and that everything shall be accurately and understandingly done. If, instead of proposing to strike out the whole bill, the committee of conference, as an amendment, had proposed to strike out five lines in one of its sections, might not the reading of the section of the bill containing the words to be stricken out have been demanded in order that I might see what they were? I may understand the bill very well, but I may not understand the coherence of the proposed addition or amendment with the other matter of the bill. I may not apprehend its effect and bearing on the whole section, unless that section is before me, and I can have the bill read to verify it all.

This is the view I take of the subject, and I do not propose to enlarge upon it. It seems to me in my poor limited judgment—for such I really admit my judgment to be on all questions of mere order—a plain question. The fact that I say so is no great evidence that what I say is right. I express only the confidence of a man who knows little on the subject of which he speaks. I think, however, that I see that there is a line of proceeding here from which we are departing.

It is of very little consequence to me what is the decision of this question of order. I to be sure have a purpose which I avowed sincerely and honestly to the Senate; I did desire a postponement of this question until the day after tomorrow. The Senate, for reasons proper to itself and of which I do not complain at all, for reasons competent and sufficient in its judgment, refused to accede to my request. I ask no particular indulgence here. The kindness of some of my friends has induced them to declare, and they seem to think that I have a particular claim to indulgence of this kind, from length of service, possibly I might say from length of years; but above all things, I dislike to base any claim on that. I ask nothing which I do not suppose may be granted to any other Senator of this body. I have no other claim, no other pretensions. I asked for the postponement, I can only repeat, in all sincerity, and for the very reasons I assigned. This amendment contains matter fit for much serious deliberation. Gentlemen say we understand it, but upon what do they predicate this understanding? I wish to God it were true we all did understand it with the perfect light of reason that might guide us surely to the proper issue. But on what ground is it that gentlemen assume that, and assume therefore that there can be no cause for further consideration in any mind that has been engaged on this subject? The Senate passed a bill after discussion. The Senate rejected an amendment which was offered by a Senator, and that was discussed. Gentlemen say, "that being the case, do we not all understand the subject?" Well, sir, what did we discuss? We discussed the bill; there was but little discussion on the amendment. These are the forms in which we discuss questions. Now, what has the committee done? Has it presented the same measure that we discussed, either in the original bill or upon the amendment that I offered? No, sir. Out of these materials they have made a distinct measure, not conforming to the matters debated upon the former bills, at all. It is a new measure; I require time to understand it. I do not know how I ought to vote. I do not know how far it has yielded to the objections which were made to the original bill, or how far it has interposed new obstacles and new grounds of objection.

Notwithstanding all these personal appeals which I have been obliged to make—and I always regret to make them—if the true order of proceeding, as I conceive it to be, were adopted, I should be furnished with the amplest time, and should not be under the necessity of imposing myself on the Senate with any such appeal for personal indulgence. I wanted to pass by the point of order; we have already consumed hours upon it. One of the two days for which I asked has already been consumed in debating questions of order. If my request had been acceded to, in all probability this would have been waived, or would not have occurred.

But, apart from all that, certainly I hope no one will suppose that I am disposed to complain at all—I say it in all sincerity—of whatever the Senate may choose to decide on any matter of personal reference to myself. I am perfectly satisfied with their decision, whatever it may be, and do not complain of it; but I think I am entitled, as a matter of right, with every Senator here, to insist that I cannot be called upon to vote on a bill which is not before the body. Is not the bill a part of this report? I ask you, sir, as the interpreter of our laws, the interpreter of our parliamentary law and the rules which govern us, if a report saying that the committee have agreed to strike out so and so, and insert so and so, does not make the matter proposed to be stricken out, as well as the matter proposed to be inserted, a part of the report? I do not see how a distinction can be made.

I perfectly agree with my honorable friend from Ohio on this subject, and thank him for the extremely judicious and sound remarks which, it seems to me, he has made. I trust, sir, that we shall not be required to proceed until we can have the benefit of the original bill here. Gentlemen may say it is of no benefit and no advantage; but if the law requires it to be here, it is not for us to debate the reasons of the law. We must have some rule on the subject; it would be strange if there were none. There seems to be a rule on the subject. The parliamentary books are careful to tell you who are entitled to the papers, whether the committee of the one House or the other. Why is all that, if it is perfectly indifferent in its consequences, if it is a mere technicality, a mere matter of moonshine whether the papers be carried to one House or the other? If there is to be no consequence attending it, if it is fruitless and indifferent whether the papers be carried to one House or the other, why this particularity in the books? When it is considered a matter of consequence, and is expressly prescribed by rule, that fact shows that the possession of the papers is to have its influence on the subsequent proceedings of the legislative power. It appears to me very plain that we have no right to act on this report now, and I hope that will be the judgment of the Chair.

Mr. BIGLER. Mr. President, I certainly shall not—

The PRESIDING OFFICER. Will the Senator from Pennsylvania indulge the Chair for a moment, to state, in reply to the gentleman from Kentucky, that the Chair does not understand this to be a question of order for him to decide, but a question for the Senate to decide, whether they will proceed to the consideration of the report.

Mr. BIGLER. I shall not at this time say a single word in reference to the main question. I intend to vote to proceed to the consideration of the report of the committee of conference; but I feel unwilling to do so in view of what has been said as to the force and effect of the parliamentary law on this question, without stating, as I shall do very briefly, one or two points which, to my mind, are conclusive, which warrant me in concluding that this body has, at this time, a perfect authority, consistent with parliamentary law, and certainly consistent with the usages of the Senate, to act on the report of the committee of conference.

The rules which govern the two Houses jointly and the rules which govern each House ought to be in harmony. If the proposition to consider this report of the committee of conference conflicted with the rights of this body, or the opportunities of this body, or the rights of a single member, that would be a very strong reason against proceeding to the consideration of the report of the committee. But now what is the most striking right, and most

important right, which every individual member possesses? It is the right to have read the matter upon which he is required to vote. Now, the only matter which this body can consider is before it; but it is reasoned that that ought not to be considered because of the absence of matter upon which this body never can act. I take it, without ever having attempted to read the history, if there be any history connected with these parliamentary laws which would show fully the purpose in view in adopting the machinery of a committee of conference, that the fact or circumstance that committees of conference uniformly report to both bodies, is conclusive in favor of the right of the Senate to consider this report at this time. If it be necessary to have the original bill and papers before the body which is to act, I ask you, sir, what is the necessity for two reports? Why report precisely the same to both Houses? Why not make a single report, send that report to the House entitled to the bill and papers, and if adopted, then send that bill and report to the other body? But, sir, the rule is otherwise, and the practice has been not only here, but, I think, in every legislative body in this country, that reports of committees of conference have been made simultaneously in both branches, and adopted by both at the same moment. Such I know to have been the practice in the Legislature of Pennsylvania, in the Senate of which I had most of my experience in deliberative bodies.

Now, sir, what is essential is, that the text, and the entire text, shall be before the body which is about to act. If a portion of the absent bill was to constitute a part of the law which we are about to make, then there would be force in the reasoning of the Senator from Michigan; but I can hear read at the Secretary's desk word for word what the law will be if this report shall become the law. I enjoy, therefore, my right, given to me by the rules of this body, of having the matter read upon which I am required to vote; and it is in perfect harmony with the joint rule.

I take it that this is the common sense of the whole subject; it certainly is the vitality of the whole of it. It matters not, in fact, where the bill may be which we originally passed. That does not fairly enter into the consideration of the question before us. It has been entirely superseded; and, as was said the other day by the Senator from Virginia, if that bill had been destroyed by fire, or surreptitiously carried away, who would say that this body had not a right to pass upon the report of the committee of conference. That report, and the matter which it presents here, it is proposed to make the law; and when it shall be adopted by the two Houses, and signed by the Executive, it will be the law. No part of the absent bill becomes the law. But I agree that, where a bill is amended at different points, where a committee of conference recommends to one House to recede here, and to the other to recede there; at this point to insert, and at another to strike out a matter of difference; I might claim the right to have the whole text upon which I had to pass read before I voted; and it would be necessary, in that case, to have it present. But here is a report, perfect in itself, containing all that it is proposed to make the law.

Now, sir, as to the binding effect of parliamentary law: how far does it go? Just to the extent that it answers our practice. It is a general rule; but it only goes to the extent of the power of the body. It controls no act; it vitiates no act. Why, sir, I can find you palpable rules here, plain and distinct rules, to which we pay no kind of respect. For instance, the parliamentary law says distinctly that, when a bill is rejected, no proposition similar in substance can again be introduced at that session. Do we practice that parliamentary law? No, sir.

This, to my mind, is a perfectly clear case. Whatever force there might be in this point in reference to cases where we proposed to concur in part in the original bill, and where part of it was to become the law, and part of the proposed law consisted of new matter, in the present case the original Senate bill and the House bill are superseded by this report, which is to be the law if the two bodies adopt the report. I think the case a clear one.

What will be the message between the two Houses? Will it be that the Senate has agreed to a certain portion of the House bill or the Sen-

ate bill? No, sir; not a word of that kind will appear in the message between the two Houses; but the message to the House of Representatives will be, that the Senate have agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the original bill—giving its number and title. A similar message will be sent from the other House to us. It does not matter which House acts first. It does not matter that the Clerks pass each other in the rotunda with the messages. It does not affect, in any possible way, the vitality, the binding effect of the report; nor will it in any way affect the legality of the law if the President signs it.

Mr. WILSON. I move that the Senate adjourn.

Mr. GREEN called for the yeas and nays; and they were ordered.

Mr. DOOLITTLE. I desire to say that my colleague [Mr. DURKEE] has paired off with the honorable Senator from Missouri, [Mr. POLK.]

Mr. HAMMOND. I have agreed to pair off with the Senator from Maine, [Mr. FESSENDEN.]

Mr. DOOLITTLE. I was requested to announce that the honorable Senator from Illinois [Mr. TRUMBULL] and the honorable Senator from California [Mr. GWIN] have paired off until seven o'clock.

The question being taken by yeas and nays; resulted—yeas 19, nays 25; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Foot, Foster, King, Pugh, Seward, Simmons, Stuart, Wade, and Wilson—19.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clay, Evans, Fitzpatrick, Green, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Sebastian, Sidel, Thomson of New Jersey, Toombs, Wright, and Yulee—25.

So the motion was not agreed to.

Mr. CAMERON. I move now to take up this question with the understanding that the moment it comes up we shall adjourn. I am satisfied that no good can come from a night session. I suggest that we go home and eat our dinners quietly and honestly, as Christians ought to do, sleep to-night, and come back to-morrow morning, when I hope we shall settle the question.

Mr. DOUGLAS. That is a compromise, I suppose.

Mr. CAMERON. Yes, sir. I propose it as a compromise, that we take up this question, and then adjourn and go home.

Mr. GREEN. The motion is already pending to take up the report. This, therefore, comes as a suggestion of compromise from the Senator from Pennsylvania; and, so far as I am concerned, if it meets the concurrence of my friends, for I never separate from them, if the agreement is that we shall take the vote at a certain hour to-morrow, I will yield.

Several SENATORS. No, no.

Other SENATORS. Vote now.

The PRESIDING OFFICER. The question is on proceeding to the consideration of the report of the committee of conference.

Mr. WADE. I move to lay the whole subject on the table; and on that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 17, nays 25; as follows:

YEAS—Messrs. Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Foot, Foster, King, Pugh, Seward, Simmons, Stuart, Wade, and Wilson—17.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clay, Evans, Fitzpatrick, Green, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Sebastian, Sidel, Thomson of New Jersey, Toombs, Wright, and Yulee—25.

So the motion was not agreed to.

Mr. MALLORY. The Senator from Pennsylvania made a proposition, as he alleges, for a compromise; but he did not state at what hour to-morrow he would agree that the vote should be taken. I ask the Senator from Pennsylvania to include that in his proposition. I desire to know whether he is willing to name any hour to-morrow when the vote shall be taken.

Mr. COLLAMER. The suggestion about a compromise may as well be disposed of first as last. There is no man on this side of the House who has any authority to make such a proposition, and for this plain reason: you have never given us an opportunity to consult about it.

Mr. CAMERON. I was not in my seat when the Senator from Florida spoke, or I should have

said to him that I have no authority to act in this matter except for myself. I have had no opportunity to consult with my friends. I want to consult with them. My judgment is, that we are wasting time. We have wasted this day, and we shall waste longer by continuing this matter in its present shape. I think if we go home now, and get our dinners, and sleep quietly, we shall come back to-morrow with our nerves in good condition, prepared to do what is right. I presume all of us wish to do what is right. We can gain nothing by sitting all night. No Senator has ever seen good come from a night session. My experience is considerable, and I never saw any good come from a night session. I take it for granted that every gentleman here, like myself, desires to do that which he thinks is right.

Mr. JOHNSON, of Arkansas. I ask the gentleman if he is authorized to make any agreement now for the other side, those who are absent as well as those who are here?

Mr. CAMERON. Not at all. I have no agreement to make for anybody. Nobody has authorized me to do so. Besides, our friends have had no opportunity to come together and consult. I take it for granted that if time be allowed we shall consult, and then some one will be authorized to speak for us. I can speak now only for myself.

Mr. JOHNSON, of Arkansas. There will be just the same objections to-morrow as to-day against voting on this measure. It will be said that we are taking it up first in the Senate instead of first in the House of Representatives. The circumstances of the case will not be changed a particle. We have already exhausted an entire day on this question, and now I think I perceive pretty plainly that nearly the only Senators disposed to quit, at least on the Democratic side, are those who have consumed the day in speeches. I do not want to hear them any more, and I do not think there are any on the Democratic side of the House who have listened to them to-day, that desire to hear them any more. This is my impression, and I trust that those gentlemen who have consumed the day in making speeches, and have brought us to this hour, will not force us to come to this hour again to-morrow. I hope the Senate will not adjourn, and I assure gentlemen on the other side of the House that if this agreement be made for to-morrow, they will then be forced to a vote, if those of us here who desire to get the vote are a majority of the whole body. Certainly we shall sit here and insist on it to-morrow, the same as we do to-day. Why go through the same exhaustion and the reiteration of the same arguments to-morrow? Those gentlemen who wish to give way now, and back out from forcing a vote at once, which we can have, I think are in the wrong; and I hope the Democratic side of the House, those in favor of action, will stay here until we have acted. It has become wearisome, and it is idling and trifling with those who are sitting here to propose these agreements now and delay the question. If we postpone it, we shall have the same discussion over again. I think it is time we should express some of our real feelings.

Mr. CAMERON. I gave way to my friend from Arkansas, and I desire to say only a word more.

Mr. JOHNSON, of Arkansas. I really supposed the Senator had got through.

Mr. CAMERON. No, sir; I gave way to my friend that he might say what he desired to say. I wish to say, in reply, that I have no disposition to shirk this question, or to get rid of it. If the gentlemen on the other side think proper to sit here all night, I shall try to do so. I have pretty strong nerves, and I can sit here perhaps as long as anybody. It seems to me, however, that gentlemen on both sides would find it better to go home to-night, and come to-morrow morning prepared to act. I have no feeling about this matter at all. I am willing to meet the question now, or to-morrow, or any other day; and therefore, if gentlemen on the other side say they will sit up to-night, I, for one, am ready.

Mr. COLLAMER. I wish to say, since the inquiry has been made, that if the object were now simply to decide the question which I understand to be the pending one—that is, whether we shall proceed to consider this report—I should not be disposed to make any delay or interpose any obstacle in the way of that, though I do not think

we ought to consider it until we have the bill here. I am perfectly willing that the Senate shall decide that point; but if it is understood that, when the report is taken up, we shall at once consider and decide it to-day or to-morrow, that is an entirely different matter. I understood the Senator from Missouri to say that he expected that gentlemen who were disposed to debate it would, in reasonable time, and in the manner they thought due to themselves and to the country, debate it; but it will make considerable difference with me whether the object is merely to take up the question for consideration, or whether it is to come to a final determination.

Mr. MALLORY. When the Senator from Pennsylvania made the remark he did as to the postponement of this question until to-morrow, I heard the Senator from Illinois suggest that that proposition was made by way of compromise. It was with that understanding that I put the interrogatory whether there was to be any hour fixed to-morrow for taking the vote, because a postponement indefinitely certainly would not be concurred in. I supposed he really designed to take the question at some time to-morrow.

Mr. COLLAMER. What question?

Mr. MALLORY. The final question.

Mr. CAMERON. The proposition was made entirely by myself as a single member of the Senate, and I took it for granted that every gentleman supposed so, for I have had no opportunity to consult my friends. Whilst I am always glad to consult my political friends, I sometimes act for myself. I say now that I think it is better for both sides that we should adjourn; but if the majority are not disposed to adjourn, I will sit here as long as anybody else.

Mr. FOSTER. I move that the Senate do now adjourn.

Mr. BRODERICK called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 26; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Clark, Collamer, Crittendon, Dixon, Doolittle, Douglas, Fessenden, Foster, King, Seward, Simmons, Stuart, Wade, and Wilson—17.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Chy, Evans, Fitzpatrick, Green, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Sebastian, Sidel, Thomson of New Jersey, Toombs, Wright, and Yulee—26.

So the motion was not agreed to.

Mr. CLARK. When the Kansas bill was under discussion here before it passed the Senate, it was my misfortune to lead off in what proved to be a night session. I am willing to take that responsibility now. Though I am no filibuster, yet I am so determined to maintain that course of conduct, that line of argument, and that speech, which I think proper to the occasion, that I intend now to discuss the question that is before the body. I propose to discuss it as it arises incidentally; I propose to discuss it on its merits, and to show, if I can, to the Senate (though I may not be listened to by Senators) the reasons why this measure should not be taken up now.

I understand the question, Mr. President, to be distinctly this: will the Senate now proceed to the consideration of this report? Am I right, sir? Is that the question?

The PRESIDING OFFICER. Yes, sir.

Mr. CLARK. I propose to discuss that question, and I shall want a cup of tea, perhaps, by and by. [Laughter.] Now, Mr. President, I object to the Senate's proceeding, at this time, to the consideration of this question, because it is an unreasonable hour to begin a discussion of this kind, and I am satisfied we shall accomplish nothing by it. It is now six o'clock. There are some Senators in discussion here, and other Senators in discussion there; some Senators are engaged in discussion on the other side of the Chamber, and there are other Senators out there in discussion. This is a very important measure; every Senator ought to give attention to it; they will give attention to it, no doubt, before it passes; but to the reason why it should or should not pass nobody will attend. You cannot expect the attention of the Senate, at this time, to a grave matter like this. It is not sufficient for gentlemen to say, we have made up our minds about this matter, and are ready to vote.

Mr. President, Senators and legislative bodies are never so likely to go wrong as when they go

hastily and say they are ready to act upon a subject. In a grave question like this, we all should take time to consider. We should have every paper before us which would give us light on the subject; we should act upon it when our minds are calm. It should not be said on that side, that this is a contest to see which shall pass it first, the Senate or the House; we want the Senate to pass it first, and you want the House to pass it first; and we are going to have a test to see which shall pass it first or which shall hold out the longest. This is not giving to the measure such a consideration as it deserves. We should take time, and come here and deliberately and calmly discuss and consider this matter, and then proceed to pass it if we consider it best.

You see around me, Mr. President, the very best evidence that this is not the time to consider this subject. I do not wish to interfere with gentlemen, or to complain. We cannot command the attention of everybody. Any consideration that I may have to suggest will not find access to everybody's ear. I do not complain of that; I only use it as an argument to show that this is not the time to consider this subject. My honorable friend, the Senator from Rhode Island, [Mr. SIMMONS,] says he can hear it. I have no doubt he can, because he pays close attention to everything. My honorable friends from Connecticut, now that I have called attention to it, have got their ears open to it; and my honorable friend, the Secretary of the Senate, always listens to everything going on. But when I look around the Senate, I see another Senator has got his hat ready to leave; I know that I must fail to command the attention of everybody. This only shows that this is no time to consider the question; and therefore I object, and strongly object, to taking up the most important question of this session, and forcing a vote on it to-night.

Now, to be serious on one point. I want the attention of Senators a little while on this matter. I should like, if any members of the committee of conference are present, that they would give me their attention, but I do not see any of them in the Chamber. They have made a report, and, according to parliamentary law, they are discharged, and are gone.

Mr. CHANDLER. Will the Senator from New Hampshire give way?

Mr. CLARK. For what?

Mr. CHANDLER. For a motion to adjourn.

Mr. CLARK. I would rather go on now. At the suggestion of a friend, however, that I had better give way, I yield the floor.

Mr. CHANDLER. I move that the Senate do now adjourn.

The PRESIDING OFFICER put the question, and declared that the motion was not agreed to.

Mr. CHANDLER. I call for the yeas and nays.

Mr. TOOMBS, and others. It is too late.

Mr. CLARK. Now, I desire to call the attention of the Senate to the position in which we are, and I want to address myself to the calm and deliberate judgment of members about me. There was a bill which passed the Senate some two or three weeks since, known as the Kansas bill. It passed this body after a long discussion. It then went down to the other House, and there an amendment was made to it. The bill came back to this body, and the Senate refused to concur in that amendment. It then went back to the House. The House voted to adhere. Then it came here, and we at last had proceedings which resulted in a committee of conference. Now, it is well known, and it is a well-established position of parliamentary law—and I think, Mr. President, you will sustain me in this—when either House adheres, and when both Houses agree to any matter in the bill, it is not in the power of a committee of conference to strike out what they have both agreed upon. I think I am right in that. I think all parliamentary authorities will show, whenever the two Houses agree to anything, a committee of conference cannot move to strike it out. After your bill went from the Senate it had a preamble and an enacting clause. It went down to the House, and the House amended it, not by striking out the preamble, not by striking out the enacting clause, but by striking out all after the enacting clause. That was the amendment of the House—striking out all after the enacting clause, and inserting something after the enacting clause. Then it came

back and went in that shape to the committee of conference; and then it was not competent for that committee to strike out that preamble. It was here, and went down to the House and came back without controversy. That was agreed to; but what does your committee state? Here is a point, a clear point. Your committee of conference meet and confer, and vote to substitute an amendment for the House amendment—not for the bill as passed by the House—that is not it; but they recommend, in their report, a substitute for the amendment of the House—that is the language. It is not for the House bill, as amended; but they have agreed upon an amendment in the nature of a substitute for the House amendment to the Senate bill; that is, they recommend to the Senate to strike out the amendment put in by the House, and to put in this. Well, sir, suppose you do that: you strike out the amendment recommended by the House; you adopt this; and then you have a bill with two preambles and two enacting clauses. That is the exact position in which the matter will stand if you adopt the report of the committee of conference.

Mr. WADE. Will the Senator give way for a motion to adjourn?

Mr. CLARK. I yield.

Mr. WADE. I move that the Senate do now adjourn.

Mr. BRODERICK. I call for the yeas and nays.

Several SENATORS. Withdraw the call.

Mr. BRODERICK. I withdraw the call.

Mr. TOOMBS. I renew it. I ask for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 20; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Doolittle, Douglas, Fessenden, Foot, King, Simmons, Wade, and Wilson—13.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Clay, Fitzpatrick, Green, Hammond, Houston, Hunter, Iversen, Johnson of Arkansas, Jones, Sebastian, Silldell, Thomson of New Jersey, Toombs, Wright, and Yulee—20.

So the Senate refused to adjourn.

Mr. CLARK. Mr. President—

Mr. CHANDLER. If the gentleman will give way for a moment, I wish to say one word. I understand gentlemen on the other side to say that no adjournment shall take place until this question shall be taken. If that is their determination, I can assure them that no adjournment will take place until the 7th day of June. When I say that no adjournment shall take place until that time, I mean what I say. I propose to take a recess until nine o'clock, and I advise gentlemen to bid farewell to their families for thirty days before they come back. I move, therefore, to take a recess, or rather to postpone the further consideration of this subject until nine o'clock.

The motion was not agreed to.

Mr. WILSON. Mr. President—

The PRESIDING OFFICER. The Senator from New Hampshire is entitled to the floor.

Mr. WILSON. I ask the Senator to give way for a few moments.

Mr. CLARK. I yield.

Mr. WILSON. I move that the further consideration of this question be postponed until half past twelve o'clock on Wednesday, with the understanding—which I think we can all agree to—that we shall have two days' debate at least in regard to the matter. We shall have to-morrow to attend to our business here. We can then take up this subject at half-past twelve o'clock on Wednesday, and I think on Wednesday or Thursday we may determine this question. It is understood that the Senator from Kentucky desires to be heard; the Senator from Vermont, who is on the Committee on Territories, [Mr. COLLAMER,] also wishes to be heard; and there are several other Senators who probably will desire to make brief speeches upon the subject. I think that if the question can be postponed to Wednesday next, giving us a few hours for reflection, and then be taken up, we can settle it before the adjournment of the Senate on Thursday. I have no doubt that it can be done within that time.

Mr. DOUGLAS. I am willing to agree to that.

Mr. WILSON. We shall then be able to take the question, and this matter will be settled peaceably. It is a troublesome question in itself; it is one that excites intense interest in the country, and a great deal of feeling here, and it is not worth

while to borrow trouble respecting it. I think this is a fair proposition.

The Senator from Michigan has said, and said truly, that, if an attempt is made to force the question, it cannot be taken. You know, gentlemen, that you cannot force this question. There is not a man among you that does not know we can sit you out here. We can sit here longer than you can. Every man of you knows it. We have tried it one night, and you had to give in then. If you should try it now, you would have to give in again. I do not say this in any spirit of unkindness. It is what every man in this Senate knows. Ten men can hold this Senate here for thirty days. There is no doubt about that on either side. Therefore, it is not worth while to enter into a contest of that kind. It would do no sort of good, but would create unkind feelings, and make an exhibition not creditable to any of us. We have consumed this whole day on the point of order in regard to taking this matter up. Let us have this question taken up at half past twelve o'clock on Wednesday next. I think we can settle it on Wednesday and Thursday; and all gentlemen who desire to be heard on the question can say what they please, and we can then take the vote. Everybody knows practically what the result of that vote in this body will be; and we shall thus spend precisely two days upon this question. If we go on to-night, no vote will be taken. There will be no voting or speaking on this question until half past twelve o'clock to-morrow. Then why should we continue in session here, and occupy more time than we should in having the matter amicably adjusted, by which we can have the question fairly understood, so that Senators can express their views; and it can be done to the satisfaction of both sides of the Chamber?

Mr. GREEN. I beg leave to make a remark.

Mr. CLARK. I yield the floor.

Mr. GREEN. I understood, from two or three members on that side of the Chamber, that they had no right, no authority to make any proposition on any terms; and if the Senator from Massachusetts proposes Wednesday, if he has no authority, what will come of it? It will amount to just nothing.

Mr. DOUGLAS. Will the Senator allow me to interrupt him?

Mr. GREEN. I will allow anybody.

Mr. DOUGLAS. I suppose, when a Senator rises here, and makes a proposition, he makes it for himself, and he waits to see if the two sides agree to it. If they do not agree, there is an end of it. If they do agree, then it becomes binding on the two sides. I would feel at liberty to rise and make a suggestion in regard to the arrangement of matters. If it should not be accepted, there is no harm done. This proposition, I suppose, is made in that spirit.

Mr. GREEN. There is no difficulty about that. I made a proposition, and Senators on the other side said, "We cannot say anything about that, because we have had no time to consult; we have had no opportunity to confer together." Now the Senator from Massachusetts makes a proposition. Has he had time to consult? Is it made by authority? We want a specific understanding. The understanding that the question shall be disposed of on Wednesday is not acceptable to this side of the Chamber. I do not really think, personally, (though, as I said before, I will not separate from my friends,) that it would be policy to protract this session to-night if we can come to an agreement that we shall take the vote to-morrow, leaving a fair opportunity for discussion, if discussion is desired. I make that suggestion. I make no offer.

Mr. WILSON. We have had no meeting or consultation, but I have spoken with several of those with whom I act; and I think they will assent to the proposition I made with great readiness. The Senator knows that we had a controversy on this question when it was up before. There was a great hurry to press the matter. We made an arrangement that was satisfactory all around, and both sides labored with all zeal to carry out that understanding.

Mr. GREEN. It was carried out in good faith.

Mr. WILSON. Why can we not have the same thing now? It will be remembered by the Senate that after we made that arrangement, for some days after it was settled, we adjourned at three or

half past three o'clock. There was no particular hurry then. Now we are crowded with business; we have an abundance of it. Let us go to work to-morrow on our business, and Wednesday and Thursday can be devoted to the consideration of this subject. We can thus have it settled to the satisfaction of Senators all around. There are Senators who desire to make brief speeches on it. I know some who intend to speak on it. I hope the Senator from Missouri will consent to have the matter settled in this way. It can do him no good to sit out this matter to-night.

Mr. CAMERON. I will add to what has been said by the honorable Senator from Massachusetts, that, if this question is postponed until Wednesday, I, and other gentlemen with whom I act, will go into it in good faith. There will be no unnecessary speaking. Of course, gentlemen will desire to speak on a question of so much importance, and they cannot be controlled; but I think there is a disposition to get it through as soon as possible.

Mr. IVERSON. Will the Senator allow me to ask him a question?

Mr. CAMERON. Certainly.

Mr. IVERSON. Why is there such a special desire to postpone it until Wednesday? Why not take it to-morrow?

Mr. CAMERON. I will answer that, if the Senator from Georgia will permit me. To-morrow we want to reflect on this subject. All of us have some matters which we think of importance, that we may desire to present. I am here without any authority from anybody else, but I think I can speak for them. The desire is not to get any unnecessary time. I ask the Senator from Georgia, in answer to his question, why there is such a great desire to dispose of it to-night? Has he got any sinister or improper motive? I take it he has not. I do not think he would desire to impugn my motives, as I would not his. I desired this question to be brought up for three days last week, as I was desirous to have it disposed of; but Senators on that side said, put it off until next week. This week has come, and it is now proposed to continue its consideration through this whole night. I am opposed to night sessions, and I prefer sitting in the daytime. In corroboration of what has been said by the Senator from Massachusetts, in support of his motion to postpone until Wednesday next, I will say that the honored and venerated Senator from Kentucky, whom we all so much respect, has not made up his mind on this subject. On Wednesday we could come together, and, like gentlemen having one common object in view—the good of our country—begin and get through with it as soon as we can. You cannot expect it sooner.

The PRESIDING OFFICER. The question is on the motion of the Senator from Massachusetts.

Mr. DOUGLAS. I desire to say that there is no reason within my knowledge for any unnecessary delay in taking a vote on this question. All that I desire is, simply to have time to make comparison of bills, and prepare to make, perhaps, half an hour's speech, and then I am ready, individually, to discharge all further connection that I have with this subject. I would rather it would go over until the day after to-morrow, and then I want half an hour—it may possibly run a little beyond that—to make a few remarks. I have no desire beyond that for delay. I do not believe there is any advantage, *pro or con*, in delay. I do not believe that delay is sought for any such purpose. The Senator from Kentucky expressed the same wish so far as he was concerned. He is now absent to get his dinner, and he will return here again. The question is, whether we shall be thrown into a discussion upon a new bill when we are exhausted and worn out, and are not prepared to do justice to ourselves on the subject? I do not think we should be. I am not willing to be thus forced. I may have been under a misapprehension, but on Saturday I did understand—I suppose from what he said to me afterwards I understood him erroneously—the Senator from Virginia, the chairman of the Committee on Finance, for whose opinions I have the highest respect, to say that it was in order then to go on and make the report, and that if the objection were made without the bill being here, it would be valid.

Mr. HUNTER. I said no such thing. The Senator is entirely mistaken. On the contrary, I

said we planted ourselves on the custom of the Houses, which was to go on and report without the bill.

Mr. DOUGLAS. So the Senator informed me in private conversation afterwards, and consequently I stated that I misapprehended him, although several Senators understood him in the same way. I understood his colleague to express similar opinions. I understood the argument of the Senator from Pennsylvania to express the same opinion, and I therefore came here without the slightest expectation that any vote would be reached on this question to-day. I never dreamed that it would be taken. I thought the law so clear, and was admitted to be so clear, that the bill was in the other House, and that we should have to wait until it was acted on there, that when I came here I was taken totally by surprise by seeing this question under consideration. I know that other gentlemen, quite a number, with whom I have spoken, thought so too. Then it was natural, when the motion was taken up, believing, as I do, and as others do, and as men on both sides do, that it is a violation of law to act without the bill, of course we made that point. If the Senate overrule that, we want time, reasonable time—one day—to look into the question, and then to be allowed a reasonable discussion of the question. I have not the slightest idea that this discussion will last beyond two days, as intimated by the Senator from Massachusetts. But, sir, I cannot admit that it is consistent with duty to ourselves to be forced suddenly into a discussion of this question on a totally new bill, involving new matter, and propositions and principles not embraced in either of the other bills, to-night, when we are all exhausted, and have been without time for preparation. I think it is unfair; and I shall feel bound, with all due respect, to resist that coercion, if it is forced upon us. If we should postpone this subject until Wednesday, it would give us time for reflection, and two days for debate; and I would be willing, for one, to say that I would sit it straight out until the vote be taken upon it. I want no unnecessary delay.

Mr. TOOMBS. This debate is all out of order, but I do not wish to seem to be discourteous; but I give notice that I shall oppose all these treaties. The reason why we are worn out to-night is because gentlemen on the other side will not let us take the vote. I have been sitting here from twelve o'clock to-day until now, almost seven o'clock, and I will sit here as long as my vote will keep the Senate here, until the discussion of this question shall have ended and we shall have the vote. I presume everybody understands this subject.

As for the argument of physical exhaustion, do Senators suppose they can sit here and do as they please without opposition? I will sit here and make it a question to-night, and put a rule in operation by which the majority shall govern itself; but I apprehend that the courtesy or weakness of political friends would fail to do that. As far as I am concerned, I shall vote here until the question is taken on the motion. I do not see anything in these reasons. There is no peculiar novelty in this bill. The report came in on Friday. Everybody understands it very well; and I have no idea, if you were to discuss it from now until the last trump sounds, that you would change a vote on this floor.

Mr. DOUGLAS. It may be that votes would be or would not be changed, but I have heard speeches made here by Senators when they did not expect to change a single vote. I have known Senators to make speeches when they thought it due to themselves, to their constituents, and to the position they occupied before the country, to explain the reasons for their vote. Hence I have known speeches to be made that were not expected to change a vote. I believe I have seen the Senator from Georgia make speeches when he had not the slightest idea of changing a vote by them. If he expects to change votes every time he speaks, he has more hope in the changeability of the Senate than I have. But I think that reasonable time should be given for debate where there is no wish or disposition to abuse the time; where there is no factious delay intended; where every assurance to that effect has been given.

I do not understand why we are to be forced to a decision to-night. I have nothing to say about physical endurance; I have no threats to make. I never saw it resorted to where both parties did

not think they had performed a very foolish act before they got through with it. I predict, now, that if we shall continue this session, and sit here until to-morrow morning, to-morrow morning we shall find that we have accomplished nothing, but are worn out and exhausted, and have been guilty of childish play, instead of yielding at the regular hour to an adjournment. We shall save time by doing it; all of us will occupy a better position before the country; we shall feel better ourselves, and we shall expedite the public business; we shall feel that we have performed our duty to ourselves and to our country better by doing so. I think it unwise in us to suffer our passions to be aroused to the determination to sit it out on this side, or sit it out on that side. I confess I do not feel that it would be right to force me to give a vote on a question of this kind, without an opportunity of explaining my views and my reasons for the vote—not to go back to old questions which have been discussed, but to confine myself to this one proposition. I would not deem it right, at this hour of the night, to be forced into a discussion on an entirely new bill, involving new principles. It will not do to say that this is the same old question. There is a variation, and it is an important variation. Senators should have an opportunity to state the reasons for the vote they are going to give, with a view to the variation of this from the other propositions. It is due to them; several Senators will deem it so—I do not know how many; but I think we shall expedite the public business if we will give a reasonable time, and adjust it in that way. I do not wish to occupy time upon it.

Mr. HOUSTON. I cannot say, as a general thing, that I am much in favor of night sessions. We have had one this session, and I do not believe we gained anything by it. I rather think we lost. Members felt deranged for two or three days afterward; business was very lax; members were indifferent, and did not feel very well after sitting up all night. I recollect that I was very much incommoded myself about three o'clock in the morning. Then, I had to render an excuse for acting like a decent man, and taking my natural repose. [Laughter.] Well, sir, I am inclined to think we made nothing by it. If we sit up to-night, I am satisfied that to-morrow we shall be in rather bad condition for business. I can see no urgent necessity for it. I do not believe that by sitting here to-night we shall expedite business in the least. We may occupy so much more time, but whether that would be an advantage would be questionable. This subject will be the unfinished business for to-morrow if we now adjourn, and it can then be taken up regularly. That is, perhaps, the best thing that can be done; at least I think so.

If business cannot be transacted in the ordinary course of legislation without resorting to extreme measures for the purpose of enforcing the action of a majority upon a minority, I think it very inauspicious, and particularly connected with this subject. The honorable Senator from Illinois said he never knew it to be done but that both parties thought they had acted very foolishly. I recollect, sir, that we did it in 1854 at the passage of the Nebraska bill and the repeal of the Missouri compromise. Whether the parties thought they had acted very foolishly or not, I do not know; but I think some of them have thought so since. I think that the business on which we are now engaged has perhaps resulted from that. I have no desire of making this a sequence to that night's transactions. I was a participant in them. I know all about them. I am not going to dwell on them. I am reserving that for a precious *morceau* before leaving these Halls, if I live.

But I can see no advantage to result to us from continuing this night session. I am opposed to it. I may stay and vote, or I may pair off with a respectable gentleman; and if the vote shall be taken to-night two respectable votes will thus be lost to the Senate. [Laughter.] I would rather the Senate would take into consideration what benefits could result from it, or the prejudices that might arise from it. We are all in good humor now; we can go home and get our dinners or suppers, meet in a better humor to-morrow, spend the time of the Senate profitably then, and adjourn. Therefore, with the understanding that this bill will be the unfinished business for to-morrow, I move that the Senate do now adjourn.

Mr. HUNTER. Let us take up the bill first. Mr. HOUSTON. Well, I move to take up the bill with a view then to move to adjourn.

The PRESIDING OFFICER, (Mr. BIGGS.) The pending question is on the motion of the Senator from Massachusetts to postpone the further consideration of this subject until Wednesday next, at half past two o'clock.

Mr. IVERSON. I have no disposition to be obstinate or contrary about the matter, if Senators on the other side of the Hall desire this postponement with an honorable intention. We do not desire to gag them in any way; but I do not understand the reason why they are so very anxious to postpone this discussion until Wednesday, instead of letting the question come up to-morrow.

Mr. FESSENDEN. All the reason I have or know is, in order to enable the Senator from Kentucky to have the time he desires; which we think he ought to have.

Mr. IVERSON. I will say in reply, that I think, of all the farces I have ever heard in my life, that which requires the postponement of this question for two days in order to allow time for the Senator from Kentucky to make up his opinion, is the greatest one. This report was brought in last Friday; the bill was read at the Clerk's desk, published in all the papers in this city, printed and laid on the desks of the Senators; the Senator from Kentucky has had three days to consider the proposition, and yet its postponement is now asked for two more days, in order to allow him time to make up his mind on the subject. I presume, if this question was postponed until Wednesday, or Wednesday week, or Wednesday month, or twenty-one months, he would no more make up his opinion than he has already. I apprehend that every Senator has made up his opinion, and every man knows and distinctly understands how he is going to vote. I have not a doubt that every man understands how he is going to vote. I do not suppose that any speech which can be made, or any consideration that can be urged, is going to change a vote. It may be so, that some have not made up their minds; but I cannot come to the conclusion that there is any man here who does not know how he is going to vote upon this question.

I do not understand this very great desire to postpone this question until Wednesday. If I was uncharitable, I might suppose that there might be some political and party advantage in the matter, as the House of Representatives is to have this question under consideration on Wednesday, and that if the House is forced to a vote upon the question before the Senate votes on it, there might be some advantage in that. If the Senate should pass the bill beforehand it might possibly have a moral influence upon some members of the House, or upon public sentiment, and that public sentiment might react upon the House. There may be an advantage of that kind. The pertinacity with which gentlemen on the other side demand that this question shall be postponed until Wednesday, savors very much of something of that sort. It seems to me, sir, there is a cat under the meal-tub. I do not understand it. I am very willing to adjourn now if, to-morrow, the subject can be taken up and debated decently and in order. ["Let us adjourn."] I am perfectly willing to do that with the understanding that it shall be settled to-morrow. If Senators on the other side say that it shall not be settled to-morrow I am willing to go on with it now. I think I have just exactly hit the nail on the head. These gentlemen do not intend that the Senate shall have an opportunity to vote on this subject until the House of Representatives have decided the question. For that reason I am willing to sit here until it is decided.

Mr. CAMERON. I desire to say a word in reply to the Senator from Georgia. I do not believe in the insinuation about the cat in the meal-tub. I never pretend to do anything that I do not mean. When I made the proposition to adjourn a little while ago, I thought it would be agreeable to gentlemen on the other side. I have no feeling on this subject. I would just as soon decide it now as to-morrow, or any other day; but I was exceedingly anxious that the Senator from Kentucky, who is endeared to all of us by his long service, by his high reputation, by his intellect and by his great and generous heart, should be

permitted to fix his own time for discussing this question. Every Senator knows that last week I wanted this question brought up in order to have it decided then. I am anxious to have it decided now; and I desire to say to the Senator from Georgia, that I will remain here as long as he will remain.

I have no desire, no disposition to separate from my friends, but I want to postpone this subject until to-morrow, so that gentlemen may come here then with generous and kindly feelings, and settle it as gentlemen and Senators representing the great States of this great Confederacy ought to do. If, however, the Senator from Georgia and other gentlemen are disposed to go on with it, I say go on; I will stay here just as long as they please; but it seems to me that gentlemen endued with the kindly feelings that ought to characterize Senators, should not act in this way. We cannot force them, and they cannot force us, to a vote to-night. It must take its regular course, do as you will. Senators must discuss this subject; and when it has exhausted itself the vote will be taken. Let us separate now and meet to-morrow; let us not quarrel with each other, and occupy the whole night, and find ourselves to-morrow morning, as six or eight weeks ago we found ourselves—contending with each other for the whole night, and in the morning finding ourselves where we started. I have a distinct recollection of the unpleasant incidents of that night. I propose that we meet to-morrow in our places, discuss the subject as Senators should discuss it, and let it terminate as the question will terminate itself. They cannot force us, and we have no desire to force them. I know that the majority is against the side with which I act, but they cannot prevent us from expressing our views, if they would, and I do not think they would. For that reason, I desire delay.

Mr. BROWN. I must say that I have no idea of going into this night session—not the least. Other Senators may sit here and punish themselves if they will; I will not, because I know perfectly well that it is to end in nothing but the simple punishment of ourselves. We may sit until six or seven o'clock in the morning, then to-morrow we shall do nothing, and the next day we shall come back to the consideration of the question. I am not very well prepared to measure intellectual strength with anybody. I feel still less prepared, or still less willing, to compare mere brute strength with anybody. Since I have been in Congress, I have seen night sessions tried over and over again in the House and in the Senate, and I have seldom ever seen them amount to anything but a dead failure. You may do this: you may have this trial of strength until you have a fair proposition from one side or the other, and when you get it, it is always sensible to accept it; and the earliest moment you extract such a proposition, the better it is for both sides. Now I am disposed to close with any proposition by which we shall postpone the consideration of this bill until to-morrow, come here and debate it then decently and in order until the usual hour of adjournment, or even a later hour, and then adjourn. If we do not get the vote until Wednesday, well; if we do not get it until Thursday, well. I hope at least we shall have it this week.

I have heard of the private reasons, or many of them, assigned why there may be some possible motive for postponing this subject until Wednesday. There may be some vague idea of that sort affecting the minds of gentlemen; but men of sense ought to consider how much there is in it by possibility. What can there be in it? Is there a member of the House so stupid as not to know that, so soon as the Senate comes to a vote, they will pass the bill or pass this substitute? Does not all the country know that?

Then it has been said that there is to be some returning sentiment from the country. Where is it to come from? How soon is it expected back? You would have to postpone this question two or three weeks in order to get the sentiment of the country to influence anybody's action here, either one way or the other. I have not, from the beginning, been in favor of forcing the question now. I would rather have it; I desire to have it now. I want no time to think about it. I dare say others may not have made up their minds. I do not want to make a speech; I am willing to stand before the country on my naked vote. Other

Senators may want to make speeches. Suppose we vote not to allow them to do so: if we tried, we could not do it. That is the point: if we tried to do it, we should fail.

I am willing to see the question postponed until to-morrow; then to take it up, and let anybody debate it who chooses to talk until a reasonable hour, and then adjourn. I shall vote for such a proposition. If the Senate overrule me, very well. If Senators choose to punish themselves by staying all night, I do not mean to do it; I shall go home and go to sleep, and I do not intend that the Senate shall drag me out of my bed at midnight to come and sit here. When I was sent here it was to legislate at proper hours. I do not intend to risk my life; I think it is worth something to me, if not to the country; I mean to preserve it. I cannot appreciate this thing. I cannot see the meaning of it. If there were a determination on the other side of the Chamber to resist the passage of the bill to an indefinite period, or even an unreasonable period, then I would be for sitting it out, making a trial of physical strength before the country, so that the judgment of the country may rest upon those who may be disposed to delay and defeat action upon a great public measure; but they show no such disposition.

Now, sir, I have been kept in leading strings all day. I have felt that this whole proceeding was not right from the early part of the morning, and I have been all along thinking that we were wasting time unnecessarily. I will now say a word which I have felt it due to my conscience from the beginning to say. Sometimes I have voted with my friends, and at others I have not voted at all. To act upon a bill when it is in the other House I have thought is not right. I have not been able to see how you are to amend or adopt a substitute for a bill that is not in your possession. I have not seen how the thing can be done. You might as well undertake to stick a pin in the air. The moment you let go of it it falls to the ground, because there is nothing to sustain it. To adopt a substitute for a bill is in the nature of an amendment. You strike out all but the enacting clause, which remains, and insert other words. If the bill is not here, how are you to do it? I do not believe that it can be done; but I have deferred to the judgment of friends. We have had an Indian chief here lately called Hole-in-the-day. I have always thought that he had an absurd name; but I do not think it is any more absurd than this idea of proceeding with the consideration of a bill which is in the other House of Congress. When the bill is here, then you can legislate on it.

Now, sir, I want to illustrate this. Suppose that the absent Senator from Delaware, [Mr. BATES,] who has not been here at all, had come in this morning for the first time, been sworn in, and had said, as he might properly have said, not having heard the debates or read or studied the bills, the first thing presented to him being a substitute for another bill, "I ask to have the bill read, so that I may know what I am voting upon;" then you would either have to refuse to allow a new Senator, who was not present when the Senate acted on it, to hear the bill read, or admit that it was in the other House, and you could not do it.

I take it that the law which governs this case must be the same as is applied to every other case; that you have not a parliamentary law for one bill and another parliamentary law for another bill; that the law must be uniform, and it is your business to apply it to all cases. Suppose the Senator from Virginia brings in a report from a committee of conference on one of your appropriation bills, with fifty or sixty or one hundred amendments, and reports to you that the committee of conference agree to accept amendments number one, five, fifteen, thirty, and so on, and to reject amendments number three, fourteen, and eighteen, and as to certain others, agree to take them, with certain amendments which they propose, and report them all together: I want to know if I am to be forced to vote on them without knowing what amendment number one, five, or fifteen, means? If I demand the reading of them, am I to be told that I have no right to do it? Must I vote in the dark—vote absolutely on an amendment which I have not heard? If I have a right to hear them,

then must not the bill also be here so that it may be read? If it is in the other House, have I not a right to delay the proceeding until the bill shall be brought here? I know that sometimes the practice has been different, but I have yet to learn where there has been an objection raised that this has not been ruled? It has always been the parliamentary law. We do a great many things here by common consent; nobody objects; but where the objection is raised, and any Senator insists on having them read, he has a right to have them read, to know whether the substitute is in order or not, or whether it is proper or not. That is my opinion about it.

But, sir, on the point at issue, I thought it was right to receive the report. I think now, if Senators give notice that they want to debate it, it is right to take it up and debate it; but I still have my doubts whether you should take the vote upon it before you have the bill before you. I do not say those doubts may not be removed, but I have listened to six or seven hours' discussion here, and they are not removed thus far. For that reason I want to see the bill taken up, its consideration appointed for to-morrow, and then let the debate go on. If the House never sends the bill here, I never want to vote on it. If they send it here, I want to take the vote on it the instant it appears in the Senate. Suppose you take the vote and pass the bill: what will you do with it? Will that facilitate the vote of the House? They have got the report of their own committee and will act upon that, and not upon what you do here. Your action will be an unsubstantial nullity. As I said before, it is like an attempt to stick a pin in the air, and does not amount to anything. For these reasons I hope the bill will be taken up and postponed until to-morrow; that we shall then adjourn, meet here to-morrow, take up this subject at the hour appointed, and go on with the debate.

Mr. DOUGLAS. The Senator from Georgia seems to be under the impression that we are afraid to have the vote taken here, for fear that it would influence the members of the House. It never occurred to me that members of the House were in danger of being controlled or influenced by the votes of the Senate. It never occurred to me that anybody could suppose that the members of the House were going to be controlled by the votes of Senators. It never occurred to me to impute such a motive for trying to force the vote before Wednesday, that it was to coerce and control and intimidate members of the House. It never occurred to me that that was the motive on the one side or the other. I never supposed that the members of the House were to be influenced in their votes and controlled in them by the terror of the great names that come down from the Senate. Never having had an apprehension of that kind, it never entered into my mind to procure a postponement of the vote in order to have the great influence of these overshadowing names upon members of the House. I cannot believe now that that is a motive for pressing the postponement. The Senator from Georgia says it is not on that side. If it is not, then certainly it does not enter into the question at all; for if he does not oppose the postponement for the purpose of having the names of Senators go down to the House of Representatives, then he has no right to suppose that we are influenced by that motive in asking for the postponement. Hence I think that the intimation that that was the motive for postponement is obviated by the declaration that he does not suppose it would influence them.

Mr. GREEN. I am as anxious as anybody to get a vote to-night; but I really do not wish to prejudice anybody's rights by pressing it. But I think rights are mutual. All on this side of the Chamber desired to take the vote on Saturday; on the other side it is now desired not to take the vote until next Wednesday.

Mr. DOUGLAS. Thursday.

Mr. GREEN. Wednesday was the proposition.

Mr. DOUGLAS. No, no; Thursday.

Mr. GREEN. Well, say Thursday. What is a fair compromise? Surely the majority of the Senate, on whom the responsibility rests, ought not to go more than half way. We have given way from Friday up to to-day. This whole day has been exhausted by parliamentary motions

and questions not affecting the real matter to be decided by the Senate. It is now seven o'clock at night, and the same matter remains for us yet to consider. Shall we decide this to-morrow or on Wednesday? The majority of the Senate desire early action on the subject; and it is to them that the country looks for action; for while the majority and the minority have equal rights, the majority have the whole responsibility, and I really think the minority ought to respect that responsibility a little. If they go wrong, they are condemned by public sentiment; if they go right, they are sustained. Now, having yielded that far, can they not yield enough to come back and say, "we will take this subject up; we will make it the special order for to-morrow at twelve or half past twelve o'clock; we will discuss it as long as anybody desires to discuss it, with this qualification: that we will take the vote to-morrow at, say five o'clock, seven o'clock, six o'clock, or three o'clock?" I cannot consent to postpone it later.

Mr. KING. Say Thursday.

Mr. GREEN. I cannot say Thursday. Perhaps Friday would suit gentlemen on the other side best, because that is hangman's day.

Mr. HALE. I have sat all day and listened to this war of the leaders, and if any scheme like that suggested by the Senator from Georgia has existed here, it has not been disclosed to me, and I am entirely innocent and ignorant of it. I know of nothing to be gained by it. I have no desire in this matter, except honestly and faithfully to do the business of the Senate as well as I may. If the leaders have any schemes in regard to this subject, they have not been divulged to me; but I suppose I am at liberty, as a private, to suggest what I think the proper course of the Senate would be; and it is, in the first place, to adjourn. I think that is our first duty which we owe to ourselves and to the country. We can then come here to-morrow and take this bill up, and if anybody wants to talk, so long as they talk reasonably and sensibly, (which requirements they do not always observe,) let them do it; and if we come to five or six o'clock, and we are ready to vote, let us vote; but if at that time there are some gentlemen who still want to express themselves, and there is no manifestation of a factious disposition to prolong the consideration of the subject, I think it is due to them to adjourn again. But I think it is the understanding (and, so far as I speak, I am certainly willing to be bound by it, and I think my friends around me are) that although we may not agree certainly and inevitably to vote to-morrow, yet if, in the progress of a fair exercise of a constitutional prerogative of discussion, they can vote to-morrow at five o'clock, they will do it; and if they cannot, they will vote the next day. With that understanding—if anybody dissents, I hope they will do it now—I move that the Senate adjourn.

Mr. HUNTER. I hope we shall take up the bill first, and then adjourn on it.

Mr. HALE. I withdraw the motion.

Mr. BENJAMIN. I have witnessed with some regret, Mr. President, the renewal of the scenes we had here some time ago, and I would desire very much to avert it if possible. I do not believe that any vote can be taken by remaining here to-night; and I must confess, in the absence of any consultation that I have been able to have with friends on the subject, looking at it with the lights that I have been able to gather, I do not see a sufficient motive for endeavoring to force us into a night session. If the gentlemen who are opposed to this measure, and who are now urging an adjournment, (I believe an adjournment is not urged by anybody who is in favor of this measure,) want to satisfy the country why they vote against this particular amendment—they can expect no change of votes in the Senate undoubtedly—they can put their views before the country in an hour apiece; and that will take a couple of days, perhaps three. That will leave the rest of us to attend to other business; and they can go on and make their speeches. They can get through what they want to say, and we can get the vote on Wednesday or Thursday, or perhaps to-morrow. We shall be certain to get the vote during the week, in accordance with the wishes of gentlemen all around us.

Now, sir, it is said they have an object to gain

by allowing the House to vote before the Senate votes on Wednesday. I do not see how we are to prevent them attaining that object, if there is one to be gained. They have a right to discuss the question presented by the committee of conference, and forty-eight hours might be consumed in a discussion on its merits. If gentlemen choose to discuss its merits in the same style in which the Senator from New Hampshire [Mr. CLARK] discussed them some time ago, by giving way to every motion that may be made, it would take rather more than forty-eight hours.

Mr. CLARK. I do not think the gentleman from Louisiana should complain of that, as he now holds the floor by my indulgence.

Mr. BENJAMIN. I am not complaining of it. On the contrary, I am expressing my admiration of this new parliamentary maneuver. It is one practiced for the first time, and is refreshing from its novelty. Now, sir, if we are going to gain nothing, why not let these gentlemen indulge in speeches to the country? Everybody admits that they have had no chance to speak yet. [Laughter.] None of them have had the least opportunity of giving their views upon the subject, and really it would be too bad to deprive them of an opportunity of setting themselves right before the country. Here is the Senator from Maine, [Mr. FESSENDEN,] who absolutely had only twenty-eight columns of the Globe. If that gentleman desires a reasonable margin, something like the short speech he made on a former occasion, why not let him have it?

Mr. WADE. The only apology is that we have not had much to answer.

Mr. BENJAMIN. There it is again. The gentleman says they have not had much to answer. Now, here is a fresh proposition, a fresh subject, and the gentlemen start afresh. I am sure the country is looking with great interest to the debates here. I shall read them with great pleasure, though I shall not promise to listen to them; but if you will inform me when you get through and are ready to vote, we shall be here to take it.

What is the objection to the postponement? What do we gain by voting before the House? The House will take the vote on Wednesday. If they reject it, gentlemen will be relieved from any necessity of defining their positions before their constituents. On the contrary, if the House pass the bill, then gentlemen will have the opportunity of determining whether they will join in passing it. They can then see whether they will gain a triumph because the majority of the Senate yield, or whether they will continue in opposition to it, and let the country determine which is right in the discussion.

As regards the right to take up the report of the committee of conference, I must confess I entertain no doubt. I am no parliamentarian, but looking into the question in the simple light of reason, I find that a bill has passed the Senate, that the House has made an amendment to it in the nature of a substitute, which is unpalatable to the Senate. The committee of conference reports to each House another bill as a substitute for that passed by each branch. Whatever may be the result of our vote, whether our vote passes the bill or not, is, in my judgment, one question; whether we have a right to say that we approve of what our committee of conference have done, is another and different question, in my judgment. I consider that committee of conference, in my uninstructed view of the subject, as simply composed of two or three agents of each House, instructed by each House to meet together, see if they can agree, and each House then examines what its agents have done, and express approval or disapproval. I can see no earthly object preventing us passing on what our agents have done. Whether the bill is thereby passed, is another question; but on the question whether we have a right to say that we concur in the recommendation of our committee of conference, I cannot see a doubt existing.

I agree with my friend from Mississippi that we can no more amend it, the bill not being here, than we could stick a pin in the air—a very good illustration, indeed. The moment you take away your hand, it falls. You cannot make an amendment if there is no bill to put it upon; but I understand that this is not to amend the bill. I understand the committee of conference recommend

that the Senate now take a certain course; and the proposition now is, shall we take a certain course?

Mr. BROWN. What is the course? To substitute one bill for another?

Mr. BENJAMIN. It is that we agree to adopt this substitute in the place of the bill with the amendment.

Mr. DOUGLAS. But I understand the Senator to say that, although we take the vote, it will have no effect.

Mr. BENJAMIN. Unless it passes both Houses, unquestionably.

Mr. DOUGLAS. Yes.

Mr. BENJAMIN. It cannot be reversed, but it will be of no force or effect unless it passes both Houses. I mean, Mr. President, that I can see no objection to the Senate assenting to what the committee of conference have done, and informing the House of that fact. If the House, which now has possession of the bill, should be of the same view with the Senate, the House, having received the message of the Senate, would concur in the report of the committee of conference, and send back the bill to the Senate, to be here enrolled and sent to the President. I believe it is precisely within the power of the Senate to do that. I only want to bring the subject to a close, and allow Senators a proper time for discussion. I therefore move that the Senate adjourn.

Mr. HUNTER. I am willing to adjourn, but before we do that I hope we shall take up the report.

Mr. GREEN. And make it the special order for half past twelve o'clock to-morrow.

Mr. BENJAMIN. I withdraw the motion.

The PRESIDING OFFICER. The question is on the motion of the Senator from Massachusetts, that the further consideration of this subject be postponed until half past twelve o'clock on Wednesday next.

Mr. HUNTER. I thought that was withdrawn.

Mr. WILSON. I withdraw the motion.

The PRESIDING OFFICER. The question now is on taking up the report for consideration, and on that question the Senator from New Hampshire is entitled to the floor.

Mr. PUGH. I hope the Senator from New Hampshire will yield his right to the floor.

The PRESIDING OFFICER. The question before the Senate is, whether they will proceed to the consideration of the report of the committee of conference.

Mr. CAMERON. I believe that is the motion I made an hour ago, to take this subject up, and then to adjourn.

Mr. GREEN. The Senator from Pennsylvania is mistaken. This is my original motion. It was I who made it.

Mr. CAMERON. Then I give way to the Senator from Missouri, as he says it is his motion.

Mr. CLARK. I have but a word to say—

Mr. CAMERON. Say it to-morrow.

Mr. CLARK. I am going to say it to-night, with the consent of the gentleman from Pennsylvania, for this reason: it will be recollected, when the Kansas bill was under discussion, I was entitled to the floor; I was proceeding with my speech; I was interrupted in the same way that I am now, and various propositions were made that when I got through with my speech they would adjourn. I drew my speech as hastily to a close as I could; but when I got through they would not adjourn. Now, sir, I do not want to be caught in the same way again, and I am not going to yield unless the Senate agrees to adjourn. I am not going to ask for an agreement. I do not find fault; but I will yield the floor only with the distinct understanding that the bill shall be taken up, and that we shall then adjourn.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri, that the Senate proceed to the consideration of the report of the committee of conference; and upon that question the yeas and nays have been ordered.

Several Senators. We do not want the yeas and nays. Let them be withdrawn by common consent.

The PRESIDING OFFICER. It will require unanimous consent to withdraw the call for the yeas and nays.

Mr. TOOMBS. I object to this whole arrangement.

Mr. MALLORY. I wish to state that I have paired off with the Senator from Kentucky, [Mr. CRITTENDEN.]

The question being taken by yeas and nays, resulted—yeas 32, nays 9; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Cameron, Clark, Clay, Fitch, Fitzpatrick, Green, Hale, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Polk, Sebastian, Simmons, Sidel, Thomson of New Jersey, Toombs, Trumbull, Wilson, Wright, and Yulee—32.

NAYS—Messrs. Broderick, Collamer, Doolittle, Durkee, Fessenden, Foot, Hamlin, Harlan, and King—9.

So the motion was agreed to; and the Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. GREEN. I move to postpone the further consideration of this report until to-morrow at half past twelve o'clock.

Several Senators. Say one o'clock.

Mr. GREEN. Half an hour is enough for the morning business.

Mr. TOOMBS. I ask for the yeas and nays upon that question.

Mr. DOUGLAS. I suggest that it be taken up at one o'clock, leaving an hour for morning business.

Mr. GREEN. Half an hour will be enough for that.

Mr. HUNTER. Will this report come up as the unfinished business, if the Senate should adjourn?

The PRESIDING OFFICER. It will, if the Senate should now adjourn.

Mr. CLARK. I move that the Senate adjourn, with the understanding that it will come up as unfinished business.

Mr. JOHNSON, of Arkansas. I ask for the yeas and nays on that motion.

Mr. IVERSON. I rise to a point of order. Is it competent for the Senator to make that motion when there is a question pending before the Senate?

Mr. CLARK. Allow me to say that I do not wish to press the motion if the Senate desire to make the subject the special order. I withdraw the motion, and let Senators have it their own way.

The PRESIDING OFFICER. On the pending question the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. FESSENDEN. I should like to know how many make a sufficient number to call for the yeas and nays? There were but three or four up.

Mr. TOOMBS. It is too late to raise that point. The question has been decided.

Mr. COLLAMER. Allow me to ask what is the question?

The PRESIDING OFFICER. The question is on the motion to postpone the further consideration of this report until to-morrow at half past twelve o'clock.

Mr. MALLORY. I only desire to say, as the yeas and nays have been ordered, that I should vote against the postponement, but for the fact that I have paired off with the Senator from Kentucky, [Mr. CRITTENDEN.]

The Clerk proceeded to call the roll.

Mr. GREEN. I would ask leave to make one remark.

Mr. TOOMBS. I object.

Mr. GREEN. I wish merely to say that this subject was taken up with the understanding that it would be postponed. I made the motion accordingly, and shall vote "yea," and maintain my honor.

The result was then announced—yeas 22, nays 14; as follows:

YEAS—Messrs. Allen, Benjamin, Broderick, Brown, Cameron, Chandler, Clark, Collamer, Doolittle, Durkee, Fessenden, Foot, Green, Hamlin, Harlan, Houston, Jones, Kennedy, Simmons, Wade, Wilson, and Yulee—32.

NAYS—Messrs. Biggs, Bigler, Bright, Clay, Fitch, Iverson, Johnson of Arkansas, Johnson of Tennessee, Polk, Sebastian, Sidel, Toombs, Trumbull, and Wright—14.

So the motion to postpone the further consideration of the subject until half past twelve o'clock to-morrow was agreed to.

On motion of Mr. PUGH, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, April 26, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. E. GRAMMER.

The Journal of Saturday was read and approved.

PRIVATE BILLS PASSED.

By unanimous consent, the House proceeded to the consideration of the private bills which were reported from the Committee of the Whole House on Friday last, with a recommendation that they do pass without amendment, when the following bills were taken up and ordered to be engrossed, and read a third time; and, being engrossed, they were subsequently severally read a third time and passed:

A bill (H. R. No. 209) for the relief of the representatives of William Smith, deceased, late of Louisiana;

A bill (H. R. No. 211) for the relief of the heirs and legal representatives of Pierre Broussard, deceased;

A bill (H. R. No. 100) to revive an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased;" and

A bill (H. R. No. 214) for the relief of Regis Loisel, or his legal representatives.

Mr. DAVIDSON moved to reconsider the votes by which the several bills were passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. CHAFFEE. I ask the unanimous consent of the House to take up the several private bills upon the Speaker's table, and refer them to the appropriate committees.

Mr. JONES, of Tennessee. I hope we shall take up all the bills, both private and public, and dispose of them.

Mr. HOUSTON. Let us take them all as they come.

JOHN CASSIDY.

Mr. GOOCH, by unanimous consent, introduced the following resolution, which was read, considered, and agreed to:

Resolved, That the Secretary of the Navy be, and he is hereby, requested to communicate to this House copies of all communications and documents on file in his office having reference to the claim or application of John Cassidy for services rendered at the Charlestown navy-yard.

OCEAN MAIL ROUTES.

Mr. FLORENCE asked unanimous consent to introduce the following bill, of which previous notice had been given, for the purpose of reference:

A bill to establish certain post routes between the United States and Europe and South America, and to regulate the transportation of the mails thereon, and to reduce the expenses thereof.

Objection was made.

Mr. FLORENCE. I move to suspend the rules.

The SPEAKER. The motion is not in order.

TITLE TO LAND WARRANTS.

Mr. KELSEY. I ask the unanimous consent of the House to allow the Committee on Public Lands to report a bill which I introduced some time ago, and had referred to that committee. It is a bill declaring the title to land warrants in certain cases; it is a bill in which almost every gentleman on this floor, and their constituents, are interested. I presume it will pass without objection.

Mr. CLINGMAN. I hope the committees will be called for reports, and we will then reach that bill soon.

Mr. KELSEY. I am anxious that that bill may be reported and disposed of.

Mr. CLINGMAN. I object.

ADMISSION OF NEW STATES.

Mr. QUITMAN. I ask unanimous consent to introduce a joint resolution concerning the admission of new States into the Union.

Mr. ENGLISH. I feel constrained to object to the introduction of that resolution.

Mr. WASHBURN, of Illinois. I ask that it may be read for information.

Mr. QUITMAN. I move to suspend the rules for the purpose of introducing the resolution.

Mr. ENGLISH. I rise to a question of order. It is not in order this day to suspend the rules, for the reason that there is a privileged question before the House.

Mr. KEITT. Let it be read for information. Mr. WASHBURN, of Illinois. We have a right to know what it is.

The SPEAKER. The Chair sustains the point of order raised by the gentleman from Indiana, that it is not in order to receive or entertain a motion to suspend the rules in consequence of the House having before it for its consideration a privileged question, which any gentleman has the right to call up.

Mr. QUITMAN. I appeal to the gentleman from Indiana to permit it to be read. I believe it will meet the approbation of a large majority of the House. It is not intended to affect any measure that has passed, or is now pending. It is intended for the future alone.

Mr. KEITT. Let it be read.

Mr. ELLIOTT. I object.

Mr. MARSHALL, of Kentucky. What is the regular order of business?

The SPEAKER. The report of the committee of conference on the Kansas bill.

Mr. MARSHALL, of Kentucky. I call for the regular order of business.

Mr. SEWARD. I would inquire how that matter comes up?

The SPEAKER. The gentleman from Indiana calls it up by raising the question of order.

Mr. SEWARD. I did not so understand it.

The SPEAKER. The gentleman from Indiana objected to the Chair entertaining a motion to suspend the rules, because there is a privileged question pending. The gentleman will remember that on Friday and Saturday the Chair held that it was not in order to move to go into the Committee of the Whole on the state of the Union, or into a Committee of the Whole House, pending the consideration of a privileged question. This matter is before the House upon two grounds: first, as the unfinished business of the preceding day, and then as a privileged question.

Mr. SEWARD. There is no conflict between the Chair and myself. I did not understand that the gentleman from Indiana sought to bring up this privileged question at this time. If he did, the decision of the Chair is correct.

Mr. WASHBURN, of Illinois. I would inquire of the Chair whether this question is not before the House as a privileged question under the rules, and whether a motion to suspend the rules would not also suspend the rule which makes this a privileged question?

The SPEAKER. In the opinion of the Chair, a motion to suspend the rules cannot be entertained. The very fact that this business has precedence before the House, precludes a motion to suspend the rules.

Mr. STEPHENS, of Georgia. It is just like a second motion to suspend, pending a first motion to suspend.

The SPEAKER. It is.

Mr. CLAY. I ask leave to introduce a resolution for inquiry.

The SPEAKER. The gentleman from Kentucky [Mr. MARSHALL] calls for the regular order of business.

SAN FRANCISCO MARINE HOSPITAL.

Mr. SEWARD. I ask the unanimous consent of the House to take from the Speaker's table and put upon its passage Senate resolution No. 2, to authorize the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital, at San Francisco, California. The gentleman for whose benefit it is intended has become insane, and his wife is now here, awaiting the action of the House upon this matter. I hope there will be no objection.

Mr. EDIE. I call for the regular order of business.

The SPEAKER. The regular order of business is called for by several gentlemen.

Mr. SEWARD. I hope the gentleman from Kentucky will withdraw his call.

Mr. MARSHALL, of Kentucky. I will withdraw my call.

Mr. POTTLE. I call for the regular order of business.

Mr. SEWARD. The gentleman from Kentucky [Mr. MARSHALL] who made the objection has withdrawn it.

The SPEAKER. The gentleman from New York [Mr. POTTLE] in front of the chair calls for the regular order of business.

Mr. SEWARD. That is in reference to another matter. I do not understand that any one objects to the particular matter that I desire to call up.

Mr. CLAY. I now ask that my resolution may be read. It will take but a moment.

The SPEAKER. Objection is made, and the regular order of business is demanded.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKER, its Chief Clerk, informing the House that the Senate had passed, without amendment, the bill of the House for the relief of Duncan Robertson; also, that the Senate had passed bill of the House to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1858, with amendments, in which he was directed to ask the concurrence of the House; also, that the Senate had passed a joint resolution to extend for a further term the provisions of the joint resolution approved March 10, 1858, in relation to certain dropped and retired officers of the Navy, in which he was directed to ask the concurrence of the House.

Mr. LETCHER. I ask the unanimous consent of the House to have the deficiency bill with the amendments of the Senate thereto, referred to the Committee of Ways and Means.

Mr. OLIN and Mr. REAGAN objected.

Mr. CRAWFORD. I want to say to the gentlemen who object, that if they wish to adjourn on the first Monday in June they had better withdraw their objections.

ADMISSION OF KANSAS.

The SPEAKER stated that the pending question was upon agreeing to the motion of the gentleman from Indiana, [Mr. ENGLISH,] as amended, postponing the further consideration of the report of the committee of conference on the bill for the admission of Kansas into the Union, until this day two weeks.

Mr. HARRIS, of Illinois. I do not know, Mr. Speaker, what is the best way to reach the point which I desire; but the unanimous consent of the House, if I can obtain it, will do it. So far as I am concerned in this matter, I am willing to consent that the vote upon this question shall be taken on Wednesday next, without any delay—that it shall be postponed till that day.

Mr. ENGLISH. If the gentleman will allow me, I wish to state that his proposition will meet with my consent; and, I believe, that of the friends of the bill generally.

Mr. STEPHENS, of Georgia. I understand the proposition of the gentleman from Illinois to be, that the vote shall be taken at one o'clock on Wednesday next; and I assent to that.

Mr. MARSHALL, of Kentucky. I do not assent to it.

Mr. WASHBURN, of Illinois. Do I understand my colleague to propose that the vote shall be taken on Wednesday at one o'clock, or that the bill shall be postponed till that time?

Mr. HARRIS, of Illinois. I propose that it shall be postponed until that time, to come up then under the rules of the House.

The SPEAKER. The gentleman from Illinois proposes that the House shall, by unanimous consent, postpone the further consideration of the report of the committee of conference until Wednesday next at one o'clock, at which time the vote shall be taken.

Mr. WASHBURN, of Illinois. No, sir, that is not the understanding. My colleague merely moves to postpone the report until that time.

The SPEAKER. The Chair desires to be informed what the specific motion of the gentleman from Illinois [Mr. HARRIS] is?

Mr. HARRIS, of Illinois. My object is to have the further consideration of the report postponed until Wednesday next at one o'clock, when its consideration shall be resumed, and the question disposed of under the rules.

Mr. SHORTER. I object.

Mr. BOCKOCK. If we vote down the proposition to postpone now before the House, the gentleman from Illinois can then submit his motion.

Mr. ENGLISH. If I have the power, I propose to withdraw my motion to postpone.

The SPEAKER. The Chair is of opinion that, in the present state of the question, the gentleman from Indiana cannot withdraw his proposition, inasmuch as it has been amended.

Mr. ENGLISH. I ask the unanimous consent of the House to withdraw my motion.

Mr. SHORTER. I object.

Mr. JONES, of Tennessee. If the House vote down the pending proposition, which is to postpone till this day two weeks, it will then be in order to make a motion to postpone until Wednesday at one o'clock. The object may be attained in that way as well as any other.

Mr. QUITMAN. I would inquire what has become of the call for the previous question?

The SPEAKER. It was voted down on Saturday.

Mr. MARSHALL, of Kentucky. I rise to inquire for information whether, if the motion to postpone until the second Monday in May is voted down, it will not be in order again to move the previous question?

The SPEAKER. The Chair thinks it will.

Mr. MARSHALL, of Kentucky. Or to move to lay the report upon the table?

The SPEAKER. The Chair thinks so.

Mr. MARSHALL, of Kentucky. Well, I move to lay the report of the committee of conference on the table now.

Mr. CAMPBELL. Upon that proposition I demand the yeas and nays.

Mr. STEPHENS, of Georgia. I do not know that the House is full. I therefore move that there be a call of the House. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BONHAM. If it is in order I would make an inquiry of the Chair before the call of the roll commences. It is much the same inquiry as I propounded to the Chair on Saturday. Will the motion of the gentleman from Kentucky, [Mr. MARSHALL,] if it prevails, carry with it the Senate bill and the House bill?

The SPEAKER. It will.

Mr. HARRIS, of Illinois. In connection with the inquiry first made, I would inquire if the Senate bill, in any possible state of circumstances, is within the reach of the House for action?

The SPEAKER. The original bill?

Mr. HARRIS, of Illinois. The Senate bill.

The SPEAKER. For independent action by the House?

Mr. HARRIS, of Illinois. Yes, sir.

The SPEAKER. It is not.

Mr. COX. I would like to inquire if the House bill is not in the same condition?

The SPEAKER. It is.

Mr. STANTON. If the House lays the report of the committee of conference on the table, will not the Senate bill still remain in the Senate, and will not the Senate have power to recede from its disagreement to the House amendment?

The SPEAKER. The Chair thinks not. The bill is here.

Mr. STANTON. I understand differently.

Mr. MARSHALL, of Kentucky. As gentlemen are propounding inquiries to the Chair, I want to ask the Chair whether, if the motion to lay on the table the report of the committee of conference prevails, it does not terminate all legislation upon this subject, and leave Kansas where she was before there was any application made for her admission into the Union?

The SPEAKER. The Chair, with a view of trying to facilitate business, has intimated, in response to inquiries propounded by gentlemen on all sides, his opinion upon questions of order that are not before the Chair; and the Chair, pursuing the same policy, will throw out an intimation to the gentleman from Kentucky, although it is, perhaps, irregular for the Chair to be deciding questions before they properly arise. The Chair is of opinion that if the motion of the gentleman from Kentucky prevails, it will end the whole matter.

Mr. MILLSON. I would like to ask a question of the Chair. I have no doubt the Chair is correct in the statement that if the motion of the gentleman from Kentucky should prevail, it would end the whole matter. But, if this report of the committee of conference is not agreed to, might

there not be another committee of conference upon the request of either the House or the Senate?

The SPEAKER. There certainly could be another committee of conference, if the Senate asked for one. But the Chair will not undertake to say whether, if this report should be voted down, another committee of conference could be asked, at this stage of the proceedings, by the House.

Mr. HOUSTON. I object to any more questions, and call for a vote on the motion of the gentleman from Georgia, [Mr. STEPHENS.]

Mr. STEPHENS, of Georgia. My object in making the motion for a call of the House is to see that the House is full. I do not wish to carry out the call. There are certain gentlemen in the city who are not now here. I hope the House will agree to have a call; but as soon as members come in we can suspend the call.

Mr. CAMPBELL. We are willing to have a call. Withdraw the demand for the yeas and nays.

Mr. HOUSTON. I demand a vote upon the question.

The SPEAKER. The motion is not debatable; and the gentleman from Alabama objects to further discussion.

The question was taken on Mr. STEPHENS's motion; and it was decided in the affirmative—yeas 123, nays 70; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bockock, Bonham, Boyce, Branch, Bryan, Burnett, Burns, Campbell, Caruthers, Case, Caskey, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, Covode, Cox, Burton Craig, Crawford, Curry, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Edie, Edmundson, Elliott, English, Eustis, Florence, Foley, Foster, Gartrell, Gillis, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Hopkins, Houston, Howard, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lamar, Lawrence, Leidy, Letcher, Maclay, McQueen, Maynard, Miles, Miller, Milson, Moore, Isaac N. Morris, Niblack, Palmer, Pendleton, Peyton, Phelps, Phillips, Purviance, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, William Stewart, Talbot, Trippe, Ward, Watkins, White, Whiteley, Wilson, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—123.

NAYS—Messrs. Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brynton, Buffinton, Burlingame, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Cragin, Darnell, Davis of Massachusetts, Davis of Iowa, Dawes, Deau, Dick, Dodd, Durfee, Farnsworth, Fenton, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Harlan, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Humphrey Marshall, Morgan, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Parker, Pettit, Pike, Potter, Pottle, Ritchie, Robbins, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Elihu B. Washburn, and Israel Washburn—70.

So it was ordered that there be a call of the House.

Pending the call of the roll, Mr. BURROUGHS stated that he had paired off with Mr. BOWIE.

Mr. FLORENCE stated that Mr. LANDY was detained at home in consequence of sickness in his family, and had paired off until Wednesday next, upon all questions, with Mr. RICAUD.

Mr. WARREN stated that he had paired off with Mr. MONTGOMERY.

Mr. WALTON stated that Mr. MORRILL was necessarily absent, and had paired off for two weeks upon the Kansas question with Mr. FAULKNER.

Mr. MARSHALL, of Kentucky. At the instance of gentlemen around me I will withdraw the motion to lay the report of the committee of conference on the table.

The House then proceeded to execute its order. The roll was called; and the following members failed to answer to their names:

Messrs. Arnold, Bowie, James Craig, Reuben Davis, Dimmick, Faulkner, Garnett, Gilmer, Goode, Hickman, Hill, Horton, Jacob M. Kunkel, John C. Kunkel, Landy, Matteson, Montgomery, Morrill, Powell, Ricaud, George Taylor, Thompson, Cadwalader C. Washburn, and Wood—24.

The absentees were called; and under the direction of the Speaker the doors were closed.

The absentees were then again called; and announcements were made that the following gentlemen had paired off: Mr. WASHBURN, of Wisconsin, with Mr. ARNOLD; Mr. BOWIE with Mr. BURROUGHS; Mr. DAVIS, of Mississippi, with Mr. MATTESON; Mr. McKIBBIN with Mr. DIMMICK;

Mr. FAULKNER with Mr. MORRILL; Mr. GARNETT with Mr. HICKMAN; Mr. HORTON with Mr. KUNKEL, of Maryland; Mr. LANDY with Mr. RICAUD; Mr. MONTGOMERY with Mr. WARREN; Mr. POWELL with Mr. MARSHALL, of Illinois; Mr. WOOD with Mr. TAYLOR, of New York; Mr. THOMPSON with Mr. STEWART, of Maryland.

The SPEAKER announced that two hundred and eight members had answered to their names.

Mr. UNDERWOOD moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

The question then recurred on the motion to postpone as amended.

Mr. STEPHENS, of Georgia, asked the yeas and nays.

The yeas and nays were ordered.

Mr. STANTON. The motion to postpone is debatable—is it not?

The SPEAKER. To a limited extent.

Mr. STANTON. I desire to discuss that motion. For some reason that I do not very well comprehend it seems that, whether this question is taken or not, no other business can be done, because we have spent two days in taking about two votes upon this question. It seems to me, therefore, that, if nothing else is to be done, if the time is to be spent, it might as well be spent in giving reasons for and against the postponement as in idling away our time in this way. If there be common consent that this subject shall go over until Wednesday next, I have no disposition to take up the time of the House.

Mr. SHERMAN, of Ohio. I understood that, by common consent, the subject was to be postponed until Wednesday next.

The SPEAKER. That proposition was objected to.

Mr. STEPHENS, of Georgia. If it is the common consent of the House that the vote shall be taken on Wednesday next, that disposition of the question may be made without further delay; if not, there is no other mode of obtaining that result except by vote of the House.

Mr. MARSHALL, of Kentucky. There is not unanimous consent. I objected distinctly.

Mr. STANTON. If there be no objection to the postponement of the question until Wednesday next, I will not detain the House. Otherwise, I wish to be heard very briefly upon the question of postponement.

Mr. GROW. The proposition cannot be agreed to by unanimous consent.

Mr. CLINGMAN. Who objects?

Mr. GROW. Several members object.

Mr. STANTON. I will therefore go on. The motion to postpone the further consideration of this question until two weeks from to-day, was, as I understand, made by a gentleman from Georgia, [Mr. HILL,] who is now absent, and who does not expect to return until a short time previous to the day named in his motion of postponement. I take it for granted that the motion was made in good faith, to enable him to make up his mind as to the vote he was to give upon the report of the committee of conference. I take it for granted, inasmuch as this report presents him, and all who vote either for or against it, in a new attitude before the country, that he, as the representative of the people who sent him here, desires an opportunity of consulting with them, to ascertain their opinions in relation to it. If I understand the position which the gentleman from Georgia has occupied, as well as that of the gentlemen with whom he has heretofore acted, they assume the ground that there shall be no resubmission of this Lecompton constitution to the people of Kansas.

Mr. BURNETT. I rise to a question of order.

The SPEAKER. The gentleman from Ohio, in discussing the question of postponement, cannot go into the merits of the original bill, or the pending bill.

Mr. STANTON. I am perfectly aware of that, and do not propose to do it. I am only alluding to the merits of the question so far as to show the propriety and necessity that a gentleman is under of taking time for deliberation and consultation with his constituents.

The SPEAKER. It would be equally competent for the gentleman to go into the entire merits of the bill for the same purpose.

Mr. STANTON. I do not propose to go into the entire merits of the proposition. I do not

present any reasons why the report of the committee of conference should or should not be adopted. I take it for granted that there is a great difference between the reasons that may be given fairly for the postponement of a proposition of no sort of magnitude, and those which may be given for the postponement of one of great magnitude—between a very complicated proposition, and a simple proposition—between one which requires no time to consider and understand, and one which requires much time to consider and understand, and which may require a Representative to ask for time to consult his constituents in respect to it. I submit that no gentleman can truly present his reasons on the question of the postponement of any proposition without a reference to the nature and character of the proposition upon which he is called to act. That is all; and these are certainly proper subjects to be alluded to. It is certainly proper to urge the important character of the question before us, to show why we desire that it shall be postponed, in order to give gentlemen who may desire it an opportunity to consult their constituents, who have sent them here.

The SPEAKER. The Chair is very well aware of the ingenuity of the gentleman from Ohio; he has had occasion to observe it oftentimes; but the Chair cannot permit the rule of the House, which restricts debate to the simple question of postponement, to be evaded by indirection.

Mr. STANTON. I submit to the Chair that I have no desire to evade anything. I was submitting in good faith reasons why, in my judgment, this question should be postponed.

The SPEAKER. Within the rules of the House?

Mr. STANTON. Certainly, within the rules of the House. I am doing it in good faith, and not seeking to evade the rules. Now, sir, I believe that if this question should be postponed until the day named by the gentleman from Georgia, [Mr. HILL,] much light might be reflected upon this question from the various sections of this Confederacy. I believe it to be exceedingly proper that it should be done, and that it is exceedingly appropriate that gentlemen should have time and opportunity to consult those who sent them here, and to cast their votes in accordance with the opinions of their constituents upon this question.

I was about to remark, and strictly within the rule, that this question is now presented in a different form. The gentleman from Georgia [Mr. HILL] has heretofore been found uniformly voting against any submission of this question. It is now proposed to submit it.

The SPEAKER. It is not competent for the gentleman from Ohio, in his remarks, to discuss the merits of either proposition.

Mr. SHERMAN, of Ohio. I think that the objection to the postponement will be withdrawn. Let the subject, therefore, by common consent, go over informally until Wednesday next, at one o'clock.

Mr. GROW. I thought the understanding was, before the call of the House, made at the instance of the gentleman from Virginia, that the motion for two weeks' postponement be voted down, and the motion for a postponement to Wednesday next agreed to.

The SPEAKER. That was the understanding of the Chair.

Mr. GROW. The gentleman from Ohio stated that, by common consent, it was to go over to Wednesday, and I stated in reply, from my seat, that it was not by general consent, but by the vote of the House. I understood that to be the way in which this thing was to be managed. I have no objection to that course.

Mr. SHERMAN, of Ohio. My understanding is this: on Wednesday next the gentleman from Indiana [Mr. ENGLISH] will call up this as a privileged question, and it will come up then as a privileged question under the operation of the rules of the House.

Mr. CLEMENS. Let us agree to that.

Mr. GROW. Then the understanding of my friend from Ohio is, that the motion to postpone for two weeks may be voted down, in the usual course of business, and that then the motion for a postponement to Wednesday may be made, with the understanding that it be carried, and that on that day the question will come up under the

rules like any other question; and I presume that the gentleman from Michigan [Mr. HOWARD] will be heard before the question is taken, as it was the understanding that he should be heard when the committee of conference made its report.

Mr. STANTON. If it be the disposition of the House to pass over this question informally, to be called up again on Wednesday next, then I will not occupy the time of the House a moment longer. I have never yet occupied the time of the House for an hour, or a moment, in discussing questions not immediately before it. I believe that there is legitimate business which ought to be done, and I will not occupy the floor longer, and keep the House from proceeding to the execution of that legitimate business. With a view to bring it to a consideration of that business, and that this question may be passed over informally, I will say nothing further on this subject, but will propose a resolution.

Mr. SEWARD. I wish to understand this proposition before I am bound by it.

Mr. GROW. If the gentleman will allow me a moment: I have no objection to this question going over until Wednesday next, and then to come up under the rules. I made no objection to that, and I make none now.

Mr. MARSHALL, of Kentucky. My understanding is this: the question is to pass over informally, under notice that it will be called up in its present shape on Wednesday next, not that we are to vote down—

Mr. BOCOCK. I shall object to that.

Mr. MARSHALL, of Kentucky. And not that we are to yield any of the ground that we have already won.

Mr. STEPHENS, of Georgia. That is not the understanding.

Mr. MARSHALL, of Kentucky. Then the other understanding is not the understanding either.

Mr. WASHBURN, of Maine. It is to ask the unanimous consent of the House to substitute Wednesday next for the second Monday in May.

Mr. TRIPPE obtained the floor.

Mr. SEWARD. I object to the gentleman from Ohio [Mr. STANTON] occupying the floor and farming it out.

Mr. STANTON. I yielded it simply for an inquiry.

Mr. SEWARD. I want to say a word, and I have some rights here. Before I am called upon to vote on this proposition, I want to know specifically what it is.

Mr. CLINGMAN. I hope the gentleman will hear his colleague.

Mr. TRIPPE. I did not hear the statement of the gentleman from Ohio, [Mr. STANTON,] but I understand that he construed the remarks made by my colleague, [Mr. HILL,] the other day, as basing his reasons for the postponement on the ground that it was his desire to go home and consult his political friends and constituents.

Mr. STANTON. I did not say that the gentleman from Georgia had made that statement; but I said that I thought it would be exceedingly proper he should do so, and that that was one of the reasons controlling his action.

Mr. TRIPPE. Allow me. I recollect what it was that my colleague stated. He based his motion for postponement on reasons controlling his absence; and in regard to the other fact, what he stated was incidental, and I suppose no gentleman objected to it at the time.

Mr. SEWARD. Unless we are to come to a vote on Wednesday next, I shall object to amending the proposition at all. The country is sick of this whole controversy. There is no necessity for any delay; and I will consent to no amendment of the proposition, except with the understanding that on Wednesday next we shall reach some distinct vote on the question. We are now no nearer its decision than we were at the commencement of the session. I am willing to let Wednesday next be fixed upon, if we can get a vote then, and either defeat this conference bill, or carry it through. I want an end of this controversy.

Mr. STANTON. I ask the adoption of a resolution, with the understanding that this question shall go over until Wednesday next—

Mr. MARSHALL, of Kentucky. I am not a party to that understanding.

Mr. HOUSTON. I desire to see whether I un-

derstand this question. I do not want to occupy the floor, however, with the permission of the gentleman from Ohio; but when he gets through I want to see whether I understand the question before the House.

Mr. STANTON. I yield up the floor.

Mr. HOUSTON. I understand that there has been an agreement of some sort; I do not say that my colleague was a party to any; on the contrary the records show that he was not. There was an agreement that the pending question should be voted down, and that then the proposition of the conference committee should be postponed until Wednesday next at one o'clock. If that be true, and the question be submitted to the House, I think it will be carried almost unanimously. I discover no opposition to that agreement; or, if there be an opposition, it is very small. Why, then, should we hesitate and consume the time of the House fruitlessly, when gentlemen say that time is important, and when all of us who desire to get home on the 7th of June must know it to be important? Why not at once dispose of the matter? Why consume time when it is apparent that four fifths of the House favor the agreement?

Mr. STANTON. The difference between gentlemen here is whether this shall go over informally until Wednesday next, or whether the proposition for the two weeks' postponement shall be voted down. I understand that the agreement is that the whole matter shall go over until Wednesday next without any vote.

Mr. STEPHENS, of Georgia. There is no agreement of that kind.

Mr. HOUSTON. That was not the understanding, that the question should go over until Wednesday next, and then to come up for the House to decide on the postponement to the second Monday of May.

Mr. CLAY. I rise to a question of order. I believe that there is some proposition before the House. Is this debate in order?

The SPEAKER. The Chair thinks that the discussion is not very relevant to the pending question, which is on agreeing to the motion of the gentleman from Indiana, [Mr. ENGLISH,] as amended on motion of the gentleman from Georgia, [Mr. HILL.]

Mr. SHERMAN, of Ohio. I move to amend that by inserting next Wednesday in place of the time fixed by that amendment.

Mr. SEWARD. That is not in order.

The SPEAKER. The Chair thinks that the House having inserted one day in the motion, it is not in order to strike it out and to insert another.

Mr. SHERMAN, of Ohio. I ask the unanimous consent of the House to insert Wednesday next.

Mr. SEWARD. I shall object, unless we shall have some definite arrangement to take then the final vote on the matter. If the floor be surrendered, I want to say something on the postponement. I am as well prepared to vote on this question to-day as I shall be six months hence; and in giving my vote, sir, I shall do it with the best lights I have on this subject, right or wrong; and, like a full-grown man, I will go home and meet the responsibility I have taken. It is an easy matter to trump up objections to acting upon this matter at once. These secret motives which linger in the breasts of gentlemen, in view of some political movement in the future, furnish, in my opinion, the great controlling object to postpone. It is to mature and manufacture political capital.

Mr. LAWRENCE. I rise to a point of order. The gentleman from Georgia is indirectly, if not directly, impugning the motives of the members of this House.

Mr. SEWARD. The gentleman is mistaken.

The SPEAKER. The Chair sustains the question of order. The Chair would say that he understood the remarks of the gentleman exactly as did the gentleman from Ohio.

Mr. SEWARD. And I say to the Speaker and the gentleman that I impugn the motives of no man. In speaking of the motives which control the actions of gentlemen upon this floor, I did not say that they were bad motives. That is for gentlemen themselves to consider.

The SPEAKER. It is hardly competent for the gentleman to assign motives, good or bad.

Mr. SEWARD. I have a right to pronounce a eulogy upon the character of any gentleman in this House. [Laughter.] But I shall endeavor

to keep myself within the rules in discussing this question of postponing. I do not intend to travel out of it. I ask the members of this House what object, which looks to the good of this country, can be accomplished by the postponement of this question? Can anything new be presented? The whole one hundred and twenty speeches on Kansas delivered upon this floor, have contained substantially the same ideas and opinions, revamped and rehashed, until the country is thoroughly disgusted and sick with this whole controversy; and I want it terminated. The interest of the country demands it; the condition of the country demands action; the expense of every day's legislation demands that an end should be put to this controversy; the character and reputation of the House of Representatives demand it. We have trifled with this question too long, and it is time an end should be put to this matter.

If gentlemen upon this side of the House have the power to reject the admission of Kansas, let them do it by their votes. If, on the contrary, gentlemen upon the other side of the House have the power, let them vote her admission. Let us meet the responsibility now. I am willing to vote to-day; and I think that is a candid way to meet the whole question. I do not want to go home to ask my constituents what I shall do. I am here to think for them, and I shall do it honestly and fairly; and if I commit a mistake in the honest exercise of my judgment, they can change their Representative if they desire it. I shall wait for no newspapers or letters from home by which to shape my course; for when my opinions have to be molded in that way, I forfeit my own self-respect, surrender my own judgment, resolve myself into a state of political nonentity, and fit myself to become somebody's slave, who perhaps is not entitled to be my master, to say the least. I know this question to some extent partakes of the nature of a sectional controversy.

The SPEAKER. The gentleman from Georgia cannot enter into a discussion of the merits of either proposition.

Mr. SEWARD. I do not understand that the bill itself contains any principle of sectionality. I am talking outside of the bill. I wish I could talk of what it contains.

The SPEAKER. The Chair hopes the gentleman will confine himself to the subject-matter before the House, strictly in order.

Mr. SEWARD. Having said what I desire to say in order, and not being inclined to go outside of the rules, I will say no more.

Mr. HOUSTON. I desire to know what effect it would have upon the entire proposition before the House, if the House should now lay upon the table the resolution as amended?

The SPEAKER. Does the gentleman mean the proposition to postpone?

Mr. HOUSTON. Yes, sir.

The SPEAKER. The Chair is of opinion that it cannot be separated from the original proposition.

Mr. HOUSTON. From the bill itself?

The SPEAKER. From the bill itself; and, therefore, a motion to lay upon the table the pending proposition would carry the whole subject with it.

Mr. HOUSTON. I understand that, on the last day we were engaged in legislation, the Speaker entertained a proposition to amend what I understood then was called a resolution to postpone. If it is in that condition, it seems to me that it can be detached, and that we can arrest debate by laying that question on the table, and then we could adopt next Wednesday as the day to take the vote, by a separate and distinct motion.

My purpose is this: I was no party to any understanding which was had by the two sides of the House as to the time of voting, yet I understand it has been agreed to, and I propose now to carry it out in good faith. I want to save the time of the House; and I desire that when we meet on Wednesday next we shall come forward and vote upon the bill agreed upon by the committee of conference. If I should call the previous question, and it should be sustained, it would bring the House to a direct vote upon the bill as reported by the committee of conference. But I do not want to do that, though I am ready to vote now. I am prepared to vote to-day; and if my wish were consulted, I would have a vote now,

and let the bill take its course as a majority of the House should decide.

Mr. CLINGMAN. Will the gentleman permit me to make a single suggestion? I think there is really no misunderstanding upon this matter. There is a proposition to postpone this matter until Wednesday. Some gentlemen say they are ready to postpone it until that time, provided the whole matter goes over, and they can then avail themselves of the pending motion. Other gentlemen say they are willing to postpone if there is to be a vote then. What does that mean? Upon that day gentlemen may move to postpone for one week, two weeks, or a year, or they may move to lay the matter upon the table. The whole effect would therefore be to throw the matter over until Wednesday next, and it makes no difference whether—

Mr. HOUSTON. The gentleman is slightly mistaken in my view of the case.

Mr. CLINGMAN. I hope the gentleman will allow me to complete my sentence.

Mr. HOUSTON. I understood this to be the case: that it was agreed between gentlemen who had the management of this matter that the present motion should be withdrawn, if general consent could be obtained, and then the understanding upon all sides of the House would be, that, on Wednesday next, we would come forward and vote upon the bill of the conference committee.

[Cries of "No!" "No!"]

Mr. CLINGMAN. I hope the gentleman will allow me to complete my proposition.

The SPEAKER. The Chair must arrest this course of remark. There is no understanding of that sort which can be recognized by the Chair. The Chair can only recognize motions that are made according to parliamentary rules.

Mr. HOUSTON. I am aware of that, and I am not attempting to enforce an agreement before the Chair as a court proceeding to enforce contracts. I am arguing to the House as well as to the Speaker.

The SPEAKER. But the gentleman from Alabama, in making his remarks, must confine them to the question of the propriety or non-propriety of the postponement.

Mr. HOUSTON. Very well, sir. I desire to get at what seemed to be the understanding, and to aid in carrying it out. I am willing to vote to-day, if the House shall see fit, to call the previous question. I am willing to meet this question, and vote upon it now. If, however, gentlemen prefer to postpone it until Wednesday, then let us vote down the pending proposition without further debate or consumption of time, and agree, in good faith, that upon Wednesday next we will come forward and vote upon the report of the committee of conference.

Mr. CLINGMAN. I presume there will be no objection to the pending motion to postpone being withdrawn, and the other submitted, when gentlemen remember that on Wednesday next they can renew this identical motion to postpone.

Mr. HOUSTON. But that would be a violation of the understanding, if we should agree to Wednesday.

Mr. CLINGMAN. I do not understand the gentleman from Alabama to object to any parliamentary motion being made on that day, if the report is postponed.

Mr. HOUSTON. Not at all; but the gentleman from Alabama means this: that if the House agrees by common consent to take the vote on that day, this motion could not, in good faith, be renewed.

Mr. CLINGMAN. Of course, they might move to postpone it indefinitely, or to a day certain.

Mr. BURNETT. Who has the floor?

The SPEAKER. The gentleman from North Carolina.

Mr. BURNETT. Then I insist that he shall be allowed to occupy it without these constant interruptions.

Mr. CLINGMAN. Is there any objection to the postponement of this subject until Wednesday next, with the understanding that it shall come up then under the rules, and that all parliamentary motions may be made?

Mr. WASHBURN, of Illinois. None on this side.

Mr. CLINGMAN. The majority can then second the previous question and pass the bill, or

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, APRIL 28, 1858.

NEW SERIES....No. 114.

vote it down, or postpone it indefinitely, or to a day certain. I hope there will be no objection to that.

Mr. MARSHALL, of Kentucky. I desire to say a few words upon this subject. The gentleman from Alabama [Mr. HUNTON] insisted constantly in his remarks that there is an understanding about this thing, and that he only wants to carry it out. His radical error is this: that there has been no understanding at all about it. When the report of the committee of conference came in, the gentleman from Georgia [Mr. STEPHENS] moved to postpone its consideration until to-day. His colleague, [Mr. HILL], who is now absent, proposed to postpone it for two weeks. Gentlemen upon the other side of the House struggled against the prevalence of that motion, but, notwithstanding, it did prevail. The gentlemen then struggled till they procured an adjournment rather than permit the question on the motion, as amended, to be taken. Next day we came and passed through another ineffectual effort to get a vote taken upon the pending question.

The same question is now pending here that was pending last Friday. And gentlemen propose that we shall give up all that we have struggled two days to attain, and, by way of a general understanding, let them off from the position which we have striven to maintain.

Mr. STEPHENS, of Georgia. Mr. Speaker, I would—

Mr. MARSHALL, of Kentucky. I have very little to say, and I will do it now. I prefer not to be interrupted.

Gentlemen now propose that we shall abandon the present status, in which there will be a direct vote upon the motion to postpone until the second Monday in May—that is for two weeks—and agree that a motion to postpone till Wednesday, the day after to-morrow, shall prevail; and that then, when the report comes up on the day after to-morrow, it may be subject to any parliamentary motions. Permit me to suggest to the gentleman that if it passes over informally in its present status, to wit: with the question pending on the motion to postpone for two weeks, until Wednesday, and comes up then in that shape, if there is strength enough on the part of gentlemen on the other side of the House to vote it down, the question will immediately recur upon the report of the committee of conference. What do gentlemen upon that side of the House propose to gain? And what do gentlemen upon this side of the House propose to concede by abandoning the ground that we now occupy, and agreeing that the question shall come up on Wednesday upon a proposition that the vote shall then be taken? If there be a desire upon this side of the House that the subject shall be postponed for two weeks, and we have not upon Wednesday strength to maintain that postponement, then the gentlemen upon the other side will have an opportunity to take a direct vote on Wednesday upon their bill.

If, on the contrary, we have strength to maintain the postponement, and desire to maintain it, why not leave to ourselves the power upon Wednesday of carrying out our own will? Why yield? Why put the matter in a different position now from that in which it would be on Wednesday? If gentlemen upon the other side can vote down the motion to postpone on Wednesday, then they can have a vote upon their bill. If there be a desire upon this side of the House to postpone for two weeks, why shall we concede the present status of the proposition, in which, as gentlemen are well aware, it is not amendable? The proposition is now for a postponement for two weeks, and gentlemen on the other side cannot substitute Wednesday or any intervening day. The gentleman from Georgia, [Mr. HILL], at whose instance the motion to postpone for two weeks was adopted, is absent. I do not know how he will vote upon the main proposition. He is not here to-day to speak for himself; but from the sign he manifested the other day, I should be inclined to let him be here to vote. There are gentlemen upon this side of the House whose votes I do un-

derstand, who are absent now, and are not paired off. I do not know that those gentlemen will be here on Wednesday. So far as I am myself concerned, I am in the attitude of the gentleman from Georgia, [Mr. SEWARD], ready to record my vote against the report of the committee of conference now or at any time.

Mr. SEWARD. There is this difference between us: I am ready to vote for it, and the gentleman against it.

Mr. STEPHENS, of Georgia. Mr. Speaker, the proposition before the House at this time is not that gentlemen on the opposite side of the House shall concede anything, if they do not want to do so. We, on this side of the House, have not asked the other side of the House to concede any status, as the gentleman from Kentucky says, unless they want to do it. I merely desired, by consent, to save a vote. Gentlemen upon this side of the House stand upon their rights.

Mr. MARSHALL, of Kentucky. So do we.

Mr. STEPHENS, of Georgia. The pending question is, will the House agree to the original proposition as amended, to postpone this matter for two weeks, or will they vote it down and then entertain the proposition of the gentleman from Illinois, to fix an earlier day. That is the question. My suggestion was made in order to save time in taking votes. I asked gentlemen to concede nothing. The question was submitted to the good sense of the House whether the day fixed in the amendment of my colleague [Mr. HILL] was not too distant. My colleague who made the motion to postpone, distinctly stated that he was influenced by motives personal to himself alone. He stated it then and reiterated it afterwards. He is absent. The gentleman from Ohio [Mr. STANTON] has made a speech in defense of him which I think my colleague would repudiate if he were here. I have no hesitancy in saying that.

The SPEAKER. The gentleman must confine himself to the proposition to postpone.

Mr. STEPHENS, of Georgia. I am confining myself to replying to the gentleman from Ohio.

The SPEAKER. If the gentleman from Ohio was inadvertently permitted to get out of order, it will not justify the gentleman from Georgia in proceeding out of order.

Mr. STEPHENS, of Georgia. I do not think it addresses itself to the good reason of this House to postpone a matter of this importance barely to accommodate one individual. That was the proposition of my colleague, [Mr. HILL], made distinctly and definitely, that he had to leave, and could not be present on Wednesday next. Now, sir, there are perhaps thirty of the members of this House who would like to leave. I want to leave myself; and, while I am therefore disposed to accommodate my colleague, there are others who will not be accommodated by a postponement for two weeks.

Now, sir, I do not want to detain the House. I want the gentleman from Kentucky, [Mr. MARSHALL], and those who are acting with him, to concede nothing. All I ask is, that, if a majority of the House are in favor of taking the vote upon an earlier day than two weeks hence, the pending motion may be voted down, and that the House will fix on Wednesday next, which I think will give ample time to consider the question.

Mr. QUITMAN. I see no reason in discussing the propriety of taking the vote upon this question upon one day or another. I am in favor of the longest day or the furthest day that has been proposed, and which has been accepted by the deliberate vote of the House, and upon the faith of which several gentlemen have made their arrangements to act. If, however, the opinion of the House has changed upon that proposition, I submit. Like the gentleman from Kentucky, [Mr. MARSHALL], my mind has been made up on this question. But I submit the propriety of some delay before proceeding to the final determination of a question which has been discussed here for nearly the whole session. What is the pressing necessity, after so much delay, for coming to a final vote this week or the next week? And, sir,

although some gentlemen may speak rather contemptuously of the idea of waiting to hear the opinions of our constituents, in my opinion, the proudest jewel in the character of a Representative is in a due deference to the opinions and wishes of his constituents upon a great public measure which has agitated the country, when it comes to be finally settled. If good could be accomplished by the immediate disposal of this question, I should be content. But, sir, the House has deliberately, by a considerable majority, decided to postpone the further consideration of this question for two weeks from to-day. Gentlemen have made their arrangements upon the faith of that vote. I myself have made some arrangements based upon that vote, and I see no reason for changing that determination upon the part of the House.

I do not think the time of the House should be consumed in discussing this matter. I hope the vote will be taken on the proper question before the House, whether this shall be postponed for two weeks, according to the amendment, or until Wednesday next. For myself, I prefer to leave the question as it has been determined by the House. What do we gain by leaving the question of further postponement open until Wednesday? Why not determine at once the time when the vote shall be taken, and give gentlemen due notice of the time? I stand in a position different from that of many of my friends with whom I concur in almost every political measure.

Mr. HARRIS, of Illinois. When I made the suggestion that by general consent this question should be postponed until Wednesday next, I supposed it would meet the universal concurrence of the House; that we should proceed with other business to-day and to-morrow, and that on Wednesday this report should be taken up and continued under consideration until it was disposed of. I find, however, that there is a very great diversity of opinion as to the propriety of fixing that day; and in consideration thereof I withdraw the proposition made by me, and leave the proposition standing as it did before.

Mr. MILLSON. I have a single suggestion to make to the House. I have listened with some attention to the progress of this debate; and it seems to me that the House are very generally agreed in their wishes as to the result, but that there is a very prevalent misapprehension upon both sides of the House as to what they respectively intend or mean. The gentleman from Illinois [Mr. HARRIS] proposed that, by general consent, this question should be postponed until Wednesday next, and that the House should then proceed to the consideration of the question.

I believe that gentlemen on the other side of the House desire that this shall be done; but they apprehend—and that seems the only difficulty in the way—that if the question be postponed until Wednesday next the vote will be taken upon the report of the committee of conference without discussion.

Now, to relieve their apprehensions so far as one individual can relieve them, I say that I regard that report as a fair and proper subject of debate, and, for one, I would not be willing to concur in a demand for the previous question until there shall have been a proper discussion upon it. And I would suggest to them that, by postponing this question until the second Monday in May, they defeat their own object, because it is bringing it so near the termination of the session as to preclude so much debate upon it as could take place if postponed till Wednesday next.

Mr. SMITH, of Virginia. The question has been discussed a long time.

Mr. MILLSON. No, sir. The particular question before us has not been discussed at all. I, for one, though I am ready to vote upon it, think it a proper subject for reasonable debate, and I shall not object to such debate. I voted against the demand for the previous question on Saturday, because I was not willing to stifle discussion upon it; I believe we shall gain by discussion, and I am willing that the discussion upon it shall

proceed to a reasonable length. Now all that is proposed is, that by the general acquiescence of the House we shall reject the motion to postpone as amended, ["No, no,"] and that we shall then reject the original proposition fixing a day for the consideration of the report, and that an independent motion be made, which I presume could be done, postponing this question until Wednesday next. If this is done, at that time we commence the consideration of the question. It does not follow, of course, that we terminate it on that day. Believing that to be the general desire of the majority of the House, I hope that we will proceed to take a vote on the question in its present form, reject the resolution as amended, reject the original proposition, and then adopt a new and independent resolution, postponing the further consideration of the question until Wednesday next, when we shall commence the discussion which I think it proper should take place. For one, sir, I say that I shall not vote for the previous question until a reasonable time has elapsed to discuss that question.

The question recurred on Mr. ENGLISH's motion as amended on motion of Mr. HILL.

The question was taken, and it was decided in the negative—yeas 100, nays 104; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Bonham, Brayton, Bryant, Buffinton, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Humphrey Marshall, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Quitman, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Spinner, Stallworth, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, and Wilson—100.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bocoock, Boyce, Branch, Burnett, Burne, Caruthers, Caskie, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Florence, Foley, Gartrell, Gillis, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lamar, Lawrence, Leidy, Letcher, Maclay, McQueen, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Sickles, Singleton, Samuel A. Smith, William Smith, Stephens, Stevenson, Tabbot, Tripp, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—104.

So the motion, as amended, was disagreed to.

Mr. STEPHENS, of Georgia, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table. The latter motion was agreed to.

PAY OF DECEASED MEMBERS.

Mr. NIBLACK. I offer the following resolution:

Resolved, That there be paid out of the contingent fund of this House, to the widows of the Hon. Samuel Brenton, of the Hon. John G. Montgomery, and of the Hon. James Lockhart, elected members of this House for the present Congress, and now deceased, the compensation of said Representatives at the rate of \$3,000 per annum, to wit: to each of the first two, for three months; and to the last, for six months.

Mr. MARSHALL, of Kentucky. This resolution is in direct violation of the law.

Mr. NIBLACK. If there be objection, I move to suspend the rules for the purpose of introducing that resolution.

Mr. KEITT. I wish simply to make this inquiry: have the successors of those named in the resolution drawn pay for the whole term, or is it expected that both shall draw pay?

Mr. NIBLACK. I understand that they have, under the law.

Mr. KEITT. Then it is paying double.

Mr. MARSHALL, of Kentucky. I do not object to the introduction of the resolution. I am willing that the resolution shall be introduced; but I wish to say to the gentleman from Indiana, that the resolution is in direct violation of the members' compensation law, unless the proposition be to pay this out of the contingent fund of the House; then the resolution would not deprive the

sitting members of their full pay, or otherwise the payment to the persons named in the resolution. The compensation bill does not take any notice of the election of a member until he comes here on the first day, or some other day of the session, to be sworn in. If a member dies before he is sworn in he is entitled to nothing; his administrators are entitled to nothing; and when his successor comes here and is sworn in, he draws pay from the commencement of the term.

Mr. DAVIS, of Indiana. I object to debate.

Mr. JONES, of Tennessee. I object to the resolution.

Mr. NIBLACK. Then I move that the rules be suspended, in order that the resolution may be introduced.

Mr. JONES, of Tennessee. I call for the yeas and nays.

Mr. HUGHES. I wish to give notice of an amendment which I will offer, if the rules be suspended.

Mr. BURNETT. I hope the gentleman from Tennessee will withdraw the call for the yeas and nays, and take the question first by tellers.

Mr. JONES, of Tennessee. This is the first time an attempt has been made to violate the members' compensation law, and I want to make a record on it.

Mr. NIBLACK. If debate be in order, I want to say a word.

Mr. CRAIGE, of North Carolina. I object to debate.

Mr. NIBLACK. I would like to have read a resolution similar to this which was lately passed by the Senate.

Mr. LETCHER. I hope the amendment which the gentleman from Indiana [Mr. HUGHES] proposes to offer, if the rules be suspended, as well as the resolution referred to by his colleague, [Mr. NIBLACK], will be read.

Mr. NIBLACK's resolution was again read:

The amendment which Mr. HUGHES gave notice that he would offer was read, as follows:

And to DANIEL W. GOOCH, a member of this House from the State of Massachusetts, so much money as will make the compensation of said Gooch equal to that of other members of this House, less the compensation from the time of the meeting of the House, (to wit, the 7th day of December, 1857), to the time when said Gooch was sworn as a member of this House, (to wit, the — day of December, 18—) said payments to be made at the times and in the sums payable to other members of this Congress.

Mr. WARREN. I suppose this is a question to suspend the rules. I propose to submit a simple remark before the vote is taken.

Mr. CRAIGE, of North Carolina. I object.

The SPEAKER. It is objected to, and debate is not in order.

Mr. WARREN. I desire very much to call the attention of the gentleman from Tennessee to—

[Cries of "Order!" "Order!"]

The question was then taken; and it was decided in the negative—yeas 67, nays 103; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Burlingame, Campbell, Case, Chaffee, John B. Clark, Clawson, Cockerill, Colfax, Comins, Corning, Covode, Curtis, Davis of Indiana, Davis of Massachusetts, Dawes, Dewart, Elliott, English, Florence, Foley, Foster, Gillis, Goodwin, Granger, Gregg, Grow, Robert B. Hall, Hatch, Hawkins, Hughes, Kellogg, Kilgore, Leach, Leidy, Mason, Niblack, Pettit, Peyton, Phillips, Pike, Pottle, Reilly, Royce, Russell, Savage, Scott, Aaron Shaw, Shorter, Sickles, Robert Smith, William Stewart, Walbridge, Walton, Ward, Warren, Elihu B. Washburne, Wilson, and Augustus R. Wright—67.

NAYS—Messrs. Abbott, Andrews, Atkins, Avery, Barksdale, Bocoock, Bonham, Branch, Bryant, Buffinton, Burnett, Caskie, Chapman, Ezra Clark, Horace F. Clark, Clay, Clingman, Cobb, John Cochrane, Cox, Cragin, Burton Craige, Crawford, Curry, Damrell, Davis of Maryland, Davis of Iowa, Dean, Dick, Dodd, Dowdell, Edmundson, Farnsworth, Fenton, Gartrell, Greenwood, Groesbeck, Harlan, J. Morrison Harris, Thomas L. Harris, Hopkins, Houston, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Kelsey, Knapp, Lamar, Leiter, Letcher, Lovejoy, Maclay, McQueen, Humphrey Marshall, Maynard, Miles, Millson, Moore, Morgan, Edward Joy Morris, Isaac N. Morris, Mott, Nichols, Parker, Phelps, Potter, Purviance, Quitman, Ready, Reagan, Ritchie, Robbins, Roberts, Ruffin, Sandidge, Seales, Searing, Seward, Henry M. Shaw, John Sherman, Singleton, William Smith, Spinner, Stanton, Stevenson, Tabbot, Tappan, Miles Taylor, Thayer, Tompkins, Underwood, Wade, Watkins, White, Whiteley, Winslow, Wortendyke, and Zollcoffer—104.

So the House refused to suspend the rules.

Pending the call,

Mr. FOSTER said: I would inquire what has been the usual custom in regard to this matter?

The SPEAKER. There has been no usage,

to the knowledge of the Chair. The compensation bill was only passed at the last Congress.

The call being temporarily suspended on account of confusion in the Hall,

Mr. SHERMAN, of Ohio, inquired if it would be in order to have the compensation bill read?

The SPEAKER. The Chair does not think anything would be in order.

Mr. CLINGMAN. I move that the House, by general consent, suspend conversation, and allow the roll to be called.

The SPEAKER. The Chair would be extremely gratified if the proposition of the gentleman from North Carolina would be assented to by the House. [Cries of "agreed," "agreed."]

The call of the roll was then concluded, and the result announced as above recorded.

DEFICIENCY BILL.

Mr. LETCHER. I desire to have the deficiency bill taken up from the Speaker's table.

Mr. STANTON. There is objection for a moment until I can offer—

Mr. LETCHER. Then I move to suspend the rules.

The motion was agreed to; and the deficiency bill was taken from the Speaker's table, and the Senate amendments thereto reported to the House.

Mr. LETCHER. I suppose the question will be upon concurring with the Senate in their amendments.

The SPEAKER. It will.

Mr. LETCHER. Every gentleman will have an opportunity to express his opinion by his vote on each one of these amendments. One I shall vote for, and the other two I shall vote against. I now move the previous question.

Mr. SEWARD. I move to postpone the consideration of the bill for two weeks.

The SPEAKER. The motion cannot be entertained.

Mr. SEWARD. Then I move to commit the bill to the Committee of Ways and Means.

The SPEAKER. That motion cannot be entertained pending the call for the previous question.

Mr. SEWARD. Then I move to lay the bill upon the table.

Mr. SHERMAN, of Ohio. I desire to move an amendment to one of the Senate's amendments; and, therefore, I hope the House will not sustain the previous question.

Mr. SEWARD. I make my motion because I am not going to be compelled to vote upon a bill or amendments I know nothing about, and we may as well meet this question now.

Mr. BURNETT. I rise to a question of order. The previous question has been demanded, and debate is not in order.

The SPEAKER. The point of order is well taken. Debate is not in order.

Mr. STANTON. I rise to a question of order. I understand that a bill to appropriate money shall not be considered except in the Committee of the Whole on the state of the Union.

Mr. LETCHER. There is no appropriation in either of these amendments.

Mr. STANTON. The rule is, that no proposition appropriating money shall be considered, except in Committee of the Whole.

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Ohio. The matters which are proposed by the Senate to be stricken out of this bill have been considered in the Committee of the Whole on the state of the Union. The additional section proposed by the Senate does not provide for the appropriation of money at all.

The gentleman from Ohio [Mr. SHERMAN] appeals to the gentleman from Virginia to withdraw the call for the previous question.

Mr. SHERMAN, of Ohio. I desire to offer an amendment to one of the amendments of the Senate. I do not wish to speak to it at all.

Mr. BURNETT. I object, as long as the call for the previous question is pending.

Mr. SHERMAN, of Ohio. I hope my amendment may be read.

Mr. BURNETT. I object.

Mr. SEWARD. I withdraw the motion to lay the bill upon the table, and hope the House will vote down the previous question.

Tellers were demanded upon the call for the previous question.

Tellers were ordered; and Messrs. HARLAN, and WRIGHT of Georgia, were appointed.

The House divided; and the tellers reported—ayes 91, noes 75.

So the previous question was seconded.

The main question was then ordered to be put, being first upon the amendment of the Senate to strike out the following clause:

"To enable John C. Rives to pay to the reporters of the House, for reporting the debates of the present session of Congress, the usual additional compensation of \$800 each—\$4,000."

Mr. FLORENCE. If it be in order, I move to non-concur in the amendment.

The SPEAKER. The question is upon agreeing to the amendment.

Mr. REAGAN demanded the yeas and nays, but subsequently withdrew the demand.

Mr. HOUSTON renewed it.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 119; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Bishop, Bocoche, Boyce, Branch, Bryan, Burnett, Caskie, Ezra Clark, Horace F. Clark, Clay, Cobb, Cox, Burton Craige, Crawford, Curry, Edmundson, Elliott, Foley, Garrett, Greenwood, Harlan, Houston, Hughes, Huyler, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Keitt, Kelly, Lamar, Lawrence, Letcher, MacLay, McQueen, Mason, Miles, Miller, Milson, Moore, Mott, Pendleton, Quitman, Ready, Reagan, Reilly, Ruffin, Sandidge, Seales, Henry M. Shaw, Shorter, Singleton, William Smith, Stevenson, Talbot, Miles Taylor, Tompkins, Underwood, Ward, Winslow, Wortendyke, John V. Wright, and Zollicoffer—67.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Bennett, Billingham, Blair, Bliss, Bonham, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Caruthers, Case, Chapman, John B. Clark, Clawson, Clingman, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Corning, Covode, Cragin, James Craig, Curtis, Darnell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, English, Essist, Farnsworth, Fenton, Florence, Foster, Giddings, Gilman, Goodwin, Granger, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Hoard, Howard, Jewett, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leidy, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pettit, Peyton, Phelps, Phillips, Pike, Potter, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, Russell, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Wade, Walbridge, Walton, Warren, Elihu B. Washburne, Israel Washburne, White, Wilson, Woodson, and Augustus R. Wright—119.

So the amendment was disagreed to.

The question recurred upon the second amendment of the Senate, to strike out the third section of the bill, as follows:

"Sec. 3. *And be it further enacted*, That the accounting officer of the Treasury be authorized and directed to allow credit to the Clerk of the House of Representatives for such payments out of its contingent fund as have been, or may be, made, under allowances authorized by the House of Representatives during the last Congress: *Provided*, That said allowances shall have been duly approved by the Committee of Accounts: *And be it further provided*, That the said allowances be paid out of any moneys in the Treasury not otherwise appropriated."

Mr. BURNETT demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 126; as follows:

YEAS—Messrs. Anderson, Avery, Barksdale, Bocoche, Bonham, Branch, Bryan, Burnett, Horace F. Clark, Clay, Clingman, Cobb, John Cochrane, Cockerill, Cox, Burton Craige, Crawford, Curry, Edmundson, Elliott, Greenwood, Gregg, Harlan, Thomas L. Harris, Houston, Huyler, George W. Jones, Lamar, Lawrence, MacLay, McQueen, Mason, Miller, Milson, Niblack, Pendleton, Peyton, Quitman, Reagan, Reilly, Ruffin, Seales, Henry M. Shaw, John Sherman, Singleton, William Smith, Stanton, Stevenson, Talbot, Miles Taylor, Tompkins, Underwood, Ward, Wortendyke, and John V. Wright—55.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Bennett, Billingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Caruthers, Case, Caskie, Chapman, John B. Clark, John B. Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Corning, Covode, Cragin, James Craig, Darnell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Dawes, Dean, Dewart, Dick, Dodd, Dowdell, Durfee, English, Farnsworth, Fenton, Florence, Foley, Foster, Garrett, Giddings, Gilman, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Hawkins, Hoard, Howard, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Leach, Leidy, Leiter, Letcher, Lovejoy, Maynard, Miles, Morgan, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Olin, Palmer, Parker, Pettit, Phelps, Phillips, Pike, Potter, Pottle, Purviance, Ready, Ritchie, Robbins, Roberts, Royce, Sandidge, Savage, Scott, Searing, Seward, Aaron Shaw, Judson W. Sherman, Robert Smith, Spinner, Stallworth, William Stewart, Tappan, Thayer, Tupper, Wade, Walbridge, Walton, Warren, Elihu B. Washburne, Israel Washburne,

Watkins, White, Wilson, Woodson, Augustus R. Wright, and Zollicoffer—126.

So the amendment was disagreed to.

Pending the call of the roll,

Mr. WHITELEY stated that he had paired off upon this vote with Mr. HUGHES.

Mr. MOORE stated that he was not within the bar when his name was called, or he should have voted "ay."

The question recurred upon the third amendment of the Senate to add the following as an additional section to the bill:

"*And be it further enacted*, That whenever, hereafter, contracts shall be made by the Secretary of War by virtue of the sixth section of the act of 1820, chapter 52, he shall, if Congress be in session at the time, promptly report to both Houses thereof the reasons for making such contract, stating fully all the facts and circumstances which, in his judgment, rendered such contract necessary. If Congress be not in session at the time of making such contract, he shall, at the commencement of the next session, make such report to both Houses. And no such contracts shall be made, hereafter, except in cases of pressing exigency."

Mr. QUITMAN. I desire to move to strike out the last clause of that amendment.

The SPEAKER. The motion of the gentleman cannot be entertained, as the previous question is operating upon the amendment.

Mr. JONES, of Tennessee, demanded the yeas and nays on the amendment.

The yeas and nays were not ordered.

Mr. LAWRENCE called for tellers.

Tellers were not ordered.

The amendment was agreed to—ayes one hundred and thirty-one, noes not counted.

Mr. LETCHER. I move to reconsider the votes which have been taken on these several propositions, and to lay the motion to reconsider upon the table.

Mr. BILLINGHURST. Let me appeal to the gentleman from Virginia to let this amendment also go to the committee of conference, if there is to be one, so that the suggestion of the gentleman from Mississippi may be carried out.

Mr. HOUSTON. The amendment of the Senate has been concurred in.

Mr. BILLINGHURST. You may call for a division upon reconsidering the several amendments.

Mr. LETCHER. The vote was taken upon the amendments separately, originally.

The SPEAKER. The gentleman from Wisconsin has the right to call for separate votes upon reconsidering and laying on the table the motions to reconsider the votes upon the several amendments.

Mr. LETCHER. I call for the vote, then, upon the first two.

Mr. HOWARD. The gentleman from Virginia did not vote in the majority upon the first amendment, and cannot make the motion to reconsider.

Mr. PHELPS. Then I move that the vote non-concurring in the first amendment be reconsidered, and that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. LETCHER. I now ask for the vote upon the second.

The motion to reconsider was laid on the table.

Mr. LETCHER. I now move to reconsider the vote by which the last amendment was concurred in, and move to lay that motion on the table.

Mr. BILLINGHURST. I think the gentleman from Virginia should have no objection to allowing the gentleman from Mississippi [Mr. QUITMAN] to offer his amendment.

Several MEMBERS objected to debate.

Mr. LETCHER. To hear what the gentleman from Wisconsin has to say, I withdraw the motion to lay on the table the motion to reconsider.

Mr. BILLINGHURST. In order to give the gentleman from Mississippi an opportunity to offer his amendment to the third amendment of the Senate, I hope the House will reconsider the vote concurring in it. Let the amendment be offered, and the whole matter go to the committee of conference.

Mr. LETCHER. Is the amendment in a position where it can be amended?

The SPEAKER. Not unless the House reconsider the vote concurring in the amendment.

Mr. BILLINGHURST. I understand that if the House disagrees with the Senate amendment,

the whole subject will go to the committee of conference.

Mr. LETCHER. I renew the motion to lay the motion to reconsider on the table.

Mr. BILLINGHURST. I hope the House will vote down the motion.

Mr. CLINGMAN. I object to debate.

Mr. BILLINGHURST. I demand the yeas and nays upon the motion.

The yeas and nays were not ordered.

The motion to reconsider was then laid on the table.

RECESS IN COMMITTEE.

Mr. J. GLANCY JONES. I ask the consent of the House to introduce the following resolution:

Resolved, That during the present week, it shall be in order each day after to-day, for the Committee of the Whole to take a recess until seven o'clock p. m., after which hour general debate may be indulged in: *Provided*, That no vote shall be taken at such evening session, except on motions that the committee rise, and that the House adjourn.

Mr. SICKLES. I object.

Mr. J. GLANCY JONES. I move that the rules be suspended.

The rules were suspended, two thirds having voted in favor thereof.

Mr. J. GLANCY JONES. I now call the previous question on the adoption of the resolution.

Mr. HOUSTON. I ask the gentleman from Pennsylvania to withdraw the demand for the previous question for a moment, to allow me to offer an amendment. I propose to move that except during the evening sessions, the debate in committee shall be confined to the subject under consideration.

Mr. J. GLANCY JONES. I insist on my demand for the previous question.

The previous question was seconded; and the main question was ordered to be put.

Mr. CLAY, (at fifteen minutes to four o'clock, p. m.) I move that the House adjourn.

Mr. FLORENCE. I demand the yeas and nays upon that motion.

Mr. SICKLES demanded tellers on ordering the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

Mr. J. GLANCY JONES. On Saturday last I consulted both sides of the House on this question, and I ascertained that the general feeling was in favor of these night sessions for general debate, with the understanding that during the day the debate in the Committee of the Whole on the state of the Union should be confined strictly to the question pending, being the appropriation bills, and so believing, I have presented the resolution before the House. As there seems to be considerable diversity of opinion on the subject this morning I will withdraw the resolution. My only object is that the regular and ordinary legislative business of the session may be promptly considered, and the House placed in condition for the final adjournment on the 7th of June next, which has been agreed to by concurrent vote of the two Houses.

Mr. CLINGMAN. The same thing can be accomplished by agreement of the Committee of the Whole on the state of the Union to take a recess with the understanding that the evening sessions shall be devoted to general debate. Cannot the Committee of the Whole on the state of the Union, I would inquire of the Chair, take a recess, when that was the desire, from three or four o'clock until seven o'clock of the evening?

The SPEAKER. That depends entirely upon the chairman of the Committee of the Whole on the state of the Union. Some chairmen have decided one way and some another.

Mr. CLINGMAN. It has been frequently decided as I have indicated, and it will be so decided, I think, again.

Mr. JOHN COCHRANE. Is it in order now to withdraw the resolution?

The SPEAKER. The Chair is of the opinion that the previous question having been ordered it is not competent for the gentleman from Pennsylvania to withdraw the resolution without the leave of the House.

Mr. SICKLES. I move that the resolution be laid upon the table.

Mr. BURNETT, (at five minutes to four o'clock, p. m.) I move that the House do now adjourn.

The House divided; and there were—ayes 65, noes 100.

So the House refused to adjourn

Mr. FLORENCE demanded the yeas and nays on the motion to lay the resolution on the table.

The House was divided; and there were—ayes twenty-six.

Mr. FLORENCE demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. OLIN and HAWKINS were appointed.

The House was divided; and the tellers reported—ayes 28, noes 112.

So the yeas and nays were ordered; one fifth of those present having voted in the affirmative.

Mr. BARKSDALE moved (at four o'clock) that the House adjourn.

Mr. SMITH, of Virginia. I ask the gentleman to withdraw that motion until I can offer a resolution; and then I will renew it.

The SPEAKER. The House is already acting under a suspension of the rules.

Mr. GREENWOOD. I would inquire of the Chair whether, if the House adjourn now, this resolution will not be the first business in the morning?

The SPEAKER. The Chair thinks it will; the previous question having been ordered.

The question was then taken on the motion to adjourn; and it was decided in the negative, there being, on a division—ayes 71, noes 92.

The question recurring on the motion to lay the resolution on the table, it was taken, and decided in the negative—ayes 49, nays 95; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Bockock, Bryon, Burnett, Burns, Caskie, John B. Clark, Clay, Clingman, Cobb, Burton Craig, Curry, Davis of Indiana, Dowdell, Edmundson, Florence, Foley, Gregg, Hawkins, Houston, Hughes, Jackson, J. Glancy Jones, Owen Jones, Lamar, Millson, Niblack, Pendleton, Phillips, Reagan, Ruffin, Savage, Seales, Scott, Henry M. Shaw, Sickles, Singleton, William Smith, Stallworth, Stevenson, Miles Taylor, White, Whiteley, Winslow, Woodson, and Zollcoffer—49.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Biles, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Horace F. Clark, Clawson, John Cochrane, Colfax, Comins, Corning, Covode, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Honard, Howard, Kelly, Kelsey, Kilgore, Knapp, Leach, Lester, Lovejoy, Maclay, Humphrey Marshall, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Peyton, Pike, Potter, Robbins, Roberts, Royce, Sandidge, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Talbot, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Walton, Ward, Elihu B. Washburne, Israel Washburn, and Wilson—95.

So the House refused to lay the resolution on the table.

Pending the call.

Mr. J. GLANCY JONES said: Having proposed to withdraw my resolution, I vote in the affirmative.

Mr. FLORENCE. I rise to a privileged motion. I move to reconsider the vote by which the main question was ordered upon this resolution.

Mr. CAMPBELL. And I move to lay the motion to reconsider upon the table.

Mr. FLORENCE. On that I call for the yeas and nays.

Mr. SAVAGE moved (at four o'clock and twenty minutes) that the House adjourn.

Mr. FLORENCE. I demand the yeas and nays, and tellers upon the yeas and nays.

Tellers were refused; and the yeas and nays were refused.

Mr. CLAY. Is a motion for a call of the House in order?

The SPEAKER. It is not.

Mr. CRAIGE, of North Carolina. Why?

The SPEAKER. It is expressly provided by the rule that when the previous question has been seconded, no call of the House shall be in order.

The question was taken on the motion to adjourn, and it was decided in the negative.

So the House refused to adjourn.

The question recurring on the motion to lay the motion to reconsider on the table.

Mr. JOHN COCHRANE. Is it in order to move that the House adjourn until seven o'clock this evening?

The SPEAKER. It is not.

Mr. BURNETT. Is it in order to move to lay the resolution on the table?

The SPEAKER. The Chair thinks not.

Mr. CAMPBELL. I desire to know whether

the gentleman who moved to reconsider the vote by which the previous question was seconded, voted with the majority?

The SPEAKER. The practice is to allow any gentleman to move to reconsider, where no record is made of the vote.

Mr. FLORENCE. I suppose I did not; but that has nothing to do with this matter, according to the practice of the House. [Cries of "Order!"] Is it not debatable?

The SPEAKER. It is not. The Chair will entertain the motion to reconsider the vote by which the main question was ordered; and will hold that, if the vote is reconsidered, it will supersede the second to the previous question, as the Chair understands that has been the practice of the House.

Mr. FLORENCE. I demand the yeas and nays.

Mr. SPINNER. I think this difficulty can be got along with, if the House will allow me to offer a resolution.

The SPEAKER. The gentleman from New York asks unanimous consent to offer a resolution. Is there any objection? The Chair hears no objection.

A MEMBER. Let it be read for information.

The Clerk commenced the reading of the resolution, as follows:

Whereas, the Burlington Hawkeye, a newspaper published in the State of Iowa, has recently published the following article, written from Council Bluffs, in relation to the land office sales at that place:

"During the second week, after the office had opened, an order was received from Mr. Commissioner Hendricks, at Washington, to locate six thousand (6,000) acres in the name of the Hon. Jesse D. BRIGHT, of Indiana. Of course the order was complied with out of the regular office hours, and thus the honorable Senator got a slice of the public lands at a single haul, while the rest of us had to take our turn at the mill as the wheel rolled round. Wonder if the peculiar position which Senator BRIGHT occupies toward the Administration had anything to do with this piece of party favoritism? Was it any part of the price paid for his support of the Lecompton constitution?"

Mr. WINSLOW, (interrupting the reading.) Is that resolution in order?

The SPEAKER. In the opinion of the Chair it is not.

Mr. WINSLOW. Then I object to its being read further.

The SPEAKER. The Chair is of opinion that any paper reflecting upon a member of another coordinate branch of the legislative department of the Government is not in order, if the question of order is raised.

Mr. WASHBURN, of Maine. Does the Chair hold that Mr. BRIGHT is a member of the Senate?

The SPEAKER. Unquestionably he is a Senator.

Mr. GROW. Does the Chair hold that no language can be used reflecting upon the Commissioner of the General Land Office, by whom this order was sent?

The SPEAKER. The Chair certainly decides that this House has no right to order an investigation into the conduct of a member of a coordinate branch of the legislative department of the Government.

Mr. GROW. This is a resolution to investigate the conduct of one of the executive officers of the Government—the Commissioner of the General Land Office, who sent this order. Does the Chair hold that such a resolution is not in order?

The SPEAKER. The Chair rules that the resolution is not in order, inasmuch as it reflects upon a member of a coordinate branch of this department of the Government.

Mr. WASHBURN, of Maine. Is the resolution to be ruled out of order because it incidentally reflects upon a member of the other branch of the Legislature?

The SPEAKER. The Chair holds that the resolution is out of order.

Mr. MARSHALL, of Kentucky. Will the Chair suffer me to make this suggestion? As I understand it, what has been read here is not in the resolution, but is an extract from an Iowa paper. No proposition has yet been reported to the House. That reflection was what the Iowa paper contained; but what the proposition of the gentleman from New York is, I do not yet understand.

The SPEAKER. The Chair is of opinion that it is such a reflection upon a member of the other House as would not be tolerated in debate, the Manual expressly providing that reflection shall

not be made even in debate upon a member of the Senate.

Mr. POTTER. But this reflection is contained in the article which was read, and not in the resolution.

Mr. WASHBURN, of Maine. I rise to a question of order. The rule which makes it out of order was itself suspended.

The SPEAKER. The Chair is already entertaining one question of order.

Mr. UNDERWOOD. I move that the House do now adjourn.

Mr. GROW. Does the Speaker hold that a member in debate cannot read an article from a paper?

The SPEAKER. Not an article reflecting upon a member in the other end of the Capitol.

Mr. GROW. The charge is against an officer in the Land Office; and I would like to know how you would get at such an investigation unless the charge is read?

The SPEAKER. The gentleman from North Carolina raised the question of order that the paper could not be read in consequence of its reflecting upon a member of the Senate. The Chair sustains the point of order; and, if the gentleman had attempted to read it in a speech, the Chair would have ruled it out of order.

Mr. GROW. Does the Chair consider that a reflection upon an officer in the Land Office is out of order? I appeal from the decision of the Chair. Is that debatable?

The SPEAKER. It is not.

Mr. GROW. Then I withdraw the appeal.

Mr. ADRAIN, (at half past four o'clock, p.m.) I move that the House do now adjourn.

Mr. HUGHES. I rise to a question of order. I understand that when a member of the House uses language in debate, or in a resolution, if that language is excepted to, the proper time to take exception is when the language is used, and it is required to be taken down at the Clerk's desk. I desire to avail myself of that rule, as the language was aimed at a Senator from my own State. I ask that the offensive language be taken down at the Clerk's desk.

Mr. ADRAIN. Is there any question before the House?

The SPEAKER. The question is upon the motion to adjourn.

Mr. HUGHES. Have I the right to make this point now?

Mr. ADRAIN. I think the gentleman is out of order, and I call him to order.

Mr. HUGHES. The gentleman is always calling me to order, when he is out of order himself.

Mr. ADRAIN. Because the gentleman from Indiana is always out of order.

The SPEAKER. The Chair overrules the question of order made by the gentleman from Indiana, because the matter has not come before the House in the way in which the rules contemplate that it shall be presented to the House when the exception is to be taken.

Mr. HUGHES. I hope the House will indulge me in saying—[shouts of "Order!"] Where is the disorder now?

The SPEAKER. Debate is not in order.

Mr. HUGHES. I desire to say that the imputation—[Renewed shouts of "Order!"]

Mr. CLAY. I call the gentlemen upon the other side of the House to order.

The SPEAKER. It is not in order for the gentleman from Indiana to debate the pending question.

Mr. ADRAIN. I have moved that the House adjourn.

Mr. HUGHES. The gentleman cannot make that motion while I am upon the floor.

The SPEAKER. The gentleman cannot hold the floor to debate a proposition which is not debatable.

Mr. HUGHES. I rise to a privileged question.

The SPEAKER. The question presented by the gentleman from New Jersey [Mr. ADRAIN] is a privileged question.

Mr. ADRAIN. I insist on my motion.

Mr. ENGLISH. I appeal to the gentleman from New Jersey to withdraw it for one moment.

Mr. ADRAIN. If there is anything personal which the gentleman wishes to explain, I have no objection.

Mr. ENGLISH. I merely wish to say that I

am entirely familiar with the transaction referred to in the newspaper extract which the gentleman from New York [Mr. SPINNER] attempted to submit to the House, and know that there is nothing whatever in it in the least discreditable to the distinguished Senator alluded to, or to the Commissioner of the General Land Office, or anybody else. The insinuation proceeds from mere party malice, and as one of the friends of that Senator I am perfectly willing to have the matter investigated.—[Cries of "Order!"]

The SPEAKER. Debate is not in order.

Mr. SICKLES demanded the yeas and nays on the motion to adjourn.

Mr. FLORENCE demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. OLIN, and CRAIG of North Carolina, were appointed.

The question was taken; and it was decided in the negative—yeas 37, nays 79; as follows:

YEAS—Messrs. Adrain, Anderson, Avery, Bocoek, Bryan, Burnett, Caslie, Cobb, John Cochrane, Cockerill, James Craig, Burton Craig, Davis of Indiana, Edmundson, English, Florence, Foley, Houston, Jackson, J. Glancy Jones, Kelly, Lamar, Macay, Moore, Niblack, Pendleton, Phillips, Reagan, Ruffin, Seales, Henry M. Shaw, Sickles, Singleton, Winslow, Wortendyke, John V. Wright, and Zollcoffer—37.

NAYS—Messrs. Andrews, Bennett, Billingshurst, Bingham, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clay, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dean, Doid, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Grow, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Howard, Hughes, Kelsey, Kilgore, Knapp, Leiter, Lovejoy, Millson, Morgan, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Peyton, Pike, Potter, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, Talbot, Tappan, Thayer, Tompkins, Underwood, Walbridge, Walton, Elihu B. Washburn, Israel Washburn, and Wilson—79.

So the House refused to adjourn.

The question recurred upon Mr. CAMPBELL's motion to lay on the table Mr. FLORENCE's motion to reconsider the vote by which the main question was ordered on the resolution proposed by Mr. J. GLANCY JONES.

Mr. JACKSON. No quorum voted on the last vote.

The SPEAKER. It is not necessary that a quorum should vote on a motion to adjourn.

Mr. CLAY. Is it in order to move that the House take a recess until seven o'clock this evening?

The SPEAKER. The Chair thinks not.

Mr. HOUSTON. I object to the transaction of any business without there being a quorum present.

The SPEAKER. The fact whether or not there is a quorum present will be ascertained by the vote on the motion of the gentleman from Ohio, on which the yeas and nays have been demanded.

Mr. HOUSTON called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. BUFFINTON, and CRAIG of North Carolina, were appointed.

The House divided; and the tellers reported—ayes 17, noes 70.

So the yeas and nays were not ordered, no quorum voting.

And then, on motion of Mr. MORSE, of Maine, (at four minutes to five o'clock, p. m.), the House adjourned.

IN SENATE.

TUESDAY, April 27, 1858.

Prayer by Rev. JULIUS C. GRAMMER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the chief clerk of the Court of Claims, returning, in compliance with a resolution of the Senate, the petition and papers of Findley Patterson, heretofore referred by the Senate to that court; which, on motion of Mr. BIGLER, were ordered to lie on the table.

He also laid before the Senate a report from the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, information in relation to the cost of the public printing and advertising during the last five years, other than that ordered by Congress, at each of the printing establishments in Washington, under

what authority executed; and whether any change in existing laws is necessary to insure a proper economy in that branch of the public expenditure; which, on motion of Mr. HAMLIN, was ordered to lie on the table and be printed.

HOUSE BILLS REFERRED.

The following bills, received yesterday from the House of Representatives, were severally read twice by their titles and referred to the Committee on Private Land Claims:

A bill (No. 100) to revive an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased."

A bill (No. 209) for the relief of the representatives of William Smith, deceased, late of Louisiana.

A bill (No. 211) for the relief of the heirs and legal representatives of Pierre Broussard, deceased.

A bill (No. 214) for the relief of Regis Loisel, or his legal representatives.

DEFICIENCY BILL.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House of Representatives disagrees to the first and second amendments of the Senate to the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858, and agrees to the third amendment of the Senate to the said bill; which, on motion of Mr. HUNTER, was referred to the Committee on Finance.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 7th of April, an act to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States two additional regiments of volunteers; and on the 19th of April an act for the relief of the legal representatives or assignees of James Lawrence; and, on the 21st of April, the following:

An act for the relief of Major Jeremiah Y. Daishell, paymaster in the United States Army;

An act for the relief of the heirs of Alexander Stevenson;

An act for the relief of N. C. Weems, of Louisiana; and

An act for the relief of Francis Wlodecki.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented the petition of R. J. Todd, praying a reduction of the postage between the cities of New York, Brooklyn, and Williamsburg; which was referred to the Committee on the Post Office and Post Roads.

Mr. GWIN presented a petition of citizens of California, praying that an appropriation may be made for the survey of the harbor of Crescent City for the purpose of constructing a breakwater; which was referred to the Committee on Commerce.

He also presented a petition of residents of Solana county, California, praying the establishment of a weekly mail route from Nurse's Landing to Suisun City, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of citizens of Calusa, California, praying the establishment of a mail route from that place to Marysville; which was referred to the Committee on the Post Office and Post Roads.

He also presented papers in favor of the adoption of Oliver Evan Wood's plan for the safe delivery of letters sent by mail to California, Oregon, and Washington; which was referred to the Committee on the Post Office and Post Roads.

He also presented the petition of citizens of California, praying that an appropriation may be made to pay the expenses incurred by that State in the suppression of Indian hostilities; which was referred to the Committee on Military Affairs and Militia.

Mr. SEWARD presented the petition of Eliza H. Herndon, widow of W. L. Herndon, late of the Navy, praying to be allowed three years' full pay of her husband as a commander; which was referred to the Committee on Naval Affairs.

Mr. HARLAN presented the petition of Joseph Brobest, praying the payment of certain con-

tingental scrip received by his father in payment for services as a soldier in the revolutionary war, with interest thereon; which was referred to the Committee on Claims.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a mail route from the city of San Francisco via Alviso to San José, California.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed a bill (H. R. No. 359) for the relief of Duncan Robertson; which thereupon received the signature of the President *pro tempore*.

BILLS INTRODUCED.

Mr. STUART asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 296), amendatory of an act entitled "An act to establish two additional land districts in the Territory of Minnesota," approved July 8, 1856; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 32) for the benefit of the widow of Commander William Lewis Herndon, United States Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Lemuel Worster, submitted a report, accompanied by a bill, (S. No. 294,) for the relief of Lemuel Worster. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of David D. Porter, submitted a report, accompanied by a bill, (S. No. 295,) for the relief of David D. Porter. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. KING, from the Committee on Pensions, to whom was referred the bill (H. R. No. 207) to amend an act entitled "An act granting a pension to Ansel Wilkinson," approved August 13, 1856, reported it without amendment.

Mr. GWIN, from the Committee on Finance, to whom was referred the bill (S. No. 98) to authorize and direct the payment of certain moneys into the treasury of the State of California, which were collected in the ports of said State as a revenue upon imports since the ratification of the treaty of peace between the United States and the Republic of Mexico, and prior to the admission of said State into the Union, reported it without amendment.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 5) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859, reported it without amendment, and gave notice that he should ask for its consideration as soon as the report of the Kansas committee of conference should be disposed of.

SAN FRANCISCO POST OFFICE.

Mr. BRODERICK. I introduced a resolution of inquiry on Wednesday last in regard to the post office at San Francisco. I hope the Senate will take up that resolution and pass it.

The Senate proceeded to consider the following resolution:

Resolved, That the Postmaster General be requested to furnish the Senate with a quarterly statement showing the aggregate amount collected at the post office at San Francisco, over and above the lawful postage, for box-rents from July 1, 1854, to December 31, 1857, and that he be requested to inform the Senate what law, or what regulation of the Department, authorizes the collection of the same; and also whether the postmaster has any legal authority to discriminate against one class of citizens, and in favor of another class, by withholding letters—as letters are withheld at the San Francisco post office—from those who will not submit the exaction for box-rents, until at least an hour after letters are delivered to those who do thus submit to the exaction.

Mr. GWIN. The chairman of the Committee on the Post Office and Post Roads [Mr. YULEE]

objected to the passage of this resolution for reasons which have not been stated to me, and I would prefer that it should be laid over until he is in his seat. I have no objection to it myself.

The PRESIDENT *pro tempore*. The hour for the consideration of the special order has arrived.

Mr. BRODERICK. I have no objection to letting the resolution lie over if my colleague is not satisfied with it.

Mr. KING. It will come up to-morrow.

Mr. BRODERICK. If it comes up to-morrow I shall not object to the postponement.

KANSAS—LECOMPTON CONSTITUTION.

The Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. GREEN. I ask for the yeas and nays upon the question of concurring in the report.

Mr. CLARK. I inquire what will be the effect of concurring in the report? Will it amend the bill of the House, in the opinion of the Chair?

The PRESIDENT *pro tempore*. So far as the action of the Senate is concerned it will.

Mr. CLARK. Will it require any future action before the Senate when the bill comes back from the House, in the opinion of the Chair?

The PRESIDENT *pro tempore*. That will depend entirely upon the action of the House of Representatives. The yeas and nays have been called for. The Chair will first determine whether that call is sustained.

The yeas and nays were ordered.

Mr. ALLEN. What is the question now?

The PRESIDENT *pro tempore*. On concurring in the report of the committee of conference. Those Senators in favor of concurring will say "yea," as their names are called; those opposed to it will say "nay."

Mr. CRITTENDEN. Mr. President, I wish, with as little consumption of the time of the Senate as possible, to set forth the reasons which, upon the fullest consideration that I have had the opportunity of giving to this subject, constrain me to vote against this report. In some respects, undoubtedly, the amendment proposed by the committee of conference meets my cordial concurrence. I was opposed to the admission of Kansas upon the basis of the Lecompton constitution, because I thought that instrument not only did not express the will of the people of Kansas, but was against their known will and wishes; and moreover I thought it had been made by fraud and political trickery. I opposed, therefore, the enforcement of that constitution upon the people of Kansas. That was the main point of controversy then. Gentlemen on the other side regarded it as being presented in all the forms of law, and said that those forms of law through which this question had passed in the Territory of Kansas, precluded us from any examination beyond them. I supposed that forms were only intended to promote and ascertain the truth—not that they confined and crushed the truth and precluded all examination into it.

I was opposed to enforcing this instrument upon the people against their will and stained, as I supposed, with fraud. Other gentlemen took different views of the case, and insisted upon its prompt and immediate adoption and the absolute admission of the State into the Union upon it. The committee of conference, in their consideration of the subject, have changed the views which were entertained by the Senate at that time, and have now agreed to abandon the Lecompton constitution, so far at least as to submit it to the people of Kansas now for their affirmation. So far we are agreed.

But, sir, in making that submission to the people, certain consequences are attached to it which, I think, are an unjust, an improper incumbrance upon the free right of the people to choose their institutions for themselves. In the bill substituted by the House of Representatives in place of the Senate's bill, there was a fair submission of the Lecompton constitution provided for, and the people were told, "if you affirm this, very well; it is all at your discretion; a matter of choice with you, free, uninfluenced, fair; choose as you please; and if you choose to reject this constitution, as not satisfactory to you, a convention of the people of the Territory shall immediately be called, to

make such constitution as is satisfactory; and upon that constitution's being made, and upon a reference of it to the people, if they shall affirm what the convention has done, the President of the United States being made acquainted with the fact, shall announce it by proclamation, and thereafter the State shall be considered as one of the Union.

That is the bill which the Senate has voted against. The committee of conference, abandoning, as I say, the enforcement of the Lecompton constitution as an absolute one, and the admission of the State as an absolute admission, come to our ground, so far as to agree that that instrument shall be submitted to the people. The committee of conference say it shall be submitted to the people; but how submitted? In the fair, open, unincumbered manner that it was to be by the bill of the House of Representatives? No, sir.

I have said that this new amendment proposes the submission of the constitution. I am substantially correct in that statement. Literally, however, it is but a submission of certain grants of land which have been habitually made by Congress upon the formation and admission of new States—grants for school purposes, grants for a university, grants for establishing a seat of Government. It submits these grants and the condition upon which they are made, to wit, that the State accepting them shall not be at liberty to interfere with the disposal of the public lands or to impose taxes upon them—it refers this formal part of the instrument of admission to the people. It submits to them the question, are you willing to take these grants of land or not? That is the only question to be submitted to the people, but by legislation a consequence is to flow from their action perfectly arbitrary in its nature, and altogether illogical in the conclusion. If they are willing to take the land, it is to be inferred that they are willing to take a constitution which is known to be obnoxious to them? And if they reject the grants of land for any reason, or without any reason, then they are to be considered as rejecting the constitution. Here is a side issue, or a collateral consequence, infinitely more important than the direct question propounded to the people.

Now, sir, why is this? It is in effect, I grant, for I do not wish to stand on mere formalities or technicalities, a submission of the constitution to the people. It is a sort of feigned issue out of Congress. That issue the people are to try. The world, looking at that issue, might say: "well, what of this; what do you say about the constitution; there is nothing here about it?" Oh, well, but we will annex, by law, a legal consequence, though no man would ever think of deriving it as a legitimate and logical consequence; and that consequence shall be, if you take the land, you take another thing entirely distinct from it—a certain constitution. You agree to waive all your objections to what you regard as its obnoxious character or obnoxious parts, if you take the land. If you do not want the land, or if you reject it because it is not as much as you desire or as much as you hoped for, then you shall be considered as rejecting the constitution, though you may, in fact, be satisfied with it. Is this a fair submission of it to the people? You say to them, in effect, "vote for this obnoxious constitution; agree to put this little yoke on your necks; and you shall be rewarded for it with lands without limit almost."

Sir, is not that offering a temptation? They are to have the land if they accept the constitution; if they do not, they are not to have it. Does it mean to hold out the idea that, by possibility, this is their last chance for obtaining that land, and that having once rejected it in due form of law, this form of law shall be set up against them as an estoppel—I think the word we have heard so often is estoppel—against their ever having any more land? Will the world consider it fair? Will the people of the United States consider it fair? If the people of Kansas are entitled to vote upon the Lecompton constitution, they are entitled to it in virtue of their right of self-government; they are entitled to it in virtue of that great sovereign popular right, by virtue of which every government that we represent here stands. We have no right to diminish, no right to control, no right to incumber it. It is their right, and you have no right to annex penalties or conditions to the ex-

ercise of it. Although I have no idea that it is the intention of Congress to withhold from them, at any time hereafter, these lands; yet read this bill, and see if that is not the impression it may make. At any rate, this is a great bonus offered to them for immediate admission. This is calculated to take away from the submission the complexion of fairness and equality; it is calculated to take away from it the race of justice.

More than that: not only is this reward to accompany one vote that they may give, but there is another consequence. This measure says to the people of Kansas: "if you choose to take this Lecompton constitution, with all its imperfections on its head; if you choose to silence all the complaints and all the denunciations which you have made against it; if you choose to humiliate yourselves as freemen by a confession of as much baseness as that would imply, then, no matter what your numbers are, we shall make no inquiry, but come into the Union at once, with all the dowry of land which we give our newly-admitted and infant States; you shall come in at once to the great family of sovereign States; you shall come into the Senate of the United States; you shall come into the House of Representatives; and you shall sit side by side with those great and mighty States which achieved the Revolution, and achieved the liberties which we here enjoy—come in and share with us the crown and the scepter: accept these grants with this constitution, and you shall do it instantly, and we will make no inquiry as to your numbers. Only accept this constitution, and all these things are yours; but reject it, and you shall not only not come in now as a sovereign State, but we will inquire into your numbers, and you shall not come in now under any form of constitution, nor shall you ever come in under any form of constitution, until your population shall amount to that number which is fixed by the general law as the ratio of representation throughout the country.

Here, sir, are the benefits, and here are the penalties that are to attend upon the vote to be given in Kansas. Is this a fair submission? Is it for us—guardians, if of nothing else, of the political morality of the country—to put such a temptation in the way of our people, those who are subject to our laws, and must follow our bidding? If these are unfair incumbrances upon the right of suffrage, is it not wrong in us to place this great free principle under such trammels and incumbrances as we are now doing? So it seems to me; and, in my opinion, those who consider it candidly will come to the same conclusion. If my friends, who have been in favor of the Lecompton constitution, and especially those who have been opposed to its submission to the people, shall look candidly at it, they will see, not only that the submission which they oppose has been granted, but see that that submission, and the vote which is to be given under it, are incumbered by conditions, by trammels, and by temptations which ought not to be presented by us to any portion of our people. Must not that be their conclusion?

Mr. President, anxious as I am to see this subject entirely settled, and this Kansas volcano extinguished, closed up, filled up forever, I would rather that these measures should all fail, and Kansas be left just where you found her, than where this bill would place her. To do nothing would place her where this bill would; but it would place her there without this injurious and unjust legislation on our part. This bill, if she refuses to accept the Lecompton constitution, reverts her to a territorial condition. She is now in a territorial condition. She will remain in it if no legislation be adopted by Congress. What good, then, is this to effect? Is not every gentleman here morally certain that all these temptations will fail, and that this constitution will be rejected? I am perfectly certain that it will be rejected; she will be a Territory then, under the force of this legislation. She is a Territory now; and she will continue to be a Territory if this bill passes, and she rejects the constitution. Then what have we gained by it? Nothing; not a straw; not the dust in the balance in which the peace of the country is weighed.

Another and further distinction between the House bill and this bill is, that the House bill provided, in case of the rejection of the Lecompton constitution, an immediate remedy for that, by

calling another convention, which convention, before the next session of Congress, the bill supposed, would have formed a constitution, which would have been acted upon, and we should come here finding Kansas a State in the Union—at any rate, the question put out of our hands; for if they rejected this, we provided the means of their making another. This bill says, if they reject this, there is no means of their making another, and they shall not have another; it shall be postponed indefinitely; and we here authorize them, when they have obtained a certain amount of population, but not till then, to make a constitution, thus leaving this vexed and vexatious question open, to pour out further troubles on the land.

It abandons, then—and that is all it does in concurrence with my ideas of the proper course on this subject—the Lecompton constitution, by agreeing to submit it to the people. It does no more than the House bill did on that point. In all the rest it is faulty; in all the rest it is a poor, maimed imitation of the bill of the House, worse for every change that has been made, and by these very changes creating insuperable obstacles to prevent those who view it as I do from giving their concurrence to the report of this committee. I rejoice at it so far as they go to abandon the Lecompton constitution; but, sir, how strangely are the views changed upon this subject, which will be satisfied with this report of the committee here? The President, in his special message, after arguing the question and recommending and urging us to adopt the Lecompton constitution, among other reasons says it is the shortest and quickest way to close up this Kansas question and all the agitations that have grown out of it. That is one of the President's inducements. He tells us that will be the consequence. He tells us if we do not agree to it dangerous results will follow. This was the argument here. What now do the committee of conference propose? They abandon the President; they abandon all his reasons; they abandon his recommendation; his authority is set at naught; and what do they do? After having given the President much reason to believe that, to this extent at least, (that is, of shortening the method of settling the Kansas question,) they concurred with him in opinion, as the arguments of gentlemen did on the original bill, they now turn round and say it is far from their purpose to adopt the shortest and the quickest way for the admission of Kansas, to quell all these disturbances, and to quiet the land, by admitting her into the Union; that is not their purpose at all; now they say to her, if she does not take this thing she shall not come into the Union; she shall wait—how long I do not know; the President does not know. All the celerity of movement to a particular goal is laid aside; and now if the President concurs in it, as if it were in resentment on his part, which I would not attribute to him—but resentment itself could not have dictated a course more calculated to avenge the wrong of refusing the Lecompton constitution absolutely, than the one which is now proposed, that unless they take it they shall not come into the Union for an indefinite time—by the adoption of this amendment his friends say to the President, and by this report the committee of conference say to him, "we do not care whether that time is long or short; we do not agree with you, sir, on the question of the Lecompton constitution or a continuation of all difficulties and all the disturbances and all the perils which have grown out of it in the country." That is the action that is the legislation of Congress, if this report be adopted.

I do not wish unnecessarily to enlarge on this subject. I have stated the main reasons why I cannot vote for the report. It seems to me to be in perfect consonance with the prejudices and suspicions which have been excited in Kansas, that the committee of conference propose a change in the board to govern the election which the bill of the House prescribed and authorized. That authorized four commissioners, the Governor, and Secretary of the Territory, two officers of the President's appointment, and two individuals of the Territory who might be, the one the President of the Council, and the other the Speaker of the House of Representatives of the Legislature. Any three of them were to constitute a board. Nothing, therefore, could be done in the board without one of the President's appointees being there, or one of the people's appointees being there. Here

the board is increased to the number of five, and another officer of the President's appointment—the district attorney of the Territory—is added, making five, any three of whom may act; so that the judges appointed by the President to guard this election will constitute a majority, and can decide anything and everything, and have the election in their own hands. We know that this matter of regulating elections has been one of the great causes of jealousy and suspicion and complaint in Kansas; I need not say how justly, for that is not in question; but we have evidence enough unquestionably to show that the public mind there has been full of jealousy, full of suspicion, of those who regulated their elections. It has been charged that they controlled them by pretended votes, by false returns, or by one unfairness or another at the polls—polls which were governed entirely by party judges. The bill of the House proposed to take them out of the hands of party altogether, so that neither should have any right to complain. It proposed to have a power above party in this particular to govern and control this election. We chose men who, by their official stations, stood high, and whose integrity might be relied upon; but this committee propose to add a fifth, which destroys the character of impartiality—that character calculated to repel suspicion, and repel jealousy. This is comparatively a small affair, and I would give very little consequence to it; but the other is the main ground of objection, as it seems to me. It is not fair; it is not equal; it is not just.

I ask my friends of the South, if the case were reversed between the North and the South, what would the South say to such a mode of submission? What would the South say to the North if the North proposed to her, "we will submit this constitution; we will say that if you accept it we will give you land; we will give you immediate admission into the Union as a State; we will say to all the aspirants in the Territory, 'you who want to be Senators, you who hope to obtain that honored place, you who want to be Representatives from the new State, (and these are generally the first and influential citizens,) to you we offer immediate admission, and the immediate opportunity of obtaining these cherished and hoped for honors; but reject it, and you shall be indefinitely postponed.'" That is not fair. What would the South say if the case were reversed, and the North were to put this form of question to a proposed State that had a majority in favor of slavery and a slave State? Would they not think it very hard? I would. I would spurn it; I would resist it—resist it to the uttermost. I would demand for those of my section a fair election upon equal terms.

You have waited too long for the application in this case of a rule requiring a certain population before Kansas can be admitted. I believe, as far back as the last Congress, the bill of my friend from Georgia (Mr. Toombs) proposed to authorize them to come into the Union with the numbers they then had. I voted for it; and we made this exception in respect to Kansas, on the ground not merely of right on her part, but because she was the source of so much trouble, and so much agitation throughout the land, that we desired to suppress the evil, and her admission was thought to be the best mode of doing it. The proposition for her admission in that bill, I am certain, was founded upon and moved by these patriotic and just considerations, on the part of my friend from Georgia, even then. As long as there was a hope of establishing the Lecompton constitution arbitrarily on these people against their will, did anybody hear any serious objection made to it on the ground that they had not the requisite population? No, sir. It is now only announced; and coming in this way, it does come as a penalty upon the people. All our legislation has been based on the idea that in this exceptional case, to guard against the mischiefs that Kansas had created throughout the country, we would take her into the Union, bind her in the Federal chain, and leave her to herself, to drag that chain along as she could or might; to have upon her all its obligations, to govern herself, and to govern herself at her own hazard; and thus, to use a familiar expression, localize all the trouble she might create among her own people, and confine it to them. We have pursued that policy; we have proceeded upon that concession upon every side, and by every one; we have legislated upon it throughout

up to this moment; and now, for the first time, after these long concessions, disfranchisement is threatened; the penalty of being remitted indefinitely to a territorial condition is held out if the people do not accept a constitution that we know is obnoxious to them.

I say, Mr. President, that it does not appear to me that this is fair; and although I belong, as every man must do, to some part or some section of the country, I want to see justice done. My experience teaches me that justice alone is a lasting foundation, in public or in private life, for everything dear and valuable. It is the only sure, unshakable, imperishable foundation, and upon that basis alone can the connections and relations between States and nations be calculated on as permanently settled. Nothing else will do. The affections of the human heart may aid, I trust, have aided, I hope will long continue to aid, in strengthening this permanent foundation which justice herself has made; but these are transitory and changeable. Circumstances may create a flow of kind feelings; circumstances may produce a fatal end to them. They will not do for a foundation. Like a foundation that is laid upon the sand or upon the water, it is unstable, changeable. Justice is eternal, everlasting. If you want to secure it, the attempt merely to get up a good feeling for the moment is not sufficient. It may be a remedy partially, for a day or for an hour; but that is not what we want. We want something that shall last. That is justice. Justice will quiet everybody.

Then is this justice? You want to quiet all these agitations. So do I; no man more than I. Anything and everything that was in my power would I do to accomplish the object. Let us try impartial justice: no crimination, no retaliation. Do justice. Upon that we can stand firm, and defy all the accidents and chances of time or circumstance. That is my mode of giving security to the North and to the South, to the East and to the West; and without it there will be no permanent peace, there will be no tranquility. Evil generates nothing but evil; injustice generates nothing but injustice; and her steps are constantly from bad to worse. Now, I ask, is this right? Is it just? That is the question the Senate ought to consider. Each gentleman can resolve it for himself. I have given the reasons which have guided me to the solution of that question at which I have arrived.

We hear, Mr. President, a great deal about this section and that section, and a man's allegiance to one section and another section. Within a certain limit and scope, this language is allowable enough; but, sir, take my case. What is the position of my State? I know, in the sort of political geography which has been made of our country, in spite of its natural geography, the extremes of North and South have swallowed up all the States; but what propriety is there in this? Is there not a great western section, geographically, as well as a northern and a southern section? In my country we call ourselves western men. Geographically we have that position in this Union. You have an extreme to the north, with its peculiar employments and its peculiar opinions. A different state of things exists at the extreme south. You are both upon the ocean; but, where are we? We are in the Great West—we are the Great West. Though not equal at this time, in point of population, to either the northern or the southern section, we are destined to be more in population than both of them put together—destined to have more of the surplus of the products of the earth in our hands than all the rest of the United States; occupying the most fertile region of the world in all that is necessary for the subsistence and comfort of mankind; and, in the language of that famous French writer, De Tocqueville, occupying a region the finest and the most glorious that the Almighty ever made for the habitation of man. That is our country in the West. We touch no ocean; we are interior. We lie in no connection with the North; we are far from the South.

What peculiar interest does this geographical position of ours give us? North and South may occasionally have their passions excited to think that one or the other would be better off in the case of a dissolution. We know that; we have seen some symptoms of it, unhappily for us all. We have heard the expression of such sentiments. These are the sentiments of extremes, far

separated, with different institutions and to some extent different interests, leading occasionally to harshness of feeling on either side. When a tariff is refused, perhaps northern men think they would be better off without the Union. The South has occasionally thought, you know, that she would be better without you. All these opinions may be honest, but all these variances of sentiment lead to one deplorable effect—the breaking of our great Union, the destruction of the mightiest hopes of man, the destruction of the mightiest hopes that all mankind might derive from our example of public liberty and public prosperity. For the reasons I have mentioned, North or South may be occasionally of opinion that their interests would be benefited by a separation—opinions honestly, it may be patriotically, entertained; but what must everlastingly be the sentiment of that great western region of country to which I have alluded? Their interest, if I may call it so, their peculiar interest, is the Union. There never can be a time when any one of us in that section can think it is our interest that this Union should be destroyed. I ask gentlemen here, coming from the region of which I speak, how many men are there that you have found in that region who countenance for a moment the idea of disunion? They are all of one mind—instinctively of one mind. Instinctively they understand their interest; and that is the great pervading motive of mankind on which alone durable relations can be established. What is your interest, you of the West? I have painted your condition feebly, and your productions. What are you to do? Are your products to rot upon your hands and to be the cause of pestilence among you? No; but it must be so, unless you can find vent for them somewhere. Where are you to go? If a dismemberment of the Union takes place between the North and South, you are opposed to that, forever opposed to it, because it is to take away from you one of the means of access to the ocean and to the world, and to the markets of the world, for the sale of your productions. If there was a division between North and South, the West might be occluded entirely either from going to the markets of New York or going to New Orleans, without being subject to tolls and taxes; and could that be borne? It would be a mighty burden for them to bear. It is their interest to avoid that burden. It is their interest, their peculiar interest, and must ever remain so, to keep the Union together, in order that they may have that mighty scope of free trade which they now enjoy. They will always have more to sell than any other equal number of people on the face of the earth. They have more than would glut New Orleans, more than would glut New York, if it could all be poured there. We want all these accesses. In our very position there is a local, a natural, a destined patriotism so far as the Union is concerned. We must be found in it. Our prosperity, I may say, if not our existence as an agricultural people, depends on the preservation of the Union, and all the means for exportation and for commerce that both the northern and southern sections afford. We must go through both sections in order to find markets abroad for those products which are not to be consumed in our own country. We are enlisted and bound by an everlasting and perpetual bond of interest to stand by and protect the Union for the sake of the commerce, and for the sake of the freedom of trade which it, and it alone, secures to us. This is our peculiar interest. The North may have its; the South its; this is ours. You of this region ought to consider yourselves as bound by this interest, if possible, to superior care and vigilance over its preservation. We, having this interest always to guide us, an instructive as well as a judicious guide, standing between these two extremes, ought to take care that justice be done by one extremity to the other. We have no interest, gentlemen of the North and South, that is not yours so far as mere union goes; but we have an interest beyond that; we have a material, a peculiar interest in the preservation of the Union of these States for the sake of the trade and the market which it gives us. This ought to govern our actions. We should consider ourselves as the appointed guardians of this particular interest, having a deeper stake than others in the preservation of the Union, and bound to stand together in every fretful moment of discontent between the North and South to see that equal justice be done to both and to all.

This is the position which I feel for myself and my brother Senators who represent that section of country; and I wish it were so that these great political truths were known and recognized, even in half their value, by every man who lives in that region, much less every one who represents them. We should be then as a sentinel set up in the Constitution, to watch over the Union, for the sake of protecting that which we shall be sure never to forget—our local and material interests. That will keep us awake constantly. We can have no prejudices against North or South. Our prosperity, to a great degree, depends upon them. We hail and cherish them all as our fellow-citizens, all as parts of the grand whole which constitutes us a mighty nation, now talked of in all the courts of Europe as one of the great Powers of the earth; and but a few years shall sweep over us, when, instead of being one of the great Powers of the world, we shall be ranked as the greatest Power; when our word and our law, our words of justice and our laws of liberty, shall be heard of and known throughout the habitable globe. What a glorious mission and what a bright day of prosperity is thus presented to us! Are we, the destined heirs and inheritors of such a mighty land as this is, to lower our thoughts to the practice of little arts and little policies, about the terms and conditions on which a little feeble Territory is to be admitted into the Union? Are we to be distracted with this Lecompton question? Is it fit for the consideration of men, born as we are to such a mighty destiny—men from whose loins is to spring a generation who shall have a Government wider than imperial Rome possessed? Cannot we deal with these little things that disturb our peace, without allowing them to excite us into any acts that may even apparently be unjust or unequal—excite us to any unjust and fretful legislation on any subject?

The very thoughts that are natural to a citizen of these great United States should prevent it. If he will but raise his eyes from the ground on which he treads, if he will lift up that face which God has given him to look to heaven, and look forward, is there not enough to swell the heart of the nation, to give it a dignity and consequence in its own contemplations, to raise it above all the little mists and fretful policies of the day? We have only to think of ourselves, to appreciate ourselves, to act up to ourselves, and then tread in the paths of justice, disdaining to do anything but justice, equal justice—not only not to do injustice, and I am sure intentional injustice is not designed by any member—to do not only justice, but to avoid the suspicion or appearance of injustice in our conduct towards the different parts of this great and mighty family. This is the object I have endeavored to accomplish, with but little effect, I know. I have acted in a spirit of entire abandonment of every selfish purpose and every selfish feeling. I may be altogether wrong in these views. I have done what I thought best for my country and my whole country—best for every part of it. The best way of protecting the peculiar interest of every section is by doing equal justice; and that you may be sure I will always do, according to my conception, where the South is concerned. She shall have justice; the North shall have justice; every portion of my country shall have justice as I understand it. It is in that spirit, a spirit inoffensive in itself to any one, that I have endeavored to make good my opposition to this Lecompton proceeding.

Mr. President, with these remarks, and thankful for the attention with which they have been received by the Senate, I will not trespass longer on their patience.

Mr. HUNTER. Mr. President, as I think the Senator from Kentucky has entirely misconceived the proposition presented by the committee of conference, I must beg the indulgence of the Senate for a few moments whilst I present it in what I deem to be its true shape.

The proposition of the committee of conference is the substitution of an entirely new bill in place of that which passed the Senate, and in place of the amendment which was proposed by the House of Representatives. This proposition affirms that the people of Kansas elected a convention of delegates who assembled at Lecompton, and that through that convention these people formed for themselves a government. It affirms that this constitution having been examined, is found to be

republican in its character. It thus acknowledges not only the authority of the Lecompton convention, but it acknowledges the validity of their action; it receives the constitution presented by them as the constitution of the people of Kansas, and it admits that the application which they have made for admission into the Union, is the application of the people of Kansas speaking through their convention.

But this proposition, in its preamble, goes a little further. It refers to the fact that the people of Kansas, through their convention, have presented an ordinance in which they proposed to concede their right to tax the property of the United States, upon condition that certain grants of land should be made to them. It affirms that this ordinance is not acceptable to Congress, but that Congress is willing to make them the same grant that was made to Minnesota, which is the same that was proposed by the amendment of the Senator from Kentucky; and is willing to give them that much on condition that they will surrender or concede the taxing power over the property of the United States; and that, if they are willing to do so, they are to declare their wish by a vote of the people, a majority of those voting to determine the question; and, when they shall say that they will agree to this contract thus modified, then, upon that vote, they are to be admitted by proclamation of the President.

Accordingly, this bill proposes to enact that Kansas shall be received into the Union with the Lecompton constitution upon equal terms with the other States; upon the fundamental condition, however, that she shall signify, by a vote of her people, their acceptance of this modification of the contract which Congress proposes. It then proceeds to offer an alternative proposition in the event that a majority of the people of Kansas should determine not to accept this modified contract, and not to be admitted into the Union under it. It then provides that there shall be no more conventions; that they shall not offer themselves for admission until they have population enough to entitle them to one member of the House of Representatives according to the existing ratio. Now, I maintain that both of these propositions are entirely right in themselves, and perfectly consistent with the previous action of the Senate.

The bill passed by the Senate recognized the authority of the convention at Lecompton, and the validity of their action; and it proposed to admit Kansas with the constitution framed by them, but admitted her upon the fundamental condition that she should concede her right to tax the property of the United States. There it stopped. It did not proceed to provide for the event that the people might not choose thus to modify this contract and to enter into the Union on these terms. The proposition of the committee of conference, and the bill passed by the Senate, are alike in these respects: both acknowledge the authority of the Lecompton convention; both admit the validity of the constitution framed by that convention; both act upon the principle that Congress has no right to require that constitution to be submitted to the people; both recognize that principle fully and entirely; both admit the State conditionally; that is to say, upon the condition that they shall cede away the right to tax the public lands of the United States.

But the proposition of the committee of conference goes further than the bill of the Senate. The bill of the Senate stopped there, and did not seek to provide for the contingency that a majority of the people of Kansas might not accept this modification of the contract which we propose to them. The bill passed by the Senate took the risk that the people in that troubled region might assemble in convention and declare that they would not accept this condition, and would therefore be out of the Union. The bill passed by the Senate provided for none of these contingencies, but acted upon the supposition, as has been done sometimes before, that the people of Kansas would concur in all these things, and risked the chances of meeting these difficulties. The scheme of the conference committee goes further. It provides especially for the difficulty I have just suggested. It says, "before we admit you you must say whether you will concede away the taxing power for this modification of the grant which we have given you. If you are willing to concede away the taxing power for the consideration we now offer you,

then you shall be admitted upon proclamation by the President." In doing this the bill under consideration has proceeded in precise conformity with principle. What was the case of Iowa? She offered herself for admission with a constitution republican in form, and with certain boundaries which Congress changed. Congress admitted her upon condition that her people would consent to that modification of boundary. Congress said the assent was to be signified by a vote of the people, and thus the precedent is precisely parallel with the proposition that is now made; and Congress declared that if they did assent by a vote of the majority of the people, then the State should be admitted into the Union on an equal footing with the other States by proclamation of the President. How was it with regard to Michigan? The same thing occurred. The same condition was imposed, except that Congress said it should be referred to a convention of the people that was to be called to consider this one question only.

In regard to an ordinance claiming lands, I know of but two cases in which changes were made. One was in Arkansas, and the other in California. In Arkansas, the State was admitted upon the express condition that she should cede the taxing power over the property of the United States, and a change was made in the quantity of lands which she proposed to take in consideration of that concession. The bill of admission was passed on the 15th of June, and on the 23d of the same month a supplemental act was passed submitting it to the Legislature of Arkansas, to say whether they would accept certain propositions—there were five of them, I believe—in consideration of this concession of the right to tax the property of the United States. Congress referred it to the Legislature to determine; because, as they said in the act, the power had been given them by the convention which formed the constitution; thus showing that, in the opinion of Congress, the right to cede away the power to tax any portion of the property or lands within its domain was a right which belonged to sovereignty, a right to be given by the same power which made constitutions, and which created conventions. It is obvious that if, in regard to boundary, it required an act of the sovereign people, either through their own vote, or through conventions, or through Legislatures that had been specifically endowed with this power by the convention, to cede away the jurisdiction over certain territory, it certainly would require it in order to cede a particular portion of that jurisdiction; that is to say, the right to tax.

Is not this practice fortified and supported by reason? Is not this conditional submission of the ordinance—and nothing else is submitted—this submission of a change in the terms of a contract in regard to land, proper in itself? Suppose there had been no controversy in regard to the constitution offered by Kansas; suppose it were admitted on all hands that the convention which assembled at Leecompton was properly authorized; that its proceedings were legal and valid; and suppose this precise difference had arisen in regard to the land, that they had demanded the twenty-three million acres provided for in their ordinance, and that we had thought proper to give not more than the three or four millions which this proposition of the committee of conference proposes to give them: would it not have been said to be perfectly fair and right and proper, and that it was due to the State that we should ascertain whether she would give her assent to this change in the contract? Why, sir, it takes two parties to make a contract, and it takes two to change it. Would any one have objected; would not all have said that perhaps it was the wisest way, because thus we avoid the danger of the people meeting in convention, and saying that they would not accept this fundamental condition upon which they were admitted? We avoid the danger of all the mischiefs that would occur from the anarchy and confusion which would arise if they were thus to assemble and reject the condition—a danger which is the greater in a troubled Territory, where its population is disturbed and divided, than in ordinary cases; for in most cases it might be presumed with safety that, in order to be admitted, the State would acquiesce in the conditions which were proposed. But, sir, it is a risk that would be run in all such cases; and no one can say that it is not only safer and better to pursue the precedents to

which I have referred, but that it is right and proper in itself, that it is due to the people of the State who ask admission.

Now, sir, I ask how can it be said that by this act we submit the constitution? We do no such thing. We acknowledge the validity of the constitution, and we say, in regard to this contract which is offered to us, "the terms are not acceptable; we will not accept the terms you offer; but we will accept others, naming them, and if you choose to be admitted on them, you may." It is true that in giving that vote for admission they may be governed by other reasons than those which relate merely to the proposition itself; but is that any concern of ours? Can we look into the human breast and search for motives? Can we prescribe what are to be the reasons which are to govern the popular vote? By no means. All that we have to do is to keep within the limits of our powers, and to respect those of the States.

And what is it that we have affirmed in regard to the submission of the constitution? We have never said that the people might not submit their own constitution; we have never said that it was improper to do so; what we have said is, that it is a matter for the people themselves to determine; that they must determine it either through the act which called the convention into being, limiting and defining its powers, or they must determine it through their own convention; and we have said that if they did not require the submission, Congress could not require it of them, because that was an act which belonged to the sovereign power of the State itself. That is our doctrine. If, then, we submit this proposition in regard to the modified contract, how do we depart from this doctrine? We do not say to them, "your constitution is unsatisfactory." We do not say to them, "you must have a popular vote on the constitution." We do not say, "we dispute the evidence which you have presented according to the legal form." On the contrary, we say, "we receive it all; we acknowledge the authority of your convention; we acknowledge the validity of your constitution, and we acknowledge that we have no power either to change that instrument or to require you to pass upon it in any other form than that which you have determined for yourselves; but in regard to the contract that you propose to us, we have the right to change that, and we submit it to you to say whether you will or will not accept this modification which we propose of the contract." Is not that a fair statement of the case? Is it not plain that we preserve our consistency because we not only require no submission of the constitution, but because we accept and acknowledge it; we submit only what we have a right to submit, and that is the change we make in the contract that they propose to us.

But, Mr. President, the Senator from Kentucky objects that in doing this we are doing what is unfair, because, he says, we accompany it with another proposition; we say to the people of Kansas: "If you will consent to this change, and desire admission upon these terms, then we will make you these grants of land; but if you do not, you must remain in a territorial condition until you have people enough to entitle you to one Representative in Congress, and then only can you form a constitution, and come into the Union as a State." He says, in this way we offer them a reward to accept one constitution, and we propose to punish them in the event that they do not accept it. This is an entire mistake on the part of the Senator, and it arose from begging the question. We do not submit the constitution to the people at all. We say to them: "So far as you have gone, you have proposed to come into the Union upon certain terms; you have presented us a constitution; you have also presented us an ordinance which contains a contract in regard to the taxing power; we accept your constitution; we acknowledge that to be republican in form; but we do not accept the ordinance. If, however, you choose to take a lesser quantity of land, we make you a grant which is liberal;" but which ought not to have been called excessive by the Senator from Kentucky; because I believe it is precisely the same grant which he proposed in his own amendment to the Senate bill. How is it unequal and unfair? How is it that it is to be considered as revengeful or fretful legislation, if we say to them, "in the event that you do not come in under this application which you yourselves have made

to us for admission, you must remain in a territorial condition until you have people enough to entitle you to one member, according to the ratio of representation? He himself, in his own remarks, gave the answer to it.

We maintain, as a general proposition, that the people of no Territory ought to be admitted as a State until they have population enough for one member of Congress. Does any one dispute that principle? Is it not evident upon its face? But we say in this case of Kansas—and we are sincere in it, for we said it two years ago in the bill offered by the Senator from Georgia—we will waive these considerations for the sake of the peace of the country, and in order to settle this agitating question, provided you will come in and make a final disposition of the whole matter. If, however, you refuse to come in and make a final disposition of the whole matter, the consideration falls upon which we were willing to incur the mischief of admitting a new State with an insufficient population. We can no longer attain that good. The next best thing we can do for the peace of the country is to say to her, "you must be quiet until you have people enough to entitle you to at least one member before you enter the Union." We thus at last put down these attempts at conventions which may disturb and distract that people, and introduce questions of discord and confusion in Congress. We thus establish a sound general principle, whose justice, I think, cannot be disputed. In regard to the grants of land, it was not necessary to say anything of them in the contingency of a rejection of our proposition, because it is obvious that whenever the people of Kansas come in hereafter, if they should fail to come in under this submission of the ordinance, they will make their own propositions in regard to land, and there is no doubt but that we shall deal with them as liberally as we have always done with the new States. If they do not come in under this constitution, and we cannot settle the question in that way, is it not obvious that the nearest approach we can make to putting an end to these agitations, is to say to them, "you must remain in your territorial condition until you have more stability, more people, and give us at least a truce and a breathing spell?"

How much better is that for the peace of the country than the proposition made by the Senator from Kentucky! In that event he thinks it fair to allow these people to form a constitution for themselves, and to require, when that constitution is formed, that the President shall bring it in upon proclamation; thus abdicate the constitutional duty imposed upon Congress to see that this instrument is republican in its character; thus violating, as it seems to me, in a most essential particular, that great constitutional duty which is imposed upon us to see, before a State enters into the Confederacy, that its constitution is republican in form. Why, sir, without this it is impossible that we could carry out the guarantee of a republican form of government which is imposed on us by the Constitution of the United States. If we pursue that routine, we do not admit them until we know that they have a republican constitution; and if a change is attempted to be made, we can maintain the existing government against any proposed change, if it should be anti-republican. But if we admit it beforehand, with an anti-republican constitution, on proclamation by the President, how can we ever afterwards change it? Can we go in to impose a government upon the people? Can we say what must be a proper and republican form of government to suit them? That was never designed. All that was meant by the Constitution of the United States, was that we should choose between one government which we had acknowledged to be republican, and another which might be attempted to be substituted for it which was not republican in its character. But we were not to choose between a government made by the people of the State and one made by ourselves, but between two governments, of which one at least had been made by the people and acknowledged to be republican.

After this, what becomes of the question of frauds, which has been dwelt upon so largely here? Is not such a proposition as that which was contained in the second branch of the amendment of the Senator from Kentucky an admission that these questions of fraud are matters which

it is not for us to consider, that we must take the chances, that we must take whatever the proper authorities of the proposed State pronounce to be legal? Does he not thus concede the precise principle upon which we have acted in receiving the Lecompton constitution? or, if he repudiates this conclusion, does he not admit that he is opening the door to frauds of every description in Kansas; when he abdicates all power on the part of Congress to look into questions of fraud or fact in regard to the formation of the proposed constitution? And how would his scheme affect the peace of the country? A new constitution to be formed in Kansas out of the distracted elements existing there! Each of the sections of the Union pouring in its people to produce a desired result, and this under temptations to fraud and violence, which would be the stronger from the fact that the result, no matter how obtained, would be final, and no longer subject to the supervising power of Congress. Do we not know that we should be thus sowing the seeds of dissensions and agitations which would probably disturb this Union to its center? Because we do not accept such a proposition as that in the alternative that the people do not come in under our scheme of submitting this modified ordinance; because instead of that we leave them in their territorial condition, and impose upon them the sound restriction that they must thus remain until they have people enough to entitle them to one Representative in the House of Representatives, the Senator thinks we are trying them with threats, and acting unfairly and unjustly towards them.

Sir, I can see no foundation for any such charge. I believe that, if a majority do not vote to accept this proposition on which their admission will depend, the best thing for the people of Kansas, and certainly the best thing for the people of the United States, which can then be done, will be to let them know that they will have to remain in this position probably for some years to come. We may thus obtain a truce on this agitating and disturbing question, and a truce for even four or five years may be of inestimable advantage to us. It may be that, in that time, we may improve the opportunities of this truce into a permanent and lasting peace; that we may engage the public mind in the consideration of other questions; that we may employ it in those vast interests, material and moral, which are necessary to our progress and advancement; that we may learn to treat each other with more of justice and moderation, and with a more conciliatory spirit. Whenever that is attained, I believe, then, with the Senator from Kentucky, it will be hard to fix the limits to our progress and our improvement.

But, sir, if these agitations are to continue—and it seems to me that his scheme invites them, instead of putting an end to them—for four or five, or even, perhaps, three years longer, no man can say what is to happen in the future. I believe that the deepest interests of the American people are concerned in adopting some scheme to quiet this question for the present, at least; and if they would adopt this scheme presented by the conference committee, it is probable, in my opinion, that we should have repose for a while at least—a repose which, perhaps, might be improved, as I said, into a permanent peace. I believe that by adopting this proposition, the question would pass for a time, at least, out of Federal politics; it would be localized; and when that is done, I think there are interests of magnitude enough to employ the public mind, and to engage it in a more wholesome manner. But, sir, like the Senator from Kentucky, I can only say that in signing my name to this recommendation of the conference committee, I sought to do what I believed to be best for the whole country. I believed it to be just in itself; I knew it to be consistent with the principles which I and my friends have been advocating here; and I was willing to do almost anything which was compatible with just and fair dealing, and which did not sacrifice consistency or principle, to settle this question. If I could secure justice and preserve the peace of the country, I believe I should secure all the good which those whom I represent can derive from any settlement of this question.

Mr. COLLAMER. Mr. President, I do not propose, at this time, to occupy the Senate at any great length; but I shall endeavor, as succinctly and as distinctly as I can, to state, in the first

place, why I, together with those who act with me, opposed the Senate bill, without going into the argument on its merits; and, in the second place, why we voted for the amendment of the House of Representatives; and, in the third place, why we cannot vote for the proposition now offered.

First, as to the Senate bill: its substance was, if adopted, that it admitted Kansas into the Union as a State under the Lecompton constitution without any further action of the people. Our objections consisted essentially in these: that that constitution was framed by a convention which was the fruit and result of usurpation and fraud; that the usurpation which had been instituted originally continued so as to deprive the people of the opportunity of free voting on the subject of calling a convention; that an unfair and imperfect census was taken, by which a large part of the people were deprived of the chance of voting for delegates; that the constitution was formed in defiance of the will of the people, as manifested in their then recent election for a Territorial Legislature, and was made in point of fact only by those who acted in and approved of it, by a minority of those originally elected to the convention; that the constitution was professed to be presented to the people in a disguised and deceptive form; that the people themselves were deprived of the opportunity which had been promised to them, of passing upon the whole constitution; that an election was held, wherein they professed to obtain some six thousand votes for the constitution with slavery; that an election for State officers was made under that constitution by officers not in any way appointed by the people, and unknown to the law; that that election was fraudulently conducted; and that, besides all this, the people, at an election held on the 4th of January, by virtue of an act of the Territorial Legislature, by a very large majority repudiated it. These, put together and aggregated, constituted our objection to the Lecompton constitution; and for these reasons we considered that it ought not to receive the attention of Congress; that the State should not be admitted under it; and that it was not entitled to be regarded in any measure as a constitution presenting the views of the people of Kansas.

In all these respects the Senate, by a large majority, voted us down. Our objection was not merely that the constitution had not been submitted to the people. We insisted that, in point of fact, the people had, on the 4th of January, under lawful authority, voted directly to reject it by a very large majority. That, to be sure, among others, was ground of complaint; but all these objections, and others which were presented by other gentlemen, were aggregated in the complaint. The Senate, however, decided that, in point of fact, the Lecompton constitution was the constitution of Kansas, so far as the action of Kansas was concerned; and that it was only for Congress to say whether they would accept it; that the people had made that constitution legally by their delegates—not only formed it, but adopted it, and that the only question of difference existing there was one in relation to slavery, which, as they said, was fairly submitted. They therefore passed a bill admitting Kansas as a State with that constitution.

I next call attention to the amendment presented by the House of Representatives. What was its character? Why was it voted for? So far as I could understand it, the substance of it, without recurring to particulars, insisted on three things; first, that the Lecompton constitution should be submitted to a vote of the people, and if they adopted it, very well—it was to stand; but, second, if they did not adopt it, they should proceed, by a convention, to form such a constitution as they wished; and, that, upon being ratified by the people, they should be admitted as a State with such new constitution; and third, in order to secure fair elections on the constitution, a board was formed, consisting of the Governor and Secretary of the Territory, appointed by the President, and of the presiding officers of the two Houses of the Territorial Legislature, elected by the people; and this board was to direct and control the elections and their returns, pass upon them, and finally decide them. That was the proposition which came to us as an amendment from the House of Representatives. Why did we vote for it? In the first place, it would be sufficient for me to say that here were presented to us two alternatives—on the one hand,

the Lecompton constitution, which had been rejected by the people of Kansas, most imperatively and conclusively, and, on the other, an offer to submit it to the people, accompanied by a provision that if they did not like it they might make another constitution, which they did like. Could there be any hesitation as to how we should vote in regard to these two alternatives? Could there be any doubt as to the choice we should make between them?

In the next place, if we voted against the House amendment, we deprived the people of Kansas even of the right of establishing a free constitution; we left them to have the Lecompton constitution imposed upon them, and gave them no opportunity to form a free one. Hence we voted for that proposition. Again, it was fair—it was fair even to those who claim that the people, in forming their constitution, may make it a free State or a slave-State constitution as they please, because it offered that opportunity. That proposition was a very liberal step for those gentlemen to take—and there are some such in the country—who hold that the people, in the formation of a State constitution even, have not the right to enslave their fellow-men. But those gentlemen, if any such there were in the two Houses, voted for it with very great liberality; and why? First, because it was the best of the two alternatives offered to them. Next, because, after the knowledge of the vote of the 4th of January, disclosing ten thousand majority against this constitution, there was every moral certainty that when the Lecompton constitution, with slavery, was presented to the people of Kansas, it would be rejected; and there was therefore no hazard in voting to give them an opportunity of that kind.

But, sir, we were induced to vote for the House amendment for another consideration, and that is that it provided a fair board by which elections were to be conducted. We said the previous elections in Kansas had been controlled by violence and corruption and fraud, but here was a chance to have them safely and honestly conducted; and so much security was felt in the board provided by the House amendment, that we were even willing to say that when that board had supervised the election, appointed the officers, received the returns, and adjudicated upon those returns, the whole subject might be settled by the proclamation of the President, and we were led to the latter merely from confidence in the former provision.

But another consideration, and perhaps the most important of them all, was that the House amendment proposed a course of proceeding which would put an end to this controversy in either event and at all events. If the people of Kansas received and accepted the Lecompton constitution by the vote of a majority, they were to be received; and if they did not they were to call a new convention and form such a constitution as they pleased, and when that constitution was ratified they were to be admitted. There was to be the end of controversy. It was because the House amendment did end the controversy that it commended itself to the acceptance of those who voted for it on this side of the Chamber.

Now, Mr. President, I come to the next step: the proposition which is offered as a substitute for both those bills—the proposition of the committee of conference. I do not propose to go into its details; but let us see whether it gives to those of us who voted against enforcing the Lecompton constitution upon the people without their consent, and who voted for the proposition of the House of Representatives, those leading features of security, and those objects which we desired to attain, which were given to us in the latter proposition. I will state its leading provisions. The first is, that the Lecompton constitution shall be presented to the people of Kansas for their acceptance or rejection. "Oh, no," says the honorable Senator from Virginia, [Mr. HUNTER,] "it does not submit the constitution to the people." The majority of the Senate, by the bill they have passed, decided that it was a constitution perfect, so far as Kansas was concerned, not to be passed upon any further by the people; and he says this bill so treats it. If I understand it, it does not so treat it. It submits a certain question to the people; that is, whether they will accept certain land grants; and it provides that, if they accept those land grants, then, and in that case, Lecompton

shall stand as the constitution; but it further provides, that if they reject that proposition in regard to the land grants, they reject the Lecompton constitution. Now, I ask, is it true, as the Senator from Virginia says, that that is consistent with the former action of the Senate? Does it not submit a question to the people by which they may reject the Lecompton constitution? Certainly it does. Did not the Senate say, in the former bill, to those people, "it is all perfected on your side, and you shall have no opportunity to reject Lecompton." Yes, they did, unconditionally; and I say they now propose a question to the people by which the people may reject Lecompton; and yet you say that you do not subject the Lecompton constitution to their vote! The two are utterly inconsistent; and there is no ingenuity or sophistry, though the gentleman may have much of the former, if not of the latter, which can by possibility disguise or blink this out of sight.

But, sir, as I said, this proposition provides for submitting to the people of Kansas a question in relation to land grants—whether they will accept a certain proposition in relation to lands. It further provides that, if they will not accept that, then, and in that case, Lecompton goes aside, and the people of Kansas are to remain in their territorial condition for a length of time entirely indefinite. It says they may have a convention when they have a sufficient number of people to entitle them to a Representative in Congress. That number is now ninety-four thousand; but, after the next census, in 1860, it may be one hundred and twenty or one hundred and fifty thousand; we know not. When that time will arrive, we know not. Then, the amount of it is, that it is an indefinite delay; it shall be indefinitely deferred.

Besides, it is as much as saying to them, "we make you this offer of land, but if you will not take this offer of land, liberal as it is, now, see the danger you run of never getting it." Again, this same bill provides that a different board shall be created to direct and supervise the election. It proposes to add a member, the district attorney, appointed by the President, to the Governor and Secretary, so that they shall have three—a controlling majority of that board over the presiding officers of the two Houses of the Legislature. We view this as entirely unfair.

The first objection that occurs to my mind is the form in which this question is attempted to be presented to the people of Kansas. This has been very well defined by the honorable Senator from Kentucky, [Mr. CRITTENDEN.] It is to put to them one question, by the answer to which they are to decide another question that has no relationship to it. You might as well put the question to that people—"will you vote that you will be freemen?" and now we say to you "if you vote that you will be freemen, you shall have the Topeka constitution; but if you vote that you will not be freemen, then you shall remain in a territorial condition." There is no more relationship between the acceptance of this grant of land and the character of this constitution, than there would be between the question proposed and the result that was to follow in the case I have just put. There is no necessary legal sequence or connection between the two questions. The proposition is therefore artificial, deceptive in its consequences. You put to a man the question—"sir, will you take such grants of land; as a citizen of Kansas are you willing to receive such grants?" "Yes," says he, "I am." "Well, will you vote so?" "I do not see why I should not vote so." "Well, we tell you now, if you will vote to accept these grants, you shall take the Lecompton constitution that you have rejected." In short, "if you will not vote against a favorable offer, you shall have imposed upon you a constitution to which you are opposed, and you must vote against a favorable offer in order to get rid of an obnoxious constitution. You must vote against what you desire, in order that you may get rid of a greater evil. If you vote for these grants which are acceptable to you, and liberal in their character, you do it at the peril of taking upon you a constitution that you detest." It is the very manner in which the question is put to the people which is objectionable. It is artificial in its character; it is calculated to mislead.

We have complained a great deal that the Lecompton constitution was submitted to the people in regard to the question of slavery, in a certain

manner, which was unfair, deceptive, and dealing in duplicity. That submission was this: "You may vote for the constitution with slavery, or for the constitution without slavery; but you have to vote for the constitution, at any rate, which has slavery in it in either case." Now, how is it here? We will put to you the question, "Will you vote for these land grants? But now remember, if you vote for the land grants, you are to have this slave constitution, and if you vote against the land grants, you are to have slavery in your Territory without a constitution." That is, you are to have a constitution with slavery, or slavery without a constitution, but slavery at any rate. That seems to me to be the way in which the question is put to them; because you hold that, under the Dred Scott decision, it is a slaveholding Territory, and therefore if the people vote for these land grants, they are to take a slaveholding State constitution, and if they vote against them, they are to endure slavery under a territorial form of government. That is the alternative.

The next objection I have to the manner in which this new bill presents the question is to the provision in regard to population. It seemed to be agreed on all hands, and it was provided in the bill passed by the Senate, that the numbers of the people of Kansas were sufficient to justify their admission. They had numbers enough to admit them two years ago, if they would make a constitution to suit you. You thought they had numbers enough to admit them under the Lecompton constitution. There are numbers enough of them now to justify their admission as a State, if they vote for this constitution; but you give them to understand that there are not numbers enough, if they vote against this constitution, to make a free one. We have here a proposition that Kansas shall be admitted if she will have a slave constitution, and shall not be admitted if she will not have a slave constitution. There are people enough to hold slaves, but not people enough to enjoy freedom! This, it seems to us, is a palpable injustice—an entirely different affair from the House amendment.

In the next place, the proposition which is now before us produces no finality; it makes no settlement. It only makes a settlement provided they adopt the Lecompton constitution, by voting in favor of these grants of land. That will make a finality; and that is the only finality under this proposition—a finality in one result. If the people do not vote to accept these grants, it provides for no finality, no settlement, but leaves things in *statu quo* by declaring that the people of Kansas shall remain under a territorial form of government for an indefinite and unlimited period of time. I do not know that that part of the proposition will really have much practical effect. It seems to me to be rather *brutum fulmen*, because I suppose Congress can at any time admit them, notwithstanding this declaration; but, after all, that is the effect it is intended to have on the minds of the people of Kansas. It is intended, if this bill passes, that they shall understand that if they do not accept this proposition, this shall be a bar to their coming in until they have a certain population.

Another objection, and one to which I have alluded before, is that we are not content with this newly constituted board to supervise the elections; we are not willing to take results produced under such supervision, so as to say that the President, upon the returns being made to him, shall issue his proclamation, and Kansas become a State, without those returns being submitted to our examination. If a board were constituted in the manner provided in the House amendment, we had so much confidence in that manner of constituting the board that we were willing to pass it; but we are not willing to have a board constituted in the manner provided in this bill, and trust in the result. The history of affairs in Kansas is such as leads us to be cautious on that subject. We all cannot but know, at any rate a large portion of us are convinced, that the elections in Kansas have been either by violence at the polls, or by fraud and false returns afterwards, so conducted that a small minority of the people have been kept in power. I need not go over the evidences of this. The history of the transaction is full of them at every step.

There is another thing that we cannot but re-

member. Whatever officers, especially leading officers, who have been appointed in that Territory by the Executive of this Government, the President of the United States, have favored any degree of fairness to the majority of that people, have desired to secure them at all against the influence of violence and fraud, have incurred the executive displeasure. This remark will apply, I think, to all the Government officers there who have evinced any fairness, whether we refer to Governor Reeder, Governor Geary, acting Secretary Stanton, or Governor Walker. In all cases where there has been manifested a disposition to do fairness, and to get rid of frauds, the officers who have manifested such a disposition have certainly incurred executive displeasure and its consequences; and therefore we suppose that whatever officers are appointed by the Executive will read the history of their own fate in that of those who have preceded them, and will consult their own security in what they are doing. We believe we cannot find any safety in this proposition when the majority of the supervising board who have charge of the elections is given into the control of officers created by the Government of the United States; superseding and overriding the officers appointed by the people of Kansas. This is a feature which we regard as of vital importance, and to which we cannot consent. When I say that I speak for myself, and not by authority from any of my associates, any further than I derive it from the action which I have already witnessed at their hands. I have no direct authority to speak for them.

Now, sir, the whole of this proposition amounts to this: it is saying to the people of Kansas, you may vote for the Lecompton constitution, but if you do not have that, you shall have nothing. We are calling upon the people of Kansas to act on the great question of forming their constitution—of forming, ratifying, or putting in operation, if you please, by their votes, the constitution of their proposed State government. It is fundamental, it is the first great principle of self-government. Now you call upon that people to act on that subject, and do you secure to them even what was promised in the Cincinnati platform? Its pledge was, that in forming a State constitution the people should be left perfectly free to mold their institutions in their own way. Now, the people of Kansas are called upon to take action about the adoption of a constitution, to pass a vote which shall put that constitution in force, or reject it; and are they left free! They are trammelled up to that one single act, whether they will have the Lecompton constitution or have nothing. They are not left free to form any constitution they want, to shape any constitution as they may desire it to be, in relation to any of their institutions. In short, the vote seems to be very much like the case of Napoleon III., who allowed the people of France to vote, not whether you will have an emperor, not who will you have as emperor, but will you have me for emperor? that is all.

Mr. President, I wish now to say a few words in regard to the views presented by the honorable Senator from Virginia. He says this bill is in exact consistency with that which the Senate before passed. I have shown in one respect wherein it differs; but that is not all. What was the trouble with that bill? He says that bill merely declared, in relation to the ordinance, that we did not ratify it; that we disclaimed it, and did not provide for the state of things that would result if the people of Kansas should not agree to this condition on which they were to be admitted; and, therefore, this bill goes on to provide for that contingency. Well, sir, if the bill which the Senate passed was obnoxious to that difficulty, why, on earth, did they pass it at all? If it was an objection that you ought to make provision for the contingency of the people in a convention, or by their own votes, refusing to ratify the amended ordinance which you submitted to them, then why did you go on to pass a bill by which you admitted them on condition that they should not have the ordinance which the convention had made? The Senator from Virginia says the difficulty is in regard to the ordinance proposing the terms on which the State shall agree to forego the right of taxing the public lands, if it has that right, and the grants in consideration of which it will yield that right. He says, that is a matter on which the State should pass, as a people, by themselves, or by their del-

legates, and that, until they do that, you cannot admit them as a State, unless they have themselves delegated that power to their own convention. Then, I ask, how came the Senate, to pass the original bill, by which they jumped over all objections of that kind? I say this is a different thing, and inconsistent with that bill in that respect. But the truth is, all that amounted to nothing, for the ordinance is no part of the constitution. They claim certain grants of land. If we receive them under their constitution, without disclaiming the ordinance, we make the grants; but the bill passed by the Senate provided that they should be admitted on condition that the ordinance should be of no effect, and further provided that nothing contained in the bill should exclude them from claiming what had been granted to Minnesota, (which is what is now offered,) or prevent Congress from making grants whenever it chose. Was not that left right? I see no objection to that part of the bill; there never was any objection made to that on this side of the Chamber, I believe. Neither the people there nor anywhere else made any objection to it on that ground. No, sir, this is a mere device. There has never been any issue of that kind made in any quarter, by any man, or by any paper in Kansas, here, or elsewhere. It is altogether an afterthought, a device cooked up for this occasion.

The honorable Senator from Virginia claims that this very proposition does that which would settle this controversy, as he thinks. Well, then, he must think they are going to adopt the Lecompton constitution, I suppose; but he hardly intimates that. He hardly believes they will do that. What then? It will leave Kansas in a territorial condition, and then, he says, we shall have a guarantee of peace for three, four, five, or six years. Wherein is that guarantee of peace? May not, and will not, the same controversy continue in Kansas as heretofore? Shall we have taken any step to cure it? Not at all. Will they not continue to call conventions and ask for admission into the Union whenever they please? Certainly; but oh, it is said we have provided here that they shall not be admitted until they have the proper number. That, however, does not prevent Congress from admitting them, nor prevent them from asking for admission. Every bone of contention, every apple of discord, every point of difficulty which has ever agitated Kansas or the country on this subject, remains, and will remain until they are admitted as a State. It is vain to suppose that we are going to localize the quarrel now any more than we have succeeded in doing so heretofore. The people of this Union, in all parts of it, particularly in the North and South, have taken too deep an interest in the question involved, to permit it to go on without their participating in it, in interest at least. They will partake in it. Hence this proposed bill will leave, and it does leave, at any rate in one result, all the difficulties open to perpetual agitation.

Mr. President, disguise this matter as we may, there is one fact of which, I think, we must be morally convinced: that the Lecompton constitution is abhorrent to the views and feelings and opinions of a large majority of the people of Kansas. I doubt whether a man can be found who will question that fact. The very message which the President of the United States has sent to us on the subject, imports that. He says that the people of Kansas were so strangely attached to the Topeka constitution that it was of no use to submit to them any other, for they would reject it; and it was not submitted to the people because it would be rejected. So it is in relation to the action of the delegates to the convention who had promised to submit the constitution to the people and did not do so. After all, why was it that they did not submit it to the people? Can any man present any other possible reason, than because they knew the constitution would be rejected? The vote which was taken on the 4th of January, even if you count on the other side all the votes given on the 21st of December, leaves no possible doubt about it. I suppose that all the people in Kansas who desired to have the Lecompton constitution, voted for it, either with or without slavery, on the 21st of December. Six thousand votes were returned as having been cast on that occasion. I do not think more than half of them were really cast, but call it six thousand. I suppose that about all the people of Kansas who de-

sired to reject that constitution altogether, voted against it on the 4th of January—more than ten thousand. Under these circumstances, can there be any reasonable doubt as to the views of the people of Kansas? None at all. Viewing it in that light, I consider it altogether wrong to resort to any contrivances, any devices, any expedients, on the part of Congress, to endeavor to get rid of that expression of the will of the people, and to fix upon them, in any way, a constitution that we know they do not desire.

This proposition is subject to all the exceptions I have made to it, and yet more. It proposes to submit the question to the people of Kansas at such a time, in such a form, and under such peculiar circumstances, that we must see that it is intended, at least it is well calculated and ingeniously devised, to secure, if possible, the success of the Lecompton constitution, whether the people really desire it or not. Among the other means which may be counted upon for possible success in this vote is the improbability of getting the people to vote against a proposition for lands, which proposition they like, because a constitution may follow. Is it not operating as a blind on the people? "Here is a fair and liberal proposition of land to you; do you not like it?" Every man may say, "I like it." Then comes the question, "will you vote for it?" "No; I will not vote for it, because I will have to take such a constitution with it." Is it to be expected that every man in Kansas will understand that? Is not the very manner in which the question is presented to him calculated to disguise the real question, and to delude him?

Again, we know that that people have been harassed and dragooned, and continued under all sorts of violent oppressions which the forms of law would allow, for many years in succession. I need not go over the story of the violence and the wrongs which they have suffered; but they have suffered, and that long and severely. They very much need repose. Now you propose to them that they may have repose. How? If they will take slavery. Otherwise they are to have no repose, no security, but are to be subjected to a still longer continuance of their sufferings, and to endure longer tribulation.

In the next place, it may be counted that they will vote for it, because all those who desire the places of Senators and Representatives and Governors and secretaries and treasurers and other offices, all those who hope for and have some reasonable expectation of succeeding in obtaining some of these offices, desire to get Kansas in a State form as soon as possible. You will have all that weight to obtain a particular slaveholding constitution, though it is not the constitution the people desire. Besides, you have the assistance of the territorial officers appointed by the Executive. They well know what the ruling majority here desire to effect. They know that they desire to effect the adoption of the Lecompton constitution. That is perfectly understood by the Governor, the Secretary, the marshal, the district attorney, the land officers, and all the other officers of this Government in the Territory of Kansas. All their aid is to be counted upon. That would not be so if it were submitted to the people to make such a constitution as they desired. That would be an entirely different effect, and then the action and influence of these officers might be entirely neutralized.

Further, instead of saying to the people of Kansas, "you may settle this question by forming such a constitution as you want," this proposition gives them no such opportunity. It is so framed as to present to the world this view: "the majority in Congress have always desired to have this matter settled, but the Kansas people want to keep it up, and the Abolitionists try to make them keep it up. Now, we have offered to let them make a State constitution if they please; that is, to take the Lecompton constitution; but they have coolly rejected it." This being done, it may be argued, "can we not say to the whole world, do you not see that it is the Kansas people that try to keep the question open; they would not adopt the constitution we offered them;" and they must incur displeasure and prejudice for trying to keep the question open, when you have given them no opportunity fairly to close it.

There is another consideration to which this proposition addresses itself, calculated to give it

success. The people of Kansas have been told by the Executive of the United States that, if they would only get to be a State, especially if they would get to be a slave State, it would be the shortest and quickest road to obtain a free State, because they have the right any day to alter the constitution, and can do it immediately. The President told them so. The report of the Committee on Territories, who presented the bill passed by the Senate, substantially indorsed the same doctrine; and gentlemen here say it is contained in the Lecompton constitution, although that constitution provides for one mode of amendment, which mode is, that it may be amended after 1864, by a two-thirds majority in both Houses of the Legislature, and then submitting the amendment to the people—an impracticable mode.

Now, the people of Kansas are to be presented with this question, in the form of which I have spoken, under this sort of assurance. I have no doubt that it is expected, certainly it is very well calculated, to induce that people to vote for the constitution; and, indeed, in a recently published letter of Governor Robinson, he says, that if there was no doubt as to how the certificates would be given to the officers chosen at the election which has already taken place, he thinks it would be well even to have the Lecompton constitution put on them, because they would have the controlling power; and he says that people are fatigued with their long political agitation, and in need of rest, and desirous of going about their industrial pursuits. Is not this whole proposition well calculated to secure a vote of that long oppressed people, desirous of peace, even for what they do not want? The truth is, it addresses them on motives of that kind. If they follow it, they will certainly be deluded. Just so sure as the Lecompton constitution is put into effect and operation, it will not be altered or amended. If they attempt to amend it immediately upon its being put into operation by the action of the newly-elected Legislature, the Governor would veto the act. The free-State people have not got two thirds of the Legislature, and they are not to have it anyhow. The attempt to amend the constitution will be stopped; but if it were to go on, whenever that resolves itself into a judicial question, as it may at any time, and is presented to the Supreme Court of the United States, it will no doubt be decided that the people cannot alter their constitution contrary to the provisions of that constitution. It will be held that it is a sort of national compact by which people have come into the government of the majority on that condition, and being thus in the nature of a compact, it is incapable of being changed, except agreeably to the terms of the compact itself. They will be deluded in that; and I suppose, indeed I know, that this is well calculated to delude them. Whether it will do so effectually, time must determine.

I have very little hesitation in saying that, whatever may take place, if this question of accepting the land grants is presented to the people under this bill, rely upon it, Mr. President—I speak merely from the lessons which the history of Kansas has taught me—a majority will be returned in favor of accepting the land grants. I say that a majority will be returned for it in all human probability, whatever the actual votes may be. I do not agree with the honorable Senator from Kentucky, that the result will be otherwise, and that the proposition will be rejected. I do not say that I do not believe a majority of the people will vote against it; but I say the returns will show a majority the other way; and when I say that, I speak merely from the lessons taught me by the history of Kansas itself.

There is another matter that equally bears on this proposition, and addresses itself to us on this occasion. An election has been held under the Lecompton constitution; and if the people accept these land grants with this condition, of course, then, I take it, they are to abide by that election. Now, can anybody tell me what is the result of that election? Does not the final and ultimate determination of it rest with a certain Mr. Calhoun to-day? Is it not altogether within his hands and under his control? Most unquestionably it is. If the people do as they may do under this proposition, and as it is calculated to have them do—accept the Lecompton constitution under the belief that the certificates of election are to be actually issued to a majority of the

representatives of the free-State people, they will certainly be deluded.

I have attempted to show that all these motives and purposes are presented, by the arrangement of this bill calculated not to carry into effect the true wishes of the people of Kansas, but to frustrate and evade them, and obtain, in point of fact, from these motives and considerations, a vote of that people, by which they shall take upon themselves this slave constitution, abhorrent to their feelings.

Mr. President, I do not wish to detain the Senate longer. I have stated the reasons why, in my view, we cannot vote for this bill that is now presented here, whenever it shall come up properly, proposed by the committee of conference. It is utterly inconsistent with all the views we have entertained, and utterly inconsistent with the votes we have given in relation to the House amendment. I do not know but that, if it be presented to them, the people of Kansas will manifest a continuance of the virtue and endurance they have heretofore displayed, by which they will disregard all the motives and inducements here held out to them, hold on their way, and go on enduring even unto the end, rejecting this proposition. It is possible that such may be the result of their discernment and their virtue; but I think we have little reason to expect that such will be the result. Certain I am, that none of these gentlemen who contrived this bill, and devised the form in which it is presented, expect to have any such result. At least a strong hope is entertained that it will secure the purposes for which it is designed by these contrivances—secure success to the Lecompton constitution, whether the people desire it or not.

Viewing it in this light, regarding it in this view, it seems to me that the thing itself, in its character and in all its aspects, is utterly inconsistent with that conduct which becomes an American Senate—the Congress of a great people, whose conduct should be distinguished for directness, for frankness, for justness, for fairness, not for cunning and device. Sir, I think, if we intend to secure the confidence and command the respect of the people of this great and discerning nation, lovers of justice as they are, we shall reject this proposition.

Mr. HALE. Mr. President, I have but very little to say on this matter, and I shall not detain the Senate long. What I shall say relates simply to a single feature of the proposition now before us. In the outset, let me remark that I have heard in the discussions on this floor and in the country a great deal said about the equality of the States. A great deal has been said about certain encroachments that have been made on the doctrine of the equality of the States, and new measures and new propositions have constantly been resorted to of late for the purpose of producing that very desirable result which all seem to aim at—equality of the States. It was said that the Missouri compromise was repealed in order to produce that equality. Various measures that have marked our national history of late have been aimed professedly at an equality of the States.

Now, sir, this bill reported by the committee of conference, or this amendment, or this proposition, or this whatever you may call it—for it seemed to be uncertain yesterday what it was, whether it was a proposition of itself, or an amendment to something else—appears to me to be utterly, entirely, and totally at war with any idea of State equality, and for that reason I am opposed to it. I am opposed to it for many reasons, but that is the only one on which I propose to say anything this afternoon, because other points have been presented and discussed and elaborated at great length, and as has been well said, I suppose the country and the Senate understand them; and if they do not understand them, I am not going to undertake at this time to enlighten them.

The history of the Territory of Kansas has been peculiarly unfortunate, and the people of that Territory have been peculiarly unfortunate in the relations which they have sustained to the Executive, who ought to be the common protector and guardian of the rights of all. In the message which Mr. Buchanan transmitted to us not long ago—I have sent to the document room for a copy of it, and I am told it cannot be found; but I remember his proposition—he took this very curious ground: that if the people of Kansas stayed

away from the polls and did not vote, they were guilty of rebellion; and he elaborated at some considerable length the idea that by refraining from voting, the free-State men in that Territory were guilty of rebellion. Well, sir, in the progress of affairs, it so happened that on a certain occasion they did go to the polls, and that, instead of being rebellion, was servility, because while the President arraigned them for rebellion for not voting, when they did come and vote for the purpose of protecting themselves against the consequences of the measures that he was endeavoring to force upon them, the President said it was the most solemn recognition that could possibly be made of the authority of that very constitution against which, at the moment they voted, they remonstrated.

Well, sir, what is the bill which we have before us? It is now to admit them; but the preliminary of a popular election is first to be had. I appeal to every gentleman on the other side of the Chamber, who said so much in favor of restoring peace and quiet in Kansas, and who was unwilling to subject that people to the contingencies of another popular election, how he can reconcile it with what he has heretofore said to vote for this proposition, which subjects them to the contingencies of a popular election, just exactly as much as did the proposition that was submitted by the honorable Senator from Kentucky, and which came back to us in the bill of the House of Representatives? All the expense, all the delay, all the excitement, all the agitation that were to be produced in the country by the proposition submitted by the Senator from Kentucky, are now taken by the majority of the Senate as readily as if they had never said a word against them; and it is to that proposition that I desire to say a few words.

In regard to the question whether Kansas is fit to be admitted, I will read an extract from a speech made upon the floor of the Senate, on the 21st of March, by an honorable Senator from Missouri, [Mr. POLK.] He said:

"Are there any good reasons why we should not admit Kansas? If so, what are they? Has she not the requisite population? All concede that she has. No one raises an objection on this ground."

I do not know that that statement was controverted. It was then laid down upon the other side of the House, and not controverted on this, and alleged to be universally admitted to be true, that Kansas had a population sufficient to entitle her to admission into the Union as one of the States. Now, I am going to advance this proposition; it may sound extravagant to you, sir, and it may sound extravagant to some other ears; but I contend that if Kansas has population enough to qualify her for admission into the Union as a slave State, she has enough to qualify her for admission as a free State, if there is anything in the doctrine of equality of States.

What does this bill propose to do? It proposes to submit a certain question to the people; but let us see how it leaves them. Mr. Buchanan, in his message to us says that Kansas now, in the present time, is as much a slave State as Georgia or South Carolina. She is that now, without anything more being done; that is, taking Mr. Buchanan as authority. You propose, then, to submit this question to her, whether she will take certain lands, and the lands which you propose to give her, according to an estimate which has been prepared, as I understand, at the General Land Office, amount in value to nearly five million dollars. This bill, in substance, says to Kansas, "if you will come into the Union as a slave State we will give you land worth \$5,000,000." This is the proposition which the General Government of the United States makes: "if you will come into the Union as a slave State, with the Lecompton constitution, we are ready to give a premium of five millions for a slave State; but if, on the other hand, you prefer not to come in as a slave State, you must stay out; and what then? You must stay out a slave State; because you are a slave State as much as Georgia or South Carolina before you come in; and if we take you in, you will only be a slave State in the Union; and if you stay out you will be a slave State out of the Union." By no possibility, under the proposition which is submitted here, can Kansas become a free State.

Besides that, you virtually say to her, "if you do not choose to come in as a slave State you shall

have no land, and you shall not come in at all," that is, we will not propose any legislation by which you may come in until you have enough population to entitle you to admission under the proportion or ratio which is established under the census for choosing Representatives to Congress. That is the simple proposition—to take the public land or the public Treasury of the whole country and hold up five millions as a bribe, telling Kansas if she will come in a State she may take the five millions, provided she comes in a slave State, and if she stays out she shall have nothing; and more than that, your enabling act, by which you offer to her to come into the Union when she gets the Federal numbers that will entitle her to a member on the floor of the other House, says nothing about land. She may come in then landless. If she comes in now, she comes in with the five millions. If she stays away now, she cannot come in at all until she gets the Federal population entitling her to come in, and then she comes in without any land.

Sir, I do not know how this strikes other gentlemen; but to me, it sounds as one of the most profligate propositions that could ever be submitted. I do not know how it may strike the northern ear; but it seems to me that if there is ever a time coming when this question, that has agitated our country so long, will culminate and come to a crisis, it must be when the Federal Government has reached such a pitch that it offers a premium of five millions for the admission of a slave State, and keeps free States out altogether. It seems to me that it will not do for any of us, after this, to talk about equality of States. Where is equality, where is justice, where is right, when that is the law which is administered from this Federal Capitol to one of our Territories asking admission into the Union?

Equality of States! Sir, I have heard a great deal said about it, and I have heard a great deal said, too, about another phrase which I believe, historically, has grown into popular use since I had the honor of a seat in the Federal Congress, which is now not quite sixteen years ago, and that is "northern aggression." It has become a popular and cant phrase—one of very frequent use; but I believe, historically, "northern aggression" is a bantering not yet sixteen years old, and when it was first mentioned, and for years after, upon this floor, it excited nothing but a smile of derision and contempt. Northern aggression! Why, sir, what chance has there been for northern aggression? Did not the honorable Senator from South Carolina [Mr. HAMMOND] tell you that all history could never blot it out, that the slaveholders had ruled this country? and did he not tell you how they ruled it? And, sir, he made no idle boasts; he told nothing but the truth in that respect. Have you not had constantly in the Executive chair, almost uninterruptedly, a southern man for President? and when you have not had a southern man, you have had almost always, with infinitely slight exceptions, what is worse—a northern man with southern principles. I infinitely prefer a southern man to one of them; I would now rather take the honorable Senator from South Carolina for President than the man we have got; and I will tell you why: when a generous thought came into his heart he would not be afraid to let it out for fear it might betray the sincerity with which he was acting. For that reason I would prefer a southern man to a northern man with southern principles.

But when such has been the history of the country, the undenied history of the country for more than sixty years, how perfectly idle and ridiculous is it to talk about northern aggressions? No, sir; of all the measures of this Government that were ever passed, there never was one, in my mind, so well calculated to challenge the unqualified condemnation of every northern man, no matter what his politics, of every man from a free State, as this proposition, which virtually puts the ban of this Government on every Territory seeking to come into the Union as a State, unless she comes in as a slave State.

It is for this reason, to say nothing about a great many others that might be suggested, that I record my vote now, and would record my vote under any circumstances, against the admission of Kansas into the Union under such a state of things as this. It is no matter to me what the consequences may be—not the slightest. It seems

to me that if we submit to this, we submit to a degradation which makes us slaves, and slaves in the worst sense. What, sir, have the free States done, what has Kansas done, what has anybody done, that there shall be taken from the Federal Treasury, either in money or in lands, five millions as a premium to induce the Territories to come in as slave States?

And, sir, this is no new feature in the history of your Government on this question. When Mr. Buchanan was Secretary of State under James K. Polk, he offered \$200,000,000 to the Spanish Crown to buy the slave island of Cuba. What for? Were we in want of islands? Had we not enough? That same James Buchanan who wanted to buy islands with a slave population at \$200,000,000 a piece, by a single dash of his pen, gave away another island, on the Pacific coast, occupying relatively the same position to the Pacific that Cuba did to the Gulf of Mexico—I mean Vancouver's Island. Yes, sir; Vancouver's Island, on the Pacific coast, was given away by the same Mr. Buchanan, when our title to it was clear and indisputable; just as clear as it was to any part of this Union. Mr. Buchanan gave that away because—no, sir, I will not say because; but I will say it happened that he gave it away—it being on the Pacific coast, and in such a latitude that it would probably be made a free State if it ever came into the Union. At the same time that he has northern islands to give away, he wants to buy southern islands at \$200,000,000 a piece. But yet, sir, we are told of the equality of the rights of the States; and it is a theme upon which we have been lectured over and over and over again, and it has been alluded to I do not know how many times in this discussion.

Now, as I said yesterday, when I suggested that this matter be laid over and brought up for discussion to day, I did not believe there was any purpose on this side of the House to talk against time; I have no such purpose myself; I have seen none such in others; and although there are a great many other considerations which are potent in my mind for voting against this proposition, this single one is enough to condemn it by every conviction of my understanding and every feeling of my heart; and having expressed this much, I shall not trespass longer on the attention of the Senate.

Mr. WADE. Mr. President, it is not my purpose at this time, after the general question has been so elaborately discussed, to detain the Senate at any length by anything that I may have to say at this period of the debate. But, sir, we have now before us, as we are told, a new proposition altogether. We are told that it is in the nature of a new bill, having but very little connection with anything that has preceded it. I must confess that I am astonished at the nature of the proposition which the gentlemen composing the committee of conference have brought in for our consideration. Untrammelled as the committee seem to have been by anything that has been done—so they say—and being about to initiate a new proposition altogether, the fact that their minds should have fastened upon such a thing as this, is well calculated, I think, to surprise anybody. If justice, right, and equal regard to the institutions of the South and of the North, were to be considered by that committee, it appears to me that an unsophisticated man might, in five minutes, have brought in a proposition against which there would have been no dissenting voice in either branch of your Legislature.

We had been divided here upon questions with regard to the will and wishes of the people of Kansas as to the constitution under which they should live. It was contended on the one side that the people, acting through the forms of law, had framed a constitution which ought to be obligatory. On the other hand, that constitution was assailed here by the Opposition upon the ground that it was an utter perversion of the will of the majority of the people of Kansas; that it was got up by trickery and by fraud, and that the majority of the people ought not to be governed by it. Thus we were at issue upon this thing called the Lecompton constitution. A portion of the people had called a convention, which framed this instrument, and called it a constitution. The people had previously met and framed another constitution, which they called their constitution, and which they said embodied the will of the great

mass of the people of Kansas. I allude to the Topeka constitution.

Now, sir, when this committee were about to pass by all the propositions that had gone before, and to substitute a new bill, how easy it would have been for them to say, in perfect justice and fairness to all, "we will not take the first constitution made at Topeka, because it is denied on the other side to be the will of the people; we will not take the Lecompton constitution, because it is alleged to be fraudulent, and not to embody the will of the people; but we will throw both aside, and we will provide, under every safeguard that can secure an honest and fair election, for submitting this complicated and vexatious question again to the people, and they shall be at liberty to frame their constitution." For that purpose the committee might have selected any precedent they wished—they might have taken the enabling act for Minnesota, or any similar one, and they would have found no objection to it. We should all have voted for a proposition of that kind, just to all parties; we should have permitted the people to come up now fairly to the work of framing a constitution; we should have said to them, "make it republican in form; submit it to our consideration; and if we find it to be such, we will admit you with it."

Why did it not occur to this committee that that was the way to settle the controversy, if a settlement of it was indeed desired? The proposition which they have made, while it seems to me in a certain aspect to be humiliating to the South, is unjust, if not an open insult, to the North. It is humiliating to the South because it is a total and entire abandonment of the principle on which many of them staked their determination not to exist in the Union at all; for they said, "let us have the Lecompton constitution, or we will go out of the Union ourselves." That proposition they have surrendered; they have given it up; they do not pretend that they can stand by it unless it is in some sort submitted and thrown back to the people to pass upon. So far it is right; so far it is just; and I was glad to see the committee yield thus far to the reasons and arguments which had been addressed to them, showing that their Lecompton concern was fraudulent; that it did not embody the will of the people; that it was a fraud; and that their legal position was fraught with tyranny and danger in all subsequent time. That position has been repudiated and abandoned by them. We hear no more of the omnipotence of conventions assembled to frame constitutions. We hear no more of their being armed with supreme power to put upon the necks of a people just such a constitution as they please, without the people having power to get rid of it. That was the position we heard rung in our ears from southern gentlemen day after day, but a little while ago. Now they have thrown this absurd position to the winds, and I thank God for it. They seem to admit that the people after all must have the right, in some shape, to pass upon the institutions under which they are to live. So far it is a great improvement on the Lecompton concern. But if the people are to pass upon the Lecompton constitution, why not let them do it directly? Will any man be deceived by the verbiage in which this proposition is couched? Have you not left the people to pass upon it? If so, why not submit it in such a plain and fair manner that the people can all understand it?

Sir, this proposition reads upon its face as though it was a premium for votes. Are the people to vote directly upon the constitution under which they live? Not by any means; but they are to vote upon a grant of land; they are to vote whether they will accept a gift from the Government of five or six million acres of land; and if they decide to take the land, that decision is to drag after it the Lecompton constitution, that they have repudiated over and over again. Was ever any such thing as this concocted by a statesman for the action of the people? Is a land grant the principal thing in framing a State constitution? Sir, it seems to be a bid of land for liberty, a bribe held out. "Will you, people of Kansas, surrender your liberties for land?" That is the question; it cannot be disguised. I impugn directly the motives of no man, but I state what the effect of this action will be. How will it appear to the world, say what you will about it? If the people will vote themselves so much land, then they surrender

themselves to a slave constitution, which you and I know they have repudiated over and over again. It is not competent for me to state the motives which have prompted to such action as this; but you vote for the incident, and the principal is to follow. How absurd and inconsequential! Why, Mr. President, if I should make just such a proposition as that to obtain your vote upon a private bill, and it should come out to the world that I had done it, I presume every just minded Senator here would vote promptly to expel me from the body as unworthy of a seat in it. The offer is: "so much land if you vote for this constitution; if you vote against it, you shall have neither land nor anything else."

Mr. President, I recollect well that in the course of some observations which I made not long ago, you, sir, [Mr. Briggs in the chair,] put the question to me: suppose a slave constitution were presented to Congress: would I vote for it? I recollect well the answer I made to you, and your apparent surprise at the absurdity of the answer. Yet I find the President of this body to-day assuming my position, and voting for the same proposition, only reversing its application. I would not vote for the admission of a slave constitution; nor will you vote for a free one. I do not complain of you; I cannot complain of you, because I occupy about the same ground that you will do an hour hence, when the vote is taken, except that practically our positions are reversed in the application of them. You come from a slave State, and I from a free State. The country will understand the positions we all occupy on this subject, and I do not care how soon they are understood by all.

Mr. President, it has been sought to break the force of the objections to this scheme by saying that there was uncertainty about the people of Kansas accepting the grant proposed in your original bill. This is a strange apology, and it comes at a strange and an unfortunate time. Sir, do you not know that the subject was mooted in the Committee on Territories, and it was said that no kind of objection could arise from any such thing; that we had a right to modify the ordinance and make what grant of land we pleased to the Territory; and if they rejected the constitution on account of our not giving them as much as they thought they were entitled to, they would not be a State; but if they accepted the constitution by organizing under it, subject to the provision we had made, that was an end of it? How happens it now that you make this whole controversy turn, as it were, on the uncertainty of whether the people will accept a donation such as you have made to every other State? Why in the name of Heaven is it now paraded here as the main reason why you have reversed your action?

Mr. GREEN. The Committee on Territories never did say that it was the right of the committee or of Congress to dictate the terms upon which the State should be admitted. They have always claimed that; but on the question of contract on the subject of lands, it was matter of agreement. The formation and adoption of a constitution, the committee held, was a question with which the Senate and the House of Representatives had nothing to do; and that has been the point all the time. I think, therefore, the Senator does injustice to the committee when he says that they thought the subject of the grant of lands was a proper matter for the consideration of the convention of the Territory. Not so; it is a matter of agreement, proposition, acceptance; but the constitution is a different thing; that is a finality already.

Mr. WADE. I do not deny that. That is just exactly what we did agree. We agreed that it was a proposed compact, and that if the proposition on our part should be accepted by the organization of a State government under it, it would be very well, and their action under it would show their agreement to our proposed contract. That is what we agreed to in committee, and it is a sound principle of law; and the idea of repudiating it is not twenty-four hours old. That is how we agreed; and yet the Senator from Virginia rises here, and to apologize for this misshapen production of the committee of conference, makes it all to turn on the uncertainty of whether the people of Kansas would accept this proposition. I might ask that Senator, or any other who has had anything to do with this subject, if that

matter labored in your mind, how in the name of Heaven did you suffer your Lecompton bill to be debated here day after day, week after week, and I do not know but I might say month after month, without suggesting the great difficulty which must interrupt the whole proceedings, and lead you to surrender all you had done, and to set up a scheme entirely new? You did not apprehend any such thing as you went on with your Lecompton bill. The Senator from Virginia never suggested then that there was any trouble about the land grants that were provided for in that bill. You voted it through this body. It ran as smooth as oil. No man said there was any difficulty about that, nor could it be said; because so far as the ordinance was concerned, and the land grant was involved, the bill stood on exactly the same principles as every other territorial bill, and granted no more, no less. Why, then, seek to cover up this enormity under so plain a proposition as that? Sir, the people will understand it, whether gentlemen here understand it or not. It is in the nature of a bribe. It is not expected that the unsophisticated people through the whole wilderness of Kansas, will be able, like lawyers, to scan closely, and understand critically, the import of this grant. I will not say that the fact that it was known they would not understand it, constituted the reason why a question so simple as the adoption or the rejection of the Lecompton constitution is made to turn on the fact whether the people will accept a donation of lands; but it looks very much like it. It would be out of order for me to say it was so intended; but that will be its effect.

Well, sir, that is the nature of the proposition. I have said it is humiliating to the high-minded South, because it is a total surrender of the position upon which they planted themselves, and swore in their councils they would stake their institutions. You have given it up; you have surrendered Lecompton, in this miserable way to be sure, into the hands of the people of Kansas to reject it if they please, and as I trust in God they will. Therein, sir, you lie in the dust. Southern chivalry is here in these Halls, begging men to vote for a miserable proposition well calculated to mislead the people. I am sorry for it. I have respected their highmindedness. I have always hoped heretofore that they were above consenting to arrangements that could not stand out in open day. I do not say that anything sinister is intended in this proposition, but I know it is well calculated in itself to deceive the people, and therefore I pronounce it humiliating to the South. I say further, it is unjust, if not an open insult to the North. Why? I can tell you nothing new after the proposition has been so ably handled by the honorable Senator from Kentucky and the honorable Senator from Vermont, who have preceded me. They have made it too palpably plain for me to stand here long in elaborating this point. Here stands out before the whole world the most glaring injustice, the most palpable wrong; and no man dare face me down here, and say that you place slavery and liberty upon equal foundations by this measure. You talk of the equality of the States. Why, sir, you are trampling the free States into the dust, and offering bribes to slavery. It will not do. Whether we understand it or not, God knows the people of the United States, the honest people, will understand it.

I have said, and I still say, that this proposition is flagrantly unjust to the North, and, I think, an open insult. Well might the Senator from Kentucky ask, what would the South think of a proposition like this on the other side? I have too good an opinion of you to believe that you would bear it as meekly as we shall. I believe that you would conduct yourselves, in reference to such a nefarious proposition, in a manner more fraught with honor to your section than I fear we shall. I wish to God we had men as fearless to stand up for the right, as you have to stand up for the wrong. I honor you for the manner in which you stand up to what you say you regard as your rights. Well might the Senator from Kentucky ask, what would you think of such a proposition if the case were reversed? There is not a southern man who will not die in his tracks before he would surrender to a proposition so insulting to the South as this manifestly is to the North. I know you would not, and I give you all honor for it, because in that, if in nothing else, God knows I sympathize with you; you are right in it.

The proposition now offered to the people of Kansas is this: "you shall have six million acres of land, and immediate admission into the Union, if you will take slavery; but if you prefer a free State you shall be excluded; you shall be treated as outside barbarians, unworthy to be members of this Union for an indefinite length of time to come." It is undeniable; it stands out gross, palpable, upon the face of your record, and cannot be disguised. It required a good deal of assurance, a good deal of effrontery, to bring in a proposition like this: but you knew the material to which you were addressing it too well to fear the consequences. You say by this proposition, if Congress adopts it, "come in ye people of Kansas; here are millions of acres of land; here is immediate admission if you prefer slavery; but if, on the other hand, you prefer liberty, you are unworthy of admission, you are not numerous enough to be admitted." One slaveholder for the purpose of the admission of a Territory as a State, is worth more than twenty free men. That is the naked proposition which you have brought here for the consideration of northern men, and I perceive that you will have northern men who will go with you even for this. You will have them, and you knew you would; because you knew you could not make a proposition, however fatal to the rights, however fatal to the honor of the North, without finding here men who would stoop to it. When I contrast the high chivalric honor of the South in this particular with the North, I sometimes wish to change places with them. Here is a proposition offering a premium to slavery, and immediate admission without inquiry as to numbers, if the people of Kansas will come here as a slave State; but if they decide on the side of freedom, they are to be indefinitely postponed until a census shall be taken at the will of a craven and besotted Executive. That is the proposition offered to the high-minded people of that section from which I come. They will spurn it, though I perceive that some of their Representatives are about to take it.

Now, what are to be the consequences of the passage of this proposition? I must judge from what has preceded it. I do not know but that I may be uncharitable in my supposition; but when I look at your candle-box frauds, at your Cincinnati Directory frauds, all adopted by your Executive, and the agents who commit the frauds applauded and foisted into high offices of power and respectability, how can I repose confidence in you? When I see the just arrangement which had been made by that just man, the lover of equality and justice to all parties and to all sections, the Senator from Kentucky, stricken out, and another man added to the board to supervise the election—a man who was no more wanted there than a fifth wheel to a coach, for you had a full board before—I ask this committee, and I wish them to answer me now, why did you place the district attorney of the Territory on that board of commissioners? I repeat the question, why did you do it? Was it not right before? A corrupt Executive was allowed to appoint two. Was it wrong that the people should appoint two more? Why give your Executive the appointment of a majority of the board, and full power over the people, to trample them in the dust? Answer me that, if you can! I pause, but I pause in vain, for a reply. What shall I say, then? Sir, it savors too much of the candle-box and of the Cincinnati Directory. Is it intended, at all hazards, against the vote of the people, and in defiance of their wishes, to forge a majority, to make a false return to the President that you have outvoted the free-State men, and that Lecompton is adopted? Was that the anchor you had thrown to the windward, in giving a complete majority to your own party in that board, and not trusting the people on equal terms with the Executive?

Sir, I have no fears of the people of Kansas if you give them any chance, even if you will be honest in counting their votes; but here the matter is left to the President of the United States, who censured his Governor because he had refused to yield to an outrageous, notorious, palpable, undisputed fraud, and ultimately compelled him to resign. I say when such things are done, what may we not suspect? I can hardly realize that I am in the Senate of the United States when propositions calculated to blind the people, propositions calculated to hold out false colors, are pre-

sented in this way. In this scheme, you have evidently followed, as far as you could, the bill presented by the Senator from Kentucky; but you have amended that most just clause of his upon which the honesty of the whole transaction turned in order that you might still keep in the hands of those who have proved themselves to be unworthy of such a trust, the power to decide against the people, as they have done heretofore; the fate of the new State.

Now, sir, I am not so much of an enemy to the people of the South as they suppose. I think they will never gain anything by such a proposition as this. It is not because I suppose they will, that I manifest this zeal against it; but because, like the Senator from Kentucky, I know that the safety, the permanency, the true glory of our institutions must be built upon the solid foundations of eternal right and justice; and this trickery, these frauds, although they may serve the purpose of a party for a day, are fraught with danger to the whole community, and will finally result in disastrous consequences, even to those for whose benefit they seem to be perpetrated.

Mr. President, I have now said all that I intended to say, and much more, because when I see a proposition that appears to be unfair, and, I will say, that appears to be dishonest, I cannot retain exactly that equanimity that perhaps I ought. It may be all fair and all right, but I must announce the impressions that I deliberately have on that subject. I think it is palpably wrong—wrong to the high-minded people of the South, who, I am sure, when they understand it, will trample it beneath their feet as an unclean thing—unjust, palpably unjust, to the North, whom it places on a footing of inequality. Sir, if I did seek the destruction of the institutions of the South, I could devise no way more facile than that you have yourselves marked out; for, being in the minority, whenever you shall have divested yourselves of that character which we have conceded to you—that you are high-minded, honorable men—you will have lost the great stake in the Government that would ever enable you, as long as you practiced on these principles, to enjoy your full share in the councils of this nation, and even more. As I said, I do not know but that this proposition may be right; but its appearance is absolutely and deliberately wrong.

Now, Mr. President, I regret that such a proposition should have been brought in here. Why would you not let Lecompton die, if you had not the force to put it through? I would infinitely prefer, for the honor of the nation, both North and South, that you had had the force in both branches to put your Lecompton constitution through here, rather than have been compelled to resort to this indirection, in order to accomplish the same result; because its effect in demoralizing the nation, perverse and iniquitous as I think it was, would have been infinitely less than by this monster of a proposition.

But I have said that it was no part of my purpose to detain the Senate. I have very feebly expressed the feelings that I entertain in regard to this proposition. I do not believe you can seduce the noble-minded people of Kansas, who have withstood all your persecutions so long, to succumb to such a scheme as this. You have exercised the whole powers of your Government; you have invoked your armies and let them loose upon the defenseless people there; you have inflicted upon them hardships, and pursued them with a relentless persecution that I have never known before, and hardly ever read of in history; and yet they stand unconquered and unconquerable. It only remains to determine whether appliances to their cupidity, arts of deception can work out a fall for a people who have so nobly withstood all your force. I know well you cannot force them to it. Their intelligence is great, and I think they will be capable of seeing through this nefarious net, which is calculated to lower them, to degrade them, to a condition of servitude. I do not believe you will effect it. I have a better opinion of those noble spirits. I think the controversy will result in your most ignominious defeat before the people of Kansas. The only danger I apprehend is from the arrangement of this scheme by which you put the whole power of controlling the election into the hands of a corrupt Executive. The people are against you in overwhelming numbers. The only doubt is, whether the executive officers

will count their votes aright. I am willing to venture that people, with all the skill in weaving nets for their destruction that you can devise, provided at last you leave them to be counted according to their numbers, and make fair, and not John Calhoun returns.

Mr. GREEN. Mr. President, I do not desire to protract this discussion; but such broad, harsh, and unfair denunciations have been made upon the report by the Opposition, that I may be permitted to say a very few words in reply. Though the Senator from Ohio [Mr. WADE] chooses to denounce the Executive as corrupt, if he considers it even gentlemanly, I do not. I must be permitted to say that in the action of the present Executive, whilst I may approve or disapprove of his judgment on many points, I have seen nothing corrupt and sordid, nor has any other Senator; and I dare him to name the instance. When he undertakes thus to characterize him, he becomes a slanderer upon the executive officer of this Government.

Now, a word on the facts before the Senate. The Senator from Kentucky says that the President's friends have abandoned Lecompton. That is not true. They stand precisely upon Lecompton as they always stood upon Lecompton, and the written report shows it. How he can feel justified in making such a statement to the Senate is to me most extraordinary indeed. Still he made it—he made it as matter of judgment, I presume.

Mr. CRITTENDEN. Will the gentleman allow me?

Mr. GREEN. I will forbear.

Mr. CRITTENDEN. The gentleman states, with peculiar emphasis, that certainly does not belong to the occasion, that it is not true.

Mr. GREEN. It is not.

Mr. CRITTENDEN. I say it is true, what I said. Every word of it is true. I did not say simply what the gentleman represents me as having said. I stated the abandonment of the Lecompton constitution to consist in the abandonment of it as an absolute constitution to go with an absolute admission. That was what was contended for here. I should have been guilty of self-contradiction, if I had said what the gentleman imputes to me. What I meant by the abandonment, and a meaning that could not fail to be inferred from what I said, was that I spoke of the abandonment of it as an absolute instrument to be imposed on the people of Kansas without reference to their wishes. That is all I meant, I assure the gentleman now, at any rate; and that, I think, is all I said before.

Mr. GREEN. I understood the gentleman before, and understand him now, and as he explains it it is all the same. The friends of Lecompton then said it was a complete instrument legally adopted, and they yet say so; and there is no abandonment of it even in the sense in which he now makes the assertion.

Mr. CRITTENDEN. All I know is—and if there is anything in that that concerns the gentleman's purpose he is welcome to it—that it was contended here that this was a perfect and complete instrument, and that Kansas ought to be admitted on the basis of it, and admitted absolutely. Now I say that that is the position which is abandoned.

Mr. GREEN. I understood the Senator before, and he may amend his position forty times, as a Kentucky climber would, but it makes no difference to me. Sir, I understand that the friends of Lecompton from the beginning have said—

Mr. CRITTENDEN. May I ask the gentleman a question, with his permission?

Mr. GREEN. Certainly.

Mr. CRITTENDEN. I do not wish to have any misunderstanding.

Mr. GREEN. Not a bit of it.

Mr. CRITTENDEN. He says as a Kentucky— I did not hear the word exactly.

Mr. GREEN. Climber—that climbs up, you know.

Mr. CRITTENDEN. That is the word?

Mr. GREEN. Yes, sir.

Mr. CRITTENDEN. It is a phrase I do not understand; and I presume the gentleman uses it without any particular or specific meaning whatever attached to it.

Mr. GREEN. I will explain if the gentleman does not understand it.

Mr. CRITTENDEN. I do not, sir

Mr. GREEN. As soon as you are through, I will do it.

Mr. CRITTENDEN. I am through.

Mr. GREEN. There are certain men in Kentucky who hunt possum, and they go out and sometimes cannot shoot them, but have to climb the tree after them, and the higher they climb the more prominent they become. I do not know anything about what his position is, but Kentucky climbers may think that there is something to be made out of mystification of the question.

Mr. CRITTENDEN. The gentleman grows more and more mysterious every word he utters. I shall take an opportunity, when I can do it without interrupting him, to make a reply.

Mr. GREEN. I am very sorry the Senator did not understand me. I was upon this point: that, when he had said the friends of the Kansas Lecompton constitution had abandoned it, he was mistaken. He may think so, and I have no doubt whatever he honestly thinks so; but it is not so on the part of the friends of that measure; and I hope he will not undertake to speak for them. They know their own thoughts, their own purposes, their own objects, their own intents; and while they admit that the people of Kansas legally adopted a constitution, yet they say at the same time they made a proposition, in the nature of a contract, which Congress does not choose to accept. That matter of contract is a matter of agreement between Congress and the State of Kansas. It is this: they propose to be admitted on a certain offer of contract. If we do not accept that offer of contract, while the constitution would be legal, while the constitution may be valid, while it may be just and proper, yet we cannot force them into the Union unless they agree to our terms, inasmuch as they propose their terms, to which we have never agreed; and this makes a plain simple proposition. I understood him to say—I may have been mistaken, for it is very hard to understand him from the low tone of voice in which he speaks—that the Lecompton constitution is submitted by this proposition. That is not my understanding of it. This is a matter of fact; and, if he so understands it, I can account why he stands upon the opposite side. If the Lecompton constitution is submitted, why is it that the great advocate of submitting the Lecompton constitution stands against it? He offered an amendment, urged it in this Senate, voted for it, which did submit the Lecompton constitution; and now, when a proposition comes which he says does submit the Lecompton constitution, he votes against it. Why does he cross his own path; why does he commit his own suicide; why does he act the inconsistent part of voting against a proposition which he says submits it, when he before voted for a proposition which did in fact submit it? It proves that it is not submitted; and that is a perversion of the issue when he asserts that the Lecompton constitution is submitted.

But, says the Senator, bribes are offered. Mr. President, I had not thought, in my confidence in the integrity of the people, that bribes could have any effect either in the Senate, in the Congress, or before the people—that they were proof against bribes. If bribes are offered in this proposition, it proves two things: first, that we misjudge the American character; second, that bribes have heretofore been offered by Congress to the people of the States under similar circumstances. I have a volume before me in which counter propositions have been presented when States have asked admission into the Union. Iowa, Florida, Michigan, and Missouri—four States—when they came up plainly and palpably, Congress did not refuse to admit them, but Congress said to them, "we will admit you if you agree to certain terms;" and hence there are four plain palpable propositions and precedents justifying us for the course we pursue in regard to Kansas.

But he says that if we pass this proposition, and the people of Kansas vote down the offer we make in it, Kansas is to be kept out until there is population sufficient to entitle her to admission. I answer, if she now has that population, as he intimates, it does not keep her out one minute. He intimates it as a conceded fact, that by the action of the report of the committee, and by the action of the opposite party in Kansas, it is acknowledged that they have population enough to entitle them to admission. If that be true, then this clause in the bill reported by the committee

of conference does not keep Kansas out one second. Having the population already, she can proceed according to the forms of law, form that constitution, and come here and present herself for admission.

But the Senator from Ohio [Mr. WADE] asks, is the land grant the great matter? I answer, it is the great matter of dispute with us. To the people of Kansas, the adoption of the constitution may be more important; the shape and form of the constitution may be more important; but to Congress, who has no right to look into the shape and form of the constitution, but has a right to protect the public lands, to protect our rights in all those questions affecting public lands, it is the great matter of compact between the Federal Government on the one side and the State upon the other. Hence I answer the Senator and say, that the subject of public lands is the great matter of adjustment. There is no other matter of adjustment between us. I have said from the beginning, and now repeat, that we have no right to look into their State constitution, except to see if it be republican. We have all decided it to be republican; it was enacted by legal authority; and hence that constitution is not a matter of controversy with us. But there is a matter of dispute: she asks a certain amount of land. We answer, in reply, "we cannot give it." Let us adjust that matter of dispute. There is no dispute on the subject of the constitution or its formation; but there is a dispute with regard to the quantity of land, and the rights asserted by the convention of the people of Kansas. Let us settle that, and thus have peace and quiet between the Federal Government and the new State about to be admitted into the bosom of the Union.

The difference in the grants has been stated. Five different demands were made by the convention. But let me remark that these demands are not made in the constitution of Kansas. They are made by the same power that formed the constitution, but are not made in the constitution. Hence the constitution may stand as an entirety, as a form of government, as creating a republic, and yet the proposition of adjustment on the disputed point be rejected by Congress. The bill which the Senate committee before reported, proposed to reject the demands of the convention of Kansas. While they proposed to reject the demands of the convention of Kansas, they also said it should not preclude Kansas from asking and receiving an equivalent hereafter equal to the principles of the grant to the State of Minnesota in the enabling act of that State.

The difference between the Senate bill and the present proposition consists in this: the Senate bill left it as an open question; this bill closes the question. It is agreement; it is settlement; it is compact. It may be said, and said with truth, that a voter in Kansas may be influenced by his desire not to be admitted into the Union; and, in consequence of that motive, may vote against the propositions offered on the subject of lands. Let him do it. That does not change the legal effect of the proposition we make, nor does it complicate Congress in any illegal act. Motive is a thing with which this Senate has nothing to do. When the voters go to the polls and vote, they vote from considerations appealing to themselves, and not merely to considerations that address themselves to us.

Now, the difference between the proposition claimed under that convention ordinance, which is no part of the constitution, but a distinct, independent offer of a contract, and the present offer of contract made by this report of the committee, consists in this: first, they claim four sections in each township for school purposes; we give them two sections in each township for school purposes. There is a difference on that point of one half. They claim all the salt springs, and the necessary lands for their use and enjoyment. We give that to them. They also claim all gold mines, silver mines, or any other mineral and necessary lands to sustain and support, and use and enjoy them. We cut all that out, which is at least two thirds. They claim five per centum upon the proceeds of the sales of the public lands. That has been given to all the States, and we accede to that. They claim two townships for a seminary of learning. That has been given to all the States, and we accede to that. They claim twelve miles wide on two railroads, making a distance of at

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, APRIL 28, 1858.

NEW SERIES...No. 115.

least a thousand miles in length—twelve miles on a road running from east to west at least eight hundred miles, and on a road running from north to south at least two hundred and forty miles, making in the aggregate, in round numbers, one thousand miles; twelve miles in width. Any one may make the calculation and see what they can make out of it. The committee thought it exorbitant and unjust, and would not accede to it; hence we rejected it, and the statement accompanying the report made by the chairman in the House shows that the amount saved to the United States is \$25,000,000.

It has, however, been said that the offer we do make is a bribe offered to them. When the Senator from Kentucky made the same offer in his amendment, was that a bribe? When the House of Representatives made the same offer, was that a bribe? Are the Senator from Kentucky and the House of Representatives to be charged with an attempt to bribe the people of Kansas? Not at all. They were honorable in their motives, as I believe the committee of conference to have been honorable in their motives when they made a similar proposition, with this difference: he proposed to submit the constitution of Kansas to a vote of the people; we do not. He proposed, if they voted down that constitution, then that they shall form a constitution on the same offer of bribery, as he now calls it, that we offer to them. The matter of contract on the subject of lands is a matter of adjustment between the new States and the old Federal Union. In all the States of this Union it has been a matter of adjustment.

The question whether the State has a right to tax the public lands has never yet been settled. It is an open question; and the most profound lawyers in this Government have differed upon the right of the State to tax or not to tax the lands belonging to the Federal Government. The State of Missouri surrendered the right to tax either Government lands, or the lands sold by the State for five years afterwards, for two considerations: first, under the principle of land sales then adopted they were not sold for cash, and the fee-simple title did not pass at the time of sale; they were purchased at two dollars an acre: one fifth cash, and the balance in four equal annual installments. That was the law of the land. In view of that here was a difficult point raised: shall the individual purchaser be liable to taxation to support the government, or shall he not? That brought up this question: if he is liable to be taxed on the value of the land, the State government must have the power to enforce the collection of that tax. If the State government has the power to enforce the collection of that tax, it must subject that land to sale in case of default. If you subject that land to sale in the case of default, then the purchaser, under that sale, must either get a valid title or be defeated in his title, because the fee-simple stands out, vested in the United States. That is what brought all this controversy about not taxing land for more than five years. I can say that Missouri for more than thirty years was not permitted to tax lands even after this mode of sale was changed to a cash sale. The consideration promised Missouri was five per cent. on the sales. She has to this day received but three per cent. Two per cent. was promised to be invested in a certain manner for the benefit of the State. That investment of two per cent. has never been made; and hence Missouri is now asking for it from the hands of the General Government.

I refer to this in this connection to show that this subject has always been a matter of contract, of agreement, of adjustment, between the new State and the Federal Government. So with Kansas. If the original Senate bill had passed it would have left this an open question. I was willing to vote for it, and did vote for it, although it left it an open question; and why? I regard the peace of the country as something; I regard the settlement of this question as important, and even if I do leave open some branch of the subject, if I can spread the mantle of peace over all, if I can harmonize all conflicting interests, if I can adjust all

differences of opinion, if I can bring them all to the common altar of their country to pour out libations and join in one song of praise to the Union—I will do it, even if I leave some other subject unadjusted.

When, however, that failed, and the subject came before us to adjust the whole matter, I considered the proposition of the Senator from Kentucky with calm attention. I knew his wisdom and experience. I had the highest respect for his integrity, as I have yet. I saw a part in it which I was willing to incorporate, and that was, let us close up the whole question. I will not submit the constitution, for if I do that I stultify every act performed in the State of Kansas; but if it be desired to settle up the whole question, land grants, taxation, and all, I will take that much from the proposition of the Senator from Kentucky. We incorporated it and adjusted it in the best manner that we could. It may not be perfect, it may not meet his views, it may not be such as he approves; but still it was the best that we knew how to do. It leaves the people the power to come into the Union by accepting this proposition on the subject of lands, or not. We have no power to force them into the Union if they do not accept our proposition. We have no power to resubmit the constitution they adopted. Hence we do what we had the power to do, and we leave undone the things that we had no power to do.

I am aware that it has been said that the voting on the proposition has no relation to the real question to be decided. That is a great mistake. As I before remarked, individuals may have any motive in their mind they please. We cannot change their motives; we cannot destroy their object; we cannot make it legal. The Senator from New York [Mr. SEWARD] may laugh—that is all allowable—but I claim that we have the right to fix up a legal proposition, and if men vote on it from improper motives, we have no power to control them. If the Senator thinks we have, I differ with him on that subject. Motive lies in the human heart; motive is the principle that prompts to act; and if any man can influence motive except by addressing arguments to the judgment and to the feelings, it is a matter that I know nothing about. It is true I do not profess to be profound on the subject of all these questions of casuistry. I do not profess to understand the machinery and the organization of the human intellect, and the connection that exists between intellect and the feelings that are so closely allied to it. I am no metaphysician. I have not taken the first lesson on that subject; but whether it be a matter of metaphysics, of law, or of ethics, it is at least a question of right; and that is, to fix the opportunity for every man to do his duty, and then whether he is operated upon by an improper motive or a right motive, and does not do his duty, or does his duty, is a matter with which we have no concern.

There is, in this case, but one question submitted. I undertook to prove, on the Lecompton submission of the constitution, that there was but one question submitted then. I think I succeeded. The question submitted then, was slavery or no slavery. That was decided. I now undertake to prove that there is but one question submitted now; and that is, will you accept these propositions, or will you reject these propositions? The consequences that follow are entirely different. If you vote for these propositions, and a majority coincide with you, the whole question is settled; the State is admitted; if you vote against it, just the opposite.

Now, does that necessarily include the question of rejecting or accepting the constitution? By no means, for this plain, palpable, and simple reason: they have no power to vote on the acceptance or the rejection of the constitution. They have only the right to vote on that unadjusted subject. When the constitution was adopted, it was not proposed to Congress. I want Senators to remember this. When the constitution was adopted it was for the people of Kansas, and not for Congress; and Congress had no right to look

into it, or to consider it, except to learn one point: is it republican? When the ordinance was adopted, it was intended for Congress. Will you accept it, or will you not accept the ordinance? The constitution was never so presented. Now, is there not a marked difference? Can any man fail to perceive the distinction between the two? The constitution of the State was adopted for the people of the State. The ordinance was adopted for submission to Congress, in the nature of an offer to make a contract. We do not choose to accept that offer of a contract, but choose to make a counter proposition. Now, when that counter proposition goes back they will vote upon it, and accept it or reject it. If they accept it, all right; if they reject it, then they are out of the Union. Because, therefore, the effect of it may be to keep her out of the Union, does that repudiate the Lecompton constitution? I answer, no, no!

I say more than that: it is a legal constitution, whether the State is admitted under it or not; and unless the State of Kansas chooses to change that constitution, either in or out of the Union, it will stand as the constitution of the State. There may be a State out of the Union as well as a State in the Union. Kansas cannot force herself into the Union. Kansas can form a State organization, and she can hold it ready whenever Congress shall be willing to receive her. Florida did the same thing. Florida formed her constitution. She was not received for five years after that constitution was formed, and still that constitution remained firm, inviolable, in existence; and when Florida did come into the Union she came in still with the original constitution. When you admit a State you do not indorse the constitution. When you admit a State you do not approve her constitution. Those words were employed in one instance out of the merest folly, and in the commission of the greatest blunder the Congress of the United States ever did commit in the admission of the State from which my friend on my left [Mr. STUART] hails—Michigan. He says perhaps they are not in. I answer, the State is in, because it has the assent of the Congress of the United States.

Let us come to the point, and understand each other. We are not here in a mere debating society. We are here to subserve the great interests of our country. We have different views upon what will subserve those interests. Let us meet together in the frankness and candor of honorable Senators, representing great States, equals in this Union. In that light, we meet not to controvert and discuss, but we meet to compare opinions, to present our reasons, to give our votes, and to rest upon our constituency for our defense and protection. In that light, this committee has acted. The result of that action is presented to the country. It presents no bribe; it dodges no question. It presents a plain, simple proposition for the consideration of the people of Kansas. When it is said that there is a threat held in *terror* over the heads of the people of Kansas, to force them to accept this proposition, the Senator from Ohio well answers that, for he says they cannot be intimidated; they cannot be driven; they cannot be bribed. If they cannot, why do you object? Now, answer me; if they can neither be bribed, intimidated, nor driven from their purpose, why not give them this opportunity to say whether they desire to accept these propositions, and thereby come into the Union, or not?

I have said, Mr. President, what I have said, for the purpose only of vindicating the committee from any reflection upon their motives. They may be wrong in judgment. I do not pretend to set up the result of their consideration, their report, as being beyond the power of attack; but I did think that the Senator from Ohio, and the Senator from Kentucky, had misconceived what the object of the committee was, and therefore it was our duty to make a correction. My colleague on the committee, the Senator from Virginia, had made one correction; but subsequent remarks had induced me to think that a further correction was required. I have done it; I have given my views

upon it. It is before the Senate; it is before the country. If I am wrong, I am willing to be set right; if I do injustice to any one, I will take speedy means to do justice; if I do right, I trust I shall never be driven from that position.

Mr. SEWARD obtained the floor.

Mr. CRITTENDEN. I trust I shall be allowed one word of explanation.

Mr. SEWARD. Certainly; I yield the floor.

Mr. CRITTENDEN. My friend from Virginia, in whose candor and fairness in argument I have great confidence, has mistaken me in one particular. He supposed me to endeavor to criminate this offer of land as an inducement to them to vote for this proposition, because it was a greater quantity than that usually granted. He misunderstood me. I did not intend to say any such thing; I said it was the largest quantity of land grants, but I afterwards followed it up by saying that it was what was habitually granted to other States. So he misunderstood me in supposing that I either thought or said that the quantity of land offered to Kansas for her to accept the Lecompton constitution was greater or more than that which was usually given to other States.

The gentleman seemed also to suppose, if I understood him, that the course I was pursuing was calculated to produce or prolong this Kansas agitation. It seems to me, Mr. President, that my friend from Virginia ought not lightly, though it is perfectly in order, to say that a Senator's course is calculated to produce agitation. I think that the report of the committee is calculated to produce and prolong the difficulty. That is my opinion, and that is the reason why I vote against it. It provides no certain determination of our relations with Kansas. It reminds her, in a certain event, to a territorial condition, and that event amounts, in my mind, almost to a certainty; and by so doing, it leaves her exactly in the attitude and condition in which she has been, subject to create such extensive agitation as she has in the country.

My policy, and the policy indicated in the amendment which I had the honor to offer here, was to close up this subject inevitably; that if, the Lecompton constitution being submitted to the people, they would not accept that, then they should make a constitution that would be acceptable to them, and there would be an end of it. It was contemplated, in a continuous series of the most active operations that were possible, to bring her into the Union at once, and thereby put an end to the disturbing relations which exist between her and this Government. That is what my amendment provides. This does not do that. This says, if she rejects the Lecompton constitution, instead of going on to make another and closing up the matter, that she shall be postponed until her population shall be of a certain amount. I hope he will understand me in that particular.

Sir, I had intended to correct, or attempt to offer some explanation and have some correction with the honorable Senator from Missouri, [Mr. GREEN,] but I hardly know whether it is necessary. It was my misfortune, he says, not to be heard, on account of the lowliness of my voice. What I said, taken altogether, sustained this position in my narrative: that the ground in respect to the Lecompton constitution taken by this Senate, has been abandoned by its friends; and, for brevity of expression, I may have said occasionally, but with the explanation that went along with it, that the Lecompton constitution has been abandoned—every Senator understanding me as meaning that the position of the Senate in reference to it, insisting upon it as an absolute constitution, not to be referred to the people, was abandoned. The gentleman did not hear and did not understand me correctly. All must have understood me who did hear me. It was my misfortune not to be heard by the honorable Senator.

I am really at a loss to understand, but I do not know whether it is necessary to inquire further into it, what he meant by the allusion about "Kentucky climbers." I am really at a loss to understand what these classical figures and allusions mean. I hope they do not mean anything unkind. If they did so, the gentleman will pardon me for not replying to them. If they were meant for my State, why, I do not know that I have a word to say about it. I have never, in all my time in this Senate, permitted myself to cast the least reflection upon any State of this Union.

I look upon them in reality, and try to treat them habitually, as sovereignties which are represented here. I do not know whether the gentleman meant anything offensive to Kentucky, or to reflect upon her character. If he did, it was exceedingly unkind. I have nothing to say on the subject. I do not know that it merits or is worthy of any explanation whatever. Old Kentucky stands there for herself. She is above the taunts that envy may cast upon her, however humble and inadequate her representative may perhaps be to the subject. She never can—

Mr. GREEN. If the Senator will permit me to interrupt him, I will state that I meant nothing unkind either to the Senator or his State.

Mr. CRITTENDEN. I thought the Senator did not. He meant nothing unkind, if I understand the gentleman, and he cast no imputation upon her. Then, sir, it is only that curious and mysterious sort of figure of speech which I do not understand. [Laughter.] I have nothing more to say.

Mr. SEWARD. Has the honorable Senator closed his remarks?

Mr. CRITTENDEN. Yes, sir.

Mr. SEWARD. Then I move that the Senate adjourn.

Mr. STUART. I simply wish to say that I desire to speak upon this question in the present order, but I am subject entirely to the disposition of the Senate as to whether I am to go on now or to-morrow.

Mr. SEWARD. I rose not with the intention of taking the floor myself; but, seeing the honorable Senator from Michigan rise to take the floor, while I recognized his right to it, I thought it was time to adjourn.

Mr. JOHNSON, of Arkansas. Let us go on now. Gentlemen are ready to continue the discussion.

The PRESIDING OFFICER. (Mr. BIGGS in the chair.) The Chair recognized the Senator from New York, and the question is on the motion he has submitted that the Senate adjourn.

Mr. HUNTER. If it is understood that we shall finish this question to-morrow evening or to-morrow night, I am perfectly willing to adjourn now.

Mr. SEWARD. I will answer the Senator from Virginia at once. It cannot be understood that we shall finish the question to-morrow night, but it may be understood that we are debating in good faith, without the least design to delay, and if we can reach the question then, it will be closed to-morrow night; if not, not. I wish to say also that we have been four hours and a half upon this subject to-day; and for one, I do not admit the right of the majority to require us to make contracts to foreclose this debate, especially when they themselves are taking their share in it, and making it necessary for us to reply to them. I therefore insist on my motion to adjourn.

Mr. IVERSON. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The Clerk proceeded to call the roll.

Mr. BELL. I wish to state that I have paired off with the Senator from Maryland [Mr. PEARCE] on this subject. I improperly voted yesterday, having forgotten that engagement; but it was upon no material question.

Mr. DOOLITTLE. The honorable Senator from Louisiana [Mr. BENJAMIN] and myself have paired off on this matter for this evening.

The result was then announced—yeas 22, nays 23; as follows:

YEAS.—Messrs. Brodenick, Brown, Cameron, Chandler, Clark, Crittenden, Dixon, Douglas, Durkee, Fessenden, Foster, Hamlin, Harlan, Houston, Kennedy, King, Seward, Simmons, Stuart, Tumbull, Wade, and Wilson—22.

NAYS.—Messrs. Allen, Bayard, Biggs, Bigler, Bright, Clay, Evans, Fitzpatrick, Green, Gwin, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Slidell, Toombs, Wright, and Yulee—23.

So the Senate refused to adjourn.

Mr. SEWARD. I now move that the further consideration of this subject be postponed until to-morrow at half past twelve o'clock, and be made the special order for that hour.

Mr. IVERSON. I ask for the yeas and nays upon that question.

The yeas and nays were ordered.

Mr. STUART. I do not wish to detain the Senate at this time. I only wish to say that it

seems to me hardly necessary to spend any time here to-night in a mere matter of controversy. I have yielded, from time to time, to-day, to several Senators who desired to speak, and am disposed to do so at any and at all times. I simply want, in good faith and in due time, to present my views upon this subject. I understand there are others who also desire to do so. The debate has gone on to-day by the friends and the opponents of this measure. We have sat here now until nearly five o'clock. I simply suggest whether it would not be more reasonable to adjourn this question over until to-morrow, and not seek to press it until it is found that there is a disposition to retard it. As far as I am concerned, I only wish to disclaim any such disposition on my part. I do not know of any member of the body who has any such disposition. I submit, therefore, whether it is better to spend any number of hours in efforts to postpone and prevent a postponement, which every Senator knows may be done, or whether it is better now to come to the conclusion to dispose of this question, and adjourn over until to-morrow.

I submit, with great respect, to the Senate, and I beg to repeat it again, not to be misunderstood, that it seems to me better for all of us to pursue that course at this time. So far as I am concerned personally in the question, I only say that I am at the pleasure of the Senate. Of course, it would be more convenient to me to speak to-morrow morning, when the Senate and myself are less fatigued; but, upon that score, I do not think that I am in a condition where I ought to ask the especial indulgence of the Senate. I do not, therefore, put it upon that ground. While I say that it would be inconvenient to me, yet I would be entirely willing to go on now, if there was anything in the condition of the question which required me to do so.

Mr. HUNTER. Will the Senator allow me to interrupt him?

Mr. STUART. Certainly.

Mr. HUNTER. The Senator knows that I agreed to adjourn, and was perfectly willing to do so; but it was understood last night—at least I so understood the Senator from New Hampshire, when he made the proposition to postpone this subject over until to-day—that its consideration would take two days. All I ask is, an assurance from both sides of the House that we shall be able to dispose of it to-morrow. I am perfectly willing then to adjourn or postpone it.

Mr. STUART. I have no doubt of the Senator's motives and intentions, but I know nothing of such an arrangement. I will call the attention of the Senator to what was said at that time. When that proposition was made, several Senators all over the Chamber exclaimed, "Thursday!" "Thursday!" Some said Wednesday, and some Thursday. There seemed to be, to my ear, no understanding. I know of no private arrangement.

Mr. HUNTER. I know of no private arrangement, but I understood the Senator from New Hampshire to submit a proposition to take two days to this subject. He proposed that we postpone it until Wednesday, and dispose of it on Thursday night; or, if we should take it up to-day, to dispose of it to-morrow night. I am not disposed to press Senators.

Mr. STUART. I believe that will be the result now. If the Senate adjourns, there will be no difficulty. Every Senator can say all he desires to say to-morrow. That is my belief; but I am not advised on that point.

Mr. HUNTER. There will be no difficulty, if there is an understanding that Senators will aid us to do it.

Mr. STUART. I certainly will.

Mr. HUNTER. Then I will agree to postpone this subject until half past twelve o'clock to-morrow.

Mr. SEWARD. I want it to be understood that that is an understanding between the honorable gentlemen, and not an understanding between anybody else. I have already stated, so far as I am concerned, that I believed this debate was in good faith; that I thought it might come to an end as likely to-morrow as at any other time, but that I would come to no engagement. What I object to is that terms shall be dictated to us, which, it seems to me, we cannot accept with self-respect, and which ought not to be made when every demonstration is given on our part of good faith.

Mr. CLARK. I desire to make one suggestion in regard to this matter. I think it will be recollected by honorable Senators that the proposition was made last night to defer this subject until Wednesday, to take two days for discussion, and then close the debate. That was not acceded to; it was not acceptable. Then the proposition was made that we should adjourn until to-day, that we should go on fairly and candidly without factious delay, and close the debate in the ordinary way. That we are disposed to do now. We think we have worked as long to-day as we ordinarily do. I think I may say, in behalf of gentlemen on this side of the Chamber, that they are willing to go on debating the matter fairly, honorably, and as Senators ought to do, and then close the debate, and take the vote; and that is all they ought to be required to do. If the debate can close to-morrow afternoon, we are willing to take the vote to-morrow night or the day after, and to close the debate without faction or unnecessary delay. That is all that ought to be required of us.

Mr. GREEN. I do not think the Senator from New York ought to say that we dictate to them. It is a matter of adjustment, a matter of agreement. When we propose a certain time, is it dictation? Why, a minority may propose to a majority, and it is no dictation; or a majority may propose to a minority, and it is no dictation. But we desire to get rid of this question; he may not. When we make a certain proposition, I do not wish him to characterize it before the country as a dictation; and when he does thus characterize it, I choose to contradict him, and say that, so far as we are concerned, it is not correct. If I understand it, we do not. It is an offer. The question is, can we accede to it consistently with public duty? I answer, there is not a single Senator on this side who would have a single Senator on the other side to sacrifice his opinions of duty for the sake of expediting this one thing; but, if we can, we should like to have it closed at once.

Mr. FESSENDEN. I have not had the remotest intention of taking any part in this debate, and I have not now; and I suppose there are not many gentlemen on our side of the Chamber who do intend to take part in it; still I will not pledge myself that at some period of the debate I may not be excited, or incited, to take some interest in it, although such is not my intention now. But I am surprised that the honorable Senator from Virginia, who knows that I have great respect for him, should take part in what I cannot help calling the imposition of unreasonable terms. I do not like this thing in the Senate; and I am rather inclined to come to the opinion of the Senator from Georgia, [Mr. TOOMBS,] that it is best to put an end to all attempts at making bargains, unless we can have them in the old customary form—the form which is respectful and kind to both sides of the Chamber. Then, sir, when a debate arose, I believe it has been customary heretofore—I came here in the middle of the famous Kansas debate, and I know what it was then—to give the largest liberty to gentlemen with regard, not only to the time that they themselves would occupy in speaking, but to the time of speaking. So long as there was no disposition manifested to protract the time—to spin it out for the purpose of making delay—the old, ordinary, gentlemanly, proper rule of the Senate was adhered to; and that was, that every gentleman should have a right to speak, at a proper season of the day, upon the question of interest before the Senate. That rule ought to exist now.

All I ask of the majority is, not that they shall yield anything to any disposition to talk for the mere purpose of protracting debate, talking against time; but that they shall yield everything to the minority, so long as that disposition is not exhibited at all. I would ask Senators, has there been, on the part of the minority, exhibited, on this occasion, any sort of disposition to talk for the mere purpose of stretching out the period of debate? Until that takes place, I say it does not comport with the dignity of the Senate to tell us here, "if you will agree to close the debate to-morrow, we will let you adjourn; if you will not agree to get through, whatever you may want to say, and honestly want to say at that time, then you shall stay and talk to-night, at this hour." That might do in some bodies, in some associa-

tions, and from some people; and in other associations, and from other people, it ought not to come at all, in my judgment; but that every man on the floor, until that disposition is manifested, should be considered as having a proper view to the interests of the country, and what is demanded, a proper respect to himself, and a proper respect to the body of which he is a member; and the largest liberty should be accorded to him so long as he keeps nothing but propriety in view. Therefore, under this impression, all I have to say is, that in the present stage of the discussion, I will not be considered as agreeing to finish the debate to-morrow, although I do not think I shall have a word to say on the subject.

Mr. HUNTER. I made no attempt to dictate terms to the minority or any one else. I have never known a debate of this sort closed except by mutual agreement, which was all I proposed. I do not insist that gentlemen shall agree on terms which would be inexorable; but if there is a mutual understanding to close the debate as soon as it could be done consistently with what was due on all sides, and it was thought probable that we should close it to-morrow, I was willing to adjourn now; but if not, in my opinion we ought to devote a larger portion of the day than usual in these matters, if we are going to adjourn in June. If gentlemen will postpone the day of final adjournment, they may go on. I shall not object if they debate it for a week, if they do that. But if you are to adjourn in June, you cannot give a week to this subject and get through the necessary business of the country. You first adopt an inexorable rule to adjourn at a certain time in June; and then, when I make an effort to distribute the time among the different subjects so as to enable us to accomplish the greatest amount of business, gentlemen say I am dictating terms! I seek to dictate to nobody. I suggested this as an agreement into which all parties might enter. Why not?

Mr. FESSENDEN. I would ask the Senator in all kindness, whether it is not dictation, offensive dictation, to say, "if we can understand that the debate is to be closed at such an hour, very well, we will adjourn; if not, we will go on?"

Mr. HUNTER. I think not.

Mr. FESSENDEN. It looks very much like it.

Mr. HUNTER. The meaning of it is this: we will adjourn now, provided we can get through the matter at that time; but if the debate is to take a longer time, we must spend a larger portion of the day on the subject. I think that is very fair.

Mr. TOOMBS. I wish simply to say, in answer to my friend from Virginia, that he is now making a proposition which I shall not agree to. Both Houses have agreed to adjourn in June, and we have plenty of time to do our business. I do not concur at all in the parliamentary idea of the Senator from Maine, about dictation. It is a right, a duty of every deliberative assembly; they are invested with full authority to stop debate when they please. In every body except this that rule is applied. I think it is a misfortune that by our rules we cannot apply it now; it ought to be remedied, and I hope will be very soon. The other branch of the Congress of the United States who have equal powers and duties with ourselves, lay down an inexorable rule, that, whenever they choose or think proper, debate must stop.

Mr. BELL. Try it in the Senate.

Mr. TOOMBS. It is a rule which ought to be applied here, and the Senator ought to have it applied to him, in my judgment. It is the rule of nearly all legislative bodies; it may be different in some. In the British Parliament they have not such a rule, but they cough down and scrape down and ironically cheer down anybody whom they do not want to hear, and they can close their debates whenever they desire to do so.

Therefore I am a party to none of these arrangements. So far as I am concerned I want no more debate. I am willing to sit here, season in and season out, until this vote is taken. That is the only way in this body in which a vote can be taken. I have rarely known an important question taken here without having a night session. I have sat in the other branch for two nights and a day in order to take a vote. It has been the common practice to make gentlemen speak day and night, and it has been considered no great hardship by any one. This thing of making gentlemen speak in hours and out of hours has been the

practice ever since I have been in the Congress of the United States, and nobody considered it a hardship. This new idea that gentlemen shall speak in proper hours, by which, I suppose, is meant between one o'clock and five o'clock, to get the galleries, is a novelty belonging to this session and the Republican party. It has not been according to the usages or practice of either branch of this Government, from its commencement until now. Gentlemen have spoken night and day, in season and out of season, in the other branch, when they please to apply this rule. On account of there being no disposition in this body to resort to means to obstruct legislation, the rule never having been necessary until now, it was never adopted here. Now it is necessary; and, in my judgment as a public man, it ought to be adopted, so that the business of the country may be placed in the power of the majority, in whose hands the Constitution places it.

Mr. MASON. I wish to say that I dissent altogether from the position taken by the honorable Senator from Georgia, that it is right in a majority to put a stop to debate at their pleasure when the majority think the public interests require it. I dissent altogether from the idea that it would be politic or prudent in this body, which is a representation of the States, to adopt that rule to which reference was made by which debate would be cut off at the pleasure of a majority of the body. For one, I have always protested against it since I have been a member of this Senate, and always shall protest against it. Sir, in a popular Government, where the Government is to be administered as the people desire it shall be administered, it is important that the people shall know how the Government operates through a majority, and I would be the last man to take any steps whatever to put a stop to debate in the Senate of the United States. Yet upon this particular question I should agree with my colleague. We have our time measured now by a law passed by the present Congress for the termination of the session; and in the distribution of the time of the Senate, and a reference to the many subjects that will come before it, it seems to me right that the debate shall go on unless honorable Senators on that side of the Chamber, to whom, I presume, it would be chiefly confined, should believe, of which they are the best judges, that they can close it to-morrow, or perhaps the next day. As a matter of expediency only, but with no desire to stop debate upon it, I have been obliged to vote against an adjournment; but I will leave it to them within a reasonable time.

Mr. SEWARD. That is all I asked. I supposed it would go no further than that.

Mr. CLARK. I desire to make one suggestion to the honorable Senator from Virginia. I think this side of the Chamber appreciate as much as he does the position in which we stand. I think we are all aware that we are to adjourn on the 7th day of June. I do not think that that side of the Chamber is any more anxious to do it than this side of the Chamber. If they will trust to our judgment, candor, and fairness, I have no sort of doubt, if the matter was left to us, an adjournment would be had; everybody would consult the public good, and this debate would be brought to a close as soon as it could conveniently be done, and the whole business of the country would be going along. But if they insist on staying, and will not give any further time, and should say we will close the debate to-morrow, it will enlist the pride of this side of the Senate that you shall not close it to-morrow night, and delay would come on a collateral issue instead of meeting the question fairly. They are in the majority. Let them exhibit magnanimity towards us; allow gentlemen to go on; treat us with candor and liberality, and if we do not meet you half way, then you can try the crushing-out process if you think proper.

Mr. TRUMBULL. It seems to me that we are wasting time, instead of gaining, by this process. We have had, during the last few weeks, several discussions of this kind, as to arrangements between one side of the Chamber and the other. Now, it has been said on this side, I believe, by every Senator who has spoken, that there is no disposition to delay this matter. So far as I know anything about it, that is true. We have lost, now, half an hour in this profitless discussion; and if we adjourn and meet at the ordinary hour to-morrow, I can only give my opinion, but

it is certainly my opinion, that this matter will be settled quite as soon as it will be to sit here through the whole night. I apprehend the debate will be closed to-morrow. So far as I know anything about it, there are very few persons here who design taking up any considerable time in discussing this matter; but, as a matter of course, no individual Senator can say how many persons will speak upon either side, nor can we anticipate the time the discussion will take. There is no attempt, and no desire to delay this thing a moment. For my own part, I am ready to vote now unless there are persons who wish to speak. If there are, I will be for giving them a chance. This is, I believe, in good faith, the understanding of every Senator. Then why not let us adjourn, meet here to-morrow, and go on with business? It seems to me that this is the quickest way of getting at the question.

Mr. HUNTER. That is what I proposed—that gentlemen should say, on all sides, that they would endeavor to bring the debate to a close to-morrow, if they could; and if they could not, I did not ask any Senator—

Mr. TRUMBULL. I only wish to say to the Senator, that I do not propose to delay it; nor do I know of anybody who desires to do so. I am certain there is no combination to do so. If there was, I think I should have heard of it. I move that the Senate adjourn.

Several SENATORS. There is a motion pending.

Mr. BIGLER. I hope the Senator will withdraw it for a moment.

Mr. TRUMBULL. I withdraw that motion, and move to postpone the further consideration of this subject until to-morrow.

Mr. GREEN. And make it the special order for half past twelve o'clock.

Mr. TRUMBULL. Yes, sir, and that it be made the special order for half past twelve o'clock to-morrow.

Mr. IVERSON. I rise to a point of order. No motion is in order until the motion made by the Senator from New York, upon which the yeas and nays are ordered, shall be disposed of.

Mr. TRUMBULL. A motion to adjourn would be in order at any time, I apprehend; but I will not insist upon it.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York, that the further consideration of this subject be postponed to, and made the special order for, half past twelve o'clock to-morrow.

The question being taken by yeas and nays, resulted—yeas 35, nays 10; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Broderick, Brown, Cameron, Chandler, Clark, Clay, Collamer, Crittenden, Dixon, Douglas, Durkee, Evans, Fossenden, Fitzpatrick, Foot, Foster, Gwin, Harlan, Houston, Hunter, Jones, Kennedy, King, Polk, Seward, Simmons, Stuart, Trumbull, Wade, Wilson, and Yates—35.

NAYS—Messrs. Biggs, Bright, Green, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mallory, Mason, Toombs, and Wright—10.

So the motion was agreed to.

Mr. JOHNSON, of Arkansas. I move that the Senate proceed to the consideration of executive business.

Mr. KING. Oh! no; let us adjourn.

Mr. CHANDLER. I move that the Senate adjourn.

Mr. JOHNSON, of Arkansas. It is proper that we should have an executive session. The Senator from New York knows nothing about the business for which it is desired. It will not take more than five minutes.

Mr. KING. A motion to adjourn has been made.

Mr. JOHNSON, of Arkansas. It is important to the public business that we should have an executive session now.

The PRESIDING OFFICER. The question is on the motion of the Senator from Michigan that the Senate do now adjourn.

Mr. JOHNSON, of Arkansas. I hope that the Senate will not adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 27, 1858.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

BANKS IN THE UNITED STATES.

The SPEAKER, by unanimous consent, laid

before the House a letter from the Secretary of the Treasury, transmitting a report as to the condition of the banks of the United States, in compliance with the resolution of the House of the 20th July, 1832.

Mr. LETCHER. I move that two thousand extra copies of that report be printed for the use of the Treasury Department. I understand that this information is furnished voluntarily by the banks to the Treasury Department. Heretofore the number printed has been twenty-five hundred, but the Secretary of the Treasury says that two thousand will be sufficient to answer his purpose.

The SPEAKER. The motion of the gentleman from Virginia, under the rules, goes to the Committee on Printing.

WAGON ROAD TO THE COLORADO.

The SPEAKER also laid before the House a communication from the War Department, in reply to a resolution of the House of Representatives of the 20th instant, calling for a copy of the report of the exploration of the wagon road from Fort Defiance to the Colorado river, in the Territory of New Mexico, with a map of said route, by Edward F. Beall, stating that no such report or map had been received; which was laid on the table, and ordered to be printed.

POST OFFICE ADVERTISEMENTS.

The SPEAKER also laid before the House a communication from the Postmaster General in reference to post office advertisements in newspapers; which was laid on the table, and ordered to be printed.

LIEUTENANT MAURY.

Mr. FENTON, by unanimous consent, presented the concurrent resolution of the Legislature of the State of New York in relation to Lieutenant Maury, of the United States Navy; which was referred to the Committee on Naval Affairs, and ordered to be printed.

FORT SNELLING REPORT.

Mr. PETTIT. I rise to a question of privilege. My purpose, in rising, is to make a report which, by the consent of the House, is allowed to be made at any time. I am directed by the committee appointed by the House to inquire into the facts and circumstances connected with the sale of the Fort Snelling reservation to make a report, accompanied by resolutions adopted by the committee, the evidence taken by the committee, and its journal of proceedings.

Before submitting the report in reference to it, and moving the action of the House on it, I may be allowed to say that the committee has not been fortunate in coming to a unanimous agreement in facts or conclusions. I wish to say, therefore, that I bring in this report, at this time, with the entire concurrence of the committee. The minority of the committee, consisting of its chairman, the gentleman from Kentucky, [Mr. BURNETT], and his associate from the Berkeley district of Virginia, [Mr. FAULKNER], will, I understand, shortly present a report. My purpose, at the instance of the entire committee, is to move that the report be laid on the table, be printed, and made a special order in this House for Tuesday, the 18th day of May next.

Mr. CLINGMAN. I shall object to its being made a special order. I am willing that the report shall be made, and take its course in the regular order of business.

Mr. GROW. I rise to a question of order. I am not informed as to what action this committee propose to report, but if it involves any member of this House, then I make the same point of order made by me in the last session, that they have not the right to report, because if, in their investigation, a member is involved, they must come into the House and ask the permission of the House to proceed.

Mr. PETTIT. I can obviate the objection made by the gentleman from Pennsylvania by stating that there is nothing in the report of this committee implicating any person connected with either branch of Congress.

Mr. GROW. Then I withdraw my point of order.

Mr. BURNETT. I ask that the views of the minority may also be received, and take the same course with the report of the majority. The objection made by the gentleman from North Carolina

to this report being made a special order, he will see, by an examination of the resolution under which the committee have been acting, does not apply. The committee have the right to report, and to call it up at any time.

Mr. CLINGMAN. Then I cannot prevent it. If I could prevent it I would.

The SPEAKER. A simple motion to postpone to the time indicated will bring the matter up at that time.

Mr. PETTIT. Then I make the motion that the report be postponed until Tuesday, the 18th day of May next, and that the report of the majority and views of the minority be printed.

The motion was agreed to.

Mr. PETTIT. I am also directed by that committee to offer this resolution:

Resolved, That the compensation of stenographers employed by committees under the authority of the House, be paid, as audited by the Committee of Accounts.

I ask for the adoption of the resolution.

Mr. JONES, of Tennessee. I think it would be better to fix some price by the House. All the resolutions appointing stenographers or giving authority for their employment, have provided that they should be paid the usual compensation. If there has been any usual rate of compensation adopted, I am not aware of it.

Mr. CAMPBELL. The Committee of Accounts will fix it.

Mr. BURNETT. I will say to the gentleman from Tennessee that the committee, or myself, at least, were governed in their action in fixing the compensation to be paid, by the price paid to the reporters of the Globe for reporting the proceedings of the House. We followed that rule, supposing that it was right, and that it would meet the approval of the House; and I now move the previous question.

Mr. JONES, of Tennessee. Before the gentleman does that, I desire to ask him what he proposes under that construction?

Mr. BURNETT. I do not remember.

Mr. HOUSTON. If the gentleman from Indiana will modify the resolution, I think it will be better. Let him modify it so as to specify the amount.

Mr. SEWARD. I move to lay the resolution on the table. I do not think this House has any right to make an appropriation without fixing the specific amount to be appropriated.

The SPEAKER. The gentleman from Kentucky has demanded the previous question.

Mr. JONES, of Tennessee. I desire to ask the chairman of this committee what amount he certified to the stenographer of his committee?

Mr. BURNETT. The committee employed two stenographers for nearly the whole time. The amount which we indorsed to them for their services as stenographers was \$1,010.

Mr. CAMPBELL. I hope the demand for the previous question will be sustained, because if we are to go into a discussion over the matter, it will cost more than the whole amount involved.

Mr. SEWARD. If the gentleman will insert in the resolution the particular sum which the committee have allowed, I will withdraw my motion; otherwise I will insist upon it. I do not think the House have the right to appropriate money in this indefinite way.

Mr. PETTIT. I ask the gentleman to withdraw his motion for a moment, to enable me to make an explanation.

Mr. SEWARD. I will withdraw the motion to lay upon the table if the amount to be paid is inserted in the resolution.

The motion to lay upon the table was disagreed to.

The call for the previous question was seconded, and the main question ordered to be put.

Mr. JONES, of Tennessee. I demand the yeas and nays on the adoption of the resolution.

The yeas and nays were not ordered, only seven members voting therefor.

The resolution was adopted.

Mr. BURNETT moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

APPROPRIATION BILLS.

Mr. HUGHES obtained the floor, but yielded to

Mr. J. GLANCY JONES. The gentleman from Indiana yields to me for a moment. I have in my hand three appropriation bills; and, as the Committee of Ways and Means may not be called for a week, I ask that, by unanimous consent, they may now be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. CLINGMAN. I am compelled reluctantly to object to the gentleman's proposition. We are now in the fifth month of the session, and the Committee of Ways and Means have already used up most of our time, and have objected to the other committees being called in their order. I am a member of a committee which has not been called during the session.

Mr. J. GLANCY JONES. I beg to be distinctly understood that I have never objected to a call of the committees of the House.

Mr. CLINGMAN. The objection was made by the motion to go into the Committee of the Whole on the state of the Union immediately after the Journal was read, so that the committees could not be called.

Mr. J. GLANCY JONES. The Committee of Ways and Means have not consumed an undue share of the time of this House, nor has its chairman opposed the call of committees for reports at any time.

The SPEAKER. Debate is not in order.

QUESTION OF PRIVILEGE.

Mr. HUGHES. Mr. Speaker, I wish to bring before the House a matter of privilege.

Mr. CAMPBELL. I demand the regular order of business.

The SPEAKER. The gentleman from Indiana has the floor on a question of privilege.

Mr. HUGHES. I will say just here that I hope there will not be an attempt to clamor me down when I rise to a question of privilege. I am in order, and I intend to remain in order; and I cannot be heard in this House if this system of clamoring against me is kept up. I offer a resolution to censure a member of this House, which I send to the Clerk's desk to be read.

The Clerk read the resolution, as follows:

Whereas, FRANCIS E. SPINNER, a member of this House from the State of New York, did, on the 26th day of April instant, propose to offer for the consideration and action of the House a preamble and resolution which was ruled out of order by the Speaker, and which was of the following tenor, to wit:

"Whereas, The Burlington Hawkeye, a newspaper, published in the State of Iowa, has recently published the following article, written from Council Bluffs, in relation to the land sales at that place, viz:

"During the second week, after the office had opened, an order was received from Mr. Commissioner Hendricks, at Washington, to locate six thousand (6,000) acres in the name of the honorable Jesse D. Bright, of Indiana. Of course the order was complied with, out of the regular office hours, and thus the honorable Senator got a nice slice of the public land at a single haul, while the rest of us had to take our turn at the mill as the wheel rolled round. Wonder if the peculiar position which Senator Bright occupies towards the Administration had anything to do with this piece of party favoritism? Was it any part of the price paid for his support of the Lecompton constitution?"

"And whereas, the 'Weekly Council Bluffs Bugle,' a newspaper published at Council Bluffs, in said State, under date of April 14, 1858, published the following article, viz:

"PARTY FAVORITISM.—A correspondent in the Burlington Hawk Eye, speaks of a 'recent piece of party favoritism,' and alleges that it was connived at by the 'powers that be,' at Washington. The correspondent was nearly correct as to the amount of land entered, but is sadly at fault as to the person entering the same. Six thousand and two hundred acres were entered in one day, in the names of Jesse D. Bright, William H. English, and James B. Foley. Bright entered two thousand four hundred and eighty, English, two thousand two hundred and eighty, and Foley one thousand four hundred and forty acres. The entries were made under instructions from the Commissioner of the General Land Office."

"The writer insinuates that the allowance of the entry was the price paid for Bright's vote, in favor of the admission of Kansas under the Lecompton constitution; but his base insinuation will lose all its force when it is known that English and Foley voted against the admission. The correspondent must place a very high price upon western lands, or a low estimate upon the honor and integrity of the President and Senators. This is a little too low an insinuation to come from any citizen of Council Bluffs, the whang-doodle of the Black Republican party only excepted."

"Therefore
"Be it resolved, That a committee of five be appointed to investigate the matter, and to inquire into the facts and circumstances connected with the order of the Commissioner of the General Land Office, whereby the Hon. JESSE D. BRIGHT, and the Hon. WILLIAM H. ENGLISH and the Hon. JAMES B. FOLEY were permitted to enter about six thousand acres of land at the Council Bluffs land office, and into the facts and circumstances connected with said entry; and that said committee have power to send for persons and papers, and to report by bill or otherwise."

And whereas said preamble and resolution reflect upon the integrity and characters respectively of a member of the Senate, and two members of the House, without containing any charge or matter proper for the action or consideration of the House: Therefore

Resolved, That the offer to introduce said preamble and resolution was a breach of the privilege, order, and decorum of the House, and that the said FRANCIS E. SPINNER, is hereby censured for the same.

Mr. CAMPBELL. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. HUGHES took the floor.

Mr. CAMPBELL. If the gentleman from Indiana desires to be heard, I will withdraw my point of order for the present. It strikes me, however, that this whole thing is a matter of newspaper controversy. Very many Senators and members of this House have been abused through the public press, and I do not think that it is proper to take up the time of the House with such censures or strictures of the press. I withdraw my point of order.

Mr. HUGHES. I am obliged to the gentleman for withdrawing his point of order; but I have not seen any point in his point of order. He made no point.

Mr. Speaker, I would have preferred to say what I have to say upon this subject, without the introduction of a formal resolution; but the privilege of making a very short explanation, which was due to a Senator from my own State, was denied me, when the attempt was made yesterday, by the gentleman from New York, [Mr. SPINNER,] to introduce his resolution.

I have no reason to believe, and have had none, that I would be permitted to vindicate his character against this attack, except by bringing myself strictly within the rules of the House; and therefore I have introduced this resolution, which I propose to press now, and to ask a vote upon.

Mr. CAMPBELL. I rise to a question of order. The resolution does not raise a question of privilege. If every member of this House who is abused, or who imagines that a Senator from his State is vilified through the public press of this country, is to be allowed to make a question of privilege here upon it, we shall have nothing but questions of privilege before us.

The SPEAKER. The Chair would call the attention of the gentleman from Ohio to the language of the resolution:

"Therefore, resolved, That the offer to introduce said preamble and resolution was a breach of the privilege, order, and decorum of the House, and that the said FRANCIS E. SPINNER is hereby censured for the same."

The Chair is of opinion that it is a question of privilege, inasmuch as it proposes to censure a member of the House.

Mr. CAMPBELL. Very well; then it is open to debate.

Mr. HUGHES. I was saying, sir, that having been driven to the necessity of introducing this resolution by the unjustifiable attack that has been made, not only upon a Senator, but upon a public officer from the State of Indiana [Mr. Hendricks] not entitled to be heard upon this floor, I expect to press this resolution to a vote. And I believe that when all the facts and circumstances attending this matter, which I apprehend are susceptible of proof, shall be brought before the House, this resolution will pass by a sufficient majority to place upon the record an emphatic condemnation of this House against the practice of embodying in the form of its official proceedings the newspaper slanders of the day. And I do not think, sir, that the character of the Senator from Indiana, or of the Commissioner of the General Land Office, a citizen of Indiana, or of the members of this House, from Indiana, who are impugned in the resolution which the gentleman from New York proposed to introduce, important as they are and should be, are yet of as high importance as the dignity and character of this House itself.

This resolution appeals to the House, not only to repel unjustifiable and malicious assaults upon Senators, public functionaries, and members of the House, but calls upon the House to maintain its own dignity and its own character, and to set the seal of its condemnation upon the abuse of the privileges of this floor by embodying, in the form of official proceedings, scandalous and false matter, and thus giving it an importance which it intrinsically does not possess.

Mr. SPINNER. Will the gentleman allow me

to ask him if he denies the facts stated in the resolution?

The SPEAKER. Does the gentleman from Indiana yield the floor to the gentleman from New York?

Mr. HUGHES. I will answer the gentleman before I have done. I have hardly ever declined to yield the floor to a gentleman who appeals to me for that purpose; but when I proposed to make a simple explanation of this matter yesterday, a unanimous shout of "order," from that side of the House, clamored me down; and I now decline, when I am in order, to yield the floor to any of those gentlemen who indulge in that sort of amusement.

I came into the Hall yesterday shortly after that part of the resolution which related to the Senator from Indiana had been read. The rest of the resolution was not read at all. And I did not know that any reference was contained in that resolution to my two colleagues from Indiana, [Messrs. FOLEY and ENGLISH.] If I had, I should not have proposed to say anything. But, being informed that the Senator from that State was assailed—a gentleman who had not the right to be heard in this House—I asked permission simply to make an explanation. It was denied me. Those who made the attack objected. I propose now, so far as my colleagues, Messrs. ENGLISH and FOLEY, are concerned, to leave that matter entirely to themselves. They are here upon the floor, and can, and no doubt will, defend themselves.

I desire to make an explanation, which will show that the whole of this newspaper matter, which was, I suppose, here under pretense of getting up a committee of investigation, is upon its face false and scandalous, because it is founded in ignorance of a public statute of this country, which every man is bound to know. That statute is as follows:

"Provided further, That it shall be the duty of the Commissioner of the General Land Office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of any expense, any warrant which the holder may transmit to the General Land Office for that purpose, in such State and land district as the said holder or warrantee may designate, and upon good farming land, so far as the same can be ascertained from the maps, plats, and field-notes of the surveyor, or from any other information in the possession of the local office; and, upon the location being made as aforesaid, the Secretary shall cause a patent to be transmitted to such warrantee."

And the land warrants which are issued by the Government show upon their face that they may be located here in Washington city, in the office of the Commissioner of the General Land Office, just as well as in the land offices of the different States. The Senator from Indiana, in conjunction with two members of this House, it appears, saw proper to take their money, and the money of some of their constituents given to them for that purpose, and invest it in land warrants for the benefit of themselves and others, and saw proper, instead of traveling to the State of Iowa, or any other State, to locate those land warrants, to avail themselves of this public statute of the country, and went to the Land Office here to make their locations; and in pursuance of the law, in pursuance of its express requirement, the Commissioner of the General Land Office, an appointee also from the State of Indiana, caused the land entries to be made. That is the whole thing out of which this whole matter has been manufactured.

Now, sir, the gentleman from New York, who proposed to introduce that resolution, was bound to know the law and cannot plead ignorance of it, for "ignorance of the law excuseth no man;" and I presume, sir, no gentleman of sufficient character in this country to be honored by any constituency with a seat upon this floor, would rise in his place here and plead ignorance of a public act of the Congress of the United States. Out of this matter has been manufactured this newspaper attack; and I have offered this resolution proposing upon its face action of this House because it was necessary, in order to bring what I wish to say within the rules. I have no objection that the resolution shall be referred to a committee who shall have power to investigate both the charge which is made by the gentleman from New York and the charge which is made against him. I undertake to say, that when any committee is raised and investigates this matter, it will appear in proof that the resolution which the gentleman from New York proposed to offer to this

House yesterday, was concocted by some other person or persons maliciously, and was presented here for the purpose of giving it importance and embodying it in the official proceedings of this body; that it was peddled round the House and offered to other gentlemen than the gentleman from New York, who declined to be made the supple-instrument for carrying out the cold-blooded malice of whoever it was that originated this thing; and that, finally, the gentleman from New York [Mr. SPINNER] accepted the task. It will appear further, sir, that notwithstanding the resolution was promptly ruled out of order by the Presiding Officer of this body, and the scandalous part of it reflecting upon my two colleagues upon this floor was thus suppressed, the whole resolution was immediately telegraphed off to the New York newspapers, and will be brought to us by this evening's mail. It will appear further—and I undertake to prove it—that the gentleman from New York, after the House had adjourned, stated that he did not desire a committee to be raised when he introduced the resolution, and that his purpose was accomplished.

If these facts are proved, how will this case stand? I say that they are susceptible of proof; and how will the case then stand? This is not the first time, during this session, when a member of this House, under the pretense of getting up an investigation—

The SPEAKER. The gentleman must confine himself to the matter now before the House.

Mr. HUGHES. That is what I propose to do. Voices on the Republican side of the House. "Oh, let him go on!" and "There is no objection on this side!"

Mr. HUGHES. I say that this is not the first time, this session, that a gentleman has offered a resolution for the action of the House proposing an investigation founded upon newspaper slanders. Now, sir, the resolution upon its face contains nothing proper for legislative consideration, nothing proper for legislative action, nothing proper for legislative information. If the facts and circumstances which I state are proved in connection with this matter, the truth is transparent that it was a stab at members upon this floor, at the Commissioner of the Land Office, and at a Senator; and that it was using the proceedings of this House for the purpose of giving importance and poignancy to that stab.

Now, the question is, will this House tolerate this kind of proceeding? The question is, does the dignity of this House demand that if such a case is brought before it, it shall express its condemnation? I hold, sir, that it is the duty of the House to express its disapprobation of this course, and its official disapprobation. I hold, sir, that any member of this body who makes himself responsible for an act of this sort, is subject to the censure of the House, and ought to be censured; and much more so where, as in this case, as soon as the attack is made, technical objections and clamor are raised to smother a defense.

I call the attention of the House, further, to the circumstances under which this resolution was imposed upon the House. The House having under consideration a resolution for the purpose of permitting night sessions, and considerable diversity of opinion appearing to exist upon that subject, the official report shows that the gentleman from New York put his resolution in in this way:

"Mr. SPINNER. I think this difficulty can be got along with if the House will allow me to offer a resolution."

The gentleman from New York then rose in his place and stated that which conveyed the idea that if the House would hear a resolution which he proposed, it would solve this difficulty as to whether the House should have night sessions or not. This, sir, I will not characterize. I will not say what it was, or what sort of treatment of the House it was. I leave each member of the House to his own judgment upon that subject. To this appeal of the gentleman from New York, the Speaker responded as follows:

"The gentleman from New York asks unanimous consent to offer a resolution. Is there any objection? The Chair hears no objection."

I submit to you, Mr. Speaker, and to the members of this House, whether, if the true character of that resolution had been declared, and it had been made known that it was another attempt to put upon this House the irresponsible and infamous attacks of newspapers upon public men,

there would have been no objection? Every member upon this floor knows that there would have been objection. But under the pretense that the gentleman was about to offer something that was calculated to relieve the House from the embarrassment in which they then were, growing out of the diversity of opinion upon the question whether or not they should have night sessions, this covert attack upon a member of a coördinate branch of this Congress, who has no right to be heard upon this floor, upon a public functionary who has no right to be heard upon this floor, and upon two members of this House, was in part placed upon the record, and failing to place it all there, the telegraph was invoked to do the rest. Does the dignity of this House demand that such a course as this should be rebuked, or is this House to be made the conduit, the sewer through which to reproduce the *mendax infamia* of a debased and prostituted press?

Sir, I say that in presenting this resolution to the House, I have done no more than what was due, not alone to the character of the individuals assailed, but to the dignity and character of the House itself. If, in the judgment of the House, the facts are not sufficiently set forth in the resolution; if, in the judgment of the members, witnesses ought to be summoned and examined, and the allegations of the member from New York sifted to the bottom before any censure is cast upon him, so be it. I have no objection to that course. I have no objection to this resolution being referred to a committee, with power to examine into the charges made by the member from New York, and into the charge which I now make against him; and that the whole truth of the matter be reported to the House, to be followed by such action as the House may deem proper.

It has been suggested to me, and I have seen it in the newspapers, that the point of this accusation was favoritism in the Land Office. Well, sir, waiving the question whether it is a proper charge for this House to occupy itself about, I inquire if the member from New York has any knowledge of any favoritism, or can vouch for the truth of the insinuation? Why, sir, upon the face of his resolution he presents his authority—two or three newspaper paragraphs. If this House will resolve itself into a tribunal to try one charge of that character, then it ought to open the door to all such charges, and try them all. And how much else would the House do if it should sit here from year to year without adjournment. That is not a sufficient ground for such a charge, and I think the House will so regard it.

I propose to show affirmatively, by proof, that the gentleman from New York declared that he did not want a committee, but had accomplished his purpose. The House can from that infer whether any honest zeal for the correction of abuses actuated the introduction of that resolution, or whether it was introduced for another purpose.

I do not know that I ought to detain the House further. I have no personal connection with the matter in any form whatever. The Commissioner of the General Land Office is a citizen of my own State, and is a gentleman above suspicion and above reproach. The Senator alluded to is my personal and political friend, whose character is beyond the reach of such attacks. My colleagues upon this floor can take care of themselves. Had I been permitted yesterday to state the substance of what I now state, and to have appealed to the justice and magnanimity of the gentleman from New York himself, it was all that I desired to do. But, sir, I was prevented, and how prevented? Why, sir, when the fact is taken into consideration, the hot haste to send off this scandalous report on the wings of the lightning, while all explanation was to be stifled by irregular and disorderly clamor, it adds another and darker shade to the whole proceeding.

I do not profess to have much skill in parliamentary rules, and I am very well aware that I am liable to be frequently out of order, and am willing to be set right in the proper way. But, sir, I recognize the right of no set of men to sit in their seats, and by clamor put me down. If I am called to order it must be done in accordance with the rules which they profess to vindicate.

Mr. CLINGMAN. Will the gentleman allow me to complete a sentence, which, as left, might seem to do injustice to the Committee of Ways

and Means? I did not mean to say that the Committee of Ways and Means technically objected to the other committees of the House reporting; but that the course taken by that committee produced that result. I am willing that they shall report, but I desire that it shall be done in the regular order of business in the morning hour, when the committees are called for reports, and I hope they may have an opportunity to report in that manner before long.

Mr. J. GLANCY JONES. Mr. Speaker—

Mr. CAMPBELL. I call the gentleman from Pennsylvania to order. My colleague from the Western Reserve district was not, the other day, allowed to make an explanation.

Mr. J. GLANCY JONES. I desire to make a statement in reply to the gentleman from North Carolina.

The SPEAKER. Objection is made.

Mr. J. GLANCY JONES. I hope the Chair will not permit remarks to be made upon the Committee of Ways and Means, when there is to be no opportunity of replying.

The SPEAKER. The gentleman from Pennsylvania must protect his own rights in that respect. Whenever a question of order is raised, the Chair will enforce it.

Mr. J. GLANCY JONES. All I wished to say was, that the Committee of Ways and Means had occupied but a small portion of the time of the House, the time being nearly all taken up by the debate on Kansas, when their bills were under consideration in the Committee of the Whole on the state of the Union.

Mr. HUGHES. I will say, in conclusion, that I have presented this matter to the House as I understand it, and as I sincerely believe it is capable of being proved. I do not know all about this resolution which the gentleman from New York, who introduced the resolution, knows. It is very possible that, upon a full examination, it might have a different appearance. I have offered this resolution. I would have preferred to offer a resolution proposing to raise a committee to inquire into this whole matter; but, under the rules, I could not get in such a resolution, and I have therefore submitted this resolution to the House. I will make no motion to refer it, but I will very cheerfully concur if it be the pleasure of the House to dispose of it in that way; or, having accomplished all I desired in submitting these remarks, will be content to have the House make any other disposition of the matter.

Mr. ENGLISH obtained the floor.

Mr. GIDDINGS. I rise to a question of order. Is it not in order, at this stage of the proceedings, to demand, under the fifth rule, whether the House will consider the resolution at this time?

Mr. ENGLISH. I appeal to the gentleman from Ohio that it is due to me, under the circumstances, that I shall be allowed a few moments.

Mr. GIDDINGS. I will say to the gentleman from Indiana, with all possible kindness, that I have no idea to cut him off from being heard. The House, I have no doubt, will hear them. The gentleman from New York [Mr. SPINNER] also desires to be heard. I presume that the House will hear both gentlemen. I am willing to hear them, for one. But my object now is to propound an inquiry to the Chair. Is it not proper, at this time, that the House shall be asked whether or not it will consider this question?

The SPEAKER. The Chair is of the opinion that, if the fifth rule be applicable, the time for its enforcement was when the resolution was read from the Clerk's table.

Mr. GIDDINGS. As the gentleman from Indiana had the floor, I did not care to interrupt him. I wished, before making the point, that he should conclude his explanation.

The SPEAKER. The gentleman from Ohio had the right to interrupt the gentleman from Indiana. The attention of the Chair was not called to the rule before. When a motion or proposition is made, the question, "Shall the House now consider it?" is not put unless it is demanded by some member, or deemed necessary by the Speaker. Without expressing any opinion as to whether the rule is applicable or not, the Chair thinks that the application of the gentleman from Ohio comes too late when the House has permitted debate on the pending proposition.

Mr. GIDDINGS. I know that, in the other House, the party making a proposition has been

fully heard before the question of reception was raised. I know, too, that here the question of reception has been raised after the member presenting a proposition has been heard in explanation of it. I am not prepared to say but that the Speaker is right. I think, however, that a member has the right to raise the question when the member making a proposition has explained the reason for its presentation. But I am willing that this question shall be decided at this time.

Mr. ENGLISH. Mr. Speaker, I have been for five years a member of this House; and I can appeal to the record to bear me out in the assertion that, in all that time, I never have uttered a sentence reflecting upon the personal character of any of my associates upon this floor; and never before have I had any occasion to notice or to refer to any charges of a personal character against myself; nor do I deem it necessary to say more now than to make a plain, unvarnished statement of the facts in this case.

I begin by premising that I know of nothing in law or morals which would make it improper, in any sense of the word, for a member of Congress to purchase the lands of the United States. I presume that that is a position which will not be called in question by any human being at all familiar with the laws of this land and the practice of the Land Office. I presume that the majority of the members of Congress have, at one time or other, entered or purchased Government land, with money or warrants. The only question, then, is, as to whether there was an impropriety in entering the land, in the present case, in the manner alluded to in the extracts from newspapers, which the gentleman from New York [Mr. SPINNER] has thought proper to introduce here? The statute is very explicit on this subject, and it is one which has been in existence for twelve years, and known to all men familiar with the laws of Congress. It is as follows:

"That it shall be the duty of the Commissioner of the General Land Office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of any expense, any warrant which the holder may transmit to the General Land Office for that purpose, in such State and land district as the said holder or warrantee may designate, and upon good farming land, so far as the same can be ascertained from the maps, plats, and field-notes of the surveyor, or from any other information in the possession of the local office, and upon the location being made as aforesaid, the Secretary shall cause a patent to be transmitted to such warrantee."

Nor is this all. A reference to the face of the land warrants themselves shows the fact that the holder of them has the right to locate in any land office directly, or through the General Land Office in the city of Washington. Here is the language:

"NOTE. You can locate this certificate at any of the United States land offices, or it will be located for you by the General Land Office on the return of it, with your request to that effect indorsed thereon, specifying the State and land district in which you wish the location made."

That is the whole of the case. On the 23d of last February, my worthy colleague [Mr. FOLEY] and myself, for ourselves and certain of our constituents who had requested us so to do, deposited in the General Land Office here certain land warrants, with the request that the same be located in the State of Iowa, under the public laws of the United States and the instructions of the Secretary of the Interior and the Commissioner of the General Land Office, which were the same in reference to all persons. There was no favoritism about it, in any shape, manner, or form. It was a legal, *bona fide* transaction; one made in good faith in every respect whatever, and neither illegal, unusual, nor improper.

Now, sir, for the purpose of making this matter clear beyond all cavil, I will send to the Clerk's desk to be read the identical instructions which were issued from the Department of the Interior, and under which these land warrants were located, if they are located; of which fact, however, we have no official information. Here are the papers, and it will be seen from them that no privileges were given to us that were not alike extended to every other person, high or low:

GENERAL LAND OFFICE, April 27, 1858.

SIR: As requested by you this morning, I have the honor to inclose a copy of the instructions of the Secretary of the Interior to this office, of the 19th February, 1858, under the second proviso to the fourth section of the act of 28th September, 1850, Statutes at Large, volume 9, pages 520-1.

Very respectfully, your obedient servant,

THOMAS A. HENDRICKS,

Commissioner.

Hon. W. H. ENGLISH, House of Representatives.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, February 19, 1858.

SIR: The proviso attached to the fourth section of the act of Congress granting bounty lands for military services, approved September 28, 1850, makes it "the duty of the Commissioner of the General Land Office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of expense, any warrant which the holder may transmit to the General Land Office for that purpose, in such State and land district as the said holder or warrantee may designate, on any good farming land, so far as the same can be ascertained from the maps, plats, and field notes of the surveyor, or from any other information in possession of the local office."

The second section of the act of March 22, 1852, "to make land warrants assignable, and for other purposes," authorizes the registers and receivers of the land offices thereafter to "charge and receive" a certain "compensation or percentage" * * * * * "for their services in locating all military bounty land warrants issued since the 11th of February, 1847."

The sixth section of the act of 3d March, 1855, "in addition to certain acts granting bounty land" for military services, also authorized certain charges on the location of warrants issued under that act.

The proviso in the act of September 28, 1850, hereinbefore recited, has been modified by these subsequent enactments, and locations cannot be made "free of expense," but are subject to specific charges to be paid by the locator.

The act of 22d March, 1852, which extended the bounty granted by the act of 1850, to certain cases, in its fourth section provides that "all the benefits of the last mentioned act, shall be extended to those cases; and the fourth section of the act of 3d March, 1855, authorizes the location of the certificates or warrants issued pursuant to that act, according to existing laws regulating the location of bounty land warrants."

The rights of the warrantees and assignees of bounty land certificates, issued under the acts of 1850, 1852, and 1855, appear to be on an equality, therefore, so far as relates to the duties to be performed by executive officers, in the location of warrants.

The Commissioner of the General Land Office will, therefore, receive military bounty land warrants issued since the 11th of February, 1847, whenever presented at his office by the owner, with the request accompanying them that they be located in a specified land district; and when the Commissioner is satisfied that proper steps have been taken by the applicant to place the amount of money, legally chargeable on effecting the location of the warrant or warrants, in the hands of the district officers, he will forward the warrants to the register and receiver of the proper district, to be by them located, pursuant to the proviso of the last section of the act of September 28, 1850.

And as it is manifest that the proviso can only be carried out in harmonious conjunction with other enactments regulating the disposal of the public lands, and the assignment and location of bounty land certificates, the warrants presented at your office can have only such opportunities of location at the district office, after the arrival of the money and warrants there, as the owner could have if personally present, and offering said warrants and money, on the day that they both first reach the local office in business hours.

The act of 23th September, 1850, contemplates that the particular tracts to be located in this manner shall be selected or designated by the local officers of any particular district, from the vacant public lands in such district liable to be located by the specific warrants sent them from your office. And when locations are made by district officers in cases of this kind, they will certify, in connection with their usual certificate in each case, that the location has been made "upon good farming land, so far as the same can be ascertained from the maps, plats, and field-notes of the surveyor, or from any other information in the possession of the (said) local office."

Whenever, therefore, military land warrants are presented to your office for location, you will "cause them to be located" in accordance with the views above expressed.

Very respectfully your obedient servant,

J. THOMPSON, Secretary.

The Commissioner of the General Land Office.

I desire to call the particular attention of the House to one sentence of these instructions:

"And as it is manifest that this proviso can only be carried out in harmonious conjunction with other enactments regulating the disposal of the public lands, and the assignment and location of bounty land certificates, the warrants presented at your office can have only such opportunities of location at the district office, after the arrival of the money and warrants there, as the owner could have if personally present, and offering said warrants and money on the day that they both first reach the local office in business hours."

That covers the whole case, and shows there was no preference in any shape given to these warrants.

I also want to call the attention of the House to another fact. These lands were brought into market, and the local land office opened, on the 23d of February last. The warrants were not deposited in the General Land Office here until that day, therefore the holders of these warrants had no preference. On the contrary, they were compelled to wait fourteen days, the length of time required to transmit the warrants from this city to the local land office; and in the mean time all persons there present had an opportunity to choose and select their lands. There was no attempt to locate the lands here. The warrants were simply sent to the local office there, for the purpose, under the law, of having the local land officers locate them under these instructions, and under the statute to which I have referred.

Therefore, so far from its being true that the holders of these warrants had any advantage, it will be seen by all that they did not stand even upon an equality with those present, because they had no opportunity to get any land until fourteen days after the lands were opened for location to everybody.

It is well enough, too, to remember that this transaction occurred last February, and not recently, as the gentleman's resolution might lead people to suppose. I am strongly inclined to believe that the gentleman was prompted by party malice, and that the whole object and intention of bringing this question forward was to create an impression upon the country that my course upon the Kansas question was influenced by some favoritism in this transaction; and I desire to say most emphatically, that if the gentleman from New York, or any other gentleman, inside or outside of this House, makes that charge, or insinuates that my course in relation to the Kansas question has been influenced by any other than worthy, proper, and patriotic motives, I denounce him, and send him forth branded as a liar, a poltroon, and a coward. [Cries of "Good!" "Good!"]

Mr. DAVIDSON, from the Committee on Enrolled Bills, here reported as truly enrolled an act for the relief of Duncan Robertson; when the Speaker signed the same.

Mr. SPINNER. I have no excuses to make for what I have done here. I am responsible for it. I merely wish to repel the charge made by the gentleman from Indiana who first spoke, [Mr. HUGHES,] that I obtained the floor to offer my resolution surreptitiously. So far as that is concerned, sir, most certainly every gentleman upon this side of the House will bear me witness that the only motive they had for remaining here, and preventing an adjournment at that time, was because they desired to have the resolution introduced before the House adjourned. And with that view I made the remark that if gentlemen desired to adjourn they could effect it by receiving the resolution which I proposed to introduce.

The gentleman from Indiana made another charge, if I understood him correctly, and that was, that I had said that I did not desire a committee of investigation. That charge is false. The gentleman may have been so informed, but it is utterly untrue, and I defy the gentleman to prove it.

Mr. HUGHES. All I have to say on that subject is, that I am prepared to prove it conclusively if there be an investigation.

Mr. SPINNER. I hope the House will take a vote upon the question immediately. I was anxious that it should be done when the gentleman from Indiana took his seat. If my course here, with a view of ascertaining whether a public officer has any right to give members of this House, or of the other House, privileges beyond the common citizens of the United States, is wrong, I am willing to be censured for it.

I merely wished to repel those two charges. I did desire a committee of investigation, for I desired to know the truth of the charges. The resolution embraced slips cut from a Republican and a Democratic paper—the one making a charge against a Senator, and the other defending the Senator, because that persons who voted against the Lecompton bill were equally implicated. It did not deny the fact, but made that defense. My object was to ascertain whether an officer of the Land Office had the right to do as he had done. I did say afterwards, that perhaps my object had been attained, and that I cared little what disposition the House made of it.

Mr. FOLEY. Were you not satisfied, before you offered the resolution, that this transaction was perfectly legal and according to usage?

Mr. SPINNER. No, sir. I thought it was wrong.

Mr. FOLEY. Were you not satisfied that it was legal?

Mr. SPINNER. I was not aware that it was legal. I thought it was wrong.

Mr. FOLEY. You insinuated a slander.

Mr. GIDDINGS. I would inquire of the Chair if it is too late to raise the question whether this is a question of privilege or not?

The SPEAKER. The Chair decided this to be a question of privilege. Of course any gentleman taking exception to the ruling of the Chair had the right to take an appeal from the decision. The Chair did not, in so ruling, attempt to rule upon

the question of facts set out in the preamble. The Chair simply discovered from the reading of the resolution that it contained a proposition to censure a member of the House. That the Chair considered to be a question of privilege. Whether the alleged facts were true or not, it was not the province of the Chair to determine.

Mr. GIDDINGS. I only desired to get the precise decision of the Chair. My own views are that this House has no control over individual members of the House in the discharge of their duties, and that this House will not take upon itself to decide that question. I do not consider the Speaker as having considered that point at all. Will the Chair now propound the question to the House whether they regard it as question of privilege.

The SPEAKER. The Chair has already decided the question; and, if a majority of the House are of opinion that the decision of the Chair is incorrect, it is perfectly competent for the House to overrule the Chair. The Chair stated on a former occasion that, whenever a question of privilege was raised by any gentleman upon the floor, and the Chair had doubts as to whether or not it was a question of privilege, the Chair thought the safest practice was to refer the matter to the House, to take its opinion as to whether it was or not. But here the Chair had no doubt that the resolution involved a question of privilege, because it proposed to censure a member of the House; and so he decided.

Mr. GIDDINGS. I wish the Speaker to understand my point, and that is all I desire.

Mr. CRAIGE, of North Carolina. If no appeal is taken, I object to debate as being out of order.

The SPEAKER. The gentleman from Ohio is stating a question of order.

Mr. CRAIGE, of North Carolina. He has stated his point of order, and the Chair has overruled it; and, unless an appeal is taken, I object to debate.

The SPEAKER. The gentleman from Ohio rises and intimates that the Chair has misconceived the precise point of order which he raised. The Chair desires to hear the gentleman from Ohio, thinking that he has not misconceived the point.

Mr. CRAIGE, of North Carolina. In that view of the case, I will not press my point of order.

Mr. GIDDINGS. I do not understand the Chair to have decided that the House has the right or the privilege to censure a member for the discharge of his duty.

The SPEAKER. That is for the House to determine when they come to vote upon the resolution.

Mr. GIDDINGS. Is it too late to raise it as a question for the House to determine now, whether they will entertain this as a question of privilege? That is what I want to get at. Will not the Speaker now propound the question to the House whether they will take jurisdiction of this case?

The SPEAKER. The Chair cannot propound the interrogatory to the House, the Chair having decided that the resolution involves a question of privilege in his opinion. As to whether it be a question of privilege, there may be no dispute about that, and yet the House might conclude that the resolution ought not to pass.

Mr. GIDDINGS. The very point that I wish to get at is, whether the House will consider the resolution on its merits.

The SPEAKER. The Chair regards that point as having been decided when the resolution was entertained as a question of privilege.

Mr. CAMPBELL. It is my purpose, Mr. Speaker, to move to lay this whole subject on the table. Before submitting that motion, however, I will occupy a few moments of the valuable time of the House in regard to the question which has been so suddenly sprung upon the body.

It was my misfortune—perhaps a misfortune—during the last Congress, when all the important business of the country was undisposed of, and the appropriation bills in my charge had not been acted on, (being chairman of the Committee of Ways and Means, and anxious to carry them through the House,) to make the remark, when a proposition was submitted to have a committee of investigation, based upon something that had

appeared in a newspaper, that I did not think it becoming the dignity of the House to bring itself down to a level with those who might see fit to malign it through the medium of "manufactured rags and oil." I wish to avail myself of this occasion to say that I alluded then to that class of scribblers who are hired to malign those who are in power, and not to those who, through that medium, honestly seek to disseminate correct information.

I do not see any propriety in pursuing this matter further. Every one must be satisfied, from the statement of the gentleman from New York, [Mr. SPINNER,] that his object was correct; it being to ascertain whether an executive officer of this Government could give to Senators and members of this House advantages, in entering lands in the far-off West, which the hardy pioneers who have gone there could not have.

I hold in my hand, sir, the Daily Globe, the official paper of Congress, by John C. Rives, of December 7, 1857, containing this charge:

"Who will not be stricken with horror and shame at the evidences afforded by the following abstract of documents, on file in the office of the Register of the Treasury, connected with a fraudulent account of William Cullom, Clerk of the House of Representatives of the United States against the Treasury of the United States, and the collusion [mark the words] therein by the Secretary of the Treasury?"

Here we have the official paper of Congress, published at the expense of Government, charging directly upon the Secretary of the Treasury a collusion with the late Clerk of the House, to rob and plunder the people. You have organized a committee of investigation into the conduct of the Clerk, but none into the conduct of the Secretary of the Treasury. My opinion, founded as it is upon a long acquaintance with both those gentlemen, is that the charge is untrue.

Again, coming a little further down, I have here the Boston semi-weekly Courier, which has just been handed to me. I do not know what its politics are, but I send it up, and ask that the extract which I have marked may be read.

The Clerk read the extract as follows:

"Again, notwithstanding all this, the Republican-American coalition majority in Congress in 1857, under the same degrading circumstances—at least, intoxicated with their temporary enjoyment of power—voted the extra allowance to their clerks; and upon motion of one of the Massachusetts members, the outrage was committed in an aggravated form. This motion was so worded that the clerks might claim under it extra pay for services in previous years; so that, in one instance, the allowance reached the sum of several thousand dollars. The account was disallowed by the First Comptroller of the Treasury, at that time the venerable and upright Mr. Whitlesey, of Ohio. He refused to allow the payment, on the ground that the appropriation was illegal, being a direct and express violation of the joint resolution, and therefore law, of 1854. The Comptroller was beset by interested parties to this gross fraud, and every mode of appliance was resorted to, to induce him to change his view of the matter and his purpose to resist the payment to the extent of his official power and duty. Personal appeals were made to him by members of the House, in behalf of the allowance, and, if two distinguished leaders of the coalition party (Mr. Banks, then Speaker, and Mr. L. D. CAMPBELL of Ohio) are not very much belied, they approached the Comptroller, not only with urgent solicitations, but with dishonorable propositions, to induce him to wink at the allowance, illegal as it might be. His integrity, however, was proof against all such approaches. His decision was confirmed by the Secretary of the Treasury; and now, as before, the attempt is made to defeat the law through the deficiency bill, in which it is sought to defraud the Treasury by the pretense that the late Clerk of the House has paid the said extra allowances, under a vote of the House, and that it ought to be refunded to him."

Mr. GROW. I rise to a question of order. I want to know if the Speaker will rule as he did yesterday, that papers cannot be read here which reflect upon members of this House?

The SPEAKER. The Chair would state that the general rule would hardly be applicable in this case, inasmuch as the gentleman from Ohio himself asks that the paper be read.

Mr. CAMPBELL. I read these merely as specimens of the attacks which are made in both official and unofficial papers, upon members of Congress. I will not indulge in language such as the gentleman from Indiana [Mr. HUGHES] has just used in regard to them. I will simply say that I think the publication in the Globe imputing corruption upon the late Clerk, [Mr. Cullom,] and the present Secretary of the Treasury, [Mr. Cobb,] and that I know the charge in the Boston Courier against the late Speaker and myself are without any foundation in fact. I could go on, if I had before me the files of newspapers which I have at home, for an hour or more, quoting from the attacks made in various newspapers against

members of this House, upon any one of which, if true, a committee of investigation might be justified.

Mr. Speaker, several committees of investigation have been organized during the present session of Congress, one of which reported this morning. Others will report.

As a little incident interesting to myself, in reference to these charges of the press, I will refer to one of the many which have been made against me as a member of this House.

At the commencement of the last Congress, this House was in a partial state of revolution, unable to elect a Speaker. Remembering that many years ago a high compliment was paid to Massachusetts by South Carolina [the motion of Mr. Rhett to place John Quincy Adams in the chair] under similar circumstances, I moved a resolution giving the temporary honors of the same position to a gentleman from South Carolina with whom I had served for many years, and in whose impartiality and ability to preside I had confidence. For that act I was denounced throughout the entire North by the press of the party with whom I had acted. Some of my constituents, among them my best friends theretofore, demanded that I should resign, charging that my proposition gave satisfactory evidence that I had abandoned my principles, and sold myself out to the South. I did not deem these charges—

Mr. CRAIGE, of North Carolina. I rise to a question of order. I should like to know what the resolution offered by the gentleman from Ohio during the election of Speaker in the last Congress has to do with the question before the House?

Mr. CAMPBELL. It was merely to show that this whole subject, based on newspaper charges solely, ought to be laid on the table.

The SPEAKER. It is hardly in order.

Mr. CAMPBELL. Very well; I will not disturb the gentleman from North Carolina by reference to any of my grievances.

Mr. CRAIGE, of North Carolina. It is no disturbance to the gentleman from North Carolina; but I thought it might be to the Speaker.

Mr. CAMPBELL. The Speaker is not easily disturbed. I could name many instances where committees of investigation have been organized. During the present session a committee was organized to inquire into the proceedings of the Committee of Ways and Means, and of members of the last session in reference to the passage of the tariff act. It was founded upon newspaper report. I was absent with a sick family, in Ohio, at the time it was organized, or I should have then submitted some remarks in reference to the passage of that tariff act. It is not proper now that I should say anything upon that subject. When the proper time comes I may, if here, take occasion to say something. By the many precedents, the gentleman from New York [Mr. SPINNER] was certainly justified, on yesterday, in proposing an investigation into the conduct of an executive officer whose integrity was involved in the publications his proposition embodied.

The Chair, whether properly or not, I will not say, ruled yesterday that the reading of the charges was out of order. This morning there seems to be a change in the programme and it has been decided in order to read them.

I do not believe that a committee of investigation at this stage of the session would produce any practical benefit to the country. It may be that the result would vindicate the integrity of the Commissioner of the General Land Office, (which I have no reason to doubt,) and of the officer of the land office at Council Bluffs. But, sir, on the other side, the party friends of those officers, do not want an investigation. Therefore—

Mr. ENGLISH. If I understand the gentleman to say that gentlemen on this side of the House do not want an investigation, he is mistaken. I, for one, desire an investigation so as to show to the House that the resolution introduced by the gentleman from New York is slanderous and unfounded.

Mr. CAMPBELL. Very well, then. The gentleman from New York [Mr. SPINNER] is ready to meet the responsibility of his motion of yesterday, and instead of the motion to lay the whole subject on the table, I move the previous question on the passage of the resolution.

Mr. WASHBURN, of Maine. I appeal to the gentleman to withdraw the demand for the

previous question for a moment. I will renew it if he wishes.

Mr. DAVIS, of Maryland. I move to lay the whole subject on the table.

Mr. WASHBURN, of Maine. I ask the gentleman to withdraw that motion for a moment.

Mr. DAVIS, of Maryland. The gentleman will pardon me. I insist upon my motion.

Mr. SPINNER. I hope the House will not lay the resolution on the table.

The motion was agreed to.

Mr. CHAFFEE moved to reconsider the vote by which the whole subject was laid on the table, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RECESS IN COMMITTEE.

The SPEAKER stated the business first in order to be the demand for the yeas and nays upon the motion to lay on the table the motion to reconsider the vote by which the main question was ordered upon the following resolution:

Resolved, That during the present week, it shall be in order each day after to-day, for the Committee of the Whole to take a recess until seven o'clock, p. m., after which hour general debate may be indulged in: *Provided*, That no vote shall be taken at such evening session, except on motions that the committee rise, and that the House adjourn.

Mr. FLORENCE. I withdraw the motion to reconsider. I suppose that will bring us to vote directly on the resolution.

The SPEAKER. It will bring the House to a direct vote.

Mr. CRAIGE, of North Carolina. Have the yeas and nays been ordered on the resolution?

The SPEAKER. They have not been.

Mr. CRAIGE, of North Carolina. I demand the yeas and nays.

Mr. SMITH, of Virginia. Is it in order to amend the resolution?

The SPEAKER. It is not; the previous question having been ordered.

Mr. HOUSTON. I desire to have general consent to insert in the resolution a proviso confining debate during the day to the legitimate subject of discussion.

[Cries of "No!" "No!" all over the Hall.]

Mr. FLORENCE. If I understand the purpose of the resolution it takes effect from to-morrow, and not from to-day. If so, I have no objection.

Mr. EDIE called for tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

Mr. CRAIGE, of North Carolina, called for tellers on the resolution.

Tellers were ordered; and Messrs. CRAIGE, of North Carolina, and EDIE were appointed.

The House divided; and the tellers reported—ayes 110, noes 33.

So the resolution was adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. PHILLIPS. I ask leave to introduce a bill for reference.

Mr. CLINGMAN. I call for the regular order of business.

PENSION BILL.

Mr. SAVAGE. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BURNETT in the chair.)

The CHAIRMAN stated that the business first in order was the consideration of House bill No. 259, granting pensions to officers and soldiers who served in the war of 1812, and in the Indian wars during that period.

Mr. SEWARD. I call for the reading of the resolution making it a special order.

The CHAIRMAN. The last resolution adopted by the House directed that when the House should again resolve itself into the Committee of the Whole on the state of the Union on House bill No. 259, debate should terminate thereon in three hours, and that then the committee should proceed to vote upon amendments.

Mr. SEWARD. I want to get at the first resolution which made this bill a special order. I want it read, for I deny that that order is extended by the second resolution.

Mr. J. GLANCY JONES. I would inquire whether it is not now in order to move to take up an appropriation bill?

The CHAIRMAN. The Chair thinks not, for the reasons which he has just stated in reply to the gentleman from Georgia, [Mr. SEWARD.]

Mr. J. GLANCY JONES. Then the Chair rules out my motion?

The CHAIRMAN. He does.

Mr. SEWARD. I ask for the reading of both resolutions.

The CHAIRMAN. They are in the office of the Clerk, and have been sent for.

Mr. J. GLANCY JONES. I make the point of order that it is in order to move to take up an appropriation bill.

The CHAIRMAN. The Chair is already entertaining a point of order which is not yet disposed of. When that is disposed of, the Chair will entertain the point of order raised by the gentleman from Pennsylvania. The point of order raised by the gentleman from Georgia is, that the resolution originally adopted by the House closing debate upon House bill No. 259, is not now in force, it having expired by the terms of its own limitation. The Chair overrules the point of order, for the reason that the House, by a subsequent resolution, directed that when the House should again resolve itself into the Committee of the Whole on the state of the Union, all debate upon this bill should terminate in three hours, and that the bill should then be read through by sections, subject to amendment.

Mr. DAVIS, of Maryland. I desire to appeal from the decision of the Chair upon that point of order.

Mr. JONES, of Tennessee. I supposed the resolution closing debate was in the usual form. The usual form is, that all debate shall close at a certain specified time after the Committee of the Whole on the state of the Union shall again resume its consideration. This resolution, I now understand, is worded differently. It provides that all debate shall terminate, in committee, in three hours after the House shall again resolve itself into the Committee of the Whole on the state of the Union. Now, sir, notwithstanding the difference in the wording, I contend that there is nothing in that resolution which requires this committee to take up that bill again. But whenever the committee shall take it up, if it is more than three hours from the time the House again resolves itself into committee, then general debate is closed, and we must go on and vote upon it. To have continued it a special order would have required, as originally, a two-third vote of the House.

Mr. KEITT. If there be any question about the matter, I will move that the committee rise.

Mr. DAVIS, of Maryland. I believe I took an appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Georgia made a point of order, and proposes to take an appeal as soon as the resolutions can be reported.

Mr. DAVIS, of Maryland. Very well, sir; that will do.

Mr. SEWARD. I propose to state my point of order. The first resolution passed by the House in relation to this bill fixed the 22d, 23d, and 24th days of April, as the days upon which this bill should be considered. The second resolution proposed that when the House again went into the Committee of the Whole on the state of the Union, all debate should be closed upon that bill within three hours. What I want the Chair to understand is this: that there is no conflict between the two resolutions; they are precisely like two statutes which can be harmonized and made perfectly consistent with each other. Well, now, in all legal contemplation, the last resolution passed was intended to present this state of things: that if the House went into committee upon either of those days—the 22d, 23d, or 24th instant—the debate should be closed within three hours thereafter upon that bill.

That is the fair, legal, and legitimate construction of those resolutions; and I cannot understand how they can be tortured so as to allow a special order to be transferred and extended indefinitely.

I hold that the resolution closing debate only applied to the three days for which the bill was made the special order, in case the House went into committee on either of those days; and if the Chair decides otherwise, I shall appeal from his decision.

The Clerk then read the resolution making the bill a special order, as follows:

Resolved, That bill No. 259, granting pensions to the soldiers of the war of 1812, and those engaged in Indian wars during that period, be referred to the Committee of the Whole on the state of the Union, and be made a special order therein for the 22d, 23d, and 24th days of April next."

Mr. SEWARD. Now read the resolution closing debate, which was adopted on Saturday, April 24, 1858, one of the days for which the bill was made a special order.

The Clerk read the resolution, as follows:

Resolved, That all debate in the Committee of the Whole on the state of the Union on bill of the House (No. 259) granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period, shall cease in three hours after the House shall again resolve itself into the Committee of the Whole on the state of the Union, and the committee shall then proceed to vote on such amendments," &c.

Mr. SEWARD. The House did not go into the Committee of the Whole at all until the special order was exhausted, and, therefore, the last resolution necessarily failed in legal contemplation.

The CHAIRMAN. The Chair overrules the point of order.

Mr. SEWARD. I appeal from the decision of the Chair. It is necessary that this question shall be settled correctly.

Mr. WASHBURN, of Illinois. I call for tellers on the appeal.

Tellers were ordered.

The CHAIRMAN. The gentleman from Georgia raises the question of order that the special order for this bill has expired, as the original resolution limited it to the 22d, 23d, and 24th days of April. The Chair overrules the question of order for the reason that the House, by a subsequent resolution, determined that all debate upon this bill should terminate in three hours after the House should again resolve itself into the Committee of the Whole on the state of the Union. The Chair decides that, under that resolution, the first business in order before the committee is the consideration of this bill. From this decision the gentleman from Georgia appeals.

Mr. HOUSTON. Is the appeal debatable?

The CHAIRMAN. It is not.

Mr. HOUSTON. Why not? The general debate has not yet been closed. There are still three hours for discussion.

The CHAIRMAN. The Chair will say to the gentleman from Alabama that this is merely a question of the priority of business, and the Chair thinks that an appeal on such a question is not debatable.

Mr. HOUSTON. I desire then to ask the Chair this question: whether, if the decision of the Chair shall be sustained, it will not always be in the power of a majority of the House, by passing a resolution to close debate, to make any bill a special order; and whether that would not dispense with, supersede, and override the rule of the House that requires two thirds to make a special order?

The CHAIRMAN. The Chair would say to the gentleman from Alabama that this resolution closing debate was introduced and acted on by unanimous consent.

Mr. HOUSTON. That makes no difference. A resolution to close debate upon any bill is privileged, and does not require unanimous consent or a suspension of the rules. A majority of the House can, at any time, arrest debate upon a bill; but it takes two thirds to make a special order.

Mr. SEWARD. I desire to correct a statement made by the Chair. The Chair announced that there was a subsequent resolution passed, which superseded the one making this bill the special order for the 22d, 23d, and 24th days of April. My point is this: that the resolution closing debate is contemporaneous with the first resolution, having been passed on the 24th, and therefore, that its operation cannot go beyond the special order.

Mr. MAYNARD. The determination of this question will decide whether the House will take up a very important bill at this session of Congress. The House is now very thin, and I therefore move that the committee rise, so that we can take the question when next we go into committee.

Mr. JACKSON demanded tellers.

Tellers were ordered; and Messrs. WRIGHT, of Georgia, and WASHBURN, of Maine, were appointed.

The committee divided; and the tellers reported—ayes twenty, noes not counted.

So the committee refused to rise.

The question recurred upon the appeal from the decision of the Chair, upon which tellers had been ordered.

Messrs. WRIGHT, of Georgia, and WASHBURN, of Maine, were appointed tellers.

The committee divided; and the tellers reported—ayes 66, noes 58.

So the decision of the Chair was sustained as the judgment of the committee.

Mr. KEITT. I wish to inquire of the Chair whether, under the resolution of the House limiting debate to three hours, that discussion extends beyond the subject of the bill itself, or whether, the bill being a special order, discussion is restricted to the subject-matter?

The CHAIRMAN. If the question were raised, the Chair would decide that the discussion must be confined to the bill under consideration. The gentleman from Alabama [Mr. CURRY] has the floor.

Mr. WASHBURN, of Maine. I rise to a question of order. It is different substantially from that just decided by the Chair, raised by the gentleman from Georgia. My point is this: that it is competent for the Committee of the Whole on the state of the Union now to take up this bill, an appropriation bill, or any other bill that it can reach, and that the operation of the resolution terminating debate does not operate to make this a special order for three hours at the present time. I hold that the true and proper construction of the resolution is, that whenever the Committee of the Whole on the state of the Union has this question before it, it shall be then open for discussion for three hours, and no more, under the general debate; but that it is competent, at the same time, for the committee to pass this by, and take up any other bill on the Calendar. Otherwise, the Chair will perceive that it would be competent for any member of the House, at any time before going into the Committee of the Whole on the state of the Union, to move to terminate debate on any one of the fifty bills on the Calendar; and that would operate as a special order; so that a majority of the members, instead of two thirds, could, at any time, bring the Committee of the Whole on the state of the Union to the discussion and consideration of any question on the Calendar. Such I understand to have been the almost uniform ruling in the Committee of the Whole on the state of the Union heretofore. I think I recollect but a single instance in which the question has been ruled as the Chair intimates he shall rule.

The CHAIRMAN. The Chair would suggest to the gentleman from Maine, that whenever the question which he suggests comes up, the Chair will decide it.

Mr. WASHBURN, of Maine. Well, I raise the question now.

The CHAIRMAN. The gentleman cannot make it as a question of order. It will be only a question as to whether the committee will lay aside this bill and take up some other.

Mr. WASHBURN, of Maine. I understood that that was the motion made by the gentleman from Pennsylvania, [Mr. J. GLANCY JONES.]

The CHAIRMAN. The gentleman from Alabama [Mr. CURRY] is entitled to the floor, and the gentleman from Maine cannot take it from him for the purpose of moving to take up some other bill.

Mr. WASHBURN, of Maine. That is true; but I understood that the gentleman from Pennsylvania had made that motion.

Mr. CURRY. Then I claim the floor.

Mr. DAVIS, of Maryland. I took an appeal from the decision of the Chair, which came up properly in order after the point taken by my friend from Georgia. The gentleman from Pennsylvania, at the head of the Committee of Ways and Means, moved to take up the appropriation bills. The Chair determined that that motion was not in order. I took an appeal from that decision; and, at the suggestion of the Chair, waited till the appeal taken by the gentleman from Georgia should be disposed of. I respectfully insist now that the motion is in order, and I insist on that motion.

The CHAIRMAN. The Chair would suggest to the gentleman from Maryland that at the time the gentleman from Pennsylvania made his motion, he could not have the floor for that purpose—and for this reason, that the gentleman from Georgia was on the floor on a question of order; and the Chair did not receive or entertain the motion of the gentleman from Pennsylvania. Hence the gentleman from Maryland could not have taken an appeal from the decision of the Chair. The gentleman from Alabama is entitled to the floor.

Mr. GARTRELL. If my friend from Alabama yields me the floor for a moment, I desire to give notice to the committee that I shall, at the proper time, move to amend the first section of this bill, by striking out of lines ten, eleven, and twelve, the following words:

—“the amount of their full pay in said line, according to his rank, but not exceeding, in any case, the pay of a captain of infantry”—

and inserting in lieu thereof the following:

—the sum of ninety-six dollars, to be paid semi-annually.

Mr. KELLY. I desire to give notice that I will offer the following amendment, to come in at line nine, section two:

Provided, That the applicant prove, under such rules and regulations as may be prescribed by the Secretary of the Interior, that he is in indigent circumstances, and unable by manual labor to procure a subsistence.

Mr. CURRY. I approach the discussion of this subject with some reluctance, and am sensible of the difficulty and unpleasantness of the task. To deny a boon of this kind to those who are patriotically described as the “old soldiers,” subjects one’s conduct to misconception. It is very far from my purpose to derogate from the value of the services of those who fought the “second war of independence.” My impulses and feelings prompt me to the exercise of the largest liberality in their behalf; but impulses and feelings are not safe guides for legislation, and must yield to convictions of duty, springing, not from gratitude, but from the Constitution, the rights of others, and the state of the Treasury. “Pathetic duty,” said Livingston, in discussing this very question, “was a heresy in politics as in morals.”

It is the rule of all governments to grant pensions of some sort. In England, the King has been regarded as the sole judge of the merit for which pensions are to be given. The power was conceded to him to furnish rewards for public service, to acknowledge or stimulate merit, and to raise those who had been serving their country above the caprices of fortune. It has been sadly abused to sustain a royal household, to feed a host of parasitic dependents, to tempt and corrupt the opposition, to buy up placemen, and secure political influence. The nation grew restive under these grants of royal favor. A severe and protracted struggle has been waged to require ministerial responsibility for the bestowment of this patronage, to reduce and limit the amount of pensions, and secure parliamentary interference. The struggle has been so far successful that all parliamentary interference has been an “interference of restraint.”

Unlike England, in the United States the pension system, instead of being restrained, has been enlarged. As the screw, from every revolution, gathers additional power, so every enlargement of our pension list has but increased the demands and augmented the outside pressure. This bill is the most comprehensive of all; the most generous in its recognitions of merit; the most indiscriminate and princely in the bestowment of its charities.

To provide for the revolutionary soldiers, different acts of legislation have been passed by Congress. At an early period, during the war—as was stated by the gentleman from New York, [Mr. FENTON,]—pensions, adequate to their support during life, or the continuance of their disability, were rightly granted to those who lost a limb, or were otherwise disabled in the line of their duty. Subsequently these laws for the benefit of the wounded and disabled were enlarged and explained. In 1818, those “who served in the war of the Revolution until the end thereof, or for the term of nine months, or longer, at any period of the war on the continental establishment,” and “by reason of reduced circumstances in life,” were in need “of assistance from the country for

support,” were provided for. In 1828 pensions were given, without any qualification as to property, to all officers and soldiers who served in the continental line of the Army to the close of the war. Finally, in 1832, the terms were enlarged, and pensions were granted to *all* who served, in a military capacity, during the war of the Revolution, for a period of not less than six months. First, those disabled in the military and naval service received pensions; then the indigent and necessitous; and lastly, all were embraced.

So fervent was the national gratitude, these pension laws, although opposed in part by some of the purest and best men of the Union, received the popular sanction. It ought not to be forgotten, however, that it was repeatedly denied in debate that these laws could be claimed as a precedent for pensioning soldiers of later wars. It was asserted that no such claim could ever arise; that there could, in the nature of things, be no similar service. It was a physical, and moral, and political impossibility. To this that sagacious statesman and incorruptible patriot, Nathaniel Macon, in 1818, replied, that “it did not require the gift of prophecy to foretell that thirty or forty years hence as much may be said in favor of the army engaged in the second war of independence, as we have now heard about the first: though as much may not be said about the state of the country and of the sufferings of the people, because the facts will not warrant it.”

Sure enough, the prediction in forty years has been verified, and pensions for the soldiers of the war of 1812 are now claimed as a matter of right and justice. This bill goes even beyond the laws making provision for the soldiers of the Revolution. As before stated, the most comprehensive act granting pensions for revolutionary service was that of 1832. The rate of pension was graduated by the length of service and the grade or rank in which it was rendered. Two years’ service entitled the party to the full pay of his rank in the line, not to exceed, however, the pay of a captain. For shorter periods the pension was proportionably less; but no pension was provided for merely being in a battle, or for any length of service less than six months. A private’s pay in the Revolution was \$6 66 $\frac{2}{3}$ per month, or \$80 per annum. In the war of 1812 it was \$8 per month, or \$96 per annum; so that while the highest pension a private in the Revolution could receive for two years’ service was \$80 per annum, for one year’s service \$40 per annum, and for six months’ service \$20 per annum, this bill gives \$96 per annum for only three months’ service, or for even one day’s service, provided the party was engaged in battle. There were many persons, during the war of 1812, suddenly called into service, as at New Orleans, North Point, Plattsburg, and Bladensburg, who were engaged in “active battle,” and who were not in service but a few weeks; yet, under this bill, they will be entitled to full pensions, while the revolutionary soldier, who may have served five months and twenty-nine days, and during that period been engaged in more than one active battle, would receive nothing. The man who served only three months in the war of 1812 will receive, under this bill, \$16 per annum more than the revolutionary soldier who served two years; and yet how vast the difference between the two struggles!

This bill throws all other pension bills in the shade, and out-Herods Herod in the magnificence of its liberality. In very wantonness of generosity and gratitude, it throws aside restrictions, magnifies, as I have shown, the services of the soldiers of 1812 above those of the “times that tried men’s souls,” and rising above all such petty considerations as length of service, privations endured, disabilities incurred, it embraces in its scope all who served for a term of three months, or were engaged in a battle; all, without distinction, the invalid confined to his couch or hobbling on crutch, and the stout and stalwart; the rich, living in wealth and luxury, and the indigent, straitened by poverty and a numerous family; those who served five years and those who served three months. I am mistaken. The proposed amendment of my friend from Georgia, [Mr. GARTRELL,] reminds me there is a distinction. The general and colonel, and major and captain, get their forty dollars per month; the lieutenants their thirty dollars; the ensigns, their twenty dollars; the surgeons, their sixty dollars; the sergeants, their eleven dollars,

while the private, who shouldered his musket, bore his knapsack, performed the drudgery, fought the battles, has his eight dollars per month. It matters not if the common soldier has twelve children, and the officer only one child; the private has penury and want, and the officer plenty and ease, still this inexorable bill makes the distinction. The Duke of Cambridge, recently, with noble candor, declared that English prowess and achievements in the Crimean war were due to the common soldier. Without disparaging the gallantry and courage of our noble officers, I can truthfully affirm, and the experience of the distinguished gentleman from Mississippi [Mr. QUITMAN] will confirm the assertion, that we owe much of our military glory and *prestige* to the rank and file; and there is no just reason, when the Government is dispensing its gratuities, and bestowing its charities, for discriminating offensively and injuriously against the common soldier. It is a fallacy, that the officers encounter more dangers, or possess more patriotism than the privates, or are more concerned for their country's success in time of war.

The Scriptures commend the wisdom of the man, who, intending to build a tower, sitteth down first and counteth the cost to see whether he hath sufficient to finish it. So it is well enough for us, in advance, to count the cost of this bill and ascertain the probable annual expenditures under its operation. The estimate, I admit, must be somewhat conjectural; but the data are sufficient to give proximate certainty. I have before me a table, carefully prepared at the Pension Office, making an estimate of the amount involved in this bill. The estimates are based upon a comparison of the force engaged, with the bounty and granted under late laws for such service. The number of survivors, entitled to claim the benefits of the proposed pension and the amount necessary to be appropriated, are ascertained by finding the whole amount of force employed in the war of 1812, the pensions necessary for all, and then taking three eighths of those sums. After this liberal deduction, and including the marine and navy corps engaged in 1812, the amount involved in granting pensions under this bill is \$11,321,730 per annum. One of the strongest objections in 1818 to the bill, then under consideration, providing for the surviving officers and soldiers of the Revolution, as conceded by its advocates, was the supposed exorbitancy of the sum required, amounting to \$120,000 per annum. By this bill, in characteristic conformity with modern progressiveness, without any qualms of conscience, \$11,000,000—as much as the whole expenditures of this Government in 1825—are to be given away every year.

This exorbitant amount, I am aware, is hooted at, and considerations of economy are stifled by railing at improper expenditures in other respects, as if one wrong justified another, and by appeals for the soldiers, whose services are assimilated and made superior to the services of the revolutionary soldiers. Now, there is no legal obligation resting upon us to confer these pensions. There was no such stipulation in the contract between the Government and those who served it. They become, then, mere gratuities. If claimed as a matter of right, the next step will be to adopt the policy of Great Britain, which has her magnificent Chelsea hospitals for the relief and support of worn-out and disabled soldiers, and her Greenwich hospital, once a royal palace, as an asylum for seamen who, by age, wounds, or other accidents, become unfit for service. If the principle of this bill be right and defensible, then it is perfectly competent for Congress to construct hospitals and asylums and homes for those who have been soldiers and sailors, to feed and clothe and shelter them and their wives, and educate their children.

As practical legislators, it behooves us to ascertain whether the Treasury can support this large additional expenditure; and if it cannot, to provide the necessary means. Let us examine our present financial condition, as exhibited in the report of that most faithful and able public officer, the Secretary of the Treasury:

The Secretary of the Treasury estimates the aggregate means for the current fiscal year at.....\$75,389,934 00
Expenditures for same period.....74,963,958 41

Leaving an estimated balance of.....\$426,875 59
or less than half a million dollars in the Treasury on 1st of July, 1858.

Now, to operate this Government, a surplus is at all times needed of.....\$5,000,000 00
Appropriations for Sound dues, printing, and Army deficiencies, &c., will amount to.....19,000,000 00
Private claims to be paid.....1,000,000 00
Increase of Army.....2,000,000 00
Public expenditures, not estimated for, such as court, custom, and light houses.....5,000,000 00
Falling off of customs below estimates.....10,000,000 00
Making an aggregate of.....\$35,000,000 00
To meet this, Treasury notes have been authorized to the amount of.....20,000,000 00
Leaving unprovided for.....\$15,000,000 00

These are all moderate estimates, and they do not include the expenses of the Oregon war, amounting to four or five millions, the French spoliation, covering not less than five millions, the Pacific railroad, variously estimated from ten to one hundred millions, and yet this pension bill will add eleven millions more, making an actual *bonafide* debt of twenty or twenty-five millions, (besides the public debt of \$25,000,000,) for the payment of which no provision is made. No one, surely, contemplates the creation of this additional debt without preparing to meet it. How is it to be done? By loan or by increase of tariff. With ordinary prosperity, the present duties will be barely sufficient to defray the current expenditures. They will not bear an increase of several millions. The taxes, then, must be increased, if loans are not resorted to. On what articles? Will you abolish the free list, tea, coffee, &c., and put your increased tax on them, and sugar, iron, salt, coarse cotton and woolen goods, the prime necessities of life, or on luxuries? It is proposed to throw these additional burdens on the Government, and common legislative prudence and sagacity demand that ample and speedy provision should be made to meet them. Burdens are to be imposed, taxes are to be increased, retrenchment and economy made impossible, and the country should know it, and means should at once be placed in the hands of the Government to carry out your legislation. I insist that gentlemen who are pressing so vigorously the passage of this bill should accept the consequences of their legislation, and take the responsibility of increasing the taxes or negotiating a loan. If you give this gratuity, the laboring classes should be advised that they have to pay it. To such demands as this and many others, in the present financial condition of the Government, as Edmund Burke said in 1780, it should be now answered with firmness, "the public is poor."

This is a gloomy picture. Unfortunately it is a truthful one. Two causes may conspire to place the Government in a better condition. First, a rapid reaction in trade and commerce by increased general prosperity—swelling the importations and increasing the revenues. Secondly, by retrenchment—lopping off expenditures and resisting the pressure for large appropriations. Our legislation, thus far, has not furnished much assurance of a disposition to economize. Our Government has become disgracefully extravagant, and for it all parties are responsible. Under the watchwords, "retrenchment and reform," the friends of General Jackson carried on the political contest, in 1828, against the administration of the younger Adams. Under the same attractive rallying cry, the Whig party defeated Van Buren, and elected General Harrison in 1840. In 1841 Mr. Calhoun, the wisest and most sagacious statesman that this country, so prolific of great men, has produced, said, that \$17,000,000 were sufficient to defray the expenses of this Government, economically administered. Since then new territory has been acquired, our frontier has been extended, hostile and expensive tribes of Indians have been brought within our jurisdiction, and our expenses have necessarily increased, but out of all reason—they have run up to nearly eighty million dollars. To test whether these large expenditures are proper, and whether the revenue has been judiciously and economically applied, I propose to institute a comparison between 1840 and 1857; and to those who have not noted carefully our extravagance, the results will be astounding.

The disbursements of the Government for many years have been comprised under four general heads: the civil list, including foreign intercourse and miscellaneous, the military service, the naval establishment, and the public debt. The expenditures under the civil list, excluding foreign

intercourse and miscellaneous, have increased from \$2,736,769 31 in 1840, to \$7,207,112 42 in 1857, showing an increase of one hundred and seventy-five per cent. since 1840. The total expenditures, exclusive of the public debt, have run up from \$24,139,920 11 in 1840, to \$65,032,559 76 in 1857, showing an increase of about one hundred and seventy per cent., while the increase of the population during the same time has been only sixty-seven per cent. The contingent expenses of the two Houses of Congress were, in 1840, \$384,333 17, and in 1857, \$1,364,578 53. For printing and stationery for the two Houses were paid, in 1840, \$115,904 77, and in 1857, \$732,687 42. The cost of collecting the revenue, which is not embraced in the general expenditures, was, in 1840, \$1,513,138 23, and in 1857, \$3,161,935 86. The Army expenses were, in 1840, \$6,608,770 92, and in 1857, \$15,434,424 50. The aggregate strength of the Army in 1840 was ten thousand five hundred and seventy, and in July last, according to the report of the Secretary of War, fifteen thousand seven hundred and sixty-four. The average cost of each individual, in 1840, was \$625 93, and in 1857, \$979 09, making the present cost of each individual in the Army to exceed that of 1840 by \$353 16. The total expenses of the Navy, in 1840, were \$6,110,214 11, and in 1857, \$11,281,038 29. The whole number in marine corps and Navy, in 1840, were ten thousand and eighty-one, and in 1857, eleven thousand one hundred and forty-six. Leaving out the marine corps, the cost of each individual in the Navy, in 1840, was \$643 70, and in 1857, \$1,112 90. The appropriations for public buildings, custom and court-houses, post offices, &c., in 1840, were \$662,168, and in 1857, \$4,561,855 41. It is but proper to state that the revenue received at many of the points where these outlays have been made will not, in a dozen years, defray the cost of construction. These facts show that economy in the disbursement of the public money exists only in name, and admonish us against opening any other sources of expenditure.

It is an axiom that economy is the life-blood of Republics, and that it is robbery to take more money from the people than is barely sufficient for a wise and economical administration of public affairs. It ought to be engraven in letters of light on the walls of this Capitol, that Government has no more money than it obtains from the pockets of the people, and that it is a curse to have an overflowing Treasury. We are dazzled with the idea of a rich and magnificent Government, lavishly distributing its millions and attracting by its splendor the gaze of the world; but it is an *ignis fatuus*, luring but to destroy. We want a poor Government, and the people want light taxes and small expenditures. To quote from Mr. Calhoun:

"The purity and duration of our free institutions, looking to the vast extent of the country and its great and growing population, depend on restricting its revenues and expenditures, and thereby its patronage and influence, to the smallest amount consistent with the proper discharge of the few great duties for which it was instituted."

Having established the inequalities of the bill, the utter incapacity of the Government, with its present resources, to sustain this additional burden of eleven million dollars annually, and the necessity for more rigid economy instead of greater extravagance, I propose to advance a step further and suggest some general considerations in reference to this subject. The report accompanying the bill urges its passage "as an act to be done now to affect the future, constituting a military policy," and speaks of a liberal pension system as "almost a necessary consequence, while our military policy continues the same that it has been since the foundation of the Government." The gentleman from Tennessee [Mr. SAVAGE] who has special charge of the measure, in his able speech, enforced and elaborated the same view. No such stimulus is needed as is suggested in the report, and was argued by the gentleman from Tennessee, "to secure the love and confidence of our people," or to arouse "their ardor and patriotism to meet dangers yet to be encountered." It is a reproach to the valor and patriotism of our people to intimate that such sordid considerations control them in rallying to their country's standard in times of trial. The history of the country is luminous of the reverse. Every war in which we have been engaged bears honorable testimony of the contrary. When the "shrill trumpet and spirit-stirring drum and ear-piercing fife" are heard in

the land, from mountain and vale, from town and country, the citizen soldiery flock, not to the "royal banner," but to the stars and stripes, as the "waves come when navies are stranded."

I may assume, however, from what we have heard, that the object and purpose of the advocates of this measure are to fasten the pension system upon the country, to give it permanence, to incorporate it into our political and military organism, and establish a precedent which may be conclusively pleaded in favor of the allowance of these bounties to all soldiers engaged in all subsequent wars. Whether so intended or not, a favorable decision on this bill—

"will be recorded for a precedent;
And many an error by the same example
Will rush into the State."

As our regular Army is constantly engaged in skirmishes with hostile and predatory Indians, you cannot stop short of all who are in the service. Pensions to the revolutionary soldiers cannot be justly used as a plea for this enlargement of the system. The Revolution had a special preeminence, lifting it above all other wars; and it is idle to assimilate to it the war of 1812 and cotemporary Indian wars. Half starved, half clad, tracking their course with blood, the hardships endured, the sacrifices made, the toils and privations undergone, by the heroes of 1776, find no parallel in later wars. It is not necessary to institute a comparison as to the courage and gallantry of the men in the two wars, or the value of their services. Suffice it to say that, in our revolutionary struggle, the Americans were regarded as rebels and traitors, and not unfrequently treated as such. The Government was unstable, precarious, and often inactive. "In journeyings often, in perils by their own countrymen, perils in the city, perils in the wilderness, in weariness and painfulness, in watchings often, in hunger and thirst, in cold and nakedness," the revolutionary soldiers fought against the mother country, and received their scant pittance in a depreciated currency. Very different was the war of 1812. It was a regular war between two independent nations, conducted, for the most part, according to the recognized rules of modern warfare. The soldier, when discharged from service, or before, received his pay in good money, and one hundred and sixty acres of land besides. The soldiers of the war of 1812 were gallant men; deserve well of their country; but wherein do they exceed in personal courage, value of services, or hazards of war, those engaged in the Seminole war in 1817; the Black Hawk war in 1832; the Florida war from 1835 to 1842; the Creek disturbances in 1836; or the Mexican war in 1846? There can be no distinction in principle. There is no talismanic superiority in service against British troops or the Indians during the war of 1812, over Mexican troops or the Indians, at a later period than 1815. If one be entitled, so are the others; and the passage of this bill inaugurates a policy which cannot be arrested. Vote this gratuity, distribute these bounties, and you array and ramify influences which, possessed of the precedent and acting on the defensive, will defy and defeat all efforts to arrest, or return to economy. The first man who proposed, in Rome, a gratuitous distribution of corn from the public granaries was condemned to suffer the punishment of treason. After a while the pensioners became so numerous that the most absolute and despotic emperors feared to interfere with their bounties. When Augustus came to power, he found three and twenty thousand citizens of the male sex (for females were excluded) enrolled as recipients of the public dole; and, while he confessed that these *largesses* were working unmitigated evil, he avowed, in later years, that, if he withdrew the gratuitous distributions, a successful rival would displace him, and restore them.

This question is argued as if the Government had unlimited power, and could sequester, at will, the property of its citizens. I do not belong to that school of politicians who invest Congress with the omnipotence of the British Parliament, and from the power "to lay and collect taxes," "to raise and support armies," "to provide and maintain a navy," claim sovereignty over property, and the uncontrolled right to appropriate it, as caprice or partiality or hate or benevolence may dictate. There is no sovereignty in Congress; and when we tax the people beyond what is necessary for an economical administration of

the Government, to bestow bounties, gratuities, and pensions, we rob Peter to pay Paul; we oppress a majority to support a few favorites; we transfer the property of nine men to the tenth man. It was never intended to invest our Government with an absolute power over the property of the citizens. Our revolutionary struggle was a successful protest against the English notion of sovereignty over private property. Representation is a farce; popular elections are an abortion; constitutions are ropes of sand; our Revolution was a failure, if there is sovereign power over property in this Government. Clear grants of power, specific enumerations of objects of appropriation, reservations of undelegated power, were unnecessary if Congress can indulge a "sovereign, legislative patronage in favor of local, private, or individual interests." English kings have claimed the right to dispose of public and private property to favorites, to purchase adherents; but I have sought in vain for any word of the Constitution authorizing us to make donations, or bestow benevolence with the money of the people.

Great Britain has struggled for years to relieve herself of the excesses of her pension system, to make ministers responsible for the bestowment of her gratuities; and we, with the benefit of her experience, are gravely proposing to take up and adopt her exploded and condemned theories. Her experience ought to be an admonition to us; but, in the face of it, and without a clear ground of constitutional authority, we are copying a bad example.

The history of pensions, in other lands, is a history of frauds and abuses. Here we have men, rioting in luxury, begging to be quartered on the Government, and a greedy troop of cormorant speculators and claims agents, harpy-like,

"Contactu omnia fedans immundo,"

getting up instructions from Legislatures, and inciting a clamor for the "poor soldiers," many of whom would be fleeced of a large portion of what you propose so munificently to donate. In other countries, the system is reprobated; in this, its consequences will be most pernicious.

A class of consumers will be created, interested in sustaining a Government that supports them, who will advocate large expenditures, and may infuse poisonous opinions in the public mind. Crowned heads, by pensions, attach families to the throne, secure political influence, and enlarge their power. Congress, by its douceurs and gratuities, may extend the power and patronage of this Government, already alarmingly great, and raise up a class of "feeders upon legislative patronage," who are interested in giving a blind support to all its measures, and uninquiringly acquiescing in whatever may be done. I repeat, as there is no sovereignty in this Government—least of all, a sovereign power to take away the property of the citizens—and as Congress is but an agent or trustee, it cannot exercise powers not delegated, nor give bounties and do benevolence at the expense of those who created the Government.

Suppose we concede, for argument's sake, that the power to grant pensions and make gratuities and give away the public money as caprice or kindness prompts, was conferred in the Constitution: I should then hold that the system was unwise and inexpedient. It is bad policy to accustom men to look to Government for support. It is unwise to quarter soldiers or sailors, able-bodied and healthy, on the public Treasury. It is destructive of manly independence to rely on extrinsic means for subsistence. This whole matter grows out of a wrong conception of the duty and design of a free Government. Instead of having men as stipendiaries, instead of making Government an almoner of bounty, and converting it into a huge eleemosynary concern to dispense charity; instead of making it a sort of second-hand Providence, predestinating, regulating, and controlling the destiny and pursuits and industry of individuals, its duties are few, simple, and well defined. In France, Government may be expected to furnish employment for the working men; and, failing to do that, to supply them with bread and wages. But in France, the Republic has lapsed into a crushing military despotism. In Rome, the people may have been fed from public granaries; but it is recorded of her, that the days of her Republic were numbered when the people consented to receive corn from the Government cribs. In a free country, the citizen should, to a

very great extent, under wise and just laws, be thrown on his own resources, and not slavishly rely upon the Government to give him bread and clothes, build his roads and houses, regulate his appetites, take care of his morals, and educate his children. Such a system centralizes the Government, enervates, paralyzes, and withdraws stimulus to personal effort and activity, reduces to dependence, destroys responsibility, debases, and demoralizes. All such legislation by Congress, whether in the form of protective tariffs, fishing bounties, assumption of State debts, building roads, giving land to colleges, or furnishing homes under sweeping and unconstitutional homestead laws, is at war with the true theory of a Republic, destructive of its integrity, and dangerous to popular liberty.

The wise and patriotic statesman at the head of this Government, in his inaugural and annual messages, strongly recommended us to scrutinize expenditures with the utmost vigilance, and to practice rigid economy. With an overflowing Treasury, this would have been difficult to do. With a depleted Treasury, nothing is easier. The Democratic party, responsible in a very great degree for the administration of public affairs, liberal in its promises to retrench and reform, owes it to its own self-respect, and, in view of the effort to reconstruct a new party, to its future success, to commence a rigid system of economy and retrenchment; to lop off all expenses not necessary for the defense of the country and the frugal administration of the Government; and to put an end, so far as it can, to waste, extravagance and fraud.

I am aware that it has been said that there is a natural tendency to extravagance in Republics; that a resort to direct taxation is the only cure for this chronic malady; and I believe, with Sir Robert Peel, that "all indirect taxation has a natural tendency to produce injustice;" yet, with proper efforts, with a cordial coöperation between the executive and legislative departments, this Government can be brought back to republican simplicity and economy. An earnest of our purpose will be given, and a great advance will be made in defeating this and similar bills, and rebuking this disposition to look to Government for the dispensation of its favors.

I do not desire, Mr. Chairman, to be understood as questioning, in the slightest degree, the laws providing for those who have been disabled in the service of their country. I think them eminently wise and proper. I have greatly failed, also, of my purpose, if anything that I have said can be construed into a disparagement of those brave and true men who, at their country's call, left home and kindred, and periled everything in her behalf. For their self-sacrificing patriotism, their heroic daring, their gallantry and courage, I would render all proper honor and reward. Many of them are my neighbors; scores of them I represent on this floor. The county of my residence bears the name of, and its shire town is located on, one of the memorable battle-fields of the bloody Indian war. I can have no motive for doing injustice to or underrating the services of our country's defenders. Sinister considerations might prompt me to the advocacy and support of this bill; but those who have encountered hardships and shed their blood for their country's honor, would scorn a gratuity tainted with injustice, and obtained by overriding the Constitution and bankrupting the Treasury.

Mr. CLARK, of Missouri. Mr. Chairman, in the few remarks which I propose to make on the present occasion, if I can get the attention of the committee, I propose to refute some of the positions taken by the gentleman from Alabama who has just taken his seat, [Mr. CURRY.] I propose to show, if I can, that these pensions to the old soldiers of the war of 1812, should not be denied on account of the cost to the Government which it may involve and that the effect which the system may have had in Great Britain cannot be urged as an objection against the system which this bill proposes to establish. Sir, there is a great difference between the Government of Great Britain and our Government. That is a government of a crown, ours is a government of the people. They have a standing mercenary army. Our Government is upheld by the voice of the people. Our battles are fought and our victories won by the citizen soldiery; they stand far above the sol-

diers of the army of Great Britain, and are not to be judged by the same rule.

Nor can the Constitution be invoked to prohibit this Congress from granting money to pay the soldiers. It is proposed to be given as an evidence of the appreciation of the country for their services, and as an incentive to chivalric and generous patriotism upon the part of the people of the country.

The first proposition is, has the country the means or capacity to pay the pensions which this bill proposes to pay? It has been said by the gentleman from Alabama [Mr. CURRY] that our expenses have already run up enormously. He has given us a frightful picture of the extravagance of the Government—that the Treasury is well nigh bankrupt, while the appropriations are enormous; that they have increased from \$13,000,000, under the Adams administration, to now nearly eighty million dollars per annum. The picture painted by the gentleman from Alabama is, I am sorry to say, lamentably true.

The gentleman from Alabama has informed us that this Government may be administered, if economy and prudence are practiced, for an expense not exceeding thirty million dollars per annum. I suppose that may be true. I presume my friend from Tennessee [Mr. JONES] would say that that is too much. I should say about fifty million dollars a year would be all-sufficient.

Well, sir, if we take the advice of the gentleman from Alabama, and reduce the expenses of the Government to a reasonable standard, we shall have abundant means on hand to pay the aggregate amount which this bill proposes to give to these meritorious men. The expense of printing, the large increase of the contingent fund, the expenses of the Army, and the expenses of every Department of the Government can, and ought to be, reduced, and but a small portion of the reduction which ought to take place would furnish the means to meet the provisions of this bill.

Mr. Chairman, the gentleman who opened the debate upon this bill placed it upon two grounds. It is the policy of this Government to look upon its citizens as the palladium of its liberties. The citizens of the country form the army of the country. Our service is a volunteer service. It is a service voluntarily bestowed upon the country to protect it from foreign aggression or from intestine commotion. We do not look upon our citizens as serving for mere gain, as pressed into the service by draft to support the Government for mercenary motives. On the contrary—if the Government is to continue—we look upon our citizen soldiers as those on whom we can rely in the hour of difficulty and peril, because of their gallantry, and of their love of country. So long as the liberties of the country rest upon them, they rest upon a firm basis. But because the citizen soldier does not act from mercenary motives, does it follow that when he has served his country faithfully, when he has saved it from aggression, after he has conquered the foreign foe, after he has protected the peace of the country from insurrection, that we should give him no evidence in his declining years that the country appreciates his services, and appreciates his valor displayed upon the battle-field?

It is upon that ground that this bill is based. Mr. Chairman, the war of 1812 has been called the second war of independence. And why was it so called? Why has it been so denominated? It was because it was a war waged against Great Britain, in order to protect the sovereignty of this country. It was a war waged against Great Britain to maintain the rights of this country; to recognize the right of foreigners to expatriate themselves, and to transfer their allegiance to our flag. Great Britain denied the right of any person to transfer his allegiance from that crown to this country. That was the cause of the war. Great Britain denied our sovereignty and our independence, and formed an alliance against us with the Indian savages of our northwestern and western borders. These gallant men had to contend against such foes. They had to meet the British soldier and the Indian savage. And for their services, what was the pay then given to them? For all their toils, their sufferings, their valor, the pay of the private soldier was eight dollars per month. Was that any compensation to these men?

Are there any here from Kentucky who remember the commencement of the war of 1812? If there are, they will remember how eagerly the

volunteers rushed to the standard of the United States. They will remember the surrender of Hull and the disasters which befell our arms. They can recall the partings of brothers and sisters, and wives and husbands, and fathers and mothers and sons. Did those fathers, sons, and brothers go for the pay of eight dollars a month; or did they go to wipe out, in the blood of the foe, the disgrace of Hull's surrender and other defeats? They were moved by patriotic motives, and by none other. They went to the war; and, fighting bravely against British soldier and Indian savage, they conquered an honorable peace. Not only did they secure an honorable peace, but they secured the territory out of which have been carved some of the northwestern States, which have now Representatives upon this floor and in the other House. They humbled the haughty arrogance of British power, and drove back the savages from our northwestern and western frontiers. Since then millions have flowed into the United States Treasury from the sales of the lands which they recovered from the grasp of the savage. This was done by the citizen soldiery who now come with their petitions asking that Congress shall soothe their declining years by affording them the pittance of a pension provided by this bill in addition to the pittance of their monthly pay given them at the time of the war—praying to the Representatives of the people that they shall not be allowed to suffer from penury and want in the midst of the wealth and prosperity of that country for which they fought. Shall their prayer be rejected? They are few in number; but, few or many, they deserve this acknowledgment at our hands.

Mr. Chairman, it has been stated here to-day that the estimates of the number of bounty land warrants given is a true ground to ascertain the number of pensioners under this bill. I deny that it is. Every gentleman who will reflect for a moment will see that it is a delusive basis for an estimate. Bounty land warrants were given to those who had been mustered into service; those who had been in service only for fourteen days. In my own State of Missouri I know of at least three thousand citizens who have received bounty land warrants, yet who would not receive a pension under this bill. In the Indian campaigns, in the Indian scouts, as they are termed in the West, citizens gather together hastily for mutual protection, serve for a short time, and return to their fields. Nobody supposes that these will receive any pension under this bill. They certainly are not provided for. Those who served in the Black Hawk war, in the Florida war, in the Mexican war, and in the Seminole war, are proposed to be included; but they are attempted to be embraced in the bill by those who wish to embarrass its passage.

Mr. COBB. I would like the gentleman to state the authority upon which he makes the statement that those amendments are offered to embarrass the bill? I myself have suggested amendments for those who were in the Florida war. I propose to include those who served in the Mexican war, as I had forgotten to include them in the amendment of which I have already given notice. I offered that amendment, and intend to sustain it. Now, upon what does the gentleman found his opinion that these amendments are proposed in order to embarrass the bill?

Mr. CLARK, of Missouri. I was not aware the gentleman moved the amendment to which he refers. I will give him my reasons for making the statement which I have made. Before answering him, I will ask him a question. Will the gentleman vote for the bill?

Mr. COBB. I will, if it be amended and put in proper form.

Mr. CLARK, of Missouri. If the soldiers of the Mexican war and the Seminole war be provided for in the bill, will the gentleman vote for it?

Mr. COBB. If it be otherwise properly amended I will.

Mr. ELLIOTT. The youngest of the soldiers of the war of 1812 must be sixty years of age, and I do not see what analogy can be shown between the soldiers of the war of 1812 and those of the Mexican war, by arguing that the soldiers of the Mexican war should also be pensioned.

Mr. CLARK, of Missouri. I will answer the gentleman from Alabama. He asks me by what right I made the statement that the amendments

to this bill are proposed to embarrass its passage? I made that statement first, for the reason that those who offer them are opponents of this measure.

Mr. COBB. I would like to know how the gentleman knows that?

Mr. CLARK, of Missouri. My next reason is, that those who will claim under these amendments are not entitled to the consideration that those who are provided for by the bill; and no sensible man, regardless of the Treasury of the country, would commit such a waste of public money as to give pensions to the former. Therefore it is that I say that those who introduced such a proposition have no other purpose than to embarrass the bill.

Mr. COBB. If the gentleman will give me five minutes I will explain.

Mr. SAVAGE. I rise to a question of order. I contend that the gentleman from Missouri shall not be interrupted.

Mr. COBB. I am dealing with the gentleman from Missouri, and not with the gentleman from Tennessee.

Mr. KELLY. I object to this interruption.

Mr. CLARK, of Missouri. I was proceeding, when interrupted, to show that the conclusion of the Pension Office, from the number of land warrants issued, was no guide to the number of pensioners under this bill, for the reason, as I stated before, that the law authorizing the issue of bounty land warrants included all who had been in the service as long as fourteen days, whether they had been in battle or not. This bill includes none except those who have served three months, or who had been in actual battle. The war with Mexico, the Seminole war, the Florida war, and all the Indian wars, down to the passage of this bill, are included in former pension laws. The present bill only includes such as served in the war of 1812, and in Indian wars during that period. How long is it since then? Forty-five years have elapsed since that war ended. How many of the gallant soldiers of the war of 1812, engaged either against the British or against the Indians, are now living?

The gentleman from Tennessee, [Mr. SAVAGE,] the mover of this proposition, gave to the committee the other day a calculation based upon such facts as could be ascertained, showing that in all probability there cannot at this day be living more than seventeen thousand old soldiers who would be entitled to the benefits of this act.

Mr. CURRY. I wish to correct the gentleman. The estimates made as to the amount of pensions involved in this bill, drawn from the number of land warrants issued, did not apply to any land warrants issued except for service in the war of 1812.

Mr. CLARK, of Missouri. I was saying that the gentleman's estimate shows that the number of soldiers living could not exceed seventeen thousand. What may be the number of widows who would be entitled to the benefits of this act, we cannot state; but I suppose that one half of the number I have mentioned would be a liberal calculation. On this basis, then, it is easy to calculate what amount of money will be necessary to execute this law. Sir, it is but a mere pittance. It is but a little more than is expended by this House for the printing. It is not as much as is expended for your line of ocean steamers, which is unnecessary for this Government. Provide this pension, and the Government would be enhanced in the estimation of the Christian world; its character would be preserved, and its policy would be strengthened.

I want to say a word or two in regard to those who have been engaged in Indian wars. All who are familiar with the history of the country know that in 1812 all our western frontier, including Indiana, Illinois, Missouri and Arkansas, was subject to Indian depredations. Our country was surrounded, from Tippecanoe westward and northward, with bands of savage foes, aided and supported by the British Crown, and in alliance with the British authorities. The gallant and brave pioneers who settled that portion of our country had to protect their own settlements by their own arms, to a great extent. They are provided for by this bill. In the State of Missouri, which I have the honor, in part, to represent, I have constituents, a portion of whom, in 1812, lived contiguous to forts erected by their own

hands for their own protection. There are many among my constituents yet living, who fought the battles of their country during that war, who had to fight their own battles, and at the same time raise their crops for the support of their wives and children. Such are the patriotic and gallant men who now ask this Government—which has grown rich by their exertions and services; which has filled its Treasury by the sale of lands which they then conquered—to do them this act of justice, and give them this pittance. Will the Government not do it? Are those poor men to be turned away?

But gentlemen say this thing is contrary to the policy of the Government, and that it is insulting the character of American citizens to grant them pensions for having fought the battles of their country. They say that our citizen soldiers go to battle to maintain principles, and to preserve their liberty. The argument is unworthy of a statesman of this enlightened age, in my judgment. When you gave pensions to the revolutionary soldiers did you insult them? When you gave bounty land warrants to those who were engaged in the war of 1812—a war in which my friend from Alabama was engaged, and got his pension—did you insult them?

Mr. COBB. I was not engaged in that war. I was too young.

Mr. CLARK, of Missouri. When you gave bounty land to the soldiers of the war with Mexico, did you insult them? No man was insulted by reason of granting those bounty land warrants, and it would be the same in this case. So far from its insulting American citizen soldiers, it would be considered a hardship should you refuse to pass this bill.

By enacting this law, granting this pittance to the soldiers of the war of 1812, who have survived forty-five years, and the youngest of whom are now sixty-five or seventy years of age, you place a memento, a trophy, in the hands of the citizen soldier, which he can show to his children as an evidence that his country has given proof of its appreciation of his valor, of his prowess, and of his disposition to maintain the flag of his country in the hour of adversity and danger; you will strengthen the Government, and strengthen the arm of your defense, by giving these marks of approbation to our fellow-citizens who have marched to their country's rescue, and fought in its defense. I ask any gentleman here who may have drawn a bounty land warrant for military services, if he does not prize it more highly than he does any land warrant that he may have bought? Does not every gentleman know that the citizen who has received a land warrant as a mark of the appreciation by the Government of his services to the country, values it far more highly than he does any warrant that he has purchased? The distinguished gentleman from Kentucky, [Mr. MARSHALL,] who commanded a regiment at the memorable battle of Buena Vista, when he received his land warrant, (if he has drawn it,) valued it not, I am sure, for the hundred and sixty acres of land to which it entitled him, but as an evidence awarded him by his country of his valor, his prowess, and the services he rendered that country. And so it is with all our citizen soldiers.

Mr. Chairman, I think this bill ought to pass, upon several grounds. In the first place, it ought to pass upon the ground of justice to the soldiers who were engaged in the war with Great Britain of 1812, and in the Indian wars. Sir, this Government is indebted to them to the amount which this bill provides for paying. This Government justly owes them this amount. If you were to take into account their labor, their toil, their sacrifices, their losses, all these would, if counted, place the Government far more largely in their debt than this bill proposes to provide for.

The bill ought to pass, sir, for the reason that these men have grown old, and that few of them remain. It ought to pass, and they should receive these pensions because of their valor, and of their distinction, and of what they have done for the country. They should receive some evidences that their services have been appreciated by the country, in order to stimulate the rising generation of our people by showing them that while the citizen soldier is not to be bought and is not a mercenary soldier, yet, after he has rendered service to the country, that country will not be less

magnanimous than the citizen has been; but will give him an evidence of its appreciation of his services that will be far more valuable to him than dollars and cents.

I have made these remarks, sir, because I regard this as one of the greatest measures that has been introduced into the Congress of the United States since the passage of the bill providing pensions for the soldiers of the revolutionary war. Gentlemen seek to discredit this measure, by saying that it sets an example under which the soldiers of the war with Mexico will perhaps some day ask for pensions. "Sufficient unto the day is the evil thereof." If, after the expiration of forty-five years, it can be demonstrated that the Mexican war was of equal importance with the war with Great Britain in 1812, and that the distinguished men who commanded in that war and the brave men who fought its battles rendered the country as great service as the citizen soldiery did in 1812, I would say that you should pension them likewise.

I make these remarks, Mr. Chairman, in order that the ground which I take, the position which I occupy, the reasons which govern me, in supporting this bill, may be understood by the committee and by the country. I hope that the bill will pass. I am not particular whether or not it be passed in the precise shape in which it has been introduced; but I hope that some provision will be made to pension these soldiers in their declining years, so long as any of them shall survive.

Mr. ANDERSON. Mr. Chairman, I feel constrained by every noble and generous impulse of my heart—by those patriotic feelings that swell my bosom, at the mere mention of the American soldiery, to raise my feeble voice in support of the bill now under consideration—a bill to pension the surviving soldiers of the war of 1812. Sir, it is an interesting theme—one that appeals most earnestly and eloquently to all the tenderest sympathies of our nature. Would I possessed the ability so to present it that it should receive the unanimous support of the members of this House, as I am firmly persuaded its passage will be hailed with grateful emotions by a patriotic people, who are always willing and ever anxious suitably to reward faithful and eminent services.

But, sir, although I feel myself inadequate to the task, I cannot, I dare not, let this opportunity pass without contributing my humble mite to an object at the same time so noble, so necessary, and so pregnant with all that is calculated to smooth gently to the tomb the last declining days of those who, in their manly youth, bared their bosoms to the foe's steel, and, amid the din and smoke of battle, bore aloft their proud country's flag.

Sir, of all that serried host who fought the battles of our last war with England, either on the Atlantic seaboard, or along our frontier, on those sea-like lakes, or in the more distant wilderness, where the stealthy savage trod, and his dreaded yells were encountered, how few now survive! Time, in its onward sweep, has driven them to the cold embraces of death. The few that now remain, bending beneath the pressing weight of years, are lifting their feeble voices, scattered here and there throughout our beloved country, earnestly invoking us to make some provision for them, now far advanced in the evening of life. Do they not richly deserve it? Let us glance for a few moments at the prominent circumstances by which it is pressed upon our consideration.

Our revolutionary struggle wrested an empire from the mother country. She never ceased to mourn the jewel she had lost. England, haughty and imperious England, had no practical experience of the solidity of the new Government our illustrious fathers had established. She, and indeed other European nations, deemed this Union but a "rope of sand," and that, by consequence, the surest way to sever it, and restore again her coveted sway over this fair land, was to agitate, irritate, trammel, and disturb us. We were an active, enterprising people, adapted to commerce, and constantly pressing, with indomitable energy, our inquiries into every sea. But it was claimed, with arrogant insolence, "Britannia rules the wave." We were obtruding on her native element. "She sat a queen, and would allow no rivalry."

The youthful commerce of these States had, from the period of the recognition of our na-

tionality, been subjected to harassing seizures, searches, and spoliation, until unbearable oppressions roused our people to resistance; and then began, in fact, the second war of independence.

Sir, the patriotic statesmen, our noble predecessors in these legislative halls, impelled by a just and proper appreciation of the rights, honor, and dignity of this nation, determined to resist these European encroachments. A wise and patriotic President, one of the nobles of the Old Dominion, "the fruitful mother of heroes and statesmen," sanctioned the resolves. "Free trade and sailors' rights," was the tocsin sounded through the land; while on the boisterous deep, our gallant tars made true and recognized the aphorism of an illustrious champion, "Millions for defense, not one cent for tribute." Sir, it was in a war thus caused and prosecuted for these noble objects which was waged alike on sea and land, that the gallant and patriotic men were engaged, for whose declining days this bill would make some small provision.

Mr. Chairman, let me call the attention of the House to this meritorious class to whom, in my judgment, we should extend the bounty of Government. Let us glance hastily at the past. Hear that clarion voice of the immortal Clay in streams of burning eloquence, as from the floor of Congress he aroused the people to redress the humiliating outrages that had been committed upon the rights of our citizens, the honor and dignity of our nation, and the glorious flag of our country, by expelling a haughty and invading foe. That call was responded to with a patriotic ardor and enthusiasm that pointed with unerring certainty to the triumphant termination of the fearful and bloody conflict. Behold them at Lundy's Lane; at Plattsburg; at Chippewa; at the Thames; at the Moravian Towns. Look upon that noble and gallant band of citizen soldiers at Tippecanoe and North Point; see what prodigies of valor are exhibited! How they triumph over the veteran troops of the merciless foe, or the savage horde who were let loose upon our frontiers! Look, sir, at the last, but most brilliant and glorious engagement of war, when the veteran troops of Wellington, who, in the wars of the Peninsula and the south of France, had triumphed over Soult and Davoust and Ney, who had borne well their standard on many a hard-fought field, came to try their hands with volunteers and raw troops upon our southern border. Sir, while Pakenham marched his troops—his veterans—to what he and they supposed would be an easy victory, under the cry of "beauty and booty," see those noble, chivalrous sons of Tennessee and Kentucky, and of other infant western States, under the lead of the immortal Jackson, repel and defeat them. And now, Mr. Chairman, has this great country—rich in power, more rich in promise—no boon at all for those who, at the peril of their lives, saved her cities from pillage, her daughters from a brutal foreign soldiery or an unrelenting savage foe? "Tell it not in Gath," publish not this withering shame among the nations of the earth, lest they declare it is Republics only can be so ungrateful.

Sir, many of these men have already passed away. They went down to their graves, many of them stricken with poverty, emaciated with disease, or scarred with wounds acquired in their country's service. Oh how sad their end. Perchance their dying eye, as it grew dim, looked on some distant dome or staff, on which floated in heaven's free breeze, that flag, that glorious flag, those "broad stripes and bright stars" to which in the perilous fight their patriotic hearts had so often turned, in the days of their strength and their vigor. It was the same flag still; but alas, with what crushing effect did the mournful reflection force itself upon them. "My country has forgotten, has neglected me. Ungrateful country. In my age it thinks not of my youth, and I die in poverty, unhonored by those for whom the strength of my manhood was expended." Sir, this is no fancy sketch; too truly has it been realized by many of those noble men who have now passed away. They have gone—fought their last battle—met their last foe: peace be to their ashes.

But among us there still lingers upon the crumbling brink of the grave, here and there, some of their compatriots—spared, perhaps, by Heaven's unfailing mercy, to reproach us with our cold neglect, and to be the means, possibly, of inducing

us, even in this late day—almost too late—to awake to a sense of our duty, and show to a selfish, heartless world, that we cannot, will not, longer shut our ears and bar our hearts against the appeals made by the remnant of this noble band, who, inspired by a lofty spirit of patriotism and devotion to country never yet surpassed, left, in the early days of their manhood, their fond homes, families, and friends, and with unfaltering step, marched to meet their country's foe, enduring hunger and thirst, heat and cold, again and again, with no bed upon which to repose their wearied bodies but their mother earth; no covering save the canopy of heaven. Behold these veterans now: methinks they are left as witnesses, as mementoes of the past! There they stand, as does some tall oak of the forest, spared by the devastating tornado; their fellows have fallen; the blast which felled them, which prostrated them to the earth, almost dismantled these; their foliage is gone; their beauty has passed away. Now, they only spread their branches to the wintry blast; decay has seized upon them, and ere long they will mingle with the mother earth. Oh! sir, shall the bounty of the Government smooth their departure, or will you still neglect them? Sir, I cannot yet realize the idea that you will turn them away empty. Long and earnestly have they implored help—patiently have they waited. They have knocked at your doors for bread. They have asked for those with whom they were acquainted—for Clay, for Jackson, for Harrison, for Johnson, for Shelby, for Davis! These were their associates and compeers! These knew of their toils and hardships, their privations and sufferings! Some of these had seen them not only in the tented field, but amid the clash of arms and the smoke of battle. From them they would not be turned away in their appeal; but when they now knock, strange forms are present; hitherto youth has rejected age, and these old warriors have been suffered to pine, because a new generation had arisen on the stage.

Oh! sir, shall it be said that an American Congress refused a pitiful bounty to veterans who fought our battles, achieved for us our glory, aided in giving us the first place among the nations of the earth, and that, too, while we are spending millions in useless appropriations and for public ornaments? Surely this will not be the case. No; let us be just to the aged, to the valiant. I utter no words of reproach against the magnificence of our public buildings, although many tens of millions have been expended in their construction and adornment. Doubtless this is right. Our Government is great, our people wealthy and prosperous, and these public edifices are but durable exemplars of our glory and power, speaking to other nations. I declaim not against this magnificent Hall, in which we legislate for the people of this great nation. We are their Representatives, and this Hall should reflect their glory. But, sir, while these vast expenditures are making—while in mere ornaments we are expending millions—oh! do not let us refuse that which should be freely given to the needy veteran. While we enjoy here, as Representatives, all the elegant and luxurious comforts that the highest artistic skill and taste can furnish for both the eye and the body—while we are each receiving thousands of dollars annually for our services here, oh! let us not plead poverty when a veteran, war-worn soldier, knocks and asks a boon. Let us come to his aid now, while he is before us—while he needs our help and assistance. Let us not wait until he has passed away before he receives our commiseration, indorsed by evidence of our sincerity. Let us not turn his pleading face, his furrowed cheek, his emaciated frame, his tottering limbs, away by cold indifference to his pressing necessities. Look upon that aged brow, upon which the snows of more than three-score winters have already fallen; behold these men as they approach you with feeble limbs and decaying bodies, hobbling to the tomb, leaning on their staffs, asking this great and mighty nation to smooth their pathway to their final resting-place. Tell me how long, think you, will these old soldiers be a charge upon your bounty if you pass this bill? Soon they will pass away; the lengthening shadows proclaim with them, as with all, the day is fast closing. Soon, alas! too soon, the last of that noble company will have passed from earth. Hasten, oh! hasten, you Represent-

atives of a noble, magnanimous, and patriotic constituency, or your lingering munificence will come too late for them.

You have given pensions to our revolutionary sires; where was the American heart in all this land that did not enthusiastically respond to the noble and patriotic act? You have given pensions to others; to the honor of the nation be it said, no voice is heard to object. Be just, also, to those for whom I plead. Doubtless, there are some of these veterans who, in point of fact, will not starve, even if you do not pass this bill. Friends, children, *some one*, will look to their well being, even if you give them nothing. But, sir, should that exempt this great Government from the performance of its duties? Were all of these men rich, did each possess an ample competence, still, would this be a sufficient reason why this bill should not pass, and these men be offered a pension? Surely not. Two things are provided for in this bill—one carries the other. The pension is a substantial boon; to many it will be the means of living pleasantly, and dying independently; but beyond this, and with many greatly better and more desirable than this, is the fact that this bill, though long deferred, is nevertheless a valuable recognition of their services to the nation.

Sir, the passage of this bill will throw a bright radiance across the path of many a veteran. He will feel, in his old age, that the country for which he fought in his early manhood has not cast him off neglected and uncared for, when he is old and gray-headed. He will feel that the flag of his country and its protecting folds are around him, as he advances to the house of death. He will gather his children, his grandchildren, around him, and tell them of his joys; he will recount his trials, point to his wounds, and then tell of his gratitude for the boon granted to him. Oh! how will those hearts that hear him swell with patriotic devotion to the country of their sire. And if occasion should ever offer, how ardently and efficiently will they vindicate its rights against any invading foe!

These veterans were, many of them, the pioneers who explored and conquered your great western empire. They drove the savage from his possession; and interposing their manly valor, protected your infant settlements, and aided in their advancement.

Look, sir, at Shelby, at Harrison, at Joe Davis, at Johnson; how much did these, and those they led to battle, contribute, at the Maumee Towns, at Detroit, at the Thames, at Tippecanoe, to the present glory of the great States of Ohio, Indiana, Illinois, and Michigan?

Chiefly these troops were from the warlike States of Kentucky and Tennessee; and I call to-day on the Representatives of these States to come up and contribute their united help in doing justice to the men with whom their fathers associated, and doubtless aided in equipping many of them for the field of battle. Come, and give these veterans the recognition of your appreciation of their services. Come, ere they die asking for it. Come, give the aid demanded, that their hearts may bless you and the country. Come, "pity the sorrows of these poor old men, whose trembling limbs have borne them to your door." Take away from their fading minds the terrible dread that their country is ungrateful. Let your bounty cheer them along the dreary pathway of declining life. Let not their sun set in gloom and sorrow. Fill their hearts with gladness, by your justice and liberality, that their dying prayers may fervently ascend to heaven for the perpetuity of our Union, and the continued prosperity of our country.

Sir, let us pass this bill—pass it speedily. Let all vote for it. Let it be proclaimed all through the land that this Congress has thought of, and cared for, the veteran soldiers of the war of 1812; and I doubt not the people will all, with one approving voice, say we have nobly done our duty. In the name and for the honor of the country of Washington and Jackson, I demand the passage of this bill. In the name of justice and patriotism, I demand it. And although some of them may not absolutely need the pecuniary aid, *all demand*, and very properly, this recognition of their services by the Government for which they have fought and suffered; and because some of them may and do absolutely require this little aid, that

they may pass the evening of their days with some degree of comfort.

In conclusion, having promised to divide my time with the honorable gentleman from Kentucky, [Mr. MASON,] permit me to say, that I firmly trust that there is in this House too much of patriotism, of magnanimity of heart, longer to defer this meritorious act. Feeling deeply the necessity and importance of speedy and efficient action on this great subject, I have ventured to obtrude these views, with the sincere hope that they may meet your favorable consideration, and eventuate, in some small degree at least in bringing your judgments to a favorable conclusion.

Mr. QUITMAN. Mr. Chairman, I have sought the floor at this time, not for the purpose of making a speech, but merely for the purpose of presenting, as briefly as may be, my objection to this bill. The grounds upon which I oppose it have been so fully covered by the very able and lucid speech of the honorable gentleman from Alabama, [Mr. CURRY,] that little is left for me to say. I merely desire to explain the position which I hold upon this subject. I have taken that position, sir, not from impulse or personal feeling, but from a high sense of duty to the country.

I beg to say, in the first place, that I am not opposed to an *invalid* pension system, such as now exists. On the contrary, I think it is the duty of every Government to provide the means of subsistence for the families of those who have been killed in the service of the country, and also to provide for those who have been disabled in its service. These are duties incidental to every Government. But, sir, when we come to a system which is to lay burdens upon one portion of the community for the purpose of giving bounties to another, however meritorious, I am opposed to it in any shape. I think that such a system is demoralizing in its effects, and inconsistent with the essential principles of free government. There as a reason, and perhaps a good reason, to which I might have yielded if the question had arisen in my day, for extending pensions to the soldiers of the Revolution; but I would only have done so in that case, upon the ground that it was a debt due to them which had never been paid.

Mr. Chairman, the gentleman from Missouri [Mr. ANDERSON] has given us a glowing account of the services of the soldiers of the war of 1812. I concur with him entirely in his estimate of the value of those services. But, sir, he has incorrectly represented the soldiers of the war of 1812 as paupers and beggars, petitioning Congress for a little pittance to support them in their declining years! He has addressed solely the commiseration and not the good judgment of the House. Let not the gentleman forget that this bill includes all those who served for three months in the war of 1812; not only the brave soldiers, but even those New York militia, who, during the battle of Queens-town, refused to cross the Niagara river for the relief of their own countrymen, because they took the constitutional ground that they were not obliged to cross the boundary line of our country. These men are included in the bill, and our pity is invoked for the purpose of inducing us to vote for this proposition. Sir, it is a new proposition. The measure giving pensions to the soldiers of the Revolution was strongly contested by some of the ablest men of the day.

The principles upon which they founded their objections were probably correct; but the pensioning of the soldiers of the Revolution was justified upon the ground that they had never been fully paid. If they were paid at all, they were paid in a depreciated currency, so that none of them received in value the full amount of his contract. Now, it is proposed that we should extend the same system to the war of 1812, and to the Indian wars. The reasons assigned by the gentleman who made the opening speech, and who reported this bill, [Mr. SAVAGE,] are precisely those which are applicable to every war in which the country has been, or may be hereafter, engaged.

It is urged that to adopt such a system as the permanent policy of the country would keep up a military spirit in the country. God forbid that we should ever come to that, that American citizens should be influenced by the hope in future of receiving a mere pittance in the shape of bounty from the General Government.

The gentleman is mistaken in attributing such motives to our citizens. He does injustice to

those who have been engaged in the volunteer service of the country during the Mexican war. He puts them upon the footing of having been influenced by mercenary considerations. Before the Mexican war it had not been proposed to extend the system beyond the war of the Revolution, or if it had been proposed it had been rejected by Congress; and yet when it was announced that the President was authorized to accept the services of fifty thousand men, to use the language of the President, he was overburdened by the application of more than three hundred thousand men. Yes, three hundred thousand men sprang up upon the first blast of his bugle inviting them to the field of the Mexican war. Were they influenced by the hope hereafter of getting a pension? The country had thus far decided against extending the revolutionary pensions.

I cannot doubt that they were influenced by higher and nobler motives—by patriotism, by honor, and by their desire for military distinction.

Sir, I ask gentlemen who are here advocating this bill, and who occupied prominent stations in the Mexican war—I ask the honorable gentleman from Tennessee, [Mr. SAVAGE,] the gentleman from Iowa, [Mr. CURTIS,] the honorable gentleman from Kentucky, [Mr. MARSHALL,] including myself, whether we desire any reward for holding the positions which we held during that war? No, sir, not such as is proposed by this bill. We looked to a nobler reward than that of a mere pecuniary compensation. I hope we were actuated by higher motives, and felt some of that proud spirit which distinguished the soldiers of the Revolution, many of whom refused to receive the compensation to which they were entitled by law, and who went to their graves without ever having made application under the revolutionary pension law. I think, therefore, that the public reasons urged by the honorable gentleman from Tennessee [Mr. SAVAGE] for establishing the system proposed by this bill as the permanent policy of the country, on the ground that it would keep up the military spirit of the country, are reasons not at all applicable.

It is true, sir, that some of the bravest and best of the officers of the war of 1812, have united in making application to Congress for the passage of this bill, but they united in it, because, like all other men, they desired some public consideration. They wished to know whether their services to the country had been forgotten or not—from a strong disposition to present themselves before the public. They feared that time and an intervening war had caused the people to forget those services. Forget them, we cannot. We cannot forget some of the scenes of that war which shed so much glory upon the American arms. No, sir; I hope we shall never reach that period when it shall be necessary to force upon the consideration of the country the eminent services of men who have fought the battles of the country. For myself, I shall never take any steps to have the memory of my own services perpetuated, if it is to be brought about by exertions of my own. I do not see, Mr. Chairman, the soundness of the reasons urged in the eloquent speech of the chairman of the Committee on Invalid Pensions.

Mr. SAVAGE. I beg that the gentleman will not do injustice to the chairman of the Committee on Invalid Pensions. My honorable friend from Kentucky, [Mr. JEWETT,] as a member of that committee, was, by its indulgence, permitted to report this bill to the House.

Mr. QUITMAN. I of course refer to the honorable gentleman from Tennessee, who reported the bill. I say that the same reasons which the gentleman from Tennessee urged in support of a system which would give a pension to every man engaged in the war of 1812, and in the various Indian wars since that time, are equally applicable to every other war. How is it just that the soldiers of one war should receive the bounty of the Government, and those of another war, who did equally as good service, and who incurred equal dangers, should be excluded?

But if it be admitted that these men entered the service from mercenary motives, I take it for granted that it is to be established as the permanent policy of the country; I take it for granted that it is but the entering wedge for what is to follow; and according to my own calculations which I have made—I will not go into details, for I have not the data before me, I did not expect to speak

on this subject to-day—I say that, according to my estimate, it is the beginning of a system which will involve an annual expense of not less than \$40,000,000.

The gentleman from Alabama [Mr. CURRY] has well said that in republican governments where the people are influenced by motives such as the passage of a bill like this will create, although they may be in a numerical minority, they will always hold an influence which will control this or any other Congress.

If these applicants have their claim entertained, or a hope is held out to them that this policy will be pursued, then all the surviving soldiers of all the subsequent wars will come here and demand, as an act of justice, that they shall have a like treatment, and those who support this measure will be bound to yield to that demand, for it is just that you should treat one citizen as you do another. I look upon this, then, as extending the system to all the wars in which we have been engaged.

Not to stop there, how long will it be before the widows and orphan children of those who served for a month will come here and ask the reason why they are excluded? Practically those who served for only a month may have done more service than those who served for six months. Will it not be extended, then, to those who served only for fourteen days, as the bounty land law has been extended? And upon what ground can orphan children be refused, who are unable to take care of themselves? While the soldier was living, a pension was granted to him; and now that he is dead, on what ground can his orphan children be refused? This is the introduction of a principle which will not stop until all are embraced. It will, in the end, make up a pension list of between five and six hundred thousand persons, perhaps a million. If gentlemen will examine the bill, they will find that the average pension will be \$150 for each pensioner. Look, then, at the fearful burden with which we will oppress the Treasury.

It ought to be a conclusive argument that the Government has not the ability to bear so onerous a burden, if it were constitutional to adopt the principle—which I deny. Where do you find power in the Constitution for granting benevolences? where the power to make presents to our citizens? If we give this pension to the soldier who has served his country, has not the aged statesman an equal right to a pension for his service in his country's behalf? Is not every man who has been engaged in his country's service equally entitled to a pension, whether he served with or without compensation? The soldier received his pay, as it was stipulated when he entered the service. How long will it be before the system will be extended to the aged statesman, the aged officeholder, and those who have, up to their old age, been in the service of the country?

But I must hurry on. I promised not to occupy the time of the House to any great extent. This system carried out, sir, would not stop short of the annual expenditure of from twenty-five to fifty million dollars. But, outside of that, I believe that this Government has not the power, under the Constitution, to grant these pensions. Is it right in a free Government, in which all are equal, for the Government to withdraw one class of citizens from the field of enterprise and labor, where they may secure a subsistence, to place them under its bounty? Ought not the citizen to be left free and untrammelled in his occupation?

Is it not the best policy to encourage the citizen to seek out his own livelihood, that the republican spirit may be preserved for the integrity of our institutions? Induce them to give up their enterprises; leave them with no care for their livelihood; let them be fed from the public crib, and how can we depend upon them to maintain intact the independence and free spirit of our fathers? Is it not, then, an important consideration that we should endeavor to prevent the demoralization of our citizens? Do not let it be known that we will distribute money, but let the policy be that each should, as the other, depend upon his own toil and enterprise for the means of living.

For all these considerations—and I have had time only to state my leading objections to the bill—I will be constrained, with all my respect for those gallant veterans, to vote in the negative.

Mr. CURTIS. Mr. Chairman, there are only a few moments left for the general debate on this

measure, and I will occupy them in replying to some of the objections which have been made to it. When I have concluded my remarks I will propose that the committee recommend to the House that the general debate on this bill be extended for a longer period. I presume that there will be no objection in the House to rescinding the order terminating debate. I see several gentlemen here who wish to speak on the subject. I think the bill is deserving of full and faithful consideration.

Mr. Chairman, who have been petitioning Congress for years for this measure? They are the heroes of the war of 1812, who turned out and periled their lives for the country and for our defense, when you and I were helpless infants, unconscious of surrounding peril, and the dangers and sufferings of those who rallied to our standard. These soldiers of the last war with Great Britain have come to Congress to ask for the same consideration that was granted to the heroes of the Revolution; and it seems to me it is but fair that we should consider their claim and determine whether they are entitled to similar regard and distinction.

But, in reply to the argument of the gentleman from Mississippi, [Mr. QUITMAN,] who has just taken his seat, an argument which has been made to this House frequently before, that this bill is going to peril the Treasury of this country, that it is going to involve us in millions of annual expenditure, I would say that it does not seem to me necessary to open the door so wide as it is imagined by those who are opposed to it. It does not follow that because we grant pensions to a class, that all other classes are likely to be added to the expense. I reiterate the question: who are making this application? They are men who, forty-five years ago, left the military service of their country, and returned to their families and civil pursuits. If they were then twenty years of age, they are now sixty-five; and if they were twenty-five years of age, they are seventy years old to-day. They are, therefore, old men, not able to obtain a livelihood by physical labor. We propose by this bill not to give them a sum as a mere gratuity, for those old men would scorn a pension if you place it upon the ground of a gratuity. They are not paupers; they do not come here as trembling supplicants at your doors in the character of beggars before Congress. I denounce and deprecate such an imputation. They come as your sires, as your soldiers and conquerors or your dominions, who fought for and maintained your country, your liberty, and they now ask, and I demand for them, what, by the usage of other nations and countries, and adopted by ours, they justly deserve, a token of gratitude due them for thus periling their lives and exhausting the most precious period of their mature age in the military service of their country.

About twenty-one years of a man's life is devoted in pupillage, and after he becomes sixty-three years of age he is considered no longer a producer. There is then only about forty-two years of a man's life in which he can expect to accumulate wealth and power by his personal exertions. Even though men live to be four score years and ten, there are only forty-two years of that time in which they can regard as positive, the rest is negative, in a mathematical point of view. During forty-two years they are producers, and if they live twelve septennials—eighty-four years—they have been forty-two years consumers. If out of that time they devote a portion to the service of their country, it is taken from the best portion of their productive age of life, and I say it is the custom of all countries to regard those services with special honors, and to compensate them with marked distinction. Those who speak against the custom speak against the custom of the world, and a custom long since, and, I think, wisely adopted by this country. If you dread a perpetual standing Army maintained at a great expense, reward those who turn out to vindicate their country's rights and honor, as did the brave men of the Revolution, and of the war of 1812. Compensate them as is done by the custom of other nations, and thereby avoid the expense of a large standing Army that moves by commands, and not from patriotic emotions.

How will you compensate your soldiers? They were not paid while they were in the service. The men who enter the service of the United

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, APRIL 23, 1858.

NEW SERIES...No. 116.

States get, in fact, no adequate consideration for their services when they are rendered. What is seven or eight dollars a month? The policy of the country is not to pay at a rate that will give men the means of spending beyond their actual necessities, for it is an incumbrance, and detrimental to the service for men to have more money than will supply their actual physical wants. A surplus in the field is an inducement to dissipation. They are not paid then while in the service, but when they come back to civil life, and in their declining years become unable to accumulate, they must be supported and the State may then do them justice. Is it opening the door too wide to say that men of seventy-five or eighty years of age, who, after serving for nominal or no pay as soldiers, have served society forty-four or forty-five years, shall be taken into consideration, and rewarded for sacrifices, losses, and disparagements sustained in your service? It has been shown by tables presented here that there are but about fifteen thousand of them remaining. It was a policy adopted and published by the Emperor of France during the Crimean war, that the children of those who fell in the service of their country, should be the children of the Empire, and the policy of this country should be that the children of those who serve and fall for their country, shall be the children of this Republic. Such a motive and such a stimulant, I believe, will induce the people of this country to rush to arms when occasion requires, and prevent the necessity of our having the perpetual expense and other inconveniences incident to a large non-producing military class in our country.

Include, then, if you please, only the children of those who fell, or who received wounds while in the service of their country, and those survivors who have attained the age of sixty-five or seventy years, and you will not include such a vast number as to seriously impair the Treasury of the country. Reward those men for their gallantry, who in their youth left home and family, and the opportunity of starting a fortune, for the purpose of serving their country, and you will preserve the military ardor in the State, and thus avoid a greater expense, which is threatening to overbalance all the rest of the national expenses. I therefore put this bill, as I did that of the volunteer bill, on the ground of justice and national economy.

But an argument is made against the bill on account of its discrimination between the common soldiers and the officers—in this: that officers are to be paid a little more than privates. How unfair such an argument is. Did you ever hear of a bill, relating to pay or pensions to soldiers, which did not make that distinction? What is the reason of the discrimination between the pay of a member of Congress and the pay of a common soldier, who serves his country now? Why does not the gentleman propose to cut down his own salary, which is more per diem than was the soldier's per month, who served his country in 1812? Why do gentlemen complain of a discrimination, when they are receiving \$300 per month, while the soldier is receiving only ten dollars per month. It ill becomes us members of this branch of service, who are receiving liberal compensation, to complain of a discrimination, which has always existed, between the pay of common soldiers and officers. Is that an argument which goes to the merits, or is it an appeal to prejudice and popular emotions?

Mr. GARTRELL. I ask the gentleman if he alludes to me?

Mr. CURTIS. No, sir; on the contrary, I was going to observe that, to avoid the objection entertained by some, I am going to vote for the amendment of the gentleman from Georgia [Mr. GARTRELL] to the bill, for the purpose of meeting and avoiding the consequence of this argument, unjust and ungenerous as it is. I will yield something due the officers for the sake of securing to them and the poor soldiers of this country, who have long urged Congress to hear and compensate their demands.

The amendment of the gentleman I consider as an amendment made in good faith, calculated to aid in the final passage of the bill. But I am sorry to see gentlemen disposed to defeat this bill by every means, by eloquence, power, and influence, as well as adding irrelevant and extravagant amendments; and by thrusts, scoffs, and indirections, designing to defeat the bill. I am determined, therefore, to yield anything which, while doing only partial justice to the officers, will not do injustice to the soldiers.

But let me say one word more upon this subject of paying more to officers than to soldiers, for the argument goes to pay just as fairly as to pensions. When an officer goes into the service he generally makes greater sacrifices than the common soldier. I say that those gentlemen upon this floor who went as officers to Mexico generally made much greater sacrifices than the young men did, who volunteered and served as privates. Did you not leave your offices, your farms, your professions, your families? Officers were generally of riper years, and had by toil, study, or distinguished service, acquired more and commanded more for their service as civilians, otherwise they would not have been chosen to take upon themselves, not only an equal amount of exposure and toil, but also a vast amount of care, anxiety, and responsibility, that a private does not encounter. And after an officer has left the service he is harassed and taxed during the whole period of his life with explanations and testimony, which he has to furnish without compensation to secure the rights of those who served under him. All who have commanded volunteers will appreciate the service here presented, for most of us have written volumes since we retired from the service for the accommodation of the public. The officer has made greater sacrifices, constantly incurs greater expense of living, and he ought to receive a higher pay or pension; and there is not a common soldier in the United States who would not admit that it is right. Still I am willing to forego that feature of the bill in order to obviate the objection which gentlemen, in good faith, seem to entertain to this bill.

I have endeavored to meet the argument that this measure opens the door too wide, by showing that you need not include all those who served. You can take only those who are seventy-five years of age and over. But gentlemen try to make out that this measure will cost the Government many millions each year. One gentleman said that it would cost the Government at least eleven million dollars a year, when it is shown unquestionably that there are only about fifteen thousand of these men now living. I submit that the pension will not average \$100 a man per annum, even if we pension the officers, as this bill proposes, and that will only be one million and a half per annum, according to my figures. I am strengthened in this belief by the result of the revolutionary pension bill. That law of 1832 was made to pension all revolutionary soldiers, and the whole amount appropriated to pensioners under that law in 1836, when the law was fairly in full operation, was \$683,024 70. So that this argument of the extraordinary draft upon the Treasury is not well founded. Taking the figures and the results of the revolutionary pension law, everything goes to show that the estimate is too high.

The gentleman from Mississippi [Mr. QUITMAN] alluded to further encroachments upon the Treasury by the additional claims. I answer that by saying that it is not necessary to bring men in until they are seventy-five years of age. That is the rule we are adopting in this bill, as it will not pass until forty-five years have transpired since the service, and therefore the recipients will be near that age.

Mr. WASHBURN, of Illinois. Will the gentleman explain in what respect the calculation read by the gentleman from Alabama [Mr. CURRY] is erroneous.

Mr. CURTIS. The gentleman from Alabama read an estimate which is predicated upon the principle that the pension law and the bounty land

law were similar. They are entirely dissimilar. This pension law includes every man who served three months, and the other includes those who only served fourteen days. Now, it is well known, to those familiar with the history of the war of 1812, that hundreds and thousands of men turned out in Ohio, Pennsylvania, and other States, for the purpose of restoring the confidence of the country after the defeat of Hull, and on other extraordinary occasions, serving only a few days, and all those men were included under the bounty land law; but they are not included under this pension bill. The vast numbers of what were denominated "minute men" come under the bounty land law, which this bill excludes, because they did not serve three months.

Another argument urged against this bill, and to which some weight seems to be attached, is, that it is an appeal to mercenary motives; that the motives of our brave volunteers are too exalted to admit of money compensation. Now, that argument would seem to imply that we should never pay our soldiers; that those who fight for their country should never be paid at all, because, per-adventure money would corrupt their morals! It is an old maxim and a very true one, inculcated too in view of exalted benevolence, that "the laborer is worthy of his hire." True, as the gentleman from Virginia [Mr. SMITH] presented, our soldiers of the last war moved from patriotic motives; but their patriotism is not impeached by patriotic acknowledgments, and their honor is not tarnished by making them the honored guests of a great nation. I trust that a nation's pride, and our national escutcheon is in more danger of reproach by negligence of those soldiers of 1812. Look to your own honor, and what is worse, the reflections that may be cast on your country; for spending \$75,000,000 for various extravagant items, and withholding from the aged and infirm soldiers who fought, secured, and transmitted to us a glorious inheritance of freedom, which we now enjoy.

[Here the hammer fell, the hour having arrived at which debate upon the bill was closed, by the order in the House.]

Mr. FOSTER moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BURNETT reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the special order, being House bill (No. 259) granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period, and had come to no conclusion thereon.

Mr. FLORENCE asked the unanimous consent of the House to introduce a bill, of which previous notice had been given, for reference merely.

Mr. HARLAN objected.

And then, on motion of Mr. BURNETT, (at four minutes to five o'clock p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, April 23, 1858.

Prayer by Rev. J. C. GRANBERY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. BROWN. I have a memorial of a large number of citizens and property holders in the city of Washington, residing on or near Pennsylvania avenue, east of the Capitol, in which they represent that that portion of the avenue is now in an exceedingly dilapidated and almost impassable condition, and pray that an appropriation may be made for its improvement. I ask leave to introduce it, and have it referred to the Committee on the District of Columbia, hoping that they will take the subject into consideration. I wish to say in this connection that, though I am not willing to make appropriations out of the national Treasury, generally, for the improve-

ment of the avenues and streets of Washington, yet, as this is for the avenue leading directly to the Capitol, the navy-yard, the Congressional Burying Ground, and other points to which members of Congress and others have generally to pass, I am in favor of the memorial, and hope, at the proper time, that Congress will grant a reasonable appropriation to put that portion of the avenue in proper order. I move its reference to the Committee on the District of Columbia.

It was so referred.

Mr. SEWARD presented additional papers in relation to the claim of Martha Brown; which were referred to the Committee on Revolutionary Claims.

Mr. MASON presented a resolution of the Legislature of Virginia, in favor of the final settlement of half pay to the officers of the revolutionary war promised by resolutions of the Continental Congress; which was ordered to lie on the table and be printed.

PAPERS RECOMMITTED.

On motion of Mr. SEWARD, it was

Ordered, That the adverse report on the petition of Martha Brown, be recommitted to the Committee on Revolutionary Claims.

REPORTS FROM COMMITTEES.

Mr. FOSTER. I am instructed by the Committee on Pensions, to whom was referred the bill (S. No. 133) to extend an act approved the 3d day of February, 1853, entitled "An act to continue half pay to certain widows and orphans," to report it back, and recommend that it be indefinitely postponed. The committee at the same time have instructed me, to supply its place, to report a bill (S. No. 297) to extend an act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853. The bill was read and passed to a second reading.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of James Hendebert, submitted an adverse report; which was ordered to be printed.

Mr. JOHNSON, of Arkansas, from the Committee on Military Affairs, and the militia, to whom was referred a resolution of the Legislature of California, in favor of the cession to that State of the Monterey redoubt, for the establishment of a military academy, submitted an adverse report.

He also, from the same committee, to whom was referred the petition of Isaac W. Brown, who claims to be the inventor of a new and useful firearm which is used in the United States service, praying for an investigation, reported adversely, having ascertained on inquiry at the Department that they know nothing of any such patent.

He also, from the same committee, to whom was referred the petition of Dr. A. S. Wright, praying indemnity for losses sustained by his expulsion from Mexico, asked to be discharged from its further consideration, and that it be referred to the Committee on Foreign Relations; which was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of O. H. Browne, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William L. S. Dearling, submitted an adverse report; which was ordered to be printed.

UNITED STATES SHIP SUSQUEHANNA.

Mr. MASON. The Committee on Foreign Relations, to whom was referred the report of the Secretary of the Navy, communicating in answer to the resolution of the Senate, information in relation to the condition of the United States ship *Susquehanna* on her arrival at the Island of Jamaica, and the reception and assistance extended to her officers and crew by the authorities of the island, have instructed me to make a report, accompanied by a joint resolution. The purpose of the joint resolution is to authorize and request the President to return suitable acknowledgments to the naval authorities of Jamaica for the very generous and efficient assistance rendered to that ship in her disabled condition; and as it is desirable and in good taste that these things should be done promptly, I would ask for its present consideration.

There being no objection, the joint resolution

(S. No. 33) authorizing suitable acknowledgments to be made by the President to the British naval authorities at Jamaica for the relief extended to the officers and crew of the United States ship *Susquehanna*, disabled by yellow fever, was read twice by its title, and considered as in Committee of the Whole.

Mr. MASON. Let the resolution be read through.

The Clerk read it, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized and requested to cause suitable acknowledgments to be made on the part of this Government to Admiral Sir Houston Stewart, of her Britannic Majesty's navy, and the officers under his command, for their prompt and efficient aid and generous hospitality extended to the disabled officers and crew of the United States ship *Susquehanna*, on her late arrival at Port Royal, in the Island of Jamaica, with the yellow fever on board; on which occasion, besides placing the naval hospital, with an adequate corps of medical officers, nurses, and attendants at their service, eighty-five of the sick officers and crew of the *Susquehanna* were safely and promptly conveyed on shore with the aid of the boats of the British squadron, and the lives of the greater portion of them thereby probably saved. And that the President be further requested to cause a gold medal, with appropriate devices, to be presented on behalf of this Government to assistant surgeon Frederick A. Rose, of the British navy, who volunteered, with the permission of his commanding officer, to join the *Susquehanna*, and, at imminent personal risk, devoted himself, on the voyage from Jamaica to New York, to the care of the sick remaining on board. And that the President cause suitable testimonials to be in like manner presented to the medical officers in the British service in attendance at the hospital, with appropriate rewards to the nurses and other attendants there, whilst occupied by the officers and crew of the *Susquehanna*.*

Mr. MASON. Mr. President, the incidents connected with the arrival of that ship at Jamaica, I think, will pass into the history of the country as of most impressive character, evincing the humane and generous courtesy that is always extended by humane and generous nations to those who are thrown upon their shores in a distressed condition. This ship arrived at the Island of Jamaica at eight o'clock in the evening, and it was reported to the British admiral in command that there were on board one hundred and three cases of yellow fever, of the most malignant type, the patients in every condition, from those who had just been seized, to those who had died. It so happened, as appears in the correspondence, that at that time, on board the admiral's ship, they were engaged in high festivity. A ball had been given in which they were then participating, but immediately orders were issued and sent on shore that a competent number of officers and men of the British squadron should remove a portion of the sick to the naval hospital. They arranged it immediately for the reception of the American sick, and by six o'clock on the following morning, the hospital was ready, and these men were landed in their disabled condition by the aid of the boats of the British squadron.

In addition to that, the surgeons of the squadron volunteered their attendance at the hospital, in aid of the usual medical staff that was there. They sent to a distance to procure a sufficient number of nurses and medical attendants, and the result was that eighty-five, including six officers and the crew of that ship, were left without any other care than this generous aid of the British authorities at the island. It is in proof, on account of the necessary condition of those sick on board the ship, that but for this humane and timely relief, the lives of a great number of them must have been sacrificed.

The resolution contemplates that the President shall make suitable acknowledgments to the British admiral and his officers, for this very distinguished service, and that he shall at the same time present a gold medal to one, in the opinion of the committee, most eminently deserving of it—a young surgeon of the British squadron, who volunteered under these circumstances to go on board the infected ship, and to attend her home. Captain Paulding states that his own surgeon and his assistant surgeon were sick; and, in the fear that the only remaining one would be taken sick on the voyage, he applied to Admiral Stewart to spare him, if possible, one of his own surgeons. The service was a very dangerous one, for the ship was in such a condition as to render every one on board in imminent risk of his life; but it seems that this young gentleman—I had the pleasure to meet him here the other day—Assistant Surgeon Rose of the British navy, volunteered

his services to go on board that ship, the Admiral permitted it, and he attended the ship home. The committee have thought there is something so peculiarly just in distinguishing that officer, that they propose to request the President to give him, in commemoration of that service, a gold medal. I hope the resolution will pass.

The PRESIDENT *pro tempore*. Is there a report accompanying the joint resolution?

Mr. MASON. Yes, sir, there is a report accompanying it, which I ask may be printed.

The report was ordered to be printed.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MASON. I trust the fact will be recorded that the vote was a unanimous one.

The PRESIDENT *pro tempore*. That will be understood to be the sense of the Senate.

CAPTAIN HERNDON.

Mr. HALE. I am instructed by the Committee on Naval Affairs, to whom was referred the joint resolution (S. No. 32) for the benefit of the widow of Commander William Lewis Herndon, United States Navy, to report the same back to the Senate, and with the recommendation that it pass. I am also instructed by the committee to ask the unanimous consent of the Senate to consider the resolution at once, because, if anything is to be done, it had better be done now.

If the Senate will indulge me for a moment, I will simply remark that the services of Captain Herndon, for which this relief is to be granted to his surviving widow and only child, constitute one of the most illustrious chapters of the history of the American Navy; and it is believed to be no exaggeration to say that, for cool and collected courage, heroic daring, patient and enduring forgetfulness of self, devotion to the welfare of others, absolute self-possession in the presence of danger, Christian fortitude, and self-sacrifice even of life, the conduct of Captain Herndon, if not without a parallel, is not excelled by anything which history or tradition has commemorated, either in ancient or modern times. Captain Herndon presents such a contrast to the course too often pursued by those to whose judgment and skill are committed the fortunes and lives of others, that it is believed to be in consonance with the views and feelings of the whole American people to give some public expression of their appreciation of such traits of character as he exhibited in the trying emergency in which he sacrificed himself. And it is believed that no way can be devised more appropriate than by affording some substantial pecuniary aid to his surviving widow and child, to whom it will be not only grateful, but for whose comfortable support it is necessary.

The PRESIDENT *pro tempore*. It will require the unanimous consent of the Senate to consider the resolution now.

Mr. IVERSON. I am not satisfied with the resolution, and I object to its consideration.

Mr. SEWARD. I ask, as a great favor, that the honorable Senator from Georgia will be pleased to give his attention to this resolution soon, so that we may call it up at an early day?

The PRESIDENT *pro tempore*. Objection being made, the joint resolution cannot be considered to-day.

CATHARINE JACOBS.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of Catharine Jacobs, submitted a report, accompanied by a bill (S. No. 293) for the relief of Catharine Jacobs, widow of Francis Jacobs, a waiter in the military household of General Washington.

Mr. SEWARD. If the honorable Senator will excuse me, I will ask to have that bill passed at once. It was passed at the last session, but failed in the House for want of time. It speaks for itself.

Mr. THOMSON, of New Jersey. I should be very glad if the Senate would allow it to be taken up and passed now.

Mr. SEWARD. It is only to grant a pension to the widow of a servant of General Washington.

The PRESIDENT *pro tempore*. The Chair will remark, that the hour for the consideration of the special order having arrived, it will not be in order to take up this bill unless by unanimous consent of the Senate.

Mr. SEWARD. I hope there will be no objection.

The PRESIDENT *pro tempore*. The Senate must proceed to the consideration of the report of the committee of conference, unless it is otherwise ordered by the Senate.

Mr. SEWARD. I ask the consent of the chairman of the committee of conference to allow the bill to pass.

Mr. GREEN. If there is to be no debate upon it, I shall have no objection.

Mr. THOMSON, of New Jersey. I think it will not give rise to debate.

There being no objection, the bill (S. No. 298) for the relief of Catharine Jacobs, widow of Francis Jacobs, a waiter in the military household of General Washington, was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to pay to the widow of Francis Jacobs, of Albany, New York, a pension of eight dollars a month, commencing on the 1st of January, 1854, and continuing during her natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIS A. GORMAN.

Mr. SEBASTIAN. I ask the unanimous consent of the Senate to offer the following resolution:

Resolved, That there be paid to Hon. Willis A. Gorman, Governor of Minnesota Territory, the sum of \$820, as compensation for his services as commissioner to investigate the alleged frauds of Alexander Ramsey, late superintendent of Indian affairs for the northern superintendency, and for reimbursement of his necessary expenses incurred therein.

If there be no objection, I ask for the present consideration of the resolution. I do not think it will lead to debate.

Mr. GREEN. I call for the special order.

Mr. SEBASTIAN. Then of course this resolution will lie over under the rule.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed a joint resolution (H. R. No. 26) authorizing the arrangement and disposal of public buildings in the city of Philadelphia; in which the concurrence of the Senate was requested.

Also, that the House had passed the following bills of the Senate:

A bill (No. 36) to provide for the issuing, service, and return of original and final process in the circuit and district courts of the United States in certain cases.

A bill (No. 97) to incorporate the Benevolent Christian Association of Washington city.

A bill (No. 111) to alter the times of holding the circuit and district courts of the United States for the district of Vermont.

A joint resolution (No. 22) providing for the payment of certain expenses of holding the United States courts in the Territory of Utah.

Also, that it had passed the bill of the Senate (No. 76) to incorporate Gonzaga College, in the city of Washington and District of Columbia, with an amendment; in which the concurrence of the Senate was requested.

KANSAS—LECOMPTON CONSTITUTION.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. STUART. Mr. President, the important subject growing out of the admission of Kansas as a State into this Union, is again presented to the consideration of the Senate through the report of the committee of conference. While there are certain preliminary questions respecting the authority of the Senate to consider that matter until the bill has been returned to us by the House of Representatives, I propose for the present to pass over those, and to consider the immediate subject before us.

It seems to me indispensable to a fair understanding of the question now presented that we should recur to the history of this transaction, and see what has been done heretofore. In doing so at this time, I feel it incumbent on me to say that while I shall treat the members of the committee with that respect which I feel for them individu-

ally, and which is due to them as members of this body, I shall treat their report according to the rules of interpretation, and I shall insist that they mean by that report precisely what will be, in my judgment, its necessary consequences.

Sir, about two years ago, so far as the action of the majority of the Senate was concerned, we determined that Kansas might be admitted into the Union. We determined at that time that so far as the question of population was concerned, there were such circumstances incident to the existence of this Territory and the character of its people as to make it expedient and proper that they might form a constitution, organize themselves as a State, and at that time be admitted into the Union. When we came here at the commencement of the present Congress, we found that the people of Kansas, acting, as it is said, through a convention, had prepared a constitution, had partially organized a State government, and had demanded admission into the Union as a State under it. Upon the announcement of this fact by the President of the United States, I deemed it my duty to say that, in my judgment, such had been the conduct of that convention, so completely had it set at defiance the provisions of the organic act of the Territory, so completely had it attempted to overturn the principles of self-government, so enormously had it concocted a fraud, and sought to fix that fraud upon the people, that I never could, and never would, agree by my vote to aid in carrying out that effort.

But, sir, at a later day, the constitution was received; was submitted to the Senate. It was referred to the Committee on Territories. When it came back here we found this remarkable fact, which becomes an important consideration in determining upon the question of the report of the committee of conference to-day. The first copy of that constitution which was authentically published, was published in the Washington Union, and was said to have been obtained from the President of the United States; and when that constitution was published, this land ordinance was the first division in order in the instrument, and it appeared to be a component part of it. In connection with that question, let me quote from the certificate attached to the ordinance itself:

The within is a true and perfect copy of the ordinance adopted by the constitutional convention, and submitted as part of the constitution by the convention which assembled at Lecompton on the 5th day of September, A. D. 1857.

JOHN CALHOUN,

President Constitutional Convention.

LECOMPTON, KANSAS TERRITORY, January 14, 1858.

There we have the fact, the only evidence we had, to wit: the certificate of the president of the convention, John Calhoun, that this paper, on which we have been acting, is, in fact, the constitution made by the Lecompton convention, was equally conclusive to show that that convention submitted, as a part of the constitution, the ordinance which accompanied it; and yet we find that the Committee on Territories, in their report, come to this conclusion:

"The committee do not approve the ordinance accompanying the constitution, and report against its allowance; but they do not regard it as any part of the constitution, nor will its approval or disapproval by Congress affect the validity of that constitution if the State be admitted into the Union as recommended."

Now, sir, I call the attention of the Senate to this important posture of affairs. Acting upon the report and judgment of that committee, the Senate proceeded to consider the bill which they reported. They adopted the opinion contained in the report, that the ordinance was no part of the constitution, and that the constitution would be in no wise affected if the State were admitted into the Union under it, though we disapproved and disavowed the ordinance. That bill was sent to the House of Representatives. The House of Representatives refused to pass it. There was ascertained to be a decided, fixed, unalterable majority of the House of Representatives against that bill; but they sent us instead of it a proposition of their own, a plain, just, fair proposition, one which it became Congress to make, and would be becoming the people of Kansas to receive and act upon. It came here. The Senate refused to take it, and sent it back to the House of Representatives; the House adhered to their original position, and a committee of conference was finally agreed to between the two Houses.

Now, what do they say? I ask that question

here to-day, and I shall be obliged to any member of the committee, or to any advocate of their report, if they will answer me some of the questions which, in the course of my remarks, I shall ask. I repeat again, Mr. President, what do the committee say? That there is a difference of opinion between the two Houses as to whether the constitution reflects the will of the people or not, as to the propriety of whether it should be submitted to the people in order to determine whether it is their will and their constitution? Not a word of it. Will any member of the committee, or of this body, tell me that there has been any other dispute between the two Houses than that? I beg leave to repeat the question, sir; for I desire it somewhere to be answered: will the committee, or any advocate of its report, tell me that there has been any dispute between the two Houses, except as to the question whether this constitution was fairly made, and whether it really and truly reflected the will of the people of Kansas? That is the only question upon which the two Houses have been differing.

But what says our committee? They say it is important to determine a question upon the ordinance. I would like to ask a member of the committee, I would like to ask an advocate of their proposition, where did you learn that there was a dispute in Congress, or in Kansas, about the ordinance? Where is the information that the people of Kansas are disputing with the proposition of the Committee on Territories of this body, as to the amount of land they shall have? Who has heard it, and from whence did he hear it? Who has heard the question mooted in the Senate? Who has heard it mooted in the Hall of the House of Representatives? Has a man in the broad domain of the United States raised a dispute upon this topic? Not a living man.

Sir, I alluded to it in the first speech I made here for a purpose which is pertinent to-day. I alluded to it as a part of the plan of that convention to bribe the people of Kansas. By this plan, if it was found impossible to seduce a majority of Congress, that convention might hope that the people of Kansas, if they could get \$30,000,000 worth of land, might be willing to take this constitution. Before I made my speech in December last, the acting chairman of the Committee on Territories [Mr. GREEN] made a speech in reply to the honorable Senator from Illinois, [Mr. DOUGLAS;] and what did he say? He said:

"The ordinance that accompanies the constitution is held by some to be extravagant in its demands on the Federal Government. It may or may not be so. Whether it be right to accede to the proposition submitted in the shape of an ordinance or not, I shall not now stop to discuss; for I hold that it is no part of the constitution of Kansas. It is a separate proposition presented by the convention of Kansas, and it is a matter of contract with the Federal Government whether we accede to it or not. We may disaffirm that contract. In other words, it is a proposition, and we may make a counter proposition. It is a matter for consideration, for adjustment; and it is no branch or part of the constitution of the State."

I have said that the president of the convention certifies to us that it is; and that the convention at Lecompton made it a part of the constitution; and that we have no better evidence of the constitution itself than we have of this fact. But, sir, I care not which way it is settled. I say again that, from the time this measure was introduced into Congress down to to-day, there has not only not been no dispute between the two Houses, but there has been no dispute between any members of Congress, as to whether we should give one or the other of these land propositions. And yet the conference committee comes here and tells us that they have deemed it desirable to submit to a vote of the people of Kansas, the question whether they will take the same land donations that we made to the State of Minnesota in the bill for the admission of that State into the Union. By what authority, I say, do they tell us that story, and upon what ground is it founded? They tell us that that is the only question submitted. The Senator from Virginia, [Mr. HUNTER;] and the Senator from Missouri, [Mr. GREEN;] both affirmed in their places yesterday that there was no submission of the Lecompton constitution to the people of Kansas. The Senator from Virginia said he never had agreed, and he never would agree, to submit to the people of Kansas the Lecompton constitution by an act of Congress; and yet, both of these Senators tell us, the bill which they have presented tells us, that if the land prop-

osition fails, the constitution fails, and they are not admitted as a State into the Union; but, if the people, by a vote, agree to the land proposition, then the President is to issue his proclamation, and proclaim the State in the Confederacy.

Now, sir, let me state to the Senate a perfect illustration of this doctrine. When the trapper sets his trap to catch the fox, or the angler baits his hook for the fish, he says to the fox, "I do not propose to catch your head in that trap; the question whether you will put your head into it or not is not presented; but the only question is whether you will eat the bait." So of the angler. He says, "I have no idea, Mr. Fish, that you will fasten this hook into your gills—not at all; the proposition that I submit simply is, will you swallow the bait?—that is all." We do not say to the people of Kansas that their votes shall have any effect at all upon the constitution made at Lecompton; we deny that. I would not, says the Senator from Virginia, agree to any such proposition as that at all, but I will say to them that just as you vote on the land ordinance so is the result upon the constitution.

Now, Mr. President, is that a proposition which it becomes a Congress representing thirty million people to make? Is it a proposition that it becomes the descendants of those who fought at Bunker Hill and Yorktown to agree to? Never, sir. It is a despicable proposition. It is a proposition worse than that of the thimble-rigger, for he allows you to bet on which thimble the ball is under. He makes a direct proposition. He does not say to you, "let the thimble which we both know to have nothing under it test the question whether it is under the next one or not." Sir, such a mode of conduct, I repeat, is despicable on the part of the Congress of the United States.

What, then, is the plain object of this proposition? It was ascertained, as I said, that a majority of the House of Representatives could not be obtained for the Senate bill. What was the reason? Because a majority of the House insisted that it should be submitted to a vote of the people of Kansas to say whether this is such a constitution as they wish, and whether it reflects their will. But the Senate of the United States was not willing to come to that doctrine. How, then, was the fact? The dispute, I say, was upon the question of submission, and hence the committee set to work to make a Janus-faced proposition—one which, in the South, by southern Democrats should be declared to be no submission of the constitution to the people of Kansas at all; it should be denied there as it is denied to-day by the Senators from Virginia and Missouri, constituting a majority of the Senate committee; and which, in the North, could be insisted upon as a submission of the constitution to the people of Kansas, and for which you might get the northern anti-Lecompton Democrats in the House to vote because it is a submission; and get the southern Lecompton Democrats to vote for it because it is not a submission. Sir, like that celebrated hunter who aimed to kill the animal if it was a deer, and miss it if a calf, you say to the members constituting the two bodies of Congress to-day, if you are true game, and vote to reject this proposition, it will kill you whether you live North or South; but if you vote for it you will be a living calf all the days of your life. No matter in what section of this country you reside, if you vote for the measure there is no danger; because at the South we insist it is not submitted, and at the North we insist that it is; vote against it, and we will charge you in the South with being false to our interests; we will charge you in the North with voting against the only means provided to ascertain the will of the people upon the constitution itself. That is the English of it.

There will be very few gentlemen in Congress deceived or misled upon this subject; there will be very few persons in the States of the Union who will be misled by it; and there will be none at all in the Territory of Kansas. The people of Kansas, like every other patriotic, honest people, will indignantly set their heel upon it; and let me tell you why. I speak not this, Mr. President, in the spirit of prophecy; I speak it in the face of history. The vote of the 4th of January in Kansas was a vote taken before the question was presented here; it was taken upon the constitution as the Lecompton men made it, with every one of these enormous land grants in it; and the people

pronounced against it by a majority of ten thousand and more. After having this banding here in Congress; after kicking it about between the two Houses, and then sending it back with the proposition reduced, as the Senator from Missouri says, from thirty million acres to about four million, do you suppose that you have any better prospect of success? No, sir. I say the people of Kansas will indignantly set their heel upon it.

Let me inquire how Congress stands on this question to-day. I affirm that the bill reported by this committee, by way of amendment, falsifies every argument which the advocates of the Senate bill urged for its passage. They said that the Lecompton convention had a right to say, and nobody had a right to question it, whether the constitution should be submitted to the people or not, and as they said, so it must ever remain; and yet this bill actually places it in the power of the people of Kansas to kill the instrument by a vote at the polls. More than that, sir, this bill provides, that if the people of Kansas reject this proposition, they shall not make another for admission into this Union until they have population sufficient, according to the ratio of representation, to entitle them to a member in the House. But, further, it says that the Legislature of Kansas, when proceeding to take the initiatory steps for a new constitution, shall act "in conformity with the Federal Constitution, subject to such limitations and restrictions as to the mode and manner of its approval or ratification by the people of the proposed State as they may have prescribed by law, and shall be entitled to admission into the Union as a State under such constitution thus fairly and legally made, with or without slavery, as said constitution may prescribe."

Here the very advocates of the Lecompton constitution, upon the ground that the convention had the sole power to determine the question of submission or not, come in, and say that the next convention shall take such directions as the Legislature convening them shall make. What, then, becomes of the ground upon which they advocate this constitution?

Mr. PUGH. I wish to correct the Senator, if he will allow me.

Mr. STUART. Certainly.

Mr. PUGH. The ground taken was, that, inasmuch as the act under which the delegates were elected contained no provision at all on the subject, therefore the question was entirely within the discretion of the convention.

Mr. STUART. I am stating the grounds which the general advocates of this measure presented to the Senate. I know that, if you undertake to analyze all the arguments that were made by the supporters of the Senate bill, you would find no two of them, scarcely, standing upon the same ground. But I proceed now, in connection with this, to another proposition, based upon the great doctrine of non-intervention; and it was this: that you had said to the people of Kansas, in their organic act, that they should proceed to form a constitution and State government in their own way. That was the language of the honorable Senator from Missouri in his first speech—that Congress had no right to provide the way; that they were at liberty to take their own way; yet, sir, in this bill you say that they shall only do it by a law of their Legislature; and that that law shall provide the mode, and manner, and time, of submitting the constitution to the people. I should like to know if that is non-intervention?

What further, Mr. President? The advocates of the Senate bill said that it was not of so much consequence how this thing was settled, as it was that it should be promptly settled. That is the great argument of the President: admit the State, no matter how, and you have ended all controversy about it. This bill says that, if the people of Kansas do not take this Lecompton constitution, they shall make none, shall have none, shall be no State until they have a sufficient population to entitle them to a member of the House of Representatives. What, then, becomes of the "speedy" argument for the settlement of this question?

What next? It was important to take it out of Congress. Well, sir, we have been taking this subject out of Congress ever since I have been in; and the more we have taken it out, the more we have taken it into Congress. What is the result here if the people reject this constitution? Can-

not they make another application to Congress the next day, or at any time when they please, and is it not perfectly competent for Congress to repeal this law and admit them? Who denies it? If the very next Congress chooses to admit Kansas under a constitution that she shall make, who can prevent it? No power on earth. Then you will have the question presented to Congress continuously, debated here, the country agitated, until it is finally disposed of.

How beautifully does the House bill compare with this miserable proposition of the committee of conference. That proposition said to the people of Kansas, "vote as you like upon this constitution; if you vote in favor of it, very well, the President proclaims you a State in the Union; if you vote against it, proceed to form the one you do wish, and come immediately and promptly into the Union," and that, too, without the action of Congress. There was a proposition which met the argument of the advocates of the Lecompton constitution. There was a proposition that was fair to every section of the country; and more than that, sir, for the first time in the history of legislation upon the subject of Kansas, it was fair to the people of Kansas.

But, sir, what does this proposition say? Is there a Senator within the hearing of my voice to-day who believes, if this land measure was separately submitted to the people of Kansas, disconnected from any other question, that there is a man in Kansas who would vote against it? Not a man. There is not a Senator, nor a member of the House of Representatives, who supposes that this land donation would receive a negative vote in the whole Territory of Kansas. Look now, sir, at the miserable trick contained in the substitute of the committee. That says to the people, if you vote upon a subject upon which you have no two opinions, a subject which you are all for, we think; there is a better chance of getting you to put the hook into your mouth, or put your head into the trap, than if you voted upon the trap or the hook itself. Yet the Senator from Virginia said, with something of astonishment, not to say indignation, that this was no threat to the people of Kansas. Sir, I affirm, in my place here to-day, that it is, and is a threat of the most objectionable character. It compares unfavorably with the attempt of the Lecompton convention. The attempt of that convention had the merit of boldness, of audacity, of desperation; it spoke in open daylight, and said to the people of Kansas, you shall have no power to reject this constitution, because, if we give you the power to do so, we know you will reject it; but this is an attempt to wheedle, to cajole, first the anti-Lecompton men in Congress, and next the people of Kansas. Not a threat, sir! What is an election? Is it not the free, unembarrassed, and unbiased choice between two distinct propositions? When you vote for a candidate for President, do you not vote against some other candidate? Is not your choice free, untrammelled, to vote for A or to vote for B, as you choose?

What was the House proposition which we rejected, and for which the committee of conference recommend this amendment as a substitute? It was this: if you want the Lecompton constitution, take it; if you reject it, you have the liberty to make one for yourselves which will be satisfactory, and you are to proceed to do it. But this amendment says if you will take this constitution, which is known to be obnoxious, we will grant you so much land. I say, Mr. President, it is known by every form of procedure that becomes a free people, by the resolutions of conventions, by the memorials and resolutions of their Legislature, by the memorials of their civil officers, by a vote of the people at the polls; by every means, I repeat, which becomes a free people, Congress is historically advised to-day that the people of Kansas are uncompromisingly opposed to this instrument. Knowing that—yes, sir, there ought to be emphasis upon these words—knowing that, this committee amendment submits a land proposition which no man in Kansas, or here, disputes; and says, if thus induced you vote for the land, you are under a constitution which you hate and despise.

Sir, it was noble, it was patriotic, it was becoming the great name and fame of the honorable Senator from Kentucky, [Mr. CRITTENDEN,] when he asked the Senate yesterday, what would southern

Senators say with this proposition reversed? If this were a free-State constitution, and had been rejected by the people of Kansas in all the forms in which this has been, and it should be now proposed to submit it to them in this mode, this despicable, trickish mode, is there a southern man in Congress who would vote for it? Not a man. I can say in the sincerity of my heart I wish to God that were the fact this day. If it were, I would stand here as I stand to-day; and so long as I am permitted to represent that intelligent and noble people living in the State of Michigan, I never will agree that there shall be one mode of proposing to a people for a slave-State, and another for a free-State constitution—never, sir, never. Is this self-government? Is this leaving the people of Kansas, in the language of the organic act, perfectly free to form and regulate their own domestic institutions in their own way? Is this perfect freedom? What, then, I ask, would be perfect oppression? Sir, no man dare assert it. It is not pretended to be.

When that House bill was sent here, the Senator from Pennsylvania [Mr. BIGLER] made a speech against it. Speaking of the doctrine that Congress has always advocated, he said:

"An essential element in that doctrine, is that Congress will not interfere with the domestic affairs of the Territories; that as to the mode and manner of making a government, the people of the Territories should be unrestrained; that Congress would decide only upon the question of admission under the obligations of the Constitution, and that would be on the single point whether the government presented was republican in its form, and not as to the mode of making the constitution—leaving that work with the people."

He objected to this House proposition because it undertook to provide how the people of Kansas should make the next constitution if they rejected this one. Does not that objection apply with equal, and with greater force to this proposition? Speaking of this doctrine further, he says:

"Sir, that is the doctrine of the Democratic party, held by them because it is consistent with the Constitution, consistent with the true interests of this great country, and with the rights of all classes of the people and all sections of the Union."

"Now, sir, I regard the House proposition as direct and violent intervention, because it proposes to discard what the people have done, and to institute a new mode of proceeding. It proposes to set aside what the people of Kansas have done in the way of changing their government from a territorial to a State form, and to prescribe to them how they shall proceed hereafter in making a government."

That was the Senator's notion of intervention, and that was the basis of his objection to the House bill. He objects to the bill further because it does not present the issue which he says exists in the State of Kansas. He says the issue in Kansas is the slavery issue; and that by the House bill they are not at liberty to vote upon it. Are they at liberty to vote upon it in this proposition? Hear his argument, sir. He quotes from the House amendment this clause:

"At the said election the vote shall be by ballot, and by indorsing on his ballot, as each voter may please, 'for the constitution,' or 'against the constitution.'"

He then says:

"That form you perceive, sir, would not present to the people of Kansas the great question at issue there, the question which has agitated the country from one extremity to the other, to wit: whether Kansas shall be a free or a slave State. Slavery is in the constitution as it stands, and the question thus presented would be, whether they would have a slave State or no State at all."

Those words, to make them emphatic in the Senator's speech, are italicized. He objects to the bill because it presents the question whether they will have a slave State or no State at all. Does not the proposition of the conference committee do that too? He did not state the House proposition correctly, because the question presented there was, would they have the Lecompton constitution or have a new one made by themselves? but this proposition is the exact case stated by the honorable Senator from Pennsylvania. The question here presented to the people of Kansas is, will you have a constitution making a slave State, or no State at all? because Congress says in its bill that if you do not accept this proposition you shall have no State at all for an indefinite period of time.

Now he reasons:

"Those who desire it to be a free State would have no fair opportunity of carrying out their will. They are to be disfranchised on this vote."

Is not that this case, so far as human language can perfect it?

"They can have no voice. Now, sir, if this measure is

to be adopted, the form of voting ought to be such as would give those people the opportunity of deciding, unembarrassed, the question of slavery which has harassed them from the first hour of their organization."

Is it not remarkable, Mr. President, that an honorable Senator who objected to the House proposition for these reasons, should be so suddenly transformed into an advocate for the proposition of this committee? On this occasion my honorable friend from Ohio [Mr. PUGH] also said something. He said:

"According to my apprehension of what is due to this case, the House amendment is utterly inadmissible. It is a violation, as I understand it, of every principle on which Congress can admit a new State; of every safe precedent; and a violation of every principle heretofore professed by the Democratic party of the United States. It is an unfair bill. It cannot make peace. It can make nothing but disturbance in Kansas, and everywhere else. I shall endeavor to sustain these propositions as the reason why, certainly to my own entire and perfect satisfaction, I shall vote against that bill at every hazard."

"The main idea of this proposition, or rather its pretension, is that the Congress of the United States remands the constitution of Kansas to a vote of the people; and what for? Who authorized us to remand that constitution to a vote of the people?"

That is the question. Does the honorable Senator from Ohio say to-day, that this question is not remanded to Kansas for a vote of the people, which is to determine its fate?

Mr. PUGH. By this bill?

Mr. STUART. Yes, sir.

Mr. PUGH. I say it is not.

Mr. STUART. Very well, sir; that is precisely what I desire.

Mr. PUGH. I not only say it is not remanded, but I would not vote for the bill if it did remand it.

Mr. STUART. Precisely so. The Senator could not vote for it and make this speech. Now, sir, what was his objection? He asks in this most emphatic language: where do you get the authority to remand that constitution to Kansas for a vote of the people? Suppose the honorable Senator, as a member of this body, should be told to-day that here is a bill for the relief of John Jones, and the order of the Senate is, that as you vote upon that bill, so is your vote upon the deficiency bill, and it will be counted at the desk as such: will the honorable Senator tell me that that is no submission at all for the action of this Senate upon the deficiency bill?

Mr. PUGH. I say it would be.

Mr. STUART. You do not count it as it affects John Jones, but you count it as it affects the deficiency bill, or you count it for both. If you pass John Jones's bill, you pass the deficiency bill; if you reject John Jones's bill, you reject the deficiency bill. The Senator says that would be action upon the deficiency bill. Now, sir, you say to the people of Kansas, if you vote for this land, the President will proclaim you in the Union under the constitution made at Lecompton; if you vote against this land, it is to be taken as an expression of your will that you do not wish admission into the Union under the Lecompton constitution. That is the language of the bill, that that is to be taken as an expression at the polls that you do not wish to be admitted into the Union under the Lecompton constitution.

Mr. PUGH. I do not wish to interrupt the Senator more than a moment, as I intend to reply at some length to him, but I only wish to put in a caveat. That is not my interpretation of this bill at all.

Mr. STUART. Well, Mr. President, fortunately that is one thing which the committee of conference has not left us to interpret. The amendment they propose states:

"But should a majority of the votes cast be for 'proposition rejected,' it shall be deemed and held that the people of Kansas do not desire admission into the Union with said constitution under the conditions set forth in said proposition."

Now, I say there is no room for interpretation; and it is a little curious, Mr. President, to see what the effect of voting the other way is:

"Should a majority of the votes cast be for 'proposition accepted,' the President of the United States, as soon as the fact is duly made known to him, shall announce the same by proclamation, and thereafter, and without any further proceedings on the part of Congress, the admission of the State of Kansas into the Union upon an equal footing with the original States in all respects whatever shall be complete and absolute."

Mark you, sir, to vote for the "proposition accepted," does not say it shall then be deemed and held that you want to come in under this con-

stitution—not at all, because that might stick in the throat of somebody there. It is carefully worded, therefore, to say that there is not the most indirect approval of the constitution, if you vote for the proposition; but if you vote against it, then it is to be deemed, and taken and held, that you do want to come in under the Lecompton constitution, with the land attached. What further objection did my honorable friend make to that bill? He said:

"But, sir, that is not the worst of it. This House amendment does not, in truth, refer the constitution of Kansas back to the people of Kansas."

He says the House amendment does not do that. The Senator asks:

"Who are the people of Kansas—I mean the people authorized to vote for or against this constitution? The constitution defines them. One part of the constitution was submitted to the people; one part was ratified by every argument which men can receive; I mean the seventh article. That not only passed the convention, but it passed the vote of the people; and who were they? The constitution tells us:

"At which election the constitution framed by this convention shall be submitted to all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection."

"They are the people of Kansas; they are the people defined by the constitution of Kansas; they are the body of electors to ratify or reject the constitution; and we have no right to substitute any other body of electors greater or less than that. Is the seventh article to be overturned by the vote of a larger or a smaller number than provided there? If so, we might as well unmake the whole constitution of Kansas. To whom does this amendment remit it? It provides"—

now quoting from the amendment—

"Sec. 4. And be it further enacted, That, in the election hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, who are legal voters, under the laws of the Territory of Kansas, and none others, shall be allowed to vote."

"What is the qualification for a voter under the territorial laws of Kansas? That he shall be a citizen of the United States, and shall have resided six months in the Territory."

My honorable friend objected to the House proposition because it submitted the fate of the constitution to a different body of electors than the constitution itself provided for.

Mr. PUGH. Not submitted the fate of the constitution, but the constitution itself.

Mr. STUART. Is not that the fate of the constitution?

Mr. PUGH. The Senator must not interpolate words.

Mr. STUART. I am very willing to say "submit the constitution," if there is any distinction between the phrases.

Mr. PUGH. There is a vital distinction.

Mr. STUART. Then, because they submitted the constitution to a different body of electors—and the Senator affirmed that—they had no right to submit that constitution to a different body of voters from that body provided for in the constitution itself.

Mr. PUGH. I say so still.

Mr. STUART. Let me compare that with this case. The Senator concedes that the vote of the people, under this committee's amendment, on the land ordinance will determine the existence or non-existence of the constitution.

Mr. PUGH. Because it determines the question whether the State is admitted into the Union or not.

Mr. STUART. Precisely; I agree with him. It determines the fate of the question, whether Kansas comes into the Union with the Lecompton constitution or not. Now, what is the difference between saying that the vote shall be upon the constitution, and that it shall be upon the land; and as you vote on the land, so is the result counted on the constitution? Why, sir, it brings you back to my illustration. You do not tell the fish that you want him to agree to take the hook in his mouth. You only tell him you want him to swallow the bait; that is all.

There was another reason urged for passing this original Senate bill, which was entirely a political reason. It was said that it was all-important that this Kansas controversy should not be permitted to go into the next presidential election. Sir, the very effect of this bill is to carry it there, irresistibly and inevitably. What do you say? If you reject this constitution—and I have shown you, sir, that it is rejected already by the people of Kansas—you shall not make another until you have the requisite population for one member of

the House; and that is to be ascertained by a census legally taken. How is a census legally taken? What is the law about taking the census? It is to be taken once in ten years. The next census will be taken in 1860, two years hence.

Mr. PUGH. Does the Senator mean to say that by the census spoken of in this bill is meant the decennial census?

Mr. STUART. I mean to say that it is a census legally taken.

Mr. PUGH. It can be taken by an act of the Territorial Legislature at any time.

Mr. STUART. I do not think that is so.

Mr. PUGH. Certainly it is; and that is a legal census.

Mr. STUART. That is not the bill.

Mr. PUGH. It is the bill.

Mr. STUART. I am perfectly willing to concede, for the sake of the argument, that it is the bill, though I say it is not. I say that if the Senator lives to see Kansas come back and ask admittance into the Union, he will find that those who are urging Leecompton to-day will contend that the language of this amendment means a census taken according to the existing laws. If he shall live to see that day, and I shall hold a seat in Congress at the time—

Mr. PUGH. I tell the Senator that it is utterly impossible, from the language of the amendment, that that could be so. If he will only read it he will see it himself. The ratio of representation is fixed once in ten years.

Mr. STUART. I understand that perfectly well. It is conceded on all hands, that in Kansas there is not the necessary ratio now. It is conceded on all hands that there is not a population of ninety-three thousand four hundred there; nobody denies it. Then, when are you going to take another census? and when you get another census, will you not have another ratio? and is it not probable the next ratio will reach one hundred and twenty thousand?

But, sir, I am willing to take the Senator on the argument that it is a census to be taken by the authority of the Territorial Legislature; and then is he any better off? Has he got this question out of the presidential election? Does the Senator suppose that during the coming summer there will be the necessary population there? Not at all. If this question comes into the next Congress, it will be in the midst of the presidential canvass and controversy. The very business of the next Congress will be speech-making upon the subject of who shall be the President in 1860. So that you neither get it out of Congress nor out of the canvass of 1860; but you inevitably carry it into both.

One word more, sir, upon this doctrine of intervention. The Kansas act, says the President of the United States, is an enabling act; that that is a proposition too plain to be argued. It enables the people, says the Senator from Missouri, to proceed, in their own way and at their own time, to form a State constitution and be admitted into the Union. When you provide in this bill that they shall not proceed until they have the ratio of inhabitants; that they shall then proceed by an act of their Legislature, which act shall define how and when the constitution shall be submitted to the people; to that extent you repeal the organic act of Kansas, if the advocates of this measure are right. That is intervention, then, in its most obnoxious form; for you take from the people, according to the interpretation the President gives of the organic act, and the interpretation of most of his supporters on this question, the right that they now hold under that act.

Now, Mr. President, I desire to turn the attention of the Senate, for one moment, to what the Committee on Territories, when they reported the Senate bill, said on this question of population:

"Believing that the paper presented is the legal constitution of Kansas, that it is republican in its form, that the boundaries proposed by it are admissible, and conceding the sufficiency of the population, the committee recommend the admission of Kansas into the Union upon the constitution presented, and report a bill accordingly."

"Conceding the sufficiency of the population," said the Committee on Territories of the Senate. What do they say now? What does the Senator who acted as the chairman of that committee, and made that report in which he conceded the sufficiency of the population, say now? He says, inferentially, that it is very clear there is not a sufficient population in that Territory, and therefore

you shall not proceed again to form a constitution until that is an ascertained fact.

One word, Mr. President, as to the argument of the Senator from Virginia in respect to his analogous cases. He quoted Iowa and Michigan as being cases analogous in principle to this one. Why, sir, in the first place, it never was pretended, by any man that I know of, that Congress had not full and unqualified power to fix the boundaries of a new State which is to be carved out of our territory. I say that has never been a disputed question in Congress. The case of Michigan stood under the ordinance of 1787; and some of our people in Michigan contended that, by the ordinance of 1787, we had a right to the boundaries described in our territorial organization, and that, on account of the ordinance, Congress could not change it. I made an examination into that subject at that day, and I came to the conclusion, in an hour, that the ordinance of 1787 did not constitute an exception; that Congress had the sole and unlimited power to describe the boundaries of the new State carved out of our own territory when asking to be admitted into this Union.

But, sir, even if that is disputable, there was in the case of Iowa and in the case of Michigan, an actual dispute existing. We were in a dispute with the State of Ohio, and Ohio and Michigan had their citizens under arms on this disputed boundary. In that condition of things, Michigan asking to be admitted into the Union, what did Congress do? Why sensibly, wisely, patriotically, they said: "We will not admit a new State into the Union, and at that instant create a bloody war between that State and Ohio as to where the actual boundary is; we have the power, and we will settle it now." Therefore, they said to us in Michigan: "You must, by a convention of your people, agree to this boundary, and thereupon you shall be admitted." We did agree to it and were admitted. But I say again, there was an actual dispute as to boundary, but no objection to our constitution. Is there any dispute about this land donation of Kansas? Who is disputing it? Where does the man live? What is his name? There is no controversy about the land grant, but the people do object to the constitution. Then what becomes of the analogy? I have asked, and I beg leave to repeat the question, is it believed if this donation of land were submitted as a distinct, separate proposition to the people of Kansas that there would be a vote against it? Not one. What then ought to be the preamble to this amendment? In the first place, let us see what it is:

"Whereas, the people of the Territory of Kansas did, by a convention of delegates assembled at Leecompton on the 7th day of November, 1857, for that purpose, form for themselves a constitution and State government, which constitution is republican; and whereas, at the same time and place, said convention did adopt an ordinance, which said ordinance asserts that Kansas, when admitted as a State, will have an undoubted right to tax the lands within her limits belonging to the United States, and proposes to relinquish said asserted rights if certain conditions, set forth in said ordinance be accepted and agreed to by the Congress of the United States; and whereas, the said constitution and ordinance have been presented to Congress by order of said convention, and admission of said Territory into the Union thereon as a State requested; and whereas, said ordinance is not acceptable to Congress, and it is desirable to ascertain whether the people of Kansas concur in the changes in said ordinance hereinafter stated, and desire admission into the Union as a State as herein proposed: Therefore, Be it enacted," &c.

Now, sir, is it desirable to ascertain that fact? The language of the preamble is:

"Whereas, it is desirable to ascertain whether the people of Kansas concur in the changes."

Have you any doubt about it? No man has. Sir, this ought to have been the preamble to this bill: "Whereas, the Leecompton convention formed a constitution which they knew was repugnant to the will and wishes of the people of Kansas, and knowing that, refused to submit it to them for ratification or rejection in fact, though they professed to, in form; whereas, that constitution has been presented to Congress, and whereas, the Senate has passed a bill to carry out the project of the Leecompton convention, and whereas, a majority to aid in that purpose cannot be obtained in the House of Representatives, and whereas, the House insists that the will of the people shall be ascertained through a submission of this constitution to them, and whereas, the minority in the House can never be made to vote for a bill that does directly submit it, and it being therefore indispensable so to frame a bill that it may be called

submission in one section of the Union, and non-submission in the other: Therefore, Be it enacted," &c.

That is this case, and that ought to be the preamble to this proposition, because it is the living truth to-day. Do you tell me, sir, that, if a majority of votes could have been obtained in the House of Representatives to the Senate bill, that you would have ever troubled yourself to ascertain whether the people would consent to modify this ordinance? What did your bill say? The second section said:

"Sec. 2. And be it further enacted, That the State of Kansas is admitted into the Union upon the express condition that said State shall never interfere with the primary disposal of the public lands, or with any regulations which Congress may find necessary for securing the title in said lands to the bona fide purchaser and grantees thereof, or impose or levy any tax, assessment, or imposition of any description whatever, upon them or other property of the United States within the limits of said State; and nothing in this act shall be construed as an assent by Congress to all or to any of the propositions or claims contained in the ordinance of the said constitution of the people of Kansas, nor to deprive the said State of Kansas of the same grants which were contained in the act of Congress entitled 'An act to authorize the people of the Territory of Minnesota to form a constitution and State government,'" &c.

And we amended that, on my motion, so as to refer to land grants hereafter to be made by Congress. Do you suppose, sir, that there is any man in Congress or in this broad Union so weak, so imbecile, so idiotic—who is out of an asylum—as to suppose that there is a reality in this preamble to the amendment of the conference committee, that that committee really doubted whether the people of Kansas would be willing to modify that claim? Why, sir, the people of Kansas never made it. I tell you again, that it was a trick of this Leecompton convention to ask for such an enormous grant, and to make the people believe that it might be obtained, as would keep them quiet under the fraud they were seeking to practice by the constitution they promulgated. That is it, and it is nothing else.

One word upon the general subject alluded to by the honorable Senator from Missouri, and I shall have done. He said, on introducing this report into the Senate, that it was not an amendment which was entirely satisfactory to anybody. Well, sir, I agree to that—it is not, and it ought not to be. But he says that he offers it as a measure of peace to the country on this distracting subject. Sir, upon the question of giving peace to the country upon this slavery question, I will go as far to-day or any day, while I am honored with a seat here, as any other living man; I will go as far as he who goes farthest. But, Mr. President, peace, either in Kansas or among the States of this Union, can never be obtained except by straightforward, honest, fair legislation to all sections of the country. If Congress seeks to play a trick upon Kansas, the honest heart of the whole Republic will, involuntarily, revolt at it. That Congress in this amendment does seek by this device, this trick, to slide Kansas into the Union is too clear for dispute; for, as I said, without impugning, and with a design not to impugn, the motives of any man, this bill must be intended to mean what are the natural consequences of its language. It is, therefore, a bill framed to enable certain men to vote for it upon the ground that it is not submission of the constitution of Kansas, and to enable certain other men to vote for it upon the ground that it is submission; and to cut men down in one section of the Union who vote against it because it is no submission, and to cut men down in another section of the Union who vote against it because it is submission.

Now, sir, it may be asked of me—if not here, it may be asked elsewhere—if I believe that this bill puts the subject of this constitution within the power of the people of Kansas, so that they can, as I believe they will, indignantly put their heel upon it, and thus destroy the monster—why do I oppose the measure? I oppose it upon the same ground that I would oppose an accumulation of property in a dishonorable way; I oppose it as I would oppose the reception of stolen property, knowing it to be stolen; I oppose it because it is unbecoming the magnanimity and generosity of a great people, and a Congress representing a great people; because, while in effect the people may destroy this constitution, those who report it here to-day in their places have said that the constitution is not submitted; I oppose it, sir, upon higher principles than any possible personal con-

sequences; I oppose it because it seeks to lay down in the admission of States into this Union one set of propositions for one character of States, and another set of propositions for a different character of States; I oppose it because, instead of giving peace to the country, which I most fervently desire, it will inevitably increase and promote excitement and discord throughout the Confederacy; and because it is in plain violation of the letter and spirit of the organic law of Kansas, and the true principles of self-government.

I have said, sir, and I beg leave to repeat it again from the very bottom of my heart, I wish to-day, in the settlement of this principle, that this Lecompton constitution was a free-State constitution, that it might be seen how indignantly the representatives of the North would despise and condemn and deride and trample under foot such a proposition as this. Sir, I will never agree to any such unjust, despicable discrimination as is contained in this bill.

Sir, we are called upon to say to the people of Kansas, "if you will take this obnoxious constitution, you may come in now, at once, by the proclamation of the President—a constitution which we know is obnoxious to every impulse of your nature; but if you insist upon framing a constitution that is agreeable to your judgment and your wishes, you shall not come in until you have doubled your population;" and yet I am asked to vote for it. Why, sir, if it were submitted to me as the only alternative, if I were so borne down by oppression or under duress, that I was compelled to falsify all my opinions of constitutional authority, and take the naked Senate bill or take this thing, infinitely would I prefer the original Senate bill, because that does stand and can stand upon technical legal authority, if you choose to use that in opposition to the known will of the people. This can stand on nothing either human or divine. If you were to set it up and apply the commandment to it, you could not make it out heresy to worship it, for it is not like anything in the heavens above or in the earth beneath, or the waters under the earth. It is an anomaly, a miserable, ingeniously-concocted pretense to smuggle through Congress, and fasten upon the necks of the people of Kansas, an obnoxious organic law.

There is a necessity for conciliation, for fair treatment, for peace among the States of the Union; and that course of policy is the easiest and simplest that man can devise. It is so plain, that the wayfaring man as he runs may read and understand. It is simply to deal honestly, deal justly, deal fairly. Do unto the people of Kansas as you would, under similar circumstances, be done by—that is all. Do that; peace will reign throughout all your borders; every man in this broad land, under his own vine and fig-tree, can entertain such opinions as he chooses. But, sir, you continue to practice such frauds as the Lecompton convention inaugurated, such frauds as this bill is a bad imitation of, and you will spread danger and conflagration throughout this Union. If you will insist, as a Congress, upon being dishonest, partial, trickish, the time will not be far distant when a civil war will spread over this land, when you may be compelled, at midnight, to light your wife and your children into some possible place of safety by the flames of your dwelling. If, however, you will pursue the path of wisdom, of patriotism, this Union will cover the continent and the adjacent islands; it will be the mightiest Government that ever existed, or that ever can exist on the face of the earth. Under all its broad and benign influences, peace and happiness will be secured to the humblest individual, as well as to the remotest State. This is true, because it is the great moral law of the Creator of all things; no human power can ever change its action.

Mr. PUGH. Mr. President, I have already stated to the Senate that, in my judgment, the regular and orderly method of taking a vote on this question, so as to aid in passing a law, would be after we had received a message from the House of Representatives inclosing the bill itself. Still, I have no objection to voting for the report of the committee of conference; because it will be, as the Senator from Louisiana [Mr. BENJAMIN] expressed it on the day before yesterday, an expression of my individual opinion. Nor do I mean to say that, if the Senate take a contrary course, the bill will not be legally passed; for I

suppose we have a right to prescribe our own forms of proceeding, although, as I have said, I think the regular form hitherto has been to vote on such a report only when the bill is in our possession. But, sir, as I intend, in some shape and at some time, to vote in favor of the proposition reported by the committee of conference, I design to give the reasons for that vote, in answer to several allegations which have been made by Senators on this floor, and particularly by the Senator from Michigan, [Mr. STUART,] who has just taken his seat.

I shall pass over two considerations in a very few words. My colleague [Mr. WADE] yesterday arraigned the course of what he called the Senators from the slave States—I suppose meaning the slaveholding States—and he imputed a great many motives to them. I shall engage in no crimination of that sort. If I believed what my colleague said, if those were my opinions and sentiments, instead of standing in the Senate of the United States to beat the air and indulge myself in those expressions, I would go home to the people of Ohio and tell them to take arms in their hands to redress all those injuries. The fact that gentlemen bottle up all their wrath to be poured out in the Senate, satisfies me there is no great sincerity in all these complaints.

So with the Senator from Michigan. If I believed a thousandth part of what he has stated here to-day; if I believed that an overwhelming majority of the representatives in Congress of the political party to which I belong were scoundrels and knaves and tricksters, that they would practice fraud and deceit and deception in every shape and form; if I believed all that or any of it, instead of standing up here like the Senator from Michigan, to insist that I still belonged to that party and that no test should be applied to me, I would walk out of it with flying colors, and be glad to be rid of every association of that character.

Mr. STUART. Allow me to say to the Senator that I have said nothing of the kind. I have not said one word about any man in Congress being a scoundrel; nor have I said one word about any test being applied to me. I have never touched that subject, and never mean to do so.

Mr. PUGH. Let us see. The Senator coined a new word for the occasion, not to be found in any dictionary that I know of, or any book on English grammar: he said it was a scoundrelly proposition. He said it was a trick. He said Congress was behaving in a trickish manner. He said Congress was practicing frauds—a system of fraud and outrage inaugurated in the first place by the Lecompton convention. Sir, there is no word of abuse, there is no harsh adjective or adverb in the English language which the Senator could apply to this proposition, that he did not apply to it. Then he turns round and says to a man, "I slap you in the face, but I do not mean to insult you;" he says to thirty or more of us sitting here, acting according to the best lights of our judgments and our consciences, who have determined to give our votes for this measure, that he imputes nothing personal to us, but that this, nevertheless, is his opinion of what we propose to do.

So on the subject of tests. When the Senator stood up here in December last, and again on a later occasion, he was begging his political friends, as he called them, for conciliation. After listening to him and doing all we felt authorized to do to conciliate him and those who act with him on this floor, we yet hear, not alone from him, but from others here and throughout the country, one continued tirade that there has been an attempt made by the Administration and by the majority of the Democratic party in both Houses of Congress to establish a test. I agree with the very celebrated man in this country who said the Democratic party is a pure free-love association. A man can get himself out of it, but nobody else can get him out; and I say again, that whenever it is my opinion that a majority of the Democratic Senators on this floor give their adhesion to a proposition that is a fraud and an outrage, that includes villainy and all the acts that base men commit, I give them notice that I shall not wait to be put out of the party: I shall go out of it. That is all I have to say on that matter.

I come now to the proposition. Of course every bill reported by a committee of conference is

a compromise. Nearly every bill that passes the two Houses of Congress is a compromise. Each of us cannot get exactly that which he thinks best; we must give up matters of detail; we must surrender, if necessary, everything but the great principle involved in a question; and so the Senate has acted; and so, I imagine, the House of Representatives has acted. In my judgment the best measure would have been the admission of Kansas into the Union by a bill in the ordinary form. That would have silenced everything. That would let the people of Kansas settle all their own affairs; let them revise and amend their constitution, or make a new one when they choose; let them do whatever they please when clothed with the sovereignty of a State. We found that could not pass. It was denied that, when admitted as a State under this constitution, they could proceed to revise and amend it; and when that was answered, it was asserted that if admitted under it, Congress and the President would prevent any amendment. Then we said, put a provision into the act to the effect that Congress and the President never shall prevent it. That was not considered sufficient. But the bill passed this body, and went to the House of Representatives. The House, in lieu of our bill, sent to us a proposition requiring us to submit the constitution of Kansas to a vote of the people. I have said to the Senator from Michigan to-day, and I say again, I never will vote for any such bill in any case—neither for a slaveholding nor a non-slaveholding State. I consider it a gross usurpation of power, a breaking down of the barriers between the Federal and State governments, ten times more disastrous, in its consequences, to the peace of the country and to the liberties of the people than all the civil wars that have ever raged in Kansas. This was my objection to that proposition—my great objection. I believe I can say it was the objection in the minds certainly of a very large majority of those with whom I have heretofore acted on this floor.

What was to be done, then? The House of Representatives adhered to their amendment. They had different views from us. A committee of conference was appointed by each House, and we have now before us the agreement of that committee. What is it? I do not yet understand how the Senator from Michigan means to interpret the proposition. If he says that he understands this proposition as submitting the constitution of Kansas to a vote of the people by act of Congress, I tell him I do not so understand it; and if I did, I would not vote for it. But what is it? We have not the power to make a constitution for Kansas; we have not the power to unmake it; and if we cannot alter the constitution itself, how can we prescribe, after the people have acted, the manner in which the constitution shall be ratified? How can we change the method of its ratification? That is as much the act of the people as the constitution itself; and when we insist that Congress shall change the method of ratification, we assume to ourselves the right to make the constitution. That, therefore, we cannot do. But over what question have we ample and complete authority? Over the question of admission. That is our question; that is reposed in us by the Constitution of the United States. And, consequently, when it was stated, at an early period of this debate, that Kansas came here with a petition in her hands, I put the question, what is the petition for? Not to approve her constitution, not to ratify her constitution, not to amend her constitution. That is not the prayer of her petition. What is it? She petitions to be admitted into the Union as a State: that is her petition—nothing else. We can grant her petition, or we can refuse it. We can refuse it without any reference to her constitution. We may refuse it because she has not the population which we deem requisite. We may refuse it because we think the boundaries she proposes are improper. We may refuse it because we believe that the admission into the Union of this Territory as a State will disturb the peaceable relations of the other States, or shock the public sense of morals and decency. Why, sir, you have on your table a proposed constitution from Utah, and if it were on its face entirely unobjectionable, I would not vote to admit that Territory into the Union as a State. I would vote on that question wholly regardless of what her constitution contained or omitted. I would vote against it because I do

not wish to admit into the Union as a sovereign community a people who, in my judgment, have debased themselves to the level of the brutes. I would reject her without reference to her constitution, or what it contains. The right of admission, or the power of admission, is a question reposed in Congress. It is a power not to be abused. It is a power to be used rightly, to be used with due discretion; and, therefore, although I claim that the power is an absolute power reposed in us, I agree that to set up any test which would make an unjust discrimination between the States already in the Union, would be a gross abuse of power. At the formation of the Federal Constitution, some of the States of this Union were slaveholding and some non-slaveholding States; and I believe that to reject a new State because she is either slaveholding or non-slaveholding, would be a gross abuse of the power vested in Congress by the Constitution.

That, however, is not alone my distinction. That is the distinction of the Senator from Michigan himself, made on this floor, insisted upon to-day at great length. I have before me an interesting little document—"Speech of Hon. C. E. Stuart, of Michigan, on Kansas affairs, delivered in the Senate of the United States, December 23, 1857," from which I propose to read a paragraph:

"The power of Congress to admit States into the Union is the question which, in my judgment, lies at the very foundation of this discussion. The Constitution of the United States, in the third section of the fourth article, provides that 'new States may be admitted by the Congress into this Union.' The only limitations to the exercise of the power are found in the language that follows: 'but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.' It was well said by Mr. Attorney General Butler, in the Arkansas case, that the power of Congress over this question is plenary. From the very nature of the question, it must be. It is subject only to the limitations provided in that article; and whenever a question is presented as to the admission of a State into this Union, it must necessarily be determined by the circumstances which surround and govern that particular case. Why, sir, it is a power which authorizes the admission of foreign States, as well as those carved out of our own dominion; and this single statement will show to the mind of any gentleman, at a glance, that precedents, former laws of Congress, never can, and never ought to be, resorted to for the purpose of determining the power or the propriety in a particular case. I use the term 'propriety' with a purpose. The power to admit a State necessarily carries with it the power to decline to admit; and when I hear gentlemen talking about the necessity, the imperative obligation that rests upon Congress to admit a State under a particular specified set of circumstances, I confess, sir, it is a doctrine that is not in accordance with my views of the Constitution. It may be very proper, for instance, to refuse to admit a State to-day, and it may be quite the reverse one year from to-day. Congress, and Congress alone, under the power conferred upon it by the Constitution, is to determine, not only the question whether a State shall be admitted at all, but it is equally clothed with authority to determine when it shall be admitted."

That is not all; there is another paragraph:

"The power of Congress is to 'admit' a State into the Union, not to coerce it. Congress would be the very tyrant that ever existed on the face of the globe if it had a power to coerce a State into the Union contrary to the will of the people comprising that State. It lies, then, at the foundation of the question, as it does at the foundation of personal liberty, that Congress shall be satisfied—satisfied beyond a reasonable dispute—that the people composing the State ask to be admitted. It should never be forgotten that it is a mere consent on our part—nothing more. The State proposes admission and Congress gives its consent."

There is not a word about constitutions from the beginning to the end of all that. That is not all; here is another paragraph from the same speech:

"That we have the power to admit, or refuse to admit, a State, according to our sound discretion, cannot be denied. Having that power, if there be a doubt as to whether you are proposing to admit a State into the Union, or to coerce it into the Union; nothing can be lost by taking time to ask the people in a plain, safe, unmistakable manner, whether they desire it or not. The people of a Territory, which is about to be formed into a State, have a right—and, so far as my examination has gone, Congress has never violated this right—to say, in the first place, whether they desire to form a State constitution now, or not. They have a right to say whether they will take upon themselves the burdens and expenses of a State government. Where Congress has passed enabling acts, as in the cases of Ohio, Indiana, and other States, and in the celebrated Toombs bill, which has been so much talked of, an express provision was incorporated, that when the convention was assembled, it should vote, in the first instance, whether it is expedient and proper to proceed to form a State constitution at this time. The people of Kansas have never had a chance to say this, and although they might say 'we are willing to live under this Lecompton constitution, when we get ready to be a State, we are not ready to become a State now.' That is a right, a sacred

and inviolable right, which belongs to the people of a Territory when they are invited to become a State."

Now, I say that is my opinion. It was so before the Senator spoke, and he aided to deepen the impression in my mind. I have said from the beginning, in this debate, that we pass no judgment upon the constitution of Kansas except to say that it is republican in form. Our vote is to admit the State; and I have said before, and I say again, we may admit her without any constitution if she only has the powers of government in actual operation. But what did the Senator say it was our duty to do? If there was any dispute as to the desire of the people of Kansas to be admitted into the Union, to be admitted now; to be admitted under the Lecompton constitution, or without any constitution, he said it was our duty to refer that question—the question of admission now—to an unmistakable, plain manner of decision by the people of Kansas themselves. It answers the Senator's own demands when he stood on this floor on the 23d of December last. The question of fact disputed, the only question of fact is, whether the people of Kansas desire to be admitted now. That is the question referred to them by this bill.

In a very able argument made by one of my colleagues in the other House, [Mr. GROESBECK,] he took the ground that the people of Kansas might have been willing, at the time they formed the Lecompton constitution, to come into the Union, but might have changed their minds, and voted against it on the 4th of January. He said that, as they had a right to propose to us a petition, they had a right to withdraw it up to the time of our acceptance. That was the ground on which he stood.

Well, sir, I agree to that. Admission is the act of both parties. They ask, and we grant, and when we were about to grant, the Senator from Michigan himself stood up and said we ought to make sure that the people desired admission now. He put it as strongly as I have said. He declared that although the people "might say we are willing to live under this Lecompton constitution when we get ready to be a State, we are not ready to become a State now." The House bill goes on the same idea. It provides that when the new convention for which it calls shall be assembled in Kansas, the first question to be submitted shall be whether they will come into the Union at that time. Let me read it:

"When so assembled, the convention shall first determine by a vote whether it is the wish of the proposed State to be admitted into the Union at that time; and if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government," &c.

I relate this to show that the question of the admission of the State, at this time, has no necessary connection, so far as Congress is concerned, with anything relating to her constitution, and to show that the Senator from Michigan himself drew this distinction; that he himself insisted upon it; that he warned us to take it for truth; that that was the burden of his objection to the Senate bill.

Now, in the case of Kansas, the constitution had been formed before she applied for admission. In the case of an enabling act we specify the terms on which admission shall come before the constitution is made; but, in the present case, the constitution had been made. The constitution was brought to us, and the Senator, by the very terms of his argument from which I have read, admitted that the constitution might be perfectly acceptable, and yet they might not desire to be admitted; and, therefore, he insisted, and I agreed with him, that the question of admitting the State was a proper one for Congress, and the question of referring the constitution to the people was a question which he thought we had power to grant, and I thought we had not.

Now, I say the bill reported by the committee of conference is nothing in the world but a bill to ascertain, in a plain and unmistakable manner, according to the Senator's own words, whether the people of Kansas desire to come into the Union now. Let us see if it is not; let us see if I misrepresent it. I read from the first part of the first section:

"That the question of admission, with the following propositions in lieu of the ordinance framed at Lecompton, be submitted to a vote of the people of Kansas, and assented to by them, or a majority of the voters, voting at an election to be held for that purpose."

That the question of submission be submitted to the people of Kansas. Again, let us take the vote upon this submission. It is:

"At the said election the voting shall be by ballot, and by indorsing on his ballot, as each voter may please, 'proposition accepted,' or 'proposition rejected.' Should a majority of the votes cast be for 'proposition accepted,' the President of the United States, as soon as the fact is duly made known to him, shall announce the same by proclamation, and thereafter and without any further proceedings on the part of Congress, the admission of the State of Kansas into the Union upon an equal footing with the original States in all respects whatever, shall be complete and absolute."

That is the question submitted. And again:

"But should a majority of the votes cast be for 'proposition rejected,' it shall be deemed and held that the people of Kansas do not desire admission into the Union with said constitution under the conditions set forth in said proposition, and in that event the people of said Territory are hereby authorized and empowered to form for themselves a constitution and State government."

And so as to the convention that is to be called hereafter under the conference bill. That convention, when it is assembled, is first to determine by a vote whether it is the wish of the people of the proposed State to be admitted into the Union at that time. So in the preamble:

"Whereas, the said constitution and ordinance have been presented to Congress by order of said convention, and admission of said Territory into the Union thereon, as a State, requested; and whereas, said ordinance is not acceptable to Congress, and it is desirable to ascertain whether the people of Kansas concur in the changes in said ordinance hereinafter stated, and desire admission into the Union as a State as herein proposed."

That is what it is. It is no submission of the constitution—no submission of any part of it. We have no power to submit it; but we have the right to pass on the question of admission, and to pass on it without any reference to the constitution, as the Senator claimed, and has been demonstrated time and again on this floor; and inasmuch as it is denied, as the Senator himself denied, that the people of Kansas desired to be admitted now, we remit that question, and that only, to the vote of the people of Kansas. To be sure, the question of admission thus submitted will necessarily involve, in the mind of every voter, the question whether he approves or disapproves the constitution. No doubt of that, and nobody ever objected to that. I never heard of a man in this Congress, or anywhere in the country, who objected to the people of Kansas voting for or against their own constitution, if they wished to do it; but the ground we stood upon was that, speaking by their representatives in the Legislature, in the passage of the convention act, and speaking by their delegates in convention elected by themselves, they had solemnly forborne to vote upon anything but the seventh article. We said that was the expressed will of the people through all their Representatives in the Legislature, and in the convention, and that we could not alter it; that if these delegates or Representatives had not expressed the will of the people, it was very unfortunate; but it was a case for which we could apply no remedy, because we had no power. We never objected—certainly, at least, I never did, for a moment—to any such proposition as that these people might vote for or against their constitution. We denied that Congress had the power to require it. That was our proposition; and it is so plain that he who runs may read.

Although we cannot, and do not, and will not, remit this constitution to a vote of the people, because that is to violate its own terms, I never heard it objected to, that in voting upon the question of admission, which we had a right to remit, they might, or might not, be governed by the terms of the constitution itself. That is their own question; that is not our question; and therefore it is no objection that they can themselves, if they choose, pass upon the whole of that constitution, whilst they are at the same time voting upon a question which we have the power to submit, and absolutely. That is the reason why I say that this bill is a fair and honest compromise between the Senate bill and the House bill; that it preserves intact that which each of them claims as a fundamental right, the majority of the Senate declaring that Congress had no power to remit the constitution to a direct vote, and a portion at least, if not a majority of the House of Representatives, insisting that Congress had a right to remit the constitution, and that the people ought to be enabled to vote for, or against it, in some form. Now the

people get the benefit of that right, though we do not give it to them. We give them the right to vote whether they will be admitted or not. I say, then, this proposition, while it saves the great constitutional objection to the House bill, gives to every sincere supporter of that bill all that is material in it.

Nor is the question relative to the grants of land more than one element, and that very insignificant, in the question actually submitted? We reject the ordinance passed at Lecompton, November 7, 1857; we might have left the matter thus, and admitted the State, retaining all the public lands, and allowing her, when admitted, to assert her power of taxation over them. I say we might have done that, and we did it in the Senate bill. But here we have proposed, not a bribe of any sort, but the usual grants in the case of every new State—the same which were made to Minnesota—as a mere incident, a collateral element in the question of admission; and that is the very language of the proposed bill. That, however, says my colleague, is no part of the controversy; and so says the Senator from Michigan. Well, if it be no part of the controversy, it will exercise no influence in determining the question. I agree to that. It is wholly immaterial. Wherefore, then, do these Senators declare that it is a bribe? Was it a bribe in the case of Minnesota? Did we not provide in the Minnesota enabling act that if her convention of delegates would vote to come into the Union, she should have these very same grants; but if they did not vote to come in, she should not have them. That is the very language of the Minnesota bill. Was that a bribe? I imagine no man ever thought so. This certainly cannot be a bribe; for it is much less than the convention at Lecompton asked, and much less than the late convention at Leavenworth asked.

Of course, sir, if the people vote in favor of admission at this time on the question now submitted; if they vote "proposition accepted," the constitution framed at Lecompton will be the constitution of the State of Kansas. Undoubtedly that will be the case; and why not? It was framed by a convention of delegates of the people, chosen in due form of law, delegates chosen fairly, delegates chosen unanimously; and its seventh article was ratified by an almost unanimous vote of the people—all who chose to vote. Is that not a sufficient ratification? Why, sir, let us see how circumstances alter cases. On the 9th of April, 1856, the Senator from New York [Mr. SEWARD] was urging us to admit this very Territory of Kansas as a State under the Topeka constitution; and what did he tell us then? Here is what he said:

"The President objects that the past proceedings by which the new State of Kansas was organized, were irregular in three respects: first, that they were instituted, conducted, and completed, without a previous permission by Congress, or by the local authorities within the Territory. Secondly, that they were instituted, conducted, and completed by a party, and not by the whole people of Kansas; and thirdly, that the new State holds an attitude of defiance and insubordination towards the territorial authorities, and the Federal Union. I reply, first, that if the proceedings in question were irregular and partisan-like and factious, the exigencies of the case would at least excuse the faults, and Congress has unlimited discretion to waive them. Secondly, the proceedings were not thus irregular, partisan-like, and factious, because no act of Congress forbade them; no act of the Territorial Legislature forbade them, directly, or by implication; nor had the Territorial Legislature power either to authorize or to prohibit them. The proceedings were, indeed, instituted by a party who favored them; but they were prosecuted and consummated in the customary forms of popular elections, which were open to all the inhabitants of the Territory qualified to vote by the organic law, and to no others; and they have in no case come into conflict, nor does the new State now act or assume to engage in conflict with either the territorial authorities, or the Government of the Union. Thirdly, there can be no irregularity where there is no law prescribing what shall be regular. Congress has passed no law establishing regulations for the organization or admission of new States. Precedents in such cases, being without foundation in law, are without authority. This is a country whose Government is regulated, not by precedents, but by constitutions."

Every word of that applies to every objection that has been urged here by the Senator from New York, and others, to the Lecompton constitution, with this further addition: that this election, in which everybody could have participated, was called in due form of law, and had an authority which this rebellious Topeka movement never had. But, in addition, the people of Kansas by voting for admission, will have voted that the Lecompton constitution shall be ratified, not because that is the question which is submitted, but because

it is a question necessarily involved; and if they ratify with their eyes open, by what right does the Senator from Michigan or anybody else protest against it? What more does popular sovereignty require? And the whole of this side of the House are foreclosed forever and a day, as to the objection that this may be a slaveholding State; forever foreclosed from making the allegation that we have submitted this constitution to the people of Kansas as a slaveholding State, for they voted for exactly the same thing in the House bill—every man of them. If the constitution is objectionable in any of its features, if it requires revision or perfection, let the people amend it in their own way. They might vote for the admission knowing that would be their constitution, with the express purpose of altering it afterwards. They might say, "Here is an opportunity for us to enter the Union; we desire to enter the Union; we do not admire all the features of our constitution, but when we are once enfranchised as a State we shall have absolute power over our constitution, and, therefore, we will vote in the affirmative." If they choose to do it, whose business is it to call them to account? They have a right to amend it. I shall not debate that question; a majority of the Senate has said so; almost all or more than four fifths of the House of Representatives have said so in their votes on this very bill; the President of the United States has said so. So far at least as the Federal Government is concerned, in both branches of the Legislature, and in the executive department, there can be no obstacle to any amendment which the people of Kansas may desire.

The Senator from Vermont, [Mr. COLLAMER,] however, said the Supreme Court of the United States might interfere. I say, as I said before, the Supreme Court of the United States has solemnly determined that it has no power to decide which of two instruments is the constitution of a State; and it has no such power. Why, sir, it does not even undertake to decide whether a treaty has been ratified. It has decided that it cannot look to that question; but that, if a treaty is in force by permission of the Executive and the Senate, it will not look into the question whether it was, or was not, ratified in due form.

Now, sir, Kansas has no other constitution; and when Senators talk about approving the Lecompton constitution, they fall into the old blunder. They forget that Kansas has no other. She must have a constitution or a form of government. All that is absolutely required is, that she shall have a republican form of government; that is the phrase of the Federal Constitution. That form of government may be expressed in a constitution or an ordinance, or what they call in Mexico a plan, or it may rest in usage; but to rest in usage, requires, perforce, that it must be in practice; it must be in force, in operation, as was the case of Rhode Island. Her government was in actual operation; and, although it stood entirely upon usage, yet that was a sufficient form of government, and we admitted her into the Union; but Kansas has no State government in operation; we cannot stand on usage in her case; and, therefore, she must present us a constitution, or a fundamental law, or a plan, or something of that sort, containing her form of government; and she has presented none to us but the constitution framed at Lecompton. That is the only application to admit the State. There is no other application from the people of Kansas, except to be admitted with the distinct understanding that this is their form of government; and, therefore, it is a mere perversion of language—for there can be no mistake in such a distinction—to say that Congress, in admitting the State of Kansas, approves or ratifies the constitution framed at Lecompton, or forces it upon the people of Kansas, in any sense or to any extent. She has no other constitution; she asks admission knowing the fact that she has no other; and, therefore, if you admit her, you admit her with that; and if you reject her, that falls, of course, for there can be no constitution without a State.

But my colleague asks, why not submit the Topeka constitution in the same manner? Why not remit the question of the admission of the people of Kansas into the Union to their own votes, with the understanding that Topeka may be their constitution? The answer is, that Topeka is no constitution; it is a mere fraud—I take that word

back for fear it might hurt somebody's feelings—it is a mere pretense; it is illegal; it is revolutionary; it is made by the authority of no law at any stage, neither in the election of delegates, nor in the alleged various submissions to the vote of the people. There is nothing to distinguish the delegate; nothing to distinguish the voter. It is a baseless, unsubstantial vision that rests nowhere. And it is given up; it is dead and buried; or at least its ghost stalks. There is nobody but my colleague so poor to do it reverence.

Mr. WADE. The Topeka constitution received the unqualified acceptance of one branch of Congress, and was rejected by the other, in the same way that Lecompton has been admitted by one and rejected by the other.

Mr. PUGH. I say if Lecompton be rejected, and does not pass both Houses, it will be dead, too.

Mr. WADE. The Senator did not understand me. I did not ask the question, why not accept the Topeka constitution? I merely asked the question why, when both these constitutions had been acted upon and received equal countenance from Congress and there was a dispute about the validity of them, did not this committee, meeting with full power to make a just conclusion of the whole matter that should be satisfactory to everybody, agree to submit them all, or to lay both aside and do what was right?

Mr. PUGH. I do not wish to misrepresent my colleague. I attach no importance to the fact that Lecompton passed one House or the other. I am willing to treat it as an offer to-day to which neither House had ever agreed. I attach no importance to the fact that one House passed a bill and the other did not. That does not make a law; nor do I admit that Congress could give any validity to one or the other. My objection to Topeka is that it was never formed by the people of Kansas; that there was no law authorizing the election of the delegates framing it; that there was no law authorizing the convention to be assembled; that there was no law authorizing anybody to vote for it; that there was no law throwing protection about the ballot-box—no protection of the right of voting. It is all idle to talk about that being a constitution. It is no more a constitution than if my colleague had sat in his seat and written it with his own hand, and offered it to Congress—not a whit.

So as to this last: we hear nobody say anything about that; but we might as well look at all. I allude to the one said to have been framed by the convention at Leavenworth. I say that was an illegal body. The bill calling that convention never passed the Legislature of Kansas. Legislatures must pass bills according to the form prescribed in the organic act; and yet this alleged Legislature, which is said to have been the representative of the friends of peace, sat sixty whole days, and took mighty good care not to pass the most important bill which they said was before them—to do just enough to make a fuss under it, and just enough to lose it. The law requires, for the protection of the Legislature and the protection of the people themselves, to secure deliberation in the Legislature, that every bill which has passed both Houses shall be presented to the Governor for approval or rejection, and that the Governor shall have three days to consider it; to consider it before he approves it, to consider it before he rejects it, and return it, with his objections, to the Legislature. Well, sir, they took good care to send it to the Governor at such a late period of the session that the Legislature was dissolved, and expired, and dead by the provisions of the organic act before the expiration of the period during which the Governor could examine it. He is allowed three days by the organic act. I know it is pretended that by counting the day on which the bill was presented to the Governor, they could eke out something in the way of three days; but it is too late to raise that question. It has been settled from the first Administration of this Government, in the most solemn and decisive manner, that the day on which a bill is presented to the President of the United States shall not be counted. The question arose, above all cases in the world, in the case of the first Bank of the United States. I have the proof; and as it is a matter of some interest, I ask the Secretary to relieve me by reading the two letters I have marked in the correspondence which I send to the desk.

The Secretary read the following letters:

WEDNESDAY NOON, February 23, 1791.

SIR: I have this moment received your sentiments with respect to the constitutionality of the bill "to incorporate the subscribers to the Bank of the United States."

This bill was presented to me by the joint committee of Congress, at twelve o'clock on Monday, the 14th instant. To what precise period, by legal interpretation of the Constitution, can the President retain it in his possession, before it becomes a law by the lapse of ten days?

GEORGE WASHINGTON.

To the Secretary of the Treasury.

FEBRUARY 23, 1791.

SIR: In answer to your note of this morning, just delivered to me, I give it as my opinion that you have ten days, exclusive of that on which the bill was delivered to you, and Sundays; hence, in the present case, if it is returned on Friday, at any time while Congress are sitting, it will be in time.

It might be a question, if returned after their adjournment on Friday.

I have the honor to be, with perfect respect, sir, your most obedient servant,

A. HAMILTON.

To the President of the United States.

Mr. PUGH. It appears by the book containing this correspondence that the bill to incorporate the Bank of the United States was presented to General Washington on the 14th day of February. It was approved on the 25th day of February, as the statute-book will show—ten days after its presentation, excluding the day of presentation, and excluding a Sunday that intervened. Is that a precedent of any authority? The first President of the United States, himself the president of the convention that framed the Constitution of the United States; Mr. Hamilton, then Secretary of the Treasury, and one of the chief men in framing the Constitution; James Madison, a very prominent member of the Federal Convention, who was at that time the leading opponent of the Bank of the United States in the House of Representatives; John Jay, who was the Chief Justice of the Supreme Court; (the latter three were the authors of the *Federalist*;) and thus at the earliest stage at which the Constitution could receive an interpretation, here is the correspondence showing that this idea was carried into effect, for General Washington retained that bill the full term of eleven days, one of them being a Sunday, exclusive of the day on which it was presented. It is all idle to talk about the bill calling the late convention ever having passed the Legislature. It was not a law. There was no authority to prescribe the alleged vote that is to be given upon it by the people. It is all void—no more respectable than Topeka itself. I say, then, there is no constitution from Kansas but Lecompton.

But even if this new affair were proper, it is worse than any of the others. Suppose that even the bill had passed properly: let me examine it. It expressly requires that this new constitution, as they call it, shall not go into effect until it has been ratified by the people. Those delegates have not been elected, as the Lecompton delegates were, with authority to form a constitution themselves. They were only elected with authority to propose one to the people; and the law itself requires that it shall be submitted to the people, and be voted on by the people. But, sir, to whom is it submitted? To the people? Not at all. It is submitted to the negroes of the Territory.

I admit that any State of this Union can authorize negro suffrage. If the constitution of Kansas had been once legally formed, and she had become a State, indubitably her people, by an amendment of the constitution, or in any other proper form, might enfranchise the negro, the woman, the alien, or the idiot. Once admitted, once elevated to the dignity of sovereignty, they have the right to define the elective franchise for themselves; but they cannot make people citizens of the United States. That was the distinction made in the *Dred Scott* case.

Mr. WILSON. Will the Senator allow me a word?

Mr. PUGH. Certainly.

Mr. WILSON. The Senator from Ohio is altogether mistaken in regard to this matter. The Leavenworth constitution, in this respect, is exactly like the Lecompton constitution, word for word, and comma for comma.

Mr. PUGH. Except the whites.

Mr. WILSON. The word "whites" is not there. It is a precise and exact copy of the Lecompton constitution in this respect—nothing more, nothing less.

Mr. PUGH. Does the Senator from Massa-

chusetts mean to say that under this new constitution negro suffrage is not to be admitted?

Mr. WILSON. I mean to say that so far as negroes are concerned, the Lecompton and Leavenworth constitutions are, word for word, comma for comma, precisely, exactly alike, Leavenworth being a copy of Lecompton.

Mr. PUGH. I will show that the Senator is not right about that, but I propose to come to that point after a while. Whatever may be the language of one particular clause, the other clauses of the Lecompton constitution exclude slaves and free negroes—exclude free negroes from the State; but this one, as I shall show, makes express provision for them to become voters; it does not stand on one clause. I wish, however, to dispose of the other question first. I say, I admit that a State once formed and erected into a sovereignty may enfranchise the negro; but this is a question of taste for themselves. I am no enemy of the negro. I would not abuse him. I have always voted for what I thought would benefit him. I voted to repeal the black laws of my State, and have always been proud of the vote. I would not abuse him; but I never intend that he shall be elevated to the rank of citizenship, with my assistance, in the State where I reside; and more than one hundred thousand majority of the people of my State are opposed to anything of that sort.

But, sir, the main point is, that when you come to gather a body of people from the various States into the Territories, and they come to form a political community for the first time, the negro finds no entrance. I said that was decided in the *Dred Scott* case; and here it is:

"The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing. They both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the Government through their representatives. They are what we familiarly call the 'sovereign people,' and every citizen is one of this people, and a constituent member of this sovereignty. The question before us is, whether the class of persons described in the plea in abatement compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word 'citizens' in the Constitution, and can therefore claim none of the rights and privileges which that instrument provides for and secures to citizens of the United States. On the contrary, they were at that time considered as a subordinate and inferior class of beings, who had been subjugated by the dominant race, and, whether emancipated or not, yet remained subject to their authority, and had no rights or privileges but such as those who held the power and the Government might choose to grant them."

"It is not the province of this court to decide upon the justice or injustice, the policy or impolicy, of these laws. The decision of that question belonged to the political or law-making power; to those who formed the sovereignty and framed the Constitution. The duty of the court is, to interpret the instrument they have framed, with the best lights we can obtain on the subject, and to administer it as we find it, according to its true intent and meaning when it was adopted."

"In discussing this question, we must not confound the rights of citizenship which a State may confer within its own limits and the rights of citizenship as a member of the Union. It does not by any means follow, because he has all the rights and privileges of a citizen of a State, that he must be a citizen of the United States. He may have all of the rights and privileges of the citizen of a State, and yet not be entitled to the rights and privileges of a citizen in any other State. For, previous to the adoption of the Constitution of the United States, every State had the undoubted right to confer on whomsoever it pleased the character of citizen, and to endow him with all its rights. But this character of course was confined to the boundaries of the State, and gave him no rights or privileges in other States beyond those secured to him by the laws of nations and the comity of States. Nor have the several States surrendered the power of conferring these rights and privileges by adopting the Constitution of the United States. Each State may still confer them upon an alien, or any one it thinks proper, or upon any class or description of persons; yet he would not be a citizen in the sense in which that word is used in the Constitution of the United States, nor entitled to sue as such in one of its courts, nor to the privileges and immunities of a citizen in the other States. The rights which he would acquire would be restricted to the State which gave them. The Constitution has conferred on Congress the right to establish a uniform rule of naturalization, and this right is evidently exclusive, and has always been held by this court to be so. Consequently no State, since the adoption of the Constitution, can by naturalizing a citizen invest him with the rights and privileges secured to a citizen of a State alone the Federal Government, although, so far as the State alone was concerned, he would undoubtedly be entitled to the rights of a citizen, and clothed with all the rights and immunities which the constitution and laws of the State attached to that character."

"It is very clear, therefore, that no State can, by any act or law of its own, passed since the adoption of the Constitution, introduce a new member into the political community created by the Constitution of the United States. It cannot make him a member of this community by making him a member of its own. And for the same reason it cannot introduce any person, or description of persons, who

were not intended to be embraced in this new political family, which the Constitution brought into existence, but were intended to be excluded from it."

The court draws the distinction that the State may make him a voter; but he cannot be made a voter otherwise, nor do his rights of citizenship and voting extend beyond the limits of that State.

The Senator from Massachusetts wanted to contradict me in regard to the Leavenworth constitution. I say the constitution formed at Leavenworth is not submitted to the people. It is submitted to the ordeal of the ballot-box stuffed with negro votes. It is not even required that they shall be free negroes; they may be slaves. It submits the question to the slave whether he will emancipate himself by his own vote, by adopting the constitution; and to the free negro the question whether he will raise himself to the rank of citizenship; and all this contrary to the good old rule that no man shall be allowed to judge in his own case. Thus the white citizens, the white men of Kansas, are to have a government made for them, not through popular sovereignty, but through negro sovereignty. That is the last thing.

Now, did I tell the truth about this Leavenworth constitution? I do not see the Senator from Massachusetts here any longer. If he were here, I should like to inquire of him as to the authenticity of this document. I find it in what is called "The *Quindaro Chindowan*." Who can tell me what sort of a paper that is?

Mr. WILSON. It is a free-State paper in the Territory of Kansas.

Mr. PUGH. The editor appears to have been one of the delegates, and chairman of the committee that drafted the address of the convention; and that address is here, but I shall not read it. Let us see how this Leavenworth constitution is to be ratified. The second section of the schedule provides:

"Sec. 2. This constitution shall be submitted to a vote of the people for approval or rejection, on the third Tuesday of May, 1855. The vote shall be by ballot; and those in favor of the constitution shall write or print upon their ballots the words: 'For the constitution;' and those opposed to the constitution, shall write or print upon their ballots the words: 'Against the constitution.'"

You observe there is no definition of the right of franchise there. They call everybody "the people." But, in the first section of article second, on the elective franchise, they provide:

"Sec. 1. In all elections not otherwise provided for by the constitution, every male citizen of the United States, of the age of twenty-one years or upwards, who shall have resided in the State six months next preceding such election, and ten days in the precinct in which he may offer to vote, and every male person of foreign birth, of the age of twenty-one years or upwards, and who shall have resided in the United States one year, in this State six months, and in the precinct in which he may offer to vote ten days next preceding such election, and who shall have declared his intention to become a citizen of the United States conformably to the laws of the United States, ten days preceding such election, shall be deemed a qualified elector."

Here are negro suffrage and alien suffrage together.

Mr. HARLAN. It seems to me that provision excludes negro suffrage.

Mr. PUGH. Wherein?

Mr. HARLAN. Under the *Dred Scott* decision negroes are decided not to be citizens of the United States. As I understand this provision in the Leavenworth constitution, it is that all male citizens of the United States over the age of twenty-one years may vote. Then, if negroes are not citizens of the United States they are not enfranchised by this provision.

Mr. PUGH. I say with the Senator they are not citizens of the United States; but the question which I am putting is, whether it is intended that they shall vote on the proposed acceptance of this constitution; and to determine that it is necessary to inquire whether the convention recognized or overruled the *Dred Scott* decision. I say they determined to overrule it. I find under the editorial head of this paper—

Mr. DOOLITTLE. Will the Senator allow me?

Mr. PUGH. Certainly.

Mr. DOOLITTLE. I beg leave to read from the Lecompton constitution precisely the same words:

"Every male citizen of the United States above the age of twenty-one years, having resided in this State one year, and in the county, city, or town, in which he may offer to vote, three months, next preceding any election, shall have the qualifications of an elector, and be entitled to vote at all elections."

Mr. PUGH. Where does the Senator find that?

Mr. DOOLITTLE. In the Lecompton constitution.

Mr. PUGH. What article and section?

Mr. DOOLITTLE. In section one of article eight, the title of which is, "elections and rights of suffrage."

Mr. PUGH. That is the definition of suffrage after the State shall be in the Union.

Mr. DOOLITTLE. You read from the same provision in the Leavenworth constitution.

Mr. PUGH. No, sir; the schedule in the Lecompton constitution defines the qualification of a voter at the election for the adoption or rejection of the constitution. This does not; this refers to the other article. But that, as I said, is proper enough in the Lecompton constitution, because that excludes free negroes from the State.

But, sir, I ask the question, in what form was this Leavenworth constitution adopted? I ask, did they mean, in point of fact, to have negro suffrage at the pretended election for or against the constitution? My allegation is, that, instead of relying upon the people, they, knowing themselves to be repudiated and factious minority; knowing that the great body of the free-State people of Kansas abhorred them just as much as the pro-slavery men did, fixed up this scheme by which they intended to deceive Congress by stuffing the ballot-box with negro votes. Did they mean negro suffrage by the words of the section I have read? I said that the editor of the paper from which I read this constitution was not only one of the delegates, but chairman of the committee that drafted the address. I find in his paper this article, headed "Last Days of the Convention:"

"The constitutional convention closed its labors at six o'clock, p. m., Saturday, April 3d. Friday and Saturday were busy days, although the main part of the work had been previously performed. The morning session of Friday was spent in discussing the amendment to the article on elective franchise, offered by Dr. Davis. The matter was disposed of by the following, introduced by Mr. Thacher, being adopted:

"Whereas, the law calling this convention prescribes the qualification of voters at the first election: Therefore, be it
Resolved, That the committee on schedule be instructed to report a clause instructing the first General Assembly to submit the question of negro suffrage to the people at the second general election for members of the General Assembly: *Provided*, that, at the said election, the qualification of voters shall be the same as upon the vote of the constitution.

"The vote on this stood—yeas 50, nays 28."

Now, you will observe that, at the same time that they take a vote upon the constitution with this ballot-box stuffing, they vote for the officers and the Legislature. If we were to grant all that has been alleged against the territorial proceedings in Kansas, I do not know the difference in principle between this proposition and allowing people to go over from Missouri in a body to impose a constitution, and impose State officers upon Kansas. I confess, for one, as a matter of personal taste, I would rather have a constitution imposed on me, and officers elected by my white brethren, than by a parcel of negroes, as this proposes to do; and, accordingly, the last section of this schedule provides:

"Sec. 12. The first General Assembly shall provide by law for the submission of the question of universal suffrage"—that is what they call it—

"to a vote of the people at the first general election of the members of the General Assembly: *Provided*, That the qualifications of voters at that election shall be the same as at the vote on the submission of the constitution."

Sir, it is all a sham; they have not even obeyed their own pretended convention act; they have not remitted this constitution to the people; and after all that has been alleged in private, after all that has been alleged in public, against the stuffing of ballot-boxes by Missouri votes, under the Lecompton constitution, it does not begin to approach this deliberate attempt to palm a constitution on the people of Kansas by the aid of negro suffrage.

Therefore, we are brought, as I say again, to the proposition that, although we remit the question of the admission of Kansas to the people of Kansas, as she has no other constitution than Lecompton, her admission, *per force*, recognizes that as her organic law. We are not responsible for this juxtaposition and intimate connection between the questions. We, as I have said, cannot remit the constitution to the people, but we do submit the question of admission by this bill, as

we have a right to submit it. That does involve in the mind of every voter, and in a manner wholly unobjectionable, so far as we are concerned, the question whether he is or is not satisfied with the organic act of the new State.

But the honorable Senator from Vermont, and my colleague, complained that there would be fraud practiced upon this allegation: they said there would be false returns, there would be false votes, and there would be a return made that the people voted in favor of admission.

Mr. COLLAMER. I hope the Senator will do me the justice to say that I spoke entirely from history. Having been done before, and encouraged, have we not a right to suppose that it may be done again?

Mr. PUGH. Let us take the Senator where he stands. We have the best excuse for all that, so far as this bill is concerned, in the history of past elections in Kansas: Did not the Senator from Vermont think that some more stringent provision was necessary, in order to prevent false votes and false returns? Where did his wisdom culminate? It culminated in the fourth section of the House amendment, and that section we have copied into this bill. We have adopted his own remedy.

Mr. COLLAMER. I said on that occasion that our security was found in the appointment of the board who were to conduct the election, being composed of an equal number of officers chosen by the people and by the President.

Mr. PUGH. I shall come to the board directly. I say the Senator's wisdom and the wisdom of those who voted for the House amendment, is expressed in its fourth section. That section is in these words:

"Sec. 4. And be it further enacted, That in the elections hereby authorized, all white male inhabitants of said Territory over the age of twenty-one years, who are legal voters under the laws of the Territory of Kansas, and none others, shall be allowed to vote; and this shall be the only qualification required to entitle the voter to the right of suffrage in said elections. And if any person not so qualified shall vote or offer to vote, or if any person shall vote more than once at either of said elections, or shall make or cause to be made any false, fictitious, or fraudulent returns, or shall alter or change any returns of either of said elections, such person shall, upon conviction thereof before any court of competent jurisdiction, be kept at hard labor not less than six months, and not more than three years."

We have copied that section literally into this bill. We have taken their own safeguard in their own words to define and to punish illegal voting and false returns.

Mr. COLLAMER. Did I not state that our great security was founded on the construction of the board?

Mr. PUGH. Yes, sir, I understand that. I have become very much acquainted of late years with the tactics of the party to which the honorable Senator belongs. Whenever they are beaten at any election, they are sure it was done by fraud. They think their luck is perfectly inexorable, and account for every defeat by some allegation of fraud. Now, let us see about the board. What is the difference between this board and the other one—between the board constituted by this bill and the board constituted by the House bill, for which the gentleman voted? By the House bill the Governor and Secretary of the Territory, and the President of the Council, and the Speaker of the House of Representatives of the Territorial Legislature, were constituted the board. This bill provides for the same officers, with the addition of the district attorney. How does that make any difference? They must have relied on the Governor and Secretary before, because they could not have a majority of the board unless they relied on them. The utmost they could have claimed was an equal division of the board, and then nothing would be decided. They must have relied on the Governor and Secretary before, and they still have the Governor and Secretary; but they have, in addition, the district attorney—an officer confirmed by our votes, and whose successor must needs be confirmed by our votes. It is too late to pretend that, merely because he is nominated by the President and confirmed by the Senate, he cannot be trusted. You have already agreed to trust two officers nominated by the President and confirmed by the Senate, to wit: the Governor and Secretary, so that this is a mere pretext for the occasion. Why is the district attorney introduced? asks my colleague. Simply to enable a majority to be one way or another. If there is division of opinion, the board is powerless. This was an error

in the House bill. In a board so constituted you could never arrive at any decision. To decide anything you must have provision for a majority.

But my colleague says that the Governor and Secretary are appointed by the President, whereas the President of the Council and the Speaker of the House represent the people. Indeed! Do they represent the people? They can be trusted, because they represent the people! How much do they represent the people? Each of them is chosen Councillor or Representative, as the case may be, by the people of his county—nothing more; and his associates in the Council or House, as the case may be, choose him to the chair; and my colleague thinks that a man who derives his title in that way can be trusted; that a man who has been elected by the people to represent a district of country, and then by the body to which he is chosen has been elevated to the chair, represents the people, and can be trusted to receive and count the votes and declare the result. Why, sir, that is the case of John Calhoun. He was elected almost unanimously a delegate to the Lecompton convention from the county of Douglas; he was created president of the convention by a large majority of that body; and yet, from the first day of the session to this hour, this Chamber has rung with denunciations against reposing in him the power to receive the returns and declare the results of elections; and now we are at last told that the great safeguard of the House bill was in two more John Calhouns. Was ever anything more preposterous?

Well, sir, the Senator from New Hampshire [Mr. HALE] made a suggestion yesterday which has been repeated to-day in a diluted form by the Senator from Michigan. He says if Kansas has a population sufficient to be admitted as a slaveholding State now, she has a population sufficient to be admitted as a non-slaveholding State. Undoubtedly; nobody denies that; but the difficulty is that she has only applied for admission as a slaveholding State; she has not applied as a non-slaveholding State; and these Senators have affirmed it, every man of them, for they have agreed to remit that slaveholding constitution, by the House bill, to a vote of the people, and agreed to stand by it as a slaveholding State just as much as this provision does.

So, sir, they have effectually answered themselves at every stage, in regard to every complaint, every pretense set up against this measure of peace, this measure which, while it preserves the constitutional limits of the Federal Government from invading the reserved rights of the States, does, in an unobjectionable manner, by submitting the question of admission to the people, enable them, if they do not like the Lecompton constitution, to overturn it—as against this measure, which, whilst it respects principle on all sides, accomplishes the great points which all desire; every pretext set up by the Senators is answered by their own vote for the House bill.

But it is asked if the people of Kansas vote in the negative, why not offer them the alternative of another constitution? Well, sir, she has no other, and until she has another you cannot admit her. What is it that you submit now? What is the question submitted? As I stated, under this bill the question put to the people of Kansas is, "will you come into the Union now?" If they say yea, well; if they say nay, one answer is as good as fifty. Why turn round and put it to them again? If they say they will not come in now, and they have no other constitution, perforce they must make another before they can even have a question of their admission, or can petition for it.

But the Senator from Michigan, and the rest of these Senators, say if the people of Kansas do not accept this proposition, if they do not vote to come into the Union now, they are to be kept out an indefinite time. Well, sir, how long? They are to be kept out until they have a population sufficient, according to the ratio, for a Representative in Congress. The Senator from Michigan says they have not it now. I believe the Senator from New Hampshire said so yesterday; and all these Senators are now rising here to proclaim that the great iniquity of this proposition consists in the fact that they know Kansas has not sufficient population for a Representative. I suspect that is the truth; and I think we made a great mistake in that regard when we so far yielded to their clamor as to pass the Toombs bill. Having, however,

yielded to that (with my protest against the insufficiency of the population then) on the false reports of these Senators, and having agreed that one constitution formed under its provisions might be received without any question of population, I stand here to-day to redeem my promise, and to vote to admit her, notwithstanding her insufficient population, under a constitution which is the legitimate offspring of the Toombs bill. But that is as far as I have ever agreed to go, and that is as far as I intend to go. If, as the Senator from Michigan says, Kansas has but forty thousand people, it is bad enough for me, by my vote, to seat two Senators on this floor representing a community with a less population than six or seven wards of the city in which I reside.

But, sir, what I desire now to say to my republican friends is this: do you honestly believe that Kansas has not ninety-three thousand people at this time? Is that what the Senator from New York [Mr. SEWARD] thinks? Is that what all the rest of them think? If so, it ought to admonish the country; it ought to admonish those who sit in the same Chamber with them, that literally no dependence is to be put in any of the statements of fact usually made by these Senators in relation to Kansas. Now, I intend to prove what I have just asserted. On the 9th of April, 1856, the Senator from New York addressed the Senate in support of the Topeka constitution; and on that occasion he said:

"The constitution does not prescribe ninety-three thousand seven hundred, or any other number of people, as necessary to constitute a State. Besides, under the present ratio of increase, Kansas, whose population now is forty thousand, will number one hundred thousand in a few months. The point made concerning numbers is, therefore, practically unimportant and frivolous."

This was on the 9th of April, 1856, two years ago. Where are the one hundred thousand people who were to be in Kansas in a few months from that day? Where is your Free-Soil prophecy? I have another one—a prophecy and an assertion of fact. The Senator from Massachusetts, [Mr. SUMNER,] on the 20th of May, 1856, delivered a speech on the same subject; and here is his statement:

"It is objected that the population of Kansas is not sufficient for a State; and this objection is sustained by under-estimating their numbers there, and exaggerating the numbers required by precedent. In the absence of any recent census, it is impossible to do more than approximate to the actual population: but, from careful inquiry of the best sources, I am led to place it now at fifty thousand"—it was only forty thousand on the 9th of April, 1856; on the 20th of May, it got up to fifty thousand—

"though I observe that a prudent authority, the Boston Daily Advertiser, puts it as high as sixty thousand; and while I speak, this remarkable population, fed by fresh immigration, is outstripping even these calculations. Nor can there be a doubt that, before the assent of Congress can be perfected in the ordinary course of legislation, this population will swell to the large number of ninety-three thousand four hundred and twenty, required in the bill of the Senator from Illinois."

That was said nearly two years ago. Well, sir, has all this population got to Kansas? This was the pretext made for forcing the Topeka constitution through the Congress of the United States. When they wanted Topeka carried, there was no limit to their assertions of fact, or to their imagination and their prophecies. Then Kansas had forty, fifty, or sixty thousand; and she was to have ninety-three thousand before the bill passed the two Houses, and one hundred thousand in a few months. When it comes to Leocompton, whenever somebody else's bill comes up, they object, because Kansas, two years after all these statements and prophecies, has only forty thousand people. Had she forty thousand then? Had she those magnificent numbers promised us by the Senators from Massachusetts and New York two years ago? If she had, she has been decreasing in population ever since. I think we had better admit her very quickly, for after a while there will not be anybody there at this enormous rate of decrease.

This shows that when it comes to any assertion of fact that it is necessary for a political purpose, there will be somebody to manufacture it, and that even Senators representing the sovereign constituencies of this Union will stand up here to assert as true that which turns out to be a great perversion. If Kansas has but forty thousand people, she ought not to come into this Union; but I will vote for anything which is the legitimate deduction of the Toombs bill, because I consider myself

self committed to that proposition just as I consider the Senator from Michigan committed to it. We agreed to stand on the provisions of that bill. It was no question whether that bill should pass Congress or pass the Legislature. The question was whether, if, under the safeguards and upon the principles developed in that bill, a convention of delegates should be chosen by the people, we would abide by the result? I said I would abide by it. I made no proviso to the effect that my action would depend on the fact whether anybody stayed away from the polls. You will look in vain for that; but I supposed that if anybody stayed away, of course the rule of law must apply that those who do vote act for all. I will follow that bill to the end; but I will follow no other. If it be true, in spite of these magnificent promises made here in April and May, 1856, on the faith of which I voted for the Toombs bill, as others did, that they were all delusive and false, and that Kansas has not now the population they then stated she had, I think she may well stay out of the Union, and not be disturbing the whole of us by the noise of a few thousand people out there who are not able to sustain the burdens of a State government.

I shall not detain the Senate much longer. Who is to complain of this? I say that the question submitted to Kansas is, "will you come into the Union now?" Suppose she says, "no; I will not come in. I will not come in because I do not like the constitution;" or "because I want the whole thirty millions of public lands which I have claimed in my ordinance;" or "because I have not enough population to bear the expenses of a State government;" or for any reason, I do not care what it is: then the question is, shall we authorize her at once to form a constitution with a view to admission into the Union? I say I will authorize her to do it when she has a sufficient population. That is what we ought to have done in the first place. That, in my judgment, is at the bottom of all these troubles in Kansas. I said here two years ago that I did not believe the question of slavery or no slavery was the matter that agitated most of the people in Kansas. They have had land speculators and candidates for office who have been anxious to stimulate a small community into the gigantic proportions of a State, and force her into the Union with a view to speculate in the rise of land. If they are in earnest, they will be glad to come in. It is a remarkable fact that those who were called by the Senator from Massachusetts the oppressed people of Kansas, are as industrious as can be in voting whenever there is an election for officers. They could vote at the election for members of the Territorial Legislature, in October, 1857; they could vote for members of the Legislature and State officers in January, 1858; but whenever it comes to a question that involves the matter of slavery, whether it be an election of delegates to the constitutional convention, or whether it be the vote upon the seventh article, in December last, they are very industriously absent.

But, sir, who is to complain of this requisite as to population? Shall it be my honorable friend, the Senator from Illinois, [Mr. DOUGLAS?] That is his own proposition. I have before me a bill:

"In the Senate of the United States, March 17, 1856:
"Mr. DOUGLAS, from the Committee on Territories, reported the following bill: A bill to authorize the people of the Territory of Kansas to form a constitution and State government, preparatory to their admission into the Union when they have the requisite population."

This bill of the Senator from Illinois provides

"That whenever it shall appear, by a census to be taken under the direction of the Governor, by the authority of the Legislature, that there shall be ninety-three thousand four hundred and twenty inhabitants (that being the number required by the present ratio of representation for a member of Congress) within the limits hereinafter described in the Territory of Kansas, the Legislature of said Territory shall be, and is hereby, authorized to provide by law for the election of delegates by the people of said Territory to assemble in convention and form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States in all respects whatsoever."

That is the very provision of this bill. The only objection is that we have taken his own bill, reported by him from the Committee on Territories. If it be said that that is too far back, or too long ago, two years, let us come to a later period. I have before me an amendment presented to this body on the 8th of April, 1858, by the Senator from Illinois, from the Committee on Territories,

to the Arizona bill. The fourth section of that amendment or substitute is:

"Sec. 4. And be it further enacted, That whenever said Territories [New Mexico and Arizona] shall contain a sufficient population to constitute a State—to wit: the number required by the then ratio or representation for a member of Congress, to be ascertained by a census taken in pursuance of law—the Legislature of said Territory may proceed to call a convention for the purpose of forming a constitution of State government; which constitution shall be submitted to the people for ratification or rejection; and if ratified by a majority of the legal voters in the limits of the proposed State, but not otherwise, may be sent to Congress in the form of an application for admission into the Union on an equal footing with the other States, with such boundaries as Congress shall prescribe. This section shall be, and is hereby, incorporated into and made a part of the organic law of each of the Territories of the United States, except the Territory of Utah."

So that if you were to strike out the whole of this very proposition of the committee of conference except so much of it as submits the question of present admission to the people of Kansas, and pass the Senator's Arizona bill, the effect would be the same.

Mr. DOUGLAS. My friend from Ohio is under some slight misapprehension in regard to my views upon that question. I say to him now that if he will strike out all about the Leocompton constitution, and provide that neither Kansas nor any other Territory of the United States shall form a constitution and State government and come into the Union until it has the requisite population for a Representative to Congress, I will vote for it. My objection is to saying to Kansas, "you may come in with forty thousand if you take a constitution you do not like; but you shall wait until you have one hundred thousand unless you vote for that particular constitution." If you will make the rule general, apply it to Kansas and all other Territories, I will vote for it to-day or any other day.

Mr. PUGH. Mr. President, I have said before there is no such proposition made. There is no proposition made to force them to come in or stay out. Every Senator here knows that these grants of public lands, which are said to be bribes, are grants made in the case of every new State, and that they will as certainly be made when Kansas comes into the Union as if it were so provided now. She must be a State before you can give them to her, and that is the only reason why we do not give them to her now in any event; and hence I say that is an immaterial element in the question. The real question is as the Senator from Michigan stated it at the beginning of the session. He said the people of Kansas might not desire to come into the Union, and that they might not desire to come in without the least reference to the Leocompton constitution. I say that question I will put to the people: do you desire to come in? If you come, you come in with a constitution, and if you have any other constitution than Leocompton, in God's name take it; but if they have no other, and if they do not like it, they will not come in; and if they do like it, they will come in. That is the whole of it.

I bound myself—my friend from Illinois as well as I—by voting for the Toombs bill, that in any constitution framed under the provisions of that bill, I would waive the question of population, and I never agreed to waive it for anything else; and now, that the Toombs bill is expended, all its force gone—now that it has failed, by reason of the fact that some of the people of Kansas would not vote at an election where they could have fairly and truly expressed their wishes; now that every argument of peace and conciliation and compromise has been made to them, and not accepted; now when a fair opportunity to become a State, with full power and authority to rectify and amend all their institutions in their own way as a sovereign State, is offered; if they refuse that I fall back where I was before the Toombs bill, following the lead of my honorable friend from Illinois in his bill to authorize them to form a constitution and State government when they have the requisite population. That is my position; and I state it to the Senate in defense of the report of the committee of conference. I stated, as my objection to the House bill, that I was willing to give the people of Kansas, in any form in which I constitutionally could do it, a right to vote for or against Leocompton. I cannot remit the constitution to them directly; I had no such power; but I was willing to give them a right to speak by any form in which I could do it consistent with the consti-

tutional duties and limitations on the power of Congress; but if they reject it, then let them wait until they have a right to admission and a right to demand it. Then I say, having failed to themselves of the benefits of the Toombs bill, I would give them back to the tender mercies of my friend, the Senator from Illinois, under his bill of March, 1856.

The Senator from Michigan says that will not settle the question, and all these Senators have prophesied civil war. Mr. President, I should think they would have got tired of these prophecies; I am sure I am tired of them, and I do not mean to make any myself. So far as I am concerned in my vote on this proposition, I can only say I believe it to be a fair and honest proposition; that if the people of Kansas consult their own interests, they will at once silence all this agitation; and if they are sufficiently numerous to take upon themselves the burdens of a State government, they will at once come into the Union, and, if there be anything amiss in their constitution, proceed, in a regular, orderly manner, to reform it; and that if they have not the numbers sufficient to justify admission, they will silence this whole controversy, and peaceably go about their business, occupying the soil, tilling their farms, until they have a population sufficient to bear these great burdens.

But, sir, how much are the tones changed on this side of the House in this regard! When the Topeka constitution was before us, we were urged to admit Kansas at any hazard, in any manner, no matter what the constitution, no matter how irregular, no matter how formed. We were told that her case was so urgent, her distress so great, that the mere admission of her, the mere raising her to the dignity of a sovereign State, without anything else, would heal all her wounds and infirmities. The Senator from New York said so. Here it is, in his speech of April 9th, 1856, from which I before quoted:

"Congress has power to admit the new State thus organized. The favorable exercise of that power will terminate and crown the revolution. Once a State, the people of Kansas can preserve internal order, and defend themselves against invasion. Thus, the constitutional remedy is as effectual as it is peaceful and simple.

"This is the remedy for the evils existing in the Territory of Kansas, which I propose. Happily, there is no need to prove it to be either a lawful one or a proper one, or the only possible one."

He urged the immediate admission of Kansas upon a constitution acknowledged by him in this agreement to be irregular. He contended that the urgency was so great that we should overlook all the requisites of the law. He said that, once a State, Kansas would instantly be relieved from all her troubles. The Senator from Massachusetts [Mr. SUMNER] took up the wondrous tale. In his speech of May 20, 1856, he said:

"Next, and lastly, comes the *remedy of justice and peace*, proposed by the Senator from New York. [Mr. SEWARD] and embodied in his bill for the immediate admission of Kansas as a State of this Union, now pending as a substitute for the bill of the Senator from Illinois."

Not the admission of Kansas as a free State—not the admission of Kansas with any particular constitution—but the mere admission of the State in any way, in any form: this was "the remedy of peace and justice." What else?

"Rarely has any proposition, so simple in character, so entirely practicable, so absolutely within your power, been presented, which promised at once such beneficial results. In its adoption, the crime against Kansas will all be happily absolved, the usurpation which it established will be peacefully suppressed, and order will be permanently secured. By a joyful metamorphosis, this fair Territory may be saved from outrage."

Sir, the Senator ascended into rhyme, and I will give you his poetry on the occasion:

"Oh, help," she cries, "in this extremest need,
If you who hear are deities indeed;
Gape, earth, and make for this dread foe a tomb,
Or change my form, whence all my sorrows come."

What is the illustration of all this? Two years ago admission, in any form, under any circumstances, upon any argument, as the last plank to the shipwrecked mariner; the admission of Kansas as a State, no matter what her constitution; was the great remedy that was to heal all things there. It was a mere form that was the matter with her; if she could merely change her form from a territorial to a State government, everything would be healed. Well, sir, we offered it. If that be the great boon, if that be the balm in

Gilead, which will lift her pale and bleeding form from the earth, and hide all her wounds and nakedness, cover her infirmities, and enthrone her with honor, we offer it to her; and we say to her at the same breath, as the President and both Houses of Congress have expressed their opinions already, "from the moment we bring you into the Union as a State, we clothe you with the highest attributes of sovereignty; you are your own masters; you can make and unmake constitutions at will; if you do not like Lecompton, you may take any other; if you like Topeka, set it up."

We give them this in the form which they have themselves prescribed in their own bill; and yet the Senator from Michigan warns us—perhaps in behalf of his new allies—that this question is to go into the next presidential election. Be it so. It must be decided at some time. If the people of the United States, the people of the northern States and the people of the southern States, have not the virtue, the self-command, the patriotism, to see on what bald pretenses this continual disturbance is kept up, merely ministering to the aggrandizement of individuals by elevating them to place and power, they have not the patriotism and the intelligence any longer to maintain a republican form of government; it makes no difference when, or in what form, the overthrow of public liberty comes; it has become a mere question of time. Here is a Government, formed by wise and patriotic statesmen, who established its foundations on eternal principles of truth and justice and equality as between the States and the people of the States. They saw no difficulty in non-slaveholding and slaveholding States remaining in the same Union on terms of equality, peace, and justice, under the protection of a common Government. From a few feeble colonies on the Atlantic, we have risen to be the mightiest empire in the history of time. Our population has crossed the Alleghanies, and new communities, new sovereignties, are gathered along the Mississippi, from its sources in the lakes to its mouth at the Gulf of Mexico. This has been a good Government to us all. It has protected us all in the days of our youth. It has been full of blessing to us and to all of our constituents. If it is to be sacrificed, if we are to bring Kansas in as a foot-ball to be kicked backwards and forwards every four years, not with any eye to our own peace and safety, but simply as a means whereby this man or that man or the other man shall be elevated to the presidential chair and have the disposition of office and patronage, then your Government has lost its life, and it makes no difference when it loses its form.

But, sir, that is not the feeling of the people of my State. The people of Kansas may act, and act unwisely, as they have done before. I hope they will not. I believe that experience is a bitter school, and they have passed through that school. I hope, at all events, they will have the justice, the desire for peace, the patriotism, to amend all their wrongs in this peaceable manner; but if not, if they persist in keeping up this disturbance, if they persist in making the whole business of this Government and all the vital necessities of thirty millions of people subordinate to their miserable, petty squabbles and quarrels, then I think the people of the United States, outside of the limits of Kansas, have sense enough and wisdom enough to close the controversy by telling them they may remain a community to themselves until they reach some degree of quiet and peace. Sir, I am sorry to have detained the Senate so long.

Mr. DOOLITTLE. Mr. President, the honorable Senator from Ohio, [Mr. PUGH] in my judgment, has raised an issue which neither exists in this case, nor is at all material to the determination of the question which is now before the Senate. The issue which he raises is an issue upon the Leavenworth constitution, as it is called—a constitution which is not here, a constitution which has never been presented either to the President or to Congress; a constitution which has not yet been voted upon by the people of Kansas. If it were here, it would be impossible that that constitution should be moved as an amendment to the present proposition pending before the Senate; for to this report of the committee of conference no amendment whatever can be proposed. No such issue is raised here. But, sir, if there were such an issue, it is a false one

—false in fact, false in inference, false as raising a mere clamor without the slightest foundation under heaven.

Sir, the honorable Senator from Ohio would say, by way of prejudicing the action of the free-State men of Kansas, that in the constitution which they have formed lately at Leavenworth, they have adopted universal negro suffrage. The language of the constitution which they have framed, in that respect, is quoted, word for word, letter for letter, comma for comma, from this very Lecompton constitution now before the Senate; and, sir, if the Leavenworth constitution, in the article upon suffrage, provides that all the negroes of the Territory may vote, the Lecompton constitution does precisely the same thing. The language of both is identical in this particular; both mean the same thing. Does the honorable Senator from Ohio pretend that the same language does not mean the same thing? that precisely the same terms of expression, when used in one constitution, do not mean exactly the same when used in another?

Mr. PUGH. The Senator certainly is not able, in point of fact, to misunderstand me. I said before, that the Lecompton constitution excluded free negroes, which this one does not. Now they could not vote if they were not there, and I see them excluded in language so plain that it is not possible to misunderstand it. That is the Lecompton constitution.

Mr. DOOLITTLE. Does the Senator from Ohio claim that free negroes are citizens of the United States?

Mr. PUGH. I have said that I do not.

Mr. DOOLITTLE. I will read the language of this so called Leavenworth constitution:

"In all elections not otherwise provided for by this constitution, every male citizen of the United States of the age of twenty-one years or upwards, who shall have resided in the State six months next preceding such election, &c., shall be entitled to vote."

Sir, upon the gentleman's own ground, if negroes are not citizens of the United States, the charge is a false one, if charge it be, against the Leavenworth constitution. Precisely the same language is used in the Lecompton constitution:

"Every male citizen of the United States, above the age of twenty-one years, having resided in the State one year, and in the county, city, or town in which he may offer to vote, three months next preceding any election, shall have the qualifications of an elector, and be entitled to vote at all elections."

How, then, does it stand upon the schedule?

The schedule of the Leavenworth constitution provides that it shall be submitted to the people of Kansas for ratification or rejection, and that "said election shall be conducted according to the provisions of section thirteen of an act of the Legislative Assembly of the Territory of Kansas, passed February, 1853, entitled 'An act to provide for the election of delegates to a convention to frame a State constitution.'" This act is not before me, but I am informed upon authority on which I rely that the provision in that act is precisely the provision existing under the territorial laws, that every citizen of the United States who had resided six months in the Territory before offering his vote, should be entitled to vote at the election.

Mr. President, I have said this, not because it is material to be said, not because there is any such issue before the Senate, but simply to put an end to this clamor, which is raised for no other purpose than to prejudice the action of the free-State people of Kansas in the estimation of a large portion of the members of both Houses of Congress. It might appeal to the prejudices of men residing in the slaveholding States, if the fact could be assumed that negroes were to be permitted to vote; and yet it is not true that in many of the slaveholding States negroes are, under certain qualifications, permitted to vote? Is it not true in North Carolina, the State which you represent, sir?

The PRESIDING OFFICER, (Mr. BIGGS in the chair.) Not now.

Mr. DOOLITTLE. If not now, it has been at some period of her history. Was it not true in Tennessee and in Virginia? But, sir, I have only referred to this to show that it is a false clamor raised to prejudice.

Mr. PUGH. I wish the Senator would explain that language, for I really think it is time!

should understand what he means. He has used the expression "false" several times. Does the Senator mean to apply it to me?

Mr. DOOLITTLE. I do not mean to apply it to the honorable Senator from Ohio that he intends to state what is false; but I do say that he has misconceived the law, and given a false inference and a false interpretation to it; and the whole effect of what he says is to raise a false clamor and a false prejudice against the action of the free-State people of Kansas; and I feel called upon to repel it, not because it is material to the question now before the Senate, but to put an end to this clamor.

Mr. President, there is one other remark that fell from the honorable Senator from Ohio which I feel called upon to notice. It is a remark which was made in the absence of the honorable Senator from New York, [Mr. SEWARD,] and in the absence of the honorable Senator from Massachusetts, [Mr. SUMNER,] who has, for reasons which I do not feel called upon now to name, been compelled to remain away most of the session. The Senator from Ohio spoke of a prediction which was made by the honorable Senator from New York, in his speech in the spring of 1856, in which he stated, in substance, that as near as he could estimate the amount of population in the Territory of Kansas then, there were forty thousand; and that, probably, in the course of a short period, there would be a population sufficient to entitle them to a Representative in Congress. He said, also, that the Senator from Massachusetts, in a speech which he made in the spring of 1856, estimated the population to be nearly fifty thousand, and said it was fast increasing, and that, perhaps, by the time the Topeka bill could pass Congress, there would be a population there sufficient to entitle them to a Representative in the other House of Congress. The honorable Senator asks where are these false statements of fact and of prophecy which we constantly hear on this side of the Chamber? Where is all this population which was to have been in Kansas, and the large emigration which was immediately to have followed in the spring and summer of 1856?

Mr. President, has the honorable Senator from Ohio forgotten that it was after these speeches were made, and in the spring and summer of 1856, that Lawrence was sacked and burned? Has the Senator forgotten that it was during the summer and fall and winter of 1856 that the irregular border-ruffian army which was marched into Kansas was devastating that Territory, and driving the people from it, hunting them down like bloodhounds on their track? Has the Senator forgotten that in the summer and fall and winter of 1856 all the highways through Missouri were closed against all northern emigration, blockaded by armed men upon the banks of its rivers, armed with cannon?

Mr. PUGH. I recollect that these allegations were made; I believed they never did occur. That was my opinion; but I know they were asserted on the floor as existing here just about the time of these predictions—the very time.

Mr. DOOLITTLE. Has the Senator forgotten that the troubles which were existing during the summer and fall and winter of 1856 drove hundreds and hundreds of the people of Kansas out of that Territory?

Mr. PUGH. I will tell the Senator, as he asks the question. These things were all alleged to have happened about the time of these very speeches. We all recollect when they were stated in the Senate—the debates will show. They did not happen afterwards. I do not think a great many of them happened at all; but they were not pretended to have happened until afterwards.

Mr. DOOLITTLE. But, Mr. President, at the most, those statements which were made by the honorable Senator from New York, and the honorable Senator from Massachusetts, were but approximations. They said expressly that no census had been taken; they were but approximating to the number of inhabitants of Kansas at the time the speeches were made; and they were but venturing to give a prediction, based upon the causes then in operation, that in a very short period of time there would be a population in Kansas sufficient to entitle them to one Representative in the other House of Congress.

But, sir, I shall not dwell on these topics. The

relations which we bear to each other as the sovereign States of this Confederacy, and the relations which the various States bear to the United States Government, are very analogous to the relations of a family. This is, indeed, a sisterhood of States; and a glorious sisterhood it is; and, as younger sisters growing up into the same family, are these new Territories springing into existence from time to time in the different portions of our great Confederacy. One after another are they planted, colonized, organized, and brought into the Union. One after another, passing through all the periods of helpless infancy, growing childhood, and vigorous youth, they reach that period in their growth and development to take position as new but equal members of this great and glorious family of ours. The relations which are borne by them to the Government of the United States during their territorial condition are very much like the relations which a child bears towards a parent during its infancy and minority. In more respects than one does this analogy hold good. Upon the one side is government, protection, and education; upon the other, helplessness, dependence, and obedience.

There are those who maintain the sovereignty of a people in a territorial condition from the moment of its organization. You may say that there are all the elements of sovereignty in a newly-organized Territory. So, too, there are all the elements of manhood in a child; but, in my judgment, it would be just as unwise to speak of the independent sovereignty of a few hundreds or thousands of people sparsely scattered throughout a vast territory, as to speak of the manhood of a babe nestling in its mother's bosom. Nor is it always easy to determine the exact line between youth and manhood, nor between the territorial dependence of a people and their independent sovereignty—to see exactly where the one ends and the other begins. It is a thing of growth and of time. But I will not dwell on this subject.

The point we are now considering is simply whether the proposition of the committee of conference does of itself present any improper inducement to bring Kansas into the Confederacy under the Lecompton constitution; and if she refuses to come in, does it impose upon her any improper penalties—anything by way of punishment? Is Kansas left perfectly free to make her own choice in this matter? Sir, it is very easy to illustrate this by resuming once more the analogy. Imagine the case of a parent with large possessions, having a large family of highly educated and accomplished daughters. As they grow up and arrive at the age of maturity and marriageability, one after another they are settled and established in life, and a portion of his vast inheritance is set off to them. A younger daughter, not yet arrived at the age of perfect maturity, hardly marriageable as yet, at that tender and interesting period when the artlessness of childhood adds to the charms of womanhood, is sought in marriage by two rival suitors; the parent's consent is asked. One presents himself, an intelligent, frank, honest, noble youth, who has wrought out his own fortunes by his own strong hands; and he has sought, received, and secured her affections. Another presents himself who claims to be of noble blood—to belong to the first families of the land; too proud to labor himself, but ever willing to live upon the labor of others—like too many, greedy of other's goods and prodigal of his own—and he seeks her hand in marriage also. He plies every art, attempting sometimes by force and sometimes by fraud to obtain her consent. She rejects his suit again and again. Her elder sisters take a deep interest and an active part in the controversy, are about equally divided, and the result even threatens to sunder their family relations. She comes to her parent for advice. She fully avows her affection for the one, and her detestation for the other; and what does he propose? He says to her, "my daughter, if you will marry this man of family and pretensions I will give you houses and lands; I will endow you with a large and independent fortune, as I have all your sisters that have settled before you; I will establish you at once in a high rank in society; you shall have all the deference and consideration which grow out of that establishment, on a footing of perfect equality with your elder sisters; but

if you refuse to marry him, you shall not marry at all, so long as I live, or at all events so long as I keep you under my control; and until you arrive at the full age of majority you shall not marry any other; and though you do not choose to marry him, you shall continue to associate with him and receive his attentions."

Mr. President, is that leaving her perfectly free to follow the dictates of her own heart, to make her own selection, or is that what you would call *parental intervention*? Is it leaving her perfectly free, or is it endeavoring to force her choice, to say to her in plain English, "if you will marry this suitor, you are old enough to marry now; but if you desire to marry anybody else, you are not old enough to marry at all; if you will marry this one, you shall have houses and land; you shall be endowed richly, as all your sisters have been endowed before you; but if you will not marry him, you shall marry no other for an indefinite length of time, and you may have to pass that certain age which no female desires to pass unmarried; and whether you like him or dislike him, you shall continue to associate with him?"

I ask you if this is leaving her perfectly free in her choice to choose her own domestic institutions, and to form and regulate them in her own way? or is it parental intervention to overcome her free will, to tempt her, to smother and crucify her affections, and to join in alliance with one whom, instead of loving, she detests?

Mr. President, I do not intend to take up the time of the Senate; but it seems to me, in plain language, the proposition which is now put by Congress to Kansas, is this: not that they will give Kansas now more lands than they have given to some other States when they were admitted into the Confederacy, but the proposition is to give them to her now, if she will come into the Union under this constitution; but if she will not come into the Union under this constitution, she is not to have them for an indefinite period of time. It is also saying to Kansas, "if you will come into the Union now, you shall have all the political consideration, consequence, power, and influence, of an independent and sovereign State in this Confederacy; but if you will not take this constitution, you shall not come into the Confederacy for an indefinite period of time; it may be five years, or it may be ten years before you will have population enough to entitle you to come in under this proposition."

But, Mr. President, the more important question, in my judgment, is not whether the people of Kansas will have virtue enough to reject this proposition, rather than to come into the Union under a constitution which they detest—for I believe they will—but the important question with me is, who shall count the votes which the people cast when that proposition is submitted to them? From all that has transpired in the Territory of Kansas, that is a question which comes home to me with more force than any other; for I believe if the votes could be fairly counted, the people of Kansas would reject and spurn this proposition if it should be offered by Congress. If you go back into the history of Kansas and its affairs, what strikes you as the most prominent of all things in its history? Governor Geary was compelled to resign. Why? Because he was determined that the constitution should be submitted entire to the people of Kansas, and that the laws should be fairly administered, and that murder should not go unpunished. Governor Walker and Governor Stanton were removed from office, substantially. And why? Because they would not count the fraudulent votes which were cast at Oxford and Shawnee. Governor Denver has been appointed to fill their place. Their history is before him.

John Calhoun, notwithstanding all that has been proved in relation to the returns which were made to him and to his office, notwithstanding the place where they were found hid in a candle-box was in his wood pile, is still kept in office as the surveyor general of the Territory of Kansas. Mr. Walker and Mr. Stanton were put out of office because they would not count the fraudulent returns. John Calhoun is kept in office, notwithstanding the candle-box returns and the frauds which have been practiced in that Territory. What are we to expect now? One question has not been answered by any gentleman who has spoken on

the other side—I allude to the question which was put by the honorable Senator from Kentucky, and which was repeated by the honorable Senator from Michigan: why is another person put upon the commission to count the votes? For no reason under heaven but to put the board in the control of that power which has from the beginning, and from before the beginning, intended no other result than to take slavery into Kansas, with or without law, with or without force, fairly if they could, but to take it there anyhow. It is to put the control of that board which is to count the votes in the hands of that power which led Atchison to invade Kansas, which has led to all the fraudulent transactions which have disgraced that Territory from the beginning to this hour.

Is not this district attorney the very person who gave his written opinion that no person in Kansas could vote at the last October election unless he had paid a tax, under the territorial laws, which cost Governor Walker such an immense labor to overcome? What may we expect from him?

Mr. President, we have heretofore heard from the Administration, the President in his message and his friends on this floor, but one thing, and that was, "it is necessary to give peace to Kansas and peace to the country." Is there anything in this proposition which is calculated to give peace? If we can judge by what has transpired among the people of Kansas, we have every reason to believe that upon a vote that people will reject this constitution by a majority of thousands upon thousands. We have every reason to expect it. Take that proposition, and if they do reject it, what follows? You propose to keep Kansas out of the Union until she has a population which would entitle her to admission as having people enough for one Representative in the other House. It may be six years before she will have what would then be required—probably one hundred and twenty thousand people. What do you propose to do in the mean time? Why, sir, you propose to let Kansas bleed. That is what you propose. If she rejects this proposition, let her bleed, is the present language of the Administration. Instead of giving peace, and closing up this controversy, it is proposing to let Kansas bleed, and let agitation go on. Instead of peace it will be a sword.

Mr. President, the proposition that was offered by the honorable Senator from Kentucky was one which would close up the whole difficulty in Kansas. If she was not satisfied with the Lecompton constitution, let her form a constitution with which she would be satisfied, and then be admitted into the Union, and that would close up the whole question. But now, if the people voted this down, and if the votes are counted fairly and honestly, (which I fear cannot be, from the history which has transpired in Kansas,) this whole agitation is to remain for years to come. Sir, I desire, for one, to see this agitation brought to an end. We have had it long enough, and the only way to end it is to submit this question fairly to the people of Kansas. If they do not like this constitution, accompany it by a bill which provides that they may call a convention and form a constitution to suit them, and admit them into the Union, and let that be the end of this whole controversy. But it cannot be ended, it will not be ended by this proposition. If, as I have reason to fear, the same frauds which were practiced at Oxford and Shawnee and Kickapoo are to be repeated, if Cincinnati Directories and candle-box returns are to be made use of in that Territory, for the purpose of having it counted into the Union, right or wrong, I tell you, Mr. President, it will be the last proposition which would be likely to give peace to Kansas or peace to this country. There will be an agitation if it shall be falsely counted into the Union, compared with which, all that we have yet seen would be a very small and trifling affair, in my opinion.

Mr. President, I had not intended to detain the Senate as long as I have. I shall therefore not occupy its attention any longer.

Mr. WILSON. I rise, Mr. President, for the purpose of moving an adjournment. Before doing so, however, I will say that, upon consultation with some gentlemen on the other side, they have expressed a willingness that we shall now adjourn until to-morrow. The Senator from New York, [Mr. SEWARD,] and the Senator from Illinois, [Mr. DOUGLAS,] desire to address the Senate. I

desire to say a very few words upon the matter; but I think to-day the hour of adjournment has arrived, and we had better adjourn. The Senator from Tennessee, [Mr. BELL,] I understand, also wants to speak.

Mr. GREEN. Before an adjournment, I will move the postponement of this subject until half past twelve o'clock to-morrow.

The motion was agreed to.

On motion of Mr. WILSON, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 28, 1858.

The House met at twelve o'clock, m. Prayer by Rev. C. C. MEADOR.

The Journal of yesterday was read and approved.

The SPEAKER stated that reports were in order from the Committee on the Post Office and Post Roads.

PATENT OFFICE REPORT.

Mr. NICHOLS. I rise to make a privileged report from the Committee on Printing.

The report was read, as follows:

The Joint Committee on Printing, to whom it was referred to inquire into the expediency of printing extra copies of the mechanical portion of the Patent Office report for the year 1857, report the following resolution:

Resolved, That there be printed, for the use of the members of the present House of Representatives, twenty thousand extra copies of the mechanical portion of the Patent Office report for the year 1857.

Mr. NICHOLS. I desire to say but one word upon that resolution. The House will understand, from the reading of the resolution, that it contemplates a considerable reduction on the number of copies of this work usually printed. The committee have had the subject under consideration for some time, and are impelled, by the inevitable force of necessity, to recommend this reduction. The number provided for is sufficient to supply the necessary wants of the country in this regard. A general distribution cannot be had, unless this system be carried to excess. It is the desire of the committee that its recommendation in this respect shall be complied with; and I am instructed by the committee to say, that if there be opposition to this report in any way, they would rather that the resolution should be withdrawn, and the whole thing crushed, than that the number of copies should be increased. The report is founded upon the necessity of the case; and I call the previous question upon it.

Mr. WASHBURN, of Illinois. Will the gentleman inform the House what number of extra copies of this work was printed for the use of the members of the last House of Representatives?

Mr. NICHOLS. The reduction in the number is forty thousand. The number printed last year was sixty thousand.

Mr. BARKSDALE. I desire to inquire of the gentleman from Ohio how many copies have already been ordered to be printed.

Mr. NICHOLS. The report was submitted some two months ago to the House, and, as a matter of course, one thousand five hundred and thirty copies have been printed. That provides only for the public Departments, and for the one copy that each member has a right to.

There is no provision made in the one thousand five hundred and thirty copies ordered to be printed, for distribution to any institution outside the Departments here, and to the members themselves.

Mr. MORGAN. How many copies of those provided for in this resolution are assigned to the Patent Office proper?

Mr. NICHOLS. None at all. The distribution is placed within the hands of those who represent the various congressional districts in Congress. I have again to say, in answer to an interrogatory which was propounded to me, that the reduction is forty thousand copies. I appeal to the good sense of the House to allow this resolution to pass in the shape in which it is reported, well assured as I am that if any attempt is made to change it, no copies at all will be printed for distribution. I believe the number provided for in the resolution is large enough; and I call the previous question upon the passage of the resolution.

Mr. JOHN COCHRANE. I wish to ask what distribution the Committee on Printing propose

to make of the part of the Patent Office report usually denominated agricultural?

Mr. NICHOLS. There has been no agricultural report submitted to the House at all.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was adopted.

Mr. NICHOLS moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

COMMODORE PAULDING.

Mr. WRIGHT, of Georgia. I rise to what I consider to be a question of privilege. I am not sure whether it is or not. The most important national question which has been presented to the House during the present Congress, was some three months ago referred to the Committee on Foreign Affairs. That committee has not yet made its report to the House; but some time ago it did permit its report to be published. I wish to ask the Chair whether the committee has the right to permit its report to be published before it has been made to the House?

Mr. SEWARD. I call for the regular order of business.

Mr. RITCHIE. Do I understand the gentleman from Georgia to say that any report on the subject to which he refers has been published by the Committee on Foreign Affairs? If so, I wish to correct that statement. No such report has been published by the Committee on Foreign Affairs, or with the knowledge of the committee. The publication of a report by a committee in advance of its being made to the House, is in my opinion a breach of privilege, and I, as a member of that committee, certainly never should have consented to any such publication.

Mr. WRIGHT, of Georgia. Then, as this report has been published for some months, and as the House has had no opportunity of action upon it, I ask the consent of the House that this report may be made now to the House, and printed, without taking any action upon it, and that it be fixed as a special order for some day.

Mr. SEWARD. I object. I have reports which I want to make from the Committee on Naval Affairs. Let the committees be called in their order, and the report may be made when the Committee on Foreign Affairs is called.

Mr. WRIGHT, of Georgia. Has the gentleman the right to object to the report being made?

The SPEAKER. The gentleman [Mr. SEWARD] has the right to object.

Mr. SEWARD. I do not wish to place any obstacle in the way of the views of the gentleman from Georgia, but if the committees are called in their regular order the Committee on Foreign Affairs will be reached, and the report may be made in order.

Mr. WRIGHT, of Georgia. If the gentleman objects, there is no way of getting at it.

Mr. SEWARD. I only do it on that ground, that the committee will be called at all events. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports, beginning with the Committee on the Post Office and Post Roads.

PUBLIC BUILDINGS IN PHILADELPHIA.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, reported a joint resolution authorizing the arrangement and disposal of public buildings in the city of Philadelphia; which was read a first and second time.

Mr. FLORENCE. There is a difference of opinion as to the proper arrangement of the several United States offices in the city of Philadelphia. Various petitions have been presented by the various members from that city, which have been referred to the Post Office Committee. After consultation with the entire delegation from the city, and after full investigation, the committee have agreed upon the resolution which has been reported, as the most feasible plan of being relieved from the difficulty. It will not, as my colleague suggests, cost the Government a farthing, and it will settle the difficulties existing in the city. I call the previous question upon the engrossment of the joint resolution.

The joint resolution was reported at length. It authorizes the Secretary of the Treasury, the

Postmaster General, and the Attorney General, to arrange and dispose of the public buildings in the city of Philadelphia, so as to best accommodate the several United States offices in that city.

Mr. ENGLISH. It will be seen, from the reading of the resolution, that it directly prohibits the incurring of any expense beyond the appropriation already made. It simply authorizes the Secretary of the Treasury, the Postmaster General, and the Attorney General, to arrange the public buildings in Philadelphia, so as best to conduce to the public service. There can be no objection to the passage of the joint resolution. I understand that it meets the approval of every member from that city; and unless some member from that city desires to speak, I hope the previous question will be seconded.

Mr. MORRIS, of Pennsylvania. There has been some difficulty in Philadelphia in regard to the proper location of the post office, and various expedients have been resorted to for its equitable adjustment. After trying every other expedient, this expedient has been adopted. It meets with the unanimous concurrence of the whole delegation; and, I believe, it is the only just, effectual, and proper means to settle this question.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the resolution was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. ENGLISH called for the previous question on the passage of the resolution.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the resolution was passed.

Mr. FLORENCE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

POST OFFICE BUILDINGS.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, reported a bill providing for certain public buildings for post office and other Government purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

LIGHTING THE WASHINGTON MALL.

Mr. GOODE, from the Committee for the District of Columbia, reported a bill for lighting, with gas, certain streets across the Mall; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

EXTENSION OF PUBLIC GROUNDS.

On motion of Mr. GOODE, it was

Ordered, That the Committee for the District of Columbia be discharged from the further consideration of the petition of W. Hickey and others, asking that certain questions relative to the extension of the Capitol grounds be decided, and that the same be referred to the Committee on Public Buildings and Grounds.

BENEVOLENT CHRISTIAN ASSOCIATION.

Mr. GOODE, from the Committee for the District of Columbia, reported back Senate bill No. 97 to incorporate the Benevolent Christian Association of Washington city.

Mr. LETCHER. Let us hear that bill.

Mr. GOODE. It has all the restrictive clauses which are usually contained in acts of incorporation passed by Congress. The committee are of the opinion that the Senate bill should be passed, and I now ask that it be put on its passage.

The bill was read *in extenso*.

Mr. SEWARD. Does the bill allow this association to hold real estate?

Mr. GOODE. It does to a limited extent. It provides merely for the incorporation of a charitable institution.

Mr. SEWARD. I desire to ask this other question, whether the real estate acquired is to be held in perpetuity? Is this association permitted to hold the property they may acquire *ad infinitum*?

Mr. GOODE. This bill proposes merely to incorporate this association, and it will be an association of the religious institutions of the town. It is the incorporation of a charitable society with

the usual restrictive provisions, and with the right in Congress to repeal the act in its discretion.

Mr. SEWARD. I understand that. But this real estate is to be vested in the corporation, and there is no provision as to the extent of time for which it shall be held. It is a perpetuation in this corporation of real estate to the amount of \$200,000, and personal property to an indefinite amount. I think that the principle is a bad one.

Mr. GOODE. The charter is subject to repeal at the discretion of Congress. It is a mere charitable institution, and nothing more.

Mr. POTTLE. Have the churches of this city petitioned for this bill? What petitions are on file asking for it?

Mr. GOODE. They were furnished to the Senate, and these religious societies had a representative before the committees of the two Houses in the person of a distinguished individual, who asked for this bill.

Mr. POTTLE. From each of the churches?

Mr. GOODE. No, sir; one gentleman representing the several churches.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

R. R. RICHARDS.

Mr. GOODE, from the same committee, reported back, with a recommendation that it do not pass, a joint resolution (S. No. 9) for the compensation of R. R. Richards, late chaplain of the United States penitentiary, for his salary to the 30th of June, 1857; which was laid on the table, and the bill and report ordered to be printed.

GONZAGA COLLEGE.

Mr. GOODE, from the same committee, reported back, with an amendment, an act (S. No. 76) to incorporate Gonzaga College, in the city of Washington, and District of Columbia.

Mr. GOODE. The amendment reported by the committee is to strike out "\$500,000," and insert "\$200,000."

The Clerk commenced the reading of the bill.

Mr. GOODE, (interrupting.) I would state to the House that this is an ordinary bill for the incorporation of a college with a capital stock of \$200,000, as recommended by the amendment, with the usual restrictive clauses as to stock, and the responsibility of corporators for debts of the corporation. I move that the further reading of the bill be dispensed with.

Mr. MORGAN objected.

The Clerk concluded the reading of the bill.

The amendment recommended by the Committee for the District of Columbia was agreed to.

The bill was then ordered to a third reading; and was accordingly read the third time, and passed.

PROVIDENT ASSOCIATION OF CLERKS.

Mr. SCALES, from the Committee for the District of Columbia, reported back, with a recommendation that it do not pass, an act (S. No. 151) further to amend an act entitled "An act to incorporate the Provident Association of Clerks in the civil Departments of the Government of the United States in the District of Columbia;" and moved that the bill be laid upon the table, and that the report be printed.

The report was read.

Mr. CHAFFEE. I would inquire of the gentleman from North Carolina, whether the Senate did not pass this bill unanimously and without a division; and whether the same facts were not before the Senate as were before the committee of this House? I would inquire, further, whether the section of the charter referred to in the report as containing vested rights, was not altered by a subsequent act of Congress—the act of 1836?

Mr. SCALES. I know nothing of the circumstances under which the bill passed the Senate; nor is it material here.

With regard to the section of the charter which we think gives these vested rights, it simply says that if this charter shall expire otherwise than by its own limitation, then the children of deceased parents shall be entitled to all the proceeds of the association; there shall be a general division of the proceeds.

Now, I do not know what course the Senate took in reference to this bill, and I do not think it material. Nor can I answer the gentleman as to whether that clause has ever been amended. I do not know that it ever has been. All I do know

is, that the clause is there, and we acted accordingly.

Mr. CHAFFEE. I wish to ask the gentleman whether that clause has not been superseded by subsequent legislation?

Mr. SCALES. Not as we understood it.

Mr. CHAFFEE. I understand it has, and I simply wanted to get at that fact.

The bill was then laid upon the table; and the report was ordered to be printed.

LAMP-POSTS IN GEORGETOWN, D. C.

Mr. SCALES, from the same committee, reported a joint resolution relative to the erection of lamp-posts in Georgetown, District of Columbia; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

COLUMBIA INSTITUTION.

Mr. BURNETT, from the same committee, reported back, with a unanimous recommendation that it do pass, an act (S. No. 99) to amend the act to incorporate the Columbia Institution for the instruction of the deaf and dumb and the blind, approved February 16, 1857; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

PENNSYLVANIA AVENUE.

Mr. WARD, from the Committee for the District of Columbia, to whom was referred a memorial in favor of the repavement of Pennsylvania avenue and of a railroad through that avenue, made an adverse report on the first prayer of the memorial, but recommending the laying down of a specimen of iron pavement, and, in reference to the latter prayer of the memorial, reported a bill in relation to a railway through Pennsylvania avenue, in the District of Columbia; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

WASHINGTON CEMETERY.

Mr. BOWIE, from the same committee, reported a bill to authorize the vestry of Washington parish to take and inclose certain parts of streets in Washington city for the purpose of extending the Washington cemetery, and for other purposes; which was read a first and second time.

Mr. BOWIE. I move that the bill be put on its passage.

The bill was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time, and passed.

UNITED STATES COURTS IN VERMONT.

Mr. HOUSTON, from the Committee on the Judiciary, reported back, without amendment, Senate bill (No. 111) to alter the times of holding the circuit and district courts of the United States for the district of Vermont.

Mr. HOUSTON. I propose to put that bill on its passage. It provides for nothing but to change the time for holding the United States courts in Vermont. It meets, as I understand, the approval of the judiciary and the bar there.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

COURTS IN UTAH.

Mr. HOUSTON, from the Committee on the Judiciary, reported back joint resolution (S. No. 23) providing for the payment of certain expenses of holding the United States courts in the Territory of Utah.

Mr. HOUSTON. I propose also to put that joint resolution on its passage. Gentlemen will see, on its reading, the importance of its immediate passage.

The joint resolution was read at length. It provides that all the expenses of the courts in Utah during the continuance of the disturbance in that Territory, shall be paid out of the judiciary fund, subject to the present limitations of law in respect to fees, &c.

The joint resolution was ordered to a third reading, and was accordingly read the third time, and passed.

PROCESSES IN THE COURTS.

Mr. HOUSTON, from the Committee on the Judiciary, reported back Senate bill (No. 36) to

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, APRIL 30, 1858.

NEW SERIES.....No. 117.

provide for the issuing, service, and return of original and final process in the circuit and district courts of the United States, in certain cases, without amendment, and asked that it be put upon its passage.

The bill was read *in extenso*.

The bill was then ordered to a third reading; and was accordingly read the third time, and passed.

COLLECTION OF DUTIES, ETC.

Mr. HOUSTON, from the Committee on the Judiciary, reported adversely upon House bill (No. 372) to repeal the twenty-fourth section of the judiciary act of September 27, 1789, and the seventh section of the act further to provide for the collection of duties, passed March 2, 1833; which bill was laid on the table.

Mr. HOUSTON moved that the vote last taken, by which the bill was laid on the table, be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ANDREW GLASSEL.

Mr. READY, from the Committee on the Judiciary, reported back Senate bill No. 225, for the relief of Andrew Glassell, with the recommendation that it be rejected; which was laid upon the table, and the accompanying report ordered to be printed.

ADMISSION OF KANSAS.

The SPEAKER. The report of the conference committee on Senate bill No. 16, for the admission of the State of Kansas into the Union, was postponed until one o'clock to-day. That time has now arrived, and that question is now the business in order before the House.

Mr. HOWARD. Mr. Speaker, I have no disposition to detain the House by any extended remarks on this question at this time; and but for the fact that I was on the committee which reported this proposition, I would have preferred to have been silent altogether. But when the majority of the committee adopt a report, submitting a substitute from which I withhold my assent, I become, for the time, the only representative of the position of the House as it was when the committee of conference was appointed; and for that reason, sir, I will state as briefly as I can some of the reasons which induce me to withhold my assent from the report. A contest has arisen in this and in the other branch of Congress touching the Lecompton constitution and the admission of Kansas into the Union as a State under it. On the one hand, it was contended that although a submission to the people was not always absolutely necessary, that it might be waived if there were no substantial disagreement or opposition, yet if the people denied that the constitution was their act and deed, or reflected their will, the matter of submission involved all that was sacred in self-government. It may be waived just as we sometimes pass a bill in this House with a single vote. But if the instrument be challenged, then it is the consent of the people that breathes, and that must breathe, the first principle of life into it.

It was contended that this Lecompton constitution was not the act of the people of Kansas, and therefore that their consent must be obtained to give it life. On the other side, it was contended with great force and consistency, at least, on the part of the men who urged it, that the Kansas-Nebraska act was an enabling act, and that in fact the Lecompton constitution was organized under it; that the proceedings of the convention were legal, regular, binding and conclusive; that the people of Kansas were estopped from denying it; and that Congress had no power to intervene. I do not say that they all took that ground—that the Kansas-Nebraska act was an enabling act—but they all insisted that it was legal, binding, and conclusive, and that there was no power to intervene.

Now, sir, in my judgment, the committee instead of meeting this issue fairly, and grappling with it like men, we have neither the position of

the one or the other maintained, nor does this substitute rise to the dignity of a compromise. I do not say that I would assent to a compromise where such questions were involved, but I say that if it is to be taken as a compromise, I ask for the privilege for myself at least, of standing fairly upon it as a compromise. If we are to compromise, then we should come forward and say that we will yield so much, and you shall yield so much, and we will stand or fall upon it as a compromise. But this does no such thing. It is not a compromise, but a species of dodge. Instead of grappling with the issue presented, the committee, some way or other, got up a sort of tow-boat by which this Lecompton craft is to be brought into port or else stranded. If the position of the South were right, then we could do nothing by which it could be stranded.

It may be said that the Lecompton constitution is not submitted to the people; that the principles contended for by extreme men of the South are sustained; that the question submitted is the land ordinance, and not the constitution. Very well. Suppose that we concede it; but if the people vote down that ordinance, then, by the terms of the conference proposition, Lecompton is dead. If it be dead, who killed it? If the proceedings of that convention were legal, if they were binding and conclusive upon the people, and they were estopped from denying it, and if Congress have no power to interfere, how and of what process will Lecompton be dead, if this ordinance be voted down? And yet it proves upon its face that that will be its effect. It reminds me of the fellow that went to pray pardon of his sovereign. He prostrated himself before his majesty, and asked pardon for having knocked off the hat of a fellow-subject. The pardon was readily granted. He then informed his majesty that the fellow's head was in his hat, and that that was knocked off too. Now, gentlemen, you decline to submit the Lecompton constitution, but you do submit the ordinance, and if the ordinance be voted down, the head of Lecompton is knocked off, and who did it? Will it amount to a substantial yielding of the principle, as contended for, or not? If the ordinance be adopted, the South might waive all further discussion of the principle; but if it be voted down, and Lecompton be thereby lost, then what follows? Why, it simply follows that we have done by indirection what it was alleged we had no power to do, either directly or indirectly, or the people themselves.

But I do not stand here to take care of other gentlemen. They can speak for themselves. Now, how is it with the North? Why, if I should concede—and I will not detain the House with discussing it at length, for if the House should see fit to refuse to sanction the demand for the previous question, there are other gentlemen who wish to discuss, and will discuss it, more ably than I can—but, as I said, if we concede that the whole principle claimed by the North is yielded, yet it is offensive still to the North, for it attaches conditions to the admission which never can, in my judgment, be submitted to. While I do not profess to speak for the whole North, I speak without hesitation for my own constituents; and I believe, and I assert, that they will regard this proposition as an insult, even if they conceive that they have the best of it over the South so far as the yielding of the principle is concerned. If the South yield the most of principle, the North are to be the most cheated in the details, and the most insulted by the conditions of it. It will be, therefore, in my judgment, very far from a peace measure. The North, I know, will not accept it; and I do not see how the South can.

I say that this proposition is offensive to the North in its details. It provides one set of conditions for the admission of a State under this particular constitution, and another set of conditions under another constitution. Now, if I should vote for this proposition, if I had given my assent to it in committee, if I should record my vote for it here, when I go home I should expect that my constituents at least should wish to know this.

If the population of Kansas at the present time is sufficient to admit her under a constitution she *loathes*, is not that same population sufficient to admit her under a constitution she approves? And how could I answer it? How shall any northern man answer it to his constituents? Sir, there is no answer to it. It needs no comment.

But again, if Congress may intervene to bring in Kansas as a slave State, ought not Kansas, if she rejects the proposition, be permitted to apply quietly to come in as a free State? Why not? Does not the very form and substance of the bill impose degrading conditions upon the North? Is not the whole doctrine of equality of States thereby overthrown? If the population of Kansas, again I repeat, be sufficient for her to come in under this particular constitution, surely it is enough for her to come in under any other constitution.

Again, sir, if the whole country may be convulsed, the public business neglected for months, the whole power and patronage of the Government brought to bear to force her in under this constitution, got up by fraud and violence, why should she not have the privilege of quietly applying under a constitution gotten up without fraud, without violence, and expressive of her will? Why should not the conditions be the same, whatever may be the constitution; and, if you impose these conditions and these restrictions, which are unfair and unequal, and degrading to the North, do you not intervene to do it?

Mr. Speaker, I wish to say a word or two upon the reasons urged by a majority of the committee for making this report. My colleague from Indiana [Mr. ENGLISH] submitted some remarks which he stated were by the authority of the majority of the managers. I will not go into the subject-matter of the speech in detail, but I will state that the whole argument is based upon two things; first, the quantity of land saved in the proposed ordinance; and secondly, the great peace and quietness which is to flow from the adoption of this substitute. They tell us that twenty million acres of land are saved, worth \$25,000,000. That may be true in one sense, but it is hardly true in any sense. The twenty million acres of land had not been granted by Congress; it had only been grabbed at by Calhoun & Co. But the only reason we did not save, in that sense, ten times as much, was because of the great modesty of Mr. Calhoun and his associates in not including it in their grab. What a pity it is that their modesty should have so interfered with your committee in gaining immortality by saving land to the Government. Who does not know that land was never granted to any State in such quantities as the Lecompton constitution claimed? I may here remark that no State has ever been admitted to which such liberal grants have been made as are here proposed. I believe the grant is the same as that proposed to Minnesota, but no State has yet come in with so large a grant.

Mr. ENGLISH. I should be glad to ask the gentleman whether he is not advised of the fact that the amount of land proposed to be granted in the bill of the committee of conference is precisely the same as that proposed in the Crittenden amendment for which the gentleman voted?

Mr. HOWARD. I believe, sir, that is precisely the same remark that I was making. I was saying that up to this time, I believed, no State had been admitted with so large a grant of land as is proposed in this ordinance. The grant I think is about the same as that offered to Minnesota, and I think, as the gentleman from Indiana says, it is just the same as that embraced in the Crittenden-Montgomery bill. So far as the grant of land is concerned, this bill and the Crittenden-Montgomery bill are identical, but the grant in the latter bill is offered to Kansas under any constitution she may choose to adopt. The grant there was general, and therefore, it was fair. But this grant hinges on the adoption of this particular constitution, and is, therefore, unfair. It may be considered as a bribe. She is to have these lands if she will adopt this particular constitution, but the Crittenden-Montgomery bill proposed to

give her the land, let her adopt what constitution she might.

It may be said, sir, that she would probably get the same grant any way, whenever she did come in; but it is a remarkable fact, that in case she shall vote down this land grant, this bill goes on to provide regulations touching the amount of population that shall be necessary before she shall come in under any other constitution, but does not intimate that she can have any land at all unless she will take it with this particular constitution.

Now, sir, a word as to the peace that is to flow from such a measure as this. Sir, I do not believe that a better title could be given to this bill than to call it a measure to keep open the quarrel and keep up the strife; for I am sure, as I have already said, the North will reject it with scorn, for it imposes one set of conditions if the Territory shall apply for admission as a slave State, and another set of conditions if she applies as a free State; and I do not see how the South can accept or justify it, especially if the ordinance should be voted down. Again, sir, the North, looking to the history of Kansas, may well object to this board which is to control the election. It is changed from what it was in the Crittenden-Montgomery bill. The number of the board is increased to five, and three of them are direct appointees of the Administration. Now, sir, I have nothing to say about the men; but if you look to the history of the Oxford and McGee frauds, if we take into consideration the fact that a Walker and a Stanton lost their heads about the time these fraudulent votes were rejected, I ask if it would not have been fairer to let the board remain as it was in the Crittenden-Montgomery bill? Besides, sir, what could have been the object of the change, unless it looks to a state of things in which these outrages may be repeated?

But again, sir, the qualifications of voters under this bill are not regulated by the laws of the Territory as they exist at the present time, but it goes back and takes the qualifications of voters as they were when the Territorial Legislature was elected in October, under what is called the "border-ruffian code." Why ignore the existing law and go back to that code about which there has been so much strife all over the country—to the very laws under which all these frauds have been perpetrated? It is true that this bill contains some provisions for the punishment of fraud; but the qualifications of electors are fixed by this old code, that was in existence previous to the election of the present Territorial Legislature.

But again, sir, the very man who has been added to this board to make up the five, is the attorney general of the Territory—the very man who has given an opinion, as I understand, under these very laws, to the effect that no man could vote under those laws unless he had paid taxes under these territorial laws. Why this change in the board? Why this change in the qualifications of voters?

Sir, I know not what the result may be; but this I do know: I know that if the people of Kansas have a fair election, this contrivance will be voted down four to one. It cannot be otherwise. Ten thousand votes have been polled against this constitution with the enormous grants attached to it, which have been cut off by the conference committee. Six thousand votes were polled in favor of it; but of those six thousand, it has been demonstrated that half of them were fraudulent, and that there were not three thousand legal votes in the whole Territory in favor of this Lecompton constitution. Now, sir, if they have a fair election, they will vote down the constitution four to one. It cannot be prevented without a renewal of the frauds that have marked the past; and let me tell you that it will take more than one Cincinnati Directory to do it. They will need at least a dozen before it can be done. And if, under all these circumstances, after the board has been changed, and the qualifications of voters have been referred back to the old laws, any frauds should be perpetrated in this election, which shall be apparent, it will produce a strife throughout this country such as we have never witnessed. In every point of view, this measure is calculated only to produce mischief to all sections of the country. Instead of quieting the disturbance and guiding the ship of State through the breakers into the smooth sea, as my colleague on the committee [Mr. EXLISU] an-

icipates, I assert that it will but inflame the strife. If we would settle this question, why not fall back on the Crittenden-Montgomery bill, under which the people are to be allowed to decide whether they will adopt this constitution? And if they determine not to do it, the question is to be settled in some other way, and is never to show itself here again.

If the conservative men desire peace, why adopt a measure that can by no possibility settle the strife on either side, let it go as it will, but will increase the strife? Gentlemen must not flatter themselves that this will be the end of it, for these propositions are very degrading to the North; and I tell gentlemen that in every congressional district in all the northern States the issue will be distinctly put, whether one set of conditions shall be applied to a Territory applying for admission as a free State, and another to a Territory applying as a slave State. Every election held in the whole hundred and forty-four districts will turn upon this issue, distinctly made.

Now, Mr. Speaker, I desire to see the end of all this. I would be willing to consent to any fair settlement of this question; but, sir, I do not see how men can, upon a question of this importance, yield the principle and substance, and evade it by this attempt to dodge around it; for, as I have already said, if the ordinance be voted down, Lecompton is dead. How, and why? Truly, according to the theory of gentlemen upon the other side of the House, the people have no right to vote down the constitution; but, nevertheless, if they reject the ordinance, Lecompton is dead. Perhaps, like the calf which a man had, which he said had not died, but "somehow kind a'gin out;" so it is in this case. The people do not kill Lecompton directly, but, by indirect means, they do that which may result in killing it. They will certainly kill it if the vote is taken fairly. If the opposite result is accomplished by fraud, in the present excited state of the country on this subject, it will lead to disturbance, if not to bloodshed; and no man can tell where will be the end.

Why, then, seek to daub with this untempered mortar? Why keep this side issue—this towboat, with which you expect to tow Lecompton into port? Can it be said, if the plan succeeds, that the principle has been maintained inviolate? Principle or no principle, if the whole principle were yielded, I, as a northern man, would never consent to it while it fastens upon the North the badge of inferiority. It, in fact, offers to Kansas a premium to become a State of a particular kind. I tell you that I never will submit to it. Never! And I predict again that this issue will go directly before all the people of the northern States. Every candidate in the northern States will be elected or beaten directly upon this issue. And I shall be surprised if, out of the hundred and forty-four members to be returned from that section of the country, one hundred and twenty-five of them do not come here repudiating our decision; if they do not come here directly and distinctly pledged to receive, consider, and act upon any application that Kansas may make to come into the Union, notwithstanding this arrangement. We never mean to submit to it. We never can acquiesce in conditions so unequal, so unjust, and so unfair. I will not detain the House longer.

Mr. DAVIS, of Maryland. Mr. Speaker, it is with great reluctance that I feel myself compelled to trespass upon the attention of the House today. I thought that I had said everything that I should ever feel called upon to say in reference to this complicated Kansas difficulty. I had hoped that I had bid farewell to the subject forever; that every new phase had been exhausted, and that we were finally brought to a direct and final vote upon a question of principle made and argued deliberately through the whole session, with eminent ability on the Administration side of the House, and met as best we might with such arguments as we could devise on this side of the House. I did not suppose, Mr. Speaker, that at this late day in this controversy a new question would have arisen. I did not suppose that we should be called upon to consider and vote upon a question which has never been alluded to from beginning to end of this controversy, though at one time in the history of the Republic it came near shattering to pieces the Confederacy. It was settled, on great consideration, by the greatest minds that have ever cast their light upon the Con-

stitution of the United States, thirty years ago; and it has remained unquestioned from that day to this, when the conference committee, without even a passing allusion to it, have distinctly raised it, and they now require us this day to decide it.

My difficulties are not that the bill does not submit the constitution to a vote of the people. It is my habit, here and everywhere, to state distinctly what I feel to be my difficulties. Sir, I shall raise no question about the distinct and absolute submission of everything that is material to be submitted, by the act brought in by the committee of conference. I shall enter into no sharp legal argumentation with gentlemen as to whether the vote is to be upon the proposition, or upon the constitution itself, or upon the question of admission. If legal minds can draw distinctions between these various questions, I shall moot no question on these points with them. There is here all that I have ever contended for. The people of Kansas have, by this bill, interposed between them and the forcing of a constitution upon the majority, an opportunity for the majority to say that this shall not be their law. It is to me absolutely immaterial whether it is to be by a vote upon the proposition submitted, on which the adoption or rejection of the constitution, as a legal, living instrument, shall depend, or whether it shall be in the shape in which the bill of my honorable friend from Pennsylvania [Mr. MONTGOMERY] presented it, by a direct vote of the people on the adoption or rejection of the constitution.

In either mode, we give them opportunity and power to say—under whatever form, with whatever conditions, in whatever way—that "we do not choose to accept this form of government as our State government," and it is to me immaterial whether they are called to vote upon the adoption or rejection of the constitution, upon the adoption or rejection of the land grant, upon their consent to be admitted on other terms than they proposed. It is absolutely immaterial. There has been distinctly and in words granted to this people, by this bill, the right of the majority to say whether they will or will not allow this State government to go into active legal operation; and that is all that any reasonable man ought to demand on that subject.

And I desire to say, with all candor, to gentlemen on both sides of this House, that had that been the only contents of this bill; it should have had my sanction. I would not have stickled over the question whether the vote was to be in the form of the words "proposition accepted," or "proposition rejected," or whether we had directed black shells and white shells to be cast into the box. I profess to be a practical man, and I look to practical results. I believe that a minority of the people of Kansas alone had formed the Lecompton constitution. To that constitution I had no objection. If the majority in any form, directly or indirectly, allow it to become the law of the land, it does not lie in my mouth to object, and I say, therefore, that so far as the question of submission or rejection is concerned, everything we have been contending over this session is distinctly, in law if not in language, conceded in this bill; and those who raised their voice here during this session to defend the rights of the people against the power of Congress to force upon them the work of a minority, have a right to go now before the country and say, with whatever conditions it may be hampered, over whatever broken fragments of the Constitution they may carry this bill, still it does bear upon its face a great and glorious triumph of the right of the people to have a final and conclusive negative upon the law which shall govern them. Nor do I now rise to urge the flagrant insult to the free States, nor the provision for false certificates apparent in the addition of the district attorney to the commission, nor the shallow attempt to change the question in contest, as the reasons of my opposition to this bill. Plain and irresistible as they are, my opposition rests on grounds more profound and radical.

That, sir, is not my difficulty. I have some very strong States rights notions implanted in my head from having studied at the school of Henry Clay of Kentucky, and William Pinkney of Maryland. I have not forgotten what I learned from Mr. Madison's report with you, sir, at the University of Virginia; I have not forgotten what I have heard upon every southern hustings since, as a boy, I attended debates, and since, as a man,

I have taken my humble share in them. Is there any gentleman on the southern side of the House who has ever attended a meeting where topics kindred to this have been discussed, where the right of every new State to be admitted upon equal terms with every other State has not been asserted upon the one side and conceded upon the other? Is there any gentleman from any slaveholding State that has not himself, again and again, asserted that as the fundamental principle which lies at the very basis of the Confederacy? Was it not the ground for repealing the Missouri compromise, that that in its effect, if not directly and in point of law, did invade that great principle? Has not every southern constituency been taught, day after day, and year after year, that Kansas had a right to enter the Union upon an equal footing with the original States; and that if her power was limited in any particular, then she was not upon an equal footing? If there is any gentleman here who can contradict me, I will yield the floor for him. Is it not the concession of southern politics that there can be no condition appended to the admission of a State which ties and binds any, the smallest portion, of her constitutional authority? If there be any gentleman that doubts, let him rise and state his doubts; if there be not, I assume it to be the unanimous opinion of every gentleman here from the South that that is the law of the South on that question.

If so, then, while the bill which is here proposed for our assent does, in its terms, and directly, impose, as a condition of admission, that one of the sovereign powers of the State shall be yielded by an ordinance, then, I say, no southern gentleman here can, with consistency, vote for this bill.

Mr. REAGAN. The gentleman asked for the statement of an exception to the doctrine which he has alluded to. The gentleman, and those with whom he acted, opposed the repeal of the Missouri restriction, and therefore they were in favor of imposing restrictions upon the admission of States north of the line of the Missouri compromise.

Mr. DAVIS, of Maryland. I am very glad that the gentleman from Texas has called my attention to that point. His statement involves what has been involved in all the controversy of the last four years—a historical error as to what the Missouri compromise was. The Missouri compromise did not admit any such principle as that there could be any limitation upon the sovereign power of a State, whether with reference to slavery or any other subject. It did proceed upon the assumption that there could be a restriction upon a Territory while it remained a Territory, and no longer than it remained a Territory. And it was only after consulting his Cabinet as to whether the law of 1820 extended in its terms and legal meaning beyond the existence of the Territory, and obtaining their opinion that the law was limited to the territorial condition, that Mr. Monroe gave that bill his sanction.

The thing which was in controversy was not whether Congress had the power to control the question of slavery during the territorial condition; that question is one of later date. That question was not mooted during that whole controversy. Gentlemen will find scarcely any argument on that point; they will find nothing but a passing allusion from that most eminent man, Mr. Pinckney, of South Carolina. He alluded, in passing, to his difficulty as to the power of Congress to restrict slavery even in the Territories. The point in controversy in the Missouri contest was whether Congress had a right to impose a condition upon a State—to tie a State's hands—not merely upon the subject of slavery, but upon any subject.

The argument of William Pinckney was, that the States must come into this Confederacy all with the same power; that, if you could impose one limit upon a State, you could impose any limit upon a State; that, if you could take away from them the power to regulate slavery in their limits, you could tie their hands on the relations of husband and wife, guardian and ward, and upon the manner in which their lands should descend; the power of taxation; that the power to impose one restriction carried the power to impose another restriction. If you could make it by compact, you could then tie up the hands of an infant State when it had not the power to resist; and, unless the whole system was to go into confusion, and all its beauty and symmetry was to be utterly

destroyed; unless, as Pinckney said, the comely and beautiful proportions of a State of this Union should be crippled, shriveled, and maimed, until it became a mere pigmy, instead of a full grown man; unless you could destroy the power of a State wholly, you could impose upon it no limitation of any kind. Whether you choose to admit it or not, is with you an absolute right; but you could impose no conditions upon it which will follow it when it comes into the Union; and the mere fact of admission entitles it, and ought to entitle it, to all the rights possessed by any, the strongest of the original States. That is the meaning and purport of the Missouri compromise and the Missouri controversy; and it is an error, in point of history, when gentlemen say the Missouri compromise related to a contest about the power over the territory, and not a power of imposing conditions upon a State.

Mr. SMITH, of Tennessee. I only want to call the attention of the gentleman from Maryland to the language of the Missouri compromise, as it is called. It says that "north of 36° 30' slavery or involuntary servitude shall be forever prohibited" without reference to Territory or State.

Mr. DAVIS, of Maryland. I do not design to enter into a controversy as to the legal meaning of the act. It was settled by Mr. Monroe before he signed it; and I simply say my legal judgment is, that his legal interpretation was right. That is an answer, as to my opinion. I am not here to argue it.

If, then, I am right in the principle that Congress can constitutionally impose no condition restricting a State's sovereignty, we come now to the great question on which I resist the adoption of this act. In the first clause of the act are these words:

"That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States in all respects whatever, but upon this fundamental condition precedent, namely: That the question of admission with the following proposition, in lieu of the ordinance framed at Lecompton, be submitted to a vote of the people of Kansas and assented to by them, or a majority of the voters voting at an election to be held for that purpose, namely: That the following propositions be, and the same are hereby, offered to the people of Kansas for acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Kansas, to wit:

And then it goes on to say that they shall vote ballots inscribed with the words: "Proposition accepted," or, "proposition rejected." If the majority be "proposition accepted," then they become a State and have the lands; if the majority be "proposition rejected," then they do not become a State; but at some subsequent period they are to have the power to call a convention to form another constitution. A vote, therefore, for the "proposition rejected" decides the question that this constitution from that day becomes a nullity, that they are not to be admitted now, but postponed until a future period, and then only to be admitted upon other terms, and by a new arrangement then to be made.

I submit, then, there is but one question submitted to the people of Kansas—whether they will, as a condition of admission into this Union, accept the proposition which is to be voted on with the constitution, or whether they will reject it. The only question they have to pass on is, whether they will come into the Union by accepting the terms of this proposition, or stay out of the Union by rejecting it. They cannot come into the Union unless they accept that proposition, and agree it shall be binding upon them forever. They can come into the Union by accepting it.

The distinction between that proposition and every other which has been proposed to any State in the history of the Union is, that here its acceptance is made a condition upon which alone this State is allowed to come into the Union. From the time of the Missouri controversy to this day, no such condition has been ever submitted for the consideration of a State. Prior to the admission of Missouri, conditions of various kinds had been incorporated into acts authorizing Territories to form constitutions. Until that great controversy, the rights of the States, and the right of Congress to impose conditions, had never been fully discussed; and we find, therefore, in the Louisiana enabling act, and in the Mississippi enabling act, there are certain conditions laid down; as, for instance, that none but the English language should be used in public proceedings in Louisiana, and others, which now no one would regard for a mo-

ment as admissible. But the Missouri controversy brought the power of the Government to impose any conditions upon any State, of any kind, into controversy; and it was then settled that there existed no power in the Government to impose any conditions whatever, limiting any right the State would have under the Constitution of the United States, in the absence of a condition, and from that day down to this, no condition has been tendered to any State upon which her admission into the Union was made to depend. No proposition has ever been tendered to any State with a condition that, unless it accepted the proposition, it should not become a member of the Confederacy. We have had propositions submitted to various States; but always for their free acceptance or rejection, and never as a condition of admission.

Mr. REAGAN. I desire to ask the gentleman if the ordinance of 1787 did not intend perpetually to exclude slavery in the northern territory?

Mr. DAVIS, of Maryland. I cannot enter into a political controversy.

Mr. REAGAN. I desire to ask another question.

Mr. DAVIS, of Maryland. This is the last time I can yield.

Mr. REAGAN. My question is, whether the party whom the gentleman sustains in this controversy has not maintained that the Missouri compromise was a perpetual bar to slavery north of 36° 30'?

Mr. DAVIS, of Maryland. I respectfully decline a discussion upon party politics.

Mr. REAGAN. The gentleman invited interruption.

Mr. DAVIS, of Maryland. No, sir. With great respect to my friend, I invited interruption upon one point, and not beyond that. There have been various cases in which grants of land have been made to various States upon condition, if they did not assent to the condition, the grant failed, and if they did accept the condition they had the land. The bill proposed here by the honorable gentleman from Pennsylvania [Mr. MONTGOMERY] was in that form. The question of admission was one thing, and the acceptance or rejection of the grant was another thing. They could, under that bill, accept the Lecompton constitution and accept the grant, or they could accept the Lecompton constitution and reject the grant. If they refused the condition they would lose the land, but they would be a State under the Lecompton constitution; and if they accepted the condition they got the land, and they were not less a State under the Lecompton constitution.

The distinction between that bill and this of the conference committee, is, that under this bill they cannot become a State unless they assent to the terms and conditions of the land proposition. It is the only thing upon which they are required to express their opinion, but on that opinion their admission or exclusion is made to depend absolutely. And the effect of refusing to accept the proposition is to exclude them from the Union. Gentlemen, therefore, on the southern side of the House have interposed an additional difficulty in the way of the admission of Kansas under the Lecompton constitution. Under Mr. CRITTENDEN's bill they could come into the Union although they rejected the land grant. Under the bill of the committee of conference they cannot come into the Union unless they accept the land grant.

What, then, are the conditions they are thus required to submit to?

Under this bill, I now maintain they cannot get admission into the Union unless they concede one of the flowers of their prerogative. In their ordinance the people of Kansas have asserted a simple absurdity. They say, "as we have the power to tax all the lands in Kansas, if Congress will grant us a certain amount of lands, we will waive the right to tax." There is no lawyer here who would express even a doubt as to the entire nullity of that assumption. It, sir, has been settled by the Supreme Court of the United States, in the case in 3d Howard, coming up from the State of Alabama. It was settled by the unanimous opinion of the Senate, when California was about to be admitted. Some gentlemen doubted, at first, whether they would not have power to tax the lands of the United States, or to impede the authority of the United States in disposing of them and making rules and regulations on the subject

unless California surrendered it; and the great leading minds of the Senate treated it as an utterly unfounded assumption. California was admitted without any such provision; and from that day down to this the United States have been disposing of the public lands in that State, and California has never presumed to impose a tax upon them. In the courts and in the halls of legislation that has been the *concession*—that there is no power in the various States to impose taxes upon the lands of the General Government lying within their borders. That was the decision of the Supreme Court in the case in 3d Howard, to which I have alluded, where this question as to the validity of the conditions in the land grant to Alabama, and the principle on which they were valid or void, was considered. The court held that, though in the form of conditions or compacts, such restrictions as were valid derived their force, not from being compacts—for Congress could make none with a State limiting its power—but from being laws of Congress on subjects within its constitutional power, and operative without the assent of the State; that they are merely laws regulating the public lands; that the States have no power to tax those lands, whether they shall assent or not assent to any condition; that it is a power existing paramount in Congress, and that the States can exert no authority over the subject. So far, therefore, as this bill provides that Kansas shall not tax the lands of the United States, that it shall not interfere with the United States making its arrangements relative to the public lands, that it shall not interpose any obstruction to any law passed by Congress for the disposition of the public domain, it does not operate by way of a compact; it merely sets forth, in the form of a condition, a declaration on the part of Congress that such are the public rights of the United States, operative without the assent and in spite of the dissent of the State of Kansas; not conditions divesting any sovereign rights she would otherwise have, but laws of Congress she is bound to obey under the Constitution of the United States.

But, sir, I suppose that the power of the western States to tax the lands within their limits not belonging to the United States, is one of their sovereign rights. Their power to tax lands in the hands of individuals is absolute. There is no power in Congress to impose any limitation upon it. If Congress can impose limitations upon one part of the lands belonging to individuals in the States, it can impose conditions on other portions of lands belonging to individuals in the States. If they can say, as a condition of the admission of a State into the Union, that the State shall provide that non-resident proprietors' shall not be taxed higher than residents' lands, they can also say that persons shall not be taxed; that no poll-tax shall be imposed; that no tax on personal property shall be imposed; that no tax on tavern licenses shall be imposed; that no tax on mercantile licenses shall be imposed; that no tax upon sale or transfer of goods and chattels shall be imposed. If, therefore, Congress has any right to exact, as a condition of admission, that any portion of the taxing power of the State shall be given up, they can strip the State of all taxing power; they can regulate the whole fiscal system of the State by a condition of admission; they can strip the State of every power of maintaining itself, or dictate to it a system contrived to foster or ruin some branch of national industry. The principle goes fully to the extent contended for by the most extreme men of the North; this conference bill carries with it the principle that Congress can impose a condition limiting the authority of the State on the subject of its domestic institutions—the relations of husband and wife, the relations of parent and child, the relations of guardian and ward, the relations of master and servant; all that is needful is to substitute for the words of the bill, "nor tax non-resident proprietors higher than residents," the words, "nor to establish slavery within its limits;" and the extent of the principle is apparent.

Sir, does this bill do that thing? If it does, then I desire some gentleman to meet that one question directly—not to rise here, and say that Congress possesses the power to declare conditions with reference to control over the public domain, (that they have, whether reserved or not;) but I ask gentlemen to show me any authority, direct or indirect, implied or expressed, which gives to Congress the guardianship of the taxing

power of the States over lands in the hands of individuals. If there be any such power, then this bill is constitutional; if there be no such power, then this bill is unconstitutional; and no gentleman here who is of that opinion, and regards his oath to support the Constitution of the United States, can give it his assent.

Now, sir, in the proposition which the people of Kansas must accept, before they can become a State under the Lecompton constitution, it is provided:

"The foregoing propositions hereinbefore offered are on the condition that the people of Kansas shall provide by an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers."

If it had stopped there, this condition would not have excluded my support. But it proceeds: "that in no case shall non-resident proprietors be taxed higher than residents."

Non-resident proprietors! Who are they? Is the United States a non-resident proprietor? Did the committee mean to include the public lands of the United States under those words, when they had previously said that no tax should be imposed upon lands held by the United States? Who is a non-resident proprietor within the meaning of that provision? The United States is, to the extent of its delegated powers, everywhere paramount over all other delegated authorities: it spreads undivided, it operates unspent, from the Gulf to the Canadas; it is present everywhere, in every State and in every Territory; it is present here in our midst, and it is present on the confines of Oregon. It is no non-resident proprietor. This, then, is an attempt to impose a limitation on the power of the State to tax men who have bought their lands from the United States, and are subject to the State sovereignty. It is an attempt to impose a limitation upon the power of the State to tax the lands which it may see fit to tax, according to different rates. We may think it right or wrong that any such thing as a discrimination should be drawn between resident and non-resident proprietors. I submit that that question is not for us. It is a question of State policy. It is referred to the State authority. It is for it to say whether large speculators residing in the East shall, by holding great masses of lands out of the market, prevent the filling up of the West, and retard its growth in population. It is a question whether the States shall have a right to control their own internal affairs so as to prevent an Irish system of absenteeism. This bill proposes that the State shall follow our ideas of policy and not theirs; that the State shall frame their State taxation laws on considerations of policy as to what is best for the whole country, and not on their considerations of policy as to what is best for themselves.

I submit, therefore, that this provision is a direct limitation on the sovereign legislative power of Kansas, made as a condition precedent to the admission of the State, and without assenting to which by an irrevocable ordinance she cannot be admitted into the Union. That is what the committee of conference have proposed we shall do. Sir, that line in their bill reverses in every particular the whole traditional policy and politics of the South. That line throws away the great victory won by Henry Clay and William Pinckney, in the Missouri contest. It breaks down the constitutional barrier which protects the South against the imposing of other and more offensive terms of admission on other States. That line, if you pass this bill, will shut the mouth of every southern man to deny the right of an invading and aggressive majority to impose any, the most offensive, humiliating, and dangerous conditions on the application of slave Territories in the future for admission as States.

Sir, I here represent a southern slave State, not so greatly interested in this question as others are, but still deeply and profoundly interested—a State more nearly touched by the agitation of this question than any other State—a State losing more negroes a year, by the failure to execute the fugitive slave law, than all the other States put together—a border State, and hence, in case of serious difficulty, more directly interested than South Carolina herself; for she has a tier of patriotic southern States between her and any aggressors.

The State of Maryland is on the frontier. It was that which illuminated William Pinckney

when he arose to defend the rights of the States. I profess to be his humble follower in the great path of constitutional right. Here to-day, in the name of Maryland, I enter my solemn protest against conceding that great right which the great men of the Republic so long contended for, so triumphantly vindicated, and which is so vital to the maintenance of the interests of the South.

Now, sir, gentlemen need not tell me that these very words are contained in many of the grants of lands to the States on their admission into the Union, North and South. That is true; but it is irrelevant. The words are there, but the condition is attached not to the admission of the State, but to the acceptance of the grant of lands. They are there as conditions of the acceptance of the grant. They are made to States, to be accepted by States already admitted; not to applicants for admission, to be accepted as the only terms on which they will be admitted. They are the words of equal dealing with equal. They are not conditions without which a State cannot come into the Union. They are conditions without which the grant would be void, merely affecting the grant alone, and which, if rejected, would leave untouched the existence of the State. These words have, in some acts, been inserted as conditions on which the grants were made, but since the Missouri contest never in a single instance has the acceptance of the grant been made indispensable to obtaining admission to the Union, till this report of the committee of conference was laid before us. I aver here to-day, and I challenge any gentleman here to rise and deny it, that this is the first time in the history of the country, since the Missouri contest, when there has ever been an attempt to make the yielding up of the power of taxation the controlling condition under which we consent to admit a State into the Union. I say it deliberately; I say it after having carefully, a night or two ago, refreshed my memory by reading the statutes of the United States admitting every State which has been admitted into the Union.

It is true, that in the early history of the Government there were loose ideas prevailing as to the power of Congress to impose conditions upon States prior to their admission into the Union. There were, as I have said, anomalous conditions imposed upon the admission of Mississippi and Louisiana into the Union. There may have been such conditions imposed upon one or two other States which were admitted prior to the time to which I have made allusion, when this great question was adjudicated upon and settled. It was then settled as one of the fundamental principles of the Constitution itself, that States which are admitted into the Union shall come in upon an equal footing with the original States. These are household words. They are recognized universally as containing a sentiment as sacred as the Constitution itself, until I had almost forgotten that they were not actually incorporated in that great instrument. So distinct an impression had they made upon my mind, that I supposed not only that they embodied the common law interpretation of the Constitution, but that they were themselves words of that great instrument. I had an impression that the men who founded the Republic had written them on its corner-stone, until I turned to the Constitution and found that they were not there. But, sir, they have been accepted as the formal expression of the deep meaning of the Constitution; and no man now will venture to question their soundness or speak lightly of their value as the accepted exposition of the Constitution of the Republic. I therefore conclude that this bill is equally unprecedented and unconstitutional.

It is true that in the early day of the Republic there were conditions inserted in enabling acts infringing on the sovereign equality of the States, as in the cases of Louisiana and Mississippi; but those precedents were considered and declared unsound in the Missouri contest.

Since that day no condition impairing in the least degree the sovereign power of a State under the Constitution has ever been required to be assented to as a condition of admission into the Union.

Congress has admitted States on condition of assent to boundaries; but the boundary of a State is essential to its identity, and can be fixed only by the concurrence of Congress and the people forming the State. It is essential to the existence

of the State, and till Congress has agreed to its territory it is no State; and after it has agreed to its territory it is a State, whose rights are defined by the Constitution alone. Such was the case of Michigan.

Congress has required constitutions to be submitted to a vote; but that was no condition limiting its sovereignty; it was merely a mode of showing Congress that the people willed the constitution. Such was the case of Wisconsin.

Congress has in the act admitting several States declared it a condition of the admission that the States should not tax or interfere with the regulation and disposal of the lands of the United States, and that all navigable waters should be free; but these, though in form conditions, are held merely declarations by Congress of its powers, existing whether assented to or dissented from by the State—mere exertions of its power to regulate the public lands and to regulate commerce among the States. They were no invasions or limitations of any right the State, but for these, would have had. The State was not required to assent to them by an ordinance, but they stood or fell by the power of Congress. Such was the case of Iowa, Florida, and Michigan.

Congress has as well in the enabling acts, as after the full admission of States, tendered to them grants of land for their *free acceptance or rejection*, and has declared such grants of land to be on certain conditions, such as not to tax United States lands nor interfere with the sale of them, and in some instances not to tax lands sold for five years, or not to tax non-resident proprietors higher than residents. Such are the cases of Ohio, Illinois, Alabama, Missouri, and others.

But never before has the acceptance of a proposition granting land upon the condition of not taxing non-resident proprietors higher than residents, been made a condition precedent to admission, unless a case be found before the Missouri contest. Never has it been said, surrender your sovereign power of taxation as the price of an inferior alliance.

In a word, the question of admission has never been dependent on any condition not necessary to ascertaining the existence and identity of the State—the assent to the form of government and to the territory over which it is to operate.

This bill does make the admission of Kansas depend on a previous surrender of part of her sovereign power of taxation; and it does so because, for the first time, the question of admission is blended with the question of *assent* to the proposition touching the land grants and their conditions, instead of following the settled precedents and principle of submitting the question of admission with its incidents—the assenting to the constitution and the boundaries as one question; and the proposition touching the lands with the condition confined to them—as a separate question to the *free acceptance or rejection of the people*; unaffected by, and having no connection with, the question of the admission of the State.

Mr. STEPHENS, of Georgia. I must confess my surprise at the grounds upon which the honorable gentleman from Maryland bases his opposition to this bill. That he is opposed to it is not to me a matter of surprise at all; but I am surprised that he should place his opposition on the grounds he has—that is, of its violation of and his advocacy of State-rights. It is the first time I knew the gentleman pretended to be the peculiar defender of State-rights. He maintains that the doctrine of State-rights will be violated; that the State of Kansas will be shorn of her sovereign powers if we adopt this bill, because it is provided in our terms of admission that she shall first agree not to tax the lands of non-residents higher than those of her own citizens. That is the ground upon which he placed his main opposition, if I understand him; and he challenged us who support the bill to show a single precedent, from the organization of the Government down to the present time, where such a power had been exercised, or such a condition proposed by Congress to any State applying for admission. Sir, this challenge is readily met. In the act for the admission of Louisiana into the Union, which I have before me, passed in 1811, it is declared, as a condition of their admission, that the lands belonging to citizens of the United States, within said State, shall never be taxed higher than the lands belonging to persons residing therein.

Mr. DAVIS, of Maryland. The gentleman from Georgia will certainly do me the justice to remember that I said expressly that the acts for the admission of Mississippi and Louisiana into the Union, prior to the Missouri compromise, were exceptions.

Mr. STEPHENS, of Georgia. And what difference did the adoption of the Missouri compromise make?

Mr. DAVIS, of Maryland. I merely wanted the gentleman to state my argument fairly. That is all I ask.

Mr. STEPHENS, of Georgia. I was going on to show that the Missouri compromise had nothing to do with it. I understood the gentleman to state that, until the adoption of the Missouri compromise, no such condition was ever imposed upon the admission of a State. I intended to show that that had nothing to do with it.

Mr. DAVIS, of Maryland. I thought the gentleman understood my proposition. I stated it as clearly as I was able. I said that there were very indistinct ideas of the power of Congress in connection with the admission of States, until the power of imposing conditions was brought in question at that time; that there had been conditions imposed previously, but none since.

Mr. STEPHENS, of Georgia. I will show the gentleman that there have been such conditions imposed since, and repeatedly since; and, if I am not mistaken, the honorable gentleman himself voted the other day for the Crittenden-Montgomery amendment, which contained these identical words.

Mr. DAVIS, of Maryland. The honorable gentleman has misunderstood by argument from the beginning, for of course I know he does not intend to misrepresent it. I said that there had been conditions of this kind connected with the land grants; and that the effect was, that if the grants were accepted the conditions became binding. But I say there has been no case where that has been made a condition of admission into the Union. That was my position, and I think I repeated it several times.

Mr. STEPHENS, of Georgia. The condition on the land grant in the Crittenden-Montgomery amendment is, in identical words, "that no tax shall be imposed on the lands belonging to the United States, and that in no case shall non-residents be taxed higher than residents."

Mr. DAVIS, of Maryland. But suppose that she rejects the grant?

Mr. STEPHENS, of Georgia. And suppose that she rejects the same grant in this bill? [Laughter.]

Mr. DAVIS, of Maryland. I wish to respond at that point. If she rejected the grant under the Crittenden bill, she was in the Union under the Lecompton constitution as a SLAVE STATE. If she rejected the condition under the Crittenden bill, and yet voted for the constitution, she was, by the terms of that bill, in as a slave State. If she rejects it here, she is out by the terms of the bill, and no State, slave or free.

Mr. STEPHENS, of Georgia. How could she have been in the Union as a slave State if she had rejected the condition? But, if she had accepted and come in, would she not have been shorn of this great right that the gentleman contends for, and not allowed to discriminate? [Laughter.]

Mr. DAVIS, of Maryland. Mr. Speaker, the honorable gentleman from Georgia cannot be allowed to misrepresent me in that way. The question is with reference to the power of this Government to exact, as a condition of admission, her assent to yielding one of her sovereign prerogatives. If, after she is admitted, she chooses to yield it as a matter of contract, she does it freely, as I would contract with the honorable gentleman. But the difference between the Crittenden bill and this is, that that bill puts the question of admission as one question, and the question of agreement to the grant and conditions as another.

Mr. STEPHENS, of Georgia. I do not wish to misrepresent the gentleman's position; and I do not intend that he shall escape either.

Mr. DAVIS, of Maryland. There certainly is no desire on my part to escape. Suppose the questions were put separate, but the decision of the first depended upon the latter: where is the difference as to its effects upon State sovereignty?

Mr. STEPHENS, of Georgia. The difference between our proposition and the Crittenden bill,

on this point, or so far as it relates to State rights, is this: we first propose to the people of Kansas to accept our terms as to grants of land, in lieu of those they offered, and which no man in this House is willing to allow, while the Crittenden amendment, that the gentleman voted for, has the same condition, but makes no provision for the acceptance or rejection of the new terms proposed. I maintain that this bill is framed much more strictly upon the principles of State-rights than the Crittenden-Montgomery amendment—that amendment which he voted for declared the same condition absolute, on its face, without any provision for its acceptance or rejection. This bill rests strictly and eminently upon the principle of State rights.

But to return: I said the gentleman should not escape. I have shown you, sir, that in Louisiana, the words indicated were used. The gentleman says that since the Missouri compromise no States were admitted under a condition. I have turned to a few authorities or precedents, since the gentleman commenced his speech. Here is a law passed in 1836 for the admission of Michigan upon a distinct and express condition that she should agree to certain terms, which, if she assented to, she was, by proclamation of the President, to be in the Union. Here, again, is the case of Iowa.

Mr. DAVIS, of Maryland. Are they conditions limiting her sovereignty?

Mr. STEPHENS, of Georgia. Yes; if the gentleman pleases to maintain that terms relating to land grants, the right of eminent domain, and extent of State limits, involve State sovereignty, I say the cases are analogous. Here is the case of Iowa:

"Sec. 4. And be it further enacted, That it is made and declared to be a fundamental condition of the admission of said State of Iowa into the Union, that so much of this act as relates to the said State of Iowa, shall be assented to by a majority of the qualified electors at their township elections, in the manner and at the time prescribed in the sixth section of the thirteenth article of the constitution adopted at Iowa City, the 1st day of November, anno Domini 1844, or by the Legislature of said State. And as soon as such assent shall be given, the President of the United States shall announce the same by proclamation; and thereupon, without further proceedings on the part of Congress, the admission of the said State of Iowa into the Union, on an equal footing in all respects whatever with the original States, shall be considered as complete."

The very words of this bill, as to the "fundamental condition," and the proclamation of the President after the condition should be accepted.

Mr. DAVIS, of Maryland. Will the gentleman point out the limitation upon her sovereign power?

Mr. STEPHENS, of Georgia. She came with a constitution republican in form, and asked for admission, with certain asserted rights as to boundary, &c. Congress said they would admit her, and did admit her, upon the condition she would agree to boundaries proposed, and other things touching jurisdiction over certain rivers. Just so with Kansas. She came here with the Lecompton constitution, republican in form. She came also with an ordinance relative to land grants. This bill does not make a point upon her constitution. It raises no question as to the matter of its substance or the mode or manner of its adoption. But the terms of the ordinance as to land grants cannot be acceded to; these the Senate bill rejected—these the Crittenden-Montgomery amendment rejected; they both put the admission of the State on the condition that the State would accept other terms than those proposed. This bill does the same, nothing more or less on that point, except that we provide for the mode of ascertaining that acceptance or rejection. But the marked difference between this bill and the Crittenden bill, for which the gentleman voted, is that that bill did raise a question as to the constitution itself, and required its submission to the people. This bill takes the constitution as it is, made as it was and adopted as it was, just as it is presented. So far as the argument of the gentleman goes to represent those upon this side of the House as willing to force a constitution down the throats of an unwilling people, I wish to say for myself I occupy no such ground. I never have. Nor, sir, does this side of the House. I hold and maintain that that constitution embodies the legally and fairly expressed will of the people of Kansas. Everything relating to its formation was regular and legal. If any portion of the people of that Territory, for factious purposes or other-

wise, did not vote at the proper time, it is their own lookout, not ours.

This bill, as I have said, makes no point on that constitution. It receives it, but inasmuch as the convention asked us to admit them with the proposition in her ordinance to surrender her right to tax the public lands within her limits, &c., in consideration of certain enormous grants of land, amounting to \$22,000,000, we say that we will receive their constitution and admit them under it, if they will agree to take the usual land grants to new States under the usual conditions. These conditions are no infringement of State rights or State sovereignty, and have no relation whatever to the form or substance of their constitution, that being admitted to be republican.

I have met with some, sir, who imagine that the conditions in this bill differ from those of the Senate bill. By no means. That Senate bill was upon the *express condition* that Kansas should accept the same terms, as to grants of land, in lieu of those she proposed. Suppose that the bill had passed and Kansas should refuse by her Legislature to accept the conditions therein proposed: would she not be out of the Union, just as she will be if the people under this bill refuse to accept the identical proposition? How could we force a State into the Union on conditions of our own? Most assuredly it takes two to make a bargain. How could we put an absolute condition upon a sovereign State?

Now, sir, I claim to speak in behalf of the rights of the States. I was bred in that school, reared in that school of politics—the State-rights school—and if there is any doctrine which I cherish above all others it is the rights, the independence and the sovereignty and perfect equality of the several States of this Confederacy; and I maintain that this substitute more fully and completely carries out that doctrine than even the Senate bill, which I was willing to vote for. Had that bill passed, Kansas would not have been admitted if she had refused the condition. Just as was the case with Iowa. She refused the condition imposed, and did not come in under the act admitting her, which I have read from. No point was made on her constitution, though it excluded slavery. So no point is made on the constitution of Kansas, though she adopts slavery; and I will say, that if she had come with a constitution which had been as fairly, legally, and regularly made and adopted, with the exclusion of slavery, I would have voted for her admission under it as readily as I do; and I would have been willing to act in reference to her land ordinance in the same way this bill proposes. It makes no difference with me as to the character of her constitution on that subject. The people of Kansas, in convention, settled that question in their own way, as they had a right to do. That convention was fairly and legally elected and had full powers to do what they did. But I am not now going into a discussion of that branch of the subject. I am replying directly to the gentleman's objection. He said he had no objection to the constitution. I was glad to hear the gentleman say it, because I think that is the great objection of most of those who oppose the admission of the State under that constitution. If that is not the groundwork of his objection to this bill, it does seem to me he will be compelled to yield that one which he has brought forward with so much zeal this morning.

Mr. DAVIS, of Maryland. I beg the gentleman's pardon. I do not quite understand his allusion.

Mr. STEPHENS, of Georgia. I said the gentleman stated that he did not make any objection to the subject-matter of the constitution.

Mr. DAVIS, of Maryland. Certainly not.

Mr. STEPHENS, of Georgia. Nor to the manner in which it was adopted.

Mr. DAVIS, of Maryland. Oh, no, sir; I did not say that. I said I had no objection to the subject-matter.

Mr. STEPHENS, of Georgia. Then you had no objection to the form of the constitution?

Mr. DAVIS, of Maryland. None in the world. The constitution is very good.

Mr. STEPHENS, of Georgia. Then do I understand the gentleman to say that the convention could not make a constitution?

Mr. DAVIS, of Maryland. I meant to say that the convention was a party caucus without the slightest authority of law whatever.

Mr. STEPHENS, of Georgia. Does the gentleman say that the law authorizing the call of the convention was without authority?

Mr. DAVIS, of Maryland. I mean to say that the law of the Legislature was absolutely void.

Mr. STEPHENS, of Georgia. Why?

Mr. DAVIS, of Maryland. Because it was beyond the limits of the legislative power.

Mr. STEPHENS, of Georgia. Was it not a legal Legislature?

Mr. DAVIS, of Maryland. Certainly; perfectly so.

Mr. STEPHENS, of Georgia. Had they not the right to call a convention?

Mr. DAVIS, of Maryland. No, sir. I think not.

Mr. STEPHENS, of Georgia. Upon what ground does the gentleman stand, then?

Mr. DAVIS, of Maryland. The gentleman will pardon me; a few days ago I endeavored to argue that proposition on authority and on reason. My very short reason for it is, that it is not a proper subject of legislation of a *Territorial Legislature* to call a convention. The act is beyond the scope of their authority, and it has been always so held by every public man in the country who has expressed his opinion upon it, down to the end of the last Congress, *Mr. Buchanan among them*.

Mr. STEPHENS, of Georgia. Do I understand the gentleman then to maintain that an enabling act is necessary?

Mr. DAVIS, of Maryland. Oh, certainly not. I think we have no sort of limitation upon our free discretion. If a Territory comes here with a constitution in the shape of a petition, and we choose to accept it, provided we think it fairly expresses the will of the people, we may undoubtedly accept it, and it has been often so done. The only question with me is, whether this constitution is a fair embodiment of the popular will, and that is the only question I intended to raise.

Mr. STEPHENS, of Georgia. Then I do not understand the gentleman to contest the legality of the Legislature which called the convention?

Mr. DAVIS, of Maryland. I do not.

Mr. STEPHENS, of Georgia. The gentleman only maintains that they had no right to call this convention. I ask the gentleman if, under the organic law they had no power to legislate upon all rightful subjects of legislation, subject only to the Constitution of the United States?

Mr. DAVIS, of Maryland. I think they had; but I think this is not a *rightful subject* of legislation for the Territorial Legislature, as the last Congress decided—both Houses—by authorizing them to do what the honorable gentleman now intimates they had the right to do, and which this bill implies they have not the right to do, by giving them power to frame a constitution after a certain period.

Mr. STEPHENS, of Georgia. The bill does not imply any such thing as the gentleman argues. It only means to announce to the people there the conditions on which, hereafter, that power, if exercised, would be recognized by Congress.

Mr. DAVIS, of Maryland. Then it is a limitation; or it is a repeal of the act; or it is of no effect whatever, and void.

Mr. STEPHENS, of Georgia. Certainly it is a limitation; but by no means void, for we have the right thus to limit or to recognize a constitution of the people, notwithstanding it may not have been made in pursuance of such limitations, if we choose.

Mr. DAVIS, of Maryland. Certainly.

Mr. STEPHENS, of Georgia. Certainly we have the right to make such limitations, and the admission of a State is itself a matter of discretion.

Now, what I was stating when the gentleman interrupted me was, that, as the main objection he had was to that part of the bill which he made his speech upon, and which he said assailed State-rights—that is the clause which proposes as one of the conditions of our grants of land in lieu of her ordinance that she will never tax the lands of non-residents higher than those of residents—which I had fully and completely answered, and as the whole of his argument nearly upon that clause was founded upon an error in the history of this Government, I thought the gentleman ought to yield even that. He says now he objects to the manner of the adoption of the constitution, though not to the substance. I shall not reply to him on that point. I have shown that

as early as the admission of Louisiana the same words were used as to taxing lands of residents and non-residents equally. I have shown that States have been admitted upon express fundamental conditions since the admission of Missouri upon matters not relating to the substance of their constitution, or the mode of its adoption. Other cases might be cited. A gentleman near me [Mr. COBB] says it was so with Alabama in 1819. I know it was so with Arkansas in 1836; and Texas came in, in 1845, on express conditions under the resolutions for annexation. But I cannot now collate the precedents. I have shown that in the very bill for which the gentleman himself voted, the identical words are used, in the condition on which he voted to admit Kansas, as in this bill. Now how can the gentleman further urge that objection?

Mr. DAVIS, of Maryland. I was unfortunate if I did not make myself understood. The gentleman's eminent legal attainments ought to have carried his mind at once to my point, or I was very unfortunate in the mode in which I expressed myself. I said that the right of Congress to control the public domain within the limits of a State, had repeatedly been declared in the *form of conditions* to land grants; and those are the kind of conditions to which the gentleman has referred, excepting that having reference to the boundary of a State—which, of course, must be settled by concurrence between Congress and the people of the Territory applying for admission, before a State can exist—and also excepting that requiring the assent of the people to the constitution of their State, as preliminary to their admission as a State. With the exception of requiring the assent of the people, in some shape or other, to the constitution, and requiring the assent of the people to the boundaries fixed by Congress, which are essential to the very existence and identity of the State to be admitted, I say there has never been, since the Missouri compromise, a condition of admission exacted; and those conditions are *not* limitations on the sovereign power of the State when created, but the defining by common consent the constitution and territory, without which there can be no State at all. There have been conditions annexed to land grants, but never to the admission of a State. There have been conditions declared in acts of admission asserting and securing the power Congress already possessed, and would continue to possess, over the public lands.

Mr. STEPHENS, of Georgia. Right there let me ask the gentleman if, in the very cases he speaks of, where the conditions are expressed and put in the acts of admission, the State had refused to accept the condition, she would not have remained out of the Union? Did not their admission depend on their acceptance of the conditions?

Mr. DAVIS, of Maryland. They are cases where no conditions were imposed and required to be assented to in order to secure admission. The States were admitted, and the conditions were merely the declaration by Congress of its construction of its rights.

Mr. STEPHENS, of Georgia. I have just read the express conditions which were proposed in the case of Iowa. Iowa rejected the conditions, and she remained a Territory. The State was not actually admitted under that act.

Mr. DAVIS, of Maryland. That was in reference to her boundaries.

Mr. STEPHENS, of Georgia. In reference to her boundaries, and jurisdiction over rivers. And the only objection of the gentleman to this bill that I am replying to is that it puts upon the State a condition as to the exercise of her sovereign power of taxing hereafter. The cases are analogous. The gentleman says conditions have been annexed to land grants, but never to the admission of a State. Why, sir, in the case of Arkansas, as well as Louisiana, the condition of the land grant was in the bill for the admission of the State, as in this case, and as he has voted, and every member of this House. The condition in the Iowa case was in the act of admission.

Mr. DAVIS, of Maryland. In reference to the *freedom of rivers*, it is covered by the same decision of the Supreme Court of the United States—that the condition declaring the river free does not operate in the way of a compact by the assent of the State, but as a law regulating commerce. And there has been no case where an *assent* to that has been made a condition of admission.

Mr. STEPHENS, of Georgia. Why, sir, it was made by declaration to be a fundamental condition to the admission of the State of Iowa.

Mr. DAVIS, of Maryland. That was a declaration of Congress as to its opinion of a right, in which opinion the Supreme Court concurred. It was not a condition which required the assent of Iowa to yield a sovereign right.

Mr. STEPHENS, of Georgia. It was, sir, just as I have stated; whether a sovereign right or not. I read it once and I will read it again:

"And he it further enacted, That it is made and declared to be a fundamental condition of the admission of the said State of Iowa into the Union, that so much of this act as relates to the said State of Iowa [Florida was included] shall be assented to by a majority of the qualified electors," &c.

The assent of the people was required.

Mr. DAVIS, of Maryland. Mr. Speaker—Mr. STEPHENS, of Georgia. I cannot yield any more.

Mr. DAVIS, of Maryland. Very well, sir.

Mr. STEPHENS, of Georgia. I have got the gentleman just where I knew I would get him, and where he cannot escape. The condition here is in the act of admission. The people had to assent to it. They did not assent to it, and the State did not come in. I think I have shown the House that the objection the gentleman urges to this bill with so much vehemence and eloquence is founded solely upon a pretext—solely upon a pretext.

Now, I ask this House—I ask the country—if, upon such grounds as this, if the bill is otherwise acceptable to all sides, and will settle this question, we are prepared to allow this Kansas question any longer to agitate the public mind, and obstruct the public business, as it has been agitating and obstructing it, not only during this session and the last, but for several years past? Does not patriotism, does not duty, does not every consideration that should influence the patriotic public man, demand of us, one and all, to come together, give this measure our approval and support, remove this question from the public councils of the country, quiet the public mind, and go on with the public business?

Mr. Speaker, I do not intend, at this stage of the proceedings, to detain the House longer. I am prepared, though, to defend this bill in every part of it, and in every section of it. I did not wish to make a speech upon it, because I thought the subject had been sufficiently discussed; but when gentlemen said they wanted to debate it, I was willing that they should debate it. And now, sir, the debate is opened, and I throw down the gauntlet to the opponents of the measure. I hold myself ready to defend it from the beginning to the end, from the alpha to the omega, every line of it, every word of it; and I say to gentlemen that I am willing they shall discuss it as long as they choose, or the House will entertain discussion.

Mr. GILMAN. I would ask the gentleman from Georgia, before he takes his seat, whether, in his judgment, the Lecompton constitution is or is not submitted by this bill?

Mr. STEPHENS, of Georgia. I tell the gentleman frankly that it is not.

Mr. KEITT. Mr. Speaker, I do not wish to vex the attention of the House with a prolonged discussion upon the matter before it, for I know that every phase of the subject has been examined in the protracted debate which has been had upon it. I intend only to offer a few considerations which have influenced me to the conclusion I have arrived at. The bill reported by the committee of conference is obnoxious to me, but the question is, whether under the circumstances, it is not better that we should pass it?

I confess, Mr. Speaker, that I have been somewhat astonished at the peculiar zeal displayed by the member from Maryland [Mr. DAVIS] in the cause of State sovereignty and the spirit of proselytism manifested by him. It had not occurred to me before that there was any consonance between his theory of our Government, both State and Federal, and mine. Nor do I dream now that there is any consonance between them. What, sir! shall the member tell me that this Federal Government is a mighty sovereignty, spreading with unity of purpose, singleness of power, and unspent force from the Gulf to the Canadas; that it is a colossal central system, revolving in its self-appointed orbit, and, with resistless energy, dragging the States within its circumference; and then tell me that he is a supporter of the sovereignty

of the States? Is this the theory of my distinguished friend from Mississippi, [Mr. QUITMAN? Will the member from Maryland [Mr. DAVIS] tell me that in aggrandizing the Federal Government into a ruthless central despotism, to be wielded by a fanatical and hostile majority, he is advocating the rights and safety of the South? If so, will my friend from Mississippi [Mr. QUITMAN] feel, that, when standing under the same banner, they are other than opponents? No, sir; I deny that the member from Maryland is the custodian of the rights and sovereignty of the States. I have been reared up in the school of politics illustrated and adorned by my friend from Mississippi, [Mr. QUITMAN,] and there is no homogeneity between my views of the theory and functions of this Government and the views of the member from Maryland, [Mr. DAVIS.] Sir, if the States are sovereign, the Federal Government cannot be so. There can be no partition of sovereignty between them. The doctrine of the divisibility of sovereignty is not redeemed from contempt, even by the impudence of its absurdities.

But, sir, we of the South have no lack of advisers upon States' rights, and the policy of the South in the present exigency of affairs. In the Senate, Mr. SEWARD, and other leaders of the Black Republican party, and in this House the leaders of the same party, have advised us that we are yielding principle, and exposing the South to danger through this bill. When, sir, have these gentlemen become the peculiar conservators of the rights and honor of the South? or when have they refused to seize a gain against or over principle? The South asks not their advice, and can protect herself against the stabs of fanaticism. No, sir; these intermeddling advisers fear that agitation may be stricken with paralysis—that fanaticism may not wear the crown of power as securely as it now wears it—if Kansas is admitted into the Union under this bill, and hence come their tearful exhortations, and hence their lachrymose whinnies over endangered principles.

Now, sir, I will proceed to briefly examine the bill before us, for the admission of Kansas into the Union. The people of Kansas, in convention at Lecompton last September, submitted to Congress two propositions for admission into the Union. The chief and paramount proposition was their State constitution; the second, and inferior one, was their ordinance in relation to the public lands. They did not offer to come into the Union, either upon the one proposition or the other, but upon both. Now, in this bill, we have accepted their first and paramount proposition—their State constitution; and have agreed to admit them, so far as that is concerned. But they offered, at the same time, another proposition—the ordinance appropriating an extravagant quantity of the public lands; and to this proposition Congress will not accede. Kansas asks to be admitted upon her State constitution and her land ordinance, and she must be admitted upon both, or rejected, or treated with in relation to whatever is unacceptable to Congress. Now Congress accepts her State constitution; but as her land ordinance is objectionable, Congress treats with her as to that. By this bill, the Lecompton constitution is binding, is obligatory; is, in fact, a finality. It lives to the extent that the proper authority in Kansas has breathed life into it; it exists as a complete political entity, to the extent that the proper authority in Kansas has shaped, framed, and made it one. It is accomplished, finished, fixed; upon it our movements are not made; our fingers do not touch its machinery. In short, neither Congress nor the people of Kansas have anything further to do with the Lecompton constitution. It starts off now through the energies implanted in it; in other words, it moves into its appointed orbit through the forces contained in its provisions.

But the land ordinance is made a matter of negotiation with Kansas. How can you negotiate with her? Her convention is *functus officio*; her State organization comes into active operation only after her admission into the Union; and her territorial authorities are utterly incompetent to treat upon the subject. You cannot put her State organism into motion, for with its interior workings you have nothing to do. While the Lecompton constitution provides for the endowment of this State organization with active powers only after the admission of Kansas into the Union, you cannot treat with the territorial authorities, for

they are inferior and incompetent; you must treat, then, in the manner proposed in this bill, or not treat at all. If you refuse to treat, then you must concede to Kansas her exorbitant demands for public lands in return for abstaining from the exercise of her right of taxation over the lands of the United States within her limits, or you must reject her application for admission into the Union. Will you grant her the lands? Congress will not. Will you, then, refuse her admission into the Union? Do my southern friends wish that? They do not. Should there be division, then, among us? I trust that finally there will be none.

I said, sir, that the Lecompton constitution was an accomplished, a finished, a fixed thing; and so it is admitted to be by the very words of this bill. Congress, through the bill, treats with the people of Kansas only about their land ordinance. Suppose the convention had formed only the Lecompton constitution, and had offered no proposition to Congress in relation to the public lands, but, in advance, had agreed to take whatever quantity of lands Congress might grant, and had made provision for the acceptance of such grants of land, and relinquished the exercise of the right of taxation over the lands of the United States, or had created a proper body to treat with Congress upon this subject: what then would be the status of the case now, under the principles of this bill? There would be nothing submitted to the vote of the people of Kansas; and so, upon granting the lands which we have granted, Kansas would now be admitted, by the bill, as a State into the Union. The agreement would be executed; the conditions of the compact would be fulfilled; nothing would be left to be done. If a proper body had been created by the convention to treat with Congress upon the subject, then we would treat with that body, and an agreement with it would be final and complete, if it had received power to act finally and definitively.

The distinction between treating with the people of Kansas about their proposition in relation to the public lands, and the submission of the constitution to them, is, to my mind, clear and distinct. The outline of a gossamer's thread is as distinct and definite as that of a ship's cable; so, a distinction may be clear and vital, though narrow.

Congress will not accede to the proposition of Kansas as to the public lands. She offers to come in if you will give her so much of them. You will not give her the quantity she asks. Will you drag her into the Union against her will? Will you make her a State in the Union if she refuses to be one? Will you derogate from her convention? Will you strangle her sovereignty in its very birth; or will you respect her wishes, and treat with her as a State to be the equal of the States in the Union? Suppose Kansas comes in; and, despite your conditions subsequent, claims all the lands within her boundaries: what will you do? Will you drag her before your tribunals here to plead her cause of sovereignty, and receive judgment from your courts? How will you bring her before them? What writ will you serve upon a sovereign State? What *posse comitatus* will you summon to take her into custody? And, if you sue out a judgment against her, how will you execute it? Will you enact a force bill, and send your armies to tread her down into submission, and with fire and sword to harry her soil until her ruined and wretched people shall kneel before you in dependence and in chains? Think you that you can perform a drama like this? Think you that your skies can redder with the fires of civil war, and your soil be drenched with blood, and this Government live on? No; infatuation cannot go thus far. How else will you proceed in the contingency I have alluded to? Would you depose her from her sovereignty? Can you do it? Would you dismiss her from the Union? Can you do it? And if you could, what then?

Sir, there is no compromise of principle, much less is there a sacrifice of principle or a surrender of principle, in this bill, as well as my judgment can determine its provisions. It must pass, or Kansas will be refused admission into the Union. What will we gain by her rejection? She has been the fruitful mother of constitutions; and shall we gain by the multiplication of her progeny? Illegitimate conventions have sprung from her bosom, like mushrooms from a rotten trunk; stained and bastard constitutions have been

spawned upon us through the lechery of her political lust; and now hastening to us is the Minnesota constitution, deformed, disfigured, disgraced by base imposture, by driveling philanthropy, by whining hypocrisy, and by a practical amalgamation of the white and black races. This miserable and ricketty thing, the Minnesota constitution, with all infamies clinging to it, may come to us, and be embraced by its friends. They may defile this Hall with its presence; but, under its auspices, Kansas can never come into the Union. We wish to admit her now, not because we care about the mushroom conventions they have held or may hereafter hold, but because her application under the Lecompton constitution is legitimate, and her admission under the bill before us sacrifices no principle. The South has no reason to rejoice in the passage of this bill. She may regret its defeat. If her sons will unite upon it, she will gain more in their union than in aught else.

Mr. BINGHAM. I congratulate the country that the distinguished gentleman from Georgia [Mr. STEPHENS] has seen fit on this day to acknowledge what he has heretofore, during the last and present Congress, steadily and persistently denied, that the position of those with whom I have the honor to act on this floor and elsewhere, in regard to the power of Congress over the several Territories during the whole time in which they continue to be Territories, and up to the very moment of their transition from a Territory to a State, is the true position under the Constitution of the United States, and one to be recognized and legitimately enforced by congressional legislation.

The gentleman from Georgia predicated his reply to the distinguished and learned gentleman from Maryland, [Mr. DAVIS], among other things, upon the ground that the Congress of the United States had heretofore dictated to the people of Louisiana conditions precedent to their admission into the Union as a State. I desire, inasmuch as the gentleman from Georgia made special reference to the Louisiana enabling act, to call the attention of the House and of the country to its provisions, for the purpose of showing that it goes as far as any man on this side of the House has ever ventured to go in respect to the authority of Congress over the Territories, and its power to impose restrictions upon the admission of new States into the Union.

Admit that the act of Congress, passed in 1811, to authorize the people of Louisiana to form a State constitution and government and to provide for their admission into the Union, was a just and constitutional enactment, and you admit all that we ask, all that any man can ask, upon which to predicate an argument against the proposition submitted to this House by the committee of conference, appointed through it, and in favor of the power of Congress not only to reject that bill but to reject the Lecompton constitution under any and all conceivable circumstances.

I do not know, nor do I care, whether the honorable gentleman from Georgia assumed and asserted the validity of the Louisiana act merely for the occasion, or not. I thank him for his concession that that act was a precedent which he might with propriety quote here against the argument of the gentleman from Maryland. Sir, if the gentleman's admission and assumption be right, if that statute be valid, it totally sweeps away the dogma of the sovereignty of new States in the formation of constitutions preparatory to admission, against the expressed will of the whole people of the United States, as set forth by their Representatives in Congress assembled. The admission of the authority of Congress to impose upon new States the restrictions of that statute concedes the right of Congress to reject any new State until it shall have adopted a constitution, not only republican, but also consistent with the Constitution of the United States, and also in conformity with such conditions precedent as Congress may deem just and proper to be imposed. I quote from that statute as follows:

"Sec. 2. And to it further enacted, That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and resided within the said Territory at least one year previous to the day of election, and shall have paid a territorial, county, district, or parish tax; and all persons having in other respects the legal qualifications to vote for representatives in the General Assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a convention, who

shall be apportioned among the several counties, districts, and parishes within the said Territory of Orleans, in such manner as the Legislature of the said Territory shall by law direct. The number of representatives shall not exceed sixty; and the elections for the representatives aforesaid shall take place on the third Monday in September next, and shall be conducted in the same manner as is now provided by the laws of the said Territory for electing members for the House of Representatives.

"Sec. 3. And be it further enacted, That the members of the convention, when duly elected, be, and they are hereby, authorized to meet at the city of New Orleans, on the first Monday of November next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be expedient or not, at that time, to form a constitution and State government for the people within the said Territory; and if it be determined to be expedient, then the convention shall in like manner declare, in behalf of the people of the said Territory, that it adopts the Constitution of the United States; whereupon the said convention shall be, and hereby is, authorized to form a constitution and State government for the people of the said Territory, provided the constitution to be formed, in virtue of the authority herein given, shall be republican, and consistent with the Constitution of the United States; that it shall contain the fundamental principles of civil and religious liberty; that it shall secure to the citizen the trial by jury in all criminal cases, and the privileges of the writ of *habeas corpus*, conformably to the provisions of the Constitution of the United States; and that after the admission of the said Territory of Orleans as a State into the Union, the laws which such State may pass shall be promulgated, and its records of every description shall be preserved, and its judicial and legislative written proceedings conducted, in the language in which the laws and the judicial and legislative written proceedings of the United States are now published and conducted: And provided also, That the said convention shall provide by an ordinance, irrevocable without the consent of the United States, that the people inhabiting the said Territory do agree and declare, that they forever disclaim all right or title to the waste or unappropriated lands lying within the said Territory; and that the same shall be and remain at the sole and entire disposition of the United States; and, moreover, that each and every tract of land sold by Congress shall be and remain exempt from any tax, laid by the order or under the authority of the State, whether for State, county, township, parish, or any other purpose whatever, for the term of five years from and after the respective days of the sales thereof; and that the lands belonging to citizens of the United States, residing without the said State, shall never be taxed higher than the lands belonging to persons residing therein; and that no taxes shall be imposed on lands the property of the United States; and that the river Mississippi, and the navigable rivers and waters leading into the same or into the Gulf of Mexico, shall be common highways and forever free, as well to the inhabitants of the said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor imposed by the said State."

I am not here to find fault with the arguments of the learned gentleman from Maryland, [Mr. DAVIS]. I am not here to follow the gentleman from Georgia, [Mr. STEPHENS], with the new lights he has discovered in his way to this political Damascus. The latter gentleman has, if you please, become an ally of the Republicans, of those he is wont to call Black Republicans. He is working (not voting) with us to-day. He is agreeing with us that Congress is restricted in nothing but its own conviction and its own judgment, in regard to the limitations which it may rightfully impose, under the Constitution, upon new States, as conditions precedent to their admission into the Union.

To make good my assertion, I need only refer specifically to the limitations imposed by the Louisiana act of 1811, providing for the admission of the State of Louisiana, which I have just read, and which the gentleman from Georgia approves, and upon which he takes his stand.

That statute, I repeat, goes as far as I have ever ventured to go on this question, and as far as any gentleman upon this side has ever ventured to go. I beg the attention of the House to the conditions precedent and restrictions which that act imposes upon the sovereignty of Louisiana. First, there is the condition precedent that before the people of Louisiana, after the election of their delegates to a convention, should take another step towards the organization of a State government, their delegates, in convention assembled, should, in their behalf, declare that they adopt the Constitution of the United States, together, of course, with all its limitations and restrictions upon State sovereignty. Having first performed this condition precedent, and not before, they might proceed to form a State constitution; provided, says the statute—

"That said constitution so to be formed shall be republican; shall be consistent with the Constitution of the United States; shall proclaim the fundamental principles of civil and religious liberty; shall secure to every citizen charged with a criminal offense a trial by jury; shall secure, also, the writ of *habeas corpus* as provided in the Constitution of the United States; shall provide that the legislation and judicial action of said State be conducted in the English language; shall surrender the right of the State over certain waste lands; also, its right to tax United States property."

Sir, this statute does not stop where certain gentlemen upon the other side of the House have been telling us that our power stops, to wit: with the mere declaration that the constitution of the proposed new State should be republican. That statute, as I have shown, goes much further, and requires that the new constitution shall conform to all the conditions and restrictions which I have enumerated. This statute further provides, in the fourth section, that the constitution so framed shall be submitted to the Congress of the United States for approval or rejection. For what purpose? To give to the Congress of the United States the opportunity of judging whether these conditions precedent had been complied with; whether the people had, by their legally chosen delegates, adopted the Constitution of the United States; whether their new constitution, contrary to and in contravention of their local laws—the civil law under which they then lived—secured the right of trial by jury in all criminal cases; whether the great writ of *habeas corpus* was secured to the citizens within the limits of the State; and whether, in addition, their constitution declared, as required, the great and fundamental principles of civil and religious liberty. Unless these provisions appeared, Congress, by this fourth section, reserved the power to say that Louisiana should not be permitted to organize herself into a State government for admission into this Union—should not, in fact, become a State, but should remain a Territory.

I ask the gentleman from Georgia, in order that I may make no mistake in this matter, whether he concedes that that enactment was constitutional; that it was the right of Congress, in 1811, under the Federal Constitution, to dictate to the people of Louisiana the condition precedent that their constitution should be consistent with the Constitution of the United States? whether he concedes that it was competent for Congress, under that act of 1811, to dictate to that people the further condition precedent that they should secure the right of trial by jury, in all criminal cases, to citizens within the State? whether he concedes that it was competent for Congress, by that act, to dictate to the people of Louisiana, as a further condition precedent to the establishment of a State government, and their admission into the Union, that they should secure the benefits of the right of *habeas corpus* in all cases, pursuant to the Constitution of the United States; and, finally, I ask him whether he concedes that it was competent for the Government of the United States, speaking through Congress by that act, to declare that that people should abolish their civil law and take ours? If he concedes all this, as he did by citing that act, he concedes all that I claim, and all that my friends have ever claimed in this great controversy. Who, sir, is to judge whether the constitution, framed by a people within a Territory, "is consistent with the Constitution of the United States?" By that enactment, upon which the gentleman planted himself, it is manifestly declared that the Congress of the United States shall judge of that, and no one else. That is Republicanism—Black Republicanism.

Mr. CURTIS. I beg the gentleman's pardon; it is not Black Republicanism, as some understand it.

Mr. BINGHAM. It is my Black Republicanism. That legislation of 1811 is sustained by precedent and commanding authority. It was sanctioned and approved by a man who has been called the Father of the Constitution—by way of preëminence—Mr. Madison. In addition to his approval of the act, I have before me what he has written on this provision of the Constitution, that Congress "may admit new States into the Union." He says:

"In the Articles of Confederation no provision is found on this important subject. Canada was to be admitted of right on her joining in the measures of the United States, and the other colonies, by which were evidently meant, the other British colonies, at the discretion of nine States. The eventual establishment of new States seems to have been overlooked by the compilers of that instrument. We have seen the inconvenience of this omission, and the assumption of power into which Congress has been led by it. With great propriety, therefore, has the new system supplied the defect. The general precaution that no new States shall be formed without the concurrence of the Federal authority"

* * * * * "is consonant to the principles which ought to govern such transactions."

There is where I stand; there is where those with whom I act, in reference to this question,

stand; that there can be no such thing as an existing State, organized within the national territories, outside of the Union, and without the consent of the Federal Government; that there can be, under our Constitution, no new State rightfully organized within a United States Territory except it be organized in consonance with the Constitution of the United States, and with the consent of the Government of the United States given to such State organization, either previously or subsequently to its formation, and before the admission of such State into the Union. That is the position of Madison, that is the Republican position, and that seems to be the position of the gentleman from Georgia. Sir, other precedents justify me in saying that conditions and restrictions upon the organization of State governments within the Territories may be imposed by the Congress of the United States. I speak now of new States organized within the Territories of the Union more particularly. I do not wish to speak now of the organization of new States within the territory of a single State of the Union. That belongs to another provision of the Constitution, and we have nothing to do with it in this issue. We have other precedents, sir, for the position we assume of this power of Congress to impose limitations and restrictions upon new States—precedents furnished by the action of the fathers of the Constitution.

Sir, there was a condition precedent in the act providing for the admission of the State which I have the honor, in part, to represent, and which authorized the people of Ohio to frame a State constitution and government preparatory to their admission into the Union. That condition precedent was this:

"That the constitution so to be formed by the people of the Territory of Ohio shall not be repugnant to the sixth article of the ordinance of 1787."

What was that article? It was, sir:

"That slavery or involuntary servitude, except as a punishment for crime, should be forever prohibited."

Upon that condition the State of Ohio was permitted to organize a constitution, and to come into the Union. The men who framed that statute, and who voted for it in this and in the other Hall, did not get this new idea into their heads, that the people of a Territory might frame a constitution and organize a State government, and demand admission into the Union upon the simple condition that their constitution should be republican. What is a republican government? A republican government is simply a government where the sovereign authority is exercised through delegates or representatives chosen by the people. The Congress of 1802, which provided for the admission of the State of Ohio, thought that there was something more than a republican constitution to be framed; and hence they put in the other condition precedent, that the constitution of Ohio should not be repugnant to the sixth article of the ordinance of 1787, which forever prohibited slavery. Ohio came into the Union under that condition precedent; and for six years after her admission, and by force of this very restriction, she was denied the privilege of engaging in the foreign slave trade, which was being carried on by the original States under the express reservation of the Constitution of the United States, which authorized that trade until the year 1808 by any of the original thirteen States.

That same condition precedent was applied to the State of Illinois, and upon a strict compliance with that condition was she permitted to come into the Union. The same condition precedent was applied to the State of Indiana; and without that condition complied with she would not have been permitted to come into the Union. Her people petitioned Congress to repeal that restriction, and Congress reported through Randolph, of Roanoke, against the repeal, and refused to do it.

Now, sir, on these conditions precedent I might rest this argument; but there is yet another of great significance—the celebrated joint resolution which authorized the admission of Texas into the Union. The whole territory embraced within the limits of that State—notwithstanding the asserted sovereignty of the State—was by a condition precedent set forth in the act of admission, subjected to certain conditions and restrictions imposed upon no other State of the Union. Upon this point I challenge contradiction.

What is the general provision of the Constitu-

tion? Simply that new States may be admitted by Congress into the Union; also, that further provision, "that no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent [in the latter case] of the Legislatures of the States concerned, as well as of Congress." And what was the condition precedent annexed to the admission of the State of Texas? I will read the act that there may be no misunderstanding of it. It is as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth consent that the territory properly included within, and rightfully belonging to the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said Republic, by deputies in convention assembled, with the consent of the existing Government, in order that the same may be admitted as one of the States of this Union.

"2. And be it further resolved, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to wit: First, Said State to be formed, subject to the adjustment, by this Government, of all questions of boundary that may arise with other Governments; and the constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the 1st day of January, 1846. Second, Said State, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defense belonging to said Republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind, which may belong to, or be due and owing said Republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the Government of the United States. Third, New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution. And such States as may be formed out of that portion of said territory lying south of 36° 30' north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire. And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited."

There is a restriction upon State sovereignty—Texas as a State, as well as the new States hereafter to be formed within the limits of Texas, are bound and fettered by that restriction—by its terms no new State can hereafter be formed within the territory of Texas and admitted into the Union, unless such State so to be formed, north of 36° 30' north latitude, shall forever exclude slavery.

Sir, with these precedents, and the great and commanding authorities of Jefferson and Madison, who signed the statutes I have cited, it seems to me it is not necessary to multiply arguments upon the subject of the power of Congress to impose these restrictions, and thus limit State sovereignty.

Mr. GIDDINGS. I wish to make one suggestion here, and that is that the gentleman from Georgia, [Mr. STEPHENS,] voted for those resolutions for the admission of Texas.

Mr. BINGHAM. That is consistent with his argument here to-day; in claiming that the Congress of the United States may impose conditions precedent upon the admission of new States within the limits of the Constitution. That vote of his asserted the right of Congress to exclude slavery within new States. That is where I want to place him; that is where he belongs, and where I belong. I do not recognize the right of five hundred men, or five hundred thousand men, to establish any State constitution, or government, anywhere within the territories of the United States, without the consent of the people of the United States expressed either previously or subsequently, through their representatives in Congress assembled.

This brings me, therefore, to the point now before us. I do not find fault with this bill because it asserts the power of Congress to annex conditions precedent upon which alone the State of Kansas is to come into the Union. I find fault with this bill because, in my judgment, it is a great crime, not only against the people of Kansas, but against the Constitution of our common country, and against the sacred rights of human nature.

Globe that bill over with what words you may, it is a *written crime*; enact it into a law, and it will be a legislative atrocity engrossed upon parchment. Dignify this act with what title you please, history, stern, truthful, impartial history, will entitle it "An act to take away the liberties of American citizens." That this bill is a crime, I will try to show. In the first place, this bill does not submit, as the gentleman from Georgia [Mr. STEPHENS] very frankly acknowledges, to the people of Kansas the question, whether they will approve or reject the Lecompton constitution.

Instead of that, sir, it submits to them a *bribe* in the way of lands and money, and says to them, "if you will vote for this proposition you may come into the Union under the constitution framed at Lecompton on the 7th day of November, 1857; but if you reject this bribe the penalty which will follow shall be that you shall not come into the Union as a State until you shall have a population equal to the ratio of representation at the time of your subsequent application." I say such a thing is without precedent in the legislation of the country; is unauthorized by and in direct contravention of the Constitution of the United States. There is nothing in the Constitution of the United States which gives colorable authority for such legislation. There is nothing in the past legislation of this country that gives colorable authority for it. It is a simple act of despotism attempted to be enacted here by the Congress of the United States under cover of that Constitution which bears the peerless name of Washington. It were better, sir, that that sacred instrument should perish as though smote by the lightning of heaven, than that any such act as that now proposed should be placed upon our statute-book. What is it? Why, that the Congress of the United States shall dictate to freemen that they shall accept under pains and penalties a bribe, and thereby become subject to a constitution which they never made, which they abhor, and which they have condemned! I say, and say it without the fear of contumacious, that the genius of our Constitution is this: that new State constitutions must emanate from the people within the limits of the proposed State, and from no other source. In framing a State constitution, they are subject to the limitations of the Federal Constitution, and the limitations or restrictions imposed by acts of Congress. They may do anything in framing their constitution that is not inconsistent with the provisions of that instrument, or of such restrictive enactments. The moment they violate these provisions, their constitution ought to be rejected by Congress. That is our position.

But this bill assumes the very contrary and provides that Congress shall adopt a constitution which was framed by conspirators at Lecompton. The people of Kansas never framed it, by delegates or otherwise. On the contrary, on the 4th day of last January, ten thousand of the lawful voters of that Territory, a large majority of all its qualified electors, condemned this instrument at the ballot-box. They never framed that instrument. It was framed, I admit, by delegates at Lecompton; but, as I had occasion to say on a former occasion, they were delegates whom the people had never chosen, nor authorized to be chosen, and they only sat in safety at Lecompton under cover of Federal bayonets. That fact is notorious; and the President of the United States, who is to-day, by the use of his patronage, engineering this infernal proposition through the Congress of the United States, came before this body, and by his message of the 2d day of February last, concedes to us and to the world, that the people of Kansas never framed this constitution. What does he say, sir? Why, he says in that message, amongst other things, that ever since the day of his inauguration—namely, the 4th of March, 1857—the people of Kansas have been in open rebellion against the government established there by Congress. He says further, that they wished during all that time to establish a revolutionary government under the so-called Topeka constitution. He says further, and therein lies the confession of the truth of this matter, that they were arrayed in such numbers against the existing authorities in that Territory, that they would have overturned the territorial government—out of which sprung this Lecompton constitution—but for the fact, to use his own

words, that that government was protected from their assaults by the troops of the United States.

Now, I submit to you, sir; whether that is not a fair, unequivocal, open confession of the fact that the great majority of the people of Kansas never assented, from first to last, to any portion of that machinery which has resulted in the production of this Lecompton constitution? Why, then, attempt to force it upon them with this penalty threatened on the one hand, and this bribe tendered on the other? Do you not impose an unjust and unfair condition by this bill when you therein declare that, if the people accept this bribe, they shall come into the Union under the Lecompton constitution, although they have only fifty thousand population; but if they reject the bribe, they should not come in under a constitution of their choice till they shall have a population of ninety-three thousand four hundred, the present ratio of representation, or a still greater number, if before that time the ratio be increased?

But, sir, there is another objection to this measure. Suppose that the people of Kansas were permitted to vote directly upon this constitution—I say that the Congress of the United States has duties to perform which it is not at liberty to waive; and one of these duties is to see to it that no constitution shall go into operation with the consent of Congress which denies the right of a majority of the qualified voters to amend, alter, or change it at their pleasure. Such a constitution is not republican.

Now, sir, I assert, that this Lecompton constitution, by express provisions, excludes the majority from this right of amendment. What are its provisions in this respect? First, that in any election to be held in said State, the qualifications of a voter shall be that he be a male citizen of the United States, above the age of twenty-one years. (Article 8, section 1.) And section fourteen of the schedule, provides that the constitution shall never be amended or altered, "unless a majority of all the citizens of the State shall first have voted for a convention." Now, every man knows that under our free institutions, every person born of free parents within the jurisdiction of the United States, and who are residents thereof, is a citizen of the United States, and therefore of the State of his residence, whether such person be male or female. The records of the courts in a thousand instances, bear witness to the fact that women and children, as well as men of full age, are citizens of the United States, and of the several States. This Lecompton constitution limits the right of suffrage to male citizens of the United States over twenty-one years of age, and at the same time said instrument provides that it shall never be amended or altered without the consent and approval of a majority of all the citizens by their votes at the polls. It simply requires an impossibility, when it says that a majority of the citizens, men, women and children, of the Territory, shall assent by ballot to the convention for amendment, when it declares that at any election only male citizens of the United States over twenty-one years of age shall vote. That is the language and legal effect of this instrument. No man will undertake to gainsay that the language is there as I have quoted it. The words are plain; and when the words are plain, there is no room for construction, and no construction can be tolerated.

But, Mr. Speaker, I must hasten to the conclusion of what I have to say. There is another provision in this constitution to which I desire to call attention; and that is, the provision that it shall never be so amended as to affect the ownership of property in slaves. What becomes of gentlemen's notions of State sovereignty, if the Congress of the United States can give force and effect to such a law as this? Does not every man here know that even if my construction of the constitution were wrong, and a majority of the qualified voters of Kansas were to attempt to amend their constitution so as to abolish the ownership of property in slaves, after this atrocious thing had become the fundamental law of the State by the assent of Congress, such amendment would be held by that citadel of slavery which is located in the base of this Capitol to be in violation of vested rights, and therefore void? The whole power of the General Government would be arrayed to sustain that vested right, if you please, against the expressed will of a majority of the people of Kansas.

Sir, this is the first instance in which the Congress of the United States has attempted, by formal enactment, to give perpetuity to this institution of slavery within the limits and jurisdiction of a sovereign State. As a State-rights man, standing here, pledged as I am to maintain the rights of the people and the rights of the States, I protest against this dangerous assumption of power, and claim that it is the right of the sovereign people within the limits of a State to abolish the institution of slavery at their pleasure. Does any Representative from the South assert this power to be in Congress?

I do not object to restraints upon States in favor of liberty, and to the end that the Constitution of our common country may be upheld in full force, and that the great and sacred rights of human nature may not be infringed; but I protest against this Lecompton conspiracy, which denies the right of self-government, and ignores the will of the majority if expressed, or attempted to be expressed, against despotism. Let gentlemen beware how they attempt, even under the power and shelter of a great central Government, more than imperial in its resources, to crush out the heart and conscience of the people. GOD IS IN HISTORY. Let gentlemen give heed to its lessons of the terrible retribution which sometimes overtakes those who seek to establish an odious and hated despotism over the minds and conscience, the brain and heart of freemen.

Sir, I claim for myself the same right as did the Congress of 1811, to inquire "whether this Lecompton constitution is consistent with the provisions of the Federal Constitution?" And, sir, I have come to the conclusion that it is not only inconsistent with the Constitution of the United States, but that it is in direct conflict with the rights of every man, woman, and child, within the Territory of Kansas.

Mr. MAYNARD. Will the gentleman allow me to interrupt him?

Mr. BINGHAM. No, sir. If you please, I prefer to conclude what I have to say without interruption. This instrument declares that the right of property in slaves and their increase is not within the control of the majority of the people of the State; that this right is before and higher than any constitutional sanction. This instrument asserts another provision, the brutal despotism of which can hardly be equaled, except by that recently exercised by Nicholas, whose hands were red with the blood of murdered Poland and the assassinated liberty of Hungary. It is the provision which dooms freemen, guilty of no crime, to perpetual exile. Such are some of the provisions of this infernal instrument framed at Lecompton, for which we are now called upon to vote.

What, sir, are the arguments addressed to us to induce us to give our assent to this instrument? The President of the United States stoops from the position of his great office, hitherto made illustrious by Washington, Adams, Jefferson, and Madison—he comes here into the Hall of this House of Representatives, and tells us that this Lecompton constitution, with all its atrocious provisions, is eminently reasonable and proper, because Kansas, says he, "is at this moment as much a slave State as Georgia or South Carolina." And he does not stop with this. The President has officially declared to us that these slave provisions are just and reasonable. Justice, sir, to sell a man's wife? Justice to sell a child's mother? Justice to drive a man, guilty of no crime, away from the land of his birth, from the scenes of his childhood, from the graves of his kindred? Justice to deny to a man the fruits of his own toil? Justice to deny to a man the enjoyments of his own home? Justice to deny to a man the presence and prattle of his own children? Justice to deny to a man the convictions of his own soul? Justice! justice, sir, is the unchanging and eternal rule of right; it is the attribute of the great God of nature; it dwelt with him before worlds were; it will abide with him when worlds perish! By the judgment of the Pagan and Christian world, it is injustice to deny to any man his right.

Mr. Speaker, it is not justice to wantonly subject men, women, and children, at the arbitrary will of another, to stripes and imprisonment, to hunger and thirst, to cold and nakedness, robbery and murder. To enslave a man is to murder him by slow torture. This will not pass for justice among men, until men forget the distinctions be-

tween right and wrong, good and evil, virtue and vice.

By this bill, sir, we are not only to sanction the monstrous atrocity of chattel slavery, but we are to say, if the majority will accept the bribe, that atrocity shall be perpetual. We are to agree that the children of wrong and oppression in Kansas shall have no deliverance in the future; that they and their children shall, from generation to generation, toil on in the house of their bondage; in the words of this instrument, that no alteration shall be made therein to affect the ownership of property in slaves. Sir, the American Congress, by this enactment, is to declare that if the majority will accept the bribe, the Congress of the United States will perpetuate the horrid lie that one man may of right sell his brother for thirty pieces of silver—as Judas sold our Lord!

I say to gentlemen you may pass the bill, but you cannot make the lie perpetual. A lie cannot live forever, it has no vitality in it. Sooner or later it must perish. Perpetuate the atrocity that a majority may of right enslave the minority or drive it into returnless exile! Make this rule of wrong perpetual! There is nothing perpetual but God, His truth, His justice, and the creatures of His hand. I say to gentlemen on the other side, you have it in your power to save our country from this foul dishonor. Why do you hesitate to deny your assent to this great wrong? Is it because you believe with the President "that slavery exists in Kansas under and by virtue of the Constitution of the United States?" Is it because you believe, with certain political economists of our day, that slavery is the natural and normal condition of the laboring man? If that be your conviction, act it out; say so in words. It is your right and your duty to declare it. And by an open, manly avowal of it, you will command the respect of those who differ from you for your candor, if you can never hope to command their approval of your principles. Declare openly your true purpose and intent. For God's sake do not shirk this great issue under false, and, if I may be allowed the expression without meaning to be offensive, fraudulent pretenses of State rights and popular sovereignty. Why do you hesitate to say openly what your support of this bill manifestly imports—that it is your purpose to establish and uphold chattel slavery in Kansas under the forms of law and at all hazards? Why do you hesitate to avow this purpose? Is it not because you feel and know that its distinct avowal would electrify the nation, and summon it to a stern, united, defiant resistance?

I say to gentlemen on the other side, who compose the majority of this House, you may pass this bill into a law; you may induce the majority to accept its proffered bribe; you may thereby impose upon that young Territory the shame and crime and curse of this brutal atrocity; you may thereby shake down the pillars of this beautiful fabric of free government, and drench this land in fraternal blood, but you can never give permanence to such an act of perfidy, to such a system of wrong. It is too late for that; it is the high noon of the nineteenth century. The whole heavens are filled with the light of a new and better day. Kings hold their power with a tremulous and unsteady hand. The bastiles and dungeons of tyrants, those graves of human liberty, are giving up their dead. There is a pause in the world's great battle. Its banners of conflict, which but yesterday streamed from Paris to St. Petersburg, are furled; and to-day the mighty heart of the world stands still, awaiting the resurrection of the nations, and that final triumph of the right foretold in prophecy and invoked in song, when the Angel of Deliverance shall lead captivity captive. In this hour of the world's repose, and the world's hope, shall America, the child and the stay of the earth's old age, prove false to her most sacred traditions, false to her holiest trust, and by this proposed enactment, consent to strike down liberty in her own temple, and forge chains for her own children?

Mr. CLINGMAN. The report from the conference committee is not amendable. We must vote on it as it stands. I presume that gentlemen have made up their minds on it, and I have risen to demand the previous question.

Mr. CLARK, of New York. I hope the gentleman will withdraw that demand. I propose only to say a word or two; and when I have con-

cluded, I will renew the call for the previous question.

Mr. QUITMAN. It is known that my position on this question is different from that of the great body of my southern friends, and I would be glad of an opportunity to explain that position.

Mr. CLINGMAN. Somebody suggested to me that the gentleman from Mississippi only wants ten minutes. I am disposed to be courteous. If the gentleman will renew the call when he has finished, I have no objection. Then it can be seconded and the main question ordered. As it is nearly four o'clock, and the House does not seem to be full, we can then adjourn, and let the vote be taken to-morrow.

Mr. STEPHENS, of Georgia. I will suggest to the gentleman from North Carolina not to move the previous question this evening. Let him announce that he will call for it to-morrow at one o'clock.

Mr. CLINGMAN. I will make this suggestion, which I hope will meet with universal consent: that the previous question be seconded, and the main question ordered; with the agreement that this debate shall go on until one o'clock to-morrow. We may not, if the proposition of the gentleman from Georgia be carried, be able to second the previous question to-morrow.

Mr. MARSHALL, of Kentucky. I trust that there will be no such agreement. The House is very full, and I think we had better have the vote to-day.

Mr. CLINGMAN. As I cannot suit everybody then, I insist on my call for the previous question. The majority can vote it down or not, as it chooses.

Mr. DAVIDSON. I call for tellers. Tellers were ordered.

Mr. CLINGMAN. I will withdraw the call for the gentleman from Mississippi, and for nobody else, on condition that he will renew it.

Mr. SEWARD. I object to any farming out of the floor.

Mr. STEPHENS, of Georgia. I move that there be a call of the House.

Mr. CLARK, of New York. I was upon the floor nearly as soon as my friend from North Carolina, and if he yields I insist that I am entitled to the floor.

Mr. CLINGMAN. I insist on the demand for the previous question.

Mr. GARNETT. Will the gentleman from North Carolina permit me to interrupt him before he calls for the previous question? There are more than one of us—there is the gentleman from Mississippi, and one or two others—who wish, not to make a speech, but to state the reasons which will govern our votes on this occasion. I think that it is asking nothing unreasonable of my friend from North Carolina, or the House. We ask that the previous question be not called until to-morrow.

Mr. CLINGMAN. Gentlemen can give their reasons as well after the vote as before it. I leave the question with the House.

The House divided on Mr. STEPHENS's motion for a call of the House; and there were—ayes 98, noes 104.

Mr. STEPHENS, of Georgia, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. STEPHENS, of Georgia. It is now our hour of adjournment; and I therefore move that the House adjourn.

Mr. HARRIS, of Illinois. The understanding was that we should take this vote to-day; and I hope it will be taken.

Mr. STEPHENS, of Georgia. I wanted that; but that was exactly what the gentleman would not agree to. I do not want to have a snap judgment taken.

Mr. MORGAN. I make the point that the gentleman cannot make motion after motion.

The SPEAKER. The Chair knows no reason why he cannot. Can the gentleman suggest any?

Mr. MORGAN. It was a mere mistake of mine. The House divided; and there were—ayes one hundred and three—

Mr. STANTON demanded tellers.

Mr. HARRIS, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 105; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Bark-

dale, Bishop, Bockock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Caskey, John B. Clark, Clay, Clemens, Clingan, Cobb, John C. Cochran, Cockrell, Corning, James Craig, Burton Craige, Crawford, Curry, Davidson, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lamar, Landy, Leidy, Letcher, Mac-lay, McQuern, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Samuel A. Smith, William Smith, Stephens, Stevenson, Talbot, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—107.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Budinton, Burlingame, Burroughs, Campbell, Case, Claflie, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Collins, Covode, Cox, Cragin, Curtis, Dumrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hickman, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ricard, Ritchie, Robbins, Roberts, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburn, Israel Washburn, and Wilson—105.

So the motion was agreed to.

Pending the above call,

Mr. RITCHIE stated that his colleague, Mr. PURVIANCE, who had been called home by the death of his mother, had paired off with his colleague, Mr. DIMMICK, until Tuesday next.

Mr. BONHAM said that at the instance of those from his own section, and with whom he had acted, he would change his vote, and vote for the adjournment.

Mr. MARSHALL, of Illinois, said that for a similar reason he would change his vote, and vote against the adjournment.

Mr. JONES, of Tennessee, said that he had voted against the adjournment, and he believed he had voted right. He thought the House ought to dispose of the question at once. At the suggestions of friends he changed his vote, and voted in the affirmative.

Mr. ATKINS said that he had voted against the adjournment; but not caring to record his name with those upon the other side, he would vote in the affirmative.

And then the House (at ten minutes past four o'clock, p. m.) adjourned.

IN SENATE.

THURSDAY, April 29, 1858.

The Journal of yesterday was read and approved.

HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (H. R. No. 26) authorizing the arrangement and disposal of public buildings in the city of Philadelphia, was read twice by its title, and referred to the Committee on Commerce.

GONZAGA COLLEGE.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 76) to incorporate Gonzaga College in the city of Washington and District of Columbia. The amendment was in line sixteen of the first section, to strike out "five" and insert "two," so as to restrict the amount of property which may be held by the college corporation at any one time to \$200,000 in value.

Mr. BROWN. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. JONES presented the memorial of James Thorington, praying for the establishment of an additional land district in the State of Iowa; which was referred to the Committee on Public Lands.

He also presented additional papers in relation to the claim of Captain John Pickell; which were referred to the Committee on Pensions.

Mr. HAMMOND presented a presentment of the grand jury of the April term of the circuit court of the United States for the district of South Car-

olina, sitting in Charleston, recommending that a suitable building be provided for the accommodation of the United States courts at that place; which was referred to the Committee on the Judiciary.

Mr. BIGLER presented the petition of George T. Parry, praying that the Secretary of the Navy be authorized to purchase his patent for an instrument, the object of which is to abolish the friction attending the thrust of propellers; which was referred to the Committee on Naval Affairs.

Mr. HARLAN presented the petition of citizens of Iowa, praying that a license may be granted to Lewis A. Thomas, for the establishment of a ferry across the Missouri river, within the limits of the proposed Territory of Dacotah; which was referred to the Committee on Territories.

Mr. HOUSTON presented the petition of Sarah Brashear, mother of William C. Brashear, deceased, an officer in the Texan navy at the time of the annexation of Texas to the United States, praying to be allowed the benefit of the act granting five years' pay to the surviving officers of the Texan navy; which was referred to the Committee on Naval Affairs.

Mr. BROWN. I have a memorial from more than one thousand resident citizens of the cities of Washington and Georgetown, praying the reorganization of the criminal court of this District. The petition is very short, only a dozen lines, and I will read it.

To the Senate and House of Representatives of the United States of America:

The undersigned, citizens and residents of the cities of Washington and Georgetown, do most respectfully represent, that, in view of the frightful violations of law and order now and for a considerable time prevailing in these once peaceful cities; and believing that the manner in which our criminal laws have been for several years past, and are at the present time, administered, is the principal if not the entire cause of these outrages:

We therefore most respectfully pray your honorable bodies to take the subject into your most earnest and serious consideration; and we would ask, in conclusion, that you will enact a law to reorganize our criminal court in this District, and our petitioners will ever pray.

I desire to say, in presenting this memorial, that I concur entirely with the memorialists, but that neither they nor I are to be understood as saying or intimating that the fault is with the criminal judge. The fault is in the organization of the court itself; the manner of drawing grand jurors, and the manner of appointing bailiffs, all of which is regulated by law. It is expected that the Committee on the District of Columbia should take charge of this memorial, but that, to my mind, is not the proper reference. I move that it be referred to the Committee on the Judiciary.

It was so referred.

REPORTS OF COMMITTEES.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of William Blake, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom were referred the papers in relation to the claim of Levi Johnson, and of Mary Burchfield, asked to be discharged from their further consideration, and that they be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to whom was referred the petition of William Roddy, asked to be discharged from its further consideration; which was agreed to.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (S. No. 236) to enlarge the Detroit and Saginaw land districts, in Michigan, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 236) amendatory of an act entitled "An act to establish two additional land districts in the Territory of Minnesota," approved July 8, 1856, reported it without amendment.

Mr. BIGLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 482) regulating the compensation of the officers and marines of the revenue cutters, reported it without amendment.

Mr. JOHNSON, of Arkansas, from the Committee on Public Lands, to whom was referred the bill (S. No. 289) explanatory of an act granting public lands to aid in the construction of a railroad in the States of Florida and Alabama, and for other purposes, reported it without amendment, and with a recommendation that it do not pass.

Mr. HAMLIN, from the Committee on Commerce, to whom was referred the bill (S. No. 222) for the relief of Jeremiah Moors, reported it without amendment. He also submitted a report on the subject; which was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the memorial of James H. Frost and Eliza A. Johnson, submitted a report, accompanied by a joint resolution (S. No. 34) for the relief of the legal representatives of James A. Frost, deceased. The resolution was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Henry Etting, submitted a report, accompanied by a bill (S. No. 301) for the relief of Henry Etting. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. CLAY, from the Committee on Commerce, to whom was referred the petition of the officers of insurance companies and others, of Chicago, Illinois, praying the repeal of the act of March 5, 1856, authorizing the Secretary of the Treasury to change the names of vessels in certain cases, and the petition of officers of insurance companies and others, of Chicago, Illinois, praying the enactment of a law requiring sailing vessels to carry lights, asked to be discharged from their further consideration; which was agreed to, the subject having been already disposed of by legislation in the Senate.

PAPERS RECOMMITTED.

On motion of Mr. JONES, it was

Ordered, That the adverse report on the memorial of Captain John Pickell, be recommitted to the Committee on Pensions.

On motion of Mr. SIMMONS, it was

Ordered, That the bill (S. No. 274) for the relief of Randall Pegy, together with the report in the case, be recommitted to the Committee on Patents and the Patent Office.

BILLS INTRODUCED.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 299) to establish an additional land district in the State of Iowa; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 300) for the relief of the Hungarian settlers upon certain tracts of land in Iowa, hitherto reserved from sale by order of the President, dated January 22, 1855; which was read twice by its title, and referred to the Committee on Public Lands.

B. L. BOGAN.

Mr. JONES submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate pay, from the contingent fund of the Senate, the sum of \$200 to B. L. Bogan, for the services of his son in the document-room of the Senate.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, their Clerk, announcing that the House had passed a bill to authorize the vestry of Washington parish to take and inclose certain parts of streets in Washington city, for the purpose of extending the Washington Cemetery, and for other purposes.

DEFICIENCY BILL.

Mr. HUNTER. I report back from the Committee on Finance the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1858, which was referred to the committee with the Senate amendments, and the action of the House of Representatives on those amendments. I move that it be now taken up for consideration.

The motion was agreed to.

Mr. HUNTER. The Senate are aware that the House sent back the bill disagreeing to our amendments, one of which relates to the reporters of the House, and the other to the third section. Both of those items were stricken out by the Senate, and the House disagreed to those amendments. The Committee on Finance instruct me to move that the Senate recede from those amendments, which motion I accordingly submit.

Mr. TOOMBS. I believe the proper motion

would be—though I do not know which has priority—to insist, and ask for a conference with the House of Representatives, which I hope will be done. I see no reason why we should recede from the almost unanimous judgment of the Senate against these amendments of the House, which are confessedly admitted by all the Senate—at least by all who spoke on the subject—to be illegal, contrary to the laws of the land. Here is a general supply bill for the public service, one which the exigencies of war alone can justify our passing through at all, and we are asked to allow the House of Representatives to place upon such a bill illegal appropriations, things that nobody on this floor will justify; not only against law, but so outrageous in their character that they have not one defender on this floor. I see no reason why the honorable Senator from Virginia should make this an exception to the ordinary parliamentary rule. Why should not the Senate take the legitimate parliamentary means of getting rid of what they have nearly unanimously determined to be an extremely obnoxious section? I hope, therefore, that the motion of the Senator from Virginia will be voted down, or that mine will have priority, that the Senate insist and ask for a conference. It is the usual mode, and I see no reason for departing from it, unless gentlemen wish to abandon their opposition to these obnoxious measures, and to procure their passage while voting against them. Unless they are really in favor of them, while seeming to oppose them, I see no reason for departing from the usual course.

Mr. HUNTER. If I supposed that by appointing a committee of conference the House of Representatives would agree to strike out these items, I certainly would vote for it; but the vote of that House was very decided—more than two to one. I have no idea, from all I hear, that they will recede. I know that the Government is in need of the money proposed to be appropriated in this deficiency bill, and therefore I was disposed to end it as soon as I could. In regard to these sections, if the Senate does not choose to recede, then the Senator from Georgia can move to insist and try a conference. I apprehend without that he will not find himself able to effect anything unless he determines to lose the bill upon it.

Mr. TOOMBS. I have no hesitation in saying that I am prepared to lose the bill on it. I am prepared to do my duty to the public Treasury, and not to be forced to illegal and unconstitutional expenditures by the other branch of the Legislature. While I yield all respect to them, I have my duties to perform, and I shall follow them to their consequences.

Mr. PUGH. I ask for the yeas and nays on the motion to recede.

The yeas and nays were ordered.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Georgia that the motion of the Senator from Virginia is first in order, and must first be put.

Mr. TOOMBS. I withdraw my motion for the present.

The Secretary proceeded to call the roll.

Mr. YULEE. I have been absent in attendance on a committee; but I understand that the Committee on Finance recommend that the Senate recede. I nearly always vote to sustain the recommendations of the committee; I shall do so on this occasion.

The result was announced—yeas 18, nays 22; as follows:

YEAS—Messrs. Allen, Bell, Bigler, Brown, Crittenden, Evans, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Johnson of Arkansas, Mason, Polk, Wilson, Wright, and Yulee—18.

NAYS—Messrs. Biggs, Broderick, Chandler, Clark, Dixon, Douglas, Durkee, Foster, Hale, Hamlin, Harlan, Henderson, Johnson of Tennessee, Jones, King, Mallory, Pugh, Seward, Simmons, Toombs, Trumbull, and Wade—22.

So the Senate refused to recede from their amendments.

Mr. HUNTER. I hope that, as the Senate have refused to recede, the Senator from Georgia will make his motion to insist and ask a conference.

Mr. TOOMBS. I make that motion.

The motion was agreed to. It was ordered that the committee be appointed by the President *pro tempore*; and Messrs. TOOMBS, BIGGS, and FESSENDEN were appointed.

A message was afterwards received from the House of Representatives, by Mr. ALLEN, their

Clerk, announcing that the House insisted on their disagreement to the first and second amendments of the Senate to the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending 30th of June, 1858, insisted on by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and have appointed Mr. JOHN LETCHER, of Virginia, Mr. WILLIAM B. MACLAY, of New York, and Mr. M. H. NICHOLS, of Ohio, the committee on their part.

GEORGE FISHER'S REPRESENTATIVES.

Mr. TOOMBS. I ask the unanimous consent of the Senate to take up the Senate joint resolution No. 21. It is a short resolution, which was objected to the other day by the gentleman from North Carolina, [Mr. BIGGS,] who, on examination, withdraws his objection.

The PRESIDENT *pro tempore*. The Chair will remark to the Senator from Georgia, that, unless by unanimous consent, his motion cannot be entertained, the hour of half past twelve o'clock having arrived.

Mr. TOOMBS. I ask that unanimous consent. It will not take more than a moment to dispose of this joint resolution. If it takes time, I am willing to let it go over.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 21) devolving upon the Secretary of War the execution of the act of Congress entitled "An act supplementary to an act therein mentioned," approved December 22, 1854.

It provides that the various duties imposed or required to be performed by the act of Congress entitled "An act supplemental to an act therein mentioned," approved December 22, 1854, including the act to which it is supplemental, shall be transferred to the Secretary of War, who is to proceed *de novo* to execute the same in their plain and obvious meaning; but from any amount which may then be found justly and equitably due to the legal representatives of George Fisher, deceased, there shall be deducted all sums which may have been heretofore allowed and paid by the United States.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

KANSAS—LECOMPTON CONSTITUTION.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. DOUGLAS. Mr. President, I have carefully examined the bill reported by the committee of conference as a substitute for the House amendment to the Senate bill for the admission of Kansas, with an anxious desire to find in it such provisions as would enable me to give it my support. I had hoped that, after the disagreement of the two Houses upon this question, some plan, some form of bill, could have been agreed upon, which would harmonize and quiet the country, and reunite those who agree in principle and in political action on this great question, so as to take it out of Congress. I am not able, in the bill which is now under consideration, to find that the principle for which I have contended is fairly carried out. The position, and the sole position, upon which I have stood in this whole controversy, has been that the people of Kansas, and of each other Territory, in forming a constitution for admission into the Union as a State, should be left perfectly free to form and mold their domestic institutions and organic act in their own way, without coercion on the one side, or any improper or undue influence on the other.

The question now arises, is there such a submission of the Lecompton constitution as brings it fairly within that principle? In terms, the constitution is not submitted at all; but yet we are told that it amounts to a submission, because there is a land grant attached to it, and they are permitted to vote for the land grant, or against the land grant; and, if they accept the land grant, then they are required to take the constitution with it; and, if they reject the land grant, it shall be held and deemed a decision against coming into the

Union under the Lecompton constitution. Hence it has been argued in one portion of the Union that this is a submission of the constitution, and in another portion that it is not. We are to be told that submission is popular sovereignty in one section, and submission in another section is not popular sovereignty.

Sir, I had hoped that when we came finally to adjust this question, we should have been able to employ language so clear, so unequivocal, that there would have been no room for doubt as to what was meant, and what the line of policy was to be in the future. Are these people left free to take or reject the Lecompton constitution? If they accept the land grant, they are compelled to take it. If they reject the land grant, they are out of the Union. Sir, I have no special objection to the land grant as it is: I think it is a fair one, and if they had put this further addition, that if they refused to come in under the Lecompton constitution with the land grant, they might proceed to form a new constitution, and that they should then have the same amount of lands, there would have been no bounty held out for coming in under the Lecompton constitution; but when the law gives them the six million acres in the event they take this constitution, and does not indicate what they are to have in the event they reject it, and wait until they can form another, I submit the question whether there is not an inducement, a bounty held out to influence these people to vote for this Lecompton constitution?

It may be said that when they attain the ninety-three thousand population, or if they wait until after 1860, if they acquired the population required by the then ratio—which may be one hundred and ten thousand or one hundred and twenty thousand—and form a constitution under it, we shall give them the same amount of land that is now given by this grant. That may be so, and may not be so. I believe it will be so; and yet in the House bill, for which this is a substitute, the provision was that they should have this same amount of land, whether they came in under the Lecompton constitution or whether they formed a new constitution. There was no doubt, no uncertainty left in regard to what were to be their rights under the land grant, whether they took the one constitution or the other. Hence that proposition was a fair submission, without any penalties on the one side, or any bounty or special favor or privilege on the other to influence their action. In this view of the case, I am not able to arrive at the conclusion that this is a fair submission either of the question of the constitution itself, or of admission into the Union under the constitution and the proposition submitted by this bill.

Again, sir, there is a further contingency. In the event that they reject this constitution, they are to stay out of the Union until they shall attain the requisite population for a member of Congress, according to the then ratio of representation in the other House. I have no objection to making it a general rule that Territories shall be kept out until they have the requisite population. I have proposed it over and over again. I am willing to agree to it and make it applicable to Kansas if you will make it a general rule. But, sir, it is one thing to adopt that rule as a general rule and adhere to it in all cases, and it is a very different, and a very distinct thing, to provide that if they will take this constitution, which the people have shown that they abhor, they may come in with forty thousand people, but if they do not, they shall stay out until they get ninety thousand; thus discriminating between the different character of institutions that may be formed. I submit the question whether it is not congressional intervention, when you provide that a Territory may come in with one kind of constitution with forty thousand, and with a different kind of constitution, not until she gets ninety thousand, or one hundred and twenty thousand? Is it intervention with inducements to control the result. It is intervention with a bounty on the one side and a penalty on the other. I ask, are we prepared to construe the great principle of popular sovereignty in such a manner as will recognize the right of Congress to intervene and control the decision that the people may make on this question.

The great principle for which we have all contended, in the language of the Kansas-Nebraska act, is to leave "the people perfectly free to form

and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." If you hold out large grants, and pecuniary inducements, to influence the affirmative vote, and the terror of staying out of the Union to influence the negative vote, I submit the question, whether that people are left perfectly free to form and regulate their institutions or not? I insist that where there are inducements on one side, and penalties on the other, there is no freedom of election. The election must be free. The electors must be left unbiased by the action of the government, if you are going to have fair elections, and a fair decision.

For these reasons I do not think that this bill brings the question within that principle which I have held dear, and in defense of which I have stood here for the last five months, battling against the large majority of my political friends, and in defense of which I intend to stand as long as I have any association or connection with the politics of the country. I must repeat, sir, that I do not think this brings it within the principle thus laid down, nor do the Democracy of Illinois think this bill comes within that principle. We have recently held a State convention. Public meetings were held in ninety-eight of the one hundred and odd counties. In ninety-seven of these counties resolutions were passed indorsing the course of the delegation in Congress upon this question. In one county the opposite policy you see sustained. That was the county of Lake, a county where the Republicans have an overwhelming majority—perhaps ten or twenty to one over the Democrats, and where there were just Democrats enough to hold the post office and the custom-house, and to fill the light-houses. That one county was carried by the Lecompton men, twenty-seven of them in number, I think; the other ninety-seven counties were being carried by the anti-Lecompton men, and in nearly all of them by a unanimous vote. That convention representing the entire State, embodied more of the eminent and distinguished men—men of weight, of character, moral, political, and social, than any convention ever assembled in the State. That convention which thus assembled a few days ago passed resolutions, and among them was one upon this point which I will read. After defining and indorsing the principle of popular sovereignty, the sixth resolution declares:

"Resolved, That a fair application of these principles requires that the Lecompton constitution should be submitted to a direct vote of the actual inhabitants of Kansas, so that they may vote for or against that instrument, before Kansas shall be declared one of the States of this Union; and until it shall be ratified by the people of Kansas at a fair election held for that purpose, the Illinois Democracy are unalterably opposed to the admission of Kansas under that constitution."

I will furnish to the reporter the whole series, and ask him to incorporate them into the report, as furnishing the platform upon which the Illinois Democracy stand, and by which I intend to abide.

"Colonel McClernand, from the committee to prepare resolutions for the consideration of the convention, made the following report; which was read, and, on motion, each resolution was separately read and unanimously adopted:

"1. Resolved, That the Democratic party of the State of Illinois, through their delegates in general convention assembled, do reassert and declare the principles avowed by them as when, on former occasions, they have presented their candidates for popular suffrage.

"2. Resolved, That they are unalterably attached to, and will maintain inviolate, the principles declared by the national convention at Cincinnati in June, 1856.

"3. Resolved, That they avow, with renewed energy, their devotion to the Federal Union of the United States, their earnest desire to avert sectional strife, their determination to maintain the sovereignty of the States, and to protect every State, and the people thereof, in all their constitutional rights.

"4. Resolved, That the platform of principles established by the national Democratic convention at Cincinnati, is the only authoritative exposition of Democratic doctrine, and they deny the right of any power on earth, except a like body, to change or interpolate that platform; or to prescribe new and different tests; that they will neither do it themselves nor permit it to be done by others, but will recognize all men as Democrats who stand by and uphold Democratic principles.

"5. Resolved, That in the organization of States, the people have a right to decide at the polls upon the character of their fundamental law, and that the experience of the past year has conclusively demonstrated the wisdom and propriety of the principle, that the fundamental law, under which the Territory seeks admission into the Union, should be submitted to the people of such Territory for their ratification or rejection at a fair election to be held for that purpose; and that, before such Territory is admitted as a State, such fundamental law should receive a majority of the legal votes cast at such election; and they deny the right, and condemn the attempt, of any convention, called for the pur-

pose of framing a constitution, to impose the instrument formed by them upon the people against their known will.

"6. Resolved, That a fair application of these principles requires that the Lecompton constitution should be submitted to a direct vote of the actual inhabitants of Kansas, so that they may vote for or against that instrument, before Kansas shall be declared one of the States of this Union; and until it shall be ratified by the people of Kansas at a fair election held for that purpose, the Illinois Democracy are unalterably opposed to the admission of Kansas under that constitution.

"7. Resolved, That we heartily approve and sustain the manly, firm, patriotic, and Democratic position of S. A. DOUGLAS, ISAAC N. MORRIS, THOMAS L. HARRIS, AARON SHAW, ROBERT SMITH, and SAMUEL S. MARSHALL, the Democratic delegation of Illinois in Congress, upon the question of the admission of Kansas under the Lecompton constitution; and that, by their firm and uncompromising devotion to Democratic principles, and to the cause of justice, right, truth, and the people, they have deserved our admiration, increased, if possible, our confidence in their integrity and patriotism, and merited our warm approbation, our sincere and hearty thanks, and shall receive our earnest support.

"8. Resolved, That in all things wherein the national Administration sustain and carry out the principles of the Democratic party as expressed in the Cincinnati platform, and affirmed in these resolutions, it is entitled to, and will receive, our hearty support."

There the Democracy of Illinois, assembled in convention under the circumstances which I have stated, have, by a unanimous voice, declared that this constitution must be submitted to a direct vote of the people on its ratification or rejection, and that Kansas must never come in under it unless, on such a direct vote, at a fair election, the people shall decide in favor of admission under it. Under these circumstances, it will be seen that I stand now as I have stood during the whole session, with the Democracy of my own State, firmly, immovably, in favor of that great principle of popular sovereignty, which leaves the people perfectly free either to take the Lecompton constitution, or to take such other one as they may choose to make.

I have had appeals made to me from political friends, whom I respect and esteem, imploring me to yield this great principle on this question in consideration of so many concessions being made on the other side. Some of that glorious band of Democrats who have been acting with me on this question during the session have felt it their duty thus to yield, believing, as they think, that they have secured a substantial triumph in this great contest. Sir, I desire no personal triumph. I have not stood here for five months in conflict with men with whom I have acted a whole lifetime, struggling for a personal triumph. Hence because they have made concessions, that fact ought not to change my course unless those concessions are of such a nature as to give me the principles for which I contend.

If the object was to prove that the Lecompton men had backed down, and abandoned their original ground, I could parade the fact that at the opening of this session we were told that Kansas must come in under the Lecompton constitution unconditionally, or else that four States would secede from the Union. It was then to be an unconditional admission. After a while, upon reflection, upon investigation, the conclusion was arrived at that it was wise to put a clause in the bill in some way recognizing the right of the people of that State to change their constitution before 1864, although, according to my construction of its terms, it prohibited any change until that period. Here was a concession made, a great concession, a concession which I never could have made, on whichever side of the question I may have been, for the reason that I do not believe that Congress have any right to alter or construe authoritatively a State constitution.

It was not satisfactory to me to have Congress, in pursuance of the recommendation of the President, intervene and recognize, by any implication, the right of the people to change their State constitution in a manner different from that prescribed in the instrument itself. I deny the right of Congress to exercise any such power. I deny the right of Congress to intervene and authoritatively construe the constitution of a State. If the constitution was their act and deed; if it embodied their will; it was sacred, and it ought not to be touched by Congress in any respect whatever, except to receive it unconditionally, or reject it unconditionally. That concession was made; but still it did not reach the point which I had felt it my duty to make. It did not come to my principle. I do not claim that Senators are under any more obligation to come to me, than I am to go to them. I claim the right to determine for my-

self, according to my own judgment and my own conscience what my duty is to a great fundamental principle; and if Senators cannot bring the bill within the principle, I must exercise my right and duty of dissenting from it. I did not think that concession brought it within the principle, or obviated any of my objections. It only made the bill more obnoxious to me by violating another principle equally sacred in our political system, that of the sovereignty of the States.

Next came the declaration that the free-State Legislature was elected; and hence, if Kansas was forced into the Union with a pro-slavery constitution, against the will of her people, it would not last long, for the reason that there was a free-State Legislature, who would immediately take steps to change it and abolish slavery. That argument did not address itself favorably to my judgment, for the reason that it did not affect the principle involved. What difference did it make, so far as the principle was concerned, whether there was a majority of free-State men or a majority of pro-slavery men in that Legislature? What difference did it make to me, whether there was a majority of Democrats, or a majority of Republicans, or a majority of Americans in that Legislature, provided they were fairly and honestly elected? If the people of Kansas desired a pro-slavery Legislature they had a right to it. If they desired a Republican Legislature they had a right to it. If they desired an American Legislature they had a right to it. If they desired a Legislature purely Democratic, elected without reference to the question of slavery, it was their right to select such a one; and, sir, it was the duty of Mr. Calhoun to declare those elected who had received a majority of the legal votes, fairly and honestly returned. The declaration of that result could not change the principle involved in this discussion, for the great principle was, shall that people be left perfectly and entirely free to form and regulate their own institutions in their own way?

These various concessions could not control votes enough to carry the bill. What next? Then comes a disagreement between the two Houses of Congress. The Senate insisting upon the bill which it had passed for the admission of Lecompton unconditionally, except what is called the Green amendment; and the House insisting on the bill which it had passed as a substitute, known as the Crittenden-Montgomery bill. This committee of conference provide for a question of submission to the people, but what do they submit? The chairman of that committee of conference, the Senator from Missouri [Mr. GREEN] has informed you that the constitution is not submitted; the Senator from Virginia, [Mr. HUNTER], who was his colleague on the committee, has informed you that the constitution is not submitted; and I believe both of them have added that they would not vote for the bill if the constitution was submitted. I understand that similar declarations have been made in the other House of Congress by the members of the committee of conference there, showing that that was their understanding and their construction of this bill.

Then, if the constitution is not submitted; if the people are not allowed to vote for it or against it, freely, without a bounty on the one side or a penalty on the other, how can it be said that it comes within that great principle of popular sovereignty which, I insist, ought to be carried out in all the Territories? It is no answer to this objection to tell me that because men have conceded so much, I ought to concede. No matter how many and how great their concessions are, if they have not conceded the principle for which I contend, I cannot take what they propose. It is not for me to say whether these concessions are right or wrong, whether they are wise or unwise. It is enough for me that the principle for which I insist has not been clearly and distinctly recognized in this bill. I dislike the indirection by which the submission is proposed to be made—made to depend on a land grant. In order to compel the people of Kansas to reject the Lecompton constitution, you compel them to vote against a land grant, that every man, woman, and child in the Territory would desire to have. You will not allow them to take the land grant unless they take the constitution with it, and you will not allow them to proceed immediately and make a new constitution, with the same population, and have the same

land grant, if they reject this. If you did that, then the principle would be fairly carried out, but unless you do allow that to be done, I insist that the principle is violated.

Now, Mr. President, I can say to you very frankly, that if there were two amendments made to this bill, although it would still be somewhat objectionable in its equivocal features, I could and would take great pleasure in giving it my support. One would be to strike out the land grant altogether, and the other to strike out the limitation as to population. Then the simple question presented to the people would be, will you come in under the Lecompton constitution or not? and if you do not, you may proceed immediately with the same population to make a new constitution. In that there would be perfect fairness; there would be no congressional intervention with its inducements to control the results. Or, if you wanted to leave the land grant in, why not make it applicable to the new constitution as well as the old one, as the Crittenden amendment did? Then they would get the same amount of land under the one as the other. In other words, if you wish to make this proposition fair, you must give Kansas the same land, under any new constitution she may form, as you do under this one, and you must allow her to come in with the same population under the one as under the other constitution. Then there would be fairness, then there would be equality.

I appeal to my friend from Virginia to know whether he, as a southern man, desires to see the principle of congressional intervention to control and influence the voting of the people carried out hereafter in the admission of new States? The time may come when the case will be reversed. The time may come when there will be an anti-slavery majority in both Houses of Congress. When that time comes, it may so happen that a bill may be brought forward with a land grant of ten million acres for a free State, and five million for a slave State, or allowing a free State to come in with a population of forty thousand, and providing that a slave State shall not come in without ninety thousand. Would our southern friends regard that as being a fair interpretation of the principle of popular sovereignty? Would they not say that was the most dangerous and unconstitutional system of intervention that was ever devised, when the Federal Government steps into the Territories, and by its bounties on one side, and its penalties on the other, attempts to influence and control the action of the people?

I do not regard this as a matter of much consequence to Kansas; I do not believe there is enough in this bounty, or enough in this penalty, to exercise any material influence upon the people of Kansas in this election; but it involves the great fundamental principle, it involves the principle of freedom of election, and it involves the great principle of self-government, upon which our institutions rest. With all the anxiety that I have had to be able to arrive at a conclusion in harmony with the overwhelming majority of my political friends in Congress, I could not bring my judgment or conscience to the conclusion that this was a fair, impartial, and equal application of the principle.

There is another objection to this proposition, one that looks badly upon its face. I take it for granted that it was intended to be fair and just; but it gives cause for apprehension, and will generate suspicion among the people that the election under it will not be, and cannot be, fair. I allude to the provision as to the board of commissioners. By the bill framed by the eminent Senator from Kentucky, and passed by the House of Representatives, there was to be a board of four commissioners to superintend the election on the constitution; two representing the people of the Territory, being the presiding officers of the two branches of the Legislature; the other two representing the Federal Government, being the Governor and Secretary appointed by the President and the Senate. In that way, two commissioners would necessarily be of one class of politics, and the other two of another class of politics. Under that state of the case, it is not probable that unfairness would have been perpetrated in the election. Under that board, as prescribed by the Senator from Kentucky, you would have the assurance from the very law itself that one half of the judges of election would belong to one party, and

one half to the other; that one half of the clerks would belong to one, and one half to the other.

But how is it when you add a fifth member to the board, and provide that the board shall consist of five, the two presiding officers of the Legislature, and then the Governor, Secretary, and the district attorney, making three United States officers, and declare that three shall constitute the board? Is it not clear that if these three gentlemen choose, they can have all the judges of election and all the clerks of election and all the returning officers of one class of political faith, the same as Mr. Calhoun did at the elections which took place on the 21st of December and the first Monday of January? Does not the change in this respect give ground for apprehension that you may have the Oxford, the Shawnee, and the Delaware Crossing and Kickapoo frauds reenacted at this election? I should have been better satisfied if it had been left as the House bill left it, with the four commissioners, two from each political party in Kansas, two representing the Federal Government, two representing the people of the Territory, requiring three to be a quorum, thus rendering it impossible for partisan politics to control the action of the board. The very fact that it was deemed necessary or wise to change this feature, is to me a serious objection to this proposition.

Then, sir, what is my duty upon this question, under this state of the case? I have but one line of duty, and that is to vote against the bill; because, in my opinion, there is not a fair submission to the people under such circumstances as to insure an unbiased election and fair returns. I have indicated two amendments, which, if they had been made, would have enabled me to support this bill, notwithstanding other defects in it. I will indicate another. I am willing to subscribe to the principle that a Territory shall contain the requisite population for a member of Congress before admission, provided it is made a general law. The Senator from Ohio [Mr. PUGH] yesterday cited me as authority for that provision of this bill. He referred to my report, as chairman of the Committee on Territories, and the bill accompanying it, in 1856, in which I then provided that Kansas might proceed to form a constitution when she had the requisite population, to wit: ninety-three thousand four hundred and twenty, under the present ratio. That was my judgment then of the true rule upon the subject. He quotes also a proposition that I have brought in at this very session as a substitute for the Arizona bill, providing a general law that no Territory shall ever form a constitution and State government until it has the requisite population for a member of Congress. I am for that proposition now; and if Senators will consent to any arrangement by which you can strike out the whole of this bill, and, in lieu of it, insert a provision that neither Kansas, nor any other Territory of the United States, shall proceed to form a constitution and State government for admission into the Union until it has the requisite population for a member of Congress, according to the existing Federal ratio, I will give it my support.

But, sir, if I require it in Kansas, I wish to require it in other Territories; and if I am to apply that limitation to the new constitution that is to be made, I wish to apply it to the one that is in existence. I am not willing to prescribe one ratio to one kind of constitution, and another ratio to another kind. Make it uniform, and it can have my support. I have on all proper occasions indicated that as the proper rule—in 1856, as the Senator from Ohio proved; at this session again, as he proved yesterday by reading the bill offered by me; and I repeat now that, if you will strike out all of this bill but the clause that Kansas shall not come in until she has the requisite population for a member of Congress, and then say that this section is incorporated into and made part of the organic law of each of the Territories of the United States, and that none shall come for admission until they have that population, I will give it my support.

In other words, Mr. President, I desire to carry out the principle of leaving the people to decide for themselves in perfect fairness. I will support no rule applicable to the North that does not apply to the South. I will make no rule applicable to the South that I am not willing to apply to the North. I will not intervene either for slave constitutions or against slave constitutions by an act

of Congress, holding out bounties on the one side or penalties on the other. Stand on the great principle of equality; leave each State on an exact footing with every other State; never inquire whether her institutions are of this character or that character; never inquire whether the State is in the North or in the South, and I will stand with you and apply the rule with exact justice and impartiality in every instance.

Mr. President, I say now, as I am about to take leave of this subject, that I never can consent to violate that great principle of State equality, of State sovereignty, of popular sovereignty, by any discrimination, either in the one direction or in the other. My position is taken. I know not what its consequences will be personally to me. I will not inquire what those consequences may be. If I cannot remain in public life, holding firmly, immovably, to the great principle of self-government and State equality, I shall go into private life, where I can preserve the respect of my own conscience under the conviction that I have done my duty and followed the principle wherever its logical consequences carried me.

Mr. BROWN. Mr. President, I desire in a few words, and without making a speech, to assign the reasons why, if we are ever brought to a vote, I shall record mine in favor of this proposition. I must say in the outset that I do not like it; there are a great many reasons why I do not; but as I have brought my mind to the conclusion to vote for it, I shall not assign the reasons why I do not like it, but rather assign the reasons which influence me to vote in its favor.

The first is this: that we settle this question; and better on these terms, than leave it open. I can see if left open that it is to be made the fruitful source of discontent and strife, and of political turmoil perhaps for years to come. I can see how in very many ways it may endanger, seriously endanger the perpetuity of the Government itself. As long as the question is kept open it must continue to irritate the feelings of the people of the two sections of the Union. Until this question is settled you cannot begin to have a reconciliation on that great controversy which has been going on for years and years between the North and the South. This question is a thorn which rankles in the side of the nation. You must extract it or you can have no permanent peace. If I had no other reason for going for this bill, I would do it for that and that alone. It is a peace measure; it brings healing upon its wings; it brings the different sections of the country in closer neighborhood, in better fellowship.

How much is there in the bill, to forbid our taking it? First it is said by some of those who vote against it, that it is a submission of the Lecompton constitution to the people of Kansas. And then again others vote against it because it is not a submission. I mean to state my own views with perfect candor and with entire fairness. I do not understand it to be the submission of the constitution to the people, but I do understand this to be true, that you submit collateral questions—the land question, and others involved in the Kansas ordinance—to the people of Kansas; and that if in voting upon those questions they choose to determine that they will not come into the Union under the Lecompton constitution they have the right to do it.

They pass no judgment directly at the polls on the constitution, one way or the other, but each voter can control his own vote by his own reasons; and if he chooses, under cover of voting to sustain the ordinance, to vote against the whole constitution and against coming into the Union, he can do so; and if a majority take that view of the subject the State is not in the Union.

That much in fairness and candor, for thus stands the question if I properly comprehend it.

Now what just ground have we southern men to object to that? What just reason is there for our opposing it? We took the ground in the beginning, and maintain it now, that we would not and will not sustain a submission of this constitution to the people under the circumstances of its coming here. But we took the ground at the same time that we would not sanction this ordinance, making as it did exorbitant land demands upon the Government, and setting up other pretenses which had not been tolerated in the admission of other new States. From the beginning the friends of the Lecompton constitution struck at that

ordinance, determined not to receive it, and not to give it their sanction. The original Senate bill declared that it was no part of the constitution, and could not be so recognized by Congress. After we made that declaration, I apprehend, if the bill had passed, it would have rested with Kansas to decide whether she would organize under the constitution or not; whether she would come into the Union, or be considered a member of it. You had stricken off her ordinance. You chose not to regard it as a part of the constitution. But did Kansas so regard it? She did not. You struck it off without her consent. She thought it a material part of her proposition.

Then was she in the Union? She was not, until, either by silent acquiescence in your action, or by some positive declaration of her own, she placed herself into the Union. I hold that if you had passed the regular Senate bill, and Kansas had refused to organize a State government under the Lecompton constitution, and under that bill, there would have been no power in this Government to force her, and therefore that she would not have been in the Union. She would not, because you had not met her proposition, and she had not accepted yours. Your minds had not agreed. She would not accept the proposition you had sent to her. You had changed her proposition so far as to strike off her ordinance, and she had not agreed to have it stricken off.

Then it rested with her to say whether she was in the Union or not; and what does this proposition amount to? It simply declares that Kansas may determine for herself whether she is in or out of the Union—a right which she had without your saying so; and which she would still have, whether you said so or not. You do not, by this declaration, confer any right on Kansas. You simply recognize a right which already exists, and which, if she chose, I repeat again, she could have exercised without your consent, just as well as with it. When this debate first opened, the Senator from Michigan [Mr. STUART] employed this language on this point: "They"—meaning the people of Kansas—"are arming; they are determined to resist an admission under this constitution, by any and every power with which God has clothed them; and yet we are to sit here and say, 'we admit you into the Union of the United States.' As well might you take a prisoner, under the sentence of a court of justice, handcuffed, with you officers surrounding him, by force to the prison, and say to him, 'there is no coercion; we admit you into the penitentiary.'"

I thought then, sir, and so declared, that there was no power to force Kansas into the Union. If she proposes to come in, and you accept her upon the terms which she proposes, then she is in, and she cannot recede. But if she proposes to come in, and you alter her proposition, then it depends upon her to say whether she accepts or rejects the alteration. That right, I repeat again and again, she has, whether you admit it or not.

To reduce it to a simple question of law, suppose you and I, Mr. President, have dealings in reference to an estate, and we agree upon the terms; I draw the bond or the deed, and attach to it a memorandum, or condition, or ordinance, explaining what I understand to be the meaning of the paper, how I expect to see it executed, and send it to you, and you sign it, but strike out the memorandum, or condition, or ordinance: I ask any lawyer whether the contract is binding on me until, either by silent acquiescence, as by proceeding to execute it, or by some positive declaration, I make it my own deed? Just so with Kansas. She sent you a constitution; she sent along with it her ordinance, the memorandum which explained the reasons why, and the terms upon which, she proposed to enter into the bargain, and become a member of the Union. You choose to strike the ordinance out; you choose to strike it from the constitution. Then I hold, as a simple legal proposition, she had a right to say, "you have changed the terms upon which I propose to come in; I will not come in; I choose entirely to recede from the proposition." It does not depend on you, sir, as one of the contracting parties, to say whether she shall recede or not; the right exists independent of you. If you meant to bind Kansas absolutely, you should have accepted her proposition *in totidem verbis*. You could not strike out what you did not like, stand by what you did like, and

still insist that Kansas was bound by her proposition.

But, Mr. President, how am I to understand Senators? The Senator from Illinois, [Mr. DOUGLAS], who has just closed his speech; opened the session with an argument in favor of submitting this constitution to the people of Kansas for their reception or rejection; yesterday, in a colloquy with the Senator from Ohio, [Mr. PUGH], he said no State ought to be admitted until she has the requisite population to entitle her to one Representative, and he repeated the declaration, with some qualification, to-day. Now, what does the bill before us propose? According to the argument of the Senator from Michigan [Mr. STUART] yesterday; according to the argument of the Senator from Illinois to-day; according to the argument of nearly all the gentlemen on the other side, this bill proposes to send back the constitution, and give the people of Kansas an opportunity to accept it or reject it, as they choose. It is true, the honorable Senator from Illinois says you put them under some sort of compulsion; but he does not pretend to deny that they will have the power to reject, under this submission, if they choose to do it. Then, if they do, what follows, according to this bill? That they shall not come into the Union until they have the ninety-three thousand four hundred and twenty population requisite to entitle them to one Representative under the existing ratio. And yet, Mr. President, when both these propositions are before us, one to submit the constitution for rejection or submission, as gentlemen argue, and the other to reject the State entirely until she has the requisite population—they being, in plain English, the two propositions of the Senator from Illinois himself, embodied in the same bill—he rejects them both. In the name of popular sovereignty, he rejects two of his own propositions, either of which he thinks would be just to the people.

Under this bill, as I have admitted, and as other Senators have claimed in broader language than I have, the people of Kansas may, if they choose, accept or reject the Lecompton constitution. The Senator thinks they ought to have a right to reject it or accept it; or, if that be denied them, that the people be authorized to form a State constitution only when they have the full ratio of representative population. Very well; this bill takes both horns of the dilemma; and yet the Senator rejects it. For myself, I am free to say, I hope the people of Kansas will, if this bill passes, adhere to their ordinance, and insist on remaining out of the Union. If they come in they must come in under the Lecompton constitution; if they stay out they must stay until they have the population to entitle them to one Representative in Congress. That suits me. I close in with that offer.

But, says the Senator from Illinois, this land grant is a bounty held out to the people of Kansas to accept this constitution—a bribe, as it has been elsewhere termed. How, sir? It reduces the amount of the grant claimed in the ordinance by more than twelve million acres. The Senator from Michigan, in a carefully prepared table, which he introduced into his speech delivered on December 23d last, shows that the whole grant was upwards of sixteen million acres; that the railroad grant alone was upwards of seven millions. I understand from the Senator from Missouri, [Mr. GREEN], who brought forward this bill, that he has had a calculation made, and that the grant proposed for all purposes is about four million acres. And yet when you reduce the grant from sixteen millions to four millions, the Senator from Illinois comes forward and says that is a bribe held out to these people to accept the constitution. It is a queer way of bribing them to offer twelve million acres of land less than they claimed in their ordinance.

Mr. President, so far as I am concerned, I am willing to deal fairly with this young State. I have dealt, so far as my vote went, fairly with other States in reference to these grants; but I never saw the moment, from the first introduction of this constitution down to the present time, when I would have conceded to Kansas all that the ordinance attached to her constitution claimed for her. She had no right to set up any such claim. And if it be called compulsion, as the Senator has intimated, to refuse admission to this State unless she will yield her exorbitant demands, I deny it. If it be said that in one sense this is

a bribe, and in another sense it is an attempt to coerce Kansas, I deny as much the one as the other. It is no bribe, for the reason I have shown you. It is no compulsion, because Kansas has no more right than other States have had to make these exorbitant demands. Why, sir, if she can claim sixteen million acres, and say she will not come into the Union unless she gets it, why cannot she with the same propriety claim sixty or one hundred million acres of your lands, or claim them all? She may justly claim to the outer verge all that has been granted to the other young States, but she can claim nothing more. Whatever she gets beyond that must be by the grace of Congress, and not because she has a right to demand it. I simply protest that it is no compulsion to say to Kansas, "we refuse your demands; if you are not willing to come in as other States have come, then stay out."

I shall be glad, Mr. President, to see this question settled on the terms proposed in the present bill, although, as I said, I do not like the terms. I suppose no southern Senator does; very few northern men do; but I have been so accustomed to vote for things that I do not precisely like, that I have no great trouble in bringing my mind to the conclusion that I ought to vote for this. If I voted for nothing except that which I think precisely right, which commended itself in all respects to my judgment, I should be found on the negative side of most of your propositions. I believe that this measure will have a tendency to heal pending difficulties; that it will bring peace and quiet, to some extent, to the country; that it will open the way for a permanent and lasting peace between the sections; and, if it have that effect, objectionable as it may be to me in many of its features, I shall feel justified in voting for it. If it fail in all this, I shall justify myself to my own conscience and the country on the ground that I so meant it—that it was so designed. If it fail of its objects, that will not be my fault. It is as good a proposition as the original Senate bill. Nothing so good can now be obtained. It will do for all sections of the country—for the South as well as for the North; and it is not decidedly bad for either.

The features of this bill have, in many respects, been changed from the original Senate bill; but I have not seen that they have been changed for the worse; I rather think they have been improved. We have certainly got clear of some objectionable points, and we have brought into bolder relief others that are bad, but which a close observer would have found in the original. On the whole, for the reasons I have given, and for others, which the time and place and surrounding circumstances forbid me to give, I shall vote for the bill; and I send up my devoutest prayers that it may pass.

Mr. TOOMBS. Mr. President, as it is the very obvious purpose of the Senate, I suppose, not to take this vote until there is action elsewhere, I shall occupy a few minutes of its time in giving the reasons why I approve the action of the committee of conference. It is in no wise distasteful to me. I heartily approve it; I think it is a wise measure—a good measure. I like it because it settles this question upon a principle, and not on a concession. It is a concession by nobody, by no section of the Union; but it settles this question upon principles which I have maintained from the beginning of the controversy. It is not subject to two interpretations. To suppose so is an imagination of its opponents, and their very difficulty in finding reasons for their opposition to it has strengthened my own opinion in its favor. I believe the cabal, the coalition, took about three days to determine whether they should go for or against it. I very much regret that they did not come to a determination to maintain it, because it is based upon principle.

The idea has been suggested, I believe, first by my honorable friend from Kentucky, [Mr. CRITTENDEN,] and then fallen into generally by those who coöperate with him in this opposition, that that is capable of two interpretations; that it is a submission, and not a submission. Now, Mr. President, the bill itself is clear, plain, and distinct, and admits of no two interpretations. Kansas proposed to the Congress of the United States to come into the Union under a constitution made at Lecompton, and upon the further condition that we should grant to her certain land bounties, among others, seventeen millions for the comple-

tion of railroads. We entered into this discussion for and against the Lecompton constitution. The friends of that constitution, those who supported the measure, the friends of the Administration, held that the Lecompton constitution was the legally and fairly-expressed will of the people of Kansas. Therefore we accepted it; we accepted it in the measure which we sent to the other House; we accept it in this measure. We do not put that in controversy. We stand upon the ground that it was legally adopted; that it was the legal expression of the popular will of Kansas; and we in no wise disturb that. We simply say to Kansas, who is treating with us here as an equal, as a sovereign, we accept your constitution as fully and freely as we have that of any other of your sisters who have come into this Union. We decline to interpret it. We deny all these allegations of its fraud, or its force, or its violence; we put them under our feet, and we say we accept it as your act and deed. We say it is the emanation of your people; that it is the fair exercise of the popular sovereignty of the people of Kansas. You did not choose to submit it to the people. Your convention adopted it, promulgated it—except as to the one clause which you did submit, and that was accepted by the people. Hence we receive it as the act of the people. We have laid out of the account wholly the ten thousand, or twenty thousand, or fifty thousand—if there were so many—who did not vote. We care not whether any of the people declined to act when the question was legally submitted to them; whether they voted or not. We hold they were bound by the action of the legal voters who did perform their duty as citizens.

For these reasons, the Senate of the United States accepted that constitution. We sent our bill accepting it to the other House. They put in a proposition to submit it, the House of Representatives assuming, and the other side declaring, that it was possibly fraudulent; that there were allegations of fraud against it; that it was not the popular will. They sent the bill back to us, declaring that the constitution should be submitted to the people. We rejected that proposition. The two Houses agreed to a conference on their disagreeing votes. This committee of conference then declared that they would accept the Lecompton constitution as fully as the Senate accepted it in their bill; but the very offer of this Lecompton constitution to the United States by Kansas, was coupled with a further condition demanding the ordinary grants of lands given to the new States, and seventeen millions besides. What have this committee done? They have said we accept the Lecompton constitution; we pass no judgment upon that, we leave that where the Senate's bill left it, as your act and deed, and properly reflecting the legally-expressed will of the people of Kansas; but we will not give you the seventeen millions of land for railroads; we will give you what we have given your other sisters. What, then, are the legal consequences and effect of this declaration? Precisely those of the Senate's bill, because the Senate's bill accepted only a part of the proposition, and rejected the rest. It does not vary the land granted by that bill one acre—not one nineteenth part of a hair. We said, we will not give you the land you ask. Your proposition is, "Receive me into the Union with this constitution, with the ordinary lands granted to the States, and with seventeen million besides." The Senate said, we will not give you these seventeen millions.

When this question was under debate some month or two ago, the honorable Senator from Illinois [Mr. DOUGLAS] stated that we had not a right to vary the propositions at all, that the ordinance as to land must go with the constitution. I differed with him in that statement. In my judgment the constitution was the business of the people of Kansas. The land and the boundary were our business as well as theirs—matters of contract between equals; and therefore, if we varied the boundary, or varied the proposition in any shape, the contract would not be complete until the other side acted.

Mr. DOUGLAS. On the statement now made by the Senator from Georgia, we understand the matter exactly alike. I agree you could not vary the proposition unless you sent it back to them to ratify the change.

Mr. TOOMBS. I am happy to know that we

agree in that respect. That is my own position. I hold that; but I did not understand the Senator before as going to the extent that they had to accept it before the contract became binding. That was my position then, it is mine to-day. We accept part of the proposition of Kansas; we accept her constitution, and we accept the call for the ordinary grant of land; we reject the extraordinary land grant of seventeen million acres. Well, if the Senate's bill had passed, "Lecompton," as it is sometimes called, without one word of dissent, except striking out the seventeen million acres, she would not have been in the Union without the acquiescence of her people in that change. If she had organized her State government under the constitution, after our act of admission in that form, it would, according to the general practice hitherto, be an acquiescence; but her proposition being changed, she could not come into the Union without an agreement to or an acquiescence on her part in the change.

That would have been the result of the Senate's bill. Kansas could have rejected it. She made an offer. We rejected her offer in part. We made her a proposition. She could have rejected that; and where would the parties have been then? She would have been where she was—in a territorial condition. There is where the Senate's bill would have placed her. If the convention had placed the power in the Legislature to regulate this matter of the land grant, as Arkansas did, the committee would have put it there as being the most convenient tribunal; or if the convention had reserved to itself the power it might have been put there; but as the constitution of Kansas has made no provision for anybody else adjusting these rights of sovereignty, (for the grants are given in consideration of yielding the sovereign power of taxation,) as the people have not delegated it to anybody in their constitution, the committee very wisely sent it to the source of all power—the people themselves. The consequences are identically the same as though we had passed the Lecompton bill with or without the amendment of the gentleman who introduced it, usually called the Green amendment. It is not in the slightest degree varied, nor is there any dispute about it, nor are there any two constructions about it.

I will allude now to the only point which gentlemen attempt to torture into double-dealing in this bill. My honorable friend from Illinois supposes it will be represented one way at the South and another at the North. I know of no way in the world to prevent partisans—the vicious and the vile demagogue and deceiver of the people—from doing that in respect to any measure. My honorable friend knows that the bill of his, which I supported with so much pleasure in 1854, met with the same fate, though there was a perfect agreement among every one of its friends here.

Mr. DOUGLAS. The distinction between the cases is obvious. That bill provided that where there was a difference of opinion it should be decided as a judicial question. Here there is no arbitrator made in this bill in regard to Kansas.

Mr. TOOMBS. I do not understand the Senator.

Mr. DOUGLAS. All questions relating to personal liberty and slave property were referred to the Supreme Court of the United States by the bill of 1854, to which the Senator alludes.

Mr. TOOMBS. That was not the clause. The great clause was what was called the stump speech that was injected into its bowels. It was contended by its enemies that it had a different meaning at the North and at the South. It had not. It was universally accepted by its friends with the same meaning everywhere, as far as I am informed; and I never knew two constructions put upon it by them. Again and again, however, it was reiterated here, and the enemies of the measure did so construe it. Of course, the enemies of a measure will always do that, especially if it involves a sectional issue. Oftentimes arguments will be used to make a measure, which is even a just settlement, palatable to one section or the other, which are construed to present it in different forms. Everybody understands, however, that we, having varied this proposition by striking out the seventeen million acres of land, simply say to the people of Kansas, will you come into the Union with your constitution as it is? We do not alter that; we accept that part of your proposition, and we give you the ordinary grant of

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, MAY 1, 1858.

NEW SERIES....No. 118.

land, but we will not give you the extra seventeen million acres that you claim. If they will not agree to this, what is the consequence? The bargain is at an end, of course the constitution fails, the ordinary grant fails, and she is in a territorial condition.

Gentlemen seek to torture that into a submission of the constitution. Undoubtedly the effect of a rejection by the people of Kansas of our proposed alteration of their proposition, annuls the whole contract; and is not that the case in similar transactions every day between man and man? You make me an offer to sell me a piece of land; you say I may have it for \$10,000 upon two years' time. I say I will give you that, but I want five years. You reject the five years; there is no dispute between us about the price; but the whole contract falls. Kansas is treating with us as an equal contracting party; she offers to come into the Union on certain terms; and we accept a portion and reject others. Then if she says, "I will not come in under the modified terms," the whole contract falls, and that is the way the constitution falls. It is a mode, a fair and legitimate mode, an irresistible mode, a mode that would exist whether you submitted it or not, because, I say, when you varied the contract, even under the Lecompton bill as it went from this House, it was the right of Kansas to reject it, and if she had rejected it she would have been where this bill proposes to place her in that contingency, in a territorial condition.

This objection comes from the opponents of this bill; they are sorry that this is one of the results of the proposed action. I am not. If it be true that the people of Kansas do not like this constitution, if it be true that those who are in rebellion may go to the polls and vote it down, when we only submit a proposition for a change of the lands the people asked, they may have what reasons for their vote they please. I do not object to it because they may give a vote upon a wrong reason. They might have done that under the Senate's bill; they may do that under any bill, for you cannot force a State into this Union, you cannot bring her in except on terms to which she agrees, and I say that naturally results in all treaties with equals, with sovereigns, and with citizens. If you make a contract and the other party makes a substantial variation, unless that variation is agreed to by both, it annuls the whole. That is the simple fact about this contract. The rejection of the constitution may be one of the consequences of it, I know, but it has no double meaning; it is not pretended by any friend of the bill, North or South, that we submit the constitution. We accept the Lecompton constitution as the will of the people of Kansas, and we accept a part of their other proposition by which their constitution is accompanied, to wit: that she shall have the same quantity of lands that Minnesota had; but we reject that clause of her proposition by which she claims seventeen million acres.

Now we are told, by the Senator from Illinois, and other Senators, that here is a bribe and a threat. Our bribe is, striking off seventeen million acres of lands that she asked to come in. Our threat is, proposing to leave her, if she rejects our proposition, just as she would be if we had no bill. That is a fair statement of the case. Our bribe, I repeat, is, striking out the seventeen million acres of land that she demanded, with Lecompton. If we had given her the seventeen million acres of land, an unusual and extraordinary grant to a State coming into the Union, which never had been made before, you and I know, and all the country knows, that a clamor would have gone up from here to Canada, throughout this broad land to the Pacific ocean, "See, these slave-drivers give these people seventeen millions of acres of land, this extraordinary grant, to make them take slavery in their constitution!" But we strike it out; we put her precisely on the same basis with other States; and now, because we tell her that if she does not come in at this time, she shall not come until she has the requisite population, it is attempted to be tortured into a threat! I suppose this idea never would have occurred to

the people in Kansas, or to anybody but persons who were hunting for objections. Everybody knows that when Kansas is admitted, no matter at what time, she will get the same land that other States have had. The bill does not prohibit it; and, I suppose, it would never be imagined but by some politician who was seeking for a pretext, when he could not find a reason.

The Senator from Illinois says that he is willing to agree to the principle of not allowing a State to be admitted until she has ninety-three thousand people, or a sufficient number for one member, according to the ratio. He voted for it, and so did I; and when, two years ago, I introduced a bill to solve this difficulty by bringing her into the Union then, I declared, from my seat here, that it was a violation of a principle. This is the general rule. I supposed the then condition of the country made Kansas an exceptional case; I put it exclusively on the ground of an exceptional case; I was really desirous of pacifying the country on this question. We have labored to do it. The Administration has labored to do it; the Democratic party has labored to do it; but a majority of the people of Kansas, it seems, or at least a large portion of them, taking their counsels from the Opposition, have, even to the extent of refusing to vote, used all the means in their power to prevent it. Well, what do we say now? "We accept your constitution—it is your act; we give you the ordinary grant of land; but if you do not wish to come in, we remit you to the general rule"—that is all. The Senator from Illinois says that general rule is a right rule, and we ought never to depart from it. It is one from which Congress has not usually departed, and which never ought to be departed from, except under extraordinary circumstances. As a general rule, it is a sound one; but there may be exceptions to all rules. When I proposed to depart from it, I was acting for Kansas, endeavoring to pacify her, and also endeavoring to take this question, which was a disturbing and dangerous element, out of the politics of the United States. That was not agreed to; but Kansas, acting in the spirit of that proposition, has presented herself for admission. I say to her I will accept the constitution you have made; I will give you the ordinary land grants; but I will not allow you to make constitutions every six months. The conduct of the population of Kansas has been such as not at all to increase my estimate of their capacity for self-government. It would be sufficient for me, even after having voted for it, in 1856, to say now that the events of the last two years have convinced me that she ought not to be admitted as a State. I apply this remark to all; I do not apply it to the free-State men more than to others. There have been wars, and tumults, and frauds, and cheatings, and a disposition manifested everywhere in that Territory totally to disregard the law. If one party get a Legislature, they turn everybody else out, no matter which party it is; and a majority of one is as good as a unanimous vote. There seems to be an incapacity in this population, thrown in there, I admit, under the most unfortunate circumstances, to govern themselves; and I am free to acknowledge that I shall not regret if one consequence of this measure shall be to put them back in a territorial condition.

Then where is the concession by the North? None. Neither the Senator from Illinois, nor any other person here, denies that the people speak finally through a convention. The people of Kansas have done it. We accept the act of this convention; we accept a portion of her proposition for lands, and we tell her that we do not accept the rest, and we submit to her a modified proposition, in place of her proposed contract in regard to lands. If, for any reason you please, you refuse to take this modification of the contract, whether it be because you do not like the Lecompton constitution or not, we take it that you do not want to come into the Union now. If you refuse to take the proposition which we submit to you, the contract falls, constitution and all.

I say, therefore, we do not submit the consti-

tution. One of the necessary consequences of the modification of the proposition, however, is, that if she votes against it, she is in a territorial condition, and we require her to stay there exactly the time which it is conceded all around the Senate the general rule would require. To this general rule I have heretofore uniformly adhered, and declared my convictions of its propriety. We say you shall stay as every other Territory ought to stay, and not bring two Senators into this body, and one member into the other House, until you have a population sufficient under the Federal Constitution to entitle you to a Representative according to the existing ratio. That is all there is in it.

The South, then, has made no concessions of any sort, and the North has made none. The clamor of cramming constitutions down free people's throats is at an end. *Ilinc lachrymæ*—hence these tears! They wanted the cramming process. Although the result everybody knew would be the same with the people of Kansas, still it would have been a very available argument on the rostrum; but that is gone. Now, they say, it is true it is gone; but it is not gone in the right way. That seems to be the objection of the Opposition. It is true the people may say we will not take this modification; we will not come in unless with the seventeen millions; but I can assure my friends I will not give them the seventeen million acres. We have not seized eagerly at this bait; we have not given them this bribe to bring in a slave State. If we were disposed to do what we are charged with, we have acted the most foolish part any sensible men ever did. If we wanted to bribe them, we would have stood by Lecompton, ordinance, and all, and given them the seventeen million acres; but we cut off the ordinance and give them only what we have given Minnesota and all the other States coming into this free sisterhood. Now, I apprehend that but for the commitments of gentlemen, but for political reasons, but for the strength of the coalition looking to the other thirty-one States, not to this new sister, but to its effect outside of Kansas, there would be very little difference between us on this question. We cannot alter this constitution if we would. We do not wish to take any advantage in this mode of submission. Inasmuch as Kansas, instead of offering us a simple constitution, proposed other terms and conditions, we had to accept them, as the Senator from Illinois admits, in their entirety, or if we modify them, she has the power to reject them. That is all there is in this proposition. You did it in Michigan. You did it in Wisconsin. You did it in Iowa. In Iowa you rejected her application on the question of boundary, which is no stronger than this, because here the point is whether Congress, in consideration of the new State giving up her power of taxation, the highest power of a sovereign, over the public lands, and over those lands you grant to others for a brief time, will make a grant of lands such as has been made to other States, and give her seventeen million acres more to make railroads. I say to her, you must release your sovereignty in this respect; and you have no right to demand of this sisterhood of States more lands, more pecuniary advantages for releasing this sovereign power, than each of the other eighteen new States that have come into the Union had. We will give you that and no more. Thus we offer her no bribe.

So far from holding out to her a threat, we leave her just where you would leave her by defeating the measure—in a territorial condition; and in a territorial condition under the sound principle that she ought not to come here unless you can show her to be an exceptional case, with less than the number prescribed by the Federal ratio for one Representative.

For these reasons, Mr. President, I say that I have no reluctance in voting for this proposition. I do not vote for it as a compromise or concession, but I here state there is in it no concession by the North or by the South, but a present settlement, firmly based upon a broad, right, ever enduring, constitutional principle; and as such it not only

meets my acquiescence, but my hearty concurrence.

Mr. HALE. I wish to ask the Senator from Georgia a question: he says it is proposed to submit this back to the people of Kansas because there is a modification of their land proposition, and it is necessary to submit it because it is modified. My question is, why the first Senate bill did not send it back, for that modified the proposition equally with this, but still that admitted the State without resubmission?

Mr. TOOMBS. That is true; but, as I stated, the consequences would have been the same, with or without submission. I do not think this submission necessary to be put in the bill; but, according to the original Senate bill, without its being nominated in the bond, Kansas could reject it, as Arkansas and Iowa did. It might have been there without objection from me; I thought it was proper to put it there; but in the case of Arkansas, the convention had authorized the Legislature to accept a modification of the land terms, and hence Congress referred that to the Legislature. In the other case it was referred to the people of Iowa, and Iowa rejected it, and made a new constitution subsequently. I say that if it was not there, the consequences would be the same as though it were there; and I should not have objected to it if it had been in the original Senate bill. The legal consequences would be the same whether it was there or not.

Mr. WILSON. Mr. President, the Senator from Georgia [Mr. Toombs] tells us that the cry of cramming the Lecompton constitution down the throats of the people of Kansas is at an end. It is to go down by another process now. This measure is a conglomeration of bribes, of penalties, and of mediated fraud. Lecompton is not to be crammed down now; it is to be bribed down, and to be cheated down, and this proposition provides for both of these alternatives. It goes to the people of Kansas with a bribe in one hand and a penalty in the other; and, if bribes and threats will not win, you have provided that fraud shall.

But the Senator from Georgia starts a new proposition here to-day, one we shall all give him the credit of originating; and that is, that if we had admitted Kansas into the Union under the Senate Lecompton bill, that we fought over so long, she would not have been in the Union as a member of this Confederacy, because we did not agree to her proposition for seventeen million acres of the public lands. Sir, why did we not hear of this when the question was before the Senate? For more than four months we have sat here babbling over this Lecompton constitution, and no man in the Senate or the House of Representatives, and no public press of the country, no public man of the country, no human being on God's earth ever dreamed, or ever uttered the dream, that Kansas would not be a member of this Union if the bill to admit her under the Lecompton constitution should pass.

Sir, as we were about to take the last vote in the Senate upon the bill for the admission of Kansas, I called the attention of the Senate to the certificate of John Calhoun, certifying that the ordinance claiming these lands was adopted by the people as a part of the constitution. A brief debate sprang up upon that point. The Senator from Ohio, [Mr. PUGH], who yesterday addressed the Senate for nearly two hours upon matters pertaining to the general affairs of Kansas, said, on that occasion, that,

"There has scarcely ever been a new State admitted into this Union that did not, in its ordinance, claim more public lands than Congress ever gave it. I never knew Congress to grant it in any case. It is not a part, it cannot be made a part, of the constitution, no matter what Mr. Calhoun certifies. That does not affect its legal force. It is a question of the gift of the public lands. There is no case, from the admission of Ohio to this day, in which a new State has not asked more lands than Congress has given. The attempt to make a mountain out of this molehill will certainly fail."

The Senator from Louisiana [Mr. BENJAMIN] said that this proposition was only a proposition for a bargain—a proposition made by Kansas for a bargain for public lands; that "this pretended right of taxation had never been yielded by Congress, and never would be yielded." He said:

"The idea of one of the States of this Union taxing the property of the Government of the United States within its limits is one which has been frequently advanced by the new States with a view to extort from Congress an additional grant of land. It never yet has been conceded, and never will."

Sir, there was not a man here in the Senate, not one who claimed that if Kansas was admitted under the Lecompton constitution, she would have the seventeen million acres of public lands. The Senator from Missouri [Mr. GREEN] offered an amendment, and it was adopted without division by the Senate; and it expressed the unanimous judgment of this body and of Congress:

"That nothing in this act shall be construed as an assent by Congress to any or all of the propositions or claims contained in the ordinance annexed to said constitution."

Here was a special provision put into the bill, that nothing in the act should be deemed or taken as an assent to any of the provisions of the ordinance, and that provision passed by the unanimous voice of the Senate. This was a repudiation by the Senate of the claim of any right on the part of Kansas to tax the public lands. I declare here and now that this pretense that Kansas would not be a member of the Confederacy if the original Senate bill had passed Congress, is an afterthought. It is a doctrine avowed here to-day for a special purpose, to have a special effect in the country, and there is not a man in the Senate of the United States, or the Congress of the United States, or on the soil of this Republic, who believes there is anything in it. It is the merest pretense.

The proposition that comes to us from the committee of conference had its origin with men who for four months have sat in council with us here in resisting this attempt of the Administration to force the Lecompton constitution through Congress. It comes from men who were pledged by all that binds honorable men to stand by the proposition made by the honorable Senator from Kentucky, to vote to sustain that proposition, to resist a committee of conference, and to defeat the measure for the admission of Kansas into the Union under this Lecompton swindle. Sir, we read in Holy Writ that "the ox knoweth his owner, and the ass his master's crib," and we have had these words illustrated in this case. The asses have found their master's crib, and the oxen have recognized their owner. This report comes to us under a false and lying pretense. Yes, sir, a false and lying pretense. There is no controversy in regard to the public lands between the Federal Government and the Territory of Kansas, none whatever. From the adoption of the Lecompton constitution by the convention on the 7th of November last, up to the framing of this proposition, there was not a man in America who believed that there was anything in this ordinance but a mere proposition for a bargain. Nobody believed the Congress of the United States would accept it, and if Congress rejected it, there was an end of it, for Congress has never put, until this proposition was made, the question in controversy of the rights of the States to tax the public lands of the United States. It has been settled by the decisions of the Supreme Court of the United States, that the States have no right to tax the property of the United States. That principle is almost as old as this Government, and yet this well-defined and settled principle is now to be submitted to the decision of the people of Kansas; a doubt for the first time is raised, and this is the basis on which you have trumped up this proposition!

I have said that this is a proposition to bribe the people of Kansas. The Senator from Georgia tells us that it is no bribe. Now, I say to the Senator that it offers a positive and direct bribe of hundreds of thousands of dollars to the people of Kansas, to come into the Union now under the Lecompton constitution. There are eighty million acres of land in the Territory of Kansas. We have sold none of those lands, or next to none of them. Hundreds of thousands of acres of these lands have been taken up by actual settlers. Your Government has advertised hundreds of thousands of acres to be sold in July next. The best of the lands of the Territory of Kansas have been taken up under your preemption laws, but they have not yet been paid for.

Now, this scheme offers to Kansas, if it comes into the Union under the Lecompton constitution, five per cent. of the proceeds of all the lands that may be sold. If she comes into the Union between now and the 1st day of July next, she has five per cent. on the proceeds of the immense quantities of the public lands to be sold in that Territory. That will amount, I think, to millions of dollars; and that poor Territory, without money, without means, is offered five per cent. on the

sales of all the public lands if she will come into the Union with the Lecompton constitution; and if not, she is to stay out, these lands are to be sold, and she is to have no five per cent. of their proceeds. Here is a positive, direct bribe offered, amounting to hundreds of thousands of dollars, for Kansas to come into the Union at once, before her public lands are brought into the market, and sold at all; and yet the Senator from Georgia recklessly asserts here in the face of this fact, before the Senate and the country, that there is no bribe offered to the people of Kansas to take this abhorred constitution.

That is not all. You are offering this people something like four million five hundred thousand acres of land to come into this Union under this constitution. In answer to that, we are told that the honorable Senator from Kentucky [Mr. CHITTENDEN] made the same proposition. He did, but his proposition did not stand in the form of a bribe. It applied to the Lecompton constitution, if they took that; it applied to the new constitution to be made, if they took that. It was a fair, honest proposition, and could have had no effect whatever on the decision of the people. It was a proposition that came from an honest man, and was supported by honest men, and met the approbation of honest men. This is a proposition put in the form of a bribe, for it is, "have this land if you take Lecompton;" and if they do not take Lecompton, it does not say a word about what they shall have when they make another constitution. It is a temptation to the public men of that Territory to come in now and have the control of these public lands, and everybody knows how anxious men in this country, especially in the new States, are to obtain control over immense tracts of public lands.

Consider, now, sir, the penalties you propose to inflict upon these people. Every member of the Senate who has studied the affairs of Kansas, knows that there is a sentiment in that Territory, approaching unanimity, in favor of coming into the Union at once. The sentiment of all the people of that Territory is, to come into the Union now, to be a member of this Confederacy. Their interests, all they have and all they hope to be, prompt them to come into the Union now to share its blessings and its benefits. But what do you propose here? You give them five per cent. on the sales of their lands, if they will come in now. If they stay out, they lose five per cent. on all their lands sold until they do come in, and if they stay out one or two years millions of acres of the very best lands will be sold, and they get no benefit from the sales. Then you offer them four and a half million acres of land. This proposition addresses itself with immense force to the governing men of that Territory, and to the people, for they are for public schools. These lands may, and will be, given at some future time when they do come in; but the operating force of this proposition presses upon them now. You hold up the bribe in their faces now, and appeal to them to accept it; but if they do not come in now, they are to be kept out. They want to be in the Union; you keep them out unless they will come in under the Lecompton constitution that they have condemned by ten thousand popular majority. You punish them by putting this penalty upon them.

Well, Mr. President, I believe the people of Kansas will vote down this Lecompton constitution by an overwhelming majority. I do not believe you can buy that people with this five per cent. on their public lands, or by four and a half millions of her eighty million acres of lands. You have tried to force them—you have failed. Now you propose to bribe them. I have the fullest confidence that you will ignominiously fail in that. You believed it. The man who framed this measure believed the people would reject it, and he prepared this measure to carry it through by fraud, and he intended that. Yes, sir, I charge it directly that the getters-up of this proposition expected the people of Kansas to defeat it, and they intended to put it in the power of the Lecomptonites to carry it by fraud. If corruption will not win, fraud is to win.

The PRESIDING OFFICER, [Mr. BIGGS in the chair.] The Chair would suggest to the Senator from Massachusetts, that in his opinion it is not exactly in order to charge the conference committee with an intention to commit fraud. I

merely suggest it respectfully to the Senator from Massachusetts.

Mr. GREEN. I am one of the parties to whom it applies, of course, but I do not think the country will think me at all degraded by the accusation.

The PRESIDING OFFICER. The Chair merely made the suggestion respectfully.

Mr. WILSON. I thank the Chair for the suggestion he has so kindly made; but I have made no charge which I do not believe to be true in substance. I believe the man who got up this corrupt proposition, the man who has betrayed the cause of Kansas and the friends of Kansas, framed this measure so as to secure the power to the friends of the Lecompton constitution to carry it through by their fraudulent practices.

Mr. President, the veteran Senator from Kentucky proposed a measure to which we gave our ready support. We Republicans believe in the power and duty of this Government to prohibit slavery in all the Territories of the United States. We believed the Lecompton constitution was not the sentiment, the will, of the people of Kansas. If we had possessed the power we would have voted it down and crushed it under our feet; we would then have given an enabling act to the people of Kansas, and said to them, "frame a constitution, submit it to the popular vote, and then come here and ask for admission into the Union." But, sir, we were in a minority in this body and in the other House; we were utterly powerless. We believed that the people were opposed to the Lecompton constitution; we had no doubt of that. We believed that if they could have a fair vote, they would vote it down. The Senator from Kentucky made a speech condemning in burning language this Lecompton fraud. He made a speech that has been read with tearful eyes by tens of thousands of men all over this country—men who differ from him in sentiment and opinion—a speech that has won their love and their confidence. While living, he will have their affectionate regards, and when he sleeps beneath the soil of his own Kentucky, he will live in their memory. He made a fair proposition; that proposition was, to submit the Lecompton constitution to a direct, fair, and honest vote of the people. If they wanted it they would take it, and they were in the Union. If they did not want Lecompton, they were authorized to make, at once, another constitution, and, on proclamation of the President, they were to come into the Union. Could we, as liberty-loving men—the friends of making Kansas a free State—hesitate to accept this proposition made in good faith by the Senator from Kentucky?

I admit, sir, that we subjected ourselves to the risk of letting a slaveholding constitution, the creature of fraud, come into the Union, but we had the best evidence that the people of Kansas were against it, and that if they had a fair opportunity they would vote it down by a crushing majority. Our friends in that Territory have the county officers. We have the sheriffs; we have the ballot-boxes; they are all in the hands of the free-State men. The Senator from Kentucky, knowing that we did not desire to avail ourselves of this advantage of having the territorial officers, made this proposition—and a fairer proposition could not be made—that the Governor and Secretary, appointed by the President, and removable at his will, and the President of the Council, and the Speaker of the House of Representatives representing the popular will of the Territory, should be appointed a board of commissioners, and that three of this board thus constituted shall form a quorum. We Republicans accepted that as a fair and honest proposition. We knew that the appointees of the President could not control that board; we knew that the men who had defrauded the people of Kansas could not control it; we knew that the board could not be organized for dishonest purposes. We believed that a board thus constituted would promptly appoint a proper time, and fix upon proper places to hold the election, and that proper men would be selected to conduct the election. We knew that under a board thus constituted your Hendersons, your Diefendorffs, your McLeans, your Calhouns; the men who cheated us at Kickapoo, at the Delaware Crossing, at Oxford, and at Shawnee; that the men who took the returns over into Missouri and added names by the hundreds to the returns; the men

who have spent, many of them, the winter under the shadow of the Capitol, away from the bitter condemnation of the people whom they have betrayed and defrauded; we knew that these corrupt creatures who have defrauded the people at the ballot-box, and taken false oaths in regard to election returns; who have buried returns by night in candle-boxes, under a wood-pile, and under the ground, and then sworn that they had sent them out of the Territory; we knew that those corrupt and venal creatures who, during the last few months, have taken shelter here in the capital, where rascals have recently so much congregated, would not be appointed by the board constituted by the Senator from Kentucky. We believed that the board appointed under that proposition would choose as election officers to preside over the ballot-boxes, men of all parties, in whom the people would have confidence, and that the frauds which have been so often committed during the last ten months at Oxford, Shawnee, Kickapoo, Delaware Crossing, and other precincts; would not be repeated, and that we should have a fair and honest expression of the popular will. I avow here to-day, that a fairer proposition was never made than was made by the Senator from Kentucky, and which was adopted substantially by the House of Representatives, under the lead of Mr. MONTGOMERY, of Pennsylvania.

Here is a sort of feeble imitation of that proposition. Senators tell us that it does not submit the Lecompton constitution to the people of Kansas, that it only submits certain propositions in regard to the public lands. It submits the inducements to come into the Union; it holds out the glittering bribe in the one hand and the threat in the other, and as if this would not accomplish their purpose they have added the district attorney to the board of commissioners. They offer to the people of Kansas five per cent. of the proceeds of all the lands to be sold; they offer them four and a half million acres; and then unless that people take Lecompton they propose to keep them out of the Union under any constitution, without these lands, until they have ninety-four thousand inhabitants, and they constitute a board of commissioners to have charge of the elections a majority of whom are to be appointed by the President of the United States, mere executive instruments, men who can be removed at any time at his will.

Why is this change made? Answer, if you can. The Senator from Ohio [Mr. WADE] asked, the other day, why it was made; and the Senator from Missouri [Mr. GREEN] gave what Major Jack Downing was wont to call a sharp, knowing look, as though he would answer—he gave two very significant nods that he would answer in his own time. He followed the Senator from Ohio, but he did not condescend to allude to this very pertinent question put by the Senator from Ohio. Sir, the other Senator from Ohio [Mr. PUGH] yesterday undertook to explain the reason why; and the reason is this: that a board made of four men, Governor, Secretary, President of the Council, and Speaker of the House of Representatives, could not do business, and it was necessary to make a partisan majority on that board. Then why did you not give it to the people? I will tell you why: you have put that board in the hands of the President of the United States. The President of the United States, last May, sent Governor Walker to Kansas Territory, with a solemn pledge that the people should have an opportunity to vote on their constitution, on its adoption or rejection. I went up the Missouri river with Governor Walker, and he everywhere proclaimed it. I heard his speech to the people assembled at Lawrence. He told them that they should have a fair opportunity to vote. He pledged himself to the people of that Territory that, if the constitution was not fairly submitted, he himself would resist the constitution before Congress. He gave the people to understand that he was backed in this by the President of the United States; that he represented the President and his Cabinet; that he spoke for the Government. Sir, these assurances had their weight. Men said, "we shall be cheated if we go to vote under the partial enrollment; they will give us a chance to vote on the constitution, and then we will vote down the corrupt and dishonest thing and make a constitution which shall reflect the popular will."

You will remember, Mr. President, that when

the October election came, the little town of Oxford, which had about forty-two legal voters, gave over one thousand six hundred votes. Governor Walker went down there, examined the case, and threw out the votes. McGee county, that had hardly any inhabitants at all, gave one thousand three hundred votes. Governor Walker threw them out; and for these acts a howl went up from the States now threatening to dissolve the Union if you do not admit Kansas under the Lecompton constitution. They denied that Governor Walker had the right to throw out these votes, and he was denounced for correcting these frauds, although the correction of the frauds was vital to the just expression of the public sentiment; for these frauds gave the Legislature to the minority of the Territory.

While these threats were borne on southern breezes to the White House, Governor Wise came to Washington, saw the President, told the President that he would write a letter sustaining his policy, and draw this fire upon himself. He did so; and a day or two after that very letter was written, the President deserted the Governor and left him to be shot down. He deserted Walker. The moment Walker corrected those frauds, the demand went forth that he should be sacrificed, and the President was the willing tool to sacrifice a man for correcting a gigantic fraud upon the people.

That is not all, sir. Mr. Dennis, who was appointed marshal of the Territory by Mr. Buchanan, attended the polls at Oxford, this very precinct that gave sixteen hundred votes at one election, thirteen hundred at another, and seven or eight hundred at another. He was summoned before the investigating committee of the Territorial Legislature; and he testified that there were less than one hundred and fifty voters in the precinct, and that not over two hundred and fifty votes were given there on that day, when they counted out nearly thirteen hundred votes. He gave this testimony, exposed these frauds before the investigating committee, and the President of the United States removed him. Yes, sir, Mr. Dennis was sacrificed for exposing the frauds of the friends of Lecompton by a willing Executive who has shown that he is but an instrument of the slave propagandists.

While Walker and Stanton and Dennis were stricken down, for exposing these frauds upon the people of Kansas, by your President, Diefendorff remains a clerk in your land office. Jack Henderson, who took the vote at Delaware Crossing, and who was implicated in that stupendous fraud, is yet in the public service. McLean, who hid the returns in a candle-box at night, under a wood-pile, two feet under ground—this man who then went before the commission and gave a solemn oath that he had sent these returns out of the Territory, and then had to escape from the Territory to escape from a charge of perjury, and has loitered around this Capitol for the last three months—this creature is yet in the confidence of the Administration, and I have met him and his companions in the executive mansion. Yes, sir, he is in office; and Calhoun, the organizer of frauds, yet has the President's confidence, and is to be sent up into Nebraska, perhaps to play the same game in that Territory.

Now, with these lights before us, I have a right to say that this change in the board of commissioners could be made for no honest purpose. These three men may be removed by the President; and they will be removed, if their removal be necessary to effect the purposes of the men who have sustained the Missouri invasion, sustained the violence in Kansas, sustained this Lecompton fraud, sustained this whole policy that has disgraced our country for more than three years. If they demand it, he will remove these men. He has given pledges, guarantees; all there is of him, and all he hopes to be, he has staked upon them. He is in their hands. He is their instrument; and if they demand it, he will see to it that the three men he appoints, who have the control of this board of commissioners, who can fix the day of election as far off as they please, who can appoint just the men they please to preside over the ballot-boxes, who can count in the Oxford, Kickapoo, and Shawnee frauds, who can decide this whole question—he can remove them at his will, and they are but his tools and his instruments, and he is the tool and instrument of the slave propagandists and disunionists. They

must obey him, and he will obey the imperious men who rule him for their own purposes.

Do you believe, Mr. President, that the men who sustained, in Congress and out of Congress, the invasion of March, 1855; who sustained the invasion of December, 1855; who sustained the sacking of Lawrence in May, 1856; who justified the bloody scenes of the summer and autumn of 1856; who have denounced Walker and Stanton and Dennis for exposing the frauds of October, of December, and of January last—do you believe the men who have incurred all the odium of sustaining these acts, which have brought disgrace and dishonor upon our common country, for the purpose of making Kansas a slave State—do you believe they will yield it up now, when they have their final gripe upon the people, when they have three commissioners who can count Kansas in under the Lecompton constitution? Sir, the public judgment of the country, awakened to this proposition and to this condition of affairs, may make even these men act with common honesty. Nothing else will baffle them. I say to the people of Kansas, of the United States, if this measure passes, as I suppose it is to pass, for we see the potent influences of executive power all around us and about us, nothing can save Kansas from being counted into the Union by fraudulent votes, but the vigilance of the people of Kansas and the public judgment of the people of the United States. I have no faith in this Administration; none in the President; for I know they want Kansas to come into the Union as a slave State. Failing in all efforts to force her in the Union, you now propose to bribe her in by rewards, by penalties; and if these will not do, you have got the power in this scheme to bring her in by fraud.

I tell you frankly, this bill will not make peace unless you mean to use fraud. That will close it. Use fraud, gentlemen, and you have the power to close it; and that alone will close this controversy; for the people will spurn your bribe, they will vote down your constitution, and they will not come in under it, unless you count them in by counting fraudulent votes. Suppose you are not able to do that, and Kansas rejects your Lecompton constitution: do you think the people of Kansas or the people of this country will regard as of any force your declaration that she shall not make a constitution, and come into the Union, until she has ninety-four thousand inhabitants? No, sir; I think the intelligent people of Kansas will vote down your constitution; they will not accept it, unless you count them in by counting fraudulent votes; and if they do reject it, they will make another constitution, and a free constitution. You have settled it that Kansas has inhabitants enough to come in as a slave State. Yes, northern men, representing Rhode Island, New Jersey, Pennsylvania, Indiana, Ohio, Iowa—these men, in this House and in the other, are voting here that Kansas may come in under the Lecompton constitution, which forbids any future Legislature ever to abolish slavery; that she may come in under that slave constitution with her present population, be they few or many; but she cannot come in until she has ninety-four thousand if she will not come in under this constitution. Sir, we will charge this upon these men in every school district of the free States; we will hold them up to the indignant judgment of a betrayed people—yes, sir, a betrayed people; we will hunt them down, and dance on their political graves. Let the people of Kansas make a constitution; submit it to the popular will; bring it here as a free State. You have voted that she has inhabitants enough to come in as a slave State; and let us see these men keep her out as a free State, if they dare. Yes, sir, we give you notice now that you cannot close this question under your new scheme, except by stupendous and gigantic frauds. You can do it that way; but you cannot do it honestly. The people of Kansas will spurn your bribe. They will make a constitution; they will come here asking admission. You can keep them out if you choose to do so; but you keep them out at your peril.

If the proposition made by the Senator from Kentucky had been adopted, this whole question would have been settled to-day. The people would have taken a fair vote under men appointed by the concurrence of both parties. We should have had a fair vote on the Lecompton constitution. It would have been voted down unquestionably

by an overwhelming majority. Then the people would have made a new constitution and adopted it, and the President would have made his proclamation, and Kansas would have been a sister of the Confederacy. That proposition, made by the Senator from Kentucky, and accepted by us in both Houses promptly, would have closed this whole Kansas controversy and have closed it forever. I tell the Senator from Virginia [Mr. HUNTER] who talks of a truce, that this is no truce. He could not draw a bill, with all his ingenuity, that would have less of peace in it. Every man who knows the condition of affairs in Kansas, knows that the people now want to come into the Union, that they will never accept your Lecompton constitution unless you count them in fraudulently; that they will make a constitution and come here and ask admission. If you admit them you may then close it, but you do not close it by this scheme, for you say they shall not be admitted until they have a certain number of inhabitants. You may admit them in spite of this restriction and close the controversy; but if you mean to adhere to the provisions of this act, you have on hand an open controversy, running through months—perhaps years.

Now you will adopt this measure, I think; but you will have to pay the penalties for it, depend upon that. It is a proposition you cannot defend here—you cannot defend it anywhere. I listened to the Senator from Virginia the other day; and if any man can defend this measure he can do it; I listened to the Senator from Missouri; I listened yesterday to the speech of the Senator from Ohio, [Mr. PUGH]; I have listened to-day to the Senator from Mississippi, [Mr. BROWN], and the Senator from Georgia, [Mr. TOOMBS]. I have not yet heard within these walls, or before the people, men of talent, of capacity, labor as they have labored, and come to such impotent and illogical conclusions. Sir, there is no peace in this scheme. You talk about peace in regard to Kansas. Deal fairly and honestly, and you can have it. There will be no peace on this question, or any other question growing out of slavery, in America, until the whole controversy is settled upon a solid basis of eternal right—never, never!

The Senator from Ohio [Mr. PUGH] is absent; and I regret it. He undertook yesterday to cast odium on our friends in Kansas, by charging that they intended "to stuff the ballot-boxes with negro votes." A negro could have voted to elect delegates to the Lecompton convention; a negro could have voted on the proposition that was submitted; a negro can vote by that constitution, if he is a citizen of the United States. The law for the election of delegates to the Leavenworth convention was like the law for the election of delegates to the Lecompton convention. The provisions of both declared that the *bona fide* citizens of the United States should be allowed to vote. The word "white" was not in either act. The provisions of the Leavenworth constitution are exactly like the provisions of the Lecompton constitution, in regard to suffrage, in that respect. The Leavenworth constitution allows foreigners who have given notice of an intention to become citizens the right to vote; Lecompton does not.

There is a provision in the Lecompton constitution that is a disgrace to the American name: and that is that a free negro shall not live in Kansas. Sir, the descendants of the man who, on Bunker Hill shot down Major Pitcairn, who fired upon our countrymen at Lexington, if he has any, cannot live in Kansas under this Lecompton constitution. The descendants of two of the three men, if they have left any, who were captured on board the Chesapeake before the war of 1812, whom Jefferson and Madison called citizens, cannot live there. The descendants of the men who fought with Andrew Jackson before the blazing lines of New Orleans, and whom Jackson called his fellow-citizens, cannot live there. I say that proposition is a disgrace to the American name. The Senator says they are excluded from voting by the Lecompton constitution, because they cannot live in the State under it. Could they not have voted on the election of delegates? Could they not have voted on the adoption of the portion of the constitution that was submitted before they were excluded by the adoption of the constitution itself? If they are citizens of the United States they would do so. There is a provision in the Leavenworth constitution that the first Legisla-

ture shall submit the question of universal suffrage to the people—that is all there is in it; and a Senator calling himself a Democrat comes into the Senate of the United States, and undertakes to prejudice a great cause by charging its friends with attempting to stuff the ballot-boxes with negro votes. That Senator well knows that there are not one hundred free negroes in the Territory; and this assault upon the framers of the Leavenworth constitution is unjust—grossly unjust.

But, Mr. President, we shall vote against this proposition; and I assure the Senator from Georgia, who hints that we were in doubt whether to accept it or not, that the "cabal," as he is pleased to call us, never had any doubts as to what we would do in regard to this scheme. Sir, we could not accept the bill for your Lecompton constitution. We thought that the embodiment of a gigantic fraud; and as we believe this scheme combines bribe, menace, and fraud, we spurn it, and we denounce the men who originated it, and who give it their support, in and out of Congress.

Mr. GREEN. Mr. President, I am determined not to be drawn into a general discussion of this subject any more. I have presented my views upon it fully. I will not weary the Senate with anything further on the subject. But when personal allusion is made to me in terms which I consider very offensive, I may be permitted to make a very brief personal rejoinder.

The Senator from Massachusetts opened with a very high eulogy on the distinguished and venerable Senator from Kentucky, to which I can heartily subscribe. I have no word to say in detraction of the high compliment he paid to that distinguished Senator; but I may be permitted to remark that it does not add to the reputation of that Senator when the whole speech is read. If the whole speech be read I think it will detract from it. The Senator from Massachusetts charges us with intending to commit a fraud. Now, sir, if he will disregard the proprieties of the Senate, if he will disregard the rules of debate, if he will set at naught the proprieties of a gentleman, I shall permit it to pass, because I know the country will estimate it in its proper light, and it will not detract from me in the least. I will add that it seems to me the most appropriate reply I can make to him in regard to that accusation when he charges fraud, and an intention to commit fraud, is, that "out of the abundance of the heart the mouth speaketh."

He says he was with Walker, traveled up the river, and conversed with him, and he volunteers his testimony. I should like him to testify under oath when he undertakes to influence the action of the country, or influence public judgment by anything he can testify, and I should like him to undergo the scrutiny of a cross-examination that I could put to him. I think I could ferret out a little more than he has volunteered here to the Senate uncalled for. He says that after he went to Kansas, he knew this, that, and the other. Well, sir, the country knows that the "Oxford frauds" were never committed until he went there; that the "Delaware Crossing frauds" were never committed until after he went there. Whether they resulted from his instigation, whether he, by his intrigues, and schemes, and plots, and maneuvers, laid the foundation for them or not, I cannot say; but I can say that history will bear me out in the fact that until he did go there, none of these frauds were committed.

He intimated that I neglected to answer a certain question propounded by the honorable Senator from Ohio, [Mr. WADE.] I thought it was answered sufficiently. If not, I do not intend to re-present arguments I before presented. I could ask him questions—whether, when he went to Kansas, he did not find peace; whether, when he went to Kansas, he did not find a public sentiment gradually quieting down, disposed to harmonize itself, to accept the constitution, to put it into successful operation, and only to change it as the future exigencies of that community might require; whether he did not send for Lane, and have him brought twelve miles to his room, and concoct a scheme that has stirred up the whole strife which has spread over the country, and caused the excitement that now prevails? I could ask him these questions if he were under cross-examination, but I shall not do it. There are various other questions I could ask. Volunteer witnesses, not under oath, who perhaps might be challenged

if sworn, I suppose will not have very much effect upon the country.

Mr. WILSON. Mr. President, I should not object to be put under oath, and to have the Senator from Missouri question me in regard to all that I know of the affairs of Kansas; he would be better posted in the affairs of that Territory than he now appears to be. He asks me if I did not find peace in Kansas when I went there? Governor Walker and Mr. Stanton, in the public documents that you have published, and the public authorities, all tell you that there was not peace. I thought there was peace, though there was a deep and intense anxiety in the public mind in regard to the election of delegates to the convention. Let the Senator remember I was there the last of the month of May, and the election was to come off in June.

The Senator wishes to know if I did not send for General Lane. I did not see General Lane while I was in the Territory, and did not speak to him, or send for him. Is the Senator answered?

The Senator wants to know if any of these frauds ever occurred in Kansas before I went there. Why, Mr. President, did not the Senator's associates and friends, his own constituents on the Missouri river, to the number of forty-nine hundred, march over into Kansas on the 30th of March, 1855, and commit the most stupendous fraud ever committed in this country? Did they not go even in the autumn of 1854, and give seventeen hundred votes for General Whitfield? Has not that been proved? Did they not go over there, many of them, in the autumn of 1856, to vote? Why does the Senator speak to me, or to my friends in that Territory or out of it, of frauds in Kansas? What frauds have they ever committed there? At what time, and on what occasion, have you ever proved that a fraudulent vote was given by a free-State man in that Territory? Has there been an election in which frauds have not been committed, openly committed, proved beyond all question, by the slave-State men—beginning in 1854, carried out in 1855, renewed in 1856, running through the elections of October and December, 1857, and of January, 1858?

Let me say to the Senator now—and in saying it I reply to a hint thrown out by the Senator from Pennsylvania [Mr. BIGLER] in my absence during the long night session—that I gave no advice to the people of Kansas not to vote at any of their elections. Here, to-day, let me say that I have advised the people of Kansas, so far as my voice could go, from these Halls and before the people in and out of the Territory, on all fit occasions, to go to the ballot-box, offer their votes, give their votes if they could—if they were cheated, the responsibility would not be theirs—make a record, show the frauds to the country. That has always been my opinion and my advice.

The Senator has insinuated against me what he knows there is not a shadow of evidence for—that, in the Territory or out of the Territory, I ever consulted with or laid any plans with anybody or any class of men, affecting the public peace or affecting elections, that were not legitimate, legal, and proper. Sir, I live in a section of the country where we do not have election frauds, where the votes of the people are taken as regularly at all elections as they are taken in the Senate of the United States. I never saw an illegal vote cast in my life; and I have never, in the course of twenty-five years, attended an election where I had reason to think there were fraudulent votes given, or fraudulent returns made. I hope the Senator from Missouri can say as much.

Mr. GREEN. I merely wish to say one word. The Senator from Massachusetts intimates that he would like to be sworn on this subject. All I have to say is, that I shall not call him. In a long practice at the bar, and in conformity with long experience, and on principles laid down by the best legal writers on the law of evidence, it is unsafe to trust a too willing witness.

Mr. BELL. Mr. President, this distracting question is presented to us again, though in a somewhat altered aspect from that in which it has been heretofore considered by the Senate; and I feel that it is due to myself that I should state the grounds on which I propose to regulate my course upon the question as now presented. In doing so, I shall endeavor to be very brief; I do not propose to enter elaborately into the discussion of the subject.

My object from the first, as I announced, was to support such a measure as, in my opinion, would not only give a truce to agitation on all matters connected with Kansas, but would give permanent peace and repose to the country, without the violation of any sound principle, or without derogating from the rights and interests of either section of the country. Regulating my investigations and my conclusions by that single object, which I hope is a patriotic one, I gave a very careful examination and inquiry, not only to the particular question which was presented by the original Senate bill, but to the whole history of the difficulties in Kansas from 1855 up to this time; and I came to the conclusion that the Senate bill was not fit and proper to be supported with reference to the great controlling object which I had in view; and I desire briefly to recapitulate the heads or grounds on which I based that opinion. Without going back to the period of the first alleged violation of the principles of the organic law, I will commence with the getting up of the Lecompton convention.

I considered that there was a great irregularity in the formation of the Lecompton convention; that the law of the Legislature calling the convention, supposing it to have due authority, was disregarded and violated. Saying nothing in regard to any other cause which may have influenced the majority of the people, who were called the free-State party or Abolitionists, from voting in the election of delegates to the convention, on the ground that all the officers who were to hold the elections and to make the returns had been appointed by a Legislature which was altogether pro-slavery, with the exception of one member, I go at once to what I call the irregularity, which was, that the people of from fourteen to nineteen counties, by a defective execution of the law, were not allowed to cast a vote, or to send a delegate to the convention. That was an objection that I considered would be decided to be fatal by any court of judicature in which the validity of any judicial process or other proceeding under a law, should arise. I understood the able Senator from South Carolina, [Mr. HAMMOND,] who addressed the Senate on this question at an early period of the debate, to admit that there might be irregularities which would be fatal to the legality of the convention. Another objection was, that, after the constitution was formed, the submission to the people was a mockery, and that the alleged ratification could not be considered otherwise than as fraudulent.

It was alleged on the other side that there was no such irregularity in getting up the convention; that there were no such frauds as had been charged against the ratification on the 21st of December, by those who admitted that these were questions which might be entitled to weight and influence; but it is a most remarkable fact with regard even to that portion of the advocates of the original Senate bill who gave their attention to the subject of these frauds, and answered these allegations as far as they chose to do, that there is not one of them in either House of Congress who has not persistently up to this day voted against every proposition to inquire into them by proofs that would be satisfactory to the people of the whole country. Those gentlemen have told us that it was an assumption on our part to suppose that there was any irregularity in the getting up of the convention. I ask the gentlemen who took that position why they are not willing to have an investigation and report upon that subject? Why were you not willing to let us hear the truth by direct testimony as to the frauds in the election of the 21st of December, so far as it was material to be considered? Why did they not agree to a proposition to have the evidence brought here?

In regard to the condition of the nineteen counties to which I have alluded, in fourteen of them there were no officers appointed, so that the law requiring a census and registry could not be executed. There were three thousand voters in the nineteen disfranchised counties, and a large portion of them in fourteen of those counties who had no chance to vote, no chance to be included in any census returns, or in any registry, not because they threatened the officers with death or violence if they proceeded to execute their duty, but simply because there were no officers there; none had been appointed; the Legislature held it in their exclusive power and control to appoint

all officers; the people were permitted to elect none; and the Legislature neglected to appoint any officers in the fourteen counties.

I will state a further fact, which is a most pregnant and important one. The frauds which are alleged, the charges of irregularity which are made, could all be proved, so far as they existed on paper or in writing, by looking into the archives of the Territory of Kansas, and could have been reported here in a very short time. The proof of all the facts resting in the knowledge or recollection of witnesses is said to be abundant. My investigations, of course, have been confined to the best evidence within my reach, and upon such information as has been presented to me, and on which I could rely. If any supporter of the Senate bill chose to deny any of the alleged irregularities and frauds connected with the Lecompton constitution, why did they not permit them to be investigated, and evidence to be taken when witnesses were upon the ground, or why did they not allow us to have the documentary proof before us?

These were a part, though not the most material, of the grounds on which I formed my opinion, and I think they ought to be regarded as entitled to some consideration. The President set out with the proposition that the people of Kansas had authority under their organic law to form a State constitution whenever they pleased, and he further assumed that the Lecompton constitution was formed as legally, as regularly, and as fairly, as any other constitution that has ever been formed in this country, and that, therefore, no subsequent Legislature of the Territory could alter or annul it, and that Congress was bound to regard it as the act of the people of Kansas, and reflecting their will.

Now, sir, upon the investigation of that question, I found no warrant in the organic law of Congress—the Kansas-Nebraska act—authorizing the people of Kansas to form a constitution, and demand admission into the Union whenever they pleased. I do not remember that there was any gentleman among the advocates of the measure who contended to the end that there was any such power under the organic act; or if there be any such gentleman, I am not aware that he made any such statement. I know the Committee on Territories reported their opinion to be that the people had the legal power under the organic act, and it was inserted in the preamble to the bill they reported; but it was stricken out afterwards, I presume, on the representation of other gentlemen, who were friends of the bill, that it was an untenable position.

Then how did this leave the question of the formation of this constitution? It left it without any enabling act, and without any authority of the organic law—open to every exception that could be taken on the ground of irregularity, of fraud, of any description of unfairness, or that it did not reflect the will of the people. Connected with this view of the subject, and the circumstances I have before stated controlled me so far as they went; but I repeat again, they were the least substantial of the grounds upon which I proceeded.

As there was no authority given in the organic act for the formation of a constitution, I considered that the people of Kansas might, under the authority of an act of the Territorial Legislature, at any time form a State constitution, and apply to Congress for admission, standing exactly in the position that the people of Arkansas stood when the question was asked of the authorities of the United States whether they would be entitled to come in under such a constitution. They, the people of Arkansas, were informed, through the Secretary of State, in conformity with the opinion of the Attorney General of the United States, that having formed a constitution under such circumstances gave them no right to admission into the Union according to the Constitution of the United States, but that Congress could, if they thought proper, admit them.

But, admitting everything that was contended by the advocates of the Senate's bill in regard to the regularity and fairness of the Lecompton convention, and of the formation of the constitution; admitting, in the language of the President, that this constitution was as regularly and fairly formed as any constitution could be, how did the case then stand? Until the Territory was admitted

by Congress as a State, had this instrument any vitality or validity whatever? I would infer from the argument of the honorable Senator from Missouri, that he thought it had. On looking over his speech this morning to see whether I understood him correctly the other day, I find that he contends that the constitution formed a State government, and that whether it be admitted now or not, there is a State government formed in Kansas; and if I were to give a strict construction to other parts of his argument, it never could be altered at all, except in the exercise of the sovereignty belonging to the people of a State, after their admission into the Union.

According to the true doctrine upon this subject, although this constitution was regularly and fairly formed under an act of the Territorial Legislature, it had no validity, no vitality, until the Territory was admitted into the Union as a State; and what follows from that? That the people of the Territory might change it, abolish it, and frame a new constitution, when and as often as they pleased, before their admission into the Union as a State, in the same legal forms, and the same fairness that the Lecompton constitution was formed, supposing that one had been fairly and legally formed? They were not prevented from doing that in the exercise of their sovereignty over the whole question, until they were actually admitted into the Union as a State. I predicated my course in opposition to the Senate bill mainly on the ground that the Territorial Legislature had passed an act, about the validity of which there could be no question, calling the people to vote upon the Lecompton constitution, and to say whether it should be their constitution, and implying, of course, that they were to say whether they would ask admission into the Union under it, and that the vote was taken with fairness—which has never been seriously questioned by any one—and that a majority of ten thousand declared against it.

Now, according to the constitutional doctrines and principles contended for by the most experienced and able advocates of this measure, was the Lecompton constitution, any longer, after that vote, one of which it could be said that it was the constitution under which the people of Kansas now asked admission into the Union? Some of the advocates of the measure admitted that this constitution had no validity until it was accepted by Congress, and the Territory admitted into the Union as a State; but most of them forbore to say anything on the subject. The honorable Senator from Virginia, I think—certainly the honorable Senator from Missouri, the organ of the Committee on Territories—asserted the proposition that we had no right to approve or disapprove the constitution; that it was not for us to say whether we adopt it or not, (which is strictly true;) that we could only look to see whether it be republican or not; that beyond that we had no control; that the constitution was framed by and for the people of Kansas, not for the approval of Congress.

Well, sir, according to those doctrines, how came the Lecompton constitution here? It was presented, it is said, by John Calhoun, the president of the Lecompton convention. Because he was invested with that authority by that convention, did that deprive the people of Kansas of all power over the constitution? Suppose this question should lay over five years, as the honorable Senator from Missouri says a constitution framed in Florida once did: could the people of Kansas make no new constitution in the mean time? Could they make no changes of it? Could not they repudiate this instrument? Could they not, if there was time allowed them, in the same legal form, through the act of the Territorial Legislature, make half a dozen constitutions if they chose—becoming discontented with one and another as they made them, and only present the last one that they approved when they applied to Congress for admission? Surely they could.

I have contended that there is no no constitution here presented by the people of Kansas. I do not say that under the powers we have under the Constitution of the United States, we cannot admit Kansas without any constitution. We could do so if we thought proper; there is nothing in the Constitution of the United States to prohibit it. The proposition I state is, that the constitution which is alleged by the advocates of this

measure, and in the report of the committee of conference, to be the constitution of Kansas, has been repudiated and rejected in the same legal forms by the people of Kansas, and with the same fairness in and with which it was originally formed. I say with greater fairness. I am admitting that everything was done fairly and legally in the formation of the Lecompton constitution; and I say, that just as fairly, and just as legally, under the act of the Territorial Legislature, the people of Kansas have rejected that constitution, and said they will not stand by it; that it does not reflect their will; and that whether it did or not when it was formed, they have changed their opinion; it is not their constitution now.

How gentlemen of constitutional learning, able and skillful as they are, on the other side of the Chamber, have ever recognized this as the constitution of the people of Kansas, according to their own doctrines, I have not been able to comprehend; for the able Senator from South Carolina and others—though I know a good many have evaded the question altogether—have admitted that this constitution had no more validity than the paper on which it was written, until Congress admitted the State into the Union; and, according to the true, strict, constitutional doctrine, as I contend—and it is according to the argument of the honorable Senator from Missouri; if not of the honorable Senator from Virginia—you have no right to say to the people of Kansas, when you come in this or that shall be your constitution. To be sure, the Senator from Virginia said we ought to see that she has a republican form of government; but I shall come to that directly.

These are the main grounds on which I could not yield my assent to the proposition made by the President, and adopted by his supporters in the two Houses of Congress, to admit Kansas under this constitution.

I have stated that subsidiary to the views which led me to take the course I did upon the original bill, I looked into the evidence, so far as it was at hand, and so far as I could procure it, to see whether the allegations of fraud and irregularity had any foundation in truth; for I had heard them repeatedly denied and as repeatedly reasserted. I looked into them myself. I know honorable Senators on the other side did not pay much attention to that point; and I allude to it now, more particularly to the honorable Senator from South Carolina, [Mr. HAMMOND,] because he was more emphatic in his statements upon this part of the subject than others. He said that he knew enough already about the history of Kansas affairs not to desire to know any more. He shut his eyes willfully to the facts of the case; he abstained from any investigation. Seemingly to me he feared, as he did not wish to separate from his friends, that, as an honorable man, if he should examine the allegations that had been made of fraud and irregularity against the formation of the Lecompton constitution, and the mode of getting it here, he could not give it his support. Others, I dare say, have taken the same position; but they all take shelter under the principle, as they call it, that they cannot look behind the constitution; that these frauds are matters of prevention and suppression by the territorial authorities; that they cannot look into them; that they can look only to the paper said to be sent here by the people of Kansas. As the honorable Senator from Georgia [Mr. TOOMBS] said to-day, they trample under foot all questions of fraud or irregularities that may have been committed. That was his language to-day; and they did trample them under foot.

The gentlemen on the other side, though, felt themselves protected from the necessity of looking into the frauds, and, of course, hold themselves irresponsible to the country, and to their own consciences, for the enormity of the frauds and irregularities that may have been practiced in connection with the Lecompton constitution. That is a happy condition to be in. I should like to occupy it in many cases, if I thought it was really fit to be assumed and occupied; and I do not say these gentlemen took that position for that purpose. They go upon the ground that this being presented, as they say, with all due legal forms, and having been framed, according to the principles they adopt, they can look no further; that everything beyond that is foreign to the issue.

I have thus stated the grounds of principle and of fact on which I opposed the original bill; but I opposed it for yet another reason. Instead of bringing peace to the country, by adopting that bill and enforcing that constitution on the people, the probability was, in my judgment, that a civil war might, or would, probably follow; that it would give no peace. As to the idea of "localizing" the agitation upon this subject in the Territory of Kansas, I think that has been proved by experience, too long, too fatal an experience, to be too absurd and preposterous to think of. Then, consistently, with the original object which I proposed to myself as my guide in regulating my action on this subject, I was bound to go against the bill.

The question is now presented, Mr. President, in a new shape; and when I came to look at it, it required, as I thought, to be considered more carefully than I had first supposed. I allude, of course, to the question presented by the report of the committee of conference. I had to consider whether this, after all, was not in conformity with the main object which I had in view in forming my opinion in reference to the original project of the President; whether it did not open a mode by which this question could be settled; not only a true given, or a lull, because I consider that of little value, but whether a mode was not provided by this report by which this question, in some short time, some reasonable time, at all events, might be put at rest.

Now, Mr. President, I lay very little stress on the charge which has been made as to the bribe which is held out, by putting the question to the people upon the ordinance instead of the constitution; or on the fact, if it be so, that the constitution is not to be submitted to the people of Kansas by this project of the committee of conference. I should lay but little stress on that, if the other provisions of the report of the committee were such as promised to secure the accomplishment of my original object and purpose in taking my course upon this subject.

I do not consider that there is much in the argument as to the bribe—the offer of these lands—though the honorable Senator from Massachusetts [Mr. WILSON] has stated some things that would make it an object. There may not be many valuable lands left there in a year or two; and it might be some temptation to get these lands for the purposes of education and internal improvements, and the other objects proposed to be subserved by these grants, now while there is a very large portion of fertile lands to be obtained. But as the quantity offered to them is not more than Congress at all times would be willing to concede to them whenever they may be admitted into the Union, and, I believe, the same quantity that was conceded to Minnesota, that "bribe" I cannot consider to be one of very great influence, whatever may have been expected from it.

Next, as to the question whether the measure, as now presented, is any material modification of the original bill, in respect to the question of submitting the Lecompton constitution to a vote of the people. Whether there is, in the language of the day, any backing down on the part of the supporters of the original Senate bill, I do not pretend to say. I cannot say there is any modification of the original bill in this respect, which can be charged as an unequivocal change of the ground originally assumed on this point by the friends of this measure, though I think the circumstances are very strong to show that they are willing to waive their original policy of fastening this constitution on the people of Kansas. I will not quarrel with them on that point, or press the question of consistency or inconsistency upon them.

The honorable Senator from Virginia was very earnest and very positive in his statement that there was no change of principle; that there is no inconsistency between the present offer in regard to the submission of this constitution to the people of Kansas, and the one which was proposed in the original bill. I would not quarrel with him about that. If this bill had been framed, in other respects, in such manner as to give a close to this unfortunate and unhappy controversy, I should not stop a moment to inquire whether the friends of this measure can maintain successfully that there is no inconsistency, no change of principle, between this proposition and that which originally passed the Senate. I should with pleasure

concede to them the credit of having made a proposition which, while it saved their own pride of consistency, and while it reconciled them to the idea that there was no violation of the principle on which they supported that original bill, yet substantially accomplished my great object. Instead of inquiring into that, I should have thanked them for the exercise of any skill or ingenuity by which they were able to present such a proposition which was satisfactory to their own feelings, and, at the same time, promised to bring the same results to the country—bring quiet not only to Kansas, but throughout the Union.

But, sir, when you come to the question merely whether there is a change of policy, to say nothing of principle, or not, I will not say what I really think; but if here is not a mode by which the people of Kansas can escape from having this constitution fastened on them, I do not know what construction to put upon language; I do not know what interpretation to put upon the substantial provisions of the report. Here is clearly a door opened by which the people of Kansas can avoid what a majority of them would consider an oppression. A means of escape is opened to them if they think proper to avail themselves of it—that is it. The gentlemen say this is no submission of the constitution. The honorable Senator from Georgia and others take that ground. It seems that according to their statements and their presentation of the question, they have become very suddenly alarmed as to whether there might not be serious controversy if they were to insist on their original bill, about the quantity of lands the people of Kansas should be entitled to; that it might create a disturbance, not only in Kansas, but throughout the Union, and that it therefore became them, as wise and prudent statesmen and politicians, on so grave a measure as that of admitting a State into the Union, to see that there could be no difficulty springing out of the matter hereafter. That is very commendable on their part; nobody can deny that. The only strangeness about it is, that the idea never struck them until this committee of conference came together. Nobody ever apprehended any such difficulty before, and the fact is, that nobody could have believed that any serious difficulty could ever have arisen from any such cause.

The honorable Senator from Georgia goes so far as to state that if the section of the original bill which prescribed the quantity of land which would be conceded to the State had been agreed to by the House of Representatives, and Kansas thought proper to repudiate that proposition and disagree to it, she would be out of the Union. That was a novelty to me; I never conceived of such an idea before; but these are the straits and difficulties in which gentlemen necessarily find themselves in maintaining their consistency and avoiding any change or violation of the principles on which they first set out.

I repeat, I would find no fault with them if the measure proposed offered peace. I would, on the contrary, applaud their ingenuity, and be very glad that they could flatter themselves that there was no inconsistency, no change of principle, if they had carried out the views they might have carried out, and made it an effective and substantial measure for terminating this difficulty in a mode that could not have failed of producing the result of general quiet and harmony.

But is there a change? The people are told, "if you vote for this land proposition, you take it with this constitution." They are told that, in substance. Now, I should like to inquire—I merely ask the question, without arguing it—what right have we to say that they shall take this constitution, if it was not theirs originally, or whether it was so or not? This proposition says to them, "if you vote to accept these grants of land, it must be understood that you are willing to come into the Union with the Lecompton constitution." Now, I ask whether, according to every rule of interpretation or construction which obtains in courts of justice and legislative halls, that is not equivalent to submitting the constitution to the people for their acceptance or rejection? It is intended—I do not say improperly intended—but it is expressly stated that that is to be the result. It says to the people of Kansas, "if you do not accept our proposition in regard to lands, the inference is to be that you are not willing to come into the Union with the Lecompton consti-

tution." As I stated, I should have made no question in regard to what seems to me to be an indirection in this business, and should be very glad to concede to the gentlemen that it was consistent, and no violation of their principle, if they had further provided that "if you give a vote rejecting this ordinance, you shall proceed immediately, or in the regular course, as soon as it can be done by an act of your Legislature, if you choose to call a convention and form a State constitution," regulating the mode, in the spirit of an enabling act, by which it should be done, to secure fidelity and fairness, "and when you have done so, whether the new constitution you make provides for slavery or restricts slavery, you shall be admitted into the Union," &c. I believe that strictly according to the Constitution we have no right to impose conditions on the admission of new States; but I would not make a point about that, if it had only done what further would seem to be necessary in order to close this controversy.

I stated in the course of the somewhat long and elaborate speech which I made upon the occasion of the passage of the original bill by the Senate that I had been of opinion from the first, that this controversy was not to be closed during the present Administration. This declaration was predicated on the interest which I saw the extremes of both parties had in perpetuating it. I make no charge, but from the natural tendency and operation of such questions in the action of parties, particularly in the extremes to which they exist in this country, I have had but little hope from the first that this controversy could be terminated until after the next presidential election, if then—I mean in regard to Kansas.

Then, I do not think we are authorized to impose conditions on new States on their admission; yet in the exigency of this case I should have been disposed to vote for the measure reported by the committee of conference, if it had pursued the policy of the amendment of the Senator from Kentucky, in providing for the formation of a new constitution, as soon as might be conveniently done, after a vote upon the Lecompton, rejecting it, and for admission into the Union under the new constitution, with or without slavery. If that were done, notwithstanding what may be supposed and considered to be a "bribe" in regard to the land grant, I should have felt bound to support this proposition. That is the principal defect of it, in my judgment.

I do not charge that it was the design of the Senators who composed the conference committee to perpetuate the controversy in Kansas; but that it will probably perpetuate agitation in Kansas, at least for three or four years, I think few will deny. In my judgment, that will be the effect of it, take it in any aspect you please. Suppose a majority of the people of Kansas agree to accept the grant of lands proposed by this report; then, of course, they come into the Union, according to the provisions of this new bill, under the Lecompton constitution. But would that close the controversy? They could vote for the land grant, and the moment they came in they may make a question whether Congress has any power to force a constitution on them; they might make a question whether Congress has any power to prescribe that they shall have any constitution before or at the time of admission. According to the doctrine of the Senator from Missouri, we have no such power. He says we have no power over this constitution or any other; it is made for the people of Kansas; we cannot alter it; we cannot add anything to it, or subtract anything from it. According to my understanding of the principles of many of the advocates of this measure, as that constitution was rejected by the people before the passage of this act admitting them into the Union, they may say this is not their constitution, and if they have formed a new constitution—particularly if the Leavenworth constitution should be ratified by the people, according to the forms provided by the convention which framed it—they may say, "that is our constitution; and we make the question with Congress, we make the question with all the authorities and powers that choose to doubt our right, that the Leavenworth is our constitution." Well, sir, what then? Some gentlemen have suggested to me (I do not think it is possible though) that the Administration may have been looking ahead to the consequences of making such a question, and have got the opinion

of the Attorney General of the United States that the act of the Territorial Legislature under which this new constitution was formed was not passed according to the organic act, because the Governor was not allowed three full days for its consideration; and hence all the proceedings under that act in calling a convention and in forming a constitution are void.

Who is to settle that question if it should be made? Your Attorney General is not the man who can do it. What authority is there in Kansas to settle it? If they have a legislative majority of free-State men, and they choose to organize under the new constitution, they may undertake to settle it. Suppose they do: how can the Governor interpose? Suppose he is a pro-slavery Governor even: how can he interpose to prevent any construction the Legislature think proper to put on the act authorizing the call of a convention? They choose to put that construction on it themselves. Can the Government of the United States, the Executive, or Congress, intervene and settle a question of that sort? I should like the gentlemen who have taken the position that we cannot look into any irregularities and fraud, or go beyond what appears on paper, to answer me this question. But it may be retorted on me that that would give peace; they would settle everything under the Leavenworth constitution. But I say no; it would be contested; there would be a minority there, and their efforts to defeat such a construction, under the circumstances, would be the foundation of a new agitation, only changing it somewhat. Parties would array themselves on one side or the other. The groundwork has already been laid for it. This view is supposing that the people of Kansas should accept this ordinance, and be admitted into the Union under the provisions of this new bill.

Suppose, however, that they do not do that: then they have to wait until they have a population of ninety-four thousand. Well, that is no great hardship; but I will tell you where the point presents itself to me as one of serious magnitude. The object of our proceedings here ought to be to do justice, and to settle this controversy as speedily as possible—to cut off the fountains from whence have flowed all these bitter waters. The honorable Senator from Georgia to-day said the people of Kansas had given us so much trouble that he was willing two years ago to bring them in with the population they were said to have at that time—perhaps forty thousand; and is as willing they should come in yet, if they would accept this proposition and take the Lecompton constitution; but if they do not agree to this, he would not agree to admit them until they have a population of ninety-four thousand; for every year he had a diminished and still diminishing opinion of their competency for self-government. His estimation of them on that point is growing less from year to year, on account of their gross immoralities, violence, turbulence, and general demoralization. Well, they have not recently commenced. According to our accounts of them, these violences, these outrages, this demoralization, these frauds, these irregularities have existed for more than two years—we may say, to some extent, ever since the territorial government was organized under the Kansas-Nebraska act. Gentlemen say, if these people will not accept this proposition, and come into the Union with the Lecompton constitution, we are under no obligations to admit them; we will let them fret; we will let them (to use a vulgar term) sweat; he did not use it, but I cannot think of any other more appropriate at present. Let them be punished by continued violence, outrages, frauds, and assassinations; let agitation go on; they do not deserve any other treatment until they have a population of ninety-four thousand; it is a punishment due them.

Well, sir, that is not the view I take of the subject. I want to terminate this controversy, and close these agitations; not for the sake of the people of Kansas so much as for the repose and quiet of the whole country; for the sake of ourselves; on account of both sections of the Union; on account of the suffering and prostrate condition of every branch of private enterprise in the country. I want to put an end to that incubus which has set a dead, paralyzing weight on the energies and enterprises of the country, so long creating distrust and want of confidence in the stability of our

Government itself. It is not the people of Kansas alone that we are legislating for or we ought to legislate for on such a question as this; it is the whole country. That is my objection.

I repeat again, that I should probably support the present proposition but for this feature of it, prolonging the controversy for two or three years at least, bringing it into the next canvass for the Presidency almost certainly. Though the free-State men in Kansas, having the power in the Territorial Legislature, should go on comparatively smoothly, how is this question to be presented in the section of the country which is most liable to be excited, agitated, and inflamed by the action of Congress on this subject? You will admit Kansas with forty or fifty thousand inhabitants, under the Lecompton constitution; but if they are to be at liberty to form a new constitution, and a majority of them should be in favor of a free-State constitution, you will have the full pound of flesh; you will bring the rigor of the law, and of the practice of the Government, on the admission of new States, to bear upon them; you will not allow them to enter the Union until they have ninety-four thousand population. That is the way it will be urged. This presentation of the case to the northern people, I do not suppose, would be productive of any fatal consequences; but you are still adding to that mass of anti-slavery sentiment which has grown up in the North under the action of the majority of Congress in the last four years; you are still adding additional weight and consequence to it; you are still swelling the tide of anti-slavery feeling and hostility to, and alienation from, the South. You are doing this, too, on the very eve of a most important election.

Then, if the people of Kansas were to accept this proposition, if it shall be passed, as I suppose it will be, and they should go quietly on, still here is this argument to be presented to the people of the North. "Kansas is no longer suffering," it will be replied. "Yes, but under what circumstances is she kept out of the Union?" it would be retorted; "why is she not now a State of the Union?"

The honorable Senator from Virginia thought a capital objection to the amendment of the honorable Senator from Kentucky was, that the State was to be admitted without our seeing the constitution that might be formed. That amendment provided that if the people of Kansas should not choose to accept the Lecompton constitution they might go on to make a new constitution; and that, upon the people ratifying the new constitution, the State should be admitted upon proclamation by the President. That was considered a fatal objection to the proposition of the Senator from Kentucky. On what ground? Because the Constitution of the United States guarantees a republican form of government to every State in the Union. I shall not take up the time of the Senate now—because I have already occupied more time than I intended in making the statement I have—by going into that argument. I will say, however, that there is no such condition required in the Constitution of the United States at all. The provision of the Constitution that the United States shall guaranty to every State of the Union a republican form of government was intended to guard against revolutions by which an aristocracy, an oligarchy, a monarchy, or a despotism, might be set up or established in any of the States of the Union at any time. The Constitution of the United States was formed on the general presumption that the States would continue to be republican, as they were; that all new States of course would be republican when they should come into the Union; but such were the hatred and jealousy then existing of all anti-republican governments, that it was thought best to insert in the Constitution an express guarantee on this point. It has been our practice to have a constitution before us when we admit into the Union new States formed out of our own territory, but there is no warrant in the Constitution of the United States for demanding any such thing. States have a right to come in without submitting their constitutions to us. Why submit them to us? According to the doctrine of the Senator from Missouri we cannot alter them; we cannot express an approval; we cannot disapprove. The question with us is simply whether we will admit the Territory into the Union as a State. When we do this we have fulfilled our authority under the Constitution of the United States. I had intended

to elaborate this point a little further, and to say something more on the general subject; but if it is desired to close debate this evening, I shall not trespass any longer on the attention of the Senate.

Mr. SEWARD. Mr. President, a few days ago there appeared in the newspapers some statements about communications which passed between the honorable Senator from Missouri [Mr. GREEN] and myself, in the progress of the discussions of the committee of conference, which have been placed in my hands, and which carry an impression that is erroneous in regard to the conduct of that honorable Senator as chairman of the committee; and it gives me pleasure to make this statement, to correct that erroneous impression. It is stated in this article:

"When Mr. ENGLISH offered his bill at the conference this morning, it was eagerly accepted by Messrs. GREEN, HUNTER and STEPHENS. Governor SEWARD and Mr. HOWARD asked time to consider, and to have the decision and report postponed till to-morrow morning. Mr. GREEN would not consent. He would only grant two hours, and named two o'clock this afternoon as the hour for reassembling the committee and reporting the English bill to the House and Senate. He very earnestly requested Messrs. SEWARD and HOWARD to be punctual, as he wished to have the question acted upon at once."

What occurred in the committee was this: the honorable Senator from Missouri was chairman of the committee; and when a proposition was made for a postponement for a day, or twenty-four hours, the honorable Senator from Missouri said he thought that was a reasonable request, that we ought to have that time, but he being in the chair, the question was put and carried against us, and we were limited to two hours. It is all right, except that the blame, if there is any, is put upon the honorable chairman, who expressed the desire that we might have the indulgence which we asked. Then, again, the letter goes on to state that:

"At two o'clock, when Messrs. SEWARD and HOWARD went to the committee-room, nobody was there. They waited nearly an hour; no one came. Mr. SEWARD went in search of Mr. GREEN, and found him very much cast down. He inquired what was the matter? Mr. GREEN intimated that the screws were loose, and everything in disorder; a portion of the party was kicking in the traces. 'Do you mean to report to-day?' inquired SEWARD. 'No,' said GREEN, 'not to-day.' 'Will the committee meet to-night?' 'No, not to-night.' 'To-morrow morning?' 'No.' 'When then?' 'Can't tell,' said GREEN moodily; 'I will let you know when we are ready to meet.'"

Very nearly that conversation occurred, but altogether in a spirit entirely different from that. I have authorized nobody to say that the honorable Senator from Missouri acted moodily. The honorable Senator was not ready to report; and this conversation was one in which my own convenience moved me to ask the information from him; and he manifested a desire to gratify me, and said the prospect was that we should not have a meeting that day, but would have one the next, and he would give me notice at all events, and I might go home. It was said in the kindest spirit.

Another thing, Mr. President, while I am up, to show how very apt we are to be misunderstood. I have had nothing but amenity from the honorable chairman, and from all the members of that committee, during all our discussions and debates. I have great pleasure in saying that. Some days ago, I raised a question of order here in debate. The honorable Senator from Missouri objected that there was no point in the question of order which I raised, and I rather thought afterwards that he was about right; but the Chair decided that I was in order. He paused, and said to me, "Very well, then, go on;" and I proceeded with the statement I was making. I said: "I wish to know whether I am to proceed with the permission of the Chair or under the direction of the Senator from Missouri?" and he replied in good humor, and as a joke entirely: "Either is entirely obligatory." That went into the newspapers as being a defiance on his part. It gives me pleasure to make this correction, and to acknowledge that throughout the whole of this debate, so far as that honorable Senator, and every other one with whom I have had any connection in the transaction of this business, is concerned, everything has been conducted with kindness and courtesy, which I hope may always be continued in all our communications.

Mr. GREEN. The Senator from New York desires to make some remarks on the pending question to-morrow, and as it is hardly worth while to prolong the session to night, I move that

the further consideration of the subject be postponed until to-morrow at half past twelve o'clock.

Mr. SEWARD. I desire to address the Senate on this subject, and I am very thankful to the honorable Senator from Missouri for the motion he makes, because I am not quite well to-night, and it would be a tax for me to go on now.

Mr. HUNTER. I would suggest to the Senate that if we can do it, we ought to agree upon some hour when the vote shall be taken. The Senator from Mississippi, [Mr. DAVIS,] whose health is delicate, desires to vote, and I should like to fix some hour when we can take the question.

Mr. SEWARD. I will say to the honorable Senator from Virginia, so near as I can, that we understand on this side that the debate is practically closed on the other side; and there is no Senator on this side, I believe, who desires to address the Senate, except the honorable Senator from California, [Mr. BRODERICK,] who is always brief, and will be very brief to-morrow, and myself; and I suppose, if we take up the question at half past twelve o'clock, we may calculate to get through in a very reasonable morning hour.

Mr. HUNTER. Can we get through by three o'clock?

Mr. SEWARD. Certainly by three—perhaps before.

Mr. GREEN. I move that the further consideration of this subject be postponed until half past twelve o'clock, to-morrow.

The motion was agreed to.

On motion of Mr. THOMSON, of New Jersey, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 29, 1858.

The House met at twelve o'clock, m. Prayer by Rev. P. D. GURLEY, D. D.

The Journal of yesterday was read and approved.

ADMISSION OF KANSAS.

Mr. ENGLISH. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the report of the committee of conference on Senate bill No. 161, being a bill for the admission of Kansas, on which the gentleman from North Carolina [Mr. CLINGMAN] demanded the previous question.

Mr. COX. If the gentleman from North Carolina will withdraw that call, I would like to say a few words.

Mr. CLINGMAN. Will the gentleman renew the motion?

Mr. COX. I will.

Mr. CLINGMAN. I will give way with that understanding.

Mr. COX. I am obliged to the gentleman from North Carolina for his kindness in this matter; and I wish to say, with the same kindness with which I have undertaken to do and to say everything which I have done and said here, that we should take care that the admission of a State should be in every respect legitimate. There should be no surreptitious birth of a State into this Union. As this House well knows, I was one of the first upon this floor to enter my protest against the admission of Kansas without a sanction of her constitution by the people.

Mr. CLARK, of New York. Yes, the very first.

Mr. COX. And I am among the first now, sir, to come forward, in the spirit, as I conceive, of honorable concession. When gentlemen upon the Republican side of the House have conceded so much and so honorably, and when gentlemen upon all sides of the House have conceded so much and so honorably, I will not be laggard in this work of honorable settlement.

Mr. Speaker, I desire to have my position understood before the country and before my people. That I opposed the admission of Kansas under the Lecompton constitution all know. I opposed it because I did not believe in the omnipotence of the convention which framed it; because there was no express or implied sanction of that constitution by the people. But now, sir, after the most careful reflection upon the subject, after the most careful consideration of it in every relation, in relation to my party, in relation to my State, in relation to the Union, in relation to the welfare of the people of Kansas, and in relation to

the dispatch of public business, I have come to a deliberate conclusion this morning to vote for the conference bill; because it gives the people of Kansas a chance to kill Lecompton, though they use the ordinance to do it. I ask the privilege simply to give my reasons, my honest reasons, for the vote which I shall give to-day upon this question.

In the bill proposed by the committee of conference there is no proposition to submit, in so many words, the constitution itself to the people. I am willing to concede that, and it seemed to be claimed, in the language used by the gentleman from Maryland, [Mr. Davis,] yesterday. Though it is not submitted, yet there is a means provided in this bill by which, if the constitution does not meet with the approbation of the people of Kansas, they can give expression to that will. The gentleman from Maryland [Mr. Davis] well remarked yesterday, that it is like the old vote by shells in the Grecian Agora, where the vote for "banishment" or "no banishment" of a traitor to the State might be given by the use of these shells. The substance was in such a vote. The shells were the medium of expression only. I am after the substance. In this case the substance, though perhaps not the shadow, of a submission is given to the people of Kansas upon this question.

The fact that the popular voice of Kansas is thus expressed, is not an objection to this matter. I would have preferred a more direct, straightforward vote. Still, this has given me no trouble. By the mode proposed by the committee, the power is placed in the people of Kansas, by which they can spurn this constitution if they do not like it. That seems to be conceded on all sides. But some objection is made on the alleged ground of bribes offered to the people to vote. I have given that question a careful consideration. I find the language which is used in the conference bill to be the same as that used in the Crittenden-Montgomery bill, for which Republicans, Americans, and the anti-Lecompton Democrats voted. I find that it is copied in the Minnesota enabling act, and I find that it is in accordance with the general course of the legislation of the country.

Mr. GILMER. I desire to ask the gentleman a question.

Mr. COX. So that whether the people of Kansas accept this constitution or reject it, still Kansas will get this land for the benefit of her schools, her university, and for other purposes provided in this act. Therefore I conceive that there is no bribe offered in this bill. The people can do as they please. They are at perfect liberty to kill this constitution by the means proposed by the conference bill if they please, and they will in the end, by the process of legislation, as every gentleman here knows, get the same lands, whether they vote one way or the other. That only is a bribe which is given as a consideration for a vote; but there is no consideration here offered, which they would not get under other circumstances. That matter gives me no trouble. Neither does the commission which is raised here give me any trouble; for I have full faith in Governor Denver, and I know the district attorney is disposed to deal fairly in this matter. Of the other three commissioners, one is a Federal officer, and the other two are free-State territorial officers.

The doubt which I have, the honest doubt which I have endeavored to settle in the spirit of concession, is the fact that Lecompton is offered to Kansas now on the condition that if she does not take it she must abide by the rule laid down in the Cincinnati platform, and await the time when her population shall equal the ratio of one Representative in Congress. I think this rule is a salutary rule. The difficulty is in its present application to Kansas. I trust that this difficulty will be obviated. It has been said that if she does not come in now she will remain out for a long time. I have made inquiries of men who understand the state of things in Kansas. I have sought Governor Walker himself, and he tells me that he has no doubt that Kansas will have the requisite population by next fall. That was a simple matter of fact I was bound to inquire into, and of which I am entirely satisfied.

Some objection may be raised that, under this bill, the census must be taken; and that, as the Federal census cannot be taken until 1860, Kansas will be kept out of the Union until that time. Now, by the language of this bill, I find that the

census here required to be taken is simply a census under the territorial laws—a census "duly and legally taken;" and therefore, that, as soon as they prescribe the rules for taking that census, and a sufficient population appears, they can come into the Union under the provisions of this act. Therefore, there is no such long postponement. The postponement would be no longer than the present fall, if the bill be honestly pursued.

I trust the House will do me the justice to accord to my course honest motives. I have stood here for four months acting with gentlemen whom I have found ready and willing to make concessions upon this vexed subject. The Republican party conceded much when they voted to admit a slave State in case the people ratified it. I have no taunts at, or complaints to make of them for that. I have acted with them on that question, and against my own party friends; and I have stood here bareheaded, as it were, for four months, to claim for the people of Kansas the right to pass on this constitution before I could vote to admit under it. If I understand all the relations which this question sustains to the country, it is my honest opinion, after considering all its phases, that the best thing we can do now is to vote for the report of this committee of conference, which gives a substantial submission of the constitution to the people of Kansas.

If I had any doubt as to the propriety of the course I have taken, I would forego any objections to the bill such as I have stated, because it is the unanimous voice of the delegation of my State upon the Democratic side of the House. I confess to having some deference to their good judgment. I confess, also, that I have some deference to the opinion of my party, North and South. I am not insensible to my party obligations; and when I can see that by a certain course we can attain substantially all I desire, I am willing to make some concessions. I owe to the Democracy all I am and all I hope to be. And I owe that party my fealty, and I am ready to show it in this matter when I can see that I am acting for the best. By acting in accordance with my humble desire to do the best, I feel better satisfied if I can act in harmony with my party. I reject all blandishments, come from what quarter they may. I come forward in the spirit of harmony in order that we may have a united Democracy and a united country, that we may carry on the business of the nation with dispatch and with reference to its highest interests.

Sir, the public interest demands a settlement of this question. The people will hail its settlement, even in this form; and though it may not be perfect in all respects, yet the nation will leap from the incubus of this Kansas matter as from a nightmare. The North and South will hail it as a deliverance from trouble. Unless we have this deliverance, sectional asperities will again embitter our politics. We will go home to meet them at every turn of political discussion. I do not take pleasure in such a prospect. When I go to Ohio, I prefer to feel that I am in a State which knows its sister States in a full and cordial fellowship.

When I think of my own State and old Kentucky, and of our past associations; when I think of the trials that they had during the late war, in Ohio, together, when the Kentucky hunters came across the Ohio river, knowing no boundary save the boundary of Canada, and fought against the red coats and the red skins, side by side with our own Ohio people; when I see the coat-of-arms of old Kentucky, which is painted in the glass above me—two friends with clasped hands, with the significant motto: "united we stand, divided we fall"—when I think of all these things, in the spirit of concession and harmony, though this bill may not, in every respect, conform to my best judgment, I am willing to go with my delegation, and to go with my party, and to give my heart and hand for this vote. I now call for the previous question.

Mr. CAMPBELL. I ask my colleague to withdraw that call and to let the other side of Ohio be heard and the other side of Kentucky.

[Loud cries of "No! no!" and great confusion.]

Mr. CLARK, of New York. I hope the gentleman from Ohio will not insist on that call.

[Cries of "Hold on to it," and continued confusion.]

Mr. LAWRENCE. Will my colleague yield to me for one moment?

Mr. COX. I will yield to my colleague for a moment, but I do not withdraw the call for the previous question.

Mr. LAWRENCE. Mr. Speaker, with the permission of my colleague, [Mr. Cox,] and promising to renew his demand for the previous question, I wish to submit a few remarks explanatory of the vote I am about to give on the conference proposition for the admission of Kansas. This is due not alone to myself and my constituents, but to the Democratic party of my State and of the nation.

As is well known to every member upon this floor, I have, for months, opposed the admission of Kansas under the Lecompton constitution, without its first being submitted to a vote of the people. This I believed to be the doctrine of "popular sovereignty" as declared in the Kansas and Nebraska bill, and as reaffirmed in the Cincinnati platform.

To me there is no force in the objection that the "Lecompton constitution" is not expressly submitted. It is, beyond all doubt, a substantial submission. By one form of ballot, the people can reject that instrument; by another form of ballot, they can vitalize it. Without the fiat of the people in its behalf, it is as though it had never been made. Gentlemen may quibble about the form, but while I get the substance, I shall not object.

Nor is there any truth in the charge that it is a bribe offered to the people of Kansas, in the shape of land grants, to accept the Lecompton constitution. The quantity now offered them is the quantity usually granted to new States. It is the same granted by the Lecompton ordinance; it is the same granted by the Crittenden-Montgomery amendment, for which I voted. In this view of it, therefore, I cannot object.

I am free to say, however, that it is not in every respect such a bill as I would have preferred; but under all the circumstances surrounding this vexed question, with a due regard to the peace and quiet of the country, and the restoration of union and harmony to that party of which it is my pride and boast to be an humble member, I have concluded to give my vote for this measure.

In arriving at this conclusion, I cheerfully say I have made sacrifices; other gentlemen have done likewise. Let me now indulge the hope that this question may be settled, and that its settlement may be regarded as a peace measure, and be the harbinger of future successes to the great national Democratic party of the country.

In that party I was born; in it I have spent my better days; in it I expect to die; and if political death should be my fate for this vote, my only request is, that I may die in the Democratic party, and have the ample folds of her patriotic banner my winding-sheet. However, I fear no such consequences. I represent an intelligent and patriotic people. To them I appeal for the rectitude of my conduct; and to their decision I cheerfully submit.

Mr. CLINGMAN. I am reluctant to interrupt the gentleman, but I desire to know if he is speaking by general consent?

[Cries of "No! no!"]

Mr. COX. I yielded to my colleague.

Mr. CLINGMAN. But has the gentleman withdrawn the demand for the previous question?

Mr. LAWRENCE. I shall renew the call.

Mr. COX. I still hold the floor.

Mr. CLINGMAN. If the gentleman's colleague is speaking by unanimous consent, I shall not object.

[Loud cries of "Object! object!"]

Mr. COX. I have not lost the floor, but I have given way for a moment to my friend.

Mr. GROW. Can the floor be farmed out in this way?

The SPEAKER. Only so long as the House, by its assent, permits it.

Mr. GROW. I object to the farming out of the floor.

Mr. COX. I demand the previous question.

Mr. GARNETT. I ask the gentleman from Ohio to withdraw the demand for the previous question, to allow me to give a notice in relation to this matter.

Mr. COX. Oh, no; I cannot withdraw it.

Mr. CAMPBELL. I appeal to my colleague to withdraw the demand, and let his colleagues on this side of the House be heard.

Mr. COX. I voted to bring this question to a close on Wednesday last. I did it because I was prepared to vote.

[Cries of "Order! order!"]

Mr. CLARK, of New York. I ask the gentleman to withdraw the demand for the previous question, and not claim an exclusive monopoly of the business of recantation. Perhaps some of the rest of us will follow suit. Why not give us a chance?

Mr. COX. I have renewed the demand for the previous question.

Mr. MORRIS, of Pennsylvania. It seems that no one outside of the Democratic party has a right to be heard here. I think this side of the House has as much right to be heard as that.

[Loud cries of "Order!" and great confusion.]
The SPEAKER. The gentleman has no right to be heard out of order.

Mr. CAMPBELL. I move that there be a call of the House; and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. GARNETT. Mr. Speaker, I desire to give notice that, if the previous question be voted down, I shall move to postpone this question until Tuesday week.

The question was taken on Mr. CAMPBELL's motion; and it was decided in the negative—yeas 90, nays 119; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Bliss, Bonham, Bratton, Bryan, Buffinton, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Horace P. Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Dammrell, Dawes, Dunn, Dick, Dodd, Durfee, Edie, Fenton, Foster, Garnett, Gilman, Gilmer, Gooch, Goode, Goodwin, Grainger, Grow, Harlan, Haskin, Hickman, Howard, Kellogg, Kelsey, Kilgore, Knapp, Lench, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Maynard, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ritchie, Robbins, Royce, Aaron Shaw, John Sherman, Judson V. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Elitina B. Washburne, Israel Washburn, and Wilson—90.

NAYS—Messrs. Adrain, Ahl, Anderson, Altius, Avery, Barksdale, Bishop, Blair, Bocoek, Bowie, Boyce, Branch, Burnett, Burns, Caruthers, Caskey, John A. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockrell, Conning, Cox, James Craig, Burton, Craig, Crawford, Curry, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dewar, Dowdell, Edmundson, Elliot, English, Eustis, Florence, Foley, Gartrell, Giddings, Gillis, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Milson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Roberts, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Sullworth, Stephens, Stevenson, Talbot, Trippie, Underwood, Ward, Watkins, White, Whiteley, Winlow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—119.

So the House refused to order a call.

Mr. HATCH stated that he had paired off until one o'clock with Mr. Burnovich.

Mr. TAYLOR, of New York, stated that he had paired off upon all political questions with Mr. Wood, or he should have voted "no."

Mr. RITCHIE stated that Mr. Perviance had paired off with Mr. Dimmick until Wednesday next, and not until Tuesday next as stated in the Globe.

The question recurred upon the demand for the previous question.

Mr. MARSHALL, of Kentucky. I hope the gentleman from Ohio will withdraw the demand for the previous question until I can make a few remarks. [Cries of "No! no!"]

Mr. COX. I cannot see that any good can come of it, and I therefore decline to withdraw the call.

Mr. MARSHALL, of Kentucky. Then I trust the House will vote it down.

Mr. GARNETT. I rise to a question of order. I wish to inquire of the Chair whether, if the previous question is voted down it will be in order to move to postpone the subject until Tuesday week?

The SPEAKER. Such a motion will be in order if the previous question is voted down.

Mr. STEPHENS, of Georgia, demanded tellers on the second.

Tellers were ordered; and Messrs. CRAIG, of North Carolina, and BUFFINTON, were appointed.

The House divided; and the tellers reported—ayes 103, noes 108.

So the previous question was not seconded.

Mr. MARSHALL, of Kentucky. Mr. Speaker, I rise for the first time since the topic of Kansas has been introduced into the councils of this country to open my mouth upon the subject.

The bill which is presented by the managers of the conference is the legitimate fruit of the original Kansas and Nebraska bill that came in with the face of Janus. This is likely to go out with the impress upon it that belongs to its origin.

What a spectacle is exhibited to the American people to-day when their Representatives are engaged over a measure, the authors of which do not agree, and cannot agree, upon its meaning! Some of them have addressed this House—one, whose votes upon the Senate bill indicated a direct antagonism to that measure, now sustains this proposition warmly upon the ground that it does submit the Lecompton constitution to a vote of the people; while others, who are committed, as far as language can commit men, to the proposition that the people of Kansas are bound by the work of the convention, now sustain this measure upon the predicate that it does not submit the Lecompton constitution to a vote of the people!

Two of the authors of this measure—the managers upon the part of the Senate—have risen in their places and avowed that they had carefully guarded the point of submission, and that it does not submit the constitution to the people. Yesterday the gentleman from Georgia, [Mr. STEPHENS,] who was one of the managers on the part of the House, stated emphatically that the principle of non-submission was carefully preserved in this bill, while the other manager upon the part of the House, the gentleman from Indiana, [Mr. ENGLISH,] replies that the Lecompton constitution is submitted to the people by the report of the conferees.

Mr. ENGLISH. I would like to know in what part of my speech the gentleman from Kentucky finds authority to make any such statement?

Mr. MARSHALL, of Kentucky. If I have done the gentleman from Indiana injustice, I will yield for explanation.

Mr. ENGLISH. That is not the question. The gentleman from Kentucky makes a statement in regard to my position. I call upon him to point to the time and place where I have taken any such position. I have not yet defined my position on the point.

Mr. MARSHALL, of Kentucky. My inference of the gentleman's position upon this point was drawn from the remarks made by him; and I ask the gentleman, since he challenges the inference, whether he understands the bill as the gentleman from Georgia [Mr. STEPHENS] understands it, or does he understand it just the other way?

Mr. ENGLISH. This bill is drawn in tolerably good English, [laughter,] and I suppose the gentleman from Kentucky understands that language, and is competent to judge what the meaning of the bill is.

Mr. MARSHALL, of Kentucky. If that is all the answer the gentleman has to give, it may go to the country with my mark upon it, that the author here, when the meaning of this act is challenged, declines to tell us what he meant by it, in the face of the declaration upon the part of his colleague that just the opposite is meant by it to what all these gentlemen pretend to understand, who have suddenly found great virtues in the bill.

When the member from Ohio [Mr. Cox] was speaking this morning, I could not help thinking of that old hymn, which I will slightly paraphrase:

"Why should we mourn departed friends,
Or shake at death's alarms?
'Tis but the voice that party sends,
To bring him to its arms."

We may be defeated in this measure—

Mr. LAWRENCE. And I would quote for the edification of the gentleman from Kentucky, that—

"While the lamp holds out to burn,
The vilest sinner may return."

Mr. MARSHALL, of Kentucky. Very appropriate. While I apply one verse to the gentleman, [Mr. Cox,] his colleague, who is in the same category, makes another for himself. [Laughter.] May it be his epitaph!

Mr. COX. Whilst the gentleman is taking orders and singing hymns, let me ask him where is his party, to which he would invite us? I do not see it in the House. Is it the Republican party, or is it the American party?

Mr. MARSHALL, of Kentucky. My party is the American party—the party of the Union.

Mr. COX. I stand up for the Democratic party, which always makes compromises, as our fathers made them in the Constitution, and as they have been made for the perpetuity of the Constitution.

If the gentleman will allow me, further, I have made some concession. The gentleman knows it. Where I see the substance of a thing, I will not, to the disruption of my party, upon which I think so much depends, run after the shadow.

Mr. MARSHALL, of Kentucky. I want the gentleman from Ohio to understand distinctly, as well as the other gentlemen with whom it was my fortune to act, that I am not here to impugn motives, and that I am not here to challenge the purity with which any gentleman has changed his convictions; for, sir, as I claim integrity of purpose for myself, I will yield the same claim to others.

Mr. COX. Does the gentleman say that I have changed my convictions?

Mr. MARSHALL, of Kentucky. I will not say that the gentleman has changed his convictions; but certainly he has altered his course.

Mr. COX. I wish the gentleman to understand distinctly, that from the time that the report from the conference committee came in, I have had it under consideration. I had the matter presented from both sides. We are two hundred and thirty-four members here, of diverse opinions, and when we adopt a measure, it cannot be expected that all who favor it, do so with the same opinion of it. We must yield some of our opinions. The gentleman must admit that he did indirectly impugn my motives. When I come forward and attempt to sustain this compromise as the very best I could get, I do not, by any means, say that it conforms to my best judgment; or that it is as perfect as I could wish it. It is the best, under the circumstances, for the country and the party.

Mr. GIDDINGS. I object. My colleague had the floor this morning, and would not yield to any of us. He spoke himself, and refusing others the chance to reply, called for the previous question.

Mr. MARSHALL, of Kentucky. All I have to say about this matter, can be said without any further interruption.

[A message was here received from the Senate, by Mr. HICKEY, their Chief Clerk, notifying the House that that body insisted on its amendments to the deficiency bill, and asked for a committee of conference on the disagreeing votes of the two Houses, and that it had appointed as managers of said conference on its part, Messrs. TOOMBS, BIGGS, and FESSENDEN. Also notifying the House that that body had passed a joint resolution and a bill, of the following titles, in which he was directed to ask its concurrence:

A resolution (S. No. 33) authorizing suitable acknowledgments to be made by the President to the British naval authorities at Jamaica, for the relief extended to the officers and crew of the United States ship *Susquehanna*, disabled by yellow fever.

An act (S. No. 298) for the relief of Catharine Jacobs, widow of Francis Jacobs, a waiter in the military household of General Washington.]

Mr. LETCHER. I ask the gentleman from Kentucky to permit me to make a motion concerning the deficiency bill, which has just been returned from the Senate.

Mr. MARSHALL, of Kentucky. I do not care to have a motion made inside my speech.

Mr. LETCHER. I move that the House insist on its disagreement to the amendments of the Senate to the deficiency bill, and that it agree to the committee of conference asked for on the disagreeing votes between the two Houses.

The SPEAKER. The Chair hears no objections, and it is ordered accordingly.

Mr. CLEMENS. I object.

Several MEMBERS. Too late.

The SPEAKER. In the opinion of the Chair it is too late.

Messrs. LETCHER, MACLAY, and NICHOLS were appointed managers of the conference on the part of the House.

Mr. MARSHALL, of Kentucky. I desire, before we take the vote on this bill, frankly to state the objections I have to it. The bill does substantially submit the Lecompton constitution to a vote of the people of Kansas, notwithstanding the declaration of my friend from Georgia, [Mr. STEPHENS,] and notwithstanding the declarations which have been made in another place, that in the drafting of this bill there was an attempt to preserve the principle of non-submission. If you were to put to the people of Kansas the proposition that the moon was made of green cheese, and say to them that they might take the question of admission with that proposition, and if they voted in the affirmative on that proposition, they should be admitted under the Lecompton constitution; but if they voted in the negative on that proposition, the Lecompton constitution should be considered dead, it does not require any very severe logic to deduce the conclusion that, in fact, they had an opportunity, through an immaterial proposition, to vote on the question of admission.

But I object to the manner of submission. It seems to save the pulses of gentlemen here at the expense of the history of the country, and at the expense of the sense of the people of Kansas. You require them to vote for the rejection of this proposition, which is immaterial in itself, and to conceal the fact that they are voting against the Lecompton constitution. Why take this course? What motive have you to-day, except that, by the manner of this proposition, you seek to conceal from the country that you, who vault so high, have, in fact, come down?

To another branch of that report I am determinedly opposed, because it presents a condition that is degrading to the people of the North. I ask the people of the South to hear me. We of the slaveholding States are in this Chamber in a minority of fifty. Suppose that this Lecompton constitution, instead of introducing a slave State, introduced a free State, and that the majority of the representatives of this country had sent that constitution back with this immaterial proposition attached to it, saying to the people of Kansas, "take these lands, and you can come in as a free State; but if you attempt to come here with a slave State constitution, you must come under a legal census," showing ninety-three thousand inhabitants: come here with a slave constitution, and you must show regular papers," would not my fellow-citizens of the slaveholding States have rejected such a proposition with indignation and scorn? By what sort of ethics, in this council of equals, can we, who are legislating for all sections, attempt to propose one thing to the North, which we would consider ourselves insulted by if proposed to the South? Sir, the men who send me here do not send me here to play the sectionalist; they do not send me here as a steward to see how much I can get for the slave States, and how much I can wrest from the free States. Whenever they want to degrade me to that position, I shall be here no longer. I have learned in the school of morals in which I was raised, that, among equals, it is not fair and proper to propose what you would not be willing to accept; and, as a southern man—not, not as a southern man, for I never claimed to be a southern man—but as a western man, as a citizen belonging to that section of the country which has a minority, by representation, upon this floor, I am unwilling to lay down a rule of action which in its sequences offers nothing but sackcloth and ashes to my people.

And when you men of the South apply this rule to the North, how can you, when the next case arises in this country of a similar nature, resist the application of the same rule? With what face will you stand up and complain of any inequality which may be attempted to be enforced upon you by a majority of the representatives of this country? They will refer you to your own act, your own vote, as having established the precedent. What opportunity would you have to escape from the consequence of this act?

Gentlemen hug a delusion to their bosoms, when they suppose that under this bill, animated by a desire to have this grant of land, or to acquire immediate political position, the people of Kansas will be induced to accept this proposition, and that we shall then have a summer's sea before us. This is a sheer delusion. Kansas will reject this proposition. If you are prudent men, reason with me upon the supposition of its rejection, and look

then to the consequences which are to flow from that fact.

What will those consequences be? Every free State of this Union will at once arouse itself to repeal the disabling part of this very bill. All the sluices of that pernicious agitation which has flowed over this country like lava for years past, will be reopened. Repeal will be the shibboleth of party in the next election of the North. The free States will say to you, in April Kansas had population enough to be a slave State; in December following she has population enough to be a free State. So help me God! if I were a northern man I should feel it my duty to open that direct attack. I would feel that you had attached a condition to the passage of this measure which degraded me from that equality about which you know we have talked so much, and upon which we have insisted so strictly. And until that equality was restored, I should exert myself, were I a northern man, up to the full point of my capacity to have it restored by all legitimate means.

What will be the next effect? This House will, in the next Congress, be filled by men sent here to rectify this wrong, and the South will be compelled to accede to that demand or to resist. Her pride may be wounded; her sensibilities are to be affected; and then the next movement of those who play to her prejudices will be to drag her over the precipice of disunion, in that moment when she smarts under the effect of stung and wounded pride. It is exactly because I see these consequences ahead, that I am to-day firm and steady in opposition. I look forward on the path before us, and I see it leads to that alternative which I have said is most likely to occur, and my duty and patriotism alike demand that I should resist this bill, and advocate that equality which is equity between all sections of my country. I take that position, and cheerfully I shall rest upon it, satisfied that I am right, and I shall be sustained in by a patriotic constituency.

Sir, it were bootless to return to the Senate bill; but, as I am upon the floor, I will recapitulate in brief terms—for I do not want to detain the House—the heads and points upon which my own opinions have turned thus far, and by which my course has been guided. I heard the gentleman from Georgia [Mr. STEPHENS] yesterday propound the question to the gentleman from Maryland [Mr. DAVIS] whether he believed the Territorial Legislature which called the convention in Kansas had the power to call a convention? I do not know what response was made, but I desire to say to the gentleman from Georgia, and to the country, that that very point is the hinge point upon which my convictions on this matter turn. I do not believe that the Territorial Legislature possessed the power to initiate a convention to such a degree as to bind either Kansas or the Congress of the United States. I believe that when that convention was assembled, and when it had drafted a constitution, the want of the present of Congress prevented the instrument from binding Congress; and if it did not bind Congress, it could not bind the people of Kansas. If I had time, I could demonstrate that proposition. And, sir, when the people of Kansas sent up to us, through her Delegate upon this floor, who has a legal status here, by the resolutions of her Legislature, which is a legal body—through her vote on the 4th of January, regular or irregular—through the territorial Governor, who was the Federal appointee—and through the territorial Secretary—through all these channels the clear, distinct declaration, "we are not willing that this constitution shall be the fundamental, political law of the State;" believing as I did, and as I yet do, that the Legislature which initiated it had no legal right to do so, that the President who consented had no jurisdiction, and therefore his consent yielded no additional power, I felt myself bound to pause, and listen to the voice of the people. Sir, no specious sophistries could dissuade me, and no casuistry betray me. After all, it finally comes to this, whether we are to obey the dictum of the convention or the will of the people. While I had liberty to act, while it was within my congressional function to act, I did not hesitate to take that position which had a tendency to give the fairest chance to the people of Kansas to make a constitution to suit themselves, before establishing relations with them by law, under which relations I might be called upon next week

to compel them, by force of arms, to obey that instrument as their constitution.

But, sir, I will not dwell on the Senate bill, or the amendment of the House, but shall confine myself to this report. We have had a conference; and I say that, in my opinion, the conference have submitted the question so that the people of Kansas may get hold of it, but can get hold of it only at the expense of stultifying themselves. It is accompanied with a disabling act, which, in my opinion, makes an invidious distinction between the free and the slave States of the country in regard to their institutions, which will have a tendency to wound the pride of the majority, and to establish a rule of action that it is unsafe for us to pursue. We, who belong to that section of the country that is in a minority of representation, ought to be wonderfully careful that, whenever we institute a rule of action here, it shall be based upon immutable principles of justice and constitutional right.

Now, sir, without wishing to detain the House, I plant myself upon these propositions as indicating the reasons why I oppose this bill. Let us have another conference, if you please. Strike off that disabling act and leave the enabling act, and it will come sufficiently close to the Crittenden-Montgomery amendment for me to vote for it; because what I wanted at the commencement, and what I want at the close, is a fair settlement of the Kansas difficulty. I do not want, and never have wanted, to leave the Kansas difficulty open. Had a majority of the members of this House been of my opinion at the start, I would have laid down the principle that no State should be admitted into the Union without sufficient population—upon a legal census—for proper representation. I would have settled that point at the commencement, and I would have guided myself by it in the case of Kansas; but there is scarcely any one here of my way of thinking. I would rather go back to that rule and now establish it, immutably, if it were possible, establish it as the rule for the future, rather than any other rule. I know I cannot find other advocates of it; on the contrary, it is proposed to bring in Kansas with a population of forty, fifty, or sixty thousand people—I do not know how many there are, but I do not think there are over forty thousand; I have never seen any mode of calculation that would make her population more than forty thousand. Some gentleman said this morning that Governor Walker thinks she will have a population of ninety-three thousand by the fall. I do not know what his calculations are, or how fast immigration is going there. But, if she must be admitted, the plain, fair, equitable proposition is the proposition of the Crittenden-Montgomery amendment. Gentlemen upon this side of the House, who voted for that proposition, voted for it with their eyes open. They voted for it not only as an amendment, but they voted for it to make it an act of Congress. They did so, well understanding that it embraced the principle that if it was the will of the people of Kansas that she should be a slave State, they conceded that she should be.

Mr. BURNETT. Will my colleague allow me to ask him a question?

Mr. MARSHALL, of Kentucky. No, sir; I shall get through directly.

Mr. BURNETT. My colleague does not represent the gentlemen on the other side correctly.

Several Voices on the Republican side. "Yes he does."

Mr. MARSHALL, of Kentucky. I will yield to any interruption from any member of the Republican party who wants to rise and contradict the statement.

Mr. BURNETT. Why will not the gentleman yield to me, one of his colleagues, to put a question to gentlemen upon the other side?

Mr. MARSHALL, of Kentucky. Because I do not want to be interrupted—because I am not making a speech here for party effect upon the country. I repeat to my colleague, and I repeat it to the American people, here in my place, that if there is in this Hall a member of the Republican party who did not fully and entirely understand, when he voted for the Crittenden-Montgomery proposition, that he was assuming the position which I have stated, he can rise in his place and contradict me.

Mr. SHERMAN, of Ohio. Mr. Speaker—

The SPEAKER. Does the gentleman from Kentucky yield to the gentleman from Ohio?

Mr. MARSHALL, of Kentucky. Certainly, sir.

Mr. SHERMAN, of Ohio. I desire to say that I agree in every particular with the sentiment just uttered by the gentleman from Kentucky, and I will say, that so far as my knowledge extends, every Republican member of the House read, carefully considered, and pondered over the Crittenden amendment, and voted for it with his eyes open; but with the distinct understanding that the gentlemen from the free States, belonging to the Democratic party, had pledged to us their faith and honor that they only wanted a fair, straightforward, open opportunity to carry out their principle of popular sovereignty in Kansas, and that they would stand by and adhere to the proposition made in that amendment. Relying with implicit faith upon this understanding, we voted for the amendment, and have steadily adhered to it.

Mr. BURNETT. I ask my colleague—for I know he does not want the facts to go to the country with a misunderstanding—to let me propound a question to the gentlemen on the other side.

Mr. MARSHALL, of Kentucky. Why, the gentleman will have an opportunity after I am done.

Mr. BURNETT. But I cannot get it into your speech. My colleague allows Black Republicans to make explanations, but will not allow his own colleague to ask even a single question.

Mr. MARSHALL, of Kentucky. I will yield to the senior member from Ohio, [Mr. GIDDINGS,] who is a member of the Republican party, as we all know.

Mr. GIDDINGS. It is probably known, Mr. Speaker, that I was about the last to go into the support of that Crittenden-Montgomery amendment; and I assure the gentleman from Kentucky, I assure the members of this House and the country, that the only inducement that I had to go for it was that I understood—I did not hear it myself—but I understood that every gentleman belonging to the Douglas wing of the Democratic party stood pledged to the country and to themselves and to their constituencies, to stand by that proposition forever.

[Loud cries from the Republican side of the House of "That is true!"]

Mr. GIDDINGS was here taken with sudden indisposition, and was carried out of the Hall in a fainting condition.]

Mr. COX. With the permission of the gentleman from Kentucky—

Mr. MARSHALL, of Kentucky. I understand the object of the gentleman from Ohio, which is to rectify my statement in regard to his wing of the Democratic party. I think the gentleman can as easily fix that matter when I get through, as now.

Mr. BURNETT. I understood the gentleman from Kentucky to yield the floor to me.

Mr. COX. I appeal to the gentleman as a matter of personal courtesy.

Mr. MARSHALL, of Kentucky. The gentleman from Ohio will have an opportunity after I have concluded what I have to say.

Mr. BURNETT. I want the fact to go to the country that my colleague declines to yield for correction.

Mr. MARSHALL, of Kentucky. It may go to the country that his colleague declines, and it may go to the country that his colleague has the floor here—this House having voted down the demand for the previous question—but that the gentleman voted for it. It may go that his colleague does not want to occupy much time, but wants the facts and reasons to go to the country, which will justify his action and disarm those men who have set upon him in the country, because, forsooth, he voted with the Black Republican party. Sir, I am here to-day to say that upon such a vote, whenever cast and whenever to be cast, I will stand with the Black Republican party, or any other party that has the patriotism and the honesty to cast it.

Sir, you and I have served in this Hall long enough for you to know that I am committed to the line of policy upon which I have acted in this matter; and committed to it, I am proud to say, irrevocably. I would like to know whether, with the principles which we have ever contended for, which we contended for in 1850, which are con-

tained in your Cincinnati platform, contained in the American platform, and in whatever else you have covered under the title of popular sovereignty—to wit: that the will of the people in each locality should determine their own institutions, whether slave or free—any sane man could expect me to vote otherwise than as I have voted? When these men from the North come up and patriotically give their votes for that principle, why is it that they are taunted with the epithet of Black Republicans? What more do you want than the principle for which they voted? What more have you ever demanded? What other principle have we ever stood upon than the very principle which that vote asserted? We have stood upon it because it reached a platform upon which every honest man, from every section of this country, could stand. That vote fulfilled the conditions of your platform touching the slavery issue. It filled my platform; it filled the platform of all of us who advocated the principle of popular sovereignty in the true meaning of that term. And what do you now propose?

Mr. COX. Mr. Speaker—

[Calls to order.]

Mr. MARSHALL, of Kentucky. I decline to yield the floor.

Mr. COX. I wish to say—

[Cries of "Order! order! order!"]

Mr. PALMER. I rise to a question of order. The gentleman from Ohio has no right to interrupt the gentleman from Kentucky, except by his permission.

The SPEAKER. That is very true.

Mr. PALMER. The gentleman has repeatedly done it, and continues to do it, and I insist on the rule being enforced.

The SPEAKER. The gentleman from Kentucky declines to yield the floor. The gentleman from New York, [Mr. PALMER,] however, will remember that it has been the universal practice of the House for a gentleman to rise and ask another gentleman to yield the floor. The rule requires that before another gentleman may take the floor, the gentleman legitimately entitled to it shall signify his assent. The Chair understands that the gentleman from Kentucky peremptorily declines to yield.

Mr. MARSHALL, of Kentucky. I hope I shall now be allowed to go on and finish what I have to say.

I say that these Republicans had come up to all that we ever contended for touching the equality of the States and the right of the people of Kansas to establish their own institutions in their own way; and they have come up to it with the intent to make it the law. Had the people of Kansas received the Crittenden amendment; had they chosen to adopt the Lecompton constitution, and to establish slavery in that State, then these gentlemen have provided all the instrumentalities necessary to the procurement of such a result. But when the Republicans yielded this, you, gentlemen of the Democratic party, would not have it! It will be for you to go to the South and tell the South what there was in that amendment, what there was in that principle, that fell short of all your former requirements. Was it that you could not stand the proclamatory power of the President, in case the people of Kansas adopted another constitution? Then, be it remarked that when the bill, as offered by Mr. CRITTENDEN in the Senate, required that, if they adopted another constitution in Kansas, it should be sent to Congress, members of the Democratic party opposed it on the ground that it did not close the question, but kept the Kansas imbroglio open. When the Montgomery-Crittenden amendment provided for closing it, as we supposed would suit you, you then opposed it, because it would be giving too much power to the President.

Mr. Speaker, I have tried in this matter to do exactly what was right. I have kept in my mind's eye, all the time, the tendencies I see before me in this country. I knew that the Gulf States had made platforms upon which, it was said, they would feel bound to secede from the Union. I am told to go forward, lest they do secede. Now, sir, who is so bold, in this assembly, as to rise and say that he is a disunionist? Not one. Who is there, in this assembly, who will rise in his place and say that he will go to the southern States with the black flag of disunion unfurled for that people to follow? There is a

silence, sir, over this House, in response to that inquiry, like the silence of the grave. Secession! disunion! Why, sir, 'tis the eye of childhood that fears the painted devil." I have no fear of disunion. I have no fear that the people of the South will listen for a moment to the whispers of disunion. They are chivalrous, brave, and true; and woe to the politician who proclaims himself a disunionist!

But, sir, I had heard of discontents, and I was careful; and I choose to say to the South, that, when I exerted myself to get these Republican members to put themselves upon that vote, I did so with an eye to the fact that there were platforms formed at the South which I did hope that vote would sink forever and forever. Now I am here to render also to that party the tribute of my hearty and sincere thanks, my honest and profound obligation, that their patriotism was equal to the task of giving that vote, which I believe they did with a wish to establish peace and concord between all sections, and with the hope that that vote would accomplish it.

Now, sir, who in the South wants to establish a sectional southern party? The Democrats are not content with the proposition that the doctrine of popular sovereignty shall be carried forward, and that the people of Kansas may have a State free or slave, as they prefer. They now proceed one step beyond that. I read from a paper of Tuesday, April 27, the Richmond South. I will read a single sentence, to let you see the manner in which the progress of this controversy is regarded, and the point which we have reached:

"In the mean time, if the Senate bill pass, Kansas may come into the Union as a slave State, or she cannot come at all. That is the issue."

You who represent the South, I ask you in the most solemn earnestness if that is the issue upon which you propose to go to the country? I ask you if that is the issue upon which you are prepared to precipitate the South? Your platform made the declaration that the people of Kansas might determine this matter—that the people of Kansas were to have the right to vote whether they would be a free State or a slave State.

But you are understood in the country by this bill to have made up the issue, as I understand it, that she shall come here as a slave State, or she is not to come at all. Does it not result from that proposition that you are attempting to inaugurate in this country an aggressive pro-slavery party—a party that does not stand upon the constitutional rights of the people of all sections, but a southern pro-slavery party which proposes to flaunt its banners in the face of the other sections, and to say to them that they must bow down to your Juggernaut? The people of Kentucky are not ready to go that far. I have never in the whole course of my legislative experience understood a point in controversy better than I do this which you Democrats propose, and never before were my conclusions so firmly fixed as to the absolute propriety of my political course. I am willing that the principle, the philosophy, the morality, and the prudence of my action may be judged of by the people of my native State; and as I only seek to do to others what I would they should do to me, I shall abide in the confidence that Kentucky will sustain my feeble effort to act with justice, with moderation, and with fairness in those acts of legislation which relate to the rights of all, but which are to be illustrated by our course in the case of Kansas, as an exponent of the principles we follow. I yield the floor.

Mr. GARNETT. I move that the further consideration of this question be postponed until the second Tuesday in May next, at one o'clock.

Mr. STEPHENS, of Georgia. I hope not, and I call for the yeas and nays.

Mr. CLARK, of New York. I ask to be heard before that question is taken.

Mr. MILLSON. I ask the same favor.

Mr. SMITH, of Virginia. I hope the gentleman will withdraw that motion.

Mr. GARNETT. So far as I am concerned, I would be perfectly willing to withdraw the motion if we could at this time determine upon what day the vote on this question shall be taken. If I withdraw it for one of these three gentlemen I must withdraw it for the other three. It opens the debate and leaves us to come back to-morrow and try over the same thing. I therefore feel constrained to press my motion.

Mr. HUGHES. I call the previous question.
Mr. JOHN COCHRANE. I move that the motion be laid on the table.

The SPEAKER. That would carry the bill with it.

Mr. JOHN COCHRANE. Then I withdraw the motion.

Mr. BENNETT. Mr. Speaker—

Mr. COBB. I object to gentlemen asking questions of the Chair.

Mr. BENNETT. I rise to a question of order. I ask whether, if the previous question is sustained, it would not cut off the motion to postpone?

Mr. COBB. I object to the Chair answering any such questions.

The SPEAKER. The Chair does not understand that as a question of order. The Chair has already given an intimation as to the effect of sustaining the previous question, two or three times.

Mr. ENGLISH called for tellers.
Tellers were ordered; and Messrs. WRIGHT, of Georgia, and WALDRON were appointed.

Mr. GROW. I desire to inquire whether the motion to postpone is pending?

The SPEAKER. It is.

Mr. GROW. Then the previous question, if sustained, cuts off that motion?

The SPEAKER. It does.

The House divided, and the tellers reported—ayes 99, noes 105.

So the House refused to second the previous question.

Mr. GARNETT. Is the question now upon the motion I made to postpone?

The SPEAKER. It is.

Mr. GARNETT. But the previous question cannot be called so as to bring the House to a vote upon it?

The SPEAKER. The previous question would cut off the motion to postpone.

Mr. JONES, of Tennessee. I am tired of this mode of getting along, and I intend now to do what I have never done before, to my recollection—to make a motion which will bring up this question directly, and which I shall vote against. I move to lay the bill upon the table.

Mr. HOUSTON demanded the yeas and nays.
The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 101, nays 113; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Eufimion, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace, Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Danrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Goach, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hickman, Hoard, Howard, Kellogg, Kehey, Kluge, Knapp, Leach, Leiter, Lovejoy, McKibbin, Humphreys, Marshall, Samuel S. Marshall, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murny, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Shaw, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Squire, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Ellihu B. Washburne, Israel Washburn, and Wilson—101.

NAYS—Messrs. Ahl, Anderson, Atkins, Avery, Barkdale, Bishop, Bocoek, Bonham, Bowie, Boyce, Branks, Bryan, Burnett, Burns, Caruthers, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craigie, Crawford, Curry, Davidson, Dewar, Jewett, Edmundson, Elliott, English, Eustis, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glauzy Jones, Owen Jones, Keitt, Kelly, Lamar, Landy, Lawrence, Leidy, Letcher, Macalay, M. Queen, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quittman, Ready, Reagan, Reilly, Rufin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, Talbot, Trippie, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—113.

So the House refused to lay the bill upon the table.

Pending the call of the roll,

Mr. JONES, of Tennessee, stated that Mr. STEWART, of Maryland, had gone home, and had paired off with Mr. THOMPSON, of New York.

Mr. HOUSTON stated that Mr. TAYLOR, of Louisiana, had requested him to say that he was necessarily absent from the House, and had paired off with Mr. KUNKEL, of Pennsylvania.

Mr. GREENWOOD said: My colleague, Mr. WARREN, has been called home by the indisposition of one or two members of his family. He requested me to state that he had paired off with Mr. MONTGOMERY, of Pennsylvania, until next Monday week upon the conference report on the Kansas bill, and everything growing out of it.

The SPEAKER. The question recurs upon the motion of the gentleman from Virginia to postpone.

Mr. JONES, of Tennessee. From the vote just taken, it is certainly evident that there is not a majority of this House against the bill; and that is very gratifying to me. I have no reasons to offer to gentlemen in reference to the manner in which they shall vote. All I desire is, that we shall have a vote and dispose of this question. I desire its passage, and to get clear of it, and therefore I demand the previous question.

Mr. WASHBURN, of Maine, called for tellers.
Tellers were ordered; and Messrs. JOHN COCHRANE and EDIE were appointed.

Mr. GARNETT. I desire to inquire whether, if this motion is sustained, it will cut off my motion to postpone?

The SPEAKER. It will.

The House divided; and the tellers reported—ayes 103, noes 107.

So the House refused to second the previous question.

Mr. GARNETT. I hope we shall now have a direct vote upon my motion.

Mr. BISHOP. I move to lay the whole subject upon the table; and upon that motion I demand the yeas and nays.

The SPEAKER. The Chair doubts whether, at this stage of the proceedings, the motion of the gentleman from Connecticut is in order. The report is in the same legislative condition, and there has been no debate upon it since the last vote was taken, by which the House refused to lay it upon the table.

Mr. GARNETT. I just wish to say one word. I have no desire factiously to oppose the will of a majority of the House, but I appeal to gentlemen upon all sides to let us have a direct vote upon the motion to postpone. If it is lost, I shall withdraw all opposition to taking the vote when they choose. But let us have a fair test, by a direct vote on the yeas and nays, whether we will postpone or not.

Mr. SEWARD. I should like to know from the gentleman from Virginia, what he expects to accomplish by a postponement of this measure? Now, sir, I do not expect to be called up here, day after day, upon the announcement of gentlemen that this matter is to be deferred to a particular day and a particular hour, when a particular vote is to be taken. My opinion is that the conduct of this House of Representatives in regard to the Kansas bill will meet the condemnation of the people of this great country, and ought to do it. [Cries of "True! true!"] from the Republican side of the House.] It is not my side of the House that is to blame, but every species of delay has been resorted to by gentlemen upon the other side of the House in connection with some southern men. They voted to reject the Lecompton constitution by a vote of ninety-three—

The SPEAKER. The gentleman must confine his remarks strictly to the question of postponement.

Mr. SEWARD. I am going to do it. I am going to show how this matter has been delayed, and why there should be no further delay, and that, I take it, is in order. It is a very difficult matter for any one to talk within a given line prescribed by the Speaker, or any one else.

Mr. HARRIS, of Illinois. Mr. Speaker—

The SPEAKER. Does the gentleman from Georgia yield the floor to the gentleman from Illinois?

Mr. SEWARD. No, sir.

Mr. HARRIS, of Illinois. I wish the gentleman would permit me to ask him a question.

Mr. SEWARD. Well, sir, I will yield for that purpose.

Mr. HARRIS, of Illinois. I desire the gentleman from Georgia to say whether I understood him aright as alleging that the delay which has taken place in regard to the action of the House upon this bill is chargeable to those who have opposed the bill?

Mr. SEWARD. I do not know. I think that

to a very great extent both parties have been engaged in causing unnecessary delay. [Laughter.] When I am called upon to speak the truth, I always speak it.

Mr. HARRIS, of Illinois. I desire to say further, to the gentleman from Georgia, that, from the 2d day of February, when this question was introduced into Congress by the message of the President of the United States, down to this hour, whenever those who have been sustaining the bill have found themselves beaten, as they have been uniformly, they have always resorted to parliamentary tactics and side motions for delay, and they are chargeable with the delay, if anybody is. [Cries of "True! true!"]

Mr. SEWARD. As the chances have seemed to be in favor of one side or the other, that same species of movement has been resorted to, and I enter my solemn protest against it.

The SPEAKER. The gentleman from Georgia cannot pursue the line of argument he is now in. He must confine himself to the question of postponement.

Mr. SEWARD. I am doing so, sir.

The SPEAKER. The Chair is of opinion that the gentleman's remarks are not in order; and he must keep in order, or he cannot proceed.

Mr. SEWARD. I submit respectfully to the Chair, whether I have not a right to refer to the causes of the delay which has already taken place, and to show the entire want of necessity for a continuance of that delay? If I am in order, I propose to pursue that line of argument. Now how can I argue against the necessity of a postponement of this matter unless I refer to what has been the cause of delay, the various views which have been presented by gentlemen, the various amendments which have been offered, and the action of gentlemen which has induced the delay?

The SPEAKER. The gentleman from Georgia lays down a very broad basis for his remarks. The Chair is of opinion that the remarks which the gentleman was indulging in were not in order. The pending question is upon the motion to postpone. The previous question cannot be called upon such a motion, nor can debate be closed upon it by any process. It has, therefore, been uniformly held that upon a motion to postpone no debate is in order, further than to assign the reasons why the particular measure should or should not be postponed to the particular day indicated.

Mr. SEWARD. Yes, sir; I understand that, and to that I will endeavor to confine my remarks.

The SPEAKER. The Chair may be unfortunate in not appreciating the force of the gentleman's remarks; but it is the opinion of the Chair that the gentleman's remarks were not in order; and the Chair hopes that if the gentleman proceeds, he will confine himself strictly to the question of postponement.

Mr. SEWARD. The Chair seems to appreciate the force of my remarks too much, and wants to restrict them. [Laughter.]

Mr. HUGHES. I move that the House adjourn.

Mr. CLARK, of New York. The gentleman from Indiana [Mr. HUGHES] is vindicating the remarks of the gentleman from Georgia [Mr. SEWARD].

Mr. SEWARD. The gentleman from Indiana has not the floor to move an adjournment. Now, sir, we find ourselves occupying before the country a most singular position. There are certain gentlemen from the section from which I come who entertain some peculiar notions in regard to this question.

The SPEAKER. The Chair is of opinion that that has nothing to do with the question of postponement. [Laughter.]

Mr. SEWARD. Well, sir, then the Chair is of opinion that my remarks have no reference to the question of postponement before I have concluded the sentence, and the Chair must be exceedingly acute if he can see, from half the sentence, the conclusion at which I am going to arrive.

The SPEAKER. The Chair could not see what the peculiar position of gentlemen upon this floor had to do with the question.

Mr. SEWARD. Why, sir, the position of the two hundred and thirty-four gentlemen upon this floor has a great deal to do with it. [Laughter.]

The SPEAKER. Does the gentleman from Georgia think that it would be in order to discuss

the position of every gentleman upon this floor on a motion to postpone?

Mr. SEWARD. No, sir; and I do not intend to go into the individual motives that control the action of gentlemen upon this floor. I propose to take them in gross.

Now, I have no desire to raise unnecessary controversy about this matter, but I ask gentlemen to show what is to be accomplished by a postponement of this question. If they have got any new light upon the subject, I shall be ready most cheerfully to listen to any one of them. I am ready and willing to be enlightened upon the great principle involved in this measure, which I am not permitted to discuss now. I would like to hear from some gentleman upon the Republican side of the House, or from the gentleman from Kentucky, [Mr. MARSHALL,] or from the gentleman from Virginia, [Mr. GARNETT,] or from the gentleman from Mississippi, [Mr. QUITMAN]—these conflicting elements that are all standing together when we come to get a direct vote—if they have any new light upon this question. And, if a valid reason exists why the bill should be postponed, I will vote with those who desire the postponement. I do not wish any gentleman to vote here under circumstances such as shall compromise his opinion or subvert his judgment, or to act in the absence of any information which would enlighten him, or enable him to come to a correct conclusion. I do not think human ingenuity can present any new phase in connection with this question; nor do I think that, in the absence of any new aspect of this question, and in a business view of the legislation of the country, any gentleman can say that this subject ought to be postponed for a moment, not even for the half hour it would take to call the yeas and nays.

Mr. LETCHER. I move to amend the motion of my colleague [Mr. GARNETT] by striking out "Tuesday week" and inserting "to-morrow at one o'clock."

Mr. J. GLANCY JONES. Why postpone it until that time?

Mr. LETCHER. I see no reason why it should be postponed at all; but the time I have named is better than that proposed in the motion of my colleague.

Mr. KEITT. I desire very much to vote in such a way as shall gratify the member who has made the motion to postpone, and the few on this side of the House who act with him. My personal and political sympathies are almost uniformly with that member, and those now associating with him. And while I think differently from him upon the merits of this bill, I should be very glad, as far as I can consistently, to gratify him in respect to the time of postponement. If debate is closed, I think the postponement is a very long one, considering the tract of time already covered by this discussion, and the searching debate which has been had upon it.

If time is needed to make up one's mind, the bill has been before us for nearly a week, published, printed, and subjected to examination. Gentlemen have asked too much time, if they desire to debate it. If they have made up their minds, then what need is there of further delay?

If the motion of the member from Tennessee [Mr. JONES] had prevailed, the whole matter would have been in just the condition it would have been in if the bill had been defeated. We cannot get back to the House bill, no matter what course we take upon this report. We cannot get back to the Senate bill, no matter what course we take upon this report. The question is upon this bill, and this bill alone. You cannot get at either of the other bills, for the House has put itself beyond the power to get at them.

The Senate cannot get back to either of these bills except by sending to this House for them. In no other way can they be reached by the action of either House. Another conference can be had just as well after this report is laid on the table, as after it has been disposed of in any other way. Then the question upon laying upon the table was a test vote. If gentlemen had made up their minds against the bill, why there was a vote to be cast and a record to be made. If they have not made up their minds, then there is, perhaps, some need of a postponement. If it is asked for the purpose of debate, then, I repeat, the time is too long. We have agreed to adjourn on the 7th of June. We have seven appropriation bills yet

unacted upon. This question has been before us for months. In some one phase or other, it has been before us for years. What new lights have we to expect? What new views can we expect to elicit? Nothing, that I can see, can be gained by discussion. If I understood the other side of the House, yesterday, they desired to come to a vote at once, upon the bill itself. Why not take the vote to-day? You wanted to vote yesterday; why does not the same reason induce you to desire it to-day? You charge us with desiring delay.

The SPEAKER. The gentleman must confine himself to the motion to postpone.

Mr. KEITT. I desire that the House shall put itself in such a condition that it can adjourn finally on the 7th of June. I think the passage of this motion to postpone will defeat that object, with seven appropriation bills before us, unacted on. We all know that this exciting question attracts all the discussion to it when it is before us, and will until it is disposed of. We may go into the Committee of the Whole on the state of the Union upon one of the appropriation bills, and all the speeches will be made upon this subject. That has been the result hitherto, and will continue to be, as long as the Kansas question is pending. Just as all the diseases in a city where an epidemic is raging run into that, so all discussion in this House runs into that one channel. If, therefore, this motion to postpone prevails, we must either act upon the appropriation bills without discussion, or we cannot adjourn on the 7th of June. And, therefore, as I do not see any end that is to be attained by this postponement, while I am desirous of gratifying those members with whom I usually act, I cannot, unless some reason is given for it which I have not yet heard, vote for the motion.

Mr. GARNETT. My object in moving a postponement of this question is because I believe a full, fair, and free discussion upon it is due alike to the subject, to the friends and to the opponents of the measure. I believe it is a measure differing widely from either of the propositions which were sent to the committee of conference, and unlike any which has been before the House during the session. Therefore, I think it very proper that there should be a full discussion upon it.

I moved to postpone because I foresaw that, unless a fixed time was agreed upon to take the vote, we should not have such discussion upon it. I saw what was seen before on the former Kansas bill, that the only way to get that discussion was to fix upon a certain day to take the vote, and, in the mean time, allow the discussion to go on in Committee of the Whole upon other bills.

My motion was fixed, upon consultation with numerous friends, as to the time that would be most convenient for taking the vote. I had some doubt as to whether it should be fixed for some day in the middle or latter part of next week, or whether it should be upon the day I have named. Upon consultation, I found that the day which I have named suited most gentlemen, for it was impossible to suit all.

I have no desire by any factious proceeding or by any dilatory motion to prevent this House from coming to a vote this hour or this minute, if the majority so will it. My colleague has moved an amendment to my motion to take the vote to-morrow. That would give one day's discussion. My motion to take the vote on the 11th of May, would leave ten days for discussion. It is for the House to say which of the two propositions they prefer, and I will acquiesce, although I think my motion best. But I ask gentlemen on all sides whether it is not more consonant with the fair, open, and manly way in which our whole course on this Kansas question has been conducted heretofore, to fix some day when the vote shall be taken, and postpone the question until that day? If you prefer having it to-morrow, adopt the amendment of my colleague. If you prefer having it the day I name, vote down his amendment and for my proposition. Either way, is it not fair, is it not wise, is it not politic, for all sides to take a vote on this question, and not by dilatory proceedings, or I would say by factious proceedings, prevent our having a vote?

Mr. CLINGMAN. Is not the gentleman's motion a dilatory proceeding? Does it not throw the question over to another day—a distant day?

Mr. GARNETT. No, sir. By a dilatory

proceeding, I mean those motions the object of which is to prevent the will of the majority of the House from being carried out. I have no such purpose. If a majority of the House wants a postponement, that majority certainly has a right to have a postponement. I ask gentlemen to let us have a vote on the proposition.

Mr. HOUSTON. I will say to my friend from Virginia, that the House has already been brought to a direct vote on a postponement to within a day or two of the very day named by him in his motion. The proposition then was substantially what his is now. The sense of the House was taken on that proposition by yeas and nays.

Mr. SMITH, of Virginia. It was a postponement to the very same day.

Mr. HOUSTON. It does seem to me, that if it is the object of the gentleman from Virginia to ascertain only the will of the House on the proposition, he will, by reference to the Journal of the House, perceive that that has already been done.

Mr. GARNETT. There were, as I am informed, two votes; one by which the House agreed to the postponement, and another by which it disagreed to it; and, sir, I might be at a loss to know which of those votes to take as the sense of the House in the matter. If the gentleman has a majority here against the postponement, then let the proposition be voted down. If he is right in his impression, why then object to a vote? On the other hand, we who wish for a postponement, why should we be prevented from having a vote on the proposition to postpone, if it is not the purpose to defeat the will of the majority?

Mr. HOUSTON. I hope that my friend does not intend to give out the impression that I am trying to defeat the will of the House. If the gentleman makes his motion now, and it be defeated, then to-morrow it may be made again with the same propriety by any of the gentlemen who are acting with the gentleman on one side or the other; that is, according to the argument of the gentleman and the history of this proceeding. Then that is not a termination of it; it is not a settlement of it. The question is open to motions to postpone until the time to which he proposes.

Mr. GARNETT. I will reply to the gentleman, and I think that I can satisfy him on that point. If this motion to postpone be voted down, I, for one, shall vote against any subsequent motion to postpone. I shall receive it as an expression of the will of the majority of the House, and shall acquiesce in it. All I want is a vote on the motion to postpone. And I will say, although I am not in the habit of speaking for anybody other than myself, that I am at liberty to say that the gentlemen with whom I am acting will pursue the same course. Is not that fair? Is it not fairer than the effort to prevent us from having a vote on this motion to postpone? If the bill before the House is right and proper, has it anything to apprehend from discussion? I do not make the motion to postpone as being friendly or unfriendly to the bill. I make it because I believe that it is right and just. And, sir, while I am pained to find myself separated from those with whom I have acted—

Mr. BARKSDALE. I want to know from my friend whether he has not made up his mind as to how he shall vote on this bill?

Mr. GARNETT. I have not; and let me say that I will decide for myself the manner in which I shall make up my judgment on this or on any other question; and when I have made up my mind, when I have concluded what it is right and proper to do, what I believe to be due to my constituents and to my sense of right, though every man in the United States were on the other side, I should preserve my position unshaken.

[Cries of "Good!"]

Mr. WRIGHT, of Tennessee. Mr. Speaker, the gentleman from Virginia [Mr. GARNETT] asks that this question shall be postponed for ten days. He has informed us that he has consulted with those who agree with him, and that they desire this postponement, in order that the subject may be discussed, and that they may have time to consider it. Sir, on a vote just taken, on a motion to lay the whole subject on the table, one hundred and one gentlemen have voted in the affirmative; thus indicating, in an unmistakable manner, that they have formed their opinions on the report of the conference committee, and that they are opposed to it. On another vote just

taken to sustain the previous question, and bring the House to a direct vote, one hundred and three members voted in the affirmative; thus showing that they too are prepared to act now on this question, without further delay. Two hundred and four members have thus exhibited their desire that this question shall be closed and determined in one way or the other. And yet, sir, the honorable member from Virginia asks that these two hundred and four members shall postpone further action for ten days longer, to accommodate seven or eight others, whose opportunities for investigation have been as good as ours. Some want time to consider, and some desire to leave and be absent for a few days. Sir, I am opposed to this delay. I regard it as not only unnecessary, but as unreasonable. If gentlemen are not prepared to vote for this measure, let them vote against it; and to them will belong the responsibility. At any rate, sir, let us take a vote, and put an end to this question.

Mr. LETCHER. If my colleague desires to have this subject debated, all he has to do is to withdraw the motion to postpone, and allow the debate to go on.

Mr. GARNETT. How long will be given to us for debate? Will gentlemen come to an understanding that the vote shall be taken at a fixed day hereafter?

Mr. LETCHER. I have no objection to that being the understanding—that the vote shall be taken in a reasonable time. But here we are engaged in this discussion. The gentleman from Kentucky [Mr. MARSHALL] made a speech this morning. Others desire to be heard in reply to the views which he presented, but the motion of my colleague cuts off that discussion, and we have now given up some two hours which might have been employed in that debate, and which would have brought it very nearly to a conclusion.

Mr. GARNETT. Before the gentleman from Kentucky made his speech, a demand was made for the previous question. How did my colleague vote on that—for or against seconding it?

Mr. LETCHER. I voted for it, and I should vote for it again unless some arrangement was entered into which was satisfactory to parties here, by which the vote shall be taken at a given time. My opinion is made up on the subject; and having it made up, I can see no reason for delaying action and allowing this measure which has consumed so much of the time of the House, to consume still more, to the prejudice of the remnant of the session that is still left.

If the gentlemen are not ready to bring this question to a close, it is manifest from the vote on seconding the call for the previous question, that the debate can be continued such length of time as may be desired. They have the majority, and they can vote down the call for the previous question whenever that matter is presented; and they can, having that power, allow this debate to run on to-day, and to-morrow, and the next day, and even for a week, if it shall seem agreeable to a majority that has the power, as is illustrated by the vote. Now, all that I desire is to get it out of the way. Let us have it disposed of. Let it be decided, either in the passage or in the defeat of the bill, and let us go to whatever is left of the duties which belong to us in our representative character, and then go home.

Mr. BONHAM. What is the motion before the House to be first voted on?

The SPEAKER. The amendment proposed by the gentleman from Virginia, [Mr. LETCHER], that the postponement be only until to-morrow.

Mr. BONHAM. Mr. Speaker, I had something to do with the original motion to postpone this question till the second Monday of May, and I beg leave of the House to state the circumstances under which that motion was made, and then to give the reasons why I sustain the motion of the gentleman from Virginia now. The honorable member from Georgia [Mr. HILL] moved to postpone until Thursday week, which would have been to-day week. At my instance he amended it, by saying Monday two weeks. This was why it was done, and why I now sustain the motion of the gentleman from Virginia; the honorable member from Mississippi [Mr. QUITMAN] upon my right, delivers an oration before the Palmetto association, on Tuesday next, and the honorable gentleman from South Carolina [Mr. MILES] delivers an oration on the following day at Charles-

ton. My honorable colleague upon my left [Mr. KERR] and myself are to accompany those gentlemen to South Carolina, and my arrangements have been made to leave this evening. These are the circumstances under which the motion was made, and the reasons in part for which it was made. Other gentlemen desired time to examine the matter, and still others an opportunity to discuss the question.

I am now in favor of the motion of the gentleman from Virginia, [Mr. GARNETT;] but if it cannot prevail, I would like to have the motion of the gentleman from Tennessee withdrawn, in order that a vote may be taken this evening.

Mr. PHILLIPS. The remarks of the gentleman from South Carolina have removed a doubt from my mind in reference to the matter of which he has been speaking. If it is the desire of gentlemen to be absent next week, it seems to me they can better accomplish their purpose by disposing of the public business before attending to private affairs. But what reason is there for postponing this matter? We were not in this Hall one week before all the questions which are now before us were introduced. On the first or second day that this House first resolved itself into the Committee of the Whole on the state of the Union a gentleman rose, and introduced the subject of Kansas. From the middle of December down to the present time, the end of April, four or five months, there has been hardly a day upon which this subject has not been, in some manner, before this House. Is there any gentleman in this House, except the gentleman from Virginia, [Mr. GARNETT;] who has not made up his mind how he shall vote?

The gentleman from Tennessee [Mr. JONES] has shown that there are something like two hundred and five or two hundred and six members, there being in all two hundred and fourteen, who have declared their readiness to vote, and declared before this House that their minds are made up. Then why should action be delayed? Why should this agitation and excitement, and interruption of public business, be continued? We have now but thirty-two working days left between this and the period fixed for adjournment, but thirty-two working days in which to dispose of the immense mass of business before us. There was published in one of the New York newspapers yesterday, a fearful list of the bills which have been before this House, and which have remained unacted upon. There are from six to ten public appropriation bills, and there are hundreds of private bills requiring our attention; and is it asking too much; to urge gentlemen to hurry through with their politics? I do not ask them to discard politics, but to come to an immediate conclusion upon this matter, in order that they may attend to public business. Is there a man upon any side of the House who will deny that the public business, from the beginning of the session down to the present moment, has been interrupted and delayed by this matter? If this be so, can it be the pleasure of gentlemen thus to neglect their public duties in order to keep the country in agitation, when it seems to be conceded that there is a majority of this House willing to settle it in some manner? For myself, and I speak for my constituents, any result is preferable to this state of things. It stagnates business; it creates bad feelings; it divides friends; it does everything which we ought to avert. I appeal to the House to bring this matter to a vote; and for that purpose I demand the previous question.

Mr. WASHBURN, of Maine, demanded tellers.

Mr. GROW. Was not the previous question the question on which the last vote was taken?

The SPEAKER. It was; but there has been debate since it was taken.

Mr. GROW. Does the Chair hold that debate is action?

The SPEAKER. The Chair would suggest to the gentleman from Pennsylvania, that if his view be correct, the House never could call the previous question after it had once been voted down, and debate would be interminable. The Chair would not entertain a demand for the previous question immediately after it had been voted down, unless debate or some action had intervened. The Chair is of opinion that the necessary action has taken place.

Mr. GROW. I believe the rule is, that business must intervene before the same motion can

be repeated. I will not, however, of course, insist upon it against the ruling of the Chair.

The SPEAKER. The Clerk suggests to the Chair that even in view of the gentleman's position, the motion is competent, as a motion has intervened since the last demand for the previous question.

Tellers were then ordered; and Messrs. BILLINGHURST and CLINGMAN were appointed.

The House divided; and tellers reported—ayes 103, noes 110.

So the House refused to second the previous question.

Pending the division of the House, Mr. GARNETT said: I ask the unanimous consent of the House to make a proposition.

The SPEAKER. The Chair cannot entertain it while the House is dividing.

The question recurred upon Mr. LETCHER's amendment to the proposition of his colleague, [Mr. GARNETT.]

Mr. JOHN COCHRANE (at three minutes after three o'clock, p. m.) moved that the House do now adjourn.

The motion was not agreed to.

Mr. GARNETT. In deference, sir, to what I believe to be the wishes of some of the gentlemen with whom I have been acting, I was about to propose that I would withdraw my motion to postpone, upon the understanding, on all sides, that this debate might continue to-day, and that we would come to a final vote upon the bill to-morrow at two o'clock.

Mr. ATKINS. I object.

Mr. GARNETT. I hope the gentleman will hear me before he objects. I have found since that the arrangement will not suit the convenience of one, at least, of my friends.

Mr. BONHAM. I withdraw any objection to it.

Mr. GARNETT. Then, sir, if there be no objection, and that can be the general understanding of both parties, I withdraw the motion to postpone.

Mr. HICKMAN. I object.

Mr. MILLSON obtained the floor.

Mr. CLARK, of New York. I believe the motion to postpone is withdrawn.

The SPEAKER. It is.

Mr. GARNETT. Well, I desire the floor to finish what I had to say.

Mr. CLARK, of New York. The Speaker will decide who is entitled to the floor.

The SPEAKER. When the gentleman from Virginia withdrew his motion to postpone, his colleague [Mr. MILLSON] rose and addressed the Chair before any other gentleman, and is, therefore, entitled to the floor.

Mr. GARNETT. I ask my colleague to allow me to make a further explanation.

Mr. MILLSON. I yield to my colleague for that purpose.

Mr. GARNETT. I was about to say that I still believe that the motion that I originally made was the best; but, for the sake of conciliation and harmony, I was willing to withdraw it, with the understanding, on all sides, that the vote should be taken to-morrow at two o'clock. I did not move to postpone the subject till that time, because that would have cut off debate upon the main question. I withdrew my motion with that understanding, in order that we might have to-day, and till two o'clock to-morrow, for debate.

Mr. BOCK. The gentleman from Pennsylvania [Mr. HICKMAN] distinctly objected to such an understanding.

Mr. GARNETT. Do I understand that my proposition is objected to?

Mr. HICKMAN. Yes, sir.

Mr. GARNETT. Does the gentleman from Pennsylvania object to it?

Mr. HICKMAN. I do, sir.

Mr. GARNETT. Then it is impossible for me to withdraw my motion without that understanding.

The SPEAKER. The gentleman from Virginia has already withdrawn his motion, and his colleague has been recognized.

Mr. MILLSON. Mr. Speaker, the motion of my colleague having been withdrawn, I have risen for the purpose for which I took the floor an hour ago. I wish to answer the complaints of the gentleman from Kentucky, [Mr. MARSHALL;] and of the gentleman from Michigan, [Mr. HOWARD;] who spoke yesterday. They have assumed

a lofty tone. They complain of wrongs! The North complains of wrongs! grievous wrongs! I see very clearly that the policy of northern gentlemen is to stir up the resentments of the North, and produce the impression that a great injury is attempted to be done to northern interests, and great violence to northern sentiments. Sir, with my consent they shall not succeed in such an effort. There is nothing in any of these propositions which have been before the House—the Senate bill, the House amendment, or the bill recommended by the committee of conference—which involves any loss or injury on the part of the North; or which involves any advantage or good to the South. It is simply a question of the degree in which the North is to be benefited; it is simply a question of the degree in which the South is to be injured. I wish to vindicate the good sense of the South; nay, sir, not even their good sense; I wish to show that they are not absolutely blind and stupid.

I do not know a gentleman here from the South who supposes that there is anything of advantage or gain to our section of the country in any one of the three propositions which have been before us for the settlement of this Kansas question. These plans leave us free to do little more than to select the mode of our execution. All that we have attempted to do is to choose the easiest death. To the South, the choice between these three plans involves only the question as to which is the most graceful form of submission. To the North, it presents only the inquiry as to which is the most offensive mode of triumph. Sir, as a representative of Virginia I have no special reason for desiring the admission of Kansas as a State of this Union under any form of government. To me there is nothing alluring in the prospect. There is nothing in the political opinions, the sentiments, or the history of the people of Kansas to make the South court an association with them as a State of this Union.

Sir, the South has, and ought to have, grave objections to the admission of Kansas—objections of a national character; objections of a political character, and objections of a sectional character. Objections of a national character, because we do not desire, nor should the people of any State desire, the multiplication of small States. We do not want the number of Senators unduly increased. It is now large enough, if not, indeed, too large already. We do not want the sense of personal responsibility to be diminished and lost among the large number who share it. We prefer, or ought to prefer, that there should be in the Senate of the United States a small number of great men rather than a great number of small men. We have objections of a political character, for, as members of the Democratic party, we are too well aware that Kansas would bring to us no strength in our political relations. We have objections of a sectional character, because we know that so long as Kansas remains in her territorial condition, she must, by an unchangeable law, remain a slave Territory; and that slavery can never be excluded until we confer upon her, as a State, the capacity to exclude it. But we surrender these grave objections for the common good of the whole country.

Let not the attempt be made, then, to fix upon the northern mind the impression that the southern members, in voting for the admission of Kansas as a State, are proposing anything which can result in loss, injury, or wrong to the North. The gentleman from Kentucky [Mr. MARSHALL] this morning complained—reiterating the complaints made yesterday on this floor—that the bill reported by the committee of conference proposed to admit Kansas into the Union with one population, under a constitution allowing slavery, and to require a larger population, with a constitution prohibiting slavery. Sir, I say that no fair construction of the bill could justify any such criticism. There is nothing in the terms of the bill, there is nothing in the spirit of the bill, which could justify such a conclusion. What is it that the bill proposes? Simply that if the people of Kansas accept the terms tendered to them by Congress, they may be admitted into the Union as one of the States of the Confederacy. If they reject the terms tendered to them by Congress, they are not to come into the Union, until they have a population sufficient to entitle them to one Representative upon the floor of this House.

These are the words of the law. Now, sir, is there anything concealed beneath these words which will justify the conclusions arrived at by the gentleman from Kentucky? I defend the language of the act. But the gentleman asks, why not exclude them altogether, until they have a sufficient population to entitle them to a Representative? Why admit them now, if they accept the terms of the proposition made them by Congress? Does not the gentleman from Kentucky know that, during the last three or four years, various movements have been made to admit Kansas into the Union as a State? Does he not know that almost every gentleman upon the floor of this House, stands committed to the admission of Kansas as a State? Does he not know that the gentlemen now acting with him in opposition to this measure, all voted for the admission of Kansas, under the Topeka application? Does not the gentleman know that most of the gentlemen on this side of the House voted, or were ready to vote, for a bill to enable the people of Kansas to form a constitution and State government, and to be admitted into the Union under what is commonly termed the Toombs bill? Here, then, were inducements held out to the people of Kansas to form a constitution and State government, and apply for admission into the Union. Under these inducements, the Territorial Legislature of Kansas passed an act for taking the sense of the people of Kansas, whether they desired admission into the Union as a State.

Now, the gentleman has said, and I will not attempt to controvert the position, that that was not a rightful act of legislation; that it conferred no authority upon the people of Kansas to demand admission into the Union. But I will remind the gentleman of one thing which he seems to have overlooked: I presume the gentleman will not differ from me, when I say that, although in the organic act of the Territory of Kansas, the acts of the Territorial Legislature were not required to be submitted to Congress for revision, yet it was competent for Congress to annul any act of the Territorial Legislature of Kansas, as they may the territorial acts of Utah or New Mexico. But Congress did not repudiate any of its acts. This law was passed by the Territorial Legislature of Kansas. It might have been disapproved by Congress. It was not disapproved. If that act, then, had any validity, it owed it to the acquiescence or the implied consent of Congress, by its failure to annul it.

Mr. MARSHALL, of Kentucky. I would like to know how Congress is to know anything about it?

Mr. MILLSON. How was Congress to know anything about the other laws which were proposed to be annulled by the bill introduced into the Senate by Mr. Toombs, and passed by that body? It is true that there was no clause in the Kansas-Nebraska bill requiring the territorial laws to be sent to Congress for revision; but it is equally true that that does not prevent us from inquiring into their legislation. We can know their laws as a matter of history, as we may know the laws and understand the legislation of any other legislative body.

I say, then, to the gentleman that we know the existence of the law to which I have referred exactly as we have the right to know the existence of any other law passed by the Territorial Legislature of Kansas. The gentleman would have encountered no difficulty of this sort in voting for the bill, which I presume he approved, proposing to annul certain of the acts of Kansas.

Then, sir, I say that the people of Kansas had a right to regard themselves as authorized to seek admission into the Union; authorized by the general assent of both branches of Congress, at different times, and on different propositions, and all acknowledging their right to apply for admission into the Union. And they had the right so to regard it, from the fact that Congress did not interfere to annul the law passed by their own Territorial Legislature, giving them the authority. We stand committed to the people of Kansas. They would have a right to complain if they were refused admission, on proper terms and conditions. They would have a right to say to Congress, "you encouraged us to make this application; you, by your silence, approved the law which gave us the right to hold the convention which framed a constitution at Lecompton; and you will act in bad faith towards us, if you

now reject our application, merely on the ground that we have not sufficient population. You knew our population when you gave an implied, if not an express, consent to our admission."

Congress, then, being committed to the acceptance of Kansas if she proposes such terms as are admissible by the Representatives of the people, we cannot refuse her admission into the Union, simply because of a want of population. But she has no right to make unreasonable exactions of us. We may refuse them, and propose reasonable conditions. If she will not accept them, we may then say, "if you will not now come into the Union, except upon terms that we cannot yield, we tell you that we give you no further authority to become a State; and we mean to treat you, as we treat all the other Territories; and you shall not be entitled to come into the Union until you have sufficient population."

I believe that it is impossible for gentlemen to give the construction to this bill which has been given by the gentleman from Kentucky, [Mr. MARSHALL,] by the gentleman from Michigan, [Mr. HOWARD,] by the gentleman from Ohio, [Mr. BINGHAM,] and by other gentlemen in this debate. It is nothing but a simple submission of a fair proposition to the people of Kansas. If they object to it, they are no longer to demand admission into the Union. If they accept it, they come into the Union, not because they come with the constitution made at Lecompton; but only, because, before we knew what constitution they would adopt, we pledged our faith to them that they should come. That is the answer to the gentleman's complaint.

The gentleman from Maryland [Mr. DAVIS] said yesterday, and challenged the citation of any instance to the contrary, that there never had been any case in which the admission of a State into the Union was made to depend upon a precedent assent to a condition imposed by Congress. I will tell the gentleman that he will find in the joint resolution authorizing the annexation of Texas, exactly such a case as he denied to have existed. That joint resolution expressly provided, that certain conditions should be proposed to the people of Texas, and their admission into the Union was made to depend upon their acceptance of these conditions. And it was only after the acceptance of these conditions that they were admitted into the Union. Was it supposed that that was any derogation from the sovereign rights of Texas? Unquestionably not; for the act admitting her, expressly stated that she was admitted upon an equal footing with all the other States of the Union.

The gentleman from Kentucky [Mr. MARSHALL] asked, why not let the State of Kansas come in with any constitution she pleases? I was forcibly struck with the inconsistency of the argument of the gentleman. He said that this bill ought to have allowed the State of Kansas to form another constitution, in the event of her rejection of the conditions proposed to her. Yet a few moments afterwards he stated that the population of Kansas was hardly forty thousand. He has answered his own inquiry. If there be, as the gentleman states, only forty thousand people in Kansas, that is the reason why the alternative consent was not given. We have acquitted ourselves of our obligation to Kansas, by agreeing to admit her upon the application which she made at our own instance. If she rejects that, then we have the right to say that she shall not come into the Union except upon such terms, just and reasonable, as are prescribed by ourselves. These terms have no sort of reference to the character of the institutions of Kansas. We have nothing to do with any particular form of constitution for Kansas.

Sir, I will tell gentlemen that Congress cannot prevent them from having such a constitution as they choose. Congress has no right to judge of the constitution of Kansas. It is not one of the functions of Congress to approve or disapprove a State constitution. Gentlemen have talked here, in loose phraseology, about Kansas coming in under the Lecompton constitution, or not coming in under it. I will tell gentlemen that the power of Congress is simply to admit a State. They have no control over a constitution. I will go further, and say that it is not a part of the business of Congress, nor is it the right of Congress, in its collective or corporate capacity, to know what constitution is the constitution of the people of Kansas.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

MONDAY, MAY 3, 1858.

NEW SERIES...No. 119.

I have sometimes been at a loss to know what was the origin of this prevalent error, that the constitution of a State applying for admission into the Union, must be submitted to Congress for its approval and ratification. I have said that the power of Congress was to admit new States. What power is it that adopts a State constitution? It is the State itself. The people of a State make a constitution for a State; and if the people of a State make a constitution for a State, then you have the idea of a State without a constitution. The constitution is the work of the State; it is the result of the act of a State. If it is the result of the act of a State, then the State must exist before its constitution. There may be, therefore, a State without a constitution. The power of Congress is to admit new States; and I would like to know how you can limit and narrow that power to the admission of a State, having a constitution?

Gentlemen say that it is the duty of Congress to see that the constitution of a State is republican; and they seem to have arrived at that conclusion from the misapplication of that clause of the Constitution which declares that the United States shall guaranty to each and every State a republican form of government. To show the fallacy of that idea, permit me to suggest that the clause of the Constitution is, that "the United States shall guaranty to each and every State." Each old State as well as new. The reference to "each and every State" proves that the clause has no application, except to States already in the Union. Instead of giving that clause exclusive application to Territories applying for admission, I say it has no application at all to anything but existing States. It is a guarantee to the States of the Union.

The object of the guarantee is manifest. It was a pledge of the faith of each and all the States to one another that they would protect each other, and prevent any usurper from overthrowing the liberties of the people of any State. The expression is, that the United States shall "guaranty." The word was well chosen. It was not that the States shall confer upon any State what it has not already, but that we shall defend, protect, secure it in what it now has. This is the import of the word "guaranty," and this was the object of that clause of the Constitution.

Sir, if it be true that that clause in the Constitution obliges Congress to inquire whether the constitution of a State applying for admission, is republican, it would follow, as a matter of course, that an old State could never change her constitution, without being under the necessity of having it revised by Congress; for the provision applies to all the States. I admit that we may look into the constitution of any State which desires admission into the Union. But to what end do we look into the constitution of a new State? Because Congress, in the exercise of a constitutional power, has the right to approve or reject its constitution? No, sir; but only that the members of Congress, the individuals holding seats in Congress, may inspect the constitution of a State, as they may inspect any public document, any book, any newspaper, for the purpose of finding evidence of what may be the sentiments and character of a people desiring admission. Usually, the constitution of a State is very good evidence of those sentiments. It is presumed that the will of the people is reflected by it, and we may generally refer with confidence to a constitution to ascertain what their views are upon the subjects embraced in their fundamental law. But it is only as evidence, that we look into it.

This does not imply that Congress has the right to approve or disapprove a constitution, but only that members may read it for their own individual satisfaction; may consult the constitution, as they may a newspaper, as they may a dictionary, for the purpose of informing their own minds upon the subjects referred to in the constitution. It is only to that extent that Congress has any business with any constitution of any State. Therefore I object to the language so frequently employed, that Congress is attempting to ratify

the Lecompton constitution, or is attempting to force the Lecompton constitution upon the people of Kansas. Congress is doing nothing of the sort. Congress can only admit a State. The constitution is the work of the people of that State. And so far from it being true that Kansas is to come into the Union, with the Lecompton constitution, I tell you that the constitution of Kansas is almost the only thing in Kansas which does not come into the Union at all. The constitution of Kansas does not budge an inch beyond the limits of Kansas. It stays at home; and it can be altered, modified, or destroyed, by the people of Kansas at their pleasure.

Kansas, then, does not touch the Union with her constitution at all. I will tell you where she touches the Union. She touches the Union at three points—in the House of Representatives, in the Senate, and in the presidential chair; and I take the occasion to suggest that at none of those three points have we any great reason to desire any contact with her, while the political opinions of her people remain what they are.

Mr. STANTON. Will the gentleman permit me to ask him a question? I understand the gentleman's theory to be that a State may be admitted into the Union with no constitution at all, if it has a corporate form. Am I right?

Mr. MILLSON. I mean to say that the power is to admit a new State, and as a State must be a State before it has a constitution, it follows that there may be a State without a constitution; and that the power to admit new States, generally, cannot be narrowed down to a new State, having a constitution.

Mr. STANTON. Suppose, then, that Kansas is admitted now: is there anything to prevent her from organizing her government under the Leavenworth constitution instead of under the Lecompton constitution?

Mr. MILLSON. That is a question I do not want to discuss here. I hold that the people of Kansas have the right to alter their constitution, or frame a government, whenever they can do it in conformity with the restrictions imposed upon themselves, by themselves; and no power on earth can rightfully prevent the people of any sovereignty from acting in the execution of their sovereign power, whenever it may please them so to act.

Mr. CURTIS. I desire to ask the gentleman a question. Inasmuch as the Lecompton constitution is not in Kansas, but is here, and the Leavenworth constitution is there, is not the sequence that if they are admitted under this bill, they are admitted under the Leavenworth constitution?

Mr. MILLSON. Mr. Speaker, I have already said that a State is not admitted with, or under any particular constitution. I have already said that it is not the province of Congress to determine what her constitution is; and that we, as individual members, can only look into her constitution for the purpose of ascertaining the sentiments and character of the people. Sir, if the Mormons, now occupying Utah, should apply for admission into the Union, with a constitution allowing polygamy, that would be evidence that her people are in favor of polygamy, and you would reject them on that account, as unfit to be associated with the other States. But I go further. If they were to apply for admission into the Union, with a constitution silent on the subject of polygamy, you, knowing the character of the people, from other sources of information, would reject them on that account. I go further still. If they were to come here with a constitution prohibiting polygamy, then, regarding the constitution only as evidence, and knowing that evidence to be deceptive in this case, we should reject them on that ground.

Now, what is it that is done when a Territory comes to be admitted into the Union as a State? I took occasion to say, some weeks ago, that the application of a State for admission into the Union, is a sort of declaration of independence. A State must have the capacity to contract with the other

States before she can be admitted. She must accede to the Federal Constitution. Before she can make a contract, she must have the capacity to contract.

The transformation of a Territory into a State is, if I may so express myself, a sort of peaceful revolution. If the State is admitted into the Union, Congress simply acknowledges the independence of that State. If the State is denied admission into the Union, Congress refuses to recognize the independence of that State. But whenever a Territory forms for herself a constitution and State government, she proclaims her independence of the power which has held her in subjection. This, I think, is the only theory which will explain the relations between a Territory, becoming a State, and the old States. We need not resist, by force, her attempt to establish her independence. We may accede to it. If we do so, we acknowledge her independence from the time she made the declaration. If we refuse to acknowledge her independence, we simply decline to regard her as holding any other relation to us than the relation of a Territory to a parent Government. When we admit a State into the Union, and thus acknowledge its independence, the acknowledgement relates back to the time when she declared her independence—that is, when she formed her State government. Sir, it is a common and familiar case. The United States declared their independence on the 4th of July, 1776. For seven years England endeavored to compel their submission, but she was foiled. She regarded us in the light of revolted colonies during the whole of that time. When she afterwards acknowledged the independence of the United States, it was an acknowledgment that we were independent on the 4th of July, 1776; the acknowledgment related back to the time when we originally declared our independence. So, when a State is admitted into the Union, we admit her to have been independent from the time she formed her State government; and, having made that admission, it is no province of ours to determine what her constitution is.

I say, then, sir, that gentlemen have endeavored to mislead the people of the North, by producing the impression that some great wrong is attempted to be done them; some great advantage to be secured by the people of the South. I repeat that there is nothing of gain to us, and nothing of loss to the North, in any of the proposed plans of admitting Kansas. Do gentlemen suppose that we of the South are deceived by paper constitutions? Do gentlemen suppose that southern men upon this floor, intelligent as many of them are known to be, are pleasing themselves with the idea that a new State will be added to the Union, identified in interest and sympathizing in sentiment, with the people of the South? No, sir; we look through the Lecompton constitution; we know the circumstances under which it was formed; we know the political character of the present people of Kansas; we look upon a State, not as a paper constitution, but as a community of men, women, and children; and we know that that community of men, women, and children, which we are about to bring into the Union, is a community having no interests and no sympathies identical with our own. We are making concessions; we are not pressing demands. I may almost say we are making sacrifices. Gentlemen of the North, instead of applying reproaches, should give us credit for magnanimity.

While gentlemen on the other side of the House complain of this bill, there are objections to it also upon this side of the House. The distinguished gentleman from Mississippi [Mr. QUITMAN] has objected to it. He has not indicated the character of those objections, but I know him too well not to understand that they are perfectly consistent with his devotedness to State rights, and to the principles of the Democratic party.

But it is fancied by some gentlemen that there are restrictions imposed upon the people in Kansas, in prescribing the qualifications of the voters who are to vote upon the acceptance or rejection of the terms submitted to Kansas, and in design-

nating the officers who are to receive the votes. If gentlemen deny the authority of Congress to exercise this power, I might adopt the Socratic method of argument, and inquire who, then, is to determine the qualifications of voters, and who shall appoint the agents to receive the votes? If it is answered, the people of Kansas, I ask, again, by what authority? The Territorial Legislature? Now, the Territorial Legislature derives its authority from Congress; so that, at last, you are brought to Congress, as the source of all the power which can be exercised in determining whether they shall be a State, or in making the constitution under which they desire to be governed.

It is eminently proper, in my view of this case, that we should submit this question to the people of Kansas, to be assented to or rejected by them, before they come into the Union. Suppose we bring Kansas into the Union, upon her present application, but without accepting her ordinance. She may say, "I never asked for admission into the Union, except upon the terms indicated in my ordinance." What, then, would be the condition of the people of Kansas? Would they be a State in the Union or not? The people of Kansas never assented to the proposition contained in the act of Congress. They have asked admission upon certain terms; and if you reject those terms, then I ask whether they are a State in the Union or not? If she is a State in the Union, then has she the right to secede from the Union in consequence of having never assented to the terms on which she was admitted?

Mr. QUITMAN. Will the gentleman allow me to say a few words in reply to his speculations on my position?

Mr. MILLSON. I will yield to the gentleman.

Mr. QUITMAN. I had not intended, after seeking the floor yesterday without success, to trouble the House with stating the reasons why I opposed this bill; but I can give them in a few words. I construe the bill reported by the committee of conference as an express submission of the question of the admission of Kansas under the Lecompton constitution back to the people of Kansas, and thus virtually referring to them the adoption or rejection of the constitution, the more objectionable because that reference is not made to the quasi sovereignty which acted upon that instrument originally, nor to the people acting under an organized government, but to a disorganized mass of voters, who cannot speak for the sovereignty of a State.

I oppose the measure, in the second place, because it is a concession upon this question which I, as a southern man, am not prepared to make. I regard this contest as a mere incident to the slavery question. I am desirous of seeing this great issue between the North and South brought to a fair, honest, and final settlement, which shall forever recognize the full constitutional equality of the slaveholding States. If we can come to terms, no man in the House will rejoice more than I. If we cannot, let us separate. These are the main reasons why I oppose this bill.

I will answer the other question propounded by the gentleman, that I look upon the act of the people of Kansas as complete—as an act of quasi sovereignty, with the consent of the United States, in the formation of a constitution. I regard that act as complete and binding upon the people of Kansas, and as the only voice that we have received here in regard to their will. I have opposed the reference of the whole question back to the people of Kansas, or even to any political power in Kansas; and I oppose it now the more because it is simply a reference back to the individual men who may be entitled to vote at the time this vote is to be taken. These are, in short, some of the reasons why, with all respect for the opinions of my political friends, I cannot support this bill. I will not take any more of the gentleman's time by saying more.

Mr. MILLSON. The House will now, I trust, perceive the application of the views I was endeavoring to present at the time the gentleman from Mississippi asked me to yield to him. The gentleman says he regards the act as complete, and Kansas entitled to admission. Would he yield to her demand for admission upon the terms proposed by her, claiming twenty-five or thirty million acres of the public land?

Mr. QUITMAN. I ask the gentleman to allow me to say that I have never regarded these prop-

sitions in respect to land grants as forming any of the conditions on which a State is admitted into the Union. I wish to make this single other remark: that Congress either has or has not the right to restrict the entire rights of a State. If she does restrict them, then they are not binding upon the State, because she can only admit the State upon one condition or the other.

Mr. MILLSON. I have no disposition now to go into an inquiry whether the gentleman is right or wrong in the belief that there is no authority or validity in this ordinance claiming land. The point which I presented was, that if the people of Kansas ask for admission into the Union, upon certain conditions, whether, if we reject those conditions, she is bound by her application? And I made this further inquiry: whether the act of admission upon these modified terms on the part of Congress, will, of necessity, bring her into the Union against her protest? Will you consider her in the Union if she says, "I asked for admission into the Union upon the terms which I have proposed, and upon no other terms?" And if she is in the Union, then I ask as to her right to withdraw or secede from it?

I will not appeal to the gentleman from Mississippi upon this point, because I know his views upon the general question of the right of a State to secede; as he, doubtless, knows mine. But I submit, that if Kansas should exercise this right, the southern Democratic members would be placed in a very anomalous position towards her. They might be tempted to resist the exercise of this power, and thus do violence to their own constitutional opinions;—while gentlemen upon the other side of the House, whose normal position is against the right of a State to secede, might be found sustaining Kansas in the exercise of this right. I say, therefore, let us avoid these possible difficulties, by submitting the question to the people of Kansas before they come in. Where is the objection to that? If they avail themselves of the occasion, to withdraw their application altogether, because of objections they may have to their own constitution, we cannot help that.

A word more as to the objections of gentlemen, on the other side of the House, who say they have no confidence in the fairness with which these elections will be conducted. Gentlemen tell us of the frauds that have been perpetrated in Kansas, and some of them seem to suppose that these frauds have been sympathized in, if not openly defended, by gentlemen on the Democratic side of the House. Sir, I rejoice to say, I have never met one man from the South, who has attempted to justify or defend these frauds; and I hope no one will ever be found to defend or justify them. I hope the South will be too mindful of her fair character, to tarnish it by any complicity with fraud or crime. A "good name," sir, is our "immediate jewel." If, in order to secure the admission of a State, so hostile to our interests, and so foreign from our sympathies, as Kansas will be, the South should sully her ancient reputation by defending or excusing the frauds that have been committed on her behalf, she would imitate the foolish prodigality of the royal harlot of Egypt, and dissolve her pearl in vinegar, only that she might drink the unpalatable mixture.

But the South knows too well her duty to herself, she knows too well the condition of Kansas, to tempt her to any sacrifice of her reputation. We know that Kansas is not an ally of the South. We know that we are only supporting a measure which must bring material advantage to the North and loss and disadvantage to the South; and we have been moved as much by a desire to maintain the good faith of the Government, and to restore harmony and peace to the country, as by any other consideration. We have desired, too, to repel the efforts made on the other side of the House to produce injurious and erroneous impressions upon the public mind, at the North, by representations that their honor is insulted by a dominant majority in Congress, sustained by a Democratic Administration. That is not the true state of the case. We know and feel that we have no practical interest in this controversy; but that we are simply choosing that method of terminating it, which will be most acceptable to our people, in being least injurious to their interests, and least repulsive to their sensibilities.

Mr. CLARK, of New York, obtained the floor, but yielded to

Mr. LETCHER, who moved that the House adjourn.

Mr. CLINGMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 120, nays 81; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Bingham, Bingham, Blair, Bliss, Branch, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Campbell, Caruthers, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, John Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Eustis, Fenton, Foster, Garnett, Gilman, Gilmer, Gooch, Goode, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas J. Harris, Haskin, Hawkins, Hickman, Hoard, Howard, Keitt, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Letcher, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Pottle, Quinnan, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Sickles, Singleton, Robert Smith, William Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Ellihu B. Washburne, Israel Washburn, Wilson, and Zollcoffer—120.

NAYS—Messrs. Ahl, Anderson, Avery, Bishop, Cocke, Bonham, Bowie, Boyce, Burnett, Burns, Caskey, John B. Clark, Clay, Clemens, Clingman, Cobb, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Dewart, Dowdell, Elliott, English, Florence, Foley, Gartrell, Gillis, Greenwood, Grosbeck, Lawrence W. Hall, Hatch, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Lamar, Landy, Lawrence, Macloy, McQueen, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Reagan, Reilly, Ruffin, Russell, Sandridge, Savage, Scales, Scott, Searing, Henry M. Shaw, Stallworth, Stephens, Stevenson, Talbot, Tripp, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—84.

So the motion was agreed to.

Pending the above call,

Mr. KNAPP stated that Mr. GIDDINGS had paired off with Mr. SMITH, of Tennessee.

Mr. SMITH, of Virginia, asked to have entered upon the Journal a motion to reconsider the vote by which the House laid upon the table Senate bill (No. 151) further to amend an act entitled "An act to incorporate the Provident Association of the clerks in the several Departments of the Government of the United States, in the District of Columbia."

Mr. ENGLISH stated that he voted for the adjournment, understanding that in the morning the gentleman from South Carolina would call for the previous question.

And then the House (at twenty minutes past four o'clock, p. m.) adjourned.

IN SENATE.

FRIDAY, April 30, 1858.

Prayer by Rev. P. D. GURLEY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, in answer to the resolution of the Senate of the 24th ultimo, requesting information relative to the seizure in the valley of Sitana, in Peru, by the authorities of Chili, of a sum of money belonging to citizens of the United States; which was, on motion of Mr. HUNTER, referred to the Committee on Foreign Relations.

He also laid before the Senate a report of the Secretary of the Interior, in answer to a resolution of the Senate relative to the United States reserved sections in township eighty-nine, range forty-seven, in the State of Iowa; which was ordered to lie on the table, and be printed.

HOUSE BILL REFERRED.

The bill (No. 542) to authorize the vestry of Washington parish to take and inclose certain parts of streets in Washington city, for the purpose of extending the Washington Cemetery, and for other purposes, was read twice by its title, and referred to the Committee on the District of Columbia.

PETITIONS AND MEMORIALS.

Mr. BROWN presented the petition of Thomas W. Jordan, late captain's clerk on board the United States ship *Fredonia*, praying to be allowed the difference between his pay, as captain's clerk,

and that of purser, during the time he acted as such; which was referred to the Committee on Naval Affairs.

Mr. JOHNSON, of Arkansas, presented a petition of citizens of the town of Fort Scott, Kansas, remonstrating against special legislation in relation to the lands upon which that town is situated; which was referred to the Committee on Public Lands.

He also presented a petition of inhabitants of Bourbon county, Kansas, settlers on lands known as the New York Indian lands, praying that the Indian title thereto may be extinguished, and that they may be allowed the right of preemption; which was referred to the Committee on Public Lands.

PAPERS WITHDRAWN.

On motion of Mr. KENNEDY, it was,
Ordered, That James Conrad have leave to withdraw his petition and papers.

On motion of Mr. MALLORY, it was
Ordered, That the adverse report in the case of the seamen on board the United States steamer Missouri, destroyed by fire at Gibraltar in 1843, be recommitted to the Committee on Naval Affairs.

Mr. BROWN. The Committee on the District of Columbia have had under consideration, by reference from the Senate, a memorial from a committee of the Levy Court of Washington county, asking for the improvement of certain roads in the neighborhood of the navy-yard. The memorial is accompanied by profiles. As the subject is before the committee of the House of Representatives, I move that the papers may be withdrawn for the purpose of being presented there.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. KING, from the Committee on Pensions, to whom was referred the petition of James Smith, submitted a report, accompanied by a bill (S. No. 302) for the relief of James Smith. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. MALLORY, from the Committee on Claims, to whom was referred the memorial of Isaac Varn, sr., submitted a report, accompanied by a bill (S. No. 303) for the relief of Isaac Varn, sr. The bill was read, and passed to a second reading; and the report was ordered to be printed.

NORTHERN WAGON ROAD TO THE PACIFIC.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia be instructed to inquire into the expediency of constructing a wagon road from Fort Benton, on the Missouri river, to the navigable waters of the Columbia river, at or near Fort Wallawalla, and report by bill or otherwise.

WILLIS A. GORMAN.

Mr. SEBASTIAN. I ask the Senate to take up, for consideration, a little resolution to pay Governor Gorman a certain amount of money. I wish to have it taken up merely for the purpose of suggesting an amendment, and then asking its reference to a committee.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. SEBASTIAN, on Wednesday last:

Resolved, That there be paid to the Hon. Willis A. Gorman, Governor of Minnesota Territory, the sum of \$820, as compensation for his services as commissioner to investigate the alleged frauds of Alexander Ramsey, late superintendent of Indian affairs for the northern superintendency, and reimbursement of his necessary expenses incurred therein.

Mr. SEBASTIAN. I wish to suggest an amendment, which was a mere inadvertent omission in the original resolution, to say "out of the contingent fund of the Senate," and then ask its reference to the Committee to Audit and Control the Contingent Expenses of the Senate.

The amendment was agreed to.

Mr. HUNTER. If the resolution is to be referred to the committee, I have no objection.

The PRESIDENT *pro tempore*. It will be referred.

Mr. SEBASTIAN. I understand it goes to that committee according to the rule of the Senate.

The PRESIDENT *pro tempore*. Yes, sir.

CAPTAIN JAMES MAC MINTOSH.

Mr. IVERSON. The Committee on Claims, to whom was referred the bill from the House of

Representatives (No. 80) for the relief of Captain James Mac McIntosh, of the United States Navy, have instructed me to report back the bill with a recommendation that it pass; and I am instructed by the committee to ask that it be put on its passage immediately. I will state, in explanation, that it is a claim for only \$204 95 of Captain Mac McIntosh for arrears of pay withheld from him by an erroneous and obstinate decision on the part of the Fifth Auditor, although allowed by the Secretary of the Navy. It has gone to the Court of Claims, and been reported favorably upon by them. It has gone to the House of Representatives, and been decided on favorably by that House. It now comes here, and the committee are unanimously in favor of it. I move that the bill be considered and put on its passage. It is only to pay a very small amount which has been withheld along time from Captain Mac McIntosh, and it is just and due that it should be paid to him.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 80) for the relief of Captain James Mac McIntosh, of the United States Navy.

It provides for the payment to Captain Mac McIntosh, of the Navy, of the sum of \$204 95, being the difference between the sum paid to him at the Treasury as commander "on other duty," and that which was due to him as such officer "attached to a vessel for sea service," and being in full for his services as an officer of the West India squadron from the 14th of August, 1837, to the 3d of September, 1838.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LAND DISTRICTS IN MICHIGAN.

Mr. STUART. I ask the indulgence of the Senate to pass a couple of public bills that I reported yesterday, of great importance, although there is no dispute about them. They are simply to change the boundaries of some land districts.

The Senate proceeded as in Committee of the Whole to consider the bill (S. No. 286) to enlarge the Detroit and Saginaw land districts in Michigan.

It provides that from and after the 1st of July, all that part of the Cheboygan district, in the State of Michigan, which lies south of the line dividing townships twenty-eight and twenty-nine north, and east of the line dividing ranges two and three west, shall be attached to and form a part of the present Saginaw district, and all that part of the Cheboygan district which lies north of the line dividing townships twenty-eight and twenty-nine north, and east of the line dividing ranges one and two west, including the island of Mackinac, shall be attached to and form a part of the Detroit district.

Mr. POLK. I should like to ask the Senator from Michigan if the effect of the bill is to divide one land district so as to attach a part of it to another, and still another part to another, so as to make three districts instead of two?

Mr. STUART. No, sir. It leaves the number of districts the same as it is now, but merely rearranges them. It does not add to the number of districts or the number of offices, but rearranges them for convenience.

Mr. POLK. I will ask the Senator another question, whether, unless this division takes place, one of those districts will not be reduced in the quantity of land in it to an amount less than that which by law entitles it to have land officers?

Mr. STUART. No, sir. I will simply state it is an arrangement made with the concurrence of the General Land Office simply for the convenience of those buying land, without any view to continue existing districts, or anything of the sort.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LAND DISTRICTS IN MINNESOTA.

Mr. STUART. The other bill which I propose to have considered now is on the same subject in regard to the land districts in Minnesota.

Mr. POLK. Is it to accomplish the same object?

Mr. STUART. Yes, sir.
The Senate proceeded, as in Committee of the

Whole, to consider the bill (S. No. 296) amendatory of an act entitled "An act to establish two additional land districts in the Territory of Minnesota," approved July 8, 1856.

It provides that, in lieu of the southern boundary of the northwestern land district of Minnesota, on the west side of the Mississippi river, the following boundaries are established, to wit: commencing at the point on the eastern side of the Mississippi river where the present south line touches the river, thence down the river to the point opposite the intersection with the river of the eighth standard parallel; thence along that parallel to the point of intersection of guide meridian number four; thence along that guide meridian to the seventh standard parallel; thence west along the seventh parallel to the Sioux Wood river; thence north to the line heretofore established. It also provides that the line dividing ranges twenty-three and twenty-four shall be the boundary line between the northwestern and northeastern land districts, in lieu of the range line between eighteen and nineteen, as heretofore established.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DEFICIENCY BILL.

Mr. TOOMBS submitted the following report:

The undersigned managers of the conference between the Senate and House of Representatives on the disagreeing votes of the two Houses on the House bill (No. 306) entitled "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858," report that, having taken the subject of the disagreeing votes into full and careful consideration, they are unable to come to any agreement thereon.

R. TOOMBS,
W. F. FESSENDEN,
ASA BIGGS,
Senate Managers.
J. LETCHER,
M. H. NICHOLS,
House Managers.

Mr. HUNTER. I give notice that when the Senate is full I shall call up the House report, and submit a motion to recede. It is useless to be delaying this measure.

MEXICAN PROTECTORATE.

Mr. HOUSTON. I move to take up the resolution which I introduced some time since, with a view to amend it and refer it to a special committee.

The motion was agreed to.

Mr. IVERSON. If this resolution is to give rise to no discussion I shall not object; but if anybody is to debate it, I must object, and insist on the special order.

Mr. HOUSTON. I move the amendment which I send to the table, and which has been printed, to strike out all after the word "whereas," and insert:

The events connected with the numerous efforts of the people of Mexico to establish, upon a reliable basis, an orderly system of self government, have invariably resulted in complete failure; and whereas the condition of Mexico is such as to excite alarming apprehensions that she may precipitate herself into a wild condition of anarchy, and the more so, as she has demonstrated, from time to time, her utter inability to suppress intestine commotions and to conquer the hordes of bandits by which she is infested; and whereas the United States of America, on account of the continental policy which they cherish and desire to enforce, can never permit Mexico to be subjugated by Spain, or placed under the dominion of any foreign Power; and whereas one of the most important duties devolving upon civilized governments is to exact from adjoining nations the observance of good neighborhood, thus shielding themselves against impending, or even remote injury to their border security: Therefore,

Resolved, That a select committee of seven be raised to inquire into and report to the Senate whether or not it is expedient for the Government of the United States of America to declare and maintain a protectorate over the so-called Republic of Mexico, in such form and to such an extent as shall be necessary to secure to this Union good neighborhood, and to the people of said country the benefits of an orderly and well-regulated republican government.

Mr. WILSON. I have no objection to the amendment; but I do not wish this resolution to pass now.

The PRESIDENT *pro tempore*. The Chair will state that the hour has arrived for the consideration of the special order, which will now be taken up, unless the Senate otherwise determine.

Mr. HOUSTON. I only wish this resolution to be referred to a committee so that it may be taken into consideration by them. The gentleman will have an opportunity of stating his objections when a report is made, which brings the subject more directly before the body for discus-

sion. I hope he will withdraw his objection, and permit the subject to be referred to a special committee.

Mr. WILSON. I should like very much to gratify the Senator from Texas, and refer this matter to a special committee without any further debate or consideration; but it seems to me that it is a gross insult to Mexico for the Senate of the United States to pass a resolution worded as this resolution is worded. I think it a resolution that ought not to pass in this form. If a proposition of this kind is to pass at all, I think it should be worded in language that certainly could not give offense. I hope the matter will be allowed to pass over to-day, as the hour has arrived for the consideration of the special order.

Mr. HOUSTON. The Senate is not asked now to indorse the statements of fact in the preamble, but merely to refer the subject to a committee that it may be examined; and if the facts reported to the Senate do not sustain the proposition of the resolution, it will be for the Senator then to object to it, but not as a matter of reference. I believe no objection has ever been made to a subject of this kind being referred. I intended, in the first place, that it should be referred to the appropriate standing committee; but the disinclination of the chairman of that respectable committee as well as other members of the body, seemed to indicate that it should go to a special committee. Deferring to the suggestion, I have introduced the amendment for that purpose, and I do trust the gentleman will permit its reference.

Mr. HUNTER. I hope this will go over. The hour for the special order has arrived.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Texas that there is no motion pending upon which discussion can be entertained, unless the Senator moves to postpone the special order. That motion not being made, the special order comes up as a matter of course.

Mr. HOUSTON. With a view to save time, for I wish this subject disposed of, and do not wish to be annoyed by it any longer, I move that the special order be postponed.

Mr. HUNTER. I hope not. We have fixed the hour by agreement when we shall probably take the vote, and I hope we shall go on now with the special order. This subject will come up to-morrow.

Mr. MASON. When the resolution of the honorable Senator from Texas was before the Senate on a former occasion, I moved, according to my recollection, that it should be laid on the table, from a belief that it would be injurious and insulting to the Government of Mexico for the Senate to entertain the proposition—I say it in all courtesy to the honorable Senator, who differs with me in opinion. This proposition is now to refer it to a select committee. If it were referred at all, I am satisfied the true reference should be to the Committee on Foreign Relations. I will not ask that reference, but I move to lay it on the table.

Mr. HOUSTON. I will make a remark, if the gentleman will for a moment withdraw that motion.

Mr. MASON. I withdraw it.

Mr. HOUSTON. It was my expectation and desire, in the first instance, to refer it to that respectable committee, but as a disinclination was expressed, on the part of the chairman, that the reference should be made to that committee, I thought it was proper to have recourse to another expedient that would be more acceptable to him, and perhaps would produce—

Mr. MASON. The disinclination I expressed was to any reference; not to the Committee on Foreign Relations, but to a reference at all; and I entertain the same opinion now. If there should be any, however, I think it ought to be to that committee.

Mr. HOUSTON. The gentleman stated that to refer it to a standing committee of this body would be disrespectful. Then I wished a special committee, if it were the judgment of the Senate that it should be referred to a committee. Disinclination being evinced on the part of the chairman of the Committee on Foreign Relations to take charge of the subject, I thought it best not to incumber the committee with any motion that was unacceptable to it; and I was desirous that the matter should be thoroughly investigated by those who were friendly to or had originated the measure, and not to throw a bantering so young,

and one of such suspicious character as it is, into the arms of stepfathers. I had no disposition to do that; and, as there seemed to be very little sympathy for the bantering on the part of the standing committee, I was disposed to adopt a father for it, or let it have its proper legitimate one. I will submit to the action of the Senate: but I believe this course is unusual. I do not expect any degree of deference to be paid to me that would not be paid to any other Senator in this body; but I think it is an act somewhat disrespectful, and not according to the courtesy which has been extended to Senators who have introduced resolutions in this body, merely resolutions of reference, to refuse to refer them; but the gentleman may renew his motion to lay it on the table.

Mr. MASON. I will renew the motion to lay it on the table.

The motion was agreed to.

KANSAS—LECOMPTON CONSTITUTION.

The PRESIDENT *pro tempore*. The special order is now before the Senate.

Mr. IVERSON. The order of to-day is the Private Calendar.

Mr. HOUSTON. I call for the yeas and nays on the motion to lay my resolution on the table.

The PRESIDENT *pro tempore*. It is too late to call for the yeas and nays now. The decision of the Chair has been announced.

Mr. IVERSON. It will be remembered by the Senate that to-day, being Friday, is set apart by special resolution for the Private Calendar, and no order can supersede it without a vote of the Senate; but I am willing to yield to-day to the Kansas question, with the general understanding that it shall be disposed of to-day, and we shall be allowed to devote to-morrow to the Private Calendar.

The PRESIDENT *pro tempore*. The gentleman is right in his view. The Chair had forgotten that to-day was private bill day.

Mr. IVERSON. I give notice that I will call up the Private Calendar to-morrow.

The PRESIDENT *pro tempore*. The Chair will regard that as the sense of the Senate. The special order is now under consideration, being the report of the committee of conference on the bill (S. No. 161) for the admission of Kansas into the Union.

Mr. BRODERICK. Mr. President, the Senator from New York, [Mr. SEWARD,] before the Senate adjourned yesterday, announced that he believed all the Senators had spoken upon the question who wished to speak, except himself and the Senator from California. The Senator, I believe, alluded to me. I stated to the Senator a few minutes before he announced to the Senate my intention to speak, that I would, before the yeas and nays were called on the bill, state in a very few words why I intended to vote against it; but I did not intend to make a speech. I am not so vain as to think, after this subject has been so ably discussed by the Senators from Kentucky, Tennessee, Illinois, Vermont, Massachusetts, Ohio, Wisconsin, Michigan, and others, that I could say anything which would be instructive to the Senate. With the permission of the Senator from New York, however, I will briefly state why I will vote against this bill. I find, Mr. President, in the first section of the bill reported by the committee of conference, this language:

"That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States in all respects whatever, but upon this fundamental condition precedent, namely: that the question of admission with the following proposition, in lieu of the ordinance framed at Leecompton, be submitted to a vote of the people of Kansas and assented to by them, or a majority of the voters voting at an election to be held for that purpose, namely: that the following propositions be, and the same are hereby, offered to the people of Kansas for acceptance or rejection, which, if accepted, shall be obligatory on the United States and upon the said State of Kansas, to wit:—"

Senators on the Administration side of the Chamber, who have spoken on this bill, have all contended that it does not submit the constitution to the people of Kansas. I contend that it does, although it is accompanied by a base condition.

I shall not weary the Senate by giving a history of this proceeding; for, as I have said, it has been fully exposed by the Senators who have preceded me; but I have another objection to this bill, and it is, that it provides that Kansas shall be admitted into the Union with a population of thirty-

five or forty thousand inhabitants, if she will come into the Union with a slave constitution, while she is debarred from coming into the Union as a free State as long as this Administration are in power. I will try to show why there is no possible chance for Kansas to be admitted as a free State while this Administration are in power.

If Kansas rejects this constitution, she will have to wait until she has a population of ninety-three thousand four hundred and twenty. How is the population of Kansas to be ascertained? By a census taken in 1860, and the census-taker is to be appointed by the President of the United States. We have seen, sir, what the instruments of the Administration have already done in Kansas, and if it can be ascertained in 1860 that a majority of the people of Kansas are in favor of making it a free State, they will fall short of the requisite population; for I do not believe that the men who have taken the management of this contrivance will ever permit Kansas to come into the Union as a free State, if it is in their power to prevent her admission.

I am sure that this bill will be considered by thousands as providing for the submission of the constitution to the people of Kansas; no other construction can be given to it; but, as I have already said, it is accompanied by a base condition. If they accept this premium they will be admitted at once under the Leecompton constitution; but if they refuse it, they are to remain out of the Union as long as there is power to keep them out of the Union by a majority of the Administration Senators.

I believe that there are not more than thirty or thirty-five thousand inhabitants to-day in Kansas, men, women, and children, and no one in my hearing believes she will have ninety-three thousand for five or six years at least, if she does not increase her population more rapidly than she has increased it within the last two or three years. Therefore I can see no possible chance for Kansas to come into the Union as a free State if she rejects the Leecompton constitution, and with it rejects slavery.

I have stated my objections to this bill, and I shall vote against it. I believe it is an unfair measure; it is calculated to arouse a bitter and indignant prejudice in the minds of the people of the North; and I think it will result in no good to the South. I also believe that it will fill the other branch of Congress with men instructed against this proposition. I believe, at the election for the next Congress, every free State in this Union, without exception, will send men to Congress instructed against this contrivance. I would have preferred it in its original shape. That would have been less objectionable to me, and I think it would have been less objectionable to the people whom I represent. For these reasons, I shall vote against this bill.

Mr. SEWARD. Mr. President—

Mr. DOOLITTLE. If the honorable Senator will allow me, I desire to make a correction of a statement of fact in relation to the history of certain matters transpiring in Kansas, which arose between the honorable Senator from Ohio [Mr. PUGH] and myself the other day. As we both spoke from recollection at the time, I did not know but that I might be mistaken. I have, however, looked into the history of Kansas, and I desire to state that I am supported in what I then alleged, by reference to the "History of Kansas," written by the private secretary of Governor Geary. The honorable Senator from Ohio read from a speech made by the honorable Senator from New York, [Mr. SEWARD,] on the 9th of April, 1856, and also from a speech made by the honorable Senator from Massachusetts, [Mr. SUMNER,] on the 20th of May, 1856, in which those Senators, basing their calculations upon facts within their knowledge, stated that in their opinion the existing population in the Territory of Kansas at that time was about forty or fifty thousand, and ventured to make the prediction that in a very short period of time it would have a population sufficient to entitle it to a Representative in the other branch of Congress; and then the honorable Senator from Ohio put the question in these words:

"Well, sir, has all this population got to Kansas? This was the pretext made for forcing the Topeka constitution through the Congress of the United States. When they wanted Topeka carried, there was no limit to their assertions of fact, or to their imagination and their prophecies. Then Kansas had forty, fifty, or sixty thousand; and she

was to have ninety-three thousand before the bill passed the two Houses, and one hundred thousand in a few months. When it comes to Leecompton, whenever somebody else's bill comes up, they object, because Kansas, two years after all these statements and prophecies, has only forty thousand people. Had she forty thousand then? Had she those magnificent numbers promised us by the Senators from Massachusetts and New York two years ago? If she had, she has been decreasing in population ever since. I think we had better admit her very quickly, for after a while there will not be anybody there, at this enormous rate of decrease.

"This shows that when it comes to any assertion of fact that it is necessary for a political purpose, there will be somebody to manufacture it, and that even Senators representing the sovereign constituencies of this Union will stand up here to assert as true that which turns out to be a great perversion."

In the reply which I made to the honorable Senator, I stated what I understood to be the facts from my recollection then, that the principal troubles which occurred in Kansas occurred after the delivery of those speeches in the Senate of the United States by the honorable Senator from New York and the honorable Senator from Massachusetts. I will refer to the "History of Kansas," as published by the private secretary of Governor Geary, to show the time when certain transactions occurred in that Territory. It was on the 19th of May, 1856, that the forces were gathering about the city of Lawrence. On the 20th of May, 1856, on the very day when the honorable Senator from Massachusetts delivered his speech, this occurred:

"On the following morning, the 20th, several young men, hearing of this transaction, left Lawrence to visit the scene of the tragedy. One of these was named Stewart, who had but recently arrived from the State of New York. They had gone about a mile and a half, when they met two men, armed with Sharpe's rifles. Some words passed between them, when the two strangers raised their rifles, and, taking deliberate aim at Stewart, fired. One of the balls entered his temples. The work of death was instantly accomplished, and another accusing spirit stood before the bar of God."

"Soon after sunrise, on the morning of the 21st"—the day after the honorable Senator from Massachusetts delivered his speech—

"an advance guard of the marshal's army, consisting of about two hundred horsemen, appeared on the top of Mount Oread, on the outskirts of the town of Lawrence, where their cannon had been stationed late on the preceding night. The town was quiet, and the citizens had resolved to submit without resistance to any outrage that might be perpetrated. About seven o'clock Dr. Robinson's house, which stood on the side of the hill, was taken possession of, and used as the headquarters of the invaders." * * *

"Atchison then addressed his forces, in language not sufficiently well selected for ears polite, and then marched the whole column to within a short distance of the hotel, where they halted."

After proceeding with the particulars of the manner in which the deed of destruction was accomplished, the historian further states:

"And then followed scenes of reckless pillage and wanton destruction in all parts of that ill-fated town. Stores were broken into and plundered of their contents. Boils and bars were no obstacles to the entrance of drunken and infuriated men into private dwellings, from which most of the inhabitants had fled in terror. From these everything of value was stolen, and much that was useless to the marauders was destroyed." * * *

"The closing act of this frightful drama was the burning of the house of Dr. Robinson, on the brow of Mount Oread. This was set on fire after the sun had gone down, and the bright light which its flames shed over the comity illuminated the paths of the retreating army, as they proceeded toward their homes, pillaging houses, stealing horses, and violating the persons of defenseless women. All these dreadful deeds were done by human authority. There is yet an account to render to a Higher Power."

It was in the month of June, 1856, that Whitfield gathered his army for the invasion of the Territory. Let us see what happened on the 5th of June, 1856. He states:

"This was the state of affairs near Hickory Point, on the morning of the 5th of June. Whitfield was encamped behind Palmyra with near three hundred men." * * *

"Early on the following morning, (June 6th,) this army separated into two divisions"—speaking of the army of Whitfield—

"one half of it under General Reid, with Captains Pate, Bell, Jenigan, and other prominent leaders, moving towards Osawatimie, whilst the others, under Whitfield, started for Westport."

And again:

"On the 7th, Reid, with one hundred and seventy men, marched into Osawatimie, and without resistance entered each house, robbing it of everything of value. There were but few men in the town, and the women and children were treated with the utmost brutality." * * *

"On the 21st of June, an Indian agent named Gay was traveling in the vicinity of Westport, and was stopped by a party of Buford's men, who asked him if he was in favor of making Kansas a free State. He promptly answered in the affirmative, and was instantly shot dead. Such was the only crime for which this soul was hurried into the eternal world."

"Whilst these events were transpiring on the south side of the Kansas river, Colonel Wilkes, Captain Emery, and

other prominent pro-slavery men, were actively employed in persecuting the free-State citizens of Leavenworth. Notices were served on them to quit the city; some were violently seized and imprisoned, and still others carried to the levee, having been deprived of all their property and the greater part of their clothing, placed on board of steamers, and thus compelled to leave the country. At the same time, the steamboats coming up the river continued to be boarded at every stopping place, the free-State passengers insulted, their trunks broken open and robbed, and their arms taken from them; after which, they were put upon return boats, and forced to go back."

But, Mr. President, I will not detain the Senate by reading at length. I rose simply to refer to the facts as stated by the private secretary of Governor Geary, in his "History of Kansas," to show that it was after these speeches and predictions were made by the honorable Senators from New York and Massachusetts, that these transactions occurred in that Territory which aroused that people and prevented an inpouring of that immigration into Kansas, which, if it had not been interrupted in the spring and summer of 1856, would have realized, and fully realized, in my opinion every prediction which was made by those honorable Senators. Mr. President, I have done.

Mr. PUGH. The statement which the Senator from Wisconsin has taken so much pains to read, instead of helping him out of the difficulty which he undertook to correct, in my judgment, precipitates him further into it. What was the point of fact which he undertook to controvert with me the other day? I read from a speech of the Senator from New York, delivered in April, 1856, alleging that there were then forty thousand inhabitants in Kansas, and that his information as to the immigration pouring into the Territory at that time, satisfied him that probably in four months, certainly in a very short period, there would be one hundred thousand. That was his statement. The Senator from Massachusetts, on the 20th of May, 1856, in his speech, estimated that there was not, at the lowest calculation, less than forty thousand, and he cited a calculation, made by a Boston newspaper, which carried the population up to sixty thousand, and said that the immigration pouring into the Territory, according to his information, would give ninety-three thousand before the bill could pass the two Houses of Congress. These statements, being in part assertions of fact then true, and in part prophecies based on information which they said was correct, were made in April and May, 1856:

The Senator from Wisconsin said that the reason why the prophecies were not fulfilled, was that great troubles occurred in Kansas afterwards, and he located them in the winter of 1856-57. That was his excuse. I said to him then that all these allegations—for I do not take them for truths; there may be some truths in them and probably are—were made during that session of Congress repeatedly, and every Senator heard them. All this story about Lawrence, all these allegations of the interruption of highways through Missouri, were repeated here in every form and shape which the imagination of men could suggest at that very session. All these allegations relative to the troubles in Kansas, or many of them, were before the Senate at the very time the Senators from Massachusetts and New York spoke. They were before us in answer to the President's special message of January, 1856. Now, how late does the Senator place the latest disturbance on which he relies? The 7th of June, 1856; that is the latest period.

Mr. DOOLITTLE. I could read—

Mr. PUGH. Well, the whole month of June then; will that satisfy the Senator? The Toombs bill was introduced on the 24th of June, and was committed to the Committee on Territories, and came back here soon after, and after these other transactions to which he alludes, those Senators nevertheless persisted in offering the Topeka constitution as an amendment to the Toombs bill, and they carried on the discussion during the whole month of July, and in the latter part of that month the House of Representatives passed the Topeka bill and sent it here. If the population had been driven out of Kansas, if she no longer had the number which they suggested, or if their prophecies were not to be fulfilled, why did they persist in the Topeka constitution at a period subsequent to the very disturbances of which the Senator speaks?

But I did not care about this. How many men were driven out of Kansas? I recollect that nat-

ter was alleged then; and in July, while we were debating the Toombs bill, I think, on a motion to print copies, when this allegation was made, I asked the Senators where were all these people who had been driven out. I called on several of them, by name, to tell me how many of them were in their States. Nobody answered. There might have been half a dozen people driven out; but does any Senator seriously pretend, does any man pretend, with the least regard to truth, that twenty thousand people were driven out of the Territory? If such a transaction as that occurred; if such a body of people had been driven out of the Territory, everybody would know where they were. I say it was upon the faith of those representations as to population, (and I stated so at the time), supposing those Senators to be well informed in that regard, it was in the expectation that the population of Kansas, at that time, was about forty thousand, and was increasing very rapidly, that I yielded against my convictions of right, and voted for the Toombs bill; otherwise, I would not have voted for it.

Mr. DOOLITTLE. A single word, Mr. President. The question I put to the honorable Senator was, whether he had forgotten that it was during the summer and fall and winter of 1856 that these troubles occurred. I read, it is true, only of troubles which occurred in the months of May and June; but I excused myself from reading further, for I did not desire to trespass on the patience of the Senate. I will, however, read, now, one or two sentences further from the same history of Kansas affairs:

"A detachment of Atchison's army under General Reid, numbering about three hundred men, with one piece of artillery, attacked Osawatimie on the 30th of August."

That was the last day but one of the summer of 1856. Again, in speaking of these same transactions on the 4th of September, and from that period onward, he says:

"At Leavenworth and vicinity outrages had been renewed and were being committed, if possible, with increased ferocity. As Governor Shannon afterwards remarked, 'the roads were literally strewn with dead bodies.' A United States officer discovered a number of slaughtered men—thirteen, it is stated—lying unburied, who had been seized and brained; some of them being shot in the forehead, and others down through the top of the skull, whilst some were cut with hatchets and their bodies shockingly and disgustingly mutilated. On the 1st of September"—

That is the beginning of the fall of 1856—

"On the 1st of September, Captain Frederick Emory, a United States mail contractor, rendered himself conspicuous in Leavenworth. At the head of a band of ruffians, mostly from western Missouri. They entered houses, stores, and dwellings of free State people, and, in the name of 'law and order,' abused and robbed the occupants, and drove them out into the roads, irrespective of age, sex, or condition. Under pretense of searching for arms, they approached the house of William Phillips, the lawyer who had previously been tarred and feathered, and carried to Missouri. Phillips, supposing he was to be subjected to a similar outrage, and resolved not to submit to the indignity, stood upon his defense. In repelling the assaults of the mob, he killed two of them, when the others burst into the house, and poured a volley of balls into his body, killing him instantly, in the presence of his wife and another lady. His brother, who was also present, had an arm badly broken by bullets, and was compelled to submit to an amputation. Fifty of the free-State prisoners were then driven on board the Polar Star, bound for St. Louis. On the next day a hundred more were embarked by Emory and his men, on the steamboat Emma. During these proceedings, an election was held for mayor, and William E. Murphy, since appointed Indian agent by the President, was elected 'without opposition.'"

"At this time civil war raged in all the populous districts. Women and children had fled from the Territory. The roads were impracticable. No man's life was safe; and every person, when he lay down to rest at night, bolted and barred his doors, and fell asleep grasping firmly his pistol, gun, or knife."

This was the condition of things in September, 1856. If I could take up the time of the Senate, I could read the whole history of the transactions of the fall and winter of 1856, and prove beyond all dispute that the civil war raging in that Territory broke up the immigration to it, drove out hundreds of people from the Territory of Kansas, and prevented thousands from wintering in it; but I have already taken up more time than I intended.

Mr. POLK. I should like to ask the Senator from Wisconsin if he does not know that the man who wrote that book, Dr. Gihon, did not get into Kansas until the fall of 1856? The Senator has read of transactions that are said to have occurred, some of them, as early as May, 1856. Does he not know that Dr. Gihon, the secretary of Governor Geary, who wrote that book, did not arrive in Kansas until late in the fall of 1856?

Mr. DOOLITTLE. I will not take up time now, but I could refer to the book and state the exact date when he went there.

Mr. POLK. My point is, that it was after all these transactions.

Mr. SEWARD. Mr. President, this debate has manifestly lost some portion of its interest, although we are approaching a yet undetermined conclusion. The length of time which it has occupied might well account for the decline of excitement, and the repetition of the same topics, and the same arguments—repetition not too often for duly enlightening the minds of the people of the United States in regard to this great question, but still too often for patient endurance here will account still further for that decline. I think, however, that something is due also to the change which has occurred in the form the question has at last assumed. We began with a high-sounding theme. It was, at least, one so noble and so generous as that of popular sovereignty, and it speedily and justly rose into the region of human rights. In that imposing shape it was sent to a committee of conference. It now comes back from the conference chamber in the shape of an artifice—if it were respectful to say so, I should say a trick—of legislative legerdemain. Assuming that one or both of two factions is to be deceived, all that seems to be left for us to discuss or the public to consider, is, who is the dupe? In both ends of the Capitol, to-day, ingenuity is taxed to take to pieces this machine, which has been gotten up solely for the purpose of a legislative puzzle.

Now, Mr. President, that is a kind of debate for which I have the least taste, and, as I think, the least talent. I have no curiosity for such investigations. Among my first recollections, is one that a person named Redheifer invented and put in operation a curious machine, which was given to the world in the city of Philadelphia, and in the neighborhood of Congress. It was a perpetual motion which was to supersede wind, and sail, and steam, and every other motive power. The machine worked effectively, beautifully, perfectly; but when the public expectation was satisfied by this success, immediately Congress and the Legislature of Pennsylvania, and everybody else throughout the whole country, wanted to see the machine taken to pieces. Knowing that there was a human agent within, or connected with it, they wanted to see whether that secret actor was concealed in the upper, or in the nether compartment of the machine; whether in the chamber above, the cellar beneath, or in an adjoining street or house. I remember well that I took no interest in that question. The machine was a very good thing as it was; it would be a very worthless thing when the secret should be found out.

So, also, I remember, in later years, that a German, with invention peculiar to his race and nation, exhibited and put into action, in the city of New York, an automaton chess-player. It was constructed so skillfully, and mysteriously endowed with such intelligence, that though a creature of human hands, it would not only beat every adversary, but would even cry "check!" over the defeated competitor. *Just so soon as it was certain that the machine was perfect, all the world demanded that it should be taken to pieces, to ascertain in what part of the machine, or in what part of the house, or in what part of the city, the human agent dwelt which mysteriously directed the movement of the emblematic figures on the chess-board. I took no interest in that question. I was satisfied with the chess-player as it was, and I knew all the world would like it less when they came to know more of what remained to be known about it. I acted in those cases on this principle: that no one was deceived by Redheifer's perpetual motion but those who wanted to be deceived; nobody was blinded by the automaton chess-player except those who wanted to be duped. So it is with the bill of the conference committee on Kansas. It was gotten up to answer a purpose of self-deception—gotten up with care, so that it could not be explained satisfactorily by the one faction to the other, or even to itself.

Mr. President, with this explanation I might suffer this bill to pass. I might also suffer it to pass on the ground that the puzzle has been explained satisfactorily, triumphantly by the very astute Senator from Vermont, [Mr. COLLAMER,] by the honorable Senator from Ohio, [Mr. WADE,

always effective, and by all my associates on this side of the House, as well as by the distinguished Senators from Illinois and Michigan, who have performed this task with more complete success than I could hope to do it. I shall therefore be very brief in my analysis of the bill.

I have to state, in the first place, that the bill makes up and presents to the people of Kansas, and to the country, a fictitious or false issue. When I say false, I mean a foreign or fictitious question substituted for the true one. The true issue before Congress and the country, is the question whether the people of Kansas shall or shall not, as a condition of coming into this Union, have a right to accept or reject the Lecompton constitution. Now, be it understood, that Congress gives to every new State, when it comes into the Union, a dowry taken from the public lands within its borders. Every new State receives it in every case. Upon the giving of such a dowry, or upon the quantity or extent of it, speaking practically, no question is ever raised in Congress. The Lecompton convention sent an application or a demand for a large dowry, one larger than is usually allowed. The Senate passed a bill putting aside, thrusting out of the way altogether, not only the amount of the dowry, but the giving one at all, postponing it until another day; and contented itself with barely disclaiming, in the bill for the admission of Kansas which they passed, an assent to the demand which the Lecompton convention, speaking in the behalf of Kansas, had made.

The House of Representatives, in their bill for the admission of Kansas, treated the matter in the same way. They turned to the Minnesota bill, and copied from it into their Kansas bill, which they sent to the Senate, a provision by which Kansas should receive a dowry exactly equal to that of Minnesota.

From the beginning of this debate to the end, there was no discussion, no question raised about the amount of the dowry, or the giving it, or the withholding it, and it was never heard of. Each House was prepared to acquiesce on that point with the other. From the 7th day of December, when this debate began in both Houses, until the 25th day of April, no voice ever raised a question in regard to the form, nature, character, or amount of that dowry; and thus entirely ignored by both Houses, as that subject was, the whole question was sent to a committee of conference.

When it came back from the conference chamber, we found a recital in the bill to the effect that there is a difference between Congress and the people of Kansas about the amount of the dowry, and that upon that Congress desires to make a proposition to the people of Kansas. The bill, therefore, submits that proposition to their votes. I have asked the reporter this morning, and have learned from him that the debates of this Congress, as published in the Congressional Globe, occupy now eighteen hundred quarto pages, and that of this immense volume of words which has been poured out here, and is now running in rivers over this broad land, nine hundred pages are occupied with the debates on the Kansas question. Now, sir, I will listen with respect and with kindness to any Senator who will show me, in the pages of that debate, in either House of Congress, one word, not to say one page, occupied with the dispute which the committee of conference have now announced as perplexing Congress, and which they propose, by their report, to refer to the people of Kansas for settlement.

This question about the dowry is, therefore, a feigned issue, a fabricated issue, a false issue substituted for the true and real one. It is a resort in legislation to the old practice of the lawyers in the times of black-letter learning. When an honest man who was the owner of a freehold was ejected or turned out of it by an intruder with violence, they would not let him bring an action in his own name against the intruder, but would oblige him to copy out from the book of forms a summons or declaration in the name of James Jackson, an imaginary man, who happened to be in possession under an imaginary lease from the true owners, and was supposed to be ejected therefrom by a casual and imaginary intruder named John Stiles. The lawyers made up the issue in due form between these purely fictitious persons, and so the honest man tried his title to his freehold and recovered it, not against the man who evicted him, but against a man of

straw, and recovered it not in his own name, but in the name of a man of hay. In all the States of this Union I believe they have abolished these miserable artifices which anciently figured in the conduct of legal proceedings. What earthly necessity is there for resorting to them in legislation? Sir, I have no patience with such devices. Though a man generally of gentle dispositions, some good nature and much endurance, I feel, when I meet such a false issue as this put into the place of a true one, in the course of our legislation, very much like that chivalrous Virginia gentleman who happening to be abroad in his neighborhood when the sheriff came through it serving summonses in ejectment in the name of James Jackson against John Stiles, everywhere, and leaving them around to disturb good, quiet freemen with their mysterious portents, pursued and overtook the sheriff and asked if he could tell him where that James Jackson lived, because if he could only find out where he lived he would send him a challenge. [Laughter.]

I show the Senate next, a second false issue presented in this new bill, an issue raised concerning the actual amount of population in Kansas. The committee of conference find that there is just population enough to make a slave State, and by no means enough, not one half enough, to make a free State. There is just population enough to admit the State at once if it will accept the Lecompton constitution, and not population enough at all to admit it under any other. When did this question of numbers arise in this debate? It arose just in that day and hour and moment when the report of the committee of conference was brought into the Senate and Representatives' Chambers.

We are required now to investigate this fact, and to decide whether there is population enough to entitle Kansas to be admitted as a free State, if she shall choose to be a free State. I would not dwell on this false issue, if I had not evidence that it is effective here. It seems to carry with it the vote of the honorable Senator from Ohio who has spoken this morning, [Mr. PUGH;] at least I can find no other explanation of his course upon this bill. The honorable Senator from Ohio, under instructions from his Legislature, voted against the Senate's bill for the admission of Kansas because it did not submit the Lecompton constitution to the people. The honorable Senator tells us that this new bill does not submit the Lecompton constitution to the people, and yet he votes for it.

Mr. PUGH. I should like to ask the Senator where his authority is for stating that that was the reason for my going against it?

Mr. SEWARD. I am arguing, sir.

Mr. PUGH. That was not the instruction. The instruction was not based on that ground.

Mr. SEWARD. As the honorable gentleman has left his course obscure, I am endeavoring to arrive at results by such lights as shine along our way. I hope to do him no injustice. I infer that he votes for this bill on the ground that Kansas has got just numbers enough to make a slave State, and not numbers enough to make a free State. The honorable Senator has taken more pains to refer to the speeches that I have made in the Senate heretofore, than I ever took for myself. He has so presented remarks taken from these speeches as to imply that, in 1856, I stood upon the ground that there were votes enough to make a State in Kansas, and if there were not, there soon would be.

Sir, I have heard the extracts from those speeches which have been read. I ask, when I ever promised the rapid settlement of a new State under the ravages of invasion and amid the desolations of civil war? I spoke for the advance of Kansas under the Topeka constitution, which I urged the Senate to recognize—in other words, as a free State. I ask, again, did I stand up here and promise a vernal, a luxuriant growth, to a slave State planted anywhere, much more to a slave State planted north of 36° 30' of north latitude? No, sir. Continue civil war and slavery in Kansas, or even continue slavery there alone, and my promises that she shall have population enough to make a State entitled to a Representative in the House of Representatives will be postponed as long as the promises made in the same respect in regard to Florida, for aught I know. I know better, sir, what it is that makes States stand and flourish, or droop and decline. I do not think I

was ever so young when I saw the play of Othello opened on the stage, and saw the odious scene of amalgamation there—the Moorish general married to the fair daughter of the Senator of Venice in the first act—I did not know that contentions and strifes would follow in the second, and that desolation and death would be the dénouement of the drama.

Sir, I stood here in 1856, as I stand here now, advocating the admission of Kansas into the Union as a free State—advocating it not upon the ground of a superabundant, or even sufficient population, but simply upon the ground that it was necessary, even though I confessed it to be a revolutionary movement, under the forms of the Constitution, to arrest evils for which there seemed to be no other remedy. It would have been well if you had listened to my counsel then. I stand on that ground now. It is immaterial to me, totally immaterial, whether Kansas has ten thousand or ten hundred thousand people; I shall vote for her admission under a constitution of her own choice that secures equal and impartial liberty to all her people, with her present population, be it what it may. You may pile numbers up until you reach the population of China and the myriads of the teeming East, yet I will not give a vote to admit the State in violation of its own will, or its own just convictions of its interest in the dignity of human labor.

Mr. President, I have to allege against this bill a third fault, namely, that it is indirect; it bears the stamp of equivocation upon every page and every line. The issue which was directly raised between the two Houses, as I have already said, was whether Kansas should be admitted into the Union with or without the submission of the Lecompton constitution. Parties in Congress, and in the country, had committed themselves upon that issue, as they thought, irrevocably.

Does this bill submit the Lecompton constitution to the people, or does it not? There is the riddle. The party who objected to the admission of Kansas under the Lecompton constitution because the constitution was not submitted, are expected to say, and some of them do say, that their difficulty is removed because this bill submits the constitution to the people. The party who were committed to vote against any bill by which it should be submitted, say that it is not submitted.

Here is a question which I must solve. It lies right across my way. Well, sir, I have made up my mind upon it. I have reached the conclusion that the bill does not submit the Lecompton constitution to the people. No, sir, not at all! I think so because its two senatorial fathers of the committee of conference, the honorable Senator from Missouri, [Mr. GREEN], and the honorable Senator from Virginia, [Mr. HUNTER], reject that construction, and say it is unfounded. Certainly this is the best authority. Their construction is the interpretation given by the framers of the bill itself. Then I look into the bill and I find that it carefully defines and limits what it does submit. And what it submits is the question upon the dowry; nothing more, nothing less, nothing else: dowry or no dowry, pure and simple. But I look further, to see if Lecompton is not smuggled away in some other part of the bill. I go back, of course, to the beginning. I find that the bill begins with a recital of the only point of difference there is, and that is about the amount of the dowry. Thus I have shown that the bill most clearly does not at all submit the Lecompton constitution to the people of Kansas.

But, in pursuing this subject, I have made up my mind Mr. President, on the other hand, that the bill does submit the Lecompton constitution to the people. Of course I must prove that fact also. I will prove that in this way: there is to be an election held in Kansas, and at that election the question is to be submitted to the people, will you accept the dowry proposed by Congress, or will you not? If you accept the dowry, then the Lecompton constitution, with all its hideous features, and ferocious, blood-stained hands, stands erect in Kansas now; and except as God may preserve the people there from seduction and intimidation, it stands forever. But if the people say nay to the dowry, then the monster Lecompton perishes and dies in the agony of its birth. Now, Mr. President, how can this consequence, this result, follow unless a question which involves it has

been submitted to the people? I submit, sir, without fear of contradiction, that I have shown that this bill does submit the Lecompton constitution to the people of Kansas.

I am confirmed in this by the construction given to the bill by those to whom it is addressed, for recollect it is to be passed upon by the people of the North and the people of the South. We have seen, on behalf of the people of the South, that they say that the constitution is not submitted. But they are not to testify for this, the Northern construction. Here is the language of a Democratic paper in the State of New Hampshire:

"We present, in another column, the bill agreed upon by the conference committee for the admission of Kansas, which was reported on Friday last. It will be seen that it submits to the people of Kansas the simple and direct question, whether they will be admitted into the Union under the Lecompton constitution, or remain a Territory until they number inhabitants enough to entitle them to a Representative in Congress." "It seems to us that this bill ought to satisfy every Democrat who has opposed the original bill for admission with the Lecompton constitution, for the reason that the people were not allowed to decide for themselves whether they would have that constitution or not. By this bill, the people are allowed to decide that question; it is to be fairly and squarely submitted to them."

Now, I find myself in a dilemma. I have proved that the Lecompton constitution is not submitted to the people by this bill, and I have proved also that it is so submitted. Here is a paradox; that is, a case in which the propositions are both true, and yet they are as irreconcilable as free-will and fate, which perplex so much the theologians. I am not willing to stop where the theologians stop, without trying to reconcile the difference; I am determined to find out how it is that both these propositions are true, and therefore both false. I think I have found it. The honorable Senator from Missouri, the chairman of the committee, has helped me out of the dilemma. He has told us that although the life or death of Lecompton hangs on the acceptance of the proposition of the dowry by the people of Kansas, yet that is a consequence only of their acceptance or rejection of that dowry; and what have Congress to do with such remote consequences as that? The consequence which Congress looks to is the first consequence merely—dowry or no dowry. If, after that, there comes a further consequence for good or evil, Congress has nothing to do with it at all. It is a convenient way, and I refer it to the theologians for their uses. Just limit the responsibility of the Creator to the first consequence, and let all later consequences go to the arch one of evil to explain, defend, or answer for.

This explanation of the honorable chairman, although it is perfectly clear to me, yet was not quite satisfactory until I cast around me to see how effectual it was in convincing other minds that had been perplexed. Sir, the first member of Congress in the House of Representatives who broke ground against the Lecompton constitution was an honorable gentleman from Ohio, [Mr. Cox], representing, I think, the capital district in that honored State. He denounced this Lecompton outrage in language so strong, with a tone so bold, with a logic so triumphant, that I was disposed to contribute something from my own means to give a circulation to his impassioned and conclusive address. It has gone, therefore, broadcast over the land. He is a man that could not be convinced of his error by any inconclusive argument; yet he is converted to this proposition, and I think it due to him that, in this poor way, I should give to the world, as far as it is in my power, his explanation of this bill:

"Mr. Cox said he was first in the House to oppose the Lecompton constitution, yet he had come to the conclusion to sustain the report. Proper considerations had actuated him throughout. Though the constitution was not to be submitted, the report provided for obtaining the sense of the people upon it."

There is an explanation, Mr. President, that is an explanation—an explanation most satisfactory, most triumphant; a process has been provided for obtaining the sense of the people on a proposition which is not submitted to them! Sir, there is no State but Ohio that could have suggested a solution of this problem like that.

Well, Mr. President, being a little inquisitive, I have looked further to find out the nature, the form of this process by which the sense of the people, in regard to the Lecompton constitution, is obtained without submitting the constitution to them. I have found out the secret. I will show

it by an illustration: I suppose the case of a Knew Nothing or a Masonic lodge, where it is proposed that a candidate shall be admitted. The society are unwilling to give offense by rejecting him, and yet a portion of its members are unwilling to accept him. They have in those societies, I understand, two kinds of balls—black balls and white balls; votes are cast in favor of a proposition with white balls, against it with a black ball. Now, the society declare that whereas there is a difference of taste among its members, some preferring to use black balls and others white, they submit the choice between the two kinds of balls, ignoring altogether the question of any candidate who is to be voted for. But they say that the members of the society shall deposit their balls in the box, and if there are more white balls than black, the candidate comes in; if there are more black balls than there are white, then it shall be taken and deemed that the lodge prefer black balls to white; and not only that, but it shall also be deemed and taken that the candidate was a very unworthy person, and shall never be admitted at all, or at least till he grows ten years older. [Laughter.] That is the process, I think, by which you are going to obtain the sense of the people on this proposition which you do not submit to them.

Mr. President, the use of equivocation, or the double entendre, is an act of immorality in legislation, deserving of severe censure. What respect, what submission, what obedience can you expect from the citizen, if legislators resort to such a practice in making their laws? There are worse consequences beyond this immorality. The measure before Congress will draw after it, not only the entrance of Kansas into the Union as a slave State, but all the consequences which will follow from the establishment of a slave State in the center of this continent, on the highway between the Atlantic and Pacific north of 36° 30'—a slave State that we are, for our present purposes, to consider is to be perpetual and immortal. You have only, by this or by any other course of action, direct or indirect, to introduce slavery there, and extend it across our whole domain from north to south, to raise a barrier between the East and the West, between the Atlantic and Pacific portions of the Republic, I was going to say as enduring, I will say more insurmountable, than the ridges of the Rocky Mountains or the snow-capped range of the Sierra Nevada.

Sir, it amuses me much when I hear patriotic and sagacious men predicting the removal of this capital from the falls of the Potomac to the junction of the Alleghany and the Monongahela, or sometimes, with a broader forecast, to Cincinnati, the queen city of Ohio, or further on to St. Louis, and so settling the center of Federal power in the valley of the Mississippi. Sir, if you will only confine this institution of slavery within its present boundaries, give it no further room nor verge, the capital of this country may remain where it is, but the center of the Union will be nearer the valley of Mexico than the valley of the Mississippi. Then that power will grasp the equator on the one side and the northern pole on the other. But no such promise, no such hope awaits the Republic if you separate the free Atlantic States from the free Pacific coast.

Sir, while this bill ignores the real question, it suppresses, with double care, the great, leading, actual political fact, which lies everywhere just beneath the surface of the whole debate. If Kansas comes into this Union under the Lecompton constitution, she comes as a slave State. If she comes under any other constitution, it is hoped, by those who advocate freedom, that she will come as a free State. This bill gives Kansas the choice of being a slave State, and only that choice. You have already induced the Supreme Court of the United States to expound your Constitution so that the President, on their authority, declares that Kansas, so long as she remains a Territory, is a slave State as much as South Carolina. The change you offer her is, that if she will accept the Lecompton constitution she shall be recognized in form, as well as in fact, as a slave State. Sir, your bill gives no alternative but this. It does indeed say that in the future—God knows how far off it may be—if slavery be now recognized there, the people of Kansas may make another constitution, and send it to you here for your consideration. Sir, the postponement is a

mockery. When they come here with a free constitution, they will do only what they did two years ago; you refused them then. They will only have in that constitution what they had in the Missouri prohibition, thirty-eight years ago; and you struck that prohibition from the statute book. They will only repeat what they demand now, to be admitted as a free State; you refuse now to admit them in this character. Sir, it is offering a wager against chance, backed by device and fraud. Here is a piece of silver of the coinage of the United States. On the one side is the eagle, on the reverse is the emblem of liberty; you say to Kansas choose, wager, whether the eagle or liberty is uppermost; say eagle and it is slavery; say liberty is uppermost; still slavery wins the wager. Sir, this bill is nothing but Lecompton over again. Lecompton with a new variation, but the abhorrent air pervades the entire arrangement of this composition.

I beg now to ask the honorable Senator from Pennsylvania, [Mr. BIGLER,] himself a representative of the first State in this Union that, after the Revolution, moved for universal freedom, what Kansas has done that her people shall not be indulged at least in an equal choice between liberty and slavery? I ask my venerable and esteemed friend from Rhode Island, [Mr. ALLEN,] the land of Roger Williams, how he supposes he can reconcile that proud and patriotic free State, most and earliest completely free of all the States of this Union, to this bill, which gives State power, State prestige, and a dowry in lands, to Kansas, if she will choose slavery; and gives her provincial degradation and debasement, with poverty, if she elects freedom? I ask my excellent friend from Iowa, [Mr. JONES,] he that represents a State carved out of that rich and beautiful domain dedicated to freedom by the Missouri compromise, by the same great act which originally guaranteed freedom to Kansas, but which guarantee was broken to Kansas, though preserved to Iowa—I ask him what answer he will give to that gallant people for having planted on their borders a State which was denied the liberty to choose on equal terms between freedom and slavery? I will not ask the honorable Senator from California, [Mr. GWIN,] whose State was saved to freedom by efforts other than his own, but who knows that California has been, by that very salvation, further saved, with all its advantages of power and of strength and wealth, to the Pacific coast, and made so strong that it is self-sustaining, and almost defiant—I will not ask him for an explanation. I said, when California was admitted, that the slave States need not fear her; that California, though filled with immigration, chiefly from the free States, would prove for years to come the strongest slave State in this Union. I will not ask the honorable Senator from Ohio, [Mr. PUGH,] for I have already interpreted, according to my humble ability, the views by which he reconciles this measure to the judgment of his great constituency. I would, indeed, ask the honorable Senators from Indiana; but they may have that question to settle at home, speedily, without being prematurely interrogated here.

My honorable friend from Vermont [Mr. Foor] reminds me that I have forgotten New Jersey. Sir, I will speak for New Jersey myself. The blood of men who hazarded life, fame, and fortune, for freedom in the Jerseys, courses through my own veins. I know the blue hills of the Jerseys well. They are mingled with all the fond recollections of my childhood. I will answer, that votes which are given here for this Lecompton bill are the last votes in ten years that will be given for slavery by Representatives of New Jersey.

Mr. President, I have shown that this bill gives to the people only a show of choice between freedom and slavery. I have next to show that it provides for overriding, counteracting, and defeating that very shadow of a choice if it shall be in favor of freedom. The bill provides, not that the people of Kansas, or their Legislature, or their authorities, shall appoint the commissioners under whom the contemplated election shall be held, and its results ascertained, but it constitutes a board, to consist of five persons; and while it allows two to be named by the people of Kansas, it asks three for the President of the United States. Now, sir, there have been five agents appointed by the President of the United States to hold elections, and return results in the Territory of Kan-

sas already, and every one of them has been dishonored and disgraced for having struggled to prevent fraud, and to certify the truth about these elections. The ghosts upon the banks of the Styx constitute a cloud scarcely more dense than the spirits of the departed Governors of Kansas, condemned to exile and ruin by the President for having certified the truth against falsehood in regard to the elections between freedom and slavery in Kansas.

Sir, I am accustomed to measure my word when I speak of other men, even of public men. I know how liable I am to err myself. I think that I have so much of charity as will induce a favorable judgment of a political adversary to the full measure that I expect and ask it for myself. But, sir, though it is with pain, and shame, and mortification, yet I do confess that I cannot trust the President of the United States. It is the most humiliating confession I have ever made in the presence of my countrymen and the world; for, when I have looked over the long roll of kings, princes, doges, and emperors, and have seen how their careers began in fraud, culminated in assassination, and ended in violence, I have said a complete demonstration of the success of the American Constitution is found in the fact that, with all the defects of the instrument, and amid the often tumultuous movements of the people, there is a roll of names of those who have filled the Presidency whose virtues outshine those of any dynasty that has ever ruled any nation on the face of the whole earth. Sir, if the President of the United States had, even allowed, not to say if he had enforced, fairness in the elections in Kansas, she would not be a suppliant, trembling with dismay and apprehension, in the Senate of the United States to-day. I know that, in speaking thus plainly, I shall wound the sensibilities of some public and patriotic men. They will cry shame upon me, when I disparage the fame of the President of the United States. But, sir, I am used to that. The world is used to that. I remember that there were patriots in Virginia who cried shame on Patrick Henry when he denounced George the Third. There were not wanting patriots in the Senate of Rome who heard with pain Cato denounce the first Caesar. Sir, those who have brought liberty down and trampled it in the dust have never been those who, in Senates, accused emperors, kings, or Presidents.

Upon what grounds is this bill, thus shown to be so deeply objectionable, recommended to us? First, it is recommended as a compromise. The honorable chairman tells us that when there is a difference there can never be a settlement unless there is compromise; the House of Representatives has given away something; the Senate has given away something, though everybody, except myself, has failed in finding out what there is given or gotten. Still we are to accept it as a compromise. If it is a compromise at all, to be urged on me, it must be a compromise that gives me something of freedom in exchange for much of slavery. What do I get for freedom in Kansas? The privilege for that people to make a constitution when they shall have a population of one hundred thousand, and coming here and presenting it to Congress. Very well; what then? Is it to be a free State then? No. Then it shall be "admitted free or slave, just exactly as the people shall desire." Well, sir, that is just what we had in 1854, when the original Kansas-Nebraska bill was passed. We have had that privilege ever since. We could always make a constitution, and come here and obtain admission free or slave, as we pleased, according to the text of your statute-book; but we have come here and demanded freedom, and have been contumeliously spurned from your presence. They refuse to be admitted as a slave State, and they are remanded home to try it over again, and reconcile themselves to slavery, on the penalty of coming no more, or not until they number one hundred thousand souls. If Kansas shall do this, and be docile and quiet, you think you will admit her when she comes as a free State, a half dozen or a dozen years hence, but you hope, nevertheless, that in the mean time she will be demoralized, and come at last a slave State, I tell you, moreover, that when she shall come as a free State, as she will, you will be unable to satisfy yourselves upon the forms she has gone through with in attaining that happy condition. Sir, we shall not deceive ourselves. There is no freedom for Kansas under this bill.

But, sir, a compromise offers equivalents to two contending parties, and it is made by and between representatives of those parties. Who are the parties here? The real parties in this dispute are, on the one side, the free-State party of Kansas and the Republican party of the Union; and on the other side, the slave-State party of Kansas and the Democracy of the Union. The Democracy of the Union are, by the creeds of their party, the recognized defenders, and only defenders, of slavery in the Union. This compromise is a compromise made between two factions of the Democratic party, excluding every free-State man of Kansas and every Representative of the free-State or Republican party in Congress. There is not one in our whole number who consents to this act.

It is, therefore, just no compromise at all; it is a pretense of compromise. Sir, I was born suspicious of legislative compromises. That temper has grown on me more and more every day of my life. I have seen the dangers and the evils that have followed them; and I made up my mind when I came here, that I would harden my face as a flint against any compromise whatever between freedom and slavery. This compromise, however, inspires me with hope unknown before. I look on it with more complacency than on any other, for it is such a miserable imitation of the compromises which have been hallowed in the respect and affections of the people of the United States for generations, that it will bring the whole system of compromise henceforth and forever into ridicule, and unmitigated contempt.

The honorable Senator from Virginia, and the honorable Senator from Missouri, commend this bill to us as a measure of peace—at least the honorable Senator from Virginia promises that it will bring a truce for four or five years. Sir, there is no peace in this world for compromisers; there is no peace for those who practice evasion; there is no peace in a republican land for any statesmen but those who act directly, and boldly abide the popular judgment when it may be fairly and clearly and fully ascertained, without attempting to falsify the issue submitted or to corrupt the tribunal. Sir, beneath the white gauze that is spread over this signal of truce I see distinctly the mingled stains of fraud and blood—black spots and red, the true, unerring marks of a piratical flag. If you mean, by troubles, apprehensions of civil commotion, of violence, of turbulence, of sedition, of faction and civil war, I tell you frankly you need be at no pains to avert those dire evils. This cause of equal and impartial freedom in the States has at last become strong enough to work its way through constitutional forms to its destined and final triumph. But if you mean agitation, which is to be avoided or suppressed by this legislative or any other device, then let me assure you plainly that you reckon altogether wildly.

I smile when I hear Senators talk about the people getting tired of Kansas and tired of this eternal agitation about slavery. They look into the city press of Philadelphia, of Baltimore, of Washington, and of New York, and of Boston, and they find there assurances that the people are getting tired of agitation, and willing to have the Kansas question settled with freedom or with slavery, one way or the other. Sir, they look only at the eddy while they overlook the tide. They make the mistake that the felon did a few months ago upon the banks of the Genesee when he slew his brother and precipitated him from the bank into the river, just below the first fall and just above the other, thence to float down the last cataract, and be buried forever in the lake below; but when the morning came the corpse of the victim lay floating on the river side. He had mistaken the eddy near the shore for the full and ever swelling tide which man, by no art can compress or restrain. But, Senators, you shall have peace in Kansas; you will have peace in Kansas; it will come to you in spite of yourselves; but it will come only in the triumph of peace-giving principles. How do you expect to get peace by this bill? You will get a slave State one way or another. You will get a slave State by the popular election if you get it fairly under the operation of bribes and menaces. Will the people of Kansas remain corrupted, after they have accepted your bribe and escaped your terrors? That is not the character of the American people. You will get it by fraud, by a certificate from the President, that popular sovereignty has gone in favor of Lecompton, when, in fact, it has gone

the other way. Will that make peace? I think I should like to be near by and see this slave State attempted to be organized under the Lecompton constitution. I remember that legislators as wise as we—the world thought them much wiser—who had seats in the British Parliament, and had a President, whom, however, they called a King, insisted that the people of New York should live under what, to them, was a slave constitution, while they had made up their minds to have in its place a free one, established by themselves. The provincial British government went on board the brig *Halifax*, and sent forth its remonstrances and denunciations safely from the decks of his Majesty's armed ship. They were, however, *brutum fulmen*. After a short time, the British Government and the ship disappeared below the Neversink, to return no more forever. The British Government undertook to rule Virginia under a slave constitution, as it was regarded by them. But, as the strife rose higher, the whole provincial government, with the prestige and power of the British Empire to back it, took refuge on board the schooner *Fowey*, and descended to the Hampton Roads. There it committed a few pitiful invasions upon the property of the patriotic planters and citizens of that great State, and then disappeared forever.

Sir, your Lecompton government of Kansas will be afloat on the Missouri river; when it begins. The Missouri river will not be wide enough for it; it must go down for safety until it reaches the broader channel of the Mississippi, and when you next look for it, you will find it stranded on the beach of the Gulf of Mexico. There is to be no Lecompton State, no slave State in Kansas. Nevertheless, you enact, by this law, that there shall be a slave State in Kansas, and there shall be no other. Well, sir, if you pass the bill to-day as you say you are going to do, it will reach Kansas in about ten days; in about ten days after that, the new State of Kansas will be organized under the new Leavenworth free-State constitution, and about the 7th day of June, when you are impatient to go home, Kansas will be beleaguering you here for admission as a free State. She will be telling you she does not know anything about your slave State that you have ordered to be erected within her borders; you will, of course, spurn her from your path, and will go home. The people of Kansas will then appeal to the popular elections which are to elect twenty Senators and a whole House of Representatives about the first Tuesday in November next. Now, I ask the honorable supporters of this bill here, belonging to the free States, about how many Democratic Senators are going to be returned into this body through the action of the State Legislatures, to be chosen this year just after you have passed this bill. I ask for information. The honorable Senator from California has spoken of the only State that I thought was hopelessly lost to slavery. For all the rest, I think, if it were not presumptuous, that I might speak myself; but I leave the representatives of those States to speak for themselves.

Mr. BIGLER. Will the Senator from New York allow me to interrupt him for one moment?

Mr. SEWARD. Certainly.

Mr. BIGLER. I do not desire to interrupt the Senator more than one moment; but I thought perhaps it would be well for him to know that the bill which we are discussing here has passed the other branch of the Legislature.

Mr. SEWARD. Well, Mr. President, then the people of Kansas will come here under the Leavenworth constitution, and meet you on the first Monday in December next when you assemble here, and they will ask you to admit them as a free State. Have you any law that will prevent their coming here in that character? The Constitution of the United States says that the people of the United States may petition, and they may petition for what they please. The people of Kansas can petition to be admitted as a State under the Leavenworth constitution. Then there is no obstacle in the way of their coming here. Have you any constitutional prohibition to prevent me from voting for them? I shall vote for them as a free State, in spite of a thousand such laws as this. I tell you more, you yourselves will vote for them too, a large number of you, in order to prevent the question going over to the next Congress, then already elected, because that Congress will vote for them if you do not, and

you will then seek to save for yourselves the credit of stanching the wounds of bleeding Kansas, and establishing forever the cause of freedom.

All this will happen, unless you invoke armies to suppress such proceedings by the people of Kansas. Well, I should like to see the bill introduced into Congress now to levy an army or provide supplies for an army to control freemen and extirpate freedom in Kansas. You cannot even pass a bill to maintain your authority in Utah, against polygamists, without infinite trouble. I think I can take up the list of yeas and nays, and call them over. I think my honorable friend from Pennsylvania [Mr. BIGLER] will vote ay, because he always stands squarely up to the Administration. It is a tower of strength to the patriotic statesman! It is calculated to fortify his courage and sustain his devotion to human rights and popular liberty!—so long as it lasts. I think that my honorable friend from California [Mr. GWIN] would also give it his vote, for, like myself, he is apt to favor appropriations, and not very particular about the object to which they go. But when these responses are pronounced in favor of the measure, there will be an end. I rather think my honorable friend from Ohio [Mr. PUGH] will hesitate for want of instructions. My two excellent friends from New Jersey would be found in the negative on that vote, because things are already coming to a head at home. As to my honorable friends from Indiana, they will, of course, be absent, securing a reelection.

Mr. President, you will fail in this contest, because for the first time you will go before the people of the United States stripped naked of every pretense of equality or impartiality between freedom and slavery, much more of that virtue which is the only mantle that can cover the faults of parties in this country—devotion to freedom. The honorable Senator from Illinois, [Mr. DOUGLAS], the honorable Senator from Michigan, [Mr. STUART], and the honorable Senator from California, [Mr. BRODERICK], with their associates in the other House, and the honorable Senator from Kentucky, [Mr. CRITTENDEN], and the honorable Senator from Tennessee, [Mr. BELL], have stripped you bare of all pretenses to fairness in the maintenance of popular sovereignty. You go before the people, no longer in the character of a party that balances equally between freedom and slavery, but in the detested character of a party intervening for slavery against freedom. When you go before the people now, you will meet there not as heretofore, two or three factions, dividing and giving you a triumph by reason of their divisions, but you will meet one party only, and that party combined, resolute, and directed by a sincere and common devotion to the principles it maintains. Of course I speak of the Republican party, and no other. But you go not only in that way, you go for the first time divided into two parties, two factions, one of you maintaining slavery absolutely and without regard to parties or popular consent, the other hesitating and standing upon the position of no slavery anywhere, unless the people choose it.

Mr. President, let me try for a moment to lift this debate up from these temporary, ephemeral incidents, to the height of the argument where it belongs. The sixteenth century dawned on the decay, throughout Europe and the world, of a slave civilization derived from an early antiquity, and left as a legacy by the Latin or southern States of the continent of Europe on the fall of the Roman empire. But it dawned also upon the rise of a new and better civilization—the civilization of freedom; the civilization, since developed, of the German and Slavonic races; the civilization of Germany and of England, of Scotland and Ireland, and Switzerland, the modern civilization of western Europe. The principle of the old Latin civilization which was passing away, was that labor must be involuntary; must be secured by fraud and force, and must be converted into property. The new civilization was based upon the principle of the freedom of labor, that it must be voluntary, and that it should be not only a political power, but that it should become the ascendant and dominating political power throughout the world. While Spain and Portugal proved themselves competent to open the way of discovery at the beginning of the sixteenth century, and the one revealed Africa and the other America to the eyes of an astonished world, these two

nations were of all others those who were least fitted, least qualified to inaugurate civilization on either continent. The Portuguese doomed Africa to remain in the perpetual barbarism with which she had been cursed from her earliest history, by establishing there the odious and atrocious slave trade; and the Spaniards doomed America to receive, and for a while to be incumbered with the civilization of African slaves, captured and brought there by the Portuguese. Our Constitution and our Union came into being seventy years ago, when it was necessary to decide between these two systems of civilization which were found among us. The States which were founded upon the new civilization stand before you. Contemplate them; say whether the world has ever seen such States? You see also the States which were founded on the old declining civilization of the Roman empire. All new States have to elect between the two systems. We have a voice and influence in determining their decision. You are determined to force that old and *effete* and obsolete civilization upon regions where it has never been known.

This question ought to have been decided fifty-five years ago, in 1803, when Kansas was added to the national territory by the treaty with France, as part of the Louisiana purchase. It was omitted then. Again, the question returned in 1820, and then it was well and wisely settled by dedicating Kansas forever to impartial freedom. In 1854, you repealed that law; but the law of Kansas was written in the very rocks and upon the rivers and prairies of Kansas, as well as in the constitution of American society. All you have done since has consisted in fruitless efforts to carry that ill-judged repeal into effect in defiance of the laws of nature. For what you have done heretofore you have had what the whole world received as an excuse. It was the action of the slave States; but it was not on their own motion; the suggestion came to them from Senators from the free States, and it was not in human nature that the slave States should resist it.

So in 1856, when Kansas came here as a free State, under the Topeka constitution, and you rejected her, you still had the show of excuse, for these same Representatives of the free States advised that the people of the free States, as well as of Kansas, would acquiesce. But you are now, after having failed in these two efforts, persisting, without that excuse. Two of the Senators, one the leader in the repeal of the Missouri compromise, the other hardly less effective in that transaction, now remonstrate with you against the further prosecution of this attempt as impossible. Still another, from Michigan, remonstrates; I mean the late distinguished Senator from Michigan, now at the head of the Department of State. I do not say that he remonstrates in words, but I do say that the retirement of that eminent man from this Chamber, so suited to his talents, his genius, and his fame, into a closet in the Department of State, under an appointment of the President of the United States, is a louder remonstrance than any words he could utter, if his constituents had allowed him to retain his place among us, the representatives of the States.

That is not all. At last a new voice issues from your own region, from the South, from the slave States, and protests against your further persistence in this mad enterprise, and admonishes you that it must and will fail. The cohorts are gathering in the South; the men of moderation and conservatism, who, as they have heretofore moderated in favor of slavery against freedom, will now be obliged, in consistency with their just and well-established character, and their habitual patriotism, to moderate against you in favor of freedom, when the people demand freedom, and rise up unanimously against slavery.

Sir, this whole controversy is contracted into a quarrel for revenge against these wise advisers. Instead of listening to their counsels, it results in this: that you will suppress their remonstrance, punish their authors as mutineers. Well, sir, that is a matter of small consequence to me. To me, personally, the future of these distinguished Senators and their associates in the House of Representatives is nothing, except so far as the political positions which they maintain in the country and before the world shall bear on the future of the country. I know not whether, hereafter, I shall be found laboring with them in efforts for

the welfare of our country, or whether they will be found in your councils again, and laboring in your ranks. Nevertheless, I am sure of this, namely, that you will not succeed in discrediting and punishing them; for, either you provoke upon yourselves the defeat which the signs of the times indicate, or in lieu you will come down to 1860 under the influence of sentiments and feelings very different from those of 1858. A party in power, in the first year of an Administration, is bold and violent. A party going out of power, at the close of an Administration, is timid and hesitating. You will search the summits of the mountains in New Hampshire, the plains of Mexico, and the privileged courts of St. James, in London, to find a candidate in 1860 who was against the conference Lecompton-Kansas bill in 1858; and then, if these honorable associates with whom I have labored for a short time so pleasantly, shall be found remaining in your communion, I think I can promise them and you, you will come to a much better understanding with them than you have now.

Mr. President, while I am speaking I learn that this bill, of so much evil omen, has passed the House of Representatives, and that the battle there is ended. I confess to you, sir, that it produces on my mind, if some disappointment, no discouragement. I confess that I was prepared for this conclusion, and that now when it has come (for what remains to be done here is a matter of course) it is to me utterly indifferent. This I have known all the while; that this was to be our last defeat or our first victory. Either result would have been welcome. For Kansas, for freedom in Kansas, I have not so much concern as I have about the place where I shall sleep to-night, although my home is hard by the place where I stand. Kansas, sir, is the Cinderella of the American family. She is buffeted; she is insulted; she is smitten and disgraced; she is turned out of the dwelling, and the door is locked against her. There is always, however, a fairy that takes care of the younger daughter, if she be the most honest, the most virtuous, the meekest, and the most enduring inmate of the domestic circle.

Kansas will live and survive your persecution; she will live to defend, protect, and sustain you; and the time will come when her elder sisters, now so arrogant, Louisiana, Virginia, and Pennsylvania, will repent all the injustice they have done her. Her trials have not been imposed on her for nought. She has been made to take the position, the dangerous and hazardous position, of being the first to vindicate practically by labor, by toil, through desolation, through suffering and blood, the principle that freedom is better for States and for the Republic than slavery. She will endure the trial nobly, and as she has been the first, so she will be the last to contend and to suffer. Every other Territory that shall come into the Union hereafter, profiting by the sufferings and atonement of Kansas, will come into the Union a free State. Sir, this unnecessary strife draws to its end. The effort to make slave States within our domain is against reason, and against nature. The trees do not spring up from the roots and seeds scattered by the parent trunks in the forest more naturally than new free States spring up from the roots projected and the seed scattered by the old free States. New stars do not form themselves out of the nebulae in the recesses of space and come out to adorn the blue expanse above us, more surely than new free States shape themselves out of the ever developing elements of our benign civilization, and rise to take their places in this great political constellation. Reason and hope rejoice in this majestic and magnificent process. Let, then, nature and reason and hope have their heaven appointed way. Resist them no longer.

Mr. BIGLER. Mr. President, I had desired to discuss this report at some length, in order to meet some views that have been presented which I know are intended to prejudice the friends of this measure in the northern States; but, as the Senator from New York has announced, the other branch of Congress having adopted this measure, the struggle is over, and I discover great anxiety on the part of my friends about me to take the vote; and as I understand there is no disposition to discuss the subject further on the opposite side, I shall forbear. I only wish to say that the report of the committee of conference, now under consideration, meets my hearty approbation. It is a measure consistent with my judgment. I believe

that it is a measure wise for the people of Kansas and for the entire country. I believe its tendency will be to peace and quiet; and at this moment throughout this broad land that wonderful agent, the magnetic telegraph, is spreading, with the speed of lightning, a message of peace all over the land.

The PRESIDING OFFICER, [Mr. BIGGS.] Will the Senator suspend his remarks to allow a message to be received from the House of Representatives?

Mr. J. C. ALLEN, Clerk of the House of Representatives, appeared below the bar and delivered the following message:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has concurred in the report of the committee of conference on the disagreeing votes of the two Houses upon the bill of the Senate, No. 161, for the admission of the State of Kansas into the Union.

Mr. HUNTER. I hope the Senator from Pennsylvania will allow us to take the question. The hour which was fixed for taking the vote has arrived; and there is a sick gentleman here.

Mr. BIGLER. It affords me great pleasure to do so. I said I would do so as soon as the message was received.

Mr. CAMERON. Before the vote is taken I desire to say a word or two in relation to my own course. It was my intention at an early part of the session to say something upon the general subject of Kansas affairs; but I am, as you all know, not much of a speaker, having but little capacity that way, and no taste for it. I often felt disposed to take part in the debate; but when I proposed to do so, I deferred to others; and sometimes when I felt like going on, I found that some gentleman was discussing the question better than I could hope to do. I rise at this time only to say that I disapprove of the proposition now before the Senate, much more than I did of the original attempt to force on the people of Kansas a constitution which they were unwilling to take. The original bill was a plain proposition, for which men might have voted honestly, without subjecting their motives to censure. This I look upon as a very different affair. This, to my mind, is a trick to impose upon weak men, or to enable corrupt men to make the impression upon their constituents at home that they have been acting honestly. Still I should have said nothing on this subject now, if my respected colleague had not been in such hot haste to announce to the Senator from New York, while he was discussing the proposition that the vote had been carried in the other House against the wishes of the freemen of Kansas. His act was so different from what I expected from an honorable Senator from Pennsylvania that I was surprised at it. I have always heretofore understood that no man in the whole State of Pennsylvania was more positive and decided in the expression of his belief before the people that Kansas would not only be a free State, but that she should not have a State constitution at all unless it should be voted for by a majority of her citizens. His whole course in life until he came here was in favor of freemen and of the free labor of the northern States. His own history was such as naturally to make him an advocate of freemen and free labor. Why he has changed his course here is no business of mine; but it does seem to me in bad taste that he should act as he does, knowing, as he certainly does, that not only the whole Opposition party in Pennsylvania, but a very large majority of the party to which he belongs in that State are opposed to this measure, and opposed to the conduct of the President of the United States in regard to it; and I cannot permit him to come here and make the impression that he believes the people of Pennsylvania are in favor of it; nor can I remain quiet, much as I dislike to talk in public, when the impression is attempted to be made that the people of Pennsylvania are with him or with the President of the United States upon this subject. If the vote were to be taken tomorrow the people of Pennsylvania, by a majority of a hundred thousand, would decide that the President of the United States had deceived them in regard to this matter, and would prove also that my colleague is misrepresenting his constituents on this great question.

The people of Pennsylvania are conservative, and on all questions connected with slavery they

have always taken a moderate course; but, sir, I tell you that if any man, who was in their confidence in the year 1856, could have convinced them that, by any possible means, a constitution could be forced upon the people of Kansas, in opposition to their wishes, and without a vote of the people, Mr. Buchanan could never have received the electoral vote of Pennsylvania. He owes it to the conduct of himself and the active influence of his friends all over the State, asserting that by nature Kansas must be free, and that no man would dare, no matter what his position was, to attempt to put upon her a constitution unless her people had the free and full right to vote for or against it. The President himself thought so until lately. Everybody knows that so late as the 7th of July last, he wrote a letter to a distinguished man in Kansas, telling him that the constitution must be submitted to the people of the Territory for their fair and free vote, or it would not be adopted or sanctioned by the Government.

I repeat that I do not desire to occupy the time of the Senate now. I am desirous that the vote shall be taken. A majority, by some means or other, has decided against us in the other House; the majority here, we know, is against us, and it is idle to talk when a strong majority will vote against us.

Mr. BIGLER. Mr. President—
Mr. HUNTER. I hope my friend will let us have the vote. ["Yes, let us vote."]

Mr. BIGLER. Just one single word. ["Go on."]
I have no issue to make with my colleague; I shall not pretend to reply to his remarks. He, doubtless, heard me distinctly announce that I would give way for the purpose of allowing the vote to be taken. He, therefore, has seized the opportunity of making what I may designate as an attack, when I had deprived myself of an opportunity of replying. It matters not what my history and my views may have been on this subject. That is of very small importance. To all that I shall attend hereafter. I only wish at this time to say to the Senate, and to the country, in response to what my colleague has said, that I believe, so far from the people of Pennsylvania being against the measure now pending here, an overwhelming majority of them would indorse it to-day. I do not mean to say by that, that they would prefer that Kansas should be a slave State. That is not the issue involved; but the people of Kansas having decided the question for themselves, the people of Pennsylvania are content to let the State come into the Union. ["Question!" "Question!"]

Mr. PUGH. I would suggest that the Senate lay on the table the report of the committee, and take up the message of the House. That will obviate all dispute.

Mr. HUNTER. It is the same question. The parliamentary question is on concurrence in the report of the committee. ["Question!" "Question!"]

The PRESIDING OFFICER, (Mr. BIGGS in the chair.) The question is, will the Senate agree to the report of the committee of conference?

Mr. DOUGLAS. I should like to know, however, which is under consideration—the report of our committee, or the bill returned from the House? There is a very large portion of the Senate, though a minority, who conscientiously believe that, under the law and under the rules, we cannot vote on the report of the Senate committee until the papers are here. If, however, you lay down this report, and take up the message of the House, you run counter to no man's judgment as to the regularity and lawfulness of the proceeding. I trust that course will be pursued.

Mr. HUNTER. I can agree to that. It is a matter of indifference to me. It is all the same either way; and, if gentlemen prefer the course just suggested by the Senator from Illinois, very well.

Mr. GREEN. There is but one question that the Senate can vote upon; and that is, concurrence or non-concurrence in the report of the committee of conference. Whether you choose to consider that question after having received the bill from the House, or before, is a matter that I shall not take time now to inquire into. That is of no importance; but the only question is, shall we concur in the report or not?

Mr. PUGH. In order that there may be no

difficulty, I hope the Senate will leave no question open. I hope we shall just lay the report of the committee of conference on the table, take up the message of the House, and then make a motion to concur in that. ["No, no!"]

Mr. GREEN. I object to that. If we lay the report on the table, the bill is lost, unless we take it off the table again, and pass it.

The PRESIDING OFFICER. The question is, will the Senate agree to the report of the committee of conference?

Mr. DOUGLAS. I move that we proceed to the consideration of the message from the House of Representatives.

Mr. GREEN. There is a question pending, and that motion is not in order.

Mr. DOUGLAS. I suppose I am in order in moving to postpone this subject informally, for the purpose of considering the message from the House of Representatives. That will relieve the difficulty.

The PRESIDING OFFICER. The question is on the motion to postpone the pending report of the committee of conference.

Mr. HUNTER. We cannot postpone the report without postponing the whole subject. Here is the condition of the question: It is a joint committee, which committee reports the same thing to the two Houses; and the universal mode in which the question is taken, is upon concurrence in the report of the committee. We have accomplished all that the Senator from Illinois and those who think with him desired, by waiting to take up the question until we received the message from the House of Representatives. The papers have come back. The report refers to those papers. They are before us. The only objection made before to taking the question on the report was, that the papers were not here. That was the objection taken by the Senator from Michigan. Now the papers are here; the report refers to them; and the question is, do we concur in the report of the joint committee of conference? It is the same in both Houses.

Mr. DOUGLAS. There is this difference, however: we were considering the report of the committee of conference separate from any bill, or any other paper. It is announced now that the House of Representatives have concurred in the report, and send us the papers, and it is not proposed to take them up. Therefore, they are not before the Senate for action; they are absent from us as though that message had not been received, unless the Senate take up the message from the House of Representatives.

Mr. JOHNSON, of Arkansas. Will the Senator allow me to ask him a question?

Mr. DOUGLAS. Certainly.

Mr. JOHNSON, of Arkansas. Can this be done by general consent without producing further delay?

Mr. DOUGLAS. I hope so.

Mr. JOHNSON, of Arkansas. I am satisfied that is all we wish; but, if it is the desire to pass from one point in this case to another, and have a new discussion, of course this side of the house cannot consent to it. If the Senator from Illinois only asks general consent to take the vote in the mode he suggests, I doubt whether there will be any opposition.

Mr. DOUGLAS. I am not aware that there is a Senator on the floor who desires a moment's delay. I am not aware that there is a Senator here who wishes to utter another word on this subject except to record his vote. My only object in making the suggestion was simply to have our proceedings regular, and take the vote instantly, without any objection from any quarter.

Mr. JOHNSON, of Arkansas. Well, let us have the vote.

Mr. GREEN. The parliamentary law does not permit us to vote upon concurring with the House of Representatives, but the parliamentary law makes it our duty to vote upon the report of the committee of conference, to concur or non-concur in that report. There was a question whether we could vote on that report before we had the papers from the House. That objection is now removed; but if you lay the report of the committee of conference on the table and vote to concur with the House according to parliamentary law, this bill is not passed. I do not care to raise technicalities. I do not believe any Senator here desires to interpose any obstacle to the

passage of the bill. Since there is so general a sentiment here in favor of taking the vote, let us take the vote in the ordinary way. I have precedents here showing that that is the only question which can be put; it has uniformly been put, and no other form of question ever has been put.

Mr. DOUGLAS. I am informed by parliamentarians around me, that the strict motion is to proceed to the consideration of Senate bill number so and so, being the Kansas bill, and the report attached to it. That course would obviate all difficulty. I modify my motion that we proceed to the consideration of Senate bill No. 161, for the admission of the State of Kansas into the Union. By taking that up we shall avoid all difficulty.

The PRESIDING OFFICER. The pending question is, "Will the Senate agree to the report of the committee of conference?"

Mr. DOUGLAS. I move to postpone that, and take up the bill.

Mr. HUNTER. We can take up the bill by general consent.

The PRESIDING OFFICER. It can be done by unanimous consent.

Mr. KING. I do not consent.

Mr. BROWN. Then I move to postpone.

The PRESIDING OFFICER. The Senator from Mississippi moves to postpone the pending question.

Mr. DOUGLAS. For the purpose of considering Senate bill No. 161.

The PRESIDING OFFICER. For the purpose of considering the bill which has just been returned from the House of Representatives.

Mr. HUNTER. If we postpone the conference report and take up the bill, what becomes of the conference report? The two go together, undoubtedly. The universal practice is to take the question on the conference report.

Mr. DOUGLAS. When the bill is taken up, the question will arise on the conference report. That accompanies the bill, and is an incident to it.

Mr. HUNTER. But you propose to postpone it.

Mr. DOUGLAS. No; we only postpone the consideration of this paper at this time; and by doing that, we bring up the bill with the conference report from the House of Representatives, as an incident. There is no trouble or confusion. I propose to take up the bill and report.

Mr. SLIDELL. Say so.

Mr. DOUGLAS. Well; I will alter the motion, to consider the bill and report.

Mr. BAYARD. I cannot see that we have anything to do with the bill. The question formerly raised was, whether the papers were here. Now they are here. The only question we have to decide is, whether we will agree or disagree to the report of the committee of conference. That has been the invariable form of putting the question. We cannot act on the original bill unless we dissent from the report of the committee. Then the bill will come up; but in order to reach it, we must first dispose of the report of the committee.

The objection formerly made was, that the papers were not here, and that therefore we could not act upon the report of the committee. Now we have the papers here; but because the papers are here, I do not see that there is any other subject to be considered than the one which was under consideration before—the report of the committee. If you assent to that, then the subject is ended. If you dissent from it, then of course the bill of the Senate will come up.

The PRESIDING OFFICER. The Senator from Mississippi, as the Chair understands him, moves to postpone the consideration of the pending question.

Mr. BROWN. I withdraw the motion. I want to take the question.

The PRESIDING OFFICER. The question is, "Will the Senate agree to the report of the committee of conference?" and on this question the yeas and nays have been ordered.

Mr. DOUGLAS. I have not withdrawn my motion to postpone the subject which was under consideration at the time this announcement was made, and to proceed to the consideration of Senate bill No. 161, and the report accompanying it from the House of Representatives.

Mr. GREEN. I hope that will be voted down.

The PRESIDING OFFICER. The question

is on the motion of the Senator from Illinois, to postpone the consideration of the pending question.

Mr. GREEN. I ask for the yeas and nays on that.

Several SENATORS. Oh, no.

Mr. KING. Let us have them.

The yeas and nays were not ordered.

The motion to postpone was not agreed to.

The PRESIDING OFFICER. The question before the Senate is: "Will the Senate agree to the report of the committee of conference?" On this question the yeas and nays have been ordered.

Mr. CRITTENDEN. I have been requested by Mr. BELL to say that he would vote, if here, against the bill; but he has paired off with Mr. PEARCE on this subject.

Mr. HALE. I have been requested by my colleague, [Mr. CLARK,] who has been taken suddenly sick, and is confined to his room by sickness, to make that excuse for his not voting. If he were here, he would vote against the bill.

Mr. WILSON. Mr. FIRCH, of Indiana, has paired off with Mr. SUMNER, of Massachusetts. He has been called home on account of illness in his family, and Mr. SUMNER has been detained in Philadelphia by a relapse in his case.

The question being taken by yeas and nays, resulted—yeas 31, nays 22; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Davis, Evans, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—31.

NAYS—Messrs. Broderick, Cameron, Chandler, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—22.

So the Senate concurred in the report of the committee of conference.

Mr. CLAY. I move that the Senate adjourn.

Mr. MASON. I hope the Senator will withdraw that motion, and move to adjourn over to Monday. I move that when the Senate adjourns, it be to meet on Monday.

Mr. JOHNSON, of Arkansas. I move that the Senate proceed to the consideration of Executive business.

The PRESIDING OFFICER. The Senator from Alabama moved to adjourn.

Mr. CLAY. I withdraw that motion for the Senator from Virginia.

Mr. MASON. I move that when the Senate adjourns, it be to meet on Monday next.

Mr. HUNTER. I hope not. To-morrow we ought to act on the deficiency bill, and I am waiting for the papers to be sent here from the House of Representatives. The bill is there. We ought to give one day to private bills.

Mr. IVERSON. I call for the yeas and nays on the motion of the Senator from Virginia.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 29; as follows:

YEAS—Messrs. Bayard, Benjamin, Broderick, Chandler, Clay, Crittenden, Dixon, Evans, Green, Hale, Hamlin, Hammond, Kennedy, King, Mason, Seward, Simmons, Thomson of New Jersey, Toombs, Trumbull, and Wade—21.

NAYS—Messrs. Allen, Biggs, Bigler, Bright, Brown, Cameron, Collamer, Doolittle, Douglas, Durkee, Fessenden, Fitzpatrick, Foot, Foster, Gwin, Harlan, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Polk, Pugh, Sebastian, Slidell, Stuart, Wright, and Yulee—29.

So the motion was not agreed to.

DEFICIENCY BILL.

Mr. HUNTER. I rise for the purpose of submitting a motion that the Senate recede from its amendments to the bill (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1893. It is true the papers are not here; they are in the House; but it is obvious that the motion I make puts an end to the question, and it seems to me that we have the right; it certainly has been the practice heretofore.

The PRESIDING OFFICER. The Chair will inform the Senator that the papers are here.

Mr. HUNTER. Then I move that the Senate recede from its amendments.

Mr. TOOMBS. I ask for the yeas and nays on that motion. I hope the Senate will not recede from its action.

Mr. STUART. When the question was taken before upon the motion to recede, I did not vote at all, and I cannot vote to-day. I do not wish

to detain the Senate; but I desire to explain, in a word, the reason why I did not vote. I am opposed to this bill as a whole. I am, however, in favor of the House amendments, under the circumstances. I cannot vote to recede without voting for the bill—that is if the Senate recede, that action passes the bill—therefore I cannot vote at all.

The question being taken by yeas and nays, resulted—yeas 26, nays 21; as follows:

YEAS—Messrs. Allen, Bigler, Bright, Brown, Clay, Crittenden, Davis, Evans, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Kennedy, Mallory, Mason, Polk, Sebastian, Slidell, Thompson of New Jersey, Wright, and Yulee—26.

NAYS—Messrs. Bayard, Benjamin, Biggs, Broderick, Chandler, Dixon, Doolittle, Douglas, Durkee, Foot, Foster, Hale, Harlan, Johnson of Tennessee, King, Pugh, Seward, Simmons, Toombs, Trumbull, and Wade—21.

So the motion to recede was agreed to.

ADJOURNMENT TO MONDAY.

Mr. JOHNSON, of Arkansas. I move that the Senate proceed to the consideration of executive business.

Mr. SLIDELL. I hope my friend from Arkansas will give way for an instant. I voted against the adjournment over until Monday, because I desired to have the deficiency bill disposed of. That having been done, I will now, if the Senator from Arkansas will yield me the floor, make the motion that when the Senate adjourns to-day it be to meet on Monday next.

Mr. JOHNSON, of Arkansas. I know we ought to have an executive session; but I will yield to the motion of the Senator from Louisiana, as my motion can be made after his has been disposed of.

The PRESIDING OFFICER. The question is on the motion of the Senator from Louisiana, that when the Senate adjourns to-day it be to meet on Monday next.

Mr. IVERSON. I trust the Senate will not entertain that motion. The Senate will remember that they agreed some time ago to devote every Friday to the consideration of the Private Calendar; but I yielded this morning, that the Kansas question might be taken up, with the understanding that to-morrow should be allowed for the consideration of private bills. I trust if we are to do anything with the Private Calendar we shall meet to-morrow. ["We will give you two days next week."] That is not a promise I can rely upon. I trust the Senate will sit to-morrow; I ask for the yeas and nays on the motion to adjourn over, that we may see who are disposed to do the public business and who are not.

The yeas and nays were ordered.

Mr. HOUSTON. I move that the Senate do now adjourn.

Mr. KING. Is that motion now in order? Has not the motion to fix the time to which we shall adjourn precedence?

The PRESIDING OFFICER. The motion to adjourn is always in order.

The motion was not agreed to.

The question being taken by yeas and nays on Mr. SLIDELL's motion, resulted—yeas 24, nays 20; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Bigler, Broderick, Clay, Crittenden, Davis, Dixon, Evans, Fitzpatrick, Green, Hale, Hammond, King, Mason, Pugh, Sebastian, Seward, Slidell, Thompson of New Jersey, Toombs, Trumbull, and Wright—24.

NAYS—Messrs. Biggs, Bright, Brown, Chandler, Colamer, Doolittle, Durkee, Fessenden, Foot, Foster, Harlan, Houston, Iverson, Johnson of Tennessee, Jones, Mallory, Polk, Stuart, Wade, and Yulee—20.

So it was ordered that when the Senate adjourns to-day, it be to meet on Monday next.

EXECUTIVE SESSION.

On motion of Mr. JOHNSON, of Arkansas, the Senate proceeded to the consideration of executive business; and after some spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 30, 1858.

The House met at twelve o'clock, m. Prayer by Rev. W. D. HALEY.

The Journal of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. HICKY, their Chief Clerk, notifying the House that that body had agreed to the amend-

ment of the House to the bill (S. No. 76) "to incorporate Gonzaga College, in the city of Washington, and District of Columbia;" and that that body had passed a resolution (S. No. 21) devolving upon the Secretary of War the execution of the act of Congress entitled "An act supplemental to an act therein mentioned," approved December 22, 1854; in which he was directed to ask the concurrence of the House.

ADMISSION OF KANSAS.

Mr. ENGLISH. I call for the regular order of business.

The SPEAKER. The first question in order is the conference report on the Kansas bill, and the gentleman from New York [Mr. CLARK] is entitled to the floor.

Mr. CLARK, of New York. Mr. Speaker, when I sought the floor yesterday, it was my intention to occupy my hour in giving briefly the reasons why I should vote against this conference report; but I find myself this morning physically unable to undertake the task. I shall seek the floor to discharge this duty on another occasion; but, sir, lest the call for the previous question shall be made before I shall again obtain the floor, and thus put it beyond my power to make the remarks which I design, I will in one word say that I regard this new scheme as eminently objectionable in form, and as still more dangerous in substance. If I live, I shall vote against it; and if opportunity be afforded me, I will, on some other occasion, assign my reasons for that vote.

Mr. BONHAM. Mr. Speaker, the honorable member from Mississippi, [Mr. QUITMAN,] with whom I have acted on this subject, is not in his place. I understand that he would, if here, have sought the floor this morning with a view to call for the previous question. I now seek the floor for that same purpose, and I therefore call for the previous question.

Mr. STEPHENS, of Georgia. I move that there be a call of the House.

Mr. BRYAN. I hope the gentleman will withdraw the call for the previous question for a moment. I will renew it.

Mr. BONHAM. I withdraw it for the gentleman from Texas.

Mr. BRYAN. Mr. Speaker, it is due to myself and due to the people whom I represent, who have passed through the ordeal of revolution, and all the consequences of asserting the rights which belong to a free people, that I should be heard as to the position I have occupied on this question. I have acted, upon collateral questions, with a gallant band from the South in opposition to the majority of the members from that section. One of them, the gentleman from Mississippi, [Mr. QUITMAN,] has his hair silvered through long years of service, and has fought in behalf of the interests and the rights of his sunny land. Another, with whom I have acted, has been ever true to the South—the accomplished author of the "Union, past and future, how it works, and how to save it." I have acted also with one who represents the district of Preston S. Brooks, whose brother gave up his life in fighting in the van of the war for the extension of the institutions of the South—the associate of Travis, and of Crockett, who fell at the Thermopylae of Texas. "Thermopylae had her messenger of defeat; the Alamo had none." I have acted with a Goode from Virginia, a STALLWORTH and a SHORTER from Alabama; and higher than this, I have acted under the resolutions of the sovereign State of Texas. I will read those resolutions:

Joint resolution in response to the Governor's message on Kansas affairs.

Whereas there exists, and has existed, a violent determination, on the part of a portion of the inhabitants of the Territory of Kansas, to exclude by force the citizens of the slaveholding States from a just, equal, and peaceful participation in the use and enjoyment of the common property and territory of the members of the Confederacy: and whereas, this determination, owing to the state of political feeling in the northern States of the Confederacy operating upon the Federal Government, may become effectual, and the exclusion perpetual: Therefore,

First, Be it resolved by the Legislature of the State of Texas, That the Governor of this State is hereby authorized to order an election for seven delegates to meet delegates appointed by the other southern States in convention, whenever the Executives of a majority of the slaveholding States shall express the opinion that such convention is necessary to preserve the equal rights of such States in the Union, and advise the Governor of this State that measures have been taken for the appointment of delegates to meet those of Texas; and that the sum of \$10,000, or so much thereof as

is necessary, be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, to pay the mileage and per diem of such delegates, which shall be paid at the rate paid to members of the United States Congress, according to the law in force in the year 1854.

Second, That, should an exigency arise, in the opinion of the Governor, in which it is necessary for the State of Texas to act alone, or by a convention representing the sovereignty of the State, he is hereby requested to call a special session of the Legislature to provide for such State convention.

Third, That the Governor is requested to transmit copies of these resolutions to the Executives of each of the slaveholding States, and to our members of Congress.

Sir, upon what were these resolutions based? Upon the declarations of the President of the United States; upon the language of the southern Democratic Senators in the other wing of the Capitol; upon the language of the southern Representatives here, and the Democratic Representatives of the North, who acted with them early in the session, when they declared that the legal will of the people of Kansas had been expressed in the Lecompton convention which framed their constitution.

Sir, in our own State of Texas, a few months since, an election was held to fill a vacancy for a judge of the supreme court. Out of sixty thousand votes in our State, not more than twelve thousand votes were cast to fill that office. The judge who received the majority of those votes is now upon the bench, deciding the rights of the people of that State. If a majority of the people of Kansas stayed away from the polls, they did what the people of Texas did. As I said before, the action of the Legislature of Texas was based upon the language of the Representatives of the South, and the Democratic Representatives of the North, who acted with them upon this floor; upon similar language uttered in the other wing of the Capitol, and upon the language of the Chief Executive, that Kansas should be admitted under the Lecompton constitution, without referring the question of admission back to the people of Kansas. Sir, what is the state of the case now? In the proposition that is presented to us, we refer back the question to the people of Kansas. I, for prudential considerations, which can be understood by southern members here, will not enter into the discussion of that proposition. But I intend to acquiesce in the action of the majority of the Representatives of the section from which I come, for this reason: I find, since I have been in Washington, that new party ideas are promulgated, and, to some extent, a new party doctrine has been established. The great party which prevails in the North, through their great leader in the other end of the Capitol, has said:

"I regard this battle as already fought; it is over. All the mistake is that the honorable Senator and others do not know it—we are fighting for a majority of free States. There are already sixteen to fifteen. If that is so, what dangers are we exposed to? And whatever the Administration may do, whatever anybody may do, before one year from this time, we shall be nineteen to fifteen."

Again, he says:

"Let the court recede; whether it recedes or not, we shall reorganize the court, and thus reform its political sentiments and practices, and bring them into harmony with the Constitution and with the laws of nature."

Speaking of free States, he says:

"They have an easy and simple remedy, namely: to take the Government out of unjust and unfaithful hands, and commit it to those which will be just and faithful. They are ready to do this now. They want only a little more harmony of purpose and a little more completeness of organization."

"Freedom is the common right, interest, and ultimate destiny of all mankind. All other nations have already abolished, or are about abolishing slavery. Does this fact mean anything?"

Again he says:

"Free labor has at last apprehended its rights, its interests, its power, and its destiny, and is organizing itself to assume the government of the Republic. It will henceforth meet you boldly and resolutely here; it will meet you everywhere, in the Territories or out of them, wherever you may go to extend slavery. It has driven you back in California and in Kansas; it will invade you soon in Delaware, Maryland, Virginia, Missouri, and Texas. It will meet you in Arizona, in Central America, and even in Cuba. The invasion will be not merely harmless, but beneficial, if you yield seasonably to its just and moderate demands. It proved so in New York, New Jersey, Pennsylvania, and the other slave States, which have already yielded in that way to its advances. You may, indeed, get a start under or near the tropics, and seem safe for a time, but it will be only a short time. Even there you will find States only for free labor to maintain and occupy. The interest of the white race demands the ultimate emancipation of all men. Whether that consummation shall be allowed to take effect, with needful and wise precautions against sudden change and disaster, or be hurried on by violence, is all that remains for you to decide. For the failure of your system of slave labor throughout the Republic, the

responsibility will rest, not on the agitators you condemn, or on the political parties you arraign, or even altogether on yourselves, but it will be due to the inherent error of the system itself, and to the error which thrusts it forward to oppose and resist the destiny, not more of the African than that of the white race."

I take it that this is the doctrine of the great party which is, I fear, to rule this country. The union of the South, for the protection of the South, is what will be required to stay the progress of these doctrines; and that I may not throw a straw in the way of that union, I shall acquiesce in the action of the South; at the same time, however, not withdrawing my objections to the bill.

The SPEAKER. The gentleman from South Carolina demands the previous question.

Mr. SHORTER. Will the gentleman yield me the floor? I will renew the demand.

Mr. BONHAM. With that understanding, I will.

Mr. SHORTER. Mr. Speaker, I do not rise for the purpose of discussing the merits of the bill—

Mr. BONHAM. I have been appealed to to yield the floor to the gentleman from Alabama [Mr. SHORTER] on account of the peculiar position which he occupies, coming as he does from a State which has spoken upon this question; and those appeals have been so earnest that I feel constrained to yield to him for a few moments. But I take occasion to say that when he has concluded I shall insist on the previous question. I have desired to make some remarks upon this question myself, but I have waived the privilege.

Mr. SHORTER. Mr. Speaker, I do not desire to discuss this question at length; but I feel that justice to myself requires that I should be allowed a few moments to explain to my constituents and to the country at large the reasons that have operated upon my mind in adopting the course that I have seen proper to pursue during the last week, and also in vindication of the vote that I intend to give when this question is brought to a final issue. It is well known to those who are around me that in company with four other southern gentlemen I have, for some days past, voted with the opposite side of the House against the enforcement of the previous question.

Sir, what were the motives that prompted me in taking the position which I occupied, and what the motives that influenced gentlemen upon the opposite side of the House in their course in this matter? While in ordinary cases we cannot undertake to judge of men's motives, yet the discussion which has ensued in consequence of the postponement of this vote, has tended clearly to define the position occupied by the Republican party, and their allies upon the opposite side of the House. My objection to the bill was, sir, that the language employed in referring the question as to the grant of lands—the ordinance, as it is called—is either by accident or by design, left so ambiguous, I was fearful that, after the law was passed, it might be construed one way at the North, and another way at the South. Sir, I am tired of that system of legislation. I remember the discussion that sprung up in the South growing out of the passage of the Kansas-Nebraska bill, owing to its peculiar phraseology, one portion of the people contending that it embodied squatter sovereignty, and the other party denying it. One wing of the party, with which I was acting, contended at the South that it meant one thing, and the other wing, at the North, that it meant another. If it was the purpose of the committee of conference to leave this question beyond doubt; and, if it was their intention, as they assert here upon this floor and in the Senate Chamber, *not to refer the constitution back to the people of Kansas for their ratification or rejection*, it occurs to me that it would have been a very easy thing to have made it plain and unmistakable. But, sir, if there was any doubt as to the true construction of this bill, the discussion which we have had here has in part accomplished my purpose in voting against the previous question. I wished the records of Congress to show, whether the bill was passed or defeated, that the party with whom I cooperate construed it all in one way. I was unwilling that a portion of the northern men who act with me should go home and contend that this bill meant a direct submission of the constitution to the people; while I, at the South, would contend that it meant no submission of the constitution.

Well, sir, the Republican party now deny that

it submits the constitution; they claim that it attempts to force the Lecompton constitution upon Kansas, by telling the people that they may come into the Union as a slave State, but that if they are unwilling to do that, they shall remain out of the Union as a slave Territory. Those are the prominent objections that the Republican party urge to the bill. Now, I do not object to that feature of it at all. Whatever there is in the bill that I approve, the Republican party condemn; whatever there is in the bill that I condemn, the Republican party approve. Thus it is that, in voting against enforcing the previous question during the last week, extremes seem to have met; but our motives have been different—very different.

Well, sir, my object in resisting the enforcement of the previous question was that we might have discussion, in order that we might see how the Democratic party of the country, North and South, construed this bill—how its framers construed it; and, sir, I find now that the general construction of the bill is, that it does not refer, and is not intended to refer, the constitution back, but the ordinance only, to a vote of the people of Kansas. If it did—if I believed that it did, though I stood solitary and alone upon this side of the House, I would continue to vote with the Black Republicans against the bill. But the gentleman from Georgia, [Mr. STEPHENS], on the part of the House committee, declares emphatically here in his place, that it was not his intention, in agreeing to the report, to refer the constitution back to the people. He says that the bill *does not refer it back*, but that it recognizes the validity of the Lecompton constitution. This position was not controverted by either of his associate conferees—

Mr. CAMPBELL. Will the gentleman from Alabama yield to me?

Mr. SHORTER. No, sir.

Mr. CAMPBELL. I would like to know whether my colleague, [Mr. Cox,] who spoke yesterday, did not understand that the constitution was to be submitted?

Mr. BONHAM. I must ask the gentleman from Alabama to confine himself to the understanding he made with me. If he continues to urge the views which he is now urging, he will constrain me to present my views upon this question.

Mr. SHORTER. I thank the gentleman for calling me back to the recollection of my promise. Mr. Speaker, every State-rights Senator from the South favors this bill. Every State-rights Representative in this House from the same section, with the exception of only two, intend to vote for it; and, whatever doubt may exist upon my mind as to its propriety, I intend to sacrifice to this *perfect unanimity among the Representatives of my section*.

I have thus stated the reasons which operated on my mind in changing the position which I have been holding for the last few days. I shall to-day cooperate with the friends of the measure in enforcing the previous question, and shall vote for the bill. I now move the previous question.

Mr. CAMPBELL. I would ask the gentleman from South Carolina [Mr. BONHAM] to allow me to say a few words. He has yielded to gentlemen upon his own side of the House.

Mr. BONHAM. The gentleman from Alabama [Mr. SHORTER] demanded the previous question.

Mr. CLINGMAN. As the gentleman from Ohio desires only a few moments, I hope that by general consent they will be conceded to him.

Mr. BONHAM. As I have yielded the floor to gentlemen upon this side of the House, I think it only fair that it should be yielded to the gentleman from Ohio for the same purpose, to make a few remarks and not to make a speech. I have some views myself that I have wished to present to the country, but I have waived the privilege.

Mr. HOUSTON. I understand my colleague [Mr. SHORTER] to have demanded the previous question, and the gentleman from South Carolina has, therefore, no power to withdraw it. I object to any further yielding of the floor to anybody. I want to make a speech myself, if I can get a chance.

Mr. CAMPBELL. I asked the gentleman from South Carolina to yield the floor. I am not dependent upon the gentleman from Alabama [Mr. HOUSTON] for the courtesy.

Mr. HOUSTON. I am aware that the gentle-

man is not asking me, but I have the right to object to any such arrangement, and I insist upon my objection.

Mr. SHORTER. I cannot withdraw my demand for the previous question.

Mr. GOODWIN. I move a call of the House.

Mr. DAVIS, of Maryland. I ask for the yeas and nays.

Mr. SHERMAN, of Ohio. I think the only difficulty on this side of the House is, that the same privilege of debate has not been extended to this side of the House that was extended to gentlemen on the other side.

Mr. ENGLISH. I appeal to the gentleman from Alabama to withdraw the demand for the previous question for five minutes, for the gentleman from Ohio.

Mr. HARLAN. We want more than that.

Mr. MORGAN. Five minutes will not answer.

Mr. SHORTER. Will the gentleman from Ohio renew the demand for the previous question?

Mr. CAMPBELL. I will accept the floor upon the same terms as the two gentlemen who last occupied the floor, and upon no other terms.

Mr. COBB. What are the terms?

Mr. SHORTER. I took the floor upon the condition that I should renew the demand for the previous question. If the gentleman from Ohio will renew the demand for the previous question, I will yield the floor to him.

Mr. CAMPBELL. I accept the floor upon the same conditions. I want terms of equality, and nothing else.

Mr. SHORTER. Then I withdraw the previous question.

Mr. GOODWIN. And I withdraw the motion for the call of the House.

Mr. CAMPBELL. Mr. Speaker, I have no disposition whatever to prolong this unfortunate controversy. I have not spoken upon the subject of Kansas affairs during the present Congress, for reasons which I do not think it necessary or proper now to give.

In 1854, when it was proposed that a time-honored compromise upon the subject of slavery, of thirty-three years' standing, should be repealed, I resisted it; and, in the course of the debate upon that measure, I recollect well saying to the honorable gentleman from Georgia, [Mr. STEPHENS,] who was one of the leaders in that controversy, that I believed the measure was full of evil to our common country, with the promise of no good to any party or section of it. The friends of the measure declared that it was their purpose to remove an odious restriction, in order that the principles of the great compromise of 1850 might be carried out and spread over that Territory, by which the people, when they came to form a State constitution, might regulate their own domestic affairs in their own way.

Subsequently, the Supreme Court of the United States, the highest judicial tribunal in the land, and beyond whose decree there is no other remedy but revolution, asserted that that restrictive clause of 1850 was unconstitutional.

I therefore did not enter this Congress with any hope or any purpose of proposing the reenactment of that clause; but finding that the people of Kansas had been refused the right of forming their State constitution in their own way, I readily united with the distinguished Senator from Illinois [Mr. DOUGLAS] and his compeers of the Democratic party in this House, in asserting their right to vote upon their constitution prior to their admission into the Union.

A scene was presented by my honorable colleague from the metropolitan district of my State [Mr. Cox] the morning when we first entered this new Hall. He then took the banner of popular sovereignty, and nobly defended that principle up to a very recent period. His *debut* in this Hall commanded the admiration of his former political enemies as well as many of his political friends. On yesterday morning, in full view of the glorious triumph of those principles, he beat a retreat.

Mr. COX. The gentleman will allow me to say a word?

Mr. CAMPBELL. I will.

Mr. COX. I wish to say here, and in reference to the remarks which were made by my venerable colleague [Mr. GOODWIN] yesterday—amid the exciting scene which then took place, in which he had my fullest sympathy, I wish to say—for

myself and my colleagues on this side of the Chamber, that we stood by the House bill reported here, so long as we could, in good faith, until the last hope of carrying it was gone. I stood with them as long as I saw any hope of carrying it. But, sir, now that this conference report has cut off every chance of seeing my views on the subject carried out, with no opportunity of amending the report itself, I will do the best I can under the circumstances, and I hope the gentleman will give me the credit at least of honest motives in the course I have taken.

Mr. CAMPBELL. I am not here to question the motives of my colleague or of any man upon this floor; but I desire to put a question to him. He occupies a prominent position in the Ohio delegation, and a distinguished position in this movement against the Lecompton constitution. I understood my colleague, when he became the pioneer leader of the Douglas Democracy, to assert in his speech that he exacted the right of the people of Kansas to vote on their constitution before they should be admitted into the Union as a State; and I ask him now, whether he construes the present bill reported by the committee of conference to be a submission of the constitution to a vote of the people?

Mr. HUGHES. I object to an answer.

Mr. COX. I will answer the gentleman.

Mr. HUGHES. Stop! I object.

Mr. COX. I will answer in the language of the gentleman from Maryland, [Mr. Davis,] who spoke day before yesterday, and with whom the gentleman acts, that although the constitution is not submitted in so many words, yet the effect of it is, as I claim and he claims, and the gentleman himself must confess, when he reads the bill, to give the people of Kansas an opportunity to strike down this constitution if they do not want it. I conceive that that is the effect of it. Gentlemen may differ with me in that, but I take the bill. I will go to the bill for its interpretation. I care not for the construction of anybody.

Mr. CAMPBELL. The gentleman does not answer my question. I wish a direct and unequivocal answer. Notwithstanding we may be defeated here to-day on this great principle of popular sovereignty, yet, sir, we shall take an appeal to a higher tribunal—that of the people. Before that high court the gentleman must stand, and before it he and I must meet.

Mr. COX. Will the gentleman allow me to read the bill?

Mr. CAMPBELL. No, sir. I have not time, and we have all read it. I want an answer to my question.

Mr. COX. You will not let me read the bill? Mr. LETCHER. I rise to a question of order. I hope the gentleman from Ohio [Mr. CAMPBELL] will be allowed to proceed with his remarks without interruption.

Mr. CAMPBELL. That is a question which ought not to be evaded.

While Mr. LETCHER, Mr. COX, and Mr. CAMPBELL were speaking, Mr. LAWRENCE, careless of all noise and cries to order, made these remarks:

Mr. LAWRENCE. Will my colleague permit me to answer the question which he propounds to our colleague from the capital district, [Mr. Cox?] I say to the gentleman emphatically, that it is an *effectual and substantial submission* of the Lecompton constitution to a vote of the people of Kansas—they may either adopt it or reject it. The manner or form of submission is not such as I would have preferred; but it is nevertheless a submission. Without so understanding it, I am free to say that I never would have voted for it.

I have deemed it due to myself to say this much now, and will, just in conclusion, say to my colleague that I hope to have much more to say on this subject before our common constituents, the people of Ohio.

Mr. LETCHER. The three gentlemen from Ohio have been upon the floor and talking at the same time; now I raise the question of order, that not more than one member has the right to address the Chair at one time; and I insist on its enforcement.

The SPEAKER. The Chair fails to enforce order with his voice or with his gavel.

Mr. LETCHER. Then I say, call for the Sergeant-at-Arms.

The SPEAKER. Two or three gentlemen object to interruption. The Chair will enforce the

rule, and no interruption will be allowed unless it is for a personal explanation, or by unanimous consent.

Mr. WASHBURN, of Maine. I wish the gentleman from Ohio to yield the floor for a moment.

Mr. LETCHER. I object.

Mr. WASHBURN, of Maine. I wish to reply to a remark made yesterday by the gentleman from Kentucky, [Mr. MARSHALL.]

Mr. LETCHER. I object. The gentleman from Ohio has the floor. Let him make the reply.

Mr. WASHBURN, of Maine. Then I will take some other opportunity to do so.

Mr. CAMPBELL. I trust that neither of my colleagues will suppose that I am actuated by any unkind feelings towards them. I merely desire to learn how they and others construe the pending bill.

Mr. LAWRENCE. Certainly not.

Mr. CAMPBELL. I see that a difficulty is already arising in regard to the construction of this bill, which arose after the passage of the Kansas-Nebraska bill, as to what was squatter sovereignty. In the question which I propounded to my colleague, [Mr. Cox,] and which I intended to propound to my colleague, [Mr. LAWRENCE,] and others, I am actuated by no other motive but that we may have, before we give a final vote on the measure, a true understanding of what we are going to do.

Mr. COX sought the floor.

The SPEAKER. The gentleman cannot interrupt his colleague.

Mr. COX. With his permission.

The SPEAKER. Objection is made.

Mr. CAMPBELL. Not by me.

Mr. HUGHES. I object to anything out of order.

Mr. FOSTER. I rise to a point of order. I understood the proposition distinctly to be that the gentleman from Ohio should occupy the floor upon the same conditions and terms as it had been occupied by those on the other side. They were not cramped as the gentleman from Ohio is now attempted to be cramped.

Mr. COX. Do I understand that there is objection to my interrupting the gentleman from Ohio, my colleague?

Mr. HUGHES. Yes, sir, I object.

Mr. CAMPBELL. Objection having been made by the Administration side, by which I am prevented from having a clear and explicit answer to my question to my colleague, who is the pioneer of the anti-Lecompton movement in this House, I will send to the Clerk's desk a letter written by him, to be read:

The letter was read, as follows:

HOUSE OF REPRESENTATIVES,
WASHINGTON CITY, February 6, 1853.
GENTLEMEN: Your invitation comes to me in the midst of an unexampled midnight struggle in the popular branch of Congress. I can only say that if the same spirit which here inspires the Democratic members with whom I act, will inform and energize your own expression on the 8th instant, there will be a potential emphasis in favor of the right of the people of our own States and Territories to do as they please in their own business, untrammelled by cabals and unincumbered with fraud.

Mr. BOWIE, (interrupting.) That was on the original amendment.

The Clerk, (resuming:)

A border oligarchy have not shown themselves to be such angels that they should arrogate to themselves that scepter of authority which alone belongs to the people of Kansas. While I have a vote in this Congress, it shall never be dragged in the Lecompton mire. That is my deliberate judgment, and my irrevocable will. I cannot say or do otherwise—so help me God! Not while Douglas stands in the Senate; not while Wise speaks from his Virginian vatic; not while Walker can give us wisdom, or Stanton can utter truth, or Stuart can argue the law, or Forney can wield the pen, or the Northwest can echo the aggregate thunder of these tribunes of the people—shall this great wrong be done in the face of thirty millions of freemen.

Yours, &c., SAMUEL S. COX.
Colonel J. W. FORNEY, D. WEBSTER, Esq., JAMES M. LEDDY, and others, Committee.

Mr. COX. I indorse all that yet. That is all I have to say about that.

Mr. CAMPBELL. I have not only the promise of my colleague's vote for the submission of the constitution to the people of Kansas, but I have his promise, as heard read from the Clerk's desk, sworn to with the same solemnity with which he took the oath of office when he entered this Hall—so help him God!—he will vote for no proposition that does not submit to the people the right to vote upon their constitution.

In addition to that—and I feel bound to allude to it, because I owe an apology to ninety-one, so termed, Black Republicans—when the bill came from the Senate, an arrangement was made by members of all the old political parties, who were anxious to take this question forever from the Halls of Congress, to adopt, in substance, an amendment which had been proposed by a venerable and patriotic Senator from a slaveholding State, [Mr. CRITTENDEN, of Kentucky,] The friends of Mr. DOUGLAS were pledged, by those who were authorized to speak for them, as I understand, upon the high point of personal honor, to go for that proposition, with slight amendments agreed upon, to the last extremity, and to the bitter end of the controversy, and to vote for no other proposition. If I am mistaken in this allegation, the honorable gentleman from Illinois, [Mr. HARRIS,] the honorable gentleman from Indiana, [Mr. DAVIS,] the honorable gentleman from New Jersey, [Mr. ADRAIN,] and others I might designate, will correct me now. Both of my colleagues [Messrs. COX and LAWRENCE] were understood to be in this arrangement. Placing the most implicit confidence in their pledge, and the like confidence—

Mr. GROESBECK. Will my colleague allow me to say a word?

The SPEAKER. Interruption is objected to by the gentleman from Virginia, [Mr. LETCHER,] and the gentleman from Indiana, [Mr. HUGHES.]

Mr. HUGHES. So far as I am concerned, I withdraw all objection.

Mr. CAMPBELL. I certainly will yield to any of my colleagues.

Mr. DAVIDSON. I object.

Mr. SEWARD. Has not the gentleman the right to yield? Is there any rule restricting him?

The SPEAKER. The gentleman from Ohio can yield to a personal explanation; that is the extent to which the practice of the House has gone, where there is objection.

Mr. SEWARD. The gentleman's [Mr. GROESBECK's] motives have been assailed, and on that point he wishes to be heard.

Mr. DAVIDSON. I withdraw my objection.

The SPEAKER. If the gentleman desires to make a personal explanation, it is admissible with the objection; if it is not a personal explanation, it is not admissible.

Mr. ELLIOTT. I object to anything not strictly in order.

Mr. GROESBECK. I suppose my remarks will take the form of a personal explanation. I find, in reading the Globe this morning, that in the debate yesterday an intimation was made, similar to that now made by my colleague, that every one of the gentlemen who voted in favor of the Montgomery-Crittenden amendment pledged themselves to the gentlemen upon that side, in some way or another, to stand by that to the end. Now, I do not desire to go into any discussion. I would like to speak to this proposition myself, and explain it; but I will not. I wish, however, to say to my colleague, that never once, during the whole of this controversy, from the beginning to the end, did I make any such pledge, or give any such understanding, or have any such consultation.

Mr. CAMPBELL. I did not assert that you did.

Mr. GROESBECK. I had no conversation with the Republicans. I concurred with them in the movement. Certainly I did; but there was no conference, no understanding, no arrangement.

Mr. CAMPBELL. In justice to my colleague, I will say I never had any conversation with him in which he pledged himself at all. But I wish here to inquire of my colleague whether he understands the bill reported by the committee of conference, as submitting the constitution to the people of Kansas?

Mr. GROESBECK. In effect it does.

Mr. CAMPBELL. My colleague thinks it does. The gentlemen from Georgia, [Mr. STEPHENS,] a member of the committee reporting the bill, asserted in most distinct and unequivocal language, that it did not. The grand idea of the day is that agitation on this question shall cease and determine; that we are to have no more of it; yet we are on the eve of passing the bill by the votes of men, some of whom construe it to mean one thing, and others a very different thing.

Mr. OWEN JONES. Will the gentleman yield

to me a moment for a personal explanation? In the course of the gentleman's remarks—

The SPEAKER. Does the gentleman from Ohio yield? If the gentleman from Pennsylvania rises to a personal explanation, it is admissible if the gentleman yields.

Mr. OWEN JONES. I see in the report in the Globe of the debate yesterday, some remarks of the gentleman from Ohio—

The SPEAKER. Does the gentleman from Ohio yield?

Mr. CAMPBELL. I yield to the gentleman if he be very brief. I promised to be brief myself. These interruptions necessarily consume much of my time, and extend the debate.

Mr. OWEN JONES. The gentleman intimated that he had pledges from sundry gentlemen upon this floor, some of whom he designated as friends of Mr. DOUGLAS, and some by the States from which they came, and then said "from other gentlemen." I wish the gentleman to understand that, in the whole course of this controversy, I have never given a pledge to him or to any other gentleman upon this floor, that I would stand by the Montgomery bill, or by any other bill, to the last.

Mr. CAMPBELL. I would inquire of the gentleman from Pennsylvania whether he did not repeatedly meet in caucus with that portion of the Democratic party known as anti-Lecompton men? and whether a committee was not appointed with power to represent and speak for the entire body?

Mr. OWEN JONES. I met with those gentlemen on one or two occasions, but to my knowledge no committee of any kind was ever appointed; and no committee was ever authorized to pledge my vote upon this floor upon any subject.

Mr. CAMPBELL. I desire to ask the gentleman from Pennsylvania another question. I wish to know how he construes the pending proposition? Does it submit the constitution, in his judgment, to a vote of the people of Kansas?

Mr. OWEN JONES. I am willing to let the people of this country construe this bill for themselves. [Great laughter on the Opposition side of the House.]

Mr. CAMPBELL. I desire, just here, if the gentleman from Pennsylvania will so far accommodate me, to have the benefit of his judgment upon the subject.

Mr. HUGHES. I object. [Renewed laughter.]

Mr. SEWARD. I think this system of interrogations is all wrong, and I object to it.

The SPEAKER. The Chair thinks it very irregular, and will enforce the rule according to the practice of the House. When a gentleman rises to a personal explanation, it has been customary, even when objection was made, for the floor to be yielded to him for that purpose, but for no other, as the gentleman from Ohio well knows.

Mr. CAMPBELL. I desire to be courteous to every gentleman upon this floor, and am willing to yield the floor; but I have no wish to violate any rule of the House.

The fact can be no longer concealed, Mr. Speaker, that the friends of this measure, who, within the next hour, intend to vote it through, sending it to the North, South, East, and West, as a great peace measure, and as a final settlement of this Kansas imbroglio, put entirely different constructions upon it. Sir, it will but increase the agitation, and I say of it, as I said of the Kansas-Nebraska bill, that I believe it is full of evil and without promise of any good to any party or any section of the country.

The gentleman from Indiana, [Mr. ENGLISH,] the chairman of the conference committee on the part of the House, remarked yesterday that the bill was couched in very good English. If it is in order, I should like that gentleman to declare here before the House and the country, as we approach the final vote, whether he agrees with the gentleman from Georgia, [Mr. STEPHENS,] that this bill does not submit the constitution to a vote of the people of the Territory. I await a reply.

The SPEAKER. It is not in order for the gentleman from Indiana to reply to the gentleman from Ohio, half a dozen objections being made to such interrogatories being propounded and answered.

Mr. CAMPBELL. Then, Mr. Speaker, we shall meet at Philippi, and discuss this question where the rules of the House do not prevail. My

colleagues and the gentleman from Indiana, and others from the North, who are voting for this measure, alleging that it submits the question to the people; and the gentlemen from the South, who assert that it does not, will have to meet the question before that tribunal whose sovereignty makes and unmakes us all—the people.

My colleague from the central district of Ohio [Mr. COX] made a very eloquent and pathetic allusion to the bonds which unite Ohio and Kentucky, and referred to the fact that Kentucky united with her younger sister in the war of 1812 to drive back the enemy to the shores of Canada. I have a somewhat indistinct recollection of that war. I served in it, young as I am; and for that reason I doubt very much whether, under the rules of the House, I can vote for the bill of the honorable gentleman from Tennessee, [Mr. SAVAGE,] proposing to give pensions to the soldiers of the war of 1812. Sir, I was actually *in arms* upon the frontier during that war—in my mother's arms—[Laughter]—upon the banks of the beautiful Miami, which has its confluence with the Ohio at North Bend, where the gallant Harrison lived and where his remains now repose. I recollect reading, subsequently, in the history of the times, and hearing from the lips of my good mother, that when the merciless Indians, who had been employed by the English to murder the pioneer mothers of the Northwest, and dash out the brains of their infant children, were within but a few miles of the rude hut where I was so in arms, an express rider came announcing the fact that the Kentucky volunteers had arrived. It was the most joyous hour in the lives of those who were unprotected at that time, to learn that the Kentucky volunteers had come to the rescue. The gallantry of Kentucky has again come to the rescue in the Senate and in the House of Representatives, and so has the gallantry of Maryland; and I extend the right hand of fellowship from the interior district which I represent, over the districts of my honorable colleagues, who represent the queen city of Cincinnati, to Kentucky. I unite with them cordially, as do those who have been acting with me hitherto, in this grand movement which, upon fair terms, nationalizes the elements of opposition to that power which has brought this disaster upon us. Sir, Kentucky aided Ohio in the war of 1812, to resist the English movement then; she unites with Ohio to resist the English movement now. [Laughter.]

Mr. FLORENCE. That is personal. [Laughter.]

Mr. COX. Will the gentleman allow me to ask him a question.

Mr. CLINGMAN. I hope the gentleman will be allowed to proceed without interruption.

The SPEAKER. Objection is made, and the gentleman has not the right to yield.

Mr. LAWRENCE. I ask the gentleman to yield to me for one moment.

Mr. CLINGMAN. I hope the gentleman from Ohio will be allowed to proceed. These interruptions must be very unpleasant.

Mr. CAMPBELL. I would willingly yield the floor to my colleague if I can have the permission of his party friends.

Mr. GROW. I object, unless the gentleman from Indiana [Mr. ENGLISH] is allowed to respond to the question propounded to him by the gentleman from Ohio, [Mr. CAMPBELL.]

Mr. CAMPBELL. When I rose yesterday, perhaps somewhat excited by the demonstration which I had witnessed upon the part of my colleagues, and made a motion that there be a call of the House; the Chair, rather peremptorily, told me to take my seat. I was not aware that I was out of order. I certainly do not wish to put myself again where it will be the right of the Chair to command me to take my seat. I am perfectly willing, nay more, I am anxious to give gentlemen on all sides of the House, particularly gentlemen who propose to vote for this bill, some of them for one reason, and some for another, an opportunity to propound questions to me, and to answer my interrogatories. The Chair, however, has decided it to be out of order, and without the unanimous consent of the House, it would not be in order.

The SPEAKER. The Chair desires to say to the gentleman from Ohio, in reference to the call to order yesterday, that he did not intend to be even uncivil to the gentleman from Ohio. Several gen-

tlemen were addressing the Chair out of order; and as the eye of the Chair fell upon the gentleman from Ohio, he thought, as he was one of the older members of the House, that he might as well commence with him as with any other member.

Mr. CAMPBELL. I am very willing, whenever it is necessary to quell a storm in this House, for the Chair to call me by name, whether I am violating the rules or not. [Laughter.] Now, Mr. Speaker, in carrying out the promise which I made to the gentleman from Alabama—

Mr. MASON. Before the gentleman from Ohio takes his seat I desire to ask him whether the gentleman from Massachusetts is good authority—

[Loud cries of "Order!"]

The SPEAKER. The gentleman from Kentucky cannot interrupt the gentleman from Ohio; objection being made.

Mr. CAMPBELL. This bill, I suppose, is to pass. Ninety-two members, called Black Republicans, perhaps, in stultification of their past record, pledged their honor to vote for a bill for the admission of another slave State, even north of the line 36° 30', if the people desire it. If, in my quiet operations in bringing about that state of affairs, I have induced any member to violate his pledges to his constituents or his conscience, in any way, I wish now publicly to ask his pardon, and to say that I was actuated solely by a desire to remove this thing forever from the Halls of Congress, in order that the Representatives of the people might go on in the transaction of that business, and the passage of those measures, in which every section of the country has a deep and lasting interest.

Gentlemen from the South have united in pressing this matter through. I desire to warn them of this fact, that they have inaugurated a new principle that may, in the end, prove fatal to their institution. It is an unjust discrimination between the two different sections of the Union—the proposition that Kansas may come in as a slave State, but that she may not come in as a free State—coupled with another proposition indorsed by the very message which originated this measure, indorsed by every gentleman who has spoken upon this subject except the gentleman from South Carolina, [Mr. KERR,] and the honorable gentleman from Kentucky before me, [Mr. UNDERWOOD,] that, regardless of the restricting provisions of a State constitution, the majority of the people may, at any time, change the constitution, and drive slavery from the State. That principle thus adopted, thus tendered, thus forced by the South upon the North, will reach further than Kansas in the future. If it is the law in Kansas that when she is admitted into the Union under the Lecompton constitution, her people, embracing unnaturalized foreigners, may hold a convention, change the constitution, and abolish slavery, it may be well for Virginia and other slave States to look to the consequences. It would be an easy thing for the North to send down hordes of emigrants from foreign lands, who desire to engage in mining, in manufacturing, and in agricultural pursuits, to cross the Ohio river and enter the district of my friend from Wheeling, [Mr. CLEMENS,] pass through the State, and when they get the power, call a convention, change the constitution of the State, and drive the slaveholders further South. This, Mr. Speaker, is the doctrine proclaimed by the gentleman representing the border district upon the south bank of the Ohio. It is a principle recognized by every gentleman from the South, with the exception of the gentleman from South Carolina and the gentleman from Kentucky.

Mr. BOYCE. Mr. Speaker—

Mr. CLINGMAN. I object to the gentleman yielding the floor.

Mr. CAMPBELL. I see that my friend from North Carolina is anxious that I should close.

Mr. CLINGMAN. Not at all; I desire to hear the gentleman.

Mr. CAMPBELL. I was always desirous of accommodating him, and I will therefore now renew the demand for the previous question.

Mr. GROW. I move that there be a call of the House; and I make the motion for the reason that the gentleman from New York [Mr. HASKIN] desires to speak on this question, and if the House will permit him to be heard, I will withdraw the call.

Mr. DEAN. I call for the yeas and nays.
The yeas and nays were ordered.

Mr. ADRAIN. I have a word to say.

Mr. HUGHES. I object.

Mr. ADRAIN. I hope the House will give me its unanimous consent to proceed.

Several MEMBERS. Object!

Mr. ADRAIN. I was going to say that the gentleman from New York—

[Loud cries of "Order!"]

Mr. HASKIN. I desire to address the House for five minutes; and I hope I will have its consent to do so.

Mr. LETCHER. I object.

The SPEAKER. Debate is not in order. The Clerk will proceed to call the roll.

Mr. CLEMENS. I presume it is in order for the gentleman—

The SPEAKER. The gentleman from Virginia [Mr. CLEMENS] is not in order.

The question was taken; and it was decided in the negative—yeas 85, nays 130; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Bingham, Blair, Bliss, Bratton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Dannel, Davis of Indiana, Davis of Iowa, Dean, Dick, Dodd, Durfee, Eide, Farnsworth, Fenton, Foster, Gilman, Goodell, Goodwin, Granger, Grow, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Maynard, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Pettit, Potter, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Elisha B. Washburne, Israel Washburn, and Wilson—85.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Billingshurst, Bishop, Bocoock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Caskey, Chapman, Ezra Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockrell, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Maryland, Davis of Massachusetts, Dawes, Dewart, Dowdell, Edmundson, Elliott, English, Eastis, Florence, Foley, Garnett, Garrell, Giddings, Gilie, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Mackay, McQueen, Humphrey Marshall, Mason, Miles, Miller, Millson, Moore, Mott, Niblack, Nichols, Pendleton, Peyton, Phelps, Phillips, Pike, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, Talbot, Trippe, Underwood, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollieffer—130.

So the motion for a call of the House was disagreed to.

Pending the above call,

Mr. POTTER said that he hoped that it would be the last time that he would be called on to vote that there be a call of the House.

Mr. GROW. I rise to a privileged question, but will not make it if the gentleman from New York [Mr. HASKIN] can be heard. Let him be heard, and I believe we can settle this question to-day.

Mr. HASKIN. I wish to be heard.

Mr. KEITT. I hope that the House will give the gentleman from New York [Mr. HASKIN] an opportunity to be heard for five or ten minutes.

Mr. BURNETT. I do not agree to that. If gentleman want to filibuster, let them do it.

Mr. GROW. I move, then, that the House adjourn.

Mr. EDIE. And I move that when the House adjourns, it adjourn to meet on Monday next.

Mr. ADRAIN. I have a word to say to the House. When I rose a minute ago, it was not my intention to ask of the House the courtesy to make a speech. I should liked to have done so this morning, explanatory of the reasons which operated in inducing me to give the vote I shall give on this conference report.

Mr. HUGHES. I am constrained to object.

Mr. ADRAIN. I have risen only to ask of the House that the gentleman from New York [Mr. HASKIN] be allowed an opportunity to say what he wishes to say—he will not occupy more than five minutes. Then I am willing that the question shall be taken.

Mr. STEPHENS, of Georgia. I will make a proposition which I think is a fair one—that it be the understanding of all sides that the vote shall be taken to-day at three o'clock.

Mr. CLINGMAN. Only one gentleman from

New York desires to be heard, and he only wishes to speak for five minutes.

Mr. MORGAN. I object to my colleague being limited in time.

Mr. JOHN COCHRANE. I trust that this side of the House will allow my colleague to be heard. We will get at the vote more readily.

Mr. STEPHENS, of Georgia. I trust so, too.

Mr. HASKIN. I shall confine my remarks to the pending question, and in reply to the remarks made this morning by the gentleman from Ohio, [Mr. Cox.]

A MEMBER. How much time are you going to occupy?

Mr. HASKIN. Five or ten minutes.

Mr. HARRIS, of Illinois. I hope the main question will not be ordered until everybody who desires to be heard shall be heard.

Mr. BURNETT. If there can be any understanding by which we shall come to a vote on this question in five, ten, or twenty minutes, then I will withdraw my objection. I was anxious to speak on this subject, as were others, perhaps. But if the gentlemen on the other side want us to give way for the purpose of prolonging this discussion, and filibuster generally, I say let them take the responsibility, and let the facts go to the country. I withdraw my objection.

Mr. MORGAN. I object to any limitation on my colleague. While the gentleman talks of responsibility thrown upon this side of the House, let him be reminded of what that side has been doing from week's end to week's end. I insist that my colleague shall be allowed to occupy the floor as other members have. I ask and take no concessions from the other side.

Mr. HASKIN. If I had been allowed to go on with my remarks, I would not have consumed the time that this colloquy has consumed. When I reached here this morning, I did not intend to speak on this question, thinking that my colleague, [Mr. CLARK], as he had the floor yesterday, would proceed with his remarks this morning—

Mr. HOUSTON. Is there any understanding on this question—that the vote shall be taken at a fixed hour?

Mr. BURNETT. Is the call for the previous question withdrawn?

The SPEAKER. It is still pending. The Chair will see how the matter stands. Does the gentleman from Ohio withdraw the call for the previous question?

Mr. CAMPBELL. I was indebted to the kindness of the gentleman from South Carolina, [Mr. BONHAM], and also the gentleman from Alabama, [Mr. SHORTER], for an opportunity to address the House, with the understanding that when I finished my remarks I should renew the call for the previous question.

I refused to take any other terms than those which they had had. I now understand that both of these gentlemen consent that I shall withdraw the previous question.

Mr. BONHAM. For the gentleman from New York.

Mr. CAMPBELL. For the gentleman from New York, with the understanding that he renews the demand for the previous question.

Mr. HASKIN. I will renew it, but I will not vote for it, because I am not in favor of stifling discussion upon this important question.

Mr. CAMPBELL. In the hope that all sides of the House will come to a vote, and meet their responsibility—

Mr. BONHAM. Am I to understand that this is to be the end of the debate?

Mr. HASKIN. Oh, no.

Mr. CLINGMAN. I hope, now that the previous question is withdrawn, that the gentleman from New York will be allowed to proceed.

Mr. HASKIN. I was about remarking that I had not intended to address the House on the pending question, inasmuch as when the House adjourned yesterday my colleague [Mr. CLARK] had obtained the floor, and I had supposed that he would have been well enough on this occasion to have given to the country and to the House those views which the anti-Lecompton Democrats, still remaining true to their original proposition, entertain. But the illness of my colleague has prevented this, and has compelled me to make these remarks; and especially has the debate this morning between the gentleman from Ohio, [Mr. CAMPBELL], on the Republican side of the House,

and the member from Ohio, [Mr. Cox], on the Democratic side of the House, rendered it necessary that I should say something in reply to the gentleman from Ohio, [Mr. Cox.] A letter was read here, purporting to have come from the gentleman from Ohio, [Mr. Cox], denouncing the Lecompton constitution. The impression might rest upon the members of this House, and upon the country, that that gentleman was, at a certain time, opposed not only to the Lecompton constitution as it was asked to be voted on in the Senate bill, but to the Lecompton constitution as it was referred to in the Crittenden-Montgomery amendment. I desire to state to the House, and to the country, that on Monday last, late in the afternoon, that gentleman came to this desk and read a letter addressed, I believe, to the Ohio Statesman, denouncing the report of the committee of conference as the most infamous which had been or could be made upon the subject, and denouncing the chairman of the committee of conference for having made such a report.

Mr. COX. That is not true.

Mr. HASKIN. I will prove it by the gentleman from Illinois, [Mr. HARRIS.]

Mr. COX. I can furnish the letter, and show it is not so.

Mr. FLORENCE. Is this in order, Mr. Speaker?

The SPEAKER. It is out of order.

Mr. FLORENCE. The gentleman from New York is not in order in assailing the motives of the gentleman from Ohio.

Mr. HASKIN. I am proving the fact, so that the country may judge when it was that the gentleman from Ohio obtained his new lights.

Mr. FLORENCE. I insist that it is not pertinent to the question before the House.

Mr. HOUSTON. I rise to a point of order. I understand we are now in the House in debate, and under the rules of the House debate must be relevant, and pertinent to the issue before the House.

Mr. FLORENCE. And further than that—

[Calls of "Order!"]

Mr. HASKIN. The remarks I have been making are only in reply to the remarks addressed to the House to-day by the gentleman from Ohio, in explanation of his remarks yesterday.

Mr. HOUSTON. I insist on my point of order.

The SPEAKER. The gentleman will suspend until the gentleman from Alabama states his point of order.

Mr. HOUSTON. I have stated substantially my point of order—that the remarks of the gentleman from New York are irrelevant, and do not relate to or touch the question before the House, and as such I insist that they are not in order.

At this juncture Mr. Cox approached the seat of the gentleman from New York, [Mr. HASKIN.]

The SPEAKER, (amid much confusion, excitement, and calls to order.) The gentleman from Ohio will please resume his seat.

Mr. COX, (resuming his seat.) I hope, Mr. Speaker, I shall have an opportunity to answer the gentleman.

Mr. HASKIN. I desire to say, further, that on Tuesday night following, I met the gentleman from Ohio, when he said to me, distinctly, that he and his colleague [Mr. LAWRENCE] were against the proposition of the committee of conference. [Interruption and great confusion in the Hall.]

Mr. BURNETT. I rise to a question of order. The gentleman from New York has no right to proceed.

The SPEAKER. The gentleman from New York must perceive that his remarks are assuming a personal character, and that they are not admissible under the rules of the House. The gentleman can proceed, and give any reasons for or against the passage of the bill, of the amendment, or of the report of the committee of conference; but he cannot indulge in personalities.

Mr. HASKIN. I am not impugning motives, but am simply giving facts and circumstances in regard to the change of views of anti-Lecompton Democrats.

Mr. HOUSTON. I rise to a question of order. I insist that the gentleman from New York shall be required to take his seat, as being out of order.

Mr. HASKIN. Well, I will refrain from any further continuance of these remarks. What I have stated thus far is true, and I will now

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, MAY 4, 1858.

NEW SERIES.....No. 120.

address myself to what pertains to the bill before the House.

The SPEAKER. The gentleman from New York will proceed in order.

Mr. HOUSTON. It is for the House to give the gentleman permission to go on.

The SPEAKER. But it is usual for the House to give that permission.

Mr. HOUSTON. It is hardly usual to give it under such circumstances, when the gentleman abuses the privileges of the House.

Mr. HASKIN. I thought that what I was saying was pertinent to this occasion. As there were twenty-three of us anti-Lecompton Democrats who started out against the Senate bill, and voted to adhere to the Crittenden-Montgomery amendment, I thought that I should state to the House that though that number has been decimated, and though but twelve—the number of the Apostles—[cries of "Order!" "Order!"] remained, that there was not remaining among them a Judas, and that we would to the last maintain our honor. And I thought it was pertinent to this case that I should show to the House, and to the country, that the gentleman from Ohio, and some others acting with him, have seen new light within a few days upon this subject, and should ask him to give that light to the country.

Mr. COX. Will the gentleman allow me to answer him here?

Mr. HASKIN. Yes, sir.

Mr. COX. I stated to the House very frankly yesterday, that my first impression was against the report of the conference committee.

Mr. BINGHAM. Oh yes; yes.

Mr. COX. That was my impression at first. I did not like the bill as reported from the committee of conference. I do not like it yet, as I stated yesterday. It does not meet my views fully. I discussed yesterday the objection I had to it, just exactly as I did in the letter to the Ohio Statesman, to which the gentleman from New York referred. In that letter I stated all the objections to the bill of the committee of conference that occurred to me then, and gave them also as the objections of Judge DOUGLAS. I then went on and asked the best judgment of my friends in Ohio in regard to the passage of this conference bill. I also gave my opinion upon both sides of the matter, but I am free to say that at that time my best impression was against this conference report, because I then believed it discriminated against the free States and in favor of the slave States.

Mr. HASKIN. Since that time you have got new light.

Mr. COX. Since that time I have sought the best information I could, in the discharge of my duty. I have conversed with Governor Walker in relation to this subject. I asked his opinion about it, and his opinion in relation to the population of Kansas, and his statements have controlled my views in this matter.

The gentleman from New York knows I have acted with him in good faith. He knows that I have had great reluctance in taking the ground I have taken, and he should not insinuate that I am a Judas.

Mr. HASKIN. I have not said you were a Judas.

Mr. COX. You insinuate it. The gentleman knows very well that no man, from the Administration or from any other source, has dared to approach me on this subject. Not one. I have kept myself aloof from all other influences save those of an honest mind and a pure heart. I have decided the question for myself; and any man who says to the contrary, or insinuates to the contrary, has not a worthy place upon this floor. I know that my friend from New York, knowing me as he has done for the last four months, knows that I would be unworthy of association with him, or with members of this House, if I should betray his confidence, or should prove recreant to all I have said and thought in reference to this question.

Mr. HASKIN. I know you said the other day that you were against this bill.

Mr. COX. That was my best judgment at the time; but according to my best information—and I appeal to Heaven for the rectitude of my intentions—this constitution is practically though not in form submitted to the people of Kansas. They have the choice to accept it or to reject it. On that condition being fulfilled as a condition precedent to the admission of Kansas, I was willing to come in with my party friends, and do the best I can for them, although this bill is not perfect in all respects.

My friend from New York—if the gentleman will allow me still to call him friend—does not mean to impute anything against my integrity in this matter?

Mr. HASKIN. I would like now to be allowed to proceed to give my reasons for opposing this bill.

Mr. COX. I ask the gentleman, in the presence of this House, whether he imputes any improper motives to me—any falsehood or recreancy on my part?

Mr. HASKIN. I leave that to the country to determine.

Mr. COX. If you do, sir, I have an epithet—[Loud cries of "Order!" and indescribable confusion.]

The SPEAKER. Gentlemen cannot be permitted to indulge in personalities in debate. The Chair will be under the necessity of calling upon the Sergeant-at-Arms to interpose. The Chair feels it to be his duty, after the exhibitions we have had here, to prohibit anything like personalities in debate in future, and he will do it if the House will sustain him.

Mr. COX. The trouble with me has been—[Loud cries of "Order!"]

The SPEAKER. The gentleman from New York [Mr. HASKIN] is entitled to the floor.

Mr. COX. I had not quite finished the remark which I was permitted by the gentleman to make.

The SPEAKER. The gentleman from Ohio will please resume his seat.

Mr. ADRAIN. I hope the gentleman from New York will indulge me for just one moment. I have been acting with him, and expect to act with him to the end of this struggle.

Mr. BURNETT. I object to this, unless the door is to be opened for debate all round.

Mr. ADRAIN. I have but a word to say in relation to my friend from Ohio, [Mr. Cox.] He is certainly placed in an embarrassing position here this morning. Bad and improper motives might be attributed to him. Now, from the intercourse I have had with Mr. Cox, from the first moment I became acquainted with him down to this hour, I believe him to be a pure, high-minded, and honorable gentleman. It is true he has changed his opinion upon this subject, but he had a perfect right to do so.

Mr. HUGHES. I object to this.

Mr. ADRAIN. Oh, that gentleman is always objecting. [Laughter.] I thought it due to Mr. Cox to say what I have said; and, although he differs with me upon this question, to bear testimony to his character.

Mr. HASKIN. Mr. Speaker, I desire now to give the reasons, very briefly, why I shall vote against the bill reported by the committee of conference. This little episode which has just occurred, has grown out of the desire on my part to vindicate those anti-Lecompton Democrats who have remained true to their position. I agree with the member from Ohio [Mr. Cox] in his written statement, that this proposition is the meanest bill yet proposed.

[Cries of "Good! good!"]

Mr. COX, (in his seat.) I never made such a statement.

Mr. HASKIN. I agree with the distinguished gentleman from Mississippi, [Mr. QUITMAN,] that under this report of the committee of conference there will be a submission of the Lecompton constitution to the people of Kansas.

Mr. BOWIE, (in his seat.) I dispute that. [Laughter.]

Mr. HASKIN. It is an alternative proposi-

tion, under which the people of Kansas can be admitted into the Union under the Lecompton constitution now, but cannot be admitted under any other constitution until they have a population of over ninety-three thousand. I say, sir, that the plan of submission is of a thimble-rigging character; that it attempts to reach by indirection what the South should always attempt to reach by direction.

We have heard gentlemen upon the floor of this House advocating the passage of this bill upon the doctrine enunciated by the Charleston Mercury three or four months since, that Kansas is now a State under the Lecompton constitution; that that constitution has been regularly adopted; that it has been conceived and brought forth legally; that the only question now is, whether the State shall be admitted into the Union or not; but that, as a State out of the Union, she is, to all intents and purposes, now in existence, with a legal constitution, to wit, the Lecompton constitution. I object to the form of submission under this bill, because it does not, in a direct manner, attain the end which I, as a northern man, should have wished to attain.

But the great objection with me is, that by the alternative proposition made in this bill, the North is degraded, while I think the South is dishonored. I can see no reason why, if over ten thousand people, on the 4th of January last, were in favor of a free-State constitution, and against this Lecompton constitution, they should be debarred the privilege, at any time hereafter, of voting in favor of a proposition which will carry out their wishes. I know that there are over thirteen millions of people in the free States, and only about six millions in the slave States, excluding the blacks. And to degrade the people of the North, by saying that a free-State constitution shall not at once be submitted to the people of Kansas, is one of those things which I, as a northern Democrat, must repudiate and protest against. Sir, in the last presidential election but little over one million votes were cast in the slave States, while over three million votes were cast in the free States; and I have yet to learn that three or four men in the North are not as good as three or four men in the South, if they are white men, and especially if they behave themselves. [Laughter.] I really and sincerely believe that in every northern State this question will be understood by the people, and that if this proposition is carried through, the Democratic party in the northern States will be dismembered. It is because I wish to see the Democratic party triumphant in the next fall elections, and in 1860, that I oppose the passage of this bill.

Mr. Speaker, in the remarks which I have made I have not designed to give offense to the member from Ohio, [Mr. Cox,] or to any one else; but I have stated facts for the purpose of vindicating the twelve or thirteen anti-Lecompton Democrats from the North, who, from consistency and pure motives, will oppose this measure to the bitter end. In accordance with my promise, I now demand the previous question.

The previous question was seconded; and the main question ordered.

Mr. CAMPBELL demanded the yeas and nays on agreeing to the report of the committee of conference.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 103; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bocock, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Dewart, Dowdell, Edmundson, Elliott, English, Eastis, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landry, Lawrence, Leidy, Leitcher, Maclay, McQueen, Mason, Vaynard, Miles, Miller, Millson, Moore, Niblack, Pettibon, Peyton, Phelps, Phillips, Powell, Ready, Reagan, Reilly, Ruffin, Russell, Sandridge, Savage, Seales, Scott, Seafaring, Seward, Henry M. Shaw, Shorter, Sickles, Singleton,

Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, Talbot, Trippe, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—113.

YAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Bingham, Blair, Bliss, Bonham, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hickman, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Quitman, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, and Wilson—103.

So the report was agreed to.

Pending the call of the yeas and nays,

Mr. FAULKNER, when his name was called, said he regretted he could not cast his vote in the affirmative. He had paired off with Mr. MORRILL. Mr. JONES, of Tennessee, stated that Mr. STEWART, of Maryland, had paired off with Mr. THOMPSON.

Mr. BOWIE said: Mr. Speaker, is my name recorded?

The SPEAKER. The gentleman's name is recorded in the affirmative.

Mr. BOWIE. Mr. Speaker, we are told that Rome was once saved by the gabbling of geese: our glorious country is now saved by the babbling of—statesmen. [Laughter, and calls to order.]

Mr. TAYLOR, of New York, said he regretted exceedingly that his pair with the gentleman from Maine, [Mr. Wood,] prevented him from voting in the affirmative.

Mr. TAYLOR, of Louisiana, stated that he had paired off with Mr. KUNKEL, of Pennsylvania, or he should have voted for the bill.

Mr. NICHOLS stated that his colleague, Mr. HORTON, had paired off for the day with Mr. HULL.

Mr. GROW stated that Mr. MONTGOMERY had paired off with Mr. WARREN.

Mr. RITCHIE stated that Mr. PURVIANCE had paired off with Mr. DIMMICK.

Mr. BISHOP stated that his colleague, Mr. ARNOLD, had paired off with Mr. WASHBURN, of Wisconsin.

Mr. BRYAN said: Because the South votes "ay," I vote "ay."

The vote having been announced,

Mr. ENGLISH moved to reconsider the vote by which the report of the committee of conference was agreed to, and also moved to lay the motion to reconsider on the table.

Mr. WASHBURN, of Illinois, called for the yeas and nays on the latter motion.

Mr. CAMPBELL. I hope the gentleman will withdraw his call for the yeas and nays. The battle is over.

Mr. WASHBURN, of Illinois. I do not withdraw the demand. The battle is not over. I will fight it out to the last.

Mr. MORGAN. If the gentleman does withdraw the demand, I will renew it.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 100; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Boccock, Bonham, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockrell, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Florence, Foley, Garrett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Gladney Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McQueen, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Rufin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, William Smith, Stallworth, Stephens, Stevenson, Talbot, Trippe, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—113.

NAYS—Messrs. Abbott, Adrain, Arnold, Bennett, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Horace F. Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis

of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hickman, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, and Wilson—100.

So the motion to reconsider was laid on the table.

Pending the call of the roll, Mr. MARSHALL, of Kentucky, stated that he had paired off with Mr. SMITH, of Tennessee.

Mr. BONHAM said: Upon reflection, I think I have not given the vote I should have given. As this bill cannot be amended if the vote is reconsidered, I change my vote and vote in the affirmative.

TARIFF COMMITTEE.

Mr. STANTON. I rise to a privileged question, which will occupy the House but a moment. The select committee appointed to investigate the expenditure of money to procure the passage of the tariff of 1857, have instructed me to offer the following resolution:

Resolved, That the select committee appointed to investigate the expenditure of money to procure the passage of the tariff of 1857, have power to authorize any two members of said committee to take the testimony of any witness, who, by reason of sickness or any other cause, cannot be brought before said committee, at such time and place as the members so authorized may deem expedient; and that they have leave to sit during the sittings of the House.

I desire to say to the House that a witness, whose testimony is deemed very material by the committee, cannot be brought on to Washington. It is not desirable that the whole committee should be compelled to travel any considerable distance to take testimony. The committee, therefore, thought it would relieve them from all difficulty if the House would authorize them to detail two of their number to proceed and take the testimony of this witness. That is all. I presume there will be no objection.

Mr. HOUSTON. I shall object to that resolution at present, unless I hear something more about it. I do not understand it very well, but it seems to be an invasion of, or a very marked departure from, the proceedings of committees of the House heretofore. I desire to know whether the witness will not be able to be here before the session closes? It does seem to me that these investigating committees have already taken a very wide range in eliciting the truth on the subjects they were authorized to investigate, and that if this witness will be likely to be able to be here at any time before the termination of the session it will be infinitely better to wait, than to depart from the rules of the House.

There are two reasons why I think this resolution ought not to pass, unless the circumstances are such as to leave us no discretion. In the first place I object to giving committees permission to travel all over the country; and then again, in my opinion, it is improper that one or two members of a committee shall be permitted to take testimony which must be indorsed by the whole committee, and which the whole House is called upon to indorse.

Mr. STANTON. The only effect of this resolution is to authorize two to make a quorum instead of three, which the rules now require. As I understand it, that is the only change which it makes in that particular.

Mr. HOUSTON. The gentleman is mistaken in this. It is a departure in another very material point. The committees of all descriptions of this House, have their regular place of meeting. This resolution authorizes this committee instead of meeting in their room, to meet in New York, New Orleans, San Francisco, or any other point; for when you once depart from the rule, a majority of the committee may authorize a minority to go all over the country.

Mr. MAYNARD. I wish to ask the gentleman from Ohio a single question. I wish to know whether this resolution meets the concurrence of the entire committee?

Mr. STANTON. Certainly; it is reported with the unanimous consent of the committee. I wish to say that the witness whose testimony it is desired should be taken is in Philadelphia, and that

two members of the committee will only be absent for two days from the sessions of the House. That is the extent of the power sought to be conferred upon the committee by this resolution. The committee regard the testimony as exceedingly important. We have delayed to close the report for a considerable time, for several weeks, waiting for the testimony of this single witness. It is not probable that he can be brought here during the session, on account of the state of his health. We do not believe the facts can be developed satisfactorily without this testimony. The gentleman from Alabama, [Mr. Moore,] and myself shall, to-morrow, proceed to Philadelphia, if the House gives authority. I call the previous question upon the resolution.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. STANTON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. CLARK, of New York. Mr. Speaker, I desire to call the attention of the House, for a few moments, to the subject of the misunderstanding, which we all regretted to observe this morning, between my friend and colleague from New York, [Mr. HASKIN,] and my friend from Ohio, [Mr. Cox,] I am the personal friend of both of these gentlemen, and I have sympathized with both from the time that this unfortunate Kansas entanglement arose. At this hour each has my entire confidence; and no one, sir, has regretted more than I have that any such misunderstanding should have arisen.

I have been present at a personal interview between these gentlemen; and I desire to inform the House, in whose presence their unfriendly controversy took place, that my colleague was actuated in what he said by reflections, not unnatural, but nevertheless, in my opinion, unwarrantable. My colleague felt irritated, because he had supposed that, in the remarks which my friend from Ohio [Mr. Cox] made yesterday, when abandoning his recent associates, that he had taken occasion to send back a Parthian arrow into the camp from which my colleague supposed that he had fled. But, sir, an explanation has taken place; and, on referring to the remarks made by the gentleman from Ohio, they do him, in my judgment signal honor; and the critical examination of them has removed from the mind of my colleague all suspicion that the abandonment by my friend from Ohio of the platform upon which, but a few days since, he, my colleague from New York, and myself stood, was influenced by any improper motive. I believe it is an abandonment that has resulted from principle; and that therefore the path which he followed was the path of duty and the path of honor. I am instructed by my friend and colleague [Mr. HASKIN] to say that he withdraws any imputation upon the personal integrity of my friend from Ohio; and I am authorized by the honorable gentleman from Ohio to say that he cheerfully accepts the explanation which I have risen to make.

Mr. NICHOLS. This Kansas question is disposed of, and heretofore, I think, it has been customary, after a great excitement, to have a calm; therefore I move that when the House adjourns it adjourn to meet on Monday next.

Mr. MORGAN demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 74; as follows:

YEAS—Messrs. Ahl, Anderson, Bennett, Bishop, Blair, Bonham, Bowie, Boyce, Bryan, Burns, Burroughs, Caruthers, Caskie, Ezra Clark, Horace F. Clark, John B. Clark, Clay, Clemens, Clark B. Cochrane, John Cochrane, Cockrell, James Craig, Burton Craige, Crawford, Davis of Indiana, Davis of Iowa, Dean, Dick, Dowdell, Edie, Edmundson, Elliott, Eustis, Fenton, Florence, Garrett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Hughes, Keitt, Kellogg, Jacob M. Kunkel, Lamar, Leidy, Letcher, McKibbin, McQueen, Humphrey Marshall, Mason, Miles, Mott, Niblack, Nichols, Olin, Phelps, Powell, Quitman, Reagan, Reilly, Rufin, Russell, Searing, Aaron Shaw, Judson W. Sherman, Sickles, Singleton, Samuel A. Smith, William Smith, Spinner, Stallworth, Stevenson, William Stewart, Talbot, Miles Taylor, White, Whiteley, Augustus R. Wright, and Zollicoffer—81.

NAYS—Messrs. Abbott, Andrews, Bingham, Bliss, Boccock, Branch, Brayton, Buffinton, Burlingame, Burnett, Case, Chaffee, Clawson, Cobb, Colfax, Comins, Covode, Cox, Cragin, Curtis, Damrell, Davis of Massachusetts, De-

wart, Dodd, Faulkner, Foley, Foster, Garnett, Giddings, Gilman, Granger, Greenwood, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Dickinson, Houston, Howard, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Samuel S. Marshall, Millson, Morgan, Edward Joy Morris, Freeman H. Morse, Peyton, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Sandidge, Seales, Henry M. Shaw, John Sherman, Stanton, Tappan, Tompkins, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, and Israel Washburn—74.

So the motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, their Chief Clerk, notifying the House that that body had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the Kansas bill.

MINNESOTA CENSUS EXPENSES.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting a statement of the expenses of taking the census of Minnesota Territory; which was referred to the Committee of Ways and Means, and ordered to be printed.

And then, on motion of Mr. FLORENCE, the House (at half past three o'clock, p. m.) adjourned.

IN SENATE.

MONDAY, May 3, 1858.

Prayer by Rev. C. H. HALL.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented the petition of Matthew Flausburgh, a soldier in the war of the Revolution, praying for a pension; which was referred to the Committee on Pensions.

Mr. HALE presented a petition of Joseph Humphries, praying that the Secretary of the Navy may be authorized to test his patent "floating anchor or drag," for vessels to ride by in heavy gales of wind at sea, with a view to its adoption in the Navy; which was referred to the Committee on Naval Affairs.

He also presented a memorial of John Beeson, praying for a warrant for lands on which he had settled in Oregon, and from which he was driven; and also indemnity for losses resulting from the same; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the memorial of James McCutcheon, praying for an increase of his pension, reported adversely thereon, and asked to be discharged from its further consideration; which was agreed to.

Mr. TRUMBULL, from the Committee on Patents and the Patent Office, to whom was referred the memorial of M. C. Gritzner, submitted a report, accompanied by a bill (S. No. 308) for his relief. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. EVANS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution by Mr. Foor, on the 26th of January last, in relation to the compensation of the first or principal messenger in the office of the Secretary of the Senate, reported it, with an amendment.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Samuel H. Taylor, submitted a report, accompanied by a bill (S. No. 306) for the relief of Samuel H. Taylor. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred the report of the Secretary of the Navy, in answer to a resolution of the Senate for information in relation to the publication of the results of the United States naval exploring expedition to the North Pacific ocean and China seas, and also of the results of the United States naval expedition to the La Plata river, reported in favor of printing the same; and the report was agreed to.

AGRICULTURAL COLLEGE IN IOWA.

Mr. HARLAN. The Committee on Public Lands, to whom was referred the memorial of the Legislature of the State of Iowa, asking Congress to divert the grant of land heretofore made to that

State for public buildings, to an agricultural college, have instructed me to report a joint resolution to accomplish that object; and as I suppose there will be no objection to its passage, I ask for its consideration now.

The joint resolution (S. No. 39) removing the restrictions upon a certain grant of five sections of land to the State of Iowa, was read, and considered as in Committee of the Whole. As the State of Iowa is desirous of diverting the five sections of land granted by Congress to that State for completing its public buildings to other purposes, the capital of that State having been changed since the grant of the five sections of land was made, the joint resolution proposes to rescind the restriction imposed by the third subdivision of the sixth section of the act granting the land, and to release to the State of Iowa all the right, title, and interest of the United States, in and to those sections of land.

It was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NOTICE OF A BILL.

Mr. PUGH gave notice of his intention to ask leave to introduce a bill to authorize the circuit and district courts to provide for the service of process whenever a vacancy exists in the office of marshal of the United States.

BILLS INTRODUCED.

Mr. KENNEDY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 304) to establish a line of mail steamships between certain ports in the United States and Great Britain; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. BRIGHT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 305) to complete the construction of military roads in the Territory of Washington; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

Mr. HAMLIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 307) to authorize the Secretary of the Treasury to sell the old custom-house and site, in Bath, Maine, and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

PURCHASE OF LIME POINT.

Mr. BRODERICK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and is hereby, requested to inform the Senate what contracts, if any, have been entered into by the Department for the purchase of Lime Point, in California, for military purposes.

CALIFORNIA WAR CLAIMS.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia be, and they are hereby, instructed to inquire into the expediency of providing by law for the payment of such claims against the United States as have been favorably reported upon by the board of Army officers, (appointed under the sixth section of the act approved August 31, 1852,) in their report to Congress dated December 5, 1854.

ENROLLED BILLS SIGNED.

A message was received from the House of Representatives by Mr. ALLEN, its Clerk, informing the Senate that the Speaker had signed the following enrolled bills and joint resolution; which thereupon received the signature of the Vice President.

An act (S. No. 36) to provide for the issuing, service, and return, of original and final process in the circuit and district courts of the United States in certain cases.

An act (S. No. 76) to incorporate Gonzaga College, in the city of Washington and District of Columbia.

An act (S. No. 97) to incorporate the Benevolent Christian Association of Washington city.

An act (S. No. 111) to alter the times of holding the circuit and district courts of the United States for the district of Vermont.

An act (S. No. 161) for the admission of the State of Kansas into the Union.

A joint resolution (S. No. 22) providing for the payment of certain expenses of holding the United States courts in the Territory of Utah; and

An act (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858.

INTERNAL IMPROVEMENTS.

Mr. CHANDLER. I desire now to call up the resolution I offered last week, directing the Committee on Commerce to report the bill referred to them, making an appropriation for deepening the channel over the St. Clair flats, in the State of Michigan.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the following resolution submitted by Mr. CHANDLER on the 24th of April:

Resolved, That the Committee on Commerce be instructed to report the bill heretofore referred to them, making an appropriation for the completion of the channel over the St. Clair flats in the State of Michigan, and that the appropriation be reduced to \$55,000.

Mr. CHANDLER. I do not propose to discuss this proposition, but I should like to have a vote upon it. I hold in my hand a report of the engineer of the work, stating that he has now four dredges and two tug-boats at work on the flats, and he estimates that \$55,000 will finish the channel. The channel has stood much better than he anticipated—in fact, is unimpaired; and this little appropriation of \$55,000 will complete the work. I hope the Senate will allow this resolution to come to a vote as a test question.

Mr. CLAY. I must object to the consideration of the resolution at this time. The entire committee, with perhaps a single exception, is committed against making any appropriations for works of internal improvement during this session, unless they be indispensable for the preservation of works already constructed to prevent their decay and destruction; and hence the resolution must lead to debate. I certainly shall resist any such instruction to the committee. I trust however, it will be laid over until another day. Indeed, I have a right to object to its consideration now.

Mr. CHANDLER. It has been objected to once.

Mr. HAMLIN. It is now under consideration. The PRESIDENT *pro tempore*. The chair will inform the Senator from Alabama that the resolution is now before the body by a vote of the Senate. It has not been offered to-day: it was offered on a previous occasion.

Mr. CLAY. Then I move to lay the resolution on the table, as I do not wish to invoke any discussion now.

Mr. CHANDLER. The vote on that will be just as satisfactory as a test question. On that motion, therefore, I call for the yeas and nays. I desire this to be a test vote on the appropriation. The yeas and nays were ordered.

Mr. SEWARD. I desire to say that the honorable Senator from Massachusetts (Mr. WILSON) has been called home for a day or two, and has paired off with the honorable Senator from Louisiana, (Mr. BENJAMIN.) I was made an umpire to decide what should be party questions between the two gentlemen. I think I shall decide that they have paired off on this question.

The question being taken, resulted—yeas 20, nays 21, as follows:

YEAS—Messrs. Allen, Bayard, Biggs, Bigler, Clay, Evans, Fitzpatrick, Green, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mason, Pugh, Sebastian, Silldell, and Toombs—20.

NAYS—Messrs. Bell, Bright, Broderick, Chandler, Colamer, Crittenden, Doollittle, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Jones, King, Polk, Seward, Simmons, Stuart, and Trumbull—21.

So the motion to lay on the table was not agreed to.

Mr. CLAY. I call for the reading of the resolution.

The Secretary read it.

Mr. CHANDLER. I hold in my hand a letter from the engineer in charge of the work, in which he says.

"The work upon St. Clair flats has been recommenced; and I am happy to inform you that my examinations prove that the cut made last year remains constant. It has not filled up as many predicted.

"Three dredges and one tug are now at work widening the cut. I expect another dredge and another tug from Buffalo for this work in a few days. With these four dredges and two steam tugs, the remnant of the last appropriation will soon be used up. Therefore I have considerable anxiety in relation to the addition for which Congress has been asked. Upon the fate of that bill depends the question of success."

I likewise have his estimate stating that \$55,000 will complete this great work. There is around that channel a detour of nearly seven miles; more than four hundred million dollars of commerce are passing over that cut every year; and the small sum of \$55,000 will complete a channel that will every year save four or five times that amount. I trust this matter will be brought to a vote. I shall not undertake to discuss it. It is a plain proposition. I shall only say that unless this appropriation be made, and made very soon, the money which has been previously expended will be useless and wasted.

Mr. CLAY. This resolution is a very unusual and extraordinary one in its character, and it is supported in a most extraordinary manner. For the Senate to assume to instruct the Committee on Commerce what they shall do in relation to any measure referred to that committee, is tantamount to taking from them all discretion or judgment about the bill proposed. It is idle for the committee to seek information from the Treasury Department or the War Department in relation to these works, if that is all to go for naught, and they are simply to be the registers of the will of the Senate, as they may dictate it here in a vote of instruction. These matters have all been under the consideration of the committee. They have sought information about them from the proper sources in the Government; and here comes forward the Senator from Michigan, and upon the authority of a private letter to him, offers information to the Senate not obtained from other sources, and seeks, by offering that information, to instruct the Committee on Commerce what they shall do.

Now, sir, the very proposition, when explained, should work its own condemnation. What is the use of our having Cabinet officers to sit at the other end of the avenue? What is the use of having a board of engineers to supervise these works, and to report to the War Department what is requisite; if all this is to be put aside or outweighed by testimony communicated by an officer in a private letter to a member of the Senate?

Why, sir, I regard it as insulting to the committee to instruct them to report a bill with a particular amount of appropriation for any particular work. For myself, I would spurn such instructions. I would refuse to do so if it was contrary to my own judgment. I might report the bill back for the action of the Senate; but as to sitting in a committee-room merely to register the edicts of a majority of the Senate, I should scorn myself if I were capable of doing it. Now, sir, I think that the Senate certainly voted against laying this resolution on the table without due consideration. Where are the reports of the board of engineers?

Mr. CHANDLER. Before the committee—submitted by me.

Mr. CLAY. Where is the report of the Secretary of War?

Mr. CHANDLER. Before the committee.

Mr. CLAY. How does the Senate know that this work has the approval of that officer? I submit that this is a most inappropriate way, and a most unusual manner of proceeding in the Senate—one that is without the warrant of any precedent, so far as I know, and one that I hope will not be followed. I trust that the Senate will not vote for this resolution. If they do so, it will be followed, doubtless, by similar resolutions offered by other Senators interested in local works, and the consequence will be that your Committee on Commerce will dwindle into utter insignificance and uselessness, and you might as well abolish it.

Mr. HAMLIN. I am myself gratified that the Senator from Michigan has seen fit to offer this resolution for the consideration of the Senate. I view it in an entirely different light from the chairman of the Committee on Commerce. I think it is appropriate; I think it is just; I think the action of that committee demanded this resolution.

The Senator from Alabama inquires of us of what use are Cabinet officers; of what use are topographical engineers, if the Senate is to take the direction of these matters into its own hands? Well, sir; I do not know that we have these persons, appropriately or specifically for the purpose of following precisely what they say. We listen to all they have to say, and we shall be guided by whatever they say so far as it commends itself to our judgment; not beyond that. But I ask a question, I think quite as pertinent: what is the

use of a Senate, if the Committee on Commerce, or Cabinet officers, or topographical engineers, are to control it? Now, sir, I think this Committee on Commerce is the creature of the Senate, is within its control; and when a majority of that committee, in their own judgment, come to a conclusion that does not meet the judgment of the Senate, what is the use of having a Senate if you do not direct the committee what to do? If they are anything more than the mere servants of this body, I should like very well to know what they are. If the Committee on Commerce is to control all these matters, without reporting a solitary bill back to this body, so that the Senate may either affirm or reject that report, I ask again, what is the use of having a Senate? Is everything within the control of that committee? Are they omnipotent?

I am not saying that they may not be right in their opinion; I am not saying that they are wrong; but I am viewing the position in the light in which the Senator from Alabama has presented it. The Senator has told us this morning himself that the Committee on Commerce have agreed to make no appropriations except in specific cases, where, on examination, it should be found that appropriations were necessary to prevent works from going to decay. That is the judgment of the committee. Is it the judgment of the Senate? That is the question. I do not know that this appropriation is the strongest one that can be presented; I am not well enough informed on the subject to judge; but that it is a case of great merit, I do know.

I said, sir, that I was glad this resolution had been offered, and simply for this reason: the Committee on Commerce, as the chairman has told you, have come to the conclusion to make no recommendation whatever for works of this character. If that be the sense of the Senate, then there is no necessity for the committee taking further action. If it be not the sense of the Senate, and if the Senate, in its judgment, shall deem it advisable to appropriate any sums for any purposes of this kind, they may take a test vote on this resolution, and the committee may report this bill back; and while, as I said, I do not know that it is the strongest case which may be presented, we may get at the judgment of the Senate as to what will be done on the question generally; and for that reason I am glad the resolution was offered.

I take this occasion to say that I did not agree with the majority of the committee in their determination, which has been announced by the chairman, and I will state also that I stood alone. If a majority of the Senate should be of a different opinion from that committee, certainly—here I differ with the chairman—I cannot view it as any disrespect to the committee; I cannot view it as any reflection on the committee, in any way. I doubt not that the committee have acted as they believed wisest and best, although their action did not meet my judgment then; it does not meet my judgment now. I know very well that in the embarrassed state of the Treasury, we ought to be more guarded, more careful, than usual in our expenditures, and we ought to make them in a more limited manner than we should be apt to do under a different state of things; but that we should make none whatever, I do not agree to. I hope the resolution may be allowed to pass the Senate, simply for the purpose of sending this one bill here, and letting us have the judgment of the Senate upon it; and, according to that judgment, I have no doubt the committee would cheerfully act.

Mr. CLAY. A simple instruction to the committee to report back a bill would not in itself be obnoxious to some of the objections which I have made. But, sir, this is a resolution of a different character. It is an instruction to the committee to report back a bill appropriating a particular sum of money for the improvement of this channel; and it is directing the committee, contrary to their own judgment, excepting the single Senator from Maine, as he has just stated, to report a bill which they regard as inexpedient and improper. I say that, under these circumstances, such a resolution is offensive to the committee. It is taking away all discretion from them, and making them do what the Senate may dictate, although they may disapprove of the particular measure.

If the Senator from Michigan had simply asked for a resolution of instruction to the committee to

report back his bill for the action of the Senate, I should not have opposed it; but to instruct them to report a bill making a particular appropriation, I do object to, as offensive to the committee, and as unbecoming the Senate.

Mr. HAMLIN. The whole of the matter is in a nutshell. A bill has been referred to the Committee on Commerce, appropriating a larger sum than that which is now named. The engineer says to us that a smaller sum will answer, and the object is only to diminish the sum. When the bill shall have been reported back with a diminished sum, then the whole question will be before the Senate; because, if we act under this resolution, what do we do? We report the bill back with an amendment. There will be the bill before the Senate as it was originally referred, and the amendment in compliance with this resolution. Both propositions will be before the Senate, and it is a simple direction to reduce the amount; that is all.

Mr. CHANDLER. I will state that I had the honor to introduce a bill appropriating \$100,000 for the completion of this work, which sum, at that time, I supposed would be requisite. I afterwards applied at the Department, obtained maps and estimates—in fact all the information that could be obtained at the Department—and submitted it to the committee through the honorable Senator from Maine. I do not object at all to the amendment to my resolution suggested by the chairman, so as to leave it a simple resolution to report back the bill. The amount which I have named is the precise amount, or varies but a few dollars from the amount, which the Department says will be requisite to complete the work. I would as soon the committee would report the bill in one shape as another. I modify the resolution so as to provide merely that the committee be instructed to report back the bill.

Mr. IVERSON. I do not myself disagree to the principle which is intended to be inaugurated in this case, of instructing a committee to report a particular bill. My impression is that that is parliamentary; that if the majority of the body desire to have a bill acted upon, and it is delayed by a committee for an unreasonable time, or they are rather obstinate, the Senate has the right to instruct the committee to report the bill. I do not consider it disrespectful to the committee; it is a mere question of policy; but I object to the passage of this resolution upon principle, and I trust the Senate will not pass it. It is the commencement of a system of internal improvement which I think the country is not prepared now to enter into; for if this resolution prevails, and the Committee on Commerce be instructed to report a bill for the improvement of this particular work, appropriating so large an amount of public money—\$100,000—as a matter of course, if such a project as this passes, other places will come in for their share; and we shall have bill after bill, instruction after instruction, until we shall have a batch of internal improvement bills on us leading to the expenditure of millions upon millions of the public money. It is simply the commencement, the inauguration, of a scheme of public plunder, by which these works of internal improvement are to be carried on.

Now, sir, that Senators on the other side of the Chamber should vote for this proposition is perfectly reasonable and natural. They are all in favor of the system of internal improvement by the General Government, for many reasons which we all understand, and for this one, if for no other: that they may create as large expenditures of the public money as possible during the existence of a Democratic Administration, so that that Administration may be brought into public odium for its extravagance. That is one reason—a very potent and good one—for them to act upon. But, sir, that is by no means a reason why any gentleman who supports the present Administration of the Government should vote for this or any other proposition of a similar kind. The expenditures of this Government are running up now to an extraordinary extent. I suppose that at this session, although we are endeavoring to economize on small matters, the expenditures will probably go to some seventy or eighty million dollars; and if this system of internal improvement be inaugurated and carried out, as I suppose is the design of this movement, we shall have an expenditure of four or five millions more for these objects; and in proportion as the expenditures of the Admin-

istration are swelled up to an enormous extent, so, in proportion, will the enemies of the Administration be able to find fault with it, and to bring it into public odium and discredit before the people.

Sir, I trust that this system will not be approved by the Senate, but that we shall nip it in the bud at once; because, if this appropriation is to be made, I cannot see why hundreds of others ought not to be made, that certainly stand on as good a foundation as this. I can understand no particular reason why this appropriation should be made in preference to five hundred or a thousand other projects calling on the public Treasury for appropriations for improvements in the United States. There is no reason why this work should have particular preference over the others, and why this extraordinary mode should be pursued, (which, although parliamentary, is certainly unusual in the practice of this body, as I understand,) of instructing a committee to bring in a bill contrary to the settled convictions of right of the committee. Let the committee make a general report on this subject, stating the position which that committee assume of opposition to these appropriations, and then let the question come up on general principles and be decided by the Senate; but let us not, in this mode, be making appropriations for particular works. I trust that the resolution will not be passed; at any rate, I trust that the Senators on this side of the Chamber who are in favor of the Administration, and desire to maintain it and the Democratic party in this country, will put their feet on this proposition at the very outset, and stamp their disapprobation upon it.

Mr. CHANDLER. I did not propose to go into a discussion of this question at this time. I merely proposed to submit the resolution as a test question, without discussion, and I had spoken to several Senators on the other side who assented to the proposition. I am perfectly willing to accept the suggestion of the chairman of the Committee on Commerce, and leave the resolution one simply instructing the committee to report a bill without stating the amount of the appropriation.

I will say, however, to the honorable Senator from Georgia, that throughout the Northwest Mr. Buchanan was pledged, from every stump in every northwestern State, as being in favor of this measure. Sir, it is no reason to be urged here that it is not a Democratic measure. It is a Democratic measure. My honorable predecessor [Mr. Cass] introduced a bill here two years ago and carried it through for this same purpose, and I now merely ask a small addition to the appropriation then made to finish the work commenced by him. It is eminently a Democratic measure. I do not propose to discuss it now; but will accept the proposition of the chairman, and hope that the vote will be taken.

Mr. TOOMBS. If this resolution was only for the purpose of getting the Committee on Commerce to report back this bill, and the others of the same class which have been sent to them, there could be no objection to that from any quarter, for they have come to a conclusion on all of them; and that conclusion, I presume, the committee are ready at any time to announce by a report to this body. Upon taking this subject into consideration, with the well-known fact that the revenues of the Government are very much below its ordinary expenditures upon the present basis, the committee, without reference to the question of whether they were generally for or against these improvements, without reference to their previous action or votes on this subject, deemed it inexpedient to appropriate any money to the commencement, at least, of new improvements, and I think the question was reserved as to the necessity of preserving existing works.

So far as I was myself concerned, I did not intend then, and do not intend now, or at any time, to extend, enlarge, or protect any of them. My objections to this system are well known to the Senate and the country. But if, notwithstanding the state of the Treasury, notwithstanding the declaration that has been made again and again by the friends of the internal improvement system in both Houses of Congress for fifteen years, that they would not borrow money for the purpose of carrying on these improvements, if, in spite of all that, they intend to pass the St. Clair flats bill, of course the next thing that will be asked, and, I think, with a very great show of propriety, will

be an additional appropriation for the mouth of the Mississippi, for the Ohio, for the St. Mary's, for those five objects which were passed by the last Congress—there were only five, I think—the Patapsco river, St. Clair flats, St. Mary's river, the mouth of the Mississippi, and the Des Moines rapids. The gentlemen of the committee who are usually in favor of these appropriations for what they choose to call national works, considered this an inappropriate time, for the want of money. I say this is inaugurating a new system; it is inaugurating a system never claimed anywhere, never claimed by the friends of it. It is an undeniable fact, which every Senator knows, that there is no money in the Treasury to appropriate to internal improvements—there is hardly enough to pay the ordinary expenses of the Government which you are voting every day, and intend to vote.

This movement presents to the country a new question: whether or not it is sound policy that we shall borrow money and go in debt for the purpose of making internal improvements in the United States. That is the question the Senate are called upon to meet for the first time. Hitherto when these appropriations have been sustained in both Houses of Congress, it has been upon the declaration that there was a surplus in the Treasury; that it was advantageous to put it out; and that, when the Treasury was full, it was right and expedient to use it for the purpose of increasing the commercial facilities of the United States; but the policy of borrowing money for such purposes has been disavowed by all parties at all times, as far as the observations of any public man in either House ever met my attention. But now we are called upon to violate that principle, and go one step further. I think it is likely they will go there, for when public men are on a wrong road there is no stopping them. Smooth is the descent and easy the way to political corruption, as well as to hell, according to the poet's account. I think it very likely that these were pretexts merely, used when we had money; and when we have not money, no doubt they will put out bonds to tens of millions or hundreds of millions, because it is a scheme of a great political party in this country always to expend the public money.

Mr. HUNTER. I rise for the purpose of moving to postpone all prior orders for the purpose of taking up the Indian appropriation bill. The hour of one o'clock has arrived, and I submit the motion to postpone all prior orders and take up that appropriation bill.

Mr. CHANDLER. I hope the Senate will come to a vote on my resolution without further discussion.

Mr. HUNTER. If I thought there would be a vote without discussion, I should not be in the way; but we know there will not be.

Mr. CHANDLER. I am prepared to discuss this question, and desire to do so when the bill comes before the Senate; but I do not wish to do so now.

Mr. FESSENDEN. I do not wish to discuss it, but I desire to make a single remark in response to what has fallen from the Senator from Georgia, [Mr. Toombs,] before the vote is taken—not by way of discussion. I wish simply to observe—

Mr. BIGLER. I want to make a very few remarks.

Mr. HUNTER. It had better go over until to-morrow.

Mr. CHANDLER. Why not postpone the discussion until the bill comes before the Senate?

Mr. FESSENDEN. For the sake of having the vote taken, I will omit any remarks, even the single one I desired to make, if Senators on the other side will forbear.

Mr. BIGLER. I can make the remark I desire in a minute. The simple principle on which I act—

Mr. HUNTER. I must insist on my motion.

Mr. FESSENDEN. I only yielded on condition that there was to be no debate.

Mr. BIGLER. I yield.

Mr. HUNTER. I submit my motion to take up the Indian appropriation bill.

The motion was not agreed to; there being, on a division—ayes 18, noes 21.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan,

to strike out of the resolution the words "and that the appropriation be reduced to \$55,000."

Mr. BIGGS. As I understand, according to the rules of the Senate, the hour of one having arrived, the special order comes up, which supersedes this business.

The PRESIDENT *pro tempore*. The hour of one having arrived, the Senate cannot continue the consideration of this subject any longer, unless by order of the Senate.

Mr. PUGH. I move to postpone the prior orders, to continue this subject. Let us come to some conclusion upon it.

Mr. HUNTER. I shall vote against that, for we shall be certain to have a debate.

Mr. SLIDELL. I will renew the motion that has been made to lay this resolution on the table.

The Senate is now fuller than it was when that motion was made before. I call for the yeas and nays on my motion.

The yeas and nays were ordered; and, being taken, resulted—yeas 20, nays 25; as follows:

YEAS—Messrs. Allen, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Evans, Fitzpatrick, Green, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Mason, Sebastian, Slidell, and Toombs—20.

NAYS—Messrs. Bell, Broderick, Chandler, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Jones, Kennedy, King, Polk, Pugh, Seward, Simmons, Stuart, Trumbull, and Wade—25.

So the motion to lay on the table was not agreed to.

The PRESIDENT *pro tempore*. The Chair will state that the hour of one o'clock having arrived, the consideration of this resolution cannot be continued, unless by a vote of the Senate directing it to be proceeded with.

Mr. CHANDLER. I move that the special order be postponed.

Mr. PUGH. I submitted that motion before.

Mr. CLAY. I believe the special order is the bill to repeal the fishing bounties.

The PRESIDENT *pro tempore*. That is the first. There are several others, however.

Mr. CLAY. I hope that will be taken up.

Mr. PUGH. I am in favor of the bill to repeal the fishing bounties, and I expect to vote for it; but I wish to say one or two words in support of my suggestion that we had better dispose of this question at present. I voted first to lay this resolution on the table, supposing it disrespectful to the Committee on Commerce, and I do not now like its phraseology. The usual phraseology of such resolutions, is to discharge the committee from the consideration of the bill, and not to instruct them to report it; but since the chairman of the committee, and others of its members, have notified the Senate that they have come to a conclusion adverse to the bill, I see no disrespect to them in having the bill brought back by a vote of the Senate discharging the committee.

Whether I shall vote for the bill or not, is more than I am yet advised. I did vote for a former bill for this object, and I voted for it on a very distinct statement from the Senators from Michigan, that that was sufficient to complete the work. When it was alleged on the other side, I recollect very particularly, by the Senator from Alabama, that it would not complete the work, it was asserted that it would. I was instructed by the Legislature of my State to vote for the appropriation by name, and having no constitutional difficulties on the question, I obeyed the instruction without hesitation. If the Senator from Michigan will modify his resolution, so as simply to discharge the committee from the further consideration of the bill, I shall vote for it; and when the bill comes before the Senate, if he can satisfy me that this additional sum of money ought to be appropriated, I shall probably vote for his bill.

It is suggested that we are to practice economy. Since when? Since last Friday, when you appropriated, as extra pay to clerks and reporters, more money, I believe, than is mentioned in the bill.

Mr. TOOMBS. Eighty thousand dollars.

Mr. PUGH. This new fit of economy has come since Friday evening. I see no proposition to reduce the enormous extravagance of the Army or of the Navy, nor of anything else. We can even borrow money to carry on the Indian appropriation bill that the Senator from Virginia wishes to bring before us. Now, sir, I am for economy; but I do not like all this economy to be practiced in one place. The most enormous expenses of

this Government to-day are its Army and its Navy; and I do not see the weight of a feather laid to stop them. On the contrary, I see by the papers that we are to have new ships built—I do not know how many; we are to go on. When the Treasury was full, I believe but five improvement bills were passed. When the Treasury is empty, none are to pass! Now, I believe that, to a limited extent—not to a universal extent—it is as much the duty of this Government to protect its commerce between the States as it is to take care of the Indians; and if you cannot do it without borrowing money, borrow it. That is my position.

Mr. POLK. The question now is on postponing the special order, I believe.

The PRESIDING OFFICER. Yes, sir, to postpone the special order and continue this subject.

Mr. POLK. I shall oppose that, though I am very willing and anxious that we should have an investigation of the merits of the appropriation asked for the completion of the improvement of the St. Clair flats; but I do not like the shape in which the resolution offered by the Senator from Michigan stands. Though I voted against laying the resolution on the table, I did it with considerable reluctance; because, with the Senator from Ohio, I do not like the shape in which it is put. But I wish an opportunity to have this matter investigated before the Senate—saying at the same time, with the Senator from Ohio, that I desire to obtain the information which can be furnished, and which it is alleged has been in part laid before the committee. I, for one, would not, in the present condition of the Treasury, be willing to vote money for any internal improvements, as such; but if a work has been commenced, which has progressed to a point where a few thousand dollars would save the destruction of a large amount already expended, and result in great benefit to the country, I think it is the dictate of good economy and prudence to make the appropriation, and not let all that has been spent go to waste, and then suffer under the inconvenience to which the commerce of the country has been subjected for years. I hope we shall go on with the special order, and at the proper time we shall take up the resolution of the Senator from Michigan, modify it so that it may go before the committee without any disparagement of the committee, and yet in such a way that the question may be fairly brought before the Senate.

Mr. BENJAMIN. I desire simply to say a word in explanation of my present position on this question. I have, myself, introduced several bills for the improvement of rivers and harbors, which I should be most anxious to see passed; which I should support very earnestly were it not for the condition of the Treasury. We came to examine this subject in the Committee on Commerce, which is not a Committee of Ways and Means—we have no committee precisely answering to the proper Committee of Ways and Means which ought to exist, in my opinion, in our legislative bodies, and which compares the appropriations with the resources of the Government; but we make appropriations through different committees, and then the Committee on Finance finds itself embarrassed by the condition of the Treasury, in many instances rendering it impossible for them, and the Secretary of the Treasury has also told us rendering it impossible for him, to carry out the votes we order, without regard at all to the condition of the Treasury.

Now, we have, at this session, already passed a bill for the issuing of twenty millions of Treasury notes. It is a prevailing impression that a public loan will be required. It cannot be expected that any of those internal improvements which will require vast appropriations, can be continued in that state of the public Treasury. I therefore agreed in the Committee on Commerce to go to this extent: that the committee would, in consequence of this condition of the Treasury, refrain from recommending the prosecution of any works of internal improvements at the present session; but at the same time it is the understanding of the committee that, in all cases where small appropriations would secure work already done, and would really result in economy to the Government, we should make exceptions. Now, this particular work may come within that class of cases; it may be one of those cases; it may be one

of those works which a small appropriation would perfect, and which it would be true economy, therefore, to complete at the present time. I do not know the precise condition of the present work. If it be such a work, I should be prepared to vote for it. We intended to obtain the necessary information at the War Department, and report a bill, according to my understanding of what occurred in committee, to preserve and complete such improvements as would go to destruction if the work on them was not continued, but to refrain from all appropriations for the commencement of new works, or the prosecution of works which would not suffer by delay.

That is my position on the subject. I have not changed my opinion as to the duty of the nation in regard to the improvement of harbors and the great navigable streams of the country; but I must have regard, in my votes on this subject, to the condition of the Treasury. I think that condition is such at present as makes it our duty to refrain from large appropriations.

Mr. CHANDLER. I think it can be shown in a very few moments, when the bill comes up, that this is precisely one of those for which the Senator from Louisiana will vote. It is a small appropriation to complete a great work. I hope the special order will be postponed, and that we shall be allowed to come to a vote on this resolution without further discussion.

Mr. PUGH. I will state to the Senator from Michigan, that if the Senator from Louisiana has truly stated the position of the committee that they intend to report such a bill as he has stated, we had better let this resolution lie over, and wait till we have their bill before us.

Mr. BIGLER. The Senator from Louisiana has made precisely the explanation which I desired to have made on this subject. We did decide in committee that we would make no appropriations in favor of new improvements, that it was bad policy to borrow money for the purpose of improving rivers and harbors, but at the same time the exception was distinctly made as to repairs, and as to works where a small sum might be necessary to complete them, in order to protect such works against serious and rapid dilapidation. I acted on that understanding.

Now, sir, the objection which I have to the resolution of the Senator from Michigan is this: take as correct all that he says, this is a single item in a class which it may be proper to protect, a class of repairs or improvements which it may be necessary to make, and in reference to which, as I understand it, the committee have not fully decided. That, I suppose, we shall take up and consider properly. If the Senator's resolution were general to get the sense of the Senate on the question of appropriations for repairs or such improvements as have been so far advanced that a very small sum would complete them and protect them against dilapidation, I should feel that no fair objection could be made to such a resolution, and I am satisfied the committee would act upon it promptly, and if the Senator's improvement of the St. Clair flats were in that class it would be fairly considered; but I do think it a very unusual proposition to select out a single item, and instruct the committee positively as to that item, and say they shall report just so much money, and just such a bill. It is very true the Senate has a perfect right to do so, and the committee would undoubtedly obey, but I suggest that the declaration of a general policy would be better and more conclusive.

Mr. FESSENDEN. I have voted for this proposition of the Senator from Michigan, on the single ground that I wished to have some test taken on the question whether the Senate designed to do anything even with regard to protecting improvements that need protection. As a general principle, I should agree with the Committee on Commerce that if the country is in the state that is represented with reference to money, it would be improper to borrow money for the purpose of undertaking new works of this description. But I must say to the honorable Senator from Georgia, [Mr. TOOMBS,] that as yet we have no evidence, that I am aware of, that there is any such condition of the Treasury or of the country. That is to say, if we take the statements of the distinguished gentleman from the State of Georgia, who is at the head of the Treasury Department, and of the President—and as yet we have had nothing

from either, contradictory of their statements—they told us at the beginning of the session that there was a temporary necessity for issuing Treasury notes to a limited amount, to meet the incoming revenues of the Government, which would be sufficient in a very short time to relieve the country from all its difficulties. We have, as yet, heard nothing from those high authorities to the contrary, and I suppose we are bound to presume, as no further communication has been made to us, that they told the truth, and that there is to be such an accruing revenue as will meet all the necessary wants of the Government, and relieve the country from the burden which it has taken upon itself by the proposition to borrow twenty millions of money. I presume that the honorable chairman of the Committee on Finance agrees in that, because, as yet, we have heard nothing further from the Committee on Finance on that subject. Therefore, I say, the presumption stands that there is money enough, that the revenue will be abundant, that soon these twenty millions will be redeemed, and that we shall have enough, according to the statement of the President and the Secretary of the Treasury, to meet all our wants in every particular, as well these as any others. Hence, while I should agree with the general principle laid down by the gentlemen of the Committee on Commerce in reference to this matter; I think we have no evidence at present that the necessity of appealing to that principle, exists.

It is stated by members of the committee that they have designed to do something with reference to protecting those works which need protection, to go as far as is absolutely necessary; presuming that the funds of the country would not allow them to go further. I would ask if we have any evidence except their say so—and to that I give the same credit which I would to the declaration of any other gentlemen—that even that is intended? Congress has now been in session some five months, and we have heard nothing from that committee on any of these propositions. We have resolved to adjourn on the first Monday of June; but we have not heard one word from that committee, or the committee in the other House, proposing to do anything in regard to making an appropriation even to prevent these works from going to decay. If they really mean anything, or have meant anything of this description, I should like to know why something has not been done, at any rate, in season to give us a little hope that something of that description might be accomplished in the course of this session of Congress? We have had no bill brought in. Numerous bills have been sent to the committee. We have not heard from the first one; and yet we are now arrived at a period of the session when it would be hopeless to take up a general bill of that description with the expectation of passing it through both Houses, unless there is prevalent here a spirit very different from what has prevailed heretofore—certainly a very different spirit from that exhibited by the Senator from Georgia, who says, what we all well know, that he is opposed to the whole system, and will oppose the whole with all the power he can bring to bear on it, and we all know what power he can bring to bear on any subject he chooses to engage in.

I confess that when I hear the declaration of which I have spoken, I regard it in this light: while the committee will assent for the sake of appearances to bring in a bill making this provision, we shall not see that bill until the time has so far gone that there will not be the slightest hope in the world of effecting anything even in regard to protecting those public works which need protection in order to prevent their going to decay. Therefore, I have voted for this proposition on this single idea: that I wish, for the benefit of that committee, to have the sense of the Senate tested whether the Senate will do anything in relation to the matter, whether they will make even small appropriations to prevent public works from being utterly destroyed. This is as good a proposition in my judgment, to test that question on, as any other. I believe the work now proposed to be provided for to be a very important one. I was satisfied of that when the first bill for this improvement was introduced by the late Senator from Michigan, who is now at the head of the Department of State. I voted for it then; I should vote for it now, and if the state of facts is as represented by the Senator from Michigan, we shall

know it when the bill is brought in, and the sense of the Senate is to be tested. Notwithstanding we have heard many a time that it is a corrupt mode of legislation to put together in one bill works of a similar description for the sake of carrying them through, I should prefer to have them put together in order that no particular selfishness should be exhibited when we came to vote on one or another, and that gentlemen should show what they intended in reference to the whole. However, as that cannot be done, and as at any rate it is well that the feeling of the Senate should be tested, I hope we shall act on this resolution in the mode proposed.

Mr. BENJAMIN. I wish to offer a substitute for the resolution of the Senator from Michigan, which I think will cover the proposition.

The PRESIDENT *pro tempore*. The first motion is to postpone the prior orders.

Mr. BENJAMIN. Let my amendment be read for information.

The Clerk read it, as follows:

Strike out all after the enacting clause, and insert:

That the Committee on Commerce be instructed to inquire into and report, as speedily as possible, on the expediency of appropriations at this session, for the repairs and security of works heretofore commenced for the improvement of harbors and navigable rivers.

Mr. STUART. This subject, it was understood by me, and I believe by the Senate generally, was to be voted upon without any discussion; but some debate has sprung up, and I rise now, not for the purpose of extending it, but for the purpose of submitting a very few words, which seem to me to be pertinent to the consideration of this question as it now stands.

Mr. HUNTER. Would it not be better to take the vote on postponing the prior orders?

Mr. STUART. It seems to me not. I have inquired, and found that this bill was referred to the Committee on Commerce on the 16th of February; that was some two months and a half ago, time enough, I think, for the committee to have ascertained whether this is a case which falls within their rule, and to have been prepared to report. I agree myself most distinctly with the general proposition at which the committee state they have arrived—that the appropriations should not be, as a general rule, for the commencement of new works, but of sufficient amounts to preserve and complete those which it is true and proper economy to preserve and complete. But, sir, there should be action. The subject has been before the committee for a long time. They have not presented, as the Senator from Maine [Mr. Fessenden] has said, a single one of those bills back to the Senate. Now, I do not conceive that it is disrespectful to the committee, in any degree, to instruct them at any time to report a bill. The report of a bill does not pass it; and it does not assume that the Senate will pass it. It assumes simply that the Senate desires to have the subject before them, so that they may act upon it, and decide it.

There is great force in what was submitted by the Senator from Maine, that if anything is to be done on this question at all practically, the time has arrived certainly when it is necessary to do it. We are within a month of the end of the session. We have spent five months. Various of these measures have been sent to the committee, and none of them have been returned. This question of improving the St. Clair flats is as well understood by every member of the Senate now as any possible subject of legislation can be. It has been before Congress and the country for years. The bill was passed at the last Congress over the veto of the President of the United States by a two-third majority. The whole country is advised upon it, and it is a simple question, now, of whether you will appropriate a small amount of money to complete a great work, a work of great national importance in a naval and military point of view, as well as in a commercial point of view, the whole discussion of which has been exhausted years ago.

Now, sir, will the Senate have this subject before them or not? That is the question presented by this resolution. I cannot agree to the substitute proposed by the honorable Senator from Louisiana, because that is merely to go over the same subject again, and take another five months to examine these questions. Now, I suppose the committee have examined them. I am not willing to believe that five months of the session have trans-

pired, and the committee have not examined any one of these questions.

Mr. HAMLIN. I say, not one.

Mr. CLAY. You speak for yourself, I suppose?

Mr. HAMLIN. I say, as a committee, not one; and I have been present at every meeting.

Mr. STUART. The Senator from Maine is a member of the committee, and, of course, knows more about it than I do; but for the purposes of this vote, I submit that whether the committee has examined this question or not, is a matter of no consequence practically. If the committee has not examined it, the session is near at an end, and the Senate should examine it. If the committee has examined it, and has not reported, there is no reason why it should not report. Now, I would not agree to give any vote in the Senate which could censure the committee, which could impugn its motives, or could affect any member of the committee—not at all; but the business of the country is to be acted upon by the Congress of the country, and to act upon it we must have it before us. I say, therefore, sir, that the single question presented to the Senate to-day is not whether you will pass this bill, but whether you will bring the bill before you. I am for having it brought here; I am for having the sense of the Senate upon it.

I am glad to perceive that the Senator from Georgia, [Mr. Iverson,] and other Senators, acknowledge that the resolution, at least in its present form, modified as it has been by the suggestion of the Senator from Alabama, who is chairman of the committee, presents simply the question of whether the Senate desire this bill brought before them; and fixing the amount of appropriation to be put in it, certainly does not censure the committee; because, as the bill now stands, this measure would reduce the appropriation about one half. It is no reflection possibly on the committee to instruct them to report a bill with the appropriation reduced one half.

It does, then, Mr. President, come to this question when you have done: will the Senate do anything at all in regard to these works of great national consequence? That is really the question. I hope that there will be no difficulty whatever in regard to the respect for the committee which I am sure every member of the Senate feels—certainly I do—but that we shall vote upon this question upon the point of whether we will do anything. If, when the bill is brought before the Senate, it shall not appear to the body that it is one of those works which ought to be appropriated for at this session, upon principles of strict economy and national importance, let it be voted down. I think it is clearly and distinctly one of those cases; but certainly let us bring it in a condition where we can vote upon it.

Mr. CLAY. I wish simply to say a word in reply to what has been said by way of complaint that the committee has not reported on these bills. These reports have been delayed, in the first instance, for want of information from the Departments on which to act; and after that information was obtained, by, I believe, the unanimous voice of the committee, the consideration of these bills was deferred from week to week for other business because of the present condition of the Treasury, it being, as I understood, the unanimous sense of the committee that it was inexpedient to make appropriations for new works. Some of the committee, perhaps a majority, were in favor of appropriations for the repair of old works to prevent their decay and destruction. Like the Senator from Georgia, [Mr. Toombs,] I do not feel that I am committed myself, even to those works. As I understand the action of the committee, it was that they would only consider such works. Now, I do not regard this as one even of that class. During the last Congress some two hundred thousand dollars or upwards—I forget the precise amount, but I believe it was upwards of two hundred thousand dollars—was appropriated to this very work; and we were then assured by both the Senators from Michigan that it would complete the work.

Mr. CHANDLER. Only \$50,000 was appropriated.

Mr. CLAY. Well, it matters not whether the amount was \$50,000 or \$200,000. We were assured by both Senators at that time that it would complete the work. According to my recollection,

as suggested by the Senator from Ohio, I asked whether this would be sufficient to complete the work, and intimated that they would come here shortly afterwards and ask for a further appropriation; but this was denied, and we were assured it would complete it. Now they ask more than they said would complete the work. Now they ask \$55,000, and the Senator from Michigan says \$50,000 is all that was appropriated, and all that was wanted; at the last Congress we were assured it was an amount fully sufficient to do all they desired.

Mr. CHANDLER. When this subject comes up for discussion regularly, I shall be able to give a good and sufficient reason for the work not being completed with the first appropriation. I did not propose to enter into a discussion at this time, and therefore I have said nothing about that; but when the bill comes up, I shall be prepared to explain the whole circumstances connected with the matter.

Mr. HAMLIN. I think I can say truly, that up to the time the Committee on Commerce acted on these matters, there was no unnecessary delay; I agree with the chairman in that. He has stated one reason; the committee waited for information from the Departments; but there was still another reason, and I think a stronger reason than the one he has stated. Propositions were coming in from all sections for appropriations, and the committee deemed it unwise to act on a particular bill, or any particular class of bills, until all the propositions should be before it; and there was, therefore, a necessity for delay to get the information, and to get all the propositions before us so that we could act understandingly. I therefore agree with the chairman fully, that there was no unnecessary delay up to that point. I supposed, from the action of the committee at that time, the chairman was to have made his report to the Senate, and then we should have had the bills all back here.

The action of the committee I did not object to; but as I have stated before, (though not in my place, appropriately,) the committee, as a committee, have not examined a single subject of this class before them. I do not mean to say the chairman has not made himself acquainted with every question; I do not know; but we have never had any action in committee on them, except one morning, and then they were disposed of in gross and on one vote, and I made my objection then that I was in favor of taking them up and acting upon them in detail, leaving me to vote for such as I thought I ought to vote for, and against such as I thought I ought not to vote for.

This resolution, I think, ought not to be objectionable to the committee now, as it is simply a direction to report the bill back again with no recommendation from the committee, favorable or unfavorable, but simply to report the bill back, and let the Senate do what they please, and we should get rid of it much sooner by voting than by discussing it.

The PRESIDENT *pro tempore*. The question is on postponing all prior orders for the purpose of continuing the subject under consideration.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Michigan.

Mr. STUART. I understood that was a modification of the resolution by my colleague himself, who offered it.

The PRESIDENT *pro tempore*. But it is offered as an amendment, and requires the action of the Senate. The amendment is to strike out:

"And that the appropriation be reduced to \$55,000."

So that the resolution will read:

Resolved, That the Committee on Commerce be instructed to report the bill, heretofore referred to them, making an appropriation for the completion of the channel over the St. Clair flats, in the State of Michigan.

The amendment was agreed to.

Mr. BENJAMIN. I now offer my amendment, to strike out all after the word "Resolved," and insert:

That the Committee on Commerce be instructed to inquire into and report as speedily as possible on the expediency of appropriations at this session for the repairs and security of the works heretofore commenced for the improvement of harbors and navigable rivers.

Mr. PUGH. I am satisfied with that amendment. It seems to me to be fair. I shall vote for it in preference to the original resolution. I ask for the yeas and nays on it.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 22; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Evans, Fitzpatrick, Green, Hammond, Houston, Hunter, Iversen, Johnson of Arkansas, Johnson of Tennessee, Mason, Polk, Pugh, Sebastian, Sliedell, and Toombs—23.

NAYS—Messrs. Bell, Broderick, Chandler, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Jones, Kennedy, King, Seward, Simmons, Stuart, Trumbull, and Wade—22.

So the amendment was agreed to.

Mr. CHANDLER. I desire to give notice that on to-morrow, or some subsequent day, I shall ask leave to introduce a bill making an appropriation of \$55,000 for the improvement of the channel over the St. Clair flats.

Mr. PUGH. The question is on the resolution as amended, is it not?

The **PRESIDENT pro tempore.** Yes, sir.

The resolution, as amended, was adopted.

INDIAN APPROPRIATION BILL.

Mr. HUNTER. I now move to postpone all prior orders for the purpose of taking up the Indian appropriation bill.

Mr. DOUGLAS. I desire to call the attention of the Senate to the fact that there is one other State here waiting for admission into the Union; and I have been watching for an opportunity to bring up her bill. I allude to Oregon. The bill has been reported for some time; and I think, as Kansas and Minnesota have gone through the Senate, it is but fair now to take up the Oregon bill and dispose of it. I do not think it will take more than a few minutes; I shall ask, if the motion of the Senator from Virginia does not prevail, that we proceed to the consideration of the bill for the admission of Oregon into the Union.

Mr. CLAY. The next special order, I think, is the bill to repeal the fishing bounties.

The **PRESIDENT pro tempore.** That is the first special order.

Mr. CLAY. I am willing to yield to an appropriation bill, as those bills are indispensable; but I will yield to nothing else. I am induced to yield for another reason: neither of the Senators from Massachusetts is in his seat, and one of them [Mr. Wilson] sent me word that he desired to be present when my bill was taken up, and necessarily would be absent two or three days on account of sickness in his family. I am willing to let it lie over on that account, until to-morrow; but I hope that it will be taken up in its regular order at one o'clock to-morrow.

Mr. HAMLIN. Does the Senator from Alabama mean to take it up to-morrow if the Senator from Massachusetts does not return?

Mr. CLAY. At any rate, then, I shall ask to have it taken up, as he certainly will have time to be heard on it. With the general understanding that it shall come up in order to-morrow at one o'clock, I will give way to the appropriation bill.

Mr. DOUGLAS. There can be no such understanding.

Mr. HUNTER. If we intend to adjourn on the day we have fixed, it is indispensable to give priority to the appropriation bills. I think this one will not detain the Senate long. It is merely the regular Indian bill, making appropriations according to law. I hope it will be taken up.

Mr. JOHNSON, of Tennessee. I really hope that we shall proceed with business in its regular order. The fishing bounties bill has been standing on the Calendar for a considerable length of time, and I understand the gentleman who reported the bill is prepared to go on with its consideration at present. If that is to be waived, and these motions to intervene, here comes forward another Senator, who proposes to admit Oregon into the Union as a State. When we see that, is it not better for us to proceed in regular order and take up the business at it stands on the Calendar, and dispose of it?

I can see no great necessity for pressing the Indian appropriation bill at this time. All the appropriation bills will go through. They have a sufficient weight and influence always to take them through. I do not think the country will suffer a great deal by the delay of a few days in the passage of the appropriation bills; I do not think the Treasury will suffer by that; and I doubt very much whether we shall hear any complaints throughout the country in consequence of appro-

riation bills not being pressed through in such hot haste. I am willing to give gentlemen all the aid I can to take up bills in their proper order.

I wish to say, in this connection, that if I understand the Calendar aright, the homestead bill comes up next after the fishing bounties bill. The friends of that measure have been here quietly, patiently—or perhaps I ought to say impatiently—waiting for a considerable length of time to have that bill reached. I am in hopes that business will go on in its proper order, and that that bill will be taken up and disposed of. The gentleman from Alabama is now ready, and I understand the Senator from Maine is ready, to go into the consideration of the first special order. Why not take it up, and let the Indian appropriation come up in its proper place, and be disposed of in due time? Let us take up first the fishing bounty bill, which is the first special order; next, the homestead bill, and dispose of it as we reach it. I am inclined to think that the great mass of the American people are as deeply interested in the proper distribution of the public lands, particularly when the proposition is to provide homes for the people, as in the appropriation of thousands and millions out of the Treasury, especially when the condition of the Treasury is, to say the least, not at all plethoric. I hope we shall go on with business in its proper order. I do not intend to be importunate; I do not intend to be obtrusive on the Senate; but I have the homestead bill, as I know many others have, deeply at heart, and I intend to press it earnestly on the consideration of the Senate from this time until it shall be disposed of.

Mr. HUNTER. I call the attention of the Senator from Tennessee to the fact that, if the appropriation bills are to wait until all the special orders are disposed of, they will not be taken up until after the day fixed for the adjournment. We have been notified by the President that he will not sign these bills unless he has time to read and examine them. I think, with that notification, it behooves us to, as is generally acknowledged to be proper, take up those bills, and act on them first. At any rate, I must take the sense of the Senate on that proposition.

Mr. BIGGS. The reason assigned by the Senator from Tennessee against the motion of the Senator from Virginia is the strongest reason in the world why I shall vote for the motion of the Senator from Virginia. I cannot but understand the allusion which he makes to the appropriation bills as entirely applicable to the homestead bill, which he has so much at heart; for if there is a measure before Congress that proposes to squander the public treasure in a worse direction than any other, it seems to me it is the favorite *projet* of the Senator from Tennessee. I think the necessary appropriation bills ought to claim the attention of the Senate in the first place, instead of this measure, new in its character, and so profuse of the public treasure.

Mr. JOHNSON, of Tennessee. In answer to the gentleman from North Carolina I will say, as I said on a former occasion, that I shall be able to prove that instead of the homestead bill diminishing the receipts into the Treasury, it will have precisely the contrary effect. I pledge him that, if he will unite with the friends of the bill to bring it up, and give it a fair consideration, and pass it, instead of its depleting the Treasury or squandering the public revenue, I shall demonstrate as clearly and conclusively as figures can demonstrate anything, that it will increase the public revenue, and, in fact, it ought to be pressed on the country, at this time, as a revenue measure, calculated, when carried into full and successful operation, to increase the resources of the nation.

Now, sir, I understand the remark of the President in his message, which has been alluded to, to be general; that he will not sign any bill which is passed at a later period than two days prior to the close of the session. Then, it is just as important to have the homestead bill passed two days before the close of the session as any other bill, if we expect the signature of the President, and of that I have no doubt. When the bill is passed, I have no doubt it will be signed by the President. I feel satisfied that the public mind is made up in reference to the measure. I think the sense of the community is very decided upon the subject. If the Senate will now reflect the sense of the country, as it has been reflected on various

occasions by the other House, this bill will soon become the law of the land. I hope we shall proceed with business in regular order. But if we are not to do so, I shall press this measure earnestly on the consideration of the Senate from day to day, till the close of the session.

Mr. BIGGS. The Senator from Tennessee assumes that the homestead bill, the favorite of his, is to pass through both branches of Congress, and is to be approved by the President. Now, I do not profess to know anything about the opinion of the President on this particular measure; but for the purpose of excluding a conclusion, I desire to say that if I understand the position of the President of the United States in regard to squandering the public lands, this is the last measure to which he will ever consent to give his approbation; but I trust that it will be strangled in the two Houses of Congress, as it ought to be. If, however, it should pass through both Houses, I entertain a confident hope that the President of the United States will exercise his constitutional power of vetoing such a measure.

Mr. JOHNSON, of Tennessee. I am in hopes that the President of the United States will have a fair opportunity to approve or disapprove of this measure; and I trust we shall not resort to strategy and legislative maneuver to strangle an important bill like this, which is to provide homes for the people. Sir, the measure has already been strangled twice. It passed the popular branch of Congress twice by overwhelming majorities, and it was sent to this body, and here it was strangled. Let us have fair, full, explicit action of the Senate upon the measure, and if the two Houses pass it, let the President have an unincumbered opportunity to approve or disapprove it. I predict now that the President of the United States, when the bill is presented to him, will not withhold his signature.

Mr. STUART. I am very sorry that the discussion is so long in regard to the measure that we shall take up; but inasmuch as it has been so generally indulged in, I beg leave to say that I am most emphatically in favor of reaching the measure which has been brought forward by the Senator from Tennessee. It was made the special order a long time ago, and ought to have been acted upon, and would have been acted upon but for the extended controversy about Kansas. That subject is out of the way temporarily, and I hope we shall come to the consideration of the bill of the Senator from Tennessee. It is undoubtedly true that if you allow the appropriation bills to be brought up at any moment, and at all moments, they will be used as a broad-ax to cut down every other measure. If Senators were ready to proceed with the fishing bounties bill, I should be in favor of taking up that subject, and ending it by taking the vote of the Senate upon the bill; but inasmuch as they are not, I am in favor now of taking up the homestead bill, and ending that; and if Senators are disposed to vote, and not to discuss it at any considerable length, as I think the whole country understands it, we can vote upon it to-day. If, however, Senators are disposed to debate it to the extent of their power, then it ought to come up; it should not be killed by time. I hope the Senate will vote against postponing the special order; and inasmuch as the fishing bounty question is not ready for action, and the homestead bill is ready, let us take up the latter; and therefore I ask for the yeas and nays on this question.

Mr. HUNTER. I hope we shall have the vote. The yeas and nays were ordered.

The **PRESIDENT pro tempore.** The question is on postponing the prior orders, and taking up the Indian appropriation bill.

Mr. SEWARD. What is the first special order that is to be postponed?

Mr. CLAY. The bill to repeal the fishing bounties.

Mr. WADE. Is the next the homestead bill?

Mr. KING. That is it.

The **PRESIDENT pro tempore.** There are several special orders. I do not recollect which is next in order.

Mr. SEWARD. The next I understand to be the homestead bill.

The **PRESIDENT pro tempore.** The Chair so understands.

Mr. SLIDELL. I wish to state that there was a special order on the Calendar after the bill of the

Senator from Tennessee, in relation to the District of Columbia banks, prohibiting them from issuing bank-notes, and I shall feel it to be my duty to press that bill on the consideration of the Senate. I understand from the chairman of the Committee on Finance that the Indian appropriation bill is of an ordinary character, and not likely to lead to any discussion. Under these circumstances I shall vote with him. I regret that the Senator from Alabama should not have pressed the consideration of his bill to-day. I am told that the Indian bill will not lead to any lengthy discussion. I shall, therefore, now vote for the postponement of prior orders; but hereafter I shall act in concert with my friends from Tennessee and Alabama, in insisting on the regular order of business as it is upon the Calendar.

Mr. JOHNSON, of Tennessee. In connection with what the Senator from Louisiana has said, I desire to remark that if it is understood that we shall afterwards take up the Calendar and go on with business in regular order, I am willing to consent, if it is more agreeable to the Senate, to take up the Indian bill first, as it is only to occupy a short time.

Mr. HUNTER. All I can say is, that I cannot pledge myself not to move for the consideration of the appropriation bills when they are ready. The Senate, of course, will determine by a majority.

Mr. KING. The yeas and nays having been called, and the object of this vote being to determine whether we shall take up the homestead bill, I shall vote against the postponement simply with a view to take up the homestead bill. I desire to see whether the appropriation bills are constantly to postpone the special orders. Unless that bill can be taken up at a reasonably early day of those now remaining to us, it will be lost. We have notice that it is to be "strangled" in the two Houses. As a test question, whether we are to get it up in good faith and have a vote on it, I shall vote against postponing the special orders, with the understanding that it is to come up.

Mr. CLAY. No, the fishing bounties bill comes up first.

Mr. KING. I understand the fishing bounties bill, on account of the absence of some Senators, will not be taken up. I shall vote to postpone.

Mr. CLAY. I shall ask the Senate to proceed with that bill, if the postponement be not agreed to, unless the Senate choose to postpone it for the absent Senator who desires to be here.

Mr. KING. Let the Senate decide.

The question being taken by yeas and nays, resulted—yeas 24, nays 11; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clay, Crittenden, Dixon, Evans, Fitzpatrick, Foster, Green, Gwin, Hammond, Harlan, Houston, Hunter, Iverson, Kennedy, Mason, Polk, Sebastian, and Sidel—24.
NAYS—Messrs. Broderick, Chandler, Doolittle, Durkee, Johnson of Tennessee, King, Pugh, Seward, Stuart, Trumbull, and Wade—11.

So the motion of Mr. HUNTER was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1859.

Mr. HUNTER. I will state that this is the regular bill to carry out treaties—all according to law. The Committee on Finance offer no amendments to it.

Mr. SIMMONS. How much is the amount appropriated?

Mr. HUNTER. Between twelve and thirteen hundred thousand dollars.

Mr. BIGGS. Has the bill been read?

The PRESIDENT *pro tempore*. Only by its title.

Mr. BIGGS. I desire to hear it all.

The Secretary read the bill at length.

Mr. TRUMBULL. I trust that this bill will not be suffered to pass without some examination and understanding of it. I admit that I have not been able to look carefully into the bill at all; my attention had not been turned to it until it was called up to-day; but it is a bill appropriating, as I understood from the chairman of the Committee on Finance, over a million dollars; and I understood him also to say that it was merely to carry out the law, and that it was a bill about which there could be no controversy. At this time, when our expenses have run up to almost a hundred mil-

lions a year, and we are borrowing the money to pay them, and when, as has been intimated in the Senate to-day, in addition to the \$20,000,000 which we have borrowed during the present session, a new loan bill is soon to be before us, I am not willing to take these bills by the wholesale without an examination, and I think if we look into them we shall very likely find that there is as great abuse in the Indian department, as in the other departments of the Government. We know that the expenses for the Army and the Navy have run up enormously, and that officers have been making contracts without authority of law, involving the Government to the extent of hundreds of thousands and millions of dollars. On the second page of this bill, I find this item:

"For the pay of the several Indian sub-agents, per act of 31st July, 1854, \$10,500."

I have before me that act; it is an appropriation bill, containing, however, some general legislation; but I do not find that that act created any obligation upon the Government to pay \$10,500 to sub-agents. I also find in the sixth section of that act, a provision authorizing the President of the United States, by and with the advice and consent of the Senate, to appoint certain Indian agents (six in all) at salaries, as provided in the next section, of \$1,500 each. There is the creation of an office, intended I suppose to be a permanent office, which the President is authorized to appoint, and it would be the duty of subsequent Congresses to provide for the payment of the salary of that officer; but there is no provision in the act of the 31st of July, 1854, creating the office of sub-agent as a permanent office at all. If you will look to that act you will find that there is an appropriation "for the pay of four Indian sub-agents in Oregon Territory, at an annual salary of \$1,000 each," and another clause "for the pay of two Indian sub-agents in Washington Territory, for six months, ending June 30th, 1854, \$1,000." These appropriations were made to pay I suppose for some specific service performed at that time, but I ask the Chairman of the Finance Committee if it was the intention of Congress to create six permanent offices of Indian sub-agents, by simply making an appropriation to pay for a few of them for that single year? That is the way our expenses are swelled up. Owing perhaps to some extraordinary service which was required that year in Washington and in Oregon Territories, sub-agents were employed, and the Congress of the United States thought proper to make an appropriation to pay them for that year; but was that intended to be the creation of a permanent office?

This bill says, "for the pay of the several sub-agents per act of 31st July, 1854." Now, I should like the chairman of the Committee on Finance to show me what provision in the act of 1854 authorized the permanent establishment of sub-agents, or created such an office. It is very easy to see how our expenses are swelled by this sort of legislation. If Congress, for some reason, appropriates money one year for a specific purpose, has it come to this, that Congress, for all future time, must appropriate the same amount of money for that purpose, and does the appropriation of money at one session of Congress make it obligatory on all subsequent Congresses to appropriate the same thing? Is it to carry out any provision of law when we make the next appropriation? If Congress, this year, appropriates a million dollars to build a dome on this Capitol, does that impose an obligation to appropriate a million next year? If it pays two sub-agents in Oregon, for six months service, \$1,000 in 1854, does that impose any obligation in 1858 to employ sub-agents and pay them? I think the distinction is very clear in this act of July 31, 1854, between a permanent officer and one employed for a temporary purpose. There is no foundation in the act, as I understand and construe it, for an appropriation of \$10,500 for the payment of sub-agents, because no such officers are created by the act.

There are numerous other items in this bill, which may be founded upon estimates, but they are not founded upon laws. Here is one:

"For presents to Indians, \$5,000."

That may be very proper; I do not know but that it is; but is there any law requiring it? Again:

"For provisions for Indians, \$11,800."

This does not appear to be by virtue of any act of Congress. I find on the third page an item of \$30,000—for what?

"For insurance, transportation, and necessary expenses of delivery of annuities, goods, and provisions, to the Indian tribes in Minnesota, Michigan, and Wisconsin."

Now, for aught I know, it may have cost that; but it looks to me like a very large sum to appropriate \$30,000 as a payment for insurance, transportation, and necessary expenses of delivering the annuities to the Indians in Michigan, Wisconsin, and Minnesota. I doubt not that the chairman of the committee has looked into this matter, and I hope he will be able to give the Senate some information in regard to it. Here is another item:

"Contingencies of the Indian department, \$36,500."

I am not prepared now to go through with this bill. I only instance these items to show its character, and I should like to know, and I call upon the committee having these bills in charge, to know if there is no way to reduce these expenses. Are we to go on forever making the same appropriations, merely because a former Congress has done it? I hope not. I voted for appropriations at the last Congress which I would not vote for now; and I hope the fact that my vote was cast for appropriations then is not to be given now as a reason why I should vote for similar appropriations. The circumstances are different. Then the Treasury was full. It is a great evil to have the money of the country hoarded up by the Government. I was anxious to deplete the Treasury, and voted larger sums than I should be willing to vote at another time when we have to borrow money in order to meet the appropriations.

Without undertaking to discuss this bill at all, having called attention to these few items, I trust the bill will not be pressed to-day; but that it will be laid aside after the Senate shall have proceeded so far as it may be deemed advisable to do to-day, and leave the matter open, that it may be examined into more carefully, and let us act upon it to-morrow.

Mr. HUNTER. If the Senator chooses to insist on laying the bill over, and the Senate is disposed to indulge him, I am sure I can have no objection; but if he requires time for this bill, I do not know how much he will want for the others that are to come up; for, in truth, nearly the whole of it is to carry out treaty stipulations, and is in pursuance of law.

In regard to the appropriation for the Indian sub-agents, there are a few such appropriations. The same necessity exists for sub-agents now as heretofore. The sub-agents are distributed as follows: three for the tribes in California, four for the tribes in Oregon Territory, two for the tribes in Washington Territory. They have been established not by regular law, saying there shall be so many, but from 1854 up to this time we have appropriated for that number, and we have appropriated the sum which is now asked. I see no objection to that. The same reason which existed then exists now. We have as many Indians to take care of—as many in the very Territories for which these sub-agents were appointed.

Next, as to the provisions: he will find that that is provided for by law. There is a discretion given to the President by the law of 1834, I think it is, in regard to furnishing rations and provisions to the Indians when they come to the posts. This, I believe, is the usual appropriation. So of contingencies. It is impossible that we can provide by law what shall be the appropriation for contingencies. We give this year what we gave last year. It is true that, in the recapitulation, the Secretary says he asks \$2,000 more this year than he did last year; but when the Committee on Finance came to examine the estimate for the last year, they found the estimate the same then as now. Probably, as it has just occurred to me, we may have cut down the estimate \$2,000 last year; but the estimate is the same this year as last—\$36,500 for contingencies. The Senator will find, when he comes to examine the bill, that the greater part of it is simply to carry out treaty stipulations; that, in regard to these items, they are appropriations which have been repeated from year to year by Congress, not because there was a standing law establishing so many officers, but because the necessity which existed when the appropriation was first made has continued to exist since that time.

But, sir, if any Senator says he desires time to

look into an appropriation bill numbering as many pages as this, I feel that I cannot press it. I only know that by laying it over until to-morrow, we shall come into conflict with those gentlemen who have special orders, and we shall have another fight to get it up. If they are willing it shall be laid over, I am. If the Senator chooses to move to postpone it, and make it the special order for to-morrow at one o'clock, to take precedence of all others, I shall not oppose that proposition; but I think if there is any bill that is likely to be presented here this year which would not require a very close scrutiny, this is the one. There is a supplemental bill coming up from the House to which the Senator might well direct his attention, but here I think he will see nothing to object to after he has made his examination.

Mr. TRUMBULL. I should like to make an inquiry in regard to the appropriation for these sub-agents—whether there is any evidence that such officers are required other than simply the estimate of the Department for them? The Senate will bear in mind, and also the chairman of the Committee on Finance, that the officer making this estimate is not the one who has particular charge of the Indian department. It may be that these sub-agents are required; but it certainly is a very objectionable mode of legislation, that we are to create officers in this way by simply appropriating money one year to pay them for some extraordinary service. I am not prepared to agree to that appropriation of \$10,500. It may be said that it is a small sum, not worth caviling about; but it is the principle I am after. I wish to know whether there is any evidence that this is needed as a permanent office? If so, let us create it; and not simply, by appropriating money, pay for an officer that does not exist by law.

Mr. HUNTER. In 1854 we created three sub-agents for California, four for the tribes in Oregon Territory, and two for the tribes of Washington Territory. These were created upon the suggestion of the Commissioner of Indian Affairs and the Secretary of the Interior, that they were necessary. They have estimated for them as being necessary ever since, and that is as good a reason for repeating the appropriation from year to year as if there were a permanent law. It is, perhaps, better that such offices as these should be provided for in this way than by a permanent law, because they may not always be wanted—changes take place in the Indian tribes. You may now dispense with one here, and another one may be wanted there. Probably the best mode of providing for them is merely from year to year, as has been done in regard to those ever since 1854. I can give no better reason than that. It is satisfactory to my mind, and has been to the Senate for the last three or four years.

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time.

Mr. TRUMBULL. I wish to record my vote against the passage of the bill; and I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 9; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Collamer, Crittenden, Evans, Fessenden, Fitzpatrick, Hammond, Houston, Hunter, Iversen, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mason, Polk, Sebastian, and Shidell—26.

NAYS—Messrs. Broderick, Durkee, Foot, Foster, Harlan, King, Pugh, Trumbull, and Wade—9.

So the bill was passed.

HUNGARIAN SETTLERS IN IOWA.

Mr. HARLAN. The Committee on Public Lands, to whom was referred the bill (S. No. 300) for the relief of the Hungarian settlers upon certain tracts of land in Iowa, hitherto reserved from sale by order of the President, dated January 22, 1855, have directed me to report it without amendment. This is a bill which requires immediate action, if anything is to be done. The case is simply this: some time since Congress authorized the President to withhold a township of land from sale, for the benefit of certain Hungarian refugees; this land has been occupied by the poorer portion of these reserves; but recently it has been ordered into market and is to be sold on the 17th of this month. This bill provides for their relief merely by giving them the liberty to file preemption claims as other settlers. I ask that the bill may be considered at once.

Mr. JOHNSON, of Arkansas. I shall object to the present consideration of the bill. I agreed, as far as I was concerned, that the gentleman should have leave to report it, but I cannot consent to its passage.

Mr. JONES. I hope my friend from Arkansas will withdraw his objection. I ask the Chair, however, whether a single objection has the effect to pass the bill over?

The PRESIDING OFFICER, (Mr. MASON.) Yes, sir, as the bill has just been reported.

Mr. JONES. The lands are to come into market, and unless the bill be passed very soon, it will be of no use to these settlers.

Mr. JOHNSON, of Arkansas. I agreed that the bill might be reported, with the understanding that I was not to be asked to support it. I know nothing of the bill. I think, as a member of the Committee on Public Lands, I ought to know what it is.

Mr. JONES. It came from your committee.

Mr. JOHNSON, of Arkansas. I believe only three members of the committee know anything about it.

Mr. HARLAN. I will say—

The PRESIDING OFFICER. Discussion is out of order. The bill goes over, objection being made.

EXECUTIVE SESSION.

On the motion of Mr. FITZPATRICK, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, May 3, 1858.

The House met at twelve o'clock, m. Prayer by Rev. LITTLETON F. MORGAN.

The Journal of Friday was read and approved.

CHANGE OF HOUR OF MEETING.

Mr. GARTRELL. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That on and after Wednesday next, the House will meet daily at the hour of eleven o'clock, a. m.

Mr. CRAIGIE, of North Carolina. I object.

Mr. GARTRELL. I move that the rules be suspended in order that the resolution may be introduced.

The House was divided; and there were—ayes 73, noes 32.

Mr. CLEMENS. There is no quorum voting, and I therefore demand tellers.

Mr. GREENWOOD. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 94, nays 39, as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Atkins, Avery, Barksdale, Billingshurf, Bingham, Bliss, Boyce, Brayton, Buffinton, Burns, Case, John B. Clark, Clawson, Clemens, John Cochrane, Comins, Curtis, Davis of Massachusetts, Davis of Iowa, Dewart, Dowdell, Edmundson, English, Foley, Foster, Gartrell, Giddings, Gilmer, Goodwin, Granger, Greenwood, Gregg, Hickman, Howard, Hughes, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Lamar, Lawrence, Leach, Leiter, Letcher, Lovejoy, Humphrey Marshall, Mason, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Niblack, Palmer, Pettit, Peyton, Phelps, Pike, Reilly, Ricaud, Ritchie, Royce, Russell, Seales, Scott, Seward, John Sherman, Judson W. Sherman, Shorter, Samuel A. Smith, Stillworth, Stephens, William Stewart, George Taylor, Tompkins, Tripp, Underwood, Wade, Walbridge, Walton, Cadwalader C. Washburn, Watkins, White, Wilson, Woodson, Wortendyke, and Augustus R. Wright—94.

NAYS—Messrs. Adrain, Bennett, Blair, Branch, Bryan, Burlingame, Ezra Clark, Horace F. Clark, Clay, Clingman, Coffay, Burton Craigie, Davis of Maryland, Davis of Indiana, Dean, Dodd, Grow, Harlan, Thomas L. Harris, Hatch, Hawkins, Horton, Houston, Kelly, Leidy, McQueen, Maynard, Nichols, Parker, Ready, Reagan, Rufin, Aaron Shaw, Singleton, Tappan, Elihu B. Washburne, Israel Washburn, Winslow, and Zollicoffer—39.

So the rules were suspended, two thirds having voted in favor thereof.

Pending the above call,

Mr. BUFFINTON stated that his colleague, Mr. DAWES, had paired off with Mr. QUITMAN, of Mississippi, until Friday next; and that his colleague, Mr. GOOCH, had paired off with Mr. BONHAM, of South Carolina, for one week from Wednesday next.

Mr. COBB said that he was not within the bar when his name was called. He was detained at

the Departments with business of his constituents. If he had been here he would have voted in the affirmative.

Mr. FLORENCE stated that he had paired off with Mr. WALDRON, of Michigan, until Wednesday next.

Mr. GARTRELL demanded the previous question.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the resolution was agreed to.

SESSIONS OF JUDICIARY COMMITTEE.

Mr. HOUSTON. I am instructed by the Committee on the Judiciary to ask permission of the House that the committee may hold its sessions during the sessions of the House. The committee have been meeting almost every morning the entire session. We have many witnesses before us, and we could hardly get through their examination in the morning hours heretofore allowed us. One hour being now taken away by the resolution just adopted, it will be impossible to complete our examination of witnesses unless the House give us permission to sit during its sessions.

No objection being made, leave was granted.

TERRITORIAL BUSINESS.

Mr. STEPHENS, of Georgia. I wish to give notice to the House that to-morrow, after the expiration of the morning hour, I shall move to proceed to the business upon the Speaker's table, with a view to take up the bill for the admission of Minnesota into the Union.

I also ask the unanimous consent of the House to introduce the usual resolution setting apart two days for the consideration of territorial business.

Mr. GROW. I ask the gentleman from Georgia [Mr. STEPHENS] to allow the Minnesota bill to go to the Committee of the Whole on the state of the Union, and be made the special order from day to day until disposed of.

Mr. STEPHENS, of Georgia. That can be done to-morrow, if the House is disposed to do it.

Mr. GROW. A single objection will prevent it then.

Mr. STEPHENS, of Georgia. I desire to put the bill immediately upon its passage.

The resolution of Mr. STEPHENS was then read; as follows:

Resolved, That Wednesday and Thursday of next week, the 12th and 13th instant, be, and the same are hereby, set apart for the consideration of territorial business.

Mr. CRAIGIE, of North Carolina. I object.

Mr. STEPHENS, of Georgia. I move to suspend the rules.

Mr. GROW. I hope the gentleman will withdraw his objection.

The rules were suspended—two thirds voting in favor thereof.

Mr. STEPHENS, of Georgia. I now offer the resolution, and call the previous question upon it.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the resolution was adopted.

Mr. STEPHENS, of Georgia, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

SELECT COMMITTEE ON KANSAS AFFAIRS.

Mr. BILLINGHURST obtained the floor.

Mr. STEPHENS, of Georgia. I hope the gentleman from Wisconsin will allow me to make one further motion. I ask the unanimous consent of the House—and I suppose there will be no objection now—to make a report from the committee of fifteen upon Kansas matters—that it, together with the views of the minority of the same committee, may be printed and go upon the Journal.

Mr. MORGAN. I object.

Mr. HARRIS, of Illinois. I hope there will be no objection. The gentleman from Vermont [Mr. MORRILL] left with me the views of the minority upon his side of the House to present to the House. I hope there will be no objection. Those gentlemen of the committee who acted with me are in favor of it.

Mr. SEWARD. I object to debate; but do not object to the report being made.

The SPEAKER. Objection is not withdrawn.

Mr. BILLINGHURST. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 248—a bill for the relief of certain settlers upon the public lands in the State of Wisconsin, and that said bill be considered at this time.

Mr. JONES, of Tennessee. Let the bill be read, that we may know what it is.

The bill was read in *extenso*.

Mr. CRAIG, of North Carolina, objected to the introduction of the resolution.

Mr. BILLINGHURST moved to suspend the rules.

[A message was here received from the Senate, by Mr. DICKINS, their Secretary, informing the House that the Senate had receded from their amendments, disagreed to by this House, to the bill entitled "An act to supply deficiencies in appropriations for the service of the fiscal year ending the 30th of June, 1858."]

Mr. BILLINGHURST. If the House will read the report in this case, I think there will be no objection.

Mr. CRAIG, of North Carolina. I object to debate.

Mr. BILLINGHURST. I demand tellers on the motion to suspend the rules.

Tellers were ordered; and Messrs. BUFFINTON, and CRAIG of North Carolina, were appointed.

The House divided; and the tellers reported—ayes 75, noes 49.

So (two thirds not voting in favor thereof) the rules were not suspended.

SALES OF PUBLIC LANDS.

Mr. GROW. I ask the unanimous consent of the House to offer a joint resolution, to which I presume there will be no objection.

The joint resolution was read for information. It directs that none of the public lands belonging to the United States shall be exposed to public sale, under proclamation of the President, until the same shall have been surveyed and the return thereof filed in the Land Office for the period of ten years.

Mr. CLEMENS. I object.

Mr. GROW. I move to suspend the rules; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. I desire to ask the gentleman from Pennsylvania if his purpose is to prevent a settler buying his farm.

Mr. GROW. This resolution leaves the pre-emption laws exactly as they are. It does not interfere with them. They can prove the pre-emption and get their title any time within the ten years. It merely prevents public sales by proclamation of the President.

The question was taken; and it was decided in the negative—yeas 74, nays 78; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Case, Ezra Clark, Horace F. Clark, Clawson, Colfax, Comins, Cox, Cragin, James Craig, Burton Craig, Curtis, Dainrell, Davis of Massachusetts, Davis of Iowa, Dean, Dick, Dodd, Durfee, Foster, Giddings, Goodwin, Granger, Grow, Robert H. Hall, Harlan, Thomas L. Harris, Hickman, Hoar, Horton, Howard, George W. Jones, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Leach, Lovejoy, Mason, Morgan, Isaac N. Morris, Freeman H. Morse, Palmer, Parker, Pettit, Pike, Potter, Ricard, Ritchie, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Spinner, William Stewart, Tappan, George Taylor, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, and Israel Washburn—74.

NAYS—Messrs. Anderson, Atkins, Avery, Barksdale, Bishop, Bocoock, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Crawford, Davidson, Davis of Indiana, Dewart, Dowdell, Edmundson, English, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Lawrence W. Hall, Hawkins, Houston, Hughes, Jackson, Jewett, J. Glancy Jones, Owen Jones, Lawrence Leidy, Leiter, Letcher, McQueen, Humphrey Marshall, Maynard, Mill, Niblack, Nichols, Peyton, Phelps, Powell, Ready, Reagan, Reilly, Rufin, Russell, Sandidge, Savage, Scales, Seaward, Shorter, Sickles, Singleton, Samuel A. Smith, Stallworth, Stephens, Trippie, Underwood, Watkins, White, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zolliecoffer—78.

So (two thirds not voting in favor thereof) the rules were not suspended.

Pending the vote.

Mr. FLORENCE stated that he had paired off with Mr. WALDRON on political questions, and felt a delicacy in voting on this question.

Mr. NICHOLS stated that he was in favor of free trade in lands, and would vote "no."

Mr. FLORENCE stated that his colleagues, Messrs. PHILLIPS and EDIE, had paired off together, and that Mr. LANDY had paired off with another gentleman.

Mr. HOARD stated that Mr. THAYER had paired off with Mr. KEITT.

Mr. CLAWSON stated that Messrs. MOTT and LANDY had paired off together, and Messrs. ROBINS and HUYLER.

Mr. HOPKINS stated that Mr. MURRAY had paired off with his colleague, Mr. CORNING.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled:

An act (H. R. No. 306) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1858;

Joint resolution providing for the payment of certain expenses of holding the United States courts in the Territory of Utah;

An act (S. No. 36) to provide for the issuing, service, and return, of original and final process in the circuit and district courts of the United States in certain cases;

An act (S. No. 76) to incorporate Gonzaga College, in the city of Washington, and District of Columbia;

An act (S. No. 97) to incorporate the Benevolent Christian Association of Washington city;

An act (S. No. 111) to alter the times of holding the circuit and district courts of the United States for the district of Vermont; and

An act (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. LETCHER. I ask my friend to withdraw his motion, to allow me to submit a resolution, to which I think there will be no objection.

Mr. J. GLANCY JONES. I withdraw it for that purpose.

DEBATE IN COMMITTEE OF THE WHOLE.

Mr. LETCHER. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That debate in Committee of the Whole during the sessions held in daylight be confined to the bill under consideration, and that evening sessions shall be held when a majority of the committee shall desire it, for the purpose of general debate, but not for the transaction of any other business.

Mr. GROW. I have no objection to the last part of the resolution; but I object to the first part of it.

Mr. LETCHER. Then I move to suspend the rules.

Mr. BLISS. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. GIDDINGS. I would suggest to the gentleman from Virginia that the first part of the resolution is unnecessary.

Mr. LETCHER. Why, I have offered the resolution at the request of gentlemen upon the other side of the House, who suggested evening sessions.

Mr. GROW. We have no objection to that; but we object to the proposed plan of cutting off general discussion.

Mr. LETCHER. In daylight?

Mr. GROW. Yes.

Mr. LETCHER. Does the gentleman expect to adjourn on the 7th of June? If so, why does he want to occupy the daylight sessions in extraneous debate?

Mr. GIDDINGS. I presume he does not.

Mr. GROW. I am opposed to changing the rules of the House.

Mr. LETCHER. Then, if we have the requisite number, we will suspend the rules; and, if not, I shall have fulfilled my duty to those who requested me to submit the resolution.

The resolution was again read.

Mr. LETCHER. That is exactly the resolution which was adopted last session.

Mr. GROW. I think not.

The question was then taken; and it was decided in the negative—yeas 91, nays 57; as follows:

YEAS—Messrs. Adrain, Anderson, Atkins, Avery, Barksdale, Bishop, Bocoock, Boyce, Branch, Bryan, Burnett, Burns, Caruthers, John B. Clark, Clawson, Clay, Clemens,

Cobb, John Cochrane, Cockerill, Cox, James Craig, Crawford, Davidson, Davis of Indiana, Davis of Massachusetts, Dewart, Dowdell, Edmundson, English, Foley, Garnett, Gartrell, Goode, Greenwood, Gregg, Lawrence W. Hall, Harlan, Thomas L. Harris, Haskin, Hawkins, Hickman, Howard, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Lawrence, Letcher, McKibbin, McQueen, Samuel S. Marshall, Mason, Maynard, Miller, Isaac N. Morris, Niblack, Nichols, Peyton, Phelps, Powell, Reagan, Reilly, Rufin, Russell, Sandidge, Scales, Seaward, Aaron Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, George Taylor, Miles Taylor, Underwood, Elihu B. Washburne, Watkins, White, Winslow, Woodson, Wortendyke, John V. Wright, and Zolliecoffer—91.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Case, Ezra Clark, Colfax, Comins, Cragin, Curtis, Dainrell, Davis of Maryland, Davis of Iowa, Dean, Dodd, Foster, Giddings, Gilmer, Goodwin, Granger, Grow, Robert H. Hall, Horton, Kellogg, Kelsey, Knapp, Leach, Leidy, Leiter, Lovejoy, Morgan, Edward Joy Morris, Freeman H. Morse, Palmer, Parker, Pettit, Pike, Potter, Ricard, Ritchie, Royce, John Sherman, Judson W. Sherman, Spinner, Tompkins, Wade, Walbridge, Walton, Cadwalader C. Washburn, Israel Washburn, and Wilson—57.

So (two thirds not voting in favor thereof) the rules were not suspended.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 286) to enlarge the Detroit and Saginaw land districts in Michigan; and

An act (S. No. 296) amendatory of an act entitled "An act to establish two additional land districts in the Territory of Minnesota," approved 8th July, 1856.

Also, that the Senate had passed a bill of the House for the relief of Captain James Mac McIntosh, of the United States Navy.

EVENING SESSIONS.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That during the present week it shall be in order each day for the Committee of the Whole to take a recess until seven o'clock, p. m., after which hour general debate may be indulged in, provided that no vote shall be taken at such evening sessions, except on motions that the committee rise and that the House adjourn.

Mr. BURNETT. I object to that resolution, if nobody else does.

Mr. J. GLANCY JONES. I propose to strike out the words "the present week," and insert "during the remainder of the session."

Mr. SICKLES. Oh, no; that will make it still more objectionable.

Mr. SMITH, of Tennessee. I rise to a question of order. I wish to inquire whether it is not in order for the Committee of the Whole on the state of the Union to take a recess at any time without the necessity of any such resolution?

The SPEAKER. The Chair thinks that is a very doubtful question.

Mr. SMITH, of Tennessee. I think that that has been the practice of the committee heretofore.

The SPEAKER. Sometimes it has, but at other times the practice has been different.

Mr. J. GLANCY JONES. I move to suspend the rules to enable me to offer the resolution.

Mr. GROW. Has my colleague modified his resolution so as to make it apply to the rest of the session?

Mr. J. GLANCY JONES. I propose to do it, but I understand that there is objection.

Mr. GROW. We have no objection to evening sessions.

Mr. DAVIDSON. I object.

The House divided on the motion to suspend the rules; and there were—ayes 89, noes 15; no quorum voting.

Mr. BUFFINTON demanded tellers.

Tellers were ordered.

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. J. GLANCY JONES. I withdraw the resolution, and move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FLORENCE. Will my colleague give way to let me introduce a resolution?

Mr. J. GLANCY JONES. I am sorry I cannot oblige my colleague.

Mr. MARSHALL, of Kentucky. I hope we shall not go into committee. I have a memorial

here from citizens of Washington in regard to the election riots, and have been trying to get it in for months.

Mr. CLINGMAN. The gentleman can present it under the rules, and have it referred to any committee he desires.

Mr. MARSHALL, of Kentucky. Give me a select committee; that is all I want.

BUSINESS OF THE DISTRICT OF COLUMBIA.

Mr. GOODE. I wish to ask the House to set apart two days for the transaction of business of the District of Columbia; and I ask the gentleman from Pennsylvania to allow me to submit a resolution for that purpose.

Mr. J. GLANCY JONES. I would do it with a great deal of pleasure, but I feel that I am bound to insist upon going into the Committee of the Whole, to take up the public business. If the House do not choose to do so, they can vote down my motion.

Mr. GOODE. This House is the only Legislature this District has, and if the House will not set apart some time for its business, it will have no legislation at all.

Mr. CLINGMAN. What days does the gentleman propose to set apart?

Mr. GOODE. Monday and Tuesday, the 24th and 25th of this month.

Mr. SEWARD. I shall object to every special order. Let us have the committees called regularly for reports.

Mr. FLORENCE. Do I understand that my colleague will not allow me to introduce a bill? I appeal to his sympathy and to the sympathy of the House. I am exceedingly unwell, and I desire that this bill shall be referred to a committee. I ask it as a personal favor.

Mr. JOHN COCHRANE. I have a bill which I desire very much to introduce.

Mr. RUSSELL. And I another.

Mr. FLORENCE. Let us, then, have a morning hour.

Mr. CLINGMAN. The gentleman can introduce his bill to-morrow.

Mr. FLORENCE. The committee to which I wish to refer it meets to-morrow morning.

The House divided on Mr. J. GLANCY JONES's motion; and there were—ayes 74, noes 57.

So the motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, Mr. BURNETT in the chair.

PENSION BILL.

The CHAIRMAN stated the business first in order to be the consideration of House bill No. 259, granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period; on which Mr. SAVAGE was entitled to the floor.

Mr. J. GLANCY JONES. I raise the point of order which I raised in the former session of the committee—that the appropriation bills take precedence of the pension bill announced by the Chair.

The CHAIRMAN. The Chair overrules that point of order.

Mr. J. GLANCY JONES. I wish to make my motion. I move to take up the appropriation bill No. 201, and I make my point of order on that. I am desirous of testing the sense of the House on this question. The House understands the reason why I make the motion.

Mr. JONES, of Tennessee. I submit to the Chair this question. If the gentleman from Pennsylvania moves to proceed with the bill which was under consideration in the Committee of the Whole on the state of the Union before the pension bill, that bill will take precedence now that the special order has expired.

The CHAIRMAN. The Chair overrules the point of order for this reason: it is true that the appropriation bill to which the gentleman from Pennsylvania refers was under consideration in the Committee of the Whole on the state of the Union before the bill now pending. The House fixed certain days for the consideration of the bill. The time expired, but the House, by a subsequent resolution, determined to extend the discussion on this bill three hours. The discussion on this bill has been closed. The resolution further provides that the Committee of the Whole on the state of the Union shall then read the bill by sec-

tions, and proceed to vote. The Chair does not know of any instance in the Committee of the Whole on the state of the Union where the committee has laid aside a bill under such a state of facts, and taken up another bill.

Mr. JONES, of Tennessee. I do not know that there is another case exactly like this in the history of the Committee of the Whole on the state of the Union.

Mr. J. GLANCY JONES. As I stated before, I do not want to discuss the point, but I appeal from the decision of the Chair, so as to get at the sense of the committee.

Mr. CLINGMAN. I ask for tellers.

Mr. WASHBURN, of Maine. I desire to call the attention of the committee to what is embraced and involved in the ruling of the Chair.

Mr. CLINGMAN. If this is not debatable I object to the gentleman from Maine debating it. I should like to speak on it myself, if it is open to debate.

Mr. WASHBURN, of Maine. I understand that this matter is open to debate. Debate is not limited, and it is in order to discuss any question in the Committee of the Whole on the state of the Union.

The CHAIRMAN. It is not in order except unanimous consent is given.

Mr. WASHBURN, of Maine. The ruling of the Chair is a direct revolution of the whole practice of the House in the Committee of the Whole on the state of the Union.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. J. GLANCY JONES] makes the point of order that the bill No. 259 is not the first business in order in the Committee of the Whole on the state of the Union, and that the special order having expired, it is in order to move to take up any other bill that is pending, and moves to take up one of the appropriation bills, No. 201, which was under consideration in the Committee of the Whole on the state of the Union, before the special order was taken up. The Chair overrules the point of order for the reasons given when the question was presented when the House was last in committee. The House had fixed the 22d, 23d, and 24th of April for the discussion of this pension bill. The time for discussion has expired; but the House, by a subsequent resolution, determined to extend the debate for three hours. A resolution was passed that debate should be closed in three hours after the Committee of the Whole on the state of the Union should have resumed its consideration, and that then the bill should be read through by sections, and that the committee should proceed to vote upon it. The Chair holds that the time fixed for the closing of debate having expired, it is not in order now to take up any other business till the order of the House in regard to bill No. 259 shall have been executed.

Mr. CLINGMAN. Can a majority of the House make a special order?

The CHAIRMAN. Debate is not in order.

Tellers were ordered; and Messrs. CLINGMAN, and WASHBURN of Maine, were appointed.

Mr. SICKLES. I desire to ask the Chair whether the same question was not disposed of the last time we were in committee?

The CHAIRMAN. It was decided, and the decision of the Chair was sustained.

Mr. SICKLES. Was not the appeal taken on the same point?

The CHAIRMAN. It was.

Mr. SICKLES. No business has intervened since.

Mr. WASHBURN, of Maine. It was not the same question.

The House divided; and the tellers reported—ayes 39, noes 84.

So the decision of the Chair was reversed.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. J. GLANCY JONES. I now move to take up House bill No. 201, being the bill making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th June, 1859.

The CHAIRMAN. The Clerk will read the pending amendment.

The amendment was read, as follows:

Page 7, lines one hundred and thirty-eight and one hundred and thirty-nine, strike out the words "the draughtsmen and clerks employed upon the land maps."

Mr. SHERMAN, of Ohio. Before the House

proceeds to the consideration of that amendment, I desire to modify an amendment I offered the other day, when this bill was under consideration. In the amendment adopted by the committee for the compensation of the reporters of the House, I desire to have the words "the present session of Congress" stricken out, and the words "for the second session of the Thirty-Fifth Congress" inserted. This is an appropriation bill for the next fiscal year, and I desire to have this amendment apply to the next session of Congress, and not to the present, as the amendment now stands.

Mr. DAVIDSON. I desire to ask the Chair a question. What becomes of the old soldiers' bill? I would like to know.

The CHAIRMAN. If the gentleman had paid attention to the proceedings of the committee he would have known. [Laughter.]

Mr. DAVIDSON. I only wanted the reporters to know that I asked the question. [Laughter.]

The CHAIRMAN. When the bill was under consideration last, in Committee of the Whole, the gentleman from Ohio offered an amendment making an appropriation for the compensation of the reporters for the present session of Congress. He now proposes to modify that amendment as he has stated.

Mr. REAGAN. That amendment has been voted upon and disposed of.

The CHAIRMAN. If there is any objection, the modification cannot be made.

Mr. SEWARD. The amendment was adopted, and cannot now be changed.

Mr. SHERMAN, of Ohio. The gentleman from Georgia does not understand the matter. The Clerk drew up the amendment I offered, and made the appropriation apply to the present session of this Congress, when it ought to apply to the next session.

Mr. J. GLANCY JONES. When the committee was last in session upon this bill, an amendment was offered by the gentleman from Ohio to provide for the compensation of the reporters of this House. I objected to that amendment, and voted against it. The committee, however, voted it in by a decided majority. I understand the gentleman from Ohio now merely asks to correct a verbal inaccuracy. I know it is not in order to go back, but I have no objection to a correction of the phraseology of the proposition which does not alter it in any particular.

The CHAIRMAN. The gentleman from Georgia objects.

Mr. J. GLANCY JONES. Then I ask to have the pending amendment reported.

Mr. SEWARD. I do not desire to be understood as objecting.

Mr. REAGAN. I renew the objection.

Mr. J. GLANCY JONES. The pending bill to which this amendment was offered, is the annual appropriation bill for the fiscal year ending 30th June, 1859—the next fiscal year. Now, I objected to the amendment at the time it was offered; but the committee voted it in by a decisive majority. The amendment has this verbal inaccuracy about it: that, while the bill is for the expenses of the next fiscal year, the amendment applies to the present fiscal year.

Either the amendment ought to be stricken out, or this inaccuracy ought to be corrected.

The CHAIRMAN. The gentleman from Pennsylvania is well aware of the fact that the committee cannot go back to take up matter that has been passed upon, except by general consent. Objection being made, the Chair has directed the Clerk to report the pending amendment.

Mr. JONES, of Tennessee. Debate on this bill has not yet been closed.

The CHAIRMAN. It has not been.

Mr. JONES, of Tennessee. The amendment has no verbal inaccuracy about it. It is just as it was intended at the time it was offered; and why is it that it is now necessary to change it, and make it apply to the next session? It is because your deficiency bill, signed by the Speaker, and just announced to the House as enrolled, appropriated this same \$800 to each reporter for the present session of Congress. It is therefore necessary, in order not to give them two extras for this session, to make this apply to the next session, which will come in the fiscal year for which this bill, now before the committee, is intended to make appropriations. That is the reason. If it remains as it is, of course the House will, when

the Committee of the Whole on the state of the Union reports back this amendment, vote it down, as you have already made the appropriation for their extra for this present session.

Mr. NICHOLS. Is this bill open to general discussion now?

The CHAIRMAN. It is, so soon as the pending amendment is reported.

Mr. NICHOLS. But is it not open for general discussion on this amendment, as well as on all the other sections of the bill? I understand the general debate is not closed yet.

The CHAIRMAN. It is not.

Mr. NICHOLS. Then I understand it is open to debate, not only with regard to this amendment, but to all the provisions of the bill.

The CHAIRMAN. Yes.

Mr. NICHOLS. In that view I propose to discuss it.

Mr. SHERMAN, of Ohio. I hope my colleague will give me leave to give notice that when this bill shall be reported to the House, I will offer the amendment that I have suggested.

The CHAIRMAN. The pending amendment to the bill is to strike out, in lines one hundred and thirty-eight and one hundred and thirty-nine, the following words:

"The draughtsmen and clerks employed on the land maps."

So that the bill, if amended, will read:

For the compensation of clerks to committees, and temporary clerks in the office of the Clerk of the House of Representatives, \$25,000.

Mr. COBB. Will the gentleman from Ohio permit me to have that amendment modified?

The CHAIRMAN. The gentleman from Ohio is entitled to the floor.

Mr. NICHOLS. In the deficiency bill just passed, and which has probably by this time received the signature of the President, the extra compensation to the reporters of the Globe for this year is provided for. My colleague now desires that a provision of the same character shall be made for the payment of the reporters for the next year, in this bill; as it has been for the various appropriation bills in the years past.

Now, Mr. Chairman, I do not know whether I may be able to get the floor again; but I wish to say now, in correction of many things that were said in regard to this appropriation, that, several years ago, when the question of advancing the salaries of the employees of the House was mooted in Congress, the gentlemen who then comprised this corps, eight in number, asked to enjoy the same advantages, inasmuch as their services were less easily dispensed with than those of any of the employees of the House. The reporters asked to have the advantage of the gratuities which the House and Senate were voting to their employees from time to time. On their petition an investigation was had; and a former member of Congress from the State of Missouri, (Mr. Hall,) made a report to the House. That report stated the fact that these men were in the employment of a private citizen; and in order that the fluctuations of political parties in this House might have no effect on the debates, or govern them in the least, and to insure their faithful services, recommended that the House should give them this reward for faithful services. I expect that my friend from Tennessee will recollect the incident, and the time also, when this appropriation commenced. From that day to this, this amount has been awarded to them. Now, whether the item is provided in this bill or not I do not know, nor do I care; but it has been the custom of the House to provide for it in the regular appropriation bills. It is provided for this session in the deficiency bill; and the question simply arises, whether we should provide for it now in the appropriation bill for the coming fiscal year, or whether we should wait and put it into another deficiency bill next session? That is the question, as I understand it, in regard to this item for the reporters.

But, Mr. Chairman, the bill is under consideration in all its provisions, I desire to give notice now, that under the five-minute rule I shall propose to reduce the amount appropriated from line one hundred and ninety-two to line one hundred and ninety-five, for the compensation of the Secretary of State, the assistant Secretary of State, clerks, messengers, assistant messengers, and laborers in the office, \$3,600. This, Mr. Chairman, may appear to be an insignificant reduction,

and if the \$3,600 by which I propose to reduce the amount, were all to be affected by it, I should not take the trouble of moving the amendment. Now, Mr. Chairman, there is in the Department of State, a division called the bureau of statistics. It was created by an act approved August, 1856. The third section of the act creating the bureau, is as follows:

"And be it further enacted, That the Secretary of State be, and he hereby is, authorized and required to appoint one clerk, who shall have charge of the statistics in the said Department, and shall be called Superintendent of Statistics, and shall receive a salary of \$2,000 per annum, and shall be allowed, as an assistant, one clerk of the third class, which clerk the Secretary of State is hereby authorized to appoint."

In order that my motion may not be mistaken about this matter, I wanted to bring it to the attention of the House, that the House may either change the system or abolish the office under the present system.

Mr. J. GLANCY JONES. I wish to ask the gentleman from Ohio if he has any doubt as to the fact of every dollar of appropriation inserted in this bill being in accordance with law?

Mr. NICHOLS. I have not, sir.

Mr. J. GLANCY JONES. Does the gentleman propose to repeal the law, or to make it void by striking out the appropriations for offices created by law? I wish to understand if that is the point.

Mr. NICHOLS. I understand that every section of the bill is open to discussion. I propose at the proper time to offer the amendment which I have indicated. I have a right to travel over the ground occupied by this bill, and to dispute, if I see proper to do so, the necessity of all its appropriations. The general debate, as I understand it, is not closed, and if gentlemen will hear me for ten minutes, that is all the time I will consume. I have indicated the purpose for which I rose, and I desire to state the reasons which have animated me in this motion. And I frankly say, Mr. Chairman, that I make these observations more for the sake of bringing the matter to the attention of the House, and of the proper committees of the House, so that the office, if unnecessary, may be abolished, than of any permanent effect on the bill itself.

Now, sir, I have put in writing my reasons for the motion I have made, and I proceed to read them:

My attention was first called to this subject by the difficulty experienced by the Committee on Printing in deciding how to print the "Annual Report on Foreign Commerce from the State Department, for 1856." The gentleman from Illinois, [Mr. WASHBURN], then chairman of the Committee on Commerce, had introduced a resolution, which was adopted, that it should be printed in quarto. A reconsideration was carried on my motion on the last night of the session; but the Committee on Printing found itself, subsequently, forced, by the character of the work and the magnitude of the tabular statements, to accede to the expensive quarto form. Well, the printing of this volume of about four hundred and fifty pages, cost nearly nine thousand dollars, simply for the regular number of copies, no extra copies being called for, or about three dollars each copy, an extraordinary price, because the work was very difficult to print. At the commencement of the present session the "annual report for 1857" came in and was ordered to be printed, and must, of necessity, be printed in quarto form, and at like expense, as the former. In view of these circumstances I was led to examine the printed report to ascertain its character, and whether the value of its contents was commensurate with the extraordinary expense incurred. With much information of a fixed and standard character, and of great value, I found much more which was ephemeral; and I saw plainly that it must always be the case, that before the commercial information embodied in such a report could be got before the country in this form at the end of a year, it would have lost much, if not all, of its importance. Still, if a small annual document in octavo form could be put forth each year, it might be well to do it; but on the present plan that is impossible.

Within the last four years more than two hundred thousand dollars have been expended in foreign commercial statistics. The printing alone, of the four volumes on commercial relations, cost

\$170,000. This money has not been wasted—far from it: the result of the expenditure does credit to the country, and always will; but to prolong it, especially in the present condition of the Treasury, would not only be prodigal, but needless. It will be many years before any considerable expenditure for this object will again be required. Annual statements on this subject of foreign commerce, in an expensive form, are needless. Changes in commercial regulations, in all countries, are of almost daily occurrence. It is only digests of statements for series of years, and deductions drawn from the comparisons, that are of value to warrant the vast expense of the collection, preparation, and publication of such matter—the most expensive of all matter. The last report on foreign commercial relations, prior to the large work just completed, was made by Mr. Webster in 1842—sixteen years ago; and, since the Government was founded, there have been only three such reports, the first being made by Mr. Jefferson in 1793.

It was proposed to make this bureau of statistics a collector of mercantile facts, of mercantile laws, and mercantile changes—a detailed statement of the foreign commerce of the country, from time to time, and strictly adapted to the wants of the country. It was proposed to follow the system now adopted in France, by their Chamber of Commerce there, under which they gathered up the details of the commerce of the country and of the world, and published them in the shape of tracts for monthly issue among the bankers, merchants, and business men of the country. But that system was not carried out. When Mr. Marcy left the office, he left it with a work which had been collected under his administration of the office, which, as I humbly conceive, does credit to him as the head, and to those under him in the Department who prepared the work. I allude, sir, to the Commercial Relations. But how is it now with the annual report? They gather up statistics and figures during the year, and they are submitted to Congress, and are ordered to be printed, and the result is, that by the time the whole matter has reached the country the *status* has changed, and the tables are not reliable; by the time the document meets the public eye its facts, figures, and conclusions are but so much dead matter.

Now, sir, the expense annually incurred on this useless system has been the subject of investigation and remark at the State Department, and so convinced was the former head of the bureau of statistics of the utter inutilty of the concern, that he recommended to the head of the State Department that the office, in its present condition, was no longer necessary. I apprehend, sir, that the gentlemen of the Ways and Means Committee, who have charge of this matter, can apply the pruning knife to the useless expenditures at the State Department, if they will make inquiry into the facts. They will find, I think, that the resignation of the former superintendent of the bureau of statistics was accepted upon the express declaration of the present Secretary of State, that, in his view, the office was no longer necessary, and ought to be abolished. And yet, in these estimates from the State Department, we find that the salaries of these officers are provided for. I do not know whether the movement for the abrogation of this system should originate in the Committee of Ways and Means or in the Committee of Commerce, or in some other committee; but if the system must be continued at all, let us at least change it.

Mr. WINSLOW. I will say to the gentleman from Ohio that the subject is now under consideration in a bill before the Committee on the Library.

Mr. NICHOLS. I am glad to hear it. I have been led to make these remarks from the investigation I have made into the subject from my connection with the printing of the work—nothing more and nothing less. But whilst I say this, sir, I do not pretend to say that, under a proper system, under proper management, this bureau might be made the means of the greatest practical utility and good to the country. If you adopt the English or French system, and report at brief periods such information as is of value to the business of the country, depend upon it, this bureau will amount to something.

I cannot take my seat without paying a just tribute to the late Mr. Marcy and Mr. Flagg, who had charge of the preparations of the volume

known as the Commercial Relations. I do not intend that that tribute shall rest upon my word alone. But I want the House to understand the distinction which exists between the report on commercial relations and the annual statistics gathered up and embodied in the annual report from the State Department. The one contains all the commercial laws of the world—the comparative tariffs, the consular returns, and a vast body of information for American merchants, gathered from every avenue of trade in the world, and embodying the experience of years. The other is restricted simply to the port regulations and the changes from day to day in the commercial interests of the world. Thus, for instance, a regulation prevails one month in a country, and the next month it is altered; and the matter of momentary interest thus collected month by month is gathered up and put in the annual report. It is furnished to us as the existing law or commercial regulations of a country, when, in fact, it is dead and useless.

Now, I propose to introduce authorities in reference to this work called Commercial Statistics; or, the Commercial Relations of the United States with all Nations. Sir, I hold in my hand several testimonials from foreign sources—one from the leading commercial paper of England, and another from the department of agriculture and commerce in France.

Mr. J. GLANCY JONES. I wish the gentleman would allow me, before he takes his seat, to say a word. The debate not having been closed, he has a right to discuss any subject, I suppose.

Mr. NICHOLS. No, sir; not any subject.

Mr. J. GLANCY JONES. Well, any subject connected with the appropriations. I merely wish to correct what is, perhaps, an erroneous impression. I would say to the gentleman from Ohio that perhaps I do not differ with him much in regard to the necessity of reform; but I wish to inform the gentleman and the committee that Congress has provided by law for the performance of this duty. It has created these officers. It is a duty incumbent upon the Department to estimate for their salaries. They have only sent to Congress an estimate of the money necessary to carry out its will. I wish to say further that the proper committee has been called upon by the Department to bring about the reform suggested by the Government.

But I wish, if he chooses to have a reform, that he would pursue the proper course; and that is to repeal the law and remedy the evil by striking at the heart of it, and not to raise questions on the appropriation bills, nor to imply a want of disposition on the part of the Committee of Ways and Means to be sufficiently economical. The gentleman knows that it is made the positive duty of the Executive and heads of Departments to submit to Congress estimates for appropriations necessary for the discharge of duties imposed on them by the law. I am with the gentleman perhaps to the fullest extent in his effort to economize our expenditures. I am willing to go for every legitimate reform. But this, sir, is a matter over which the Committee of Ways and Means has no discretionary power. The gentleman has alluded to that committee as the proper committee to inaugurate reforms. The gentleman knows that that committee has no such power. If the Committee of Ways and Means were to come into the House and undertake to refuse to include in the appropriation bills appropriations under law, because they thought the law unwise and inexpedient, the gentleman himself would be the first to rise in his seat and censure the committee for an exercise of undue power. It is not for the Committee of Ways and Means to inquire in regard to the wisdom of the law authorizing an appropriation; but its province is to provide appropriations for the execution of existing laws. If there be any fault, it is with Congress. Congress has made the law, which for its execution requires an appropriation; and if this appropriation is not proper, then let the laws be repealed. It is Congress that directs that the Executive Departments shall execute certain laws; and to do so it is necessary that these appropriations should be made.

Mr. NICHOLS. I would inquire of the gentleman whether the former superintendent did not resign his office under the express declaration that a discharge of the duties of the officer was no

longer necessary; and whether, after that, and during this year, a successor was appointed?

Mr. J. GLANCY JONES. I will reply to the gentleman with great pleasure. I have never inquired in reference to that fact. I do not know what induced the gentleman alluded to to resign the office.

Mr. KELLY. I have made some inquiry on this subject, and from the best information I could get, I learn that Mr. Flagg was compelled to resign because there were charges made against him to the effect that he had employed women ostensibly at four dollars a day, and only paid them at two dollars a day, requiring their receipts for four dollars a day. This fact was ascertained by the gentleman who represents the Committee on Commerce of the Senate. When he found that such was the case, he went to the State Department and said that if Mr. Flagg was not turned out of that office he would expose the matter to the country. This was the reason why Mr. Flagg was compelled to resign.

So far as the bureau itself is concerned, every gentleman knows that there is no bureau in the Government that has been so effective in giving the country valuable statistical information. But Mr. Flagg being compelled to resign, now comes to Congress and makes the effort to abolish a bureau which has been of so much benefit to the country.

Mr. NICHOLS. I beg leave to say that, so far as my action here is concerned, Mr. Flagg has nothing to do with it whatever. He has been connected with that bureau, but I have spoken to him hardly half a dozen times. Let me say one thing to the gentleman from New York. Whatever may be the secret reasons which may be urged here, as having caused Mr. Flagg's removal, I can produce a letter from General Cass to him, in which it is stated that his resignation is accepted because the duties before appertaining to the bureau were no longer necessary.

Mr. KELLY. If information on the subject be desired for the House and the country, let a resolution be introduced and passed, calling on the State Department to furnish it.

Mr. WASHBURN, of Illinois. Does the gentleman make a charge against Mr. Flagg?

Mr. KELLY. I do not make any charge. I only give what information I have derived from a source believed by me to be reliable.

Mr. WASHBURN, of Illinois. State your source of information?

Mr. KELLY. The State Department itself.

Mr. NICHOLS. I do not want now to go into outside controversy. My effort now is to take a proper view of what the public necessity requires us to do in this matter. And let me say to the chairman of the Committee of Ways and Means that my object is accomplished in the declaration of the gentleman from North Carolina, [Mr. Winslow,] and the declaration of the gentleman himself. It is nothing to me who fills the office. They are all children of one family; and I am none of them; and I am sure that I have no right to intermeddle with Democratic domestic affairs. [Laughter.] I do not care for the distribution of their Democratic patronage. I do not want it myself, and have no friends who want it; and I do not propose to go into that matter. That was not my object in rising. While I want to get rid of the causes of useless expenditures of the public money, yet, sir, I want to retain upon the statute-book what is worthy of commendation, and what is really for the public good.

I will say to the gentleman from Pennsylvania [Mr. J. GLANCY JONES] that I do not find fault with the Committee of Ways and Means. I do not think that I have evinced any such disposition in the remarks which I have made.

Mr. J. GLANCY JONES. On behalf of the committee, I do not shrink from a scrutiny of the acts of that committee, in the aggregate or individually. My friend will remember that he held out the opinion that it was the duty of that committee to reform these expenditures. I reply to that, that the Committee of Ways and Means have no power to go behind the law. Their duty properly is, to provide appropriations called for by the law.

Mr. NICHOLS. The gentleman has misapprehended me. I have no object to embarrass the gentleman at all; I have only, in my remarks, pointed the Committee of Ways and Means to the places where the expenditures of the Government

might be reduced. I did not refer to the Committee of Ways and Means alone; I referred to the committees to which these subjects appropriately belong. I know no reason why estimates based upon a law no longer necessary, or which has expended its force, may not be reviewed in an appropriation bill.

Mr. WINSLOW. With the permission of my friend from Ohio, I will state what I know about this matter. There is a bill before the Committee on the Library providing for the distribution of the public documents now on hand in the library. There are in the State Department a large mass of books and documents, in number about five hundred thousand. The proposition was to provide for the distribution of all these. It was also desirable to remove the copyright books from the State to the Interior Department, and to relieve the Department of that matter not properly appertaining to its duties. I was informed that the necessity of a continuance of the bureau of statistics had ceased. It is proper to say that I had no conference with the head of the State Department, but the information received by me was from Mr. Flagg. I looked into the matter, and certainly came to the conclusion that my friend from Ohio has reached—that the usual annual publication of the commercial statistics was wholly useless, and that the suppression of that bureau would save to the Government some fifteen thousand dollars. The usual reports may still continue, but, in my judgment, ought more properly to be reported to the Treasury Department. If their publication hereafter may be desirable, a digest every five or ten years would be much more useful. I intended, therefore, to insert, by way of amendment to the bill now before the Library Committee, a clause to repeal the law providing for such publication. As I remarked, I had no communication with the Department of State, preferring to wait until the bill was perfected, to submit it to that Department and to the Interior Department for any suggestions they might have to make. I repeat, however, that I entirely agree with my friend from Ohio in his conclusions.

Mr. NICHOLS. I desire to conclude what I have to say. I wish the gentleman from New York to understand that, in reference to anything he may say about troubles in the Democratic camp, which may have led to the removal of any of its children, I desire to enter into no discussion. I have nothing to do with it, then, or the difficulties of this happy family.

Mr. KELLY. I think the gentleman from Ohio is entirely in error. The duty of the statisticians in the State Department is to collate and compile all the reports made by consuls at foreign ports on commercial matters, and everything which pertains to the welfare and benefit of this Government. It is done not only for the benefit of commercial men, but for the benefit of the community generally; and I think the abolition of that particular branch of the Government would be entirely wrong. The whole expense of keeping it up amounts to very little.

I say again that the whole of this matter originated—though I do not attribute it to the gentleman from Ohio—on the part of disappointed gentlemen who had been turned out of office, and in nothing else.

Mr. WASHBURN, of Illinois. I had some connection, in the last Congress, with this work on commercial relations, to which allusion has been made. I think I introduced the act of August 18, 1856, from the Committee on Commerce, by which this bureau was created. I think that is so; though I have given this matter very little attention during this session of Congress. The House and the country know the result which has flowed from the passage of that act. This work has been printed, and has gone to the country, and its merits have been passed upon, both by Congress and by the country. I think it will be conceded that it is one of the most useful works which has ever been printed by the Government.

I was not aware that it was the intention to keep up, or to establish such a system as is proposed now. I very much doubt the policy of carrying the system any further than it has been carried. Whether the particular mode by which the gentleman from Ohio proposes to reach that end is the best, I do not propose to say. I think it is a subject to which the attention of the members of

the House might well be directed, whether the benefits to be derived from a continuance of this system are worth what it will cost to the Government.

But my principal object in asking my friend to yield me the floor was to say a word here in reference to Mr. Flagg. I have had some acquaintance with that gentleman from my connection with this matter during the last Congress, and I am astonished at the charges the gentleman from New York has made here to-day; and I think it is due to Mr. Flagg that the gentleman from New York should state his authority. Those charges go to the country, and reflect severely upon Mr. Flagg.

Mr. KELLY. I have made no charges.

Mr. NICHOLS. I desire to conclude my remarks, but the gentlemen are consuming my time.

Mr. KELLY. I desire to say—

The CHAIRMAN. The gentleman from New York is not in order.

Mr. KELLY. I desire to say this: if the gentleman desires to have this matter investigated, let him introduce a resolution for that purpose.

Mr. WASHBURN, of Illinois. I hardly think it fair for the gentleman from New York to get up here and make charges upon rumor against an honorable man—a man who has held an important position, and has discharged his duties, as I think every gentleman will concede, with signal ability.

Mr. KELLY. I have made no charge, and shall make no charge, against the gentleman.

Mr. WASHBURN, of Illinois. Will the gentleman state his authority for what he has said?

Mr. NICHOLS. I cannot agree to yield any further. I have something further to say upon this subject myself.

Mr. KELLY. I will say—

Mr. NICHOLS. Inasmuch as I have declined to yield to the gentleman from New York, I must resume the floor from the gentleman from Illinois.

Mr. KELLY. Mr. Chairman—

The CHAIRMAN. The gentleman from Ohio is entitled to the floor.

Mr. NICHOLS. With all these extraneous matters—with the discussion of family differences and difficulties, which have led to the removal of one man and the substitution of another—I have nothing to do, and I desire to have nothing to do with them. Such was not my object in raising this discussion.

I am extremely gratified to hear from the gentleman from North Carolina [Mr. WINSLOW] that the very subject which has occupied my attention for some time has also occupied the attention of an appropriate committee of the House. I was gratified to hear that he has arrived at the same conclusion that I have arrived at. I do not know who fills this office. It is nothing to me who does. As I said, sir, I am happy to hear the gentleman from North Carolina [Mr. WINSLOW] say that his committee has arrived at the same conclusion which I wished to indicate when I rose this morning and took the floor. So far as the character of the work, which is the sole and only result of this bureau, is concerned, I only ask that the Clerk read the extracts which I send to the Clerk's desk.

The Clerk read as follows:

"The London Athenaeum of February 20, 1858, in noticing volume four of the 'Commercial Relations,' says: 'The highest praise is due to the House of Representatives for publishing this comprehensive and really national report, which brings into one view the entire commercial status of the United States with the entire world.'"

Mr. NICHOLS. And again, sir, I ask the Clerk to read the following:

The Clerk read:

[Translation.]

DEPARTMENT OF AGRICULTURE,

COMMERCE, AND PUBLIC WORKS,

PARIS, March 25, 1857.

SIR: You did me the honor to transmit to me, on the 7th of this month, a copy of a document on the commercial relations of the United States with foreign countries, entitled 'Commercial Digests.' This document forms the first volume of a publication which is to be composed of three volumes, which has been ordered by the House of Representatives, and is executed under the direction of the Secretary of State by Mr. Edmund Flagg, an officer of the State Department. You call my special attention to this work, which has been suggested, you say, by the *Annales du Commerce Extérieur*, and, particularly, to the report [letter] at the commencement, in which Mr. Edmund Flagg mentions with praise the publication emanating from the Department of Agriculture and Commerce.

I thank you for having sent me this book, which is particularly interesting to my department. The Minister of France at Washington had already communicated to the Imperial Government the remarkable report [letter] of Mr. Flagg to Mr. Marey; and I had noticed the friendly terms in which it speaks of the *Annales du Commerce Extérieur*. These commendations acquire a still greater value in presence of the work which you have been pleased to send to me. The volume sums up methodically the relations of the United States with the different foreign countries, as well as the tariffs, and the regulations of customs and of navigation, and the maritime exhibits of those countries. It contains, also, an analysis of all treaties of commerce and navigation contracted by the United States—an analysis which is made on the model of the synopsis of treaties contracted by France, published in the *Annales du Commerce Extérieur*. It contains, in short, abundant and useful information; and I am happy to recognize in it marked improvement over works of the same character previously published by the American Government. A further improvement will be accomplished when, in accordance with the wish of Mr. Flagg, Congress shall prescribe a continuous, periodical, and practically useful publication, like that which my department has constantly issued for many years.

I should be very much obliged to you if you could procure for the use of the bureau of Foreign Commerce a second copy of the Commercial Digests, and hereafter forward to me, in duplicate, copies of the other volumes as soon as they shall have appeared.

Accept, sir, the assurance of my entire consideration.

ROUHER,

Minister of Agriculture, Commerce, and Public Works.

Mr. NICHOLS. Mr. Chairman, one word in reference to the statement made by the gentleman from New York as to the utility of the bureau as at present organized. The gentleman from North Carolina said that his committee, which had given the subject a careful consideration, thought it was unnecessary. I think so too, and I will give my reasons for that opinion. If it be desirable to collect statements of this character, then it is desirable that they shall be collated and analyzed. Here (exhibiting a copy) is a volume of statistics collected under an old law—the law of 1842. Unless you confine this thing to a digest of the results of trade which have been obtained, and which digest shall be given periodically, the collection of statistics amounts to a mere nonentity. Before these mere statistical tables are got out there will have been changes and modifications, and they will then be utterly unreliable. I believe the Government could make a department of the kind useful to the country. I believe that the man who last presided over the State Department had correct ideas on the subject when he proposed a monthly or a semi-monthly report of the results of trade throughout the world. With comprehensive grasp of intellect, that great statesman, in his range of thought and ideas, traversed the whole world; he sought the improvements in the arts, sciences, and the manufactures of all nations—with their commercial changes, and the cause of their growth in commercial prosperity. He sought to make the arts, the sciences, the commercial knowledge, and the prosperity of the globe, subordinate to the interests and prosperity of our own people; but such, sir, is not the ruling spirit of that Department now.

Mr. MAYNARD. I should like to know who is the present head of the bureau?

Mr. NICHOLS. These interruptions have entirely broken the thread of my remarks. I find that I have occupied about enough of the time of the committee with this question. I believe, I will say in conclusion, that there ought to be a good statistical bureau, and that it should be transferred from the State to the Treasury Department, to which it properly belongs. I am sorry that anything I have said may have given occasion for a disturbance in the internal economy of the party of my Democratic friends; and I trust, sir, these gentlemen who have developed the fact that they are not, as might be hoped, a "happy family," will believe me when I say that I had no object in view which would provoke recriminations in any part of this Hall.

Mr. RUFFIN obtained the floor, but yielded to Mr. J. GLANCY JONES. With the gentleman's permission, I will send to the Clerk's desk the law under which this thing is done.

The Clerk read, as follows:

An act to amend an act entitled "An act requiring foreign regulations of commerce to be laid annually before Congress," approved August 16, 1842, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the changes and modifications in the commercial systems of other nations, now required by said act, it shall be the duty of the Secretary of State to lay before Congress annually, within sixty days after the commencement of each ordinary session, as a part of said report, all other commercial information communicated to the State

Department by consular and diplomatic agents of this Government abroad, or contained in the official publications of other Governments, which he shall deem sufficiently important.

Sec. 2. And be it further enacted, That to enable the Secretary of State to make said report, it is hereby declared to be the duty of consuls and commercial agents of the United States in foreign countries, to procure and transmit to the Department of State authentic commercial information respecting said countries, of such character, and in such manner and form, and at such times, as said Department may, from time to time prescribe; and it shall be the duty of the Secretary of State, in said annual report, to specify the names of any of said officers who may have been remiss in their duty enjoined by this act.

Sec. 3. And be it further enacted, That the Secretary of State be, and is hereby, authorized and required to appoint one clerk, who shall have charge of statistics in said Department, and shall be called "Superintendent of Statistics," and shall receive a salary of two thousand dollars per annum, and shall be allowed as an assistant one clerk of the third class, which clerk the Secretary of State is hereby authorized and required to appoint.

Approved, August 18, 1856.

MESSAGE FROM THE PRESIDENT.

Here the committee rose informally; and Mr. MILLSON having taken the chair, in the absence of the Speaker, a message was received from the President of the United States, by Mr. JAMES BUCHANAN HENRY, his Private Secretary, informing the House that the President had approved an act for the relief of Duncan Robertson; and, also, that he was directed to deliver to the House of Representatives a message in writing.

The message was accompanied by a vast pile of documents, and caused much laughter.

The committee then resumed its session.

Mr. JONES, of Tennessee. Mr. Chairman, that must be a very important message which has just been received from the President. I suppose that it must involve the safety and perpetuity of this Union, from the quantity of papers that accompanies it. I move that this committee rise, that it may be read. I want to know what has brought this immense amount of papers here. I want to know if this is the result of the great controversy about Cuba, or if the Mormons are about to invade the Capitol. [Laughter.]

The CHAIRMAN. The gentleman from North Carolina has the floor.

Mr. RUFFIN. I will yield to the gentleman from Tennessee, as I presume I shall have the floor when we go into committee again.

Mr. JONES, of Tennessee. Then I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BURNETT reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 201, and had come to no resolution thereon.

Mr. JONES, of Tennessee. Mr. Speaker, with the consent of the House, I ask that the message just received from the President be taken up and read.

No objection was made.

The SPEAKER then laid before the House the following message from the President of the United States:

To the House of Representatives:

In compliance with the resolutions of the House of Representatives of 19th January, 1857, and 3d February, 1858, I herewith transmit the report of the Secretary of the Interior, with accompanying documents.

JAMES BUCHANAN.

WASHINGTON, May 3, 1853.

Mr. JONES, of Tennessee. I wish to have those documents read, and let them be put somewhere where the House can see them. [A laugh.]

Mr. CLINGMAN. Let the communication of the Secretary of the Interior be read.

The communication of the Secretary of the Interior was read as follows:

DEPARTMENT OF INTERIOR, April 30, 1853.

SIR: I have the honor to transmit herewith copies of the correspondence and documents called for by the resolutions of the House of Representatives of January 19, 1857, and February 3, 1858; also a copy of the letter of the Acting Commissioner of Indian Affairs, transmitting the same to this Department, dated the 28th instant.

With great respect, your obedient servant,

J. THOMPSON, Secretary of Interior.

To the President.

Mr. FAULKNER. I should like to have those resolutions which are referred to in the message read, so that we may know what these documents refer to.

Mr. CLINGMAN. Let us first have the letter of the Commissioner of Indian Affairs read.

The letter was read as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS, April 28, 1858.

Sir: In obedience to your direction, I have the honor to transmit herewith copies of correspondence between this office and the superintendents, agents, &c., of the superintendencies of Oregon, Washington, and California, in relation to Indian Affairs, as required by House resolution of January 19, 1857, referred here by your predecessor on the 21st of the same month; also copies of the correspondence between this office and the superintendents, agents, &c., of the superintendencies of Oregon and Washington in relation to Indian Affairs, and those having reference to the official conduct of Anson Dart, late superintendent of Indian Affairs in Oregon, as required by House resolution of February 3, 1858, referred by the House resolution of February 3, 1858, referred here by you, on the 6th of the same month.

Very respectfully, your obedient servant,
CHARLES E. MIX,

Acting Commissioner.

Hon. J. THOMPSON, Secretary of the Interior.

Mr. GREENWOOD. I believe that this communication is in answer to a resolution offered by myself, and I move that it be laid upon the table, and printed.

Mr. JONES, of Tennessee. I object to the printing of a word until it has been read. Just put the papers up on the desk, and let us see them.

Mr. MORGAN. I am told that it required five clerks for nine months merely to copy these papers.

Mr. JONES, of Tennessee. I am informed that it took nine clerks for six months.

Mr. MORGAN. Well, I have my information from headquarters.

Mr. JONES, of Tennessee. I learn, further, that all the information contained in these papers is not worth one hour's labor.

Mr. MORGAN. That is a fact.

The SPEAKER. The communication seems to be in answer to a resolution of the House adopted January 19, 1857.

Mr. FAULKNER. Let it be read.

The SPEAKER. It is not before the Chair.

Mr. LETCHER. The Clerk has the Journal here.

The SPEAKER. It was a resolution of a preceding Congress.

Mr. WASHBURN, of Illinois. Is it in order to move to lay the whole matter on the table, without printing?

The SPEAKER. There is a motion pending to lay on the table and print, and the gentleman can attain his object by asking for a division of that question.

Mr. WASHBURN, of Illinois. Well, I ask for a division.

Mr. JONES, of Tennessee. Have we a right to have the documents read before we are called to vote on printing?

The SPEAKER. If a majority of the House orders the reading the Chair will have them read.

Mr. JONES, of Tennessee. Can you call upon any of us to vote for or against the printing of those papers before we know what they are?

The SPEAKER. The Chair thinks that on a motion to print, the papers need not be read unless the House orders it.

Mr. JONES, of Tennessee. I do not understand that kind of legislation.

Mr. PHELPS. Let us have the resolution read to which this is a response.

The SPEAKER. It is in response to two resolutions of 19th January, 1857, and 3d February, 1858.

Mr. GREENWOOD. I was under the impression that this communication was in response to a resolution offered by me this session. I find, however, that the bulk of the documents are not in response to that resolution, so that the remarks of the gentleman from New York [Mr. MORGAN] do not apply to my resolution. My resolution called for information in reference to the official conduct of Anson Dart. That information is important, and I trust that at least that portion of the documents will be printed.

Mr. JONES, of Tennessee. I wish to inquire whether—

Mr. PHELPS. I desire to have the resolution read.

The resolution was read, as follows:

"January 19, 1857. Mr. Sage, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

"Resolved, That the President be requested to furnish

to this House all the correspondence and documents, not incompatible with the public interest, relating to Indian Affairs in the department of the Pacific—those of the Interior as well as those of the War Department."

Mr. UNDERWOOD. Would it not be competent to have those documents referred to the Committee on Indian Affairs without being printed? If it becomes necessary that they should be printed—

The SPEAKER. The Chair is of opinion that as there is a motion pending to lay on the table, a motion to refer would not be in order.

Mr. CLINGMAN. I hope the gentleman will withdraw that motion, and let the matter be referred to the Committee on Indian Affairs; a little examination would enable them to know whether any portion of this matter ought to be printed, and how much. I hope the subject will be referred to the Committee on Indian Affairs.

Mr. JONES, of Tennessee. I want to make a question of order; and that is, that before we are called to vote on this question, I have a right to have the paper read.

Mr. CRAIG, of North Carolina. It was ruled by the Speaker of last Congress, on that same subject, that it did not require a majority to have a paper read, but that if any single member required the reading of a paper, he had a right to have it read before the vote was taken.

Mr. JONES, of Tennessee. Exactly, sir; and I think that to be the right construction under the rule.

The SPEAKER. That had reference to the report of a committee.

Mr. CRAIG, of North Carolina. It was as to a report of a committee of conference that the construction here referred to was made.

Mr. GREENWOOD. I desire to withdraw my motion to print.

Mr. HALL, of Ohio. I renew it.

Mr. CLINGMAN. I ask the gentleman to withdraw his motion for a moment, and let me submit the motion I speak of. If the gentleman does not withdraw it, I hope it will be voted down.

Mr. UNDERWOOD. Let the proposition be put and voted down, and then the gentleman from North Carolina can make his proposition.

Mr. WASHBURN, of Illinois. Do I understand that the wish of the gentleman is to move to refer these documents to the Committee on Indian Affairs?

Mr. CLINGMAN. It is.

Mr. WASHBURN, of Illinois. And then to have the question taken on the motion to print?

Mr. CLINGMAN. Yes.

Mr. WASHBURN, of Illinois. Then I have no objection.

Mr. CLINGMAN. The gentleman having withdrawn the motion, I move to refer the message of the President to the Committee on Indian Affairs.

Mr. HALL, of Ohio. I renewed the motion to lay on the table and print.

Mr. JONES, of Tennessee. I renew my question of order. The first thing is to have these papers read before the House disposes of them, that we may know how to dispose of them.

The SPEAKER. Is there any objection to the papers being read.

Mr. CLEMENS, Mr. CLINGMAN, and others, objected.

The question was taken, "Shall the papers be read?" and it was decided in the negative.

Mr. JONES, of Tennessee. I did not make the motion to have the papers read, but I asked my right, as a member of the House, that I may vote intelligently, to have these papers read.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Tennessee.

Mr. JONES, of Tennessee. Then I appeal from the decision of the Chair.

Mr. CLINGMAN. I move to lay the appeal on the table.

Mr. GROW. I ask for the reading of the 57th rule.

The rule was read, as follows:

"When the reading of a paper is called for, and the same is objected to by any member, it shall be determined by a vote of the House."

Mr. JONES, of Tennessee, called for the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the appeal was laid on the table.

The question recurred on Mr. CLINGMAN's motion.

Mr. HALL, of Ohio. Was my motion not entertained?

The SPEAKER. The Chair did not recognize the gentleman from Ohio when he rose.

Mr. HALL, of Ohio. A motion was made by the gentleman from Arkansas [Mr. GREENWOOD] to lay on the table and print. He withdrew that motion, and I immediately renewed it. I ask the Chair whether he entertained my motion?

The SPEAKER. The Chair would have entertained the motion, if he had recognized the gentleman from Ohio. At the time the gentleman from Ohio rose, the Chair was considering the question of order raised by the gentleman from Tennessee.

Mr. CLINGMAN. I am willing that the gentleman's motion may go in, if it does not cut off mine.

The SPEAKER. If the motion to lay on the table be received, the motion to refer cannot be entertained.

Mr. CLINGMAN. Then I hope my motion will be adopted.

Mr. HALL, of Ohio. I inquire of the Chair whether it is in order for me to move to amend the motion of the gentleman from North Carolina by moving to lay on the table and print? If so, I wish to make that amendment.

The SPEAKER. The Chair is of opinion that the motion to lay on the table would take precedence of the motion to refer.

Mr. HALL, of Ohio. Then I make the motion that the papers be laid on the table and printed.

Mr. HARRIS, of Illinois, (in his seat.) I suppose that is for the benefit of the gentleman's colleague, Mr. Steadman.

Mr. JOHN COCHRANE. Is it in order to call for a division of the question?

The SPEAKER. It is.

Mr. JOHN COCHRANE. Then I call for a division.

The SPEAKER stated the first question to be on the motion to lay on the table.

Mr. PHELPS. I desire to know how large those packages of papers are. I suppose the resolution of the last session of Congress was offered by the gentleman from New York on account of the dissensions that had arisen in the Territories of Oregon and Washington, between General Wool and the Governors of those Territories—

Mr. CLEMENS. I object to debate.

Mr. PHELPS. I suppose the resolution was introduced for that purpose—

Mr. CLEMENS. I object to any further debate.

Mr. PENDLETON. This matter refers to claims to the amount of \$5,000,000.

Mr. MORGAN. If gentlemen will allow me one moment, I can tell them for what purpose those papers were called for.

Mr. BURNETT. I object to discussion.

Mr. MORGAN. I only want to say one word.

Mr. LETCHER. I hope the gentlemen will be allowed to be heard. I want to know what this is about.

Mr. JONES, of Tennessee. I insist that the gentleman has a right to be heard.

Mr. BURNETT. I have no objection to the gentleman from New York being heard, if the motion to lay on the table be withdrawn. If it be, then the gentleman has a right to be heard; but I am for enforcing the rules of the House so long as we have them.

Mr. HALL, of Ohio. I decline to withdraw my motion.

Mr. GROW. Is there not a motion to print pending?

The SPEAKER. There is; but the Chair thinks the motion to lay on the table takes precedence.

Mr. MORGAN. It is of no sort of consequence to have those papers printed.

The motion to lay the communication and the accompanying papers on the table was then agreed to.

The question recurring on the motion to print, Mr. STEVENSON demanded the yeas and nays.

Mr. MORGAN. The gentleman who at the last Congress (Mr. Sage) moved the resolution to which these papers are a response, merely had this object in view—

Mr. JONES, of Tennessee. I rise to a question of order. I desire to know whether this matter is debatable on a motion to lay on the table?

The SPEAKER. The pending motion is a motion to print; and that is debatable.

Mr. MORGAN. The only object of that gentleman was to get at the correspondence relating to General Wool. A portion of it had been published already, and he desired to have what remained. All this mass of labor which is now presented to us has grown out of his desire in that matter. He had no idea that it would amount to this vast mass of documents, nor had the House any idea of it, or they would never have ordered it.

Mr. RITCHIE. I call the previous question upon the motion to print.

Mr. CLINGMAN. I hope the gentleman will withdraw his demand, and allow me a single moment.

Mr. RITCHIE. I will if the gentleman will renew the motion.

Mr. CLINGMAN. I will. There may be something in that mass of documents which is important to the defense of General Wool, or somebody else. Why should gentlemen object to having the documents referred to some committee of the House, if others are of opinion that any portion of this correspondence ought to be published. I would not object to the Committee on Printing, though I suppose the Committee on Indian Affairs is the appropriate committee.

Mr. CRAIG, of North Carolina. I rise to a question of order. It is not in order to discuss the question of reference on a motion to print.

The SPEAKER. The motion to print, it has been decided uniformly, opens the merits of the whole question.

Mr. CLINGMAN. That is very clear; but, in fact, my motion to commit to the Committee on Indian Affairs is pending. The Chair decides that this motion takes precedence of mine. If this motion should fail, of course the House may adopt mine.

Mr. JONES, of Tennessee. The communication and documents have already been laid on the table.

Mr. CLINGMAN. My only object is to have such portions printed as may be necessary to the defense of General Wool or others.

Mr. JONES, of Tennessee. Several gentlemen in this part of the Hall have asked that the bundle of papers might be placed upon the desk, so that the House can see them. I hope it will be done.

Mr. LETCHER. Just to see whether the table will bear them. [Laughter.]

The documents accompanying the message were here placed upon the Clerk's table, making a pile of papers some four feet in height.

Mr. LAWRENCE. Will the gentleman from North Carolina give way for a moment?

Mr. CLINGMAN. I will hear what the gentleman has to say.

Mr. LAWRENCE. I wish merely to say that here is information that has been obtained at a cost to the Government of from ten to twenty thousand dollars. I speak in round numbers. I think it due to the dignity of this House, due to the country, and due to the Departments of the Government, that these papers should be referred, as suggested by the gentleman from North Carolina, to the appropriate committee, in order that they may determine whether any portion of those papers are necessary for our information, for the good of the country, and, therefore, ought to be printed. I am opposed to all this wholesale printing; yet if there is anything in that bundle of papers which is necessary for our information, I am willing to have it published.

Mr. CLINGMAN. I merely wish to say, in conclusion, that I know nothing about the nature of the papers. There is no necessity for printing all of them, and if any portion is to be printed, I prefer that some committee should act upon them first. I will renew the demand for the previous question, as I promised the gentleman from Pennsylvania.

Mr. JOHN COCHRANE. I give notice that I shall move to refer the papers to a special committee of ninety-nine. [Laughter.]

Mr. GROW. With power to sit during the recess.

Mr. JONES, of Tennessee. With the permission of the gentleman from North Carolina, I would say that I understand that this is only a response to that resolution from the Interior Department, and perhaps those from the War and Treasury Departments are yet to come. [Laughter.]

The previous question was then seconded, and the main question ordered to be put.

The question first recurred on the motion to print.

Mr. JONES, of Tennessee, demanded the yeas and nays.

Mr. HARRIS, of Illinois, called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion to print was disagreed to.

Mr. RITCHIE moved to reconsider the vote by which the papers were laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. RITCHIE moved to reconsider the vote by which the House refused to print; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. PHELPS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BURNETT in the chair,) and resumed the consideration of the

EXECUTIVE, ETC., APPROPRIATION BILL,

on which the gentleman from North Carolina [Mr. RUFFIN] was entitled to the floor.

Mr. J. GLANCY JONES. How much of the time of the gentleman from North Carolina is unexpired?

The CHAIRMAN. Three quarters of an hour.

Mr. RUFFIN. I rise for the purpose of offering an amendment to the pending amendment. I move to strike out in lines one hundred and thirty-eight and one hundred and thirty-nine the words, "draughtsmen and clerks employed on the land maps." Strike out in line one hundred and forty-one, "\$25,000," and insert, "\$8,440;" and add to the end of the section as follows:

And that the resolution of the 4th of May, A. D. 1848, directing the Clerk to procure a map of the public lands in each State, and directing that said maps be revised and extended after each session of Congress, be, and the same is hereby, repealed.

I will state what the amendment is, so that gentlemen may understand it.

Mr. DAVIS, of Indiana. I desire that the original amendment may be read.

The CHAIRMAN. The original amendment is to strike out the words, "the draughtsmen and clerks employed on the land maps."

Mr. DAVIS, of Indiana. I now raise the question of order, that the amendment of the gentleman is not in order, because it proposes new legislation.

Mr. RUFFIN. In reply to that, I would state that this was merely a resolution of the House which I propose to repeal; and certainly it is proper in an appropriation bill to repeal a mere resolution of the House—not a law of the land, not a joint resolution of both Houses, but a resolution of the House merely.

The CHAIRMAN. The Chair will be compelled by the rules to sustain the point of order taken by the gentleman from Indiana.

Mr. RUFFIN. Do I understand the Chair to rule that my amendment is not in order?

The CHAIRMAN. It is not in order, as it proposes general legislation.

Mr. RUFFIN. I suppose, Mr. Chairman, that

the amendment, without the latter clause, proposing to repeal the resolution would be in order. Therefore, I modify my amendment by striking out that clause. The amendment will then be to strike out in lines one hundred and thirty-eight and one hundred and thirty-nine the words "draughtsmen and clerks employed on the land maps," and in line one hundred and forty-one strike out "\$25,000," and insert in lieu thereof "\$8,440." The section would then read, "for the compensation of the clerks of committees and temporary clerks in the office of the Clerk of the House of Representatives, \$8,440," thereby leaving out entirely the appropriation in regard to the land clerks. That was my object. My object was to bring the matter to the attention of the House, and I supposed it could be done just as well in this way as in any other. There can be no question about the propriety of it. Let the House refuse to make the appropriation, and when the report comes in from the Committee on Public Lands, the House can repeal the law. There can be no difficulty about it then. All the information is before the House. The letter from the Secretary of the Interior, and the letter from the Commissioner of the General Land Office, were both published in the Globe in the proceedings the other day, and I suppose that all the members of the House have read those letters.

It seems to me that this is one of those expenditures which with great propriety we may lop off; for, as I said before, in the course of the debate before the House, I have not been able to find any necessity for these clerks. The effect of the amendment proposed by the gentleman from Ohio, reducing the number of the clerks from nine to five, would be to render the whole matter perfectly useless. The law of the 4th May, 1848, requires that the Clerk of the House of Representatives shall procure a land map of each State, and cause these maps to be revised and extended after each session of Congress.

Now, by the proposition before the House, that number, nine, is reduced to five. They are still required to revise and extend these maps of States, and also to extend their labors to the maps of the Territories. I wish to know from the chairman of the Committee on Public Lands whether it is possible for five men to keep up the work both for the States and Territories? for he will admit that unless the work be kept up to date it is of no benefit to the Committee on Public Lands whatever. I wish to know of the chairman of that committee if nine clerks have not been able to keep up the work of the States, how he expects that five men can keep up these maps for both States and Territories? If nine clerks have been behindhand so many months, how must it be when there are but five clerks to attend to the maps of both States and Territories?

Mr. COBB. As for that, I believe that twenty-five good men would do more actual service here than the whole two hundred and thirty-four of us. As far as my opinion is concerned, I believe I expressed it pretty fully the other day. I stated then that I thought four clerks were enough. Most of these maps have been colored up until several of the States which I could mention have scarcely a white spot on them, and I have been of the opinion all the while, that one draughtsman and two clerks could accomplish the object designed; but the Committee on Public Lands differed with me, and recommended two draughtsmen and three clerks. I am satisfied with the proposition, and if the committee does not report some action in the matter, I will bring before the House a proposition of the terms on which these maps may be kept up, and I believe two men will be able to bring up these matters. But I am clearly of opinion that this work ought to be kept up, either under the Clerk of the House, or under the Secretary of the Interior. I am satisfied of that, but I think that five clerks are more than is necessary.

Mr. RUFFIN. I would like the chairman of the Committee on Public Lands to explain to the House how it is that, according to the letter of the Commissioner of the General Land Office, these

nine clerks, who have faithfully done the work of six men, have failed to keep the work up on the maps of the States alone?

Mr. COBB'S reply was not heard by the reporter.

Mr. RUFFIN. That is what the draughtsman says. I suppose they scarcely work at all, from what I have heard.

Mr. McQUEEN. I have had occasion to look into this matter as a member of the Committee on Public Lands, and I go further even than my friend. I believe this whole thing of preparing special maps for the committee to be unnecessary work. I believe it to be an idle expenditure of the public money, without the slightest benefit to the country. This whole thing commenced in 1848, when a simple resolution was passed by the House requiring the Clerk to furnish stained maps to the Committee on Public Lands, to aid them in their examinations. The work was commenced by two clerks, who, it seems, at first answered the purpose designed by the resolution. Afterwards the number was increased to nine clerks.

Mr. COBB. First to four.

Mr. McQUEEN. I may be mistaken about that; but at any rate the number was afterwards increased to nine clerks, appointed by the Clerk of this House, who has no more supervision over the public lands of the country than I have. These nine clerks are entirely exempt from the restraints imposed on those who are employed under the Commissioner of Public Lands, who are enjoined to secrecy, and prevented from furnishing maps and information to speculators and jobbers in the public lands. The salary of these clerks is \$2,000; or rather \$1,800 each for the clerks, and \$2,100 and \$2,200 for the draughtsmen. Afterwards, and whilst these nine clerks were still employed, eight or ten extra clerks were employed—for how long a period I do not now remember—but, according to my recollection, there were eighteen clerks employed at \$1,800 each, a year. For what? If called upon to answer as an honorable man, I should say to increase the patronage of the Clerk of the House, and for no good to the country.

I know, Mr. Chairman, that it is argued that the Committee on Public Lands are furnished in this way with the information they require much more promptly and reliably than if they were dependent on the General Land Office. I utterly deny the proposition. Sir, I have been a member of the Committee on Public Lands, and have endeavored to discharge my duties upon that committee faithfully; and if I have seen the first reference made to these stained maps by which we have derived one particle of benefit, I do not know it. It is well known that when companies are formed for the purpose of constructing railroads, or of obtaining appropriations of public lands for any purpose, they are formed outside of the Capitol; they come here with their plans laid out to construct a railroad from one point to another, and they pay no regard to lands that may have been granted or disposed of to private individuals or corporations. It is also well known that when information is wanted by the committee, the chairman has only to refer the matter to the Commissioner of Public Lands, who furnishes maps and all the information necessary to show how much land the proposed route will take, and how much of that land has been granted or disposed of. There is no necessity whatever, then, of having stained maps to refer to; because the Commissioner of Public Lands can furnish all the information needed, and furnish it as accurately as these men do.

But there is another great objection to this system, to which I have already alluded. I understand that, by a rule of the General Land Office, all the clerks employed there are enjoined to secrecy, in order that land speculators and land jobbers may not obtain advantage over other citizens of the country. There is thus a restraint upon them, and they are removed, or some other punishment is inflicted, if they make such disclosures. But there is no restriction upon these clerks under the Clerk of the House of Representatives. He can know nothing of it; and these clerks, for aught I know, can furnish land speculators with information which gives them advantages over other citizens; and that is a great objection.

Mr. COBB. I desire to say a word, with the leave of the gentleman. When this resolution

was first introduced into the Committee on Public Lands in 1848, I was satisfied that these clerks should be under the control of the Commissioner of Public Lands, and I have been anxious from that time to the present that they should be placed under the control of the Secretary of the Interior—an office which has since been created. These clerks have access to all the records of the Land Office, and there is no restraint at all upon them in relation to any information which they might give. I do not know that any of them have ever given such information, but I am satisfied that if the work is to be kept up at all, it ought to be kept up under the control of the Department as recommended by the Secretary of the Interior and the Commissioner of the General Land Office. That is my opinion.

When the resolution was introduced, in 1848, by Mr. Collamer, then chairman of the Committee on Public Lands, as I explained the other day, there was a Democratic Administration and a Democratic Commissioner of Public Lands, but a Whig House, and we all know that political parties like to keep all the patronage they can within their own power. After awhile the position of parties was reversed, and then the Democrats were just as anxious to keep this patronage in their hands as the Whigs had been. And then, again, after awhile the Republicans got the power here, and they were just as anxious to keep it. But my judgment always has been that these clerks ought to be under the control of the Secretary of the Interior.

Mr. McQUEEN. I must now claim the floor, for the gentleman is occupying more time than I intended to occupy myself, and I had not quite finished the very little I had to say when he interrupted me.

I am satisfied, Mr. Chairman, that this is a useless expenditure of the public money. I am satisfied that \$16,500 a year has been expended upon this work, for some years past, without any value to the country. I venture the assertion, notwithstanding all the arguments I have heard, that, if we were to go into the committee-room of the Committee on Public Lands, and look at these maps, there is not a member on this floor who would vote fifty dollars for them all. Why, sir, you can purchase the best atlas published in this country for twelve or fifteen dollars; and there is not a gentleman here who would give a good atlas for all the maps that have been compiled by these clerks since 1848. I see no benefit to the country from the continuance of this system. I see in it an idle waste of the public money.

Gentlemen talk about small economy. I want to say to gentlemen that most of the abuses which have grown up to great magnitude under this Government, and which have led to the lavish pouring out of the public money from the Treasury, commenced in the most insignificant manner. This system commenced with one or two clerks, and then it went up to nine regular clerks, and nine or ten extra ones; and, if you extend it to the Territories, twenty-five clerks will be required, at a corresponding cost. I can see that this adds to the patronage of the Clerk of this House to the extent of nine officers, at salaries from \$1,800 to \$2,200 a year. I have seen these clerks, and applicants for their places, crowd round the door of this House when the caucuses have been sitting here for the nomination of Clerk. Hungry seekers after leaves and fishes, I can see very well how they manage to live off the honest earnings of the tax-payers of the country. I can see how injustice may result to our citizens by things which I have mentioned. These clerks are away from this Hall, in the Land Office department; and away, sir, from the control of the Clerk. There they can gather all valuable information that is about, and then they may give it out to land speculators.

Mr. WALBRIDGE. I would ask the gentleman whether he has ever heard that any one of those clerks has communicated information outside?

Mr. McQUEEN. I want the gentleman to understand that I make no assertion in the matter. I would vouch for very little which I hear. If there is any place where I hesitate at everything, that place is this. I might be sold out of my boots in making any statement, unless from my own knowledge I was satisfied it was exactly so. I have heard, I will say to the gentleman from Michigan,

that such things have been done, but from whom I cannot recollect.

Mr. WALBRIDGE. Has the gentleman ever heard of any specific allegation made against any of these clerks, that information was unlawfully communicated?

Mr. McQUEEN. I have never heard of any prosecution for any such offense. I have never heard any specific allegation. I have heard, but from whom I cannot say, that information has been obtained from these clerks.

Mr. Chairman, I say that unless it can be shown that these clerks, and this expense, are to the advantage of the country, they ought to be done away with. This may be a small matter, but if let alone it will grow, and cause, after a while, a lavish expenditure of the public money. From as small, I have seen appropriations grow up to millions. There are the water-works for this city. First, we were asked for \$100,000; and now who is there that does not expect its cost to reach \$4,000,000? If this work be extended to the Territories as well as the States, an additional force of clerks will be necessary, and the expense will go on until it reaches hundreds of thousands. Here is the place to stop it. I have no idea of agreeing to lavish expenditures. If I can cut off this expenditure, this useless expenditure of \$16,000, I shall be gratified.

When gentlemen talk of the small economy of curtailing patronage, I would remind them that by holding on to this patronage, whether useless or not, we are educating men to come here and live upon the Treasury at the expense of the honest tax-payers throughout the country, and without giving in return the least benefit. They live upon the Treasury, while the people derive no good from the patronage extended to such clerks. It may grow up into a great system, and entirely destroy the rights of labor of the honest citizen. I object to it.

Mr. DAVIS, of Indiana. I will, with the permission of the gentleman from North Carolina, say a word. I had no desire to say a word on this question; but being a member of the Committee on Public Lands, I deem it my duty, in the absence of the gentleman from Pennsylvania, [Mr. MONTGOMERY,] to make a remark. The gentleman from South Carolina, [Mr. McQUEEN,] my colleague on the committee, has spoken of the extravagant expenditures of the public money. If there is any man in this House more against unnecessary expenditure of the public money than another, that man is myself. Under no circumstances should I vote a dollar out of the Treasury, unless I believed that it was for the public good.

Sir, it has been stated—I think it was stated here in debate the other day—that some of the clerks employed under authority of the Clerk of this House had given information to certain land speculators to the disadvantage of the public service. I should like to know who the clerk is that has unlawfully given this information.

Mr. RUFFIN. I heard no such statement. To whom does the gentleman refer?

Mr. DAVIS, of Indiana. I think that it was stated the other day, or it was, at least, insinuated. It has been again referred to by my honorable friend from South Carolina.

Mr. McQUEEN. The gentleman from Michigan asked me if I heard anything of the sort. I replied that I had made no reference to it as a fact. I had heard something of the sort, but from whom I could not undertake to say. I do not know a single clerk who is involved in this whole matter.

Mr. DAVIS, of Indiana. What I object to is this: that any statement shall be made against clerks in the employ of the Government, without the specific charge stated, and against whom it is made. If any of the clerks have been guilty of an offense, let their names be given, and let the Clerk of this House dismiss them. I know the Clerk of this House well, and I know that if any clerk under his employment had committed an offense of the kind charged, he would at once dismiss him. This much is due to that gentleman.

The gentleman has spoken of the desire of members to get their friends places. I am not troubled in that respect. I do not know a clerk employed there, except one. I have no clerk there, and I am glad to say I have only one or two from my district in any of the Departments at Washington.

Mr. McQUEEN. I have none.

Mr. DAVIS, of Indiana. When gentlemen have come and asked me to get them clerkships, I have advised them, as a friend, against taking positions in the Departments at Washington. I do not know these map clerks; and I am governed, sir, in my advocacy of this measure by no such motive as might be inferred from the remarks of my honorable friend from South Carolina. This question came up before the Committee on Public Lands. It was amply discussed, and a large majority of that committee were in favor of continuing three clerks and two draughtsmen, believing that they would be necessary to carry out the original design. The honorable chairman has that resolution in his charge, ready for presentation to the House at the proper time.

One word more. My friend from South Carolina asked, with an air of triumph, why it is that nine clerks have not kept this work up, and yet, with a reduction to five, it can be kept up, especially when new Territories are coming in, and they have to be mapped under this system? I will answer the gentleman, and once for all. It is well known that the old land States have already been mapped. The lands there have been taken up and mapped. That portion of the work is not to be done again. When the new Territories are being surveyed, when numerous land grants are being asked, these maps are necessary. I have in my drawer, from my colleague on the committee, [Mr. MONTGOMERY,] bills granting lands to the Territories of Kansas and Nebraska. It is necessary to have maps of the land in these new Territories. And when it is all-important that this work should be kept up, now it is that some gentlemen upon this floor, in my judgment a little more penny-wise than pound-foolish, come forward and oppose that which has not been opposed since the resolution was adopted—some six or seven years ago, I believe. Now, sir, I have examined these maps carefully—and I think I am a pretty good judge of work of that kind, for I have the honor of having been a clerk almost all the days of my life. Go to those maps, and you see, at a glance, by the coloring, what lands have been taken up, and what are vacant; and you are saved the trouble and labor of going to the office of the Commissioner of Public Lands, and there obtaining that information from the plats and field-notes, and the entire record. That is one reason why I would have them continued.

The gentleman from South Carolina [Mr. McQUEEN] says he does not believe that any member has referred to those maps during this session. The gentleman is mistaken. I know he would make no remark which he did not believe to be strictly true, but I myself have had several occasions to examine those maps for obtaining information—information which it would have taken me a long time to obtain in any other manner.

Mr. RUFFIN. I have but a few minutes left, and I must resume.

Mr. DAVIS, of Indiana. I desired to say something further in regard to this matter, but I thank the gentleman from North Carolina for yielding me thus much of his time.

Mr. RUFFIN. I have but a very few words to say. Now, sir, as to this thing of trying to make an issue as to whether these clerks have ever given any information improperly, I do not think it is at all before the House. I am astonished that gentlemen should attempt to make such an issue here. My friend from Indiana said the other day that such an imputation was made. Nobody has charged them with doing so, to my knowledge. But it is said that they could give this information, and that these insinuations were taken from the letters of the Secretary of the Interior, and of Commissioner Hendricks, which have been read. It is said that they may do it, and that they are not controlled by the same regulations which govern clerks in the other Departments of the Government. In addressing a letter to the Commissioner of the General Land Office, we asked him whether, in his opinion, these maps were necessary or not? Here is his reply:

"In answer to the first inquiry, I have to state that, in the opinion of this office, the construction of these maps is not necessary, certainly not to this office, in the preparation of answers to calls from the House or committees, our statistics and data being prepared wholly irrespective of those maps, and without reference to or reliance on them."

And he goes on to say:

"I beg leave to add that the present arrangement is one

of great inconvenience to us, as we have no control over the clerks employed in this business, and who have free access to books and papers not allowed to any other persons, and consequently without any responsibility in the matter to the department in charge of the land archives and the administration of the public lands for which it is responsible."

The gentleman from Indiana [Mr. DAVIS] speaks of having bills in his drawer for railroads in Nebraska and Kansas. Now, I ask the gentleman if we have any map of those Territories that we can refer to? We have to act in the dark as regards those Territories, so far as these maps are concerned. The resolution never extended the labor of the clerks to those Territories.

But the gentleman says he will answer my question as to how five men could keep up the work, by saying that the maps for the States are now nearly completed. But I state the fact, and I challenge any member of the committee to deny it, that when we had the chief draughtsman before us, he informed us that the maps of the several States were four or five months behindhand. The day has now been fixed for the adjournment of Congress, and those maps are not completed, and are not likely to be completed this session. Then, I ask, what benefit they can be to this committee? They are not in the committee-room at all; and of what possible benefit can they be to us? I do not see why the Committee on Public Lands—although my colleague on that committee [Mr. COBB] the other day claimed that it was the most important committee of the House—should have ten clerks, when you know it is a difficult matter for the other committees to get one clerk. We have one clerk in our room. We could send him to the Land Office to get this information; but instead of that we must have nine clerks, with enormous salaries paid through the whole year. I do contend that gentlemen here who have pledged themselves before the people in favor of reform, cannot justify themselves in the continuance of these clerks upon any principle of justice, or upon any principle of right to the Government. It seems to me that although this is comparatively a small matter, it is one of those cases in which we should inaugurate a reform; because the House has entire control and jurisdiction over it. Try it one or two years, and if we cannot get along without these clerks, it will be time for Congress to pass a resolution to reinstate them. Congress once got along well enough without them, and it seems to me there is no difficulty in doing it again.

Mr. HARRIS, of Illinois. Is it in order to reply to the amendment?

The CHAIRMAN. It is not, as general debate is now closed upon the bill.

Mr. J. GLANCY JONES obtained the floor.

Mr. HARRIS, of Illinois. I propose to move an amendment.

The CHAIRMAN. The gentleman from Pennsylvania is entitled to the floor.

Mr. J. GLANCY JONES. I do not propose to occupy much time, as it is important that we should progress with this bill. Debate having closed, I avail myself of this opportunity to say what I desire to say, as I shall not be able to do so at any other time.

Mr. HARRIS, of Illinois. I merely wish to say a word in reply to the gentleman from North Carolina. Will the gentleman from Pennsylvania yield to me for that purpose?

Mr. J. GLANCY JONES. I will allow the gentleman to speak, and take it out of my time.

Mr. HARRIS, of Illinois. I desire to say but a few words in relation to the question discussed by the gentleman from North Carolina, [Mr. RUFFIN.] I have no sort of interest in the matter whatever, and am entirely willing to concur in the amendment proposed by the Committee on Public Lands. I think it very probable that the reduction of force proposed by that committee may be entirely proper; but, from what I know of the labors of that board of clerks, or bureau, I think it ought not to be entirely abolished.

It is said that it is the object to keep up this system for the purpose of having places for appointees. Now it is a singular fact that the chief of that bureau has been retained under the administration of all parties in this House, so entirely competent and qualified has it been apparent to the Clerks of the House, of all parties, that he has been. And I feel free to say, from ten years' acquaintance with him, that I think he is

entitled to as much confidence as any man in this country. I need only state this fact to have a complete answer to the idea that has been advanced, that these offices are retained for the purpose of having places for partisan friends—that if that were so, the Clerk would surely give the best place to one who was of his own political cast of opinion. The reverse has been the case. Under Clerks of all parties, the present head of that bureau has been retained, because all have had confidence in his capacity and usefulness.

One word in regard to an insinuation that has been thrown out that information is communicated by the clerks holding office in connection with this branch of the public service. For my own part I do not object to their giving information to members of this House. I believe that to do so was one of the objects of their appointment. The law created the bureau for the purpose of furnishing a place to which members could resort for information.

Mr. COBB. The resolution says that it was for the use of the Committee on Public Lands, and the House of Representatives.

Mr. HARRIS, of Illinois. It was for that purpose. Any member can apply there and get information which he can get nowhere else in Washington. I have had frequent occasion to apply to them for information, and I have always been able to obtain it at once, and accurately. I might here, also, state a fact which has come to my knowledge. The gentleman from Mississippi [Mr. QUITMAN] introduced a resolution some time ago, calling for a large amount and great variety of information in regard to the public lands. It was found impossible by the Commissioner of the General Land Office to furnish that information without taking months for the purpose of its preparation and condensation; but on application to the chief of this bureau, it was obtained and furnished in a few days, and sent to the House. If it had not been for that bureau, it could not have been furnished during the session.

Mr. RUFFIN. Could not the Clerk of the House change the clerks, and leave the head of the bureau unmolested?

Mr. HARRIS, of Illinois. I know about the head of the bureau. I do not know how it is in regard to the other clerks. I have no interest in them. I know the chief, Mr. Parker, and have known him for ten years past. I know that the Clerk of the House would not be inclined to change the clerks, and leave the best place unprovided by the appointment of one of his own friends.

The opinion expressed by the Commissioner of the General Land Office that this bureau is unnecessary, is an opinion which may be taken for what it is worth. The opinion of Mr. Hendricks in regard to anything in his own office is important and reliable; but he is here speaking of something entirely outside of his office, and over which he has no control—a matter of which he can furnish no better opinion than those of any of us here. He is, doubtless, anxious to get the appointment of these clerks under his bureau, as the gentleman from South Carolina has said.

Mr. COBB. Mr. Hendricks may be considered as officious in this matter. His opinion in writing was called out by a resolution of the Committee on Public Lands asking him for it. I never before that heard him express an opinion on the subject.

Mr. HARRIS, of Illinois. I have no reflection to make against Mr. Hendricks derogatory to his character, personal or official. As the Commissioner of the Public Lands, I have entire confidence in him. I only say, that on this subject he knows no more than anybody else. He has given his opinion on it, but it is entitled to no more weight than that of anybody else.

Now for the statement that this work is four or five months behindhand. These returns are only made once a quarter, and it is clear that they cannot be up. When the returns come in, the clerks go to work upon them. It is impossible not to be behind. The work, however, is cleared up as fast as it comes in.

I am willing to vote for the amendment proposed by the Committee on Public Lands, but I think that it would be detrimental to the public service, and injurious to the interest of the land States, to have this appropriation stricken out, and this force swept away. I am satisfied of this fact from considerable acquaintance with the matter.

The old States have had their land already worked out by these clerks, and now the work can be carried on by a smaller force. When these clerks were appointed, large arrears were to be brought up. They are all up now, and this is an answer to the gentleman from South Carolina. That reduced force, I think, can do the work that is to be done, and for the resolution of the Committee on Public Lands I am willing to vote; but not for this striking down of the appropriation.

Mr. DAVIS, of Indiana. It is due from me to the Commissioner of the General Land Office to say this: I had a conversation with him on this subject. His objection to these clerks was founded upon the fact that they were not under his control—not that they were not appointed by him. His objection does not arise because he has not their appointment.

Mr. BOYCE. I will ask the gentleman from Pennsylvania to yield to me.

Mr. J. GLANCY JONES. I yield to the gentleman.

Mr. BOYCE. Mr. Chairman, I sought the floor some days since, as soon as possible after the gentleman from Mississippi [Mr. QUITMAN] had stated his objections to the bill then before the House, reported from the committee of conference in relation to the admission of Kansas. The high regard I have for that gentleman induces me to treat his dissent upon this occasion from the almost unanimous action of the southern delegations in both Houses, with great respect. The gentleman's objections to the proposed bill were twofold. First, that it was a letting down on the part of the South from the position we had heretofore held upon this subject. Second, that the reference of the land grant proposition to a vote of the people of Kansas, was an infringement of State rights. Even if I were to grant the truth of the first objection, it might not be conclusive; because the question would still be, was the present proposition wise? If that question be answered in the affirmative, as I think it must necessarily be, should we be estopped from taking it because we had previously taken an indefensible position? I think not. If our past position was unwisely taken, instead of clinging to error, we should make haste to put ourselves on the impregnable ground of common sense and truth. But I do not admit that we have changed our ground. What had we been contending for? That Kansas should not be rejected because she had a slave constitution, and that Congress should not intervene and prescribe how that constitution should be framed by the people of Kansas. The bill from the committee concedes both of these positions as claimed by us. The bill, conceding both these propositions, only requires the assent of the people of Kansas to what is confessedly a reasonable proposition in reference to the public domain. We have never contended that Kansas should be admitted with her unjust ordinance operative in regard to the public lands. All of our action upon this subject has been in repudiation of that ordinance. We now say to the people as exactly what we have said all the time—repudiate that ordinance, agree to what is customary and right in regard to the public land, and you are in the Union under the Lecompton constitution; we only vary the mode of obtaining that result. The first objection of the gentleman from Mississippi is, I submit, unfounded.

I proceed now to the second objection. This requires a more extended consideration, and involves a wide range of argumentation on constitutional law, which will furnish, I think, a satisfactory answer to the objection.

The Territorial Legislature of Kansas called a convention to frame a State constitution. This convention framed what is known as the Lecompton constitution, and applied for admission. Whatever vitality this constitution has was derived primarily from the Territorial Legislature. I consider that the Territorial Legislature had no power to originate an authoritative State organization. Certain provisions in the Kansas-Nebraska bill have been supposed to confer this power. The words of the said act bearing on this point are as follows: The Territorial Legislature shall have power over "all rightful subjects of legislation consistent with the Constitution and said act, and the people are left perfectly free to form and regulate their domestic institutions in their own way, subject, however, to the Constitution of the United States."

These provisions do not, in my opinion, operate as an enabling act, and do not, therefore, authorize the people of Kansas to set up a State government in subversion of the territorial government. These provisions are to be construed in subordination to the scope and purpose of the Kansas and Nebraska bill. That bill was a bill for a territorial government, and all the powers conferred by it are conferred subject to this idea. That is to say, the Kansas and Nebraska bill confers certain powers of self-government, but they are all to be taken subject to the continuance of the territorial government, and with that view. No power is conferred under that act to displace the territorial government and set up a new government. Further, if the territorial authorities of Kansas could substitute a State government, what was the necessity of the enabling act which was recommended by President Pierce in 1856, and reported from the Committee on Territories to the Senate; and why the enabling act known as the Toombs bill, which passed the Senate, and was sustained in the House by the Democratic party? It would seem, from these facts, that the Executive, the Senate, and nearly one half of the House of Representatives, considered an enabling act necessary; or, in other words, that the Territorial Legislature did not have power to set up a State government absolutely. If the Kansas-Nebraska bill is not an enabling act, it is very evident the Territorial Legislature could not, *ex proprio vigore*, move conclusively in the matter. The correct doctrine upon this point was announced by Mr. Butler, Attorney General of the United States, in the Arkansas case, when the Territorial Legislature originated proceedings for a State organization—that the inhabitants of a Territory had no right to do any act designed or calculated to subvert or supersede the existing territorial government, without the previous consent of Congress, though they might peaceably assemble and sign a petition, and accompany it with a written constitution, as a part of their petition, for authority to form a State government, provided such measures were in subordination to the territorial government, and in entire subserviency to the power of Congress to adopt or disregard their application. According to these principles, then, the proceedings which have taken place in Kansas in reference to State organization, have not, and cannot of themselves, constitute Kansas a perfect State. She is now only a State potential, not a State imperative, a State that may be, not a State that must be. What Kansas has done amounts to nothing more, in effect, than a petition for admission. It is true Congress can waive objections to the irregularity of the proceedings, and consent to the admission of Kansas. The proceedings may be sufficiently binding upon the people of Kansas, but they are not of complete validity unless assented to by us. Kansas is not, therefore, a State outside of the Union. She is only a Territory asking admission under proceedings for State organization, binding upon her, but not upon us.

It may be said that the people of a Territory have a right to admission as a State into the Union. I admit this to be true to a certain extent; but it is a right which cannot be urged to the injury of the existing States. In the case of Kansas it has been thought the claim for admission was strengthened by the provisions of the treaty acquiring Louisiana, as follows:

"The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States."

But I do not consider the claim of the people of Kansas Territory to admission in any degree strengthened by this treaty, any more than such claim was strengthened by the ordinance of 1787, in reference to the Territories formed north of the Ohio river; because the claim of the people of a Territory to admission, resulting independently of all treaties or ordinances, from the genius of our institutions, is as strong as it can be not to be imperative, but subordinate to the well being of the existing States, according to the judgment of Congress justly exercised. Or, to vary the form of stating this proposition, no treaty or ordinance can compel Congress to admit a State which it considers ought not to be admitted; but no Congress could rightfully refuse to admit a State to

whose admission there was no just exception. For example, no Congress could rightfully object to the admission of a slave State simply as such. Under the modifications, then, above stated, a Territory has a right to admission; but this right cannot arise, supposing the case is unexceptionable upon all other grounds, until the Territory has a population equal to the ratio of representation, that is to say, ninety-three thousand four and twenty. The Constitution of the United States authorizes Congress to determine the ratio of representation, with a provision that each State shall have at least one member. When Congress has determined that ratio, it is the same thing, in effect, as if the Constitution had established it, for being done by virtue of the power conferred in the Constitution, it is the same thing as if contained in the Constitution. In other words, the ratio of representation, as determined by Congress, becomes the constitutional ratio of representation. The people of a Territory have no just cause of complaint for non-admission until they possess a population equal to the ratio of representation, for they cannot claim more than equality with the people of the States; in other words, they cannot claim a Representative in the House of Representatives, which is one of the incidents of admission, until their population entitles them to it according to the existing rule. Congress, it is true, may waive the rule, and admit a State with a deficient population; but it is an exercise of power which should be made with great prudence. I have thus far considered the right of a Territory to admission. To complete the view of the subject, it is necessary to regard it in another aspect—the power of Congress in reference to the Territories, and the admission of new States.

From the origin of the Government to the present day, the power of Congress to govern the Territories by some form of territorial government has been universally conceded. It is not necessary, for our present purposes, to inquire as to the source of this power in the Constitution, its existence being a matter of general consent. This doctrine necessarily repudiates what is called squatter sovereignty, and implies that no government ignoring the government established by Congress over the Territories can rightfully be instituted there without the consent of Congress. Upon this point we have the authority of Mr. Calhoun, who said, in the case of Michigan:

"My opinion was, and still is, that the movement of the people of Michigan, in forming for themselves a State constitution, without waiting for the assent of Congress, was revolutionary, as it threw off the authority of the United States over the Territory; and that we were left at liberty to treat the proceedings as revolutionary, and to remand her to her territorial condition, or to waive the irregularity, and to recognize what was done as rightfully done, as our authority alone was concerned."

There is no mode by which a State government can be rightfully instituted in a Territory, except by the precedent assent of Congress, or a subsequent waiver of objection.

As to the power of Congress to admit new States, the Constitution says Congress "may admit" new States. This implies discretion, not an arbitrary, but a sound discretion. There are five distinct grounds, as I conceive, upon which Congress may decline to admit new States:

1. That the constitution is anti-republican, or at war with the Federal Constitution.
2. That the boundaries are not satisfactory.
3. That the right of the General Government to the public lands is disregarded.
4. That the population is not sufficient.
5. That the people of the Territory are unfit for self-government.

In reference to the first ground of rejection, suppose a State should insert a clause in her constitution establishing titles of nobility, or prohibiting the rendition of fugitive slaves: surely Congress might decline to admit her. Again, suppose a State should extend her boundaries over all the Territories, or an undue portion of them: could not Congress reject her application? Or suppose a State confiscates all the public lands within her boundaries: shall she be admitted? Surely not; because the public lands belong to the States for their common benefit, and Congress, as the trustee for the States of these lands, could not, without a gross dereliction of duty, abandon them to the exorbitant demand of an unscrupulous State. Suppose five hundred men apply for admission as a State: shall they be admitted? Certainly not.

Then population is one of the just grounds of rejection. Suppose the people of Utah apply for admission: is Congress obliged to receive them? I think not; and I say this not from their peculiar faith, but from their government being a spiritual despotism, which I think unfits them for the proper administration of the republican form of government.

So much on the principles of constitutional law applicable to the admission of new States. I propose now to make a practical application of these principles to the case of Kansas.

1. Kansas is not a State out of the Union, but a Territory, applying for admission as a State, which may be so admitted by the waiver on the part of Congress of all irregularities, or which may be treated as a Territory by Congress.

2. The population of Kansas being grossly inadequate, in reference to the standard of representation, not being over thirty-five thousand, when it should be ninety-three thousand four hundred and twenty, Kansas cannot claim admission as a right, though Congress might waive the objection.

3. The Lecompton convention, in violation of every consideration of right and usage, laid claim, by the ordinance attached to their constitution, to \$29,000,000 worth of the public land in Kansas, when, according to the liberal grants heretofore made by Congress to the new States, they were only entitled to \$4,000,000 worth. If this claim had been made by a Free-Soil convention in Kansas, every fair mind at the South would have revolted at it as a stupendous enormity. Does the fact that the convention making it called itself pro-slavery, and was presided over by Calhoun, instead of by Lane, render it less objectionable? I think not. If the public domain in the Territories is to be surrendered, I should, instead of surrendering it to the unjust demands of an inchoate State, infinitely prefer to give it to the survivors of the brave men who, in the wars of the Republic, have defended her rights upon the field of battle. This action of the Lecompton convention has always been utterly repugnant to my sense of what was expedient and just.

Holding these views, I felt no difficulty in acceding to the bill recommended by the committee of conference.

I was willing to waive all irregularities and admit Kansas into the Union, on the condition precedent that the people of Kansas agree to the customary and reasonable propositions submitted to them by Congress in regard to the public lands. If Kansas were a State outside of the Union, I would not consider it consistent with the principles of States rights for Congress thus to appeal to a vote of the people. We could then only refer this question to a convention; but Kansas still being a Territory, we might refer this question to the people.

This is not the first time that Congress has prescribed conditions upon the admission of new States. It has been done repeatedly. Iowa was admitted into the Union on the express condition that she should not interfere with the primary disposal of the public lands, nor levy any tax on them whilst remaining the property of the United States. In the case of Iowa, the propositions of Congress in reference to the public lands were required to be assented to by the people, in their township elections, or by the Legislature in virtue of the power conferred by the constitutional convention. In the case of Michigan, the assent of Congress was given on the condition precedent that she should, by a convention, agree to certain boundaries. In the case of California, her admission was coupled with the express condition that the people of said State, through their Legislature or otherwise, should never interfere with the primary disposal of the public lands, and should do no act whereby the title of the United States to, and right to dispose of, the same should be impaired or questioned. It is worthy of remark, in this connection, that since the State of California has been admitted, the supreme court of that State, in the case of *Hicks vs. Bell*, (3 California Reports, 219, 227,) have decided that the mines of gold and silver on the public lands are as much the property of the State of California, by virtue of her sovereignty, as are similar mines on the lands of private citizens. The court in this case say:

"In reference to the ownership of the public lands, the United States only occupied the position of any private pro-

prietor, with the exception of an express exemption from State taxation. The mines of gold and silver on the public lands are as much the property of this State, by virtue of her sovereignty, as are silver mines on the lands of private citizens. She has, therefore, solely the right to authorize them to be worked, to pass laws for their regulation, to license miners, and to affix such terms and conditions as she may deem proper to the freedom of their use."

This decision deprives the General Government of almost all valuable interest in the public lands of California, and shows the necessity of a precise understanding of the rights of the Federal Government in the public lands within the limits of a State applying for admission, and the propriety of such understanding being assented to by the new State as a condition precedent to her admission. The neglect of this proper precaution has opened a wide field for controversy between the State of California and the Federal Government, in which the Federal Government is destined necessarily to be worsted.

Alabama was admitted into the Union on the condition of receiving only a certain portion of the public lands, not taxing the residue, and that the navigable waters in the State should always remain public highways, free to the citizens of the United States, without tax or toll.

The State of Arkansas was "admitted into the Union, on the express condition" that the people of said State should never interfere with the primary disposal of the public lands, nor levy a tax on the public lands.

The State of Florida was admitted into the Union "on the express condition" that she should not interfere with the primary disposal of the public lands, nor levy any tax on the public lands.

The State of Illinois was admitted also on condition of not taxing the public lands until five years after they were sold.

Indiana was also admitted on certain conditions in reference to the public lands, one of which was non-taxation of them for five years after they were sold by the United States.

Louisiana was admitted on certain conditions, among others that the Mississippi, and the navigable rivers and waters leading into the same, and the Gulf of Mexico, should be common highways, and free from taxes or tolls.

Mississippi was admitted on condition of relinquishing all claim to the public lands, exempting them from taxation, and that the navigable rivers should be public highways.

Missouri was admitted on condition of non-interference with the primary disposal of the soil, and non-taxation of the public lands, and non-residents not to be taxed higher than residents.

Ohio was admitted on condition of non-taxation of the public lands until after five years from their sale by the General Government.

Texas was admitted on several conditions: the right of the United States to adjust all disputes about boundaries with other Governments; cessation of the public works; retention of the lands by Texas; non-liability of the United States for the debts of Texas; the right to form four new States, with or without slavery as to those lying south of 36° 30'.

Wisconsin was admitted on condition that the State should not interfere with the primary disposal of the public land, nor tax the same, nor tax non-residents higher than residents.

The practice of admitting States with conditions has been pursued for a long period, as we have seen by reference to all the States admitted, from Louisiana down to the present time. Usually the conditions have been prescribed in the enabling acts, sometimes in the act of admission, as a part of the terms of admission. In the case of Michigan they are expressly put as conditions precedent to admission. There is no difference, in principle, between prescribing in advance the conditions on which a State may be admitted, or admitting on conditions afterwards to be performed, or making the conditions precedent to the act of admission; whichever is the most efficacious may be resorted to. The condition precedent is most likely to leave less ground for future controversy, and is therefore the best.

I considered that this bill offered the best attainable solution of the question, so far as the South is concerned. If Kansas accept the propositions we have made in reference to the public land, then she is admitted, and we have carried our point—a barren victory except the moral triumph of admitting a slave State north of 36° 30'.

If she does not accept the proposition, then she remains out of the Union until she has ninety-three thousand four hundred and twenty population. I consider it a matter of great importance; so far as the South is concerned, besides being right in itself, that Territories should not be admitted as States until they have sufficient population; because all of the Territories, unless, possibly, it may be the Territory west of Arkansas, will be free Territories. And if we begin the system of playing off half-settled Territories as States, the North has the game in her own hands; for she has Dacotah, Nebraska, Utah, New Mexico, Washington, Oregon, and future subdivisions of these. She has her hands full of these cards, while we have, at best, but one. I have thus expressed my views upon this question, which I would have done at an earlier hour if I could have gotten the floor.

Mr. J. GLANCY JONES, Mr. Chairman, there is nothing here in this bill but appropriations based upon estimates from the Treasury Department, which, it is known, have reduced the expenditures, so far as they could, to the minimum point, in consequence of the financial condition of the country. The expenditures have been reduced to the lowest possible amount that was required to carry on the Government under the law.

This much I say by way of a general remark. I do not intend to occupy the hour to which I am entitled under the rule. I propose to occupy only ten or fifteen minutes. The hour under the rules is allotted for the chairman of the Committee of Ways and Means to reply to attacks upon items of the bill. So far as the defense of this bill is concerned, I have only to defend it from two attacks, and those upon appropriations in the bill in compliance with existing law. While I should concur most heartily in any proper measure of reform, I do ask the committee deliberately to consider what they are about, and the responsibility which they will assume if they undertake, directly in violation of law, to cut down the appropriations. I will say to the gentleman from South Carolina, [Mr. McQUEEN,] that while I believe the object he desires to attain is a desirable object, he cannot reach it in this way.

Mr. McQUEEN. I ask the gentleman if a reduction of the appropriation would not virtually repeal the law for all practical purposes?

Mr. J. GLANCY JONES. That is just the difficulty I wish to draw the gentleman's attention to. It does not do that thing. I am anxious that the committee should, at least, act intelligently upon this subject.

Mr. HOUSTON. I desire to ask the gentleman a question.

Mr. J. GLANCY JONES. I am making a promiscuous speech, and I would rather finish my remarks.

Mr. HOUSTON. I wish to make a suggestion just at this point, as the gentleman may desire to reply to it. These clerks were employed under a simple resolution of this House; not under an act of Congress, but under a resolve of this body. If this body should determine by another resolve not to continue them, of course they would be disbanded, and that resolve of this body may as well be arrived at and attained by refusing to make the appropriation, as by saying in another resolution that the former resolution is repealed. The truth is, that resolution under which they were employed, does not now exist; it is not now of force, because it was a mere temporary resolution, and these clerks have only been continued in employment because we have made appropriations for continuing them. Now, if we refuse the appropriation we as absolutely repeal the authority under which they are employed, as if we were to pass a resolution saying that they should be no longer continued.

Mr. J. GLANCY JONES. I thought the gentleman was going to ask me a question.

Mr. HOUSTON. I was going to ask a question, but the gentleman said he was speaking promiscuously, and I asked my question promiscuously. [A laugh.] The gentleman can gather it up.

Mr. J. GLANCY JONES. No, sir, I cannot gather it up. I was not arguing on the merits of the appropriations. The only points made against the appropriations in this bill thus far have been two motions to reduce appropriations—one

provided for by a law of Congress and the other by a resolution of this House.

Now, I care not whether these appropriations are reduced or not; but, as I may not again have occasion to refer to it, I do want the committee either to decide that they intend to bring about the work of reform by decreasing the appropriation bills, and thus taking the responsibility of this mode of legislation, or that they will inaugurate a proper system by the introduction into the House of bills and resolutions to repeal existing abuses.

The gentleman from Ohio [Mr. NICHOLS] gave notice that, at a particular stage of the bill, he would move to strike out the appropriation for the purpose of sustaining the bureau of statistics connected with foreign commerce. He announced, however, after making his speech, that he had attained his purpose in bringing the subject before the House and the country, and should not make the motion. There is no occasion for me, therefore, to make any remarks upon that subject.

I wish, however, to call the attention of the committee to this appropriation for land-map clerks. The House of Representatives, in 1848, passed a resolution providing that the Clerk of the House should employ clerks—there was no limitation as to the number—to perform certain work connected with the Committee on Public Lands of this House. Appropriations for that purpose have been made every year from that time down to the present. This system is in accordance with the estimate of the Clerk, based on the recommendation of the Committee on Public Lands. The majority of the committee, I understand, are prepared to report that five clerks are sufficient instead of nine, and it was upon that basis that the Clerk sent his estimate to the Committee of Ways and Means. Now, Mr. Chairman, I wish it to be distinctly understood that I have nothing to say on the subject of abolishing this whole force; but I say again to the gentleman from South Carolina, that if it is attempted to be done in this indirect way the effect will be this: the resolution under which these clerks are employed will still stand, and the Clerk of the House will either have to take the responsibility of disregarding and setting aside an unreppealed resolution of this House, and refusing to have done the work which we have ordered him to have done, or else to continue the work, employ the clerks, and come here at the end of the next fiscal year, and claim at our hands payment for work done under a resolution passed by this House.

If the gentleman should introduce a bill or resolution into the House to repeal the resolution under which these clerks are employed, I should not have a word to say against it. But this appropriation is based upon that resolution, upon the report of the Committee on Public Lands, and the estimate made by the Clerk in the discharge of his duty.

These remarks are general. I make them not so much because I wish to retain this particular appropriation, as because I wish to call the attention of the gentleman from South Carolina, [Mr. McQUEEN], and the gentleman from Alabama, [Mr. HOUSTON], now to this mode of legislation. We are within four weeks of the close of the session. We have got to pass some twelve or fourteen appropriation bills. Gentlemen know how difficult it is to keep a quorum in Committee of the Whole, and the disposition gentlemen have to leave their seats when such measures are pending. If you introduce this mode of legislation, of reforming the abuses and extravagances of the Government by reducing the appropriations rather than by passing bills and resolutions of repeal—I say if you introduce this mode of legislation at this period of the session, there is no telling what it will lead to.

I hope, therefore, that the gentleman from South Carolina will inaugurate a new mode of reforming these things. I believe that the gentleman has run into extravagance, and I am for reform.

Mr. McQUEEN. Does not the gentleman know that my colleague made the motion to attach a repeal of the resolution creating this bureau? Was it not the gentleman that objected, and had it ruled out of order? If I cannot get the repeal, I would like to have this stricken out.

Mr. J. GLANCY JONES. I did not object, though I believed that it was not in order. The objection was made by another gentleman. I hes-

itated whether I should object or not. I have no objection to reform. I only object to the mode in which it is proposed to be accomplished. If we introduce general legislation into appropriation bills, where is it going to stop?

Mr. GARNETT. Really the remarks which the gentleman is making are interesting to the House. I will ask him whether it is consistent with the rules fastened upon us to attempt to reform the Government by legislation? Nobody can introduce a bill or a resolution looking to reform, but if there be an objection, a suspension of the rule is required, and then only a few days when that can be done. The consequence is, that the very moment you strike at any abuse, some one of the two hundred and thirty and odd members will rise and object, some one who has some friend or is in some way interested in the perpetuation of that abuse. Therefore, it is in the power of a single man—not to stop the wheels of Government, for they always go on—but to stop all practical effort for reform. For years past, the consequence has been, and I appeal to the gentleman to bear me out, the only reform made in the public expenditures has been in the appropriation bills. One of the regulations which determines whether appropriations shall be transferred from one Department to another, was passed in an appropriation bill during Mr. Fillmore's administration when the Democrats had the House, and made an attack upon expenditures under the opposite party. If gentlemen will go back, they will find that for ten or fifteen years past, everything that has been done in the way of reform, has been done in the appropriation bills, where it was not in the power of the minority to prevent action on the measure proposed.

Mr. J. GLANCY JONES. If the opinion of the House of Representatives be, that the rules should be done away with, in order to commence a wise system of reform, very well; that can easily be done.

Mr. GARNETT. How often is it proper to introduce a resolution?

Mr. J. GLANCY JONES. It is in order on Monday to move to suspend the rules.

Mr. GARNETT. Two thirds are required to do that.

Mr. J. GLANCY JONES. The gentleman will hear me for a moment. I know that, for some years, there was a vicious habit indulged in here to insert general legislation into appropriation bills; and, when the gentleman from Virginia is a little older here in the House, he will see that, if carried out, his argument would lead to endless mischief. It is the evil of which I have complained, and still complain. The gentleman's argument would bring us again to the evil from which we are escaping. In years gone by, the appropriation bills were loaded with general legislation, against the wish of the Committee of Ways and Means. I will say here, what is due to my predecessors, that, for the last three, six, or ten years, the effort has been made, when that committee has been in the control of the Democratic party, to reform this system, and to keep out general legislation from the appropriation bills.

The evil is this. As the gentleman from Virginia has remarked, the wheels of Government must go on. There is a long list of private claims against the Government. A day is fixed for the adjournment. The day approaches. There is a long list of unfortunate private bills which have been unacted on. Then there is an earnest and strong effort to get business through by crowding all these measures upon the appropriation bills. It is well understood throughout the country. It is said, "get your claim upon the appropriation bill, and it will go through." I know that the effort of the Committee of Ways and Means has been for years to prevent any propositions not germane from being attached to the appropriation bills. They have nearly succeeded in having clean appropriation bills passed. I only follow the path marked out by the experience of my predecessors. They have succeeded in having almost generally adopted that nothing shall go into an appropriation bill unless that which is in accordance with existing law. The Executive Departments find by the laws upon the statute-book that they are required to do certain things. They cannot disregard the law. Suppose one of the Departments is enjoined to employ certain officers. The Department cannot refuse to com-

ply. To enable it to execute the law, it sends an estimate for an appropriation to be passed by Congress. This is what the Department has done here; and yet gentlemen talk about reform. There is the law which demands that a certain thing shall be done, and the appropriation here is to enable the Department to execute the law.

Now the gentleman has suggested a remedy, and I wish to draw the attention of the committee to that subject; for I have no interest in this thing except to carry out the very object the gentleman from Virginia and the gentleman from North Carolina have in view. If you introduce this system of amending appropriation bills whenever this committee, by a majority, wish to pay the reporters—a thing which some gentlemen object to—or wish anything else, you will find that a majority of the Committee of the Whole will put into the appropriation bills, over the head of the chairman of the Committee of Ways and Means, and over the head of the chairman of the Committee of the Whole, appropriations for measures which the gentleman and myself would both condemn. The only safe course is to adhere to the law. Reforms must begin at home; reforms must begin with your own body; and if that body tends to corrupt legislation, begin with it. Do not set your own laws at defiance. Do not allow laws to remain upon your statute-books, and then refuse to pay the money required by them. Gentlemen might, upon the same principle, refuse to appropriate money to pay the salaries of the President of the United States and the Cabinet officers. The only safety is in adhering to the law, and when you want to reform, reform in the right way—repeal the law. But if you cannot repeal the law, submit to it as long as it is in force.

I stated that I would not occupy more than ten minutes; I merely rose to make these general remarks, and I certainly have the right to appeal to members, particularly on this side of the House, if they want to adjourn on the first Monday of June, to go to work and pass the appropriation bills; I trust gentlemen will not encourage the system of effecting reforms directly in the teeth of the law, by simply refusing to make appropriations to carry them out. As this debt exists, and the work is ordered to be performed, if you refuse payment, you put the executive officers in the position of either bidding defiance to the law, or of having the work done, and then coming here next year asking for money in a deficiency bill to pay for it. There is no economy in reducing the bill now, if you have to place it next year in a deficiency bill. I will concur with the gentleman from Virginia, as I will with the gentlemen from Alabama and South Carolina, in any measure of reform they will propose which I think will subserve the public good.

The gentleman from Alabama has said that if you refuse to appropriate the money now, it will be a virtual repeal. Does the gentleman mean to say that the Clerk of this House shall refuse to obey the law? There is a resolution of this House enjoining upon the Clerk the performance of certain duties. The Committee on Public Lands have said they want five clerks, instead of nine, to perform that duty. If the House refuses to appropriate the money, do I understand the gentleman from Alabama to say that it is rendered any less the duty of the Clerk to see that this duty is performed, the law still remaining upon the statute-book?

Mr. HOUSTON. Most certainly I say so; and I suppose every other gentleman of the committee will say so. I suppose my friend from Pennsylvania will be of the same opinion when he reflects further upon the subject. This not being a law, is simply kept alive by the appropriations. There is no law which requires this appropriation, or the employment of these clerks. They were employed some years ago by a resolution of this body, and, as a matter of course, it exists only for the time being. It does not continue beyond the session at which it was adopted; and that resolution, as such, is now of no more force than if you had passed forty resolutions rescinding or abrogating it. A resolution was the inception of the practice, and the practice has been kept up by making annual appropriations. Hence the whole thing rests upon the appropriations. There is now no law or resolution which is in force.

A word upon another point. Every gentleman in this House, and especially those who for any

length of time have been members of this House, will bear me witness that I have always resisted improper legislation in appropriation bills. But gentlemen of the first ability in this land, gentlemen who have occupied the highest positions in the two Houses of Congress, have contended with great plausibility and power that when you appropriate money in an appropriation bill, you have the right to pass restrictive laws as to its use after it is appropriated. You have the right to accompany the appropriation in an appropriation bill with such legislation as will make its application upon the part of the Departments of the Government faithful and proper. It has not been very unusual to accompany appropriations with legislation. A gentleman who occupied the position of the head of the Committee of Ways and Means with much ability, and who justly won for himself as much distinction as any gentleman who preceded or has succeeded him—I refer to General McKay, of North Carolina—was the author of more reforms connected with the expenditures of this Government than any other statesman who ever lived. And if the gentleman from Pennsylvania will examine the appropriation bills of his day he will find that almost all of those reforms are contained in appropriation bills.

Mr. J. GLANCY JONES. The resolution under which these clerks are employed has been the subject of different constructions, and the question is a matter of construction. If it is the pleasure of this committee that the Clerk of this House shall put upon that resolution the construction contended for by the gentleman from Alabama, I have no complaint to make, but I want the committee to act intelligently upon the subject, and for that reason I will read the resolution:

"Resolved, That there be prepared by the procurement of the Clerk for the use of this House, and the Committee thereof, on Public Lands, a map of public lands in each State, showing the state of the survey, and also what has been sold; and that the same be prepared under the supervision of the Commissioner of the General Land Office, and said maps shall be revised and extended after each session of Congress."

Not for any particular Congress, but that they should be revised after each session of Congress.

Mr. McQUEEN. By the permission of the gentleman from Pennsylvania, I would say that I doubt that this resolution ever contemplated that the Clerk of the House should employ one clerk. It intended merely that the Clerk of the House should procure maps, &c.—not that he should appoint clerks, not that he should establish a bureau, not that he should have the appointment of one, five, or ten clerks. I doubt very much if ever he had the right to appoint any clerks. He should have gone to the Commissioner of Public Lands and procured the maps.

Mr. J. GLANCY JONES. On this subject I do not take issue with the gentleman; I only wish to draw the attention of the committee to this mode of effecting general legislation in appropriation bills. Here is a resolution, which was adopted by this House; and under that the Clerk, from that day to this, has employed three, four, six, or nine clerks, to perform the work. If it is the understanding of the House that the resolution was intended to apply to a single session of Congress, all I have to say is, that, at every session of Congress, from that day to this, these clerks have been estimated for, and paid. The estimate was sent by the Clerk of the House to the Committee of Ways and Means, indorsed by the report of the majority of the Committee on Public Lands.

Now, Mr. Chairman, that is all I have to say in regard to this subject. But to return for a moment to the mode in which this thing is proposed to be done. The gentleman from Alabama [Mr. Housron] has said something about the subject of reform, and I concur with him generally in his views. I believe that Mr. McKay did as much as any living man to reform this Government; and to the extent of my humble abilities I have tried to follow in his footsteps; and I believe that this Administration has done the same thing. If this committee would take up the estimates submitted to the Departments, and see with what industry the pruning knife has been applied to cut down the expenditures of the Government from one end of the country to the other, notwithstanding the cry that many would be brought to ruin by the general suspension of the business of the Government, they would be able to have some

appreciation of the earnest desire of the head of each Department of the Government to bring the expenditures down to the lowest possible point consistent with the execution of the laws and the carrying on of the Government. And the Committee of Ways and Means have gone further, and have taken the responsibility of cutting down the estimates.

When I move to take up the fortification bill tomorrow the committee will see that the Committee of Ways and Means have reduced the appropriations from two million to three hundred and fifty thousand dollars; and I hope that that action of the Committee of Ways and Means will be sustained. We have taken the responsibility whenever we could; but we never deemed ourselves at liberty to disregard laws or resolutions when estimates are based upon them.

I believe I have succeeded in making my views fully understood, and I will not detain the committee longer.

Mr. CLAY moved that the committee rise.

Mr. LAWRENCE. Will the gentleman withdraw that motion for a moment? The gentleman from Pennsylvania has yielded me the floor.

Mr. CLAY. The question is, who has the floor? I do not know that the gentleman from Pennsylvania has the right to give the floor to anybody.

The question was taken on Mr. CLAY's motion; and it was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. BURNETT reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the Union generally, and particularly House bill No. 201, and had come to no conclusion thereon.

Mr. KELSEY. I desire to offer the following resolution.

Mr. BURNETT. I object to the resolution, because there is no quorum present. I move that the House do now adjourn.

Mr. KELSEY. I suppose I have a right to offer my resolution, and to move to suspend the rules. It has not been ascertained whether there is a quorum present or not.

The SPEAKER. The gentleman from Kentucky makes the question to the Chair that there is no quorum present. The Chair will ascertain whether there is a quorum present or not.

Mr. LAWRENCE. I rise to a personal explanation.

The SPEAKER. There is no quorum present. The question was taken on Mr. BURNETT's motion; and it was agreed to.

And thereupon (at twenty minutes past four o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, May 4, 1858.

Prayer by Rev. J. N. HANK.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States transmitting, in compliance with a resolution of the Senate of the 24th ultimo, a report of the Secretary of State in relation to the outrages lately committed against the family of Mr. Dickson, an American citizen residing at Jaffa, in Palestine; which, on motion of Mr. Mason, was ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

COURT OF CLAIMS.

He also laid before the Senate reports of the Court of Claims made in pursuance of law, adverse to the claim of John L. Wordon; the claim of William B. Fitzgerald; the claim of Jonas P. Levy; the claim of John H. Waggaman; the claim of William Davenport; the claim of Charles Wilkes; the claim of John L. Wirt; and on the claim of Logan Hunton; which were referred to the Committee on Claims.

PETITIONS AND MEMORIALS.

Mr. STUART presented a petition of citizens of Michigan, praying for the construction of a wagon road from Saginaw City to some point near the northern extremity of the lower peninsula of Michigan opposite Mackinac, and from Sault Ste. Marie to some point on the southern shore of the

upper peninsula of Michigan near to Mackinac; which was referred to the Committee on the Post Office and Post Roads.

Mr. SEWARD presented a petition of Anton L. C. Portman, praying for compensation for services as interpreter of the Japan expedition under Commodore Perry; which was referred to the Committee on Foreign Relations.

Mr. KENNEDY presented a petition of Mary Jane Matby, widow of the late Lieutenant James West, of the Army of the United States; praying to be allowed a pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JONES, it was

Ordered, That the petition of Catherine Dickerson, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. JONES, it was

Ordered, That the petition of Charles Vinson, on the files of the Senate, be referred to the Committee on Pensions.

DAILY HOUR OF MEETING.

Mr. MASON submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That on Monday next, the 10th instant, and thereafter, until the further order of the Senate, the hour for the daily meeting of the Senate shall be eleven o'clock, a. m.

DISTRICT BUSINESS.

Mr. BROWN submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That Saturday of this week be set apart for the consideration of business relating to the District of Columbia.

STEAM FRIGATE ROANOKE.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the causes that rendered it necessary to lay up and put out of commission the United States steam frigate Roanoke; also whether any board of survey was ordered on said ship in August and September, 1857, or at any previous or subsequent period, and if so, who composed said boards, and also the reports of survey and inspection which may have been held on said ship at any time since her launch, either by boards or individuals; also whether the Roanoke was injured in launching, and if so, to what extent, and also whether any blame is justly attributable therefor to any one charged with the construction or launching of said ship; whether such injuries, if any there were, were made good before the ship was sent to sea, and at what cost, how many days she was actually at sea, with the state of the weather experienced, and what was found to be her actual condition as to sea-worthiness when finally taken into the dry dock at the Charlestown navy-yard for repairs, together with the length of time required for, and cost of said repairs, and also whether the officers who sailed in said ship, or any other officer of the Navy, or any one in any way connected therewith, is in any degree responsible for the injuries to said ship, and also the opinion of competent officers as to the ability of the Roanoke, in her condition at the time she went to sea, to encounter the gales prevalent in the West Indian and Caribbean seas.

REPORTS OF COMMITTEES.

Mr. JONES, from the Committee on Pensions, to whom was referred the memorial of Thomas Watts, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Charles Grampp, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom were referred the papers in support of the claim of Adam Sener, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of J. B. Miller, submitted a report, accompanied by a bill (S. No. 309) for the relief of John B. Miller. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred a paper signed by the Democratic members of the Legislature of the State of Ohio, recommending an increase of the salary of United States judges in that State, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of the Legislature of Missouri, and the additional papers presented on the 11th of January last, in relation to the claim of Jarvis M. Barker, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 234) for the remission of fines, penalties, and forfeitures, reported it without amendment, and with the recommendation that it do not pass. He also submitted a report on the subject, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 257) concerning appeals and writs of error, reported it with an amendment.

He also, from the same committee, to whom was referred the joint resolution (S. No. 10) directing the Secretary of the Interior to pay certain pension claims therein specified, asked to be discharged from its further consideration; and that it be referred to the Committee on Pensions; which was agreed to.

He also, from the same committee, to whom was referred the petition of Francis D. Poins, submitted an adverse report; which was ordered to be printed.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 169) in relation to conflicting land claims, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 251) in relation to conflicting land claims, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 279) for the final adjustment of private land claims in the States of Florida, Louisiana, Arkansas, and Missouri, and for other purposes, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 209) for the relief of the representatives of William Smith, deceased, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 211) for the relief of the heirs and legal representatives of Pierre Broussard, deceased, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 276) for the relief of Mrs. Ambrose Brou, of the parish of St. Charles, in the State of Louisiana, reported it without amendment; and submitted a report, which was ordered to be printed.

Mr. KING, from the Committee on Pensions, to whom were referred papers relating to the claim of James Baldwin to a pension, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Harrison Sargent, reported adversely thereon.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred the motion to print the memorial of the American Telegraph Company, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred the motion to print the letter of the Secretary of State, communicating a statement of the commercial relations of the United States with foreign nations for the year ending September 30, 1857, reported in favor of the motion; and it was agreed to.

ENROLLED BILL SIGNED.

A message was received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the Speaker of the House had signed an enrolled bill (H. R. C. C. No. 8) for the relief of Captain James Mac McIntosh, United States Army; which thereupon received the signature of the Vice President.

BILLS INTRODUCED.

Mr. GREEN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 36) explanatory of an act entitled "An act for the relief of George Chorpennning, jr.," approved March 3, 1857; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. PUGH, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 311) to supply vacancies in certain offices; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 310) for the preservation of order, and protection of persons and property in the District of Columbia; which was read twice by its title.

Mr. BROWN. I desire to say in reference to this bill, that the whole subject of the police of this city has passed from before the District committee, on account of the report made some time ago, and the bill which passed here, but was lost in the House of Representatives. In introducing this bill I do not mean to commit myself to all its provisions; I do not approve of all of them; but I desire to get the committee again in possession of the subject, and hope they may ingraft something on the original stock which may be accepted. With that view, I move the reference of this bill to the Committee on the District of Columbia.

The motion was agreed to.

PUBLIC BUILDINGS IN PHILADELPHIA.

Mr. BIGLER. The Committee on Commerce, to whom was referred the joint resolution from the House of Representatives (No. 26) authorizing the arrangement and disposal of public buildings in the city of Philadelphia, have instructed me to report the same back, with a recommendation that it do pass. I desire to say that this resolution is a single section, very important in its character, and I hope the Senate will allow it to pass this morning. It is desirable that it be passed immediately.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

It proposes to authorize the Secretary of the Treasury, the Postmaster General, and the Attorney General, so to arrange the buildings and grounds in the city of Philadelphia, now used or intended to be used for custom-house, post office, or courts, or offices belonging thereto, as shall, in their opinion, be best adapted for either and all of those offices and purposes; with a proviso, that the expense so incurred shall not exceed the sum already appropriated for any or all of those purposes, and such sum as may be received for the sale of any building or ground now used for either of such purposes as shall not be further necessary for public purposes. It also proposes to authorize the President of the United States to sell at private or public sale, as he may deem best, any of the buildings or grounds referred to in the resolution which may not be necessary for public purposes.

Mr. HALE. I move to strike out the words "private or" before "public sale." I am opposed altogether to leaving to the executive officers discretion to sell public buildings and grounds at private sale, particularly after the great clamor that has been made in regard to frauds about the sale of the late military reservations. I do not know whether they are well founded or ill founded, and I do not care; but it is better to shut the door and not leave executive officers to sell lands and buildings at private sale. I move to strike out the words "private or."

Mr. BIGLER. I have not the slightest objection to that.

The amendment was agreed to.

Mr. HAMLIN. I think it would be wise to add another amendment; to insert the words "after fixing a minimum price," so that there shall be no objection whatever. It is said, sometimes, that there is collusion between bidders, and property is sold for much less than it should be. If the Department is first authorized to establish a minimum price, and then dispose of the property at auction, all objections are removed.

Mr. BIGLER. I am perfectly willing to have this resolution in any shape that will protect the public interests. I presume the resolution in its present shape will answer that purpose. It is not at all probable that there will be any sale of property. It is possible, however, that it may be found desirable to sell a portion of the real estate which the Government now owns in Philadelphia, in order to make a better arrangement of the public buildings there. The Senator from Maine thinks the amendment essential. I do not, but I have no objection to it.

The VICE PRESIDENT. The question is on the amendment of the Senator from Maine, in line fifteen, before the word "at," to insert "after

fixing a minimum price," so that it will read "authorized to sell, after fixing a minimum price, at public sale."

Mr. COLLAMER. I would suggest to gentlemen that it has occurred to my mind that the difficulties which seem to have been encountered in relation to these sales are not avoided by either of the amendments which have been suggested. In order to prevent combinations on the one hand, by which public sales go too low, and at the same time to prevent men knowing what others have offered, I consider the true and right practical method would be on the contract system, to advertise for proposals publicly, to receive those proposals by a given day, in writing, so that each bidder should not know what the other has offered. Then let the bids be accepted or rejected altogether, if, in the discretion of the Executive, there is not a fair offer made. That is the way in which contracts are made in many of our Departments, especially in the Post Office Department; and I think it has been found by experience to be the true and right way. I would propose that amendment as a substitute for this proposition; namely, to provide for a sale after advertising for proposals, on the contract system.

The VICE PRESIDENT. Does the Senator propose that as an amendment to the amendment of the Senator from Maine?

Mr. COLLAMER. Put it in the alternative—"or by advertising for proposals."

Mr. BIGLER. It might be put in as a proviso.

Mr. COLLAMER. Yes, sir, let the provision for the public sale stand as it now is in the joint resolution, and add a proviso giving a discretion to take the course I have suggested.

Mr. BIGLER. I am willing to make almost any amendment to this resolution to satisfy honorable Senators, although I think it is perfectly right and safe as it is. The sale, if there be one made, is to be for the benefit of the Government buildings in the city of Philadelphia, and for the improvements that will be made there. It is not a sale for the Government. It is not proposed to sell property, the proceeds of which are to go into the Treasury; but the proceeds are to be applied to these buildings and improvements. However, I am perfectly satisfied to take the amendment of the Senator from Vermont, and I am sure these officers are anxious to be relieved from any responsibility or hazard that may be connected with this business.

Mr. JOHNSON, of Arkansas. There is an objection which has hardly yet been alluded to. Whilst this resolution diverts and gives a privilege in regard to the method of using an appropriation already made, I am under the impression that it makes an additional large appropriation for these objects. The extent of that additional appropriation I do not know, nor is there any explanation given of it.

Mr. COLLAMER. I did not mean to make any remarks in relation to that.

Mr. JOHNSON, of Arkansas. Then I shall call attention to it myself. In the first place, appropriations were made for the erection of a court house, custom-house, and post office, in the city of Philadelphia, which were deemed sufficient. I have no question that the appropriations which were made were deemed amply sufficient at the time; yet there is a provision in this resolution for the sale of property which the Government of the United States now owns—how much of it there may be, we know nothing—and for the conversion of the proceeds of those sales to the same objects for which the original appropriations were made. Now, I ask the Senator from Pennsylvania to give us some idea of the value of the property which is to be thus sold and converted.

Mr. BIGLER. The Government of the United States a few years ago purchased a property for a post office in Philadelphia—the old Bank of Pennsylvania building. In 1854, a law was passed authorizing that purchase, which was made in 1856.

Mr. COLLAMER. Was not the old United States Bank building purchased for a custom-house long before that time?

Mr. BIGLER. Yes, sir. The Government owns the property to which I have referred, and the property on which the United States court buildings are erected, or expected to be erected. The object is not to appropriate an additional sum of money to any one of these objects; but great

diversity of opinion exists in Philadelphia as to the proper location of the post office. It has been a subject of controversy. The members of the other House from Philadelphia, after considering the subject during all of the preceding part of the session, agreed to this adjustment: to refer the whole subject to the respective Departments interested, the Treasury Department, the Post Office Department, and the law department, in order to make proper arrangements for these buildings.

Mr. COLLAMER. Is not the old United States Bank building, under the operation of this resolution, subject to be sold?

Mr. BIGLER. The principal point of controversy is whether the custom-house shall remain where it is, or whether it be not better for the convenience of the public to remove the custom-house to the building of the Bank of Pennsylvania, which was purchased for a post office, and place the post office, on Chestnut street, the location of the present custom-house. That is the principal point of controversy. I am free to say that I have not been able to discover the necessity of any sale of property. I cannot understand how such a necessity can arise, unless it may turn out that the amount of ground for the custom-house, as now owned, will be larger than would be necessary for the post office.

Mr. COLLAMER. I would ask the gentleman whether, under this resolution, they would not be authorized to sell the present custom-house, if they thought it advisable? Does he think it gives that authority?

Mr. BIGLER. I think not.

Mr. COLLAMER. If they choose to make this arrangement in such a manner as they think supersedes the necessity of using as a custom-house the old United States marble bank, they may sell it. Does not this authorize that?

Mr. BIGLER. No, sir.

Mr. COLLAMER. I desire to have the joint resolution read again.

Mr. BROWN. It is very evident that we cannot this morning get through with this joint resolution. It is a much larger question than we anticipated when we took it up. I move to postpone its further consideration until to-morrow. We cannot pass a bill here, which evidently involves the doubtful disposition of a million dollars' worth of property, in this sort of way.

The motion to postpone was agreed to.

ALEXANDER J. ATOCHA.

Mr. BENJAMIN. I move that the Court of Claims be requested to return to the Senate the papers in the case of Alexander J. Atocha, which were referred to the Court of Claims at a former period of the session.

Mr. SLIDELL. That would require the consideration of the Senate. I object to it now.

Mr. HUNTER. And so do I.

The VICE PRESIDENT. Objection being made, it will lie over.

RELATIONS WITH PARAGUAY.

Mr. MASON, (during the morning hour.) I ask the Senate to take up for consideration what was the unfinished business a few days ago—the resolution reported by the Committee on Foreign Relations in reference to our affairs with the Government of Paraguay.

The motion was temporarily withdrawn to allow reports to be made.

Mr. JOHNSON, of Arkansas. If there is nothing pressing before the Senate, I would ask that a bill of considerable public importance be taken up—being the bill amending the act of 1852 in regard to the system of public printing. If objection is made, I will not urge it now; but I believe it will save to the public Treasury about a million dollars a year. Its object is to systematize and reduce to some kind of order our printing laws. I shall be glad if the Senate will take up the bill and consider it. I do not believe it will give rise to debate.

The VICE PRESIDENT. The Senator from Virginia has made a motion to take up a joint resolution, which has precedence. He yielded to the Senator from Arkansas, because he wanted to make a report. Does the Senator from Virginia waive his motion?

Mr. MASON. I am sorry that I cannot yield to the Senator. The joint resolution to which I refer is a measure of great public interest, and has

been under discussion; and I must ask for its consideration.

Mr. JOHNSON, of Arkansas. I will of course not press my bill under these circumstances; but I will say that I do not think the Senator from Virginia has the right to the floor until the time comes for the order of business which he moves to be taken up. He cannot hold it whilst reports and petitions are still ready to be presented during the morning hour. That is my impression, but I will not make any point on him.

The VICE PRESIDENT. The Chair has no hesitation in saying that the Senator is right, strictly.

Mr. JOHNSON, of Arkansas. I will not persist; I yield to the Senator.

The VICE PRESIDENT. The Senator from Virginia had several times proposed to take it up.

Mr. HARLAN. I hope the Senator from Virginia will allow the bill (S. No. 300) to be taken up and disposed of.

Mr. MASON. I am sorry I cannot, for there are but fifteen minutes remaining before one o'clock. I should be happy to oblige the Senator, but I cannot do it.

Mr. HARLAN. The reason why I desire that bill taken up is, that the lands to which it relates are to go to sale on the 17th of this month, and it is important that the bill should be passed at once.

Mr. MASON. I regret that I cannot yield to the Senator.

The VICE PRESIDENT. The question is on the motion of the Senator from Virginia to take up the joint resolution to which he has referred.

Mr. CLAY. It seems to me hardly worth while to take that up now. It is within a quarter of an hour of the time when the special order comes up.

Mr. MASON. I hope the Senator will give me that quarter of an hour.

Mr. CLAY. Very well; I will do so.

The motion of Mr. Mason was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 28) for the adjustment of differences with the Republic of Paraguay, the pending question being on the amendment offered by Mr. COLLAMER, to strike out the words, "and use such force."

Mr. MASON. I will only say that if the amendment be adopted it destroys the resolution.

Mr. COLLAMER. I do not regard that amendment as destroying the effect of the resolution; but if so, it should be destroyed.

Mr. MALLORY. The Senator from Virginia tells us that to adopt the amendment would destroy the resolution. Well, sir, if you adopt the amendment, the President will take such measures, under his own responsibility, as in his judgment will attain this end; but he will not be authorized by this resolution, in taking such measures, to use the force of the country to enforce them. I cannot see, therefore, the justice with which he says it would destroy the resolution.

In the face of the fact that we have never apprized Paraguay that we have a quarrel with her at all, that we have never asked her to redress any wrong, and never notified her that we have taken offense, I must repeat that it is departing from the well-established policy of this Government to convey that information to her through the medium of force, in the first instance, particularly when the very document which is presented here, accompanying this resolution, contains a message from the President of Paraguay himself, notifying the American Government that he is ready immediately to make a treaty with them covering all subjects of difference, notifying the agent who went there that he would make it with him, expressing the desire that this Government would send a minister plenipotentiary there for the purpose of making a treaty. Sir, this Government has uniformly dealt with great liberality towards all weaker Powers. It has put up with a great many differences, and has abstained from demanding redress by force until peaceful measures had been tried. But if you resort to this method first with the little province of Paraguay, a little independent Republic, it is a departure from the well-established practice of this Government, and you will defeat the desired end. The end of this body is not merely to obtain redress for the single injury of firing into the Water

Witch, but that is all this resolution contemplates. Our object is to participate in the opening trade of Paraguay, with which country Brazil, and France, and England have now commercial treaties. We desire to participate in the benefits of that commerce. If you go to Paraguay with a naval force to demand redress before you have apprized her of her wrong, you may get the redress, but that Government will show no disposition to make a commercial treaty with you on the footing of other nations. It is for this reason, and not to oppose the policy which is indicated here, that I desire that this amendment may pass, and that we may not in this way authorize the President to use force in the first instance, until peaceful measures have been tried.

Mr. MASON. I had hoped the honorable Senator from Florida would not have gone over the same topics we debated when the question was before the Senate heretofore. I hope it will be remembered that the President of the United States, on his responsibility as the Executive in conducting our intercourse with foreign Powers, has recommended, in this instance, because of this unatoned for and wanton aggression on the life of an American citizen by a very remote Power, very difficult to get at, and a very feeble one, that, while he is asking redress, Congress shall authorize him to enforce it by the use of force, if it should become necessary. From the known character of the Government of Paraguay, and from the known character of the man at its head, the so-called President of the Republic, it is apparent that it would be idle to send a functionary there to demand redress, unless he could be empowered to let them understand that if atonement were not made, they would be compelled to yield. I said, therefore, I think with propriety, that, if the amendment be adopted, it will destroy the resolution. In speaking of the Executive, I by no means intend to speak more of the present Executive than of any other; but the Constitution has lodged with the Executive the conduct of our intercourse with foreign nations. It is for Congress to establish the relations, but he conducts the intercourse; and the reason assigned in his message for asking this authority, arising out of a wanton and murderous attack upon a ship, not in the waters of that Republic, yet unatoned for, seems to me to require, at the hands of Congress, that this power should be given. I hope the question will be taken. I do not want to consume time. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SIMMONS. There has been a suggestion of a recent treaty between France and Brazil with this Power, and I wish merely to mention that they went there with just such a force as the President of the United States now asks to make this negotiation. The recent treaty with them was made under precisely the same circumstances that it is now asked we shall negotiate. I hope the President will be authorized to use force.

The question being taken by yeas and nays, resulted—yeas 21, nays 19; as follows:

YEAS—Messrs. Bayard, Broderick, Chandler, Collamer, Crittenden, Doolittle, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, Johnson of Arkansas, Johnson of Tennessee, Jones, King, Mallory, Seward, Stuart, Trumbull, and Wade—21.

NAYS—Messrs. Allen, Benjamin, Bigler, Brown, Clay, Dixon, Douglas, Evans, Fitzpatrick, Green, Houston, Hunter, Iverson, Mason, Polk, Sebastian, Simmons, Slidell, and Toombs—19.

So the amendment was agreed to.

Mr. MASON. I move that the resolution lie on the table.

The motion was agreed to.

BILLS BECOME LAWS.

A message was received from the President of the United States by Mr. HENRY, his Secretary, announcing that the President had approved and signed the following enrolled bills and joint resolutions:

An act to incorporate Gonzaga College, in the city of Washington, and District of Columbia.

An act for the admission of the State of Kansas into the Union.

An act to alter the times for holding the circuit and district courts of the United States for the district of Vermont.

An act to incorporate the Benevolent Christian Association, of Washington city.

An act to provide for the issuing, service, and

return of original and final process in the circuit and district courts of the United States in certain cases.

A resolution providing for the payment of certain expenses of holding the United States courts in the Territory of Utah.

HUNGARIAN SETTLERS IN IOWA.

Mr. JONES. I hope the Senate will now agree to take up the bill (S. No. 300) for the relief of Hungarians in my State, which my colleague reported yesterday from the Committee on Public Lands, to which there was no objection, except on the part of my friend from Arkansas, who said he only wanted a little while to look into it. The public sales come on in a few days, and these poor people will be deprived of the privilege of entering their lands unless this bill is passed. It is recommended by the Commissioner of the General Land Office.

Mr. JOHNSON, of Arkansas. I object to the passage of the bill, unless it is confined to these people. This can be done by a slight amendment in the second section; but, as I now understand it, it is not confined to these people. If that amendment can be made, I shall not object.

Mr. STUART. There will be no objection to that amendment.

The motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 300) for the relief of the Hungarian settlers upon certain tracts of land in Iowa, hitherto reserved from sale by order of the President, dated January 22, 1855.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order, but if it be the general sense of the Senate, the consideration of this bill will be continued.

Mr. JONES. I ask general consent.

Mr. CLAY. I will give it five minutes. If it creates any debate, I shall insist that it be laid aside.

The VICE PRESIDENT. The Chair will take it as the sense of the Senate that the bill shall be continued for the present.

The bill was read through.

It extends the right of preemption to the Hungarian settlers on that body of land reserved from sale or location by order of the President of the United States, dated January 22, 1855. All persons so entitled to the right of preemption, who may have gone on the lands and continued to inhabit and improve them, are to hold their claims, not exceeding one hundred and sixty acres to each preemptor, against any other subsequent claims whatever. The claimants under settlement and cultivation, made prior to January 22, 1855, or before the passage of this bill, are to make known their claim, in writing, to the register at Chariton, within three months from the date of publication in the district of notice to the claimants of the privileges granted by the bill, to be given by the Commissioner of the General Land Office; and in all cases proof and payment must be made at the land office within twelve months from the date of publication of the notice.

Mr. JOHNSON, of Arkansas. The bill, as will be seen by its title, is a bill for the relief of certain Hungarian settlers on certain tracts hitherto reserved by the President from sale; but the second section goes on to say that "all persons"—that does not include Hungarians only—"all persons entitled to the right of preemption to the above described lands by this act, who may have gone on to said lands prior to January 22, 1855"—that they might have done and acquired the right of preemption; but it says also, "or since that time." They may have never acquired it at all.

Mr. STUART. Allow me to suggest to the Senator whether it would not answer his purpose to strike out "persons" and insert "such Hungarians."

Mr. JOHNSON, of Arkansas. That is what I desire. I am not disposed to make a contest with these people. They were unfortunate, they have come here, and we have commenced a course of kindness to them, and I am not disposed to take the responsibility of putting an end to it. I wish them to have the land; I really feel in that way towards them; but I am not disposed, under cover of that, to have a preemption law passed which sets aside all the regular preemption laws for the benefit of anybody else. Let us do that which we really design, and not be passing an act

which reaches everybody and anybody. I move to strike out the words "all persons," in the first line of the second section, and insert "all such Hungarians." I will further say, in regard to the bill, that it is very peculiar; and whilst I shall vote for it myself, I am not entirely satisfied about the direction it gives.

Mr. JONES. This bill was drawn at the General Land Office with great care, by the Commissioner himself, who understands the case perfectly well, much better than I do, or my colleague, I suppose, or anybody else. It is made to apply to their case alone. The original intention was to give lands to these Hungarians, as lands had been given to the Poles in Illinois, but we have been unable to have the land given to them. They ought to have it for nothing, in my opinion, because of their being exiles from their own country. Being unable to purchase this land, they have been waiting for two or three years, until they could have money to pay for it. They think they have money to pay for it now, and they only ask, like all other settlers on the public lands, to be allowed to pay \$1.25 an acre. They are *bona fide* settlers, and have honestly made improvements on the lands, which are no better than other lands in the State. I think it is a great hardship that they should not be permitted to enter their lands. I think the amendment of my friend from Arkansas is an ungenerous amendment. The captain of the Hungarians who settled on this tract made valuable improvements, but became dissatisfied with the country, sold his improvements to one of his countrymen who came afterwards, and who was not included originally in the list, and went to Texas to reside. Now, by my friend's amendment, the successor of that man will be deprived, I am afraid, of the right to enter by preemption. I believe, however, his neighbors would not interfere with him; and, therefore, rather than see the bill put by, I am willing to agree to the amendment.

Mr. STUART. I do not think the amendment will affect that.

Mr. JOHNSON, of Arkansas. I do not think the opposition is ungenerous; I am willing to give these men the benefit of the preemption laws as far as I am concerned, but I do not think it ought to embrace other people than these Hungarians. The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. BROWN. I have no intention to oppose the bill beyond simply indicating my objection to it. I shall vote against it. I think all these grants of land under the circumstances proposed in the bill originally, and all amendments to secure such grants, are wrong. I have no idea that we ought to invite exiles from all parts of the world, or that when they come we should show them this mark of special favor. I rose simply to indicate my decided, distinct, emphatic opposition to this whole thing, but I shall not detain the Senate.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

OREGON BILL.

Mr. DOUGLAS. I move now that the Senate proceed to consider the bill for the admission of Oregon into the Union.

Mr. CLAY. That will require the postponement of the special order, which I hope the Senate will not put aside.

Mr. DOUGLAS. I dislike to antagonize with my friend from Alabama, but I feel it to be my duty to insist on this bill being taken up, as it is the last State admission bill, and I fear if it does not go to the House of Representatives very soon, it will be in danger of being killed. I will say in regard to the fishing bounty bill, that I am ready to take it up at any time, though I confess I have not investigated it, and I shall rely much on the Senator from Alabama, when it shall be taken up, to enlighten me on the merits of the question. I feel bound to insist on my motion to postpone all prior orders for the purpose of taking up the Oregon bill. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. GWIN. There is nothing which could induce me to commit an act of discourtesy toward the Senator from Alabama; but I wish the bill for the admission of Oregon to come up, and without intending the slightest disrespect to him, I shall

feel it my duty to insist on considering it before every other measure.

Mr. DOUGLAS. I presume no one could deem my motion an act of discourtesy to any Senator. Certainly I would not make the motion if it could be so construed; but we are bound to consult our own sense of public duty in regard to the taking up of measures of public importance.

Mr. CLAY. I should not regard it as any act of discourtesy; I am not so tenacious of my dignity or rights as that; but it would be a great favor to me if the Senate would now take up the special order; for I am laboring under a headache, which will grow worse as the evening passes on. I want to get through with the special order.

Mr. GWIN. I hope the Senator from Illinois will not press this question to-day, as the Senator from Alabama came here prepared to make a speech.

Mr. DOUGLAS. If the Senator from Alabama came for the purpose of making a speech this morning, I will waive it until his speech is finished.

The VICE PRESIDENT. It requires unanimous consent to withdraw the motion, the yeas and nays having been ordered. The Chair hears no objection, however.

FISHING BOUNTIES.

The VICE PRESIDENT. The first special order is the bill (S. No. 10) repealing all laws, or parts of laws, allowing bounties to vessels employed in the bank or other cod fisheries; and that bill is now before the Senate as in Committee of the Whole.

Mr. FOOT. I submit to the Chair whether that is the first special order. I see, by reference to the Calendar, which lies on my table, that the resolution offered by the Senator from Wisconsin, [Mr. DOOLITTLE,] some time ago, respecting the action of Commodore Paulding, is the oldest special order.

The VICE PRESIDENT. The Chair directed the Secretary to put the special orders in their appropriate order on the Calendar, and was informed that this bill was the oldest special order.

Mr. CLAY. It is the oldest special order.

Mr. GWIN. I will state to the Senator from Vermont that the special order which is the oldest, the resolution of the Senator from Wisconsin, was consolidated with the bill of the Senator from Virginia, [Mr. MASON.]

Mr. FOOT. The resolution of the honorable Senator from Wisconsin was made the special order on the 14th, and the bill of the Senator from Alabama on the 19th of January. It so stands on the Calendar.

Mr. GWIN. I think on a subsequent day the joint resolution of the Senator from Wisconsin came up before the Pacific railroad bill, and then it was agreed that the joint resolution and the bill reported by the Senator from Virginia, from the Committee on Foreign Relations, should be considered together. I think that order was entered on the Journal at the time, which makes this the first special order. I make the suggestion.

Mr. FOOT. I am not inclined to interpose an objection to the consideration of the bill repealing the act in reference to fishing bounties, as the Senator from Alabama is understood to be prepared on that question this morning; but I have an objection to the displacement of the resolution which has been considered, I admit, in connection with the report of the Committee on Foreign Relations on the same general subject.

The VICE PRESIDENT. The Senator is correct in supposing that the resolution of the Senator from Wisconsin, in regard to Commodore Paulding, is the oldest special order. The Chair's recollection, however, coincides with that of the Senator from California.

Mr. SLIDELL. I will state to the Senator from Vermont that that order was made at my instance. I do not know whether it appears on the Journal or not; but I suggested that they should be consolidated, and the Senate assented to it at the time.

Mr. FOOT. Then they being consolidated, the question would be whether the resolution, which was first made the special order, or the report of the committee subsequently made, should take precedence and control as to time.

Mr. SLIDELL. That is a question I should not pretend to decide. I should have thought,

by the laws of gravitation, the more important matter would have swallowed up the less important, and the medal business would have yielded.

Mr. FOOT. Then the question arises which is the most important matter. But, sir, I will not urge the question at present.

The VICE PRESIDENT. If the objection is not pressed, the Chair will examine the question between now and to-morrow.

Mr. FOOT. I am not disposed to press it.

Mr. DOUGLAS. I trust it will be waived, for the reason that I waived my motion to allow the Senator from Alabama to make his speech. If I had known that he came in prepared to speak, I should not have made my motion, and I waived it only for that purpose.

Mr. CLAY. I am obliged to the Senators from Vermont and Illinois for not pressing their motions to postpone the consideration of this bill. At the same time, however, it is due to the Senator from Illinois to say that, in urging the consideration of this bill, at this time, I do not wish him to understand that I accede to his proposition, that when I have concluded the Oregon bill shall be taken up. I shall urge the consideration of the bill now pending until the Senate come to a final vote upon it.

Mr. DOUGLAS. I will state very frankly that I did not understand there was any arrangement. I only gave notice that I waived my motion out of courtesy, and that I should renew it when the Senator should get through.

Mr. CLAY. Mr. President, "the catching of cod is a very momentous concern," said Fisher Ames in the First Congress of the Union; and, sir, this sentiment has been repeated so often, and so emphatically, that many persons, without an examination of the subject, have taken it for granted that "the catching of cod is a very momentous concern." Indeed, considering the peculiar, extraordinary, and exclusive favor with which cod catching has been treated by the Congress of the United States, any one might conclude that the catching of cod is a most momentous concern.

It is my purpose to inquire into the reason why Mr. Ames said, in 1789, that the catching of cod is a most momentous concern, for the purpose of of vindicating him from the suspicion of trifling with the truth, and of alleging what he did not believe, for the sake of achieving some sectional advantage. The dignity, purity, and elevation of his character, forbid the idea that he would have been guilty of any such assertion if he had not really believed it true. A comparison of the relations of cod fishing to the tonnage, commerce, revenue, and seamen of the United States, at that day, will show that he did not speak without warrant of reason, and authority of facts; and a similar comparison of those relations at this day, will show that, however truly it may have been uttered by him, it would be simply ridiculous and absurd, at this time, to say that "the catching of cod is a very momentous concern."

However, sir, before proceeding to exhibit this comparison, I must show the peculiar and extraordinary favor with which this interest has been treated. How much was paid to the fisheries, under the system of allowances, in lieu of drawback to the shippers or exporters of fish, I am not prepared to say; but since 1792, when the system of tonnage allowances was adopted, there have been paid to the cod-fisheries the sum of \$12,128,532. They have received, annually, an average sum exceeding two hundred and five thousand dollars. During the last ten years, they have received an annual average sum of \$323,046. This large sum has been divided among about fifteen thousand persons, supposing that the fishermen have shared the bounty together with the owners of the fishing vessels, or it has been divided among only about two or, at most, three thousand owners of fishing vessels. Of this sum of \$12,128,532, the States of Maine and Massachusetts have received more than eleven twelfths, or \$11,295,298, while the other States have received, in the aggregate, but \$833,234. Of the two thousand and eighty-eight vessels in the trade last year, one thousand nine hundred and twenty-eight were owned in the States of Maine and Massachusetts; the remaining one hundred and sixty were divided between three States; Connecticut owning one hundred and thirty-four, New Hampshire but twenty-five, and Rhode Island but one. Of the fourteen thousand six hundred and sixteen fishermen reported to be

employed in this trade, thirteen thousand four hundred and ninety-six belong to Maine and Massachusetts, and the remaining one thousand one hundred and twenty to three States; Connecticut having nine hundred and thirty-eight, New Hampshire one hundred and seventy-five, and Rhode Island but seven.

Thus, sir, it appears that this is a purely local interest confined to a very small section of the United States, and a small class of the citizens of the United States, found, I may say, within but two States of the Union. Now, considering the small number of persons who have participated in this bounty of the Government, and the large benefit which has been bestowed upon them, it is matter of special wonder that it should have been tolerated so long, and might justly induce the opinion that it had been, in the consideration of Congress, of most momentous concern.

The inducements, or arguments, in favor of the fishing allowances presented by Mr. Ames, Mr. Gerry, and other distinguished advocates of that interest, in 1792, were that it would increase the commerce, the revenue, and the seamen of the United States. Mr. Gerry said, "to support fisheries is to support the revenue;" and he undertook to show "the diminution of revenue in consequence of the failure of the fisheries." Mr. Ames said, "it is an immense fund of wealth," and "will enrich while it will protect the nation." From the exhibition which I shall make of the relative importance of this interest compared with the other interests of the United States at that time, I repeat, these assertions were not without warrant of reason.

The total tonnage of the United States in 1790 was but two hundred and seventy-four thousand three hundred and seventy-seven tons, of which that employed in the cod fisheries was thirty-one thousand eight hundred and forty-two tons; the proportion of the cod-fish tonnage to the other tonnage of the United States being as one to seven, or in other words, the cod-fish tonnage constituting, at that time, one eighth of the entire tonnage of the United States. But how is it at this time? In 1857, the total tonnage of the United States, in round numbers, was, say five millions—for it wanted only fifty-nine thousand of that number—of which that employed in the cod-fisheries was but one hundred and four thousand five hundred and seventy-three tons, the proportion of the cod-fish tonnage to the other tonnage of the United States being as one to forty-seven, or, in other words, constituting but one forty-eighth part of the entire tonnage of the United States. Since 1790 the cod-fish tonnage has increased but three fold, while the other tonnage of the United States has been increased about twenty fold.

So in respect to commerce. Mr. Ames said, in 1789, that, in 1774, previous to the Revolution, the value of exported cod was upwards of a million dollars. If so, at that time it constituted one sixth of the whole commerce of the United States; for the value of the aggregate domestic products of the United States, at that time, was but \$6,165,413. In 1804, the total domestic exports of the United States were \$41,467,477; of which exported cod made \$2,400,000. At that time, the proportion was as one to seventeen and two tenths. In 1857, however, the total domestic exports of the United States were \$338,985,065; of which the value of the exported cod was but \$570,348; the proportion being about as one to six hundred. The decrease in the value of exported cod, since 1804, has been \$1,829,652; while the increase in value of the other domestic exports of the United States has been \$297,517,588.

So in respect to revenue. As I have shown before, at first the exports of cod amounted to about one sixth of the total exports of the United States, and, of course, brought in foreign goods in exchange, which furnished, I may say, one sixth of the revenue of the United States. At this day, however, as I shall show after a while, the cod fisheries, instead of adding to, are annually abstracting from the revenue of the United States. Where they put one dollar into the Treasury they draw more than twelve out.

Thus it appears that all the predictions of the value of the cod fisheries as an immense source of wealth made by their advocates, in 1792, have proven false and delusive. At this time they form but a forty-eighth part of the tonnage of the United States, but a six hundredth part of the commerce

of the United States, and instead of adding to the revenue, they annually abstract from the revenue nearly three hundred thousand dollars more than they put in. Who then, at this day, considering the cod fisheries in their relation to the commerce, the tonnage, and the revenue of the United States, can say that they are of very momentous concern?

But, sir, it will be urged as it was urged in that day, that the cod fisheries are the nurseries of American seamen. This, too, was urged with some show of reason in 1792, for at that time cod fishermen composed perhaps about one half of the American seamen. We had at that time no other fishery except the whale fishery. We had no fisheries around the coast of Florida, or in the Gulf of Mexico, or on the Pacific coast; no herring, no mackerel fishery, no fishery in the great lakes in the Northwest. We had but little commerce, and not sufficient vessels or seamen even to carry that. Then it was said with apparent reason that the cod fishery is the nursery of seamen; but at this time, as I have shown, the cod fishery bears an unimportant relation to the commerce and tonnage of the United States. At this time, instead of composing nearly half of all the seamen of the United States, it composes not exceeding one thirteenth part, for we have over one hundred and sixty thousand seamen engaged in the mackerel fishery, in the whale fishery, in the merchant service, and in the military marine of the United States; while there are but thirteen thousand employed in the cod fisheries.

These inducements, which were presented for fostering the cod fisheries, no longer exist; and if they were the only arguments in support of the bounty now conferred on them, that bounty should be repealed. But, sir, I deny that these were the inducements for the enactment of these laws. They were arguments that were urged in favor of them; but the true reason of each of these laws was the salt duty. The salt duty was the source of all the allowances, whether called drawbacks or bounties, which have been bestowed by any of these laws upon the cod fisheries; and that I think I shall be able to show to the satisfaction of the Senate.

The reason of the law, I have said, was the salt duty. The law was predicated upon the idea that duties should be levied upon the consumption, and not upon the production, of the country; upon the imports, and not upon the exports. It was said, with a good deal of plausibility, that a man who exports an article which he has imported, and on which he has paid the import duty, should have that duty refunded; because it would be exchanged for some foreign article which would be brought into the country, and would again pay duty; and if you did not refund him the duty on the exported article, it would be equivalent to taxing him with double duty. In each of these acts, I maintain that it was the purpose of Congress to give a drawback, and not a bounty.

The difference between a drawback and bounty is well understood by the Senate, but may not be understood by the country; and I shall define what I understand to be that difference, in order that the people may appreciate properly the wrong done them by the present bounties bestowed on the cod fisheries. Drawback is a mere return of the duty paid by an importer of an article, upon his exportation of that article. It is refunding him his own money. It is, as said by Mr. Madison, in debate, in 1792, merely paying a debt—a debt due from the Government to the exporter of an article for moneys advanced by him to the Government upon importing that article. Bounty, on the other hand, is a gratuity, a premium bestowed upon the producers, the exporters, or the importers of certain articles, or upon those who engage ships in certain trades. Drawback is founded upon a valuable consideration—bounty upon mere governmental favor.

Having explained this distinction, I repeat that the purpose of all these laws was to give drawback and not bounty, that the fishermen themselves did not ask bounty, but drawback, that they did not sue for favor, but demanded justice. They said, give us what you give the merchant on the exportation of an article imported by him; return us our money—that is all we ask. Drawback, and not bounty, was all that was advocated by the representatives of fishermen in either House of Congress. They repudiated the charge of seek-

ing bounty; they denied it, and protested that they only asked drawback and no bounty. Drawback and not bounty was all Congress intended to give.

A brief abstract of the several acts on the subject of fishing allowances will show that such was the intention of Congress as expressed in the acts themselves. I shall not weary the patience of the Senate by going over those acts, but will present a brief summary of such phrases in each of the acts as will establish the position I assume. In the first tariff act passed by the First Congress of the United States, on the 4th of July, 1789, a duty of six cents per bushel was laid on imported salt. The fourth section of the same act granted five cents for every quintal of dried, and every barrel of pickled fish, or of salted provisions, exported to foreign countries, and declared that this allowance was made, to use the language of the act, "in lieu of drawback of the duties on the importation of the salt employed and expended therein." Thus it appears that the duty exceeded the allowance in lieu of drawback by one cent per bushel of salt; and the fishermen afterwards complained that they did not really get an equivalent for the drawback; that the Government was still their debtor for something more than they had received. The reason of this assertion was that they said it required a bushel of salt for each quintal of dried or every barrel of pickled fish; and that, as they had paid six cents a bushel on importing the salt as duty, and received but five cents per quintal of dried, or barrel of pickled fish in return, they did not receive the full amount of their drawback.

The act of August 4, 1790, made stringent provisions, requiring full proof that the fish or provisions had been exported, and had been cured with foreign salt that had paid duty, before the drawback was paid. The act of August 10, 1790, doubled the duty on salt, raising it from six to twelve cents; and doubled the allowance on the fish or provisions exported, raising it to ten cents per quintal and ten cents per barrel; and declared, to quote the language of the act, that this was done "in lieu of a drawback of the duty on the salt expended thereupon."

Up to this period of time there can be no dispute—there is no ground for disputing the assertion, that drawback and not bounty was all that was granted by Congress; but then the system was changed on the petition of the fishermen themselves. By the act of February 18, 1792, the allowance was shifted from the shipper, or exporter of the fish to the owner of the fishing vessel, and from the exported fish to the tonnage of the vessel. This was done, at the instance of the fishermen themselves; and I will read a brief extract from one of their memorials in order to show what they expected to get, and what they asked. They said "that the bounty granted to the fishery by Congress"—they called it bounty, and I am amazed to find the term bounty is frequently used in the law, although according to the strict import of the term; inappropriately—"as a compensation for the duty on salt, will not operate to that effect so effectually as if paid direct into the hands of the owners of the vessels, instead of the shippers of the fish."

In pursuance of this and other memorials Congress shifted the allowance from the shipper of the fish to the owner of the fishing vessel, allowing so much per ton for each ton of the vessel employed in the cod fishery. It did not give, or propose to give, however, anything more than the drawback.

Mr. FESSENDEN. When was that?

Mr. CLAY. On the 18th of February, 1792. The amount of the allowance on the tonnage was regulated by the quantity of salt consumed in curing the fish. It was said that each quintal of fish required a bushel of salt, and it was estimated that the average quantity of fish taken to each ton would be twelve, and therefore the duty multiplied by twelve gave the allowance per ton to each vessel employed in the cod fishery. Now, it will be remarked, and may be urged in argument on the other side of this question, that this tonnage allowance varied with the size of the vessel, and hence it may be maintained that really more was given in the way of tonnage allowance than had been given in the way of drawback on the exported fish. But, in reply to that assertion, it will be found that the tonnage allowance, although it may have exceeded somewhat the drawback on

the larger class of vessels, fell below it on the smaller vessels more than it exceeded it on the larger, and thus in the aggregate, as alleged by the advocates of this law, the Government probably paid out less in the way of tonnage allowance than it did in the way of drawback. Besides, there was a maximum aggregate allowance fixed by law, which could not be exceeded, although falling short of the duty paid by the vessel on the salt it consumed.

The advocates of the act of 1792 maintained that the Government, as well as the fishermen, would save money by the change proposed. I will read a brief extract from the speech of every advocate of the fishing bounty in 1792, made in Congress, in order to show what they intended, or professed to intend, in the enactment of the law. Mr. Goodhue, of Massachusetts, on the 3d of February, 1792, speaking of the objections to the existing mode of paying the allowance in lieu of drawback to the shipper or exporter of the fish, said:

"The object of the present bill is only to repay the same money into the hands of those persons who are immediately concerned in catching the fish; and there can no reasonable objection be made to such a transfer of the drawback, as Government will not lose a single dollar by the change. The gentleman from Virginia [Mr. Giles] talks of the unconstitutionality of granting bounties; but no bounty is required. We only ask, in another mode, the usual drawback for the salt used on the fish. If we can make it appear that the bill does not contemplate any greater sums to be drawn from the Treasury than are already allowed, it is to be hoped that no further opposition will be made to the measure; and that this is really the case, can be proved by documents from the Treasury office."

And then he read a statement and calculation, to prove his assertion; and to show that the United States would probably save a thousand dollars per annum by making the proposed change. Mr. Ames, of Massachusetts, said on the same day:

"Though the whole is intended for the benefit of the fishery, about one fourth of what is paid is not so applied; there is a heavy loss both to Government and the fishery. Even what is paid on the export is nearly lost money; the bounty is not paid till the exportation, nor then, till six months have elapsed; whereas, the duty on salt is paid before the fish is taken—it is paid to the exporter, not to the fishermen. The bounty is so indirect that the poor fisherman loses sight of it. It is paid to such persons, in such places, and at such periods, as to disappoint its good effects; passing through so many hands, and paying so many profits to each, it is almost absorbed."

"Yet, instead of asking bounties, or a remission of duties on the article consumed, we ask nothing but to give us our money back, which you received under an engagement to pay it back, in case the article should be exported."

"The drawback falls near nine thousand dollars short of the salt duty received by the Government."

"We rely on the evidence before you, that the public will not sustain the charge of a dollar."

Mr. Gerry, of Massachusetts, said on the same day:

"It is now proposed to make a further commutation; gentlemen call this a bounty on occupation; but is there any proposition made for paying to the fishermen, or other persons concerned in the fishery, any sums which we have not previously received from them? If this were the case, it would indeed be a bounty, but if we beforehand receive from them as much as the allowance amounts to, there is no bounty granted at all."

"The only question now is, whether this be a direct bounty, or simply a commutation of the allowance already granted by Congress."

Mr. Livermore, of New Hampshire, said on the 6th of February, 1792:

"If gentlemen are disputing only because the word 'bounty' is in the bill, they may be perfectly relieved from their uneasiness on that score; for the bill expressly says 'that the bounty now allowed upon the exportation of dried fish, of the fisheries of the United States shall cease, and in lieu thereof, a different kind of encouragement to be given. Here is no reason to dispute about a word. If gentlemen are disposed to consent to the principle of the bill, that the drawback of the duties on salt shall be commuted for a certain sum, to encourage the fishermen, they will vote in favor of the bill; if not, they will vote against it. But it is impossible for me to conceive why any gentleman under heaven should be against it."

"It does not lay a farthing of bounty or duty on any other persons than those who are immediately concerned in it. It will serve them, and will not injure anybody."

Mr. Lawrence, of New York, said:

"From examining the section, he conceived it contemplated no more than what the merchant is entitled to under the existing laws. The merchant is now entitled to the drawback, but it is found by experience that the effect has not been to produce that encouragement to the fishermen it was expected; and he presumed the way was perfectly clear to give a new direction to the drawback; and this is all that is aimed at in the bill."

Mr. Madison, of Virginia, participated in the debate; and I wish to call particular attention to his remarks, because, in the recent resolutions of

the Legislature of the State of Maine, he is spoken of as one of the fathers of this system; and it is due to him to vindicate him from the reproach of being the advocate of bounties. On the other hand, he combatted, in an elaborate and able argument, the doctrine of the "general welfare," then first put forth by General Hamilton; and he supported the bill expressly on the ground that it was a mere commutation of drawback, but no bounty. Mr. Madison said:

"I think, however, that the term bounty is in every point of view improper, as it is here applied, not only because it may be offensive to some, and, in the opinion of others, carries a dangerous implication, but also because it does not express the true intention of the bill, as avowed and advocated by its patrons themselves. For if, in the allowance, nothing more is proposed than a mere reimbursement of the sum advanced, it is only paying a debt; and when we pay a debt we ought not to claim the merit of granting a bounty."

Mr. Bourne, of Massachusetts, said:

"The object of the first section in this bill is intended for the relief of the fishermen and their owners. They complain that the law now in force was meant for their benefit, by granting a drawback on the fish exported; this they find by experience is not the case, for they say that neither the fishermen who catch the fish, nor the importer of the salt, receive the drawback; and I rather suppose, sir, it is the case."

Thus I have quoted from every speech in favor of this tonnage allowance in 1792, all of which corroborate my assertion that the purpose avowed by the advocates of this system was to secure a drawback and not bounty; that they all repelled the charge of seeking bounty, and protested that they demanded justice, but sued for no favor. In compliance with this understanding this act was passed, and every subsequent act which was passed upon the subject expresses in itself the same purpose. Thus the act of May, 1792, increased the duty by substituting for the measured bushel of eighty-four pounds the weighed bushel of fifty-six pounds, and added twenty per cent. to the fishing allowance. The act of July, 1797, increased the salt duty to twenty cents a bushel, and added thirty-three and a third per cent. to the allowance. The act of April, 1800, continued this allowance for ten years, which would have expired in 1800 by the limitation of the last act of 1797, but continued it on this express condition:

"That said allowances shall not be understood to be continued for a longer time than the correspondent duties respectively, for which such allowances were granted, shall be payable."

The act of May, 1807, repealed the duty and the allowances. At the time that act was passed, scarce a word was said in defense of the fisheries; all the resistance was against the repeal of the duty, because the advocates of the fisheries seemed to take it for granted that if the duty were repealed the allowance would be repealed, as a matter of course. They all regarded it, as it really was, but an incident of the salt duty, deriving its existence from the salt duty, and necessarily dying with the salt duty. The act of July, 1813, revived the duty of twenty cents a bushel on salt, and gave a drawback of twenty cents on pickled fish, and a proportionate bounty on tonnage. The act of March, 1819, increased the bounty. A change of the tonnage allowance always followed every change in the salt duty. It originated with the salt duty, rose with the salt duty, perished with the salt duty, was revived with the salt duty, was increased with the salt duty, and has been continued with the salt duty; but has not been reduced with the duty.

Thus, sir, upon the face of the acts themselves, I think it is perfectly manifest that the purpose of Congress was to grant a drawback, but no bounty. In respect to these tonnage allowances, I find that in 1816, when a resolution was offered for their repeal, Mr. Reed maintained that the tonnage allowance was not equal to the drawback. He stated that though it might exceed it on some vessels, in the aggregate it fell short of the drawback. Such was perhaps the fact.

The fishermen themselves always understood and construed the law as giving drawback and not bounty. After the repeal of the salt duty and the allowances in 1807, many of them came to Congress with memorials praying to be paid the allowance, on the ground that they had purchased salt, and paid duty on it before the repeal of the law; and in some instances the vessel had been cast away or the salt landed in a foreign country from their vessels wrecked. In each and every instance, it will be found that they treated the allowance as

a mere drawback or commutation of the drawback of the salt duty. For example, here is the memorial of several persons residing in Portsmouth, in which they say:

"The salt employed by said vessels in said voyages had paid the highest duty on that article, for they sailed with all their salt on board, nearly two months before the duty was reduced at all. As the allowance was expressly granted in consideration of the duty, the full allowance is due, as the full duty had been paid. Justice would say that, having paid the duty without any diminution, they ought to receive the allowance without any diminution."

Here is the petition of others, of the town of Killingworth, Connecticut, in which they say:

"Your petitioners, however, believe that the circumstances herein related bring them within the spirit of the law allowing a bounty; that the salt sent in said vessel has, in fact, been exported. And your petitioners cannot persuade themselves that it was the intention of Congress to allow the bounty only to the fortunate. The revenue is no more injured in this case than in other cases where a bounty is received; and the fishermen sent out in the vessel have been employed in the fishery for the whole period required by law."

I might multiply these illustrations of the construction of the fishermen themselves, but will rest with these. All of them show, however, that they regarded this as an allowance in lieu of drawback, as nothing more than drawback, and no bounty.

Such has been the construction of the Treasury Department from the time of Mr. Hamilton down to that of Mr. Woodbury; for in all their annual reports you will find that they exhibit the proceeds of the salt duty in this manner: first, they show the aggregate number of bushels imported, then the aggregate number exported, then the allowances to the fishing vessels; then they convert those allowances into bushels of salt at the existing rate of duty, and subtract them from the gross number of bushels imported, and then give the result as the net amount of salt-paying duty.

It appears, then, by the language of the acts themselves, by the arguments of the advocates of those acts, by the memorials of the fishermen praying for those acts, by the construction of those acts by the fishermen, and by the construction of the Treasury Department, that Congress gave, or intended to give, and the fishermen asked, or professed to ask, nothing more than drawback, and no bounty.

But, sir, what is the fact at this time? Instead of merely receiving drawback, they now receive a large amount of bounty. This has resulted from the reduction of the salt duty, without any corresponding reduction of the tonnage allowance. Up to 1830, to which time the salt duty was twenty cents on the weighed bushel of fifty-six pounds, which was equal to about thirty cents on the measured bushel of eighty pounds—up to 1830, if they received anything more than drawback, it was, probably, an inconsiderable amount; but, in that year, the salt duty was reduced from twenty to fifteen cents per bushel; in 1832, to ten cents; and, by the compromise act of 1833, a prospective scale of reduction was made, under which it sank to six ninety-eight one-hundredths in 1840; and at this day it amounts to only about two cents per bushel. The difference between the drawback which would be due, and the bounty which is received, may be estimated by multiplying the number of bushels of salt, allowing twelve to the ton by the duty, and subtracting it from the amount paid out. I have done that, and have prepared a table exhibiting the tonnage of the vessels engaged in the cod fisheries, the allowance paid them, the sums due as drawback, and the excess of bounty over drawback for the period of ten years past. I shall not trouble the Senate to hear it all; but will append it to my remarks.* [See note at the foot of next column.] I will call the attention of the Senate to four periods of time, equidistant, to show what has been the operation and effect of these laws within the last ten years. In 1848, the tonnage was eighty-two thousand six hundred and fifty-two tons; the allowance paid to the fishing vessels, \$243,434; the sums due as drawback at the rate of duty paid at that time, \$22,811; the excess of bounty over drawback, \$220,622. In 1851 the allowance paid was \$328,267; the sum due as drawback at the rate of duty then existing, \$25,193; and the excess of bounty over drawback, \$303,074. In 1854, the tonnage was one hundred and two thousand one hundred and ninety-four; the allowance, \$374,286; the sum due as drawback, \$31,261; and the ex-

cess of bounty over drawback, \$343,000. In 1857 the tonnage reported was one hundred and four thousand five hundred and seventy-three; the allowance paid, \$601,453; the sum due as drawback at the existing rate of duties, \$29,233; and the excess of bounty above drawback, \$572,219. The average tonnage per year for ten years past was ninety-three thousand seven hundred and eighty-two; the average allowance to the fisheries, \$323,046; the average sums due as drawback, \$26,612; the average annual excess of bounty over drawback, \$292,433; and the aggregate excess of bounty over drawback nearly \$3,000,000—\$2,964,336. Thus it appears that the effect of these laws has been widely different from what was intended by Congress in passing them, and what was supposed or expected by the fishermen and their advocates. Thus it appears that the reason of the law has ceased.

Mr. TOOMBS. What part of the whole salt duty did they absorb?

Mr. CLAY. At this day, and during the last ten years, instead of realizing simply a drawback of the duty on the salt consumed by them in the fisheries, they have realized all the salt duty, and not only all the salt duty, but for several years more than the salt duty. This, however, is not a full exhibit of the tax of this system on the people of the United States, because I have estimated the drawbacks due the fisheries upon the hypothesis that they imported all their salt, whereas the manufacturers of salt in Massachusetts tell us that they supply the larger part of what is used in the fisheries. It is predicated on the further hypothesis that they consume twelve bushels of salt to the ton, or in other words, that they catch twelve quintals of fish to the ton; whereas Mr. Zeno Scudder, formerly a Representative in the other House from the Barnstable district, the largest fishing district in New England, which has received more than two million dollars in the shape of allowance and bounty, said in August, 1852, in the other branch of Congress, that they averaged but nine quintals to the ton, instead of twelve. If he was correct, we should add twenty-five per cent. to the excess of bounty as it has been estimated by me.

Nor, sir, does that exhibit fully the tax upon the Government of the United States in support of these fisheries. You must take into consideration the cost of collecting and disbursing this bounty—estimated by all political economists at not less than two per cent.—and ranging from two to thirty; but, putting it down to the lowest amount on the \$600,000 paid last year, it is no inconsiderable sum. Nor does this exhibit all the tax of this system; for you must remember that there have been revenue boats employed for a series of years, partly in order to watch these fishermen and prevent their committing frauds upon the Treasury, and their violation of the laws regulating the cod-fisheries; and that there have been four revenue cutters employed partly for the same purpose, at an annual expense of about eleven thousand dollars each, stationed upon the coast

employed at the instance of the collectors in the mouth of the Rio Grande inclusive, we have but nine employed. My attention was directed to this, and on inquiring at the Treasury Department the reason, I learned that some of these supernumerary cutters and revenue boats had been employed at the instance of the collectors in the fishing districts in New England to watch the fishermen and prevent their violations of the law. I have the evidence at hand to exhibit when this charge is controverted. Thus we pay the fishermen bounty for catching cod, and pay officers and men of revenue cutters and boats to see that they do their work honestly, and do not defraud the Government.

Now, Mr. President, why shall not these laws be repealed? I show that the inducements to the laws—if revenue, or commerce, or seamen were the inducements—no longer exist. I show that the reason of the law has ceased to exist; I show that the effect of the law is what was never intended or expected or desired by the fishermen. I show that they realize a bounty, and it behooves their advocate to show the authority of Congress to grant it. I deny that we have any such power under the Constitution; I challenge the citation of that clause of the Constitution which warrants bounties, or the citation of any express grant of power to carry out which these bounties are indispensably necessary. On the contrary, I maintain that this power is plainly forbidden in several clauses of the Constitution, as well as by the whole spirit of that instrument and the theory of our Government. The Constitution declares that "direct taxes shall be apportioned among the several States according to their respective numbers;" that "no capitation or direct tax shall be laid unless in proportion to the census;" and that "all duties, imports, and excises shall be uniform throughout the United States."

The clear intent of all these clauses was to prevent Congress from imposing greater burdens, or conferring greater benefits, upon some States or some classes of citizens than upon others, and to secure justice, equity, and equality in the collection and the disbursement of the revenue of the Government. Now, sir, suppose a bill for direct taxation were pending before this body, and a motion were made to exempt the citizens of Maine and Massachusetts from its operation, or from the imposition of a tax upon any single article, say their salt, proposed to be collected in the other States of the Union: Senators of the other twenty-nine States would revolt at the proposition; and even the Senators of those two States would concede that it was grossly unjust, if not unconstitutional. Suppose a tariff bill were now pending, and it were proposed to permit the people of Maine and Massachusetts to import their goods free of duty, or merely to import their salt free of duty, while exacting duty at the other ports of the United States. This, too, all would concede, would be unequal, unjust, and unconstitutional.

Wherein lies the difference in principle or effect between the two cases supposed, and that which exists. True, the people of Maine and Massachusetts pay a duty on their salt, like other people, but then you refund them that duty, not as drawback, but as bounty; not upon exported fish, cured with foreign salt, but upon all the fish that they catch, whether consumed at home or exported to foreign countries. Yea, you not only pay them all the duty received from them, but you give them all the duty received from everybody else. You refund them their \$26,000 paid as duty on salt, and superadd \$292,000 collected off other people as duty upon salt. You give them twelve hundred per cent. more than they pay in. For every dollar which they put in the Treasury as a duty upon salt, you return them twelve and a half dollars.

Mr. FESSENDEN. I should like to understand the argument of the Senator. Will he allow me to ask him a question?

Mr. CLAY. Certainly.

Mr. FESSENDEN. Do I understand him to press his argument in reference to the unconstitutionality of the bounty, or whatever it may be, as founded on the unequal operation of it?

Mr. CLAY. Yes, sir; partly.

Mr. FESSENDEN. Well, sir, I can only say that I do not understand that argument as a legal one; that because an act operates unequally, ergo it is unequal in view of the Constitution.

[Note referred to in preceding column.]

* Table exhibiting the tonnage of vessels engaged in the cod fisheries, the allowances paid, &c., from 1848 to 1857:

Years.	Tonnage of vessels engaged in cod fisheries.	Allowances paid to fishing vessels.	Sums due as drawbacks.	Excess of bounty over drawback.
1848.....	82,632	\$243,434	\$22,811 95	\$220,622
1849.....	73,882	257,604	21,809 66	265,794
1850.....	85,646	256,796	22,307 76	264,488
1851.....	87,476	328,267	25,193 08	303,074
1852.....	102,659	304,569	26,835 59	277,733
1853.....	99,990	303,199	24,847 41	298,351
1854.....	102,194	374,286	31,261 36	343,024
1855.....	102,938	346,196	32,484 07	313,713
1856.....	95,816	134,659	29,219 69	105,339
1857.....	104,373	601,453	29,233 61	572,219
Ten years	937,326	\$3,230,463	\$256,124 18	\$2,964,336

Average tonnage per year, for ten years..... 93,732 6
Average allowance per year, for ten years..... \$323,046 30
Average sum due as drawback, per year..... 26,612 40
Average excess of bounty over drawbacks, per year, for ten years..... 292,433 60
Aggregate excess of bounty over drawback, in last ten years..... \$2,964,336 00

Mr. CLAY. It is either intended to operate unequally, or it necessarily does operate unequally.

Mr. FESSENDEN. We must judge by its terms.

Mr. CLAY. Mr. President, to proceed with what I was saying, I ask wherein lies the difference between exempting one State from the payment of taxes or duties, to the Government, and refunding it all its duties or taxes? Wherein lies the difference between exempting the people of Maine and Massachusetts from the payment of any salt duty, and refunding them all that they pay? Why, sir, in principle it is the same thing. Can you say that taxes are apportioned among the several States according to numbers, or that all duties, imposts, and excises are uniform throughout the United States, if you collect duties or collect taxes from every State, and then give the taxes thus collected to one or two States? Is this imposing equal burdens and conferring equal benefits on the several States and the people who compose the States, as clearly intended by those clauses of the Constitution which I have read? It would be far better for the interests of other taxpayers, and the interest of the other twenty-nine States of this Union, if the people of Maine and Massachusetts were permitted to import their salt free of duty; because then, instead of paying them \$323,000 a year, we should remit them but \$36,000; we should pay them but a dollar where we now pay them twelve and a half.

Mr. FESSENDEN. Will the Senator allow me to ask him another question in reference to the legal point?

Mr. CLAY. Yes, sir.

Mr. FESSENDEN. According to his argument, if the people of one State did not use as much of a particular imported article which paid a duty as the people of another State proportionately, the law would be unconstitutional because it operated unequally!

Mr. CLAY. Not at all.

Mr. FESSENDEN. Certainly that would follow from the argument. It is a necessary consequence of the argument.

Mr. CLAY. I think not. I further maintain that this is unconstitutional because it is unjust. Nothing is proper or tolerable in legislation which is unjust. "To establish justice" the Constitution was framed and the Union was formed. Justice is the spirit of the Constitution and the bond of the Union, without which the Constitution is valueless and the Union a curse. Justice is equality, is conferring equal bounties and imposing equal burdens upon all the States, and all classes of citizens within the States.

Now, sir, I ask what can be more unjust than this bounty paid to the cod fisheries? Is it just to exact of the mackerel, and herring, and other fishermen, a payment of the duty upon their salt, and to exempt the cod fishermen from the payment of the same duty? Is this uniform taxation? Wherein, I repeat, lies the difference between exempting cod fishermen from the duty and returning them the duty? Is it just to require of the beef and pork packers of the West, and of the farmers of the entire Union, the payment of a duty on the salt which they consume, and to relieve the fishermen of the same burden in support of the Government? Is it just, or rather can anything be more unjust than not only to relieve the cod fishermen from this burden imposed upon other citizens of the United States, but to give them the proceeds of that burden as a bounty? I should like to know what excuse the representatives of the other twenty-nine States of this Union can render to their constituents for sustaining a system which taxes a common necessary of life, the salt which they use, in order to raise bounties for a privileged class of two or three thousand, or at most fifteen thousand persons?

Since the doctrine of protection has been exploded, and is without a party in the country, or even an advocate in Congress, upon what principle can this bounty be maintained or defended? Is it the extremest, greatest, and worst kind of protection; exceeding protecting duties, or prohibiting duties, or exemption from paying duties, or remission of duties. It is taking money derived from taxing the many, and giving it to the favored few. Here are twelve or fourteen thousand men, if the fishermen get the bounty, or less than three thousand if the owners get it, receiving \$300,000

annually from the Treasury as a pure gratuity; not for what they have done, or are doing, or will do, for the Treasury, or the Government, or the people of the United States; but for what they are doing for themselves; for pursuing their own business, for working for themselves, for catching cod fish! The consideration of this bounty is the catching and selling, or cooking and eating, of cod fish; the filling of their own purses, or stomachs! For this they are made pensioners of the Government—the only civil, the only honorary pensioners; for this they are preferred above all other fishermen, all other men of all other occupations; for this they are made peculiar, extraordinary, and exclusive favorites; for this they are honored and advanced above all other classes of pensioners. All other pensions rest upon some past and valuable consideration—upon public services, or losses sustained, or sufferings endured for the Government in the Army or Navy; but for this no such support can be found. The cod fishermen are not in the public service; they have not been public servants; they have not lost their limbs or their health, or suffered any injury, or incurred any peril in the public service, at the call of their country. They are pensioners, not by merit, but by mere favor!

No; it is not what they are or have been, or do or have done, or must or will do, for their country, that they are fostered and fed by Government; it is for what they may do in the future; it is upon the possibility of future service, that they are thus made stipendiaries of Government. We may need these men to man our ships, say their advocates; therefore, we should cultivate their patriotism, and encourage their piscatory pastimes or pursuits, by an annual conciliatory bribe of \$300,000. They are the nurslings of the sea; the nascent Neptunes whose hands may direct our navies, defend our commerce, and decide the destiny of our country in war! If war comes, where can you find seamen, save in the cod fisheries? No where! Not among the four thousand mackerel, nor the twenty thousand whale fishermen, nor the one hundred and thirty thousand merchant sailors, nor the seven thousand navy seamen; not among these one hundred and sixty-one thousand men is there skill, courage, and patriotism enough to fight our naval battles. No, you must look to the cod fishermen to dare the dangers of the deep, and defy the terrors of gunpowder, and grapple with our foes!

Surely, if the destinies of our common country center in the cod fisheries, then we may exclaim with Fisher Ames, "the catching of cod is a very momentous concern."

Let us examine this bold and startling proposition, and see how far it can be sustained by facts or by arguments. No class of men can claim a monopoly of patriotism or of courage; and the cod fishermen cannot prove their title to a larger share of these virtues than other fishermen or sailors. Neither can any satisfactory or sufficient reason be assigned why they are or should become better seamen.

Why should they excel the mackerel fishermen in skill, courage, or patriotism? They are of the same race, derived from the same origin, speak the same language, worship the same God, live under the same Government, and pursue similar vocations. Mr. Scudder says the mackerel fishing is pursued in the same or similar vessels, in the same waters, at the same season of the year, and often by the same men, and is fraught with equal toil and danger. Wherein lies the difference of merit or value to the country between the catchers of mackerel and the catchers of cod? Mr. Scudder said there was none, and that they were equally entitled to Government favor. Certainly there can be no difference, unless it be imparted by the food. If the opinion of some philosophers or poets be true, that men partake of the nature of the animal on which they feed, perhaps there may be greater virtue in catching cod than mackerel or herring.

Why should they be better seamen than whale fishermen? A cod-fish voyage is of four months; a whaling voyage of two to four years. Are four months' tuition in cod fishing worth more than four years' whaling? A cod-fish excursion is of a few hundred miles; a whaling cruise of twenty thousand miles. Is more learned in a short trip to Newfoundland than a long one in doubling Cape Horn? Does casting the lines for cod re-

quire greater skill, dexterity, strength, or courage, than harpooning the whale? Is more learned in a fishing smack or fore-and-aft schooner of five or forty tons than in a whaling ship of one thousand or more tons? The smack has no yards, but two masts, and three sails—jib, foresail, and mainsail—all managed by halliards or ropes and pulleys, without getting off decks; the sails are unfurled or furled by pulling or letting go a rope. But the great whale ship has its three masts, its twenty-odd sails rising one above the other to the top gallants, and its sixteen or more yards supporting the sails—the very names of which are unknown to the cod fisherman, because never used by him. He has not to go aloft to furl or reef sails, and could not if ordered. He never learns the duties or even the dialect of a whaler, or merchantman, or war vessel; and on board of them would have no advantage over the land-lubber, except in walking the deck, and escaping sea-sickness. The mere inspection of a smack and a square-rigged ship will show that the former is no school on which to learn how to manage the latter. The contrast is as great as between a log cabin and the labyrinth of Crete; and the cod fisherman would scarcely be more at fault in the labyrinth than in the ship.

I do not utter these things without some authority. I understand from naval officers that all the advantage a cod fisherman has over a mere "land-lubber" is in having learned to "rough it," to walk the deck, and escape sea-sickness; but they say that they would rather take a raw recruit who had learned nothing than to take a cod fisherman whom they would have to unlearn before they could teach. I hold in my hand the Plymouth Rock, published in one of the fishing districts of New England, in which I find this language:

"The reasons why cod fishermen can never become proficient as 'ordinary seamen' are too familiar to every man upon the sea-coast to need to be repeated, but to others they may not be uninteresting. The cod fishing vessels are, in the first place, all 'fore-and-aft schooners,' and admitting the crew of each vessel to be permanent, or employed year by year in the same vessel, they obtain no knowledge of square-rigged vessels, and experienced shipmasters aver that to unlearn them of habits acquired on board the fishing vessels requires vastly more labor and patience than to take young men who have never been to sea at all. But the men who are engaged as fishermen are almost entirely a 'floating population,' a large proportion foreigners, who go a fishing for a season, sometimes for relaxation from other employments, sometimes from curiosity, but hardly ever with the idea of making seamanship a permanent business."

Such is, also, the testimony of the Patriot, published at Barnstable, the largest fishing district, which says:

"Whilst it affords to the foreigner an opportunity to acquire seamanship, it encourages our own young men into the fisheries, who would otherwise enter immediately into the merchant service, where they would learn twice or thrice as fast. Besides, the boy who once became a fisherman, is often led to embrace it as a profession for life—a business the poorest, the hardest, the worst of almost any under the light of the sun. Thus, the boy, who, if he had first entered the merchant service, would have arisen to competency and respect, is, by entering upon this service, induced to continue in it, and is, in effect, induced to adopt a business which he would never have adopted if this same bounty had not encouraged the business."

"The foreigner is advanced in his interests by fishing, because he learns ordinary seamanship, and beyond this he generally aspires not. But the American fails to learn that seamanship which is to advance him to his hoped-for situation in a merchantman. The moment he seeks even a mate's berth in a merchant vessel, because he has previously been one on a dozen fishing voyages, that moment he finds himself mistaken. He is told that his past experience is worth just nothing at all! This is true to the very letter, and hundreds can testify to this truth. If he goes into the merchant service, he has got to learn seamanship all over again, and his past tuition counts him just nothing at all. He has merely lost his time by going a fishing, encouraged by a bounty."

Mr. HAMLIN. Will the Senator allow me to ask him a question?

Mr. CLAY. Certainly.

Mr. HAMLIN. I desire to ask him if he knows that the editors of each of those papers are custom-house officers, who are ready to do the dirtiest work of any Administration when they suppose any question may be an Administration measure?

Mr. CLAY. I do not know it.

Mr. HAMLIN. I know they are.

Mr. CLAY. I do not think they are. Mr. Bates is the editor of the Plymouth Rock, the paper from which I read. I think he is not a custom-house officer.

Mr. HAMLIN. Yes, he is.

Mr. CLAY. Who is the editor of the Patriot? I cannot now say.

Mr. HAMLIN. Mr. Spinney—a custom-house officer.

Mr. CLAY. Well, sir; the custom-house officers of New England are a very corrupt and depraved set, if what the Senator says be true; for it is the common testimony furnished by most of them, and not furnished for this occasion, but through a series of years past; and I am not willing to think so badly of his constituents as he himself seems to think.

Now, Mr. President, I say, if it be true, as alleged, that the cod fishery is the peculiar nursery of seamen, it imposes upon the advocates of that opinion a response to the question: how it happens that the merchantmen, or the whalers, of a thousand or more tons, of more complex rigging, of twenty or more sails, of sixteen or more yards, making voyages of twenty thousand miles or more, spending years of "business in the great waters," are not as good schools for seamen as the cod fishery, which employs schooners or fishing smacks of sixty-five tons or less, which are engaged but four months a year in cruising around the coast or islands of New England, or on the banks of Newfoundland? The framers of these laws did not regard them as the peculiar nurseries of seamen, neither did they design by the laws to make them the nurseries of seamen. This is shown by the language of the acts from which I have read, but it is further evidenced by these facts: all these allowances were contingent on the salt duty which they always accompanied; they are always found in the salt acts, and not in the fishing code. We have a code regulating the fisheries quite as old as the Government; and if they were intended to be fostered as nurseries of seamen, there would be the proper place to find these bounties; but you find them always annexed to the salt duty. The condition of the allowance was the quantity of fish caught and exported which had been cured with foreign salt. The same allowance, up to 1813, was made to the exporters of salt provisions, of beef and pork. Can it be supposed that Congress intended to raise seamen out of the farmers of the West? Can it be expected that Congress intended to nurture seamen of those who never went to sea? This proposition at once shows the absurdity of contending that these laws were intended as the nursery of seamen. It imputes to their framers the folly of the fond mother who advised her son not to go into the water until he learned how to swim? Moreover, it will be found that all these laws were for brief periods—the longest of them extended only for ten years, the next for seven years, and several of them but for two years. Did Congress expect to train a nursery of seamen in two, seven, or even ten years? Lastly, all these laws applied to foreigners as well as citizens of the United States up to 1817. For thirty-odd years this bounty or drawback was paid to foreigners as well as natives or naturalized citizens. No distinction was made. At this day, the law does not exclude foreigners, for the word used is "persons," and not citizens; and at this day, as testified by the collectors to whom I have referred, and by the papers from which I have just read, and which I will not trouble the Senate with reading now, many of those persons employed in these fisheries are foreigners. They represent that they can get foreign fishermen for the coast or banks of Newfoundland for a much lower price than seamen at home, and they go out and employ them there.

But, sir, we are told that the fisheries cannot live without this bounty. Suppose that to be true: is it the duty of Congress to foster any occupation which cannot support itself? Whence do we derive the power to become almoners of public charity, and to provide for those who cannot take care of themselves? But, sir, any one who has examined the table appended to the report which I had the honor to submit some time ago, will see that, according to the reports of the fishermen themselves, this, so far from being a languishing business, ought to be very flourishing. In compliance with a law of Massachusetts, the assessors of the several towns in past years have been required to return the capital invested, the men employed, and gross proceeds of every occupation within the State. I find that in 1837 they reported the vessels employed in the mackerel and cod fisheries at one thousand two hundred and ninety, the tonnage at seventy-six thousand and

eighty-nine, the hands employed at eleven thousand one hundred and forty-six, the capital invested at \$2,683,176, the aggregate value of the proceeds, \$3,203,559, making one hundred and nineteen per cent. of gross proceeds upon the capital invested! In 1845, I find that the gross proceeds exceeded one hundred and nineteen per cent. upon the capital invested! In 1855, I find that the average per cent. of gross proceeds was nearly seventy-six per cent. After deducting fifty per cent. for expenses, yet it yielded an average profit of thirty-eight per cent.; and after superadding to this deduction of fifty per cent., sixty-three dollars for each man employed, (which Mr. Scudder says is all that they get), still the average amounts to nearly twenty-one per cent.; and after allowing \$100 per man in addition to the discount of fifty per cent. of the gross proceeds, still the average exceeds eleven per cent. Thus it appears that this business, far from being a losing or decaying one, quite equals, if it does not exceed, in profits any other business in the country.

But, Mr. President, to whose benefit does this bounty inure? Not to the fishermen, but to the two or three thousand owners of fishing vessels. Such is the common testimony of the collectors on this subject. Such is the testimony of the special agent of the Treasury Department sent to look into the fisheries, and to report their condition. Such is impliedly the admission of the owners of the fishing vessels themselves; for they concede that they do not observe the law which requires them to divide the proceeds of a cruise in proportion to the fish taken by each man, and that, in violation of the law and the express regulations of the Department, some of the owners take half to themselves, and divide the other half equally among the crew. If they will violate the law in one particular, why will they not do so in every other? To whom is this money paid? To the owners of the fishing vessels. What officer or agent of the Government supervises its division among the fishermen? No one. It is left solely to the discretion and the conscience of the owner of the fishing vessel. He is the arbiter of his own cause, in violation of every principle of juridical justice. Are avarice and self-interest stronger than justice and generosity? Are men kinder to others than to themselves? Can any one believe that Congress can make bargains for these men, and that they will observe them strictly though it be to their own prejudice? Why may they not stipulate that the fishermen shall have so much for the voyage, less the amount of the bounty? Is the bounty no inducement to the enterprise? It is either an inducement, or it is not. If it be no inducement to the fishermen to engage in the cruise, then there is no reason why it should be continued. If it be an inducement, then the fishermen can afford to ask less from their employers, the owners of the fishing vessels, and no doubt do take less, and thus it inures to the benefit of the owners.

Another reason why I believe the two or three thousand owners of fishing vessels generally enjoy all of this bounty is, that the fishermen are frequently changed during a season. They go out one voyage, return, are discharged, and other fishermen are taken. Such is the report of all the collectors; and, if this be true, none of these fishermen are entitled, according to law, to any of the bounty; and thus it may happen that the owners of the fishing vessels may realize the entire bounty, as is charged.

Mr. President, according to the experience of England, of France, and of Holland, such bounties are wholly inexpedient. They have endeavored, by a system of bounties, to build up their herring and whale fisheries, and they have signally failed. But I need not go abroad to prove the inexpediency of these bounties. Let any Senator compare the increase of the whale and herring fisheries with the cod fisheries, and he will say at once that these bounties have not redounded to the advantage of the cod fisheries. Our whale fishermen, without any bounty whatever from the Government, though competing with the fishermen of the greatest commercial countries of Europe, though competing with the fishermen of England, of Holland, and of France, who were paid large premiums and large bounties on this interest, have outstripped them all. A few fishing tows in New England, without bounty, without Government patronage or aid, have more tonnage

and seamen in the whale fishery than England, with all the bounties and premiums and remissions of duties extended to her whale fishermen through a series of years.

It is sufficient to condemn this bounty system to show that it is demoralizing. The late Secretary of the Treasury says, substantially, that it is a premium offered for frauds and perjuries; and he is sustained in this assertion by the testimony of the collectors from one extreme to the other of the coast of New England. They declare that the laws are not complied with; but that these bounties are realized in violation of the laws. Such is the admission, in effect, of the fishermen themselves. In several of their memorials, which I have read, they declare that they cannot comply with the requisitions of the Department and realize any profit. For instance, the law inhibits them from taking other fish than cod fish during a cod-fishing voyage, and from taking fresh fish to market, and requires that they should confine themselves exclusively to the catching and salt-curing of cod fish. They declare, in their memorials, that they had better give up the bounties than observe this regulation; for that, if they are required to throw their fresh fish overboard, they will sink more money than they can realize from the bounty, as many of the fresh fish they take are worth more than the cod, and the fresh cod will often realize a better price and readier sale than the dried. Yet they claimed and got the bounty. Who can doubt that they also saved and sold their fresh fish?

But, sir, it is demoralizing in another aspect. It encourages a sentiment already too pervading in the country, of dependence on the Government for support. Such a sentiment is baneful to individual as well as national prosperity. It paralyzes the industry, enervates the mind, and enfeebles the will of man to teach him to look to Government as a natural or foster parent for support and aid in every enterprise. It keeps him in his minority through life, and he can never feel or exercise the freedom, independence, and self-reliance of mature manhood. It reduces him to a state of pupillage, in which he cannot think without instruction, or act without assistance. It discourages enterprise, enslaves the spirit, suppresses noble aspirations, and prevents brave efforts. Unsatisfied desire is the natural aliment of human exertion, whether it be mental or physical, and without it man would cease to labor. Labor, by divine decree, is the condition of success, and without it nothing great or valuable is achieved. Poverty is the nurse of great souls, and necessity the parent of heroic efforts; and the fountain of the Muses, bursting from a barren rock, is an apt emblem of the hard source whence spring the noblest aspirations of the mind, and the most glorious achievements of the hand. Whenever Government undertakes to supply man's wants and relieve his labors, it violates a law of nature which will sooner or later vindicate its own majesty.

Suppose it were possible for this Government to supply all the wants and satisfy all the desires of its citizens—to give lands to the landless, houses to the shelterless, food to the hungry, and clothing to the naked: how long would science, art, literature, freedom, religion, anything that ennobles man, and elevates him above the beast, survive such an experiment? How long would we have a Government worth preserving, or freemen to preserve it? Such a Government would prove a greater curse than that of Adam, and more intolerable than the vilest tyranny of barbaric autocrats.

Sir, I demand the repeal of these bounties because they are unconstitutional; they are unjust, they are inexpedient, they are demoralizing. I demand the repeal of the laws under which they are drawn because the inducements held out for their enactment have ceased to exist; because the reason of them has ceased; and because the effect of them is far different from that which was intended, or expected, or desired.

Mr. HAMLIN. Mr. President, I move to postpone the further consideration of this bill until Thursday at half past twelve o'clock, and make it the special order for that hour.

Mr. CLAY. I hope not. I trust we shall get through with this business. I am sure the Senator from Maine must be as familiar with this subject as I am. He ought to be more so. It is matter of recent study with me, and has been a

subject familiar to him from his childhood, probably? I trust that we shall go on with this matter, and get done with the question.

Mr. JOHNSON, of Arkansas. I wish to say that if this bill is postponed, I believe another bill of some public interest may be passed this evening; and that is, the bill amendatory of the act of 1852 in regard to public printing. If this is postponed, I give notice now that I shall ask to have that bill taken up and disposed of.

Mr. HAMLIN. I would myself, under ordinary circumstances, prefer to postpone this bill until to-morrow; but laboring, as I have been all this day, under a severe headache which arises from the stomach—it is a bilious headache—I know full well that I shall not be clear of it to-morrow. I think I have some knowledge of this matter. The people I represent have a deep interest in it. I do not wish to be driven to speak here when I am indisposed. I therefore ask the Senate to postpone the bill until the day after to-morrow only.

Mr. DOUGLAS. I must now make the motion of which I gave notice before, and I am strengthened in my determination to press it, by the suggestion of the Senator from Maine, a Senator whose constituents, perhaps, are more deeply interested in the subject under discussion than those of any other Senator on the floor. In obedience to that rule of courtesy which the Senate took great pleasure in awarding to the gentleman from Alabama, this bill should go over until the day after to-morrow, and I feel it my duty to renew the motion I made before, to postpone the prior orders, and take up the Oregon bill. I think we shall be able to finish it to-morrow, and I do not know of any better time for it, any time when it would less incommode the public business than to take it up now. I trust the Senate therefore, will agree to the motion to postpone the prior orders and take up the bill for the admission of Oregon.

The VICE PRESIDENT. The present question is on the motion of the Senator from Maine, to postpone this bill until Thursday at half past twelve o'clock.

Mr. DOUGLAS. Perhaps he will yield to my motion to take up the Oregon bill.

Mr. HAMLIN. I prefer my motion.

Mr. DOUGLAS. Very well; let the question be taken on that.

Mr. CLAY. I trust the bill will not be deferred beyond to-morrow. If the Senator should come in to-morrow and complain of being unwell, of course it must be laid over; but I have spoken myself to-day, with a headache, under some disadvantage; and yet I have done so because I was unwilling that this matter should be longer deferred. If it be postponed until the day after to-morrow, the bill of my friend from Tennessee [Mr. JOHNSON] will be brought up, and this will lose its precedence, and may be deferred until the close of the session. I wish to have a vote on the bill as soon as practicable. I will say, let it lie over until to-morrow; I am willing that it be deferred at present, as I do not wish the Senator from Maine to go on at this time. If he then complains of being unwell, perhaps some advocate of that interest may go on.

Mr. HAMLIN. I will say to the Senator that I would be ready to proceed at this moment but from the nature of my health. I am willing, although I know quite well what will be my condition to-morrow, to agree to postpone the bill until to-morrow. I do not want it to lose its order; and I move to postpone it until to-morrow at one o'clock, and that it be the order of the day for that hour.

Mr. DOUGLAS. Then I move to postpone the prior orders to take up the Oregon bill. If the Senator from Maine will withdraw his motion, I will submit that.

Mr. HAMLIN. What becomes of this, then?

Mr. DOUGLAS. It goes over until to-morrow, as a matter of course.

Mr. SLIDELL. The first question is, whether this bill shall be postponed until to-morrow. That is a separate and distinct proposition. I shall urge, with the permission of the Senator from Tennessee, the taking up of his bill as the next special order, if this be passed over now. We have but five weeks of the session left, and if every measure of this sort is to undergo a regular discussion and set speeches, we shall probably not dispose

of it for several days, and I certainly shall object to the consumption of a very great deal of time in the discussion.

The VICE PRESIDENT. The Chair understood the Senator from Illinois to propose to the Senator from Maine some modification of his motion. Does the Senator from Maine accept it?

Mr. DOUGLAS. I ask him to allow me to move to postpone the prior orders, and take up the Oregon bill. That will leave this as the unfinished business.

Mr. SLIDELL. I submit if that is a proper motion which can be entertained without the unanimous consent of the Senate?

The VICE PRESIDENT. The Chair cannot tell until he hears what the proposition is.

Mr. DOUGLAS. It can be entertained with the consent of the Senator from Maine.

Mr. HAMLIN. I have no objection.

The VICE PRESIDENT. The Chair would be glad if the Senator from Maine would make his motion.

Mr. HAMLIN. I am willing to yield the floor to the Senator from Illinois.

Mr. DOUGLAS. I make the motion to postpone all prior orders and take up the Oregon bill.

Mr. HAMLIN. Will this bill come up, then, to-morrow at one o'clock?

Mr. DOUGLAS. It will.

Mr. HAMLIN. Then I have no objection.

Mr. JOHNSON, of Arkansas. Gentlemen make agreements here to which some of us are not parties. The honorable Senators from Maine and Illinois propose their agreement. There is a direct division which can be made of the motion, and I must insist that that division shall be made. In the first place, to postpone is one thing—

Mr. HAMLIN. The Senator will allow me. I see the point. I will move to postpone this question until to-morrow at one o'clock. When that is decided, whoever gets the floor will make whatever motion he pleases.

Mr. JOHNSON, of Arkansas. Exactly. Then I shall beg to say that I am aware that the courtesies of gentlemen very often crush measures equally with the opposition of gentlemen. I shall not sit here any longer and see this done, so far as bills which I propose to present to the consideration of the Senate are concerned. The expenditures of the Government are \$70,000,000 a year, and the bill which I propose presents a relief of about one seventieth annually throughout all time, unless the laws are changed after it shall have been enacted. That certainly is considerably over ten per cent. upon our expenditures. I think such a measure should receive our attention.

If this bill be postponed, I hope we shall consider what we can best do with the residue of this afternoon, and therefore I will not concede, so far as I am concerned, to the taking up of the bill for the admission of Oregon, when I know that it will not and cannot be admitted within this evening, whilst, on the contrary, I am convinced that we can pass to-day the bill which I propose as an amendment to the existing printing laws that will produce an effect such as I have named. I do not propose to vote for taking up the Oregon bill at this hour, which I see by the clock is three o'clock. I shall vote for the postponement until to-morrow of this question, as a measure of relief to the Senator from Maine, who wishes to address the Senate on the subject which has already been discussed. That being done, I hope we may be permitted, in the mere fragment of time that remains of this day's session, to take up a measure which will really give some protection against what heretofore has produced a general outcry throughout the whole country, and particularly throughout the Senate—the vices that have accompanied the whole system of printing, and which the committee I represent here anxiously desire to have amended and prevented.

The VICE PRESIDENT. It is moved that the further consideration of this subject be postponed until to-morrow at one o'clock, and be made the special order for that hour.

The motion was agreed to.

ENROLLED BILL SIGNED.

A message from the House of Representatives by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed the enrolled bill making appropriations for the current and contingent expenses of the Indian department, and

for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859; and it was signed by the Vice President.

THE PUBLIC PRINTING.

Mr. JOHNSON, of Arkansas. I move that the Senate proceed to the consideration of the bill (S. No. 218) amendatory of the act entitled "An act to provide for executing the public printing, and establishing the prices thereof, and for other purposes," approved August 26, 1852.

Mr. DOUGLAS. I trust that will not be taken up, because I desire the Senate to take up the Oregon bill. If this shall be voted down, I will make that motion.

Mr. JOHNSON, of Arkansas. I trust the Senate will agree to my motion, and dispose of the bill, for I do not anticipate that it will give rise to a lengthened debate. I will concisely state the reasons why this bill should be passed when it is taken up. I am not disposed to consume the time of the Senate; but if this bill is to be passed at this session it ought to be sent to the House of Representatives at once. It has been maturely considered by the committees of both Houses, and they all concur in the belief that it ought to be passed.

Mr. IVERSON called for the yeas and nays on the motion, and they were ordered; and being taken, resulted—yeas 27, nays 18; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Bright, Brown, Clay, Crittenden, Evans, Fitzpatrick, Hamlin, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Sebastian, Slidell, Toombs, Trumbull, and Wade—27.
NAYS—Messrs. Brodick, Chandler, Colamer, Dixon, Doollittle, Douglas, Durkee, Fossenden, Foot, Foster, Green, Gwin, Harlan, King, Pugh, Seward, Simmons, and Stuart—18.

The bill was thereupon taken up as in Committee of the Whole, and the Clerk proceeded to read it.

Mr. HUNTER. I suggest that we shall understand it better if the chairman of the Committee on Printing will take it up and analyze it for us.

The VICE PRESIDENT. By unanimous consent its further reading will be dispensed with.

Mr. BIGLER. I desire that it may be read through.

Mr. EVANS. I desire to hear it all read.

The VICE PRESIDENT. The reading of the bill being called for, the Clerk must proceed.

The Clerk accordingly proceeded to read the bill. The first section provides that there shall be a Superintendent of Public Printing, who shall receive for his services a salary of \$3,000 per annum, and who shall give bond, with two sureties, to be approved by the Secretary of the Treasury, in the penalty of \$20,000, for the faithful discharge of his duties under the law. It is required that he shall be a practical printer, versed in the various branches of the art of printing; he is to hold his office for two years, commencing with the first day of the session of each Congress, and until his successor shall be duly appointed and qualified. He is to be allowed four clerks, who shall each receive a salary of \$1,800 per annum; and one messenger, at an annual salary of \$1,200.

The second section makes it his duty to supervise the execution of all such public printing, binding, and engraving as shall be provided to be executed under the provisions of the law; to inspect such printing, binding, and engraving, during the progress of its execution; to see that all such work is executed in a neat and workmanlike manner, with fidelity and dispatch; to note every failure or delinquency of duty on the part of any public printer, binder, or engraver; to state the fact of such delinquencies upon his records, and from time to time report the same to the Joint Committee of Congress on Printing. He is to be prohibited from receiving any printing, binding, or engraving which is not executed in strict conformity with the provisions of the law, or of the different contracts which may be made under its provisions, in all particulars, and in the best manner, but it is to be his duty to reject all work not so executed, and at once to report the fact of such rejection to the Joint Committee on Printing, in order that such proceedings may be had under the law in the matter as the committee shall deem advisable.

He is to receive from the Secretary of the Senate and Clerk of the House of Representatives all matter ordered by Congress to be printed; and

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, MAY 5, 1858.

NEW SERIES... No. 122.

from the several heads of Departments and chiefs of bureaus all matter ordered by them, respectively, to be printed at public expense, and to keep a faithful account of the same, in the order in which it shall be received, in books to be kept by him for that purpose. He is required to record the date of receipt of every order for printing, the designation of every document or job so required to be printed, and the number of copies of each ordered; he is to deliver every document or job ordered to be printed, for the use of either House of Congress, to the Printer of that House for whose use the same is intended, (except in the cases specified in the eighth section,) in the order in which the same shall be received by him; and to deliver all of the printing ordered to be executed for the different Departments to the Public Printer or Printers, in the order of its receipt, as nearly as may be. He is to furnish to the Public Printer or Printers, at such times as it may be required, all the paper of the different kinds and qualities necessary for the execution of all such printing, taking receipts for it in a book to be kept for that purpose; and to see that all such printing is executed upon the paper so furnished. When any such document or job shall have been executed to the satisfaction of the Superintendent, and shall have been accepted by him, the Printer is to be required to deliver it in such manner as the Superintendent may direct; if required to be bound, into the hands of the proper binder, taking his receipt for it; or, if not required to be bound, into the hands of some proper officer of that House of Congress or Department or bureau for whose use the same is intended, taking his receipt therefor. Such receipt is to be delivered by the Printer to the Superintendent, together with a printed copy of every such document or job; and the Superintendent, thereupon, will note upon his books, opposite to the previous record of such document or job, the date of its receipt, the number of pages or ems it contains, the quantity and cost of the paper required for its execution, and the amount allowed by him under the law for the printing. The accounts of the Public Printer for every job of printing executed is to be certified to by the Superintendent, and the amount allowed by him for each such job under the provisions of the law is to be stated in the account and certificate; and the accounts are to be made payable at the Treasury of the United States, and be subject to the control of the accounting officers in like manner as other public accounts, but not to be assignable or transferable by indorsement or delivery to any third party.

The Superintendent of Public Printing is not to be, directly or indirectly, interested in the business of the public printing, or in any material to be used by the Public Printer, or in any contract for furnishing paper to Congress, or to any Department or bureau of the Government of the United States, or in the binding for Congress or for any of the Departments or bureaus; or in the furnishing of any of the materials used in the public binding; or in the engraving or lithographing required to be executed for any of the public printing, or for any Department or bureau of the Government, or in any contract for the same. For any violation of this provision, the Superintendent of the Public Printing is to forfeit his office, and may be indicted before the criminal court for the District of Columbia, and, if found guilty, be imprisoned in the penitentiary of the District of Columbia for any term not less than one nor more than five years, and, in addition thereto, may be fined in any sum from one thousand to ten thousand dollars.

The fifth section provides for the election of a Public Printer for each House of Congress, to do the public printing for the Congress for which he may be chosen, and such printing for the Executive Departments and bureaus of the Government of the United States as may be delivered to him to be printed by the Superintendent of the Public Printing, under the direction of the President of the United States. The following rates of compensation are to be paid for the work done. For bills and joint resolutions—for composition, per

page, fifty cents; for presswork, folding, and stitching, fifty-six cents per thousand pages. For reports of committees and the Journals of both Houses, with indexes, and the executive documents of each House, embracing messages from the President, reports from the Executive Departments, bureaus, and offices, and documents and statements communicated therewith, with indexes; resolutions and other documents from State Legislatures; memorials, petitions, treaties, and confidential documents for the Senate, and all other matter printed in octavo form; for composition, per page, octavo—for small pica plain, one dollar; for small pica rule, \$1 50; for brevier plain, \$1 50; for brevier rule, two dollars; for nonpareil rule, \$3 75; for the composition of tables larger than octavo size, per one thousand ems, seventy cents; but the page of octavo size is to contain not less than one thousand six hundred ems when printed in small pica, or two thousand eight hundred ems when printed in brevier; and the body of all plain matter is to be printed in small pica, except extracts, yeas and nays, and addenda, which are to be printed with brevier type.

All rule and figure work is to be printed in royal octavo form with brevier type, each page containing not less than two thousand eight hundred ems; and if it cannot be brought into a royal octavo page with brevier type, so as to be understood with facility, it is to be printed with nonpareil type, each page containing not less than four thousand two hundred ems; and when it cannot be brought into a royal octavo page with nonpareil type, so as to be read with facility, it is to be printed with brevier type in a broadside, showing the whole table at one view, and be so filled that it can be bound in a royal octavo volume. When matter is leaded, the composition is to be counted as if the matter were printed solid and not leaded. For presswork, folding, and stitching of royal octavo size, twenty-six cents per thousand pages is to be paid. For presswork, folding, and stitching of each table larger than royal octavo size, one dollar per thousand copies. The following deductions are to be made from the presswork, folding, and stitching additional numbers to the number usually ordered by Congress of matter included in the foregoing specifications, to wit: When the number ordered exceeds five thousand and does not exceed ten thousand, two per centum; When the number exceeds ten thousand and does not exceed twenty thousand, five per centum upon the excess above ten thousand; When the number exceeds twenty thousand, forty per centum upon the excess above twenty thousand: The following deductions on account of folding and stitching copies reserved for binding are to be made: For royal octavo size, per page, for each hundred copies, one quarter of a cent; for each table larger than octavo, one quarter of a cent; and the following additional charge is to be allowed for trimming, folding, stitching, and inserting each map, chart, diagram, or plat, in the copies not reserved for binding; for every hundred copies, fifteen cents. There is to be allowed for the presswork on treaties, reports, and other documents, when ordered to be printed in confidence for the use of the Senate, at the following rates: For the presswork, folding, and stitching of sixty-five copies, six cents per page when of the royal octavo size, and one dollar per page for sixty-five copies, when the matter cannot be contained in the royal octavo page in any type hereinbefore specified; and allowance is to be made as the same rates for any greater number of copies than sixty-five. For the Calendars and general orders; for composition, per page, one dollar and thirty-six cents is to be allowed; and for presswork, folding, and stitching, fifty-six cents per thousand pages.

For every other description of printing ordered by Congress, or by Executive Departments, not before specified: for composition, whether plain or rule and figure work, fifty cents per thousand ems; and each page is to be estimated to contain the following number of ems: Quarto post—small pica, two thousand one hundred; long primer, two thousand five hundred; and brevier, three thou-

sand five hundred. Foolscap—small pica, three thousand; long primer, three thousand five hundred; and brevier, five thousand five hundred. Demy—small pica, five thousand five hundred; long primer, six thousand two hundred; and brevier, nine thousand five hundred. Folio post—small pica, six thousand five hundred; long primer, seven thousand five hundred; and brevier, eleven thousand. Medium—small pica, seven thousand; long primer, eight thousand two hundred; and brevier, twelve thousand two hundred. Royal—small pica, eight thousand; long primer, nine thousand two hundred; and brevier, fourteen thousand. Imperial—small pica, twelve thousand; long primer fourteen thousand; and brevier, twenty-one thousand.

When the printed matter occupies the whole side of the sheet upon which it is printed, and known as a broadside, double the above mentioned number of ems is to be allowed, each page of a broadside covering the same space as two pages, as estimated for above. Every other description of matter is to be allowed for according to actual measurement; and when type larger than small pica is used, it is to be measured and allowed as if in small pica.

For presswork, (except for printing post-bills, which are to be printed on paper not less than sixteen by twenty-six inches, and for printing on parchment,) including folding and stitching, or either, when necessary, for every two hundred and fifty sheets, when printed on one side, one dollar, and when printed on both sides, two dollars, and at the same rate for any greater number; and when the number required is less than two hundred and fifty, it is to be counted as two hundred and fifty. There is to be paid for printing the post-bills at the rate of one dollar per thousand sheets, and at the rate of ten dollars per thousand for printing parchments; but nothing is to be allowed for altering post-bills, when the alteration consists in a mere change of the postmaster's name, and the name of his post office.

Mr. JOHNSON, of Arkansas. That is the law as it now stands, with but little material change. The principal change is the reduction upon the quartoes.

The Clerk proceeded to read the remaining sections.

The sixth section provides that whenever any document shall be ordered to be printed by either House of Congress, the same shall, unless otherwise specially directed in the manner thereafter stated, be printed in royal octavo form, on supercalendered paper, measuring twenty-four by thirty-eight inches, and weighing forty-eight pounds to the ream of four hundred and eighty sheets; but whenever, in the opinion of the Joint Committee on Printing, the character of any document ordered to be printed may render such change necessary and proper, the Superintendent of the Public Printing shall, by the written direction of such committee, cause the size of the page to be changed to quarto; and when any document shall be printed in quarto form, the same shall be printed upon supercalendered and sized paper measuring twenty-four by thirty-eight inches, and weighing fifty-six pounds to the ream of four hundred and eighty sheets; but in no case are the prices paid to the Public Printer for the composition and presswork of such quarto work to exceed *pro rata* the prices paid for the printing of the congressional documents in octavo form; and the paper for every other description of printing is to be of such size and quality as may be designated by the Superintendent of Public Printing. The printed sheets of all documents ordered by Congress to be printed, and which are required to be bound, are to be thoroughly dried and pressed, under the direction of the Superintendent of Public Printing, before being bound, provided the cost shall not exceed twenty-five cents per ream; and all accounts for such drying and pressing are to be settled in the same manner as the accounts of the Public Printer.

The seventh section provides that the Public Printer shall be required by the Superintendent of Public Printing to print and return all bills,

reports, and joint resolutions, emanating from either House, and ordered to be printed, at such times as the Secretary of the Senate or Clerk of the House of Representatives shall require; and the Public Printer, upon the order of the Superintendent, is to be required to work at night as well as during the day, upon the public work, when the exigencies of the public service require it. When any document shall be ordered to be printed by both Houses of Congress, the entire printing of such document is to be done by the Printer of that House which first ordered the same; and whenever the same person or the same firm shall be Printer for both Houses of Congress, and both Houses shall order the same document to be printed, composition is not to be charged but once for that document, unless, from the length of time between the several orders, recomposition may be rendered necessary; and has been actually performed; and no sum is to be paid to the Printer for altering the headings from the form in which he printed them first to the form or forms in which such documents shall afterwards be printed.

The ninth section provides that it shall not be lawful for the head of any department of the Government, or any officer or agent thereof, to print or cause to be printed, at the public expense, any report he has made, or may make, to the President of the United States, to the head of any of the Departments, or to Congress; or to have engraved or printed, at the public expense, any map, chart, diagram, view, or other illustration intended to accompany the same, unless an appropriation shall have been previously made for such printing and engraving; and no appropriation made for any other purpose, nor any part thereof, shall be transferred or used for such engraving or printing, unless specifically authorized by law.

Provision is then made for the election by the respective Committees on Printing of each House of Congress, of a binder or binders to do the binding of all extra numbers of such documents as shall be ordered by either House of the Congress for which he or they may be elected; and the extra numbers of all documents ordered by either House of Congress, the size of which shall not be less than two hundred and fifty pages, are to be plainly and substantially bound in such manner as may be directed by the Superintendent under the direction of the respective Committees on Printing of each House, at a cost not exceeding twelve and a half cents per volume, if printed in octavo form, and at a cost not exceeding fifty cents per volume, if printed in quarto form. The binder is to give bonds, with good security, to the satisfaction of the respective Committees on Printing, to execute all binding which may be delivered to him, with all proper despatch, and in strict conformity with the samples or styles which may be adopted. Whenever any such binding shall have been executed by the binder, the manner in which he shall dispose of it is prescribed.

Whenever any charts, maps, diagrams, views, or other engravings, accompany any document ordered to be printed by either House of Congress, the Superintendent of the Public Printing will first examine the same, and report to the Committee on Printing of the Senate, if the document is ordered by that body, or to the Committee on Engraving of the House, if by that body, or to both, acting as a joint committee, if the document is ordered to be printed by both Houses, whether, in his opinion, the engraving and printing of such illustrations are necessary, and the manner and style in which the same should be executed; and if the committee or committees shall agree to print them, the Superintendent is to advertise in such paper or papers, and for such time as may be directed by the committee, for proposals for the execution of the work, and it will be awarded to the lowest bidder, if the person making the proposal is a practical engraver or lithographer, and in every respect qualified to execute the bids. He is to enter into bonds with good security, to be approved by the committee, to execute the work in strict accordance with the bids, and within such time as shall be required for the public service, and in the best manner, and to make faithful return of all public property intrusted to his charge. The Superintendent will furnish all the paper required for the execution of the printing of all such engravings; but in default of any contractor to execute all such work in strict accordance with the provisions of his contract,

and to the satisfaction of the Superintendent, the proper committee of the House ordering the work will have power to annul such contract, and cause the securities on the bond of such contractor to be prosecuted by the Solicitor of the Treasury of the United States in the circuit court of the United States in the district in which the contractor resides, for any damage or loss accruing to the United States from the non-fulfillment of any such contract. And if, during the recess of Congress, any charts, maps, views, diagrams, or other illustrations are sent to the Superintendent, which, in his opinion, are necessary to the proper understanding of any work previously ordered to be printed by either House of Congress, or which, by being engraved and printed in advance for the illustration of any document which is regularly ordered to be printed at each session, will materially expedite the completion of any such work, he will spread the facts in full upon his record, and proceed to procure the engraving and printing of such illustrations by public advertisement, and open all such proposals as may be received in the presence of the Secretary of the Senate, the Clerk of the House of Representatives, and the clerk of the Committee on Printing, or any two of them, whose duty it shall be to attend, upon notification by the Superintendent, for this purpose; and the Superintendent will award the contract for engraving and printing all such illustrations in the same manner and under the same restrictions as are before provided for by the respective committees during the sessions of Congress; and at the session of Congress immediately succeeding such recess the Superintendent is to report in full to the proper committee his action in these matters, for their consideration and approval.

Whenever any account for any engraving or printing of any illustration shall be presented to the Secretary of the Senate or Clerk of the House for payment, it must be accompanied by the certificate of the Superintendent that the work charged for has been executed to his satisfaction, upon the paper furnished by him, and has been received by him; that the price is the same allowed by the proper committee of the House ordering the same; and that all the engraving and printing charged for has been executed within proper time; and no account for any such engraving or printing will be paid by the Secretary or Clerk unless accompanied by the certificate of the Superintendent that the prescribed requirements have been complied with.

The Superintendent is to keep a strict account of all maps, charts, views, or other illustrations of any work ordered to be executed; file all bids for the execution of them; enter the name of each bidder whose proposals shall be accepted, the amount allowed by the committee for the work; the time within which it is required to be executed; and when the work has been received and accepted by him, he will also enter the date and amount of the account presented by any such engraver or printer, which must be certified by the Superintendent.

The Superintendent is to advertise annually in one or more newspapers of general circulation in the cities of Boston, New York, Philadelphia, Baltimore, and Washington, for the space of sixty days prior to the 1st of December, for sealed proposals to furnish the Government of the United States all paper which may be necessary for the execution of the public printing or engraving, of quality and in quantity to be specified in the advertisement, from year to year; open such proposals as may be made in the presence of the Joint Committee on Printing, on the first Tuesday after the first Monday of December annually, or as soon thereafter as the joint committee shall be appointed, and award the contract for furnishing all the paper, or such class thereof as may be bid for, to the lowest bidder, whose sample, accompanying his bid, shall most nearly approximate to the quality of paper (size, weight, and texture all considered) advertised for. The sample offered with the bid accepted is to be preserved by the Superintendent, and it will be his duty to compare these with the paper furnished by the public contractor; and he will not accept any paper from the contractor or contractors which does not conform to the accepted samples. The Superintendent of the Public Printing is to deliver the paper for the printing or engraving of the United States upon

the requisition of the Public Printer or engraver, and to charge him therewith; and as the printing or engraving is returned, and passed by the Superintendent, he is to credit the Public Printer or engraver with the quantity used in the public service. It will also be the duty of the Superintendent to have the requisitions of the Printer or engraver, and the returns of paper by the Printer or engraver, balanced at least once in each year, or oftener, if, in the opinion of the Superintendent, it may be necessary; and in default thereof, to report the same to Congress for such proceedings as Congress may direct. In default of any contractor, under this law, to comply with his contract in furnishing the paper in proper time and of proper quality, the Superintendent is authorized to enter into a new contract, under the sanction of the Joint Committee on Printing, with the lowest and best bidder for the interests of the Government amongst those whose proposals were rejected at the last annual letting, if it be practicable to do so, and if not, then to advertise for proposals, and award the contract to the lowest and best bidder; and during any interval which is thus created by the new advertisement for such proposals the Superintendent will have power to purchase in the open market all such paper as may be necessary for the public service at the lowest price. For any increase of cost to the Government in procuring a supply of paper for the use of the Government, the contractor in default and his securities will be charged with and held responsible for the same, and be prosecuted upon their bond by the Solicitor of the Treasury, in the name of the United States, in the circuit court of the United States in the district in which the defaulting contractor resides; and to enable the Solicitor to do so the Superintendent will report to him the default on its happening, with a full statement of all the facts in the case.

Provision is made for the appointment of a committee consisting of three members of the Senate, and three members of the House of Representatives, to be called the Joint Committee on the Public Printing, to whom are to be referred all motions to print extra copies of documents or other matter for distribution; and it will be their duty, if they deem the printing of such extra copies necessary and proper, to report by bill or joint resolution authorizing the same, together with an estimate of the entire cost of the work for printing, paper, engraving, and binding, in detail; and no document, report, or other matter, will be ordered to be printed by either House of Congress until all the manuscript, together with the original drawings intended to illustrate the same, shall have been completed and ready for engraving and printing. And neither House of Congress, nor any Department of the Government, is to have power out of its contingent fund to order the payment of the whole cost, or any part of the cost of any public printing of that class which it is enacted shall only be printed by joint resolution or act of Congress; but this act is not intended to prevent either House of Congress from ordering the printing of extra copies of any document, report, or other matter, for distribution, when the number of pages do not exceed two hundred and fifty. The Joint Committee on Printing is to exercise a general supervisory control, under this law, over the Superintendent of the Public Printing; to adopt such rules as may seem to them necessary to remedy any neglect or delay, within the law, to expedite the execution of the public printing, engraving, or congressional binding; and to have power to examine the books, files, and accounts of the Superintendent, at such times as they may deem requisite and proper. They are to decide between the Public Printers, binders, and engravers, and the Superintendent, upon a written appeal or exception taken by them or either of them from any decision of the Superintendent; and upon a written request of the Superintendent are to construe any of the provisions of this law, which construction, made in writing and entered at large upon their minutes, shall have full force and effect as the true intent and meaning of the law. It is further made the duty of the Superintendent of the Public Printing, on the first day of the meeting of each session of Congress, or as soon thereafter as may be, to report to Congress the exact condition of the public printing, binding, and engraving; the amount and cost of all such printing, binding, and engraving; the amount and cost of all paper purchased for the

same; and such further information as may be within his knowledge in regard to all matters connected therewith. All acts, or parts of acts, inconsistent with the provisions of this act, will be thereby repealed.

Mr. JOHNSON, of Arkansas. I will state to the Senate, as briefly as I can, the results of my examinations in connection with this subject, so as to give to those who wish to pay any attention to this matter, in as short space as possible, as full understanding as I can of the nature, character, and features of this bill. I will state, in the first place, that the committee believe it perfects the present system of public printing. It codifies all the laws in regard to the printing, engraving, and binding for Congress, and the printing for the Executive Departments. Those laws are now very much scattered, and some of them are to be found in the appropriation bills, so that it is frequently impossible for any one not perfectly familiar with these matters to get possession of the laws that control our action. In that respect, the present laws in regard to public printing are exceedingly defective, and codification is required. This bill not only codifies the existing printing laws, but it also makes such amendments as experience has suggested to be necessary and proper. It has been prepared with a great deal of care by the committee which has had special charge of this matter.

In August, 1852, the present printing system was adopted. This bill is the result of all the experience of six years' practical operation. It has been prepared with the constant and faithful aid of the Superintendent and of his office, by the Committee on Printing on the part of the Senate; and the committees that have relation to this particular branch of service in the House of Representatives, have also been consulted in each instance. In regard to all those committees, I believe I may say, without being questioned by any man upon earth, that the highest confidence exists in the integrity, in the purity, in the determination of the Superintendent of Printing, now to aid in every respect within his power, to render this system one that will protect the interest of the United States and carry on the public work.

This bill has been submitted to the accounting officers of the Treasury for their views. They had it under consideration, and returned the bill, without being able to suggest any further amendments, and have expressed themselves gratified that it has been brought to the degree of perfection which we have been able to obtain. It has been twice printed, and sent abroad for comment; it has been distributed in the Senate and in the House of Representatives for examination. Many members of the Senate and House of Representatives, after having read over and considered this bill, have suggested amendments, and in every instance, those suggestions which have been made by members of either House, many of whom are practical men, have been considered maturely, and adopted or rejected as we believed they were best calculated for the public interest. In some instances they have been rejected, for the reason that we did not wish, on this occasion, to raise vexed questions, or questions that would defeat the greater objects of the bill, those objects being economy, and the reduction of the public printing to the real uses of the different departments of the Government, more particularly the two branches of Congress. Every suggestion for improvement has invariably been considered by the committee, and adopted or rejected with reference to these objects.

We also have to say that we know the bill is not and cannot be made perfect in a single effort. We also are aware that the session of Congress is now very near its close, and if we bring into a measure of this kind disputed questions they will defeat the passage of any bill, and leave in force those laws which now exist. Those laws leave unlicensed power in each branch of Congress, and in the various Departments of the Government, in the hands of various individuals who are employes of the Government under different branches of the public service, to involve us constantly in expenditures, which, when they are begun—and in the beginning of them there is no control—you can point to no limit. Expenses may now be incurred, and the argument urged that you lose all that has been expended unless you carry on vast schemes of public printing.

The bill, as the committee believe, restrains the license which now exists, and reduces the annual expense of public printing by about the amount of one million dollars, and yet secures to the public interest, secures to the legislation of each branch of Congress, all that may be needed, and all that can be needed. Where more is necessary than the usual number, it but demands, by the terms of the bill, that the concurrent sense of each branch of Congress, irrespective of party or its influences, shall unite, and say that it is for the public interest that a large amount of printing shall be done, and then the larger amount can be obtained. The effect will be to prevent the printing of extra numbers of large documents by the separate order of either House of Congress at the expense of the contingent fund of that House, which the committee believe in many instances produces an unconstitutional expenditure of money, an expenditure which first secures a large contingent fund to each House, and then wastes it on objects which do not meet with the concurrence of both Houses of Congress and the Executive.

The bill may perhaps be supposed to come in conflict with two other plans that are conceived of and discussed in the committees of the other House. One of these is for a printing bureau; the other is for the contract system in regard to all public printing. I will say nothing of the merits of either of those measures. After a concurrent meeting between the committee of this House and the special committee of the House of Representatives, and at the same time uniting the Committee on Printing of the House of Representatives, and the Committee on Engraving of the House of Representatives, we all became satisfied that something ought to be done promptly. All became satisfied that this measure had many features in it which had not been considered or reflected upon by the committees who were settling up other plans, that some of them were necessary to any of those other plans, that at the same time this plan, which is merely a perfection of existing laws that are too defective to be permitted to stay in force any longer as they are, was a concurrent and not a rival scheme. If, hereafter, it be deemed better to have a printing bureau, or to adopt the contract system, this law can be repealed. We only propose now to amend a law which is so utterly defective that it has involved us in the expenditure of millions of dollars annually for the execution of the public printing, and has involved us in schemes the end of which we do not know. Why, sir, there is a single item of public printing which has been in the course of prosecution for the last fifteen years, and is not yet completed, and there is not now, that we are aware of, a solitary entire copy of the work in existence. Thirty volumes have already been printed, and it is not yet complete. I have inquired in our public library, and I cannot find a complete copy of it.

Several SENATORS. What is it?

Mr. JOHNSON, of Arkansas. I allude to Wilkes's exploring expedition. That work is not yet completed, and I believe the officers in charge of it are still here, and have been ever since the expedition returned. They have been here so long that I doubt whether they know the names of the ropes that belong to a ship.

Passing from that, there is the Pacific railroad exploring expedition, which has gone up to six or seven volumes, and I do not know where it is to terminate. It has already cost millions of dollars. Then there is Gilliss's exploring expedition, of a similar character; but it is not necessary to go into an enumeration of the various items swelling up the enormous expenditures of public printing.

Mr. COLLAMER. Permit me to ask the Senator whether the publication of which we have received a volume, being the report of the Army officers who went to Europe during the Crimean war, is ended?

Mr. JOHNSON, of Arkansas. I do not know, but I have no idea that it is ended. Gentlemen inform me that it is not concluded, and I should be glad if you would point me to anything in connection with public printing that is concluded.

One great merit of this bill is that it introduces a system of rigid accountability. Something should be done to arrest the state of things to which I have called attention, and the heads of Departments ought to send off officers who will,

under cover of law, extend their publications to such an enormous extent. It gives them a home here, and gives them an immunity from the duties which they owe for the places they hold, and therefore we find so many of our officers engaged here in compiling books. You must stop it somewhere. I do not say that this bill will stop it. I know very well that if a bill were proposed to stop it, personal feeling would be engendered in the hearts of gentlemen, and there would be a long debate. That is not proposed here, and I am sorry to say so. We have been compelled to moderate our demands and not go so far as we thought would be well. We have confined ourselves to something practical, to something which we think we can obtain, which will correct, to a great extent, the evils under which we now suffer.

The Mexican boundary survey is another work of the class to which I before alluded. One of the methods by which these expensive projects are got in, is to ask you to print the usual number. When the printing of Wilkes's expedition was ordered, only one hundred copies were asked. Of many other things we have printed ten thousand, twenty thousand, even thirty thousand copies for a single branch of Congress. The Wilkes expedition began with only one hundred copies, and it is not complete in fifteen years. I am informed, and confidently believe, that it is the most magnificent work ever published; and I suppose we may say it with justice, it is entirely regal, and the most splendid and costly work the world ever knew; and this has been printed by the American Congress. We do not even receive the tribute of having done a magnificent thing. These matters seem to be got up to gratify the personal pride and personal ease of officers who engage in expeditions and surveys, rather than for any other purpose.

I shall not, however, go into that subject, because this bill does not propose to put a definitive end to that, but to restrict the system; to codify and amend the laws in existence, and put all persons connected with the public printing in a position of accountability to the officers of the Treasury, where they are not now accountable at all, in point of fact, so that each step shall be known by Congress, and those gentlemen who wish to oppose these corruptions, or not so much corruptions as vices of the system, shall be able effectually and effectively to get all the facts, and oppose them and defeat them. This is what the bill proposes, and in this respect it puts an end to these difficulties.

Mr. HUNTER. Does it reduce the price of printing?

Mr. JOHNSON, of Arkansas. It reduces the amount of printing; and when you reduce the amount, as a matter of course you reduce the cost of printing. The argument ever has been here, and it has been the most seductive and most fatal argument which has been brought before Congress, that when you have printed the usual number of a document you have incurred the greater portion of the expense, and the multiplication of that order afterwards will cost very little, and you might as well do it. The consequence of yielding to such appeals has been, that this body has ordered twenty-seven thousand copies of a single work to be printed, and the other House one hundred thousand.

This committee, seeking to do strict justice, seeking to curtail and cut down these expenses where it is possible to do so, and to prevent the publication of books of heavy size, have provided that no extra copies of books now required by law to be bound, to wit, of the size of two hundred and fifty pages, shall be ordered to be printed unless by a bill or joint resolution requiring the concurrence of all branches of the law-making power. At present, such propositions are passed by single resolutions of one House, introduced when perhaps no man is noticing what is going on; and they are passed with the knowledge of but very few. This proposition requires all such movements to stand the test of both Houses, receiving three readings in all the usual forms, and being carried to the Executive. If they are not worthy of that class of support, these things should not be printed at all. It is from a disregard of these regular rules of legislation that both branches of Congress have been vying with each other which shall involve the public Treasury to the greatest degree. This is the fact now, and

the bill proposes to put a stop to that state of things by providing that the printing of extra copies of all documents exceeding two hundred and fifty pages shall not be ordered unless by the authority of law.

Mr. COLLAMER. I wish to ask a question. I understand the Senator to say that the price of printing a work very much depends on the number to be printed. Now, does this bill provide that the whole number to be printed shall be settled before any part of a work is printed?

Mr. JOHNSON, of Arkansas. This bill does not restrict the Senate or House of Representatives in that respect in ordering any printing for their own use.

Mr. COLLAMER. I am not speaking of that; but I ask whether there is any provision by which extra numbers, as they are called, are to be regulated before you make a contract for the ordinary number. It would seem to me that the price of the ordinary number would very much depend upon the number of extra copies which are ordered; and therefore to make the contract properly, with the Printer, the whole number that you want printed should be known in the first place.

Mr. JOHNSON, of Arkansas. I would say to the Senator, that under our own rules, and under the law, a proposition to print a document is referred to the Committee on Printing, and that is generally accompanied by a motion to print additional numbers, and then a report upon the whole takes place at once. There is, however, nothing in this bill, and we believe it is impossible for us to introduce into the law any provision, that a member shall not rise after the usual number of a document has been ordered to be printed, though it be a month or a year afterwards, and move than a certain number of extra copies be printed. Congress must have some discretion, and you must allow the two Houses to order extra copies of documents to some extent. We cannot well say that when they order the usual number, which is one thousand four hundred and twenty, of any document to be printed, they shall never afterwards order any more; but as these matters are under our rules referred together, the usual number and the extra number, the presumption is that a member who does not bring in his motion for an extra number at the same time that the usual number is moved, stands in a bad attitude to get the favorable consideration of his proposition. Is this explanation satisfactory?

Mr. COLLAMER. But I understand the provision is, that when extra numbers are ordered, it must be by law or joint resolution.

Mr. JOHNSON, of Arkansas. Yes, sir; and if the bill does not provide for requiring the order to print extra numbers to be made at the same time with the order for printing the usual number, it is only because of the limited power we have. We cannot pass a law now which we can make so permanent as to say that it shall never hereafter be repealed.

I now ask that the bill be read by sections, if Senators desire that course to be pursued, and I am willing to give an explanation of each section as it is read.

Mr. BENJAMIN. I think we had better put the bill on its passage at once, for it is one of those measures that no one can undertake to amend without knowing all about it. I see no necessity for reading it section by section, but let us pass it at once.

Mr. JOHNSON, of Arkansas. I shall be glad to have that done.

Mr. IVERSON. I have an amendment to offer to one section.

Mr. JOHNSON, of Arkansas. I hope the Senator will be allowed to offer it.

Mr. IVERSON. I know very little about the public printing, and I do not know whether this bill is going to save anything to the public Treasury or not. I dare say it has been well digested by the Committee on Printing, and probably they are entitled to much credit for their efforts to curtail the abuse by which the country has been imposed upon. I desire to inquire of the chairman, as I see that the prices of engraving, printing, and binding are all regulated by this bill, how they compare with the prices heretofore paid?

Mr. JOHNSON, of Arkansas. I will say to the Senator that the prices fixed here are pretty much the same prices that were fixed after a long and tedious investigation in 1852. The prices are

not materially changed in any respect whatever by this bill. There is one alteration made in regard to the price of binding quartos. That has heretofore been seventy-five cents. We now reduce it to fifty cents. I believe that is the only change in regard to the prices.

Mr. IVERSON. Then I should like to understand the virtue of this change in the present law. If the prices are not reduced, how are we going to effect economy by this measure?

Mr. SLIDELL. It cuts off the large quantities.

Mr. IVERSON. How that is I do not understand. I want information.

Mr. JOHNSON, of Arkansas. I could, perhaps, give the information better if we were to go through the bill section by section, because it is difficult for any one to recollect all the details of such a large measure as this. The bill embraces a large number of pages, twenty-three, and it is impossible to enumerate from recollection all its provisions.

Mr. HUNTER. If my friend from Arkansas will allow me, I will suggest to him that perhaps he had better examine the bill, and to-morrow we can pass it in the morning hour, if he finds that he has accomplished by it what he thinks he has. He designs to provide that we shall print no extra copies of a document which exceeds two hundred and fifty pages, except by bill or joint resolution, so as to make that a matter of law for the purpose of restricting the quantity of printing in regard to the large documents. I have looked over the bill, and I am afraid that, except by inference, he has not accomplished his object. I would suggest to him, also, to add another limitation, that we should not only require the documents which exceed two hundred and fifty pages to be printed by the joint action of Congress, but extra numbers of all documents which exceed, say five thousand. I think if he were to do that, he would then really lessen the amount of printed matter. Most of our documents do not reach two hundred and fifty pages. I suppose the Patent Office report does not.

Mr. JOHNSON, of Arkansas. It is always beyond that. It is from six hundred to three thousand pages.

Mr. HUNTER. I think it would be a salutary restriction; it would improve the bill very much, if we required the assent of the two Houses to print a large number of extra documents of any kind—say where you exceed five thousand. I merely suggest this for the consideration of the chairman.

Mr. JOHNSON, of Arkansas. In reply to the Senator, I will state how the thing stands practically, because it is only in that light that I choose to treat the subject at all. All documents which exceed two hundred and fifty pages are now required by law to be bound, being deemed to be matters of sufficient value for preservation. It was the design of the committee not to restrict Congress in the power to print extra numbers of valuable documents—for instance, the annual message of the President—but to subject each branch of Congress, in some measure, to the control of the entire law-making power, in order that one House should not use its contingent fund for this purpose, in violation, as some conceive, of the Constitution of the United States. The Senator from Virginia suggests that in cases where the extra numbers go beyond five thousand, the assent of the law-making power should also be required. His suggestion of course relates only to documents within two hundred and fifty pages, documents that are not bound, consequently documents which are not accompanied by illustrations and engravings, and which cost very little comparatively.

Mr. HUNTER. How about obituary addresses?

Mr. JOHNSON, of Arkansas. Obituary addresses are smaller, and the committee did not think it proper to touch these little minor matters, but preferred to leave them to the sense, the discretion, and the virtue of Congress. The committee anticipated that the most serious difficulty in the way of the passage of this bill would be to get the party of the Administration to consent that we should throw it in the power of both branches of Congress to restrict the publication of the annual executive documents. I am glad to see that no objection of that kind exists. I am glad that there is a feeling above party considerations to

promote the public service, which induces gentlemen to consent that matter proposed to be printed shall be submitted to the consideration of both branches, so far as extra numbers are concerned.

With regard to the particular suggestion which the Senator from Virginia has made, it is a point which did not occur to the committee. The proposition was not suggested to us that neither House should order over five thousand copies of any document without its being passed through as a law of the land. If the Senator will offer that amendment at the proper time, I will support it. I believe it is right. As I said before, no bill can be entirely perfect in regard to a subject so complicated, and so full of details as this; and I am prepared to adopt any good suggestion that may be made. I hope the bill will be passed to-day. I am afraid that if it be laid over we shall not get it up again, but I think we can pass it very soon; if we now go on with it.

Mr. IVERSON. I have not scrutinized this bill particularly. It may contain more merits than I think on the first blush. Do I understand that the bill provides that in regard to any document over two hundred and fifty pages, it will require the joint resolution of both Houses of Congress to publish extra numbers? Is that a provision of the bill?

Mr. JOHNSON, of Arkansas. Yes, sir.

Mr. IVERSON. That will accomplish something, so far as large documents are concerned; but I apprehend it will not do any good so far as documents of less than two hundred and fifty pages are concerned. I recollect that, two sessions ago, the Senator from Louisiana, [Mr. BENJAMIN,] introduced a resolution which required the joint action of both Houses before any extra number of any public document should be printed. That resolution was brought forward by the Senator to correct the abuses to which the public printing had been extended, and it met with a great deal of favor at that time; but the Senator himself did not press it, and I have heard no more of it since. If this bill accomplishes that much, it is something. At any rate, it will protect the Government from the imposition of one House ordering a very large amount of public documents to be printed without the consent of the other. But I think the suggestion of the Senator from Virginia is a very good one, that this ought to apply to all public documents. I see no reason why the House of Representatives should be authorized to publish one or two hundred thousand copies of a document containing less than two hundred and fifty pages, when they would not be permitted to publish one containing three hundred.

Mr. JOHNSON, of Arkansas. I will state the motive that influenced us in regard to that. The Senator from Georgia, I am satisfied, only desires what shall be best for the public service. As to extra copies of all documents above two hundred and fifty pages, we require that the law-making power shall make the order. That embraces both Houses and the Executive. In regard to the documents of a less number of pages than that, we have not fixed a limitation. We did not choose to fix a limitation on the smaller documents in view of the fact that a committee very frequently having a grave subject before the Senate, may desire to have some extra copies printed of a small report, as it may be termed, in comparison with other works that are printed. We did not choose to say they should not print any extra numbers at all without the consent of the law-making power.

I will give you an instance at once. In the case of the Kansas and Nebraska bill, when it was first brought forward, the Senator from Illinois made his report from the Committee on Territories. That report, I think, was some fifty or sixty pages. There were five or ten thousand extra copies of it ordered to be printed. There may at any day be a report from a committee brought forward, of which we may want five or six thousand extra copies. The cost amounts to nothing comparatively. On many subjects there may be such a report. The Printing Committee did not wish to run in conflict with the will of the Senate or House of Representatives on a mere report in regard to ordinary daily transactions of business by saying that they shall have no extra copies on matters where the cost is not material, or at least amounts to very little. That was the reason why we said

the law-making power alone shall govern when the amount of the printing of any particular document exceeds the number of two hundred and fifty pages. That was the reason why we did not extend this restriction so as to embrace documents of a less size than two hundred and fifty pages. We were also led to that conclusion from the fact that two hundred and fifty pages are capable of preservation, while less than two hundred and fifty pages are not capable of preservation for the purpose of distribution.

Mr. IVERSON. I shall not press this subject any further. I presume the bill of the committee will accomplish something, at any rate, to a certain extent. I desire to ask the Chair if it is in order now to move an amendment to any section of the bill?

The VICE PRESIDENT. It is customary to take up bills section by section. If there be no amendment offered to the first section, an amendment will be in order to the second.

Mr. BIGLER. I hope that course will be pursued; I think it is necessary to proceed section by section, in order that the chairman may make his explanations.

Mr. JOHNSON, of Arkansas. I will do so; but gentlemen may ask for information on any point, and I shall endeavor to explain.

Mr. BIGLER. What I desire is to see a parallel between the two laws—that which is superseded and that which we propose to adopt, the points of difference as to the price and as to the guards which are interposed against the amount of printing. I think the chairman can give us that very rapidly and satisfactorily as we proceed section by section. I confess that I am not prepared to vote on this bill as a whole, as it stands now, without understanding something of its features.

Mr. JOHNSON, of Arkansas. Between the fifth section, which fixes the prices and the present law, there is no difference. That section is merely a codification of existing law. The only difference is, it is much cheaper to us and much harder on the Printer; because, under these regulations, we shall print a great deal less at the same prices.

The VICE PRESIDENT. The Senator from Georgia indicated that he had an amendment to offer. The Chair suggests that it would be better to have the bill read section by section.

Mr. MASON. This bill has been read through. The subject is one which I suspect very few of the Senators comprehend in the necessary details that exist; and I hardly think it would be desirable to read it again section by section. If Senators have any amendments to offer, I suppose they can offer them at once; but I am sure, to read the whole bill again, would not inform the Senate any more than they are already informed in regard to it.

Mr. HUNTER. We shall have to take a good deal on trust. I am disposed to vote for the bill as it stands. I believe the committee have done a good deal, possibly not all that could be done. That would be too much to expect; but they have accomplished some great good if they diminish the expenses as much as the chairman thinks. I dare say we are as well prepared to vote now as we shall be hereafter. I am afraid that if we lay it over, we shall not act on the subject again; and I am very anxious that the bill should pass. I would rather forego the chance of amending it, and take it as it is, than delay it. I am, for one, ready to vote for it as it stands.

The VICE PRESIDENT. The course which the Chair was directing to be pursued is that which is laid down in the Manual; but he is informed that it has been usual in the Senate to receive amendments at all times to all parts of a bill. The bill is a long one, and if there be no objection, the Chair will receive the amendment of the Senator from Georgia, no matter to what section it may be.

Mr. IVERSON. I move to amend the tenth section by adding a proviso. The tenth section provides for the election of a binder, and I propose to add this proviso:

Provided, That the person so elected shall be a practical binder, and qualified in every respect to superintend and perform said binding.

Mr. JOHNSON, of Arkansas. Perhaps it would be more satisfactory to the Senate for me to state at once the points involved in the different sections of the bill. I have before me a written

memorandum of each section. There are points here which I would rather the Senate should see. I do not want to pass anything that you do not understand and see; and if you say so, I will give you, as an instance, the first section, and I will state its substance.

The substance is, that the first section is the old law, simply amended so as to provide for making one of the clerks now allowed to the Superintendent of Printing a chief clerk, with a corresponding salary. It does not propose any additional clerical force in the office.

The VICE PRESIDENT. The Chair will suggest to the Senator from Arkansas that the Senator from Georgia was upon the floor, offering an amendment to the tenth section. He yielded the floor to the Senator from Arkansas.

Mr. JOHNSON, of Arkansas. I accede to the amendment; I think it is right.

Mr. IVERSON. I did not exactly yield the floor; but the Senator from Arkansas took it from me.

Mr. JOHNSON, of Arkansas. I beg your pardon.

The VICE PRESIDENT. The Chair begs pardon also. He thought the Senator had yielded.

Mr. IVERSON. The Senator from Arkansas, in his impetuosity, sometimes gets on the floor, and it is impossible to stop him.

Mr. JOHNSON, of Arkansas. Read the amendment again; I think I approve it.

Mr. IVERSON. It is simply to add to the tenth section:

Provided, That the person so elected shall be a practical binder, and qualified in every respect to superintend and perform said binding.

Mr. JOHNSON, of Arkansas. I certainly have no objection to that. I believe it is already so provided in another part of the bill.

Mr. IVERSON. It says the Superintendent of Printing is to be a practical printer, and the engraver a practical engraver, but it does not provide that the binder shall be a practical binder.

Mr. JOHNSON, of Arkansas. I accept that amendment. I think it ought to be there, if it is not.

Mr. IVERSON. Very well. I have no other amendment to propose and no objection to the bill. I shall vote for the bill, hoping that it will accomplish what the Senator from Arkansas desires.

The amendment was agreed to.

Mr. MASON. I have an amendment to suggest, rather than to propose, which I should be gratified to see adopted, unless some proper reasons can be shown by the honorable Senator who has, with so much labor and care prepared this bill. I do not see the propriety or the expediency of printing any document or book beyond the number that is necessary for the information of Congress. I do not see the necessity or propriety of printing extra copies either to the number of five hundred or five thousand of any book or books. The printing is designed only, and I presume legitimately, for the information of the members of the two Houses. Although the honorable Senator has said, and I doubt not correctly, that after the type is set, and preparation is made, the additional number of copies costs proportionately but very little additional money, yet I know that in the nature of things the inducements to a large number of copies would very often lead the two Houses of Congress to order the printing of what would not otherwise be printed at all; and, therefore, I submit an amendment to prevent hereafter, unless sanctioned by law, the printing any extra numbers. The amendment will come in under the eighth section, and is to insert:

But not more than the usual number of copies of any document or book shall be printed unless by authority of law.

Mr. JOHNSON, of Arkansas. That is already a provision of this bill. We concurred in committee with the very idea which the Senator has expressed.

Mr. MASON. I understood the Senator to say, in his remarks, that the bill limited the printing, unless by authority of law, of any document, to those exceeding a certain number of pages, I think he said two hundred and fifty pages.

Mr. JOHNSON, of Arkansas. By one House separately.

Mr. MASON. Precisely. Then the bill provides that there shall be no extra numbers of any document exceeding two hundred and fifty pages,

unless authorized by law. The amendment I propose prohibits the printing of an extra number of any document, of any size, unless authorized by law.

Mr. JOHNSON, of Arkansas. I will say to the Senator that it is possible that one of the treaties we may have to consider, or any executive document brought before us, may exceed two hundred and fifty pages, and it would not be proper to cut off its printing for the use of the Senate. This amendment imposes a limitation more stringent than that contained in the bill. We have no question whatever that, if you cut off Senators and members from the power to print books for the purposes of distribution, and for purposes that are not legitimate to the public service so much as they have regard for their own personal popularity abroad by the distribution of documents, and the exertion of a species of public patronage in that way, there is not so much danger of excess as there is when you enable the same House that makes the order to print for its own use in legislative matters, also to have the power to print for the purposes of distribution. It is the distribution we have sought to control, as reaching the real vice that exists in the system; and we feel that when we have cut off the power of either House to order and pay out of its contingent fund for extra numbers of various works hitherto printed for publication, and like works hereafter, we have struck at the root of the evil which has involved the Government in debts of millions to make character for a few individuals outside, and more particularly for us to distribute books.

Mr. MASON. But I still understand the Senator to say that the limitation on the extra numbers to be printed is a limitation measured by the number of pages of the book. If the book is less than two hundred and fifty pages it is then competent to either House to order any number they please.

Mr. JOHNSON, of Arkansas. Exactly. Your colleague proposed a limitation which, I believe, is a good one, that where the size of a volume falls short of two hundred and fifty pages, an extra number shall not be ordered exceeding five thousand copies, unless by law. The committee provide that where there are two hundred and fifty pages, extra numbers shall not be printed except by law; but when the pages fall short of that, the Senator's colleague proposes that we shall not print five thousand copies without a joint resolution, or a law. I think that measure is a good one. In that respect, I concur with the Senator, but I cannot make that amendment right off.

Mr. BENJAMIN. I would suggest to the honorable Senator from Virginia that his amendment will not accomplish the object at all. If he will refer to the bill as it lies before him, he will find that if he wishes to accomplish what is contemplated by the amendment, he should move to strike out the proviso in page 20. The bill at page 20 provides that no extra numbers shall be printed except by authority of law—that is, by joint resolution or act of Congress, and then contains this proviso:

"That nothing herein contained shall prevent either House of Congress from ordering the printing of extra copies of any document, report, or other matter for distribution, when the number of pages do not exceed two hundred and fifty."

If the Senator desires to amend the bill in conformity with the view he suggests, the proper amendment would be to move to strike out that proviso.

Mr. JOHNSON, of Arkansas. The object of the Senator from Virginia [Mr. HUNTER] can be accomplished by amending that proviso so as to make it read:

"That nothing herein contained shall prevent either House of Congress from ordering the printing of five thousand extra copies of any report when the number of pages," &c.

Mr. BENJAMIN. I have that amendment interlined in my copy, if it be deemed necessary to put it in. I hope we shall get a vote though.

Mr. MASON. I never saw this bill until it was laid on my table to-day at the very moment the Senator called it up, and I could not, therefore, determine how far the amendment which I offered would be congruous to the bill. As far as I can see it, I should agree with the Senator from Louisiana that the object would appear to be accom-

plished by striking out that proviso. I withdraw the amendment, therefore, and offer in lieu of it an amendment to strike out the proviso contained on the twentieth page, between lines twenty-one and twenty-five, in these words:

"Provided, That nothing herein contained shall prevent either House of Congress from ordering the printing of extra copies of any document, report, or other matter for distribution when the number of pages do not exceed two hundred and fifty."

Mr. FESSENDEN. I do not know but that I shall be willing to vote for that; but, after all, it is not a matter of so much consequence as the Senator from Virginia supposes. It is comparatively trifling. The expense we are at for printing extra copies arises from the great number of extra copies that are printed of books to be bound. The extra copies of unbound documents are very limited in number. It is very seldom that we do anything of the kind. They are good for nothing for distribution, and there is no disposition on the part of members to have a large number of extra copies of them. Many of the smaller documents of this description we need very much, for they are the principal documents that we use in the Senate Chamber. They get lost, and it is important to have a supply of them. The extra expense occasioned by these documents that are unbound is very trifling indeed. The difficulty is where the honorable chairman has suggested; and that is in the bound volumes. Now, by law as it exists, we bind nothing unless it exceeds in number two hundred and fifty pages; and therefore this provision is inserted: that, with regard to the bound volumes, which make all the expense, extra copies shall not be printed except by authority of law. That, I think, meets the whole difficulty. If Senators will look into it as the chairman and the other members of the Committee on Printing have, they will find that the saving to be made by striking out this proviso would hardly pay for the limitation on the necessary power of the two branches in regard to these particular documents. I think, therefore, it had better be left as it is.

Mr. JOHNSON, of Arkansas. I do not wish to have this bill fail by putting into it provisions which may embarrass its great objects; and I would suggest to the Senator from Virginia whether his object would not be accomplished by a restriction of the proviso instead of striking it out altogether. If it be stricken out you could not print extra numbers of any report, even of ten pages, or fifty pages, or one hundred and fifty or two hundred pages, except by authority of law. I will consent to modify the proviso so that it shall read:

Nothing herein contained shall prevent either House of Congress from ordering the printing of five thousand extra copies, or less, of any document or other matter, for distribution, when the number of pages do not exceed two hundred and fifty.

Mr. MASON. Will the Senator assign to me a reason why Congress should print five thousand copies of any document, whatever its size, whether large or small?

Mr. JOHNSON, of Arkansas. I will; and I will take the instance of the Dred Scott decision. I do not know that I could take one which would strike the Senator with more force within my experience here. It was the desire of one House of Congress that that small document should be printed and distributed. It was not two hundred and fifty pages. It was not required to be bound. We were anxious to distribute it, and the cost was comparatively little. It was made greater from quarters where it ought not to have been made so. The cost, intrinsically, did not amount to much. If it be made a matter of law, one House differing from the other could shut out from the public mind knowledge that might be deemed of interest on a very grave and important question.

That is the reason why, in a matter of small cost, I should say that each branch should be left to some discretion, and trusted for some virtue. That is the reason why I oppose the amendment, particularly when I know that, if both Houses are allowed this privilege, it can involve no great cost to the public Treasury, because it is impossible, in the nature of things, that any great cost can accrue in this respect. I say that a little discretion ought to be allowed; and I should not like to agree to this amendment, because it ties the hands and binds up the action of both branches of Congress, so that they may feel justified in

throwing the whole bill overboard. I do not wish to lose the bill on such a small matter as this.

["Question! Question!"]

Mr. SEWARD. If there is to be a question on this bill, I am content to wait; but if there is to be further debate, I shall move to adjourn.

Mr. MASON. Let us take the question. I shall say nothing.

Mr. JOHNSON, of Arkansas. Before the question is taken on striking out the proviso, I move to amend it by inserting after the word "of," in the twenty-third line of page 20, "any number not exceeding five thousand;" so as to read:

Provided, That nothing herein contained shall prevent either House of Congress from ordering the printing of any number not exceeding five thousand, &c.

Mr. MASON. I prefer to strike out the whole proviso. I see no necessity for printing more than the usual number of any document.

The VICE PRESIDENT. Before the question is taken on striking out the proviso, the question will be on the amendment of the Senator from Arkansas.

The amendment was agreed to.

Mr. MASON. I now insist on my motion to strike out the whole proviso.

Mr. JOHNSON, of Arkansas. I hope it will not be stricken out as amended.

The motion was not agreed to.

Mr. FESSENDEN. I shall be very glad to have an opportunity to examine this bill, but I will not interfere with it except that I should like to have the chairman give me an explanation of section eight. It is a very valuable section. It reads as follows:

"That when any document shall be ordered to be printed by both Houses of Congress, the entire printing of such document shall be done by the Printer of that House which first ordered the same."

That I understand is to avoid the expense of composition twice.

"And in all cases where the same person or the same firm shall be Printer for both Houses of Congress, and both Houses shall order the same document to be printed, composition shall be charged but once for said document."

Now what I want to ask is, whether the first provision does not cover this in all cases?

Mr. JOHNSON, of Arkansas. I know this section well. We had it under discussion freely, and I believe I am prepared to answer any question in regard to it. The section now reads:

"When any document shall be ordered to be printed by both Houses of Congress, the entire printing of such document shall be done by the Printer of that House which first ordered the same; and in all cases where the same person or the same firm shall be Printer for both Houses of Congress, and both Houses shall order the same document to be printed, composition shall be charged but once for said document."

In 1852, when the original bill was adopted, this provision existed in the law; but subsequently, in consequence of the fact that each House elected separate Printers, provision was made—

Mr. FESSENDEN. The Senator will excuse me. He does not understand my point. I understand the object of the first provision is to return to the old law.

Mr. JOHNSON, of Arkansas. It is.

Mr. FESSENDEN. That is, to provide that, where both Houses order the same document to be printed, the expense of composition shall be charged once, and that to the House which first ordered it to be printed; but he has got a little something in here which would seem to limit that general provision, which is very valuable, and that is the words:

"Where the same person or the same firm shall be Printer for both Houses of Congress."

The rule would apply whether the same person or firm was Printer or different persons were Printers. There may be a Printer to the Senate and there may be a Printer to the House; they may be different persons; but the object of the law is to provide that, although they may be different persons or different firms, yet composition shall be charged but once, and that by the Printer who first prints the same, that is, the Printer of the House first ordering the printing. Now, I suggest that those words should be struck out, and it should read, after the word "same" in the fourth line:

And in all cases where both Houses shall order the same document to be printed, the composition shall be charged but once, &c.

I propose to strike out the words, "the same person or the same firm shall be Printer for both

Houses of Congress, and;" because we ought to make no difference whether the same person or firm is Printer for both Houses.

Mr. JOHNSON, of Arkansas. I see no objection to what the Senator proposes. I did not see it in that light before.

Mr. FESSENDEN. It might leave an implication: I therefore move to strike out, after the word "where" in the fifth line of the 8th section, the words "the same person or the same firm shall be Printer for both Houses of Congress, and;" so that the section will read:

That when any document shall be ordered to be printed by both Houses of Congress, the entire printing of such document shall be done by the Printer of that House which first ordered the same; and in all cases where both Houses shall order the same document to be printed, composition shall be charged but once for said document, &c.

The amendment was agreed to.

Mr. FESSENDEN. I wish simply to say, before I vote on this bill, that I am not quite satisfied that the prices, which are the same thing they were before, are not now too high. I have had very serious doubt on that subject; but I am not prepared, not having looked at the bill until it came up to-day, to suggest any further alterations or amendments of it. I wish to say, however, that from the examination I have made of the bill cursorily at my desk, I am satisfied that it makes very many improvements, and that it will save a great deal of money if faithfully carried out. I do not know but that it may be improved; but the Senate being disposed to pass it without allowing any further time to examine it, which I should like, I shall make no objection, but simply say that as it will do a great deal of good, in my judgment, as it stands, I am willing to vote for it.

The bill was reported to the Senate as amended; the amendments were concurred in, and the question was stated: "Shall the bill be ordered to be engrossed and read a third time?"

Mr. BROWN. I do not rise to oppose the engrossment of this bill. I am quite as willing that it shall be passed to-day as at any time. I suppose, from what we see around us, that it is the sense of the Senate that it shall pass; but the whole bill, in my judgment, is cast wrong. It simply reduces, without abolishing, abuses. It reduces the amount of printing, without getting clear of all that portion of it which is done *ex gratia*. I have held, from the beginning, that this Government has no power to print books and give them away; and hence that all your extra printing was done without principle, and in violation of the Constitution. If you can print a book worth fifty cents, and give it away to a private individual, you can, under the same power, abstract from the national Treasury one hundred or a thousand dollars in some other form, and give it away to a private individual. From my earliest entering into Congress, down to this hour, I have uniformly, persistently, and consistently warred against this whole business of printing books for gratuitous distribution. I find no warrant for it in the Constitution; but, on the other hand, I find in it a monstrous abuse. My humble voice has been raised against it, time and time again.

As has been said by an honorable Senator, you have the right to print books, reports, and documents which are necessary to the transaction of the public business; but I would go one step beyond that; I would inform the great public as to what is going on in Congress; and therefore, I would print a single volume of each one of your public documents, and send it to the keeper of each of the public archives in each of the counties in the Union, where it should belong to no particular man, but where it should belong to the great public which contributes to pay for the printing of the book. When you send it to the keeper of the archives, it belongs to the people, and one man has as much right to consult it as another, one has the same right to know what is included in its lids as another; but when you print a book and send it to a private individual, it becomes his private property. Sir, the volumes which compose the whole series of the Pacific railroad survey, could not have cost less than thirty-five dollars or forty dollars a set. By what authority does Congress vote forty dollars, or even thirty dollars, out of the national Treasury to be given to any particular man, and to be given according to the grace of a Senator or Representative, who happens to receive the book? There is no authority for it.

I say again, this abuse has been too long practiced; it is time an end should be put to it. As a member of the House of Representatives and as a member of the Senate, I have endeavored to arrest this proceeding. More than three years ago I referred a proposition to the Printing Committee, instructing them to inquire into the propriety of confining the publication of public documents to a number sufficient to furnish each of the counties and each of the public libraries with a single volume; but they reported against it, and the thing went on until we have been involved in the expenditure of millions of millions of dollars, not for the publication of the President's message and the accompanying documents, not for publishing reports from the heads of Departments and bureaus, but for the publication of other books, outside books, for gratuitous distribution. I do not mean to say the Committee on Printing are to blame. I know they are not. They have discharged their duty as best they might. The fault is with ourselves, that we urge them on to bring in reports for the publication of large numbers of these expensive but useless and valueless books. I would confine the publication to a sufficient number of books to furnish one volume to each of those who are connected with the administration of the Government and then put a single volume in each county, open to the inspection of every citizen of that county. There I would stop. I would include in this the President's message and documents, reports from the heads of Departments, bureaus, and all the public documents, so that by this means you would build up in each county of the Union a political library.

Only imagine, Mr. President, that some such policy as this had been adopted twenty years ago. Every citizen of a county would go to the county seat with a full knowledge that in the county library he would find a document to which he could refer, and inform himself upon any question that had been prominent before the public for the last twenty years. It would not have cost you one dollar where the present system of publication costs you fifty. Why, sir, the cost of publishing one of these miserable picture books would have paid for the publication of all the volumes necessary to supply every county in the Union.

While I say the committee have made a step in the right direction, have proposed a great reform, I think they have not gone to the right point. They have not done so because they have not proposed to confine the distribution of books to the public, and not to individuals. I would give to the public the volumes for which the public pay, and I would have them sent through your Secretary, and the Clerk of your House of Representatives, sever the connection of Senators and members of Congress entirely from it. I want to get clear of the burden of franking these books. It is labor which I should be glad to get clear of, as I dare say every one else here would be. Then publish one volume for each county of the Union, and require your Secretary and the Clerk of the House of Representatives to send them out under their frank, to be public property, and not private property. Then you serve the public, and do not vote millions upon millions of the public treasure away to Senators and Representatives, simply to serve their private constituents and friends. That is my idea of what ought to be done; but as I cannot get that, and as this seems to be a step in the right direction, I shall vote for this bill.

Mr. JOHNSON, of Arkansas. I hope we may have a vote. I concur in a great deal of what the Senator has said, and this is a step in the right direction.

Mr. KING. The remarks of the Senator from Mississippi, it seems to me, touch this subject in the right direction for reform. The books and documents which are printed here, are printed at the public expense, and are, or ought to be, the property of the public. They should neither be appropriated by us as individuals, nor sent to particular friends in the respective districts or States. I am inclined to believe that a proposition which shall carry out the views of the Senator from Mississippi may perhaps be incorporated into this bill, though I do not know that it can.

Mr. JOHNSON, of Arkansas. Will the Senator from New York allow me to interrupt him?

Mr. KING. Yes, sir.

Mr. JOHNSON, of Arkansas. I know the Senator desires that some good shall be done in this

direction, and I will simply remark to him that the committee have studied this subject very carefully, and we know that if this provision be inserted now, we shall have no bill passed at this session, for even if we passed it here, it would not go through the other House. I will say, further, that in regard to the main point referred to by the Senator from Mississippi in his remarks, I sympathize with him, and the committee have conversed about it, and considered it. The Senator from New York, and the Senator from Mississippi, say that it should be against the law to print books for distribution. I call their attention to the fact that it is provided in this bill that they shall not be printed except by law. Is not that substantially the same thing? If you pass a law saying they should not be printed, you could repeal it, and order the printing at any time. I hope gentlemen will allow us to pass this bill now, and we can hereafter bring in a bill which will reach the disputed points. We are too late now to go into contested points. This reaches much.

Mr. KING. This bill does not provide against the distribution. It does not, therefore, provide against what I think is one of the worst evils of the present system of public printing.

Mr. JOHNSON, of Arkansas. If there is nothing to distribute, the evil is less than when there is a great deal to be distributed.

Mr. KING. The annual message of the President and the accompanying documents from the Departments contain information which should go to the public in some form, and I do not suppose that this bill, or any suggestion the Senator makes, is intended to cut off the printing of large numbers of those documents for distribution in some form.

Mr. JOHNSON, of Arkansas. Not at all; but to make it matter of law.

Mr. KING. They will be distributed then in the mode they are now distributed—by individual members to individual persons or to libraries as they choose; but I should be willing to extend the proposition of the Senator from Mississippi to incorporate colleges and academies, and thus throughout the whole Union these documents would be in a position where they would be accessible to everybody, and each and every person would have a right to look at them, to see them, and to use them. I am aware that there is a disposition on the part of the Senate to pass this bill, and I have no desire to interpose and prevent the accomplishment of the wish of the Senate.

The Senator from Arkansas has suggested that this subject has been before the committee, and has been considered by them, and that they have a favorable view of it. Now, if the Senator from Arkansas will say to me that he will bring in a proposition to provide for this sort of distribution, that we may have an opportunity to act upon it, and obtain the sense of the Senate—of course, I do not ask him to pledge himself to its support; but if the committee will subsequently, in some mode, report this proposition for the distribution of the documents which may be printed by law, in the manner which has been suggested in this brief debate, to the clerks' offices and public libraries, so that we may have an opportunity to pass upon it, I will waive any further suggestion or discussion.

Mr. JOHNSON, of Arkansas. That is a matter which I shall move myself, if no one else does, as a separate measure; and I will try to perfect it.

Mr. KING. Very well; if we shall have a chance to act on that, I shall be satisfied.

The bill was ordered to be engrossed for a third reading; was read the third time, and passed.

On motion of Mr. STUART, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Tuesday, May 4, 1858.

The House met at twelve o'clock, m. Prayer by Rev. W. A. HARRIS.

The Journal of yesterday was read and approved.

PRINTING OF PAPERS.

Mr. SEWARD. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports.

Mr. SEWARD. Well, it is necessary to have reports of committees made.

Mr. J. GLANCY JONES. I hope the regular

order of business will be carried out; but I simply wish to ask the House to allow me to get an order to have certain papers printed for the use of the House and of the Committee of Ways and Means, on the subject of appropriation bills.

Mr. SEWARD. I will yield for that, but for nothing else. It is necessary to have reports of committees made, in order that we may have business before us at the next session of Congress; otherwise, we will have no business before us.

The papers were ordered to be printed.

The SPEAKER proceeded to call for reports of committees.

JOHN M'DONOUGH.

Mr. SANDIDGE, from the Committee on Private Land Claims, reported a bill for the relief of the legal representatives of John McDonough, deceased, late of Louisiana; which was read a first and second time, referred to the Committee of the Whole House, and, with the report, ordered to be printed.

J. W. CHEVIS.

Mr. SANDIDGE, from the Committee on Private Land Claims, presented an adverse report on the petition of John W. Chevis, of Louisiana, and asked that the committee be discharged from the further consideration of the same, that the report be laid on the table, and ordered to be printed, and that the petitioner have leave to withdraw his papers.

Mr. LETCHER. I object to that. Let him take copies, and leave the original here.

Mr. SANDIDGE. The only paper he wants is a certificate issued by a local land office in the case. That is necessary for him.

Mr. LETCHER. Then let him leave a copy of it.

Mr. SANDIDGE. I have no objection to that. It was so ordered.

DANIEL WHITNEY.

Mr. HARLAN, from the same committee, reported back, with a recommendation that it do not pass, Senate bill No. 72, for the relief of Daniel Whitney; which was laid on the table, and the report ordered to be printed.

PRIVATE LAND CLAIMS IN NEW MEXICO.

Mr. BLAIR, from the same committee, reported a bill to ascertain and settle the private land claims in the Territory of New Mexico, and asked that it be referred to a Committee of the whole House.

Mr. LETCHER. Is that a private bill? I understand it to be a bill of a public character.

The SPEAKER. Will the gentleman from Missouri state whether this is a bill of a general character, or special?

Mr. BLAIR. It is intended to ascertain and settle private land claims in New Mexico.

The SPEAKER. If it is a general bill it will have to go to the Committee of the Whole on the state of the Union.

The bill was read a first and second time, and referred to the Committee of the Whole on the state of the Union; and, with the report, ordered to be printed.

INDIAN TITLES IN KANSAS.

Mr. GREENWOOD from the Committee on Indian Affairs, reported a bill to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians; which was read a first and second time, referred to the Committee of the Whole on the state of the Union; and, with the report, ordered to be printed.

ROME ARSENAL.

Mr. FAULKNER from the Committee on Military Affairs, reported back, with a recommendation that it do not pass, Senate bill No. 170, to grant Rome arsenal to the State of New York, on certain conditions; which was laid on the table, and the report ordered to be printed.

DEMPSEY PITMAN.

Mr. FAULKNER, from the same committee, reported back, with a recommendation that it do pass, an act (S. No. 95) explanatory of an act entitled "An act for the relief of Dempsey Pitman," approved August 16, 1856; which was referred to a Committee of the Whole House; and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. FAULKNER, from the same committee,

made an adverse report on the petition of H. Anderson, of Garrettsville, New York; which was laid upon the table, and ordered to be printed.

Mr. BUFFINTON, from the same committee, made adverse reports on the petition of Rice M. Brown, and on the petition of Alexander Hays; which were severally laid upon the table, and ordered to be printed.

NAVAL DEPOT ON BLYTHE ISLAND.

Mr. SEWARD, from the Committee on Naval Affairs, reported back, with an amendment in the nature of a substitute, a bill to amend an act authorizing the establishing of a navy depot on Blythe Island, at Brunswick, on the coast of Georgia; and for other purposes, approved January 28, 1857, and to make further appropriation to prosecute said object, &c.; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

BOUNTY LAND.

Mr. DAVIS, of Massachusetts, from the same committee, reported a bill to amend the laws granting land to soldiers and seamen, so as to include those engaged on board of private armed vessels, regularly commissioned by the United States; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

BENJAMIN WAKEFIELD.

Mr. DAVIS, of Massachusetts, from the same committee, reported a bill for the relief of Benjamin Wakefield; which was read a first and second time, referred to a Committee of the Whole House; and, with the accompanying report, ordered to be printed.

V. HALL.

Mr. DAVIS, of Massachusetts, from the same committee, reported adversely on the petition of V. Hall, for compensation for loss of wardrobe; and moved that the committee be discharged from the further consideration of the same, and that it be printed.

The motion was agreed to.

R. COATES

Mr. WINSLOW, from the same committee, made an adverse report on the petition of Dr. R. Coates; which was laid upon the table, and ordered to be printed.

MARINE HOSPITAL, BOSTON.

Mr. WINSLOW, from the same committee, reported back, with a recommendation that it do pass, a bill (H. R. No. 27) authorizing the Secretary of the Treasury to ascertain and pay the balance due on a tract of land, heretofore ceded, for the purposes of a marine hospital for the district of Boston and Charlestown, to the credit of the naval hospital fund, with a report in writing; and moved that the report be printed, and that the bill and report be recommitted to the Committee on Naval Affairs.

It was so ordered.

CHARLESTOWN NAVY-YARD.

Mr. DAVIS, of Massachusetts, from the same committee, reported the following resolution; which was read, considered, and agreed to.

Resolved, That the Secretary of the Navy be, and he is hereby, requested to communicate to this House copies of all communications and documents on file in his Department, having reference to the propriety of the purchase of land by the Government of the United States, for the enlargement of the Charlestown Navy Yard.

JANE TURNBULL.

On motion of Mr. CURTIS, the Committee on Military Affairs was discharged from the further consideration of the petition and papers of Jane Turnbull; and leave was granted to the petitioner to withdraw the papers by leaving copies.

MILITARY ROAD IN OREGON.

Mr. FAULKNER, from the Committee on Military Affairs, reported back, with a recommendation that it do pass, a bill (H. R. No. 56) making appropriations for the completion of the military road from Astoria to Salem, in Oregon Territory; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

J. WILCOX JENKINS.

Mr. BOCOCK, from the Committee on Naval

Affairs, reported back, with a recommendation that it do pass, an act (S. No. 74) for the relief of J. Wilcox Jenkins; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

FABIUS STANLY.

Mr. BOCOCK, from the same committee, reported back, with a recommendation that it do pass, an act (S. No. 208) for the relief of Fabius Stanly; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CHANGE OF REFERENCE.

On motion of Mr. BOCOCK, it was

Ordered, That the Committee on Naval Affairs be discharged from the further consideration of the petition of Douglas Ottiger, and that the same be referred to the Committee on Commerce.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, its Secretary, notifying the House that the Senate had passed an act (H. R. No. 5) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859.

Also a resolution (S. No. 35) removing restrictions upon a certain grant of five sections of land to the State of Iowa; in which resolution he was instructed to ask the concurrence of the House.

MESSAGE FROM THE PRESIDENT.

A message was here received from the President of the United States, by J. B. HENRY, his Private Secretary, announcing to the House that he had approved and signed "An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858."

CENTRAL AMERICAN MATTERS.

Mr. CLINGMAN. I have two or three reports to present from the Committee on Foreign Affairs. There are two of them connected with the same subject—I mean Central American matters. They are a report on the Paulding case, and a report on the Clayton-Bulwer treaty. I am anxious to make some explanation of my views, and of the views of the committee, on both these matters. But, as I understand that the gentleman from Georgia [Mr. STEPHENS] desires to call up another matter at one o'clock to-day, I ask, as a favor from the House, that when the reports are presented, their consideration may go over until to-morrow. I am not well to-day.

Mr. COBB. Postpone it four or five days.

Mr. CLINGMAN. I would say to my friend that, after to-morrow, I shall necessarily be absent for two or three days.

The report terminates with the following resolutions; which were read:

Resolved, That inasmuch as the United States can never consent that any foreign Power shall have the right to enter our territory with a view of forcibly carrying away any person who may be therein, so it becomes the duty of this Government to disavow and disclaim all right on its part to enter for the same purpose the territory of any foreign Power or State with which we are on terms of amity or friendship.

Resolved, That officers of the United States have no right to use the force under their command in the territory of any foreign State, at the instance of, or for the benefit of, such State, unless previously authorized by Congress.

Resolved, That inasmuch as the views of the President, as made known in his message to the two Houses of Congress, are in accordance with these principles, no action is necessary on the part of Congress.

Mr. RITCHIE. I desire to offer the following resolution as a substitute for the resolutions reported by the majority of the committee—that it may be considered at the same time with the resolutions of the majority:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and the same are hereby, presented to Commodore Hiram Paulding, and through him to the officers, petty officers, seamen, and marines, attached to the squadron under his command, for the capture, on the 8th of December last, at Punta Arenas, of one William Walker, and others associated with him, who were engaged in carrying on against the Government and people of Nicaragua an unlawful military enterprise, which was set on foot by the said Walker and his associates within the territory and in violation of the laws of the United States.

Mr. CLINGMAN. I desire, as I am not well to-day, and do not wish to interrupt the calling of committees during the morning hour, to ask the consent of the House that I may to-morrow,

at one o'clock, make an explanation on these matters, and leave them to the action of the House. I ask it as a favor from the House, for after to-morrow I must be absent for a few days. I have personal reasons for desiring it, independent of some public ones. I ask simply that the resolutions which have been read, and those in regard to the Clayton-Bulwer treaty, may be postponed till one o'clock to-morrow, and be printed.

Mr. KELSEY. I object.

Mr. WRIGHT, of Georgia. I think there will be no objection, with the understanding that this matter shall be in order for remarks from other gentlemen as well as from the chairman of the Committee on Foreign Affairs. It is only to be set down as a special order for some day when the gentleman will be heard on the subject. I have no objection to hear the gentleman from North Carolina; indeed, I desire to hear him; and I presume the House is willing to hear him; but I do not want this matter to be so arranged as that the report shall come into the House with the speech of the gentleman from North Carolina upon it, and nothing more—no further action on the report of the committee.

The SPEAKER. The Chair would suggest to the gentleman from Georgia that if the consideration of the report be postponed to a future day, when the gentleman from North Carolina shall have been heard upon it, the report will be before the House, and unless the House choose to cut off debate other gentlemen can be heard.

Mr. WRIGHT, of Georgia. With that understanding, I will withdraw any objection to the gentleman being heard.

Mr. J. GLANCY JONES. I do not rise to object to the accommodation of the gentleman from North Carolina, but I am anxious to understand what the nature of the postponement is. Do I understand that this is to be made a special order?

Mr. CLINGMAN. Not at all. I merely ask that instead of making my remarks to-day, the House will indulge me in doing so to-morrow.

Mr. J. GLANCY JONES. Do I understand that when the committees are again called for reports, during the morning hour, the gentleman from North Carolina shall have the privilege of being heard on this question?

Mr. CLINGMAN. I do not desire to interfere with the reports of committees. I only ask as a matter of favor to let this matter go over to the time I indicate.

Mr. J. GLANCY JONES. And within the morning hour?

Mr. CLINGMAN. No; after it.

Mr. BARKSDALE. Will the chairman of the Committee on Foreign Affairs yield to me for a moment?

Mr. CLINGMAN. Certainly.

The SPEAKER. The Chair desires to understand in what condition these papers are to be considered?

Mr. J. GLANCY JONES. That is what I want to know.

The SPEAKER. The gentleman from North Carolina cannot have two reports under consideration at the same time.

Mr. CLINGMAN. Only by general consent. Of course the House will act upon them separately; but, as they relate to the same subject-matter, I ask that by general consent they may go over till to-morrow. I hope there will be no objection to that.

Mr. BARKSDALE. I desire to inquire whether, if they go over till to-morrow, an amendment to the resolution will be in order?

Mr. CLINGMAN. Of course it will. The whole subject will be open for consideration.

Mr. SEWARD. I object to any special order. I have no objection to the gentleman from North Carolina being heard, but I object to special orders.

Mr. CLINGMAN. It would not be a special order.

Mr. BARKSDALE. I desire, as a member of the Committee on Foreign Affairs, to say that I do not approve the resolutions reported by the gentleman from North Carolina, the chairman of that committee; nor do I approve of the resolution offered by the gentleman from Pennsylvania. I have, however, drawn up a resolution which I shall offer as a substitute for both. It is as follows:

Resolved, That the conduct of Commodore Paulding, in capturing General William Walker and his men at Punta

Arenas, in Nicaragua, was without the authority of law, and meets the condemnation of this House.

Mr. MARSHALL, of Kentucky, obtained the floor.

Mr. J. GLANCY JONES. The point I wish to make—

The SPEAKER. The gentleman from Kentucky has the floor.

Mr. J. GLANCY JONES. I understand that; but I ask the gentleman from Kentucky to yield to me a moment.

Mr. MARSHALL, of Kentucky. I have but a word to say. I desire to say to the gentleman from North Carolina, that I desire that such a disposition shall be made of this report that we can discuss it. I want to speak upon it, and it is my purpose to do so; and I will say to the gentleman, that I have been desirous to speak on the subject for three months.

Mr. CLINGMAN. So have I.

Mr. MARSHALL, of Kentucky. There is a resolution by which we can have night sessions in the Committee of the Whole.

Mr. WRIGHT, of Georgia. There is no such resolution. It did not pass.

Mr. MARSHALL, of Kentucky. It did not pass?

Mr. WRIGHT, of Georgia. No, sir; it was withdrawn.

Mr. MARSHALL, of Kentucky. This discussion might go over until to-morrow—

Mr. J. GLANCY JONES. I rise to a question of order. I do not understand—and I hope the Chair will correct me if I am in error—that there is anything now before the House. I understand that the gentleman from North Carolina did not offer to put this question now before the House upon its passage, but simply requested the House to allow him the privilege, by unanimous consent, to say to-morrow what he would have to say to-day. I do not object to that. If the gentleman asks that, then, if I am not mistaken, the gentleman from Kentucky [Mr. MARSHALL] cannot discuss this question in its present condition. I am willing that this question should be resumed to suit the gentleman from North Carolina, provided he confines himself to-morrow to the morning hour; for at the end of the morning hour of each and every day I hope the House will resolve itself into the Committee of the Whole on the state of the Union. If debate on this subject can be confined to the morning hour, I have no objection to its postponement.

The SPEAKER. The Chair does not understand the gentleman's question of order.

Mr. J. GLANCY JONES. It is that there is nothing before the House.

The SPEAKER. The Chair is of opinion that there are two reports before the House for consideration, which the House must dispose of either by a motion to postpone, or by action upon them in some way.

Mr. CLINGMAN. Mr. Speaker—

The SPEAKER. The gentleman from Kentucky has the floor.

Mr. MARSHALL, of Kentucky. I merely wish to say to the gentleman from North Carolina, that I have no objection to his being heard upon this subject to-morrow at one o'clock, but I want the matter so arranged that the rest of us who desire to be heard upon it, may be heard in continuation at the same time.

Mr. CLINGMAN. I desire exactly what my friend wishes. Ordinarily I would have gone on and made my statement to-day. I have given my reasons for desiring delay. I hope the gentleman over the way [Mr. J. GLANCY JONES] will remember that the Committee on Foreign Affairs have not occupied five minutes of the time of the House this session. I have spoken on no question. The question before us is a very important one, and I hope the gentleman will allow the gentleman from Alabama and others, if they desire, to get in their reports in the morning. I have personal reasons for desiring to take the floor to-morrow morning. My proposition is to postpone the consideration of these two reports until the time I have mentioned; and whenever I have made the statement I desire, the gentleman from Kentucky or any other gentleman can take the floor, as the resolutions will be before the House for all purposes. I hope the gentleman from Pennsylvania, considering that the business of his committee has heretofore mainly occupied the attention

of the House, will waive his objection and grant my request. If I had not a particular reason for my request, I would not make it to the House.

Mr. SEWARD. I move that the resolutions be referred to the Committee of the Whole on the state of the Union.

Mr. J. GLANCY JONES. My whole object is to confine the debate to the morning hour, in order that public business may be resumed at that time. I do not want to interpose any objection to the gentleman from North Carolina taking any day for discussion that may suit his convenience, if he will only confine the debate to the morning hour, and if it is not disposed of in that time, then that he shall take the morning hour of the next day, and so on from day to day until it is disposed of.

Mr. CLINGMAN. I know the gentleman's courtesy is extreme, and I am obliged to him for it; but it does seem to me that he is the last man upon this floor to make objection to that time, since his committee has mainly occupied the time of the House heretofore. I think it no special magnanimity upon their part to concede this request.

Mr. J. GLANCY JONES. The debate upon the appropriation bills has all been on the subject of Kansas.

Mr. CLINGMAN. I know it; but still, the bills reported by the Committee of Ways and Means have been under consideration.

The SPEAKER. The motion of the gentleman from Georgia [Mr. SEWARD] cannot be entertained until the motion to postpone is disposed of.

Mr. MORGAN. I object to all further debate. We have had enough of it.

Mr. REAGAN. Will it be in order to move to lay this subject upon the table?

The SPEAKER. It will.

Mr. REAGAN. Then I make that motion.

Mr. WRIGHT, of Georgia. Is it in order to move to postpone until a particular day?

The SPEAKER. It is; but the motion to lay upon the table takes precedence.

Mr. WASHBURN, of Illinois. I ask to have the resolution reported.

Mr. BARKSDALE. I desire to have all the resolutions reported.

The SPEAKER. The Clerk will read the resolution accompanying the second report. It has not been read.

The resolution was read, and is as follows:

Whereas, the treaty between the United States and Great Britain, designated as the Clayton Bulwer treaty, is, under the interpretation placed upon it by Great Britain, a surrender of the rights of this country, and upon the American construction, an entangling alliance, without mutuality, either in its benefits or restrictions, and has hitherto been productive only of misunderstandings and controversies between the two Governments: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to take such steps as may be, in his judgment, best calculated to effect a speedy abrogation of such treaty.

Mr. REAGAN. I withdraw my motion to lay that resolution on the table.

The SPEAKER. The Chair would state that it is impossible for the two reports to be considered together, so far as voting upon them is concerned, though they may be discussed together.

Mr. CLINGMAN. Then take up the first resolution reported and have that disposed of first, if there is objection to their being considered together.

Mr. REAGAN. I move to lay the first resolution and the substitute offered by the gentleman from Mississippi, upon the table.

The SPEAKER. The gentleman from Pennsylvania offered a substitute, and the gentleman from Mississippi gave notice that he would offer a substitute.

Mr. CLINGMAN. I withdraw the last report until the first one is decided upon.

Mr. BARKSDALE. I desire to offer a resolution, as a substitute, now.

Mr. CLINGMAN. I hope the second proposition will be postponed.

Mr. LOVEJOY. Can the report be withdrawn after the motion has been made to lay upon the table?

Mr. CLINGMAN. I sent them to the Clerk's table together, and the Clerk read the wrong one first, by mistake. I intended that the second should be presented first.

Mr. WRIGHT, of Georgia. I object to its going over until to-morrow. The consequence will be that the morning hour will be consumed by the gentleman from North Carolina, and nobody else will have a chance to say a word.

The SPEAKER. The Chair is of the opinion, after the statement of the gentleman from North Carolina, that the second one was intended to be presented first, and that the gentleman is entitled to withdraw it; otherwise he would hold that the motion to lay upon the table would prevent its withdrawal.

Mr. LOVEJOY. Did the gentleman from Texas make the motion to lay upon the table?

The SPEAKER. He did.

Mr. WRIGHT, of Georgia. I withdraw my objection. I was laboring under a mistake.

The SPEAKER. The resolution relative to the Clayton and Bulwer treaty is before the House.

Mr. RITCHIE. That resolution did not meet with the unanimous approbation of the Committee on Foreign Affairs. I hope that it will be postponed, and at the proper time I desire to be heard in opposition to the resolution.

Mr. MORGAN. Is it competent to object to its going over until to-morrow?

The SPEAKER. It is competent for the gentleman to make the motion to postpone.

Mr. CLINGMAN. My motion is to recommit and postpone.

The SPEAKER. That is not the motion the Chair entertained.

Mr. CLINGMAN. Then I make the motion to postpone simply.

Mr. PHELPS. I suggest that it be postponed until Monday next.

Mr. CLINGMAN. It will not answer my purpose, because there is an important matter of private business which will compel my absence from here at the end of the week.

Mr. WASHBURN, of Illinois. I can suggest a mode by which this can be settled—let it be referred to the Committee of the Whole on the state of the Union, and the gentleman can make his speech there.

Mr. CLINGMAN. I may not get the floor. I move to recommit and postpone until to-morrow.

Mr. MARSHALL, of Kentucky. I object.

Mr. COLFAX. I move to lay the subject upon the table.

Mr. MARSHALL, of Kentucky. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 39, nays 110; as follows:

YEAS—Messrs. Andrews, Bennett, Billingshurst, Blair, Bliss, Buffinton, Ezra Clark, Clawson, Colfax, Cragin, Darnell, Davis of Iowa, Dean, Dodd, Farnsworth, Giddings, Granger, Grow, Robert B. Hall, Harlan, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Matteson, Morgan, Freeman H. Morse, Nichols, Pike, Seward, Judson W. Sherman, William Stewart, Tompkins, Wade, Walbridge, Elihu B. Washburne, and Whitley—39.

NAYS—Messrs. Adair, Anderson, Atkins, Avery, Barksdale, Boyce, Branch, Brayton, Bryan, Burlingame, Burnett, Burns, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Conins, Cox, Burton Craigie, Curry, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Dewart, Dowdell, Barfee, Edmundson, Eustis, Faulkner, Foley, Gattrell, Gillis, Gilman, Gilmer, Goode, Greenwood, Gregg, Lawrence W. Hall, Thomas L. Harris, Hawkins, Hickman, Hoard, Horton, Howard, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Jacob M. Kunkel, Lamar, Leidy, Letcher, McKilbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miller, Milson, Edward Joy Morris, Isaac N. Morris, Niblack, Otis, Parker, Pendleton, Pettit, Peyton, Phelps, Powell, Reedy, Rangan, Reilly, Ricard, Ritchie, Royce, Ruffin, Russell, Sandiego, Savage, Seales, Scott, John Sherman, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stephens, Tripp, Underwood, Walton, Cadwallader C. Washburn, Watkins, White, Woodson, Augustus R. Wright, and John V. Wright—110.

So the motion was disagreed to.

Pending the above call,

Mr. PENDLETON stated that his colleague [Mr. GROESBECK] was detained at his house by severe indisposition.

Mr. SHORTER stated that he had paired off with Mr. BRARROUGHS on political questions; and if he had not paired off, he would have voted in the negative.

Mr. BILLINGHURST said: Mr. Speaker, I ask leave to vote. When my name was called I was absent, attending the session of one of the committees of the House, with the permission of the House.

The SPEAKER. The Chair understands that

it has been customary to allow a member to vote under the circumstances.

Mr. BILLINGHURST's vote was received.
Mr. STEPHENS, of Georgia. Has the morning hour expired?

The SPEAKER. It has not. There are two or three minutes left.

Mr. KUNKEL, of Maryland. I call for the previous question.

Mr. CLINGMAN. That will cut off the motion to postpone.

Mr. KUNKEL, of Maryland. I am prepared to vote on the question now.

Mr. CLINGMAN. I hope the gentleman will withdraw that call.

Mr. KUNKEL, of Maryland. I will withdraw it if the gentleman wishes to speak now. I want the resolution acted on now. If the question be opened to general debate we will have to rescind the resolution for adjournment on the 7th of June next. I hope the gentleman will make his remarks now.

Mr. CLINGMAN. I hope the gentleman will withdraw the call for the previous question. I want to say something on it.

Mr. KUNKEL, of Maryland. I will withdraw it to let the gentleman be heard.

Mr. CLINGMAN. I only ask an opportunity to be heard as chairman of the Committee on Foreign Affairs.

Mr. JONES, of Tennessee. If the gentleman will make a motion to recommit, and then the gentleman from Georgia [Mr. STEPHENS] submit his motion to go to the business upon the Speaker's table, this matter will come up to-morrow in order, and the gentleman can have the floor to make his speech.

Mr. CLINGMAN. I have no objection to that; but I thought the other motion was as acceptable to the House.

Mr. JONES, of Tennessee. The reason why I prefer the motion I suggest is this: if the question be postponed until one o'clock to-morrow, the morning hour will be consumed, and then the gentleman from North Carolina will take another hour in which to make his speech on this report; and the result will be that it will be two o'clock and after before we get into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. We have gone into committee every day, and I do not think that my request is unreasonable.

The question was taken on Mr. CLINGMAN's motion; and it was agreed to.

Mr. CLINGMAN. I have another report to make from the Committee on Foreign Affairs.

The SPEAKER. The morning hour has now expired.

Mr. STEPHENS, of Georgia. I move that the House proceed to the consideration of the business upon the Speaker's table.

PARAGUAY.

Mr. RITCHIE. I would like to make some reports from the Committee on Foreign Affairs, that they may be printed. I do not propose any action now. I ask unanimous consent.

There was no objection.

Mr. RITCHIE, from the Committee on Foreign Affairs, reported a resolution on the Paraguay difficulty; which was referred to the Committee of the Whole on the state of the Union, and, with the accompanying report, ordered to be printed.

CLAIM OF MAINE AND MASSACHUSETTS.

Mr. RITCHIE, from the same committee, reported a bill in relation to the claim of Maine and Massachusetts; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The House then proceeded to the business upon the Speaker's table.

EXPENSES IN KANSAS.

The SPEAKER laid before the House a communication from the Secretary of State, asking an appropriation to reimburse John W. Geary, late Governor of Kansas, a balance due him for disbursements in that Territory; which was referred to the Committee of Ways and Means, and ordered to be printed.

REPORTS FROM THE COURT OF CLAIMS.

The SPEAKER also laid before the House reports from the Court of Claims, and stated that

the adverse reports would, according to the rules, be placed on the Calendar, and the bills would be considered as read a first and second time, and referred to the Committee of Claims.

EFFICIENCY OF THE NAVY.

The next business in order was a resolution (S. No. 4) to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

The House sent the resolution back to the Senate with an amendment. The Senate agreed to the amendment of the House with the following amendments:

Strike out the word "seventeenth," and insert in lieu thereof "sixteenth," so that the amendment would read, "except as to any case pending and undetermined before any court of inquiry under the act of 16th January, 1857."

And add as follows:

And excepting, also, the case of any officer who was absent from the country at the time of the passage of said act, and had not returned previous to the 16th of January, 1858, and any such officer shall be entitled to all the privileges conferred by said act: *Provided*, That he applies for the benefit thereof any time within sixty days after his return.

The amendments of the Senate were concurred in.

ADMISSION OF MINNESOTA.

An act (S. No. 86) for the admission of the State of Minnesota into the Union was then taken up and read a first and second time.

The bill was read *in extenso*.

Mr. STEPHENS, of Georgia. I move to amend the bill by striking out "two" and inserting "three," so as to give Minnesota three members in this House instead of two. I also move to strike out all after the word "Congress" in the second line of the second section, and to insert, in lieu thereof, the words:

Until a census be taken; and after that to as many as the State may be entitled to under the general apportionment of Representatives amongst the several States.

Mr. GROW. I hope the gentleman will insert in his amendment that the members of Congress shall be elected by single districts. I presume there will be no objection to that. The constitution of Minnesota does not provide for districting the State.

Mr. STEPHENS, of Georgia. I should object to that amendment, as the election has been held and the members elect were elected by general ticket.

Mr. GARNETT. I wish to ask the gentleman from Georgia to permit me to offer an amendment to his amendment.

Mr. STEPHENS, of Georgia. I will do so.
Mr. GARNETT. I move to strike out "two," and insert "one," so as to give Minnesota only one Representative upon this floor; and, if I can get an opportunity hereafter, I shall briefly give my reasons for offering the amendment.

Mr. KINGSBURY. Mr. Speaker—
Mr. STEPHENS, of Georgia. I do not want to take up the time of the House myself; but I promised to yield to the Delegate from Minnesota.

Mr. CLARK, of New York. The chairman of the Committee on Territories permits me to put a question to him. I desire to know at what time a census was taken in Minnesota, and what was the amount of population?

Mr. KINGSBURY. Allow me to answer the question.

Mr. STEPHENS, of Georgia. I understand that the census has not been completed; but the Delegate from Minnesota desires the ear of the House upon that point; and I will yield to him.

Mr. MARSHALL, of Kentucky. Do I understand the gentleman from Georgia as retaining the floor while the Delegate from Minnesota speaks?

The SPEAKER. The Chair so understands.

Mr. MARSHALL, of Kentucky. I object to it.

The SPEAKER. Then it cannot be done.

Mr. GROW. I appeal to the gentleman from Georgia to allow me to offer my amendment, that the House may vote upon it.

Mr. STEPHENS, of Georgia. There are two amendments already pending.

Mr. BRANCH. Is the motion to strike out and insert divisible?

The SPEAKER. It is not. Does the Chair understand the gentleman from Georgia as surrendering the floor?

Mr. STEPHENS, of Georgia. No, sir.

The SPEAKER. The gentleman from Min-

nesota cannot occupy the floor during the time of the gentleman from Georgia, if it be objected to; and the gentleman from Kentucky [Mr. MARSHALL] objects to it.

Mr. EUSTIS. Is it in order to make a motion to take the whole subject upon the table?

The SPEAKER. If the gentleman from Georgia was not occupying the floor, and the gentleman should be recognized, it would be in order for him to make the motion.

Mr. EUSTIS. I thought I had the floor.

Mr. STEPHENS, of Georgia. I have yielded the floor to the gentleman from Minnesota.

The SPEAKER. It is objected to.

Mr. WASHBURN, of Illinois. I desire to have the amendments read.

The SPEAKER. The Chair desires to understand the position of the gentleman from Georgia, and whether he occupies the floor or not?

Mr. STEPHENS, of Georgia. I do not wish to occupy the time of the House myself in the discussion of this bill, and I do not know that it is the desire of a majority of the House that it shall be discussed. I would be glad to yield to the Delegate from Minnesota; but, in order to test the sense of the House whether they are ready to vote upon the bill, I move the previous question.

Mr. SMITH, of Virginia. We will vote it down.

Mr. STEPHENS, of Georgia. If you vote it down, then the bill will be open to debate.

Mr. SHERMAN, of Ohio. I trust the previous question will not be sustained. I gave notice of a substitute which I intended to offer, and I desire to have an opportunity of offering it.

Mr. STEPHENS, of Georgia. I ask for tellers on the previous question.

Tellers were ordered; and Messrs. MARSHALL, of Kentucky, and AVERY were appointed.

The House divided; and the tellers reported—ayes 68, noes 81.

So the previous question was not seconded.

Mr. KINGSBURY. I move an amendment, to strike out "two" and insert "three," so that Minnesota shall be entitled to three members of this House.

The SPEAKER. That amendment is already pending.

Mr. KINGSBURY. Mr. Speaker, I have a few remarks to submit to the House upon the question of population; and, in order that I may confine myself strictly to the statistics of this subject, I have chosen this mode of presenting them:

It will be recollected by every gentleman who was a member of the last House of Representatives, that in the enabling act for Minnesota, passed at a late day of the session, there was a stipulation providing for the taking of a census, at as early a period after the acceptance of the enabling act by the constitutional convention as possible. This was, undoubtedly, well, so far as it extended; but, in order to accomplish this result in a Territory whose population is distributed over an area of ninety thousand square miles—in a latitude of extreme severity—at a season of the year when the streams were swollen to an impassable extent, and the swamps and morasses full, required an amount of means which the marshal was unable to supply his deputies with—a sufficient amount not having been furnished by the Interior Department, in the absence of an appropriation for that purpose; hence the delay and impossibility of taking such enumeration. As fast as deputies could be found willing to undertake a task involving so much labor, at so limited a compensation as the law provides, they have been appointed. Quite a number, however, threw up their commissions, and refused to proceed without pecuniary compensation received in advance. And one at least, finding that he must wait until the Department should receive all the returns before auditing the accounts, destroyed the records. The marshal has, from time to time, inclosed such returns as he finds properly made out, to the Secretary of the Interior. And I find that, within the last few days, a final report has been forwarded, embracing nearly all the State, together with a clear and succinct statement of the difficulties attendant upon the taking of this census, giving something over one hundred and fifty thousand people—exclusive of mixed bloods and Indians who have adopted the habits and customs of civilization—in the limits of the proposed State. With these few facts to predicate an opinion upon

my own convictions are that the State possesses sufficient population, in addition to what has been returned, to more than entitle us to two members—*if, indeed, we have not enough to warrant the admission of three, in view of the heavy accessions by emigration constantly pouring in through the various channels leading toward our State since the taking of the census.*

I am well aware that representation is based upon population only; but in order to satisfy gentlemen that Minnesota does possess as large a constituency as we claim for her, I will cite them to the number of votes polled at the October election, and then institute a fair proportion predicated upon the statistics of other agricultural States, by which I shall arrive at the probable population at present within the limits of the State of Minnesota. I have taken the States of Michigan, Wisconsin, and Iowa, upon which to base my calculation, and find that, by a reference to the census returns of 1850, and the number of votes in each of those States, the ratio of population is to the voter as six to one. I think this a fair calculation upon which to estimate the number of inhabitants in Minnesota. This basis will give Minnesota an aggregate population of two hundred and forty thousand, beyond the amount sufficient to warrant you in admitting three members to seats upon this floor. I will also cite the House to another, and, I think, a very important fact, in proof of the justice of granting us three members to seats on this floor. I find that we have cast four thousand more votes than Iowa cast when she was allowed two members in this body; seven thousand more than Arkansas gave when she was allowed two members of the House; twice as many as Rhode Island had when she was allowed two members; and within three thousand five hundred of the number that Louisiana cast when she was allowed four members to this House; and this all occurred, be it remembered, since the ratio of representation was the same as it now is.

In viewing this question in an economical point of view, we shall find that Minnesota is justly entitled to consideration at the hands of Congress; and in order to fully demonstrate the fact, I will call the attention of the House briefly to the following record as a matter of historical fact, taken in connection with, and placed in juxtaposition to, that of her troublesome sister, Kansas.

By a reference to the returns, as they appear in the office of the Interior, I find that the total amount of revenue derived from the sale of public lands in Minnesota, up to December 31, 1855, was about one million and a half dollars. Since that time, the sales have largely increased, and the aggregate amount of revenue since the organization of the Territory, falls little short of six million dollars. This estimate includes land warrants located, and amounts received from the sale of reservations within the present State limits. It will be borne in mind that these locations and sales were made without the adventitious aid of "emigrant associations," based upon philanthropic principles.

It will be perceived, then, that the Federal Government has been in the receipt of a large revenue from the proposed State. Let us ascertain what amount has been expended by the Government to maintain her territorial organization, and for purposes of improvement, within her limits, since that time. The aggregate expense to the Federal Government, during the entire minority of Minnesota for all purposes, is \$727,000; less than one eighth of what she has received.

Again, to illustrate the fidelity and strict adherence to law, shown by the people of Minnesota, I wish, particularly, to cite gentlemen to the fact, that it has never cost the Government one cent to preserve order, and defend the people residing on the frontiers from the murderous assaults of hostile Indians, at a time when thousands of troops were stationed in the heart of Kansas, at an enormous cost to the Government, to carry out the law and prevent our own people from shooting down one another. Kansas comes to you burdened with an enormous expense of blood and treasure, and bearing the infamy of opposition to the laws of the land, while Minnesota has complied with all the requisitions of the law. She has ever been loyal to the Constitution of the United States, and strictly conformed to its teachings without the necessity of armed interference by the military powers of our country.

And it can scarcely be denied that the Con-

gress of the United States, during its last session, entered into a contract with the people of Minnesota, by which, after a full compliance by her citizens with the terms of that contract, Minnesota was to be admitted into the Union. Has Minnesota complied with those terms? I contend that she has, in every particular. First, by her delegates in convention—and second, by the almost unanimous voice of her citizens. Minnesota has maintained her good faith; she asks you to do the same. Her citizens are too proud to supplicate, too loyal to rebel, and time must soon determine the extent of their forbearance.

I hope that our three members may be allowed seats upon this floor, in accordance with the honestly expressed conviction of a law-abiding people.

Mr. PARROTT. In the gentleman's speech occurs this expression:

"Again, to illustrate the fidelity and strict adherence to law shown by the people of Minnesota, I wish, particularly, to cite gentlemen to the fact, that it has never cost the Government one cent to preserve order, and defend the people residing on the frontiers from the murderous assaults of hostile Indians, at a time when thousands of troops were stationed in the heart of Kansas, at an enormous cost to the Government, to carry out the law and prevent our own people from shooting down one another. Kansas comes to you burdened with an enormous expense of blood and treasure, and bearing the infamy of opposition to the laws of the land, while Minnesota has complied with all the requisitions of the law."

I would like to ask the gentleman on what basis this unwarrantable charge against Kansas is made?

Mr. KINGSBURY. I might base it upon every speech made here since the 9th of December last.

Mr. PARROTT. The charge is untrue, and I do not think that the expression has occurred in any other speech upon this floor. If that be the best reason which the gentleman has to make that remark, good taste would suggest, I think, the propriety of leaving it unsaid.

Mr. KINGSBURY. It is based upon facts before the country.

Mr. SHERMAN, of Ohio. I offer the following substitute:

Whereas, an act was passed February 26, 1857, entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States;" and whereas, delegates of the people did, on the 29th day of August, A. D. 1857, frame a constitution which does not conform with the Constitution and laws of the United States: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Minnesota shall be one of the United States of America, and shall be admitted into the Union on an equal footing with the original States in all respects whatever, after a full compliance with the following fundamental condition precedent, to wit: That the constitution framed (at Saint Paul, in the Territory of Minnesota,) on the 29th day of August, A. D. 1857, shall be submitted to a convention of the people of the said Territory of Minnesota, to be composed of the number of delegates and to be apportioned and elected in the mode and manner prescribed by the act of February 26, 1857, said election to be held on the first Monday of August next, and said delegates to assemble at the Hall of the House of Representatives at the capital of said Territory on the first Monday of September next, at twelve o'clock, m.; and said convention shall conform said constitution to the Constitution and laws of the United States, or, at its discretion, shall frame a new constitution in conformity with the Federal Constitution; and said convention shall have the same powers, perform the same duties, be subject to the same qualifications, and the same propositions are hereby offered for its free acceptance or rejection, as are prescribed by said act; and the action of said convention shall be subject to the approval and ratification of the people of the proposed State.

Sec. 2. And be it further enacted, That after said condition is complied with, the said State shall be entitled to two Representatives in Congress, to be elected in single districts, to be prescribed by the convention.

Mr. Speaker, I am opposed to the admission of Minnesota under the constitution that is presented here, because she has not complied with the enabling act of Congress, and because her constitution does not, in my opinion, conform to the Constitution and laws of the United States. I know that in opposing the admission of a free State—a State where slavery cannot exist—I run counter to the feelings of many of those with whom I ordinarily act; but I intend to place my opposition to this bill upon other grounds than those involved in sectional questions.

The act which authorized the people of the Territory of Minnesota to form a State government, prescribes three distinct and separate conditions. The first is, that a convention of a fixed number of delegates shall be elected by the people. The

second is, that the constitution to be framed by that convention shall conform to the Constitution and laws of the United States. The third is, that this constitution shall be submitted to a vote of the people, and shall be approved by them: In my opinion, two of these conditions have not been complied with. No such convention as is contemplated by the enabling act ever sat in the Territory of Minnesota. The law prescribes the number of that convention to be seventy-eight, or twice the number of Representatives in the Territorial Legislature. Instead of electing seventy-eight they elected one hundred and eight; instead of complying with the law, as the Delegate of the Territory boasts they did, they have violated the law by giving it a construction which it does not bear, and which no intelligent lawyer would give it.

Nor, sir, did the delegates thus elected assemble in convention. Unless you can call one mob of fifty-four men arrayed against another mob of fifty-nine men, some of whom were not elected at all, meeting in separate bodies, and denying each other's authority, a legal convention of seventy-eight members, they never had a convention in Minnesota. We know that two separate bodies met, one in the Hall of the House, and the other in the Council Chamber of the Territory. It was not a convention of the people. On the contrary, it was a spectacle not provided for by Congress, or contemplated by the people, and if sanctioned by Congress, will greatly discredit our republican institutions. Instead of a legal convention, committees of conference of two illegal bodies got up a scheme which they call a constitution, and submit it for our consideration.

But, sir, I do not intend to dwell upon this topic. It is apparent that Minnesota, in the election of delegates, followed the same example that had been set in other Territories. I have no official evidence of the facts to present to the House, but we know that the newspapers of both the political parties teemed with allegations of fraud. I have no doubt, though I cannot base it upon any official statement, that there was great fraud in the election of some of the delegates. I did hope that when Minnesota, a growing free Territory, in which there was no dispute as to the character of their institutions, should apply for admission as one of the sisterhood of States, she would come here orderly, with decency, and with propriety; that her convention would pursue the course marked out by the law, frame a constitution, submit it to the people for their approval or rejection, and then, with their approval, submit it here for our sanction. Instead of that they have elected the wrong number of delegates. They have connected in disgraceful association the name of Pembina with Oxford, Shawnee, and Kickapoo. Uncivilized Indians were arrayed at the polls instead of armed and organized invaders. Then, instead of meeting in convention, the delegates met in hostile bodies, and by committees of conference framed a constitution.

But, I might be willing to overlook this. I might be willing to overlook the mere irregularities of the convention itself—especially as the people of Minnesota have adopted the work of that convention—but that this constitution does not conform to the Constitution and laws of the United States. The allegations of the Delegate from Minnesota, which were read from the Clerk's desk, are not sustained by the facts. She has been far from showing her fidelity or adherence to law. She has permitted her struggling partisans of the Democratic party to trample upon the laws. The constitution framed by these two badly-organized mobs, violates the Constitution of the United States and the acts of Congress.

Mr. KINGSBURY. In what particulars?

Mr. SHERMAN, of Ohio. I will point them out. I have examined this constitution carefully. I find that section one, of article four, of the constitution, provides that "the Legislature of the State shall consist of a Senate and House of Representatives, which shall meet at the seat of government of the State, at such times as shall be prescribed by law." I have carefully examined the remaining clauses, and find no limitation to the duration of the time for which the Representatives hold office. At first, I supposed the omission was accidental, and that the convention, in the hurry of their miserable strife, did not examine the matter, and that the limitation of time was overlooked; but recent

events have convinced me that this was a predetermined plan. The first Legislature, elected without limitation, under this constitution, has assumed the functions of a State government; and so far, have made no provision for the election of their successors; and, sir, I believe they will retain their power until they fill the vacancy in the Senate of the United States for the short term; and as much longer as their reckless temerity will allow them.

It is true that I find in a subsequent section a declaration that the members of the Council of the next Legislative Assembly shall be elected every two years. But that does not apply to the members of the present Legislature, nor to the members of the House of Representatives of any future Legislature. So that here there is either a palpable blunder arising from the mode and manner in which the constitution was framed, or else there was a predetermined arrangement by which those who might succeed in the first election could maintain their power in all time to come.

There is another provision which, in my judgment, though it does not violate the Constitution of the United States, does not accord with its spirit. The Constitution of the United States provides that Congress may pass laws for the naturalization of foreigners. Congress has declared that no person of foreign birth, born without the limits of the United States, shall be a citizen unless he shall have lived here for five years.

I wish it distinctly understood that I am not in favor of the extension of the period of naturalization. I differ with many upon that subject. I believe that the founders of the Government, in the early history of our country, fixed the true time, and that five years is a reasonable probation for every man who comes from a foreign Government, before he shall become a citizen of the United States, and have the right to vote. I have never conversed with an intelligent foreigner who complained of this reasonable probation. I am not in favor of changing the time, but I believe the spirit of our laws and the spirit of the Constitution of the United States require that no man shall exercise the right of citizenship until he has been here five years. The constitution of Minnesota provides, in article seven, section one, subdivision two, that one class of voters shall be "white persons of foreign birth, who shall have declared their intention to become citizens." Now, this prescribes no term of residence to men who come here from Germany, from Russia, from Austria, from Italy, or from any other foreign country—men who may not know even the language in which their ballots are printed, and may know nothing of our Constitution and laws. They are not required to undergo a reasonable period of probation, but they may go up to the ballot-box and vote within ten days after they arrive in the new State. I know that other new States have adopted similar provisions, but I think the principle is wrong. I think the Congress of the United States fixed the true rule in the Oregon bill, and I am sorry it was not put into the Minnesota bill.

And here I trust I may count on the support of my Democratic friends; for it seems that the people of Kansas, in framing the Leavenworth constitution, have followed the example of the people of Minnesota; and I see that the Union newspaper of the date of April 18, thus comments upon it:

"Between a constitution which confers only upon citizens of the United States the elective franchise and eligibility to office, and a constitution which admits negroes, mixed breeds, and incomers from all quarters of the earth, chattering all the tongues of Babel, to these privileges, the founders of our institutions would have made a very prompt decision."

Now, the constitution of Minnesota admits all foreigners to vote in ten days after they have landed in the State of Minnesota; but the Union and its followers will be as quiet as a lamb over "the chattering tongues of Babel."

Mr. GROW. I wish to call the attention of the gentleman to another provision of the constitution. The first section of the article from which the gentleman quoted, provides, that the very class to which he referred must have resided one year in the United States, four months in the State, and ten days in the election district in which he proposes to vote.

Mr. SHERMAN, of Ohio. The gentleman is correct as to all subsequent elections, but I am speaking of the vote upon the constitution, and in the first election of members of Congress, under

the constitution. The seventeenth section of the schedule is as follows:

"Upon the day so designated as aforesaid, every free white male inhabitant over the age of twenty-one years, who shall have resided within the limits of the State for ten days previous to the day of said election, may vote for all officers to be elected under this constitution at such election, and also for or against the adoption of this constitution."

Mr. JENKINS. I desire to ask the gentleman whether he voted for the enabling act for Minnesota?

Mr. SHERMAN, of Ohio. I do not know what that has to do with the question.

Mr. JENKINS. I will inform you if you will give me the opportunity.

Mr. SHERMAN, of Ohio. I remember very well—the gentleman from Virginia does not, for he was not a member of the last Congress—that the Minnesota bill came into the House from the Senate, and that many of us on this side of the House, myself among others, endeavored to get that bill altered in the very particular to which the gentleman alludes. We could not do it, as it was put through under the operation of the previous question, as almost everything else here is, and we had to vote for it without amendment. If I could have inserted the provisions of the Oregon bill on that subject into the Minnesota bill, I certainly should have done so; and I did all in my power to have it done.

I desire to call the attention of the House to a radical objection I have to this constitution. Section six of the schedule provides that "the first session of the Legislature of the State of Minnesota shall commence on the first Monday of December next, and shall be held at the capitol in the city of St. Paul." The constitution goes on to provide for a complete State organization before Congress could, by any possibility, act upon her application. Thus the embryo State of Minnesota, carrying out the threat of the Delegate here, in his published remarks, has, in violation of the Constitution of the United States, and the law of Congress, organized a State government anterior to the presentation of her application and her constitution to either House of Congress.

Mr. KINGSBURY. In accordance with the contract made by Congress itself.

Mr. SHERMAN, of Ohio. I have always supposed that the Constitution of the United States was the supreme law. That Constitution declares that Congress shall have power to admit new States; and I know of no other power to do that. I cannot conceive the idea of there being a State, unless Congress has admitted it as a State. The Constitution confers upon Congress, and upon Congress only, that power. We have not exercised that power. We could not have exercised it till after the time fixed by this constitution for the overthrow of the territorial authorities by the organization of a State government. Now, Mr. Speaker, we have indulged our Territories a good deal. We have overlooked a great many informalities and irregularities. But, sir, when this young sister of ours sets up her power above and beyond the power of the Constitution of the United States, I desire that Congress shall check her a little, and hold her in check.

Mr. CLARK, of New York. Where does the honorable gentleman find the evidence that a State government in Minnesota has gone into operation, superseding the territorial government created by her organic law?

Mr. SHERMAN, of Ohio. I find in the constitution, page 20, section six, a provision that the first session of the Legislature of the State of Minnesota shall commence on the first Wednesday in December next, and shall be held at the capitol in the city of St. Paul. This was last December, and five days before Congress met.

Mr. WASHBURN, of Illinois. Will the gentleman also state that the Legislature has elected Senators, who are now here?

Mr. CLARK, of New York. Are we at liberty to take for granted the various allegations on the subject?

Mr. SHERMAN, of Ohio. I am speaking of what I find in the constitution itself. If the gentleman will look at the paper before him he will find, that under the sixth section of the schedule there is a provision by which the people of Minnesota organized a State government on the Wednesday before we met here in Congress.

Mr. CLARK, of New York. Without resistance from the territorial officers?

Mr. SHERMAN, of Ohio. Without resistance from the territorial officers; and indeed they have aided in this successful overthrow of our authority.

Well, sir, this convention, or rather these two mobs, have organized a State government, and have not even asked our consent. They have exercised legislative powers, and their Legislature has proceeded to elect their Senators. Now, Mr. Speaker, I wish to call the attention of the Delegate from Minnesota to one very curious feature in that constitution, although he says they have been so regular.

The twenty-sixth section is as follows:

"Members of the Senate of the United States from this State shall be elected by the two Houses of the Legislature, in joint convention, at such time and in such manner as may be provided by law."

Now here there is one established fact, that under the constitution of Minnesota these Senators cannot be elected until some provision is made by law.

Section eleven is:

"Every bill which shall have passed the Senate and House of Representatives, in conformity to the rules of each House, and the joint rules of the two Houses, shall, before it becomes a law, be presented to the Governor of the State."

Consequently the Senators cannot be elected until a law is passed; and a law cannot be passed until it is presented to the Governor for his signature.

Now read the seventh section. It is:

"The term of each of the executive officers named in this article shall commence upon taking the oath of office after the State shall be admitted by Congress into the Union, and continue until the first Monday in January, 1880, except the auditor, who shall continue in office until the first Monday in January, 1881, and until their successors shall have been duly elected and qualified."

Now, Mr. Speaker, here is this singular state of affairs: the constitution provides that no Senator shall be elected except in pursuance of law to be passed, and provides that no bill shall be a law until it is presented to the Governor for his signature; and then provides that the Governor's term shall not commence till after Congress acts on the admission of the State; and yet here are Senators from Minnesota claiming their seats, while we are acting upon the application for admission.

Mr. WASHBURN, of Illinois. Do I understand that the constitution of Minnesota provides that no act shall be considered a law until signed by the Governor of the State?

Mr. SHERMAN, of Ohio. Until presented to the Governor of the State; and it cannot be presented to him until after Congress has admitted the State.

Mr. WASHBURN, of Illinois. Then I ask my friend how it is that this State or Territory of Minnesota has passed a law authorizing a change of their constitution, to enable the people to vote a loan of \$5,000,000? I think there is a provision of the constitution providing that the State government shall not go into operation until it has been accepted by Congress. If that is so, how is it that an amendment of the constitution has been submitted to the people, and adopted by the people, authorizing the State government to make a loan?

Mr. SHERMAN, of Ohio. That is one of the curiosities of this novel attempt to organize a State out of the Union. There is no such provision as the gentleman refers to, except that I have quoted, and that has been disregarded. Some reference has been made to another provision of this constitution—section five of the schedule—which is as follows:

"All territorial officers, civil and military, now holding their offices under the authority of the United States or of the Territory of Minnesota, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State."

This does not authorize the territorial officers to perform the duties of State officers, but of their respective territorial offices.

Now, I would like to know what right has this unorganized Territory—which has not been admitted into the Union—to say to the Federal officers, "You shall exercise your respective offices till such and such and such a time, and then you must surrender?" She has none whatever.

But I have heard it claimed by some gentlemen that this provision of the constitution of Minnesota authorized the territorial officers to perform executive acts as State officers. In other words,

that the appointees of the President can act as the executive officers of the State. This would be truly a novel proceeding; but upon looking at the constitution I can find no such folly in it. Our modest young sister only declares that the officers of the national Government may hold their respective offices until Congress acts upon their application. But in spite of this modest license, I understand the Legislature of the embryo State is now exercising all the functions of a State government. Perhaps the chairman of the Committee on Territories can say whether that is true or not. I know they have gone to work and passed bill upon bill, and act upon act. While we are sitting here, to say whether they shall come into the Union under this constitution, they are proposing to change it! What is the change they propose? It is to allow the people of this infant State to be loaded down with a debt of \$5,000,000 to aid some unorganized railroad companies of land jobbers.

I think, Mr. Speaker, that this thing is being carried too far. I think that the time has come when the Congress of the United States ought to put a curb upon the Territories, and to require them to obey the law. Now, sir, I am friendly to Minnesota; I know a great many people there; I would do as much for the prosperity of her people as any other man on this floor. And, sir, I believe we would do her the highest service if we would save her from her reckless land jobbers and monopolists. Let us remand this constitution to her. Let her institute her organic law properly, and then we can welcome her into the Union. I want to see the marriage bans not only receive the assent and sanction of her people, but be celebrated according to the forms of law. I want to have her come legally, and in due form. I do not want any more runaway Scotch marriages. I do not want this infant sister of ours to celebrate her nuptials with fraud, illegality, and improvidence. And, above all, I do not wish to see her set up her authority against the power of the nation or assume it until Congress has exercised its constitutional power. Until then, all her acts and proceedings are simply void, and will only result in involving her people in wasteful litigation.

Upon this point I desire to call the attention of the House to the decision of the Supreme Court of the United States, and gentlemen on the other side who profess so much respect for the decision of this court, will pay some attention to it. It has been said by a gentleman from my own State in the other wing of the Capitol, that Minnesota is a State out of the Union. That, if we do not admit her into the Union now, she is a State, but not of the Union; and her Delegate says that if we do not admit her, endurance will cease to be a virtue and she will come in anyhow, or remain a State out of the Union. I understand the amount of the threat to be, that this young sister of ours will rebel; he says that "her citizens are too proud to supplicate, too loyal to rebel, and time must soon determine the extent of their forbearance." [Laughter.]

Well, Mr. Speaker, the Supreme Court of the United States have declared that all acts and proceedings of Minnesota, before this application shall receive the sanction of Congress, are utterly null and void. Now, sir, what capitalists will take this \$5,000,000 loan?

Several MEMBERS. Read the decision.

Mr. SHERMAN, of Ohio. The case was that of Scott and others vs. Jones. (5 Howard's United States Reports, 379.) The facts are these: Michigan organized a State government more than a year before she was admitted into the Union. Before her admission by Congress, her Legislature, among other things, incorporated a literary society in the city of Detroit, and authorized it to acquire and hold property. Scott, one of the parties to the suit, acquired title to property under the corporation, and the question came before the Supreme Court of the United States as to whether the title was good. This depended upon the power of the State of Michigan to pass laws before her admission. The majority of the Supreme Court evaded the question by deciding on a collateral question of jurisdiction. But those who believed that the court had jurisdiction—and among others Judges Nelson and McLean—declared that:

"Michigan was an organized Territory of the United States. Its Governor, judges, and all other territorial officers were in the discharge of their various functions. The sovereignty of the Union extended to it. Under these cir-

cumstances, the people of Michigan assembled by delegates in convention and adopted a constitution, and under it elected members of both branches of their Legislature, Governor, and judges, and organized the State government. No serious objection need be made, in my judgment, to the assemblage of the people in convention to form a constitution, although it is the more regular and customary mode to proceed under the sanction of an act of Congress. But until the State shall be admitted into the Union by an act of Congress, the territorial government remains unimpaired.

"No act of the people of a Territory, without the sanction of Congress, can change the territorial into a State government. The Constitution requires the assent of Congress for the admission of a State into the Union; and 'the United States guaranty to every State in the Union a republican form of government.' Hence the necessity, in admitting a State, for Congress to examine its constitution.

"The act 'to incorporate the members of the Detroit Young Men's Society,' was the exercise of sovereign power—a power totally repugnant to the sovereignty of the Union in its territorial form. Until the 25th of January, 1837, Michigan was not admitted into the Union and recognized as a State. Whatever effect this admission may have, by way of relation, on the exercise of the political powers of the State prior to that time, is not now a question. The question of jurisdiction relates to the time the act was passed, and its validity.

"This act of incorporation was repugnant to the Constitution of the United States, under which the territorial government was organized. It was repugnant to the laws of Congress which formed that organization. It was an exercise of sovereignty incompatible with the sovereignty of the Union, in all its legal forms. And this act was declared by the supreme court of Michigan to be valid. I cannot conceive of a clearer case for jurisdiction."

"The two sovereignties of the State and the territorial government cannot exist at the same time within the same limits. The territorial government exists in full vigor until it is abolished by the admission of the State. There was, then, a direct and irreconcilable repugnance in the exercise of the sovereign power by the State, so long as the Federal authority was exercised in the Territory."

It is thus apparent from this decision, that, by their premature and hasty action, the politicians of Minnesota are imposing upon its people a burden of litigation.

There are other features of this constitution to which I wish to call the attention of the House. It provides for the election of members of Congress by general ticket, when the act of Congress expressly provides for the election by separate districts. Why this violation of law? Was it to allow the Pembina fraud to have more extended effect? Was it to allow the uncivilized Indians to send three members here instead of one? Whether the State is admitted or not, these members ought not to take their seats until they are elected in compliance with law. Instead of discussing whether one, or two, or three members should sit with us, we ought to discuss the authority to elect their members by general ticket; for if one is entitled to a seat, all are. How will you choose between them? By what lottery or chance shall either be rejected or selected?

And, sir, after you have settled this question, show me the constitution under which you propose to make the admission. The one I have before me, and which was duly presented to the House, and appears regularly certified by Governor Medary, is signed by but fifty-two members, or less than a quorum. This manifestly cannot be the constitution; but when I look into the Senate document, I find a constitution signed by another set of officers and fifty-nine members, but not sanctioned by Governor Medary. Thus two constitutions are presented to us, signed by different persons, and different officers, but each set claiming to be the regular legal convention of Minnesota. Sir, in the midst of such confusion and irregularity, is it not a reasonable exercise of the discretionary power of Congress in the admission of new States to refer back this whole proceeding to the people of Minnesota, and require them to conform their action to the law? Sir, this is all my substitute proposes.

Mr. KINGSBURY. The gentleman seems to forget the fact that our people have voted for ratification or rejection of the constitution.

Mr. SHERMAN, of Ohio. So did the people of Michigan.

Mr. KINGSBURY. And it was ratified by thirty-odd thousand to five hundred against it.

Mr. SHERMAN, of Ohio. I have not overlooked the action of the people, and am far from underrating its importance; and, without the allusion of the gentleman, the course of my argument will bring me to consider the effect of their ratification. I believe that the assent of the people to their constitution is the very life of a new State. I never would, under any circumstances, drag any people into this Union unless they had assented to their constitution; and I am astonished that the

dominant party in this House ever placed themselves in that position—a position, maintained here for months, and, as a majority on that side now insist, never yielded as to Kansas. It is a plain, simple principle of republicanism, and therefore I never would have voted for the admission of Minnesota, under any constitution or under any circumstances, had not the people assented to and ratified it, however regular might have been their proceedings. Nor will I vote for the admission of any new State unless the popular approval is shown beyond question.

But, sir, I want something more than the mere assent of the people of Minnesota. I want regularity, uniformity, compliance with the act of Congress, and that the State constitution shall conform to the Constitution and laws of the United States. I want something besides the mere assent of the people. I do not admit the right of the people of Minnesota to form just such a constitution as they please, and, by assenting to it, make it the supreme law of Minnesota, unless they have first had the consent of Congress.

Mr. KINGSBURY. More than ninety-nine hundredths of the people have ratified the entire constitution upon a full submission.

Mr. SHERMAN, of Ohio. Very well. I do not want the people of Minnesota to commence their State existence by violating the Constitution and laws of the United States.

Mr. KINGSBURY. Then you want to dictate to the people of Minnesota.

Mr. SHERMAN, of Ohio. No, sir; I want to make them comply with the law. There are certain laws which prescribe forms in the marriage ceremony. There must be a license, for instance. I want Minnesota to conform to the license prescribed by Congress, and thus come into the Union in a decent, legal, and orderly manner, and not commence her existence as a State with irregularity and violations of the laws and the Constitution of the United States.

Mr. KINGSBURY. There certainly was not as much irregularity in Minnesota as there was in the formation of the Topeka constitution for which the gentleman voted.

Mr. SHERMAN, of Ohio. The gentleman may make the most he can of that argument. I did vote for the admission of the State of Kansas under the Topeka constitution; and, as the gentleman has alluded to it, I will tell him why. It was because the people of Kansas had been deprived by force and fraud of their territorial government, and Congress had neglected to pass an enabling act. They had to submit to a most odious tyranny, or present their application for admission as a State; but they never proposed to establish a State government without the assent of Congress. And so it was in California. In that case Congress had refused to pass an enabling act, and the people were left under a military despotism, and had to choose between irregularity on the one hand and anarchy on the other. But the people of Minnesota stand in no such position, and have no excuse for such irregularity. We passed for them an enabling act, fair, just, and reasonable in all its terms and requirements. We only prescribed reasonable, fair, and just conditions, assented to by them, and yet they do not comply.

Mr. KINGSBURY. That is the "license" they acted under.

Mr. SHERMAN, of Ohio. But they violated the license; they have not conformed to the law; they have not made their constitution conform to the law. That is what I complain of.

The people of Kansas and of California were compelled to choose between despotism and irregularity; and, whenever that choice is presented to the people of any portion of the United States, they will choose irregularity. But we have given Minnesota a chance to come into the Union decently, regularly, and in order; and instead of doing that, she organized a double-headed mob, and proceeded to form a constitution which does not conform to the law, but is in direct violation of it; and now her Delegate upon this floor issues his threats and her mandates to the sovereign power of the people of the United States.

Mr. KINGSBURY. Half of that "double-headed mob" was composed of members of the party to which the gentleman belongs; and even that party cooperated with us in the formation of the constitution and assisted in its ratification.

Mr. SHERMAN, of Ohio. Mr. Speaker, I did

not rise here to talk about parties. I know that, in saying what I am now saying, I may not say what will be approved of by my party. But, if party friends violate the law, I will rebuke and condemn them, unless they can show me a case like that of Kansas or California, where the people were forced to choose between despotism or irregularity.

Mr. KINGSBURY. The gentleman is very willing to allow Kansas to bleed; but he cannot get our people to bleed. They will not bleed. They have conformed to all the requirements of the law, although they were more severe than any ever imposed upon any people in the United States.

Mr. SHERMAN, of Ohio. That is the very question in dispute. I claim that they have not conformed to the law, and the gentleman says they have. I do not know that a single member of the Republican party will vote with me. I simply want here to give notice "to the world and the rest of mankind" that the Congress of the United States ought to establish some just, fair, and reasonable rule, requiring the Territories not only to submit their constitutions to the people, but to come here in conformity to law.

The only other remark I desire to make is this: In my judgment, all of these irregularities in the Territory of Minnesota are to be attributed to the influence of Federal officers. Had it not been for these Federal officers there would have been no irregularity. It happens that the men who are appointed to fill territorial offices, and thus having the power to mold, or aid in molding, the institutions of infant States, are the very men who ought not to be appointed. It is your Sibleys and Medarys and Gormans who are sent there, and, to gratify their senatorial aspirations, infuse their poison among the people, and thus derange the movements of new States. They seek to control them, and then irregularity begins.

I think that it would be a happy event for the people of Minnesota if Congress could refer this constitution back to them with the simple declaration: "You shall come into the Union with all the powers of the State, but the laws must be obeyed. Come in regular form, and we will greet you with hearty good will, and clothe you with the rich dower and equal rights of a sovereign State."

Mr. JENKINS. Mr. Speaker, it was not my intention to address the House on this subject; and I should not have taken the floor for that purpose now, if it had not been for the remarkable course of argument pursued by the gentleman from Ohio. I have taken hurried notes of what he said, and will reply to his positions in the order in which he presented them.

The honorable gentleman set out with the remark that it might occasion surprise in the minds of some when they should discover him opposing the admission of a free State into the Union. A moment's reflection will satisfy gentlemen that those who will come in here as Representatives upon this floor, if Minnesota be admitted into the Union, will in their political opinions be radically opposite to the gentleman from Ohio. In this I find a satisfactory solution of the remarkable anomaly of the gentleman being opposed to the admission of a free State. As Democracy and so-called Republicanism are antagonistic throughout, so it requires no intellectual finessing to comprehend why the Republican gentleman from Ohio should oppose the admission into the Union of Democratic Minnesota.

The first proposition which the gentleman lays down, and in which he supposes that he finds an argument against the admission of Minnesota, is, that the wrong number of delegates were elected to her constitutional convention. I will read the law on that point. The third section of the Minnesota enabling act is as follows:

"Sec. 3. And be it further enacted, That on the first Monday in June next, the legal voters in each representative district then existing within the limits of the proposed State, are hereby authorized to elect two delegates for each representative to which said district may be entitled according to the apportionment for representatives to the Territorial Legislature, which election for delegates shall be held and conducted, and the returns made, in all respects in conformity with the laws of said Territory regulating the election of representatives; and the delegates so elected shall assemble at the Capitol of said Territory on the second Monday in July next, and first determine, by a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government, in conformity with the

Federal Constitution, subject to the approval and ratification of the people of the proposed State."

It will be observed that this law is susceptible of two entirely different constructions, depending upon the signification which you attach to the word "representatives." In a narrow and constrained interpretation of the meaning of that word, it would embrace only the members of the lower branch of the Minnesota Legislature. A more enlarged and liberal construction would also include the upper branch, or Senate. This is a question of legal interpretation, upon which some difference of opinion might naturally arise. The honorable gentleman from Ohio prefers the former construction, which would have made seventy-eight the proper number of delegates to be elected to the constitutional convention. The Legislature and people of Minnesota, of all parties, placed the latter construction upon the word; and acting upon this, called a convention of one hundred and eight delegates. Now, sir, this was done in good faith. It could have been done in no other spirit. What could the people of Minnesota gain by putting this construction upon the law? Anything? No, sir; nothing.

Now, Mr. Speaker, I submit to the candor and good sense of this House, if this argument of the gentleman from Ohio against the admission of Minnesota has any force or validity? How stands the case, sir, when plainly put, and disrobed of the sophisms which the honorable gentleman has sought to throw around it? Why, thus: Congress passes an enabling act containing such vague and loose phraseology as to admit of two constructions as to the number of delegates to be elected under it—a matter, by the way, of not the slightest importance. The people of Minnesota acted upon what they considered the proper construction, and elected their delegates; and now the gentleman from Ohio and his friends would have Congress reject their application for admission into the Union, because there might be some doubt about the hidden meaning of the law which we ourselves framed. Shall we, sir, avail ourselves of the vague phraseology of our own laws to perpetrate a great wrong upon the people of Minnesota, who acted in good faith, and placed what they believed to be the most natural and rational interpretation upon them? Shall we do this great wrong, too, for an immaterial matter—the mere number of delegates to their convention—a matter which concerns nobody but themselves? In thus availing ourselves of the vagueness of our own laws, would we not be imitating the example of the Roman tyrant, who hung his laws so high that the people could not read them, and then punished those who, through ignorance, were so unfortunate as to violate them? I trust I need say no more on this point.

But, sir, another irregularity which the honorable gentleman advances is, that that convention was organized into two separate bodies. He designates them as a mob. A mob! It is a strange state of things when a "Topekaité" denounces a mob. I thought such language was reserved for the Democratic side of the House. I do not think that any man who acted with the Republican party during this Kansas excitement, any who during that excitement urged every conceivable argument to override law and order in favor of mobs, has the right here and now to make that objection. He has no right to apply the term "mob" to a legally-elected body of delegates for the Territory of Minnesota. I say that, in no proper sense, can that convention, or the two bodies composing it, if you will, be characterized as mobs. The delegates were fairly elected. They constituted a legal convention. I do not care if they did separate into two bodies. I do not care if they retained a separate organization throughout. They finally agreed upon the same instrument as the organic law of the future State of Minnesota. It is not, indeed, the usual method for a convention to organize itself into two separate bodies. But should a convention do so, yet finally concur in the same action, that concurrence must be considered as covering such irregularity.

But, sir, I go further than that, and I wish to say that one of those two conventions must have been a legal convention, upon the theory advocated by the gentleman himself. Now, sir, there were all the delegates elected under the law, and I care not how you divide them; if into two bodies, one of them must have been a legal convention;

for one of them must have contained a majority of the legally-elected delegates. It seems to me there is no escaping this conviction. Mathematical demonstration could not be plainer, nor more satisfactory. In some cases it might be a matter of the first importance to determine which of these two bodies was the legal and proper convention. In this case, fortunately, there is no necessity for this inquiry, inasmuch as both agreed upon the same constitution.

Now, sir, the gentleman knows very well that this is so. He knows very well that the final action of those two bodies corresponded in every particular. He knows very well that every member of the two branches of that convention, except some four or five, signed the same constitution, word for word.

Mr. SHERMAN, of Ohio. The gentleman will see by reference to the Senate document (Reports of Committees, No. 21) that the members of the two branches signed different papers, though they may, upon comparison, prove to be alike. They kept up, however, a distinction to the very end.

Mr. JENKINS. I will only say, in reply to that, that I consider that action equivalent to signing the same paper. It makes no sort of difference which paper they signed. Is it the paper which comes here which constitutes the constitution? I say, then, in the first place, by way of a brief recapitulation on this point, that the convention was not a mob; that it was legally and fairly elected under the enabling act and territorial law; that it properly assembled; and if it divided into two branches, that fact makes no difference with the result, as they both signed the constitution; and that it was as justly and strictly a legal constitution as if there had been but one body. In addition to all this, sir, this constitution has the sanction of the popular voice in an almost unparalleled manner; the proportion of the whole vote being about the ratio of sixty in favor, to one against it.

Another objection which the gentleman from Ohio makes against the admission of Minnesota is, that the members of the lower branch of their Legislature are elected for life. Why, sir, if the State of Minnesota chooses to elect her Representatives for life, I cannot see that it is a reasonable objection to her admission. The gentleman may say that it is anti-republican; but I think the gentleman will find it hard to prove it. I admit that it is not such a provision as I would vote for; and if I were in a State which adopted such a constitution, and persisted in retaining it, I would remove from such a State; but I should not consent to see the despotic arm of the Federal Government interpose to remedy the evil; for I believe the evils which would grow out of such a doctrine of interposition would be infinitely worse than those sought to be remedied.

It will not do, sir, simply to say that a feature of a State constitution, permitting Representatives in the Legislature to serve for life, is odious, and therefore sufficient reason for Congress to reject it. I repeat, sir, that however odious such a feature would be, (and it would be as odious to me as to any man living,) still that is a matter for the people of the incipient State to decide for themselves. If they want such a constitution, it is their business, and not yours or mine, as members of a Federal Congress. If the people of a State want such a constitution, we cannot impose a different one upon them against their will. When they choose to change it they can do so. You must then show that such a constitution is anti-republican, or however objectionable it may otherwise be, the Federal Government cannot interfere. Is, then, such a constitution anti-republican?

How, then, shall we ascertain the true meaning of the term "republican," as used in that clause of the Federal Constitution which says "that the United States shall guaranty to every State in this Union a republican form of government?"

First, let us examine the term itself. Is there anything in its general signification which would imply that it was incompatible with the idea of members of the Legislature being elected for life? Clearly not; for if so, where will you draw the line? Would it be anti-republican to have them made eligible for five years? No one will contend for that. Then would it be anti-republican to have them eligible for ten years? If not so for ten, then for twenty years, or forty, or for life?

Where will the honorable gentleman draw the line, saying that it is republican to elect them for that number of years, but anti-republican to elect for a single year beyond?

But in order to approximate as nearly as possible to the true meaning of the word republican, as used in the Constitution of the United States, let us turn to the constitutions of the respective States existing at the time of the adoption of the Federal Constitution, and see what they were; for the very men who framed that instrument participated, to a greater or less extent, in the formation of the State constitutions; and we may very well suppose that they knew what they meant when they used the term "republican." Referring then to the constitution of my own State as it was at the time of the formation of the Federal Constitution, I find that a large portion of the citizens of Virginia were not allowed to vote for any office whatsoever. This was indeed, sir, an odious feature; yet it will not do to say that this constitution was anti-republican, for it would be to stultify many of the fathers of the Republic who participated in the formation of the constitution of Virginia, and also in the formation of the Federal Constitution, which contains the guarantee of a republican form of government to the different States.

Now, sir, if the constitution of Virginia at that time was republican, and surely no one will deny it, you cannot say that another constitution would be anti-republican merely because it allowed members of the Legislature to be elected for life. Certainly this latter feature in a constitution, permitting, nevertheless, a universality of suffrage, would not be less republican than a constitution with members of the Legislature elected for a shorter term, but leaving one half of her citizens totally disfranchised and unrepresented. I could mention other cases stronger even than that of Virginia; but I will merely call attention to Rhode Island. Why, sir, though she had for a constitution only an old royal charter, the framers of the Federal Constitution and the fathers of the Republic considered it a republican form of government. No one will have the hardihood to deny this, for it would be to assert that the whole origin and political history of the Government was a living lie. Sir, I need not animadvert upon the odious features of the Rhode Island government; they are well known. A minority governed, and the majority had no representation in the government. And now, sir, if this was, nevertheless, a republican form of government, which none deny, can it be urged, with a shadow of plausibility, that a constitution is not republican, simply because it elects the members of its Legislature for life? But, sir, I can afford to waive this argument—conclusive of the issue, as I think it to be. Yes, sir, I undertake to assert, and to substantiate the position, that the representatives in the Legislature under the Minnesota constitution are not elected for life. I will prove it by a reference to the constitution itself. I read from the twenty-fourth section of the fourth article:

"The Senators shall also be chosen by single districts of convenient contiguous territory, at the same time that the members of the House of Representatives are required to be chosen, and in the same manner, and no representative district shall be divided in the formation of a Senate district. The Senate districts shall be numbered in regular series, and the Senators chosen by the districts designated by odd numbers shall go out of office at the expiration of the first year, and the Senators chosen by the districts designated by even numbers shall go out of office at the expiration of the second year; and thereafter the Senators shall be chosen for the term of two years, except there shall be an entire new election of all the Senators at the election next succeeding each new apportionment provided for in this article."

Now, sir, inasmuch as by this arrangement of the election of Senators, half of them are elected every year, and inasmuch as the same section provides that the Representatives shall be elected at the same time with the Senators, it follows, as a matter of course, that the Representatives are elected annually. I do not think it necessary to elaborate this point any further, but if it is necessary to say anything more upon this proposition, I think I can refer to other sections of the constitution which will settle the matter beyond all controversy, and which I think must be satisfactory to the gentleman himself.

Referring back to the section preceding the one which I read, I find the following:

"Sec. 23. The Legislature shall provide by law for an enumeration of the inhabitants of this State in the year 1865, and every tenth year thereafter. At their first session after

each enumeration so made, and also at their first session after each enumeration made by the authority of the United States, the Legislature shall have the power to prescribe the bounds of congressional, senatorial and representative districts, and to apportion anew the Senators and Representatives among the several districts, according to the provisions of section second of this article."

Then in 1860, the period for taking the next United States census, at the furthest, it becomes the duty of the Legislature of Minnesota to make a different apportionment of the Senators and Representatives of their Legislature, and to make their election accordingly.

But another objection which the honorable gentleman from Ohio urges against the admission of Minnesota under this constitution is, that that constitution allows unnaturalized foreigners to vote, which, he alleges, conflicts with the spirit of the Constitution of the United States, if it does not conflict with the Constitution itself. Now, sir, I am very much astonished that the gentleman should have brought this forward as an objection to the admission of Minnesota into the Union as a State. Will the gentleman from Ohio rise in his place and tell me that the sovereign State of Ohio cannot, if she pleases, permit unnaturalized foreigners to vote for members of her Legislature? I pause for a reply. The gentleman does not reply, and I therefore conclude that he is not anxious to commit himself upon that proposition. I think the gentleman ought to commit himself upon that proposition before he makes that as an objection to the admission of another State.

Mr. SHERMAN, of Ohio. Ohio never did allow unnaturalized foreigners to vote; and never will.

Mr. JENKINS. The gentleman does not answer the question. He says Ohio has not; but he does not say she cannot, if she sees proper, admit whom she pleases to vote. In my own State we do not permit unnaturalized foreigners to vote. No man is more opposed to that than myself. If I had been a citizen of Minnesota, or a member of the convention which framed her constitution, I should have opposed it to the last. I do not believe that any unnaturalized foreigner should be allowed to vote even for a member of the Legislature of the various States; but that is a matter resting with the individual States themselves. If the people of Ohio, or the people of Virginia, choose to permit unnaturalized foreigners to vote, they may do so. If the people of Minnesota choose to allow unnaturalized foreigners to vote, they can do so. And we have no right to urge as an objection against the admission of Minnesota under her present constitution, an argument which we would not apply to our own States.

But the gentleman from Ohio became very humorous in that part of his speech, and compared the admission of Minnesota to a wedding. He says he does not like to see our younger sister playing pranks in this way. He wants to see her wedded to the Union decently and respectfully. All I have to say in regard to that is this: that if the gentleman wanted her to be wedded decently into the Union, he ought to have given her a decent license. I refer to the enabling act for Minnesota, which allows unnaturalized foreigners to vote for members of the constitutional convention. And I find that the honorable gentleman himself voted for that license. Here, then, is the very clerk that issued the license under which Minnesota is to be wedded, who comes up at the eleventh hour and makes use of the imperfection of that license as a reason why she ought to be kept out of the Union.

I hold in my hand the enabling act under which the members of the convention were elected, and I find the name of my honorable friend from Ohio recorded in favor of it. When I interrupted the gentleman in his speech to ask him if he did not vote for it, he could not see the application of the question. I hope he perceives the application of it by this time. Indeed, I think before he completed his speech he began to comprehend its application; for he endeavored to break its force and to account for his inconsistency on that point by saying that it was late in the session, and that the bill was put through under the previous question. In reply to that, sir, I say that whether it was put through under the previous question or any other way, I am astonished that any gentleman holding a seat on this floor as a Representative, would make that excuse for voting for an act enabling the people of a Territory to form a

constitution, and then come up here when the State, acting under that full power, asks to be admitted into the Union, and pleads his own wrong as a reason why she should not be admitted. Sir, if the gentleman had any speech to make against permitting unnaturalized foreigners to vote, he should have made it then. That was the time he should have urged this argument against admitting foreigners to vote. I was not a member of the House at that time, but I see by the record that if the previous question was seconded on that occasion, the Republican party is responsible for it.

Mr. SHERMAN, of Ohio. I know that I, and a good many others assisting me, tried very hard to prevent the previous question until we might amend the bill.

Mr. JENKINS. I have got the vote on ordering the main question; and I find that a large majority of the Republican party was in its favor. Mr. Speaker, that only shows how gentlemen will resort to a subterfuge to accomplish their political purposes. Here is a gentleman who opposes a State coming into the Union—although not a slave State, a Democratic State—with three Democratic Representatives knocking at the door of this Hall; and he resorts not only to every subterfuge, on which he can base the flimsiest arguments to oppose her admission into the Union, but he pleads his own wrong in the case.

I find that the honorable gentleman from Pennsylvania, [Mr. Grow,] a prominent member of the Republican party, moved the previous question on the passage of the Minnesota enabling act, and that a large majority of those who voted for it were members of that party.

Now, Mr. Speaker, the gentleman told us in his speech that he wanted the voice of the people in all State constitutions. Well, if he has not got the voice of the people in favor of the Minnesota constitution, I do not know when he ever will hear the voice of the people. It speaks in tones of thunder with a greater relative majority, I undertake to say, than was ever given in favor of the admission heretofore of any other Territory as a State into the Union.

Sir, the popular voice of Minnesota proclaims thirty thousand for to about five hundred against. If that is not the voice of the people, and a practical expression of it, I do not know where you will find it. There was a great fact staring the gentleman in the face, and how does he try to obviate it? Why, he says there were frauds there. Where are the proofs before this House, of any frauds in this case? The gentleman said in his speech that there were newspaper rumors. Are the newspaper publications of the day to be used here as arguments against the admission of a sovereign State into the Union? If so, sir, a corrupt party, with a corrupt press, may hereafter keep out every Territory applying for admission into the Confederacy. I say, sir, I will hold him and his party responsible for making, this day and on this floor, this charge against the people of Minnesota of having sent here, as their organic law, a constitution which is the work of trickery and fraud.

A final argument which the gentleman adduced against the admission of Minnesota under her constitution, was that the people had recently made an amendment to it, which allowed a loan of \$5,000,000 to some railroad companies; but is that any business of ours? With what propriety can an argument of this sort be brought forward in this way? If they choose to loan five million, or ten million dollars, it is their own money, and not the money of the State of Ohio, or of the State of Virginia. Sir, it is idle and vain to use such pretexts as these to cover up a move upon the political chess-board. It will strike every man of understanding as being absurd and ridiculous in the extreme, to stand up here and talk about opposing the admission of Minnesota into the Union because an amendment to her constitution authorizes the government to loan money to railroad companies.

Mr. Speaker, as I said when I first rose, I had not the slightest idea of addressing the House upon this question. The remarks which I have made have been strictly in answer to the arguments brought forward by the honorable member from Ohio, [Mr. SHERMAN,] and I have made them only because I thought those arguments were of such an extraordinary nature that they should not be passed by unnoticed upon this floor.

I have only to say, sir, in conclusion, without

stopping to canvass the merits of the various amendments offered to this bill, that I am in favor of the admission of Minnesota into this Union. I believe that no reasonable argument can be brought forward against that admission. No hue-and-cry can be raised against her on account of irregularity or turbulence in her proceedings. She comes here with a constitution formed by a legally-elected convention, fairly and legitimately elected by the people, and with the voice of the people potential in its favor. The cry cannot be raised that there have been blood and fraud and murder in the Territory, and that the true will of the people has been suppressed. Minnesota comes here with no stain of blood upon her garments; she comes attended by the handmaids of peace and plenty. I trust, sir, that this House will pass, by a large majority, an act admitting her as a State into this Union. I trust that that majority will be so large that it will stifle the expressions which have gone forth from some gentlemen upon this floor of the Republican party, who have sought to insult and degrade the people of Minnesota by charging frauds upon them in their recent election. I trust that the act of admitting her will be consummated at once, thereby bringing another star within our political system, the grandeur of whose structure, the beauty of whose proportions, and the harmony of whose movements, will be the admiration of succeeding ages.

Mr. GARNETT obtained the floor.

Mr. STEPHENS, of Georgia. Will the gentleman yield to me for one moment?

Mr. GARNETT. I will.

Mr. STEPHENS, of Georgia. I move to refer the bill to the Committee on Territories. I make the motion merely to keep the bill before the House. I see that we are not likely to have a vote upon it to-day, and I do not wish it to go to the Speaker's table.

Mr. GARNETT. Mr. Speaker, I am rather pleased at the course which this debate has taken, because I hope it exonerates me in the eyes of everybody from any charge of a desire to defeat the admission of a free State because it is a free State, in the remarks which I shall make upon this bill. I suppose, sir, that when a gentleman so noted as a leader in the Republican camp as the honorable member from Ohio, [Mr. SHERMAN,] takes ground against the admission of Minnesota, it cannot be contended on any side that the opposition to this bill, or rather the opposition to certain features in the bill, arises from a desire to defeat the admission of a free State. I am glad that the sectional question is entirely removed from the discussion, and that we can address ourselves to the questions that legitimately arise out of the circumstances under which Minnesota seeks admission into the Union.

I say more, sir; I say that I hope that none will inquire what party is to be benefited by the admission of Minnesota. I confess that some of the remarks which the gentleman from Ohio made, seemed to me to indicate a disposition on his part to vote against the admission of Minnesota not merely for the reasons which he assigned, but also because it so happens that the Senators and members elect are Democratic, and I almost feared that my own colleague and valued friend [Mr. JENKINS] had allowed this fact to sway his judgment in favor of the admission of Minnesota.

Mr. SHERMAN, of Ohio. I understand the gentleman to repeat what his colleague [Mr. JENKINS] said a while ago, that my position in reference to this bill was in consequence of the election of Democratic Senators and Representatives. Now, sir, if I consulted my own feelings and interests, probably I should vote for the admission of Minnesota; but I am actuated by no such motive. I simply desired to call the attention of Congress to the necessity of requiring of each Territory regularity and conformity to law in forming their State constitution. I disclaim any other motive.

Mr. GARNETT. I am glad to hear the gentleman's disclaimer. I was about to say that the admission of a sovereign State into the Confederacy is too important a question, not merely in itself, but in the consequences which it carries as a precedent, for any man to permit his judgment to be governed by party considerations. For my own part, I care not one iota, in the vote which I shall give on this occasion, whether the Senators and Representatives elect belong to the one party

or to the other. I shall not permit myself to inquire into it, nor allow my judgment to be in the least degree whatever swayed by that fact. The people of Minnesota are entitled to such Representatives as they choose to elect; they are entitled to belong to whichever party they prefer; and their choice shall not influence my vote.

Mr. Speaker, I desire to say, in the first place, that I voted against the enabling act of last session for Minnesota, and, amongst other reasons, because that enabling act contained a clause permitting alien suffrage; for while I have never belonged to the American party, while, in all my political action, I have steadily and earnestly opposed that party, yet I do entirely disapprove, in common with ninety-nine out of one hundred of the voters of the State which I have the honor in part to represent, permitting unnaturalized foreigners to vote in our Territories.

Sir, I had another objection to that enabling act. There was a solemn stipulation, when my State surrendered the vast empire of the Northwest, between the Federal Union on the one part, and the States on the other, that not more than five States should be formed out of that territory. It was a stipulation which was of the utmost importance, because the other sections of the Confederacy did not consider that their interests would allow more than ten votes in the Senate of the United States to the northwest territory then ceded.

Sir, that stipulation has been violated. You have five States formed out of that territory already, and twenty-odd thousand square miles go to the formation of this State of Minnesota. Gentlemen on the other side of the House talk about a breach of faith in the repeal of the Missouri restriction—a breach of faith which was simply the repeal by one Congress of what they believed to be the unconstitutional legislation of a preceding one. But here, sir, was a compact entered into contemporaneously with the Constitution of the United States. That compact was deliberately violated in the formation of the Territory of Minnesota, as was boasted in debate here at the time. But, does it stop even here? We learn now from the newspapers that there is to be a proposition for the formation of another State out of portions of Wisconsin and Michigan, with the outlandish name of *Ontonagon*, or something like it.

Mr. WASHBURN, of Illinois. It is pronounced *Ontonagan*.

Mr. GARNETT. Well, it is a fit name for a State which, in all probability, will be inhabited by scarcely anybody that can speak the English language—the outpourings of every foreign hive that cannot support its own citizens.

But, sir, if I consent to waive all these objections, then I ask how does Minnesota apply here for admission into the Union? An enabling act was passed. Has she complied with that enabling act? Is there any valid constitution of Minnesota before us? I take it that a constitution must be the act of the people, done either under the sanction and authority of Congress, or without that previous sanction, in the way of peaceful revolution, as in the case of Oregon and others. If the former, then, acting under an enabling act, the terms of the law must be followed—the provisions of the deed of trust must be strictly pursued. If the latter, it must be with the assent and under the laws of the existing territorial government—the *de facto* government—the only political organization existing there besides the Federal Government.

But how was it in Minnesota? Your Federal law of last session authorized a convention of seventy-eight members. But the Territorial Legislature intervened, and called a convention of one hundred and eight members; so that the very first act of the existing government there was to violate the enabling act. You authorized a convention with one number of members—they called a convention with another number. And even this territorial law of their own commanded no more respect than did our law, and they elected, neither seventy-eight members, as we required, nor one hundred and eight, as their Legislature prescribed, but one hundred and thirteen, thus showing, at every step, that they lacked the very first characteristic of a capacity for self-government—a reverence for law, and a will to abide by it.

Things were still worse when these one hundred and thirteen delegates attempted to meet in

convention. They could not agree even to organize or sit in the same hall; but they formed themselves into two separate and distinct conventions, if I may dignify such assemblies by that term, in separate rooms, one composed of fifty-five; and the other of fifty-eight members.

Mr. TRIPPE. I just want to make a suggestion to the gentleman from Virginia. I desire to call his attention to another fact in reference to the number of members of these conventions. The report of the Senate recites, as the gentleman has stated, that there were fifty-eight members in one convention, and fifty-five in the other. But fifty-two of the latter signed the constitution. The Delegate from that Territory certifies that three were absent. In the other convention we are informed officially by the Senate committee that there were fifty-eight members; but, if you will count the names, you will find that fifty-nine signed the constitution.

Mr. GARNETT. I took it for granted that the statement of the Senate committee was correct; but, sir, it seems that this whole proceeding is as irregular as it is possible to make it, and that the Senate Committee on Territories were unable to count what the people of Minnesota were unable to do. I say, therefore, that this constitution was not the act of the people of Minnesota, for it was not the act of their conventions. There was no convention. Who ever heard of two constitutional conventions sitting at the same time, and representing different factions or sections of the people? This instrument, agreed on by committees of conference, and adopted without deliberation or discussion, was not the work of a convention. Deliberation in common is as essential as voting in common. The discussion of propositions and amendments, and the gradual elimination of differences, are the only intelligent basis for final consent; and lawgivers have no right to act unless they are assembled together according to law. Their powers belong to them collectively, as one body, and not individually. And this pretended constitution derives no more force from the signatures of the members individually, than if each man had signed at his own home, and had never seen his fellow-members. The convention, and the convention alone—that is, the people of Minnesota acting through their representatives, according to law—could form a constitution; and no convention ever met or organized. There is, therefore, no constitution.

But I am told by the Delegate from Minnesota, and by other gentlemen, that this instrument was ratified by a popular vote. Well, sir, I thought the argument on our side of the House had been that a mere popular vote could not give validity to that which was invalid before; that the mere vote of a numerical majority, however large that majority might be, could not make that law which was not law according to the recognized legal forms. I thought that was the doctrine of this side at least, if not of the other. Yet the gentleman tells me that the mere popular vote makes the law! Who had the authority to submit it to the people? The convention itself? There was no convention held. And I maintain that the mere vote of the people of Minnesota upon that which was not a constitution in itself, which had not been formed by a lawful convention, was of no sort of force or effect. For, sir, ours is not a *mobocracy*; it is not a government of mere numbers, or of unorganized masses; but it is a *representative* democracy. The voters at the polls may elect their representatives, and they may ratify what their representatives have done; but it is only through those representatives in convention, or according to law, assembled, that they can make or propose a constitution. And to permit this high prerogative of sovereignty to be exercised by mere individuals, as in Minnesota, is in direct violation of every rational principle of free popular government.

Now, sir, when Minnesota comes forward under such circumstances as these, and I am asked to overlook all these irregularities and objections; to acquiesce in a violation of the compact of 1787, and to accept that as a constitution which is no constitution at all, and that as the act of the people, which has no legal authentication, then I may venture to open that constitution and to inquire which of its provisions peculiarly commend themselves to my favor. I maintain that Congress has no power to regulate suffrage within the States; but where there is no enabling act, or where its

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, MAY 6, 1858.

NEW SERIES....No. 123.

provisions have been utterly set at nought and disregarded, I may, in the exercise of a sound constitutional discretion, deliberate upon the admission, just as I might do on the original passage of an enabling act, and I may inquire whether such people as the Mormons, for instance, or a community where negroes vote, are pleasant and desirable partners and associates, on an equal footing, in this Union of ours?

Well, then, sir, looking into this remarkable Minnesota document, I find it declared that not only aliens may vote, but absolutely Indians and persons of mixed blood! provided they have adopted the customs and habits of civilization, or are capable of enjoying the rights of citizenship. I venture to say that such a provision was never before seen, except in Nicaragua, or some such pretended Republic of South American barbarians.

I call the attention of the House specially to the classes which are permitted to vote:

- "1. White citizens of the United States.
- "2. White persons of foreign birth, who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization.
- "3. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization."

Who is to be the judge?

The next class is:

- "4. Persons of Indian blood residing in the State, who have adopted the language, customs, and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State."

What is the test of their capacity of enjoying the rights of citizenship? Who is to be the judge whether these mixed bloods have adopted the customs and habits of citizens? and what shall be the standard? Who are to be the jury?

Mr. JENKINS. Will my colleague yield to me for a moment?

Mr. GARNETT. I will hear my colleague.

Mr. JENKINS. I understood the gentleman to say that nobody outside of Nicaragua would have made such a constitution as that. Now, unless I am very much mistaken, some of the original States adopted provisions which would have permitted these men to vote; and at the time of the adoption of the Federal Constitution, some of the States went further, and allowed every male inhabitant to vote, with a property qualification, which would not only have admitted mixed bloods, but even free negroes. And provisions of that kind were found in the constitutions of some of the southern States.

Mr. GARNETT. Admitting the facts stated by my colleague to be correct, I do not see that they affect the statement I made. In the instances he adduces, there was at least a certainty; the classes of voters were defined. But here the barbarism of the provisions themselves are mingled with a vague reference to the customs of civilization. Such a statute of suffrage is not one of the "customs and habits" of civilized communities, nor do I think it peculiarly good proof that its makers are themselves eminently capable of "enjoying the rights of citizenship." The vagueness and uncertainty of such words, on such a subject, are without precedent. When the judges of election or the courts have inquired who were the father and the mother and the ancestors of the person who claims to vote, and settled his genealogy and blood, I would like to know how they will try his civilization—by what standard of habits and customs they will measure it.

Mr. BLAIR. If the gentleman will allow me, I will state how that occurred.

Mr. GARNETT. I yield for that purpose.

Mr. BLAIR. At one of the precincts one pair of breeches was obtained, and thirty-five Indians were successively put into it, and in that way it was ascertained that he had adopted the habits of civilized life. [Laughter.]

Mr. GARNETT. Very much like the Irishman in Mobile. It was a question whether he was naturalized. He was asked how many years

he had been here. It was said that he had been here for five years. "And faith," said he, "and have I not been voting for the Democratic party ever since I came?" [Laughter.] I do not know what was the decision of the court, any more than I do what it was in the case referred to by the gentleman from Missouri, [Mr. BLAIR.]

Allow me to suppose my colleague himself acting as a judge of election in Minnesota; and a dusky colored individual comes before him, and claims to vote. First the question of blood must be investigated, and various doubtful questions of paternity must be settled. And when the pure Indian or the mixed blood is proved, my colleague will ask, "have you adopted the habits and customs of civilization; are you capable of enjoying the rights of citizenship?" I must be permitted to doubt who will find it most difficult—the Indian to answer such questions, or the judge, even were he my colleague, to tell what he meant by them. Perhaps he would escape the difficulty by referring it to a jury; and then I suppose it must be a jury *de medietate linguæ*, gathered from the foreign tribes who compose so large a part of Minnesota's population. There might be one fourth of the jury German, one fourth Norwegian, one fourth Irish, and one fourth of Indian and mixed blood; and the only man in court speaking English would be the honorable judge. What a tribunal to try questions of civilization and capacity of citizenship with the Indians and half-breeds! These are the people who seriously come here and ask admission at our hands.

Mr. JENKINS. I would ask my colleague whether these matters would not be proper when the question was up for the passage of an enabling act? Are we not pledged by the law which we have passed for Minnesota, to admit her into the Union when she presents herself here under it? Are we not bound by a moral obligation in the matter?

Mr. GARNETT. I will answer my friend with pleasure. I am glad that he has asked me the question. There is one of the many enormities of the rules of this House by which a constituency, through its Representative, has no power of initiating anything, and by which a tyrannical majority may prevent anything being fairly discussed and considered, after it is initiated. The Minnesota enabling act was hurried through under the whip and spur of the previous question. There was no opportunity to amend or discuss it. I voted against it.

But take my colleague's argument. If I have shown anything, I have shown that Minnesota has not complied with the enabling act. She has not followed her own territorial law; and yet, sir, she now claims admission on the faith of those laws. Under the circumstances, I say that her application is to be considered *de novo*; and that I have a right to look into the facts, as I would on the enabling act itself.

But I was speaking of the character of this population; and I alluded to them without the slightest disrespect to the honorable gentleman who represents them here.

I will now ask the attention of the House to their mode of proceeding under this so-called constitution. It requires all laws passed by the Legislature to be signed by the Governor of the State. But it is as contemptuously treated by these people as was our enabling act; for, as I am reliably informed, a Legislature has been elected and assembled, and its acts were signed, not by their own Governor, but by a United States officer, by the territorial Secretary of State, who acts as Federal Governor *pro tempore*. Their government is thus neither fish, flesh, nor fowl; but a strange mongrel, half State and half territorial; I suppose like some of its voters, of mixed blood.

And to illustrate still further their utter contempt for law and constitution, and entire disregard for the great conservative principles of republican government, they have, in another particular, violated what they tell us is their constitution. It forbids the creation of a public debt. It was made only last fall; but already the Legisla-

ture has authorized a debt of \$5,000,000; openly avows that the law violates the constitution it swears to observe; and then, to cap the climax, appeals to a popular vote to ratify the violation. And I presume if the popular vote made the constitution without a convention, so it can violate it; and it is a grave question whether that violation, so effected, has not changed the constitution; and whether Minnesota can be admitted with this instrument here before us as its constitution, when it seems she is already acting under another—under another different in its legislative power, and with quite a novel kind of State Governor, appointed by the President? Are such men, and is such a community as this, entitled to any special consideration from us? Ought we to be in hot haste, and should we strain points to get them into the Union? Here there is no fierce sectional war to be quieted; no great principle of State or sectional equality to be vindicated; there is nothing but the merits of the case to determine our judgments.

I come now immediately to my amendment. The Senate bill gives Minnesota two Representatives. The gentleman from Georgia [Mr. STREPHENS] proposes to give her three. I propose that she shall have but one. My reasons may be briefly stated.

Those members have been elected. Pass the Senate bill, and how are we to decide which two of the three are the preference of the people of Minnesota?

Mr. WASHBURN, of Illinois. That matter has been settled by the members themselves. One has drawn out by lot, and only two will present themselves here.

Mr. GARNETT. That is of a part with the rest. The members undertake to say which the people would prefer. I do not think anything could be in more utter contempt of the right of the people to choose their own Representatives. Adopt the Senate bill to-morrow, and the election will have to go back to the people. Who is to represent Minnesota, whether Democrats or Republicans, must be decided hereafter by the people; so that the party character of the present members elect ought not to influence any man's decision, if the Senate bill passes unchanged.

But is Minnesota entitled to three members? The Delegate from that Territory says that by a late census it is ascertained that her population is one hundred and fifty thousand, leaving out Indians and mixed bloods. Agreed; but by the representative ratio it takes two hundred and eighty thousand to give three members. With what justice can Minnesota ask for three Representatives with only one hundred and fifty thousand, when the other States have only three for two hundred and eighty thousand, and, that too, by a census taken eight years ago? The one hundred and fifty thousand inhabitants are but little more than half the number required for three Representatives. The number required for two Representatives is one hundred and eighty-seven thousand, and one hundred and fifty thousand falls very far short of that also. And here let me say that few States are not entitled to Representatives for fractions, for they already have a great advantage in the fact that you are giving them representation according to a ratio determined from the population of the United States, not as it is now when theirs is computed, but as it was several years before. In this case you are comparing the population of Minnesota in 1858 with the old States; not in 1858, but in 1850.

Sir, let us look at this, and see how it works: Here is the State of Texas with four hundred and fifty thousand Federal population, as I am informed by one of her Representatives. She has two members upon this floor, while Minnesota, with a population of only one hundred and fifty thousand at the very same date, demands three Representatives. Again, look forward to the presidential election of 1860, and how will it be then? Texas, with a population of four hundred and fifty thousand, will have but four votes in the electoral college. You propose to give Minnesota in the same election, with a population of one hundred and fifty

thousand, exactly one third that of Texas, the same number, or even more, five votes—one more than Texas.

Mr. WASHBURN, of Illinois. Republican votes, too.

Mr. GARNETT. I have very little doubt of it; I fear she will follow the Republican States around her, and be carried into the same current of madness; and were this a fair consideration to guide us, I would beg my friends upon this side of the House not to pursue a course so perfectly suicidal.

But, sir, as I said before, I am not considering that. I consider only the question of justice. Three Representatives for one hundred and fifty thousand inhabitants give one to every fifty thousand; and two Representatives give one to every seventy-five thousand. I ask gentlemen upon the other side of the House to divide the population of the United States by the number of Representatives upon this floor, and they will find that the ratio is probably about one to one hundred and thirty thousand or one hundred and forty thousand. Why should fifty thousand men in Minnesota exercise as much power here as one hundred and forty thousand men in New York, Ohio, or any other State? The district of my colleague [Mr. JENKINS] and my own contain a population over two hundred thousand, and their vote is to be balanced, or even overpowered and controlled on this floor by only one hundred and fifty thousand men in Minnesota. Why should we Virginians—men whose forefathers, generation after generation, spent their blood and their treasure, and have exercised every power of their minds, for the growth of this Confederacy—be placed in a condition of inequality, and be outvoted and controlled by the host of Europeans and the tribes of Indians and mixed bloods who are so numerous in Minnesota? It is neither equal nor honorable to us; not honorable to the State of Virginia; not honorable to the State of New York, Ohio, or any other State of this Union.

Mr. JENKINS. I understood the gentleman to say that my district had a population of two hundred thousand.

Mr. GARNETT. No, sir; but that your district and mine had together over two hundred thousand, and that we have but two Representatives upon this floor; while the gentleman from Georgia proposes to give Minnesota, with a population of one hundred and fifty thousand, three votes, and the Senate bill two votes.

Mr. JENKINS. Why not take the statement of the gentleman from Minnesota [Mr. KINGSBURY] as to the amount of population?

Mr. GARNETT. Throughout all this Kansas controversy, whose echoes are scarcely yet silent in this Hall, it was contended that the LeCompton constitution was the act of the people of Kansas, because we, as legislators, could know nothing except through the forms of law. Sir, I have no knowledge of the population of Minnesota, and I can have none for legislative purposes, except through a census conducted according to law.

If I should take the conjectures of the honorable gentleman from Minnesota, and of other honorable gentlemen, where should I stop? One gentleman might tell me that Minnesota has a million inhabitants. It is conjecture only. I might say that my conjecture is that they have only ten thousand. Will gentlemen take that conjecture? One is entitled to as much weight as the other. We stand upon the law, and upon the forms of law, and upon information furnished us by legal proceedings, and we cannot go behind it. I have no reason to doubt that the census was substantially correct. I have heard a great deal about the incorrectness of censuses. I heard that, in the last census, the population of the city of Richmond was greatly underrated, and a delegation was sent to Washington to induce the Secretary of the Interior to have another census taken. It was done; and it turned out that the first census was only a few hundred short of the last one. In a vast Territory like Minnesota, where the population is scattered, no one individual can have the proper data for forming a correct judgment. In such cases, when we find that our conjectures as to the amount of population are disappointed, our first impulse is to question the correctness of the census.

Will my colleague expect me to take such a

declaration as this of the Delegate from Minnesota, [Mr. KINGSBURY:]

"In order to accomplish this result, [the taking of a census,] the marshal has from time to time inclosed such returns, as he finds properly made out, to the Secretary of the Interior. And I find that within the last few days a final report has been forwarded embracing nearly all the State, together with a clear and succinct statement of the difficulties attendant upon the taking of this census, giving something over one hundred and fifty thousand people—exclusive of mixed bloods and Indians who have adopted the habits and customs of civilization—in the limits of the proposed State."

He goes on to say:—

"With these few facts to predicate an opinion upon, my own convictions are, that the State possesses sufficient population, in addition to what has been returned, to more than entitle us to two members—if, indeed, we have not enough to warrant the admission of three, in view of the heavy accessions, by emigration, constantly pouring in through the various channels leading toward our State, since the taking of the census began."

It is such vague assertions as these that my colleague and the Committee on Territories propose to take, instead of the facts returned by the census taken under the law.

Mr. SMITH, of Virginia. It is not the recommendation of the Committee on Territories.

Mr. GARNETT. I am glad to hear it. I should have said, proposed by the chairman of that committee. The gentleman from Minnesota goes on to argue that, because there were thirty thousand voters, therefore there must be a great population.

Mr. WASHBURN, of Illinois. I take very considerable interest in this matter, and I desire to get at the facts. An estimate of the population has been made from the number of votes cast in the Territory. There has recently been an election held in that Territory; and, if we are to take that as a basis, I would like to ask the Delegate from Minnesota how many votes were cast in the recent election upon the adoption of the proposed amendment to the constitution?

Mr. KINGSBURY. I am not able to inform the gentleman.

Mr. WASHBURN, of Illinois. Last year there were some twenty thousand. In the city of St. Paul there were some four thousand two hundred votes cast. Perhaps some gentleman can tell me the amount of population in that city. In Winona there were some one thousand one hundred and eighty-one votes cast. Perhaps the gentleman from Minnesota can tell the population of Winona?

Mr. KINGSBURY. I do not know much about Winona, or its population; but the population of St. Paul is about sixteen thousand.

Mr. GARNETT. Here is the actual census of the Territory showing the population to be one hundred and thirty-three thousand eight hundred and sixty-nine; but since this report, I am told that other returns have come in and carried the number up to one hundred and fifty thousand three hundred and sixty, the utmost amount that can be figured up for that population by the official returns.

According to the facts, in the city of St. Paul, as brought out by the gentleman from Illinois, the proportion of the population to the voters is not quite four to one. I believe the gentleman from Georgia estimates the usual proportion elsewhere as six to one. Therefore, if the voters were only twenty thousand, as I understand they were in the State elections, the population will be estimated at between eighty thousand and one hundred and twenty thousand, either number being under what I have assumed in my argument from the census returns. If the voters are thirty thousand, then the whole population would be between one hundred and twenty thousand and one hundred and eighty thousand.

Mr. KINGSBURY. The highest estimate of voters is forty thousand.

Mr. GARNETT. The official returns in the Senate report show thirty thousand and fifty-five in favor of the constitution, and five hundred and seventy-one against it.

Mr. KINGSBURY. There were thirty-seven thousand and seventy-one votes counted for members of Congress.

Mr. GARNETT. It really seems that we are in the land of contradictions when we come to Minnesota. We have so many different statements as to the vote, that it appears these Minnesota voters were more like Falstaff's men in buckram than any other army whose muster-rolls are in history.

Mr. KINGSBURY. The counties that I represent were not counted on the vote for the constitution.

Mr. GARNETT. Yes, Mr. Speaker, and the emigrants who arrived in the country since the vote was taken did not get there in time to be counted; and yet we have heard arguments in the other wing of the Capitol, that such emigrants ought to be counted in the estimate of the population. In any new State, especially where there are foreign emigrants, you will find that the adult male population does not bear the usual proportion to the whole population, because the emigration consists of adult males in much larger proportion than a long-settled population shows; and the consequence is, that four or five to one is a high proportion. If you take five to one, and assume thirty thousand, the number of votes cast on the constitution, as the basis, then the whole population will be one hundred and fifty thousand, exactly what the census shows; one result confirming the other. Even the largest calculation of six to one upon thirty-seven thousand votes will give a population of only two hundred and twenty-two thousand, while it takes two hundred and eighty thousand to entitle a State to the three Representatives. So that according to no showing whatever—even the most extravagant and loosest—can it be pretended that Minnesota is entitled to three Representatives on this floor, unless there be something in her constitution, or the character of her population, to entitle her to greater control in the politics of the country than the citizens of Virginia, of Connecticut, of New York, or of South Carolina.

Mr. CURTIS. The ratio of the population in the State of Iowa, where I think the population is of the same character as Minnesota, is about one to six. We have over six hundred thousand inhabitants; and we never cast more than one hundred thousand votes, so that the population would be about six to one. I think that is about the average.

Mr. GARNETT. Iowa is an older State, and has been longer settled, and is not a fair test of the population of a new Territory which has settled with great rapidity; but even if that proportion held good in Minnesota, I have just shown that even then she is not entitled to the number of Representatives proposed, and I hold that, as regards new States, we ought to confine ourselves strictly to the ratio.

The gentleman from Minnesota says in his argument that Minnesota has four thousand votes more than Iowa cast when she had two members, and seven thousand more than Arkansas when she had two members. Let me tell the gentleman that Iowa and Arkansas were both admitted originally with only one member each, the number which I propose by my amendment to give to Minnesota.

The gentleman says that Congress should admit Minnesota because she has complied with her contract. I answer that she has not complied with her contract. She has not followed the enabling act. She has not followed her own territorial interpretation of that enabling act; but she comes to us in contempt of all law and order. I do not admit that where a Territory forms a government without an enabling act, or without complying with the enabling act, and where Congress does not recognize the application, that she is a State out of the Union. If we reject the application of Minnesota, she remains exactly what she was before, a Territory of the United States, subject to the legislative authority of Congress, to be exercised in pursuance of the terms, trusts, and limitations of the Constitution of United States. In the name of my State, in the name of the good old district I represent, the first spot where Anglo-Saxon footsteps ever trod on American soil—the last spot consecrated by the crowning victory of the Revolution—the birth-place of its hero and leader—the ancient town and capital whence Virginia sent forth her laws and colonists to conquer and to occupy this very northwestern country; I say, sir, in the name of that old district, illustrious with so many glories, I protest against the people of Minnesota, whether native, foreign, Indian, or mixed, being allowed twice the power and influence that are given to my people in this Government. I hope you will adopt my amendment or reject the bill.

Mr. GROW. I have but a word to say on this

question; and before proceeding to the main subject, I desire to notice a few objections to this application of the people of Minnesota made by the gentleman from Virginia who has just taken his seat, [Mr. GARNETT.] He said that Virginia ceded the Northwest Territory with the condition that but five States were to be carved out of it. That is true; and but five States have been made; and where, then, is the violation of the agreement? A small portion of the territory included in Minnesota was included in the grant from Virginia; but that is no violation of the agreement, for the reason that Minnesota contains an area of ninety thousand square miles, being larger in area than any State in the Union—one third larger than the State of Virginia. How is it a violation of the stipulation in the grant of Virginia that a small strip of territory not included in the five States is added to other territory large enough of itself to make a great State? But if it were, the complaint comes with a bad grace from that side of the House. Your fathers and our fathers made a compact in 1820, by which the Louisiana purchase, west of the then limits of Missouri and north of 36° 30' was dedicated forever to freedom; but afterwards you took the Platte counties, now the seven western counties of Missouri, the richest and noblest portion of that State, from under the operation of that ordinance, and dedicated it to slavery. Your fathers did that, and you have justified the act.

Mr. CRAWFORD. I desire to ask the gentleman whether he did not help, by his vote for the Crittenden-Montgomery amendment, to dedicate that country to slavery, provided the people should so vote?

Mr. GROW. What country?

Mr. CRAWFORD. The country north of 36° 30' included in the Territory of Kansas.

Mr. GROW. I will answer that question.

The SPEAKER. The Chair is of opinion that the Kansas controversy is for the present ended, [laughter;] and that this debate is not, therefore, relevant.

Mr. GROW. That is rather a hard ruling, for it deprives me of an opportunity of answering the question; but I submit to the decision of the Chair.

Mr. CRAWFORD. I hope the Speaker had no allusion to me; for I did not bring the subject up.

Mr. GROW. I have answered the objection made by the gentleman from Virginia, that we have not kept faith with the agreement made with his fathers. I shall have some other opportunity to answer the question of the gentleman from Georgia, for, although you say Kansas is dead, and banished from this Hall, it will come back to haunt you, as did the ghost the murderer in the play. It will be here again ere long; and then it will be in order to answer the gentleman's question.

I proceed now to answer another objection raised by the gentleman from Virginia, [Mr. GARNETT.] He says he is opposed to the Minnesota constitution, because it allows men of mixed blood to vote in the elections in the State. The gentleman from Virginia voted the other day to permit Indians in the Territory of Kansas, who had adopted the habits of white men, to vote. The laws existing in Kansas in October last in reference to the qualifications of voters, which were adopted as establishing the qualifications of voters under what is called the English amendment, and for which the gentleman from Virginia voted, allow Indians, who have adopted the habits of white men, to vote. It comes, therefore, with a bad grace from the gentleman from Virginia to object now to a similar provision in the Minnesota constitution.

Mr. TRIPPE. Does not that relate to Indians who have been made citizens by treaty?

Mr. GROW. No, sir; the law is unlimited and unrestricted. Any Indian who has adopted the habits of the white man, may vote in the Territory of Kansas, under the laws which existed in October last, and which the gentleman voted to fix as the qualification of voters under the English bill. For two years the people of Kansas called upon you to relieve them from the wrongs and outrages heaped upon them by imported voters and suborned Indians, who voted them down at the ballot-box; but you turned a deaf ear to all their appeals; and it comes now with a bad grace from gentlemen upon the other side, when the

people of Minnesota have formed a constitution and fixed the qualifications of voters to please themselves, to object to this feature in that instrument. Whilst the Territory is in a territorial condition, Congress has control over the qualifications of voters; and it is its duty to correct and prevent abuses of the elective franchise therein; but, when the people form a State, they have a right to fix the qualifications of voters within the limits of that State, and to allow those to vote whom they please. In our case, we made appeals in behalf of right and justice, where we had the power to act; in your case, you propose to trample down State rights to correct an abuse you complain of.

Mr. Speaker, my notions of territorial governments are, that, at the earliest practicable period at which the people of a Territory can change their political relations and take upon themselves a government of their own, without imposing upon themselves grievous burdens, it is the duty of this Government to grant them a State organization. That was the position I occupied two years ago, in defense of the people of Kansas in changing their government. They asked us to give them a State government; why? Because the grievances of the territorial organization were too great to be borne. The Republicans of the House were ready to grant their request, and allow them to take the government upon themselves and manage their own affairs in their own way. In 1849 the Territory of Minnesota was organized. After nine years she presents herself before the country as a State, unrivaled in the rapidity of her growth and the enterprise of her citizens, with all the internal resources of a great empire, with ninety thousand square miles of territory, and with a population, according to the different estimates of different persons, of from one hundred and fifty to two hundred and fifty thousand. Within this short period has this State sprung up in the wilderness upon the fountains of the "Father of Waters," and presents herself to-day, with this vast population and these great resources, and seeks admission into the Confederacy.

Now, what is the objection? She has population enough, so that no grievous burdens will be imposed upon her people in assuming the duties and responsibilities and the taxation incident to a State organization, and that is the only consideration that would ever weigh with me in determining the time when a Territory should change its condition. Whenever its population is numerous enough, and possesses wealth and resources sufficient to support a government without imposing excessive burdens upon its people, they are then entitled, by all the maxims of our system of government, and the teachings of our fathers, to govern themselves. This idea of requiring an abstract number of population in a Territory as a condition of admission, is an absurdity, in view of the rights of self-government which belong to freemen. Whilst the Territories remain in a territorial condition they must be under the supervision of Congress; otherwise you abandon your control over your Territories. Congress must have supervision over the acts of their territorial government, and the manner in which their policy shall be administered. When the time comes, however, for a change into States, they throw off their subjection to the central power.

I do not agree with my friend from Ohio, [Mr. SHERMAN,] with whom I agree upon most subjects, that much weight ought to be attached to the preliminary steps in forming a constitution. I care not whether there be one or a thousand delegates engaged in forming a State constitution for a people, and sending it here for our approval. It is in the nature of a petition to you, asking you to grant their prayer. When there has been a popular vote on the constitution it embodies the people's will; and I care not who form it, or by what forms it was made. If it embodies the will of the people it has my sanction, unless there are provisions in it in violation of the Constitution of the United States, or repugnant to the spirit and genius of our institutions. The will of the people embodied in their constitution is the supreme law; and when we are satisfied that the constitution does embody their will, what matters it whether it was formed by men elected in accordance with law, or by men elected against law? What matters it whether it was formed by one man, or by a thousand? If the people have ratified it at the ballot-box, and put the seal of their approval upon

it, if you have got their will fairly embodied, that is sufficient.

In the case of Minnesota, her people have thus passed upon her constitution. I agree, however, with the gentleman from Ohio, that the proceedings of the two conventions were entirely irregular. I was in Minnesota at their organization; and I think that the delegates who found themselves in a minority behaved as badly as freemen who ought to respect the rights of their fellow-men could behave, in bolting from the regular convention, and creating all the confusion and disturbance of a double-headed convention. The proceedings were certainly irregular, so far as legal forms are concerned; and if I agreed with gentlemen upon the other side, who hold that they can know nothing of the proceedings of the people of this Government, in any of its branches, except that which comes to them in the forms of law, I would resist the admission of Minnesota until she had complied with her enabling act. But I care nothing about that. Minnesota, by her popular voice, has fixed her organic law at the ballot-box.

Now, there are some provisions in this constitution which raise doubts in my mind whether Congress should admit the State. It fixes no limit to the term of existence of the present Legislature. The question arises in my mind, whether that government can be republican in which no limit is fixed to the term of service of its rulers. What are these life-institutions? If the government be republican which allows life-officers in all of its departments, cannot they adopt, like Louis Napoleon, the plan of having one election, and have the people say by that election that one person, and his posterity, shall be rulers for all time?

I have a single remark to make in answer to the gentleman from Virginia, [Mr. JENKINS,] and then I will leave this question. He said that it was a little singular that a Topekaite should oppose the admission of Minnesota because of irregularity in their proceedings, when we advocated Topeka, which was a rebellion. The gentleman's remark only shows his ignorance of the history of the two cases. The Topekaites, as the gentleman calls them, from the first to the present time, never proposed to supplant the territorial government without the approval of Congress. Such an intention is not in the record. I summon to the stand Governor Wilson Shannon, one of your own appointees, to prove that that was not their design. The free-State men of Kansas never, from the day the Territory was organized to this hour, proposed to subvert the territorial organization established by Congress, without the approval of Congress. Minnesota has already subverted your territorial organization, and her State Legislature are now making laws for that people—not under an act of Congress, but under the constitution which she sends here. Where is the President, with his Federal Army, to send to Minnesota to disperse that State Legislature, as he sent it to Kansas and dispersed her peaceable citizens, assembled to petition Congress for a redress of grievances?

I read from a dispatch from Wilson Shannon to William L. Marcy, Secretary of State, dated April 11, 1856. He says that that body, referring to the Topeka Legislature—

"met on the 4th of March last, and adjourned to meet again in July next, after a session of about ten days. The legislative action of this body was mainly prospective in its character, and looks forward to the admission of Kansas into the Union as a State, or to future legislation before their enactments are to be enforced as law."

That, sir, was the character of the free-State Legislature in Kansas. They were resisting a despotic and cruel usurpation of all their legislative powers. They organized and petitioned you to relieve them from the grievances under which they suffered.

Mr. SMITH, of Virginia. I rise to a question of order. The gentleman is discussing Kansas affairs, when the bill is for the admission of Minnesota.

The SPEAKER. The gentleman has only referred to Kansas incidentally.

Mr. GROW. I am only replying to the gentleman from Virginia, [Mr. JENKINS,] and showing that there is no inconsistency of action where he imagines an inconsistency to exist. The free-State men in Kansas did not, and never intend to, supplant the territorial organization without the consent of Congress. They have never resisted

a law of this Government from the 4th of March, 1855, down to this very hour.

Mr. JENKINS. The gentleman has constantly referred to my remarks. I ask him whether his party never opposed the action of the Kansas Territorial Legislature?

The SPEAKER. The Chair thinks that it would be giving a wide latitude to this debate, to go into these matters.

Mr. GROW. I hope the Chair will not interpose here. The gentleman asks me what I said, and surely he is entitled to the information which he seeks. I said the free-State party in Kansas never proposed to supplant the territorial government established by Congress, except by the consent of Congress.

Mr. JENKINS. Has not the gentleman's party denounced the acts of the Territorial Legislature of Kansas as a nullity?

Mr. GROW. Certainly we have; and we passed a law through this House, during the last Congress, to wipe them out of existence.

The SPEAKER. The Chair must interpose and prevent the discussion straying further from the legitimate line.

Mr. GROW. Very well, sir; I will pursue that point no further. Minnesota has supplanted the territorial organization established by Congress. Nobody denies that but the Delegate from that Territory, who claims that that people are too loyal to rebel. I hope that he does not speak for that people, for I think the only reason they have not rebelled is because the President did not send the Federal Army there to trample their rights in the dust, and force a despotic usurpation upon them. I doubt not they would have rebelled if the wrongs had been inflicted upon them which have been inflicted upon Kansas. My good opinion of them would be greatly lessened if they would not. For, if ever the time shall come when any portion of the American people will not rebel against a cruel and tyrannical usurpation of all the powers of their Government, they are unworthy of their ancestry, and would bring a blush of shame to the cheek of their children. I do not believe that the people of Minnesota are of that character.

Minnesota has elected a Legislature under this constitution, and has enacted laws for the Territory. What has become of the Territorial Legislature? It is supplanted by this new government. The President sent his army to Kansas to disperse the members of the Topeka Legislature, who, as Governor Shannon said, only pretended to act prospectively, their acts to be subject to the approval of Congress; yet, why does not that same party which did that in Kansas, in order, as was said, to put down rebellion among its people, send an army into Minnesota, to vindicate the authority of the Federal Government there? I make no complaint that the people of Minnesota have done as they have in the meeting of their Legislature; but why not apply the same rule to her that you have applied to Kansas? for, if Kansas was guilty of any treason at all, it was only prospective, while that of Minnesota is actual; yet no army is sent against her people. While the Legislature may assemble at any time they please, they cannot enact valid laws until they have received the sanction of Congress, ratifying this constitution, which supplants the territorial government. Though any portion of the American people have a constitutional right peaceably to assemble, at all times, and petition Congress for a redress of their grievances, still they cannot establish a government, without the authority of Congress, to supplant a government established by Congress; otherwise, you would have a soleism in your Government—that the power that makes is not necessary to unmake. When Congress makes a government, under the Constitution, that government is paramount to all others, and can be supplanted by no other power than Congress itself. Therefore, to a certain extent, the people of Minnesota have usurped the powers of this Government. But is it for us to raise a question as to that, so long as the people themselves do not complain?

Mr. SHERMAN, of Ohio. I desire to call my friend's attention to one clause of this constitution. It provides for an election by joint ticket when the law requires them to elect in single districts.

Mr. GROW. That is true. There are two points in this constitution which I think are proper subjects for the consideration of Congress if they

choose to exercise their power; for the exercise of all our powers are discretionary, and we may exercise them or not as we please. One point is the want of limit upon the time of holding office by the members of her Legislature; and the other is that which provides that members of Congress may be elected by general ticket, when the law of Congress requires their election by single districts. The question arises whether we will pass that by, and allow a general ticket to prevail over an express law of Congress. That is why I asked the gentleman from Georgia [Mr. STEPHENS] to allow me to offer an amendment to the effect that members of Congress should be elected by single districts, for I think it is the duty of Congress to see that their own laws at least are enforced. But neither of these points goes to the right of the people to ratify this constitution and send it here; but they are addressed to the discretion of this body, and may have weight here.

I have spoken much longer than I intended. My object was simply to express my views upon a few particular points touched upon by the gentleman who preceded me; and I desire to repeat a word or two lest in the confusion of the interruptions to which I have been subjected I may not have made myself fully understood. It is, that the people of any Territory of this Union, in my judgment, have the right at any time and at all times, to meet and form a constitution; and that that constitution, if ratified by a majority of the people at a fair election, is their will, and comes to Congress as their petition, like the petition of any other portion of the people, asking Congress to grant the prayer of the petitioners. I care not, therefore, what may be the forms which precede it.

It is a right which belongs to the people of the Territories, whenever they become sufficiently numerous to support a State government of their own, to have that form of government; and it then becomes the duty of Congress to take off the territorial government, and allow them a government of their own, so that they may manage their own affairs in their own way.

Mr. DAVIS, of Maryland, obtained the floor.

Mr. HOWARD. If the gentleman will give way, I will move to adjourn.

Mr. DAVIS, of Maryland. I will yield for that purpose.

Mr. HOWARD. I move that the House do now adjourn.

Mr. PHELPS. I ask the gentleman to withdraw that motion a moment, that I may move to have this bill for the admission of Minnesota printed.

Mr. HOWARD. I will.

Mr. PHELPS. I move that the bill be printed. The motion was agreed to.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled, a bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30th, 1859; when the Speaker signed the same.

MILITARY ROAD IN NEW MEXICO.

Mr. OTERO, by unanimous consent, introduced a bill to provide for the completion of the military road from Fort Union to Santa Fé, in New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

PERSONAL EXPLANATION—KANSAS.

Mr. LAWRENCE. I wish to make a personal explanation, and I ask the gentleman from Michigan to yield to me for that purpose. I will renew the motion.

Mr. HOWARD. I will yield to the gentleman.

Mr. LAWRENCE. Mr. Speaker, I rise to a personal explanation. In the Globe of Saturday last I find the following paragraph in the remarks made by my colleague [Mr. CAMPBELL] on Friday morning, on the report from the committee of conference. Owing, no doubt, to the "noise and confusion" prevailing in the Hall, I did not hear the remarks at the time, and I know my colleague did not intend to do me injustice:

"In addition to that—and I feel bound to allude to it, because I owe an apology to ninety one, so termed, Black Republicans—when the bill came from the Senate, an ar-

rangment was made by members of all the old political parties, who were anxious to take this question forever from the Halls of Congress, to adopt, in substance, an amendment which had been proposed by a venerable and patriotic Senator from a slaveholding State, [Mr. CRITTENDEN, of Kentucky.] The friends of Mr. DOUGLAS were pledged, by those who were authorized to speak for them, as I understand, upon the high point of personal honor, to go for that proposition, with slight amendments agreed upon, to the last extremity, and to the bitter end of the controversy, and to vote for no other proposition. If I am mistaken in this allegation, the honorable gentleman from Illinois, [Mr. HARRIS,] the honorable gentleman from Indiana, [Mr. DAVIS,] the honorable gentleman from New Jersey, [Mr. ADRAIN,] and others I might designate, will correct me now. Both of my colleagues [Messrs. COX and LAWRENCE] were understood to be in this arrangement."

I was in no such arrangement. Such a proposition was never made to me; and, so far as I know, not to any conference of anti-Lecompton Democrats. It was never so understood by me that I was "to go for that proposition [the Crittenden-Montgomery amendment] to the last extremity and to the bitter end of the controversy, and to vote for no other proposition." Such indefinite and wholesale pledges I never make. I voted for the Montgomery amendment because I preferred it to the Senate bill. I voted that the House insist upon said amendment; and, further, voted against a committee of conference. Upon the report from that committee when made, I was as free to act as my judgment might dictate, as though it had been a proposition *ad initio*.

While on the floor, I will further say that I never definitely made up my mind to vote for or against the conference report until Wednesday night last, and then in the quiet retirement of my own house, surrounded alone by my family. All intimations from any quarter prior to that time, regarding my vote upon said report, were premature and unauthorized by me.

Mr. CAMPBELL. I did not hear everything that my colleague said or read. I certainly had no purpose to misrepresent either of my colleagues, or to place them, or any other member, in a false position. I did say, and I repeat, that it was understood that both of my colleagues, with the other members of this House known as anti-Lecompton Democrats, did agree with those known as South Americans and Republicans that they never would yield, in the Kansas controversy, to any proposition which did not give to the people of that Territory the right to vote directly upon their constitution before the admission of Kansas into the Union.

Mr. HARRIS, of Illinois. Will the gentleman allow me to say one word?

Mr. CAMPBELL. Certainly.

Mr. HARRIS, of Illinois. The gentleman, in his remarks the other day, made allusion to me, as I saw afterwards in the Globe. I did not hear it at the time he spoke, or I should have noticed it then. He stated that those Democrats who had acted against the Lecompton proposition of the Senate, had, as he understood it, made a pledge, in which their personal honor was involved, to stand by the Crittenden-Montgomery amendment to the bitter end, and vote for nothing else—go for nothing else. Now, I was never a party to any such arrangement as that; but I was willing to stand by that to the end of that. Though I was very far from approving some of its provisions, as an alternative I was willing to go for it, and to go for it as long as it was possible for me to support it; but I could have supported other propositions more agreeable to me than that. Whatever arrangement was made was made during my sickness, and I took no part in it.

Mr. CAMPBELL. The gentleman from Illinois was sick at the time of the council to which I allude. The anti-Lecompton Democrats were represented by others.

Mr. MARSHALL, of Illinois. In reference to this discussion about pledges, I wish to say, in regard to myself, that I never was directly or indirectly a party to any pledge binding my action to the support of anything whatever. In my course, I have been controlled entirely by the dictates of my own judgment, and by nothing else whatever. I never did come into a pledge to the gentleman, or any member of his party, to support any measure whatever.

Mr. HARRIS, of Illinois. One word further in regard to this proposition. While I gave no such promise to any gentleman, or to any caucus, I was prepared to pledge myself to go for nothing that would be a departure from principle.

Mr. WASHBURN, of Maine. Will my friend from Ohio permit me to say a word here? I desire to state that I had a reluctance to giving my support to the Crittenden-Montgomery amendment; and I should not have done it, had I not distinctly understood, before I gave my vote, that at least twenty of those who were termed anti-Lecompton Democrats would, in any and every event, vote against any other proposition, or, I may say, any proposition which would be regarded by our side of the House as less favorable than this. My apprehension was so strong that there would be a backing down, knowing the history of previous transactions in Congress, that I meant to be satisfied beyond all doubt on the subject. In some conversations that I had with gentlemen, not of the Republican party, I understood them to say that they would vote for nothing else; that they would agree to no letting down in any way whatever; that they would at all times vote against a conference. Thereupon, that there should be no dispute as to the understanding, I sat down and drew up in writing what I understood to be a true statement of it. That paper I now have in my hand and will read it, with the consent of the House:

"1. Adopt Crittenden's substitute, with an amendment to the effect that the result of the elections, &c., shall be certified to the President by a majority of the commissioners."

I was afraid, Mr. Speaker, that there might be fraudulent voting and false returns and certificates, and I desired that this matter of voting and returns should be put beyond the control of either of the parties, and that we might be secure of fair dealing; therefore I insisted on that proposition.

"2. Vote for the bill if the substitute is adopted."

"3. If the Senate non-concurs in the amendment, insists upon its former vote, and asks a conference, the House will vote down a motion to insist, and immediately vote to adhere. If this shall be carried, reconsider and lay on the table."

I understood, of course, that that was to apply not only to the first vote, but to all votes. It was my understanding from the beginning that that programme was to be carried out to the end; for it is apparent that nothing would be gained if the agreement to adhere, and resist a conference, was to apply only to one or two votes, and gentlemen were then to be at liberty to vote for a conference, to recede, or abandon us in any stage of the proceedings. It was clearly understood that this arrangement was to hold as long as the bill was before the House. If I had believed that these Democrats would not stand with us to the end, I should not have given the vote I did. I believed that if they adhered, the Senate bill would be defeated; and I will state, that at a meeting at which I was present, this paper was read, and a copy of it was taken by an anti-Lecompton Democrat, who afterwards told me that his friends, (and others gave me the same assurance,) to the extent, at least, of twenty, would stand up to it under all circumstances.

Several MEMBERS. Who was that?

Mr. STEVENSON. I ask the gentleman whether the South Americans were a party to the contract?

Mr. WASHBURN, of Maine. I have stated all that I desire to say on that point.

Mr. RUFFIN. Who signed that?

Mr. MARSHALL, of Kentucky. Will the gentleman from Ohio permit me to answer the question of my colleague?

Mr. CAMPBELL. Certainly I will allow the gentleman to answer his colleague.

Mr. MARSHALL, of Kentucky. I will say, for the edification of my colleague, and for whatever else he may get out of it—that I understood that proposition, and that I agreed to it. I will remark that, like the gentleman from Illinois, [Mr. HARRIS,] I did not understand that we were to go for no other proposition, but I did understand that we agreed to adhere to the Crittenden-Montgomery amendment, and to stand to it to the close; and I think my colleague will do me the justice to say that I have fulfilled the bargain.

Mr. COMINS. Such was the understanding of every member on this side of the House.

Mr. UNDERWOOD. I desire to make one solitary remark.

Mr. CAMPBELL. I yield to my friend from Kentucky.

Mr. UNDERWOOD. I desire to say to the

House, and to the country, that so far as my action was concerned in this matter, I had no compact, understanding, or agreement; I acted on my own sense of right, and from patriotic motives. I did that which I thought was right; and in doing that which I thought was right I rejoice that I coöperated with my colleague from Kentucky, and with many gentlemen on this side of the House, and I grieved that I could not coöperate with a large number of friends on the opposite side.

Mr. JONES, of Tennessee. Will the gentleman from Ohio permit me to ask the gentleman from Maine a question?

Mr. CAMPBELL. Is it a matter personal to yourself?

Mr. JONES, of Tennessee. It is to the whole House, I think. I understood the gentleman from Maine to say that an anti-Lecompton Democrat took a copy of that paper, which he read to the House. I wish to know who that gentleman is?

Mr. WASHBURN, of Maine. I will state to the gentleman—

Mr. CAMPBELL, of Ohio. I am entitled to the floor.

Mr. WASHBURN, of Maine. I will answer that several anti-Lecompton Democrats saw the paper, and the one who took the copy afterwards stated that his friends knew of the paper, or of the understanding which it embodied. The gentleman said he had conversed with his associates, and that we might rely upon it that they would stand to this to the end, and agree to no conference and no lowering down. He said he had assurances of this, and could not be mistaken in regard to at least twenty of them. Other gentlemen gave me similar assurances, and I relied upon them.

Mr. JONES, of Tennessee. I merely want to know who took the copy?

Mr. WALBRIDGE, Mr. CLARK, of New York, and others, addressed the Chair.

The SPEAKER. To whom does the gentleman from Ohio yield the floor? Will the gentleman relieve the Chair from embarrassment by signifying to whom he yields the floor?

Mr. CAMPBELL. I am willing to yield to all who desire to come up and confess. I relieve the Chair of its embarrassment by designating my anti-Lecompton Democratic friend from New York [Mr. CLARK] first.

Mr. CLARK, of New York. I wish the gentleman would state to whom he refers as the anti-Lecompton Democrat who undertook, in any manner, to commit his associates to any vote on any subject. I knew of no such commitment; and, for my part, I never made such a promise.

Mr. WASHBURN, of Maine. I would state that several persons were present when this paper was read. A copy was taken of it by an anti-Lecompton Democrat, who told me that at least twenty of his friends knew of the understanding, and agreed to vote in accordance with it.

Mr. CAMPBELL. I think I can tell the whole story in a very few words, without violating any confidence.

Mr. CLARK, of New York. Will my friend allow me to correct a statement?

Mr. CAMPBELL. Not now. I will repeat substantially what I said the other morning, when we were about to take the final vote on the bill to admit Kansas. A conference or council of gentlemen—members of this House—representing the Republican, the North American, the South American, and the anti-Lecompton Democratic elements, met, not in caucus, but to have a friendly interview, with the view of determining what was best to be done. The gentlemen were understood to have authority to negotiate and settle a programme for the defeat of any measure which did not secure the principle of popular sovereignty—the right of the people of Kansas to vote directly on the constitution which should govern her as a State.

The gentleman from Maine has stated the truth. That programme, as read by him, was agreed upon by those then present, with the distinct understanding that unless the ninety-two so-called Republicans agreed to it, unless at least twenty anti-Lecompton Democrats agreed to it, and at least six South Americans agreed to it, all parties were to be released from the obligation of the mutual understanding, and to be notified. As one of the parties to the arrangement, I have made a public apology to the ninety-two Republicans,

who seem to have been betrayed, yet were true to their plighted faith.

Mr. CLARK, of New York. With the gentleman's permission, I desire to correct my former statement. Let me remark that the Crittenden-Montgomery amendment, as it is called, was submitted to a meeting of anti-Lecompton Democrats, at which I was present, and it was understood that every man pledged himself to give it his support to the end.

Several MEMBERS. How many were present?

Mr. CLARK, of New York. I cannot say. I kept my promise; and every promise, express or implied, which I have ever made, has been faithfully and explicitly performed.

Many voices on the Republican side of the House: "That is so."

Mr. CAMPBELL. That is certainly so. The gentleman from New York has my admiration of his fidelity. Neither my colleague from the central district, [Mr. Cox,] nor my colleague who has just made a personal explanation, [Mr. LAWRENCE,] ever gave to me, directly, any pledge whatever; but they were represented in that council by a committee of three, appointed, as I understood it, by the anti-Lecompton Democrats; and gentlemen upon this side of the House understood that there was at least a high moral obligation resting upon those who were thus represented—an obligation, Mr. Speaker, which, I think, was violated when the last vote was taken.

I said the other day that I was actuated by no unfriendly feelings towards either of my colleagues. I impugn the motives of no man upon either side of the House. I deemed it due to the truth of history in the closing scene of the struggle that the facts should be made known. I did not repeat any of the private conversations which I had with my colleagues. I had many such conversations with my colleagues and other Democrats, in their rooms and elsewhere, on the subject of this Lecompton movement; but I never will, as God is my judge, professing, as I do, to be a gentleman, I never will repeat private conversations.

Mr. LAWRENCE. I ask my colleague whether, in any conversation I ever had with him, incidental or otherwise, I ever gave him any such pledge?

Mr. CAMPBELL. Under no circumstances whatever can either of my colleagues or any other gentleman upon this floor with whom I may have had, in his chamber or in the presence of his family, private conversations in regard to this subject, extort from me one single word of any such conversation. It does not comport with my ideas of the duty of a Representative, to retail to this House and the world private conversations between gentlemen.

Mr. CLAY. I rise to a question of order.

Mr. CAMPBELL. As it is very evident that no more profit is to be derived from the prosecution of this subject at this time, I move that the House adjourn.

The motion was agreed to; and thereupon (at twenty minutes after four o'clock p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, May 5, 1858.

Prayer by Rev. W. A. HARRIS.

The Journal of yesterday was read and approved.

RESIGNATION OF MR. BIGGS.

The VICE PRESIDENT laid before the Senate a letter from the Hon. ASA BIGGS, inclosing a copy of a letter addressed by him to the Governor of the State of North Carolina, resigning the office of Senator of the United States from that State; which was read.

Mr. HUNTER. By the retirement of the Senator from North Carolina a vacancy is created in the Committee on Finance. I move that the vacancy be filled by the Chair.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. FOSTER presented a petition of William A. Buckingham and other citizens of New London county, Connecticut, praying that a grant of land may be made to each State in the Union to endow therein an institution for the liberal and practical education of the industrial classes; which was referred to the Committee on Public Lands.

Mr. MALLORY presented a petition of R. S. Simpson, assistant surgeon in the Army, praying compensation for professional services in the United States marine hospital at Key West; which was referred to the Committee on Military Affairs and Militia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the amendments of the House of Representatives to the Senate joint resolution (No. 4) to extend the operation of the act, approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

REPORTS OF COMMITTEES.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 542) to authorize the vestry of Washington parish to take and inclose certain parts of streets in Washington city, for the purpose of extending the Washington Cemetery, and for other purposes, reported it without amendment.

He also, from the same committee, to whom was referred the petition of citizens of Washington county, in the District of Columbia, reported a bill (S. No. 316) to alter and amend an act entitled "An act conferring certain powers on the levy court for the county of Washington, in the District of Columbia," approved 1st July, 1812; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of citizens of the District of Columbia, praying that an appropriation may be made for improving Boundary street, in Washington city, reported adversely thereon.

Mr. BAYARD. I am instructed, by the Committee on the Judiciary, to report three bills for the purpose of protecting the public archives in California; for the prevention of frauds there; and to obtain the testimony of witnesses within the State of California by subpoena, where they reside in a different district from that in which suit is brought. I am instructed, also, to ask for their present consideration; because, if the bills are to pass, they ought to be passed at once. I do not think there can be objection to any of them. They came from the Department to me, and have been examined very carefully by the committee. I submitted them to the honorable Senators from California, and they are absolutely essential for the prevention of fraud there, and also for the protection of the public archives, and for obtaining some of them that are still outstanding. I hope the Senate will agree to consider the bills at once, as I do not think there can be any objection to them.

The bill (S. No. 313) to amend an act entitled "An act to ascertain and settle the private land claims in the State of California;" the bill (S. No. 312) to provide for the collection and safe-keeping of public archives in the State of California; and the bill (S. No. 314) for the prevention and punishment of frauds in land titles in California, were severally read the first time by their titles, and ordered to a second reading.

The VICE PRESIDENT. If there be no objection, the bills will now be read a second time. Mr. KING. I am not willing that they shall be considered until the reports are through with. I want to make some reports.

Mr. BRODERICK. I hope the Senator from New York will withdraw his objection.

Mr. KING. I have no objection to their coming up after the reports are through; but until that is done, I think those who have reports to make ought to be allowed to make them. I wish to make a few, and after that, these bills may come up.

The VICE PRESIDENT. These bills cannot now be read a second time, objection being made.

Mr. FITZPATRICK, from the Committee on Military Affairs and Militia, to whom were referred seven petitions of officers of the militia of the State of Rhode Island, praying that further provision may be made for equipping the militia, submitted an adverse report.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of Daniel J. Browne, submitted an adverse report; which was ordered to be printed.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (H. R. No. 62) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1859, reported it with an amendment.

Mr. KING, from the Committee on Pensions, to whom was referred the petition of Frances Cato, widow of Burrell Cato, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Edward Merritt, reported adversely thereon.

BANKRUPT LAW.

Mr. BAYARD. The Committee on the Judiciary, to whom was referred so much of the President's message as relates to a uniform bankrupt law, and various memorials on the subject, have instructed me to report that they are unable to agree upon the terms of a bankrupt law, differing principally upon a cardinal question. A majority of the committee are opposed to any law embodying the system of voluntary bankruptcy. They ask, therefore, to be discharged from the further consideration of those memorials which have been presented for a relief law, as well as from the further consideration of so much of the President's message as relates to the subject.

Mr. TOOMBS. The majority of the Judiciary Committee have reported against it, but two of the committee have concurred in the bill which I hold in my hand. I report it as embodying the views of the minority of the committee on the subject; and I ask to have the bill printed.

The VICE PRESIDENT. The bill will be received by the Senate as the views of the minority. The question of printing goes to the Committee on Printing.

Mr. GREEN. I object to its being received as the report of a bill from the minority of a committee.

The VICE PRESIDENT. That is not the form.

Mr. GREEN. An individual Senator may introduce a bill on leave, but the minority of a committee is a nonentity. A committee is a unit, and nothing but a majority of a committee can report a bill. By the courtesy of the Senate sometimes the views of a minority are received; but to allow them to come with the imposing character of a minority report, or a bill coming from a minority, is what, in legislative parlance, I do not understand, and I object to it.

Mr. TOOMBS. I wish to call the attention of the Chair to a slight mistake that I think he has committed. The question of printing this bill does not go to the Committee on Printing; for it is a bill introduced. In reply to the gentleman from Missouri, who wishes to introduce some new customs and practices in the Senate, I will say that the majority of the committee have reported that they cannot agree upon the reference made to them. The minority, however, have agreed, and therefore I submit this bill in accordance with the uniform rule of the Senate at all times. I shall not go into the question of the unity and indivisibility of committees; but according to the established practice of the Senate, a minority can report by bill or otherwise, on all questions. This has been the uniform and unvarying practice as long as I have sat here; and I believe very much longer. I submit to the Chair that the bill must be printed, as a matter of course; it does not go to the Committee on Printing. Certainly, the Senate can order it to be printed.

The VICE PRESIDENT. The Chair will make a statement. The Chair does not regard this bill strictly as a report from the committee. Reports from standing committees of the Senate are printed on motion; otherwise, the question of printing them would go to the Committee on Printing; but this being a bill introduced by a Senator, originating in Congress, will be printed without a motion to that effect.

Mr. TOOMBS. I do not understand the Chair.

The VICE PRESIDENT. This bill being a bill originating in Congress under the rule, will be printed without going to the Committee on Printing, but will not be printed as a report from a standing committee of the Senate, according to the view of the Chair.

Mr. GREEN. The proposition which the Senator from Georgia makes is an individual proposition. No notice of it has been given to the Sen-

ate, and any one Senator can object to it as an individual proposition of another Senator. It is not the act of a committee. Now, if the Senator desires us to waive the rule for him as an individual, to introduce the bill, I am willing to waive it.

Mr. TOOMBS. I do not. I decline it being waived by the gentleman. I say I claim the right to present this bill as a minority report, in this case, by the usage of the Senate. I will not accept a waiver from my committee; I will take the judgment of the Chair and the Senate on the point.

Mr. GREEN. I deny his right to make a report of a bill, which bill was never referred to the committee. The subject of a bankrupt law was referred to the committee. The bill which has been sent to the desk was drawn by the Senator himself, I suppose; but no such bill was ever referred to the committee, and hence he is not reporting back a matter referred to the committee, nor could he report it back. Nothing but the majority of the committee constitutes the committee. All the rest are a nonentity, or a nullity, for legislative purposes.

But, so far as the right of the minority of a committee is concerned, it has no right. What right has a minority of the Senate, in a legislative point of view? the minority of the people, in a public point of view? the minority of committees, with reference to the rights of committees? None whatever; and the Senator cannot evade the rule of the Senate by saying: "I belong to a committee, and claim the right, therefore, as one of a committee, to introduce a bill contrary to the rules of the Senate." The rule of the Senate is, that no individual shall introduce a bill without giving previous notice; but that a committee may at any time report a bill during the morning hour. Now, he is not the committee. The committee report in a contrary direction. He has not asked to waive the rule requiring previous notice, and I therefore object to his bill being received at all.

The VICE PRESIDENT. The question of the right of a minority of a committee to make a report was somewhat discussed during the pendency of the Kansas bill. The Chair gave the subject some investigation then, and came to the conclusion that a minority of a committee had not a parliamentary right to make a report; but that, according to the custom and usage of this body, it had been usual to receive their views as the views of the minority; and accordingly, when the Senator from Illinois [Mr. Douglas] proposed to make a minority report from the Committee on Territories, the Chair received it as the views of the minority. The report of the committee, and the views of the minority, were ordered to be printed. In this particular case the question is somewhat new; but it occurs to the Chair to be proper that the views of the minority of the committee, as embodied in this paper, should be received according to the usage and custom of the Senate. The Chair does not consider it properly as a report from a standing committee of the body.

Mr. PUGH. I should like to ask the Chair a question. Does the Chair treat it as a bill?

Mr. HUNTER. Was a bill committed to the Committee on the Judiciary?

Mr. GREEN. No, sir.

Mr. TOOMBS. The subject was.

Mr. HUNTER. But no bill?

Mr. TOOMBS. No, sir.

Mr. HUNTER. Then I do not understand how a minority can report a bill.

Mr. GREEN. It cannot be done.

Mr. HUNTER. They can attain their object by introducing a bill on leave, without referring it; but I do not see how they can report a bill.

Mr. TOOMBS. It seems to me a little extraordinary that when a subject is referred to a committee, and two of the gentlemen composing the committee have agreed to report a bill, they should not be allowed to do so. Whether they submit a bill or a written report, makes no difference in parliamentary law. The Senator from Virginia says he does not see how they can report a bill. How can they report anything else, even their views as a minority? The bill is their report. One of my colleagues on the committee and myself have agreed to report a bill in conformity to the reference which has been made to us on the subject. I suppose it is unnecessary to argue the point unless an appeal is taken from the decision of the Chair; but I will say that according to the uniform custom of the Senate, the bill

is before it from two of the committee. We claim no other sanction for it than that two of the committee to whom the subject was referred, have reported by bill.

Mr. GREEN. For the purpose of getting uniform practice I will take an appeal, because I want this question settled that we may know whether a minority can report against a majority.

Mr. PUGH. Perhaps we do not want an appeal. Let us understand the ground of the decision.

Mr. MASON. If the Senator will allow me, I understand the Chair to have decided that this paper can be received by the Chair only as the views of the minority of the committee, by the courtesy and usage of the Senate. Well, I presume there is no appeal from that.

Mr. GREEN. If that is the case, there is no bill pending.

Mr. MASON. If it is proper, I would submit to the Chair the inquiry whether the paper, as I understand it to be in the form of a bill, will be received by the Chair as a bill, technically speaking, and go upon the Calendar?

The VICE PRESIDENT. The Chair thinks not.

Mr. MASON. Then there is no bill at all.

Mr. GREEN. If it is not received as a bill, I have no objection to the decision, and I will not appeal. If the paper does not go on the Calendar as a bill, very well.

Mr. TOOMBS. Where does it go?

Mr. GREEN. On the table.

The VICE PRESIDENT. The Chair stated that he did not consider this a report from a standing committee of the Senate, but he did not say that a minority of the committee might not present their views.

Mr. TOOMBS. I move that it be printed.

The VICE PRESIDENT. The Senator from Georgia moves that this paper be printed. If objected to by any Senator, it must lie over.

Mr. GREEN. If objected to, the motion must go to the Committee on Printing, because it is to print a paper which is merely the views of a minority, and does not go on the Calendar as a bill.

Mr. PUGH. I concur with the suggestion of the Senator from Virginia, and I was about to propound the same inquiry when he interposed. I consider this paper as expressing the views of the minority, but I do not consider it a bill. I do not see how it can be read as a bill unless the Senator from Georgia brings it in individually as a bill; but I do not understand that the motion to print it must go to the Committee on Printing. We have heretofore printed the views of the majority and minority of a committee on an ordinary motion without a reference to the Printing Committee. This paper expresses the views of two members of the Committee on the Judiciary in the form of an enactment. It is no bill; we can never vote on it; nor can it be read, as I understand the decision of the Chair. The difference between this and the ordinary case where the views of a minority are presented, is, instead of giving us the argument on the subject, they have given us the form of an enactment. If it is to be received as a bill, I hope it will be printed, and in that case it will be printed anyhow; for if it is to come before us I intend to propose an amendment to strike out the voluntary clauses of the bill, and make it an involuntary bankruptcy.

Mr. BELL. Certainly, regularly it cannot be asked to be printed, but I hope it will be printed by unanimous consent. If other gentlemen feel any interest or curiosity to know what it is, I hope they will waive all objection to the printing, and the bill can be introduced, on leave, to-morrow morning. I hope there will be no objection to its being printed. It is not a bill on the Calendar. It can only be considered as expressive of the views of those two gentlemen on the committee. If there is no objection, I move that it be printed.

Mr. GREEN. There is objection.

Mr. BIGLER. I hope we shall dispose of this question.

Mr. STUART. It is disposed of.

Mr. BIGLER. No; it is not yet disposed of. It is a very important question. I am bound to differ entirely from the Senator from Georgia, and I think the body will see in a very few minutes that a step of this kind will lead to endless confusion. The other day we discussed a resolution

proposing to instruct the Committee on Commerce to report a particular bill. Now, sir, if a minority of one or two on a committee have the right, against the will of a majority, to report bills and put them on the Calendar, where are we to stop? We destroy the entire system of business. It is the right of a majority to report on the subject-matter referred to the committee, and the minority to present their views, if they see proper; but if you allow a minority of one or two members on a committee to report a bill, and put it on the Calendar for the action of the body, you take from the majority the entire control. My friend from Maine [Mr. HAMLIN] can report from the Committee on Commerce bills in every one of those instances, for the improvement of rivers and harbors, under this decision. Now, if this be a minority report, let it be printed as such, but not as a bill.

Mr. BENJAMIN. It appears to me that this discussion is really upon a very minute point. The majority of the committee have reported upon the subject of the introduction of a bankrupt law. The majority have reported that they have been unable to agree upon the details of a bill, and therefore ask to be discharged from the further consideration of the subject. The minority of the committee has agreed upon the details of a bill. That minority has framed a bill and brought it into the Senate. Now, if there is any objection to that, founded upon parliamentary law, I desire to put an end to it by giving notice that I shall introduce the bill to-morrow morning. ["Very well."]

Mr. GREEN. If the Senator desires it, I will waive my objection and allow the bill to be introduced to-day.

Mr. BENJAMIN. I am much obliged to the Senator, and will accept his courtesy, and introduce it now.

There being no objection, leave was granted to introduce a bill to establish a uniform law on the subject of bankruptcies throughout the United States; and it was read twice by its title, and ordered to be printed.

Mr. HAMLIN. I desire to make a motion to print two thousand extra copies of the bill presented by the Senator from Louisiana. We have calls for it all over the country, and the press ought to be supplied.

Mr. FITZPATRICK. That must go to the Committee on Printing under the rule.

Mr. HAMLIN. I hope my motion will be received by unanimous consent.

The VICE PRESIDENT. By the unanimous consent of the Senate, that order may be made. Is there any objection. The Chair hears no objection.

Mr. POLK. I would not object to that, if I were convinced that there was any necessity for such a large number.

Mr. HAMLIN. That will not half supply the press, and the cost is comparatively trifling.

Mr. POLK. I suppose, then, the applications must come from the State of Maine. I do not think that a great majority of the people in the western States feel any interest in that matter, so as to require copies of the bill. I will not object to one thousand, but I think two thousand is too many, and I see no necessity for printing that number.

Mr. HAMLIN. I modify my motion so as to say one thousand.

The motion was agreed to.

OUTRAGES BY MEXICO.

Mr. BENJAMIN. I desire to submit the following resolution of inquiry, and ask for its immediate adoption:

Resolved, That the President of the United States be requested to inform the Senate if any and what measures have been taken for the protection of American commerce in the ports of Mexico, during the present distracted condition of that country; and especially whether any and what measures have been taken for obtaining redress for the recent outrages on American vessels, committed in the port of Tampico; and for protecting such vessels against a repetition of such outrages.

Mr. President, this resolution is directed to some recent occurrences that have taken place in the port of Tampico, during the pending revolutionary struggles in Mexico, and which seem to me to require some prompt action on the part of our Government. I will ask the Secretary to read two letters which have been addressed to me on

the subject, and which I send to the desk. They will explain the nature of some of these outrages. The Secretary read the following letters:

TAMPICO, April 1, 1858.

DEAR SIRS: You will certainly think it very strange, that I should be here still; but unfortunate events have caused the detention of my vessel in this river, as you will perceive by the following narration: I arrived at this port on 28th February last; and owing to the state of siege of this city by Garza's troops, all the "cargadores" (stevedores) and canoe-men were taken up for soldiers. I had to engage any kind of men to discharge the vessel, taking ten days to do this work. On the 10th of March I began to load ballast of stone coal, (sold to me by General Moreno at an equal price as stone coal,) and on the morning of the 13th finished and got dispatched from the custom-house, shipped the money and some fruit. Owing to head winds, I was not able to go down the river until Tuesday, the 15th March, when about a mile below the city a fort of Garza's fired two cannon shot, which passed near the vessel. I dropped anchor, stopped for the sea-breeze, and returned immediately to my previous anchorage, came ashore, and protested before the American consul, Mr. Chase, who sent out to Garza a communication asking the reasons for firing into an American vessel. He answered that it was not at my schooner that the shots were aimed, but at an armed launch that was above me, (which was not so, as there was nothing before or behind,) and that my schooner could proceed down to the bar, and thence to sea, without being molested. On Saturday, the 20th, I got under way again, and arrived at the bar on the same day. I waited for the pilot next morning, and all day long, but no one came. On the 23d, an officer of Garza (Mr. Augustin Igura, formerly collector during Garza's government here), paid me a visit, wishing to search the vessel, which I refused openly, and told him I would not allow it under any circumstances; then he exacted the documents, and I told him that I was legally dispatched from the custom-house of Tampico, paid all the duties there, and desired to proceed to sea. He answered then that the vessel could not go out except I would pay the export duty on all the money I had on board; that the proper custom-house is at the bar, under the direction of Mr. Garza, and not in Tampico under Moreno. I sent up immediately an express to Mr. Chase, informing him of all what happened on board, and to protest in every way and manner. Captain Trevis, of the brig Statesen, arrived off the bar on the 30th, and came in on the same day. His vessel is detained there, and they won't allow her to come up. They exact all the duties, which Captain T. has nothing to do with. He has come up this morning with me, and we both have presented ourselves to Mr. Chase, and have done all that is required, and protested in full for all damages, losses, &c.

Mr. Chase has requested me not to venture to go to sea until this affair is settled, and particularly as Garza's employés do not allow the vessel to go out. Mr. C. has ordered a man-of-war to come here, and very likely will arrive here in a few days.

Excuse haste, and remain, dear sirs, yours very truly,
JOSEPH SBISA.

Messrs. BARELLI & Co., New Orleans.

TAMPICO, April 1, 1858.

DEAR SIR: By this opportunity I have only time to inform you that your schooner, Virginia Antonieta, Captain Sbisa, after having been legally cleared from the custom-house of this port, got under way on the 18th ultimo for New Orleans, but when sailing past one of Garza's batteries, two cannon-shot were fired at that vessel, though she had her national colors hoisted at her fore and main topmast heads.

She then retraced her course to the anchorage off this city, and on receiving the captain's report, immediately dispatched a courier to Garza, with a copy of the captain's protest against the insult to our flag, and an official letter which I addressed to that revolutionary chief. His answer was vague and unsatisfactory; but he distinctly stated that the American vessels in port might proceed to sea without molestation. Accordingly Captain Sbisa proceeded to the bar, which is now in the hands of Garza, where a demand was made of Captain Sbisa for double duties, both import and export, and also double port charges, which was properly refused on the part of the captain, and hence the vessel is detained by an armed force under orders from Garza. By this conveyance I have written for a vessel of war. I trust you will use your influence with our Government to send one here with the least possible delay. Our city is cannonaded three times every day by Garza, and every shot is directed on our private dwellings. Yesterday morning one shot passed through the house of the French consul, and he and his lady narrowly escaped being killed. I passed three sleepless days and nights, which renders it rather a difficult task to attend to the duties of my office.

I remain, with much regard, your most obedient servant,
FRANKLIN CHASE.

J. A. BARELLI, Esq., New Orleans.

The resolution was considered, by unanimous consent, and agreed to.

JONAS P. LEVY.

Mr. IVERSON. The Committee on Claims, to whom was referred the decision of the Court of Claims in the case of Jonas P. Levy, have instructed me to report it back and ask that that committee be discharged from its further consideration; and that it be referred to the committee on Foreign Relations.

The VICE PRESIDENT. If there be no objection, that order will be made.

Mr. MASON. I object to the reference. My recollection is that that memorial was before the Committee on Foreign Relations at this session, and they were discharged from its consideration, and it was referred to the Committee on Claims.

If the Committee on Claims wish to be discharged, it had better lie on the table.

Mr. BROWN. I presented the memorial, and my recollection is that I had it referred to the Committee on Foreign Relations.

Mr. MASON. That committee was discharged, and it was referred to the Committee on Claims. I suppose it had better lie on the table.

Mr. IVERSON. I withdraw my motion.

Mr. STUART. I want that case to go on the Calendar, so that it will stand as an adverse report from the Court of Claims. Then it will get the action of the Senate. There ought to be some time when a case is ended. I have seen several cases that have been handed about, referred to one committee, and then to the court, and then again to a committee here. It is a species of engineering by which we shall never end anything; and inasmuch as this case has been returned from the Court of Claims, I desire it to go upon the Calendar.

The VICE PRESIDENT. There is no question before the Senate. The Senator from Georgia withdrew his motion.

Mr. IVERSON. I renew the motion with the view to make an explanation. The claimant in this case informed me this morning that he had presented a memorial to the Senate on this subject which had been referred to the Committee on Foreign Relations, and it was important that the committee should have the papers in the case before them in order to a correct understanding of the case; and therefore he desired me to have the papers referred to the Committee on Foreign Relations, which had before been referred to the Committee on Claims. It is simply to give the Committee on Foreign Relations an opportunity of investigating the memorial which he has previously presented.

Mr. MASON. I will not object further. Let it go.

Mr. IVERSON. I move that the Committee on Claims be discharged from the further consideration of the subject; and that it be referred to the Committee on Foreign Relations.

The motion was agreed to.

CALIFORNIA LAND CLAIMS.

Mr. HALE. I move that the Senate take up for consideration the joint resolution reported from the Committee on Naval Affairs, for the relief of the widow of Captain William Lewis Herndon. If the Senate mean to do anything in that case, it is time it should be done.

Mr. BRODERICK. I have no objection to the consideration of that resolution, and I shall vote for it when it comes up; but I ask the Senator to give way for a few minutes, to permit the Senator from Delaware to take up the three bills he reported this morning for California. They can be considered and disposed of in a very few minutes. I believe they will give rise to no debate.

Mr. BAYARD. I hope the Senator from New Hampshire will suffer these bills to be considered. I am in favor of his joint resolution; but these bills are public matters that really ought to be passed.

Mr. HALE. I withdraw my motion for the present. I am always accommodating.

Mr. BAYARD. I move to take up the bills I reported this morning.

The motion was agreed to; and the bill (S. No. 313) to amend an act entitled "An act to ascertain and settle the private land claims in the State of California," was read the second time, and considered as in Committee of the Whole. It provides that if, in any case pending in the United States district courts in California, on appeal from the land commissioners, either party shall desire to examine a witness residing in any other district within that State, or shall require the production of any paper, written instrument, book, or document, supposed to be in the possession of a witness residing in another district, the court in which the case is pending, being satisfied, by affidavit or otherwise, of the materiality of such witness, or of the production of such paper, written instrument, book, or document, as evidence in the case, may order the clerk to issue a subpoena, or a subpoena *duces tecum*, which shall run into any other district of California, and be served by the marshal of either district, as the court may direct.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The bill (S. No. 312) to provide for the collection and safe-keeping of public archives in the State of California, was read the second time, and considered as in Committee of the Whole. It proposes to make it the duty of the Secretary of the Interior to cause to be collected and deposited in the surveyor general's office in California, all official documents, papers, instruments of writing, archives, official seals, stamps, and dies, that may be found in the unauthorized possession of any individual, relating to and used in the administration of government and public affairs in the department of Upper California during the existence of Mexican and Spanish authority there. It imposes heavy penalties on the concealment, purloining, abstracting, and counterfeiting such papers or documents.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

The bill (S. No. 314) for the prevention and punishment of frauds in land titles in California, was read the second time, and considered as in Committee of the Whole. It proposes to make it a misdemeanor punishable by imprisonment and hard labor for a term not less than three, nor more than ten years, and a fine not exceeding ten thousand dollars, for any person to falsely make, alter, forge, or counterfeit, or cause to be falsely made, altered, forged, or counterfeited, or willingly to aid and assist in falsely making, altering, forging, or counterfeiting any petition, certificate, order, report, decree, denouncement, concession, deed, patent, confirmation, design, map, expediente, or part of an expediente, or any title papers, or evidence of right, claim, or title to lands, mines, or minerals in California for the purpose of setting up or establishing against the United States any claim, right, or title to lands, mines, or minerals in California. Any person who shall procure or assist in procuring any such paper to be falsely dated, or who shall sign his name to any such false paper purporting to sign it as the name of an officer, or who shall present any such falsely-dated paper, is to be subject to the same penalties.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SPECIAL ORDERS.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order.

Mr. HUNTER. I shall not interfere with the special order to-day, but I give notice that tomorrow I shall move to take up the Military Academy appropriation bill. It will not take long.

The VICE PRESIDENT. The Chair will first bring the order of business to the attention of the Senate. Yesterday, it was called to the attention of the Chair that the joint resolution for the presentation of a medal to Commodore Hiram Paulding was an older special order than the bill in regard to fishing bounties. The Chair had an impression on the subject, and said to the Senator from Vermont [Mr. Foor] that he would look into the matter by this morning. He has done so, and finds that in January last the resolution of the Senator from Wisconsin [Mr. Doolittle] was, upon the motion of the Senator from Virginia, [Mr. Mason,] postponed to, and made the special order for, the same day and same hour with the report, resolutions, and bill, from the Committee on Foreign Relations. There have been one or two discussions upon them since, and they have been postponed. The Chair is satisfied, on an examination of the subject, that the day having passed to which they were last postponed, without any action having been taken, they fall back to their relative places on the Calendar, and that the resolution of the Senator from Wisconsin is the oldest special order, and must now be called up unless postponed by a vote of the Senate.

Mr. HALE. For the purpose of taking up a little resolution which was laid aside at the suggestion of the Senator from California this morning, I move to postpone the special orders. If the Senate mean to pass the joint resolution for Mrs. Herndon, it is time they should do so. If they mean to reject it, that should be known.

Mr. CLAY. I trust the special order will not be postponed. If, however, that resolution will not occupy any time of consequence, I shall not object.

Mr. SEWARD. If it occupies time, we will let it go over.

Mr. CLAY. If there is to be no debate on it, I shall not object.

Several Senators. There will be no debate.

Mr. SEWARD. We do not mean to interfere with your special order.

The motion to postpone was agreed to.

COMMANDER HERNDON.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 32) for the benefit of the widow of Commander William Lewis Herndon, United States Navy, which is in these words:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress entertain a high sense of the devotion to duty, the coolness, courage, and conduct of Commander William Lewis Herndon, United States Navy, in command of the steamer Central America, at sea during the prevalence of a hurricane on the 12th of September, 1857; and that the widow of the said William Lewis Herndon be entitled to receive, out of any money in the Treasury not otherwise appropriated, a sum equal to three years' full sea-service pay of a commander in the Navy.

Mr. IVERSON. I had intended, when this resolution was presented before, to debate it at some length; but, since that, appeals have been made to me from such a quarter as have induced me to waive any elaborate investigation or objection to the proposition. I shall simply content myself with saying that, according to my notions of the Constitution and the powers which are conferred upon this Government by the Constitution, the Congress of the United States has no more right to take \$7,500 out of the Treasury, and make a naked, unconditional gift of that amount to this lady, however high her merits may be, or however strongly upon the gratitude of the country her husband may have had claims, than it has to take the same amount of money out of the Treasury, and put it in the bottom of the river that runs near us. That is my idea of the constitutional power of Congress; and I could not vote for a proposition of this sort, making this naked and unconditional grant, according to my notions of constitutional power, without inflicting on my conscience the stain and sting of perjury. Other gentlemen doubtless entertain different views in relation to the constitutional power of Congress, and therefore will vote for the resolution. I shall not go into any lengthy discussion of the subject. If I were to do so, I could, I think, present views which would justify me, and others who believe with me, in resisting the passage of the resolution. Still, I will forbear under the peculiar circumstances of the case. I rose merely to express my dissent from the proposition, and to ask that the yeas and nays may be taken on the final passage of this resolution, in order that I may put my negative upon the record.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time; and the question was stated to be, Shall the resolution pass?

Mr. IVERSON called for the yeas and nays, and they were ordered.

Mr. SLIDELL. As I am a member of the Naval Committee that reported this resolution, and shall vote against its passage, I wish to state, very briefly, my reasons. Captain Herndon, no doubt, behaved very gallantly on the occasion of the loss of the Central America, in a manner to excite the admiration of the whole people of the United States; and if there were any precedent for extending this bounty to his widow, I should very cheerfully vote for it. She enjoys now a pension—I do not know how much—commensurate with his grade in the Navy.

Mr. POLK. Can the Senator state how much it is?

Mr. SLIDELL. Perhaps the chairman of the committee can state.

Mr. MALLORY. About three hundred dollars a year, I think.

Mr. SLIDELL. I am discharging now a very painful duty, one extremely unpleasant to me; but, being a member of the committee, I think it right to give my reasons for not supporting the report. The greatest extent to which the gratuity of the Government has ever been extended to the widows of officers who have perished in battle or have been lost at sea, has been, I believe, one year's pay. To that extent I should be prepared to go now; but inasmuch as it is very much ex-

tended—extended beyond the previous bounties of the Government—I shall be compelled, most reluctantly, to vote against it, paying, as I do, at the same time, a most heart-felt tribute to the high character, magnanimity, and courage of Captain Herndon.

Mr. MALLORY. I will not discuss this resolution, for I want it to pass; but will confine myself to the suggestion of the Senator from Georgia, that it is without precedent.

The resolution, sir, is consistent with the practice of this Government for many years past, and I will refer to but a few cases to show it. In 1817, Congress voted six months' pay to the widows, or the children, parents, brothers, and sisters of the officers and crew of the United States ship *Epervier*, lost at sea. In 1830, Congress gave the same in the case of the United States ship *Hornet*, lost at sea. In 1833, Congress gave the same in the case of the *Sylph*, lost at sea. In 1816, Congress gave twelve months' pay in the case of the United States ship *Wasp*; and in 1855, Congress gave twelve months' pay in the case of the *Albany*. In the present case we follow the principles established by these cases, but extend the time. But one individual, the widow of Herndon, will receive the benefit of the resolution. I forbear further remarks, in the hope of having the vote at once.

Mr. BENJAMIN. I desire to say a very few words in support of this resolution. In ordinary circumstances I should not be disposed to go beyond the precedents that have hitherto been set by Congress in such cases; but I do consider this case well entitled to be regarded an exception. This is the case of an officer in the performance of a public duty, in the line of duty to which he was ordered by the Secretary of the Navy, not merely hazarding his life in battle, not simply losing it by shipwreck, but deliberately sacrificing his life for the safety of the women and children who were committed to his charge. Under the circumstances which attended that shipwreck, no man who has read the details can doubt that the gallant officer who stood upon his deck, and sent those people that were confided to his care to a safe refuge on board the vessel lying near, did so with a knowledge that his life was to fall a sacrifice to his devotion to their safety. His conduct on that occasion created a thrill of admiration and gratitude in every American heart. It is not the ordinary case of a man losing his life in battle. There, sir, is the excitement, the desire of glory, the loss of all sight of danger resulting from the combat itself, when all notions in relation to self-preservation give way to excitement, and when men have before them the hopes of fame, of advancement in their profession, and of reaping in their own lives the reward of gallantry they display. This man sank into the grave, coldly, calmly, deliberately offering up his life as a sacrifice to duty.

I think, sir, that it is a very uncommon case. I believe that nothing hitherto of the kind has been done. If the passage of this resolution is to be refused, upon the ground that there has been no precedent, I think we shall be acting not well nor wisely. It is a case in which it is our duty to set the precedent; and I hope to God, sir, that whenever such cases may hereafter occur, the precedent will be followed. I hope that what the American Congress may do on this occasion may encourage other men to sacrifice their lives for the preservation of those whose safety is committed to their charge. Let us make this precedent. All the American people will ratify our act.

I have said all that I intended to say on the subject. I do not think this a case in which we ought to appeal to a former act.

Mr. CLAY. I must insist on taking up the special order. ["Oh, no!" "Question!"]

Mr. SEWARD. Let us take the question.

Mr. CLAY. If the Senator from New York is going to make a speech—

Mr. SEWARD. I have but a word to say.

The VICE PRESIDENT. This resolution was taken up on motion by a vote of the Senate, and is properly before the body.

Mr. CLAY. But it was with the understanding that there should be no debate.

Mr. SEWARD. This matter was not brought before the Senate by Mrs. Herndon, but I brought it forward simply on the recollection of a single incident which occurred to my mind, and that was

that the last that was known of this gallant officer, was the testimony of one of his passengers, that when his wife and children were sent ashore by him safe, and he took leave of Captain Herndon, he took from his pocket his watch, and gave it to him, and told him to carry it to his wife. That was the estate which he left to her.

Mr. IVERSON. I submit to the chairman of the Committee on Naval Affairs, and I wish to know whether there were any seamen or privates on that vessel who were lost under the same circumstances?

Mr. MALLORY. No other that I know of. Captain Herndon was a commander in the Navy, and assigned to that duty under orders of the Secretary of the Navy in conformity with law—the only naval officer on board the ship.

Mr. POLK. I wish to ask whether the officer thus assigned received pay for the service he rendered outside of what he got as an officer of the Navy?

Mr. MALLORY. I cannot answer that question.

The question being taken by yeas and nays, resulted—yeas 32, nays 8; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Broderick, Brown, Chandler, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Houston, Jones, Mallory, Mason, Polk, Pugh, Seward, Simmons, Stuart, Wade, and Wilson—32.

NAYS—Messrs. Clay, Green, Hunter, Iverson, Johnson of Tennessee, King, Slidell, and Toombs—8.

So the resolution was passed.

RELATIONS WITH PARAGUAY.

Mr. BAYARD. I rise to what I believe is a privileged question. I desire to move a reconsideration of the vote taken yesterday amending the resolution reported from the Committee on Foreign Relations, in reference to our difficulties with Paraguay. I voted in the affirmative, in favor of that amendment, but at the time was engaged in drawing an amendment to another bill, and was under a misapprehension, supposing that I was voting against the amendment. I move a reconsideration.

The VICE PRESIDENT. Does the Senator desire the motion to be entered, or to be acted on now?

Mr. BAYARD. I want to enter the motion now. I do not care when the Senate consider it.

Mr. MASON. The resolution was laid on the table. I suppose it ought to be taken up for the purpose of entering the motion to reconsider.

The VICE PRESIDENT. The Chair supposes it will be sufficient to enter the motion to reconsider, without a formal taking up of the resolution.

Mr. MASON. Very well.

FRENCH SPOILIATIONS.

Mr. CRITTENDEN. I beg leave to inquire of the Chair, who has been examining the special orders, as I learn, where, according to his research, is the bill concerning French spoiliations? It has been a very long time a special order.

The VICE PRESIDENT. The Chair is unable to state to the Senator when that special order will be reached. There are other special orders in advance of it, and it will depend entirely on the action of the Senate in regard to them. It comes up as a special order according to the date at which it was assigned.

Mr. CRITTENDEN. I wish the Secretary would send me a memorandum of its place.

Mr. FESSENDEN, and others. It will be found on the first page of the Calendar.

COMMODORE PAULDING.

The VICE PRESIDENT. The first special order is the joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding.

Mr. STUART. I move to postpone the consideration of that until to-morrow, in order that the Senator from Maine [Mr. HAMLIN] may proceed with his remarks on the fishing bounties bill.

The motion was agreed to.

COMMITTEE SERVICE.

The VICE PRESIDENT. The next special order is before the Senate.

Mr. TOOMBS. I ask to be discharged from further service on the Judiciary Committee.

Mr. CLAY. I would rather that that motion

would lie over. I should be inclined myself to object to the Senator being discharged.

Mr. TOOMBS. I hope it will be acted on now unless the gentleman has some reason why the Senate should not consider it now.

Mr. CLAY. I hope no other reason than that of the public service which the Senator may render. I dislike to see him discharged from that committee. I hope the motion will lie over until to-morrow.

Mr. SEWARD. You have a right to object.

Mr. TOOMBS. I think this comes within no rule of postponement. It is a motion which can be considered at once.

The VICE PRESIDENT. The rule is, that when a special order is called up, the Senate shall then proceed to consider it unless it be postponed by vote of the Senate. The Chair thinks it would require general consent to entertain now the motion of the Senator from Georgia.

Mr. TOOMBS. The gentleman gave way.

The VICE PRESIDENT. Still it requires general consent.

Mr. TOOMBS. It makes no difference to me whether it be acted on now or not. I give notice that I shall not serve.

COD FISHERIES.

The VICE PRESIDENT. The next special order is the bill (S. No. 10) repealing all laws or parts of laws allowing bounties to vessels employed in the bank or other cod fisheries, which is now under consideration as in Committee of the Whole.

Mr. HAMLIN. Mr. President, under ordinary circumstances, under almost any other circumstances, I should ask the indulgence of the Senate for a postponement of this bill until a subsequent day. It is a question in which the people whom I represent are deeply interested; and laboring, as I am, under an indisposition, I think I might even now be justified in asking the Senate to postpone the consideration of this bill to another day. But, sir, I am aware that the day of our adjournment has been determined upon, and I am unwilling to interpose any objection of mine; I am unwilling to ask any indulgence of the Senate which shall in any manner tend to procrastinate the day of adjournment of this body. I will, therefore, make the attempt to proceed, although I am deeply sensible that in what I have to suggest to the Senate on this occasion, I shall hardly be able to do the question that justice which I should like to do if I were in full health.

Mr. HUNTER. I suggest to the Senator that, if he feels indisposed, I shall move to take up the Military Academy appropriation bill, and go on with that to-day, so as to give him until to-morrow. I will consult his pleasure.

Mr. HAMLIN. I will say to the Senator from Virginia that I should be very glad indeed to yield to his suggestion; and, if it meets the approbation of the Senate, I will do so very cheerfully. I do not wish, however, to pursue any course which shall seem to delay the action of the Senate in any way. If the action of the Senate can be as properly devoted to that bill to-day, I should much prefer to address the Senate on this question to-morrow.

Mr. HUNTER. Then I move to postpone all prior orders, for the purpose of taking up the bill making appropriations for the Military Academy.

Mr. CLAY. I am not willing to force the Senator from Maine to speak to-day, complaining, as he does, of indisposition; and therefore I shall make no opposition to the postponement; but I trust that the Senators who advocate this bounty will to-morrow be willing to take up the bill, and that we shall proceed with it continuously until we get a vote. I want it disposed of. We may, perhaps, dispose of it to-morrow.

The VICE PRESIDENT. It is moved and seconded that this and other orders be postponed, in order to take up the Military Academy appropriation bill.

MILITARY ACADEMY BILL.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 62) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1859.

It proposes to make the following appropriations:

For pay of officers, instructors, cadets, and musicians, \$94,886.

For pay of eight professors at the Military Academy, \$16,000.
 For commutation of subsistence, \$3,066.
 For forage for officers' horses, \$864.
 For current and ordinary expenses, as follows: repairs and improvements, fuel, and apparatus, forage, postage, stationery, transportation, printing, clerks, miscellaneous and incidental expenses, and departments of instruction \$33,610.
 For gradual increase and expense of library, \$1,000.
 For expenses of the Board of Visitors, \$3,000.
 For forage for artillery and cavalry horses, \$8,640.
 For supplying horses for cavalry and artillery practice, \$1,030.
 For barracks for dragoon detachment, \$1,530.
 For barracks for artillery detachment, \$6,500.
 For purchase of a bell, and mounting the same with the clock on one of the public buildings, \$450.
 For repairs to officers' quarters, \$500.
 For models for the department of cavalry, \$250.
 For extension of water pipes and increase of reservoir, \$2,500.
 For targets and batteries for artillery exercise, \$150.
 For gas pipes and retorts, extension of cadets' new hall, academic hall, and other public buildings, \$9,500.
 For stables for dragoon and artillery horses, \$2,468.

The Committee on Finance reported the bill with an amendment, to strike out:

"For pay of officers, instructors, cadets, and musicians, \$94,886.
 "For pay of eight professors at the Military Academy, \$16,000."

And in lieu thereof to insert:

For pay of officers, instructors, cadets, and musicians, \$112,806.

Mr. HUNTER. The reason for the amendment I will state very briefly. The annual estimate was \$112,806, as the committee propose now to make the appropriation. This includes an addition of \$240 per annum to each of the professors, which has been accorded to them by a decision of the War Department, under our bill increasing the pay of the Army. There is a section in that bill, passed February 21, 1857, providing that—

"From and after the present fiscal year, the pay of each commissioned officer in the Army, including military storekeepers, shall be increased twenty dollars per month, and the commutation price of officers' subsistence shall be twenty cents per ration."

The Department has, I believe uniformly, decided that these professors are commissioned officers, and therefore entitled to this increase of pay. In the House of Representatives it seemed to be supposed that they were not commissioned officers and did not come under the law, and they struck out this addition of \$240 per annum to their salaries. The Committee on Finance recommend that it be restored, to make it correspond with the estimates, and correspond with the decisions of the Department for some time past.

Mr. PUGH. I should like to ask the Senator from Virginia, if he means to include professors who are not officers of the Army?

Mr. HUNTER. According to the decision of the Department all the professors at the academy are officers of the Army.

Mr. PUGH. Most of them are not entered on the Army list as officers of the Army. They are simply employes of the Government. I think the Department is wrong, and the House of Representatives is right.

Mr. HUNTER. Here is a statement of the case, which can be read, if the Senator desires to hear it.

Mr. PUGH. I do not care about the statement. I wish to know whether the fact is that it is proposed to give this additional pay to professors who are not officers of the line or staff of the Army in the ordinary acceptance of the term?

Mr. HUNTER. It is designed to give the professors the additional pay, on the ground that they are commissioned officers of the Army. They hold commissions, and are regularly commissioned as officers. Such has been the decision of the War Department, and of the Attorney General. If the Senator desires it, here is a statement of the case.

Mr. PUGH. I do not want to hear it. I am certain it is wrong. That is my opinion.

Mr. IVERSON. I wish to ask the chairman of the Finance Committee a question. We had before us some time ago—two sessions ago, I think—an application to raise the pay of Professor Jauon, who was professor of the sword exercise in the Military Academy. He was no more an officer than any one on this floor.

Mr. HUNTER. He is not included.

Mr. IVERSON. I think he is one of the pro-

fessors now. They are no more officers of the Army than I am.

Mr. HUNTER. He does not come in under this provision. He is master of the sword, and gets \$1,500. Only the professors get this increase.

Mr. HALE. Is this question on a substitute for the whole bill?

The PRESIDING OFFICER. (Mr. STUART.) It is a simple amendment, as the Chair understands it.

Mr. HUNTER. It is an amendment to one clause merely, giving \$240 additional.

Mr. HALE. I am opposed to it. I wish to submit some remarks on the whole bill, but I suppose it is hardly in order here.

The amendment was agreed to.

The bill was reported to the Senate as amended; and the amendment was concurred in.

Mr. HALE. I have but very little to say; but what I propose to say, if it has no other merit, will be very plain. I first took a seat in the Federal Congress fifteen years ago; and one of the first votes I gave was against any appropriations for the Military Academy at West Point. I voted in direct obedience to the instructions of the Legislature of the State of New Hampshire, which had passed resolutions instructing her Senators, and requesting her Representatives, to go against all appropriations to that academy. Those instructions coincided with the deepest convictions of my understanding. They have been growing stronger every one of the fifteen years; and if nothing else has been effected by the history of this session, I may say that these convictions have become crystallized by the action that has taken place here at this session. There are some facts which I want to state here, and I want the country to understand them; and they shall, so far as what I say here will enable them to understand them.

I take it, sir, that by the decided action of this Government, the President and Senate, this academy is a nuisance, and useless; and I will tell you why. In 1853, a class entered there, that was to graduate in July, 1857. A large majority of the class stayed and graduated, some of them with very distinguished honor, from different sections of the country. One of them, a young man who stood at the head of the class, was the son of a gentleman who was a colleague of mine on the floor of the other House. There were three young men in that class who found it very inconvenient work, and they finally dropped off, some of them at the end of six months. There is a very trying season for West Point Cadets at the end of the first six months, and one or two dropped off then, or were allowed to resign, and the academic board, who had the examination of them, recommended that they be not permitted to come back; and I think, before the year was out, their number increased to three. These young men, who could not go through the academy, who were dropped and left out, occupied their time as they pleased four years, whilst the class, consisting of fifty or sixty, continued in the academy, and, by hard study, and a vigorous and faithful performance of all the duties required of them, morally, physically, and intellectually, occupying the very highest places, finally graduated. That whole class was, however, passed by, and passed over by the President of the United States, and these three—I was going to say yearlings, but they did not come up to that—these half-yearlings, these six months' boys, that could not stand the test, and, as a matter of grace were allowed to resign, with a recommendation that they should not come back, by the action of the President and Senate, have been taken up and put at the head of the fifty or sixty who labored through the whole four years.

Now, sir, what did we do that for? What did the Senate do it for? We did it because we thought that an education at the Military Academy was not requisite to make a good officer. It was the deliberate judgment of the Senate and of the Government, that a boy had better be out of the academy than in it, because those who stayed and won its highest honors; those who labored by the midnight lamp, and toiled for four years in the painful and tedious ascent to such merit as they might acquire, were all passed by, ignored, put aside, and those semi-yearlings who were dropped for incompetency, and whom the academic board recommended should not be allowed to return,

have been taken up by us, put at the head, and made to rank every one of their class. Now, if a boy can better qualify himself for a commission in the Army by staying out of the academy than by staying in it, let us turn them all out, let us abolish the institution.

Again, sir, I say that to have an institution thus managed, and commissions in your Army thus conferred, exhibits a degree of favoritism, of partiality, and of—I do not know what to say—of injustice, that ought to condemn its administration, and it is unworthy of the support of the people, and ought not to be tolerated. The whole system is wrong, utterly wrong, totally wrong, entirely wrong. Why have we got to educate these scions of the Army at the public expense? Why educate them in preference to any other class of young men? I am opposed to it, and I am also opposed to the Naval Academy, though I do not know that the Government has solemnly decided that boys can better qualify themselves to be sailors by staying out of the Annapolis school than they can by staying in it; but that has been the deliberate judgment of the Senate and of the Government in regard to the Military Academy; and for that reason, if for nothing else, I am entirely and utterly opposed to any of these appropriations.

Besides, sir, whenever you have occasion for an army and men to command it, you do not go to West Point to get them—never. When you wanted a man to command your army to go to Mexico, you went to New Hampshire; you went into a very respectable bar there, and took one of our first rate country lawyers, and you made him a general right off, sent him to Mexico, and there he distinguished himself so above all his fellows, West Point men and all, that nothing would do but you must, in consideration of his distinguished services, make him President of the United States. What West Point boy have you ever served in that way, sir? [Laughter.]

All these facts go to show that West Point is utterly useless. We have the judgment of the Senate and the judgment of the country that men can better qualify themselves for subordinate places in the Army by spending their time anywhere else than at West Point, and you can get better generals out of a New Hampshire law shop than you can out of a Military Academy at West Point, and as long as this is the case, what is the use of supporting it any longer?

I am willing that the vote shall be taken, but I simply want the yeas and nays, so that it may be seen how many there are who are for supporting a useless institution, which disqualifies men for places in the Army, when the fiction by which it is sustained is that it qualifies them. I shall ask for the yeas and nays on the passage of the bill.

Mr. HOUSTON. I think the Senator from New Hampshire has taken but a partial view of this subject. I do not think he has taken a fair and candid course with it. I am not a particular advocate for the Military Academy. Its benefits may be partial, and there may be partiality in the administration of its affairs. The gentleman, in condemning those young men who were appointed lieutenants in the Army, appears to have taken a very partial view. He has calculated the disadvantages, the toil, the labor, the vigilance of those who have pursued their studies regularly at the institution; but he has not calculated the advantages on the other hand that have resulted to the Government from these delinquents, as he charges them with being. Why, sir, he ought to recollect, as I believe he is an advocate for retrenchment and economy, that these young men, by leaving the institution, saved to the Government a very considerable sum. The Government had not to support them after they left there, while it was taxed for the support and sustentation of those who remained at the institution. I really think if they are capable and efficient men who have been ingrafted upon the Army, they are entitled to credit, rather than discredit, from the fact of their having become useful and active soldiers and officers, without the same expense to the Government that others have incurred. I can, therefore, see no reason for condemning these young men for being placed in the Army when their capacity generally was not objected to. I do not think the scientific force altogether important in the Army; for I think the most efficient soldiers I have ever seen were boys who were taken

from the plow-handle, young men who had been employed in active life, who had a knowledge of human nature, and the practical affairs of life, and who never delved into the profundity of abstract sciences. They are the efficient soldiers, and whenever it is tried, they will be found the main reliance of the country.

I think the Senator from New Hampshire is disposed to be harsh with the young men to whom he alluded. If they have individual merits apart from their character as students and successful scholars, that would entitle them to the confidence of the Executive and of the Senate. I can see no impropriety in the President appointing them, and in the Senate sanctioning their appointment. If the Senator will suggest any remedy to supply the place of the Academy, or to abolish it entirely, I may view it with great deliberation, because I do not think it is necessary to have such an institution under the peculiar patronage of the Government. I have never seen any advantages result to the country from it that justified it; and though there are gentlemen of merit there as professors, proficient in their science, I doubt very much whether the extent to which it is carried there is necessary to every officer constituting the Army of the United States. Practical men, and not martinetts who are educated in all the routine and formula of military life, are to be relied on as efficient officers when you bring them into the field. But, sir, I shall not detain the Senate.

The amendment was ordered to be engrossed, and the bill to be read a third time. It was read the third time, and on the question, "Shall the bill pass?"

Mr. HALE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 32, nays 9; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Brown, Clay, Collamer, Crittenden, Dixon, Douglas, Evans, Fessenden, Fitzpatrick, Foot, Foster, Green, Gwin, Hamlin, Hammond, Houston, Hunter, Jones, Mallory, Mason, Sebastian, Seward, Simmons, Sillidell, Stuart, Wilson, and Yulee—32.

NAYS—Messrs. Broderick, Doolittle, Durkee, Hale, Harlan, Johnson of Tennessee, Pugh, Trumbull, and Wade—9. So the bill was passed.

RELATIONS WITH PARAGUAY.

Mr. DOUGLAS. I move now that the Senate proceed to the consideration of the bill for the admission of Oregon.

Mr. MASON. I hope the Senator will allow me to have precedence of the floor, and call up first the joint resolution in reference to the difficulties with Paraguay. I take it for granted, from what has passed, that there will be no debate on it. The Senator from Delaware [Mr. BAYARD] moved a reconsideration of the vote taken yesterday. Let the vote on the reconsideration be taken, and if it is not reversed, it will end the matter. If it is reversed, the resolution will, no doubt, be passed.

Mr. DOUGLAS. If it will not lead to debate, I yield for that purpose.

Mr. MASON. I move to take up the joint resolution to which I have referred.

The motion was agreed to; and the Senate proceeded to consider the joint resolution (S. No. 28) for the adjustment of difficulties with the Republic of Paraguay.

The PRESIDING OFFICER, (Mr. STUART.) The question is on reconsidering the vote by which the Senate agreed to the amendment of the Senator from Vermont, [Mr. COLLAMER.]

Mr. HALE. I wish to ask the chairman of the Committee on Foreign Relations a single question. Does he not mean to press the resolution if the amendment of the Senator from Vermont prevails?

Mr. MASON. I should not press it in that event, because I am satisfied that the President has all the power now, by his general executive office, that he would have if the resolution were to pass with this amendment.

The motion to reconsider was agreed to; and the question recurred on agreeing to the amendment.

Mr. HALE called for the yeas and nays, and they were ordered.

Mr. IVERSON. I should like to hear the amendment read.

The Secretary read the amendment, which is in line eight, to strike out the words, "and use such force," so that the clause will read:

"That the President be, and he is hereby, authorized to adopt such measures as in his judgment may be necessary, &c.

Mr. MASON. The President of the United States, by virtue of his office under the Constitution, conducts our intercourse with foreign nations, and therefore he has ample authority, without any express law, through the functionaries of the Government who are in that quarter of the world, to make representations at this Republic if he thinks proper. If, therefore, the amendment prevails by which he is prohibited from making a demonstration of force, if the reparation which is demanded be not given, I consider that the resolution would be perfectly useless, and of course should not press it. I hope the amendment will not prevail.

Mr. COLLAMER. Inasmuch as this is an amendment which I proposed, I desire briefly to state the reason why I offered it. It is true that the President of the United States has the conduct of our foreign affairs, and undoubtedly can, and, as he says, will, apply to Paraguay for the redress of grievances and wrongs; yet I say that it is unprecedented in this Government to authorize the President, in the first instance, by an act of Congress to use force for the purpose of procuring redress. I know that it is a power which he has exercised in relation to savage people, but not in relation to a people with whom we have held intercourse, with whom we have made treaties; who are a civilized people, or recognized as such. To allow the President to use force for the purpose of obtaining redress and procuring satisfaction for wrongs, he being the judge alone of that satisfaction, is unprecedented in the Government; no such thing can be found.

Now, I am somewhat astonished at the honorable chairman of the Committee on Foreign Relations seeming to press this point so much. I have insisted that this is war. He says it is hostility, not war. Well, I should like to see the writer who makes the distinction between war and hostility. I should like to know in what it consists, if there is any difference. Presidents have thought proper to ask for force on former occasions. I believe it was asked a few years ago in relation to Granada. A variety of propositions of this kind have been presented to the Committee on Foreign Relations; and certain it is that the course taken by the honorable chairman of that committee has been highly conservative all the time. No new projects, no hair-brained adventures have been presented to us from that source at all; but this seems to be persisted in, and it seems to me to be inconsistent with the precedent course of the honorable chairman, and with the whole practice of our Government hitherto. Why is it that the President asks this? Paraguay has never been asked to make reparation to us for the wrong complained of. He says he will ask it. Very well; then the time has not yet come for using force. Why does he come here at all? It is, I apprehend, because the case is of such a kind that he would be unwilling to use force unless the authority to do so was voted by Congress; and it is therefore proposed to make it a joint resolution, so that it shall be an act of Congress like an act of war, Congress alone having the power to declare war.

Why may not the usual and ordinary course be taken? Gentlemen seem to have supposed that I am opposed to obtaining satisfaction. Not at all. But it is said Paraguay is a weak Power, and we are in no danger if we do get into war. That is so; but it is a dangerous precedent. Why not then pursue the usual and ordinary course—ask them for satisfaction for whatever wrongs there are, see whether they make excuse? In regard to the firing into the Water Witch, it may be asked whether they disavow that, whether, having been done by an officer of theirs, they would make redress, and if so, what redress? So, too, in relation to the confiscation of property of some of our citizens, negotiations may be held.

My objection to this is not that I would not use force when the proper time came, when the occasion called for it, but Congress should be the judge, not the Executive. Let the Executive endeavor to succeed in a negotiation. If he does not in that way obtain the satisfaction which he thinks proper, let him come to Congress; if he does obtain it, a treaty will be made, satisfaction will be given and accepted. If, however, negotiation fails, if the satisfaction tendered is not that with which we ought to be satisfied, let him lay the facts before Congress, that we may see and

judge whether the occasion for war has arisen—that is, whether the occasion is one ripe for the use of force, for that is war.

My amendment is simply asking you to pursue the usual and ordinary course; but the original resolution is unusual and unprecedented altogether. I know that it is considered by perhaps most of our people that when wrong has been done to us we should obtain redress immediately, and use force right off. By way of defense, I have no objection to that; but to use force to coerce satisfaction is a matter of *dernier resort*, and an act of war, no steps to which should ever be taken, I think, until a proper occasion is presented, and then it should be submitted for the exercise of the discretion of Congress to say whether sufficient satisfaction has been offered or not.

Mr. DOUGLAS. I will not prolong this debate, because I shall be compelled to ask that the subject be postponed in the event of further discussion. I made the report from the Committee on Foreign Relations in this case; and I am prepared to indorse the resolution thoroughly. I think the Senate understand it, and I will refrain from saying anything in vindication of it in the hope of getting a vote; otherwise, I shall have to move to postpone it with a view to take up the Oregon bill.

Mr. BAYARD. For the same reason, I shall forbear to express my opinions, though I am very clear in my convictions that the authority to use force by way of demonstration, which would be the result of the discretion here confided, instead of leading to war, would probably prevent war.

The question being taken by yeas and nays, resulted—yeas 15, nays 25; as follows:

YEAS—Messrs. Broderick, Collamer, Crittenden, Doolittle, Durkee, Fessenden, Foot, Hale, Johnson of Tennessee, Mallory, Seward, Stuart, Trumbull, Wade, and Wilson—15.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Brown, Clay, Dixon, Douglas, Evans, Foster, Green, Gwin, Hammond, Harlan, Houston, Iverson, Jones, Mason, Polk, Pugh, Sebastian, Simmons, Sillidell, and Toombs—25.

So the amendment was rejected.

Mr. MASON. I hope the vote will now be taken on the resolution.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

ADMISSION OF OREGON.

Mr. DOUGLAS. I now renew my motion to proceed to the consideration of the bill for the admission of Oregon into the Union as a State.

The motion was agreed to; and the bill (S. No. 239) for the admission of Oregon into the Union was read a second time, and considered as in Committee of the Whole.

The Secretary proceeded to read the bill.

Mr. DOUGLAS. I do not know that it is necessary to read the fourth section in regard to the land grants. It is the same as the grants to Kansas and Minnesota.

There being no objection, the reading of the fourth section was dispensed with.

Mr. MASON. I do not know how it is with other Senators, but I really have very little information about this distant Territory of Oregon as to the number of its population, whether they are sufficiently numerous to entitle them to come into the Union as one of the States. I do not even know whether they have sufficient population there to incur the necessary burdens of self-government in the formation of a State government. I am informed by the honorable Senator who reported the bill that there is no report accompanying it from his committee; and I do not know, therefore, how we are to get any information on the subject. I should, for one, place very little reliance on the statements made by Senators here for guiding their own judgment. I should be averse to guiding my own judgment by them, however satisfactory they might be to others. I doubt whether any one knows the population—whether it is twenty, or thirty, or forty, or more thousands. I am not prepared, without some official information that we may rely upon, taken under Federal authority, to vote for the admission of this State.

Mr. DOUGLAS. There is no report accompanying the bill, for the reason that there was no official information before the committee, except that which is found embodied in the constitution itself, which is printed and before the Senate, and the authentication of that instrument. Last year

this subject was before the committees of the two Houses, and the House of Representatives passed a bill for an enabling act to authorize the people of the Territory of Oregon to proceed to form a constitution and State government. The Territorial Legislature of Oregon, presuming that the Senate would concur in the action of the House of Representatives, proceeded to call a convention. The Committee on Territories of the Senate reported favorably on the bill of the House of Representatives, and I presume it was lost here solely because of the want of time on the last night of the session. I tried very hard to get it up, and I think that nothing but the want of time prevented its passage. The Oregon Legislature being in session in the mean time, had taken it for granted, as one House had passed an enabling act, that the other would concur, and proceeded to call a convention. The convention assembled and made the constitution. They submitted it to the people for ratification or rejection, and it was ratified by a very large majority. These are the principal facts.

Mr. BENJAMIN. Will the Senator permit me to ask him a question? Has he any knowledge of the number of votes given on the constitution? That might guide us.

Mr. DOUGLAS. Yes, sir. The number of votes given on the constitution was about eleven thousand—perhaps one or two hundred less than that number. I am informed by the Delegate that there being no serious contest, it was not a full vote. He thinks there are some seventy or eighty thousand inhabitants there. The vote would indicate about fifty or fifty-five thousand. I think there is a larger proportion of women and children in Oregon, in comparison with the number of voters, than in any of the other Territories, for the reason that it has been longer settled. Settlements commenced there in 1832. They remained with their provisional government up to 1848, and then were created into a territorial government, under the authority of law, and have been ten years under a territorial government. It is a quiet, stable community. A large portion of the people are old settlers, whose families have grown up around them, and there is a larger proportion of women and children to the voters than in any other Territory, and I think five to one would be a very reasonable estimate. This would give a population of fifty-five thousand, supposing eleven thousand to have been a full vote. I am assured, however, that it fell many thousand short of a full vote. I have no question that Oregon has a population of ten or twenty thousand more than Kansas, and I do not think, under the circumstances, that it would become us to reject Oregon, with a larger population, after having admitted Kansas, when we take into consideration the fact that there were no irregularities in Oregon; there has been no rebellion, no turmoil, no controversy there.

Mr. SEWARD. I wish to ask the honorable Senator from Illinois, whether I understand him to say that Kansas has been admitted as a State?

Mr. DOUGLAS. I will answer the Senator very unequivocally. So far as this Congress is concerned, we have admitted Kansas, provided the people there choose to come in under the law we have passed. Whether they will or will not do so, is a question for them to decide, and not for me. If they desire to come in under that bill, with that proposition, then our action is final and conclusive; if not, she is not admitted.

But the point I was making was, that the population of Oregon is certainly larger than that of Kansas; and, after a bill has passed by which Kansas may come in, if she chooses, with that number of inhabitants, I did not expect to hear a question raised with regard to Oregon, a Territory where there has been no dispute about the regularity of the proceedings; no dispute about their loyal fidelity to the Government; no dispute but that they were a stable, industrious, and law-abiding community. Hence, I knew of no objection, except the strict, technical rule of population; and that having been waived in other cases, I supposed it would be waived in this. I am not disposed to take time, and I shall not detain the Senate.

Mr. BENJAMIN. I shall vote for the admission of Oregon. I wish to state, however, in doing so, that this is the last vote I shall ever give for the admission of a State into the Union without a census previously taken establishing that it has

the amount of population requisite on the representative basis. I do so because I think, under the circumstances of the case, it would be rather an ungracious adherence to a rigid rule to require that, since for the last two or three sessions Congress has been acting on the admission of Kansas with an agreement on all hands that it should be admitted into the Union with a view of putting an end to the disturbances there, although it was conceded that the population was insufficient. In this case of Oregon, without having any precise and official information, it is evident that the population is a very respectable one in number—far exceeding any attributed to Kansas; and if it does not reach the representative basis, it is very near it. Under the circumstances, I will give a vote for the admission of this State; but I desire to put myself on the record as protesting against any extension of the principle. I shall hereafter oppose rigidly any such admissions.

Mr. GWIN. Mr. President, we have no exact information in regard to the population of Oregon; but the Delegate of that Territory, who has resided there ever since 1849, and has been, during that whole period, either the Governor or the representative of the Territory in the other House, informs me that he has no doubt the population equals eighty thousand persons. As stated by the Senator from Illinois, there are more families in that Territory than in any other Territory of the Union: many more than there are in my own State. Its settlement has been much more gradual than that of any of the new Territories: much more so than in California. Instead of there being only eleven thousand voters, as has been stated, I have been told by the Delegate from Oregon that they have cast as many as thirteen thousand votes; and, estimating the population to be in the proportion of six to each voter—which is a low estimate—the population of Oregon is now about eighty thousand.

Besides, this movement for a State constitution has been taken very deliberately by the people of Oregon Territory. The question was put to the people three times whether they would ask to be admitted as a State into the Union. Twice the people voted against it, on the principle which was alluded to by the Senator from Virginia, that they did not at that time desire to assume the responsibility and expenses of a State government. On the third occasion they voted in favor of forming a State constitution. They then elected delegates to a convention; and those delegates submitted their labors to the people, and a large majority of the people voted in favor of the constitution. It is impossible, without an enabling act, for a constitution to come before Congress in a better form and having received more deliberately the judgment of a people. I doubt whether there is a population in any of the Territories of the Union better qualified for a State government. I have been told that there are fifteen thousand landholders, farmers, in Oregon. We adopted a new system in the settlement of that Territory—giving donations of the public lands to actual settlers, and it has resulted in filling it with farmers, substantial citizens who have homes, and have improved them. I know of no Territory that is better qualified for admission into the Union as a State than Oregon, not even excepting Minnesota, for whose admission the Senate passed a bill a few weeks ago.

Mr. SEWARD. Mr. President, there is a provision in the constitution of this new State which, as I understand, excludes people of African descent, though free, from toleration in that State. Against that, I wish to express my decided protest, and to say that it is with regret that I give a vote for the admission of a State which has that feature in its constitution. At the same time the State of Oregon is an old community, one of the oldest, the first colony of ours on the Pacific coast. It has, as has been so well said by the honorable Senator from California, been a long time in the process of settlement. The observation which I have made concerning it, has been, that the community established there are peaceful, orderly, competent to self-government. They are two thousand miles from the center. It is not a good thing to retain provinces or colonies in dependence on the Central Government, and in an inferior condition a day or an hour beyond the time when they are capable of self-government. The longer the process of pupillage, the greater is the

effect which Federal patronage and Federal influence has upon the people of such a community. I believe that the people of Oregon are as well prepared to govern themselves as any people of any new State which can come into the Union.

I do not think the matter of numbers is of importance here. The numbers are estimated at eighty thousand. The present ratio of representation is ninety-three thousand four hundred and twenty. Eighty thousand is a practical compliance even if that rule should be enforced; but I shall never consent to establish for my own government any arbitrary rule with regard to the number of population of a State. I can imagine States which I would not admit with a million of people, and I can imagine those which I would admit with fifty thousand. These are my explanations. I shall vote for the bill.

Mr. FESSENDEN. Mr. President, the want of a sufficient number to entitle the proposed State to a Representative in the other House under the existing ratio of representation, although an objection in my mind, is, as the Senator from New York has said, not an insuperable one. I could get over that in some cases. At any rate I do not choose to commit myself to require any particular number at any one time, although I accede to the correctness of the principle. I have always considered it as a very great inequality in our system that a State should be admitted with not a sufficient number of people to entitle it to a single Representative under the existing ratio, and yet that it should bring two Senators on this floor. It seems to me to be disturbing the balance which was provided originally in the Constitution between the States.

However, sir, I am not disposed to speak of that point any further, because it would not influence my action in all cases. I cannot vote for the admission of Oregon under this constitution on another ground, and that is the ground which has been alluded to by the Senator from New York. I not only look upon it with regret, but to my mind the difficulty is insuperable. I do not believe in the doctrine of self-government to the extent which allows one portion of the citizens of the United States to interfere with the rights of another portion of the citizens of the United States. I do not hold, either in substance or in form, to any extent whatever, to the doctrines of the Dred Scott opinion. I believe, as I have before stated on this floor, that that opinion is a perversion of all law, of all fact, and of all history, and that there is nothing in it which should entitle it to my respect as a decision of the court under any circumstances—neither in the opinion itself, nor in the reasons given for it, nor in the mode in which it was procured; but I do not intend to enlarge on that point.

By the laws of Maine, and under the constitution of the State of Maine, free negroes are citizens—just as much citizens of the State of Maine as white men. It has been so solemnly decided by the highest tribunal of our State, since the decision in the Dred Scott case. The supreme court of Maine has decided that they are entitled to all the privileges, that they stand upon a perfect equality with white men, under the constitution and laws of that State. They are voters, and recognized as citizens under the terms of the constitution, which allows any citizen to vote. There is a clause in the constitution now presented from Oregon which prohibits free negroes from coming into the State and residing there; and it therefore prohibits a portion of the citizens of the State of Maine from going to Oregon. I cannot vote for the admission of any State with a constitution which prohibits any portion of my fellow-citizens of my own State from the enjoyment of the privileges which other citizens of the State have, and which the citizens of every other State have. Hence, sir, inasmuch as a portion of the people that I represent, the free citizens of the State of Maine, cannot, by the provisions of this constitution, be allowed to go into Oregon to reside, under any circumstances, it is an insuperable objection to my mind, and I cannot vote for the admission of Oregon as a State with such a constitution.

Mr. TRUMBULL. Mr. President as I shall vote against the admission of Oregon, at the present time, I wish to state that I shall not do so for the reasons stated by the Senators from New York and Maine. There are many reasons why

I shall not vote for it. I do not agree in the views which have been stated. While I repudiate the doctrines of the Dred Scott decision, so far as that decision undertakes to establish slavery in the Territories, by virtue of the Constitution, and to limit the power of Congress over the Territories of the United States, I by no means assent to the doctrine that negroes are required by the Constitution of the United States to be placed on an equal footing in the States with white citizens.

I have no power to prevent Oregon, when she becomes a State, or the State of Maine, or any other State, dealing with her black population as shall seem to her best. That is a matter with which I have legally no right to interfere, while residing in another State, but I do not think that because persons of that class are allowed to vote in some of the States, therefore they are entitled to these privileges in other States, which do not think proper to give such privileges. And, sir, I am not prepared to say that Oregon may not prevent a negro population from coming and settling within her limits. It is a question, the argument of which I will not go into at this time, and I only make these remarks because it might be supposed that I design voting with the Senators from New York and Maine.

Mr. SEWARD. The honorable Senator misunderstands me. I vote for the bill notwithstanding that objection; the honorable Senator from Maine votes against it.

Mr. TRUMBULL. Without arguing this point at all, I make this statement, in order that my own position may be known. In the great controversy which we have had upon the slavery question I have never contended for giving the negro equal privileges with the white man. That is a doctrine I do not advocate. I have believed that negro slavery was an evil. I believed that under the Constitution of the United States the Congress of the United States had authority to govern its Territories. Possessing that authority, thinking slavery to be an evil, I believed it to be the duty of Congress, so long as it had authority over the Territories, to prevent the spread of slavery into them, they being free; and that the Constitution of the United States was neutral upon the subject of slavery, neither creating nor abolishing it of its own vigor. If we acquire territory, which, at the time of the acquisition, is slaveholding territory, it is not abolished by the acquisition; if it is non-slaveholding territory, then slavery is not established by the Constitution; and believing that slavery ought not to be established in Territories where it does not exist, I was opposed to the repeal of the Missouri compromise and the opening of Kansas to slavery.

Now, in regard to the clause in the constitution of Oregon, which her citizens have thought proper to adopt, excluding the settlement of free negroes in the State, I am not prepared to say that they may not adopt such a clause, but it is a question which I shall not now discuss. There are other reasons why I shall vote against the admission of Oregon at this time. We have here a naked bill for the admission of Oregon. We have no report from the committee; we have no evidence of her population; and the Congress of the United States has never passed any act authorizing the formation of a State government. Now, sir, I am opposed to the admission of new States without some evidence of their population and some regularity in their proceedings, in the formation of their constitutions. I think we ought to have some general system by which all the Territories should be guided in forming State constitutions, and asking admission into the Union. The amount of population has, with me, a good deal to do with the question. I might, under very extraordinary circumstances, vote for the admission of a State when the population was not sufficient to entitle it to one Representative in the other branch of Congress; but it would have to be a very extraordinary case, one endangering, as I thought, the peace of the country, before I would consent to do it. Here we have no evidence at all of the population of Oregon. Oregon has had no authority to form a State constitution, preparatory to her admission into the Union. Under these circumstances, I am not disposed, at this time, to vote for her admission. I am willing to dispose of this question without examining the constitution at all, irrespective of what is in the constitution. I will not, myself, vote to admit

her under the circumstances of the case; and, therefore, with a view of testing the sense of the Senate on this subject, I move to postpone the further consideration of this bill until the first Monday of December next.

Mr. DOUGLAS. I trust that motion will not prevail. It does not stop the debate. It will only lead to the consumption of more time, first; in the argument of the propriety of postponement, and secondly, in the discussion of the merits of the main question. I regret also that my colleague has deemed it his duty to introduce the slavery question in connection with this Oregon bill. As the people of Oregon had disposed of that question to suit themselves, I had hoped that we could abide by their decision without embarrassing our action here. On the submission of the constitution to the people of Oregon, the question of slavery was submitted separately, and also that of the admission of free negroes into the State; each was voted upon by the people, and both classes of colored persons were excluded from the State. As to the power of a State to exclude negro population from her limits, I had hoped there was no dispute at this day; but I do not feel at liberty to remain silent when the Senator from Maine raises the question of the right of a State to exclude colored population, for the reason that my State has, by constitutional provision, done the same thing, and so have other States of the Union. I hope that he does not intend to move to expel Illinois from the Union because she has a clause similar to the one under consideration, or to question her right to be in the Union with such a clause in her constitution.

I do not question the right of the people of Maine to confer just such privileges as they think proper in that State, under their local constitution, upon the colored population. If they choose to encourage a colored instead of a white population, it is their right to do so. If they choose to confer on them the right of self-government within the limits of that State, it is their right to do so. I do not question their right in Maine to allow a negro to vote, if they see proper, any more than I do the right of New York to say they shall vote provided they have \$250 worth of property. These are matters that belong to the sovereignty of each State to decide for itself. Maine has decided the question in one way, Illinois has decided it the other; New York has made an anomalous provision, that allows a negro to vote provided he owns a certain amount of property, but will not allow him to vote on an equality with white men. I insist upon the right of Illinois, as a sovereign State of this Union, to keep negroes out of the State, whether free or slave, if Illinois chooses to do so. Whether she does so or not is a question for herself, and not for any other State to interfere with.

I thought that for several years we had recognized this doctrine completely. The renowned Kansas-Topeka constitution had a separate clause submitted to the people at the time of its adoption, making it the duty of the first Legislature to pass laws to prohibit the introduction of free negroes into Kansas, and that clause was adopted, whether you call it part of the constitution or not, as an instruction to the first Legislature that should assemble under the Topeka constitution. The dispute has been whether that clause was part of the constitution or not. It was a separate clause submitted to the people, which, if adopted, was to be an instruction to the Legislature. The Lecompton constitution contained a clause much more stringent than this. It was that no free negro should be permitted to live in Kansas. We allowed those people to say whether they wished that constitution or not. If they wish it, we have provided that they may come in under it; if they do not, they may make a new one.

The same thing has been done in Oregon. In Oregon the people were permitted to say for themselves, by a distinct vote, whether they wished a clause inserted in their constitution prohibiting the bringing there of any more negroes or mulattoes than now reside there. The Oregon constitution does not exclude or expel from the State the negro population now there, but it does make it the duty of the Legislature to provide by law efficient means of preventing the importation of any more colored population into that State. I think it is competent for them to do so. I do not think it is competent for us to inquire into the

constitution, and deny their right to adopt that clause. I had hoped that, the people of Oregon having settled each of these matters for themselves, the negro question would not be raised in this debate, and then we should have nothing to consider but the simple question of population.

Now, one word as to population. I do not think there are ninety-three thousand four hundred and twenty people in Oregon—the number required, according to the existing ratio, for a member of Congress. I think it ought to be a general rule for the admission of States to require that number. I have made several reports from the Committee on Territories in favor of that general rule. I reported a bill of that kind in 1856 as applicable to Kansas. I brought in this year such a proposition with a view to apply it to all Territories. I was willing to apply it to Kansas now, and to Oregon, if we had applied it to Kansas, and say that neither Kansas nor any other Territory should come in until it had that requisite population. But, sir, here are two inchoate States which have proceeded to make a constitution and take the preliminary steps for admission into the Union. You have agreed to receive one with less than the population required, and it has the smaller population of the two. Now, the question is, shall we, after having agreed to admit Kansas with—say forty thousand—refuse to admit Oregon with fifty-five thousand, as I think she has, or with eighty thousand, as her Delegate estimates? I think it is a discrimination that we ought not to make. When we come to other Territories, not having matured their applications, it will be a point proper then to be considered, because, to apply the rule to them will not be invidious; it will not be making a distinction disparaging one or conferring special favors upon another. I hope that, without further debate, unless there is some other question to arise, we shall be permitted to take a vote.

Mr. FESSENDEN. I am not disposed to make any further debate, but simply desire to say what I consider necessary in reply to the remarks of the honorable Senator from Illinois. He asks me the question whether I would vote to expel Illinois from the Union?

Mr. DOUGLAS. I expressed the hope that you would not.

Mr. FESSENDEN. The Senator says he expressed the hope that I would not; but it was rather put interrogatively on the supposition that it was possible to expel her for the reason that she does not allow free people of color to come into that State to reside. I believe that is the policy of Illinois, though I do not know what the peculiar provision of her constitution is in that respect. The Senator, I suppose, will do me the justice to think that I understand the difference between the two cases; at all events I will not pay him so poor a compliment as to think that he does not understand the difference between the two cases; and therefore when he expresses that hope, I suppose it is rather by way of illustration than for the purpose of argument.

Mr. DOUGLAS. I will confess that it was a playful remark. I did not suppose there was much danger of his making the motion.

Mr. FESSENDEN. Well, Mr. President, let me say, then, in addition to what I said before on this subject, that I attach no sort of consequence to all this talk about the power of Congress to reject a State. Some gentlemen are in the habit of saying that we cannot reject a State for such a reason, and we cannot reject a State for another reason. Sir, I hold to the broadest doctrine upon that point. Congress has a right to refuse the admission of a Territory applying to be admitted into the Union as a State for any reason or for no reason at all. The power given by the Constitution is unlimited. Congress may admit a State. That, in my judgment, includes all power over the subject; Congress may, if it chooses, refuse to admit a State, and Congress may do it for as many reasons as there are different members of Congress. This debate is an illustration. One member may object for one reason, another for another. Every member of Congress must act upon his own responsibility and for a reason that is satisfactory to him. I do not know that the reason I adduced for my action in this case would be satisfactory to any other member; I do not know that it would to my colleague; I do not know that there are any other States which stand in the peculiar attitude that my State does in this

respect. But, sir, standing as she does with such a constitution, and with such a construction of her constitution as has been given by the highest judicial tribunal, to my mind the consequence is inevitable. As I said before, the constitution of the State of Maine makes negroes citizens. The question is not merely one of voting. I would not object to this constitution, if it said simply that no colored person should vote or should exercise the elective franchise. That is a different matter. I concede that a State must judge of that matter for itself. It has just as much power to fix that as a qualification, as any other. This question, however, goes much further than that. I have said that under the provisions of the constitution of the State of Maine, the supreme court of that State has decided that free negroes are citizens of that State, and have not only a right to vote as a necessary consequence of citizenship, but all other rights of citizens. The question was put to the court: had they a right to vote? That involved the point of citizenship; and the court has decided that free colored persons are citizens of the State of Maine.

Now, what does this constitution which is before us from Oregon, say? It says that no free colored persons shall be permitted to come into the State of Oregon. It says, therefore, that a certain set of people, who are citizens of the State of Maine, a certain portion of the citizens of the State of Maine, shall not be permitted to go into Oregon. What, then, is the result? As I said before, a certain number of my fellow-citizens, entitled to all the privileges in my State that I am under the laws of that State, not only of the elective franchise, but of being elected to office, are excluded from this proposed State. I say I cannot vote for the admission of a State which refuses to a portion of the citizens of the State of Maine the right to go into that State and reside, or the right to go there for any other purpose, when it extends that right to other citizens. The operation of such a provision on a portion of the citizens of my own State, makes my position peculiar.

After a State has been admitted into the Union, there is an end of our control, so far as the power of Congress goes. Oregon might be admitted without this provision in her constitution, and she might change it the next day within the forms of law, and prohibit free colored people from coming into that State; but it would give me no power, and Congress no power, to exclude her from the Union, or to make any objection to it. If a free citizen of the State of Maine, a person of color, then claimed any constitutional rights there, he must try them for himself; but, so far as the State was concerned, it would stand in the Union after making such an alteration of its constitution, precisely on the same ground that it did before, as a sovereign State of the Union. The individuals of other States, who felt aggrieved by its action, if they had rights there of which they were deprived, must seek for them, and sustain them at the proper tribunals, and in the proper way.

There is then very evidently, I say for an explanation and in reply to what the Senator from Illinois says was a playful remark of his, a very marked difference between exercising the power which I have as a Senator to vote against the admission of a State, and quarreling with that State for what she may do that I did not approve, or that I may think unconstitutional, after she is admitted into the Union. My power is ended as a Senator of the United States when the act of admission is consummated.

Now, sir, I do not feel disposed to argue this matter any further. I did not wish to bring in the slavery question, and I have not brought it into this debate at all. I have no desire to go over the old ground about that. I have expressed my opinions here often enough on that subject. My object simply was to state a reason in explanation of my vote on this question, which might perhaps, to some people, require explanation. I have given one sufficient ground (and I shall say nothing of others, for one good reason is enough) why I shall not feel justified in voting for this constitution which is presented to us.

Mr. DOUGLAS. The Senator from Maine admits that when Oregon is once in the Union, she may immediately adopt the clause that is now under debate, prohibiting the introduction of free negroes, but he thinks we ought not to admit her

with that constitution. Now, permit me to say that if he acknowledges that she may do it the day after she is in the Union, it is a concession that she has a right to have that clause in her constitution.

Mr. FESSENDEN. I mean to say that she has the power to put it there.

Mr. DOUGLAS. She has no power to put it there unless she has a constitutional right to put it there, for this reason: if it violates the Constitution of the United States, it is void. If it does not violate the Constitution of the United States, she has a right to put it there.

Mr. FESSENDEN. That is a question for the courts, as I stated.

Mr. DOUGLAS. As it is a question for the courts, I would ask the Senator from Maine how are the people of Oregon to have an opportunity of testing that question in the courts unless you admit her? Unless you admit her, how can the question be raised? If the Senator would keep her out of the Union, because of that clause in her constitution, he would, by that negative vote, deprive her of the opportunity of going into the courts to ascertain whether or not she has a constitutional right to exercise this power.

Mr. FESSENDEN. The Senator does not understand my position at all, and he is going off at a tangent. The point I have presented is simply with reference to my own vote; I am not discussing the rights of Oregon at all, either in the Union nor out of it. I say that, if she should be admitted now in this way, or if, after being admitted with such a clause in her constitution, she should put it in, that involves matters affecting the rights of individuals which it will be for others to settle when they arise between her and them. I am not discussing that point, nor the rights of Oregon; but I am speaking merely as to what influences my vote. It is, that this provision is wrong in its operation upon my own State. That is not a question for the courts to settle, because, as a Senator, I have a right to vote as I please; and I give that as a reason for my vote.

Mr. DOUGLAS. I concede the right of the Senator to vote "no" upon the admission of Oregon. That I do not question at all. I supposed he was raising the point that it was wrong to receive Oregon into the Union with such a clause in her constitution. I repel that, because several States, my own among the number, have such clauses in their constitutions. I repel it, furthermore, for the reason that, if a State comes into the Union, she has a right to come in with just such a constitution as she pleases, provided it does not violate the Constitution of the United States. I deny your right to impose any limitations on the sovereignty of a new State that does not rest upon the sovereignty of all the States by virtue of the Constitution of the United States. I will not prolong the debate.

Mr. WADE. I am not going to argue this question at any length, but I observe in looking over the constitution presented to us from Oregon, that it enters upon a new doctrine, and goes further than any other State constitution which has yet been presented to us. The negro question has become familiar to us all; my position on it has been defined so often that I need not say anything about it now; but I perceive that this constitution puts Chinamen upon the same footing, and subjects them to the same disabilities with negroes. It appears to me that that is a novelty. I do not know how far a State may go, or ought to go, in discriminating between the rights of one foreign people and another. I do not rise now to debate the subject, but barely to call the attention of the Senate to the fact that this constitution, for the first time, so far as I know, undertakes to discriminate between the rights of foreigners coming into the State, for it declares that "no negro, Chinaman, or mulatto, shall have the right of suffrage." That disability it imposes alike upon Chinamen and negroes. In another clause it declares, "that no Chinaman, not a resident of this State at the time of the adoption of this constitution, shall ever hold any real estate or mining claim, or work any mining claim therein." And I believe upon every occasion where they are mentioned, it puts Chinamen, negroes, and mulattoes on precisely the same footing. The Constitution of the United States declares that Congress may establish a uniform system of naturalization. Suppose a foreigner from China should be naturalized under the

laws of the United States, would not his rights be in conflict with this provision of the constitution of Oregon? I am not now prepared to decide that point. At all events, this is a novelty, and it would sound rather harshly in our ears if the provision were that no Englishman or mulatto should be entitled to certain rights, or that a Frenchman and mulatto should be put under certain disabilities; but so far as I know, the principle would be precisely the same. If we begin to discriminate between foreign people, I do not know where we shall stop, nor by what principle we shall be governed.

But, sir, as I said before, I did not rise to argue this question. These provisions attracted my notice, and I merely desired to suggest them, thinking they might be of sufficient importance to challenge the investigation of the Senate. Here is an attempt to discriminate between one foreign people and another immigrating into the United States. It strikes me that it would be invidious and unjust. I do not like the looks of it, to say the least.

Mr. WILSON. The people of Oregon, Mr. President, have framed and adopted a constitution excluding slavery; and I am sure no State rejoices more over that act of the people of Oregon than the people of the State I represent. They will expect me to give my vote to welcome the free State of Oregon into this sisterhood of free Commonwealths. I know I may be censured—censured by personal and political friends—but I cannot give my vote for the admission of Oregon into the Union under this constitution. The people of Oregon have adopted a constitution excluding slavery; but they have put a provision in this constitution which I believe to be unconstitutional, inhuman, and unchristian. They not only exclude negroes and mulattoes from residing in the State, but they have made a provision that they cannot hold any real estate there; they cannot make any contracts, nor "maintain any suit." Now, Mr. President, I live in a Commonwealth that recognizes the absolute and perfect equality of all men of all races. A mulatto or negro in the State I represent is not only a citizen of the State; he not only has the right to vote, but, if the people choose to do it, they may elect him to any office in their gift.

Mr. CLAY. Will the Senator permit me to ask him a question?

Mr. WILSON. Certainly.

Mr. CLAY. I know that the laws of Massachusetts recognize the entire equality of the negro with the white man. I would ask, however, whether the people of that State recognize the social equality of the negro, and treat him socially as an equal?

Mr. WILSON. That is a very difficult question to give a precise and exact answer. I know that in Massachusetts, as in other free States, and I think in the free States quite as much as in the slave States, there is a strong prejudice against colored people, and it exists to more or less extent in Massachusetts. However, the public sentiment of that State is up to this point: it has given them all the legal rights it gives to the rest of the people, and every man among them has open to him all the avenues and pursuits of life. He can make himself what he chooses to be. There is a prejudice, and an unjust prejudice, in regard to men of intelligence and of personal character, men in every proper sense of the word highly respectable. I do not think in social life they are fully recognized; that colored men, with the same intellectual qualities, the same moral qualities, are not in Massachusetts regarded as they would be if they were white men. I hope the Senator understands my answer.

I find, that in a book written a quarter of a century ago by Sir William Gore Ouseley, speaking of this prejudice in this country, he said:

"If an individual, concentrating the wisdom and virtues of every age in his own person, and inheriting the qualities of a Socrates, an Alfred, a Gustavus Basil, and a Washington combined, were born with a negro skin in the United States, I do not think that he would ever be allowed a perfectly social equality with a white scoundrel."

That same feeling lingers, to more or less extent, in all the States of the Union, my own State included. We have, in Massachusetts, about eight thousand colored persons, and I may say that, generally, they are persons of intelligence, of morality, of personal character. Hundreds of those persons go out in our ships to every portion of the globe. Many of them go on board our

whale ships to the Pacific ocean. Everywhere where the commerce of my State goes, these men sail on board our ships.

Mr. MASON. As cooks and stewards.

Mr. WILSON. Some of them as cooks, some of them as stewards, and some of them as sailors, and braver or better sailors do not exist in the country than the colored sailors who may be found in New Bedford and other sea-ports of Massachusetts. They are as good sailors as their fathers were good soldiers in the days of the Revolution. The Senator from Virginia will remember that at the celebration at Bunker Hill in June last, which he attended, Governor Everett spoke on that day of the services of a poor, humble, colored man, who shot down Major Pitcairn, on the 17th of June, 1775, and that touching allusion by the graceful orator was gratefully received by the vast throng, and I doubt not it was as gratefully recognized by the Senator as by any other person. Bancroft, in the seventh volume of the history of the United States, just published, says:

"Nor should history forget to record that, as in the army at Cambridge, so also in this gallant band, the free negroes of the colony had their representatives. For the right of free negroes to bear arms in the public defense was at that day as little disputed in New England as their other rights. They took their place, not in a separate corps, but in the ranks with the white man, and their names may be read on the pension rolls of the country, side by side with those of other soldiers of the Revolution."

There are hundreds of men in Massachusetts, the descendants of men who fought in the ranks of our fathers in the Revolution; who fought on board our ships of war in the last war with Great Britain—the descendants of men who gave their lives and their blood to the independence and liberties of this country; and they, in Massachusetts, have enjoyed the benefits for which their ancestors fought. If the descendants of those brave men should go on board a whale ship, go to the Pacific ocean, land in Oregon, in stress of weather, it may be, go on shore, be smitten down, nearly murdered, by white villains, without cause, they cannot maintain a suit in the courts of that State. They may be abused, they may be murdered, any outrage may be inflicted, any indignity may be put upon them, but they cannot maintain a suit in the courts of that State to protect them in their personal rights. Is this not inhuman, unchristian, devilish? I cannot vote to sanction a proposition which outlaws men for no crime.

Now, sir, is there a slave State that has such a provision in her constitution or laws? There may be; I do not know. I say, Mr. President, that it is inhuman, it is unchristian, it is unworthy a free State, and while free States, or States calling themselves free, make such provisions, maintain such inhuman enactments, I advise them all to close their mouths against the system of slavery in the United States. When I give my voice or my vote to maintain any such outrages or any such wrongs, I will close my lips forever against slavery in any portion of the country. If we are opposed to slavery as a violation of human rights: (and if we are opposed to it at all we are opposed to it on that broad ground); if we are opposed to it because it violates the rights of man, we had better put our own States and our own public sentiments right, before we arrange others.

I cannot vote for the admission of Oregon into the Union with this constitution, though I do not wish to vote against the admission of a free State. I would welcome free States, even if they have not constitutions precisely as I would like them, and trust to the influences of time; but I cannot give my vote for a State that has adopted a provision not only excluding these men, but denying to them the right, if they land there but for an hour, the right to sue in the courts of the State, for the protection of their persons, the protection of their lives against lawless violence. I may refrain from voting, for I do not wish to vote against the admission of a free State into this Union, but I cannot vote for a provision of this character. I should feel that if I did it, I gave my own personal sanction to it. In refusing to vote for the admission of Oregon, I may meet the censure of political friends in my own State, and in other portions of the country. But, sir, with me this is a matter of conscience, and I cannot do it.

Mr. IVERSON. Mr. President, I cannot vote for the admission of Oregon into the Union, under the circumstances in which she presents herself; and I desire to present, very briefly, the reasons

which operate on my mind in coming to this conclusion. I do not object to the admission of Oregon upon the grounds which have been presented on the other side of the Chamber, although there are things in the constitution of Oregon to which my judgment does not yield its assent. The provision in relation to alien suffrage I think is an error on the part of the people of Oregon. But, although I object to some things in the constitution of Oregon, that is not the ground on which I object to the admission of the State; for I recognize, in the broadest sense, the right of the people of a Territory, when they come to form their constitution for the purposes of admission into the Union, to regulate their domestic institutions as they choose, subject only to the Constitution of the United States. If they do not violate any provision of the Constitution of the United States, I think they have the right to regulate their domestic institutions as they choose; and, although I might think their action unwise, it is not sufficient foundation for objection to their admission.

But I object, too, on the ground that she really has not population sufficient to entitle her to admission. We do not know what the population is, but it seems to be conceded on all hands that she has not got the population necessary to entitle any of the other States to a representation in the other branch of Congress: she has not got ninety-four thousand inhabitants. That is admitted on all hands. It is said by some that she probably has eighty thousand. There is no evidence of it, no foundation whatever for the statement. Others say she has not more than forty thousand, and I think it probable that that is nearer the truth.

Now, I think it a dangerous precedent to admit a State that has not the requisite population to entitle her to a Representative in Congress. I know that this has been done before. I know that exceptions to the general rule have occurred, as in the case of Florida, when she was admitted *pari passu* with a free State, and admitted because she was a slave State, or perhaps for the consideration that she was an exceedingly expensive Territory to the United States, and there was no prospect of a day coming—at least it was exceedingly remote—when she would have the requisite population, and therefore she was admitted into the Union to avoid an extraordinary expense to this Government. There may be extraordinary considerations arising in a particular case, which would induce me to waive this general rule, and admit a State, as in the case of Kansas. She has been admitted—at least I voted for her admission from extraordinary considerations, circumstances attendant alone upon her, applicable exclusively to her case, and which we all understand, and which had their effect on the mind of every gentleman who voted on that question. But that was an exceptional case, and so was the case of Florida. The general rule is undoubtedly a good one, that no State ought to be admitted into the Union without the necessary number of inhabitants, and that number ought to be ascertained in some authentic shape. We ought not to act on mere conjecture or the mere suppositions which gentlemen present.

This is the ground on which I shall object to the admission of Oregon into the Union at the present time. Why, sir, if we are to admit Oregon without a full knowledge and authentic information in relation to the number of her inhabitants, and without her having the number to justify her admission, we must, of course, admit other States that come under similar circumstances and present themselves for admission. Why shall we not admit Nebraska, if she should take it into her head between now and the next session of Congress to form a constitution and ask for admission? Upon what ground could we object to the admission of Nebraska, with a population perhaps of not more than twenty or thirty thousand people, and perhaps not that many; and, hereafter, when Utah or New Mexico or Dacotah, or any other Territory, shall ask for admission, desiring to come into the Union without the requisite population, upon what principle should we, after the admission of Oregon now, object to her admission? None upon earth.

The honorable Senator from Louisiana says he will never give his vote again for the admission of any State into the Union that has not the requisite population; but he is willing to waive it, on the present occasion, for considerations which

affect his mind. I cannot see why he or any man can vote for the admission of Oregon, and hereafter vote against the admission of any other Territory, upon the ground of population. The principle is the same in all cases. There are certainly no peculiar considerations applicable to the case of Oregon. She does not come in *pari passu* with a slave State; and, therefore, there can be no argument on that score for waiving the consideration of numbers. She does not come and ask for admission, surrounded by extraordinary circumstances of agitation and danger and alarm to the country and to the Union, such as Kansas presented. There are no peculiar circumstances, as I understand, attendant upon the case of Oregon, which demand that Congress should waive the objections heretofore presented, and admit her into the Union. I do not see any reason why she should be admitted now.

I am rather inclined to vote for the proposition of the Senator from Illinois, [Mr. TRUMBULL,] to postpone the consideration of this bill until the first Monday in December next, and in the mean time Oregon may, if she thinks proper to do so, take measures to ascertain what her population is. She can order a census, and between now and then it can be ascertained whether she has the representative population or not, and then we can admit her. In the mean time, the State may, if she has the requisite number of people, go on and elect her Senators and Representative to Congress in advance of her admission, as Minnesota did, and as has been done heretofore by other States, and we could finally admit the State at the next session, having the requisite population, and we could permit her Senators and Representative to take their seats.

These are the considerations which induce me to vote for the proposition to postpone. I would rather vote to postpone than vote against the admission. I believe that is the safest and most prudent course. Let the people of Oregon in the mean time take such steps as they may choose to ascertain whether they have the requisite population or not. If she has, and presents herself at the next session, then this bill can be passed. If she has not, then we can act as Congress may judge proper.

Mr. MASON. Mr. President, I think the country is gaining some experience on the subject of the condition of the African population in our midst—a wise experience; and I think the evidences presented to-day on the other side of the Chamber show that that experience is beginning to have its fruits. I understand the honorable Senator from Maine to make the single objection to the admission of this State, that the State has, by constitutional law, prohibited any future migration of the negro race within its boundaries. That is the only objection.

Mr. FESSENDEN. It is the objection I stated. Mr. MASON. It is the objection the Senator stated; and I take it for granted it is a conclusive objection with him that that community, in forming its fundamental law, deemed it wise to prohibit the African race from coming amongst them.

Mr. President, in the slaveholding States it was found necessary many years ago, to preserve the character of our slave population, that the same sort of laws should be enacted. I do not remember how many years ago, in Virginia, but a number of years ago, a law was passed making it penal upon any negro emancipated after the year 1806, or the descendants of such negro, to remain in the State after his emancipation, and the same law prohibits free negroes from coming into the State. We had our policy in that—a very necessary policy, but a police one altogether—to preserve the condition of the slave population. We had another one, if you please, which was of a very subordinate character. I do not know that, if only the subordinate objection had existed, any such legislation would have taken place. This was that the negro free is the most worthless population that can be conceived of, and not worthless alone, but contaminating, vicious, depraved, unprincipled, without any recognition of any moral law, or moral obligation. I do not speak of individuals; I speak of the great mass of the emancipated negroes. But the true reason for the prohibition of the African race free from slave communities was, because it contaminated and did mischief to the slave population, not by rendering them insubordinate at all, but by imbuing

them, wherever they came in contact, with the vice and depravity that belong to the African who is not a slave.

However, our friends in the free States have gained some experience. It might be taken for granted by moralists, I should have taken it for granted, reasoning *a priori*, that where they were so intent on having the African race free, they would welcome them as brothers within their borders; they would admit them not only to political equality, but to that social equality of which something was said just now. At any rate, if they insist upon having the African race on our continent free, moralists would say that then a correlative duty, and an absolute duty, is to admit them to participation in political rights, and to admit them as citizens within the States which belong to your community. But, I say our friends in the free States have had some experience upon this subject; and their experience has shown that the African race with them exists as the African race does everywhere where it is not in bondage—a vicious, corrupt, unprincipled class of men, who are never in quiet. The result has been, as stated by the honorable Senator from Illinois, [Mr. DOUGLAS,] that in his State, which is a State prohibiting African slavery, and I think also in the State of Indiana by recent enactment, and I doubt not in many other States, they have found it absolutely necessary, as a police regulation, to exclude that population from their limits. Oregon has done no more. Oregon, being about to come in as a State, profiting by the experience of those who have gone before her, feels, and knows the necessity, if this race is amongst them at all, to have it in bondage.

Well, sir, there is a little more experience resulting from this movement which has taken place in the non-slaveholding States in reference to the African race. Where are they to go? They perish with cold in Canada, where they have been driven from the necessity of their condition, being excluded from many of the free States, expelled from them; and they could not go into the slaveholding States, and there was no alternative but to get beyond the boundary into Canada. What is their condition there? I remember to have seen, during the last winter, a speech made, manifestly, by a very sensible mind, in the Provincial Parliament, depicting the condition of the African race free in Canada as a plague spot in their midst, and one that they must get rid of.

We have had some further experience on this subject; and I am strongly disposed to believe this despised African race are at last beginning to be taught who are their friends and who are not. They are beginning to be taught by dire experience in this exclusion and expulsion of them from the free States, and in the cold welcome that they receive amidst the snow and the ice of Canada, who are their true friends and who are not; and the result has been that, in the State of Virginia, and I see recently in the State of Texas, so many have been the applications by free negroes to escape from their freedom—which you have made intolerable to them—and to be returned to bondage, that those States have been constrained by general legislation to provide a mode by which free negroes may go into voluntary servitude.

Now, sir, there is a good deal of experience in all that; and the time may come—I doubt not the time is at hand—when the States, who are non-slaveholding States only because slavery is not valuable to them, and their climate will not admit of it, will find, whatever may be their theoretic or their abstract opinions, that their obligations to themselves and to their communities will compel them to exclude this population from amongst them; that the free black population will eventually come back to the southern States and ask as a boon to be admitted into slavery. Through the action of the philanthropic spirit that now pervades the free States, they will obtain a true knowledge of their real social condition; they will realize what has been proved so far, at least, on this continent as the true character of that race, that in slavery, upon this continent, their condition is every day one of improvement; that, in freedom upon this continent, their condition is every day one of depression and sinking; that in bondage they are not only elevated in social life, but they are elevated in civilization and in religion. Where they are free they are despised, loathed, not tolerated in a society that professes to tolerate them;

and their residences are found always in destitution and poverty. They will thus attain a true knowledge of their social condition, and they will be indebted to their friends in the non-slaveholding States for bringing them to that.

I think, therefore, Mr. President, I may well say, that from the exhibition made on the other side of the Chamber to-day we are beginning to see the fruits of this experience—fruits that the negro race will realize for themselves in good time; and we shall be indebted at last to the sagacity or the instinct more than to the intelligence of that race for thus realizing what is their true social condition and embracing it. But in the mean time I regret very much that it is not in my power to vote for the admission of Oregon—not for the reasons assigned by the honorable Senator from Maine, for I think Oregon has done wisely; she has profited by the experience of other States, and has seen the absolute necessity of excluding this population from her limits if she would preserve her community intact. But I must object to the admission of Oregon because we have no evidence in the world that she has sufficient population to entitle her to admission, and we have every evidence that she has not the numbers to entitle her to admission.

I see, in looking into documents accompanying this constitution, that the largest vote that was given there was ten thousand three hundred and ninety. There were two votes taken at the time of the adoption of the constitution, one for and against the constitution, and the other for and against slavery. The largest vote was that given on the constitution, and the aggregate was ten thousand three hundred and ninety. Honorable gentlemen have seemed to feel themselves at liberty to go into conjecture and estimate on this point. I recollect, that as to the admission of Minnesota, the honorable Senator from Illinois, [Mr. DOUGLAS,] and the honorable Senator from Missouri, [Mr. POLK,] and others, went into a sort of estimate *pro rata*, that it was to be considered that there were probably five in the family of every voter, and they conjectured that where there were ten thousand voters there were fifty thousand people—a sort of estimate that did not satisfy me; but taking it on that ground, the highest vote the people of Oregon have given is ten thousand three hundred and ninety, and that would show by that sort of unsatisfactory estimate, that they had very little more than one half the number necessary to entitle them properly, under the Constitution, to admission.

Well, where are we to stand, if States are to be admitted into this Union without reference to their population? Each State must of necessity have one Representative, at least, in the other House, and two here. You then have a vote of three in the joint legislation of the country against the half of one vote in one of the States which is properly entitled by its population to representation in the two Houses. It is unfair, unequal, and unjust; it is destroying the equilibrium of our institutions. It is no longer a popular representation. There is no safety in it to those who rest upon the constitutional law for their safety, and there can be none. I am aware that it has been done; but I think by violence. In the recent case of Kansas, her population, I believe, was conjectured only by the vote. I felt myself under a degree of constraint from very high political considerations—not on the question of slavery at all, but to preserve the peace of the country, and if we could, the integrity of the Union—to waive a great deal. It was but a conditional admission at last, that was extended to Kansas; and even in that conditional act of admission there is the precedent that if she does not avail herself of the opportunity now given to her to come in with her population, whatever it may be, she shall not come in thereafter until her population is ascertained to be such as to entitle her to admission. And yet on the heel of that very precedent, it is proposed to admit Oregon with a population that even, by their own conjecture, does not exceed fifty thousand. I can see no propriety in it. Although from the kind feeling which I hope actuates us all towards the people of that distant Territory, I should be very happy to find her in a condition to be welcomed into the Union, I regret that as it is, until otherwise informed, the proposition cannot have my vote. I should think, however, the better way would be to postpone it

until December, rather than reject the State; and I would be willing, if gentlemen think it would result in good, to pass a law to take a census and see what her population is; but I protest against admitting a State on a territorial census. It must be taken, I think, under the sanction of Federal law. I shall concur very cheerfully in postponing the bill, rather than rejecting the application.

Mr. GREEN. Mr. President, being one of the committee that reported this bill, I may be permitted to say in a word why I intend to vote for it, and that word will not be with reference to the question of slavery. I hope that question will not be brought up, unnecessarily, for it has already consumed too much of the time of this session when it had a legitimate bearing upon the questions pending before the Senate.

It is supposed, and the arguments are predicated upon that supposition, that the population of Oregon is only about fifty thousand. The information that I have is of a different character. There has never yet been an iron rule fixing an exact number to entitle a Territory to exercise its right in the creation of a State government and apply for admission into the Union. It is all a mere matter of policy and discretion; but an ordinary rule of propriety would say that as a State must have one Representative in the other branch of Congress, it ought to have population sufficient for that before its admission; but that addresses itself to us only as a rule of propriety. There may be, as was remarked by the Senator from Georgia, various reasons why that rule of propriety may be departed from, and in this case I think I can show reasons why it ought to be departed from.

What, then, is the population of Oregon? It is known that in that Territory there are sixteen thousand persons subject to a poll-tax returned by the assessors. The vote referred to by the Senator from Virginia was only a little over ten thousand, but that vote was taken at a season of the year when a very large proportion of the vote could not be polled. The voters were absent at the mines, they were in a more profitable employment, and did not attend and record their names. Besides, on that occasion, there was no contest; it was a comparatively one-sided election. Here is a State whose poll-list, made up by sworn officers, shows sixteen thousand men; and more men can vote than would be liable to be entered on the poll-list for a poll-tax. When they get above forty-five, I believe they are not taxed a poll-tax; yet they are permitted to vote as long as they live. More, therefore, can vote in all the States of the Union, so far as I have examined the question, than would be entered upon the poll-list. Hence I assume, as a data, which cannot be successfully controverted, that there are at least sixteen thousand voters. Now the ordinary average of population to the polls is not less than five; multiply them by that, and you have eighty thousand inhabitants. It never has been the rule that a legal regular census must first be taken before we admit a State. There never has been any such practice on the part of Congress. There is no constitutional rule, there is no reason why we should be governed alone by a legal census.

Mr. MASON. I did not hear distinctly. If the Senator will allow me, I will ask, where did he get the vote of sixteen thousand?

Mr. GREEN. I did not get the vote. I get the poll-tax, and I say that the vote of the Territory is larger than the number of persons liable to poll-tax, because it includes a class of persons not liable to be taxed on the head. Now, sir, as there is no constitutional rule, as there is no legal rule, as there is nothing but a question of propriety, why is it that there shall be such formidable opposition to the admission of Oregon into the Union?

The Senator from Virginia says, every State that is admitted lessens the power and influence of the old States. True, it does. The comparative power in the Senate was lessened when you admitted Texas, but it was no sufficient argument to keep Texas out of the Union; and so with every other State. It lessens the comparative influence of each old State, but I am proud to believe that this is a Confederation capable of indefinite expansion; and being a confederation, being an association of independent sovereignties, that question of limitation of power, that question of diminution of power does not apply as it would in a more

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, MAY 6, 1858.

NEW SERIES....No. 124.

aggregated community. It is still an association of equals.

Is Oregon to come in as a sister in this Republic? She fancies herself capable of sustaining a State government. We see, by clear, moral evidence, satisfactory to any one who will investigate the subject, that she has at this time about eighty thousand inhabitants. We see a train of circumstances directing population to that Territory. We have a reasonable ground of expectation that even before next December there will be more than one hundred thousand people there. Why, then, should Oregon be kept out of the Union? By the admission of her as a State, we save the Federal Government from all the expenses of maintaining her territorial organization. If she is willing to take upon herself the organic form of a State, and bear the burdens of a State, why not allow her to do so? Consider her great distance from you, and the uncertainty of communication. Is it to be a mere dependency of the Federal Government? Must it always look to the Federal head, and that Federal head more than twenty-five hundred miles distant? That ought to be one reason why we should relax a rule, even if we had a rule, in favor of Oregon, when she esteems herself able to take care of herself, of ability enough to sustain a separate State organization. Her relations to the rest of the world will all be conducted by the Federal Government. All external relations, in peace and in war, in the making of treaties, in the defense of her coast, will remain as they are; but in the internal administration of her own municipal affairs, why not take off the coercive restraint of a distant Federal power, and permit her to set up for herself, when we see the circumstances under which she presents herself?

I believe it to be good policy for the Federal Government, and I believe it will be to the advantage and development, and growth and increase of Oregon as a State. While they feel dependent they do not exert themselves. It is a constant tax on the Federal Government to pay for governors, legislative councils, legislative assemblies, courts of justice, grand juries, and prosecuting attorneys. Why not save ourselves from all that expense, when we know it does not endanger the existence of the State to acknowledge her independence? She is not to be brought in collision with a foreign Government. She is only to be set up as an independent sovereignty within the limits prescribed by the Constitution of the United States, having all original power, except that which is given to the Federal Government by the Federal Constitution. In the administration of her municipal affairs she will be free and independent. The coercive power of the Federal Government will be removed; her dependence on the Federal Government will be taken away. The expense which she has been to this Government will be also saved.

Why then shall we not admit her? I see no reason for it; and I intend not to go into the subject of free negroes or slaves. The people of Oregon have chosen to act for themselves. I recognize their right to act for themselves. If I were a citizen there, I might vote in a certain way; but I have no right to tell you, Mr. President, how I would vote, because it is not a legitimate matter to influence the Senate, and I have no right to utter a single thought in the Senate to influence the country which I have no right to present to influence the Senate. This is no place for the promulgation of mere abstract opinions. It is a place for the discussion and elucidation of matters on which we have a right to vote, and no others.

Mr. BROWN. I rather think, sir, that I shall vote against the admission of this State, because, if our Republican friends desire to exclude a free State from the Union, it does not seem to me that I, representing a different interest politically, should interest myself particularly to get in such a State. If they asked for the admission or Oregon as a free State, I probably should waive minor points, and go for the bill. If they put it distinctly on the ground that Kansas had been admitted as

a slave State, and that now justice and propriety require Oregon, under similar circumstances, to come in as a free State, I could waive all minor considerations, and take her in; but if they resist it, I rather think I shall go with them. It is no business of mine to be multiplying free States; they are against my interest, and against the section of country from which I come.

But, sir, there is a point in this debate that I do not exactly understand. Senators on the other side seem to be quite satisfied that Oregon has excluded slavery, but they go a step further, and object that she has excluded free negroes. It looks to me as if gentlemen from the free States are getting exceedingly anxious to multiply their free negro population. I thought there was some opposition in most of the free States to an increase of this kind of population. If there is a change of policy in that respect, I meet it half way. We have a large number of free negroes in my State of which we should be very glad to get clear, and if it be really true that gentlemen from northern States want them quartered off on the free States of the Union, upon the young ones, and of course upon the old ones, then I shall urge a proposition to send all ours to Massachusetts and New York. [Laughter.] We have some four thousand or five thousand, perhaps as many as eight thousand in Mississippi. We will divide them between New York and Massachusetts, and my good-natured friend before me [Mr. WILSON] can take charge of his part, and the Senator from New York [Mr. SEWARD] can take charge of his part. Heretofore I have always understood that gentlemen from the northern States were opposed to receiving this class of population. I have always known that they were anxious to make negroes free, and when they were free, I have understood they were very anxious to get clear of them. [Laughter.] I have known that a northern man would rise late at night and burn his last candle—I do not mean the whole northern people, but a large portion of them—to make a light by which he could see his way clear to pilfer somebody's negro; but if you send him one perfectly free, born so, he would turn him loose, and have nothing to do with him. An old gentleman in my State, a member of our Legislature, suggested the idea when they were talking of getting clear of our negro population. He said: "I will tell you exactly how it can be done; take them two and two, handcuff them, take them up to the Kentucky shore above Louisville, advertise them for sale, and the Abolitionists from Ohio will come and steal them; but if you send them over without shackles they will not have them on any account." [Laughter.]

What a mockery is all this sympathy with the negro, with his hard estate, with having him a freeman equal to the white man, and yet northern gentlemen will no more allow him to go into their States than they would allow a pestilence to come in if they could prevent it! They are willing to force them off on somebody else—to force Oregon to take them. I appeal to the Senator from Massachusetts, now, are you willing to have the free negroes of the South quartered off on Massachusetts? I may ask that question of the Senator from New Hampshire, [Mr. HALE,] who is about to speak. I see it working in him, and he will get it out directly. [Laughter.] I ask him whether he would be willing to see all the free negroes of Mississippi and Louisiana quartered off on New Hampshire? I dare say he will answer, with his usual frankness, that he would not. Where then are they to stay? You insist on sending them to Oregon, forcing them on another people against their will, but you are not willing to take them yourselves. We are willing to keep our part of them until they choose to go somewhere else voluntarily, and when they go, we insist that they shall have the right to go.

I say again, I rather think I shall vote against the bill; but if gentlemen on the other side will say that they are willing to take Oregon as a free State, and make no opposition to it, I do not know but that I may get over my little scruples, and vote for it; but I am not going to force on myself

another free State. I am not going to beg you to take another free State. If you ask it, and ask it gently and cleverly, I think we shall let you have it; but we will not beg you to take it.

Mr. HALE. I suppose we can hardly get a vote to-night; and as the usual hour for adjournment has arrived, I move that the Senate adjourn.

The motion was not agreed to.

Mr. HALE. I do not intend to occupy a great deal of time; but some things have been said, in the course of this debate, that seem to me to require an answer. I wish to throw out, in the first place, for the consideration of gentlemen, a suggestion in relation to an article in our treaty with China. We treat China as a civilized nation, and one with whom we hold diplomatic intercourse; and, by the first article of the treaty with that Empire, it is provided that—

"There shall be a perfect, permanent, universal peace, and sincere and cordial amity, between the United States of America, on the one part, and the Tsa-tung empire on the other, and between their people respectively, without exception of persons or places."

It may be a matter of consideration to know how the treaty obligations created by that treaty consist with the eighth section of the fifteenth article of the constitution presented to us from Oregon; which is, that—

"No Chinaman not a resident of this State at the time of the adoption of this constitution, shall ever hold any real estate or mining claim, or work any mining claim therein."

Is that provision against the whole people of China consistent with the first article of our treaty, which declares that there shall be a permanent universal peace and sincere and cordial amity between the two nations, and between all the people thereof, without exception of persons or places; meaning that it shall be so between all persons and all places of the two countries? But I shall not dwell upon that. This constitution contains another article which provides that "no free negro or mulatto, not residing in this State at the time of the adoption of this constitution, shall ever come, reside, or be within this State, or hold any real estate, or make any contract or maintain any suit therein." I disagree entirely with a good many of the suggestions thrown out by the honorable Senator from Virginia, and I suppose he expected that I would. In regard to the State which I have the honor to represent here, I desire to correct one historical error that I have heard made on this floor I do not know but a thousand times. I allude to the assertion that, at the time of the adoption of the Federal Constitution, negro slavery existed legally in every State in this Union except one, and that one Massachusetts. Sir, the State which I have the honor to represent, so far as I believe and am informed, never by law recognized the state of slavery within its limits. It is very certain that as early as January, 1775, eighteen months before the Declaration of Independence, and six months before the battle of Bunker Hill, the State of New Hampshire adopted a constitution under the operation of which slavery could not exist.

I recollect, on one occasion, that an honorable Senator from Virginia, on the occasion of a visit made by Mr. Fillmore to that State, claimed for Virginia the credit of having been the first of the old thirteen States to form a written constitution. I have also heard the same honor claimed for the State represented by the honorable Senator from South Carolina. But, sir, as a matter of fact, the first State on this continent that ever formed a written constitution was the State of New Hampshire. She formed it as early as January, 1775, and it has been very little altered from that time to this. We lived under it all through the revolutionary war. We made a slight amendment in 1791, and that is all the amendment we made to it, with the solitary exception of the removal of a property qualification on office-holders. Since the adoption of our constitution on the 20th of January, 1775, there has been no difference recognized in New Hampshire in regard to the rights of citizens between Africans and white persons. A year and a half before the Declaration of Inde-

pendence, New Hampshire, by her constitution, had abolished negro slavery; whereas the constitution of Massachusetts, which abolished it, was not adopted until 1780.

Mr. EVANS. The constitution of South Carolina was adopted in January, 1776.

Mr. HALE. The constitution of South Carolina was a year afterwards; and I want to put that point right, because, although it is not a matter of much consequence, I have heard it stated certainly a thousand times on this floor that all the States, with the exception of Massachusetts, tolerated negro slavery at the time of the adoption of the Federal Constitution; whereas it was formally abolished, by constitution, in New Hampshire five years before it was abolished in Massachusetts, by the adoption of the constitution of 1780, and from that time to the present there has never been any difference in the rights of people in New Hampshire on account of race.

Mr. MASON. I wish to inquire of the Senator in regard to a historical fact. I understood him to say that the present constitution of the State of New Hampshire, which was adopted by that State in 1775, has been very little modified.

Mr. HALE. Yes, sir.

Mr. MASON. I am not, of course, conversant with the early history of the State which that Senator represents; but did that constitution declare the colony of New Hampshire independent of the mother country?

Mr. HALE. Just exactly in the same way that the constitutions of Virginia and South Carolina did. It contained a preamble that, during the existence of the present unhappy difficulties between the United Colonies and the Crown, this constitution was established. The same provision was contained in the constitution of South Carolina, and I think the same in Virginia.

Mr. MASON. I observe, in looking in a book which happens to be at hand, that it was not until June, 1776, that New Hampshire declared herself independent of Massachusetts, and I was not aware that previous to that time she had declared herself independent of Great Britain.

Mr. HALE. I think the Senator will find himself mistaken in regard to the fact of her declaring herself independent of Massachusetts. The Senator is altogether mistaken. I do not know what book he has got, but it is apocryphal, anyhow.

Mr. MASON. It is a book published in New York.

Mr. HALE. It is certainly a mistake, and I am right; there is no doubt about that, sir, whatever the book says. [Laughter.] In January, 1775, New Hampshire formed a constitution and established a government independent of the Crown of Great Britain. Our people lived under it, without any essential modification, until 1790 or 1791, and after the war was over there was a slight amendment made, and one slight amendment since. By that constitution, slavery was rendered impossible in New Hampshire, and always was from the adoption of that constitution. The only difference that has ever been recognized by our laws is, that colored men have not been required to perform military service.

The honorable Senator from Mississippi wanted to know if I would like to have all the negroes of Mississippi and Louisiana sent to New Hampshire. I tell you what it is, sir, it is a poor soil and a hard climate, and I do not think it would be healthy for them, but very unhealthy. So far as we have a colored population there—and they are very few, less even than in Massachusetts—my intercourse with them has not taught me to believe that they are vicious and depraved beyond people of the same condition of the other complexion; but the contrary, that they are industrious, patient, exhibiting very many amiable and excellent traits of character.

I am going to say this for the colored people, not of my own State, but of the city of Boston: that one of the proudest monuments that I have of my past history, humble as it is, is a testimonial presented to me, since I have been a member of the Senate, by the colored citizens of the city of Boston, for standing up against the oppressions which the General Government undertook to practice upon them in enforcing the fugitive slave law. I was called upon, as a humble member of my profession, to defend them. I did it to the best of my ability; and whatever that ability may be, I will tell you this: the Government never got

a verdict against them. Wherever there was a verdict, we got it. The colored citizens of Boston, of their own accord, without any knowledge or suggestion of mine, or any of my friends, came forward and presented to me a set of eight volumes of the Pictorial History of England, as a testimony of the fidelity and zeal with which I had spoken for those who could not speak for themselves. I shall leave it to those who inherit my name as one of the proudest of the inheritances which I can give them; and God knows they are small enough anyhow.

Another one that I have also received, and I will speak of it in that connection, has been from the sailors for helping to abolish flogging in the Navy. I have stood, sir, in the humble sphere in which Providence and my constituents have called on me to stand, as the foe of oppression against any class or any complexion, black or white. I stood against the oppression that was practiced upon the sailor; and when you undertook, by an unjust and an unconstitutional act to oppress and disfranchise the officer, I was opposed to that. I was opposed to oppressing the common sailor, or the officer who wore the epaulets, or the negro who performed the menial service. It is because this constitution says the free negro shall not have a right to go into Oregon, or to work or maintain a suit there, that I am opposed to it.

I believe just exactly what the Senator from Massachusetts believes; and I am going to manifest my belief, not by sitting still and not voting, but by voting against this constitution. I do not care when a State comes here, what it calls itself, whether it calls itself a free State or a slave State. If it comes with a constitution that is essentially unjust in its features and provisions, you cannot blind my eye to that injustice because it comes here perpetrated under the forms of a free State. No, sir, I should as lief have a State come and call itself a slave State as call itself a free State, if it has in its constitution provisions in relation to this unfortunate class that my judgment cannot approve.

Sir, we are asked if we want these men amongst us. I am not going to answer that question; but I will say this: Providence has placed them here; they are a part of us; they are a part of our people; and they are here on God Almighty's earth, which He made for His children to dwell upon, of every race and every nation; and I do not believe that it is morally or politically right for us to say that these people, whom the providence of God, or our own avarice, or the avarice of our own ancestors, has brought here, shall be subjected to perpetual disabilities. If they may not go into Oregon, and if we may shut them out there, why may not every other State make the same provision, until you will not leave them a resting-place on the foot of this green earth, which was made for man? I will not consent to it. Sir, I will not take Oregon now, next winter, or at any time this side of eternity, as long as she incorporates into her constitution a provision that a black man shall not go there, shall have no rights there, and shall maintain no suit there.

I am not going to assail any slave State, or I believe it is more agreeable to some gentlemen to call them slaveholding States. I would just as soon call them slaveholding States instead of slave States, only that it is a large word, and takes longer to speak it. [Laughter.] That is all the difference, in my mind. It is not invidious. I believe it was the Senator from Missouri who made that suggestion. I am not going to find fault with them if, intrenched behind their constitutional rights, they exclude free negroes from their midst. Let them do it. As long as their constitutions are not within my reach, I will not complain. But, sir, this is within our reach. Gentlemen say a constitution must be republican in form. Well, what is republican? What does it mean?

I ask if a republic, or a republican form of government, is one that makes fundamental distinctions between races? Can that be said to be a republic, or, to use that good old word of Oliver Cromwell's time, can it be said to be a Commonwealth, which I believe is the literal and fair translation of that old Latin noun *Respublica*? It is not republican, as I understand the word; it is not a republican constitution, which picks out this man and that man, and says you shall never

come upon the soil; no matter what aggressions may be committed against your person, your reputation, your liberty, you shall have no redress in our courts, and you shall have no place, so far as our voice and our jurisdiction can extend, to rest your foot on this whole broad earth. That is what they say, and that is the right they claim. If they can get it they may have it, but they will never get it by my vote.

Mr. SIMMONS. I desire to make an inquiry of the Senator from Virginia before I vote. He said that there had been some new evidences of advance in this matter, and he referred us to a law which had been recently passed by the Legislature of Virginia, which provided that no free negroes, who had been emancipated since 1806, should be allowed to remain in Virginia. Was that it? I understood the Senator to say that that was an evidence of the enlightenment of this age, an evidence of a great moral, intellectual, and social advance.

Mr. MASON. I did not say it was an evidence of any advance at all on the part of the State of Virginia, but that it was evidence of the necessity in which she found herself placed; that the two classes of the African race could not exist together as bond and free. I stated that by the law of Virginia, passed I do not recollect when, but after 1806, it is provided that all negroes emancipated after 1806, should leave the State. I did not allude to it as an evidence of any intellectual or social advancement, but as evidence of the necessity of her condition, that if her people would emancipate negroes they must not stay there.

Mr. SIMMONS. As I understood the argument the Senator was using, that fact, together with the fact that the free States were unwilling to take these blacks, to show that there had been some new light on this subject of recent date, I may have misunderstood the Senator.

Mr. MASON. The Senator did not exactly understand the scope of my suggestion. It was this: that the negro race being on this continent, and to far the greatest extent in bondage, the experience of the slaveholding States had shown that they could not exist in the same community as bond and free; and now the experience of the free States has shown that they cannot have free negroes among them; and what seemed to me to be the result of that experience was that the negroes themselves were realizing their true social condition and were applying for legislation. I stated that legislation had been obtained in my own State, and I perceived recently in the State of Texas, by which free negroes were permitted to choose masters and go back voluntarily to slavery. I expressed the hope—though, perhaps, it was a little utopian—that by the action of the friends of the negroes in the free States, the result would be to make them all slaves.

Mr. SIMMONS. Well, sir—

Mr. DOUGLAS. I wish to suggest to the Senator from Rhode Island, that as the hour is late, unless he proposes to finish to-night, I shall move an adjournment.

Mr. SIMMONS. I am perfectly willing to yield to a motion to adjourn; but I thought, perhaps, it was desired to take the vote.

Mr. DOUGLAS. I see that we cannot get a vote now.

Mr. SIMMONS. I wish to ask a few more questions before the vote is taken, but if there is any desire on the part of the Senate for an adjournment, I have no objection.

On motion of Mr. DOUGLAS, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 5, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. J. A. HAROLD.

The Journal of yesterday was read and approved.

LIGHT-HOUSE APPROPRIATION BILL.

Mr. COMINS. I ask the unanimous consent of the House to report from the Committee on Commerce the annual light-house appropriation bill, in order that it may be referred to the Committee of the Whole on the state of the Union, and be printed.

There being no objection, a bill making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes, was read a

first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. WALBRIDGE. I call for the regular order of business.

The SPEAKER. Reports are in order from the Committee on Foreign Affairs.

Mr. STEPHENS, of Georgia. I submit that the regular order of business is the consideration of the Minnesota bill, and the motion to recommit. That is the unfinished business.

Mr. CLINGMAN. I take it that that can hardly come up in the morning hour. It is not a report of a committee.

Mr. STEPHENS, of Georgia. If it is the general desire of the House to devote an hour to the call of committees for reports, I have no objection to that course being pursued.

Mr. CLINGMAN. I thank the gentleman from Georgia. This is the last day on which the Committee on Foreign Affairs can report under the rules.

Mr. J. GLANCY JONES. Before general consent is given, I desire to know precisely what the proposition is.

The SPEAKER. It is that the committees be called for one hour for reports. Is there objection?

No objection was made.

SCHOOL FUND IN NEBRASKA.

Mr. FERGUSON, by unanimous consent, and in pursuance of previous notice, introduced a bill to protect the land fund, for school purposes, in Sarpy county, Nebraska Territory; which was read a first and second time, and referred to the Committee on Public Lands.

FRANCISCO LOPEZ URRIZA.

Mr. RITCHIE. I made a report yesterday from the Committee on Foreign Affairs, adverse to the claim of Francisco Lopez Urriza; and I now ask that the papers in that case be withdrawn from the files of the House, and that they be referred to the Court of Claims. I think it is a proper case for the action of that court.

It was ordered accordingly.

Mr. CLEMENS. I ask the gentleman from North Carolina to yield to me a moment in order that I may ask leave to withdraw certain papers.

Mr. DAVIS, of Indiana. I object to everything that is not in the regular order.

FRENCH SPOILIATION BILL.

Mr. CLINGMAN. I take the floor, then, to submit a report from the Committee on Foreign Affairs on French spoliations. The bill which I report is a copy of the bill which was vetoed by President Pierce. It makes no direct appropriation, and therefore does not require a committal.

Mr. SEWARD. I thought the gentleman yesterday got the floor, by consent, to submit some reports from the Committee on Foreign Affairs, and that it was the general understanding he should occupy the floor this morning on the Clayton-Bulwer question. I did not understand that he was to come here and submit other reports this morning.

The SPEAKER. The call of committees for reports was suspended yesterday with the Committee on Foreign Affairs.

Mr. BURNETT. I thought it was the understanding that the gentleman from North Carolina would occupy the floor this morning by general consent. The regular order I understand to be the Minnesota bill. I thought it was the understanding that the gentleman took the floor by general consent.

The SPEAKER. The Chair did not so understand it. The understanding was, that one hour should be devoted to reports from committees.

Mr. CLINGMAN. Mr. Speaker, as I have said, I am instructed by the Committee on Foreign Affairs to report a bill to provide for the ascertainment and satisfaction of claims of American citizens for spoliations committed by the French prior to the 1st day of July, 1801; and I am also instructed to move that its further consideration be postponed for two weeks from this day. Gentlemen may prefer its committal to the Committee of the Whole on the state of the Union. Of course I have no right to give any direction to the matter. If any gentleman desires to make that motion he can do so.

The bill was read a first and second time.

Mr. BARKSDALE. This is an important bill, and it strikes me that it ought to be referred to the Committee of the Whole on the state of the Union. I make that motion.

Mr. CLINGMAN. I made the motion that the report of the committee be postponed to the 19th day of May, and ordered to be printed; but I withdraw it for the reception of the motion of the gentleman from Mississippi.

Mr. SEWARD. If I have the floor, I move that the subject be postponed until the 15th day of February next.

Mr. BARKSDALE. I withdraw my motion to refer the bill to the Committee of the Whole on the state of the Union, and move that it be laid on the table.

Mr. CLINGMAN. If the gentleman will withdraw his motion to lay upon the table, and the House disagree to the postponement, I will then move myself that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. BARKSDALE. I withdraw the motion to lay upon the table, and move that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. SHORTER. Is an amendment in order to the motion of the gentleman from North Carolina?

The SPEAKER. It is.

Mr. SHORTER. I move that the bill be postponed to the first Monday in January next.

Mr. FAULKNER. Does that bill make an appropriation of money? If so, I would like to know whether, under the rules of the House, it should not go to the Committee of the Whole on the state of the Union?

The SPEAKER. Neither of the motions now pending renders it necessary for the Chair to determine that question. The Chair has not examined the bill. The question to postpone may be taken without the necessity of a decision of the question of order raised by the gentleman from Virginia.

Mr. DAVIS, of Indiana. Has the gentleman from Mississippi withdrawn the motion to lay upon the table?

Mr. BARKSDALE. I call for the previous question.

Mr. SEWARD. Was my motion to postpone to the 10th day of February entertained?

The SPEAKER. It was not. The gentleman from Mississippi [Mr. BARKSDALE] had the floor at the time.

Mr. CLINGMAN. As the call for the previous question cuts off the motion to postpone, I ask for a division on seconding the call for the previous question.

Mr. PHILLIPS. If the previous question be seconded, what will be its effect?

The SPEAKER. It will cut off the motion to postpone.

Mr. GREENWOOD. What will be the next question?

The SPEAKER. The motion to commit.

Mr. BARKSDALE. I withdraw the call for the previous question.

Mr. CLINGMAN. Then let us take the vote on the postponement of the subject. If that be voted down, then the bill can be referred to the Committee of the Whole on the state of the Union.

Mr. PHILLIPS. I renew the call for the previous question.

Mr. BARKSDALE. Does that bring the House to a direct vote on the passage of the bill?

The SPEAKER. It will bring the House to a vote on the motion to commit; and, if that be voted down, then the question will be on ordering the bill to be engrossed, and read a third time.

Mr. CLINGMAN demanded tellers on seconding the demand for the previous question.

Mr. JONES, of Tennessee. I would like to have a question about this bill decided. I believe the rule requires that all propositions touching appropriations of money shall first be considered in a Committee of the Whole House. Now, sir, while this bill may be drawn so as not to make an appropriation directly, it provides, as I understand, for the issuance of five millions of United States bonds; it provides for commissioners at salaries of \$3,000, and various persons at other salaries, and that certainly touches appropriations of money, though it may not directly make an appropriation; because, if this bill passes, appropriations must as naturally follow as one thing can follow

another. It certainly has direct relation to an appropriation; and comes, in my opinion, within the rule which requires all bills of that character to be first considered in Committee of the Whole House. If I recollect the rule, it does not say "propositions making appropriations," but "touching appropriations."

The SPEAKER. The language is, "all proceedings touching appropriations of money shall first be considered in Committee of the Whole House."

Mr. JONES, of Tennessee. This certainly does touch an appropriation of money.

The SPEAKER. The gentleman from Tennessee has anticipated the question of order. When the matter properly arises, the Chair will decide the question.

Mr. JONES, of Tennessee. I think now is the time, for if that shall be the decision of the Chair, the bill must go to the Committee of the Whole House.

The SPEAKER. There is a proposition to postpone. It is competent for the House to postpone without the question arising whether the bill must be sent to the Committee of the Whole on the state of the Union or not.

Mr. CLINGMAN. I suggest that we take the vote by tellers, on the question whether it shall be postponed or not; and if that is not carried we will all agree to commit the bill.

Mr. PHILLIPS. I insist upon the previous question. That, if sustained, will bring the House directly to a vote upon referring to a Committee of the Whole House, and that is my object.

Mr. BARKSDALE. I desire to inquire, if the previous question is sustained, and the House refuses to commit the bill to the Committee of the Whole on the state of the Union, whether the bill would not be put directly upon its passage?

The SPEAKER. If the question of order raised by the gentleman from Tennessee should be decided adversely to the views of that gentleman, it would be.

Tellers were ordered on seconding the previous question; and Messrs. CLEMENS and ANDREWS were appointed.

Mr. PHILLIPS. In order that there may be a direct vote upon the proposition, I will withdraw the demand for the previous question.

No objection being made, the demand was withdrawn.

The question was first upon the amendment of Mr. SHORTER to postpone until the 15th day of January next.

Mr. SHORTER demanded tellers.

Tellers were ordered; and Messrs. CLEMENS and ANDREWS were appointed.

The House divided; and the tellers reported—ayes 66, noes 60.

So the amendment was agreed to.

The motion as amended was then agreed to.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the postponement was agreed to, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

E. G. SQUIER.

Mr. SICKLES, from the Committee on Foreign Affairs, reported a bill for the relief of E. George Squier, of New York; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CENTRAL AMERICA.

Mr. CLINGMAN. I now report the resolution which I presented yesterday, but withdrew. Mr. WRIGHT, of Georgia. Will the gentleman from North Carolina give way that I may offer a substitute?

The SPEAKER. The Chair would inquire of the gentleman from North Carolina whether he has reported a simple resolution or a joint resolution?

Mr. CLINGMAN. They are simply House resolutions.

The SPEAKER. The resolutions will be read. The Clerk read as follows:

Resolved, That inasmuch as the United States can never consent that any foreign Power shall have the right to enter our territory with a view of forcibly carrying away any person who may be therein, so it becomes the duty of this Government to disavow and disclaim all right on its part to enter for the same purpose the territory of any foreign Power or State with which we are on terms of amity or friendship.

Resolved, That officers of the United States have no right to use the force under their command in the territory of any foreign State, at the instance of, or for the benefit of, such State, unless previously authorized by Congress.

Resolved, That inasmuch as the views of the President, as made known in his message to the two Houses of Congress, are in accordance with these principles, no action is necessary on the part of Congress.

Mr. RITCHIE. I ask now that my resolution be read, which expresses the sentiments of a portion of a minority of the Committee on Foreign Affairs, and which I submit as a substitute for the pending resolution.

The resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and the same are hereby, presented to Commodore Hiram Paulding, and through him to the officers, petty officers, seamen, and marines, attached to the squadron under his command, for the capture, on the 8th of December last, at Punta Arenas, of one William Walker, and others associated with him, who were engaged in carrying on against the Government and people of Nicaragua an unlawful military enterprise, which was set on foot by the said Walker and his associates within the territory and in violation of the laws of the United States.

Mr. BARKSDALE. I send to the Clerk's desk a resolution, as a substitute, which expresses the sentiments of another portion of the minority of that committee.

The resolution was read, as follows:

Resolved, That the conduct of Commodore Paulding, in capturing General William Walker and his men at Punta Arenas, in Nicaragua, was without the authority of law, and meets the condemnation of this House.

Mr. WRIGHT, of Georgia. I ask now that my resolutions be read.

They were reported, as follows:

Resolved, That the capture of William Walker on the coasts of Nicaragua by Commodore Paulding, was without authority of law.

Resolved, That said capture was within the letter and spirit of the instructions of the Department of the Navy, ordering one of its officers "to repair with his vessel to Chiriqui, where it had reason to believe said expedition would rendezvous," and another to proceed with his vessel to Cape Gracias, Honduras, skirting along the coasts, looking in at the mouth of Bluefield inlet, thence to San Juan del Norte, Nicaragua.

Resolved, That the right of the citizen of the United States to expatriate himself and transfer his allegiance to other Governments; to "emigrate with arms in his hands" for the purpose of settling new countries and founding new States, is an inherent and sacred right, one that ought to be inviolate, and one of which he cannot be constitutionally deprived.

WILLIAM G. MOREHEAD.

Mr. CLAY, by unanimous consent, from the Committee on Foreign Affairs, made an adverse report in the case of William G. Morehead; which was laid upon the table, and the report ordered to be printed.

JOHN H. WHEELER.

Mr. CLAY, by unanimous consent, introduced the following resolution; which was read, considered, and adopted.

Resolved, That the Secretary of the Treasury be requested to furnish the House of Representatives with copies of the papers on file in his Department, in relation to the claim of John H. Wheeler, late Minister to Nicaragua, for losses charged to have been sustained by him for discounts on drafts for his salary, together with the grounds on which the said claim was discharged by the Treasury Department.

ARREST OF WALKER.

Mr. CLINGMAN. Mr. Speaker, with the indulgence of the House I will make some explanation of the report made from the Committee on Foreign Affairs, on the arrest of General Walker by Commodore Paulding. It will be remembered, at an early day of this session I offered some resolutions, in the following words:

Resolved, That the treaty between the United States and Great Britain, designated as the Clayton Bulwer treaty, being, under the interpretation placed on it by Great Britain, an entire surrender of the rights of this country, and, upon the American construction, an entangling alliance without mutuality either in its benefits or restrictions, and having hitherto been productive only of misunderstandings and controversies between the two Governments, ought therefore to be abrogated.

Resolved, That since the acquisition and settlement of our territory on the Pacific, certain portions of Central America stand to us in a relation similar to that which Louisiana, prior to its acquisition, bore to our territory in the Mississippi valley, and, therefore, ought not to be subject to the control of any foreign Power that might interfere materially with our interests.

Resolved, That inasmuch as the Government of the United States has heretofore taken steps to suppress the African slave trade, and is at present subjecting itself to a considerable annual expense to keep up a squadron on the coast of Africa to prevent the same, we feel it to be our duty to protest against the trade in white men, commonly called the Cooly trade, not only on principles of humanity with reference to the subjects of that traffic, but also because it

is eminently injurious in its ultimate effects to the countries to which they are transported."

They indicate the line of policy upon which I expect to speak to-day; but before doing so I desire to offer a few words on the subject of this Paulding report.

It takes the ground that he, Commodore Paulding, had no authority to arrest General Walker in Nicaragua. It has been said that pirates may be followed into any jurisdiction, and there has been an attempt to liken this case to that. On that point, I can refer to a very high authority. Mr. Webster, in his letter to Mr. Fox, says:

"Her Majesty's Government are pleased, also, to speak of those American citizens who took part with persons in Canada engaged in an insurrection against the British Government, as 'American pirates.' The undersigned does not admit the propriety or justice of this designation. If citizens of the United States fitted out, or were engaged in fitting out, a military expedition from the United States, intended to act against the British Government in Canada, they were clearly violating the laws of their own country, and exposing themselves to the just consequences which might be inflicted on them if taken within the British dominions. But, notwithstanding this, they were certainly not pirates, nor does the undersigned think that it can advance the purpose of fair and friendly discussion, or hasten the accommodation of national difficulties, so to denominate them. Their offense, whatever it was, had no analogy to cases of piracy. Supposing all that is alleged against them to be true, they were taking a part in what they regarded as a civil war, and they were taking a part on the side of the rebels. Surely England herself has not regarded persons thus engaged as deserving the appellation which her Majesty's Government bestows on these citizens of the United States."

"It is quite notorious that, for the greater part of the last two centuries, subjects of the British Crown have been permitted to engage in foreign wars, both national and civil, and in the latter in every stage of their progress; and yet it has not been imagined that England has at any time allowed her subjects to turn pirates. Indeed, in our own times, not only have individual subjects of that Crown gone abroad to engage in civil wars, but we have seen whole regiments openly recruited, embodied, armed, and disciplined, in England, with the avowed purpose of aiding a rebellion against a nation with which England was at peace."

I will remind the House, in addition to that strong authority, that when General Felix Houston proposed to raise an expedition to help the Greeks in their revolution, John Quincy Adams, then President of the United States, Henry Clay, then Secretary of State, Daniel Webster, Forsyth, and La Fayette, gave him strong letters of recommendation. La Fayette himself was an illustrious example of that kind of piracy. In the debate which took place in the House some time ago, it was urged that Paulding had a right to follow Walker as a criminal into the jurisdiction of Nicaragua, and arrest him. This is contrary to the law of nations; and if gentlemen will take the trouble to look into the extradition treaties which have been entered into with Great Britain, with Switzerland, and with other countries, they will find that those countries have recognized no such right as this; nor has the right, in any case, been conceded, but only the right to make a demand on the executives. The Nicaraguan Minister could not have given any such authority. It is an authority which can be granted only by the treaty-making power. Mr. Dallas could not authorize any English captain to come into the United States for such a purpose; that could only be done by the President and Senate, as the treaty-making power.

But it is argued, in the third place, that Paulding went there for the benefit of Nicaragua. Well, sir, upon that point I have to say that an officer in charge of the United States forces can only use those forces in the service of the United States. That proposition, I think, is indisputable. What the last House of Representatives thought on that subject, I beg leave to show, by presenting the vote upon a resolution of my own.

I will say to the House, in explanation of the circumstances under which I offered that resolution, that immediately after the Panama outbreak and the slaughter of our people occurred, I went to see the late Secretary of State, Mr. Marcy, and advised at once that a body of troops should be sent down to protect the Panama railroad. I called Mr. Marcy's attention to the fact that the United States had guaranteed the safety of the line by a treaty which was the supreme law of the land. He admitted such was the treaty, but said that the Executive could not use the United States forces within a foreign jurisdiction without the authority of Congress. I reminded him of what had been done at Greytown, and he intimated that they had probably exceeded the law at Greytown; "but," said he, "we will do anything we can do from the guns of our ships, but we cannot land troops there."

I say, Mr. Speaker—because this has been a subject of some discussion lately, and I am a very frank man in politics—that I did press upon the Secretary of State the importance of sending troops there, taking possession of that line, and holding that isthmus as a satisfaction; but agreeing to pay to New Granada a sum of perhaps two or three millions to boot, for a cession to us. That was my line of policy. I desire to hold that isthmus. I also remember very well, that, in the course of that conversation—for I was perhaps a little ultra and pressing in my remarks—in reply to a question of the Secretary of State, as to what we all thought up here in Congress about his foreign policy, I did say to him that, in my judgment, his foreign policy had been irritating and weak; that they had quarreled with everybody, and maintained nothing.

But, sir, it is sufficient for my purpose to say that the Secretary of State thought that there was no authority, and he referred me to the President. I had a conversation with President Pierce on the subject, and he took the same view of it: that, without authority from Congress, the Executive could not use the troops of the United States in any foreign jurisdiction. I therefore presented in the House the following resolution:

"Be it resolved, &c., That for the better protection of the persons and property of American citizens, under the law of nations, and as secured by existing treaty stipulations with reference to the thoroughfares or lines of travel between the Atlantic and Pacific oceans, the President of the United States be, and is hereby, authorized to employ any part of the land or naval forces of the country, and to call for and use any number of volunteers that may be necessary to provide for the safety of passengers and others of our citizens in those localities, and to insure the observance of such rights as the Government and citizens of the United States are entitled to enjoy on said transits."

"Mr. JONES, of Tennessee. It is a proposition authorizing the President to take possession of Central America. [Laughter.] I do not want it here at this time."

Mr. CAMPBELL, of Ohio, said that when the resolution came in he should introduce a proposition for the annexation of the British Provinces. After a little discussion the matter went over till the next Monday, and the House adjourned. On the following Monday the vote upon the suspension of the rules was—yeas 53, nays 74. A large majority of Congress were unwilling to allow me to introduce a resolution of that sort authorizing the President of the United States to use the troops to protect the lives of American citizens on that line, because in a foreign jurisdiction? Why? Because they feared the President might take possession of Central America, or annex it, or involve us in war. Of course, if the President is not to be trusted, I suppose gentlemen will not trust his subordinates, either officers in the Army or Navy, to do the same thing. But the question is, whether Paulding had a right to do what he did in the absence of any act of Congress. I think everybody will agree, upon a moment's reflection, that that is a proposition which is not debatable; and hence, in this report, I maintain that he had no authority, under the laws of nations, or under the Constitution and laws of the United States, for that act.

But, Mr. Speaker, suppose the resolution which I offered in the last Congress, and which I have just read, had been adopted and carried out: what might have been the effect? The President might have occupied the Isthmus of Panama, a narrow neck of territory two or three hundred miles in extent, which would have been of vast advantage to us, it being that narrow isthmus over which the world may find the best connection between the Atlantic and Pacific. Of course, we should have done as we did in the case of California; we should have allowed some balance to New Granada, and paid them whatever amount they were willing to take. Gentlemen may smile; but I see it stated in the papers that the Attorney General of New Granada, who controls that country, is actually asking that it shall all be annexed to the United States for nothing.

But, sir, another purpose which I had very much at heart, was to open this Nicaragua line. Walker, you will recollect, was then in power, and remained in power about a year. Now, if we had opened that line, the effect would have been that men and supplies could have reached William Walker, and I have no doubt that he would have sustained himself in that country. He was overthrown, it will be remembered, by the combined efforts of the Central American States, of Commodore Vanderbilt, and of the British in-

fluence against him, and by all the aid the Secretary of State could give in cutting off supplies; and ultimately the capture of his ships and men by Davis, one of our naval officers.

I say, therefore, that it is very obvious to my mind that if my resolution had been adopted and carried out, and communication had thus been opened with him, he would have been sustained, and I have no doubt he would have established a better system than they now have there.

Even now, it would be of vast advantage to this country to have that line opened. It has been closed for more than two years, and the gentleman from California [Mr. McKIBBIN] tells me that the State of California loses at least a million and a half of dollars a year by reason of the stoppage of that line. They charge thirty-three per cent. higher to go by the Panama route than they would by this line. It has been stated in newspapers—whether correctly or not I do not know—that the Panama company is paying \$40,000 a month, or \$480,000 a year, to keep the Nicaragua line closed. Well, if they are getting \$1,500,000 by it, they can afford to pay \$480,000, and make a very handsome profit out of it, by reason of the monopoly they thus enjoy.

I may say, in this connection, Mr. Speaker, that I see that a proclamation was issued in New York, on the 22d of April last, by Mr. Yrissarri, and a previous dispatch, of December 30, 1857, in which he announces that if any citizen of the United States goes to Nicaragua or attempts to pass through it to California, as we have a right to do under the original treaty, he will be treated as an enemy, and stopped if he does not go by a certain line, to wit: the Atlantic and Pacific Ship Canal Company. I doubt, sir, if there is anything in our treaty regulations to justify that. I hold that it is the right of every American citizen, we being at peace with Nicaragua, to go to that country in any ship he thinks proper to take. But, if this be true, I submit to gentlemen upon all sides whether a monopoly like this is to be tolerated. True, the company is a New York one, but do the people of New York themselves wish to beat their mercy? Suppose the British Government were to provide that nobody should go to Great Britain unless he went there in the Cunard line of steamers, so as to give them a monopoly and enable them to charge enormously high rates: would not every New Yorker, and much more the people of Boston, Philadelphia and other cities, complain of such a regulation?

I see that in another publication, lately made, it is said that any man who goes to the country without a permit from the Minister, or from his consul at New York, will be treated as an enemy. I hold, sir, that we have a right to exercise an influence upon that country to secure the right of way to our Pacific possessions; and I trust that the treaty-making power of the United States will not allow any regulation to be made by which we are to lose that right. A gentleman [Mr. BINGHAM] on my right asks me if there is any danger of our losing it. Why, that company claims to have the sole right to carry passengers there. Suppose they do not carry any, as they have not carried them for two years or more. The way is blocked up; and I am told, as I have already said, that they are getting \$40,000 a month to keep it stopped for the benefit of the Panama company. That is the allegation. But suppose it is not true. I ask the gentleman from Ohio if he, as an American citizen, is willing to deprive the people of this country of the right to go to California, unless they go in a particular line of ships? Why, there are not more than five hundred thousand people in that country—mostly Indians and negroes. And are we to allow them to block up our way to our Pacific possessions, unless we choose to submit to an enormous monopoly of that sort?

I conclude what I have to say about Commodore Paulding by simply declaring that the effects of that act of his have been very unfortunate to us. It has been calculated to aid British interests and not American interests in that quarter, and has been properly appreciated in England, and at Havana. All the letters I see from Central America say that, instead of getting credit among the people by that act, we are in, perhaps, worse reputation there than we were previously, because they supposed we were compelled, by Great Britain, to arrest Walker.

This brings me to the consideration of the res-

olutions that exist between Great Britain and ourselves in regard to Central America, as affected by the Clayton-Bulwer treaty. I yesterday moved to take up that resolution at one o'clock to-day. If it be agreeable to the House, I will just go on and say what I have to say about it now; but I do not desire to occupy any more of the time of the House than is absolutely necessary. I made that motion for one o'clock, under the impression that the House did not meet till twelve.

A MEMBER. What do you propose about the Paulding resolutions?

Mr. CLINGMAN. My motion is to commit the resolutions to the Committee of the Whole on the state of the Union, and to have them printed. The matter will then be open to discussion. With the leave of the House, I will now take up that other question, and say what I have to say about it.

Mr. SICKLES. I would suggest to the gentleman to let the present motion stand as it is. I desire to present some views, on the part of the committee, before it takes that direction.

Mr. CLINGMAN. Well, I hope that gentleman will allow me to go to this other matter.

Mr. SEWARD. I do not wish to interfere with the gentleman from North Carolina; but my colleague [Mr. WRIGHT] wishes to be heard, and he has as much right to the floor as any other member.

Mr. CLINGMAN. My motion will leave the subject in the Committee of the Whole on the state of the Union, and the gentleman's colleague, and any other member who desires to be heard upon it, can there be heard.

Mr. SICKLES. Or, if the matter be left as it is, the subject will come up in the morning hour to-morrow, and the gentleman will have an opportunity to be heard.

Mr. WRIGHT, of Georgia. Very well; I am willing to agree to that.

Mr. FAULKNER. I desire simply to know whether this will affect the morning hour, as far as reports of committees are concerned?

The SPEAKER. In what respect?

Mr. FAULKNER. I understand that one o'clock to-day was fixed for taking up this subject. I presume that if the gentleman be permitted to go on now, it will interfere with the morning hour, so as to prevent the committees from presenting reports.

The SPEAKER. The gentleman from Virginia will remember that the call of committees cannot be resumed until this question is disposed of.

Mr. CLINGMAN. Other gentlemen will speak on it now, if I do not; and so the balance of the morning hour will be consumed.

Mr. WRIGHT, of Georgia. Does the gentleman from New York [Mr. SICKLES] desire to be heard this morning?

Mr. SICKLES. No, sir. We can both be heard to-morrow morning.

Mr. LOVEJOY. I object to anything out of order.

Mr. SEWARD. I shall object to any arrangement not consistent with the rules. My colleague has just as much right to be heard as any other member, on the matter before the House.

Mr. CLINGMAN. If I must go on and speak on this subject of Paulding, I will do so; but I do not wish to do so.

Mr. J. GLANCY JONES. I believe that the proposition of the gentleman from North Carolina yesterday was, that the subject should be postponed till one o'clock to-day.

Mr. CLINGMAN. Yes.

Mr. J. GLANCY JONES. Then the gentleman from Georgia can make a speech this morning.

Mr. CLINGMAN. It will come up in the morning hour to-morrow.

Mr. COBB. I enter my protest against any further proposition to interfere with the call of committees for reports. I want that distinctly understood now. If I am out of my seat at any time when such propositions come up, I hope the Speaker will bear my objection in mind. I wish to have all the committees regularly called. This matter presented by the gentleman from North Carolina will occupy the morning hour for the balance of the session, if it is to be considered then.

Mr. CLINGMAN. Not at all.

The SPEAKER. The Chair desires to understand whether there is any objection on the part

of the House to the gentleman from North Carolina proceeding in his remarks on the report which he yesterday submitted, and which was postponed to one o'clock to-day?

Mr. COBB. What effect will that have on the other question?

The SPEAKER. It will come up in the morning.

Mr. COBB. Then I object. Let us dispose of it to-day.

Mr. J. GLANCY JONES. I wish to appeal to the gentleman from Alabama to withdraw his objection, for this reason: this motion to postpone was made yesterday, and I objected to it for the same reason that the gentleman from Alabama objects now. I concur with him in wishing to have the morning hour every day consumed by the call of committees for reports. But the motion to postpone was made under the impression that the House met at twelve o'clock instead of eleven. I think that if the gentleman from Alabama will withdraw his objection, and let the gentleman from North Carolina proceed now, it will advance the business of the House, and promote the object we both have in view.

Mr. COBB. Very well; I withdraw my objection.

Mr. CLINGMAN. I should not consume as much time, if allowed to go on now, as I would if I have to wait till one o'clock, as I am not very well, and am somewhat fatigued now.

Mr. SEWARD. I am opposed to moving with two things at once, and I object, except it be in order.

Mr. RITCHIE. I hope my colleague will permit the subject of Commodore Paulding to be referred to the Committee of the Whole on the state of the Union, and then it can be discussed there fully.

Mr. SEWARD. I understand that the gentleman from North Carolina wishes to be absent for some days. I therefore withdraw my objection.

Mr. CLINGMAN. I do not feel very well to-day, but in the discharge of my public duty I will proceed with my remarks.

Mr. Speaker, there has been a struggle going on between the United States and Great Britain for some years, in regard to this Central American country. It commenced with the acquisition of California, and the gold discoveries there. Before that time Great Britain had been exerting her influence without interruption from us; but as soon as she saw that the United States, by the passing of her citizens to California, would have advantages in, and would probably acquire that country, she made a proposition to us through Sir Henry Bulwer, which our Administration, exhibiting, as I hold, great imbecility, adopted. I think we were circumvented in it; and it is that proposition which I now desire this House to consider, and which—if gentlemen will examine it—I believe every one on this floor will in his conscience pronounce to have been a great blunder.

The ostensible object of the Clayton-Bulwer treaty was to provide for opening the route to California; but unfortunately that part of it has not been executed. That would have been advantageous. Its great feature, so objectionable, is the first article, which provides that neither Great Britain nor the United States shall ever occupy, colonize, fortify, or assume or exercise, any jurisdiction over Central America, or any portion of it, either directly or indirectly, by any treaty with any Power, or by reason of any protectorate, &c. It is an agreement between both Governments by which neither is ever to take possession of that country, to the end of all time. It has been called a Wilmot proviso, but it is vastly more objectionable than the old Wilmot proviso.

We of the South have thought that a denial of the right to expand was unjust. It was a denial by congressional legislation, but a denial which our Government, where we were represented, had imposed and might remove, and which they did remove in fact. But this Clayton-Bulwer treaty is a Wilmot proviso imposed by a foreign Government against the growth not only of the South, but likewise of the North, and of the whole United States; declaring that in all time we shall not touch that country and occupy it. Great Britain herself is a little island, less in extent than several States in this Union; yet she has, by conquest and filibustering generally, acquired three times as much territory as the United States

have. Great Britain, which, like that fabled giant of old, has its hundred arms out in all directions, seizing territory everywhere, because she sees that the United States might have the advantage in Central America, says to us, "hands off!" and our Government assents to it. Is it not, when stated, a monstrous proposition, that the limbs of this young, growing, and free Republic should be bound by any such treaty through all time? Why, Mr. Speaker, suppose we should say to Great Britain, we will agree that you and we will never take any portion of Asia: Great Britain would laugh at us; she would tell us that we had no possessions or interest there, and had no right to expect her to make any such agreement. Suppose we should say to her, "neither of us will touch any islands in the Red Sea, and especially the island of Perim, which you are now fortifying." Great Britain would say, "though we have no possessions within a thousand miles of that island, yet it lies directly between us and our possessions in the East, and therefore there is no mutuality in the proposition, and we will not make the treaty."

Being encouraged, however, by her success in this Clayton-Bulwer matter, she proposed a similar agreement in relation to Cuba; but the American people had been aroused, and understood the effect and folly of such a policy, and Mr. Everett and Mr. Fillmore declined the proposition. If it had been adopted, the next movement would have been in reference to Mexico, and our hands would have been completely tied by a great Power which is constantly acquiring territory in all parts of the world. Remember, sir, that this is the effect of our own American construction of this treaty. By our own interpretation of it our hands will be tied for all time. But we have not even the poor consolation that she is also bound. After the treaty was made, Great Britain said, "by its terms we are allowed to hold all we now possess, but we will not take any more; and, as you have got nothing there, you will take nothing." I need not argue against the absurdity of such a proposition. Suppose A and B are contending for a house, and A has possession of four of the five rooms in it; but there being one vacant room remaining, he proposes to B that neither of them shall occupy any part of that house, or exercise any control over it. It is agreed to; but after the contract has been executed, A says: "I am not to give up the four rooms I now hold, but I am not to take that fifth room, and you are to let it alone likewise, and to stay out of doors." What would be said of such an arrangement? Now, to show that such is the case in the present instance, if gentlemen will look at this map, printed by order of the Senate two years ago, [here Mr. C. held up the map before the House,] they will see that this red line shows the British claim. They will find that it covers four fifths of the eastern coast of Central America. Why, sir, that claim has been refuted by argument a hundred times. Mr. Buchanan himself argued it ably. If gentlemen will look at the speech of Senator SEWARD, made two years ago, they will find an able argument to show that Great Britain had no right whatever to hold one foot of that territory. Mr. SEWARD said that, sooner than submit to her pretension, we ought to have a war with her. But he makes an argument, founded on the evils of war, and recommends continued negotiation.

Mr. WRIGHT, of Georgia. Does the gentleman from North Carolina concur in the views of Senator SEWARD?

Mr. CLINGMAN. I will say to the gentleman that "sufficient unto the day is the evil thereof." Whether we shall go to war to resist this British assumption is a matter for another occasion; but I was showing how perfectly convinced Governor SEWARD was as to the injustice of her claim, to resist which he was willing to go to war. He recommends that we should negotiate further—a most lame and impotent conclusion; for we have been negotiating with her for the last eight years, and we have not yet succeeded in getting a settlement from her. If gentlemen would like to know with what rapidity negotiations with her progress, let them look back to her negotiations with Spain, and they will find that, for two hundred years, Spain had been trying to get her out of that country, and was not able to do it with all the treaties that could be made.

The truth is, that the British Government has

been strengthening itself in these possessions, and has held them for eight years, and she cannot, honorably, back out from the construction she has stood on so long. It was the proposition, however, of an Administration which has gone out of power, and one which the present feeling of England and the present Administration would, perhaps, not originally have indorsed. I think, therefore, with President Buchanan, that the true mode of meeting this issue is to abrogate the treaty, and to leave negotiation to arise upon it hereafter.

But I am met with this idea by gentlemen. The resolution reported by the committee is a declaration against both the British and American construction of the treaty, and recommends that the President take steps for its abrogation. But some gentlemen say that the President and Senate are the treaty-making power; and it is indelicate for this House to ever express an opinion on such a subject. There are some questions of such vast moment that the representatives of the people have the right to look into them. Suppose there was a proposition to annex all Mexico or Brazil to the United States: will it be contended that the representatives of the American people have not the right to express their opinion upon it, when every town meeting or popular gathering in the country has the right to do so? Remember that we are, in fact, the war-making power, and that treaties often lead to war. We have to vote the money to carry them out, frequently, and therefore we must have the right to look into them. In England, whence we get our notions of parliamentary law, and of our rights to a great extent, though the King has the power to declare war and to make treaties without consulting either branch of Parliament, yet, in the House of Commons, they have always held that they have the right to discuss those questions, to ask for explanations, or to refuse supplies; and many ministers have been turned out because not sustained by the House of Commons, on mere questions of foreign policy. And will it be contended that what the House of Commons may do in a monarchy, the Representatives of the American people cannot do?

We have a Committee on Foreign Affairs, and to that committee has been referred this identical message of the President of the United States, in which he strongly condemns this treaty, and says it ought to be abrogated. The rules of this House require the committees to report upon everything which is referred to them. That committee was obliged to report; and the most limited report we could make was a resolution expressive simply of our opinion. We have not gone so far as to recommend action. I think, therefore, that every gentleman will see in a moment that this is the proper mode of proceeding. We do not trammel the President at all, but propose to back him. In my judgment, the President will find, if this old stumbling-block is removed, that a satisfactory arrangement may be made outside of it. Be that as it may, I am willing to leave the whole matter with him. But there are some questions of expediency of vast moment involved, and I will bring some of them to the consideration of the House.

By the abrogation of this treaty we shall open that country ultimately to the occupation of citizens of the United States. A great advantage will result from our occupation, as well to that country as to us. In all ages of the world, where the higher races have had control of the greater portion of the earth, it has been most prosperous. There are now, Mr. Speaker, four Powers which are extending their dominion over inferior races. In the northeast there is the great Russian Empire, which has sprung up in modern times, but it now holds one half of Europe, all the north of Asia, and has an area of eight million square miles, and a population of sixty-five millions, and is extending its dominion over the semi-barbarous nations of Asia. Whatever may be thought of the Russian Government as compared with our own, I think that all men will agree that the system it will establish will be more stable and more conducive to the material prosperity of those countries than their present system.

The second Power is that which exists in southwestern Europe on a comparatively small area. The French Empire in Europe, including the island of Corsica, consists of only two hundred and five thousand square miles—less than the area of

the State of Texas. But there is in that territory a population of nearly forty million people—active, energetic, highly civilized, intelligent and brave, and constituting, in my opinion, the most formidable military Power that the sun has ever shone upon. If the ascendancy of France is not as striking as was that of imperial Rome, it is because her neighbors and rivals are vastly superior to the semi-barbarous nations over which the Roman eagles directed their victorious flight. France is now occupying northern Africa, and I have no doubt that civilization will be benefited by it.

The third Power is that which rests on a little island in the Atlantic ocean—an island less than several States of this Union. But its dominions have been extended to every zone, till they girdle the entire globe. Great Britain controls a larger amount of the earth's area than has been ever heretofore subjected to one Government. She has under her dominion more than two hundred million people—nearly one fourth of the whole human race. She has subjected to her every variety of men, from the Caucasian down to the negro.

The fourth Power is that which exists on this western continent. It has sprung up so suddenly, and its progress has been so rapid, compared with the old empires, that it reminds me of the vision of Daniel, of the he-goat that came from the West so rapidly that he touched not the ground. It is only a little more than fifty years since Talleyrand said that the United States was a young giant without bones or nerves. Since that day, however, the bone has been hardening, the muscles swelling, and the sinews toughening; and the United States now stands among the great Powers of the earth. We have a territory of about three million square miles—as much as imperial Rome had in her palmiest days; and though only one third as much as the territory of England or even of Russia, yet when you consider the compactness of this country and its qualities, it is vastly superior to either. At least two thirds of the territory of the United States is capable of settlement. If it was all settled up as densely as Massachusetts and as Rhode Island are, it would have a population of above two hundred million—more than all Europe now has. We have a front on both the great oceans. We have the Gulf of Mexico—our western Mediterranean—on our southern border. Napoleon I. attempted to make the European Mediterranean a French lake, and failed in it. If the United States are true to themselves they will make the Gulf of Mexico a great American lake, supplied by that grand artery which drains the magnificent Mississippi basin. When you remember, therefore, the character of our territory, its compactness, its fertility, its favorable climate, and its productions, with its active, intelligent, and moral population, it must be admitted by every one that there is no Power on earth which has greater advantages than we have.

Now, Mr. Speaker, we, too, have subjected to our control some of the inferior races. Let us, for a moment, draw a comparison between the United States and these other Powers. I will take Great Britain, not only because she is most like us, but because she makes the greatest pretensions to enlarged philanthropy, civilization, and general humanity, and because she holds a great variety of races under her dominion; but especially because the real question is, "shall Great Britain or the United States control this Central American country?" Let us make the comparison, then. Great Britain has subjected to her in India one hundred and seventy million people. The Government, in large sections, owns the land, and obliges the occupants to cultivate it as tenants. Lord Brougham, in one of his speeches in the British Parliament, said that eighteen twentieths of the gross products of the soil were drawn away from its cultivators in certain localities. No man believes that the inhabitants of any country can live on the one tenth of all the products, or even one fourth—perhaps not one half, if you take a large district into view. And therefore, according to Bishop Heber and other British writers, millions of people die in India annually from oppression and famine. Some men have said—whether truly or not I cannot tell—that the population of that country has diminished by thirty million since Great Britain got control of it. But this much is certain: a few years ago the British Government sent a commission to India to ex-

amine into its condition; and it reported that to collect taxes torture was applied to the tenants, and that hundreds of thousands of men and women die annually under these tortures, because they do not pay up their small rents.

Now, I will do Englishmen the justice to say, that in my judgment they cannot approve of any such thing. I am satisfied that the Government itself does not sanction it. That country is governed by the East India Company—a great filibustering company, chartered to acquire territory for the British Government, and retained for that purpose. Corporations are habitually soulless.

Now look, for a moment, at the manner in which we have treated the aborigines of this country. Since the formation of the Constitution of the United States, I do not believe that we have ever deprived any Indian tribe of property. Wherever we have acquired their territory we have given them an equivalent. There is not an Indian tribe in the United States that has not more land than it can cultivate. And so far from compelling them to labor and pay taxes, we actually expend large sums for keeping them alive.

Again, sir, the United States and Great Britain have both been large importers of negro slaves to America. Into the United States there have been brought nearly four hundred thousand negro slaves, and they have increased to four million—ten times the original number. Into the British colonies there have been one million seven hundred thousand imported; and the proportionate increase would have made them at the present time seventeen million. But, in point of fact, there are only six hundred thousand. Into Jamaica alone, the British and Spaniards have carried eight hundred and ninety thousand negroes; and at the emancipation, in 1835, there were only three hundred and eleven thousand left—one third of the original number. I need not enlarge on the fact of the vast increase of slaves in this country, of their condition being above that which their race has ever occupied anywhere, and of their immense productions. Compare that with the degraded position of the British islands. Great Britain, however, emancipated her slaves, and the consequence has been that her colonies are lapsing into barbarism and savagery. To relieve her islands from their unfortunate and desolate condition, Great Britain has adopted another expedient—the importation of large bodies of white men as slaves, under the name of the Coolie trade.

Gentlemen may perhaps remember that during the last session I had occasion to make a speech, in which I discussed this subject. I suppose that in the course of that speech I had commented on some of the transactions of the Secretary of State in a manner that may not have been entirely acceptable; at any rate, in two or three days after, there appeared in a newspaper in this city—a paper which represents the foreign interest always—what purported to be an extract from a report in progress in the State Department, giving an account of the condition of the Coolies in Peru, and stating that they had a perfect paradise there. And this thing was published as a reply to my speech. I should not have objected to its being put in juxtaposition with it, provided they had thought proper to publish my speech, so that their readers could decide for themselves.

Now, if gentlemen will look into the seventh volume of the Commercial Statistics, they will see all the information that Mr. Marcy and his assistants were able to collect on this important subject; and it does not make one page. It would be well for gentlemen to read it, to see how little truth there may be in an official report. It deserves to stand side by side with that passage in the old geographies, which represented Indians as venturing over the Falls of Niagara, in their canoes, in safety. The two statements are equally reliable. I was anxious to make a reply to it at the time; but, under the rules of the House, I had no opportunity afforded me.

I now ask the attention of the House for a few moments, while I expose one of the most oppressive, cruel, and monstrous systems that the world has ever seen carried on by any civilized nation. I shall first read a few extracts from the daily papers of the last few weeks, among the items of telegraphic and other news. I may repeat that this report represents the Coolies in Peru as having a fine time of it, and as being thriving, prosperous, and happy. Whereas, in fact, it is

established that of those Coolies who are imported in Peruvian ships, thirty-eight per cent.—a little over one third—die on the passage. Nor do those carried in American and British ships fare much better, as these extracts show:

"On the 19th the American ship, Kitty Simpson, from Swatara and St. Helena, with three hundred and thirty-seven Asiatics. She had ninety-three deaths on the passage. And on the 20th, the British ship Admiral, with two hundred and eighty-three Asiatics. She had ninety deaths on the passage."

"It is worthy of remark that the number of deaths has always been proportionate to the length of the passage, and I cannot omit drawing particular attention to the fact that all these Asiatics brought here are males, not a single female having arrived among the twenty-four thousand and upwards that have come to this island. Is not this the very refinement of cruelty?"

"Besides, this trade has not even the sorry excuse of the African slave trade. The Africans are savages, whom, it may be said, it is charity to civilize and Christianize; the Asiatics are far from being savages; many of them are persons of refined habits and considerable education."—*New York Herald.*

"CUBA.—LATEST NEWS.—By the steamer Black Warrior intelligence has been received from Havana to the 15th instant. It is reported that two cargoes of negroes had been landed in Cuba since the last advices, and duly disposed of. Two American ships had also arrived from China with cargoes of Coolies. The ship Challenge, Captain Kinney, one hundred and thirty-seven days from Swatara, landed at Havana six hundred and twenty Asiatics. During the passage two hundred and eighty-six had died." * * *

"From the 10th of April, 1855, to the 15th instant, seventeen thousand six hundred and forty-four Asiatics have been received in Cuba for eight years' servitude, of which more than twenty per cent. have already disappeared. On the vessels engaged in this traffic, three thousand one hundred and seventeen have died during the voyages by suicide or disease, being more than one sixth of the whole number taken on board. This does not include casualties, mutinies, &c., which have caused the destruction of whole cargoes. Of some three or four thousand received previous to the 10th of April, 1855, nearly all have perished. It is not probable that a tenth will remain at the close of their eight years. It is said that an arrival of sepoy is expected, to add to the heterogeneous mixture of Cuban stock, and to carry out the extended views of British philanthropy, or policy, as it may be."—*Union, of February last.*

"BOSTON, January 29, 1858.—A letter received from Captain Ryan, of the ship Lion, from Hong Kong for Callao, dated Angier, November 22, states that the ship Kate Hooper, of Baltimore, Captain Jackson, from Macao, October 15, for Havana, with Coolies, was at Angier, November 22, waiting for men from Batavia. The Coolies mutinied and got possession of the between decks, and set the ship on fire three times, and before they could be subdued the officers had to shoot fifty of them."

"CHINESE COOLIES.—The Chinese emigrants are arriving at Havana in great numbers. No less than three thousand were landed from four ships in one week. They all readily brought twenty-two ounces a head. The most of them arrived in poor condition, which is probably owing to the Coolies being kept in dirty junks in Swatara, waiting for a vessel to bring them. At last accounts, six large American vessels were waiting for cargoes in Swatara alone. Orders have been sent from Havana to procure twenty thousand Coolies, if possible."—*March 31.*

Some details, as given in the following statement from an English paper, may be interesting:

"THE TRADE IN CHINESE COOLIES.—The frightful mortality of Chinese on board the British ship Duke of Portland has been the subject of investigation for several days, before the Local Marine Board, Cornhill, London; Mr. Duncan Dunbar, chairman.

"Captain Seymour, the master of the Duke of Portland, deposed that the ship left Hong Kong with three hundred and thirty-two Chinese Coolies."

He says, in his statement, one third had been kidnapped.

"About two o'clock on the 2d I left the shore with my papers all in order, and proceeded on board the Julindur to get a box of musket caps, which I was rather short of. I saw the mate masteading the topsails, and flattered myself all was right. Vain hope! I had not been on board five minutes when I saw the topsail halliards had been let go, and the Coolies crowding on the poop. I got on board in double quick time, and was followed by the captain and boats' crews from the three other ships with whom I was acquainted, and the scene of riot and confusion that awaited my arrival I shall not soon forget. The Coolies had taken the opportunity of the mate's attention being occupied in making sail, and abstracted the iron belaying pins, and armed themselves with what else they could on deck, principally firewood, and gained possession of the poop, and were yelling and shouting in a fearful manner, throwing everything moveable overboard, and had let go the topsail halliards."

This mutiny was quelled by force, and they were guarded and confined:

"The third day I had the first suicide, and from that date until I passed the Straits of Sunda, I had an average of about three overboard daily. They now also commenced threatening to burn the ship, and my interpreter becoming alarmed, I could not find the ringleaders. On the morning of the 15th, I discovered a plan they had laid to take the ship. One more of the invalids was to be thrown overboard, and during the absence of the boat to pick them up, the Coolies were to make a rush, obtain possession of the poop, and murder all hands, reserving the boat's crew to take the ship on shore; and the same afternoon they carried their plan out; but, as I was quite prepared for them, after the

failure of their attempt they became much quieter; but I had on an average from twelve to eighteen in irons for riotous behavior and attempted suicide.

"But I could fill a volume on this subject and the horrors by which I was surrounded. We lost one hundred and twenty-eight Chinese before arriving at the Havana, chiefly from congestive fever; it is like the Hong Kong fever. We lost one of the crew. I think the Coolies brought the seeds of the disease on board with them. When they would not eat I have tried to force food down their throats. We were one hundred and fifty days on our passage from China to the Havana."

"At the close of the examination of the witnesses, the chairman announced the decision of the board: 'That no blame attaches to the owner and master, or any one connected with the ship. That Captain Seymour's conduct to the emigrants appears to have been kind and attentive, and that every possible precaution was used by him to decrease the mortality.'"

Sir, if these results follow where the Coolies are treated kindly and judiciously on board ship, what are you to expect when they are ill-treated? Let us, however, see how they are treated when landed in Peru. From a publication on the subject of agriculture, guano, &c., by H. N. Fryatt, of New Jersey, I read an extract:

"Now do you wish to know how all these ships are loaded, and a thousand tons per day dug and sent from the islands? Well, there are about one hundred convicts from Peru, and about three hundred Chinamen from the Celestial Empire. The former are in the right place; the latter were passengers that engaged passage in an English ship for California, and engaged before they left their own country, to labor after their arrival for a limited time to pay their passage, (eighty dollars.) Instead of being landed at California, the ship brought them direct to this place, and the captain sold them for three and six years, according to the men, to work out their passage; and here they are slaves for life. They are allowed four dollars per month for their food, and one-eighth of a dollar per day for their labor, with a pile of guano before them which will last the next ten years; and long before it is exhausted the majority of them will be dead. Each man is compelled to bring to the shore five tons of guano per day. A failure thereof is rewarded with the lash from a strong negro; and such is their horror of the lash, and the hopelessness of their condition, that every week there are more or less suicides. In the month of November, I have heard, fifty of the boldest of them joined hands and jumped from the precipice into the sea. In December, there were twenty-three suicides. This is from one in authority. In January, quite a number, but I have not learned how many."

Now, there are hundreds of these facts constantly published, or made known, and they do not excite any attention in this country; when, if it was known that ten negroes had committed suicide in one of our slave States, it would be published, perhaps, in every newspaper in the United States; and we should have many speeches on this floor, and elsewhere, against the horrors of slavery, &c. But these are only white men, who die under that system by thousands; and no Abolitionist, or other special friend of humanity, realizes it, or takes the slightest notice of it.

Mr. FOSTER. I would ask the honorable gentleman whether he intends bringing in a bill to suppress this Coolie trade?

Mr. CLINGMAN. I will come to that point in a moment. In this matter I hope that I shall have the coöperation of the gentleman from Maine.

I also read a portion of a letter from the author of this work:

"The officers placed on these islands to superintend the delivery of the guano, in order to check this business of self-destruction, adopted the plan of rescuing the dead bodies from the sea and burning them on the guano heaps, in order to convince the Chinese of the impossibility of their return to their native country, through the gates of death; that the bodies should remain on the island. I was informed that this burning of bodies was of frequent occurrence."

"I have recently conversed with intelligent captains engaged in the Cuban trade, who tell me how the Coolie trade is done. English commercial houses have runners at Amoy, Hong Kong, &c., who are employed in enticing the Chinamen, by offers of wages, &c., to emigrate to the land of gold. They pick up the population who live outside the walled towns, the short-haired, and a sprinkling of a better class, who are distinguished by the long braided hair hanging behind, and somewhat superior intelligence. All manner of inducements are held out, of course. These Coolies are furnished with rice and water for food during the passage; are treated with much severity, and frequent suicides occur during the passage. Guards are placed over them to prevent their jumping overboard, &c.; and yet, notwithstanding these precautions, about one in three either die or destroy themselves on the passage."

"The passage is five doubloons, landed in Havana, (eighty-five dollars.) They are sold at Havana according to quality; and the most valuable bring as high as three hundred to three hundred and fifty dollars apiece."

"The trade is done chiefly by English and American vessels; but my informants say that they never knew an American captain to bring a cargo of Coolies twice. The English are not so scrupulous."

"The Coolies are put to work alongside of the Africans, and subjected to worse treatment, as the Coolie feels his degradation and becomes sullen and melancholy. His only relief is in the old mode, suicide, which he avails himself of at the first opportunity. The long-haired Chinaman cuts his tail off as a mark of his degradation; and as soon as the

driver sees his tail go he knows that the owner intends to depart to that bourn, &c., pretty quickly; and not alone, either, as the long tail exercises much influence over the others.

This trade being so lucrative, it is on the increase. The high price of sugar will likely add a stimulus to this new species of slave trade, which I, for one, feel much indebted to you for holding up to the execration of mankind."

I have, in addition to that, a letter from a respectable merchant of the city of New York, a gentleman of high standing. I do not give his name, but the following is a part of his letter:

"Our eastern ship owners have great horror of the African slave trade, but they have no compunctions of conscience in abducting Coolies from China and transporting them to South America. To save appearances, they land them at Africa, in Peru, whence they are transferred to the Chincha Islands, where they are worked digging guano under a broiling sun until they are driven to desperation. I had a ship, the St. Patrick, load at those islands. My captain, Whitman, said that, whenever the poor creatures could get to the cliffs, they would jump into the sea. Some twenty jumped off whilst he was there. You are not, perhaps, aware that there is no water on the islands. All the water used is taken there by the ships; and, of course, being so scarce, the poor creatures have but a limited quantity given them. And the dust arising from the guano, with the severe labor they undergo, drives them to desperation. Water must be wanted in large quantities. Your negroes at the South are in Paradise compared with the Coolies at the Chincha Islands."

Mr. Speaker, I need not enlarge on the cruelty of this system. And it does not stop here. France imported Coolies into some of her islands. In the Island of Bourbon alone, there are thirty-five thousand. But England seems, in some way, to have interposed obstacles to the obtaining of Coolies by the French, wishing to have a monopoly of the business, perhaps, as she formerly had of the African slave trade.

To get rid of that difficulty, the French Emperor directed his ships to go to Africa and get negroes under the name of apprentices. The English protested against that, and said it was practically reopening the slave trade. The Times thundered about it. It was admitted, nevertheless, that the Abolitionists had ruined their West India Islands, and that they ought to acknowledge their fault in sackcloth and ashes; but it proposed only to restore these islands by the importation of Coolie labor. To show how the controversy is carried on, I present a few passages from the French papers. I think it will be seen that they understand the question thoroughly; and, in fact, have the advantage in the argument.

"But Africa continues to be the source whence the colonies first drew their laboring population. It is convenient to our American possessions. Its inhabitants are gentle, robust, sociable, and inclined to agricultural pursuits. Then, in addition to this, they are oppressed and subject to the horrors of perpetual anarchy in their own country.

"Are not these reasons sufficient to induce us to look to Africa for laborers for our colonies?"

"But it is a great scandal to the superannuated society which was accustomed for twenty-five years to behold the world bow before its decrees in matters of philanthropy. What! lay hands on Africa, the holy ark which has been guarded with such an extreme jealousy, and defended still more by the prestige which it has acquired? Yet the Times thinks the present opportunity fortunate for seizing it again; and, thanks to its proceedings, Parliament already resounds with the declaration of grievances, the most grievous of which is that they cannot have laborers from Africa except they purchase them again. It is a natural result of the social state of that country. Slavery is the general condition of its working population.

"But, say the English, when you buy slaves from the African chiefs you encourage those chiefs to procure others by means of incursions, and thus perpetuate intestine wars in that unhappy country. Unfortunately, the barbarism which reigns in that continent is exercised independently of all outside pressure. When an African chief does not sell his slaves, he kills them.

"To deprive Africa of contact with civilization, under the pretext of preserving peace among her tribes, is to act like a quack, who, to cure an eruption, kills his patient by the internal concentration of the disease. The African chiefs have no motive for making war; they do so out of a pure instinct of destructiveness, and by this alone they prove themselves savages. The poor negro captives destined for human sacrifice on the occasion of some public festival, or on the tomb of a warrior, would hardly call it philanthropy to leave them to their fate under pretext of a humane objection to their purchase for emigration.

"Bible Societies have undertaken to submit Africa to a régime of preaching, distribution of edifying tracts and 'saintly communion.'"

"In any case, we cannot see why the ultra Abolitionists should impose their particular views upon us. Is not Africa an independent country? Is it confined to the tutelage of Bible Societies? And France—cannot she act according to the dictates of her own conscience? There exists in this respect no international engagement that can limit her action. The conventions relative to the right of search have been suppressed. Engagements entered into since then have been abandoned.

"The landed proprietor is then rid of every incumbrance. Following the Times, the philanthropists have made some stupid blunders, which should force them into private life, or at least teach them to speak with becoming modesty in

future. In this situation of things, when it has been proved that the system has utterly failed, is it astonishing that we should try another? This would at least have two good results. It would give new activity to colonial productions, and withdraw thousands of negroes from a miserable condition."

I must say that I agree with the French, that all the points of difference are in their favor. The negro is not only better fitted by nature for slavery than the Chinese or Sepoys, but in fact is benefited by it, while they are driven to suicide. The negroes, too, are slaves at home, or captives to be put to death if they cannot be sold, while the Chinamen and East Indians are in a comparative state of freedom.

Here is a letter on the subject from Mr. Mason, our Minister at Paris, dated 19th February last, which was sent to the Senate the other day by General Cass. It is of an important character:

"In an interview which I had the honor to have with Count Walewski, Minister of Foreign Affairs, in the last week of January, I asked him if there were any objections to my being informed of the precise character of the measures adopted by his Majesty the Emperor's Government, in regard to the importation into the French colonies of negroes from Africa. He replied that there was not; and proceeded to state very frankly that the French colonies, particularly in the West Indies, were languishing for want of labor; that negro labor alone was adapted to tropical productions. I asked if there was any truth in some statements which I had seen in the English newspapers, that French vessels freighted with African emigrants would be regarded by British cruisers as engaged in the African slave trade. His Excellency said no; that there had been some communication between the two Governments, and the British Government would not object to the French scheme, while the wants of the British colonies were being supplied by the Coolie trade. The Minister urged that the plan adopted secured African labor, which was indispensable to their colonies. Thus the emigrants were free, and were rescued generally from impending immolation; that, relieved from ignorance and heathenism of the most degrading character, they would be humanized and Christianized by being placed in contact with the French colonists."

Thus, Mr. Speaker, it is settled between the two countries that this system is to go on, France taking negroes and Great Britain the Asiatics. What is the field they have to take them from, and what is the extent to which the operation can be carried? In China there are four hundred million people. Great Britain is now conquering parts of the country, and will have free access to the people of the Chinese Empire. She also holds in subjection one hundred and seventy million East Indians, whom she is killing for mutiny, &c. There are at least forty million negroes on the western coast of Africa within the reach of the slave traders. You will see, therefore, that one half of the human race is open to be preyed upon in this way.

Now what is the inducement to carry on the trade? It appears that they will bring from two to four hundred dollars apiece, and the cost of transporting them from China is only eighty or eighty-five dollars, and from Africa about half that; so you will see that there is inducement enough. Here are enormous profits to be made. How many will they transport when this system is in full operation? We know that there have been half a million of emigrants brought in one year to the United States, by American ships mainly. I take it, then, that the navies of France and England, with the help of American shipping, will enable them to bring over, perhaps, a million a year—certainly half that amount. You will then, perhaps, see a vast system of emigration by which all these islands and Central America may be filled up, if not interrupted in some way, with this people. And, as they only bring males, I need not say to gentlemen that the system is more cruel than the former slave trade. Then males and females were brought here, and there was something of a social system recognized in that trade. Then these people are to be hired out; and nobody will deny that they will be worse treated than the slaves usually are who belong to those that control them. I maintain that this system is one of enormous cruelty, as every one must see at a glance. Its subjects will, most probably, be worked to death by the time their eight or ten years' service is over.

Mr. Speaker, we have upon the coast of Africa ships to aid Great Britain in the suppression of the slave trade; and yet she is transporting men who are free comparatively, and vastly superior to the negro, and consigning them in vast numbers to the most cruel condition of slavery ever known. I submit whether it is not a mockery, whether it is not hypocritical in the United States

and Great Britain to try to save a few negroes while this enormous system is going on. I say that it is as hypocritical as it would be for an individual, who had been robbing the poor of thousands systematically, to give away a few shillings ostentatiously on Sunday for charitable purposes. As we have this agreement with Great Britain, why not speak out our sentiments manfully, and tell her that, if she does not abandon this, we will withdraw our squadron from Africa, and no longer attempt to prevent the carrying away of a few negroes to Cuba, while countless numbers of white men are being enslaved?

The great objection to our acquiring Mexico as a whole, is to be found in the fact of the existence there of a large population of Indians and other inferior persons. Suppose Louisiana, Florida, or Texas, had been filled up with a large number of inferior people, which we could not reduce to subjection: that fact would have rendered them useless to the United States. On the principles of humanity, in the first place, and secondly, upon the question of expediency also, I am against this system of filling up these now thinly inhabited neighboring regions with inferior and degraded races. Gentlemen must see that it is the ultimate policy of the United States, at some future day, whether ten, twenty, or fifty years hence, to acquire the greater portion of this territory. I hold, sir, that our system will be better for that country than the system of Great Britain; and that, therefore, it will be for the interest of all that region, as it unquestionably will be our policy some day to control it.

Gentlemen may say, however, suppose that the treaty is abrogated, and England refuses to yield: will you go to war with her? That is thrown at us by way of intimidation. I have observed the course of the British Government, and they have two systems of operation against us. They may be defined as what Sammy Weller would call "insinuation and bluster." Many of our statesmen are so delighted to get compliments from the British press, and to be thought well of by British officials, that they seem to forget the interest of their own country. I remember, a few years ago, when there was an investigation going on in the British Parliament, in relation to the expenses of their missions abroad, that Mr. Packenham, who had long been a minister here, was a witness, and he was asked what expenditure paid best? His reply was, "that spent for dinners." Whether his American experience brought him to that conclusion or not, I do not know. I confess that I appreciate a dinner and civility as much as anybody; but it is one thing to accept and return courtesies, and it is another to abandon the interests of one's country.

I have no doubt that every right-minded Englishman will think better of American statesmen who, while accepting the civilities of foreigners, will still stand by the interests of their country rather than sell it for a mess of pottage. When these means fail, we are to be alarmed by threats of danger from England, and sometimes with great effect on the timid. I doubt much whether any Administration we have had since John Tyler's would have had the courage to accept Texas upon her application, in the face of the British protest against it. I am very certain that some of them would have professed to be afraid, and would have declined it. I think it absolutely necessary that this country should, in some respects, take a higher position abroad. An extremely mortifying fact was brought to my knowledge the other day. A bearer of dispatches came here from St. Domingo. He called to see me, thinking that Congress might be induced to do something. He says that the American commercial agent at the city of St. Domingo, with his family, and all American citizens in that country, are actually protected from massacre by Bacoz and his followers, by the British consul, and by the captain of an English ship who happened to be there, and who was ready to land four hundred men to protect them. I knew that in Europe, Asia, and Africa, our citizens were in the habit of claiming to be Englishmen, in order to get British protection; but I did not know that this system had to be resorted to in America, and almost in sight of our own shores.

Is it not time that something should be done. There has been great difficulty upon the part of the Secretary of the Navy in finding a ship to

send there to protect our citizens. I think that the African squadron might as well be employed upon that service. If we will submit to indignities from white men, it is rather too much to take insults and kicks from free negroes. Cannot the Greytown affair at least be repeated in St. Domingo?

But we are constantly met with the allegation that Congress will do nothing; that Congress would not back the Executive. We know very well the short-comings of Congress; but, in my judgment, there have been but few instances where the Executive has had occasion to call for and has shown a disposition to use force, that Congress did not properly respond. Not only in the Maine boundary dispute, but during the Mexican war, the Government had everything it asked. The misfortune has been, that some of our Presidents heretofore have not shown the purpose to act, and the consequence has been, that Congress has been slow in advancing anything. Our Navy now costs \$15,000,000 a year—more than the whole General Government cost in the year 1824—and yet I am told that the Navy is not much more efficient than it was in 1816. This, if true, is attributable to the miserable system which now prevails in having ignorant clerks in the Departments at the heads of bureaus, to whom the management of the Department is committed, while the Secretary himself sometimes, not being familiar with the business, trusts it to his subordinates. I hope we shall have a reform in this respect.

As far as concerns the present Administration, it has not, as yet, had an opportunity of showing its hand upon our foreign policy. It has been occupied with certain domestic questions; but, I think, from the antecedents of the President and the Secretary of State, we have a right to expect a more determined policy. I read last session an extract from Mr. Buchanan's Ostend manifesto. The language is so good that I desire to repeat it again. On the 18th of October he says:

"Under such circumstances, we ought neither to count the cost nor regard the odds which Spain might enlist against us. We forbear to enter into the question, whether the present condition of the island would justify such a measure? We should, however, be recreant to our duty, be unworthy of our gallant forefathers, and commit base treason against our posterity, should we permit Cuba to be Africanized, and become a second St. Domingo, with all its attendant horrors to the white race, and suffer the flames to extend to our own neighboring shores, seriously to endanger, or actually to consume, the fair fabric of our Union."

These are bold and striking words.

What are the views of our Secretary of State—the learned, accomplished veteran, Cass? Gentlemen will remember that in 1848, when he was before the country as the Democratic candidate for the Presidency, he took ground in favor of the occupation of Yucatan by the United States troops; and only two years ago, in a letter to New York, he uses this language:

"I am free to confess that the heroic effort of our countrymen in Nicaragua excites my admiration, while it engages all my solicitude. I am not to be deterred from the expression of these feelings by sneers, or reproaches, or hard words. He who does not sympathize with such an enterprise has little in common with me."

"The difficulties which General Walker has encountered and overcome will place his name high on the roll of the distinguished men of his age. He has conciliated the people he went to aid; the government of which he makes part is performing its functions without opposition, and internal tranquillity marks the wisdom of its policy. That magnificent region, for which God has done so much and man so little, needed some renovating process, some transference by which new life may be imparted to it. Our countrymen will plant there the seeds of our institutions, and God grant that they may grow up into an abundant harvest of industry, enterprise, and prosperity! A new day, I hope, is opening upon the States of Central America. If we are true to our duty, they will soon be freed from all danger of European interference, and will have a security in their own power against the ambitious designs of England far better than Clayton-Bulwer treaties or any other diplomatic machinery by which a spirit of aggression is sought to be concealed till circumstances are ready for active operation."

Such are the views of General Cass. Now, sir, I propose to this House simply to respond to the views of the President's message, by indorsing them, condemning this Clayton-Bulwer treaty, and leaving him to take the necessary steps to rid us of it. I have no fear of any war arising out of the subject. Great Britain has vast pecuniary and commercial interests involved in her relations with the United States, and it also would be very difficult for her to defend Canada and her other possessions against us. She is not rashly going

to war with us. At this very time she is engaged in a Chinese war, and an East Indian war, and is, in addition to that, threatened with European difficulties. She, therefore, has no motive to seek war with us. The present English Cabinet is believed to be favorable to a liberal settlement of this question. Let us go forward and get it settled now. It is not, at this time, of much practical importance, and, therefore, it may be the more readily adjusted. If it is not done, in the future, when a practical question shall arise in relation to it, it may involve us in war.

Mr. BLISS. I have listened with a great deal of attention, but do not understand what the object of this movement is. Do I understand the gentleman as advocating a policy leading to the seizure of Cuba and Central America?

Mr. CLINGMAN. No, sir.

Mr. BLISS. What, then, is the idea?

Mr. CLINGMAN. It is to abrogate this treaty.

Mr. BLISS. But all the gentleman's argument is directed to explaining our standing and position in respect to Cuba and Central America; and, as I understand it, no sooner is the Kansas question disposed of, than this Cuba and Central America question is raised, for the extension of slavery.

Mr. CLINGMAN. I cannot answer for the gentleman's understanding. This may not be a matter of very great practical importance now; but it is my judgment that, ten, twenty, or fifty years hence, it may be our policy to acquire those territories, and I desire to remove obstructions now.

As I said before, suppose, when Great Britain protested against the annexation of Texas, a treaty had been enforced binding us not to acquire it: its annexation would, in that event, have led to war. The infraction of a positive agreement with her, in addition to an act to which she was hostile, must necessarily have led to war. We had no obligations in the way, and no rupture resulted. I desire to remove all offensive alliances which shall stand in our way hereafter.

Mr. GIDDINGS. I desire to ask the gentleman whether he is to be understood as advocating the annexation of Cuba, or whether he discards that idea?

Mr. CLINGMAN. I will answer the gentleman with pleasure, though I do not desire to embark in the discussion of that subject. I will say that I should be very glad to see Cuba annexed to this country. I would have been glad to get it upon fair and honorable terms four years ago, and I think the country ought to have taken it upon the happening of the Black Warrior affair. The Clayton-Bulwer treaty does not touch Cuba. We could get Cuba without abrogating this treaty. I care nothing in the world about it so far as Cuba is concerned. I should like to see Cuba a part of this Union. Its annexation would also stop the African slave trade and this more objectionable traffic in Chinese and East Indians who are carried there and destroyed. Would not the gentleman like to see an annexation of Cuba by which the slave trade and the Coolie trade would be stopped?

Mr. GIDDINGS. I do not rise to embarrass my friend. I would ask him this question: is he in favor of the acquisition of Cuba now?

Mr. CLINGMAN. If the gentleman will point me to any honorable mode by which we can get Cuba, I will give that mode my support this very moment. If the Executive can make a treaty with Spain for Cuba, I would favor that project, provided the equivalent were not unreasonable. Some time ago I offered a resolution calling for information on Spanish affairs, but I understand that it is inexpedient to furnish that information up to this time. If our difficulties with Spain are not settled, I am willing, in the ultimate stage, to go to war with her, and then, if we can conquer Cuba, I will not complain of that result.

Mr. GIDDINGS. I understand the gentleman to refer to the Ostend circular.

Mr. CLINGMAN. I do.

Mr. GIDDINGS. Does the gentleman approve of the terms of that document?

Mr. CLINGMAN. Yes, sir.

Mr. GIDDINGS. That will answer my purpose.

Mr. CLINGMAN. I think I go quite as far as Old Buck does in this line. I have, Mr. Speaker, nearly used up the time which, by the courtesy

of the House, has been given to me, and I must bring my remarks to a conclusion. All I desire is for the House fairly to indorse the position assumed by the President.

Mr. DAVIS, of Maryland. Let me ask my friend to explain one point. His resolution speaks of abrogating the Clayton-Bulwer treaty. Does he contemplate that the President, by his own authority, shall do that, or that negotiations shall go on to that effect?

Mr. CLINGMAN. The President has said, in his message, that it ought to have been abrogated long ago by consent of both parties. I have good reason to believe—I wish I could state all the reasons for my belief—that the British Cabinet are tired of the negotiations which have been going on for eight years upon this subject, and that they are now ready to adjust the question on honorable terms; and I have no doubt that the Executive, by proper effort, will be enabled to do it at this time. I do not know that it could be done twelve months hence, or at a later day. But, by its abrogation, every gentleman will see that we will get rid of the shackles that now clog us, and be left as free from entangling alliances with European Powers as we had been from the days of General Washington down to the ratification of this treaty.

Mr. BARKSDALE. Does my friend mean to intimate that Great Britain is willing to give up Roatan?

Mr. CLINGMAN. I will answer with pleasure. Great Britain, by the Dallas treaty, agreed to give up Roatan to Honduras, provided there was a guarantee that slavery should never go there. The United States would make no such guarantee, and that treaty was rejected. I have no doubt, however, that Great Britain will, in view of her treaty with Honduras, agree to abandon her claims in that quarter, and also withdraw, on reasonable terms, her Mosquito protectorate. The feeling of the American people is against this Clayton-Bulwer treaty. Its current is setting so strong in that direction that no one can expect to change it. Let the Government, then, do its duty, and we are again free, and the path of destiny is open before us.

[Here the hammer fell.]

Mr. RITCHIE obtained the floor, but yielded to

Mr. CLINGMAN, who said: With the permission of my friend from Pennsylvania, I will suggest that he move, or allow me to move, that this matter be recommitted in order that it may be kept before the House.

Mr. RITCHIE. My understanding of this question was, that it was to come up as the regular business in order at one o'clock to-day.

The SPEAKER. The order of the House was revoked by unanimous consent.

Mr. RITCHIE. Will this question come up to-morrow if I submit a motion to recommmit?

The SPEAKER. It will.

Mr. RITCHIE. Then I submit that motion.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. DICKINS, their Secretary, notifying the House that that body had passed bills of the following titles, in which he had been directed to ask the concurrence of the House:

An act (S. No. 218) amendatory of an act entitled "An act to provide for executing the public printing, and establishing the price therefor, and for other purposes, approved August 26, 1852;" and

An act (S. No. 300) for the relief of the Hungarian settlers on certain tracts of land in Iowa hitherto reserved from sale by order of the President, dated January 22, 1853.

PRINTING BILL.

Mr. SMITH, of Virginia. With the consent of the House, I will move that that printing bill which has just come from the Senate be referred to the special committee on the subject of printing; and that it be ordered to be printed for the use of the House.

Mr. NICHOLS. I move that that bill be referred to the regular standing Committee on Printing.

Mr. SMITH, of Virginia. I only ask that the question shall be taken on printing the bill, in order that members may have it before them.

It was so ordered.

BLYTHE ISLAND NAVY DEPOT.

Mr. SEWARD. I ask to have entered upon the Journal, a motion to reconsider the vote by which the Blythe Island Navy depot bill was referred to the Committee of the Whole on the state of the Union.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by JAMES BUCHANAN HENRY, his Private Secretary, informing the House that he did, on this day, approve and sign bills of the following titles:

An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1859; and

An act for the relief of Captain James Mac McIntosh, of the United States Navy.

ADMISSION OF MINNESOTA.

Mr. STEPHENS, of Georgia. I move that the House proceed to the consideration of the business upon the Speaker's table.

The motion was agreed to.

The SPEAKER stated the first question in order to be on the bill of the Senate (No. 86) for the admission of Minnesota into the Union, upon which the gentleman from Maryland [Mr. DAVIS] was entitled to the floor.

Mr. DAVIS, of Maryland. Mr. Speaker, it is not my design to make any extended argument upon the question before the House. I merely wish to assign very briefly the reasons why I cannot vote for the admission of Minnesota. Reasons were assigned yesterday, many of which I think ought to be decisive. The argument of my friend from Virginia, from the Accomac district, [Mr. GARNETT,] would decide my judgment. The reason that I, however, more especially rest my opposition to it upon, is one which was not urged yesterday at all. It was referred to in passing by my friend from Ohio, [Mr. SHERMAN,] who, however, did not go to the extent to which I think he might have gone, and perhaps ought to have gone. I allude to the suffrage clause of the constitution—to that portion of it which is as follows: "White persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization;" who, of course, have not actually become citizens of the United States.

The only question that I desire to present to the House is, whether the State of Minnesota has a right, under the constitution of the United States, to confer the privilege of suffrage on that class of persons. If she have that right under the constitution, then, whether wise or unwise, it is none of my business. If she have not the right to confer it upon this class of persons, then, in doing so, she is directly affecting my rights under the Constitution of the United States; and that Constitution, in referring the question of the admission of a State to this House, requires me in voting to express an opinion upon it.

That the right of suffrage, under the constitution of a State, does directly affect all the States of the Union, is apparent, with very little explanation. The qualification for electors of Representatives in this Hall is made the same with the qualification of voters for the most numerous branch of the State Legislature. When, therefore, she defines the qualification of voters for her Legislature, she defines likewise the persons who shall elect her Representatives, who, here in the Congress of the United States, pass laws which are to govern Maryland. These same electors elect the Legislature of the State which elects the Senators of the United States, who participate in the treaty-making power, and the power of approving of his appointments, as well as in matters of legislation. Therefore it is that for the State of Minnesota to confer upon unnaturalized foreigners the power to vote for the most numerous branch of her State Legislature, is to confer upon them, not merely power to govern the State of Minnesota, or to misgovern it, but it confers on them power to govern me and my constituents. It gives the unnaturalized foreigner, who may be an alien enemy at the moment of casting the vote, power to determine questions of peace and war; power to determine questions relating to treaties with foreign Powers; power to determine every ques-

tion that may be referred to this House or to the Senate for their determination. If she have the right, under the Constitution, to govern my constituents by alien votes, then, whether it be wise or unwise; whether it be neighborly or not; whether it be treating the other States of the Confederacy rightly or wrongly, is a subject upon which my mouth is sealed. If she have not the right, then it is my bounden duty here to express my opinion upon it, and to give that opinion the sanction of a vote; and it is that which I am prepared here this day to do.

Mr. Speaker, when the question of submitting the constitution of Michigan on the point of boundaries to the people was pending, Mr. Calhoun made an argument on this question; and he there expressed the opinion that no State had the right to confer on unnaturalized foreigners a right to vote. He deduced that from his idea that the right to vote is an incident connected with the right of citizenship, not that all citizens were entitled to vote, but that none but citizens could be entitled to vote. His argument was in the nature of a *reductio ad absurdum*. He argued it at length. He did not trace it up to that clause of the Constitution which to my judgment is decisive upon the point, but his arguments showing the difficulties that were involved in an opposite hypothesis were, in the absence of any other clause of the Constitution than that touching naturalization, enough to show that it could not be a constitutional right. I shall not presume to weaken that argument by attempting to repeat it. I merely mean to add a reference to a clause of the Constitution of the United States which, in my judgment, is decisive.

The first words of the Constitution are familiar to everybody: "We the people of the United States, in order to form a more perfect Union," &c., "ordain the following Constitution." In point of law, I supposed there had been no doubt as to the meaning of the words "people of the United States," so far as this question is concerned. It is plain that at that day the word people was regarded as meaning any one, the political people of the United States. It did not refer to foreigners residing in our midst. It did not refer to mere transitory residents any more than it referred to slaves in the southern States. It referred to persons who had a voice in determining that constitution, who constituted the body-politic as contradistinguished from the inhabitants of the United States. And that such was the opinion prevailing at that day is apparent by that other clause which provides the rule of direct taxation, which is to be determined by the numbers of persons.

Let us read the words defining the body of people who are to elect this House: "The House of Representatives shall be composed of members chosen every second year." Chosen by whom? Not by the inhabitants of the various States, but chosen by the people of the several States. The only question, then, is, what does the word "people," in that connection, mean? Does it mean all persons incidentally within the limits of the State? Does it mean merely the residents of the States? If it mean that, then it will go to the extent of allowing a slave to be one of the people of a State for the purpose of voting; and that is the *reductio ad absurdum* of the objection. It would go not merely to the extent of allowing the unnaturalized foreigner who had declared his intention of becoming a citizen, but it would allow any person, merely there for a day, to be one of the people of the State. New York could import her voters from Canada in the morning and carry them back in the evening. I submit that the word "people" there must have the same meaning which it has above in the phrase "people of the United States," as used in the first clause of the preamble of the Constitution of the United States. It refers, unquestionably, to the *body-politic*. And under these words every person is excluded who is not, in the meaning of that clause, a member of the body-politic.

What is the meaning of the words, "people of the United States?" I suppose that it includes only persons who are citizens of the United States. I think that there will be no controversy in this House that that is the only legal meaning of the words. That opinion has been expressed in language as explicit as any I can use, and greatly more authoritatively, by the Chief Justice of the United States. That clause has been construed as definitely as any clause has ever been construed.

And without prolonging the argument upon this point, I will merely read the language of the Chief Justice. I may be permitted to say that I do not regard the decision of the Supreme Court as binding upon this House on any political question. This House is undoubtedly the ultimate tribunal upon such questions. Our judgment is subject to no review by any tribunal. Yet, sir, this has been made, to some extent, a judicial question, and one which has passed under review by the highest judicial tribunal of the United States; and I will accord to that tribunal very great weight in guiding my own judgment; and it is in that view I shall close what I have said on this subject by reading the words of the Chief Justice to which I have referred:

"The words, 'people of the United States' and 'citizens,' are synonymous terms, and mean the same thing. They both describe the political body, who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the government through their representatives. They are what we familiarly call 'the sovereign people,' and every citizen is one of this people and a constituent member of this sovereignty."

Now, I suppose it will be conceded by gentlemen on all sides of the House, that if the constitution had provided that the qualification of electors for Representatives in this House shall be that they shall be citizens of the United States, that clause in the constitution of Minnesota would not be in strict conformity with the Constitution of the United States. But that not having been done in words, the question arises whether they are not as much restricted by the Constitution as if it had said, in so many words, "citizens of the United States," instead of "people of the United States," or "people of the several States?"

Mr. JENKINS. I desire to know whether the gentleman from Maryland understands the opinion of the Chief Justice to be that a State cannot permit unnaturalized foreigners to vote for members of Congress and State Legislature?

Mr. DAVIS, of Maryland. Mr. Speaker, if my honorable friend from Virginia will permit me, I must object to be drawn from the point I am discussing. I think that the point he has raised is not involved in anything I have said, and does not touch exactly the point I am urging.

Mr. JENKINS. My friend will allow me to say one sentence; and that is, that the opinions of the Supreme Court have been given directly in the opposite direction.

Mr. DAVIS, of Maryland. Neither the Supreme Court of the United States nor the Chief Justice has decided any such question; but I must decline very respectfully to argue the question at this time. I quoted that decision merely for the meaning which the Chief Justice, in accordance with the opinion which I have long entertained myself, assigned to the words, "people of the United States," and the "people of the several States," in the clause to which I have referred. Thus that clause in relation to electors would leave the power in the State, if it is understood in that way: that the State has the right to prescribe the qualifications of electors to the most numerous branch of the State Legislature exactly as it prescribes the qualifications of all electors under the State constitution; but that that right can only be in conformity with any limitation which the Constitution of the United States may have imposed upon the States. It only involves the ordinary idea that so far as the Constitution of the United States does undertake to determine anything, it is conclusive over the State as well as over the individual. And the only question open here is whether this is the meaning of the clause of the Constitution of the United States. That, sir, is a question which directly pertains to us here.

Mr. JENKINS. I ask the gentleman simply to let me read two paragraphs from that decision, and let them be printed in his speech.

Mr. DAVIS, of Maryland. The gentleman will pardon me if I decline at present to have the Dred Scott decision, and its general correctness or incorrectness, made a part of this controversy. It has nothing to do with it. I merely refer to the construction of those words by a great judicial mind, to show how it regarded these words. There I rest.

Now, Mr. Speaker, this question is one which addresses itself directly to us. We are authorized by the Constitution of the United States to judge of the election and qualifications of our own members. Congress is authorized to regulate the time,

place, and manner of electing the members of this House. In judging, therefore, of the election of a member of this House, it is very possible the question may arise. The question has not yet directly arisen. It might have arisen in the case of Mr. CAMPBELL, of Ohio. It is possible that we may be called on to decide whether an unnaturalized voter under a State constitution is a legal voter. Ohio does not allow unnaturalized foreigners to vote; there are States which do allow it; and the question may arise in that way. That question, therefore, is one which may be brought directly before us for our decision; and, if I am correct in the construction which I have given to the clause of the Constitution in question, whenever that question arises, and the balance shall be turned, between two contesting members, by unnaturalized votes being cast for one, we are bound to decide whether the Constitution of the United States is paramount to State constitutions; and whether, if it be so paramount, the meaning of that clause is the one I have assigned to it; because, if an unnaturalized voter be not one of the people of the State within the meaning of the Constitution of the United States, then, as the Constitution of the United States says that Representatives shall be elected by the people of the State, the unnaturalized foreigner cannot cast his vote as one of the people of the State; and the person here claiming a seat by virtue of a majority made up of such votes, cannot have his seat.

So far as I am concerned, I am free now to say that, whenever that question shall be presented to me as a judicial question, I am ready to vote upon it irrespective of party considerations, and I shall vote against the gentleman who here claims his seat by the votes of unnaturalized foreigners.

You will perceive, therefore, Mr. Speaker, that the purport of my argument is to show that while the qualifications of electors for this House must be the same with those for the lower branch of the State Legislature; yet, since the people of the State alone are to elect, that carries with it an inhibition on the State itself to make any one an elector for the lower branch of the Legislature who is not one of the political people of the State. That is all I have to say on this question.

Mr. REAGAN. I did not expect, Mr. Speaker, to enter into this debate with regard to the constitution of Minnesota, nor do I now propose to say anything on the general subject.

The gentleman from Maryland has just concluded an argument somewhat ingeniously arranged, by which we are to understand it is his conviction that the Federal Government has the right to declare who shall be electors in a State. Although he does not assume the proposition boldly, I understand that to be the effect of his argument, and it is against that I desire to enter my protest. The gentleman from Ohio, [Mr. SHERMAN,] yesterday, in making the opening speech on this subject, asserted the same proposition substantially.

In looking at the debates on the formation of the Federal Constitution, I think it will be ascertained that that question, as to who should regulate the right of suffrage, was one that gave the convention very considerable trouble. It was determined that, from the difficulties which would attend an effort on the part of the Federal Government to determine who shall be electors in the several States, the fixing of the qualifications of the electors should be left in the States respectively for their own control.

I concur with that gentleman, and with others who have spoken on the subject, that if I were discussing a bill to authorize the organization of a territorial government, I would limit the right of suffrage in the Territory to citizens of the United States. That far Congress has a right to go, and that far a sense of expediency and right will induce me to go.

But, sir, we are not now discussing what Congress might do in determining the elective franchise in a Territory for territorial purposes. We are now discussing the provisions of the constitution of Minnesota. It is true, Minnesota is not yet a State; but it is also true, that in our action upon this constitution we have to act upon it as if it were a State. If, then, we undertake to say that the provision of the constitution recognizing the right of unnaturalized foreigners to vote is violative of the Constitution of the United States, we assert the power of Congress to determine in whom

the elective franchise shall rest in the several States. We can, with the same propriety, and with the same justice, and upon the same principle, if that proposition be true, say to the State of Pennsylvania, or to the State of Virginia, that no unnaturalized person in either of those States shall be an elector. There seems to be a strange confounding of the power of Congress to authorize the naturalization of foreigners with the right of the States to determine who are qualified electors under their laws and constitutions. While the right has been reserved to Congress to pass a general naturalization law, no power has been reserved to Congress to declare who shall be the electors of a State. And I take it to be true and undeniable, that any State of this Union may authorize women to vote if it sees proper, or that minors may vote if it thinks proper, or it may authorize slaves—though the gentleman from Maryland doubts it—to vote. There is no power in Congress to revise the action of a State where it would not affect the right of representation upon this floor.

Mr. MAYNARD. I would inquire of the gentleman from Texas whether he thinks that, under the Constitution of the United States, either an individual State or the people of a Territory, in framing a constitution, would have the right to confer the right of suffrage upon an alien enemy?

Mr. REAGAN. I will not undertake to answer that question now. It is not pertinent to the question before us. I may say this, however: that by the law of nations—a law which would be recognized in acting upon any State question—we cannot do so, unless we are prepared to commit legal treason. I cannot see why the question was asked. It can have no relation to the domestic government of the country.

Mr. KELLY. Mr. Speaker, I am not going to dwell upon the legal arguments in reference to this question; but shall leave that to gentlemen who are better qualified to discuss questions of law. But, as gentlemen here, in making their remarks, directed many of their arguments against emigration, and against the naturalization of foreigners, I intend to confine my remarks generally to that particular branch of the subject. I perceive that much of the discussion yesterday was directed to that particular point, and hence I shall endeavor, as far as I possibly can, to remove the erroneous impressions which these remarks tended to make upon the House.

Mr. SHERMAN, of Ohio. I rise to a question of order. The rule requires that the debate shall be pertinent to the question before the House. If the gentleman desires to make a speech upon the benefits of emigration, I hope he will make it in Committee of the Whole. Such debate is not in order here.

The SPEAKER. The Chair cannot determine as yet whether the gentleman will be in order or not. The general question of emigration will not be opened to debate upon this bill.

Mr. KELLY. What I shall say will be pertinent to the issue before the House.

Mr. SHERMAN, of Ohio. I insist on my question of order. I would inquire whether the subject of emigration, which is manifestly the question which the gentleman intends to discuss, is debatable on this bill? I do not wish to embarrass the gentleman, but desire, if he wants to debate that subject, that he shall do it in the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair is of opinion that the gentleman cannot indulge in the merits of the propositions incidentally discussed yesterday by the gentlemen from Kentucky and Tennessee, the pending question being the admission of Minnesota. Incidentally, the gentleman can discuss the question of naturalization, as other gentlemen have done; but the gentleman must confine himself to the merits of the pending question.

Mr. KELLY. Does the gentleman take exception to the remarks I have made?

The SPEAKER. The Chair is of opinion that a portion of the remarks the gentleman has submitted indicates a determination upon the part of the gentleman from New York to discuss that which the Chair thinks is not in order.

Mr. WASHBURN, of Illinois. I hope, by unanimous consent, the gentleman from New York will be permitted to deliver his speech. He is upon the floor now, and the matter of natural-

ization is involved more or less in the merits of the question before the House.

Mr. SHERMAN, of Ohio. If unanimous consent be given, I am willing to go into Committee of the Whole on the state of the Union, and allow the gentleman to speak, but I must object to it in the House.

Mr. JOHN COCHRANE. I submit that so much of the gentleman's remarks as refer to the subject of emigration of persons to that Territory are in order.

Mr. KELLY commenced the reading of his remarks.

The SPEAKER. The Chair thinks the gentleman cannot proceed unless by the unanimous consent of the House.

Many MEMBERS. No objection.

Mr. MORRIS, of Pennsylvania. With the understanding that I may have an opportunity to reply, I have no objection to the gentleman proceeding.

Mr. KELLY. It is singular that gentlemen should make objection, when it is a well known fact that the whole discussion on this bill has directed itself to that particular point.

The SPEAKER. The Chair is of opinion that the questions of emigration and naturalization have only been incidentally referred to by gentlemen during the discussion. It would not be in order to take up those two questions and discuss them elaborately and fully upon a bill to admit Minnesota into the Union.

Mr. MARSHALL, of Kentucky. I rise to a question of order. I do not like to appeal from the decision of the Chair; but here, for instance, is a provision in the constitution of Minnesota which allows an unnaturalized alien to vote. What is the effect? Is that a stimulus to alien emigration? If it is, is not the policy of stimulating alien emigration directly a matter in issue under that clause?

The SPEAKER. But by the same process of reasoning, the gentleman from Kentucky could discuss the whole social relations of the Old World, wherever the emigration comes from.

Mr. MARSHALL, of Kentucky. I think the whole social arrangements of those countries is a proper subject of discussion.

The SPEAKER. The Chair thinks not.

Mr. WRIGHT, of Georgia. I would remark that the gentleman from Virginia [Mr. JENKINS] introduced this particular subject yesterday, and occupied twenty-five minutes in its discussion.

The SPEAKER. Whenever the gentleman from New York confines his remarks to that branch of the question, the Chair thinks it will be in order; but as to the merits of emigration, or the general merits of the naturalization laws, the Chair thinks that those subjects are hardly before the House.

Mr. KELLY. I dislike very much to take an appeal from the decision of the Chair, particularly from the decision of the gentleman now occupying the chair; but as I intended to make my remarks on this subject, and as I cannot see any other opportunity to do so, I hope I will be allowed to proceed.

Mr. SHERMAN, of Ohio. To enable the gentleman to do so in order, I shall move that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. Debate is closed on the bill pending before the Committee of the Whole on the state of the Union.

Mr. SHERMAN, of Ohio. Well, let us take up some bill on which debate is not concluded.

Mr. J. GLANCY JONES. I must object to that.

Mr. CURTIS. I move to lay the appeal on the table.

Mr. KELLY. I withdraw my appeal; but I think there is a disposition on the part of the House to let me go on.

Several MEMBERS. There is; go ahead.

The SPEAKER. Does the Chair understand that unanimous consent is given to the gentleman's proceeding?

Mr. LOVEJOY. Not unless he is in order.

Mr. MORRIS, of Pennsylvania. I object, because if the gentleman is allowed to proceed other gentlemen must be allowed to speak in reply, and thus we would have a general debate in violation of the rules of the House; and I will not agree to violating the rules of the House.

Mr. KELLY. Inasmuch as there are objections, I withdraw my appeal. I do not desire to force myself upon the House.

Mr. ANDERSON. Mr. Speaker, having examined the constitution under which Minnesota asks to be admitted into the Union, as one of the States of this Confederacy, I desire briefly to call the attention of the House to certain provisions contained in that constitution, which are, in my opinion, in violation not only of the spirit, but the letter, of the Constitution of the United States.

Article seven, section one, declares that—

"Every male person of the age of twenty-one years, or upwards, belonging to either of the following classes, who shall have resided in the United States one year, and in this State four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people:

"First. White citizens of the United States.

"Second. White persons of foreign birth, who shall have declared their intentions to become citizens, conformably to the laws of the United States upon the subject of naturalization.

"Third. Persons of mixed white and Indian blood, who have adopted their customs and habits of civilization."

You perceive, Mr. Speaker, from this provision of the constitution, that men, who have not thrown off their allegiance to the foreign Government from whence they emigrated—citizens of the despotisms of the Old World—are permitted to exercise the right of suffrage, to make and unmake constitutions, to elect Governors, legislators, and judges; to participate equally with naturalized and native-born citizens in the administration of this Government.

This power, so dangerous to our institutions, if unwisely and unpatriotically exercised, is possessed by the people of no one of the States of this Union. It was surrendered to the General Government, by the people of the United States, at the time of the adoption of the Federal Constitution.

The eighth section of that instrument confers upon Congress the power "to establish a uniform system of naturalization," and at the close of that section it is declared that Congress may "make all laws which shall be necessary for carrying into execution the foregoing powers." Congress, in the exercise of that power, has prescribed, by law, the terms upon which a foreigner can become a citizen of the United States. Although born under a despotism, and reared beneath the frowns and oppressive rule of a tyrant, he may here, upon this soil consecrated to freedom, become a citizen of the United States, and enjoy all the privileges and immunities of a native-born American citizen. But that law, the policy of which was adopted by the early fathers of the Republic, required that he shall have resided within the limits, and under the jurisdiction of the United States, for the term of five years; that he shall be a man of good moral character, attached to the principles of the Constitution of the United States. And when these facts are established to the satisfaction of a court having competent jurisdiction, he is not yet a citizen of the United States; but to entitle him to that noble appellation, and the inestimable rights that attach thereto, he must declare, on oath or affirmation, that he will support the Constitution of the United States, and that he doth, absolutely and entirely, renounce and abjure all allegiance and fidelity to every foreign prince, potentate, State, or sovereignty whatever; and, particularly, by name, the prince, potentate, State, or sovereignty whereof he was before a citizen or subject; and this proceeding is placed upon the records of the court. But this constitution, in defiance of this wise enactment by Congress, picks up a raw foreigner, who is ignorant of our manners and customs, our language, our laws and institutions, and by its magical influence, in the brief period of one year after he touches the soil and breathes the atmosphere of Minnesota, endows him with all the attributes and qualifications of a citizen.

I insist, Mr. Speaker, that the people of the United States, by the adoption of the Federal Constitution, clothed Congress with the exclusive power of conferring upon foreigners the right of citizenship; and the Supreme Court of the United States have so affirmed. But, sir, I am met by the assertion that he is not a citizen of the United States by this provision in the constitution of Minnesota, but only a citizen of that State. Permit me to say, in the language of Senator Horst, that "it is an absurdity to say that a man can be a citizen of a State with Federal relations,

who is not a citizen of the United States; and that an alien can have a right, by virtue of State authority, to vote for members of Congress and presidential electors, because the State confers upon him the power to vote for the most numerous branch of the Legislature." Are not the right to hold office and the exercise of the elective franchise, both guaranteed to aliens under this State constitution, the highest possible elements of citizenship that can be conferred? Is not the exercise of this power on the part of the people of Minnesota in direct conflict with the power and authority of Congress, expressly granted by the Constitution of the United States? Both cannot exercise it. Either one or the other possesses it exclusively. Can there be any doubt as to which? None, I apprehend, except with those who permit their zeal for "State rights" to warp their minds and bias their judgments.

I, sir, profess to be an unyielding advocate for all the rights that can be fairly and rationally claimed by the States of this Confederacy. But, when the States have clearly and unquestionably parted with a right, let us yield it up. Can any one doubt that it was designed and intended by the framers of the Constitution of the United States that there should be uniformity throughout the whole Confederacy in the naturalization of foreigners? that the power should be exercised alone by the national Legislature? Congress, in the exercise of its power—for the purpose of guarding our institutions against the influence of foreign sentiments, principle, and prejudices, which might be impressed upon our laws and government through the ballot-box—has declared that a probation of five years' residence in our midst, and under the influence of our institutions, is necessary on the part of a foreigner to qualify him for citizenship; and yet the people of Minnesota, in violation of the express will of Congress, declared by virtue of and in conformity to the Constitution of the United States, assume the authority to say that foreigners after one year's residence shall be permitted to exercise the right of suffrage; shall go to the polls and nullify the votes of native-born and naturalized citizens, and mold, to some extent, the institutions of the State, and control its future destinies.

I warn gentlemen from the South of the consequences that must result from maintaining the right of unnaturalized foreigners to vote in the formation of State constitutions. The whole of the Territories of this Union are rapidly filling up with foreigners. The great body of them are opposed to slavery. Mark my word: if you do it, another slave State will never be formed out of the Territories of this Union. They are the enemies of the South and her institutions.

I desire to call the attention of the members of this House to the following extracts from a speech of the illustrious statesman of South Carolina, John C. Calhoun, delivered in the Senate of the United States, upon the application of Michigan for admission into the Union. The principal objection urged by Mr. Calhoun to the admission of Michigan, was that her constitution conferred upon aliens the right of suffrage. He said—

"The Constitution confers on Congress the authority to pass uniform laws of naturalization. This will not be questioned; nor will it be, that the effect of naturalization is to remove alienage." * * * "To remove alienage, is simply to put the foreigner in the condition of a native-born. To this extent the act of naturalization goes; and no further."

"The next position I assume is no less certain; that when Congress has exercised its authority by passing a uniform law of naturalization, (as it has,) it excludes the right of exercising a similar authority on the part of the State. To suppose that the States could pass naturalization acts of their own, after Congress had passed a uniform law of naturalization, would be to make the provision of the Constitution nugatory." * * * "I have shown that a citizen is not an alien, and that alienage is an insuperable barrier, till removed, to citizenship; and that it can only be removed by complying with the act of Congress. It follows of course, that a State cannot, of its own authority, make an alien a citizen without such compliance. To suppose it can, involves, in my opinion, a confusion of ideas, which must lead to innumerable absurdities and contradictions."

"Whatever difference of opinion there may be as to what other rights appertain to a citizen, all must at least agree that he has the right to petition, and also to claim the protection of his Government. These belong to him as a member of the body politic, and the possession of them is what separates citizens of the lowest condition from aliens and slaves. To suppose that a State can make an alien a citizen of the State—or, to present the question more specifically, can confer on him the right of voting, would involve the absurdity of giving him a direct and immediate control over the action of the General Government, from which he

has no right to claim protection, and to which he has no right to present a petition. That the full force of the absurdity may be felt, it must be borne in mind that every department of the General Government is either directly or indirectly under the control of the voters in the several States. The Constitution wisely provides that the voters for the most numerous branch of the Legislatures in the several States, shall vote for the members of the House of Representatives; and, as the members of this body are chosen by the Legislatures of the States, and the presidential electors either by the Legislatures or voters in the several States, it follows, as I have stated, that the action of the General Government is either directly or indirectly under the control of the voters in the several States. Now, admit that a State may confer the right of voting on all aliens, and it will follow, as a matter of necessary consequence, that we might have among our constituents persons who have not the right to claim the protection of the Government, or to present a petition to it. I would ask my colleague if he would willingly bear the relation of Representative to those who could not claim his aid, as Senator, to protect them from oppression, or to present a petition, through him, to the Senate, praying for a redress of grievances? And yet such might be his condition on the principle for which he contends.

"But a still greater difficulty remains. Suppose a war should be declared between the United States and the country to which the alien belongs—suppose, for instance, that South Carolina should confer the right of voting on alien subjects of Great Britain residing within her limits, and that war should be declared between the two countries: what, in such event, would be the condition of that portion of our voters? They, as alien enemies, would be liable to be seized under the laws of Congress, and to have their goods confiscated and themselves imprisoned or sent out of the country. The principle that leads to such consequences cannot be true; and I venture nothing in asserting that South Carolina, at least, will never give it her sanction or consent to act in it. She never will assent to incorporate, as members of her body politic, those who might be placed in so degraded a condition and so completely under the control of the General Government."

Mr. Calhoun also inquires into the objects of the Constitution in conferring on Congress the authority of passing uniform laws of naturalization, and says:

"In conferring this power, the framers of the Constitution must have had two objects in view: one to present competition between the States in holding out inducements for the emigration of foreigners; and the other to prevent their improper influence over the General Government, through such States as might naturalize foreigners, and could confer on them the right of exercising the elective franchise, before they could be sufficiently informed of the nature of our institutions, or were interested in their preservation. Both of these objects would be defeated, if the States may confer on aliens the right of voting, and the other privileges belonging to citizens. On that supposition, it would be almost impossible to conceive what good could be obtained, or evil prevented, by conferring the power on Congress. The power would be perfectly nugatory. A State might hold out very improper inducements to emigration, as freely as if the power did not exist, and might confer on the alien all the political privileges belonging to a native-born citizen, not only to the great injury of the government of the State, but to an improper control of the Government over the Union. To illustrate what I have said, suppose the dominant party in New York, finding political power about to depart from them, should, to maintain their ascendancy, extend the right of suffrage to the thousands of aliens of every language, and from every portion of the world, that annually pour into her great emporium: how deeply might the destiny of the whole Union be affected by such a measure! It might in fact place the control over the General Government in the hands of those who know nothing of our institutions, and are indifferent as to the interests of the country." * * *

"Michigan has attempted to confer the right to vote on aliens. She has no authority to confer such right under the Constitution. I have conclusively shown that a State does not possess it, much less a Territory, which possesses no power except such as is conferred by Congress. Congress has conferred no such power on Michigan, nor, indeed, could confer it, as it has no authority, under the Constitution, over the subject, except to pass uniform laws of naturalization."

Thus spoke the distinguished southern statesman.

Suppose, Mr. Chairman, that the foreign emigration to the United States for one year should concentrate in Minnesota: do we not know that they would have the complete control of the government of that State, with all its machinery and officers? Are we, the inheritors of the best and noblest Government on the earth, with institutions fashioned and approved by patriots of revolutionary memory, willing to exhibit to the gratified gaze of the crowned heads of Europe the strange and monstrous spectacle of one of the States of this Union filled and taken possession of by their subjects, and its government controlled and administered by them? Sir, let the honor of our country, the memory of our fathers, and the purity and sacredness of the ballot-box, forbid it.

The aspirants for political elevation, who would hazard the dearest interests of this Union to gratify their unhallowed ambition, and who are ever courting this foreign power and influence, have not only induced the people of Minnesota (many of whom are doubtless foreigners) to place themselves in a condition where they may have to submit to foreign will and dictation, but they have

actually conferred upon the ignorant, degraded savage, the elective franchise.

Indians of mixed blood, the tawny sons of the forests, are also to participate in the administration of the government. Roving savages, who have been raised in the wigwam and the chase, as ignorant of our laws and institutions as the Hottentots, are to have shirts put upon their backs and hats upon their heads, as evidence that they have adopted the customs and habits of civilization, and then to be marched to the polls, under the lead of some aspiring demagogue, to select a Governor, judges of the supreme court, and legislators. What a mockery of popular sovereignty! what an outrage upon free government! what a libel upon the character of our boasted institutions! Are we, the Representatives of the freest and most enlightened nation on earth—we, who have been placed here upon the watch-tower of liberty, to guard with sleepless vigilance the purity and sacredness of the ballot-box, the great avenue of approach to the citadel of our liberties, to permit a people asking us to confer upon them State sovereignty thus to cheapen and dishonor the elective franchise, and endanger the stability of our institutions? Are we to permit the destiny of one of the States of this Confederacy by possibility to be placed in the keeping of unnaturalized foreigners and Indians? Sir, I would fain hope that the intelligence and patriotism of a majority of the American population of Minnesota forbid it.

But, sir, what is still more strange, the people of Minnesota, not satisfied with the bestowment of suffrage upon the subjects of the kings and potentates of Europe, have declared in their fundamental law that a residence of twelve months will qualify them to become Senators and Representatives of the State Legislature, judges of the supreme and district courts; and that the moment they become naturalized citizens they are qualified to occupy the gubernatorial chair—veto laws passed by the Representatives of the people, and act as commander-in-chief of the military and naval forces. And not satisfied with furnishing to us this evidence of their appreciation of the *interesting* population of the different nations of Europe that are now being daily thrown upon our shores, the sixteenth and seventeenth sections of the schedule provide that upon the second Tuesday, the 13th day of October, 1857, an election shall be held for members of the House of Representatives of the United States, Governor, Lieutenant Governor, supreme and district judges, members of the Legislature, and all other officers designated in this constitution; and also the submission of this constitution to the people for their adoption or rejection.

Upon the day so designated as aforesaid, every free white male inhabitant over the age of twenty-one years, who shall have resided in the limits of the State for ten days previous to the day of said election, may vote for all officers to be elected under this constitution at such election, and also for or against the adoption of this constitution.

Not satisfied with the permanent rights of suffrage, conferred upon aliens under the constitution, after twelve months' residence, to cap the climax of this submission to foreign influence, every foreigner, who had resided ten days within the limits of the State, though it may not have been more than twenty days since he landed upon our shores, fresh from the hot-beds of despotism, with no declared intention of ever becoming a citizen of the United States, was permitted to vote for or against the constitution, for members of the House of Representatives of the United States, and for all State officers.

Sir, the proud temple of our liberty is now tottering amidst the frantic and *damning* waves of sectionalism and Red-Republicanism that lash its base. The virtue, intelligence, and devotion to country, of our own citizens reared under the shadow of the star-spangled banner, with its hallowed and patriotic associations, are now being tested to the utmost extent, in the attempt to preserve our glorious Union; and from present indications, the strong probability is, that we shall prove inadequate to the task. And yet, at this critical period in the history of our country, we are asked to admit a State into this Union, whose destiny may be controlled by men born, raised, and educated in foreign countries; enveloped in,

the dark mantle of despotism; with thoughts, feelings, and sentiments unlike ours, many of whom have come hither under the delusive idea that freedom consists in whatever their unbridled wills may dictate. Do the great body of these aliens possess the qualifications indispensably necessary to enable them to exercise intelligently the right of suffrage. Many of them; ay, a large majority, are wholly ignorant of our language, the machinery of our Government, the genius and spirit of our institutions; and yet strange to tell, we are asked to place them, while under allegiance to a foreign Government, incapable of committing treason against our own, on a full and perfect equality with native-born citizens, the sons of our soil, the legitimate inheritors of this Government, to put in their keeping, and under their guidance—in part at least—our country and its institutions.

Yes; we, with revolutionary blood coursing our veins; we, who have been taught from our childhood to look upon the flag of our Union with emotions of pride and admiration; we, who have drunk the milk of republicanism from our earliest infancy; we, who have made the scenes of the Revolution our daily companions, and held constant communion with the spirits of our ancestors, yet breathing in the glorious institutions under which "we live, and move, and have our being," are boldly asked to confer—not upon naturalized foreigners, but upon aliens, subjects of the crowned heads of Europe, men who owe allegiance to foreign potentates and Powers, the sworn enemies of our institutions—all the rights and immunities of naturalized and native-born citizens; to bestow upon them an equal participation with us in the making of State laws, in the administration of a State government, and even in the election of Representatives and Senators to the national Legislature. Think you that they are competent to the performance of these high political functions? No; you know they are not. Why, then, indorse such an enormous political heresy? Why perpetrate such a monstrous outrage upon the rights of American and naturalized citizens? Others may do it if they choose. I, for one, shall never be instrumental in conferring upon that army of foreigners now being landed upon our shores—numbering from three to five hundred thousand every year—political power before they have even served out the short probation required by the laws of the land, enacted in obedience to the Constitution of the United States.

Sir, this is said to be an age of progress. In the arts and sciences, in mechanics and agriculture, it is emphatically so; but, in my humble judgment, so far as the science of government is concerned, it is an age of reckless innovation and wild adventure. Neither laws nor constitutions can stay the ruthless hand of demagogism and political empiricism. Every barrier erected by the purest patriotism, operating on the highest intelligence, must give way before the fell spirit of party, and the inordinate and selfish ambition of man. Sir, the question may well force itself upon every reflecting mind, is the nationality of this mighty Republic to be destroyed? Are our laws to be made and our constitutions to be framed by foreigners? Are we no longer able to govern ourselves; to pilot the mighty ship of State, so nobly and majestically fashioned and safely launched upon the ocean of freedom by our illustrious ancestors?

Is this country dedicated to human liberty; rich in all the varied productions of earth; possessing every element of material and political greatness and beauty, magnificence and prosperity, that the human mind can conceive of or the human heart desire, to be the great receptacle of the overflowing nations of the globe, into whose bosom is to be thrown the redundant population of the Old World, many of whom are transmitted by their Governments in consequence of their crimes and poverty? And are they to be our peers in the executive, judicial, and legislative administration of our Government, as are American citizens, born beneath the flag of my country. With revolutionary blood coursing my veins, I solemnly protest against it. Let others do as they may, I shall not vote for the admission of a State into this Union whose constitution tolerates alien suffrage, so long as I remain a member of the American Congress.

Sir, I ask not to close our doors against the

"downtrodden" millions of Europe—the honest and industrious—let them come; this is the

"Land of the free and the home of the brave."

Let them be protected in the enjoyment of life, liberty, and property. Let them become familiar with our institutions, our form of government, the principles upon which it is administered. Let them learn our language, become assimilated to us in our manners and customs, our thoughts, feelings and sentiments. Let them learn fully to comprehend the inestimable value of the political, civil, and religious blessings that we enjoy. In other words, let them become fully Americanized, and then, and not till then, should they divide with us the honors and responsibilities of Government. This is what the patriotic and sensible foreigner demands; surely Americans should demand no less.

Mr. STEPHENS, of Georgia. I desire to address the House on this question before the vote is taken. I do not desire to have the vote taken to-day; but as no other member is seeking the floor, I move to postpone its further consideration till to-morrow.

Mr. MARSHALL, of Kentucky. I desire to address the House on this subject; but if any arrangement is desired to be made for to-day, I will make my remarks to-morrow.

The question was taken on Mr. STEPHENS's motion, and it was agreed to.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BURNETT in the chair,) and resumed the consideration of House bill No. 201, making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1859, the pending question being on the amendment of the gentleman from North Carolina [Mr. RUFFIN] to the amendment of the gentleman from Ohio, [Mr. STANTON], to strike out of lines one hundred and thirty-eight and one hundred and thirty-nine the following words: "draughtsmen employed on the land maps;" and in line one hundred and forty-one to strike out the words "\$25,000," and insert the words "\$8,440."

Mr. BRANCH. When the committee was last in session, the Chair ruled as out of order the proviso, proposed by my colleague, repealing the resolution of the 18th of May, 1843. I think that the chairman was then under a misapprehension, and did not understand that it was only a resolution of the House, and not a law of the United States.

The CHAIRMAN. The Chair would suggest to the gentleman from North Carolina that, although the original resolution under which the clerks were employed might not strictly be called legislation, yet the proviso attached to the amendment of the gentleman's colleague would certainly be independent legislation in this bill. For that reason the Chair ruled it out of order.

Mr. J. GLANCY JONES. I want to have my question of order settled. What is the rule upon the subject?

The CHAIRMAN. The Chair would suggest to the gentleman from Pennsylvania that both the amendments propose to strike out.

Mr. J. GLANCY JONES. Well, the rule, as I understand it, is, that where one motion is to perfect the bill, and the other to strike out entirely, the motion to perfect the bill takes precedence.

The CHAIRMAN. If the gentleman from Pennsylvania will notice the amendment of the gentleman from North Carolina, he will see that the point he makes is not well taken.

Mr. DAVIS, of Indiana. If the amendment of the gentleman from North Carolina shall be successful, it will abolish these map clerks, as I understand it.

Mr. RUFFIN. That will be its effect.

Mr. DAVIS, of Indiana. Then I trust it will be voted down.

Mr. RUFFIN. I submit that debate is not in order.

Mr. BARKSDALE. I understand that, if that amendment is adopted, these clerkships will be abolished.

Several MEMBERS. Yes! yes!

Mr. PHELPS demanded tellers on Mr. RUFFIN's amendment to the amendment.

Tellers were ordered; and Messrs. RUFFIN and DEAN were appointed.

The committee divided; and the tellers reported—ayes 46, noes 71.

So the amendment was rejected.

The question then recurred on Mr. STANTON's amendment.

Mr. WALBRIDGE. Will not that amendment reduce the force to the point recommended by the Committee on Public Lands?

Mr. J. GLANCY JONES. The reduction from \$25,000 to \$17,000 will cause a reduction of the force from nine to five—to three clerks and two draughtsmen—which has been recommended by the Committee on Public Lands; and I hope it will be agreed to.

Mr. WALBRIDGE. When will that take place?

Mr. COBB. The first of next month.

The question was taken, and the amendment was agreed to.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to offer the following amendment:

For two mail boys at \$900 each, and messenger in charge of the southern extension, \$3,300.

This amendment does not increase the appropriation. It is offered at this particular point so that it may come under the head of contingent expenses. It provides the salary for the boys who carry the members' mails. The appropriation is in accordance with law, and this amendment is made here for the purpose of correcting a clerical mistake.

Mr. MASON. It may be all true what the gentleman has said that this is in accordance with law. When the messengers in the office of the postmaster of the House received \$2 50 a day, they carried these mails themselves; but just so soon as their salaries are advanced to \$1,400 a year they got to be above that duty, and had substitutes employed to do their work. There are, then, two sets of officers employed for doing the same duty. If it is the pleasure of the House to continue these sinecure places, they can agree to this appropriation. It is in accordance with law, of course, for these messengers to have fellows appointed and paid out of the Treasury to do their work for them. I am opposed to the whole system that is going on here.

Mr. J. GLANCY JONES. I am willing to go with the gentleman for reform at the proper place, but I am unwilling to put general legislation upon the appropriation bills. These mail carriers are provided for by law, and their salaries are fixed by law. This appropriation, then, is simply in accordance with law. The object of it is to make it consistent with the resolution by which they were created, which provides for their pay from the contingent fund.

If my friend, I repeat, will commence his reform by moving to repeal bad laws and resolutions, I will go with him. I will go with him to abolish these map clerks, and to reduce salaries where they ought to be reduced.

Mr. MASON. The gentleman is full in his promises; but I introduced a bill in the early part of the session providing for reform here, and the gentleman voted against it.

Mr. J. GLANCY JONES. What bill was that?

Mr. MASON. The bill regulating all the officers of this House. I noticed, too, that the gentleman voted to continue these land-map clerks, and that he is opposed to a change of the law in that respect.

Mr. J. GLANCY JONES. I am opposed to such a change in the appropriation bills.

Mr. MASON. The gentleman would not vote to sustain the Committee of Accounts in repealing the law in a separate measure. I am not here with any expectation of being able to stop these appropriations. It seems, sir, that all these appropriations can be passed, but every manner of objection and delay is interposed to the passage of the old soldiers' pension bill. Every means, every rule and law are used to prevent the passage of that measure, which provides for those who have meritoriously served their country.

Mr. GREENWOOD. That bill is not under consideration; and I make the point that the gentleman is not in order in debating it.

Mr. MASON. Nothing is in order except what relates to this extravagant system of map clerks, and what not.

Mr. J. GLANCY JONES. I am sorry that the gentleman has worked himself up into the state of feeling he has.

Mr. SEWARD. I thought we were under the five minute rule. If so, then the gentleman is not in order, for there has been one speech in favor of the amendment by the gentleman from Pennsylvania, and one against it by the gentleman from Kentucky.

Mr. J. GLANCY JONES. I will move to add five cents to the appropriation, to get rid of the gentleman's point. I hope that will not be considered too extravagant an increase.

Mr. SEWARD. As the gentleman seems to stand on etiquette, I will insist that his remarks shall be confined to the reasons for an increase of five cents. [Laughter.]

Mr. J. GLANCY JONES. Very well; I hope that I will be allowed to reply to the remarks of the gentleman from Kentucky, who saw fit to make an attack upon me.

Mr. MASON. I did not make an attack; I stated facts.

Mr. JONES, of Tennessee. I move to strike out of that amendment "\$3,000." I desire to ask the gentleman from Pennsylvania how many messengers and mail boys we employ in the post office, and what the necessity for them is? I recollect when we had but four messengers, at a compensation of \$2 50 per day. Their compensation was increased, from time to time, until it was made \$1,400 per annum. After that the messengers employed mail boys, at twenty-eight or thirty dollars per month, during the session. More recently, they have duplicated all the messengers there, by giving them mail boys at a salary of \$900 per annum each. I can see no necessity for both the mail boys and the messengers, and therefore I shall vote against the amendment.

Mr. J. GLANCY JONES. In reply to the gentleman from Tennessee, I will say that there are five messengers employed. I have already said they are employed in pursuance of law. There is an act of Congress directing their employment. Their salaries are fixed. If it is the pleasure of the committee to repeal these laws by refusing to appropriate the money to carry them out, I want them to understand that I have no feeling upon the subject, though I do not consider that a proper mode of proceeding. If they refuse to appropriate money to pay a debt, I have no feeling upon the subject, though I am not in favor of repealing a law in that way. Upon them be the responsibility. We are bound to appropriate money according to law, but the committee have the power to refuse to pay its debts if it chooses.

Mr. JONES, of Tennessee. I would inquire of the gentleman under what law the messengers or mail-boys provided by this amendment are appointed, and by what law their employment is authorized?

Mr. J. GLANCY JONES. I have not the law or resolution at hand, but if it is the pleasure of the committee to have the law or resolution read, I can have it hunted up in a short time. The estimates are sent to the Committee of Ways and Means, based upon laws, or upon resolution. They are sometimes based upon acts of Congress, sometimes upon joint resolutions, and sometimes upon simple resolutions of the House. Those appropriations which relate exclusively to the House itself, such as the salaries of its officers, &c., are based upon our own resolutions, and are paid out of the contingent fund of the House.

[Here the hammer fell.]

The question was then taken on the amendment to the amendment—to strike out "\$3,000;" and it was disagreed to.

The question recurring on the amendment of the gentleman from Pennsylvania,

Mr. GREENWOOD demanded tellers.

Tellers were ordered; and Messrs. JACKSON and BUFFINGTON were appointed.

Mr. J. GLANCY JONES. With the permission of the committee, I will now read the resolution to which I referred:

Resolved, That the Clerk of the House of Representatives

of the United States be, and he is hereby, ordered to pay, out of the contingent fund of the House, to the two boys accompanying the mail wagon, the same compensation as is paid to boys performing similar duties in the Senate, to commence at the commencement of this Congress, &c.

Mr. JONES, of Tennessee. Then there is no authority of law for their appointment.

The House then divided; and the tellers reported—ayes 87, noes 32.

So the amendment was agreed to.

Mr. SEWARD. I move to add to the amendment just adopted the following:

Provided, That no part of the money hereby appropriated shall be paid to clerks of committees appointed under resolutions of the present House of Representatives.

I have presented that with a view of testing the sincerity of gentlemen on the subject of economy.

Mr. J. GLANCY JONES. Does the gentleman want that provision to apply to the whole bill?

Mr. SEWARD. No, sir; I only wish it to apply to that portion of the bill which provides payment for the clerks I have referred to.

Now, Mr. Chairman, I would like the gentlemen of the Committee of Ways and Means to explain why it is that there is an appropriation in the bill for the clerk of the Committee of Claims, one on page 35, and the other on page 5, and one for \$1,850 and the other for \$1,800, and for the clerks to no other committee?

My proviso, as I have said, is to test the sincerity of gentlemen's professions of economy. Nearly every committee of this House, by resolutions adopted during this session, have been granted leave to employ clerks. I admit that it may be proper for two or three of the principal committees of the House to have clerks, but surely a clerk is not necessary for every committee. I understand that a gentleman who has been loud in the expression of his wish for a reform, had a clerk appointed for the Committee of Accounts, and paid for without authority of law.

A few days ago, when a question was up to appropriate money to carry out a resolution adopted by the House, it was resisted, on the ground that it was extravagant and unnecessary. The gentlemen who voted against that appropriation, in attempting to defend themselves against a charge of repudiation, which I was of the opinion properly attached to them, undertook to say that it was public plunder, an outrage upon the public Treasury, and an unnecessary waste of the public money. Yet some of the gentlemen who urged that argument have been securing the appointment of clerks to committees, under resolutions of the House, and are now willing to vote to pay them. I protested at the time that if the House did not intend to annul all its future action, it should resist the exercise of the power asked for; and I now offer this proviso, to see whether gentlemen will adhere to their former votes.

I will not undertake to go into the question of what control the House has over its contingent fund; but I say that these clerks draw thousands from the Treasury when some of them absolutely do nothing. They are appropriated to the use and convenience of chairmen of committees in order that what these chairmen may say here may in print be circulated through their districts for the advancement of their political interests. If this useless system is to be continued, and these unnecessary clerks are to be employed, I shall insist that one be appointed for each member and Delegate of this House. If the thing is right in part, it is right in the whole. If, by some particular management, any gentleman can ingratiate himself in the affections of the Speaker, and secure an appointment of the head of a committee, I do not understand that that invests him with any extraordinary privileges. Nine times out of ten, and I say it with all respect, the Speaker is most egregiously mistaken in the selection of men as heads of committees. [Laughter.]

By being elevated to the head of these committees, they acquire a fictitious reputation before the country, when we here cannot understand what particular fitness and capacity gave them the office; what capacity for the Judiciary Committee, the Ways and Means Committee, the Public Lands Committee, or any other committee. I am opposed to indorsing men that they may go out to the country as greater men than they really are; and I am opposed to conferring extra privileges upon them in giving each a clerk, to be paid for out of the United States Treasury. I do not re-

flect on anybody. But, sir, we know that many times these clerks are correspondents of newspapers, and that we see an article frequently inserted in those papers puffing these chairmen and giving them credit to which they are not entitled. [Laughter.] Sometimes they are connected with the Executive Departments, and some of them are reporters.

[Here the hammer fell.]

Mr. LETCHER. If my friend had looked at the third page and had read it, he would have found that the clerks for the Committee on Claims and the Committee on Finance applied to the Senate; that is, a permanent clerk for each of those committees, fixed by law, with a legal salary assigned. On the fifth page he will find that the clerks for the Committee of Ways and Means and the Committee of Claims are also permanent clerks in this House, with fixed salaries assigned to them. When he comes to the clause under consideration, let me say that that is intended to meet the case of the clerks who have been appointed under resolution of the House, and who ought to be paid for their service, the House having directed their employment. I think, myself, that perhaps my friend from Georgia had some hand in getting a clerk for the Committee on Naval Affairs.

Mr. SEWARD. The gentleman is mistaken; I opposed it.

Mr. LETCHER. You did?

Mr. SEWARD. We have no more use for a clerk on that committee than we have for the man in the moon—not a particle.

Mr. LETCHER. I am very glad to hear it, and I will withdraw all that I said; it is so much better than I expected from my friend from Georgia.

Mr. SEWARD. The gentleman does not usually have such good associates as I am, and that is the reason why he is so much surprised.

Mr. LETCHER. The only question is whether, after directing the clerks to be employed, you will appropriate money to pay them.

Mr. MASON. I move to amend the amendment by inserting the word "proper." I will not ask the gentleman whether he alluded to me as one who has been inconsistent with his professions here.

Mr. J. GLANCY JONES. I must call the gentleman to order. I had no opportunity to reply to him.

Mr. MASON. You can reply when I have done.

Mr. J. GLANCY JONES. I want the gentleman to confine his remarks to the propriety of inserting the word "proper." That is the rule that was laid down for me.

Mr. MASON. I will confine them to proper remarks. I only propose to state facts, and they are always proper. And, in the first place, I would advise the gentleman from Georgia, as the President did a certain committee of northern gentlemen, before he makes a charge, to ascertain distinctly whether it is true.

Mr. SEWARD. If I have misrepresented any fact, I should like the gentleman to state what it is.

Mr. MASON. I understand the gentleman to insinuate a charge against me, which has been circulating round in an underhand manner, that notwithstanding that I have opposed all these things, I had myself employed a clerk on the Committee of Accounts. Well, now, that is not so. The Committee of Accounts some time ago employed a temporary messenger.

Mr. SEWARD. Did you not use him as a clerk?

Mr. MASON. No, sir.

Mr. SEWARD. Well, a messenger is much worse.

Mr. MASON. Mr. SPINNER, one of the members of the committee, had most of the time of this temporary messenger, as he had the examination of accounts for engraving, amounting to \$250,000, and he had to run down to the Superintendent of Public Printing day after day to get at the facts necessary, in order to decide fairly upon these claims. The Committee of Accounts had a right to employ a temporary messenger, and it has been done a thousand times. I was on the committee but a short time, and had very little to do with the matter; but I suppose that when the work is done for which this man was employed,

the committee will dismiss him, if they have not done so already. He was only temporarily employed for a temporary purpose.

There are various other charges floating around here, proceeding from interested parties, not for the purpose of public benefit, but with the purpose of showing that those who are here standing by the Treasury of the country and the rights of the people have done something wrong. It is a petty little slander.

[Here the hammer fell.]

Mr. GREENWOOD. I am very anxious that the House should proceed with the consideration of this bill, as I understand that the Senate are ready for another appropriation bill. I oppose the amendment, and ask for a vote upon it.

Mr. MASON. I withdraw my amendment.

Mr. SEWARD. And I will withdraw my amendment, having said all that I want to say.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to offer the following amendment.

Insert after the amendment last adopted, as follows:

For furnishing committee rooms, retiring rooms, and offices in the south wing of the Capitol extension with gas fixtures, chandeliers, iron safes, and other furniture, \$40,000.

At the time the estimates were made, the expense had not been ascertained for furnishing the committee rooms attached to this Hall with gas fixtures, &c. Various items were neglected; and that explains the reason why the amount is asked for in an amendment instead of being in the original bill. I ask the Clerk to read the letters which I send up.

The Clerk read the letters; as follows:

OFFICE OF THE HOUSE OF REPRESENTATIVES U. S.,

April 23, 1858.

SIR: In addition to the item "for furniture and repairs, and boxes for members, \$10,000," contained in the estimates of appropriations for the service of the fiscal year ending the 30th of June, 1859, under the head of contingent expenses of the House of Representatives, a further sum of \$10,000 will be required to furnish the committee rooms, retiring rooms, and offices in the south wing of the Capitol extension, with gas fixtures, chandeliers, iron safes, and other furniture.

Very respectfully,

J. C. ALLEN,
Clerk of the House of Representatives U. S.

Hon. J. GLANCY JONES,
Chairman Committee Ways and Means.

OFFICE OF HOUSE OF REPRESENTATIVES,

April 29, 1858.

SIR: Your letter of the 28th, asking further explanations in regard to the estimate from this office of \$40,000 required to furnish committee rooms, retiring rooms, offices, &c., in the south wing of the Capitol, has been duly received, and I hasten to answer the interrogatories propounded. First, you ask:

"Of the different articles provided for in said estimate, what amount was furnished by the former Clerk of the House of Representatives, and what amount by yourself?"

This estimate simply covers the articles already furnished by me, and which will be required during the ensuing fiscal year. And it may not be out of place here to state, that the committee rooms were furnished in accordance with requisitions from the chairman of committees occupying said rooms—the various offices under direction of their respective heads—and the remaining offices and rooms after consultation with the Speaker of the House of Representatives. In the selection of the furniture, great care has been taken in regard to durability and cheapness, with the view of protecting the Government from excessive charges by the employment of several intermediate agents. I visited nearly all the heavy manufactories and warehouses in New York and Philadelphia, and directed the purchases myself. The Committee of Accounts delegated two of their number to examine the articles purchased, with the bills for the same. Both gentlemen have expressed themselves as being entirely satisfied with the prices, quality, and durability of the furniture.

In the month of February last, bills were filed in this office by Mr. Fitzhugh for the sum of nearly nine thousand dollars, mainly for carpets and upholstery in the new Hall, and certified to by Mr. Cullom, the late Clerk. Thus far, these are the only bills left unpaid by my predecessor, for furniture and repairs. They are not included in the estimate of \$40,000, in consequence of their suspension by the Committee of Accounts in consequence of alleged excessive charges.

Second, you ask, "What amount has been heretofore appropriated by Congress or estimated for by the late Clerk of the House of Representatives, or by yourself, for any or all of the items contained in the aforesaid estimate?"

The customary appropriations by the past and several preceding Congresses for furniture and repairs, including boxes for members, &c., has been from ten to twelve thousand dollars. The late Clerk's estimate for the ensuing fiscal year is placed at \$10,000, the usual amount. The sum now estimated by me (\$40,000) will be required in addition to that amount, for the purposes already designated.

Very respectfully,

J. C. ALLEN,
Clerk House of Representatives, United States.

Hon. J. GLANCY JONES,
Chairman Committee Ways and Means.

Mr. J. GLANCY JONES. I merely wish the committee to understand that this is a debt incurred by the Government for furnishing the rooms attached to this Hall—for gas fixtures, pipes, furniture, &c. The debt has been already incurred, and this is an appropriation to pay it.

Mr. STANTON. I desire to ask the gentleman from Pennsylvania a question. Will he explain to me how this can be a proper appropriation for the fiscal year ending June 30, 1859, and why it was not put into the deficiency bill for the current year?

Mr. J. GLANCY JONES. This was not a matter to which I attached much importance. The estimate was sent in by the Clerk of the House, as such estimates usually are. The goods have been already furnished; but, from my understanding of the case, they will not be paid for before the 1st of next July. The estimate was not sent in in time for the deficiency bill. Perhaps the gentleman is right technically. If it be the pleasure of the House not to pay for the furniture, why it may vote down the amendment.

Mr. JONES, of Tennessee. I suppose if it is a debt of the Government, it must be paid; and if the Government has not got the money, I suppose it must borrow it. I listened to the reading of these letters from the Clerk. There was a good deal said in them about desks and seats for members, and all that; but not one word about the \$30,000 appropriated in the deficiency bill for the same object. There was \$30,000 appropriated in the deficiency bill which was signed here this week by the Speaker, and approved by the President; and now here is an appropriation of \$40,000 in this bill for furniture for committee rooms, and retiring rooms, &c. I should prefer to have seen all the items together.

Mr. STANTON. I move to amend by striking out \$40,000 and inserting \$10,000. I take it for granted, Mr. Chairman, that this matter has got to be paid. It is said that the debt has been contracted; but if there is any sense, or propriety, or necessity for keeping the expenses of different fiscal years in separate accounts, and throwing on each year the responsibility of its proper expenditure, then it is perfectly clear that this item has no place in this bill. Here is a bill for the expenses of the Government from the first of July, 1858, to the first of July, 1859. In that bill the chairman of the Committee of Ways and Means proposes to interpolate an item for expenditures which have been already incurred, and which belong to the fiscal year ending 30th June, 1858; and which it was the business of the committee to incorporate in the deficiency bill. If a second deficiency bill was necessary, it might have been introduced; but I do hold that it is a matter of importance that each Administration, and each fiscal year should be charged with the legitimate and proper amount of expenditures made during that year. Congress is responsible, the Administration is responsible, and there ought to be a proper responsibility for each year.

Therefore I am opposed to it entirely; and I insist that the Committee of Ways and Means shall report proper bills making these appropriations for deficiencies in the expenses of the current year. The idea that they may contract a debt, incur a liability, and make an expenditure, because they do so on credit, and let it go over to the ensuing fiscal year as belonging to the expenses of that fiscal year, is altogether absurd, and is a practice which the House ought not to tolerate for a single moment.

Mr. LETCHER. I desire simply to say this: The item in the deficiency bill was for articles furnished for the committee rooms and for this Hall, by the preceding Clerk of the House of Representatives, General Cullom. They were purchases made by him to be paid for out of the year between the 1st of July, 1857, and the 30th of June, 1858. Hence it was that they were embraced in a deficiency bill.

After we came here, the present Clerk was directed to go on and furnish the committee rooms of the House, and to procure articles for other portions of this building. In the discharge of that duty, he has been receiving furniture for some time past, is receiving some now, and will receive some for days to come; and having no money on hand, he had, as a matter of course, in the execution of an order of the House, to make his purchases with reference to the appropriation in the

annual appropriation bill for the year commencing 1st July next, and terminating the 30th of June, 1859. Where else were we to put this item? Could we come here and say that it was a deficiency, when, at the same time the deficiency bill was up, not even the amount of the purchase was known, when the articles themselves were not obtained, nor the prices ascertained? How was it to be done? When the gentleman undertakes to arraign the Committee of Ways and Means on this subject, will he be good enough to explain to us how the Committee of Ways and Means could have a knowledge of the liabilities, when the Clerk of the House had not made his purchases under the order of the House? How was it to be done?

Mr. STANTON. I will answer the gentleman. I take it for granted that the whole financial policy of the Government goes upon the idea that the various officers of the Government are to anticipate what will be the necessary expenditures of the coming year in the various departments of the Government, and they are to make their calculations of what their contracts for the coming year will be, and to conform their estimates to those calculations, and then to regulate their expenditures accordingly.

Mr. LETCHER. If that be so, will the gentleman undertake to tell me how the Clerk of the last Congress could know that this Hall would be occupied this session, and how the Clerk of the Senate could have known that the new Senate Hall would not be occupied this session?

Mr. STANTON. I take it for granted he could have got the information from the architect. It is his business to know when the Hall would be ready for occupation.

Mr. LETCHER. The occupation of the Hall depended upon the action of the House alone. The Clerk could not move us here, nor could he furnish the Hall without the order of the House. We could not come here until the House resolved to come; and when we did resolve to come, great doubt was expressed as to the propriety and safety of doing so in the unfinished state of the Hall.

Mr. STANTON. Upon what authority did the former Clerk, Mr. Cullom, order the furniture for this Hall?

Mr. LETCHER. Upon such authority as Captain Meigs furnished.

Mr. STANTON. We have been in this Hall since December last. Could not the Clerk, before the deficiency bill was reported, have made the estimates?

Mr. LETCHER. No, sir, he could not; and simply because the Hall is not furnished yet. You cannot tell now what is to be procured for the purpose of completing the furniture necessary to fill up this building. Even now the floors are not laid. They are progressing; and because the Clerk could not ascertain that, the gentleman arraigns the committee for not knowing what God Almighty alone, in his foreknowledge, could know.

Mr. STANTON. How does the Secretary of War know what supplies the Army will need for the coming year?

Mr. LETCHER. For the simple and plain reason that he knows what number of men constitute the Army, what number of officers there are, what quality and quantity of clothing is required for each of them, the number of rations, and all the various other articles required. There is a fixed number given, upon which to make the calculation. But is there anything fixed here? There is nothing of that sort.

Mr. STANTON. I withdraw my amendment if there is no objection.

Mr. JONES, of Tennessee. I renew the amendment. I understand my friend from Virginia to say that \$30,000 was to pay for furniture purchased by the late Clerk. The item reads, I believe, "For furniture for Speaker's room, committee rooms, Clerk's office, Sergeant-at-Arms' office, retiring room, &c., \$30,000." Neither the Sergeant-at-Arms' room, nor the retiring room, were finished when we moved into this Hall; and not for some time afterwards. I may be mistaken; but I have been under the impression that the present Clerk had bought the furniture for the Speaker's room, the Sergeant-at-Arms' room, and the retiring room. My impression upon another point was, that the different committees, on taking possession of their respective rooms, had them

furnished according to their own notions. There ought to be something like a system about it; and it would have been better, perhaps, to have had a committee, or some person, appointed, to determine what sort of furniture should be placed in those rooms, and in what manner they should be fitted up.

I see in the report of the late Clerk as to the manner in which the contingent fund of the House was disbursed for the last Congress, a charge of thirty dollars for a mirror for the room of the Committee on Roads and Canals. Who ordered it I do not know; but I have never heard of a meeting of that committee since I have been in Congress.

Mr. LETCHER. The gentleman asks who gave the order to furnish the room of the Committee on Roads and Canals? If the committee have not met, whose fault is it? It strikes me that we sent the subject of the Pacific railroad to that room to be considered, and we sent the Portland and Louisville canal down there at the same time. What the reason is that they have not met to consider these important questions, and presented their action to this House, I do not know.

Mr. RITCHIE. I wish to say a word in answer to the remark of the gentleman from Tennessee that the Committee on Roads and Canals have not met since he has been in Congress. During the Thirty-Third Congress, I was a member of that committee, and we did meet repeatedly, and had sundry grave discussions upon important questions of internal improvements. If the committee has not met since the gentleman has been placed upon the committee, it must be from neglect upon his own part. [Laughter.]

Mr. JONES, of Tennessee. If they had important discussions, they were confined to the committee-room.

Mr. RITCHIE. No, sir; they were brought into this House and passed upon. They reported, I recollect, a bill turning over to Illinois what remained of the old national road.

Mr. JONES, of Tennessee. Very important legislation. [Laughter.]

Mr. RITCHIE. And other matters of equal importance. [Renewed laughter.]

Mr. LETCHER. If I understand this matter, it is precisely as I have stated it heretofore. The furniture for these rooms to which the gentleman refers, or a portion of it, was furniture which was purchased by the late Clerk of the House; and it will be recollected that they were to some extent, and to a considerable extent, furnished at the time we came into and occupied this Hall. The furnishing has been going on since under the direction of the present Clerk.

Now, as to the gentleman's ideas of uniformity, and as to the procurement of the furniture, I know nothing. I know only from what I have heard, that the chairmen of the several committees directed their rooms to be furnished new, according to the practice which has prevailed for a long time. Whether that is a wise or good system, or whether it would be better to abolish it, are questions which would more properly arise at some other time, than upon a question of performing contracts already made.

Mr. JONES, of Tennessee. I would ask the gentleman who ordered the furniture for the room of the Committee of Ways and Means, and what it will cost? Was it done by the old Clerk or by the new one?

Mr. LETCHER. I imagine it was ordered by the chairman of our committee. What it will cost I do not know. I suppose every chairman of a committee has done the same thing.

Mr. JONES, of Tennessee. I understand there is an account for a book-case for that room, costing \$800.

The question was taken on the amendment to the amendment, and it was disagreed to.

The amendment of Mr. J. GLANCY JONES was then agreed to.

The Clerk then proceeded with the reading of the bill.

Mr. J. GLANCY JONES. I offer the following amendment:

At page 9, line one hundred and ninety, strike out the words " \$7.00," and insert in lieu thereof the words " \$350."

So that the clause will read:

For contingent expenses of the executive office, including stationery therefor, \$350.

I send up the letter to be read, which will explain the amendment.

The letter was read, as follows:

EXECUTIVE MANSION, March 2, 1858.

DEAR SIR: I beg to direct your attention to the renewal of the annual appropriation for a steward to the President's House, and the messenger to the executive office.

By an economical expenditure of the sum appropriated last year for the contingent expenses of the executive office, I have remaining in the Treasury nearly one half of the appropriation, as a balance to be carried over to the coming year, and thus with a small addition of about three hundred dollars, which I beg you will consider, will suffice for the expenses of the office for the coming year.

Very respectfully, your most obedient,

J. BUCHANAN HENRY,
Private Secretary to the President.

Hon. J. GLANCY JONES,

Chairman Committee Ways and Means.

The question was taken, and the amendment was agreed to.

Mr. J. GLANCY JONES. I am instructed by the Committee of Ways and Means to offer the following amendment:

At the end of line three hundred and ten, strike out "\$600," and insert in lieu thereof, "\$1,000," so that the clause will read: for blank-books, binding, stationery, office furniture, carpeting, and miscellaneous expenses, in which are included two daily newspapers, \$1,000.

The original estimate from the Fifth Auditor's office was for \$1,000.

The Committee of Ways and Means struck out \$400 of it; but afterwards the Fifth Auditor addressed a letter to the committee, showing the necessity for the original appropriation, in order to complete the work. I send up the letter to be read.

The letter is as follows:

TREASURY DEPARTMENT,

FIFTH AUDITOR'S OFFICE, January 27, 1858.

SIR: In the bill which has been reported by your committee, making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th June, 1859, I perceive that the sum of \$600 only is put down for the contingent expenses of this office, instead of \$1,000 asked for. In explanation of the increase over the sum which was provided by Congress for the present year, I have the honor to state that, under the act of Congress of August 18, 1856, "to regulate the diplomatic and consular systems," the duties of the office have been increased, requiring a larger outlay in books, blanks, stationery, &c., which it is estimated will be covered by the \$400 increase asked for. These books are all of an expensive character, requiring printed headings, alphabetical arrangements, and ruling. In the organization and perfection of the consular system, under the act aforesaid, and the consular regulations prescribed by the President, under that act, it is already ascertained that the cost of additional books, forms, circulars, stationery, desks, &c., for the year ending December 31, 1857, have reached the sum of two hundred dollars, and upwards, and that when the details of this system shall be perfected and matured, it is estimated that all of \$200 additional will be required. In my report of the 5th November last, to the Secretary of the Treasury, of the operations of the office for the fiscal year ending June 30, 1857, the increased duties mentioned are noticed by me in that report as follows:

"The further operations of the office under the act have been to prepare, under the special directions of the Secretary of State, the books and forms necessary to the organization and perfection of the system prescribed by the President, in accordance with the provisions of the said act. Under this system the duties of the office have been increased, requiring the careful attention of the clerks in carrying out its details, which may be stated, in part, as follows:

First. Registering all fees collected, accounted for, and reported by consular officers.
Second. Registering all consular receipts and statements of certified invoices forwarded by the collectors of customs to the Secretary of the Treasury.
Third. Registering and arranging the statements of the rates at which depreciated currency of the country in which the consular officer resides is computed in United States or Spanish dollars, or in silver or gold coins of other countries.

Fourth. Registering and arranging the monthly reports of the rates of exchange prevailing between the ports or places at which the consular officer is located and London, Paris, Amsterdam, Hamburg, and New York.

Fifth. Preparing statistics of the commercial information in reference not only to the trade of the place of the residence of the consular officer, but that of the neighboring country or towns with which it may be connected commercially, or through which the merchandise may be shipped to the United States.

Sixth. Preparing statistics of the prices current of the staple articles of foreign production exported from the country of their residence to the United States.

The detail of this system, it is expected, will be perfected and matured on or before the termination of the quarter ending March 31, 1859; and the results, under the respective heads mentioned, will then be furnished when called for by the Secretary of the Treasury."

I have the honor to be, sir, respectfully, your obedient servant,

MURRAY McCONNELL, Auditor.

Hon. J. GLANCY JONES, Chairman of the Committee of Ways and Means, House Representatives.

The question was taken; and the amendment was agreed to.

Mr. DAVIS, of Indiana. I offer the following amendment:

For balance due to Dr. John Evans, United States geologist for Washington and Oregon Territories, on final

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

FRIDAY, MAY 7, 1858.

NEW SERIES. ...No. 125.

adjustment of his accounts with the Commissioner of the General Land Office to the 4th of March, 1857, \$3,574 70.

Mr. J. GLANCY JONES. Is that in order, Mr. Chairman?

The CHAIRMAN. The Chair thinks it is not in order. It is a private claim.

Mr. DAVIS, of Indiana. I desire to be heard one moment on the point of order raised by the honorable chairman of the Committee of Ways and Means. In the first place, I desire to say that I am authorized by the Committee on Public Lands to offer that amendment; and I think it is in order for this reason: Dr. Evans was appointed by the Commissioner of the General Land Office, for the purpose of making a geological survey and reconnaissance of Washington and Oregon Territories. Appropriations have been made on three several occasions for the purpose of paying the expenses of this survey and its exploration.

Mr. CRAWFORD. Mr. Chairman, I rise to a point of order—

Mr. DAVIS, of Indiana. I am discussing a point of order. I am desiring to bring the attention of the Chair to the point of order raised by the honorable chairman of the Committee of Ways and Means. I was saying that appropriations for this purpose have been made from time to time, and it is found, on adjustment of the accounts, that there was a balance to the amount of \$3,574 due to the geologist. The appropriations were uniformly made in the general appropriation bill, and I am satisfied it is in order under former rulings of the Chair.

The CHAIRMAN. The Chair is of opinion that the amendment is not in order, it being in the nature of a private claim.

Mr. DAVIS, of Indiana. I am not going to discuss the question; but I most respectfully appeal from the decision of the Chair.

The CHAIRMAN. The Clerk will read the 60th rule.

The rule was read as follows:

"80. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."

The question was taken; and the decision of the Chair was sustained.

Mr. STANTON. For the purpose of getting information from the Committee of Ways and Means, I move to strike out the appropriation for the expenses of the branch Mint at Charlotte, North Carolina. I wish to know what was the amount of money coined there? and whether it is worth while to keep up the Mint there and at Dahlonega?

Mr. LETCHER. I refer the gentleman to the estimates.

Mr. J. GLANCY JONES. The gentleman will find in the estimates precisely the amount. I do not think it is very profitable; but I would say to the gentleman, that he can introduce a bill to abolish that branch Mint, if he thinks it should not be longer kept up.

Mr. STANTON. If we do not make the appropriation, we can get rid of the expense.

The clause of the bill providing for the expenses of Utah Territory having been read,

Mr. COLFAX offered the following amendment:

Add, after line seven hundred and two, as follows: And whereas, the law of September 9, 1850, organizing said Territory of Utah, declared that all the laws passed by the Legislative Assembly and Governor thereof shall be submitted to Congress; and if disapproved, shall be null, and of no effect, it is hereby declared that Congress disapproves of all laws of said Territory authorizing or tolerating polygamy, or requiring contributions in the shape of tithes or labor, for the benefit or maintenance of any religious organization whatever.

Mr. J. GLANCY JONES. I raise a question of order upon that amendment.

The CHAIRMAN. The Chair is of opinion that the gentleman's amendment is not in order.

Mr. COLFAX. Before the Chair makes his decision, I should like to state the reasons why I think the amendment is in order.

Mr. CRAWFORD. I object.

Mr. COLFAX. Then I shall appeal from the decision of the Chair.

Mr. J. GLANCY JONES. I will give the gentleman plenty of bills on which he can talk about the Mormons as much as he chooses.

Mr. COLFAX. Does the Chair decide my amendment out of order? and if so, upon what grounds?

The CHAIRMAN. The Chair does so decide, and will give the gentleman a reason, although it may not be a satisfactory one to him. This is an appropriation bill, and the gentleman proposes a resolution to declare an opinion in regard to the laws of the Territory of Utah, as passed by their Legislature, which has nothing whatever to do, as the Chair understands it, with the bill.

Mr. COLFAX. I am compelled to appeal from the decision of the Chair, and I desire to state the reasons why I dissent from that decision.

Mr. J. GLANCY JONES. The appeal is not debatable.

Mr. COLFAX. I have twenty precedents here.

The CHAIRMAN. The question is not debatable; but if no objection be made, the Chair will hear the suggestions of the gentleman from Indiana.

Mr. COLFAX. I have appealed from the decision of the Chair. If I were to offer an amendment, I could have five minutes to state my reasons.

Mr. J. GLANCY JONES. The only effect of the gentleman's movement will be to break up the committee.

Mr. COLFAX. Well, if gentlemen on the other side will allow me five minutes to state the reasons why I think the amendment is in order—

Mr. MASON. We do not want to hear you.

Mr. COLFAX. Perhaps you may be compelled to hear me on an amendment, whether the gentlemen on the other side wish to or not.

Mr. MASON. You have no right to make us hear you when we do not want to.

Mr. COLFAX. Is the appeal not debatable?

The CHAIRMAN. It is not.

Mr. MORGAN. I demand tellers on the appeal. If gentlemen upon the other side would hear the gentleman from Indiana for five minutes, there would be no trouble.

Tellers were ordered; and Messrs. CHAFFEE, and WRIGHT of Georgia, were appointed.

The committee commenced dividing.

Mr. COLFAX. I will withdraw the appeal, for reasons which the Chair understands.

No objection being made, the appeal was withdrawn.

Mr. COLFAX moved *pro forma* to decrease the amount appropriated for the contingent expenses of the Territory of Utah; and said: Mr. Chairman, I wish simply to justify myself for offering the amendment which I did a few minutes ago. I am not willing, while polygamy prevails in Utah, and tithes are unconstitutionally levied upon the citizens of the United States in Utah for the support of an ecclesiastical organization, to pay any money for the support of that Territory. I do not think that we are justified in doing it. I think that Congress should have exercised its prerogative long since, and disapproved the acts of the Territorial Legislature, thereby making them null and void. As no bill has been reported by any of our committees, and as, under our rules, it is almost impossible to compel action upon any others, I offered my amendment just now to an appropriation for the Governor of the Territory of Utah. Congress, in organizing the Territory in 1850, declared that any act passed by the Legislative Assembly and Governor of the Territory, if disapproved by Congress, should thereby become null and void; and I thought this the most appropriate place to declare the disapproval of Congress, and perhaps the only remaining opportunity at this session. Parliamentary usage authorizes it. I find precedents for the insertion of legislative provisions in appropriation bills scattered all through the Statutes at Large.

I find, Mr. Chairman, in the naval appropriation bill of 1852, when your immediate predecessor

(Mr. Boyd) was Speaker of this House, a section declaring that no midshipman should hereafter be appointed unless recommended by the member of Congress representing the district in which the applicant resided; which certainly had no sort of relevancy to the naval appropriation bill. I find that the deficiency bill of 1853 repealed an act of 1852 respecting the absence of territorial officers from their posts of duty, and also parts of the light-house act, neither of which was at all germane to the bill itself.

Still further, the civil and diplomatic bill of 1853 increased the pay of the Vice President and Cabinet to \$8,000, and also authorized the Secretary of the Treasury to purchase stocks of the United States, and to reconvey a lot of land to the city of New Castle.

I find, also, that the deficiency bill of 1854, when Mr. Atchison was President of the Senate, and Mr. Linn Boyd Speaker of this House, repeals specially those parts of the public printing act which require that the Printer of one House, and no one else, shall print all the documents of a particular character which may be ordered by both Houses—a repeal which had no reference whatever to the bill itself.

I find still further that in the naval appropriation bill of August 3, 1848, the Secretary of the Navy is instructed to report to the next session of Congress the number of persons flogged in the Navy, the sentence of each, the number of lashes, &c.; which had not the slightest connection with the appropriation bills, direct or indirect; while the propositions which I made are propositions declaring the disapproval of Congress to acts passed by the Legislative Assembly of Utah. The salary of the Governor of that Territory was directly under consideration, and the amendment was germane to that clause of the bill. Having now proven that my amendment was in order, if any of the cases cited above were legally included in the bills named, and it being evident that the majority of the House do not see fit to incorporate it in the bill, as we on this side wish to do, I withdraw the *pro forma* amendment which I moved, to give me the right of stating the reasons which justified my motion.

Mr. STANTON. I move to strike out the words "in addition to the balances of former appropriations" in the following paragraph:

"To meet the expenses of collecting the revenue from the sale of public lands in the several States and Territories, in addition to the balances of former appropriations."

The law clearly is, that at the expiration of the fiscal year the power to use the money appropriated is gone. You cannot apply a former appropriation to the expenses of a succeeding fiscal year. It must be reappropriated. It cannot be appropriated in these indefinite, indirect terms. We have a right to know how much the aggregate expenses for a particular purpose are to be. If there is to be a sum reappropriated it must be specified how much. If there is a balance of a former appropriation to be reappropriated it must be done in express terms. I move, therefore, to strike out the words I have indicated, leaving it to stand a simple appropriation of so much money.

Mr. J. GLANCY JONES. I understand that the gentleman does not move to reduce the appropriation, but simply to strike out the last line of the paragraph.

Mr. STANTON. That is all. As the matter now stands, we have no means of knowing whether we are appropriating fifty dollars or one hundred thousand dollars.

Mr. J. GLANCY JONES. I do not know that I have any objection to the amendment. In my opinion, it will accomplish nothing. I think the fund referred to in the words the gentleman proposes to strike out, is subject to the control of the Executive, and that it will make no difference whether the words are stricken out or not.

Mr. STANTON. I insist upon my amendment.

Mr. J. GLANCY JONES. Very well; I have no objection to it.

The amendment was agreed to.

Mr. RUFFIN. I move to amend, by adding the following as an additional section to the bill:

SEC. — *And be it further enacted*, That the copies of the Congressional Globe and Appendix furnished for the members and delegates of the House of Representatives, and for the use of the House library, shall be folded and bound by the publishers, and delivered to the Clerk of the House within ninety days after the adjournment of the session of Congress, at sixty-three cents per volume.

I presume there will be no objection. It will be done cheaper than we have had it heretofore, and in a superior manner.

Mr. J. GLANCY JONES. I do not know whether I understand the gentleman's amendment. Do I understand that it is a reduction of the price for which this work has heretofore been done?

Mr. RUFFIN. It is. It will facilitate the convenience of members by providing that it shall be done in ninety days, as well as to secure the execution of the work in a better manner. This provides that the price shall be sixty-three cents per volume. I understand the price heretofore paid has been seventy-five cents.

Mr. SANDIDGE. I make the same point of order which was made on the amendment offered a few minutes ago by the gentleman from Indiana, [Mr. COLFAX,] that it is introducing new legislation into an appropriation bill. It proposes to repeal an existing law, and it certainly must be out of order in this bill.

The CHAIRMAN. Does the gentleman from Louisiana make a point of order upon the amendment?

Mr. SANDIDGE. I do.

Mr. LETCHER. I understand that this amendment will save some ten or twelve cents on a volume, which is an object. There is no law now regulating the matter, and I think the amendment is in order.

The CHAIRMAN. Does the gentleman from Louisiana insist upon his point of order?

Mr. SANDIDGE. Does the Chairman rule the amendment to be in order?

The CHAIRMAN. The Chair has expressed no opinion about it.

Mr. SANDIDGE. Then I insist upon my point of order.

Mr. COLFAX. I desire to concur with the gentleman in his point of order. I want the same rule applied to this amendment which was applied to mine.

The CHAIRMAN. The Chair is of the opinion that the point of order is well taken, and that the amendment is not in order.

Mr. JONES, of Tennessee. This bill makes an appropriation for printing this work, and binding it, but it does not say how it shall be done. This amendment, I think, is clearly in order, because it is pertinent and germane to a portion of the bill. I hope the amendment will be adopted, because by it you will have the work done quicker, better, and cheaper.

Mr. J. GLANCY JONES. On page 6 of this appropriation bill, provision is made for printing and binding the Globe. There is no law regulating the binding, and therefore no price fixed. The maximum price to be paid is merely named. I think the amendment is in order.

The CHAIRMAN. The committee have passed the point in the bill referred to by the gentleman from Pennsylvania, and it is not in order to go back, unless by unanimous consent. The Chair desires to ask whether there is no law providing for the binding of this work?

Mr. LETCHER. No, sir, there is not, as I understand. There is an appropriation made for binding, on the sixth page of the bill, and I desire to make the suggestion, that by general consent we go back and amend that paragraph to conform with the amendment offered by the gentleman from North Carolina.

The CHAIRMAN. It can only be done by unanimous consent.

Mr. MASON. Is it in order to reduce any expenditure here?

No objection being made, the following paragraph was again brought up for consideration:

"For binding twenty-four copies of the Congressional Globe and Appendix for each member and Delegate of the second session of the Thirty-Fifth Congress, \$3,097 60: *Provided*, That no greater price shall be paid for the same, than seventy cents for each volume or part actually bound and delivered."

Mr. LETCHER. I now move to amend so that the word "seventy" be stricken out, and

"sixty-three" inserted, and to add at the end of the paragraph the following:

And provided further, That the work shall be done by the publishers of the Globe, and delivered within ninety days after the adjournment of the session of Congress.

The amendment was agreed to.

Mr. JONES, of Tennessee. If there be no objection, I would propose an amendment in line eight hundred and forty-two, which provides that the compensation of the doorkeeper of the President's House shall be \$600; and in the next item, that the compensation of the assistant doorkeeper shall be \$438. Now, I think they both perform about the same service. I think they are both men with families, and I do not see why we should make this difference between them. If there be no objection, I move to strike out both items, which are as follows:

"For compensation of the doorkeeper at the President's House, \$600."

"For compensation of the assistant doorkeeper at the President's House, \$438."

And to insert in lieu thereof:

For compensation of the doorkeeper and assistant doorkeeper at the President's House, \$1,200.

The amendment was, by unanimous consent, agreed to.

Mr. SHERMAN, of Ohio. I move to amend by adding at the end of the bill the following:

SEC. — *And be it further enacted*, That no part of the amount appropriated by this act for the service of any one fiscal year shall be used or applied to the services of another fiscal year, nor be transferred to or used for any other branch of expenditure than that for which it is specifically appropriated.

The committee will remember that in the early part of the session I called the attention of the House to the fact that in several cases balances were taken by the executive officers of the Government, which had been appropriated, in specific terms, for one fiscal year, and applied to another fiscal year; and, in one case, in defiance of an express vote of both Houses of Congress. I am told that it has become an everyday practice to use the balances of appropriations for one fiscal year for the services of another fiscal year, and for a different purpose than that for which they were appropriated. I am told that the practice is authorized by a law upon your statute-book, passed in 1842. How it came to be passed, I do not know. It must have been done in some such scene as this. But, sir, under that law many abuses have grown up in the Executive Departments of the Government. The House, upon my motion, some time ago, ingrafted the same provision upon another bill, which, I understand, the Senate have stricken out. I desire to make the same amendment now, so that the abuses which have grown up may be corrected.

Mr. J. GLANCY JONES. When the gentleman first offered his amendment to the consular and diplomatic bill, upon its face it seemed to me to be a fair proposition. I think it is now, except that this is not the time, nor the place, to make such a provision. The act of 1842, providing for the transfer of these unexpended balances, is still in force, and the estimates for the year have been made upon the supposition that it would still continue in force. The gentleman from Ohio, therefore, will see that, to adopt this provision now, would require all the estimates for appropriations to be changed. I think the system he recommends is a good one, and I will support a bill to make such a provision for the future, if it is introduced.

But, sir, if the amendment is now adopted, it will require a revision of the entire estimates, and I hope that it will not prevail; but I will go with the gentleman if he will make it prospective, and provide that not one dollar shall hereafter be taken for any purpose other than that for which it was specifically appropriated.

Mr. HOUSTON. I understand that the amendment as it now stands would prevent any money which has been appropriated for an object, I care not what, and contemplated to be expended during the year, for instance, terminating on the 30th of June, 1858, from being used after the 30th of June, 1858, for the purpose for which it was appropriated.

Mr. SHERMAN, of Ohio. No, sir; it may be paid out any year subsequently.

Mr. HOUSTON. Let the amendment be again read.

The amendment was again read.

Mr. HOUSTON. The gentleman will see that

I am right. The gentleman is entirely mistaken. The amendment says expressly that the money appropriated for one fiscal year shall not be used for any other fiscal year.

Mr. SHERMAN, of Ohio. Shall not be used for the service of another fiscal year; that is, that money appropriated for 1858 shall not be used for the service of the Government the year after.

Mr. HOUSTON. I should like the gentleman to tell me how we would get along with the appropriations for fortifications and other public works?

Mr. SANDIDGE. I rise to a point of order. This amendment proposes to repeal existing law, and I therefore hold that it is not in order.

The CHAIRMAN. The Chair overrules the point of order on the ground that this provision has heretofore been inserted in former appropriation bills in the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I think that to adopt the latter branch of the amendment would be going far enough at this time; and, as was well remarked by the gentleman from Pennsylvania, [Mr. J. GLANCY JONES,] chairman of the Committee of Ways and Means, I think the committee have no idea of adopting the first branch of the amendment now, when all estimates have been made. By reference to the record it will be seen that the estimates for many years back—how long I do not know, probably from the organization of the Government—have been made up with reference to the unexpended balances at the end of a fiscal year. For instance, here is an appropriation of \$100,000 for the purpose of accomplishing a certain thing, and \$75,000 are expended; \$25,000 remains, then, unexpended, and that is taken into account by the officer who makes the estimate for the next year.

Mr. SHERMAN, of Ohio. There commences the violation of the law. When we appropriate money for a specific purpose, and these officers begin to expend it for another, and not in the year when its expenditure was authorized, there, I say, begins the violation of the law.

Mr. HOUSTON. I do not agree with the gentleman; and I am sure that he will give me credit for being as rigid as anybody ought to be. I do not agree with the gentleman at all as to the impropriety of the practice of the Government. You can as certainly estimate, under the existing practice of the Government, as if you were to carry the unexpended balances into the surplus fund at the end of every fiscal year.

The difference between the rule proposed by the gentleman and the existing rule is, that he proposes that all unexpended balances shall go back into the Treasury, and shall not be used unless reappropriated; whereas the books in the existing practice show the amount unexpended, and which is taken into account by the officer who makes the estimate. The books will show, with as much accuracy as any other fact, what the unexpended balance is, and the amount that is necessary added to that balance, can be estimated for the next year. The estimates have all been made, and made under these circumstances, and therefore I say that the first branch of the gentleman's amendment should not be adopted.

Mr. STANTON. I wish to say a word in reply to the gentleman from Alabama. I understand the object of this amendment mainly to be to get rid of what is an unauthorized use of the public money. We may differ about the propriety of the means for getting rid of that practice; but there is no difference as to the practice itself. At the last session, both Houses of Congress, after various committees of conference, refused to make any appropriation to defray the expenses of the Territorial Legislature of Kansas, for the year 1856; yet the Secretary of the Treasury, it appears, took the appropriations for the previous and preceding year, and paid them out of them.

Mr. HOUSTON. It was stated at the time that there were unexpended balances for that service which would go to pay the expenses of that Territorial Legislature.

Mr. STANTON. Congress may have done right or wrong, and we may have done as other Congresses did; but the point is this: that that practice enables the Secretary of the Treasury to appropriate money to an object for which Congress would not have appropriated it, and for which they refused to appropriate it. He takes

it for granted that because Congress appropriated for a previous year, he may use the unexpended balance for the succeeding year, for which it was not appropriated.

Mr. HOUSTON. The gentleman mistakes the case. The money was appropriated for the support of the territorial government, and it was for that object it was expended. The gentleman states his case too broadly.

Mr. STANTON. Now, the question is, if Congress refuses to appropriate money for any particular object of expenditure, shall the Department have the power to use money for that object, so far as a remaining balance is concerned? The Secretary may use money in a fiscal year when Congress refuses to appropriate a dollar, unless this amendment be adopted. The question is, whether Congress shall retain control over the expenditures for the Territories, or of any other expenditures for the current fiscal year, or whether the Secretary shall have control of them.

Mr. HOUSTON. There is a law of Congress which directs the Departments as to how long they may use an appropriation; and they have the right to use it for the purpose for which it was appropriated for the space of two years. If it is not used within that time, it is thrown back into the Treasury. That is the law in relation to appropriations; and if the gentleman desires to alter that, he must repeal and abrogate the law. The object and effect of this amendment is to repeal the law which allows an appropriation to be used for two years.

[Here the hammer fell.]

Mr. LETCHER. Is it in order to move an amendment to the amendment?

The CHAIRMAN. It is not, as there is an amendment to an amendment already pending.

Mr. HOUSTON. My amendment is one which ought to be adopted; but if gentlemen want to discuss the matter I will withdraw the amendment.

The CHAIRMAN. It can be done by unanimous consent.

No objection being made, the amendment was withdrawn.

Mr. LETCHER. I move to amend by striking out the words, "be transferred," and from that on to the end of the amendment. I want to show to the gentleman exactly the difficulty which will arise from the adoption of this amendment. Take, for example, the pay of the mileage and per diem of members of the House of Representatives. Under the law fixing the salary at \$3,000 it requires \$916,000 to meet those items. If the gentleman will take the trouble to look at the estimate sent to us, he will find the estimate to be \$580,250, in addition to the unexpended balance, to meet that expense. If this proposition had been adopted, and had been so understood by the Department at the time the recommendations were made, we should have had an estimate for \$916,000—the amount of money required for that purpose. If the proposition of the gentleman from Ohio shall be adopted, that unexpended balance now on hand of \$335,750, which can now be applied with the estimated amount of \$580,250, cannot be so applied, and we shall, at some future period, probably at this session, have to make an appropriation amounting to the identical sum of \$916,000.

Let us look at it in another point of view. If we apply the balance on hand, and thereby make up the precise amount which the law requires, what harm is done by it? What bad purpose is accomplished by it? Not any, it strikes me. As has been suggested by the gentleman from Alabama, if this arrangement is to be adopted, let it be prospective, and let the Government be prepared to make their estimates in reference to the law when it takes effect. But now you must appropriate \$916,000, or take that balance and the estimated amount to make up the required sum.

Mr. JONES, of Tennessee. If the gentleman from Virginia will withdraw his amendment, I will propose one.

Mr. LETCHER. I will.

Mr. JONES, of Tennessee. I move to amend by adding at the end:

Provided, That nothing herein contained shall be construed to apply to the present or next fiscal year.

I think the proposition of the gentleman from Ohio is very good, if it is to have a prospective operation. By reference to the report of the Sec-

retary of the Treasury you will see by the estimates that it will require \$74,064,755 97 for the expenses of the Government for the next fiscal year. That sum is made up by a balance of existing appropriations for the service of the present fiscal year, which may be applied to the service of the year ending June 30, 1859, \$16,586,588 35; and of an amount of indefinite and permanent appropriations, \$7,165,224 49; and of estimated appropriations proposed to be made for the service of the fiscal year from July 1, 1858, to June 30, 1859, as detailed in the printed estimates, \$50,312,943 13. This latter amount is the one now asked to be appropriated for the next fiscal year, and that \$50,312,943 13 is ascertained by taking from the estimated items of the civil, the diplomatic, the legislative, executive, and judicial, the Army and the Navy expenses, this \$16,586,588 35—the unexpended balance which will remain of the appropriations for the present year. Now, if this amendment is adopted to go into effect the next fiscal year, it will require a rearrangement of every one of the appropriation bills which have been reported by the Committee of Ways and Means at the present session.

Mr. SHERMAN, of Ohio. I will say to the gentleman, that all these difficulties have grown out of a violation of law. But, as they are existing, I have modified my amendment so that the law shall commence on the 1st day of January next.

Mr. JONES, of Tennessee. That is not the end of the next fiscal year. If the gentleman will accept my amendment, it will make it all right.

Mr. SHERMAN, of Ohio. I have inserted January next, and that will enable the Department to expend all the old appropriations between the 1st of July and the 1st of January; and then the new system will commence. I have also added another clause—which can only be done by unanimous consent—and that is to repeal the old law of August, 1842.

Mr. JONES, of Tennessee. I do not think the modification will obviate the difficulty, because here are appropriations asked for, based upon the idea of using this unexpended balance of \$16,000,000; and if the amendment is adopted, it will, as I said before, make it necessary for the Committee of Ways and Means of this House, and the Committee on Finance in the Senate, to go over the appropriation bills and rearrange them, and instead of appropriating \$50,312,943 13, we must appropriate \$16,586,588 25 more. Then, sir, if you accept the proviso which I propose, it will carry it into effect after the expiration of the next fiscal year. I object to the modification of the gentleman from Ohio, [Mr. SHERMAN,] because he proposes to put this provision of his in force in the middle of a fiscal year. We should conform our legislation to the fiscal year, as the law has established it.

Mr. J. GLANCY JONES. Do I understand that the gentleman from Ohio accepts the modification of the gentleman from Tennessee?

Mr. SHERMAN, of Ohio. I do.

Mr. MILLSON. I object.

Mr. JOHN COCHRANE. I move that the committee do now rise.

Mr. MILLSON. I have a right to object, and to reply to the amendment offered by the gentleman from Tennessee.

The CHAIRMAN. That is true; but the gentleman from Virginia will recollect that the gentleman from Ohio accepts the amendment from the gentleman from Tennessee.

Mr. MILLSON. The amendment is not now before the committee. The question is on the motion of the gentleman from Tennessee, to amend the amendment, and he cannot withdraw it without unanimous consent.

The CHAIRMAN. The gentleman from Tennessee closed his remarks, and no gentleman claiming the floor to oppose his amendment, the gentleman from Ohio accepted it.

Mr. MILLSON. I did not claim the floor, because I did not choose to do so out of order. The gentleman from New York [Mr. JOHN COCHRANE] moved that the committee rise, and therefore it was not in order for me to oppose the amendment. Now, I say that the gentleman from Tennessee has no right to withdraw his amendment without unanimous consent, and the gentleman from Ohio could not accept the amendment. I want to say a word or two in opposition to the amendment.

* The CHAIRMAN. The Chair supposes that there will be no objection to the gentleman proceeding.

Mr. MILLSON. I merely desire to say that the amendment suggested by the gentleman from Tennessee—

Mr. LOVEJOY. I make the question of order that there is no quorum present.

Mr. WASHBURN, of Maine. I presume there is no desire to discuss this matter further.

Mr. MILLSON. I am as impatient of the discussion as any member of the committee; and to show that I wish to terminate discussion on this question, I intend to submit a proposition immediately. But first I wish to say that the amendment of the gentleman from Tennessee seems to be utterly inconsistent with the object he has in view, for the amendment proposed by the gentleman from Ohio has reference only to the amounts appropriated by this bill.

Mr. BISHOP. I rise to a point of order.

The CHAIRMAN. The gentleman from Connecticut will recollect that the gentleman from Virginia is proceeding by unanimous consent.

Mr. MILLSON. I did not understand that. I supposed that I was opposing the amendment of the gentleman from Tennessee.

Mr. JONES, of Tennessee. I understood that the gentleman from Ohio, who offered the original amendment, modified it by ingrafting upon it what I proposed.

The CHAIRMAN. That is so.

Mr. JONES, of Tennessee. Then, sir, I have no amendment pending before the committee.

The CHAIRMAN. But the gentleman from Tennessee will recollect that the Chair propounded the question whether there was any objection to the gentleman from Virginia proceeding out of order.

Mr. JONES, of Tennessee. I am not objecting on that ground.

Mr. MILLSON. I distinctly objected the moment the gentleman from Ohio announced that he accepted that amendment; and I objected on the ground that the amendment to the amendment was before the committee, and could not be withdrawn without my consent.

But I wish to say that the amendment of the gentleman from Tennessee has no sort of operation or effect, because the amendment of the gentleman from Ohio has no reference to anything but the appropriations in this bill, and therefore it is idle to say that this amendment shall not go into effect until after one or two years; while the amendment of the gentleman from Ohio is expressly limited to the appropriations in this bill.

Mr. SHERMAN, of Ohio. In accepting the modification of the gentleman from Tennessee, I modified that part of my amendment.

Mr. MILLSON. If these gentlemen would only take the pains to apply to any of the bureau officers, they will learn that there are amounts which cannot possibly be expended during the fiscal year for which they are appropriated. The reasons are obvious. Contracts have to be made. Public notices must be given, to invite proposals, and sometimes three months are consumed in their publication. Afterwards months more are consumed in the delivery of the articles, and you are really at the close of the year before you can use any of the articles for the purchase of which the appropriations are intended. And I would suggest to the gentleman that he might just as well provide that beef and pork should not be consumed, except during the fiscal year for which they are intended, as to say that the appropriation should not be used except during the fiscal year for which they were made. The law now supplies the limitation by providing that the amounts shall go to the surplus fund, after two years. And therefore I make the point of order on this amendment, for the purpose of getting rid of this discussion, that it is out of order because it proposes to change the existing law, which declares that these appropriations shall not return to the Treasury until after two years; whereas the operation and effect of the amendment proposed by the gentleman from Ohio is to alter the law, and to limit the term to one year.

The CHAIRMAN. The Chair would suggest to the gentleman from Virginia, that he thinks the point of order comes too late. The amendment has been received by the committee, and has been debated on both sides.

Mr. MILLSON. The vote has not been taken upon it.

The CHAIRMAN. The Chair would suggest further to the gentleman that that point has already been decided in committee on similar amendments to former appropriation bills.

The question was taken on Mr. SHERMAN's amendment as modified, and it was adopted.

Mr. HARRIS, of Illinois. I offer the following amendment:

Sec. — And be it further enacted, That the twelfth section of the act of March 3, 1845, "making appropriations for the naval service, for the year ending the 30th June, 1846," shall not be so construed as to include those papers which have the largest aggregate number of subscribers for a week, but it shall be construed to include those only having the largest list of permanent bona fide subscribers; and such publications as are required to be made weekly, shall be required to appear in the entire weekly editions of such papers respectively.

Mr. J. GLANCY JONES. I rise to a question of order. The amendment is not germane to this bill. It is giving a construction to a law. I admit that if the amendment were confined to the restrictions of the appropriations contained in this bill for this year, it might be perhaps in order; but I understand that the amendment proposes to give a construction to other matters outside of the appropriations in this bill.

Mr. HARRIS, of Illinois. The amendment which I propose relates to some six different appropriations in the bill through which the committee has just passed. It relates to the construction of a law governing these appropriations, and thus alone it is strictly legitimate, and bearing upon the questions involved in this bill. There was no point at which I could offer it more than at any other, because it relates to appropriations in the State, War, Treasury, Interior, and all the other Departments, and the amendment was not in order at one point more than at any other. The amendment comes in properly here, not as changing an existing law, but as defining it, and as giving instructions on which the Departments have differed. It does not change it at all. I will hear the opinion of the Chair upon the point of order. I am perfectly certain that the amendment is not only in accordance with the ruling of the Chair on other occasions, but that there can be no point made against it.

Mr. HOUSTON. I rise to a point of order on that amendment.

The CHAIRMAN. There is one point of order already pending.

Mr. HOUSTON. But I want to present a different view of the question of order.

The CHAIRMAN. The Chair will hear the gentleman's suggestion.

Mr. HOUSTON. The effect of this amendment is precisely the same as enacting a new law. It proposes to construe the law by Congress in a way different from that in which it is construed by the law officers of the Government. The result is to change the law, and that being the case, in my view, it is out of order. A legislative construction is a substantial enactment of a new law. The construction given to this law by the officers whose duty it is to construe it, is different from the one which the gentleman now proposes to give; and his amendment is necessary, in his estimation, to change that construction, or, in other words, to change the law.

Mr. HARRIS, of Illinois. When we are through—

Mr. HOUSTON. I object to the amendment.

Mr. HARRIS, of Illinois. Perhaps the gentleman desires to make another point of order, on the principle of the double-barreled gun—if one misses the other will kill. I hope the Chair will decide the question.

The CHAIRMAN. The Chair must say to the gentleman that the amendment proposes legislation, a change of the law, and is not in order.

Mr. HARRIS, of Illinois. The gentleman from Illinois simply says that the Chair is mistaken on that point.

The CHAIRMAN. That is the opinion of the Chair.

Mr. HARRIS, of Illinois. Well, the Chair rules the amendment out of order?

The CHAIRMAN. That is the decision of the Chair.

Mr. J. GLANCY JONES moved that the committee rise, and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BURNETT reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of Government for the year ending June 30, 1859, and had directed him to report the same to the House, with sundry amendments.

Mr. J. GLANCY JONES. I move the previous question upon the bill.

Mr. SHERMAN, of Ohio. Before the previous question is seconded, I desire, with the consent of the gentleman from Pennsylvania, to make a modification in the amendment adopted in the committee, in regard to the extra pay of the reporters.

Mr. J. GLANCY JONES. The House should either strike out the amendment to which the gentleman alludes, or alter its phraseology; and I will give way to him to put it in proper shape for the House to vote upon it.

Mr. SHERMAN, of Ohio. I will, then, if there be no objection, strike out the words "present session of Congress," and insert, "next regular session of the Thirty-Fifth Congress."

There was no objection; and the amendment was modified accordingly.

The previous question was then seconded, and the main question ordered.

CLERICAL ERROR.

Mr. FLORENCE. I rise to ask the consent of the House to correct a clerical error of a very material character in the resolution in relation to the efficiency of the Navy, acted upon yesterday.

The SPEAKER. The resolution is in the Senate, but the gentleman can enter a motion to reconsider the vote of the House yesterday.

Mr. FLORENCE. I will do that, and I move that a message be sent to the Senate requesting them to return the resolution to correct an error.

The SPEAKER. The Chair would state to the House that a clerical error occurred in the amendment to the resolution of the Senate with reference to the Naval board—1858 was inserted when it should have been 1859. The papers, as soon as they had been acted on, were sent to the Senate, and the motion of the gentleman from Pennsylvania is that a message be sent to the Senate, requesting that body to return the original papers.

Mr. FLORENCE's motion was agreed to.

MOTION TO RECONSIDER.

Mr. DAVIS, of Massachusetts. I move to reconsider the vote whereby the House referred to the Committee of the Whole on the state of the Union the bill to amend the laws granting land to soldiers and seamen, so as to include those engaged on board private armed vessels regularly commissioned by the United States.

The SPEAKER. The motion will be entered.

PRINTING OF TESTIMONY.

Mr. HOUSTON. I am instructed by the Committee on the Judiciary to ask permission to have printed some evidence for the examination of that committee, preparatory to their report. The evidence is very voluminous. I offer the following resolution:

Resolved, That the Committee on the Judiciary be authorized to have printed, under the direction and for the use of the members of the said committee, the evidence in the case of Judge John C. Watrous, pending before said committee.

The resolution was adopted.

Mr. MORGAN. I want to ask the gentleman from Pennsylvania [Mr. FLORENCE] whether those papers had any reference to the late election in Philadelphia? [Laughter.]

Mr. FLORENCE. Not officially.

And then, on motion of Mr. COMINS, (at thirteen minutes after five o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, May 6, 1858.

Prayer by Rev. J. A. HARROLD.

The Journal of yesterday was read and approved.

COMMITTEE ON FINANCE.

The VICE PRESIDENT appointed Mr. HAMMOND to fill the vacancy in the Committee on Finance, occasioned by the resignation of Mr. BRIGGS.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a petition of Darcus Hall, praying to be allowed a pension and bounty land, as the widow of Simeon Reno, a sergeant in the revolutionary war; which was referred to the Committee on Pensions.

Mr. GWIN presented a memorial of McKean Buchanan, a purser in the Navy, praying indemnity for losses occasioned by the illegal orders of his commanding officer; which was referred to the Committee on Naval Affairs.

Mr. JONES presented a petition of citizens of Butler county, Iowa, praying for the establishment of a mail route, with weekly service, from Cedar Falls, in Black Hawk county, via Willsborough, in Butler county, to Leoni, the county seat of Butler county; which was referred to the Committee on the Post Office and Post Roads.

Mr. SIMMONS presented the petition of John R. Bartlett, praying for the payment of certain expenditures made by him as commissioner of the United States under the treaty of Guadalupe Hidalgo, for running and marking the boundary line between the United States and Mexico; which was referred to the Committee on Claims.

Mr. STUART presented papers relating to the application of Thomas L. Disharoon to locate certain warrants on any of the public lands subject to private sale; which were referred to the Committee on Public Lands.

Mr. WADE presented a petition of business men of the northwestern lakes, praying that an appropriation may be made to ascertain whether Professor Ballot's rule by which the approach of storms may be foretold is applicable to the western lakes; which was referred to the Committee on Commerce.

Mr. WILSON presented a petition of citizens of Malden, Massachusetts, praying that the public lands may be laid out in farms or lots of limited size for the free and exclusive use of actual settlers only; which was ordered to lie on the table.

He also presented a petition of inhabitants of the town of Duxbury, Massachusetts, engaged and interested in the cod and haddock fisheries, on the coast of Massachusetts, praying that some provision may be made by law, so regulating the mode of taking those fish as to prevent the destruction of those fisheries; which was referred to the Committee on Commerce.

Mr. BENJAMIN presented a petition of the heirs and legal representatives of James Johnson, praying for the confirmation of their title to certain lands; which was referred to the Committee on Private Land Claims.

Mr. KING. I wish to present a petition; and as it is very brief I will read it:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, business men of the northwestern lakes, respectfully sheweth to your honorable bodies that, by a recent scientific determination of Professor Ballot, of Holland, a numerical relation between the force of the wind and the difference of barometric pressure at the several points of observation has been discovered, by which the greatest force the wind will attain during the succeeding twelve, eighteen, or twenty-four hours, may be told in advance. Professor Ballot maintains that his rule has held good for five years in Holland, without a single failure.

Your petitioners further show that no system of meteorological observation has ever been applied to the great lakes by the General Government, and that were instruments furnished to the light-keepers at the principal commercial ports, observations of the proper kind could be economically carried on until the availability of the law in question, as to the lake winds, should be practically tested.

Your petitioners humbly pray your honorable bodies to appropriate \$20,000 to purchase the requisite instruments, and to defray the telegraphic expenses between the points of observation and the National Observatory at Washington, in order to discover whether this valuable rule can be applied to lake navigation.

I ask that it be referred to the Committee on Naval Affairs.

It was so referred.

REPORTS OF COMMITTEES.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred the motion to print the message of the President of the United States in answer to a resolution of the Senate, concerning the outrages committed against the family of Mr. Dickson, an American citizen, residing at Jaffa, in Palestine, reported in favor of the motion; and it was agreed to.

Mr. CLAY, from the Committee on Commerce, to whom was referred a memorial of Douglas Ottinger, of the United States revenue service, pray-

ing for remuneration for the invention of an apparatus to rescue the lives of passengers in an open sea, reported adversely thereon.

Mr. BIGLER, from the Committee on Commerce, to whom was referred a petition of the president and stockholders of the Florida steam-packet company, asking compensation for the seizure and detention of the steamer Carolina by the collector of the port of Jacksonville, submitted an adverse report; which was ordered to be printed.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of John Frink, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of S. Van Sickell, J. R. Bellerjeau, and George C. Leidy, for an increase of compensation as route agents, submitted an adverse report; which was ordered to be printed.

Mr. BRIGHT, from the Committee on Public Buildings and Grounds, to whom the subject was referred, reported a bill (S. No. 319) to enlarge the public grounds surrounding the Capitol; which was read, and passed to a second reading.

Mr. STUART. The Committee on Public Lands, to whom was referred the bill from the House of Representatives (H. R. No. 2) donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, have very carefully considered this question; and, in view of the circumstances existing in the committee, have directed me to report the bill back to the Senate without any recommendation for or against it, submitting it to the action of the Senate.

CUSTOM-HOUSE AT BATH.

Mr. HAMLIN. The Committee on Commerce, to whom was referred the bill (S. No. 307) to authorize the Secretary of the Treasury to sell the old custom-house and site in Bath, Maine, and for other purposes, have directed me to report it back with an amendment. I ask for the consideration of the bill now; it will not consume the time of the Senate, and it is desirable that the authority should be vested in the Secretary at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The amendment of the Committee on Commerce was, after the word "sell," to insert the words "at public auction, after first fixing a minimum price therefor;" so that the bill will read:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized to sell at public auction, after first fixing a minimum price therefor, the old custom-house and site at Bath, Maine, when the new custom-house shall be completed and fit for occupation; and he is hereby authorized to use all or so much of the money arising from the sale of said old custom-house and site, as shall be necessary to furnish the new custom-house.

Mr. POLK. I would ask the Senator from Maine whether the bill makes no provision for advertising the sale before it takes place?

Mr. HAMLIN. No, sir, it does not; but I suppose it will be all under the direction of the Secretary, and I presume of course he would advertise it. It is to be sold at public auction after first fixing a minimum price. I do not think any such provision is necessary, but the Senator can offer an amendment to that effect, if he thinks it necessary.

Mr. FESSENDEN. This is the ordinary form.

The amendment of the committee was agreed to. The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COMMITTEE SERVICE.

Mr. TOOMBS. I renew the motion which I made yesterday, that I be discharged from further service upon the Committee on the Judiciary.

The VICE PRESIDENT put the question, and the noes appeared to prevail.

Mr. TOOMBS. I call for a division.

Mr. BENJAMIN. I hope my friend from Georgia will reconsider his request. We can very illy spare him from that committee. He would be a very great loss to us. I do not know how his place could be very well supplied. Of course, if he insists on his motion I must, from courtesy, accede to it, but I should regret exceedingly if we were to lose his services on that committee. I hope he will withdraw his motion.

Mr. TOOMBS. I insist on my motion. I hope the Senate will accede to my request to be excused. The reason is personal entirely.

Mr. PUGH. I hope the Senator from Georgia will not press the motion. I concur in all that has been said by my friend from Louisiana. I should consider it a great loss to the committee. I do not know, myself, of any reason why the Senator should press the motion. I assure him that all his associates on the committee would be very loth to part with him.

Mr. TOOMBS. I insist on my motion.

Mr. MALLORY. I should dislike very much to see the Senator from Georgia relieved. There are a great many reasons which suggest themselves to me, and must to others, why we should desire him to continue on that committee. I shall vote for relieving him with a great deal of regret. I shall do so if he insists upon it, as a matter of course, for I should dislike to remain upon any committee on which I did not wish to serve, and I suppose we shall have to agree to the motion if he insists on it.

Mr. BAYARD. I regret exceedingly that the Senator from Georgia should have made this motion. Of course, in matters connected with the organization of committees I am always disposed, so far as my vote is concerned, where a member of the Senate desires to retire from a committee, to allow him to do so. Though I value the services of the Senator from Georgia very highly, and I think it would be a great loss to the committee if he were to withdraw from it, I shall not feel myself at liberty to oppose it if he insists upon the motion. At the same time, however, I shall regret it very much.

The motion was agreed to.

BRUNSWICK NAVAL DEPOT.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to inform the Senate what measures have been taken by the Department to execute the act of the 28th of January, 1857, "authorizing the establishment of a naval depot on Blythe Island, at Brunswick, Georgia;" what steps, if any, the Department proposes to adopt in the prosecution of said work; and at what time it is intended to commence and go on with the same; and the reasons why the commencement of the necessary works has not been made.

BILLS INTRODUCED.

Mr. POLK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 318) for the relief of Keep, Bard & Co., J. Caulfield, and Joseph Landis & Co.; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. POLK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 317) for the relief of Thomas L. Disharoon; which was read twice by its title, and referred to the Committee on Private Land Claims.

MESSAGE FROM THE HOUSE.

The following message was received from the House of Representatives by Mr. ALLEN, its Clerk:

MR. PRESIDENT: I am directed by the House of Representatives to request the return from the Senate of the resolution (S. No. 4) to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

On motion of Mr. HUNTER, the Secretary was directed to return the joint resolution to the House of Representatives.

A message was subsequently received from the House, announcing that the House had concurred in the Senate amendments to the joint resolution with an amendment.

RUFUS DWINEL.

Mr. FESSENDEN. The Senator from Louisiana [Mr. BENJAMIN] the other day objected to a private bill that was taken up, and it was passed over. On examination, he authorizes me to say that he has examined the bill and report, and is satisfied that the claim is perfectly correct. I ask the Senate to take up the bill, and pass it now. I wish it sent to the other House at once. It is the bill (S. No. 189) for the relief of Rufus Dwinel. The Senator from Louisiana found that he was in error as to his apprehension of the bill, and the report was perfectly satisfactory to him.

Mr. EVANS. What is it about?

Mr. FESSENDEN. It is to give him a bal-

ance of an old claim; and it has been reported unanimously from the Committee on Claims.

The motion was agreed to; and the bill (S. No. 189) for the relief of Rufus Dwinel was read a second time, and considered as in Committee of the Whole.

It provides for the payment of \$11,748 03, being for interest, at the rate of six per cent. per annum, on the sum of \$13,037 72, from the 4th day of March, 1837, when the latter sum was due from the United States to Dwinel's assignor, to March 11, 1852, when an appropriation was made for its payment.

Mr. CLAY. Is there any report accompanying the bill?

Mr. FESSENDEN. Yes, sir; there is a report.

Mr. CLAY. I should like to hear it.

Mr. FESSENDEN. I can state in a few words what the case is.

Mr. CLAY. I will state to the Senator what my objection is. It has not been the policy or practice of the Government to pay interest, and I should object to it on that score. Interest is never allowed by the Government except as matter of compact or special legislation.

Mr. FESSENDEN. If the Senator will hear the case, I think he cannot have any objection at all. One Colonel Thomas, of whom Dwinel is the representative, was a contractor with the Post Office Department, and the Department commenced a suit against him, at his request, in order to settle his accounts. The jury, in their verdict, gave to him a certain sum of money, with interest. They did not include the amount of interest in the sum named in the verdict as due to him. The trial was here in this District. There was no dispute about the perfect fairness of it from the beginning to the end, or about the money due. Congress, a few years ago, appropriated an amount to pay the principal, but, under some misapprehension, did not pay the other part of the verdict, which was for the interest; and this is to give him the interest up to the time when he received the principal, according to the verdict rendered. It is a part of the verdict.

Mr. CLAY. I do not know how such a verdict could have been entered.

Mr. FESSENDEN. The jury, instead of doing as they usually do—calculating the interest up to the time of the verdict—gave him the amount due up to a particular period, with interest to the time of the verdict, leaving the interest to be determined as a matter of calculation.

Mr. CLAY. Then I ask the Senator what the judgment was rendered for?

Mr. FESSENDEN. The judgment was rendered in that form, but no execution could be issued against the United States. If execution could have been issued, it would have been very easy for the clerk to calculate the amount. That is the ground of the claim. It is unanimously reported from the Committee on Claims.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TEXAN BOUNDARY.

Mr. DOUGLAS. The Committee on Territories to whom was referred the House bill (H. R. No. 152) to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between the Territories of the United States and the State of Texas, have had the same under consideration, and have directed me to report it back with an amendment which I think renders the bill entirely unobjectionable. I ask that it be acted upon now. I do not think it will take a moment.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment of the Committee on Territories was, to insert at the end of the bill:

Provided, That the person or persons appointed or employed on the part and behalf of Texas are to be paid by said State: *Provided further,* That no person shall be appointed or employed in this service by the United States, but such as are required to make the necessary observations and surveys to ascertain such line, and to erect suitable monuments thereon and make return of the same.

Mr. DOUGLAS. The object of the bill is simply to provide for running so much of the boundary between the State of Texas and the territories of the United States as has not been heretofore

run and established. The United States are to appoint persons on their part, and Texas on its part, Texas paying her own appointees. The last proviso is to cut off the back business. It provides that the officers are merely to run the boundary line and put up the monuments, not to make explorations of soil, and bring back bugs and plants and so on. That is all to be cut out. It is to be simply a naked boundary survey, and nothing else. I hope the amendment will be adopted, and that the bill will be passed.

Mr. HOUSTON. I have not had the pleasure of seeing the amendment before, and I would suggest to the honorable Senator that I am anxious to look into the subject.

Mr. DOUGLAS. Then I will ask that the bill be laid over for a day, that the Senator from Texas may consider it. I move that it be postponed until to-morrow.

The motion was agreed to.

SAN FRANCISCO POST OFFICE.

Mr. BRODERICK. I introduced, some two weeks since, a resolution of inquiry in regard to the San Francisco post office. I move that it be now taken up from the table and considered.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Postmaster General be requested to furnish the Senate with a quarterly statement showing the aggregate amount collected at the post office at San Francisco over and above the lawful postage, for box rent from July 1, 1854, to December 31, 1857; and that he be requested to inform the Senate what law or what regulation of the Department authorizes the collection of the same, and also whether the postmaster has any legal authority to discriminate against one class of citizens and in favor of another class by withholding letters—as letters are withheld at the San Francisco post office—from those who will not submit to the exaction for box rent, until at least an hour after letters are delivered to those who do thus submit to the exaction.

Mr. BIGLER. I certainly do not intend to object to the passage of a resolution of inquiry; but I suggest to the Senator from California that this resolution asserts as a fact what may not exist at all. We call on the Postmaster General to communicate to the Senate the amount of receipts which have been illegally received at the San Francisco post office. Now, I suggest that the resolution ought to call for information as to the fact whether illegal fees have been received for the use of the boxes; and if so, to what extent. I do not like to vote for a resolution which asserts as a fact that which the Senate does not know to be so.

Mr. BRODERICK. I am very well satisfied that illegal fees have been collected; but I have no objection to striking out that portion of the resolution, and modifying it so that we can get the information.

Mr. YULEE. I will make a distinct motion. It was my intention to do so, as I informed the Senator from California. The first branch of the resolution proposes to inquire what amount of box rents were received at the San Francisco post office between the 1st of July, 1854, and the 31st of December, 1857. There can be no objection to that inquiry, if it is deemed desirable by the Senator, though the information can be furnished to him without a call from this body on the Department. The resolution then continues:

"And that he be requested to inform the Senate what law or what regulation of the Department authorizes the collection of the same."

We know what law there is, and it is our duty as legislators to know what the law is on the subject. I can inform the gentleman—

Mr. BRODERICK. I would rather get the information from the Department than from the chairman of the Committee on the Post Office and Post Roads.

Mr. YULEE. The Department have once or twice reported on that subject. That will not be material, if the Senator desires to hear from them, though the law is before us. All the rest of the resolution I will move to strike out, and I make that distinct proposition. The words to be stricken out are:

"And also whether the postmaster has any legal authority to discriminate against one class of citizens, and in favor of another class, by withholding letters—as letters are withheld at the San Francisco post office—from those who will not submit to the exaction for box rent, until at least an hour after letters are delivered to those who do thus submit to the exaction."

Now, I take it, it is both becoming and proper in the intercourse between the different Departments of the Government, that we should practice

courtesy; and I think that is a very discourteous inquiry, pregnant with a very unjust imputation, and especially as I can assure the Senator that no such occurrence has taken place in California. I think the Senator has received a letter very recently which ought to satisfy him on that point. However, I think the Senate ought not to stultify itself by asking such a question as whether a postmaster has legal authority to discriminate between one class of citizens and another. We know certainly that he has not; and such an inquiry, it seems to me, is very unnecessary to be made of one of the Executive Departments, and very discourteous.

The Senator assumes in the resolution, as has been said by the Senator from Pennsylvania, as a fact, what the Senate cannot know to exist as a fact, and what I am sure does not exist as a fact. If the Senator desired to make the inquiry as to any particular case, then it might be proper to call on the Executive for information. If the Senator knew of any case in which there has been a malfeasance by the postmaster at San Francisco, as is implied here, then it might be proper for him to introduce a resolution, calling on the Department for the facts in reference to that particular case. If he knows of the existence of such a fact, it is his duty to communicate it to the Department; and if the Department fail to act on his information, then to pursue whatever other course may be proper to bring the offending officer to judgment, either on the part of the Executive or the Legislature, if legislative interference should be necessary. But I take it, sir, that the Senator should, if he believes there has been malfeasance on the part of the postmaster at San Francisco, specify what it is, and call for the specific information on that particular case; otherwise we require the Postmaster General, by a sort of drag-net resolution, to float about in search of some cause of complaint against the postmaster at San Francisco, when he is not in possession of any fact of complaint, or any fact of malfeasance on the part of the postmaster there. I move, therefore, to strike out the whole of the latter clause as entirely unnecessary; and if the Senator chooses to introduce an additional clause here, specifying some particular case of complaint, and calling upon the Department for such information as its records may furnish in regard to that particular cause of complaint, I should have no objection; but I do object to the form in which it is put here, as stultifying the Senate and discourteous to a branch of the Government which we unite in administering.

The VICE PRESIDENT. The Senator from Pennsylvania suggested an amendment.

Mr. BRODERICK. I accept it.

The VICE PRESIDENT. The Chair must ask the Senator to put it in writing, for he does not know how to have it recorded.

Mr. BIGLER. The amendment I suggested was, that instead of asserting a fact, the inquiry should be into the fact. I will see the resolution in a moment, and ascertain at what point it should come in.

Mr. BRODERICK. Will the Secretary read the amendment?

The VICE PRESIDENT. The amendment of the Senator from Pennsylvania is, after the words "1857," in line six, to insert, "and whether any amount has been collected above the lawful postage."

Mr. YULEE. And strike out all the rest of the resolution.

The VICE PRESIDENT. The amendment of the Senator from Florida being to strike out and insert, the resolution must first be perfected.

Mr. BRODERICK. I accept the amendment offered by the Senator from Pennsylvania; but I am at a loss to know why the Senator from Florida objects to the call for this information that I request the Postmaster General to give the Senate. I am well satisfied that this postmaster has been guilty of malfeasance in office. I am satisfied of it, sir, because a gentleman who formerly occupied a position in the post office at San Francisco made an affidavit, some three months since, specifying the acts of misconduct. I handed that affidavit to my colleague, and I believe he put it on file in the Post Office Department; but instead of the Postmaster General taking any notice of it, he inclosed it to the postmaster at San Francisco; and the first information I had of it, was when I

received my correspondence a day or two since, and learned that the postmaster at San Francisco had denied the charges alleged against him. I have thought that it was the duty of the Postmaster General, when a serious charge was made against one of his officers, not to inform the officer of the charge before he ascertained whether there was any truth in it or not. This charge was, that he had collected money on French letters, which he was not entitled to collect; and instead of making any return of it to the Government, put the money into his pocket. The man who made the charge is reputed in California to be a gentleman, and I do not think he would make an affidavit to a falsehood.

Now, sir, if the Senator from Florida wants the proof, I think I can give it to him. I have not got it in my possession to-day, but I will allow the resolution to go over until to-morrow, and I think I shall be able to satisfy the Senator from Florida, that this postmaster has been guilty of misconduct and malfeasance in office; but the Postmaster General, and several other gentlemen about Washington, have been trying, in my opinion, to screen him. If there is any information in the Post Office Department in regard to his conduct in office, I should like the Senate to have it. I am not in communication with the Post Office Department. I have never entered any door of the building since I have occupied a seat on this floor, and I hope I never shall do so, while the present occupant is in possession of the building.

I will not urge the resolution to-day; I want to convince the Senator from Florida, as he appears to be satisfied that there is no charge against this officer, that there are serious charges on file in the Post Office Department against him. I have a copy of them at my room, which I will bring to-morrow.

The VICE PRESIDENT. Does the Senator move to postpone the subject until to-morrow?

Mr. BRODERICK. I do.

Mr. YULEE. I will say a word in reply to the Senator from California before that motion is put. The Senator from California brings up a charge against the postmaster at San Francisco, to which his resolution has no reference whatever, and concerning which his resolution will call out no information at all. I cannot, therefore, help thinking that the Senator has been somewhat careless in the preparation of his resolution, and would recommend him to revise it.

Mr. BRODERICK. When I introduced it I had not the last information in my possession.

Mr. YULEE. If the Senator will look to his resolution, he will see that the resolution will call out no information on the point to which he refers. Now, as he has thought proper to bring up that charge before the Senate against the postmaster at San Francisco, who is known to us as a brother of a former associate here, and who is an officer of standing and deserving to be defended when he is not known to have been a malfeasor in his office, it is proper for me to say, both in vindication of the Post Office Department and of the postmaster at San Francisco, that the charge referred to by the Senator from California, and which he says was filed in the form of an affidavit, was filed with the Postmaster General—an affidavit of Mr. Folger, I believe; and the Postmaster General did, as he does in every other case of charge against an officer, and as it is his imperative duty to do before he can proceed further to punish the officer, or to institute proceedings against him, forward a copy of the charge made against the officer in California, and call upon him for an explanation and answer. That call was made immediately upon the receipt of the charge. The answer was made by return of mail, by the first vessel which returned after the charge had been received in San Francisco, and the copy of his explanation was communicated to the Senator from California. Now, if he proposes any further action, this is not the tribunal. In a very short time, when he is called to act upon the nomination of the postmaster of San Francisco, there will be an opportunity for him to bring forward his charges, and take action upon them in the Senate, so far as the Senate is concerned. Beyond that, I do not see how the Senate can interfere. But, sir, the amendment which the Senator from Pennsylvania has proposed to this resolution will not remove the objection—

The VICE PRESIDENT. The Chair will take

the liberty of reminding the Senator that the motion before the Senate is one simply to postpone the resolution until to-morrow.

Mr. YULEE. Very well.

Mr. BRODERICK. I should like to say a word, since the gentleman has made a speech.

When I introduced the resolution now under consideration, I had not the information from the Post Office Department to which the Senator refers; and I do not want, at this time, to make any use of it. As the Senator from Florida stated that the information I wanted to get from the Post Office Department could be of no use to the Senate or to myself, I thought he was of the opinion that this officer had committed no misconduct in office, and I wanted to remind the Senate that he had—at least that I thought he had. I shall be prepared, when the name of this officer is sent in for confirmation, to prove that he has been guilty of very bad conduct in office.

The motion to postpone was agreed to.

FRAUDS UPON THE REVENUE.

Mr. SIMMONS. In December last, I gave notice that I should ask leave to introduce a bill to prevent the continuance of frauds upon the revenue. I gave this notice during the consideration of the resolution of the Senator from Kentucky, [Mr. CRITTENDEN,] which was then laid over. I now ask leave to introduce the bill, and I desire to have it printed for the consideration of the Senate, and I should like to have some early day in next week assigned for the consideration of that resolution. If it be in order, I should like to have it assigned for Monday next, when I will call it up and explain the provisions of the bill.

Leave was granted to introduce a bill (S. No. 320) to prevent the continuance of fraud upon the revenue, by the under valuation of foreign imports; which was read twice by its title.

Mr. SIMMONS. I now move that the bill be printed for the information of the Senate; and I should like to have the resolution offered by the Senator from Kentucky, which has two branches to it, one providing for a system of home valuation, and the other for increasing the revenue, assigned for a day when I may explain the object of the bill.

The motion to print was agreed to.

Mr. BENJAMIN. Has the bill been sent to any committee?

Mr. SIMMONS. No, sir; but I have had a consultation with the Committee on Finance, and they would like to have it printed and considered without being sent to them.

The VICE PRESIDENT. The Chair does not understand what resolution the Senator refers to.

Mr. SIMMONS. The resolution offered by the Senator from Kentucky, in December last, which was laid on the table temporarily.

Mr. CLAY. The hour has arrived for the special order, and I hope we shall proceed with it.

Mr. SIMMONS. Let us assign this bill for Monday.

Mr. CLAY. The Senator, in the mean time, can look up the resolution and have it found.

The VICE PRESIDENT. The resolution has been found; but the time has arrived for the consideration of the special order.

EXPLANATION.

Mr. JOHNSON, of Arkansas. I should be glad to correct an error in a statement of mine, made the day before yesterday. I stated, in the course of the debate on the printing bill, on Tuesday last—

“Why, sir, there is a single item of public printing, which has been in the course of prosecution for the last fifteen years, and is not yet completed, and there is not now, that we are aware of, a solitary entire copy of the work in existence. Thirty volumes have already been printed, and it is not yet complete. I have inquired in our public library, and I cannot find a complete copy of it.”

There is an error in that statement, as I am now informed there are a number of complete copies. Some of the copies are incomplete, in consequence of fire having destroyed them, but I believe the number of that class is only about twenty. There are a good number of complete copies. I inquired at the congressional library, some months since, and was then told that there was no complete copy in the congressional library, as I understood; but I am now informed that there are complete copies of the work in the congressional library. I wish to make this correction, and to say, that the work has extended to thirty-six volumes, thus far. I allude to Wilkes's exploring expedition. I will

also call attention to the fact that I said on that occasion—

“These matters seem to be got up to gratify the personal pride and personal ease of officers who engage in expeditions and surveys, rather than for any other purpose.”

That was rather a personal expression, perhaps; and I believe was wrong. I do not think I should use it in that way. They are not got up for this purpose. In the first place, they are got up for some great public and useful purpose; but in general debate here, we sometimes, perhaps, unwittingly make remarks that have a tendency to assail gentlemen. My attention has been called to this; and I do not like to do any injustice. I do not wish to make that charge; and I do not. I do not believe these expeditions are got up for the personal ease and comfort and honor of the officers under whom they are conducted; and, in giving utterance to that expression in the first instance, I went, in the latitude of debate, perhaps a little too far.

ADMISSION OF OREGON.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order, being the bill for the admission of Oregon into the Union, which is before the Senate as in Committee of the Whole.

Mr. CLAY. That is not the special order for to-day.

The VICE PRESIDENT. Yes, sir; it is the unfinished business of yesterday.

Mr. CLAY. But when the hour arrives which is assigned for the special order, as I understand, according to the rules of the Senate you must proceed with that. That is my understanding; but I may be in error.

The VICE PRESIDENT. The unfinished business of the day before stands at the head of all the special orders, and becomes the first order for the next day.

Mr. HUNTER. I understand that the Senator from Maine [Mr. HAMLIN] desires to proceed to-day, and I move to postpone the Oregon bill until to-morrow at one o'clock, so that we may go on with the fishing bounties bill.

Mr. CLAY. Move the postponement without naming any particular hour.

Mr. HUNTER. I make the simple motion to postpone.

Mr. DOUGLAS. If the Senator from Maine came in to-day for the purpose of making a speech, and desires to do so, I shall feel bound to yield; but I can only do so on the condition that the Oregon bill be postponed until to-morrow at one o'clock, and made the special order for that time, so that it may not lose its priority.

Mr. HUNTER. To-morrow is private bill day.

Mr. DOUGLAS. If it is postponed to enable the Senator from Maine to make a speech, with the understanding that it does not lose its priority, I shall not object; but I do not feel at liberty to consent that it shall lose its priority and go behind all the other special orders.

The VICE PRESIDENT. It must go behind all before it, if it be postponed.

Mr. STUART. I suppose, if the suggestion of the Senator from Alabama is taken, that the bill be merely postponed, it may come up again to-day. The Senator from Maine may get through with his remarks in time for that.

The VICE PRESIDENT. If it is merely postponed now for the purpose of enabling the Senate to take up the other bill, it will come up next.

Mr. HUNTER. I so modify my motion.

Mr. DOUGLAS. With that explanation, I have no objection to it.

The motion to postpone was agreed to.

FISHING BOUNTIES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 10) repealing all laws or parts of laws allowing bounties to vessels employed in the bank or other cod fisheries.

Mr. HAMLIN. Mr. President, the relations which the fisheries have borne in every country to the commercial and naval prosperity of that country, I think, are intimate and important. They are measured by no narrow vision; they are circumscribed by no local position; and I think if the Senator from Alabama [Mr. CLAY] had risen above the mere locality of the fisheries, and had proceeded to make an investigation of the subject upon a broader principle, he might have

come to a different conclusion—at least he might have divested himself of that bitterness which was witnessed in the sneer upon his face, if not in the language which he uttered when he said that the taking of cod was a momentous concern. The mere act of taking cod may be objectionable, if the Senator pleases, to that sneer; but when measured by other considerations that justly and properly belong to it, and when viewed in an enlightened sense—in that sense which belongs to an American statesman and to an American Senator—it is worthy of anything else but the sneer of any Senator. The fisheries are local. The Ruler of the world has made them so. The waters of the far North are the fields in which the fish are taken, and it would be natural to suppose that the people residing near to those fields are employed in that pursuit. Though they are local, they are, nevertheless, in their importance, national. So the fields in which the sugar-cane is cultivated are peculiar to that State which is represented by the Senator who sits beside me, [Mr. BENJAMIN;] and I affirm here to-day that while you pay a bounty to the fishermen, for national purposes, as I shall endeavor to establish, you pay a bounty, by your system of revenue laws, to the planters and growers of sugar-cane in Louisiana. You may say that the one is based upon revenue, and for revenue purposes. My answer is, that the other is for a purpose as national, and as broad; and that is, of training seamen for the naval service.

In every country which has existed from the formation of the world to the present time, the relations between the fisheries and the commerce and the naval power of the country have been intimate and direct. Indeed, sir, there is no country on the face of the globe that has been marked and distinguished for its naval or its commercial supremacy, that has not had a corps of fishermen from which to support both of these institutions. From the days of Scripture times, from the day when Sidon was founded, which was the city of fish, down to the present moment, there has been no nation that has not relied for its commercial and its naval prosperity upon its fisheries as nurseries for seamen, to supply both its commerce and its navy. It is not my purpose now to follow, in detail, the positions which have been advocated by the Senator from Alabama, though, in the line of argument which I propose, I think I shall very fully meet the suggestions which he has made. One position, however, which that Senator has assumed requires a direct answer and investigation, and it is as to the nature and origin of these bounties. The Senator has followed precisely the line of argument laid down in the report made by Mr. Benton in the Senate in 1846. Mr. Benton elaborated the points, as the Senator from Alabama has done, in an argument. The Senator has told us that these bounties originally were designed as a drawback for the duties imposed upon the salt consumed in the fisheries. Well, sir, I am not disposed to deny that in the early history of this matter, the amount of duty imposed upon salt had a controlling influence upon many minds; nor am I now disposed to deny that the relief, the protection, the aid, the bounty—call it by whatever name you may please—that was granted by the Government, had, at that time, a relative connection with the duty imposed upon salt. It is true; I do not deny it; but still I affirm that it was, nevertheless, just as much a relief to the fisherman as though it had been a bounty conferred upon him in another form, and in another manner. What did it matter to him whether the money which he received for following his avocation was received in direct terms from the Treasury, or whether it was drawn from the Treasury as a drawback for the duty on the salt which he had used? To him it was precisely the same.

But, sir, that that is the policy to-day, that it was finally the policy which the Government in its wisdom adopted, I deny; and I disagree with the Senator from Alabama when he draws the conclusion that the system which exists to-day has any connection with the duties or drawbacks upon salt. The last law on the subject, which was passed in 1813, gave a bounty in words, and it fixed it upon the tonnage of the vessel, and that bounty was regulated according to the size of the vessel. It is true that in the same bill a duty of twenty cents a bushel was imposed upon salt; but the fair interpretation of that act is, that it

gave precisely what was asked. It was a departure from the old rule of making the allowance to the fishermen depend upon the amount of the duty upon salt. Besides, that same bill also allowed a drawback, giving to the fishermen a drawback and a bounty. That bill, by its terms, I say, proves clearly an intention to depart from the system which had marked the earlier period of the Government, when they did what they supposed was sufficient for the protection of the fishermen. The terms of that bill are conclusive that Congress designed to depart from the earlier policy of the bill, and to allow a certain bounty, on which the fishermen might rely. Did Congress, then, provide, as they did in any other bills, that the amount the fishermen should receive should depend upon the amount of salt used? Did they provide that the fishermen should use any quantity of salt? No, sir. Did they provide that the sum which the fishermen should receive should be held in the Treasury until it was ascertained what amount of salt they used? No, sir; and yet these are all provisions which are contained in previous laws. By this law, the bounty is no way made dependent or contingent on the amount of salt they might use, or the duty which may have been then, or which might thereafter, be imposed upon salt. By this law the bounty was made payable, three eighths to the owner of the vessel, and five eighths to the crew. The law of 1819 only increased the amount of the bounty, and is the law under which they are now paid.

But, sir, whatever may have been the view of certain men in relation to allowing a drawback as an equivalent to the fishermen in an earlier day, I answer that it was only the opinion of those men who expressed it; and for other, and for better and for higher reasons, members may have voted for that system who did not agree with the reasons which were given by those who might have voted for it for other purposes. The last law fixes and determines a rate of bounty—an obnoxious word to the Senator from Alabama, and an obnoxious word to myself; for, as a general system, I agree fully with him, that it is not the policy of the Government to pay a direct bounty upon any branch of industry. If, however, there are peculiar reasons which make any class of the industry of the country deserving of special protection—if there are any reasons why bounties, either direct or indirect, ought to be granted for special purposes—I am ready to examine that question outside of the general rule which the Senator lays down, and in which I agree with him.

So much for the general proposition of the Senator from Alabama that these bounties had their origin in a drawback, and that it was designed by Congress to aid the fisheries only to the extent of the amount of the duty upon salt which was imposed upon them. I say that when the acts of 1813 and 1819 were passed it was the design of the Government to foster this branch of industry for the purpose of raising a corps of seamen who should always be found ready to participate in your commercial and in your naval marine, without which the prosperity of no country can be advanced; and whatever advances the prosperity of the country in commerce applies as well to Alabama as to Maine. You might as well say that we have no national interest in the gold-fields of California, because they are confined to that State; you might as well say that they are not national in their importance, as to say that the fisheries, because they are in the eastern States and beyond the eastern States, are not national, on account of having that particular location. Sir, they are national, and it is to that point that I invite the attention of the Senate. I propose to take a broader view of the importance of this question than that which has been given to it by the Senator from Alabama; and I think I can show conclusively that, though local in fact, they are national in their importance, and they address themselves to every section of the Union, and every locality where commerce and naval power has an interest, as strongly and as directly as to the people who reside in their immediate vicinity.

Whatever may be the views of the Senate—whatever may be the fate of the bill now pending, it is hardly sufficient to sneer it out of importance by limiting it to the mere catching of fish. To show what has been the regard with which these fisheries have always been treated, from the

formation of the Government up to the present time—ay, sir, and before the formation of this Government—it will be my purpose to go as briefly as I may into their history. I design to show their importance to-day, and I hold that their importance to-day is equal to that which was attached to them more than seventy-five years ago.

The question of the fisheries on the northeastern coast was an important question with these States when they were colonies. Our right to them was a point which was mixed up with, and formed the basis of, the revolutionary struggle. They were treated by our revolutionary fathers as of vital importance. They were so regarded in the war of 1812, because they were considered then, as they are to-day, as the nurseries of seamen, and seamen can nowhere else be as well educated. I speak of American seamen; because I shall have occasion, before I close, to speak of the seamen that man your commercial marine and your naval service to-day. They are made up of foreigners. No wise statesman, no man who has regard for the interest of his whole country, I think, will desire to see either the commercial or the naval power of this country placed in the hands of unnaturalized foreigners. These interests are too dear to us all, too broad, too comprehensive, and too important, to be trusted to any other hands than those of American-born citizens, or at least of naturalized citizens.

Now, sir, we must not forget the importance of this question because the fisheries themselves happen to be local. They are outside the limits of our own country mainly; they are not as accessible to us even as they are to our neighbors in the British provinces; but they are more accessible to the people of the eastern States than to those of any other portion of the Union. I have said that the question of these fisheries entered into, and formed a vital element of, the revolutionary war itself. The history of the times is full of it. More than that, the importance of these fisheries, in a commercial and a naval point of view, entered into the contests between France and England for a long period of time anterior to the Declaration of Independence. They were the subjects of strife and war between those Powers for more than a hundred years; and for what purpose? As the school of seamen. Many of the contests which took place between the Governments of France and Great Britain in the seventeenth and eighteenth centuries, turned directly upon the value and importance of the possession of these fisheries. Let me refer very briefly to their history.

By the treaty of St Germain's, in 1632, Nova Scotia was given to France; twenty-two years afterwards it was taken possession of by Cromwell. By the treaty of Baden, in 1667, after the restoration of the Stuarts, it was again secured to France. In the war between France and England, following the accession of William and Mary, Sir William Phipps, born in Maine, reduced Nova Scotia, and established an English government. By the treaty of Ryswick, in 1697, it was again restored to France. In the first year of the reign of Queen Anne, France and England were again at war, and the rights to the fishing grounds and a part of the territory of Maine were amongst the principal causes. Under the treaty of Utrecht, in 1713, it became an English province. This was effected mainly by New England fishermen. By the treaty of Aix la Chapelle, Cape Breton was restored to France. In the war of 1756, commonly called the seven years' war, England became possessed of Canada and all the French possessions. The Gaul resigned the mastery in the New World to the Briton.

During all these wars and negotiations, it is of great moment to see how these fisheries were regarded by each party, and the intimate connection and importance they bore to the naval power of each Government. It can all be seen by any one who will examine the negotiations of the times. In the negotiations in 1763, between France and England, it was said in London "that the fisheries were worth more than all Canada."

I have thus very hastily alluded to the early history of these fisheries to show how important they were regarded by those Governments. They are as important, to-day, to us, as they were to France and England at the period of time to which I have alluded. Subsequent to that period, and anterior to the revolutionary war, they were

treated by the colonies and by the mother Government precisely in the same light. Indeed, Mr. Otis remarked, and well remarked, in 1808, when a member of the other House of Congress, that these fisheries formed one of the main and principal causes of the revolutionary war. Any man who will examine the history of the times, any man who will examine the negotiations and what was said in relation to these fisheries at that period of time, can have no doubt as to the accuracy of Mr. Otis's statement.

I think it is shown very conclusively in documents which were printed at that period of time, that the British Government regarded these fisheries as of the greatest importance, and that they were, in truth and in fact, one of the principal causes of the war which led to the separation of the two Governments. Sir Josiah Childs, an English writer of high authority, used the following significant language at a very early day—within fifty years after the Puritans had landed at Plymouth:

"New England is the most prejudicial plantation to this kingdom, because, of all the American plantations, his Majesty has none so apt for building of shipping as New England, nor any comparably so qualified for the breeding of seamen, not only by reason of the natural industry of that people, but principally by reason of their cod and mackerel fisheries; and, in my opinion, there is nothing more prejudicial, and in prospect more dangerous, to any mother kingdom, than the increase of shipping in her colonies, plantations, or provinces."

That declaration of Sir Josiah Childs was followed up directly by the action of the British Parliament. They attempted to impose, and did impose upon the colonies, restrictions upon their commerce and fisheries which were onerous, and which contributed as much as, or more than, any other cause, to bring about the separation and the independence of the colonies. In 1733 a law was passed by the British Government imposing a duty upon rum, molasses, and sugar imported into the colonies from any of the West India islands, except in British bottoms. The penalty was the forfeit of the vessel. In 1764 this act was renewed, and admiralty jurisdiction was increased, and a trial by jury was denied. In 1775, February 10, Lord North introduced a bill, which became a law, "to restrain the trade and commerce of the provinces of Massachusetts Bay and New Hampshire, the colonies of Connecticut and Rhode Island and Providence Plantations in North America, with Great Britain and Ireland and the British islands in the West Indies, and to prohibit such colonies and provinces from carrying on the fishery on the banks of Newfoundland and other places therein mentioned, under certain conditions, and for a time to be limited." Certain persons who would not acknowledge the right of Parliament were to be excluded in the certificate of the Governor of good behavior, which, I suppose, was equivalent to loyalty to the Crown. This act was designed to starve the fishermen into submission. How it failed we shall see when we come to examine what these men did in the revolutionary war.

It was the policy of the mother Government to prohibit trade in other than in British bottoms between the colonies and her own ports; and subsequently absolutely to annihilate the colonial trade, for the reason that had been laid down by Sir Josiah Childs, that the colonies were dangerous, for they were increasing in seamen, and were promoting commerce.

This is the early history of these fisheries. It shows the importance which had been attached to them by both France and England while they were in controversy between the two Governments. It shows the importance attached to them by the British Government while we were colonies. It shows that they were one of the great causes which led to the revolutionary war. All this was because their possession would increase the commercial and naval power of the country owning them.

I now proceed to the consideration of another point, to show how important our Government considered them in the negotiations for peace at the close of the revolutionary war. It regarded them as of vital importance. They were made an ultimatum of peace. In September, 1779, the following instructions were forwarded to Mr. Adams from the Colonial Congress:

"That the common right of fishing should in no case be given up.

"That it is essential to the welfare of all the United States, that the inhabitants thereof, at the expiration of the war, should continue to enjoy the free and undisturbed exercise of their common right to fish on the banks of Newfoundland, and all the other fishing banks and seas of North America, preserving inviolate the treaties between France and the United States."

Sir, when these resolutions were under consideration in the Colonial Congress, on motion of Mr. Dickinson, of Delaware, the word "all" was inserted before "the United States," for he insisted, like a patriotic man, and like a statesman who took an elevated view of the question, that whatever interested a locality, and was of national importance, interested all. On his motion, by a vote of ten States to two, the word "all" was inserted. These instructions continue:

"That our faith be pledged to the several States, that without their unanimous consent no treaty of commerce shall be entered into, nor any trade or commerce whatever carried on with Great Britain, without the express stipulation hereinafter mentioned. You are, therefore, not to consent to any treaty of commerce with Great Britain, without an express stipulation on her part not to molest or disturb the inhabitants of the United States of America in taking fish on the banks of Newfoundland, or other fisheries in American seas, anywhere, except within the distance of three leagues of the shores of the territories remaining to Great Britain at the close of the war, if a nearer distance cannot be obtained by negotiation."

Admiralty jurisdiction went to that extent; but outside of what was within the admiralty jurisdiction of the colonies, our ministers were instructed by Congress, even in those dark and trying times, not to negotiate a peace that did not secure to the American people all the rights which they had enjoyed before in these fisheries; and for what purpose? The mere catching of cod? No, sir; but of educating seamen in the best school that ever existed; seamen for commercial and for naval purposes; seamen that have elevated every people who have had them; seamen that have made England what she is; seamen that were known in the days of Venice as the *élite*; seamen that gave to her all the commercial renown she ever possessed; seamen that have given to every Power on earth its commercial and its naval distinction.

I know very well, Mr. President, that this question does not bear directly upon the mere paltry sum of a few hundred thousand dollars that you contribute to these men. I will come to that, however. But I am citing these authorities to show the national importance of these fisheries; to show how they have been treated by other men—men who understood their value quite as fully as we understand it; by men who instructed their plenipotentiaries in the dark days of the Revolution that no peace should be negotiated without securing to our people the rights they held in these fisheries—rights that were intimately connected with all the broad land.

But further, sir: during the negotiations, the value and importance of these fisheries was the subject of earnest and able discussion in England. It was said, with other things, that "a nursery of seamen so excellent and so necessary for the support of her naval force will never be given up or divided by America with any Power whatsoever." Lord North, when he introduced the very bill to which I have alluded, to deprive the fishermen of their rights, said, in the House of Commons, in 1775:

"While they extended British commerce, and kept open a continual advantageous intercourse with foreign nations, they increased the naval strength of the kingdom, and were consequently the great source of that power which gave it the preëminence over all other nations of Europe."

Our ministers were instructed not to negotiate a treaty without the consent of France, who had been our ally; but this instruction was violated because of the delay that was interposed, and because Mr. Adams became satisfied that the French were conspiring with the English to deprive us of our rights to the fisheries. In 1782, the letter of Barbe de Marbois, the French chargé d'affaires to the United States, to Count de Vergennes, the principal Minister of State, was intercepted. The scope of the letter was to secure the fisheries to France. The treaty was concluded, and the third article declares—

"That the people of the United States shall continue to enjoy, unmolested, the right to take fish of every kind on the Grand Bank, and all the other banks of Newfoundland; also in the Gulf of St. Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish."

Thus was secured what was deemed of so much importance in those days—a right commensurate

with all the States, and so vital to commerce and naval power.

I have read Lord North's statement as to the value of the fisheries; and yet the Senator from Alabama tells us that Holland and England and France have never found these schools contribute to their naval power. I do not quote his language, but I give the substance of what he said. He declared that the bounty they had bestowed for the purpose of creating and establishing these schools had signally failed. Sir, the history of their own statesmen is different. The history of the French statesmen to which I shall refer you by and by is different.

Mr. CLAY Will the Senator allow me to interrupt him?

Mr. HAMLIN. Certainly.

Mr. CLAY. He misapprehended the import of my language, or what I intended to say. I intended to say that the bounties bestowed by the English and French Governments upon the herring or mackerel or whale fisheries, had not redounded to the advantage of those fisheries; but that, on the contrary, we had competed successfully with them, and outstripped them without the aid of such bounties.

Mr. HAMLIN. I will come to that point; and I think I shall satisfy the Senator, if he is not prejudiced on the matter, if he will take the testimony of their own statesmen, that they have been most eminently successful.

Mr. CLAY. I will remark to the Senator that I referred to figures and facts, and not to the opinions of statesmen. The figures cannot misrepresent the truth.

Mr. HAMLIN. I design to refer to both. But, sir, not only was such importance attached to these fisheries, in a national point of view, by those who participated in the revolutionary war, but when we engaged in war with Great Britain in 1812, they became again the subject of controversy, and it was upon the question of the rights of the Americans to enjoy what they had theretofore enjoyed in the fisheries that negotiations turned. They were treated by our Government as of the same importance then that they had been treated by the French and the English, and by the English and our own Government, in the revolutionary war. They were, if I may use the expression, made more than an ultimatum, and it was upon this that negotiations finally closed. Our ministers at Ghent, consisting of Messrs. Adams, Clay, Gallatin, Bayard, and Russell, were instructed in words that leave no doubt about what was the intention of the Government. They were told:

"These rights must not be brought into discussion."

That was going a great way. Our rights to the fisheries were not even to be brought into discussion. They were so plain, so palpable, so important, in a national point of view, that our ministers were not even allowed to bring them into discussion.

"If they are, your negotiations will cease."

That is explicit. Every man knows what was the state of our commerce growing out of the war of 1812. Any war with Great Britain must necessarily lead to its prostration; but notwithstanding its depressed condition, these emphatic and explicit directions were issued to our commissioners at Ghent, that even a discussion of the rights of our fishermen was not to be allowed; and if insisted upon, negotiations were to cease. Of the course pursued by the British plenipotentiaries, Mr. Adams said:

"Their efforts to obtain our acquiescence in their pretension that the fishing liberties had been forfeited by war, were unwearied. They presented it to us in every form that ingenuity could devise. It was the first stumbling-block and the last obstacle to the conclusion of the treaty."

And in November, 1814, that noble old man, who will live in history forever, and who will be loved while any man shall live who loves liberty—John Adams, from his retirement at Quincy, volunteered this letter to the President:

"All I can say is, that I would continue this war forever rather than surrender one acre of our territory, or one iota of the fisheries, as established by the third article of the treaty of 1782."

Thus, sir, may be seen the importance with which our fathers, before the revolutionary war, during the revolutionary war, and subsequent to the revolutionary war, regarded the fisheries; and I think it is too late to sneer it out of Congress. They are as important to-day as they were then.

I know that they do not bear the same relative proportion either to the commerce or the naval power of the country that they then bore; but I think the conclusion from this fact is precisely opposite to that which has been drawn by the Senator from Alabama. Your fisheries cover a certain field; they are limited, and they cannot be extended beyond a certain point. The general commerce of your country is broad, and may be almost illimitable. Because they do not bear the same relation to the commerce of the country that they then bore, I insist it is an argument why they ought to be still more fostered. If they constituted, in the early history of the country, a great proportion of your seamen, they were better able to take care of themselves. If they are now only a small proportion, the greater is the necessity for a school from which your seamen to supply your commerce are to be contributed, because that field is no larger, while your commercial field is still broader. So it is in relation to naval power.

But, sir, I want to show you what was the part which these fishermen bore, not only in the revolutionary war, but in the war of 1812. I invite your attention to the very important part which they contributed, and I think no class contributed more—I had almost said that all other classes had not contributed as much to produce that happy result which was produced in either case as these fishermen who happened to reside in a locality. If you can educate seamen cheaper in any other way, I am for abolishing the fishing bounties. I am for sustaining these fishing bounties only upon the ground that it is the cheapest mode by which you can educate men upon whom you must rely in the emergency of war. Can you do it cheaper in any other way? Then do it. I am not advocating bounties to any class of citizens, be they who they may, unless it be of national importance, for a national purpose, and be the most economical mode of effecting the object. I believe that the contribution of two or three hundred thousand dollars a year—the average is about two hundred and five thousand dollars—will continuously keep in reserve a vast corps of seamen upon whom you can rely in time of war better than any other class of men—a class upon whom you must call in that emergency. If, however, there is any alternative proposition—if there is any other way in which seamen can be more cheaply and economically furnished to your Navy, then I am not in favor of this. I am not in favor of bounties, I am only in favor of them in this case because there is a necessity for them, from the nature of the business which requires aid to keep it alive; and to keep it alive is the only way in which you can get the force that is requisite and necessary.

Now, I come to the important part which this corps of fishermen bore in the struggle of the revolutionary war. They were few in number then, compared to what they are now, but they were important. There was no branch of the service that did more honorable and gallant service than they. There was no part of the service that aided more in bringing about the happy negotiations which ended in peace, and in our independence. It is recorded in the history of the times, and of it there can be no serious question, that more than fifty thousand tons of British shipping were captured in 1777, by these New England fishermen. Curwin, of Salem, a Loyalist, who fled to England, states in his journal that from May 1776 to February 1778, Lloyd's Coffee-house list shows that American privateers, one hundred and seventy-three in number, captured seven hundred and thirty-three British vessels, with their cargoes, worth more than twenty-five million dollars; and they counted millions of dollars by a higher standard in that day than we do now. Other authorities, entitled to confidence, show that during the war full two hundred thousand tons of shipping were taken by rebel privateers. We had no Navy. In all the naval service of the revolutionary war, we had to depend mainly upon the privateer service that was composed almost exclusively of the fishermen. So efficient were they, that underwriters demanded, and there were paid, premiums of from thirty to fifty per cent. The mercantile interest of England clamored for peace. The fishermen were abroad upon every water; and the lagoons of the Mediterranean never swarmed with men more efficiently engaged in catching fish, than did the privateersmen of New England swarm the ocean in capturing British vessels, in the war of the Revolution.

I wish to read an authority in relation to their services in the revolutionary war, and it is the authority of that old patriot and statesman, Henry Knox, who shared with Washington so much of the glories and suffered so many of the hardships of the war. He speaks with a feeling heart of the services of these men in that day. Knox, himself a member of the Massachusetts Legislature long after peace had been declared, in speaking of these fishermen gives them not only that proud position to which they were entitled upon the ocean, but, if possible, still higher credit for the services they had performed upon the land. In speaking of the time when Washington was obliged to cross the Delaware on his bridge of boats, he said:

"Sir, I wish the members of this body knew the people of Marblehead as well as I do. I could wish that they had stood on the banks of the Delaware river in 1777, in that bitter night when the commander-in-chief had drawn up his little army to cross it, and had seen the powerful current bearing onward the floating masses of ice which threatened destruction to whosoever should venture upon its bosom. I wish that, when this occurrence threatened to defeat the enterprise, they could have heard that distinguished warrior demand, 'who will lead us on?' and seen the men of Marblehead, and Marblehead alone, stand forward to lead the army along the perilous path to unfading glories and honors in the achievements of Trenton. There, sir, went the fishermen of Marblehead, alike at home upon land and water, alike ardent, patriotic, and unflinching, whenever they unfurled the flag of the country."

But, sir, these gallant, patriotic men, were not less serviceable in the war of 1812, than in the war of the Revolution. I have a letter from that gallant old man who did such distinguished service for his country, Commodore Stewart. I addressed him a note some time since asking his opinion of the value of these fishermen on whom the Senator from Alabama seemed to place so low an estimate. That Senator said:

"The mere inspection of a smack and a square-rigged ship will show that the former is no school on which to learn how to manage the latter. The contrast is as great as between a log cabin and the labyrinth of Crete; and the cod fisherman would scarcely be more at fault in the labyrinth than in the ship."

That is the opinion of the Senator from Alabama. I will read the opinion of Commodore Stewart.

Mr. HALE. He is "green." [Laughter.]

Mr. HAMLIN. Commodore Stewart may be in a green old age. God grant that many days may yet be spared to him for the gallant service that he has done our common country. I have also a letter from the oldest active commodore in your Navy, that I propose to read. The Senator from Alabama says he has talked with naval officers, who have given him the opinion which leads him to this conclusion. I wish he would give us their names. I should like to see that naval officer who ever fought a naval battle with New England fishermen, who would come into the Senate and decry their patriotism, their valor, and their services. I think the Senator has talked with men who never saw such service.

But, sir, let me read this letter, so full of fact, so pregnant with meaning, from that gallant old commodore. I will not read it all. He goes on to describe acts of personal heroism, of individual members of his crew, who were ready to go down amid the coral and sea-weed in defense of a common flag and of common rights. I will read only—for it is all that is important—the conclusion which he arrived at as to those men who, according to the Senator, are so lost on naval vessels. He commanded that noble old ship, the Constitution, through the prowess of which there has been spread and gathered more of glory to the American Navy than any other vessel; and he speaks of the crew of New England fishermen under his command in this wise:

"They were all enlisted in Boston, Marblehead, Salem, and Portsmouth, from whence, I believe, it is well known that most of the sea-faring men, belonging thereto, come from the New England fisheries."

"In all my sea service, I have never seen, on board of a ship of war—"

lost in the labyrinth of Crete?—

"—such a splendid crew for expert seamanship, discipline, sobriety, orderly and determined bearing, as well as singleness of purpose for glory and the honor of their flag, than that one of the 'Constitution.' It may not be inappropriate to repeat here, the remark of the first Napoleon, on board of the 'Bellerophon,' when reviewing her marines: 'what could not be done, with an army of such men?' I can only surmise what might be done in ships of war, with such crews?"

Now, the opinion of the Senator from Alabama does not concur with Commodore Stewart. The

Senator from Alabama, on such authorities as he has consulted, thinks they would be lost on a man-of-war. The Commodore says, further:

"In conclusion, I may say, in the words of the Sultan of Seringapatam to the Governor General of India: 'how can I say more,' in behalf of so noble a crew of New Englanders?"

I have a letter here from your oldest active commodore of the Navy, who was an officer on board this very Constitution, a noble and a gallant man who has done gallant service for his country, and who is entitled to its thanks—a letter hardly less significant than that which I have read from Commodore Stewart. What does he say of this class of men who are out of place, who are not educated, who do not know what belong to their duties because they have only been fishermen? I addressed him three interrogatories, the scope of which the Senate will understand by the answers he has submitted. He says:

"To the first, I say without hesitation, that during the war of 1812, and at all times, since I have been in the Navy, we have thought ourselves fortunate when we could obtain American fishermen for the public service, for which we consider no class of men better adapted."

The Senator from Alabama told us they were not fit for naval service. Commodore Shubrick thinks otherwise. Commodore Shubrick and Commodore Stewart have had a little experience in this matter. Both of them have commanded crews of these very men, and they know something about them. Commodore Shubrick continues:

"To the second, I say that during the war of 1812, and for some years previous, great pains were taken to exclude foreigners from the Navy, and I am of opinion that, particularly during the last year, a majority were Americans."

That was in answer to a question as to who constituted the naval crews at that time. I regret that the chairman of the Committee on Naval Affairs is not present; but I shall state some information derived from him on this point. That interrogatory was propounded for the very reason that I understand, as a matter beyond all doubt, that two thirds at least, probably three fourths, of every crew that tread the decks of every vessel in our Navy, is constituted of foreigners—not a very safe class of men to intrust the interests of your country, and the integrity of your flag to, in the trying times of war. It may do in piping times of peace, but it had better not be so then. Wise policy, elevated statesmanship that shall rise above the catching of a cod, or the locality of the interest, would dictate that both in our commercial and in our naval marine the integrity of our flag should be intrusted to American hands, and American hearts. Sir, it is a miserable, it is a local, it is a provincial view of the question, that limits it down to that narrow point. To the third interrogatory which I put to the commodore, he says:

"To the third, I say that any policy by the Government which will tend to provide during peace for the exigencies of war, 'is wise,' and none would be more so than to nurture the body of American seamen who are trained in the fisheries."

Now, sir, I think these two letters are very good authority, coming from gallant old Stewart, from Shubrick, who stands now at the head of your active naval list, both of whom have seen much more than any other men in your naval service, of the merits of this very class of men. Why, sir, in the war of 1812, you could hardly man a frigate without these very same fishermen. According to the authority of John Quincy Adams, who examined this question with great care, and I repeat almost in his own words, all of the glory, and all of the renown that were won by your little and gallant Navy in the war of 1812, were won by the prowess of American fishermen. They struck for freedom with a freeman's arm. In every battle that was fought upon the ocean and upon the lakes they manned your ships, they constituted your crews. They shed all the luster and renown upon your little Navy, with the aid of gallant officers, that was shed upon it; and now, at this late day, because they happen to be located in a particular locality, and, I fear, in obedience to a provincial, sectional, southern press, they are to be stricken down. I will read a single authority more in relation to the service which these men performed, because it is from a man conversant with that service, who lived amid these seamen. Daniel Webster said in 1852, what is historically true, in addressing some of them:

"There are among you some who, perhaps, have been on the Grand Bank for forty successive years. There they

have hung on to the ropes, in storm and wreck. The most important consequences are involved in this matter. Our fisheries have been the very nurseries of our Navy. If our flag-ships have met and conquered the enemy on the sea, the fisheries are at the bottom of it. The fisheries were the seeds from which these glorious triumphs were born and sprung."

During the war of 1812 we captured from the British more than two thousand three hundred sail of vessels, mounting more than eight thousand guns; fifty-six men-of-war, mounting nearly nine hundred guns, and took in all about thirty thousand prisoners of war. Of the captures in the Privateer service, the greatest number was by these fishermen.

Now, sir, I want to invite the attention of the Senate to the manner in which other nations (because we may draw some light from their practice) have regarded the fisheries as auxiliaries to commercial and naval power. The Senator from Alabama tells us that the bounties which have been conferred by Holland, by England, and by France, upon their fisheries, have proved a failure. I do not quote his language, but I think I state his idea. I understand no such thing; and I think the history of the matter proves no such thing.

From the days of the commercial prosperity of Venice down to the present time, every nation which has been distinguished for its commerce and naval power, it will be found, has not only devoted its energies to this branch of industry, but it has relied implicitly upon it as a great source from which its navy and its commerce were to be sustained. When Venice was mistress of the Adriatic; when she commanded absolutely the Mediterranean, and almost the whole of Europe: when she was indeed the first commercial Power in all Europe, and it is said by some writers, equal to all Europe, she had a corps of fishermen, with which to supply her commerce and her navy along her coasts and bays. They covered the lagoons; they swarmed the Mediterranean; and her argosies were found in every port along the British coast. Her vessels visited every port in the Mediterranean, and every coast in Europe. Her maritime commerce was probably not much inferior to all the rest of Christendom. Such was Venice in the day of her greatest commercial prosperity; and that prosperity was, in a great degree, attributable to the enterprise of her seamen, who had been trained and educated in the school of her fisheries. They were hardy, industrious, and energetic, and they went wherever commerce could find an avenue.

Holland, also, furnished a remarkable illustration of the importance of the fisheries in connection with commerce. It is an old maxim—for it has grown into a maxim—that Amsterdam was built on fishes' bones; and when Van Tromp swept the British seas with a broom at his mast-head, he supplied his vessels with a corps of those herring fishermen. A dispatch on the causes of its commercial prosperity, prepared with great care by the direction of the Stadtholder, places the fisheries in the first class of causes as contributing to the advancement of the Republic in its unexampled prosperity. Such was beyond all doubt the fact. Go to Spain, sir; and, in the day of her prosperity, when she fitted out her Armada, and when she had colonial possessions that employed her fisheries, she was greatest in commerce, she was greatest in commercial prosperity, and she was greatest in her naval power. Go to France; and what do you find? I will show that they regard this very class of fishermen as constituting a portion of the naval service. In 1851, M. Ancet, in relation to the fisheries, made the following report to the National Assembly in France:

"It is not, therefore, a commercial law that we have the honor to propose to the Assembly, but rather a maritime law—a law conceived for the advancement of the naval power of this country."

"No other school can compare with this in preparing them [seamen] so well, and in numbers so important, for the service of the navy."

"It may be said of this fishery that if it prepares fewer men for the sea, it forms better sailors—the elite of the navy."

"The preservation of the great fisheries assumes a degree of importance more serious when they are viewed as being in fact the nursery of our military marine."

In another place, in the same report, he continues, speaking of Great Britain:

"The loss of her most magnificent colonies has occasioned irreparable injury to the commercial marine, which is an essential element of naval power."

"In order to preserve them [the fisheries] we must con-

time the encouragements they have received, even at periods when a commercial and colonial prosperity, infinitely superior to that now existing, multiplied our shipping, and created abundance of seamen. It is on our fisheries that at this day repose all the most serious hopes of our maritime enlistments."

Again, he says:

"Without aid the cod fisheries could not exist. They furnish more than a third of our seamen, and by far the best portion of them. There is no cheaper, better, or more useful school for a formation of seamen for the Navy, and none is more capable of extension and development."

Let me read from a report made to the British Parliament, in 1846, by Mr. MacGregor:

"In speaking of the fisheries, De Witt says: 'That the English navy became formidable by the discovery of the inexpressibly rich fishing bank of Newfoundland.'"

"And, from 1618, the fisheries were carried on by England, and became of great national consideration."

"Before the conquest of Cape Breton, by these alone France became formidable to all Europe."

There was a period of time when France came near equaling England in her commercial power, and that was when she held control of the fisheries. Mr. MacGregor continues:

"It was a maxim with the French Government, that their American fisheries were of more national value, in regard to navigation and power, than the gold mines of Mexico could have been if the latter were possessed by France."

He says further:

"It is very remarkable that, in our treaties with France, the fisheries of North America were made a stipulation of extraordinary importance. The Minister of that Power considered the value of those fisheries, not so much in a commercial point of view, but as essential in providing their navy with that physical strength which would enable them to cope with other nations."

"The policy of the French, from their first planting colonies in North America, insists particularly on training seamen by means of these fisheries. In conducting their cod fishery, one third, or at least one quarter, of the men employed in it were 'green men,' or men who were never at sea before; and by this trade they bred up from four thousand to six thousand seamen annually."

This is the view which they take of the importance of these men in France and in England to-day; and an enlightened view of the subject ought to lead us to treat them as of equal importance. They are so in fact. In 1841, when war was apprehended by France, M. Thiers called in the services of the fishermen; and M. Rodet afterwards remarked, "without the resources which were found in the sailors engaged in the fisheries, the expedition to Algiers could not have taken place." In reply to the assertion of the Senator from Alabama, as to the effect of the bounties on the commerce of England, I will quote an authority of some weight:

"It is certain that, down to the time of Elizabeth, the foreign trade of England was in the control of German merchants, and that there had been no employment for many or for large ships of the realm. British navigation increased with the growth of the fisheries. Without the fleets maintained at Iceland and Newfoundland, there would have been neither ships nor seamen to execute the plans for the colonization of New England, and of other parts of the continent, during the reigns of James and Charles."

I have already stated the view which was taken of this matter in our early history. It is true, as the Senator from Alabama stated, that Fisher Ames did say in the House of Representatives, that the taking of cod is a very momentous concern. I quote the words; and when I quote them, I do not confine my idea to the mere mechanical act of taking fish, but I look at its commercial relation; at its naval relation; I look at the prosperity of the country, and its connection with that prosperity. Fisher Ames said in the same connection;

"It forms a nursery for seamen, and this will be the source from which we are to derive maritime importance."

Mr. Gerry said in the same debate:

"I will not reiterate the arguments respecting the fisheries; it is well known to be the best nursery for seamen."

Jefferson, as Secretary of State, in his report, 1791, uses this language:

"We have two nurseries for forming seamen. 'Our coasting trade, already on a safe footing. '2. Our fisheries, which, in spite of natural advantages, give us just cause of anxiety.'"

After reviewing the condition of the fisheries, their necessities and importance, Mr. Jefferson said, in 1791:

"It will rest, therefore, with the Legislature to decide whether prohibition should not be opposed to prohibition, and high duty to high duty, on the fish of other nations; whether any, and which, of the naval and other duties may be remitted, or an equivalent given to fishermen, in the form of drawback or bounties."

Mr. Jefferson uses this language in his message of December 15, 1802:

"To cultivate peace, and maintain commerce and nav-

igation in all their lawful enterprises; to foster our fisheries and nurseries of navigation, and for the nurture of man; * * * are the landmarks by which we are to guide ourselves in all our proceedings."

The importance of these fisheries to-day is well worthy of attention. It is our only school of American seamen. Now, when we come to our mercantile marine, when we come to our naval marine, we find a state of things existing which did not exist years ago. How is your mercantile marine constituted to-day? The Senator from Alabama asks; and, I confess, he asks with great force, why not rely upon your commercial marine in time of war? The Senator from Florida, not now in his seat, [Mr. MALLORY,] in a conference with me, said that in our Navy more than two thirds of the seamen were foreigners. In our commercial marine the disproportion is still greater. I think that furnishes a sufficient answer. We cannot, we ought not, as wise men we should not, rely upon foreigners to protect the integrity of our flag, and to support our rights, if we have a controversy with a foreign naval Power. I think the Senator from Alabama cannot fail to agree with me on that point. Home, kindred, love of country, ought to stimulate the heart of the man who protects his national flag. I do not believe there is any Senator in this body who would consent to the doctrine that the integrity of our flag and the protection of our interests are to be intrusted to foreigners. When more than two thirds of our Navy is composed of foreigners, certainly it is time for us to press an inquiry whether we may not pursue some system that shall supplant them, and shall put in their places American citizens.

In relation to your commercial marine, I assert that the disproportion is still greater but in violation of law. Your law does not justify it. Our fathers justified no such thing. They provided that our commercial marine, even in the piping times of peace, should not be intrusted to the custody and keeping of foreigners; but still, under an abuse of that law, I affirm here to-day that a vast majority of the sailors in our commercial marine are foreigners. Let me read from a memorial which has been presented to the Senate at this session for our consideration, signed by some sixty American ship-masters who were at the port of Havana, in Cuba. They say:

"The old class of American seamen, if not known to you, is too evident to us, has become almost extinct. Our crews are composed almost entirely of foreigners, frequently representing as many different countries as their number, although a majority of them are sailing under the guise of American seamen."

That shows clearly and distinctly, I think, what is the condition of your commercial marine. Besides, your commercial marine is composed of entirely a different class from your fishermen. Your fishermen remain and reside at home; they have homes. They fish for some eight or nine months in the year, though the law only requires four months' fishing to obtain the bounty; and then they return to spend the remaining three or four months with their families. They are American citizens in the broadest sense of the word. They have the love of home. Let me say here, in passing, that they are not limited by the number of men who are actually engaged to-day in the fisheries, as the Senator from Alabama supposes. He limits their number to thirteen or fourteen thousand.

Mr. CLAY. The average is thirteen thousand. Mr. HAMLIN. That is a mere matter of conjecture. My conjecture is greater, and it is based upon the best authorities, not your Treasury Department. They have no practical knowledge upon the subject of the fisheries, and their opinion is not so good as that of a practical man. They estimate the number at thirteen thousand. Now, I say the best authorities put down one man to six tons; that would give you about seventeen thousand. But I will not stop to talk about the number. Assume that it is thirteen or fourteen or seventeen thousand, if you please: the number engaged in the fisheries to-day does not constitute the number of seamen educated in your fisheries by any manner of means; because, first, there is a class at home, on shore, curing the fish and taking care of them, who alternate with the crews at sea; and then there are the crews, who go in this year, and who go out next. You might, with just as much propriety, give me the catalogue of any institution, and give me the list of a single year as the number of graduates of that institution. It is

the number for the year, but they are continually coming in, and they are continually going out. They are going home to reside; they are going into your commercial marine; they are performing the shore duties of the fishermen; and I state what I have no doubt is true—that, whatever may be the number of the fishermen engaged to-day, they are represented by at least thrice that number who have been educated, and who would constitute a corps of seamen that would go into your service in an emergency, as they did go in there in the war of 1812, and as they did in the war of the Revolution. It is therefore entirely fallacious to make any estimate upon the number actually engaged to-day; I think I am safe in saying that it is not a third. I have not the slightest doubt that there are fifty thousand able-bodied seamen for the naval service in the States of Maine and Massachusetts this day, who have been trained in the fisheries.

I want to say a word here, in passing, in relation to square-rigged vessels and fore-and-aft vessels, of which the Senator from Alabama spoke. But because a seaman is not trained to sail in a square-rigged vessel, it does not follow that he is not the best man in the world for a man-of-war. Take a first-class frigate, and what constitutes her crew? I think five hundred—fifty marines and four hundred and fifty sailors. Those who are requisite for managing the ship do not constitute more than a third or a fourth part. Who are the fighting men? Not the landsmen; they have not got their sea legs on and are sea-sick. Not your whalemens; they are three years away from home. Not your commercial marine; they are made up of foreigners, uncertain, fickle, improvident, and in no way as reliable, and they have got to remain by your commercial marine, as well in time of war as in time of peace—not to the same extent, but almost to the same extent.

Now, then, you have got this corps of fifty thousand men. I say that is my estimate, and I think I am not extravagant in it. How are you going to educate that class of men any cheaper? If you can educate them any cheaper, do it. If you can take them in as apprentices in your naval school, if you can educate them cheaper, in any other way, for naval purposes, do it; I for insist as a prerequisite here, that the honor of our flag is to be intrusted to our own people in time of war. I put the question simply as one of economy; I treat it as a question of commercial importance, but I make the primary question one of naval importance as a school for naval purposes. Will you rely upon your commercial marine, constituted to-day of the class of men I have stated? To show how that commercial marine is constituted, I will refer to an essay upon naval schools, issued in 1846, in New York, and understood to appear under the sanction of one having the best means of information. It is there stated that out of thirty-eight thousand five hundred and sixty-four seamen shipped at the port of New York in one year, not two thousand were American seamen, and the British estimate the number employed in the foreign trade and whale fisheries of the United States at thirty-five thousand, of whom twenty-four thousand and upwards are foreigners. With these facts before us, I insist that wise statesmen, men who take an elevated position intellectually, who can rise above the smoke of their own chimneys and their own localities, should come to the conclusion that it is not safe, in time of war, to repose upon either the mercantile marine or the whale fisheries for a supply to our Navy.

Mr. President, I have endeavored to show the importance of these men as a branch of the national defense. I now ask the attention of the Senate to another point, to show the necessity of aid in order to maintain that branch. I affirm that these fisheries are in truth and in fact so undesirable as not to induce the entrance of persons into them unless there is some protection afforded. You cannot educate seamen as you can educate soldiers in the Army. There must be training, there must be time; and there is therefore a necessity for keeping up this school, in a national point of view, as I have attempted to show. Now, sir, I affirm, that if the bounties be taken away, these fisheries will languish and die. I know that the Senator from Alabama has made out his tables, showing that they are very valuable. I know, too, another class of men who understand the matter better, who understand all the fluctu-

ations of the business, its hard seasons, together with its good seasons; and they draw a general average of its production; and I, with them, come to the conclusion that it is a branch of industry that we have got to protect, to a certain extent, or it must languish and die. Ought we to protect it for naval purposes? That is the question.

Mr. CLAY. The Senator says that I made out my tables to show that it is a profitable business. He should do me the justice to say that those tables are figures which I have extracted from the reports of the assessors of the several towns of Massachusetts, as found in the Library.

Mr. HAMLIN. I will do so, and I wish to make this additional comment: the Senator has taken the value of the property invested, and he has taken the value of the fish caught, and he has obtained in that way the per cent. upon the property invested. Well, sir, the forest man goes into the forest with no instrument but his ax; he levels the forest, and he earns daily the full value of the instrument which he uses, and he thereby makes one hundred per cent. daily on the capital invested! If you take the number of men, take all the years they are engaged in the fisheries, take the amount which they earn, and divide it by twelve, and not by four, you will arrive at a safe conclusion. Because your law requires that a fisherman shall be engaged four months to obtain the bounty, it does not follow that you are to divide the product of his industry for the year by four. He actually labors in that vocation for nine months, and, as my colleague suggests, during the other three he often goes on other voyages; not very frequently, however. The regular fisherman devotes about nine months of the year. You have rules at the Department which prescribe the mode and manner in which he shall pursue four months. Beyond those four months he devotes himself to the herring and mackerel or other fishery; but he devotes about nine months of the year, which constitute, in point of fact, his whole year, to this business. Now, then, to divide the product of the year by four, as giving the value per month which he earns, is incorrect and unjust. The nine months are all the months he can labor in the year, and the whole product should be divided by twelve. Though you take the value of the vessel, and find that the quantity of fish taken may be equal to the value of the vessel, it no more follows that it is profitable to the fisherman than it is to the ax-man who levels the forest, and who estimates the product of his labor at one hundred per cent. daily, because, computing the value of the instrument he uses, he makes just one hundred per cent. upon its cost.

But I want to read some authorities, to show the necessity of the protection of these men, without which that branch of industry cannot exist, without which you have no reliable supply of men to man your Navy. Smith, in his "Wealth of Nations," says, what I suppose everybody knows to be true, that "from the age of Theocritus downwards, fishermen have been proverbially poor." They are poor, but they are patriotic and high-minded men. Fisher Ames said, in 1799, that he contended they were very poor; and a memorial from Marblehead, in 1846, where a great portion of the fishermen reside, says:

"In looking around amongst those who have been engaged all their lives, they cannot point out a solitary owner who has become wealthy from the benefits of the fishing business alone, nor a single fisherman, with a family depending on him for support, who has been able to lay up, from the earnings of the business, a surplus for his old age."

In a careful and accurate calculation, made by a gentleman long engaged in the business, he says—

"That the average earnings were \$157 for a man, and seventy-nine dollars for a boy, for five and a half months' service in the cod fisheries and three and a half months' in the mackerel fishery, or for the whole working year of nine months."

At a public meeting in Gloucester, Massachusetts, in 1846, it was stated, after investigation:

"That the average earnings for the ten preceding years had hardly been one hundred and forty dollars, in a season, for a man."

Jefferson says in his report of 1791, that "it is too poor a business to be left to itself, even with the nation most advantageously situated." We are not that nation. Our people are obliged to go from hundreds to a thousand of miles off to the fishing grounds, which are in the immediate vicinity of the British Provinces. The inhabitants

of the Provinces fish upon them with all the advantages which they derive from being at home. We must fit out our vessels; we must supply our men; and we must perform a voyage before we are brought into competition with them; we are not even in the same locality with them, and are not, therefore, upon equal terms. Sir, the difference between our fishermen and the fishermen in the Provinces, amounts to a very fair profit in the business. We are obliged to go to a distance; they fish at home.

Besides that, sir, there is attached to this business a hazard that does not belong to any, or hardly any other business which is pursued in the country. It is uncertain, in the first place; there may be what is called a grand catch, or a good fare, this year, and another year may yield nothing. If you take a favorable year, you will show a very reasonable and generous compensation to the fisherman; take another year, and you will find, as the authorities will show, that he does not even earn for the support of himself and family ten dollars a month, for the whole year. Besides, there are the hazards of loss, occasioned by shipwreck.

The town of Truro, Massachusetts, in the gale of 1841, lost fifty-seven men. From the town of Dennis, in the same gale, twenty-eight men were lost.

In 1846, eleven vessels, owned in Marblehead, were lost, and with them, sixty-five men and boys.

Between 1837 and 1852, Gloucester alone lost thirty-one vessels, and one hundred and ninety-four men.

The losses in 1851 were as follows:

District.	Number of vessels.	Tonnage.	Value.	Loss of life.
Gloucester.....	9	629.49	\$19,366	24
Penobscot.....	14	696.01	14,400	22
Portland.....	7	369.54	5,600	66
Barnstable.....	10	563.50	24,100	43
Portsmouth.....	6	328.00	16,200	47
Passamaquoddy.....	3	143.91	3,600	17
Total.....	49	2,730.53	83,266	219

This table shows the hazard of life and the loss of property. It is not that kind of business which invites individuals to its prosecution under an ordinary state of things. It cannot be prosecuted, it will not be prosecuted, without aid; and an examination of the fisheries from 1807 to 1813 will show, I think, very conclusively, that it is a branch which cannot exist without the aid of the Government. If it be not of national importance enough for naval purposes, then I concede it is not a branch that ought to receive the protection of the Government; but still I insist that it is that peculiar kind of service which fits men for the Navy, which cannot be furnished in any other way. It is therefore wise that it should be done.

Again, sir, the value, though not very large, of the property embarked in this enterprise ought to induce you to treat it, at least, with some kindness, and with some leniency. Whether your system be right or wrong, our men have gone into business under it. They have, in many instances, invested nearly their all in it. Now, I hold that even if it were wise policy to abolish the bounty, and I do not believe it is, it ought to be done by a gradual system, in justice to the men whom you have invited to go into it. We find by the last returns that there are one hundred and four thousand tons engaged in it, and, at the moderate estimate of forty dollars a ton, there are over four millions of property invested in it. And let me say, that a fishing schooner is fit for no other purpose; it is fit for no foreign commerce; it is fit for no domestic purpose; it is fit for no coasting trade. Unless it be in the fisheries, it is good for nothing. These vessels, upon an average, may last fifteen years, some say twenty; take the lowest estimate. Even if it were wise to abolish this system, justice to those engaged in the business would require that you should at least take the equation of time during which their navigation would exist, as the time when you would terminate the bounty—not less than seven or eight years. I make the estimate of the men employed, as I have before stated, seventeen thousand four hundred and twenty-six.

Now, sir, instead of striking down this branch of industry, I think you ought to adopt the principles which were adopted by Jefferson, in his report in 1791. He says you may encourage it by

a system of drawbacks, you may do it by a system of bounties, and by opening up still new markets. How stand the fishermen to-day? Not as well as they stood when these bounties were originally given—far from it. You granted them then, when the Government gave its aid in procuring markets. Now we send abroad but a little more than a half a million of fish. Why is it? The French, who pay a duty to every fisherman of twenty francs on a metrical quintal of two hundred and twenty pounds, which is very nearly equal to the value of our fish when taken and cured, have now command of the Mediterranean markets. They are nearer to them. The bounties which their Government have given them enable them to carry their fish there cheaper than we can, and the markets of the Mediterranean, which we once supplied, and from which we once brought return cargoes, have been lost to us, I affirm, by the negligence of this Government. The French have got them.

Not only has this resulted from the remissness on the part of the Government in failing to find us new markets abroad; but you made, a few years ago, a reciprocity treaty with England in regard to the productions of the British Provinces, by which the products of their fisheries are brought here in direct competition with ours, duty free. I do not know what is to be the result of that. I have made the best examination I can. I have not been able to gather all the information I desire; but in the ports of Boston and New York we find, for the last two quarters, they imported between \$700,000 and \$800,000 worth of fish from the British Provinces of New Brunswick and Nova Scotia. Having imported that amount in two quarters, I think I am justified in saying that for the whole year the importations of fish, dried, fresh, and pickled, under the reciprocity treaty, may at least average a million and a half or two million dollars.

You, therefore, not only have neglected to supply us with foreign markets, out of which the French have driven us, but by your system you allow the fishermen residing immediately on the fishing banks to come in and share all our markets upon precisely equal terms. Sir, give us dutiable revenues, and you will place the fishermen in vastly better position than they now occupy. You take away the duties, and bring us in direct competition in our own market with those who take fish at their own doors, cure them, and bring them into our markets free of duty.

The whole effect of the reciprocity treaty has been injurious to my State. I do not speak of particular localities, for I know my colleague would tell me that where he resides they have been benefited by it; but, as a whole, such is the result as shown by the figures before me. I allude to it as a part of the same system.

Mr. CLAY. Will the Senator permit me to ask him a question?

Mr. HAMLIN. Yes, sir.

Mr. CLAY. Was he not in favor of that treaty?

Mr. HAMLIN. No, sir.

Mr. CLAY. I do not know whether it would be a legitimate question, but I would ask whether the New England men did not support it?

Mr. HAMLIN. Some did, and some did not. It does not matter, in my mind, how that was. The effect would not be changed whatever might be my own individual opinion.

Mr. CLAY. But you ought not to complain of the Government doing anything at your instance.

Mr. HAMLIN. It was not done at my instance.

Mr. FESSENDEN. It was not at our instance.

Mr. HAMLIN. I threatened very hard at the Department, that if they did not deal a little more justly by us, I would exert my humble influence against it. I was quiet because I found my opposition would do no good. I find that of the productions of the mines, the forest, and agriculture, there have been imported into the United States \$9,502,000 over and above what we have sent to the Provinces—not a very small or inconsiderable item when we reflect that the articles are brought directly into competition with ours. What is true of the whole treaty, is still more particularly and significantly true in relation to the fisheries.

Mr. President, I have detained the Senate longer than I desired. I will allude to a single other point. I think this nursery of seamen ought to be regarded by the Senate and by the American people

ple precisely as we regard the military school at West Point, and the naval school at Annapolis. You cannot have an army of officers without men. You cannot have an army of men without officers. The two are reciprocal, they must go together. The Senator from Alabama has said that this whole system is unjust, and because it was unequal it was unconstitutional.

Mr. CLAY. I said because it was unjust.

Mr. HAMLIN. Because it was unequal and unjust both.

Mr. CLAY. Look at the speech.

Mr. HAMLIN. I have the speech here. I suppose the Senator finds no trouble in voting for appropriations to supply the military and naval schools annually. I think he voted yesterday for an appropriation for the school at West Point. I did it. What does it do? It educates officer after officer, until you have got one officer to how many men—ten? I saw an estimate the other day; I have forgotten the proportion.

Mr. WILSON. One to thirteen.

Mr. HAMLIN. One officer to thirteen men. I do not complain of it, because they are a corps to be used when an emergency shall call for them. You have established a school at Annapolis for the purpose of educating your naval officers precisely on the same principle. What have you got there? Let me see for a single moment. I addressed a note to the Secretary of the Navy a few days since, for the purpose of knowing how many vessels we had and how many officers would be required to man them. He says we have one hundred and two captains, one hundred and twenty-six commanders, and three hundred and seventy-three lieutenants. What does he say is the requisite number to man all the vessels we have:

"For the above ships, it will require twenty-one captains"—

we have one hundred and two—

"twenty-three commanders"—

we have one hundred and twenty-six—

"two hundred and thirty-seven lieutenants;"

you have three hundred and seventy-three. Now, what is the theory; what is the reason? It is precisely the same theory applied to the Navy that you apply to the Army. You call your Army a skeleton Army. You do not want to keep up a war establishment in time of peace. You therefore educate, in time of peace, a larger number of officers than are requisite, to have them as a reserve corps in time of war. You do precisely the same in the Navy. In my judgment, it is wise. If you read your naval register, you will find almost page after page of officers "on shore waiting orders." I know you do not impose any such condition upon the fishermen; but it is just as true literally that they are waiting orders as it is of your naval officers, and there is not a particle of difference between the two. They have volunteered in every war you ever had as the only men who could volunteer, and they will do it again whenever their country asks them. Your naval officers are on shore waiting orders, and your seamen are waiting orders; and that is the only difference between the two cases. The Senator finds no difficulty in voting for these schools; but this is horridly unjust; it is unequal, and even unconstitutional! What is the expense of these schools? We yesterday passed the annual appropriation bill for the Military Academy, appropriating \$182,824. A statement before me from the Navy Department shows the annual expense of the Naval Academy to be \$112,667.

The Senator from Alabama objects to the fishing bounty law as unequal. Why, sir, it is a general law; it is as broad as the Union. The Senator from Alabama may tell me truly that his State does not participate in it. Granted; but how does that affect the point? The law which regulates the rates of postage and collects the revenue, for the purpose of paying for the transmission of mails, is no more and no less a general law than this in relation to fisheries; and, if there be force in the Senator's argument, while it may not apply in as strong a degree, in point of fact it applies precisely with the same force to the Post Office laws. The northern States pay more than the expenses of their mails, and contribute that amount to the support of mails in the South. In 1850 the total postage collected in the southern States was \$1,042,809 24, and the expense of transportation, \$1,496,356 50; while, in the northern States, the postage collected was \$2,975,852 19, and the ex-

pense of transportation, \$1,427,822 63. In 1855 the total postage collected in the southern States was \$1,553,198; the cost of transportation, \$2,385,953; while in the northern States the postage was \$4,670,725, and the transportation, \$2,608,295. In 1857 the receipts were at the South \$1,672,856 78, and the cost of the service, \$2,329,299; while in the North the receipts were \$5,498,303 12, and the cost of service, \$4,095,267. In 1855 Maine contributed \$151,358 to the Post Office revenues, and cost \$82,218; while Alabama cost \$226,816, and contributed \$104,514.

I make no complaint of this; but I only use it as an illustration, for the purpose of showing that any general law, in its application, may draw from one section of the country a portion of the revenue to carry out the system in another. The Senator's own State shows a deficiency in the Post Office revenue of about one hundred and twenty thousand dollars annually; and I contribute very cheerfully, whether it be by direct appropriation or in any other way, to supply the deficit in order to carry out a general system. The Post Office law is no more general, no more applicable to all, than this other law. In the one case the fisheries happen to be local, although connected with the commerce and Navy of the country, and they are in their importance as national as though they spread all along the coast.

Another word, sir. I have taken some pains to examine, from a paper which has been very kindly presented to me by a friend who has resided on the Pacific coast, the fisheries in those waters, and I have arrived at the conclusion that precisely the same state of things which exist on that coast exist on the Atlantic coast; and I have not a doubt that, for the purpose of raising a corps of seamen there, the application of this law is as wise for the Pacific coast as for the coast of the Atlantic. Nor have I a doubt that, when they come to examine it carefully, they will find it as necessary there as it is here, as wise there as it is here, and wise in both instances.

I regret, Mr. President, that I have detained the Senate so long as I have. I have felt a deep concern in this matter, which arises from the interest which belongs to the people whom I represent, without which I probably should not have trespassed at all on the patience or the attention of the Senate. There are a great many collateral points to which I would gladly allude, but I leave this question here in the hope that no narrow view will be taken of it by the Senate, that they will examine it in a comprehensive, and in an enlightened manner. If they come to the conclusion that it is not wise, it is not best, to nurture a class of seamen for naval purposes in time of war, I have only to say that we must submit. I hope this will result as all similar efforts have resulted, for they have often been made and always failed; but still if they shall come to that conclusion, then I ask, do not strike them down at once. As a matter of mere justice, as a matter of mere equality, do not prostrate this branch of industry which has grown up under your fostering care, by the invitation of your laws; do not strike it down at once, but give at least a fair opportunity to go out of that service into which these men have been induced to go by the legislation of the General Government.

EXECUTIVE SESSION.

On motion of Mr. MASON, the Senate proceeded to the consideration of executive business, and after some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, May 6, 1858.

• The House met at eleven o'clock, a. m.

CALL OF THE HOUSE.

Mr. CRAWFORD. I do not believe there is a quorum here, and I therefore move that there be a call of the House.

The SPEAKER. The Chair will ascertain whether there is a quorum present.

The SPEAKER then proceeded to count the members present, and announced that there were only forty-nine.

Mr. CRAWFORD's motion was then agreed to. So it was ordered that there be a call of the House.

The roll was accordingly called, and afterwards

the names of the absentees on the first call were called over, when the following members failed to answer to their names:

Messrs. Adrain, Ahl, Arnold, Avery, Billingshurst, Blair, Boccock, Bonham, Bowie, Boyce, Branch, Burns, Burroughs, Campbell, Caruthers, Chapman, Ezra Clark, Horace F. Clark, John B. Clark, Clark B. Cochran, Cockerill, Corning, Covode, Cox, Damrell, Davis of Mississippi, Dawes, Dean, Dewart, Dick, Dimmick, Dodd, Dowdell, Durfee, Edie, Elliott, English, Eustis, Florence, Gillis, Gilman, Gooch, Granger, Groesbeck, Grow, Lawrence W. Hall, J. Morrison Harris, Hill, Hopkins, Horton, Houston, Hughes, Huyler, Jenkins, Owen Jones, Keitt, Kellogg, Kelly, Kilgore, Knapp, John C. Kunkel, Lawrence, Leidy, Maclay, Humphrey Marshall, Samuel S. Marshall, Miles, Miller, Millson, Montgomery, Moore, Morrill, Oliver A. Morse, Murray, Pendleton, Pettit, Potlie, Purviance, Quitman, Ready, Reagan, Robbins, Roberts, Sandage, Savage, Scott, Searing, Henry M. Shaw, John Sherman, Shorter, Sickles, Singleton, Spinner, Stallworth, Talbot, Tappan, George Taylor, Thayer, Thompson, Underwood, Ward, Warren, Watkins, Whiteley, Wilson, Winslow, Wood, and Wortendyke.

During the call of the roll,

Mr. TAYLOR, of Louisiana, stated that Mr. BILLINGHURST was in attendance on the Judiciary Committee.

Mr. McQUEEN stated that Mr. BONHAM was absent from the city, and had paired off.

A quorum (one hundred and twenty-two members) having appeared,

Mr. CRAWFORD moved that all further proceedings under the call be suspended.

The motion was agreed to.

The Journal of yesterday was then read and approved.

TRIAL OF WILLIAM WALKER.

Mr. TAYLOR, of Louisiana. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the President be requested to consider whether William Walker and his followers, recently seized by the naval forces of the United States within the territorial limits of the Republic of Nicaragua, and brought back to the United States, can be tried under indictments found against them in the courts of the United States, for offenses alleged to have been committed by them in the United States prior to the said seizure as aforesaid, without a violation of the principles heretofore recognized and acted on by the Government of the United States in its public policy; and that he be also requested to consider whether such trial of the said William Walker and his followers, with the permission, and by the authority of the Executive, will not be likely to give rise to embarrassments and difficulties in the future management of various questions necessarily connected with our relations with other countries.

Mr. KELSEY. I object.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The SPEAKER stated that the business first in order was the consideration of the bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th of June, 1859, reported yesterday from the Committee of the Whole on the state of the Union, with sundry amendments.

Mr. SEWARD. Has the previous question been ordered on that bill?

The SPEAKER. The main question has been ordered.

Mr. SEWARD. Well, I move to reconsider the vote by which it was ordered, unless the gentleman having charge of this bill will allow the amendment put in yesterday, to give Mr. Rives the binding of the Globe, to be stricken out. Under the joint resolution of 1846, that duty was devolved upon the Clerk, and he gave bond and security for the discharge of that duty, and has taken incipient means to carry it out. The amendment changes the existing law, and I want to get it out of the bill.

The SPEAKER. The object which the gentleman has in view can be accomplished, if the House concurs with him, by voting down the amendment.

Mr. SEWARD. I accept the suggestion of the Chair, and withdraw the motion to reconsider.

The first amendment reported by the Committee of the Whole on the state of the Union was then read, as follows:

Page 6, line one hundred and twenty-nine, strike out the word "seventy" and insert "sixty-three;" and at the end of line one hundred and thirty, insert the following after the word "delivered:" "And provided further, That the work shall be done by the publisher of the Globe, and delivered within ninety days after the adjournment of the session of Congress;" so that the clause will read:

For binding twenty-four copies of the Congressional Globe and Appendix for each member and delegate of the second session Thirty-Fifth Congress, \$8,097 60: Provided, That no greater price shall be paid for the same than sixty-three

cents for each volume or part, actually bound and delivered: And provided further, That the work shall be done by the publisher of the Globe, and delivered within ninety days after the adjournment of the session of Congress.

Mr. HARRIS, of Illinois. I ask for a separate vote on that amendment; and, with the unanimous consent, I will make a statement of a single minute on it.

Mr. BURNETT. I have no objection, provided the other side can be heard.

Mr. SEWARD. I make the point of order on this amendment which was not made in committee; that this amendment is not in order, because it seeks to change existing law.

The SPEAKER. The Chair cannot entertain that point of order.

Mr. HARRIS, of Illinois. I wish to say a word.

Mr. BURNETT. I object, unless those who are in favor of that amendment, and think it ought to be adopted, shall be heard.

Mr. HARRIS, of Illinois. I do not wish to move to reconsider the vote by which the main question was ordered. I do not intend to make an argument against the propriety of the amendment, except as applicable to the present condition of things. I have no objection to hear any statement in favor of the amendment. I only wish to make a statement of facts which it is due to the House to know.

Mr. J. GLANCY JONES. As the amendment was offered when the bill was pending in the Committee of the Whole on the state of the Union, and was acted on without previous examination, I hope that the House will consent to allow five minutes for a speech upon either side. The amendment did not come from the Ways and Means Committee.

The SPEAKER. If there be no objection, that course will be taken.

There was no objection.

Mr. HARRIS, of Illinois. Mr. Speaker, I voted for the proposition yesterday under the apprehension and belief that it was proper and ought to be adopted; but since then I have learned that the Clerk of the House, who has heretofore had charge of the binding of these reserved copies, and is under the law required to do it, had, in pursuance of the duty devolved upon him, made a contract and entered into bonds for the execution of that work. The parties with whom he has contracted have procured materials and have gone on to prepare themselves to do the work in a speedy and proper manner immediately after the adjournment of Congress. The adoption of this amendment will place the Clerk in the condition of having to meet this obligation which he has incurred under the law without the ability to put the work in the hands of the contractor. It is not a matter of any consequence to him, except as it involves a contract into which he has entered under the law, as I have stated. I voted for the amendment; but, under this state of facts, I think that it is due to the House to know that they are voting for a provision here which will hereafter involve it in difficulty, or if not involve the House in difficulty, will at least involve the Clerk in a serious difficulty.

Mr. WALBRIDGE. Was the contract made in pursuance of law?

Mr. HARRIS, of Illinois. I understand that it was made in conformity with the law and with the practice of the House. How long the practice has continued I cannot say, but I believe that it has continued since 1846. Since the Clerk has acted in good faith in this matter, I conceive that the House will not be disposed to involve him in any difficulty.

Mr. BURNETT. Mr. Speaker, if the House will give me their attention for a moment, I will satisfy gentlemen that this amendment is correct and ought to be put into this bill. In the first place I take the position that the Clerk had no authority to make such a contract; and in the second place that this is not an appropriation for the present session of Congress. This is an annual appropriation bill making an appropriation for the next fiscal year. This appropriation is for the next session of Congress and not for the present session. The next thing I will call attention to is this, that the Clerk has no authority to make a contract for the binding of Congress until it is ordered.

Mr. HARRIS, of Illinois. If the gentleman will allow me. The contracts have been made

heretofore as this one was made, for the Congress and not for the session.

Mr. RUFFIN. I should like to know when this contract was made. We could hear nothing of it yesterday.

Mr. HARRIS, of Illinois. The Clerk of the House has informed me that the contract has been made.

Mr. BURNETT. The contract, if made, could not be found yesterday.

What are the facts? What does this amendment do? This amendment will secure this binding at seven cents less a volume than it has cost heretofore. It does not interfere with the present session of Congress, and it will protect us against these contracts by which we pay an exorbitant amount for the binding of the Congressional Globe. Upon each volume we save seven cents. Gentlemen may call it a small matter; but, sir, when we are careless of these small matters we find in the end that they amount to a heavy charge upon the Treasury.

There is another point: It is said that we may involve the Clerk of the House in difficulty. I have as much friendship for the Clerk of this House, and will go as far as any gentleman upon this floor to protect his interests. There is not one who would go further. But I have this to say in reference to the binding of the Houses of Congress, and I say it after due reflection: that there is a species of favoritism in giving it out, and in particular that ordered by this House, which Congress ought to discountenance and to seal with its condemnation. I speak advisedly when I say this; and when the time comes for discussion, I will then express my views on the subject, if I shall get the floor, and shall attempt to show the mode and manner in which this thing has been done under contract.

This is all I desire to say. I hold that it is the duty of Congress, when we can make contracts for the lowest price, to do so, and thereby save money to the Government.

Mr. HARRIS, of Illinois. All this declamation about extravagance is very well, and I approve the whole of it. The inquiry which was made by the gentleman from Michigan [Mr. WALBRIDGE] seemed to have some effect on the House; and I will say now that this contract was not made yesterday, but has been made since February last, and that it was then signed, sealed, and perfected.

Mr. BURNETT. I have this to say, that if I have unintentionally done injustice to the Clerk of this House, I regret it. However, several gentlemen of this House undertook to ascertain whether a contract had been made, and that fact could not then be ascertained; hence I made the statement.

Mr. HARRIS, of Illinois. To whom did they apply?

Mr. BURNETT. To the chief clerk, Mr. Carter. The gentleman from Georgia [Mr. SEWARD] says that the amendment changes the law, and ought not to be put in. I care not whether it changes the law of 1846 or not; the fact is patent to the House that by the amendment we save seven cents on each volume.

Mr. SEWARD. I desire to be heard upon this side.

The SPEAKER. The five minutes allowed to each side for explanation have expired.

Mr. SEWARD. Do the gentleman from Illinois and the gentleman from Kentucky make two sides of the House?

The SPEAKER. They represent the two sides. Mr. SEWARD. They do not represent my views.

The SPEAKER. The Chair supposed there were but two sides to this question, and he understood that they represented the two sides.

Mr. SINGLETON. As a member of the Committee on Printing and Binding, I would like to make a remark. I want to explain the action of that committee, as there seems to be some misunderstanding about it with my friend from Kentucky.

Mr. BURNETT. I cast no imputation upon the Committee on Printing and Binding.

Mr. SEWARD. If I cannot be heard, I shall oppose this debate.

Mr. BURNETT demanded the yeas and nays. The yeas and nays were ordered.

Mr. PHELPS. Mr. Speaker, the object is to pay money—

Mr. SEWARD. I cannot be heard, and I object to all debate.

Mr. HARRIS, of Illinois. I wish to say to the House, that the contract to which I alluded will be here in a moment, when any gentleman can examine it.

The SPEAKER. Debate is objected to.

Mr. BARKSDALE. In order to vote understandingly upon the question, I desire to ask the chairman of the Committee of Ways and Means—

The SPEAKER. The gentleman from Georgia objected to all debate.

Mr. SEWARD. I do not like to be put in the position of an objector; but as the Speaker enforced the rule rigidly upon me, I desire to have him follow the same course with every one else.

Mr. FLORENCE. I desire to make an inquiry of the Chair, in order that I may determine how to vote.

The SPEAKER. The Chair thinks that if the gentleman inquires for information upon which to found his vote, the inquiry would be in the nature of debate.

Mr. FLORENCE. I merely desire to ask this question, and the Speaker can decide whether it is in the nature of debate or not: is there a pending contract for this work made by the Clerk of this House?

The SPEAKER. The Chair thinks the question is in the nature of debate.

Mr. MAYNARD. Is the amendment divisible?

The SPEAKER. It was reported as a single amendment from the committee, and cannot be divided, according to the practice of the House.

The question was taken; and it was decided in the affirmative—yeas 61, nays 101; as follows:

YEAS—Messrs. Anderson, Blair, Boccock, Boyce, Branch, Bratton, Burnett, Caskey, Clemens, Cockerill, Cragin, Burton, Craige, Crawford, Curry, Curtis, Dean, Dewart, Dodd, Elliott, English, Faulkner, Foley, Garnett, Gartrell, Goode, Greenwood, Gregg, Harlan, Hickman, Hoard, Horton, Howard, Huyler, Jewett, George W. Jones, J. Glancy Jones, Jacob M. Kunkel, Lawrence, Leiter, Letcher, McQueen, Mason, Miller, Millson, Moore, Palmer, Pendleton, Peyton, Phillips, Pike, Reilly, Ricard, Ruffin, Seales, John Sherman, William Smith, Stanton, Stevenson, Woodson, Wortendyke, and Zollieffer—61.

NAYS—Messrs. Abbott, Andrews, Avery, Barksdale, Bennett, Billingshurst, Bingham, Bishop, Bliss, Buffinton, Burlingame, Burns, Campbell, Caruthers, Case, Chaffee, John B. Clark, Clawson, Clay, Clingman, Cobb, John Cochran, Colfax, Comins, Covode, James Craig, Darnell, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dick, Durfee, Edmundson, Fenton, Florence, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Thomas L. Harris, Haskin, Hatch, Hawkins, Hughes, Jackson, Kelly, Kelsey, Kilgore, Knapp, Lamar, Leach, Lovejoy, Samuel S. Marshall, Maynard, Morgan, Edward Joy Morris, Isaac N. Morris, Mott, Niblack, Olin, Parker, Pettit, Phelps, Potter, Powell, Purviance, Reagan, Ritchie, Royce, Russell, Seward, Aaron Shaw, Judson W. Sherman, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stephens, William Stewart, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Winslow, Augustus R. Wright, and John V. Wright—101.

So the amendment was not agreed to.

Pending the call of the roll,

Mr. NICHOLS stated that he had paired off upon all questions for the day.

The next amendment was reported by the Clerk as follows:

"For the usual additional compensation to the reporters for the Congressional Globe, for reporting the proceedings of the House of Representatives, for the present session of Congress, being \$800 each reporter, \$4,000.

The SPEAKER. The gentleman from Ohio yesterday moved to amend, by striking out the words "present session of Congress," and inserting "next regular session of the Thirty-Fifth Congress." The question is first upon the amendment to the amendment.

Mr. REAGAN. Is it in order to amend by moving to strike out the whole of that amendment?

The SPEAKER. It is not. The same result is accomplished by voting down the amendment. Indeed the motion would not be in order at all under the operation of the previous question.

The amendment to the amendment was agreed to.

The question recurring upon the amendment as amended,

Mr. REAGAN demanded the yeas and nays and tellers upon the yeas and nays.

Tellers were ordered; and Messrs. REAGAN and KELSEY were appointed.

The House was divided; and the tellers reported—ayes twenty-eight.

No further count being demanded, the yeas and nays were ordered.

Mr. TRIPPE. Will it be in order to move to reconsider the vote by which the amendment of the gentleman from Ohio was agreed to?

The SPEAKER. It would be.

Mr. TRIPPE. I make that motion; and I ask the Chair if I can discuss it?

The SPEAKER. The previous question is operating.

Mr. TRIPPE. Does the previous question operate upon a motion to reconsider?

The SPEAKER. All incidental questions arising after the previous question is ordered, and before the vote is put, are controlled by it.

Mr. WASHBURN, of Illinois. I move to lay the motion to reconsider upon the table.

Mr. TRIPPE. I desire to ask whether that amendment votes extra compensation to the reporters, or is it a mere provision for their pay the next session?

Mr. SHERMAN, of Ohio. The object of the amendment is to put them upon the same footing for the next session, as they occupy this session, and as they have occupied for the last six years. It is a part of their regular compensation.

Mr. TRIPPE. Then I withdraw the motion to reconsider.

The question was then taken upon the adoption of the amendment as amended; and it was decided in the affirmative—yeas 88, nays 61; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Bennett, Bingham, Blair, Bliss, Branch, Brayton, Burlingame, Burnett, Burns, Case, Chaffee, Clawson, Clemens, Comins, Covode, Cragin, James Craig, Crawford, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Dean, Dodd, Durfee, Fenton, Florence, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Robert B. Hall, Thomas L. Harris, Hawkins, Horton, Howard, Kelly, Kelsey, Kilgore, Knapp, Lamar, Leach, Leiter, Lovejoy, McQueen, Matteson, Morgan, Edward Joy Morris, Freeman H. Morse, Olin, Palmer, Parker, Pettit, Phelps, Purviance, Ricard, Ritchie, Royce, Russell, Aaron Shaw, John Sherman, Judson W. Sherman, Sickles, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stanton, William Stewart, Tripp, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Woodson, and Augustus R. Wright—88.

NAYS—Messrs. Atkins, Avery, Barksdale, Bishop, Bock, Burns, Caskey, John B. Clark, Clay, Cobb, John Cochrane, Cockerill, Burton Craig, Davidson, Davis of Mississippi, Dewart, Dick, Edmundson, Elliott, Faulkner, Foley, Garnett, Garrett, Goode, Gregg, Harlan, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Jacob M. Kunkel, Lawrence, Leidy, Letcher, Samuel S. Marshall, Mason, Maynard, Miller, Millson, Moore, Niblack, Potter, Powell, Reagan, Reilly, Rufin, Sandidge, Scales, Shorter, William Smith, Stevenson, Miles Taylor, Tompkins, White, Whiteley, Winslow, Wortendyke, John V. Wright, and Zollcoffer—61.

So the amendment as amended was agreed to.

The fifth amendment was reported, as follows:

"For furnishing the committee rooms, retiring rooms, and offices in the south wing of the Capitol extension with gas-fixtures, chandeliers, iron safes, and other furniture, \$40,000."

Mr. STANTON. I ask for a separate vote on that amendment.

Mr. LETCHER asked for the yeas and nays.

Mr. SICKLES called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. WRIGHT of Georgia, and BUFFINTON were appointed.

The House divided; and the tellers reported—ayes thirty-two, (over one fifth of the members present.)

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 61; as follows:

YEAS—Messrs. Adrain, Barksdale, Bingham, Bishop, Blair, Bliss, Bock, Branch, Brayton, Burlingame, John B. Clark, Clay, Clingan, John Cochrane, Cockerill, Comins, Cragin, Crawford, Curry, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dean, Dewart, Durfee, Edmundson, English, Farnsworth, Fenton, Florence, Foster, Giddings, Gillis, Gilmer, Goode, Greenwood, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Thomas L. Harris, Haskin, Hawkins, Horton, Hughes, Huyler, Jackson, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Jacob M. Kunkel, Lawrence, Letcher, Lovejoy, McQueen, Matteson, Millson, Niblack, Parker, Phelps, Pike, Ricard, Ritchie, Russell, Sandidge, Seward, Aaron Shaw, Judson W. Sherman, Singleton, Robert Smith, Stephens, William Stewart, Miles Taylor, Elihu B. Washburne, Israel Washburn, Whiteley, Winslow, Wortendyke, and Augustus R. Wright—81.

NAYS—Messrs. Abbott, Andrews, Atkins, Avery, Bennett, Buffinton, Burnett, Chaffee, Cobb, Colfax, Covode, Cox, Damrell, Dodd, Foley, Garnett, Garrett, Gilman, Goodwin, Granger, Gregg, Harlan, Hoard, George W. Jones, Kilgore, Knapp, Leidy, Leiter, Samuel S. Marshall,

Mason, Maynard, Moore, Morgan, Edward Joy Morris, Mott, Olin, Palmer, Pendleton, Pettit, Phillips, Potter, Powell, Reagan, Reilly, Royce, Rufin, Scales, John Sherman, Spinner, Stallworth, Stanton, Stevenson, Tompkins, Tripp, Wade, Walbridge, Walton, Cadwalader C. Washburn, Watkins, and John V. Wright—61.

So the amendment was agreed to.

The tenth amendment was reported, as follows:

"Add the following as an additional section to the bill: 'Sec. 2. And be it further enacted, That no part of the amount appropriated by any act of Congress for the service of any one fiscal year shall be used for, or applied to, the service of any other fiscal year, nor be transferred to or used for any other branch of expenditure than that for which it may be specifically appropriated: Provided, That nothing herein contained shall apply to appropriations for the present or next fiscal year.'"

Mr. J. GLANCY JONES. I wish to have a separate vote on that amendment; and I hope the House will vote it down.

Mr. PHELPS asked for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 50; as follows:

YEAS—Messrs. Abbott, Anderson, Atkins, Avery, Bennett, Bingham, Bishop, Blair, Bliss, Boyce, Brayton, Bryan, Buffinton, Burnett, Burns, Case, Chaffee, Cobb, Colfax, Comins, Covode, Davis of Maryland, Davis of Indiana, Dean, Dick, Dodd, Durfee, Edmundson, Farnsworth, Fenton, Foley, Foster, Garnett, Garrett, Giddings, Gilman, Gilmer, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hawkins, Horton, Howard, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Humphrey Marshall, Mason, Matteson, Maynard, Morgan, Edward Joy Morris, Freeman H. Morse, Mott, Olin, Palmer, Parker, Pendleton, Pettit, Pike, Potter, Purviance, Reagan, Reilly, Ricard, Ritchie, Royce, Rufin, Savage, Scales, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Sickles, Singleton, Robert Smith, William Smith, Spinner, Stanton, Stephens, William Stewart, Tappan, Miles Taylor, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—106.

NAYS—Messrs. Barksdale, Bock, Branch, Caruthers, John B. Clark, Clay, Clemens, Clingan, John Cochrane, Cockerill, Crawford, Curry, Damrell, Davidson, Dewart, Dowdell, English, Faulkner, Florence, Goode, Greenwood, Gregg, Hughes, Huyler, Jackson, Jewett, J. Glancy Jones, Owen Jones, Jacob M. Kunkel, Lamar, Lawrence, Leidy, Letcher, McKibbin, McQueen, Samuel S. Marshall, Miller, Millson, Niblack, Peyton, Phelps, Phillips, Russell, Shorter, Samuel A. Smith, Stallworth, Stevenson, White, Whiteley, and Zollcoffer—50.

So the amendment was adopted.

The question was then taken on all the amendments on which separate votes had not been taken, and they were adopted in gross.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. J. GLANCY JONES moved the previous question on the passage of the bill.

The previous question was seconded; and the main question ordered, which was on the passage of the bill.

Mr. MORGAN called for the yeas and nays on the passage of the bill, and for tellers on the yeas and nays.

Tellers were ordered; and Messrs. WALBRIDGE and CLEMENS were appointed.

The House divided; and the tellers reported—ayes thirty-three, (more than one fifth of the members present.)

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 110, nays 54; as follows:

YEAS—Messrs. Anderson, Atkins, Avery, Barksdale, Bishop, Bock, Boyce, Branch, Brayton, Bryan, Burnett, Burns, Caruthers, Caskey, John B. Clark, Clay, Clemens, Clingan, John Cochrane, Cockerill, Comins, Crawford, Damrell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dean, Dick, Dowdell, Durfee, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Garnett, Garrett, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Robert B. Hall, Thomas L. Harris, Hatch, Hawkins, Hickman, Horton, Howard, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Kelsey, Jacob M. Kunkel, Landy, Lawrence, Leidy, Letcher, Lovejoy, McKibbin, McQueen, Samuel S. Marshall, Mason, Miller, Millson, Moore, Edward Joy Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Reagan, Reilly, Rufin, Russell, Sandidge, Savage, Scales, Seward, Aaron Shaw, John Sherman, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stephens, Stevenson, Tripp, Underwood, Watkins, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—110.

NAYS—Messrs. Abbott, Andrews, Bennett, Bingham, Blair, Bliss, Buffinton, Burlingame, Case, Chaffee, Clawson, Cobb, Colfax, Covode, Curtis, Davis of Iowa, Dodd, Farnsworth, Fenton, Foster, Gilman, Goodwin, Granger, Grow, Harlan, Hoard, Kilgore, Knapp, Leach, Leiter, Humphrey Marshall, Maynard, Morgan, Freeman H. Morse,

Mott, Palmer, Pettit, Pike, Potter, Ricard, Ritchie, Royce, Spinner, Stallworth, Stanton, Tappan, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, and Zollcoffer—54.

So the bill was passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, its Secretary, notifying the House that the Senate had passed, with an amendment, an act (H. R. No. 62) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1859.

Also, the following bills and resolutions of the Senate, in which he was directed to ask the concurrence of the House:

An act (S. No. 312) to provide for the collection and safe-keeping of public archives in the State of California;

An act (S. No. 313) to amend an act entitled "An act to ascertain and settle the private land claims in the State of California," passed March 3, 1851;

An act (S. No. 314) for the prevention and punishment of frauds in land titles in California;

A resolution (S. No. 28) for the adjustment of difficulties with the Republic of Paraguay; and

A resolution (S. No. 32) for the benefit of the widow of Commander William Lewis Herndon.

CLAYTON-BULWER TREATY.

Mr. J. GLANCY JONES. I hope the House will now proceed to the business of the morning hour.

The SPEAKER. The business first in order is the consideration of the following joint resolution reported from the Committee on Foreign Affairs:

Whereas, The treaty between the United States and Great Britain, designated as the Clayton-Bulwer treaty, is, under the interpretation placed on it by Great Britain, a surrender of the rights of this country, and upon the American construction an entangling alliance without mutuality either in its benefits or restrictions, and having hitherto been productive only of misunderstandings and controversies between the two Governments: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to take such steps as may be, in his judgment, best calculated to effect a speedy abrogation of said treaty.

On which the gentleman from Pennsylvania [Mr. RITCHIE] is entitled to the floor.

Mr. JONES, of Tennessee. I have been requested to ask that a bill for the relief of Rev. Eleazer Williams may be referred to the Committee on Indian Affairs. Will the gentleman yield for that purpose?

Mr. RITCHIE. I decline to yield for that purpose. I only desire to occupy the floor for a short time, not more than half the time to which I am entitled. The gentleman can make his motion after I get through.

Mr. HASKIN. I ask the gentleman to yield to me for a moment.

Mr. RITCHIE. I have just declined to yield to the other gentleman.

Mr. HASKIN. It is a privileged question which I wish to submit.

Mr. RITCHIE. I will only occupy the floor for a short time.

It is not my intention, Mr. Speaker, to make a long speech on this subject, or to follow the gentleman from North Carolina in the discursive remarks which he made yesterday in favor of these resolutions. He referred to the Roman empire, the Russian empire, the French empire, and the prophecies of Daniel. I do not agree with him in his interpretation of the prophecy to which he referred, but I leave that to be settled between him and other commentators. I beg leave to say, however, that the goat spoken of in Daniel was a bad goat, and that one of his performances was to cast down truth to the ground; and I hope the United States will never engage in any such business.

With reference to this particular resolution, I intend to confine myself strictly to the question, and to refer, in a few words, to the situation of affairs on the adoption of the Clayton-Bulwer treaty; and then I will show briefly, by extracts from official documents, that, in the opinion both

of the Government of Great Britain and the Government of the United States, the position of the United States in regard to the whole Central American question is stronger under the treaty than it was prior to the treaty. I will show, by extracts from official correspondence, that during the whole of that discussion the object of the negotiators on the part of the United States was to hold the British Government to the terms of the treaty as the strongest ground for the United States to occupy, and that the whole struggle on the part of the British Government was to escape from the treaty to the ground it occupied before that treaty. I beg leave to remark here that I entirely concur with the gentleman from North Carolina that this House has the right, whenever it sees proper, to express its opinion on any subject of treaty between the Government of the United States and any other Government whatever. But I contend that if we have the right to express our opinion on any treaty in this House, we should exercise it with discretion, and only in extreme cases; and I contend that the present instance is no such extreme case, and that the subject may well be left to the discretion of the Executive. There is no particular emergency calling for interference by this House. I hope, therefore, that the House will come to a speedy vote on this resolution, and vote it down; if not on the merits of the question itself, at least because it presents no case for our interference at the present moment.

With regard to the first point, Mr. Speaker, I desire to call the attention of the House to the situation of affairs which led to the adoption of the treaty. In the first place, I desire to read an extract from the message of President Pierce of May 5, 1856:

"The narrow isthmus which connects the continents of North and South America, by the facilities it affords for easy transit between the Atlantic and Pacific oceans, rendered the countries of Central America an object of special consideration to all maritime nations, which has been greatly augmented in modern times by the operation of changes in commercial relations, especially those produced by the general use of steam as a motive power by land and sea. To us, on account of its geographical position, and of our political interest as an American State of primary magnitude, that isthmus is of peculiar importance; just as the isthmus of Suez is, for corresponding reasons, to the maritime Powers of Europe. But, above all, the importance to the United States of securing free transit across the American isthmus has rendered it of paramount interest to us since the settlement of the Territories of Oregon and Washington, and the accession of California to the Union.

"Impelled by these considerations, the United States took steps at an early day to assure suitable means of commercial transit, by canal, railway, or otherwise, across this isthmus.

"We concluded, in the first place, a treaty of peace, amity, navigation, and commerce, with the Republic of New Granada; among the conditions of which was a stipulation, on the part of New Granada, guaranteeing to the United States the right of way or transit across that part of the isthmus which lies in the territory of New Granada, in consideration of which the United States guaranteed, in respect of the same territory, the rights of sovereignty and property of New Granada.

"The effect of this treaty was to afford to the people of the United States facilities for at once opening a common road from Chagres to Panama, and for at length constructing a railway in the same direction, to connect regularly with steamships, for the transportation of mails, specie, and passengers, to and fro between the Atlantic and Pacific States and Territories of the United States.

"The United States also endeavored, but unsuccessfully, to obtain from the Mexican Republic the cession of the right of way at the northern extremity of the isthmus, by Tehuantepec; and that line of communication continues to be an object of solicitude to the people of this Republic.

"In the mean time, intervening between the Republic of New Granada and the Mexican Republic, lie the States of Guatemala, Salvador, Honduras, Nicaragua, and Costa Rica, the several members of the former Republic of Central America. Here, in the territory of the Central American States, is the narrowest part of the isthmus, and hither, of course, public attention has been directed as the most inviting field for enterprises of interoceanic communication between the opposite shores of America, and more especially to the territory of the States of Nicaragua and Honduras.

"Paramount to that of any European States was the interest of the United States in the security and freedom of projected lines of travel across the isthmus, by the way of Nicaragua and Honduras, still we did not yield in this respect to any suggestions of territorial aggrandizement, or even of exclusive advantage, either of communication or of commerce. Opportunities had not been wanting to the United States to procure such advantages by peaceful means, and with full and free assent of those who alone had any legitimate authority in the matter. We disregarded those opportunities from considerations like of domestic and foreign policy; just as, even to the present day, we have persevered in a system of justice and respect for the rights and interests of others, as well as our own, in regard to each and all of the States of Central America.

"It was with surprise and regret, therefore, that the United States learned, a few days after the conclusion of the

treaty of Guadalupe Hidalgo, by which the United States became, with the consent of the Mexican Republic, the rightful owners of California, and thus invested with augmented special interest in the political condition of Central America, that a military expedition, under the authority of the British Government, had landed at San Juan del Norte, in the State of Nicaragua, and taken forcible possession of that port, the necessary terminus of any canal or railway across the isthmus within the territories of Nicaragua."

That is a clear statement of the grounds which render it desirable to us that this isthmus should not be controlled by any Power but the United States.

I wish to show further some of the circumstances which led to the adoption of this treaty. The kingdom of Great Britain had interfered on that isthmus; and I wish to show that though that interference took place during the Administration of President Polk, and during the time that Mr. Buchanan occupied the position of Secretary of State, they took no notice whatever of it, although their attention was repeatedly called to it; and the first notice taken of that interference was by Mr. Clayton, during the administration of General Taylor. I intend to show by Mr. Buchanan's own correspondence that the first notice taken of it by him was under the treaty. Before that treaty was negotiated, the Government felt that they had not much ground to stand upon in resisting the steps taken towards the possession of the isthmus by Great Britain. I desire to read in this connection a statement of Lord Clarendon in his correspondence with Mr. Buchanan with reference to the treaty; and I desire to say that the facts stated by Lord Clarendon are not in any way controverted by Mr. Buchanan in his reply. I call the attention of the House first to the following from the statement of the Earl of Clarendon:

"It may be true that the United States were not informed of the position of Great Britain in respect to Mosquito until 1842, but they were then informed of it; and yet there is no trace of their having alluded to this question in their communications with her Majesty's Government up to the end of 1849. Nay, in 1850, when the President of the United States presented to Congress various papers relative to the affairs of Central America, it will be seen that, on introducing these affairs to the attention of Congress, the President's Secretary of State for foreign affairs expressly says that the Government of Nicaragua, in November, 1847, solicited the aid of the United States Government to prevent an anticipated attack on San Juan, by the British forces acting on behalf of the Mosquito King, but received no answer; that the President of Nicaragua addressed the President of the United States at the same time, and received no answer; that in April, 1848, the United States consul at Nicaragua, at the request of the Minister of Foreign Affairs of that Republic, stated the occupation of San Juan by a British force, but was not answered; that on the 5th November, 1848, M. Castillon, proceeding to London from Nicaragua, and then to Washington, addressed a letter to the United States Secretary of State, soliciting his intervention with regard to the claims of Great Britain in right of the Mosquito King, and received no answer; that on the 12th of January, 1849, Mr. Bancroft, then representative of the United States to the Court of St. James, referring to M. Castillon's arrival in London, and the subject of his mission to settle the affairs of San Juan de Nicaragua with the British Government, said, 'I think it proper to state to you my opinion, that Lord Palmerston will not recede. I have, of course, taken no part'; and that again, in March, Mr. Bancroft wrote that M. Castillon would be anxious to seek advice from the United States, but that he had always made answer to him 'that he was not authorized to offer advice.'"

I now call the attention of the House to the statement drawn up by Mr. Buchanan himself for the Earl of Clarendon:

"When the negotiations commenced, which resulted in the conclusion of the Clayton and Bulwer convention of April 19, 1850, the British Government were in possession of the whole extensive coast of Central America, sweeping round from the Rio Hondo to the port and harbor of San Juan de Nicaragua, except that portion [of] it between the Sarston and Cape Honduras, together with the adjacent Honduras island of Ruatan.

"The Government of the United States seriously contested the claim of Great Britain to any of these possessions, with the single exception of that part of the Belize settlement lying between the Rio Hondo and the Sibun, the usufruct of which, for a special purpose, and with a careful reservation of his sovereign rights over it, had been granted by the King of Spain to the British under the convention of 1786.

"The progress of events had rendered Central America an object of special interest to all the commercial nations of the world, on account of the railroads and canals then proposed to be constructed through the isthmus, for the purpose of uniting the Atlantic and Pacific oceans."

"Yet, in view of all these antecedents, the island of Ruatan, belonging to the State of Honduras, and within sight of its shores, was captured in 1841 by Colonel McDonald, then her Britannic Majesty's superintendent at Belize, and the flag of Honduras was hauled down, and that of Great Britain was hoisted in its place. This small State, incapable of making any effectual resistance, was compelled to submit, and the island has ever since been under British con-

trol. What makes this event more remarkable is, that it is believed a similar act of violence had been committed on Roatan by the superintendent of Belize in 1835; but, on complaint by the Federal Government of the Central American States, then still in existence, the act was formally disavowed by the British Government, and the island was restored to the authorities of the Republic.

"No question can exist but that Ruatan was one of the 'islands adjacent' to the American continent, which had been restored by Great Britain to Spain, under the treaties of 1783 and 1786. Indeed, the most approved British gazetteers and geographers, up till the present date, have borne testimony to this fact, apparently without information from that hitherto but little known portion of the world, that the island had again been seized by her Majesty's superintendent at Belize, and was now a possession claimed by Great Britain.

"When Great Britain determined to resume her dominion over the Mosquito shore, in the name of a protectorate, is not known with any degree of certainty in the United States. The first information on the subject, in the Department of State at Washington, was contained in a dispatch of the 26th January, 1842, from William S. Murphy, Esq., special agent of the American Government to Guatemala, in which he states, that in a conversation with Colonel McDonald at Belize, the latter had informed him he had discovered and sent documents to England, which caused the British Government to revive their claim to the Mosquito territory."

"Thus it appears that the Spaniards were justly sensible of the importance of defending this outlet from the Lake of Nicaragua to the ocean, because, as Captain Bonnycastle observes, 'This port [San Juan] is looked upon as the key of the Americas; and with the possession of it, and Relajo on the other side of the lake, the Spanish colonies might be paralyzed, by the enemy being then master of the ports of both oceans.' He might have added, that nearly sixty years ago, on the 26th February, 1796, the port of San Juan de Nicaragua was established as a port of entry of the second class by the King of Spain."

"It was therefore with profound surprise and regret the Government and people of the United States learned that a British force, on the 1st of January, 1848, had expelled the State of Nicaragua from San Juan, had hauled down the Nicaraguan flag, and had raised the Mosquito flag in its place. The ancient name of the town, San Juan de Nicaragua, which had identified it in all former times as belonging to Nicaragua, was on this occasion changed, and thereafter it became Greytown."

Now, Mr. Speaker, I think I have sufficiently shown that many of the very acts of which we now complain against Great Britain were performed long previous to 1850, and some of those of which we most complain during the Administration of President Polk, and during the time when Mr. Buchanan was Secretary of State. Repeated applications and complaints were made to the President and the Secretary, but not a word was heard in response, nor was the subject ever noticed by the Government until the accession of General Taylor's Administration. Mr. Clayton then instructed Mr. Lawrence, our Minister at London, to call the attention of Lord Palmerston to the subject. He did so, and, in consequence, the treaty of 1850 was formed. Now, I believe that the treaty of 1850 has prevented, in all probability, a collision between the United States and Great Britain, and maintained peace upon the whole subject from that day to this.

With regard to the great extent of coast marked out on the map exhibited by the gentleman from North Carolina yesterday, as occupied by Great Britain, I have to say that the documents before me show clearly that Great Britain desires no other advantages on that coast but the possession of the Belize and the islands of Ruatan and Bonacca. She disclaims any desire to hold possession of any other part of the coast. Now, Great Britain held possession of the Belize, even before the independence of the United States, so that practically the whole question is narrowed down to the possession of two miserable little islands—Ruatan and Bonacca—on the northern coast of Honduras. If gentlemen refer to the map they will observe the situation of these two islands. One of them—Bonacca—is nine miles long and one broad, and the other—Ruatan—is about thirty miles long and seven or eight miles wide. The island of Ruatan contains a good harbor on the south side, but it is evident that the positions occupied by Great Britain at the Belize and Jamaica makes the possession of Ruatan and Bonacca of no practical importance whatever. Any Power which has superiority on the sea, and the possession of Belize and Jamaica, has perfect command of those waters, and the possession of Ruatan is simply a matter of convenience. So far as the power over navigation is concerned, Great Britain has it so long as she maintains her superiority on the sea, and no Power can take it from her. As the gentleman from North Carolina himself said yesterday, Great Britain has twice offered to surrender the possession of the island. She feels that it really is not a matter of any import-

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, MAY 11, 1858.

NEW SERIES....No. 126.

ance, and I have no doubt that she will within a few weeks surrender it to Honduras.

As to the controversy in regard to the interpretation of the treaty, I have no doubt the interpretation insisted on on the part of the United States is strictly correct. Mr. Buchanan's argument in his correspondence with the British Minister on the subject is unanswerable. The use of the word "exercise" in the first article of the treaty (which I will read) is conclusive.

This article is the only one on which there is any dispute:

"ARTICLE 1. The Governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with, any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal, which shall not be offered on the same terms to the citizens or subjects of the other."

Whatever may be said in reference to colonies, &c., as to the future, that allegation cannot be made in respect to the word "exercise." That is absolute and unlimited in its nature. It is used in a universal sense, and refers to the exercise of all dominion; and, sir, I will say that the circumstances of this case required such a treaty on the part of both Governments. That treaty was dictated by good sense and good feeling on both sides, and the longer it remains the better it will be for both.

I will now proceed to show, by reading a few extracts, what was felt on the part of the British Government, and on the part of the United States, as to the fact that the strongest position for the United States was under this treaty. I will refer to the statements of Mr. Buchanan himself to show that, under the treaty, our ground was stronger than under the circumstances which existed before its adoption.

He says to Lord Clarendon:

"It would not seem necessary to extend these remarks by pointing out what might be deemed inaccuracies in Lord Clarendon's introductory *resumé* of the points in Mr. Buchanan's statement of January 6, 1854, nor of the order in which these points have been presented. It is sufficient to observe that the sixth and last point of this *resumé*, embracing the true construction of the convention of April 19, 1850, and which was the first discussed in Mr. Buchanan's statement, being by far the most important, it is entitled to precedence."

Again:

"The rights and the duties of the parties must be regulated by the first article of the convention of April 19, 1850, and these observations shall, therefore, be primarily directed to the ascertainment of its true meaning."

And again:

"In the course of these remarks it is proposed to maintain that this article requires Great Britain to withdraw from the possession of Ruatan and the other Bay Islands, the Mosquito coast and territory between the Sibun and the Sarstoon. The Belize settlement will demand a separate consideration."

Again he says:

"We now reach the true point. Does this language require that Great Britain shall withdraw from her existing possessions in Central America, including the Mosquito coast? The language peculiarly applicable to this coast will find a more appropriate place in a subsequent portion of these remarks."

"If any individual enters into a solemn and explicit agreement that he will not 'occupy' any given tract of country then actually occupied by him, can any proposition be clearer than that he is bound by his agreement to withdraw from such occupancy? Were this not the case, these words would have no meaning, and the agreement would become a mere nullity. Nay more, in its effect it would amount to a confirmation of the party in the possession of that very territory which he had bound himself not to occupy, and would practically be equivalent to an agreement that he should remain in possession—a contradiction in terms. It

is difficult to comment on language which appears so plain, or to offer arguments to prove that the meaning of words is not directly opposite to their well known signification."

At another point he says:

"If this were not the case, why their strenuous efforts, before the ratifications were exchanged, to have the British settlement of Belize specially excepted from its operation? Upon the opposite construction of the convention, it ought to have been their desire to place that settlement under its protection, and thus secure Great Britain in its occupancy."

Still further he says:

"Now, whether Great Britain was in the occupation of Ruatan at the date of the convention, by a good or by a bad title, cannot make the least difference in regard to the construction of that instrument. The case might have been different had the question arisen between her and the State of Honduras. The question between the United States and Great Britain, however, is not as to the validity of her title, but, no matter what it may have been, whether she has not agreed to abandon her occupation under this title. Not what was the state of things before, but what she agreed it should become after the conclusion of the convention."

And again:

"In this discussion, as in the case of the Bay Islands, it ought ever to be borne in mind that it is the true construction of the convention which is mainly to be ascertained and enforced, and not the historical circumstances and events which either preceded or followed its conclusion."

Again:

"It is also repeatedly admitted, that although the British Government (to employ its own language) 'did not, by the treaty of 1850, abandon the right of Great Britain to protect the Mosquitos, yet it did intend to reduce and limit that right.' Had the statement proceeded one step further, and specified in what manner and to what extent the British Government intended to reduce and limit this right, the controversy on this point might then, for all practical purposes, have been settled. Why? Because Lord Clarendon must have resorted to the convention itself for the limitations imposed on the protectorate; and this would have informed him that it shall never be used for the purpose of 'occupying' the Mosquito coast, or of assuming or exercising dominion over the same. Let Great Britain no longer employ it for these purposes; let her cease to occupy the coast, and exercise dominion over it, and, although not all the convention requires, yet for every essential object this would prove sufficient."

"The British statement, strangely enough, first proceeds to discuss, at considerable length, what it terms 'the spirit' of the treaty, which, it says, must always be inferred from the circumstances under which it takes place; and afterwards, in a very few lines, disposes of the great question of the true construction of its language. This entirely reverses the natural order of things. Vattel informs us, in his chapter on 'The Interpretation of Treaties,' that 'the first general maxim of interpretation is, that it is not allowable to interpret what has no need of interpretation.' When a deed is worded in clear and precise terms, when its meaning is evident and leads to no absurd conclusion, there can be no reason for refusing to admit the meaning which such deed naturally presents. To go elsewhere in search of conjectures in order to restrict or extend it, is but an attempt to elude it. If this dangerous method be once admitted, there will be no deed which it will not render useless."

"It was therefore incumbent upon the British statement first to prove that the language of the convention is obscure (a most difficult task) before it could properly resort to extraneous circumstances to explain its meaning. Nevertheless, following the order of the statement, a reply shall first be given to the circumstances adduced."

He says again:

"Now what inference does the British statement draw from this language? It is, that, as the correspondence which is alleged to have been before the negotiators does not refer to the Mosquito protectorate by name, therefore, they must have intended that this should remain untouched by the treaty. But no inference can prevail against a positive fact. If the correspondence be silent in regard to the protectorate, not so the convention. This expressly embraces it, and declares 'nor will either [of the parties] make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or people, for the purpose of erecting or maintaining any such fortifications or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same.'"

And further:

"In reference to the 'literal meaning of the convention,' which is certainly the main point, the British statement occupies but a few lines, and avoids any direct discussion of the language which it employs."

Again:

"These are but very partial and limited expositions of the motives which gave birth to the convention. It consecrated a policy far more extended and liberal."

And again:

"Viewing the treaty in the light of its own extended and liberal provisions, it was a matter of some surprise that the British statement should have confined itself merely to a proposition for the two Governments to enter into some arrangement whereby Great Britain may withdraw her pro-

teetorate from the port and harbor of Greytown and the northern bank of the San Juan, thus leaving the residue of the Mosquito coast in its present condition."

He proceeds:

"The statement next asserts, that although the Government of the United States, in 1842, knew of the existence of the British protectorate, yet they did not complain of it until 1849. And from this what is to be inferred? The United States had no right, under any treaty with Great Britain, to interfere in this question until April, 1850. But even if they had been directly interested in the Territory, as Nicaragua was, is there any statute of limitations among nations, which, after six years of unlawful possession, deprives the true owner of his territorial rights?"

In conclusion, he says:

"But no matter what may be the nature of the British claim to the country between the Sibun and the Sarstoon, the observation already made in reference to the Bay Islands and the Mosquito coast must be reiterated, that the great question does not turn upon the validity of this claim previous to the convention of 1850, but upon the facts that Great Britain has bound herself by this convention not to occupy any part of Central America, nor to exercise dominion over it; and that the territory in question is within Central America, even under the most limited construction of these words. In regard to Belize proper, confined within its legitimate boundaries, under the treaties of 1783 and 1786, and limited to the usufruct specified in these treaties, it is necessary to say but a few words. The Government of the United States will not for the present insist upon the withdrawal of Great Britain from this settlement, provided all the other questions between the two Governments concerning Central America can be amicably adjusted. It has been influenced to pursue this course partly by the declaration of Mr. Clayton on the 4th of July, 1850, but mainly in consequence of the extension of the license granted by Mexico to Great Britain under the treaty of 1826, which that Republic has yet taken no steps to terminate."

"It is, however, distinctly to be understood that the Government of the United States acknowledge no claim of Great Britain within Belize, except the temporary 'liberty of making use of the wood of the different kinds, the fruits, and other produce in their natural state,' fully recognizing that the former 'Spanish sovereignty over the country' now belongs either to Guatemala or Mexico."

"In conclusion, the Government of the United States most cordially and earnestly unite in the desire expressed by her Majesty's Government, not only to maintain the convention of 1850 intact, but to consolidate and strengthen it by strengthening and consolidating the friendly relations which it was calculated to cement and perpetuate. Under these mutual feelings, it is deeply to be regretted that the two Governments entertain opinions so widely different in regard to its true effect and meaning."

I have thus shown, Mr. Speaker, I think, that the circumstances which led to the adoption of this treaty were such as naturally should have led to its adoption; that the treaty was a wise and a good one on both sides; that since its adoption our Government has always felt stronger in negotiating with Great Britain on the ground of the treaty than they were without the treaty. I cannot see any reason why anybody should ask for the abrogation of that treaty on the part of the United States, except one who has a desire to seize possession of the Central American States on the part of the United States, without regard to consequences. No gentleman pretends to be ready, at present, for any such thing. In fact, the gentleman from North Carolina [Mr. CLINGMAN] spoke in vague terms, when pressed upon this practical point, and said that perhaps he would be in favor of some such thing, twenty, or thirty, or fifty years hence, but he did not desire immediate possession.

Mr. CLINGMAN. With the permission of my friend, I will state that my position was simply this: I hold that we ought to be free from the obligations of that treaty to acquire that territory whenever we think it is our interest, and can acquire it lawfully and honorably.

Mr. RITCHIE. That is precisely what I understand to be the gentleman's position, and in order to do that he desires that Great Britain shall also be at liberty to seize any port she may seize lawfully and honorably. I take the practical effect of that to be, to lay that country open as a prize to the strongest, as a glove thrown for a contest between the various nations.

Mr. Speaker, the gentleman from North Carolina cited the doctrine of the Ostend circular, and gave it his approbation. I was sorry to hear such an expression of approbation from the mouth of a conservative gentleman like that gentleman. I must say that I look upon the doctrines of that letter as a most melancholy exhibition at once of covetousness and imbecility. But it is not ger-

mane to this question; and I have not time to go into it, or I think I could make good all I have said of it. I understand, then, that the only practical reason for asking for an abrogation of this treaty is that we may seize Central America. The gentleman says that he does not desire to acquire that territory except on fair terms. The treaty does not keep us back from that. We can get it on terms considered fair and honorable now.

Mr. CLINGMAN. I will ask my friend, as he says we can get it on fair and honorable terms now, whether, if it was proposed to annex Nicaragua to the United States, it could be done without the consent of Great Britain?

Mr. RITCHIE. I was coming to that point. As a matter of fact, we could not get it, because I do not believe the parties interested would consent to it. I say the treaty would interpose no bar, but it leaves the parties in Central America to negotiate with whom they please; and we could, with the concurrence of Great Britain, or Great Britain could with the concurrence of the United States, notwithstanding the treaty, enter into any voluntary arrangement on the subject, if such a thing were desired. But I think it well that two of the greatest Powers of the earth, so far as naval affairs are concerned, are restrained by this very treaty from hostilities with one another. I think it well that we are placed in a position that our citizens may peaceably emigrate to that country, colonize it, and introduce there arts and industry of every kind. The treaty places no barrier in the way of that. It simply places barriers in the way of hostilities, and the forcible seizure of that country upon the part of either Great Britain or the United States. It places no barrier in the way of all legitimate and humane enterprises; but it is well calculated to secure the world against destructive contests with regard to that country.

There is nothing in it which prevents us from doing what any good and wise man should desire to do; but there is that in it which prevents any Power on earth from taking possession of the isthmus without the consent of these two parties to the treaty. That consent, of course, will never be given, and thus that country is protected from invasion by any Government. The treaty prevents the commission with regard to Central America of such acts as disgraced the Roman empire—an empire founded upon force and fraud—a people of whom Dr. Johnson well said, that when they were poor they robbed other people, and when they were rich they robbed one another—an empire actuated by the sole desire of dominion without regard to the rights and welfare of the people over whom such dominion was claimed or exercised. I know that in the course of a wise Providence that empire was made the means of removing obstructions to the free progress of Christianity, but it has no more claim to consideration on that account, than has any other perpetrator of crimes who is overruled for wise and good purposes.

I say from the time of the Declaration of Independence, it was announced as the intention of the Government of the United States itself, as well as of our people individually, to introduce a new era in the history of the world—an era of cultivation as distinguished from an era of violence and conquest. The difference between the rude savage, a man who delights in works of destruction, and who looks with delight upon a savage exhibition of physical power, and the highly civilized man who cultivates the field, and introduces the arts and habits of industry in the place of arms, distinguishes the past from the present. What appropriations do we make here? Nearly four fifths of all the expenses of this Government are wasted upon the Army and Navy of the country—I should not say wasted in the present state of the world, for I admit a necessity for it so long as evil exists—but they are wasted in the view of any wise and good man. The revenues of every nation ought to be applied to the development of its industrial resources and its intellectual and moral cultivation; but instead of that they are wasted and thrown away in diabolical and insane wars, and in preparations for military enterprises. I hope we shall follow no such example as that of Rome, but that we shall maintain peace with all nations; and as one step towards doing so, observe this treaty, and enforce its observance upon others.

Mr. SICKLES obtained the floor.

CONTUMACIOUS WITNESSES.

Mr. HASKIN. Will the gentleman give way for a moment to a privileged question?

Mr. SICKLES. Certainly.

Mr. HASKIN, from the Willet's Point select committee, offered the following resolution:

Whereas, Robert W. Latham, of the city of Washington, District of Columbia, was, on the 27th day of April, 1858, duly summoned to appear before a committee of this House, appointed to investigate the facts and circumstances connected with the sale and purchase of property at Wilkin's or Willet's Point, Long Island, New York, by the Government, for fortification purposes, in the year 1857, and has failed and refused to appear before said committee, pursuant to said summons: Therefore,

Resolved, That the Speaker issue his warrant, directed to the Sergeant-at-Arms, commanding him to take into custody the body of the said Robert W. Latham, wherever to be found, and to have the same forthwith before the bar of this House to answer contempt of the authority of the House.

Mr. HASKIN. I desire to say that on the day following the subpoenaing of that gentleman, he wrote to me that he had private business which prevented his attendance, and that he would not attend on the Monday following, although he had said to the gentleman who had served the subpoena that he would attend on that day. As the committee desire to close its labors, I ask the adoption of that resolution.

The resolution was agreed to.

PRIVILEGES OF THE HALL.

Mr. MAYNARD. I desire to give notice that I shall, whenever I can get an opportunity, introduce the following resolution:

Resolved, That the 17th of the standing rules and orders of the House be, and the same is hereby, rescinded, and that in lieu thereof the following is adopted:

No person except members of the Senate, their Secretary, heads of Departments, the President's Private Secretary, the judges of the United States, officers of the Army or Navy, who, by name, shall have received the thanks of Congress for their gallantry or good conduct displayed in the service of their country, and such as have been members of either House of Congress, who are not engaged in the prosecution of any claim pending before Congress, shall be admitted within the Hall of the House of Representatives.

Mr. LETCHER. How does that resolution get before the House?

The SPEAKER. The gentleman from Tennessee gives notice that he shall introduce it. It can be introduced, by unanimous consent, now.

Mr. CLEMENS. I object.

CLAYTON-BULWER TREATY.

Mr. SICKLES. Mr. Speaker—

Mr. GARNETT. With the permission of the gentleman from New York, I suggest that this question be laid over until the morning hour to-morrow.

Mr. SICKLES. That would be agreeable to me.

Mr. CLINGMAN. Is not to-morrow private bill day?

Mr. COBB. I object to its postponement.

Mr. GARNETT. I would say to the gentleman from Alabama, that the gentleman from New York prefers to have it go over until to-morrow.

Mr. SICKLES. It would be more agreeable to me to speak to-morrow.

Mr. COBB. My only object in objecting is to facilitate the business of the House.

Mr. STEPHENS, of Georgia. If the gentleman from New York does not wish to proceed to-day, let us go on and call the committees during the rest of the morning hour.

Mr. WASHBURNE, of Illinois. To-morrow is private bill day, and I object to its going over to that day.

Mr. CLINGMAN. If it goes over now, when will it come up regularly again?

The SPEAKER. On Tuesday morning.

Mr. SICKLES. If it can be postponed until that day it will be equally agreeable to me.

Mr. WRIGHT, of Georgia. I do not desire to interfere with the gentleman from New York in the arrangement he has suggested, with the understanding that the question will be still open after the gentleman from New York shall have been heard, for other gentlemen to be heard who desire to speak on that subject. I wish to accommodate the gentleman.

Mr. SICKLES. Then I move that the further consideration of this resolution be postponed till Tuesday at one o'clock.

Mr. BARKSDALE. I would inquire whether the Committee on Foreign Affairs will have the floor then in the morning hour?

The SPEAKER. It will not have the floor to submit other reports. The committee has exhausted the two mornings allowed to it under the rule.

Mr. STEPHENS, of Georgia. This matter may be passed over informally now, and let the balance of the morning hour be devoted to the reception of reports from committees.

The SPEAKER. By being informally passed over, it will come up the first thing in the morning hour on Tuesday next.

Mr. SICKLES. That is quite agreeable to me.

Mr. LETCHER. Would it be in order to move to refer it to the Committee of the Whole on the state of the Union, and let it be discussed there?

The SPEAKER. Not while the gentleman from New York is occupying the floor.

Mr. LETCHER. Nobody is occupying the floor now.

Mr. WALBRIDGE. I hope the House will not pass over this resolution. If it be confined to the morning hour, it will probably occupy the remainder of the session.

The SPEAKER. If there be objection, it cannot be passed over.

Mr. WALBRIDGE. Then I object.

Mr. BARKSDALE. I desire to state that I yesterday moved to refer the French spoliation bill to the Committee of the Whole on the state of the Union with a view to defeat it. I am opposed to the bill, and my object was to kill it.

Mr. HAWKINS. Would it be in order to move that this subject be postponed till Tuesday morning?

The SPEAKER. That is the motion of the gentleman from New York, [Mr. SICKLES.]

Mr. JONES, of Tennessee. I wish to inquire what will be the effect of postponing? Will the resolution come up in the morning hour; and then, after the hour is consumed, will it be postponed till another day, and so be kept on till the whole discussion has been gone through, before any other committee is called?

The SPEAKER. The gentleman from New York moves to postpone till Tuesday at one o'clock.

Mr. COBB. I ask the Speaker what has become of the rule which the gentleman from North Carolina [Mr. CLINGMAN] himself forced upon the House, to the effect that no committee shall occupy the floor more than two days at any one time?

The SPEAKER. The example was set by the committee of which the gentleman from Alabama is chairman.

Mr. COBB. It was not by my consent, though.

Mr. JONES, of Tennessee. My own opinion is, that this subject ought to go over, as two days have been already devoted to it, that all the other committees ought to be called, and that then we ought to resume this subject. That, I think, would be a fair construction of that rule.

The SPEAKER. Does the gentleman from Tennessee think that that is a correct interpretation of the rule?

Mr. JONES, of Tennessee. I do not know. I have not examined it very closely.

Mr. COBB. I move the previous question.

Mr. KELSEY. I move to lay the resolution on the table; and on that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BARKSDALE. I desire to ask whether the gentleman from New York [Mr. SICKLES] will be entitled to the floor, if the House proceeds with the resolution?

The SPEAKER. The gentleman from New York is not entitled to the floor, having made a motion and surrendered the floor.

Mr. MILLSON. Is there a motion pending to commit to the Committee of the Whole on the state of the Union?

The SPEAKER. There is no such motion pending.

Mr. MILLSON. That motion may be made if the previous question be not seconded?

The SPEAKER. Not pending the motion to postpone.

Mr. COMINS. I wish to inquire of the Chair whether, if this question be postponed till one o'clock, it will come up in the morning hour, or as a special order?

The SPEAKER. It will not come up in the morning hour.

The question was taken; and it was decided in the negative—yeas 47, nays 103; as follows:

YEAS—Messrs. Andrews, Bennett, Bingham, Brayton, Bunting, Clawson, Colfax, Damrell, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dean, Dodd, Durfee, Farnsworth, Faulkner, Fenton, Granger, Grow, Lawrence W. Hall, Harlan, Hoard, Horton, Hughes, George W. Jones, Kellogg, Kelsey, Knapp, Leach, Lovejoy, Matieson, Morgan, Freeman H. Morse, Olin, Palmer, Parker, Pettit, Robbins, Judson V. Sherman, Stanton, William Stewart, Walbridge, Waldron, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, and Winslow—47.

NAYS—Messrs. Abbott, Atkins, Avery, Barksdale, Bishop, Blair, Bliss, Boyce, Burlingame, Burnett, Burns, Case, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Comins, Covode, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dick, Dowdell, English, Eustis, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Gregg, J. Morrison Harris, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Kelly, Kilgore, Lamar, Leiter, Letcher, McQueen, Samuel S. Marshall, Matieson, Maynard, Millson, Edward Joy Morris, Isaac N. Morris, Mott, Niblack, Pendleton, Phelps, Phillips, Powell, Purviance, Reagan, Reilly, Ricard, Ritchie, Ruffin, Russell, Sandidge, Savage, Seales, Seward, Aaron Shaw, John Sherman, Shorter, Sickles, Singleton, Robert Smith, William Smith, Spinner, Stallworth, Stephens, Stevenson, James A. Stewart, Tompkins, Tripp, Underwood, Wade, Watkins, White, Woodson, John V. Wright, and Zollcofer—103.

So the House refused to lay the resolution on the table.

Mr. SICKLES. I desire to withdraw my motion to postpone, if the gentleman from Alabama will withdraw his call for the previous question, so as to enable me to move to recommit.

Mr. COBB. Only for that purpose?

Mr. SICKLES. Only to make that motion.

Mr. COBB. I cannot do it for that purpose. I supposed the gentleman wanted to make a speech.

Mr. SICKLES. I do not desire to speak to-day.

The SPEAKER. The motion to recommit is still pending.

Mr. COBB. Do I understand the gentleman from New York to be a member of the Committee on Foreign Affairs, and to desire to speak?

Mr. SICKLES. Yes, sir.

Mr. COBB. If the gentleman promises me that after he makes his speech he will renew the call for the previous question, I will withdraw it.

Mr. SICKLES. No, sir; I do not desire to cut off other gentlemen who wish to speak on this subject.

Mr. COBB. Then I will stick fast to the call.

Mr. SICKLES. Then I adhere to my motion to postpone till Tuesday.

Mr. STEPHENS, of Georgia. I trust the House will vote down the previous question, and let the gentleman speak.

Mr. COBB. I trust that the House will do so, though, if it wants to get on with its business.

Mr. SICKLES. I hope the previous question will be voted down, and I call for tellers.

Tellers were ordered; and Messrs. **BUFFINGTON** and **SHORTER** were appointed.

The House divided; and the tellers reported—ayes 83, nays 46.

So the previous question was seconded.

Mr. STEPHENS, of Georgia. Is it in order to move to proceed to the business on the Speaker's table, the morning hour having expired?

The SPEAKER. The Chair thinks not, as the previous question has been seconded. That is the practice of the House.

Mr. SICKLES. I ask for the yeas and nays upon ordering the main question to be put. My impression is that the House did not understand the effect of the last vote. I desire to vote down the main question.

The yeas and nays were not ordered.

Mr. SEWARD. I hope the House will, by general consent, allow the gentleman from New York [**Mr. SICKLES**] to make his speech.

Several Members objected.

The main question was ordered to be put.

Mr. MILLSON. I rise to a privileged question. I move to reconsider the vote by which the main question was ordered. I wish to inquire of the Chair if the motion to postpone has not been cut off?

The SPEAKER. It has.

Mr. MILLSON. If, then, the House reconsiders the vote ordering the main question, will it not be competent to move to refer the resolution to the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair thinks it will.

Mr. CLINGMAN. Oh, no.

The SPEAKER. The Chair was mistaken. The motion to postpone will be restored.

Mr. MILLSON. I thought it was cut off.

The SPEAKER. The reconsideration would carry the question back to the exact position that it occupied before the previous question was seconded.

Mr. MILLSON. I think the motion to postpone has been cut off.

The SPEAKER. Does not the reconsideration restore it?

Mr. MILLSON. I think not; because the House has already acted on the motion to postpone.

The SPEAKER. The opinion of the Chair is, that if the motion to reconsider prevailed the motion to postpone would be restored to the position which it occupied before the main question was ordered.

Mr. WALBRIDGE. I move to lay the motion to reconsider upon the table.

The motion was agreed to.

The question recurred on the motion to recommit the resolution to the Committee on Foreign Affairs.

Mr. RITCHIE. I ask leave to withdraw that motion.

Mr. MILLSON. I object.

Mr. RITCHIE. Then I hope it will be voted down.

Mr. LAWRENCE called for tellers.

Tellers were not ordered.

Mr. FAULKNER demanded the yeas and nays.

The yeas and nays were not ordered.

The motion to recommit was disagreed to.

Mr. MORRIS, of Illinois. I desire to offer an amendment to the resolution.

Several Members objected.

Mr. KELSEY. Is there no amendment pending?

The SPEAKER. There is not.

The resolution was again read.

Mr. BLAIR. Will there be a separate vote on the preamble and resolution?

The SPEAKER. There will, of course.

The question recurred on ordering the resolution to be engrossed and read a third time.

Mr. KELSEY demanded a division of the House on that question.

Mr. CLINGMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 86; as follows:

YEAS—Messrs. Adrain, Anderson, Atkins, Avery, Barksdale, Bishop, Blair, Bockock, Bryan, Burnett, Burns, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, James Craig, Burton Craige, Crawford, Curry, Davidson, Dewart, Dowdell, Edmundson, Elliott, English, Eustis, Florence, Foley, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Kellogg, Jacob M. Kunkel, Landy, Lawrence, Leidy, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miller, Moore, Isaac N. Morris, Mott, Niblack, Pendleton, Peyton, Phelps, Phillips, Reagan, Reilly, Ricard, Ruffin, Russell, Sandidge, Seales, Seward, Aaron Shaw, Shorter, Singleton, Robert Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Miles Taylor, Watkins, White, Woodson, Wortendyke, Augustus B. Wright, John V. Wright, and Zollcofer—97.

NAYS—Messrs. Abbott, Andrews, Bennett, Bingham, Bingham, Bliss, Branch, Brayton, Buffinton, Burlingame, Campbell, Case, Chaffee, Horace F. Clark, Clawson, Colfax, Comins, Covode, Cragin, Damrell, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dean, Dick, Dodd, Durfee, Farnsworth, Faulkner, Fenton, Foster, Garnett, Giddings, Gilman, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Hoard, Horton, Howard, Hughes, George W. Jones, Kelsey, Kilgore, Knapp, Lamar, Leach, Leiter, Letcher, Lovejoy, Matieson, Millson, Morgan, Edward Joy Morris, Freeman H. Morse, Olin, Palmer, Parker, Pettit, Pike, Purviance, Ready, Ritchie, Robbins, John Sherman, Judson V. Sherman, Sickles, Spinner, Stanton, William Stewart, Tappan, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Whiteley, and Winslow—86.

So the joint resolution was ordered to be engrossed and read a third time.

Mr. CLINGMAN I demand the previous question on the passage of the resolution.

Mr. SICKLES. I move that the whole subject be laid upon the table.

The SPEAKER. The previous question does not apply to the preamble.

Mr. CLINGMAN. Then I demand the previous question on the preamble.

A MEMBER. Do not the preamble and resolution go together?

The SPEAKER. The Chair follows the practice of the last Congress, and one or two precedents at the present session. The Chair thinks it better to hold to the practice, though he doubts whether it is a sound one.

Mr. CLINGMAN. Does not the order to engross the resolution cover the preamble?

The SPEAKER. The preamble has also to be engrossed.

Mr. SICKLES. I move that the House proceed to the consideration of the business upon the Speaker's table.

Mr. CLINGMAN. I ask whether that motion is in order?

The SPEAKER. The Chair is of opinion that it is.

Mr. CLINGMAN. Pending the demand for the previous question?

The SPEAKER. If the main question were ordered it would not be.

Mr. SICKLES. It is in order, under the uniform practice of the House.

Mr. CLINGMAN. My impression was, that the call for the previous question would preclude that motion, and would keep the business before the House until it was disposed of.

Mr. FAULKNER. If it be in order, I move to lay the resolution upon the table.

The SPEAKER. The motion of the gentleman from New York takes precedence.

Mr. JONES, of Tennessee. I thought that the previous question had been called on the resolution which is pending.

Mr. CLINGMAN. I understood that when the previous question was called and the Chair decided there would be a division, that he also decided that the preamble and resolution would be under the operation of the previous question.

The SPEAKER. The only doubt in the mind of the Chair was, as to whether the previous question extended to the preamble. The practice in the last Congress was, that the previous question exhausted itself so soon as the resolution was disposed of, and that it had to be again moved on the preamble.

Mr. CLINGMAN. If the motion to go to the Speaker's table be voted down, then my motion will come up.

Mr. WASHBURN, of Maine. The practice in the last Congress was, I think, to vote on the preamble after the resolution was adopted.

The SPEAKER. Not on a joint resolution or bill, but on a simple resolution.

Mr. WASHBURN, of Maine. I remember a precedent in the case of a joint resolution.

Mr. GROW. There is the precedent, too, of a bill annulling the laws of Kansas, where the preamble was adopted after the bill had passed.

Mr. WASHBURN, of Illinois. I would inquire of the Chair, if that motion be adopted what will be the situation of the resolution hereafter?

The SPEAKER. It will be upon the Speaker's table.

The question recurring on the motion to proceed to business upon the Speaker's table,

Mr. MARSHALL, of Kentucky, demanded the yeas and nays.

The yeas and nays were ordered.

The yeas and nays were taken; and there were—yeas 93, nays 83; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Bingham, Bishop, Blair, Bliss, Bockock, Boyce, Branch, Brayton, Buffinton, Burlingame, Campbell, Caruthers, Case, Chaffee, Horace F. Clark, Clawson, John Cochrane, Cockerill, Colfax, Comins, Cragin, James Craig, Damrell, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dean, Dewart, Dick, Dodd, Durfee, Elliott, English, Farnsworth, Faulkner, Fenton, Florence, Garnett, Giddings, Gillis, Gilman, Gilmer, Goodwin, Granger, Gregg, Grow, Robert B. Hall, Hatch, Hoard, Horton, Houston, Hughes, Jackson, J. Glancy Jones, Kelsey, Landy, Leach, Letcher, McQueen, Miller, Millson, Moore, Morgan, Freeman H. Morse, Parker, Pendleton, Pettit, Phillips, Pike, Purviance, Ritchie, Robbins, Royce, Savage, Sickles, Spinner, Tappan, Tripp, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, White, Winslow, and Wortendyke—93.

NAYS—Messrs. Adrain, Anderson, Atkins, Avery, Barksdale, Burnett, Burns, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, Covode, Burton Craige, Crawford, Curry, Dowdell, Edmundson, Eustis, Foley, Gartrell, Goode, Greenwood, Groesbeck, Lawrence W. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Howard, Huyler, Jenkins, George W. Jones, Owen Jones, Kellogg, Kilgore, Jacob M. Kunkel, Lawrence, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Matieson, May-

nard, Edward Joy Morris, Isaac N. Morris, Mott, Olin, Palmer, Peyton, Phelps, Powell, Ready, Reagan, Kelly, Ricard, Ruffin, Russell, Sandidge, Seales, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Singleton, Robert Smith, William Smith, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, Tompkins, Underwood, Watkins, Whiteley, Woodson, Augustus R. Wright, John V. Wright, and Zollcoffer—83.

So the House determined to proceed to the consideration of business upon the Speaker's table.

Reading the call of the roll,

Mr. STEPHENS, of Georgia, said: I am anxious to proceed to the business on the Speaker's table, but as so much time has already been taken up with this matter, I think we had better finish it; therefore, I vote "no."

Mr. LETCHER stated that his colleague, Mr. HOPKINS, was detained from the Hall by sickness.

ADMISSION OF MINNESOTA.

The SPEAKER announced the first business on the Speaker's table to be the bill for the admission of Minnesota into the Union; and that upon that question the gentleman from Georgia [Mr. STEPHENS] was entitled to the floor.

Mr. STEPHENS, of Georgia. I believe the gentleman from Kentucky [Mr. MARSHALL] is entitled to the floor. I yielded it to him yesterday.

NAVY REFORM.

Mr. FLORENCE. If the gentleman will give way a moment, I desire to ask the House to take up the joint resolution which was returned from the Senate this morning in conformity to a request of the House made yesterday, in order that we may correct a clerical error therein.

No objection being made, the House took from the Speaker's table a resolution to extend the operation of an act entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" approved January 16, 1857.

By unanimous consent, "1859" was substituted for "1858," so as to extend the operation of the act to 1859 instead of to 1858—the error being a clerical one.

ADMISSION OF MINNESOTA.

Mr. STEPHENS, of Georgia. I wish to address the House upon this subject, but I do not desire to proceed to-day. If there is no gentleman who wishes to go on this evening, I ask the House to second the previous question upon this bill, and indulge me in making what remarks I desire to-morrow; the House, in the mean time, proceeding to other business.

Mr. SMITH, of Virginia. I desire to address the House a short time upon this subject, but I did not expect to do it just at this moment.

Mr. WRIGHT, of Georgia. Cannot the gentleman go on now?

Mr. SMITH, of Virginia. I prefer to wait until to-morrow, as I did not expect to occupy the floor just now.

Mr. COBB. Let us proceed to something else, and allow this bill to go over.

Mr. STEPHENS, of Georgia. If we open debate again, I apprehend that twenty more gentlemen will want to speak.

Mr. SMITH, of Virginia. Let them speak. What objection is there?

Mr. STEPHENS, of Georgia, and others. Want of time.

Mr. COLFAX. I understand the gentleman from Georgia desires a vote upon this bill to-morrow. To-morrow will probably be the last objection day during this session, and it ought to be devoted to the consideration of the Private Calendar exclusively. And therefore I hope, if it is postponed, it will be postponed until Saturday, or any other day, so that it may not interfere with private bills to-morrow.

Many VOICES. Let us take the vote now.

Mr. STEPHENS, of Georgia. I did not expect to conclude this debate without allowing all to speak upon this subject who wished.

VOICES. Take the vote to-night.

Mr. STEPHENS, of Georgia. Very well. I am willing that the vote should be taken to-night.

Mr. SMITH, of Virginia. I feel some reluctance in speaking upon this subject at the present time.

Mr. STEPHENS, of Georgia. I hope gentlemen all around will understand that it is my purpose to take the vote on this bill to-night.

[Cries of "Agreed, agreed."]]

Mr. HARRIS, of Maryland. I understand the gentleman from Virginia to say that he is going to speak somewhat unexpectedly, and I understand, also, that there is a message from the President on the table. What I now wish to suggest is, that the message may be now submitted to the House in order to give some little additional time to the gentleman from Virginia, if such be agreeable to him.

Mr. SMITH, of Virginia. I am very much obliged to the gentleman, but I will proceed now.

The SPEAKER. The message is very short. It is in response to the other branch of the inquiry that came up the other day.

Mr. SMITH, of Virginia. Various views have been presented on this important question, the importance of which I myself feel, and which I am disposed to consider; and I now ask the attention of the House, while I present the results of this consideration. I hold that it is very clear that we ought not lightly, and without due and proper consideration, to add to the number of States in our Federal Union. We ought, at least, to see that they come in, in strict conformity with the Constitution. In the consideration of this subject I shall beg leave to state a few general principles, and to make some considerable references to authorities. I shall not indulge in many speculations of my own; but I shall seek, from the establishment of principles, to demonstrate the propriety of the conclusion to which I think this House ought to come.

It becomes interesting to inquire—and the House will readily see that this question is involved—what constitutes a country or a nation? I should suppose it to be clear and undoubted, that in the creation of our Federal system and in the adoption of our Constitution, it was designed to cover the citizens or the people of the United States, and them only. Is it possible, can it be seriously considered, that in the formation of the Constitution of the United States, it was the purpose and intention of our fathers to provide a Constitution for persons who were not citizens of the United States? I beg gentlemen to pause here, and to look at the question in this single light. In the formation of our Federal Constitution was it designed for any others than the people of the United States, being citizens thereof? I maintain, sir—I have frequently maintained, and am prepared, if I can gain the attention of the House, to maintain now—that in the action of our system, in all its ramifications and parts, we must look to this great fundamental principle, that our Constitution was framed for the people of the Union, being citizens of the United States, and for no others. I will refer to Vattel—in sections one hundred and twenty-two, two hundred and twelve, two hundred and thirteen, and two hundred and fourteen—for the purpose of showing that the term "country" signifies "the State of which one is a member;" and is "thus understood in the law of nations."

This doctrine is fully maintained in the Dred Scott decision. Chief Justice Taney, in delivering the opinion of the court, said:

"The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing."

He also said:

"It is true, every person, and every class and description of persons, who were at the time of the adoption of the Constitution recognized as citizens in the several States, became also citizens of this new political body, but none other. It was formed by them, and for them and their posterity; but for no one else. And the personal rights and privileges guaranteed to citizens of this new sovereignty were intended to embrace those only who were then members of the several State communities, or who should afterwards by birth-right or otherwise become members, according to the provisions of the Constitution, and the principles on which it was founded. It was the union of those who were at that time members of distinct and separate political communities, into one political family, whose power, for certain specified purposes, was to extend over the whole territory of the United States."

This is the true doctrine; and, if remembered and respected, will furnish an easy solution of many of the questions involved in this discussion.

The distinction between citizens and aliens will be found laid down in Vattel, sections two hundred and twelve and two hundred and thirteen. The distinction between citizens and foreigners is clearly marked there. In the two hundred and fourteenth section it is laid down that naturalization is one means, and the only means, by which a foreigner can be declared a citizen of a country.

This being the doctrine, I propose now to read

from various authorities on the subject, to show not only the policy, but the true doctrine which bears on this subject. It is known to us all that, in the Constitution of the United States, there is a clause designed to secure uniformity throughout the Union in the naturalization of foreign born. But it is a subject so clearly demonstrated that it was absolutely necessary that the power should be confined to the Federal Government, that it did not produce the briefest discussion. It is a curious fact that, in the convention which framed the Constitution, there was not one word of discussion on that subject. Mr. Randolph, who was the chairman of the committee to whom the subject of drafting the Constitution was first referred, says:

"But as the convention had originated from Virginia, and his colleagues supposed that some proposition was expected from them, they had imposed this task upon him."

Mr. Randolph also said:

"A provision for harmony among the States, as in trade, naturalization, &c., must be made."

Mark you, sir, that Mr. Randolph, in making his report, said that there were certain great subjects in which there should be no division of opinion, in which there should be harmony between all the States. One of these is naturalization.

That is not all. In May, 1787, Mr. C. Pinckney submitted a draft of a Constitution, in which is found the power "to establish uniform rules of naturalization." June 15, 1787, Mr. Patterson, of New Jersey, submitted a draft of a constitution, in which is found a power "that the rule of naturalization ought to be the same in every State."

Sir, as I said before on this specific grant of power, there appears to have been no discussion. Its necessity, its propriety, its fitness, seem to have been universally conceded; and I desire to call attention to the fact for the purpose of enabling the House to follow me, I trust satisfactorily, to the conclusions which I shall draw.

But, sir, that is not all. Judge Story, in his essay on the Constitution of the United States, treats this subject. He depicts the evils to be avoided; and, although I may weary the House, yet I will read from that book. In sections 1098 and 1099, volume three, of the edition in my possession, Judge Story says:

"1098. The propriety of confiding the power, to establish a uniform rule of naturalization to the national Government seems not to have occasioned any doubt or controversy in the convention. For aught that appears in the journals, it was conceded without objection. Under the Confederation, the States possessed the sole authority to exercise the power; and the dissimilarity of the system in different States was generally admitted, as a prominent defect, and laid the foundation of many delicate and intricate questions. As the free inhabitants of each State were entitled to all the privileges and immunities of citizens in all the other States, it followed that a single State possessed the power of forcing into every other State, with the enjoyment of every immunity and privilege, any alien whom it might choose to incorporate into its own society, however repugnant such admission might be to their policy, convenience, and even prejudices. In effect, every State possessed the power of naturalizing aliens in every other State—a power as mischievous in its nature as it was indelicate in its actual exercise. In one State, residence for a short time might, and did, confer the rights of citizenship. In others, qualifications of greater importance were required. An alien, therefore, incapacitated for the possession of certain rights by the laws of the latter, might, by a previous residence and naturalization in the former, elude at pleasure all their salutary regulations for self protection. Thus, the laws of a single State were preposterously rendered paramount to the laws of all the others, even within their own jurisdiction. And it has been remarked, with equal truth and justice, that it was owing to mere casualty that the exercise of this power, under the Confederation, did not involve the Union in the most serious embarrassments. There is great wisdom, therefore, in confiding to the national Government the power to establish a uniform rule of naturalization throughout the United States. It is of the deepest interest to the whole Union to know who are entitled to enjoy the rights of citizens in each State, since they thereby, in effect, become entitled to the rights of citizens in all the States. If aliens might be admitted indiscriminately to enjoy all the rights of citizens at the will of a single State, the Union itself might be endangered by an influx of foreigners, hostile to its institutions, ignorant of its powers, and incapable of a due estimate of its privileges."

"1099. It follows, from the very nature of the power, that to be useful, it must be exclusive; for a concurrent power in the States would bring back all the evils and embarrassments which the uniform rule of the Constitution was designed to remedy. And, accordingly, though there was a momentary hesitation, when the Constitution first went into operation, whether the power might not still be exercised by the States, subject only to the control of Congress, so far as the legislation of the latter extended, as the supreme law, yet the power is now firmly established to be exclusive. (See the Federalist, No. 32, 42; Chirac v. Chirac, 2 Wheat. R. 259, 269; Rawle on the Const. ch. 9, p. 84, 85, to 88; Houston v. Moore, 5 Wheat. R. 48, 49; Golden v. Prince, 3 Wash. Cir. Ct. R. 313, 323; 1 Kent's Comm. Lect. 12, p. 397; 1 Tuck. Black. Comm. App. 255 to 259.) The

Federalist, indeed, introduced this very case, as entirely clear, to illustrate the doctrine of an exclusive power by implication, arising from the repugnancy of a similar power in the States. 'This power must necessarily be exclusive,' say the authors; 'because, if each State had power to prescribe a distinct rule, there could be no uniform rule.'

Mr. Speaker, I have called attention to these clauses in this standard authority upon the Constitution, for the purpose of marking what I deem important in reference to the ultimate conclusion at which I propose to arrive. It is a doctrine which will not be questioned by any one; but it will be contended that it does not present the real question involved in the bill before us. I propose to show that it does.

I desire now to call attention to what is said in the Federalist upon the subject, because it was a contemporaneous exposition of the Constitution; it was designed to present the Constitution in such a light to the American people as to secure its adoption; it was the exposition, too, of great and impartial minds, and I propose to read from two of the numbers, one by Mr. Hamilton, and the other by Mr. Madison. In the one by Mr. Hamilton, he goes on to classify the circumstances under which powers are denied to the States. He says they are of three descriptions or classes. One is where exclusive power is granted in terms to the General Government; another is where powers are denied to the States; and the third is where the power is totally contradictory and repugnant if exercised by the States; and I take this occasion here to read his emphatic and delightful doctrine upon the subject of the true construction of the Constitution. He says:

"But as the plan of the convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were not, by that act, exclusively delegated to the United States."

Again:

"And where it granted an authority to the Union to which a similar authority in the States would be absolutely and totally contradictory and repugnant."

Further on he says:

"The third will be found in that clause which declares that Congress shall have power to establish a uniform rule of naturalization throughout the United States. This must necessarily be exclusive; because if each State had power to prescribe a distinct rule, there could be no uniform rule."

But Mr. Madison wrote upon this subject also, and I desire to call particular attention to his views upon it. Mr. Madison, in treating the same question, for it was one, I beg you to remember, that interested deeply the American people, goes over the same ground with his characteristic power and clearness.

In the forty-second number of the Federalist, Mr. Madison says:

"The dissimilarity in the rules of naturalization has long been remarked as a fault in our system, and as laying a foundation for intricate and delicate questions. In the fourth article of the Confederation it is declared 'that the free inhabitants of each of the States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the several States; and the people of each State shall, in every other, enjoy all the privileges of trade and commerce, &c.' There is a confusion of language here, which is remarkable. Why the terms *free inhabitants* are used in one part of the article, *free citizens* in another, and *people* in another; or what was meant by superadding to 'all privileges and immunities of free citizens,' 'all the privileges of trade and commerce,' cannot easily be determined. It seems to be a construction scarcely avoidable, however, that those who come under the denomination of *free inhabitants* of a State, although not citizens of such State, are entitled, in every other State, to all the privileges of *free citizens* of the latter; that is, to greater privileges than they may be entitled to in their own State: so that it may be in the power of a particular State, or rather every State is laid under a necessity, not only to confer the rights of citizenship in other States upon any whom it may admit to such rights within itself, but upon any whom it may allow to become inhabitants within its jurisdiction. But were an exposition of the term 'inhabitants' to be admitted, which would confine the stipulated privileges to citizens alone, the difficulty is diminished only, not removed. The very improper power would still be retained by each State, of naturalizing aliens in every other State. In one State, residence for a short term confers all the rights of citizenship; in another, qualifications of greater importance are required. An alien, therefore, legally incapacitated for certain rights in the latter, may, by previous residence only in the former, elude his incapacity; and thus the law of one State be preposterously rendered paramount to the law of another, within the jurisdiction of the other.

"We owe it to mere casualty that very serious embarrassments on this subject have been hitherto escaped. By the laws of several States, certain descriptions of aliens, who had rendered themselves obnoxious, were laid under interdicts inconsistent, not only with the rights of citizenship, but with the privileges of residence. What would have been the consequence if such persons, by residence or otherwise, had acquired the character of citizens under the

laws of another State, and then asserted their rights as such, both to residence and citizenship, within the State proscribing them? Whatever the legal consequences might have been, other consequences would probably have resulted, of too serious a nature not to be provided against. The new Constitution has, accordingly, with great propriety, made provision against them, and all others, proceeding from the defect of the Confederation on this head, by authorizing the General Government to establish a uniform rule of naturalization throughout the United States."

In the Dred Scott decision, before referred to, the same doctrine is maintained:

"The Constitution has conferred upon Congress the right to establish a uniform rule of naturalization, and this right is evidently exclusive, and has always been held by this court to be so."

I advert to these important authorities for the purpose of letting this House see that every evil depicted there, and every evil designed to be averted by the power thus exclusively conferred upon the Federal Government, is to be revived and restored under the system which now seems likely to be adopted. If, then, this power be exclusive, I ask how the States can concern with it? I maintain that until naturalization is completed, the power of Congress over the foreigner remains. I repeat, and I desire it to be understood, that Federal authority does not relinquish its control over the foreigner until his right to naturalization is perfected.

What is requisite to give a foreigner the right of suffrage? He must make his declaration; he must be five years in the country, and that must be proved by two citizens of the United States; he must show himself to be a man of probity and good demeanor, and to have borne an unquestionable character; he must show that he is acquainted with our institutions, and attached to the principles of our Government. Suppose that the foreigner should ask to be naturalized, and should fail in any of these requisites: can he acquire the right of citizenship? Suppose that he turns out to be a man of bad character; suppose it is notorious that he is anything but friendly to our free institutions; suppose, instead of showing he is attached to the principles of our Government, that it is shown that he is still a monarchist: he cannot acquire the rights of naturalization; and thus it is, sir, he may be rejected in the very last moment, after having been five years in the country, and when he appears in court to perfect his right to citizenship. Congress, then, does not lose its hold of him until the last hour; and, until he becomes an American citizen, the State has no power to confer upon him the rights of suffrage in any Federal election. I think that this is one of those propositions which cannot be controverted; and I think that, as Congress controls him until all the conditions required by the naturalization laws are fully complied with, it is conclusive evidence that the State has no power to confer upon him any political right under the Federal Constitution whatever.

It is said, in this connection, that the States have always exercised this power. That was said by some gentlemen who have preceded me in this debate. Allow me to say, that I think that is a great mistake. You know that this subject anxiously engaged the attention of those who preceded us; and without dwelling upon it, I beg leave to call the attention of the House to what, in debating the naturalization laws in 1795, Mr. Gallatin said. The question came up in connection with the right of suffrage in his own State. There were many persons naturalized under the State law who were excluded from all the rights of United States citizenship. I get what I extract from Gales & Seaton's Annals:

"Mr. GALLATIN wished to know whether the provisions of this act are intended to extend to persons who were in the country previous to the passing of the law of January, 1795, which requires a residence of five years before an alien can become a citizen, but who have neglected to become citizens, as well as to all those aliens who have come to this country since January, 1795?"

"Again, he said, one reason which led him to mention this circumstance was, that there are a great number of persons in the State of Pennsylvania, and many in the district from whence he came, who, though they are not citizens of the United States, really believe they are. This mistake has arisen from (an error common to most of the districts of the United States) a belief that an alien's being naturalized by the laws of a State government, since the act of 1790, made him a citizen of the United States. He always thought that construction to be wrong, Congress having the power to pass, and having passed, a uniform naturalization law, which, in his opinion, excluded the idea of admission to citizenship on different terms by the individual States. But he knew the contrary opinion, till lately, generally prevailed. Indeed, he knew that at the late election in that city, the votes of respectable merchants, who had obtained American registers

for their vessels, on a presumption of their being citizens, were refused on this ground. The same mistake had extended to other parts of the Union."

"Mr. G. supposed that since the year 1790, from ten to fifteen thousand emigrants had come into the State of Pennsylvania, two thirds of whom believed, till lately, that they were citizens of the United States, from their having been naturalized by the laws of that State. It has now been discovered that they are not citizens; but since that discovery was made, they have not had an opportunity of being admitted according to the law of the United States."

Here you see, in reference to naturalization under State laws, Mr. Gallatin concedes that those thus naturalized were not citizens, and that consequently the right of suffrage should be denied them. He himself was of foreign birth, and of course interested in the question, and would not hastily have decided as he did.

Mr. BLISS. Will the gentleman yield to me for a moment?

Mr. SMITH, of Virginia. Certainly.

Mr. BLISS. I rise simply for the purpose of asking the gentleman from Virginia to give us, if he has the act before him, the language of the Pennsylvania statute upon that subject.

Mr. SMITH, of Virginia. I have it not. I have read from the debate of 1795.

Mr. BLISS. I asked the question because I did not know exactly what that statute was.

Mr. SMITH, of Virginia. The debate was upon the subject of naturalization.

Mr. BLISS. The question is this: whether the Pennsylvania statute, to which the gentleman refers, conferred the elective franchise, or undertook to naturalize generally?

Mr. REAGAN. I desire to say a word upon the point on which the gentleman from Ohio has interrupted the gentleman from Virginia. I will call the attention of the gentleman from Virginia to the fact that, by an early decision of the courts of Pennsylvania, it was held that a State had concurrent jurisdiction with the Federal Government in the matter of the naturalization of foreigners; and to the debate growing out of that matter, I apprehend that the clause which the gentleman read referred to. It did not relate to the question of the right of a citizen to vote, but related alone to the power to naturalize.

Mr. SMITH, of Virginia. What is naturalization? It is the giving to foreigners rights which they did not previously possess, and among them the right to vote. Did the Pennsylvania law confer that right? If it be the decision of a statute, I care not; but did the Pennsylvania law give that right. The answer is at hand. Says Mr. Gallatin:

"Indeed, we knew that, in the late election in this city, the votes of respectable merchants, who had obtained American registers for their vessels on a presumption of their being citizens, were refused on this ground. The same mistake had extended to other parts of the Union."

On what ground were they refused the right of suffrage? Gentlemen talk about this Pennsylvania law not conferring the right of suffrage; and yet here it is expressly said that it did confer the right of suffrage, and these men sought to exercise that right under the Pennsylvania naturalization law. I may not understand it; but here it is, and "he who runs may read." If a man who came forward to vote under the provisions of that law was excluded, he was excluded upon the ground that he was not a citizen of the United States; and if he was permitted to vote, it would be upon the presumption that he was a citizen of the United States; and I undertake to say, and I have no doubt such will be the fact, that this Pennsylvania law was passed prior to the adoption of the Constitution. It was, no doubt, the old Pennsylvania constitution regulating this question, which was superseded, as was decided in a case in the State of Maryland, by the adoption of the Federal Constitution. That will no doubt be found to be the state of things, and those respectable merchants were denied the right of suffrage, though located permanently in the country, because they were not citizens of the United States, and not because of any other provision, citizenship being the fundamental condition to the exercise of this high attribute of popular sovereignty. I think it will be found that this is the clew to the subject.

But without dwelling at large upon this subject, let me proceed. In a case which came directly before the Supreme Court of the United States, as reported in second Wheaton, the court went into a discussion of the question of property, and they superseded the law of the State of Maryland, and gave the property a different direc-

tion from what it would have taken if the party claiming it had been a citizen of the United States. And why? Because it was the purpose of the founders of the Republic to confine the right of suffrage, that great fundamental political right of popular liberty, to those who were citizens of the United States, whether native or foreign-born.

I will now proceed to call the attention of the House to the sentiments of our fathers. Gentlemen have extraordinary notions upon this subject. They have the notion that anybody who comes here is at once entitled to participate in the right of suffrage. Every year adds some three hundred thousand foreigners to our population, and they are not required to wait the period of time specified by the act of Congress, prescribing the rule of naturalization, but they are precipitated in hot haste upon the ballot-box, and introduced into the political struggles of the day. Is that right?

I beg, in this connection, to call the attention of the House to what passed in the Federal convention. I know it is thought that there was a policy in that day which required us to encourage emigration. Yes, sir, there was a policy which required it to a limited extent. But how? To that matter I now call your attention. Colonel Mason, of Virginia, then one of the leading members of Congress, who was for opening a wide door for emigrants, but did not choose to let foreigners make laws for us, said:

"Were it not that many, not natives of this country, had acquired great credit during the Revolution, he should be for restraining the eligibility into the Senate to natives."

Mr. Butler, a very distinguished man of that day, said that he—

—was decidedly opposed to the admission of foreigners without a long residence in the country. They bring with them, not only attachments to other countries, but ideas of government so distinct from ours that in every point of view they are dangerous. He acknowledged that, if he himself had been called into public life within a short time after his coming to America, his foreign habits, opinions, and attachments, would have rendered him an improper agent in public affairs."

"Mr. RANDOLPH did not know but it might be problematical whether emigrants to this country were, on the whole, useful or not."

"Mr. GERRY wished that in future the eligibility might be confined to natives."

"Mr. WILLIAMSON moved to insert nine years instead of seven. He wished this country to acquire, as fast as possible, national habits. Wealthy emigrants do more harm, by their luxurious habits, than good by the money they bring with them."

"Mr. BUTLER was strenuous against admitting foreigners into our public councils."

"Mr. SHERMAN. The United States have not invited foreigners, nor pledged their faith that they should enjoy equal privileges with native citizens. The individual States alone have done this. The former, therefore, are at liberty to make any discriminations they may judge requisite."

"Mr. MADISON adverted on the peculiarity of the doctrine of Mr. Sherman. It was a subtlety by which every national engagement might be evaded."

"Colonel MASON was struck, not, like Mr. Madison, with the peculiarity, but the propriety of the doctrine of Mr. Sherman. The States have formed different qualifications themselves for enjoying different rights of citizenship."

I read these remarks for the purpose of letting the House see and understand what was the temper and tone and sentiment of those who framed our organic law. I want the House to understand that even at that day, when we were in a state of almost political dissolution—a weak and feeble people, threatened with the anger of the British lion—even then the rights of American citizens were highly appreciated, and the privilege of foreigners sharing in them was guarded with jealousy and care. Nor is that all. I propose to read, for the information of the House, the debate on the first bill passed on the subject of naturalization, in which the healthy tone of public sentiment, on the part of our fathers, cannot fail to be highly refreshing to us, their sons.

On the first bill establishing a uniform rule of naturalization, a protracted debate sprang up, in which the following sentiments were expressed, in which it was assumed that naturalization was necessary to give the right of suffrage. The debate commenced February 3, 1790. Mr. Hartley said:

"The policy of the old nations of Europe has drawn a line between citizens and aliens; that policy has existed, to our knowledge, ever since the foundation of the Roman Empire. Experience has proved its propriety, or we should have found some nation deviating from a regulation inimical to its welfare. From this it may be inferred that we ought not to grant this privilege on terms so easy as is moved by the gentleman from South Carolina. If he had gone no further in his motion than to give aliens a right to purchase and hold land, the objection would not have been so great; but if the words are stricken out that he has moved for, an alien will be entitled to join in the election of your officers at the

first moment he puts his foot on shore in America, when it is impossible, from the nature of things, that he can be qualified to exercise such a talent."

Mr. Madison said:

"I should be exceedingly sorry, sir, that our rule of naturalization excluded a single person of good fame that really meant to incorporate himself into our society; on the other hand, I do not wish that any man should acquire the privilege, but such as would be a real addition to the wealth or strength of the United States."

Here is the doctrine, as laid down by Mr. Madison, that I maintain. This is the position I occupy. This is the ground upon which I can stand before the country. But to proceed:

"Mr. SMITH, of South Carolina, thought some restraint proper, and that they would tend to raise the Government in the opinion of good men, who are desirous of emigrating; as for the privilege of electing or being elected, he conceived a man ought to be some time in the country before he could pretend to exercise it."

"He said, the intention of the present motion is, to enable foreigners to come here, purchase and hold lands; but this will go beyond what the mover has required; and therefore, it will be better to draft a separate clause, admitting them to purchase and hold lands upon a qualified tenure and presumption right, than thus admit them at once to interfere in our politics. The quality of being a freholder is requisite, in some States, to give a man a title to vote for corporation and parish officers. Now, if every emigrant who purchases a small lot, but perhaps for which he has not paid, becomes in a moment qualified to mingle in their parish or corporation politics, it is possible it may create great uneasiness in neighborhoods which have been long accustomed to live in peace and unity."

"Mr. HARTLEY said, an alien has no right to hold lands in any country; and, if they are admitted to do it in this, we are authorized to annex to it such conditions as we think proper."

"He also said, with respect to the policy of striking out the words altogether from the clause, and requiring no residence before a man is admitted to the rights of election, the objections are obvious. If, at any time, a number of people emigrate into a seaport town—for example, from a neighboring colony into the State of New York—will they not, by taking the oath of allegiance, be able to decide an election contrary to the wishes and inclinations of the real citizens?"

"Mr. MADISON said, whether residence is, or is not, a proper quality to be attached to the citizen, is the question? In his own mind, he had no doubt but residence was a proper prerequisite, and he was prepared to decide in favor of it."

"Mr. SENECA said, some kind of probation, as it has been termed, is absolutely requisite, to enable them to feel and be sensible of the blessing. Without that probation, he should be sorry to see them exercise a right which we have gloriously struggled to attain."

"Mr. SMITH, of South Carolina, said, for his part, he was of opinion, that a uniform rule of naturalization would tend to make a uniform rule of citizenship pervade the whole continent, and decide the right of a foreigner to be admitted to elect, or be elected, in any of the States."

"Mr. TUCKER said, he was otherwise satisfied with the clause, so far as to make residence a term of admission to the privilege of election."

Mr. BISHOP. Do I understand the gentleman to take the ground that no person is entitled to vote in any State except he be a citizen of the United States?

Mr. SMITH, of Virginia. Yes, sir, in all Federal elections.

Mr. BISHOP. And that a person born out of the country must be in the United States a certain number of years before he is a citizen, according to the laws of the country?

Mr. SMITH, of Virginia. Yes, sir; he must be naturalized.

Mr. BISHOP. I would now like to inquire how, on that ground, when Texas was admitted into the Union, the persons living in Texas could be entitled to vote in that State until Texas had been in the Union for a period of five years?

Mr. SMITH, of Virginia. That was under a separate clause, and a power altogether different in its character, providing for such a case.

Mr. JENKINS. I would inquire what that clause is?

Mr. SMITH, of Virginia. The clause giving Congress power to admit new States into the Union.

Mr. STEVENSON. I would like to propound this question to the gentleman from Virginia. I find, by the Constitution of the United States, that there is a limitation on the qualifications of electors for President and Vice President of the United States; but I find, by the same clause, that under the Constitution of the United States the whole number of the electors may be aliens; that there is no restriction of citizenship in any part of the Constitution. Although there is a limitation as to offices, there is none as to citizenship as a qualification of electors for President and Vice President; and I should like to hear from the gentleman on that point.

Mr. SMITH, of Virginia. I am very much obliged to the gentleman for bringing me to that

point. He is an American citizen. He has a country which extends its wings over him. He has a country's flag to stand by, and sustain him; and will he ever forget that that country is composed of those who are the people of the United States, and the citizens thereof? The Constitution had no more idea of providing against the man in France, or the man in Turkey, being an elector, than against any other absurdity. In speaking of electors, and declaring, in the preamble and elsewhere, that the people of the United States have formed this constitution, its framers, *ex vi termini*, restricted its character, and confined it in all its relations to the people for whom it was formed. Will the gentleman remember that the rights of foreigners are grants—that even the right to gentle treatment is strictly social, and particularly that political rights are never his except by express grant, and that presumptions are always against and never for him?

Why, sir, I am amazed—perfectly amazed, that here, in this Government of ours, under our Constitution, in this glorious land, there should be an idea that, because a constitution framed for the people or citizens of the United States does not exclude foreigners from the highest functions of Government, therefore that foreigners have a right to them. Foreigners have no rights except what are granted to them. They have no right even to hold land in the United States, or in the States thereof, without the power is conferred. They are aliens outside of our system; and are as utterly destitute of power as the man in the moon. Instead of showing that there is nothing against it, you have to show that the power exists and is granted.

Mr. JENKINS. I am sorry to interrupt my colleague, but there is one point upon which I am extremely anxious to hear him. He accounts for the case of Texas, put to him by my friend from Connecticut, which, I think, got him in a tight place, by saying that that was a special case; that she came in under the clause of the Constitution which allows Congress to admit new States. Now, I would like to ask the gentleman if that does not apply to Minnesota as well as to Texas, and with greater force? My colleague objects to the admission of Minnesota upon the ground that it would violate the Constitution of the United States. Now, if it was not an infraction of the Federal Constitution to admit Texas—a foreign State, bringing in thousands of unnaturalized voters—then, *a fortiori*, it cannot be an infraction of the Constitution to admit a State under similar circumstances out of our own territory, as in the case of Minnesota.

Mr. SMITH, of Virginia. The difference—but, by-the-by, I remark that I never knew a gentleman to put a case that he did not think it a clincher. [Laughter.]

Mr. JENKINS. The case was put by the gentleman from Connecticut [Mr. BISHOP] and not by me.

Mr. SMITH, of Virginia. And now my colleague has put a question under the same idea.

Mr. BRYAN. I would inquire of the gentleman from Virginia, [Mr. JENKINS,] whether he holds that Texas, at the time of annexation, stood in the same relation to this Government that Minnesota now does? for from his remarks I infer that he does.

Mr. JENKINS. I will answer the question with great pleasure.

Mr. SMITH, of Virginia. No, let me go on. I am traveling to my conclusion.

A MEMBER. Your time is nearly out.

Mr. JENKINS. I answer the question of the gentleman from Texas negatively.

Mr. SMITH, of Virginia. How much time have I left?

Several MEMBERS. Five minutes.

Mr. SMITH, of Virginia. Then, as I am so near the end of my time, I cannot give way. I will proceed now to apply those principles. I lay it down that the Federal Constitution gives to this Government the exclusive power of saying who of the foreign-born shall be citizens, and having exercised that authority and said who shall be citizens, the exclusive power is in the State government to say who of her citizens shall exercise the right of suffrage. I might produce authorities if I had time. I might refer to Chancellor Kent, who assumes, as a matter of course, that nobody but a citizen has a right to exercise the right of

suffrage. It is a political postulate which he does not consider it worth while to argue.

Having stated the principles—all that I can do in the present exigency, my time being nearly exhausted—I now apply them. Let us look at the evils which this system is to inaugurate. A majority of foreigners settle one of the States of the American Republic. They give form to the fundamental organization of that State. That is not all; they say who shall vote. Here is the section of this Minnesota constitution upon the subject of suffrage:

"SEC. 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the United States one year, and in this State for four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people:

"1. White citizens of the United States.

"2. White persons of foreign birth, who shall have declared their intentions to become citizens, conformably to the laws of the United States upon the subject of naturalization.

"3. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

"4. Persons of Indian blood residing in this State, who have adopted the language, customs, and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State."

Now, for whom are they to vote? They are to vote for a member of the House of Representatives. He comes here, and we have a right to look into the qualifications of the voters who sent him here, and we have a direct right to ascertain whether he has been duly elected by citizens of the United States. That is not all, sir. By their votes the Legislature of the State is elected, which elects United States Senators, and we have a right to ascertain whether those Senators have been elected by proper persons. But that is not all. These same persons have a right, it is contended, to cast their suffrages for electors of the President of the United States. They may decide a presidential election. And that is not all. The election of President may come into this House, and may turn upon the vote of a single State, and the election in that State may have depended on the vote of one individual, and that an unnaturalized foreigner just landed. Will any gentleman say that the introduction of such a system, affecting as it does the House of Representatives, the Senate, and the Presidency of the United States, would not lead to a frightful mass of evils to the Federal organization? If such an idea could have been thought of, dreamed of, or imagined by those who framed the Federal Constitution, when they were seeking to secure uniformity in social intercourse among the States, is it to be supposed for an instant that they would not have provided against it? But no man ever dreamed that voters were to be made out of any but citizens of the United States; that the law for the naturalization of foreigners was itself to be practically repealed, and that foreigners, before they had remained here five years, and had acquired the moral and intellectual qualifications required, were to be put into full fellowship with our native-born citizens, and allowed to wield as large a mass of political power.

Look at the consequences of such a condition of things. From three to five hundred thousand foreigners—many of them, I admit, very meritorious and unexceptionable persons—come into this country every year, and settle in our new States and Territories; and under this system they are to be permitted at once to organize themselves into States, to send representatives to this House and to the Senate, and to participate in the election of the President of the United States, without ever having conformed to the requisition of the naturalization laws. In the name of God! is it not necessary to put a stop to this state of things? We are running downwards with hot haste. We are disregarding our ancestors and their wise and patriotic example. A new element of progress has been introduced, but all progress is not improvement—*facilis descensus Avernì, sed recurre gradum*, &c. I insist upon it, then, that in view of the principles and doctrines of the Constitution, we ought not to tolerate the introduction of a system of franchise that must be productive of such consequences, and which admits to the ballot-box men who, it may be, are unable to speak our language, unacquainted with our insti-

tutions, and unfriendly to the principles of our Government. My time will not allow me to expand this subject, and give other views which I would be glad to lay before the country.

Mr. MILLSON obtained the floor.

Mr. GROW. I desire to make a suggestion to the gentleman from Virginia, which I hope will meet his views.

[Cries of "Let us adjourn."]

Mr. MILLSON. I only want the floor for about four minutes.

Mr. SMITH, of Virginia. I thought the understanding was that this business was to be ended to-night. If I had had any idea that it was not to be so, I should not have made my speech this afternoon, when I was somewhat unprepared.

Mr. MILLSON. I desire, Mr. Speaker, to make a few remarks suggested by the remarks of my colleague [Mr. SMITH] in regard to what he characterizes as alien suffrage. Now, Mr. Speaker, if I supposed that it was at all competent for Congress to pass upon the constitution of a State applying for admission into the Union to the extent of approving or disapproving any provisions that might be contained in that constitution, I should see more direct application than I now suppose there is in my colleague's remarks.

In what I am about to say I do not wish to be understood as approving of the extension of the right of suffrage to unnaturalized foreigners; for many in the House may remember that it was on my motion in the last Congress that the House adopted an amendment to the Oregon bill, restricting the suffrage to the citizens of the United States. But if my colleague objects to the admission of a State into the Union because of an objection of that character to her constitution, I beg leave to suggest that we are traveling far beyond our appropriate sphere; and I would suggest to him, further, that in making animadversions on the constitution of Minnesota, he is animadverting upon the constitution of his own State. I ask my colleague whether he did not vote for the constitution of Virginia, adopted in 1831? I would ask him whether he did not vote for the constitution of Virginia adopted four or five years ago? and now I beg leave to remind him that from the earliest period of the history of the Commonwealth of Virginia alien votes have been taken at all of the elections, and are still taken. Does not the gentleman know that?

Mr. SMITH, of Virginia. I do not; nor do I admit it.

Mr. MILLSON. I am surprised that my colleague does not admit that to be so; for if he will look to the old constitution of Virginia, he will find that it expressly admits to the right of suffrage citizens of Virginia. If he will look to the constitution of 1831, he will find that the same provision is made there—"citizens of this Commonwealth." And if he will look to the very last constitution, he will find the very same phraseology is preserved, and all are entitled to vote who are citizens of the Commonwealth of Virginia.

Mr. SMITH, of Virginia. Of course, that is proper phraseology; but, sir, citizens of Virginia are citizens of the United States.

Mr. MILLSON. And now, sir, to deprive my colleague of the benefit he thinks he has secured by the last explanation, I will tell him that if he will look at the statutes of Virginia, he will find a law coeval with the earliest history of the Commonwealth of Virginia and existing in the statute-book until four or five years ago, in which the mode is pointed out for admitting aliens to be citizens of the State of Virginia.

Mr. SMITH, of Virginia. I wish to ask my colleague whether he does not know that the act to which he refers was ante-revolutionary, and passed before the adoption of the constitution, and whether it is not unrecognized in the revised code of Virginia?

Mr. MILLSON. So far from it, I will tell my colleague that it was enacted in 1792, reenacted and continued in the revision of 1819, and continued under the constitution of 1831, and it was only dropped from the revised code under the revision of Messrs. Patten and Robertson some four or five years ago. That law, I will tell my colleague, has never been repealed to this day, although omitted in that code.

I beg leave to say only this—as I do not wish to detain the House, having promised to occupy its attention for a few moments only—that I have

myself, in my capacity as attorney and counselor at law, assisted in the conferring of citizenship upon many foreign voters; and that nothing was more common, before a warmly-contested election in Virginia, than for the county court to meet two or three days before the opening of election, and sometimes an hour or two before the election, for the express purpose of admitting aliens to the right of voting, who never had been naturalized under any act of the United States. And, again, I will tell my colleague that I do not know that this right was ever questioned in the Congress of the United States, or elsewhere, but once. It was once questioned in a contested election, originating in the district which I now represent—the contested election between Newton and Lawyer. The sitting member, Mr. Newton, contested a number of votes in the poll of Mr. Lawyer, upon the ground that the voters were not entitled to vote, not having been naturalized under the laws of the United States. The case turned upon that question. I well remember it, sir, for it was about the earliest political election I ever remember to have witnessed. I remember that the majority of Mr. Newton was about eleven or thirteen, and that about forty or fifty votes of the character I have referred to were given for Mr. Lawyer. The House of Representatives in that case determined that these votes were valid and legal, and Mr. Lawyer took his seat, ousting Mr. Newton.

Mr. SMITH, of Virginia. I will ask my colleague if he knows of any other district? I will ask my other colleagues if they know of a single case in which any foreigner but a naturalized foreigner has exercised the right of suffrage in Virginia, except in the Norfolk district? If there is one, let us hear it. I cannot be accountable for what my colleague may do as Commonwealth's attorney; but I beg him to look to the law and the authorities which I have quoted.

Mr. MILLSON. In reply, I can only say that as I have never been a resident of any district in Virginia, or in the United States, except the district which I now represent, I cannot, of course, give my colleague any personal information in regard to the practice at elections in other districts. But I give him the law and the constitution of the State of Virginia. I show him that these constitutions have always admitted to the right of voting citizens of the Commonwealth of Virginia; and I point him to the law under which these aliens may be admitted to citizenship in the Commonwealth of Virginia. What more could my colleague reasonably demand?

I have risen only for the purpose of suggesting to my colleague that however strong may be his objections, (and I admit their force,) when he undertakes to exclude a State from this Union because of the exercise of a right which his own State constantly exercised from the beginning of the Union to the present day, it strikes me that he is taking a position not in accordance with the doctrine of State rights, which has heretofore been one of his characteristics.

Mr. PHILLIPS obtained the floor, but yielded to

Mr. SMITH, of Virginia. I thank the gentleman for his courtesy. My colleague could not have failed to notice that I read Mr. Gallatin's remarks upon the notions which prevailed as to the right of States to allow the right of suffrage under their own naturalization laws, and that Mr. Gallatin said that it was subsequently ascertained to be an erroneous notion. I say that, in the State of Virginia, I knew no such case as that instanced by my colleague, in the city of Norfolk. It is very certain that if the practice did prevail, it was an erroneous practice, according to the authorities I have cited.

Mr. PHILLIPS. I do not know what the law of Virginia may be upon the subject.

Mr. BLISS. Will the gentleman allow me a moment?

Mr. PHILLIPS. For what purpose?

Mr. BLISS. It is not to make any remarks upon this subject. There are several gentlemen here who desire, in perhaps five and ten minutes' speeches, to give their opinions, or rather their conclusions, upon this question. I now propose, if the gentleman will yield the floor for that purpose, to move that we take a recess until eight o'clock. [Cries of "No!" "No!"] I understood that it was determined to dispose of this matter to-night.

Mr. GROW. If my colleague will allow me, there are three amendments pending to this bill, and one substitute. They will probably require four votes, by yeas and nays. If we set out to take the vote to-night, we cannot probably do it until ten or eleven o'clock. I propose then that we have a meeting, if gentlemen desire it, this evening, and that it be understood that on Saturday or Monday, at twelve o'clock, we shall proceed to take the vote upon these amendments.

Mr. PHILLIPS. I do not want to adjourn. I prefer to make my suggestions now.

Mr. STEPHENS, of Georgia. The suggestion made by the gentleman from Pennsylvania meets my approbation. If gentlemen choose to go on and speak to-night let them do so. Let the previous question be seconded to-night, with the understanding that the vote shall be taken on Monday at one o'clock, and that I shall close the debate between twelve and one o'clock.

Mr. REILLY. I object.

Mr. PHILLIPS. I was saying that I did not know what were the laws of Virginia in relation to the right of suffrage, and there seems to be a difference of opinion on that subject between the two gentlemen from that State. But this I do know, that to hear such doctrines as were enunciated by the gentleman from Virginia [Mr. SMITH] surprised me amazingly. The most ultra Federal doctrines and the strongest consolidation theories ever promulgated in this country, are not more so than that asserted by the gentleman—that the United States have the right to interfere with the State governments. But, I confess, it was with surprise that I heard enunciated by a Representative from Virginia a doctrine which, according to my idea, totally puts down everything like a recognition of State rights.

Mr. Speaker, it is a little matter to inquire about here. It is, perhaps, unimportant whether a foreigner has a right to vote in a State or not. But I claim that each State shall have the right to govern itself. I claim it under that provision of the Constitution which says that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and I challenge the gentleman, ingenious as I know him to be, to find anything in the Constitution of the United States which tends to show that any State in this Union ever intended to surrender to the Federal Government the right to control its own affairs, or the right to direct who shall exercise the right of suffrage within it. I mean to show the gentleman, if he will be taught, by the language of the Constitution of the United States, that the difference between "citizens" and "people" was well understood by those who framed it, and that difference must be applied here to justify the gentleman's vote for the Kansas-Nebraska act, which, I believe, contained a clause similar to that which he finds so obnoxious in the constitution of Minnesota.

Now, we find in the Federalist, in one of Mr. Madison's papers, this language:

"Do these principles, in fine, require that the powers of the Federal Government should be limited, and that beyond this limit the States should be left in possession of their sovereignty and independence? We have seen that in the new Government as in the old, the general powers are limited, and that the States, in all *unenumerated* cases, are left in the enjoyment of their sovereign and independent jurisdiction."

And we find, when we come to ascertain from the differences of opinion and confusion of minds which pervaded the formation of the Constitution, some one element, that the one which pervaded it more than any other was, that nothing was taken away from a State which was not expressly declared in the Constitution to be surrendered to the Federal Government.

Mr. SMITH, of Virginia. In order to mark my views upon the subject of State rights I rejoice in the very number of the Hamilton paper from which I read. I read a clause in which he spoke of a residuary class of powers not granted to the Federal Government, as exclusively residing in the States. But let the gentleman from Pennsylvania bear in mind that one of the rights of the States is the right to the Union, and that the rights of the States are defined by the Federal Constitution, leaving in the States, as one residuary mass of powers, all those which have not been granted to the Federal Government. But if it be, according to my view, that the right of citizen-

ship can alone be conferred upon those of foreign birth by Federal authority, and that the States alone have the right to say who of those that are citizens shall exercise the right of suffrage; I would like to know how that is interfering with the right of a State?

Mr. PHILLIPS. The gentleman assumes the whole ground. It is begging a question to say they are citizens of the United States. The argument refutes itself. I will do little more than refer to the Constitution of the United States, and assert what I believe to be the right of my State—a State which, though she has not said as much about State rights as the State of Virginia, will stand up equally firmly in resistance to Federal usurpation. The gentleman says that the powers reserved to the States are enumerated powers. I insist that those given up to the General Government are the *enumerated* powers, and all others are expressly reserved and retained. It cannot be sustained that a State can exercise only *enumerated* powers. Sovereignty includes all power; and such part of a State's sovereignty only as she has contributed to the national stock is lost to her. If the Constitution of the United States shows no delegation of authority to Congress to regulate the qualifications of electors in the States, it cannot be seriously argued that Congress can exercise such right.

I want the gentleman to tell me where such a right exists. I ask him to show me in the Constitution of the United States, if he can, where any State of this Union has surrendered to the Federal Government the right to prescribe the qualifications of electors; for such ought to be his task. But I will take the labor on myself, and save the gentleman the trouble, and show him the contrary thereof. I will show him that, by that very Constitution, there are recognized, as among the people of the United States, the "*people*" of the United States, and also "*citizens*" of the United States; and it is not asking too much to suppose that those who made the Constitution, who studied it for hours, days, weeks, and months, did not put into it words which were not well studied and thought over, and that they had not as much intelligence, and did not as well understand the meaning and bearing of them, as ourselves.

I ask the gentleman's attention to the very first article of the Constitution, and he will find that the House of Representatives shall be composed of members chosen every two years by the *people* of the several States. And must the electors have the qualifications of being citizens of the United States? No; they shall only have the qualifications requisite for electors of the most numerous branch of the State Legislature. That is to say, recognizing that each State will have a Legislature, as being the republican form of government, whosoever you, gentlemen, who govern the State of Virginia, or we, who help to govern the State of Pennsylvania, shall consider entitled to vote for members of the House of Representatives of our several States, may vote for members of the House of Representatives of the United States. There are no words of exclusion there.

And now, if the gentleman will look at the next section, he will find that no person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a *citizen of the United States*—not of the State, Mr. Speaker, but of the United States. Those who made that Constitution recognized the difference.

Mr. SMITH, of Virginia. I would like to know, if the gentleman will tell me, the difference between a citizen of the State, and a citizen of the United States.

Mr. PHILLIPS. Perhaps it may be immaterial to inquire.

Mr. SMITH, of Virginia. Oh! no; it is very material.

Mr. PHILLIPS. There has been a great difference of opinion on that subject. When the gentleman shows me that the right of suffrage is confined to the citizens of a State, then it may become another question; but while no such question is presented, it is hardly worth while to argue any abstract question and one the solution of which certainly would not result in the gentleman's favor.

Mr. SMITH, of Virginia. I should like the gentleman to tell me distinctly, because thereby may hang the question. I maintain this, that the

citizen of a State is, *ex vi termini*, a citizen of the United States, and that there is no such thing as an independent citizenship of the United States.

Mr. PHILLIPS. Well, sir, for the sake of the argument, let us concede it. The question does not arise here. Let any man on this floor show me that from first to last of this Constitution by which we are bound to steer, of this Constitution from which we derive all the power which we ought to exercise, there is anything which indicates that the right of suffrage must be confined to the citizens of a State. I decline, therefore, to argue an immaterial issue—one, too, which I know has been attended with great differences of opinion; for certainly the gentleman cannot find out how the question arises here.

Mr. SMITH, of Virginia. I will say to the gentleman that in politics, as in figures, and many other things, there are certain conceded premises. In politics, the concession is that when a people form a government for themselves, it is intended to be confined to themselves, or such as they may formally admit within their body. I have labored to establish that principle, and to show that that was the purpose of those who framed the Federal Constitution, as it is the purpose of those who frame State constitutions. I have assumed it as a postulate, and if it be correct the gentleman will readily see that his argument has no foundation.

Mr. PHILLIPS. I am glad to agree with the gentleman in one of his positions. His premises are sound; but he draws illogical conclusions. I agree with his premises; but I deny that the words "*people*" and "*citizens*" are identical. I agree with him that the people may form such government as they please; and I agree with him that they may admit to the right of participation in the Government such persons as they please; but out of his own mouth I beg leave to convict him, when he says that they may admit to participation such persons as they please, and when they admit aliens, who are thus people—because they allow them to be such—then, according to the gentleman's premises, they have a perfect right to do so.

Mr. SMITH, of Virginia. The gentleman will allow me to remind him of what I am sure he has forgotten. The celebrated Dred Scott case recognizes as correlative terms the words "*people*" and "*citizens*." Judge Taney so declares expressly, and I know the gentleman entertains too high an opinion of the Supreme Court to question anything it says.

Mr. PHILLIPS. I deny that he has said so. The gentleman cannot show that. If the court did say such a thing as that, it said what it should not have said, though I think no such thing was there asserted. At the same time, if that was a point decided, I certainly would submit, because the decision of the Supreme Court, with me, makes law. But, Mr. Speaker, it never decided any such thing, if I understand the decision aright.

Now, I want to turn back the attention of the gentleman to what he and I are bound to regard—the Constitution of the United States; and I again say that he will find that the framers of that Constitution recognized the difference between the words "*people*" and "*citizens*," and that they intended that the people of the States admitted to participate should be people for the purposes of government.

Mr. SMITH, of Virginia. I want the gentleman to see what Judge Taney says:

"The words '*people*' of the United States and '*citizens*' are synonymous terms."

Mr. PHILLIPS. Very well. I do not know exactly in what connection that is said, and the gentleman is entitled to all the inference that can be drawn from it in his favor.

But, Mr. Speaker, I want the gentleman's attention to another thing. If I understood him correctly—and if not it is my fault—his objection is that this constitution of Minnesota is not republican in effect. Am I right there?

Mr. SMITH, of Virginia. I mean this: that this Minnesota constitution in allowing those who are not citizens of the United States to vote, is a constitution in violation of the Constitution of the United States.

Mr. PHILLIPS. Then you mean that it is not republican. But I wish to call the gentleman's attention to something else. If it is not republican in form that constitutes an objection to the admission of the State. His objection is

that it is anti-republican, or not republican; his objection must mean that or nothing.

Mr. SMITH, of Virginia. It is unconstitutional.

Mr. PHILLIPS. That means the same thing. But I invite the honorable gentleman's attention to another clause of the Constitution. We must take care in admitting a State that it has a republican form of government; but, Mr. Speaker, we must also take care that it continues to have a republican form of government, for the Constitution says, "the United States shall guaranty to every State in the Union a republican form of government." Now, I ask the gentleman where his argument will lead? Will he tell us that the States which have admitted to the right of suffrage those who are not citizens shall be put out of the Union or rebuked? And that is exactly where his course of argument must carry him. If it is true that you cannot admit a State without a republican form of government, it is equally true that you have guaranteed that the form of government shall continue republican; and if it be so, none but citizens of the United States can vote, according to the gentleman's theory, otherwise the government would not be republican. What will the gentleman from Virginia do with the State of New York, where those not recognized by the Supreme Court of the United States as citizens of the United States—negroes—are allowed to vote if they own \$250 worth of property; the difference between a white voter and a negro being just that sum?

Mr. SMITH, of Virginia. There is no clause in the Constitution, that I am aware of, that in terms requires us to look into the constitution even to ascertain whether it is republican in form; but as we only may admit new States into the Union, and as that implies an exercise of the judgment, we have a right to look into the constitution; and if, on doing that, I find that the constitution is violative of the Constitution of the United States, it is my duty to refuse my assent to its acceptance. As to New York or Pennsylvania, in the days of Mr. Gallatin, when he acknowledged the error, or Virginia, or any other State that may have committed an error, I suppose their error is no refutation of my argument if it be sound and in conformity with the Constitution.

Mr. PHILLIPS. There can be no difference. The gentleman's objection to this constitution rests, then, upon the ground that it is anti-republican, for that which violates the Constitution of the United States we do not recognize as republican; and if that is the test which is to be applied to Minnesota, and to prevent her from becoming a State, he ought to call the attention of the authorities to the necessity of similar provisions being extirpated from any constitution into which they have been introduced.

Mr. Speaker, some of my friends have handed me the Dred Scott decision, and have asked me to read one or two passages to the gentleman, which I have no doubt he must have overlooked. This is from the opinion of the court, pronounced by the distinguished Chief Justice:

"Undoubtedly, a person may be a citizen, that is, a member of the community who form the sovereignty, although he exercises no share of the political power, and is incapacitated from holding particular offices. Women and minors, who form a part of the political family, cannot vote; and when a property qualification is required to vote or hold a particular office, those who have not the necessary qualification cannot vote or hold the office, yet they are citizens. "So, too, a person may be entitled to vote by the law of the State, who is not a citizen even of the State itself."

The gentleman's respect for authority, and for the authority of Chief Justice Taney, will, I am sure, make him recant all that he has said in opposition to these views.

The Chief Justice adds:

"And in some of the States of the Union, foreigners not naturalized, are allowed to vote. And the State may give the right to free negroes and mulattoes, but that does not make them citizens of the State, and still less of the United States."

I do not suppose that I need refer to any books to satisfy all that citizenship of the United States is not a necessary qualification to the right of suffrage in a State, if the State chooses to dispense with it.

Mr. BLISS made a remark questioning the validity of the Dred Scott decision, which it was impossible for the reporter to hear.

Mr. PHILLIPS. I have great respect for the opinions of the Supreme Court, because, as I have

already said, it is a tribunal whose decisions I recognize as making law; and I think the best thing we can do is to recognize as binding the authority of those whose decisions we are told by the Constitution shall be law. So much in answer to the suggestion of the gentleman from Ohio.

But I want to have the attention of the gentleman from Virginia [Mr. SMITH] a step or two further. Did he vote for the admission of Kansas?

Mr. SMITH, of Virginia. I voted for the report of the committee of conference, certainly.

Mr. PHILLIPS. He voted for the admission of Kansas under the Lecompton constitution; which, I believe, contains a provision similar in all its features to this one in the Minnesota constitution.

[Loud cries of "No!" "No!"]

Mr. TRIPPE. The gentleman is entirely mistaken.

Mr. PHILLIPS. Well, foreigners could vote under the territorial laws. By the territorial laws they are allowed to vote.

[Cries of "No!" "No!"]

Mr. PHILLIPS. If gentlemen will allow me I will get it right. I know that the organic act allowed foreigners to vote, and that, under the territorial laws, they could vote.

Mr. SMITH, of Virginia. Will the gentleman allow me for a moment.

Mr. CAMPBELL. I rise to a question of order. I wish it understood that I have no sort of objection to a general cross-examination, in which all sides of the House may participate, as to what the Kansas constitution means.

Mr. BURNETT. I do not see that that is any question of order.

Mr. CAMPBELL. I think it due to all of us, if the merits of the constitution are to be discussed, that we should have the privilege of cross-examining gentlemen as to how the act passed the other day is to be construed.

Mr. PHILLIPS. Is that a point of order?

The SPEAKER. The gentleman from Ohio will please state his question of order.

Mr. CAMPBELL. It is, first, that it is not in order for the gentleman from Pennsylvania to be discussing the Kansas question; and secondly, that it is not in order for him to be interrupted, unless it be for personal explanation. If the gentleman from Virginia desires to make a personal explanation, I will make no objection.

The SPEAKER. The gentleman from Virginia cannot interrupt the gentleman from Pennsylvania, as the gentleman from Ohio objects.

Mr. SMITH, of Virginia. Oh, I hope he will withdraw the objection.

Mr. CAMPBELL. I understand what the gentleman desires to say in the nature of a personal explanation, and I withdraw my objection.

Mr. PHILLIPS. I should be glad to know how long the gentleman is going to take. He has had most of my time already.

Mr. SMITH, of Virginia. The gentleman read from the Dred Scott decision, and I beg leave to continue the reading. Chief Justice Taney says:

"The Constitution has conferred on Congress the right to establish a uniform rule of naturalization, and this right is evidently exclusive, and has always been held by this court to be so. Consequently, no State, since the adoption of the Constitution, can, by naturalizing an alien, invest him with the rights and privileges secured to a citizen of a State under the Federal Government, although, so far as the State alone was concerned, he would undoubtedly be entitled to the rights of a citizen, and clothed with all the rights and immunities which the constitution and laws of the State attached to that character."

In the exercise of all these powers within the domestic management of the State, his power exists; but he cannot exercise any power under the Federal Constitution.

Mr. PHILLIPS. Mr. Speaker, I agree to what the gentleman has read and said. I agree that the States cannot naturalize, because they have conferred upon the Federal Government the exclusive power; nor does any State attempt to exercise such a right; but I deny the right of the Federal Government to interfere with the qualifications of electors in my State or in any State.

I am reminded that when I spoke of the Kansas act, I should have called it the Kansas-Nebraska act, for which the gentleman voted. But that is not material. I would rather address myself to the gentleman's judgment than to his inconsistencies, if there are any.

Now, sir, a word or two as to Minnesota. Here

is a Territory with a population sufficient in numbers, and, I apprehend, in intelligence and good conduct, to be entitled to admission into the Union as a State. She comes here as every other Territory does, known and independent. She comes under an act passed by the last Congress, telling her to make a constitution and submit it to the people without any restrictions—not to the citizens—and that she shall be admitted if it is republican in form. And if gentlemen will turn to the enabling act of Minnesota, (if I recollect rightly, and if I am wrong, I am willing to be corrected,) they will find that where it provides for the election of delegates to the convention, it prescribes the qualifications of voters; but where it speaks of the submission of the constitution to the people, it does not do any such thing; tacitly allowing the right of all the people the proper authorities of the inchoate State might recognize as such. I am not going to argue the question of either alien or citizen suffrage—each State can regulate that as she chooses; it is part of her domestic policy in which the Federal Government cannot intervene; all that I claim and insist upon is the right of each State to manage that for herself, and therefore if the constitution of Minnesota be republican in form, and her population sufficient, she should be admitted.

A word or two now on the bill itself; for the doctrine of the gentleman seemed to be in such conflict with what I have been taught to believe was the rights of the States, that I could not forbear expressing my dissent.

There is an amendment proposed by the gentleman from Georgia, [Mr. STEPHENS,] upon which I wish to make a single remark, because it seems to be objectionable. It is, that the number of Representatives shall be, two or three, as the House shall determine, until a census can be taken, and after that as many as the State shall be entitled to under the present apportionment, and until the general apportionment of Representatives amongst the several States. I oppose that, because it is making an inequality against the other States; it is giving to Minnesota an increased representation, when the other States whose population has increased would not get it. It seems to be in opposition to the usual practice, is of no practical usefulness, and, to say the best of it, of doubtful constitutionality. Other States have their representation fixed by the census of 1850, and must remain unchanged until a new apportionment is made upon the census of 1860. The population of some of these has so largely increased that they would now be entitled to more Representatives than they have; but that cannot be just now. And there is no reason why Minnesota's representation, once fixed, shall not continue so until the time of the general change. Such is the contemplation of the Constitution and the laws, and therefore the amendment of the gentleman from Georgia ought not to prevail.

In regard to the admission of Minnesota, the good faith of Congress—the Thirty-Fourth Congress—and the good faith of the people, require that we should give a State government to the people of that Territory.

The population of Minnesota largely exceeds that of many States already in the Union; her institutions have been shaped after republican examples; her State government has been prepared in a manner promising prosperity and success, and these things have been done in conformity with the suggestions of the enabling act of the last Congress. The feeling of duty which induced me to vote for the admission of Kansas, prompts me to advocate the right of Minnesota to the same privilege. While we may refuse, we ought to have a valid and sufficient reason for so doing, and not justify it upon the violent doctrine that "might makes right." Let us rather welcome the advent of our new sister State—one, too, that has served patiently, faithfully, and peaceably as a territorial dependant; and in admitting her "on an equal footing with the other States," allow her, as is conceded to the other States, the right to manage her own institutions in her own way.

Mr. BLISS. I do not propose to occupy the attention of the House for more than five or ten minutes; and I should not occupy it at all upon this question, but for the very strange and, to me, novel constructions that I have heard given to the Constitution of the United States, as to the power of the Government over the qualification of elect-

ors in the several States. I listened, yesterday, with some attention, to the remarks of the gentleman from Maryland, [Mr. Davis,] as I always listen with great pleasure to anything that falls from his lips; and I have listened with attention to-day to the remarks of the gentleman from Virginia, [Mr. Smith,] construing the preamble and second section of the first article of the Constitution; and while I do not propose to go into the subject at great length, and perhaps will not occupy as much time as the gentleman from Pennsylvania, [Mr. Phillips,] who preceded me, yet I will give what I understand to be the constitutional, the State-rights, and the Democratic rule on this question.

Mr. STEPHENS, of Georgia. Mr. Speaker, with the permission of the gentleman from Ohio, I will suggest, as a good many gentlemen have engagements to-night, and it seems to be evident that we cannot get a vote to-night, that we agree by unanimous consent that this bill shall be taken up at twelve o'clock m. on Saturday next, and that the vote be taken at one o'clock.

Mr. COMINS. I ask that it be postponed until Tuesday next.

Mr. REILLY. If it goes over beyond Saturday I shall object.

Mr. STEPHENS, of Georgia. I made my proposition at the suggestion of gentlemen on the other side of the House.

Mr. COMINS withdrew his objection.

The SPEAKER. The Chair hears no objection to the proposition of the gentleman from Georgia, and it is ordered accordingly.

Mr. JOHN COCHRANE. If the gentleman will yield to me I will move that the House adjourn.

Mr. BLISS. I prefer to go on now.

Mr. Speaker, before giving my views on this question, I wish to say distinctly, in order to avoid all misconception, that were I a citizen of Minnesota, or any other Territory about to adopt a State constitution, I should favor the adoption, in relation to electors, of precisely the provision which we have in the State of Ohio, namely: making electors of none but citizens of the United States. That is the law in Ohio, and it is a law which has been acquiesced in by men of all parties. I never knew an elector, whether of native or foreign birth, who desired any change in that law. I desire no change in it, and I do not place my support of the constitution of Minnesota on the ground of approval of that provision, but I acknowledge the power of the people to adopt this provision, if they see fit.

The gentlemen, if I understand them, claim that this provision in the constitution of Minnesota is contrary to the Constitution of the United States, and, therefore, that the constitution itself should be rejected. Well, I acknowledge the right of the Congress of the United States to pass upon constitutions submitted to us, and to accept or to reject a State in accordance with their opinion of that constitution. If any Territory of the Union shall form a constitution which violates the fundamental rights of man, or which renders them unfit or unsafe associates for the other States of the Union, or if they adopt a constitution which violates any of the essential provisions of the Constitution of the United States, I would say to her, when she knocks for admission, "no, we cannot make a constitution for you; we will not impose a constitution upon you against your will, and in opposition to your wishes; but we will keep you out of the Union until you form such a constitution as shall justify us in admitting you into it." The power to impose conditions upon States asking for admission has been expressly recognized during this session of Congress in the case of Kansas. All sides recognize the power, and all, unless I except the gentleman from Maryland, [Mr. Davis,] who has disclaimed the power, are ready to exercise it whenever a proper case arises. The power to admit implies the power to reject, or to say on what terms we will admit.

Then, the question directly arises at this point, whether this provision in the Minnesota constitution is in violation of the Constitution of the United States? And I believe that turns entirely, in the estimation of both the gentlemen to whom I have referred, upon the construction of the term "people of the United States." It is claimed by the gentleman from Virginia, and by the gentleman from Maryland, that the term "people of the

United States," in the preamble of the Constitution, and in section two of the first article, is synonymous with the term "citizen of the United States," and that they mean one and the same thing. I believe both of those gentlemen cited the opinion of the Supreme Court in the Dred Scott decision. Chief Justice Taney says expressly that they are synonymous. But I do not regard that, by any means, as the decision of the Supreme Court of the United States, for I do not understand how that question ever came before them. That case, as we all know—at least as all lawyers know—is filled up with opinions and dicta, and with political speculations upon various questions before the country, which it was unnecessary to give. Their motives I do not undertake to inquire into; but no more weight is due to those opinions and dicta than if those who gave them were at the bar of the Supreme Court, instead of being upon the bench. The opinion upon this point is as contradictory as it was uncalled for. It says, on page 404:

"The words 'people of the United States' and 'citizens' are synonymous terms, and mean the same thing."

And on the very next page I find it declaring:

"It does not by any means follow, because he has all the rights and privileges of a citizen of a State, that he must be a citizen of the United States." * * * "Nor have the several States surrendered the power of conferring these rights and privileges by adopting the Constitution of the United States. Each State may still confer them upon an alien, or any one it thinks proper."

Thereby plainly contradicting their own position; for I admit that, if the House of Representatives are to be chosen alone by the citizens of the several States, "the electors in each State" must be citizens.

But I do not rely upon the opinions of the judges of the Supreme Court of the United States for my construction of the Federal Constitution. And I may say further, as we hear day after day the opinions of the Supreme Court quoted in the Congress of the United States, and are called upon from day to day to conform our opinions upon political questions to theirs, that I do not regard them as authority on any political question. I claim that as I have taken the same oath to support the Constitution of the United States that they have taken, in all cases within my official duty I am bound to interpret the Constitution as I understand it. I will respect, I will give great weight to, the opinions of the higher courts of any State, and especially of the United States; and, so far as my judgment and my obligation to my oath will permit me, I will respect and conform to their opinions; but when I reflect that the Supreme Court, or its judges upon the circuit, sanctioned the alien and sedition laws, that it sustained the constitutionality of the United States Bank, and that it has sanctioned every other usurpation of power by the Federal Government, I must be false to all my convictions if I yield those opinions to the convictions of men who have no more right to construe the Constitution for me as a legislator than I have for them as judges.

"We, the people of the United States," is the language of the preamble. Now, what does it mean? Does it mean citizens of the United States alone? If so, why was not the term "citizens" used? When a specific class is intended, language should be used that applies to that class alone, and in this the Constitution is always clear and specific. But here a term is used that does not apply to individuals; that describes no person, or class of persons, but is altogether general and collective in its character.

But, to come to a correct conclusion as to the meaning of the term, we must look at the circumstances under which the Constitution was adopted. In looking at them I find that in the Constitution of the United States a new principle was inaugurated; and that was the principle of popular instead of State sovereignty. The old Articles of Confederation were adopted by the States, and unless a new idea was to be incorporated into the Constitution of the United States, the language would probably have been, "we, the United States," or, "we, the several States composing the United States," do ordain so and so, or the introduction or preamble of the Articles of Confederation would have been retained. But, as it was designed to make a Government as well as Federation; as direct relations were to be instituted between that Government and the people, and as it was to be the creature of the people of the

United States, instead of the States in their corporate or sovereign capacity, the term "people" was, with great propriety, used. The use or meaning of words is often known, or made more clear, by their opposites. Citizen is opposed to alien. "The people," in a political sense, is opposed to the Legislature or the Government. Thus, a constitution may not be adopted by the Legislature; but must be by the people, either in convention assembled, or by popular vote; and as the new Federal Constitution was not to be alone a league; but also, for certain purposes, a Government, it was fit that it should emanate from the people of the States and not from the State governments, and for that the term was used. The term "people" has a legal meaning, and is contradistinguished from the term "State," or "Legislature of a State," as clearly appears in section two, article first, of the Constitution, which says that "the House of Representatives shall be composed of Representatives chosen every second year by the people of the several States."

Now, it must be borne in mind that in the debates in the convention, there was no question which agitated it more than whether the Congress of the United States should represent the States in their sovereign capacity, and the members of Congress be appointed by the Legislatures of the States, or whether they should represent the people of the several States, and be elected by the people. And upon that question there was a compromise, which ended the controversy. It was determined that the Lower House, as so named it, should be chosen by the people of the several States, while the Senate should be chosen by the Legislatures of the several States. Hence the term "people" is simply opposed to the "Legislature," or to the State in its sovereign capacity. It has no other legal meaning, and no other specific meaning. The term "citizen" refers to the individuals. That has a specific and clear meaning. The term "inhabitant" is also specific, and refers to individuals, but "the people" applies not to individuals; it describes no particular class, but is a collective term, and is applied to the mass of inhabitants in their collective capacity, as opposed to the sovereignty or State itself, or Legislature of the State. And I believe that this is the construction that has been uniformly given to it.

I have never yet known an attempt on the part of the Federal Government, since the formation of the Constitution, to dictate to any State whom it shall admit to the privilege of electors. Now, if the term "people of the several States" means the same thing as "citizens of the several States," I admit that the gentleman's inference is legitimate; but, holding that the term has no such definite meaning; that it has no relation to individuals, but is simply used as opposed to the State itself, or to the Legislature of the State, then, of course, this argument falls to the ground.

If this argument be fallacious; if this phrase does not confine the privilege of electors to citizens of the United States, where is there in the Constitution any grant of power whatever to Congress to determine who shall be electors? I take this to be sound Democratic as well as constitutional doctrine, that wherever a power is not granted to the Federal Government, it is reserved to the States or the people thereof; and I find in that instrument no phrase or clause which, by implication even, can give to Congress the power to decide who shall be electors. The whole argument of the gentleman goes on the assumption that the power to decide the manner in which aliens shall become citizens, gives the power to decide the terms upon which they shall be electors.

Mr. SMITH, of Virginia. I say that none but citizens of the United States can participate in this Government; but I say it devolves on the several States to declare who of her citizens shall exercise the right of suffrage; and that there is no power or authority which can interfere with that. But what I maintain is, that they must be citizens.

Mr. BLISS. I get the gentleman's idea; and it is precisely the idea to which I intended to refer. I want to know how the gentleman knows that no person but a citizen of the United States can participate in the Government of the United States? Who is to decide that question? The Constitution certainly does not decide it.

Mr. SMITH, of Virginia. I tried my best to show the ground on which I stand. I say that,

in the creation of this Government, it was formed by the people of the United States, for the people of the United States, and for no other people in the world.

Mr. BLISS. I cannot give way for a repetition of the gentleman's argument. I undertook to get the gentleman's reasons; and, if I understood him, he must have assumed the ground which I state, that none but citizens of the United States can participate in the Government of the United States; and that Congress is to determine who are citizens of the United States, and therefore may decide who shall participate in the Government of the United States.

Mr. SMITH, of Virginia. I said that the Congress of the United States alone had the right to say who, of foreign birth, shall be citizens of the United States, but not who of the native born. They have nothing to do with that.

Mr. BLISS. Of course not; I did not mean to insinuate that.

Now, Mr. Speaker, in regard to this question of citizenship, and what constitutes citizenship, I find just about as much confusion in the minds of gentlemen here as there seems to be in the country at large. There is, as the gentleman has correctly said, no such thing as citizenship of the United States, in itself considered. The citizens of the several States are citizens of the United States; and the States themselves must determine who shall be citizens thereof, with the single exception in regard to foreigners; and as to that exception, I have stated that the United States have the power to direct the mode and manner by which foreigners shall become citizens of the several States. I believe that in that I agree with the gentleman from Virginia; but the inference which I understood him to make is, that the Federal Government has not only the power to say what foreigners shall be citizens, but also the power to say what foreigners shall be electors; and he says that on the assumption that citizens are electors, or that electors must necessarily be citizens, or else there is no logic in the argument.

Mr. SMITH, of Virginia. If the gentleman will allow me—

Mr. BLISS. The gentleman from Virginia has made an argument of an hour long; and I could only infer his ideas from the argument.

Mr. SMITH, of Virginia. I have stated repeatedly that it is for Congress alone to say who, of foreign birth, shall be citizens; but it does not follow that those of foreign birth who are citizens shall exercise all the high rights of citizens; because the Constitution says that they shall not be members of this House unless they have been citizens of the United States seven years; that they shall not be members of the Senate unless they have been citizens of the United States for nine years; and that they shall not be eligible for the office of President or Vice President at all.

Mr. BLISS. That is a repetition of what the gentleman said before. I understand that the arguments of both the gentlemen have been that because Congress may determine the rules by which aliens may become citizens of the States, therefore no aliens can be electors who have not been made citizens according to those rules.

Mr. SMITH, of Virginia. That is the right doctrine, of course.

Mr. BLISS. In order to make that inference, the gentleman must treat the term "elector" and the term "citizen" as nearly, at least, synonymous. Now, I hold that a man may be a citizen of the United States and not an elector, and that he does not deny. I hold that, although a certain class of citizens are electors, yet, as terms, they are entirely independent of each other. Native women and children are citizens; and an alien woman may be as well naturalized and become a citizen of the United States as a man. The terms have no necessary relation to each other; and because one is a citizen, he is not, therefore, an elector; or, because he is an elector, he is not, therefore, a citizen. Therein, I think, is the point of departure and difference between us.

Now, while the Federal Government has the jurisdiction to decide the manner in which aliens may become citizens of the several States, have they hence the power to decide what aliens, or whether any at all, may or may not become electors in the States? It could not have that power, directly or indirectly, unless there is that intimate and close connection between the two terms

which certainly does not exist. Not only that—not only is there no express grant—not only is there no power given to Congress to decide who, either of aliens or citizens, shall be electors; but the power is, by necessary inference, reserved to the States. It is reserved by the general reservation of all powers not granted, and also by the language of the second section of article one, from which I read:

"The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Now, what is the natural, the plain, and necessary inference from that language? It is admitted—for the provision is express—that all who may vote for the most numerous branch of the State Legislature shall be qualified to vote for members of the House of Representatives. But what power is to decide who may thus vote? Here is a matter within the State entirely; here is a question on which there were regulations at the time of the adoption of the Federal Constitution within each of the original States of the Union. Each State had decided who should be electors; and, in changing their constitutions from time to time, each State continued to decide "the qualifications requisite for electors of the most numerous branch of the State Legislature." Some required them to be citizens of the United States, and some did not; and, instead of there being a uniform rule as to the qualifications of such electors, either as applied to citizens or aliens, the rule varied to suit the policy of each State; and all that the Constitution of the United States has to do with, is to refer it to the States in the manner I have shown. It seems to me that if there is any force in language, this matter is perfectly clear and unmistakable. I can see it in no other light.

The gentleman from Maryland referred to an elaborate argument of Mr. Calhoun upon this subject. I have examined it, and find that it contains the same fundamental error that pervades all the views upon that side of the question. It is very easy to prove that a State cannot make of an alien a citizen, and for the simple reason that jurisdiction upon this subject is yielded to Congress. The arguments upon that subject are mere wasted strength. A citizen of a State is necessarily a citizen of the United States. He is made so by the express language of the Constitution. As to all but aliens, the States determine citizenship; while aliens can become citizens only in the mode prescribed by Congress. Upon this, there is no dispute. But when it is assumed that only citizens can be made electors, I demand the proof. Jurisdiction over the qualification of electors is not granted to Congress, either as to aliens or others; and I demand the evidence to show that the States are at all restrained in this regard. Because Congress may prescribe rules of naturalization, may it therefore pass upon the qualification of electors?

But the inference that none but citizens can be made electors is sought to be drawn from the inconveniences, the impropriety of granting the elective franchise to aliens. I admit the impropriety. The arguments of gentlemen are clear and forcible, and would probably have been convincing had they been made in the proper forum. But are we to assume jurisdiction to decide matters reserved to the States, because they so often decide wrong? The attempted demonstration is not a *reductio ad absurdum*, as the gentleman from Maryland claimed, but a *reductio ad incommodum*, which proves nothing. The gentleman from Pennsylvania [Mr. PHILLIPS] calls this federal doctrine. It is not federal—it is ultra-consolidation. And if we are to infer powers on such grounds as these, I know not what power we may not infer. We are running a race of consolidation; and I will oppose any step in that downward direction.

I base my dissent, then, from the position of the gentleman from Virginia, first, upon the ground that there is no grant in the Constitution to the Federal Government to decide who shall be the electors; but, on the other hand, there is a provision in the Constitution that those persons shall be the electors who are electors within the several States, clearly implying, independent of the want of a grant, that the States themselves shall make provision upon the subject.

Mr. SMITH, of Virginia. The fault of the gentleman consists in this: that the Constitution assumed that there would be none but citizens in

the States who would exercise the right of suffrage. They could not suppose it possible that any but citizens would compose the Legislature that were to elect the Senators to represent the sovereignty of the States. It was impossible to suppose that an electoral body could be formed who would not send men who were citizens of the United States to the Legislatures that had the great duty to perform of electing Senators to represent their sovereignty in the Federal Senate. The gentleman talks of certain things being assumed, and that is one of them.

Mr. BLISS. The gentleman is rather long in his interruptions; and, if I understand the purport of what he last said, it is a strained assumption so far as language, and the legal effect of language, is concerned, and not a very good historical one.

In opposition to the assumption of the gentleman, we have the fact which has been alluded to here to-day by the gentleman's colleague, that in the State of Virginia itself persons have been electors, down to quite a recent period, who were not citizens of the United States. In the States of Iowa, Michigan, Wisconsin, and Illinois, also, the construction which I give to the Constitution has been given to it, and by their original constitutions electors were not necessarily citizens of the State, and hence of the United States. We have also the fact that, in the State of Ohio, the former constitution was ambiguous on that subject, and under its provisions, as interpreted in some parts of the State, aliens were allowed to vote, while they were forbidden to vote in other parts. The ambiguity was afterwards remedied by an act of the Legislature.

Mr. HARLAN. And also by a modification of the constitution.

Mr. BLISS. There was another point made by my colleague, [Mr. SHERMAN,] who opposes the admission of Minnesota under this constitution, on which I will say a single word. It relates entirely to the irregularities in the choice of that constitution. Well, now, if we were to pass upon the propriety or even upon the decency of the action of the people of Minnesota in forming this constitution, I would shut her out until she should come with decency and order and ask for admission; but, as I understand our duty in that respect, it is not material whether the constitution was framed by a regular, legal body or not. That has never been deemed material. That is a question that never has been asked. It was not asked in the case of California nor in that of Kansas.

I believe that the perfect regularity in writing out and formation of constitutions has never been required in any State in the Union; but the question has been, when a constitution proper in itself has been brought to Congress, whether it is the voice of the people of the Territory? whether they have ratified it? And, notwithstanding the conduct of the convention purporting to represent the people in this case, yet the subsequent vote of the people, almost unanimously accepting the constitution, and requesting to be admitted under that constitution, cures all these irregularities; and she comes with her own clean hands, and knocks at our door. The question now is, shall we admit her? shall we admit her with a constitution fair upon its face, which does not violate the Constitution of the United States? which protects the fundamental rights of man? or shall we turn her out because of irregularities in framing it—gross, indeed, but cured by the people—and because of imperfections not fundamental in their character?

There were other grounds upon which he also based his opposition, which I will not now discuss. As a citizen of Ohio I feel some responsibility for the irregularities in Minnesota, and for the bad name which they have given her. I see the finger of Ohio politicians in them all, and I feel assured that when we give her the authority and independence of a State, when Presidents can no longer send tricksters to rule over her, she will assume the dignity and decorum of a republican State.

I am not willing to permit gentlemen on the other side of the House to get the credit of exclusive friendship for the State of Minnesota. It is my own State. I have a greater interest in its future glory than any gentleman on the other side of the House can have—that is, upon the supposition that there can be any diversity of interest

in the matter, which I do not admit; and I do not want my friends to show such a regard for technicalities as to insist upon them to her rejection when this State comes to us asking for admission on the very terms which we held out to her when we passed the enabling act.

I have said all I desired to say upon this subject. I will only add, in conclusion, that, while I differ with some of my friends and colleagues in my conclusions, in reference to this matter, I differ from them with great reluctance. I listened with great attention to the argument of my colleague [Mr. SHERMAN] the other day. I know him to be a high-minded man. I know that there can be no motives which actuate his conduct in this matter but motives of devotion to his duty to the country. And although this sense of duty has led him to separate from me on this question of admitting Minnesota into the Union, yet I shall accord to him the same high respect which I claim for my own motives.

And then, on motion of Mr. CURTIS, (at twelve minutes to six o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, May 7, 1858.

Prayer by Rev. T. N. HASKELL.

The Journal of yesterday was read and approved.

CREDENTIALS.

Mr. MASON presented the credentials of Hon. THOMAS L. CLINGMAN, appointed by the Governor of the State of North Carolina a Senator from that State, to fill, until the next meeting of the Legislature, the vacancy occasioned by the resignation of Hon. ASA BIGGS. The credentials were read; and the oath prescribed by law having been administered to Mr. CLINGMAN, he took his seat in the Senate.

Mr. FITZPATRICK. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, May 7, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. STEPHEN P. HILL.

The Journal of yesterday was read and approved.

ADMISSION OF MINNESOTA.

Mr. STEPHENS, of Georgia. As the House will probably not be in session to-morrow, I suggest that by unanimous consent the business set apart for twelve o'clock to-morrow, the Minnesota bill, shall stand over, and be set apart for twelve o'clock Tuesday.

[Cries of "Agreed!"]

Mr. STEPHENS, of Georgia. Monday is suspension day, and I do not want to interfere with that.

No objection was made to the arrangement.

RESIGNATION OF A MEMBER.

Mr. CLINGMAN. Mr. Speaker, if the House will indulge me a single moment, I desire to say, that having had the honor of receiving a commission from the Governor of North Carolina to fill a position at the other end of the Capitol, I have this day written to him announcing my resignation as a member of the House; and I present now, in order that it may go upon the Journal, a note to you announcing the same fact.

I hope gentlemen will allow me to say further, that during my service in this House, which has been considerable, extending over a dozen years or more, I have no doubt I may many times have wounded the feelings of gentlemen in our struggles here, and during this present session I may have given offense to some gentlemen by objecting to their motions, and insisting upon the regular order of business. I beg leave to say that in every single instance I have been actuated by no feeling of unkindness towards the particular member. I have been governed solely by what I thought a sense of duty; and if, at any time, in throwing obstacles in the way of gentlemen, I have done anything unpleasant to them, I hope they will attribute it not to any personal unkindness on my part, but solely to the reason which I have given. And if, at any time in our discussions here—for I have been impulsive and hasty—I have ever

made a remark which was offensive to any gentleman, it was quite unintentional. In leaving the House, I do it without any unkind feeling towards a single member, and with many regrets.

Mr. CLINGMAN's letter of resignation was then read, as follows:

HOUSE OF REPRESENTATIVES, May 7, 1858.

SIR: I beg leave to notify you and the members of the House of Representatives, that I have this day sent to the Governor of North Carolina my resignation as a member of this House, to take effect to-day.

I am, very respectfully, your obedient servant,
THOMAS L. CLINGMAN.

HON. JAMES L. ORR,
Speaker of the House of Representatives.

Mr. BRANCH. I move that the House do now adjourn.

Mr. MORGAN. I have certainly no objection to the adjournment, but I want to see if we cannot come to some agreement by which we shall have the same order on some other day that we should have had to-day. This was probably the last objection day that we should have had this session.

Mr. WASHBURN, of Illinois. I hope the gentleman will submit a motion, and that it will be received by unanimous consent, that next Friday and Saturday shall be devoted to private bills; and shall be considered as objection days.

Mr. JONES, of Tennessee. Let that question come up at the regular time.

The SPEAKER. The Chair would suggest to the gentleman from New York, that on Monday he may be enabled to suspend the rules and thus accomplish the object he has in view.

Mr. MORGAN. Very well, sir, I am willing to trust to that; but I thought we might come to some agreement by unanimous consent.

Mr. BRANCH's motion was then agreed to; and the House (at twenty minutes after eleven o'clock, a. m.) adjourned.

IN SENATE.

SATURDAY, May 8, 1858.

Prayer by Rev. STEPHEN P. HILL, D. D.

The Journal of yesterday was read and approved.

DEATH OF SENATOR EVANS.

Mr. HAMMOND. Mr. President, it is my painful duty to announce to the Senate the death of my venerable friend and colleague, JOSIAH J. EVANS, who died most unexpectedly on the evening of the 6th instant, of disease of the heart. He was in the Senate during the entire session of that day. He afterwards dined with me, and sat at table by your side. He came before the appointed hour, to avoid the storm that threatened, and throughout the evening was very cheerful, and seemed more than usually disposed to join in conversation; and when I assisted him with his overcoat, and attended him to his carriage, I thought that he was entirely recovered from the indisposition from which he had suffered more or less during the winter, and that many years of green old age remained for him yet. Scarcely, however, had an hour elapsed before I was stunned by the intelligence that he was no more, and hastening to his residence, I found him dead. Never before, in my experience, have I so fully realized that "in the midst of life we are in death."

Mr. EVANS was born in South Carolina, and was one of the earliest graduates of her then infant college. He was of the class of 1803. He was educated to the bar, where he soon rose to eminence. At an early age he was sent to the Legislature, and shortly after was made solicitor of his circuit, which post he held until 1830, when he was elevated to the bench. He continued there until he was, in 1852, chosen by the State of South Carolina to represent her on this floor. He has filled every station he has occupied with untiring industry, scrupulous fidelity, and distinguished ability, and to the entire satisfaction of his State.

Without any pretensions to brilliancy of parts, he had a strong and clear intellect, a full mind, and a sound, discriminating judgment; and these capacities, joined with steadiness of purpose and the most conscientious integrity, made him, in my opinion, one of the wisest and best men I ever knew. His manners, sedate and dignified, were so tempered by a polished urbanity, an unvarying cheerfulness, and unaffected kindness, as to conciliate the thorough respect of all, and the devoted attachment of those who knew him well.

Mr. EVANS was born on the 27th of November, 1786, and was therefore more than seventy-one years of age, and had been, until recently, blessed with uniform and robust health. He had lived his full three score years and ten, and few have lived them better or enjoyed them more; for with a fond family and ample fortune, he was, in all his private as well as public relations, without blemish or reproach, and in South Carolina had ever only to indicate the position he desired to occupy, whether in society, in his profession, or in affairs, to have it accorded to him at once.

I have known Mr. EVANS long, and have known him intimately, and since I have been in this Senate our relations have been so close and cordial that his sudden loss makes me disconsolate. In this feeling I am sure that I have the sympathy of every Senator. I believe I may say, with perfect truth, that no Senator enjoyed, to a greater extent than my lamented colleague, the respect, the esteem, the confidence, and, I may add, the affection of this body, and of all who are connected with it. He was a man who, though full of manliness, never had an enemy; and throughout the length and breadth of our little State, into whose high places the arrows of death have, of late, flown so frequent, every heart will be saddened by this dispensation of Providence.

Allow me, Mr. President, to offer the following resolutions:

Resolved unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect to the memory of the Hon. JOSIAH J. EVANS, deceased, late a Senator from the State of South Carolina, will go into mourning for the residue of the present session, by the usual mode of wearing crape on the left arm.

Resolved unanimously, That the Senate will attend the funeral of the deceased from the Senate Chamber at two o'clock to-day; and that the committee of arrangements, consisting of Messrs. HUNTER, BIGLER, FOSTER, TOOMBS, BROVY, and BRANT, superintend the same.

Ordered, That the Secretary communicate these proceedings to the House of Representatives.

Mr. BENJAMIN. The feeling and eloquent tribute that has just been rendered to the memory of our departed brother has awakened sensibilities which I fear will be jarred by anything I can hope to say: yet, sir, having been thought worthy of an invitation to join in these sad rites, I pray you for a moment's indulgence whilst I lay an humble offering on the grave around which we are gathered.

It is literally but yesterday that the seat before me was filled by the venerable form of Carolina's senior Senator: to-day Carolina mourns his loss; the electric messenger has done its work, and the friends of his home are even now mingling their grief with ours: recalling, as we are, the affecting words with which so lately he lamented, on the death of his late colleague, that the inexorable fiat had stricken down the vigorous tree, and left unscathed the withered remnants of the decaying trunk.

Sad, indeed, have been the recent bereavements which it has pleased Providence to inflict upon the native State of him we mourn. The awe-stricken heart of the nation was still throbbing heavily in unison with hers for the loss of her preëminent son, when on my taking my seat in this body I learned to know and to love, both the colleague and the almost immediate successor of John C. Calhoun. A few short years have elapsed, and where is now the beaming eye of Andrew Pickens Butler? Where his genial presence, his ringing voice, his manly bearing, his whole being, stamped as it was with the seal of honor, the impress of true nobility of soul? Broken-hearted at the loss of his gallant kinsman, he has sunk into the tomb: to which, with shaken frame and streaming eyes he had followed the lamented Brooks. Hamilton, too, the chivalrous, the warm-hearted, the eloquent Hamilton, sleeps beneath the deep waters of the southern gulf. And now, now, EVANS, the crude judge, the honored Senator, the soul of truth, who loved justice for the sake of justice, truth for the sake of truth, he, too, is to be borne to the last common resting place of man; and amongst us, the place that has known him shall know him no more.

This is not the time nor the place for a calm and measured analysis of those intellectual and moral qualities which won for JOSIAH J. EVANS the proud distinction of being selected by his native State as worthy to fill the seat once occupied by her Calhoun. Yet it is not alien to the feelings natural on such an occasion that affection should

revert to the traits peculiarly characteristic of the deceased, and fondly seek to stamp upon the memory all that can preserve a vivid image of him who has left us forever.

Whence, then, arose that respectful and affectionate reverence with which his presence was ever greeted by us all? Judge EVANS was no orator. Not his were any of those impassioned appeals to the national heart with which the genius of a Clay carried captive in his train all within reach of the magic of his voice. He has left for the admiration and instruction of posterity none of those magnificent orations which won for the great Senator from Massachusetts the title of the American Demosthenes; nor did he bring into the councils of the nation that profound and philosophical insight into the science of government, that marvelous capacity for analysis, that acute discrimination, that vigorous logic, that sagacious, almost prophetic, statesmanship which so greatly distinguished Carolina's illustrious son. Yet, in another, and though humbler, perhaps not less useful sphere, he fully merited the honor with which he had been crowned by his State.

Born at a period when triumphant fortune was crowning the heroes of the Revolution with the laurels of victorious battle; nurtured in the midst of those convulsive throes that preceded the birth of the institutions under which we live; surrounded by men whose names are illustrated in our history, not more by their value in the field than by their virtues as patriots and their merits as statesmen, he early imbibed those lofty principles of virtue and of honor which he so eminently exhibited in his public career. These first impressions of his childhood were implanted in a genial soil: they grew with his growth, and strengthened with his strength: they remained indelibly stamped upon his character, and seemed even by some subtle mystery of nature, to have molded his features with the very image of integrity and honor.

From the associations by which his youth was surrounded, arose in him that profound reverence for the sturdy virtues of our ancestors, that deep and abiding sense of their services to the country, which ever rendered him the ready, zealous, and effective champion of their claims on the justice as well as the gratitude of the nation.

So well, indeed, were his feelings and predilections understood by us all, that he was at once, by spontaneous consent, designated to the chairmanship of our Committee on Revolutionary Claims, and we all know that his onerous duties in that office were to him a labor of love down to the very moment when the impulses of his generous heart were arrested by the cold hand of death.

His long judicial career in his native State had so matured his judgment; the progress of advancing years had so enlarged his experience; his love for his whole country was so deeply implanted in his very nature, that it was impossible for him to degenerate into the mere partisan; whilst his political convictions were too deeply settled, his devotion to the true principles of the Constitution too profound, to permit him to regard with indifference the dangerous and exciting sectional contests which filled his declining years with anxious solicitude for the fate of the country he had loved so well and served so faithfully.

Let us thank God that his last moments were cheered by the conviction that the imminence of the danger had passed away, that the lowering clouds had parted, that the fair, blue sky again gave promise of calm and of sunshine, and that bright rays of hope gilded the dying couch of the departed patriot.

• Mr. HALE. Mr. President, it is rarely that I have allowed myself to mingle my voice with those whom duty or affection has prompted on occasions like these to pay a passing tribute to departed worth; but the circumstances of this occasion are such that I cannot permit it to pass in silence. When I first met Judge EVANS in the Senate, he realized to my mind more fully than any other man whom it has ever been my fortune to meet on this floor the ideal which I had formed in youth of an old Roman Senator. There was a calm and quiet dignity in his demeanor, and an exact justice in all that he did, which fully realized the expectations we naturally form of the character of a Senator.

It was my fortune, serving upon a committee with him during the last Congress, to know him well. Although he came from a section of the country that has been supposed to represent political views antagonistical to those with which my humble name has been associated, I may be permitted to say that I have never known a man who more deeply regretted the asperities and recriminations engendered by political contentions; and there was no man who by the amenity and suavity of his manner, the kindness of his heart, and the genial nature of his temper, did more to counteract and discourage them.

Sir, he was eminently a just and a kind man; in the benevolence of his heart he embraced all, of every section, and every quarter of the country. With all that, sir, there was joined in him a modesty and a distrust of his own judgment, amounting almost to weakness; by which he would sometimes be induced, perhaps, to surrender the calm and clear convictions of an honest and upright mind, to what might be expected of him from the associations with which he was politically connected. But, even in that, I think Judge EVANS never suffered his ideas of right and truth, and what was due to a patriotic and faithful discharge of his duty, to lose their control over his judgment.

Sir, although this is an occasion for sober and serious reflection, to my mind it is not one for deep grief or sorrow. An old man, who had already passed his three score and ten, and had entered upon that four-score of which the inspired Psalmist tells us "its strength is but labor and sorrow," has passed away; like a shock of corn, fully ripe, full of years and of honors, in a green old age. By a kind dispensation of Providence, at once he has been summoned from the field of his labors, to that of his reward.

Mr. WILSON. My heart prompts me, Mr. President, to add a few poor words to those which have been so fitly spoken, as a tribute of respect and of affection to the character and the memory of an honored associate and a cherished friend. Death has come into this Chamber with startling and appalling suddenness, teaching us all the mournful and impressive lessons which it has been repeating for six thousand years. We are summoned again to pause, to turn aside from the pressing duties of public life, and pay the last sad tribute of respect and affection to a fallen comrade. Often have Senators been summoned to perform these sad offices; but I am sure, Mr. President, that on no occasion have we ever been called upon to pay the last tribute of respect to one more truly and sincerely respected and beloved.

During the present session, I have served upon the Committee on Revolutionary Claims of which our departed associate was chairman. I have spent with him in that committee room many hours devoted to business, and to the exchange of ideas and opinions upon a variety of topics of a public and private nature. While we both entertained opinions with the tenacity of sincere conviction, I ever found him kind, charitable, liberal, and tolerant to others. The exacting duties devolving upon him in that committee were great, although not of that class which take prominence in the Senate Chamber. He brought to their discharge the most conscientious fidelity. He had studied all the laws and decisions bearing upon the cases that came before that committee, and was perfectly familiar with them. While he watched over the Treasury with scrupulous care, he was ever ready to do justice to claimants, whether they came from his own South Carolina or from other and distant States. The claims of the men of my own commonwealth were as sure to receive his careful attentions as were the claims of the sons of his own section of the Union. He was ever, in the committee room, the embodiment of conscientiousness, fidelity, justice, and kindness.

Sir, in that committee room I learned to appreciate his character even more fully than I had here in the open Senate Chamber: I learned to respect, to admire, and to love him. During all the exciting scenes which have transpired here since I came into this body—scenes which will long linger in our memories—we maintained our personal relations of friendship unbroken; and the many acts of kindness I have received from him I shall not

cease to remember until the heart upon which they are engraven shall forever cease to beat.

He will soon rest, Mr. President, beneath the soil of his own native State, which he loved so well and served so faithfully. That State has given to the Councils of the Republic many not undistinguished sons; but the sods which will lie on his bosom will press on the heart of as pure, as conscientious, as honest a public servant as she ever gave to the service of the nation. Let the people of his native South Carolina, let the personal friends who have known him long and loved him well, let the sorrowing mourners around his now clouded hearthstone, be cheered in this hour of affliction by the assurance that we, the representatives of sister Commonwealths—we, his associates and friends in this Chamber, will ever revere his name and cherish his memory with affectionate regard.

The resolutions were unanimously adopted.

On motion of Mr. HUNTER the Senate took a recess until two o'clock, p. m., the hour fixed for the funeral services.

The Senate reassembled at two o'clock, p. m.

A message was received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the House had resolved to attend in a body the funeral of the Hon. JOSIAH J. EVANS.

The corpse, attended by the pall-bearers and the committee of arrangements, was removed from the room of the Vice President, in which it had lain since an early hour this morning, to the area in the center of the Senate Chamber, where seats were provided for the remaining Senator and the Representatives of the State of South Carolina. The diplomatic corps, the judges and officers of the Supreme Court of the United States, the President of the United States, the heads of the various Departments, and the members of the House of Representatives, preceded by their Speaker and officers, entered the Senate Chamber at intervals and were conducted to the seats assigned to them.

The Rev. G. D. Cummins, D. D., commenced the funeral services by reading from the ritual of the Episcopal church portions appropriate to the occasion—"I am the resurrection and the life, saith the Lord." The Rev. George W. Samson read the epistle, 1st Corinthians, sixteenth chapter: "Now is Christ risen from the dead;" and the Rev. George D. Cummins delivered a discourse from the text, 2d Timothy, first chapter, tenth verse: "Christ hath abolished death, and brought life and immortality to light through the Gospel." The Rev. George W. Samson closed the ceremonies by an impressive prayer, and the funeral procession left the Senate Chamber, to convey the body to the place of interment, in the following order:

The Chaplains of Congress for the occasion.
The Physicians who attended the deceased.

COMMITTEE OF ARRANGEMENTS:

Mr. Hunter,	Mr. Toombs,
Mr. Bigler,	Mr. Brown,
Mr. Foster,	Mr. Bright.

PALL-BEARERS.

Mr. Fitzpatrick,	Mr. Crittenden,
Mr. Mason,	Mr. Allen,
Mr. Colclamer,	Mr. Fessenden.

The family and friends of the deceased.
The Senator and Representatives from the State of South Carolina, as mourners.
The Sergeant-at-Arms of the Senate of the United States.
The Senate of the United States, preceded by the Vice President of the United States and their Secretary.
The Sergeant-at-Arms of the House of Representatives.
The House of Representatives, preceded by their Speaker and Clerk.
The President of the United States.
The Heads of Departments.
The Chief Justice and Associate Justices of the Supreme Court of the United States and its officers.
The Diplomatic Corps.
Judges of the United States.
Officers of the Executive Departments.
Officers of the Army and Navy.
The Mayor of Washington.
Citizens and strangers.

Having returned to the Senate Chamber, on motion of Mr. HAMMOND, it was

Resolved, That the Vice President be requested to communicate to the Executive of the State of South Carolina information of the death of the Hon. JOSIAH J. EVANS, late a Senator from said State.

On motion of Mr. IVERSON, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, May 8, 1853.

The House met at eleven o'clock, a. m.

The Journal of yesterday was read and approved.

On motion of Mr. MORGAN, the House took a recess until one o'clock, p. m.

The House resumed its session at one o'clock, p. m.

DECEASE OF HON. JOSIAH J. EVANS.

A message was received from the Senate by ASBURY DICKINS, their Secretary, communicating the proceedings of the Senate on the occasion of the death of HON. JOSIAH J. EVANS, late a Senator from the State of South Carolina; which were read by the Clerk, as follows: •

IN THE SENATE OF THE UNITED STATES,
May 8, 1853.

Resolved unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect to the memory of the Hon. JOSIAH J. EVANS, deceased, late a Senator from the State of South Carolina, will go into mourning for the residue of the present session by the usual mode of wearing crape on the left arm.

Resolved unanimously, That the Senate will attend the funeral of the deceased from the Senate Chamber, at two o'clock to day; and that the committee of arrangements, consisting of Messrs. HUNTER, BIGLER, FOSTER, TOOMBS, BROWN, and BRIGHT, superintend the same.

Ordered, That the Secretary communicate these proceedings to the House of Representatives.

Attest: ASBURY DICKINS,
Secretary.

Mr. McQUEEN. Mr. Speaker, it is with feelings of much more than ordinary pain I rise to announce the death of my honorable friend, JOSIAH J. EVANS, Senator from the State of South Carolina; who died at his residence in this city, at about a quarter to eleven on Thursday evening, the 6th instant, of an affection of the heart, under which he labored for some time past, but not so seriously as to excite, even with his most intimate friends and associates, any great apprehension of this sudden, sorrowful event; for within one hour of his death, no human eye could perceive that the afflictive hand of Providence was upon him; though within half that time his spirit took its flight to regions of bliss, while nothing remained in the presence of his ardent and devoted friends who surrounded him but his cold and lifeless corpse.

Judge EVANS was born in the District of Marlborough, in the State of South Carolina, on the 27th November, 1786, and in the immediate vicinity of his present residence. He was descended of Welch parents, who settled on the Pee Dee river in the early settlement of that part of the country. He graduated in the South Carolina college at Columbia, in the year 1808, in a distinguished class of thirty, of whom but three survive him. Not long afterwards he engaged in the practice of the law, in which profession he so commanded the esteem and confidence of his countrymen that he was soon honored with a seat in the State Legislature. In that body he manifested such capacity for business and high legal attainments, that he was early elected by the Legislature solicitor, or States attorney, for the judicial circuit in which he lived, in which capacity he served for many years; and while he was still continuing to discharge the duties of that office, he was elected by the Legislature to fill the office of judge of the highest courts of law known to the judicature of South Carolina.

About the year 1830 he assumed the responsible duties of this distinguished office, in which he continued—having the highest confidence of the citizens of his State in his strict sense of justice, his patient and earnest pursuit after truth, his well-balanced judgment, and, indeed, all the attributes which adorn the bench—until December, 1852, when he was again honored by his State, and transferred to a seat in the Senate of the United States, of which he died a member. Thus showing a period of upwards of fifty years, of the life of this great and good man, devoted to the service of his State and country, without a broken link in that long chain of usefulness and honor, and that, too, without one stained spot, or the shadow of a spot, upon his official or moral character.

Of the earlier part of Judge EVANS's official conduct I can say nothing, of my own personal knowledge. I found him, in my youth, in the last years of his services in the office of solicitor, and can bear my humble testimony to the charac-

ter which he universally sustained, that whilst he was able and faithful in the discharge of his duties, he always took care that the accused should have impartial justice.

As a judge, I do not feel adequate to the task of awarding him his due; but I can safely say that few men, if any, combined within themselves more of the elements essential to the character of a great and good judge than this distinguished man.

In the dispassionate and deliberate investigation of cases, in the calm and earnest search after truth, which he always sought out with singular energy and ability, he had no superior. Once arrived at truth, he was inflexible as he was just; and his justice was always tempered with mercy.

Of his services in the Senate of the United States I might well let the record of his country speak, but will simply say that, though comparatively unaccustomed to the conflicts of legislation, yet, none were more faithful, none more conscientious, and none more capable of forming a correct judgment upon any and every subject which was presented to him for his investigation and action; and I may say further, that, without ostentation, he searched for the path of his duty as a patriot, and having found it, pursued it, without regard to the opinions of others.

His educational attainments were by no means confined to his profession; he was a student to the day of his death, and few men can boast of such general intelligence and information; though, such was his modest and retiring nature, that none but those who had familiar intercourse with him, could properly appreciate him in this respect.

But nothing which may be said of him, in his public career, can surpass that which is due him in his private relations; of these, as his neighbor and friend, I may venture to speak. Although engaged so long in public duties, yet in the intervals allowed him, he pursued his interests as a planter, and the adornment and comfort of his homestead, with that same untiring energy and judgment which so eminently characterized him throughout his life.

As a neighbor, he was honest, benevolent, kind, and generous, and his death will create a vacuum which will not easily be filled while memory lasts; as a master, he was lenient, kind, and humane. But of all his moral excellence and virtues, there was none so prominent as that of his love and devotion to his family. As a husband and father, he was most kind, assiduous, and affectionate, exercising in a refined degree that urbanity, mingled with his affection, which always distinguished him in his intercourse with the world.

He leaves a family of four sons and a daughter, fit representatives of a noble father, to mourn his sorrowful and irreparable loss, upon whom this sad and sudden affliction will fall most heavily.

A few years before he was elected to the Senate of the United States, he was bereaved of his amiable and excellent wife; an affliction which he bore with that meek and patient resignation which characterizes the Christian.

His religious creed was of the Episcopal faith. He was a regular attendant of that Church, and a large contributor to its annual support; whilst he always manifested the most liberal consideration and respect for other denominations.

Mr. Speaker, I have thus endeavored, in my humble way, to pay this brief tribute to the memory of my departed friend. He has been my neighbor and friend from my boyhood; and I have always found him as I have attempted to describe him; and believing as I do with the poet, that—

“An honest man 's the noblest work of God,”

I may not be censured when I express my confident belief that the spirit of this great and good man has winged its way to bliss with God, whose name was the last word he uttered on earth.

I submit, for the adoption of the House, the following resolutions:

Resolved, That this House has heard with deep sensibility the announcement of the death of the Hon. JOSIAH J. EVANS, a Senator in Congress from the State of South Carolina.

Resolved, That as a testimony of respect for the memory of the deceased, the members and officers of this House will wear the usual badge of mourning for thirty days.

Resolved, That the proceedings of this House, in relation to the death of the Hon. JOSIAH J. EVANS, be communicated to the family of the deceased by the Clerk.

Resolved, That this House will, as a body, repair to the Senate Chamber to attend the funeral of the deceased.

Mr. BOCOCK. I rise to second the resolutions which have just been offered, and to bear my humble testimony to the virtues and merits of the honored dead. I shall attempt no narration of the particular incidents in the life of Judge EVANS. That has already been fully and ably done. I shall speak of his general character, and of some of the lessons which may be deduced from his life and his death. I shall speak of him in a spirit of simplicity and sincerity; for such a spirit best befits not only the solemnity of the occasion, but also the character of the deceased. His nature was free from extravagance and excess. Its elements were so evenly mixed up, and all were tempered with so just and equable a spirit, that the contemplation of its outlines repels and rebukes every disposition to exaggeration.

I am sure that I shall have the cordial assent of every man who knew him, when I say that Judge EVANS was a good man. He had a just appreciation of the obligations of life, personal, social, and political; and he sought faithfully and diligently to discharge them all; and this is the highest meed of praise that can be bestowed on man. But no man in high position can be truly a good man without being also, to a considerable extent, a great man. For what knowledge is so important as a knowledge of duty, and what achievement so worthy as its successful performance? Judge EVANS's greatness was not the greatness of excited effort, or of showy and striking action. It was the greatness of doing well whatever circumstances required at his hand. The calm dignity of conscious strength, a quick and a clear apprehension of right, a judgment serene and unclouded amidst the most exciting events—these are the leading attributes of his character, these the solid elements of his greatness. The thought has often struck me, however fanciful it may appear to others, that I discovered in his person a striking resemblance to the likenesses which I have seen, of one of the greatest of the worthies of our early history. I allude to Benjamin Franklin. However that may be, his character was certainly fashioned after the same Doric model. There was in both the same strong common sense, the same eminently practical turn of mind, the same disposition to unobtrusive labor; the same comparative disregard of external appearances and the mere conventionalities of life, when in pursuit of the real and the useful. And never was the great value of such *qualities*, for success in life, more fully illustrated and clearly proven than in the case of Judge EVANS.

Think, if you please, of a young man, of unpretending origin, of a very moderate share of worldly fortune, with no qualities to dazzle the world, or lead captive the fancy of his friends. Place him then in a society where the constant cultivation of high sentiments of honor, of lineage, and greatness have created a nation of cavaliers, with all the lofty spirit and chivalrous feeling of the days of Charlemagne. See him at first contending for a foothold; then calmly moving on amid the jostling throng, and quietly rising higher and higher in the scale of fortune and of rank. See him first a successful lawyer, then a distinguished judge, and finally behold him sitting amid the Senators of the Union, a joint representative, with one other, of the sovereignty of his proud State, and the successor of a Pinckney, a Hayne, a McDuffie, and a Calhoun. Behold this picture, and tell me if you do not recognize the presence of greatness and of power.

I would not be understood as intimating that Judge EVANS was not an accomplished speaker and an able debater. He spoke but seldom, it is true; but in all that he said there was a simplicity of language, a clearness of statement, and an unpretending force of logic, that unerringly mark a strong and vigorous mind. These qualities he certainly had. But it was his strict integrity of purpose, his calm, unbiased judgment, and his strong common sense, that shone most conspicuously as elements of greatness in his character. With all, he has left a fame of which his State may well be proud, which his family and friends may cherish with sacred affection, and which mankind may emulate with profit.

As his life was, so it shall stand forever. His record is made up; his account is closed, and now awaits the impartial judgment of his countrymen and of posterity. He himself is gone, and forever.

He stands now in an assemblage more august than that of Senators and Cabinets, and before a tribunal more just and more certain in its decrees than the public opinion of contemporaries or of posterity. And alas! how sudden was his departure! In the morning, he was engaged in the quiet and faithful discharge of his duties; in the afternoon, he charmed the social circle with the genial brightness of his friendly humor; in the evening—a brief struggle with death—and his immortal spirit wings its flight upward from earth forever.

Death snatched the casket, but the jewel is safe from its grasp. This sudden demise of a member of the Senate, so known, so honored, and so loved, brings us, as it were, face to face with death. We see its relentless hand stretched forth in our midst, we feel its icy breath upon our cheek. Who is ready to meet its encounter? If official position, or extensive usefulness, or great popularity would stay its approach, then Judge Evans would still live. It is well understood, I believe, that he intended, at the end of his existing term of service in the Senate, to retire from public life, and devote himself exclusively to his private affairs and to a fuller preparation for that change which, from his advanced age, he must have known was not very far off.

But death would not stay its hand. It preferred to take him surrounded by all the trappings of official station, and at a time when he least expected the approach. Who, then, determines to be prepared for death to-morrow? How knows he that this day will not close his career on earth?

Nothing could console for the suddenness of Judge Evans's death but the excellence of his life. I have said that he was a good man in the view that he inquired into, and attempted to perform, all his obligations to his fellow-man.

But I have reason to believe that, in a yet holier and better sense, he was a good man, and that he inquired into, and attempted to discharge, his obligations to his God also. If this be true, then how important and valuable is the truth! His friends, then, may have hope in his death, and may cherish the consoling thought, that in this great change, what to them and the country is a great loss, is to him an everlasting gain.

Thus far have I spoken of the death of Judge Evans as an isolated circumstance.

I desire now, as a Virginian, to consider it in another point of view. Within a few years past, how bountifully has devoted Carolina reaped of the "harvest of death." Calhoun and Elmore and Butler and Evans, of the Senate, all gone since I first entered the Halls of Congress, and one also, a member of the House, whose sudden and untimely death a generous people yet deeply mourn. I allude to the lamented Brooks. These were the sons of South Carolina. Their first and highest allegiance was due to her. But they were not all hers.

Their efforts were for the good of every southern State, and for the advancement of the entire country. The whole civilized world is filled with their labors. We claim our share at least in this heritage of sorrow. And now while South Carolina adds another to the urns which she bears in her bosom, and bends her head yet lower in grief, I claim, in the name of her elder sister, Virginia, the bountiful mother of States, to extend to her the hand of sympathy, and mingle my tears of sorrow with hers. When my youthful mind was first turned to public affairs, my attention was arrested by the bright array of great men who then illustrated the State of South Carolina. There was Calhoun and McDuffie and Hayne and Hamilton and Turnbull and Preston, and others, whom I need not name.

One by one those I have mentioned have sunk into the grave—all save one; and he bows his spirit beneath the crushing weight of years and infirmity. South Carolina may well have been proud of her sons. Niobe boasted too proudly of her children, and brought down the vengeance of the gods upon them. But when the children of Niobe were stricken with death, their mother could bear no more, and was doomed to lament their loss throughout all time, and to remain forever

"Childless and crowless in her voiceless woe."

If Carolina was proud overmuch of her mighty sons, and has thus brought down upon them the vengeance of Heaven, she may moderate her grief; because she has yet other sons to come forward in their stead.

When next the mighty conflict of intellect shall be proclaimed, and questions of political and social progress shall wake up the great ones of the earth—then, when the bead-roll of fame shall be called to summon the contestants to the field, Chevis and Lowndes and Calhoun and McDuffie and Elmore and Butler and Evans shall lie mute in the grave. But others shall answer in their stead; for Carolina has yet sons worthy to wear the laurel. Why should they not move on to the highest point of fame? The example of those who have gone before sheds yet a bright light upon their path, and the smiles of a friendly world encourage them to advance. There remains the same proud and gallant State to cherish and sustain them; there remain the same Constitution to protect, the same great principles to maintain, and the same holy rights to defend.

The great men whom I have named, though gone, yet lend their propitious aid. If they were lights on earth, and have seemed to disappear, they are not lost. They have but "gone to join the lights that live along the sky." Their counsels and their teachings are immortal. So, too, of him for whom we sorrow:

"He is not dead.
Sunk though he be beneath the mortal fold.
So sinks the day-star in the ocean bed,
And yet anon repairs his drooping head;
And tricks his beams, and with new-spangled ore
Flames in the forehead of the morning sky."

Mr. COLFAX. Mr. Speaker, when a Senator ripe in the wisdom of years, mild and judicious in counsel, faithful in the performance of duty, and of overflowing kindness in all the relations of life, passes away, and is gathered to his fathers, the State in whose name he spoke, and the nation whose interests he labored to advance, join in a mutual sorrow at the portals of his tomb. But I rise, in accordance with the wishes of the delegation from South Carolina, to speak to the resolutions before us, with a sadness intensified by the warmth of personal attachment which I felt for the venerable deceased, whom I was proud in being able to call by the cherished title of friend.

Rarely, sir, have I known one so full of all those kindly attributes which win the affectionate regard of his associates, and bind them to him with almost the love of woman. Rarely has it been my good fortune to enjoy the confidence of one whose friendship was so full of heart; whose heart was so free from guile; whose mind was so devoid of bitterness and prejudice; whose bearing was so manly, and yet so gentle; and who, in the very fullness of years, retained the cheerful tone and the genial spirits of youth.

In the months that I sat at the same table with the venerable Senator who has departed from our midst, and in the many pleasant evenings in which, after the conflicts of the day were over, we enjoyed such friendly converse, seeking rather those things on which we agreed than those on which we were born to differ, I learned to know and to value him. He seemed to me like one of the patriarchs, cast in the olden mold; like one who, in the days of the Revolution, would have been ranked a worthy associate for those noble, yet unassuming men, who exhibited their heroism without boasting, and were willing to give their lives for their country without a sigh. Firm in his opinions, yet courteous in their expression; laborious in the arduous and thankless committee labor devolved upon him, and yet claiming no credit for its fulfillment; vigilantly watchful, and ever at his post in the Senate, claiming no exemption for years or feeble health, and invariably kind and affable to all who were brought in contact with him, I do not wonder that, in that grave and dignified body in the opposite wing of this Capitol, he was a universal favorite, cherished and beloved by all his compeers, from the shores of the Atlantic to the golden gate of the Pacific. Nor is it surprising that his native State, after he had worn her ermine so spotlessly and so well for a score of years, conferred upon him that crowning mark of her approval and confidence which placed him in the national Senate. It had been worthily earned, and its honors were worthily won.

But at last, after he had passed the allotted three-score years and ten, the messenger of death summoned him from this transitory life of toil below to that endless life of rest above. How kindly and tenderly that summons came, you all do know.

Not with the sharp anguish of fatal accident, crushing out life in pain and agony; not with the long days and weary nights of burning fever; not with that dread struggle in which the soul so often tears itself away from its mortal tenement; but calmly and peacefully, as if a fitting end of a life so gentle and serene, he closed his eyes upon "the last of earth," to open them in that home which for so many years he had been preparing himself to occupy.

And, while we mourn that the silver cord has been loosened, and the golden bowl broken, we can indeed and most truthfully exclaim:

"As a cloud of the sunset, slow melting in heaven,
As a star that is lost when the daylight is given,
As a glad dream of slumber which wakens in bliss,
He hath passed to the world of the holy from this.
But, oh! if one glance the freed spirit can throw
On this scene of its troubled vocation below—
Than the pride of the marble—the pomp of the dead—
To that glance will be dearer the tears which we shed."

The resolutions were unanimously adopted. Business was then suspended until two o'clock; when the House proceeded to the Senate Chamber, in compliance with the resolutions which had been adopted. Subsequently the House reassembled; and, on motion, adjourned until Monday.

IN SENATE.

MONDAY, May 10, 1858.

Prayer by Rev. A. HOLMEAD.
The Journal of Saturday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented a memorial of Daniel F. Tiemann, Mayor of New York city, and others, in relation to a plan for the sanitary improvement of the city of New York; which was referred to the Committee on Commerce.

He also presented papers in support of the claim of Deborah Burlingham, a daughter of James Dennison, an officer of the revolutionary war, to a pension; which were referred to the Committee on Pensions.

He also presented papers in support of the claim of J. M. Pommares, acting consul at Vera Cruz, in Mexico, for the return of money advanced to aid in the transportation of destitute American citizens to New Orleans, who were left at Vera Cruz by the American army; which were referred to the Committee on Military Affairs and Militia.

He also presented a petition of Hayne M. Salmon, praying indemnity for losses sustained in consequence of the advances made by his father without security to carry on the war of the Revolution, by which a large and entire estate was lost to his children; which was referred to the Committee on Claims.

Mr. FOOT presented a petition of citizens of that portion of Georgetown, District of Columbia, known as "the Heights," praying to be set apart from the corporate limits of said town, and to be removed from the operation of its municipal laws; which was referred to the Committee on the District of Columbia.

Mr. WILSON presented additional documents in relation to the claims of the States of Maine and Massachusetts under the treaty of Washington; which were referred to the Committee on Foreign Relations.

Mr. CHANDLER presented a petition of business men of the northwestern lakes, praying for an appropriation for the purpose of ascertaining whether Professor Ballot's rule, by which the approach of storms may be foretold, is applicable to the lakes; which was referred to the Committee on Commerce.

Mr. DOOLITTLE presented resolutions of the Legislature of Wisconsin, in favor of a donation of land to aid in the construction of a ship-canal around the Falls of Niagara; which were referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of Wisconsin, praying for a grant of land to aid in the construction of the Mineral Point and Portage City railroad; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. HAMLIN presented the petition of Abel Hildreth, praying for an appropriation to enable him to set up and attach to the bell at Whitehead a simple apparatus, invented and patented by him,

for keeping up a continual alarm by the operation of the rise and fall of the tides; which was referred to the Committee on Commerce.

Mr. BELL presented the petition of J. F. Deadrick, praying compensation for a wagon and team furnished by his father, David Deadrick, for the transportation of provisions, &c., during the war of 1812; which was referred to the Committee on Claims.

Mr. SEBASTIAN presented the memorial of H. R. Schoolcraft, praying compensation for the collection of the facts and materials embodied in the history, statistics, condition, and prospects of the Indian tribes of the United States, prepared and published by him; which was referred to the Committee on Indian Affairs.

Mr. HOUSTON presented a memorial of the Swan Creek and Black River Chippewa Indians, praying for additional compensation for lands ceded to the United States under the treaty of May 9, 1836; which was referred to the Committee on Indian Affairs.

Mr. BROWN presented a petition of a committee of residents of the southern end of New Jersey avenue, praying for an appropriation for widening the bridge over the canal at the intersection of Virginia avenue with New Jersey avenue, and the extension of the gas lights on New Jersey avenue; which was referred to the Committee on the District Columbia.

PAPERS WITHDRAWN.

On motion of Mr. SEWARD, it was

Ordered, That William M. Ellis have leave to withdraw his petition and papers.

Mr. WILSON. I move that the Secretary be directed to request the Court of Claims to return to the Senate the papers relating to the claim of Michael Hansen's representatives.

Mr. SLIDELL. I object to that.

Mr. WILSON. If objection be made, I suppose the motion must go over until to-morrow.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Richard W. Clarke, submitted a report, accompanied by a bill (S. No. 321) for the relief of R. W. Clarke. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Mrs. Ann P. Derrick, submitted a report, accompanied by a bill (S. No. 325) for the relief of Mrs. Ann P. Derrick, widow of W. S. Derrick. The bill was read, and passed to a second reading; and the report ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Walter James for compensation for a horse lost while employed in transporting baggage and munitions of war in 1812, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of citizens of Barnstable county, Massachusetts, praying to be allowed bounty land for military services during the war of 1812, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

BILLS INTRODUCED.

Mr. CHANDLER, in pursuance of previous notice, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 321) making an appropriation for deepening the channel over the St. Clair flats, in the State of Michigan; which was read twice by its title, and ordered to lie on the table.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 322) for the relief of purchasers of public land within the timber reserve opposite Fort Kearny, and for the settlers within the Winnebago agency reservation, the Fort Atkinson reservation, and the timber reserve opposite Fort Crawford, all in the State of Iowa; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. SEBASTIAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 323) to confirm the sale of the reservation held by the Christian Indians, and to provide a permanent home for said Indians; which was read twice by

its title, and referred to the Committee on Indian Affairs.

DEPARTMENTAL PRINTING.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing be instructed to inquire and report what difference, if any, has been found to exist in the printing and binding (including the quality of paper, style of printing, cost, &c.) for the several Departments of the Government, since the control of such work was transferred from the heads of Departments to the Superintendent of Public Printing.

REMOVAL OF MR. EVANS'S REMAINS.

Mr. HUNTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the expenses of the transportation of the remains of the late Hon. JOSIAH J. EVANS, to South Carolina, and of the officers of the Senate accompanying them, be paid out of the contingent fund of the Senate, under the direction of the Committee of Arrangements.

EMPLOYEES OF THE SENATE.

Mr. GREEN submitted the following resolution; and asked for its immediate consideration:

Resolved, That the Secretary of the Senate be directed to pay to the employees of the Senate who did not receive the same at the last session of Congress, the same compensation, respectively, that was allowed to the employees of the House of Representatives, by a resolution of the House of Representatives of 2d March, 1857.

Mr. SLIDELL objecting to the consideration of the resolution, it lies over under the rules.

SAN FRANCISCO POST OFFICE.

Mr. BRODERICK submitted the following preamble and resolution, and asked for its immediate consideration:

Whereas, there has been charged to the Government up to quite recently, the sum of \$18,000 per annum for the rent of the building occupied as a post office at San Francisco; and whereas, large sums of money have been realized from the rent of the lobby of said post office, which sums, it is generally reported, amounted to some seven thousand dollars per annum; and whereas, postmasters are required by law to make return, under oath, of all sums by them collected; and are prohibited from retaining, in the aggregate, more than \$4.00 per year, "including salary, commissions, boxes, and all other fees, perquisites, and emoluments of any name or character whatsoever;"

Resolved, That the Postmaster General be requested to inform the Senate whether any sums, and if so, what sums have been returned by the postmaster of San Francisco, as rents received for the use of the post office lobby, from July 1st, 1854, to December 31, 1857.

And whereas, there was placed on the files of the Post Office Department, in April, 1857, specific charges, duly sworn to, of malfeasance in office, of neglect of official duty, and of violations not only of the laws, but also of the regulations of the Post Office Department, on the part of the postmaster at San Francisco—which said charges are substantiated by the sworn testimony of some thirty or forty witnesses—a copy of the leading features of which testimony was also placed on file at the same time; and whereas, in February last, &c., or evidence, duly sworn to—charging the San Francisco postmaster with other acts of malfeasance in office—was placed upon the files of the Post Office Department; and whereas, the law, which is mandatory, says: "The Postmaster General shall prosecute offenses against the Post Office establishment;" Therefore,

Resolved, That the Postmaster General be directed to furnish the Senate with a statement showing the nature of the charges preferred against the postmaster of San Francisco, and the specific sections of the law which it is alleged he has violated, and showing also what action, if any, has been taken in regard to said charges; and in case no action has been taken, that the Postmaster General inform the Senate why the law has not been complied with, and why prosecution has not been made.

Mr. BROWN objecting to the consideration of the resolution, it lies over under the rules.

MILITARY REPORTS.

Mr. DAVIS. I beg leave to offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of War be requested to communicate to the Senate the reports of the officers sent to Europe in 1855, to collect information in relation to military affairs, so far as they have not been heretofore communicated to the Senate; and that he also communicate his views as to the necessity of publishing said reports for the use of the Army and militia, and if the publication be desirable, the number of copies that would be required for the above purposes.

It will be recollected that three officers were sent to Europe to inquire into the state of military affairs, that one of those officers reported, and his report was communicated to and printed by order of the Senate. The other two officers had not completed their reports at the time. They have since, I believe, completed them, and the manuscripts are now in the War Department. The object of this resolution is to call for these reports in order that they may be printed. I think they

will be of great use to the Army and to the militia. I, however, have chosen to ask that question of the Secretary of War, in order that these publications might not stand on the footing of the much decried books printed for circulation.

The report which was published—the report of Captain McClelland—was published by order of the Senate. There was rather a large edition; but a small number of copies only was given to the War Office. It has been circulated under the franks of Senators; it has gone over the country; but the Army and the militia have not been well supplied. The work is so valuable, however, that it is now on private sale in the city. The purpose of this resolution is only to reach the other two reports, which are on different branches of military affairs, and which, I think, will be found of great interest and of great value. If there be no objection, I ask for the present consideration of the resolution.

Mr. JOHNSON, of Arkansas. I would ask the Senator, if he pleases, what other reports there are which have not been recommended. We have already published the report of Captain McClelland, and I am not certain that we have not been publishing the reports of other officers.

Mr. DAVIS. The Senator is very much mistaken if he supposes we have published the report of any other officer who went out at that time. That we have published many reports, I do not doubt. Three officers went to Europe. One of them, Captain McClelland, made his report, which was printed by order of the Senate. The report of the senior officer, Major Delafield, and the report of the second officer, Major Mordecai, have not yet been received by the Senate. The board was composed of an officer of engineers, an officer of ordnance, and an officer of cavalry. The report of the cavalry officer has been published; the other two reports have not been. I think they are of great value. The men were selected with much care, and admirably qualified for the performance of the duty.

I have departed from the usual form of a resolution calling for papers, by asking the Secretary of War to communicate his opinion in relation to the papers. If that had been done in the beginning, this vast publication of every species of paper that might be drawn out by any drag-net any member chose to throw out, would have been suppressed long ago. I have also asked him to state how many copies will be required for the use of the Army and militia; because it is for that purpose I want the book published—not to be circulated under the franks of members of Congress merely, for their own benefit, and thrown in the hands of persons who may never read them, and who certainly will have no use for them.

Mr. JOHNSON, of Arkansas. Under the rules of the Senate, whenever the answer is made, the subject will be considered by the Committee on Printing, and I think it is nothing more than proper that the resolution of the gentleman should be allowed to pass that we may have the information from the War Department. When we get it we shall have power to look into it and see what ought to be done with it. I would, however, suggest that the Senator amend his resolution so that the Secretary of War shall furnish to us no incomplete report from any of these officers. If he can state, as I presume he can, that the reports he now calls for are complete, it will do away with considerable objection to the resolution itself.

Mr. DAVIS. The reports are complete, so far as the War Department is concerned. The report of Captain McClelland was complete when it came in. I was a little surprised at the answer the Senator from Arkansas made to an inquiry of the Senator from Vermont [Mr. COLLAMER] the other day, that he believed nothing was ever finished. The report of Captain McClelland was complete when it came in. It has been printed, and gone to the public. There is nothing more on that subject to come.

Mr. JOHNSON, of Arkansas. I am sorry to reiterate to the Senator now that I see this matter is not complete by far, because he calls for more than we have received on the same subject.

Mr. DAVIS. The reports of the other officers who went to Europe are called for. The report of Captain McClelland, as I stated, was complete as it was sent in, and printed as sent in. The reports of these officers are complete; but without the Senate, by any order to print in quarto form,

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, MAY 11, 1858.

NEW SERIES....No. 127

or by any order to collect other information, will add to the work after it comes in, is more than I know. If they will leave the reports of the officers to stand as submitted, I say they are complete. That is the only answer I can give.

Mr. JOHNSON, of Arkansas. The War Department, I trust, will furnish no incomplete reports to us on the subject, and I shall make no opposition to the resolution.

The resolution was considered, by unanimous consent, and agreed to.

INTER-OCEANIC COMMUNICATION.

Mr. MALLORY. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Navy be requested to furnish to the Senate the result of the recent exploration under the command of Lieutenant T. A. Craven, of the United States Navy, as to the practicability of inter-oceanic communication from the Gulf of Darien to the Pacific ocean, by the Atrato and Truando rivers.

Mr. PUGH. I object to that resolution.

Mr. MALLORY. I want to say to my friend that we have provided, by an appropriation of \$20,000, for the examination of this route; and this resolution is merely calling upon the Secretary of the Navy to send us in the results of the survey, as the officer who made it has just arrived. It is not for printing, or anything of that kind; but the session is drawing to a close, and we should have it at once.

Mr. PUGH. Let it lie over. It may lead us into this book business.

LEGISLATIVE APPROPRIATION BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, was received, announcing that the House had passed a bill (H. R. No. 201) making appropriations for the legislative, executive, and judicial expenses of Government for the year ending the 30th of June, 1859.

On motion of Mr. HUNTER, the bill was read twice by its title, and referred to the Committee on Finance.

LOCATION OF LAND WARRANTS.

Mr. STUART. I ask the indulgence of the Senate to take up a bill of public importance and pass it at this time. It is the bill (S. No. 47) confirming locations of land warrants under certain circumstances. It is one which will create no debate. I move to take up the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The original bill provided for the confirmation of locations heretofore made with bounty land warrants on lands which were subject to entry at private sale, but which upon individual competition were put up to the highest bidder, and the excess paid for in cash if they were in all other respects regular.

The Committee on Public Lands reported the bill with an amendment to strike out all after the enacting clause and insert:

That in all cases in which locations have been made with bounty land warrants on lands which were subject to entry at private sale, but upon individual competition were put up to the highest bidder, and the excess paid for in cash, such locations shall be, and they are hereby, confirmed, if in all other respects regular, and authority is hereby given to issue patents accordingly: *Provided*, That such confirmation shall only extend to cases existing prior to the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NAVAL COURTS OF INQUIRY.

Mr. FESSENDEN. There is a little resolution on the table, which has been returned from the House of Representatives with an amendment. I ask that it be taken up and disposed of.

The Senate proceeded to consider the House amendment to the joint resolution (S. No. 4) to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'"

which was to strike out "16th day of April, 1858," and insert "16th day of April, 1859."

Mr. HALE. I hope we shall concur in that amendment at once. It is merely to correct a clerical error.

The amendment was concurred in.

JEREMIAH MOORS.

Mr. CHANDLER. I ask the Senate now to take up the bill (S. No. 222) for the relief of Jeremiah Moors. I presume it will not consume any time.

Mr. IVERSON. I will move an amendment to that motion, that the Senate proceed to the consideration of the Private Calendar until one o'clock. The Private Calendar was to have been taken up last Friday; but, owing to the melancholy circumstance of the death of one of our colleagues, we lost that day. If the Senate will take up the Private Calendar from now to one o'clock, we shall probably make up for the loss of time to which it has been subjected. I must object to taking up private bills out of their order, to-day. It is rather unfair to other private claimants to do so. I think the best way is to proceed in order, and take up the Private Calendar regularly.

The VICE PRESIDENT. The motion of the Senator from Michigan is before the Senate, that the Senate take up this bill.

Mr. IVERSON. If the bill will not give rise to discussion, I do not wish to interpose objection; but, after that, I shall insist on proceeding with the Private Calendar regularly.

Mr. CHANDLER. I think it will not lead to discussion.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 222) for the relief of Jeremiah Moors.

It proposes to direct the Secretary of the Treasury to pay to Jeremiah Moors a just compensation for labor bestowed, and for mortar and other materials used (except the rough stone for the tower) in building a light-house, in the year 1831, on the outer Thunder Bay Island of Lake Huron, which was built under a contract made between Adam D. Stuart, the agent of the United States, and Henry T. Blake, dated August 30, 1831, and assigned by Blake, with the consent of Mr. Stuart, to Jeremiah Moors, by whom it was built.

Mr. TOOMBS. I should like to hear something about that bill. The claim seems to be about a quarter of a century old, and appears to me to be a very strange one, from the statement of the bill.

Mr. CHANDLER. Let the report be read.

The Secretary read the following report, made by Mr. HAMLIN, on the 29th of April:

The Committee on Commerce, to whom was referred the petition of Jeremiah Moors, with a bill accompanying the same, having examined the same, report:

That they adopt the report of the committee made January 25, 1855, in the following words:

"That on August 30, 1831, Henry T. Blake contracted with Adam D. Stuart, an agent of the United States, to build a light-house on the outer Thunder Bay Island, in Lake Huron; that on the same day that this contract bears date, Mr. Blake assigned it to the memorialist, constituting him his agent to perform the contract, and to receive the pay of the Government therefor, and he was accepted by the Government agent to do the work, as the substitute of Mr. Blake, the original contractor; that he proceeded with the Government agent to the place of location and commenced the work, upon the site selected by said Government agent, prosecuted the same with skill and energy, in strict conformity to the contract, and to the entire satisfaction of the superintendent, until it was nearly completed—only a small amount of labor to be performed upon the lantern—when a gale of unusual violence arose, and a tremendous seaswept over several acres of that part of the island on which the light-house was located, beating against it with great force, and after withstanding the gale for some time it gave way and fell into the lake, leaving about twenty feet on the land side standing, a perfectly sound wall.

"From all the evidence presented to the committee in this case, they are of opinion that the destruction of the tower was wholly attributable to the injudicious and exposed location of the building, and to the severity of the storms, (for which the memorialist was not responsible), and not to any defect in the materials or workmanship of the building; and it was no fault of the contractor that it was not entirely finished, for he was directed to place it where it could not stand, and where he was not able to finish the lantern before the tower fell.

"It is evident that the site was selected in good faith by

the Government agent, he being entirely ignorant of the great rise of water during the furious storms that beat upon it. It is evident that the site was an unwise and injudicious one, from the fact that the Government selected a site for the new light-house further from the water and upon higher ground. The second light-house was built by the memorialist, and out of the same materials, and stands firm to the present time.

"The memorialist did not undertake to guaranty the suitability of the site, but to furnish the labor and materials for the structure, and for its failure the Government is alone responsible, and the committee know of no rule of law or justice which would allow the Government to shelter itself from the payment of a just compensation for its labor performed, because its agent had selected an unsuitable site for the building."

In view of the facts presented, the committee have come to the conclusion that the memorialist is entitled to compensation for the mortar used and labor performed in building the first light-house, and recommend the passage of the bill submitted to the committee.

Mr. TOOMBS. I move to refer this bill to the Court of Claims. This is a most extraordinary report. There are a great many allegations of fact in it which the committee state to be evident, that they could not by possibility know by any fair evidence, unless they took great pains to attain it, and went out there. In the first place, they say the site was selected by the Government; and, in the second, that it was an injudicious selection, and that the materials and workmanship were all right. This comes to us after a lapse of twenty-six years. If all those allegations be true, the claimant has a legal claim on the Government. They do not offer the slightest reason in their report why the man has waited a quarter of a century to get pay for a light-house washed away in 1831. I suppose, like a great many claims, in the obscurity of time the facts have been lost. No such claim ought ever to be paid, unless there is good and substantial reason given why it should be allowed, and why it has not been pressed before. I move that it be sent to the Court of Claims, in order that the facts may come before us after having been judicially ascertained.

Mr. HAMLIN. I think I can answer very substantially every objection the Senator from Georgia has made. First, as to the time which has elapsed since the claim originated—I cannot recollect how long, but for some fifteen or twenty years, the claimant has been pressing it here in Congress, and bills have passed each House allowing it, but never each House at the same session. As to the way in which the committee got at the evidence, it was by the affidavits of shipmasters who reside in the vicinity, taken under oath, and filed in the case.

Mr. TOOMBS. *Ex parte*.

Mr. HAMLIN. Somewhat *ex parte*, but there was also the statement of the Government agent himself. All concurred that the site was in the wrong place. That is also proved by the very fact that before the work was completed and hardened the tempests beat it down, and then they immediately transferred it to a higher point, where the waves and waters did not break on it. I think it a very equitable and very just claim. None more so has ever passed this body.

Mr. TOOMBS. The Senator does not answer the objection, for according to his own statement, if his recollection serves him right, it has been here only ten or fifteen years. Taking the shortest time he names, sixteen years elapsed before the presentation of the claim, and taking the longest time, eleven years elapsed. Then, may we not well ask, where was the party from 1831 to 1842? According to the loose statement the Senator makes, he says he is not accurate about it, there were between ten and twenty years after the falling of the light-house, before the claim was presented. He also admits, that whatever facts the committee had were got by *ex parte* affidavits, furnished by the claimants. Why shall not these facts be ascertained judicially? If the facts be true, it is a legal claim; there is not a shadow of doubt about it; because, if he did his work right, and the place was selected by the Government, he has the right of action against the Government, and could recover it in any court of law against any individual, and, therefore, could against the Government, in the Court of Claims.

Mr. CHANDLER. I will state the reason why this claim has not been acted upon. Mr. Moors, I have known personally for many years. He was a very worthy, industrious, good mechanic. His loss upon this light-house alone impoverished him. He was not able to come here and prosecute his claim. He intrusted it to General Cass, my predecessor, and to different members of the other House. As the Senator from Maine says, it has been seesawing between the two Houses, I cannot tell how many times. This identical bill has passed the Senate two or three times, and as many times has passed through the other House. To send this claim to the Court of Claims is equivalent to saying to the man, you shall have no justice from this Government, for he is not able to prosecute the claim. He was impoverished by this very misfortune. I hope that this honest, just, proven claim will be no longer deferred.

The VICE PRESIDENT. The question is on the motion of the Senator from Georgia, to refer this case to the Court of Claims.

Mr. HAMLIN. I want simply to say that on looking at the papers I find that so early as 1832, the claimant commenced the prosecution of this claim. The work was done in 1831.

Mr. STUART. This claim has been before Congress ever since I have been a member of it, and has passed one House or the other several times. The committee that now reports it is a committee of which the honorable Senator from Georgia is a member—the Committee on Commerce. If he has any doubt about this claim, and wishes to examine it himself as a member of the committee, I have no objection to giving him an opportunity to do so. I am certain that this memorialist has pressed his claim from the time he had an opportunity to do so down to to-day, with as much vigilance as any man could. I have examined it myself twice, once whilst I was a member of the Committee on Commerce; and I think if the Senator from Georgia will examine the papers in the case, he will be satisfied that there is no fault on the part of the memorialist. I hope that the paper alluded to by the Senator from Maine will be presented to the Senate, so that it will be seen that this is not an old claim hatched up now.

Mr. TOOMBS. The facts stated by gentlemen around me, the advocates of the bill, furnish the most conclusive evidence of the necessity of the action which I propose. The Senator who reported the bill from the Committee on Commerce says the case has been here for ten or fifteen years. I am a member of that committee, but I never heard of it there; probably this was owing to my own neglect, but that is the fact. He now turns to some paper and says it was presented the year after the work was done. The Senator from Michigan, [Mr. CHANDLER,] who is the earnest advocate of this bill, says the reason why the claimant did not come here was that he was too poor. It seems by the other statement that he did come.

Mr. CHANDLER. Too poor to be here in person.

Mr. TOOMBS. I do not know that that is necessary. I do not presume that there is a single man of any State, who has a just claim, whose Senators or Representatives will not present it to Congress, and attend to it for him. It is the business of every one who represents the people to do so; and I have no doubt it is the pleasure of every gentleman to do so. I would not only present them from my own State, but from any State. If any man sent his claim here with the evidence, I should deem it my duty to give him that just attention to which he was entitled, no matter what part of the Republic he might come from; and I am sure this is the rule of all the members of the Senate and House of Representatives. No matter in what portion of the Republic, or in what other country petitioners may live, it is our duty to present their claims, and I am sure it is done by all of us here.

The claim being a legal claim, and according to the papers a just claim, if the facts be as alleged, it could be judicially determined. The cost of doing so is very small. The amount of the claim is large. Any one who has a just claim for \$1,800 could have the best counsel in the country to attend to it. We have determined, on account of these very difficulties, to refer the cases that stand on this basis to the Court of Claims. Why

bring in a portion from Committees on Claims, or Committees on Commerce, or Committees on Military Affairs? I believe that nine tenths of the cases which the Senate is continually pressed to consider, to the omission of the general public business, come legitimately and expressly within the jurisdiction of the Court of Claims; and oftentimes they are fraudulent, and brought here because a committee is necessarily an easier place than a court. Refer it to my committee, and I must necessarily take *ex parte* evidence. I am not in a condition to look out and get evidence on the other side. That is the very reason we established the court—mainly to get the facts on both sides.

I have heard gentlemen frequently complain that the objects of this court were defeated. One class desire that we should make its judgment always conclusive, or they say it is no court. The object of the court is explicit. It answers it wisely and well. The Senate and House of Representatives can overturn its judgment; and then it is no judgment. Does that make it any the less a court? If that is the case, there is no court in England; for one branch of Parliament can overturn the Queen's Bench. In the State of New York, for many years, one branch of the Legislature could overturn the judicial opinions of all her courts. Probably it is so now. I know it was some years ago, when I was more intimately acquainted with the practice. This is a court whose judgment may be reversed by the legislative department. That is all it ought to be, and ever can be. This case should go there as not only a case expressly within their jurisdiction; but for the purpose of enabling Congress to act with certainty on all the facts, we have a right, as a distinct head of jurisdiction, to refer to the Court of Claims when we are doubtful as to the facts. Every Senator knows it is impossible to get at them by committees in ninety-nine cases out of a hundred; particularly when matters happen *in pais*, at places remote from the seat of Government, twenty-five years back. It is very remarkable that this man should have been here twenty-five years ago, and never got his claim through. Very probably at that time other people knew something about it. The Secretary of the Treasury knew all about it. The officers of the Government knew something about it. They have passed away in this quarter of a century. Where are they to-day? The claimant comes here to-day with this *ex parte* statement, and asks the Senate to pass it. It is bad as a principle; it is bad as a precedent; and the Senate ought not to allow it.

Mr. STUART. I am not disposed to discuss the principles of action of the Court of Claims, or the propriety of their decisions; for I do not think it is at all involved in this case. This is a case which has from time to time received the favorable action of Congress; and I think I can state, in a few words, why, without the action of Congress, this man cannot get his pay.

This man entered into a contract to complete a light-house, and until he has completed it he has no legal right of action. If he had completed the light-house, he could have gone to the Treasury Department, shown his evidence, and taken his pay; but not having completed the light-house, he cannot thus get his pay. I agree that if this were a case between individuals, it would be equivalent to a performance on the part of the contractor, to show that the performance was prevented by the bad selection of the other's agents, and by the elements. It would give him a right to recover, under a *quantum meruit*, not the contract price, but a fair compensation for what he had done; but he has no such right here. If he goes to the Court of Claims, and that court holds that they will decide only what is the law of the case, it will be reported back here a failure; they could not decide in his favor. It presents itself now to the equity of Congress, as it would present itself to a jury, if it were a case between individuals—not that the man has performed his contract—it is not pretended; but that he has done everything in his power to perform it; that he has been prevented by the elements, and in consequence of an injudicious selection by the officer of the Government. The papers state that the experience of the Government, ascertained in consequence of this injudicious selection, induced them, when they rebuilt the light-house, to go

further back on a higher ground, which was permanent, and was secure against the action of the lakes.

The case is indisputable, and it is undisputed. I humbly submit to the Senate and to the consideration of my honorable friend from Georgia that, if the facts he supposes be true, and I cannot say whether they are or are not, they constitute a reason why the Senate should not send the case to the Court of Claims. If it be true that witnesses are dead; that this man, having done this work in 1831, applied for compensation in 1832, and that in the mean time the witnesses are dead, so that he cannot now make his full proof in a court upon a new case, as he has been able to make in this case, it presents a conclusive reason why it should not be sent to the court. This man is an entire stranger to me. True, he is a constituent of mine; but personally I have no knowledge of him, though I have had a personal knowledge of the case for years; and, as stated by my colleague, I remember that General Cass, my late distinguished colleague, being more immediately in the vicinity of this claimant, took a great interest in the case, examined it, had it presented to the committee, and, when the bill was before the Senate, had it passed so far as his personal efforts could go. He was conversant with the witnesses and the facts, and so stated here. But we all know that, when a case goes to the House of Representatives, it is a mere question of time. If you have time, you can pass the bill; but if the case is not reached until the heel of the session, it is gone; a single objection stops its passage unless you can get a two-third vote. Thus this claimant stands to-day. The papers are clear. The report of two committees of the Senate have been made on it, which have been read—the report of the Senate committee of 1855, indorsed by the committee of the present session; and of which committee, as I stated, the honorable Senator from Georgia is a member. I hope he did not understand me as charging him with being negligent of his duties, because I did not mean to allege any such thing. I certainly disavow anything of that sort. I only stated that he was a member of the committee, and that, if as a member of the committee he wished an examination of the case himself, I should not object to it; I should think it due to him, and should agree to it, because I am satisfied, that the more this case is examined, the more it will address itself to the equitable and just consideration of the Senate.

This is one of those clear cases which are indisputable. The man cannot get his money at the Treasury, because there he must show a compliance with the contract. My impression is—I do not like to speak with much confidence, though I find the honorable Senator from Vermont [Mr. COLLAMER] agrees with me—that, if we send him to the Court of Claims, he will be obliged there to show a compliance with his contract. But, however that may be, it is a case which began here long before the Court of Claims began. It is a case which, upon the facts, has never been disputed; there have been no adverse reports; it has been favorably considered; and I do trust this man, if he be poor, as my colleague says, will not be sent to the Court of Claims, where it will cost him half or two thirds of the whole claim to get his case tried.

Mr. COLLAMER. The Senator from Michigan who was last up mentioned my name, and that is my excuse for saying a word. It seems to me that, whether this man succeeds in the Court of Claims or not will depend on certain facts which do not yet appear. If the place of location for the building of this light-house was fixed upon to begin with, and the man made his contract to build a light-house in that place, and after he put up his tower a violent storm demolished it, and the circumstances were such that the officers of the Government, as well as the contractor, became satisfied that one could not be made to stand in that place at all, and they went on higher ground, to a safer place, to build the house with the materials they took from this one—under such a state of circumstances, it would seem to me that the man would not have a legal claim. If he undertook to build and finish a light-house in a particular place, he knowing the place, the chances of exposure to storm would be all at his own risk. It would be the risk of the Government whether it would stand there after he had got it done; but

it would be his own risk whether he could complete it. The interpositions of the orderings of Providence would be matters of his own risk while he was building it, and the risk of the Government after he finished.

Such, I think, would be the legal effect; but if the Government made an agreement with him, a contract to build a light-house on a particular island, and they selected the place for him to build it on, he not knowing the particular place at the time of the contract, and they selected such a place that it could not be built there, or could not stand there after it was built when a storm came on—in that case the man would have a legal claim for a *quantum meruit* for the amount which he laid out, which was lost by the injudicious selection of the Government. How that was in point of fact in this instance, I do not know.

Mr. TOOMBS. It is stated in the report that the Government made a contract and selected the place.

Mr. STUART. That is always done. Congress makes an appropriation to build a light-house at a particular place. A contract is entered into to build a light-house at that place. Then the United States officer goes and selects the spot, after the contract is made, on which to put it.

Mr. COLLAMER. I have stated my distinction in that respect. If the selection was made after the contract was entered into and made by the Government, I agree in that case with the Senator from Georgia; but if it was the other way, if he contracted to build it on a spot which was selected at the time of the contract, that being part of the contract, he would have no legal claim.

Mr. TOOMBS. It was exactly that state of facts stated in the report on which I based my opinion. The report states that he made a contract and then the Government agent went and selected the place.

Mr. COLLAMER. If that was the order of events, I agree in opinion with the honorable Senator from Georgia, that it is a good legal claim.

Mr. PUGH. I concur in the views expressed by the Senator from Vermont, as to the law of the case, and I dissent from the law as expressed in the report. It seems to me the strangest proposition that the Government of the United States is the insurer of a house in the hands of a contractor up to the time it is finished. It is his house until we accept it; and if this is the act of God, without any fault of either party, it is his loss and not ours. If it were brought forward as a claim on our generosity, I might listen to it, but the report states it as a legal claim. But even if it be an equitable claim, as the Senator from Michigan thinks, the Court of Claims has jurisdiction. As the Senator from Georgia has truly said, it is a separate head of jurisdiction in that court to examine any claim referred to it by either House of Congress. It makes no difference whether it is a legal claim or equitable claim; it is a complete head of jurisdiction in the court itself, and it can investigate the case much better than we can. For these reasons I shall vote for the reference.

Mr. HAMLIN. These papers were originally submitted to Mr. Louis McLane, while he was Secretary of the Treasury; and after an examination of the matter they were transmitted to the House of Representatives by the Delegate from Michigan Territory at that time; and here is what the Secretary said then:

TREASURY DEPARTMENT, February 27, 1832.

SIR: I have the honor to return the papers transmitted by you to this Department on the subject of the light-houses at Chicago, and outer Thunder Bay Island, in the Territory of Michigan. The contract not having been fulfilled, the relief sought for by the contractors can only be obtained through the interposition of Congress. The reports of the Fifth Auditor, and of the collector at Michilimackinac are also inclosed.

I have the honor to be, very respectfully, your obedient servant,

LOUIS McLANE,

Secretary of the Treasury.

Hon. A. E. WING, House of Representatives.

The Secretary himself reports the reason why it was not allowed at the Treasury Department, that he had no legal authority to allow it, because it was a contract not completed. That was the view I took of it. The Senator from Ohio says that a case not based on law may be referred to the Court of Claims, and they may act upon it. Now, I understand that papers have been referred to the court by Congress, I think at this session, not based upon law, but upon equity, and they have decided that they had no authority over

them, unless they were based on some preëxisting contract. I understand that the court have decided directly opposite to what the Senator from Ohio says. I do not say that it is so; I have been so told; I have not looked at the report. If that be so, and this be nothing but an equitable claim, based upon equity, then the court would not adjudicate upon it if we were to refer it to them. I think it an equitable claim.

The question being put on the motion to refer the case to the Court of Claims there was no quorum voting.

Mr. CLAY. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. IVERSON. I am in favor of the motion made by my colleague, to refer this case to the Court of Claims; and the very fact that it is a disputed question here upon this floor, whether this is a legal or an equitable claim, is a conclusive reason why it ought to go to the Court of Claims; because we cannot decide here whether it is a legal or an equitable claim. If the facts be as put by the Senator from Michigan, it seems to me that there is no doubt that the party has a legal claim, and can have it adjudicated in the Court of Claims, and obviate all difficulty in its passage. If the Government agreed to give him so much money for building the light-house, and selected the spot, and afterwards they moved the place for the erection of the light-house, as a matter of course he is entitled to damages for a violation of the contract on the part of the Government; but whether it be a legal or equitable claim, it ought to go to the Court of Claims, there to be investigated on the facts.

The Senate and House of Representatives, in deciding these claims, have to decide upon *ex parte* evidence; and one principle object of the erection of the Court of Claims was to protect the Government from an *ex parte* examination. One of the principal objects of the Court of Claims was, that all cases might undergo a judicial investigation, and that the testimony might be so marshaled that the Government would be protected from fraud and imposition. Here we have to decide upon the *ex parte* testimony taken, as in this case. We may be imposed upon by fraudulent evidence, by forgery, by false testimony. There are various ways in which a party may bring forward testimony here, colored or forged or fraudulent, by which he may impose on Congress; but that is not so when he goes before the Court of Claims. There witnesses are examined by commissioners appointed by the court; the attorney of the party and the attorney of the Government are both present at the examination of witnesses, and there is a fair and impartial mode of bringing the case properly before the court.

It is true the Court of Claims does not decide on equity cases, although they may be referred by either House of Congress. I think, in this respect, the Court of Claims has committed an error in refusing to decide on equity cases which have been submitted to it by a resolution of either House. They have decided that, in order to give them jurisdiction, the case must arise upon an act of Congress, or upon a treaty, or upon a contract, express or implied, or upon some regulation of an Executive Department. These are the various heads under which jurisdiction is given to the Court of Claims by the act erecting that court; and they have refused to give any opinion on any case which depends on mere equitable considerations. I think they are wrong; but still that is the practice of the court. But how can we decide here whether this is one of those cases or not? The facts are all *ex parte*. Some gentlemen say this is a legal claim; some say it is an equitable claim. To ascertain the facts in a conclusive manner, it ought to go to the Court of Claims, where the evidence can be marshaled according to law.

Mr. CHANDLER. Whether this claim be a legal one or not, I cannot say, not being a lawyer; but that it is an equitable claim I can state positively. If any Senator will read the documents in the hands of the committee that reported the bill, he will be satisfied that it is equitable, whatever its legality may be. This claimant is not able to prosecute the claim before the Court of Claims; and such a course would swallow up half of the amount involved, at least, in its prosecution, and even then it must come back to this House whether it be legal or equitable; and the same trouble must again be undertaken by him to get his just equi-

table rights. I hope the bill may be killed at once rather than send it to the Court of Claims. It is death to him in either event.

The question being taken by yeas and nays, resulted—yeas 13, nays 27; as follows:

YEAS—Messrs. Clay, Davis, Fitzpatrick, Green, Hammond, Hunter, Iverson, Mason, Pearce, Pugh, Slidell, Thomson of New Jersey, and Toombs—13.

NAYS—Messrs. Allen, Brederick, Brown, Cameron, Chandler, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Arkansas, Johnson of Tennessee, Jones, Sebastian, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—27.

So the Senate refused to refer the bill to the Court of Claims.

Mr. CHANDLER. I move to amend the bill in the fourth line, by inserting after the words "Jeremiah Moors" the words "or his legal representatives."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had passed the following bills and joint resolutions of the Senate:

A bill (No. 286) to enlarge the Detroit and Saginaw land districts, in Michigan;

A bill (No. 296) amendatory of an act entitled "An act to establish two additional land districts in the Territory of Minnesota," approved July 8, 1856;

A resolution (No. 30) to extend for a further term the provisions of the joint resolution, approved March 10, 1858, in relation to certain dropped and retired officers of the Navy;

A resolution (No. 33) authorizing suitable acknowledgments to be made by the President to the British naval authorities at Jamaica for the relief extended to the officers and crew of the United States ship *Susquehanna*, disabled by yellow fever;

A bill (No. 300) for the relief of the Hungarian settlers upon certain tracts of land in Iowa, hitherto reserved from sale by order of the President, dated January 22, 1855;

A bill (No. 307) to authorize the Secretary of the Treasury to sell the old custom-house and site in Bath, Maine, and for other purposes; and

A bill (No. 313) to amend the act entitled "An act to ascertain and settle the private land claims in the State of California," passed March 3, 1851.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 62) making appropriations for the support of the Military Academy for the year ending June 30, 1859.

Also, that the House had passed a bill (H. R. No. 300) declaring the title to land warrants in certain cases; in which the concurrence of the Senate was requested.

SPECIAL ORDERS.

The VICE PRESIDENT. One o'clock has been the usual hour for calling up the special orders. Formerly, when the Senate met regularly at eleven o'clock, twelve o'clock was the hour. The Chair does not know what is the sense of the Senate on this point, whether the special orders shall be called up at one or at twelve o'clock.

Mr. CLAY. It is understood that an hour is devoted to the morning business.

Mr. STUART. Perhaps it would be better to let the special orders remain at the usual hour, because, at any time, by a vote of the Senate, they can be taken up.

Mr. JOHNSON, of Arkansas. The practice of the Senate heretofore has been, when the hour of meeting has been changed from twelve to eleven o'clock, to regard the time gained as an addition to the morning hour, and not as changing the hour for the special orders; and therefore I take it for granted that we shall go on with other business until one o'clock.

The VICE PRESIDENT. It was not the purpose of the Chair to call up the special orders, but simply to bring the subject to the attention of the Senate. If no motion be made, the Chair will regard it as the sense of the Senate that he is not to call up the special orders until one o'clock.

Mr. CLAY. I move that the special order be now taken up.

Mr. JOHNSON, of Arkansas. The Senator as got ahead of me.

The VICE PRESIDENT. If the Senator from Alabama desires it, the Chair will take the sense of the Senate as to whether one o'clock shall remain as the hour for the special orders.

Mr. CLAY. Perhaps it had better be settled at once, in order that the Chair may regulate its course hereafter.

Mr. JOHNSON, of Arkansas. I think it would be proper to let the practice remain as it has been. As I have already said, the practice hitherto has been to regard the additional time as an addition to the morning hour, during which much of what is peculiarly morning business, and a great deal of other business of the Senate, can be disposed of. A great deal of good has been the result of this practice heretofore. I do not think it will promote the public business to make the change which has been suggested; that is, that the special orders shall be advanced to twelve o'clock. I trust that the practice of the Senate hitherto will be allowed to prevail, at least for a week or more.

The VICE PRESIDENT. The Senate can very promptly dispose of the question, and the Chair will take the sense of the Senate in this form: Shall the hour of one o'clock continue to be the hour at which the special orders shall be called up? Senators in favor of that will say "ay."

Mr. JOHNSON, of Arkansas. I repeat, that formerly when the Senate met at eleven o'clock, twelve was not the hour, under the practice of the Senate, at which the special orders were called up; it continued to be one o'clock. I have consulted the Senator from Virginia [Mr. HUNTER] on the subject, and he informs me that the practice has been as I have stated; and he is very conversant with the practice of the Senate.

The VICE PRESIDENT. The Chair referred to the period of time fixed in Mr. Jefferson's Manual, when the time of meeting, originally, was eleven o'clock: he does not know what has been the practice of the Senate in more recent years. The Senate, however, can determine the question.

Mr. MASON. I think the practice of the Senate has been, for the dispatch of public business, to make such subjects as it thought proper special orders; and in designating the hour for the special order it has been fixed, still with reference to the dispatch of public business, at one hour after the meeting of the Senate, in order that the first hour may be given to what is called the morning business, consisting of petitions, reports from committees, and resolutions. The usage of the Senate, I think, has been to consider that one hour is enough for that miscellaneous business which is more introductory than otherwise to the general business of the Senate, and it has been understood that only one hour should be devoted to it. If I am correct in that, it would result that twelve o'clock would now be the proper time for the special orders. I should think there is an additional reason: if we are to adjourn at the time indicated by the joint resolution of the two Houses, which has been agreed to, it is more important that we should dispatch the business before the Senate than originate new business.

Mr. HUNTER. What is the question?

The VICE PRESIDENT. The Chair will restate the question. Originally the hour of meeting of the Senate was eleven o'clock at the beginning of the Government, and twelve o'clock was then the hour for calling for the special orders. The hour of one o'clock is the hour under the meeting at twelve o'clock. Recently the Senate has changed the hour of meeting to eleven o'clock. The Chair desires to know the pleasure of the Senate as to the time at which he shall call up the special orders—twelve o'clock, or one o'clock?

Mr. HUNTER. Those in favor of calling up the special order at twelve o'clock will say "ay."

The VICE PRESIDENT. The Chair will put the question in this form: Is it the sense of the Senate that one o'clock shall continue to be the hour for calling the special orders? If the majority vote in the negative, the Chair will consider it a direction to call them at twelve o'clock.

Mr. HUNTER. I hope we shall call them at twelve.

The question being taken, on a division there were—ayes 16, noes 20.

So the Senate decided that the special orders should be called at twelve o'clock.

Mr. CLAY. I hope, then, that the special order will be taken up.

The VICE PRESIDENT. The Chair will take up the special order at this time.

Mr. CHANDLER. What is the decision?

The VICE PRESIDENT. The decision is, that twelve o'clock shall be the hour for calling up the special orders.

Mr. CHANDLER. I should like to have the yeas and nays on that.

The VICE PRESIDENT. The vote was decisive, and the result was announced by the Chair. The first special order is the joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding.

Mr. CLAY. I move to postpone the further consideration of that resolution until to-morrow. The motion was agreed to.

FISHING BOUNTIES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 10) repealing all laws, or parts of laws, allowing bounties to vessels employed in the bank or other cod fisheries.

Mr. CLAY. If the debate is closed on the other side of this question, I will submit a few remarks in reply to what fell from the Senator from Maine [Mr. HAMLEN] the other day. But as I am entitled, according to parliamentary law, to close the debate, I do not wish to precede gentlemen who have anything to say in opposition to this bill. I will remark here, however, that I trust the debate will be concluded to-day. I do not now propose to occupy the time of the Senate more than twenty minutes, and I shall probably not consume more time after having heard what may be further said. I trust we may have the vote to-day.

Mr. FESSENDEN. I had some idea of submitting a few remarks on this subject, but I understood that the Senator from New Hampshire [Mr. HALE] desired to speak this morning, and I do not see him in his seat. It is a matter of indifference to me whether I go on now or not. I may, perhaps, as well say what I have to say now as at any other time.

Mr. President, I am disposed to say a few words; not with the idea that I can add anything to what has been said by my colleague, but simply because this is a matter of so much interest to a portion of the people of my State that it may be that they would expect that I should at least manifest that I am taking an interest in the question, and observing the progress of it. I propose to do that by expressing my concurrence in the positions that have been taken by my colleague, and by adding a few words on points which have not been so much elaborated by him.

The first position taken by the honorable Senator from Alabama, in relation to this question, was, that this bounty, as it is called, upon the catching of cod fish, whether it is a "momentous concern" or otherwise, originated entirely in the imposition of a duty on salt, and the fact that it was thought reasonable that the amount of that duty, or nearly the amount of that duty, should be refunded on all the fish that were exported. It was assumed by the Senator from Alabama that that policy, thus originated and thus founded, has continued to be the policy of the Government on that foundation and with reference to that particular thing, down to the present time.

Now, Mr. President, I think that the Senator was very considerably in error, not only by not giving sufficient importance to one reason for which the policy originated, but also in assuming that that particular reason, which he states to be the foundation of the policy, has continued to be its foundation down to the present time. The facts in reference to the matter, and the laws which have been passed, when examined, will not support him in that assumption. It is true, that the early advocates of the policy did assume, in argument, and did press it strongly on the ground of justice, that it was due to the people who caught and salted cod fish, and exported them that the amount paid by them, as duty on salt, should be refunded. But the Senator will remember that, although this may have been the case when the first act was passed, when the salt duty and the drawback went pretty much hand in hand, though the amount of

the drawback did not equal the amount of the duty, yet one reason given even at that time was the importance of promoting the fisheries, and promoting them with reference to the education of seamen. In 1792, that policy was distinctly adopted, and that argument was distinctly pressed. The Senator from Alabama has read, and everybody has, who has looked into the subject at all, the report made by Mr. Jefferson; and he will recollect that Mr. Jefferson lays great stress on the necessity of educating seamen, and he urges that as one reason why the fisheries should be protected in some manner. The peculiar notions which he entertained, and a large class of men with him, in reference to bounties, and which have come down to the present day, and in which I share in some degree, rendered it advisable to place it on a distinct ground—on ground which would be recognized by every one as within the Constitution, both in letter and spirit, and such as no one would make objection to. But still the Senator will perceive, as others must have perceived then, that, although it was placed in the shape of a drawback, yet the giving of that drawback was, of itself, a bounty. Drawbacks are not usually given to articles which have gone into manufacture, when the manufactured articles themselves are exported. A policy of that kind is found in very few cases, I do not know in what exact number, in the history of our Government. It is very well known that the price of any article which has been manufactured depends not only upon the original cost of catching, for instance, if you take the cod fish or beef, or anything else, but also upon the addition made to it by the salting or any other process. If that article is exported and sold in foreign countries, they get all that cost as well as the duty laid on the materials used in the manufacture; and, if a drawback is given on exportation, that amount of drawback is in fact so much bounty. It does not diminish the price, when the price itself can only be diminished by competition; the article will command the same price, and the drawback which is received in fact is received as bounty, and operates as bounty, and was so understood at that time, and it had all the effect of a bounty.

Now, Mr. President, the Senate will perceive that, when the policy was changed in 1792, and by acts which have been passed subsequently to that time, although the bounty kept pace, in a certain degree, with the duty on salt, yet being allowed on tonnage, as it was distinctly by that act, it did away entirely with the argument. Although it was used as a reason for giving it in that way, yet the bounty given on tonnage had no reference whatever to exportation. If you give a certain amount of allowance—for it went under the name of allowance—upon the tonnage of a vessel engaged in the cod fisheries, or any other fisheries, and no provision whatever is made with reference to exportation, as in that case, the allowance is paid, whether a single quintal of fish is exported or not. It has no reference to drawback. That was the case of the act of 1792.

The Senator has argued here that it was drawback from the beginning, and that it kept pace with the duty on salt. How could it? The original act provided for a return of the duties when the fish were exported. The act of 1792 did away with that, and, in the place of it, gave a specific allowance on the tonnage of the vessel. That amounted to about the same sum, says the Senator; and it is unnecessary for my argument to dispute that; but it made no provision whatever that the fish caught by that vessel should be exported. The amount was paid upon the tonnage of the vessel itself, and that whether the fish were exported or not. It had no reference to exportation.

Mr. CLAY. The Senator has not read the act as well as I have. I will teach him differently.

Mr. FESSENDEN. Is there anything of that kind in the act?

Mr. CLAY. Yes, sir.

Mr. FESSENDEN. I would thank the Senator to point my attention to it. There is nothing of that sort, certainly, in the act of 1813.

Mr. CLAY. I take issue with everything the Senator has said; but, to relieve him, I will call his attention to that. I will read a single section of the act. There are others which corroborate the position I assume; but the sixth section of the act of 1813 goes on to provide the amount of

allowance to vessels of five and less than twenty tons, and makes this a condition of the allowance:

"Provided, however, That this allowance shall be made only to such boats or vessels as shall have been actually employed at sea in the cod fishery four months, at the least, of the preceding season: And provided also, That such boat or vessel shall have landed, in the course of said preceding season, a quantity of fish of not less than twelve quintals for every ton of her admeasurements; the said quantity of fish to be ascertained when dried and cured fit for exportation, and according to the weight thereof as the same shall weigh at the time of delivery when actually sold."

Mr. FESSENDEN. That I noticed, Mr. President, and on the reading of that I repeat my assertion. Where will you get it? In what way will you get it? It is to be paid at the beginning or end of the year; and that only applies to small vessels; it does not apply to the larger vessels of twenty tons or upwards. The provision applies only to the small vessels, between five and twenty tons. That is the shore fishing; and it is to be paid on the shore fishing, not on the amount of fresh fish they bring in; but it is introduced in regard to the small vessels, in order to show by the amount of fish they catch that they have really been employed in fishing—in the business they assume to have been employed in. If the Senator will examine that act of 1813 again, and examine it carefully, he will find that it is precisely as I say. The act of 1792 changed the original provision from a drawback to an allowance made on account of the tonnage. It made no provision for exportation whatever, not the slightest; but so much was to be paid on a vessel of certain size per ton, provided that vessel was engaged four months in fishing during the fishing season, which was nine months in the year; and in 1813, when the act was renewed, it made certain other provisions, which the Senator has read.

With regard, as I stated before, to the larger vessels, those which were built for the bank fisheries particularly, the dangerous navigation, there is no provision whatever as to the amount they should catch in any shape or form; but they must simply be engaged for four months. They might catch more or less. With regard to the smaller vessels, between five and twenty tons, the provision that they should bring in a certain amount of fish was inserted in order to prove that they had been engaged in actual fishing, because they did not go off on a distant voyage; and in order to estimate that amount, it was to be taken, not as fresh fish, but when it had been properly cured for exportation; that is, as fish is cured for exportation; but there is no provision from the beginning to the end of it, providing for the exportation of a single pound in order to receive the bounty. Therefore the argument of the Senator as to the acts of 1792 and of 1813 fails, and fails thoroughly, for when Congress changed the provision from a drawback to an allowance upon tonnage, they gave it whether a single pound of fish was exported or not. Every particle of it might be used in this country; not a single iota was required to be exported; and yet the amount of bounty was given.

So, then, the argument of the Senator falls in the commencement, and it is not supported by the extracts which he read from the speeches of sundry gentlemen who spoke upon the occasion, who supposed there would be an actual saving by the change. Afterwards, when the duty on salt was by degrees reduced, and reduced almost to nothing, the bounty was not only kept up upon the vessels, but was increased, as it was from 1813 to 1819. The design was not merely to give them the amount of salt duty which they had paid, but it would seem to be rather that the object in keeping the duty on salt at all was in order to meet the expenditure occasioned by this very bounty which they gave upon fishing and fishing vessels for another purpose, and that was for naval purposes, for purposes connected with the defense of the country.

That, sir, is the position I wish to state in the first place in answer to the Senator; because, if I understood his argument, it was founded almost exclusively on that. Certainly he dwelt at most length on it, and with a great deal of plausibility, and with a great deal of force, as it seemed to me, until I came to examine the course of legislation upon the subject, on the idea which has been familiar to those who have attacked this system from the beginning, that this was a mere return of so much duty paid. But when we come to examine as I have examined, and as I have now ex-

plained to the Senate, the act of 1792, and particularly the act of 1813, and find that instead of at all basing the matter upon the duty on salt, they gave the allowance, and an increased allowance, upon the tonnage of the vessel, leaving the idea of exportation entirely out of the question, it follows as a matter of necessity that Congress understood perfectly that in continuing this system as they did continue it, they placed it entirely upon another basis, and that one connected with the general interests of the country, separate from any return of duties.

Mr. CLAY. Will the Senator allow me to ask him a question, in order that we may understand each other, and make this issue distinctly?

Mr. FESSENDEN. Certainly.

Mr. CLAY. Does he mean to say that, by the act of 1792, or the act of 1813, it was the purpose of Congress to give more than an equivalent for the duty upon salt? That is the point, and that is what I maintain. The Senator now, to avoid the force of my argument, says that inasmuch as exportation was not the condition of the allowance on tonnage in the act of 1813, therefore Congress intended to give a bounty instead of a drawback, or its equivalent. I hold that that argument is not sound; and I am certain that, according to the declaration of the advocates of this change of the system, and according to the protests of the fishermen themselves, they got no more, sought no more, and Congress meant to give no more, than an equivalent for the drawback of the duty on salt. What I wish to know of the Senator is, whether he means to say that Congress did design to give, or did give, by these acts, more than that equivalent?

Mr. FESSENDEN. What they did in 1792 I have not undertaken to say. They might have intended, as the Senator argued, at that time to make one equal to the other; they might have intended to do the same thing as nearly as they could by the act of 1813; but what I intended to say was, that subsequently they increased the allowance made to the vessels, while the duty on salt was continually decreasing.

Mr. CLAY. I take issue with the Senator there as a matter of fact; and I advertise him and his friends that I will undertake to prove differently.

Mr. FESSENDEN. The Senator himself stated that, in 1830, or thereabouts, when the duty on salt became two cents a pound, the whole allowance granted to fishing vessels continued.

Mr. CLAY. Exactly; but the Senator just now assumed in advance that they increased the allowance with the decrease of the duty.

Mr. FESSENDEN. I say they increased the allowance in 1819 on vessels. Did they increase the duty on salt at the same time?

Mr. CLAY. They did not; but I will undertake to show that the allowance did not then exceed the duty.

Mr. FESSENDEN. That is a matter of argument.

Mr. CLAY. A matter of demonstration.

Mr. FESSENDEN. The Senator may be able to show it. It will make no difference, however, in the argument I adduced. I stated that, in 1813, they adjusted it; they gave the allowance at that time without reference at all to exportation. The Senator has argued that it amounted to just about the duty. It may be so. I have not examined that fact, because for the purposes of my argument it is not necessary. In 1819 they increased the allowance, and did not increase the duty; and thenceforward the duty on salt fell down to two cents, according to the Senator's own statement, while the allowance granted in 1819 continued and has continued down to the present day, and no sort of alteration whatever has been made in reference to this matter.

I say, then, that the change of the principle on which it was based, if originally based on the principle assumed by the Senator, was made in 1813; it was manifested more strongly in 1819; and the continuance of the allowance made, and a larger allowance made in 1819, if the Senator pleases, from that period down to the present time, while the duty on salt has become nominal, shows conclusively that Congress, since that period, has not considered that the duty on salt had anything to do with it, whatever might be the original foundation. It has continued, and it has not continued silently. This matter has been mooted in Congress over and over again. Repeated attempts

have been made to repeal the fishing bounties—repeated attempts have been made to repeal them since the duty on salt has become merely nominal, and yet they have been continued by Congress. Why? It must have been upon some ground. It could not have been upon the ground that it was drawback. What was the reason which has actuated this Government from the year 1813, or 1819, down to the present time? There must have been some reason. It is perfectly manifest it was based upon an entirely different idea and a different principle, and that was the principle that the continuance of this bounty was necessary in order to some other purpose of the Government than that for which, if the Senator pleases still so to assert, it was originally imposed, and, although there might have been this reason given in the beginning, it is manifest that a different principle and foundation have been assumed since. That is what I say.

Congress abandoned the system in 1807; that is, in 1807 two things took place—the duty on salt was repealed, and the allowance made to fishing vessels was repealed. Now, it is worth while for us to consider what the effect of that was. It is of some consequence for us to know why the bounty was restored in 1813. There was a period then when the original system of simply giving drawback was abandoned, if, in 1807, it stood upon that basis. The duty was then repealed; the drawback or the bounty or the allowance, properly called, was repealed with it. When the year 1813 came, the whole matter was restored, not to its original basis of drawback, but the basis which I have now explained under the statute, and that was, of imposing a duty on salt, but at the same time making an allowance to fishing vessels of a sum equivalent to, or greater or less than, the duty, as the case might be, without reference at all to the question whether the fish was exported or not. It is clear, then, that it was not laid at that time with reference to exportation.

Now, the question arises, why was it restored? In order to come to that question it is necessary to consider, somewhat, the history of the times. The year 1813 was a period of war. War had existed at the time of the passage of that bill for a year or more. I do not remember the exact time, nor is it material. During the period which had elapsed from 1807 to 1813, this country had had some experience. What was that experience? In the first place, during that period the fisheries had declined. The amount of fish exported in 1813, at the time of the passage of that act, compared with the amount of fish exported the year the duty and allowances were repealed, was very small. The amount of tonnage employed in the fisheries was, comparatively, very small. It had fallen down to almost nothing, as the tables will show. I have examined them, and I have them here; but I will not trouble the Senate to read the details. The amount of exported fish, at that time, was very trifling; the amount of tonnage was almost nothing.

Mr. BENJAMIN. Will the Senator permit me to ask him a question?

Mr. FESSENDEN. Certainly.

Mr. BENJAMIN. In making the comparison now, he gives us a comparison between the year 1807 and the year 1813. The year 1813 was a war year.

Mr. FESSENDEN. It had been gradually declining.

Mr. BENJAMIN. What was it in 1811, before the war broke out, compared with 1807?

Mr. FESSENDEN. I will show. The dried fish exported in 1807 was 473,924 quintals. It fell off from that time; and in 1811 it was 214,387—less than half. In 1812, it was down to 169,619, and in 1813 to 63,016; in 1814, 31,310, and so it ran down. It ran down one half during a time of peace. During all these years, the amount of tonnage was decreasing; the amount of fish exported was also decreasing to a certain extent. In time of war, of course it went down to a very small sum; in 1812, we had several naval battles. The first great battle that was fought, according to my recollection, was between the Constitution and Guerriere, which excited the attention of the country; and it is a matter of history, perfectly well known to every one familiar with the naval annals of the country, that the Constitution was manned almost exclusively by Cape Cod fishermen. The praises which that crew received from the com-

mander, and from all who knew anything about the history of our naval battles, are also familiar to the whole country who read the history. The Constitution was manned by these men almost exclusively through the war; and a great number of the men, on several other of our vessels, who fought the naval battles of the country, were from New England, and the greater portion of them from the fisheries. A great number of our privateers were also manned by the same class of people; and what did the country learn then? The country learned then, the moment they came to have naval battles and to see the necessity of having both privateersmen and ships of war, the value of these men as sailors. They found, too, by previous experience, that these men had been reduced to a small number in consequence of the decay of the fisheries occasioned by the repeal of the bounty. They then learned two things: in the first place, that it was a business that required encouragement in order to keep it up; and in the second place, that it was a business that, when encouraged, furnished a class of men absolutely essential to the naval glory of the country, absolutely essential to the naval service in time of war.

Well, sir, all this experience did not go for nothing. The men of those days learned wisdom from experience. They were not frightened by the term "bounty," or frightened by the term "allowance." They saw, from experience derived from the actual history of the business itself, that in order to keep that business prosperous, there must be some encouragement afforded by the Government, on account of the very nature of it. They saw that if that business was encouraged by the Government, it would give us, in time of war, a class of men absolutely essential for the purposes of the Government for the objects of naval warfare. They saw, too, that in time of war, if that class of men did actually exist, if they were kept in that pursuit, and had not, in the mean time, gone into other pursuits of different character, from the necessity of the case—as war would almost invariably put an end to the fishing to any considerable extent—these men must resort to the Navy in order to obtain subsistence as good as that which they had been in the habit of receiving in time of peace. These considerations had their effect, and the result was the act of 1813, passed in a time of war. Congress then imposed a duty on imported salt, and, at the same time, they gave this allowance—not, as I said before, making this allowance payable on fish exported, but payable upon the tonnage of the vessel, whether the fish were exported or not—placing it, therefore, on a distinct, substantial ground, and a ground which cannot be explained or defended on the positions assumed by the honorable Senator from Alabama in his speech. As the war continued, these matters became more and more apparent. The allowance itself was a small one, and the consequence was that, in 1819, after the termination of the war, the allowance made to vessels under these circumstances was increased, and that increased allowance has continued from that time down to the present, although the policy has been repeatedly attacked, as I before stated.

Another objection which has been made by the honorable Senator, although not urged at very great length, is, that these bounties, as he calls them, are unconstitutional. He cited several provisions of the Constitution in support of the ground which he took, but I am hardly willing to believe that, as a lawyer, he is ready to place his objection on either of these clauses. They are printed in italics on the ninth page of his pamphlet speech:

"The Constitution declares that 'direct taxes shall be apportioned among the several States according to their respective numbers; that 'no capitation or other direct tax shall be laid unless in proportion to the census; and that 'all duties, imposts, and excises shall be uniform throughout the United States.'"

Now, can he bring this allowance made to fishing vessels under either of these heads? Is it a direct tax, is it a duty, an impost, or an excise? Does it come within either of these descriptions? The Senator will hardly contend that it does. At any rate, it must be so manifest to everybody that none of these provisions applies to the case he touches in any particular that I shall not trouble myself to reply, or to imagine an argument where, I think, the Senator can hardly find one.

But, sir, he goes further, and places it on the ground of inequality and injustice. With regard to inequality, I can only repeat what I suggested

to him the other day. Because an allowance, or a tax, or a burden of any description is unequal in its operation, it does not follow that it becomes necessarily unconstitutional. There is hardly any duty that we impose which can be said to be equal in its operation on all sections of the country. The only thing that is necessary is, that there should not be anything in the imposition itself, whatever that may be, that necessarily, from the terms and provisions of the act, renders it unequal in its operation upon different classes. How it will operate in effect is another question. Why, sir, we impose duties upon certain articles by way of protection—to raise revenue, to be sure, but operating as a protection. For the purpose of raising revenue, it will operate harder upon one section than another. Is it, therefore, unconstitutional? The Senator will hardly contend that it is so. He cannot answer, I take it, the illustration that I gave him. The question I put to him is whether, because one particular section of the country consumes more of an article in proportion to the number of the people, *per capita*, than another section of the country, a duty imposed upon that article would be unconstitutional on account of its unequal operation. Nobody will contend that it is. Is it unconstitutional because unjust in its operation? Who is to be the judge of that? Somebody must decide. It must be decided by the power which makes the imposition. Congress, which lays the duty, must decide whether it will be unjust in its operation or not. Could a court settle that question? Could you carry a question of that kind before a court, and undertake to prove by evidence adduced at the bar that a duty operates unjustly upon different sections of the country—a duty laid or a bounty granted? No, sir. The argument, if addressed to us simply as a reason for the repeal of the bounty, that it is unjust in its operation, might be a very good argument if there were nothing to reply to it; if there were no considerations of public policy to adduce by way of answer, it might be an argument that would address itself decidedly to the understanding and the sense of right of every man; but it is not an argument to be addressed to the constitutionality of the bounty. That is a question to be settled by the power which has authority to make the imposition, whatever the imposition may be.

The power to impose a bounty of this kind may rest either upon the commercial or the war power. Where does the honorable Senator find the power in the Constitution to give bounties to soldiers who enlist for a certain specific time, or for enlisting at all? It is in the power which is given to Congress to raise armies, and to do everything that is necessary in order to raise an army for the defense of the country. Where does the Senator find the power, which was exercised during the last war, of giving a bounty to privateersmen, paying a certain sum of money for every prisoner taken by a privateer? It is derived from the same power, the war power—or the naval power, if you please—which is given to Congress.

This, sir, may very well come under the same head. Where do you find the power to establish a naval school? Under the power to create a navy; and will you not find the same power to establish a school for seamen that you do to establish a school for officers? and it makes no sort of difference how you do it. The mode in which the object is to be effected must be left to Congress. Congress must decide a question of that kind. You may do it as well in one place as another, in one mode as another. If the thing itself is essential to effect the purpose which you desire to accomplish, and the power is given to effect that general purpose, the mode in which it is to be done is to be left to Congress, which has the power.

It may come also under the head of regulating commerce, though on that I do not deem it necessary to enlarge. It is a power that has always been used under our Government with reference to war purposes. Bounties can be as well given to sailors as to soldiers; schools may as well be established for sailors as for soldiers. There is no distinction. The principle is the same, and the manner is one to be ascertained wisely by those who have the power to do the thing itself.

It is, then, sir, a question merely of the expediency of giving bounties in this case as in all

others; and the question presents itself to Congress in this light precisely: is it expedient? Does the good of the country justify the thing? As a general system, I am averse to bounties; I am averse to pensions; I am averse to all these things that lay a burden upon the State, whatever they may be. I vote for them, but I vote for them on the ground of public expediency, of public necessity, because, to carry on any Government, we must do all that is necessary to accomplish the great purposes of that Government; and if we cannot so well do what we wish in any other way, the mode which is most proper, most economical, and most easy, is to be adopted. As a general rule, I wish we could dispense with all; but I cannot, as a legislator, overlook this great principle, that we are to be governed by the necessities of the case in all instances; that we are to consider what the great interests of the country demand, and see whether a matter which we would willingly avoid must be submitted to for the attainment of a great end. That is the only difference which ought to guide us under the Constitution, and I do not contend that on any occasion we should violate any of the provisions of that instrument to accomplish any good.

Then, sir, if that is a correct principle, and if I have properly stated the foundation of this matter, the question arises simply as to the necessity in this case, whether it actually exists, whether it is wise, expedient, well for the country, under the circumstances, that this allowance should be continued. Sir, the sum is not a large one, and I shall not trouble myself to talk about it; for if the allowances ought to be repealed, we must repeal them—that is all.

The Senator from Alabama denied that these bounties have the effect to provide a class of sailors, and he went into an exposition of his views upon the subject, derived from some aid that he got from some quarter—he did not tell us what—to show that in reality they had no effect to provide the very class which they profess to provide. His error consisted in supposing that the fishermen, the very men whose numbers we wish to keep up, are the same kind of men with those employed in our merchant vessels and in our whaling ships. My colleague has shown in his argument that about nine tenths I believe, certainly eight tenths, of all the sailors employed in our merchant vessels and whaling vessels are foreigners.

Mr. CLAY. He said two thirds.

Mr. FESSENDEN. I do not recollect what he said, but I know what he showed.

Mr. HAMLIN. Two thirds and upwards.

Mr. FESSENDEN. Two thirds, I think, in our ships of war, and a much larger proportion in our whaling vessels and merchant marine. Let me say to the Senator that the American sailors who constitute the remainder, whatever their number may be, as a general rule, are a portion of these fishermen, educated originally in the fisheries. Leaving them out of the question, these fishermen are not sailors in the common sense of the word. They do not get their living by going to sea; that is not the great pursuit of their lives. They do not live upon the sea. Their home is not upon the deep. Their home is on the land; and yet they are a very peculiar class of people. They are born on the shores of the Atlantic; they are accustomed to the water from their earliest boyhood. The first thing they learn to do is to sail a boat, and they follow up that acquaintance with the water as long as they live and are able to exert their bodily powers at all.

But, sir, notwithstanding that, they have homes; generally the older members of the profession, if I may call them so, have a little patch of land. There is their home; there is their family. They have wives and children. They go to sea in this fishing business—not, as I said before, for the purpose of acquiring homes upon the deep, as sailors usually do; but for the purpose of helping out their ordinary modes of livelihood. After a while, the father, who has been in the fishing business for a considerable period of years, retires; he cultivates his piece of land, if he has been able to purchase one, more or less, and his sons, as they get old enough, engage on board the fishing boats. They grow up in that business, and the pay they get from the sale of their fish, enables them to help out the family living. They continue in it very frequently through their lives,

following up the business of fishing at some seasons of the year; or some of them become attached to a seafaring life, and become sailors. Most of them do not, however, and for very good reasons. Our merchant service now offers no sort of attraction to such men. In the first place, as my colleague stated, the employment of foreigners has generally driven American sailors out of the service for the reason that they are of such a class that New England men, brought up with New England ideas, habits, and notions, will not permit their sons in early life to associate with them. The pursuit is one necessarily demoralizing, of following the sea in foreign voyages, and making it an exclusive profession. If they go, it is because they are ambitious, and not with the design of remaining before the mast all their lives, but for the purpose of rising to rank in sea service; and the consequence is that a large proportion of the mates and masters of the merchant vessels, and of your finest clipper ships that sail from the northern ports, are men who were originally fishermen. Some of the most capable men, most able to navigate vessels, most able to manage voyages, to dispose of cargoes, and conduct matters in that branch of business with great sagacity and skill, are men who began life as fishermen, and as boys in the business.

Well, sir, these men are not out, as the Senator supposed, simply four months in the year. He asked the question, will not a man who goes off for three years on a whaling voyage, learn more than one who goes simply for four months in a year to catch cod fish? Why, sir, they are at sea constantly during the year. They make a voyage, they come back, stay at home a while, long enough to dispose of their cargoes, and then make another voyage, and so on. The boys spend the winter at home, because they go to school. In spring they are off again for a certain period, when they are not engaged in the labor of cultivating the piece of land with which they are connected.

That is the class of men. But the Senator asks, can they learn seamanship in that way? Do not they know all about vessels? Why, sir, if the Senator knew anything about our coast, if he knew anything about the long line of coast running along Massachusetts and Maine and New Hampshire, he would know that there is hardly a creek or a stream which empties into the ocean, or is connected with the ocean, on which vessels are not being built constantly in seasons of prosperity. They are perfectly familiar with vessels of the largest class from their childhood. They are all over them. They know all about them. They become acquainted with them from absolute necessity; they are perfectly familiar with them. Now, however, we are told that these men are not acquainted with ships, and not capable of making sailors! What is necessary? All that is requisite is that they should acquire the strength and the hardihood that is necessary to enable them to carry on the business in which they are engaged.

Well, sir, is it a light matter? Does not the Senator know, do not Senators understand, that this cod fishing on the banks in these very fishing vessels is about the most dangerous navigation in the world? They go down on the dangerous banks; and in that region where they go for the purpose of taking cod fish—not mackereling, but engaged in this very business—they are constantly exposed to fogs and to storms; northerners, as they are called, are frequent; the men are in continual danger; it is a life requiring strength and nerve, and calculated to give strength and nerve and hardihood. From personal observation, I can assert that there is not such a body of men anywhere to be found, within my knowledge, for personal hardihood and endurance and courage. Their very life is one constantly exposed to danger. Their daily habit is one of toil, and of toil in the midst of danger, and requiring presence of mind, courage, and coolness, such as are required in hardly any other occupation in the world; and they follow this up from boyhood. The consequence is, that when their country calls for them, there is a class of men of precisely the character that is needed, as our naval officers of the last war found—hardy men, strong men, brave men, resolute men; and men, too, who from having a home and a stake in the country, fight for it, with all the zeal and all the ardor that those having the largest stake in the country and animated by the strongest emotions of patriotism feel on any occa-

sion. Why, sir, the glory of their ships and of their country is more to them than to those who live on land, and who, however proud they may feel of the exploits of our Navy, have not that personal interest in it which those who are actually engaged in it must feel. And yet, sir, the Senator tells us that he learns from some persons—I do not know who they are, some modern gentlemen—that, in their opinion, these men have much to unlearn; that they cannot be made sailors of. Why, sir, experience has shown that they are the very best sailors in the world. This is the concurrent testimony of everybody who has had any familiarity with them; and it is not enough to read articles from one or two papers, owned and published and edited by custom-house officers in Massachusetts—

Mr. CLAY. I must correct the Senator. His colleague made that charge here the other day. I then denied it upon my best impressions, but he very positively asserted that they were custom-house officers. He named Mr. Bates and Mr. Spinney. I took occasion this morning to go and ascertain the fact, and at the time these statements were made, neither of these men was a custom-house officer, and one of them is not at this time.

Mr. FESSENDEN. In regard to one of them whom the Senator calls Mr. Spinney, I know he was. I think his name is Finney. The other man I do not know anything about.

Mr. CLAY. At the time these publications were made, as I was assured, on an inspection of the record in the Treasury Department, neither of them was a custom-house officer.

Mr. HAMLIN. If my colleague will allow me, I desire to say that I was informed by a gentleman residing in Massachusetts, a member of the other House, that they were both connected with the revenue,—not that they were collectors; and that was my authority for the statement. I knew one of the men personally, and I knew he had been a collector at Barnstable. I knew him well.

Mr. CLAY. Such was not the fact when these publications were made, as I am assured at the Treasury Department, after examination.

Mr. FESSENDEN. Well, sir, wherever it comes from, I know that it is untrue. I know that their statements are untrue, because I have talked with many men of the highest character and reputation with reference to all this matter, over and over again, and I have the positive assurance as to the character of these men as sailors; that they make the best in the world, and are most readily found. Why, sir, there is a member of the other House who knows all about this matter, perfectly well. I know that if a vessel about to sail from one of our ports can get a crew made up of fishermen, it will give very much higher wages, and can go for less amount of insurance than ordinarily. I have occasion to know something about the American sailor, as contradistinguished from the foreigner, in my own experience. I once had occasion to send a son of mine as a passenger on board a vessel to make a long voyage. I applied to the master, and he recommended his vessel to me as perfectly well calculated for it, and he gave this reason: Said he, "I have a crew of twenty-five men in the whole, and if your son comes on board"—he was then a young man—"there will, with myself, and mate, and men, be ten Americans, and we can then take care of any difficulty that we may have with these foreigners on board."

There is another point which presents itself, and which is material. I have spoken of the necessity. Now, is the bounty an inducement? Is the business a poor one, in other words? Does it pay without the bounty? Does the bounty have any effect in keeping the business up? I have adverted to one argument on that point by showing how the business fell from 1807 to 1813.

Mr. CLAY. But the Senator omitted to mention that that was partly under the influence of the embargo act.

Mr. FESSENDEN. I know that existed for a short time, but it did not exist for all the period.

Mr. CLAY. It existed in 1808.

Mr. FESSENDEN. It commenced at that time. I will avail myself of the testimony the Senator read from one of these newspapers, in order to show what the character of the business is. On the twelfth page of his speech he cites the Barnstable Patriot to this effect:

"Whilst it affords to the foreigner an opportunity to ac-

quire seamanship, it encourages our own young men into the fisheries, who would otherwise enter immediately into the merchant service, where they would learn twice or thrice as fast. Besides, the boy who once becomes a fisherman is often led to embrace it as a profession for life—a business the poorest, the hardest, the worst of almost any under the light of the sun."

I have shown, I think, the exceeding value of these men, the necessity that the country is under of encouraging them; and I take this as an answer to my second question, "is the nature of the business such that it can sustain itself?" The writer here says—and upon that point he might judge—that it is the hardest and poorest and worst business of any under the light of the sun. The Senator, in the estimate that he made the other day, took from Mr. Scudder's speech a statement of an average of some sixty or seventy dollars a year received in the whole by the common fishermen. In late years the outside estimate of all that a man makes by going fishing in the ordinary season is within \$150. Now, to Senators, that may look like a very small sum. Perhaps the Senator from Alabama does not know—many cannot understand—that \$150 to a certain class of men is of any importance. It makes a large portion of their livelihood. Taken in connection with what they can get from the soil, it becomes important. Is the twenty dollars important? I believe eighteen or twenty dollars is about the amount received from these allowances.

The Senator argued that the fisherman never received the benefit of this. He is entirely mistaken. The fisherman has always received it. He may not receive it in the shape of bounty paid out at the end of the voyage? Why? Let us look a little to see what the nature of this business is, and what the nature of the men is. These people who go to sea as boys, who engage in this business, the hardest and poorest of any under the light of the sun, have no capital to commence with but their hands. They want a chance on board a fishing vessel. They have been brought up perhaps in open boats, in the in-shore fishing, as it is called. It is important for them to get a chance to earn something to support the family; perhaps another member may stay at home. What is the inducement? What has he got to do? Capitalists have very little inducements to enter into this business, because its profits are always small. Even taking the eleven per cent. which the Senator made out as a profit in one year, and making all proper deductions—and he did not make all proper deductions—that is a very small sum when you take into consideration that another year a man may make nothing; he may lose his whole venture; a storm sometimes sweeps away the vessel. It is all a matter of uncertainty. It is not a thing that pays. You cannot go on board a fishing vessel as you can on board a whaling vessel, and start out to the Pacific ocean, and be gone three years, with abundance of capital, and almost a certainty that in the course of the cruise you will meet with what you desire; and if you do meet it you have large profits in return. And that is the difference between the common cod fishing and the whale fishery. In the first place, the cod fishing is infinitely more dangerous than whaling. The dangers of whaling arise simply from the capture of the creature itself. The exposure to storms in the regions where the whalers go is very slight, while the cod fisherman is continually exposed to storms and fogs.

Again, the size of a ship in whaling prevents the danger. As I said before, the profits of a whaling voyage, if that voyage is only moderately successful, are large, and capitalists are ready enough to invest in it and have invested in it and made it the most profitable business in the world; for the city of New Bedford is the richest city, in proportion to its population, of any city on this continent, simply from the profits of whale fishing. But the profits of the ordinary cod fishery are so small that it is difficult to get capitalists to invest in it at all, and they do not, except in connection with other business of larger description, and for the sake of accommodation and keeping their hands in all kinds of business connected with the sea.

A fisherman wants to get a chance on board of one of these vessels. How does he go? He goes on shares; that is the nature of the voyage. What must he do? In the first place he must get a vessel; he must have his outfit; he must pay his share of the outfit. How is a voyage got up? A man who owns a vessel, if none of the sailors

are rich enough to own it, turns out his vessel and the crew immediately. It must be fitted out. Who is to do it? They have no money. He has to do it. He furnishes the outfit. The fishermen go aboard on shares; they catch the fish; they bring them back; they place them in the hands of the owner of the vessel. He receives them; he disposes of them; he makes an account; he charges each man with his outfit, and he charges him also with his share of the proceeds of the fishing voyage, and he credits him with the amount of bounty which he receives, and he holds the bounty as security for his advance. That is the ordinary course of fishing voyages.

Suppose those young men who thus begin life and are thus aided, do not receive the money directly, they receive the benefit in all cases. There is not a fisherman on our shores who does not know perfectly well what he is entitled to, by way of bounty. How is he to be cheated out of it? He may be possibly be cheated out of it in the way of trade, but he sees that it is accounted for. It is always brought into the account and made a charge. It is credited in connection with the supplies with which he is charged and his portion of the proceeds. That is the way these voyages are got up generally, and I have formed some familiarity with the matter from my practice as a lawyer. A young man goes on board one of these vessels in that way. Suppose him to be fortunate and make something and be enabled to lay up something. After two or three voyages he may have a few hundred dollars. His neighbors about him may be as well off as he is. He may perhaps find a dozen or twenty young fishermen, in his neighborhood, who have also laid up a few hundred dollars. They put them together and they build a little fishing smack. They divide it into sixteenth parts, or thirty-second parts, or sixty-fourth parts, and some of them will take it and go fishing. They divide the profits in the same way. One of them is ship's husband and stays at home. Sometimes a man gets to be the owner of a fishing smack himself, and if he has great skill in financiering and great luck, he may get to be a rich man; but where one of them gets to be an owner of fishing property, thousands of them own nothing, but only make from year to year enough to help out their livelihood, proving the truth of what this writer says that it is the poorest and hardest business on the face of the earth. And prosperous men may go out of it, as I said before, mates of merchant ships, masters of clipper ships. Some of the greatest men in our mercantile marine and who have made it what it is, have grown from boys who began life as boys on board a fishing smack, and also some of our richest merchants have come from the same origin.

Now, sir, suppose what the Senator stated to be true in reference to the profits that may be made in a single year; those profits, from his own showing, accrue to the owner of the vessel, to those who own the tonnage, and exclusively to them. What becomes of the fisherman? If he is cheated, if he is defrauded, the more need he has of encouragement, the more need he has of aid. But, sir, my answer to all this statement is, that the Senator's own speech shows, the citations which he makes from the public prints show, the very nature of the business shows from necessity, that this bounty has been and will continue to be of material aid in accomplishing the purpose for which it was allowed. The question then, as I said before, returns to precisely where it was when I first stated it: is the object to be accomplished a valuable one, and if that object is a valuable one; then, is the sacrifice the Government makes to attain that object too great?

Mr. President, the fact cannot be concealed. Senators, if they have examined the history of the country, (and I have no doubt they have,) must admit it, that if you are to have naval battles fought hereafter, if you are to have war with great naval Powers, and are to retain your standing upon the ocean, those battles must be fought mainly by New England men. We are a people accustomed to the sea. Our location is such for the largest portion of our territory that we are necessarily exposed to it, and accustomed to it, and familiar with it, all its dangers, all its enterprises, from boyhood up. There is where you must find your sailors. I hope, hereafter, you will find a portion of your officers there. The officers generally come from this section of the country; but

it is there you must find your sailors. You may get a soldier anywhere in this country—go to any section of it if you please; there is no difference. We are a brave people. Everybody admits that. The stock we come of is such that we could not be otherwise than brave. A soldier is easily made, and is easily found. It is not so with the sailor. A sailor must be educated from his boyhood. He must be accustomed to the sea from early life; and not only that, but you must have a man who is capable not only of doing on board a vessel the duties which belong to the ordinary sailor, but you must have a man who is actuated by the same spirit that your soldiers are when you come to fight your battles.

The question is, as I said before, whether the country is ready to say, in view of all these facts, about which there can certainly be no dispute, for experience has proved them, that the sum we pay for the purpose of educating such men, and keeping this reserve corps of fighting men on hand, is really too great to pay for it, and that it would be better and wiser to let all these fisheries run down, and the men go into other pursuits, travel away from the ocean, become agriculturists or mechanics, or engage in any other pursuit to which they could lay their hands to give them a livelihood, rather than encourage in them the love of the pursuit towards which their ideas have been turning from their earliest boyhood, and which has been the pursuit of their ancestors from generation to generation.

I have very little more to say on this subject, Mr. President, because, as I said before, the matter was so entirely exhausted by my colleague that it really left me nothing to say. But there are one or two points more which were suggested by the honorable Senator from Alabama which need a word. He stated, towards the close of his speech, that this system was demoralizing, because he said he could prove from the records that it was attended with a great degree of fraud. He did not give us that proof; he waited for the assertion to contradict it. If he had really desired—I am speaking to him now as a matter of argument, not making any personal allusion which would be unpleasant to him—if he had really desired that the truth should be eliminated from this examination, why did he not let us know what his testimony was, in order that we might have an opportunity to comment upon it? Why does he reserve it for the closing speech which he claims for himself as a matter of courtesy? Why keep back the testimony on which he founds his assertions and declare his intention of speaking last, when, according to parliamentary rules, we can have no opportunity to reply to him or comment on the testimony upon which he so much relies?

Mr. CLAY. If the Senator will pardon me, I will tell him promptly it was because it was so voluminous that I did not wish to tax the patience of the Senate or fatigue myself with reading it. I will say to him, though, that the communications of all the collectors from Eastport to New Bedford represent that the bounties obtained are in fraud of the Treasury and in violation of the law. The petition of the fishermen themselves of Gloucester, as I will read it, alleges that they cannot comply with the regulations of the Department without losing more than they can realize in the bounty, that they had better abandon the bounty than undertake to pursue the regulations laid down by the Department—regulations which are as old as these laws; and that I thought was sufficient evidence. I have too the evidence here of forty-odd vessels engaged in catching fresh fish for the market of New York, a few years ago, all of which obtained bounty under a cod-fish license as certified by the collectors. I did not present it because of the time it would occupy. The papers are at the service of the Senator or any of his colleagues. What the Secretary of the Treasury says he says upon the warrant of testimony furnished to that Department which would make a folio as large as the largest family Bible.

Mr. FESSENDEN. The Senator will allow me to ask him how recently that testimony has been taken?

Mr. CLAY. It has been furnished for a series of years past. I have gone back myself to the time of General Taylor's Administration, and to the time when Mr. Corwin was Secretary of the Treasury. Complaints were made to Mr. Corwin about the rigid enforcement of these regula-

tions, especially in respect to the taking of fresh fish; and the fishermen of Gloucester, in Massachusetts, as I will show, declared that they could not comply with the regulations, without sinking more money than they realized in the way of bounty; and they said they had better throw away their bounty than throw over their fresh fish. I will state to the Senator, moreover, as I may take occasion to use it in concluding this debate, that the same assertions are made by Mr. Zeno Scudder in his speech, in 1852, in defense of the fisheries. He there maintains that you cannot comply with the regulations of the Department.

Mr. FESSENDEN. I happen to know all about that. It is difficult, undoubtedly, to comply with the regulations of the Department; but I am speaking of fraud. What the Senator has just presented does not necessarily involve fraud. Fraud consists, I suppose, in attempting to get the bounty in fraud of the spirit of the law, without having devoted to this pursuit the time required by the law.

Mr. CLAY. Will the Senator pardon me for a moment?

Mr. FESSENDEN. Certainly.

Mr. CLAY. They go on to allege specific instances of fraud, as I have stated in the case of forty vessels a few years ago that supplied the New York market with fresh fish, and yet realized the bounty. But here is the dilemma which I will present to the Senator, and he may take either horn he pleases: the fishermen of Gloucester, in their memorial to the Secretary of the Treasury, declare that they had better give up the bounties than yield the fresh fish trade; that if they are obliged to throw over their fresh fish which they catch in a voyage in order to realize the bounty, they had better abandon the bounty than throw away the fish, for they say the fresh fish yield a better profit than the salt-cured cod, and yet I say these vessels realized the bounty. If they realized the bounty, they did so, according to their own memorial, by a pecuniary sacrifice; they sunk more money to get the bounty than they would have made if they had abandoned the bounty. Now, is it supposable that they did so?

Mr. FESSENDEN. That is precisely what I expected to call out from the Senator; and I have a perfectly conclusive answer to the whole of it. The answer is that the Department mistook the law; and it has been so decided by Judge Woodbury. His decision has been published, and may be found and read—a long, labored decision. The original statute said that they should not engage in any other business than cod fishing; and if they did, they became liable to a penalty, and forfeited their bounties, and forfeited their vessels. It was held by the Department that if a vessel fitted out for cod fishing, in the course of its cruise came across a school of mackerel, it could not stop and catch a few barrels of mackerel; but if they did, they engaged in another business, lost their bounty, and forfeited their vessel.

Mr. CLAY. Do I understand the Senator to say that that was no violation of the law?

Mr. FESSENDEN. That, I say, was held by the Department to be a violation of the law.

Mr. CLAY. Does the Senator deny that it was?

Mr. FESSENDEN. Certainly I do, because it has been judicially decided so.

Mr. CLAY. Then the judge who decided it did so in the very teeth of the statute and in violation of its express language; because the bounty is for catching cod fish, and for being engaged a certain period of time, not less than four months, in catching cod fish.

Mr. FESSENDEN. I understand all that; but still, the Senator is mistaken, and the Department were mistaken. They put on the law the construction that if a vessel which had taken out a license for cod fishing started off, and in the course of its cod-fishing voyage came across a school of mackerel, it could not stop for any length of time to take mackerel; and if it did, it forfeited the vessel and its license, because it was engaging in another business. That was held in *terrorem* over the fishermen for years. They said, however, "all this business is very uncertain; we mean to devote honestly four months to fishing for cod fish; we mean to give all that time; we will do it; but if, in the course of our voyage, we come across a chance to fill the barrels on board with mackerel, or any

other fish that is valuable, shall we refuse to do so for the reason that we are engaged in another as a main business, and may have to extend our voyage somewhat over the four months to make out the four months' fishing for cod?" That was their reasoning. They said they relied upon the cod fishery; it was important to them; they could not give it up; but that frequently their cod fishing voyage was a failure, and that they might make up their loss by coming across mackerel, and filling their vessels with mackerel.

That question arose just before Judge Woodbury's death. A large fleet of fishing vessels—some dozen or more—were seized and carried into Newport, and the district judge condemned them. The owners took an appeal to the circuit court, and Judge Woodbury reversed the decree. He said that there was no fraud in it; that it was a matter of time; and suppose they did fit out and take a license for cod fishing: all the law required was that they should honestly devote four months to cod fishing, and it was unreasonable to require them to pass by this wealth that was floating on the water, and not pick it up and avail themselves of it because they had taken out a cod-fishing license. From that day to this, the practice has been in accordance with Judge Woodbury's decision.

These are the great frauds which are pretended to be set up! Why, sir, it was not long before I came away that a revenue cutter brought two or three vessels, seized under similar circumstances, into the town where I live. They went before the court, and I understand they have been discharged. They had barrels on board for the mackerel fishery. Cod fishing was the great business, but they took on board materials for mackerel. A different gear and a different bait are used; and they had on board their vessels a sufficient number of barrels for any quantity of mackerel they might take. They were seized, brought in, and discharged. Judge Woodbury said the question was one of intention: did they, under the guise of a cod-fishing voyage, mean a mackerel voyage? It is very frequently the case that they go out fitted for cod fishing and mackerel, and they spend the whole time fishing for mackerel, and catch no cod at all, and then when they come in they do not apply for bounty. The fraud is in undertaking one business under pretense of being engaged in another, and then obtaining bounty which they have not earned. All this charge has been upset by the courts; and all the documents the Senator has collected—his great pile, which it will take him so long to read, have been completely overturned by the decision of the judge of the circuit court.

Mr. CLAY. That is only a tithe part of the frauds.

Mr. FESSENDEN. We have got one tithe. What are the others?

Mr. CLAY. If the Senator wants to hear them, I will read some specifications.

Mr. FESSENDEN. I have no doubt there has been cheating in that business, as in all other kinds of business; but it is not committed by the fishermen—those whom we are looking out for.

Mr. CLAY. First, in respect to the agreement which the law requires shall be made between the master and crew, and indorsed by the owner. The common testimony of the various collectors—I read from the report of Mr. J. Ross Browne—

Mr. FESSENDEN. A man who was laughed at, and humbugged, and made fun of all the way down.

Mr. CLAY. Perhaps he may have been laughed at by those in the fishing business, but what he said is proved to be true.

Mr. FESSENDEN. He went to the collectors and got just such stories as he wanted.

Mr. CLAY. But it is corroborated by the advocates of the fisheries who protest against the repeal of the bounties. It is corroborated by the report of the collector at Boston, who maintained in the same report that the bounties were indispensable for the sustenance of the fisheries, and indispensable for the preservation of this "nursery of seamen." So, too, all the collectors from whom I quoted, and transcripts of whose letters I have here sustain these assertions throughout. Hence, if this is laughed at, in like manner the reports of all these collectors must be laughed at; and if this is false, they are all guilty of falsehood; and the way in which the Senator must

vindicate the fishermen from the imputation of obtaining these bounties in fraud of the law is by imputing malicious and wicked falsehood for no purpose whatever that I can see, wanton falsehood to the several collectors in his own State, as well as in the States of Massachusetts and New Hampshire.

In respect to the provision of the law, in regard to the agreement, Mr. Browne says, that "whatever importance may be attached to this as a means of protection to the owners, it is practically of very little avail to the crew in the distribution of bounty allowances." That is corroborated by the admissions of the fishermen themselves, as I am prepared to show. The law requires, as I interpret it, and as it has been interpreted at the Department from the time it was enacted, that this bounty shall be divided in proportion to the fish caught by each man during his season, and that the division of the proceeds of the voyage shall be in the like ratio—in proportion to the fish caught by each man; yet I have here, in the memorials of some of the owners of fishing vessels, the declaration that they do not divide the proceeds of the voyage in that way, but that the owners of a vessel take one half, and the other half is divided equally among the crew. There is a violation of the law, which the Senator says it is absurd to charge, reported by one person, who he says was laughed at by the fishermen; but who is corroborated not only by the collectors, but by the admissions of the owners of the fishing vessels themselves.

Then, in respect to the seamen, he says, "three fourths of the crew are required, under the act of 1817, to be American seamen." I do not so interpret the law, as I may take occasion hereafter to show. The law does not use the word "citizens," but persons not owing foreign allegiance." I have read from the testimony of two newspapers, and I could have adduced others, but I did not retain them; these happened accidentally to be in my secretary, and were brought up. What is stated by Mr. Browne, and by the collectors, is, that the owners of fishing vessels go out upon the coast of the British provinces and there obtain men for half, or little more than half, what they would have to give, or agree to give, to American seamen; and hence they say the bounty does not inure in that respect to American seamen.

Next, as to the examination of the vessel which is required to be made, in order to see that she has a proper outfit, he says, "such examinations are generally understood to be matters of form." Such is the testimony of some of the revenue cutters, one of whose communications I have here, employed a long time upon the coast of New England—the revenue cutter Morris. Again Mr. Browne said:

"Regular journals, or log-books, containing the daily catch of the crew, the date of sailing, the ports entered, and date of return, are required to be kept, and sworn to by the captain, as proof before the collector."

I believe Judge Story decided that it was necessary to keep them.

"If every claimant who testified under oath to the legality of his claim could be depended upon, there would be no occasion for such a complexity of forms. It is well known to officers of the customs that but little importance is attached to an oath by this class of men, in their dealings with the custom-house. Many of these journals or log-books are made up after the voyage, without reference to time lost or fraudulently employed, and are duly sworn to as authentic records. Nearly every officer of the customs, from Eastport to New Bedford, informs me that this is a practice which they find it very difficult to guard against; and their concurrent testimony justifies the belief that such frauds are of frequent occurrence."

In corroboration of that, Mr. Scudder, in his speech, to which I have frequently alluded, in 1852, adverted to this as one of the unnecessary and harsh requirements of the Department, which he said it was very difficult for them to comply with, and that he did not think the law required it, although, as I understand his decision, Judge Story did decide that it was necessary it should be kept. Then, vessels to be entitled to this bounty, must be exclusively employed in taking cod fish, to be dried or dry-cured during the aggregate period required by law.

"The Department is well aware that applications are made every day by collectors of the customs for new revenue boats, additional boatmen, and increased allowance for repairs, all based upon the necessity of keeping a more rigid guard upon the movements of these fishing vessels. The files of the Department can scarcely contain all the letters that are received, not only from the collectors in the fishing districts, but from the Representatives, Senators, and

Governors of the States, complaining of the frauds committed by the fishermen and others, and urging the appointment of additional inspectors, aids to the revenue, and boatmen, and the increase of boats and revenue stations, as the only means of affording protection to the Government."

In corroboration of this statement I avouch the same reports of collectors to the Treasury Department. In some of them they state that a certain revenue cutter may be dispensed with, now that the fishing season is over, and the fishermen are no longer engaged in catching bounty. In another instance they attribute the diminution of the allowance to the fishing vessels, paid out during one year, to the exceeding vigilance of certain revenue officers on the cutters, whereby they detected attempts to defraud the Treasury in the case of a dozen or more fishing vessels that were prevented from realizing the bounty. I have not only the letters of collectors, but I have the letters of men who I suppose are respectable, referring to Senators and Representatives from those States to vouch for their integrity of character, corroborating these statements. As is stated here, the files of the Department can scarcely contain the letters which have been sent to the Department on this subject; and, as I said before, the reason why I did not present them to the Senate was that they were too voluminous, and would occupy too much time; but if the Senator will do as I have done—go to the Department and take the trouble to inspect these letters—he will see that I was not without the warrant of testimony which seemed to be creditable; and that according to all the rules which prevail in courts of justice, I was bound to credit them until they were discredited, to fortify me in the assertion which I made.

Mr. FESSENDEN. Mr. President, I attach very little consequence to the statements made by the collectors and revenue officers in relation to this matter. That there are frauds, more or less, committed in this business, as in all other business connected with the revenue, I have no doubt, but I doubt very much whether there are more in this business than in others, in proportion to the number engaged in it. Such things are unavoidable from the nature of men. Bad men, unprincipled men, will get into every business, and they will attempt to commit frauds on the revenue.

But, sir, with reference to these letters let me state one fact which is perfectly well known. It is a great object with every man who is the collector of a port, on the coast of New England especially, as he thinks, to have a revenue boat. He must have a revenue boat with an officer and men under his command. It is very convenient for many purposes. In the first place it increases his patronage and he gets so many more persons to work at elections. Besides, he gets an excellent chance to take a sail himself and he becomes a more important man. Consequently, it has been very much the habit of revenue officers in that section to write such letters, and they get everybody to sustain their applications. We all know how easy it is to get these recommendations from Governors and others, especially of the same political party, and I am not drawing a distinction between the two parties now, as to the necessity of having more aid to prevent frauds on the revenue. It becomes very convenient to charge the fishermen with them. Now let me state a single fact in answer to all this charge. There is a gentleman, a citizen of Maine, now at the head of one of the bureaus in the Treasury Department, who was for many years a Representative from Maine in the other House—a man of intelligence. He was at the head of the Committee on Commerce of the House of Representatives when this matter was first hinted at by the Senator from Alabama, and he told me then that he had investigated the subject, that he had taken the pains to write to every collector in the State of Maine, in regard to the frauds which were alleged, and that he got answers from all of them that they knew of none of any kind of consequence. Some slight attempts had been made but nothing that amounted to anything. He said he had those letters among his papers and would find them and give them to me in order that I might be ready to meet any statements on that point.

Mr. CLAY. In order to settle this matter will the Senator allow me to read the memorial of owners of fishing vessels themselves? This is one from Newburyport—the first one I lay my hands on—to the Secretary of the Treasury:

"HONORABLE SIR: We, the undersigned, citizens of the

United States, residing in the district of the port of Newburyport, engaged in the fishery, and believing ourselves entitled to the fishing bounty upon the several vessels herein named, herewith present the same to you, praying that instruction may be forwarded to the collector of this port, for the payment of the same, if, upon the examination of our statements, as herein set forth, it shall appear to your honor that we are entitled to the same, agreeable to the usages of other ports and customs of the States; and we herewith make known to you that whereas, by the great change in the fishing since the passage of the act granting bounties for the same; that by a strict construction of the letter of said act, we do not consider it possible that the same should be paid, as we know of no vessel, or class of vessels, engaged in any way in the fishing business, that are not necessitated to take all kinds of fish that they can procure, and that by so doing it has become a mixed fishery; that vessels engaged in the Grand Bank fishery, which is the nearest to an exclusive cod fishing business; that it is the practice to take out and cure other kinds of fish, a great part of which also go to the fishermen, as is also the case with the Cape Shore fishermen, whereby your honor will see that the same has become a mixed fishery, and believing that the spirit of the law having been fully complied with, and a liberal construction of this act entitles us to said bounty allowance, without any fraud upon the Government, and knowing the usages of other ports in Massachusetts, as also in the States of New Hampshire and Maine, bounties are paid to vessels employed in the same manner as ourselves; and wishing for nothing more in the administration of the laws than that the same usage may be accorded to us in Newburyport, and the same interpretation and construction of the law be had by the collector of this port as prevails in Gloucester, Salem, and Marblehead, in our own county of Essex, as well as in other parts of the State.

"And we will herewith state that by the construction of our collector, he having considered the business in which we are engaged, as a mixed fishery, and that it is only an exclusive cod fishing that would give us the bounty, thereby confining himself to strict construction of the letter of the law, (instructions per circular,) and not willing to act upon the spirit and intent with which the same was made, and as we believe the same should be administered to us, and as we know is the usage in other ports, and desiring nothing but the same usage, that we may not be degraded in our employment below our neighbors. We have herein most respectfully made known our complaints, set forth what we consider our just and honest claims, and ask for your favorable consideration of the same.

"To the Hon. JAMES GUTHRIE, Secretary of the Treasury of the United States of America."

It is signed by the owners of twenty-five fishing vessels.

Mr. FESSENDEN. What is the date of that? Mr. CLAY. January 27, 1854. The Senator may reply to this as he has endeavored to do heretofore, by arguing that the law has been improperly construed by the Department, and that according to the construction put upon it by Mr. Woodbury, they would be entitled to the bounty notwithstanding they had, under a cod-fishing license, taken other fish; but that is on the hypothesis that they were employed four months in the year exclusively in catching cod fish.

I do not understand the Senator to mean, and I do not impute to him that he means, that they have been four months continuously engaged in catching cod fish; but what he means to say is a very nice wire-drawn distinction, such as I do not think the cod fishermen, or any but an astute lawyer, such as he is known to be, would ever prefer in their defense; and that is that although they may go out with a cod-fishing license, under that license they may legitimately take other fish one day, as if they come across a shoal of mackerel, or halibut, or haddock, or any other fish, they may take any of them; and that if they make up for that day by superadding to the four months, that would have expired, a day engaged in catching cod fish, they still come within the bounty. The Senate will mark that these memorialists do not draw that distinction; they do not predicate their claim on that statement; but they maintain that they have pursued a mixed fishery; and though they have taken and cured other fish; though they may have taken fresh fish and brought it to market; though they may have alternated between catching the cod or any other fish as it came in their way, yet they say they are entitled to this bounty.

Then again, sir, the regulations require, to entitle them to this bounty, that they should make, and I believe subscribe an oath, that they have pursued this fishery exclusively for the period of time required by law, four months. Now, can they take that oath? If they do not violate the law, if it is not legal perjury, I ask whether it is not moral perjury, which certainly, *in foro conscientie*, is just as criminal, if they have pursued another fishery than the cod fishery.

Mr. FESSENDEN. I stated before that I had no doubt that some frauds were committed in this business as in all other business connected with the Treasury.

Mr. CLAY. I have several others that I may

read hereafter, but I am not going to trouble the Senate with them now.

Mr. FESSENDEN. I suppose they are of the same character. I do not attach much force to any of them. They are exceedingly nice, finical objections, picked up against a policy which has been pursued by the Government upon great principles for the last forty years, to say the least, in order to accomplish a purpose connected with our Navy, and which the Senator undertakes to upset on the ground that some people connected with it attempt to commit frauds upon the revenue, and receive this bounty when they are not entitled to it, and that officers of the Government complain in consequence. Why, sir, all I have to say is, that if the safeguards are not sufficient, make them stronger. You cannot make all men good as they should be, in any particular business. The question is, is it a sufficient reason to be adduced here for this proposition, that certain representations are made as to attempts to do wrong with reference to the details of this matter? Suppose the provisions of the law, or the particular provisions of the Treasury regulations, in some particular instances are construed differently in one place from what they are construed at the Department and at another: does it therefore follow that the policy itself must be abandoned? No such consequence follows. Evils of this kind are incident to all business, and more especially when connected with a class of men who, although possessing a certain degree of intelligence, are not of the highest intelligence and education.

It has been said that the fishermen are cheated out of the bounty. That is not so. I have explained that. They may not always get the money directly; but if the man gets the benefit of it, if it is divided, what difference does it make? If an owner of a vessel finds that it is absolutely necessary for him to make a particular bargain with the fishermen, what difference does it make if he pays them bounty in the first place, and, in consequence of the agreement made, they pay him back a part of it? They make such a bargain as will suit the interests of all concerned. They are sharp men. They know what can be done. They are not an ignorant class of men who do not know their rights. They understand them as well as any man does his. If the provisions of the law are such in reference to the compensation that they cannot avail themselves of the whole of it from the poverty of the business and want of income and hardships connected with it, that is an argument for increasing the bounty rather than for taking off what there is. The argument of the Senator works the other way. It makes no difference whether they get it in the shape of money or supplies, and it makes no difference in reality in reference to the great principle whether there are these trifling difficulties growing out of the Treasury regulations in relation to the paying over of this allowance, or obtaining of this allowance in some cases. All of us must see sufficient cause for that in the nature of the business. The question in my mind is this: if it was a mere gift, which I would not justify, made to these fishermen because they were poor, I would sweep it all away on the ground the Senator states; but if this is a policy of the Government for a great purpose connected with the Government, then if the objections exist, increase the stringency of your regulations, increase your safeguards, do what you please, but do not abandon the policy because it is subject to some trifling abuses which after all in extent amount to very little. That is the answer which I have to make in reference to all the Senator has said on that subject.

There is one other point remaining to be spoken of. It is the position that has been stated in conversation—whether it was in the argument of the Senator or not I do not know—that, if you take off this bounty, there will be just as much fishing, because the amount of the bounty will be added to the price of the fish. It is said the effect will only be to raise the price, and the amount will fall upon the consumer. That is not true in any sense of the word, and cannot be true. In the first place, this is a food that will not bear a high price. It is neither a necessity nor a luxury. Fish is a peculiar kind of food, as we all know. So far as it is exported, it is exported principally for the Catholic use into Catholic countries. Very little of it goes to Protestant countries, or is sought for there. Very little,

comparatively, is used here. Although a desirable article as a change of diet, it is not from its nature and character a kind of diet that will allow of a high price or much increase of price.

Another reason is, that the fishermen in this country are subject to very great competition. That competition is at our own doors, in the British Provinces—people who carry on the business to great advantage, because it does lie immediately at their doors. The price of this article of food must be graduated according to the competition it meets; and, as my colleague stated, we meet that competition in our own markets. The French, from their two points of St. Pierre and Miquelon, absolutely pay a bounty on the exportation of fish brought into the country. They pay \$1 90 to their fishermen for every quintal brought into this country, in addition to the bounty they pay in advance. It is perfectly idle to talk about raising the price of fish, and taking that addition to the price from the consumer, when we are subjected to competition of that description, and competition also from those who live in the British Provinces.

I have proved, sir, as I think, these points: first, that the policy of the Government on which these bounties were predicated is a policy of providing a corps of able seamen for the Navy in time of war; second, that that policy has proved effectual, and has been approved by the experience of the country; third, that the continuance of these bounties, from the very nature of the business, is absolutely necessary in order that it should continue for our purposes; and if you take them off, the inevitable consequence, in my belief, as proved by all experience, and derived from the nature of the business, is that it must fall off. The country must be without a sufficient supply of that kind of service in the time of its naval warfare, if that hour arrives. I hope it never will arrive; but if it does, every Senator who hears me knows very well that we shall have occasion for naval service, and that we shall have occasion for seamen to fight our battles on the water; and we shall have occasion for privateers, for I am not one of those who hold that privateering ought to be abolished. I dissent entirely from the doctrine which has been sought to be enforced at the present day, in that regard. I hold that, as a community, privateering forms our most essential and effectual safeguard, in case we should be involved in warfare with any of the great naval Powers of the world. It must be so from the very nature of our institutions: we cannot keep up that immense naval armament that is kept up by the first class Powers of Europe. Our defense must necessarily be in the power which we have with our privateers to sweep the commerce of our enemy from the ocean. It was effectual in the last war; it did more than even our naval battles themselves, vastly more, to bring that war to a conclusion. As my friend from Connecticut [Mr. FOSTER] suggests, we might as well give up the militia. You must have men; and in order to have them you must take care that they receive sufficient encouragement not to abandon that business which is the only opportunity you have to furnish yourself on this continent with a corps of men who can perform that essential service—that service without which we should be subjected, on the first outbreak of any difficulty with a great naval Power, to have our commerce swept from the ocean without the possible power of retaliation, and be at the mercy of our enemy.

Now, it only remains for the Senate to say whether they are disposed, for this small amount, to strike at a system which has been sustained so long; a policy which was adopted so early, and has been continued with the approbation of the country from the very beginning of the Government down to the present time. Great men, able men, have made attacks, serious and strong attacks, on this policy; but it has stood strongly intrenched in the judgment of the people of the country down to the present time, for the reason that experience had proved its value, and experienced men had given the weight of their authority to it. I hope, sir, we shall not now reverse a policy so long established and so well approved.

Mr. SIMMONS. Does the Senator from Alabama propose to take a vote on this bill to-day?

Mr. CLAY. I hope so.

Mr. SIMMONS. I have no particular interest in this matter, as I perceive by the figures which

have been presented by the Senator from Alabama that the State of Rhode Island has but one fishing vessel, and I do not suppose that my constituents will suffer much if the bounties be repealed, according to the Senator's notion; but, sir, I believe that these fishing bounties are just as much to the interest of my State as if the fishermen lived there. I do not hold that, because the location of these fishermen happens to be in Maine and Massachusetts, the other States of the Union have, therefore, no interest in keeping up this employment. I believe that the Senator from Alabama, by the very tables he has introduced, has given a better argument in favor of continuing those bounties than I could give if I were to undertake an investigation of the subject with a view to support the bounties. He has said that other maritime nations not only gave bounties to the cod fisheries, but also to the mackerel and to the whale fisheries; but that notwithstanding France and England and Holland have given these bounties to the whale fisheries, our whale fishermen have outstripped them all. Now, sir, I believe that the success of this country in the whale fisheries is entirely due to that very nursery of seamen which those bounties have furnished. Look at the location of the whale fishery in this country, and you will see that it takes its root in the mackerel and cod fisheries. It is not successfully carried on from any other portion of this country, unless that surrounded by the cod fisheries. It has never succeeded in Rhode Island, for the reason that we could never cultivate the cod fishery; because we do not live near enough to the fishing grounds, or for some other reason. We have tried whale fishing, and only in a very few instances could we make it succeed. Look to New Bedford, as the Senator from Maine has stated—the richest town in the United States, with more whale tonnage than all the rest of our towns put together. Why is it so? Because it is the center of the cod fishermen, and the whale ships are recruited from men who have been engaged in these little fishing vessels.

The Senator says the whale fishery flourishes. It does flourish; it has the kind of men to make it flourish. I once before asked, when this matter was up in the Senate, whether any Senator believed that south of Mason & Dixon's line they could man a ship that would catch a whale. No, sir; they can never raise the men for it where there is good soil and profitable employment; but you can get the men at such places as Marblehead, where you cannot raise potatoes. You might as well live on a flat rock. They must fish or starve, and that is the reason they fish. There is a kind of saying there that a man must fish, cut bait, or starve; and that is the reason these men are trained in this service. There is no other way to get a living there, and that is how the proverb arose.

I wish to ask the Senator's attention to the cost of nurturing these seamen. The Senator from Maine [Mr. HAMLIN] the other day, showed what they were worth in the last war. Now, let us see what they cost. The Senator from New Hampshire, I believe, has submitted an amendment to this bill, to abolish the Naval School and the Military Academy. I am against the bill and against the amendment, but I think they are intimately connected. If you want a naval school to make officers it seems to me you want a fishing school to make seamen; and the cost of the two is about in proportion as their pay—not exactly in the proportion of their pecuniary pay—but in proportion as the glory is to these classes of men. The Senator from Alabama tells us that during the existence of this Government we have paid \$12,000,000 for fishing bounties, and that there are about fifteen thousand people annually employed in them. We have been sixty-nine years in existence, and if we educate fifteen thousand seamen a year in the fisheries, the whole number is one million thirty-five thousand; and the cost of their education is about twelve dollars a piece.

Mr. CLAY. The average number employed in the fisheries does not reach ten thousand. The average for the last decade has been thirteen thousand.

Mr. SIMMONS. I took the Senator's tables as he presented them, and am not going to cipher very closely. If it took four years to educate a sailor, as it does to educate a soldier, the cost would be forty-eight dollars. I understand from the chairman of the Committee on Finance that

it cost \$3,200 to educate an officer at your Naval School—\$800 a year for four years. Thus the proportion is forty-eight dollars for the sailor to \$3,200 for the naval officer, and that is about in inverse proportion to the work they do. The sailors do all the fighting and the others get all the glory. You might as well abolish your Naval School for officers at once if you undertake to repeal these bounties and destroy the nursery of the sailors.

I am not going into the question of whether this was a drawback originally or not. I have no doubt that memorials may be found in favor of drawbacks and in favor of bounties, presented with the arguments of an ingenious lawyer for one or the other, but that has nothing to do with the question of nurturing sailors. Those who sent in the memorials wanted to get the bounty. There was some obstacle thrown in the way by the Treasury circulars, and they endeavored to get the bounty, and presented whatever argument was designed to accomplish that end. The Senator reads that as an argument against the system. It is a mere memorial drawn up by some sensible man, I agree, because it was drawn up to get the bounty, and they generally accomplished it.

The Senator from Alabama has told us of frauds in consequence of those vessels catching mackerel, when they took a license for a cod-fishing voyage. I remember the circumstance alluded to by the Senator from Maine, [Mr. FESSENDEN,] as to the vessels taken in Newport. Whenever there is a storm, these vessels are in the habit of making Newport, which is the best harbor on that coast, and they come in there in droves. I have seen two hundred fishing vessels come in in a storm. On the occasion alluded to by the Senator from Maine, these political men in the custom-house, under directions from the Treasury, got the notion that if a vessel with a cod fish license caught mackerel, the license was forfeited. About half the newspaper articles presented here, and quoted in the speech of the Senator from Alabama, about the cod fishermen, were made up, I will not pretend to say by men who held office, but I will say that they are arguments made either to get office or to satisfy the party after they have got it. They do not care anything about the fishermen or the fishing bounties. The officers in Rhode Island, as I said, got the notion that a fishing vessel was forfeited if she had on board any gear to catch mackerel with. Two or three hundred came into Newport out of a storm, and the officers seized them. There was a long trial, and finally the officers were beaten, and they had about as hard a trial to get their fees at the Treasury as they had with the fishermen; and I think the Treasury ought never to have paid them, because it was mere pirating on the poor fellows, who came into the harbor to get rid of the storm.

Sir, these fishing bounties are well spent. If we cannot afford to pay twelve dollars a year, for four years, to teach a sailor, and make him a good seaman, one that can be relied upon in time of war, we had better give up our Naval School, and stop paying \$3,200 to educate a naval officer. I believe that money to be well spent, and, in my judgment, the time is not far distant when we shall want all the officers and all the sailors to support the rights of this country. We are going off on the wrong track. This notion of setting the mackerel fishermen and the whale fishermen against the cod fishermen, because they do not all get bounties, is the very system which is undermining the whole labor of this country. It is easy enough to set one class of hard working men against another, and tell them "the Government does not protect you but protects another; let us get rid of what protection the fishermen have," and that is the object of the newspaper paragraphs that have been introduced. If there were three shoemakers here, I could get the voice of all others to undermine their business, because I could say, "we go for the greatest good to the greatest number; all of us buy shoes and there are very few who make them." These fishing craft have diminished in proportion to the rest of our commerce, as the Senator says. That is proof positive that the bounty is not very great and the business not very profitable. The increase in all other departments of industry has been fourfold to what it has been in this, which has received a bounty. The Senator has made out that fact in his speech. If this fishing business is a profitable one, I want to know

why there are not more in it; why do not people invest their money in it and make the great profits of which the Senator told us? There are no such profits in any business as the Senator estimated in this—some twenty or thirty per cent. a year. Why, sir, it would ruin the world if any important branch of business paid thirty per cent. People cannot make money enough to allow thirty per cent. on any considerable branch of business. I have had a little experience in casting interest, and I will give an illustration.

When I was a boy I happened to spend thirty-five dollars to get me a suit of training clothes as I should call them now, but they were called military clothes then. When I got to be sixteen years old I was very patriotic. I lived in Newport, and it was considered to be a very hazardous place in case of a war. It was a good harbor; it had been taken in the time of the Revolution; and it was thought it would be taken if we had a war with Great Britain. My schoolmaster was a major in this military company and we had an ex-Senator who invited me to spend what little pocket money I had, to be a soldier. I went in at sixteen, but I do not suppose I could get a land warrant to save my life. [Laughter.] I spent thirty-five dollars on the clothes, and I have cast the interest on it since I have been here, to see how much those thirty-five dollars, at the current rates of interest, the two and a half per cent. to which I alluded last December, would amount in 1861, about the time Mr. Buchanan is going out of power, supposing that money might be very valuable then. I believe there is not a man in the Senate now who would believe me if he did not know that I would not cast it improperly; but if I had had that thirty-five dollars at thirty per cent. per annum, accumulating until this day, this Government could not pay the interest on it with all the taxes they could levy. The annual interest at thirty per cent. would amount to more than the national debt of England does to-day; and they require \$200,000,000 to pay their interest, and they reel under it. It is more than three hundred and thirty million dollars. Three hundred and thirty million dollars at thirty per cent. is more than the annual interest on the national debt of England, and it takes more than two hundred million dollars to pay that, and if they did not owe it to their own people they would be bankrupt. You cannot pay thirty per cent. profit on any business. If these fishermen get six per cent. on the capital, and twelve dollars a month wages, I venture to say it is all they realize. You cannot hire a man to stay on shore for twelve dollars a month. One hundred and fifty dollars a year is, as the Senator from Maine says, about all these men get for catching fish nine months in the year, and staying on a bleak place on the New England coast for three. They ought to have three months to recruit, to enable them to stand the fog and the storm. We pay \$300,000 a year to these fishermen, and educate fifteen thousand men for that sum. We pay much more than that every year to educate six hundred officers, and nobody thinks anything of it.

Mr. HALE. I do.
Mr. SIMMONS. Sir, the Senator from New Hampshire does not like it, but I am in favor of it. I want to have good officers and good men, and I am willing to pay for them. I believe, now, that if these men played instead of worked, there would be no objection to their having this money. This fishing service is the hardest in the world, and I believe we ought to have more of it, but I do not know how to get it. I do not like the reflection that if we should happen to have a war with a maritime Power, every sail we have got to float on the ocean must take shelter in a harbor, as it did before, or be captured. We are too big a nation to retreat at the first sound of a cannon, and draw all our ships into port as we did in 1812. I want the commerce of this country to be carried on as the commerce of other countries is, if there is a war.

These fishermen are the very men to use in case of war, for naval purposes; and let your whalemen and your merchantmen pursue their avocations. Take these sixty thousand fishermen, men of the right stamp, have vessels enough for them, and have your sails afloat upon every ocean although England or France be your antagonist. Then we shall occupy such a place as a nation of thirty millions of people is entitled to enjoy in the

world; but if you have got to destroy all your commerce, if that is the cost of maintaining your national honor, your people will all oppose sustaining your flag or your honor at such an enormous sacrifice of the whole business and the whole property invested in commerce. You must have a Navy, or else submit to every taunt and insult you may receive in your diplomatic intercourse with foreign nations. This is the very best place to nurture the kind of men that are necessary to sustain the honor of the flag and the honor of the nation, not only while you are at war, but when you are at peace.

I should like to have the Government of the United States feel that, if there is a little speck in the distance, a cloud arising, they must not take in sail before the wind strikes them, but pursue the even tenor of their way, as if they were a match for any people in the world; negotiate fairly, and try to preserve peace; but preserve peace not by degrading submission produced by the fact that we have such a vast amount of property exposed afloat. We have now as large a merchant tonnage, I suppose, as any nation in the world. I have not seen the accounts lately; but I have no doubt it is equal to the merchant tonnage of any other nation. And what have we got to defend it? Literally nothing. There comes up a little difficulty about the finances, and we are to let all we have got rot before we sustain it. I acknowledge that this is a good time to make savings in the Treasury; and I will go for cutting down salaries, or dispensing with the services of men who do not earn a dollar a day where we give them six. But as to the twelve dollars a year we pay for fishermen, and obtain by it fifteen thousand seamen, I verily believe it would be the most unfortunate species of economy that could possibly be resorted to. I have no particular interest in it that ought not to be felt in every section of this country. We could not have any fishery carried on in the southern States; and if we could, it would not give the kind of education that is necessary.

What was the object of all these laws? The Senator began by quoting Mr. Ames's remark that the catching of cod was a most momentous concern. I did not understand it exactly as a sneer, as the Senator from Maine [Mr. Hamlin] did; I thought there was a little conflict in his emotions. He hardly knew whether to venerate it or ridicule it; but the argument that followed sustained it; and, when you look at the whale fishery as the result of this school, there is no such monument of the wisdom of such a provision to be found in the civilized world.

I think the success of the Americans concerned in the whale fisheries is the proudest monument we have. I have seen the instruments that the French have invented to catch whales. They have a cannon fixed with a groove in it, and they shoot the harpoons at the whales, so as to keep them at a respectable distance. But take a crew of Americans brought up in the cod fisheries, and they row right up to the whale, get alongside of him, and they have no concern as to what will become of the boat if they can only get the grappling-iron in. I should like to know if you would expect men to do that who were brought up on Turkey carpets. No, sir; if you want to make hardy men, you must raise them in the ordinary pursuits of life. You do not want them to undergo torture, but you must make a pursuit for them in which they can make a living; grow hardy as they grow up; and this is the very pursuit to make sailors. I would not risk my neck in one of those fishing vessels for all the bounties you give; I would rather take my chance in raising potatoes on solid land. I have been to sea two or three times, and there is too much trouble in it for my use; but I am willing to pay others if they will take the hazard.

I hope the Senator from Alabama will let this matter go over until he can sleep a night and think on the other side of this question. I do not believe he is yet ready to take the vote.

Mr. CLAY. Yes, I am.

Mr. SIMMONS. I have no doubt he can make a good argument on either side; but I believe the time has come when no man in this country will get fame by assailing the labor of any pursuit. Although these fishermen live in regions where he may not like the votes, I hope he will have some consideration for them. The same feeling

that prompts me to sustain these fishermen is now working in the heart of every man in this country who ever earned a dollar in his life. It is time this Government would turn its attention, not to plundering these people, or driving them out of their pursuit, but to bettering their condition; and if these fishermen do not increase, as they do not, according to the Senator's speech, we had better do something more for them, instead of taking away what we have done, for we need more of them instead of less.

The PRESIDING OFFICER. (Mr. Mason in the chair.) The question is on the amendment reported by the Committee on Commerce, to fill the blank in the bill by inserting "the last of 1859."

Mr. ALLEN. I move to amend the amendment by striking out "the last," and inserting "the 31st day of December;" and I also propose an additional section to the bill.

Mr. CLAY. I have no objection to the amendment. It means the same thing.

Mr. ALLEN. But it makes it a little plainer. The amendment to the amendment was agreed to.

Mr. CLAY. I inquire of the Chair whether the question is not first on the amendment proposed by the committee?

The PRESIDING OFFICER. The first question will be on that amendment as now modified.

Mr. CLAY. I trust that will prevail.

Mr. HAMLIN. What is the amendment as modified?

The PRESIDING OFFICER. The amendment offered by the committee was modified by the amendment offered by the Senator from Rhode Island, and the amendment as modified will be read.

Mr. PUGH. I understood the Senator from Rhode Island to offer an additional section which has not yet been read.

The PRESIDING OFFICER. That is not yet in order, and has not been received.

The Secretary read the amendment of the committee, as modified.

Mr. HAMLIN. That is an amendment which provides for the time when this bill is to take effect. That includes one additional year. I move to amend the amendment by striking out "1859" and inserting "1865." My amendment is in order.

The PRESIDING OFFICER. The Chair so understands.

Mr. CLAY. I trust that amendment will not prevail. The act of 1807, repealing the salt duty and the fishing allowance, was passed on the 3d of March, 1807, and that provided for the repeal of the salt duty, and all the allowance or bounties on tonnage or the exported fish, from and after the 1st day of January next, allowing but nine months before the repeal of the bounties. By this bill we give nearly two years of time. We allow them the bounties for this year and the bounties for next year. Certainly that is a sufficient advertisement of the repeal of the bounties to enable them to turn their attention to some other pursuit, if the cod fishery cannot live, as is alleged, without the aid of bounty.

Now, sir, if I am correctly informed, and I do not speak about things that I know nothing of, at least without the warrant of some testimony, these men are not exclusively employed in the cod fisheries. I understand Senators on the other side to concede this. They say that they engage in other fisheries during nine months in the year. They also engage in the coasting trade, if I am correctly informed, or they are engaged in some agricultural pursuit at home. This is not their sole or their exclusive business. It forms, indeed, if I am correctly informed, but a small part of their business.

Now, sir, if we may assume, which I do not grant, however, at all, that the repeal of these bounties will break down the cod fisheries, and will drive men out of that business, notwithstanding the mackerel fishery is pursued, and has been pursued for over thirty years, without the help of any bounty—if we concede that these men must abandon the catching of cod in case this bounty be repealed, yet, I say, there are other pursuits, both on sea and on land, to which they can turn their attention, and devote their energies, and it is sufficient time to give them until the close of next year. They have been advertised now for more than twelve months, that an effort would be

made to repeal the bounties. The newspaper press of New England have anticipated their repeal, and predicted that they would be repealed whenever the question was presented to Congress. Hence they are not taken by surprise. They will not be cut down suddenly. They will have ample time in order to direct their attention to other channels of trade that are more lucrative, if they cannot live by this.

The proposition of the Senator from Maine is tantamount to a defeat of the purpose of this bill. He proposes to give them seven years more, including this year. In the intermediate time he hopes, no doubt, that he may command a sufficient vote in Congress to continue the bounties indefinitely as they have been continued hitherto. Now, sir, the whole course of legislation upon the subject of these bounties is an argument against the extension of time beyond that proposed by the committee. Every act, as I showed in the speech I had the honor of making the other day, up to that of 1819, contemplated a continuance of these allowances but for short periods of time; the first act for but two or three years; the next for seven years; the next for ten years; and yet that was repealed within seven years after it was passed—I allude to the act of 1800. The next, the act of 1813, provided for their allowance during the war and but one year thereafter. When a proposal was made for their repeal in 1816, at which time the allowance would have expired by limitation of time, they were continued expressly on the ground that the Government needed the salt duty; that the Government could not do without the salt duty; that we had incurred a heavy debt, contracted during the war; that that duty afforded some eight hundred thousand dollars per annum of revenue after the allowance to the fishing vessels, which, at that time in lieu of drawback was very inconsiderable; that the commerce in cod fish more than reimbursed the Treasury for the amount paid out in the way of drawback or commutation in lieu of drawback. Upon these grounds expressly, upon revenue grounds, this bounty was continued up to 1818. In 1818, when an effort was again made to repeal them, the same arguments were repeated; and the chairman of the Committee of Ways and Means and the then Secretary of the Treasury both declared that they could not dispense, in the then existing condition of the country, with the salt duty, which yielded at that time upwards of seven hundred thousand dollars. Thus it has been under the pretenses of a short duration of the continuance of these bounties, that they have been protracted from 1792, when the tonnage system was first adopted, up to 1819. If the Senator's amendment prevails, I say it is tantamount to defeating the bill; for I shall feel very little interest in the passage of the bill if they are to have these bounties extended for seven years more, with all the chances, in the intermediate time, of the repeal of this act.

Mr. HAMLIN. I cannot understand the force of the Senator's argument when he says, that if the amendment I have proposed be adopted, it will be equivalent to a defeat of the bill. I do not think the amendment which I propose is entitled to any such objection. I do not think the Senator's suggestion is founded in any good reason; certainly he has stated none.

Now, sir, in relation to the character of these fishermen. Whatever may be the sources from which the Senator has derived his information, I assure him they are mistaken when they represent that the persons engaged in this business do not mainly rely upon this branch of industry for the support of themselves and their families. More than nine-tenths of their reliance is upon it. They fish for nine months in the year, and the other months are an inclement season, when they cannot devote their labors to agriculture, nor, to any extent, to coasting; though they do busy themselves somewhat in other matters. This, however, is the great business upon which they rely. There is no stable business followed by any class of men upon which they rely more than these men rely upon the business which they follow.

Next as to the time. The persons engaged in this business have been induced to go into it through the system of bounty, right or wrong. The vessels, as every man who has any practical knowledge knows, are unfit for coasting or any other business. These vessels will last for fifteen

or twenty years. They are in the business to-day, and I insist that if you are going to repeal the law it is not an extraordinary time; it is not an equation, for that would amount to some nine or ten years; it is not an unnecessary time to give these people some opportunity to protect themselves against the blow which is to come upon them. Whatever may be the sense of the Senate in relation to repealing these bounties, I think that six or seven years after this is not a period of time which ought to be objectionable to any Senator. I think strict justice to these men who have gone into this business ought to lead every Senator to vote for the time I have proposed. I think ten years would be no more than just; certainly six years is a limited period of time, and I do hope that it is a time that will commend itself to the judgment and approval of the Senate.

Mr. CRITTENDEN. I wish only to say a word in explanation of the vote I shall give on this subject. This allowance to the fishermen, by whatever name it may be called, whether drawback or bounty, has been one of the ancient policies of this Government. On former occasions, I voted against a proposition like that now made for its repeal, and it was voted against generally, I believe, by the party with which I was associated. Mr. Clay used to oppose this bill. I confess that I have never made any very accurate examination myself of this subject; but when I first came into public life, I found it, as I supposed, part of the established policy of the country. I have adhered to it in the confidence that what was done by those who had gone before us, and which had continued so long undisturbed by their posterity, had some good foundation on which to rest; and my own experience and observation have tended to corroborate this opinion. I have supposed that many of the seamen with whom, to the astonishment of the world, we have gained so many victories on the high seas, had been contributed mainly by these fisheries, to the accomplishment of that great national object, and that great national glory which has been so highly cherished, and it is in that point of view particularly that I have regarded it as a nursery for seamen; and why is not that worthy of the national attention and the national protection?

Sir, to prepare men to command as officers in your Navy you are at great expense. You have your Naval School at Annapolis; and you educate a certain number of the young men of the country for the purpose of serving on board your ships. What would those officers, what would the fine ships accomplish without this necessary and essential portion which constitutes their force? You must have seamen, or your officers and your ships will have been created in vain. They can do nothing without men. I think we are compensated by the excellence of this system. You have now a bill before you which has received the sanction of the House of Representatives to appropriate large amounts of the public domain to educate men as farmers, to make it a science: why should you not, then, have, and attend to, your nurseries for seamen? We must have a navy. Our rank and position in the world, our commerce in the world demand it. We must have seamen to man it; and, if possible, seamen of our own—American seamen—not merely bound by the terms of their enlistment, but bound by every instinct and every impulse of the heart to fight for the country that gave them birth, and has sustained them and given them place. These are the sort of men, as has been well said, to whom I should like to see the banner of my country always confided. They have repaid us, and more than repaid us, in their achievements on the seas for all they have cost us. It is but an encouragement to help them to follow this course of life. My friend from Alabama supposes it does not make them seamen fit to go at once into a man-of-war; it gives them no acquaintance with ships of that size and construction! Be it so; but we shall all agree, I know, that it acquaints them with the mighty ocean; and that is one of the great elements of a seaman's character. It does not seem to me to be a matter of so much consequence in what size or sort of vessel he challenges the storms of the ocean: it makes him acquainted with the sea, with its hardships and its storms, and the necessity of guiding and preserving the vessel which preserves him. And when we can do it so cheaply; when we can educate in this nursery so cheaply a body of seamen, it seems to me that we

are but following out the policy of our military institutions, and our naval institutions at West Point and at Annapolis.

These are the very obvious views upon which I shall act, as I have acted before, in voting against taking away from these men this bounty. I have supposed it was but small in amount; but it seems to have effected its purpose, and that fact appears to me to be one altogether favorable to our national institutions and national objects. Until I am convinced to the contrary, I shall hereafter do as I do now—vote against repealing these bounties.

Mr. TOOMBS. Mr. President, after the very elaborate and able speech of the Senator from Alabama, who introduced this bill, it is unnecessary to go into detail in the discussion of it, and that is not my purpose; but I wish to express my hearty concurrence in the bill which he reported from the Committee on Commerce. None of the arguments, none of the principles on which he placed the policy of the bill, have been attempted to be attacked. We hear a great deal—it is the occasion for a good deal of patriotic declamation—about the services of our seamen, which were very highly creditable; and I have no doubt they will continue to be so whenever their services are necessary. I do not believe you increase their number and efficiency by bounties; I do not think that is one of the ways to build up the country in any department, in any of its industry, for any purpose.

My friend from Kentucky has alluded to your establishments for naval and military education. I believe that the Government does any business of this kind worse than an individual. Such has been the experience of the whole world in all ages and all countries, and will be here. What did a Government ever do well? Why, sir, you may tax your imagination, or look to the facts and to history, and in all ages it has done nothing of that kind well, and cannot do it. It cannot have a good school; anybody can beat it. You may take the Military Academy you have now, and any enterprising American citizen would educate the boys there twice as well for a tenth of the money. Take your Naval School, and any enterprising man in America would educate them twice as well for a tenth of the money. The time will come when they will fall too. These are nothing but old abuses.

When this bounty system was started, it was a free-trade measure, it was a just measure, and I would agree to that to-day. It has been the policy of the country to increase its commerce by taking off burdens. When you import a raw material, manufacture, and export it, it has been the policy to give a drawback on the amount of the duty on the raw material which entered into the manufacture. That is done to facilitate commerce. These fishermen imported salt, used it in curing their fish, and then exported the fish. It was a burden on them to charge them the duty on salt. It came within the general law of the land which now exists, and which all Governments have adopted, not to put burdens on the industry of a country, not to tax articles that are re-exported. We adopted that policy here. We remitted the duty on the salt to the fishermen when they exported the fish, and afterwards we commuted it. It was commuted for a fixed bounty. This was secured through adroit management. The price and the duty had fluctuated. They would always fluctuate under our present *ad valorem* system. Then the duty was sometimes *ad valorem* and sometimes specific. To make the allowance certain, and to prevent change by the change of laws, an estimate was made which has been fully explained by the Senator from Alabama, and the value of the drawback was given in the shape of allowance on tonnage. It was a commutation.

I say this was under no idea of a nursery for seamen. That was occasionally alluded to *arguendo*; but the principle even of the Massachusetts men, as already shown, of the men who defended the bounty, was, that it stood on precisely the footing of a drawback on imported goods which were re-exported, and which it has been the policy of the Government to allow ever since 1789. It is so in regard to sugar. You may bring it into the country, refine it, and take it out, and then the duty on the importation is remitted. This is a wise policy to increase the business of the country. It is a wrong idea to suppose that Congress agreed to give so much a ton to pay for catching

cod fish. To be sure it did not extend to the whale fishery, or to the mackerel fishery, but it was confined to the cod fishery, because it was in that business that they used so much salt, and exported the fish when cured with salt. As the tables show, it was at that time a very large portion of our commerce, and it was wise in the Government to encourage it, not by bounties, but by taking off burdens. If the Government lays a heavy hand on them, if it does them any act of injustice, there is no class of my fellow-citizens I would relieve sooner. I think they are worthy, deserving, and needy; and all these would be reasons why we ought, at all times, and on all occasions, to be vigorous in the exertion of their rights, and doing them extreme justice. I am willing to do it now. The duty on salt has been taken off, or has become only nominal, (about two and a half cents, I believe,) and the fishermen may have that if they choose. When the act in regard to fishing bounties was passed, the duty on salt was twenty cents a bushel; now I believe it is two and a half cents. If the fishermen want a drawback of two and a half cents on their salt, let them have it.

The idea that you will get more seamen by bounties, or that you will invigorate the fishing business by bounties, is against the experience of all nations. A permanent bounty has been ascertained, by the experience of the world, to be injurious to all business, and, therefore, all the enlightened nations of the earth are gradually taking away bounties, taking away prohibition, giving a free vent to all employments, and free competition, at least, at home. The world has been benefited by this to a most extraordinary degree in the last fifty years.

This is a small thing, it is true; but if this policy is wrong, or the circumstances are changed, so that it is no longer desirable, the bounty should be taken off; but in doing it, we ought to protect the interests engaged in it, by giving them a reasonable time for changing their pursuits, and getting rid of this property. I do not know how long these vessels last. I suppose four or five or six years.

Mr. HAMLIN. They last fifteen years.

Mr. TOOMBS. That is impossible.

Mr. HAMLIN. No; it is true.

Mr. TOOMBS. Well, I know very little about it; I am no sailor; I live away from the sea, and I have had but very little to do with it, and I hope to have less, because I do not like it. I do not think, however, from the history of our commercial marine, that ships last that long. They are not all new, and therefore I should say that a very much less time than is asked, seven years, would be quite ample. The Senator from Rhode Island told me six or seven years. He lives close to the sea, and was a soldier besides, so he ought to know something about it.

Mr. SIMMONS. I do not pretend to have any experience, but I said I thought it would be better to take five years than nothing. I wanted a chance.

Mr. TOOMBS. I was merely asking the Senator from Rhode Island for information, and I understood him to say one of these vessels lasted five or six years. The Senator from Rhode Island stands inveterately on the principle of bounties, prohibitions, and protections. I do not. I think it is bad policy. I think it is bad for the fishermen, bad for the business of catching fish. You will have more fish and have more fishermen, if you take off the bounties. That has been the result of similar proceedings in all enlightened modern nations in other business, and I think it will be so in catching fish.

Mr. SIMMONS. The Senator says I stand inveterately on the principle of protection. I defined my position on that subject as long ago as a quarter of a century back. I went in for a gradual reduction of duties to twenty per cent. I believe my people were all against me on that; but I thought that good policy. When I came here in 1842, I wanted about twenty-five per cent. as the rate of duty, and the hardest men I had to get along with were my friends from Georgia. They wanted a higher protection than I thought was necessary.

Mr. TOOMBS. Not a man of them voted for it. I will do that justice to those who were here then. That act did not get a single vote from the State of Georgia in either House.

Mr. SIMMONS. I know that; but when I wanted to modify that act I found trouble with my Georgia friends. I wanted to reduce the act of 1842, in lieu of passing the act of 1846, and I could never get one of them to consent to any reduction. They said the act of 1842 was the best in the world, and everybody was growing up under it. But I have not said one word this winter about the rates of duty. I have come down now to the ground that if you will stop cheating, I will be content with any rate of duty you will give us. That is my ground. Is that high protection? I think everybody is entitled to protection against being cheated, if the Government can give it, and I think I shall have the aid of my distinguished friend in giving it.

Mr. TOOMBS. It is likely you will.

Mr. SIMMONS. So that we shall be together, I am no stickler about this matter. I have no acquaintance with this fishing business. I suggested that I was willing to vote for five years instead of seven, if it could get general assent. I believe we had better have anything that will be pretty tolerably harmonious, than to fight for two or three years about time; and if the Senator from Georgia and the Senator from Maine are willing, I should be glad to compromise upon five years.

Mr. HAMLIN. I would like to try seven.

Mr. SIMMONS. I will vote for the longest time. I want to give them a fair chance.

Now, let me make one suggestion to the Senator from Georgia. Some of the vessels are old ones. If the bounties be taken off, in my opinion there will be no new vessels built, and there will be less left; they are wearing out, so that that is one motive for fixing seven years; and as fast as an old vessel wears out, they will not build a new one to take her place, with no prospect of bounty, and towards the end of the time you will have very few. The idea that the experience of the world has shown that these bounties are injudicious to business, is a novel one to me. I believe England, and Holland, and France are about as old nations as there are now who have ever had any commercial credit, in modern times, at any rate, and they—

Mr. CLAY. If the Senator will pardon me, I will say that they have proven that they agree with the Senator from Georgia in denouncing these bounties as inexpedient and unwise in policy by abandoning them. They have abandoned their bounties.

Mr. SIMMONS. The Senator, in his speech, said that there was no wisdom in these bounties, because our whale fisheries had outstripped the English and French, though they continued to give bounties. I do not know whether he was right or wrong, but I took it from that.

Mr. CLAY. I am right, and I shall adduce in conclusion—

Mr. SIMMONS. Did not the Senator talk about the English giving bounties?

Mr. CLAY. They did so, but have repealed them.

Mr. SIMMONS. When?

Mr. CLAY. In 1830, on the herring and whale fisheries.

Mr. SIMMONS. Do they give cod-fish bounties yet?

Mr. CLAY. No, sir.

Mr. SIMMONS. Then how comes it that the Senator used that as an argument to prove that these bounties were deleterious? He says we outstrip them in the whale fishery notwithstanding they give bounties.

Mr. CLAY. I stated that they had originated the system of bounties. It was transplanted from Europe to this country. They originated the system and pursued it for two hundred years in regard to the herring fishery. I shall be prepared to show, if I am ever permitted to conclude the debate, by the testimony of English writers as well as New Englanders, that the fisheries languished under their bounty system, although they gave far greater bounties than we have ever given, or proposed to give, and finally they repealed their bounties. From 1789, and, indeed, further back—for our whale fisheries date a long way back of that—throughout the period of our contest with them in the whale fishery from the time we commenced whale fishing up to 1830, we beat them, although they gave bounties and we gave none. They gave enormous bounties sometimes. I will show that a New England writer, of great celeb-

rity, boasted of our triumph over them, unaided by the Government.

Mr. SIMMONS. The tenor of the Senator's argument would lead anybody to suppose that our vessels, without bounties, had been successful against a nation that gave bounties. That is what he said. I am not going to continue this debate, I hope the Senator from Maine, if he does not carry his amendment for seven years, will agree to five. I think he had better compound for five years now.

Mr. BENJAMIN. I wish to say a word in relation to this amendment of the Senator from Maine. The appeal is made to our sense of justice if this bill should pass, to retain these bounties for some six or seven years longer, upon the statement that parties have gone into the business, induced to embark in it by reason of the legislation of Congress, and that their business would be broken up in the event of a sudden repeal of these bounties. I admit the propriety of the appeal to the extent of allowing these parties fair time to embark in other business; but there is nothing whatever in the appeal, so far as it is addressed to a claim on the equity of the Government, because they have embarked in a business upon the faith of the bounty. Why, sir, upon a principle like that, you never could change your tariff laws. Every time there has been a change in the tariff laws the same argument has always been made. We have established our manufactures on the faith of a certain rate of protection, of duty, and now it would be unfair to break us up by lowering the duty. The answer to that has always been, you know, that the same power which created this bounty had it in its power, at any moment, to repeal it, and it was a part of the risk of the business which you assumed when you chose to buy vessels and embark in this fishing business. You did it, on the one hand, with a view to the bounties of the legislation then existing; but if you were prudent men, as you were all supposed to be, you also had in contemplation the possibility of the repeal; and taking the bounty on the one hand, and the risk of repeal on the other, you based your business operations on those two elements in your calculation.

Now, sir, I see no justice or propriety in this argument that the bounties are to be continued, if they are injudicious and impolitic, for some six or seven years, until the vessels wear out; but that a reasonable time should be allowed to any class of our citizens who may desire to abandon this business to seek other employment for their vessels, I admit to be a reasonable appeal. We had this matter discussed in committee; and I do not think the Senator from Maine asked any such length of time.

Mr. HAMLIN. I made a motion for ten years, and you voted me down.

Mr. BENJAMIN. I dare say the Senator is right; I yield at once to his recollection of the facts; but we discussed the matter in committee. Some gentlemen were for immediate repeal; some for repeal at the end of the present year, and we finally agreed that if the present season was worked out and another full season given, that would be ample and reasonable time for the repeal, if the repeal was to take place.

I will say a word more, as I am up, on the general subject. I have listened with great attention to the arguments in favor of retaining this bounty. They have been able and ingenious, and if I believed that these fisheries could not be maintained without the bounty, I never would give a vote for the repeal; but I do not think any line of argument could induce me to come to that conclusion. I have some very thorough convictions on the subject. I believe that, according to all the maxims of political economy, these matters regulate themselves. If cod fish to a certain amount is required for the supply of the world, and if the Government pays a bounty, purchasers get it that much cheaper. If the Government withholds that bounty, those who buy the fish pay the additional price, for those who catch the fish must live by the business or it will be abandoned. I believe that to be true in general as regards business, all over the world.

I agree with the Senator from Georgia that you cannot build up any business by bounties, because if the business is a profitable one, many persons go into it, and competition reduces it to a general level; and if the business is an unprofitable one,

bounties will not keep it up, for no such bounties as you pay could begin to keep up a business that was unprofitable. It merely acts on the price of the commodity brought into market. Take the case of these bounties as the gentlemen themselves show them to be. They state that there are about two thousand fishing vessels—some say three thousand. According to my calculation, they receive from one to two hundred dollars apiece from the Government. The large ones receive more, and the smaller ones less; but the average pay now given by the Government is about three hundred thousand dollars; therefore, from one to two hundred dollars apiece to two thousand or three thousand vessels is the amount of the bounty. If the fishermen cannot live without that addition to what they are now receiving, what will be the result? That they must charge the additional price on the fish or stop catching fish. If the supply of fish diminishes, the price rises, and that rise of price compensates for the diminished supply. The matter will regulate itself according to the well-known principles of political economy. Either cod fish will be abandoned as an article of human consumption, or those who catch the fish will receive a living price for catching it, and all your legislation cannot change that fact. Under these circumstances, and believing it to be entirely contrary to the true principles of government, I cannot vote for the continuance of this bounty.

Mr. COLLAMER. The people whom I represent have no interest in this matter at all, more than the constituents of the Senator from Louisiana, but I will suggest to him one consideration in response to the suggestion he has made. In my opinion there will be as many fish caught without these bounties as with them; and at a reasonable and fair rate of price, the demand of the world will be supplied; but it should be remembered that we have a reciprocity treaty by which the fish caught by fishermen of the British Provinces pass into this country without duty. The Nova Scotia, New Brunswick, Newfoundland, and Labrador fisheries can be altogether better and easier pursued by fishermen there than from this country, and when this bounty is taken off, inasmuch as the fishermen of those Provinces can bring fish into our market without duty, the advantage of their locality is such that the effect will be that the fisheries will pass into the hands of the inhabitants of the British Provinces and will produce seamen for the British Navy instead of American seamen for the American Navy. That will be the effect.

Mr. BENJAMIN. I do not know that I violate the secrecy of executive session when I say that it was with a view to just such consequences as these that I voted against the reciprocity treaty. Now, what is the argument? The reciprocity treaty was made, the result of which was exclusively for the benefit of our northern brethren, because there is no reciprocal commerce between Canada and the South. By that treaty we agreed that if England would let our produce into Canada and the other British Provinces without any duty on their part, they might send the products of those Provinces into our country without duty. Their fish now come in free of duty. This Government has abandoned all revenue arising from the Canada trade with the northern frontier; and because it has abandoned that revenue the proposition now is, if the Senator from Vermont be correct in his argument, that after having done that, the remainder of the Union shall make up a protection for the fishermen to compensate for the abandonment of the duty on imported fish by contributing a bounty to them to enable them to compete with those who are enabled to fish nearer to the banks by reason of the proximity of their harbors. The result is that we pay both sides. The remainder of the country is to pay both sides. The whole burden of the reciprocity treaty, then, is to be thrown on that part of the country which does not catch the fish. It is to pay protection to those who do, after abandoning the revenues which the nation derived from the impost upon British goods coming in across the Canadian frontier.

Sir, every step that you make in a policy of this character shows more and more glaringly its inequality in its operation on the different parts of the Union. I do not think it is a fair system, and I do not think the Senator from Vermont helps it much by his explanation. It may undoubtedly

be true, as he says, that the provincials have an advantage over our fishermen, but why the rest of the Union is now to pay a contribution in order to put them back on an equality, after having abandoned all chance of putting them on the same equality by the usual revenue policy of the Government, I do not understand, and I cannot see the justice of the appeal.

Mr. COLLAMER. I am fortunately so situated that I am not in any danger of betraying any secrets of executive session on the subject of that treaty. I can merely say that the State which I represent was opposed to that treaty; and I believe her Senators voted against it. No such inducement as the Senator from Louisiana intimates governed that people at all. If it be true that the people of Maine and Massachusetts were induced to go into, and did go into, the support of that treaty from any purpose like that which the Senator's remarks suggest, I am sure it must have been a very short-sighted policy.

Mr. HAMLIN. I believe I have a right to state that I did not vote for that treaty, and was opposed to it.

Mr. FESSENDEN. I did not vote for it.

Mr. COLLAMER. The people whom I in part represent seem to be, somehow or other, shuffled out of sight in arrangements between North and South; and I cannot find out who did it.

Mr. TOOMBS. I did it in part.

Mr. COLLAMER. I fancy that when we really come to examine the motives which led to that treaty, we shall not be able to charge them so exclusively upon one quarter as the Senator from Louisiana seems to suggest. I have been strongly impressed with the idea that that treaty was made for the purpose of persuading Canada not to join the United States, lest it might alter the balance of political power between North and South. I think that was really at the bottom of the matter; because, if they could have all the advantages of trade with this country, and through it, without contributing anything to the support of our Government, they would not be very likely to be as anxious to join us as they had been for several years before; and they were quieted in that manner. They now derive all the advantages of receiving their importations through this country duty free, without contributing anything to the support of our Government. Under such an arrangement they will probably be very quiet, and not undertake to join the North to disturb the political balance of this country. I fancy that, in point of fact, that consideration entered into the treaty more deeply than anything else, though I am not in "the secrets of the prison house;" but, at any rate, I think no argument can be drawn from that in relation to the question before us.

What I said was merely in answer to the remarks of the honorable Senator from Louisiana himself. He said he would not vote to repeal these bounties if he supposed, in point of fact, the effect would be essentially to injure the business, and to put an end to it. I wished in that connection to have the gentleman understand that in point of fact the business of catching fish, as a whole, may not be injured, because the public demands will require the fish to be caught; but if the bounties be taken off, the effect will be to throw it into the hands of the British Provinces, and to breed sailors for the British Navy instead of the American Navy.

Now, if the great purpose of sustaining these fisheries really is and really has been a nursery of seamen—and gentlemen who have argued it on the two sides have certainly done the subject much justice, and the research they have displayed does them credit—let us look at the effect of the repeal in that aspect. If the condition of the country—without inquiring how we came to be in this condition, or charging blame on anybody in relation to it—be such as to call for the repeal of these bounties, the effect, though we should not destroy fishing altogether, would be that we should destroy the purpose intended to be effected by the keeping up of the bounties. That effect will be produced without the destruction of the business, though it may destroy it so far as this country is concerned.

Mr. CLAY. Mr. President—

Mr. GREEN. I suggest that we postpone the further consideration of this subject until to-morrow at twelve o'clock, so that we may have an executive session.

Mr. CLAY. I desire to make a few remarks right here, in order to show how inconsistent the arguments of the advocates of a bad cause always prove themselves to be. From the treaty of peace with England in 1783, up to the recent reciprocity treaty, the whole history of the fisheries will show that the chief complaint of the cod fishermen of New England was that they were not permitted to catch fish within three miles of the shores of the British Provinces, and to cure them upon the shore; and they alleged that they could not come in successful competition with the English, because they were driven into the deep waters on the banks, and denied the privilege of hugging the shore, and curing the fish on shore. That was their great complaint.

Now they have this privilege accorded them. Now they are permitted to go within three miles of the shore, and even to cure their fish upon shore; and yet they complain of this treaty, and say that so far from benefiting them it has done them a great deal of injury. But how does that affect this question of nurturing seamen? The English Government maintained that the citizens of the United States had driven their fishermen off the banks; that they had quite monopolized the deep-sea fisheries; that they were nurturing seamen; but that their own fishermen going in their little smacks of five or twenty tons near to shore in the morning, and returning at night, did not learn seamanship, and hence as early as the day of Sir Josiah Child it was proposed absolutely to burn the small fishing smacks, and the fishermen's huts on the coast, in order to drive them out into the deep-sea fisheries to make them hardy and vigorous seamen, and force them into competition with American seamen.

Now, sir, the treaty, according to the argument which obtained in England, is another inducement for repealing the bounty. Now, our fishermen have the same privilege with the English of fishing within three miles of the coast, and curing their fish on the coast; and therefore, according to the English argument, the probability is that it will prove a worse school for fishermen than hitherto.

Again, during the last Congress, when I moved this bill, and spoke of the bounty as creating a privileged class, who are living upon tribute levied on other people, and perhaps characterized it as a cod-fish aristocracy that enjoyed the bounty mainly, the Senator from New York [Mr. SEWARD] excepted to my remarks, and declared that it was a cod-fish Democracy that enjoyed the bounty, and he lauded the bounty as cheapening the food of the poor. He spoke of the cod fish as the main staple of food in the New England States, and that the tendency of the bounty was to reduce the price of cod fish, and therefore to increase the comforts of the poor. Now, we are told the effect of the reciprocity treaty has been to bring English fishermen in competition with our fishermen; that they are over stocking the market with their fish, and thereby reducing the price. Now the complaint is that the food is too cheap, too plentiful. The other day the complaint was that the food was too dear and too scarce, and we must so legislate as to increase the supply, and thereby reduce the price. Now, instead of preaching the doctrine of plenty, it is the doctrine of scarcity. The complaint is that they have too much food, that it is too cheap—too cheap in consequence of the competition we have afforded to the Englishmen under the reciprocity treaty. Well, sir, I should suppose that, unless the interests of the few fishermen—few in number compared with the residue of the people of New England, and the other States of the Union—unless their pockets are to be consulted and filled rather than the hunger and the stomachs of the vast majority of the people themselves, it ought to commend us rather to the reciprocity treaty. It cheapens food, and benefits the great mass thereby; but the few producers have their compensation for their labor thereby reduced.

Mr. GREEN. I now renew my motion to postpone the further consideration of this subject until to-morrow at twelve o'clock, m., in order to have an executive session.

The motion was agreed to.

COMMITTEE ON PATENTS.

Mr. YULEE. I desire, before the motion for an executive session is made by the Senator from

Missouri, to move that the existing vacancy in the Committee on Patents and the Patent Office, occasioned by the death of the Senator from South Carolina, be filled by the Chair.

The motion was agreed to.

EXECUTIVE SESSION.

On motion of Mr. GREEN, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, May 10, 1858.

The House met at eleven o'clock, a. m. Prayer by Rev. E. KINGSFORD, D. D.

The Journal of Saturday was read and approved.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House a message from the President of the United States, transmitting, in compliance with the resolution of the House of February 3, 1858, a communication from the Secretary of War, relative to the Indian difficulties in the Northwest; which was referred to the Committee on Indian Affairs, and ordered to be printed.

DISTRICT OF COLUMBIA PENITENTIARY.

The SPEAKER also laid before the House a letter from the Secretary of the Interior asking an additional appropriation for the support of the penitentiary in the District of Columbia; which was referred to the Committee of Ways and Means, and ordered to be printed.

KANSAS HALF-BREED LANDS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, in answer to a resolution of the House of the 19th of January last, in relation to the condition of the twenty-three sections of land on the north branch of the Kansas river, in Kansas Territory, which, by the sixth article of the treaty of St. Louis, were reserved from the cession then made by the Kansas nation for the benefit of certain half-breeds therein named; which was laid upon the table, and ordered to be printed.

UNITED STATES MARSHAL AT CANTON.

The SPEAKER also laid before the House a letter from the Secretary of State, asking for an appropriation for the compensation of J. P. Cook, for services as United States marshal to the consular court at Canton; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

JOSEPH E. JOHNSON AND F. J. WHEELING.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, in reference to the claim of Joseph E. Johnson and F. J. Wheeling; which was referred to the Committee of Ways and Means, and ordered to be printed.

COLLECTIONS OF EXPLORING EXPEDITIONS.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a letter from Professor Henry respecting collections of exploring expeditions, directed to be transferred to the Smithsonian Institution; which was referred to the Committee of Ways and Means, and ordered to be printed.

APPROPRIATION FOR KANSAS.

The SPEAKER also laid before the House a letter from the Secretary of State, asking for an appropriation for carrying into effect the act for the admission of the State of Kansas into the Union; which was referred to the Committee of Ways and Means, and ordered to be printed.

PUBLIC DOCUMENTS.

The SPEAKER also laid before the House a list prepared by the Doorkeeper of the House, of books removed from the basement of the Capitol.

Mr. PETTIT. I move that that paper be referred to the Committee on the Library, and to say, preliminarily, since this subject has attracted some public notice, that most of those books have, in my judgment, been legally under the control of the Secretary of the Interior since the passage of the act of January 23, 1857, authorizing the distribution of Journals and other public documents by that Department.

The SPEAKER. The Secretary has no control over the works of John Adams, of which there are three or four hundred copies.

The question was taken; and the motion was agreed to.

Mr. MAYNARD. I move that the communication be printed.

The motion was agreed to.

TERRITORIAL BUSINESS.

Mr. MORGAN obtained the floor.

Mr. FAULKNER. I ask the gentleman from New York to let me have the floor, to make some reports from the Committee on Military Affairs, on territorial business. He will remember that Tuesday and Wednesday have been set apart for the consideration of that business, and unless these reports come in now, they cannot be printed in time for the action of the House.

Mr. MORGAN. I have no objection to yielding for that purpose.

Mr. FAULKNER, from the Committee on Military Affairs, reported back House bill No. 479, making an appropriation for the construction of a wagon and emigrant road in the Territory of New Mexico, with an amendment; which were referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

He also, from the same committee, reported back House bill No. 58, for the completion of military roads in the Territory of Washington; which was referred to the Committee of the Whole on the state of the Union; and ordered to be printed.

He also, from the same committee, reported back House bill No. 369, making an appropriation for the completion of the Fort Ridgeley and South Pass wagon road, with an amendment; which were referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

He also, from the same committee, reported back House bill No. 178, for the construction of military roads in the Territory of Washington, with the recommendation that it do not pass; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

He also, from the same committee, reported back House bill No. 415, for the construction of a wagon road connecting the navigable waters of the Missouri and Columbia rivers, with the recommendation that it do not pass; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

He also, from the same committee, reported back House bill No. 425, to authorize the Secretary of War to settle and adjust the expenses incurred in defending the frontier settlements of Nebraska against the Indians in the year 1855; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

On motion of Mr. FAULKNER, the Committee on Military Affairs was discharged from the further consideration of the memorials of the Legislative Assembly of Washington Territory relative to a military road from the military post at Fort Townsend to intersect the military road from Fort Vancouver to Fort Steilacoom; relative to a military road from Fort Vancouver to Fort Dallas; relative to the remuneration of citizens for making a military road over Nachess Pass; relative to a military post at New Dungeness, and a military road from New Dungeness to Fort Townsend; and relative to the completion of a military road from Fort Steilacoom to Fort Bellingham; also the petitions of the citizens of Nebraska Territory, asking for an appropriation for a wagon road from Nebraska City to Fort Kearny, in said Territory; also the memorials of the Legislative Assembly of the Territory of New Mexico, praying an appropriation and bounty land for services of the volunteers in said Territory, and praying an appropriation for the actual necessary expenses of the militia of said Territory.

Ordered, That the said petitions and memorials be laid on the table.

Mr. STANTON, from the Committee on Military Affairs, reported a bill for the survey of the Columbia river; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

APPROPRIATION BILLS.

Mr. J. GLANCY JONES, by unanimous con-

sent, from the Committee of Ways and Means, reported bills of the following titles; which were referred to the Committee of the Whole on the state of the Union; and ordered to be printed:

A bill making appropriations for the service of the Post Office Department during the fiscal year ending 30th of June, 1859;

A bill to supply deficiencies for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending the 30th of June, 1858;

A bill making supplemental appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1859; and

A bill making appropriations for the transportation of the United States mails by ocean steamers and otherwise, during the fiscal year ending June 30, 1859.

On motion of Mr. J. GLANCY JONES, the Committee of Ways and Means was discharged from the further consideration of a petition asking appropriations for the protection of life and property on the coast of New York; and the same was laid upon the table, and ordered to be printed.

On motion of Mr. J. GLANCY JONES, the Committee of Ways and Means was discharged from the further consideration of sundry petitions asking for the passage of a general relief law; and the same were referred to the Committee on the Judiciary.

Mr. J. GLANCY JONES, from the Committee of Ways and Means, made adverse reports on the petitions of David Thomas and Rutger D. Miller, of New York; which were severally laid upon the table, and ordered to be printed.

TERRITORY OF NEVADA.

Mr. SMITH, of Virginia. I ask the unanimous consent of the House to report from the Committee on Territories a bill to organize the Territory of Nevada, and that the bill and report be printed.

Mr. COBB. I object.

BENTON'S ABRIDGEMENT OF DEBATES.

Mr. NICHOLS. I ask the unanimous consent of the House to introduce a joint resolution, for reference only. It is a joint resolution authorizing the purchase of Benton's Abridgement of the Debates of Congress.

Mr. CURRY. I object.

KATHERINE M. HAMER.

Mr. COCKERILL, by unanimous consent, introduced a bill to continue the pension of Katherine M. Hamer; which was read a first and second time, and referred to the Committee on Invalid Pensions.

SUFFRAGE IN THE TERRITORIES.

Mr. ZOLLICOFFER, by unanimous consent, from the Committee on Territories, reported back, with a recommendation that it do pass, House bill No. 119 to regulate and make uniform the right of suffrage in the Territories of the United States; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

KANSAS REPORTS.

Mr. STEPHENS, of Georgia. I ask the general consent of the House to allow the reports of the majority and minority of the select committee on Kansas to be presented.

Mr. SMITH, of Illinois. I ask the gentleman to include reports from special committees. I have had one for two months, and I desire to present it and have it printed.

Mr. SHERMAN, of Ohio. I do not intend to object to the request of the gentleman from Georgia, but I desire to enter my protest against committees having their reports printed before they have been authorized to do so.

Mr. WASHBURN, of Maine. I object to the request of the gentleman from Georgia.

Mr. SMITH, of Virginia. I understand that the gentleman from Alabama withdraws his objection to my reporting the bill from the Committee on Territories, which I asked leave to report some moments since.

Mr. COBB. I withdraw the objection.

Mr. CLEMENS. I renew the objection

Mr. MORGAN. I believe I am entitled to the floor.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. ASBURY DICKINS, its Secretary, informing the House that the Senate had passed an act (S. No. 189) for the relief of Rufus Dwinel; and

An act (S. No. 307) to authorize the Secretary of the Treasury to sell the old custom-house and site, in Bath, Maine, and for other purposes; in which he was directed to ask the concurrence of the House.

PRIVATE BUSINESS.

Mr. MAYNARD. I ask permission of the gentleman from New York to report a bill from the Committee of Claims.

Mr. JOHN COCHRANE. I ask the gentleman to allow me to introduce a bill.

Mr. WASHBURN, of Illinois. Will my friend from New York yield to me?

Mr. MORGAN. I must decline to yield any further. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That all Senate bills of a private nature on the Speaker's table, and on their first and second reading, be taken up and referred to the appropriate committees; and that in the consideration of the Private Calendar on Friday next, there shall be no debate in Committee of the Whole, and all bills that are not objected to shall be reported to the House and finally disposed of.

Mr. WASHBURN, of Illinois. I hope the resolution will be modified so as to include the call of committees.

Mr. JONES, of Tennessee. I suggest to the gentleman from New York that if it is the pleasure of the House to make Friday objection day, he had better include Saturday also. It will be impossible to get through the Calendar in one day.

Mr. MORGAN. We can have a long session, and there will be no debate.

Mr. JONES, of Tennessee. There are some very long reports. I think the gentleman had better include Saturday.

Mr. SANDIDGE. I hope the gentleman will include Saturday.

Mr. MORGAN. We can have that afterwards just as well; but I think we can get through on Friday.

Mr. SMITH, of Virginia. I object to the resolution.

Mr. MORGAN. I move to suspend the rules. The question was taken; and the rules were suspended by a two-thirds vote.

Mr. MORGAN. I think we can get through on Friday. I object to any amendment, and move the previous question.

Mr. WASHBURN, of Maine. I ask that an amendment, which I desire to offer as a substitute, may be read for information.

The proposed amendment was reported, as follows:

Resolved, That Saturday, the 15th day of May instant, shall be devoted to the consideration of private business; and after one hour shall have been given to the reports of committees, the House will resolve itself into a Committee of the Whole House on the Private Calendar, and will proceed to act upon bills, to the passage of which there shall be no objection.

Mr. WASHBURN, of Maine. That will give us Friday for the transaction of business which shall give rise to discussion, and Saturday as objection day.

Mr. PHILLIPS. I ask the consent of the gentleman from New York to add the following to his resolution:

And that during the present session, debate in the Committee of the Whole House on the Private Calendar shall be confined to fifteen minutes on any one bill.

Mr. JOHN COCHRANE. Make it half an hour.

Mr. WASHBURN, of Maine. No; fifteen minutes is long enough.

Mr. MORGAN. I insist on the demand for the previous question on my resolution.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was adopted.

Mr. MORGAN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois. I now call for the execution of the order under that resolution.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, MAY 12, 1858.

NEW SERIES....No. 128.

SENATE BILLS REFERRED, ETC.

The House then proceeded to execute its order. The bills from the Senate on the Speaker's table, of a private nature, were severally taken up, read a first and second time, and disposed of as follows:

An act (No. 78) to authorize the Secretary of the Interior to issue land warrants to Joseph Chase, James Young, and Alexander Keef. Referred to the Committee on Public Lands.

An act (No. 101) for the relief of Agatha O'Brien, widow of Brevet Major J. P. J. O'Brien, late of the United States Army. Referred to the Committee on Military Affairs.

An act (No. 102) for the relief of Thomas Phenix, jr. Referred to the Committee on Military Affairs.

An act (No. 118) for the relief of John Scott, Hill W. House, and Samuel O. House. Referred to the Committee on the Post Office and Post Roads.

An act (No. 129) to provide for the final settlement of the land claim of the heirs of Jehu Underwood, in Florida. Referred to the Committee on Private Land Claims.

An act (No. 169) for the relief of Thomas J. Page. Referred to the Committee on Naval Affairs.

An act (No. 89) for the relief of the heirs and legal representatives of Oliver Landry, of the State of Louisiana. Referred to the Committee on Private Land Claims.

An act (No. 131) for the relief of Samuel V. Niles. Referred to the Committee of Claims.

An act (No. 132) for the relief of Edward D. Reynolds. Referred to the Committee on Naval Affairs.

An act (No. 134) for the relief of the legal representatives of J. E. Martin. Referred to the Committee on Foreign Affairs.

An act (No. 149) for the relief of George W. Lippitt. Referred to the Committee on Foreign Affairs.

An act (No. 142) for the relief of Hannah Stroop, widow of John Stroop, deceased. Referred to the Committee on Invalid Pensions.

An act (No. 159) for the relief of Commander Thomas J. Page, United States Navy. Referred to the Committee on Naval Affairs.

An act (No. 163) for the relief of Mrs. Eliza A. Merchant, widow of the late First Lieutenant and Brevet Captain Charles G. Merchant, of the United States Army. Referred to the Committee on Invalid Pensions.

An act (No. 164) to provide for the settlement of the accounts of John W. McCrabb. Referred to the Committee of Claims.

An act (No. 166) for the relief of Eleazer Williams. Referred to the Committee on Indian Affairs.

An act (No. 171) for the relief of Otway H. Berryman. Referred to the Committee on Naval Affairs.

An act (No. 177) to confirm to William Marvin title to lands in East Florida. Referred to the Committee on Private Land Claims.

An act (No. 183) for the relief of Charner T. Seale, administrator of Gilbert Stalker. Referred to the Committee of Claims.

An act (No. 134) for the relief of John Robb. Referred to the Committee of Claims.

An act (No. 188) for the relief of Edward N. Kent. Referred to the Committee on Patents.

An act (No. 190) for the confirmation of a certain land claim in favor of Pierre Grignon or his legal representatives. Referred to the Committee on Private Land Claims.

An act (No. 195) for the relief of Ashton S. H. White. Referred to the Committee on Public Lands.

An act (No. 199) for the relief of Livingston, Kinkead, and Company. Referred to the Committee on Indian Affairs.

An act (No. 221) for the relief of Richard W. Meade. Referred to the Committee on Naval Affairs.

An act (No. 226) for the relief of Mrs. Harriet O. Reade, executrix of the late Brevet Colonel A. C. W. Fanning, of the United States Army. Referred to the Committee on Military Affairs.

An act (No. 240) for the relief of Noah Smith, late a private in the Army of the United States. Referred to the Committee on Invalid Pensions.

An act (No. 242) for the relief of John Brest, a soldier in the war of 1812. Referred to the Committee on Invalid Pensions.

An act (No. 249) to release to the Milwaukee and Mississippi Railroad Company the interest of the United States to a certain parcel of land. Referred to the Committee on Public Lands.

An act (No. 253) for the relief of F. M. Gunnell, passed assistant surgeon in the Navy. Referred to the Committee on Naval Affairs.

An act (No. 256) further explanatory of an act approved August 18, 1856, entitled "An act for the relief of Adam D. Stuart and of Alexander Randall, executor of Daniel Randall." Referred to the Committee on Military Affairs.

An act (No. 261) for the relief of Michael Nash, of the District of Columbia. Referred to the Committee for the District of Columbia.

An act (No. 262) for the relief of the heirs or legal representatives of Richard D. Rowland, deceased, and others. Referred to the Committee on the Judiciary.

An act (No. 264) confirming to Alexander Copeland title to four hundred and eighty acres of land in Sonoma county, California. Referred to the Committee on Private Land Claims.

A resolution (No. 2) to authorize the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California. Referred to the Committee of Claims.

An act (No. 298) for the relief of Catharine Jacobs, widow of Francis Jacobs, a waiter in the military household of General Washington. Referred to the Committee on Revolutionary Pensions.

A resolution (No. 32) for the benefit of the widow of Commander William Lewis Herndon. Referred to the Committee on Naval Affairs.

An act (No. 41) to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes. Referred to the Committee on Private Land Claims.

An act (No. 270) for the relief of T. Hart Hyatt.

Mr. CRAWFORD. I move that that bill be referred to the Committee of Ways and Means.

Mr. LETCHER. What is it about?

The bill was read. It directs the Secretary of the Treasury to pay to the United States consul at Amoy, China, compensation for judicial services under the act of Congress approved August 11, 1848, from the 1st of July, 1855, to the 1st of January, 1857, \$1,500.

Mr. LETCHER. Should not that bill be referred to the Committee on Foreign Affairs?

Mr. CRAWFORD. I think its proper reference is to the Committee of Ways and Means, for the reason that it asks an appropriation of money, and because the same subject has been already referred to our committee, and considered by it. I have no other interest in having the bill referred to that committee. We have already considered the same question in regard to the consul at Shanghai.

The bill was referred to the Committee of Ways and Means.

A resolution (No. 21) devolving upon the Secretary of War the execution of the act of Congress entitled "An act supplemental to an act therein mentioned," approved December 22, 1854.

Mr. SINGLETON. I ask to have that resolution put upon its passage.

The SPEAKER. It cannot be put on its passage under the resolution of the House.

Mr. SINGLETON. Can it not be done by the unanimous consent of the House?

The SPEAKER. It can be.

Mr. SINGLETON. I hope that no one will make any objection to it. It does not propose to

appropriate a single dollar out of the Treasury. It simply devolves on the Secretary of War the carrying out of an act passed in the Thirty-Third Congress.

Mr. DEAN. Let it take its course, Mr. Speaker. The resolution was referred to the Committee on Indian Affairs.

BUSINESS OF DISTRICT OF COLUMBIA.

Mr. GOODE asked and obtained unanimous consent to offer the following resolution:

Resolved, That Monday and Tuesday, the 24th and 25th of the present month, be set apart for the consideration of business in relation to the District of Columbia, which business shall be made the special order for those days.

Mr. GOODE. I move the previous question on the adoption of the resolution.

The previous question was seconded, and the main question ordered; and under its operation the resolution was adopted.

Mr. GOODE moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LAND WARRANTS.

Mr. KELSEY. I ask unanimous consent to offer the following resolution, in which the constituents of every member on this floor are interested:

Resolved, That the Committee on Public Lands be authorized to report to the House House bill No. 300, declaring the title of land warrants in certain cases; and that said bill be considered at this time.

This has relation to a bill which has received the unanimous sanction of the committee. It simply declares the title to land warrants in cases of the death of the applicant before the issuance of the warrant, and after his application.

Mr. JONES, of Tennessee. I should like to hear the bill read.

Mr. COBB. There can be no objection to the bill.

Mr. JONES, of Tennessee. It might place many of these land warrants in a very curious condition.

Mr. KELSEY. The bill has been carefully considered in committee.

Mr. WRIGHT, of Georgia. This is a very useful bill; and I hope the gentleman from Tennessee will withdraw any objection.

Mr. JONES, of Tennessee. Let it be read, so that we may understand what it is.

The bill was read.

Mr. JONES, of Tennessee. I would have no objection to the bill if it merely put these warrants upon the same footing that they would be on if issued in the lifetime of the applicants. But suppose an applicant, who has filed his application and perfected the proof, should die before the warrant is issued: this bill proposes to give the warrant to the heirs of the applicant.

A MEMBER. Well, that is right.

Mr. JONES, of Tennessee. No, sir; under the general law, if the soldier dies before the warrant is issued, it goes to the widow; if the widow dies before it is issued, it goes to the children; but there is no law to give it to the heirs generally; and if this bill is passed, giving it to the heirs, why, in the absence of a widow or children of the soldier who has rendered the service, then his brothers and sisters, or his next of kin—whether a cousin or of any other degree—would be entitled to it.

Mr. STEPHENS, of Georgia. Well, that is exactly what happens if the warrant is issued before the soldier dies.

Mr. WALBRIDGE. Is debate in order? The SPEAKER. It is not. Is there any objection to the resolution?

Mr. CLEMENS. I object. Before the bill passes I want it put in good English. It is not grammatical.

Mr. KELSEY. I move to suspend the rules. The question was taken; and the rules were suspended.

The resolution was then agreed to.

Mr. COBB then, from the Committee on Public Lands, reported back House bill No. 300, de-

declaring the title to land warrants in certain cases, with an amendment in the nature of a substitute.

Mr. CLEMENS. I move to amend the substitute, by striking out "has," in the sixth line, and inserting "have," so as to make it grammatical.

Mr. COBB. I call the previous question on the bill.

Mr. JONES, of Tennessee. I do not want to make a speech upon this bill, but I want some information regarding it.

Mr. COBB. What is the pleasure of the gentleman from Tennessee?

Mr. JONES, of Tennessee. I wish to know what becomes of a certain description of warrants. This bill, as I understand it, provides that where the application has been made and the right established, but the applicant dies before the warrant is issued, the warrant shall be issued to the heirs.

Mr. WALBRIDGE. Is debate in order?

The SPEAKER. The gentleman from Alabama moved the previous question, but rose and propounded a question to the gentleman from Tennessee, which the Chair regarded as a waiver of the demand. Does the gentleman from Alabama withdraw the demand for the previous question?

Mr. COBB. No, sir, I do not. I am willing to give any gentleman any information in my power. I thought the bill was plain enough, and that everybody could understand it.

The bill and the substitute were again read.

Mr. REAGAN. As I understand this bill, it proposes to take this matter from under the jurisdiction of the probate courts, and until I understand something about that, I shall object to it.

The SPEAKER. Debate is not in order, pending the demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. CLEMENS's amendment to the substitute was adopted.

The substitute, as amended, was then adopted. The question recurred upon ordering the bill, as amended, to be engrossed, and read a third time.

Mr. REAGAN. I desire to call the yeas and nays on the passage of the bill. It changes the law of the land.

Mr. J. GLANCY JONES. I desire to ask the gentleman from New York if this bill is retrospective in its operation?

Mr. KELSEY. It applies to warrants already issued and hereafter to be issued.

Mr. J. GLANCY JONES. That is right.

Mr. STANTON. I wish the gentleman from New York would amend, by striking out the word "heirs" and inserting the word "children."

The SPEAKER. The bill was reported by the Committee on Public Lands, and the gentleman from New York has no right to accept an amendment.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. COBB. I ask the previous question on the passage of the bill.

Mr. REAGAN demanded the yeas and nays on the passage of the bill.

Mr. JONES, of Tennessee. I wish the gentleman from Alabama would withdraw the demand for the previous question for a moment. I think this bill does not accomplish the purpose the House has in view.

Mr. COBB. I cannot.

Mr. JONES, of Tennessee. This bill certainly does not cover the cases of land warrants already issued, where the applicants died before they were issued.

Mr. COBB. If the gentleman is satisfied that it does not, it ought to be amended; but it was the opinion of the Committee on Public Lands that it does cover the cases referred to by the gentleman from Tennessee.

The SPEAKER. The gentleman from Alabama cannot debate the bill pending the demand for the previous question.

Mr. COBB. If the Chair will listen to me for two minutes, I will show—

The SPEAKER. The Chair has no right to listen to the gentleman from Alabama pending the demand for the previous question, when objections are made to debate.

Mr. COBB. The gentleman from Alabama was going to withdraw the call for the previous ques-

tion if the Chair would have given him two minutes to state the reason.

The SPEAKER. If the gentleman had withdrawn his demand for the previous question before commencing to make his speech, he would have been in order.

Mr. COBB. I am not going to make any speech. I insist on my demand for the previous question.

Mr. JONES, of Tennessee. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time. Now, sir, I desire to say a word in reference to this bill.

The SPEAKER. The previous question is pending.

Mr. JONES, of Tennessee. I thought the previous question had been exhausted.

The SPEAKER. The previous question was demanded on the passage of the bill.

Mr. COBB. If the gentleman from Tennessee thinks the bill does not accomplish the purpose for which it was intended, I have no objection to his offering an amendment; and perhaps it will be agreed to by unanimous consent.

Mr. JONES, of Tennessee. I hope the gentleman will withdraw the demand for the previous question.

Mr. COBB. I will withdraw the demand.

Mr. JONES, of Tennessee. I may be mistaken in my construction of this bill, but I think it does not accomplish the purpose for which it was intended. It provides that when proof has been, or shall hereafter be filed in the Pension Office during the lifetime of the claimant, establishing to the satisfaction of that office his or her right to a warrant for military service; and where such warrant shall not have been, or may not hereafter, be issued until after the death of the claimant, the title to such warrant shall vest in the widow, &c.

This makes provision where the warrant shall not have issued before the death of the applicant; but suppose it shall have issued, then the warrant does not, as I understand it, vest in the children or heirs of the deceased applicants. A claimant presents his application at the Department; it remains on file perhaps for twelve months. It then issues; but, before the date which the warrant bears, the claimant dies. Now, as I understand it, this bill does not dispose of that class of cases. The warrant does not vest in the children or heirs of the claimant, as I understand it. Some of the warrants of this class which have been heretofore issued, are in the hands of the children. Some of this class of warrants have been sent to me; and I, having information of the death of the applicants before the date of the warrant, have returned them to the Pension Office, where, I presume, they have been canceled. Other warrants which have issued after the death of the applicants are, as I have said, still in the hands of the children. This bill does not, as I understand it, cover that class of cases. It says, "if they have not, or shall not be issued," they shall vest in the heirs of those to whom they were issued; but those warrants that have been issued are not provided for.

Mr. PHILLIPS. I desire to call the attention of the House to another provision of this bill. I am not opposed to the object of the bill, but in its present shape it does not accomplish the object for which it was intended. There is another section here which, I think, is inconsistent with the law, and which, instead of giving value to these warrants, will make their value still more uncertain. It seems to me that upon a measure like this, the effect of which is to change the laws of the country, the House might afford to give it a day's consideration. If other provisions are to be made, I think they should be so framed as to make the law more intelligible, and tend to fix the value of these warrants in the market.

The bill, as it now stands, provides that when proof has been, or shall hereafter be, filed in the Pension Office during the lifetime of the claimant, establishing, to the satisfaction of that office, his or her right to a warrant for military service; and where such warrant shall not have been, or may not hereafter be, issued until after the death of the claimant, the title to such warrant shall pass—and here I call the attention of the House particularly to this provision—shall vest in the widow, if there be one, and if there be no widow living, then it shall pass to the legal heirs of the warrantee; and that said warrants, and all other warrants issued pursuant to existing laws, shall be treated

as personal chattels, and may be conveyed by assignment by such widow or heirs, or by the legal representatives of the deceased.

Now, Mr. Speaker, there is an inconsistency in this provision which will embarrass the sale of these warrants. I have no objection to its passage if it be put into a simple shape, either by saying that these land warrants under these circumstances shall go to the widow, and if there be no widow, to the legal representatives, or else take it from the legal representatives and not leave it in the confusion in which such a section as this would seem to leave it. I am not opposed to the measure. I am very willing, where there is a land warrant authorized to be issued or where it is issued in the name of the person before, but not received before his death, that there shall be every facility given by the law for its transfer to those to whom the law would like to have it go, or in such manner as to make it most available for the purpose of sale or location.

Mr. COBB. If the gentleman will permit me, I will make a word of explanation. The Committee on Public Lands has had the subject before them for investigation, and they investigated it carefully. After this bill was matured by the committee, I took it to the Commissioner of the General Land Office. He examined it thoroughly, and seemed to think that it answered the purpose intended. The bill says that the warrant may be transferred by the widow, or the heirs, or the legal representatives, administrators, and executors, as you please. The object of the committee was to avoid complication in the matter. If there was a widow, it was intended she should have power to transfer the warrant; but if no widow, that that power should descend, with the warrant, to the heirs of age, so as to provide against the necessity of having an administrator to transfer it. In case the heirs should be minors, then it was provided that the administrators should be empowered to make a transfer of it. It is the opinion of the Committee on Public Lands, and of the Commissioner of the General Land Office, that the measure avoids complication, and at the same time answers all the purposes intended. If I have the floor, I call for the previous question.

Mr. STANTON. I hope the gentleman will withdraw that call for a moment. I would like to say a word.

Mr. COBB. I withdraw it for the gentleman, if he will renew it.

Mr. STANTON. Mr. Speaker, I have one word to say in relation to another provision of this bill, which strikes me as a departure from the whole spirit of the Government in granting bounty lands. I think that this is the first bill in which bounty lands have been so limited as to go to the heirs general, and become assets in the hands of the administrators. If I understand the policy of the Government, it has been to the effect that this is a personal grant for the benefit of the soldier, his widow, or his children, and is not intended for the benefit of his creditors. It is not intended that it shall be assets in the hands of his administrators to go in the course of distribution to the creditors or collateral heirs.

Mr. STEPHENS, of Georgia. If I understand this bill, its object simply is to put these warrants, which may be issued, or have been issued, before the decease of the party, upon the same footing they would have held if the party had been living. If a warrantee has a warrant issued in his lifetime, he can sell or dispose of it as he pleases.

Mr. STANTON. I understand this bill to do something else. I understand when the warrant issues, after the death of the party who is entitled to it, after the proofs are completed, and before it is delivered to the general heirs, that it becomes assets in the hands of the administrators, and may be distributed to the creditors. It cannot be otherwise, because it provides that it shall go to his heirs general, and whatever descends, whatever personal property descends from the intestate to the heirs general, becomes assets, subject to the payment of his debts. That never has been the law heretofore. Undoubtedly it has been the law that a soldier could assign or sell his warrant, so that it would inure for his individual advantage; but it has never been the law that it shall go to his general creditors, and I object to that portion of the bill which makes these warrants go, on the death of the party, to his general creditors, and not to the widow or his children.

Mr. KELSEY. As I understand this bill, it limits the power of the legal representatives to sell and dispose of these land warrants for the benefit of the heirs of the deceased, and solely for that purpose, and they do not become general assets in the hands of the administrators or executors.

Mr. STANTON. It is a blind mode of legislation. I ask that the section be again read. I understand it to be the ordinary provision in the ordinary legal phraseology which passes the property to the heirs general, and makes it general assets. I think that the engrossment of the bill ought to be reconsidered. I am satisfied that the gentleman from Pennsylvania is right. It ought to be reconsidered, and amended in the particular I have mentioned. I call for the previous question.

Mr. JONES, of Tennessee. I have an amendment, which I give notice that I will offer.

Mr. COBB. Let it be read, and it may be agreed to unanimously.

The Clerk read the amendment, as follows:

After the word claimant, in the seventh line, insert:
And all such warrants as have been heretofore issued subsequent to the death of the claimant.

Mr. COBB. I hope, if the House is of the opinion that the bill is not explicit enough, that the amendment will be adopted.

Mr. LETCHER. I presume there is no objection to the amendment.

Mr. PHILLIPS. I object until the motion is reconsidered.

The call for the previous question was seconded; and the main question ordered to be put.

The question was taken on the motion to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and it was agreed to.

Mr. JONES, of Tennessee. I move to reconsider the vote by which the substitute was agreed to.

The question was taken; and the motion was agreed to.

Mr. JONES, of Tennessee, submitted his amendment as an amendment to the substitute.

The amendment was read and agreed to; and then the substitute as amended was adopted.

Mr. PHILLIPS. I move to recommit the bill to the Committee on Public Lands, with authority to report to-morrow, when it shall be the special order.

The SPEAKER. The gentleman can make a motion to recommit, but he cannot, without a two-thirds vote, give the committee the power to report at any time.

Mr. PHILLIPS. I do not want the bill to lose its position.

Mr. BURNETT. I call for the previous question.

Mr. JEWETT. I hope my colleague will withdraw that call for a moment.

Mr. BURNETT. I will if my colleague will renew it.

Mr. JEWETT. I will.

Mr. Speaker, I have paid some little attention to this bill, and I wish to reply to the remarks submitted by the gentleman from Ohio [Mr. STANTON] on that clause of the bill which he believes declares warrants to be assets in the hands of the representatives. The bill does not contemplate, as the gentleman supposes, that the warrants shall be assets general for distribution amongst the creditors. The bill declares the title to the warrant to vest in the heirs. They are only assets for the purpose of distribution amongst the heirs, and not for distribution amongst the creditors general. It was adopted for the purpose of avoiding a suit in chancery by the heirs, to authorize a sale of the warrant. Where the heirs were numerous, no one was willing to make an entry or to locate the land, and a sale was necessary. Under the rules and regulations of the Department, it required much delay to secure an order for sale for the purpose of distributing the proceeds amongst the heirs general. It is to avoid that, and to authorize a sale by the personal representatives for distribution amongst the heirs, and not for distribution amongst the creditors, that the bill was framed as it was. I call for the previous question.

The call for the previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the bill, as amended, was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. COBB called for the previous question on the passage of the bill.

The call for the previous question was seconded, and the main question ordered to be put.

Mr. REAGAN demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was then passed.

Mr. COBB moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NEW YORK JUDICIAL DISTRICTS.

Mr. RUSSELL asked the unanimous consent of the House to introduce a bill, to divide the State of New York into three judicial districts, for reference merely.

Mr. WASHBURN, of Illinois, objected.

Mr. RUSSELL moved to suspend the rules.

The question was taken, and the rules were not suspended.

Mr. WALBRIDGE. I move that the House proceed to the consideration of the business upon the Speaker's table.

The SPEAKER. If the motion be objected to, it will require a two-thirds vote to agree to it.

Mr. STEPHENS, of Georgia. By general consent, on Friday last, the Minnesota bill was set down for to-morrow at twelve o'clock, m.

The SPEAKER. There are some twenty public bills on the table, which probably ought to be referred.

Mr. WALBRIDGE. It is my object only to get at those bills. If a bill is presented which any gentleman wants to be passed, very well; let the chance be given for action on it.

Mr. FLORENCE. Is it in order to move to amend the proposition by allowing bills and resolutions, of which previous notice has been given, to be introduced for reference merely?

Mr. WASHBURN, of Illinois. I object to that.

The SPEAKER. The Chair thinks it is hardly in order.

Mr. COLFAX. Will the proposition of the gentleman from Michigan include the resolution for abrogating the Clayton-Bulwer treaty?

The SPEAKER. The Chair would suggest that the proposition had better be confined to Senate bills, and House bills with Senate amendments.

Mr. WALBRIDGE. I accept that as my motion.

Mr. ENGLISH. I object, unless we proceed to the business upon the Speaker's table. If that be the motion, I will not object.

Mr. WALBRIDGE. I move that the rules be suspended.

The question was taken; and the rules were suspended.

The resolution, as modified, was then agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. SMITH, of Virginia, leave was granted to withdraw from the files of the House the papers in the case of B. F. Rittenhouse, by leaving copies of the same.

The House then proceeded with the execution of the order in reference to bills on the Speaker's table.

MILITARY ACADEMY BILL.

An act (H. R. No. 62) making appropriations for the support of the Military Academy for the year ending June 30, 1859, returned from the Senate with an amendment, was then taken from the Speaker's table.

The amendment of the Senate was read, as follows:

Strike out the following:

For pay of officers, instructors, cadets, and musicians,

\$94,886.

For pay of eight professors at the Military Academy,

\$16,000.

And insert in lieu thereof:

For pay of officers, instructors, cadets, and musicians,

\$112,886.

Mr. J. GLANCY JONES. The amendment is to restore to the professors at West Point the \$20 per month which the House rejected. I move the previous question on concurring in the amendment.

Mr. BURNETT. If I understand it, the Senate insert the amendment which was stricken out by the House.

Mr. J. GLANCY JONES. The amendment simply increases the appropriation sufficiently to allow the \$20 per month to the professors at the Military Academy.

The previous question was seconded, and the main question ordered.

Mr. BURNETT demanded the yeas and nays on the amendment.

The yeas and nays were not ordered.

The amendment was concurred in.

Mr. J. GLANCY JONES moved to reconsider the vote by which the amendment was concurred in, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

SENATE BILLS REFERRED.

The following bills from the Senate were then taken from the Speaker's table, severally read a first and second time, and referred as indicated below:

An act (No. 248) to amend or define the act of July 29, 1850, entitled "An act providing for recording the conveyances of vessels, and for other purposes." Referred to the Committee on Commerce.

An act (No. 204) to provide for issuing patents in certain cases when grants of the public lands have been or may be made to States by Congress. Referred to the Committee on Public Lands.

An act (No. 197) providing for the arrest and return of fugitives from justice to the District of Columbia. Referred to the Committee on the Judiciary.

An act (No. 127) to repeal the fifth section of an act entitled "An act to authorize the register or enrollment and license to be issued in the name of the president or secretary of any incorporated company owning a steamboat or vessel," approved March 3, 1825. Referred to the Committee on Commerce.

An act (No. 152) to incorporate the Washington National Monument Society. Referred to the Committee for the District of Columbia.

An act (No. 247) to amend an act entitled "An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same," passed February 18, 1793. Referred to the Committee on Commerce.

An act (No. 193) authorizing the issuing of certain bounty land warrants to the legal representatives of deceased persons entitled thereto. Referred to the Committee on Public Lands.

DROPPED AND RETIRED NAVAL OFFICERS.

Joint resolution (S. No. 30) to extend for a further term the provisions of joint resolution approved March 10, 1858, in relation to certain dropped and retired officers of the Navy, was then taken up, and read a first and second time.

Mr. MILLSON. I hope the House will, by general consent, allow this resolution to be put upon its passage immediately. The object of the resolution is to allow the President six months, within which to consider the records of the courts of inquiry, so as to restore to the service those persons who, upon examination of the record, might appear to be entitled to be restored. But, though a law passed giving the President six months for that purpose, the House will perceive that he has not had six weeks, and unless this resolution should pass, he would have no time at all.

The object of this resolution is simply to give him an opportunity to examine these records. The Senate, upon being informed that it was absolutely impossible for the President to inspect these records of some forty-odd cases before the adjournment of the present session of Congress, has agreed to extend the time until the 1st of January next. Without that extension the act recently passed will be of no value whatever. I think this is all the explanation necessary to enable the House to understand the object of the bill, and with that explanation I think they will take up the bill and pass it without objection. I demand the previous question.

The previous question was seconded; and the main question ordered to be put.

The joint resolution was then ordered to a third reading; and was accordingly read the third time, and passed.

Mr. MILLSON moved to reconsider the vote by which the resolution was passed; and also

moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

OFFICERS AND CREW OF THE SUSQUEHANNA.

A resolution (No. 33) authorizing suitable acknowledgments to be made by the President to the British naval authorities at Jamaica for the relief extended to the officers and crew of the United States ship *Susquehanna*, disabled by yellow fever, was next taken from the Speaker's table, and read a first and second time.

The resolution was then read *in extenso*.

The joint resolution was ordered to a third reading; and was accordingly read the third time, and passed.

LAND DISTRICTS IN MICHIGAN.

An act (S. No. 286) to enlarge the Detroit and Saginaw land districts, in Michigan, was next taken from the Speaker's table, and read a first and second time.

Mr. WALBRIDGE. I move to put the bill upon its passage. It has been informally before the Committee on Public Lands, and has received the assent of that committee.

The bill was read *in extenso*.

Mr. WALBRIDGE. I will simply say to the House, that the only object and effect of this bill is to change the boundaries of these land districts in the State of Michigan. I will send to the Clerk's desk a letter from the Commissioner of the General Land Office, which will give a full explanation of the matter.

Several MEMBERS. Let it go.

Mr. WALBRIDGE. Very well, then. I hope the bill will be passed.

The bill was ordered to a third reading; and was accordingly read the third time, and passed.

Mr. WALBRIDGE moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LAND DISTRICTS IN MINNESOTA.

An act (No. 296) amendatory of an act entitled "An act to establish two additional land districts in the Territory of Minnesota," approved July 8, 1856, was next taken from the Speaker's table, and read a first and second time by its title.

Mr. COBB. That is precisely such a case as the one just passed, and a little more so. The Committee on Public Lands have directed me to report a bill in the same language as that of the bill before the House; but for fear that the bill might not be reached by the House in time to meet the necessities of the case, it was suggested to the parties that they should go before the Senate. They did. The matter was referred to the Committee on Public Lands. It was reported back by Senator STUART, and was immediately passed by the Senate. There is a necessity for the immediate passage of the bill, and I hope there will be no objection.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

Mr. COBB moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PUBLIC LANDS IN IOWA.

Senate resolution (No. 35) removing restrictions on a certain grant of five sections of land to the State of Iowa, was next taken from the Speaker's table, and read a first and second time.

Mr. CURTIS. I ask that the bill may be put upon its passage.

The bill was read. It permits the State of Iowa to make use of five sections of land, heretofore granted to aid in the construction of public buildings there, for other purposes.

Mr. COBB. That appears to be a matter of some importance.

Mr. CURTIS. The resolution explains itself. I am satisfied that the honorable chairman of the Committee on Public Lands, if he understands it, will not require it to be referred to the Committee on Public Lands. There is no occasion for such a reference. The land in question was given to the State some years ago for the purpose of aiding in the construction of public buildings in the State. It was supposed that the capital would be located on these lands, but the location was not deemed suitable, and a different location

has been adopted. The present location of the capital is some forty miles from these lands, which were at a point remote from wood and water, on a large prairie. It has been located at the city of Des Moines, on the Des Moines river. This resolution merely provides that the State may dispose of the lands for other purposes. Let the bill be read again.

Mr. COBB. I think it ought to go to the Committee on Public Lands, and I make the motion to so refer it. It is important that we should investigate the matter. We can report it back in a very short time. I assure the gentleman that it will have prompt consideration, and if it is right, we will say so.

Mr. GREENWOOD. I desire to propound a question to the gentleman from Iowa before I cast my vote. I understand that these lands were granted to the State of Iowa some seven years ago, to aid in the construction of public buildings, assuming that the capital was to remain at that point. It was subsequently located at another point. I want to know whether Congress made an additional grant for public buildings at the new location?

Mr. CURTIS. No, sir; there has been no other appropriation.

Mr. GREENWOOD. Then, I hope it will be put upon its passage.

Mr. LETCHER. I would like to hear what these lands are worth? and for what purpose they are proposed to be used?

Mr. CURTIS. I believe that the lands are now worth from five to eight dollars an acre. They can be applied to the purpose to which they were appropriated; but it is desirable that the State should have the right to appropriate them to other purposes. It has been proposed to apply them to an agricultural school.

Mr. LETCHER. If the land can be applied to the purpose for which it was granted in the first instance, why do they want to divert it to some other purpose?

Mr. CURTIS. I have stated that the capital is not located on this ground, but some forty miles from it. The lands ought to be thus vacant. The State desires the privilege of disposing of them. I believe it is not the purpose to apply them to the construction of a capitol, but to the establishment of an agricultural school. I suppose that it makes no difference to Congress to what purpose the lands shall be applied. The State has actually erected a building which will answer the purposes of a capitol for many years.

Mr. LETCHER. The establishment of agricultural schools seems to be the order of the day, for it is only ten days ago that we had up a bill granting millions of acres for the purpose of agricultural colleges—among other States to Iowa—and now it is proposed to get up another rival scheme, so that Iowa may come in for a double share over all the other States.

Mr. CURTIS. There is certainly in my mind no opposition to the bill we recently passed for an agricultural college. I am not certain that the Legislature will apply these lands to agricultural schools. I have only said that has been proposed.

But let me tell the gentleman that Iowa, so far from getting more than her share in this arrangement, does not get her full share, although I voted for that bill for the purpose of doing what some thought to be justice to the old States—like Virginia—which have not heretofore had school grants as Iowa has.

Mr. LETCHER. I should like to know what the share of Iowa is, according to my friend's estimate.

The SPEAKER. The Chair is of opinion that both the gentlemen are getting off from the matter under consideration.

Mr. CURTIS. I move the previous question.

Mr. LETCHER. We are distinctly on this question of lands, and ascertaining what part Iowa gets for agricultural schools.

The SPEAKER. There is nothing in the bill about agricultural schools.

Mr. LETCHER. The gentleman says that these lands are to be so applied. So far as that matter is concerned, Iowa got a pretty liberal allowance last Congress for railroads. She has got another appropriation for the establishment of common schools; and now she comes here and asks for these lands for an agricultural school.

Mr. WASHBURN, of Maine. I rise to a point of order. It is not the privilege of the gentleman from Iowa to yield the floor without the consent of the House.

The SPEAKER. The Chair understood the gentleman from Iowa as surrendering the floor.

Mr. WASHBURN, of Maine. I understood he was on the floor to move the previous question.

The SPEAKER. The Chair did not so understand it. The Chair understood the gentleman from Iowa as concluding his remarks, and asking that the bill might be again read. The Chair recognized the gentleman from Arkansas, and subsequently the gentleman from Virginia. The Chair understands now that the gentleman from Virginia is entitled to the floor; and the gentleman from Iowa rises to an explanation.

Mr. LETCHER. I now move that this matter be referred to the Committee on Public Lands.

The SPEAKER. That motion is pending.

Mr. LETCHER. Very well; then I move the previous question on that motion.

The previous question was seconded, and the main question ordered; and under its operation the bill was referred to the Committee on Public Lands.

PUBLIC PRINTING.

An act (S. No. 218) amendatory of the act entitled "An act to provide for executing the public printing, and establishing the prices thereof, and for other purposes," approved August 26, 1852, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Printing.

HUNGARIAN SETTLERS IN IOWA.

An act (No. 300) for the relief of the Hungarian settlers upon certain tracts of land in Iowa, hitherto reserved from sale by order of the President, dated January 22, 1855, was taken from the Speaker's table, and read a first and second time.

Mr. DAVIS, of Iowa. I ask that the bill be put upon its passage. It is a bill voted unanimously by the Senate. To effect the object for which it is intended, it is necessary that this bill should be speedily acted upon.

The bill was read. It extends for one year the right of preemption to their lands to Hungarian settlers on certain lands in Iowa.

Mr. DAVIS, of Iowa. I understand that these lands are to be put up for sale within fourteen days. The settlers upon them are represented to be unable to enter their lands, for the reason that the principal persons who first settled on that land, and who had the privilege of preempting them under the act of Congress, have removed from them, leaving the poorer portion of the settlers on the land. They are unable to pay for these lands, and only ask for the extension of one year from the time of the passage of this act. It is only carrying out the original intention of Congress in favor of these Hungarians.

Mr. WASHBURN, of Illinois. Is this only extending the time for one year to enable these parties to preempt their lands?

Mr. DAVIS, of Iowa. That is the whole of the act.

Mr. DAVIS, of Indiana. I am satisfied that this bill ought to go to the Committee on Public Lands, and I make that motion.

Mr. WASHBURN, of Illinois. I move the previous question.

The previous question was seconded; and the main question ordered.

The first question was on the motion to refer to the Committee on Public Lands.

Mr. COBB called for tellers.

Tellers were ordered; and Messrs. BLISS and BRYAN were appointed.

The House divided; and the tellers reported—ayes 55, noes 85.

Mr. COBB demanded the yeas and nays.

The yeas and nays were not ordered.

The motion to commit the bill was disagreed to.

The bill was then ordered to a third reading,

and was accordingly read the third time.

The question was then on the passage of the bill.

Mr. COBB. I wish to state, Mr. Speaker, that I am not certain that upon an investigation of all the principles contained in the bill, I should be opposed to it, but here is a bill from the Senate containing perhaps over a hundred quarter sections—

Mr. DAVIS, of Iowa. No, sir, only thirty or forty.

Mr. COBB. Well, sir, there is not a member of the House who can state the exact bearing of the bill. Now, sir, the Committee on Public Lands have had a great many propositions before them during the present session to permit persons to enter lands, and we have invariably provided that the lands to be entered shall be at \$1 25 an acre. Large grants of lands have been made to Iowa for railroad purposes, on the condition that the alternate sections within six miles of the lines of railroads shall be sold at \$2 50 an acre. But this bill would allow these persons to enter those lands at \$1 25 an acre in violation of that law.

Now, I do not know that any of the lands referred to in this bill lie within six miles of any railroad to which a grant has been made; but if they do, then these persons should pay the same amount for the lands that all others have to pay. Iowa has had three or four million acres of the public lands granted to her for railroad purposes, on the condition that the alternate sections should be reserved at the minimum price of \$2 50 an acre. And now the gentleman from Iowa asks us to pass this bill rapidly, and without consideration in the Committee on Public Lands, because these men are poor men and the lands are about to be brought into market. Well, sir, if we are to make provision for these men because they are poor and cannot now pay for their lands, we should make a similar provision for poor men in other parts of Iowa, and in California, and in Kansas, and Nebraska, and elsewhere where lands are now being offered for sale. They should be allowed the same extension of time. I would suggest to the gentleman from Ohio that he should amend the bill so as to provide that if any of the reserved sections are embraced in this bill, the usual price of \$2 50 shall be paid for them.

The gentleman states that these lands are about to be brought into market. Well, if he can show any particular reason why they should not be brought into market, and sold, I am satisfied that the President of the United States, knowing that legislation is pending before the House and has passed the Senate, will postpone the sale until the House can deliberately consider the bill. I tell the gentleman from Iowa that, if the bill is sent to the Committee on Public Lands, it will have prompt consideration; and I tell other gentlemen who have measures before that committee, that, whenever we are able to report, we will endeavor to do them all justice. We have many reports ready to make, and shall have an opportunity to present them if gentlemen will go on with the regular order of business. I have very little doubt that the President will postpone the sale of these lands until the House can act upon the question. I have now discharged my duty, and yield the floor.

Mr. CURTIS. I am satisfied that the gentleman always discharges his duty as chairman of the Committee on Public Lands. I give him credit for always doing what he thinks right; but I wish to explain to the gentleman that this reservation is off the line of any railroad. It lies in the southern part of Decatur county, through which no railroad grant passes. I would be perfectly willing to put a provision in the bill such as the gentleman from Alabama suggests; but the bill would then have to go back to the Senate, which would delay the passage till after the lands are exposed to sale.

Mr. COBB. It is difficult to tell where the railroads run in Iowa.

Mr. CURTIS. There has been only one grant to a railroad in the southern portion of the State, and that grant was to what is called the Burlington road. But these lands are in Decatur county, a tier of counties south of the Burlington line; so the Burlington grant is twenty or thirty miles north of the Hungarian settlement.

Mr. SMITH, of Virginia. The Senate have passed the bill. What difficulty could grow out of the adoption of the amendment suggested by the gentleman from Alabama?

Mr. CURTIS. I know of none except that it would take time. I am perfectly willing that the amendment shall be put in. I would rather have it in than not, although it would be mere surplusage. But let me say one word in regard to the object of passing the bill at once. The sale of these lands is to come off, I believe, on the 17th of this month, and it is necessary that the bill should

pass immediately; otherwise they will be sold, and beyond the reach of these settlers.

Now, who are these men that ask this right of preemption? They are the refugees who came from Hungary, some years ago, with the unfortunate patriot Kossuth, and were received, as gentlemen will remember, with distinguished consideration by the people of the United States. They were encouraged to settle in our country, and they were received and cordially welcomed by the people of Iowa, and have since lived on the public domain as other settlers, with a perfect understanding that they were to have preemption rights. The captain and leader, Governor Ujhazy, who first established the colony, removed to a warmer climate. He went to Texas; and, I believe, now resides there. From that fact it would be difficult to prove up the claims, as some who now live on his lands are assignees; and it may be there are some of them precluded on the ground that they are aliens. All they wish, and all this bill provides for, is to allow these men to go on and prove up their claims, the same as other preceptors, paying the same price that other citizens have to pay.

Mr. WASHBURN, of Illinois. I would suggest, as this matter seems likely to provoke some discussion, that if the House will allow the second section of the bill to be read, they will see there is nothing in it but to give these poor men twelve months to pay for their lands, which have been advertised to be sold; and, unless this law is passed, they will be sold, and the lands may go into the hands of speculators.

Mr. CURTIS. It is not the object of this bill to afford to these settlers any privileges other than are allowed to other settlers upon the public lands; but to extend to them the same rights which others enjoy. They do not ask for any other rights or privileges.

Mr. WASHBURN, of Illinois. If the House will hear the second section of the bill read, that will explain the whole matter.

Mr. CURTIS. Let the whole bill be read.

The bill was read.

Mr. JONES, of Tennessee. I wish to inquire of the gentleman from Iowa whether this bill provides preemption rights for any who are not living on the lands?

Mr. CURTIS. Certainly not.

Mr. JONES, of Tennessee. Then I hope the bill will be passed.

Mr. CURTIS. I call the previous question on the third reading of the bill.

Mr. SMITH, of Virginia. Does not this bill give credit to those who do not want it as well as to those who do?

Mr. CURTIS. The bill names the persons who are entitled to enter under it by giving a year to prove up their claims.

Mr. SMITH, of Virginia. This bill, then, gives them the use of the money for a year, no matter how much they may have.

Mr. CURTIS. These men are poor, and will be glad to pay for their land, and get their titles as soon as possible. None of them would desire the credit if they did not need it. I have already said the bill merely gives them the same right of preemption which is usually enjoyed by other settlers. I insist upon my demand for the previous question.

The previous question was seconded, and the main question was ordered to be put.

The bill was then ordered to a third reading; and was accordingly read the third time, and passed.

Mr. DAVIS, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act making appropriations for the Military Academy for the year ending June 30, 1859; when the Speaker signed the same.

KEEPING OF THE CALIFORNIA ARCHIVES.

An act (No. 312) to provide for the collection, and safe-keeping of public archives in the State of California was next taken from the Speaker's table, and read a first and second time.

Mr. SCOTT. I move to put that bill on its passage.

The bill was read *in extenso*.

Mr. QUITMAN. I have no doubt there is a necessity for some means to be provided for the preservation of those records. This bill, however, provides such a multitude of penalties, and goes so much into detail, that I prefer to have it examined by the Judiciary Committee; and I therefore move that it be referred to that committee.

Mr. SCOTT. It is the first time I have heard the bill read, and it strikes me to be merely a penal statute providing certain punishments for certain crimes in reference to meddling improperly with the public records of California. Even if I were fully posted on the matter, and wished to defend the bill, I am too unwell to do it. If the gentleman from Mississippi, or any other gentleman, thinks that it is not a proper bill, and ought to be looked into, I will not object to its reference; but on listening to the bill, I do not see anything objectionable in it. If the gentleman will point out anything objectionable to it, I am willing to have it referred to the Committee on the Judiciary. The late hour of the session is the only thing which presses action on the bill now.

Mr. QUITMAN. Mr. Speaker, of course with the first reading of the bill I cannot form a perfect idea of its operation in respect to all the cases provided for. There is a single feature which struck me as demanding the attention of this House, or at least of the Committee on the Judiciary. That feature of the bill is the power given under the circumstances to enter houses and make searches for papers. I do not think that that provision is well guarded, and it may be that under it authority may be given to search into the private papers of private individuals. There was some provision made for the preservation of the records of my own State at the time she was changing from a Territory to a State, and I have no objection to a proper provision for California. Nor have I any objection to the section of the bill which provides that in certain cases where the original cannot be furnished, a copy may be put in evidence. But this thing requires an examination. I am unwilling to vote on the subject until I have examined it.

Mr. SCOTT. I accede to the gentleman's proposition, and agree that the bill shall be referred to the Committee on the Judiciary.

The question was taken; and the motion was agreed to.

CALIFORNIA PRIVATE LAND CLAIMS.

The next bill taken from the Speaker's table was an act (S. No. 313) to amend an act entitled "An act to ascertain and settle the private land claims in the State of California," passed March 3, 1857.

The bill was read a first and second time.

Mr. SCOTT. I ask that that bill be put on its passage.

The bill was read *in extenso*; and was then ordered to be read a third time; it was accordingly read a third time, and passed.

CALIFORNIA LAND TITLES.

An act (No. 314) for the prevention and punishment of frauds in land titles in California, was taken from the Speaker's table, read a first and second time; and referred to the Committee on the Judiciary.

ENROLLED BILL.

Mr. PIKE, from the Committee on Enrolled Bills, reported as truly enrolled a joint resolution to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled, 'An act to promote the efficiency of the Navy.'"

BATH (MAINE) CUSTOM-HOUSE.

An act (S. No. 307) to authorize the Secretary of the Treasury to sell the old custom-house and site in Bath, Maine, and for other purposes, was taken from the Speaker's table, and read a first and second time.

Mr. WASHBURN, of Illinois. I hope the bill will be put upon its passage. There is no necessity for referring it to the Committee on Commerce.

Mr. JOHN COCHRANE. I do not see that any provision is made in the bill for the manner of sale.

The SPEAKER. It is by auction to the highest bidder.

The bill was read a third time and passed.

RUFUS DWINEL.

An act (S. No. 189) for the relief of Rufus Dwinel, was taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of the Interior, in reply to a resolution of the House of Representatives of 9th of February, 1858, calling for the names and residences of invalid pensioners admitted to the roll since March 3, 1849; which was laid on the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, asking for an appropriation to be expended in the prosecution of the work on certain public buildings.

Mr. LETCHER. I should like to inquire what these public buildings are, so that we may see whether the communication should not be referred to the Committee on Public Buildings.

Mr. J. GLANCY JONES. The appropriations are asked for the extension of the Treasury building, &c. They come properly before the Committee of Ways and Means.

The communication was referred to the Committee of Ways and Means, and ordered to be printed.

Mr. WADE. I ask the unanimous consent of the House to take from the Speaker's table the bill (H. R. No. 32) to amend an act entitled "An act to limit the liabilities of ship-owners, and for other purposes," approved March 3, 1851, for the purpose of putting it upon its passage.

The SPEAKER. On a former occasion the bill was ordered to be engrossed and read a third time, but not being engrossed, its third reading was objected to at the time, which carried the bill to the Speaker's table.

Mr. GARNETT. I see that that bill stands second upon the list of bills upon the Speaker's table, on their third reading. I hope the House will take up the bills in the order in which they stand, and get through with the business on the Speaker's table.

Mr. WASHBURN, of Illinois. There are only four bills there.

Mr. ENGLISH. How many bills remain upon the Speaker's table? I understand there are but few, and we might as well dispose of them.

The SPEAKER. There are four bills. The first is a private bill, for the relief of William K. Jennings and others; the second is the bill referred to by the gentleman from Ohio, in relation to the liabilities of ship-owners; the third is to prevent inconvenient accumulation of certain papers in the Post Office; and the fourth is the joint resolution concerning the Clayton-Bulwer treaty.

Mr. WADE. I have no objection to all the bills being taken up.

Mr. WASHBURN, of Illinois. All but the last—the joint resolution.

Mr. JONES, of Tennessee. Let us take them all up.

Mr. WADE. I believe my bill stands first.

The SPEAKER. It is the first public bill.

Mr. WADE. I am willing to modify my motion so as to take up all the public bills on the Speaker's table.

Mr. ENGLISH. I understand the gentleman from Ohio to move to proceed to the business on the Speaker's table in its order on the Calendar.

Mr. WADE. I want to take up House bill No. 32 first.

Mr. GARNETT. I shall object unless the bills are to be taken up in their order. There are but four of them, and the House can dispose of them in a very short time.

The SPEAKER. The Chair desires to understand what motion the gentleman from Ohio makes.

Mr. WADE. I will adhere to my original motion, to take up House bill No. 32.

Mr. GARNETT. I object.

Mr. WADE. I move to suspend the rules.

Mr. JONES, of Tennessee. If that motion fails I will move to suspend the rules to proceed to the remaining business on the Speaker's table.

The House divided on Mr. WADE's motion; and there were—ayes 73, noes 53.

So (two thirds not voting in favor thereof) the rules were not suspended.

Mr. JONES, of Tennessee. I now move to proceed to the consideration of the remaining business on the Speaker's table.

The motion was agreed to—ayes 102, noes 18.

WM. K. JENNINGS AND OTHERS.

The first business in order was a bill (S. No. 29) for the relief of William K. Jennings and others, on which Mr. GIDDINGS was entitled to the floor.

Mr. GIDDINGS. I yield the floor to my colleague near me, [Mr. BLISS.]

Mr. BLISS. I desire to move to refer the bill with instructions, and I wish to be heard upon that motion. I will send up the instructions to be read at the conclusion of my remarks.

Mr. WASHBURN, of Illinois. I ask for the reading of the bill.

The bill was read, and is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to pay, out of the fund heretofore received from Great Britain, under the first article of the treaty of Ghent, for slaves taken and carried away by the forces of Great Britain during the war of 1812, (provided so much thereof remains unexpended,) which is hereby appropriated for that purpose, to William K. Jennings, and Aphia Jennings his wife, the sum of \$1,120, it being the assessed value of four slaves carried off by the British forces, in the month of June, 1813, the said William K. and Aphia Jennings being the legal representatives of William Bean, deceased, who was the representative of Sarah Almond, his sister, who died in his lifetime, and who had lost three of the said slaves, namely, a negro woman, named Esther, and two children, the said Bean having lost another of said slaves, a negro man, named Sam; to Henry A. Wise the sum of \$380, the assessed value of a negro man-slave, named Nelson, taken and carried away, as aforesaid, in December, 1814; to Ann Robinson the sum of \$380, it being the assessed value of a negro slave, named Hampton, the right to whom is in said Ann Robinson, taken and carried away from Virginia, as aforesaid, in June, 1813; and to Edward Rudd the sum of \$1,680, the assessed value of six slaves, namely, a negro man named Stephen, a negro woman named Cinner, and four children, taken and carried away from Virginia, as aforesaid, in the spring of 1813; and to the legal representatives of Robert Lindsay, deceased, the sum of \$390, it being the assessed value of a negro man-slave, named Ned, taken and carried away, as aforesaid, from the possession of his owner, in the city of Charleston, in the State of South Carolina; to the legal representatives of Benjamin Hodges, of the State of Maryland, the sum of \$380, it being the value of a slave conveyed from the United States on board the British fleet, in the year 1814, and not recovered by the said Hodges, or his legal representatives.

Mr. WASHBURN, of Illinois. I desire to inquire if it is the gentleman's purpose to put that bill on its passage? If so, I rise to a question of order that this bill, making an appropriation, must of necessity be first considered in the Committee of the Whole on the state of the Union. I hope, however, that there will be no disposition to press it to a vote to-day, and that there will be no necessity for making the question.

Mr. BLISS. I move to refer the bill to the Committee on the Judiciary, with specific instructions, which I will indicate before I sit down. I would have the instructions first read, but that the language will be better understood after I shall have spoken.

I wish to say, in the outset, that, owing to the advanced stage of the session, I do not propose to go into a general discussion of the policy of the treaty with Great Britain upon which this claim purports to be founded, or upon the question of slavery, or, rather, of the rightfulness of recognizing slaves as property under any circumstances whatever, which would be legitimately open for discussion in commenting on the bill now under consideration.

I do not waive or ignore my well-known opinion on that subject. But I propose to show that this claim is not embraced in any manner or form whatever, in the treaty to which reference is made in the bill; and that instead of being embraced in that treaty, it is expressly excluded by its terms. For the reason I have stated, I shall confine my remarks to that question.

I must confess, Mr. Speaker, I am very much surprised that this bill should be here. But, sir, since it was brought before us on a former occasion, I have given it some examination, and I find it to be one of those old, rotten, stale claims that have been before Congress for the last twenty years, and that always, whenever they have been brought to the light and exposed, have instinct-

ively sought the shelter of darkness. This is a claim of a character which would not command the attention of the House for a moment, were it not for the fact that it recognizes property in man, that it provides for the payment for slaves.

I for one should object to it even if that were the only objection. But it comes here a stale and groundless claim, without a single feature to recommend it to the attention of gentlemen on the other side of the House, but the fact I have before stated, that it recognizes property in slaves and provides for their payment. It rests upon a basis which could not be maintained for a moment in relation to any species of property, generally admitted to be such, and were it a claim for horses, or ships, or houses, or lands, would be driven out of the House.

Mr. Speaker, that we may understand perfectly the character of this claim, it will be necessary that I should refer briefly to the history of the treaties under which it has arisen. The first treaty was made in 1782 with Great Britain, and may be found in volume eight of the Statutes at Large, page 57. I do not propose to read it now, but simply to refer to it in order to account for the fact that a subsequent treaty is in existence. There was a clause in that treaty which provided for the payment of negroes taken by Great Britain during the war. The American Government claimed that the slaves which had escaped to the British should be returned. Great Britain protested against the recognition of a claim of that character, assuming that where slaves had escaped under inducements held out to them, that they should be entitled to their freedom. It would be "odious," unjust, to require them to be returned. No State could be guilty of such bad faith. After full consideration the administration of General Washington abandoned the claim as untenable. I refer gentlemen who may wish to prosecute their inquiries any further in reference to this treaty, to the first volume of the American State Papers, pages 485 and 486, where they will find a letter from our Minister in England, (Mr. Jay,) in which he relates the circumstances under which he virtually abandoned the claim. After the Jay treaty nothing further was seen or heard of the claims; and it is not strange that Great Britain was betrayed into the use of similar though less decisive language in the treaty of Ghent, by our giving up every claim under the former. The treaty of Ghent, which is to be found in the eighth volume of the Statutes at Large, contains these words:

"All territory, places, and possessions whatsoever, taken by either party from the other, during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves or other private property."

I will first call the attention of the House to the various provisions of the various treaties upon the subject, and afterwards will ask its attention to this bill in connection with these various provisions. The same dispute arose under the treaty of Ghent that had arisen upon the revolutionary treaty. Great Britain claimed that she was under no obligation to pay for slaves which had escaped during the war, for the purpose of being enrolled in her legions, or otherwise, or had been transferred to the West Indies; she had promised them protection, and could not deliver them up with any decency or honor, and claimed that she was only bound not to carry away any "slaves or other private property" actually "captured," not received as fugitives, and under the circumstances mentioned in the clause before quoted. Negotiations between the two Governments were had upon the subject, with more or less intermissions, until 1818, when the matter was closed, or attempted to be closed, by arbitration. Arrangements were made for submitting the matter to arbitration, and the question in dispute was submitted to the Emperor of Russia.

On pages 292 and 294 of the same volume of treaties, we find the award which was made April 28, 1822. The reasons for the delay it is not necessary to give.

The Emperor is of opinion—

"That the United States of America are entitled to a just indemnification from Great Britain, for all private property carried away by the British forces; and as the question regards slaves more especially, for all such slaves as were

carried away by the British forces, from the places and territories of which the restitution was stipulated by the treaty, in quitting the said places and territories.

"That the United States are entitled to consider as having been so carried away, all such slaves as may have been transported from the above-mentioned territories on board of the British vessels within the waters of the said territories, and who, for this reason, have not been restored.

"But that, if there should be any American slaves who were carried away from territories, of which the first article of the treaty of Ghent has not stipulated the restitution to the United States, the United States are not to claim an indemnification for said slaves.

"The Emperor declares, besides, that he is ready to exercise the office of mediator, which has been conferred on him beforehand by the two States, in the negotiation which must ensue between them in consequence of the award which they have demanded."

The whole question in dispute was decided in favor of the United States, and against the construction given by Great Britain. In order to carry into effect this award, on the 12th of July, 1822, another treaty was entered into between the United States and Great Britain, with a view to close the whole matter upon the basis of the award. After reciting the award, the first section of this last treaty (page 284) provides for the appointment of a board, consisting of two commissioners and two arbitrators, one of each to be chosen by each Power, and for their oath, and the manner of filling vacancies. Article two provides for the manner of assessing by this board of the average value for the slaves claimed to be embraced in the treaty. Article three provides as follows:

"When the average value of slaves shall have been ascertained and fixed, the two commissioners shall constitute a board for the examination of the claims which are to be submitted to them, and they shall notify to the Secretary of State of the United States that they are ready to receive a definite list of the slaves, and other private property, for which the citizens of the United States claim indemnification; it being understood and hereby agreed that the commission shall not take cognizance of, nor receive, and that his Britannic Majesty shall not be required to make compensation for any claims for private property under the first article of the treaty of Ghent, not contained in the said list."

Difficulties still arose in executing the award; and on the 13th of November, 1826, after having been, like many other finalities, many times finally determined, I believe it was really finally closed up, so far as negotiations between the United States and Great Britain were concerned. The final convention is to be found on page 344 of the same volume. The following are articles one and two of this convention:

"ART. I. His Majesty, the King of the United Kingdom of Great Britain and Ireland, agrees to pay, and the United States of America agree to receive, for the use of the persons entitled to indemnification and compensation by virtue of the said decision and convention, the sum of \$1,201,939, current money of the United States, in lieu of, and in full and complete satisfaction for, all sums claimed or estimable from Great Britain, by any person or persons whatsoever, under the said decision and convention.

"ART. II. The object of the said convention being thus fulfilled, that convention is hereby declared to be canceled and annulled, save and except the second article of the same, which has already been carried into execution by the commissioners appointed under the said convention, and save and except so much of the third article of the same as relates to the definitive list of claims, and has already likewise been carried into execution by the said commissioners."

So, we see that this convention was intended to be a substitute for the whole of the treaty of July 12, 1822, except the reservations made in article two, just read. By the express terms of that article, the provisions of the former treaty as to the value of the slaves, and as to the "definitive list" furnished by the Secretary of State, were again affirmed. The definitive list of the property for which Great Britain agreed to pay over to the United States, in trust, some twelve hundred thousand dollars, had been made out and presented by our Secretary of State. This treaty expressly provides that the provisions of the old treaty in relation to this definitive list should continue in full force. It expressly confirms and ratifies them; and I ask again the special attention of the House to the provision so ratified:

"When the average value of slaves shall have been ascertained and fixed, the two commissioners shall constitute a board for the examination of the claims which are to be submitted to them, and they shall notify to the Secretary of State of the United States that they are ready to receive a definite list of the slaves, and other private property, for which the citizens of the United States claim indemnification; it being understood, and hereby agreed, that the commission shall not take cognizance of, nor receive, and that his Britannic Majesty shall not be required to make compensation for, any claims for private property under the first article of the treaty of Ghent, not contained in said list."

The United States, in the legislation which be-

came necessary under the treaty of 1826, passed an act, which is found in volume 4 of the Laws, page 219. That act provides as follows:

"SEC. 2. And be it further enacted, That all records, documents, and other papers, which were in possession of the commissioners constituting the mixed commission under the treaty of Ghent, so far as the same are under the control of the Government of the United States, shall be delivered to the commissioners under this act.

"SEC. 4. And be it further enacted, That the said commissioners shall proceed immediately after their meeting in the city of Washington, with all convenient dispatch, to arrange and docket the several claims, and to consider the evidence which shall have been, or which may be, offered by the respective claimants, allowing such further time for the production of such further evidence as they may require as they shall think reasonable and just; and they shall thereupon proceed to determine the said claims, and to award distribution of the said fund among the several claimants, according to their respective rights.

"SEC. 5. And be it further enacted, That the said commissioners shall be, and they are hereby, authorized and empowered to make all needful rules and regulations not contravening the laws of the land, the provisions of this act, or the provisions of the said treaty and convention, for carrying their said commission into full and complete effect."

It will be at once seen that this act is based entirely upon the treaties, and does not go beyond them. The act provides for commissioners, and that the papers, &c., of the mixed commission shall be delivered up to them; that the new commissioners shall proceed "to arrange and docket the several claims," and that they may make rules not contravening "the provisions of said treaty and convention." From what did they make their docket? From this "definitive list," clearly. The United States had no power to go beyond it by the terms of the treaties, and did not attempt to do so. The commissioners, when they had concluded their action, found that there was a small sum left, which these claimants are after.

Now, Mr. Speaker, I have alluded to these laws and treaties briefly, yet, I think, with sufficient clearness that my points will be understood. In the first place, there is no evidence before the House that those persons, claimed to be slaves, ever escaped. This bill comes before us, and is now upon its passage, without inquiry, and we are to vote upon it, unless the motion I have offered for its reference prevail. We are called upon to vote for it without any inquiry whatever, either in respect to the law or the facts of the case. We have no evidence that any of these claimants has even a shadow of a claim that any one of these slaves ever escaped to the British fleet; but, on the other hand, we may fairly presume that there is no evidence on the subject. The report of the committee of the Senate shows that, as to a large majority of these persons, there could be no specific evidence before them that they had escaped. The Senate committee reports, in general, that they escaped some time during the war; but, from the looseness of their report they could have no clear and definite testimony on the subject.

Most of the gentlemen here are lawyers; and I ask them what must be the character of the evidence that warrants only such loose and indefinite conclusions? If these persons escaped to the British fleet the claimants are able to show it—to show the time when they escaped, and the circumstances under which they escaped. In regard to one of the claims, the circumstances are given; but in regard to the large mass of them, no circumstances whatever are given; but merely those loose declarations, that the slaves escaped "some time during the war of 1812." We have no evidence on the subject; and without any substantial fact on which we can found an opinion, we are asked to guess at facts, and to vote upon this bill without any evidence whatever.

Again, we have no evidence that they were carried away after the signing of the treaty; and I call the attention of the House specifically to the award of the Emperor of Russia, as well as to the language of the treaty. Unless these persons were carried away from the United States by the British forces, while they were lying in the waters of the United States, after the formation of the treaty, it is not pretended or claimed by any person that there is any claim whatever on the United States for payment for those slaves.

Here is a trust fund. Great Britain, in pursuance of her obligations as interpreted by Russia, has paid over to us a fund in trust for a specific purpose to pay for persons who escaped to their fleet, and were carried away at a specific time, and

at no other time, and who had been embraced in a specific list. And now we are called upon to vote for payment for persons who may have been carried away, if at all, as well before the treaty as after. Not only that; but there is evidence on the record, that some of these persons for whom claims are made were carried away before, and not after, the signing of the treaty. I said when I first rose, that this was an old, stale claim. It has often been before our committees, and I find a report made upon part of this claim by the Committee of Claims, August 20, 1822. Mr. Cowen, from the Committee of Claims, made the report; and without investigating any of the questions as to whether these persons were embraced in the definitive list, or as to whether there was evidence of their escape, the claim was rejected on these grounds:

"To bring a case for the detention of a slave by the British within the rule of this article of the treaty, it must be shown that the slave was, at the time of the exchange of the ratifications of the treaty, in some place which, by said treaty, was to be restored to the United States, and then occupied by the British forces. It is not enough to show that property was taken by the British, and by them retained, to establish a right to payment out of this fund. The property must have been in the possession of the enemy, in a place within the United States, at the time of the exchange of the ratification of the treaty.

"The proof in this case shows that the slave in question went off with the British army in August, 1814, and that it has not been returned; but it is not shown where the slave was after that period. This fund belongs to a particular description of claimants. It is not in the option of Congress to divert it to other uses than those for which it was received. A sufferer whose loss is in one particular, but not in others, within the provisions of this article, has no more claim to compensation than any other person who suffered by the wrongful acts of the British forces during the last war with Great Britain. Without stopping to inquire whether the commission for adjudicating claims arising under this treaty has or has not expired, the committee recommend the adoption of the following resolution:

"Resolved, That the petitioner is not entitled to relief."

Then, so far as this House possesses any basis for action, we must vote down this claim. We have the express finding of the Committee of Claims, that, as to a portion of these persons, they were not embraced in the treaty, because there is no evidence that they were taken away after the conclusion of the treaty. The bill itself undertakes to recite some facts, but omits this material one. The Senate report entirely ignores it; and no man can furnish any evidence that can bring the claims, in this respect, within the treaty. Look to the Russian award: it is clear and explicit on this point, and there is not a shadow of a claim for anything not carried away after the treaty—"in quitting the places," &c.

Again, as you will recollect by referring to the treaties with Great Britain on this subject which I have read, it was expressly provided in these two separate treaties, and ratified by the United States in the act of 1827, that the appropriation of this money should be confined to the persons who were embraced in a "definitive list." There were two commissioners and two arbitrators on behalf of Great Britain and the United States. They fixed the value of the losses, and the commissioners were to adjudicate the claims. A definitive list of the "slaves and other property" was made out, and furnished to them by the Secretary of State. The claims embraced in that list, and none others, were to be adjudicated by those commissioners, and they undertook to pass upon them; but finding difficulties in the way, Great Britain, rather than have anything further to do in the matter, concluded to pay a gross sum; but only on express condition that the money thus paid should be held in trust by the United States for the persons embraced in that list. By two separate treaties the faith of the United States was bound to appropriate the money to those who were embraced in that list, and to none others whatever. By the very terms of the treaty, all that were not embraced in the list are expressly excluded from all participation in the benefits of the fund. The gentleman from Louisiana, [Mr. TAYLOR,] who reported a bill the other day, and who carried it through the House, understood the full force of the treaty, and ascertained, before he presumed to report the bill to the House, that the property to be paid for out of that same fund was embraced in that list, and also that it was carried away subsequently to the ratification of the treaty. And now we are called upon to misappropriate a fund, to act in bad faith, to act in violation of the treaties, and to appropriate the money to persons who have no claim whatever to it; merely because

the property claimed to have been carried away consisted of slaves.

Mr. Speaker, when the gentleman from Louisiana, to whom I have referred, reported from the Committee of Claims a claim for a vessel that was carried away, he and his committee thought it necessary to require proof that that vessel was one coming within the terms of the treaty. He found it necessary to show, in his report, that the vessel was carried away subsequently to the ratification of the treaty; also, that it was embraced in the list, or this House would not have entertained the claim for a moment. He did show it, and the bill passed this House, and will, doubtless, pass the Senate. It came fairly within the treaty, and was a just claim. And I will remark here, that those who are pressing this claim will get but little unless they can get this dishonest claim in ahead of that honest one. If we pass this bill now, such will be the effect of our action, for the bill for the paying the just claim for the vessel, has not yet, I believe, passed the Senate; and if we drive this through here to-day, we shall defraud the honest claimant, and for the benefit of those who have no claim at all.

Now, sir, suppose you do appropriate this fund in the manner proposed, and prove false to your treaty obligations to Great Britain: what will be your position as trustee? I do not know the amount or the value of the property still remaining on the list unpaid for. I know that there are claims for eight or ten thousand dollars on the list, for other than slaves, which claims may be honest, for aught I know. We have passed upon one this session that was good. Others will doubtless be presented, coming within the treaty, and far more than enough to swallow up the pittance there is said to be left. Now, if we give away this money, in violation of the trust, in violation of our treaty obligations, to those who are not entitled to it, when these honest claimants come forward with their claims, how will those who are now pressing these claims meet them? Having squandered the money, will they deny it to its rightful owners? Will they tell them "we have paid over the money which Great Britain placed into our hands for your use, for certain negro slaves, not embraced in the list, because slave property is so much higher and holier than all other property; that the owners of the lost slaves had a better claim than you, notwithstanding that you were on the list and that your claim was provided for, when theirs was not?" If we thus misappropriate this fund, and violate our obligations as trustee, shall we not be bound to provide for these honest claims, not by an appropriation of the money paid by Great Britain, under the provisions of the treaty for the specific purpose, but by a direct appropriation out of the Treasury of the United States? I know not whether gentlemen intend to initiate the policy in the United States of paying for all the slaves who run away. I do not believe that we have yet quite come to that, that slave property is so much more sacred, and so far above all other property, that it is entitled to be paid for when lost in preference to all other property. We have never yet voted to sanction such a principle as that. The former practice was not to treat slaves as property, not to pay for them when taken for public use, but to regard them as persons only. During this session, it is true, we, or some of us, have voted, in endeavoring to enforce the Lecompton constitution, that slaves are property, like other property, yet that was a great innovation. But none of us have heretofore sought to place it above other property, to make it so sacred that the United States should be compelled to pay for it under circumstances when they would not be called upon to pay for anything which is property, by the common law and the consent of Christendom. And yet, this bill does all that. We cannot use a trust fund other than for the *cestui que trust*. If we give the money to others, it is a mere gift, and we are still holden to the beneficiary. So if we pay for the slaves, we pay for them because they were slaves. Our houses burned, our cattle, our goods, our ships that were taken by the enemy, are wholly lost to us, unless embraced in the letter of the treaty. This, then, is a bill to offer a bounty to the ownership of slaves, and it is nothing less.

As I said before, Mr. Speaker, I do not now propose to go into the inquiry as to whether we ought to pay for slaves, even if they were embraced in

the treaty. I am relieved from that inquiry. It is now a simple question, as I understand the facts in the case, whether we shall violate our treaty obligations—whether we shall pay these persons who are excluded from the provisions of the treaty. It is a simple question whether we shall pay this old, rotten, stale claim, because it is a claim for slaves, and not because it has merits, and that is all the question there is in it. We are called upon to vote it through without the usual reference, and without knowing anything about it, except what we learn from the records of the country, and are able to find independent of the investigation of a committee.

I stated at the outset, Mr. Speaker, that before I took my seat I should move to refer the bill to the Committee on the Judiciary. I prefer to give it that reference, because the inquiry embraces grave matters of law. It is simply a question of law. I understand that there is no dispute about any question of fact. I understand that it is not disputed that these claimants are excluded by the terms of the treaty. It is not claimed that they are on the "definitive list," or that the slaves were taken away by the British forces after the consummation of the treaty. All that the claimants expect to prove is, that the slaves escaped to the British forces, and were probably taken away by them at some time or other; and we are not permitted even to know that. We do not know whether they died before the British fleet left, or were sent off when they first escaped; or, indeed, whether they escaped at all. A portion of the claims embraced in this bill have before been before the Committee of Claims and been rejected; and inasmuch as it involves the construction of treaties, I now move that it be referred to the Committee on the Judiciary, with the instructions which I send to the Clerk's desk.

The Clerk read the instructions, as follows:

That said committee inquire, and when they make their report, they report—

1. Whether the treaty with Great Britain of February 12, 1822, for carrying into effect the Russian award for payment for slaves that had been carried away by the British fleet, did not expressly define the compensation to be for those contained in a "definitive list" to be furnished by the Secretary of State, and whether the finding of the commissioners in said treaty provided, was not to be "final and conclusive" as to the number, as well as value and ownership of the slaves alleged to have so absconded.
2. Whether the convention of November 13, 1826, held to obviate the difficulties growing out of the said treaty of 1822, in providing for the payment by Great Britain of \$1,204,960, as full compensation, did not expressly provide, that said sum should be received by the United States for the use of the persons entitled to it by virtue of the award and said treaty, and did not also expressly keep in force so much of said treaty as confines the compensation to those embraced in the definitive list of losses which had already been furnished.
3. Whether the act of March 2, 1827, for carrying into effect this last convention, did not also recognize the obligations of the "provisions of said convention," and especially as pertaining to said "definitive list," adding only such claims as were duly filed with the Secretary of State, and by him "by mistake omitted to be placed on the definitive list," as was his duty to do under the treaty.
4. Whether any one of the slaves named in this bill was contained in said "definitive list," or so added by the Secretary of State, and if not, whether, in the opinion of said committee the payment for these slaves was provided for by said treaty or convention of 1822, by said convention of 1826, or said act of 1827, for carrying it into effect.
5. Whether any part, and what amount, of said sum so paid by Great Britain is still held for the use of those whose slaves were embraced in said definitive list, and who are entitled to it by said treaty; also that they report, as near as can be ascertained, the whole expenses incurred by the United States in prosecuting said claim for absconding slaves so carried away in British vessels, and not paid for out of said sum paid by Great Britain, including all the expenses of negotiating the treaties or conventions concerning the same, and procuring the award, and of the commissions provided for in said treaty and act.
6. Whether there is any satisfactory evidence that the slaves mentioned in said bill, and especially the ten of the thirteen who are represented in the Senate report as having escaped some time during the war of 1812, (the time being apparently unknown,) ever escaped at all to the British fleet, or were seized by the British forces; and if they so escaped, or were taken, whether there is any satisfactory evidence that they were at any time carried away by said fleet; and if so, whether after the treaty of peace, and "in quitting the places and territories of which the treaty of Ghent stipulates the restitution to the United States," and not before.
7. Whether all the claims in said definitive list have been paid and adjusted; whether there are not now being prosecuted against the United States claims for property taken away by the British fleet, contrary to the treaty of Ghent, as interpreted by the Emperor of Russia, which claims are embraced in the list furnished under the treaty of July 13, 1822, and the payment of which is provided for in the convention of November 13, 1826; and whether the appropriation of the said fund to this claim would not be in fraud of said claimants, whose claims are so provided for.

Before the reading was concluded, Mr. BLISS withdrew a portion of the manuscript, and stated that it had been sent up by mistake.

Mr. GARNETT. The cat is out now. The instructions had as well all be read.

The SPEAKER. The gentleman from Ohio states that the portion which has not been read was not designed as a part of the instructions.

Mr. GARNETT. I suppose the gentleman has not the right to withdraw any of the instructions which have been read.

The SPEAKER. The gentleman from Ohio has entire control over the instructions he has offered, and has the right to withdraw them or modify them as he may choose.

Mr. BLISS. If the gentleman wishes to hear them all read, I have no objection whatever.

Mr. CLEMENS. Will it be competent for me to call for a division of the question, so that it shall first be taken upon the motion to refer, and then upon the instructions?

The SPEAKER. A motion to refer with instructions cannot be divided. The gentleman can only accomplish his object by moving to strike out the instructions.

Mr. GARNETT. I shall try to be very brief in what I have to say. I feel bound by my duty to my constituents, some of whom are interested in this bill, to reply to the attack which has just been made by the gentleman from Ohio, [Mr. Bliss.]

This is not the first time this bill has come before Congress; it has been before committees of the different Houses on several occasions, and has invariably been reported on favorably. At the last session of Congress it was reported by the Committee on Foreign Affairs, and I heard of no minority report. It took its place upon the Calendar, but was not reached during the session.

Now it comes from the Senate. It was there reported by the Committee on Foreign Affairs, adopted by a large majority of the Senate, and sent to this House. I call the attention of the gentleman from Ohio to the mistake he has fallen into as to its present condition. After it came from the Senate, and the House had reached it in order on the Speaker's table, the elder gentleman from Ohio [Mr. GIDDINGS] interrupted the usual reference, and proposed to debate it. While he held the floor the House adjourned; and the rules then placed it at the bottom of the business on the Speaker's table. The gentleman from Ohio [Mr. Bliss] stated that it was an engrossed bill on its passage; but he was in error. It is not on its passage, and has never been engrossed at all, as it is a Senate bill. If I am wrong in these facts, the Chair will correct me.

Before the motion made by the gentleman from Ohio, and his speech upon it, I was willing that the bill should take the usual course, and be referred to the Committee on Foreign Affairs. But after the gentleman's speech and motion, I shall ask that it may be put upon its passage.

Mr. BLISS. I ask if the bill does not stand upon its passage?

Mr. GARNETT. No, sir.

Mr. BLISS. I understood that the bill was on its passage when I moved to commit it to the Committee on the Judiciary with instructions.

Mr. GARNETT. The gentleman is mistaken in the position the bill occupies before the House, as he is in everything else. If it had not been for that species of madness which seems to afflict the gentleman, as well as the elder gentleman from Ohio, [Mr. GIDDINGS], whenever the subject of slavery is involved, just as the approach of water does a mad dog, he would have ascertained what were the facts of the case, as well as the position of the bill in the House, before he attempted to make a speech upon it.

Now, sir, I proceed to discuss these facts. What are they? The bill purports to be a dividend out of the trust fund paid by Great Britain into the Treasury of the United States, for slaves carried away by the naval forces of Great Britain during the last war. That is what the bill purports to be. The Senate committee, in a report which I now have before me, stated that the claims were in every case established by the evidence before the committee; that the slaves had been carried away by the British during the war; that they were the property of the claimants; and the values were fixed by arbitration under the treaty with Eng-

land. I understand that none of these facts were disputed, and if the gentleman will refer to the debates of the Senate, when this bill came before it, he will find that his friends on the Opposition side of the Senate did not dispute them. He will find that the distinguished Senator from New York [Mr. SEWARD] was on the Committee on Foreign Affairs, and that he did not dispute that the slaves in question were the property of the claimants, and were carried away by the British fleet in the last war.

Mr. BLISS. Did I understand the gentleman as saying that the value of these slaves was fixed before those commissioners?

Mr. GARNETT. The slaves were valued at a certain rate, *per capita*, the rate fixed by the Emperor of Russia, who was the arbitrator under the treaty. The rate was a very moderate one.

A MEMBER. What was it?

Mr. GARNETT. Two hundred and eighty dollars per head; something ridiculously low. Slaves were high at that time.

On what ground can this be objected to? It is proven that they were carried away by the British fleets. England paid for them; why should not the payment go to the owners? Under the treaty Great Britain agreed to make us restitution for slaves and other property taken away in the last war. "Slaves and other private property" are the words of the treaty. The question arose between Great Britain and the United States as to how many slaves were included. Did it include only those who were in American places and territory occupied by Great Britain and restored at the close of the war, or did it include other slaves who ran away to the British, and were carried off from other parts of our country? This question was referred to the Emperor of Russia by the convention of 1818, and he decided that it included all slaves that the British carried off, whether they were in the forts and places restored at the close of the war, or whether they were runaways who took refuge with the British. Under this decision of the Emperor of Russia, Great Britain and the United States entered into a new convention, by which a commission was created to adjudicate the claims, and Great Britain bound herself to abide by the awards of these commissioners, and to pay whatever they should find due according to the construction of the treaty of Ghent, fixed by the Emperor of Russia. The proceedings of this joint board of commissioners were protracted. Finally by way of compromise, Great Britain and the United States entered into a convention, in 1826, which the gentleman has referred to, by which Great Britain agreed to pay a certain gross sum (\$1,204,960) to the United States, in lieu of and in full satisfaction of all outstanding claims. The words are these, and I beg the attention of gentlemen to them, because they involve one of the points to which the gentleman referred:

"ART. I. His Majesty, the King of the United Kingdom of Great Britain and Ireland, agrees to pay, and the United States of America agrees to receive, for the use of the persons entitled to indemnification and compensation by virtue of the said decision and convention, the sum of \$1,204,960, current money of the United States, in lieu of, and in full and complete satisfaction for, all sums claimed or claimable from Great Britain, by any person or persons whatsoever, under the said decision and convention."

The gentleman from Ohio objects at this point that in the original negotiation, and under the original convention, certain lists of slaves had been presented to the British Government, showing the extent of the American claim for indemnity. If the gentleman will refer to the correspondence between Mr. Adams and the British authorities he will find that while Mr. Adams presented certain lists, he always said they were not complete, and the convention itself went on the presumption that there were other claims not presented in former lists, which might yet be presented and proved before the board.

But the gentleman says that you have agreed with Great Britain that she is to be called on to pay only for the slaves in the list presented to her during the negotiation; and that if you pay for those who were not named in that list, you will violate the trust, and expose Great Britain to still further claims.

Mr. BLISS. That is not my argument. The gentleman has stated that the American Minister, or Secretary of State, said that there were other persons who had lost slaves who were not embraced in that list. I say that in view of that fact,

it was covenanted and agreed between the United States and Great Britain that the persons embraced in the list, and none others, should be paid. That was agreed to in two treaties; and now I say, not that Great Britain is liable to be called upon for that, but, that if we abuse the trust and misapply the money to pay for persons not embraced in the list, we will be called on hereafter to pay for the balance of the property which was embraced in the list. I suppose the gentleman does not claim that these were in the list at all.

Mr. GARNETT. I have shown, according to the convention of 1826, that the United States abandoned all claims against Great Britain whatever, arising under that treaty, on consideration of receiving a certain gross sum of one million two hundred and four thousand and odd dollars. The settlement, therefore, is complete between the United States and Great Britain; and the United States alone are concerned with the claimants themselves. The treaty said that the distribution of the sum paid by Great Britain to the United States should be made in such manner "as the United States alone shall determine." Thereby Great Britain entirely set aside all definitive lists which may have been before supplied to her. She paid the United States a gross sum in satisfaction of all damages and all claims, and declared that the United States should alone determine in what manner the final adjustment of these claims should be made, and how the money should be distributed.

Mr. BLISS. By reading the next article of the treaty the gentleman will see that it reaffirms what I claim in reference to those lists.

Mr. GARNETT. The next article simply hands over to the United States all documents and papers—

Mr. BLISS. What treaty is the gentleman reading from?

Mr. GARNETT. The treaty of 1826.

Mr. BLISS. I mean that the second article of that treaty reaffirms all that I claim.

Mr. GARNETT. I will read it to the House:

"The object of the said convention being thus fulfilled, that convention is hereby declared to be canceled and annulled, save and except the second article of the same, which has already been carried into execution by the commissioners appointed under the said convention; and save and except so much of the third article of the same as relates to the definitive list of claims, and has already likewise been carried into execution by said commissioners."

That third article is as follows:

"When the average value of slaves shall have been ascertained and fixed, the two commissioners shall constitute a board for the examination of the claims which are to be submitted to them; and they shall notify to the Secretary of State of the United States that they are ready to receive a definitive list of the slaves and other private property for which the citizens of the United States claim indemnification; it being understood, and hereby agreed, that the commission shall not take cognizance of nor receive, and that his Britannic Majesty shall not be required to make compensation for any claims for private property under the first article of the treaty of Ghent, not contained in the said list. And his Britannic Majesty hereby engages to cause to be produced before the commission, as material towards ascertaining facts, all the evidence of which his Majesty's Government may be in possession, by returns from his Majesty's officers, or otherwise, the number of slaves carried away. But the evidence so produced, or its defectiveness, shall not go in bar of any claim or claims which shall be otherwise satisfactorily authenticated."

The last words of this very article clearly admit other evidence of claims besides the definitive list so often referred to; and the saving of this third article in the annulling clause of the convention of 1826 is only of "so much as relates to the definitive list of claims, and has already been carried into execution by the said commissioners;" that is to say, of the awards already made and executed. Consistently with this meaning, the fourth article provides:

"The above sums being taken as a full and final liquidation of all claims whatsoever arising under the said decision and convention, both the final adjustment of those claims, and the distribution of the sums so paid by Great Britain to the United States, shall be made in such manner as the United States alone shall determine; and the Government of Great Britain shall have no further concern or liability therein."

Therefore I say that the definitive list of claims formerly presented to Great Britain had no further application to the question; for its object was to limit the inquiry before the joint commission and to protect Great Britain against new claims.

Mr. BLISS. The gentleman says that the last treaty entirely abrogated the definitive list. How can a treaty abrogate a list when in express terms it affirms it?

Mr. GARNETT. The treaty affirms no such thing, except as to the claims in the definitive list already awarded, which award of course it affirms.

Mr. BLISS. That is a matter of construction.

Mr. GARNETT. Look at the object of the treaty, and at the object of the definitive list. Here were claims to an indefinite amount against Great Britain. The Emperor of Russia had decided that she was bound to pay for the slaves carried away, and then the question arose how many slaves were carried away, and from whom? That was a question of fact; a joint commission was established to settle it; and Great Britain of course desired to narrow the range of inquiry, and confine us, as nearly as possible, to the definitive list. But it should be noticed it was not the list presented in the previous negotiations, as the gentleman would have us suppose; it was such definitive list as might be presented to the commissioners after the board was organized. It was merely fixing a limit to the period within which the creditors must appear and present their claims. But when the convention of 1826 gave to Great Britain a receipt in full for a certain gross sum, and provided that no further claims whatever should be brought against her, she had no further interest in any stipulations of this sort. It was immaterial to her how many might be the claimants, or how long should be allowed them to prove their claims. It was, as the treaty says, for the United States, and the United States alone, to say who should be paid, and when and how, and how much. It was a matter of no sort of concern to Great Britain whether we paid one claim or a thousand claims, or whether we paid none at all.

Mr. BLISS. The gentleman says that Great Britain has no interest whatever in the disbursement of this fund. He admits that Great Britain paid a certain sum of money to be paid to those embraced in a certain list. I wish him to show to the House how a nation or an individual that provides a fund, and puts it in the hands of trustees, can have no interest whatever in the disposition of that fund?

Mr. GARNETT. If the gentleman cannot understand that, I am afraid it is impossible for me to instruct him. When the gentleman gives me his receipt in full for certain claims which he has on the part of his clients against me, and when I tell him at the same time, and with the knowledge of his clients, for whom he has full powers to act, that in consideration of that receipt in full he may distribute the money amongst his clients as he thinks proper, I have no further interest in what takes place between him and his clients.

Mr. BLISS. The gentleman's case is no parallel—

Mr. GARNETT. If the gentleman rises to a question of fact, I am perfectly willing that he should interrupt me, but not for an argument.

Mr. BLISS. Perhaps it is an argument, and I am not willing to interrupt the gentleman.

Mr. GARNETT. Say it.

Mr. BLISS. It is simply this: that in the case put, the gentleman supposes that Great Britain paid the money over to us, leaving us at liberty to pay it to whom we pleased; while the fact is, that in paying the money over to us she has limited us expressly; and now we are asked to trample down that limitation.

Mr. GARNETT. That is a question of construction between us. I have read the treaty, in which it is stipulated that the money shall be disbursed in such a manner as the United States shall determine; and the United States subsequently, by act of Congress, did determine how this money should be disbursed. The act of March 2, 1827, established a board of commissioners to hear and adjudicate these claims. It did not confine the commissioners to any definitive list, but to hear and adjudicate claims for slaves, and declared that—

"The said commissioners proceed immediately after their meeting in the city of Washington, with all convenient dispatch, to arrange and docket the several claims, and to consider the evidence which shall have been, or which may be, offered by the respective claimants, allowing such further time for the production of such further evidence as they may require, as they shall think reasonable and just; and they shall thereupon proceed to determine the said claims, and to award distribution of the said fund among the several claimants, according to their respective rights."

Mr. BLISS. If the gentleman will pardon me I desire to call his attention to one section of that

statute—the twelfth section—to which I intended to refer when I was on the floor, and which is as follows:

"That all claims which were deposited in the Department of State, and by mistake omitted to be placed on the definitive list delivered to the former commissioners, shall be, and are hereby, required to be added thereto; and the said claimants shall be entitled to the same rights and benefits as if such claims had been placed on the said definitive list, in terms of the third article of the convention concluded at St. Petersburg, on the 12th day of July, 1822."

Showing that none were to be docketed but such as were on the list, and such as were by mistake omitted to be put on the list.

Mr. GARNETT. I am happy that the gentleman has called my attention to that particular section, because it gives the last blow needed to demolish his own argument. He said that we were bound, in good faith to Great Britain, to admit no claim not contained in that definitive list. I answered by showing that the treaty annulled any stipulation between us and Great Britain as to the definitive list, and that the United States alone were to determine upon and adjudicate the claims presented. He tells me I construe the treaty wrongly; and he refers to a cotemporary statute, which statute expressly declares that claims shall be admitted which were not on the definitive list, and of which Great Britain had no notice.

Mr. BLISS. The gentleman will remember that this definitive list was to be furnished by the Secretary of State out of the files of claims in his office; and the gentleman will recollect that, in making out that list, certain claims which were at the time on file were, by the fault of our own Secretary of State, omitted.

Mr. GARNETT. Well, is the gentleman's friend, Great Britain, to suffer for the fault of our Secretary of State? The gentleman has represented that our obligations of good faith to Great Britain required that we should pay nothing but what is on the definitive list; and yet after that he tells us that there are other claims on file in the office of the Secretary of State, which were not put on the list; that it was the fault of the Secretary of State that they were not put there; and that, therefore, the claimants ought not to suffer. I grant that, but it destroys his argument that the definitive list was a matter of good faith between us and Great Britain. Surely Great Britain is not to suffer for the laches of our Secretary of State? Surely, if we are bound in good faith to adhere to the definitive list and not to go beyond it, the gentleman has no right to turn round and say that we will admit other claims because our Secretary of State overlooked them, and neglected to put them on the definitive list? Sir, this whole matter rests upon plain provisions of common sense and honesty. Great Britain agreed to pay us a certain sum if we would release her from all these claims and settle them amongst our own citizens. We accepted her offer of \$1,204,000, and undertook to settle the claims of our own citizens. When we did that we opened the door. We said: let all who have claims come forward and prove them by just and fair evidence; if the claims are honest and just we will pay them as far as the money goes, and no further. That was the position we took; and what has been the result? The result has been that part of the money still remains in your Treasury. The result has been that \$4,112 89 of that trust money remains in our hands, and we are using it; we are enjoying it. Now, Great Britain took these slaves away, and the claimants in this bill suffered from the loss of them. That money is the price of those slaves, paid by Great Britain into your Treasury as the trustee, and you have no more right to it than you have to the money that stands to the account of any member of the House in the Sergeant-at-Arms' office.

Mr. BLISS. If the gentleman will pardon me, I desire to correct him as to a matter of fact. We have just paid \$2,000 of that \$4,000 for a ship that was on the definitive list.

Mr. GARNETT. The gentleman has been mistaken about so many facts that I prefer to take the report of the Senate committee as evidence, rather than his statement. But this bill does not propose to pay anything except out of the \$4,000. It does not charge the Treasury at all. It acknowledges these claims, and undertakes to pay them out of the trust fund. If there is not a cent of that fund left, then the claimants will not get a cent. If there are only ten dollars left they will get but ten dollars. If there is \$4,000 left, they

will be paid to that extent, and to that only. The claims amount to \$3,750, which is less than the amount of the trust fund remaining in the Treasury on the 5th of January last. If, as the gentleman says, the whole fund is gone in the payment of claims, why, then, this bill does no harm, because, under this bill, the claims are not to be paid except out of the trust fund. I repeat, it does not propose to pay them out of the general Treasury.

Now, what further objections are made to these claims? It is said that they were not presented to the board of commissioners. But here is evidence to show you that the claims are just; that the slaves were carried off by the British, and that they were the property of the claimants. Here is evidence also to show why the claimants did not apply sooner.

Mr. GIDDINGS. I desire to ask the gentleman from Virginia if these claimants, supposing the fund to be exhausted, could not come next year and ask us to pay them out of the Treasury?

Mr. GARNETT. That will be a question for the gentleman to settle with his own conscience. I believe he votes for the French spoliation bill. It is a question for him to settle between his conscience and the claimants. But as you have the trust money in the Treasury, paid into it for their benefit and not for yours, you should pay them their own money, and nothing more. That is all they ask of you, and it is sufficient to argue one question at a time. It is proved that the property of these claimants was carried off by the British in the late war. This is not disputed. It has been valued in the mode prescribed in the treaty. They come forward now and ask you to pay them out of the money received into your Treasury for that purpose and that alone, and you cannot set up any subterfuge, any legal technicalities, against these honest claims. You cannot deny them, unless you take the ground which, I believe, the elder gentleman from Ohio [Mr. Giddings] does take, that you will not pay out any money from the Treasury, even as trustees, no matter how it came there, if the claim is for slaves. If the gentleman was trustee under a will or deed, and, in the execution of the trust, money from slaves came into his hands, and the parties entitled to the slaves came forward to claim it and demand payment, would the gentleman settle the trust and pay the money, or would he keep it in his pocket for his own use? I should like to know what would be his course in such an event?

Mr. GIDDINGS. I will only say that if they were Democrats, I would pay them the full value.

Mr. GARNETT. Very well; here are Democrats. One, at least, of these claimants, is the Democratic Governor of Virginia.

Mr. GIDDINGS. Well, I would pay him his full value.

Mr. GARNETT. I really do not understand the gentleman's answer. I should like a definite answer.

Mr. GIDDINGS. The member from Virginia, in the commencement of his remarks, spoke of hydrophobia manifested by my junior colleague, [Mr. Bliss,] and myself, and other mad dogs. I intended to answer the gentleman in some degree commensurate with that unkind, ungentelemanly, and cowardly remark.

Mr. GARNETT. Sir, I feel that a man who has distinguished himself throughout his whole life by the blackness of his heart and the violence of his sentiments—[loud cries of "Order!"]—a man who has been guilty of treason against his country and against his God—[Renewed cries of "Order!"]

The SPEAKER. The gentleman must not indulge in personalities.

A MEMBER. The personalities commenced on the other side.

The SPEAKER. The gentleman from Ohio made a personal reflection which was not in order.

Mr. GIDDINGS. I withdraw it, sir.

Mr. GARNETT. Sir, the member from Ohio occupies a position, by his age and his infirmities—

The SPEAKER. The gentleman from Ohio rose in his place and withdrew the offensive remark.

Mr. GIDDINGS. I withdrew the remark, not with any reference to the member from Virginia, but because I believed the House understood that

I appreciated the member, and I had no wish to insult the House.

Mr. GARNETT. Sir, I have nothing to retract.

Mr. GIDDINGS. Neither have I, sir.

Mr. GARNETT. The member from Ohio is sheltered by his physical condition, and he has long since placed himself beyond the notice of gentlemen. I was saying, that as I understood the position of the elder member from Ohio, if he were a trustee, and held money derived from the sale of slaves, he would not pay that money to the *cestui que trust*, but would keep it for his own purposes. This money was paid into your Treasury as a trust fund, to indemnify the owners for the loss of slaves taken by the British Government—paid to satisfy these very claims. The justice of these claims was acknowledged by the great apostle of abolitionism, John Quincy Adams himself. In his letter written to Mr. Monroe on the subject, he says:

"Our object was the restoration of all property, including slaves, which, by the usages of war among civilized nations, ought not to have been taken. All private property on shore was of that description. It was entitled, by the laws of nations, to exemption from capture. Slaves were private property. Lord Liverpool said that he thought they could not be considered precisely under the general denomination of private property: a table or chair, for instance, might be taken and restored without changing its position; but a living and human being was entitled to other considerations. I replied that the treaty had marked no such distinction; the words implicitly recognized slaves as private property in the article alluded to—'slaves or other private property.'"

That is the doctrine of John Quincy Adams. And when, in your negotiations with a foreign Government, on arguments like this, you have received into your Treasury large sums of money as a trust fund, it is for the House to say whether they can honestly or honorably refuse to execute the trust, and pay over the fund to its owners, on the ground that slaves cannot be held as property. Such a position is perfectly consistent for the gentleman from Ohio. He withdrew a part of the instructions he moved to the Committee on the Judiciary, but enough was read to indicate the true motive of his opposition to the bill—that he opposed it because it provided indemnity for slaves. I read the suppressed parts while they were on the Clerk's desk, and found that he puts us upon a par with heathen and pagan nations, and tells us that it is a disgrace to a civilized age that we should pay any claims arising out of the loss of slaves.

Let gentlemen on all sides of the House see where this doctrine will lead us. This is no question of power between the different sections of the Union. It is not a question whether you will suffer slavery to exist in the Territories, or whether you will admit another slave State. It is simply whether slave property—already here, already within one of the States—property recognized as such by the Constitution, and recognized as such by all men in every section of the Union, except a few of the most fanatical Abolitionists—is entitled to protection against foreign enemies and the perils of war? When you go to war with Great Britain, or any other foreign Power, will you place the property of the southern States at the mercy of the enemy, without protection, or will you extend to it the same protection which is afforded to the property of others against the foreign Power? That is the question. The President and Cabinet in 1814 recognized the principle. Mr. Monroe recognized it. John Quincy Adams, the then Secretary of State, acknowledged it when he argued that slaves carried away by the British forces during the war should be placed upon the same footing with other property. The Emperor of Russia, as arbiter, acknowledged the justice of the claim, and Great Britain confessed it by paying the money into the Treasury, to be distributed amongst the claimants, as this Government might think proper. That fund has not yet been exhausted. And now all that these claimants ask is that you will pay them this money, which is not yours, but which is theirs.

I believe the ordinary course would be for this bill to go to the Committee on Foreign Affairs, and I should have no objection to that reference now but for the position which this question has assumed. But, sir, I want to see how many men in this House will vote to refuse the protection of the Government to the southern States in time of war; whether, while the property of other portions of the Union is protected with the whole

power of the Government, that of the southern States is to be left to the mercy of every foreign foe. Let us know how many men in this House will assume that position; and to test the question, I wish to put the bill on its passage. I call the previous question, and demand the yeas and nays.

Mr. SHERMAN, of Ohio. I rise to a question of order. I submit that as the bill makes an appropriation, under the 130th rule it must be first considered in the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Maine. I rose to the same point of order before the gentleman from Ohio [Mr. Bliss] commenced his speech.

The SPEAKER. The Chair is of opinion that inasmuch as the bill makes an appropriation, if objection be made, it must go to the Committee of the Whole on the state of the Union.

Mr. GARNETT. I submit that the nature of the appropriation made by the bill is such as to take it out of the general rule. It is really only a designation of the distribution of a particular fund already distributed.

The SPEAKER. The phraseology of the bill is such, in the opinion of the Chair, as very clearly to bring it within the rule. It is "that the Secretary of the Treasury be, and he is hereby, directed to pay out of the fund heretofore received from Great Britain under the first article of the treaty of Ghent, &c., which is hereby appropriated for that purpose."

Mr. BLISS. I rise to a question of order. Do I understand the Speaker to decide that this bill must go to the Committee of the Whole on the state of the Union, before it has been referred to one of the standing committees of the House?

The SPEAKER. The Chair makes no such decision.

Mr. WASHBURN, of Maine. Suppose the motion to commit should be voted down, and the previous question should not be sustained: in what position would the bill then be left?

The SPEAKER. On the Speaker's table, in the opinion of the Chair?

Mr. SHERMAN, of Ohio. I would suggest to the gentleman from Ohio that he withdraw his instructions, and allow the bill simply to go to the Committee on the Judiciary.

Mr. BLISS. I would, cheerfully, but I have taken some pains to refer to all the statutes and treaties relating to the subject, and I think the references would be of service to the committee in facilitating their investigations.

Mr. GARNETT. I call the previous question on the passage of the bill.

The SPEAKER. The Chair is of opinion that the resolution cannot be put on its passage. Inasmuch as it makes an appropriation, the Chair is of opinion that it must be first considered in Committee of the Whole.

Mr. SMITH, of Virginia. But it is not to be paid out of the funds in the Treasury.

The SPEAKER. The terms of the resolution expressly make an appropriation.

Mr. GARNETT. I move, then, that it be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman must first withdraw his motion for the previous question.

Mr. GARNETT. Very well; I withdraw the demand for the previous question, and move to refer the bill to the Committee of the Whole on the state of the Union; and upon that motion I demand the previous question.

Mr. STANTON. I desire to occupy five minutes upon that motion.

The SPEAKER. Debate is not in order pending the demand for the previous question.

Mr. BLISS. Must not the vote be first taken upon my motion?

The SPEAKER. The gentleman will find, by reference to the rules, that the vote must be first taken on the motion to refer to the Committee of the Whole on the state of the Union.

Mr. GARNETT. I modify my motion so as to refer it to a Committee of the Whole House on the Private Calendar.

The previous question was seconded, and the main question ordered to be put.

The bill was then referred to a Committee of the Whole House and ordered to be placed on the Private Calendar.

LIABILITY OF SHIP-OWNERS.

A bill (H. R. No. 32) to amend an act entitled "An act to limit the liability of ship-owners, and for other purposes," approved March 3, 1851, was next taken from the Speaker's table; the question being on its engrossment and third reading.

Mr. LETCHER. Let us see what the section is that it is proposed to repeal.

Mr. JOHN COCHRANE. The seventh section is as follows:

"Any person or persons shipping oil of vitriol, unslacked lime, inflammable matches, or gunpowder in a ship or vessel taking cargo for divers persons on freight, without delivering at the time of shipment a note in writing expressing the nature and character of such merchandise to the master, mate, officer, or person in charge of the lading of the ship or vessel, shall forfeit to the United States \$1,000. This act shall not apply to the owner or owners of any canal boat, barge, or lighter, or to any vessel of any description whatsoever, used in rivers or inland navigation."

Mr. WADE. Mr. Speaker, near one half of the entire domestic tonnage of the United States is engaged in the navigation of the north and northwestern lakes. The merchandise which is transferred coastwise by this shipping amounts annually to more than three hundred and sixty million dollars, or more than the entire value of the foreign merchandise imported into the United States. I am prepared with documentary evidence, if gentlemen wish to see it; and need only to refer them to the last annual report of the Secretary of the Treasury on commerce and navigation, where they will see that what I state is the fact. I do not mean to take up the time of the House on the subject; but will simply ask that the same provisions which are now made for the advancement of commerce on the ocean, may be extended to our northwestern lakes.

Mr. Speaker, the value of the commerce upon these lakes between the United States and Canada alone, is the third in point of value, and the first in the amount of tonnage, carried on with foreign nations. Still the value of merchandise carried between Canada and the States constitutes but a very small portion of the value of the commerce of the lakes. There was a report made here at the first session of the Thirty-Fourth Congress, (House Document No. 316,) from which gentlemen will find that during that and the preceding year, the value of the commerce of the lakes amounted to several millions more than the whole of our foreign commerce. In the year 1813, the fiftieth year of George III., Great Britain passed a law precisely like our act of 1851, in relation to the liabilities of the owners of merchant ships, and that our act of 1851 is almost a literal transcript from the fiftieth of George III. This law was passed by Great Britain in favor of her commerce; and its working was found so beneficial that American ships could not compete with hers without a similar provision. Since the passage of that act in 1851, our entire tonnage has increased about forty-three one hundredths in amount.

Sir, we on the lakes are placed in precisely the same condition that our brethren are on the sea-coasts in reference to competition with British vessels. I have obtained from the library of Congress the provincial statutes of Canada; and yet find no law of this kind enacted there as late as 1836. But we have not the provincial laws of Canada except since 1836, and cannot say whether the fifty of George III. has been adopted there or not; yet our ship-owners believe that such is the fact. I venture to say, that when I broached this matter in this House at the commencement of this session, there were not twenty members who were aware of the existence of our act of Congress of 1851.

But now it seems, for the first time, that gentlemen have waked up to the enormity of this law. Gentlemen think the commercial world must come to an end. Yet, sir, our entire commerce on the sea-board is under this law, and I defy a gentleman to step forward here and say that within his experience since the passage of this act in 1851, one complaint has been urged against it by the owner of ship or cargo. Why, sir, it was passed by decided majorities; an overwhelming majority in the Senate; but the yeas and nays were not called on its passage in the House.

It became a law, and has wrought its beneficent effects on the commerce of the country to the present time; and I now ask whether, in view of its operation, we should not have it extended to

the lakes? It is brought here, on the petition of the leading men engaged in commerce, from one extremity of the lakes to the other. That is the reason why it is here. It is not a matter of mine. I appear here in behalf of the shipping interest of the lakes, to ask Congress to extend the same principle to the commerce of those lakes which it extends to the commerce of the ocean. I do not seek, Mr. Speaker, to extend it to any regions where it is not asked for. Gentlemen ask me, why not extend it to the rivers? The reason is because no man dwelling on the rivers has asked us to do so. We have no evidence that they want it; and, therefore, I do not presume to come here and impose on the people interested in the western rivers, an act which they do not ask for. When I took the floor I did not intend to detain the House, and I now ask for the previous question.

Mr. CLEMENS. I desire to ask the gentleman from Ohio for information in regard to the objects which he expects to accomplish by this amendment of the act of 1851. In the explanation he has given to the House he has stated no reasons.

Mr. WADE. I insist on the previous question, but I will first answer the gentleman's question.

Mr. CLEMENS. I am merely asking for my own information and the information of the House. I find on looking at the pending act of which the gentleman from Ohio is the advocate, that it provides that, so much of the seventh section of the act of Congress, passed March 3, 1851, as prohibits the application of the law to inland navigation shall be repealed.

Mr. WADE. No, sir; the gentleman is mistaken; it only applies to inland navigation on these lakes.

Mr. CLEMENS. I will read the act and see whether I am mistaken.

Mr. WADE. I do not yield the floor to the gentleman to read the act. I understand what the act contains. I ask the previous question.

Mr. CLEMENS. I appeal to the gentleman from Ohio whether, after having given me the privilege of the floor, he should now take away that privilege when I am asking for information, not to obstruct the passage of the bill.

Mr. WADE. If the gentleman will put his question so that I can answer him understandingly, I will withdraw the previous question.

Mr. CLEMENS. The pending bill provides that so much of the seventh section of the act of Congress passed 3d March, 1851, as precludes the said act from applying to any owner or owners of any vessel used in inland navigation shall be repealed. On looking at the act of 1851, I find that by the seventh section it is provided that the preceding sections shall not apply to the owner or owners of any canal boat, barge, lighter, or any vessel of any description whatever, employed on the rivers or inland lakes.

The point which I desire to make on the gentleman from Ohio is this: what is the reason for which he desires these provisions of the act of 1851 to apply to those engaged in inland navigation? What particular section of the act of 1851 is it which he desires to have applied to those engaged in inland navigation, and especially what particular hardship, which they now labor under, does he desire to do away with by bringing them under the operation of the act of 1851? Is it for the purpose of relieving them from liabilities as common carriers? for I find, by the first section of the law of 1851, it is provided that ship-owners shall not be liable for damages to goods by fire, except when caused by design or neglect. Is that his object, or is it his object to make apply the second section, which provides that they shall not be liable for valuable goods except when entered upon the bill of lading? Is it either of these objects that he has in view in making these sections apply to inland navigation?

Mr. WADE. If I understand the bill, and I think I do, it proposes to extend the provisions of the act of 1851 to vessels navigating the lakes Champlain, Ontario, Erie, St. Clair, Huron, Michigan, and Superior, and their connecting navigable waters. It brings that act to bear on vessels navigating these lakes, excluding its operation from canal boats, barges, &c., just precisely as in the original act. It is making that law extend to the navigation of these lakes. I now ask the previous question.

Mr. MARSHALL, of Kentucky. I appeal to the gentleman from Ohio to withdraw that motion.

Mr. WADE. I do not withdraw the previous question; and I hope the House will second it.

Mr. MARSHALL, of Kentucky. I hope the House will not second it. I call for tellers.

Tellers were ordered; and Messrs. MARSHALL, of Kentucky, and WADE were appointed.

The House divided; and the tellers reported—ayes 68, noes 60.

So the previous question was seconded.

The main question was then ordered to be taken.

Mr. ZOLLICOFFER. I desire to have entered a motion to reconsider the vote by which the bill regulating the right of suffrage in the Territories was referred to the Committee of the Whole on the state of the Union.

Mr. MORGAN. I move to lay the motion to reconsider upon the table.

The SPEAKER. The gentleman from New York has no right to call for action on the motion now; but the gentleman from Tennessee has a right, under the rules, to have the motion to reconsider entered.

Mr. MARSHALL, of Kentucky. I move to lay the pending bill, in relation to the liabilities of shipowners, on the table; and on that I demand the yeas and nays.

Mr. MAYNARD. I move that the House do now adjourn.

Mr. STEWART, of Maryland, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. STEVENSON demanded tellers.

Tellers were ordered; and Messrs. CLEMENS and WALDRON were appointed.

The House divided; and the tellers reported—ayes sixty-eight, noes not counted.

So the motion was agreed to; and thereupon (at thirteen minutes after four o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, May 11, 1858.

Prayer by Rev. E. KINGSFORD, D. D.

The Journal of yesterday was read and approved.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the Speaker of the House had signed the following bill and joint resolution; and they were signed by the Vice President:

An act (H. R. No. 63) making appropriations for the support of the Military Academy for the year ending the 30th June, 1859; and

A resolution (S. No. 4) to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

PETITIONS AND MEMORIALS.

Mr. KING presented the petition of Gideon J. Tucker and four hundred others, citizens of New York, praying for the passage of a law to prevent all further traffic in, and monopoly of, the public lands of the United States, and that they be laid out in farms or lots of limited size, for the free and exclusive use of actual settlers only; which was ordered to lie on the table.

Mr. BELL presented a petition of E. T. Peyton, praying for compensation for performing the duties of Secretary of Legation in Chili; which was referred to the Committee on Foreign Relations.

Mr. BIGLER presented two petitions of citizens of Schuylkill county, Pennsylvania, praying for protection to American labor engaged in the manufacture of iron; which were referred to the Committee on Finance.

He also presented a memorial of William Fleming, in behalf of himself and others of the marine artillery who served in the war of 1812, praying Congress to allow them pensions for that service; which was referred to the Committee on Pensions.

Mr. JONES presented a petition of J. W. Denison, praying for the establishment of a mail route from Toledo, in the State of Iowa, to Decatur, in the Territory of Nebraska; which was referred to the Committee on the Post Office and Post Roads.

Mr. BENJAMIN presented a petition of Noah

H. Phelps, remonstrating against the confirmation of the title to a certain tract of land to the heirs of Pierre Broussard, contemplated by the bill of the House of Representatives No. 211; which was referred to the Committee on Private Land Claims.

He also presented a petition of Henry M. Fleury, praying for the enactment of a law authorizing him to prosecute his claim against the United States to a certain tract of land; which was referred to the Committee on Private Land Claims.

Mr. PEARCE presented a petition of citizens of Kent county, Maryland, praying for the establishment of a mail route from Smyrna, in Delaware, to Chestertown, Maryland; which was referred to the Committee on the Post Office and Post Roads.

Mr. PEARCE. I am requested to present a memorial of the managers of the Maryland Institute, urging the passage of the bill for the distribution of public lands among the States for the purpose of endowing colleges for the education of the industrial classes. As the bill to which this memorial refers has been reported by the proper committee, I move that the memorial lie on the table.

The motion was agreed to.

Mr. MALLORY presented a petition of officers of the Navy attached to the Pacific and Home squadrons, praying that the pay of the officers of the Navy may be increased; which was referred to the Committee on Naval Affairs.

He also presented a memorial of Captain R. B. Cunningham, of the Navy of the United States, praying that the pay of the officers of the Navy may be increased; which was referred to the Committee on Naval Affairs.

Mr. SEWARD. I present a memorial of merchants of New York, relative to the compensation of the New York and Havre Steamship Company, for the transportation of the mails between New York and Havre, via Southampton, during the year ending June 1, 1859. The memorialists pray that the sum of \$162,500 may be appropriated as compensation for thirteen round trips, to be performed by the New York and Havre Steamship Company, from the 1st of June, 1858, to the 1st of June, 1859, provision being made that the company shall agree to perform the service at the same rate of compensation from year to year, for a period not exceeding ten years, and that the difference between the sum of \$162,500 and the amount actually accruing from postage, sea and inland, from the 1st of June, 1857, to the 1st of June, 1858, be paid to the New York and Havre Steamship Company, in further compensation for the thirteen round trips performed by the company from the 1st of June, 1857, to the 1st of June, 1858. I move that the memorial be referred to the Committee on the Post Office and Post Roads.

The motion was agreed to.

Mr. BROWN presented a memorial of George W. Riggs, James C. McGuire, W. W. Corcoran, William B. Todd, and others, citizens of the city of Washington, praying that provision may be made for the erection of a new jail for the District of Columbia in a more suitable locality; which was referred to the Committee on the District of Columbia.

Mr. POLK presented three petitions of citizens of Missouri, praying that the land office at St. Louis may be continued, and that the land offices about to be closed under authority of law may be consolidated at St. Louis; which was referred to the Committee on Public Lands.

Mr. CRITTENDEN presented the petition of Mrs. Jane Turnbull, widow of Colonel W. Turnbull, of the United States topographical engineers, praying to be allowed a pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Commerce, to whom was referred the petition of Bowne & Curry, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Beverly Diggs, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the joint resolution (S. No. 31) authorizing the Secretary of War to expend the

appropriation made July 8, 1856, upon such channel of the St. Mary's river as he may select, reported it without amendment.

Mr. JONES, from the Committee on Pensions, to whom was referred the bill (S. No. 6) to continue the pension heretofore granted to Katharine M. Hamer, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of Hannah Thompson, a petition of Sarah M. Smead, a petition of Louisa Merrill, a petition of Elizabeth Monroe, a petition of Mary Walsh and others, and a memorial of Catharine Denny, asked to be discharged from their further consideration, the cases being covered by a general bill already reported by the committee.

Mr. FOSTER. I wish to give notice that I shall ask the consent of the Senate to-morrow, during the morning hour, to take up the bill referred to by the honorable chairman of the Committee on Pensions, which was reported some fortnight ago, being a bill to continue half pay to certain widows and orphans; which has been on the tables of members since that time.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of Catharine Dickerson, and the resolution of the Legislature of Iowa in relation to the pension of Catharine Dickerson, submitted a report, accompanied by a bill (S. No. 326) for the relief of Catharine Dickerson. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 100) to revive an act entitled "An act for the relief of the heirs or the legal representatives of William Conway, deceased," reported it without amendment.

Mr. MALLORY, from the Committee on Claims, to whom was referred the petition of P. S. Duval & Co., submitted a report, accompanied by a bill (S. No. 331) for the relief of P. S. Duval & Co. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of Joseph Haynes, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom were referred the additional papers in relation to the claim of Captain John Pickell, submitted a report, accompanied by a bill (S. No. 328) for the relief of John Pickell, late lieutenant in the United States Army. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. POLK, from the Committee on Claims, to whom was referred the petition of Stephen R. Rowan, submitted a report, accompanied by a bill (S. No. 230) for the relief of Stephen R. Rowan. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. KING, from the Committee on Pensions, to whom were referred documents relating to the claim of Rachel Morey, for a pension, reported adversely thereon.

Mr. SEWARD, from the Committee on Foreign Relations, to whom was referred the petition of Anton L. C. Portman, submitted a report, accompanied by a bill (S. No. 332) for the relief of Anton L. C. Portman. The bill was read and passed to a second reading, and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 327) to affirm certain entries of land in the State of Louisiana; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 329) to authorize augmented rates for surveying the public lands in the Territory of Washington; which was read twice by its title, and referred to the Committee on Public Lands.

INDIAN BUREAU.

Mr. HUNTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Indian Affairs be in-

structed to inquire into the expediency of transferring the jurisdiction over Indian affairs from the Department of the Interior to that of War.

DISTRICT BUSINESS.

Mr. BROWN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That Saturday of this week be set apart for the consideration of business relating to the District of Columbia.

COMPENSATION OF ARMY OFFICERS.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and Militia be instructed to inquire into the propriety and expediency of paying the officers of the Army a gross sum in full for all their compensation, instead of the allowances and commutations at present allowed them.

MEXICAN INDEMNITY FUND.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to the Senate what amount, if any, of the fund set apart by the fifteenth article of the treaty of Guadalupe Hidalgo, for the payment of the claims of citizens of the United States against the Government of Mexico, remains unexpended.

SPECIAL ORDER.

Mr. IVERSON submitted the following resolution for consideration:

Resolved, That after to-day, and for the remainder of the session, the special order shall not be taken up until the hour of one o'clock, unless otherwise ordered by the Senate.

COMMITTEE VACANCY.

On motion of Mr. DIXON, it was

Ordered, That the vacancy in the Committee to Audit and Control the Contingent Expenses of the Senate, occasioned by the death of the Hon. Josiah J. Evans, be filled by the Vice President.

PAY OF NAVAL OFFICERS.

Mr. IVERSON submitted the following resolution for consideration:

Resolved, That the Committee on Naval Affairs be directed to report an amendment to be added to the naval appropriation bill, when the same shall be considered by the Senate, providing that those officers of the Navy who were dismissed or furloughed by the late "retiring" board of naval officers, and who were subsequently, or may hereafter, be restored by the action of the President and Senate to the furlough or leave of absence list, or who have been or shall be raised from the furlough to the leave-of-absence list, shall be entitled, and receive the pay of the grade or position to which they shall have been promoted from the time of their retirement to the date of their promotion, deducting any amounts which they may have received as salary during their retirement as aforesaid.

HOUSE BILL REFERRED.

The bill yesterday received from the House of Representatives (No. 300) declaring the title to land warrants in certain cases, was read twice by its title and referred to the Committee on Public Lands.

PRIVATE LAND CLAIMS.

Mr. BENJAMIN. I ask the consent of the Senate to take up the bill (S. No. 279) reported from the Committee on Private Land Claims, which has been before the Senate now for two sessions. I will state in a few words that this bill is intended to provide some system by which the applications for the confirmation of land claims may come before us in a report from the General Land Office once a year. It is a general bill providing for the examination of these claims in the different States where they exist, and a report on them by a local board to the Land Office here, an examination by the Land Office here, and then one report from that office to Congress. We have now every year some forty or fifty demands for the confirmation of private land claims, and I desire to introduce some system into the mode by which these private land claims are to be disposed of. I trust that there will be no objection to the bill. It is guarded in conformity with the precedents established by previous Congresses. All the acts for the formation of these boards have expired. It was supposed that nearly all these private land claims had been provided for, but they are coming in so fast that it is necessary to have a system by which we shall have a regular report from the Land Office on them.

Mr. COLLAMER. Does the bill fix any limitation of the time for the claims?

Mr. BENJAMIN. It is to be in force for five years.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 279) for the final adjustment of private land claims in the States of Florida, Louisiana, Arkansas, and Missouri, and for other purposes.

The bill provides that any person or persons, and also the legal representatives of persons, who claim lands lying within the States of Florida, Louisiana, Arkansas, or Missouri, by virtue of grant, concession, order of survey, permission to settle, or other written evidence of title emanating from any foreign Government, bearing date prior to the cession to the United States of the territory out of which the States named were formed, and during the period when any such Government claimed sovereignty or had the actual possession of the district or territory in which the lands claimed are situated, shall be authorized to make application to commissioners to be constituted for the confirmation of their title to the lands claimed in a manner which the bill prescribes. The commissioners are to consist of the registers and receivers of the several land offices in the States of Florida, Louisiana, and Arkansas, within their respective land districts, and the recorder of land titles for the city of St. Louis, for the State of Missouri; and they are to hear and decide under such instructions as may be prescribed by the Commissioner of the General Land Office, in conformity with this act and according to justice and equity, and the principles by this bill to be established, in a summary manner, all matters respecting such claims within their districts, and make report to the Commissioner of the General Land Office, thus classifying the cases: first, all claims which in their opinion ought to be confirmed, where the lands claimed have been in possession and cultivation by the private claimants or those under whom they derive title, for a period of at least twenty years preceding the date of filing the claim; second, all such as in their opinion ought to be confirmed where the lands are claimed under written evidence of title, as in the first class, but where there has been no actual possession and cultivation of the land claimed for at least twenty years; number three is to contain all claims which in their opinion ought to be rejected.

When the Commissioner of the General Land Office approves the report of the commissioners in cases embraced in the first class, such approval is to be final, and patents of relinquishment are to be issued in favor of the claimant, if the claim is not for more than one square league. If the Commissioner approves of the cases in the second class, they are to be reported to Congress for its action, together with all such claims in the first class as exceed the quantity of land limited by this bill. The cases in class number three are to be rejected finally when approved by the Commissioner of the General Land Office. All other cases are to be reported to Congress, in which the Commissioner of the General Land Office shall disapprove of the reports made by the boards of commissioners. Various sections are provided in the bill to carry out these general principles.

Mr. HUNTER. That seems to be a very important bill. It is new to me; and I should like to hear some explanation of it. Does it propose to transfer jurisdiction from the courts to a board?

Mr. BENJAMIN. No, sir. I stated before the Senator came in, that we have now some thirty or forty or fifty bills every session before the Committee on Private Land Claims, because the acts of Congress which provided local boards in the different States have expired. These claims are so numerous that the committee have instructed me to report a general bill under which those boards are reestablished in the different States for the period of five years. Persons claiming confirmation are to present their claims before these boards. They are composed of the registers and receivers of the land offices in the different districts. They examine the claims, and report them to the Commissioner of the General Land Office. He examines them again, and reports them to Congress once a year for general action.

It is due, however, to propriety, that I should state to the Senate that there is one clause in this bill in regard to which it may be possible, though I see no objection to it, that other gentlemen may differ. One clause of this bill provides for a final confirmation in certain cases, without reference

to Congress. That clause is this: where a party presents himself before the local board, and claims, under written title, land of which he has already been in possession and cultivation for more than twenty years, and the local board determines his title to be a good one, and then upon appeal the Commissioner of the General Land Office determines his title to be a good one, that title, thus accompanied by possession and cultivation for more than twenty years previous to the application, is to be considered a good title in the Land Office, if the claim does not exceed one league square. To that extent, of late, Congress has not gone. If the earlier acts it did go to that extent. I do not suppose that in any case Congress would desire to confiscate as public land the possessions of a farmer, who was in possession and cultivation, and had been so for more than twenty years, when his titles were approved both by the local board and by the Commissioner of the General Land Office here. I think there is no danger in that; whatever; but that can be stricken out of the bill, if gentlemen desire it.

Mr. POLK. I wish to offer an amendment, which I mentioned to the Senator from Louisiana heretofore. It is in the third section, to strike out all after the word "means," in the third line. The words to be stricken out are:

"Nor shall any such claim be received or considered by the commissioners which has been already twice rejected by previous boards."

Mr. BENJAMIN. That amendment was somewhat discussed in our committee; and it was considered best, on the whole, to retain the provision as a proper guard, that where a claim had already been twice rejected, the commissioners should have no further control over it; and if any special case offered peculiar circumstances of hardship, that case could be brought before Congress by itself and considered; but two objections, we considered, ought to suffice to preclude a claimant from going again before a board.

Mr. POLK. My amendment proposes to strike out one of two classes embraced in the proviso to the last clause of the third section. The first class which it excludes, consists of cases where the rejection was for fraud. That is proper. The next, however, is an absolute and unbending exclusion of all cases which have been twice rejected by boards of commissioners. I offer this amendment because there are instances, in the State of Missouri, at least—where I am more familiar with these land titles—where injustice will be done by such a provision. There have been, I may say, at least two boards of commissioners for the settlement of land titles in the State of Missouri; one under the acts of 1805 and 1807, generally known in that State as the old board of commissioners; and that board rejected the large mass of these inchoate titles that were presented for confirmation. Of the vast amount of lands owned in upper Louisiana, at the time of the acquisition of that territory, there were not more than five perfect titles in all upper Louisiana, including both the States of Missouri and Arkansas. The titles were concessions, inchoate titles, and they were perfected by the action of Congress afterwards.

Then there was a subsequent board—the last board I will call it, as it is so known there—created under the acts of 1832 and 1833, and that was for the confirmation of land titles in Missouri. There were a number of cases—I know some—where claims were presented that did not lie inside of the State of Missouri; and the entry by the commissioners is, "rejected for want of jurisdiction." They did not pass on the claims, but still there was a technical rejection. I do not see that any damage could be done by striking out these claims, and leaving them all, where they are not tainted by fraud, to come before the local board for examination. These commissioners report to the Commissioner of the General Land Office, and he has the supervision of the action of the local commissioners. I think it does not open the way for the confirmation of fraudulent claims, but secures the rights of persons that otherwise might be injured; because we well know that, if this bill shall be passed, and certain claims are excluded under it, an individual who may have an honest claim of the excluded class, will have much more difficulty in getting it through Congress than if this bill had never passed, because its exclusion from this bill is a presumption against him. I hope, therefore, that as it does not tend to break

down any barrier against fraud at all, the amendment will be adopted, and let these claims come up for investigation, though there has been a previous rejection, if that rejection has not been on any charge of fraud.

Mr. STUART. I do not desire to discuss this matter. Certainly I have not had a full opportunity to examine the bill, though I have heard something in connection with it; but I would suggest to the Senator from Missouri, that those gentlemen for whom he cares stand better than those who go through the process of the bill. If a man has got a case twice rejected, he can come directly to Congress with it, and if he has merits in his case, he can show them. There is a propriety, however, in excluding them. If these cases are tried, as most of them are, on *ex parte* proof, and rejected, that ought to be sufficient to prevent their being determined again by any local officer.

I wish, however, to suggest to the honorable Senator from Louisiana an amendment, to which I presume he will not object, more of phraseology than anything else. He has a provision somewhere in the bill, which authorizes the reception of evidence taken in former cases, and declares that it shall be regarded as true *prima facie*. I suggest to him to make it simply receivable—admissible.

Mr. BENJAMIN. These are the words:

"The facts reported as proven by the former board shall be taken as true *prima facie*; and the evidence offered before such former board, and remaining of record, shall be admitted on the examination of the claims made under the provisions of this act."

The facts reported as proven are to be taken as true in the new examination, *prima facie*; the evidence remaining of record is to be admitted on the new examination. Those are the words of the bill.

Mr. STUART. I should prefer that even in regard to those facts, they should simply be received without giving any especial weight to them, one way or the other. Let the provision simply be that the facts shall be received.

Mr. BENJAMIN. The facts reported as proved?

Mr. STUART. Yes, sir.

Mr. BENJAMIN. Received how? It is merely stated here that they shall be taken *prima facie* as true.

Mr. STUART. If the evidence is in existence, that evidence ought to go before the present board for what it is worth. If the evidence is not in existence, then I doubt the propriety of taking any report of facts independent of evidence as proving anything. If they have the evidence, let it be received.

Mr. BENJAMIN. I do not exactly take the Senator's point. Many of the former boards reported to Congress that the claimant had proved certain facts, but by reason of the absence of proof upon such and such other points, his claim was rejected. This section of the bill will, of course, only apply to cases wherein former boards have reported certain facts as proven, and yet the claim has not been confirmed. In some cases they report certain facts as proven, and then state what the deficiency is which prevents a confirmation. In other cases they state what evidence there is before them, and say they are not satisfied with it. This bill provides that where the evidence remains on record, that evidence shall be admissible. It provides that where the former boards have reported that certain facts were proven, those facts shall be admitted as true *prima facie*.

Mr. STUART. I understand the Senator, but he will see the point I make. If there is no evidence to sustain that report now in existence, it is the mere opinion of the officer who gave that certificate. Now I do not think it is proper to say that that opinion, unsupported by any existing evidence, shall be taken as *prima facie* true; but I think we should leave the parties now to the opportunity of using any evidence that they had in the former case, and make that evidence admissible.

Mr. BENJAMIN. I would suggest to the Senator that a large class of cases would be very hardly dealt with by his amendment. This section of the bill provides for cases which were before former boards that run back now nearly fifty years. Here, I may observe, *en passant*, that the State of Louisiana has been retarded in its improvement and settlement by the legislation of the country, in respect to these land titles, to an

extent which gentlemen will hardly believe. Large portions of the State, after fifty years of settlement of other portions, are now unsettled in consequence of the condition of the land titles. Some of these people, fifty years ago, perhaps, proved that they were in settlement and cultivation. The witnesses to those facts are dead and gone, but perhaps their written titles were considered insufficient, or there might have been a want of certificate. Now, if a board appointed by the Government of the United States at that time, reported to us that these parties had proven their possession and cultivation, but that their other titles were insufficient, shall they be required, after fifty years, when the witnesses are dead and the memory of those who knew the facts has been effaced, again to prove that they were in possession and cultivation at a particular date? These claims go back over half a century, and the Government has been exceedingly careless in relation to its duties under the treaty of cession.

The VICE PRESIDENT. The Chair must interrupt the Senator for a moment. Unless by general consent of the Senate the Chair must call up the special order.

Mr. BENJAMIN. It will take but a few minutes to close this matter. I ask the consent of the Senate to let this bill be considered.

The VICE PRESIDENT. The Chair hears no objection. The Chair would remind Senators that the only question is on the amendment of the Senator from Missouri, [Mr. POLK.]

Mr. BENJAMIN. I think the Senator from Michigan will do no good to the bill and no justice to the Government by his proposed amendment. I hope the vote will be taken on the amendments. I would rather yield to them than lose the bill.

Mr. POLK. I beg leave, before saying a word in reply to the Senator from Louisiana on the amendment I offered, to remark that I think he is perfectly correct on the point the Senator from Michigan makes. The section makes a distinction between cases of this kind. Where there is evidence of record, that evidence is to be admitted; but where former boards have reported facts without reporting the evidence, the facts reported are to be considered as *prima facie* true. I hope the Senator from Michigan will not offer the amendment he suggested. I believe that the provision is right as it stands.

I hope the Senate will agree to the amendment I offered. As I stated before, there are cases on which the entry of the last board was "rejected," though, at the same time, they were not rejected on an investigation of the claims on their merits, but rejected because the board had no jurisdiction as they supposed. They did not reject the claims because they ought not to be confirmed, but because they supposed that they, under the act, were not authorized to report them for confirmation.

Mr. BENJAMIN. Will the honorable Senator from Missouri permit me to suggest to him that instead of his amendment, we insert after the word "rejected" the words "on the merits;" so that it will read "rejected on the merits?"

Mr. POLK. I have no objection to that.

Mr. BENJAMIN. I will offer that amendment if the Senator withdraws his.

Mr. POLK. That is acceptable to me, and I withdraw my amendment.

Mr. BENJAMIN. The amendment is in the thirty-fifth line of the third section, to insert the words "on its merits" after the word "rejected," so as to make the clause read, "nor shall any such claim be received or considered by the commissioners which has been already rejected twice on its merits by previous boards."

The amendment was agreed to.

Mr. BENJAMIN. There is one misprint on the 8th page of the bill, in the eleventh section and twenty-fourth line. The word "proviso" has been printed "power."

The VICE PRESIDENT. That change will be made.

Mr. JOHNSON, of Arkansas. There is another change. I recollect that the word "disproval" is placed there for "disapproval."

Mr. BENJAMIN. That was corrected by the Secretary. "Disproval" in the fifth section should be "disapproval."

The VICE PRESIDENT. That correction will be made.

Mr. STUART. I am very reluctant to inter-

fere with a bill of this character, coming from another committee; but I certainly see what, to my mind, are serious objections in retaining the language to which I have already called attention. It establishes a new rule of law in respect to these claims. If the claimants were to come to Congress; if they were to institute judicial proceedings in a court of record, there would be no such rule; and it seems to me that in this class of cases, which stand mainly on *ex parte* proof, offered by the claimant of the title himself, and not subject to investigation or cross-examination to any considerable extent, to say that what some former officer has certified was proven, in respect to which there is now no existing evidence, is establishing a very dangerous species of testimony.

Mr. POLK. If the Senator from Michigan will allow me, I will make a suggestion as to some cases which I know to be existing cases, showing the importance of a provision like this. For instance: in Missouri, at one time the recorder of land titles was commissioner for the purpose of reporting certain claims for confirmation by act of Congress, where the meritorious consideration was cultivation and settlement. There are cases where proof was taken in 1817 and 1818, under the act of 1816, and the proof of inhabitation and cultivation was by a living witness. I know a case now, where the witness was one John B. Hardens. I remember it because it was a case in which I was interested as counsel. He was an old man at that time, and has since died, leaving a widow upwards of one hundred years of age. I have known that in one or two instances that widow was able to make proof; but in the particular case to which I allude she knew nothing about it; but the husband did; and he made proof to the satisfaction of this officer, and the officer reported the fact of inhabitation, cultivation, and possession of the land, on the testimony of this old gentleman. He is now dead. It is an utter impossibility in such a case to have the proof made now. It was proof of a fact *in pais*, dependent on the testimony of a living witness at the time, and that witness was an old man in 1816, and has been long dead and gone. The fact is stated by the officer to have been proved. This bill merely makes a statement of that fact, as proved, *prima facie*, true. That is all.

Mr. STUART. I can understand that there may be a single case, perhaps half a dozen cases, where it would be very convenient and very just to say that a certain fact, having been carefully and properly ascertained in 1817, should be received as true now. But, sir, I can also conceive of a great many cases where the reception of such sort of testimony would do manifest injustice. You know nothing about who swore to it; you know nothing about the character of the man—

Mr. BENJAMIN. Will the Senator suggest a case where he thinks, where the former tribunal has reported a fact as proved, it would be wrong to admit it *prima facie*?

Mr. STUART. I am really surprised at the inquiry of my honorable friend from Louisiana, for he is a lawyer of extensive practice, and has many times seen a fact sworn to that any individual thoroughly acquainted with the person who swore to it would not believe; and yet, being a stranger to the commissioner, he might certify it to be true. You have no safety in allowing the reception of such testimony. Here is an opinion which was given in 1817, or at any other time within fifty years, by a man you do not know, as to what he thinks was proven, under circumstances that you do not know anything about, and you rely on that to establish a fact in law. The effect is to give a claim fifty years old a great deal better chance than one that exists to-day. This is like all other classes of cases; there are two sides to them. It is not everybody that interposes a private land claim who has got a valid one, by any means. A great many of them are invalid and unjust, and ought not to be substantiated; and there are others that ought to be confirmed. I do not know that I should object to this clause of the bill if it was confined to the mere fact of possession, of occupancy without regard to time; but this bill makes it conclusive as to any fact.

Mr. BENJAMIN. Not conclusive.

Mr. STUART. I say conclusive, unless you can rebut it to-day. It is to be taken as *prima facie* true in regard to any fact that is certified, no matter what the fact is.

Now, sir, I do say that I have never known a law passed after a half century which determined that every certified fact in a case a half century old should be taken as *prima facie* true, and I am not prepared to agree to such a law to-day. If the evidence was taken, it certainly was the duty of the officers taking it to preserve it. The probability is, that in many cases, in most cases, the evidence is preserved, and the other clause in the bill will give all the advantage that is desired, by making that testimony receivable, although the witnesses may be dead; and even in such a case, it will be seen that it cuts off all chance of cross-examination, all chance of contesting the credibility or the character of the witness. He swore fifty years ago. His very name is forgotten, and he stands to-day a substantial, honest witness, upon the written testimony that he gave. But when you go further, as is provided for in this section, and say that any fact certified to by those officers shall now be taken and held as *prima facie* a true fact under this law, it is establishing a very dangerous proceeding. I do not know how all the Senators from the States to which the bill applies may regard it, but I confess that I should not want such a proceeding set up in the State I represent, to interfere with land titles. For the reasons I have stated, I move to strike out of the seventh section the words "the facts reported as proven by the former board shall be taken as true *prima facie*, and."

Mr. JOHNSON, of Arkansas. I think the Senator from Michigan had better examine this amendment. One half of the section is gone at once, if these words be stricken out; and the remainder is very little better. I shall propose to amend the amendment by moving to strike out the whole section.

Mr. BENJAMIN. I will give way to the Senator's motion if he wants to destroy the evidence of land titles in his State, and strike out the whole section.

Mr. JOHNSON, of Arkansas. I do not want to destroy the whole bill. On the contrary, I am willing that the Senator's bill shall pass in a modified form; but I do not want it to be enacted so that testimony given heretofore, which subsequent developments may have proved to be unsound and insufficient—and testimony, too, which did not establish the titles of the cases at the times they were adjudicated before—shall be brought forward now, and secure the recognition of such claims. The language of the seventh section is:

"That whenever any claim is presented for confirmation under the provisions of this act, which has heretofore been presented before any board of commissioners under authority of Congress, the facts reported as proven by the former board shall be taken as true *prima facie*."

This only relates to cases that have been already considered and rejected. Consequently there is a shadow on every case that is here provided for, in the beginning. All facts reported as proven by former boards are to be taken as *prima facie* true, and therefore they must stand as proven unless counter evidence shall bring them down. I think this is improper. We know that when courts and boards of examination determine upon one point to defeat a claim, they very often refuse to consider other points, and they admit as true matters that would not be established as true satisfactorily if they were coerced to look to them to establish or destroy the validity of a claim. Such being the case, we may find, in regard to these land claims, proof admitted as just and proper to be received, which would not have been received at all if the decision had turned upon the particular points to which the proof admitted to be true related. I do not believe that those who have had to contest these claims, those who have opposed them heretofore and whose rights are perhaps in conflict with them, ought now to be compelled to meet as established *prima facie* proof, and to overturn by counter evidence allegations which were not established by law before, and which did not secure the confirmation of the claims upon the first trial of the case.

The second portion of the same section goes on to provide:

"And the evidence offered before such former board, and remaining on record, shall be admitted on the examination of the claims made under the provisions of this act."

I do not understand the extent of the meaning of this clause, unless it is that it shall be admitted without exception, and stand as true. If the section said it shall be considered for what it is worth,

I would have no objection. Now, suppose that, under the examination here provided, after having considered this testimony, and given to it such weight as the board may deem it to be justly entitled to, they are compelled to reject the claim in a case such as the Senator from Missouri has stated—a case of evident justice? If such a case should exist then, the parties could come before Congress hereafter as heretofore; and this can be done without embarrassing or endangering the rights of the parties who have to contest these claims. The truth in regard to them is, that they are held by a very few persons indeed; and, as a general rule, they come in conflict with the rights of great numbers of people. I shall vote myself for the amendment of the Senator from Michigan; and if he does not move to strike out the whole section, I shall make that motion.

Mr. BENJAMIN. I will move to strike out the whole section. This section will operate principally in favor of the Government; but in some cases, in just claims, in favor of the claimant. This section clearly refers only to cases that have been formerly rejected. The Committee on Private Land Claims thought that, where the officers of the Government had reported that a claim ought to be rejected, and stated certain facts, those facts ought to be taken as true *prima facie*; at the same time, if they had reported that certain facts had been proven on the part of the claimant, they ought also to be taken; and that where the testimony remained on record, it ought to be admissible testimony, and ought not to be required to be taken over again. But it operates both ways; and if gentlemen are disposed to be fastidious, I perhaps think it is better on the whole for the private claimants to strike out that section.

Mr. POLK. I hope it will not be stricken out. I am satisfied injustice will be done by striking out that section.

Mr. BENJAMIN. Let us have a vote. I withdraw my motion.

Mr. STUART. That motion being withdrawn, I will make a single suggestion to the Senator from Arkansas. If he will let this clause be stricken out, as I propose, and then say that the evidence shall be "considered," instead of "admitted," he will cover all the ground made in this argument. I think this portion should be stricken out.

Mr. JOHNSON, of Arkansas. I agree to that. The VICEPRESIDENT. The question is on the amendment of the Senator from Michigan.

Mr. JOHNSON, of Arkansas. I want the yeas and nays on that question. I believe this section will pass claims that ought not to be passed.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 21; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Bright, Broderick, Chandler, Davis, Doollittle, Darkee, Fessenden, Fitzpatrick, Houston, Hunter, Johnson of Arkansas, Johnson of Tennessee, Mallory, Sebastian, Simmons, and Stuart—19.

NAYS—Messrs. Benjamin, Bigler, Cameron, Clay, Colamer, Crittenden, Dixon, Foot, Green, Hale, Hammond, Iverson, Jones, King, Polk, Pugh, Seward, Slidell, Toombs, Trumbull and Wade—21.

So the amendment was rejected.

Mr. JOHNSON, of Arkansas. We have now refused to strike out the first portion of section seven. Those Senators who will take the pains to read that section will see that we have established a new class of testimony in regard to these adjudications. I wish to ask the Senator from Louisiana to state, for the information of the Senate, the exact description of board that will preside over the adjudication of the De Bastrop grant which lies in Louisiana and Arkansas, jointly?

Mr. BENJAMIN. I will tell the Senator that that has been finally determined by the Supreme Court of the United States not to be a good grant.

Mr. JOHNSON, of Arkansas. Has it been disposed of entirely?

Mr. BENJAMIN. Yes, sir, entirely; by the Supreme Court of the United States.

Mr. JOHNSON, of Arkansas. The description of the board to pass upon the claim is given in the second section of the bill, which provides:

"That the registers and receivers of the several land offices in the States of Florida, Louisiana, and Arkansas, within their respective land districts, and the recorder of land titles for the city of St. Louis, for the State of Missouri, and their successors in office, shall be, and they are hereby, appointed commissioners to hear and decide," &c.

The Senator does not mean that all these officers shall meet to make one court. The register and receiver, I presume, of a land district in which

a portion of a claim or all of a claim may exist, are to be a court to decide on these matters. Is not that so?

Mr. BENJAMIN. The Senator is somewhat mistaken. The bill states they shall hear and determine all matters respecting the claims within their districts, but they are not to decide them. It is called a decision, but it is in the nature of a report. It comes to the General Land Office, and from the General Land Office to Congress.

Mr. JOHNSON, of Arkansas. It never is conclusive until it gets before Congress?

Mr. BENJAMIN. No, sir. There is but one class of cases that is concluded; and that is, where a man claims less than one square league, and has been cultivating it twenty years. Then, if the lower board and the Commissioner of the General Land Office both confirm it, he gets his patent. That is the only class of cases that do not come to Congress.

Mr. JOHNSON, of Arkansas. Does the Senator mean to say that, where the board has reported and decided in favor of a case, and that decision has been confirmed by the General Land Office, the parties get no title at all until Congress passes a further act to that effect?

Mr. BENJAMIN. Yes, sir; once a year we are to confirm the report of the Commissioner of the General Land Office or reject it, instead of having forty or fifty bills.

Mr. JOHNSON, of Arkansas. That will be a considerable relief, unless the step we have taken in making this evidence *prima facie* and conclusive on the board is to be received also by Congress as conclusive. I withdraw the amendment I offered, because it is of no avail whatever when the first part of the seventh section is retained.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. JOHNSON, of Arkansas. The yeas and nays have not been taken on that bill. It was plain there was no use to do so; but I wish it to be understood, and go on record, that I am opposed to the bill.

INTER-OCEANIC COMMUNICATION.

Mr. MALLORY. A resolution of inquiry which I offered yesterday was laid on the table, at the instance of my friend from Ohio, [Mr. PUGH.] He has withdrawn his objection. It is to call on the Secretary of the Navy for the report of the Atrato expedition. It will embrace, I understand, about six pages of letter sheet, simple writing. I ask that the resolution be taken up now. It will consume no time.

There being no objection, the following resolution, submitted yesterday by Mr. MALLORY, was considered, and agreed to:

Resolved, That the Secretary of the Navy be requested to furnish to the Senate the result of the recent exploration under the command of Lieutenant T. A. Craven, of the United States Navy, as to the practicability of inter-oceanic communication from the Gulf of Darien to the Pacific ocean, by the Atrato and Truando rivers.

COMPENSATION OF MESSENGER.

Mr. DIXON. I move that the Senate take up the report of the Committee to Audit and Control the Contingent Expenses in relation to the compensation of the first or principal messenger in the office of the Secretary of the Senate.

The motion was agreed to; and the Senate proceeded to consider the following resolution submitted by Mr. Foor:

Resolved, That the compensation of the first or principal messenger in the office of the Secretary of the Senate, shall be the same as that now received by the messengers of the Senate, commencing with the present fiscal year.

The Committee to Audit and Control the Contingent Expenses of the Senate reported an amendment to the resolution to strike out all after the word "resolved," and insert:

That W. H. Rohrer be paid the same compensation as is allowed to the other messenger in the office of the Secretary of the Senate, to wit: \$1,050 per annum, to commence with the beginning of the present fiscal year.

Mr. MASON. That resolution was reported by the late Senator from South Carolina, Mr. Evans, who was chairman of the Committee to Audit and Control the Contingent Expenses, under circumstances with which I was perfectly familiar, as a sort of obligation to which I myself, among others, considered we were under to this

young man, to place him, at a proper time, on a footing with his brother messenger. The salary some years ago was reduced by the select committee, of which I was a member, because he was then a youth. We were under an engagement that it should be done. My venerable friend from South Carolina, who has been called from us, concurred with me that it ought to be done. This report was, I think, about his last official act here.

The VICE PRESIDENT. This being a resolution to appropriate money out of the contingent fund, requires the same proceedings as in the case of a bill. It has received its second reading, and is now before the Senate as in Committee of the Whole.

The amendment was agreed to.

The resolution was reported to the Senate as amended, and the amendment was concurred in. The resolution was ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDINGS IN PHILADELPHIA.

Mr. BIGLER. Before proceeding with the special order, I ask the unanimous consent of the Senate to take up the House joint resolution (No. 26) in reference to the arrangement of the public buildings in Philadelphia, for the purpose of committing it to the Committee on the Post Office and Post Roads, in order that we may ascertain precisely what is desired.

Mr. CAMERON. With the hope that when the subject shall be referred to the Post Office Committee some plan may be adopted which will promote all the interests concerned in Philadelphia, I shall not object to it.

Mr. BIGLER. The committee will report at once.

The motion was agreed to; and the joint resolution was referred to the Committee on the Post Office and Post Roads.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives by Mr. ALLEN, its Clerk, announcing that the House had passed a bill (H. R. No. 207) to prevent the inconvenient accumulation in the Post Office Department of postmasters' quarterly returns. Also, that it had passed the bill of the Senate (No. 86) for the admission of Minnesota into the Union.

BILLS BECOME LAWS.

The message further announced that the President of the United States had approved and signed, on the 1st instant, the bill for the relief of Duncan Robertson; and, on the 4th instant, the bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1858; and, on the 5th instant, the following acts:

An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1859; and

An act for the relief of Captain James Mac McIntosh, of the United States Navy.

FISHING BOUNTIES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 10) repealing all laws or parts of laws allowing bounties to vessels employed in the bank or other cod fisheries, the pending question being on the amendment offered by Mr. HAMLIN to strike out "1859," and insert "1865."

Mr. HALE. I have not listened very attentively to the speeches that have been made for and against this measure, and therefore I am willing to take upon trust the commendation that was made by some gentleman who spoke yesterday, who said they had been very able on both sides. I have not attended to the discussion, although I feel some interest in the subject, because I have supposed that, so far as the action of the Senate was concerned, it was a foregone conclusion. Nevertheless, as I live in the vicinity of these fishermen, and know something of them, and generally spend a few weeks, more or less, amongst them in the summer time, when I can get away from Washington in season, I want to say a very few words in explanation of the vote which I shall give.

I shall vote against repealing the bounty; and when I say that, I will say that I am opposed to all bounties, in whatever shape they put them-

selves, and to all special protections to any kind of industry. I want every man to have an open field and a fair fight. I am opposed to the bounty which the Louisiana planters get on their sugar, in the shape of a tariff, and would be glad to get it off; but I do not expect to succeed in that. I do not think, though, that it is obnoxious to the charge of being unjust because New Hampshire cannot raise sugar-cane. We have a legal right to raise it, but the climate there does not exactly agree with that sort of culture. I do not think that this tax, or this bounty, can be justified at all in reference to its operation upon the fishermen. I think there is but one consideration upon which it can be justified; and if that is not potent and powerful enough to save it, let it go; and that is in its relation to training seamen.

I do not believe, sir, that a man is born a sailor, though it is said he is sometimes born a poet. It is very different with a sailor. It takes training. Some men cannot make sailors if you train them ever so much. It has always been considered, I believe, by every nation that has engaged in mercantile pursuits, and has depended upon them for success and prosperity, a desirable end to train and educate seamen, and that has always been the policy of this Government.

Now, sir, I do not blame any man who is a natural, honest Democrat, for hating the Navy. I think he is bound to have an instinctive and hereditary hatred of it, because it was the pet child of the old Federal party, and never was tolerated by the Democracy until it fought itself into favor. When it did fight itself into favor, I think it fought itself into a little too much favor; and since it was taken up by the Democrats, I think they have petted it a good deal more than the Federalists did. But, sir, the Navy was early an eye-sore to the Democracy. Jefferson hated it. He would go as far out of his way to kick a ship as Randolph would a sheep; and his theory was to dispense with all our naval ships, and substitute gun-boats for them. But when the war of 1812 came, the Navy fought itself into favor. It fought the British and it fought the Democracy both. It conquered the enemies of the country by its prowess on the waves, and by that same means fought down the prejudices with which it had been regarded by the Democracy. After that it became fashionable and popular; and always with this feeling has gone along the idea of raising and training a body of seamen.

I claim to be a friend of the Navy, and I always have been a friend of it. I have manifested my friendship by fighting its abuses. I do not suppose any friend of the Navy now, high as it is in favor, will contend that we ought to go into the mad scheme of combating with France, England, or Russia, in building up an enormous navy. I believe the fact is, that at no time in the history of the world have those nations been making such great and gigantic strides in the increase of their naval power as at the present time. The policy of this Government has been different from theirs, and as it has been indicated by several of the Secretaries, in their annual reports, I will read from one or two of them. In the report of the Secretary of the Navy, made on the 5th of December, 1853, he says:

"These considerations invite the United States to look to means, and to set about the gradual increase of a navy. Will it not, then, be advisable to begin, without delay, to provide and lay up the materials for the building and equipping of ships of war, and to proceed in the work by degrees, in proportion as our resources shall render it practicable, without inconvenience, so that a future war with Europe may not find our commerce in the same unfortunate state in which it was found by the present?"

In another report, made from the Navy Department, dated the 30th of November, 1839, the Secretary said:

"I conceive it will be highly advantageous to the service by placing materials for building, repairing, and equipping vessels generally, at the disposal of the Department for all such purposes, at the precise period they are wanted, and before they deteriorate by time and exposure."

In accordance with this policy, we have been laying up materials for building ships in our docks and yards; and we have been careful to preserve forests of live oak, and to take other means, not immediately for building ships, but to provide materials necessary in time of war; and I suppose the same policy dictates the great manufacture of arms, ordnance, &c., in our several arsenals, and laying up the materials ready for a future emergency. Now, sir, it will be idle to lay up mate-

rials for building ships unless you can, at the same time, when you have occasion for these ships, have men to man them; and this has been felt, in the history of England, as one of the greatest necessities that that Government has ever experienced—the providing of seamen. To obviate that necessity, they have, almost from the time they first began to have consequence as a naval Power, trampled upon every right of the subject, and every principle of the British constitution, by having a set of armed press-gangs going round, filling up their navy by force, outraging every principle of natural right and every principle of the British constitution. Not only that, sir, but they carried this system to foreign nations; and, in the madness of their power, claimed to be mistress of the seas; entered the vessels of foreign nations, and took out seamen by force. One of the leading causes which led to our last war with Great Britain was their assertion of a right to take men out of our ships on the high seas; but it was one of the necessities which they felt in accomplishing their purpose to make themselves a great naval Power.

The early founders of our institutions saw the necessity of providing men and materials for the Navy; they saw that a press-gang like that of England never would be tolerated in this country, and could not be; that it was inconsistent with the provisions of the Constitution and the feelings of the popular mind, and never could be tolerated; and, as a substitute for that, they looked to the fisheries as a nursery and a school where seamen could be educated. Such has been the policy of the men of this country in every period of its history, with the exception of the short time when it was abandoned, from 1807 to 1813, and in the latter year the necessities of the war again compelled them to resort to it, and from that day to this they have never departed from it.

It seems to me a little singular that when this matter is so intimately connected with the naval strength and the naval necessities and requirements of the country, we have not sought for some information from the Secretary of the Navy in relation to it instead of looking entirely to the Secretary of the Treasury. It is said that in the whole history of the Government we have spent about twelve million dollars on these seamen, or in giving these bounties. Why, sir, that is not so much as you spend upon the Navy in a solitary year. In all time there has not been so much expended in these bounties as we now expend in a solitary year for the Navy; and let it be remembered that this is the only school that you have for the education of the common people in any branch or department, by which they may be fitted to discharge their duty to the country in active service. You have a school at West Point, to educate Army officers and their sons; and you have another at Annapolis, to educate naval officers, but this is the only school you have to educate men for sailors. The great objection to this seems to be, I think, the one suggested by the honorable Senator from Rhode Island, [Mr. SIMMONS,] that while they are getting their education, they are doing something by earning a living. If they were brought together in some school and were kept in idleness, and were not guilty of the hard sin of working at perilous and hazardous duty, I apprehend it would not be so objectionable.

I am not going into that, because as I said I am simply giving my reasons for my vote and I do not expect to influence anybody here. The honorable Senator from Georgia [Mr. TOOMBS] I know, some time ago censured those gentlemen who prepared essays, brought them in here, and read them off. He will do me the justice to say that this essay with which I am now favoring the Senate is not written—not a word of it, and I am saying it to vindicate my own vote. I do not expect to convince anybody here. I have no idea of doing it. But, sir, knowing these men as I do, I must say a word or two in answer to the wholesale charges of fraud that are brought against them. The charges of fraud that are brought against these fishermen generally come from the collectors of the ports, I understand. Well now, sir, I will venture this assertion: you may go to New York and travel down the coast to Passamaquoddy, which is our eastern water, and take the collectors as you find them, from New York to Passamaquoddy bay, and get them together, and then get the captains of these fishing vessels,